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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 981

[Docket No. FV97–981–2 FR]

Almonds Grown in California; Interhandler Transfers of Reserve Obligations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule revises regulations under the California almond marketing order to authorize interhandler transfers of reserve obligations. The almond marketing order regulates the handling of almonds grown in California and is administered locally by the Almond Board of California (Board). This rule will allow the Board to implement authority contained in the marketing order to authorize handlers to transfer reserve withholding obligations to other handlers. It will provide handlers with an additional option to satisfy reserve obligations. This rule will enhance the utility and flexibility of the volume control regulations while benefiting producers, handlers, and consumers.

EFFECTIVE DATE: This rule becomes effective November 28, 1997.

FOR FURTHER INFORMATION CONTACT: Kathleen M. Finn, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, room 2530–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–1509, Fax: (202) 720–5698; or Martin Engeler, California Marketing Field Office, Marketing Order Administration Branch, F&V, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (209) 487–5901, Fax: (209) 487–5906. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, F&V, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456, telephone: (202) 720–2491 or Fax: (202) 720–5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 981 (7 CFR part 981), as amended, regulating the handling of almonds grown in California, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after date of the entry of the ruling.

This rule implements regulations authorizing interhandler transfers of reserve obligations. Sections 981.45 through 981.60 set forth the authority to implement volume control regulations under the order by establishing salable and reserve percentages of almonds. Annually, the Board meets to review projected crop estimates and marketing conditions for the coming season. Variations in production can cause wide fluctuations in prices. These swings in supplies and price levels can result in market instability and uncertainty for growers, handlers, buyers, and consumers.

If it is determined a reserve is warranted, the Board recommends to the Secretary the salable and reserve percentages to be placed on the almond crop. If a reserve is established, handlers are required to refrain from selling to normal market outlets a quantity of almonds equal to the reserve percentage. This percentage becomes the handlers' reserve withholding obligation. Handlers must either maintain product in inventory for possible release at a later date or dispose of product to secondary reserve outlets to satisfy their reserve obligation. The last season a reserve was in effect was during the 1994–95 crop year.

Section 981.55 of the order was amended by final order dated June 26, 1996 (61 FR 32917) to include a provision that allows handlers to transfer reserve withholding obligations to other handlers. Prior to the amendment to the order, § 981.55 authorized only the transfer of almonds (not reserve almonds) or reserve credits to other handlers. Reserve credits are issued to handlers when they dispose of almonds to secondary outlets in satisfaction of their reserve obligation. Handlers can transfer excess credits to other handlers. Receiving handlers can use the credit to meet all or a portion of their reserve obligations. This section of the order further states that the terms and conditions implementing the provision must be recommended by the Board and approved by the Secretary. Adding a third option by amendment to the order was intended to provide more flexibility for handlers in satisfying their reserve obligation.

At a Board meeting held on February 18, 1997, the Board unanimously recommended implementing the third option under § 981.55 concerning reserve withholding obligation transfers by making appropriate changes to the rules and regulations. This rule will enhance the utility and flexibility of the volume control regulations. It will provide handlers with an additional method of satisfying reserve obligations.

Currently, § 981.455 contains three paragraphs setting forth rules and regulations regarding interhandler transfers of almonds. These paragraphs set forth procedures for (1) transferring

non-reserve almonds; (2) transferring reserve credits; and (3) transferring inedible almond obligations. This rule will add a new paragraph including procedures for transferring reserve withholding obligations.

This rule will expand the options available to handlers in the event a reserve is implemented. The ability to transfer reserve obligations will particularly benefit those handlers who do not stay in business all year and do not have facilities for storage of reserve almonds. Such handlers are traditionally the smaller handlers in the industry. Storage and other costs associated with maintaining reserve inventory or disposing of product to secondary outlets will be reduced. This rule will provide another option for handlers to choose from in satisfying their reserve obligations that may better suit their operation.

The objective of the reserve provisions is to keep a certain quantity of almonds off the market in order to maintain market stability. The additional flexibility in the reserve provisions is expected to improve compliance among handlers, which in turn will maintain the integrity of the volume control regulations.

In order to ensure that adequate procedures are in place to monitor transfer of reserve obligations among handlers, ABC Form 11, which currently covers interhandler transfers of reserve credits, will be modified. New information will be added to the form to properly document reserve obligation transfers. Almond handlers wanting to transfer their reserve obligation to another handler will complete one portion of revised Form 11 and forward the form to the receiving handler. The receiving handler will complete their portion of the form and submit it to the Board. Authorized Board personnel will review, and if appropriate, approve the transfer. The Board will then submit copies of the forms to involved parties.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 97 handlers of California almonds who are subject to regulation under the marketing order and approximately 7,000 almond producers in the regulated area. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000.

Currently, about 58 percent of the handlers ship under $5 million of almonds and 42 percent ship over $5 million on an annual basis. In addition, based on acreage, production, and grower prices reported by the National Agricultural Statistics Service, and the total number of almond growers, the average annual grower revenue is approximately $156,000. In view of the foregoing, it can be concluded that the majority of handlers and producers of California almonds may be classified as small entities.

Sections 981.45 through 981.60 of the almond marketing order provide authority to implement volume control regulations by establishing salable and reserve percentages of almonds. If it is determined a reserve is warranted, the Board recommends to the Secretary the salable and reserve percentages to be placed on the almond crop. If a reserve is established, handlers must refrain from selling to normal market outlets a quantity of almonds equal to the reserve percentage. Handlers must either maintain product in inventory for possible release at a later date or dispose of product to lower value reserve outlets to satisfy their reserve obligation. These lower value outlets are primarily crushing for oil and animal feed.

Section 981.55 of the order provides authority for the interhandler transfer of almonds and reserve credits. This section was recently amended to include authority for interhandler transfer of reserve obligations. This rule will implement the authority to transfer reserve withholding obligations by revising Section 981.455 of the administrative rules and regulations accordingly. This rule will provide another option, in addition to those that appear in that section, for handlers to satisfy their reserve obligations. The ability to transfer reserve obligations will particularly benefit those handlers who do not stay in business all year and do not have facilities for storage of reserve almonds. Such handlers are traditionally the smaller handlers in the industry. Storage and other costs associated with maintaining reserve inventory or disposing of product to secondary outlets will be reduced. This rule will provide another option for handlers to choose from in satisfying their reserve obligations that may better suit their operation.

In past years, handlers either had to maintain product in inventory or dispose of it in approved reserve outlets to satisfy their withholding obligation, as discussed earlier. Those handlers choosing to maintain product in inventory must locate storage facilities and incur storage costs they may not otherwise incur, until the reserve is lifted.

Storage costs vary, depending upon factors such as the type of facilities utilized and quantities involved. These costs are generally in the range of one cent per pound per month, with additional charges for moving product into and out of storage facilities. These costs could be incurred for approximately six to eighteen months depending on the ultimate disposition of the reserve.

Those handlers choosing to dispose of their reserve to approved outlets may save on storage costs, but receive a lower return on the sales than they may receive if sold in normal market channels if the reserve is ultimately released. Price levels for almonds used for crushing into oil are in the range of 28 to 35 cents per pound, while animal feed brings about two to three cents per pound. Price levels for sales to normal market outlets vary significantly from year to year depending on available supplies and market conditions, and can range from $1 to $3 per pound. The additional option that will be provided by this rule will allow handlers to make arrangements to transfer their reserve obligation to other handlers. Handlers will be able to choose the most cost effective method of satisfying their reserve obligations that best suits their operations. This rule will provide more flexibility if volume control regulations under the almond marketing order are issued.

A current form is being revised for handlers to supply the transfer information to the Board for its approval. The current form (ABC Form 11) provides for handlers to transfer reserve credits. Information will be added to this form to collect information on transfers of withholding obligation. No additional burden will be added to the form because handlers will choose one of the options on the form. The form's current burden time of 5 minutes will not be changed. This action will not impose any significant additional reporting or recordkeeping requirements on either small or large almond handlers. The benefits of providing another tool to the industry to assist them in making business decisions far outweigh the estimated 5 minutes it will take to complete the form. Further, any additional reporting may be offset by reduced reporting for those handlers choosing to utilize this option in lieu of other options available for satisfying reserve obligations. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

As noted in the initial regulatory flexibility analysis, the Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule. Information generated by State, Federal, and private sector reports pertains to almonds in general and does not contain specific producer and handler information. Therefore, such information would not be detailed enough to be used for the specific purposes required under the order.

The amendment to the marketing order was voted on in a referendum and was overwhelmingly supported by almond growers. This rule will establish procedures to implement the amendment that authorized transfers of reserve obligations. There are no alternatives that would result in the additional flexibility sought by the industry.

In addition, the Board's meeting was widely publicized throughout the almond industry and all interested persons were invited to attend the meeting and participate in Board deliberations on all issues. Like all Board meetings, the February 18, 1997, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. The Board itself is composed of ten industry members, of which five are handlers and five are growers.

A proposed rule concerning this action was issued by the Department on April 4, 1997, and published in the **Federal Register** on April 10, 1997 (62 FR 17569). It was also made available through the Internet by the Office of the Federal Register. A 60 day comment period was provided to allow interested persons to respond to the proposal. No comments were received.

After consideration of all relevant matter presented, including the information and recommendation submitted by the Board and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

The proposed rule regarding the interhandler transfer of almonds also announced the AMS's intent to request a revision to the currently approved information collection requirements issued under the marketing order. The 60 day comment period was also provided to allow interested persons the opportunity to respond to the notice. No comments were received on the information collection requirements.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements that are contained in this rule have been approved by the Office of Management and Budget (OMB) and have been assigned OMB No. 0581–0071.

List of Subjects in 7 CFR Part 981

Almonds, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 981 is amended as follows:

PART 981—ALMONDS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 981 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. In § 981.455, paragraph (c) is redesignated as paragraph (d) and a new paragraph (c) is added to read as follows:

§ 981.455 Interhandler transfers.

* * * * *

(c) *Transfers of reserve withholding obligation.* A handler may transfer reserve withholding obligation to other handlers pursuant to § 981.55 after having filed with the Board an ABC Form 11 executed by both handlers. The Board shall approve the transfer upon receipt of the properly completed form.

* * * * *

Dated: October 23, 1997.

Eric M. Forman,

Acting Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 97–28630 Filed 10–28–97; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Chapter I

RIN 3150–AF69

Information Collection Requirements; Statutory and Technical Amendments; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects a notice appearing in the **Federal Register** on October 6, 1997 (62 FR 52184). This action is necessary to correct an erroneous instruction.

EFFECTIVE DATE: October 6, 1997.

FOR FURTHER INFORMATION CONTACT: David L. Meyer, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Washington, D.C. 20555–0001, telephone (301) 415–7162.

SUPPLEMENTARY INFORMATION: On page 52188, in the second column, instruction number 24 is corrected to read, "24. In § 60.8, paragraph (a) is revised to read as follows:".

Dated at Rockville, MD, this 22nd day of October 1997.

For the Nuclear Regulatory Commission.

David L. Meyer,

Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration.

[FR Doc. 97–28620 Filed 10–28–97; 8:45 am]

BILLING CODE 7590–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 792

Production of Nonpublic Records and Testimony of NCUA Employees in Legal Proceedings

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA amends its rules regarding subpoenas seeking nonpublic records or the testimony of NCUA employees. The rule provides procedures, requirements and information on how the NCUA will handle these matters and expressly prohibits any disclosure or testimony except as provided by the rule. The rule also amends the current rule regarding release of NCUA records that are exempt from disclosure under the Freedom of

Information Act to conform with the procedures provided in this proposed rule.

DATES: Effective October 29, 1997.

ADDRESSES: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.

FOR FURTHER INFORMATION CONTACT: Sheila Albin, Associate General Counsel, or Allan Meltzer, Associate General Counsel, (703) 518–6540.

SUPPLEMENTARY INFORMATION:

Background

The NCUA receives numerous subpoenas and requests for NCUA employees to provide evidence in litigation. Typically, these subpoenas are for NCUA records that are not available to the public under the Freedom of Information Act (FOIA). Also, we receive numerous subpoenas and requests for NCUA employees to appear as witnesses in litigation in conjunction with a request for nonpublic records or to provide testimony.

In recent years, the number of requests has averaged about two or three a month. Often, these subpoenas and requests relate to litigation involving federally-insured credit unions where there is some issue for which one or both of the parties want to use nonpublic records, such as NCUA examination reports, as evidence in the case. In addition, the parties want to have an NCUA employee, often an examiner, testify to establish the authenticity of the records or explain the information contained in the records. If we provide these records and an examiner appears as a witness, this will mean a significant disruption in the examiner's work schedule. In many cases, parties want to use the examiner as an expert witness on matters such as the financial condition of the credit union or other issues involving opinions. Our experience has been that, in many cases, the parties can deal with these issues through the testimony of other witnesses, including hiring their own independent, expert witness, and using the parties' own records.

Proposed Rule

On April 16, 1997, the NCUA Board issued a proposed rule to revise Part 792.62 FR 19941 (April 24, 1997). The proposed rule was presented in a question and answer format to promote clarity and uses simple terms. It continued the basic prohibition against disclosure of nonpublic records or testimony by NCUA employees without obtaining permission. The proposed rule also set out for the public what information to submit and what factors the NCUA will consider, and identified filing times, fees, and potential restrictions on disclosures or testimony. The rule identified the proposed charges for witnesses as the same as those provided by the federal courts and the fees related to production of records are the same as those charged under FOIA.

Comments

In the Supplementary Information section of the proposed rule, the NCUA stated its interest in receiving comments on the application of the proposed regulation to former as well as current employees, including its application to proceedings to which NCUA is a party, the exception from coverage for expert testimony by former employees, and any other factors that commenters believed the NCUA should consider in addition to those set out in §792.46 in reaching a final determination. Four comment letters were received: two from national trade associations, one from a state league and one from a federal credit union.

Comments from the two national trade associations indicated their general support for more efficient procedures and recognized the need to protect the confidentiality of examination-related records. Both trade associations commented on NCUA's authority to prevent former employees from testifying. One trade association stated that it questioned NCUA's authority to prevent the testimony of former employees unless it was clear that nonpublic records such as examination records would be divulged.

We first want to note that the rule is substantially similar to regulations issued by our sister financial regulatory agencies that also restrict disclosure of confidential information by former employees or any person in possession of such information. Federal Deposit Insurance Corporation, 12 C.F.R. 309.7; Office of Thrift Supervision, 12 C.F.R. 510.5; The Federal Reserve System, 12 C.F.R. 261.14. The focus of the rule is on requiring that NCUA receive notice of proposed testimony by a former employee. The purpose is not to restrict former employees but to protect the release of confidential records and information that may be in their possession. Even when former employees are not in possession of nonpublic records, they may still have substantial knowledge and information that they recall regarding matters that remain confidential. For this reason, the NCUA wants an opportunity, in advance of testimony being given, to consult with former employees and any party wishing to use their testimony in order to protect the confidentiality of that information by prohibiting or limiting such testimony as appropriate.

Our view is that the definition of employee makes clear that the NCUA's intent is to protect confidential information. Former employees remain prohibited from testifying about specific matters for which they had responsibility during their active employment, unless permitted to testify as provided in the rule. They would not, however, be barred from appearing on general matters or otherwise employing their expertise as, for example, expert witnesses. Finally, we want to highlight the fact that the final rule, as in the proposed rule, contains a prohibition against release of nonpublic records by any person who may have custody of them.

Both trade associations also commented on § 792.46 that sets out the factors NCUA will consider in reviewing a request. One commented that the factors were too subjective. The other commented that a better rationale would be to rely on a legal basis such as a statute or evidentiary privilege and suggested using the standard used by the Federal Reserve Board which is whether the need for the information outweighs the need for confidentiality and whether disclosure is consistent with Board policy and supervisory and regulatory responsibilities. 12 CFR 261.13(c). We believe that the factors we have listed include several examples of established statutory and evidentiary privileges and that, although phrased differently, the factors in the final rule set the same basic standard used by the Federal Reserve Board but in simpler, more specific language. We do not think the factors are subjective but are necessarily and appropriately flexible. For example, the factor of whether a request is burdensome must be considered on a case-by-case.

Both trade associations commented on the information that a written request must include. One commented that it made difficult for a litigant to know the relevance of what is sought and offered as an alternative that a requester only be required to assert affirmatively that the documents are relevant. We disagree. The regulation is designed to protect nonpublic records and the testimony of employees, which by their nature, will likely contain sensitve and confidential information. Without a basis for concluding that the records or testimony are relevant in a particular matter, the NCUA should not consider releasing them. In addition, merely establishing that records or testimony are relevant is not sufficient. In order to be able to consider the factors set out in § 792.46, the NCUA must have information about the nature of the proceedings. The NCUA must know something about the proceedings in order to consider whether the litigant can obtain the information or testimony from other sources. For example, if litigants want nonpublic records or the testimony of NCUA employees merely to establish the general financial condition of a credit union, we think they should seek financial records directly from the credit union and hire their own expert witness to testify about them. In response to the comment that it may be difficult for a requester to specify what records it wants because he or she may not know what is available, we think a requester can phrase such a request in terms of the facts or issues that are relevant in much the same way that the Freedom of Information Act requests or discovery requests in civil litigation are prepared. Thus, if a requester cannot identify specific records, the description of the facts or issues involved should be sufficient to permit the NCUA to identify responsive records.

With regard to application of the rule to proceedings to which NCUA is a party, there was one comment that NCUA should have to abide by the same rules of evidence as other litigants. Another comment was to the effect that the statement that NCUA will be subject to applicable rules of civil procedure when it is a party to a proceeding should be more conspiculously placed. This statement appears in the definition of "legal proceedings" and, we believe, states clearly that NCUA will be subject to the applicable rules of procedure when it is a party. As a matter of drafting, we believe that it is appropriately placed in the definition section. That same definition also states clearly that, the rule will still apply to the testimony of former employees even when the NCUA is a party to a proceeding. Unless the NCUA receives notice as provided under the rule, it may not otherwise receive notice of a former employee's testimony even though NCUA is a party to a proceeding. This is because a former employee may otherwise be contacted for testimony in the form of declarations, affidavits, statements or interviews, which could involve the former employee's revealing confidential information without any prior notice to NCUA of the nature of the testimony. For that reason, the rule will still apply to former employees when NCUA is a party to a proceeding. Obviously, where NCUA is a party to a proceeding, it will be in a position to receive notice of any requests for records or the testimony of current employees.

Comments from the state league and one federal credit union generally were supportive of the proposed regulation but indicated some concern that the regulation should not be used to deny access to records that should be made available. The NCUA reiterates its position stated when it issued the proposed regulation. The final rule is essentially procedural, not substantive. It does not create a right to obtain records or the testimony of an NCUA employee nor does it create any additional right or privilege not already available to NCUA to deny such a request.

Final Rule

The final rule is the same as the proposed rule. It solves some problems that have arisen in the past. It should eliminate or reduce eleventh hour requests. Also, by centralizing the service of subpoenas and the determination of the NCUA's response, it should eliminate attempts to serve subpoenas or present requests for disclosure of nonpublic records to field staff and regional offices. The procedures and criteria will ensure a more efficient use of NCUA resources, minimize the possibility of involving the NCUA in issues unrelated to its responsibilities, promote uniformity in responding to such requests and subpoenas and maintain the impartiality of NCUA between private litigants. The final rule will serve NCUA's interest in protecting sensitive, confidential and privileged information and records generated by its supervisory and regulatory work.

The NCUA reiterates its position that, in issuing this regulation, it is not making any waiver of its sovereign immunity. For reference, the NCUA notes that, in addition to the foregoing, a discussion of the legal authority for issuance of this regulation is set out in the Supplemental Information accompanying the publication of the proposed regulation. 62 FR 19941 (April 24, 1997).

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires the NCUA to prepare an analysis to describe any significant economic impact any proposed regulation may have on a substantial number of small credit unions, meaning those under $1 million in assets. The NCUA Board has determined and certifies that the proposed rule, if adopted, will not have a significant economic impact on a substantial number of small credit unions. The reasons for this determination are that the copying and witness fees to be charged to person and entities submitting requests under the regulation are not large and will not create a financial burden. The proposed rule will not create any significant demand for legal, accounting, or consulting expenditures. Accordingly, the NCUA Board has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

The NCUA submitted a copy of the proposed rule to the Office of Management and Budget (OMB) for its review. OMB received no comments on the proposed rule. Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. OMB has assigned 31330146 as the control number that will be displayed in the table at 12 CFR Part 795.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. This final rule is essentially of a procedural nature only governing release of NCUA's own nonpublic records and the appearance of NCUA employees in legal proceedings. The NCUA has determined that the final rule does not constitute a significant regulatory action for purposes of the Executive Order.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) (Pub. L. 104–121) provides generally for congressional review of agency rules. The reporting requirement is triggered when a final rule is issued. The rule was submitted to OMB for determination of whether this final rule constitutes a major rule as defined under the statute. A major rule is one that OMB finds has resulted in or is likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual, industries, federal, state, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States based enterprises to compete with foreign-based enterprises in domestic and export markets. OMB has determined that this is not a major rule.

List of Subjects in 12 CFR Part 792

Administrative practice and procedure, Credit unions, Confidential business information, Freedom of Information Act, Government employees, Reporting and recordkeeping requirement, Subpoenas.

By the National Credit Union Administration Board on October 22, 1997.

Hattie Ulan,

Acting Secretary of the Board.

For the reasons set forth in the preamble, NCUA proposes to amend 12 CFR part 792 as set forth below:

PART 792—[AMENDED]

1. The authority citation for part 792 is revised to read as follows:

Authority: 5 U.S.C. 301, 552, 552a, 552b; 12 U.S.C. 1752a(d), 1766, 1789, 1795f; E.O. 12600, 52 FR 23781, 3 CFR, 1987 Comp., p. 235; E.O. 12958, 60 FR 19825, 3 CFR, 1995 Comp., p. 333.

2. Amend §792.4 to remove paragraph (b)(3) and revise paragraph (a) to read as follows:

§792.4 Release of exempt records.

(a) *Prohibition against disclosure.* Except as provided in paragraph (b) of this section and subpart C of this part, no officer, employee, or agent of NCUA or of any federally-insured credit union shall disclose or permit the disclosure of any exempt records of the Agency to any person other than those NCUA or credit union officers, employees, or agents properly entitled to such information for the performance of their official duties.

* * * * *

3. Revise subpart C of part 792 to read as follows:

Subpart C—Production of Nonpublic Records and Testimony of NCUA Employees in Legal Proceedings

Sec.

792.40 What does this subpart prohibit?
792.41 When does this subpart apply?
792.42 How do I request nonpublic records or testimony?
792.43 What must my written request contain?
792.44 When should I make a request?
792.45 Where do I send my request?
792.46 What will the NCUA do with my request?
792.47 If my request is granted, what fees apply?
792.48 If my request is granted, what restrictions may apply?
792.49 Definitions.

Subpart C—Production of Nonpublic Records and Testimony of NCUA Employees in Legal Proceedings

§792.40 What does this subpart prohibit?

This subpart prohibits the release of nonpublic records or the appearance of an NCUA employee to testify in legal proceedings except as provided in this subpart. Any person possessing nonpublic records may release them or permit their disclosure only as provided in this subpart.

(a) *Duty of NCUA employees.* (1) If an NCUA employee is served with a subpoena requiring him or her to appear as a witness or produce records, the employee must promptly notify the Office of General Counsel. The General Counsel has the authority to instruct NCUA employees to refuse appearing as a witness or to withhold nonpublic records. The General Counsel may let an NCUA employee provide testimony, including expert or opinion testimony, if the General Counsel determines that the need for the testimony clearly outweighs contrary considerations.

(2) If a court or other appropriate authority orders or demands expert or opinion testimony or testimony beyond authorized subjects contrary to the General Counsel's instructions, an NCUA employee must immediately notify the General Counsel of the order and respectfully decline to comply. An NCUA employee must decline to answer questions on the grounds that this subpart forbids such disclosure and should produce a copy of this subpart, request an opportunity to consult with the Office of General Counsel, and explain that providing such testimony without approval may expose him or her to disciplinary or other adverse action.

(b) *Duty of persons who are not NCUA employees.* (1) If you are not an NCUA employee but have custody of nonpublic records and are served with a subpoena requiring you to appear as a witness or produce records, you must promptly notify the NCUA about the subpoena. Also, you must notify the issuing court or authority and the person or entity for whom the subpoena was issued of the contents of this subpart. Notice to the NCUA is made by sending a copy of the subpoena to the General Counsel of the NCUA, Office of General Counsel, 1775 Duke Street, Alexandria, Virginia 22314–3428. After receiving notice, the NCUA may advise the issuing court or authority and the person or entity for whom the subpoena was issued that this subpart applies and, in addition, may intervene, attempt to have the subpoena quashed or withdrawn, or register appropriate objections.

(2) After notifying the Office of General Counsel, you should respond to a subpoena by appearing at the time and place stated in the subpoena. Unless authorized by the General Counsel, you should decline to produce any records or give any testimony, basing your refusal on this subpart. If the issuing court or authority orders the disclosure of records or orders you to testify, you should continue to decline to produce records or testify and should advise the Office of General Counsel.

(c) *Penalties.* Anyone who discloses nonpublic records or gives testimony related to those records, except as expressly authorized by the NCUA or as ordered by a federal court after NCUA has had the opportunity to be heard, may face the penalties provided in 18 U.S.C. 641 and other applicable laws. Also, former NCUA employees, in addition to the prohibition contained in this subpart, are subject to the restrictions and penalties of 18 U.S.C. 207.

§792.41 When does this subpart apply?

This subpart applies if you want to obtain nonpublic records or testimony of an NCUA employee for legal proceedings. It doesn't apply to the release of records under the Freedom of Information Act (FOIA), 5 U.S.C. 552, or the Privacy Act, 5 U.S.C. 552a, or the release of records to federal or state investigatory agencies under §792.4(b)(2).

§792.42 How do I request nonpublic records or testimony?

(a) To request nonpublic records or the testimony of an NCUA employee, you must submit a written request to the General Counsel of the NCUA. If you serve a subpoena on the NCUA or an NCUA employee before submitting a written request and receiving a final determination, the NCUA will oppose the subpoena on the grounds that you failed to follow the requirements of this subpart. You may serve a subpoena as long as it is accompanied by a written request that complies with this subpart.

(b) To request nonpublic records that are part of the records of the Office of the Inspector General or the testimony of an NCUA employee on matters within the knowledge of the NCUA employee as a result of his or her employment with the Office of the Inspector General, you must submit a written request to the Office of the Inspector General. Your request will be handled in accordance with the provisions of this subpart except that the Inspector General will be responsible for those determinations that would otherwise be made by the General Counsel.

§792.43 What must my written request contain?

Your written request for records or testimony must include:

(a) The caption of the legal proceeding, docket number, and name of the court or other authority involved.

(b) A copy of the complaint or equivalent document setting forth the assertions in the case and any other pleading or document necessary to show relevance.

(c) A list of categories of records sought, a detailed description of how the information sought is relevant to the issues in the legal proceeding, and a specific description of the substance of the testimony or records sought.

(d) A statement as to how the need for the information outweighs the need to maintain the confidentiality of the information and outweighs the burden on the NCUA to produce the records or provide testimony.

(e) A statement indicating that the information sought is not available from another source, such as a credit union's own books and records, other persons or entities, or the testimony of someone other than an NCUA employee, for example, retained experts.

(f) A description of all prior decisions, orders, or pending motions in the case that bear upon the relevance of the records or testimony you want.

(g) The name, address, and telephone number of counsel to each party in the case.

(h) An estimate of the amount of time you anticipate that you and other parties will need with each NCUA employee for interviews, depositions, or testifying.

§792.44 When should I make a request?

You should submit your request at least 45 days before the date that you need the records or testimony. If you want to have your request processed in less time, you must explain why you couldn't submit the request earlier and why you need expedited processing. If you are requesting the testimony of an NCUA employee, the NCUA expects you to anticipate your need for the testimony in sufficient time to obtain it by a deposition. The General Counsel may deny a request for testimony at a legal proceeding unless you explain why you could not use deposition testimony. The General Counsel will determine the location of a deposition taking into consideration the NCUA's interest in minimizing the disruption for an NCUA employee's work schedule and the costs and convenience of other persons attending the deposition.

§792.45 Where do I send my request?

You must send your request or subpoena for records or testimony to the attention of the General Counsel for the NCUA, Office of General Counsel, 1775 Duke Street, Alexandria, Virginia 22314–3428. You must send your request or subpoena for records or testimony from the Office of the Inspector General to the attention of the NCUA Inspector General, 1775 Duke Street, Alexandria, Virginia 22314–3428.

§792.46 What will the NCUA do with my request?

(a) *Factors the NCUA will consider.* The NCUA may consider various factors in reviewing a request for nonpublic records or testimony of NCUA employees, including:

(1) Whether disclosure would assist or hinder the NCUA in performing its statutory duties or use NCUA resources unreasonably, including whether responding to the request will interfere with NCUA employees' ability to do their work.

(2) Whether disclosure is necessary to prevent the perpetration of a fraud or other injustice in the matter or if you can get the records or testimony you want from sources other than the NCUA.

(3) Whether the request is unduly burdensome.

(4) Whether disclosure would violate a statute, executive order, or regulation, for example, the Privacy Act, 5 U.S.C. 552a.

(5) Whether disclosure would reveal confidential, sensitive or privileged information, trade secrets or similar, confidential commercial or financial information, or would otherwise be inappropriate for release and, if so, whether a confidentiality agreement or protective order as provided in §792.48(a) can adequately limit the disclosure.

(6) Whether the disclosure would interfere with law enforcement proceedings, compromise constitutional rights, or hamper NCUA research or investigatory activities.

(7) Whether the disclosure could result in NCUA appearing to favor one litigant over another.

(8) Any other factors the NCUA determines to be relevant to the interests of the NCUA.

(b) *Review of your request.* The NCUA will process your request in the order it is received. The NCUA will try to respond to your request within 45 days, but this may vary depending on the scope of your request.

(c) *Final determination.* The General Counsel makes the final determination on requests for nonpublic records or NCUA employee testimony. All final determinations are in the sole discretion of the General Counsel. The General Counsel will notify you and the court or other authority of the final determination of your request. In considering your request, the General Counsel may contact you to inform you of the requirements of this subpart, ask that the request or subpoena be modified or withdrawn, or may try to resolve the request or subpoena informally without issuing a final determination. You may seek judicial review of the final determination under the Administrative Procedure Act. 5 U.S.C. 702.

§792.47 If my request is granted, what fees apply?

(a) *Generally.* You must pay any fees associated with complying with your request, including copying fees for records and witness fees for testimony. The General Counsel may condition the production of records or appearance for testimony upon advance payment of a reasonable estimate of the fees.

(b) *Fees for records.* You must pay all fees for searching, reviewing and duplicating records produced in response to your request. The fees will be the same as those charged by the NCUA under its Freedom of Information Act regulations, § 792.5.

(c) *Witness fees.* You must pay the fees, expenses, and allowances prescribed by the court's rules for attendance by a witness. If no such fees are prescribed, the local federal district court rule concerning witness fees, for the federal district court closest to where the witness appears, will apply. For testimony by current NCUA employees, you must pay witness fees, allowances, and expenses to the General Counsel by check made payable to the "National Credit Union Administration" within 30 days from receipt of NCUA's billing statement. For the testimony of a former NCUA employee, you must pay witness fees, allowances, and expenses directly to the former employee, in accordance with 28 U.S.C. 1821 or other applicable statutes.

(d) *Certification of records.* The NCUA may authenticate or certify records to facilitate their use as evidence. If you require authenticated records, you must request certified copies at least 45 days before the date they will be needed. The request should be sent to the General Counsel. You will be charged a certification fee of $5.00 per document.

(e) *Waiver of fees.* A waiver or reduction of any fees in connection with the testimony, production, or

certification or authentication of records may be granted in the discretion of the General Counsel. Waivers will not be granted routinely. If you request a waiver, your request for records or testimony must state the reasons why a waiver should be granted.

§ 792.48 If my request is granted, what restrictions apply?

(a) *Records.* The General Counsel may impose conditions or restrictions on the release of nonpublic records, including a requirement that you obtain a protective order or execute a confidentiality agreement with the other parties in the legal proceeding that limits access to and any further disclosure of the nonpublic records. The terms of a confidentiality agreement or protective order must be acceptable to the General Counsel. In cases where protective orders or confidentiality agreements have already been executed, the NCUA may condition the release of nonpublic records on an amendment to the existing protective order or confidentiality agreement.

(b) *Testimony.* The General Counsel may impose conditions or restrictions on the testimony of NCUA employees, including, for example, limiting the areas of testimony or requiring you and the other parties to the legal proceeding to agree that the transcript of the testimony will be kept under seal or will only be used or made available in the particular legal proceeding for which you requested the testimony. The General Counsel may also require you to provide a copy of the transcript of the testimony to the NCUA at your expense.

§ 792.49 Definitions.

Legal proceedings means any matter before any federal, state or foreign administrative or judicial authority, including courts, agencies, commissions, boards or other tribunals, involving such proceedings as lawsuits, licensing matters, hearings, trials, discovery, investigations, mediation or arbitration. When the NCUA is a party to a legal proceeding, it will be subject to the applicable rules of civil procedure governing production of documents and witnesses, however, this subpart will still apply to the testimony of former NCUA employees.

NCUA employee means current and former officials, members of the Board, officers, directors, employees and agents of the National Credit Union Administration, including contract employees and consultants and their employees. This definition does not include persons who are no longer employed by the NCUA and are retained or hired as expert witnesses or agree to testify about general matters, matters available to the public, or matters with which they had no specific involvement or responsibility during their employment.

Nonpublic records means any NCUA records that are exempt from disclosure under §792.3, the NCUA regulations implementing the provisions of the Freedom of Information Act. For example, this means records created in connection with NCUA's examination and supervision of insured credit unions, including examination reports, internal memoranda, and correspondence, and, also, records created in connection with NCUA's enforcement and investigatory responsibilities.

Subpoena means any order, subpoena for records or other tangible things or for testimony, summons, notice or legal process issued in a legal proceeding.

Testimony means any written or oral statements made by an individual in connection with a legal proceeding including personal appearances in court or at depositions, interviews in person or by telephone, responses to written interrogatories or other written statements such as reports, declarations, affidavits, or certifications or any response involving more than the delivery of records.

[FR Doc. 97–28585 Filed 10–28–97; 8:45 am]
BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–84–AD; Amendment 39–10178; AD 97–06–07 R1]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 Series Airplanes Equipped With Burns Aerospace Corporation Passenger Seats

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment revises an existing airworthiness directive (AD), applicable to certain Dornier Model 328–100 series airplanes, that currently requires modification of the restraining systems of certain passenger seats by replacing anchor point fasteners with fasteners that are able to withstand required 16g load conditions. That AD was prompted by a report indicating that the restraining systems on these seats failed to meet 16g test load requirements during dynamic testing. The actions specified by that AD are intended to prevent the fasteners from failing, which could result in release of the seat restraint and consequent injury to passengers. This amendment revises the applicability of the existing AD to specify serial numbers of the affected passenger seats.

DATES: Effective November 13, 1997.

The incorporation by reference of Dornier Service Bulletin SB–328–25–114, Revision 1, dated April 17, 1997, as listed in the regulations, is approved by the Director of the Federal Register as of November 13, 1997.

The incorporation by reference of Dornier Service Bulletin SB–328–25–114, dated July 10, 1995, as listed in the regulations, was approved previously by the Director of the Federal Register as of April 18, 1997 (62 FR 12081, March 14, 1997).

Comments for inclusion in the Rules Docket must be received on or before November 28, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–84–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Dornier Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Connie Beane, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2796; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: On March 6, 1997, the FAA issued AD 97–06–07, amendment 39–9964 (62 FR 12081, March 14, 1997), applicable to certain Dornier Model 328–100 series airplanes, to require modification of the restraining systems on certain passenger seats by replacing the anchor point fasteners with new fasteners that are able to withstand the required 16g load conditions. That action was prompted by a report indicating that the restraining systems on these seats failed to meet 16g test load requirements during dynamic testing. The requirements of that AD are intended to prevent the fasteners from failing, which could result in release of the seat restraint and consequent injury to passengers.

Actions Since Issuance of Previous Rule

Since the issuance of that AD, Dornier has issued Service Bulletin SB–328–25–114, Revision 1, dated April 17, 1997. The modification procedures described in this revision are identical to those described in the original version of the service bulletin (which was referenced in AD 97–06–07 as the appropriate source of service information for accomplishment of the modification). The only change made by Revision 1 is to limit the effectivity to airplanes on which seats with specific serial numbers are installed. Seats with later serial numbers have been modified in production. The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, classified this service bulletin as mandatory in order to assure the continued airworthiness of these airplanes in Germany.

FAA's Findings

This airplane model is manufactured in Germany and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above. The FAA has examined the findings of the LBA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD revises AD 97–06–07 to continue to require modification of the restraining systems on certain passenger seats installed on Dornier Model 328–100 series airplanes. This AD also revises the applicability of the existing AD to specify serial numbers of the affected passenger seats.

Determination of Rule's Effective Date

As with all AD's, AD 97–06–07 requires accomplishment of certain actions "unless accomplished previously." For the airplanes that are excluded from the applicability of this AD by this revision, the required actions have been "accomplished previously" during production, and this revision simply identifies explicitly those airplanes on which no further action is required. Consequently, this revision makes no substantive change to the requirements of the existing AD. For this reason, it is found that the notice and opportunity for prior public comment hereon for this action are unnecessary, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97–NM–84–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9964 (62 FR 12081, arch 14, 1997), and by adding a new airworthiness directive (AD), amendment 39–10178, to read as follows:

97–06–07 R1 Dornier: Amendment 39–10178. Docket 97–NM–84–AD. Revises AD 97–06–07, Amendment 39–9964.

Applicability: Model 328–100 series airplanes equipped with Burns Aerospace Corporation commuter seat models JB6.8–1–22 and JB6.8–2–42 passenger seats having serial numbers up to and including 384616; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD.

The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the anchor point fasteners on the seat restraining system, which could result in release of the seat restraint and consequent injury to passengers, accomplish the following:

(a) Within 60 days after April 18, 1997 (the effective date of AD 97–06–07, amendment 39–9984), replace each anchor point fastener on the restraining system of each seat with a fastener of improved design, in accordance with Dornier Service Bulletin SB–328–25–114, dated July 10, 1995, or Revision 1, dated April 17, 1997.

Note 2: The referenced Dornier service bulletin refers to Burns Aerospace Corporation Service Bulletin 25–20–989, Revision B, dated June 14, 1995, or Revision D, dated August 25, 1995, as an additional source of service information for identifying the affected seats and replacing the anchor point fasteners on their restraining systems.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The replacement shall be done in accordance with Dornier Service Bulletin SB–328–25–114, dated July 10, 1995, or Dornier Service Bulletin SB–328–25–114, Revision 1, dated April 17, 1997.

(1) The incorporation by reference of Dornier Service Bulletin SB–328–25–114, Revision 1, dated April 17, 1997, is approved by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of Dornier Service Bulletin SB–328–25–114, dated July 10, 1995, was approved previously by the Director of the Federal Register as of April 18, 1997 (62 FR 12081, March 14, 1997).

(3) Copies may be obtained from Dornier Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in German airworthiness directive 95–240/2, dated August 10, 1995.

(e) This amendment becomes effective on November 13, 1997.

Issued in Renton, Washington, on October 21, 1997.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–28573 Filed 10–28–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–24–AD; Amendment 39–10182; AD 97–22–10]

RIN 2120–AA64

Airworthiness Directives; Partenavia Costruzioni Aeronauticas, S.p.A. Models AP68TP 300 "Spartacus" and AP68TP 600 "Viator" Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all Partenavia Costruzioni Aeronauticas, S.p.A. (Partenavia) Models AP68TP 300 "Spartacus" and AP68TP 600 "Viator" airplanes. This AD requires amending the Limitations Section of the airplane flight manual (AFM) to prohibit the positioning of the power levers below the flight idle stop while the airplane is in flight. This AFM amendment will include a statement of consequences if the limitation is not followed. This AD results from numerous incidents and five documented accidents involving airplanes equipped with turboprop engines where the propeller beta was improperly utilized during flight. The actions specified by this AD are intended to prevent loss of airplane control or engine overspeed with consequent loss of engine power caused by the power levers being positioned below the flight idle stop while the airplane is in flight.

EFFECTIVE DATE: December 5, 1997.

ADDRESSES: Information related to this AD may be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket 97–CE–24–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: J. Mike Kiesov, Aerospace Engineer, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6934; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Partenavia Models AP68TP 300 "Spartacus" and AP68TP 600 "Viator" airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on July 2, 1997 (62 FR 35702).

The NPRM proposed to require amending the Limitations Section of the AFM to prohibit the positioning of the power levers below the flight idle stop while the airplane is in flight, including a statement of consequences if the limitation is not followed. This AFM amendment shall consist of the following language:

> Positioning of power levers below the flight idle stop while the airplane is in flight is prohibited. Such positioning may lead to loss of airplane control or may result in an overspeed condition and consequent loss of engine power.

The NPRM is the result of numerous incidents and five documented accidents involving airplanes equipped with turboprop engines where the propeller beta was improperly utilized during flight.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Compliance Time of This AD

The FAA has determined that the compliance time of this AD should be specified in calendar time instead of hours time-in-service. While the condition addressed by this AD is unsafe while the airplane is in flight, the condition is not a result of repetitive airplane operation; the potential of the unsafe condition occurring is the same on the first flight as it is for subsequent flights. The compliance time of "30 days after the effective date of this AD" will not inadvertently ground airplanes and would assure that all owners/operators of the affected airplanes accomplish this AD in a reasonable time period.

Cost Impact

The FAA estimates that 5 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 1 workhour per airplane to incorporate the required AFM amendment, and that the average labor rate is approximately $60 an hour. Since an owner/operator who holds at least a private pilot's certificate as authorized by §§ 43.7 and 43.11 of the Federal Aviation Regulations (14 CFR 43.7 and 43.11) can accomplish this AD, the only cost impact upon the public is the time it will take the affected airplane owner/operators to amend the AFM.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

97–22–10 Partenavia Costruzioni Aeronauticas, S.P.A: Amendment 39–10182; Docket No. 97–CE–24–AD.

Applicability: Models AP68TP 300 "Spartacus" and AP68TP 600 "Viator" airplanes, all serial numbers, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 30 days after the effective date of this AD, unless already accomplished.

To prevent loss of airplane control or engine overspeed with consequent loss of engine power caused by the power levers being positioned below the flight idle stop while the airplane is in flight, accomplish the following:

(a) Amend the Limitations Section of the airplane flight manual (AFM) by inserting the following language:

> Positioning of power levers below the flight idle stop while the airplane is in flight is prohibited. Such positioning may lead to loss of airplane control or may result in an overspeed condition and consequent loss of engine power.

(b) This action may be accomplished by incorporating a copy of this AD into the Limitations Section of the AFM.

(c) Amending the AFM, as required by this AD, may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with section 43.11 of the Federal Aviation Regulations (14 CFR 43.11).

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(f) Information related to this AD may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(g) This amendment (39–10182) becomes effective on December 5, 1997.

Issued in Kansas City, Missouri, on October 21, 1997.

Mary Ellen A. Schutt,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–28574 Filed 10–28–97; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–23–AD; Amendment 39–10181; AD 97–22–09]

RIN 2120–AA64

Airworthiness Directives; Dornier Luftfahrt GMBH Models 228–100, 228–101, 228–200, 228–201, 228–202, and 228–212 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all Dornier Luftfahrt GMBH (Dornier) Models 228–100, 228–101, 228–200, 228–201, 228–202, and 228–212 airplanes. This AD requires amending the Limitations Section of the Dornier 228 Pilot's Operating Handbook (POH) to prohibit the positioning of the power levers below the flight idle stop while the airplane is in flight. This POH amendment will include a statement of consequences if the limitation is not followed. This AD results from numerous incidents and five documented accidents involving airplanes equipped with turboprop engines where the propeller beta was improperly utilized during flight. The actions specified by this AD are intended to prevent loss of airplane control or engine overspeed with consequent loss of engine power caused by the power levers being positioned

below the flight idle stop while the airplane is in flight.

EFFECTIVE DATE: December 5, 1997.

ADDRESSES: The POH revisions referenced in this document may be received from Dornier Luftfahrt GmbH, Postfach/P.O. Box 1103, D–82230 Wessling, Federal Republic of Germany; telephone: (0 81 53) 300; facsimile: (0 81 53) 30 29 01. Information related to this AD may be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket 97–CE–23–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: J. Mike Kiesov, Aerospace Engineer, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6934; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Dornier Models 228–100, 228–101, 228–200, 228–201, 228–202, and 228–212 airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on July 2, 1997 (62 FR 35706).

The NPRM proposed to require amending the Limitations Section of the Dornier 228 POH to prohibit the positioning of the power levers below the flight idle stop while the airplane is in flight, including a statement of consequences if the limitation is not followed. This POH amendment shall consist of the following language:

> Power levers selection below the flight idle (FI) gate is prohibited during flight. Movement of any power lever below the FI gate during flight could lead to loss of airplane control from which recovery may not be possible.

The NPRM is the result of numerous incidents and five documented accidents involving airplanes equipped with turboprop engines where the propeller beta was improperly utilized during flight.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

Actions Since Issuance of the NPRM

In the NPRM, the FAA included a provision to include in the final rule any POH revisions that the manufacturer completed and were approved by the FAA before issuance of the final rule. Dornier has issued Temporary Revision No. 014, dated September 30, 1996, and the FAA has approved it. The FAA will incorporate this POH revision into the final rule.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Compliance Time of This AD

The FAA has determined that the compliance time of this AD should be specified in calendar time instead of hours time-in-service. While the condition addressed by this AD is unsafe while the airplane is in flight, the condition is not a result of repetitive airplane operation; the potential of the unsafe condition occurring is the same on the first flight as it is for subsequent flights. The compliance time of "30 days after the effective date of this AD" will not inadvertently ground airplanes and would assure that all owners/operators of the affected airplanes accomplish this AD in a reasonable time period.

Cost Impact

The FAA estimates that 12 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 1 workhour per airplane to incorporate the required POH amendment, and that the average labor rate is approximately $60 an hour. Since an owner/operator who holds at least a private pilot's certificate as authorized by sections 43.7 and 43.11 of the Federal Aviation Regulations (14 CFR 43.7 and 43.11) can accomplish this AD, the only cost impact upon the public is the time it will take the affected airplane owner/operators to amend the POH.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

97–22–09 Dornier Luftfahrt GMBH: Amendment 39–10181; Docket No. 97–CE–23–AD.

Applicability: Models 228–100, 228–101, 228–200, 228–201, 228–202, and 228–212 airplanes, all serial numbers, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 30 days after the effective date of this AD, unless already accomplished.

To prevent loss of airplane control or engine overspeed with consequent loss of engine power caused by the power levers being positioned below the flight idle stop while the airplane is in flight, accomplish the following:

(a) Accomplish one of the following:

(1) Insert the following language into the Limitations section of the Dornier 228 Pilot's Operating Handbook (POH):

"Power levers selection below the flight idle (FI) gate is prohibited during flight. Movement of any power lever below the FI gate during flight could lead to loss of airplane control from which recovery may not be possible."; or

(2) Insert Dornier Temporary Revision No. 014, page 1, dated September 30, 1996, into the Limitations section of the Dornier 228 POH.

(b) This action may be accomplished by incorporating a copy of this AD into the Limitations Section of the Dornier 228 POH.

(c) Amending the POH, as required by this AD, may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with section 43.11 of the Federal Aviation Regulations (14 CFR 43.11).

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(f) The POH revisions referenced in this document may be received from Dornier Luftfahrt GmbH, Postfach/P.O. Box 1103, D–82230 Wessling, Federal Republic of Germany. Information related to this AD may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(g) This amendment (39–10181) becomes effective on December 5, 1997.

Issued in Kansas City, Missouri, on October 21, 1997.

Mary Ellen A. Schutt,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–28575 Filed 10–28–97; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–25–AD; Amendment 39–10183; AD 97–22–11]

RIN 2120–AA64

Airworthiness Directives; Industrie Aeronautiche e Meccaniche Rinaldo Piaggio S.p.A. Model P–180 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all Industrie Aeronautiche e Meccaniche Rinaldo Piaggio S.p.A. (Piaggio) Model P–180 airplanes. This AD requires amending the Limitations Section of the airplane flight manual (AFM) to prohibit the positioning of the power levers below the flight idle stop while the airplane is in flight. This AFM amendment will include a statement of consequences if the limitation is not followed. This AD results from numerous incidents and five documented accidents involving airplanes equipped with turboprop engines where the propeller beta was improperly utilized during flight. The actions specified by this AD are intended to prevent loss of airplane control or engine overspeed with consequent loss of engine power caused by the power levers being positioned below the flight idle stop while the airplane is in flight.

EFFECTIVE DATE: December 5, 1997.

ADDRESSES: Information related to this AD may be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket 97–CE–25–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: J. Mike Kiesov, Aerospace Engineer, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6934; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Piaggio Model P–180 airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on July 2, 1997 (62 FR 35698).

The NPRM proposed to require amending the Limitations Section of the AFM to prohibit the positioning of the power levers below the flight idle stop while the airplane is in flight, including a statement of consequences if the limitation is not followed. This AFM amendment shall consist of the following language:

> Positioning of power levers below the flight idle stop while the airplane is in flight is prohibited. Such positioning may lead to loss of airplane control or may result in an overspeed condition and consequent loss of engine power.

The NPRM is the result of numerous incidents and five documented accidents involving airplanes equipped with turboprop engines where the propeller beta was improperly utilized during flight.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Compliance Time of This AD

The FAA has determined that the compliance time of this AD should be specified in calendar time instead of hours time-in-service. While the condition addressed by this AD is unsafe while the airplane is in flight, the condition is not a result of repetitive airplane operation; the potential of the unsafe condition occurring is the same on the first flight as it is for subsequent flights. The compliance time of "30 days after the effective date of this AD" will not inadvertently ground airplanes and would assure that all owners/operators of the affected airplanes accomplish this AD in a reasonable time period.

Cost Impact

The FAA estimates that 4 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 1 workhour per airplane to incorporate the required AFM amendment, and that the average labor rate is approximately $60 an hour. Since an owner/operator who holds at least a private pilot's

certificate as authorized by §§ 43.7 and 43.11 of the Federal Aviation Regulations (14 CFR 43.7 and 43.11) can accomplish this AD, the only cost impact upon the public is the time it will take the affected airplane owner/operators to amend the AFM.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

97–23–11 Industrie Aeronautiche E Meccaniche Rinaldo Piaggio S.P.A.: Amendment 39–10183; Docket No. 97–CE–25–AD.

Applicability: Model P–180 airplanes, all serial numbers, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 30 days after the effective date of this AD, unless already accomplished.

To prevent loss of airplane control or engine overspeed with consequent loss of engine power caused by the power levers being positioned below the flight idle stop while the airplane is in flight, accomplish the following:

(a) Amend the Limitations Section of the airplane flight manual (AFM) by inserting the following language:

Positioning of power levers below the flight idle stop while the airplane is in flight is prohibited. Such positioning may lead to loss of airplane control or may result in an overspeed condition and consequent loss of engine power.

(b) This action may be accomplished by incorporating a copy of this AD into the Limitations Section of the AFM.

(c) Amending the AFM, as required by this AD, may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with section 43.11 of the Federal Aviation Regulations (14 CFR 43.11).

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(f) Information related to this AD may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(g) This amendment (39–10183) becomes effective on December 5, 1997.

Issued in Kansas City, Missouri, on October 21, 1997.

Mary Ellen A. Schutt,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–28576 Filed 10–28–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–26–AD; Amendment 39–10184; AD 97–22–12]

RIN 2120–AA64

Airworthiness Directives; SIAI Marchetti S.r.1. Models SF600 and SF600A Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all SIAI Marchetti S.r.1. Models SF600 and SF600A airplanes. This AD requires amending the Limitations Section of the airplane flight manual (AFM) to prohibit the positioning of the power levers below the flight idle stop while the airplane is in flight. This AFM amendment will include a statement of consequences if the limitation is not followed. This AD results from numerous incidents and five documented accidents involving airplanes equipped with turboprop engines where the propeller beta was improperly utilized during flight. The actions specified by this AD are intended to prevent loss of airplane control or engine overspeed with consequent loss of engine power caused by the power levers being positioned below the flight idle stop while the airplane is in flight.

EFFECTIVE DATE: December 5, 1997.

ADDRESSES: Information related to this AD may be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket 97-CE–26-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: J. Mike Kiesov, Aerospace Engineer, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6934; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all SIAI Marchetti S.r.1. Models SF600 and SF600A airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on July 2, 1997 (62 FR 35709).

The NPRM proposed to require amending the Limitations Section of the AFM to prohibit the positioning of the power levers below the flight idle stop while the airplane is in flight, including a statement of consequences if the limitation is not followed. This AFM amendment shall consist of the following language:

Positioning of power levers below the flight idle stop while the airplane is in flight is prohibited. Such positioning may lead to loss of airplane control or may result in an overspeed condition and consequent loss of engine power.

The NPRM is the result of numerous incidents and five documented accidents involving airplanes equipped with turboprop engines where the propeller beta was improperly utilized during flight.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Compliance Time of This AD

The FAA has determined that the compliance time of this AD should be specified in calendar time instead of hours time-in-service. While the condition addressed by this AD is unsafe while the airplane is in flight, the condition is not a result of repetitive airplane operation; the potential of the unsafe condition occurring is the same on the first flight as it is for subsequent flights. The compliance time of "30 days after the effective date of this AD" will not inadvertently ground airplanes and would assure that all owners/operators of the affected airplanes accomplish this AD in a reasonable time period.

Cost Impact

None of the SIAI Marchetti S.r.l. Models SF600 and SF600A airplanes affected by this AD are on the U.S. Register, and are therefore, not directly affected by this AD. However, the FAA considers the AD necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register.

Should an affected airplane be imported and placed on the U.S. Register, it would take approximately 1 workhour per airplane to incorporate the required AFM amendment, at an average labor rate of approximately $60 an hour. Since an owner/operator who holds at least a private pilot's certificate as authorized by §§ 43.7 and 43.11 of the Federal Aviation Regulations (14 CFR 43.7 and 43.11) can accomplish the required action, the only cost impact upon the public is the time it would take the affected airplane owner/operator to amend the AFM.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

97–22–12 SIAI Marchetti S.R.1.: Amendment 39–10184; Docket No. 97–CE–26–AD.

Applicability: Models SF600 and SF600A airplanes, all serial numbers, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 30 days after the effective date of this AD, unless already accomplished.

To prevent loss of airplane control or engine overspeed with consequent loss of engine power caused by the power levers being positioned below the flight idle stop while the airplane is in flight, accomplish the following:

(a) Amend the Limitations Section of the airplane flight manual (AFM) by inserting the following language:

Positioning of power levers below the flight idle stop while the airplane is in flight is prohibited. Such positioning may lead to loss of airplane control or may result in an overspeed condition and consequent loss of engine power.

(b) This action may be accomplished by incorporating a copy of this AD into the Limitations Section of the AFM.

(c) Amending the AFM, as required by this AD, may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with section 43.11 of the Federal Aviation Regulations (14 CFR 43.11).

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(f) Information related to this AD may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(g) This amendment (39–10184) becomes effective on December 5, 1997.

Issued in Kansas City, Missouri, on October 21, 1997.

Mary Ellen A. Schutt,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–28577 Filed 10–28–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–18–AD; Amendment 39–10180; AD 97–22–08]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft LTD Models PC–6/B1–H2, PC–6/B2–H2, PC–6/B2–H4, and PC–12 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Pilatus Aircraft LTD (Pilatus) Models PC–6/B1–H2, PC–6/B2–H2, PC–6/B2–H4 airplanes and all Pilatus Model PC–12 airplanes. This AD requires amending the Limitations Section of either the airplane flight manual (AFM) or the pilot's operating handbook (POH) to prohibit the positioning of the power levers below the flight idle stop while the airplane is in flight. This AFM amendment will include a statement of consequences if the limitation is not followed. This AD results from numerous incidents and five documented accidents involving airplanes equipped with turboprop engines where the propeller beta was improperly utilized during flight. The actions specified by this AD are intended to prevent loss of airplane control or engine overspeed with consequent loss of engine power caused by the power levers being positioned below the flight idle stop while the airplane is in flight.

EFFECTIVE DATE: December 5, 1997.

ADDRESSES: The AFM revisions referenced in this AD may be obtained from Pilatus Aircraft Ltd., CH–6370 Stans, Switzerland. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket 97–CE–18–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: J. Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6934; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to Pilatus Models PC–6/B1–H2, PC–6/B2–H2, PC–6/B2–H4 airplanes and PC–12 series airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on July 2, 1997 (62 FR 35700). The NPRM proposed to require amending the Limitations Section of the AFM or POH to prohibit the positioning of the power levers below the flight idle stop while the airplane is in flight, including a statement of consequences if the limitation is not followed. Amending the AFM or POH would be accomplished by inserting one of the following, as applicable:

—Temporary Revision To Pilatus/PC–6 B1 and B2 Series Airplanes Flight Manuals; Section 1; Certificate Limitations; Issued: November 29, 1996; and

—Temporary Revision To PC–12 Pilot's Operating Handbook; Pilatus Report No. 01973–001, dated November 20, 1996.

The NPRM is the result of numerous incidents and five documented accidents involving airplanes equipped with turboprop engines where the propeller beta was improperly utilized during flight.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Compliance Time of This AD

The FAA has determined that the compliance time of this AD should be specified in calendar time instead of hours time-in-service. While the condition addressed by this AD is unsafe while the airplane is in flight, the condition is not a result of repetitive airplane operation; the potential of the unsafe condition occurring is the same on the first flight as it is for subsequent flights. The compliance time of "30 days after the effective date of this AD" will not inadvertently ground airplanes and would assure that all owners/operators of the affected airplanes accomplish this AD in a reasonable time period.

Cost Impact

The FAA estimates that 72 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 1 workhour per airplane to incorporate the required AFM amendment, and that the average labor rate is approximately $60 an hour. Since an owner/operator who holds at least a private pilot's certificate as authorized by sections 43.7 and 43.11 of the Federal Aviation Regulations (14 CFR 43.7 and 43.11) can accomplish this AD, the only cost impact upon the public is the time it will take the affected airplane owner/operators to amend the AFM or POH.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

97–22–08 Pilatus Aircraft, Ltd.: Amendment 39–10180; Docket No. 97–CE–18–AD.

Applicability: The following model and serial number airplanes, certificated in any category:

—Model Pilatus Models PC–6/B1–H2, PC–6/B2–H2, PC–6/B2–H4 airplanes, all serial numbers, that are equipped with a Pratt and Whitney PT6A turboprop engine; and

—Model Pilatus PC–12 airplanes, all serial numbers.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 30 days after the effective date of this AD, unless already accomplished.

To prevent loss of airplane control or engine overspeed with consequent loss of engine power caused by the power levers being positioned below the flight idle stop while the airplane is in flight, accomplish the following:

(a) Amend the Limitations Section of the airplane flight manual (AFM) or pilot's operating handbook (POH) by inserting the following revisions, as applicable:

(1) Temporary Revision To Pilatus/PC–6 B1 and B2 Series Airplanes Flight Manuals; Section 1; Certificate Limitations; Issued: November 29, 1996; or

(2) Temporary Revision To PC–12 Pilot's Operating Handbook; Pilatus Report No. 01973–001, dated November 20, 1996.

(b) Amending the AFM or POH, as required by this AD, may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with section 43.11 of the Federal Aviation Regulations (14 CFR 43.11).

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(e) The AFM or POH revisions referenced in this AD may be obtained from Pilatus Aircraft Ltd., CH–6370 Stans, Switzerland. Information related to this AD may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(f) This amendment (39–10180) becomes effective on December 5, 1997.

Issued in Kansas City, Missouri, on October 21, 1997.

Mary Ellen A. Schutt,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–28578 Filed 10–28–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AGL–29]

Modification of Class E Airspace; Delaware, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Delaware, OH. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway 10 and a GPS SIAP to Runway 28 have been developed for Delaware Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approaches. This action increases the radius of the existing controlled airspace for the airport.

EFFECTIVE DATE: 0901 UTC, January 1, 1998.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Friday, July 25, 1997, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify Class E airspace for Delaware, OH (62 FR 39982). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) modifies Class E airspace at Delaware, OH, to accommodate aircraft executing the GPS Runway 10 SIAP and the GPS Runway 28 SIAP at Delaware Municipal Airport by increasing the radius of the existing controlled airspace for the airport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approaches. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 The Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL OH E5 Delaware, OH [Revised]

Delaware Municipal Airport, OH
(lat. 40°16'46" N, long. 83°06'22" W)
Delaware NDB
(lat. 40°16'41" N, long. 83°06'33" W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Delaware Municipal Airport and within 2.6 miles either side of the 286° bearing from the Delaware NDB extending from the NDB to 8.3 miles northwest of the NDB.

* * * * *

Issued in Des Plaines, Illinois on October 7, 1997.

David B. Johnson,

Assistant Manager, Air Traffic Division.

[FR Doc. 97–28607 Filed 10–28–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AGL–28]

Modification of Class E Airspace; Norwalk, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Norwalk, OH. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway 28 has been developed for Norwalk-Huron County Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action increases the radius of the existing controlled airspace for the airport.

EFFECTIVE DATE: 0901 UTC, January 1, 1998.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Friday, July 25, 1997, the FAA proposed to amend part 71 of the Federal Aviation Regulation (14 CFR part 71) to modify Class E airspace for Norwalk-Huron County Airport, OH (62 FR 39980). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) modifies Class E airspace at Norwalk, OH, to accommodate aircraft executing the GPS Runway 28 SIAP at Norwalk-Huron County Airport by increasing the radius of the existing controlled airspace for the airport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adopting of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9665, 3 CFR, 1959–1963 Comp., p. 389.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points,

dated September 10, 1997, and effective September 16, 1997, is amended as follows.

Paragrah 6005 Class E airspace area extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL OH E5 Norwalk, OH [Revised]

Norwalk-Huron County Airport, OH
(lat. 42°14'41"N, long. 82°33'04"W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Norwalk-Huron County Airport and within 2.5 miles each side of the 338° bearing from the airport extending from the 6.4-mile radius to 8.8 miles northwest of the airport.

* * * * *

Issued in Des Plaines, Illinois on October 7, 1997.

David B. Johson,

Assistant Manager, Air Traffic Division.

[FR Doc. 97–28606 Filed 10–28–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AGL–27]

Modification of Class E Airspace; Mason, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Mason, MI. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway 27 has been developed for Mason Jewett Field. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action increases the radius of the existing controlled airspace for the airport.

EFFECTIVE DATE: 0901 UTC, January 1, 1998.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Friday, July 25, 1997, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify Class E airspace for Mason, MI (62 FR 39981). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) modifies Class E airspace at Mason, MI, to accommodate aircraft executing the GPS Runway 27 SIAP at Mason Jewett Field by increasing the radius of the existing controlled airspace for the airport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 The Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL MI E5 Mason, MI [Revised]

Mason Jewett Field, MI
(lat. 42°33'57"N, long. 84°25'24"W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Mason Jewett Field, excluding that airspace within the Eaton, MI, Class E airspace area.

* * * * *

Issued in Des Plaines, Illinois on October 7, 1997.

David B. Johnson,

Assistant Manager, Air Traffic Division.

[FR Doc. 97–28605 Filed 10–28–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AEA–31]

Amendment to Class E Airspace; Point Pleasant, WV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the Class E airspace upward from 700 feet Above Ground Level (AGL) at Point Pleasant, WV. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 25 at Madison County Airport has made this action necessary. This action is intended to provide adequate Class E airspace to contain instrument flight rules (IFR) operations for aircraft executing the GPS SIAP to RWY 25 at Point Pleasant, WV.

EFFECTIVE DATE: 0901 UTC, January 1, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Francis Jordan, Airspace Specialist,

Airspace Branch, AEA–520, Air Traffic Division, Eastern Region, Federal Aviation Administration, Federal Building # 111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

On August 22, 1997, the FAA proposed to amend 14 CFR Part 71 to revise the Class E airspace at Point Pleasant, WV (62 FR 44606). A GPS SIAP to RWY 25 developed for Mason County Airport, Point Pleasant, WV, requires the revision of the Class E airspace at the airport. The notice proposed to revise the controlled airspace extending upward from 700 feet AGL to contain IFR operations in controlled airspace during portions of the terminal operation and while transitioning between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. The rule is adopted as proposed.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designations for airspace extending upward from 700 feet AGL are published in paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR Part 71 amends the Class E airspace located at Point Pleasant, WV, to provide controlled airspace extending upward from 700 feet AGL for aircraft executing a GPS SIAP to RWY 25.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significantly regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AEA WV AEA 35 Point Pleasant, WV [Revised]

Mason County Airport, WV
(lat. 38°54'52"N., long. 82°05'55"W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Mason County Airport and within 4 miles each side of the 059° bearing from the Mason County Airport extending from the 6.4-mile radius to 10 miles northeast of the airport, excluding the portions that coincide with the Gallipolis, OH, and Ravenswood, WV, Class E airspace areas.

* * * * *

Issued in Jamaica, New York on October 7, 1997.

Franklin D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 97–28602 Filed 10–28–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AEA–32]

Amendment to Class E Airspace; Wrightstown, NJ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace extending upward from 700 feet Above Ground Level (AGL) at Wrightstown, NJ. The development of Global Positioning System (GPS) Standard Instrument Approach Procedures (SIAP) to Runway (RWY) 19 and RWY 01 at Flying W Airport, Lumberton, NJ, has made this action necessary. This action is intended to provide adequate Class E airspace to contain instrument flight rules (IFR) operations for aircraft executing the GPS RWY 19 SIAP and the GPS RWY 01 SIAP to Flying W Airport at Lumberton, NJ.

EFFECTIVE DATE: 0901 UTC, January 1, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Francis Jordan, Airspace Specialist, Airspace Branch, AEA–520, Air Traffic Division, Eastern Region, Federal Aviation Administration, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

On August 22, 1997, the FAA proposed to amend 14 CFR Part 71 to amend the Class E airspace at Wrightstown, NJ (62 FR 44605). A GPS RWY 19 SIAP and a GPS RWY 01 SIAP developed for Flying W Airpoort, Lumberton, NJ, requires the amendment of the Class E airspace at Wrightstown, NJ. The proposal would amend controlled airspace extending upward from 700 feet AGL to contain IFR operations in controlled airspace during portions of the terminal operation and while transitioning between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. The rule is adopted as proposed.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designations for airspace extending upward from 700 feet AGL are published in paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR Part 71 amends Class E airspace at Wrightstown, NJ, to provide controlled

airspace extending upward from 700 feet AGL for aircraft executing the GPS RWY 19 SIAP and GPS RWY 01 SIAP to Flying W Airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AEA NJ AEA E5 Wrightstown, NJ [Revised]

Lakewood Airport, NJ
(lat. 40°04'00" N., long. 74°10'40" W.)
McGuire AFB, NJ
(lat. 40°00'56" N., long. 74°35'37" W.)
Trenton-Robbinsville Airport, NJ
(lat. 40°12'50" N., long. 74°36'07" W.)
Allaire Airport, NJ
(lat. 40°11'13" N., long. 74°07'30" W.)
Robert J. Miller Airpark, NJ
(lat. 39°55'39" N., long. 74°17'33" W.)
Flying W Airport, NJ
(lat. 39°56'00" N., long. 74°48'24" W.)
Lakehurst (Navy) TACAN
(lat. 40°02'13" N., long. 74°21'12" W.)
Colts Neck VOR/DME
(lat. 40°18'42" N., long. 74°09'36" W.)
Coyle VORTAC
(lat. 39°49'02" N., long. 74°25'54" W.)
Robbinsville VORTAC
(lat. 40°12'08" N., long. 74°29'43" W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Lakewood Airport and within a 10.5-mile radius of McGuire AFB and within a 11.3-mile radius of the Lakehurst (Navy) TACAN extending clockwise from the Lakehurst (Navy) TACAN 310° radial to the 148° radial and within 4.4 miles each side of the Coyle VORTAC 031° radial extending form the VORTAC to 11.3 miles northeast and within 2.6 miles southwest and 4.4 miles northeast of the Lakehurst (Navy) TACAN 148° radial extending from the TACAN to 12.2 miles southeast and within a 6.4-mile radius of Trenton-Robbinsville airport and within 5.7 miles north and 4 miles south of the Robbinsville VORTAC 278° and 098° radials extending form 4.8 miles west to 10 miles east of the VORTAC and within a 6.7-mile radius of Allaire Airport and within 1.8 miles each side of the Colts Neck VOR/DME 167° radial extending from the Allaire Airport 6.7-mile radius to the VOR/DME and within a 9.5-mile radius of Flying W Airport and within a 6.5-mile radius of Robert J. Miller Air Park and within 1.3 miles each side of the Coyle VORTAC 044° radial extending from the 6.5-mile radius of Robert J. Miller Air Park to the VORTAC, excluding the portions that coincide with the Berlin, NJ, Princeton, NJ, Vincetown, NJ, Old Bridge, NJ, Matawan, NJ, and North Philadelphia, PA, Class E airspace areas.

* * * * *

Issued in Jamaica, New York on October 7, 1997.

Franklin D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 97–28601 Filed 10–28–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AGL–33]

Modification of Class E Airspace; Bloomington, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Bloomington, IL. An Instrument Landing System (ILS) Standard Instrument Approach Procedure (SIAP) to Runway 20 has been developed for the Central Illinois Regional Airport at Bloomington-Normal (formerly the Bloomington/Normal Airport). Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action increases the radius of the existing Class E airspace.

EFFECTIVE DATE: 0901 UTC, January 1, 1998.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2330 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Monday, August 25, 1997, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify the Class E airspace at Bloomington, IL (62 FR 44922). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) modifies Class E airspace at Bloomington, IL, to accommodate aircraft executing the ILS Runway 20 SIAP at the Central Illinois Regional Airport at Bloomington-Normal (formerly the Bloomington/Normal Airport) by increasing the radius of the existing Class E airspace for the airport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not

a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * * *

AGL IL E5 Bloomington, IL [Revised]

Central Illinois Regional Airport at Bloomington-Normal, IL
(lat. 40°28'44" N, long. 88°55'08" W)

That airspace extending upward from 700 feet above the surface within a 7.3-mile radius of the Central Illinois Regional Airport at Bloomington-Normal.

* * * * *

Issued in Des Plaines, Illinois on October 7, 1997.

David B. Johnson,

Assistant Manager, Air Traffic Division.

[FR Doc. 97–28611 Filed 10–28–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AGL–32]

Removal of Class E Airspace; Minocqua-Woodruff, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action removes Class E airspace at Minocqua-Woodruff, WI. This airspace surface area is being removed because the weather observation requirements for a controlled airspace surface area are no longer being met for the Lakeland/Noble F. Lee Memorial Field. The intended effect of this action is to provide an accurate description of the controlled airspace for Minocqua-Woodruff, WI.

EFFECTIVE DATES: 0901 UTC, January 1,1998.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Monday, August 25, 1997, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to remove the Class F airspace at Minocqua-Woodruff, WI (62 FR 44923). The proposal was to remove controlled airspace extending upward from the surface for Lakeland/Noble F. Lee Memorial Field.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas designated as a surface area for a airport are published in paragraph 6002 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be removed subsequently from the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) removes Class E airspace at Minocqua-Woodruff, WI, because the weather observation requirements for a controlled airspace surface area are no longer being met for Lakeland/Noble F. Lee Memorial Field. The area will be removed from the appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113; 40120; E.O. 10854, 24 FR 9565, 3 CFR 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6002 The Class E airspace areas designated as a surface area for an airport.

* * * * * *

AGL WI E2 Minocqua-Woodruff, WI
[Removed]

* * * * * *

Issued in Des Plaines, Illinois on October 7, 1997.

David B. Johnson,

Assistant Manager, Air Traffic Division.

[FR Doc. 97–28610 Filed 10–28–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AGL–30]

Modification of Class E Airspace; Rochester, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Rochester, IN. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway 29 has been developed for Fulton County Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action will increase the radius of the existing Class E airspace.

EFFECTIVE DATE: 0901 UTC, January 1, 1998.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Monday, August 25, 1997, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify the Class E airspace at Rochester, IN (62 FR 44921). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) modifies Class E airspace at Rochester, IN, to accommodate aircraft executing the GPS Runway 29 SIAP at Fulton County Airport by increasing the radius of the existing Class E airspace for the airport. Controlled airspace extending upward form 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * * *

AGL IN E5 Rochester, IN [Revised]

Rochester, Fulton County Airport, IN
(lat. 41°03'37" N, long. 86°10'58" W)

That airspace extending upward from 700 feet above the surface within a 7.4-mile radius of the Fulton County Airport.

* * * * * *

Issued in Des Plaines, Illinois on October 7, 1997.

David B. Johnson,

Assistant Manager, Air Traffic Division.

[FR Doc. 97–28608 Filed 10–28–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AEA–34]

Establishment of Class E Airspace; Indian Head, MD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace extending upward from 700 feet Above Ground Level (AGL) at Indian Head, MD. The development of a Global Positioning System (GSP) Standards Instrument Approach Procedure (SIAP) to Runway (RWY) 36 and a VHF Omnidirectional Radio Range (VOR) A SIAP to Maryland Airport has made this action necessary. This action is intended to provide adequate Class E airspace to contain instrument flight rules (IFR) operations for aircraft executing the GPS RWY 36 SIAP and the VOR A SIAP to Maryland Airport at Indian Head, MD.

EFFECTIVE DATE: 0901 UTC, January 1, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Francis Jordan, Airspace Specialist, Airspace Branch, AEA–520, Air Traffic Division, Eastern Region, Federal Aviation Administration, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

On August 22, 1997, the FAA proposed to amend 14 CFR Part 71 to establish Class E airspace at Indian Head, MD (62 FR 44603). A GPS RWY 36 SIAP and a VOR A SIAP developed for Maryland Airport, Indian Head, MD, requires the establishment of the Class E airspace at the airport. The notice proposed to establish controlled airspace extending upward from 700 feet AGL to contain IFR operations in controlled airspace during portions of the terminal operation and while transitioning between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking

proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. The rule is adopted as proposed.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designations for airspace extending upward from 700 feet AGL are published in paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997 and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in the document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR Part 71 establishes Class E airspace at Indian Head, MD, to provide controlled airspace extending upward from 700 feet AGL for executing the GPS RWY 36 SIAP and VOR A SIAP to Maryland Airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significantly regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9E, Airspace, Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AEA MD AEA E5 Indian Head, MD [New]

Maryland Airport, MD
(lat. 38°36'01" N., long. 77°04'24" W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Maryland Airport, excluding the portions that coincide with the Washington, DC, and Friendly, MD, Class E airspace areas.

* * * * *

Issued in Jamaica, New York on October 7, 1997.

Franklin D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 97–28604 Filed 10–28–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AEA–33]

Amendment to Class E Airspace; Summersville, WV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the Class E airspace extending upward from 700 feet Above Ground Level (AGL) at Summersville, WV. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 22 at Summersville Airport has made this action necessary. This action is intended to provide adequate Class E airspace to contain instrument flight rules (IFR) operations for aircraft executing the GPS SIAP to RWY 22 at Summersville, WV.

EFFECTIVE DATE: 0901 UTC, January 1, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Francis Jordan, Airspace Specialist, Airspace Branch, AEA–520, Air Traffic Division, Eastern Region, Federal Aviation Administration, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

On August 22, 1997, the FAA proposed to amend 14 CFR Part 71 to revise the Class E airspace at Point Pleasant, WV (62 FR 44604). A GPS SIAP to RWY 22 developed for Summersville Airport, Summersville, WV, requires the revision of the Class E airspace at the airport. The notice proposed to revise the controlled airspace extending upward for 700 feet AGL to contain IFR operations in controlled airspace during portions of the terminal operation and while transitioning between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal of the FAA. No comments to the proposal were received. The rule is adopted as proposed.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designations for airspace extending upward from 700 feet AGL are published in paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in the document will be published subsequently in the Order.

The Rule

This amendment 14 CFR Part 71 amends the Class E airspace located at Summersville, WV, to provide controlled airspace extending upward from 700 feet AGL for aircraft executing a GPS RWY 22 SIAP to Summersville Airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is a minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AEA WV AEA E5 Summersville, WV [Revised]

Summersville Airport, WV
(lat. 38°13'54" N., long. 80°52'15" W.)
Nicholas NDB
(lat. 38°10'30" N., long. 80°55'12" W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Summersville Airport and within 4 miles each side of the 215° bearing from the Nicholas NDB extending from the 6.3-mile radius to 9.6 miles southwest of the NDB and 4 miles each side of the 037° bearing from the Summersville Airport extending from the 6.3-mile radius to 11.5 miles northeast of the airport.

* * * * *

Issued in Jamaica, New York on October 7, 1997.

Franklin D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 97–28603 Filed 10–28–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ANM–02]

Amendment of Class E Airspace; Alamosa, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: On October 20, 1997, the FAA published in the **Federal Register** a final rule which revised Class E airspace at Alamosa, CO. The final rule inadvertently listed November 19, 1997, as the effective date. The FAA intended the effective date to be November 6, 1997. This document corrects the effective date.

DATES: This document is effective on October 29, 1997.

The effective date of FR Doc. 97–27364 is changed from 0901 UTC, November 19, 1997, to 0901 UTC, November 6, 1997.

FOR FURTHER INFORMATION CONTACT: Ted Melland, ANM–520.1, Federal Aviation Administration, Docket No. 97–ANM–02, 1601 Lind Avenue S.W., Renton, WA, 98055–4056; telephone: (425) 227–2536.

SUPPLEMENTARY INFORMATION: On October 20, 1997, the FAA published in the **Federal Register** a final rule which revised Class E airspace at Alamosa, CO (FR Doc. 97–27364; 62 FR 54379). The FAA intended the final rule to be effective November 6, 1997; however, due to an administrative error, the final rule was not published sufficiently in advance of the intended effective date to meet the 30-day notice general requirement of the Administrative Procedures Act (APA), 5 U.S.C. 553(a). Consequently, the effective date of the rule was altered to indicate a date 30 days after the date of publication.

The October 20, 1997, final rule revised Class E airspace at Alamosa, CO, in part by expanding that portion of the airspace area which extends upward from 1,200 feet above ground level (AGL); this revision will appear on, and therefore must coincide with, instrument flight rules (IFR) aeronautical charts scheduled to become effective November 6, 1997. Any delay in the effective date of the revisions to the Alamosa, CO, Class E airspace beyond November 6, 1997, will cause the affected IFR aeronautical charts to be in error during the period of the delay and may lead to pilot confusion and a hazard to air navigation.

In consideration of the foregoing, the FAA finds that good cause exists, pursuant to 5 U.S.C. 553(d), for making FR Doc. 97–27364 effective in less than 30 days from its date of publication in the **Federal Register**.

The Correction

In rule FR Doc. 97–27364 published on October 20, 1997 (62 FR 54379), make the following correction. On page 54379, in the second column, revise the effective date of the rule to 0901 UTC, November 6, 1997.

Dated: October 21, 1997.

Glenn A. Adams III,

Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 97–28609 Filed 10–28–97; 8:45 am]

BILLING CODE 4901–13–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 111

[T.D. 97–86]

Annual User Fee for Customs Broker Permit

AGENCY: U.S. Customs Service, Treasury.

ACTION: Notice of due date for broker user fee.

SUMMARY: This document advises Customs brokers that for 1998 the annual user fee of $125 that is assessed for each permit held by an individual, partnership, association or corporate broker is due by January 9, 1998. This announcement is being published to comply with the Tax Reform Act of 1986.

DATES: Due date for fee: January 9, 1998.

FOR FURTHER INFORMATION CONTACT: Adline Tatum, Entry (202) 927–0380.

SUPPLEMENTARY INFORMATION:

Background

Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99–272) established that an annual user fee of $125 is to be assessed for each Customs broker permit held by an individual, partnership, association or corporation. This fee is set forth in the Customs Regulations in § 111.96 (19 CFR 111.96).

Section 111.96, Customs Regulations, provides that a user fee for brokers is payable for each calendar year and that the fee is payable by the due date which will be published in the **Federal Register** annually. The fee is to be paid at each Broker district where the broker is issued a permit to do business. Broker districts are defined in a General Notice that was published in the **Federal Register** (60 FR 49971) on September 27, 1995.

Section 1893 of the Tax Reform Act of 1986 (Pub. L. 99–514) provides that notices of the date on which a payment is due of the user fee for each broker permit shall be published by the Secretary of the Treasury in the **Federal Register** by no later than 60 days before such due date. This document notifies brokers that for 1998, the due date for

payment of the user fee is January 9, 1998. It is expected that the annual user fees for brokers for subsequent years will be due on or about the third of January of each year.

Dated: October 23, 1997.

Anne. K. Lombardi,

Acting Director, Trade Compliance.

[FR Doc. 97–28564 Filed 10–28–97; 8:45 am]

BILLING CODE 4820–02–P

POSTAL SERVICE

39 CFR Part 20

Acceptance Procedures for Global Package Link (GPL)

AGENCY: Postal Service.

ACTION: Interim rule with request for comments.

SUMMARY: The Postal Service is amending the rule on Global Package Link (GPL) service. New charges are being announced effective November 28, 1997. The new charges provide a discount for mailer-provided transportation of packages to a GPL processing facility and add, for mailers located more than 500 miles from a GPL processing facility, a surcharge for Postal-provided transportation. In addition, the current option for mailer processing is eliminated.

DATES: These regulations take effect as of November 28, 1997. Comments must be received on or before November 28, 1997.

ADDRESSES: Written comments should be mailed or delivered to International Business Unit, Manager, Mail Order, U.S. Postal Service, 475 L'Enfant Plaza SW, 370–IBU, Washington, DC 20260–6500. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, at the above address.

FOR FURTHER INFORMATION CONTACT: Robert E. Michelson, (202) 268–5731.

SUPPLEMENTARY INFORMATION:

I. Introduction

General Description

Global Package Link (GPL) is a service that provides fast, economical international delivery of packages containing merchandise. GPL is designed to make it easier and less costly for mail-order companies to export goods. The Postal Service provides GPL on a destination country-specific basis pursuant to the terms and conditions stipulated in subsection 620 of the International Mail Manual and the Individual Country Listings.

II. GPL Acceptance

Description

Current Procedures

Currently, if the plant from which the customer's GPL packages originate is within 500 miles of a GPL processing facility, the Postal Service will accept the packages at the mailer's plant and transport them by truck to the GPL facility at no additional charge. If the mailer's plant is located more than 500 miles from a GPL facility, the customer has two options. The customer may choose either to:

a. present the packages to the Postal Service for verification at the customer's plant, and then transport the packages to the GPL facility, or

b. process the packages using Postal-provided workstations, after which the Postal Service accepts the packages and transports them to a designated air-mail facility.

Proposed Procedures

The new provisions will differ from the current one in the following aspects:

1. If the mailer transports the packages to a GPL facility, the mailer will receive a $.20 per pound discount, regardless of the distance from the mailer's plant to a GPL facility.

2. If the mailer's plant is more than 500 miles from a GPL facility, and the customer does not drop ship, the Postal Service will provide transportation at an additional rate of $.40 per pound. If the mailer's plant is within 500 miles from a GPL facility, the Postal Service will continue to provide transportation without any additional charge.

3. The current option for mailers whose plants are more than 500 miles from a GPL processing facility, in which the customer processes the packages using a Postal-provided computer system, is eliminated.

Accordingly, the Postal Service adopts the following amendments of the International Mail Manual on an interim basis. Although 39 U.S. C. 409 does not require advance notice and opportunity for submission of comments, and the Postal Service is exempted by 39 U.S.C. 410(a) from the advance notice requirements of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 553), the Postal Service invites interested persons to submit written data, views or arguments concerning this interim rule.

The Postal Service adopts the following amendments to the International Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 20.1.

List of Subjects in 39 CFR Part 20

Foreign Relation, International Post Service.

PART 20—AMENDED

1. The authority for 39 CFR Part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 401, 404, 407, 408.

2. Effective October 29, 1997 subchapter 620 of International Mail Manual Issue 19 is amended to read as follows:

Global Package Link (620)

623.4 Postage

* * * * *

623.44 Base Rates

[Renumber current "Rate Reductions" as 623.441 and add new section 623.442 as follows:]

623.442 Transportation Drop-Shipment Discount

A discount of 20 cents per pound applies to mail that is tranported by the mailer to a designated GPL facility. To compute the discount, multiply 20 cents by the number of pounds per country and per service level.

623.443 USPS Transportation Charge

If a mailer's plant is located more than 500 miles from a GPL facility, and the USPS tranports the mail, the mail is subject to an additional transportation charge of 40 cents per pound. To calculate the transportation charge, multiply 40 cents by the number of pounds per country per service level.

* * * * *

625.1 Acceptance

[Replace sections 625.1 and 625.2 and add new 625.3 as follows:]

625.1 Acceptance Location

A GPL mailing must be verified by USPS employees assigned to a detached mail unit (DMU) in the mailer's plant or at the origin post office serving the mailer's plant, according to a schedule agreed to by the Postal Service and the mailer. After verification, the mailing may be transported to a GPL facility by either the mailer or the Postal Service.

625.2 Transportation to GPL facility by the Mailer

The mailer will transport the packages as a drop-shipment to a GPL processing facility according to a schedule agreed to by the Postal Service and the customer. The mailer is eligible for a discount for drop shipment (see 623.442).

625.3 Transportation to GPL Facility by the USPS

For mailers who do not transport the mail as a drop-shipment, the Postal Service will transport the packages by truck to the GPL processing facility according to a schedule agreed to by the Postal Service and the customer. For mailers whose plants are located within 500 miles from a GPL facility, there will be no charge for the transportation. If the plant from which the GPL mailing originates is located more than 500 miles of a GPL processing facility the mailing is subject to a transportation charge (see 623.443).

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 97–28524 Filed 10–28–97; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 156

[OPP–250124; FRL–5753–2]

Flammability Labeling Requirements for Total Release Fogger Pesticides; Notification to the Secretary of Agriculture

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification to the Secretary of Agriculture.

SUMMARY: Notice is given that the Administrator of EPA has forwarded to the Secretary of Agriculture a final regulation under section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The rule requires specific precautionary labeling relating to the flammability of total release fogger pesticides. This action is required by FIFRA section 25(a)(2).

FOR FURTHER INFORMATION CONTACT: By mail: Jim Downing, Labeling Team, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, 703–308–9071, e-mail: downing.jim@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Section 25(a)(2) of FIFRA provides that the Administrator shall provide the Secretary of Agriculture with a copy of any final regulation at least 30 days before signing it for publication in the **Federal Register**. If the Secretary comments in writing regarding the final regulation within 15 days after receiving it, the Administrator shall issue for publication in the **Federal Register**, with the final regulation, the comments of the Secretary, if requested by the Secretary, and the response of the Administrator concerning the Secretary's comments. If the Secretary does not comment in writing within 15 days after receiving the final regulation, the Administrator may sign the regulation for publication in the **Federal Register** anytime thereafter. As required by FIFRA section 25(a)(3), a copy of the final regulation has been forwarded to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

List of Subjects in Part 156

Environmental protection, Labeling, Occupational safety and health, Pesticides and pests, Reporting and recordkeeping requirements.

Authority: 7 U.S.C. 136 *et seq.*

Dated: October 20, 1997.

Anne E. Lindsay,

Acting Director, Office of Pesticide Programs.

[FR Doc. 97–28654 Filed 10–28–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300565; FRL–5750–2]

RIN 2070–AB78

4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1H-pyrrole-3-carbonitrile; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1*H*-pyrrole-3-carbonitrile in or on potatoes . The Ciba-Geigy Corporation submitted a petition to EPA under the Federal Food, Drug and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (Pub. L. 104–170) requesting this tolerance.

DATES: This regulation is effective October 29, 1997. Objections and requests for hearings must be received by EPA on or before December 29, 1997.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300565], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300565], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300565]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Mary L. Waller, Registration Division 7505C, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308-9354, e-mail: waller.mary@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 5, 1997 (62 FR 5403) (FRL–5584–1), EPA, issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) announcing the filing of a pesticide petition (PP6F4694) for tolerance by the Cibe-Geigy Corporation, 410 Swing Road, Greensboro, NC 27401. This notice included a summary of the petition prepared by the Ciba-Geigy Corporation, the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR part 180 be amended by establishing a tolerance for the fungicide, 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1*H*-pyrrole-3-carbonitrile, in or on potatoes at 0.02 parts per million (ppm).

I. Risk Assessment and Statutory Findings

New section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will resukt to infants and children from aggregate exposure to the pesticide chemical residue. . . ."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides based primarily on toxicological studies using laboratory animals. These studies address many adverse health effects, including (but not limited to) reproductive effects, developmental toxicity, toxicity to the nervous system, and carcinogenicity. Second, EPA examines exposure to the pesticide through the diet (e.g., food and drinking water) and through exposures that occur as a result of pesticide use in residential settings.

A. Toxicity

1. *Threshold and non-threshold effects.* For many animal studies, a dose response relationship can be determined, which provides a dose that causes adverse effects (threshold effects) and doses causing no observed effects (the "no-observed effect level" or "NOEL").

Once a study has been evaluated and the observed effects have been determined to be threshold effects, EPA generally divides the NOEL from the study with the lowest NOEL by an uncertainty factor (usually 100 or more) to determine the Reference Dose (RfD). The RfD is a level at or below which daily aggregate exposure over a lifetime will not pose appreciable risks to human health. An uncertainty factor (sometimes called a "safety factor") of 100 is commonly used since it is assumed that people may be up to 10 times more sensitive to pesticides than the test animals, and that one person or subgroup of the population (such as infants and children) could be up to 10 times more sensitive to a pesticide than another. In addition, EPA assesses the potential risks to infants and children based on the weight of the evidence of the toxicology studies and determines whether an additional uncertainty factor is warranted. Thus, an aggregate daily exposure to a pesticide residue at or below the RfD (expressed as 100% or less of the RfD) is generally considered acceptable by EPA. EPA generally uses the RfD to evaluate the chronic risks posed by pesticide exposure. For shorter term risks, which could occur for residential uses of a pesticide, EPA calculates a margin of exposure (MOE) by dividing the estimated human exposure into the NOEL from the appropriate animal study. Commonly, EPA finds MOEs lower than 100 to be unacceptable. This 100-fold MOE is based on the same rationale as the 100-fold uncertainty factor.

Lifetime feeding studies in two species of laboratory animals are conducted to screen pesticides for cancer effects. When evidence of increased cancer is noted in these studies, the Agency conducts a weight of the evidence review of all relevant toxicological data including short-term and mutagenicity studies and structure activity relationship. Once a pesticide has been classified as a potential human carcinogen, different types of risk assessments (e.g., linear low dose extrapolations or MOE calculation based on the appropriate NOEL) will be carried out based on the nature of the carcinogenic response and the Agency's knowledge of its mode of action.

2. *Differences in toxic effect due to exposure duration.* The toxicological effects of a pesticide can vary with different exposure durations. EPA considers the entire toxicity data base, and based on the effects seen for different durations and routes of exposure, determines which risk assessments should be done to assure that the public is adequately protected from any pesticide exposure scenario. Both short and long durations of exposure are always considered. Typically, risk assessments include "acute," "short-term," "intermediate," and "chronic" risks. These assessments are defined by the Agency as follows.

Acute risk, by the Agency's definition, results from 1-day consumption of food and water, and reflects toxicity which could be expressed following a single oral exposure to the pesticide residues. High-end exposure to food and water residues are typically assumed.

Short-term risk results from exposure to the pesticide for a period of 1-7 days, and therefore overlaps with the acute risk assessment. Historically, this risk assessment was intended to address primarily dermal and inhalation exposure which could result, for example, from residential pesticide applications. However, since enactment of FQPA this risk assessment has been expanded to include both dietary and non-dietary sources of exposure, and will typically consider exposure from food, water, and residential uses when reliable data are available. In this assessment, risks from average food and water exposure, and high-end residential exposure, are aggregated. High-end exposures from all three sources are not typically added because of the very low probability of this occurring in most cases, and because the other conservative assumptions built into the assessment assure adequate protection of public health. However, for cases in which high-end exposure can reasonably be expected from multiple sources (e.g. frequent and widespread homeowner use in a specific geographical area), multiple high-end risks will be aggregated and presented as part of the comprehensive risk assessment/characterization. Since the toxicological endpoint considered in this assessment reflects exposure over a period of at least 7 days, an additional degree of conservatism is built into the assessment; i.e., the risk assessment nominally covers 1-7 days exposure, and the toxicological endpoint/NOEL is selected to be adequate for at least 7 days of exposure. (Toxicity results at lower levels when the dosing duration is increased.)

Intermediate-term risk results from exposure for 7 days to several months. This assessment is handled in a manner similar to the short-term risk assessment.

Chronic risk assessment describes risk which could result from several months to a lifetime of exposure. For this assessment, risks are aggregated considering average exposure from all sources for representative population subgroups including infants and children.

B. Aggregate Exposure

In examining aggregate exposure, FFDCA section 408 requires that EPA take into account available and reliable information concerning exposure from the pesticide residue in the food in question, residues in other foods for which there are tolerances, residues in groundwater or surface water that is consumed as drinking water, and other non-occupational exposures through pesticide use in gardens, lawns, or buildings (residential and other indoor uses). Dietary exposure to residues of a pesticide in a food commodity are estimated by multiplying the average daily consumption of the food forms of that commodity by the tolerance level or the anticipated pesticide residue level. The Theoretical Maximum Residue Contribution (TMRC) is an estimate of the level of residues consumed daily if each food item contained pesticide residues equal to the tolerance. In evaluating food exposures, EPA takes into account varying consumption patterns of major identifiable subgroups of consumers, including infants and children.The TMRC is a "worst case" estimate since it is based on the assumptions that food contains pesticide residues at the tolerance level and that 100% of the crop is treated by pesticides that have established tolerances. If the TMRC exceeds the RfD or poses a lifetime cancer risk that is greater than approximately one in a million, EPA attempts to derive a more accurate exposure estimate for the pesticide by evaluating additional types of information (anticipated residue data and/or percent of crop treated data) which show, generally, that pesticide residues in most foods when they are eaten are well below established tolerances.

Percent of crop treated estimates are derived from federal and private market survey data. Typically, a range of estimates are supplied and the upper end of this range is assumed for the exposure assessment. By using this upper end estimate of percent of crop treated, the Agency is reasonably certain that exposure is not understated for any significant subpopulation group. Further, regional consumption information is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups, to pesticide residues. For this pesticide, the most highly exposed population subgroup (non-nursing infants <1 year old) was not regionally based.

II. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1*H*-pyrrole-3-carbonitrile and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a tolerance for 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1*H*-pyrrole-3-carbonitrile on potatoes at 0.02 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1*H*-pyrrole-3-carbonitrile are discussed below.

1. A battery of acute toxicity studies placing technical fludioxonil in Toxicity Category III for eye irritation, Category IV for oral LD50, Category IV for inhalation LC50 and dermal irritation, and Category III for dermal LD50. 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1*H*-pyrrole-3-carbonitrile is a non-sensitizer.

2. A subchronic oral toxicity study in rats dosed orally with technical fludioxonil at levels of 0, 10, 100, 1,000, 7,000, and 20,000 ppm (0, 0.8, 6.6, 64, 428, and 1,283 mg/kg/day in males; 0, 1.0, 7.1, 70, 462, and 1,288 mg/kg/day in females) resulted in the Lowest Effect Level (LEL) of 428 mg/kg/day in males and 462 mg/kg/day in females, based on the increased incidence of microscopic pathology of the kidney and liver, and deceased body weight gain. The Noel is 64 mg/kg/day in males; 70 mg/kg/day in females.

3. A subchronic oral toxicity study in dogs administered doses of 0, 200, 2,000, and 15,000/10,000 ppm (15,000 ppm for 17 days and 10,000 ppm from day 18 until study termination) for 13 weeks with a LEL of 2,000 ppm in males and females, based on the observation of diarrhea at this dose level. These dose levels correspond to nominal doses of 0, 5, 50, or 375/250 mg/kg/day, as actual intake data were not provided. The NOEL is 5 mg/kg/day in males and females.

4. A subchronic oral toxicity study in mice administered doses of 0, 10, 100, 1,000, 3,000, or 7,000 ppm (0, 1.3, 13.9, 144, 445, or 1,052 mg/kg/day in males; 0, 1.9, 16.8, 178, 559, or 1,307 mg/kg/day in females) with a LEL of 1,052 mg/kg/day in males, and 1,307 mg/kg/day in females based on decreased body weight gain in female mice, changes in serum chemistry in male and female mice, obeserved increase in liver to body weight ratio, and the increased incidence of nephropathy and centrilobular hypertrophy of the liver in both sexes. The NOEL is 445 mg/kg/day in males and 559 mg/kg/day in females.

5. A dermal toxicity test in rats exposed as a repeated dermal dose under occlusive dressing 6 hrs/day, 5 days/week, for 4 weeks at 0, 40, 200, and 1,000 mg/kg/day. For dermal irritation, the LEL and NOEL are both greater than 1,000 mg/kg for males and females. The LEL for systemic toxicity for females is 1,000 mg/kg based on increased AST and adrenal weight, and 1,000 mg/kg for males based on increased creatinine and adrenal weight. The NOEL is 200 mg/kg/day for males and females.

6. A chronic oral toxicity study in dogs dosed for 52 weeks at 0, 100, 1,000, and 8,000 ppm in the diet (0, 3.1, 33.1, and 297.8 mg/kg/day in males; 3.3, 35.5, and 330.7 mg/kg/day in females. The LEL is 297.8 mg/kg/day for male dogs based on decreased body weight, hematology alterations (increase in platelets and fibrin), clinical chemistry alterations (increase in cholesterol and alkaline phosphatase) and increased liver weight. The LEL is 35.5 mg/kg/day for female dogs based on a marked decrease in body weight gain for weeks 1 - 13 and weeks 1 - 52 of the study. The NOEL is 33.1 mg/kg/day for male dogs and 3.3 mg/kg/day in female dogs.

7. A combined chronic toxicity/carcinogenicity study in rats fed 0, 10, 30, 100, 1,000 and 3,000 ppm for either 12 or 24 months (males: 0, 0.37, 1.1, 3.7, 37 and 113 mg/kg/day, respectively; females: 0, 0.44, 1.3, 4.4, 44 and 141 mg/kg/day respectively). The 3,000 ppm dose level is considered adequate for carcinogenicity testing, based on decreased body weight and body weight gain in both sexes, slight anemia in females at 12 months, and an increased incidence and severity of liver histopathology changes in both sexes. Rats from the control and 3,000 ppm groups were fed the test diets for 12 months and then allowed to recover for one month prior to sacrifice. There was no treatment-related effect on food or water consumption. Males dosed at 1,000 and 3,000 ppm, and females dosed at 3,000 ppm exhibited a number of effects including higher incidence of dark stool and urine, staining (mostly blue) around the pelvic region and abdomen, higher frequency of diarrhea (males only), and decrease body weight gain. Females dosed at 3,000 ppm had some evidence of slight anemia at the 12-month evaluation. At necropsy,

males at the 3,000 ppm dose level exhibited an increased incidence of enlarged livers, and kidneys with discolored foci or general discoloration and an increased severity of progressive nephropathy; kidneys with cysts were reported at both the 1,000 and 3,000 ppm dose levels. For females in the 1,000 and 3,000 ppm dose levels there was an increase incidence of general discoloration of the the kidneys. Males and females in the 3,000 ppm group had an increased incidence and more severe grade of histopathological changes in the liver. There was an increase incidence of hepatocellular tumors in both sexes of the 3,000 ppm group, however the increase in males was not statistically significant. The statistically significant finding in females was an increase in combined adenomas and carcinomas (0/70, 1/60, 0/60, 1/60, 2/60 and 5/70 in the 0, 10, 30, 100, 1,000 and 3,000 ppm groups, respectively). Males and females in the 3,000 ppm group had an increased incidence of basophilic foci in the liver; males also had an increase in hepatocellular hypertrophy. The LEL for males and females was 113 and 141 mg/kg/day, respectively (3,000 ppm) based on decreased body weight and weight gain, slight anemia in females at 12 months, and increased incidence and severity of histopathology changes in the liver. The NOEL for males and females was 37 and 44 mg/kg/day, respectively. 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1*H*-pyrrole-3-carbonitrile technical was not carcinogenic in male rats. There was a statistically significant increase in the incidence of combined adenomas and adenocarcinomas of the liver in female rats in the 3,000 ppm dosed group.

8. A carcinogenicity study in mice administered in the diet nominal dose levels at 0, 10, 100, 1,000, and 3,000 ppm (0, 1.1, 11.3, 112, and 360 mg/kg/day for male mice; 0, 1.4, 13.5, 133, and 417 mg/kg/day for female mice). Male mice at the 3,000 ppm level exhibited clinical toxicity in the form of an incidence of male mice which "convulsed" when handled. No significant effects on body weight, weight gain, food consumption, hematology, or microscopic non-neoplastic pathology was reported in either sex. Increased liver weight (9%) and spleen weight (34%) were observed in male mice at the 3,000 ppm dose level, which correlated with the macroscopic observations of enlarged spleen and raised foci of their liver. Female mice showed a statistically significant increase in liver weight at the 3,000 ppm dose level, and this is also supported by the macroscopic observation of enlarged liver at the 3,000 ppm dose level in female mice. Other macroscopic changes in female mice were an increased incidence of enlarged thymus, spleen, mediastinal lymph node, and liver, and an increased incidence of lymphoma in these organs. The LEL is 112 mg/kg/day for male mice, based on the increased incidence of clinical toxicity in male mice (specifically, the increased incidence of mice convulsing when handled), and 417 mg/kg/day for female mice, based on the increase in liver weight of female mice, and the increase in incidence of macroscopic pathology. The NOEL is 11.3 mg/kg/day and 133 mg/kg/day in male and female mice, respectively. There was evidence of carcinogenicity in female mice based on an increase incidence of lymphoas, which contributed to death. This effect was due to the early onset and high incidence of lymphoma at the 3,000 ppm dose relative to the control group. Total incidence of lymphoma was reported as 11/59, 10/59, 13/60, 12/60, and 18/60 for the 0, 10, 100, 1,000, and 3,000 ppm dose levels in female mice. This increase in total lymphoma was significant by a trend test, but not by pair.wise comparison. Whether an adequate dose level was used in this study to assess the carcinogic potential of 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1*H*-pyrrole-3-carbonitrile is complicated by the observation of an increased lymphoma incidence at the 3,000 ppm dose level. This dose level produced some systemic effects, such as an increased incidence of male mice which 'convulsed' when handle and macroscopic pathology in both sexes. But this dose level produced no significant effects on body weight, weight gain, food consumption, hematology, or microscopic non-neoplastic pathology in either sex.

In a second carcinogenicity study in mice, 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1*H*-pyrrole-3-carbonitrile technical was administered in the diet at nominal dose levels of 0, 3, 30, 5,000, and 7,000 ppm (0, 0.33, 3.3, 590, and 851 mg/kg/day for male mice; 0, 0.41, 4.1, 715, and 1,008 mg/kg/day for female mice). In male and female mice, the 7,000 ppm dose level produced significant systemic effects in addition to significant nephropathy. The nephropathy in both sexes of mice dosed at 7,000 ppm contributed to death in a majority of the mice. Survival in female mice was below 25%, and exceeded the guideline criteria for survival in a mouse carcinogenicity study. Changes in liver weights were observed in both sexes at the 5,000 and 7,000 ppm dose levels, but could not be related to histological alterations in the liver. Therefore the LEL is 851 mg/kg/day in males, and 1,008 mg/kg/day in females. The NOEL is 590 mg/kg/day in males, and 715 mg/kg/day in females. The 7,000 ppm dose is adequate for testing carcinogenic potential in male mice, based on the significant systemic effects and nephropathy observed at this dose. For female mice, the 7,000 ppm dose level is considered excessive, based on the reduction in survival of the test animals. There was no evidence of increased incidence of tumors in this study for male or female mice.

9. A developmental toxicity study in rats administered doses of 0, 10, 100, and 1,000 mg/kg/day by oral gavage in 0.5% carboxymethylcellulose to pregnant female rats on gestation days 6 - 15 inclusive. Maternal Toxicity was evident at 1,000 mg/kg/day, with a 16% reduction in corrected body weight gain. Developmental Toxicity was evident at the 1,000 mg/kg/day dose level with increased fetal and litter incidence of dilated renal pelvis and dilated ureter. Based on these observations, the Maternal LEL is 1,000 mg/kg/day and the Maternal NOEL is 100 mg/kg/day. The Developmental Toxicity LEL is 1,000 mg/kg/day, and the Developmental toxicity NOEL is 100 mg/kg/day.

10. A developmental toxicity (teratology) study in rabbits dosed at 0, 10, 100, and 300 mg/kg/day in a 0.5% methylcellulose solution in distilled water by oral gavage from gestation days 6 through 18, inclusive. Maternal toxicity as less body weigh was noted in the mid and high dose groups during the dosing period (gestation days 6 through 18), for the overall dosing plus post dosing periods (gestation days 6 through 28), and for the entire gestation period; maternal toxicity as decreased corrected body weight gains was observed for the dosing plus post dosing periods. The high dose group consumed less food than the control group during the dosing period (gestation days 6 - 18), the post dosing period (gestation days 19 -28), the dosing plus post dosing period (gestation days 19 - 28), and for the overall gestation period. However, food efficiency was decreased in the mid and high dosed groups during the dosing plus post dosing periods, and for the entire gestation period. The Maternal Toxicity LEL is 100 mg/kg/day, and the Maternal Toxicity NOEL is 10 mg/kg/day based on decreased body weight gains and decreased food efficiency. No developmental toxicity was noted at the dose levels tested. The Developmental Toxicity LEL is greater than 300 mg/kg/day, and the Developmental Toxicity NOEL is equal to or greater than 300 mg/kg/day.

11. A reproduction toxicity study in rats receiving 0, 30, 300, and 3,000 ppm (equivalent to 0, 2.19, 22.13, and 221.61 mg/kg/day for males, and 0, 2.45, 24.24, and 249.67 mg/kg/day for females) fludioxonil technical in the diet for 2 generations. The Parental Systemic Toxicity LEL is 221.61 mg/kg/day for males, and 249.67 mg/kg/day for females. The Parental Systemic Toxicity NOEL is 22.13 mg/kg/day for males, and 24.24 mg/kg/day for females based on clinical observations, reduced body weight and body weight gains, and reduced food consumption. Treatment related effects are noted in the high dose groups in both the F1 and F2 pups as reduced mean pup body weights starting at postnatal day 4 through 21; this was considered a developmental toxic effect rather than a true reproductive toxic effect , because the reduced mean pup body weights are an effect on the growth of the pup. The Reproductive/Developmental Toxicity LEL is 221.61 mg/kg/day for males, and 249.67 mg/kg/day for females. The Reproductive/Developmental Toxicity NOEL is 22.13 mg/kg/day for males, and 24.24 mg/kg/day for females based on reduced pup body weights.

12. Studies on gene mutation and other genotoxic effects: an Ames Salmonella Assay which provided evidence of cytotoxicity at 1,250 µg/plate and 5,000 µg/plate concentrations; an Unscheduled DNA Synthesis Assay with apparent cytotoxicity at 313 µg/ml; an In Vitro Chromosome Aberrations assay in Chinese hamster ovary (CHO) cells, with and without S9-activation which provided convincing evidence that technical fludioxonil is a clastogen, and a potent inducer of polyploidy in this cultured mammalian cell assay; an In Vitro Chromosome Aberrations assay in Chinese hamster bone marrow cells with the occurance of hyperploidy in one mid-dose female and trisomy in one high dose male; an In Vivo Micronucleus Assay using rat hepatocytes, no definitive conclusions were made, and this study should be repeated; A Dominant Lethal Assay in mice with no indication the test material induced dominant lethal mutations in male mouse germinal cells over the entire period of spermatogenesis; a Point Mutation Test in CHO cells in vitro, with and without S9-activation, with no increase in the number of thioguanine-resistant colonies, mutation frequency, or mutation factor with or without S9-activation; and a Mouse Micronucleus Assay in a mouse bone morrow micronucleus test which was negative.

B. Toxicological Endpoints

1. *Acute toxicity.* There is no concern for an acute dietary risk. The the available data do not indicate any evidence of significant toxicity from one day or single event exposure by oral exposure.

2. *Chronic toxicity.* EPA has established the RfD for 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1*H*-pyrrole-3-carbonitrile at 0.03 mg/kg/day. This RfD is based upon the 1-year toxicity study in dogs with a NOEL of 3.3 mg/kg/day in female dogs, and an uncertainty factor of 100 to account for both interspecies extrapolation and intraspecies variability.

3. *Carcinogenicity.* This chemical has been classified as a Group D - not classifiable as to Human Carcinogenicity. That is, the evidence is inadequate and cannot be interpreted as showing either the presence or absence of a carcinogenic effect. The Group D classification was also based on the increase in liver tumors in female rats that was statistically significant for combined adenoma/carcinoma only, the lack of a tumorigenic response in male rats or in either sex of the mouse, and the need for additional mutagenicity studies.The mutagenicity studies will be required as a Condition of Registration for products containing 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1*H*-pyrrole-3-carbonitrile, and consists of a repeat of the in vivo rat hepatocyte study with a primary interest in determining the mechanism (s) for inducing genetic damage and a repeat of the bone marrow micronucleus assay using lower doses.

C. Exposures and Risks

1. *From food and feed uses.* This is the first tolerance for residues of 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1*H*-pyrrole-3-carbonitrile, in or on a raw agricultural commodity. Risk assessments were conducted by EPA to assess dietary exposures and risks from 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1*H*-pyrrole-3-carbonitrile as follows:

Chronic exposure and risk. The RfD used for the chronic dietary analysis is 0.03 mg/kg/day. A tolerance of 0.02 ppm in/on potatoes was used. Tolerances in animal commodities or in potato granules/flakes are not required for this seed piece use on potatoes. 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1*H*-pyrrole-3-carbonitrile is currently registered for use as a seed treatment on corn and sorghum, and for use in greenhouses on nonfood crops. Since the residues were non-quantifiable, no exposure was assumed to result for the registered use on corn or sorghum, and these uses did not require tolerances. Using the tolerance level residue (0.02 ppm) and assuming that 100% of the crop is treated, the risk assessment resulted in use of less then 1% of the RfD for the general population and all 22 subgroups, including infants under 1 year old and children under 13 years of age.

2. *From drinking water.* Because of the requested and currently registered use patterns, including the treatment of potato seed pieces at a low use rate (approximately 0.06 lbs ai/A), seed treatment of field, sweet and popcorn, and sorghum, and ornamental plants grown in greenhouses or other enclosed structures, 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1*H*-pyrrole-3-carbonitrile is not expected to impact ground or surface waters. Thus the likelihood of residues of 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1*H*-pyrrole-3-carbonitrile in drinking water is considered negligible from the above mentioned use patterns. Therefore, it is concluded that a drinking water risk assessment is not required at this time, and there is no drinking water risk assessment to aggregate with the chronic dietary (food sources) risk assessment. The aggregate dietary risk is therefore the dietary risk which is less than 1% for the general population and all 22 subgroups.

Acute exposure and risk. There is no concern for an acute dietary exposure to fludioxonil from drinking water as stated above, and because the available data do not indicate any evidence of significant toxicity from a one day or single event exposure by the oral route. Therefore, an acute exposure risk assessment is not required for 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1*H*-pyrrole-3-carbonitrile at this time.

3. *From non-occupational non-dietary exposure.* 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1*H*-pyrrole-3-carbonitrile is currently not registered for use on residential non-food sites, therefore no non-occupational non-dietary exposure is expected.

4. *Cumulative exposure to substances with common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity." The Agency believes that "available information" in this context might include not only toxicity, chemistry, and exposure data, but also scientific policies and methodologies for

understanding common mechanisms of toxicity and conducting cumulative risk assessments. For most pesticides, although the Agency has some information in its files that may turn out to be helpful in eventually determining whether a pesticide shares a common mechanism of toxicity with any other substances, EPA does not at this time have the methodologies to resolve the complex scientific issues concerning common mechanism of toxicity in a meaningful way. EPA has begun a pilot process to study this issue further through the examination of particular classes of pesticides. The Agency hopes that the results of this pilot process will increase the Agency's scientific understanding of this question such that EPA will be able to develop and apply scientific principles for better determining which chemicals have a common mechanism of toxicity and evaluating the cumulative effects of such chemicals. The Agency anticipates, however, that even as its understanding of the science of common mechanisms increases, decisions on specific classes of chemicals will be heavily dependent on chemical specific data, much of which may not be presently available.

Although at present the Agency does not know how to apply the information in its files concerning common mechanism issues to most risk assessments, there are pesticides as to which the common mechanism issues can be resolved. These pesticides include pesticides that are toxicologically dissimilar to existing chemical substances (in which case the Agency can conclude that it is unlikely that a pesticide shares a common mechanism of activity with other substances) and pesticides that produce a common toxic metabolite (in which case common mechanism of activity will be assumed).

EPA does not have, at this time, available data to determine whether 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1*H*-pyrrole-3-carbonitrile has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1*H*-pyrrole-3-carbonitrile does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1*H*-pyrrole-3-carbonitrile has a common mechanism of toxicity with other substances.

D. Aggregate Risks and Determination of Safety for U.S. Population

Chronic risk. Using the Theoretical Maximum Residue Contribution (TMRC) exposure assumptions described above, EPA has concluded that aggregate exposure to 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1*H*-pyrrole-3-carbonitrile from food will utilize less then 1% of the RfD for the U.S. population and the 22 subgroups, including infants and children. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1*H*-pyrrole-3-carbonitrile residues.

E. Aggregate Cancer Risk for U.S. Population

This chemical has been classified as Group D - not classifiable as to Human Carcinogenicity. The available carcinogenicity studies in the rat and mouse shows some increase in the combined tumors only in the female rat above that in the concurrent controls. However, this statistical increase in liver tumors in female rats was only at the high dose. Some of this significant increase was due to the lack of any liver tumors in the concurrent control whereas the historical control from the same lab indicated a range of 1.4 to 15% for combined liver tumors. Therefore based on available information, a carcinogenic risk analysis is not appropriate. EPA believes that this pesticide does not pose a significant cancer risk.

F. Aggregate Risks and Determination of Safety for Infants and Children

1. *Safety factor for infants and children— In general.* In assessing the potential for additional sensitivity of infants and children to residues of 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1*H*-pyrrole-3-carbonitrile, EPA considered data from developmental toxicity studies in the rat and rabbit and a two-generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during prenatal development to one or both parents. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for pre-and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and children. The toxicity database for fludioxonil includes as acceptable two-generation reproduction study in rats and an acceptable prenatal developmental toxicity studies in rats and rabbits. The data did not suggest any additional sensitivity to the embryo or neonate following in utero or early postnatal exposure to fludioxonil. The maternal NOEL, and the developmental (fetal and pup) Toxicity NOEL were both 100 mg/kg/day in the rat developmental study. In the rabbit developmental study, the maternal NOEL was 10 mg/kg/day. No developmental toxicity was noted at any dosing level. The developmental NOEL was set equal to or greater than 300 mg/kg/day, the highest dose tested. Results from the 2-generation reproduction study for rats indicated a developmental/reproduction NOEL of 22.13 mg/kg/day for males and 24.24 mg/kg/day for females. The developmental/reproductive NOEL is at least 600 fold higher then the RfD (0.03 mg/kg/day), and should be protective for infants and children; no additional safety factors are warrented.

2. *Chronic risk.* Using the conservative exposure assumptions described above, EPA has concluded that aggregate exposure to 4-(2,2-difluoro-1,3-benzodfoxol-4-yl)-1*H*-pyrrole-3-carbonitrile from food will utilize less then 1% of the RfD for infants and children. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1*H*-pyrrole-3-carbonitrile residues.

III. Other Considerations

A. Metabolism In Plants and Animals

The metabolism in plants is adequately understood for this potato seed piece treatment use. The residue of regulatory concern is the parent compound only, 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1*H*-pyrrole-3-carbonitrile. Since it has been determined that secondary residues in livestock commodities are not likely to result from this use, metabolism of 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1*H*-pyrrole-3-carbonitrile in animals is not relevent to this requested use on potato seed treatment.

B. Analytical Enforcement Methodology

The method accepted by EPA for enforcement of 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1*H*-pyrrole-3-carbonitrile in plants is Ciba-Geigy's Method AG-597B. A method, Ciba-Geigy's Method AG-616B (MRID#s 4360412 - 4360415), is also available for quantifying residues in meat and milk. These methods are available from the Docket under docket control number [OPP–300565] at the address stated above.

C. Magnitude of Residues

The submitted residue data indicate that residues of 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1*H*-pyrrole-3-carbonitrile were below the level of quantitation (LOQ), <0.01 ppm, in/on immature and mature potato tubers grown from seed pieces treated with 0.5% Dust formulation of 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1*H*-pyrrole-3-carbonitrile at 1.75 or 2.5 g ai/100 kg seed pieces (0.7X or 1X the labeled rate, respectively). Residues of 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1*H*-pyrrole-3-carbonitrile in/on immature and mature tubers treated at a 2X application rate ranged from less then 0.01 ppm to 0.04 ppm. Harvest times varied from 45 to 143 days after planting treated seed pieces. Residue data was also submitted at 6X and 10X the label application rate, with reported residues ranging <0.01 - 0.06 ppm and <0.01 - 0.09 ppm at the 6X rate for immature and mature tubers, respectively; and <0.01 - 0.48 ppm amd <0.01 - 0.06 ppm at the 10X rate for immature and mature tubers, respectively. Based on the submitted residue data, the requested tolerance of 0.02 ppm is adequate for this potato seed piece use. Potato processing studies were also submitted to determine whether concentration of residues occur in potato chips, granules, and wet peels and trimmings from potatoes grown from treated potato seed pieces. Based on the submitted processing studies, concentration of the pesticide chemical residues of 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1*H*-pyrrole-3-carbonitrile in the processed foods is not expected to be greater than the tolerance of 0.02 ppm requested and prescribed in this **Federal Register** document for the pesticide chemical residue in the raw agricultural commodity, potatoes. Therefore, the tolerance of 0.02 ppm prescribed for potatoes will also cover the residues of fludioxonil up to 0.02 ppm resulting in potato processed products from this seed piece use.

D. International Residue Limits

There are currently no CODEX, Canadian, or Mexican listings for 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1*H*-pyrrole-3-carbonitrile residues, therefore there are no harmonization issues for this action.

E. Rotational Crop Restrictions

The submitted confined rotation studies provided adequate results to conclude that a 30-day plantback interval is sufficient for all crops.

IV. Conclusion

Therefore, the tolerance is established for 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1*H*-pyrrole-3-carbonitrile in or on potatoes at 0.02 ppm.

V. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to "object" to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by December 29, 1997, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VI. Public Docket

EPA has established a record for this rulemaking under docket control number [OPP–300565] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Electronic comments may be sent directly to EPA at:
opp-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia address in "ADDRESSES" at the beginning of this document.

VII. Regulatory Assessment Requirements

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

In addition, since these tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950) and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

VIII. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the Agency has submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of this rule in today's **Federal Register**. This is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 10, 1997.

Stephen L. Johnson,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.516 is added to read as follows:

§ 180.516 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1H-pyrrole-3-carbonitrile ; tolerances for residues.

(a) *General.* A tolerance is established for residues of the herbicide, 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1*H*-pyrrole-3-carbonitrile, in or on the following food commodity:

Commodity	Parts per million
Potatoes	0.02

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. 97–28644 Filed 10–28–97; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300567; FRL–5750–8]

RIN 2070–AB78

Avermectin; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for the combined residues of avermectin in or on basil. This action is in response to an emergency exemption request under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act permitting use of the pesticide on basil. This regulation establishes a maximum permissible level for residues of avermectin B_1 and its delta-8,9-isomer in this food commodity pursuant to section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. The tolerance will expire and is revoked on September 30, 1998.

DATES: This regulation is effective October 29, 1997. Objections and requests for hearings must be received by EPA on or before December 29, 1997.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300567], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300567], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300567]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Daniel Rosenblatt, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308–9375, e-mail: rosenblatt.dan@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA, on its own initiative, pursuant to section 408(e) and (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) and (l)(6), is establishing a tolerance for the combined residues of the miticide avermectin B_1 and its delta-8,9-isomer, in or on basil at 0.05 parts per million (ppm). This tolerance will expire and is revoked on September 30, 1998. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

I. Background and Statutory Authority

The Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) was signed into law August 3, 1996. FQPA amends both the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 *et seq.*, and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.* The FQPA amendments went into effect immediately. Among other things, FQPA amends FFDCA to bring all EPA pesticide tolerance-setting activities under a new section 408 with a new safety standard and new procedures. These activities are described below and discussed in greater detail in the final rule establishing the time-limited tolerance associated with the emergency exemption for use of propiconazole on sorghum (61 FR 58135, November 13, 1996)(FRL–5572–9).

New section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ."

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that "emergency conditions exist which require such exemption." This provision was not amended by FQPA. EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment.

Because decisions on section 18-related tolerances must proceed before EPA reaches closure on several policy issues relating to interpretation and implementation of the FQPA, EPA does not intend for its actions on such tolerance to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions.

II. Emergency Exemption for Avermectin on Basil and FFDCA Tolerances

Basil is a leafy herb that is produced for the fresh and dried markets. California submitted information to EPA that indicates that the leafminer (*Liriomyza sp.*) poses a significant threat to the profitable production of basil. Basil affected by leafminer can be rendered unmarketable because they feed on the plant's leaves and may also make them susceptible to disease. California determined that the conditions for a leafminer outbreak were favorable and invoked its authorities under 40 CFR 166.40 to declare a crisis situation. After considering the implications connected with the use of this pesticide under a crisis situation, EPA is establishing this tolerance for the use of avermectin on basil for control of leafminer in California.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of avermectin in or on basil. In doing so, EPA considered the new safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the new safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment under section 408(e), as provided in section 408(l)(6). Although this tolerance will expire and is revoked on September 30, 1998, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on basil after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because this tolerance is being approved under emergency conditions EPA has not made any decisions about whether avermectin meets EPA's registration requirements for use on basil or whether a permanent tolerance for this use would be appropriate. Under these circumstances, EPA does not believe that this tolerance serves as a basis for registration of avermectin by a State for special local needs under FIFRA section 24(c). Nor does this tolerance serve as the basis for any State other than California to use this pesticide on this crop under section 18 of FIFRA without following all provisions of section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for avermectin, contact the Agency's Registration Division at the address provided above.

III. Risk Assessment and Statutory Findings

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides based primarily on toxicological studies using laboratory animals. These studies address many adverse health effects, including (but not limited to) reproductive effects, developmental toxicity, toxicity to the nervous system, and carcinogenicity. Second, EPA examines exposure to the pesticide through the diet (e.g., food and drinking water) and through exposures that occur as a result of pesticide use in residential settings.

A. Toxicity

1. *Threshold and non-threshold effects.* For many animal studies, a dose response relationship can be determined, which provides a dose that causes adverse effects (threshold effects) and doses causing no observed effects (the "no-observed effect level" or "NOEL").

Once a study has been evaluated and the observed effects have been determined to be threshold effects, EPA generally divides the NOEL from the

study with the lowest NOEL by an uncertainty factor (usually 100 or more) to determine the Reference Dose (RfD). The RfD is a level at or below which daily aggregate exposure over a lifetime will not pose appreciable risks to human health. An uncertainty factor (sometimes called a "safety factor") of 100 is commonly used since it is assumed that people may be up to 10 times more sensitive to pesticides than the test animals, and that one person or subgroup of the population (such as infants and children) could be up to 10 times more sensitive to a pesticide than another. In addition, EPA assesses the potential risks to infants and children based on the weight of the evidence of the toxicology studies and determines whether an additional uncertainty factor is warranted. Thus, an aggregate daily exposure to a pesticide residue at or below the RfD (expressed as 100% or less of the RfD) is generally considered acceptable by EPA. EPA generally uses the RfD to evaluate the chronic risks posed by pesticide exposure. For shorter term risks, EPA calculates a margin of exposure (MOE) by dividing the estimated human exposure into the NOEL from the appropriate animal study. Commonly, EPA finds MOEs lower than 100 to be unacceptable. This 100-fold MOE is based on the same rationale as the 100-fold uncertainty factor.

Lifetime feeding studies in two species of laboratory animals are conducted to screen pesticides for cancer effects. When evidence of increased cancer is noted in these studies, the Agency conducts a weight of the evidence review of all relevant toxicological data including short-term and mutagenicity studies and structure activity relationship. Once a pesticide has been classified as a potential human carcinogen, different types of risk assessments (e.g., linear low dose extrapolations or MOE calculation based on the appropriate NOEL) will be carried out based on the nature of the carcinogenic response and the Agency's knowledge of its mode of action.

2. *Differences in toxic effect due to exposure duration.* The toxicological effects of a pesticide can vary with different exposure durations. EPA considers the entire toxicity data base, and based on the effects seen for different durations and routes of exposure, determines which risk assessments should be done to assure that the public is adequately protected from any pesticide exposure scenario. Both short and long durations of exposure are always considered. Typically, risk assessments include "acute," "short-term," "intermediate term," and "chronic" risks. These assessments are defined by the Agency as follows.

Acute risk, by the Agency's definition, results from 1–day consumption of food and water, and reflects toxicity which could be expressed following a single oral exposure to the pesticide residues. High end exposure to food and water residues are typically assumed.

Short-term risk results from exposure to the pesticide for a period of 1–7 days, and therefore overlaps with the acute risk assessment. Historically, this risk assessment was intended to address primarily dermal and inhalation exposure which could result, for example, from residential pesticide applications. However, since enaction of FQPA, this assessment has been expanded to include both dietary and non-dietary sources of exposure, and will typically consider exposure from food, water, and residential uses when reliable data are available. In this assessment, risks from average food and water exposure, and high-end residential exposure, are aggregated. High-end exposures from all 3 sources are not typically added because of the very low probability of this occurring in most cases, and because the other conservative assumptions built into the assessment assure adequate protection of public health. However, for cases in which high-end exposure can reasonably be expected from multiple sources (e.g. frequent and widespread homeowner use in a specific geographical area), multiple high-end risks will be aggregated and presented as part of the comprehensive risk assessment/characterization. Since the toxicological endpoint considered in this assessment reflects exposure over a period of at least 7 days, an additional degree of conservatism is built into the assessment; i.e., the risk assessment nominally covers 1–7 days exposure, and the toxicological endpoint/NOEL is selected to be adequate for at least 7 days of exposure. (Toxicity results at lower levels when the dosing duration is increased.)

Intermediate-term risk results from exposure for 7 days to several months. This assessment is handled in a manner similar to the short-term risk assessment.

Chronic risk assessment describes risk which could result from several months to a lifetime of exposure. For this assessment, risks are aggregated considering average exposure from all sources for representative population subgroups including infants and children.

B. Aggregate Exposure

In examining aggregate exposure, FFDCA section 408 requires that EPA take into account available and reliable information concerning exposure from the pesticide residue in the food in question, residues in other foods for which there are tolerances, residues in groundwater or surface water that is consumed as drinking water, and other non-occupational exposures through pesticide use in gardens, lawns, or buildings (residential and other indoor uses). Dietary exposure to residues of a pesticide in a food commodity are estimated by multiplying the average daily consumption of the food forms of that commodity by the tolerance level or the anticipated pesticide residue level. The Theoretical Maximum Residue Contribution (TMRC) is an estimate of the level of residues consumed daily if each food item contained pesticide residues equal to the tolerance. In evaluating food exposures, EPA takes into account varying consumption patterns of major identifiable subgroups of consumers, including infants and children. The TMRC is a "worst case" estimate since it is based on the assumptions that food contains pesticide residues at the tolerance level and that 100% of the crop is treated by pesticides that have established tolerances. If the TMRC exceeds the RfD or poses a lifetime cancer risk that is greater than approximately one in a million, EPA attempts to derive a more accurate exposure estimate for the pesticide by evaluating additional types of information (anticipated residue data and/or percent of crop treated data) which show, generally, that pesticide residues in most foods when they are eaten are well below established tolerances.

Percent of crop treated estimates are derived from federal and private market survey data. Typically, a range of estimates are supplied and the upper end of this range is assumed for the exposure assessment. By using this upper end estimate of percent of crop treated, the Agency is reasonably certain that exposure is not understated for any significant subpopulation group. Further, regional consumption information is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups, to pesticide residues. For this pesticide, the most highly exposed population subgroup (non-nursing infants <1 year old) was not regionally based.

IV. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action, EPA has sufficient data to assess the hazards of avermectin and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a time-limited tolerance for combined residues of avermectin B_1 and its delta-8,9-isomer on basil at 0.05 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by avermectin B_1 and its delta-8,9-isomer are discussed below.

1. *Acute toxicity.* For acute dietary risk assessment, EPA recommends use of a NOEL of 0.06 mg/kg/day from the developmental toxicity study in mice. The effects observed at the Lowest Effect Level (LEL) of 0.10 mg/kg/day involved cleft palate. For the purposes of this action, an MOE of 300 is considered necessary to be adequately protective for dietary (food only) exposure.

2. *Short - and intermediate - term toxicity.* For short- and intermediate-term MOE calculations, EPA recommends use of the developmental NOEL of 0.2 mg/kg/day from the oral developmental toxicity study in mice. At the LEL of 0.4 mg/kg/day, there was an increased incidence of cleft palate.

3. *Chronic toxicity.* EPA has established the RfD for avermectin at 0.0004 milligrams/kilogram/day (mg/kg/day). This RfD is based on a 2-generation rat reproductive toxicity study with a NOEL of 0.12 mg/kg/day and an uncertainty factor of 300. In addition to the uncertainty factor of 100 for inter- and intra-species variations, a Modifying Factor (MF) of 3 was used. The MF was used because of the severity of the effects (pup deaths) and the steep dose-response curve. At the LEL of 0.40 mg/kg/day, there was decreased pup body weight and viability during lactation as well as an increased incidence of retinal rosettes in F_{2b} weanlings.

4. *Carcinogenicity.* Avermectin has been classified by EPA as a Group E ("evidence of non-carcinogenicity for humans") chemical. Therefore, a cancer risk assessment is not needed.

B. Exposures and Risks

1. *From food and feed uses.* Tolerances have been established (40 CFR 180.449) for the combined residues of avermectin B_1 and its delta-8,9-isomer, in or on a variety of raw agricultural commodities, ranging from 0.005 ppm in cottonseed to 0.05 ppm in celery. Risk assessments were conducted by EPA to assess dietary exposures and risks from avermectin B_1 and its delta-8,9-isomer as follows:

i. *Acute exposure and risk.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. In a separate and earlier registration action, the Agency required the development of more highly refined residue and exposure information to support the pesticide. In response, in October 1996, EPA received a Monte Carlo analysis for all uses of avermectin at that time. Since that analysis was generated before this section 18 action was submitted, EPA does not have information on acute exposures for basil. Further, the Agency is not currently updating or revising Monte Carlo analysis developed by registrants. Therefore, the acute exposure assessment for this action does not include data associated with the consumption of basil. In spite of the above exception, data available to EPA suggest a high-end exposure estimate of 0.000078 mg/kg/day for uses of avermectin. This results in a dietary (food only) MOE of 769 for females 13 years and older, the population subgroup of concern. In EPA's judgement, the addition of basil to acute exposure and risk calculations would not produce acute risks (food only) that exceed a level of concern.

ii. *Chronic exposure and risk.* As part of this action, EPA reviewed information that establishes chronic dietary exposure estimates for avermectin. This chronic dietary (food only) risk assessment used anticipated residue refinement for commodities with tolerances for avermectin, but did not incorporate any refinement for percent of crop treated (default of 100% was assumed). Therefore, the resulting exposure estimates should be viewed as partially refined; further refinement for percent of crop treated would result in lower dietary exposure estimates. The existing avermectin tolerances plus the proposed tolerances associated with the section 18 use of the chemical result in an Anticipated Residue Contribution that ranges from 5% of the RfD for the U.S. Population to 12% of the RfD for non-nursing infants less than a year old.

2. *From drinking water.* In examining aggregate exposure, FQPA directs EPA to consider available information concerning exposures from the pesticide residues in food and all other non-occupational exposures. The primary non-food sources of exposure the Agency looks at include drinking water (whether from ground or surface water), and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses). Based on data available to EPA, avermectin is moderately persistent and not very mobile. It is not likely to be found extensively in ground water, but could be found in surface water. Under anaerobic conditions in the absence of light, avermectin does not degrade. No Health Advisories or Maximum Contaminant Levels for avermectin in drinking water have been established.

Because the Agency lacks sufficient water-related exposure data to complete a comprehensive drinking water risk assessment for many pesticides, EPA has commenced and nearly completed a process to identify a reasonable yet conservative bounding figure for the potential contribution of water-related exposure to the aggregate risk posed by a pesticide. In developing the bounding figure, EPA estimated residue levels in water for a number of specific pesticides using various data sources. The Agency then applied the estimated residue levels, in conjunction with appropriate toxicological endpoints (RfD's or acute dietary NOEL's) and assumptions about body weight and consumption, to calculate, for each pesticide, the increment of aggregate risk contributed by consumption of contaminated water. While EPA has not yet pinpointed the appropriate bounding figure for exposure from contaminated water, the ranges the Agency is continuing to examine are all below the level that would cause avermectin to exceed the RfD if the tolerance being considered in this document were granted. The Agency has therefore concluded that the potential exposures associated with avermectin in water, even at the higher levels the Agency is considering as a conservative upper bound, would not prevent the Agency from determining that there is a reasonable certainty of no harm if the tolerance is granted.

3. *From non-dietary exposure.* Avermectin is currently registered for use on the following residential non-food sites: ornamental crops (herbaceous and woody), turf, households (indoor and outdoor), and

non-food areas of food handling establishments.

i. *Chronic exposure and risk.* Given the uses for avermectin, a chronic non-dietary exposure scenario would not be expected.

ii. *Short- and intermediate-term exposure and risk.* EPA assessed indoor residential risk characterization data to evaluate short- and intermediate-term exposure and risk. Based on the assumptions for exposure total oral, dermal, and respiratory estimated absorbed daily exposure could total .00023 mg/kg/day. This correlates to a total short- and intermediate-term indoor residential MOE of 870 for the U.S. population.

4. *Cumulative exposure to substances with common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity." The Agency believes that "available information" in this context might include not only toxicity, chemistry, and exposure data, but also scientific policies and methodologies for understanding common mechanisms of toxicity and conducting cumulative risk assessments. For most pesticides, although the Agency has some information in its files that may turn out to be helpful in eventually determining whether a pesticide shares a common mechanism of toxicity with any other substances, EPA does not at this time have the methodologies to resolve the complex scientific issues concerning common mechanism of toxicity in a meaningful way. EPA has begun a pilot process to study this issue further through the examination of particular classes of pesticides. The Agency hopes that the results of this pilot process will increase the Agency's scientific understanding of this question such that EPA will be able to develop and apply scientific principles for better determining which chemicals have a common mechanism of toxicity and evaluating the cumulative effects of such chemicals. The Agency anticipates, however, that even as its understanding of the science of common mechanisms increases, decisions on specific classes of chemicals will be heavily dependent on chemical specific data, much of which may not be presently available.

Although at present the Agency does not know how to apply the information in its files concerning common mechanism issues to most risk assessments, there are pesticides as to which the common mechanism issues can be resolved. These pesticides include pesticides that are toxicologically dissimilar to existing chemical substances (in which case the Agency can conclude that it is unlikely that a pesticide shares a common mechanism of activity with other substances) and pesticides that produce a common toxic metabolite (in which case common mechanism of activity will be assumed).

EPA does not have, at this time, available data to determine whether avermectin has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, avermectin does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that avermectin has a common mechanism of toxicity with other substances.

C. Aggregate Risks and Determination of Safety for U.S. Population

1. *Acute risk.* The population subgroup of concern is females 13 years and older. The MOE for this subgroup from food exposures is 769. Despite the potential for exposures to avermectin from drinking water, EPA does not expect the acute aggregate risk to exceed levels of concern.

2. *Chronic risk.* Using the ARC exposure assumptions described above, EPA has concluded that aggregate exposure to avermectin from food will utilize 5% of the RfD for the U.S. population. The major identifiable subgroup with the highest aggregate exposure is non-nursing infants <1 year old "discussed below". EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Based on the nature of the residential uses, a chronic scenario would not be expected. Despite the potential for exposure to avermectin in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD. EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to avermectin residues.

3. *Short- and intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure.

As referenced above, for short- and intermediate-term exposures, EPA assessed information that addresses this topic in relation to human exposure associated with residential use through oral, dermal, and respiratory exposures. The anticipated MOE was 803 for the U.S. population. EPA considers this MOE to be adequately protective.

D. Aggregate Cancer Risk for U.S. Population

Avermectin has been classified as a Group E "evidence of non-carcinogenicity for humans" chemical by EPA. Therefore, a cancer risk assessment is not needed.

E. Aggregate Risks and Determination of Safety for Infants and Children

1. *Safety factor for infants and children*— i. *In general.* In assessing the potential for additional sensitivity of infants and children to residues of avermectin, EPA considered data from developmental toxicity studies in the rat and rabbit and a two-generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure during gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for pre-and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard 100-fold safety factor (usually 100 for combined inter- and intra-species variability) and not the additional tenfold safety factor when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard safety factor.

ii. *Developmental toxicity studies.* In the mouse developmental toxicity analysis, the maternal (systemic) NOEL was 0.05 mg/kg/day based on mortality at the Lowest-observed effect level (LOEL) of 0.075 mg/kg/day. The developmental (fetal) NOEL was 0.2 mg/kg/day based on cleft palate at the LOEL of 0.4 mg/kg/day. The Delta-8,9-isomer was also tested for developmental toxicity in the mouse. In the mouse developmental study for the isomer, the maternal (systemic) NOEL was 0.10 mg/kg/day, based on mortality at the LOEL of 0.20 mg/kg/day. The developmental (fetal) NOEL was 0.06 mg/kg/day, based on cleft palate at the LOEL of 0.10 mg/kg/day.

In the rat developmental study, the maternal (systemic) NOEL was greater than or equal to 1.6 mg/kg/day. The developmental (fetal) NOEL was 1.6 mg/kg/day. In the rabbit developmental study, the maternal (systemic) NOEL was 1.0 mg/kg/day, based on decreased body weight and decreased food and water consumption at the LOEL of 2.0 mg/kg/day. The developmental (fetal) NOEL was 1.0 mg/kg/day, based on clubbed foot, and delayed ossification of sternebrae, metacarpals, and phalanges at the LOEL of 2.0 mg/kg/day.

iii. *Reproductive toxicity study.* In the 2-generation rat reproductive toxicity study, the maternal (systemic) NOEL was 0.4 mg/kg/day highest dose tested (HDT). The developmental (pup) NOEL was 1.2 mg/kg/day, based on decreased viability indices, decreased pup body weight, and retinal fold in weanlings at the LOEL of 0.4 mg/kg/day. The reproductive (pup) NOEL was 0.4 mg/kg/day (HDT).

iv. *Pre- and post-natal sensitivity.* Both the delta-8,9-isomer of avermectin and avermectin per se exhibit cleft palate in CF1 mouse developmental studies. The NOEL for cleft plate for the delta-8,9-isomer is 0.06 mg/kg/day with the LOEL at 0.10 mg/kg/day. For avermectin per se, the NOEL for cleft palate is 0.2 mg/kg/day with the LOEL at 0.4 mg/kg/day. Therefore, pre-natal sensitivity to the regulated residue for avermectin is demonstrated when considering these developmental findings in the CF1 Mouse. An additional 3-fold uncertainty factor has been added to account for these developmental findings.

An acute dietary risk assessment is needed based on the results of the developmental study in mice with the delta-8,9-isomer. This risk assessment will evaluate acute dietary risk to females 13 years and older. For the purpose of the section 18, an MOE of 300 is considered necessary to be adequately protective for dietary (food only) exposure.

To evaluate the pre-natal risks, the acute dietary MOE calculations for females 13 years and older has been conducted using the lowest NOEL for all developmental studies for cleft palate (0.06 mg/kg/day).

The results of the rat reproduction study required that a Modifying Factor of 3 be added to the usual uncertainty factor of 100 used for the RfD. EPA used this Modifying Factor in developing this analysis. Typically, the Agency uses a modifying factor of 10 when no study is available and uses a modifying factor of 3 when a study exists which shows effects in the fetus before they appear in the parent.

2. *Acute risk.* The acute dietary MOE for females 13 years and older (accounts for both maternal and fetal exposure) is 769. This MOE calculation is based on the developmental NOEL in mice of 0.06 mg/kg/day. This estimate is based on Monte Carlo modeling incorporating anticipated residue and percent of crop treated refinement. In EPA's judgement, the large acute dietary MOE provides assurance that there is a reasonable certainty of no harm for females 13 years and older and the pre-natal development of infants.

3. *Chronic risk.* Using the conservative exposure assumptions described above, EPA has concluded that aggregate exposure to avermectin from food will utilize 12% of the RfD for non-nursing infants less than a year old and 8% of the RfD for children 1–6 years old. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Based on the nature of the residential uses, a chronic scenario would not be expected. Despite the potential for exposure to avermectin in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD. EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to avermectin residues.

4. *Short- or intermediate-term risk.* The anticipated MOEs for short- and intermediate-term exposures for infants and children do not pose a level of concern. The calculated MOEs range from 716 for non-nursing infants to 787 for children 7–12 years old.

V. Other Considerations

A. Metabolism In Plants and Animals

The nature of the residue in plants and animals is adequately understood. As cited at 40 CFR 180.449, the regulable residues are avermectin B_1 and its delta-8,9-isomer.

B. Analytical Enforcement Methodology

Merck Method 10001, rev. 2, a high pressure liquid chromatography (HPLC)-fluorescence method, may be used to enforce the tolerance expression. This method has been submitted to FDA for publication in PAM Volume II.

C. Magnitude of Residues

Residues of avermectin B_1 and its delta 8,9-isomer are not expected to exceed 0.05 ppm on basil as a result of this section 18 use. Secondary residues are not expected in animal commodities as no feed items are associated with this use.

D. International Residue Limits

No Codex MRLs have been established for avermectin residues on basil.

VI. Conclusion

Therefore, the tolerance is established for combined residues of avermectin B_1 and its delta-8,9-isomer in basil at 0.05 ppm.

VII. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to "object" to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by December 29, 1997, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon

by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VIII. Public Record and Electronic Submissions

EPA has established a record for this rulemaking under docket control number [OPP–300567] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Electronic comments may be sent directly to EPA at:
opp-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia address in "ADDRESSES" at the beginning of this document.

IX. Regulatory Assessment Requirements

This final rule establishes a time-limited tolerance under FFDCA section 408(l)(6). The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

In addition, since these tolerances and exemptions that are established under FFDCA section 408 (1)(6), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601*et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance acations published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

X. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the Agency has submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of this rule in today's **Federal Register**. This is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 22, 1997.

James Jones,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180 — [AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.449 is amended in paragraph (b) by alphabetically adding a commodity to the table to read as follows:

§ 180.449 Avermectin B$_1$ and its delta-8,9-isomer; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million	Expiration/revocation date
Basil	0.05 ppm	9/30/98
. . .	. . . .	

* * * * *

[FR Doc. 97–28641 Filed 10–28–97; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300480A; FRL–5751–5]

Aminoethoxyvinylglycine; Pesticide Tolerances; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: In the **Federal Register** of May 7, 1997 (62 FR 24835) (FRL–5713–5), EPA established time-limited tolerances for residues of the plant regulator aminoethoxyvinylglycine in or on the food commodities apples and pears. The reference dose (RfD) was incorrectly stated. This document corrects the RfD. On page 24836, column three, third full paragraph, line 11, the RfD was incorrectly stated as "0.0002"; the correct RfD is "0.002."

FOR FURTHER INFORMATION CONTACT: Denise Greenway, Biopesticides and Pollution Prevention Division (7511W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 5-W57, CS #1, 2800 Crystal Drive, Arlington, VA 22202, 703–308–8263, e-mail: greenway.denise@epamail.epa.gov.

List of Subjects in Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 15, 1997.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 97–28651 Filed 10–28–97; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300570; FRL–5752–4]

RIN 2070–AB78

Tebuconazole; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for residues of tebuconazole in or on sunflower seed and sunflower oil. This action is in response to an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on sunflowers. This regulation establishes a maximum permissible level for residues of tebuconazole in these food commodities pursuant to section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. The tolerances will expire and are revoked on September 30, 1998.

DATES: This regulation is effective October 29, 1997. Objections and requests for hearings must be received by EPA on or before December 29, 1997.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300570], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300570], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300570]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Daniel Rosenblatt, Registration Division 7505C, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308-9375, e-mail: rosenblatt.dan@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA, on its own initiative, pursuant to section 408(e) and (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) and (l)(6), is establishing tolerances for residues of the fungicide tebuconazole, in or on sunflower seed and sunflower oil at 0.2 and 0.4 parts per million (ppm). These tolerances will expire and are revoked on September 30, 1998. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations.

I. Background and Statutory Authority

The Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) was signed into law August 3, 1996. FQPA amends both the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 *et seq.*, and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq* . The FQPA amendments went into effect immediately. Among other things, FQPA amends FFDCA to bring all EPA pesticide tolerance-setting activities under a new section 408 with a new safety standard and new procedures. These activities are described below and discussed in greater detail in the final rule establishing the time-limited tolerance associated with the emergency exemption for use of propiconazole on sorghum (61 FR 58135, November 13, 1996)(FRL-5572-9).

New section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a

reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ."

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that "emergency conditions exist which require such exemption." This provision was not amended by FQPA. EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment.

Because decisions on section 18-related tolerances must proceed before EPA reaches closure on several policy issues relating to interpretation and implementation of the FQPA, EPA does not intend for its actions on such tolerance to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions.

II. Emergency Exemption for Tebuconazole on Sunflower Seeds and Sunflower Oil and FFDCA Tolerances

Agriculture officials in states where the sunflower is produced commercially have identified sunflower rust, caused by the pathogen *Puccinia helianthi*, as a severe threat to crop yields. Information on the anticipated yield loss if tebuconazole were not used indicates that losses would be quite significant. One state suggested that losses could be as high as 80% for specific locations. Earlier this year, the States of Kansas, Colorado, and North Dakota determined that conditions may be favorable for a sunflower rust outbreak. Consequently, these states invoked their authorities pursuant to 40 CFR 166.40 to declare a crisis situation. EPA considered the health and safety implications of these actions and permitted the crisis actions to go forward. Therefore, EPA has authorized under FIFRA section 18 the use of tebuconazole on sunflower seed and sunflower oil for control of rust (*Puccinia helianthi*) in Colorado, North Dakota, and Kansas.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of tebuconazole in or on sunflower seed and sunflower oil. In doing so, EPA considered the new safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerances under FFDCA section 408(l)(6) would be consistent with the new safety standard and with FIFRA section 18. Consistent with the need to move quickly on emergency exemptions in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing these tolerances without notice and opportunity for public comment under section 408(e), as provided in section 408(l)(6). Although these tolerances will expire and are revoked on September 30, 1998, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on sunflower seed and sunflower oil after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because these tolerances are being approved under emergency conditions EPA has not made any decisions about whether tebuconazole meets EPA's registration requirements for use on sunflower or whether permanent tolerances for this use would be appropriate. Under these circumstances, EPA does not believe that these tolerances serve as a basis for registration of tebuconazole by a State for special local needs under FIFRA section 24(c). Nor do these tolerances serve as the basis for any State other than Colorado, North Dakota and Kansas to use this pesticide on this crop under section 18 of FIFRA without following all provisions of section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for tebuconazole, contact the Agency's Registration Division at the address provided above.

III. Risk Assessment and Statutory Findings

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides based primarily on toxicological studies using laboratory animals. These studies address many adverse health effects, including (but not limited to) reproductive effects, developmental toxicity, toxicity to the nervous system, and carcinogenicity. Second, EPA examines exposure to the pesticide through the diet (e.g., food and drinking water) and through exposures that occur as a result of pesticide use in residential settings.

A. Toxicity

1. *Threshold and non-threshold effects.* For many animal studies, a dose response relationship can be determined, which provides a dose that causes adverse effects (threshold effects) and doses causing no observed effects (the "no-observed effect level" or "NOEL").

Once a study has been evaluated and the observed effects have been determined to be threshold effects, EPA generally divides the NOEL from the study with the lowest NOEL by an uncertainty factor (usually 100 or more) to determine the Reference Dose (RfD). The RfD is a level at or below which daily aggregate exposure over a lifetime will not pose appreciable risks to human health. An uncertainty factor (sometimes called a "safety factor") of 100 is commonly used since it is assumed that people may be up to 10 times more sensitive to pesticides than the test animals, and that one person or subgroup of the population (such as infants and children) could be up to 10 times more sensitive to a pesticide than another. In addition, EPA assesses the potential risks to infants and children based on the weight of the evidence of the toxicology studies and determines whether an additional uncertainty factor is warranted. Thus, an aggregate daily exposure to a pesticide residue at or below the RfD (expressed as 100% or less of the RfD) is generally considered acceptable by EPA. EPA generally uses the RfD to evaluate the chronic risks posed by pesticide exposure. For shorter term risks, EPA calculates a margin of exposure (MOE) by dividing the estimated human exposure into the NOEL from the appropriate animal study. Commonly, EPA finds MOEs lower than 100 to be unacceptable. This 100-fold MOE is based on the same rationale as the 100-fold uncertainty factor.

Lifetime feeding studies in two species of laboratory animals are conducted to screen pesticides for cancer effects. When evidence of increased cancer is noted in these studies, the Agency conducts a weight of the evidence review of all relevant toxicological data including short-term and mutagenicity studies and structure activity relationship. Once a pesticide has been classified as a potential human carcinogen, different types of risk assessments (e.g., linear low dose extrapolations or MOE calculation based on the appropriate NOEL) will be carried out based on the nature of the carcinogenic response and the Agency's knowledge of its mode of action.

2. *Differences in toxic effect due to exposure duration.* The toxicological effects of a pesticide can vary with different exposure durations. EPA considers the entire toxicity data base, and based on the effects seen for different durations and routes of exposure, determines which risk assessments should be done to assure that the public is adequately protected from any pesticide exposure scenario. Both short and long durations of exposure are always considered. Typically, risk assessments include "acute," "short-term," "intermediate term," and "chronic" risks. These assessments are defined by the Agency as follows.

Acute risk, by the Agency's definition, results from 1-day consumption of food and water, and reflects toxicity which could be expressed following a single oral exposure to the pesticide residues. High end exposure to food and water residues are typically assumed.

Short-term risk results from exposure to the pesticide for a period of 1-7 days, and therefore overlaps with the acute risk assessment. Historically, this risk assessment was intended to address primarily dermal and inhalation exposure which could result, for example, from residential pesticide applications. However, since enaction of FQPA, this assessment has been expanded to include both dietary and non-dietary sources of exposure, and will typically consider exposure from food, water, and residential uses when reliable data are available. In this assessment, risks from average food and water exposure, and high-end residential exposure, are aggregated. High-end exposures from all 3 sources are not typically added because of the very low probability of this occurring in most cases, and because the other conservative assumptions built into the assessment assure adequate protection of public health. However, for cases in which high-end exposure can reasonably be expected from multiple sources (e.g. frequent and widespread homeowner use in a specific geographical area), multiple high-end risks will be aggregated and presented as part of the comprehensive risk assessment/characterization. Since the toxicological endpoint considered in this assessment reflects exposure over a period of at least 7 days, an additional degree of conservatism is built into the assessment; i.e., the risk assessment nominally covers 1-7 days exposure, and the toxicological endpoint/NOEL is selected to be adequate for at least 7 days of exposure. (Toxicity results at lower levels when the dosing duration is increased.)

Intermediate-term risk results from exposure for 7 days to several months. This assessment is handled in a manner similar to the short-term risk assessment.

Chronic risk assessment describes risk which could result from several months to a lifetime of exposure. For this assessment, risks are aggregated considering average exposure from all sources for representative population subgroups including infants and children.

B. Aggregate Exposure

In examining aggregate exposure, FFDCA section 408 requires that EPA take into account available and reliable information concerning exposure from the pesticide residue in the food in question, residues in other foods for which there are tolerances, residues in groundwater or surface water that is consumed as drinking water, and other non-occupational exposures through pesticide use in gardens, lawns, or buildings (residential and other indoor uses). Dietary exposure to residues of a pesticide in a food commodity are estimated by multiplying the average daily consumption of the food forms of that commodity by the tolerance level or the anticipated pesticide residue level. The Theoretical Maximum Residue Contribution (TMRC) is an estimate of the level of residues consumed daily if each food item contained pesticide residues equal to the tolerance. In evaluating food exposures, EPA takes into account varying consumption patterns of major identifiable subgroups of consumers, including infants and children. The TMRC is a "worst case" estimate since it is based on the assumptions that food contains pesticide residues at the tolerance level and that 100% of the crop is treated by pesticides that have established tolerances. If the TMRC exceeds the RfD or poses a lifetime cancer risk that is greater than approximately one in a million, EPA attempts to derive a more accurate exposure estimate for the pesticide by evaluating additional types of information (anticipated residue data and/or percent of crop treated data) which show, generally, that pesticide residues in most foods when they are eaten are well below established tolerances.

Percent of crop treated estimates are derived from federal and private market survey data. Typically, a range of estimates are supplied and the upper end of this range is assumed for the exposure assessment. By using this upper end estimate of percent of crop treated, the Agency is reasonably certain that exposure is not understated for any significant subpopulation group. Further, regional consumption information is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups, to pesticide residues. For this pesticide, the most highly exposed population subgroup (non-nursing infants less than a year old) was not regionally based.

IV. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action, EPA has sufficient data to assess the hazards of tebuconazole and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a time-limited tolerance for residues of tebuconazole on sunflower seed and sunflower oil at 0.2 and 0.4 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerances follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by tebuconazole are discussed below.

1. *Acute toxicity.* For acute dietary risk assessment, OPP recommended use of the developmental NOEL of 10 mg/kg/day from the developmental toxicity study in mice. Effects observed at the lowest observed effect level (LOEL) of 30 mg/kg/day are an increased number of runts and fetuses with malformations of the skull, brain, and spinal cord. The

population subgroup of concern for this acute dietary risk assessment is females (13+ years old).

2. *Short - and intermediate - term toxicity.* [OPP has determined that short- and intermediate-term inhalation risk assessments and short-term dermal risk assessments are appropriate for non-occupational, non-dietary routes of exposure. OPP recommends that the NOEL of 1,000 mg/kg/day, taken from the dermal developmental toxicity study in mice, be used for the short-term dermal MOE calculations. This NOEL was the highest dose tested in the study. For short- and intermediate-term inhalation MOE calculations, OPP recommends using the NOEL of 0.0106 mg/L/day (1.75 mg/kg/day), based on liver toxicity and piloerection at the LOEL of 0.1558 mg/L/day (25.7 mg/kg/day) in the 3-week inhalation rat toxicity study.

3. *Chronic toxicity.* EPA has established the RfD for tebuconazole at 0.03 milligrams/kilogram/day (mg/kg/day). This RfD is based on the NOEL of 2.96 mg/kg/day from a 1-year dog feeding study. Adrenal effects (fatty change and hypertrophy) were observed at the LOEL of 4.39 mg/kg/day. An uncertainty factor (UF) of 100 was applied to account for both interspecies and intra species variability.

4. *Carcinogenicity.* OPP's Cancer Peer Review Committee (CPRC) has determined that tebuconazole is a Group C (possible human carcinogen) chemical, based on mouse liver tumors in both sexes (adenomas and carcinomas in males and carcinomas in females) at 280 mg/kg/day, the highest dose tested. OPP recommends using the RfD approach for quantification of human risk. Therefore, the RfD is deemed protective of all chronic human health effects, including cancer.

B. Exposures and Risks

1. *From food and feed uses.* Tolerances have been established (40 CFR 180.474) for parent tebuconazole (*alpha*-[2-(4-chlorophenyl)-ethyl]-*alpha*-1,1-dimethylethyl)-1*H*-1,2,4-triazole-1-ethanol), in or on a variety of raw agricultural commodities The established levels range from 0.05 ppm in barley, oat and wheat grain to 4.0 ppm in cherries and peanut hulls. Risk assessments were conducted by EPA to assess dietary exposures and risks from tebuconazole as follows:

i. *Acute exposure and risk.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. For the purpose of assessing potential acute dietary risks, tolerance level residues and 100% of crop treated to estimate the TMRC for major identifiable subgroups of consumers. An MOE of 889 was calculated for females 13+ years, the populations subgroup of concern. The high end exposure value was 0.01125 mg/kg/day.

ii. *Chronic exposure and risk.* For the purpose of assessing potential chronic dietary exposure from tebuconazole, EPA assumed tolerance level residues and 100% of crop treated to estimate the TMRC for major identifiable subgroups of consumers. The tolerances for tebuconazole result in a TMRC that is equivalent to the following range of RfD percentages: U.S. populations (48 states) 6% to non-nursing infants (<1 year old) 32%.

2. *From drinking water.* There are no groundwater data for tebuconazole. In addition, no maximum concentration levels or Health Advisories have been established for the pesticide.

Because the Agency lacks sufficient water-related exposure data to complete a comprehensive drinking water risk assessment for many pesticides, EPA has commenced and nearly completed a process to identify a reasonable yet conservative bounding figure for the potential contribution of water-related exposure to the aggregate risk posed by a pesticide. In developing the bounding figure, EPA estimated residue levels in water for a number of specific pesticides using various data sources. The Agency then applied the estimated residue levels, in conjunction with appropriate toxicological endpoints (RfD's or acute dietary NOEL's) and assumptions about body weight and consumption, to calculate, for each pesticide, the increment of aggregate risk contributed by consumption of contaminated water. While EPA has not yet pinpointed the appropriate bounding figure for exposure from contaminated water, the ranges the Agency is continuing to examine are all below the level that would cause tebuconazole to exceed the RfD even with the inclusion of the tolerances being granted in this document. The Agency has therefore concluded that the potential exposures associated with tebuconazole in water, even at the higher levels the Agency is considering as a conservative upper bound, would not prevent the Agency from determining that there is a reasonable certainty of no harm if the tolerance is granted.

3. *From non-dietary exposure.* Tebuconazole is not currently registered for indoor or outdoor residential uses. Thus, no non-dietary, non-occupational exposure is expected.

4. *Cumulative exposure to substances with common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity." The Agency believes that "available information" in this context might include not only toxicity, chemistry, and exposure data, but also scientific policies and methodologies for understanding common mechanisms of toxicity and conducting cumulative risk assessments. For most pesticides, although the Agency has some information in its files that may turn out to be helpful in eventually determining whether a pesticide shares a common mechanism of toxicity with any other substances, EPA does not at this time have the methodologies to resolve the complex scientific issues concerning common mechanism of toxicity in a meaningful way. EPA has begun a pilot process to study this issue further through the examination of particular classes of pesticides. The Agency hopes that the results of this pilot process will increase the Agency's scientific understanding of this question such that EPA will be able to develop and apply scientific principles for better determining which chemicals have a common mechanism of toxicity and evaluating the cumulative effects of such chemicals. The Agency anticipates, however, that even as its understanding of the science of common mechanisms increases, decisions on specific classes of chemicals will be heavily dependent on chemical specific data, much of which may not be presently available.

Although at present the Agency does not know how to apply the information in its files concerning common mechanism issues to most risk assessments, there are pesticides as to which the common mechanism issues can be resolved. These pesticides include pesticides that are toxicologically dissimilar to existing chemical substances (in which case the Agency can conclude that it is unlikely that a pesticide shares a common mechanism of activity with other substances) and pesticides that produce a common toxic metabolite (in which case common mechanism of activity will be assumed).

EPA does not have, at this time, available data to determine whether tebuconazole has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, tebuconazole does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that tebuconazole has a common mechanism of toxicity with other substances.

C. Aggregate Risks and Determination of Safety for U.S. Population

1. *Acute risk.* EPA has concluded that for the population subgroup of concern, females 13+ years), acute aggregate exposure to tebuconazole from existing and proposed food uses will result in an MOE of 889. Despite the potential for exposure to tebuconazole in drinking water, EPA does not expect the aggregate exposure to exceed the level of concern for acute dietary exposure. EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to tebuconazole residues.

2. *Chronic risk.* Using the TMRC exposure assumptions described above, EPA has concluded that aggregate exposure to tebuconazole from food will utilize 6% of the RfD for the U.S. population. The major identifiable subgroup with the highest aggregate exposure is non-nursing infants less than 1 year old (discussed below). EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to tebuconazole in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD. EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to tebuconazole residues.

D. Aggregate Cancer Risk for U.S. Population

Tebuconazole has been classified as a Group C (possible human carcinogen) chemical by EPA, with the recommendation that the RfD approach be used to assess cancer risk. A quantitative cancer risk was not performed because human health risk concerns due to long-term exposure to tebuconazole residues are adequately addressed by the aggregate chronic exposure analysis using the RfD.

E. Aggregate Risks and Determination of Safety for Infants and Children

1. *Safety factor for infants and children*— i. *In general.* In assessing the potential for additional sensitivity of infants and children to residues of tebuconazole, EPA considered data from developmental toxicity studies in the rat and rabbit and a two-generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure during gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for pre-and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard 100-fold safety factor (usually 100 for combined inter- and intra-species variability) and not the additional tenfold factor when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard safety factor.

ii. *Developmental toxicity studies.* From the rat developmental study, the maternal NOEL was 30 mg/kg/day, based on increased liver weight at the LOEL of 60 mg/kg/day. The developmental NOEL was 30 mg/kg/day, based on delayed ossification and supernumerary ribs at the developmental LOEL of 60 mg/kg/day. In the rabbit developmental study, the maternal NOEL was 30 mg/kg/day, based on decreased weight gain and food consumption at the maternal LOEL of 100 mg/kg/day. The developmental NOEL was 30 mg/kg/day, based on increased resorptions due to post-implantation loss at the developmental LOEL of 100 mg/kg/day. The maternal NOEL in the mouse study was 10 mg/kg/day, with reduced hematocrit occurring at the maternal LOEL of 30 mg/kg/day in the oral development toxicity study. The developmental NOEL was 10 mg/kg/day, with effects at the LOEL of 30 mg/kg/day being an increased number of runts, and fetuses with malformations of the skull, brain and spinal cord.

iii. *Reproductive toxicity study.* In the 2-generation rat reproduction study, the parental NOEL was 15 mg/kg/day, based on decreased body weight and increased spleen weight at the LOEL of 50 mg/kg/day. The reproductive NOEL was 15 mg/kg/day, with decreased body weight of neonates being the effect at the LOEL of 50 mg/kg/day.

iv. *Pre- and post-natal sensitivity.* The pre- and post-natal toxicology data base for tebuconazole is complete with respect to current toxicological data requirements. The developmental toxicity studies in rats, rabbits, and mice had developmental findings occurring at the same dose levels (NOELs and LOELs) as maternal effects, indicating no extra pre-natal sensitivity.

The reproductive toxicity study in rats did not demonstrate any extra pre- or post-natal sensitivity to infants and children since the NOEL and LOEL of 15 and 50 mg/kg/day, respectively, were the same for both parental and pup toxicity. Additionally, the decreased body weight gain in parental animals was also observed in pups.

v. *Conclusion.* Based on the above, EPA concludes that reliable data support use of the standard 100-fold uncertainty factor and that an additional safety factor is not needed to protect infants and children.

2. *Acute risk.* The acute dietary (food only) MOE for females 13+ years (accounts for both maternal and fetal exposure) was calculated to be 889. This MOE calculation was based on the developmental NOEL in mice of 10 mg/kg/day. Maternal effects observed at the LOEL of 30 mg/kg/day included a reduced hematocrit. This assessment assumed 100% crop-treated with tolerance level residues on all treated crops consumed, resulting in a significant over-estimate of dietary exposure. No data were available for potential exposures of tebuconazole in drinking water. However, EPA does not expect that aggregate exposure (food plus water) would result in an unacceptable acute dietary MOE. EPA concludes that the large acute dietary MOE provides assurance that there is a reasonable certainty of no harm for both females 13+ years and the pre-natal development of infants.

3. *Chronic risk.* Using the conservative exposure assumptions described above, EPA has concluded that aggregate exposure to tebuconazole from food will utilize between 9% for children (7-12 years old) to 32% for non-nursing infants (less that 1 year old). EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary

exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to tebuconazole in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD. EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to tebuconazole residues.

V. Other Considerations

A. Metabolism In Plants and Animals

The nature of tebuconazole residues in plants and animals is adequately understood. The residue of concern in plants is tebuconazole per se. In ruminants and poultry, the residue of concern is the parent compound and its 1-(4-chlorophenyl)-4,4-dimethyl-3-(1*H*-1,2,4-triazole-1-yl-methyl)-pentane-3,5-diol metabolite (HGW 2061).

B. Analytical Enforcement Methodology

Adequate enforcement methodology is available to enforce the tolerance expressions. The gas chromatographic method entitled "Gas Chromatographic Method for Determination of Residues of Tebuconazole in Crops, Processed Products, Soil and Water" is adequate to enforce time-limited tolerances for tebuconazole per se residues in/on sunflower seed and oil to support compliance efforts. The gas chromatographic method entitled "An Analytical Residue Method for the Determination of Tebuconazole and HWG 2061 Residues in Bovine and Poultry Tissues, Milk and Eggs" is adequate to enforce the time-limited tolerances presently established for the combined residues of tebuconazole and HWG 2061 in animal commodities.

C. Magnitude of Residues

Residues of tebuconazole per se are not expected to exceed 0.2 ppm in sunflower seed as a result of this use. Sunflower hulls and forage do not require regulation as they are not considered livestock feed items.

D. International Residue Limits

There are no Canadian, Mexican, or Codex maximum residue limits for tebuconazole on sunflowers.

E. Rotational Crop Restrictions

Product labels for tebuconazole are to carry a plant back interval of 120 days after the last application for crops which are not on the label.

VI. Conclusion

Therefore, tolerances are established for residues of tebuconazole in sunflower seed and sunflower oil at 0.2 ppm and 0.4 ppm.

VII. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to "object" to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by December 29, 1997, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VIII. Public Docket

EPA has established a record for this rulemaking under docket control number [OPP–300570] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Electronic comments may be sent directly to EPA at:
opp-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia address in "ADDRESSES" at the beginning of this document.

IX. Regulatory Assessment Requirements

This final rule establishes time-limited tolerances under FFDCA section 408(1)(6). The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the

Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

In addition, since these tolerances and exemptions that are established under FFDCA section 408 (1)(6), such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

X. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the Agency has submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of this rule in today's **Federal Register**. This is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 17, 1997.

James Jones,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180— [AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.474, paragraph (b)(1) is amended by alphabetically adding the following commodities to the table to read as follows:

§ 180.474 Tebuconazole; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.*

(1) * * *

Commodity	Parts per million	Expiration/Revocation Date
* * *	* *	* *
Sunflower oil	0.4	9/30/98
Sunflower seed	0.2	9/30/98
* * *	* *	* *

* * * * *

[FR Doc. 97–28656 Filed 10–28–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300555; FRL–5745–5]

RIN 2070–AB78

Lambda-cyhalothrin; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for combined residues of lambda-cyhalothrin and its epimer in or on barley grain, barley bran, barley hay and straw, canola seed, and sugarcane. This action is in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on barley, canola, and sugarcane in Louisiana and Montana. This regulation establishes maximum permissible levels for residues of lambda-cyhalothrin in the above-mentioned food commodities pursuant to section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

DATES: This regulation is effective October 29, 1997. Objections and requests for hearings must be received by EPA on or before December 29, 1997.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, OPP–300555, must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300555], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA. A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number OPP–300355. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Virginia Dietrich, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308–9359, e-mail: dietrich.virginia@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA, on its own initiative, pursuant to section 408(e) and (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) and (l)(6), is establishing tolerances for combined residues of the insecticide lambda-cyhalothrin and its epimer, in or on barley grain, barley bran, barley hay and straw, canola seed and sugarcane at 0.05, 0.2, 2.0, 0.10, and 0.03 part per million (ppm), respectively. These tolerances will expire and are revoked on August 30, 1998. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations.

I. Background and Statutory Authority

The Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) was signed into law August 3, 1996. FQPA amends both the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 *et seq.*, and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.* The FQPA amendments went into effect immediately. Among other things, FQPA amends FFDCA to bring all EPA pesticide tolerance-setting activities under a new section 408 with a new safety standard and new procedures. These activities are described below and discussed in greater detail in the final rule establishing the time-limited tolerance associated with the emergency exemption for use of propiconazole on sorghum (61 FR 58135, November 13, 1996) (FRL–5572–9).

New section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ."

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that "emergency conditions exist which require such exemption." This provision was not amended by FQPA. EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment.

Because decisions on section 18-related tolerances must proceed before EPA reaches closure on several policy issues relating to interpretation and implementation of the FQPA, EPA does not intend for its actions on such tolerance to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions.

II. Emergency Exemption for Lambda-cyhalothrin on Barley, Canola, and Sugarcane and FFDCA Tolerances

Cutworms are serious pests of small grains in Montana. Infestations can result in severe damage from the voracious feeding by the larvae. Since the cancellation of endrin, barley production has remained unprotected with an effective registered chemical. Unusually high levels of moths caught during Montana fall cutworm surveys demonstrated the potential for infestation at levels that could result in significant economic losses. This spring, levels of cutworm infestation exceeded the threshold for treatment and the Montana Department of Agriculture declared a crisis exemption on May 16, 1997.

Feeding on canola by Diamondback moth larvae is expected to result in economically significant losses of 40% in canola grown in Montana unless adequately controlled. A rapid knock-down of the larvae is necessary to prevent significant yield loss which occurs within 2 or 3 days after the larvae begin feeding on the seed pod. The registered alternatives, endosulfan and methyl parathion, both take a week or longer to match the efficacy of lambda-cyhalothrin. Another alternative, ethyl parathion, while effective in controlling this pest, is unavailable to most canola growers in Montana because there are few commercial applicators with the required closed loading system.

Sugarcane yield loss from the sugarcane borer is estimated at 60% unless adequately controlled. Registered alternatives either are more toxic to aquatic environments or cause secondary outbreaks of aphids due to toxicity to non-target arthropods (parasites and predators). After having reviewed these submissions, EPA concurs that emergency conditions exist for these states. EPA has authorized under FIFRA section 18 the use of lambda-cyhalothrin on barley, canola, and sugarcane for control of cutworm in barley, Diamondback moth in canola, and Sugarcane borer in sugarcane in Montana and Louisiana.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of lambda-cyhalothrin in or on barley, canola, and sugarcane. In doing so, EPA considered the new safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the new safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment under section 408(e), as provided in section 408(l)(6). Although this tolerance will expire and is revoked on August 30, 1998, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on barley, canola, and sugarcane after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because this tolerance is being approved under emergency conditions, EPA has not made any decisions about whether lambda-cyhalothrin meets EPA's registration requirements for use on barley, canola, and sugarcane or whether a permanent tolerance for this use would be appropriate. Under these circumstances, EPA does not believe that this tolerance serves as a basis for registration of lambda-cyhalothrin by a State for special local needs under FIFRA section 24(c). Nor does this tolerance serve as the basis for any State other than Montana and Louisiana to use this pesticide on this crop under section 18 of FIFRA without following all provisions of section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for lambda-cyhalothrin, contact the Agency's Registration Division at the address provided above.

III. Risk Assessment and Statutory Findings

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides based primarily on toxicological studies using laboratory animals. These studies address many adverse health effects, including (but not limited to) reproductive effects, developmental toxicity, toxicity to the nervous system, and carcinogenicity. Second, EPA examines exposure to the pesticide through the diet (e.g., food and drinking water) and through exposures that occur as a result of pesticide use in residential settings.

A. Toxicity

1. *Threshold and non-threshold effects.* For many animal studies, a dose response relationship can be determined, which provides a dose that causes adverse effects (threshold effects) and doses causing no observed effects (the "no-observed effect level" or "NOEL").

Once a study has been evaluated and the observed effects have been determined to be threshold effects, EPA generally divides the NOEL from the study with the lowest NOEL by an uncertainty factor (usually 100 or more) to determine the Reference Dose (RfD). The RfD is a level at or below which daily aggregate exposure over a lifetime will not pose appreciable risks to human health. An uncertainty factor (sometimes called a "safety factor") of 100 is commonly used since it is assumed that people may be up to 10 times more sensitive to pesticides than the test animals, and that one person or subgroup of the population (such as infants and children) could be up to 10 times more sensitive to a pesticide than another. In addition, EPA assesses the potential risks to infants and children based on the weight of the evidence of the toxicology studies and determines whether an additional uncertainty factor is warranted. Thus, an aggregate daily exposure to a pesticide residue at or below the RfD (expressed as 100% or less of the RfD) is generally considered acceptable by EPA. EPA generally uses the RfD to evaluate the chronic risks posed by pesticide exposure. For shorter term risks, EPA calculates a margin of exposure (MOE) by dividing the estimated human exposure into the NOEL from the appropriate animal study. Commonly, EPA finds MOEs lower than 100 to be unacceptable. This 100-fold MOE is based on the same rationale as the 100-fold uncertainty factor.

Lifetime feeding studies in two species of laboratory animals are conducted to screen pesticides for cancer effects. When evidence of increased cancer is noted in these studies, the Agency conducts a weight of the evidence review of all relevant toxicological data including short-term and mutagenicity studies and structure activity relationship. Once a pesticide has been classified as a potential human carcinogen, different types of risk assessments (e.g., linear low dose extrapolations or MOE calculation based on the appropriate NOEL) will be carried out based on the nature of the carcinogenic response and the Agency's knowledge of its mode of action.

2. *Differences in toxic effect due to exposure duration.* The toxicological effects of a pesticide can vary with different exposure durations. EPA considers the entire toxicity data base, and based on the effects seen for different durations and routes of exposure, determines which risk assessments should be done to assure that the public is adequately protected from any pesticide exposure scenario. Both short and long durations of exposure are always considered. Typically, risk assessments include "acute," "short-term," "intermediate term," and "chronic" risks. These assessments are defined by the Agency as follows.

Acute risk, by the Agency's definition, results from 1-day consumption of food and water, and reflects toxicity which could be expressed following a single oral exposure to the pesticide residues. High end exposure to food and water residues are typically assumed.

Short-term risk results from exposure to the pesticide for a period of 1-7 days, and therefore overlaps with the acute risk assessment. Historically, this risk assessment was intended to address primarily dermal and inhalation exposure which could result, for example, from residential pesticide applications. However, since enaction of FQPA, this assessment has been expanded to include both dietary and non-dietary sources of exposure, and will typically consider exposure from food, water, and residential uses when reliable data are available. In this assessment, risks from average food and water exposure, and high-end residential exposure, are aggregated. High-end exposures from all three sources are not typically added because of the very low probability of this occurring in most cases, and because the other conservative assumptions built into the assessment assure adequate protection of public health. However, for cases in which high-end exposure can reasonably be expected from multiple sources (e.g. frequent and widespread homeowner use in a specific geographical area), multiple high-end risks will be aggregated and presented as part of the comprehensive risk assessment/characterization. Since the toxicological endpoint considered in this assessment reflects exposure over a period of at least 7 days, an additional degree of conservatism is built into the assessment; i.e., the risk assessment nominally covers 1-7 days exposure, and the toxicological endpoint/NOEL is selected to be adequate for at least 7 days of exposure. (Toxicity results at lower levels when the dosing duration is increased.)

Intermediate-term risk results from exposure for 7 days to several months. This assessment is handled in a manner similar to the short-term risk assessment.

Chronic risk assessment describes risk which could result from several months to a lifetime of exposure. For this assessment, risks are aggregated considering average exposure from all sources for representative population subgroups including infants and children.

B. Aggregate Exposure

In examining aggregate exposure, FFDCA section 408 requires that EPA take into account available and reliable information concerning exposure from the pesticide residue in the food in question, residues in other foods for which there are tolerances, residues in groundwater or surface water that is consumed as drinking water, and other non-occupational exposures through pesticide use in gardens, lawns, or buildings (residential and other indoor uses). Dietary exposure to residues of a pesticide in a food commodity are estimated by multiplying the average daily consumption of the food forms of that commodity by the tolerance level or the anticipated pesticide residue level. The Theoretical Maximum Residue Contribution (TMRC) is an estimate of the level of residues consumed daily if each food item contained pesticide residues equal to the tolerance. In

evaluating food exposures, EPA takes into account varying consumption patterns of major identifiable subgroups of consumers, including infants and children. The TMRC is a "worst case" estimate since it is based on the assumptions that food contains pesticide residues at the tolerance level and that 100% of the crop is treated by pesticides that have established tolerances. If the TMRC exceeds the RfD or poses a lifetime cancer risk that is greater than approximately one in a million, EPA attempts to derive a more accurate exposure estimate for the pesticide by evaluating additional types of information (anticipated residue data and/or percent of crop treated data) which show, generally, that pesticide residues in most foods when they are eaten are well below established tolerances.

Percent of crop treated estimates are derived from federal and private market survey data. Typically, a range of estimates are supplied and the upper end of this range is assumed for the exposure assessment. By using this upper end estimate of percent of crop treated, the Agency is reasonably certain that exposure is not understated for any significant subpopulation group. Further, regional consumption information is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups, to pesticide residues. For this pesticide, the most highly exposed population subgroup (non-nursing infants less than 1 year old) was not regionally based.

IV. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of lambda-cyhalothrin and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a time-limited tolerance for combined residues of lambda-cyhalothrin and its epimer on barley grain, barley bran, barley hay and straw, canola seed and sugarcane at 0.05, 0.2, 2, 0.10, and 0.03 ppm, respectively. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by lambda-cyhalothrin are discussed below.

1. *Acute toxicity.* EPA's Office of Pesticide Programs (OPP) is currently reassessing time-limited tolerances for residues of lambda-cyhalothrin in or on over a dozen commodities established for conditional registrations. These tolerances are due to expire November 15, 1997. On July 31, 1997, as part of this reassessment, the OPP's Hazard Identification Assessment Review Committee identified an acute toxicity endpoint and recommended use of the NOEL of 0.5 mg/kg/day for an acute dietary endpoint, based on gait abnormalities in dogs in a 1 year oral toxicity study. The following assessment for the tolerances in this document uses this recommended endpoint of concern as a basis to evaluate acute dietary risk to population subgroups.

2. *Short - and intermediate-term toxicity.* For short- and intermediate-term margin of exposure (MOE) calculations, EPA's Office of Pesticide Programs (OPP) selected use of the NOEL of 0.3 ug/l (0.05 milligrams/kilogram/day (mg/kg/day) from the 21-day inhalation toxicity study in rats. The LEL of 3.3 ug/l was based on decreased body weight gains and clinical signs of toxicity including paw flicking, tail erections, and tiptoe gait.

In the 21-day dermal toxicity study, the NOEL was >1000 mg/kg/day (limit dose) and therefore the Office of Pesticide Programs did not select an endpoint.

3. *Chronic toxicity.* EPA has established the RfD for lambda-cyhalothrin at 0.001 mg/kg/day. This RfD is based on a 1-year oral study in dogs with a NOEL of 0.1 mg/kg/day and an uncertainty factor (UF) of 100. The LEL of 0.5 mg/kg/day was based on clinical signs of neurotoxicity (convulsions, ataxia, muscle tremors) and a slight increase in liquid feces.

4. *Carcinogenicity.* Lambda-cyhalothrin has been classified by the Office of Pesticide Programs as a Group "D" chemical, "not classifiable as to human carcinogenicity."

B. Exposures and Risks

1. *From food and feed uses.* Tolerances have been established (40 CFR 180.438, 185.3765, and 186.3765) for the combined residues of lambda-cyhalothrin and its epimer, in or on a variety of raw agricultural commodities at levels ranging from 0.01 to 6.0 ppm. A food additive tolerance has been established under 40 CFR 185.1310 for residues on dried hops. Tolerances with the expiration date of November 15, 1997, have been established under 40 CFR 185.3765 for sunflower hulls, corn grain flour, and tomato pomace. Time-limited tolerances have been established for various animal products under 40 CFR 185.3765. Risk assessments were conducted by EPA to assess dietary exposures and risks from lambda-cyhalothrin as follows:

i. *Acute exposure and risk.* The registrant, Zeneca Ag Products, has submitted a "Monte Carlo" analysis assessing acute dietary risk for lambda-cyhalothrin to support extension of tolerances due to expire in November 1997. The results of the analysis are summarized below.

Table 1.—Acute Dietary Exposure and Risk Analysis Results

Population	Exposure (mg/kg/day) 99.9th percentile	MOE 99.9th percentile
U.S. Population	0.002108	237
Children 1 - 6 Years	0.003789	132
Children 7 - 12 Years	0.001893	264
Non-Nursing Infants	0.003281	152
Nursing Infants	0.000969	516
Women, 13+ Years	0.000831	601

The Monte Carlo analysis provided by the registrant has not undergone a thorough review in the Agency. However, given the emergency nature of the section 18 requests, the Agency will consider the results of the registrant's analysis to support the section 18 use of lambda-cyhalothrin on barley, canola, and sugarcane.

ii. *Chronic exposure and risk.* The existing lambda-cyhalothrin tolerances plus the proposed section 18 use resulted in an Anticipated Residue Contribution (ARC) that is equivalent to the following percentages of the RfD:

U.S Population—22%
Nursing Infants (<1 year old)—25%
Non-Nursing Infants (<1 year old)—71%
Children (1-6 years old)—50%
Children (7-12 years old)—33%
Hispanics—25%
Non-Hispanic Others—27%
Northeast Region—23%
Western Region—24%

The subgroups listed above are: (1) The U.S. population (48 states); (2) those for infants and children; and (3) the other subgroups for which the percentage of the RfD occupied is greater than that occupied by the subgroup U.S. population (48 states). Further refinement using percent crop-treated data for all commodities would result in lower dietary exposure estimates.

2. *From drinking water.* Office of Pesticide Program studies indicate lambda-cyhalothrin is moderately persistent and mobile in surface water, but not ground water. There is no established Maximum Contaminant Level (MCL) for residues of lambda-cyhalothrin in drinking water. No health advisory levels for lambda-cyhalothrin in drinking water have been established. There is no entry for lambda-cyhalothrin in the "Pesticides in Groundwater Database."

Because the Agency lacks sufficient water-related exposure data to complete a comprehensive drinking water risk assessment for many pesticides, EPA has commenced and nearly completed a process to identify a reasonable yet conservative bounding figure for the potential contribution of water-related exposure to the aggregate risk posed by a pesticide. In developing the bounding figure, EPA estimated residue levels in water for a number of specific pesticides using various data sources. The Agency then applied the estimated residue levels, in conjunction with appropriate toxicological endpoints (RfD's or acute dietary NOEL's) and assumptions about body weight and consumption, to calculate, for each pesticide, the increment of aggregate risk contributed by consumption of contaminated water. While EPA has not yet pinpointed the appropriate bounding figure for exposure from contaminated water, the ranges the Agency is continuing to examine are all below the level that would cause lambda-cyhalothrin to exceed the RfD if the tolerance being considered in this document were granted. The Agency has therefore concluded that the potential exposures associated with lambda-cyhalothrin in water, even at the higher levels the Agency is considering as a conservative upper bound, would not prevent the Agency from determining that there is a reasonable certainty of no harm if the tolerance is granted.

3. *From non-dietary exposure.* Lambda-cyhalothrin is currently registered for use on the following residential non-food sites: general pest control (crack/crevice/spot), termiticide, landscape, turf ornamentals, commercial ornamentals, golf course turf, and unoccupied agricultural premises.

The Agency lacks sufficient residential-related exposure data to complete a comprehensive residential risk assessment for many pesticides, including lambda-cyhalothrin. However, because: (1) Lambda-cyhalothrin has a low vapor pressure (2 x 10^{-10} torr); (2) no acute toxicity endpoints were identified by the Toxicity End-Point Selection Committee; (3) no short- or intermediate-term dermal toxicity endpoint was identified; (4) for occupationally exposed workers, high MOEs for inhalation exposure were calculated (ranging from 1,200 to 13,000); and (5) the low percentage of the RfD that is occupied for the general population by the pending and registered uses of this chemical; in the best scientific judgement of OPP, non-dietary, non-occupational uses of lambda-cyhalothrin should not pose a risk that exceeds OPP's level of concern.

4. *Cumulative exposure to substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity." The Agency believes that "available information" in this context might include not only toxicity, chemistry, and exposure data, but also scientific policies and methodologies for understanding common mechanisms of toxicity and conducting cumulative risk assessments. For most pesticides, although the Agency has some information in its files that may turn out to be helpful in eventually determining whether a pesticide shares a common mechanism of toxicity with any other substances, EPA does not at this time have the methodologies to resolve the complex scientific issues concerning common mechanisms of toxicity in a meaningful way. EPA has begun a pilot process to study this issue further through the examination of particular classes of pesticides. The Agency hopes that the results of this pilot process will increase the Agency's scientific understanding of this question such that EPA will be able to develop and apply scientific principles for better determining which chemicals have a common mechanism of toxicity and evaluating the cumulative effects of such chemicals. The Agency anticipates, however, that even as its understanding of the science of common mechanisms increases, decisions on specific classes of chemicals will be heavily dependent on chemical-specific data, much of which may not be presently available.

Although at present the Agency does not know how to apply the information in its files concerning common mechanism issues to most risk assessments, there are pesticides as to which the common mechanism issues can be resolved. These pesticides include pesticides that are toxicologically dissimilar to existing chemical substances (in which case the Agency can conclude that it is unlikely that a pesticide shares a common mechanism of activity with other substances) and pesticides that produce a common toxic metabolite (in which case common mechanism of activity will be assumed).

EPA does not have, at this time, available data to determine whether lambda-cyhalothrin has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. For the purposes of this tolerance action, therefore, EPA has not assumed that lambda-cyhalothrin has a common mechanism of toxicity with other substances.

C. Aggregate Risks and Determination of Safety for U.S. Population

1. *Acute risk.* OPP has concluded that exposure from existing uses results in MOE estimates that are not likely to exceed the Agency's acceptable level (less than 100) for acute exposure. OPP also believes adding the proposed section 18 tolerances would still result in acceptable MOEs. Therefore, the Agency has concluded that these new temporary tolerances meet the reasonable certainty of no harm finding for acute risk. A discussion of the factors considered for this decision follows.

Emergency exemptions for three commodities, sugarcane, barley, and canola, were issued earlier this year. At that time, no acute exposure endpoint had been identified in the Agency's risk assessment for the emergency exemption. However, as a result of review of new data submitted to support the extension of temporary tolerances established for conditional registrations, an acute exposure endpoint for lambda-cyhalothrin was identified (see Unit IV.A.1. of this document). OPP therefore revisited the acute risk assessment for the emergency exemptions. A preliminary review of the new information using the Agency's best professional judgement supported the reasonable certainty of no harm finding. EPA's conclusions regarding this risk analysis may change following a more thorough review.

The basis for this risk assessment is an acute dietary exposure analysis using a "Monte Carlo" model which reflects the distribution of possible residues on the commodities considered in the analysis as well as percent of crop treated information. This model was applied to both food and feed commodities covered under existing temporary tolerances. Although this analysis did not consider the commodities treated under the emergency exemption, the Agency believes that these tolerances are adequately protective for the following two reasons. Direct consumption of lambda-cyhalothrin through these commodities (barley, sugarcane, and canola) is expected to be lower than tolerance levels since the commodities are consumed as the processed product and not as the raw agricultural commodity. Exposure from secondary residues, those consumed through eating products from animals fed these raw agricultural commodities, is nearly all accounted for because the current analysis includes wheat, corn, and rice as well as peanut oil, corn oil, cottonseed oil, and soybean oil. These items comprise a much greater portion of animals diets than do barley, canola, or sugarcane.

2. *Chronic risk.* Using the ARC exposure assumptions described above, EPA has concluded that aggregate exposure to lambda-cyhalothrin from food will utilize 22 percent of the RfD for the U.S. population. The major identifiable subgroup with the highest aggregate exposure is Non-Nursing Infants (<1 year old) and is discussed later in this document under Determination of Safety for Infants and Children. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to lambda-cyhalothrin in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD. EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to lambda-cyhalothrin residues.

3. *Short- and intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure.

D. Aggregate Cancer Risk for U.S. Population

Lambda-cyhalothrin has been classified by OPP as a Group "D" chemical, "not classifiable as to human carcinogenicity." For this reason, this risk assessment was not considered appropriate and was not conducted.

E. Aggregate Risks and Determination of Safety for Infants and Children

1. *Safety factor for infants and children*— a. *In general.* In assessing the potential for additional sensitivity of infants and children to residues of lambda-cyhalothrin, EPA considered data from developmental toxicity studies in the rat and rabbit and a two-generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure during gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional 10-fold margin of safety for infants and children in the case of threshold effects to account for pre-and post-natal toxicity and the completeness of the data base unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard uncertainty factor (usually 100 for combined inter- and intra-species variability) and not the additional 10-fold uncertainty factor when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard safety factor.

b. *Developmental toxicity studies*—i. *Rats.* From the developmental toxicity study in rats, the maternal (systemic) NOEL was 10 mg/kg/day. The maternal LEL of 15 mg/kg/day was based on decreased body weight gain and decreased food consumption. The developmental (fetal) NOEL was >15 mg/kg/day at the highest dose tested (HDT).

2. *Rabbit.* From the developmental toxicity study in rabbits, the maternal (systemic) NOEL was 10 mg/kg/day. The maternal LEL of 30 mg/kg/day was based on decreased body weight gain. The developmental (fetal) NOEL was >30 mg/kg/day (HDT).

c. *Reproductive toxicity study—Rats.* From the 3-generation reproductive toxicity study in rats, both the parental (systemic) and reproductive (pup) NOELs were 1.5 mg/kg/day. Both the parental (systemic) and reproductive (pup) LELs were 5 mg/kg/day. They were based on a significant decrease in parental body weight (systemic) or a significant decrease in pup body weight (reproductive). The developmental NOEL was 5 mg/kg/day (HDT).

d. *Pre- and post-natal sensitivity.* The toxicology data base for lambda-cyhalothrin is complete with respect to current toxicological data requirements. There are no pre- or post-natal toxicity concerns for infants and children, based on the results of the rat and rabbit developmental toxicity studies and the 3-generation reproductive toxicity study in rats.

e. *Conclusion.* Based on the above, EPA concludes that reliable data support the use of the standard 100-fold margin of uncertainty factor and that an additional uncertainty factor is not warranted at this time.

2. *Acute risk.* OPP has concluded that exposure from existing uses results in MOE estimates that are not likely to exceed the Agency's acceptable level (less than 100) for acute exposure. OPP also believes adding the proposed section 18 tolerances would still result in acceptable MOEs. Therefore, the Agency has concluded that these new temporary tolerances meet the reasonable certainty of no harm finding for acute risk. A discussion of the factors considered for this decision can be found in Unit IV.C.1. of this preamble.

3. *Chronic risk.* Using the conservative exposure assumptions described above, EPA has concluded that aggregate exposure to lambda-cyhalothrin from food will utilize from 25% for nursing infants less than 1 year old, up to 71% for non-nursing infants less than 1 year old of the RfD for infants and children. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to lambda-cyhalothrin in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD. EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to lambda-cyhalothrin residues.

V. Other Considerations

A. Metabolism in Plants and Animals

OPP has determined that the nature of the residue in plants and animals is adequately understood based on metabolism studies conducted on cotton, cabbage, soybeans, and wheat. The residue of concern is lambda-cyhalothrin and its epimer.

B. Analytical Enforcement Methodology

Adequate methods are available for the enforcement of the current tolerance expression. The analytical method (GC/ECD) for determination of lambda-cyhalothrin is ICI Method 81 which has been validated by the Agency and was found to be adequate for regulatory purposes.

The petitioner has determined recoveries of lambda-cyhalothrin and its metabolites PP890, and 3-PBAcid under FDA's multi-residue protocols.

C. Magnitude of Residues

Time-limited tolerances for combined residues of lambda-cyhalothrin and its epimer should be established as follows to support this section 18 exemption:

Barley, grain—0.05 ppm
Barley, bran—0.2 ppm
Barley, straw—2 ppm
Barley, hay—2 ppm
Canola seed—0.10 ppm
Sugarcane—0.03 ppm

Barley grain, straw, and hay are livestock feed items. The dietary burden resulting from potential lambda-cyhalothrin residues in/on barley feedstuffs is comparable to that resulting from other livestock feedstuffs which have lambda-cyhalothrin tolerances (such as corn forage at 1.0 ppm and corn grain at 0.05 ppm). Thus, secondary residues in animal commodities are not expected to exceed existing tolerances as a result of this section 18 use.

D. International Residue Limits

There are no Codex, Canadian, or Mexican maximum residue limits (MRLs) for residues of lambda-cyhalothrin in/on barley. Therefore, international harmonization is not an issue for this section 18 use.

E. Rotational Crop Restrictions

Studies submitted in support of lambda-cyhalothrin registration showed that significant residues (<0.01 ppm) will not be present in crops rotated 30 days after application of parent lambda-cyhalothrin. No additional rotational crop data are needed to support current registered application rates.

VI. Conclusion

Therefore, the tolerance is established for combined residues of lambda-cyhalothrin and its epimer in barley grain, barley bran, barley hay and straw, canola seed and sugarcane at 0.05, 0.2, 2, 0.10, and 0.03 ppm, respectively.

VII. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to "object" to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by December 29, 1997, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VIII. Public Docket

EPA has established a record for this rulemaking under docket control number OPP–300555 (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments may be sent directly to EPA at: opp-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia address in "ADDRESSES" at the beginning of this document.

IX. Regulatory Assessment Requirements

This final rule establishes time-limited tolerances under FFDCA section 408(l)(6). The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

In addition, since these tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(l)(6), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

X. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the Agency has submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of this rule in today's **Federal Register**. This is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 21, 1997.

James Jones,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR Chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.438, by adding paragraph (b) to read as follows:

§ 180.438 Lambda-cyhalothrin tolerance for residues.

* * * * *

(b) *Section 18 emergency exemptions.* Time-limited tolerances are established for combined residues of the insecticide lambda-cyhalothrin (a 1:1 mixture of (S)-α-cyano-3-phenoxybenzyl-(Z)-(1R,3R)-3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate and (R)-α-cyano-3-phenoxybenzyl-(Z)-(1S,3S)-3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate and its epimer a 1:1 mixture of (S)-α-cyano-3-phenoxybenzyl-(Z)-(1S,3S)-3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclo-propanecarboxylate and (R)-α-cyano-3-phenoxybenzyl (Z)-(1R,3R)-3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclo-propanecarboxylate in connection with use of the pesticide under section 18 emergency exemptions granted by EPA. The tolerances will expire and are revoked on the dates specified in the following table.

Commodity	Parts per million	Expiration/Revocation Date
barley bran	0.2	8/30/98
barley grain	0.05	8/30/98
barley hay	2	8/30/98
barley straw	2	8/30/98
canola seed	0.1	8/30/98
sugarcane	0.03	8/30/98

* * * * *

[FR Doc. 97–28655 Filed 10–28–97; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300564; FRL–5749–2]

RIN 2070–AB78

Ferric Phosphate; Establishment of an Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for residues of ferric phosphate, when used as a molluscicide in or on all food commodities. W. Neudorff GmbH KG submitted a petition to EPA under the Federal Food, Drug and Cosmetic Act (FFDCA) as amended by the Food Quality Protection Act (FQPA) of 1996 requesting the exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of this molluscicide in or on all food commodities.

DATES: This regulation is effective on October 29, 1997. Objections and requests for hearings must be received by December 29, 1997.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP–300564], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300564], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket number [OPP–300564]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Sheryl K. Reilly, c/o Product Manager (PM) 90, Biopesticides and Pollution Prevention Division (7511W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Office location, telephone number, and e-mail address: CS1 Rm. 5–W31, 2800 Crystal Drive, Arlington, VA, 703–308–8265, e-mail: reilly.sheryl@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: W. Neudorff GmbH KG, c/o Walter G. Telarek, PC, 1008 Riva Ridge Drive, Great Falls, VA, has requested in pesticide petition PP 7F4804 the establishment of an exemption from the requirement of a tolerance for residues of the molluscicide iron (ferric) phosphate. A notice of filing (FRL–5721–6) was published in the **Federal Register** (62 FR 32331–32336) on June 13, 1997, and the notice announced that the comment period would end on July 13, 1997; no comments were received.

This exemption from the requirement of a tolerance will permit the marketing of raw agricultural commodities when treated in accordance with EPA Reg No. 67702–3, which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136).

The data submitted in the petition and all other relevant material have been evaluated. The following is a summary of EPA's findings regarding this petition.

I. Product Identity

NEU 1165M Slug and Snail Bait (EPA file symbol No. 067702–G) is the first pesticide product containing the active ingredient ferric phosphate ($FePO_4$, CAS# 11045–86–0). The product contains the active ingredient at a concentration of 1% incorporated into a solid matrix, which is odorless, and has a white-to-buff color.

II. Risk Assessment and Statutory Findings

New section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement of a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(c)(2)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(c)(2)(B) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue***." EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

III. Toxicological Profile

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the scientific data and other relevant information in support of this action and considered its validity, completeness, reliability, and relationship to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

A battery of acute toxicity studies place NEU 1165M Slug and Snail Bait in the following Toxicity Categories: Acute Oral (Toxicity Category IV); Acute Dermal (Toxicity Category IV; Primary Eye Irritation (Toxicity Category III); and Primary Dermal Irritation (Toxicity Category IV). (MRIDs 440427–04,–05, –06, and –07)

Data waivers were requested for acute inhalation toxicity, dermal sensitization, genotoxicity, reproductive and developmental toxicity, subchronic (90–day) oral toxicity, and chronic toxicity. The waivers were accepted based on the long history of use of iron and iron salts by humans without any indication of deleterious effects, and on the following:

The toxicity of ferric phosphate is low; ferric phosphate occurs naturally as a mineral, and is added to food, such as bread, for nutritional fortification. Iron is an essential nutrient for humans and all other vertebrates; the average human diet contains 10–15 mg of iron a day. Ferric phosphate is also sometimes used as a fertilizer. In addition, iron is found in abundance in nature; the low water-solubility of ferric phosphate limits its absorption across the intestinal epithelium.

IV. Residue Chemistry

A waiver was requested and granted for magnitude of the residue anticipated at the time of harvest and method used to determine the residue data requirements based on ferric phosphate's (1) low toxicity, (2) natural occurrence, (3) abundance in the environment, (4) widespread use as human nutrient and dietary supplements and in infant formula, (5) status at FDA as "generally recognized as safe" (GRAS), and (6) data available in the open literature.

V. Aggregate Exposure

In examining aggregate exposure, FFDCA section 408 directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures. The primary non-food sources of exposure the Agency considers include drinking water or groundwater, and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

1. *Dietary exposure.* Dietary exposure of ferric phosphate via food or water exists due to its use as a nutritional supplement and its ubiquitous presence in nature. Residues from use of the biochemical pesticide, ferric phosphate, will not significantly add to the current dietary exposures.

2. *Non-dietary, non-occupational exposure.* Increased non-dietary exposure of ferric phosphate via non-commercial greenhouse, home lawn and garden or ornamental use will be minimal. Exposure by the inhalation route would be non-existent because

ferric phosphate is not volatile and the formulation of the product is a solid matrix of non-respirable size. In summary, the potential aggregate exposure, derived from non-dietary and non-occupational exposure should be minimal.

VI. Cumulative Effects

Ferric phosphate has a very low toxicity to humans. Because of its low toxicity, low rate of application, and use patterns, the Agency believes that there is no reason to expect any cumulative effects from ferric phosphate and other substances.

VII. Endocrine Disruptors

The Agency has no information to suggest that ferric phosphate has any effect on the immune and endocrine systems. The Agency is not requiring information on the endocrine effects of this biochemical pesticide at this time; Congress has allowed 3 years after August 3, 1996, for the Agency to implement a screening program with respect to endocrine effects. Nevertheless, the above discussion on exposure from all sources combined with the low toxicity of ferric phosphate would indicate such testing would not be necessary.

VIII. Safety Determination for U.S. Population, Infants and Children

Based on the information discussed above, EPA concludes that there is reasonable certainty that no harm will result from aggregate exposure to the U.S. population, including infants and children, to residues of ferric phosphate. This includes all anticipated dietary exposures and all other exposures for which there is reliable information. The Agency has arrived at this conclusion because, as discussed above, the toxicity of ferric phosphate to mammals is very low and under reasonably foreseeable circumstances it does not pose a risk.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of exposure (safety) for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the database, unless EPA determines that a different margin of exposure (safety) will be safe for infants and children. Margins of exposure (safety) are often referred to as uncertainty (safety) factors. In this instance, the Agency believes there is reliable data to support the conclusion that ferric phosphate is practically non-toxic to mammals, including infants and children, and, thus, there are no threshold effects, and EPA has not used a margin of exposure (safety) approach to assess the safety of ferric phosphate. As a result, the provision requiring an additional margin of exposure (safety) does not apply.

IX. Other Considerations

1. *Analytical method.* The Agency proposes to establish an exemption from the requirement of a tolerance without any numerical limitation; therefore, the Agency has concluded that an analytical method is not required for enforcement purposes for ferric phosphate residues.

2. *Codex maximum residue level.* There are no CODEX tolerances nor international tolerance exemptions for ferric phosphate at this time.

X. Conclusion

Based on the information discussed above, EPA establishes an exemption from the requirement of a tolerance pursuant to FFDCA section 408(j)(3) for ferric phosphate.

This exemption from the requirement of a tolerance will be revoked if any experience with or scientific data on this pesticide indicate that the tolerance is not safe.

XI. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to "object" to a tolerance exemption regulation issued by EPA under new section 408(e) as was provided in the old section 408. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person adversely affected by this regulation may, on or before December 29, 1997, file written objections to the regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

XII. Public Record and Electronic Submissions

EPA has established a record for this rulemaking under docket control number [OPP–300564] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments may be sent directly to EPA at:

opp-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia address in "ADDRESSES" at the beginning of this document.

XIII. Regulatory Assessment Requirements

This final rule establishes an exemption from the tolerance requirement under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 et seq., or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629), February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

In addition, since tolerance exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.) do not apply. Nevertheless, the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

XIV. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the Agency has submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This is not a major rule as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 21, 1997.

Stephen L. Johnson,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371

2. Section 180.1191 is added to subpart D to read as follows:

§ 180.1191 Ferric phosphate; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of the biochemical pesticide, ferric phosphate ($FePO_4$, CAS No. 11045–86–0) in or on all food commodities.

[FR Doc. 97–28657 Filed 10–28–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5914–3]

National Oil and Hazardous Substances Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of the Bowers Landfill Superfund Site from the National Priorities List (NPL).

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of the Bowers Landfill Superfund Site in Ohio from the National Priorities List (NPL). The NPL is Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. This action is being taken by EPA and the State of Ohio, because it has been determined that Responsible Parties have implemented all appropriate response actions required. Moreover, EPA and the State of Ohio have determined that remedial actions conducted at the site to date remain protective of public health, welfare, and the environment.

EFFECTIVE DATE: October 29, 1997.

FOR FURTHER INFORMATION CONTACT: David Wilson (312) 886–1476 (SR–6J), Remedial Project Manager or Gladys Beard at (312) 886–7253, Associate Remedial Project Manager, Superfund Division, U.S. EPA—Region V, 77 West Jackson Blvd., Chicago, IL 60604. Information on the site is available at the local information repository located at: Pickaway County Public Library, 165 E. Main Street, Circleville, OH 43113. Requests for comprehensive copies of documents should be directed formally to the Regional Docket Office. The contact for the Regional Docket Office is Jan Pfundheller (H–7J), U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 353–5821.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: Bowers Landfill Superfund Site located in Pickaway County, Ohio. A Notice of Intent to Delete for this site was published September 10, 1997 (62 FR 47619). The closing date for comments on the Notice of Intent to Delete was October 9, 1997. EPA received no comments and therefore no Responsiveness Summary was prepared.

The EPA identifies sites which appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Sites on the NPL may be the subject of Hazardous Substance Response Trust Fund (Fund-) financed remedial actions. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.425(e)(3) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL in the unlikely event that conditions at the site warrant such action. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous

substances, Hazardous Waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: October 17, 1997.

David Ullrich,

Acting Regional Administrator, U.S. EPA, Region V.

40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp.; p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp.; p. 193.

Appendix B—[Amended]

2. Table 1 of Appendix B to part 300 is amended by removing the Site "Bowers Landfill, Circleville County, Ohio."

[FR Doc. 97–28552 Filed 10–28–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5814–4]

National Oil and Hazardous Substances Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of the Northern Engraving Corporation Superfund Site from the National Priorities List (NPL).

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of the Northern Engraving Corporation Superfund Site in Wisconsin from the National Priorities List (NPL). The NPL is Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. This action is being taken by EPA and the State of Wisconsin, because it has been determined that Responsible Parties have implemented all appropriate response actions required. Moreover, EPA and the State of Wisconsin have determined that remedial actions conducted at the site to date remain protective of public health, welfare, and the environment.

EFFECTIVE DATE: October 29, 1997.

FOR FURTHER INFORMATION CONTACT: Robert Whippo (312) 886–1476 (SR–6J), Remedial Project Manager or Gladys Beard at (312) 886–7253, Associate Remedial Project Manager, Superfund Division, U.S. EPA—Region V, 77 West Jackson Blvd., Chicago, IL 60604. Information on the site is available at the local information repository located at: Sparta Free Library, W. Main & Court Sts., Sparta, WI 54656. Requests for comprehensive copies of documents should be directed formally to the Regional Docket Office. The contact for the Regional Docket Office is Jan Pfundheller (H–7J), U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 353–5821.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: Northern Engraving Corporation Superfund Site located in Sparta, Wisconsin. A Notice of Intent to Delete for this site was published September 11, 1997 (62 FR 47784). The closing date for comments on the Notice of Intent to Delete was October 10, 1997. EPA received no comments and therefore no Responsiveness Summary was prepared.

The EPA identifies sites which appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Sites on the NPL may be the subject of Hazardous Substance Response Trust Fund (Fund-) financed remedial actions. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.425(e)(3) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL in the unlikely event that conditions at the site warrant such action. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous Waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: October 17, 1997.

David Ullrich,

Acting Regional Administrator, U.S. EPA, Region V.

40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp.; p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp.; p. 193.

Appendix B—[Amended]

2. Table 1 of Appendix B to part 300 is amended by removing the Site "Northern Engraving Co., Sparta, Wisconsin."

[FR Doc. 97–28551 Filed 10–28–97; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 489

[BPD–748–F]

RIN 0938–AG03

Medicare Program; Changes in Provider Agreement Regulations Related to Federal Employees Health Benefits

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This final rule makes two changes to Medicare's provider agreement regulations concerning payment for inpatient hospital services furnished to retired enrollees of fee-for-service Federal Employees Health Benefits (FEHB) plans who do not have Medicare Part A coverage. The first change specifies that payment for inpatient hospital services furnished to retired Federal workers age 65 or older who are enrolled in a fee-for-service FEHB plan but are not covered under Medicare Part A is limited to a payment amount that approximates the Medicare diagnosis-related group payment rates established under Medicare's inpatient hospital prospective payment system.

The second change specifies that HCFA will consider termination or nonrenewal of a hospital's provider agreement with Medicare if a hospital knowingly and willfully fails to accept, on a repeated basis, the Medicare rate as payment in full for inpatient hospital services provided to a retired Federal worker who is enrolled in a fee-for-service FEHB plan and who does not have Medicare Part A coverage.

This final rule implements section 7002(f) of the Omnibus Budget Reconciliation Act of 1990.

EFFECTIVE DATE: These regulations are effective on November 28, 1997.

ADDRESSES: Copies: To order copies of the **Federal Register** containing this document, send your request to: New Orders, Superintendent of Documents, P.O. Box 37194, Pittsburgh, PA 15250–7954. Specify the date of the issue requested and enclose a check or money order payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration date. Credit card orders can also be placed by calling the order desk at (202) 512–1800 or by faxing to (202) 512–2250. The cost for each copy is $8. As an alternative, you can view and photocopy the **Federal Register** document at most libraries designated as Federal Deposit Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**.

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FOR FURTHER INFORMATION CONTACT: David Walczak, (410) 786–4475.

SUPPLEMENTARY INFORMATION:

I. Background

The Office of Personnel Management (OPM) administers the Federal Employees Health Benefits (FEHB) program. This program provides health insurance coverage to current Federal employees, retired Federal workers, and their eligible family members. While most retired Federal employees age 65 or older are eligible to receive hospital insurance benefits under Medicare Part A, some retired Federal workers are not covered. This group generally encompasses those Federal workers who retired from the Federal Government before January 1, 1983, and who did not have Medicare withholdings taken from their salary while employed with the Federal Government or did not acquire coverage in another way.

Existing Medicare provider agreement regulations at 42 CFR 489.21(a) specify that a provider must agree not to charge a beneficiary for services for which the beneficiary is entitled to have payment made under Medicare. Under this provision, the provider agrees to accept Medicare payment in full for services covered under Medicare and furnished by the provider. However, the regulations do not require that hospitals accept the Medicare hospital inpatient prospective payment system (PPS) rate as payment in full when issued by a fee-for-service FEHB plan for a FEHB enrollee not covered by Medicare Part A.

Section 7002(f) of the Omnibus Budget Reconciliation Act of 1990 (OBRA '90) (Pub. L. 101–508) requires that fee-for-service FEHB plans limit their inpatient payment for services furnished to retired FEHB enrollees age 65 and older who are not covered under Medicare Part A to rates that would have been paid by Medicare under section 1886 of the Social Security Act (the Act). Under sections 1886 (d) and (g) of the Act, Medicare payment for hospital inpatient operating and capital-related costs is made at a predetermined specific rate for each hospital discharge based on the assigned diagnosis-related group (DRG) for each patient. Thus, a hospital knows at the time of discharge what Medicare will pay for each discharge.

Section 7002(f) of OBRA '90 also requires that OPM notify the Secretary of Health and Human Services (the Secretary) of incidents when a hospital knowingly and willfully attempts to collect, on a repeated basis, more than the Medicare payment rates. The Secretary may consider such incidents as violations of the Medicare provider agreement and may terminate or refuse to renew the agreement. A Medicare provider agreement is an agreement between HCFA and providers specified in regulations to furnish services to Medicare beneficiaries and to comply with section 1866 of the Act, which establishes conditions that providers must meet in order to have an agreement to participate in the Medicare program. HCFA may terminate a provider agreement if any of the failings listed in regulations at § 489.53(a) are attributable to a provider.

On February 10, 1994, we published in the **Federal Register** (59 FR 6228) a proposed rule to revise regulations in Part 489 to implement section 7002(f) of OBRA '90. We proposed to:

- Amend § 489.21, which sets forth specific limitations on charges under Medicare provider agreements, to make the limitations on payment for inpatient hospital services applicable to services furnished to retired fee-for-service FEHB plan enrollees age 65 or older who are not covered under Medicare Part A hospital benefits.
- Specify, under a new § 489.21(f), that a provider may not attempt to collect more than the amount established for Medicare purposes for inpatient hospital services under section 1886 of the Act.
- Add a new § 489.53(a)(13) to specify that HCFA will consider termination or nonrenewal of a Medicare provider agreement with any hospital that knowingly and willfully fails to accept, on a repeated basis, the Medicare rate established under the inpatient hospital PPS system, minus any applicable health plan deductibles or copayments, as payment in full from a fee-for-service FEHB plan.

Our February 10, 1994 proposed rule paralleled the provisions of a July 20, 1993 OPM final rule (58 FR 38661) that defined a retired enrolled individual and set forth the circumstances under which the limit on hospital charges and FEHB benefit payments take effect.

II. Analysis of and Responses to Public Comments

We received four letters of comment on the February 10, 1994, proposed rule. A summary of these comments and our responses are discussed below.

Comment: Two commenters identified a number of problems with the administrative procedures designed to enforce the limit on inpatient charges and to monitor overcharges in fee-for-service plans. One commenter stated that the oversight process relies on the FEHB plan having a good system for cross-referencing actual charges against the limits placed on hospital inpatient charges. The same commenter also expressed concern over the lack of any provision for enrollee input into the compliance process, except when an enrollee notices that an overcharge has been billed and then notifies the FEHB plan or OPM. A second commenter noted that there is no incentive for monitoring overcharges in fee-for-service plans, since these plans base future premiums on prior claims experience. The same commenter pointed out that the fee-for-service plans usually pay coinsurances and copayment amounts based on charges submitted by providers, and that the plans will not pursue potential overcharges, especially when the hospital is a preferred provider for the plan.

Response: We believe that there are adequate procedures and controls in place among the FEHB plans, OPM, and HCFA to monitor overcharges in fee-for-service plans covering retired Federal

enrollees age 65 or older who do not have Medicare Part A hospital coverage.

OPM is responsible for administering the day-to-day operations of the FEHB program. OPM's regulations governing the FEHB program are described in 5 CFR part 890. Regulations describing the limits are in subpart I of part 890. The FEHB plans inform both the hospital and the enrollee of the limits on inpatient charges for covered Medicare inpatient hospital services provided to a retired Federal enrollee age 65 or older who does not have Medicare Part A benefits. The FEHB plans inform their enrollees through an explanation of benefits (EOB) statement, that describes what the plan pays for, the amount the enrollee must pay, the limits on inpatient hospital charges for Medicare-covered services, and the date each service was provided. The limits on hospital inpatient charges are also covered in the plans' benefit brochures. FEHB plans inform hospitals that a hospital cannot collect more than what Medicare would have paid if the FEHB enrollee had been covered by Medicare Part A. In other words, the fee-for-service FEHB plan pays the hospital an amount that approximates as closely as possible the Medicare payment rate, minus any enrollee deductibles or copayment amounts.

Since FEHB plans do not have a system in place for routinely checking for overcharges, any discrepancies are brought to the attention of a fee-for-service FEHB plan by an enrollee. According to OPM, overbilling of retired Federal enrollees of fee-for-service FEHB plans is not a problem. There have been no known instances of a hospital repeatedly overbilling. On the other hand, there have been a few instances where hospitals have disagreed with the Medicare prospective payment system rates that have been paid by the fee-for-service FEHB plans. Disputes over the determination of the equivalent DRG payment rate have been resolved on a case-by-case basis between the fee-for-service FEHB plans and hospital providers.

If there are instances of overbilling, fee-for-service FEHB plans must inform the hospital that it is violating the law. If the hospital does not comply with the law after being notified, the fee-for-service FEHB plans must notify OPM. If OPM determines that a hospital knowingly and willfully attempted to collect more than the Medicare payment rate for inpatient hospital services, OPM notifies HCFA to take appropriate action. HCFA is authorized to either terminate or nonrenew a hospital's provider agreement to participate in Medicare, in accordance with section 1866(b)(2) of the Act.

HCFA's authority to take enforcement action against a hospital by stopping its Medicare reimbursement serves as a powerful and effective incentive for a hospital to follow acceptable billing practices. There is also a strong incentive for fee-for-service FEHB plans to ensure that a hospital is charging within the acceptable limits. If enrollees are continually being overcharged, they likely will become dissatisfied with a plan's service, and may eventually switch health plans. We believe that if the health plans want to keep enrollees as customers, fee-for-service FEHB plans will make every effort to monitor, prevent, and correct a hospital's overbilling as much as possible.

Comment: One commenter stated that the language on HCFA termination of Medicare provider agreements in § 489.53(a)(13) is broad and permissive. The commenter pointed out that a provider may misinterpret the words. "HCFA *may* terminate the agreement if the provider *knowingly and willfully* charges, *on a repeated basis* * * *", and suggested replacing the word "may" with the word "will."

Response: Section 489.53(a) establishes HCFA's authority to terminate a provider's agreement and outlines the circumstances under which HCFA may proceed with the termination action. The phrase "may terminate" is used in the regulation rather than "will terminate" because it provides HCFA with the discretion to evaluate each situation carefully and to apply the termination provisions fairly. Thus, HCFA is not forced to arbitrarily terminate a provider's agreement if mitigating circumstances apply.

In addition, the phrases "* * * knowingly and willfully * * *", "* * * on a repeated basis * * *", and "* * * may * * *" are language taken directly from section 7002(f) of OBRA '90. Our regulations at § 489.53 are based on the language and intent of this statute. The important point is that when OPM notifies HCFA that a violation has occurred, HCFA will investigate and make every attempt to enforce the requirements of the statute and regulations.

Comment: One commenter believed that fee-for-service FEHB plans should inform their enrollees who are without Medicare Part A hospital benefits that their hospital bills have been reviewed, to assure that the inpatient charges do not exceed the Medicare approved payment amounts.

Response: OPM has taken several measures to inform enrollees of fee-for-service FEHB plans of the limits on inpatient hospital charges and fee-for-service FEHB plan payments. First, OPM published the 1991 Open Season Information and Instructions for Annuitants and included an explanation of the limits in a highlighted section entitled "Attention All Enrollees". In addition, an explanation of the limits has been included in all brochures of fee-for-service health plans of the FEHB program beginning in 1992 through the present.

As stated in a previous response, a fee-for-service FEHB plan informs both the hospital and the enrollee of the current Medicare approved payment limits. The FEHB plan notifies the enrollee what the enrollee is obligated to pay (the deductible or copayment amount) in the EOB statement. When a fee-for-service FEHB plan receives a hospital bill for an enrollee covered by section 7002(f) of OBRA '90, the FEHB plan pays the hospital an amount that approximates the Medicare DRG payment amount minus any enrollee deductible or copayment. Thus, a hospital bears the responsibility not to collect more than the Medicare DRG payment rate established under the inpatient hospital prospective payment system, minus any enrollee deductibles or copayments, as payment in full from a fee-for-service FEHB plan. HCFA may terminate or nonrenew a hospital's provider agreement with Medicare, if OPM reports that a hospital is refusing to accept an amount that approximates the Medicare rate as payment in full for inpatient hospital services provided to a retired Federal worker who is enrolled in a fee-for-service FEHB plan and who does not have Medicare Part A.

Comment: One commenter believed that it is sometimes difficult to identify the appropriate primary payer types for all patients. Thus, the commenter recommended that every retired Federal enrollee who is not covered under Medicare Part A be issued an identification card to be presented when the individual receives inpatient hospital services. The commenter also suggested that the card include a message on one side stating that the card carrier is a Medicare limited-reimbursement patient, and display an accompanying telephone number for benefit information.

Response: As noted above, OPM has operational authority over the administration of the FEHB program. HCFA does not have any responsibility in this area. We have forwarded this suggestion to OPM for its consideration.

However, OPM did comment to us that the cost of producing a different identification card for retirees over age 65 not covered by Medicare Part A cannot be justified when FEHB plans inform hospitals each time the limits apply, and by now, hospitals know the category of individuals that are covered by the limits.

Comment: One commenter stated that the proposed rule did not address the Medicare payment limits established for providers that are excluded from PPS, such as psychiatric hospitals and units, rehabilitation hospitals and units, long-term care hospitals, children's hospitals, and cancer hospitals. Providers that are excluded from PPS are paid on a reasonable cost basis, subject to a hospital-specific target rate per discharge.

Response: Section 7002(f) of OBRA '90 specifies that a hospital may not charge more than the limitations on hospital charges established under section 1886 of the Act to fee-for-service FEHB plans for inpatient hospital services provided to retired Federal enrollees age 65 or older who do not have Medicare Part A hospital coverage. Section 1886 of the Act refers to Medicare payment to hospitals for inpatient services, which could be construed as including both the PPS rates and the payment limits for hospitals excluded from PPS. Both OPM and HCFA interpret that the intent of section 7002(f) of OBRA '90 applies only to hospitals that are paid under the PPS as specified in sections 1886(d) and (g) of the Act. On the other hand, hospitals and units that are excluded from PPS are paid on a reasonable cost basis, known as the TEFRA payment system, and are not intended to be covered under section 7002(f) of OBRA '90. There are a number of operational and administrative reasons why the limits on a fee-for-service FEHB plan's payment to a hospital for inpatient services provided to a retired Federal enrollee, age 65 or older, who is without Medicare Part A, are subject to Medicare's prospective payment system, rather than to Medicare's reasonable cost system of payment (TEFRA).

First, under PPS, payment for acute inpatient hospital stays under Medicare Part A are based on prospectively set rates. Under this system, Medicare payment is made at a predetermined, specific rate for each hospital discharge, according to a DRG payment rate. A PPS hospital generally knows at the time of discharge what Medicare will pay for each Medicare discharge. In contrast, Medicare payment to providers subject to the TEFRA target limit is based on total Medicare discharges times a hospital-specific cost limit per discharge. Thus, hospitals and units that are excluded from PPS do not know what their total Medicare payments will be until after their year-end cost reports have been settled.

Moreover, it is not feasible for fee-for-service FEHB plans to calculate Medicare payments rates for inpatient hospital services provided in PPS excluded hospitals and units. OPM and HCFA agree that the intent of section 7002(f) of OBRA '90 was not to have the fee-for-service FEHB plans perform year-end settlements of hospital cost reports to determine a hospital's TEFRA payments, which are hospital-specific as opposed to the patient-specific payments under PPS. Although it is feasible for a fee-for-service FEHB plan to compare prospective payments for a single beneficiary against a hospital's charges for that patient, it would not be feasible for a fee-for-service FEHB to compare the TEFRA limit to the charges for a specific patient that would in effect involve aggregating all individual patients' charges and then imposing the limits. Instead, HCFA and OPM agree that the intent of section 7002(f) of OBRA '90 is to establish Medicare payment limits on inpatient hospital charges in accordance with the payment rates established under sections 1886(d) and (g) of the Act.

We note that both OPM's interim final rule (published March 27, 1992, in the **Federal Register** at 57 FR 10609) and final rule (published July 20, 1993, in the **Federal Register** at 58 FR 38661) specify that limitations on inpatient hospital charges and FEHB program payments are based on Medicare's DRG equivalent payment amount (a rate that represents as closely as possible the amount that Medicare would have paid had a retired FEHB enrollee been covered under Medicare Part A). Again, because of the differences in the two payment systems (PPS and TEFRA) and the difficulty in comparing what Medicare would have paid for a particular patient in a TEFRA provider, both HCFA and OPM agree that section 7002(f) of OBRA '90 does not apply to inpatient hospital services provided in non-PPS hospitals and units.

Comment: One commenter stated that it has encountered a problem in receiving correct payment amounts for inpatient hospital services furnished to retired Federal workers age 65 and older who are enrolled in a fee-for-service FEHB plan and who do not have Medicare Part A benefits. The commenter expressed concern that payment rates for some hospitals have not been equal to Medicare payment rates for the same services, and that the payment rates used by OPM and the fee-for-service FEHB plans are not the most recent rates. The commenter recommended that the Medicare payment rates received by OPM and the fee-for-service FEHB plans be current and updated as of October 1 of each year when new DRG rates are known and technical corrections have been made. Two commenters also requested that the payment rates include all applicable adjustments to the DRG rate, such as the indirect medical education cost adjustment, payment for direct graduate medical education costs, outlier payments, inpatient capital costs, kidney acquisition costs, etc.

Response: OPM addressed a similar comment in its July 20, 1993 final rule (58 FR 38661). We agree with OPM's response, which stated that OPM and the FEHB plans intend to calculate the DRG equivalent amount as closely as possible to the amount that would have been paid by Medicare.

We have been working with OPM to provide the latest DRG payment rates. In fact, the data provided by HCFA to OPM for calculating the DRG equivalent payment amount include all applicable adjustments to the DRG rate, such as the indirect medical education cost adjustment, payment for direct graduate medical education costs, organ acquisition costs, capital costs, and outlier payments. Any dispute involving a payment made by a fee-for-service FEHB plan for inpatient hospital services provided to a retired Federal worker who is enrolled in the fee-for-service FEHB plan and who does not have Medicare Part A coverage should be resolved by the particular FEHB plan and the provider.

Medicare Grouper, Code Editor and Pricer software data provide current DRG payment data to OPM as of October 1 of each fiscal year. The Medicare fiscal intermediaries send HCFA a provider file every 3 months. The provider-specific file includes the data needed to calculate adjustments to the DRG rate, such as outlier payments, the indirect medical education cost adjustment, payment for direct graduate medical education costs, organ acquisition costs, and inpatient capital costs.

Because of a transition to a new capital payment system, capital cost data for 1992 were not available to the fee-for-service FEHB plans. The fee-for-service FEHB plans were advised by OPM to use "pass-through" information multiplied by the length of stay to determine an equivalent capital cost adjustment amount. Capital cost information has been available to the fee-for-service FEHB plans since the 1993 coverage year.

Comment: One commenter recommended that an appeal mechanism be put in place to resolve payment differences and ensure that

correct payments are made to providers. The same commenter suggested that a paid Medicare remittance for an identical DRG should be adequate documentation to ensure that a provider is being paid the correct amount, that is, the equivalent Medicare DRG payment amount.

Response: In its July 20, 1993 final rule, OPM stated that fee-for-service FEHB plans have an obligation to work with hospital providers to determine the correct payment amounts and to make any necessary adjustments. Any decision to implement an appeals mechanism would be at the discretion of OPM, since OPM administers the FEHB program. Therefore, whether or not a paid Medicare remittance for identical DRG constitutes acceptable documentation is a matter for OPM and the FEHB plans to decide.

III. Provisions of the Final Regulations

After further review of the regulation text set forth in the February 10, 1994 proposed rule, we believe that several changes are needed to improve clarity.

The proposed rule would have revised the introductory text of § 489.21 and adding a new paragraph (l). We have determined that the proposed language does not have the same context as the language in § 489.21, and § 489.21 does not have the same meaning as the intent of section 7002(f) of OBRA '90. The existing introductory paragraph in § 489.21 states that *providers agree not to charge* a beneficiary for any of the services listed in this section (which would have included the services listed in the proposed paragraph (l)). However, the intent of section 7002(f) of OBRA '90 is that a fee-for-service FEHB plan should not pay a provider for inpatient hospital services furnished to a retired FEHB enrollee age 65 or older who is without Medicare Part A hospital insurance, more than the amount that Medicare would have paid had the enrollee been covered under Part A, minus any enrollee deductibles or copayment. Therefore, we are withdrawing the proposed language change to the existing regulation text in § 489.21.

Instead, we are adding a new § 489.23, which will require a provider to accept, as payment in full, an amount that approximates the Medicare payment rate established under the inpatient hospital PPS for inpatient hospital services furnished to retired Federal workers age 65 or older who are enrolled in a fee-for-service FEHB plan and who do not have Medicare Part A benefits.

We also proposed to amend § 489.53 to specify that HCFA may terminate the Medicare provider agreement with any hospital that knowingly and willfully fails to accept, on a repeated basis, the Medicare payment rate established under PPS, minus any enrollee deductibles or copayments, as payment in full from a fee-for-service FEHB plan for inpatient services provided to retired Federal enrollees age 65 or older who do not have Medicare Part A benefits. In order to further clarify the proposed change, we are revising § 489.53(a)(13)(redesignated now as (a)(15)) to specify that the provision applies only to providers that furnish inpatient hospital services to retired Federal enrollees of fee-for-service FEHB plans who are 65 or older who do not have Medicare Part A benefits.

IV. Regulatory Impact Statement

HCFA has examined the impacts of this final rule as required by Executive Order 12866 and the regulatory Flexibility Act (Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). The Regulatory Flexibility Act requires agencies to analyze options for regulatory relief for small businesses. Most hospitals, and most other providers are small entities, either by nonprofit status or by having revenues of $5 million or less annually.

This final rule requires a provider that furnishes inpatient hospital services to retired Federal workers age 65 or older who are enrolled in a fee-for-service FEHB plan but who are not covered under Medicare Part A hospital benefits to accept as payment in full an amount that approximates the Medicare payment rates established under the prospective payment system.

In addition, HCFA may terminate the Medicare provider agreement with any provider that knowingly and willfully fails to accept, on a repeated basis, an amount that approximates the Medicare rate established under the inpatient hospital prospective payment system, minus any health plan deductible or copayment, as payment in full from a fee-for-service FEHB plan, for inpatient hospital services provided to a retired Federal enrollee of the fee-for-service FEHB plan who does not have Medicare Part A benefits.

Section 7002(f) of OBRA '90 became effective January 1, 1992, without rulemaking. Because hospitals will not be able to charge what they would normally charge private pay patients and other commercial insurers, it is estimated that there will be a substantial savings, per affected enrollee, to the FEHB program. Hospitals have been notified of their obligations through OPM administrative procedures. Savings will accrue directly through the OPM program, and compliance will be obtained and monitored by OPM.

HCFA is involved only because the Congress required that we establish a sanction mechanism in case any hospitals knowingly and willfully violate the requirement on a repeated basis. These sanction procedures would come into play only after an OPM determination of a violation and notification to HCFA. Hospitals that do not charge more than an amount that approximates the hospital payments established for Medicare purposes would not be affected by this rule. We do not believe that any hospitals will knowingly refuse to comply, or that any hospital will lose provider status. Therefore, this final rule will have negligible economic effects.

Section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a final rule may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside a Metropolitan Statistical Area and has fewer than 50 beds. We are not preparing a rural hospital impact statement because we have determined, and we certify, that this final rule will not affect a significant number of small entities and will not have a significant economic impact on the operations of a substantial number of small rural hospitals.

In accordance with the provisions of Executive Order 12866, this final regulation was reviewed by the Office of Management and Budget.

List of Subjects in 42 CFR Part 489

Health facilities, Medicare, Reporting and recordkeeping requirements.

42 CFR part 489 is amended as set forth below:

PART 489—PROVIDER AND SUPPLIER AGREEMENTS

1. The authority citation for part 489 continues to read as follows:

Authority: Secs. 1102, 1861, 1864(m), 1866, and 1871 of the Social Security Act (42 U.S.C. 1302, 1395x, 1395aa(m), 1395cc, and 1395hh).

2. A new § 489.23 is added to read as follows:

§ 489.23 Specific limitation on charges for services provided to certain enrollees of fee-for-service FEHB plans.

A provider that furnishes inpatient hospital services to a retired Federal worker age 65 or older who is enrolled in a fee-for-service FEHB plan and who is not covered under Medicare Part A, must accept, as payment in full, an amount that approximates as closely as possible the Medicare inpatient hospital prospective payment system (PPS) rate established under part 412. The payment to the provider is composed of a payment from the FEHB plan and a payment from the enrollee. This combined payment approximates the Medicare PPS rate. The payment from the FEHB plan approximates, as closely as possible, the Medicare PPS rate minus any applicable enrollee deductible, coinsurance, or copayment amount. The payment from the enrollee is equal to the applicable deductible, coinsurance, or copayment amount.

3. In § 489.53, the introductory text to paragraph (a) is republished and a new paragraph (a)(14) is added to read as follows:

§ 489.53 Termination by HCFA.

(a) *Basis for termination of agreement with any provider.* HCFA may terminate the agreement with any provider if HCFA finds that any of the following failings is attributable to that provider:

* * * * *

(14) The hospital knowingly and willfully fails to accept, on a repeated basis, an amount that approximates the Medicare rate established under the inpatient hospital prospective payment system, minus any enrollee deductibles or copayments, as payment in full from a fee-for-service FEHB plan for inpatient hospital services provided to a retired Federal enrollee of a fee-for-service FEHB plan, age 65 or older, who does not have Medicare Part A benefits.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance)

Dated: October 17, 1997.

Nancy-Ann Min DeParle,

Deputy Administrator, Health Care Financing Administration.

[FR Doc. 97–28594 Filed 10–28–97; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[CC Docket No. 96–61; FCC 97–366]

Petition for Rulemaking to Reclassify AT&T Corp. as Having Dominant Carrier Status

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Order on Reconsideration, Order Denying Petition for Rulemaking, and Second Order on Reconsideration in CC Docket No. 96–61 (Order) released October 9, 1997 finds no new evidence or arguments that demonstrate that a new examination of AT&T's regulatory status is warranted. The Order also finds no basis to impose on AT&T a service requirement not imposed on other carriers subject to the rate averaging and rate integration rules, and that the Commission properly included AT&T/Alascom within the scope of the reclassification of AT&T as non-dominant in the provision of interstate, domestic, interexchange services. Finally, the Order clarifies that, to the extent AT&T/Alascom has been found to be dominant in the provision of certain interstate common carrier services (which the Commission has previously defined as "all interstate interexchange transport and switching services that are necessary for other interexchange carriers to provide services in Alaska up to the point of interconnection with each Alaska local exchange carrier."), AT&T/Alascom's regulatory obligations with respect to those services remain unchanged.

EFFECTIVE DATE: November 28, 1997.

FOR FURTHER INFORMATION CONTACT: Christopher Heimann, Attorney, Common Carrier Bureau, Policy and Program Planning Division, (202) 418–1580. For additional information concerning the information collections contained in this Order contact Judy Boley at (202) 418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order adopted October 8, 1997, and released October 9, 1997. The full text of this Order is available for inspection and copying during normal business hours in the FCC Reference Center, 1919 M St., N.W., Room 239, Washington, D.C. The complete text also may be obtained through the World Wide Web, at http://www.fcc.gov/Bureaus/Common Carrier/Orders/fcc97–366.wp, or may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th St., N.W., Washington, D.C. 20036.

SYNOPSIS OF ORDER ON RECONSIDERATION

I. Introduction

1. On October 23, 1995, the Commission issued an order granting AT&T Corporation's (AT&T's) motion to be reclassified as a non-dominant carrier under Part 61 of the Commission's rules and regulations. On November 22, 1995, the State of Hawaii (Hawaii) and General Communications, Inc. (GCI) timely filed Petitions for Reconsideration of the Commission's *AT&T Reclassification Order*. For the reasons stated below, we deny the petitions of both Hawaii and GCI.

2. On January 23, 1996, more than two months past the statutory deadline, Total Telecommunications Services, Inc. (TTS) also filed a Petition For Reconsideration, and a Motion For Acceptance of Petition For Reconsideration. As discussed below, we deny TTS's motion and dismiss its petition as untimely, and therefore do not address the merits of its petition.

3. On December 23, 1996, GCI filed a Petition for Reconsideration or Clarification of the Commission's *Tariff Forbearance Order* (61 FR 59340 (November 22, 1996)). For the reasons discussed below, we grant GCI's petition for clarification of the *Tariff Forbearance Order*.

4. Finally, on December 31, 1996, the United Homeowners Association and the United Seniors Health Cooperative (UHA), filed a Petition for Rulemaking to Reclassify AT&T as Having Dominant Carrier Status. For the reasons discussed below, we deny UHA's petition.

II. Petitions for Reconsideration

A. Background

5. In the *AT&T Reclassification Order*, the Commission reclassified AT&T as a non-dominant carrier, based on the Commission's finding that AT&T no longer possessed individual market power in the interstate, domestic, interexchange market taken as a whole. The Commission acknowledged that there was evidence in the record that AT&T, MCI and Sprint had increased basic schedule rates in lock-step, but found that that evidence did not support a finding that AT&T retained the power unilaterally to raise residential prices above competitive levels. In addition, the Commission found that, to the extent that tacit price coordination with respect to basic schedule or residential rates in general was occurring, the problem was generic to the

interexchange industry and not specific to AT&T. The Commission concluded that concerns regarding such pricing would be better addressed by removing regulatory requirements that may have facilitated such conduct, such as the longer advance notice period for tariff changes then applicable only to AT&T, and by addressing the issues raised by these concerns in the context of a proceeding to examine the interstate, domestic, interexchange market as a whole. We recently reiterated our concern that "not all segments of [the interstate, interexchange services] market appear to be subject to vigorous competition," and expressed concern about the "relative lack of competition among carriers to serve low volume long distance customers."

6. In assessing whether AT&T possessed individual market power, the Commission followed the relevant product and geographic market definitions adopted by the Commission in the *Competitive Carrier* proceeding. In that proceeding, the Commission found, for purposes of assessing the market power of interexchange carriers covered by that proceeding, that: "(1) Interstate, domestic, interexchange telecommunications services comprise the relevant product market, and (2) the United States (including Alaska, Hawaii, Puerto Rico, U.S. Virgin Islands, and other U.S. off-shore points) comprises the relevant geographic market for this product, with no relevant submarkets." The Commission concluded that it should apply the foregoing market definitions in assessing AT&T's market power, because those definitions were applied in classifying all of AT&T's competitors as non-dominant carriers. The Commission further stated that examination of the substitutability of supply for interstate, domestic, interexchange services also indicated that use of those definitions to evaluate AT&T's market power was appropriate.

7. As a non-dominant interexchange carrier, AT&T is generally subject to the same regulations as its long-distance competitors. In the *AT&T Reclassification* proceeding, however, AT&T made certain voluntary commitments that it described as transitional provisions intended to address concerns expressed by various parties about possible adverse effects of reclassifying AT&T. These commitments concerned, among other things, service to and from the States of Alaska and Hawaii, and other regions subject to the Commission's rate integration policy, and geographic rate averaging. In the *AT&T Reclassification Order*, the Commission accepted AT&T's commitments and ordered AT&T to comply with those commitments.

8. On February 8, 1996, the Telecommunications Act of 1996 (1996 Act) was enacted. The 1996 Act seeks "to provide for a pro-competitive, de-regulatory national policy framework" designed to make available to "all Americans" advanced telecommunications and information technologies and services "by opening all telecommunications markets to competition." Consistent with the 1996 Act's objective of ensuring that all Americans benefit from the liberalization of telecommunications markets, the 1996 Act required the Commission, within six months after the date of enactment, to:

> adopt rules to require that the rates charged by providers of interexchange telecommunications services to subscribers in rural and high cost areas shall be no higher than the rates charged by each such provider to its subscribers in urban areas. Such rules shall also require that a provider of interstate interexchange telecommunications services shall provide such services to its subscribers in each State at rates no higher than the rates charged to subscribers in any other State.

On August 7, 1996, the Commission adopted a Report and Order implementing these statutory requirements.

9. On October 31, 1996, the Commission released the *Tariff Forbearance Order*. In that order, the Commission determined that the statutory criteria in section 10 of the Communications Act, as amended, were met to detariff completely interstate, domestic, interexchange services offered by nondominant interexchange carriers, and, therefore, that the Commission would no longer allow such carriers to file tariffs for such services pursuant to section 203 of the Communications Act.

B. Analysis

10. Petitioners raise three substantive arguments in seeking reconsideration or clarification of the Commission's Order granting AT&T's motion to be reclassified as a non-dominant carrier. First, Hawaii argues that the Commission should strengthen AT&T's voluntary commitments by requiring AT&T to serve on Hawaii and the State of Alaska (Alaska) copies of any submissions that address the Commission's geographic rate averaging and rate integration policies, in order to ensure that Hawaii and Alaska have a meaningful opportunity to participate in pre-effective review proceedings. Second, GCI maintains that the reclassification of AT&T does not apply to AT&T/Alascom, Inc. (AT&T/Alascom), because AT&T/Alascom is still dominant in the Alaska market. Third, GCI argues that it is not clear which of the obligations and conditions imposed on AT&T and Alascom by the *Market Structure Order* (59 FR 27496 (May 27, 1994)), the *Final Recommended Decision* (58 FR 63345 (December 1, 1993)), and the *Alascom Authorization Order* continue to apply now that AT&T has been reclassified as nondominant.

1. Whether the Commission Should Strengthen AT&T's Commitments

a. Positions of the Parties. 11. Hawaii requests that the Commission strengthen the commitments made by AT&T in the *AT&T Reclassification* proceeding by requiring AT&T to serve on Alaska and Hawaii copies of any pleadings, tariff revisions or other submissions to the Commission that purport to seek alteration or a specific interpretation of, or otherwise affect, the Commission's rate integration and geographic rate averaging policies, at the same time AT&T files such submissions with the Commission. Hawaii argues that the historical importance of the Commission's rate integration and geographic rate averaging policies to Hawaii and Alaska, as well as the alleged lack of reasonably priced telecommunications to Hawaii, warrant assurance that Hawaii and Alaska will have the opportunity to voice their concerns if AT&T proposes to depart from these policies. Hawaii acknowledges that AT&T informally committed to give Hawaii notice of tariff filings departing from geographic rate averaging, but maintains that in some situations more time would be needed to ensure that it has an opportunity to respond.

12. Alaska, CNMI, GTA, and Guam support Hawaii's request. Alaska argues that requiring AT&T to serve Alaska and Hawaii with copies of submissions affecting the Commission's rate integration and geographic averaging policies would not impose a significant burden on AT&T, but would ensure that the interests of citizens of Alaska and Hawaii are heard before any action affecting these policies goes into effect. CNMI, GTA and Guam contend that the Commission should require AT&T to serve on all interested parties, not just Alaska and Hawaii, copies of submissions that would alter the Commission's rate integration or geographic rate averaging policies. Similarly, the LEC Associations argue that AT&T should be required to serve copies of submissions that depart from the Commission's established geographic averaging policies in other states and in U.S. territories, because geographic averaging is essential for maintaining universal service. They also urge the Commission to commence a proceeding to codify its geographic averaging polices.

13. AT&T responds that Hawaii's petition relates solely to AT&T's voluntary commitments concerning rate integration and geographic rate averaging, and that, since the commitments were not offered, or used, to support the Commission's finding that AT&T lacks market power in the overall interstate, domestic, interexchange market, the reclassification of AT&T is appropriate. AT&T argues that the Commission cannot modify voluntary commitments that were not the basis for its ruling, and cannot create or impose new rules on AT&T in this non-rulemaking proceeding. AT&T also contends that the relief sought by the parties supporting Hawaii's petition would impose significantly greater burdens on AT&T than are required under the Commission's tariff filing rules for dominant carriers. AT&T concludes that the requested relief should be rejected as unnecessary and overly burdensome, in light of the fact that all such filings are made on the public record at the Commission. AT&T also argues that the relief sought would exceed the Commission's authority by requiring AT&T to make public tariff filings not only with the Commission, but with Hawaii, Alaska, the Northern Mariana Islands, and other state jurisdictions and U.S. territories.

14. In reply, Hawaii argues that its petition is consistent with the Commission's stated commitment to rate integration and geographic averaging, and the Commission's decision to incorporate AT&T's commitments into the *AT&T Reclassification Order*. It adds that its request is also consistent with AT&T's pledge to "work very closely on an informal basis with representatives of the State of Hawaii on matters affecting telecommunications there." Hawaii claims it is merely seeking assurance that AT&T will honor its pledge. Hawaii concludes that the relief it seeks would not burden AT&T or the Commission, but would ensure that citizens of Hawaii have a meaningful opportunity to participate in the pre-effective review of any filings that affect these policies.

b. Discussion. 15. As noted above, on August 7, 1996, the Commission adopted the *Geographic Averaging Order* (61 FR 42558 (August 16, 1996)), which implemented the geographic rate averaging and rate integration requirements of the 1996 Act. In that Order, we adopted a rule requiring that "the rates charged by all providers of interexchange telecommunications services to subscribers in rural and high cost areas shall be no higher than the rates charged by each such provider to its subscribers in urban areas." The Commission stated that this rule "codifies our existing geographic rate averaging policy." The LEC Associations" request that the Commission initiate a proceeding to codify its geographic rate averaging policies is therefore moot. The Commission also adopted a rule "requiring that 'a provider of interstate interexchange telecommunications services shall provide such services to its subscribers in each State at rates no higher than the rates charged to its subscribers in any other State.'" As required by the 1996 Act, the Commission found that the geographic rate averaging rule applies "to all providers of interexchange telecommunications services, and to all interexchange 'telecommunications services,' as defined by the Act." Similarly, the Commission found that the rate integration rule applies "to all domestic interstate interexchange telecommunications services as defined in the 1996 Act, and all providers of such services."

16. In the *Geographic Averaging Order*, the Commission also determined that the rules adopted in that proceeding superseded the rate averaging and rate integration commitments AT&T voluntarily made in the *AT&T Reclassification* proceeding. We based this determination on the grounds that the rules we adopted in *Geographic Averaging Order* would require AT&T to provide interexchange service at geographically averaged and integrated rates, and that these requirements incorporated the Commission's rate averaging and rate integration policies then in effect. We therefore released AT&T from the commitment to comply with the Commission's earlier orders regarding rate integration and the commitment to file any tariff containing a geographically deaveraged rate on five business days' notice.

17. In light of Congress's codification of the Commission's rate averaging and rate integration policies in section 254(g) of the Communications Act, the Commission's rules implementing that section, and the other actions taken in the *Geographic Averaging Order*, we find that Hawaii's request that we impose a service requirement on AT&T has been superseded and is now moot because AT&T cannot deaverage its rates consistent with federal law. We also find no basis to impose on AT&T a service requirement not imposed on other carriers subject to the rate averaging and rate integration rules. Accordingly, for the foregoing reasons, we find that the relief sought by Hawaii is unnecessary in light of the Commission's implementation of the geographic rate averaging and rate integration requirements of the Communications Act, and of AT&T's specific voluntary commitments concerning service to Hawaii and Alaska. We therefore deny Hawaii's petition.

2. Whether Reclassification of AT&T Applies to AT&T/Alascom

a. Position of the Parties. 18. GCI asks the Commission either to clarify that the reclassification of AT&T does not apply to AT&T/Alascom, Inc., or to reconsider and reverse any finding that AT&T/Alascom is no longer dominant. GCI justifies its request on the grounds that AT&T did not seek to reclassify Alascom as non-dominant, and that the Commission did not address the reclassification of Alascom in the *AT&T Reclassification Order*. GCI argues that the Commission found Alascom dominant in the Alaska market in the *Competitive Carrier Fifth Report and Order* (49 FR 34824 (September 4, 1984)), and has never reversed that finding. It also contends that this finding could not be reversed, in light of AT&T/Alascom's legally enforced monopoly in the Alaska Bush. GCI argues that AT&T/Alascom is able to leverage its market power beyond the Bush because of Commission policies requiring other carriers serving Alaska to purchase Bush distribution services from AT&T/Alascom. GCI also argues that it is unclear how long AT&T/Alascom's market power in the Alaska Bush will persist. GCI adds that, even if the Alaska Bush were opened immediately, it would take significant time for the market to become workably competitive, because of the time necessary to construct a competing network.

19. Alaska and MCI likewise claim that the Commission's reclassification of AT&T does not affect AT&T/Alascom's classification as a dominant carrier. Alaska argues that, in reclassifying AT&T, the Commission noted that Alascom continues to be "governed by dominant carrier rules where it has a facilities monopoly, namely the Bush areas," and therefore that the *AT&T Reclassification Order* does not affect the classification of AT&T Alascom, Inc. MCI argues that the Commission's reclassification of AT&T as non-dominant in the domestic market was based on market characteristics in the

"lower 48" states, which are not representative of the Alaska market. It adds that a separate finding that AT&T/Alascom does not possess market power in Alaska is therefore required, but that such a determination is impossible to make and support at this time.

20. AT&T responds that there is no basis for excluding AT&T/Alascom from the ambit of the *AT&T Reclassification Order*, because the Commission expressly found that AT&T lacked market power in the domestic interexchange market as a whole, which AT&T claims is the only relevant market for this purpose. AT&T argues that the fact that AT&T (or AT&T/Alascom) may be the major supplier of specific services does not alter the analysis, and that the Commission has never definitively held that a carrier must lack the ability to control the price of every service in the relevant market before it can be classified as non-dominant. AT&T maintains that its voluntary commitments to continue rate integration for Alaska and to comply with the Commission's orders relating to Alaska necessarily apply to AT&T/Alascom, and that the commitments assume that AT&T/Alascom is included within the scope of the *AT&T Reclassification Order*.

21. AT&T further responds that the Commission found that, to the extent AT&T is able to control price at all, it is only with respect to specific service segments that are either *de minimis* in relation to the overall market, or exposed to increasing competition so as not to affect materially the overall market. AT&T argues that these conditions apply to the Alaska Bush, which generates less than five one-hundredths of one percent (0.0005) of total industry revenue, an amount that AT&T claims is *de minimis* and affords AT&T/Alascom no power in the overall relevant market. AT&T concludes there is therefore no basis to treat AT&T differently from its competitors, or to treat AT&T/Alascom differently from the rest of AT&T.

22. GCI counters that AT&T does not rebut GCI's claim that AT&T retains an absolute monopoly, and thus market power, in the Alaska market. GCI maintains that AT&T's suggestion that Alascom's market power in Alaska can be ignored as "*de minimis*" is contrary to prior Commission rulings and AT&T's own statements. Specifically, GCI contends that, in classifying Alascom as a dominant interexchange carrier, the Commission focused solely on Alascom's position in the Alaska market, and did not require Alascom to be dominant throughout the U.S. market as a whole. GCI adds that, as recently as August 1995, the Commission identified Alaska as a separate relevant interexchange market. Specifically, GCI maintains that, while the Commission spoke of a single national market, the Commission identified that market as distinct from the Alaska market occupied by Alascom and in which Alascom retained market power. GCI also claims that AT&T's own pleadings in the Alaska Joint Board Proceeding contemplate that AT&T could be classified as dominant in the lower 48 states, but non-dominant in Alaska, because of different market characteristics and circumstances. GCI concludes that the Commission classified Alascom as a dominant carrier based on its legally protected monopoly position in the Alaska market, which it alleges has never changed, and that AT&T's purchase of Alascom did nothing to reduce Alascom's market power in Alaska.

23. In its petition for reconsideration or clarification of the Commission's *Tariff Forbearance Order*, GCI requests the Commission either to clarify that the *Tariff Forbearance Order* did not detariff AT&T/Alascom's provision of "common carrier" services, (The Commission has defined Alascom's "common carrier" services as "all interstate interexchange transport and switching services that are necessary for other interexchange carriers to provide services in Alaska up to the point of interconnection with each Alaska local exchange carrier.") or to reconsider and reverse any finding that AT&T/Alascom is not required to file a tariff for such services. In support of its petition, GCI argues that AT&T, in the *AT&T Reclassification* proceeding, made certain voluntary commitments, including a commitment that AT&T/Alascom would provide "common carrier" services under tariff. In response to GCI's petition, AT&T states that it "does not interpret the [*Tariff Forbearance Order*] to require the detariffing of Alascom's Common Carrier Services." The American Petroleum Institute (API) disagrees with GCI and argues that, to the extent AT&T/Alascom's services are interstate, domestic, interexchange services offered by a nondominant interexchange carrier, the *Tariff Forbearance Order* completely detariffed those services.

b. Discussion. 24. AT&T/Alascom offers certain interstate "common carrier" services. As noted above, in the *Market Structure Order*, the Commission defined Alascom's "common carrier" services as "all interstate interexchange transport and switching services that are necessary for other interexchange carriers to provide services in Alaska up to the point of interconnection with each Alaska local exchange carrier." For purposes of our discussion here, we refer to AT&T/Alascom's "common carrier" services as those services were defined in the *Market Structure Order*. In the *Market Structure Order*, the Commission adopted the recommendation of the Federal-State Alaska Joint Board in the *Final Recommended Decision* that Alascom be required to provide such services to interexchange carriers under tariff on a nondiscriminatory basis at rates that reflect the cost of the services (*i.e.*, on dominant carrier basis). AT&T concedes that, to the extent that AT&T/Alascom's "common carrier" services are not interstate, domestic, interexchange telecommunications services as addressed in the *AT&T Reclassification Order*, the classification of those services is not affected by that Order. AT&T further concedes that the *Tariff Forbearance Order* does not require the detariffing of AT&T/Alascom's "common carrier" services. Indeed, the Commission noted in the *AT&T Reclassification Order*, and we clarify here, that, to the extent AT&T/Alascom has been found to be dominant in the provision of "common carrier" services, as defined above, AT&T/Alascom's regulatory obligations with respect to those services remain unchanged, and therefore AT&T/Alascom is required to file tariffs for such services on a dominant carrier basis.

25. In addition to the foregoing "common carrier" services offered to interexchange carriers, AT&T/Alascom provides interstate, domestic, interexchange services to end-user customers in Alaska. For the reasons set forth below, we reject GCI's petition for reconsideration and find no basis to exclude AT&T/Alascom's provision of these services from the scope of the *AT&T Reclassification Order*.

26. We reject the suggestion by GCI, MCI and Alaska, that, in order to reclassify AT&T/Alascom as a non-dominant carrier with respect to its provision of interstate, domestic, interexchange services, the Commission must assess AT&T/Alascom's market power in the Alaska market, rather than in the overall interstate, domestic, interexchange services market. The Commission's decision in the *Competitive Carrier Fifth Report and Order* to regulate Alascom as a dominant carrier did not, as GCI implies, disavow or modify the "all interstate, domestic, interexchange services" market definition adopted in the Competitive Carrier Fourth Report and Order (48 FR 52452 (November 18, 1983)) by "focus[ing] solely on Alascom's position within the Alaska market." Rather, the Commission concluded that Alascom should be regulated as dominant, without reaching the issue of relevant market definitions, because it was concerned that the Commission's rate-integration policy for interstate MTS and WATS services to noncontiguous domestic points, which limited rate-integration payments only to Alascom, might limit the ability of other carriers to compete in serving Alaska.

27. In addition, we find that GCI mischaracterizes the *Alascom Authorization Order*, in arguing that the Commission there identified Alaska as a separate relevant interexchange market and therefore that we are required to analyze separately AT&T/Alascom's market power in Alaska, for purposes of classifying AT&T/Alascom as non-dominant in the interstate, domestic, interexchange market. While, in the *Alascom Authorization Order*, the Commission did identify two relevant product markets for purposes of evaluating the proposed merger of AT&T and Alascom, the markets it identified were: (1) "interexchange telecommunications services within Alaska (the 'Alaska market')," which was the principal business of Alascom; and (2) "*interstate* interexchange telecommunications ('the All Interexchange Market')," which AT&T provided, and which included Alascom's and Alaska Telecom's proposed undersea fiber cable services. In that Order, the Commission did not identify the provision of interstate, domestic, interexchange services to Alaska as a separate relevant product or geographic market. Indeed, the Commission specifically noted that its identification of interstate interexchange telecommunications (including Alascom's and Alaska Telecom's proposed undersea fiber cable services) as a relevant product market was "consistent with the Commission's earlier findings of a single market for all interstate interexchange services." We note that GCI, in quoting the foregoing sentence, failed to include the word "interstate," which qualified the term "interexchange services." We believe that the Commission's reference to "interstate interexchange services," and not to "interexchange services" generally, is central to the meaning of the Commission's statement and hence to a complete understanding of this statement's relevance in the present context. Thus, the Commission did not, in *the Alascom Authorization Order*, disavow or modify in any way, the "all interstate, domestic, interexchange services" market definition adopted in the *Competitive Carrier Fourth Report and Order*.

28. Accordingly, we reject GCI's argument that, based on the *Alascom Authorization Order* and the *Competitive Carrier Fifth Report and Order*, the Commission must analyze separately AT&T/Alascom's market power in Alaska for purposes of classifying AT&T/Alascom as non-dominant in the interstate, domestic, interexchange market. Rather, we affirm our determination in the *AT&T Reclassification Order* that, consistent with the conclusions reached in *Competitive Carrier Fifth Report and Order*, the appropriate relevant geographic market for purposes of assessing AT&T's market power was a "'single national relevant geographic market (including Alaska, Hawaii, Puerto Rico, U.S. Virgin Islands, and other U.S. offshore points).'" We conclude that, pursuant to Commission policy in effect at the time of the *AT&T Reclassification Order*, the Commission properly included AT&T/Alascom within the scope of the classification of AT&T as non-dominant in the provision of interstate, domestic, interexchange services.

29. Subsequent to GCI's filing of its Petition for Reconsideration, the Commission adopted the *LEC Interexchange Order* (62 FR 35974 (July 3, 1997)), which revises the Commission's approach to defining relevant geographic and product markets for purposes of determining whether a carrier should be regulated as dominant or non-dominant in the provision of interstate, domestic, interexchange services. Specifically, in the *LEC Interexchange Order*, we defined the relevant geographic market for interstate, domestic, interexchange services as "all possible routes that allow for a connection from one particular location to another particular location (*i.e.*, a point-to-point market)." We clarified, however, that we would treat, in general, interstate, long distance calling as a single national market unless there is credible evidence suggesting that there is or could be a lack of competition in a particular point-to-point market or group of point-to-point markets, and there is a showing that geographic rate averaging will not sufficiently mitigate the exercise of market power, we will refrain from employing the more burdensome approach of analyzing separately data from each point-to-point market.

30. Considering GCI's Petition for Reconsideration according to the market definition approach established in the recent *LEC Interexchange Order*, we conclude that, even assuming arguendo that GCI's petition presents credible evidence suggesting a lack of competition with respect to domestic, interstate, interexchange service in Alaska, GCI's petition fails to demonstrate that geographic rate averaging will not sufficiently mitigate the exercise of market power, if any, by AT&T/Alascom in Alaska.

31. In the *Geographic Averaging Order*, we found that the 1996 Act required the Commission to mandate rate integration among all states, territories and possessions, and held that "this goal is best achieved by interpreting 'provider' to include parent companies that, through affiliates, provide service in more than one state." We stated that "nothing in the record supports a finding that Congress intended to allow [interexchange carriers] to avoid rate integration by establishing subsidiaries that provide service in limited areas." Applying this general rule in a specific context, we held that GTE, for purposes of section 254(g), was required to integrate its rates for domestic, interstate, interexchange services across affiliates. We find that, pursuant to the rule established in the *Geographic Averaging* proceeding, AT&T, like GTE, is required to integrate and average its rates across affiliates, including AT&T/Alascom.

32. Because AT&T is required to integrate and average its rates geographically for interstate, domestic, interexchange services across all of its affiliates, including AT&T/Alascom, we believe that AT&T/Alascom could not raise and sustain prices for such services above the competitive level in Alaska, unless AT&T were able profitably to charge supracompetitive prices in the "lower 48" states. Nothing in the record of this reconsideration proceeding supports a reversal of our determination in the *AT&T Reclassification Order*, that "AT&T neither possesses nor can unilaterally exercise market power within the interstate, domestic, interexchange market taken as a whole," which includes the "lower 48" states. Nor is there any evidence in the record on reconsideration to support a finding that geographic rate averaging, together with AT&T's lack of market power in the "lower 48," will not mitigate the exercise of market power, if any, by AT&T/Alascom in Alaska. Therefore, we find no reason to analyze separately AT&T/Alascom's market power in Alaska. Accordingly, we find that AT&T/Alascom is appropriately classified, as established in the *AT&T Reclassification Order*, as non-dominant

in the provision of interstate, domestic, interexchange services.

3. Whether the Commission Should Clarify the Requirements of the Alaska Orders That Continue to Apply to AT&T and AT&T/Alascom

a. *Position of the Parties.* 33. GCI requests that the Commission clarify which requirements of the Commission's Alaska Orders continue to apply to AT&T and AT&T/Alascom. GCI argues that, while AT&T made a generalized promise to comply with outstanding Commission orders relating to Alaska in the *AT&T Reclassification* proceeding, it is impossible to determine which requirements of the Alaska Orders AT&T has specifically agreed to follow, and which it will try to contest or ignore.

34. GCI adds that, as a non-dominant carrier, AT&T may be able to discriminate and to deaverage its Alaska rates by providing Alaska services through two entities—AT&T and AT&T/Alascom. GCI argues that, although the *Final Recommended Decision* provided that AT&T would remain subject to Section 214 entry and exit certification requirements, non-dominant status removes the requirement that AT&T obtain Section 214 authority to serve the Alaska market. GCI further argues that, if AT&T provides separate service to Alaska pursuant to separate tariffs from those filed by AT&T/Alascom, AT&T will be able to discriminate between customers served by AT&T and customers served by AT&T/Alascom. GCI also claims that it will be impossible to determine whether AT&T is integrating Alaska rates into its domestic rate schedule, and that any difference in rates or offerings between AT&T and AT&T/Alascom would call into question which rate is appropriate for purposes of judging rate integration.

35. Finally, GCI argues that separate service by AT&T would disadvantage captive monopoly customers that buy service under the AT&T/Alascom common carrier services tariff, because, to the extent AT&T provides separate service to Alaska and does not use the carrier services of AT&T/Alascom, AT&T will reduce traffic on the AT&T/Alascom network and drive up rates for AT&T/Alascom's captive monopoly customers. GCI states that all carriers, including AT&T, are required to buy Alaska distribution services under the AT&T/Alascom carrier services tariff.

36. Alaska, supporting GCI's request for clarification, notes that AT&T committed to comply with the Commission's orders regarding rate integration and with *all* the obligations and conditions set forth in the Alaska Joint Board Proceeding and the *Alascom Authorization Order*. Alaska requests the Commission to clarify the *AT&T Reclassification Order* if there is any uncertainty on these points.

37. AT&T responds that GCI's request for clarification is inappropriate, because it seeks to inject into this proceeding issues already litigated in other dockets. AT&T adds that its voluntary commitments assume that both AT&T and its AT&T/Alascom affiliate will continue to adhere to the Commission's orders regarding the restructuring of the Alaska market. In addition, AT&T notes that the Commission defined Alascom's "common carrier" services as interstate interexchange transport and switching services necessary for other interexchange carriers to provide service in Alaska up to the point of interconnection with LECs. As previously noted, AT&T concedes that, to the extent AT&T/Alascom's "common carrier" services are not domestic interstate interexchange services as addressed in the *AT&T Reclassification Order*, the classification of those "common carrier" services is not affected by that Order, and, therefore, that, to the extent Alascom's "common carrier" services have been found to be dominant, AT&T/Alascom's regulatory obligations relating to those services remain unchanged.

b. *Discussion.* 38. We believe that there is no ambiguity concerning the requirements of the Alaska Orders that continue to apply to AT&T and AT&T/Alascom, but for the sake of clarity we note that the *AT&T Reclassification Order* contains a lengthy and detailed statement of both AT&T's and AT&T/Alascom's obligations with respect to Alaska. In addition, AT&T has committed to comply voluntarily with all the conditions and obligations set forth in the Alaska Orders, and has specifically acknowledged that AT&T's commitment applies to AT&T/Alascom. Moreover, as the Commission noted in the *AT&T Reclassification Order*, any failure by AT&T or AT&T/Alascom to comply with any of the conditions and obligations in the Alaska Orders may result in the imposition of forfeitures on AT&T or AT&T/Alascom, or a revocation of their Commission licenses. In addition, if GCI believes that either AT&T or AT&T/Alascom has failed to honor the commitment to comply with all of the conditions and obligations in the Alaska Orders, GCI may seek relief under Section 208 of the Communications Act.

39. We also reject GCI's claim that AT&T may be able to deaverage its Alaska rates by providing Alaska services through two entities. As an initial matter, we note that, contrary to GCI's suggestion, the reclassification of AT&T as a non-dominant carrier did not remove the requirement that AT&T obtain Section 214 authority to serve the Alaska market. As we stated in the *AT&T Reclassification Order*, AT&T may build or lease facilities to serve the Alaska market subject to dominant carrier authorization rules. Moreover, as discussed above, in the *Geographic Averaging Order*, we found that Congress did not intend to allow interexchange carriers to avoid the rate integration requirements of the 1996 Act by establishing subsidiaries that provide service in limited areas. As noted above, we find that, pursuant to the rule established in the *Geographic Averaging Order*, AT&T must integrate and average its rates across its affiliates. Accordingly, AT&T may not deaverage its Alaska rates by providing services to Alaska through two entities.

4. Other Matters

40. On January 23, 1996, well after the statutory deadline for filing petitions for reconsideration of the *AT&T Reclassification Order*, TTS filed a Petition for Reconsideration requesting that the Commission reclassify AT&T as dominant on the grounds that AT&T retains a dominant position in the interstate, domestic, interexchange market, and has abused, and is likely to continue to abuse, its dominant position in the market. On the same date, TTS filed a motion for acceptance of its late-filed petition for reconsideration. TTS states that it was unable to file its petition before the statutory deadline because AT&T's "bad acts," on which TTS's petition is based, did not occur until November 22, 1995, the due date for filing petitions. TTS alleges that its petition was delayed further by its attempt to negotiate with AT&T to resolve their dispute, and by the blizzard in Washington, D.C., in January, 1996. TTS maintains that these facts establish substantial justification and good cause for the Commission to accept TTS's late-filed petition.

41. On April 15, 1997, TTS filed, in the record of the UHA Petition for Rulemaking proceeding, a Supplement to Petition for Reconsideration and a Motion to Accept Supplement to Petition for Reconsideration. TTS states that the information in its supplement was not available to TTS at the time it filed its petition for reconsideration and that the information is necessary in order for the Commission to have a complete record.

42. Section 405 of the Communications Act, provides, in relevant part, that: "[a] petition for reconsideration must be filed within thirty days from the day upon which public notice is given of the order, decision, report, or action complained of." Section 1.4(b) of the Commission's rules defines the date of public notice of the final Commission action. Section 1.4(b)(2) provides that, for "non-rulemaking documents released by the Commission or staff, whether or not published in the **Federal Register**, the release date" is date of public notice. Accordingly, public notice in this case was given on October 23, 1995, the date on which the *AT&T Reclassification Order* was released. Therefore, petitions to reconsider that decision were, as TTS concedes, due on or before November 22, 1995.

43. Because the period for filing petitions for reconsideration is prescribed by statute, the Commission may not, with one narrow exception articulated by the courts, waive or extend the filing period. The narrow exception to this statutory filing period allows the Commission to extend or waive the 30-day filing period only in an "extraordinary case," such as where the late-filing is due to the Commission's failure to give a party timely notice of the action for which reconsideration is sought. In such circumstances, the petitioner must demonstrate that the delay in filing is attributable to Commission error in giving notice and that it acted promptly upon discovering the adoption of the Commission's decision.

44. TTS has not demonstrated that its delay in filing is attributable to Commission error in giving notice. Indeed, TTS does not dispute that the Commission gave appropriate notice by the release of the *AT&T Reconsideration Order* on October 23, 1995. As noted above, TTS states only that its petition was delayed because the alleged actions on which TTS's petition is based, did not occur until the due date for filing petitions for reconsideration, and that its petition was further delayed by its attempt to negotiate with AT&T as well as by the blizzard in Washington, D.C., in January, 1996. Accordingly, we find that TTS does not meet the narrow exception of an "extraordinary case" in which the Commission may extend or waive the statutory deadline for filing petitions for reconsideration. We, therefore, deny TTS's Motion for Acceptance of Petition for Reconsideration, and dismiss its petition as untimely. Because we dismiss TTS's petition for reconsideration, we also deny TTS's Motion to Accept Supplement to Petition for Reconsideration and dismiss TTS's Supplement to Petition for Reconsideration.

III. Petition for Rulemaking

45. On December 31, 1996, the United Homeowners Association and the United Seniors Health Cooperative (UHA) filed with the Commission a Petition for Rulemaking to Reclassify AT&T as Having Dominant Carrier Status. UHA requests that the Commission undertake a review and "reinstate AT&T's dominant carrier status." We note that UHA refers generally to AT&T's status as a carrier of "long distance service," rather than more specifically to AT&T's status as a provider of domestic, interstate, interexchange service. Because UHA consistently refers in its petition only to the Commission's October 23, 1995, decision, we are treating the petition as applying only to AT&T's regulatory status with respect to domestic, interstate, interexchange service, and not international services. In support of its petition, UHA argues that consumers are adversely affected by the classification of AT&T as a non-dominant interexchange carrier, as demonstrated by a rate increase AT&T instituted in November 1996. UHA argues that, "without regulatory supervision, AT&T consumers will have no protection from unjust rates increases," and that classifying AT&T as dominant is necessary in order to monitor AT&T's rate increases until there is meaningful competition in the long-distance market. UHA also points to what it alleges is AT&T's 54.2 percent market share as evidence that AT&T has market power in the long distance market and therefore should be classified as dominant.

46. TTS submitted comments in support of UHA's petition. TTS cites to alleged discriminatory conduct by AT&T against TTS as evidence of AT&T's abuse of its market power and the need therefore to reclassify AT&T as a dominant carrier.

47. In opposition to UHA's petition, AT&T argues that the Petition for Rulemaking should be denied because UHA's arguments already were addressed and properly rejected in the orders classifying AT&T as non-dominant for domestic and international services. AT&T also maintains that UHA's allegations, even if true, are immaterial under the Commission's rules defining dominant carriers. AT&T notes that the Commission examined and found in the *AT&T Reclassification Order* that AT&T does not retain market power in the domestic, interstate, interexchange market. In addition, AT&T maintains that UHA is mistaken in arguing that a change in AT&T's regulatory classification would affect AT&T's ability to make the price changes referenced by UHA. AT&T claims that, even as a dominant carrier subject to price cap regulation, AT&T did not need Commission approval to raise rates within price cap limits. AT&T further argues that UHA's "unsupported claims of 'tacit collusion' " among various interexchange carriers does not support regulatory action aimed solely at AT&T, and that "any attempt to paint the long distance industry as an oligopoly must fail." Finally, relying on the Commission's *AT&T Reclassification Order*, AT&T maintains that market share is not the sole determining factor of whether a firm possesses market power, and that the 54.2 percent market share figure referenced by UHA "is even lower than the market share cited in the [*AT&T Reclassification Order*], and shows a further erosion of AT&T's market share since the Order was released."

48. In reply to AT&T's Opposition, Pacific takes no position on whether AT&T should be reclassified as a dominant carrier. Pacific only responds to AT&T's argument that there is no evidence of tacit collusion among the big interexchange carriers. Pacific argues that the evidence of tacit collusion "is not 'inconclusive' anymore," that AT&T has continued to raise prices after reclassification, and that new facilities-based entry by the Regional Bell Operating Companies is the best solution to rising prices.

49. We find that the arguments raised by UHA's petition were addressed and decided in the *AT&T Reclassification Order*. Neither UHA, Pacific nor TTS has presented any new evidence or arguments that demonstrate that a new examination of AT&T's regulatory status is warranted. We thus decline to initiate a proceeding at this time to classify AT&T as a dominant carrier. "Petitions [for rulemaking] * * * which plainly do not warrant consideration by the Commission may be denied or dismissed without prejudice to the petitioner." Accordingly, we deny without prejudice UHA's Petition for Rulemaking.

IV. Ordering Clauses

50. Accordingly, *it is ordered* That Hawaii's Petition for Reconsideration is hereby *denied*.

51. *It is further ordered* That GCI's Petition for Reconsideration or Clarification of the AT&T Reclassification Order is hereby *denied*.

52. *It is further ordered* That GCI's Petition for Clarification of the *Tariff Forbearance Order is granted.*

53. *It is further ordered* That TTS's Motion for Acceptance of Petition for Reconsideration is hereby *denied*, and TTS's Petition for Reconsideration is hereby *dismissed.*

54. *It is further ordered* That TTS's Motion to Accept Supplement to Petition for Reconsideration is hereby *denied*, and TTS's Supplement to Petition for Reconsideration is hereby *dismissed.*

55. *It is further ordered* That the United Homeowners Association and United Seniors Health Cooperative's Petition for Rulemaking is hereby *denied.*

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–28613 Filed 10–28–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket No. 96–45; FCC 97–380]

Universal Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this Order, we adopt a filing window period that begins on the date that the Schools and Libraries Corporation and the Health Care Corporation begin to receive applications for support. We also conclude that the administrative corporations will determine the length of the window and resolve other administrative issues necessary to implement our decision to adopt a window filing period consistent with our guidance set forth below. Therefore, we amend our rules to implement this change. In addition, we delegate authority to the Chief, Common Carrier Bureau to resolve unanticipated technical and operational issues relating to the new universal service mechanisms that may arise in the future.

EFFECTIVE DATE: All policies and rules adopted herein shall be effective November 28, 1997.

FOR FURTHER INFORMATION CONTACT: Valerie Yates, Legal Counsel, Common Carrier Bureau, (202) 418–1500, or Sheryl Todd, Common Carrier Bureau, (202) 418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Third Report and Order adopted on October 10, 1997 and released on October 14, 1997, including changes made in an erratum released October 15, 1997. The full text of the Third Report and Order is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M St., NW., Washington, DC. Pursuant to the Telecommunications Act of 1996, the Commission released a Notice of Proposed Rulemaking and Order Establishing Joint Board, Federal-State Joint Board on Universal Service, CC Docket No. 96–45 on March 8, 1996 (61 FR 10499 (March 14, 1996)), a Recommended Decision on November 8, 1996 (61 FR 63778 (December 2, 1996)), a Public Notice on November 18, 1996 (61 FR 63778 (December 2, 1996)), and a Report and Order that was adopted on May 7, 1997 and released on May 8, 1997 (62 FR 32862 (June 17, 1997)) implementing rules for §§ 254 and 214(e) of the Act relating to universal service. Also pursuant to the Telecommunications Act of 1996, the Commission released a Report and Order in CC Docket 97–21 on July 18, 1997 (62 FR 41294 (August 1, 1997)). The Common Carrier Bureau released a Public Notice seeking comment on additional issues addressed in the Third Report and Order on September 10, 1997 (62 FR 48280 (September 15, 1997)).

Summary of the Third Report and Order

1. On March 8, 1996, as required by the Telecommunications Act of 1996 (1996 Act), the Commission released a Notice of Proposed Rulemaking and Order Establishing a Joint Board on Universal Service. As required by the RFA, the NPRM included an Initial Regulatory Flexibility Analysis (IRFA). At that time, the Commission sought written public comment on the proposals in the NPRM, including comment on the IRFA. On May 8, 1997 the Commission released a Report and Order that included a Final Regulatory Flexibility Analysis (FRFA). On September 10, 1997, the Common Carrier Bureau issued a Public Notice seeking comment on several issues with respect to the application process and the distribution of federal universal service support funds for schools, libraries, and rural health care providers. This FRFA supplements the FRFA that was included in the First Report and Order and incorporates the comments with respect to the proposal to adopt a filing window that were received in response to the Bureau's September 10 Public Notice. This present FRFA conforms to the RFA.

2. In the Universal Service Order, we concluded that the Administrator would commit funds to applicants on a first-come first-served basis. We now conclude, based on the nearly unanimous comments received in response to the September 10 Public Notice, that all applications filed during the window will be treated as if simultaneously received. For the reasons discussed below, we find that adopting such a window period will best serve the needs of applicants for universal service discounts, and will assist the administrative corporations in processing these requests in a timely manner.

3. In response to commenters' requests, we clarify that an applicant's "place in line," or seniority, with respect to funds will be determined by the date on which an applicant submits a contract to the applicable administrative corporation. An applicant's submission of its initial request for services, which one of the administrative corporations will post on its website, does not determine the applicant's seniority for the purposes of allocating funding. We clarify that the Schools and Libraries Corporation, as administrator, will allocate funds reasonably and in accordance with the rules of priority set forth in § 54.507(g) of our rules.

4. In light of our decision to adopt a window filing period, we also conclude that the administrative corporations should determine the length of the window and resolve other administrative matters necessary to implement a window filing period. We conclude that this responsibility entails "administering the support mechanisms for eligible schools and libraries and rural health care providers," a function already within the scope of the corporations' general duties. We find that the goals of the universal service mechanisms will best be served if the administrative corporations are responsible for implementing the window filing periods because they will be performing the day-to-day functions of the schools, libraries, and rural health care universal service mechanisms and thus are better able to determine an appropriate window periods in light of their needs and resources. We remain committed to the general principle that funds will be allocated to applicants on a first-come first-served basis. Consistent with this principle, we direct the corporations to adopt a reasonable window period that is of sufficient duration to effectuate the administrative purposes of the window, as set forth above, but is short enough to ensure that funds are allocated without unnecessary delay and to encourage applicants to file requests for support without undue delay. In addition, to ensure that all applicants will be informed of the window periods with sufficient time to adjust their plans accordingly, we direct the administrative corporations to make a determination with respect to the initial window filing periods by October 31, 1997 and to publicize that decision promptly using appropriate media and other avenues that will notify the educational, library, and rural health care communities. In order to facilitate notification to the public, we direct the Bureau to issue a public notice announcing the administrative corporations' decisions.

5. We further find that unanticipated technical and operational issues may arise that will require prompt attention, but will not warrant Commission review. To the extent clarification of our rules are necessary, however, we delegate to the Chief, Common Carrier Bureau the authority to issue orders interpreting our rules as necessary to ensure that support for services provided to schools and libraries and rural health care providers operate to further our universal service goals. We find that this action is "necessary to the proper functioning of the Commission and the prompt and orderly conduct of its business." 47 U.S.C. 155(c)(1). Any action taken pursuant to this delegation of authority "shall have the same force and effect and shall be made, evidenced, and enforced in the same manner as actions of the Commission." 47 CFR 0.203; see also 47 U.S.C. 155(c)(3).

Final Federal Regulatory Flexibility Analysis

6. On March 8, 1996, as required by the Telecommunications Act of 1996 (1996 Act), the Commission released a Notice of Proposed Rulemaking and Order Establishing a Joint Board on Universal Service. As required by the RFA, the NPRM included an Initial Regulatory Flexibility Analysis (IRFA). At that time, the Commission sought written public comment on the proposals in the NPRM, including comment on the IRFA. On May 8, 1997 the Commission released a Report and Order that included a Final Regulatory Flexibility Analysis (FRFA). On September 10, 1997, the Common Carrier Bureau issued a Public Notice seeking comment on several issues with respect to the application process and the distribution of federal universal service support funds for schools, libraries, and rural health care providers. This FRFA supplements the FRFA that was included in the First Report and Order and incorporates the comments with respect to the proposal to adopt a filing window that were received in response to the Bureau's September 10 Public Notice. This present FRFA conforms to the RFA.

7. *Need for, and Objectives of, this Third Report and Order.* The Commission is required by sections 254(a)(2) and 410(c) of the Act, as amended by the 1996 Act, to promulgate these rules to implement promptly the universal service provisions of section 254. The goal of this *Third Report and Order* (Order) is to ease the burden on schools, libraries, and rural health care providers that will submit requests for funding to the universal service administrator by adopting a filing window. All applications filed during the window will be treated as if simultaneously received.

8. *Summary of Significant Issues Raised by Public Comments.* Commenters overwhelmingly recommended adoption of a filing window in order to ease the administrative burdens on schools, libraries, and rural health care providers, particularly smaller entities with fewer administrative resources. Some commenters urged the Commission to ensure that applicants in all states would receive some opportunity to receive funding.

9. *Description and Estimates of the Number of Small Entities to Which the Rules Adopted in This Report and Order will Apply.* The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act, 15 U.S.C. 632, unless the Commission has developed one or more definitions that are appropriate to its activities. Under the Small Business Act, a "small business concern" is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA). As noted, the RFA also applies to nonprofit organizations and to governmental organizations such as governments of cities, counties, towns, townships, villages, school districts, or special districts with populations of less than 50,000. As of 1992, the most recent figures available, there were 85,006 governmental entities in the United States.

10. For "small business" determinations in this context, the SBA has established a definition of small elementary and secondary schools and small libraries as those with under $5 million in annual revenues. Other entities of this sort may be considered small under the other two prongs of the RFA. The most reliable source of information regarding the total number of kindergarten through 12th grade (K–12) schools and libraries nationwide of which we are aware appears to be data collected by the United States Department of Education and the National Center for Educational Statistics. Based on that information, it appears that there are approximately 86,221 public and 26,093 private K–12 schools in the United States (SIC 8211). It further appears that there are approximately 15,904 libraries, including branches, in the United States (SIC 8231). Although it seems certain that not all of these schools and libraries would qualify as small entities under the SBA's determination, we are unable at this time to estimate with greater precision the number of small schools and libraries that would qualify as small entities under the definition. Consequently, we estimate that there are fewer than 86,221 public and 26,093 private schools and fewer than 15,904 libraries that may be affected by the decisions and rules adopted in this Order.

11. Neither the Commission nor the SBA has developed a definition of small, rural health care providers. Section 254(h)(5)(B) defines the term "health care provider" and sets forth the seven categories of health care providers eligible to receive universal service support. We estimate that there are: (1) 625 "post-secondary educational institutions offering health care instruction, teaching hospitals, and medical schools," including 403 rural community colleges, 124 medical schools with rural programs, and 98 rural teaching hospitals; (2) 1,200 "community health centers or health centers providing health care to migrants;" (3) 3,093 "local health departments or agencies" including 1,271 local health departments and 1,822 local boards of health; (4) 2,000 "community mental health centers;" (5) 2,049 "not-for-profit hospitals;" and (6) 3,329 "rural health clinics." We do not have sufficient information to make an estimate of the number of consortia of health care providers at this time. The total of these categorical numbers is 12,296. Consequently, we estimate that there are fewer than 12,296 health care providers potentially affected by the rules in this Order. For the purposes of "small business" analysis, we note that

according to the SBA definition, hospitals must have annual gross receipts of $5 million or less to qualify as a small business concern. There are approximately 3,656 hospital firms, of which 294 have gross annual receipts of $5 million or less. Although some of these small hospital firms may not qualify as rural health care providers, we are unable at this time to estimate with greater precision the number of small hospital firms which may be affected by this Order. Consequently, we estimate that there are fewer than 294 hospital firms affected by this Order.

12. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements.* This order will impose no additional reporting, recordkeeping or other compliance requirements on small entities.

13. *Steps Taken to Minimize the Significant Economic Impact on Small Entities and Significant Alternatives Considered.* As explained in the Order, based on the nearly unanimous comments received in response to the *September 10 Public Notice*, the Commission concludes that all applications filed during the window will be treated as if simultaneously received. We find that adopting such a window period will best serve the needs of applicants for universal service discounts, and will assist the administrative corporations in processing these requests in a timely manner. The Commission finds that the window will reduce pressure on applicants to submit their contracts at the earliest possible moment and, thus, will improve the accuracy and care with which these contracts are negotiated and the accompanying forms are completed. By providing additional time to complete contract negotiations after the four-week competitive bid waiting period, a window will allow schools to negotiate their contracts with greater care. Further, this window will reduce disparities between applicants with substantial administrative resources and applicants with fewer resources, such as small schools, libraries, and health care providers. We recognize, as noted by the commenters, that this window will not eliminate all disparities among applicants. The Commission adopted annual funding caps, $2.25 billion for schools and libraries and $400 million for health care providers, because it estimated that these monies would be sufficient for all applicants during the funding year. We emphasize that we have no reason to revise these estimates and have no reason to believe that either of the caps will be reached during the initial filing period, nor at any other point during the funding period. We are adopting a window primarily to allow applicants sufficient time to negotiate contracts properly and submit complete filings.

14. The Commission will send a copy of the Order, including this FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. A copy of the Order and this FRFA will also be published in the **Federal Register** and will be sent to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 54

Libraries, Schools, Healthcare providers, Telecommunications, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

1. Part 54 of Title 47 of the Code of Federal Regulations (CFR) is amended as follows:

PART 54—UNIVERSAL SERVICE

2. Section 54.507 is amended by adding the last three sentences to paragraph (c) to read as follows:

§ 54.507 Cap.

* * * * *

(c) *Requests.* * * * The Schools and Libraries Corporation shall implement an initial filing period that treats all schools and libraries filing within that period as if they were simultaneously received. The initial filing period shall begin on the date that the Schools and Libraries Corporation begins to receive applications for support, and shall conclude on a date to be determined by the Schools and Libraries Corporation. The Schools and Libraries Corporation may implement such additional filing periods as it deems necessary.

* * * * *

3. Section 54.623 is amended by adding the last three sentences to paragraph (c) to read as follows:

§ 54.623 Cap.

* * * * *

(c) *Requests.* * * * The Rural Health Care Corporation shall implement an initial filing period that treats all health care providers filing within that period as if they were simultaneously received. The initial filing period shall begin on the date that the Rural Health Care Corporation begins to receive applications for support, and shall conclude on a date to be determined by the Rural Health Care Corporation. The Rural Health Care Corporation may implement such additional filing periods as it deems necessary.

* * * * *

[FR Doc. 97–28612 Filed 10–28–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 69

[CC Docket Nos. 96–262, 94–1, 91–213; FCC No. 97–368]

Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for waiver.

SUMMARY: On October 8, 1997, the Commission adopted a Memorandum Opinion and Order in this proceeding granting a petition for waiver filed by the National Exchange Carrier Association, Inc. (NECA). In its petition, NECA sought an order waiving § 69.105(b)(2)–(3) for NECA's pool, so as to allow NECA to reflect revised long term support formula amounts in its carrier common line (CCL) tariff rates effective January 1, 1998. The Commission granted the waiver on condition that NECA compute the CCL charge in the manner prescribed by the Commission.

EFFECTIVE DATE: November 28, 1997.

FOR FURTHER INFORMATION CONTACT: Richard Lerner, Attorney, Common Carrier Bureau, Competitive Pricing Division, (202) 418–1530,

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order adopted October 8, 1997, and released October 9, 1997. The full text of this Memorandum Opinion and Order is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M St., NW., Washington, DC. The complete text also may be obtained through the World Wide Web, at http://www.fcc.gov/Bureaus/Common_Carrier/Orders/fcc.97368.wp, or may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Paperwork Reduction Act

N/A. This Memorandum Opinion and Order does not require an information collection.

Synopsis of Memorandum Opinion and Order

1. The National Exchange Carrier Association, Inc. (NECA) asserts in its reconsideration petition that the Commission should revise on reconsideration the rule provisions governing calculation of NECA carrier common line (CCL) rates, without waiting for the conclusion of a separate proceeding on access charge reform for rate-of-return LECs. In the alternative, NECA requests that the Commission issue an order waiving § 69.105(b)(2)–(3) for NECA's pool, so as to allow NECA to reflect revised long term support (LTS) formula amounts in its CCL tariff rates effective January 1, 1998. No party opposed or supported NECA's petition for reconsideration or waiver of the rule. We have decided to waive the specified rule provisions at this time, and make appropriate rule revisions in the separate proceeding.

2. Section 69.105(b) currently sets the NECA CCL tariff at the average of price-cap LECs' CCL charges. Prior to January 1, 1998, LTS is a variable amount, based on the difference between the revenues earned from charging a nationwide average CCL rate and the NECA pool CCL revenue requirement. In the *Universal Service Order*, we substituted federal universal service support payments for previously-received recovery from the interstate access charge system through LTS. Federal-State Joint Board on Universal Service, Report and Order, CC Docket No. 96–45, 62 FR 32862 (June 17, 1997) (*Universal Service Order*). The rule revisions in the *First Report and Order* removed LTS amounts from price cap LEC CCL calculations, but postponed making conforming revisions in § 69.105(b) to the CCL rate calculation for NECA tariff participants. Access Charge Reform, CC Docket No. 96–262, First Report and Order, 62 FR 31040 (June 6, 1997).

3. Section 1.3 of our rules empowers the Commission to grant waivers of its rules if good cause is shown. In this situation, NECA must demonstrate that special circumstances justify a departure from the general rule and that such a deviation will serve the public interest. *Northeast Cellular Telephone Co.* v. *FCC*, 897 F.2d 1164 (D.C. Cir. 1990); *WAIT Radio* v. *FCC*, 418 F.2d 1153 (D.C. Cir. 1969). We conclude that NECA has demonstrated that continued application of § 69.105(b)(2)–(3) would be contrary to the public interest in these circumstances. As we stated in the *Universal Service Order*, the "elimination of price-cap (incumbent LECs') LTS obligations will allow their CCL charges to fall, but there is no corresponding reason for a reduction in the NECA CCL tariff. Yet under our current rules, the NECA CCL charge would fall simply because of our regulatory changes to price-cap (incumbent LECs') LTS payment obligations. We must therefore establish a new method to set the NECA CCL tariff."

4. Because changes in the recovery of LTS amounts and price-cap carrier CCL rate computations as adopted in the *First Report and Order* and *Universal Service Order* are scheduled to become effective on January 1, 1998, grant of the waiver will allow NECA to conform its rates to decisions reached in the *Universal Service Order* by reflecting revised LTS formula amounts in its CCL tariff rates effective January 1, 1998. We therefore waive § 69.105(b)(2)–(3) for the calculation of NECA's CCL pool rate that will become effective January 1, 1998, on the condition that NECA must compute the Carrier Common Line charge as follows:

(a) From the NECA pool aggregate Carrier Common Line revenue requirement amount, subtract: (1) Aggregate End User Common Line charges; (2) aggregate Special Access Surcharges; and (3) the portion of per-line support that NECA CCL pool participants receive, in the aggregate, pursuant to 47 CFR 54.303.

(b) The premium originating Carrier Common Line charge must be one cent per minute, except as described herein at paragraph (d), and

(c) The premium terminating Carrier Common Line charge must be computed by subtracting the projected revenues generated by the originating Carrier Common Line charges (both premium and non-premium) from the number calculated in paragraph (a), and dividing the remainder by the sum of the projected premium terminating minutes and a number equal to 0.45 multiplied by the projected non-premium terminating minutes, except as described herein at paragraph (d).

(d) If the calculations described in paragraph (c) result in a per minute charge on premium terminating minutes that is less than one cent, both the originating and terminating premium charges for the NECA CCL pool participants must be computed by dividing the number calculated pursuant to paragraph (a) by the sum of the premium minutes and a number equal to 0.45 multiplied by the non-premium minutes for the NECA CCL pool participants.

This NECA CCL charge calculation will reflect that now the CCL charge, rather than LTS, is a residual amount.

Accordingly, *it is ordered*, pursuant to 47 U.S.C. 154(i) and 47 CFR 1.3, that NECA's request for waiver of § 69.105(b)(2)–(3) of the Commissions rules, 47 CFR part 69.105(b)(2)–(3) is granted subject to the limitations and conditions described in this document.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–28544 Filed 10–28–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 69

[CC Docket Nos. 96–262, 94–1, 91–213; FCC 97–368]

Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers; Transport Rate Structure

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: On December 23, 1996, the Commission adopted a Notice of Proposed Rulemaking in this docket, 62 FR 4670 (Jan. 31, 1997), seeking comment on how the interstate access charge regime should be revised in light of the local competition and Bell Operating Company entry provisions of the Telecommunications Act of 1996 and state actions to open local markets to competition, the effects of potential and actual competition on incumbent LEC pricing for interstate access, and the impact of the Act's mandate to preserve and enhance universal service. On May 7, 1997, the Commission adopted a First Report and Order, 62 FR 31040 (June 6, 1997), in which it adopted many of the rules it proposed. In this Second Order on Reconsideration, the Commission modifies some of the rules adopted in the First Report and Order. These rule revisions are intended to foster competition, move access charges over time to more economically efficient levels and rate structures, preserve universal service, and lower rates.

EFFECTIVE DATES: The following rules or amendments thereto, shall become effective January 1, 1998: 47 CFR 69.153(g), 69.4, 69.111(c)(1), 69.153(c)(1), 69.153(d)(1)(i), 69.153(d)(2)(i), and 69.155(c). The Commission has requested emergency approval of the information collection requirements to ensure that it may be

effective on January 1, 1998. Written comments by the public on the new and/or modified information collections are due November 13, 1997. Written comments must be submitted to the Office of Management and Budget (OMB) on the new and/or modified information collections on or before October xx, 1997.

FOR FURTHER INFORMATION CONTACT: Richard Lerner, Attorney, Common Carrier Bureau, Competitive Pricing Division, (202) 418–1530. For additional information concerning the information collections contained in this Report and Order contact Judy Boley at 202–418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order adopted October 8, 1997, and released October 9, 1997. The full text of this Report and Order is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M St., N.W., Washington, DC. The complete text also may be obtained through the World Wide Web, at http://www.fcc.gov/Bureaus/Common_Carrier/Orders/1997/fcc97368.wp, or may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036. The rules adopted in this Second Order on Reconsideration are made in response to petitions for reconsideration to Access Charge Reform, CC Docket No. 96–262, Report and Order, 62 FR 31040 (June 6, 1997) (*First Report and Order*), and to correct clerical errors of the *First Report and Order*. This Second Order on Reconsideration contains new and/or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public, and other Federal agencies are invited to comment on the new and/or modified information collections contained in this proceeding. Please note that the Commission has requested emergency review and approval of this collection by November 13, 1997 under the provisions of 5 CFR 1320.13.

Final Regulatory Flexibility Analysis

In the *First Report and Order*, we conducted a Final Regulatory Flexibility Analysis as required by Section 603 of the Regulatory Flexibility Act, as amended by the Contract with America Advancement Act of 1996, Pub. L. No. 104–121, 110 Stat. 847 (1996). The changes we adopt in this Order do not affect that analysis.

Paperwork Reduction Act

This Order contains either a proposed or modified information collection. As part of its continuing effort to reduce paperwork burdens, we invite the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on the information collections contained in this Order, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Please note that the Commission has requested emergency review and approval of this collection by November 13, 1997 under the provisions of 5 CFR 1320.13. OMB notification of action is due November 13, 1997. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: 3060–0760.

Title: Access Charge Reform Second Order on Reconsideration

Type of Review: Revised Collection

Respondents: Business and other for profit.

Number of Respondents: 14.

Estimated Time Per Response: 128,907 hours.

Total Annual Burden: 1,804,690 hours.

Estimated Costs Per Respondent: $4,504,388.

Total Annual Estimated Costs: $63,061,430.

Needs and Uses: 1. In the First Report and Order (Order), CC Docket No. 96–262, Access Charge Reform and the Second Order on Reconsideration, the FCC adopts, that, consistent with principles of cost-causation and economic efficiency, non-traffic sensitive (NTS) costs associated with local switching should be recovered on an NTS basis, through flat-rated, per month charges. The information collections are as follows:

a. *Showings Under the Market-Based Approach:* As competition develops in the market, the FCC will gradually relax and ultimately remove existing Part 69 federal access rate structure requirements and Part 61 price caps restrictions on rate level changes. Regulatory reform will take place in two phases. The first phase of regulatory reform will take place when an incumbent Local Exchange Carrier's (LEC) network has been opened to competition for interstate access services. The second phase of rate structure reforms will take place when an actual competitive presence has developed in the marketplace. Detariffing will take place when substantial competition has developed for the access charge elements. In our initial statement, we proposed that in order for LECs to meet this standard, they have to demonstrate that: (1) Unbundled network element prices are based on geographically deaveraged, forward-looking economic costs in a manner that reflects the way costs are incurred; (2) transport and termination charges are based on the additional cost of transporting and terminating another carrier's traffic; (3) wholesale prices for retail services are based on reasonably avoidable costs; (4) network elements and services are capable of being provisioned rapidly and consistent with a significant level of demand; (5) dialing parity is provided by the incumbent LEC to competitors; (6) number portability is provided by the incumbent LEC to competitors; (7) access to incumbent LEC rights-of-way is provided to competitors; and (8) open and non-discriminatory network standards and protocols are put into effect. We propose that the second phase of rate structure reforms would take place when an actual competitive presence has developed in the marketplace. LECs would have to show the following to indicate that actual competition has developed in the marketplace by: (1) Demonstrated presence of competition; (2) full implementation of competitively neutral universal service support mechanisms; and (3) credible and timely enforcement of pro-competitive rules. In the NPRM, we sought comment on four options for a prescriptive approach: reinitializing price cap indices (PCIs) to economic cost-based levels; reinitializing PCIs to levels targeted to yield no more than an 11.25 percent rate of return, or some other rate of return; adding a policy-based mechanism similar to the CPD to the X-Factor; or prescribing economic cost-based rates. We have decided above to rely primarily on a market-based approach, and impose prescriptive requirements only when market forces are inadequate to ensure just and reasonable rates for particular services or areas. We will determine the details of our market-based approach in a future Order. In that Order, we will also discuss in more detail what prescriptive requirements we will use as a backstop to our market-based access charge reform. Because we are not adopting the prescriptive approach at this time, we are removing the collections associated with the prescriptive approach from our statement. If the collections are adopted at a later date, we will request that OMB reinstates them at that time. No change.

b. *Cost Study of Local Switching Costs:* The FCC does not establish a fixed percentage of local switching costs that incumbent LECs must reassign to the Common Line basket or newly created Trunk Cards and Ports service category as NTS costs. In light of the widely varying estimates in the record, we conclude that the portion of costs that is NTS costs likely varies among LEC switches. Accordingly, we require each price cap LEC to conduct a cost study to determine the geographically-averaged portion of local switching costs that is attributable to the line-side ports, as defined above, and to dedicated trunk side cards and ports. These amounts, including cost support, should be reflected in the access charge elements filed in the LEC's access tariff effective January 1, 1998. No Change.

c. *Cost Study of Interstate Access Service That Remain Subject to Price Cap Regulation:* The 1996 Act has created an unprecedented opportunity for competition to develop in local telephone markets. We recognize, however, that competition is unlikely to develop at the same rate in different locations, and that some services will be subject to increasing competition more rapidly than others. We also recognize, however, that there will be areas and services for which competition may not develop. We will adopt a prescriptive "backstop" to our market-based approach that will serve to ensure that all interstate access customers receive the benefits of more efficient prices, even in those places and for those services where competition does not develop quickly. To implement our backstop to market-based access charge reform, we require each incumbent price cap LEC to file a cost study no later than February 8, 2001, demonstrating the cost of providing those interstate access services that remain subject to price cap regulation because they do not face substantial competition. No Change.

The Order also adopts the following collection of information:

d. *Tariff Filings:* In the *First Report and Order*, the Commission requires the filing of various tariffs, with modifications. For example, the FCC directs incumbent LECs to establish separate rate elements for the multiplexing equipment on each side of the tandem switch. LECs must establish a flat-rated charge for the multiplexers on the SWC side of the tandem, imposed pro-rata on the purchasers of the dedicated trunks on the SWC side of the tandem. Multiplexing equipment on the EQ side of the tandem shall be charged to users of common EO-to-tandem transport on a per-minute of use basis. These multiplexer rate elements must be included in the LEC access tariff filings to be effective January 1, 1998. In the *Second Order on Reconsideration*, the FCC clarifies that the TIC exemption for access customers using competitive transport providers only applies to that portion of the residual per-minute TIC that is related to transport facilities, and directs incumbent local exchange carriers to include, in their access tariff filing, the amount of per-minute transport interconnection charge (TIC) they anticipate will be allocated to facilities-based rate elements in the future.

e. *Third-Party Disclosure:* In the *Second Order on Reconsideration*, the Commission requires LECs to provide IXCs with customer-specific information about how many and what type of presubscribed interexchange carrier charges (PICCs) they are assessing for each of the IXC's presubscribed customers. One of the primary goals of our *First Report and Order* was to develop a cost-recovery mechanism that permits carriers to recover their costs in a manner that reflects the way in which those costs are incurred. Without access to information that indicates whether the LEC is assessing a primary or non-primary residential PICC, or about how many local business lines are presubscribed to a particular IXC, the IXC will be unable to develop rates that accurately reflect the underlying costs.

SYNOPSIS OF REPORT AND ORDER

I. Presubscribed Interexchange Carrier Charge

A. Implementation Issues

1. Background

1. In the *First Report and Order*, we adopted common line rate structure modifications that will permit price cap LECs to shift gradually from a cost-recovery mechanism that recovers a significant portion of non-traffic sensitive common line costs through per-minute CCL charges to one that recovers these costs through flat-rated charges. The cost-recovery mechanism we adopted retains the current $3.50 ceiling on the SLC for primary residential and single-line business lines and increases the SLC ceilings on other lines to permit LECs to recover a greater amount of the common line costs through flat-rated charges assessed on the end user. To the extent that SLC ceilings prevent price cap LECs from recovering their allowed common line revenues from end users, LECs will recover the shortfall, subject to a maximum charge, through a presubscribed interexchange carrier charge (PICC), a flat, per-line charge assessed on the end-user's presubscribed interexchange carrier.

2. The PICC, which over time will shift revenue recovery from the per-minute CCL charges to a flat-rated charge assessed on IXCs, was designed to allow price cap LECs to recover the difference between revenues collected through the SLCs and the total revenue permitted for the common line basket. In order to provide price cap LECs and IXCs with adequate time to adjust to the new rate structure, we adopted an approach that will gradually phase in the PICC over time. Specifically, effective January 1, 1998, we capped PICCs for primary residential and single-line business lines at $0.53 per month for the first year. Beginning January 1, 1999, the ceiling on the monthly PICC on primary residential and single-line business lines will be adjusted for inflation and will increase by $0.50 per year until it equals the monthly per-line common line revenues and residual interconnection charge revenues permitted under our price cap rules, less the maximum SLC charge allowed under our rules.

3. In addition, to the extent that the SLC ceilings on all lines and the PICC ceilings on primary residential and single-line business lines prevent recovery of the full common line revenues permitted by our price cap rules, the new rate structure we adopted for price cap LECs permits these carriers to recover the shortfall through PICCs assessed on non-primary residential and multi-line business lines. For the first year, the ceiling on the PICC will be $1.50 per month for non-primary residential lines and $2.75 per month for multi-line business lines.

4. Beginning January 1, 1999, the PICC ceilings for price cap non-primary residential and multi-line business lines will be adjusted for inflation and will increase by a maximum of $1.00 and $1.50 per year, respectively, until incumbent LECs can recover all of their permitted common line revenues through a combination of flat-rated SLCs and PICCs. As the PICC ceilings on primary residential and single-line business lines increase, the residual per-minute CCL charge will decrease until it is eliminated. After the residual per-minute CCL charge is eliminated and

the PICC ceilings for primary residential and single-line business lines increase, price cap LECs will reduce their PICCs on non-primary residential and multi-line business lines by a corresponding amount. Reductions will be targeted first to the PICCs on multi-line business lines until the PICCs for those lines are equal to the PICCs for non-primary residential lines. Thereafter, price cap LECs will apply the annual reductions to both classes of customers equally until the combined SLCs and PICCs for primary residential and single-line business lines recover the full average per-line common line revenues permitted under our price cap rules, and the additional PICCs on non-primary residential and multi-line business lines no longer recover common line revenues.

2. Sprint's Petition for Reconsideration

5. On July 11, 1997 Sprint filed a Petition for Expedited Reconsideration and Clarification in which it requests that the Commission reconsider certain implementation issues related to the PICCs adopted in the *First Report and Order*. Sprint argues that these issues need to be resolved prior to January 1, 1998, the effective date of the PICCs. Specifically, Sprint requests that the Commission require LECs to provide IXCs with customer-specific billing information that specifies the number and type(s) of PICCs LECs will be assessing for each of the IXCs' presubscribed customers. Sprint asserts that because LECs will be assessing IXCs different PICCs for primary and non-primary residential lines, IXCs may choose to develop different residential rates for these lines. Sprint argues that IXCs will therefore need the customer-specific PICC information in order to develop separate toll rates for calls originated on these lines.

6. In addition, Sprint contends that in a typical multi-line business configuration IXCs are unable to determine how many multi-line business lines are presubscribed to them. According to Sprint, unless the LECs provide customer-specific PICC information, IXCs are unable to know how many of these local lines exist or how many PICCs are being assessed for these lines. Sprint argues that IXCs need access to customer-by-customer PICC data so that they have the ability to pass through the PICCs directly to their customers if they so choose.

7. In its petition, Sprint seeks guidance from the Commission on how LECs should assess PICCs where a LATA encompasses territory in more than one state, and a customer has one IXC handling intraLATA interstate calls and another IXC handling interLATA interstate calls. Sprint suggests that the PICC should be assessed on the interLATA interstate carrier.

3. Discussion

8. We grant Sprint's request that LECs be required to provide IXCs with customer-specific information about the number and type(s) of PICCs they are assessing for each of the IXC's presubscribed customers. We agree with Sprint that this measure is necessary to provide IXCs the opportunity to develop a rate structure that recovers these costs in a cost-causative manner. One of the primary goals of our *First Report and Order* was to develop a cost-recovery mechanism that permits carriers to recover their costs in a manner that reflects the way in which those costs are incurred. If an IXC were to receive a bill for the aggregate amount of the PICCs assessed on its presubscribed lines and did not have access to information that indicates for which lines the LEC is assessing a primary or non-primary residential PICC, the IXC would be unable to develop residential rates that accurately reflect the underlying costs of providing service over those lines. Similarly, in a multi-line business configuration, without information about the number of local business lines that are presubscribed to a particular IXC and the amount of PICCs being charged for which lines, the IXC will not be able to recover the costs of serving its customers in an efficient manner. We therefore conclude that LECs must provide IXCs with information about how many and what type of PICCs they are charging IXCs for each customer.

9. We conclude that there is insufficient evidence in the record to support arguments that providing customer-specific PICC data to IXCs will be overly burdensome and that discrepancies can be resolved through normal billing reconciliation processes. In order to bill IXCs the proper amount, LECs will presumably have to create a database for purposes of determining how many lines are presubscribed to each IXC and what type of PICC is being assessed for each of those lines. We conclude that LECs must provide this information to the IXCs to enable them to develop rate structures that will recover these costs efficiently.

10. We also grant Sprint's request to clarify how LECs assess PICCs in situations where a customer for a particular line has one presubscribed carrier for interstate intraLATA calls and another for interstate interLATA calls. Dividing the PICC between two IXCs based on actual calling patterns would create an unnecessary administrative burden that would outweigh any minimal benefit. Moreover, LATA boundaries that cross state lines are the exception rather than the rule, and interstate calls within a LATA thus represent only a small portion of interstate traffic. We therefore conclude that in such cases, the PICC shall be assessed on the interstate interLATA carrier.

B. PICC Calculation

1. Background

11. In its petition for reconsideration, Sprint argues that the Commission's formula for calculating PICCs will not allow sufficient recovery of loop costs, because the formula relies on base period revenues divided by the projected number of loops in use for such annual period. Sprint contends that such a formula would force PICCs downward because revenues determined on a base period would not adequately reflect revenue growth commensurate with projected growth in loops. In turn, Sprint argues, under-recovery of loop costs through flat-rated PICCs will necessitate greater reliance on usage charges to recover non-traffic-sensitive costs, undermining the Commission's efforts to align access charges with the manner in which costs are incurred.

2. Discussion

12. We clarify in this Order that the rule describing the formula for calculating PICCs relies on projected revenues and projected loop counts. The use of projected revenues and projected loop counts is applicable to PICC calculations conducted under sections 69.153(c) and 69.153(d) of our rules. We note that the rule setting forth the method of calculating SLCs expressly incorporates projected revenues and projected loop numbers. Although the PICC rule does not expressly state that projected revenues are to be used in the formula, the rule has been designed to use projected revenues rather than revenues derived from a base period. Accordingly, there is no "mismatch" caused by dividing projected loops by base period revenues. We will, however, amend our rules to state explicitly that the projected revenues must be used to conduct the PICC calculation.

13. In our *First Report and Order*, we adopted section 69.153(c)(1) in which we directed incumbent LECs to calculate the maximum monthly PICC for primary residential subscriber lines and single-line business lines by using "one twelfth of the sum of annual common line revenues and residual interconnection charge revenues permitted under our price cap rules divided by the projected average number of local exchange service subscriber lines in use during such annual period, minus $3.50." On further consideration of section 69.153(c)(1), we recognize that, as written, this rule may not permit an incumbent LEC to recover its residual interconnection charge revenues from primary residential and single-line business lines when its maximum primary residential and single-line business SLC is less than $3.50. On our own motion, therefore, we take this opportunity to reconsider this issue and revise section 69.153(c)(1). We replace the phrase "minus $3.50" with the phrase "minus the maximum subscriber line charge computed pursuant to section 69.152(d)(2)."

In the *First Report and Order*, we also adopted section 69.153(d)(2)(i), which instructs incumbent LECs how to calculate the maximum monthly PICC for multi-line business lines when the maximum charge for the non-primary residential PICC is at its cap. The rule was intended to provide that the calculation be performed by taking "[o]ne twelfth of the annual common line, residual interconnection charge, and § 69.156(a) marketing expense revenues permitted," less the maximum amounts permitted to be recovered through the SLC, the other PICCs, and other marketing expense recovery mechanisms. In crafting the language of the rule, however, we identified the maximum amount permitted to be recovered from the non-primary residential PICC as section 69.153(d)(1)(i) instead of section 69.153(d)(1). We correct this error to take into account the fact that the cap on the non-primary residential PICC limits the amount that charge can recover.

C. Application of PICCs to Centrex Lines

1. Background

15. The *First Report and Order* requires that the PICC recover common line revenues not recovered from the SLC and other common line charges, and that the PICC be applied on the same basis as the SLC. Centrex arrangements are charged more SLCs than are similarly-sized PBX arrangements. Consequently, the *First Report and Order* requires that Centrex arrangements be assessed a greater number of PICCs than are similarly-sized PBX arrangements.

22. Petitions

16. USTA, ICA, and the County of Los Angeles (Los Angeles) assert that the number of PICCs that are assessed on Centrex arrangements should equal the number of PICCs assessed on similarly-sized PBX arrangements. They contend that the revenues recovered from Centrex arrangements by the PICC are unrelated to the costs of providing Centrex service. They argue that Centrex customers currently pay one SLC per line, which recovers the full interstate portion of common line costs used to provide Centrex service. They further contend that the disproportionate level of PICC Centrex charges unfairly subjects Centrex systems to anticompetitive and arbitrary charges, which is contrary to the clear intent of Congress that subsidies be explicit and cost-based.

17. ICA observes that the Commission's rules appear to apply to lines that are toll restricted, thereby penalizing customers that attempt to control costs and reduce the possibility of toll fraud. According to ICA, many Centrex customers require that a portion of their Centrex lines be toll restricted. ICA argues that toll-restricted Centrex lines should not be subject to any PICCs.

18. Petitioners propose that LECs be permitted to reflect trunk equivalency. They propose that the PICC on Centrex lines be assessed using a line-to-trunk equivalency ratio. Such ratios are already set forth in intrastate tariffs. In the absence of an intrastate tariff, the LECs could develop such a ratio, or there could be agreed upon industry relationships between the Centrex lines and trunks. USTA also suggests that LECs should be permitted to count Network Access Registers (NARs) for purposes of assessing the PICC on Centrex customers. USTA contends that NARs are equivalent to PBX trunks since one NAR provides one link to the switch. In an *ex parte* filing, USTA has indicated that in order to address the complexity and verification problems of using individual state tariffs or individual company ratios, the Commission should adopt a uniform line-to-trunk equivalency ratio of 9 to 1.

3. Discussion

19. We grant the petitions of USTA, ICA, and Los Angeles that the PICC be assessed on Centrex lines using a line-to-trunk equivalency ratio. For the reasons discussed below, we adopt USTA's proposal to use a uniform 9:1 ratio. In large part, the multi-line business PICC is not a cost-based charge, but a contribution, "for a limited period, to the recovery of common line costs that incumbent LECs incur to serve single-line customers." It is therefore reasonable to consider non-cost factors in determining how to assess the PICC. We conclude that with respect to the PICC, Centrex customers should be treated similarly to PBX customers, because the two arrangements are functionally equivalent.

20. Petitioners state that Centrex and PBX arrangements are functionally equivalent, and opposing parties do not dispute this assertion. We do not wish to encourage a large customer to choose one of these arrangements, PBX, over another, Centrex, simply because, as a result of its IXC being charged substantially more PICCs, *i.e.*, non-cost-related charges, for Centrex service, the PBX service becomes cheaper.

21. In addition, many Centrex users are government, education, and health care facilities. We note that more than 25 percent (18,640) of Los Angeles's 67,000 Centrex lines, which do not include Los Angeles County public schools are used by health care facilities. Without using a line-to-trunk equivalency ratio, Los Angeles could be required to pay an additional $2.8 million annually in PICCs, if its presubscribed IXC passes these charges through. New York could see the implementation of the PICC increase its rates by over $2.4 million annually, if these charges are passed through by its IXC. Boston University, with its 10,000 Centrex lines, faces a potential increase of $330,000 per year in PICCs. By granting the petitions for relief, we ensure that all multi-line business customers shoulder a similar portion of the PICC contribution, irrespective of whether they use Centrex or PBX arrangements.

22. Centrex arrangements are charged SLCs on a per-line basis, even though this difference results in a higher rate than equivalent PBX arrangements have to pay. That differential is due to the additional common line costs that Centrex lines incur. Historically, the Commission has declined to apply a trunk equivalency ratio for Centrex services, under the rationale that "[i]f Centrex uses more lines, then Centrex necessarily creates more line costs." Unlike the SLC, in most instances, the multi-line business PICC will not recover loop costs of multi-line businesses. Instead, it will contribute to the recovery of the cost of single-line business and residential loops, which have lower SLC and PICC caps. Centrex and PBX are functionally equivalent in most respects. Taking these factors into consideration, it would be inequitable to require Centrex users to cause its presubscribed IXC to bear a significantly larger PICC contribution than do similarly-sized PBX users.

23. Therefore, we will limit the PICC charges that may be assessed on IXCs serving Centrex customers on a line-to-trunk equivalency basis, except where the multi-line business SLC ceiling does not permit the recovery of all interstate-allocated loop costs from the end user. In those instances, a somewhat greater PICC—one that includes the difference between the per-line loop cost and the multi-line business SLC cap—will be assessed on Centrex lines. Thus, for example, if on January 1, 1998, in a particular region the loop cost is $9.40, and the maximum permitted multi-line business PICC is being assessed, *i.e.*, $2.75, each Centrex line would be assessed a $0.71 PICC, which is equal to one-ninth of $2.75 plus the difference between the $9.40 loop cost and the $9.00 SLC.

24. In determining the appropriate line-to-trunk equivalency ratio, we consider several factors. First, we observe that many states, but not all, already have trunk equivalency tables for their intrastate tariffs. USTA has indicated that although these tables are similar, they are not identical. For example, USTA states that a Centrex customer with 70 lines is equivalent to a PBX customer with 13 trunks, while Ameritech states that in Illinois, the equivalency tariff for 70 Centrex lines is 8 PBX trunks. Adopting the trunk equivalency ratios set out in intrastate tariffs would result in different equivalency ratios being used in different states and would not provide a trunk equivalency ratio for many states. Because the trunk equivalency ratio we adopt today is for an interstate charge, a national standard for trunk equivalency ratio is appropriate.

25. We also desire administrative ease in calculating trunk equivalency. Adoption of a single ratio would simplify the assessment of PICCs on Centrex lines by eliminating the use of multiple ratios from multiple tables or state tariffs. IXCs would have the benefit of knowing that they will be assessed a set fraction of the PICC for each Centrex line that is presubscribed to their service, even when Centrex customers have lines presubscribed to different IXCs. Therefore, we have elected to adopt a single trunk equivalency ratio for establishing PICC charges for all Centrex lines. USTA suggested a ratio of nine (9) Centrex lines to one (1) PBX trunk. It bases its recommendation on the average of the weighted average trunk equivalency ratios or relationship between NARs and Centrex lines that are employed in several jurisdictions. Applying a 9:1 ratio would result in a maximum PICC on Centrex lines of approximately $0.30 per line in 1998 for the overwhelming majority of Centrex lines. We note that the ratio under some state tariffs can approach 18 to 1 for certain Centrex customers. Reducing the PICC from up to $2.75 to less than $0.31 achieves the goal of spreading the PICC contribution more equitably among multi-line business customers. Using a more complicated approach to establish equivalency may only add a marginal benefit, increasing or reducing PICCs by less than $0.16, and does not outweigh the additional administrative costs. We adopt the 9:1 ratio proposed by USTA, finding it to be reasonable and administratively simple.

26. Time Warner is correct in observing that our treatment of Centrex arrangements differs from how we addressed ISDN service in the *First Report and Order*. There, we set the SLC for PRI ISDN to be up to five times the amount assessed multi-line business subscribers, because that figure reflects the ratio of non-traffic sensitive loop costs associated with PRI ISDN service to non-traffic sensitive costs associated with other multi-line business loops. We also elected to permit incumbent LECs to assess up to five PICCs on PRI ISDN service because "prohibiting incumbent LECs from charging as many as five PICCs for PRI ISDN service could prevent them from recovering the common line costs associated with providing PRI ISDN service in cases where the common line costs exceed the SLC ceiling."

27. In both our treatment of ISDN lines and Centrex lines, our goal is to establish an equitable sharing of the multi-line business PICC. Prior to the adoption of the *First Report and Order*, we had no rules relating to the PICC. We had no evidence to the contrary that the assessment of five PICCs for PRI ISDN was inappropriate, so we elected to be consistent as between SLC and PICC assessment. Previously, however, ISDN lines could be charged up to 24 SLCs. The adjustment from 24 SLCs to five SLCs and five PICCs does not create undue hardship on ISDN subscribers, and the *First Report and Order* should reduce their overall rates.

28. Time Warner also argues that imposing the PICC on Centrex on a per-line basis is part of the Commission's access charge transition to a more cost-causative rate structure. Although the multi-line PICC is part of our transition, this alone does not justify requiring Centrex customers to make a greater contribution toward recovery of the loop cost of residential customers than do PBX customers. Teleport's assertion that petitioners are exaggerating the impact of the PICC on Centrex users, because the amount of the charge is substantially less than the SLC, ignores the fact that the SLC recovers the additional costs imposed by Centrex customers, while the PICC does not.

29. We deny ICA's petition that we not assess PICCs on toll-restricted Centrex lines. Although the PICC is assessed upon IXCs for all lines that are presubscribed to an IXC, the PICC is not a charge based on toll usage or on the ability to place toll calls. The Commission anticipated that some lines might not be used for long distance when it adopted a rule allowing PICCs to be assessed directly upon end users for any line not presubscribed to an IXC. The fact that toll-restricted Centrex lines incur no long-distance charges is, therefore, irrelevant. Also, costs for these lines are assigned to the interstate jurisdiction by separations, regardless of whether the lines are toll-restricted.

II. Transport

A. TIC Exemption

1. Background

30. The Commission created the TIC originally as a residual charge to ensure that its adoption of the 1992 interim transport rate structure was revenue-neutral for the incumbent LECs. As such, the Commission required that the TIC be assessed on a per-minute basis on all interstate access customers that interconnect with the LEC switched access network. A portion of the TIC represented the 80 percent of the costs of the tandem switch remaining after the Commission set the tandem-switching rate to recover only 20 percent of the tandem-switching revenue requirement. The rest of the revenues collected from the TIC represented costs previously recovered through transport charges that could not, at that time, be associated definitively with specific facilities or services related to transport. The Commission stated in the *First Transport Order* that, in addition to tandem-switching costs, the TIC likely recovered: (a) Costs more appropriately recovered through other rate elements; (b) costs that more properly belong in the intrastate jurisdiction, but that the Part 36 jurisdictional separations rules allocate to the interstate jurisdiction; (c) costs of facilities that were then in place, but not needed for transport under the more efficient transport rate structure being adopted; and (d) costs of not-fully-depreciated copper plant that was nevertheless being replaced by less expensive fiber optic facilities. Transport Rate Structure and Pricing, Report and Order and Further Notice of Proposed Rulemaking, 57 FR 54717 (November 20, 1992) *(First Transport Order)*. The Commission also cited assertions by parties to that proceeding that the TIC also recovered (e) general support facilities (GSF) and central office equipment (COE) maintenance expenses and GSF investment that were overallocated to the transport category; and (f) additional costs that the Commission had not then identified.

31. In reviewing the Commission's interim transport rate structure, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) found that the just and reasonable rates required by Sections 201 and 202 of the Communications Act, 47 U.S.C. §§ 201–202, must ordinarily be cost-based, absent a clear explanation of the Commission's reasons for a departure from cost-based ratemaking. *Competitive Telecommunications Ass'n* v. *FCC*, 87 F.3d 522, 529 (D.C. Cir. 1996) *("CompTel")*. The D.C. Circuit, therefore, directed the Commission to develop a cost-based alternative to the TIC, or to provide a reasoned explanation for its departure from the principles of cost-based ratemaking.

32. In the *First Report and Order*, we reformed the TIC and set forth a plan that will eliminate per-minute TIC charges over the next few years. We initially identified TIC amounts that could be associated with particular network facilities and directed incumbent LECs to reallocate these TIC amounts to access rate elements more closely corresponding to those network facilities. These LECs will perform the required reallocations in access tariffs filed to become effective January 1, 1998, with some exceptions. For example, the portion of tandem-switching costs that the Commission initially allocated to the TIC will be reallocated to the tandem-switching rate element in three approximately equal steps concluding January 1, 2000. In addition, the costs of the incumbent LECs' tandem-switched transport transmission facilities that are not recovered from tandem-switched transport users under the unitary rate structure will be recovered through the TIC until July 1, 1998.

33. For price cap LECs, the "residual TIC," consisting of amounts that the LEC has not reallocated as described above, will be recovered through per-line PICCs, to the extent possible while remaining within the PICC caps. Residual TIC amounts that the price cap LEC cannot recover through PICCs will be recovered through a per-minute TIC on originating access, up to a cap, with any remainder recovered from per-minute charges assessed on terminating access.

In the *First Report and Order*, we recognized that the per-minute TIC, because it is assessed on all transport minutes carried on facilities that interconnect with the incumbent LEC's local switch, may give the incumbent LEC a competitive advantage in the transport market. We therefore provided a TIC exemption for switched minutes carried by competitive access providers (CAPs) that interconnect with the incumbent LEC switched access network at the end office, stating that, "if the incumbent LEC's transport rates are kept artificially low and the difference is recovered through the TIC, competitors of the incumbent LEC pay some of the incumbent LEC's transport costs." This TIC exemption is scheduled to take effect on January 1, 1998.

2. Petitions for Reconsideration and Petitions for Stay

a. AT&T and Teleport. 35. On reconsideration, AT&T and Teleport request that we permit the per-minute residual TIC exemption for switched minutes carried by CAPs that interconnect with the incumbent LEC switched access network at the end office to take effect immediately, rather than on January 1, 1998. According to Teleport, the Commission, having recognized that the imposition of TIC charges on CAP-transported minutes is "inconsistent with the pro-competitive goals of the 1996 Act," should not permit the practice to continue throughout the balance of calendar 1997.

b. RCN. 36. RCN argues that the TIC exemption contained in the *First Report and Order* preserves the incumbent LECs' competitive advantage because it exempts CAP-transported minutes only from the "residual" TIC. In making this argument, RCN interprets the term "residual TIC" to include only non-facilities-related TIC amounts. Under RCN's interpretation, the "residual TIC" would not include facilities-related TIC amounts that will remain in the TIC until they are reallocated as late as January, 2000.

c. US West and NYNEX Petitions for Stay. 37. NYNEX and US West separately have filed petitions requesting that the Commission stay the effectiveness, pending appeal, of 47 CFR 69.155(c), the rule we adopted in the *First Report and Order* prohibiting local exchange carriers from assessing the per-minute residual TIC on traffic that uses the LEC's local switching services, but that does not use the LEC's local transport services. NYNEX and US West argue that such a stay is warranted because they are likely to prevail on the merits of their respective appeals and that the balance of equities favors a stay. NYNEX and US West further argue that the rule should be stayed in its entirety, to allow them to recover the entire per-minute TIC, without regard for the transport provider. In the alternative, however, NYNEX requests a partial stay to allow it to so recover the non-facilities-related portion of the TIC.

38. Procedurally, NYNEX maintains that the Commission failed to offer an adequate opportunity for public comment on the residual TIC exemption, in that the Commission's *Notice*, Access Charge Reform, CC Docket No. 96–262, Notice of Proposed Rulemaking, 62 FR 6270 (January 31, 1997) *(Notice)*, failed to provide adequate notice of the TIC exemption and that the Commission improperly relied on a CompTel/Teleport *ex parte* presentation made three weeks before the Order was adopted.

39. Substantively, NYNEX argues that the Commission's decision to prohibit assessment of the residual TIC on minutes that use CAP transport networks is inconsistent with the Commission's findings that a large portion of the TIC is not related to any specific transport or other facilities.

40. NYNEX also argues that the Commission has failed to explain why it is reasonable for the LEC to recover both service-related and non-service-related TIC amounts from PICCs, but neither component from the per-minute residual TIC.

41. NYNEX also argues that the use of price cap X-factor reductions to decrease the per-minute TIC will effectively reallocate the per-minute residual TIC to other rate elements as the per-minute TIC is reduced to the exclusion of all other rate elements. According to NYNEX, the residual TIC is completely excluded only to the extent that the X-factor targeting has not reallocated it to a permitted rate element. NYNEX argues that the Commission has not offered a justification for disallowing TIC recovery only during this transition period.

42. NYNEX argues that the CAP TIC exemption is arbitrary in that it will have a disproportionately harsh effect on NYNEX, and that this non-uniform impact will hinder the development of "full and fair" competition. Similarly, US West argues that, by making it difficult or impossible for it to collect the per-minute TIC, the TIC exemption is contrary to the Commission's decision not to disallow any portion of the current TIC.

43. NYNEX also argues that the TIC exemption contradicts the Commission's conclusion that access

reform, in itself, should not produce overall rate reductions because the price cap LECs' per-minute TIC revenues are likely to be less than those calculated in the restructure. As a result, the price cap LECs will be unable to collect the full amount of revenues from per-minute residual TIC rates or PICCs that will be included in their January 1, 1998, tariff revisions.

44. NYNEX and US West argue that an exemption for the service-related portion of the TIC is inconsistent with the Commission's continued reliance on subsidization of tandem-switching rates by direct-trunked transport customers until December 31, 1999.

45. US West argues that, after January 1, 1998, the TIC will consist of implicit tandem switching and universal service support subsidies (including the higher costs of providing rural transport) and that the TIC exemption results in a collection system for this subsidy that is non-sustainable, discriminatory, and inequitable.

3. Discussion

46. We decline to modify the effective date of 47 CFR 69.155(c) as AT&T and Teleport request. Although some of the Commission's actions to reform the interstate access charge system took effect in access tariffs filed to become effective July 1, 1997, the majority of the Commission's rate structure changes take effect on January 1, 1998, or later. Because the TIC exemption at issue here is one part of our larger effort to reform the system of interstate access charges to preserve and promote competition, we believe that the rule should take effect on January 1, 1998, at the same time as many of our other rules relating to the transport rate structure. Incumbent LEC access tariffs filed to become effective on that date will reallocate many of the currently-identified facilities-related TIC amounts to other rate elements. In addition, on January 1, 1998, for the first time, the incumbent LECs will begin collecting remaining TIC amounts from PICCs assessed to IXCs on a flat-rate, per-line basis. Because a portion of the TIC, including some facilities-related TIC amounts, will be allocated to PICCs on January 1, 1998, we conclude that the extent of the exemption we adopt here will not be evident until these tariff revisions take effect. Thus, we conclude that the exemption should take effect only in concurrence with the implementation of the PICC.

47. We agree with RCN and MCI that we should clarify the extent of the TIC exemption described in the *First Report and Order*. In addition, in response to concerns raised in NYNEX's and U S West's petitions for stay, we reconsider on our own motion our adoption of the TIC exemption provided in the *First Report and Order*. 47 CFR 1.108. Under long-established Commission practice, the filing of a petition for reconsideration tolls the thirty day period our rules provide for *sua sponte* reconsideration. *E.g., Central Fla. Enters., Inc.* v. *FCC*, 598 F.2d 37, 48 n.51 (D.C. Cir. 1978), *cert. dismissed*, 441 U.S. 957 (1979), *and cert. denied* 460 U.S. 1084 (1983); *Radio Americana, Inc.* 44 F.C.C. 2508, 2510 (1961). Upon further consideration, we conclude that the TIC exemption provided in the *First Report and Order* could provide an unjustified windfall to competitive providers of local transport. Because the non-facilities-related portion of the residual TIC does not relate to the use of the incumbent LEC's interstate transport facilities, we need not exempt competitors from paying this portion of the TIC in order to prevent them from paying for the incumbent LEC's transport when that transport is not used. Therefore, incumbent LECs may continue, after January 1, 1998, to assess upon all local switching traffic that portion of their per-minute TIC charges that they do not anticipate will be reallocated in the future to facilities-based rate elements. This is the only portion of the per-minute TIC, however, that may be assessed upon traffic that uses the incumbent LEC's local switching services, but that does not use the incumbent LEC's local transport services. Under this rule, interexchange traffic that is switched at the incumbent LEC's local switch, but that is not transported on the incumbent LEC's local transport network, will be subject to the per-minute TIC, less the portion of the per-minute TIC attributable to incumbent LEC tandem-switching and tandem-switched transport transmission costs that have not yet been reallocated to facilities-based rate elements. In access tariff revisions filed to become effective January 1, 1998, incumbent LECs must show all such facilities-related amounts that they anticipate will be reallocated in the future, including appropriate documentation, and calculate separate per-minute TIC charges for those minutes that use the incumbent LEC's local transport facilities and those that do not.

48. In remanding the interim rate structure, the D.C. Circuit instructed the Commission to "move expeditiously * * * to a cost-based alternative to the [TIC], or to provide a reasoned explanation of why a departure from cost-based ratemaking is necessary and desirable in this context." For our rate structure to be "cost-based," costs must be recovered (1) only from the party that causes the costs to be incurred; and (2) in the manner in which the costs are incurred (*e.g.*, non-traffic-sensitive costs should be recovered on a non-traffic sensitive basis).

49. Our *First Report and Order* identified certain costs within the TIC that more properly should be recovered through other access rate elements. These costs include additional trunking costs left unrecovered by rates set assuming a uniform loading of 9000 minutes of use per month on shared trunks, rather than rates set using actual traffic levels, as well as misallocated costs of central office equipment maintenance. In addition, we identified costs related to multiplexing, SS7 signalling, and host/remote trunking that are currently recovered through the TIC. LECs must reallocate all of these costs to facilities-based rate elements in access tariffs filed to become effective January 1, 1998. In addition, one third of the 80 percent of the costs of the tandem switch currently assigned to the TIC will be reallocated to the tandem switching rate element on that date.

50. After January 1, 1998, the costs contained in the TIC that the Commission has identified as facilities-related will have two primary sources. The majority of the facilities-related TIC will consist of the portion of the incumbent LEC's tandem-switching costs not yet reallocated to the tandem-switching rate element. These costs will be reallocated to the tandem-switching rate element in two additional installments in tariffs filed to become effective on January 1, 1999, and January 1, 2000. In addition, from January 1, 1998, until July 1, 1998, the TIC will also recover the costs of tandem-switched transport transmission facilities that are not recovered by the incumbent LEC from tandem-switched transport customers electing the unitary rate structure. These TIC amounts are also facilities-related. In the *First Report and Order*, we directed incumbent LECs to remove costs from the TIC "equal to the additional revenues realized from the new tandem-switched transport rates * * * implemented in accordance with the [final transport] rate structure." Because the three-part rate structure will not take effect until July 1, 1998, we require incumbent LECs to estimate in their tariffs filed to become effective January 1, 1998, the amount by which their tandem-switched transport transmission revenues will increase under the three-part rate structure. This amount, currently contained in the TIC, is facilities-related and therefore subject to the exemption described in this order.

51. Neither the tandem-switching costs nor the tandem-switched transport transmission costs contained in the TIC relate to facilities used by purchasers of competitive alternatives to the incumbent LEC's transport facilities. The D.C. Circuit remanded the interim transport rate structure to the Commission in part because that rate structure did not recover the costs of the tandem switch in a cost-causative manner. Our *First Report and Order*, in reallocating these costs, remedies this situation as expeditiously as possible while minimizing the potential for rate shock that otherwise might accompany such a shift. Because these costs are incurred on behalf of the incumbent LEC's own transport operation, however, it would be inconsistent with the principles of cost-causation to prolong the recovery of these costs from users of competing transport facilities.

52. Our approach to access reform relies first on increasing market-based pressures as competition develops to place downward pressure on access charge levels. We conclude that, for this approach to succeed, we should develop a rate structure that permits maximum competitive pressure on each incumbent LEC revenue stream, absent compelling public policy reasons to the contrary. It would impair the effectiveness of our market-based approach for us to insulate a significant portion of the costs of the incumbent LEC's transport facilities from competition by mandating recovery of these costs from incumbent LEC competitors.

53. We recognize that, during the two-year transition period, our rules will continue to prohibit the incumbent LEC from allocating the full, embedded cost of the tandem switch to the tandem-switching rate element. The effect of our three-step reallocation process will be to permit a continued subsidy of the incumbent LEC's tandem switch by users of the incumbent LEC's direct-trunked transport facilities and minimize any rate shock for tandem-switched transport customers. Because the incumbent LEC's competitors offering transport services will not be subject to this subsidy, they may enjoy a slight competitive advantage over the incumbent LEC.

54. We find, however, that the competitive benefits to be gained from recovering these costs only from the incumbent's customers and not from customers using competitive transport providers outweigh any potential dangers resulting from the small, temporary asymmetry caused by the TIC exemption we provide here. Even though the full costs of the incumbent LEC's tandem switch will not be borne by the users of the tandem switch until January, 2000, the effects of the TIC exemption will be reduced substantially before that time as the incumbent LEC collects an increasing proportion of the tandem-switching costs remaining in the TIC through PICCs. As discussed below, we continue to permit the incumbent LEC to assess the full PICC on each of its loops, without regard for the type or provider of the transport the IXC uses to transport the minutes generated by that loop from the end office to the IXC's facilities. As the portion of the incumbent LEC's tandem-switching costs that is recovered through the per-minute TIC decreases, any potential adverse effects of this small asymmetry will rapidly decrease. In contrast, if we were to mandate recovery of this portion of the incumbent LEC's tandem-switching costs from all customers using the incumbent LEC's local switching facilities, without regard for whether they make use of the incumbent LEC's transport facilities, we would insulate this revenue from much of the pressure we anticipate will develop as competitors enter the local service and access markets. The resulting delay in competitive entry would be harmful to consumers, who will benefit most from increased competition.

55. We revise the TIC exemption contained in our *First Report and Order*, however, to permit the incumbent LEC to impose the remaining non-transport costs assigned to the TIC on all minutes switched by the incumbent LEC at its end office, without regard for whether those minutes are carried on incumbent LEC or competitive transport facilities. In contrast to the portion of the incumbent LEC's tandem-switched transport costs that will remain in the TIC after January 1, 1998, we did not find in the *First Report and Order* that the remainder of the TIC could be associated definitively with particular interstate facilities on the record before us. Instead, we stated that a portion of these TIC amounts may result from the operation of the jurisdictional separations process, which allocates the costs of private line and switched services differently between the state and interstate jurisdictions, despite the fact that these two types of services use comparable facilities. As a result, we recognized in the *First Report and Order* the possibility that rates for direct-trunked transport and tandem-switched transport transmission facilities may not recover the full amount of the costs of switched facilities the separations process allocates to the interstate jurisdiction.

56. We have recently begun a broad re-examination of the jurisdictional separations process that may eventually correct this problem. In the meantime, however, we are unable to associate these TIC amounts with any particular interstate facilities. Instead, to the extent that this portion of the TIC may result in part from overallocation of costs to the interstate jurisdiction, thereby lowering intrastate rates, this portion of the TIC may be a form of implicit universal service support. As such, it would be inequitable to mandate recovery of this portion of the per-minute TIC only from the incumbent LEC's transport customers. Because these amounts do not appear to be any more closely related to the incumbent LEC's interstate transport facilities than they are to any other interstate facilities of the incumbent, it is appropriate for all of the incumbent LEC's access customers, and not just its transport customers, to pay a share of this portion of the per-minute TIC. In the *First Report and Order*, we stated our commitment to minimize the potential of the per-minute TIC artificially to suppress demand for interstate toll services. Because the non-facilities-related TIC is composed of amounts that have not been demonstrated to reflect usage-sensitive costs, it does have this undesirable effect. We have therefore required that it be eliminated expeditiously through targeting of the X-factor reductions to the interconnection charge service category and through conversion of the residual TIC to a flat-rated charge.

57. In addition, we stated in the *First Report and Order* that a portion of the costs remaining in the TIC may result from our use of special access rates to develop initial geographically-averaged direct-trunked transport and tandem-switched transport transmission rates. We agreed in the *First Report and Order* that, while the use of such rates appears to have been appropriate in urban areas, these rates may not fully recover the higher costs of transport in less densely populated rural areas. Because we are unable to quantify these cost differences, and because it is likely that the cost differential varies greatly across LECs and across study areas served by the same LEC, we did not mandate any immediate reallocation of costs from the TIC to rural transport rates. Instead, we expect that, as competition develops, the incumbent LECs will come under increasing pressure to deaverage transport rates under our existing deaveraging rules. We observe that, as with the costs discussed in the previous paragraph, recovery of rural transport

costs through the TIC supports a conclusion that at least a portion of the non-facilities-related TIC may be related to the provision of universal service.

58. We also here clarify that the "residual TIC" that the incumbent LEC should recover from PICCs includes all TIC amounts that have not been reassigned to other facilities-based rate elements, including the portion of the incumbent LEC's tandem switching costs that have not been reassigned to the tandem-switching rate element in tariffs filed to become effective on January 1, 1998, and January 1, 1999. We direct price cap LECs that will recover only a portion of their residual TIC from PICCs to allocate non-facilities-related TIC amounts and facilities-related TIC amounts between PICCs and per-minute charges on a *pro rata basis*. The incumbent LECs must reallocate the full amount of the costs of their tandem switch to the tandem switching rate element in installments on January 1, 1998, 1999, and 2000, whether they are then contained in per-minute charges or in PICCs.

59. Accordingly, we revise the TIC exemption contained in our *First Report and Order* to permit the incumbent LEC, in tariffs filed to become effective January 1, 1998, to impose that portion of the per-minute TIC that is not expected to be reassigned to particular facilities on a cost-causative basis on all transport minutes switched at its end office, without regard for whether those minutes are carried on incumbent LEC or competitive transport facilities. Per-minute TIC amounts that the LEC expects to reallocate to facilities-based rate elements, in contrast, may be assessed only on minutes transported on the incumbent LEC's own transport facilities.

60. TIC amounts that a price cap LEC will recover through PICC charges may be assessed to an IXC for a particular loop without regard for the type or provider of the transport the IXC uses to transport the minutes generated by that loop from the end office to the IXC's facilities. Although certain price cap LECs will recover a portion of the costs of their tandem-switching facilities during the transition through PICCs from IXCs that do not use the price cap LEC's transport facilities to transport all of the minutes generated on a particular loop, the administrative difficulties associated with calculating partial PICCs in this context outweigh the benefits to be gained from doing so. If an IXC were to use a combination of competitive- and incumbent LEC-provided transport facilities between an end office and its serving wire center, it would be needlessly complicated to determine the portion of the minutes generated on each loop that were carried on competitive transport links. Furthermore, unlike the per-minute TIC, the flat-rated PICC will not substantially alter the incremental cost of additional transport minutes transported over competitive transport facilities. Thus, even if an IXC pays a full PICC, this payment will not affect the IXC's decision whether to purchase additional transport minutes from the incumbent LEC or a competitive transport provider. As a flat-rated charge, the PICC will not artificially suppress demand for interstate toll telecommunications services.

61. In addition, the PICC is subject to competitive pressures, whether or not it recovers TIC amounts for traffic transported by the incumbent LEC's competitors. If the end user chooses an alternate provider of local service, the incumbent LEC will no longer recover any portion of the PICC for that loop. Thus, we conclude that the dangers associated with the recovery of the full PICC without regard for the transport provider are far more attenuated than the dangers that would be associated with recovery of facilities-related costs from per-minute TIC charges levied on competitive transport minutes.

62. We deny the petitions filed by U S West and NYNEX requesting a stay of the per-minute TIC exemption rule. In determining whether to stay the effectiveness of one of its rules or orders, the Commission uses the four-factor test established in *Virginia Petroleum Jobbers Ass'n* v. *FPC*, 259 F.2d 921, 925 (D.C. Cir. 1958), as modified in *Washington Metropolitan Area Transit Comm'n* v. *Holiday Tours, Inc.*, 559 F.2d 841, 843 (D.C. Cir. 1977). Under that test, petitioners must demonstrate that: (1) They are likely to succeed on the merits on review; (2) they would suffer irreparable injury absent a stay; (3) a stay would not substantially harm other interested parties; and (4) a stay would serve the public interest. We find that neither NYNEX nor U S West has satisfied any of the four factors for granting a stay. In light of the substantial relief we have granted above, however, we provide only a brief analysis here of the petitioners' arguments. The practical effect of our revisions to the TIC exemption, however, will be to provide a substantial portion of the relief sought in the stay petitions. In light of these revisions, we believe that the petitioners are unlikely to succeed on the merits on review, that they will not suffer irreparable injury absent a stay, that a stay would cause substantial harm to the incumbent LECs' competitors, and that the public interest is best served by the TIC exemption described here. With respect to the portion of the TIC related to the costs of the incumbent LEC's interstate transport facilities, we conclude that there are sound policy reasons underlying our decision to maintain this exemption and, consequently, we find against the petitioners here.

63. We conclude that NYNEX's objections to the sufficiency of our notice are without merit. The *Notice* in this proceeding provided adequate notice of the TIC exemption we ultimately adopted. Our *Notice* in this proceeding stated that "to the extent that any portion of the TIC should properly be included in LEC transport rates, other than the TIC, the TIC provides the LECs with a competitive advantage for their interstate transport services because incumbent LEC transport rates are priced below cost while the LECs' competitors using expanded interconnection must pay a share of incumbent LEC transport costs through the TIC * * *. Our goal in this proceeding is to establish a mechanism to phase out the TIC in a manner that fosters competition and responds to the *[CompTel]* court's remand." We went on to state, in the section of the *Notice* entitled "Possible Revisions to the TIC," that "our goals are to move towards significantly more cost-based access rates and competition in the access and interexchange markets. The development of a competitive access market will be distorted by the assessment of the TIC as a surcharge on local switching. The TIC therefore will be unsustainable." We sought comment on the extent to which various approaches to reducing the TIC would "achieve the goals of this proceeding" and asked parties to "address the relative merits of each [approach], or of other approaches that they may suggest." We conclude therefore that, beyond reasonable question, our *Notice* provided adequate notice of "the terms or substance of the proposed rule or a description of the subjects and issues involved."

64. In any event, courts require only that the rule, as adopted, constitute a "logical outgrowth" of the proposed rule. *E.g., National Mining Ass'n* v. *Mine Safety and Health Admin.*, 116 F.3d 520, 531 (D.C. Cir. 1997). To satisfy this standard, courts ask "whether 'the purposes of notice and comment have been adequately served.' " Factors to be considered include "whether a new round of notice and comment would provide the first opportunity for interested parties to offer comments that could persuade the agency to modify its rule;" *American Water Works Ass'n* v. *EPA*, 40 F.3d 1266, 1274 (D.C. Cir. 1994), and whether "the notice given affords 'exposure to diverse public comment,' 'fairness to affected parties,' and 'an opportunity to develop evidence in the record.' " We conclude that the *Notice* language quoted above more than adequately meets this standard. The *Notice* in this proceeding discussed possible revisions to the TIC rate element for nine full pages, sought comment on four specific TIC-reduction options, and invited commenters to suggest alternate approaches. The *Notice* in this proceeding discussed expressly the anti-competitive problems associated with the payment of TIC charges by competitive providers of transport services, stated that the TIC would be "unsustainable" in that form, and sought comment on approaches to reform that would "achieve the goals of this proceeding," among which was the adoption of a transport rate structure that would foster competition. In such circumstances, we conclude that commenters should have anticipated that the Commission might eventually adopt a TIC exemption for competitive transport providers, that our *Notice* afforded adequate notice of the Commission's eventual adoption of such an exemption, and that we provided an adequate opportunity for diverse public comment.

65. In response to the *Notice*, several commenters, in their initial comments, proposed TIC exemptions for competitive transport. WorldCom, for example, argued that, "the Commission should restructure the TIC rate element * * * in a manner that maximizes competitive pressure on the charge. As local and full-service competition begin[s] to emerge, competitive carriers should be able to avoid the TIC to the extent that they win customers away from incumbent LECs. This will create competitive pressure for the LECs to reduce their TIC rate levels, without necessitating any prescriptive action by the Commission." The fact that several commenters raised this solution in their comments, and in subsequent *ex parte* filings, supports our conclusion that the *Notice* adequately raised this issue.

66. We also conclude that NYNEX's claims of irreparable harm are without merit. Although the TIC exemption may impact some incumbent LECs differently from others, the same can be said for virtually all of the rules we adopt, simply because of differences in the circumstances and business climate facing each LEC. Our focus in the context of a stay petition must be on individualized allegations of irreparable harm. We find that neither petitioner has met that standard with respect to the TIC exemption we provide in this Order. Mere financial or economic losses do not, in and of themselves, constitute irreparable harm. In addition, because this portion of the per-minute TIC is likely to be relatively small, in relation to the remainder of the TIC and other transport charges, the incumbent LECs are unlikely to suffer large-scale competitive losses as a result of the exemption, as modified here. In any event, we have long held that "revenues and customers lost to competition which can be regained through competition are not irreparable."

67. In contrast, continued subsidy of the incumbent LECs' tandem switching facilities by competitors is incompatible with the development of competition in the local market. Without an exemption permitting new entrants to cease subsidizing incumbent LEC transport facilities, the incumbent LEC's revenue stream from facilities-related, per-minute TIC charges would be insulated from competition. These new entrants, having already shouldered financial burdens in seeking to compete with the established monopoly incumbent LEC, should not be required in addition to subsidize the facilities of the incumbent LEC against whom they compete. Such a result would cause continued harm to these new entrants, and would further delay the public interest benefits of competition. Thus, we conclude that the petitioners have failed to satisfy either of the last two factors we must consider in evaluating their stay petitions. Accordingly, we deny the stay petitions.

B. Deaveraged Tandem-Switched Transport Transmission Rates

68. We also take this opportunity to amend the language of section 69.111(c)(1) to specify the manner in which minutes are to be determined through June 30, 1998, in calculating tandem-switched transport transmission rates when an incumbent LEC has deaveraged rates by density zone. Section 69.111(c)(2), which applies after July 1, 1998, includes such language. The *First Report and Order* did not intend to take away the ability of incumbent LECs to deaverage transport transmission rates if they have met the requisite qualifications. Finally, we amend the references to section 69.124 in section 69.111 to refer to section 69.123.

III. Rate-of-Return LECs

69. In the *First Report and Order*, we took steps to adopt, *inter alia*, a cost-based transport rate structure and to comply with the D.C. Circuit's *CompTel* remand. As acknowledged in the *First Report and Order*, the *CompTel* remand applied to rate-of-return LECs as well as price cap LECs.

70. Upon further consideration, we recognize that, absent clarification, some language in the *First Report and Order* may be ambiguous in delineating which of our decisions applied to all incumbent LECs, including rate-of-return LECs. For example, in Section III.C. of the *First Report and Order*, we directed "all incumbent LECs to discontinue the unitary rate structure option for the transmission component of tandem-switched transport, effective July 1, 1998." In contrast to this language, we stated at paragraph 335 in the *First Report and Order* that we had restricted "application of the rules we adopt in this proceeding to the incumbent price cap LECs, with [three] limited exceptions," for: (1) "Universal service support to the interstate revenue requirement for all incumbent LECs in Section VI.D;" (2) "the changes to the TIC that we adopt[ed] in Section III.D * * * will also apply to rate-of-return incumbent LECs;" and (3) "in Section VI.A * * * our exclusion of unbundled network elements from Part 69 access charges applies to all incumbent LECs."

71. We take this opportunity to clarify that, with two limited exceptions, the decisions made in Section III.C of the *First Report and Order* relating to the rate structure and rate levels for entrance facilities, direct-trunked transport, and tandem-switched transport apply to all incumbent LECs, including rate-of-return LECs. The two exceptions are that we did not create for rate-of-return LECs separate rate elements for dedicated ports at the tandem switch and for multiplexers at the tandem switch. Thus, for example, rate-of-return LECs must discontinue the unitary rate structure option for tandem-switched transport no later than July 1, 1998, when all incumbent LECs must use only the three-part rate structure for cost recovery. These transport modifications that are applicable to rate-of-return LECs are in addition to those decisions made in Sections III.D, VI.A, and VI.D that also apply to rate-of-return LECs.

IV. Ordering Clauses

72. Accordingly, *it is ordered*, pursuant to Sections 1–4, 201–205, 251, 254, 303, and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151–154, 201–205, 251, 254, 303, and 405, and pursuant to section 1.108 of the Commission's rules, 47 CFR 1.108 that this Order on Reconsideration is adopted.

73. *It is further ordered* That section 69.153(g) of the Commission's rules, 47 CFR 69.153(g) is amended as set forth in the rule changes.

74. *It is further ordered* that sections 69.4, 69.111(c)(1), 69.153(c)(1), 69.153(d)(1)(i), 69.153(d)(2)(i), and 69.155(c) of the Commission's rules, 47 CFR 69.4, 69.111(c)(1), 69.153(c)(1), 69.153(d)(1)(i), 69.153(d)(2)(i), and 69.155(c) are amended as set forth in the rule changes.

75. *It is further ordered* That the information collections contained in these rules become effective January 1, 1998, following OMB approval, unless a notice is published in the **Federal Register** stating otherwise.

76. *It is further ordered* That, except as otherwise specified herein, the policies and rules adopted here shall be effective January 1, 1998.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

PART 69—ACCESS CHARGES

77. The authority citation for Part 69 continues to read as follows:

Authority: Secs. 4, 201, 202, 203, 205, 218, 403, 48 Stat. 1066, 1070, 1072, 1077, 1094, as amended, 47 U.S.C. 154, 201, 202, 203, 205, 218, 403.

78. Section 69.4 is amended by removing paragraph (h)(6), and revising paragraph (a) to read as follows:

§ 69.4 Charges to be filed.

(a) The end user charges for access service filed with this Commission shall include charges for the End User Common Line element, and for line port costs in excess of basic, analog service.

* * * * *

79. Section 69.111 is amended by revising paragraph (c) to read as follows:

§ 69.111 Tandem-Switched Transport and Tandem Charge.

* * * * *

(c)(1) Until June 30, 1998:

(i) Except in study areas where the incumbent local exchange carrier has implemented density pricing zones as described in section 69.123, per-minute common transport charges described in paragraph (a)(1) of this section shall be presumed reasonable if the incumbent local exchange carrier bases the charges on a weighted per-minute equivalent of direct-trunked transport DS1 and DS3 rates that reflects the relative number of DS1 and DS3 circuits used in the tandem to end office links (or a surrogate based on the proportion of copper and fiber facilities in the interoffice network), calculated using the total actual voice-grade minutes of use, geographically averaged on a study-area-wide basis, that the incumbent local exchange carrier experiences based on the prior year's annual use. Tandem-switched transport transmission charges that are not presumed reasonable shall be suspended and investigated absent a substantial cause showing by the incumbent local exchange carrier.

(ii) In study areas where the incumbent local exchange carrier has implemented density pricing zones as described in section 69.123, per-minute common transport charges described in paragraph (a)(1) of this section shall be presumed reasonable if the incumbent local exchange carrier bases the charges on a weighted per-minute equivalent of direct-trunked transport DS1 and BS3 rates that reflects the relative number of DS1 and DS3 circuits used in the tandem to end office links (or a surrogate based on the proportion of copper and fiber facilities in the interoffice network), calculated using the total actual voice-grade minutes of use, averaged on a zone-wide basis, that the incumbent local exchange carrier experiences based on the prior year's annual use. Tandem-switched transport transmission charges that are not presumed reasonable shall be suspended and investigated absent a substantial cause showing by the incumbent local exchange carrier.

(2) Beginning July 1, 1998:

(i) Except in study areas where the incumbent local exchange carrier has implemented density pricing zones as described in section 69.123, per-minute common transport charges described in paragraph (a)(2)(i) of this section shall be presumed reasonable if the incumbent local exchange carrier bases the charges on a weighted per-minute equivalent of direct-trunked transport DS1 and DS3 rates that reflects the relative number of DS1 and DS3 circuits used in the tandem to end office links (or a surrogate based on the proportion of copper and fiber facilities in the interoffice network), calculated using the total actual voice-grade minutes of use, averaged on a zone-wide basis, that the incumbent local exchange carrier experiences based on the prior year's annual use. Tandem-switched transport transmission charges that are not presumed reasonable shall be suspended and investigated absent a substantial cause showing by the incumbent local exchange carrier.

* * * * *

80. Section 69.153 is amended by revising paragraphs (c)(1) and (d), and adding paragraph (g) to read as follows:

§ 69.153 Presubscribed interexchange carrier charge (PICC).

* * * * *

(c) The maximum monthly PICC for primary residential subscriber lines and single-line business subscribes lines shall be the lower of:

(1) One twelfth of the sum of projected annual common line revenues and residual interconnection charge revenues permitted under our price cap rules divided by the projected average number of local exchange service subscriber lines in use during such annual period, minus the maximum subscriber line charge calculated pursuant to § 69.152(d)(2); or

(2) * * *

(d) To the extent that a local exchange carrier cannot recover its full common line revenues, residual interconnection charge revenues, and those marketing expense revenues described in § 69.156(a) permitted under price cap regulation through the recovery mechanisms established in §§ 69.152, 69.153(c), and 69.156 (b) and (c), the local exchange carrier may assess a PICC on multi-line business subscriber lines and non-primary residential subscriber lines.

(1) The maximum monthly PICC for non-primary residential subscriber lines shall be the lower of:

(i) One twelfth of the projected annual common line, residual interconnection charge, and § 69.156(a) marketing expense revenues permitted under our price cap rules, less the maximum amounts permitted to be recovered through the recovery mechanisms under §§ 69.152, 69.153(c), and 69.156 (b) and (c), divided by the total number of projected non-primary residential and multi-line business subscriber lines in use during such annual period; or

(ii) * * *

(2) If the maximum monthly PICC for non-primary residential subscriber lines is determined using paragraph (d)(1)(i) of this section, the maximum monthly PICC for multi-line business subscriber lines shall equal the maximum monthly PICC of non-primary residential subscriber lines. Otherwise, the maximum monthly PICC for multi-line business lines shall be the lower of:

(i) One twelfth of the projected annual common line, residual interconnection charge, and § 69.156(a) marketing expense revenues permitted under parts 61 and 69 of our rules, less the maximum amounts permitted to be recovered through the recovery mechanisms under §§ 69.152, 69.153(c) and (d)(1), and 69.156 (b) and (c), divided by the total number of projected multi-line business subscriber lines in use during such annual period; or

(ii) * * *

* * * * *

(g)(1) The maximum monthly PICC for Centrex lines shall be one-ninth of the maximum charge determined under paragraph (d)(2) of this section, except that if a Centrex customer has fewer than nine lines, the maximum monthly PICC for those lines shall be the maximum charge determined under paragraph (d)(2) of this section divided by the customer's number of Centrex lines.

(2) In the event the monthly loop costs for a multi-line business line, as defined in § 69.152(b)(1), exceed the maximum permitted End User Common Line charge, as set in § 69.152(b)(3), the maximum monthly PICC for a Centrex line determined under paragraph (g)(1) of this section shall be increased by the difference between the monthly loop costs defined in § 69.152(b)(1) and the maximum permitted End User Common Line charge set in § 69.152(b)(3). In no event, however, shall the PICC for a Centrex line exceed the maximum established under paragraph (d)(2) of this section.

81. Section 69.155 is amended by revising paragraph (c) to read as follows:

§ 69.155 Per-minute residual interconnection charge.

* * * * *

(c)(1) No portion of the charge assessed pursuant to paragraphs (a) or (b) of this section that recovers revenues that the local exchange carrier anticipates will be reassigned to other, facilities-based rate elements, including the tandem-switching rate element described in § 69.111(g), the three-part tandem switched transport rate structure described in § 69.111(a)(2), and port and multiplexer charges described in § 69.111(l), shall be assessed upon minutes utilizing the local exchange carrier's local switching facilities, but not the local exchange carrier's transport service.

(2) If a local exchange carrier cannot recover its full residual interconnection charge revenues through the PICC mechanism established in § 69.153, and will consequently recover a portion of its residual interconnection charge revenues through per-minute charges assessed pursuant to paragraphs (a) and (b) of this section, then the local exchange carrier must allocate its residual interconnection charge revenues subject to the exemption established in paragraph (c)(1) of this section between the PICC and the per-minute residual interconnection charge in the same proportion as other residual interconnection charge revenues are allocated between these two recovery mechanisms.

[FR Doc. 97–28548 Filed 10–28–97; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 62, No. 209
Wednesday, October 29, 1997

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Organization and Operations of Federal Credit Unions

AGENCY: National Credit Union Administration.

ACTION: Proposed rule and request for comments.

SUMMARY: The NCUA Board requests comment on the issue of field of membership overlaps and the use of exclusionary clauses. Also, the NCUA Board proposes to update the requirements for obtaining a community charter. The proposal clarifies the documentation requirements necessary for a new, expanding or converting community charter. Most importantly, the credit union must document its plan to serve all segments of the community. The proposal also clarifies the authority of the NCUA Board to take supervisory and/or administrative action against a credit union that fails to follow its marketing plan and/or business plan to serve all segments of the community.

DATES: Comments on the proposed amendments to § 701.1 of NCUA's regulations and IRPS 94–1 (section B of the Supplementary Information) must be received by November 28, 1997. Comments on Section A of the Supplementary Information regarding the request for comments must be postmarked or received by December 29, 1997.

ADDRESSES: Comments should be directed to Becky Baker, Secretary of the Board. Mail or hand deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428. Fax comments to (703) 518–6319. E-Mail comments to boardmail@ncua.gov. Please send comments by one method only.

FOR FURTHER INFORMATION CONTACT: J. Leonard Skiles, President, Asset Management and Assistance Center, 4807 Spicewood Springs Road, Suite 5100, Austin, Texas 78759, or telephone (512) 795–0999; Stephen E. Austin, Director of Supervision, Office of Examination and Insurance, 1775 Duke Street, Alexandria, Virginia, or telephone (703) 518–6360; Lynn K. McLaughlin, Program Officer, at the above address and telephone number; Michael J. McKenna, Staff Attorney, Office of General Counsel, at the above address or telephone (703) 518–6540.

SUPPLEMENTARY INFORMATION:

A. Overlaps and Exclusion Clauses

Overlaps in credit union fields of membership have increased in recent years due to a number of factors. The overlaps primarily are a result of more credit unions either being chartered as community credit unions, or existing occupational/associational based charters making application to convert to community charters. Also, many state regulators routinely permit overlaps of not only state chartered credit unions, but also federally chartered credit unions. As a result, issues relating to the competitive relationship between overlapped credit unions, particularly a community charter and any occupational/associational based credit union within the community charter's area of operations, are being reviewed. Data on the implications to both the credit unions and the members of federal credit unions directly competing with one another is limited but it is recognized that credit unions are an integral part of a dynamic and constantly changing financial marketplace. It is, therefore, important to identify all potential issues as they relate to the policy on overlaps. For example:

- From the perspective of the credit union member, what harm or benefit is derived from exclusionary clauses?
- Is overlap protection necessary for a credit union properly serving its members?
- What confusion, if any, is created for a credit union member when he or she is unable to join a community credit union because he/she is part of an excluded group?
- Do overlapping fields of membership increase or decrease services to the member?
- Should the NCUA Board consider safety and soundness concerns in the advent of credit unions with overlapping fields of membership?
- Will small credit unions and credit unions chartered to serve low-income areas be affected by overlapping fields of membership?
- Do overlapping fields of membership affect the "cooperative spirit" philosophy as articulated and practiced in the credit union movement?
- Should other factors, such as mutual consent, be taken into consideration in allowing or not allowing overlaps?
- Should federal credit unions gain tangible, quantifiable regulatory competitive protection from other federal credit unions, but not from state chartered credit unions?
- What are state policies and experience on overlaps?
- Do newly chartered, low-income, or any other types of credit union need overlap protection?
- Should the size of either the overlapped or overlapping credit union be taken into consideration in permitting or not permitting the overlap?

Issues relating to overlaps must be thoroughly analyzed in order to develop a revised policy on overlaps. Accordingly, the Board invites comments on the issues related to NCUA's overlap policy and the use of exclusion clauses.

B. Community Service Amendments

NCUA's community chartering policy is not affected by the injunction issued in the consolidated cases of *First National Bank and Trust Co., et al.* v. *NCUA* and the *American Bankers Association* v. *NCUA et al.*, which was partially stayed by the Court of Appeals on December 24, 1996. Current policy requires that a community charter must be based on "a well-defined neighborhood, community, or rural district." Given the diversity of community characteristics throughout the country, NCUA's policy is to limit the community to a single, geographically well-defined area where residents have common interests or interact. NCUA recognizes four types of affinity on which a community charter can be based—persons who live in, worship in, go to school in, or work in the community. More than one community credit union may serve the same community area.

The Board believes it is important, for reasons discussed below, to provide

clarification to credit unions on what is necessary for the approval of a request to convert to a community charter. The Board wishes to ensure that credit unions requesting to convert have fully considered the challenges in serving an entire community. Community credit unions are frequently more susceptible to competition from other local financial institutions and do not have a sponsoring company or association. The lack of a payroll deduction makes it more difficult to develop a savings promotion program and in the collection of loans. A diverse membership base creates new challenges in developing an appropriate business plan and marketing strategy, especially if this diverse population is located in a rural community. This guidance also applies to newly established community credit unions as well as credit unions wishing to expand their community boundaries.

IRPS 94–1, as amended by IRPS 96–1, specifies certain requirements that must be satisfied before a community charter can be granted. Integral to the current approval process for a community charter is the requirement that a business plan and marketing strategy for serving the community must be submitted. The business plan requirements, primarily an analysis of the market area, a service market strategy, an organizational/management plan, and financial plan, remain the same. However, further guidance has been requested on what constitutes an acceptable business plan/marketing strategy for approval as a community charter. In particular, questions have arisen regarding the NCUA Board's expectations relative to a community charter. In response to these questions, the NCUA Board believes it is necessary to clarify certain aspects regarding how a credit union intends to serve a community as evidenced by its business plan/marketing strategy.

First, the Board is clarifying that all community charters must be prepared to serve all segments of the community. The credit union must be willing and able within a reasonable period to not only serve, but also to market, to a diverse membership base, which should generally reflect the make-up of the community. This may require community credit unions to develop special marketing programs or services and products for different segments of the community. This type of information needs to be addressed in either the business plan or the marketing plan. Most importantly, this amendment highlights the fundamental difference between a community charter and other types of charters. That is, a community charter must make reasonable and prudent efforts to market its services to all segments of the community. An overall marketing strategy that primarily targets one segment, or select segments, of the community to the exclusion of others will not be acceptable. Membership and loan penetration rates, among other factors, will be reviewed to assess how well the credit union is serving the entire community.

Second, the Board is also clarifying that a new community charter or a credit union converting to a community charter will be held accountable for its business plan/marketing strategy outlining how it will serve the entire community submitted to NCUA as part of the approval process. Of course, there may be safety and soundness concerns, as well as other reasons, why a credit union did not follow or could not meet its business plan or marketing strategy objectives. Such reasons would be factored into any review by NCUA before a decision is made to take any supervisory and or administrative action. For example, if a credit union established and then implemented a special marketing plan for a group in specific need of credit union service within the community, and, notwithstanding its best efforts to attract membership from and provide service to that group the penetration rate is lower than projected, then failure to meet the business plan would not be cause for supervisory action. The NCUA Board recognizes that local marketplace factors may influence the time tables and even the ability to meet the business plan, though reasonable due diligence to meet the plan is expected.

Third, the Board is clarifying that the requirements set forth in Chapter I of the Chartering Manual to obtain a community charter, except for any requirements to demonstrate community support, also apply to an existing credit union converting to a community charter. The Board is requesting comment on the deletion of the requirements in IRPS 94–1 to provide written evidence of community support such as letters of support, petitions, or surveys.

A converting credit union must provide information on the groups being served, including penetration rates of all segments of its field of membership, marketing efforts to service the current field of membership and any special programs the credit union may have sponsored to assist groups in need of credit union services, such as adding a low-income community to its field of membership or mentoring a low-income community.

Finally, the Board is proposing to eliminate the ability of a credit union converting to a community charter to continue to serve groups outside the new community boundaries. Continued service to occupational and associational groups outside the community is not consistent with the nature of a community charter. This proposal is consistent with NCUA's policy regarding new community charters. Credit unions could continue to serve members of record of groups outside the community boundaries.

C. Thirty-Day Comment Period

These proposed amendments are being issued with a thirty (30) day comment period since the amendments are simply clarifying the Board's policy on community charters and explicitly stating the Board's implicit enforcement authority. Because these are technical amendments the Board believes a 30 day comment period is appropriate. Requests for comment is being expedited due to ongoing work requirements of NCUA's Field of Membership Task Force and the number of pending community charter conversions.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a regulation may have on a substantial number of small credit unions (primarily those under $1 million in assets). The proposed amendments will not have a significant economic impact on a substantial number of small credit unions and therefore a regulatory flexibility analysis is not required.

Paperwork Reduction Act

NCUA has determined that the proposed amendments do not increase paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget (OMB). 60 FR 44978 (August 29, 1995).

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. This proposed amendment makes no significant changes with respect to state credit unions and therefore, will not materially affect state interests.

Congressional Review

NCUA has determined that this is not a major rule under 5 U.S.C. Chapter 8.

List of Subjects in 12 CFR Part 701

Credit, Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on October 22, 1997.

Hattie Ulas,

Acting Secretary of the Board.

Accordingly, NCUA proposes to amend 12 CFR part 701 as follows:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, 1789. Section 701.6 is also authorized by 31 U.S.C. 3717. Section 701.31 is also authorized by 12 U.S.C. 1601, *et seq.*, 42 U.S.C. 1981 and 3601–3610. Section 701.35 is also authorized by 12 U.S.C. 4311–4312.

2. Section 701.1 is revised to read as follows:

§ 701.1 Federal credit union chartering, field of membership modifications, and conversions.

National Credit Union Administration policies concerning chartering, field of membership modifications, and conversions are set forth in Interpretive Ruling and Policy Statement 94–1, Chartering and Field of Membership Policy (IRPS 94–1), as amended by IRPS 96–1 and IRPS 97–1. Copies may be obtained by contacting NCUA at the address found in § 792.2(g)(1) of this chapter. The combined IRPS are incorporated into this section.

(Approved by the Office of Management and Budget under control number 3133–0015.)

Note: The text of the Interpretive Ruling and Policy Statement (IRPS 94–1) does not, and the following amendments will not, appear in the Code of Federal Regulations.

1. In IRPS 94–1, Chapter 1, Section IV.A.4.b is revised to read as follows:

IV.A.4.b.—Special Requirements for Community Credit Unions

Community credit unions are frequently more susceptible to competition from other local financial institutions and generally do not have substantial support from any single sponsoring company or association. Additionally, community credit unions must be prepared to serve all segments of the community. As a result, a community charter will often encounter financial and operational factors that differ from an occupational and associational charter serving select or defined groups. This results primarily from the fact that a community credit union will have a more diverse and possibly geographically dispersed membership base, which should generally reflect the make-up of the community. This diverse membership potential may require special marketing programs targeted to different segments of the community. For example, the lack of payroll deduction creates special challenges in the development of savings promotional programs and in the collection of loans. Accordingly, it is essential for the proposed community charter to develop a detailed and practical business plan for at least the first three years of operation that focuses on the accomplishment of the unique financial and operational factors of a community charter. The business plan shall contain, but not necessarily be limited to, the following:

- Analysis of market area—geographic, demographic, employment, income, housing, and economic data;
- Service/marketing strategy for all segments of the community—financial and other services to be provided, new member/share/loan promotion policies and procedures and income generation strategy;
- Organizational/management plan—qualification and planned training of officials/employees, operating facilities to include office space/equipment and supplies, accounting system, safeguarding of assets, insurance coverage, etc.; and
- Financial plan—sources and application of funds statements and pro forma balance sheet and income/expense statements and assumptions.

Community credit unions will be required to follow the marketing and/or business plan submitted with their application. In the event any community credit union fails to follow its marketing and/or business plan, supervisory and/or administrative actions may be taken against the credit union. If the business plan is not sufficiently detailed or does not satisfactorily address how the credit union will serve all segments of the community, the charter request may be conditionally approved by NCUA subject to the credit union's agreement of the imposed conditions.

A community credit union will be expected to regularly review its business plan as well as membership and loan penetration rates throughout the community to determine if the entire community is being adequately served. NCUA may require periodic service status reports on its service to the community and will review the credit union's service to the entire community during examinations.

2. In IRPS 94–1, Chapter 2, Section IV.B is revised to read as follows:

IV.B—Conversion to Community Charter

An existing occupational, associational, or multiple group federal credit union may apply to convert to a community charter. In order to support a case for a conversion to community charter, the applicant federal credit union must, in addition to the requirements for a community charter set forth in Chapter I (except for the requirement to demonstrate community support), develop a detailed business plan which may include, but not be limited to the following data:

- Current financial statements, including the income statement and a summary of loan delinquency;
- A map or maps showing both the existing and proposed boundaries for the field of membership, as well as existing and planned service facilities;
- A written description of the area of community service for the proposed community credit union;
- The most current population figures for the existing and proposed boundaries;
- The source of the population information (census data are considered the most authoritative); the greater the population of the proposed area, the greater justification necessary to support the existance of the "community" and interaction among its residents;
- Evidence that the proposed area is a "community" as defined in "Community Common Bond" in Chapter 1;
- Information concerning the availability of financial services to the residents of the new area;
- A list of credit unions with a home or branch office in the proposed area (If present credit union service to the residents of the new area is adequate, there may be no basis for the proposed conversion.);
- Information regarding the attitude of the current credit union sponsors and existing credit union members toward the proposed conversion (a letter from the board of directors of the credit union is sufficient evidence);
- Information on the groups presently being served, to include, but not necessarily limited to, income data on its membership, the penetration rate of the current field of membership, core group, and any low to moderate group, and any special programs the credit union sponsored to serve a low to moderate group; and

- The anticipated financial impact on the credit union in terms of need for additional employees and fixed assets.

* * * * *

[FR Doc. 97–28587 Filed 10–28–97; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–135–AD]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB SF340A and SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Saab Model SAAB SF340A and SAAB 340B series airplanes. This proposal would require an inspection to determine the serviceability of the fire extinguisher of the forward lavatory waste bin, and corrective actions, if necessary. This proposal also would require installation of a placard adjacent to the fire extinguisher in the forward lavatory waste bin. This proposal is prompted by the issuance of mandatory continuing airworthiness information by a civil airworthiness authority. The actions specified by the proposed AD are intended to prevent leakage of the fire extinguishing agent, which could prevent proper distribution of the agent within the lavatory waste bin in the event of a fire.

DATES: Comments must be received by November 28, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–135–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from SAAB Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden . This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97–NM–135–AD. The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–135–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfartsverket (LFV), which is the airworthiness authority for Sweden, notified the FAA that an unsafe condition may exist on certain Saab Model SAAB SF340A and SAAB 340B series airplanes. The LFV advises that it has received reports indicating that, during maintenance, the capillary tube of a fire extinguisher of a forward lavatory waste bin was bent and fractured, which resulted in leakage of the fire extinguishing agent. This condition, if not corrected, could prevent appropriate distribution of the fire extinguishing agent within the lavatory waste bin in the event of a fire.

Explanation of Relevant Service Information

Saab has issued Service Bulletin SAAB 340–25–235, dated December 11, 1996, which describes procedures for performing an inspection to determine the serviceability of the fire extinguisher of the forward lavatory waste bin, and corrective actions, if necessary. The service bulletin also describes procedures for installation of a placard adjacent to the fire extinguisher to provide instructions for installation of the fire extinguisher. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The LFV classified this service bulletin as mandatory and issued Swedish airworthiness directive (SAD) 1–106, dated December 12, 1996, in order to assure the continued airworthiness of these airplanes in Sweden.

FAA's Conclusions

These airplane models are manufactured in Sweden and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LFV has kept the FAA informed of the situation described above. The FAA has examined the findings of the LFV, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 141 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $16,920, or $120 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

SAAB Aircraft AB: Docket 97–NM–135–AD.

Applicability: Model SAAB SF340A series airplanes having serial numbers –121, and –125 through –159 inclusive; and Model SAAB 340B series airplanes having serial numbers –160 through –360 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent leakage of the fire extinguishing agent, which could prevent proper distribution of the agent within the lavatory waste bin in the event of a fire, accomplish the following:

(a) Within 3 months after the effective date of this AD, accomplish paragraphs (a)(1) and (a)(2) of this AD in accordance with Saab Service Bulletin SAAB 340–25–235, dated December 11, 1996.

(1) Perform an inspection to determine the serviceability of the fire extinguisher in the forward lavatory waste bin, in accordance with the service bulletin. If any discrepancy is found, prior to further flight, accomplish the repair or replacement of the fire extinguisher, as specified in the service bulletin.

(2) Install a placard adjacent to the fire extinguisher in the forward lavatory waste bin in accordance with the service bulletin.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in Swedish airworthiness directive SAD No. 1–106, dated December 12, 1996.

Issued in Renton, Washington, on October 23, 1997.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–28616 Filed 10–28–97; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Chapter VII

[Docket No. 971014244–7244–01]

Request for Comments on the Definition of "Specially Designed"

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Notice of inquiry; request for comments.

SUMMARY: The Bureau of Export Administration (BXA) is reviewing the use of the term "specially designed" as it pertains to items controlled on the Commerce Control List (CCL) in the Export Administration Regulations (EAR). BXA is considering developing a definition or definitions of that term that will meet the export control objectives of the regulations while increasing the utility of the regulations to the public.

Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and continued in effect the EAR, and to the extent permitted by law, the provisions of the EAA, as amended, in Executive Order 12924 of August 19, 1994, as extended by the President's notices of August 17, 1995 (60 FR 42767), August 14, 1996 (61 FR 42527) and August 13, 1997 (62 FR 43629).

DATES: Comments must be received by December 29, 1997.

ADDRESSES: Written comments (three copies) should be sent to Hillary Hess, Regulatory Policy Division (Room 2096), Office of Exporter Services, Bureau of Export Administration, Department of Commerce, PO Box 273, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Jerald Beiter, Office of the Assistant Secretary for Export Administration, Bureau of Export Administration, Department of Commerce, telephone: (202) 482–6105.

SUPPLEMENTARY INFORMATION: A number of U.S. exporters and others have requested that BXA provide a definition of the term "specially designed" in order to assist them in classifying certain items according to the Commerce Control List. In responding to this request, BXA intends to examine the use of the term in multilateral control regimes, use of the term by other countries in their export control regimes, the opinions of other government agencies, and the opinions of members of the public. Our goal is to fulfill the export control purposes behind the regulations, to adhere to multilateral regime practices, and to make the regulations easier for the public to use. BXA is particularly interested in the comments of those who have experience classifying items on the Commerce Control List. Comments should be as specific as possible.

It may not be possible to write a single definition that is accurate for all purposes, but BXA will make its best effort to respond to the concerns raised by the public comments.

BXA will consider requests for confidential treatment. The information for which confidential treatment is requested should be submitted to BXA separately from any non-confidential information submitted. The top of each page should be marked with the term "Confidential Information." If the submission fails to meet the standards for confidential treatment, BXA will return it. A non-confidential summary must accompany such submissions of confidential information. The summary will be made available for public inspection.

Information accepted by BXA as confidential will be protected from public disclosure to the extent permitted by law. Communications between agencies of the United States Government or with foreign governments will not be made available for public inspection.

All other information relating to the notice will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, BXA requires written comments. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying.

The public record concerning these comments will be maintained in the Freedom of Information Records Inspection Facility, Room 4525, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW, Washington, DC. 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in part 4 of Title 15 of the Code of Federal Regulations.

Information about inspection and copying of records at this facility may be obtained from Margaret Cornejo, BXA Freedom of Information Officer, at the above address or by calling (202) 482–2593.

Dated: October 20, 1997.

William V. Skidmore,

Acting Assistant Secretary for Export Administration.

[FR Doc. 97–28649 Filed 10–28–97; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 773, 778 and 843

RIN 1029–AB94

Ownership and Control—Redesign

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Advanced notice of proposed rulemaking; notice of public meetings.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) will hold, upon request, meetings to solicit comments, concerns, and new ideas regarding the drafting of new ownership and control, permit information and improvidently issued permits regulations.

OSM also invites written comments regarding the drafting of these regulations. A concept/issue paper has been prepared to assist those interested in commenting or preparing for the meetings. The paper is a compilation of concepts and issues currently under consideration; however, OSM is not limited to those listed and encourages new concepts or ideas for consideration.

DATES: *Written comments* OSM will accept written comments until 5:00 p.m., Eastern Time on December 15, 1997.

Public meetings: OSM will meet with interested persons upon request to solicit comments on the drafting of the new regulations until December 15, 1997. In order to make proper arrangements for meetings, request for meetings should be made prior to December 1, 1997.

ADDRESSES: *Written comments and requests for concept/issue paper:* Hand deliver or mail to Earl Bandy, Office of Surface Mining Reclamation and Enforcement, AVS Office, 2679 Regency Road, Lexington, Kentucky 40503; telephone (800) 643–9748; E-mail:ebandy@osmre.gov.

Telefax: Copies of the concept/issue paper may be obtained from FAX ON DEMAND by calling 202–219–1703 and following the instructions on the recorded announcement.

Public meetings: Upon request OSM staff will be available to meet with interested persons, individually or in groups, during the comment period in the following locations: Lexington, Kentucky; Washington, D.C.; Knoxville, Tennessee; Pittsburgh, Pennsylvania; Alton, Illinois; and Denver, Colorado. Any individual who requires special accommodation to attend a meeting should also contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Earl Bandy, Office of Surface Mining Reclamation and Enforcement, 2679 Regency Road, Lexington, Kentucky 40503; Telephone (606) 233–2796 or (800) 643–9748. E-mail: ebandy@osmre.gov.

SUPPLEMENTARY INFORMATION: On April 21, 1997 (62 FR 19450), OSM issued interim final regulations regarding 30 CFR Parts 773, 778 and 843—Ownership and Control; Permit Application Process; Improvidently Issued Permits. This action was taken in response to a decision by the U.S. Court of Appeals for the District of Columbia Circuit invalidating the previous rules as being inconsistent with Section 510(c) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). In issuing these interim final regulations, OSM invoked the "good cause" exemption of the Administrative Procedure Act (APA) at 5 U.S.C. 553(b)(3)(B). This provision allows an agency to issue a rule without prior notice or opportunity for public comment "when the agency for good cause finds (and incorporates the finding and a brief statement of the reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." OSM invoked the APA "good cause" exemption for the reasons described in the preamble to the interim final regulations (62 FR 19451–19452). In doing so, OSM stated that the rules were intended to be interim and that it would seek public comment on any resulting proposed regulatory changes.

In order to fulfill this commitment, OSM is seeking to involve the public in advance of developing a proposed rule. OSM will follow standard procedures by seeking comments and holding public hearings on the proposed rules when they are published in the **Federal Register**.

Dated: October 21, 1997.

Mary Josie Blanchard,

Assistant Director, Program Support.

[FR Doc. 97–28486 Filed 10–28–97; 8:45 am]

BILLING CODE 4310–05–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 52 and 64

[CC Docket No. 92–237; FCC 97–386]

Administration of the North American Numbering Plan, Carrier Identification Codes (CICs)

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: On October 22, 1997, the Commission released a Second Further Notice of Proposed Rulemaking (Second FNPRM) addressing carrier identification codes (CICs). The Second FNPRM is intended to obtain comment on issues related to conversion of local exchange carrier (LEC) switches to provide equal access and to accept four-digit CICs. The Commission concurrently released a Order on Reconsideration and an Order on Application for Review in the same docket.

DATES: Comments must be filed on or before December 8, 1997, and reply comments must be filed on or before January 12, 1998.

ADDRESSES: Federal Communications Commission, Secretary, Room 222, 1919 M Street, N.W., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Elizabeth Nightingale, Attorney, Network Services Division, Common Carrier Bureau, (202) 418–2352.

SUPPLEMENTARY INFORMATION: This summarizes the Commission's Second Further Notice of Proposed Rulemaking in the matter of Administration of the North American Numbering Plan, Carrier Identification Codes (CICs), CC Docket No. 92–237, adopted October 20, 1997, and released October 22, 1997. The file is available for inspection and copying during the weekday hours of 9 a.m. to 4:30 p.m. in the Commission's Reference Center, Room 239, 1919 M St., N.W., Washington D.C., or copies may be purchased from the Commission's duplicating contractor, ITS, Inc., 1231 20th Street, N.W., Washington, D.C. 20036, phone (202) 857–3800.

Initial Regulatory Flexibility Act Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected economic impact on small entities by the policies and proposals in this Second FNPRM. The Commission solicited written public comments on the IRFA, which must be filed by the deadlines for the submission of comments in this proceeding.

Need for and Objectives of Proposed Rules

Inquiries by Commission staff regarding the status of LEC conversion to accept four-digit CICs reveal that some independent incumbent LECs in rural and isolated areas do not provide equal access. The Commission recognizes that a requirement that all LEC end office switches be upgraded to accept four-digit CICs by January 1, 1998, may have the unintended effect of requiring those LECs that have never received a bona fide request for equal access, or that are not subject to a specific timetable for providing equal access, nonetheless to upgrade their end offices to offer equal access by January 1, 1998. The Commission notes that such a requirement would modify the Commission's equal access implementation schedule for non-GTE independent telephone companies. The Commission tentatively concludes that requiring LECs whose end offices are equipped with SPC switches to upgrade their facilities to enable them to offer equal access, even if they have not received a request for equal access, and LECs whose end offices are equipped with non-SPC switches to convert their facilities to provide equal access, is not inconsistent with the Commission's general goal, expressed in the Independent Telephone Company Equal Access Report and Order (50 FR 15547, published April 19, 1985), that equal access occur as soon as practicable, regardless of whether a request has been made for equal access, and regardless of the type of switch with which an end office is equipped.

Legal Basis

Authority for actions proposed in this Second FNPRM may be found in: Sections 1, 4(i) and (j), 201–205, 218 and 251(e)(1) of the Communications Act of 1934 as amended, 47 U.S.C. Sections 151, 154(i), 154(j), 201–205, 218 and 251(e)(1).

Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

The proposal made by the Commission in this Second FNPRM will apply to local exchange carriers. The IRFA seeks comment on whether other entities should be included in our final regulatory flexibility analysis. We estimate that there are fewer than 1,347 small incumbent LECs that may be affected by the proposal in this Second FNPRM.

Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

The proposal in the Second FNPRM, if adopted, would require that LECs with SPC switches that have not received a bona fide request for equal access should upgrade their facilities to provide equal access and to accept four-digit CICs within three years of the effective date of an *Order* adopted in this proceeding. The proposal also would require that LECs whose end offices are equipped with non-SPC switches should provide equal access and convert their switches to accept four-digit CICs when they next replace their switching facilities.

Steps Taken to Minimize Economic Impact on Small Entities and Significant Alternatives Considered

In the Second FNPRM, the Commission seeks to gather relevant information from all interested parties, including small business entities, about the effect of requiring equal access conversion, even by those LECs that have not received a request for it, or whose end offices are not equipped with SPC switches. The Second FNPRM asks that commenters opposed to our tentative conclusion suggest alternatives. In addition, in the IRFA, the Commission tentatively concludes that the proposals in the Second FNPRM would impose minimum burdens on small entities, especially given that: (1) the Commission, in the Independent Telephone Company Equal Access Report and Order, adopted over twelve years ago, expressed a general desire that equal access occur as soon as practicable, regardless of whether a request has been made for equal access, and regardless of the type of switch with which an end office is equipped, and stated that where generic software is available, the telephone company should endeavor to make the necessary conversions in less than three years; and (2) the responses to inquiries by Commission staff indicate that the four-digit CIC software generally is included in equal access software packages developed since 1995. The IRFA seeks comment on this tentative conclusion.

Federal Rules that May Duplicate, Overlap, or Conflict With the Proposed Rules

None.

Analysis of Proceeding

1. The Commission's inquiries regarding the status of LEC conversion to accept four-digit CICs reveal that some independent incumbent LECs in rural and isolated areas do not provide equal access. Some of those LECs' end offices are equipped with SPC switches, but the LECs have never received a bona fide request to provide equal access. In other instances, the LECs' end offices are not equipped with SPC switches and, therefore, the LECs are not required to convert to equal access according to a specific timetable, even if a LEC received a reasonable request for equal access. The Commission acknowledged, therefore, that a requirement that all LEC end office switches be upgraded to accept four-digit CICs by January 1, 1998, may have the unintended effect of requiring those LECs that have never received a bona fide request for equal access or that are not subject to a specific timetable for providing equal access nonetheless to upgrade their end offices to offer equal access by January 1, 1998. Such a requirement would modify the Commission's equal access implementation schedule for non-GTE independent telephone companies, set by the 1985 Independent Telephone Company Equal Access Report and Order. More than twelve years have passed since the adoption of the Independent Telephone Company Equal Access Report and Order. The Second FNPRM therefore tentatively concludes that all LEC end offices, including those LECs whose end offices are equipped with SPC switches, but have not received a bona fide request for equal access and those LECs whose end offices are equipped with non-SPC switches, should nevertheless be required to provide equal access. This requirement also would apply to LECs who may have received a waiver of the Commission's equal access rules, to the extent those waivers remain in place. The Second FNPRM tentatively concludes that LECs with SPC switches that have not received a bona fide request for equal access should be required to upgrade their facilities to provide equal access and to accept four-digit CICs within three years of the effective date of an Order adopted in this proceeding. The Second FNPRM further tentatively concludes that LECs whose end offices are equipped with non-SPC switches should be required to provide equal access and to convert their switches to accept four-digit CICs when they next replace their switching facilities. The Second FNPRM tentatively concludes that requiring LECs whose end offices are equipped with SPC switches to upgrade their facilities to enable them to offer equal access, even if they have not received a request for equal access, and LECs whose end offices are equipped with non-SPC switches to convert their facilities to provide equal access, is not inconsistent with the Commission's general goal, expressed in the Independent Telephone Company Equal Access Report and Order, that equal access occur as soon as practicable, regardless of whether a request has been made for equal access, and regardless of the type of switch with which an end office is equipped. Moreover, the Commission stated, in the Independent Telephone Company Equal Access Report and Order, that where generic software is available, the telephone company should endeavor to make the necessary conversions in less than three years. The Second FNPRM notes that the responses to inquiries by Commission staff indicate that the four-digit CIC software generally is included in equal access software packages developed since 1995. The Commission indicated that commenters that oppose the tentative conclusion should discuss why a twelve year period of time in which to convert to provide equal access has been insufficient and should propose specific alternatives to the Commission's proposal.

Ordering Clauses

2. *It is further ordered*, pursuant to Sections 1, 4(i) and (j), 201–205, 218 and 251(e)(1) of the Communications Act as amended, 47 U.S.C. Sections 151, 154(i), 154(j), 201–205, 218 and 251(e)(1), that the Second Further Notice of Proposed Rulemaking is hereby ADOPTED.

3. *It is further ordered* that the Commission's Office of Managing Director *shall send* a copy of the Second Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 52

Local exchange carrier, Numbering, Telecommunications.

47 CFR Part 64

Communications common carriers, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–28678 Filed 10–28–97; 8:45 am]

BILLING CODE 6712–01–U

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 195

[Docket No. RSPA–97–2362; Notice 1]

RIN 2137—AD05

Pipeline Safety: Incorporation by Reference of Industry Standard on Leak Detection

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt as a referenced document an industry publication for pipeline leak detection, API 1130, "Computational Pipeline Monitoring," published by the American Petroleum Institute (API). This proposal would require that an operator of a hazardous liquid pipeline use API 1130 in conjunction with other information, in designing, evaluating, operating, maintaining, and testing its software-based leak detection system. The use of this document will significantly advance the acceptance of leak detection technology on hazardous liquid pipelines. However, RSPA is not proposing to require operators to install such systems.

DATES: Interested persons are invited to submit written comments in duplicate by December 29, 1997. Late-filed comments will be considered to the extent practicable. Interested persons should submit as part of their written comments all the material that is relevant to any statement of fact or argument.

ADDRESSES: Comments should be sent to the Docket Facility, U.S. Department of Transportation, Plaza 401, 400 Seventh Street, SW, Washington, DC 20590–0001. Comments should identify the docket number (RSPA–97–2362) and the RSPA Rulemaking Number (2137–AD05). Commenters should submit an original and one copy. Commenters wishing to receive confirmation of receipt of their comments must include a stamped, self-addressed postcard with their comments. The docket clerk will date stamp the postcard and return it to the commenter. Comments will be available for inspection at the Docket Facility, located on the plaza level of the Nassif Building in Room 401. The Docket Facility is open from 10 a.m. to 5 p.m., Monday through Friday, except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lloyd W. Ulrich, telephone:(202) 366–4556, FAX: (202) 366–4566, e-mail:

lloyd.ulrich@rspa.dot.gov regarding the subject matter of this notice, or Dockets Unit, (202) 366–5046, for copies of this notice or other material in the docket.

SUPPLEMENTARY INFORMATION:

I. Background

A. Congressional Mandate and Advance Notice of Proposed Rulemaking

Congress, in section 212 of the Pipeline Safety Act of 1992 (codified at 49 U.S.C. 60102(j)), required the Secretary of Transportation, by October 24, 1994, to survey and assess the effectiveness of emergency flow restricting devices (EFRDs) and other procedures, systems, and equipment used to detect and locate hazardous liquid pipeline ruptures and minimize product releases from hazardous liquid pipeline facilities. Congress further mandated that the Secretary issue regulations two years after completing the survey and assessment (no later than October 24, 1996). These regulations would prescribe the circumstances under which operators of hazardous liquid pipelines would use EFRDs or other procedures, systems, and equipment used to detect and locate pipeline ruptures and minimize product release from pipeline facilities[1]. The Secretary delegated this authority to the Research and Special Programs Administration (RSPA).

To conduct the required survey, RSPA issued an advance notice of proposed rulemaking (ANPRM) (59 FR 2802, Jan. 19, 1994) to solicit information from the public. The ANPRM contained questions directed mostly to operators of hazardous liquid pipelines about operational data and costs related to EFRDs and about the performance of leak detection systems as another means to detect and locate hazardous liquid pipeline ruptures and minimize product release. The ANPRM also sought information to help determine which critical locations should be protected from pipeline releases.

Nineteen comments were submitted in response to the ANPRM. Sixteen comments were from hazardous liquid pipeline operators, two were from leak detection vendors, and one was from the API. Commenters were generally against requiring leak detection equipment and EFRDs. Ten of the sixteen hazardous liquid operators responded with usable data.

[1] Proposed regulations on the circumstances where operators would be required to use EFRDs and other equipment have been postponed until a definition for areas unusually sensitive to environmental damage, or USAs, is established, as discussed later in this notice.

B. Volpe Report

In response to a recommendation in an earlier Departmental report[2] dealing with pipeline EFRDs and leak detection, the Volpe National Transportation Systems Center (Volpe Center) released a report entitled "Remote Control Spill Reduction Technology: A Survey and Analysis of Applications for Liquid Pipeline Systems" (September 29, 1996). The study looked at the pipeline industry overall and its application of SCADA[3] and leak detection systems. The report looked at several leak detection performance measures including response time, false alarms, sensitivity, and leak location accuracy.

The report contained conclusions on leak detection systems relevant to this present rulemaking. One was that because of the pipeline industry's diversity, each system used for leak detection must be custom configured for a particular pipeline system. Another conclusion was that SCADA and leak detection systems were dependent on the sophistication of the host computer and how rapidly the host computer can gather remote field data. The report found that operators have made major investments in SCADA systems, but have invested much less in software-based leak detection systems.

Another conclusion was the dispatcher who operates the pipeline system was key to SCADA and leak detection systems operating successfully. Most operators interviewed for the study believed that dispatcher training and the dispatcher's ability to interpret the data provided by the SCADA system were critical in reducing the number of incidents and the volume of pipeline spills.

Finally, the report concluded that a SCADA system or a leak detection system can be configured for most pipeline systems, but that the high cost/benefit and the evolving technology of such systems has slowed industry's adopting computer-based leak detection systems.

[2] A March 1991 Departmental report entitled "Emergency Flow Restricting Devices Study (A Study Mandated by Pub. L. 100–561)" recommended that the Department conduct a research study on whether SCADA systems, including well-designed leak detection subsystems, should be required on hazardous liquid pipelines to enhance the safe operation of the pipelines. RSPA contracted with the Volpe National Transportation Systems Center (Volpe Center) to conduct the study.

[3] SCADA is an acronym for Supervisory Control and Data Acquisition. SCADA systems utilize computer technology to continuously gather data (e.g., pressure, temperature, and delivery flow rates) from remote locations on the pipeline. Dispatchers use SCADA systems to assist in day-to-day operating decisions on the pipeline. SCADA systems can also provide input for real-time models of the pipeline operation. Such models compare current operating conditions with calculated data values. A deviation may indicate the possibility of a leak.

C. Public Workshop

RSPA wanted to accomplish the Congressional mandate consistent with the President's policy (E.O. 12866) that regulations provide for public safety and environmental protection at the least cost to society. Toward this end, and because RSPA received limited data in response to the ANPRM's questionnaire, RSPA held a public workshop on October 19, 1995, to obtain more data on EFRDs and leak detection systems. Two formal presentations on leak detection were made at the workshop. One was by Dr. Sherry Smith Borener from the Volpe Center, who presented the preliminary results of the report discussed above, and the other was by the American Petroleum Institute (API).

The Volpe Center report's finding that each leak detection system is unique to the pipeline on which it is installed was confirmed at the workshop. Industry expressed its desire to improve its leak detection capability, its concern about releases to the environment, and its dedication to automation. Also evident was that the hazardous liquid pipeline industry is driven by cost control.

Discussions at the workshop included operational and economic problems with leak detection systems. Participants said that many dynamic factors, such as changes in product characteristics and hydraulic transient conditions, can change a pipeline system's operating characteristics and affect leak detection capability. Other less frequent changes, such as the physical parameters of the pipeline can also impact leak detection performance. Further, participants said that leak detection systems increase a pipeline's overall maintenance, such as equipment calibration checks and preventive maintenance, which affects an operator's cost. Also, when equipment is down, leak sensitivity may be impaired. Participants also said that a pipeline's transient conditions adversely affect leak detection system performance.

Also discussed were operational and economic benefits. Among these benefits were that a leak detection system improves a pipeline's everyday operation because the system allows the operator to collect more usable operating data about the pipeline system, including data from remote locations. Participants also said that a leak detection system allows for faster leak detection, resulting in reduced commodity loss, lower short-term cleanup costs from releases, and lower long-term remediation costs. Participants noted that a leak's location is secondary to confirming that a leak has occurred.

Discussions at the workshop brought out that a leak detection system can result in a more rapid response to a leak. Participants said that the simplest system can indicate large leaks, while detecting smaller leaks depends on many factors including the dispatcher's competency. Participants confirmed the Volpe study's conclusion that dispatcher training is of paramount importance.

D. Definition for Areas Unusually Sensitive to Environmental Damage

Congress required that in prescribing standards, RSPA identify the "circumstances" where EFRDs and other equipment must be installed. RSPA's current policy is to base regulations on risk assessment. RSPA believes that a primary high risk circumstance would be where a pipeline is located in an environmentally sensitive area. RSPA has been conducting public workshops since 1995 to enable government and industry to better understand the problems involved in identifying a subset of such areas, areas unusually sensitive to environmental damage, or USAs. RSPA expects to publish a NPRM proposing a definition for USAs in the Spring of 1998.

Because of the ongoing regulatory effort to define USAs, RSPA has decided to wait before issuing a NPRM proposing where leak detection systems should be required.

E. Development of API 1130

In April 1994, the API formed a task force to develop a document on computational pipeline monitoring (CPM). The task force produced API 1130, entitled "Computational Pipeline Monitoring" addressing the use of software-based leak detection equipment. API 1130 defines computational pipeline monitoring as "an algorithmic monitoring tool that allows the pipeline controller to respond to a pipeline operating anomaly which may be indicative of a commodity release." As stated in the document,

> The purpose of this publication is to assist the pipeline operator in the selection, implementation, testing, and operation of a CPM system. When used in conjunction with other API publications, this publication will prove useful to identify the complexities, limitations and other implications of detecting anomalies on liquid pipelines using CPM systems.

To gather data for a leak detection rulemaking, RSPA and Volpe Center staff have monitored the task force's work. Minutes of task force meetings, as well as copies of final drafts of the document, are available in Docket No. PS–133.

II. Statement of the Problem and Proposed Solution

Pipeline safety regulations do not require hazardous liquid pipeline operators to meet any leak detection system performance standards. As mentioned before, a lack of a USA definition has delayed RSPA proposing the circumstances where EFRDs and other equipment must be installed on hazardous liquid pipeline systems. However, RSPA believes it should not delay addressing the safety and environmental advantages of using software-based leak detection technology to reduce releases from pipeline ruptures. RSPA proposes to remedy this by requiring operators to use API 1130 in operating, maintaining, and testing their existing software-based leak detection systems and in designing and installing new software-based leak detection systems or replacing components of existing systems. RSPA is taking this action for several reasons.

(1) RSPA monitored the development of API 1130 and its development is well documented in Docket No. PS–133. The API task force members who developed API 1130 are experts in the pipeline industry, well versed in leak detection systems.

(2) Due to its comprehensiveness, API 1130 advances safety by providing for more rapid detection of ruptures and response to those ruptures, thus limiting releases of hazardous liquids.

(3) Adopting API 1130 complies with the spirit of the President's initiative to reduce and simplify regulations by adopting industry developed standards. Its adoption should not create controversy since the pipeline industry, the primary user, developed the publication.

III. Role of the Technical Hazardous Liquid Pipeline Safety Standards Committee (THLPSSC)

The proposal to adopt API 1130 as a referenced document in 49 CFR part 195 was brought before the THLPSSC at its meeting on November 6, 1996. The THLPSSC is a 15 member Congressionally mandated advisory committee (49 U.S.C. 60115) responsible for reviewing proposed pipeline safety standards for technical feasibility, reasonableness, and practicability. The THLPSSC Chairperson appointed a three person subcommittee to work with RSPA to provide technical expertise on the feasibility of adopting API 1130 as a referenced standard in part 195. The subcommittee met with RSPA and submitted to the THLPSSC Chairperson the following recommendations, which THLPSSC accepted:

(1) API 1130 in its entirety should be referenced in 49 CFR part 195 regulations.

(2) The operations, maintenance, and testing portions of API 1130 should be applicable to all existing and newly installed Computational Pipeline Monitoring (CPM) systems, and API 1130 in its entirety should be applicable to all newly installed CPM systems or replacement sections of existing CPM systems.

(3) Compliance with API 1130 should be within 12 months of incorporation of this document into the part 195 regulations.

(4) If and when API 1130 is referenced in the part 195 regulations, the reference only applies to single phase liquid pipelines (see Section 1.3 of API 1130, which limits the document's application to single phase liquid pipelines).

(5) The preamble to the draft and final Part 195 rules should state that the reference to API 1130 is a first step in meeting the mandate of section 60102(j) of the federal pipeline safety law (49 U.S.C. 601), and is not intended to delay issuance of additional requirements or actions under this section of the law.

RSPA agrees with these recommendations and has drafted this NPRM to comply with them.

IV. Discussion of the Proposed Rule

This proposed rule would require an operator of a hazardous liquid pipeline to comply with API 1130 in designing, operating, maintaining, and testing the operator's software-based leak detection system. Although the proposed rule does not require an operator to install a software-based leak detection system, whenever such a leak detection system is installed or a component replaced, API 1130 would have to be followed. Likewise, each existing software-based leak detection system would have to comply with the operating, maintenance, testing, and training provisions of API 1130.

To be consistent with the scope limitations of Section 1.3 in API 1130, the proposed regulation limits API 1130 applicability to single phase, liquid pipelines. Pipelines transporting both gas and liquid, called dual phase pipelines, are prevalent in offshore operations where the gas and liquid stream is transported by pipeline to onshore facilities where it is more economical to separate the gas and liquid for further transport. Designing a leak detection system for such a pipeline is extremely complex because of the different physical and chemical characteristics of gas and liquid.

1. *Proposed additions to § 195.2 Definitions:* The term "computational pipeline monitoring" which has not been used in 49 CFR part 195, would be added to the list of definitions in § 195.2. The proposed definition is identical to API 1130's definition except that the term "monitoring tool" is modified to "software-based monitoring tool." RSPA is also replacing the term "controller" with "dispatcher" as dispatcher is the term presently used in the pipeline safety regulations.

2. *Proposed addition to § 195.3 Matters incorporated by reference:* RSPA will propose that API 1130 be added as one of the referenced API publications under § 195.3(c)(2).

3. *Proposed new section § 195.134 CPM leak detection systems:* RSPA will propose a new section in Subpart C—Design Requirements, to require that whenever an operator installs a CPM leak detection system, that the operator design it according to the design requirements of API 1130. The proposed new section also requires that each component replaced on an existing system be designed in accordance to the design requirements of API 1130. This conforms to the THLPSSC recommendation that both newly installed CPM systems and replacement sections of existing CPM systems follow API 1130.

4. *Proposed new section § 195.444 CPM leak detection systems:* RSPA proposes a new section in Subpart F-Operation and Maintenance, to require each operator who has a CPM leak detection system to follow API 1130 in the operation, maintenance, and testing of the system.

Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This proposed rule is not considered a significant action under section 3(f) of Executive Order 12866 and is not considered significant under the Department of Transportation Policies and Procedures (44 FR 11034, Feb. 26, 1979). This proposal is to adopt an industry document, API 1130. Adopting API 1130 should result in leak detection systems that allow for faster leak detection, resulting in reduced commodity loss, lower short-term cleanup costs from releases, and lower long-term remediation costs. The Technical Hazardous Liquid Pipeline Safety Standards Committee (THLPSSC) recommended that we adopt the document into part 195. This proposal does not require an operator to adopt a computational pipeline monitoring system (CPM) if the operator does not already have one. It only requires that if an operator has such a system that the operator follow this document. This document represents good industry practices. Conversations with officials of the API confirm that the vast majority of the industry that uses CPM already has adopted these practices.

Because RSPA is not mandating the use of CPM and is simply adopting the practices already instituted and developed by industry, RSPA believes that the cost of this regulation will be minimal. Therefore, RSPA believes that a regulatory evaluation of this proposal is not necessary.

Nonetheless, RSPA does not have good data on any potential costs that this proposal would have on industry. RSPA is soliciting information on costs, if any, of referencing API 1130. Please send cost information to the Department of Transportation Docket Office listed in the ADDRESSES section of this preamble.

B. Regulatory Flexibility Act

As discussed above RSPA is not requiring that operators install CPM but simply requiring that where hazardous liquid operators have such a system that they meet the standards industry developed. As stated above, most operators with such systems already comply with these requirements. Therefore, based on the facts available, I certify pursuant to section 605 of the Regulatory Flexibility Act (5 U.S.C. 605) that this action will not have a significant economic impact on a substantial number of small entities.

C. Federalism Assessment

The proposed rulemaking action would not have substantial direct effects on states, on the relationship between the Federal Government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612 (52 FR 41685, Oct. 30, 1987), RSPA has determined that this notice does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

D. Unfunded Mandates

This proposed rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the rule.

E. Paperwork Reduction Act

There are minimal record keeping requirements included in

API 1130 on testing and retesting of each CPM. However, as discussed above, this proposal does not require an operator to have a CPM. API 1130 was developed by the industry, and the vast majority of the industry that uses CPM already has adopted the practices in API 1130. Because the record keeping requirements represent the usual and customary practices of the industry, there is minimal paperwork burden on the public. Nevertheless, RSPA prepared a paperwork analysis for this proposed rule and submitted it to the Office of Management and Budget(OMB) for review. The paperwork analysis for this proposed regulation is available for review at the Docket Office, U.S. Department of Transportation, Plaza 401, 400 Seventh St. SW, Washington, DC. Comments on the paperwork burden of this proposed regulation can be submitted within 60 days of the publication of this notice to Office of Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, NW Washington, DC 20503 ATTN.: Desk Officer for the Department of Transportation, RSPA. Please send a duplicate copy of comments to the Docket Office, U.S. Department of Transportation Plaza 401, 400 Seventh St. SW, Washington, DC 20590–0001, identifying the RSPA Docket Number (RSPA–97–2362) and the RSPA Rulemaking Number (2137–AD05). Comments are invited on: (a) The need for the proposed collection of information for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality utility and clarity of the information to be collected; and (d) ways to minimize the burden of collection of information on those who respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques.

List of Subjects in 49 CFR Part 195

Ammonia, Carbon dioxide, Petroleum, Pipeline safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, RSPA proposes to amend 49 CFR part 195 as follows:

PART 195—TRANSPORTATION OF HAZARDOUS LIQUIDS BY PIPELINE

1. The authority citation for Part 195 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60118; and 49 CFR 1.53.

Subpart A—General

2. Section 195.2 would be amended by adding the definition for Computational Pipeline Monitoring to read as follows:

§ 195.2 Definitions.

* * * * *

Computation Pipeline Monitoring (CPM) means a software-based monitoring tool that allows the pipeline dispatcher to respond to a pipeline operating anomaly that may be indicative of a commodity release.

* * * * *

3. Section 195.3 would be amended by redesignating paragraphs (c)(2)(i) through (c)(2)(iii), as paragraphs (c)(2)(ii) through (c)(2)(iv), and adding a new paragraph (c)(2)(i) to read as follows:

§ 195.3 Matter incorporated by reference.

* * * * *

(c) * * *

(2) * * *

(i) API 1130 "Computational Pipeline Monitoring" (1st Edition, 1995).

* * * * *

Subpart C—Design Requirements

4. Section 195.134 would be added to read as follows:

§ 195.134 CPM leak detection.

This section applies to each hazardous liquid pipeline transporting liquid in single phase (without gas in the liquid). On such systems, each new computational pipeline monitoring (CPM) leak detection system that will be installed and each replaced component of an existing CPM system must comply with the selection criteria of section 4.2 of API 1130 in its design and with any other design criteria addressed in API 1130 for components of the CPM leak detection system.

Subpart F—Operation and Maintenance

5. Section 195.444 would be added to read as follows:

§ 195.444 CPM leak detection.

Each computational pipeline monitoring (CPM) leak detection system installed on a hazardous liquid pipeline transporting liquid in single phase (without gas in the liquid) must comply with API 1130 in operating, maintaining, testing, record keeping, and dispatcher training of the system.

Issued in Washington, DC, on October 20, 1997.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 97–28135 Filed 10–28–97; 8:45 am]

BILLING CODE 4910–60–P

Notices

Federal Register
Vol. 62, No. 209
Wednesday, October 29, 1997

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

October 24, 1997.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 *and* to Department Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–6746.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

- **National Agricultural Statistics Service**

Title: Classification Error Survey.
OMB Control Number: 0535–New.
Summary Of Collection: Information is collected on farm or non-farm status.
Need And Use Of The Information: The information will be used to provide measures to evaluate total coverage and to identify procedures contributing to incomplete or erroneous data.
Description Of Respondents: Farms.
Number Of Respondents: 29,300.
Frequency Of Responses: Reporting: Every 5 years.
Total Burden Hours: 5,275.
Expedited Processing Is Requested By November 26, 1997.

- **Farm Service Agency**

Title: Daily Indemnity Payment Program, 7 CFR Part 760.
OMB Control Number: 0560–0116.
Summary Of Collection: Information will be provided by daily farmers and manufacturers of dairy products who have suffered income losses with respect to milk or milk products.
Need And Use Of The Information: The information will be used to determine the amount of indemnity payment a dairy producer or manufacturer is eligible to receive.
Description Of Respondents: Farms; individuals or households; business or other for-profit.
Number Of Respondents: 80.
Frequency Of Responses: Reporting: Monthly.
Total Burden Hours: 140
Emergency Processing Of This Submission Has Been Requested.

- **Food and Consumer Service**

Title: 7 CFR Part 226, Child and Adult Care Food Program.
OMB Control Number: 0584–0055.
Summary Of Collection: Information is collected regarding the provision of meals to eligible persons attending licensed adult day care centers, and children attending nonresidential day care facilities and day care homes.
Need And Use Of The Information: The information is used to determine eligibility of institutions to participate, ensure acceptance of responsibility in managing an effective food service, implement systems for appropriating program funds, and ensure compliance with all statutory and regulatory requirements.
Description Of Respondents: Not-for-profit institutions; Individuals or households; business or other for-profit; Federal Government; State, Local or Tribal Government.
Number Of Respondents: 706,001.
Frequency Of Responses: Recordkeeping; Reporting: On occasion; Monthly; Semi-annually; Annually; Biennially; Daily.
Total Burden Hours: 4,584,476.

- **Farm Service Agency**

Title: Forms and Shipment Information Log.
OMB Control Number: 0560–0177.
Summary Of Collection: Information is submitted for bids/offers for commodities and services to meet domestic and export program needs.
Need And Use Of The Information: The information is used to evaluate offers impartially and purchase commodities to meet domestic and export program needs.
Description Of Respondents: Business or other for-profit; not-for-profit institutions; Federal Government; State, Local or Tribal Government.
Number Of Respondents: 1,061.
Frequency Of Responses: Recordkeeping; reporting: On occasion; weekly; monthly; quarterly; biweekly.
Total Burden Hours: 4,700.

- **Agricultural Marketing Service**

Title: Tart Cherries Grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin.
OMB Control Number: 0581–0177.
Summary of Collection: The USDA needs information from growers to select committee members, to conduct referendum, for sales and disposition of the crop and to amend the marketing order and agreement.
Need and Use of the Information: The information is used to regulate the provisions of Marketing Order No. 930.
Description of Respondents: Business or other for-profit; farms.
Number of Respondents: 1,268.
Frequency of Responses: Reporting: On occasion.
Total Burden Hours: 1,034.

- **Food and Consumer Service**

Title: 7 CFR Part 210, National School Lunch Program.
OMB Control Number: 0584–0006.

Summary of Collection: Information collected includes claims for reimbursement, daily counts of free, reduced-price and paid lunches served, and daily meal menu and production.
Need and Use of the Information: The information is necessary to operate the National School Lunch Program.
Description of Respondents: State, Local or Tribal Government; Individuals or households; business or other for-profit; not-for-profit institutions; Federal Government.
Number of Respondents: 114,169.
Frequency of Responses: Recordkeeping; reporting: On occasion; monthly; semi-annually; annually; biennially; daily.
Total Burden Hours: 9,434,055.

- **Farm Service Agency**

Title: 7 CFR 1951–5, Farmer Program Account Servicing Policies.
OMB Control Number: 0560–0161.
Summary of Collection: Information collected included requests for loan servicing, appraisal agreements, and response to notices and acceptance of offers.
Need and Use of the Information: The information is used by agency officials to consider a financially distressed or delinquent borrower's request for loan servicing.
Description of Respondents: Farms; individuals or households; business or other for-profit; State, Local Tribal Government
Number of Respondents: 10,400.
Frequency of Responses: Reporting: On occasion.
Total Burden Hours: 8,588.

- **Cooperative State Research, Education, and Extension Service**

Title: Grant Application Forms for Higher Education Programs.
OMB Control Number: 0524–0030.
Summary of Collection: Information collected includes a project summary, a proposal narrative, technical aspects of the proposed project and supporting documentation of an administrative and budgetary nature.
Need and Use of the Information: The information is necessary to evaluate proposals.
Description of Respondents: Not-for-profit institutions.
Number of Respondents: 600.
Frequency of Responses: Reporting: Annually.
Total Burden Hours: 23,100.

- **Farm Service Agency**

Title: Noninsured Crop Disaster Assistance Program.
OMB Control Number: 0560–0175.
Summary of Collection: Information collected includes an application for assistance, and records of specific crop acreage, yield and production.
Need and Use of the Information: The information is used to determine eligibility.
Description of Respondents: Individuals or households; business or other for-profit; not-for-profit institutions; farms.
Number of Respondents: 1,575,000.
Frequency of Responses: Reporting: Annually.
Total Burden Hours: 1,711,250.
Emergency processing of this submission has been requested.

Donald Hulcher,
Departmental Clearance Officer.

[FR Doc. 97–28629 Filed 10–28–97; 8:45 am]
BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Agriculture Marketing Service

[Docket No. TB–97–16]

Public Hearing Regarding Establishment of a New Tobacco Auction Market

Notice is hereby given of a public hearing regarding an application to combine the Clarksville and Chase City, Virginia, tobacco markets.

Date: November 7, 1997.
Time: 9:30 a.m. local time.
Place: VFW Hall No. 8163, 7488 Highway 15, Clarksville, Virginia.
Purpose: To hear testimony and to receive evidence regarding an application for tobacco inspection and price support services to a new market, which would be a consolidation of the currently designated markets of Clarksville and Chase City, Virginia. The application was made by Gerald Stovall, T.M. Ward, Jr., and Mac Bailey, Board of Trade, Clarksville, Virginia; Milton Allgood, Wilson Fleming, and W.M. Park, Board of Trade, Chase City, Virginia.

This public hearing will be conducted pursuant to the joint policy statement and regulations governing the extension of tobacco inspection and price support service to new markets and to additional sales on designated markets (7 CFR 29.1 through 29.3), issued under the Tobacco Inspection Act, as amended (7 U.S.C. 511 *et seq.*) and the Commodity Credit Corporation Charter Act, as amended (15 U.S.C. 714 *et seq.*).

Dated: October 24, 1997.

Isi A. Siddiqui,
Acting Assistant Secretary, Marketing and Regulatory Programs.

[FR Doc. 97–28743 Filed 10–27–97; 11:20 am]
BILLING CODE 3410–02–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. TB–97–17]

Public Hearing Regarding Establishment of a New Tobacco Auction Market

Notice is hereby given of a public hearing regarding an application to combine the Loris, South Carolina, and Tabor City-Whiteville, North Carolina, tobacco markets.

Date: November 5, 1997.
Time: 9:00 a.m. local time.
Place: Dales Family Seafood and Steakhouse, 100 701 Bypass, Tabor City, North Carolina.
Purpose: To hear testimony and to receive evidence regarding an application for tobacco inspection and price support services to a new market, which would be a consolidation of the currently designated markets of Loris, South Carolina, and Tabor City-Whiteville, North Carolina. The application was made by Harvey Graham, Jr., and Bill G. Page, warehouse operators, Loris, South Carolina.

This public hearing will be conducted pursuant to the joint policy statement and regulations governing the extension of tobacco inspection and price support services to new markets and to additional sales on designated markets (7 CFR 29.1 through 29.3), issued under the Tobacco Inspection Act, as amended (7 U.S.C. 511 *et seq.*) and the Commodity Credit Corporation Charter Act, as amended (15 U.S.C. 714 *et seq.*)

Dated: October 24, 1997.

Isi A. Siddiqui,
Acting Assistant Secretary, Marketing and Regulatory Programs.

[FR Doc. 97–28744 Filed 10–27–97; 11:20 am]
BILLING CODE 3410–02–M

ARMS CONTROL AND DISARMAMENT AGENCY

Performance Review Board; Membership

AGENCY: Arms Control and Disarmament Agency.
ACTION: Notice of membership of Performance Review Board.

SUMMARY: In accordance with 5 U.S.C. 4314(c)(4), the U.S. Arms Control and Disarmament Agency announces the appointment of Performance Review Board members.

EFFECTIVE DATE: January 1, 1998.
FOR FURTHER INFORMATION CONTACT: Nancy Aderholdt, Director of Personnel, U.S. Arms Control and Disarmament Agency, Washington, D.C. 20451 (202) 647–2034.

The following are the names and present titles of the individuals

appointed to the register from which Performance Review Boards will be established by the U.S. Arms Control and Disarmament Agency during the period beginning on the effective date of this notice and ending when a new register is published and becomes effective in approximately one year. Specific Performance Review Boards will be established as needed from this register. These appointments supersede those in the announcement published in 1996.

Name	Title
Ralph Earle II	Deputy Director.
Donald Gross	Counselor.
James Sweeney	Special Representative-CSA.
Robert Sherman	Director, Advanced Project.
O. James Sheaks	Deputy Assistant Director, Intelligence, Verification and Information Management Bureau.
Sarah Mullen	Chief, Intelligence Technology and Analysis, Intelligence, Verification and Information Management Bureau.
Norman Wulf	Deputy Assistant Director, Nonproliferation and Regional Arms Control Bureau.
Michael Rosenthal	Chief, Nuclear Safeguards and Technology Division, Nonproliferation and Regional Arms Control Bureau.
Donald Mahley	Deputy Assistant Director, Multilateral Affairs Bureau.
Michael Guhin	Associate Assistant Director, Multilateral Affairs Bureau.
Robert Mikulak	Chief, Chemical and Biological Policy Division, Multilateral Affairs Bureau.
Pierce Corden	Chief, International Security and Nuclear Policy Division Multilateral Affairs Bureau.
R. Lucas Fischer	Deputy Assistant Director, Strategic and Eurasian Affairs Bureau.
Karin Look	Chief, Strategic Negotiations and Implementation Division, Strategic and Eurasian Affairs Bureau.
David Wollan	Chief, Theater and Strategic Defenses Division, Strategic and Eurasian Affairs Bureau.
Cathleen Lawrence	Director of Administration, Office of Administration.
Ivo Spalatin	Director of Congressional Affairs, Office of Congressional Affairs.
Mary Elizabeth Hoinkes	General Counsel, Office of the General Counsel.
Joerg Menzel	Principal Deputy of the On-Site Inspection Agency.
Stanley Riveles	U.S. Standing Consultative Commissioner.

Cathleen Lawrence,

Director of Administration.

[FR Doc. 97–28633 Filed 10–28–97; 8:45 am]

BILLING CODE 6820–01–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration; National Defense Stockpile Market Impact Committee Request for Public Comments

AGENCY: Office of Strategic Industries and Economic Security, Bureau of Export Administration, U.S. Department of Commerce.

ACTION: Notice of request for public comments on the potential market impact of the disposal of certain commodities from the National Defense Stockpile under the proposed Fiscal Year (FY) 1999 Annual Materials Plan (AMP) and revisions to the FY 1998 AMP.

SUMMARY: This notice is to advise the public that the interagency National Defense Stockpile Market Impact Committee is seeking public comment on the potential market impact of Department of Defense proposed disposals of Stockpile materials under the FY 1999 AMP and under a revised FY 1998 AMP (See Attachment 1).

DATES: Comments must be received by November 28, 1997.

ADDRESSES: Written comments (2 copies) should be sent to Richard V. Meyers, Co-Chair, Stockpile Market Impact Committee, Office of Strategic Industries and Economic Security, Room 3876, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Richard V. Meyers, Office of Strategic Industries and Economic Security, U.S. Department of Commerce, (202) 482–3634; or Stephen H. Muller, Office of International Energy and Commodity Policy, U.S. Department of State, (202) 647–3423; co-chairs of the National Defense Stockpile Market Impact Committee.

SUPPLEMENTARY INFORMATION: Under the authority of the Strategic and Critical Materials Stock Piling Act of 1979, as amended, (50 U.S.C. 98 *et seq.*)(the Act), the Department of Defense (as National Defense Stockpile Manager) maintains a stockpile of strategic and critical materials to supply the military, industrial, and essential civilian needs of the United States for national defense. The Act (50 U.S.C. 98h–1) formally established a Market Impact Committee (the Committee) to "advise the National Defense Stockpile Manager on the projected domestic and foreign economic effects of all acquisitions and disposals of materials from the stockpile * * *." The Committee must also balance market impact concerns with the statutory requirement to protect the Government against avoidable loss.

The Committee is comprised of representatives from the Departments of Commerce, State, Agriculture, Defense, Energy, Interior, Treasury and the Federal Emergency Management Agency and is co-chaired by the Departments of Commerce and State. The Act directs the Committee to "consult from time to time with representatives of producers, processors and consumers of the types of materials stored in the stockpile."

The Committee is now considering Defense's proposed Stockpile material disposal levels under the FY 1999 AMP and revisions to current Stockpile material disposal levels under the FY 1998 AMP as set forth in Attachment 1. The AMP materials listed in bold in Attachment 1 cannot be sold until Congress has approved their disposal. The Committee is seeking public comment on the potential market impact of the sale of these materials in the event that Congress does grant such disposal authority.

The proposed disposal quantity for each material listed in Attachment 1 is the maximum amount of material that may be sold in a particular fiscal year. Please note that these quantities are not sales targets. The quantity of each material that will actually be offered for sale will depend on the market for the material at the time of the offering. It will also depend on the maximum quantity of each material approved for disposal by the Congress.

The Committee requests that interested parties provide written comments, supporting data and documentation, and any other relevant information on the potential market impact of the sale of any commodity in the above lists. Although comments in response to this Notice must be received by November 28, 1997 to ensure full consideration by the Committee, interested parties are encouraged to submit additional comments and supporting information at any time thereafter to keep the Committee informed as to the market impact of the sale of the commodities. Public comment is an important element of the Committee's market impact review process.

Public comments received will be made available at the Department of Commerce for public inspection and copying. Material that is national security classified or business confidential will be exempted from public disclosure. Anyone submitting business confidential information should clearly identify the business confidential portion of the submission and also provide a non-confidential submission that can be placed in the public file. Communications from agencies of the United States Government will not be made available for public inspection.

The public record concerning this notice will be maintained in the Bureau of Export Administration's Records Inspection Facility, Room 4525, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone (202) 482–5653. The records in this facility may be inspected and copied in accordance with the regulations published in Part 4 of Title 15 of the Code of Federal Regulations (15 CFR 4.1 *et seq.*).

Information about the inspection and copying of records at the facility may be obtained from Ms. Margaret Cornejo, the Bureau of Export Administration's Freedom of Information Officer, at the above address and telephone number.

Dated: October 17, 1997.

Karen A. Swasey,

Acting Director, Strategic Industries and Economic Security.

Attachment 1: Proposed FY 1999 and Revised FY 1998 AMPs.

ATTACHMENT 1.—PROPOSED FY 1999 AND REVISED FY 1998 AMPS

[The materials in bold are under Congressional consideration]

Material	Units	Current FY 1998 quantity	Revised FY 1998 quantity	Proposed FY 1999 quantity
Aluminum Oxide, Abrasive	ST	6,000	0	6,000
Aluminum Oxide, Fused Crude	ST	30,000	0	30,000
Analgesics	AMA Lb	64,127	0	64,127
Antimony	ST	5,000	0	5,000
Asbestos (all types)	ST	20,000	0	20,000
Bauxite, Metallurgical (Jamaican)	LDT	600,000	0	600,000
Bauxite, Metallurgical (Surinam)	LDT	300,000	800,000	800,000
Bauxite, Refractory	LCT	80,000	0	0
Beryl Ore	ST	2,000	0	2,000
Beryllium Copper Master Alloy	**ST**	**0**	**1,250**	**1,250**
Bismuth	LB	300,000	0	180,000
Cadmium	LB	1,200,000	0	1,200,000
Celestite	SDT	3,600	0	3,600
Chromite, Chemical	SDT	100,000	0	100,000
Chromite, Metallurgical	SDT	250,000	0	250,000
Chromite, Refractory	SDT	100,000	0	100,000
Chromium, Ferro	ST	50,000	0	50,000
Chromium, Metal	**ST**	**0**	**500**	**500**
Cobalt	LB Co	6,000,000	0	6,000,000
Columbium, Carbide	**LB Cb**	**0**	**21,372**	**21,000**
Columbium Concentrates (Minerals)	**LB Cb**	**0**	**200,000**	**200,000**
Columbium, Ferro	LB Cb	200,000	0	200,000
Diamond, Bort	CT	1,000,000	0	1,000,000
Diamond Dies, Small PCS	PC	25,473	0	25,473
Diamond Stone	CT	2,000,000	0	2,000,000
Fluorspar, Acid Grade	SDT	180,000	0	180,000
Fluorspar, Metallurgical	SDT	50,000	0	50,000
Germanium	KG	8,000	0	8,000
Graphite, Natural Malagasy	ST	2,680	0	2,680
Indium	TR Oz	35,000	0	15,000
Iodine	LB	450,000	1,000,000	1,000,000
Jewel Bearings	PC	31,000,000	52,000,000	52,000,000
Kyanite	SDT	1,200	0	0
Lead	ST	60,000	0	60,000
Manganese, Battery Grade Natural	SDT	20,000	0	20,000
Manganese, Battery Grade Synthetic	SDT	3,011	0	3,011
Manganese, Chemical Grade	SDT	40,000	0	40,000
Manganese, Ferro	ST	50,000	0	50,000
Manganese, Metal Electrolytic	ST	2,000	0	2,000
Manganese, Metallurgical Grade	SDT	250,000	0	250,000
Mercury	FL	20,000	0	20,000
Mica (All Types)	LB	2,260,000	0	2,260,000
Nickel	ST	10,000	0	2,000
Palladium	TR Oz	15,000	200,000	300,000
Platinum	TR Oz	10,000	125,000	125,000
Quinidine	Av Oz	750,000	0	750,000

ATTACHMENT 1.—PROPOSED FY 1999 AND REVISED FY 1998 AMPS—Continued

[The materials in bold are under Congressional consideration]

Material	Units	Current FY 1998 quantity	Revised FY 1998 quantity	Proposed FY 1999 quantity
Quinine	Av Oz	750,000	0	750,00
Rubber	LT	125,000	0	0
Sebacic Acid	LB	1,000,000	0	1,000,000
Silicon Carbide	ST	9,000	0	9,000
Silver (for coinage)	Tr Oz	9,000,000	0	9,000,000
Talc	ST	1,000	0	1,000
Tantalum Carbide Powder	LB Ta	2,000	0	2,000
Tantalum Minerals	LB Ta	100,000	0	100,000
Tantalum Oxide	LB Ta	20,000	0	20,000
Thorium Nitrate	LB	1,000,000	0	1,000,000
Tin	MT	12,000	0	12,000
Titanium Sponge	**ST**	**0**	**4,000**	**5,000**
Tungsten, Carbide	**Lb W**	**0**	**100,000**	**100,000**
Tungsten, Ferro	**LB W**	**0**	**100,000**	**100,000**
Tungsten, Metal Powder	**LB W**	**0**	**100,000**	**100,000**
Tungsten Ores & Concentrates	**LB W**	**0**	**1,000,000**	**1,000,000**
Vanadium Pentoxide	ST V	200	0	0
Vegetable Tannin Extract, Chestnut	LT	7,500	0	7,500
Vegetable Tannin Extract, Quebrac.	LT	10,000	0	10,000
Vegetable Tannin Extract, Wattle	LT	10,000	0	10,000
Zinc	ST	50,000	0	50,000

[FR Doc. 97–28645 Filed 10–28–97; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–601]

Brass Sheet and Strip From Canada; Notice of Termination of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of termination of Antidumping Duty Administrative Review.

SUMMARY: In response to a request by a manufacturer/exporter of subject merchandise, Wolverine Tube (Canada) Inc., the Department of Commerce initiated an administrative review of the antidumping duty order on brass sheet and strip from Canada. The review covered exports of the subject merchandise to the United States for the period January 1, 1993 through December 31, 1993. Wolverine has filed a withdrawal of its request for this review. Because no other interested party requested a review, we are terminating this review.

EFFECTIVE DATE: October 29, 1997.

FOR FURTHER INFORMATION CONTACT: Paul Stolz or Thomas Futtner, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–4474 or (202) 482–3814 respectively.

Applicable Statute and Regulations

Unless otherwise stated, all citations to the statute and to the Department's regulations are references to the provisions as they existed on December 31, 1994.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce (the Department) published an antidumping duty finding on brass sheet and strip from Canada on January 12, 1987 (52 FR 1217). On January 5, 1994, the Department published in the **Federal Register** a notice of "Opportunity to Request an Administrative Review" of the antidumping duty finding on brass sheet and strip from Canada (59 FR 564). On January 21, 1994, a manufacturer/exporter, Wolverine Tube (Canada) Inc., requested an administrative review of its exports of the subject merchandise to the United States. In accordance with 19 CFR 353.22(c), we initiated the review on February 17, 1994 (59 FR 7979). On October 20, 1997, the importer withdrew its request for administrative review.

Termination of Review

Pursuant to 19 CFR 353.22(a)(5) of the Department's regulations, the Department may allow a party that requests an administrative review to withdraw such request not later than 90 days after the date of publication of the notice of initiation of the administrative review. The Department may extend this time limit if the Department decides it is reasonable to do so.

There were no requests for administrative review from other interested parties, and the only party affected by the withdrawal request is the party making the request. Because terminating this review is at the request of the only affected party and will serve the interests of administrative efficiency, the Department has determined that it is reasonable to extend the time limit for withdrawal of Wolverine's request for review and to grant the withdrawal request at this time. Therefore, we are terminating this review.

This notice is in accordance with section 353.22(a)(5) of the Department's regulations (19 CFR 353.22(a)(5)).

The Department shall instruct the U.S. Customs Service to liquidate all appropriate entries.

Insofar as the final results for the more current period of review (POR), January 1, 1995 through December 31, 1995, were published prior to this termination notice covering the January 1, 1993 through December 31, 1993 POR, the cash deposit instructions contained in the notice covering the January 1, 1995 through December 31, 1995 POR will continue to apply to all shipments to the United States of subject merchandise entered, or withdrawn from warehouse, for consumption on or after April 8, 1997. Shipments entered, or withdrawn from warehouse, for consumption during the January 1, 1993 through December 31, 1993 POR will be liquidated at the cash deposit rate then in effect.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during the review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning disposition of proprietary information disclosed under APO in accordance with section 353.34(d) of the Department's regulations. Timely written notification of the return or destruction of APO materials is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Dated: October 21, 1997.

Richard W. Moreland,

Acting Deputy Assistant Secretary, Group II, Import Administration.

[FR Doc. 97–28670 Filed 10–28–97; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–337–803]

Notice of Postponement of Preliminary Antidumping Determination: Fresh Atlantic Salmon From Chile

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 29, 1979.

FOR FURTHER INFORMATION CONTACT: Michelle Frederick or Kris Campbell, Office of AD/CVD Enforcement II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone (202) 482–0186, or (202) 482–3813, respectively.

Postponement of Preliminary Determination

The Department of Commerce (the Department) is postponing the preliminary determination in the antidumping duty investigation of fresh Atlantic Salmon from Chile. The deadline for issuing the preliminary determination in this investigation is now no later than January 8, 1998.

On July 2, 1997, the Department initiated an antidumping investigation of fresh Atlantic salmon from Chile. The notice stated we would issue our preliminary determination on November 19, 1997.

On October 17, 1997, pursuant to section 733(c) of the Tariff Act of 1930, as amended, the Coalition for Fair Atlantic Salmon Trade and certain individual members thereof, the petitioners, requested that the Department postpone until January 8, 1998, the issuance of the preliminary determination in this investigation. The petitioners' request for postponement was timely, and the Department finds no compelling reason to deny the request. Therefore, we are postponing the deadline for issuing this determination until no later than January 8, 1998.

This extension is in accordance with section 733(c)(1)(A) of the Act and 19 CFR 353.15(d).

Dated: October 23, 1997.

Richard W. Moreland,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 97–28669 Filed 10–28–97; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 093097B]

Marine Mammals; Scientific Research Permit (P36D)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of application.

SUMMARY: Notice is hereby given that Dr. Bernd Würsig, Director, Marine Mammal Research Program, Texas A&M University, 4700 Avenue U/Building 303, Galveston, Texas 77551, has applied in due form for a permit to take bottlenose dolphins (*Tursiops truncatus*) for purposes of scientific research.

DATES: Written comments must be received on or before November 28, 1997.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713-2289); and

Regional Administrator, Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702-2432 (813/570-5301).

Written data or views, or requests for a public hearing on this request, should be submitted to the Director, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

The applicant requests authorization to take by harassment up to 5,000 bottlenose dolphins of all age and sex classes, in the Gulf of Mexico along the Texas and Louisiana coast, over a five year period during the course of: (1) photo-identification and boat-based behavioral studies; (2) biopsy sampling of 100 individuals for contaminant studies; and (3) acoustic playback experiments to test the behavioral reaction of the dolphins to "pingers" used to deter marine mammal entanglement in commercial fishing gear.

Dated: October 1, 1997.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–28581 Filed 10–28–97; 8:45 am]

BILLING CODE 3510–22–F

COMMODITY FUTURES TRADING COMMISSION

CBT Proposed Amendments to the Circuit Breaker Trading Halt Reopening Provision for the Dow Jones Industrial Average Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule change.

SUMMARY: The CBT proposes to amend its procedure for reopening trading in its

Dow Jones Industrial Average (DJIA) futures contract following a circuit breaker trading halt. Under the proposal, trading would resume after trading in the underlying securities market has reopened and the CBT Executive Committee has determined to resume futures trading. Under current rules, after a trading halt, futures trading resumes when trading in the underlying securities market has reopened and 50 percent of the DJIA stocks, according to capitalization, have reopened. The Acting Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposal for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before November 28, 1997.

ADDRESSES: Interested persons should submit their views and commends to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street, NW, Washington, DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521, or by electronic mail to secretary@cftc.gov. Reference should be made to the amendments to the trading halt reopening provision of the Dow Jones Industrial Average futures contract.

FOR FURTHER INFORMATION CONTACT: Please contact Thomas Leahy of the Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street NW, Washington, 20581, telephone (202) 418–5278. Facsimile number: (202) 418-5527. Electronic mail: tleahy@cftc.gov.

SUPPLEMENTARY INFORMATION: Under the proposal, after a trading halt, trading in the DJIA future would resume at the discretion of the CBT. The CBT stated that this provision would allow for better coordination with the Chicago Board Options Exchange (CBOE), which has submitted to the Securities and Exchange Commission an amendment to the reopening provision for CBOE options.

The Division requests comments on the proposed change to the CBT's reopening provision after a circuit breaker trading halt for the DJIA futures contract. Commenters should address the extent to which the proposed provision would coordinate with the reopening provisions of the equities markets and other equity-index futures markets.

Copies of the amended terms and conditions will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street NW, Washington, DC 20581. Copies also can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 418–5100.

Other materials submitted by the CBT may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed amendments, or with respect to other materials submitted by the CBT, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street NW, Washington, DC 20581 by the specified date.

Issued in Washington, DC, on October 23, 1997.

John R. Mielke,

Acting Director.

[FR Doc. 97–28562 Filed 10–28–97; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Department of the Army

Environmental Assessment and Finding of No Significant Impact for the BRAC 95 Disposal and Reuse of the Detroit Army Tank Plant, Warren, Michigan

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: The Department of the Army announces the availability of the Environmental Assessment (EA) and Finding of No Significant Impact (FNS) for the disposal and reuse of the Detroit Army Tank Plant (DATP), Warren, Michigan, in accordance with the Defense Base Closure and Realignment Act of 1990, Public Law 101–510, as amended. The 1995 Defense Base Closure and Realignment Commission (BRAC) recommended the realignment of Detroit Arsenal by closing and disposing of the DATP. This EA addresses disposal of the property made available by the realignment of Detroit Arsenal and the closure of DATP as mandated by the 1995 BRAC Commission.

The EA evaluates the environmental and socioeconomic effects associated with the disposal and subsequent reuse of the DATP. The Army proposes to dispose of approximately 153 acres of property on the east side of the Detroit Arsenal that have historically been used to accomplish the mission of manufacturing and assembly of the main battle tank. The Army declared 147.39 acres surplus to its needs. The larger acreage figure of 153 assumes eventual transfer of Buildings 7 and 8, with a long-term lease-back arrangement with the Army. Building 7 and 8 are presently needed by the Army for continued use.

Alternatives examined in the Final EA include encumbered disposal of the property, unencumbered disposal of the property and no action. The Army's preferred alternative for disposal of the DATP property is encumbered disposal which involves conveying the property with conditions imposed pertaining to historical resources, remedial activities, utility easements, potential subsurface impediments, and lead-based paint.

The EA, which is incorporated into the FNSI, examines potential impacts of the proposed action and alternatives on 14 resource areas and areas of environmental concern: land use, climate, air quality, noise, water resources, geology, infrastructure, hazardous and toxic materials, permits and regulatory authorizations, biological resources, cultural resources, the sociological environment, economic development, and quality of life.

The EA concludes that the disposal and subsequent reuse of the property will not have a significant impact on the human environment. Issuance of a FNSI would be appropriate. An Environmental Impact Statement is not required prior to implementation of the proposed actions.

DATES: Inquiries will be accepted until November 28, 1997.

ADDRESSES: A copy of the EA or inquiries into the FNSI may be obtained by writing to Mr. Joe Hand at the Army Corps of Engineers, Mobile District, (Attn: CESAM–PD–EC), 109 St. Joseph Street, Mobile, Alabama 36628–0001, or by calling (334) 694–3881; facsimile (334) 690–2727.

Dated: October 24, 1997.

Richard E. Newsome,

Acting Deputy Assistance Secretary of the Army (Environmental, Safety and Occupational Health) OASA, (I, L&E).

[FR Doc. 97–28673 Filed 10–28–97; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Intent To Prepare an Environmental Impact Statement (EIS) for the Renewal of the McGregor Range, New Mexico, Military Land Withdrawal

AGENCY: U.S. Army Air Defense Artillery Center and Fort Bliss, Fort Bliss, Texas and New Mexico, Department of the Army, DoD.

ACTION: Notice of Intent.

SUMMARY: The United States Army will prepare an environmental impact statement (EIS) to assess the potential environmental impacts of renewal of the McGregor Range, New Mexico, military land withdrawal. McGregor Range, New Mexico, is an integral part of the U.S. Army Air Defense Artillery Center and Fort Bliss (USAADACENFB). The current land withdrawal and reservation of the McGregor Range was established by the Military Lands Withdrawal Act of 1986 (Pub. L. 99–606) for the period ending November 6, 2001. The Act provides that the Army may seek renewal of the McGregor Range withdrawal, in connection with which the Secretary of the Army will publish a Draft EIS consistent with the requirements of the National Environmental Policy Act (NEPA) of 1969. In preparing the DEIS, the Army and the Bureau of Land Management (BLM) have mutually agreed to use the legislative environmental impact statement (LEIS) process pursuant to 40 CFR 1506.8 to comply with the requirements of P.L. 99–606. This LEIS will be prepared in cooperation with BLM and will be completed by November 6, 1998, in accordance with P.L. 99–606. Therefore, pursuant to the LEIS process, a Final LEIS (FLEIS) will be prepared and a Notice of Availability of the FLEIS will be published in the **Federal Register**; however, there will not be a Record of Decision.

The purpose of the proposed McGregor Range renewal is to retain a military training and testing range essential to near and long-term preparedness of the U.S. Army and other military services. Renewing the land withdrawal will provide for the continuation of on-going training and testing missions for air defense artillery systems while maintaining the flexibility to adapt to the training needs of new technologies and doctrine as they develop. McGregor Range provides a combination of attributes that serve this training requirement, including favorable location and weather; sufficient land and airspace; diverse terrain; and developed training support facilities. McGregor Range includes approximately 608,385 acres of withdrawn pubic domain land in Otero County, New Mexico, containing a complex of facilities, ranges, and safety areas to support training and test activities of the U.S. Army and other organizations.

As a result of the Military lands Withdrawal Act of 1986, the Army and BLM co-manage McGregor Range with military requirements having priority over non-military uses. This management arrangement is defined in a Memorandum of Understanding between Fort Bliss and the BLM which define agency responsibilities related to energy and mineral resources, wildlife habitat management, grazing, recreation, hunting, visual and cultural resources, fire management, wilderness study areas and areas of environmental concern.

The LEIS will consider reasonable alternatives including renewal of the current public domain land withdrawal for military use. Without limiting the priority military use, non-military co-use activities would continue to be managed in part by the BLM. The No Action (allowing the current withdrawal to expire) alternative required by NEPA will be evaluated. Other reasonable alternatives will also be considered.

DATES: Comments must be submitted on or before January 9, 1998.

FOR FURTHER INFORMATION CONTACT: Please direct written comments concerning the scope of the McGregor Range, New Mexico, Military Land Withdrawal Renewal LEIS to: Dr. A. Vliet, Program Manager, McGregor Range Withdrawal, U.S. Army Air Defense Artillery Center and Fort Bliss, ATTN: ATZC–CSA, PO Box 6020, Fort Bliss, Texas 79906; telephone (915) 568–6708.

SIGNIFICANT ISSUES: Continuance of military and non-military multiple use of McGregor Range, in particular the area known as Otero Mesa will be addressed.

SUPPLEMENTARY INFORMATION: Public scoping meetings in connection with this LEIS will be held in three communities: Las Cruces and Alamogordo, New Mexico, and El Paso, Texas. Meeting times and locations will be published in local newspapers. These meetings will provide the opportunity for the public to become aware of the LEIS and for the Army to gather public input regarding the scope of the study and reasonable alternatives. Those unable to attend the scheduled scoping meetings may submit written comments regarding the scope of the LEIS through January 9, 1998, to the address above.

A mailing list has been prepared for public scoping and review throughout the process of preparation of this LEIS. This list includes local, state and federal agencies with jurisdiction of other interests in the project. In addition, the mailing list includes adjacent property owners, affected municipalities and other interested parties such as conservation organizations. Anyone wishing to be added to the mailing list may request to be added by contacting the person identified below.

Dated: October 24, 1997.

Richard E. Newsome,

Acting Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health) OASA (I, L&E).

[FR Doc. 97–28637 Filed 10–28–97; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Federal Interagency Coordinating Council Meeting (FICC)

AGENCY: Federal Interagency Coordinating Council, Education.

ACTION: Notice of a public meeting.

SUMMARY: This notice describes the schedule and agenda of a forthcoming meeting of the Federal Interagency Coordinating Council. Notice of this meeting is required under section 685(c) of the Individuals with Disabilities Education Act, as amended, and is intended to notify the general public of their opportunity to attend the meeting. The meeting will be accessible to individuals with disabilities.

DATES AND TIMES: November 20, 1997, from 1:00 p.m. to 4:30 p.m.

ADDRESSES: Hubert Humphrey Building, Room 305A, 200 Independence Avenue, S.W., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Libby Doggett or Kim Lawrence, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3080, Switzer Building, Washington, DC 20202–2644. Telephone: (202) 205–5507 or 205–9068. Individuals who use a telecommunications device for the deaf (TDD) may call (202) 205–0754.

SUPPLEMENTARY INFORMATION: The Federal Interagency Coordinating Council (FICC) is established under

section 685 of the Individuals with Disabilities Education Act, as amended (20 U.S.C. 1484a). The Council is established to: (1) Minimize duplication across Federal, State and local agencies of programs and activities relating to early intervention services for infants and toddlers with disabilities and their families and preschool services for children with disabilities; (2) ensure effective coordination of Federal early intervention and preschool programs, including Federal technical assistance and support activities; and (3) identify gaps in Federal agency programs and services and barriers to Federal interagency cooperation. To meet these purposes, the FICC seeks to: (1) Identify areas of conflict, overlap, and omissions in interagency policies related to the provision of services to infants, toddlers, and preschoolers with disabilities; (2) develop and implement joint policy interpretations on issues related to infants, toddlers, and preschoolers that cut across Federal agencies, including modifications of regulations to eliminate barriers to interagency programs and activities; and (3) coordinate the provision of technical assistance and dissemination of best practice information. The FICC is chaired by the Assistant Secretary for Special Education and Rehabilitative Services.

At this meeting the FICC plans to discuss issues related to pediatric aids and intervention options for young children; and to assess FICC functioning and changes dictated by the 1997 amendments to the Individuals with Disabilities Education Act.

The meeting of the FICC is open to the public. Written public comment will be accepted at the conclusion of the meeting. These comments will be included in the summary minutes of the meeting. The meeting will be physically accessible with meeting materials provided in both braille and large print. Interpreters for persons who are hearing impaired will be available. Individuals with disabilities who plan to attend and need other reasonable accommodations should contact Kim Lawrence at (202) 205–8428 one week in advance of the meeting.

Summary minutes of the FICC meetings will be maintained and available for public inspection at the U.S. Department of Education, 600 Independence Avenue, S.W., Room 3080, Switzer Building, Washington, DC 20202–2644, from the hours of 9:00 a.m. to 5:00 p.m., weekdays except Federal Holidays.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 97–28600 Filed 10–28–97; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

[Docket No. EA–58–F]

Application to Amend Export Authorization; The Detroit Edison Company

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Detroit Edison Company has filed, on behalf of itself and Consumers Energy Company, an application for removal of the annual limitation on the existing authorization permitting Detroit Edison and Consumers Energy to export electric energy to Ontario Hydro.

DATES: Comments, protests, or requests to intervene must be submitted on or before November 28, 1997.

ADDRESSES: Comments, protests, or requests to intervene should be addressed as follows: Office of Coal and Power Systems (FE–27), Office of Fossil Energy, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202–586–9624 or Michael Skinker (Program Attorney) 202–586–6667.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On October 16, 1997, The Detroit Edison Company ("Detroit Edison") applied on behalf of itself and Consumers Energy Company ("Consumers") for removal of the annual limitation on their existing authorization (FE Docket EA–58–E) to export electricity to Ontario Hydro, a Canadian Provincial utility. The existing authorization, issued by the Federal Power Commission on October 20, 1972, allows Detroit Edison and Consumers (together "Michigan Companies") to export to Ontario Hydro up to 4,000,000,000 kilowatt hours (kWhr) of electric energy annually at a maximum rate of 2,200,000,000 volt-amperes (2,200 MVA). Based on emergency situations or other unusual circumstances, the Department of Energy ("DOE") has granted several temporary waivers of this limit. By this application, the Michigan Companies request that DOE remove the annual energy export limitation on a permanent basis.

In their application, the Michigan Companies assert that reliability will not be adversely affected by the removal of the annual energy export limitation, coordination among the Michigan Companies and Ontario Hydro can be increased, and that there will be no adverse impacts from removing the 4,000,000,000 kWhr limitation. The Michigan Companies do not propose to modify the 2,200,000 kVa limitation on the rate of export, and they represent that they will apply that limitation on a scheduled basis to mitigate loopflow on other systems as a result of increased energy exports to Canada.

The electrical systems of the Michigan Companies and Ontario Hydro presently are interconnected at four points on the U.S.-Canada border. Each interconnection has been authorized by a Presidential permit issued under Executive Order 10485.

Procedural Matters

Any persons desiring to become a party to these proceedings or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385,214). Fifteen copies of such petitions and protests should be filed with the DOE on or before the date listed above. Additional copies are to be filed directly with John D. McGrane, Morgan, Lewis & Bockius LLP, 1800 M Street, NW., Washington, DC 20036–5869; Raymond O. Sturdy, Jr., The Detroit Edison Company, 2000 Second Avenue—688WCB, Detroit, Michigan, 48226–1279; William M. Lange, Consumers Energy Company, 1016 16th Street, NW., Washington, DC 20036; and Wayne A. Kirkby, Consumers Energy Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969 (NEPA), and a determination is made by the DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above.

Issued in Washington, DC on October 23, 1997.

Anthony J. Como,

Manager, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 97–28638 Filed 10–28–97; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP96–213–006]

Columbia Gas Transmission Corporation; Notice of Amendment to Application

October 23, 1997.

Take notice that on October 16, 1997, Columbia Gas Transmission Corporation (Columbia), a Delaware corporation, having its principal place of business at 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314–1599, filed a letter with attachments, originally filed October 14, 1997, that proposes to amend, pursuant to Section 7(c) of the Natural Gas Act, its certificate previously issued by the Commission in an Order Denying Rehearing And Issuing Certificates on May 14, 1997 in Docket Nos. CP96–213–000, *et al.*, Columbia's Market Expansion Project (MEP).

Columbia states that, due to service level changes requested by two of its customers, UGI Utilities, Inc., and Columbia Gas of Pennsylvania, Inc., Columbia finds that it can delete several of the projects previously approved by the Commission's May 14, Order.

Specifically, the above customers have requested a change in service from Rate Schedules FSS and SST (storage and storage transportation service) to Rate Schedule FTS (firm transportation service) in the aggregate of 54,261 Dth/d. Columbia states that, because of this change in service, it can delete several new wells, enhancement wells, new lines and replacement lines in its McArthur, Coco A and Coco C Storage Fields, and defer the construction of certain wells in its Crawford Storage Field; thus reducing the original cost estimate of the MEP by $16,153,137.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 12, 1997, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Columbia to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97–28579 Filed 10–28–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–174–005]

Gulf States Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

October 23, 1997.

Take notice that on October 20, 1997, Gulf States Transmission Corporation (GSTC), tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, certain tariff sheets to be effective November 1, 1997.

GSTC states that the purpose of the filing is to comply with the Commission Staff's letter order dated October 14, 1997 in Docket No. RP97–174–004, which involves compliance with the Commission's Order No. 587–C, issued March 4, 1997 in Docket No. RM96–1–004.

GSTC states that copies of the filing are being mailed to its jurisdictional customers and interested state regulatory agencies.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make Protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–28562 Filed 10–28–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–224–010]

Sea Robin Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

October 23, 1997.

Take notice that on October 21, 1997, Sea Robin Pipeline Company (Sea Robin) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets in compliance with the Commission's Order No. 587–C, the Commission's June 27, 1997, Order and the Commission's October 16, Letter Order in this docket, to become effective November 1, 1997.

First Substitute Third Revised Sheet No. 14
First Substitute First Revised Sheet No. 30a
First Substitute Second Revised Sheet No. 32
First Substitute Third Revised Sheet No. 34
First Substitute Fourth Revised Sheet No. 35
First Substitute Third Revised Sheet No. 95

On April 30, 1997, Sea Robin made a pro forma compliance filing in response to Commission Order No. 587–C in order to implement certain GISB standards. On June 27, 1997, the Commission issued an order accepting Sea Robin's filing subject to certain conditions. The June order required Sea Robin to submit a compliance filing to incorporate into its tariff specific language from GISB standards and definitions addressing OBAs, package ids. operational flow orders, intra-day nominations, rankings, imbalance penalties and the standard international

unit of gas measurement. In addition, Sea Robin has changed the reference to the version number of Standard 4.3.6 from 1.1 to 1.0.

Sea Robin made a compliance filing consistent with the terms of the June Order on October 1, 1997. On October 16, 1997, the Commission issued a letter order requiring Sea Robin to repaginate 6 of the sheets filed on October 1, 1997. In response to the October 16, letter order, Sea Robin has filed the tariff sheets with the revised pagination. No textual changes were made to the sheets. Sea Robin states that such effective date is appropriate because it is consistent with Sea Robin's April 30, tariff filing, and the timeline established in Order No. 587–C.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211, of the Commission's Rules of Practice and Procedures. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken , but will not serve to make the protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reading Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–28583 Filed 10–28–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–4166–000]

Southern Company Energy Marketing, L.P.; Notice of Issuance of Order

October 24, 1997.

Southern Company Energy Marketing, L.P. (SCEM), a company indirectly owned by Atlantic Richfield Company and the The Southern Company, filed an application for authorization to sell electric energy and capacity at market-based rates, and for certain waivers and authorizations. In particular, SCEM requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by SCEM. On October 10, 1997, the Commission issued an order Accepting Proposed Market-Based Rates for Filing (Order), in the above-docketed proceeding.

The Commission's October 10, 1997 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (D), (E), and (G):

(D) Within 30 days of the date of issuance of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuance of securities or assumptions of liabilities by SCEM should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E. Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(E) Absent a request to be heard within the period set forth in Ordering Paragraph (D) above, SCEM is hereby authorized, pursuant to section 204 of the FPA to issue securities and assume obligations of liabilities as guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of SCEM compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(G) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approved of SCEM's issuance of securities or assumptions of liabilities * * *.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is November 10, 1997.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 97–28675 Filed 10–28–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–36–000]

Williston Basin Interstate Pipeline Company; Notice of Request Under Blanket Authorization

October 23, 1997.

Take notice that on October 17, 1997, Williston Basin Interstate Pipeline Company (Williston Basin), 200 North Third Street, Suite 300, Bismarck, North Dakota 58501, filed in Docket No. CP98–36–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to construct and operate new metering and associated appurtenant facilities in Big Horn County, Wyoming, for use in providing delivery of transportation service to KCS Mountain Resources, Inc. (KCS), under Williston Basin's blanket certificate issued in Docket Nos. CP82–487–000, *et al.*, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Williston Basin states that KCS has requested the installation of metering facilities to allow Williston Basin to make deliveries of up to 7,500 Mcf per day to KCS to be used at its gas processing plant and for KCS to provide gas service to a local distribution company.

Williston Basin states that the facilities to be constructed will consist of a new four-inch meter run, meter, SCADA communication equipment and miscellaneous piping, gauges and valves, all of which will be installed within the existing buildings or within the existing fenced metering station. Williston Basin estimates the cost of the proposed metering facilities to be $59,000, and that the actual cost of the facilities is 100% reimbursable by KCS.

Williston Basin states that in addition to the facilities mentioned above, Williston Basin will be installing approximately 12 feet of additional six-inch piping to connect its system at the intersection of its 10-inch Manderson Lateral and its 12-inch Worland-Cabin Creek Yellow Line to effectuate the delivery of gas to KCS. Williston Basin states that this construction will occur entirely on existing pipeline right-of-way within a concrete-enclosed underground valve box and no ground disturbance will occur. Williston Basin proposes to complete and report such construction under Section 157.208(a) of the Commission's Regulations.

Williston Basin states that it will provide natural gas transportation deliveries to KCS under Rate Schedules FT–1 and/or IT–1 of Williston Basin's FERC Gas Tariff, Second Revised Volume No. 1, and that Williston Basin's FERC Gas tariff does not prohibit the addition of new delivery points. Williston Basin also states that the addition of the proposed facilities will have no significant effect on its peak day or annual requirements and capacity has been determined to exist on the Williston Basin system to serve this natural gas market. Williston Basin further states that the volumes to be delivered will be within the contractual entitlements of the customer.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 97–28580 Filed 10–28–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–42–000, et al.]

Louisville Gas and Electric Company, et al.; Electric Rate and Corporate Regulation Filings

October 23, 1997

Take notice that the following filings have been made with the Commission:

1. Louisville Gas and Electric Company

[Docket No. ER98–42–000]

Take notice that on October 6, 1997, Louisville Gas and Electric Company (LG&E), tendered for filing an executed Non-Firm Point-To-Point Transmission Service Agreement between LG&E and AYP Energy, Inc., under LG&E's Open Access Transmission Tariff.

Comment date: November 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. Washington Water Power

[Docket No. ER98–43–000]

Take notice that on October 6, 1997, Washington Water Power, tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13, executed a Service Agreement and Certificate of Concurrence under WWP's FERC Electric Tariff First Revised Volume No. 9, with Mason County PUD No. 3. WWP requests waiver of the prior notice requirement and requests an effective date of October 1, 1997.

Comment date: November 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Wisconsin Electric Power Company

[Docket No. ER98–44–000]

Take notice that on October 6, 1997, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing a Transmission Service Agreement between itself and Entergy Power Marketing Corporation (Entergy). The Transmission Service Agreement allows Entergy to receive transmission service under Wisconsin Electric's FERC Electric Tariff, Volume No. 7, which is pending Commission consideration in Docket No. OA97–578.

Wisconsin Electric requests an effective date coincident with its filing and waiver of the Commission's notice requirements in order to allow for economic transactions as they appear. Copies of the filing have been served on Entergy, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: November 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Cleveland Electric Illuminating Company and The Toledo Edison Company

[Docket No. ER98–45–000]

Take notice that on October 6, 1997, the Canterior Service Company as Agent for The Cleveland Electric Illuminating Company and The Toledo Edison Company filed Service Agreements to provide Non-Firm Point-to-Point Transmission Service for Constellation Power Source, Inc., Entergy Power Marketing Corporation, and NP Energy Inc., the Transmission Customers. Services are being provided under the Canterior Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. OA96–204–000. The proposed effective date under the Service Agreement is October 1, 1997.

Comment date: November 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Illinois Power Company

[Docket No. ER98–46–000]

Take notice that on October 6, 1997, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing non-firm transmission agreements under which The Dayton Power & Light Company will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of September 27, 1997.

Comment date: November 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Louisville Gas and Electric Company

[Docket No. ER98–47–000]

Take notice that on October 6, 1997, Louisville Gas and Electric Company (LG&E), tendered for filing an executed Purchase and Sales Agreement between LG&E and Proliance Energy, LLC under LG&E's Rate Schedule GSS.

Comment date: November 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Maine Public Service Company

[Docket No. ER98–48–000]

Take notice that on October 6, 1997, Maine Public Service Company (Maine Public) filed an executed Service Agreement for non-firm point-to-point transmission service under Maine Public's open access transmission tariff with New York State Electric & Gas Corporation.

Comment date: November 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Maine Public Service Company

[Docket No. ER98–49–000]

Take notice that on October 6, 1997, Maine Public Service Company (Maine Public) filed an executed Service Agreement for non-firm point-to-point transmission service under Maine Public's open access transmission tariff with New Energy Ventures, L.L.C.

Comment date: November 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Duquesne Light Company Pennsylvania Public Utility Commission

[Docket No. ER98–50–000]

Take notice that on October 6, 1997, Duquesne Light Company and the Pennsylvania Public Utility Commission filed a Request for Acceptance of Retail Transmission Rates Implementing Duquesne Light Company's Retail Access Pilot Program.

Comment date: November 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. MIECO Inc.

[Docket No. ER98–51–000]

Take notice that on October 6, 1997, MIECO Inc. (MIECO), petitioned the

Federal Energy Regulatory Commission to grant certain blanket authorizations, to waive certain of the Commissions Regulations and to issue an order accepting MIECO's FERC Electric Rate Schedule No. 1.

MIECO intends to engage in power marketing transactions, purchasing and reselling electricity at wholesale, through one of its divisions, MIECO Power Marketing. MIECO does not own or control electric generating or transmission facilities or have any franchised service territories. MIECO is a petroleum trading company.

Comment date: November 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Boston Edison Company

[Docket No. ER98–52–000]

Take notice that on October 6, 1997, Boston Edison Company (Boston Edison), tendered for filing a Service Agreement and Appendix A under Original Volume No. 6, Power Sales and Exchange Tariff (Tariff) for Tractebel Energy Marketing, Inc., (Tractebel). Boston Edison requests that the Service Agreement become effective as of September 11, 1997.

Edison states that it has served a copy of this filing on Tractebel and the Massachusetts Department of Public Utilities.

Comment date: November 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Boston Edison Company

[Docket No. ER98–53–000]

Take notice that on October 6, 1997, Boston Edison Company (Boston Edison), tendered for filing a Service Agreement under Original Volume No. 6, FERC Order No. 888 Tariff (Tariff) for NorAm Energy Services, Inc., (NorAm). Boston Edison requests that the Service Agreement become effective as of September 1, 1997.

Edison states that it has served a copy of this filing on NorAm and the Massachusetts Department of Public Utilities.

Comment date: November 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Northern Indiana Public Service Company

[Docket No. ER98–54–000]

Take notice that on October 6, 1997, Northern Indiana Public Service Company, tendered for filing an executed Standard Transmission Service Agreement for Non-Firm Point-to-Point Transmission Service between Northern Indiana Public Service Company and Kansas City Power & Light Company.

Under the Transmission Service Agreement, Northern Indiana Public Service Company will provide Point-to-Point Transmission Service to Kansas City Power & Light Company pursuant to the Transmission Service Tariff filed by Northern Indiana Public Service Company in Docket No. OA96–47–000 and allowed to become effective by the Commission. Northern Indiana Public Service Company has requested that the Service Agreement be allowed to become effective as of October 1, 1997.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: November 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. PECO Energy Company

[Docket No. ER98–55–000]

Take notice that on October 6, 1997, PECO Energy Company (PECO) filed a Service Agreement dated September 30, 1997, with Constellation Power Source, Inc. (CONSTELLATION), under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds CONSTELLATION as a customer under the Tariff.

PECO requests an effective date of September 30, 1997, for the Service Agreement.

PECO states that copies of this filing have been supplied to CONSTELLATION and to the Pennsylvania Public Utility Commission.

Comment date: November 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Louisville Gas and Electric Company

[Docket No. ER98–56–000]

Take notice that on October 6, 1997, Louisville Gas and Electric Company (LG&E), tendered for filing an executed Non-Firm Point-To-Point Transmission Service Agreement between LG&E and Proliance Energy, LLC under LG&E's Open Access Transmission Tariff.

Comment date: November 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Niagara Mohawk Power Corporation

[Docket No. ER98–57–000]

Take notice that on October 6, 1997, Niagara Mohawk Power Corporation (NMPC), tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between NMPC and The Dayton Power and Light Company. This Transmission Service Agreement specifies that The Dayton Power and Light Company has signed on to and has agreed to the terms and conditions of NMPC's Open Access Transmission Tariff as filed in Docket No. OA96–194–000. This Tariff, filed with FERC on July 9, 1996, will allow NMPC and The Dayton Power and Light Company to enter into separately scheduled transactions under which NMPC will provide transmission service for The Dayton Power and Light Company as the parties may mutually agree.

NMPC requests an effective date of September 30, 1997. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon the New York State Public Service Commission and The Dayton Power and Light Company.

Comment date: November 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Boston Edison Company

[Docket No. ER98–58–000]

Take notice that on October 6, 1997, Boston Edison Company (Boston Edison), tendered for filing a Service Agreement under Original Volume No. 6, FERC Order No. 888 Tariff (Tariff) for Sonat Power Marketing L.P.,(Sonat). Boston Edison requests that the Service Agreement become effective as of September 1, 1997.

Edison states that it has served a copy of this filing on Sonat and the Massachusetts Department of Public Utilities.

Comment date: November 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Western Resources, Inc.

[Docket No. ER98–59–000]

Take notice that on October 6, 1997, Western Resources, Inc., tendered for filing a non-firm transmission agreement between Western Resources and Avista Energy. Western Resources states that the purpose of the agreement is to permit non-discriminatory access to the transmission facilities owned or controlled by Western Resources in accordance with Western Resources' open access transmission tariff on file with the Commission. The agreement is proposed to become effective September 30, 1997.

Copies of the filing were served upon Avista Energy and the Kansas Corporation Commission.

Comment date: November 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. New Century Services, Inc.

[Docket No. ER98–60–000]

Take notice that on October 7, 1997, New Century Services, Inc., on behalf of Cheyenne Light, Fuel and Power Company, Public Service Company of Colorado, and Southwestern Public Service Company tendered for filing a Service Agreement under their Joint Open Access Transmission Service Tariff for Non-Firm Point-to-Point Transmission Service between Public Service Company of Colorado and Cook Inlet Energy Supply.

Comment date: November 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. Sithe Power Marketing, Inc.

[Docket No. ER98–107–000]

Take notice that on October 9, 1997, Sithe Power Marketing, Inc. (Sithe PM), petitioned the Federal Energy Regulatory Commission to grant certain blanket authorizations, to waive certain of the Commission's Regulations and to issue an order accepting Sithe PM's FERC Electric Rate Schedule No. 1.

Sithe PM intends to engage in power marketing transactions, purchasing and reselling electricity at wholesale. Sithe PM states that it does not own or control and is not affiliated with any entity that owns or controls electric transmission or distribution facilities in the United States. Sithe further states that it is not affiliated with any franchised electric utility in the United States. Sithe concludes that any interests that its affiliates have in domestic electric generation facilities do not raise any generation market power concerns.

Comment date: November 5, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–28674 Filed 10–28–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Filed With the Commission

October 23, 1997.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type Modification:* Request for Temporary Minimum Flow.

b. *Project No.:* 2100–083.

c. *Date Filed:* September 29, 1997.

d. *Applicant:* California Department of Water Resources.

e. *Name of Project:* Feather River Hydroelectric Project.

f. *Location:* The project is located on the Feather River Butte County, California.

g. *Filed Pursuant to:* 18 CFR 4.200.

h. *Applicant Contact:* Mr. Jim Snow, Chief, Operations Scheduling Section, California Department of Water Resources, P.O. Box 942836, Sacramento, CA, (916) 574–2666.

i. *FERC Contact:* Diane Shannon, (202) 208–7774.

j. *Comment Date:* November 17, 1997.

k. *Description of Amendment:* The California Department of Water Resources (licensee) requests Federal Energy Regulatory Commission approval to temporarily modify its minimum flow requirement at the Thomalito Afterbay Outlet (outlet) of the Feather River Hydroelectric Project. Article 53 of the project license requires the licensee to release a minimum flow of 1,700 cubic feet per second (cfs) from the outlet from October through March, depending on runoff. Based on an agreement with state and federal resource agencies, the licensee wishes to temporarily reduce flows at the outlet to 1,500 cfs for a maximum of 75 days, from January 1 through March 15, 1998, to help recover water supply lost due to actions taken in the spring of 1997 to help fish. The agreement also calls for the licensee to increase flows to the "low flow channel" of the Feather River from 600 to 900 cfs from October 15, 1997 through February 28, 1998.

This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion of intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Lois D. Cashell,

Secretary.

[FR Doc. 97–28561 Filed 10–28–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Notice of Cases Filed During the Week of August 4 Through August 8, 1997

During the Week of August 4 through August 8, 1997, the appeals, applications, petitions or other requests listed in this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who will be aggrieved by the DOE action sought in any of these cases may file written comments on the application within ten days of publication of this Notice or the date of receipt of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585–0107.

Dated: October 17, 1997.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of August 4 Through August 8, 1997]

Date	Name and Location of Applicant	Case No.	Type of Submission
8/07/97	Bruce Darren Gaither, Tulsa, Oklahoma	VFA–0324	Appeal of an Information Request Denial. If granted: The June 30, 1997 Freedom of Information Request Denial issued by the Office of the Executive Secretariat would be rescinded, and Bruce Darren Gaither would receive access to certain DOE information.
8/04/97	Personnel Security Hearing	VSO–0170	Request for Hearing under 10 CFR Part 710. If granted: An individual employed by the Department of Energy would receive a hearing under 10 CFR Part 710.
8/07/97	Hanford Advisory Board, Richland, Washington.	VFA–0323	Appeal of an Information Request Denial. If granted: The July 25, 1997 Freedom of Information Request Denial issued by the Richland Operations Office would be rescinded, and Hanford Advisory Board would receive access to certain DOE information.
8/07/97	Personnel Security Review	VSA–0126	Request for Review of Opinion under 10 CFR Part 710. If granted: The May 1, 1997 Opinion of the Office of Hearings and Appeals Case No. VSO–0126 would be reviewed at the request of an individual employed by the Department of Energy.

[FR Doc. 97–28639 Filed 10–28–97; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5814–6]

Agency Information Collection Activities: Proposed Collection; Comment Request; Clean Air Act Tribal Authority

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Clean Air Act Tribal Authority, OMB Code No. 2060–0306, expiring 03/31/98. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before December 29, 1997.

ADDRESSES: Office of Air and Radiation, Office of Program Management Operations, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Interested persons may request a copy of the ICR by calling (202) 260–7652, or by electronic mail at "Laroche.david@EPAmail.EPA.gov".

FOR FURTHER INFORMATION CONTACT: David Laroche, Telephone No. (202) 260–7652/ Facsimile No. (202) 260–8509/E-MAIL Address. "Laroche.david@EPAmail.EPA.gov".

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are Indian Tribes.

Title: Clean Air Act Tribal Authority, (OMB Code No.2060–0306; EPA ICR No. 1676.02), expiring 03/31/98.

Abstract: This ICR requests clearance on EPA's review and approval process for determining Tribe eligibility to carry out the Clean Air Act (CAA). Tribes may choose to submit a CAA eligibility and a CAA program application to EPA at the same time for approval and EPA will review both submittals simultaneously. EPA will use this information to determine if a Tribe meets the statutory criteria under the section 301(d) of the CAA and is qualified for purposes of implementing an Air Quality Program. Section 114 of the CAA is the authority for the collection of information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. Section 301(d) of the CAA directs EPA's Administrator to promulgate regulations specifying those provisions of the Act which determine Tribe eligibility. When promulgated, the regulations will give Tribes the opportunity, if they choose, to implement all CAA programs. The Tribal rule will authorize approved Tribes to exercise civil authority over all air resources within the exterior boundaries of their reservations, including nontribal owned fee lands, or other areas within the Tribes' jurisdiction. The regulation is under administrative review and promulgation is expected in 1997.

Each Tribe is to meet eligibility by demonstrating it: (1) Is a Federally recognized Tribe; (2) has a governing body carrying out substantial governmental duties and powers; and (3) is reasonably expected to be capable of carrying out the program for which it is seeking approval in a manner consistent with the CAA and applicable regulations. If the Tribe is asserting jurisdiction over off-reservation lands, it must demonstrate the legal and factual basis for its jurisdiction consistent with applicable principles of Indian Laws.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: This rule incorporates the Agency's streamlined process for Tribes to be determined eligible to implement directly provisions of the CAA. Some of the Tribes may have compiled the information necessary to apply for eligibility determination for purposes of the Clean Water Act or Safe Drinking Water Act. The number of respondents will vary depending upon air quality conditions and major sources on reservations. The annual burden associated with eligibility is estimated to be 40 hours per Tribe and average respondent per hour labor cost is $25.13, with no associated projected capital or Operations and Management costs. The estimated number of respondent Tribes applying for CAA programs over the next three years is 36.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: October 22, 1997.

Richard D. Wilson,

Acting Assistant Administrator for Air & Radiation.

[FR Doc. 97–28549 Filed 10–28–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00506; FRL–5747–8]

Versar Inc.; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This is a notice to certain persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Versar Inc. has been awarded a contract to perform work for the EPA Office of Pesticide Programs, and will be provided access to certain information submitted to EPA under FIFRA and FFDCA. Some of this information may have been claimed to be confidential business information (CBI) by submitters. This infomation will be transferred to Versar Inc. consistent with the requirements of 40 CFR 2.307(h)(3) and 2.308(i)(2), and will enable Versar Inc. to fulfill the obligations of the contract.

DATES: Versar Inc. will be given access to this information no sooner than November 3, 1997.

FOR FURTHER INFORMATION CONTACT: By mail: BeWanda B. Alexander, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 700N, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5259, e-mail: alexander.bewanda@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under Contract No. 68–W6–0030, Versar Inc. will perform reviews of pesticide field exposure studies for planned program activities, special review, and reregistration for the Chemistry and Exposure Branches of the Office of Pesticide Programs. This contract involves no subcontractor. The Office of Pesticide Programs has determined that access by Versar Inc. to information on all pesticide chemicals is necessary for the performance of this contract. Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(2), the contract with Versar Inc. prohibits use of the information for any purpose not specified in the contract; prohibits disclosure of the information to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the FIFRA Information Security Manual. In addition, Versar Inc. is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to this contractor until the above requirements have been fully satisfied. Records of information provided to this contractor will be maintained by the Project Officer for this contract in the EPA Office of Pesticide Programs. All information supplied to Versar Inc. by EPA for use in connection with this contract will be returned to EPA when Versar Inc. has completed its work.

Dated: October 7, 1997.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

[FR Doc. 97–28660 Filed 10–28–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00507; FRL–5757–9]

Versar Inc., Syracuse Research Corp., and General Sciences Corp; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This is a notice to certain persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Versar Inc. and its subcontractors, Syracuse Research Corp. (SRC) and General Sciences Corp. (GSC), have been awarded a contract to perform work for the EPA Office of Pollution Prevention and Toxics and other EPA programs, and will be provided access to certain information submitted to EPA under FIFRA and FFDCA. Some of this information may have been claimed to be confidential business information (CBI) by submitters. This infomation will be transferred to Versar Inc. and its subcontractors, SRC and GSC, consistent with the requirements of 40 CFR 2.307(h)(3) and 2.308(i)(2), and will

enable Versar Inc. and its subcontractors, SRC and GSC, to fulfill the obligations of the contract.

DATES: Versar Inc. and its subcontractors, SRC and GSC, will be given access to this information no sooner than November 3, 1997.

FOR FURTHER INFORMATION CONTACT: By mail: BeWanda B. Alexander, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 700N, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5259, e-mail: alexander.bewanda@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under Contract No. 68–W6–0023, Versar Inc. and its subcontractors, SRC and GSC, will perform reviews of pesticide field exposure studies for planned program activities, special review, and reregistration and provide related technical support to the Chemistry and Exposure Branches of the EPA Office of Pesticide Programs. Under this contract, Versar, Inc. and its subcontractors, SRC and GSC, will prepare environment exposure and risk assessments for the Exposure Assessment Branch of the Office of Water in support of the development of effluent guideline regulations and other similar regulatory actions necessary to preserve and protect human and aquatic life from adverse exposure and risks. The Office of Pollution Prevention and Toxics and Office of Pesticide Programs have jointly determined that the contract herein described involves work that is being conducted in connection with FIFRA, in that pesticide chemicals will be the subject of certain evaluations to be made under this contract. These evaluations may be used in subsequent regulatory decisions under FIFRA. Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(2), the contract with Versar Inc. and its subcontractors, SRC and GSC, prohibits use of the information for any purpose not specified in the contract; prohibits disclosure of the information to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the FIFRA Information Security Manual. In addition, Versar Inc. and its subcontractors, SRC and GSC, are required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to this contractor and its subcontractor until the above requirements have been fully satisfied. Records of information provided to this contractor and subcontractor will be maintained by the Project Officer for this contract in the EPA Office of Pollution Prevention and Toxics.

All information supplied to Versar Inc. and its subcontractors, SRC and GSC, by EPA for use in connection with this contract will be returned to EPA when Versar Inc. and its subcontractors, SRC and GSC, have completed their work.

Dated: October 7, 1997.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

[FR Doc. 97–28661 Filed 10–28–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00503; FRL–5747–5]

Dynamac Corporation; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This is a notice to certain persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Dynamac Corporation has been awarded a contract to perform work for the EPA Office of Pesticide Programs, and will be provided access to certain information submitted to EPA under FIFRA and FFDCA. Some of this information may have been claimed to be confidential business information (CBI) by submitters. This infomation will be transferred to Dynamac Corporation consistent with the requirements of 40 CFR 2.307(h)(3) and 2.308(i)(2), and will enable Dynamac Corporation to fulfill the obligations of the contract.

DATES: Dynamac Corporation will be given access to this information no sooner than November 3, 1997.

FOR FURTHER INFORMATION CONTACT: By mail: BeWanda B. Alexander, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 700N, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5259, e-mail: alexander.bewanda@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under Contract No. 68–D4–0010, Dynamac Corporation will conduct a comprehensive examination of all product chemistry and residue chemistry data submitted in support of reregistration for List A, B, C, and D pesticide active ingredients and prepare a reregistration review document. This contract involves no subcontractor. The Office of Pesticide Programs has determined that access by Dynamac Corporation to information on all pesticide chemicals is necessary for the performance of this contract. Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(2), the contract with Dynamac Corporation prohibits use of the information for any purpose not specified in the contract; prohibits disclosure of the information to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the FIFRA Information Security Manual. In addition, Dynamac Corporation is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to this contractor until the above requirements have been fully satisfied. Records of information provided to this contractor will be maintained by the Project Officer for this contract in the EPA Office of Pesticide Programs. All information supplied to Dynamac Corporation by EPA for use in connection with this contract will be returned to EPA when Dynamac Corporation has completed its work.

Dated: October 7, 1997.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

[FR Doc. 97–28662 Filed 10–28–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00505; FRL–5747–7]

Syracuse Research Corporation; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This is a notice to certain persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Syracuse Research Corporation (SRC) has been awarded a contract to perform work for the EPA Office of Pesticide Programs, and will be provided access to certain information submitted to EPA under FIFRA and FFDCA. Some of this information may have been claimed to be confidential business information (CBI) by submitters. This infomation will be transferred to SRC consistent with the requirements of 40 CFR 2.307(h)(3) and 2.308(i)(2), and will enable SRC to fulfill the obligations of the contract.

DATES: SRC will be given access to this information no sooner than November 3, 1997.

FOR FURTHER INFORMATION CONTACT: By mail: BeWanda B. Alexander, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 700N, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5259, e-mail: alexander.bewanda@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under Contract No. 68–W6–0043, SRC will assist the Office of Pesticide Programs review environmental fate information for a wide range of pesticides, including both registration and reregistration pesticides. The environmental fate information, submitted under Subdivision N, 40 CFR 158.290, will be reviewed for adherence to guidelines and for scientific validity. This contract involves no subcontractor. The Office of Pesticide Programs has determined that access by SRC to information on all pesticide chemicals is necessary for the performance of this contract. Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(2), the contract with SRC prohibits use of the information for any purpose not specified in the contract; prohibits disclosure of the information to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the FIFRA Information Security Manual. In addition, SRC is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to this contractor until the above requirements have been fully satisfied. Records of information provided to this contractor will be maintained by the Project Officer for this contract in the EPA Office of Pesticide Programs. All information supplied to SRC by EPA for use in connection with this contract will be returned to EPA when SRC has completed its work.

Dated: October 7, 1997.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

[FR Doc. 97–28665 Filed 10–28–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00504; FRL–5747–6]

Dynamac Corporation and Environmental Management Support; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This is a notice to certain persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Dynamac Corporation and its subcontractor, Environmental Management Support (EMS) have been awarded a contract to perform work for the EPA Office of Pesticide Programs, and will be provided access to certain information submitted to EPA under FIFRA and the FFDCA. Some of this information may have been claimed to be confidential business information (CBI) by submitters. This infomation will be transferred to Dynamac and EMS consistent with the requirements of 40 CFR 2.307(h)(3) and 2.308(h)(2), and will enable Dynamac and EMS to fulfill the obligations of the contract.

DATES: Dynamac and EMS will be given access to this information no sooner than November 3, 1997.

FOR FURTHER INFORMATION CONTACT: By mail: BeWanda B. Alexander, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 700N, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5259, e-mail: alexander.bewanda@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under Contract No. 68–D5–0041, Dynamac and EMS will provide evaluations of the health effect-related toxicological and exposure data submitted by pesticide manufacturers, other EPA programs, and Government agencies to determine whether pesticides and their proposed uses may pose an unreasonable adverse effect on human health and the environment. Dynamac and EMS will support EPA's Office of Pesticide Programs Health Effects Division scientific technical assessments of potential hazards and risk of pesticide use by performing preliminary, detailed evaluations of toxicity studies and their data and prepare Data Evaluation Reports (DERs). The Office of Pesticide Programs has determined that access by Dynamac and EMS to information on all pesticide chemicals is necessary for the performance of this contract. Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(2), the contract with Dynamac and EMS prohibits use of the information for any purpose not specified in the contract; prohibits disclosure of the information to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the FIFRA Information Security Manual. In addition, Dynamac and EMS is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to this

contractor and its subcontractor until the above requirements have been fully satisfied. Records of information provided to this contractor and subcontractor will be maintained by the Project Officer for this contract in the EPA Office of Pesticide Programs. All information supplied to Dynamac and EMS by EPA for use in connection with this contract will be returned to EPA when Dynamac and EMS have completed their work.

Dated: October 7, 1997.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

[FR Doc. 97–28666 Filed 10–28–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–400118; FRL–5752–1]

Notice of Moving of Emergency Planning and Community-Right-to-Know Act Reporting Center

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice is to inform all submitters of Toxic Chemical Release Inventory (TRI) data that the Emergency Planning and Community-Right-to-Know Act (EPCRA) Reporting Center will move to a new location on November 3, 1997. This move only affects TRI data submitters sending their submissions or other correspondence directly to the EPCRA Reporting Center by courier or other direct delivery service. The new address is: EPCRA Reporting Center, c/o Computer Based Systems, Inc., Suite 300, 4600 North Fairfax Drive, Arlington, VA 22203. The phone numbers will remain unchanged: Phone: (703) 816–4445, Fax: (703) 816–4459. Also, normal TRI correspondence to the EPCRA Reporting Center should continue to be sent to: EPCRA Reporting Center, P.O. Box 3348, Merrifield, VA 22116-3348.

FOR FURTHER INFORMATION CONTACT: By mail: Janette Petersen (7407), Information Management Division, Office of Pollution Prevention and Toxics, Office of Prevention, Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. G102, North East Mall, Telephone: 202–260–1558, e-mail: petersen.janette@epamail.epa.gov.

List of Subjects

Environmental protection, Community right-to-know.

Dated: October 20, 1997.

Oscar Morales,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 97–28652 Filed 10–28–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5914–8]

EPA's National Drinking Water Contaminant Occurrence Data Base

AGENCY: Environmental Protection Agency (EPA).

ACTION: Announcement of a Joint Requirements Planning Meeting on the National Drinking Water Contaminant Occurrence Data Base.

SUMMARY: The Environmental Protection Agency (EPA) has scheduled a five-day Joint Requirement Planning (JRP) meeting on EPA's development of a National Drinking Water Contaminant Occurrence Data Base (NCOD). The JRP is a structured meeting designed to gather requirements on a new information system from a varied body of stakeholders with an interest in the system. At the upcoming meeting, EPA is seeking input from key national, State, individual stakeholders and other interested parties concerning the objectives, questions and data elements to be addressed in the design and development of the NCOD.

DATES: The Joint Requirements Planning Meeting on the National Drinking Water Contaminant Occurrence Data Base will be held on November 17–21, 1997 from 9:00 a.m. to 5:00 p.m. EST.

ADDRESSES: The meeting will be held in the WIC–2 South conference room at USEPA Waterside Mall, 401 M Street, S.W. Washington, D.C. 20460. For additional information, please contact Harriet Colbert, at phone: (202) 260–2302, fax: (202) 260–3762, or by e-mail at colbert.harriet@epamail.epa.gov. Members of the public wishing to attend the meeting may register by phone by contacting Harriet Colbert by October 31, 1997.

FOR FURTHER INFORMATION CONTACT: For information and logistics for the meeting, please contact Harriet Colbert, at phone: (202) 260–2302, fax: (202) 260–3762, or by e-mail at colbert.harriet@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

A. Background on the National Drinking Water Contaminant Occurrence Data Base Section 126(g)(1) of the Safe Drinking Water Act Amendments of 1996 (SDWA) requires the Administrator to assemble and maintain a national drinking water contaminant occurrence database by using information on the occurrence of both regulated and unregulated contaminants in public water systems and reliable information from other public and private sources. This National Contaminant Occurrence Database (NCOD) will be a collection of data of documented quality on unregulated and regulated chemical or microbial contaminants likely to occur in drinking water systems. The purpose of the data system is to support the identification and selection of contaminants for future regulation or other appropriate actions and to support the review of existing regulations for possible modification. The database must be developed no later than three years after the date of enactment of the SDWA Amendments. Therefore, SDWA requires the Office of Ground Water and Drinking Water (OGWDW) to develop the NCOD by August 6, 1999.

B. Request for stakeholder Involvement. At the May 1997 NCOD Stakeholders meeting, there was general concurrence that the primary user of the database will be EPA. Stakeholders such as industry, environmental groups, States and the general public are secondary users. As a result of the meeting, the NCOD Team established a system development strategy. The strategy will serve as a "road map" over the next two years for developing the first release of the data base to meet the statutory requirements. One of the major steps in implementing the development strategy is to determine what the needs are and specifically what types of data are required to meet those needs. User requirements will serve as the foundation upon which the database will be developed.

Discussion materials will be available at the meeting. The specific issue for discussion at the meeting will be what data elements are needed to allow sound scientific analysis to support contaminant identification, contaminant selection, regulatory development, and regulatory re-examination.

The public is invited to provide comments on the issue listed above or other issues related to the National Drinking Water Contaminant Occurrence Data Base during the November 17–21 meeting.

Dated: October 23, 1997.

Elizabeth Fellows,

Acting Director, Office of Ground Water and Drinking Water.

[FR Doc. 97–28554 Filed 10–28–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00509; FRL–5749–5]

Notice of Availability of Pesticide Data Submitters List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of an updated version of the Pesticide Data Submitters List which supersedes and replaces all previous versions.

FOR FURTHER INFORMATION CONTACT: By mail: John Jamula, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier delivery and telephone number: Rm. 226, Crystal Mall No. #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–6426.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Pesticide Data Submitters List is a compilation of names and addresses of registrants who wish to be notified and offered compensation for use of their data. It was developed to assist pesticide applicants in fulfilling their obligation as required by sections 3(c)(1)(f) and 3(c)(2)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and 40 CFR part 152, subpart E regarding ownership of data used to support registration. This notice announces the availability of an updated version of the Pesticide Data Submitters List which supersedes and replaces all previous versions.

II. Ordering Information

Microfiche copies of the document are available from the National Technical Information Service (NTIS): ATTN: Order Desk, 5285 Port Royal Road, Springfield, VA 22161; Telephone: 703–487–4650. When requesting a document from NTIS, please provide its name and NTIS Publication Number (PB). The NTIS Publication for this version of the Pesticide Data Submitters List is PB97–205629.

III. Electronic Access

The Pesticide Data Submitters List is available on EPA's worldwide web site on the Internet. The Internet address of EPA's web site is www.epa.gov. To Access the Data Submitters List from the EPA Home Page, select "Databases and Software." From the next page, select "Media Specific." The Pesticide Data Submitters List may also be found by searching for the key words "data submitters list" from the EPA Home Page, or may be accessed directly on the EPA web site, by going directly to: http://www.epa.gov./opppmsd1/DataSubmittersList/index.html. Note that this address is case sensitive.

List of Subjects

Environmental protection.

Dated: October 16, 1997.

Richard D. Schmitt,

Acting Director, Information Resources and Services Division, Office of Pesticide Programs.

[FR Doc. 97–28668 Filed 10–28–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34117; FRL 5748–4]

Notice of Receipt of Requests for Amendments to Delete Uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendment by registrants to delete uses in certain pesticide registrations.

DATES: Unless a request is withdrawn, the Agency will approve these use deletions and the deletions will become effective on April 27, 1998.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier, delivery, telephone number and e-mail: Room 216, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5761; e-mail: hollins.james@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

II. Intent to Delete Uses

This Notice announces receipt by the Agency of applications from registrants to delete uses in the two pesticide registrations listed in the following Table 1. These registrations are listed by registration number, product names, active ingredients and the specific uses deleted. Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant before April 27, 1998 to discuss withdrawal of the applications for amendment. This 180–day period will also permit interested members of the public to intercede with registrants prior to the Agency approval of the deletion.

TABLE 1. — REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Reg No.	Product Name	Active Ingredient	Delete From Label
011773–00003	Cornbelt 4 lb. Lovol Ester	Acetic acid, (2,4-dichlorophenoxy) 2-ethylhexyl ester	Usage along drainage ditch banks
011773–00004	Cornbelt 6 lb. Lovol Ester	Acetic acid, (2,4 dichlorphenoxy) 2-ethylhexyl ester)	Usage along drainage ditch banks

The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2. — REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

Company No.	Company Name and Address
011773	Van Diest Supply Co., 1434 220th Street, P.O. Box 610, Webster City, IA 50595.

III. Existing Stocks Provisions

The Agency has authorized registrants to sell or distribute product under the previously approved labeling for a period of 18 months after approval of the revision, unless other restrictions have been imposed, as in special review actions.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: October 16, 1997.

Richard D. Schmitt,

Acting Director, Information Resources and Services Division, Office of Pesticide Programs.

[FR Doc. 97–28667 Filed 10–28–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–66246; FRL 5749–6]

Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations.

DATES: Unless a request is withdrawn by April 27, 1998, orders will be issued cancelling all of these registrations.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier, delivery, telephone number and e-mail: Rm. 216, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5761; e-mail: hollins.james@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, provides that a pesticide registrant may, at any time, request that any of its pesticide registrations be cancelled. The Act further provides that EPA must publish a notice of receipt of any such request in the **Federal Register** before acting on the request.

II. Intent to Cancel

This Notice announces receipt by the Agency of requests to cancel some 18 pesticide products registered under section 3 or 24(c) of FIFRA. These registrations are listed in sequence by registration number (or company number and 24(c) number) in the following Table 1.

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product Name	Chemical Name
000279 LA–91–0019	Furadan 4F	2,3-Dihydro-2,2-dimethyl-7-benzofuranyl methylcarbamate
000352 AZ–87–0020	Vydate L Insecticide Nematicide	Oxamimidic acid, *N',N'*-dimethyl-*N*-((methylcarbamoyl)oxy)-1-thio-methyl ester
000524–00492	Cryia(B) Form of the B.T.K. Insect Control Protein	HD-1 Protein as encoded by Bacillus thuringiensis *subsp. kurstaki* gene and produced in corn
000829–00203	SA–50 Insecticide Bait contains 5% Dylox	Dimethyl (2,2,2-trichloro-1-hydroxyethyl)phosphonate
001130–00013	Burnishine Disinfectant Solution & Pump Spray	Isopropanol
		Alkyl* dimethyl benzyl ammonium chloride *(60%C_{14}, 30%C_{16}, 5%C_{18}, 5%C_{12})
		Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C_{12}, 32%C_{14})
001685–00039	State Brand Deo-Phene Bactericide	2-Benzyl-4-chlorophenol
010163–00186	Gowan Mepiquat Chloride 4.2 Liquid	*N,N*-Dimethylpiperidinium chloride
011603–00013	Trifluorex (Trifluralin) Technical	Trifluralin (α,α,α,α-trifluro-2,6-dinitro-*N,N*-dipropyl-*p*-toluidine) (Note: α = alpha)
011694–00010	BKI Spray	5-Bromo-3-sec-butyl-6-methyluracil
		Acetic acid, (2,4-dichlorophenoxy)-2-ethylhexyl ester
011715–00199	B-Have! Dog and Cat Repellent Spray	Methyl nonyl ketone
011715–00285	Whitmire B'Have Cat Repellent Spray	Methyl nonyl ketone
011715–00286	B'Have Dog Repellent Indoor-Outdoor Use	Methyl nonyl ketone
028293–00026	Unicorn Dog and Cat Repellent	Methyl nonyl ketone
059639 AZ–93–0006	Monitor 4 Spray	*O,S*-Dimethyl phosphoramidothioate

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Product Name	Chemical Name
062719–00207	SYN-PY–26	(5-Benzyl-3-furyl)methyl 2,2-dimethyl-3-(2-methylpropenyl)cyclopropanecarboxylate
062719–00208	Tapp Pet Concentrate	(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
		Pyrethrins
062719–00209	Tapp I–1ME	(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
		Pyrethrins
067572–00073	Pro "1" Pre-Emergence Herbicide	Trifluralin (α,α,α-trifluro-2,6-dinitro-*N,N*-dipropyl-*p*-toluidine) (Note: α = alpha)
		N-Butyl-*N*-ethyl-α,α,α-trifluoro-2,6-dinitro-*p*-toluidine (Note: α = alpha)

Unless a request is withdrawn by the registrant within 180 days of publication of this notice, orders will be issued cancelling all of these registrations. Users of these pesticides or anyone else desiring the retention of a registration should contact the applicable registrant directly during this 180–day period. The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA Company Number.

TABLE 2. — REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company No.	Company Name and Address
000279	FMC Corp., Agricultural Products Group, 1735 Market St., Philadelphia, PA 19103.
000352	E. I. Du Pont De Nemours & Co., Inc., Barley Mill Plaza, Walker's Mill, Wilmington, DE 19880.
000524	Monsanto Co., Agent For: Monsanto Agricultural Co., 700 14th St., NW., Suite 1100, Washington, DC 20005.
000829	Southern Agricultural Insecticides, Inc., Box 218, Palmetto, FL 34220.
001130	Burnishine Products Division, The Herbert Stanley Co., 1100 Lakeside Dr., Gurnee, IL 60031.
001685	The State Chemical Mfg. Co., 3100 Hamilton Ave, Cleveland, OH 44114.
010163	Gowan Co., Box 5569, Yuma, AZ 85366.
011603	Agan Chem Mfg. Ltd., Makhteshim-Agan of N. America Inc., 551 Fifth Ave., Suite 1100, New York, NY 10176.
011694	Dymon Inc., Box 340, Olathe, KS 66051.
011715	Speer Products Inc., Box 18993, Memphis, TN 38181.
028293	Unicorn Laboratories, 13535 Feather Sound Dr., Suite 400, Clearwater, FL 34622.
059639	Valent U.S.A. Corp., 1333 N. California Blvd, Ste 600, Walnut Creek, CA 94596.
062719	DowElanco, 9330 Zionsville Rd., 308/3E, Indianapolis, IN 46268.
067572	Contract Packaging Inc., Bldg 1, 4132 U.S., Hwy 278, Covington, GA 30209.

III. Loss of Active Ingredients

Unless the requests for cancellation are withdrawn, one pesticide active ingredient will no longer appear in any registered products. Those who are concerned about the potential loss of this active ingredient for pesticidal use are encouraged to work directly with the registrant(s) to explore the possibility of withdrawing their request for cancellation. The active ingredient is listed in the following Table 3, with the EPA Company and CAS Number.

TABLE 3. — ACTIVE INGREDIENTS WHICH WOULD DISAPPEAR AS A RESULT OF REGISTRANTS' REQUESTS TO CANCEL

CAS No.	Chemical Name	EPA Company No.
None assigned	HD-1 Protein as encoded by Bacillus Thuringiensis *Subsp. Kurstaki* Gene and Produced in Corn	000524

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to James A. Hollins, at the address given above, postmarked before April 27, 1998. This written withdrawal of the request for cancellation will apply only to the applicable 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration

fees due, and to fulfill any applicable unsatisfied data requirements.

V. Provisions for Disposition of Existing Stocks

The effective date of cancellation will be the date of the cancellation order. The orders effecting these requested cancellations will generally permit a registrant to sell or distribute existing stocks for 1 year after the date the cancellation request was received. This policy is in accordance with the Agency's statement of policy as prescribed in **Federal Register** (56 FR 29362) June 26, 1991; [FRL 3846-4]. Exceptions to this general rule will be made if a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a data call-in. In all cases, product-specific disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product(s). Exceptions to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in Special Review actions, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: October 16, 1997.

Richard D. Schmitt,

Acting Director, Information Resources and Services Division, Office of Pesticide Programs.

[FR Doc. 97-28659 Filed 10-28-97; 8:45 am]

BILLING CODE 6560-50-F

ENVIRONMENTAL PROTECTION AGENCY

[PF-772; FRL-5751-3]

Notice of Filing of Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by the docket control number PF-772, must be received on or before November 28, 1997.

ADDRESSES: By mail submit written comments to: Public Information and Records Integrity Branch (7502C), Information Resources and Services Division, Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under "SUPPLEMENTARY INFORMATION." No confidential business information should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION: By mail: Regulatory Action Leader, Edward Allen, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460. Office location and telephone number: 5th floor CS #1, 2800 Crystal Drive, Arlington, VA 22202. Telephone No. (703) 308-8699; e-mail: allen.edward@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice of filing, as well as the public version, has been established for this notice of filing under docket control number [PF-772] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in "ADDRESSES" at the beginning of this document.

Electronic comments can be sent directly to EPA at:
opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [PF-772] and appropriate petition number. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 15, 1997.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

Summaries of Petitions

Petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioners and represent the views of the petitioners. EPA is publishing the petition summaries verbatim without editing them in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

1. Auxein Corporation

PP 7F4842

EPA has received a pesticide petition (7F4842) from Auxein Corporation, P. O. Box 27519, 3125 Sovereign Drive, Suite B, Lansing, MI, proposing pursuant to section 408 (d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a (d), to amend 40 CFR part 180 by establishing an exemption from the requirement of a tolerance for residues of glutamic acid in or on all food commodities.

Pursuant to the section 408 (d) (2) (A) (i) of the FFDCA, as amended, Auxein Corporation has submitted the following summary of information, data and arguments in support of their pesticide petition. This summary was prepared by Auxein Corporation and EPA has not fully evaluated the merits of the petition. The summary may have been edited by EPA if the terminology used was unclear, the summary contained extraneous material, or the summary was not clear that it reflected the conclusion of the petitioner and not necessarily EPA.

A. Proposed Use Practices

Glutamic acid will be incorporated into the end-use product, AuxiGro WP Plant Growth Enhancer as an active ingredient. AuxiGro is proposed for use in a variety of agricultural, horticultural, and floricultural applications to enhance plant growth and crop productivity.

Depending on the crop, the first application of AuxiGro is made at first bloom, first bud, at the 4-6 leaf stage, or other prescribed growth stage. A subsequent application, for a maximum of two (2) applications, may be made 1-3 weeks later. The rate range is 0.10 - 0.75 pounds of formulated product/acre per treatment, not to exceed a maximum of 1.5 lb/A per growing season. This equates to the application of 0.55 lb/A glutamic acid at the maximum use rate.

B. Product Identity/Chemistry

Glutamic acid is an amino acid found in microorganisms, tissues of animals, all food, and higher plants as free amino acid or bound in protein. The biochemical is a white, practically odorless, free flowing crystalline powder. It is slightly soluble in water, forming acidic solutions. The pH of a saturated solution is about 3.22. The specific gravity for glutamic acid is 1.538 and the decomposition point is 175° C ● 10 mm Hg.

C. Toxicological Profile

Glutamic acid is highly regulated in man and other organisms, the mechanisms of which are well understood. It is classified as Generally Recognized as Safe (GRAS) by the Food and Drug Administration.

Glutamate has been administered to numerous species in long term dietary studies without adverse effects. The end-use product containing glutamic acid, AuxiGro WP, has been evaluated for acute toxicity. Acute oral toxicity in rats is greater than 5,050 mg/kg (Toxicity Category IV). Acute dermal toxicity in rabbits is greater than 5,050 mg/kg (Toxicity Category IV). In an eye irritation study, all signs of irritation cleared within 24 hours (washed eyes) following administration of AuxiGro (Toxicity Category IV); in unwashed eyes, irritation cleared in 5/6 rabbits within 24 hours. Irritation cleared within 48 hours in the remaining rabbit. A rabbit dermal irritation study with AuxiGro resulted in limited signs of irritation that cleared within 24 hours (Toxicity Category IV). There was no indication of dermal sensitization in a guinea pig dermal sensitization study.

Waivers have been requested for acute toxicity, genotoxicity, reproductive and developmental toxicity, subchronic toxicity, chronic toxicity, and acute toxicity to nontarget species based on glutamic acid's ubiquity in nature, long history of food uses, favorable toxicological profile in chronic toxicology studies, and inconsequential exposure resulting from label-directed use rates.

D. Aggregate Exposure

In examining aggregate exposure, FQPA directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures. The primary non-food sources of exposure the Agency considers include drinking water or groundwater, and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

1. *Dietary exposure.* Glutamic acid is ubiquitous in nature and is found in microorganisms, lower and higher plant species, fish, birds, insects, mammals, and natural and processed foods. It is the most prevalent amino acid in plant and animal proteins. Worldwide production of glutamic acid is over 340,000 tons/yr. Many items in the human daily diet contain appreciable quantities of free glutamic acid. For example, ripe tomatoes, mushrooms, peas, corn, potatoes, squash, cheese, eggs, poultry and meat provide from 20 to 150 mg of glutamic acid per 100 gram serving. Daily consumption for a 70-kg individual of glutamate has been previously reported to be 10.4 g per day, based on an intake of 100 grams of protein/day. Regarding the sodium salt of glutamic acid, monosodium glutamate (MSG), the Joint Expert Committee on Food Additives of the United Nations (JEFCA) has assigned an Acceptable Daily Intake of "not specified" (no numerical limitation), meaning that MSG can be used safely according to food manufacturing practices in food by people of all ages.

Dietary exposure due to topical applications of glutamic acid is difficult to estimate because of the amino acid's prevalence in nature. However, a comparison of naturally-occurring levels of glutamic acid to topically applied levels shows that the applied level is a small fraction of that found naturally. Naturally-occurring levels of glutamic acid in corn and tomatoes are estimated to be 143 lb/A and 195 lb/A, respectively. Applied levels of glutamic acid resulting from the application of AuxiGro at maximum use levels (1.5 lb/A) is 0.55 lb/A, several orders of magnitude lower than naturally-occurring levels.

Considering the low dose of AuxiGro required to achieve the desired effect, the levels of glutamic acid found naturally in the diet and the quantity consumed from processed foods, it can be concluded that incremental dietary exposure to glutamic acid resulting from AuxiGro applications is negligible.

2. *Non-dietary, non-occupational exposure.* AuxiGro is proposed for use on turf and ornamentals. Exposure from turfgrass applications is expected to be minimal because golfers will be protected by shoes and socks. Further, based on the limited frequency of use on turfgrass, this non-food use is not likely to result in potential chronic exposure and thus should not be factored into a chronic exposure assessment. Exposures resulting from application to ornamentals is also anticipated to be negligible because consumers will not be in contact with treated plants until after the foliage is dry.

E. Cumulative Exposure

Glutamic acid is highly regulated in plants and mammals, the mechanisms of which are well understood. This amino acid is not intended for pesticidal use and does not share a common mechanism of toxicity with currently available pesticides, thus Auxein anticipates no cumulative effects with other substances.

F. Endocrine Disruptors

The Agency has no information to suggest that glutamic acid will adversely affect the immune or endocrine systems.

G. Safety Considerations

Glutamic acid is classified as Generally Recognized as Safe (GRAS) for use as a direct food additive by the Food and Drug Administration (FDA) and is cleared by the EPA for use as an inert ingredient in certain pesticide products. Condensed, extracted fermentation glutamic acid is approved by the FDA for use in animal feed.

Incremental exposure resulting from application of glutamic acid is miniscule compared to levels of glutamic acid consumed from natural and processed food products. Considering the negligible contributions to the environment resulting from the application of AuxiGro, the abundance and role of glutamic acid in foods and in the human body, and the prevalence of glutamic acid in nature, glutamic acid does not pose an undue risk to human health.

H. Analytical Method

An analytical method using High Performance Liquid Chromatography (HPLC) for determining glutamic acid content in AuxiGro, the end-use product, is available. However, because this amino acid is found naturally in plants, residue analysis would not yield meaningful results, i.e., the analysis would not discern whether the glutamic acid source was the plant or the product treatment.

I. Codex Maximum Residue Level

There are no CODEX tolerances or international tolerance exemptions for glutamic acid at this time. Glutamic acid is presently listed as exempt from tolerances under 40 CFR 180.1001 when used as a plant nutrient for seed treatment.

2. Auxein Corporation

PP 7F4843

EPA has received a pesticide petition (7F4843) from Auxein Corporation, P. O. Box 27519, 3125 Sovereign Drive, Suite B, Lansing, MI, proposing pursuant to section 408 (d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a (d), to amend 40 CFR part 180 by establishing an exemption from the requirement of a tolerance for residues of GABA in or on all food commodities.

Pursuant to the section 408 (d) (2) (A) (i) of the FFDCA, as amended, Auxein Corporation has submitted the following summary of information, data and arguments in support of their pesticide petition. This summary was prepared by Auxein Corporation and EPA has not fully evaluated the merits of the petition. The summary may have been edited by EPA if the terminology used was unclear, the summary contained extraneous material, or the summary was not clear that it reflected the conclusion of the petitioner and not necessarily EPA.

A. Proposed Use Practices

Gamma aminobutyric acid (GABA) will be incorporated into the end-use product, AuxiGro Plant Growth Enhancer as an active ingredient. AuxiGro is proposed for use in a variety of agricultural, horticultural, and floricultural applications to enhance plant growth and crop productivity.

Depending on the crop, the first application of AuxiGro is made at first bloom, first bud, at the 4-6 leaf stage, or at a prescribed growth stage. A subsequent application, for a maximum of two (2) applications, may be made 1-3 weeks later. The rate range is 0.10 - 0.75 pounds of formulated product/acre per treatment, not to exceed a maximum of 1.5 lb/A per growing season. This equates to 0.4 lb/A of GABA applied at the maximum use rate.

B. Product Identity/Chemistry

GABA is a non-protein amino acid that is ubiquitous in nature. It has been found in microorganisms, lower and higher plants, fish, birds, insects, and mammals. GABA is a white, crystalline powder with a pH of 6.5 to 7.5. It is freely soluble in water, but insoluble or poorly soluble in other solvents. The melting point for GABA is 202°C.

C. Toxicological Profile

GABA is an ubiquitous non-protein amino acid present in all living things. It is an inhibitory neurotransmitter in brain regions and central nervous systems of mammals. Because of the inability of GABA to cross the blood-brain barrier, exogenous sources do not affect the levels in the brain.

The open literature reports studies involving prolonged chronic administration of large doses (up to 1 g/kg/day) of GABA to rats and dogs. No signs of toxicity or untoward effects were observed in these studies. According to the literature, similar doses have been administered repeatedly to unanesthetized dogs without untoward effects. In clinical studies, daily oral doses of 8 mM/kg have been administered to humans for a year or more with no indication of chronic or cumulative toxicity.

AuxiGro, the end-use product containing 29.2% GABA, has been studied for acute toxicity. Acute oral toxicity of AuxiGro in rats is greater than 5,050 mg/kg (Toxicity Category IV). Acute dermal toxicity in rabbits is greater than 5,050 mg/kg (Toxicity Category IV). In an eye irritation study, all signs of irritation cleared within 24 hours (washed eyes) following administration of AuxiGro (Toxicity Category IV); in unwashed eyes, irritation cleared in 5/6 rabbits within 24 hours. Irritation cleared within 48 hours in the remaining rabbit. A rabbit dermal irritation study with AuxiGro resulted in limited signs of irritation that cleared within 24 hours (Toxicity Category IV). There was no indication of dermal sensitization in a guinea pig dermal sensitization study.

Waivers have been requested for acute toxicity, genotoxicity, reproductive and developmental toxicity, subchronic toxicity, chronic toxicity, and acute toxicity to nontarget species based on GABA's ubiquity in nature, use as a pharmaceutical agent, favorable toxicological profile in chronic and other toxicology studies, and inconsequential exposure resulting from label-directed uses.

D. Aggregate Exposure

In examining aggregate exposure, FQPA directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures. The primary non-food sources of exposure the Agency considers include drinking water or groundwater, and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

1. *Dietary exposure.* GABA is ubiquitous in nature. Therefore, applications of AuxiGro would only incrementally add to levels occurring naturally in the environment.

GABA concentrations in plants have been reported to range from 0.03 to 32.5 uM/g, fresh weight. It is presumed that the higher levels are probably due to stress and/or localized high levels within certain plant tissues. Based on these figures, the naturally-occurring level of GABA is calculated to be 0.1 kg/A 7.15 kg/A. The high-end (maximum application rate) estimate of incremental loading of GABA resulting from application of AuxiGro is 0.2 kg. Thus, applied GABA is well within the range of that found in nature.

2. *Non-dietary, non-occupational exposure.* AuxiGro is proposed for use on turf and ornamentals. Exposure from turfgrass applications are expected to be minimal because golfers will be protected by shoes and socks. Further, based on the limited frequency of use on turfgrass, this non-food use is not likely to result in potential chronic exposure and thus should not be factored into a chronic exposure assessment. Exposures resulting from application to ornamentals is also anticipated to be negligible because consumers will not be in contact with treated plants until after the foliage is dry.

E. Endocrine Disruptors

Auxein has no information to suggest that GABA will adversely affect the immune or endocrine systems.

F. Safety Considerations

GABA is naturally-occurring in food and is a pharmaceutical agent. Incremental exposure to GABA resulting from the application of AuxiGro is minimal to negligible. Considering the negligible contributions of GABA to the environment resulting from the application of AuxiGro, the biochemical's prevalence in nature, and its role and abundance in foods, GABA does not pose a human health risk.

G. Analytical Method

An analytical method using High Performance Liquid Chromatography (HPLC) for determining the GABA content in AuxiGro, the end-use product, is available. However, because GABA is found naturally in plants; residue analysis would not yield meaningful results, i.e., the analysis would not discern whether the source of GABA was the plant or the product treatment.

H. Codex Maximum Residue Level

There are no CODEX tolerances or international tolerance exemptions for GABA.

[FR Doc. 97–28664 Filed 10–28–97; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PF–775; FRL–5752–2]

Notice of Filing of Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by the docket control number PF–775, must be received on or before November 28, 1997.

ADDRESSES: By mail submit written comments to: Public Information and Records Integrity Branch (7502C), Information Resources and Services Division, Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under "SUPPLEMENTARY INFORMATION." No confidential business information should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Elizabeth Haeberer, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 250, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 308–2891; e-mail: haeberer.elizabeth@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice of filing, as well as the public version, has been established for this notice of filing under docket control number [PF–775] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in "ADDRESSES" at the beginning of this document.

Electronic comments can be sent directly to EPA at:
opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [PF–775] and appropriate petition number. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 16, 1997.

James Jones,

Acting Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

Petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioners and represent the views of the petitioners. EPA is publishing the petition summaries verbatim without editing them in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Gustafson, Inc.

PP 4F4415

EPA has received a pesticide petition (PP 4F4415) from Gustafson, Inc., 1400 Preston Road, Suite 400, Plano, Texas 75093, proposing pursuant to section 408(d) of the Federal Food, Drug and

Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR Part 180 to make the time limited tolerances permanent by establishing a tolerance for residues of imidacloprid in or on the raw agricultural commodity sorghum grain 0.05 parts per million (ppm), forage 0.10 ppm, and stover 0.10 ppm. The proposed analytical method involves homogenization, filtration, partition and cleanup with analysis by high performance liquid chromatography using UV detection" for determining residues is a common moiety method for imidacloprid and its metabolites containing the 6-chloro-pyridinyl moiety using oxidation, derivatization, and analysis by capillary gas chromatography with a mass-selective detector. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism.* The metabolism of imidacloprid in plants is adequately understood for the purposes of these tolerances. The residues of concern are combined residues of imidacloprid and its metabolites containing the 6-chloro-pyridinyl moiety, all calculated as imidacloprid.

2. *Analytical method.* The analytical method is a common moiety method for imidacloprid and its metabolites containing the 6-chloro-pyridinyl moiety using a permanganate oxidation, silyl derivatization, and capillary GC-MS selective ion monitoring. This method has successfully passed a petition method validation in EPA labs. There is a confirmatory method specifically for imidacloprid and several metabolites utilizing GC/MS and HPLC-UV which has been validated by the EPA as well. Imidacloprid and its metabolites are stable for at least 24 months in the commodities when frozen.

3. *Magnitude of residues.* Sorghum seed was treated with imidacloprid, formulated as Gaucho 480 FS at a rate of 8.0 oz. ai/cwt seed. Field trials were conducted at fifteen locations: Arkansas, California, Colorado (two locations), Kansas (two locations), Louisiana, Missouri, Nebraska (two locations), North Carolina, Oklahoma, South Dakota, and Texas (two locations). The sorghum seed was planted and the RACs were harvested at the appropriate growth stages. Residue levels in the sorghum grain were less than 0.05 ppm. Maximum residues were 0.058 ppm in the forage and 0.065 ppm in the stover. These residue data support tolerances of 0.05 ppm for sorghum grain, 0.10 ppm for sorghum forage, and 0.10 ppm for sorghum stover. A processing study was submitted with this petition. No tolerances were required for processed fractions of sorghum grain since residues in the sorghum grain when treated at the 2X rate (which is higher than the maximum theoretical concentration factor of 1.6X) were less than the limit of quantitation (LOQ) of 0.05 ppm.

B. Toxicological Profile

1. *Acute toxicity.* The acute oral LD_{50} values for imidacloprid technical ranged from 424 to 475 mg/kg bwt in the rat. The acute dermal LD_{50} was greater than 5,000 mg/kg in rats. The 4-hour inhalation LC_{50} was less than 69 mg/m^3 air (aerosol). Imidacloprid was not irritating to rabbit skin or eyes. Imidacloprid did not cause skin sensitization in guinea pigs.

2. *Genotoxicity.* Extensive mutagenicity studies conducted to investigate point and gene mutations, DNA damage and chromosomal aberration, both using *in vitro* and *in vivo* test systems show imidacloprid to be non-genotoxic.

3. *Reproductive and developmental toxicity.* A 2-generation rat reproduction study gave a no-observed-effect level (NOEL) of 100 ppm (8 mg/kg/bwt). Rat and rabbit developmental toxicity studies were negative at doses up to 30 mg/kg/bwt and 24 mg/kg/bwt, respectively.

4. *Subchronic toxicity.* Ninety-day feeding studies were conducted in rats and dogs. The NOELs for these tests were 14 mg/kg/bwt/day (150 ppm) and 5 mg/kg/bwt/day (200 ppm), for the rat and dog studies, respectively.

5. *Chronic toxicity.* A 2-year rat feeding/carcinogenicity study was negative for carcinogenic effects under the conditions of the study and had a NOEL of 100 ppm (5.7 mg/kg/bwt in males and 7.6 mg/kg/bwt in females for noncarcinogenic effects that included decreased body weight gain in females at 300 ppm and increased thyroid lesions in males at 300 ppm and females at 900 ppm. A 1-year dog feeding study indicated a NOEL of 1,250 ppm (41 mg/kg/bwt). A 2-year mouse carcinogenicity study that was negative for carcinogenic effects under conditions of the study and that had a NOEL of 1,000 ppm (208 mg/kg/day).

Imidacloprid has been classified under "Group E" (no evidence of carcinogenicity) by EPA's OPP/HED's Reference Dose (RfD) Committee. There is no cancer risk associated with exposure to this chemical. The reference dose (RfD) based on the 2-year rat feeding/carcinogenic study with a NOEL of 5.7 mg/kg/bwt and 100-fold uncertainty factor, is calculated to be 0.057 mg/kg/bwt. The theoretical maximum residue contribution (TMRC) from published uses is 0.008358 mg/kg/bwt/day utilizing 14.7% of the RfD.

6. *Animal metabolism.* The nature of the imidacloprid residue in animals is adequately understood. The residues of concern are combined residues of imidacloprid and its metabolites containing the 6-chloropyridinyl moiety, all calculated as imidacloprid.

7. *Metabolite toxicology.* Metabolites, at the levels reported, are not toxicologically significant. No separate regulation of metabolites is warranted, and there is no scientific objection to the tolerance expression being for the combined residues of imidacloprid and its metabolites containing the 6-chloropyridinyl moiety.

C. Aggregate Exposure

1. *Dietary exposure.* The EPA has determined that the reference dose (RfD) based on the 2-year rat feeding/carcinogenicity study with a NOEL of 5.7 mg/kg/bwt and 100-fold uncertainty factor, is calculated to be 0.057 mg/kg/bwt. As published in the **Federal Register** June 12, 1996 (61 FR 29674) (petition to establish tolerances on leafy green vegetables (PP 5F4522/R2237)), the theoretical maximum residue contribution (TMRC) from published uses is 0.008358 mg/kg/bwt utilizing 14.7% of the RfD for the general population. For the most highly exposed subgroup in the population, non-nursing infants (less than 1-year old), the TMRC for the published tolerances is 0.01547 mg/kg/day. This is equal to 27.1% of the RfD. The December 1, 1994 **Federal Register** (59 FR 61552) indicates that the tolerances for sorghum contribute 0.000001188 mg/kg/bwt/day which represents 0.002% of the RfD which is included in the total values published in the June 12, 1996 **Federal Register**. Therefore, dietary exposure from the existing uses including the current temporary tolerances will not exceed the reference dose for any subpopulation (including infants and children).

2. *Food.* Dietary exposure from the existing uses including the current temporary tolerances will not exceed the reference dose for any subpopulation (including infants and children).

3. *Drinking water.* Although the various imidacloprid labels contain a statement that this chemical demonstrates the properties associated with chemicals detected in groundwater, the Registrant is not aware of imidacloprid being detected in any wells, ponds, lakes, streams, etc. from its use in the United States. In studies conducted in 1995, imidacloprid was not detected in seventeen wells on potato farms in Quebec, Canada. In addition, groundwater monitoring studies are currently underway in California and Michigan. Therefore, contributions to the dietary burden from residues of imidacloprid in water would be inconsequential.

4. *Non-dietary exposure*— a. *Residential turf.* Bayer Corporation has conducted an exposure study to address the potential exposures of adults and children from contact with imidacloprid treated turf. The population considered to have the greatest potential exposure from contact with pesticide treated turf soon after pesticides are applied are young children. Margins of safety (MOS) of 7,587 - 41,546 for 10 year old children and 6,859 - 45,249 for 5 year old children were estimated by comparing dermal exposure doses to the imidacloprid no-observable effect level of 1,000 mg/kg/day established in a 15-day dermal toxicity study in rabbits. The estimated safe residue levels of imidacloprid on treated turf for 10 year old children ranged from 5.6 - 38.2 g/cm^2 and for 5 year old children from 5.1 - 33.3 g/cm^2. This compares with the average imidacloprid transferable residue level of 0.080 g/cm^2 present immediately after the sprays have dried. These data indicate that children can safely contact. Bayer Corporation has conducted an exposure imidacloprid-treated turf as soon after application as the spray has dried.

b. *Termiticide.* Imidacloprid is registered as a termiticide. Due to the nature of the treatment for termites, exposure would be limited to that from inhalation and was evaluated by EPA's Occupational and Residential Exposure Branch (OREB) and Bayer Corporation. Data indicate that the Margins of Safety for the worst case exposures for adults and infants occupying a treated building who are exposed continuously (24 hours/day) are 8.0 x 10^7 and 2.4 x 10^8, respectively, and exposure can thus be considered negligible.

c. *Tobacco smoke.* Studies have been conducted to determine residues in tobacco and the resulting smoke following treatment. Residues of imidacloprid in cured tobacco following treatment were a maximum of 31 ppm (7 ppm in fresh leaves). When this tobacco was burned in a pyrolysis study only two percent of the initial residue was recovered in the resulting smoke (main stream plus side stream). This would result in an inhalation exposure to imidacloprid from smoking of approximately 0.0005 mg per cigarette. Using the measured subacute rat inhalation NOEL of 5.5 mg/m^3, it is apparent that exposure to imidacloprid from smoking (direct and/or indirect exposure) would not be significant.

d. *Pet treatment.* Human exposure from the use of imidacloprid to treat dogs and cats for fleas has been addressed by EPA's Occupational and Residential Exposure Branch (OREB) who have concluded that due to the fact that imidacloprid is not an inhalation or dermal toxicant and that while dermal absorption data are not available, imidacloprid is not considered to present a hazard via the dermal route.

D. Cumulative Effects

No other chemicals having the same mechanism of toxicity are currently registered, therefore, there is no risk from cumulative effects from other substances with a common mechanism of toxicity.

E. Safety Determination

1. *U.S. population.* Using the conservative exposure assumptions described above and based on the completeness and reliability of the toxicity data, it can be concluded that total aggregate exposure to imidacloprid from all current uses including those currently proposed will utilize little more than 15% of the RfD for the U.S. population. EPA generally has no concerns for exposures below 100% of the RfD, because the RfD represents the level at or below which daily aggregate exposure over a lifetime will not pose appreciable risks to human health. Thus, it can be concluded that there is a reasonable certainty that no harm will result from aggregate exposure to imidacloprid residues.

2. *Infants and children.* In assessing the potential for additional sensitivity of infants and children to residues of imidacloprid, the data from developmental studies in both rat and rabbit and a 2-generation reproduction study in the rat have been considered. The developmental toxicity studies evaluate potential adverse effects on the developing animal resulting from pesticide exposure of the mother during prenatal development. The reproduction study evaluates effects from exposure to the pesticide on the reproductive capability of mating animals through two generations, as well as any observed systemic toxicity.

FFDCA Section 408 provides that the EPA may apply an additional safety factor for infants and children in the case of threshold effects to account for pre- and post-natal effects and the completeness of the toxicity database. Based on current toxicological data requirements, the toxicology database for imidacloprid relative to pre- and post-natal effects is complete. Further for imidacloprid, the NOEL of 5.7 mg/kg/bwt from the 2-year rat feeding/carcinogenic study, which was used to calculate the RfD (discussed above), is already lower than the NOELs from the developmental studies in rats and rabbits by a factor of 4.2 to 17.5 times. Since a 100-fold uncertainty factor is already used to calculate the RfD, it is surmised that an additional uncertainty factor is not warranted and that the RfD at 0.057 mg/kg/bwt/day is appropriate for assessing aggregate risk to infants and children. Using the conservative exposure assumptions described above, EPA has concluded that the TMRC from use of imidacloprid from published uses is 0.008358 mg/kg/bwt/day utilizing 14.7% of the RfD for the general population. For the most highly exposed subgroup in the population, non-nursing infants (less than 1 year old), the TMRC for the published tolerances is 0.01547 mg/kg/day. This is equal to 27.1% of the RfD. Therefore, dietary exposure from the existing uses including the currently proposed tolerances will not exceed the reference dose for any subpopulation (including infants and children).

F. International Tolerances

No CODEX Maximum Residue Levels (MRLs) have been established for residues of imidacloprid on any crops at this time.

[FR Doc. 97–28663 Filed 10–28–97; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PF–771; FRL–5749–7]

Notice of Filing of Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by the docket control number PF–771, must be received on or before November 28, 1997.

ADDRESSES: By mail submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under "SUPPLEMENTARY INFORMATION." No confidential business information should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Sidney C. Jackson, Registration Division (7505C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. Office location and telephone number, Rm. 274, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA., 703–305–7610, e-mail: jackson.sidney@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice of filing, as well as the public version, has been established for this notice of filing under docket control number [PF–771] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in "ADDRESSES" at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket number [PF-771] and appropriate petition number. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 22, 1997

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

Petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioners and represent the views of the petitioners. EPA is publishing the petition summaries verbatim without editing them in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

1. IR-4 Project

PP 2E4044 and 3E4164

EPA has received pesticide petitions (PP 2E4044 and 3E4164) from the Interregional Research Project number 4 (IR-4), proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing tolerances for residues of Triadimefon, 1-(4-Chlorophenoxy)-3,3-dimethyl-1-(1*H*-1,2,4-triazol-1-yl)-2-butanone, and its metablolites containing chlorophenoxy and triazole moieties expressed as the fungicide in or on the raw agricultural commodities artichoke, globe at 0.6 parts per million (ppm) and pome fruits group (Crop Group 11) at 0.2 ppm. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition. This notice includes a summary of each petition prepared by the Bayer Corporation(Bayer), the registrant.

A. Residue Chemistry

1. *Plant metabolism.* The nature of the residue in plants and animals is adequately understood. The residue of concern is triadimefon and its triazole and chlorophenoxy metabolites. Triadimefon is rapidly absorbed by plants and translocated systemically in the young growing tissue.

2. *Analytical method.* Adequate analytical methods are available for analysis of triadimefon and its triazole and chlorophenoxy metabolites in or on artichokes. These methods are available in PAM II as Method I.

3. *Magnitude of residues.* Three separate residue trials have been conducted on globe artichokes and submitted to the EPA. The EPA has determined that these data show that residues of triadimefon and its metabolites containing chlorophenoxy and triazole moieties (expressed as the fungicide) in the raw agricultural commodity artichokes, globe will not exceed the proposed tolerance of 0.6 ppm.

For pome fruits and as part of the reregistration requirements for triadimefon, Bayer has submitted nine trials on apples and six trials on pears to the EPA. EPA's Chemistry Branch Tolerance Support has concluded that these data are adequate to support the requested crop group tolerance for triadimefon and its metabolites containing chlorophenoxy and triazole moieties expressed as the fungicide in or on pome fruit at 0.2 ppm.

There are no livestock feed stuffs from globe artichokes and pome fruits, therefore, secondary residues in meat, milk, poultry and eggs are not expected.

B. Toxicological Profile

1. *Acute toxicity.* A rat acute oral study resulted in a lethal dose (LD_{50}) of 568 ± 61 milligrams (mg)/kilogram (kg) for males and 363 ± 41 mg/kg for females. In a rabbit acute dermal study a LD_{50} of >2,000 mg/kg was determined. A rat acute inhalation study produced a lethal concentration (LC_{50}) of >3.570 mg/liter(l). A primary eye irritation study in the rabbit showed practically no irritation. A primary dermal irritation study showed practically no irritation and a primary dermal sensitization study indicated that triadimefon is a skin sensitizer.

2. *Genotoxicity.* Triadimefon has been found to be negative in the Ames reverse mutation test and in the Structural Chromosome Aberration Test.

3. *Reproductive and developmental toxicity.* A rat developmental toxicity study showed a maternal systemic no-observed-effect level (NOEL) of 30 mg/kg/day and the lowest-observed-effect level (LOEL) 90 mg/kg/day. The NOEL for developmental toxicity was 30 mg/kg/day and the LOEL was 90 mg/kg/day.

In the developmental toxicity study in rabbits, the maternal systemic NOEL was 50 mg/kg/day and the LOEL 120 mg/kg/day. The NOEL for developmental toxicity was 20 mg/kg/day and the LOEL was 50 mg/kg/day. Effects seen at the developmental lowest effect level(LEL) in the rabbit study were irregular spinous process and ossification of various bones.

A 3-generation rat reproduction study showed decreases in maternal body weight gain, fertility, and in litter size, pups survival during the lactation phase, and pups weights. The maternal NOEL was 300 ppm and the reproductive NOEL was 50 ppm.

A 2-generation rat reproductive study showed reductions in litter size, pups viability, birth and lactational weights. The reproductive NOEL was 50 ppm.

4. *Subchronic toxicity.* A 3-month feeding study in the rat produced a NOEL of 2,000 ppm based on decreased body weight gain and food consumption attributed to palatability. A rat 30-day feeding study showed a NOEL of 10 mg/kg. A 13-week dog-feeding study resulted in a NOEL of 2,400 ppm based on decreased body weight gain and food consumption due to palatability. Test results also showed a decreased hematocrit, RBC count, hemoglobin volume and microsomal induction. A 28-day rabbit dermal study produced a NOEL >250 mg/kg and a 21-day inhalation study in rats showed a NOEL of 78.7 mg/cubic meters(m^3)/6 hrs. per day/ 15 exposures.

5. *Chronic toxicity.* A 2–year rat chronic feeding study defined a NOEL for systemic effect as 300 ppm (males = 16.4 mg/kg/day; females = 22.5 mg/kg/day). The systemic LOEL was 1,800 ppm (males = 114.0 mg/kg/day; females = 199.0 mg/kg/day) based on neoplastic and systemic effects. A dog feeding study showed only minimal toxic effects decrease in body weight, increase in liver weight and in hepatic N-demethylase activity, and an increase in serum alkaline phosphatase activity. The NOEL was established at 100 ppm. A mouse oncogenicity study showed hepatocellular adenomas in both sexes of NMRI mice. The NOEL was established for males at 50 ppm. No NOEL was reached for females. A mouse carcinogenicity study using CF1-W74 mice was negative for carcinogenicity.

6. *Animal metabolism.* In a general rat metabolism study triadimefon was initially converted by reduction of its carbonyl group. This conversion was more rapid in males. The major metabolites were the acid and alcohol of triadimefon. In males radioactivity was found mainly in feces, whereas, in females, radioactivity was equally distributed between urine and feces. No radioactivity was recovered in the expired air. Peak tissue levels were found in 2 to 4 hours and were highest in fat, liver and kidney.

7. *Endocrine effects.* No special studies investigating potential estrogenic or endocrine effects of triadimefon have been conducted. However, the standard battery of required studies has been completed. These studies include an evaluation of the potential effects on reproduction and development, and an evaluation of the pathology of the endocrine organs following repeated or long-term exposure. No adverse effects were noted in any of the studies with either triadimefon or its metabolites.

C. Aggregate Exposure

1. *Dietary exposure.* For purposes of assessing the potential dietary exposure from food under the proposed tolerances, the EPA estimates exposure based on the Theoretical Maximum Residue Contribution (TMRC). The TMRC is obtained by using a model which multiplies the tolerance level residue for each commodity by consumption data which estimates the amount of each commodity and products derived from the commodities that are eaten by the U.S. population and various population subgroups. The model uses a reference dose (RfD) which the EPA has determined to be 0.04 milligrams(mg)/ kilogram(kg)/day. This RfD is based on a 2–year dog feeding study with a NOEL of 11.4 mg/kg/day and an uncertainty factor of 300. An uncertainty factor of 300 was applied to account for inter-species extrapolation (10), intra-species variability (10), and the lack of an adequate reproduction study (3). Decreased food intake, depression in weight gain, and significantly ($p > 0.05$) increased alkaline phosphatase activity in both sexes were the effects observed at the lowest effect level (LEL). This assessment assumes 100% of all commodities will contain triadimefon residues, and those residues would be at the level of the tolerance for estimating potential human exposure.

2. *Food.* Using assumptions discussed above, it was determined that the TMRC for existing tolerances plus the proposed uses on globe artichokes and pome fruits. For globe artichokes, the TMRC is equivalent to 17% of the RfD for the US general population (48 states) and 74% of the RfD for the highest population subgroup (non-nursing infants >1 year old).

For pome fruits, the TMRC for triadimefon derived from the previously established tolerances plus the proposed 0.2 ppm tolerance for this crop group (pome fruit) would be 0.003782 mg/kg body weight(bwt)/day (9.5% of the RfD) for the U.S. population 48 states and 0.009549 mg/kg bwt/day (23.9% of the RfD) for the most highly exposed population subgroup, children (1-6 year old). Therefore, Bayer concludes that dietary exposure from the existing and proposed uses will not exceed the reference dose for any subpopulation including infants and children.

For globe artichoke, the estimated acute dietary exposure is based on a maternal NOEL of 10 mg/kg/day. The calculated Margin of Exposure (MOE) for the general US population is 100 (at the 99th percentile); for infants (>1 year old) 100 (at the 95th percentile); for children (1-6 year old) 200 (at the 96th percentile); and for both females (13+ years) and males (13+ years) 333 (at the 99th percentile). These values are all at or above the MOE level EPA considers to provide an adequate safety margin (100).

3. *Drinking water.* Available data show that triadimefon and its metabolites are mobile and persistent and have the potential to leach into groundwater. There is no established Maximum Concentration Level for residues of triadimefon in drinking water. No drinking water health advisory levels have been issued for triadimefon or its metabolite triadimefon. The "Pesticides in Groundwater Database" (EPA 734–12–92–001, September 1992) indicated that triadimefon was monitored for in 14 wells in California from 1984 to 1989. There were no detectable residues (limit of detection was not stated).

Previous experience with more persistent and mobile pesticides for

which there have been available data to perform quantitative risk assessments have demonstrated that drinking water exposure is typically a small percentage of the total exposure when compared to the total dietary exposure. This observation holds even for pesticides detected in wells and drinking water at levels nearing or exceeding established maximum residue levels (MCL's). Best scientific judgement from available data suggests that the potential exposure from residues of triadimefon in drinking water, added to the current dietary exposure, will not result in an exposure which exceeds the RfD.

4. *Non-dietary exposure.* Triadimefon is currently registered for use on turf and ornamentals. Studies were conducted by Bayer designed to measure the upper bound acute exposure potential of adults and children from contact with triadimefon treated turf. The population considered to have the greatest potential exposure from contact with pesticide treated turf soon after pesticides are applied are young children. The estimated safe residue levels for triadimefon on treated turf for 10-year old children ranged from 1.3 - 6.4 micro gram(µg)/centimeter(cm)^2 and for 5-year old children from 1.1 - 5.6 µg/cm^2. This compares with the average triadimefon transferable residue level of 1.0 µg/cm^2 present immediately after the sprays have dried. Bayer concludes from these studies that children can safely contact triadimefon-treated turf as soon after application as the spray has dried.

D. Cumulative Effects

At this time, the Agency has not made a determination that triadimefon and other substances that may have a common mode of toxicity would have cumulative effects. For purposes of this tolerance, only the potential risks of triadimefon in its aggregate exposure are being considered.

E. Safety Determination

1. *U.S. population.* Using the exposure assumptions described above under aggregate exposure and based on the toxicity data, Bayer concludes that aggregate dietary exposure to triadimefon from the previously established tolerances plus the proposed use on globe artichoke will utilize 17% of the RfD for the U.S. population (48 states) and 74% of the RfD for the most highly exposed population subgroup (non-nursing infants >1 year old). In comparison, pome fruit will vitilize 9.5% and 23.9% of the RfD for the same U.S. population and for children (1-6 yrs), respectively. There is generally no concern for exposures below 100 percent of the RfD because the RfD represents the level at or below which daily aggregate exposure over a lifetime will not pose appreciable risks to human health. Bayer concludes that there is a reasonable certainty that no harm will result from aggregate exposure to triadimefon.

Bayer estimated acute dietary exposure using the maternal NOEL of 10 mg/kg/day and determined that the calculated MOE for each population group is at or above the MOE level EPA considers to provide an adequate safety margin.

2. *Infants and children.* In assessing the potential for additional sensitivity of infants and children to residues of triadimefon, the data from developmental studies in both rat and rabbit and a 2-generation reproduction study in the rat were considered. The developmental toxicity studies evaluate any potential adverse effects on the developing animal resulting from pesticide exposure of the mother during prenatal development. The reproduction study evaluates any effects from exposure to the pesticide on the reproductive capability of mating animals through 2-generations, as well as any observed systemic toxicity.

Results of a rat and rabbit developmental toxicity studies and a 2-generation and 3-generation rat reproduction studies conducted with triadimefon have been reviewed. Maternal and developmental toxicity NOELs of 30 mg/kg/day were determined in the rat developmental toxicity studies. In the rabbit developmental toxicity study, the maternal NOEL was 50 mg/kg body weight(bwt)/day and the developmental NOEL was 20 mg/kg bwt/day. The rat reproduction studies were inconclusive.

FFDCA Section 408 provides that EPA may apply an additional safety factor for infants and children in the case of threshold effects to account for pre- and post-natal effects and the completeness of the toxicity database. Therefore, EPA has incorporated an additional 3-fold uncertainty factor into the calculation of the RfD because of the absence of an acceptable reproduction study.

There is approximately a two-fold difference between the developmental NOEL of 20 mg/kg/day from the rabbit developmental toxicity study and the NOEL of 11.4 mg/kg/day from the 2–year dog feeding study which was the basis of the RfD. It is further noted that in the rabbit developmental toxicity study, the developmental NOEL of 20 mg/kg/day is lower than the maternal systemic NOEL of 50 mg/kg/day, suggesting the possibility of increased sensitivity for the pre-natal child.

The TMRC value for the most highly exposed infant and children subgroup (non-nursing infants >1 year old) occupies 74% of the RfD. However, this calculation also assumes 100% crop treated and uses tolerance level residues for all commodities. Refinement of the dietary risk assessment by using percent of crop treated and anticipated residue data would likely greatly reduce the dietary exposure estimate and result in an anticipated residue contribution (ARC) which would occupy a percent of the RfD that is substantially lower than the currently calculated TMRC value.

Should an additional uncertainty factor be deemed appropriate, when considered in conjunction with a refined exposure estimate, Bayer believes it is unlikely that the dietary risk will exceed 100 percent of the RfD. Due to the completeness and reliability of the toxicity data and the exposure assessment, Bayer believes there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to triadimefon residues.

Bayer estimated acute dietary exposure using the maternal NOEL of 10 mg/kg/day and determined that the calculated MOE for infants and children population groups is at or above the MOE level EPA considers to provide an adequate safety margin.

F. International Tolerances

There are no CODEX, Canadian, or Mexican MRLs for triadimefon residues in/on globe artichokes. A CODEX MRL for triadimefon residues in/on pome fruits has been established at 0.5 ppm.

2. IR-4 Project

PP 6E4652

EPA has received a pesticide petition (PP 6E4652) from the Interregional Research Project number 4 (IR-4), proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for the combined residues of quizalofop-p ethyl ester [ethyl (*R*)-(2-[4-[(6-chloroquinoxalin-2-yl) oxy)phenoxy])-propanoate), and its acid metabolite quizalofop-p [*R*-(2-[4-[(6-chloroquinoxalin-2-yl)oxy)phenoxy]) propanoic acid), and the S enantiomers of both the ester and the acid, all expressed as quizalofop-p ethyl ester in or on the raw agricultural commodities spearmint tops and peppermint tops at 3.0 parts per million(ppm). EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully

evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition. This notice includes a summary of the petition prepared by the DuPont Agricultural Products(DuPont), the registrant.

A. Residue Chemistry

1. *Plant metabolism.* The registrant has provided plant metabolism studies for soybeans, cotton, tomatoes, potatoes, and sugar beets. These studies have been previously reviewed in PP 3F4268. In summary, quizalofop-p ethyl ester is metabolized by cleavage at three sites as follows: (a) Primary pathway is hydrolysis of the ethyl ester to form the quizalofop-p acid, then (b) cleavage of the enol ether linkage in the acid, between the phenyl and quinoxalinyl rings, to form phenols, and (c) cleavage of the ether linkage between the isopropanic group and the phenyl ring to form a phenol.

The plant metabolism data show that quizalofop-p ethyl ester does not translocate, but is rapidly hydrolyzed to the corresponding acid; then the phenols conjugate with the plant sugars. Metabolism studies in soybeans using the racemic mixture quizalofop ethyl ester and the resolved D+ isomer show nearly identical pathways.

The nature of the quizalofop-p ethyl ester residue in cottonseed, potatoes, tomatoes, soybeans, and sugar beets is adequately understood. The residues of concern are quizalofop-p ethyl ester and its acid metabolite, quizalofop-p, and the S enantiomers of both the ester and the acid, all expressed as quizalofop-p ethyl ester. EPA is translating these data to mint.

2. *Analytical method.* An adequately validated residue analytical method, LAN-1, was used to gather the magnitude of the quizalofop-p, its acid metabolite, and residue data on mint hay and mint oil. Samples were analyzed using MS30.00, an adaptation of Analytical Method for the Quantification of Quizalofop (IN-YE945) and Quizalofop-Ethyl (DPX-79379) in Raw and Processed Agricultural Commodities, Protocol No. Lan-1, Enviro-Test Laboratory. (Reference Method: Determination of DPX-79376, DPX-79376 Acid and Conjugates as DPX-79376 as Acid in Cottonseed and Fractions Treated with Assure (II Herbicide. DuPont Report No. AMR 1853–90).

3. *Magnitude of residues.* The maximum residues detected on fresh mint foliage at the proposed labeled level of DuPont's product, Assure, of 0.2 pounds(lbs) active ingredient(ai) acre (1x) applied 30 days before harvest were 0.22, 0.46, and 1.0 ppm for Indiana, Oregon and Washington, respectively. The largest residue found on fresh mint foliage, 2.6 ppm, was detected in a Washington sample treated with 0.4 lbs. acre (2x) 29 days before harvest, twice the maximum yearly rate allowed. At the Level of Quantitation of 0.05 ppm, there were no detectable residues in the mint oil, either at the proposed label rate of 0.2 lbs. ai/acre(A), or at the exaggerated rate of 0.4 lbs. ai/A, indicating that quizalofop-p ethyl and its acid metabolite are not concentrated during the oil distillation process.

Results of a freezer storage stability study demonstrated that the two compounds, quizalofop-p ethyl ester and quizalofop acid, were stable in frozen storage at -20 degrees centigrade for 592 to 593 days in mint hay, and 597 days in oil. Field samples were stored a maximum of 654 days.

The residues detected in this study are well below the proposed tolerances of 3.0 ppm for the raw agricultural commodity mint. The nature of the residues is adequately understood and an adequate analytical method is available for enforcement purposes. Based on the information presented above, Dupont believes the establishment of the proposed tolerance would protect the public health and would not expose man or the environment to unreasonable adverse effects.

B. Toxicological Profile

1. *Acute toxicity.* Several acute toxicology studies were conducted and the overall results placed technical grade quizalofop ethyl in toxicity Category III. These include the following studies in Category III: acute oral toxicity (LD_{50}s 1,480 and 1,670 for female and male rats, respectively) and eye irritation (mild effects; reversible within 4 days). Dermal toxicity (lethal dose) LD_{50} >5,000 milligram(mg)/kilogram(kg); rabbit), inhalation toxicity (lethal concentration) LC_{50} >5.8 mg/liter(L); rat) and dermal irritation were classified within Category IV. Technical quizalofop ethyl was not a dermal sensitizer.

2. *Genotoxicity.* Technical quizalofop ethyl was negative in the following genotoxicity tests: bacterial gene mutation assays with *E. coli* and *S. typhimurium*; gene mutation assays in Chinese hamster ovary(CHO) cells ; *in vitro* DNA damage assays with B. subtillis and in rat hepatocytes; and an *in vitro* chromosomal aberration test in CHO cells.

3. *Reproductive and developmental toxicity.* Studies supporting the registration include: A developmental toxicity study in rats administered dosage levels of 0, 30, 100, and 300 mg/kg/day (HDT). The maternal toxicity no-observed-effect level (NOEL) was 30 mg/kg/day and a developmental toxicity NOEL was greater than 300 mg/kg/day (HDT). The maternal NOEL was based on reduced food consumption and increased liver weights.

A developmental toxicity study in rabbits administered dosage levels of 0, 7, 20, and 60 mg/kg/day with no developmental effects noted at 60 mg/kg/day (HDT). The maternal toxicity NOEL was 20 mg/kg/day based on decreases in food consumption and body weight gain at 60/mg/kg/day (HDT).

A 2-generation reproduction study in rats fed diets containing 0, 25, 100 or 400 ppm (or approximately 1, 1.25, 5, and 20 mg/kg/day, respectively) with a developmental (systemic effects) NOEL of 1.25 mg/kg/day for F2B weanlings based on increased liver weights and increased incidence of eosinophilic changes in the livers at 5.0 mg/kg/day. These liver changes were considered to be physiological or adaptive changes to compound exposure among weanlings. When access to the mother's feed is available, it is a common observation that young rats will begin consuming chow prior to complete weaning at 21-days of age. Consumption could not be quantified; therefore, the maternal consumption was assumed as the NOEL (if normalized on a body weight basis, exposures to the weanling rats were likely higher). The parental NOEL of 5.0 mg/kg/day was based on decreased body weight and premating weight gain in males at 20 mg/kg/day (HDT).

4. *Subchronic toxicity.* A 90-day study was conducted in rats fed diets containing 0, 40, 128, 1,280 ppm (or approximately 0, 2, 6.4 and 64 mg/kg/day, respectively). The NOEL was 2 mg/kg/day. This was based on increased liver weights at 6.4 mg/kg.

A 90–day feeding study in mice was conducted with diets that contained 0, 100, 316 or 1,000 ppm (or approximately 0, 15, 47.4, and 150 mg/kg/day, respectively). The NOEL was >15 mg/kg/day Lowest Dose Tested (LDT) based on increased liver weights and reversible histopathological effects in the liver at the LDT. A 6-month feeding study in dogs was conducted with diets that contained 0, 25, 100 or 400 ppm (or approximately 0, 0.625, 2.5, and 10 mg/kg/day, respectively). The NOEL was 2.5 mg/kg/day based on increased blood urea nitrogen at 10 mg/kg/day. A 21–day dermal study was conducted in rabbits at doses of 0, 125,

500 or 2,000 mg/kg/day. The NOEL was 2,000 mg/kg/day (HDT).

5. *Chronic toxicity.* An 18-month carcinogenicity study was conducted in CD-1 mice fed diets containing 0, 2, 10, 80 or 320 ppm (or approximately 0, 0.3, 1.5, 12, and 48 mg/kg/day, respectively). There were no carcinogenic effects observed under the conditions of the study at levels up to and including 12 mg/kg/day. A marginal increase in the incidence of hepatocellular tumors was observed at 48 mg/kg/day, the highest dose tested (HDT) which exceeded the maximum tolerated dose (MTD).

A 2–year chronic toxicity/carcinogenicity study was conducted in rats fed diets containing 0, 25, 100 or 400 ppm (or 0, 0.9, 3.7, and 15.5 mg/kg/day for males and 0, 1.1, 4.6, and 18.6 mg/kg/day for females, respectively). There were no carcinogenic effects observed under the conditions of the study at levels up to and including 18.6 mg/kg/day (HDT). The systemic NOEL was 0.9 mg/kg/day based on altered red cell parameters and slight/minimal centrilobuler enlargement of the liver at 3.7 mg/kg/day.

A 1–year feeding study was conducted in dogs fed diets containing 0, 25, 100 or 400 ppm (or approximately 0, 0.625, 2.5, and 10 mg/kg/day, respectively). The NOEL was 10 mg/kg/day (HDT).

The Carcinogenicity Peer Review Committee (CPRC) of the EPA has evaluated the rat and mouse cancer studies on quizalofop along with other relevant short-term toxicity studies, mutagenicity studies, and structure activity relationships. The CPRC concluded, after three meetings and an evaluation by the EPA Science Advisory panel, that the classification should be a Category D (not classifiable as to human cancer potential). No new cancer studies were required.

The first CPRC review tentatively concluded that quizalofop should be classified as a Category B2 (probable human carcinogen). That classification was based on liver tumors in female rats, ovarian tumors in female mice, and liver tumors in male mice. This classification was downgraded to a Category C (possible human carcinogen) at a second CPRC review. The change in classification was due to a reexamination of the liver tumors in female rats and ovarian tumors in female mice. The first peer review had found a statistically significant positive trend for liver carcinomas in female rats. Subsequent to this conclusion the tumor data were reevaluated, and the revaluation showed a reduced number of carcinomas. Although there remained a statistically significant positive trend for carcinomas in the study, the CPRC concluded that the carcinomas were not biologically significant given the few carcinomas identified (one at the mid-dose and two at the high dose). Noting that this level of carcinomas was within historical levels, the CPRC concluded that administration of quizalofop did not appear to be associated with the liver carcinomas.

As to the ovarian tumors in female mice, the CPRC had first attached importance to the fact that these tumors were statistically significant at the high dose as compared to historical control values although statistically significant when compared to concurrent controls. However, review of further historical control data showed that the level of ovarian tumors in the quizalofop study was similar to the background rate in several other studies. Given this information and that the quizalofop study showed no hyperplasia of the ovary, no signs of endocrine activity related to ovarian function, and no dose response relationship, the CPRC concluded that the ovarian tumors were probably not compound-related.

The findings of the second CPRC review were presented to EPA's Scientific Advisory Panel (SAP). The SAP concurred with the CPRC conclusion that the liver tumors in female rats and the ovary tumors in female mice showed no evidence of carcinogenicity. However, the SAP disagreed with CPRC's classification of quizalofop as a Category C based on the liver tumors in male mice. The SAP concluded that the mouse liver tumors did not support such a classification because the tumors occurred at a dose above the maximum-tolerated dose (MTD) and because they were not statistically significant if a "p"value of less than 0.05. The SAP believed that such greater statistical rigor was appropriate for variable tumor endpoints such as male mouse liver tumors.

Following the SAP review, the CPRC changed the classification for quizalofop to Category D. The Category D classification is based on an approximate doubling in the incidence of male mice liver tumors between controls an the high dose. This finding was not considered strong enough to warrant the finding of a Category C (possible human carcinogen) since the increase was of marginal statistical significance, occurred at a high dose which exceeded the predicted MTD, and occurred in a study in which the concurrent control for liver tumors was somewhat low as compared to the historical controls, while the high dose control group was at the upper end of previous historical control-groups.

EPA has found the evidence on the carcinogenicity of quizalofop-p ethyl ester in animals to be equivocal and therefore concludes that quizalofop-p ethyl ester does not induce cancer in animals within the meaning of the Delaney clause. Important to this conclusion was the following evidence: (a) The only statistically significant tumor response that appears compound-related was seen at a single dose in a single sex in a single species; (b) the response was only marginally statistically significant; (c) the response was only significant when benign and malignant tumors were combined; (d) the tumors were in the male mouse liver; (e) the tumors were within historical controls; and (f) the mutagenicity studies were negative. Although in some circumstances a finding of animal carcinogenicity would be made despite any one, or even several, of the six factors noted, the combination of all of these factors here cast sufficient doubt on the reproducibility of the response in the high dose male mouse that EPA concludes the evidence on carcinogenicity is equivocal.

6. *Animal metabolism.* The metabolism of quizalofop ethyl in animals (rat, goat and poultry) is well understood. ^{14}C-phenyl and ^{14}C-quinoxaline quizalofop ethyl ester metabolism studies have been conducted in each species. There are similarities among these species with respect to metabolism. Quizalofop ethyl is rapidly and extensively metabolized and rapidly excreted by rats. The principal metabolites were the quizalofop-p acid and two dechlorinated hydroxylated forms of the acid. Tissue residues were minimal and there was no evidence of accumulation of quizalofop ethyl or its metabolites in the rat.

The primary pathway in ruminants is hydrolysis of the ethyl ester to form the quizalofop-p methyl ester. In poultry, the primary metabolic pathway is also the hydrolysis of the ethyl ester to form the quizalofop-p acid, then the methyl esterification to form the quizalofop methyl ester becomes a minor pathway.

The nature of the quizalofop ethyl ester residue in livestock is adequately understood. The residues of concern are quizalofop ethyl, quizalofop methyl, and quizalofop, all expressed as quizalofop ethyl.

7. *Metabolite toxicology.* There is no evidence that the metabolites of quizalofop ethyl as identified as either the plant or animal metabolism studies are of any toxicological significance.

C. Aggregate Exposure

1. *Dietary exposure.* An analysis of chronic dietary risk was conducted to determine the impact of the possible addition of peppermint and spearmint to the Assure label. A Reference Dose (RfD) of 0.009 mg/kg/day was used in the analyses. Consumption data were available for peppermint and spearmint from previous studies.

2. *Food.* The first step in the analysis was to run the TAS (Tolerance Assessment System) program using current tolerances with an RfD of 0.009 mg/kg/day. The Theoretical Maximum Residue Concentration (TMRC), based on the current tolerances, was 0.000288 mg/kg/day for the U.S. population (48 states) and 0.000759 mg/kg/day for the population subgroup with the highest estimated exposure (non-nursing infants >1 year old). For the U.S. population subgroup this represents approximately 3.2% of the RfD while for the most exposed population this represents approximately 8.4% of the RfD. Based on the risk estimates arrived at in this analysis, chronic dietary risk from the current uses of Assure is minimal.

Consumption data for peppermint and spearmint within the TAS database are available only for the entire U.S. population (48 states) and not for the population subgroups. For peppermint the consumption is listed as 0.000001 gram(g)/kg body weight(bw)/day for the raw commodity and 0.000255 for the flavoring oil. For spearmint the consumption is 0.000001 g/kg bw/day for the raw commodity and 0.000458 for the flavoring oil. The TMRC, based on the current tolerances and the potential peppermint and spearmint tolerances, was 0.000290 mg/kg/day for the U.S. population (48 states). Since no consumption data were available for population subgroups, Theoretical Maximum Residue Concentrations did not change and the sub group with the highest potential exposure had a TMRC of 0.000759 g/kg/day (non-nursing infants >1 year old). When expressed as a percentage of the RfD, the U.S. population (48 states) was approximately 3.2% and that of the population subgroup with the highest potential exposure, i.e. infants and children, was approximately 8.4%. These results indicate that predicted chronic exposure after the addition of a peppermint tolerance is well below the RfD. The lack of specific population sub-group data for these commodities should not be a problem since both peppermint and spearmint are not likely to be consumed in large quantities by any population subgroup and the difference between the TMRC and the RfD is so great.

3. *Drinking water.* Another potential source of dietary exposure to pesticides is residues in drinking water. There is no established Maximum Concentration Level (MCL) for quizalofop ethyl in water. Based on the low use rate of quizalofop ethyl, and a use pattern that is not widespread (since the current and proposed uses are on minor crops), DuPont does not anticipate residues of quizalofop in drinking water and exposure from this route is unlikely.

4. *Non-dietary exposure.* Quizalofop ethyl is not registered for any use which could result in non-occupational, non-dietary exposure to the general population.

D. Cumulative Effects

There is no evidence to indicate or suggest that quizalofop p-ethyl has any toxic effects on mammals that would be cumulative with those of any other chemicals.

E. Safety Determination

1. *U.S. population.* Using the exposure assumptions described above and based on the most sensitive species chronic NOEL of 0.9 mg/kg and a reference dose (RfD) of 0.009 mg/kg/day, the existing tolerances and proposed use of quizalofop ethyl on mint are expected to utilize 3.2% of the RfD for the general U.S. population. Generally, exposures below 100% of the RfD are of no concern because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose risk to human health. Thus, there is a reasonable certainty that no harm will result from aggregate exposure to quizalofop ethyl resulting from proposed agricultural use on peppermint and spearmint.

2. *Infants and children.* In assessing the potential for additional sensitivity of infants and children to residues of quizalofop ethyl, data were considered from developmental toxicity studies in the rat and rabbit, and a multi-generation reproduction study in rats. There were no developmental effects observed in the absence of maternal toxicity in the rat and rabbit developmental studies. Minimal adaptive or physiological effects were observed in livers of weanlings in the 2-generation rat reproduction study described earlier. However, this effect was only observed at a dose that far exceeds any expected human exposure. Further, the NOEL of 0.9 mg/kg/day from the 2–year rat study with quizalofop ethyl, which was used to calculate the RfD(discussed above), is already lower than any of the NOELs defined in the developmental and reproductive toxicity studies with quizalofop ethyl.

Using the exposure assumptions described above and based on the most sensitive species chronic NOEL of 0.9 mg/kg and a reference dose (RfD) of 0.009 mg/kg/day, the existing tolerances and proposed use of quizalofop ethyl on mint are expected to utilize 8.4% of the RfD for infants and children. Infants and children have a low potential for quizalofop ethyl exposure because of both the low levels of mint in the diet (mint is a low dietary intake crop used primarily as an oil for flavoring, and is diluted to a ratio of 1:250 or greater in the finished food product), and the absence of detectable residues in mint oil. The toxicology profile of quizalofop ethyl demonstrates low mammalian toxicity. Because there was no evidence that offspring were uniquely susceptible to the toxic effects of quizalofop ethyl, an additional 10-fold uncertainty factor should not be required to protect infants and children. Therefore, the registrant believes that the RfD of 0.009 mg/kg/day, which utilizes a 100-fold safety factor, is appropriate to assure a reasonable certainty of no harm to infants and children from aggregate exposure to quizalofop ethyl.

F. International Tolerances

Since there are no Mexican, Canadian, or Codex MRLs/tolerances, compatibility is not a problem at this time.

3. IR-4 Project

PP 6E4658

EPA has received a pesticide petition (PP 6E4658) from the Interregional Research Project Number 4 (IR-4), proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR part 180 to establish an exemption from the requirements of a tolerance for copper-ethylenediamine complex (Komeen) in or on the raw agricultural commodity (RAC) potatoes. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition. This notice includes a summary of the petition prepared by the Griffin Corporation (Griffin), the registrant.

A. Residue Chemistry

1. *Analytical method.* A practical analytical method for copper-ethylenediamine complex is not required for crop use since it is expected that no residues will occur in RACs.

2. *Magnitude of residues.* Residues are not expected in the RAC (potatoes) since the potato tubers are underground and only the vines which are above ground are treated.

B. Toxicological Profile

The Agency does not require subchronic, chronic, reproductive or developmental toxicity studies for the copper salts.

Copper-ethylenediamine(Komeen) is slightly to moderately toxic upon acute oral, dermal and inhalation exposure, slightly irritating to the skin and moderately irritating to the eye.

Acute toxicity. The acute oral lethal dose LD_{50} (95% confidence limits) for Komeen was 498 milligram(mg)/kilogram(kg) (349–710 mg/kg).

The acute dermal LD_{50} for Komeen was determined to be >2,000 mg/kg.

The acute inhalation lethal concentration LC_{50} (95% confidence limits) for Komeen was 0.81 mg/liter(l) (0.26-1.37 mg/l).

Komeen was shown to be moderately irritating to the eye with all signs of ocular irritation cleared within 10 days of treatment.

C. Aggregate Exposure

1. *Dietary (food) exposure.* Based on the proposed used pattern of potato vine desiccation, no copper residues are expected to occur on potatoes and the dietary exposure would be negligible by comparison to the normal daily intake of copper. A single day's diet may contain 10 mg or more of copper. The daily recommended allowance of copper for adults nutritional needs is 2 mg.

2. *Drinking water.* Copper is ubiquitous in the environment and found in natural water. In 1991, the USEPA established a maximum contamination level (MCL) for copper in drinking water of 1.3 mg/l. No impact on copper levels found naturally in water would occur as a result of potato vine desiccant use for this product.

3. *Non-dietary exposure.* Copper is registered for use as an aquatic herbicide for outdoor residential sites. Any contributions to aggregate exposure from this use would not be expected to be significant.

4. *Potential for endocrine effects.* Since copper is required for homeostasis, low copper dietary exposures would not be expected result in any adverse endocrine effects.

D. Cumulative Effects

Griffin believes that no cumulative adverse effects are expected from long-term exposure to copper salts. No other elements are expected to produce cumulative toxicity with copper.

E. Safety Determination

Copper compounds such as copper sulfate pentahydrate are considered as Generally Recognized as Safe (GRAS) by the Food and Drug Administration and as such are exempt from the requirement of a tolerance when used as aquatic herbicides (40 CFR 180.1021). Copper compounds are also exempt from the requirement of a tolerance when applied to growing crops when used as a plant fungicide in accordance with good agricultural practices (40 CFR 180.1001(b)(1). Copper-ethylenediamine complex is registered as an aquatic herbicide under the trade name, Komeen.

1. *U.S. population.* Copper is a component of the human diet and an essential element. Use of copper-ethylenediamine complex is not expected to increase the amount of copper in the diet as a result of potato vine desiccation.

2. *Infants and children.* Infants and children also require copper in their diets and Griffin believes that no special sensitivity for this population subgroup would be expected as a result of the proposed use.

F. International Tolerances

No international tolerances have been established for copper-ethylenediamine complex.

[FR Doc. 97–28640 Filed 10–28–97; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–181049; FRL 5751–6]

Bifenthrin; Receipt of Application for Emergency Exemption, Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the California Department of Pesticide Regulations (hereafter referred to as the "Applicant") to use the pesticide bifenthrin (CAS #8657–04–3 *cis* and 83322–02–5 *trans*), formulated as Capture 2EC, to treat up to 22,000 acres of broccoli, cauliflower, cabbage, and rapini; and 40,000 acres of lettuce, to control silverleaf whitefly. An emergency exemption has been requested for this use for the previous 6 years. Since this request proposes a use which has been requested or granted in any 3 previous years, and a complete application for registration and petition for tolerance has not yet been submitted to the Agency, EPA is soliciting public comment before making the decision whether or not to grant the exemption, in accordance with 40 CFR 166.24(a)(6).

DATES: Comments must be received on or before November 13, 1997.

ADDRESSES: Three copies of written comments, bearing the identification notation "OPP–181049," should be submitted by mail to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under "SUPPLEMENTARY INFORMATION." No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docket is available for public inspection in Rm. 1132 at the Virginia address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Andrea Beard, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number and e-mail: Crystal Mall #2, Rm. 267, 1921 Jefferson Davis Highway, Arlington, VA, (703) 308–9356; e-mail: beard.andrea@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Pursuant to Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at her discretion, exempt a state agency from any registration provision of FIFRA if she determines that emergency conditions exist which require such exemption. The Applicant has requested the Administrator to issue a specific exemption for the use of bifenthrin on broccoli, cauliflower, cabbage, lettuce, and rapini to control whiteflies. Information in accordance with 40 CFR part 166 was submitted as part of this request.

According to the Applicant, materials are still not available to growers which will provide them with satisfactory late season control of the silverleaf whitefly. An alternative is available for early season control (imidacloprid), which the registrant (Bayer, Inc.) does not want used throughout the growing season, in order to avoid potential for the whitefly to develop resistance to imidacloprid. The Applicant states that when used in a complementary fashion (imidacloprid for early season control, and bifenthrin for late), these two materials have helped the growers to continue to grow a marketable crop in the past several years. Without this use of bifenthrin, the Applicant claims that growers will suffer significant economic loss due to inadequate control of the silverleaf whitefly in the aforementioned crops.

Under the proposed exemption, a maximum of four applications for lettuce, and five applications for broccoli, cauliflower, cabbage, and rapini would be made at 0.08 to 0.1 lb. active ingredient (5.2 to 6.4 fl. oz. of product) per acre, by ground or air equipment. At the maximum rates and acreages, the uses proposed in this request could result in a potential total of 27,000 lbs. of active ingredient used. Other restrictions proposed include: a 20–day pre-harvest interval; aquatic buffer zones of 25 ft. for ground and 150 ft. by air; and buffer zones around endangered species habitat of 40 yards for ground and 200 yards by aerial application.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require publication of a notice of receipt of an application for a specific exemption proposing a use which has been requested or granted in any 3 previous years, and a complete application for registration and/or tolerance petition has not been submitted to the Agency [40 CFR 166.24 (a)(6)]. Such notice provides for opportunity for public comment on the application.

The official record for this notice, as well as the public version, has been established for this notice under docket number [OPP-181049] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official notice record is located at the address in "ADDRESSES" at the beginning of this document.

Electronic comments can be sent directly to EPA at: opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in Wordperfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number [OPP–181049]. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the California Department of Pesticide Regulation.

List of Subjects

Environmental protection, Pesticides and pests, Emergency exemptions.

Dated: October 17, 1997.

James Jones,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 97–28658 Filed 10–28–97; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–181050; FRL 5752–5]

Emamectin Benzoate; Receipt of Application for Emergency Exemption, Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the Florida Department of Agriculture (hereafter referred to as the "Applicant") to use the pesticide emamectin benzoate (CAS 137512–74–4) (formulated as "Proclaim 5SG") to control the diamondback moth on up to 13,400 acres of the *Brassica* (cole) leafy vegetable group in Florida. The Applicant proposes the use of a "new" chemical (an active ingredient not currently found in any registered product). In accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments must be received on or before November 13, 1997.

ADDRESSES: Three copies of written comments, bearing the identification notation "OPP–181050," should be submitted by mail to: Public Information and Records Integrity Branch, Information Resources Services Division, (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under "SUPPLEMENTARY INFORMATION." No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docket is available for public inspection in Rm. 1132 at the Virginia address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Olga Odiott, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number and e-mail: Rm. 268, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 308–9363; e-mail: odiott.olga@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Pursuant to Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at her discretion, exempt a state agency from any registration provision of FIFRA if she determines that emergency conditions exist which require such exemption. The Applicant has requested the Administrator to issue a specific exemption for the use of emamectin benzoate on the *Brassica* (cole) leafy vegetable group to control the diamondback moth. Information in

accordance with 40 CFR part 166 was submitted as part of this request.

The Applicant states that the diamondback moth, a pest of almost all crops in the cole vegetable group, has become resistant to registered materials, which were formerly effective at providing control. The applicant states that without an effective control such as emamectin benzoate, the cole crop growers in Florida will likely suffer severe economic losses.

The Applicant proposes to apply emamectin benzoate at a rate of 0.015 lb. active ingredient (a.i.) per acre with a maximum of six applications per crop season, but no more than 0.09 lb. a.i., applied per acre per crop season. The proposed use is for up to 13,400 acres of the cole vegetable group. Therefore, use under this exemption could potentially amount to a maximum total of 1,206 lbs. of the active ingredient, emamectin benzoate. This is the first time an exemption request for this use has been requested by the state of Florida.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require publication of a notice of receipt in the **Federal Register** for an application for a specific exemption proposing the use of a new (unregistered) chemical. Such notice provides for opportunity for public comment on the application.

The official record for this notice, as well as the public version, has been established for this notice under docket number [OPP–181050] (including comments and data electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official notice record is locate at the address in "ADDRESSES" at the beginning of this document.

Electronic comments can be send directly to EPA at: opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–181050]. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

Accordingly, interested persons may submit written views on this subject to the Information Resources and Services Division at the address above. The Agency will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the Florida Department of Agriculture.

List of Subjects

Environmental protection, Pesticides and pests, Emergency exemptions.

Dated: October 17, 1997.

James Jones,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 97–28643 Filed 10–28–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5914–7]

Joint EPA/State Agreement on Pursue Regulatory Innovation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The purpose of this notice is to solicit public comment on the draft Joint EPA/State Agreement to Pursue Regulatory Innovation. This draft was prepared jointly by the EPA and the Environmental Council of the States (ECOS). The agreement will provide a framework for how EPA and the States will promote and implement future regulatory innovation efforts. A copy of this notice is available on the Internet at http://www.epa.gov/reinvent.

DATE: Comments are due by November 28, 1997.

ADDRESSES: Comments may be submitted to: Gail Robarge, Office of Reinvention (mailcode 1102), 401 M Street, SW., Washington, DC 20460; email address: robarge.gail@epamail.epa.gov. ECOS members may submit comments to: Tina Parker, Environmental Council of the State, 444 N. Capitol Street, NW., Suite 305, Washington, DC 20001; email address tparker@sso.org.

FOR FURTHER INFORMATION CONTACT: Gail Robarge, EPA Office of Reinvention, phone 202/260–9101, email robarge.gail@epamail.epa.gov; or Bruce Brott, Minnesota Pollution Control Agency, phone 612/297–8380, email bruce.brott@pca.state.mn.us.

SUPPLEMENTARY INFORMATION:

Background

In order to find new, better and more efficient and effective ways to improve environmental protection, the ECOS and EPA Administrator formed a joint task group to develop an agreement on EPA-State regulatory innovation. The purposes of the agreement are to: improve environmental protection in the United States; improve EPA/State environmental management systems; and provide for timely decision-making on innovation proposals.

The agreement establishes guiding principles for innovation and an efficient process that is receptive to innovative proposals from the States for achieving shared environmental objectives. The agreement will encourage and facilitate the exploration of ideas which are potentially more cost-effective and/or have a better environmental impact. It will improve decision-making between the States and EPA on innovation proposals, emphasizing clear lines of communication, decision authority, accountability and timeliness. It will provide opportunities for stakeholder involvement at the state and national levels.

An informal stakeholder meeting was held to discuss the draft agreement in September. Participants offered many thoughtful comments and constructive suggestions (a summary of this meeting is posted on the Web at http://www.epa.gov/reinvent). Comments from the meeting will be taken into consideration by EPA and ECOS as we review other comments received during the next 30 days.

A public meeting to discuss the draft agreement will be held on Nov. 20, 1997, in Washington, D.C. Please contact Louise McLaurin (202/260–4261 or mclaurin.louise@epamail.epa.gov) to register for the meeting and to obtain details regarding time and location.

TEXT OF DRAFT AGREEMENT

Part 1

Joint EPA/State Agreement To Pursue Regulatory Innovation

"• • • We must encourage innovation by providing flexibility with an industry-by-industry, place-by-place approach to achieving standards." • • • But we will require accountability that such standards be met. Rather than focusing on pollutant-by-pollutant approaches, attention must shift to integrated strategies for whole facilities, whole economic sectors, and whole communities." [Excerpt from President Clinton's "Reinventing Environmental Regulation," March 16, 1995]

The U.S. Environmental Protection Agency and the states agree on the need to experiment with new approaches to improve our nation's environment. These new approaches can help us identify cleaner, cheaper, smarter ways to ensure that all Americans enjoy a clean environment and healthy ecosystems. Through this joint commitment, EPA and the states agree to encourage, evaluate, implement, and disseminate ideas that seek better ways of achieving our environmental goals. This agreement presumes that EPA and the states will find ways to help good ideas succeed, and that joint EPA and state efforts to promote and test new ideas will result in the maximum benefit to the American people and their environment.

Two years ago, EPA and the states entered into an historic agreement to establish the National Environmental Performance Partnership System (NEPPS). That agreement recognized that we have achieved significant progress since environmental protection programs were created more than 25 years ago. Yet to meet today's new challenges, we agreed that states and EPA must manage for environmental results, increase public involvement, and use environmental indicators to track our progress. We agreed that states and EPA must become true partners in implementing federal programs, and that different state programs need different levels of federal involvement.

This new partnership creates an environment in which state and local regulatory innovations can, and should, flourish. As the primary, front-line delivery agent for environmental programs, states are a natural laboratory for testing new ideas. State and local environmental professionals are closest to environmental problems and communities, and can often develop the most practical solutions. These professionals should be encouraged to seek innovative solutions that may not fit within the traditional approaches. We agree that our efforts to promote innovation must, in the end, be directed toward achieving our public health and environmental goals in a more efficient or effective way.

EPA also seeks to promote regulatory innovations at all levels. This agreement complements, but does not supplant, other national or state efforts to develop regulatory innovations. Its purpose is to establish a clear pathway and decision-making process for state innovations that have encountered federal barriers or need greater attention to help them succeed.

States and EPA agree that the following principles should guide us as we develop, test and implement regulatory innovations:

Experimentation

Innovation involves change, new ideas, experimentation and some risk of failure. Experiments that will help us achieve environmental goals in better ways are worth pursuing when success is clearly defined, costs are reasonable, and environmental and public health protections are maintained.

Environmental Performance

Innovations must seek more efficient and/or effective ways to achieve our environmental and programmatic goals, with the objective of achieving a cleaner, healthier environment and promoting sustainable ecosystems.

Smarter Approaches

To reinvent environmental regulation, regulators must be willing to change the way we traditionally look at environmental problems and be receptive to innovative, common sense approaches.

Stakeholder Involvement

Stakeholders must have an opportunity for meaningful involvement in the design and evaluation of innovations. Stakeholders may include other state/local government agencies, the regulated community, citizen organizations, environmental groups, and others. The opportunities for stakeholder involvement should be appropriate to the type and complexity of the innovation proposal.

Measuring and Verifying Results

Innovations must be based on agreed-upon goals and objectives with results that can be reliably measured in order to enable regulators and stakeholders to monitor progress, analyze results, and respond appropriately.

Accountability/Enforcement

For innovations that can be implemented within the current regulatory framework, current systems of accountability and mechanisms of enforcement remain in place. For innovations that involve some degree of regulatory flexibility, innovators must be accountable to the public, both for alternative regulatory requirements that replace existing regulations and for meeting commitments that go beyond compliance with current requirements. Regulators will reserve full enforcement authority to ensure compliance with alternative regulatory requirements, and must be willing to explore new approaches to ensure accountability for beyond-compliance commitments.

State-EPA Partnership

The states and EPA will promote innovations at all levels to increase the efficiency and effectiveness of environmental programs. We must work together in the design, testing, evaluation and implementation of innovative ideas and programs, utilizing each other's strengths to full advantage.

EPA agrees to establish a process that ensures timely review and decision-making on state innovation proposals based on implementation of the above seven principles. The states agree to consult early with EPA, to develop proposals consistent with the above principles, and to involve stakeholders. EPA and the states agree on the need for a clearinghouse of regulatory innovations so that promising ideas can be shared across state lines and within EPA.

We agree that the principles and process described in this agreement should be open to continual improvement. As part of ongoing review and evaluation, EPA and the states agree to evaluate the need to further institutionalize the broad principles and process to help future innovations succeed.

Through this agreement, as detailed in Part 2, states and EPA are committed to work together and with all stakeholders to apply the lessons learned from successful innovations in creating the best possible system to achieve greater environmental protection at a reasonable cost. We agree to encourage innovation that will prepare us for meeting our environmental challenges well into the 21st century.

Part 2

I. Overview of This Agreement

This agreement embodies a set of general principles and a process for EPA/State innovation activities. This agreement includes:

—Statements of purpose and scope of the agreement;

—Over-arching principles that will govern joint EPA/state regulatory innovation activities;

—The process EPA and the states will use to identify good ideas, including both the continuation of existing State/EPA interactions to start innovation projects, and the establishment of a new mechanism for making decisions on innovative proposals that do not fit into ongoing reinvention programs; and

—Guidelines for how EPA and the states will evaluate the success of innovation activities carried out under this agreement.

This agreement builds on the many reinvention efforts that are underway in the states and EPA. It is intended to ensure joint decision-making, timely review, broad public involvement, and continued progress in fostering and implementing ideas that are good for

our environment and the people we serve.

II. Purpose and Scope of the Agreement

A. Purpose

The Administrator of the U.S. Environmental Protection Agency (EPA) and senior State environmental officials agree to three purposes for this effort: to improve environmental protection in the United States; to improve EPA/State environmental management practices; and to provide timely decision-making on good ideas. These purposes are described below.

1. Improved Environmental Protection

The Administrator of the U.S. Environmental Protection Agency (EPA) and senior State environmental officials agree that the states and EPA need to encourage, seek out, and try innovative approaches to improve our nation's environment. These innovative approaches can offer mechanisms that are more cost-effective, less adversarial and contentious, and have a better environmental impact. To support sustainable development and continuous environmental improvement, innovations should utilize pollution prevention methods rather than pollution control whenever possible. While we have made significant progress in environmental protection, much remains to be done and no backsliding can be permitted. Innovative approaches offer us tools to improve current environmental protection programs and to tackle the environmental problems of the future.

2. Improved EPA/State Environmental Management Practices

Through this agreement, EPA and the states will develop improved management practices that promote collaboration and shared responsibility for innovations. This agreement is consistent with the concepts embodied in the National Environmental Performance Partnership System (NEPPS). In fact, NEPPS was established, in part, to encourage innovative approaches by states, consistent with agreed-upon environmental goals and indicators. The agreement recognizes that states and local governments are natural laboratories for testing new ideas and that EPA has an important role in promoting innovation at all levels, while continuing to ensure that the states provide fundamental public health and environmental protection. This agreement identifies how we will work together to identify and promote innovative ideas and better ways of doing business. It is intended to help us communicate and evaluate such ideas and to encourage joint decision-making on how such innovations can be fostered, designed and implemented.

3. Timely Decision-Making on Good Ideas

Finding better ways to accomplish our environmental goals is part of the everyday practice of good government. Current processes through which many successful state innovations have been carried out should continue. We recognize that the most challenging regulatory innovation proposals have been difficult to address. This agreement establishes an optional avenue for prompt consideration and evaluation of innovation proposals.

EPA and States may conclude that some successful regulatory innovation projects demonstrate that changes in EPA regulations, policies, guidance, or interpretations are needed to improve the nation's environmental protection system. Where such changes can be made under existing law, EPA will initiate the process for making the changes—following applicable procedures. EPA and States may also initiate policy discussions on potential statutory changes that may be needed to enable nation-wide adoption of innovative approaches.

B. Scope of the Agreement

As used in this agreement, "regulatory innovation" is a broad concept. It encompasses the process of proposing, testing, evaluating, refining and sharing innovative approaches to environmental regulation in order to achieve national, regional, state, tribal, and local environmental objectives. Regulatory innovations should be more efficient and/or provide greater environmental protection than current approaches, foster cooperation, and include opportunities for strong stakeholder involvement.

Many types of innovations are possible, and potential innovations will vary in scope, complexity, ease of implementation, environmental benefits, and other characteristics. At this point in time, it is difficult to design a single system or process that is appropriate for all potential innovations. Innovations should be accomplished through the normal course of business whenever possible. This agreement provides a clear pathway for innovative proposals that need extra attention or are too complex to be handled through normal channels. Proposals that are less complex can be implemented more quickly, leading to early success, while more difficult projects will likely need more analysis and stakeholder participation. This agreement builds on and complements other innovation activities, but is not intended to replace them.

III. Principles for EPA/State Regulatory Innovation

EPA and the States agree to a set of basic overarching principles which will guide our joint regulatory innovation activities. There are seven overarching principles relating to regulatory innovation activities—Experimentation, Environmental Performance, Smarter Approaches, Stakeholder Involvement, Measuring and Verifying Results, and Accountability/Enforcement, and State-EPA Partnership.

A. Experimentation

Innovation involves change, new ideas, experimentation, and some risk of failure. Experiments that will help us achieve environmental goals in better ways are worth pursuing when success is clearly defined, costs are reasonable, and environmental and public health protections are maintained.

1. The States and EPA should recognize the value of prudent risk-taking and value-added experiments to achieve improved results.

2. The States and EPA should seek ways to make good ideas work, presuming that change and innovations consistent with environmental goals are worth our investment.

3. The States and EPA should carefully monitor and manage innovations to ensure that problems are immediately identified and remedied. Experimentation should be based on sound judgment, reasoning and common sense.

4. If a promising experiment encounters difficulties, but environmental protection is not jeopardized, project sponsors should be allowed sufficient time to fix problems before the experiment is abandoned in favor of the traditional approach.

5. Innovations with greater potential benefits may warrant some additional risk-taking.

6. Experimentation does not include relaxing health or environmental standards or reducing protection of public health or the environment.

B. Environmental Performance

Innovations must seek more efficient and/or effective ways to achieve our environmental and programmatic goals, with the objective of achieving a cleaner, healthier environment and promoting sustainable ecosystems.

1. Protecting public health and the environment are the primary goals of both EPA and State environmental agencies, and we agree that innovations can help us find cleaner, cheaper, smarter ways of improving our nation's environment.

2. Many opportunities exist to improve environmental protection through innovations that have the clear potential to provide environmental and ecosystem benefits. In addition, innovations may be designed primarily to improve the cost effectiveness of achieving environmental goals; these projects must ensure that there is no adverse impact on: environmental protection, public access to information, and public access to the decision-making process.

3. For projects that have a greater uncertainty of the environmental outcome, or that involve experimental technologies or approaches, alternative requirements should be expected to have the clear potential to provide increased environmental protection, promote ecosystem sustainability, or both. EPA and the state agency, in their best judgment and in consultation with stakeholders, will determine whether such proposals have the clear potential to produce appropriate gains in environmental protection, improved sustainability of the ecosystem, or both.

4. Innovations may be designed to fit local and regional conditions, as long as local solutions do not create environmental problems for other localities, such as undesired downwind and downstream effects, or undermine national standards.

5. No population group should be subjected to unjust or disproportionate environmental impacts as a result of the innovation.

C. Smarter Approaches

To reinvent environmental regulation, regulators must be willing to change the way we traditionally look at environmental problems and be receptive to innovative, common sense approaches.

1. Regulators should seek creative ways to remedy environmental problems or improve environmental protection in a community, facility, sector or place.

2. Regulators should work with industry and communities to solve environmental problems by removing barriers that prevent prudent, common sense solutions.

3. Regulators should be professional, accountable and deserving of the public's trust.

4. Regulators should seek to understand all perspectives, and help stakeholders find common ground.

5. Regulators should act promptly to evaluate, and implement, proposals that are straightforward, technically achievable, and have clear advantages, while ensuring adequate public review.

D. Stakeholder Involvement

Stakeholders must have an opportunity for meaningful involvement in the design and evaluation of innovations. Stakeholders may include other state/local government agencies, the regulated community, citizen organizations, environmental groups, and others. The opportunities for stakeholder involvement should be appropriate to the type and complexity of the innovation proposal.

1. Innovations should include opportunities for early, open, and inclusive stakeholder involvement in project development, specifically including those who may be affected by the decisions. Stakeholders should be provided adequate time to review proposals and participate in the process.

2. Consistent with the principle of providing meaningful opportunity for stakeholder involvement, each State should have the flexibility to use its own stakeholder participation process, as long as applicable federal and state requirements are met or exceeded. EPA and States will identify national program issues and ensure opportunities for active involvement from national stakeholder groups.

3. Project proposals and the process for their consideration should be made transparent to stakeholders so that the benefits of the proposed change can be fully evaluated. Information needed to understand the proposed innovation and to verify compliance and environmental performance should be publicly available in an understandable form. EPA and States commit to provide regular analysis of the types of innovations implemented and their environmental impacts.

E. Measuring and Verifying Results

Innovations must be based on agreed-upon goals and objectives with results that can be reliably measured in order to enable regulators and stake-holders to monitor progress, analyze results and respond appropriately.

1. The success of innovations should be judged by the results they achieve. Goals and objectives should be: established in advance, measurable, and based on the desired results.

2. Results should be verifiable by reliable measurements and both process and results should be understandable to regulators and the public.

3. Regulators should have access to high quality information sufficient to verify the environmental performance of an innovation.

4. Regulators and the public should have a full understanding of the differences between the innovation and traditional approaches, including expectations for the project, accountability for performance, and any potential risks.

F. Accountability/Enforcement

For innovations that can be implemented within the current regulatory framework, current systems of accountability and mechanisms of enforcement remain in place. For innovations that involve some degree of regulatory flexibility, innovators must be accountable to the public, both for alternative regulatory requirements that replace existing regulations and for meeting commitments that go beyond compliance with current requirements. Regulators will reserve full enforcement authority to ensure compliance with alternative regulatory requirements, and must be willing to explore new approaches to establish accountability for beyond-compliance commitments.

1. During the project, existing statutory and regulatory requirements remain in effect and fully enforceable for persons or activities not covered by the innovation project.

2. If a promising innovation project encounters difficulties, but environmental protection is not jeopardized, flexible enforcement responses should be used to allow project sponsors sufficient time to fix problems before a project is abandoned in favor of the traditional approach.

3. Regulators must have authority to address such circumstances as imminent and substantial endangerment, actual harm, or criminal conduct.

4. Innovations may include both: (a) Enforceable "alternative regulatory requirements" that provide protection equivalent to current environmental standards, and (b) other "beyond-compliance commitments" which seek to exceed current standards or requirements. Alternative regulatory requirements and beyond-compliance commitments should be clearly distinguished in advance.

Alternative Regulatory Requirements:

—Alternative regulatory requirements should be enforceable with all the remedies available under current law.

—Regulators should use enforcement discretion in choosing remedies when a facility fails to meet alternative regulatory requirements.

—Potential responses for failure to meet such alternative regulatory

requirements should be identified in advance.

Beyond-Compliance Commitments

—As part of an innovation, facilities may agree to beyond-compliance commitments in exchange for regulatory flexibility or some other incentive.

—Potential responses for failure to meet such beyond-compliance commitments should be defined in advance.

—Responses for failure to meet beyond-compliance commitments should fit the circumstances. They may include trying a different approach, modifying the innovative approach, or reverting to the traditional approach, but they should not include enforcement penalties.

G. State-EPA Partnership

The States and EPA will promote innovations at all levels to increase the efficiency and effectiveness of environmental programs. We must work together in the design, testing, evaluation and implementation of innovative ideas and programs, utilizing each other's strengths to full advantage.

1. As the primary front-line managers of many environmental protection programs, the States and local governments are a natural laboratory for innovations. The States should manage their own programs, adapt to local conditions, and test new approaches for delivering more environmental protection for less.

2. The federal government should ensure good science, strong national health and environmental standards, and should work in partnership with the States by providing analysis, expertise, and facilitating learning among the States. EPA should promote innovation at all levels (national, regional, state, tribal, place-based, community, and in the private sector). EPA retains its role to set national standards and measures, implement programs not delegated to states or tribes, address interstate issues, apply and interpret national statutes and regulations, and ensure fair and effective enforcement, thus ensuring that all States provide fundamental public health and environmental protection.

3. EPA and State roles in innovations must be clearly designed to utilize each party's unique strengths and avoid duplication. Decision makers should be clearly identified.

4. Assigned roles and responsibilities should be honored and respected, and joint problem-solving should be encouraged.

5. Communication must be open, honest, frank and frequent. The States and EPA should work to understand each other's perspectives, achieve consensus on major issues, make decisions in a timely manner, and resolve conflicts quickly and efficiently.

IV. Process for Considering State Innovations Proposals

EPA and the states are engaged in many successful efforts to reinvent environmental regulation. These efforts should continue unimpeded. EPA and the States agree that, where procedures currently exist, innovation proposals should be handled through normal EPA/state program activities or other ongoing reinvention activities. Proposals that do not fit into an existing pathway can be handled via the new process established under this agreement.

The process of developing Performance Partnership Agreements (PPAs) under National Environmental Performance Partnership System offers one opportunity for States and EPA, working with stakeholders, to agree on innovative approaches to pursue. However, participation in a PPA is not the only avenue for States and EPA to work on innovative approaches. Memorandum of Agreements and/or Work Plans can serve the same function as a PPA. Inclusion of anticipated innovative approaches in the PPAs or other agreements will allow the states and EPA to allocate staff resources and establish priorities for innovative projects. For example, individual states may choose to place higher priority on innovation projects which promote clear cost or environmental benefits for the public. It is envisioned that States will include in the PPAs or other agreements a discussion of potential innovative activities, indicating how the innovations link to environmental goals and providing a picture of proposed changes.

A. Use Existing Pathways

This agreement is designed to supplement, rather than replace, ongoing innovation activities underway in EPA and the States. Such innovation activities should continue. State innovations that do not require a change to Federal guidance, regulations or statutes can proceed without EPA review. EPA's role will consist of support and advice, if requested. EPA and States should continue to work together on innovations that may involve using existing flexibilities in current law and regulation, and on existing innovation programs such as Project XL.

B. New Process Established Under This Agreement

The States and EPA agree to establish an optional process which States may use to get timely decisions on innovation proposals. This process includes senior-level management attention and specific time frames to ensure prompt decisions by EPA. The following process establishes a management framework so that actions and next steps, along with interested participants and decision-makers, can be clearly identified and taken into account. EPA's Regional Administrators are responsible for ensuring that the process moves forward; individual states are expected to establish similar senior-level points of contact to manage the State's role in the innovation process.

This process is intended to be flexible. For example, EPA Regional Offices, EPA Headquarters Offices, and the States are encouraged to maintain open lines of communication at both staff and management levels beyond the formal process described below, and states are encouraged to invite EPA into the early discussion stages of any project. Early consultation between EPA and the States is important in identifying obstacles early and in determining who needs to be involved so that the project can move forward expeditiously.

EPA will also work with individual States as needed to establish priorities in the review of proposals based on guidance developed in the Performance Partnership Agreement or other EPA/State agreed mechanism. EPA and the States recognize that the success of this process will be affected by the quality and clarity of proposals and the effectiveness of communication between EPA, the state, and stakeholders. The States and EPA are committed to working together to ensure that communications are frequent, open, honest, and directed to finding means to allow innovations to succeed.

While one of the objectives of the innovation proposals is efficiency, the very act of designing an experiment, testing the hypothesis, and evaluating the results may be resource intensive for all parties. The optimum management of resources by EPA and the State will help ensure the success of the review process, the implementation of the projects, and adherence to time lines.

1. Stage One—Developing Quality Proposals

States and EPA recognize that clear, well-developed proposals will facilitate review and speed decision-making.

States are encouraged to consult with EPA as early as possible in the development of a proposal. The States should be able to use this early consultation process to develop a clear understanding of their proposals with EPA and key stakeholders.

During the early consultation, the State and EPA will identify issues that need attention, possible barriers to implementation, uncertainties regarding risks, and value added to all parties. These discussions will be open and candid and will provide the States with information that will be important and useful for the development of the proposal. While early consultation is encouraged, not all proposals will require the same degree of discussion and/or consultation.

EPA and States will bring a positive, constructive approach to consideration of proposals and seek ways to help good ideas to succeed.

States will prepare proposals that: (a) Are consistent with the principles described in this agreement, and (b) clearly present the objective of the proposal, the expected benefits, a description of the activities, and a determination as to whether the proposal: may require a change to Federal guidance, policy, past practices or rule interpretation, but not regulations or statutes; may require a change to or waiver from Federal regulations, but not statutes; or, may require a change to a Federal statute.

EPA will: (a) Provide clear statements of its position, along with timely and authoritative answers to questions about what changes, variances, or associated approvals a particular proposal may require; and (b) work with the State to identify the most efficient path by which a particular proposal could be implemented.

In addition, States will provide meaningful opportunities for stakeholder involvement in the development of regulatory innovation proposals. The degree of stakeholder involvement depends on the nature of the proposal. Where a proposal would involve a change in or variance from existing national guidance, regulations, or statutes, early consultation among EPA, states, and national stakeholder groups can help identify critical issues that need to be addressed. If EPA believes that national stakeholder involvement is warranted, EPA will contact the State and identify, in partnership with the State, an approach to obtain such involvement as early in the process as possible.

The Senior State Environmental Official or their designee then submits a written description of the regulatory innovation proposal to the EPA Regional Administrator, who then initiates the review process described below. The State will designate a high-level official as the single point of contact for each project.

2. Stage Two—Review of Proposal and Decision

a. EPA Review. The EPA Regional Office will have primary responsibility for review of the innovation proposal. This responsibility includes proposal distribution within the Region and to the affected EPA National Program Managers and the Office of Reinvention; review and response to the State; and appropriate stakeholder involvement. In cases where national policy or regulatory issues are involved, the Regional Administrator must ensure complete review by relevant national program offices.

EPA will consider several factors in the review of the innovative proposals, including

(1) Consistency with the principles in this agreement;

(2) Comments from stakeholders;

(3) Type of flexibility from federal guidance or regulation needed to implement the proposal;

(4) Clear presentation and analysis of issues;

(5) Potential benefits of the innovation as compared to the investment of time and resources required for implementation, and impact on agencies' resources and workloads.

The review process is intended to be flexible. EPA and the State should maintain open lines of communication at all levels—staff and management—to ensure that questions and concerns are raised and discussed. During the review process, EPA may seek input from other States and stakeholders, including environmental groups and the regulated community, to fully identify the strengths and weaknesses of the proposal.

b. EPA Decision. Upon completion of the consultation and review period, the Regional Administrator will make a decision to accept or reject a proposal. If a proposal involves a national policy or regulatory issue, the decision will be made jointly with relevant National Program Managers and the Office of Reinvention. This decision will be communicated verbally and in a written form to the designated Senior State Environmental Official. If the proposal is not accepted, the decision will include the rationale for the determination.

EPA and the State will determine the category into which the proposal falls. The type of proposal will have an impact on the time frame for implementation. The categories are:

Category 1: Straight-forward, transparent proposal with clear advantages, few obstacles, technically achievable, and minimum environmental risk.

Category 2: Experimental proposal that has a greater uncertainty of environmental outcome; requires more attention to design, implementation, and evaluation; and may involve some risk of failure. The unpredictability of the experiment means that it will be more resource intensive and may require more time.

Category 3: Strategic proposal that involves broad-based, new approaches (e.g., statutory changes) and requires policy discussion to further develop concepts. Proposals may be assigned to an existing policy forum for discussion or a new forum could be established.

If the proposal requires changes of interpretation or substance regarding national statutes, regulations or policies before proceeding with an innovation project, both EPA and the State will reach agreement on all proposed changes. These projects will be accomplished through mechanisms available under Federal law and regulation, which may include variances, site-specific rules, legal interpretations, or other means.

c. Appeals. In the event that a dispute arises during this process or a State disagrees with a Region's decision, the State may appeal in writing to the EPA Deputy Administrator. The State may also request a review by a panel consisting of EPA Senior Managers and State Commissioners. The panel will review the proposal, the issues, and merits of the dispute, and submit recommendations to the EPA Deputy Administrator for a final decision.

4. Time Frames for Decision

EPA and the States are committed to working together to ensure timely responses to State proposals.

a. Initial response to proposal. EPA will respond to the State with follow-up questions, clarifications, and initial reactions including an initial identification of obstacles to approval within four weeks of its receipt of a written innovation proposal from the State.

b. Decision to proceed with proposal: EPA will decide whether to make a favorable recommendation within 3 months of the receipt of a proposal from the State. Decisions on proposals may be reached more quickly for proposals that are straight-forward, with clear

advantages, widely supported, technically achievable, and implementable in the short-term.

V. Measuring and Evaluating Success

Before an approved proposal is implemented, we must define success and how we will measure it. This can help eliminate misunderstandings about whether or not the process and innovation as a whole is progressing effectively, and if it is not, what steps need to be taken to correct any problems.

Therefore, EPA and the States agree on the importance of evaluating the success of regulatory innovation activities that flow through the process outlined in Section IV. The challenge is to develop useful measures without choking the very creativity we seek to stimulate. We want to ensure that a variety of ideas are being proposed, that decisions are made in a timely fashion, and that the most promising innovations are being implemented successfully. To accomplish this, we must measure both the success of our decision-making process and the success of the innovations themselves.

A. Measuring the Process

We must ensure that the decision making process is effective, or the process will not be used. The success of the process depends primarily on the effectiveness of the communications between EPA and the States and the timeliness of decisions. Measurements include: (1) the number and quality of innovation projects proposed, (2) the number and quality of innovations implemented, (3) the timeliness of the actions taken in the process, (4) the number of proposals appealed, and (5) the speed with which information about successful innovations are disseminated to other states. EPA and states will also evaluate other factors that are difficult to measure but are critically important to successful outcomes, including the degree of EPA-State cooperation and stakeholder participation. EPA should collect this information and make it available at a central location so it can be used by the States, EPA, and stakeholders. Within 60 days of signing this agreement, EPA and ECOS will designate a central location.

B. Measuring the Innovation's Impact

The success of the innovation project's impact will depend on how well it was designed and the results achieved. Successful innovation project designs should be clearly described so successful projects can be used to improve the entire system, and/or adapted to other site specific situations. The quality of the projects implemented can be measured by: (1) Environmental impact, (2) efficiency, and (3) other relevant indicators. In addition to providing information about the success of an individual innovation project, these measurements also provide guidance on improving future innovation projects. States and EPA should agree in advance who is responsible for collecting and disseminating this information.

The proposed measures in Appendix A provide a starting point for discussion in terms of a framework and some common criteria for innovations. Common criteria allow the states and EPA to evaluate the progress in innovations state-wide and nationally.

VI. Information Sharing

Accepted state innovation proposals and completed projects are most valuable when widely available to state and local regulators, the regulated community, environmental organizations and the public at large. We agree on the need to share information, track commonalities and analyze barriers to promising state innovations. Knowledge of both successes and failures will help the states, EPA and stakeholders develop better approaches for achieving our environmental goals. Because sharing information and innovative ideas among the states is core to ECOS' mission, ECOS will set up a regulatory innovation clearinghouse that highlights the results of this agreement and other state/EPA innovations that EPA Regional Reinvention Ombudsmen or State Commissioners deem appropriate.

VII. Next Steps

EPA and the States agree on the following steps to ensure prompt implementation of the agreement:

A. Joint Evaluation

By October 1998, states and EPA will begin to evaluate the success of regulatory activities that have been reviewed under the new process. The evaluation will consider both the environmental and efficiency benefits derived from each innovation, and the efficiency of the new review process. The results of the evaluation will be shared with EPA, the states and stakeholders.

B. Modifications to the Agreement

If the evaluation indicates a need to modify or amend this agreement, EPA and the states agree to discuss such modifications or amendments and make needed changes by January 1999.

Attachments:

A. Model for Core Performance Measures

B. Examples of Regulatory Innovations

Attachment A—EPA/State Environmental Regulatory Innovations Core Performance Measures

Environmental Goal

A sustainable environment with healthy communities and ecosystems

Environmental Objectives

—Air quality improvements
—Water quality improvements
—Land quality improvements

Program Objectives (Outcomes)

—More effective and efficient environmental regulatory systems
—Reductions in releases to the environment
—Reductions in resources expended to implement the regulatory process, by regulators, regulated entities, other stakeholders: time, workyears, money
—Increased stakeholder participation in the regulatory process
—Large majority of high priority, high quality innovation projects are successfully implemented
—Successful results of innovation projects are: clearly described, widely disseminated, adopted in other site specific situations, used to improve entire systems

Program Activities (Outputs)

—Number of innovation projects proposed
—Number of innovation projects implemented
—Quality of projects implemented: environmental, efficiency, other indicators
—Stakeholder participation
—Timeliness of actions taken in process

Attachment B—Examples of Regulatory Innovations

To encourage creative thinking and the development of good regulatory innovation proposals, EPA and the States have developed the attached examples of regulatory innovation projects. Four examples of potential regulatory innovations are provided. Examples 1, 2 and 3 are suggestions of innovative ideas that states have developed—they are intended to illustrate the kinds of proposals that may be developed. These examples have not been reviewed or accepted by EPA as projects for this process. Example 4 describes an innovative proposal that was recently implemented in North Carolina.

Example 1: Mercury in Wastewater Effluent

Objective: Substitute sludge testing and limit requirements for mercury in place of effluent limits and monitoring requirements in NPDES permits for municipalities.

Description and expected benefits: Mercury cannot be detected accurately in municipal wastewater effluent. Dilution of mercury in effluent leads to non-detectable monitoring results. In addition, mercury test methods at the low levels seen in municipal effluent can easily pick up contamination of sampling and analysis and lead to false positives. As a result, most municipalities can show compliance with mercury effluent limits and need take no steps to reduce mercury in their effluent.

This proposal would eliminate effluent limits from NPDES permits for municipalities, and instead substitute sludge monitoring (where mercury concentrates in the wastewater treatment process). If mercury in sludge exceeds federal clean sludge levels, municipalities would be required to develop mercury source reduction programs. Since mercury can be more accurately detected in sludge, this would lead to better targeting of the municipalities that need to develop mercury source reduction programs.

Federal obstacle halting or hindering progress: Requires changes in either federal statute or variance/change in federal regulations. Attorneys state that sludge requirements as proposed cannot be tied to surface water standards.

Additional background information: This proposal was strongly supported by municipalities, environmental groups, Wisconsin DNR staff, and EPA staff. All saw that this proposal would lead to greater environmental benefits than the current NPDES system.

State: Wisconsin Department of Natural Resources, Bureau of Watershed Management.

Example 2: Continuous Emissions Monitoring for Air Pollutants

Objective: Create a flexible approach to compliance demonstration for air emission limits that have been consistently achieved. In exchange, install continuous emissions monitoring for other toxic pollutants for which more data is needed. This approach would reward facilities which have demonstrated superior environmental performance with simplified compliance demonstration requirements.

Description and expected benefits:

—Federal guidance on practical enforceability requires that compliance demonstration schemes use available technology which produces verification of compliance data as frequently as practically possible.

—A facility is required to use continuous emission monitors (CEMs) to show compliance with an air emission limit. Data has been gathered for several years and it shows consistent emission levels at or lower than 50% of the limit. In addition, other surrogate process parameters are continuously monitored.

—The permittee wishes to show compliance by an alternative compliance method which requires periodic testing to assure continued compliance. The surrogate parameters will continue to be monitored and will be used to ensure that the operating conditions remain within the range under which compliance has been demonstrated by periodic testing.

—In exchange, the facility agrees to install CEM for certain toxic organics from certain processes. The nature and levels of these toxics are not very well defined based on mass balance approaches. The information generated by these CEMs will be useful for an air toxics analysis being conducted in the area.

Federal obstacle halting or hindering progress: Requires change or deviation from established EPA policies regarding federal enforceability as a practical matter on emission limits. However, the demonstrated level of confidence on compliance warrants a less rigorous approach, particularly because it includes a periodic verification process.

Additional background information: The permittees believe that it is important to build a trust relationship with regulators to be able to re-direct resources to areas where the need is greater to realize further improvements or to generate new information on environmental matters.

State: Minnesota Pollution Control Agency, Air Quality Division, Permits Section

Example 3: Tiered Permitting System for Hazardous Waste Facilities

Objective: Create a permitting system for hazardous waste (HW) management facilities that are presently exempt from the existing RCRA Part B permitting system but still pose a potential threat to human health and the environment if improperly designed and operated.

Description and expected benefits:

—Current RCRA regulations exempt recycling facilities from any permitting requirements, but require a Part B permit if HW is stored prior to recycling.

—Environmentally safe recycling is preferable to disposal and should be encouraged.

—Recycling facilities can be as complicated as treatment and disposal facilities and require some oversight to ensure that they are protective of human health and the environment.

—Requiring the standard Part B permit for recycling facilities creates a disincentive and may greatly limit the number of recycling facilities.

—A less onerous tiered permit provides regulatory oversight and does not pose the same disincentive as a Part B permit for recycling facilities.

—The tiered permit incorporates performance standards and financial assurance as appropriate and is custom tailored to the facility without requiring all of the elaborate features of a Part B permit.

Federal obstacle halting or hindering progress: May require a variance from federal statutes and regulations that prescribe standards and require a Part B permit for storage of HW depending on what type of storage activities are covered under the tiered permit.

Additional background information: State legislation required fluorescent lamp recyclers to be permitted. Rules are in the development stage with extensive regulated community involvement. The tiered permitting system will be extended to all types of HW facilities for which a Part B permit is not required or not appropriate, including recyclers and some types of storage facilities.

State: Minnesota Pollution Control Agency, Hazardous Waste Division, Regulatory Compliance Section.

Example 4: River Basin-Based Planning and Permitting

Objective: To coordinate stream modeling and permitting on a river-basin or sub-basin scale instead of in a piecemeal fashion.

Description and expected benefits: River-basin based planning and permitting would:

—Enable better planning and resource allocation
—Increase consistency between permits
—Increase consideration of basin-wide pollutant inputs (point and nonpoint) for better decision-making and planning
—Improve efficiency of modeling, data collection for modeling, and permitting activities
—Provide opportunity for greater stakeholder involvement in the planning process

Federal statutes prohibit permits with a term greater than five years. To synchronize NPDES permit renewal for an entire river basin, the state had to issue five year permits followed by an additional short-term permit. The burden on permitting and modeling staff was further increased because EPA Region IV was also pressing NC to address its permit backlog. The state lacked sufficient modeling resources to address the existing backlog and also issue short term permits in selected basins. The state proposed to reissue the short-term permits with existing limits without modeling and to refocus its permitting staff away from the permit backlog and toward the basin-wide permitting approach. Region IV was hesitant to endorse the basin-wide concept.

Contact with EPA Headquarters (Office of Water) convinced EPA to hire a facilitator to help the state develop an implementation strategy for the basin-wide planning and permitting approach. EPA Headquarters also sponsored a workshop to obtain input from surrounding states. This involvement allowed the state to develop a convincing strategy, and subsequently, Region IV agreed to the proposal. EPA also provided a 104(b)(3) grant to increase monitoring and modeling in the Tar-Pamlico River Basin to help pilot the approach.

Federal obstacle halting or hindering progress: Required change in EPA past practice.

Additional background information: At first, permittees reacted to the short-term permits due to the extra burden of completing permit applications and paying application fees. However, the concerns of permittees were quelled by pointing out the long-term improvements in consistency among permits in the river basin and in efficiency of issuing these permits. Environmental stakeholders were supportive of the approach from the start due to a greater opportunity for involvement in the planning process.

State: North Carolina.

Dated: October 16, 1997.

J. Charles Fox,

Associate Administrator, Office of Reinvention.

[FR Doc. 97–28553 Filed 10–28–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5915–2]

Agency Information Collection Activities; OMB Responses

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice.

SUMMARY: This notice announces the Office of Management and Budget's (OMB) responses to Agency clearance request, in compliance with the paperwork Reduction Act (44 U.S.C. 3501 et. seq.). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer (202) 260–2740, please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency Clearance Requests

OMB Approvals

EPA ICR No. 1812.01; Public Water Systems Annual Compliance Report; was approved 09/30/97; OMB No. 2040–0186; expires 09/30/2000.

EPA ICR No. 1176.05; NSPS for New Residential Wood Heaters—40 CFR 60.530 thru 60.539(b), Subpart AAA; was approved 09/26/97; OMB No. 2060–0161; expires 09/30/2000.

EPA ICR No. 1672.02; Request for Information for Bioremediation Field Initiative Database System; was approved 05/15/97; OMB No. 2080–0048; expires 05/31/2000.

OMB Disapprovals

EPA ICR No. 1813.01; Information Collection Request of Proposed Regional Haze Rule; was disapproved by OMB 10/03/97.

EPA ICR No. 1801.01; National Emission Standards for Hazardous Air Pollutants Cement Manufacturing; was disapproved by OMB 10/03/97.

EPA ICR No. 1788.01 NESHAP for Source Category: Oil and Natural Gas Production; was disapproved by OMB 10/14/97.

EPA ICR No. 1789.01; NESHAP for Source Category: Natural Gas Transmission and Storage; was disapproved by OMB 10/14/97.

Notice of Short Term Extensions

EPA ICR No. 1676.01; Clean Air Act Tribal Authority; OMB No. 2060–0306; expiration date was extended from 10/31/97 to 03/31/98.

EPA ICR No. 1637.03; Determining Conformity of General Federal Actions to State Implementation Plans; OMB No. 2060–0279; expiration date was extended from 10/31/97 to 04/30/98.

Dated: October 23, 1997.

Joseph Retzer,

Division Director, Regulatory Information Division.

[FR Doc. 97–28646 Filed 10–28–97; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5914–6]

Proposed Settlement Under Section 104 and 122(h) of the Comprehensive Environmental Response, Compensation and Liability Act; Yakima Plating Superfund Site

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice of proposed administrative settlement and opportunity for public comment.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is seeking public comment on a proposed administrative settlement to resolve claims against Robert and Shirley Mastel under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA). Notice is being published to inform the public of the proposed settlement and of the opportunity to comment. The settlement is intended to resolve all liabilities of Robert and Shirley Mastel for costs incurred by EPA at the former Yakima Plating Company electroplating facility in Yakima, Washington.

PUBLIC COMMENT PERIOD: Comments must be provided on or before November 28, 1997. The public is encouraged to comment on the proposed settlement, called an Administrative Order on Consent, in writing during the pubic comment period. Comments should be sent to: Sean Sheldrake, Project Manager, U.S. Environmental Protection Agency (ECL–111), 1200 Sixth Avenue, Seattle, Washington 98101.

SUPPLEMENTARY INFORMATION: In accordance with section 122(h) of CERCLA, notice is hereby given of a proposed administrative settlement concerning the Yakima Plating hazardous waste Site located at 1804 ½ South Third Street, Yakima, Washington. The Site was listed on the National Priorities List (NPL) on March 31, 1989 (54 FR 13296). EPA completed a Remedial Investigation and Feasibility Study for the Site on August 1, 1991. A Record of Decision (ROD) for the Site was issued by EPA on September 30, 1991. The ROD's selected remedy included excavation and decontamination of underground tanks on-Site, removal of electroplating liquids stored in containers, excavation of contaminated soils, disposal of contaminated soils at an off-site hazardous waste disposal facility, and monitoring of the groundwater under the Site. On June 15, 1992, EPA removed approximately 2567 cubic yards of contaminated soil and debris from the Site. The Site was then backfilled with gravel and a layer of topsoil. Results of groundwater monitoring indicated that no further work was necessary at the Site to protect human health and the environment. As such, the Site was removed from the NPL on August 23, 1994 (59 FR 43291). Cleanup costs incurred by EPA totaled more than $2.5 million, excluding interest. Subject to review by the public pursuant to this Notice, the agreement has been approved by the United States Department of Justice.

The EPA is entering into this agreement under the authority of sections 122(h), 104, and 107 of CERCLA, 42 U.S.C. 9622(h), 9604, and 9607. Section 122(h) authorizes administrative cost recovery settlements with responsible parties, and where the total response costs exceed $500,000, such cost recovery settlements must be approved by the Department of Justice. Under this authority, the agreement proposes to settle with Robert and Shirley Mastel, the owners of the property upon which Yakima Plating Company operated its chrome replating facility. In the proposed agreement, Robert and Shirley Mastel, owners of the property, have agreed to reimburse EPA $50,000, which is the fair market value of the property that was cleaned up by EPA. Payment will be made within 30 days of the effective date of the Administrative Order. They have also agreed to pay EPA 50 percent of any money that they are able to recover from other potentially responsible parties or insurance companies related to the Site. Upon making their initial payment to EPA, Robert and Shirley Mastel will receive a release from further civil or administrative liabilities for the Site and will receive statutory contribution protection under section 122(h)(4).

EPA will receive written comments relating to this proposed settlement for a period of thirty (30) days from the date of this publication.

The proposed settlement agreement and all documents relied upon by EPA in making decisions for this site are included in the Administrative Record which is located in the Information Repository at: The Yakima Public Library, 102 North Third Street, Yakima, Washington.

If you have any questions about the proposed settlement, please contact Sean Sheldrake at (206) 553–1220 or call EPA's toll free number 800–424–4372. People with impaired hearing or speech may contact EPA's telecommunications device for the hearing impaired (TDD) at (206) 553–1698. To ensure effective communication with everyone, additional services can be made available to persons with disabilities by contacting one of the numbers listed above.

Authority: The Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. 9601–9675.

Chuck Clarke,

Regional Administrator.

[FR Doc. 97–28648 Filed 10–28–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5914–5]

Clean Water Act Class II: Proposed Administrative Penalty Assessment and Opportunity To Comment Regarding American Commercial Marine Service Company, Jeffersonville, Indiana

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice of proposed administrative penalty assessment and opportunity to comment regarding American Commercial Marine Service Company, Jeffersonville, Indiana.

SUMMARY: The EPA is providing notice of a proposed administrative penalty assessment for alleged violations of the Clean Water Act (Act). The EPA is also providing notice of opportunity to comment on the proposed assessment.

Under 33 U.S.C. 1319(g), EPA is authorized to issue orders assessing civil penalties for various violations of the Act. The EPA may issue such orders after filing a Complaint commencing either a Class I or Class II penalty proceeding. The EPA provides the public notice of the proposed assessment pursuant to 33 U.S.C. 1319(g)(4)(A).

Class II proceedings are conducted under EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 CFR part 22. The procedures by which the public may submit written comment on a proposed Class II order or participate in a Class II proceeding, and the procedures by which a respondent may request a hearing, are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II order is thirty (30) days after issuance of this public document.

On September 30, 1997, EPA commenced the following Class II proceeding for the assessment of penalties by filing with Venessa Cobbs, Regional Hearing Clerk, U.S. Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, (913) 551–7630, the following two Complaints: *In the Matter of American Commercial Marine Service Company, Jeffersonville, Indiana*, EPA Docket Nos. VII–97–W–0054 and VII–97–W–0055.

The Complaints proposed penalties of Zero Dollars ($0) for failure to obtain a National Pollutant Discharge Elimination System (NPDES) permit for the discharge of pollutants into navigable water of the United States in violation of section 301(a) of the Clean Water Act.

Under the EPA's final policy statement on Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations (60 FR 66706 *et seq.*, December 22, 1995). companies who voluntarily self-disclose violations of statutes may be eligible for a reduction of penalties. American Commercial Marine Service Company has voluntary self-disclosed violations in satisfaction of the terms of the EPA's final policy and penalties have been reduced to Zero ($0).

FOR FURTHER INFORMATION CONTACT: Persons wishing to receive a copy of EPA's Consolidated Rules, review the Complaints, or other documents filed in this proceeding, Comment upon the proposed penalty assessment, or otherwise participate in the proceeding should contact Venessa Cobbs, Regional Hearing Clerk, at (913) 551–7630.

The administrative record for the proceeding is located in the EPA Regional Office at the address stated above, and the file will be open for public inspection during normal business hours. All information submitted by American Commercial Marine Service Company, Jeffersonville, Indiana, is available as part of the administrative record, subject to provisions of law restricting public disclosure of confidential information. In order to provide opportunity for public comment, EPA will issue no final order assessing penalties in these proceedings prior to thirty (30) days from the date of this document.

Dated: October 17, 1997.

William Rice,

Acting Regional Administrator.

[FR Doc. 97–28650 Filed 10–28–97; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 21, 1997.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Premier Bancshares, Inc., Atlanta, Georgia; to merge with Citizens Gwinnett Bankshares, Inc., Duluth, Georgia, and thereby indirectly acquire Citizens Bank of Gwinnett, Duluth, Georgia.

Board of Governors of the Federal Reserve System, October 23, 1997.
Jennifer J. Johnson,
Deputy Secretary of the Board.
[FR Doc. 97–28560 Filed 10–28–97; 8:45 am]
BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 12, 1997.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. *Mid America Mortgage Services, Inc.*, Columbia, Missouri; to engage in making, acquiring and servicing mortgage loans, pursuant to § 225.28(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 23, 1997.
Jennifer J. Johnson,
Deputy Secretary of the Board.
[FR Doc. 97–28559 Filed 10–28–97; 8:45 am]
BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–02–98]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Office on (404) 639–7090. Send written comments to CDC, Desk Officer; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Projects

1. Health Effects from Exposure to High Levels of Sulfate in Drinking Water—New—The Safe Drinking Water Act Amendments of August 1996 require the Centers for Disease Control and Prevention, in collaboration with the U.S. Environmental Protection Agency, to conduct a dose-response study of the health effects of exposure of susceptible populations to drinking water that contains sulfate. There is concern that individuals who are not used to drinking water containing sulfate will experience diarrhea when they first drink tap water containing high levels of sulfate. The effect is acute and temporary. However, becoming acclimated, or used to, water with high levels of sulfate may take approximately two weeks, during which time individuals, particularly those who cannot control their fluid intake, i.e., infants, may become dehydrated. Previous studies of the effects of sulfate on the incidence of diarrhea have suffered from a number of limitations, including small sample size, failure to account for other causes of diarrhea, and inadequate characterization of the water itself. This study will analyze the incidence of diarrhea in non-acclimated infants and adults exposed to drinking water containing a range of sulfate concentrations by collecting data from mothers of newborn infants living in areas with a range of naturally-occurring sulfate levels and adult volunteers who will consume drinking water containing specific levels of sulfate. The total burden hours are 6063.4.

Respondents	Number of respondents	Number of responses/respondent	Average burden/response (in hrs.)
Recruitment-Mothers	1600	1	0.25
Second Interview-Mothers	880	1	1
1st Follow-up phone call	880	1	0.25
2nd Follow-up phone call	880	1	0.16666
3rd Follow-up phone call	440	1	0.16666
4th Follow-up Phone call	220	1	0.16666
5th Follow-up Phone call	110	1	0.16666
Diary-mothers	880	28	0.16666
Accessing Medical Records	80	1	0.0833
Adult volunteers: questionnaire	150	1	0.16666
Diary	150	6	0.16666

Dated: October 23, 1997.
Wilma G. Johnson,
Acting Associate Director for Policy Planning And Evaluation, Centers for Disease Control and Prevention (CDC).
[FR Doc. 97–28599 Filed 10–28–97; 8:45 am]
BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Biologics License Application for Blood Products, and Reporting Changes to an Approved Application; Public Workshop

AGENCY: Food and Drug Administration.
ACTION: Notice.

The Food and Drug Administration (FDA) is announcing a public workshop entitled "Workshop on the Biologics License Application (BLA) for Blood Products, and Reporting Changes to an Approved Application." The topics to be discussed include completing Form FDA 356h; chemistry, manufacturing, and controls information; establishment information; changes requiring supplement submission and approval; changes requiring supplement submission at least 30 days prior to distribution; changes to be described in an annual report; and comparability protocols.

Date and Time: The workshop will be held on December 2, 1997, 8:30 a.m. to 5 p.m.

Location: The workshop will be held at Jack Masur Auditorium, National Institutes of Health, 8800 Rockville Pike, Bldg. 10, Bethesda, MD 20892.

Contact: Joseph Wilczek, Center for Biologics Evaluation and Research (HFM–350), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–3514, FAX 301–827–2843.

Registration: Early registration is recommended on or before Friday, November 21, 1997. Mail or fax registration information (including name, title, firm name, address, telephone, and fax number) to Michelle Priester Healy, Conference Management Associates, Inc., 1010 Wayne Ave., suite 450, Silver Spring, MD 20910, 301–585–8203, FAX 301–585–1188, e-mail confmgmtmd@aol.com. Registration at the site will be done on a space available basis on the day of the workshop, beginning at 7:30 a.m. There is no registration fee for the workshop.

If you need special accommodations due to a disability, please contact Michelle Priester Healy at least 7 days in advance.

Transcripts: Transcripts of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting at a cost of 10 cents per page.

Dated: October 23, 1997.
William K. Hubbard,
Associate Commissioner for Policy Coordination.
[FR Doc. 97–28671 Filed 10–28–97; 8:45 am]
BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97P–0220]

Determination That Pseudoephedrine Hydrochloride 120-Milligram Extended-Release Capsules Over-the-Counter Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined that pseudoephedrine hydrochloride (Sudafed 12-Hour Capsules) 120-milligram (mg) extended-release capsules over-the-counter (OTC) were not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDA's) for pseudoephedrine hydrochloride 120-mg extended-release capsules.

FOR FURTHER INFORMATION CONTACT: Mary E. Catchings, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products approved under an ANDA procedure. ANDA sponsors must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the "listed drug," which is a version of the drug that was previously approved under a new drug application (NDA). Sponsors of ANDA's do not have to repeat the extensive clinical testing otherwise necessary to gain approval of an NDA. The only clinical data required in an ANDA are data to show that the drug that is the subject of the ANDA is bioequivalent to the listed drug.

The 1984 amendments included what is now section 505(j)(6) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(j)(6)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the "Approved Drug Products with Therapeutic Equivalence Evaluations," which is generally known as the "Orange Book." Under FDA regulations, drugs are withdrawn from the list if the agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness, or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (§ 314.162 (21 CFR 314.162)). Regulations also provide that the agency must make a determination as to whether a listed drug was withdrawn from sale for reasons of safety or effectiveness before an ANDA that refers to that listed drug may be approved (§ 314.161(a)(1) (21 CFR 314.161(a)(1))). FDA may not approve an ANDA that does not refer to a listed drug.

In a citizen petition dated June 3, 1997, and an amendment dated June 24, 1997 (Docket Nos. 97P–0220/CP1 and 97P–0220/AMD1), submitted under 21 CFR 10.30 and 314.161(a)(3), Eurand America, Inc., requested that the agency determine whether pseudoephedrine hydrochloride 120-mg extended-release capsules (OTC) were withdrawn from sale for reasons of safety or effectiveness. Pseudoephedrine hydrochloride 120-mg extended-release capsules, OTC (Sudafed 12-Hour Capsules) were the subject of approved NDA 17–941 held by Burroughs Wellcome Co. Burroughs Wellcome

notified FDA in writing that Sudafed 12-Hour Capsules (pseudoephedrine hydrochloride 120-mg extended-release capsules, OTC) were no longer being marketed under NDA 17–941 and requested that approval of the application be withdrawn. In the **Federal Register** of September 29, 1995 (60 FR 50626), FDA withdrew approval of NDA 17–941.

FDA has reviewed its records and, under §§ 314.161 and 314.162(c), has determined that pseudoephedrine hydrochloride 120-mg extended-release capsules (OTC) were not withdrawn from sale for reasons of safety or effectiveness. Accordingly, the agency will maintain pseudoephedrine hydrochloride 120-mg extended-release capsules (OTC) in the "Discontinued Drug Product List" section of the Orange Book. The "Discontinued Drug Product List" delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDA's that refer to pseudoephedrine hydrochloride 120-mg extended-release capsules (OTC) may be approved by the agency.

Dated: October 23, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–28672 Filed 10–28–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Endocrinologic and Metabolic Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Endocrinologic and Metabolic Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA regulatory issues.

Date and Time: The meeting will be held on November 19 and 20, 1997, 8 a.m. to 5 p.m., and on November 21, 1997, 8 a.m. to 3 p.m.

Location:

November 19, 1997: Bethesda Ramada Inn, Embassy Ballroom, 8400 Wisconsin Ave., Bethesda, MD.

November 20 and 21, 1997: Holiday Inn Bethesda, Versailles Ballrooms I and II, 8120 Wisconsin Ave., Bethesda, MD.

Contact Person: Kathleen R. Reedy or Karen M. Templeton-Somers, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville MD 20857, 301–443–5455, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12536. Please call the Information Line for up-to-date information on this meeting.

Agenda: On November 19, 1997, the committee will discuss new drug application (NDA) 20–741, Prandin™ or Actulin™ (repaglinide, Novo Nordisk) for the treatment of type 2 diabetes in patients whose hyperglycemia cannot be controlled satisfactorily by diet and exercise alone. On November 20, 1997, the committee will discuss NDA 20–815, Evista™ (raloxifene hydrochloride, Eli Lilly and Co.) for the prevention of postmenopausal osteoporosis. On November 21, 1997, the committee will meet in closed session to permit discussion and review of trade secret and/or confidential information.

Procedure: On November 19 and 20, 1997, from 8 a.m. to 5 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by November 14, 1997. Oral presentations from the public will be scheduled between approximately 8 a.m. and 8:30 a.m. on November 19 and 20, 1997. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before November 14, 1997, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Closed Committee Deliberations: On November 21, 1997, 8 a.m. to 3 p.m., the meeting will be closed to permit discussion and review of trade secret and/or confidential information (5 U.S.C. 552b(c)(4)). The investigational new drug (IND) and Phase I and II drug products in process will be presented and recent action on selected NDA's will be discussed.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: October 22, 1997.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 97–28556 Filed 10–28–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Identification of a Viral Etiology for B-Precursor Acute Lymphoblastic Leukemia of Childhood

MA Smith (NCI)
Serial No. 60/036,991 filed 30 Jan 97
Licensing Contact: Joseph Contrera, 301/496–7056 ext. 244.

The present invention claims that the possible etiologic agent for some cases of acute lymphoblastic leukemia (ALL) in children is JC virus (a human polyomavirus), and that infection in utero can lead to subsequent development of ALL during childhood. JC virus was identified as a possible etiologic agent based on specific properties associated with the virus, including: (1) Specificity for B-lymphocytes as compared to T-lymphoctyes; (2) the ability to induce genomic instability via its T antigen, which interacts with cellular p53; and (3) epidemiological data showing concordance between the frequency of "susceptible" (i.e. previously not exposed to JC virus and therefore susceptible to a primary infection) women of reproductive age in a population and the rate of ALL in the population.

Since women at risk for JV virus infection that might result in ALL in their child during pregnancy are those who have not yet had a primary infection, methods to achieve immunization are disclosed in the application. Since immunization could be specifically targeted to women who have never been exposed to JC virus, the application also discloses methods of screening women for prior exposure to the virus. In addition, methods for diagnosis of susceptibility are disclosed which can be applied to cord blood samples which may allow identification of children at high risk and allow early intervention. These methods of screening can be performed using either serological or molecular methods of analysis and both types are claimed in the application.

raf Protein Kinase Therapeutics

U Rapp, H App, SM Storm (NCI)
Serial No. 08/207,954 filed 18 Mar 94 (priority to 23 Aug 91)
Licensing Contact: Ken Hemby, 301/496–7735 ext. 265.

Novel *raf* protein kinases may be valuable for the treatment of cancers. *raf* protein kinases are enzyme that stimulate cell growth in a variety of cell systems and, when expressed in specifically altered forms, can initiate malignant cell growth. These novel *raf* protein kinases, which are mutant constructs or are transcribed from *raf* antisense DNA, can be used to inhibit the activity of cellular *raf* protein kinases and prevent or reverse malignant cell growth. Other potential areas of application include proliferation diseases such as psoriasis and restenosis, and inflammatory diseases.

This research has been described in *Trends in Biochem. Sci.* 19: 474–480, 1994.

Main advantages of invention: raf is by now a verified cancer target; *raf* directed drugs promise to be widely applicable and nontoxic based on clinical studies with antisense ODN.

Stage of development: Ready to be used for drug screens, application in gene therapy. Further development required: Use of inhibitory *raf* mutants in gene therapy requires clinical studies.

Dated: October 21, 1997.

Barbara M. McGarvey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 97–28623 Filed 10–28–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Meeting: Board of Scientific Counselors

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Allergy and Infectious Diseases, at 8 a.m. on December 8–10, 1997, National Institutes of Health, Building 10, Rooms 433 and 413, 9000 Rockville Pike, Bethesda, Maryland.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S.C. and Section 10(d) of Public Law 92–463, the entire meeting will be closed to the public for the review, discussion, and evaluation of individual programs and projects by the National Institutes of Health, including consideration of personal qualifications and performing, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Thomas J. Kindt, Executive Secretary, Board of Scientific Counselors, NIAID, NIH, Building 10, Room 4A31, telephone 301–496–3006, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 93–301, National Institutes of Health)

Dated: October 21, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–28626 Filed 10–28–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Center for Scientific Review Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Behavioral and Neurosciences.

Date: November 14, 1997.

Time: 9:00 a.m.

Place: Capitol Holiday Inn, Washington, DC.

Contact Person: Dr. Sam Rawlings, Scientific Review Administrator, 6701 Rockledge Drive, Room 5160, Bethesda, Maryland 20892, (301) 435–1243.

Name of SEP: Microbiological and Immunological Sciences.

Date: November 18, 1997.

Time: 12:00 p.m.

Place: Holiday Inn-National Airport, Crystal City, VA.

Contact Person: Dr. Gerald Liddel, Scientific Review Administrator, 6701 Rockledge Drive, Room 4186, Bethesda, Maryland 20892, (301) 435–1150.

Purpose/Agenda: To review Small Business Innovation Research.

Name of SEP: Behavioral and Neurosciences.

Date: November 7, 1997.

Time: 9:00 a.m.

Place: Capitol Holiday Inn, Washington, DC.

Contact Person: Dr. Sam Rawlings, Scientific Review Administrator, 6701 Rockledge Drive, Room 5160, Bethesda, Maryland 20892 (301) 435–1243.

This notice is being published less than 15 days prior to the above meeting due to the urgent need to meet timing limitations imposed by the grant review and funding cycle.

Name of SEP: Biological and Physiological Sciences.

Date: November 20, 1997.

Time: 8:30 a.m.

Place: Doubletree Hotel, Rockville, MD.

Contact Person: Dr. Michael Micklin, Scientific Review Administrator, 6701 Rockledge Drive, Room 5198, Bethesda, Maryland 20892, (301) 435–1258.

Name of SEP: Biological and Physiological Sciences.

Date: November 24, 1997.

Time: 8:00 a.m.

Place: Ramada Inn, Rockville, MD.

Contact Person: Dr. Abubekar Shaikh, Scientific Review Administrator, 6701 Rockledge Drive, Room 6166, Bethesda, Maryland 20892, (301) 435–1042.

The meetings will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93–837–93.844, 93.846–93.878, 93.892, 93–893, National Institutes of Health, HHS)

Dated: October 22, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–28625 Filed 10–28–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Recombinant DNA Research: Actions Under the Guidelines

AGENCY: National Institutes of Health (NIH), PHS, DHHS.

ACTION: Notice of Actions under the NIH Guidelines for Research Involving Recombinant DNA Molecules (NIH Guidelines).

SUMMARY: This notice sets forth actions to be taken by the Director, National Institutes of Health (NIH), under the NIH Guidelines for Research Involving Recombinant DNA Molecules (59 FR 34496, amended 59 FR 40170, 60 FR 20726, 61 FR 1482, 61 FR 10004, 62 FR 4782).

FOR FURTHER INFORMATION CONTACT: Background documentation and additional information can be obtained from the Office of Recombinant DNA Activities (ORDA), National Institutes of Health, MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892–7010, Phone 301–496–9838, FAX 301–496–9839. The ORDA web site is located at http://www.nih.gov/od/orda/ for further information about the office.

SUPPLEMENTARY INFORMATION: Today's actions are being promulgated under the NIH Guidelines for Research Involving Recombinant DNA Molecules (NIH Guidelines). The proposed actions were published for comment in the **Federal Register** of August 20, 1997 (62 FR 44387), and reviewed by the NIH Recombinant DNA Advisory Committee (RAC) at its meeting on September 12, 1997.

I. Background Information and Decisions on Actions Under the NIH Guidelines

Amendment to the Submission Requirements—Human Gene Transfer Experiments Under Appendix M of the NIH Guidelines

During the June 12–13, 1997, RAC meeting, the following motions were approved by the RAC: (1) A motion was made to eliminate the point-by-point responses to Appendix M–II through M–V, Description of the Proposal, Informed Consent, Privacy and Confidentiality, and Special Issues; however, the questions raised in Appendix M–II through M–V must be addressed in the clinical protocol. The motion passed by a vote of 8 in favor, 0 opposed, and 1 abstention. (2) A motion was made to amend the Appendix M–I, Submission Requirements—Human Gene Transfer Proposals of the NIH Guidelines with regard to: (i) The clinical protocol (including discussion of issues in Appendix M–II through M–V), and (ii) deletion of the requirement of three 3½ inch diskettes with the complete vector nucleotide sequence in ASCII format. The motion passed by a vote of 7 in favor, 0 opposed, and 1 abstention.

The RAC recommendations were published as proposed actions in the **Federal Register** of August 20, 1997, for public comment. A letter dated September 8, 1997, was received in response to the **Federal Register** notice from Alexander E. Kuta, Ph.D., Director, Regulatory Affairs, Genzyme Corporation, Framingham, Massachusetts. Genzyme disagreed with the motion to incorporate the responses to Appendix M–II through M–V into the clinical protocol stating that "this action would compromise the integrity of the clinical protocol without sufficiently addressing industry's concerns regarding Appendix M. * * * The clinical protocol * * * should be 'directed primarily at providing an outline of the investigation.'" At the September 12, 1997, RAC meeting, the RAC considered the comment from Genzyme and agreed to give the investigators or the sponsors the option to provide the discussion of all pertinent issues raised in Appendix M–II through M–V either in the clinical protocol or as an appendix to the clinical protocol.

A motion was made to eliminate the point-by-point responses to Appendix M–II through M–V, and discussion of all pertinent issues raised in Appendix M–II through M–V must be provided either in the clinical protocol or as an appendix to the clinical protocol. The motion passed by a vote of 10 in favor, 2 opposed, and 0 abstention.

No comments were received from the public in response to the proposed actions in the **Federal Register** of August 20, 1997, with regard to the RAC recommendation to delete the requirement of three 3½ inch diskettes with the complete vector nucleotide sequence in ASCII format from Appendix M–I, Submission Requirements—Human Gene Transfer Proposals of the NIH Guidelines.

The actions are detailed in Section II—Summary of Actions. I accept the RAC recommendations, and the NIH Guidelines will be amended accordingly.

II. Summary of Actions

Appendix M–I, Submission Requirements—Human Gene Transfer Proposals of the *NIH Guidelines*, is amended to read:

"Appendix M–I. Submission Requirements—Human Gene Transfer Proposals

Investigators must submit the following material to the Office of Recombinant DNA Activities, National Institutes of Health/MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892–7010, (301) 496–9838 (see exemption in Appendix M–IX–A, Footnotes of Appendix M). Proposals will be submitted in the following order: (1) Scientific abstract—1 page; (2) non-technical abstract—1 page; (3) Institutional Biosafety Committee (IBC) and Institutional Review Board (IRB) approvals and their deliberations pertaining to your protocol (the IBC and IRB may, at their discretion, condition their approval on further specific deliberation by the RAC); (4) Responses to Appendix M–II through M–V, Description of the Proposal, Informed Consent, Privacy and Confidentiality, and Special Issues (the pertinent responses can be provided in the protocol or as an appendix to the protocol); (5) protocol (as approved by the local IBC and IRB)—20 pages; (6) Informed Consent document—approved by IRB (see Appendix M–III, Informed Consent); (7) appendices (including tables, figures, and manuscripts); and (8) curricula vitae—2 pages for each key professional person in biographical sketch format."

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the Catalog of Federal Domestic Assistance. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers virtually every NIH and Federal research program in which DNA recombinant molecule techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the Catalog of Federal Domestic Assistance are affected.

Effective Date: October 20, 1997.

Harold Varmus,

Director, National Institutes of Health.

[FR Doc. 97–28624 Filed 10–28–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Centers for Disease Control and Prevention; Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 62 FR 51474 and 51479, dated October 1, 1997) is amended to reflect organizational changes within the National Center for Infectious Diseases (NCID), Centers for Disease Control and Prevention.

Section C–B, Organization and Functions, is hereby amended as follows:

Delete the functional statement for the *Scientific Resources Program (CRL)* and insert the following:

(1) Provides animals, animal blood products, glassware, mammalian tissue cultures, microbiological media, special reagents, and other laboratory materials in support of research and service activities to NCID laboratories and other CDC organizations; (2) installs, fabricates, modifies, services, and maintains laboratory equipment used in the research and service activities of CDC; (3) develops and implements applied research programs to expand and enhance the use of animal models necessary to support research and diagnostic programs and to improve breeding and husbandry procedures; (4) conducts both basic and applied research in cell biology and in the expansion of tissue culture technology as a research and diagnostic tool for infectious disease activities; (5) provides services for NCID investigators in protein and DNA synthesis and sequencing; (6) maintains a bank of serum specimens of epidemiological and special significance to CDC's research and diagnostic activities; (7) obtains and distributes experimental vaccines and drugs, antisera and antitoxins, and immune globulins; (8) for reagents prepared at CDC, maintains a computerized inventory; provides dispensing, lyophilization, capping, and labeling; and retrieves from storage and ships to requesters; (9) provides support for liquid nitrogen freezers; (10) maintains an international hemoglobinometry reference laboratory; (11) produces, maintains, and distributes national and international hemoglobin reference standard preparations; (12) administratively and technically supports the CDC Animal Policy Board and the Atlanta Area Animal Care and Use Committee; (13) provides computer support services for the Program's activities.

Delete the title and functional statement for the *Molecular Pathology and Ultrastructure Activity (CRUE)* and insert the following:

Infectious Disease Pathology Activity (CRUE)

(1) Serves as a scientific and technical resource to NCID by providing expertise in molecular pathology, histopathology, and ultrastructural analysis for detecting infectious disease agents and studying the interactions between microbial agents and host cells; (2) develops, improves, evaluates, and applies special ultrastructural, immunohistologic, and/or nucleic acid probe technologies for detecting microbial agents and/or expressed gene products in tissue specimens or tissue culture; (3) conducts basic and applied research into the pathogenesis of infectious diseases; (4) provides intramural and extramural technical and professional expertise for assistance in training in infectious disease pathology and molecular approaches to the identification of specific nucleic acid sequences and specific antigens in tissue specimens; (5) provides for tracking, distribution, and testing of reference /diagnostic pathology specimens submitted through the data and special handling system; (6) provides molecular pathology, histopathology, and ultrastructure reference/diagnostic support and epidemic aid to state and local health departments, other federal agencies, and national and international health organizations.

Dated: October 16, 1997.

David Satcher,

Director.

[FR Doc. 97–28598 Filed 10–28–97; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the SAMHSA Reports Clearance Officer on (301) 443–8005.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

PROPOSED PROJECT: Obligated Service for Mental Health.

Traineeships: Regulations and Forms—Extension—SAMHSA's Center for Mental Health Services (CMHS) awards grants to institutions for training instruction and traineeships in mental health and related disciplines. Graduate student recipients of these clinical traineeships must perform service, as determined by the Secretary to be appropriate in terms of the individual's training and experience, for a length of time equal to the period of support. The clinical trainees are required to submit the SMA 111, which ensures agency receipt of a termination notice prior to the end of support, and the SMA 111–2, which is an annual report on employment status and any changes in name and/or address, to SAMHSA.

The annual burden estimates are as follows:

	Number of respondents	Number of responses per respondent	Average burden per response	Annual burden hours
Termination Notice (Form SMA 111)	50	1	0.10	5
Annual Payback Activities Certification (Form SMA 111–2)	500	1	.18	90

Send comments to Beatrice Rouse, SAMHSA Reports Clearance Officer, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: October 22, 1997.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 97–28598 Filed 10–28–97; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4263–N–47]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Public Development and Research.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The department is soliciting public comments on the subject proposal.

DATES: Comments are due December 29, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Office of Policy Development & Research, The Department of Housing & Urban Development, 451–7th Street, SW, Room 8226, Washington, D.C. 20410–6000.

FOR FURTHER INFORMATION CONTACT: Laurent Hodes, 202–708–5537, ext. 106 (this is not a toll-free number), for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). This notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also Lists the Following Information:

Title of Proposal: Housing-Condition-Survey of Households Living in Federally-Assisted Units.

OMB Control Number: 2528–0170 (exp. 04/30/98).

Description of the Need for the Information and Proposed Use: HUD recently developed and tested a cost-effective mail survey instrument for assessing the condition of housing units assisted through HUD programs. This survey, which elicits renters' ratings of their housing, provided high response rates and high levels of agreement with independent condition ratings by professional inspectors. HUD plans to implement this survey as an ongoing tool to assess customer ratings of the condition of housing assisted through Federal programs including the Section 8, FHA, and public housing programs. This survey will help HUD focus its monitoring and enforcement resources on property owners and housing authorities whose performance most need improvement. It will also provide policy and program managers with improved measures for tracking national housing conditions over time and across assistance programs.

Agency Form Numbers: None.

Members of the Affected Public: Households residing in Federally-assisted housing, including FHA assisted-housing public housing, or units receiving assistance from the Section 8 Certificate or Vouchers Programs.

Estimation of the Total Number of Hours Needed to Prepare the Information Collection Including Number of Respondents, Frequency of Response, and Hours of Response: Information will be collected by an annual mail survey of 500,000 of the 4.7 million households who live in housing units assisted through Federal programs. The survey will take approximately 15 minutes to complete. This means a total of 125,000 hours of response time annually for the information collection.

Status of the Proposed Information Collection: Pending submission to the Office of Management and Budget (OMB) for review and clearance.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: October 21, 1997.

Paul A. Leonard,

Deputy Assistant Secretary for Policy Development.

[FR Doc. 97–28584 Filed 10–28–97; 8:45 am]

BILLING CODE 4210–62–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of a Draft Environmental Impact Statement on the Proposed Expansion of the Big Muddy National Fish and Wildlife Refuge in Missouri

ACTION: Notice of Availability.

SUMMARY: This notice advises the public that a draft Environmental Impact Statement on the Proposed Expansion of the Big Muddy National Fish and Wildlife Refuge in Missouri will be available for public review on October 31, 1997. Comments and suggestions are requested.

DATES: Written comments are requested by January 7, 1998. Public "open house" meetings will be held on November 13, 14, 17, 18, and 19, 1997.

WRITTEN COMMENTS SHOULD BE ADDRESSED TO: Ms. Judy McClendon, U.S. Fish and Wildlife Service, 24385 State Highway 51, Puxico, Missouri 63960.

FOR FURTHER INFORMATION CONTACT: Judy McClendon at the address listed above or by telephone at 573/222–6001 or Toll-free 800/686–8339. Individuals with speech or hearing impairments may call the Missouri Relay Services at 800/735–2966 (TTY). Fax: 573/222–6150. E-Mail: R3planning@fws.gov.

SUPPLEMENTARY INFORMATION: Public meetings will be held at the following locations from 1 p.m. until 7 p.m. Meetings are: *11/13/97*—Concordia Community Center, 803 Gordon Street, Concordia, Missouri; *11/14/97*—Holiday Inn Sports Complex, 4011 Blue Ridge Cut-off (Exit 9 off I–70), Kansas City, Missouri; *11/17/97*—The Columns Banquet/Conference Center, 711 Fairlane (5th Street exit South off I–70), St. Charles, Missouri; *11/18/97*—Holiday Inn Select (Executive Center), 2200 I–70 Drive S.W. (Stadium Exit 124 off I–70), Columbia, Missouri; and *11/19/97*—Lewis and Clark Hotel, Upper Banquet Room, 6054 Highway 100, Washington, Missouri. During the public meetings, information may be obtained by calling 573–718–7304.

Ms. Judy McClendon, Wildlife Biologist, is the primary author of this document. The U.S. Fish and Wildlife Service (Service), Department of the Interior, has prepared a draft Environmental Impact Statement (EIS) on its proposal to expand the Big Muddy National Fish and Wildlife Refuge in Missouri from its currently authorized 16,628 acres to a total of 60,000 acres.

The Big Muddy National Fish and Wildlife Refuge expansion would be accomplished by acquiring from willing sellers an additional 43,372 acres along the Missouri River floodplain from Kansas City, Missouri, to St. Louis, Missouri, and the lower 10 miles of major tributaries. Proposed additions could be located in any of the twenty counties that lie along this stretch of the Missouri River. Selection criteria based on values related to proposed management goals will be used to determine specific sites for acquisition. Management goals of the Big Muddy project are to restore acquired acreage to a natural floodplain condition, including bottomland forests, improve and restore wetland values, improve fishery and wildlife resources, and provide additional public use areas for fish and wildlife dependent recreation.

This action is designed to preserve and restore natural river floodplain, allow for management of viable and diverse fish and wildlife habitats, and provide for compatible fish and wildlife dependent recreation.

The major alternatives under consideration that were analyzed and evaluated during planning are: (A) No Action. The Refugee would not be expanded beyond the currently authorized 16,628 acres. This acreage figure amounts to 2.7 percent of the 800,000 acre floodplain in this reach of the Missouri River and is insufficient to protect the health of the Missouri River ecosystem; (B) Expand the Big Muddy National Fish and Wildlife Refuge to 60,000 acres by acquisition of 43,372 acres dispersed along the Missouri River corridor from its confluence with the Kansas River, near Kansas City, to its confluence with the Mississippi River, near St. Louis, Missouri. Expansion under Alternative B (Preferred) would allow approximately 8 percent of riverine habitat losses of the Missouri River and its floodplain from Kansas City to St. Louis, Missouri to be restored. Three other alternatives were considered but not analyzed. They include: (C) Seek permanent protection of fish, wildlife, and habitats through cooperative agreements with landowners and other agencies with no acquisition of lands; (D) encourage private land programs to preserve or restore fish, wildlife, and their habitats without further acquisition; and (E) acquire the entire Missouri River floodplain from Kansas City to St. Louis, Missouri, about 800,000 acres. Alternatives C, D, and E were rejected because they did not have the capacity to address the Service's mandated responsibilities, did not provide permanent resource protection and restoration opportunities, and/or failed to meet the purpose and need for which the Big Muddy Refuge was established.

Other government agencies and members of the general public contributed to the planning and evaluation of the proposal and to the preparation of this EIS. The Notice of Intent to prepare this EIS was published in the **Federal Register** on November 28, 1995. Public scoping meetings were held in five locations in January 1996, with over 300 comments received from interested parties. The Service gave presentations to county officials, conservation groups, and other interested parties as well as the media and informed the public through intermittent distribution of the Big Muddy Update. The Service's mailing list has over 1,000 names.

All agencies and individuals are urged to provide comments and suggestions for improving this EIS by January 7, 1998. All comments received by the above date will be considered in preparation of the final EIS for this proposed action.

Dated: October 23, 1997.

Marvin E. Moriarty,

Acting Regional Director.

[FR Doc. 97–28597 Filed 10–28–97; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Sport Fishing and Wildlife Service, Interior

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: As provided in section 10(a)(2) of the Federal Advisory Committee Act, the Service announces a meeting designed to foster partnerships to enhance recreational fishing and boating in the United States. This meeting, sponsored by the Sport Fishing and Boating Partnership Council (Council), is open to the public and interested persons may participate in a facilitated, interactive discussion of issues affecting public participation in recreational fishing and boating activities.

DATES: November 19, 1997, from 8 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Ramada Plaza Hotel, 901 N. Fairfax Street, Alexandria, Virginia, 22314, telephone (703) 683–6000.

Summary minutes of the conference will be maintained by the Coordinator for the Council at 1033 North Fairfax Street, Suite 200, Arlington, VA 22314, and will be available for public inspection during regular business hours within 30 days following the meeting. Personal copies may be purchased for the cost of duplication.

FOR FURTHER INFORMATION CONTACT: Doug Alcorn, Council Coordinator, at 703/836–1392.

SUPPLEMENTARY INFORMATION: The Sport Fishing and Boating Partnership Council will convene representatives for recreational fishing and boating organizations, industry, federal and state resource agencies, and other interested parties to identify issues affecting public participation in recreational fishing and boating activities. Meeting participants will asked to provide their insights on the reasons why people never begin or no longer participate in recreational fishing and boating. Participants will identify and rank problems facing resource managers, service providers, and industry in maintaining an active recreational fishing and boating

constituency. Input from the meeting participants will be used to complete a situation analysis (Phase I) in a three-phase process to develop a national outreach/marketing strategy to increase public participation in recreational fishing and boating.

Dated: October 17, 1997.

Jamie Rappaport Clark,

Director.

[FR Doc. 97–28628 Filed 10–28–97; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated July 21, 1997, and published in the **Federal Register** on August 26, 1997, (62 FR 45271), Applied Science Labs, Inc., A Division of Altech Associates, Inc., 2701 Carolean Industrial Drive, P.O. Box 440, State College, Pennsylvania 16801, made application by renewal to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Heroin (9200)	I
Morphine (9300)	II

DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Applied Science Labs to import listed controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. Therefore, pursuant to Section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, Section 1301.34, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: October 17, 1997.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 97–28556 Filed 10–28–97; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[DEA #171I]

Controlled Substances: 1997 Aggregate Production Quota

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Interim notice establishing a 1997 aggregate production quota and request for comments.

SUMMARY: This interim notice establishes a revised 1997 aggregate production quota for codeine (for sale), a Schedule II controlled substance, as required under the Controlled Substances Act of 1970.

DATES: This is effective on October 29, 1997. Comments must be received on or before November 28, 1997.

ADDRESSES: Send comments or objections to the Acting Deputy Administrator, Drug Enforcement Administration, Washington, D.C. 20537, Attn.: DEA Federal Register Representative/CCR.

FOR FURTHER INFORMATION CONTACT: Frank L. Sapienza, Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, Washington, D.C. 20537, (202) 307–7183.

SUPPLEMENTARY INFORMATION: Section 306 of the Controlled Substances Act (21 U.S.C. 826), requires the Attorney General to establish aggregate production quotas for controlled substances in Schedules I and II each year. This responsibility has been delegated to the Administrator of the DEA pursuant to Section 0.100 of Title 28 of the Code of Federal Regulations. The Administrator, in turn, has redelegated this function to the Acting Deputy Administrator of the DEA pursuant to Section 0.014 of Title 28 of the Code of Federal Regulations.

The DEA established revised 1997 aggregate production quotas for controlled substances in Schedules I and II, including codeine (for sale), in a **Federal Register** notice published on August 15, 1997 (62 FR 43750). Since publication of the revised 1997 aggregate production quotas, DEA has received information which necessitates an immediate increase in the revised 1997 aggregate production quota for codeine (for sale). The increase for codeine (for sale) is necessary to meet additional and unforeseen domestic manufacturing needs and export requirements. For these reasons, an interim notice is being published.

Therefore, under the authority vested in the Attorney General by Section 306 of the Controlled Substances Act of 1970 (21 U.S.C. 826), delegated to the Administrator of the DEA by Section 0.100 of Title 28 of the Code of Federal Regulations, and redelegated to the Acting Deputy Administrator, pursuant to Section 0.104 of Title 28 of the Code of Federal Regulations, the Acting Deputy Administrator hereby orders that the revised aggregate production quota for the following controlled substance, expressed in grams of anhydrous base, be established as follows:

Basic class	Established revised 1997 quota
Codeine (for sale)	58,140,000

All interested persons are invited to submit their comments in writing regarding this interim notice.

The Office of Management and Budget has determined that notices of aggregate production quotas are not subject to centralized review under Executive Order 12866. This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this matter does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The Acting Deputy Administrator hereby certifies that this action will have no significant impact upon small entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The establishment of annual aggregate production quotas for Schedule I and II controlled substances is mandated by law and by international treaty obligations. Aggregate production quotas apply to approximately 200 DEA registered bulk and dosage from manufacturers of Schedule I and II controlled substances. The quotas are necessary to provide for the estimated medical, scientific, research and industrial needs of the United States, for export requirements and the establishment and maintenance of reserve stocks. While aggregate production quotas are of primary importance to large manufacturers, their impact upon small entities is neither negative nor beneficial. Accordingly, the Acting Deputy Administrator has determined that this action does not require a regulatory flexibility analysis.

Dated: October 22, 1997.

James S. Milford,

Acting Deputy Administrator.

[FR Doc. 97–28557 Filed 10–28–97; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 97–56; Exemption Application No. D–10437, et al.]

Grant of Individual Exemptions; UNUM Life Insurance Company of America

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

UNUM Life Insurance Company of America (UNUM), Located in Portland, Maine

[Prohibited Transaction Exemption 97–56; Exemption Application No. D–10437]

Exemption

Section I—Exemption for Certain Transactions Involving the Management of Investments Shared by Two or More Accounts Maintained by UNUM

The restrictions of certain sections of the Act and the sanctions resulting from the application of certain parts of section 4975 of the Code shall not apply to the following transactions if the conditions set forth in Section IV are met:

(a) *Transfers Between Accounts*

(1) The restrictions of section 406(b)(2) of the Act shall not apply to the sale or transfer of an interest in a shared investment (including a shared joint venture interest) between two or more Accounts (except the General Account), provided that each ERISA-Covered Account pays no more, or receives no less, than fair market value for its interest in a shared investment.

(2) The restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the sale or transfer of an interest in a shared investment (including a shared joint venture interest) between ERISA-Covered Accounts and the General Account, provided that such transfer is made pursuant to stalemate procedures, described in the notice of proposed exemption, adopted by the independent fiduciary for the ERISA-Covered Account, and provided further that the ERISA-Covered Account pays no more or receives no less than fair market value for its interest in a shared investment.

(b) *Joint Sales of Property*—The restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the sale to a third party of the entire interest in a shared investment (including a shared joint venture interest) by two or more Accounts, provided that each ERISA-Covered Account receives no less than fair market value for its interest in the shared investment.

(c) *Additional Capital Contributions*—The restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply either to the making of a pro rata equity capital contribution by one or more of the Accounts to a shared investment; or to the making of a Disproportionate [as defined in Section V(e)] equity capital contribution by one or more of such Accounts which results in an adjustment in the equity ownership interests of the Accounts in the shared investment on the basis of the fair market value of such interests subsequent to such contribution, provided that each ERISA-Covered Account is given an opportunity to make a pro rata contribution.

(d) *Lending of Funds*—The restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the lending of funds from the General Account to an ERISA-Covered Account to enable the ERISA-Covered Account to make an additional pro rata contribution, provided that such loan—

(A) Is unsecured and non-recourse with respect to participating plans,

(B) Bears interest at a rate not to exceed the prevailing rate on 90-day Treasury Bills,

(C) Is not callable at any time by the General Account, and

(D) Is prepayable at any time without penalty.

Section II—Exemption for Certain Transactions Involving the Management of Joint-Venture Interests Shared by Two or More Accounts Maintained by UNUM

The restrictions of certain sections of the Act and the sanctions resulting from the application of certain parts of section 4975 of the Code shall not apply to the following transactions resulting from the sharing of an investment in a real estate joint venture between two or more Accounts, if the conditions set forth in Section IV are met:

(a) *Additional Capital Contributions*—(1) The restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the making of additional pro rata equity capital contributions by one or

more Accounts participating in the joint venture.

(2) The restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the lending of funds from the General Account to an ERISA-Covered Account to enable the ERISA-Covered Account to make an additional pro rata capital contribution, provided that such loan—

(A) Is unsecured and non-recourse with respect to the participating plans,

(B) Bears interest at a rate not to exceed the prevailing rate on 90-day Treasury Bills,

(C) Is not callable at any time by the General Account, and

(D) Is prepayable at any time without penalty.

(3) The restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975 (c)(1)(A) through (E) of the Code shall not apply to the making of Disproportionate [as defined in section V(e)] additional equity capital contributions (or the failure to make such additional contributions) in the joint venture by one or more Accounts which result in an adjustment in the equity ownership interests of the Accounts in the joint venture on the basis of the fair market value of such joint venture interests subsequent to such contributions, provided that each ERISA-Covered Account is given an opportunity to provide its proportionate share of the additional equity capital contributions; and

(4) In the event a co-venturer fails to provide all or any part of its pro rata share of an additional equity capital contribution, the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the making of Disproportionate additional equity capital contributions to the joint venture by the General Account and an ERISA-Covered Account up to the amount of such contribution not provided by the co-venturer which result in an adjustment in the equity ownership interests of the Accounts in the joint venture on the basis provided in the joint venture agreement, provided that such ERISA-Covered Account is given an opportunity to participate in all additional equity capital contributions on a proportionate basis.

(b) *Third Party Purchase Offers*—(1) In the case of an offer by a third party to purchase any property owned by the joint venture, the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the acquisition by the Accounts, including one or more ERISA-Covered Account[s], on either a proportionate or Disproportionate basis of a co-venturer's interest in the joint venture in connection with a decision on behalf of such Accounts to reject such purchase offer, provided that each ERISA-Covered Account is first given an opportunity to participate in the acquisition on a proportionate basis; and

(2) The restrictions of section 406(b)(2) of the Act shall not apply to any acceptance by UNUM on behalf of two or more Accounts, including one or more ERISA-Covered Account[s], of an offer by a third party to purchase a property owned by the joint venture even though the independent fiduciary for one (but not all) of such ERISA-Covered Account[s] has not approved the acceptance of the offer, provided that such declining ERISA-Covered Account[s] are first afforded the opportunity to buy out both the co-venturer and "selling" Account's interests in the joint venture.

(c) *Rights of First Refusal*—(1) In the case of the right to exercise a right of first refusal described in a joint venture agreement to purchase a co-venturer's interest in the joint venture at the price offered for such interest by a third party, the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the acquisition by such Accounts, including one or more ERISA-Covered Account[s], on either a proportionate or Disproportionate basis of a co-venturer's interest in the joint venture in connection with the exercise of such a right of first refusal, provided that each ERISA-Covered Account is first given an opportunity to participate on a proportionate basis; and

(2) The restrictions of section 406(b)(2) of the Act shall not apply to any decision by UNUM on behalf of the Accounts not to exercise such a right of first refusal even though the independent fiduciary for one (but not all) of such ERISA-Covered Accounts has approved the exercise of the right of first refusal, provided that none of the ERISA-Covered Accounts that approved the exercise of the right of first refusal decides to buy-out the co-venturer on its own.

(d) *Buy-Sell Options*—(1) In the case of the exercise of a buy-sell option set forth in the joint venture agreement, the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the acquisition by one or more of the Accounts on either a proportionate or Disproportionate basis of a co-venturer's interest in the joint venture in connection with the exercise of such a buy-sell option, provided that each ERISA-Covered Account is first given the opportunity to participate on a proportionate basis; and

(2) The restrictions of section 406(b)(2) of the Act shall not apply to any decision by UNUM on behalf of two or more Accounts, including one or more ERISA-Covered Account[s], to sell the interest of such Accounts in the joint venture to a co-venturer even though the independent fiduciary for one (but not all) of such ERISA-Covered Account[s] has not approved such sale, provided that such disapproving ERISA-Covered Account is first afforded the opportunity to purchase the entire interest of the co-venturer.

Section III—Exemption for Transactions Involving a Joint Venture or Persons Related to a Joint Venture

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply, if the conditions in Section IV are met, to any additional equity capital contributions to a joint venture by an ERISA-Covered Account that is participating in an interest in the joint venture, where the joint venture is a party in interest solely by reason of the ownership on behalf of the General Account of a 50 percent or more interest in such joint venture.

Section IV—General Conditions

(a) Each contractholder or prospective contractholder in an ERISA-Covered Account which shares or proposes to share real estate investments is provided with a written description of potential conflicts of interest that may result from the sharing, a copy of the notice of pendency, and a copy of this exemption.

(b) An independent fiduciary must be appointed on behalf of each ERISA-Covered Account participating in the sharing of investments. The independent fiduciary shall be either

(1) A business organization which has at least five years of experience with respect to commercial real estate investments, or

(2) A committee composed of three to five individuals who each have at least five years of experience with respect to commercial real estate investments.

(c) The independent fiduciary or independent fiduciary committee member shall not be or consist of UNUM or any of its affiliates.

(d) No organization or individual may serve as an independent fiduciary for an ERISA-Covered Account for any fiscal year if the gross income (other than fixed, non-discretionary retirement income) received by such organization or individual (or any partnership or corporation of which such organization or individual is an officer, director, or ten percent or more partner or shareholder) from UNUM, its affiliates and the ERISA-Covered Accounts for that fiscal year exceeds five percent of its or his or her annual gross income from all sources for the prior fiscal year. If such organization or individual had no income for the prior fiscal year, the five percent limitation shall be applied with reference to the fiscal year in which such organization or individual serves as an independent fiduciary.

The income limitation will include income for services rendered to the Accounts as independent fiduciary under any prohibited transaction exemption(s) granted by the Department.

In addition, no organization or individual who is an independent fiduciary, and no partnership or corporation of which such organization or individual is an officer, director or ten percent or more partner or shareholder, may acquire any property from, sell any property to, or borrow any funds from, UNUM, its affiliates, or any Account maintained by UNUM or its affiliates, during the period that such organization or individual serves as an independent fiduciary and continuing for a period of six months after such organization or individual ceases to be an independent fiduciary, or negotiate any such transaction during the period that such organization or individual serves as independent fiduciary.

(e) The independent fiduciary will approve the initial allocation of a shared investment to an ERISA-Covered Account. In addition, the independent fiduciary acting on behalf of an ERISA-Covered Account shall have the responsibility and authority to approve or reject recommendations made by UNUM or its affiliates for each of the transactions in this exemption. In the case of a possible transfer or exchange of any interest in a shared investment between the General Account and an ERISA-Covered Account, the independent fiduciary shall also have full authority to negotiate the terms of the transfer. UNUM shall involve the independent fiduciary in the consideration of contemplated transactions prior to the making of any decisions, and shall provide the independent fiduciary with whatever information may be necessary in making its determinations.

In addition, the independent fiduciary shall review on an as-needed basis, but not less than twice annually, the shared real estate investments in the ERISA-Covered Account to determine whether the shared real estate investments are held in the best interest of the ERISA-Covered Account.

(f) UNUM maintains for a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (g) of this Section to determine whether the conditions of this exemption have been met, except that a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of UNUM or its affiliates, the records are lost or destroyed prior to the end of the six-year period.

(g)(1) Except as provided in paragraph (2) of this subsection (g) and notwithstanding any provisions of subsection (a)(2) and (b) of section 504 of the Act, the records referred to in subsection (f) of this Section are unconditionally available at their customary location for examination during normal business hours by—

(A) Any duly authorized employee or representative of the Department or the Internal Revenue Service,

(B) Any fiduciary of a plan participating in an ERISA-Covered Account who has authority to acquire or dispose of the interests of the plan, or any duly authorized employee or representative of such fiduciary,

(C) Any contributing employer to any plan participating in an ERISA-Covered Account or any duly authorized employee or representative of such employer, and

(D) Any participant or beneficiary of any plan participating in an ERISA-Covered Account, or any duly authorized employee or representative of such participant or beneficiary.

(2) None of the persons described in subparagraphs (B) through (D) of this subsection (g) shall be authorized to examine trade secrets of UNUM, any of its affiliates, or commercial or financial information which is privileged or confidential.

Section V—Definitions

For the purposes of this exemption:

(a) An "affiliate" of UNUM includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with UNUM,

(2) Any officer, director or employee of UNUM or person described in section V(a)(1), and

(3) Any partnership in which UNUM is a partner.

(b) An "Account" means the General Account (including the general accounts of UNUM affiliates), any separate account of UNUM or its affiliate, or any investment advisory account, trust, limited partnership or other investment account or fund managed by UNUM.

(c) The "General Account" means the general asset account of UNUM and any of its affiliates which are insurance companies licensed to do business in at least one State as defined in section 3(10) of the Act.

(d) An "ERISA-Covered Account" means any Account (other than the General Account) which consists solely of the UNUM Plan or other plans maintained by UNUM or its affiliates.

(e) "Disproportionate" means not in proportion to an Account's existing equity ownership interest in an investment, joint venture or joint venture interest.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on August 1, 1997 at 62 FR 41441.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

NatWest Securities Corporation, NatWest Securities Limited, Located in New York, New York

[Prohibited Transaction Exemption 97–57; Exemption Application Nos. D–10464, D–10465]

Exemption

Section I—Transactions

A. Effective May 22, 1997, the restrictions of section 406(a)(1) (A) through (D) of the Employee Retirement Income Security Act of 1974 (the Act) and the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1986 (the Code), by reason of section 4975 (c)(1) (A) through (D) of the Code, shall not apply to any purchase or sale of a security between an employee benefit plan and a broker-dealer affiliated with NatWest Securities Corporation and subject to British law

(NatWest/UK Affiliate), if the following conditions, and the conditions of Section II, are satisfied:

(1) The NatWest/UK Affiliate customarily purchases and sells securities for its own account in the ordinary course of its business as a broker-dealer.

(2) Such transaction is on terms at least as favorable to the plan as those which the plan could obtain in an arm's length transaction with an unrelated party.

(3) Neither the NatWest/UK Affiliate nor an affiliate thereof has discretionary authority or control with respect to the investment of the plan assets involved in the transaction, or renders investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to those assets, and the NatWest/UK Affiliate is a party in interest or disqualified person with respect to the plan assets involved in the transaction solely by reason of section 3(14)(B) of the Act or section 4975(e)(2)(B) of the Code, or by reason of a relationship to a person described in such sections. For purposes of this paragraph, the NatWest/UK Affiliate shall not be deemed to be a fiduciary with respect to a plan solely by reason of providing securities custodial services for a plan.

B. Effective May 22, 1997, the restrictions of section 406(a)(1) (A) through (D) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to the lending of securities that are assets of an employee benefit plan to an NatWest/UK Affiliate if the following conditions, and the conditions of Section II, are satisfied:

(1) Neither the NatWest/UK Affiliate (the Borrower) nor an affiliate of the Borrower has discretionary authority or control with respect to the investment of the plan assets involved in the transaction, or renders investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to those assets;

(2) The plan receives from the Borrower, either by physical delivery or by book entry in a securities depository located in the United States, by the close of business on the day on which the securities lent are delivered to the Borrower, collateral consisting of U.S. currency, securities issued or guaranteed by the United States Government or its agencies or instrumentalities, or irrevocable United States bank letters of credit issued by a person other than the Borrower or an affiliate thereof, or any combination thereof, having, as of the close of business on the preceding business day, a market value (or, in the case of letters of credit, a stated amount) equal to not less than 100 percent of the then market value of the securities lent. The collateral referred to in this Section I(B)(2) must be held in the United States;

(3) Prior to the making of any such loan, the Borrower shall have furnished the following items to the fiduciary for the plan who is making decisions on behalf of the plan with respect to the lending of securities (the Lending Fiduciary): (1) the most recent available audited statement of the Borrower's financial condition, (2) the most recent available unaudited statement of the Borrower's financial condition (if more recent than such audited stated), and (3) a representation that, at the time the loan is negotiated, there has been no material adverse change in the Borrower's financial condition since the date of the most recent financial statement furnished to the plan that has not been disclosed to the Lending Fiduciary. Such representation may be made by the Borrower's agreement that each such loan shall constitute a representation by the Borrower that there has been no such material adverse change;

(4) The loan is made pursuant to a written loan agreement, the terms of which are at least as favorable to the plan as those which the plan could obtain in an arm's-length transaction with an unrelated party. Such agreement may be in the form of a master agreement covering a series of securities-lending transactions;

(5) The plan (1) receives a reasonable fee that is related to the value of the borrowed securities and the duration of the loan, or (2) has the opportunity to derive compensation through the investment of cash collateral. Where the plan has that opportunity, the plan may pay a loan rebate or similar fee to the Borrower, if such fee is not greater than the plan would pay an unrelated party in an arm's-length transaction;

(6) The plan receives the equivalent of all distributions made to holders of the borrowed securities during the term of the loan, including, but not limited to, cash dividends, interest payments, shares of stock as a result of stock splits and rights to purchase additional securities;

(7) If the market value of the collateral on the close of trading on a business day is less than 100 percent of the market value of the borrowed securities at the close of trading on that day, the Borrower shall deliver, by the close of business on the following business day, an additional amount of collateral (as described in paragraph (2)) the market value of which, together with the market value of all previously delivered collateral, equals at least 100 percent of the market value of all the borrowed securities as of such preceding day. Notwithstanding the foregoing, part of the collateral may be returned to the Borrower if the market value of the collateral exceeds 100 percent of the market value of the borrowed securities, as long as the market value of the remaining collateral equals at least 100 percent of the market value of the borrowed securities;

(8) The loan may be terminated by the plan at any time, whereupon the Borrower shall deliver certificates for securities identical to the borrowed securities (or the equivalent thereof in the event of reorganization, recapitalization or merger of the issuer of the borrowed securities) to the plan within (1) the customary delivery period for such securities, (2) three business days, or (3) the time negotiated for such delivery by the plan and the Borrower, whichever is lesser; and

(9) In the event the loan is terminated and the Borrower fails to return the borrowed securities or the equivalent thereof within the time described in paragraph (8) above, then (i) the plan may, under the terms of the loan agreement, purchase securities identical to the borrowed securities (or their equivalent as described above) and may apply the collateral to the payment of the purchase price, any other obligations of the Borrower under the agreement, and any expenses associated with the sale and/or purchase, and (ii) the Borrower is obligated, under the terms of the loan agreement, to pay, and does pay to the plan, the amount of any remaining obligations and expenses not covered by the collateral plus interest at a reasonable rate. Notwithstanding the foregoing, the Borrower may, in the event the Borrower fails to return borrowed securities as described above, replace non-cash collateral with an amount of cash not less than the then current market value of the collateral, provided such replacement is approved by the Lending Fiduciary.

(10) If the Borrower fails to comply with any condition of this exemption, in the course of engaging in a securities-lending transactions, the plan fiduciary who caused the plan to engage in such transaction shall not be deemed to have caused the plan to engage in a transaction prohibited by section 406(a)(1) (A) through (D) of the Act solely by reason of the Borrower's failure to comply with the conditions of the exemption.

C. Effective May 22, 1997, the restrictions of sections 406(a)(1) (A) through (D) and 406(b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code shall not apply to any extension of credit to an employee benefit plan by an NatWest/UK Affiliate to permit the settlement of securities transactions or in connection with the writing of options contracts provided that the following conditions are met:

(a) The NatWest/UK Affiliate is not a fiduciary with respect to any assets of such plan, unless no interest or other consideration is received by such fiduciary or any affiliate thereof in connection with such extension of credit; and

(b) Such extension of credit would be lawful under the Securities Exchange Act of 1934 and any rules or regulations thereunder if such act, rules or regulations were applicable.

Section II—General Conditions

A. The NatWest/UK Affiliate is registered as a broker-dealer with the Securities and Futures Authority of the United Kingdom (the S.F.A.);

B. The NatWest/UK Affiliate is in compliance with all requirements of Rule 15a–6 (17 CFR 240.15a–6) under the Securities and Exchange Act of 1934, which provides for foreign broker-dealers a limited exemption from U.S. registration requirements;

C. Prior to the transaction, the NatWest/UK Affiliate enters into a written agreement with the plan in which the NatWest/UK Affiliate consents to the jurisdiction of the courts of the United States with respect to the transactions covered by this exemption;

D. (1) The NatWest/UK Affiliate maintains or causes to be maintained within the United States for a period of six years from the date of such transaction such records as are necessary to enable the persons described in this section to determine whether the conditions of this exemption have been met; except that a party in interest with respect to an employee benefit plan, other than the NatWest/UK Affiliate, shall not be subject to a civil penalty under section 502(i) of the Act or the taxes imposed by section 4975 (a) or (b) of the Code, if such records are not maintained, or are not available for examination as required by this section, and a prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of the NatWest/UK Affiliate, such records are lost or destroyed prior to the end of such six year period;

(2) The records referred to in subsection (1) above are unconditionally available for examination during normal business hours by duly authorized employees of (a) the Department of Labor, (b) the Internal Revenue Service, (c) plan participants and beneficiaries, (d) any employer of plan participants and beneficiaries, and (e) any employee organization any of whose members are covered by such plan; except that none of the persons described in (c) through (e) of this subsection shall be authorized to examine trade secrets of NatWest Securities Corporation or the NatWest/UK Affiliate or any commercial or financial information which is privileged or confidential.

Section III—Definitions

"Affiliate" of a person shall include: (i) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person; (ii) any officer, director, or partner, employee or relative (as defined in section 3(15) of the Act) of such other person; and (iii) any corporation or partnership of which such other person is an officer, director or partner. For purposes of this definition, the term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

"Security" shall include equities, fixed income securities, options on equity and on fixed income securities, government obligations, and any other instrument that constitutes a security under U.S. securities laws. The term "security" does not include swap agreements or other notional principal contracts.

EFFECTIVE DATE: This exemption is effective as of May 22, 1997.

For a more complete statement of the summary of facts and representations supporting the Department's decision to grant this exemption refer to the Notice of Proposed Exemption published on September 5, 1997 at 62 FR 47060.

FOR FURTHER INFORMATION CONTACT: Ronald Willett of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Carl M. Callaway Individual Retirement Account (IRA), Located in Huntington, West Virginia; [Prohibited Transaction Exemption No. 97–58; Application No. D–10469]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the transaction involving a sale or exchange of certain securities (the Sale) by the IRA to Carl M. Callaway and his wife, Marianne F. Callaway, both disqualified persons with respect to the IRA; provided the following conditions are satisfied: (a) the sale or exchange is a one-time transaction constituting an exchange of securities approximately equal in value and any difference in value occurring is immediately eradicated with cash payments by either the Callaways or the IRA, in order to equalize the value of the exchanged assets, (b) the IRA incurs no commissions or other expenses in connection with the transaction, (c) the transaction involves only securities that have a fair market value on the date of the exchange which is objectively determinable through independently and regularly published market prices and quotations, and (d) the IRA tenders as consideration stock valued at an amount equal to the reported closing price of the stock on the date of the Sale and the IRA receives U. S. Treasury notes valued at the reported closing bid on the date of the Sale, plus the accrued interest the notes earned to the date of the Sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the Notice of Proposed Exemption published on September 5, 1997 at 62 FR 47604.

FOR FURTHER INFORMATION CONTACT: Mr. C. E. Beaver of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an

administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 23rd day of October, 1997.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 97–28593 Filed 10–28–97; 8:45 am]

BILLING CODE 4510–29–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting

October 23, 1997.

TIME AND DATE: 10:00 a.m., Thursday, October 30, 1997.

PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument on the following:

1. *Secretary of Labor* v. *Berwind Natural Resources Corp., et al.*, Docket Nos. KENT 94–574, etc. (Issues include whether the judge correctly determined that to qualify as an "operator" under the Mine Act an entity must directly or indirectly substantially participate in the operation, control, or supervision of the day-to-day operations of the mine, or have authority to do so; correctly rejected the Secretary's claim that the cited parent and its cited subsidiaries constituted a "unitary operator" under the Mine Act; and correctly determined that one of those subsidiaries was an "operator," while the parent and two other subsidiaries were not).

TIME AND DATE: 2:00 p.m., Thursday, October 30, 1997.

PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, D.C.

STATUS: Closed [Pursuant to 5 U.S.C. 552b(c)(10)].

MATTERS TO BE CONSIDERED: It was determined by a unanimous vote of a quorum of the Commission that the Commission consider and act upon the following in closed session:

1. *Secretary of Labor* v. *Berwind Natural Resources Corp., et al.*, Docket Nos. KENT 94–574–R, etc. (*See* oral argument listing, *supra*, for issues).

TIME AND DATE: 10:00 a.m., Thursday, November 6, 1997.

PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission shall consider and act upon the following:

1. *Secretary of Labor* v. *Gouverneur Talc Co.*, Docket No. YORK 95–70–M (Issues include whether the judge erred in determining that the operator did not violate 30 C.F.R. § 57.4362, which requires that, following evacuation of a mine in a fire emergency, only persons wearing and trained in the use of mine rescue apparatus shall participate in rescue and firefighting operations in advance of the fresh air base).

TIME AND DATE: 10:00 a.m., Thursday, November 13, 1997.

PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument on the following:

1. *Secretary of Labor* v. *Extra Energy, Inc.*, Docket No. WEVA 96–13 (Issues include whether the judge erred in finding that the Secretary properly cited the operator for its independent contractor's violation of 30 C.F.R. § 77.404(a)'s requirement that mobile equipment and machinery be maintained in safe operating condition and properly found that the operator violated 50 C.F.R. § 50.10's requirement that the Mine Safety and Health Administration be notified of accidents).

TIME AND DATE: 2:00 p.m., Thursday, November 13, 1997.

PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, D.C.

STATUS: Closed [Pursuant to 5 U.S.C. § 552b(c)(10)].

MATTERS TO BE CONSIDERED: It was determined by a unanimous vote of a quorum of the Commission that the Commission consider and act upon the following in closed session:

1. *Secretary of Labor* v. *Extra Energy, Inc.*, Docket No. WEVA 96–13 (*See* oral argument listing, *supra*, for issues).

TIME AND DATE: 10:00 a.m., Thursday, November 20, 1997.

PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission shall consider and act upon the following:

1. *Secretary of Labor* v. *REB Enterprises, Inc.* Docket No. CENT 95–29–M, etc. (Issues include whether the judge erred in concluding that the operator's violations of 30 C.F.R. 57.14107(a), 57.14130(g), and 57.14131(a) were not the result of unwarrantable failure based on his refusal to assign any probative weight to hearsay testimony adduced by the Secretary; erred in concluding that two individuals were not personally liable for violations of 30 C.F.R. 57.14130(g); erred in concluding that a violation of 30 C.F.R. 14130(a)(3) was not established because it was not demonstrated that a backhoe unequipped with a seat belt was a "wheel loader" or "wheel tractor" within the meaning of that standard; and erred in dismissing an order on the basis that it alleged a violation of the wrong standard, even though it was amended prior to hearing to allege a violation of the correct standard).

Any person attending oral argument or an open meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 C.F.R. § 2706.150(a)(3) and § 2706.160(d).

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 653–5629 / (202) 708–9300 for TDD Relay / 1–800–877–8339 for toll free.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. 97–28711 Filed 10–24–97; 4:03 pm]

BILLING CODE 6735–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Chemistry; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces that the Special Emphasis Panel in Chemistry (1191) will be holding panel meetings for the purpose of reviewing proposals submitted to the Faculty Early Career Development (CAREER) Program. In order to review the large volume of proposals, panel meetings will be held on November 13–14, November 17–18, November 20–21, and December 8–9. All meetings will be closed to the public and will be held at the National Science Foundation, 4201 Wilson Blvd., Arlington, VA from 8:30 AM to 5:00 PM each day.

Contact Person: Dr. Margaret A. Cavanaugh, Program Director, Inorganic, Bioinorganic and Organometallic program, Chemistry Division, Room 1055, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1842.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: October 23, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–28546 Filed 10–28–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Engineering; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Committee for Engineering (#1170).

Date and Time: November 4, 1997/8:30 am–5:00 p.m., November 5, 1997/8:30 am–12:30 p.m.

Place: November 4 and 5, Room 1235, (National Science Board Meeting Room), National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Open.

Contact Person: Dr. Joseph E. Hennessey, Acting Deputy Assistant Director for Engineering, National Science Foundation, Suite 505, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1301.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice, recommendations and counsel on major goals and policies pertaining to Engineering programs and activities.

Agenda: Discussion on issues, opportunities and future directions for the Engineering Directorate; discussion of Engineering Directorate budget situation as well as other items. Reason for Late Notice: Difficulty in arranging an acceptable meeting date for the members.

Dated: October 23, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–28545 Filed 10–28–97; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. IA 97–070, ASLBP No. 98–734–01–EA]

Atomic Safety and Licensing Board; In the Matter of Magdy Elamir, M.D., Newark, New Jersey; Order Superseding Order Prohibiting Involvement in NRC-Licensed Activities (Effective Immediately); Notice of Hearing

Before Administrative Judges: Charles Bechhoefer, Chairman, Dr. Jerry R. Kline, Dr. Peter S. Lam.

October 23, 1997.

Notice is hereby given that, by Memorandum and Order (Request for Hearing and Stay of Proceeding), dated October 23, 1997, the Atomic Safety and Licensing Board has granted the request of Magdy Elamir, M.D., Newark, New Jersey, for a hearing in the above-titled proceeding. The hearing concerns the Order Superseding Order Prohibiting Involvement in NRC-Licensed Activities (Effective Immediately) (hereinafter, Superseding Order), issued by the NRC Staff on September 15, 1997 (published at 62 FR 49536 (September 22, 1997). The parties to the proceeding are Dr. Elamir and the NRC Staff. The issue to be considered at the hearing is whether the Superseding Order should be sustained.

Materials concerning this proceeding are on file at the Commission's Public Document Room, 2120 L St. N.W., Washington, D.C. 20555, and at the Commission's Region I office, 475 Allendale Road, King of Prussia, Pennsylvania 19406–1415.

During the course of this proceeding, the Licensing Board, as necessary, will conduct one or more prehearing conferences and evidentiary hearing sessions. The time and place of these sessions will be announced in Licensing Board Orders. Members of the public are invited to attend any such sessions.

For the Atomic Safety and Licensing Board.

Rockville, Maryland, October 23, 1997.

Charles Bechhoefer,

Chairman, Administrative Judge.

[FR Doc. 97–28621 Filed 10–28–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–302]

Florida Power Corporation; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission or NRC) is considering issuance of an exemption from certain requirements of its regulations to Florida Power Corporation (the licensee), holder of Facility Operating License No. DPR–72 for operation of the Crystal River Unit 3 Nuclear Generating Plant (CR3) located in Citrus County, Florida.

Environmental Assessment

Identification of Proposed Action

The proposed action is in accordance with the licensee's application dated June 21, 1996 as supplemented November 22, 1996, for exemption from certain requirements of Section III, Paragraph G, "Fire protection of safe shutdown capability," of Appendix R, "Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979," to Title 10 of the Code of Federal Regulations part 50 (10 CFR part 50). Specifically, the licensee requests an exemption from the requirements of Section III.G.2.c of Appendix R, to allow the use of the existing fire barrier material, Thermo-Lag, with less than 1-hour fire rating, for protecting one train of certain redundant safe shutdown cables located in the auxiliary building elevations 95 and 119, and intermediate building elevation 119.

This environmental assessment does not address the licensee's request relating to the requirements for battery powered lighting in areas for the operation of safe shutdown equipment.

The Need for the Proposed Action

10 CFR part 50, Appendix A, "General Design Criteria for Nuclear Power Plants," Criterion 3 "Fire Protection," specifies that "Structures, systems, and components important to safety shall be designed and located to minimize, consistent with other safety requirements, the probability and effect of fires and explosions." 10 CFR part 50, Appendix R, sets forth the fire protection features required to satisfy the General Design Criterion 3 of the Commission's regulations. Pursuant to 10 CFR part 50, Appendix R, Section III, Paragraph G, design features shall be established that are capable of limiting fire damage so that one train of systems necessary to achieve and maintain hot shutdown conditions is free of fire damage. Specifically, 10 CFR part 50, Appendix R, Paragraph III. G.2.c, in part, requires (if Paragraphs III.G.2.a or b are not applicable) enclosure of cable and equipment and associated non-safety circuits of one redundant train in a fire barrier having a 1-hour rating; in addition, fire detectors and an automatic

fire suppression system shall be installed in the fire area.

The current CR3 design includes Thermo-Lag fire barriers which do not provide the level of fire endurance required by NRC regulations. As part of its program for resolving Thermo-Lag issues, the licensee has determined that the Thermo-Lag material used as a fire barrier for the protection of certain safe shutdown cables located in certain elevations of the auxiliary and intermediate buildings does not qualify as 1-hour fire rated barriers. In lieu of upgrading the existing Thermo-Lag fire barriers to satisfy the 1-hour fire rating requirement, the licensee proposed to implement an enhanced automatic fire suppression system coverage for these specific fire zones. The licensee indicates that its proposed enhanced automatic fire suppression system coverage coupled with the existing Thermo-Lag barriers and other defense-in-depth features will ensure that one train of equipment necessary to achieve hot shutdown remains free of fire damage. An exemption from 10 CFR part 50, Appendix R, Section III, Paragraph G. 2. c. is required to allow the use of existing Thermo-Lag material that has less than a 1-hour fire rating, for the specific cables and equipment located in certain elevations of the auxiliary and intermediate buildings. By letter dated June 21, as supplemented November 22, 1996, the licensee submitted the exemption request.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the licensee's application.

The exemption request is for the following fire zones: auxiliary building elevations 95 and 119 (fire area AB–95–3B and G, AB–119–6A) and the intermediate building elevation 119 (fire area IB–119–201A). A fire in the 95 or 119 elevations of the auxiliary building could cause the loss of the redundant divisions of the makeup system, heating ventilation and air conditioning (HVAC), instrumentation, battery chatging or essential power supplies. A fire on the 119 elevation of the intermediate building could cause the loss of redundant divisions of instrumentation needed to achieve and maintain safe shutdown following a fire.

These four fire zones contain fire detectors and an automatic fire suppression system. To enhance the sprinkler coverage in these zones, the licensee proposes to upgrade the existing sprinkler protection in the vicinity of the Thermo-Lag fire barriers. The additional sprinkler protection, coupled with the existing automatic detection, manual fire suppression capability and the administrative controls provided in these fire zones, would provide reasonable assurance that an exposure fire from in-situ or transient combustible materials in the vicinity of the existing Thermo-Lag fire barriers will not challenge the barriers, such that damage to redundant divisions of systems and instrumentation needed to achieve and maintain safe shutdown following a fire will not occur. Based on data obtained from industry sponsored fire test programs, the staff estimates that the existing Thermo-Lag barriers would provide a minimum of 20 minutes of fire resistance. The licensee is also committed to maintain the Thermo-Lag fire barriers that are the subject of this request in place. Automatic wet pipe sprinkler protection that is designed, installed and maintained in accordance with NFPA 13, "Installation of Sprinkler Systems," have historically demonstrated a high reliability in controlling fires during the incipient stage, thereby limiting fire damage and propagation until extinguishment can be achieved through manual actions. Further, the licensee has administrative controls that are designed to control the type, amount, use and location of combustibles. Proper control of combustibles minimizes the possibility of starting, spreading, or contributing to a fire.

4.0 Conclusion

On the basis of this evaluation, the NRC staff concluded that protection provided for the fire zones, auxiliary building elevations 95 and 119 (fire area AB–95–3B and G, AB–119–6A) and the intermediate building elevation 119 (fire area IB–119–201A) would provide reasonable assurance that a level of safety equivalent to that specified by the regulation would be met, and, therefore, is acceptable.

The change will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does involve features located entirely within the restricted area as defined in 10 CFR part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternative to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action did not involve the use of any resources not previously considered in the Final Environmental Statements related to operation of CR3, dated May 1973.

Agencies and Persons Consulted

In accordance with its stated policy, on October , 1997 the staff consulted with the Florida State Official, Mr. Bill Passetti of the Florida Department of Health and Rehabilitative Services, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption. Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the request for exemption dated June 21, as supplemented November 22, 1996, which are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC and at the local public document room located at Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida.

Dated at Rockville, Maryland, this 22nd day of October 1997.

For the Nuclear Regulatory Commission.

Frederick J. Hebdon,

Director, Project Directorate II–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 97–28619 Filed 10–28–97; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 22986; 812–10622]

Federated Investors, et al.; Notice of Application

October 22, 1997.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application under section 12(d)(1)(J) of the Investment Company Act of 1940 (the "Act") for an exemption from section 12(d)(1), and under sections 6(c) and 17(b) for an exemption from section 17(a).

Summary of Application: Applicants seek an order to permit certain open-end investment companies to invest a portion of their assets in other open-end investment companies in the same group of investment companies as well as to invest in securities of other issuers.

Applicants: Managed Series Trust ("MST"), Fixed Income Securities, Inc. ("FIS"), Investment Series Funds, Inc. ("ISF"), Federated Total Return Series, Inc. ("FTRS"), Federated Stock and Bond Fund, Inc. ("FSBF") (collectively, "Federated Funds"); Federated Core Trust ("Core Trust"); and Federated Investors ("Federated"), as the parent company for Federated Advisers, Federated Management, Federated Research Corp., Federated Administrative Services, Federated Investment Counseling, Federated Research, Passport Research, Ltd., and Federated Global Research Corp. (collectively, "Advisers"). All existing investment companies that currently intend to rely on the requested order are named as applicants. The requested order also would extend to (i) any other registered open-end investment company or series thereof (except Core Trust and the Portfolios, as defined below) advised by the Advisers, or any entity controlling, controlled by, or under common control with the Advisers (together with Federated Funds, the "Funds") that wishes to invest in another registered open-end investment company in the same group of investment companies as the Funds and advised by the Advisers, or any entity controlling, controlled by, or under common control with the Advisers (together with Core Trust, the "Portfolios"), and (ii) any such Portfolio.

Filing Dates: The application was filed on February 5, 1997, and amended on August 14, 1997. Applicants have also agreed to file an additional amendment during the notice period. The substance of the additional amendment is incorporated in this notice.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 17, 1997, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, Federated Investors Tower, Pittsburgh, PA 15222–3779.

FOR FURTHER INFORMATION CONTACT: Kathleen L. Knisely, Staff Attorney, at (202) 942–0517, or Christine Y. Greenless, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington D.C. 20549 (tel. 202–942–8090).

Applicants' Representations

1. FIS and ISF, organized under Maryland law, are registered under the Act as open-end management investment companies. FIS and ISF are advised by Federated Advisers. FIS currently offers three portfolios, including Federated Strategic Income Fund. ISF currently offers two portfolios, including Federated Bond Fund.

2. FTRS and FSBF, organized under Maryland law, are registered under the Act as open-end management investment companies. FTRS and FSBF are advised by Federated Management. FTRS currently offers four portfolios, including Federated Total Return Bond Fund, and Federated Total Return Limited Duration Fund. FSBF currently is not a series investment company.

3. MST, organized under Massachusetts law, is registered under the Act as an open-end management investment company. MST is advised by Federated Management. MST currently offers four portfolios, including Federated Managed Aggressive Growth Fund, Federated Managed Growth Fund, Federated Managed Growth & Income Fund, and Federated Managed Income Fund.

4. Core Trust, organized under Massachusetts law, will be registered as an open-end management investment company under the Act. Core Trust is advised by Federated Research Corp. Core Trust currently has one series, High-Yield Bond Portfolio ("Bond Core Portfolio"), which invests in high-yield bonds.[1]

5. Federated Managed Aggressive Growth Fund, Federated Managed Growth Fund, Federated Managed Growth & Income Fund, Federated Managed Income Fund, Federated Strategic Income Fund, Federated Bond Fund, Federated Total Return Bond Fund, Federated Total Return Limited Duration Fund, and FSBF (the "Blended Funds") would like to be able to invest in securities directly as well as to invest a portion of assets that they allocate for investment in the high-yield bond asset class in the Bond Core Portfolio. The Funds also would like to be able to invest in other Portfolios.

6. Bond Core Portfolio currently is intended to be offered only to the Blended Funds. However, Bond Core Portfolio may, in the future, be offered to funds relying on any order granting this application, or to other investors.

7. A Blended Fund's investment in the Bond Core Portfolio will be consistent with the Blended Fund's investment objective as described in its prospectus. If a Blended Fund allocates its assets to an asset class not represented by Bond Core Portfolio, or pursues a different investment strategy or style with respect to the asset class than Bond Core Portfolio, it will invest in those securities directly and/or through another Portfolio.

8. Federated Management and Federated Advisers, as investment advisers to the Blended Funds, will charge an annual investment advisory fee based upon a percentage of each Blended Fund's average daily net assets. Federated Research Corp. currently will not charge Bond Core Portfolio an advisory fee. Applicants currently anticipate that sales charges and service fees will be incurred only at the Blended Fund level and that Bond Core Portfolio will be sold without any such sales charge or service fee.

9. Applicants expect Bond Core Portfolio to provide broad diversity and exposure to all aspects of the high-yield

[1] Core Trust will not register under the Securities Act of 1933; its shares will be offered only in private placement transactions to registered investment companies and other institutional investors.

bond sector of the market while at the same time providing greater liquidity than the Blended Funds would provide separately. Applicants state that the Bond Core Portfolio likely will own more issuers in the high-yield bond sector than any single Blended Fund would own. As a result, events that affect the price of a single issuer in this sector can be expected to have less impact on Bond Core Portfolio than they would have on the high-yield bond sector of a Blended Fund that was less diversified. Applicants represent that this diversification can be expected to benefit both Bond Core Portfolio and its shareholders, the Blended Funds, by providing greater price stability and lower volatility, while at the same time capturing the performance benefits of exposure to the high-yield bond sector.

10. Applicants anticipate that the efficiencies resulting from the use of the Bond Core Portfolio will result in cost savings to the Blended Funds. Applicants expect that the cost savings will occur because Bond Core Portfolio will experience trading costs that will be substantially less than the trading costs that would be incurred if high-yield bonds were purchased separately for each of the Blended Funds.

Applicants' Legal Analysis

1. Section 12(d)(1)(A) of the Act provides that no registered investment company may acquire securities of another investment company representing more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or, together with the securities of other investment companies, more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 12(d)(1)(G) of the Act exempts from the above limitations certain "funds of funds," subject to conditions stated in that section. Applicants state that section 12(d)(1)(G) is not available to them because the Blended Funds will continue to invest directly in corporate bonds, other investment grade securities, and other instruments, in addition to investing in the Portfolios.

3. Section 12(d)(1)(J) provides that the SEC may exempt persons or transactions from any provision of section 12(d)(1) if and to the extent such exemption is consistent with the public interest and the protection of investors. Applicants request relief from the limitations of section 12(d)(1) to permit: (a) A Fund to (i) purchase in excess of 3% of the total outstanding voting shares of a Portfolio; (ii) purchase securities of a Portfolio having an aggregate value in excess of 5% of the value of the total assets of a Fund; and (iii) purchase securities of a Portfolio having an aggregate value in excess of 10% of the assets of a Fund; (b) a Portfolio to sell more than 3% of its total outstanding shares to any Fund; and (c) a Portfolio to sell more than 10% of its total outstanding voting stock to the Funds. Applicants believe that none of the concerns underlying section 12(d)(1) are present in the proposed arrangement.

4. Applicants also request an exemption from section 17(a) of the Act, which prohibits certain purchases and sales of securities between investment companies and their affiliated persons, as defined in section 2(a)(3) of the Act. Because the Federated Funds and Core Trust have common trustees, directors, and officers, and are advised by commonly controlled Advisers, the Blended funds and the Bond Core Portfolio could be deemed affiliated persons of one another. Accordingly, purchases or sales between the Blended Funds and the Bond Core Portfolio could be deemed to be principal transactions between affiliated persons under section 17(a).

5. Applicants submit that the terms of their proposed arrangement satisfy the standards for relief under sections 6(c) and 17(b). Applicants state that the terms of the proposed transactions are reasonable and fair and do not involve overreaching. Applicants state that there are sufficient protections in the proposed arrangement against duplicative or excessive advisory fees and sales loads. Applicants state that a Fund's investment in a Portfolio will be in accordance with the Fund's investment restrictions and will be consistent with its policies as recited in its registration statement.

Applicants' Conditions

Applicants agree that the order granting the requested relief shall be subject to the following conditions:

1. Each Fund and each Portfolio will be part of the same "group of investment companies," as defined in section 12(d)(1)(G)(ii) of the Act.

2. A fund will not invest in any Portfolio if the Portfolio may acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act, except for securities received as a dividend or as a result of a plan of reorganization of any company.

3. Prior to approving any advisory contract under section 15 of the Act, the directors or trustees of each Fund, including a majority of the individuals who are not "interested persons" of the Fund, as that term is defined in section 2(a)(19) of the Act ("Independent Trustees"), shall find that the advisory fees charged under such contract, if any, are based on services that will be in addition to, rather than duplicative of, the services provided under the contracts of any Portfolio in which the Fund ;may invest; provided that no such findings will be necessary if the Adviser to a Portfolio waives all advisory fees that may be imposed for serving as investment adviser to the Portfolio or, if only a portion of such advisory fees are waived, the Adviser or another party reimburses the Fund for any advisory fee or portion thereof that is not waived. These findings and their basis will be recorded fully in the minute books of the Fund.

4. Any sales charges and service fees, as such terms are defined under Rule 2830 of the NASD's Conduct Rules, and may be charged with respect to securities of a Fund, when aggregated with any such sales charges and service fees borne by the Fund with respect to the shares of a Portfolio, shall not exceed the limits set forth in Rule 2830 of the NASD's Conduct Rules.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–28567 Filed 10–28–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39257; File No. SR–CBOE–97–33]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to Suspensions for Failure to Pay Debts Owed to the Exchange

October 22, 1997.

On July 24, 1997, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its rule relating to the suspension of members and associated persons who fail to pay debts owed to the Exchange.

[1] 15 U.S.C. 78s(b)(1).

The proposed rule change was published for comment in Securities Exchange Act Release No. 39026 (Sept. 8, 1997), 62 FR 48123 (Sept. 12, 1997). No comments were received on the proposal. This order approves the proposal.

Rule 2.23 presently requires that members or associated persons who fail to pay any debts owed to the Exchange within 30 days after they become due may be suspended from membership or association with a member by the Chairman of the Executive Committee until payment is made.

The Exchange proposes to amend this rule to clarify the application of Rule 2.23 to former members and persons associated with members by providing expressly that such persons who fail to pay debts owed to the Exchange may be barred from becoming a member and associated person by the Chairman of the Executive Committee until payment is made.

The Exchange also proposes to add new Interpretation .02 to provide that the Exchange will report any suspension or bar imposed pursuant to Rule 2.23 to the Central Registration Depository ("CRD"). This new paragraph is similar to CBOE Rule 17.14 which provides for the reporting by the Exchange to the CRD of information concerning pending formal Exchange disciplinary proceedings. The Exchange also proposes to delete references to a regular membership and special membership in the current Rule 2.23, as CBOE no longer has any special memberships, and to add language clarifying that if a member fails to pay an Exchange debt within 6 months, the Chairman of the Executive Committee may dispose of any memberships owned by that member in accordance with Rule 3.41(b).

Finally, the proposed rule change also includes several nonsubstantive language changes.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities, and, in particular, with the requirements of Section 6(b).[3] Specifically, the Commission believes the proposal is consistent with the Section 6(b)(5)[4] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest.[5] In this regard, the Commission believes that the proposed rule change will enhance the public's access to information concerning suspensions and bars imposed by the CBOE upon its members and associated persons.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[6] that the proposed rule change (SR–CBOE–97–33) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–28571 Filed 10–28–97; 8:45 am]

BILLING CODE 8010–01–M

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

[5] In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78s(b)(2).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39268; File No. SR–CSE–97–10]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Cincinnati Stock Exchange, Inc. Relating to Listing and Trading Standards for Portfolio Depositary Receipts

October 22, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 14, 1997,[3] the Cincinnati Stock Exchange, Inc. ("CSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. The Commission is also granting accelerated approval of the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange filed Amendment No. 1 to the proposed rule change on October 20, 1997, the substance of which is incorporated into this release. See letter from Adam Gurwitz, Vice President Legal, CSE, the Heather Seidel, Attorney, Market Regulation, Commission, dated October 17, 1997 ("Amendment No. 1").

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CSE proposes to adopt new Exchange rule 11.9(v), to provide listing standards for, and trading in Portfolio Depositary Receipts ("PDRs"). The text of the proposed rule change is available at the Office of the Secretary, CSE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

a. Listing Requirements for Portfolio Depositary Receipts. The Exchange proposes to adopt new Rule 11.9(v) to accommodate the trading of PDRs, i.e., securities that are interests in a unit investment trust ("Trust") holding a portfolio of securities linked to an index. Each Trust will provide investors with an instrument that (1) closely tracks the underlying portfolio of securities, (2) trades like a share of common stock, and (3) pays holders of the instrument periodic dividends proportionate to those paid with respect to the underlying portfolio of securities, less certain expenses (as described in the Trust prospectus).

Under the proposal, the Exchange may list and trade, or trade pursuant to unlisted trading privileges, PDRs based on one or more stock indices or securities portfolios. PDRs based on each particular stock index or portfolio will be designated as a separate series and identified by a unique symbol. The stocks that are included in an index or portfolio on which PDRs are based will be selected by the Exchange, or by another person having a proprietary interest in and authorized use of such index or portfolio, and may be revised as may be deemed necessary or

appropriate to maintain the quality and character of the index or portfolio.

In connection with an initial listing, the Exchange proposes that, for each Trust of PDRs, the Exchange will establish a minimum number of PDRs required to be outstanding at the time of commencement of Exchange trading, and such minimum number will be filed with the Commission in connection with any required submission under Rule 19b–4 for each Trust. If the Exchange trades a particular PDR pursuant to unlisted trading privileges, the Exchange will follow the listing exchange's determination of the appropriate minimum number.

Because the Trust operates on an open-end type basis, and because the number of PDR holders is subject to substantial fluctuations depending on market conditions, the Exchange believes it would be inappropriate and burdensome on PDR holders to consider suspending trading in or delisting a series of PDRs, with the consequent termination of the Trust, unless the number of holders remains severely depressed during an extended time period. Therefore, twelve months after the formation of a Trust and commencement of Exchange trading, the Exchange will consider suspension of trading in, or removal from listing of, a Trust when, in its opinion, further dealing in such securities appears unwarranted under the following circumstances:

(a) If the Trust on which the PDRs are based has more than 60 days remaining until termination and there have been fewer that 50 record and/or beneficial holders of the PDRs for 30 or more consecutive trading days; or

(b) If the index on which the Trust is based is no longer calculated; or

(c) If such other event occurs or condition exists which, in the opinion of the Exchange, makes further dealings in such securities on the Exchange inadvisable.

A Trust will terminate upon removal from Exchange listing and its PDRs will be redeemed in accordance with provisions of the Trust prospectus. A Trust may also terminate under such other conditions as may be set forth in the Trust prospectus. For example, the sponsor of the Trust (the "Sponsor"), following notice to PDR holders, will have discretion to direct that the Trust be terminated if the value of securities in such Trust falls below a specified amount.

B. *Trading of PDRs.* Dealing in PDRs on the Exchange will be conducted pursuant to the Exchange's general agency-auction trading rules. The Exchange's general dealing and settlement rules would apply, including its rules on clearance and settlement of securities transactions and its equity margin rules. Other generally applicable Exchange equity rules and procedures would also apply including, among others, rules governing the priority, parity and precedence of orders and the responsibilities of specialists.[4]

The CSE has represented that the Exchange understands that SPDRs and MidCap SPDRs will both become ITS System securities on October 24, 1997. The Exchange intends to trade both SPDRs and MidCap SPDRs when they become ITS System securities, but does not intend to trade them before that time.

With respect to trading halts, the trading of PDRs would be halted, along with trading of all other listed or traded stocks, in the event the "circuit breaker" thresholds are reached.[5] In addition, for PDRs tied to an index, while the triggering of futures price limits for the S&P 500 Composite Price Index ("S&P 500 Index"), S&P Composite Price Stock Index ("S&P 100 Index") or Major Market Index ("MMI") futures contracts will not, in themselves, result in a halt in PDR trading or a delayed opening, such an event could be considered by the Exchange, along with other factors, such as a halt in trading in S&P 100 Index Options ("OEX"), S&P 500 Index Options ("SPX"), or Major Market Index Options ("XMI"), in deciding whether to halt trading in PDRs.

The Exchange will issue a circular to its Members and Member Organizations informing them of Exchange policies regarding trading halts in such securities. For a PDR based on an index, these factors would include whether trading has been halted or suspended in the primary market(s) for any combination of underlying stocks accounting for 20% or more of the applicable current index group value; or whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

c. *Disclosure.* Proposed Rule 11.9(v) requires that Members and Member Organizations provide to all purchasers of each series of PDRs a written description of the terms and characteristics of such securities, in a form approved by the Exchange, not later than the time a confirmation of the first transaction in such series of PDRs is delivered to such purchaser. In this regard a Member or Member Organization carrying an omnibus account for a non-member broker-dealer will be required to inform such non-member that execution of an order to purchase PDRs for such omnibus account will be deemed to constitute an agreement by the non-member to make such written description available to its customers on the same terms as are directly applicable to Members and Member Organizations. The written description must be included with any sales material on that series of PDRs that a Member provides to customers or the public. Moreover, other written materials provided by a Member or Member Organization to customers or the public making specific reference to a series of PDRs as an investment vehicle must include a statement in substantially the following form: "A circular describing the terms and characteristics of [the series of PDRs] is available from your broker. It is recommended that you obtain and review such circular before purchasing [the series of PDRs]. In addition, upon request you may obtain from your broker a prospectus for [the series of PDRs]." Additionally, as noted above, the Exchange requires that Members and Member Organizations provide customers with a copy of the prospectus for a series of PDRs upon request.

Two existing PDRs, Standard & Poor's Depository Receipts ("SPDRs") and Standard & Poor's MidCap 400 Depository Receipts ("MidCap SPDRs"), are traded on the American Stock Exchange ("Amex").[6] The Exchange is not asking for permission to list SPDRs or MidCap SPDRs pursuant to unlisted trading privileges once the generic listing standards set forth herein are approved.

Pursuant to SEC Rule 12f–5, in order to trade a particular class or type of security pursuant to unlisted trading privileges, the Exchange must have rules providing for transactions in such class or type of security. The Amex has enacted listing standards for PDRs, and the Exchange's proposed rule change is designed to create similar standards for PDR listing and/or trading on the CSE. As stated above, the Exchange proposes to trade SPDRs and MidCap SPDRs pursuant to unlisted trading privileges upon approval of this rule filing.

If at a later time the Exchange and the issuer of the product desires to list SPDRs and MidCap SPDRs or any other PDRs on the Exchange, the Exchange will request SEC approval for that listing in a separate proposed rule change filed pursuant to Section 19(b) of the Act. Additionally, in the event a new PDR is listed on another exchange using listing standards that are different than current Exchange listing standards or the Exchange listing standards proposed in this filing, the Exchange will file a proposed rule change pursuant to Section 19(b) of the Act to adopt the listing standards before it trades that PDR pursuant to unlisted trading privileges.

With respect to disclosure, because SPDRs and MidCap SPDRs will be traded pursuant to unlisted trading privileges and will not be listed on the Exchange at this time, the Exchange does not intend to create its own product description to satisfy the requirements of proposed Rule 11.9(v), which requires members to provide to purchasers, a written description of the terms and characteristics of SPDRs and MidCap SPDRs in a form approved by the Exchange. Instead, the Exchange will deem a member or member organization to be in compliance with this requirement if the member delivers either (i) the current product description produced by the Amex from time to time, or (ii) the current prospectus for the SPDR or MidCap SPDR, as the case may be.[7] It will be the member's responsibility to obtain these materials directly from Amex for forwarding to purchasers in the time frames prescribed by Exchange and Commission rules. The Exchange will notify members and member organizations of this requirement in a notice to members.

The remainder of this section of the proposed rule change provides background information on SPDRs and MidCap SPDRs. The information, requested by CSE to have been copied from SR–AMEX–94–52 and SR–AMEX–92–18, describes the structure and mechanics of SPDRs and MidCap SPDRs.

d. SPDRs and MidCap SPDRs Generally. On December 11, 1992, the Commission approved Amex Rules 1000 et seq.[8] to accommodate trading on the Amex of PDRs generally. The Sponsor of each series of PDRs traded on the Amex is PDR Services Corporation, a wholly-owned subsidiary of the Amex. The PDRs are issued by a Trust in a specified minimum aggregate quantity ("Creation Unit") in return for a deposit consisting of specified numbers of shares of stock plus a cash amount.

The first Trust to be formed in connection with the issuance of PDRs was based on the S&P 500 Index, known as Standard & Poor's Depositary Receipts ("SPDRs"). SPDRs have been trading on the Amex since January 29, 1993. The second Trust to be formed in connection with the issuance of PDRs was based on the S&P MidCap 400 Index,[9] known as Standard & Poor's MidCap 400 Depositary Receipts ("MidCap SPDRs").[10] The sponsor of the two Trusts has entered into trust agreements with a trustee in accordance with Section 26 of the Investment Company Act of 1940. PDR Distributors, Inc. ("Distributor") acts as underwriter of both SPDRs and MidCap SPDRs on an agency basis. The Distributor is a registered broker-dealer, a member of the National Association of Securities Dealers, Inc., and a wholly-owned subsidiary of Signature Financial Group, Inc.[11]

E. SPDRs. The Trustee of the SPDR Trust will have the right to vote any of the voting stocks held by the Trust, and will vote such stocks of each issuer in the same proportion as all other voting shares of that issuer voted.[12] Therefore, SPDR holders will not be able to directly vote the shares of the issuers underlying the SPDRs.

The Trust will issue SPDRs in exchange for "Portfolio Deposits" of all of the S&P 500 Index securities weighted according to their representation in the Index.[13] An investor making a Portfolio Deposit into the Trust will receive a "Creation Unit" composed of 50,000 SPDRs.[14] The price of SPDRs will be based on a current bid/offer market. The Amex has designated 1/64's as the minimum increment for trading in SPDRs. The Exchange has proposed this same minimum variation for trading of SPDRs on the CSE. SPDRs will not be redeemable individually, but may be redeemed in Creation Unit size (i.e., 50,000 SPDRs). Specifically, a Creation Unit may be redeemed for an in-kind distribution of securities identical to a Portfolio Deposit.[15] PDR Distribution Services, Inc. a registered broker-dealer, will act as underwriter of SPDRs on an agency basis.

F. MidCap SPDRs. All orders to create MidCap SPDRs in Creation Unit size aggregations (which has been set at 25,000) must be placed with the Distributor, and it will be the responsibility of the Distributor to transmit such orders to the Trustee.

To be eligible to place orders to create MidCap SPDRs as described below, an entity or person either must be a participant in the Continuous Net Settlement ("CNS") system of the National Securities Clearing Corporation ("NSCC") or a Depository Trust Company ("DTC") participant. Upon acceptance of an order to create a MidCap SPDRs, the Distributor will instruct the Trustee to initiate the book-entry movement of the appropriate number of MidCap SPDRs to the account of the entity placing the order. MidCap SPDRs will be maintained in book-entry form at DTC.

Payment with respect to creation orders placed through the Distributor

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[4] CSE Rule 3.7, Recommendations to Customers, will also apply to transactions in PDRs, including SPDRs and MidCap SPDRs. That rule provides that when recommending to a customer the purchase, sale or exchange of any security, a member or member organization shall have reasonable grounds for believing that the recommendation is suitable for such customer upon the basis of the facts disclosed by such customer, after reasonable inquiry by the member or member organization, as to the customer's other securities holdings and as to the customer's financial situation and needs. Telephone conversation between Adam Gurwitz, Vice-President Legal, CSE, and Heather Seidel, Attorney, Market Regulation, Commission, on October 17, 1997.

[5] See Securities Exchange Act Release No. 38221 (January 31, 1997), 62 FR 5871 (February 7, 1997) and note 7 therein.

[6] SPDRs and MidCap SPDRs are defined and discussed more fully below.

[7] CSE plans to notify its members in a regulatory circular that members must comply with Rule 3.7, Recommendations to Customers, prior to recommending the purchase of SPDRs or MidCap SPDRs to customers. The circular will also state that members must deliver a SPDR or MidCap SPDR product description to all purchasers of the products and that they must provide the prospectus upon the request.

[8] See Securities Exchange Act Release No. 31591 (December 11, 1992), 57 FR 60253 (December 18, 1992).

[9] The S&P MidCap 400 Index is a capitalization-weighted index of 400 actively traded securities that includes issues selected from a population of 1,700 securities, each with a year-end market-value capitalization of between $200 million and $5 billion. The issues included in the Index cover a broad range of major industry groups, including industrials, transportation, utilities, and financials.

[10] See Securities Exchange Act Release No. 35534 (March 24, 1995), 60 FR 16688 (March 31, 1995).

[11] The Commission has recently approved a rule change proposal covering the trading and listing of PDRs on CHX, including SPDRs and MidCap SPDRs. See Securities Exchange Act Release No. 39038 (September 15, 1997), 62 FR 49270 (September 19, 1997) ("CHX Approval Order").

[12] The Trustee will abstain from voting if the stocks held by the Trust cannot be voted in the same proportion as all other shares of the securities are voted.

[13] A Portfolio deposit also will include a cash payment equal to a pro rata portion of the dividends accrued on the Trust's portfolio securities since the last dividend payment by the Trust plus or minus an amount designed to compensate for any difference between the net asset value of the Portfolio Deposit and the S&P 500 Index caused by, among other things, the fact that a Portfolio Deposit cannot contain fractional shares.

[14] The Trust is structured so that the net asset value of an individual SPDR should equal one-tenth of the value of the S&P 500 Index.

[15] An investor redeeming a Creation Unit will receive Index securities and cash identical to the Portfolio Deposit required of an investor wishing to purchase a Creation Unit on that particular day. Since the Trust will redeem in kind rather than for cash, the Trustee will not be forced to maintain cash reserves for redemptions. This should allow the Trust's resources to be committed as fully as possible to tracking the S&P 500 Index, enabling the Trust to track the Index more closely than other basket products that must allocate a portion of their assets for cash redemptions.

will be made by (1) the "in-kind" deposit with the Trustee of a specified portfolio of securities that is formulated to mirror, to the extent practicable, the component securities of the underlying index or portfolio, and (2) a cash payment sufficient to enable the Trustee to make a distribution to the holders of beneficial interests in Trust on the next dividend payment date as if all the securities had been held for the entire accumulation period for the distribution ("Dividend Equivalent Payment"), subject to certain specified adjustments. The securities and cash accepted by the Trustee are referred to, in the aggregate, as a "Portfolio Deposit."

G. Issuance of MidCap SPDRs. Upon receipt of a Portfolio Deposit in payment for a creation order placed through the Distributor as described above, the Trustee will issue a specified number of MidCap SPDRs, which aggregate number is referred to as a "Creation Unit." A Creation Unit is made up of 25,000 MidCap SPDRs.[16] Individual MidCap SPDRs can then be traded in the secondary market like other equity securities. Portfolio Deposits are expected to be made primarily by institutional investors, arbitrageurs, and Exchange specialists.

The Trustee or Sponsor will make available (1) on a daily basis, a list of the names and required number of shares for each of the securities in the current Portfolio Deposit; (2) on a minute-by-minute basis throughout the day, a number representing the value (on a per MidCap SPDR basis) of the securities portfon of a Portfolio Deposit in effect on such day; and (3) on a daily basis, the accumulated dividends, less expenses, per outstanding MidCap SPDR.

The Amex has set the minimum fractional trading variation for MidCap SPDRs at 1/64 of $1.00. The Exchange is proposing this same minimum variation for MidCap SPDRs.

H. Redemption of MidCap SPDRs. MidCap SPDRs in Creation Unit size aggregations will be redeemable in kind by tendering them to the Trustee. While holders may sell MidCap SPDRs in the secondary market at any time, they must accumulate at least 25,000 (or multiples thereof) to redeem them through the Trust. MidCap SPDRs will remain outstanding until redeemed or until the termination of the Trust. Creation Units will be redeemable on any business day in exchange for a portfolio of the securities held by the Trust identical in weighting and composition to the securities portion of a Portfolio Deposit in effect on the date a request is made for redemption, together with a "Cash Component" (as defined in the Trust prospectus), including accumulated dividends, less expenses, through the date of redemption. The number of shares of each of the securities transferred to the redeeming holder will be the number of shares of each of the component stocks in a Portfolio Deposit on the day a redemption notice is received by the Trustee, multiplied by the number of Creation Units being redeemed. Nominal service fees may be charged in connection with the creation and redemption of Creation Units. The Trustee will cancel all tendered Creation Units upon redemption.

I. Distributions for MidCap SPDRs. The MidCap SPDR Trust will pay dividends quarterly. The regular quarterly ex-dividend date for MidCap SPDRs will be the third Friday in March, June, September, and December, unless that day is a New York Stock Exchange holiday, in which case the ex-dividend date will be the preceding Thursday. Holders of MidCap SPDRs on the business day preceding the ex-dividend date will be entitled to receive an amount representing dividends accumulated through the quarterly dividend period preceding such ex-dividend date net of fees and expenses for such period. The payment of dividends will be made on the last Exchange business day in the calendar month following the ex-dividend date ("Dividend Payment Date"). On the Dividend Payment Date, dividends payable for those securities with ex-dividend dates falling within the period from the ex-dividend date most recently preceding the current ex-dividend date will be distributed. The Trustee will compute on a daily basis the dividends accumulated within each quarterly dividend period. Dividend payments will be made through DTC and its participants to all such holders with funds received from the Trustee.

The MidCap SPDR Trust intends to make the DTC DRS available for use by MidCap SPDR holders through DTC participant brokers for reinvestment of their cash proceeds. The DTC DRS is also available to holders of SPDRs. Because some brokers may choose not to offer the DTC DRS, an interested investor would have to consult his or her broker to ascertain the availability of dividend reinvestment through that broker. The Trustee will use cash proceeds of MidCap SPDR holders participating in the reinvestment to obtain the Index securities necessary to create the requisite number of SPDRs.[17] Any cash remaining will be distributed pro rata to participants in the dividend reinvestment.

The Exchange requests accelerated approval of the proposed rule change pursuant to Section 19(b)(2) of the Act. The Exchange believes that accelerated approval is appropriate because the listing standards proposed in the proposed rule change closely mirror both the listing standards of the primary market for SPDRs and Mid-Cap SPDRs, Amex, and the standards proposed by two other regional exchanges that have announced their intention to trade PDRs, the CHX and the Pacific Exchange. The Exchange believes its proposed rule change should be granted accelerated approval for the same reasons the Commission determined to approve the standards of those other exchanges.

2. Statutory Basis

The CSE believes that the proposed rule change is consistent with Section 6(b) of the Act[18] in general, and furthers the objectives of Section 6(b)(5) of the Act[19] in particular in that it is designed to promote just and equitable principles of trade and to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Specifically, the proposed rule change will increase competition in PDR markets by permitting Exchange members to compete for PDR order flow. By adopting the proposed rule change, the Exchange will bring the benefits of competition, including increased efficiency and price competition, to those markets.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing.

[16] PDRs may be created in other than Creation Unit size aggregations in connection with the DTC Dividend Reinvestment Service ("DRS").

[17] The Creation of PDRs in connection with DTC DRS represents the only circumstances under which PDRs can be created in other than Creation Unit size aggregations.

[18] 15 U.S.C. 78f(b).

[19] 15 U.S.C. 78f(b)(5).

Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No, SR–CSE–97–10 and should be submitted by November 19, 1997.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b)(5).[20] The Commission believes that providing for the exchange-trading on CSE of PDRs, in general, and SPDRs and MidCap SPDRs, in particular, will offer investors an efficient way of participating in the securities markets. Specifically, the Commission believes that the trading on CSE of PDRs, in general, and SPDRs and MidCap SPDRs pursuant to unlisted trading privileges, in particular, will provide investors with increased flexibility in satisfying their investment needs by allowing them to purchase and sell a low-cost security replicating the performance of a broad portfolio of stocks at negotiated prices throughout the business day, and by increasing the availability of SPDRs and MidCap SPDRs as an investment tool. The Commission also believes that PDRs will benefit investors by allowing them to trade securities based on unit investment trusts in secondary market transactions.[21] Accordingly, as discussed below, the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act that Exchange rules facilitate transactions in securities while continuing to further investor protection and the public interest.[22]

As the Commission noted in the orders approving SPDRs and MidCap SPDRs for listing and trading on Amex,[23] the Commission believes that the trading on CSE of a security like PDRs in general, and SPDRs and MidCap SPDRs in particular, which replicate the performance of a broad portfolio of stocks, could benefit the securities markets by, among other things, helping to ameliorate the volatility occasionally experienced in these markets. The Commission believes that the creation of one or more products where actual portfolios of stocks or instruments representing a portfolio of stocks, such as PDRs, can trade at a single location in an auction market environment could alter the dynamics of program trading, because the availability of such single transaction portfolio trading could, in effect, restore the execution of program trades to more traditional block trading techniques.[24]

An individual SPDR has a value approximately equal to one-tenth of the value of the S&P 500 Index, and an individual MidCap SPDR has a value of approximately one-fifth of the value of the S&P MidCap 400 Index, making them more available and useful to individual retail investors desiring to hold a security replicating the performance of a broad portfolio of stocks. Accordingly, the Commission believes that trading of SPDRs and MidCap SPDRs on CSE will provide retail investors with a cost efficient means to make investment decisions based on the direction of the market as a whole and may provide market participants several advantages over existing methods of effecting program trades involving stocks.

The Commission also believes that PDRs, in general, and SPDRs and MidCap SPDRs, in particular, will provide investors with several advantages over standard open-end S&P 500 Index and S&P MidCap 400 Index mutual fund shares. In particular, investors will have the ability to trade PDRs continuously throughout the business day in secondary market transactions at negotiated prices.[25] In contrast, pursuant to Investment Company Act Rule 22c–1,[26] holders and prospective holders of open-end mutual fund shares are limited to purchasing or redeeming securities of the fund based on the net asset value of the securities held by the fund as designated by the board of directors.[27] Accordingly, PDRs in general, and SPDRs and MidCap SPDRs in particular, will allow investors to (1) respond quickly to changes in the market; (2) trade at a known price; (3) engage in hedging strategies not currently available to retail investors; and (4) reduce transaction costs for trading a portfolio of securities.

Although PDRs in general, and SPDRs and MidCap SPDRs in particular, are not leveraged instruments, and, therefore, do not possess any of the attributes of stock index options, their prices will still be derived and based upon the securities held in their respective Trusts. In essence, SPDRs are equity securities that are priced off a portfolio of stocks based on the S&P 500 Index and MidCap SPDRs are equity securities that are price off a portfolio of stocks based on the S&P MidCap 400 Index. Accordingly, the level of risk involved in the purchase or sale of a SPDR or MidCap SPDR (or PDR in general) is similar to the risk involved in the purchase or sale of traditional common stock, with the exception that

[20] 15 U.S.C. 78f(b)(5).

[21] The Commission notes, however, that unlike open-end funds where investors have the right to redeem their fund shares on a daily basis, investors could only redeem PDRs in creation unit share sizes. Nevertheless, PDRs would have the added benefit of liquidity from the secondary market and PDR holders, unlike holders of most other open-end funds, would be able to dispose of their shares in a secondary market transaction.

[22] In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[23] See *supra* notes 8 and 10.

[24] Program trading is defined as index arbitrage or any trading strategy involving the related purchase or sale of a "basket" or group of fifteen or more stocks having a total market value of $1 million or more.

[25] Because of potential arbitrage opportunities, the Commission believes that PDRs will not trade at a material discount or premium in relation to their net asset value. The mere potential for arbitrage should keep the market price of a PDR comparable to its net asset value, and therefore, arbitrage activity likely will be minimal. In addition, the Commission believes the Trust will tract the underlying index more closely than an open-end index fund because the Trust will accept only in-kind deposits, and, therefore, will not incur brokerage expenses in assembling its portfolio. In addition, the Trust will redeem in kind, thereby enabling the Trust to invest virtually all of its assets in securities comprising the underlying index.

[26] Investment Company Act Rule 22c–1 generally requires that a registered investment company issuing a redeemable security, its principal underwriter, and dealers in that security, may sell, redeem, or repurchase the security only at a price based on the net asset value next computed after receipt of an investor's request to purchase, redeem, or resell. The net asset value of a mutual fund generally is computed once daily Monday through Friday as designated by the investment company's board of directors. The Commission granted SPDRs and MidCap SPDRs an exemption from this provision in order to allow them to trade at negotiated prices in the secondary market. The Commission notes that CSE would need to apply for a similar exemption in the instance that it wishes to list and trade a new PDR because the exemptions are specific to SPDRs and MidCap SPDRs.

[27] *Id.*

the pricing mechanism for SPDRs and MidCap SPDRs (and PDRs in general) is based on a basket of stocks. Nonetheless, the Commission has several specific concerns regarding the trading of these securities. In particular, PDRs raise disclosure, market impact, and secondary market trading issues that must be addressed adequately. As discussed in more detail below, and in the Amex Approval Order,[28] the Commission believes CSE adequately addresses these concerns.

The Commission believes that the CSE proposal contains several provisions that will ensure that investors are adequately apprised of the terms, characteristics, and risks of trading PDRs. As noted above the proposal contains four aspects addressing disclosure concerns. First, CSE members must provide their customers trading PDRs with a written explanation of any special characteristics and risks attendant to trading such PDR securities (such as SPDRs or MidCap SPDRs), in a form approved by CSE. As discussed above, CSE's filing states that SPDRs and MidCap SPDRs product descriptions should be obtained from Amex.[29] The Commission believes that it is reasonable under the Act to allow CSE to require its members to obtain the product description for SPDRs and MidCap SPDRs from Amex.[30] Amex might decide to impose a reasonable charge for this service.[31]

Second, members and member organizations must include this written product description with any sales material relating to the series of PDRs that is provided to customers or the public. Third, any other written materials provided by a member or member organization to customers or the public referencing PDRs as an investment vehicle must include a statement, in a form specified by CSE, that a circular and prospectus are available from a broker upon request. Fourth, a member or member organization carrying an omnibus account for a non-member broker-dealer is required to inform such non-member that execution of an order to purchase a series of PDRs for such omnibus account will be deemed to constitute agreement by the non-member to make the written product description available to its customers on the same terms as member firms. Accordingly, the Commission believes that investors in PDR securities, in general, and SPDRs and MidCap SPDRs, in particular, will be provided with adequate disclosure of the unique characteristics of the PDR instruments and other relevant information pertaining to the instruments. Finally, CSE's Rule 3.7, Recommendations to Customers, will apply to the trading of PDRs, including transactions in SPDRs and MidCap SPDRs.[32]

The Commission believes CSE has adequately addressed the potential market impact concerns raised by the proposal. First, CSE's proposal permits listing and trading of specific PDRs only after review by the Commission. Second, CSE has developed policies regarding trading halts in PDRs. Specifically, the Exchange would halt PDR trading if the circuit breaker parameters under CSE Rule 12.11 were reached.[33] In addition, in deciding whether to halt trading or conduct a delayed opening in PDRs, in general, and SPDRs and MidCap SPDRs, in particular, CSE represents that it will be guided by, but not necessarily bound to, whether trading has been halted or suspended in the primary market(s) for any combination of underlying stocks accounting for 20% or more of the applicable current index group value or whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

The Commission believes that the trading of PDRs in general on CSE should not adversely impact U.S. securities markets. As to the trading of SPDRs and MidCap SPDR pursuant to UTP, the Commission notes that the corpus of the SPDR Trust is a portfolio of stocks replicating the S&P 500 Index, a broad-based capitalization-weighted index consisting of 500 of the most actively-traded and liquid stocks in the U.S. The corpus of the MidCap SPDR Trust is a portfolio of stocks replicating the S&P MidCap 400 Index, also a broad-based, capitalization-weighted index consisting of 400 actively traded and liquid U.S. stocks. In fact, as described above, the Commission believes SPDRs and MidCap SPDRs may provide substantial benefits to the marketplace and investors, including, among others, enhancing the stability of the markets for individual stocks.[34] Accordingly, the Commission believes that SPDRs and MidCap SPDRs do not contain features that will make them likely to impact adversely the U.S. securities markets, and that the addition of their trading on CSE pursuant to UTP could produce added benefits to investors through the increased competition between other market centers trading the product.[35]

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[28] See *supra* note. 8.

[29] The Commission notes that, in the context of a proposed rule change by CHX to add rules for listing and trading of PDRs in general, and to trade SPDRs and MidCap SPDRs pursuant to UTP, Amex commented on CHX's proposed method regarding the delivery of the SPDR and MidCap SPDR product descriptions, and reserved the right to charge CHX members for supplying the product description should the task become burdensome to Amex. Amex did not object to the underlying policy of CHX members obtaining the product description from Amex. See CHX Approval Order, *supra* note 11.

[30] The Commission notes that the exemptions granted by the Commission under the Investment Company Act that permit the secondary market trading of SPDRs and MidCap SPDRs are specifically conditioned upon the customer disclosure requirements described above. Accordingly, CSE rules adequately ensure its members must delivery the current product description to all investors in SPDRs and MidCap SPDRs.

[31] The Commission notes that Amex would need to file a proposed rule change under Section 19(b) of the Act in the event it decides to charge a fee for supplying the SPDR or MidCap SPDR product descriptions. The Commission notes that reasonable fees would have to be imposed on the member firms rather than the customers entitled to receive the prospectus or the product description.

[32] See *supra* note. 4.

[33] In addition, for PDRs tied to an index, the triggering of futures price limits for the S&P 500 Index, S&P 100 Index, or MMI futures contracts will not, in itself, result in a halt in PDR trading or a delayed opening. However, the Exchange could consider such an event, along with other factors, such as a halt in trading in OEX, SPX, or MMI options, in deciding whether to halt trading in PDRs.

[34] Even though PDR transactions may serve as substitutes for transactions in the cash market, and possibly make the order flow in individual stocks smaller than would otherwise be the case, the Commission acknowledges that during turbulent market conditions the ability of large institutions to redeem or create PDRs could conceivably have an impact on price levels in the cash market. In particular, if a PDR is redeemed, the resulting long stock position could be sold into the market, thereby depressing stock prices further. The Commission notes, however, that the redemption or creation of PDRs likely will not exacerbate a price movement because PDRs will be subject to the equity margin requirements of 50% and PDRs are non-leveraged instruments. In addition, as noted above, during turbulent market conditions, the Commission believes PDRs and SPDRS and MidCap SPDRs, in particular, will serve as a vehicle to accommodate and "bundle" order flow that otherwise would flow to the cash market, thereby allowing such order flow to be handled more efficiently and effectively. Accordingly, although PDRs and SPDRs and MidCap SPDRs could, in certain circumstances, have an impact on the cash market, on balance we believe the product will be beneficial to the marketplace and can actually aid in maintaining orderly markets.

[35] As mentioned earlier, CSE has represented that it will not begin to trade SPDRs and MidCap SPDRs until they are eligible to trade over ITS. The Commission also reiterates its belief, expressed in the CHX Approval Order, that Amex's statements in its comment letter regarding the trading of SPDRs and MidCap SPDRs through ITS should be resolved, as the Amex letter suggests, through the proper ITS committee, not through Commission action on the CHX (or this) proposal. The Commission does not want to suggest that Amex's concerns are unfounded, but only that the proper venue for their resolution is the proper ITS committee, not the Rule 19b–4 process. See *supra* note 11.

Finally, the Commission notes that CSE has submitted surveillance procedures for the trading of PDRs, specifically SPDRs and MidCap SPDRs, and believes that those procedures, which incorporate and rely upon existing CSE surveillance procedures governing equities, are adequate under the Act.

The Commission finds that CSE's proposal contains adequate rules and procedures to govern the trading of PDR securities, including trading SPDRs and MidCap SPDRs pursuant to UTP. Specifically, PDRs are equity securities that will be subject to the full panoply of CSE rules governing the trading of equity securities on CSE, including, among others, rules governing the priority, parity and precedence of orders and the responsibilities of specialists. In addition, CSE has developed specific listing and delisting criteria for PDRs that will help to ensure that the markets for PDRs will be deep and liquid. As noted above, CSE's proposal provides for trading halt procedures governing PDRs. Finally, the Commission notes that CSE has stated that Rule 3.7, Recommendations to Customers, will apply to the trading of PDRs in general, and SPDRs and MidCap SPDRs, in particular.

The Commission finds good cause for approving the proposed rule change prior the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission believes that accelerated approval of the proposal is appropriate because it is very similar to CHX's previously approved proposal covering the listing and trading of PDRs in general, and SPDRs and MidCap SPDRs, in particular.[36] As such, the Commission believes that the proposed rule change does not raise any new regulatory concerns or issues.

It is therefore ordered, pursuant to Section 19(b)(2)[37] that the proposed rule change is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[38]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–28572 Filed 10–28–97; 8:45 am]

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[36] See *supra* note 11.

[37] 15 U.S.C. 78s(b)(2).

[38] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39286; File No. SR–NASD–97–42]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Approval to Proposed Rule Change to Amend NASD Rule 2320(g) to Provide Authority to the Staff of NASD Regulation to Grant Exemptions From Such Provision

October 22, 1997.

I. Introduction

On June 17, 1997, the National Association of Securities Dealers, Inc. ("NASD" or "Association") submitted to the Securities and Exchange commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend NASD Rule 2320(g) to provide the staff of NASD Regulation authority to grant exemptions from such provision.

Notice of the proposed rule change, together with the substance of the proposal, was published for comment in Securities Exchange Act Release No. 38936 (August 14, 1997), 62 FR 44503 (August 21, 1997). Two comment letters were received on the proposal.[3]

II. Description

NASD Rule 2320(g) ("The Three Quote Rule" or "Rule") was adopted on May 2, 1998[4] as an amendment to the NASD's best execution interpretation[5] under Article III, Section 1 of the NASD's Rules of Fair Practice.[6] The Three Quote Rule was adopted in connection with the NASD's efforts to develop a nationwide automated market surveillance program for non-Nasdaq, over-the-counter ("OTC") securities, commonly referred to as "pink sheet" stocks, and was designed to create a standard to help assure that members would fulfill their best execution responsibilities to customers in non-Nasdaq securities, especially transactions involving relatively illiquid securities with non-transparent prices.

The Rule expanded a member's best execution obligation to customers by setting forth additional requirements for customer transactions in non-Nasdaq securities. In particular, the Rule requires members that execute transactions in non-Nasdaq securities on behalf of customers to contact a minimum of three dealers (or all dealers if there are three or less) to obtain quotations to enable them to determine the best inter-dealer market. Each member is generally required to use reasonable diligence to ascertain this best inter-dealer market for a security, and to buy or sell in that market so that the resultant price to the customer is as favorable as possible under prevailing market conditions.[7]

Concurrent with these activities, the Commission also approved Schedule H to the NASD's By-Laws, which established an electronic system of mandatory price and volume reporting for the OTC non-Nasdaq securities.[8] On May 1, 1990, the Commission issued an order approving the operation of the NASD's OTC Bulletin Board Display Service ("OTC Bulletin Board") for a pilot term of one year.[9] The NASD introduced the OTC Bulletin Board to allow NASD eligible members to enter, update and retrieve quotation information on a real-time basis in non-Nasdaq securities.[10]

Since the establishment of the OTC Bulletin Board, significant market, regulatory and technology related improvements have occurred in the non-Nasdaq marketplace.[11] In

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[1] 15 U.S.C. 78s(b)(1)

[2] 17 CFR 240.19b–4.

[3] See letter from Leonard Mayer, President, Mayer & Schweitzer, Inc., to Jonathan G. Katz, Secretary, Commission, dated September 12, 1997 ("Mayer letter"), and letter from Paul Chalmers, Senior Vice President, International Trading, Canaccord Capital, to Jonathan G. Katz, Secretary, Commission, dated September 17, 1997 ("Canaccord letter").

[4] See Securities Exchange Act Release No. 25637 (May 2, 1988), 53 FR 16485 (May 9, 1988).

[5] "Interpretation of the Board of Governors—Execution of Retail Transactions in the Over-the-Counter Market."

[6] The best execution interpretation in Article III, Section 1 of the NASD's Rules of Fair Practice was converted into NASD Rule 2320 in connection with the NASD's Manuel revision project. See Securities Exchange Act Release No 38008 (January 11, 1998), 61 FR 1419 (January 19, 1996.)

[7] See NASD Rule 2320(a).

[8] Schedule H of the By-laws required NASD members executing principal transactions in non-Nasdaq securities to report price and volume data for the days on which their sales or purchases exceeded 50,000 shares or $10,000. In 1993, member obligations under Schedule H were modified or eliminated as a result of the NASD adopting real-time reporting of transactions for non-Nasdaq securities. See Securities Exchange Act Release No. 32647 (July 16, 1993), 58 FR 39262 (July 22, 1993).

[9] On March 31, 1997, the SEC granted permanent approval of the OTC Bulletin Board. See Securities Exchange Act Release No. 38456 (March 31, 1997), 62 FR 16635 (April 7, 1997).

[10] See Securities Exchange Act Release No. 27975 (May 1, 1990), 55 FR 19123 (May 8, 1990).

[11] These changes include: requiring that all priced quotations entered by market makers in domestic securities be firm for at least one trading unit (see Securities Exchange Act Release No. 29261 (May 31, 1991), 56 FR 29297 (June 26, 1991)); calculating inside quotes for individual securities and disseminating this information through vendors;

Continued

particular, the NASD has implemented enhancements to the OTC Bulletin Board to increase the reliability of information contained therein. Most recently, in July 1993, the Commission approved an NASD rule change to implement real-time trade reporting for members' OTC transactions in certain non-Nasdaq equity securities,[12] and in April 1994, the NASD commenced realtime dissemination of transaction reports through the Nasdaq network and the networks of commercial vendors, providing member firms and their customers access to last-sale price and volume information for these securities throughout the business day.

The OTC Bulletin Board meets the requirements of an "automated quotation system" as the characteristics of such system Ware described in Section 17B of the Exchange Act.[13] As such, the OTC Bulletin Board has assisted NASD broker-dealers in complying with certain disclosure regulations under Section 15(g) of the Exchange Act ("the Penny Stock Rules").[14] The OTC Bulletin Board was also designed to help deter fraudulent and manipulative trading practices in penny stocks,[15] in part through real-time transaction reporting. Technological improvements to the OTC Bulletin Board have enhanced the NASD's surveillance capabilities to, among other things, permit computerized analyses of market markers' quotation entries and reported transactions.

The proposed change to Rule 2320(g) will provide for general exemptive authority under the Rule. The NASD Regulation staff, upon written request and taking into consideration all relevant factors, will be able to exempt from Rule 2320 any transaction or class of transactions, either unconditionally or on specified terms, if the exemption is consistent with the purposes of the Rule, protection of investors and the public interest. The decision may be appealed to the National Business Conduct Committee ("NBCC"). NASD Regulation has not yet determined whether any particular class of transactions should be exempted.

The NASD noted in its filing that the staff could consider, in determining whether to grant an exemptive request: (1) The number of firms publishing firm quotations and the period of time during which such quotations were published; (2) the size of the customer order in relation to the minimum size of the market makers' quotations; (3) the transaction volume of the security in question; and (4) the number of dealers publishing quotations through an electronic quotation medium in comparison to dealers in the security that do not publish such quotes. The NASD also stated that it expects the range of circumstances in which exemptions may be granted would be limited to those circumstances in which it can be shown that the Three Quote Rule would, in fact, hinder a member's best execution obligation.

The Office of the General Counsel of NASD Regulation ("the Office") will be responsible for strict compliance with discharging this exemptive authority. Member broker-dealers will be instructed to submit all requests for exemptions to the Office and will be required to limit the requests to actual contemplated transactions or situations. The NASD Regulation staff will not provide exemptions in response to hypothetical situations or transactions. The request should be detailed and include all relevant information necessary for the staff to reach a determination on the request. If a particular exemption involves a particular class of transactions or class of customers that may be relevant to other member broker-dealers, the NASD Regulation staff will also publish such results to the membership through a Notice to Members or similar publication or broadcast. NASD Regulation staff determinations will be subject to review by the NBCC.

III. Summary of Comments

The Commission received two comment letters on the proposal, both of which supported the proposal. One commenter supported the ability of the NASD Regulation staff to have discretionary authority to grant, where appropriate, exemptions from the Three Quote Rule both for a particular fact situation or as to a class of securities or transactions.[16] Both commenters agreed that in certain situations the Three Quote Rule may hinder, rather than help, a firm in meeting its best execution obligations. One commenter stated that, in particular, the exemption should be available for foreign securities and agreed with the reasoning in the proposing release.[17]

IV. Discussion

The Commission believes that the proposed rule change is consistent with Sections 15A(b)(6)[18] and 15A(b)(9)[19] of the Exchange Act. Section 15A(b)(6) requires that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to remove impediments to and perfect the mechanism of a free and open market and a national market system and in general to protect investors and the public interest. Section 15A(b)(9) requires that rules of an association not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.[20]

The Commission believes that the proposed rule change is consistent with the Exchange Act because it will give NASD Regulation the authority to grant exemptions from the Three Quote Rule in situations where complying with the rule would hinder, rather than assist, best execution. The Commission believes that providing general exemptive authority under the Rule is appropriate in order to provide flexibility to respond to changing market conditions and to particular fact situations,[21] as well as instances when certain classes of transactions or certain securities on OTC Bulletin Board may warrant an exemption from the Three Quote Rule.

The Commission notes that one situation where exemptive relief might be applied would be trading in certain foreign securities.[22] In some circumstances the foreign exchange market may constitute the best market for the securities that are listed on that market, and the time delay involved in contacting three dealers in advance of a customer transaction could hinder obtaining the best execution for the customer.

The Commission believes that the exemptive process provided by the rule change is reasonable under the Exchange Act. The Commission stresses that the NASD Regulation staff would not be able to grant an exemption (either for a particular market maker in a particular security, or for all market makers in a particular security or a class of securities) unless a market maker can demonstrate that adherence to the Rule could serve as an impediment to satisfying its best execution obligations with regard to a particular situation. The NASD Regulation Staff will not provide exemptions in response to hypothetical situations. The Commission also notes that if a particular exemption involves a particular class of transactions or class of customers that may be relevant to other member broker-dealers. The NASD Regulation staff will also publish such results to the membership through a Notice to Members or similar publication or broadcast. Further, the Commission notes that the grant of an exemption to the Three Quote Rule should not in any way limit a member's best execution obligation. Finally, the NASD Regulation staff determinations are subject to review by the NBCC.[23]

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[24] that the proposed rule change (SR–NASD–97–42) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[25]

[FR Doc. 97–28627 Filed 10–28–97; 8:45 am]

BILLING CODE 8010–01–M

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and establishing larger minimum-size requirements for market makers' quotes in domestic securities.

[12] See Securities Exchange Act Release No. 32647 (July 16, 1993), 58 FR 38262 (July 22, 1993).

[13] On October 15, 1990, the Securities Enforcement Remedies and Penny Stock Reform Act of 1990 ("Reform Act") was signed into law. Among other things, the Reform Act amended the Exchange Act by adding Section 17B, which requires the Commission to facilitate the development of one or more automated quotation systems for the collection and dissemination of information for penny stocks.

[14] See Rules 15g–1 through 15g–9 under the Exchange Act, 17 CFR 240.15g–1 through 240.15g–9.

[15] "Penny Stock" is defined under Rule 3a51–1 of the Exchange Act, 17 CFR 240.3a51–1.

[16] See Mayer letter, *supra* note 3.

[17] See Canaccord letter, *supra* note 3.

[18] 15 U.S.C. 78o–3(b)(6).

[19] 15 U.S.C. 78O–3(b)(9).

[20] In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[21] In its proposal, the NASD stated that some member broker-dealers who are active in the non-Nasdaq market claim that adherence to the three quote requirement may, in certain situations, have a negative impact on a member's ability to satisfy its best execution obligations, due to time delays involved in contacting and collecting quotations from three separate dealers. In addition, the NASD noted that some members question whether the Three Quote Rule should continue to apply to all customer transactions in non-Nasdaq securities in light of the technological and regulatory improvements to the non-Nasdaq marketplace and to the OTC Bulletin Board, over the past seven years. However, there are many non-Nasdaq securities that only trade in the Pink Sheets.

[22] The Three Quote Rule applies to transactions in all non-Nasdaq securities. A non-Nasdaq security is defined in NASD Rule 6710 as "any equity security that is neither included in the Nasdaq Stock Market nor traded on any national securities exchange * * *. Therefore, the rule by its terms applies to tranisactions effected on any foreign exchange. The term "national securities exchange" is not defined in NASD rules, but the requirements to qualify are set forth in Sections 6(a) and 19(a) of the Exchange Act.

[23] After the NASD gains experience with this exemptive authority, the Commission expects the NASD to codify, to the extent possible, exceptions to the Rule. In particular, the NASD should amend the rule to incorporate exemptions provided to broad classes or types of transactions.

[24] 15 U.S.C. 78s(b)(2).

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39284; File No. SR–NYSE–97–26]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Listing Fees for Short-Term Instruments

October 22, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 18, 1997, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is published this notice to solicit comments on the proposed rule change from interested persons. The Commission is also granting accelerated approval to this proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend its rule regarding listing fees for short-term instruments contained in Paragraph 902.03 of the Listed Company Manual. Currently, the Exchange charges reduced listing fees for short term instruments with terms of less than five years. Pursuant to the proposed rule change, the Exchange will charge such reduced listing fees for instruments with a term of up to seven years.

The Exchange requests the Commission to find good cause, pursuant to Section 19(b)(2) of the Act, for approving the proposed rule change prior to the thirtieth day after publication in the **Federal Register** because this rule change will benefit issuers and investors by reducing listing fees on certain short-term instruments and that accelerated approval will provide such benefits in an expedited fashion.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. *Purpose*

The Exchange has listing standards for a variety of short-term special purpose securities (*e.g.*, index warrants, foreign current warrants, contingent value rights). By their terms, these are instruments that will be listed on the Exchange for only a short period of time. Accordingly, in 1990 the Exchange adopted reduced listing fees for such short-term securities and defined such securities as having a term of less than five years.[1] Issuers now are seeking to list special purpose securities with a life of up to seven years. Thus, the purpose of this filing is to amend the definition of short-term securities to cover securities with a life of seven years or less. This effectively will reduce the listing fees for instruments with a term of five to seven years.

2. *Statutory Basis*

The Exchange believes that the basis under the Act for this proposed rule change is the requirement under Section 6(b)(4)[2] that an exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were either solicited or received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W.,

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[1] File No. SR–NYSE–91–01.

[2] 15 U.S.C. 78f(b)(4).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–NYSE–97–26 and should be submitted by November 19, 1997.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the NYSE's proposed rule change is consistent with the requirements of Section 6(b) of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(4) of the Act[3] which provides that an exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.[4] The Commission believes that the proposed rule change to amend the definition of short-term security, for purposes of listing fees only, is reasonable because it could help benefit issuers and investors by reducing listing fees on certain short-term products. The Commission notes that the NYSE has represented that this proposed change would not effect any other NYSE rules.[5]

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission believes that accelerated approval of the proposal is appropriate because it will provide benefits to investors in an expedited way. Further, the Commission believes that the proposed rule change does not raise any new regulatory issues.

[3] 15 U.S.C. 78f(b)(4).

[4] In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[5] Telephone conversation between Vincent A. Pettosi, Assistant Vice President, NYSE, and Heather Seidel, Attorney, Market Regulation, Commission, on October 7, 1997.

It is therefore ordered, pursuant to Section 19(b)(2)[6] that the proposed rule change is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–28569 Filed 10–28–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39262; File No. SR–NYSE–97–29]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by New York Stock Exchange, Inc., Relating to Subsequent Listing Applications

October 21, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 17, 1997, the New York Stock Exchange, Inc. ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NYSE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE is proposing to amend the form of listing application for companies seeking, among other things, to list additional securities on the Exchange or seeking to make changes in securities already listed. The proposed rule change will change the format of the listing application into that of a memorandum and will remove from the application information not necessary for the Exchange to review in analyzing the transaction and authorizing the listing.

The text of the proposed rule change is available at the Office of the Secretary, NYSE, and at the Commission.

[6] 15 U.S.C. 78s(b)(2).

[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In this filing with the Commission, the NYSE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NYSE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Under Section 7, ¶ 703.01 of the Listed Company Manual, NYSE-listed companies must apply for Exchange approval to list additional securities (such as additional shares of common stock the company may be issuing), to make changes in a listed security (such as with respect to a company's name change or change in state of incorporations), or to list securities that could be issued upon conversion of other securities. These subsequent listing applications generally are routine in nature. In 1995 and 1996, the Exchange authorized over 1805 and 2160 subsequent listing applications, respectively.

The NYSE believes that the current listing application format, as provided in Section 9, ¶ 903.02 of the Listed Company Manual, is cumbersome and requires companies to provide information beyond that necessary for the Exchange to analyze the transaction and authorize the listing of the securities. This proposed rule change would simplify the application process by changing the form of the application to a "memorandum format" and removing the requirement to provide information beyond that necessary to analyze the transaction and authorize the listing. Companies still would be required to submit all relevant supporting documents, such as a Commission registration statement and an opinion of counsel.

2. Basis

The Exchange believes that the basis under the Act for the proposed rule change is the requirement under Section 6(b)(5)[3] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

[3] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; (3) does not become operative for 30 days from the date of its filing; and (4) the Exchange provided the Commission with notice of its intent to file the proposed rule change at least five days prior to the filing date, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)[4] of the Act and Rule 19b–4(e)(6)[5] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filings will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to the File No. SR–NYSE–97–29 and should be submitted by November 19, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–28570 Filed 10–28–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34– 39265; File No. SR–PCX–97–22]

Self-Regulatory Organizations; Pacific Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to the Trading of FLEX Index Options and LEAPS on the Dow Jones & Co. Taiwan Index

October 22, 1997

I. Introduction

On June 9, 1997, the Pacific Exchange, Inc. ("PCX " or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b-4 thereunder,[2] a proposed rule change to amend its rules to allow the trading of Flexible Exchange Options ("FLEX Options") and long-term index option series ("LEAPS") on the Dow Jones & Co. Taiwan Index ("Taiwan Index" or "Index").[3]

The proposed rule change was published for comment in the **Federal Register** on August 18, 1997.[4] No comments were received on the proposal. This order approves the proposal.

[6] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Commission previously approved the trading of standardized cash-settled, European-style stock index options on the Taiwan Index on December 23, 1996. See Securities Exchange Act Release No. 38081, 62 FR 136 (January 2, 1997) (order approving File No. SR–PSE–96–40). The Taiwan Index is a broad-based index, comprised of 113 representative stocks traded on the Taiwan Stock Exchange.

[4] See Securities Exchange Act Release No. 38930 (August 11, 1997), 62 FR 44027.

II. Description of the Proposal

The Commission previously approved the Exchange's proposal to allow trading in FLEX Options on the Wilshire Small Cap and PSE Technology Indexes.[5] FLEX Options give investors the ability, within specified limits, to designate certain of the terms of the options. In recent years, an over-the-counter ("OTC") market in customized options has developed which permits participants to designate the basic terms of the options, including size, term to expiration, exercise style, exercise price, and exercise settlement value, in order to meet their individual investment needs. Participants in the OTC market are typically institutional investors, who buy and sell options in large-size transactions through a relatively small number of securities dealers. To compete with this growing OTC market in customized options, the PCX permits FLEX index options trading with the Options Clearing Corporation ("OCC") as issuer and guarantor.[6]

The PCX now proposed to amend its Rules 8.100 and 8.102[7] to permit the trading of FLEX Options based on the same Dow Jones & Co. Taiwan Index previously approved for standardized non-Flex options trading.[8] The PCX's proposal will allow FLEX Option market participants to designate the following contract terms for FLEX Options on the Taiwan Index: (1) exercise price; (2) exercise style (*i.e.*, American,[9] European,[10] or capped [11]);

[5] See Securities Act Release No. 34364 (July 13, 1994), 59 FR 36813 (July 19, 1994) (order approving File No. SR–PSE–93–13) ("Wilshire/PSE Technology Order").

[6] The Commission has previously designated FLEX Index Options as standardized options for the purpose of the options disclosure framework established under Rule 9b-1 of the Act. See Securities Exchange Act Release No. 31910 (February 23, 1993), 58 FR 12056 (March 2, 1993). In addition, the Commission has approved the listing by the PCX of FLEX Index Options on the Wilshire Small Cap and PSE Technology Indexes. See Wilshire/PSE Technology Order, *supra* note 5.

[7] These rules currently allow the Exchange to trade FLEX Index Options on the Wilshire Small Cap Index and the PSE Technology Index. The PCX has proposed to set position and exercise limits for FLEX options on the Index at 200,000 contracts, as set forth in PCX Rule 8.107. This is the same FLEX position and exercise limits established for the Wilshire Small Cap and PSE Technology Indexes.

[8] See *supra* note 3.

[9] An American-style option is one that may be exercised at any time on or before the expiration date.

[10] A European-style option is one that may be exercised only during a limited period of time prior to expiration of the option.

[11] A capped-style index option is one that is automatically exercised prior to expiration when the cap index value is less than or equal to the index value for calls or when the cap index value is greater than or equal to the index value for puts.

(3) Expiration date;[12] (4) option type (put, call, or spread); and (5) form of settlement (A.M., P.M. or average). These terms are identical to the terms that can be designated for the previously approved PCX FLEX Index Options.[13]

The Exchange also proposes to list and trade full-value LEAPS, pursuant to PCX Rule 6.4(d), on the Index.[14] LEAPS on the Index will allow the PCX to list options series with expirations of up to three years from the date of issuance. For LEAPS, the underlying value would be computed by using the same levels as proposed for the Index options.[15]

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[16] Specifically, the Commission believes the proposal is consistent with the requirements of Section 6(b)(5) of the Act[17] because trading of FLEX Options and LEAPS on the Taiwan Index will serve to protect investors, promote the public interest, and help to remove impediments to a free and open securities market. The Commission also believes that the trading of FLEX Options and LEAPS on the Index will provide investors with more flexibility in hedging the risks associated with holding some or all of the securities underlying the Index.[18] By broadening the hedging and investment opportunities of investors, the Commission believes that the trading of FLEX Options and LEAPS on the Index will serve to protect investors, promote the public interest, and contribute to the maintenance of fair and orderly markets.

In particular, as noted above, FLEX Options on the Index will allow investors to customize certain terms, including size, term to expiration, exercise style, exercise price, and exercise settlement value.[19] LEAPS should also benefit investors by allowing them to hedge positions on the Index on a longer term basis through investment in one options series, rather than having to roll shorter term expirations into new series to remain hedged on a longer basis.

The Commission notes that the Taiwan Index was thoroughly reviewed recently in connection with the Exchange's proposal to list and trade standardized, non-FLEX options based on the Index.[20] At that time, the Commission found that the Exchange had adequately addressed the Commission's concerns arising from issues relating to the design and structure of the Index, customer protection and surveillance. The Commission's findings relied on several factors, including the large capitalizations, substantial trading volume, wide diversity of the component stocks in the Taiwan Index and the size of the market underlying the Index.[21]

The Commission believes that it is reasonable for the Exchange to allow trading in FLEX Options and LEAPS based on this Index given that, to the Commission's knowledge, there have been no significant, adverse changes to the Index to date that would change the Commission's initial findings approving the trading of options on the Index. For the foregoing reasons, the Commission finds that the PCX's proposal to trade FLEX Options and LEAPS based on the Taiwan index is consistent with the requirements of the Act and the rules and regulations thereunder.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[22] that the proposed rule change (SR–PCX–97–22) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[23]

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[12] The expiration date of a FLEX Option may not fall on a day that is on, or within two business days, of the expiration date of a non-FLEX option.

[13] See *supra* note 5.

[14] The Exchange is not proposing to trade reduced-value LEAPS on the Dow Taiwan index.

[15] Telephone conversation on October 8, 1997 between Michael Pierson, Senior Attorney, PCX, and Deborah Flynn, Attorney, Division of Market Regulation, Commission.

[16] In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[17] 15 U.S.C. 78f(b)(5).

[18] Pursuant to Section 6(b)(5) of the Act, the Commission must predicate approval of any new securities product upon a finding that the introduction of such product is in the public interest. Such a finding would be difficult with respect to a product that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns.

[19] The Commission believes that the proposal to trade FLEX Options on the Taiwan Index should also encourage fair competition by allowing the Exchange to compete with the growing OTC market in customized index options to address the demands of sophisticated portfolio managers and other institutional investors who are increasingly relying on the OTC market to satisfy their hedging needs.

[20] See *supra* note 11.

[21] *Id.*

[22] 15 U.S.C. 78s(b)(2).

[23] 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 97–28568 Filed 10–28–97; 8:45 am]
BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of Reporting Requirements Submitted for Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Comments should be submitted on or before November 28, 1997. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Jacqueline White, Small Business Administration 409 3RD Street, S.W., 5th Floor, Washington, D.C. 20416, Telephone: (202) 205–6629.

OMB Reviewer: Victoria Wassmer, Office of Information and Regulatory, Affairs Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

Title: Procurement Automated Source System (PASS).

Form No's: SBA Forms 1062 and 1395.

Frequency: On Occasion.

Description of Respondents: Small Business Interested in Federal Procurement Opportunities.

Annual Responses: 242,000.

Annual Burden: 47,333.

Jacqueline White,
Chief, Administrative Information Branch.

[FR Doc. 97–28677 Filed 10–28–97; 8:45 am]
BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Actions on Exemption Applications

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Notice of actions on exemption applications.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the actions on exemption applications in January–June 1997. The modes of transportation involved are identified by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions. It should be noted that some of the sections cited were those in effect at the time certain exemptions were issued.

Issued in Washington, DC, on October 14, 1997.

J. Suzanne Hedgepeth,
Director, Office of Hazardous Materials, Exemptions and Approvals.

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		MODIFICATION EXEMPTIONS		
3216–M	DOT–E 3216	E.I. DuPont de Nemours & Co., Wilmington, DE.	49 CFR 173.314(C0	Authorizes the use of DOT Specification 110A300W tank car tank for transportation of certain compressed gases. (Modes 1, 3.)
6971–M	DOT–E 6971	Chem Service, Inc., West Chester, PA.	49 CFR Parts 100–199	Authorizes the transport of small quantities of reagent chemicals in inside glass bottles packed in metal boxes overpacked in a strong wooden or fiberboard box. (Modes 1, 2, 3, 4, 5.)
7280–M	DOT–E 7280	U.S. Department of Defense, Falls Church, VA.	49 CFR 176.905(c), 176.905(d).	Authorizes fuel tanks to be ¾ full instead of ¼ full and vehicles to be transported with battery cables connected if the holds or compartments of a vessel in which vehicles are loaded are mechanically ventilated. (Modes 3, 4.)
7657–M	DOT–E 7657	Walker Engineering Co., Sugar Land, TX.	49 CFR 173.119, 173.302(a)(1), 173.304(a)(1), 173.304(b)(1), 175.3, 178.42.	Authorizes the manufacture, marking and sale of non–DOT specification cylinders, for transportation of certain compressed gases. (Modes 1, 2, 3, 4.)
8451–M	DOT–E 8451	U.S. Department of Energy, Washington, DC.	49 CFR 173.3, 173.52, 173.54, 173.60, 174.3, 175.3, 177.801.	Authorizes the transport of not more than 25 grams of high explosives and pyrotechnic materials in a special shipping container. (Modes 1, 2, 4.)
9830–M	DOT–E 9830	Worthing Cylinder Corp., Columbus, OH.	49 CFR 173.302(a), 173.304(a), 173.304(d), 175.3, 178.51–10(a), 178.51–11, 178.51–19, 178.51–20, 178.51–5.	Authorizes manufacture, marking and sale of non-DOT specification stainless steel cylinders to transport those materials authorized in DOT Specification 4BA cylinders. (Modes 1, 2, 4.)
9909–M	DOT–E 9909	Taylor-Wharton, Harrisburg, PA.	49 CFR 173.301(h), 173.302, 173.304, 173.34(a)(1), 175.3, 178.37.	Authorizes the manufacture, marking and sale of non-DOT specification steel cylinder complying in part with DOT–3AA specification for transportation of certain flammable and nonflammable gases. (Modes 1, 2, 3, 4.)
9998–M	DOT–E 9998	Accumulators, Inc., Houston, TX.	49 CFR 173.302(a)(1), 175.3.	Authorizes the shipment of nitrogen in hydraulic accumulators. (Modes 1, 2, 3, 4.)
10131–M	DOT–E 10131	FOMO Products Inc., Norton, OH.	49 CFR 173.1200(a)(8), 173.305(c), 173.306(a)(3), 178.33a.	Authorizes the transport of certain hazardous materials in a container conforming with the DOT Specification 2Q except for size, marking and test. (Modes 1, 2, 3.)
10147–M	DOT–E 10147	EFI Corp., Fremont, CA	49 CFR 173.302(a)(1), 173.304(a)(1), 175.3.	Authorizes the manufacture, marking and sale of non-DOT Specification, fiber reinforced plastic, full composite cylinders for shipment of certain Division 2.1 and Division 2.2 gases. (Modes 1, 2, 3, 4.)
10517–M	DOT–E 10517	Nalco Chemical Co., Naperville, IL.	49 CFR 173.32(e)(1)(ii)	Authorizes the retesting of DOT Specification 57 portable tanks fabricated of stainless steel at five year intervals. (Modes 1, 2, 3.)
10741–M	DOT–E 10741	Northern Natural Gas Co., West Des Moines, IO.	49 CFR 178.36–2 thru 178.36–18.	Authorizes the use of a non-DOT specification cylinder comparable to a 3AX cylinder for use transporting compressed natural gas. (Mode 1.)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10803–M	DOT–E 10803	Westinghouse Electric Corporation, Pittsburgh, PA.	49 CFR 172.203(a), 177.834(1)(2)(i).	Authorizes the use of motor vehicles, equipped with specific diesel-operated heating equipment, engaged in the transportation of certain Class 3 liquids or gases. (Mode 1.)
10929–M	DOT–E 10929	Conrail, Philadelphia, PA	49 CFR 174.67(i) and (j)	Authorizes tank cars, containing various classes of hazardous materials to remain standing with unloading connection attached when no product is being transferred, provided that minimal level of monitoring is maintained. (Mode 2.)
10962–M	DOT–E 10962	International Compliance Center Ltd., Niagara Falls, NY.	49 CFR 172, Subpart E & F, Part 177, Subpart C.	Authorizes the transportation of materials which require the DANGEROUS WHEN WET label in motor vehicles which are not placarded DANGEROUS WHEN WET, subject to the limitation and special requirements. (Mode 1.)
11005–M	DOT–E 11005	Pressure Technology, Inc., Hanover, MD.	49 CFR 173.302(a), 173.304(a) (d), 175.3.	Authorizes the manufacture, marking and sale of non-DOT specification fiber reinforced plastic (FRP) full composite (FC) aluminum cylinders for the transportation of certain compressed gases. (Modes 1, 2, 3, 4, 5.)
11005–M	DOT–E 101005	Pressure Technology, Inc., Hanover, MD.	49 CFR 173.302(a), 173.304(a) (d), 175. 3.	Authorizes the manufacture, marking and sale of non-DOT specification fiber reinforced plastic (FRP) full composite (FC) aluminum cylinders for the transportation of certain compressed gases. (Modes 1, 2, 3, 4, 5.)
11171–M	DOT–E 11171	Dart Container Corp. of PA, Leola, PA.	49 CFR 173.35(b)	To authorize the transport of reused flexible bulk bags, comparable to those presently authorized, for use in transporting polystyrene beads, expandable, Class 9. (Mode 1.)
11180–M	DOT–E 11180	HMT Associates, Washington, DC.	49 CFR 173.24(c), Part 172, Subparts D, E and F, Part 173, Subparts E and F, Part 178.	Authorizes the transportation of metal tubing which contain hazardous materials assigned to Division 4.3, Packaging Group III, or Division 6.1, Packaging Group III, respectively, and excepts them from the packaging, marking, labeling, and placarding requirements of Hazardous Materials Regulations. (Modes 1, 2, 3.)
11186–M	DOT–E 11186	Cryenco, Inc., Denver, CO	49 CFR 173.318	Authorizes the manufacture, mark and sell of a cryogenic portable tank of SA–240 316L construction, comparable to MC–338, equipped with safety relief valve with 250 psig for use in transposting hazardous materials classed in Division 2.1 and 2.2. (Modes 1, 2, 3.)
11267–M	DOT–E 11267	TPOPAZ International Program, Albuquerque, NM.	49 CFR 173.240, 173.241, 173.242, 173.244.	Authorizes the transportation of a Topaz II unit which contains Division 4.3 and 4.1 solid substances together in a specially designed metal container. (Mode 1.)
11298–M	DOT–E 11298	Reilly Industries, Inc., Indianapolis IN.	49 CFR 174.67(i) and (j)	Authorizes tank cars, containing certain hazardous materials, to remain standing with unloading connections attached when no product is being transferred, provided that a minimal level of monitoring is maintained. (Mode 2.)
11321–M	DOT–E 11321	E.I. du Pont de Nemours & Company, Inc., Wilmington, DE.	49 CFR 172.101 column 7 Special Provision B14 and T38.	To authorize the transportation of uninsulated DOT specification cargo tanks and portable tanks containing titanium tetroachloride which is poisonous by inhalation. (Mode 1.)
11458–M	DOT–E 11458	Creative Products Inc. of Rossville, Rossville, IL.	49 CFR 172.203(a), 173.150(b), 173.152(b), 173.154(b), 173.155(b), 173.306(a) & (h), Part 107, Subpart B, Appendix B, Part 107, Subpart B, Appendix B.	To authorize the transportation in commerce of consumer commodities eligible for reclassification as ORM–D in pallet-sized display packs that exceed the gross weight limit for limited quantity packages. (Mode 1.)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11490–M	DOT–E 11490	Lockheed Martin Corp., Princeton, NJ.	49 CFR 173.31(a)(4), 179.300–15.	Authorizes the one-time transportation of methylhydrazined, Class 8 material in DOT Specification 110A500W multi-unit tank car tanks which are not fitted with a pressure relief device and Class 8 in DOT-specification 110A500W multi-unit tank cars not equipped with pressure relief devices. (Modes 1, 3.)
11504–M	DOT–E 11504	Livonia Avon & Lakeville Railroad Corp., Cohocton, NY.	49 CFR 172.203(a), 172.302–(c), 174.85(d), Part 107, Appendix B, Subpart B.	Authorizes the transportation of certain Class 8 and Division 2.2 materials separated, in train, from an occupied locomotive by a locomotive with batteries disconnected and in tow. (Mode 2.)
11506–M	DOT–E 11506	OEA, Inc., Denver, CO	49 CFR 173.301(h), 173.306(d)(3)(i), 178.65–11(a), 178.65–3(a), 178.65–9(b).	Authorizes the manufacture, marking and sale of non-DOT specification cylinders (pressure vessels) for use as components of automobile vehicle safety systems. The pressure vessel may be charged with non-toxic, non-liquefied gases, or mixtures thereof. Modes 1, 2, 3, 4.)
11650–M	DOT–E 11650	Morton International Inc., Ogden, UT.	49 CFR 178.65–9	Authorizes the emergency transportation in commerce of non-DOT specification non-refillable cylinders charged with pyrotechnic initiating device classed as igniters, Division 1.4G. (Modes 1, 2, 3, 4.)
11666–M	DOT–E 11666	The Carbide/Graphite Group, Inc., Pittsburgh, PA.	49 CFR 173.240(b)	To authorize the transportation of graphite products classified as Miscellaneous Hazardous Class 9 material in bulk packaging strapped to wooden pallets on an open flat truck bed. (Mode 1.)
11791–M	DOT–E 11791	The Coleman Co., Inc., Wichita, KS.	49 CFR 178.33(a)	To authorize the transportation in commerce of a Division 2.1 material in a DOT Specification 2Q nonrefillable inner container which exceeds the authorizing maximum charging pressure. (Modes 1, 2, 3, 4.)
11804–M	DOT–E 11804	Advertising Unlimited, Inc., Red Wing, MN.	49 CFR 173.156, 173.184	Authorizes an emergency exemption for the transportation in commerce of a safety kit containing two highway fusees, one tire inflator, and one fire extinguisher as a consumer commodity, ORM–D. (Modes 1, 2.)
11827–M	DOT–E 11827	Nippon Rikiu-un Sangyo Co., Ltd., Tokyo, JP.	49 CFR 173.32b(b)(1)	To authorize an emergency exemption to waive a 5-year internal inspection of polytetrafluorethylene lined IM portable tanks for use in transporting various classes of hazardous materials. (Modes 1, 3.)
11854–M	DOT–E 11854	Zarn, Reidsville, NC	49 CFR 172.101 Col. 8(c), 173.197, 178.	To authorize the emergency manufacture, mark and sell of non-DOT specification packaging for use in transporting regulated medical waste classed in Division 6.2 material. (Mode 1.)
11856–M	DOT–E 11856	Olin Corp., Norwalk, CT	49 CFR 173.304(a)(2), 173.34(d), 175.3.	To authorize the emergency transportation in commerce of a satellite system containing Division 2.3 and Class 8 materials. (Modes 1, 4.)
11868–M	DOT–E 11868	United States Enrichment Corporation, Bethesda, MD.	49 CFR 173.420	To authorize the emergency transportation in commerce of uranium hexafluoride cylinders with valves and plugs that contain different alloys. (Modes 1, 2.)
10996–N	DOT–E 10996	AeroTech, Inc. & Industrial Solid Propulsion, Inc., Las Vegas, NV.	49 CFR 173 Subpart C	To authorize the transportation of limited quantities of composite propellant rocket motors as Class 1.4 in specially designed packaging. (Modes 1, 2.)
11344–N	DOT–E 11344	Dupont Co., Wilmington, DE	49 CFR 174.67 (i) and (j)	To authorize tank cars, containing Class 8 material, to remain standing with unloading connections attached when no product is being transferred, provided that a minimal level of monitoring, as specified is maintained. (Mode 2.)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11375–N	DOT–E 11375	Oceaneering Space Systems, Houston, TX.	49 CFR 178.57	To authorize the manufacture, marking and sale of a breathing and cooling system consisting of a non-specification cylinder, comparable to a DOT Specification 4L cylinder containing a Division 2.2 material. (Modes 1, 2, 3, 4, 5.)
11396–N	DOT–E 11396	Laidlaw Environmental Services, LaPorte, TX.	49 CFR 173.306(a)(3)	To authorize the transportation in commerce of certain flammable, non-flammable gases, Division 2.1 and 2.2 in aerosol containers overpacked in strong outside packages with no weight limitations. (Mode 1.)
11458–N	DOT–E 11458	Brisotn-Meyers Squibb Co., et al., Cranbury, NJ.	49 CFR 172.203(a), 173.150(b), 173.152(b), 173.154(b), 173.155(b), 173.306 (a) & (h), Part 107, Subpart B, Appendix B, Part 107, Subpart B, Appendix B.	To authorize the transportation in commerce of consumer commodities eligible for reclassification as ORM–D in pallet-sized display packs that exceed the gross weight limit for limited quantities packages. (Mode 1.)
11526–N	DOT–E 11526	BOC Gases, Murray Hill, NJ	49 CFR 172.302(c), 173.34(e)	To authorize the use of ultrasonic inspection method in lieu of hydrostatic testing of 3A and 3AA cylinders. (Modes 1, 2, 3.)
11572–N	DOT–E 11572	North American Biologicals, Inc., Miami, FL.	49 CFR 173.196	To authorize the transportation of infectious substances in specially designed packaging. (Mode 1.)
11598–N	DOT–E 11598	Metalcraft, Inc., Baltimore, MD.	49 CFR 173.34(d), 175.3	To authorize the manufacture, mark and sale of fire extinguishers equipped with non-specified pressure relief devices for use in transporting Division 2.2 material. (Modes 1, 4, 5.)
11622–N	DOT–E	Monsanto Co., St. Louis, MO	49 CFR 173.35(b)	To authorize the transportation in commerce of reused flexible intermediate bulk containers (IBC) used to ship up to 1200 lbs. per container of Class 9 granular solids. (Mode 1.)
11626–N	DOT–E 11626	DeVilbiss Health Care, Inc., Ft. Pierce, FL.	49 CFR 178.57–8(b)	To authorize the transportation of non-DOT specification vacuum insulated cylinders similar to 4L for use in transporting oxygen for ambulatory patients. (Modes 1, 2, 3, 4, 5.)
11627–N	DOT–E 11627	Cabot Corporation, Revere, PA.	49 CFR 173.227(a)	To authorize the transportation in commerce of toxic liquid, corrosive inorganic, n.o.s., PIH, Zone B material for shipment in composite packaging. (Mode 1.)
11631–N	DOT–E 11631	Health Care Incinerators, Fargo, ND.	49 CFR 106, 107, 171–180, 171.8, 172.101 Col. 8(c), 173.197.	To authorize the transportation of specially designed containers for use in transporting medical waste in bulk. (Mode 1.)
11663–N	DOT–E 11663	Pfizer, Inc., Groton, CT	49 CFR 173.304(a)(2), 174.67(i) & (j).	To authorize rail cars to remain connected during unloading process without the physical presence of an unloader. (Mode 2.)
11667–N	DOT–E 11667	Weldship Corp., Bethlehem, PA.	49 CFR 173.34(e)	To authorize an alternative retesting method of DOT–3AAX, 3T, 107A, 3A and 3AA compressed gas cylinders. (Mode 1).
11670–N	DOT–E 11670	Oilphase Sampling Services Limited, Dye, Aberdeen, Scotland.	49 CFR 178.36(3A)	To authorize the transportation in commerce of pressurised oil well formation samples from the well site to the analysis laboratory in specialty designed non-DOT specification packaging. (Modes 1, 2, 3, 4).
11677–N	DOT–E 11677	Chaparral, Inc., Lubbock, TX	49 CFR 171.11, 172,101, 172.204(c) (3), 173.27, 175.30(a) (1), 175.320(b), Part 107 Appendix B.	To authorize the transportation in commerce of Division 1 explosives presently forbidden or in quantities greater than those authorized for shipment by air. (Mode 4).
11697–N	DOT–E 11697	Department of Defense, Falls Church, VA.	49 CFR 176.116	To authorize an alternative stowage method for MSC chartered LASH type vessels to carry Division 1 explosives in LASH barges within 10 feet of machinery spaces under certain conditions. (Mode 3).
11711–N	DOT–E 11711	N.C. Department of Agriculture, Raleigh, NC.	49 CFR 171, 172, 173, 177	To authorize the transportation in commerce of pesticide wastes as essentially non-regulated for residence involved in a pesticide collection program. (Mode 1).

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11736–N	DOT–E 11736	Mapico Inc., St. Louis, MO	49 CFR 171.14(a) (iii)	To authorize the transportation in commerce of black iron oxide, Division 4.2, in FIBCs not to exceed 2,500, lined paper bags meeting UN5M2, repulpable paper bags, and unlined paper bags not to exceed 55 lbs. (Modes 1, 2, 3).
11737–N	DOT–E 11737	Rensselaer Polytechnic Institute, Troy, NY.	49 CFR 173.244	To authorize the transportation in commerce of Division 4.3 material in portable tank similar to the DOT 51 tank. (Mode 2).
11746–N	DOT–E 11746	FMC Corp., Philadelphia, PA	49 CFR 174.67(j)	To authorize rail cars to remain connected during unloading of Division 2.3 material without the physical presence of an unloader. (Mode 2).
11747–N	DOT–E 11747	Monsanto Co., St. Louis, MO	49 CFR 173.31	To authorize an alternative testing method for tank car structural re-certification. (Mode 2).
11749–N	DOT–E 11749	Union Tank Car Co., East Chicago, IN.	49 CFR 180.509	To authorize an alternative testing method for specification tank cars for use in transporting various hazardous materials as presently authorized. (Mode 2.)
11766–N	DOT–E 11766	E.I. Dupont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 173.32b(b)	To authorize an alternative testing interval for IMO Type 1 ISO portable tanks used exclusively for hydrogen peroxide service. (Modes 1, 2, 3.)
11771–N	DOT–E 11771	Conoco Inc., Billings, MT	49 CFR 173.31, 174.67	To authorize an alternative inspection criteria of rail cars used in transporting Class 2 and 3 material. (Mode 2.)
11777–N	DOT–E 11777	Morton International, Automotive Safety Products, Ogden, UT.	49 CFR 173.301(h), 173.302, 173.306(d)(3).	To authorize the transportation in commerce of certain cartridges, power devices classed as Division 1.4S and airbag inflators or airbag modules classed as Division 4.1 or Class 9 exempt from the marking and labelling requirements. (Modes 1, 4.)
11778–N	DOT–E 11778	National Aeronautics & Space Administration (NASA), Washington, DC.	49 CFR 173.304(a)(2)	To authorize the transportation in commerce of the Faint Object Spectrograph, which contains compressed and liquified gases in non-DOT specification containers. (Modes 1, 4.)
11779–N	DOT–E 11779	Columbia Helicopters, Inc., Portland, OR.	49 CFR 173.302, 173.24(c)	To authorize the transportation in commerce of gasoline, Class 3, in UL approved non-bulk polyethylene containers in support of log-cutting operation. (Mode 1.)
11781–N	DOT–E 11781	USA Jet Airlines, Belleville, MI.	49 CFR 171,11, 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b).	To authorize the transportation in commerce of Class 1 explosives that are not permitted for shipment by air or in quantities greater than those prescribed. (Mode 4.)
11789–N	DOT–E 11789	Mallard Creek Polymers, Inc., Charlotte, NC.	49 CFR 174.67(i) & (j)	To authorize rail cars to remain attached to connectors during the entire unloading process without the physical presence of an unloader. (Mode 2.)
11790–N	DOT–E 11790	U.S. Enrichment Corp., Bethesda, MD.	49 CFR 172.302(c)	To authorize the transportation of uranium hexafluoride in non-DOT 5A specification cylinders without required markings. (Mode 1.)
11791–N	DOT–E 11791	The Coleman Co., Inc., Wichita, KS.	49 CFR 178.33(a)	To authorize the manufacture, mark and sale of non-DOT-Specification 2Q, inner non-refillable metal receptacles with alternative testing criteria and wall thickness (Modes 1, 2, 3, 4.)
11793–N	DOT–E 11793	Bilstein Corp. of America, San Diego, CA.	49 CFR 172.200–204, 172.300, 173.306(f)(2)(iii), 173.306(f)(3)(i), 174.24, 177.817.	To authorize the manufacture, mark and sale of gas-charged shock absorbers, cartridges, and struts containing compressed gas, for transportation in commerce as accumulators shipped without required labels, markings, shipping papers and testing requirements. (Modes 1, 2, 3, 4, 5.)
11794–N	DOT–E 11794	Countrymark Cooperative, Mt. Vernon, IN.	49 CFR 174.67(i) & (j)	To authorize rail cars to remain connected during unloading of certain hazardous materials without the physical presence of an unloader. (Mode 2.)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11795–N	DOT–E 11795	Wellman Inc., Florence, SC	49 CFR 174.67(i) & (j)	To authorize rail cars to remain connected during unloading of Class 9 material without the physical presence of an unloader. (Mode 2.)
11799–N	DOT–E 11799	Cryonix, Inc., Rockville, MD	49 CFR 173.196	To authorize the transportation in commerce of alternative secondary packaging consisting of heat sealed, plastic sleeve, packed in small quantities with absorbent material to be transported inside commerical freezer, for use in transporting infectious substances, Division 6.2. (Mode 1.)
11801–N	DOT–E 11801	Wacker Silicones Corp., Adrian, MI.	49 CFR 172.301, 172.400, 173.212(c), 173.213.	To authorize the transportation in commerce of non-authorized packagings that are not properly marked or labeled for use in transporting Toxic Solid, Inorganic, n.o.s., Division 6.1. (Mode 1.)
11803–N	DOT–E 11803	Process Engineering, Plaistow, NH.	49 CFR 173.319, 179.400	To authorize the transportation in commerce of various classes of non-flammable cryogenic liquids in DOT–113A60W tank cars. (Mode 2.)
11804–N	DOT–E 11804	Advertising Unlimited, Inc., Red Wing, MN.	49 CFR 173.156, 173.184	To authorize an emergency exemption for the transportation in commerce of a safety kit containing two highway fuses, one tire inflator, and one fire extinguisher as a consumer commodity, ORM–D. (Modes 1, 2.)
11807–N	DOT–E 11807	Kirby Chemical Co., Longview, TX.	49 CFR 172.407(c)	To authorize the transportation in commerce of a current supply of labels in size smaller than the 3.9 inch minimum required for use in transporting various Class 8 material. (Mode 1.)
11818–N	DOT–E 11818	National Aeronautics & Space Administration, Washington, DC.	49 CFR 173.34(d)	To authorize the transportation in commerce of certain non-DOT specification containers containing certain Division 2.1, 2.2 and 2.3 liquidified and compressed gases not equipped with pressure relief devices to be used in connection with flight project spacecraft containing heat pipes. (Modes 1, 3, 4.)
11820–N	DOT–E 11820	Grief Bros. Corp., Springfield, NJ.	49 CFR 173.23(g), 173.8(b)(4)(1).	To authorize the transportation and reuse or reconditioning of drums with ends thinner than 1.1 mm for use in transporting various hazardous materials. (Modes 1, 2, 3, 4, 5.)
11832–N	DOT–E 11832	Air Liquide Corp., Houston, TX.	49 CFR 172.203, 173.318, 173.320.	To authorize the manufacture, mark and sale of a non-DOT specification portable tank for use in the transportation of helium, refrigerated liquid, Division 2.2. (Mode 1.)
11840–N	DOT–E 11840	TRW Vehicle Safety Systems, Inc., Queen Creek, AZ.	49 CFR 172 Subparts D&E, 173.51(a), 173.62(c).	To authorize the transportation in commerce of passenger air bag inflator classed in Division 1.4 and Division 4.1, to be transported without required marking and labeling in reusable plastic trays banded or strapped to pallets. (Mode 1.)
11842–N	DOT–E 11842	Maine State Ferry Service, Augusta, MA.	49 CFR 176.89(a)(6)	To authorize the transportation in commerce of tank trucks carrying fuel oil, Class 3 to be transported in ferry service without an operator staying with the vehicle. (Mode 3.)
11844–N	DOT–E 11844	Evergreen International Airlines, Inc., McMinnville, OR.	49 CFR 172.101, Col. 9B, 172.204(a) and (c), 173.27, 173.54(j), 175.30(a)(1) App. B to subpart B of part 107.	To authorize the transportation in commerce of explosives, Division 1, that are forbidden or exceed the quantity limitation for transportation by air. (Mode 4.)
11847–N	DOT–E 11847	Energy & Environmental Tech. Co., Southfield, MI.	49 CFR 173.188(a)(2)	To authorize the transportation in commerce of Division 4.2 material contained in hermetically sealed warheads overpacked in 55 gallon 1A2 drums instead of 30 gallon steel drums. (Mode 1.)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11849–N	DOT–E 11849	Boeing North American, Inc., Downey, CA.	49 CFR 173.302, 306, 173.304, 173.314, 173.315, 173.421, 173.62.	To authorize the transportation in commerce of a P91–ARGOS satellite, containing sight experiments containing several hazardous materials, which will be attached to a transport dolly with an aluminum cover enclosure. (Mode 1.)
11861–N	DOT–E 11861	Polymet Alloys, Inc: Saginaw, AL.	49 CFR 172.302(c), 173.24a(b)(2).	To authorize the emergency transportation in commerce of UN1A2 drums, containing a Division 4.3 material, which are overloaded by 20%. (Modes 1, 2.)
11864–N	DOT–E 11864	Boliden Intertrade, Inc., Atlanta, GA.	49 CFR 173.31(D)(1)(vi)	To authorize the transportation in commerce of tank cars containing the residue of a Class 9 material when the inspection required by 173.31(d)(1)(vi) does not include removing the rupture disk. (Mode 2.)
11876–N	DOT–E 11876	Portland General Electric Co., Rainer, OR.	49 CFR 173.427(b)	To authorize the transportation in commerce of reactor coolant pumps to be transported as DOT 7A Type A package. (Mode 1.)
		EMERGENCY EXEMPTIONS		
EE 6293–P	DOT–E 6293	PRIMEX Technologies, Inc., St. Marks, FL.	49 CFR 173.248, 173.51(f)	To become a party to exemption 6293. (Mode 1.)
EE 7816–P	DOT–E 7816	Sault Ste. Marie Bridge Company (SSAM), Stevens Point, WI.	49 CFR 172.203(a), 172.204(a), 172.204(d), 174.24(a), 174.25(b)(2), 174.3, Part 107, Appendix B, Subpart B.	To become a party to exemption 7816. (Mode 2.)
EE 10798–P	DOT–E 10798	Arco Chemical Company, Newtown Square, PA.	49 CFR 174.67(i) and (j)	To become a party to exemption 10798. (Mode 2.)
EE 11588–P	DOT–E 11588	Mid America Environmental Waste Protection Svs; Inc., Boonville, IN.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588. (Mode 1.)
EE 11730–M	DOT–E 11730	USMX, Inc., Lakewood, CO		To authorize an emergency exemption from the quantity limitations applicable to packages carried by cargo aircraft for Class 5.1, 6.1 and 8 hazardous materials for air transportation in cargo only aircraft. (Mode 4.)
EE 11785–M	DOT–E 11785	Chilton Products, Chilton, WI	49 CFR 178.65(1)(2)(iii)(b)	To authorize the emergency manufacture, marking and sale of DOT Specification 39 cylinders with a marking deviation to be used for the transportation in commerce of Division 2.1 and 2.2 materials authorized for DOT Specification 39 cylinders. (Modes 1, 2, 3, 4.)
EE 11819–N	DOT–E 11819	Van Waters & Rogers, Anchorage, AK.	49 CFR 172.101	To authorize the one-time emergency transportation of cylinders of hydrogen peroxide by cargo aircraft in quantities greater than those presently authorized. (Mode 4.)
EE 11827–N	DOT–E 11827	Nippon Rikuun Sangyo Co., Ltd., Tokyo 102, JA.	49 CFR 173.32b(b)(1)	To authorize an emergency exemption to waive a 5-year internal inspection of polytetrafluoroethylene lined IM portable tanks for use in transporting various classes of hazardous materials. (Modes 1, 3.)
EE 11828–N	DOT–E 11828	Vulcan Chemicals, Birmingham, AL.	49 CFR 173.315	To authorize the transportation in commerce of a chlorine one ton container that developed a leak around the fusible plugs which has been sealed using a B-kit. (Mode 0)
EE 11829–N	DOT–E 11829	TRW Vehicle Safety Systems, Inc., Queen Creek, AZ.	49 CFR 172.102(a) SP-B 26, 172.102(a) SP B28, IMDG Code; Amendment 28–96, Section 26, Special, IMDG Code, Amendment 28–96, Section 26, Special, Requirements 3, 4 & 6.	To authorize the manufacture, mark and sale of non-DOT specification collapsible, nonreusable woven polypropylene bulk bags for use in transporting sodium azide, Division 6.1. (Modes 1, 3.)
EE 11831–N	DOT–E 11831	National Starch and Chemical Co., Bridgewater, NJ.	49 CFR 123, 123	To authorize the emergency transportation of DOT–57 portable tanks that contain flammable liquids, Class 3, that were filled after the prescribed retest date. (Mode 1.)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 11836–N	DOT–E 11836	HCI USA Distribution Companies, Inc., Greensboro, NC.	49 CFR 173.203, 173.24	To authorize the emergency transportation of polyethylene drums for use in transportation non-bulk quantities of ammonia solutions, Class 8. (Mode 1.)
EE 11838–N	DOT–E 11838	Van Waters & Rogers, Inc., Beaumont, TX.	49 CFR 173.314	To authorize the transportation in commerce of chlorine in a DOT specification 106A500X cylinder which developed a leak during storage. A Chlorine Institute Emergency Kit B was applied to the cylinder to contain the leak until it may be transported to an appropriate facility to be evacuated and repaired on destroyed. (Mode 1.)
EE 11845–N	DOT–E 11845	Bayer Corp., Kansas City, MO.	49 CFR 173.234(c)	To authorize the emergency bulk transportation in commerce of organophosphorus pesticides, flammable toxic, Division 6.1 im IM–101 portable tanks. (Modes 1, 2.)
EE 11846–N	DOT–E 11846	ShipMate, Inc., Redondo Beach, CA.	49 CFR 176.83(d)	To authorize the transport of various gases not subject to the segregation requirements in 173.83(d). (Mode 3.)
EE 11853–N	DOT–E 11853	Reckitt Colman, Inc., Montvale, NJ.	49 CFR 107, Subpart B, Appendix B, 172.203(a), 173.306(a)(3)(ii), 178.33.	To authorize the transportation in commerce of consumer commodities eligible for reclassification as ORM–D in aerosol containers overfilled with propellant packaged in DOT 2P metal containers with internal pressures that exceed the limitations. (Mode 1.)
EE 11856–N	DOT–E 11856	Olin Corp., Norwalk, CT	49 CFR 173.304(a)(2), 173.34(d), 175.3.	To authorize the emergency tranaportation in commerce of a satellite system which contain a thermal transport system containing anhydrous ammonia. (Modes 1, 4.)
EE 11868–N	DOT–E 11868	United States Enrichment Corp., Bethesda, MD.	49 CFR 173.420	To authorize the emergency transportation in commerce of uranium hexafluoride cylinders with valves and plugs that contain different alloys (Modes 1, 2.)
EE 11874–N	DOT–E 11874	Indiana Dept. of Environment	49 CFR Parts 171 through 180.	To authorize the emergency tranaportation of hazardous materials in flood affected areas. (Modes 1, 2, 3.)
EE 11875–N	DOT–E 11875	Northwestern Airlines	49 CFR 171 through 180	To authorize the emergency transportation in commerce of hazardous materials in flood affected areas as necessary for delivery to staging areas. (Mode 4.)
EE 11878–N	DOT–E 11878	Hickson Corporation, Conley, GA.	49 CFR 172.322(a)(2)	To authorize the transportation in commerce of arsenic trioxide in 55–gallon drums without required markings. (Mode 1.)
EE 11887–N	DOT–E 11887	Reilly Industries, Inc., Indianapolis, IN.	49 CFR 179.3	To authorize the emergency transportation in commerce of rail cars that have non-approved modification made to the external heater coils to be used in transporting Class 3 material. (Mode 2.)
EE 11888–N	DOT–E 11888	Day & Zimmermann, Parsons, KS.	49 CFR 172.101, 172.101	Request for an emergency exemption in order to transport an explosive 1.1A in a solution of ethanol and water. (Mode 1.)
EE 11889–N	DOT–E 11889	Airgas, Inc., and Airgas Management, Inc., Radnor, PA.	49 CFR 173.3, 173.304	Request for an emergency exemption on behalf of Airgas entities to transport cylinders of refrigerant gas containing tetrafluoroethane. The cylinders appear to meet the requirements of the DOT spec. 39, except for the markings which incorrectly identify the cylinder contents as dichlorodifluoromethane. (Mode 1.)
EE 11890–N	DOT–E 11890	BetzDearborn, Trevose, PA	49 CFR 173.243(d)(2)(i)1	Request for an emergency exemption to transport a material that was recently determined to be a class 8, pgI materials in composite IBCs. (Mode 1.)
EE 11904–N	DOT–E 11904	Vulcan Chemicals, Birmingham, AL.	49 CFR 173.24(b),173.31(b)(1), 179–900–12(b), 179.300–13.	Request for an emergency exemption for the one-time transportation of chlorine in a DOT specification tank car tank which developed a leak near the valve. (Mode 1.)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 11908–N	DOT–E 11908	Phone–Poulenc Ag Co., Research Triangle Park, NC.	49 CFR 178.503(a)	Request for an emergency exemption to make ongoing shipments both domestically and internationally of carbamate pesticide, solid in incorrectly marked UN 4G boxes. (Mode 1, 3.)

Withdrawal Exemptions

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
3095–X	Dow Chemical Company, Midland, MI	49 173.119(a), (b), 173.245(a), 173.249(a), 173.263(a), 173.264, 173.283, 173.289, 178.342–5, 178.343–5.	Authorizes the use of a privately owned and operated steel non-DOT specification cargo tank motor vehicle designed and constructed in full conformance with DOT Specification MC–300, MC–306, MC–307 or MC–311, MC–312 for shipment of corrosive and flammable liquids. (Modes 1, 3.)
3126–X	Alliant Techsystems, Inc., New Brighton, MN.	49 CFR 173.62, 177.821, 177.822(b), 177.835(k).	Authorizes the transport of Division 1.1 explosives in DOT Specification 5 metal drums, or in DOT Specification 42B aluminum drums. (Mode 1.)
3600–X	U.S. Department of Defense, Falls Church, VA.	49 CFR 172.101, 192.300, 173.87	Authorizes the shipment of Lance rocket engines in specific configurations which contain Division 1.3 or 1.4 explosives. (Modes 1, 2.)
6369–X	E.I. du Pont de nemoars & Company, Inc., Wilmington, DE.	49 CFR 173.346(a)(10), 173.347(a)(2), 173.352(a)(4), 173.374(a).	Authorizes the use of DOT Specification 105A400W, 112A400W, 114A400W, 120A300W, and proposed 120A400W tank car tanks for shipment of certain Class B poisonous liquids. (Mode 2.)
6929–P	Lockheed Martin Energy Systems, Inc., Oak Ridge, TN.	49 CFR 172.101, 173.54(1), 173.62(c)	To become a party to exemption 6929. (Modes 1, 3.)
6929–P	Lockheed Martin Energy Research Corporation, Oak Ridge, TN.	49 CFR 172.101, 173.54(1), 173.62(c)	To become a party to exemption 6929. (Modes 1, 3.)
7536–X	U.S. Department of Defense Falls, Church, VA.	49 CFR 146.29–41	Authorizes an increase to the maximum allowable draft weights for five and ten ton rated booms for shipment of military explosives. (Mode 3.)
7909–X	The Dow Chemical Company, Midland, MI	49 CFR 172.203, 172.400, 172.402(a)(2), 172.504(a), 175.30, 175.33.	Authorizes the transport of limited quantities of Division 6.1 liquids and solids in non-DOT specification plastic, metal or plastic-coated glass containers. (Modes 1, 2, 4.)
8432–X	U.S. Department of Defense, Falls Church, VA.	49 CFR 172.101, 173.202, 175.3	Authorizes the transport of plastic bottles containing an aqueous solution of sodium perchlorate and plastic bottles containing aluminum powder together in the same outside packaging. (Modes 1, 2, 3, 4.)
8645–X	Austin Powder Company, Cleveland, OH	49 CFR 173.154(a)(18)	Authorizes the shipment of a viscous oxidizing material in DOT Specification MC–307/311 insulated tank motor vehicles at ambient temperature. (Mode 1.)
8966–X	Cook Slurry Company, Salt lake City, UT	49 CFR 173.114a(h)(3)	Authorizes the transport of slurry blasting agent in non-DOT specification stainless steel cargo tanks. (Mode 1.)
9108–X	Austin Powder Company, Cleveland, OH	49 CFR 173.62	Authorizes the transportation of PETN wet with 25% water in 4 mil polyethylene bags placed in DOT Specification 12H65 fiberboard boxes. (Modes 1, 3.)

WITHDRAWAL EXEMPTIONS—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9377–X	Austin Powder Company, Cleveland, OH	49 CFR 173.65(a)(5)	Authorizes the transport of Division 1.1 explosives containing more than 5 percent moisture in packagings without inner plastic bags or other linings. (Modes 1, 2, 3.)
9579–X	Intermountain Ireco, Inc., Gillette, WY	49 CFR 173.154(a)(18)	Authorizes the use of a non-DOT specification motor vehicle for bulk shipment of Division 5.1 materials. (Mode 1.)
9677–X	Allied Universal Corporation, Miami, FL	49 CFR 173.263(a)(15)	Authorizes the shipment of hydrochloric acid in non-DOT specification bottles of one-gallon capacity, overpacked no more than 60 to a specially-designed, heavy-wall cart, molded of high density polyethylene. (Mode 1.)
9723–X	Environmental Options, Inc., Rocky Mount, VA.	49 CFR 177.848	Authorizes the shipment of "lab-packs" containing cyanides and cyanide mixture with "lab-packs" containing acids and corrosive liquids in the same transport vehicle. (Modes 1, 2.)
9876–X	Amrex Chemical Co., Inc., Binghamton, NY	49 CFR 173.304(a)(2), 173.34(d)	Authorizes the manufacture, marking, and sale of DOT Specification 39 cylinders equipped with a pressure relief device system other than prescribed. (Modes 1, 3.)
9956–X	Dolphin Commercial Chemical, Inc. d/b/a DCC, Inc. DeSoto, TX.	49 CFR 173.277(a)(9), 178.340, 178.343	Authorizes the shipment of hypochlorite solution in an unlined non-DOT specification cargo tank constructed of titanium. (Mode 1.)
10032–X	MCM, Management Control & Maintenance, S.A., Geneva, Switzerland.	49 CFR 173.315, 178.245	Authorizes the shipment of Division 2.1 Division 2.2 gases in non-DOT specification IMO Type 5 steel portable tanks. (Modes 1, 2, 3.)
10032–X	Eurotainer SA, Paris, France	49 CFR 173.315, 178.245	Authorizes the shipment of Division 2.1 Division 2.2 gases in non-DOT specification IMO Type 5 steel portable tanks. (Modes 1, 2, 3.)
10295–X	Witco Corporation, Dublin, OH	49 CFR 173.134	Authorizes the use of a DOT Specification 17C metal drum with inside non-DOT specification metal containers. (Modes 1, 2, 3, 4, 5.)
10441–X	Clean Harbors Environmental Services, Inc., Braintree, MA.	49 CFR 173.12(b)(6), 177.848(b)	Authorizes the transportation by highway of lab pack quantities of cyanides on the same motor vehicle with non-lab packed acidic materials not to exceed 55 gallons per container. (Mode 1.).
10486–X	Aeropres Corporation, Shreveport, LA	49 CFR 173.302, 173.304, 173.305, 173.315.	Authorizes the transportation of mixtures of Division 2.1 and Division 2.2 gases in DOT Specification MC 330 and MC 331 cargo tanks. (Mode 1.)
10949–X	Clean Harbors Environmental Services, Inc., Braintree, MA.	49 CFR 177.848(d)	Authorizes the transportation of lab pack quantities of cyanides on the same motor vehicle with non-lab packed acidic materials not to exceed 55 gallons per packaging. (Mode 2.).
11199–X	Dexsil Corporation, Hamden, CT	49 CFR 173.4	Authorizes the transportation of very small quantities of a Division 4.3 material, sodium metal dispersions—UN1391, in specially designed packagings to be shipped under the provision of 173.4. (Modes 1, 2, 3, 4, 5.)

WITHDRAWAL EXEMPTIONS—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11346–X	Halliburton Energy Services, Duncan, OK	49 CFR 173.61, 173.62(c), 176.166(b), 177.835(g).	Authorizes transportation of certain Division 1.1D and 1.4D charge jet perforating guns with Division 1.1B or 1.4B electric detonators affixed. (Modes 1, 3.).
11346–X	Hitwell Surveys, Inc., Parkersburg, WV	49 CFR 173.61, 173.62(c), 176.166(b), 177.835(g).	Authorizes transportation of certain Division 1.1D and 1.4D charge jet perforating guns with Division 1.1B or 1.4B electric detonators affixed. (Modes 1, 3.)
11346–X	Titan Wireline Services, Inc., Elderton, PA	49 CFR 173.61, 173.62(c), 176.166(b), 177.835(g).	Authorizes transportation of certain Division 1.1D and 1.4D charge jet perforating guns with Division 1.1B or 1.4B electric detonators affixed. (Modes 1, 3.)
11346–X	GOEX International, Inc., Cleburne, TX	49 CFR 173.61, 173.62(c), 176.166(b), 177.835(g).	Authorizes transportation of certain Division 1.1D and 1.4D charge jet perforating guns with Division 1.1B or 1.4B electric detonators affixed. (Modes 1, 3.)
11346–X	Owen Oil Tools, Inc., Fort Worth, TX	49 CFR 173.61, 173.62(c), 176.166(b), 177.835(g).	Authorizes transportation of certain Division 1.1D and 1.4D charge jet perforating guns with Division 1.1B or 1.4B electric detonators affixed. (Modes 1, 3.)
11444–N	BASF Corp., Mount Olive, NJ	49 CFR 173.243	To authorize the emergency transportation of a Corrive, Poisonous NOS in an IMO type 1 tank that is current not permitted under 173.243. (Modes 1, 3.)
11482–N	Trojan Corp., Spanish Fork, UT	49 CFR 173.240	To authorize the emergency transportation of explosive, hazardous waste, in specially designed packaging. (Mode 1.)
11527–N	Technical Service Co., Long Beach, CA	49 CFR 173.201, 173.202, 173.203, 178.253.	To authorize the transportation of Class 3 and 8 material in 60 gallon capacity non-DOT specification portable tanks manifolded together within a frame, having top and bottom opening designed and constructed to DOT specifiation 57 except for marking and capacity. (Mode 1.)
11586–N	Chem Coast Inc., La Porte, TX	49 CFR 172, 173, Parts 107	To authorize limited quantities of various hazardous materials (test kits) contained in specially designed packagings to be exempt from shipping paper, marking and labeling requirements. (Mode 1.)
11658–M	Arbel Fauvet Rail, Dousi, FR	49 CFR 178.245–1(b)	To authorize the emergency transportation in commerce of certain Division 2.1 and 2.2 gases in non-DOT specification IMO Type 5 portable tanks which are comparable to DOT specification 51 except the tank has bottom outlets. (Modes 1, 2, 3.)
11664–N	Breed Technologies, Inc., Lakeland, FL	49 CFR 173.166(e)	To authorize the transportation in commerce of airbag modules, Class 9, in fiberboard intermediate bulk containers. (Modes 1, 2, 3, 5.)
11758–N	E.I. DuPont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 178.345–10(e)	To authorize the transportation of Division 6.1 material in MC–312 cargo tanks equipped with 1.5 inch Crosby JQ relief valves. (Mode 1.)

WITHDRAWAL EXEMPTIONS—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11796–N	Morton International, Inc., Ogden, UT	49 CFR 173.301(h), 173.302, 173.306(d)(3).	To authorize the transportation in commerce of a non-DOT specification cylinder which exceeds the quantity limitation exceptions for compressed gases at a volume of 7.50 lb. to be used as a component of a hybrid air bag system. (Modes 1, 2, 3, 4, 5.)
11835–N	Chase Packaging, Inc., Newport News, VA	49 CFR 172.203(a), 172.301(c), 178.503(a)(5)(ii).	To authorize the emergency transportation of DOT UN5H3 water-resistant woven plastic bags which have been improperly marked for shipment of sodium hydroxide, solid, Class 8. (Mode 1.)
11857–N	Kowa American, New York, NY	49 CFR Note 15	To authorize the transportation in commerce of toxic liquids, flammable, organic, n.o.s., Division 6.1 material in ISO tanks in a configuration not presently authorized. (Modes 1, 3.)
11877–N	Monsanto Company, St. Louis, MO	49 CFR 172.302(a)(2), 172.400(a)(2), 172.504(a).	To authorize the transportation in commerce of Class 9 hazardous materials in flexible intermediate bulk containers without required markings or labeling. (Modes 1, 2.)
11898–N	Thiokol Aerospace and Industrial Technologies, Brigham City, UT.	49 CFR 172.101	Request for an emergency exemption that authorizes the transportation by rail (2 flatcars) containing a division 1.3c material. (Mode 2.)

DENIALS

3941–X	Request by GenCorp Aerojet Sacramento, CA to authorize the transport of ammonium perchlorate in non-DOT specification aluminum portable tanks denied June 13, 1997.
8518–X	Request by Denver Truck Sales Denver, CO to authorize the manufacture, marking and sale of non-DOT specification cargo tanks complying with DOT Specification MC–307/312 except for bottom outlet valve variations, for transportation of flammable or corrosive waste liquids or semisolids denied June 13, 1997.
10958–X	Request by International Paper Natchez, MS to authorize Chlorine-filled tank cars to remain attached during unloading without the physical presence of unloader denied June 13, 1997.
11171–X	Request by Dart Container Corporation Leola, PA to authorize the transport of reused flexible bulk bags, comparable to those presently authorized, for use in transporting polystyrene beads, expandable, Class 9 denied January 28, 1997.
11249–P	Request by Ashland Chemical Company Columbus, OH to authorize rail cars to be connected during unloading of various Class 3, 8 and 9 material without the phycical presence of an unloader denied May 29, 1997.
11275–M	Request by Dorbyl Engineering Container Division (DHE) Denver, CO to authorize the manufacture, marking and sale of three designs of non-DOT specification portable tanks, mounted in ISO frames, to be used for the transportation of certain Division 2.1 and 2.2 gases denied June 2, 1997.
11322–N	Request by Hydra Rig, Inc. Ft. Worth, TX to authorize the manufacture, marking and sale of non-DOT specification portable tanks, equipped with safety relief valves and rupture discs, made of type 304 stainless steel for use in transporting nitrogen, refrigerated liquid, Division 2.2 denied March 28, 1997.
11373–M	Request by Environmental Transport Systems Jamestown, ND to authorize the transportation of a Division 4.1 (self-heating) material on the same transport vehicle with Class 8 (corrosive) liquids when the materials are separated denied February 7, 1997.
11491–N	Request by P.M. Industrial Gas Ltd. Georgetown to authorize the manufacture, mark and sale of a refrigerated cargo tank mounted to a ISO flat rack unit for use in transporting liquefied carbon dioxide, Division 2 denied February 28, 1997.
11589–N	Request by Haviland Products Co. Grand Rapids, MI to authorize the transportation in commerce of non-bulk nitric acid, other than red fuming, less than 70%, in 15 gallon and 55 gallon, reusable 1H1 plastic drums denied March 13, 1997.
11609–N	Request by Rubbermaid Commercial Products Inc. Winchester, VA to authorize the manufacture, mark and sale of specially designed trucks for use in transporting regulated medical waste denied March 13, 1997.
11645–N	Request by Chemical Products Corp. Cartersville, GA to authorize the transportation in commerce of various Class 8 material in non-DOT specification multi-ply paper bags in 50 pounds or 100 pounds lots until current inventories are depleted denied March 13, 1997.
11649–N	Request by VTG USA, Inc. West Chester, PA to authorize the manufacture, mark and sale of non-DOT specification containers equipped with man hole openings located in the rear side of the tank and the loading/discharge valve openings grouped on the right hand side of the tanks for use in transporting freon denied February 28, 1997.

DENIALS—Continued

11679–N	Request by Dorbyl Engineering Container Division (DHE) Republic of South Africa to authorize the manufacture, mark and sale of non-DOT specification portable tanks, mounted in ISO frames, to be used for the transportation in commerce of Division 2.1, 2.2 and 2.3 material denied June 2, 1997.
11700–N	Request by Cryodyne Technologies, Inc. Madison, CT to authorize the transportation in commerce of non-flammable, non-toxic compressed gases, Division 2.2, in foreign made cylinders from the port area to a compressed gas company where the materials are repackaged into DOT authorized compressed gas cylinders for shipment to domestic users of the material denied February 19, 1997.
11717–N	Request by Matheson Gas Products, Secaucus, NJ to authorize the transportation in commerce of non-flammable, non-toxic compressed gasses in foreign made cylinders from the port of entry to a compressed gas company where the materials will be repacked into DOT authorized compressed gas cylinders for shipment to domestic users of the material denied March 13, 1997.
11741–N	Request by Park Metallurgical Corp., Detroit, MI to authorize the emergency transportation in commerce of sodium cyanide mixture dry in reused metal drums, UN1A2/X125/S not permanently marked to the minimum thickness criteria denied February 28, 1997.
11805–N	Request by Persons represented by the NPGA, Washington, DC to authorize the transportation in commerce of certain DOT Specification MC–330 and MC–331 cargo tanks, containing Propane, which do not meet the self-closing stop valve and excess flow valve requirements and to continue construction, certification, inspection and testing denied January 13, 1997.
11806–N	Request by Mississippi Tank Co., Hattiesburg, MS to authorize the transportation in commerce of certain DOT Specification MC–330 and MC–331 cargo tanks, containing compressed gases, which do not meet the self-closing stop valve and excess flow valve requirements and to continue construction, certification, inspection and testing denied January 13, 1997.

[FR Doc. 97–28622 Filed 10–28–97; 8:45 am]
BILLING CODE 4909–60–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33473]

Iowa Interstate Railroad, Ltd.; Trackage Rights Exemption; The Burlington Northern and Santa Fe Railway Company

The Burlington Northern and Santa Fe Railway Company (BNSF) has agreed to grant overhead trackage rights to Iowa Interstate Railroad, Ltd. (IAIS), between the connection of the parties at East Moline, IL, at or near milepost 246.17, and the connection of the parties at Rock Island, IL, at or near milepost 253.51, all within Rock Island County, IL. The total distance of the trackage rights is approximately 7.34 miles. The transaction is be consummated on or soon after October 21, 1997, the effective date of the exemption.

The purpose of the proposed trackage rights is for IAIS and BNSF to improve operational and maintenance efficiencies and to combine operations over parallel lines of railroad which BNSF and IAIS have in or near the cities of Rock Island, Moline, and East Moline, IL.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33473, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001 and served on: T. Scott Bannister, Secretary & General Counsel, Iowa Interstate Railroad, Ltd., 1300 Des Moines Building, 405 Sixth Avenue, Des Moines, IA 50309.

Decided: October 20, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

[FR Doc. 97–28635 Filed 10–28–97; 8:45 am]
BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–301 (Sub–No. 3X)]

Red River Valley & Western Railroad Company—Abandonment Exemption—In Benson County, ND

Red River Valley & Western Railroad Company (RRVW) has filed a notice of exemption under 49 CFR part 1152 Subpart F—*Exempt Abandonments* to abandon an approximately 11.94-mile line of railroad from approximately milepost 16.56, approximately one mile west of state highway 30, near Maddock to approximately milepost 28.5 near Esmond, in Benson County, ND. The line traverses United States Postal Service Zip Code 58332.

RRVW has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic moving over the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on November 28, 1997, unless stayed pending reconsideration. Petitions to stay that do not involve

environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by November 10, 1997. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 18, 1997, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Jo A. DeRoche, Esq., Weiner, Brodsky, Sidman & Kider, P.C., 1350 New York Avenue., N.W., Suite 800, Washington, DC 20005–4797.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

RRVW has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by November 3, 1997. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), RRVW shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by RRVW's filing of a notice of consummation by October 29, 1998, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Decided: October 21, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–28634 Filed 10–28–97; 8:45 am]

BILLING CODE 4915–00–P

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1988). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $900. See 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

Domestic Finance; Notice of Open Meeting of the Advisory Committee on U.S. Community Adjustment and Investment Program

The Department of the Treasury, pursuant to the North American Free Trade Agreement ("NAFTA") Implementation Act (Pub. L. 103–182), established an advisory committee (the "Advisory Committee") for the community adjustment and investment program (the "Program"). The Program will provide financing to businesses and individuals in communities adversely impacted by NAFTA to create new jobs. The charter of the Advisory Committee has been filed in accordance with the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463), with the approval of the Secretary of the Treasury.

The Advisory Committee consists of nine members of the public, appointed by the President, who collectively represent: (1) Community groups whose constituencies include low-income families; (2) scientific, professional, business, nonprofit, or public interest organizations or associations, which are neither affiliated with, nor under the direction of, a government; and (3) for-profit business interests.

The objectives of the Advisory Committee are to: (1) Provide informed advice to the President regarding the implementation of the Program; and (2) review on a regular basis, the operation of the Program, and provide the President with the conclusions of its review. Pursuant to Executive Order No. 12916, dated May 13, 1994, the President established an interagency committee to implement the Program and to receive, on behalf of the President, advice of the Advisory Committee. The committee is chaired by the Secretary of the Treasury.

A meeting of the Advisory Committee, which will be open to the public, will be held in El Paso, Texas at the Camino Real Hotel, Salon C, 101 El Paso Street, El Paso, Texas 79901, from 9 a.m. to 4 p.m. on Friday, November 21, 1997. The meeting room will accommodate approximately 80 persons and seating is available on a first-come, first-serve basis, unless space has been reserved in advance. Due to limited seating, prospective attendees are encouraged to contact the person listed below prior to November 14, 1997. If you would like to have the Advisory Committee consider a written statement, material must be submitted to the U.S. Community Adjustment and Investment Program, Advisory Committee, Department of the Treasury, 1500 Pennsylvania Avenue, NW, Room 3041, Washington, DC 20220 no later than November 7, 1997. If you have any questions, please call Dan Decena at (202) 622–0637. (Please note that this telephone number is not toll-free.)

Mesnlle W. Thompson,

Principal Deputy Assistant Secretary, Government Financial Policy.

[FR Doc. 97–28566 Filed 10–28–97; 8:45 am]

BILLING CODE 4810–25–U

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–27: OTS Nos. H–3028 and 09846]

Lexington First Federal, M.H.C., Lexington, Tennessee; Approval of Convention Application

Notice is hereby given that on October 21, 1997, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Lexington First Federal, M.H.C. Lexington, Tennessee, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Central Regional Office, Office of Thrift Supervision, 200 West Madison Street, Suite 1300, Chicago, Illinois 60606.

Dated: October 24, 1997.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 97–28631 Filed 10–28–97; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–28: OTS No. 4082]

The Salida Building and Loan Association, Salida, Colorado; Approval of Conversion Application

Notice is hereby given that on October 23, 1997, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of The Salida Building and Loan Association, Salida, Colorado, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Midwest Regional Office, Office of Thrift Supervision, 122 W. John Carpenter Freeway, Suite 600, Irving, Texas 75039–2010.

Dated: October 24, 1997.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 97–28632 Filed 10–28–97; 8:45 am]

BILLING CODE 6720–01–M

UNITED STATES INFORMATION AGENCY

Performance Review Board Members

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: This Notice is issued to revise the membership of the United States Information Agency (USIA) Performance Review Board.

DATES: October 29, 1997.

FOR INFORMATION CONTACT:

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or

Ms. Patricia H. Noble (Co-Executive Secretary), Chief, Civil Service Division, Office of Human Resources, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547, Tel.: (202) 619–4617.

SUPPLEMENTARY INFORMATION: In accordance with Section 4314(c) (1) through (5) of the Civil Service Reform Act of 1978 (Pub. L. 95454), the following list supersedes the U.S. Information Agency Notice (62 FR No. 3, January 6, 1997).

Chairperson: Associate Director for Management, Henry Howard, Jr. (Presidential Appointee)

Deputy Chairperson: Director, International Broadcasting Bureau (IBB), Kevin Klose (Non-Career SES)

Career SES Members and Alternates:

Hattie Baldwin, Director, Office of Civil Rights.

Eileen Binns, Director, Office of Administration.

Dr. Rolando E. Bonachea, Deputy Director, Office of Cuba Broadcasting.

Janice H. Brambilla, Director, Office of Human Resources.

Joseph B. Bruna, Assistant to the Director and Chief Information Officer.

Daniel S. Campbell, Director, Office of Technology.

Brian T. Conniff, Director of Evaluations and Analysis, Broadcasting Board of Governors.

Alfred Davidson, Deputy of Network Operations, Office of Engineering.

Bernard C. Dowling, Director, Declassification Unit, Office of the General Counsel.

Eva Jane Fritzman, Director, Office of Personnel and Administration, IBB.

Alan L. Heil, Jr., Deputy Director, VOA, IBB.

James Hulen, Director, Office of Strategic Planning.

Donald M. Jacques, Jr., Chief Negotiator, IBB.

Robert E. Kamosa, Director for Spectrum Management, IBB.

Lisa A. Keathley, Chief, Worldnet Production Directorate, IBB.

Earl Klitenic, Director, Office of Business Development, IBB.

John Lennon, Deputy Director, Office of Worldnet TV and Film Service, IBB.

John A. Lindburg, Legal Counsel, Broadcasting Board of Governors.

Ronald Linz, Deputy, Systems Engineering Directorate, IBB.

Steven C. Munson, Director, Office of Policy, IBB.

Jean Peelen, Chief of Staff, IBB.

Rick Ruth, Deputy Chief of Staff, Office of the Director.

Michael D. Schneider, Special Advisor, Office of the Director.

Judith S. Siegel, Director, Office of Thematic Programs, Bureau of Information.

Stanley Silverman, Director, Office of the Comptroller.

R. Wallace Stuart, Deputy General Counsel.

James D. Whitten, Executive Director, Bureau of Educational and Cultural Affairs.

This supersedes the previous U.S. Information Agency Notice (62 FR No. 3, January 6, 1997)

Henry Howard, Jr.,

Associate Director for Management, U.S. Information Agency.

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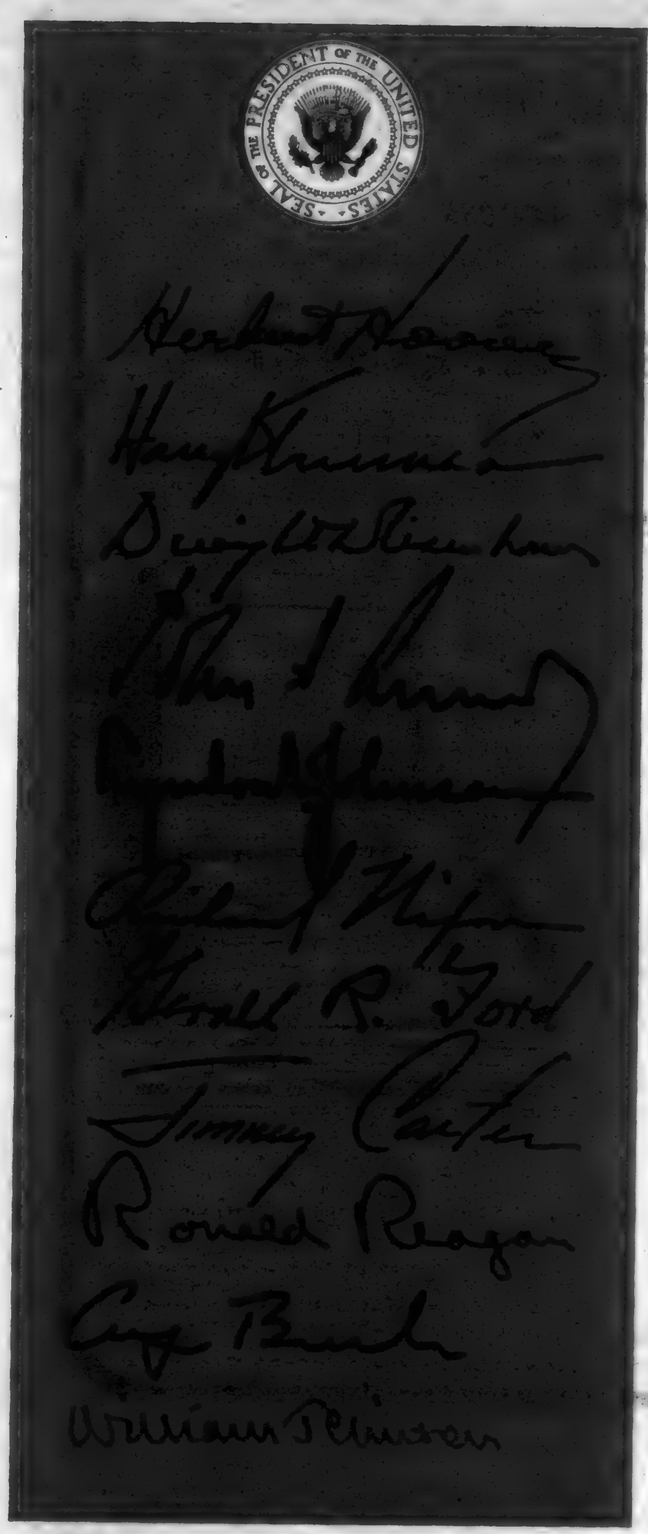

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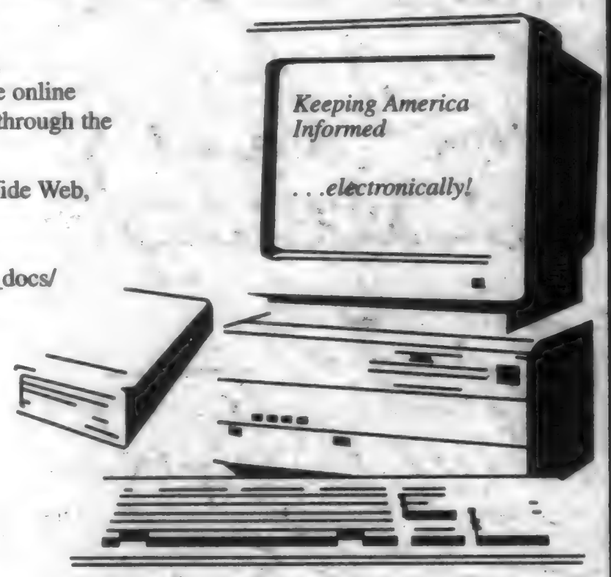

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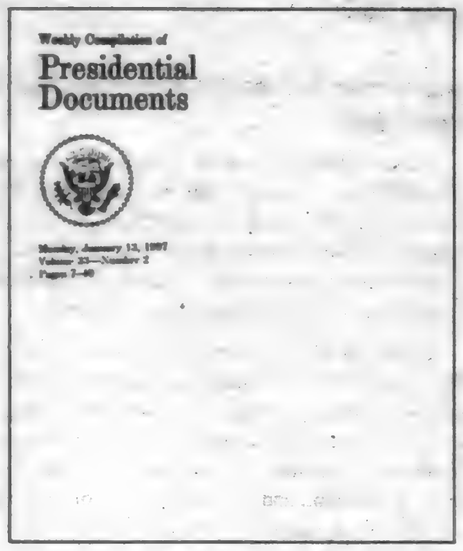

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Part II

Regulatory Information Service Center

Statement by the Vice President

Introduction to The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions

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Wednesday, October 29, 1997

The Regulatory Plan

Statement by the Vice President

This fourth Regulatory Plan reflects the hard work of this Administration to reform our regulatory process--to develop regulations the right way. Regulation is vitally important to this Administration's priorities: providing Americans basic health, safety, and environmental protections, along with a growing, secure economy. In developing new regulations and in modifying existing regulations, we are committed to establishing partnerships with regulated entities whenever possible; consulting with, and listening to, stakeholders; carefully analyzing the likely effects; and making rules as flexible and simple as possible.

As this document shows, we are streamlining and simplifying regulations. For example, the Department of Agriculture will be increasing State flexibility in processing food stamp applications, as well as streamlining operational and administrative requirements for eligibility and benefit calculations. The Department of Housing and Urban Development is streamlining and consolidating existing regulations dealing with lead-based paint hazards in its effort to protect children in their homes.

We are using alternative approaches to traditional command-and-control regulations. The Department of the Interior plans to replace existing design standards with performance standards in its rules governing oil and gas leasing operations and, at the same time, replace some Federal standards with existing industry standards, and do all of this using "plain English." The Environmental Protection Agency will foster the development of an active market in emissions credit trading that will give companies the flexibility to trade credits (for ozone smog precursors) without prior regulatory approval.

The Plan also contains numerous examples where agencies are doing more outreach to produce better results--working with other Federal agencies and with both those who benefit from, and those who bear the burden of, regulations. At the Department of Labor, OSHA is involved in a negotiated rulemaking regarding safety protection of ironworkers that will result in a revised construction safety standard. At the Department of Health and Human Services, HCFA has consulted extensively with the home health industry and patient interest groups in revising the conditions for participating in the Medicare program and developing a system for reporting patient outcomes.

These are only a few examples from this Regulatory Plan of agency efforts to provide Americans with basic benefits and protections by regulating the right way. It provides you, the reader, with the information you need to be a well-informed participant in the regulatory matters that affect your life. We encourage you to be an active partner in the rulemaking process. There are phone numbers, mailing addresses, fax numbers, and e-mail addresses where you can register your comments and thoughts on our regulatory

reform efforts, The Regulatory Plan, and the Unified Agenda of Federal Regulatory and Deregulatory Actions; we hope you will make use of them.

[FR Doc. 97-28869
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REGULATORY INFORMATION SERVICE CENTER

Introduction to The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Regulatory Information Service Center.

ACTION: Introduction to The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions.

SUMMARY: The Regulatory Flexibility Act requires that agencies publish semiannual regulatory agendas describing regulatory actions they are developing (5 U.S.C. 602). Executive Order 12866 "Regulatory Planning and Review" (58 FR 51735; October 4, 1993) and Office of Management and Budget memoranda implementing section 4 of that Order establish minimum standards for agencies' agendas, including specific types of information for each entry. In addition, the Office of Federal Procurement Policy Act Amendments of 1988 require the development and semiannual publication of a report on procurement regulations (41 U.S.C. 421(g)).

The Unified Agenda helps agencies fulfill all of these requirements. All Federal regulatory agencies have chosen to publish their regulatory agendas as part of this publication.

Section 4 of Executive Order 12866 also directs that, as part of their submissions to the October edition of the Unified Agenda, agencies prepare a regulatory plan of the most important significant regulatory actions that the agency reasonably expects to issue in proposed or final form during the upcoming fiscal year. The agency plans appear as the first section of this joint publication; the agency agendas follow.

The Regulatory Plan begins with Vice President Gore's statement, followed by an introduction, and then the regulatory plans of 30 Federal departments and agencies. Each of these agencies has also submitted a regulatory agenda describing its other regulatory actions. The regulatory agendas for these and 30 other Federal agencies appear in Parts III-LXII of this issue of the **Federal Register**, followed by indexes to both Plan and Agenda entries.

We welcome your comments on this joint publication and your suggestions for improving future ones.

ADDRESSES: Regulatory Information Service Center (MI), General Services Administration, 18th and F Streets NW., Suite 3033, Washington, DC 20405.

Electronic Availability

All editions of **The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions** since October 1995 are available in electronic form. You can search the Plan and the Agenda on the World Wide Web at:

http://reginfo.gov/ua

You may also search the Plan and the Agenda on the Government Printing Office's GPO Access, which is accessible through:

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FOR FURTHER INFORMATION CONTACT: For further information about specific regulatory actions, please refer to the Agency Contact listed for each entry.

To provide comment on or to obtain further information about this publication, contact: Mark G. Schoenberg, Executive Director, Regulatory Information Service Center (MI), General Services Administration, 18th and F Streets NW., Suite 3033, Washington, DC 20405, (202) 482-7350. You may also send comments to us by e-mail at:

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INTRODUCTION TO THE UNIFIED AGENDA AND THE REGULATORY PLAN

What Are the Unified Agenda and The Regulatory Plan?

The **Unified Agenda of Federal Regulatory and Deregulatory Actions** (Unified Agenda) provides information, in a uniform format, about regulations that the Government is considering or reviewing. The Unified Agenda has appeared in the **Federal Register** twice each year since 1983. This edition includes regulatory agendas from 60 Federal departments and agencies. Agencies of the United States Congress are not included.

The Regulatory Plan (Plan) serves as a defining statement of the Administration's regulatory and deregulatory policies and priorities. The Plan is part of the fall edition of the Unified Agenda. The regulatory plan of each participating agency contains two sections: (1) A narrative statement of its regulatory priorities and (2) a description of the most important significant regulatory and deregulatory actions that the agency reasonably expects to issue in proposed or final form during the upcoming fiscal year. This edition includes the regulatory plans of 30 departments and agencies.

The Regulatory Information Service Center (the Center) compiles Unified Agenda and the Plan for the Office of Information and Regulatory Affairs (OIRA), part of the Office of Management and Budget. OIRA is responsible for overseeing the Federal Government's regulatory, paperwork, and information resource management activities, including implementation of E.O. 12866. The Center also provides information about Federal regulatory activity to the President and his Executive Office, the Congress, agency managers, and the public.

The activities included in the Agenda are, in general, those that will have a regulatory action within the next 12 months. Agencies may include activities that will have a longer timeframe than 12 months. Agency agendas also show actions or reviews completed or withdrawn since the last agenda. The agendas do not contain regulations that were excluded under Executive Order 12866, such as those concerning military or foreign affairs functions or regulations related to agency organization, management, or personnel matters.

What Are the Limitations of the Information?

Agencies prepared entries for this publication to give the public notice of their plans to review, propose, and issue regulations. They have tried to predict their activities over the next 12 months as accurately as possible, but dates and schedules are subject to change. Agencies may withdraw some of the regulations now under development, and they may issue or propose other regulations not included in their agendas. Agency actions in the rulemaking process may occur before or after the dates they have listed.

The Regulatory Plan and the Unified Agenda do not create a legal obligation on agencies to adhere to schedules within them or to confine their regulatory activities to those regulations that appear in these publications. The information in this edition is accurate as of October 1, 1997, in the judgment of the submitting agencies, except as otherwise noted by the agencies. In addition, some agencies submitted updates after that date.

Where applicable, individual actions will be subject to review for compliance with applicable Executive orders, the Regulatory Flexibility Act, the Office of Federal Procurement Policy Act Amendments of 1988, and the Paperwork Reduction Act at appropriate points in the regulatory process.

Why Are the Unified Agenda and The Regulatory Plan Published?

The Unified Agenda helps agencies comply with their obligations under the Regulatory Flexibility Act and various Executive orders and other statutes.

The *Regulatory Flexibility Act* requires agencies to identify those rules that may have a significant economic impact on a substantial number of small entities (5 U.S.C. 602). Agencies meet that requirement by including the information in their submissions for the Unified Agenda. Agencies may also indicate those regulations that they are reviewing as part of their periodic review of existing rules under the Regulatory Flexibility Act (5 U.S.C. 610).

Executive Order 12866 entitled "Regulatory Planning and Review" (September 30, 1993; 58 FR 51735) requires covered agencies to prepare an agenda of all regulations under development or review. The Order also requires that certain agencies prepare annually a regulatory plan of their "most important significant regulatory actions," which appears part of the October Unified Agenda.

Executive Order 12875 entitled "Enhancing the Intergovernmental Partnership" (October 26, 1993; 58 FR 58093) directs agencies to reduce the imposition of unfunded mandates upon State, local, and tribal governments. The Order directs agencies that are proposing to impose nonstatutory unfunded mandates to consult with affected governmental officials and

document their concerns, report those concerns to the Director of the Office of Management and Budget, and explain the agency's position supporting the continuing need to issue the regulation in light of those concerns. As part of this effort, agencies include in their submissions for the Unified Agenda information on whether their regulatory actions may have an effect on the various levels of government.

The *Unfunded Mandates Reform Act of 1995* (P.L. 104-4, title II) requires agencies to prepare written assessments of the costs and benefits of significant regulatory actions "that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more . . . in any 1 year . . . ." The requirement does not apply to independent regulatory agencies, nor does it apply to certain subject areas excluded by section 4 of the Act. Affected agencies identify in the Unified Agenda those regulatory actions they believe are subject to title II of the Act.

The *Small Business Regulatory Enforcement Fairness Act* (P.L. 104-121, title II) established a procedure for congressional review of rules (5 U.S.C. 801 *et seq.*), which defers, unless exempted, the effective date of a "major" rule for at least 60 days from the publication of the final rule in the **Federal Register**. The Act specifies that a rule is "major" if it has resulted or is likely to result in an annual effect on the economy of $100 million or more or meets other criteria specified in that Act. If the issuing agency believes that a rule may be major, it indicates this under the "Priority" heading of the entry. The Act provides that the Administrator of OIRA will make the final determination as to whether a rule is major.

The Unified Agenda also helps fulfill the statutory requirement that the Office of Federal Procurement Policy (OFPP) publish a **Procurement Regulatory Activity Report** as required by the Office of Federal Procurement Policy Act Amendments of 1988 (41 U.S.C. 421(g)). In their agenda submissions, agencies indicate which regulatory actions are procurement-related, as well as whether or not there is a statutory requirement or a paperwork burden associated with the procurement-related actions. OFPP uses information that agencies publish in the Unified Agenda to produce its report.

How Are The Regulatory Plan and the Unified Agenda Organized?

The Regulatory Plan appears in Part II of this edition of the **Federal Register**. Following the Plan, each agency's agenda appears as a separate part. The sections of the Plan and the parts of the Unified Agenda are organized alphabetically in four groups: Cabinet departments; other executive agencies; the Federal Acquisition Regulation, a joint authority (Agenda only); and independent regulatory agencies. Departments may in turn be divided into subagencies.

Each department's or agency's section of the Plan contains a narrative statement of regulatory priorities followed by a description of the department's or agency's most important significant regulatory and deregulatory actions. Each part of the Agenda begins with a preamble providing information specific to that part.

In the Agenda, each agency presents its entries under one of five headings according to the rulemaking stage of the entry. In the Plan, only the first three stages are applicable. The stages are:

1. Prerule Stage—actions agencies will undertake to determine whether or how to initiate rulemaking. Such actions occur prior to a Notice of Proposed Rulemaking (NPRM) and may include Advance Notices of Proposed Rulemaking (ANPRMs) and reviews of existing regulations.

2. Proposed Rule Stage—actions for which agencies plan to publish a Notice of Proposed Rulemaking as the next step in their rulemaking process or for which the closing date of the NPRM Comment Period is the next step.

3. Final Rule Stage—actions for which agencies plan to publish a final rule or an interim final rule or to take other final action as the next step in their rulemaking process.

4. Long-Term Actions—items under development but for which the agency does not expect to have a regulatory action within the 12 months after publication of this edition of the Unified Agenda. Some of the entries in this section may contain abbreviated information.

5. Completed Actions—actions or reviews the agency has completed or withdrawn since publishing its last agenda. This section also includes items the agency began and completed between issues of the Agenda.

In the Agenda, an agency may use subheadings to identify regulations that it has grouped according to particular topics. When these subheadings are used, they appear above the title of the first regulation in each group.

A bullet (•) preceding an entry indicates that the entry appears in this publication for the first time.

All entries are numbered sequentially from the beginning of the Plan to the end of the Unified Agenda. The sequence number preceding the title of each entry identifies the location of the entry in this edition. The same number is used in the indexes to enable readers to find entries on specific subjects.

For each agency that requests it, the Center provides a table of contents that appears in the Agenda after the agency preamble. In addition to listing all the agency's Agenda entries, the tables of contents identify each Plan entry by a cross-reference in bold type.

This publication contains four indexes. The first two indexes list the regulatory actions that agencies believe may have effects on small entities or levels of government. The third index lists entries for which agencies have indicated that they are conducting a periodic review under section 610(c) of the Regulatory Flexibility Act. The fourth is a subject index based on the **Federal Register Thesaurus of Indexing Terms**.

Congress generally authorizes a single Federal agency to implement, through regulation, a specific policy objective. Sometimes, however, a statute may require that several agencies issue regulations to accomplish the objective. In such cases, the agencies, working with a central coordinator, jointly publish the rulemaking documents. These regulations are known as Governmentwide common rules. Agencies participating in developing common rules report them in their individual sections of the Unified Agenda.

This edition of the Unified Agenda contains two Governmentwide common rules:

- New Restrictions on Lobbying
- Administrative Requirements for Grantees To Reflect Single Audit Act Amendments

What Information Appears for Each Entry?

All entries in the Unified Agenda contain uniform data elements including, at a minimum, the following information:

Title of the Regulation. The notation "Section 610 Review" following the title indicates that the agency has selected

the rule for its periodic review of existing rules under the Regulatory Flexibility Act (5 U.S.C. 610(c)).

Priority. Agencies assign each entry to one of the following five categories of significance.

(1) Economically Significant

As defined in Executive Order 12866, a rulemaking action that will have an annual effect on the economy of $100 million or more or will adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The definition of an "economically significant" rule is similar but not identical to the definition of a "major" rule under 5 U.S.C. 801 (P.L. 104-121). (See below.)

(2) Other Significant

A rulemaking that is not economically significant but is considered significant by the agency. This category includes rules that the agency anticipates will be reviewed under E.O. 12866 or rules that are a priority of the agency head. These rules may or may not be included in the agency's regulatory plan.

(3) Substantive, Nonsignificant

A rulemaking that has substantive impacts but is neither Significant, nor Routine and Frequent, nor Informational/Administrative/Other.

(4) Routine and Frequent

A rulemaking that is a specific case of a multiple recurring application of a regulatory program in the Code of Federal Regulations and that does not alter the body of the regulation.

(5) Informational/Administrative/ Other

A rulemaking that is primarily informational or pertains to agency matters not central to accomplishing the agency's regulatory mandate but that the agency places in the Unified Agenda to inform the public of the activity.

In addition, if an agency believes that a rule may be "major" under 5 U.S.C. 801 (P.L. 104-121) because it has resulted or is likely to result in an annual effect on the economy of $100 million or more or meets other criteria specified in that Act, the agency indicates this under the "Priority" heading. (The Act provides that the Administrator of the Office of Information and Regulatory Affairs will make the final determination as to whether a rule is major.)

Unfunded Mandates—whether the rule is covered by section 202 of the Unfunded Mandates Reform Act of 1995 (P.L. 104-4). The Act requires that, before issuing an NPRM likely to result in a mandate that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector of more than $100 million in 1 year, agencies, other than independent regulatory agencies, shall prepare a written statement containing an assessment of the anticipated costs and benefits of the Federal mandate. If the agency believes the entry is not subject to the Act, this data element will not be printed.

Reinvention—whether the action is part of the Administration's Reinventing Government effort and, if so, whether the result will be elimination of existing text in the Code of Federal Regulations (CFR) or revision of text in the CFR to reduce burden or duplication or to streamline requirements. If the action is not specifically part of this effort, the data element will not be printed.

Legal Authority—the section(s) of the United States Code (U.S.C.) or Public Law (P.L.) or the Executive order (E.O.) that authorize(s) the regulatory action. Agencies may provide popular name references to laws in addition to these citations.

CFR Citation—the section(s) of the Code of Federal Regulations that will be affected by the action.

Legal Deadline—whether the rule is subject to a statutory or judicial deadline, the date of that deadline, and whether the deadline pertains to an NPRM, a Final Action, or some other action.

Abstract—a brief description of the problem the regulation will address; the need for a Federal solution; to the extent available, alternatives that the agency is considering to address the problem; and potential costs and benefits of the action.

Timetable—the dates and citations (if available) for all past steps and a projected date for at least the next step for the regulatory action. If a date appears in this section as 00/00/00, the date of the action is currently undetermined. A date printed in the form 10/00/98 means the agency is predicting the month and year the action will take place but not the day it will occur. "Undetermined" indicates the agency does not know what action it will take next. Dates after 1999 are printed in the same form as other dates, using the last two digits of the year. (Note that 00/00/00 refers to an unspecified date some time in the future, with no specific relation to the year 2000.)

Small Entities Affected—whether the rule is expected to have a significant economic impact on a substantial number of "small entities" as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and, if so, whether the small entities are businesses, governmental jurisdictions, or organizations.

Government Levels Affected—whether the rule is expected to affect levels of government and, if so, whether the governments are State, local, tribal, or Federal.

Agency Contact—the name, title, address, and phone number of a person in the agency who is knowledgeable about the regulation. If available, the agency may also provide the fax number, e-mail address, and TDD for the agency contact.

Procurement—whether the action is related to procurement and, if so, whether it is required by statute and whether it involves a paperwork burden. The Procurement heading appears only if the entry is related to procurement.

Some agencies have provided the following optional information:

Compliance Cost to the Public—the estimated gross compliance cost of the action.

Affected Sectors—the industrial sectors that the action may most affect, either directly or indirectly. Affected Sectors are identified by Standard Industrial Classification (SIC) numbers.

Analysis—whether the agency is preparing a Regulatory Flexibility Analysis, within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or any other kind of analysis or evaluation (e.g., an environmental impact statement).

Entries appearing in **The Regulatory Plan** should also contain the following information:

Statement of Need—a description of the need for the regulatory action.

Summary of the Legal Basis—a description of the legal basis for the action, including whether any aspect of the action is required by statute or court order.

Alternatives—a description of the alternatives the agency has considered

the anticipated costs and benefits of the action.

Risks—a description of the magnitude of the risk the action addresses, the amount by which the agency expects the action to reduce this risk, and the relation of the risk and this risk reduction effort to other risks and risk reduction efforts within the agency's jurisdiction.

Abbreviations

The following abbreviations appear throughout this publication:

ANPRM—An Advance Notice of Proposed Rulemaking is a preliminary notice, published in the **Federal Register**, announcing that an agency is considering a regulatory action. The agency issues an ANPRM before it develops a detailed proposed rule. The ANPRM describes the general area that may be subject to regulation and usually asks for public comment on the issues and options being discussed. An ANPRM is issued only when an agency believes it needs to gather more information before proceeding to a notice of proposed rulemaking.

CFR—The Code of Federal Regulations is an annual codification of the general and permanent regulations published in the **Federal Register** by the departments and agencies of the Federal Government. The Code is divided into 50 titles, and each title covers a broad area subject to Federal regulation. The CFR is keyed to and kept up to date by the daily issues of the **Federal Register**.

EO—An Executive order is a directive from the President to executive agencies, issued under constitutional or statutory authority. Executive orders are published in the **Federal Register** and in title 3 of the Code of Federal Regulations.

FR—The **Federal Register** is a daily Federal Government publication that provides a uniform system for publishing Presidential documents, all proposed and final regulations, notices of meetings, and other official documents issued by Federal departments and agencies.

FY—The Federal fiscal year runs from October 1 to September 30.

NPRM—A Notice of Proposed Rulemaking is the document an agency issues and publishes in the **Federal Register** that describes and solicits public comments on a proposed regulatory action. Under the Administrative Procedure Act (5 U.S.C. 553), an NPRM must include, at a minimum:

- a statement of the time, place, and nature of the public rulemaking proceeding;
- a reference to the legal authority under which the rule is proposed; and
- either the terms or substance of the proposed rule or a description of the subjects and issues involved.

PL—A Public Law is a law passed by Congress and signed by the President or enacted over his veto. It has general applicability, unlike a private law that applies only to those persons or entities specifically designated. Public laws are numbered in sequence throughout the 2-year life of each Congress; for example, PL 104-5 is the fifth public law of the 104th Congress.

RFA—A Regulatory Flexibility Analysis is a description and analysis of the impact of a rule on small entities, including small businesses, small governmental jurisdictions, and certain small not-for-profit organizations. The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires each agency to prepare an initial RFA for public comment when it is required to publish an NPRM and to make available a final RFA when the final rule is published, unless the agency head certifies that the rule would not have a significant economic impact on a substantial number of small entities.

RIN—The Regulation Identifier Number is assigned by the Regulatory Information Service Center to identify each regulatory action listed in the Unified Agenda and **The Regulatory Plan**, as directed by E.O. 12866 (section 4(b)). Additionally, OMB has asked agencies to include RINs in the headings of their Rule and Proposed Rule documents when publishing them in the **Federal Register**, to make it easier for the public and agency officials to track the publication history of regulatory actions throughout their development.

Seq. No.—The Sequence Number identifies the location of an entry in this publication. Note that a specific regulatory action will have the same RIN throughout its development but will generally have different sequence numbers in different editions of the Unified Agenda and **The Regulatory Plan**.

USC—The United States Code is a consolidation and codification of all general and permanent laws of the United States. The USC is divided into 50 titles, and each title covers a broad area of Federal law.

How Can Users Get Copies of the Plan and the Agenda?

Printed copies of this edition of the **Federal Register** are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9325, (202) 512-1800.

Copies of individual agency materials may be available directly from the agency. Please contact the particular agency for further information.

All editions of **The Regulatory Plan** and the **Unified Agenda of Federal Regulatory and Deregulatory Actions** since October 1995 are also available in electronic form. You can search the Plan and the Agenda on the World Wide Web at:

http://reginfo.gov/tua

You may also search the Plan and the Agenda on the Goverment Printing Office's GPO Access, which is accessible through:

http://www.access.gpo.gov

Dated: October 1, 1997.

Ronald C. Kelly,

Deputy Executive Director.

[FR Doc. 97-28070 Filed 10-28-97; 8:45 am]

BILLING CODE 6820-27-P

DEPARTMENT OF AGRICULTURE (USDA)

Statement of Regulatory Priorities

To comply with the National Performance Review (NPR) directive to achieve regulatory reform, the Department of Agriculture is continuing an extremely important project to eliminate unnecessary regulations and improve those remaining by making them easier to understand and more user friendly. To date the Department's review and revision effort has resulted in actions on over 50 percent of our NPR commitment to regulatory reform. When the results are fully implemented, the Department will have eliminated or reinvented 81 percent of its regulatory holdings in the CFR.

Positive changes resulting from regulatory actions proposed as well as completed by the Department will reach into every corner of the country and, both directly and indirectly, touch the lives of most Americans. Those programs that offer support to specific rural and urban segments of the economy are being simplified so that persons who qualify for assistance, or some other form of participation, will find less burdensome rules. Yet high standards will be set for efficient and effective program management that makes the best use of taxpayer dollars. Farmers, ranchers, and others involved in U.S. agriculture will find significant changes in all aspects of regulations that govern their interaction with the Department and its programs. Farm credit, a mainstay of the Nation's rural economy, will be significantly streamlined by the merger of cumbersome loan-making regulations with forms and certifications simplified to facilitate the application process. The Department is undertaking a number of actions in the regulation of commodities that will increase efficiency, improve customer service, reduce intervention in markets, and allow States to assume greater responsibility in controlling the spread of plant pests or disease. The Department is also improving the regulations that serve rural communities. Several changes are being made in the rural housing programs. Nutrition programs are also being strengthened, their efficiency improved, and their integrity enhanced through regulatory reform. In the area of food safety, the Department has undertaken a significant reinvention of all policies and relationships with industry and the public. There are several important reinvention plans in the natural resources and conservation area.

Reducing Paperwork Burden on Farmers

The Department has made substantial progress under the guidance of the Chief Information Officer in implementing the goal of the Paperwork Reduction Act of 1995 to reduce the burden of information collection on the public by 25 percent by 1999. Further reductions will result from program changes, improved efficiency in the collection and management of information, and adjustments in the burden.

The Department established a Paperwork Reduction Implementation Team (PRIT), under the guidance of the Food and Agriculture Council, based on direction from the Secretary of Agriculture, to create a plan to reduce the paperwork burden on farmers. It is anticipated that the PRIT will develop a USDA Paperwork Reduction Framework—a set of standards and guidelines for the Service Center agencies. Agencies and other teams will use the framework in their execution of their paperwork reduction initiatives. This "centralized planning-decentralized execution" approach avoids starting from scratch, and capitalizes on the work already underway. It is estimated that it will take 6-9 months to finalize this process, which can be turned over to the appropriate USDA organizational unit to manage as a part of normal business.

Simultaneously, the PRIT will work with Service Center agencies to continue ongoing initiatives to reduce burden as quickly as possible. These agencies are working together through business process reengineering initiatives to address customer needs by integrating agency processes to streamline information collection from the farmer. This will eliminate redundant data collection, provide direct access to benefit and eligibility information, and reduce and simplify the number of regulations and forms. Agencies also have several ongoing projects to address the paperwork burden, either directly or indirectly. For example, for the Farm Service Agency, the planned reductions for FY 1998 include:

- *Noninsured Crop Disaster Assistance Program*
  -Improved worksheets reduce the time the producer needs to calculate production.
  -An improved handbook and training will improve efficiency.
- *7-Year Production Flexibility Contracts*
  -7-year contracts do not require annual renewal. New information collections are needed only if changes occur.

These information burden reductions will involve many of the programs covered by the regulations in the regulatory agenda. However, the reductions, in general, do not require regulatory changes.

The Role of Regulations

The programs of the Department are diverse and far reaching, as are the regulations that attend their delivery. Regulations codify how the Department will conduct its business, including the specifics of access to, and eligibility for, USDA programs. Regulations also specify the behavior of State and local governments, private industry, businesses, and individuals that is necessary to comply with their provisions. The diversity in purpose and outreach of our programs contributes significantly to the USDA being at or near the top of the list of Departments that produce the largest number of regulations annually. These regulations range from nutrition standards for the school lunch program, to natural resource and environmental measures governing national forest usage and soil conservation, to regulations protecting American agribusiness (the largest dollar value contributor to exports) from the ravages of domestic or foreign plant or animal pestilence and they extend from farm to supermarket to ensure the safety, quality, and availability of the Nation's food supply. Many regulations function in a dynamic environment which requires their periodic modification. The factors determining various entitlement, eligibility, and administrative criteria often change from year to year. Therefore, many significant regulations must be revised annually to reflect changes in economic and market benchmarks. Almost all legislation that affects Departmental programs has accompanying regulatory needs, often with a significant impact. The Farm Bill of 1996, Public Law 104-127, has considerable regulatory consequences. This key legislation affects most agencies of USDA and will result in the addition of new programs, the deletion of others, and modification to still others.

Administration Guidance—USDA Response

In developing and implementing regulations, the Department has been guided by the regulatory principles and philosophy set forth by the President in Executive Order 12866 "Regulatory Planning and Review." As prescribed in the Order, the USDA is committed to "promulgate only those regulations that are required by law, are necessary to interpret the law, or are made necessary by compelling public need." When considering a rulemaking action, the Department will assess the costs and benefits of available regulatory alternatives, including the alternative of not regulating. Our analysis will consider the costs and benefits of both quantifiable and qualitative measures, and opt for approaches that maximize net benefits.

Major Regulatory Priorities

Four agencies are represented in this regulatory plan. They include the Farm Service Agency, the Food and Consumer Service, the Forest Service, and the Food Safety Inspection Service.

This document represents summary information on prospective significant regulations as called for in Executive Order 12866. A brief comment on each of the four agencies appears below, which summarizes the agency mission and its key regulatory priorities. The agency summaries are followed by the regulatory plan entries.

Farm Service Agency

Mission: The Farm Service Agency (FSA) administers contract commodity, conservation, farm loan, commodity purchase and emergency loan programs, as prescribed by various statutes, in order to support farming certainty and flexibility while ensuring compliance with farm conservation and wetland protection requirements and to assist owners and operators of farms and ranches to conserve and enhance soil, water, and related natural resources.

Priorities: FSA's priority for 1998 will be to continue to implement these programs and to implement the many revisions to the farm program regulations that were identified by the President's Regulatory Review Initiative. The most significant FSA regulations are those that operate the contract commodity programs and farm loans. The farm programs were significantly changed by the 1996 Farm Bill. The Farm Bill instituted the contract commodity programs, which utilize production flexibility contracts and marketing assistance loans in place of the deficiency payments and production adjustment of past programs. The contracts removed the link between income support payments and farm prices by providing for seven annual fixed but declining payments. FSA's farm loan programs provide farm ownership, operating, emergency loss, and rural youth loans to help farmers who are temporarily unable to obtain private, commercial credit. While the marketing assistance and farm loan programs have significant economic impact, they are driven by specific statutory requirements. Therefore, they are noted here to acknowledge their significance in the overall USDA Regulatory Plan, but are not further listed in the body of the plan which appears below.

Food and Consumer Service

Mission: The Food and Consumer Service (FCS) provides food assistance programs and comprehensive nutrition education efforts.

Priorities: In addition to responding to recently enacted provisions for welfare reform, FCS has established broad strategic policy goals. These goals are:

- Healthful diets for school-age children. The two major programs serving this goal are the National School Lunch Program (NSLP) and the School Breakfast Program (SBP). This goal reflects the Agency's recognition of its national health and education responsibilities for school-age children.
- Enhanced food and nutrition security for low-income Americans. This goal represents both the continuation of the Food Stamp Program's traditional role in providing food assistance as well as improving program administration to meet future challenges. Welfare reform modified the eligibility criteria for food stamp benefits, increased State design options, and maintained the overall mission to provide food and nutrition security for low-income Americans participating in the program.
- Improved nutritional status and health of low-income women, infants and children. This goal reflects the mission of the Special Supplemental Nutrition Program for Women, Infants and Children (WIC). It emphasizes nutrition education, healthy infant feeding practices and positive health outcomes while seeking to enhance program efficiency and integrity.
- Improved nutritional status of childen in day-care settings by improving the nutritional quality of CACFP meals, program access for low-income families and program integrity.
- Low-income children consume nutritious lunches when school meals are not available. This goal seeks to extend the Agency's commitment to low-income children during the summertime when school meals are not available.
- Improved quality of food distribution commodities and service. This goal continues support for agricultural markets with an emphasis on more healthful commodities and improved program efficiency through automation, reduced Federal and State inventories and timely deliveries in FCS food distribution. It also supports the USDA gleaning intitiative for foods used in the FCS feeding programs and/or distributed by FCS programs.

Forest Service

Mission: The mission of the Forest Service is to achieve quality land management, under the sustainable multiple-use management concept, to meet the diverse needs of people. It includes:

- Advocating a conservation ethic in promoting the health, productivity, diversity, and beauty of forests and associated lands;
- Listening to people and responding to their diverse needs, in making decisions;
- Protecting and managing the National Forests and Grasslands so they best demonstrate the sustainable multiple-use management concept;
- Providing technical and financial assistance to State and private forest landowners, encouraging them to practice good stewardship and quality land management in meeting their specific objectives;
- Providing technical and financial assistance to cities and communities to improve their natural environment by planting trees and caring for their forests;
- Providing international technical assistance and scientific exchanges to sustain and enhance global resources and to encourage quality land management;
- Helping States and communities to wisely use the forests to promote rural economic development and a quality rural environment;
- Developing and providing scientific and technical knowledge aimed at improving our capability to protect, manage, and use forests and rangelands; and
- Providing work, training, and education to the unemployed, underemployed, elderly, youth, and disadvantaged, in pursuit of our mission.

Priorities: The President's environmental program includes efforts to incorporate the principles of ecosystem management in natural resource decisionmaking on the National Forests. In support of that

effort, final regulations will be published governing the amendment, revision, and implementation of forest land management plans. Significantly, the regulation will also streamline the planning process and update planning procedures and requirements in order to reflect court decisions and the Agency's experience gained with the first generation of forest plans.

Food Safety and Inspection Service

Mission: The Food Safety and Inspection Service (FSIS) is responsible for ensuring the Nation's meat, poultry, and egg products are safe, wholesome, and properly packaged and labeled.

Priorities: FSIS is continuing its comprehensive review of its existing regulations in light of the July 25, 1996, final rule, "Pathogen Reduction; Hazard Analysis and Critical Control Points (HACCP) Systems," requiring that official meat and poultry establishments develop and implement HACCP, a science-based process control system for food safety. Establishments are responsible for developing and implementing HACCP plans incorporating the controls they have determined are necessary and appropriate to produce safe products. HACCP places the responsibility for food safety firmly on meat and poultry establishments, but enables them to tailor their control systems to the needs of particular plants and processes and to take advantage of the latest technological innovations.

FSIS must revise its existing regulations to be consistent with HACCP principles; many are "command-and-control" regulations, prescribing the exact means establishments must use to ensure the safety of their products. Some specify, for example, precise cooking time-and-temperature combinations. Further, many of these regulations require prior approval of equipment and procedures by FSIS, therefore assigning the Agency responsibility for the means used by establishments to comply with the regulations. As a general matter, command-and-control regulations are incompatible with HACCP because they deprive plants of the flexibility to innovate and undercut the clear delineation of responsibility for food safety. Therefore, to prepare for the implementation of HACCP, FSIS is conducting a thorough review of its current regulations and, to the maximum extent possible, converting its command-and-control regulations to performance standards. Some of the Agency's recent and planned initiatives, both to convert command-and-control regulations to performance standards and to generally streamline and simplify the regulations, follow:

- FSIS is converting to performance standards the current regulations governing the production of cooked beef products, uncured meat patties, and certain poultry products.
- FSIS will be proposing to streamline, consolidate, and make consistent with HACCP the rules of practice regarding suspension and withdrawal of inspection.
- FSIS has proposed to consolidate the sanitation regulations into a single part of Code of Federal Regulations applicable to both meat and poultry establishments, eliminate unnecessary differences between the meat and poultry sanitation requirements, and convert many of the highly prescriptive requirements to performance standards.
- FSIS will be proposing to remove most requirements pertaining to partial quality control programs.

USDA—Food and Consumer Service (FCS)

PROPOSED RULE STAGE

1. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): FOOD DELIVERY SYSTEMS INTEGRITY

Priority:
Other Significant

Legal Authority:
42 USC 1786

CFR Citation:
7 CFR 246

Legal Deadline:
None

Abstract:
A proposed rule addressing WIC Food Delivery Systems was published on December 28, 1990 (55 FR 53446). The Department provided a 120-day comment period for the proposed rule, which closed on April 29, 1991. Nearly 1,100 comments were received from a wide variety of sources. Despite the degree of preliminary input to the December 28, 1990, proposed rule, many of the commenters responding during the formal comment period suggested that the Department's food delivery regulations needed to be proposed again, rather than proceeding directly to a final rule. In addition, several members of Congress requested that the rule be reproposed in light of its impact on State agency food delivery systems. Therefore, the Department intends to issue a second proposed rule addressing WIC food delivery systems and requirements. This second rule will address all of the provisions contained in the previous rulemaking, but will contain significant modifications to some of the proposed provisions, as well as clarifications of several provisions that may not have been clearly understood in the earlier rule. (88-512)

Statement of Need:

On December 28, 1990, the Department published a proposed rule designed primarily to strengthen State agency operations in vendor management and related food delivery areas for the WIC Program. This proposal was developed with input over several years' time from State agency experts in food delivery, and with the full support of and encouragement from Congress and the Department's Office of Inspector General (OIG). The Department provided a 120-day comment period for the proposed rule, which closed on April 28, 1991. During this comment period, nearly 1,100 comments were received from State and local WIC agencies, vendors, and associated groups, public interest groups, members of Congress, members of the public, and WIC participants.

Despite the degree of preliminary input to the December 28, 1990, proposed rule, many of the commenters suggested that the Department's food delivery regulations needed to be proposed again, rather than proceeding directly to a final rule. In addition, several members of Congress requested that the rule be reproposed in light of its impact on State agency food delivery systems.

The Department has therefore drafted a second proposed rule addressing WIC food delivery systems integrity and procedural requirements. This second rule addresses all of the provisions contained in the previous rulemaking, and contains significant modifications to some of the proposed revisions, as well as clarifications to a number of provisions that may not have been clearly understood in the earlier rule. The rule will provide for more cost effective and efficient management of WIC vendors by State agencies. A 120-day public comment period will be provided with this proposed rule. The Department intends to publish a final rule, based on all of the comments received, by the middle of fiscal year 1997.

Although this rule does not have a direct impact on reducing risks to public health, safety, or the environment, it will significantly improve the operation and accountability of the WIC Program nationwide.

Alternatives:

Given the intensive input that has been gathered for the development of this rule since it was recommended by the General Accounting Office in 1988, and the comments that were received pertaining to the first proposed version of the rule in December 1990, the Department has determined that there are no viable alternatives to the provisions included in this reproposal. The alternative of proceeding directly to promulgation of a final rule based on the 1990 proposal has been rejected by Congress.

Anticipated Costs and Benefits:

The costs of this action include costs due to vendor overcharges and costs associated with the proposal. The estimated costs for implementation of the proposal include a shift of not more than $2.0 million in WIC Program Nutrition Services and Administration (NSA) funds within the 87 State agencies, partially from reduced requirements for management evaluations of local agencies and reduced costs due to elimination of representative on-site monitoring. They also include $0.5 million in additional costs to vendors to meet the proposed minimum training and authorization requirements. It should be noted that all the vendors are currently required to participate in some type of training and complete an application form for program authorization. The estimated $0.5 million in additional costs therefore represents those instances where current training and authorization requirements are below the level established in the proposal. In these instances, vendors may incur costs in attending more frequent training sessions or may be required to complete an application form at more frequent intervals. The estimated cost does not represent charges to the vendor for training or authorization. Rather, the cost represents the estimated cost of the vendor's time to participate in the training session and to complete the application form.

The gross benefit results from a significant reduction in vendor overcharges. A significant net benefit of $37 million is expected, as vendor overcharges are estimated at $39.5 million and costs associated with the proposal are a maximum of $2.5 million.

Risks:

This rule is intended to reduce and minimize the risk of vendor fraud and abuse of the WIC program.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	04/00/98	
NPRM	06/00/98	
NPRM Comment Period End	10/00/98	
Final Action	06/00/99	
Final Action Effective	10/00/99	

Small Entities Affected:

Businesses

Government Levels Affected:

State, Local, Tribal

Sectors Affected:

None

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USDA—FCS

2. FOOD STAMP PROGRAM: FOOD STAMP RECIPIENT CLAIM ESTABLISHMENT AND COLLECTION STANDARDS

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

7 USC 2011 to 2032

CFR Citation:

7 CFR 272; 7 CFR 273

Legal Deadline:

None

Abstract:

The Food and Consumer Service is revising Food Stamp Program regulations which cover the establishment and collection of recipient claims. This action is the result of the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) and is consistent with the President's regulatory reform effort. In addition, this rule revises existing discretionary areas to improve claim establishment and effective management. The inability of State agencies to establish and collect claims has continuously been cited as a deficiency by the Department's Office of Inspector General. The last significant revision to these regulations was in 1983. Subsequent activities, such as technological advances and general debt management regulations, have rendered many portions of the current rule obsolete. In addition, the current rule has been found to place unnecessary burdens on State agencies. State agencies are responsible for establishing and collecting recipient claims. (94-005)

Statement of Need:

In addition to implementing PRWORA, this rule is necessary to improve the establishment and collection of recipient claims. The last significant revision to these regulations was in 1983. Subsequent activities, such as technological advances and general debt management regulations, have rendered many portions of the current rule obsolete. The current rule has also been found to place unnecessary burdens on State agencies. State agencies are responsible for establishing and collecting recipient claims. This rule will address two dimensions of the overissuance problem: establishing claims on excess allowances, and recovering overages where possible. Data from the food stamp quality control system for 1993 show that overissuances to recipients totaled over $1.8 billion, 8.3 percent of the $22.0 billion in total food stamp issuances that year. These errors were concentrated in just 18 percent of food stamp households, which received an average of almost 50 percent more than they should have. Claims against recipients are a direct means to recover overissuances and, to the extent that recipients know that recovery of overissuances will be sought, represent a deterrent to households who quietly accept the extra food benefits.

Alternatives:

The alternative is not to revise the current rule governing this aspect of the Program. In addition, the existing

regulations must be changed to conform with the new legislative requirement. The current rule is not adequate to facilitate effective and efficient debt management. The inability of State agencies to establish and collect claims has continuously been cited as a deficiency by the Department's Office of Inspector General.

Anticipated Costs and Benefits:

Nationwide, as of October 1, 1996, there was over $1.1 billion in uncollected recipient claims. Inspector General reports have also noted that, in addition to large accounts receivable for established, uncollected claims, there are backlogs of hundreds of millions of claims that have not yet been established. These unestablished claims represent the most current, and typically the most collectable losses to the program. Updated regulations that incorporate recent debt management rules and technological advances, as well as practical suggestions and feedback received from State agencies, should improve the establishment and collection of recipient claims in the Food Stamp Program. In addition, efforts will be made to increase the degree of conformity with claims-related issues and procedures currently used in other social programs.

Risks:

The tolerance of program abuse or even the perception of such undermines the fundamental mission of the Food Stamp Program. The efficient and effective establishment and collection of recipient claims, which this rulemaking addresses, is essential in ensuring that this does not occur.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	02/00/98	
Final Action	09/00/98	
Final Action Effective	12/00/98	

Small Entities Affected:

None

Government Levels Affected:

State, Local

Agency Contact:

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USDA—FCS

3. FOOD STAMP PROGRAM: REVISIONS TO THE RETAIL FOOD STORE DEFINITION AND PROGRAM AUTHORIZATION GUIDANCE

Priority:

Other Significant

Legal Authority:

PL 103-225; 7 USC 2012; 7 USC 2018

CFR Citation:

7 CFR 271; 7 CFR 278

Legal Deadline:

Final, Statutory, March 25, 1994.

Abstract:

It is not anticipated that this proposed rule will impact program costs. It is anticipated that the clarifications of program eligibility criteria in this proposed rule will make it easier for firms to understand and for the Food and Consumer Service to administer.

Statement of Need:

Public Law 103-225 amends the Food Stamp Act of 1977, to make changes in eligibility requirements for retail food stores to participate in the Food Stamp Program. Prior to enactment of these changes, a retail food store qualified to participate in the Food Stamp Program if more than 50 percent of its total eligible food sales were in staple foods. The new law changes that to require 50 percent of its total gross sales in staple foods. It also provides another option for stores not meeting the new 50 percent rule. Those stores can now qualify if they offer for sale, on a continuous basis, a variety of food in each of four categories of staple foods. The staple food categories are defined as "(1) meat, poultry, or fish; (2) bread or cereals; (3) vegetables or fruits; or (4) dairy products." This statutory change in eligibility will require developing policy definitions for the terms "continuous basis," "variety," and "perishable."

Alternatives:

None. The new law also requires the Secretary to issue new rules providing for the periodic reauthorization of retail food stores and wholesale food concerns. This must include providing periodic notice of the definitions for "retail food stores," "staple foods," and "perishable foods."

Anticipated Costs and Benefits:

It is not anticipated that this proposed rule will impact program costs. It is anticipated that the clarifications of program eligibility criteria in this proposed rule will make it easier for firms to understand and for the Food and Consumer Service to administer.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected:

Businesses

Government Levels Affected:

None

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RIN: 0584–AB90

USDA—FCS

4. FSP: PERSONAL RESPONSIBILITY PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

Priority:

Economically Significant. Major under 5 USC 801.

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

PL 104-193

CFR Citation:

7 CFR 271; 7 CFR 272; 7 CFR 273

Legal Deadline:

Other, Statutory, August 22, 1996.

Stat. implementation deadline of 8/22/96 for sec 813, 814, 820, 821, 837, and 911 of PL 104-193; stat. implementation deadline of 7/1/97 for sec 115, and 11/22/96 for sec 824 of PL 104-193.

Abstract:

This rule will implement 13 provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. (96-019)

Statement of Need:

P.L. 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, amends the Food Stamp Act of 1977, to add some new eligibility requirements and disqualifiers, and increase some existing penalties for noncompliance with food stamp rules. The new law: (1) makes individuals convicted of drug-related felonies ineligible for food stamps; (2) doubles the penalties for violating food stamp program requirements; (3) permanently disqualifies individuals convicted of trafficking in food stamp benefits of $500 or more; (4) allows States to disqualify an individual from food stamps if the individual is disqualified from another means-tested program for failure to perform an action required by that program; (5) makes individuals ineligible for 10 years if they misrepresent their identity or residence in order to receive multiple food stamp benefits; (6) makes fleeing felons and probation and parole violators ineligible for the food stamp program; (7) allows States to require food stamp recipients to cooperate with child support agencies as a condition of food stamp eligibility; (8) allows States to disqualify individuals who are in arrears in court-ordered child support payments; (9) limits the food stamp participation of most able-bodied adults without dependents to three months in a three-year period during times the individual is not working or participating in a work program; (10) prohibits an increase in food stamp benefits when households' income is reduced because of a penalty imposed under a Federal, State, or local means-tested public assistance program for failure to perform a required action; (11) requires States to provide households' addresses, social security numbers, or photographs to law enforcement officers to assist them in locating fugitive felons or probation or parole violators; and (12) prohibits an increase in food stamp benefits when households' income is reduced because of a penalty imposed under a Federal, State, or local means-tested public assistance program for an act of fraud by the individual under the program.

Summary of the Legal Basis:

All of the provisions of this rule are mandated by P.L. 104-193, The Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Alternatives:

None.

Anticipated Costs and Benefits:

Over 7 years, the provisions are expected to reduce the cost of the Food Stamp Program by approximately $5.565 billion.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected:

None

Government Levels Affected:

State, Local, Federal

Analysis:

Regulatory Flexibility Analysis; Regulatory Impact Analysis 11/00/97

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USDA—FCS

5. FSP: STATE FLEXIBILITY AND CERTIFICATION PROVISIONS OF PUBLIC LAW 104-193

Priority:

Economically Significant. Major under 5 USC 801.

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

PL 104-193; PL 104-208; 7 USC 2011 to 2032

CFR Citation:

7 CFR 272.3; 7 CFR 273.1; 7 CFR 273.2; 7 CFR 273.4; 7 CFR 273.9(c); 7 CFR 273.9(d); 7 CFR 273.10(a); 7 CFR 273.10(c) to (f); 7 CFR 273.11(a) to (c); 7 CFR 273.11(e); 7 CFR 273.11(j); 7 CFR 273.14(b); 7 CFR 273.14(e)

Legal Deadline:

Other, Statutory, August 22, 1996.

For provisions effective upon enactment, the statutory implementation date is August 22, 1996.

Abstract:

This rule proposes to amend Food Stamp Program regulations to implement 14 provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and one provision of the Omnibus Consolidated Appropriations Act of 1996. These provisions would increase State agency flexibility in processing applications for the Food Stamp Program and allow greater use of standard amounts for determining deductions and self-employment expenses. The provisions would also give State agencies options to issue partial allotments for households in treatment centers, count all of the income of an ineligible noncitizen in determining the benefits of the rest of the household, issue combined allotments to certain expedited service households, and certify elderly or disabled households for 24 months. Other changes would revise requirements for determining noncitizen eligibility and the eligibility and benefits of sponsored noncitizens, eliminate the exclusion of certain transitional housing payments and State and local energy assistance, exclude the earnings of students under 18, and require proration of benefits following any break in certification. (96-020)

Statement of Need:

This action is required by Pub. L. 104-193 and Pub. L. 104-208.

Summary of the Legal Basis:

Summary of the Legal Basis: This rule is required to implement the provisions of sections 402, 421, 801, 807, 808, 809, 811, 812, 818, 827, 828, 830, and 835 of Pub. L. 104-193 and section 552 of Pub. L. 104-208.

Anticipated Costs and Benefits:

The provision of this rule would reduce Food Stamp Program costs for FY 1997-2002 by approximately $6,605 billion.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
NPRM Comment Period End	01/00/98	

Small Entities Affected:

None

Government Levels Affected:

State, Local, Federal

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USDA—FCS

6. FSP: NONDISCRETIONARY PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

Priority:

Economically Significant. Major under 5 USC 801.

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

PL 104-193, sec 803; PL 104-193, sec 804; PL 104-193, sec 805; PL 104-193, sec 809; PL 104-193, sec 810; PL 104-193, sec 838; PL 104-193, sec 109; PL 104-193, sec 826

CFR Citation:

7 CFR 271.2; 7 CFR 273.1; 7 CFR 273.2; 7 CFR 273.8; 7 CFR 273.9; 7 CFR 273.10

Legal Deadline:

Other, Statutory.

Statutory Implementation Dates: PL 104-193, sec 809 - 1/1/97; PL 104-193, sec 803, 805 and 838 - 08/22/96; PL 104-193, sec 804 and 810 - 10/01/96.

Abstract:

This proposed rule amends the Food Stamp Program regulations to implement 8 provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. These provisions which require no interpretation or discretion: 1) freeze the minimum allotment at $10; 2) change the way the maximum allotments are calculated to use 100% of the Thrifty Food Plan as opposed to 103%; 3) freeze the standard deduction at current level and eliminate the adjustment procedures; 4) cap the excess shelter expense deduction; 5) change the household composition definition so that children under 22 years of age and living with their parents cannot be a separate household; 6) increase the time frame from 5 to 7 days for expedited service; 7) set a time limit of not more than 90 days for considering the person homeless; and 8) set the fair market value of vehicles at $4,600 through 9/30/96 and raise it to $4,650 effective 10/1/96 and eliminate future adjustments. (96-021)

Statement of Need:

This action is required by P.L. 104-193.

Summary of the Legal Basis:

This rule is required to implement the provisions of sections 109, 803, 804, 805, 809, 810, 826, and 838 of P.L. 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Alternatives:

None. The provisions are mandated by statute.

Anticipated Costs and Benefits:

The provisions of this rule would reduce Food Stamp Program costs for FY 1997-2002 by $20.4 billion.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected:

Businesses

Government Levels Affected:

State, Local

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RIN: 0584–AC41

USDA—FCS

7. FOOD STAMP PROGRAM: WORK PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

PL 104-193

CFR Citation:

7 CFR 273.7; 7 CFR 273.22

Legal Deadline:

None

Abstract:

This proposed rule will implement revisions to the Food Stamp Program's work and employment and training requirements, as well as new provisions for a work supplementation or support program and an employment initiative program. (96-025)

Statement of Need:

This rule is necessary to implement revisions to the Food Stamp Program's work requirements.

Summary of the Legal Basis:

All provisions of this proposed rule are mandated by Public Law 104-193.

Alternatives:

The alternative is not to revise current rules. This is not practical. The current rules have been superseded by changes brought about by Public Law 104-193.

Anticipated Costs and Benefits:

Federal costs will increase by $15 million between Fiscal Year 1997 and Fiscal Year 2002. State agencies will benefit by achieving greater flexibility to encourage work, foster personal responsibility and independence.

Risks:

An increase in food stamp rolls would result by not implementing this rule.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	02/00/98	

Small Entities Affected:

None

Government Levels Affected:

State, Local

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USDA—FCS

FINAL RULE STAGE

8. IMPROVED TARGETING OF DAY CARE HOME REIMBURSEMENTS IN THE CHILD AND ADULT CARE FOOD PROGRAM

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

Undetermined

Legal Authority:

PL 104-193

CFR Citation:

7 CFR 210; 7 CFR 226

Legal Deadline:

Final, Statutory, July 1, 1997. Other, Statutory, January 1, 1997.

Other deadline is for interim final rule.

Abstract:

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) made a significant change in the family day care home component of Child and Adult Care Food Program (CACFP). Currently, all meals serves in family day care homes are reimbursed at a single rate by type of meal, without regard to the location of the home or the household income of the children receiving the meal, with the exception of the day care provider's own children who are subject to income eligibility requirements.

Statutory amendments resulting from P.L. 104-193 now require that a means test by child or geographic area be used to determine reimbursement levels for all meals served in homes. This change is intended to target benefits to the needy and is expected to result in a Federal budgetary savings of $2.2 billion over a 6-year period (fiscal years 1997-2002). The law requires that the Department publish an interim regulation to implement these provisions by January 1, 1997, with an effective date of July 1, 1997. (96-022)

Statement of Need:

Currently, all meals served in family day care homes are reimbursed at a single rate, by type of meal, regardless of where the home is located or the household income of the children receiving the meal. The only exception is that meals served to a provider's own child(ren) are not reimbursable unless the provider's household income is at or below 185 percent of poverty. Thus, only providers submit income eligibility applications to their sponsoring organization. As a result of providing generous levels of reimbursement for all meals served in day care homes, there has been a significant increase in CACFP costs. This growth has been especially evident among family day care homes serving middle- and upper-income children. By 1986, a study of the Child Care Food Program (CCFP) conducted for FCS by Abt Associates, Inc., showed that approximately 70 percent of children then receiving reimbursement for meals served in family day care homes would have qualified for "paid" meals prior to the changes to the law in 1978. ("Paid" meals are for children from households with incomes over 185 percent of poverty.) Led by growth in the family day care portion of the CCFP--renamed the CACFP in 1989--Program expenditures increased from $300 million in 1983 to $1.44 billion by 1995.

The need to reduce overall Federal expenditures has prompted a review of many programs and led to a decision to improve the targeting of benefits in the CACFP. To accomplish this targeting, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 establishes two "tiers" of day care homes and reimbursement rates. Under the law, tier I homes are those that are located in low-income areas or those in which the provider's household income is at or below 185 percent of the Federal income poverty guidelines. All meals served to enrolled children in tier I homes will receive a higher level of reimbursement. Tier II homes, in contrast, are those which do not meet the location or provider income criteria for a tier I home. The meals served in tier II homes are reimbursed at lower rates, unless the provider elects to have the sponsor collect free and reduced price applications from the households of children enrolled for day care in the home. In that case, the meals served to identified income-eligible children (i.e., children from households with incomes at or below 185 percent of the Federal income poverty guidelines) are reimbursed at the higher, "tier I" rates.

Alternatives:

None. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 mandates that these changes be implemented on July 1, 1997.

Anticipated Costs and Benefits:

This change is intended to target benefits to the needy and is expected to result in a Federal budgetary savings of $2.6 billion over a 6-year period (fiscal years 1997-2002). The law requires that the Department publish an interim regulation to implement these provisions by January 1, 1997, with an effective date of July 1, 1997. It also requires that the Department conduct a study of the law's impact and report to Congress by August 22, 1998.

State agencies and sponsoring organizations of family day care homes will have additional administrative burdens as a result of the change, especially during the implementation phase. Family day care providers will see a reduction in income if they do not serve needy children. It should be noted that the financial effects and administrative burden flow directly from the new statutory provisions and are only marginally affected by any discretionary authority exercised by the Department.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/07/97	62 FR 889
Final Action	11/00/97	
Final Action Effective	11/00/97	

Small Entities Affected:

Organizations

Government Levels Affected:

State

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USDA—Food Safety and Inspection Service (FSIS)

PROPOSED RULE STAGE

9. • RULES OF PRACTICE

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority:

21 USC 601; 21 USC 451

CFR Citation:

9 CFR 304; 9 CFR 305; 9 CFR 306; 9 CFR 327; 9 CFR 335; 9 CFR 381; 9 CFR 460

Legal Deadline:

None

Abstract:

The Food Safety and Inspection Service (FSIS) is proposing to revise and consolidate the regulations that address the rules of practice FSIS follows when inspection services are refused, suspended, or withdrawn. FSIS is proposing to add specific language regarding the refusal, suspension, or withdrawal of inspection when the Agency determines that an establishment's Hazard Analysis and Critical Control Points (HACCP) system is inadequate, an establishment is not meeting the Salmonella pathogen reduction performance standards, an establishment's Sanitation Standard Operating Procedure is inadequate, or an establishment is not conducting generic E. coli testing. Additionally, FSIS proposes to revise and consolidate the regulations regarding the procedures for appealing Agency decisions.

Statement of Need:

For the most part, FSIS' Supplemental Rules of Practice duplicate the Department's Uniform Rules of Practice regulations. FSIS's regulations do, however, establish procedures related to the suspension of inspection. However, these regulations are difficult to read and do not clearly outline the process.

Therefore, as part of FSIS's ongoing efforts to simplify, consolidate, and streamline the meat and poultry inspection regulations, FSIS is proposing to revise these regulations. FSIS intends to eliminate redundancy between its regulations and the Department's regulations and to more clearly identify the process and situations involved when FSIS suspends inspection prior to filing a complaint to withdraw the grant of inspection.

Summary of the Legal Basis:

Under the Federal Meat Inspection Act (21 USC 601 et seq) and the Poultry Products Inspection Act (21 USC 451 et seq), FSIS issues regulations governing the production of meat and poultry products prepared for distribution in interstate commerce. The Agency also issues regulations concerning the sanitation conditions under which such products are prepared.

Alternatives:

No action.

Anticipated Costs and Benefits:

There are no direct costs or benefits associated with this proposal. At present time, there is no way to predict whether industry "down time" will increase or decrease under the proposed rules of practice. To the extent that disputes can be resolved in a timely and more efficient manner, there are potential benefits to both industry and the government. To the extent that clear rules of practice promote timely regulatory action there would be consumer protection benefits.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	01/00/98	
Final Action	03/00/98	
Final Action Effective	05/00/98	

Small Entities Affected:

Businesses

Government Levels Affected:

Federal

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RIN: 0583–AC34

USDA—FSIS

10. • ELIMINATION OF REQUIREMENTS FOR PARTIAL QUALITY CONTROL PROGRAMS

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority:

21 USC 451 et seq; 21 USC 601 et seq

CFR Citation:

9 CFR 317; 9 CFR 318; 9 CFR 319; 9 CFR 381

Legal Deadline:

None

Abstract:

This proposed rule would amend the meat and poultry inspection regulations by removing most requirements pertaining to partial quality control (PQC) programs. A PQC program controls a single product, operation, or part of an operation in a meat or poultry establishment. The proposal would remove the design requirements affecting most PQC programs that establishments have and most requirements for establishments to have PQC programs for certain products or processes. The proposal would also remove from the thermal processing regulations the requirements for FSIS prior approval, or approval before use, of systems and devices not specified in the regulations and all requirements concerning PQC programs. The proposal would expand the alternatives available to establishments under the thermal processing regulations for ensuring the safety of their products. However, the requirements for establishments to have quality control programs to control food irradiation processing and certain slaughtering inspection systems for poultry and the requirements concerning the design and content of those programs would be unaffected by this rulemaking. This proposal is intended to allow establishments under inspection additional flexibility, consistent with the Pathogen Reduction/Hazard Analysis and Critical Control Points (HACCP) regulations, to adopt new technologies and methods that will improve food safety and other consumer protections.

Statement of Need:

FSIS carries out programs designed to ensure that meat, poultry, and egg products are wholesome, not adulterated, and properly marked, labeled, and packaged. FSIS is implementing the "Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems" final rule promulgated July 25, 1996 (61 FR 38806), to reduce the risk of foodborne illness associated with consumption of meat and poultry products to the maximum extent possible. Under the Pathogen Reduction/HACCP final rule, establishments are to accomplish this objective by taking appropriate and feasible measures to prevent or reduce the likelihood of physical, chemical, and microbiological hazards in the production of meat and poultry products.

FSIS is reviewing its other regulations to determine how they can be made more consistent with the Pathogen Reduction/HACCP regulations and the regulations and the regulatory approach they embody. Included in this review are regulations concerning sanitation standards, the exclusion from the food supply of meat and poultry products with visible defects affecting safety or quality, and preventing the economic adulteration of meat and poultry products.

As stated in the December 29, 1995, advance notice of proposed rulemaking (ANPR) "FSIS Agenda for Change" (60 FR 67469), FSIS plans to eliminate regulations that are unnecessary and, to the extent possible, modify or replace command-and-control prescriptions with performance standards. Command-and-control requirements specify, often in great detail, how a plant is to achieve particular food safety or other regulatory objectives, while performance standards state the objectives or levels of performance to be achieved, and the plant can then choose how to achieve them. Replacing command-and-control requirements with performance standards will afford inspected establishments the flexibility to adopt technological innovations that can yield food safety benefits.

This change is also compelled by the philosophy underlying HACCP systems. Under the HACCP approach, plant management builds into its food production processes science-based controls and related measures--the HACCP plans--required to ensure food safety can vary from plant to plant.

Where appropriate, command-and-control regulations must be changed to provide greater flexibility for industry to design and implement processes and HACCP systems of control, tailored to the circumstances of each plant. This is consistent with the HACCP approach, which clearly delineates industry and Government responsibility for food safety, with plants establishing procedures they will follow to ensure the production of safe food.

Among the regulations FSIS has identified as candidates for modification or elimination to be consistent with HACCP are restrictive, command-and-control-type regulations which delimit processing and treatment methods intended to eliminate specific food safety hazards and requirements concerning PQC programs. Among these are requirements that establishments have such programs for their products or processes and requirements concerning the design of such programs.

Summary of the Legal Basis:

Under the Federal Meat Inspection Act (21 USC 601 et seq.) and the Poultry Products Inspection Act (21 USC 451 et seq.), FSIS issues regulations governing the production of meat and poultry products prepared for distribution in interstate commerce. The Agency also issues regulations concerning the sanitation conditions under which such products are prepared.

Alternatives:

The alternatives to this proposed rulemaking that FSIS considered were, in addition to the alternative of no rulemaking, market sampling of finished products, mandating additional in-plant controls, sampling finished products for chemical analysis, general requirements and standards for PQC programs, and the elimination of all TQC and PQC requirements.

Anticipated Costs and Benefits:

The proposed rule could save the regulated industry up to $14,000,000 in costs associated with developing PQC programs according to FSIS specifications and in operating PQC programs that are mandated by the regulations.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	01/00/98	

Small Entities Affected:

Businesses

Government Levels Affected:

State, Federal

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USDA—FSIS

11. • SANITATION REQUIREMENTS FOR OFFICIAL MEAT AND POULTRY ESTABLISHMENTS

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

21 USC 451 et seq; 21 USC 601 et seq

CFR Citation:

9 CFR 303; 9 CFR 308; 9 CFR 381; 9 CFR 416

Legal Deadline:

None

Abstract:

FSIS is proposing to consolidate the sanitation regulations into a single part applicable to both meat and poultry establishments, eliminate unnecessary differences between the meat and poultry sanitation requirements, and convert many of the highly prescriptive requirements to performance standards.

Statement of Need:

In the course of its ongoing regulatory review, FSIS identified the need to revise its sanitation requirements for official meat and poultry establishments. A number of the existing sanitation requirements are difficult to understand, redundant, or outdated. Also, there are unnecessary differences between the sanitation requirements for meat and poultry establishments. Further, some of the existing sanitation requirements are no longer needed in light of the Agency's

recently finalized HACCP and Sanitation Standard Operating Procedure (SOP) requirements. Finally, some of the current sanitation regulations are unnecessarily prescriptive, may impede innovation, and blur the distinction between establishment and inspector responsibilities for maintaining sanitary conditions.

Summary of the Legal Basis:

Under the Federal Meat Inspection Act (21 USC 601 et seq) and the Poultry Products Inspection Act (21 USC 451 et seq), FSIS issues regulations governing the production of meat and poultry products prepared for distribution in interstate commerce. The Agency also issues regulations concerning the sanitation conditions under which such products are prepared.

Alternatives:

As an alternative to the present proposal, the Agency considered proposing more comprehensive and prescriptive sanitation regulations. The proposed requirements would then have included very specific definitions of terms, such as definitions for food contact surfaces or premises; more prescriptive performance standards than those proposed, such as microbial criteria for recently cleaned and sanitized food contact surfaces; detailed requirements currently contained in Agency guidance materials, such as an ambient temperature requirement from rooms in which certain processes are conducted; and a list of specific regulatory prohibitions, again largely drawn from existing regulatory and guidance material.

Anticipated Costs and Benefits:

In general, the proposed streamlining, clarification, and consolidation of the sanitation regulations would benefit FSIS, the regulated industry, and consumers. User-friendly regulations would simplify compliance and therefore could bring about food safety enhancements in individual establishments. Further, consolidation of the separate sanitation requirements for meat and poultry products and the consequent elimination of unnecessary inconsistencies could enhance competition.

This proposed rule would allow individual establishments to develop and implement customized sanitation procedures other than those currently mandated, as long as those procedures produced sanitary conditions meeting the proposed performance standards. Establishments taking advantage of the performance standards to innovate thus could benefit from savings accrued through increased efficiency. However, since the currently mandated sanitation procedures meet the proposed performance standards, establishments lacking the resources to innovate could choose to continue employing current procedures. Such establishments should incur no additional expenses as a result of this rule. FSIS therefore anticipates that sanitation performance standards would have a generally favorable economic impact on all establishments, regardless of size.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	08/25/97	62 FR 45045
NPRM Comment Period End	10/24/97	
Final Action	02/00/98	

Small Entities Affected:

Businesses

Government Levels Affected:

Federal

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USDA—FSIS

FINAL RULE STAGE

12. PERFORMANCE STANDARDS FOR CERTAIN MEAT PRODUCTS AND POULTRY PRODUCTS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

21 USC 451 et seq; 21 USC 60 et seq

CFR Citation:

9 CFR 301; 9 CFR 318; 9 CFR 320; 9 CFR 381

Legal Deadline:

None

Abstract:

The Food Safety and Inspection Service (FSIS) is proposing to amend the Federal meat and poultry inspection regulations by converting the current regulations governing the production of cooked beef products, uncured meat patties, and certain poultry products into performance standards. The proposed performance standards spell out the objective level of performance establishments must meet during their operations in order to produce safe products, but allow the use of plant-specific processing procedures other than the procedures prescribed in the current regulations. All of the provisions in the current regulations meet the proposed performance standards. Therefore, establishments probably would not be required to change any current practices in response to this proposed rule. The current provisions would remain in the regulations as examples of how an establishment might comply with proposed performance standards, constituting "safe harbors."

Statement of Need:

Under the Federal Meat Inspection Act (21 USC 601 et seq.) and the Poultry Products Inspection Act (21 USC 451 et seq.), FSIS issues regulations governing the production of meat and poultry products prepared for distribution in interstate commerce. Many of these regulations employ the command-and-control approach, prescribing a precise sequence of steps to be followed when producing food that is safe and not adulterated. The command-and-control approach to rulemaking has ensured that all establishments are subject to the same rules and that no establishment has a technological advantage over another. However, this approach has several drawbacks: it can stifle innovation in meat and poultry processing technology; it does not account for the uniqueness of individual processing procedures and needs within different establishments; and, it produces regulations that can have a negative economic impact on small businesses. Command-and-control rulemaking often fails to account for the development of innovative processing technologies. By prescribing specific steps establishments must take during processing, command-and-control regulations often do not allow establishments to employ innovations in processing technology that may produce meat and poultry products that are as safe as, or even safer than, those produced in accordance with the command-and-control regulations. While FSIS endeavors to account for technological innovation when rulemaking, new processing technologies are developed at a faster pace than the Agency can amend the regulations. Also, command-and-control regulations often do not account for the uniqueness of individual processing procedures and needs within different establishments. FSIS command-and-control regulations require all establishments to produce meat and poultry products in the same manner. Such prescriptive regulations are impractical in many settings. Further, they can have disparate economic effects on establishments producing different volumes of the same product. By promulgating command-and-control regulations mandating the use of specific processes or technologies, FSIS often inadvertently imposes significant economic burdens on small businesses. Small establishments producing meat and poultry products at low volumes often must pay a high cost per product unit when required to employ a specific process or technology. Large establishments, however, are able to spread the cost of a required process or technology over their higher production volumes. While FSIS has attempted to incorporate prevailing industry processing practices into its command-and-control regulations in order to lessen the economic burden imposed on small establishments, many small establishments often find prevailing industry processing practices to be impractical and/or expensive. In light of these general problems, FSIS is proposing to substitute performance standards for the current command-and-control regulations governing the production of cooked beef products, uncured meat patties, and certain fully and partially cooked poultry products. The proposed performance standards spell out the objective level of performance that establishments must meet during their operations in order to produce safe and nonadulterated products, but allow the use of plant-specific processing procedures other than the procedures prescribed in the current regulations. Accordingly, establishments could employ innovative or unique processing procedures customized to the nature and volume of their production, as long as their products meet the proposed performance standards for safe, nonadulterated food. Furthermore, all of the prescriptive, command-and-control provisions in the current regulations governing cooked beef products, uncured meat patties, and certain fully and partially cooked poultry products meet the proposed standards. Therefore, establishments producing these products would not be required to change any current practices in response to this proposed rule. By proposing performance standards that may be met through adherence to the current regulations, FSIS creates a "safe harbor" for establishments content with the current regulations and mitigates any negative impact this proposal could have on such establishments.

Summary of the Legal Basis:

Under the Federal Meat Inspection Act (21 USC 601 et seq.) and the Poultry Products Inspection Act (21 USC 451 et seq.), FSIS issues regulations governing the production of meat and poultry products prepared for distribution in interstate commerce.

Alternatives:

FSIS could maintain the current command-and-control regulations governing cooked beef products, uncured meat patties, and certain poultry products. However, as explained above, these regulations have several drawbacks: they stifle innovation in meat and poultry processing technology; they do not account for the uniqueness of individual processing procedures and needs within different establishments; and, they can have a negative economic impact on small businesses.

Anticipated Costs and Benefits:

By allowing establishments to meet performance standards for cooked beef products, uncured meat patties, and certain poultry products by means other than those prescribed in the current regulations, FSIS hopes to encourage innovation in meat and poultry processing technology and allow establishments to customize processes to meet their individual needs. Because employing alternative means to meet the proposed performance standards would be optional, FSIS concludes that this proposal would not have a significant economic impact on small or large establishments.

Risks:

The proposed performance standards would maintain a level of food safety equivalent to that which is ensured by the current regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/02/96	61 FR 19584
Comment Period Extended to	09/09/96	61 FR 35980
Final Action	12/00/97	

Small Entities Affected:

Businesses

Government Levels Affected:

None

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USDA—FSIS

13. • PERFORMANCE STANDARDS FOR THE PRODUCTION OF CERTAIN MEAT AND POULTRY PRODUCTS

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

21 USC 451 et seq; 21 USC 601 et seq

CFR Citation:

9 CFR 301; 9 CFR 317; 9 CFR 318; 9 CFR 320; 9 CFR 381

Legal Deadline:

None

Abstract:

FSIS is converting into pathogen reduction performance standards the regulations governing the production of cooked beef, roast beef, and cooked corned beef products, fully-cooked, partially cooked, and char-marked meat patties, and certain fully and partially cooked poultry products.

Statement of Need:

Along with HACCP, food safety performance standards will give establishments the incentive and flexibility to adopt innovative, science-based food safety processing procedures and controls, while providing objective, measurable standards that can be verified by Agency inspectional oversight.

Summary of the Legal Basis:

Under the Federal Meat Inspection Act (21 USC 601 et seq.) and the Poultry Products Inspection Act (21 USC 451 et seq.), FSIS issues regulations governing the production of meat and poultry products prepared for distribution in interstate commerce. The Agency also issues regulations concerning the sanitation conditions under which such products are prepared.

Alternatives:

As an alternative to this proposed rulemaking, FSIS considered merely expanding the list of time/temperature combinations previously allowed for processing ready-to-eat meat and poultry products, but otherwise maintaining the detailed processing requirements. While this option would have expanded flexibility in regard to heat treatment, establishments still would have been constrained by the remaining prescriptive processing requirements, which are inconsistent with the principles of HACCP and can impede innovation.

Anticipated Costs and Benefits:

This rule allows meat and poultry establishments to employ processing methods other than those previously mandated, as long as those methods yield products that meet the performance standards set forth in this rule. However, FSIS also will allow establishments to meet the performance standards by following the previously mandated production methods, which are being disseminated in compliance guidelines by FSIS as safe harbors. Therefore, establishments can choose to continue using their current methods of processing and probably incur no new expenses as a result of this rule. FSIS anticipates that the rule will have a generally favorable economic impact on all establishments, regardless of size. When an establishment elects to use a processing method other than one of those contained in the safe harbors, it is likely that it expects to receive increased revenues as a result. In that sense, the rule could have favorable economic consequences for firms that choose to innovate.

Risks:

None. Both establishments choosing to use innovative processes and those choosing to follow the "safe harbors" will be required to achieve in their finished products levels of food safety equivalent to that which is currently required.

Timetable:

Action	Date	FR Cite
NPRM	05/02/96	61 FR 19564
NPRM Comment Period End	09/09/96	
Final Action	01/00/98	

Small Entities Affected:

Businesses

Government Levels Affected:

Federal

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DEPARTMENT OF COMMERCE (DOC)

Statement of Regulatory and Deregulatory Priorities

Sustainable, long-term economic growth is a central focus of the President's policies and priorities. The mission of the Department of Commerce is to promote job creation, economic growth, sustainable development, and improved living standards for all Americans by working in partnership with business, universities, communities, and workers to:

- Build for the future and promote U.S. competitiveness in the global marketplace by strengthening and safeguarding the Nation's economic infrastructure;
- Keep America competitive with cutting-edge science and technology and an unrivaled information base; and
- Provide effective management and stewardship of our Nation's resources and assets to ensure sustainable economic opportunities.

The Commerce mission statement, containing our three strategic themes, provides the vehicle for understanding Commerce's aims, how they interlock, and how they are to be implemented through our programs. Working collectively, the bureaus of the Department (including the Office of the Secretary) developed it with the intent that it serve as both a statement of departmental philosophy and as the guiding force behind the Department's programs.

The importance that this mission statement and these strategic themes have for the Nation is amplified by the vision they pursue for America's communities, businesses, and families. Commerce is the smallest cabinet agency, yet our presence is felt and our contributions are found in every State.

The Commerce Department touches Americans daily in many ways—we make possible the weather reports that all of us hear every morning; we facilitate the technology that all of us use in the workplace and in the home each day; we support the development, gathering, and transmitting of information essential to competitive business; we make possible the diversity of companies and goods found in America's (and the world's) marketplace; we support environmental and economic health for the communities in which Americans live.

The Department of Commerce has a clear and powerful vision for itself, for its role in the Federal Government, and for its roles supporting the American people, now and in the future. We confront the intersection of trade promotion, civilian technology, economic development, sustainable development, and economic analysis, and we want to provide leadership in these areas for the Nation. As a Department, we aspire to provide programs and services that serve our country's business, communities, and families as initiated and supported by the President and the Congress. We are dedicated to making those programs and services as effective as possible and to be delivered in cost-effective ways. We seek to function in close concert with other agencies having complementary responsibilities so that, collectively, our impact can be accurate and powerful. We seek to meet the needs of our customers quickly and efficiently with the programs, information, and services they require and deserve.

As a permanent part of the Federal Government, but serving an Administration and Congress that can vary with election results, we seek to serve the unchanging needs of the Nation, according to the priorities of the President and the Congress. We are able to do this effectively by functioning in accordance with the legislation that undergirds our programs and by working closely with the President and the committees in Congress that have program and financial oversight for our programs.

In his 1996 State of the Union message, the President said: "Now we move to an age of technology, information, and global competition. These changes have opened vast new opportunities, but they have also presented us with stiff challenges." The Vice-President sounded a similar call: "Americans also understand that in a global economy, the only way to maintain America's competitive edge is to lead the world in innovation and new technologies. Investments in science and technology mean better jobs, higher wages, and a growing economy." In the 1997 State of the Union address, the President said: "Over the last 4 years, we have brought new economic growth by investing in our people, expanding our exports, cutting our deficits, creating over 11 million new jobs, a 4-year record.... We face no imminent threat, but we do have an enemy. The enemy of our time is inaction." He continued: "To prepare America for the 21st century, we must harness the powerful forces of science and technology to benefit all Americans."

These words help to make clear the role of the Commerce Department: To help keep America as the world's technology leader; to help American companies compete globally; to enable communities to conquer economic challenges; to stimulate the growth of high-pay, high-quality jobs; to preserve and protect the environment and our natural resources, as well as safeguarding the public from the adverse impacts of undesirable environmental changes; and to provide information vital for good business and policy decisions.

Commerce promotes and expedites American exports, helps nurture business contacts abroad, protects our firms from unfair foreign competition, and makes how-to-export information accessible to small- and mid-sized companies throughout the Nation so that market opportunities span the globe.

Commerce encourages development in every community, by clearing the way for private sector growth by building or rebuilding economically deprived and distressed communities. We promote minority entrepreneurship to establish businesses that frequently anchor neighborhoods and create new job opportunities. We work with the private sector to enhance competitive assets.

As the Nation looks to revitalize our industries and communities, Commerce works as a partner with private entities to build America with an eye on the future. So through technology, research and development, and innovation, we are making sure America is on the winning side.

Commerce's considerable information capacities help businesses to understand clearly where our national and world economies are going and to take advantage of that knowledge by planning the road ahead. Armed with this information, businesses can undertake the new ventures, investments, and expansions that make our economy grow.

The capacity for managing the Nation's assets and resources is another key policy driver for Commerce, an essential one in our ability to help the Nation succeed in the future. These activities—ranging from protecting our fisheries to controlling the radio frequency spectrum to protecting intellectual property—affect the economy directly.

The Department of Commerce has instituted the programs and policies that mean cutting-edge, competitive, better

paying jobs. We work everyday to boost exports, to deregulate business, to help smaller manufacturers battle foreign competition, to advance the technologies critical to our future prosperity, to invest in our communities, and to fuse economic and environmental goals.

The Department of Commerce is American business' surest ally in job creation, serving as a vital resource base, a tireless advocate, and its Cabinet-level voice.

The Department's regulatory plan directly tracks these policy and program priorities, only a few of which involve regulation of the private sector by the Department.

Responding to the Administration's Regulatory Philosophy and Principles

The vast majority of the Department's programs and activities do not involve regulation. Only one of the Department's 12 operating units—the National Oceanic and Atmospheric Administration (NOAA)—has a regulatory action rising to the level of the most important of the Department's significant regulatory actions planned for the Regulatory Plan year.

Though not principally a regulatory agency, the Department of Commerce has long been a leader in advocating and using market-oriented regulatory approaches in lieu of traditional command-and-control regulations when such approaches offer a better alternative. All regulations are designed and implemented to maximize societal benefits while placing the smallest possible burden on those being regulated.

The Commerce Department is also refocusing on its regulatory mission by taking into account, among other things, the President's regulatory principles. To the extent permitted by law, all preregulatory and regulatory activities and decisions adhere to the Administration's statement of regulatory philosophy and principles, as set forth in section 1 of Executive Order 12866. Moreover, we have made bold and dramatic changes, never being satisfied with the status quo. Over the past 4 years, we have emphasized, initiated, and expanded programs that work in partnership with the American people to secure the Nation's economic future. At the same time, we have down-sized, cut regulations, closed offices, and eliminated programs and jobs that are not part of our core mission. The bottom line is that, after much thought and debate, we have made many hard choices needed to make this Department "state of the art."

When a regulation is no longer needed, the Secretary's standing order is to rescind it. In this light, one of the Secretary's first actions upon confirmation was to direct the Department's regulatory agencies to conduct periodic public meetings with regulated entities at various locations around the country. The purpose of these meetings is to provide regulated entities the opportunity to meet with key agency personnel in order to discuss issues of mutual interest. As a complement to these meetings, the Secretary further directed these agencies to conduct periodic reviews of their regulations to determine which may no longer be necessary and which may need to be updated and revised.

The Secretary has prohibited the issuance of any regulation that discriminates on the basis of race, religion, gender, or any other suspect category and requires that all regulations be written in simple, plain English and be understandable to those affected by them. The Secretary also requires that the Department afford the public the maximum possible opportunity to participate in departmental rulemakings, even where public participation is not required by law.

Eliminating and Improving Regulations

On February 21, 1995, President Clinton announced his plans for reform of the Federal regulatory system. This plan included four steps each agency was to undertake in order to achieve meaningful reform. One of the points in the President's program directed each agency to undertake a page-by-page review of its regulations to determine those that were obsolete and could be deleted and those that were in need of reinvention. In light of the varied activities and responsibilities of the Department, each agency reviewed its regulations using a methodology most appropriate for its legal obligations, organizational structure, and policy priorities. However, all agencies were directed to analyze each of their regulations to determine if they were necessary and, if so, whether it should be rewritten to make the regulation more streamlined and user-friendly. Additionally, the regulatory review was conducted by each agency with its, as well as the Department's and Administration's, policy and program priorities clearly in mind.

The results of each agency's activities under the President's initiative comprise a total elimination or reinvention of a substantial percentage of the Department's regulations. At the time of the President's announcement, the Department had 2,878 pages of regulatory text in the Code of Federal Regulations (CFR). The Department proposed to eliminate 696 pages of existing regulations in the CFR. As of May 16, 1997, a total of 575 pages of existing regulation had been eliminated by issuance of a final rule and proposed rules to eliminate another 154 pages of existing regulations had been issued. As such, the Department has or will have eliminated 729 pages of regulations. This represents 104 percent of the total promised to the President, and 25 percent of the Department's pages in the CFR. Further, 1,859 pages of regulatory text were designated to be reinvented under the President's initiative. As of May 16, 1997, 1,232 pages of regulation had been reinvented by issuance of a final rule and 477 pages were proposed to be reinvented through issuance of a proposed rule. This activity equals 1709 pages or 90 percent of the amount promised the President and 66 percent of the Department's total pages of regulation.

The totals represent the changes achieved by the Department as a whole. However, as mentioned above, the review was conducted by the individual agencies of the Department. As such, individual agencies within the Department of Commerce should be noted for their contribution to these amounts and the substantive changes they represent. Examples are set forth below:

- The Antidumping Agreement and Subsidies/Countervailing Measures Agreement (Agreements), negotiated during the Uruguay Round of the General Agreement on Tariffs and Trade (GATT), and the Uruguay Round Agreements Act implementing legislation establish general principles regarding the administration of antidumping and countervailing duty laws. In order to facilitate the administration of these laws and to provide greater predictability for affected private parties, the Department of Commerce issued a final rule, published on May 19, 1997, which translates the principles of the Antidumping Agreement and the implementing legislation into specific and predictable rules.
In developing the final rule, the Department took several steps to enhance the regulation's effectiveness and to make them more accessible to affected parties. First, the antidumping and countervailing duties regulations, previously contained in two separate parts of the Code of Federal Regulations, were consolidated into one part. As antidumping and countervailing duties procedures are so closely related, consolidating those portions of the regulations concerning procedures makes the regulations easier to use and makes readily apparent the identification of those instances where the procedures differ. Second, where possible, the final regulations simplify and streamline the antidumping and countervailing duties process. Finally, and possibly the most important change in the regulations, each section of the final regulations begins with a straightforward "plain English" explanation of the provisions of that section. This was done to ensure that non-lawyers could read, understand, and apply the regulations.
- The National Marine Fisheries Service (NMFS), a division of the Commerce Department's National Oceanic and Atmospheric Administration, regulates the United States fishing industry. NMFS regulations implement fishery management plans developed by regional fishery management councils, comprised of Federal, State, and local officials, industry participants, and other interested individuals. Previously, NMFS regulations implementing fishery management plans for particular fisheries were contained in separate parts of title 50 of the Code of Federal Regulations (CFR). As such, it was difficult for fishers to find the rules that governed their fishing activities. Furthermore, the fact that the regulations were contained in separate parts meant that there was a great deal of duplication telling fishers what actions were required and which were prohibited. Finally, because the regulations were separate, many common terms had slightly different definitions, causing confusion.
In order to correct this situation, NMFS undertook a massive project to consolidate each of the various regulations implementing fishery management plans into CFR parts organized by region. As a result, all regulations implementing fishery management plans under the jurisdiction of each regional fishery management council were placed into a separate part of the Code of Federal Regulations for each council. This means, for example, that a fisher who fishes off the coast of New England need only look at the CFR part pertaining to New England to find all the rules for any fishery in which he or she might want to participate. In addition, these actions streamlined the regulations by eliminating duplicative provisions, harmonizing definitions, and redrafting remaining provisions in "plain English." The effect was to create a body of regulations that are easier to read and simpler to use.
- In addition, NMFS has instituted a "Fix-It" Notice (FIN) program for the reduction or waiver of civil penalties under several of the natural resource protection statutes NOAA enforces, including the Marine Mammal Protection Act, the Endangered Species Act, and the Magnuson-Stevens Fishery Conservation and Management Act. Under the FIN program, dozens of minor, first-time violations, which are of a technical nature and which do not have a direct natural resource impact, receive a Fix-It Notice, which allows the violation to be corrected in lieu of a penalty. NOAA's Civil Administrative Penalty Schedule has been amended to reflect the FIN program. Fix-It Notices may be issued by either NOAA enforcement personnel or by U.S. Coast Guard Boarding Officers operating in their deputized capacity. As of April 15, 1997, 186 Fix-It Notices have been issued in lieu of penalties. Many of the Fix-It Notices were issued to small entities.
The NOAA Voluntary Compliance Program (VCP), of which the FIN program is one component, was established to find a more efficient and effective way to gain compliance with NOAA regulations by seeking ways to work with the regulated fishing communities, including small entities. Under the VCP, increasing constructive communication, honing community problem-solving skills, and providing education in understanding NOAA regulations are key to the success of the program. NOAA's Office of Enforcement formally designated a select group of Fishery Patrol Officers as Voluntary Compliance Team Leaders to lead proactive compliance efforts within the regions. These officers, who are trained in community policing philosophies and problem-oriented policing strategies, administer the program and serve as Voluntary Compliance Program technical advisors. The overall goal of the VCP team is to work with the regulated communities to strengthen NOAA's stewardship of natural resources.

Description of Agency Regulations

National Oceanic and Atmospheric Administration

The National Oceanic and Atmospheric Administration establishes and administers Federal policy for the conservation and management of the Nation's oceanic, coastal, and atmospheric resources. It provides a variety of essential environmental services vital to public safety and to the Nation's economy, such as weather forecasts and storm warnings. It is a source of objective information on the state of the environment. NOAA plays the lead role in achieving the departmental goal of promoting stewardship and assessment of the global environment.

In recognition that economic growth must go hand-in-hand with environmental stewardship, the Commerce Department, through NOAA, conducts programs designed to provide a better understanding of the connections between environmental health, economics, and national security. Commerce's emphasis on "sustainable fisheries" is saving fisheries and confronting short-term economic dislocation, while boosting long-term economic growth. The Department of Commerce is where business and environmental interests intersect, and the classic debate on the use of natural resources is transformed into a "win-win" situation for the environment and the economy.

Three of NOAA's major components, the National Marine Fisheries Service (NMFS), the National Ocean Service (NOS), and the National Environmental Satellite, Data, and Information Service (NESDIS) exercise regulatory authority.

NMFS oversees the management and conservation of the Nation's marine fisheries, protects marine mammals, and promotes the economic development of the U.S. fishing industries. NOS assists the coastal States in their management of land and ocean resources in their coastal zones, including estuarine research reserves; manages the Nation's national marine sanctuaries; monitors marine pollution; and directs the national program for deep-seabed minerals and ocean thermal energy. NESDIS administers the civilian weather satellite program and licenses private organizations to operate commercial land-remote sensing satellite systems.

The Administration is committed to an environmental strategy that promotes sustainable economic development and rejects the false choice between

environmental goals and economic growth. The intent is to have the Government's economic decisions be guided by a comprehensive understanding of the environment. The Department of Commerce through NOAA has a unique role in promoting stewardship of the global environment through effective management of the Nation's marine and coastal resources and in monitoring and predicting changes in the Earth's environment, thus linking trade, development, and technology with environmental issues. NOAA has the primary Federal responsibility for providing the sound scientific observations, assessments, and forecasts of environmental phenomena on which resource management and other societal decisions can be made.

In the environmental stewardship area, NOAA's goals include rebuilding U.S. fisheries by refocusing policies and fishery management planning on increased scientific information; increasing the populations of depleted, threatened, or endangered species of marine mammals by implementing recovery plans that provide for their recovery while still allowing for economic and recreational opportunities; promoting healthy coastal ecosystems by ensuring that economic development is managed in ways that maintain biodiversity and long-term productivity for sustained use; and modernizing navigation and positioning services. In the environmental assessment and prediction area, goals include modernizing the national weather service; implementing reliable seasonal and interannual climate forecasts to guide economic planning; providing science-based policy advice on options to deal with very long-term (decadal to centennial) changes in the environment; and advancing and improving short-term warning and forecast services for the entire environment.

Magnuson-Stevens Act Rulemakings

Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) rulemakings concern the conservation and management of fishery resources in the U.S. 3- to 200-mile Exclusive Economic Zone (EEZ). Among the several hundred rulemakings that NOAA plans to issue in the Regulatory Plan year, a number of the preregulatory and regulatory actions will be significant. The exact number of such rulemakings is unknown, since they are usually initiated by the actions of eight regional Fishery Management Councils (FMCs) that are responsible for preparing fishery management plans (FMPs) and FMP amendments and for drafting implementing regulations for each managed fishery and by other circumstances which cannot be predicted. Once a rulemaking is triggered by a FMC, the Magnuson-Stevens Act places stringent deadlines upon NMFS in which it must exercise its rulemaking responsibilities. Most of these rulemakings will be minor, involving only the opening or closing of a fishery under an existing FMP. While no one Magnuson-Stevens Act rulemaking is among the Department's most important significant regulatory actions, and therefore none is specifically described below, the sum of these actions, and a few of the individual actions themselves, are highly significant.

The Magnuson-Stevens Act, which is the primary legal authority for Federal regulation to conserve and manage fishery resources, establishes eight regional FMCs responsible for preparing FMPs and FMP amendments. NMFS issues regulations to implement FMPs and FMP amendments. FMPs address a variety of fishery matters, including depressed stocks, overfished stocks, gear conflicts, and foreign fishing. One of the problems that FMPs may use is preventing overcapitalization (preventing excess fishing capacity) of fisheries by limiting access to those dependent on the fishery in the past and/or by allocating the resource through individual transferable quotas which can be sold on the open market to other participants or those wishing access. Quotas set on good scientific information, whether as a total fishing limit for a species in a fishery or as a share assigned to each vessel participant, enable stressed stocks to rebuild. Other measures include staggering fishing seasons or limiting gear types to avoid gear conflicts on the fishing grounds and establishing seasonal and area closures to protect fishery stocks.

NMFS favors the concept of framework FMPs where applicable. Such FMPs provide ranges, boundaries, and decision rules within which NMFS can change management measures without formally amending the FMP. Further, consistent with the recommendations on improving regulatory systems accompanying the Report of the National Performance Review, NMFS favors using market-oriented approaches in managing fisheries. Open-access fisheries are destined to have too many people investing too much money in vessels and equipment. Access controls (e.g., a limited number of permits) represent a rational approach for managing fishery resources; they can be used to control fishing mortality levels and to prevent overfishing, economic dissipation, and subsequent economic and social dislocation. Of course overall quotas will need to be set based on the best scientific information available as to such things as stock status and optimum yields.

The FMCs provide a forum for public debate and, using the best scientific information available, make the judgments needed to determine optimum yield on a fishery-by-fishery basis. Optional management measures are examined and selected in accordance with the national standards set forth in the Magnuson-Stevens Act. This process, including the selection of the preferred management measures, constitutes the development, in simplified form, of an FMP. The FMP, together with draft implementing regulations and supporting documentation, is submitted to NMFS for review against the national standards set forth in the Magnuson-Stevens Act, in other provisions of the Act, and other applicable laws. The same process applies to amending an existing approved FMP.

The Magnuson-Stevens Act contains ten national standards against which fishery management measures are judged. NMFS has supplemented the standards with guidelines interpreting each standard and is currently in the process of updating and adding to those guidelines. One of the national standards requires that management measures, where practicable, minimize costs and avoid unnecessary duplication. Under the guidelines, NMFS will not approve management measures submitted by an FMC unless the fishery is in need of management. Together, the standards and the guidelines correspond to many of the Administration's principles of regulation as set forth in section 1(b) of Executive Order 12866. One of the national standards establishes a qualitative equivalent to the Executive order's "net benefits" requirement—one of the focuses of the Administration's statement of regulatory philosophy as stated in section 1(a) of the order.

Licensing of Private Commercial Remote Sensing Satellite Systems

NOAA/NESDIS is planning to issue proposed regulations revising its procedures governing the licensing of private commercial Earth remote-sensing space systems under title II of the Land Remote Sensing Policy Act of 1992, 15 U.S.C. 5601 et seq. (1992 Act).

Title II of the 1992 Act requires that any person subject to the jurisdiction or control of the United States obtain a license from the Secretary of Commerce before operating a private remote sensing space system. The authority to issue licenses has been delegated to the Administrator of NOAA and redelegated to the Assistant Administrator for Satellite and Information Services.

On July 10, 1987, NOAA published final regulations implementing title IV of the Land Remote Sensing Act of 1984 (the 1984 Act) setting forth the procedural requirements for obtaining a license. In 1988, the Radio Television News Directors Association (RTNDA) filed a Petition for Rulemaking requesting NOAA to reopen these regulations in light of the President's January 5, 1988, Decision Directive encouraging commercial space development. On January 18, 1989, NOAA responded to this petition, agreeing to reopen the regulations and incorporate certain principles favorable to commercial development that were consistent with the directive. See 54 FR 1945.

Shortly thereafter, Congress began to review the 1984 Act and, on October 28, 1992, enacted the 1992 Act, which repealed and succeeded the 1984 Act. The 1992 Act made significant changes to the 1984 Act, particularly with regard to the latter's requirement that all unenhanced data must be provided on a nondiscriminatory basis. The 1992 Act also provided for judicial review of certain licensing and enforcement actions. NOAA has issued ten licenses under the regime established in the 1992 Act.

On March 9, 1994, the President issued a Policy Decision to "support and enhance U.S. competitiveness in the field of remote sensing space capabilities, while at the same time protecting U.S. interests in national security and international obligations." This policy established a number of policies that promote an appropriate balance between these interests. Specifically, the President's policy announced the goal of enhancing U.S. competitiveness in a market that is projected to be worth approximately $2 billion worldwide by the year 2000, while at the same time addressing the national security concerns brought up by other Government agencies. The President's policy covers foreign access to remote sensing systems, technology, products, and data. It states that there is a presumption that systems whose capabilities are already available in the global marketplace will be "favorably considered." It also elaborated eight more conditions that are to be applied to any license. The most significant of these conditions are:

1) During periods when national security or international obligations and/or foreign policies may be compromised, as defined by the Secretary of Defense or the Secretary of State, respectively, the Secretary of Commerce may, after consultation with the appropriate agencies, require the licensee to limit data collection and/or distribution by the system to the extent necessitated by the given situation. Decisions to impose such limits only will be made by the Secretary of Commerce in consultation with the Secretary of Defense or Secretary of State, as appropriate. Disagreements between Cabinet Secretaries may be appealed to the President.

2) That the licenses are not subject to foreign ownership, above a specified threshold, without the explicit permission of the Secretary of Commerce.

3) Licensees must notify the U.S. Government of its intent to enter into significant or substantial agreements with new foreign customers. Interested agencies are to be given advance notice of such agreements to allow them to review the proposed agreement in light of national security, international obligations, and foreign policy concerns. The President's policy stated that the definition of a significant or substantial agreement, as well as the time frames and other details of this process, were to be defined by the Commerce Department in regulations.

On December 4, 1995, a Notice of Inquiry and Request for Public Comment was published in the **Federal Register**, wherein NOAA sought public comment to decide whether and to what extent the 1987 regulations needed revision in light of the President's Policy and the 1992 Act and, if so, which issues should be addressed. NOAA received seven sets of comments. Additionally, NOAA held a public hearing at the Department of Commerce on June 14, 1996, at which it received additional input from interested parties. The main theme that emerged at the public hearing was the need for transparency and predictability in the regulations.

The proposed regulations would update the 1987 regulations to reflect the above described intervening events and information gathered through the public process, as well as the experience gained during recent licensing procedures. The intent of the proposed regulations would be to help promote the development of the commercial remote sensing industry by keeping Government oversight to the minimum necessary to ensure protection of U.S. national security and foreign policy interests and by making that role predictable and transparent to the affected applicants and licensees. An underlying premise is that the long-term national security and foreign policy interests of the United States are best served by helping the U.S. industry to lead this emerging market.

The proposed regulations incorporate the basic regulatory principle that any restrictions on a licensee, including those required for national security and foreign policy purposes, must be the least burdensome possible to achieve the stated objective. Moreover, the proposed rule would seek to establish predictable standards by which industry will know when their activities may be limited. Further, the proposed rule would establish a notice mechanism for allowing up to 49 percent foreign ownership in the licensee and monitoring domestic investment so that control of the remote-sensing system cannot be transferred without a formal amendment to the license. As required by the President's 1994 policy, the proposed rule would define what foreign agreements are significant or substantial and must be submitted for review. Finally, the proposed rule would set clear time frames for agency action in reviewing a license application or significant or substantial agreement and require specific enumerated objections from dissenting agencies. Agency objections would be reviewable by an administrative law judge.

DOC—National Oceanic and Atmospheric Administration (NOAA)

PROPOSED RULE STAGE

14. LICENSING OF PRIVATE COMMERCIAL REMOTE-SENSING SATELLITE SYSTEMS

Priority:

Other Significant

Legal Authority:

15 USC 5601 et seq

CFR Citation:

50 CFR 960.1 et seq

Legal Deadline:

None

Abstract:

The proposed regulations would update the 1987 regulations to reflect the above-described intervening events and information gathered through the public process, as well as the experience gained during recent licensing procedures. The intent of the proposed regulations would be to help promote the development of the commercial remote-sensing industry by keeping Government oversight to the minimum necessary to ensure protection of U.S. national security and foreign policy interests and by making that role predictable and transparent to the affected applicants and licensees. An underlying premise is that the long-term national security and foreign policy interests of the United States are best served by helping the U.S. industry to lead this emerging market.

Statement of Need:

On July 10, 1987, NOAA published final regulations implementing title IV of the Land Remote Sensing Act of 1984 (the 1984 Act) setting forth the procedural requirements for obtaining a license. In 1988, the Radio Television News Directors Association (RTNDA) filed a Petition for Rulemaking requesting NOAA to reopen these regulations in light of the President's January 5, 1988 Decision Directive encouraging commercial space development. On January 18, 1989, NOAA responded to this Petition, agreeing to reopen the regulations and incorporate certain principles favorable to commercial development that were consistent with the Directive (see 54 FR 1945).

Shortly thereafter, Congress began to review the 1984 Act and, on October 29, 1992, enacted the 1992 Act, which repealed and succeeded the 1984 Act. The 1992 Act made significant changes to the 1984 Act, particularly with regard to the latter's requirement that all unenhanced data must be provided on a nondiscriminatory basis. The 1992 Act also provided for judicial review of certain licensing and enforcement actions. NOAA is planning to issue proposed regulations revising its procedures governing the licensing of private commercial Earth remote-sensing space systems under title II of the Land Remote Sensing Policy Act of 1992, 15 USC 5601 et seq (1992 Act).

Summary of the Legal Basis:

Title II of the 1992 Act requires that any person subject to the jurisdiction or control of the United States obtain a license from the Secretary of Commerce (Secretary) before operating a private remote sensing space system. The authority to issue licenses has been delegated to the Administrator of NOAA and redelegated to the Assistant Administrator for Satellite and Information Services.

Alternatives:

The proposed regulations incorporate the basic regulatory principle that any restrictions on a licensee, including those required for national security and foreign policy purposes, must be the least burdensome possible to achieve the stated objective. Moreover, the proposed rule would seek to establish predictable standards by which industry will know when their activities may be limited. Further, the proposed rule would establish a notice mechanism for allowing up to 49 per cent foreign ownership in the licensee and monitoring domestic investment so that control of the remote-sensing system can not be transferred without a formal amendment to the license. As required by the President's 1994 policy, the proposed rule would define what foreign agreements are significant or substantial and must be submitted for review. Finally, the proposed rule would set clear time frames for agency action in reviewing a license application or significant or substantial agreement and require specific enumerated objections from dissenting agencies. Agency objections would be reviewable by an administrative law judge.

The fundamental goal of the proposed rule will be to support and enhance U.S. industrial competitiveness in the field of remote-sensing space capabilities while at the same time protecting U.S. national security and foreign policy interests. The measures included in the proposed rule will be those necessary to protect U.S. interests. The alternative to the measures proposed would be the establishment of national security and foreign policy controls that would hinder or prevent growth of the commercial market or allowing unrestricted commercial operations that could harm U.S. national security and foreign policy interests.

Anticipated Costs and Benefits:

The intent of the proposed regulations would be to help promote the development of the commercial remote-sensing industry by keeping Government oversight to the minimum necessary to ensure protection of U.S./national security and foreign policy interests and by making that role predictable and transparent to the affected applicants and licensees. An underlying premise is that the long-term national security and foreign policy interests of the United States are best served by helping the U.S. industry to lead this emerging market. Failure to provide a regulatory regime which nurtures and fosters the development of this high-skilled, high-wage industry is likely to result in the United States losing not only its advantage in this technology, but also a great percentage of the projected growth in economic value of this industry. The costs of the licensing procedures would be borne, for the most part, by the Federal Government and would not be significant.

Timetable:

Action	Date	FR Cite
ANPRM	12/04/95	60 FR 62054
Notice of Public Meeting	05/14/96	61 FR 24480
NPRM	10/00/97	

Small Entities Affected:

None

Government Levels Affected:

Federal

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BILLING CODE 3510-FW-P

DEPARTMENT OF DEFENSE (DOD)

Statement of Regulatory Priorities

Background

The Department of Defense (DoD) is the largest Federal department, consisting of three military departments (Army, Navy, and Air Force), nine unified combatant commands, 15 Defense agencies, and nine DoD field activities. It has over 1,430,000 military personnel and 760,000 civilians assigned as of May 31, 1997, and over 500 military installations and properties in the continental United States, U.S. territories, and foreign countries. The overall size, composition, and dispersion of the Department of Defense, coupled with an innovative regulatory program, presents a challenge to the management of the Defense regulatory efforts under Executive Order (E.O.) 12866 "Regulatory Planning and Review" of September 30, 1993.

Because of its diversified nature, DoD is impacted by the regulations issued by regulatory agencies such as the Departments of Energy, Health and Human Services, Housing and Urban Development, Labor, Transportation, and the Environmental Protection Agency. In order to develop the best possible regulations that embody the principles and objectives embedded in E.O. 12866, there must be coordination of proposed regulations among the regulating agencies and the affected Defense components. Coordinating the proposed regulations in advance throughout an organization as large as DoD is a straightforward, yet formidable undertaking.

DoD is not a regulatory agency, but occasionally issues regulations that have an impact on the public. These regulations, while small in number compared to those of the regulating agencies, can be significant as defined in E.O. 12866. In addition, some of DoD's regulations may impact the regulatory agencies. DoD, as an integral part of its program, not only receives coordinating actions from the regulating agencies but coordinates with the agencies that are impacted by its regulations as well.

The regulatory program within DoD fully incorporates the provisions of the President's priorities and objectives under E.O. 12866. Promulgating and implementing the regulatory program throughout DoD presents a unique challenge to the management of our regulatory efforts.

Coordination

Interagency

DoD annually receives regulatory plans from those agencies that impact the operation of the Department through the issuance of regulations. A system for coordinating the review process is in place, regulations are reviewed, and comments are forwarded to the Office of Management and Budget. The system is working in the Department, and the feedback from the Defense components is most encouraging, since they are able to see and comment on regulations from the other agencies before they are required to comply with them. The coordination process in DoD continues to work as outlined in E.O. 12866.

Internal

Through regulatory program points of contact in the Department, we have established a system that provides information from the Vice President and the Administrator of the Office of Information and Regulatory Affairs (OIRA) to the personnel responsible for the development and implementation of DoD regulations. Conversely, the system can provide feedback from DoD regulatory personnel to the Administrator, OIRA. DoD continues to refine its internal procedures, and this ongoing effort to improve coordination and communication practices is well received and supported within the Department.

Overall Priorities

The Department of Defense needs to function at a reasonable cost, while ensuring that it does not impose ineffective and unnecessarily burdensome regulations on the public. The rulemaking process should be responsive, efficient, cost-effective, and both fair and perceived as fair. This is being done at a time when there is significant ongoing downsizing in the Department, and it must react to the contradictory pressures of providing more services with fewer resources.

The Department of Defense, as a matter of overall priority for its regulatory program, adheres to the general principles set forth in E.O. 12866 as amplified below.

Problem Identification

Congress typically passes legislation to authorize or require an agency to issue regulations and often is quite specific about the problem identified for correction. Therefore, DoD does not generally initiate regulations as a part of its mission.

Conflicting Regulations

DoD plans to issue one significant regulation this year, and the probability of developing conflicting regulations is low. Conversely, DoD is impacted to a great degree by the regulating agencies. From that perspective, DoD is in a position to advise the regulatory agencies of conflicts that appear to exist, using the coordination processes that exist in the DoD and other Federal agency regulatory programs. It is a priority in the Department to communicate with other agencies and the affected public to identify and proactively pursue regulatory problems that occur as a result of conflicting regulations both within and without the Department.

Alternatives

DoD will identify feasible alternatives that will obtain the desired regulatory objectives. Where possible, the Department encourages the use of incentives to include financial, quality-of-life, and others to achieve the desired regulatory results.

Risk Assessment

Assessing and managing risk is a high priority in the DoD regulatory program. The Department is committed to risk prioritization and an "anticipatory" approach to regulatory planning that focuses attention on the identification of future risk. Predicting future regulatory risk is exceedingly difficult due to rapid introduction of new technologies, side effects of Government intervention, and changing societal concerns. These difficulties can be mitigated to a manageable degree through the incorporation of risk prioritization and anticipatory regulatory planning into DoD's decisionmaking process, which results in an improved regulatory process and increases the customer's understanding of risk.

Cost-Effectiveness

One of the highest priority objectives of DoD is to obtain the desired regulatory objective by the most cost-effective method available. This may or may not be through the regulatory process. When a regulation is required, DoD considers incentives for innovation to achieve desired results, consistency in the application of the regulation, predictability of the activity outcome (achieving the expected results), and the costs for regulation development, enforcement, and compliance. These will include costs to the public, Government, and regulated entities, using the best available data or parametric analysis methods, in the

cost-benefit analysis and the decisionmaking process.

Cost-Benefit

Conducting cost-benefit analyses on regulation alternatives is a priority in the Department of Defense so as to ensure that the potential benefits to society outweigh the costs. Evaluations of these alternatives are done quantitatively or qualitatively or both, depending on the nature of the problem being solved and the type of information and data available on the subject. DoD is committed to considering the most important alternative approaches to the problem being solved and providing the reasoning for selecting the proposed regulatory change over the other alternatives.

Information-Based Decisions

The Defense Department uses the latest technology to provide access to the most current technical, scientific, and demographic information in a timely manner through the world-wide communications capabilities that are available on the "information highway." Realizing that increased public participation in the rulemaking process improves the quality and acceptability of regulations, DoD is committed to exploring the use of Information Technology (IT) in rule development and implementation. IT provides the public with easier and more meaningful access to the processing of regulations. Furthermore, the Department endeavors to increase the use of automation in the Notice and Comment rulemaking process in an effort to reduce time pressures in the regulatory process. For example, the proposed rule concerning munitions was developed with extensive input from the public and other Federal agencies. A draft version of the rule was placed on the World Wide Web, meetings with representatives from State organizations, meetings with public groups, and meetings with other Federal agencies were critical in the formulation of the current version of the proposed rule.

Performance-Based Regulations

Where appropriate, DoD is incorporating performance-based standards that allow the regulated parties to achieve the regulatory objective in the most cost-effective manner.

Outreach Initiatives

DoD endeavors to obtain the views of appropriate State, local, and tribal officials and the public in implementing measures to enhance public awareness and participation both in developing and implementing regulatory efforts. Historically, this has included such activities as receiving comments from the public, holding hearings, and conducting focus groups. This reaching out to organizations and individuals who are affected by or involved in a particular regulatory action remains a significant regulatory priority of the Department and, we feel, results in much better regulations.

Coordination

DoD has enthusiastically embraced the coordination process between and among other Federal agencies in the development of new and revised regulations. Annually, DoD receives regulatory plans from key regulatory agencies and has established a systematic approach to providing the plans to the appropriate policy officials within the Department. Feedback from the DoD components indicates that this communication among the Federal agencies is a major step forward in improving regulations and the regulatory process, as well as in improving Government operations.

Minimizing Burden

In the regulatory process, there are more complaints concerning burden than anything else. In DoD, much of the burden is in the acquisition area. Over the years, acquisition regulations have grown and become burdensome principally because of legislative action. But, in coordination with Congress, the Office of Federal Procurement Policy, and the public, DoD is initiating significant reforms in acquisition so as to effect major reductions in the regulatory burden on personnel in Government and the public sectors.

As part of the fiscal year (FY) 1996 information collection budget submitted to the Office of Management and Budget, DoD prepared and implemented an Information Streamlining Plan (ISP): A multiyear strategy for reducing the paperwork burden imposed on the public. The plan identified the 15 largest information collections in the Department with specific goals and timetables for reduction. This plan shows that DoD has met and will exceed the goals set forth in the Paperwork Reduction Act, which requires a 25 percent reduction in each agencies' burden by the end of FY 1998. DoD has already achieved a 25 percent reduction at the end of FY 1996. In addtion, DoD anticipates a 27 percent burden hour reduction for FY 1997 and FY 1998, resulting in an estimated cumulative total of a 52 percent reduction in the paperwork burden from DoD's FY 1995 baseline. The bulk of this reduction will be achieved through acquisition reforms resulting from the elimination of data delivery burdens imposed on contractors. DoD continues to actively work on further reductions. For example, one significant reduction in the burden imposed on the public was achieved as a result of the review of the information collection requirement in support of the Department of Defense acquisition process, solicitation phase. This information collection requirement pertains to information that an offeror must submit to DoD in response to DoD solicitations not covered by another OMB clearance. As a result of recent initiatives to streamline the acquisition process and increased use of enhanced information technology techniques, DoD reduced the burden hours imposed on the public under this information collection requirement by an estimated 15 million hours per year.

Plain English

Ensuring that regulations are simple and easy to understand is a high regulatory priority in the Department of Defense. All too often the regulations are complicated, difficult to understand, and subject to misinterpretation, all of which can result in the costly process of litigation. The objective in the development of regulations is to write them in clear, concise language that is simple and easy to understand.

DoD recognizes that it has a responsibility for drafting clearly written rules that are reader-oriented and easily understood. Rules will be written for the customer using natural expressions and simple words. Stilted jargon and complex construction will be avoided. Clearly written rules will tell our customers what to do and how to do it. DoD is committed to a more customer-oriented approach and uses plain English rules, thereby improving compliance and reducing litigation.

In summary, the rulemaking process in DoD should produce a rule that addresses an identifiable problem, implements the law, incorporates the President's policies defined in E.O. 12866, is in the public interest, is consistent with other rules and policies, is based on the best information available, is rationally justified, is cost-effective, can actually be implemented, is acceptable and enforceable, is easily understood, and stays in effect only as long as is necessary. Moreover, the proposed rule or the elimination of a rule should simply make sense.

Specific Priorities

For this regulatory plan, there are five specific DoD priorities, all of which reflect the established regulatory principles. One of these, "Closed, Transferred, and Transferring Ranges Containing Military Munitions," which was withdrawn and resubmitted in 1997, is a significant regulatory action as defined by E.O. 12866. In those areas where rulemaking or participation in the regulatory process is required, DoD has studied and developed policy and regulation that incorporate not only the provisions of the President's priorities and objectives under the Executive order but also those of the National Performance Review, dated September 1993.

DoD has focused its regulatory resources on the most serious environmental, health, and safety risks. Perhaps most significant is that each of the five priorities described below promulgates regulations to offset the resource impacts of Federal decisions on the public or to improve the quality of public life, such as those regulations concerning base closures, wetlands, acquisition, health care delivery, and munitions ranges.

Base Realignment and Closure (BRAC) Activities

During FY 1998, the Base Closure and Community Reinvestment (BCCR) Office is not proposing any significant regulations as defined by E.O. 12866. BCCR will, however, be publishing two rules that make further refinements to the base realignment and closure process. The first rule establishes procedures for implementing a new real property transfer authority that allows base closure property that is still needed by DoD or another Federal agency to be transferred to a Local Redevelopment Authority (LRA). As a condition of the transfer, the LRA is required to lease the property back to DoD or the Federal agency at no cost. This authority, called a "leaseback," allows an LRA to have certainty over the future use of the property (they will own it and can use it when the Federal component vacates) while still ensuring that continuing Federal property needs are met. On February 21, 1997, the Department published a proposed rule promulgating policies and procedures for using the leaseback authority. The rule was open for public comment until April 22, 1997, during which time the Department received numerous public comments. These comments are being reviewed by the Department and a final rule is scheduled for publication by the end of the calendar year.

The second rule will amend the Department's final rule implementing the various components of the President's five-point plan to assist closure-impacted communities. This amendment will provide technical revisions, as well as removing the 5-year limitation on interim leases in response to a statutory change.

Preserve Quality and Quantity of Wetlands

During FY 1998, the U.S. Army Corps of Engineers is not proposing any significant regulations as defined by E.O. 12866. The Office of the Assistant Secretary of the Army (Civil Works) and the Corps will propose and complete two regulations initiated as part of the President's August 24, 1993, Wetlands Protection Plan and the President's 1995 Regulatory Reinvention Initiative. The wetlands protection plan provides for a fair, flexible, and effective approach to protecting America's wetlands through both regulatory and nonregulatory mechanisms. The regulatory reinvention initiative reinforced those provisions and included additional regulatory reform and streamlining provisions.

During 1997 and 1998, the Corps will propose and finalize three regulations pursuant to its authorities under section 404 of the Clean Water Act and section 10 of the Rivers and Harbors Act of 1899. The first regulation establishes the wetland delineator certification program. This regulation was proposed on March 14, 1995, and will be finalized by the end of 1997. This program provides for training and certification of individuals, as provided for by section 307(e) of the Water Resources Development Act of 1990, to submit for approval, wetland delineations in accordance with the current Federal wetland delineation manual. Individuals can be certified as meeting certain standards, resulting in an expedited decision by the Corps on their submitted wetland delineation. The goal of the certification program is to improve the quality of consultant-prepared wetland delineations that are submitted to the Corps so that they can be reviewed and approved expeditiously.

The second regulation will establish an administrative appeal process whereby permit applicants and landowners can appeal permit denial decisions and jurisdictional determinations. This regulation was proposed on July 19, 1995, and will be finalized in 1997. The administrative appeal process will increase fairness to applicants and landowners in the permitting process by establishing a recourse to Corps permit denial decisions and jurisdictional determinations without pursuing litigation. The process will also provide for third-party involvement when the Corps reconsiders a previous denial. The final regulation will be a consolidation of the Corps rulemaking and guidance, including the above regulations, that have been issued since the last consolidation of regulations dated November 13, 1986. The regulations will also be reorganized to make them clearer and easier to use.

Reform Defense Acquisition

The Department continues its efforts to reengineer its acquisition system to achieve its vision of acquisition system that is recognized as being the smartest, most efficient, most responsive buyer of best value goods and services that meet the warfighter's needs from a globally competitive base. To achieve this vision, the Department will focus in the acquisition regulations arena during this next year on implementing and institutionalizing initiatives that may include additional changes to existing and recently modified regulations to ensure that we are achieving the outcomes we desire (continuous process improvement). The Department will focus on reengineering the process by which it acquires services, focusing on the use of performance-based work statements. The Department also intends to improve its use of electronic commerce/electronic data interchange.

The Department is committed to acquisition reform and continues to make significant improvements in this area, consistent with the National Performance Review and E.O. 12866. DoD led the Governmentwide effort to implement the Federal Acquisition Streamlining Act of 1994 (FASA) in the Federal Acquisition Regulation (FAR). The legislation provided comprehensive authority to facilitate commercial item acquisition and simplified and streamlined many contract actions. Subsequent legislation, the Clinger-Cohen Act, enacted into law on February 10, 1996, provided further authority to facilitate commercial item acquisition and simplify and streamline contract actions. DoD led the Governmentwide effort to implement this legislation in the FAR and in the Defense FAR Supplement, as appropriate.

In addition, DoD is leading the following initiatives to reform the acquisition process:

- Rewrite of the FAR part 15 Contracting by Negotiation. This is the method used to award the bulk of our acquisition dollars. The goals of the FAR part 15 rewrite are to infuse innovative techniques into the source selection process, simplify the process, and facilitate the acquisition of best value. The rewrite emphasizes the need for contracting officers to use efficient acquisition methods and minimizes burdens on industry and Government contracting officers.
- Rewrite of FAR part 45 Government Property. The goals of the FAR part 45 rewrite are to reduce contractor and Government costs to manage property in the possession of contractors by streamlining recordkeeping requirements; eliminating requirements to track, report, and inventory property valued at $1,500 or less during contract performance; replacing five inventory schedules with a single inventory disposal schedule; and shortening screening times prior to property disposal. The FAR part 45 rewrite also encourages the dual use of Government property by introducing commercial rental practices and reducing property rental costs.
- Review and rewrite the FAR guidance pertaining to progress payments. The goals of this initiative are to simplify the progress payments process and to minimize the burdens imposed on contractors and contracting officers.
- Revise the Defense FAR Supplement to authorize the use of industry-standard guidelines for earned value management systems. Since DoD's cost/schedule control systems criteria are considered to be equivalent to earned value management systems, contractors' previously approved cost/schedule control systems will be acceptable under the earned value management systems criteria. It will no longer be necessary for DoD contractors to create or maintain DoD-unique cost/schedule control systems at facilities where acceptable earned value management systems exist.

Improve Health Care Delivery in the Defense Department

DoD operates an extensive system of military medical treatment facilities, in support of two missions: Wartime readiness and peacetime benefits. The readiness mission maintains the peacetime health of active duty personnel and makes preparations to attend the sick and wounded in war; the benefits mission provides a health benefit as a condition of service to DoD's eligible beneficiaries, including dependents of active duty personnel and retired military personnel and their dependents and survivors.

The principal health-related regulatory publications of the Department involve CHAMPUS, the Civilian Health and Medical Program of the Uniformed Services (32 CFR part 199). Through CHAMPUS, DoD shares in the cost of civilian care obtained by eligible beneficiaries when services are unavailable in military medical treatment facilities. CHAMPUS regulations comprehensively address such issues as eligibility, benefits, authorized providers, claims payment, appeals procedures, and the like. They also address TRICARE, a major health care initiative intended to improve the management and integration of health care delivery in military medical treatment facilities and CHAMPUS by offering enrollment in an HMO-like option, and two options that do not require enrollment: A preferred provider-like option and the standard program. TRICARE is designed to increase access to health services, control health care costs, and strengthen quality assurance activities.

Changes to the CHAMPUS regulations are coordinated by DoD with the Departments of Transportation (U.S. Coast Guard), Health and Human Services (Public Health Service), and Commerce (National Oceanographic and Atmospheric Administration), which also have beneficiaries eligible for CHAMPUS.

Amendments to the CHAMPUS regulations generally focus on program changes arising from revisions to the program's statutory base or from DoD initiatives to improve the program. Over the next year, changes in management of high-cost care, revisions to reimbursement approaches for providers, and streamlining administrative requirements for providers and beneficiaries will be among DoD's regulatory priorities.

Closed, Transferred, and Transferring Ranges Containing Military Munitions

The range rule identifies a process for evaluating appropriate response actions on closed, transferred, and transferring military ranges. Response actions will address safety, human health, and the environment. The rule contains a five-part process that is consistent with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and is tailored to the special risks posed by military munitions and military ranges. All closed, transferred, and transferring military ranges will be identified. A range assessment will be conducted in which a site-specific accelerated response (various options for protective measures, including monitoring) will be implemented. If these measures are not sufficient, then a more detailed site-specific range evaluation will be conducted. Recurring reviews will be conducted, and an administrative close-out phase also is included.

This regulation is proposed under the authorities of the Defense Environmental Restoration Program (DERP), 10 U.S.C. 2701 et seq.; the DoD Explosive Safety Board (DDESB), 10 U.S.C. 172 et seq.; and section 104 of the CERCLA, 42 U.S.C. 9601 et seq., as delegated to the DoD by E.O. 12580 (59 FR 2923, January 23, 1987).

The proposed rule was developed with extensive input from the public and other Federal agencies. A draft version of the rule was placed on the World Wide Web; meetings with representatives from State organizations, meetings with public groups, and meetings with other Federal agencies were critical in the formulation of the current draft version of the proposed rule.

DOD—Office of the Secretary (OS)

PROPOSED RULE STAGE

15. • CLOSED, TRANSFERRED, AND TRANSFERRING RANGES CONTAINING MILITARY MUNITIONS

Priority:

Other Significant

Legal Authority:

10 USC 172 et seq; 10 USC 2701 et seq; 42 USC 9601 et seq; EO 12580

CFR Citation:

32 CFR 178

Legal Deadline:

None

Abstract:

The proposed Department of Defense (DOD) rule is in response to EPA's "sunset" provision. The DOD proposal addresses the unique explosives safety considerations associated with military munitions (including UXO) and the need for environmental protection, and it does so under DERP, 10 USC 172 et seq, and CERCLA authorities rather than under RCRA.

Statement of Need:

The proposed DOD rule identifies a process for evaluating appropriate response actions on closed, transferred, and transferring military ranges. Response actions will address safety, human health, and the environment. The rule contains a five-part process that is consistent with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), and is tailored to the special risks posed by military munitions and military ranges. All closed, transferred, and transferring military ranges will be identified. A range assessment will be conducted in which a site-specific accelerated response (which may include various options for protective measures, including monitoring) will be implemented. If these measures are not sufficient, then a more detailed site-specific range evaluation will be conducted. Recurring reviews will be conducted in accordance with a schedule specified in the rule, and an administrative close-out phase also is included.

Summary of the Legal Basis:

This regulation is proposed under the authorities of the Defense Environmental Restoration Program (DERP) in 10 USC 2701 et seq; the DOD Explosive Safety Board (DDESB) in 10 USC 172 et seq; and 42 USC 9601, section 104 et seq (CERCLA), as delegated to the DOD by EO 12580 (59 FR 2923, January 23, 1987).

Alternatives:

A single, specific process is necessary to avoid confusion and to ensure that effective response activities are undertaken in a fiscally responsible manner. That process must recognize and consider the unique explosives safety hazards associated with military munitions, and concomitantly, with any response activity conducted on closed, transferred, or transferring ranges. The process must ensure that the public and regulators are fully informed and engaged at every stage of the process, including substantial and meaningful public and regulator participation in the response selection and implementation. The process must be accessible and consistent, and lead to informed decisionmaking.

DOD considered several alternatives to address military munitions on closed, transferred, or transferring ranges. In doing so, DOD examined the relative merits of conducting responses under any one of the statutorily based processes (DERP, CERCLA, RCRA, 10 USC 172 et seq) or the status quo in meeting the goal of establishing a single, logical, and comprehensive process that addresses explosives safety, human health, and environmental concerns.

Anticipated Costs and Benefits:

Implementing the proposed rule equates to national incremental costs of $709,000,000 over a period of 10 to 15 years with estimated annual costs of $71,000,000 per year for a 10-year period or $47,000,000 per year for a 15-year period. These costs are less that those of other alternatives. Benefits include: increased protection of the public; increased protection to unexploded ordnance response workers; consistent process; increased public involvement in responses; substantial role for regulatory agencies; and substantial role for other Federal land managers. Implementing a comprehensive approach to respond to these ranges while ensuring public safety, worker safety, and protection of human health and the environment is essential and would be a beneficial outcome of this rule.

Risks:

The degree of risk to the public is lessened by assuring a single, comprehensive process to respond to potential risks to safety, human health, and the environment at all closed, transferred, and transferring ranges. Public and regulatory acceptance of the rule is heightened through pre-proposal dialogue with stakeholders. DOD will continue to work with both public and governmental stakeholders and regulators in developing this proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Public Meetings Begin	10/00/97	
NPRM Comment Period End	11/00/97	
Public Meetings End	11/00/97	
Final Action	05/00/98	
Final Action Effective	06/00/98	

Small Entities Affected:

None

Government Levels Affected:

State, Tribal, Federal

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DEPARTMENT OF EDUCATION (ED)

Statement of Regulatory and Deregulatory Priorities

General

The Department supports States, local communities, institutions of higher education, and others to improve education nationwide. The Department's roles include leadership and financial support for education to agencies, institutions, and individuals in situations where there is a national interest; monitoring and enforcing of civil rights in the area of education; and supporting research, evaluation, and dissemination of findings to improve the quality of education. ED works in partnership with parents, neighborhoods, schools, colleges, educators, business leaders, communities, and States across the country.

Since the announcement of President Clinton's "Regulatory Reinvention Initiative" on March 4, 1995, the Department has conducted a comprehensive review of its programs, legislation, and implementing regulations to enhance partnerships, increase flexibility, and improve accountability. To date the Department has eliminated 36 percent of its regulations published in the Code of Federal Regulations and reinvented another 35 percent, for a total of 71 percent. An additional 25 percent of the Department's regulations will be eliminated or reinvented as a result of recently enacted or currently pending legislation.

The Department has accomplished this through a departmentwide effort that recognizes that students and educational partners are best served by regulations that focus on critical steps and results, allow as much flexibility as possible consistent with statutory and program goals, and impose the least possible burden.

As part of its regulatory reinvention efforts, the Department also seeks to draft all of its regulations and related documents clearly and concisely in plain language, so that potential program beneficiaries will better understand benefits and requirements.

Woven throughout the Department's reinvention is a commitment to provide quality customer service in the spirit of continuous improvement to assure that we are truly "putting people first." The Department listens to our customers to identify their needs and incorporates their suggestions into program goals and strategies.

In order to provide information and support enhanced exchange, the Department instituted 1-800-USA-LEARN to connect our customers to a "one-stop-shopping" center for information about departmental programs and initiatives; 1-800-4FED-AID for information on student aid; and an on-line library of information on education legislation, research, statistics, and promising programs. More than 10,000 people take advantage of these resources every week.

The Department has forged effective partnerships with customers and others to develop policies, regulations, guidance, technical assistance, and compliance approaches. The Department has an impressive record of successful communication and shared policy development with affected persons and groups, including parents, representatives of State and local government, institutions of higher education, school administrators, teachers, students, special education and rehabilitation service providers, professional associations, advocacy organizations, business, and labor.

In particular, the Department continues to seek greater and more useful customer participation in its rulemaking activities through the use of consensual rulemaking and new technology. When rulemaking is determined to be absolutely necessary, customer participation is essential and sought at all stages—in advance of formal rulemaking, during rulemaking, and after rulemaking is completed in anticipation of further improvements through statutory or regulatory changes. The Department has expanded its outreach efforts through the use of satellite broadcasts, electronic bulletin boards, and teleconferencing. For example, the Department now invites comments on all proposed rules through the Internet.

The Department is streamlining information collections, reducing burden on information providers involved in ED programs, and making information maintained by the Department easily available to the public. Coordinating similar information collections across programs may be one approach to reduce overlapping and inconsistent paperwork requirements. To the extent permitted by statute, regulations will be revised to eliminate barriers that inhibit coordination across programs (such as by creating common definitions), to reduce the frequency of reports, and to eliminate unnecessary data requirements.

The Department's Principles for Regulating, developed in October 1994 during planning to implement the Improving America's Schools Act of 1994, determine when and how it will regulate. Through aggressive application of the following principles, the Department has eliminated outdated or unnecessary regulations and identified situations in which major programs could be implemented without any regulations or with only limited regulations.

Principles for Regulating

The Department will regulate only if regulating improves the quality and equality of services to the Department's customers, learners of all ages. The Department will regulate only when absolutely necessary and then in the most flexible, most equitable, and least burdensome way possible.

Whether to Regulate:

- When essential to promote quality and equality of opportunity in education.
- When a demonstrated problem cannot be resolved without regulation.
- When necessary to provide legally binding interpretation to resolve ambiguity.
- Not if entities or situations to be regulated are so diverse that a uniform approach does more harm than good.

How to regulate:

- Regulate no more than necessary.
- Minimize burden and promote multiple approaches to meeting statutory requirements.
- Encourage federally funded activities to be integrated with State and local reform activities.
- Ensure that benefits justify costs of regulation.
- Establish performance objectives rather than specify compliance behavior.
- Encourage flexibility so institutional forces and incentives achieve desired results.

Regulatory and Deregulatory Priorities for the Next Year

Student Financial Aid Improvements

For student financial aid programs, the Department is continuing the significant improvements that have been made over the past 4 years to reduce paperwork, create less complex applications, and provide faster access to funds. Working closely with the postsecondary education community, the Department is continuing to design new approaches that will reduce burden while maintaining program integrity. The two student financial aid regulations listed in the Department's regulatory plan for 1998 will 1) require borrowers to make satisfactory repayment arrangements in order to receive the benefits of loan consolidation and 2) eliminate certain differences in the requirements for the Federal Family Education Loan and the William D. Ford Federal Direct Loan Programs.

Individuals with Disabilities Education Act Amendments of 1997

On June 4, 1997, the President signed into law Public Law 105-17, the Individuals with Disabilities Education Act Amendments of 1997, amending the Individuals with Disabilities Education Act (IDEA). Enactment of these amendments provides an opportunity to consider improvements in all of the regulations implementing the IDEA, including both formula and discretionary grant programs, that would strengthen the Federal effort to give every child a world-class education based on high standards. The Department is also reviewing the impact of these regulations on small entities in accordance with section 610(c) of the Regulatory Flexibility Act. The Secretary has invited public comment on the development of the regulations for educating all children with disabilities in a notice published in the Federal Register on June 27, 1997 (62 FR 35052)

ED—Office of Postsecondary Education (OPE)

PROPOSED RULE STAGE

16. • STUDENT ASSISTANCE GENERAL PROVISIONS, FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAM, AND WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM (PARITY)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

20 USC 1071 to 1087-2; 20 USC 1087 et seq

CFR Citation:

34 CFR 668; 34 CFR 682; 34 CFR 685

Legal Deadline:

None

Abstract:

These regulations would eliminate certain differences in requirements for the FFEL and Direct Loan Programs and would modify certain other requirements in order to clarify and update guidance and reduce burden.

Statement of Need:

Section 455(a) of the Higher Education Act of 1965, as amended, provides that, unless otherwise specified in statute, Federal Direct Stafford/Ford Loans, Federal Direct Unsubsidized Stafford/Ford Loans, and Federal Direct PLUS Loans shall have the same terms, conditions, and benefits, and be available in the same amounts, as Federal Stafford Loans, Federal Unsubsidized Stafford Loans, and Federal PLUS Loans.

Summary of the Legal Basis:

The Secretary will issue these regulations under the applicable legal authorities for the programs.

Alternatives:

The proposed changes reflect statutory requirements that must be incorporated in the regulations or changes that would clarify the regulations and reduce burden.

Anticipated Costs and Benefits:

These regulations would reduce administrative burden and increase flexibility by clarifying and conforming requirements in the FFEL and Direct Loan Programs. There are no significant additional costs associated with these regulations.

Risks:

These proposed regulations would not address a risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final Action	12/00/97	

Small Entities Affected:

None

Government Levels Affected:

None

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ED—OPE

17. • FEDERAL PERKINS LOAN PROGRAM, FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAM, AND WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM (CONSOLIDATION)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

20 USC 421 to 429; 20 USC 1071 to 1087-2; 20 USC 1087a et seq

CFR Citation:

34 CFR 674; 34 CFR 682; 34 CFR 685

Legal Deadline:

None

Abstract:

These regulations would require borrowers to make satisfactory repayment arrangements on defaulted loans in order to consolidate those loans under the FFEL and Direct Loan Programs. Additionally, for the Direct Loan Program only, the regulations would prohibit the consolidation of defaulted loans in administrative wage garnishment, Federal salary offset, judgment, or litigation.

Statement of Need:

In the preamble discussion to FFEL regulations published on December 1, 1995 (60 FR 61820) the Secretary made a commitment to reconsider the policy of allowing borrowers to consolidate defaulted loans without making any prior payments on these loans, if repayment patterns on the consolidation loans showed an unacceptable level of repeat defaults.

Summary of the Legal Basis:

The Secretary will issue these regulations under the applicable legal authorities for the programs.

Alternatives:

The Department's experience in tracking delinquency rates indicates that borrowers who did not make satisfactory repayment arrangements prior to loan consolidation were more likely to become delinquent on the consolidated loans. Therefore, the Secretary has determined that requiring payments on defaulted loans prior to consolidation is a prudent management decision for the FFEL and Direct Loan Programs.

Anticipated Costs and Benefits:

The regulations would support program integrity and protect Federal funds. The benefits of loan consolidation and the income contingent repayment plan would be denied to some borrowers with defaulted loans.

Risks:

These proposed regulations would not address a risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	
Final Action	06/00/98	

Small Entities Affected:

None

Government Levels Affected:

None

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ED—Office of Special Education and Rehabilitative Services (OSERS)

PROPOSED RULE STAGE

18. • ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH DISABILITIES (SECTION 610 REVIEW)

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

20 USC 1400 et seq

CFR Citation:

34 CFR 300

Legal Deadline:

None

Abstract:

These regulations would implement the Individuals with Disabilities Education Act Amendments of 1997 (Pub. L. 105-17, enacted June 4, 1997).

Statement of Need:

These regulations would implement new legislation and are expected to reduce regulatory burden and increase flexibility by improving the regulations implementing the Individuals with Disabilities Education Act (IDEA). The Department is also completing its scheduled review of these regulations under section 610(c) of the Regulatory Flexibility Act.

Summary of the Legal Basis:

Pub. L. 105-17, enacted June 4, 1997.

Alternatives:

In addition to implementing new legislation, the purpose of reviewing these regulations is to determine whether there are appropriate alternatives.

Anticipated Costs and Benefits:

Existing regulatory provisions may be eliminated or improved as a result of this review.

Risks:

These proposed regulations would not address a risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
Notice	06/27/97	62 FR 35052
NPRM	10/00/97	
Final Action	04/00/98	

Small Entities Affected:

Undetermined

Government Levels Affected:

Undetermined

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BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY (DOE)

Statement of Regulatory Priorities

The Department of Energy's (DOE) 1997 regulatory plan reflects its continuing commitment to enhance safety, cut costs, reduce regulatory burden, and increase responsiveness to the public. Since 1993, the Department has moved aggressively to eliminate obsolete regulations, reduce regulatory burden, and streamline its regulatory processes, while increasing public involvement. Specifically, the Department has eliminated 33 percent and reinvented 60 percent of its regulations, has made fundamental changes to its contracting practices to improve results at lower cost, has instituted new procedures to fully engage the public in establishing energy efficiency standards for consumer appliances and commercial equipment, and has moved to establish new health and safety requirements through public notice and comment rulemakings.

The Department makes vital contributions to the Nation's welfare through its extraordinary scientific and technical capabilities in energy research, environmental remediation, and national security. Among the Department's top priorities are:

- Enhancing the Nation's energy security by developing and deploying clean and affordable energy supplies and by improving the energy efficiency of our economy;
- Ensuring a safe and reliable nuclear weapons stockpile and reducing the global nuclear danger;
- Cleaning up former nuclear weapons sites and addressing the complex challenge of disposing of nuclear wastes; and
- Leveraging science and technology to advance fundamental knowledge and our country's competitiveness with stronger partnership with the private sector.

While not considered to be a major Federal regulatory agency, the Department's regulatory activities are essential to achieving its critical mission and priorities.

Energy Efficiency Program for Consumer Products and Commercial Equipment

In July 1996, the Department formalized the new policies and procedures for establishing energy efficiency standards for appliances and equipment. The new process provides for greater public input and improved analytical approaches, encourages consensus-based standards that streamline the regulatory process, and reduces the time and cost of developing new standards.

One key element of the new process is the systematic development of rulemaking priorities with input from stakeholders. At least annually, the Department will review, in consultation with interested parties, its priorities and schedules for all efficiency standards activities. The rulemaking process is dynamic and the schedule for and specific actions taken in the conduct of a particular rulemaking may change as new data and analytical results become available.

Rulemakings related to energy efficiency standards and determinations have been categorized as high, medium, or low priority based on public input and the criteria listed in the procedural rule. The schedules in this Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions reflect priorities established with significant input from the public.

In January 1997, the Department established an Advisory Committee on Appliance Energy Efficiency Standards to review annually the implementation of the process improvements and the progress being made on updating appliance and equipment efficiency standards. The Advisory Committee is made up of interested stakeholders and is chaired by the Assistant Secretary for Energy Efficiency and Renewable Energy.

During fiscal year 1997, the Department published a final rule to revise energy efficiency standards for the next generation of refrigerators and freezers. The new efficiency standards will reduce the energy use of a typical refrigerator-freezer by 30 percent. The Department also published a final rule to establish energy efficiency standards for room air conditioners, which will result in a 10 percent energy saving. In addition, the Department conducted several public workshops, including: A workshop to refine the process for determining manufacturer impacts due to energy efficiency standards, a standards workshop on fluorescent lamp ballasts, a screening analysis workshop for water heaters, and a standards workshop for clothes washers. Finally, the Department published several final rules for test procedures. These rules include test procedures for residential furnaces/boilers, vented home heating equipment and pool heaters, fluorescent and incandescent reflector lamps, and clothes washers.

The Department expects to take substantial action during fiscal year 1998 with respect to the high priority rulemakings (i.e., distribution transformers; clothes washers; fluorescent lamp ballasts; water heaters; kitchen ranges, ovens, and microwaves; and residential central air conditioning and central air conditioning heat pumps). Additional information and timetables for these actions are presented below. Information concerning the medium priority rulemakings (i.e., small electric motors and high intensity discharge lamps) and low priority rulemakings (i.e., clothes dryers, dishwashers, mobile home furnaces, residential furnaces and boilers, pool heaters, direct heating equipment, 1-200 HP motors, and fluorescent and incandescent lamps) appears in the Long-Term Action section of the Department's unified agenda.

Nuclear Safety Regulations

The Department is committed to openness and public participation as it addresses one of its greatest challenges—managing the environment, health, and safety risks posed by its nuclear facilities. Two departmental rulemakings on radiation protection (10 CFR parts 834 and 835) will establish additional reporting, monitoring, and discharge requirements and a dose limitation system for protecting the environment and the public, as well as the Department's Federal and contractor workforce. The new nuclear safety management regulation (10 CFR part 830) will codify and strengthen requirements applicable to contractors and subcontractors who manage the Department's nuclear facilities.

In August 1995, the Department published a notice of limited reopening of the comment period to request public comments on the part 830 and part 834 rulemakings. For the most part, the Department has completed the comment resolution process and has addressed the major issues raised by the Defense Nuclear Facilities Safety Board. During this period, the Department undertook an integrated safety management initiative to ensure that safety activities at a DOE site or facility are integrated and appropriate for the work and hazards. One outcome of this initiative, incorporated as part of the contract reform final rule published on June 27, 1997, requires contractors to manage and perform work in accordance with a documented safety management system that satisfies a minimum set of requirements. Part 830 is currently being reviewed to ensure its regulatory

framework is consistent with integrated safety management. By coordinating the issuance of part 830 and the development of integrated safety management, the Department will maximize the efficient use of resources and avoid duplicative or counterproductive efforts. The Department expects to complete final action on parts 830 and 834 by the end of this calendar year and revisions to part 835 in April 1998.

In May 1997, the Department issued a notice of intent to form an advisory committee on beryllium. The purpose of this committee is to provide advice, information, and recommendations for a proposed rulemaking on occupational exposures to beryllium, which the Department expects to publish in August 1998. As an interim measure, the Department has issued a 1-year administrative directive to establish a chronic beryllium disease prevention program that enhances an existing worker protection program.

Contract Reform

In February 1994, the Department issued its report on contract reform, "Making Contracting Work Better and Cost Less," which recommended a number of changes principally in areas affecting the Department's management and operating contractors. Most recently, the Department has taken the following steps to complete the recommended reforms:

- In a final rule published on September 26, 1995, the Department relieved its contractors from the prescriptive tenets of Federal procurement practices (i.e., "Federal norm") and allowed them to employ more efficient commercial business practices.
- In a final rule published in June 1997, the Department changed its long-standing policy regarding competition for its management and operating contracts. Under the previous policy, contracts were usually extended. This rulemaking establishes competition as the norm for these contracts by affirming the Department's commitment to competition through a reliance on Governmentwide authorities, rather than unique Department of Energy authorities.
- On June 27, 1997, the Department published a final rule that addressed the remaining key recommendations of the departmentwide contract reform initiative, including: Provision for performance-based management contracting; a revised policy covering reimbursement of costs such as fines, penalties, third-party liability, and property loss; requirements for contractor make-or-buy plans; hiring preferences for displaced workers; procedures for determining the application of laws, regulations, and Department directives to contractors; requirements for a safety management system covering the environment, safety, and health; new controls on contractor overtime management; and a policy that requires DOE contractors to develop and meet diversity performance goals as part of their business operations.

Regulatory Reform

The Department is committed to making its regulations less burdensome, more cost-effective, and more responsive to the needs of our stakeholders. In July 1994, the Secretary of Energy approved sweeping changes to the Department's rulemaking process. Based on results of an employee quality team review, these changes were designed to streamline the Department's rulemaking process, to improve the quality of the Department's rules, and to enhance the public's participation.

In addition, the President's Regulatory Reform Initiative announced in February 1995 directed Federal agencies to review their regulations and determine which could be eliminated or modified. Agencies were asked to conduct a "page-by-page" review of existing regulations and to establish plans for eliminating or reinventing existing regulations. The Department integrated the President's directive with an ongoing internal initiative to target existing regulations for modification or elimination. As a result, the Department eliminated 729 of its pages (33 percent) from the Code of Federal Regulations and issued final or proposed rules to reinvent 1273 of its pages (60 percent).

The Department views these actions as a significant step in a continuing process to improve the design and operation of its regulatory programs as it pursues its goal of more effective, less burdensome, and more cost-effective regulations. Some examples of recent improvements include the following:

- *State Energy Program.* On May 14, 1997, the Department published a final rule to consolidate the State Energy Conservation Program and the Institutional Conservation Program. These programs provided grants to the States and institutions, such as schools and hospitals, for a variety of energy conservation measures. Under the consolidated program, the Department will no longer make grants directly to individual institutions but will provide block-like grants to the States for their administration. The rule also removes the prescriptive energy audit procedures that conflict with the President's regulatory reform program. The States will benefit both from having greater control and increased flexibility in the use of the grant monies. This action was taken in direct response to public recommendations on possible improvements in the Department's regulatory programs.
- *National Environmental Policy Act Implementing Regulation.* On July 8, 1996, the Department published a final rule amending its regulation governing compliance with the National Environmental Policy Act (NEPA). By streamlining the process, the amendments will reduce the Department's costs and document preparation time without sacrificing quality. This step is part of an overall plan to save $26 million in the Department's NEPA compliance process over 5 years. This action was taken in direct response to public recommendations on possible improvements in the Department's regulatory programs.
- *Procurement Regulations.* Approximately 3 years ago, the Department began an aggressive effort to review and streamline its acquisition process with the objective of cutting the Department of Energy Acquisition Regulations in half. With the last of three procurement rulemakings published on August 9, 1996, the Department achieved its goal. Over 170 pages of regulations containing excessive and obsolete prescriptive requirements for awarding and administering contracts have been eliminated. As a result, the Department's ability to obtain high quality goods and services on time and at reasonable prices has been enhanced.
- *Financial Assistance Regulation.* On February 26, 1996, the Department published a final rule that reduced the number of steps required for award and administration for many financial assistance actions and the length of time typically required for an applicant to receive an award, to extend an existing award, or to complete all paperwork on expired awards. This was accomplished by raising internal thresholds for approvals, eliminating delays in making awards, and reducing

reporting and closeout procedures. This new regulation will apply to approximately $1.7 billion in grants and cooperative agreements that the Department approves each year.

- *Departmental Directive Reduction Initiative.* Directives provide formal communication of the expectations for performance of work within the Department by Federal employees and contractors. By 1991, the headquarters directives system included 312 overly-prescriptive, duplicative, and often times burdensome directives and a development and approval process that sometimes took over 3 years to issue a document. These directives and the lengthy development process were barriers to efficient work performance in the Department. To address the problem, the Department redesigned its headquarters directives system based on customer input and began implementation in December 1993. The Department also began several reduction efforts. As a result, the number of directives was halved from 312 to 156 by September 1995, representing a 67 percent reduction in the number of pages (from 7,200 to 2,400). The Department eliminated another 22 directives from the headquarters system in fiscal year 1996 representing an additional 14 percent reduction from the previous year. In addition, the Department's Operation's Offices also eliminated 1248 field directives by September 30, 1996, a reduction of 86 percent from the 1993 baseline.
- *Information Collection Burden Reduction.* As of September 1995, the estimated burden imposed by the Department's information collections totaled approximately 5.6 million hours. About 85 percent of the total represented information collections related to procurement activities and the management of the Department's contractor-operated facilities. The remaining 15 percent was associated with various statistical and energy data collections. Through the elimination and streamlining of regulations and internal directives, the Department reduced the estimated burden of its information collections by approximately one million hours or over 16 percent by September 30, 1996. The Department plans to reduce the burden of its information collection activities by an additional one-half million hours by the end of fiscal year 1997 and has initiated a comprehensive review of its information collection activities as a basis for considering further reductions.

DOE—Energy Efficiency and Renewable Energy (EE)

FINAL RULE STAGE

19. ENERGY EFFICIENCY STANDARDS RULEMAKINGS AND DETERMINATIONS FOR HIGH PRIORITY CONSUMER PRODUCTS AND COMMERCIAL EQUIPMENT

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 6295

CFR Citation:

10 CFR 430

Legal Deadline:

Final, Statutory, January 1, 1992, (fluorescent lamp ballasts, water heaters, and ranges, ovens and microwave ovens).

Final, Statutory, January 1, 1994, (central air conditioners and heat pumps).

Final, Statutory, May 14, 1996, (clothes washers).

Abstract:

This is the initial review of the statutory standards for fluorescent lamp ballasts, water heaters, ranges, ovens, microwaves, central air conditioners, and heat pumps to determine whether standards need to be amended. This is the second review of the standard levels for clothes washers. A determination will be made on whether standards should be proposed for distribution transformers. These actions are covered by RINs 1904-AA67, 1904-AA75, 1904-AA76, 1904-AA77, 1904-AA84, and 1904-AA85.

Statement of Need:

These rulemakings are required by statute. Experience has shown that the choice of residential appliances and commercial equipment being purchased by both builders and building owners is generally based on the initial cost rather than on life-cycle cost. Thus, the law requires minimum energy efficiency standards for appliances to eliminate inefficient appliances and equipment from the market.

Summary of the Legal Basis:

The Energy Policy and Conservation Act (EPCA), as amended, establishes initial energy efficiency standard levels for most types of major residential appliances and certain types of commercial equipment and generally requires DOE to undergo rulemakings, at specified times, to determine whether the standard for a covered product should be made more stringent.

Alternatives:

The statute requires DOE to conduct rulemakings to review standards and to revise standards to achieve the maximum improvement in energy efficiency that the Secretary determines is technologically feasible and economically justified. In making this determination, the Department conducts a thorough analysis of alternative standard levels, including the existing standard, based on criteria specified by statute. The process improvements that were recently announced (61 FR 36974, July 15, 1996) further enhance the analysis of alternative standards. For example, DOE will ask stakeholders and private sector technical experts to review its analyses of the likely impacts, costs, and benefits of alternative standard levels. In addition, the Department will solicit and consider information on non-regulatory approaches for encouraging the purchase of energy efficient products.

Anticipated Costs and Benefits:

The specific costs and benefits for these rulemakings have not been established because the final standard levels have not been determined. Nevertheless, existing appliance standards are projected to save 23 quadrillion Btu's of energy from 1993 to 2015, resulting in estimated consumer savings $1.7 billion per year in the year 2000 and estimated annual emission reductions of 107 million tons of carbon dioxide and 280 thousand tons of nitrogen oxides in the year 2000. Under the existing standards, the discounted energy savings for consumers are 2.5 times greater than the up-front price premium paid for the appliance.

Risks:

Without appliance efficiency standards, energy use will continue to increase with resulting damage to the environment caused by atmospheric emissions. Enhancing appliance energy efficiency reduces atmospheric emissions as such carbon dioxide and nitrogen oxides. Establishing standards that are too stringent could result in excessive increases in the cost of the product, possible reductions in product utility and may place an undue burden on manufacturers that could result in a loss of jobs or other adverse economic impacts.

Timetable:

1904-AA67 (Clothes Washers)
ANPRM 11/14/94 (59 FR 56423)
Screening Workshop 11/15/96
Supplemental ANPRM 01/00/98
Impact Workshop 08/00/98
NPRM 12/00/98
Final Action 10/00/99

1904-AA75 (Fluorescent Lamp Ballasts)
ANPRM 09/28/90 (55 FR 39624)
NPRM 03/04/94 (59 FR 10464)
Impact Workshop 03/18/97
Reissue NPRM 08/00/98

1904-AA76 (Water Heaters)
ANPRM 09/28/90 (55 FR 39624)
NPRM 03/04/94 (59 FR 10464)
Screening Workshop 06/24/97
Notice of Availability 01/00/98
Impact Workshop 03/00/98
Reissue NPRM 07/00/98
Final Action 07/00/99

1904-AA77 (Central Air Conditioners and Heat Pumps)
ANPRM 09/08/93 (58 FR 47326)
Screening Workshop 07/00/98
Supplemental ANPRM 04/00/00
NPRM 05/00/01
Final Action 11/00/01

1904-AA84 (Kitchen Ranges, Ovens, and Microwaves)
ANPRM 09/28/90 (55 FR 39624)
NPRM 03/04/94 (59 FR 10464)
Final Action 11/00/97

1904-AA85 (Electric Distribution Transformers)
Determination Notice 12/00/97

Small Entities Affected:

None

Government Levels Affected:

State, Local

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RIN: 1904–AA67

DOE—Departmental and Others (ENDEP)

PROPOSED RULE STAGE

20. OCCUPATIONAL PROTECTION PROGRAM FOR EXPOSURES TO BERYLLIUM

Priority:

Other Significant

Legal Authority:

42 USC 2201; 42 USC 7191

CFR Citation:

10 CFR Not yet determined

Legal Deadline:

None

Abstract:

This action will add requirements for the control of occupational exposures to beryllium at DOE and DOE contractor facilities and operations. This action reflects the Department's ongoing commitment to strengthen the protection of health, safety, and the environment from the hazards posed by its facilities.

Statement of Need:

The purpose of this rule is to ensure that the Department's obligation to provide a safe and healthy workplace is fulfilled.

Summary of the Legal Basis:

Under the Atomic Energy Act of 1954, as amended, the Department of Energy has the authority to regulate activities at facilities under its jurisdiction. The Department is committed to honoring its obligation to ensure the health, and safety of workers and the public affected by its operations.

Alternatives:

The Department could continue to impose health and safety requirements through directives made applicable to DOE contractors through the terms of their contracts.

Anticipated Costs and Benefits:

The incremental costs of the proposed rule should be minimal. Full compliance with these requirements will enhance occupational health and safety at certain DOE facilities.

Risks:

This rulemaking should reduce the risk of an occupational hazard by clarifying worker protection program requirements applicable to DOE contractors.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	
Final Action	04/00/99	

Small Entities Affected:

None

Government Levels Affected:

None

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DOE—ENDEP

FINAL RULE STAGE

21. NUCLEAR SAFETY MANAGEMENT

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 2201; 42 USC 7191

CFR Citation:

10 CFR 830

Legal Deadline:

None

Abstract:

This action will add regulations under 10 CFR 830 to establish nuclear safety management requirements for the Department's nuclear facilities. These requirements stem from the Department's obligations to assure adequate protection and to hold contractors who manage and operate these facilities accountable and responsible for safe operations. Under phase 1 of this action, major requirements will include conduct of operations, safety analysis reports, technical safety requirements training, maintenance, unreviewed safety questions and occurrence reporting. Under phase 2 of this action, major requirements will include nuclear design criteria, fire protection, natural phenomena hazards mitigation, and nuclear criticality safety. An initial phase adopted a quality assurance rule and definitions.

Statement of Need:

The purpose of this rule is to ensure that the Department's obligation to protect health and safety is fulfilled and to provide, if needed, a basis for the assessment of civil and criminal penalties consistent with the Price-Anderson Amendments Act of 1988. This action is consistent with the Department's commitment to the issuance of all new nuclear safety requirements to using notice and comment rulemaking.

Summary of the Legal Basis:

Under the Atomic Energy Act of 1954, as amended, the Department of Energy has the authority to regulate activities at facilities under its jurisdiction. The Department is committed to honoring its obligation to ensure the health and safety of the public and workers affected by its operations.

Alternatives:

The Department could continue to impose nuclear safety requirements through directives made applicable to DOE contractors through the terms of their contracts.

Anticipated Costs and Benefits:

The incremental costs of the proposed rules should be minimal because contractors are currently bound by comparable contractual obligations. Full compliance by contractors with nuclear safety standards will result in substantial societal benefits.

Risks:

This rulemaking should reduce the risk of nuclear safety problems by clarifying safety requirements applicable to DOE contractors and improving compliance.

Timetable:

Initial Phase
NPRM 12/09/91 (56 FR 64316)
Final Action 04/05/94 (59 FR 15843)

Phase 1
NPRM 12/09/91 (56 FR 64316)
Notice Reopening Comment Period 08/31/95 (60 FR 45381)
Final Action 12/00/97

Phase 2
NPRM 03/00/98
Final Action 12/00/98

Small Entities Affected:

None

Government Levels Affected:

None

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RIN: 1901–AA34

DOE—ENDEP

22. RADIATION PROTECTION OF THE PUBLIC AND THE ENVIRONMENT

Priority:

Other Significant

Legal Authority:

42 USC 2201; 42 USC 7191

CFR Citation:

10 CFR 834

Legal Deadline:

None

Abstract:

This action would add a new 10 CFR 834 to DOE's regulations establishing a body of rules setting forth the basic requirements for ensuring radiation protection of the public and environment in connection with DOE nuclear activities. These requirements stem from the Department's ongoing effort to strengthen the protection of health, safety, and the environment from the nuclear, radiological, and chemical hazards posed by these DOE activities. Major elements of the proposal included a dose limitation system for protection of the public, requirements for liquid discharges; reporting and monitoring requirements; and residual radioactive material requirements.

Statement of Need:

The purpose of this rule is to ensure that the Department's obligation to protect health and safety is fulfilled and to provide, if needed, a basis for the assessment of civil and criminal penalties consistent with the Price-Anderson Amendments Act of 1988. This action is consistent with the Department's commitment to the issuance of all new nuclear safety requirements using notice and comment rulemaking.

Summary of the Legal Basis:

Under the Atomic Energy Act of 1954, as amended, the Department of Energy has the authority to regulate activities at facilities under its jurisdiction. The Department is committed to honoring its obligation to ensure the health and safety of the public and workers affected by its operations and the protection of the environs around its facilities.

Alternatives:

The Department could continue to impose nuclear safety requirements through directives made applicable to DOE contractors through the terms of their contracts.

Anticipated Costs and Benefits:

The incremental costs of the proposed rules should be minimal because contractors are currently bound by comparable contractual obligations. Full compliance by contractors with nuclear safety standards will result in substantial societal benefits.

Risks:

This rulemaking should reduce the risk of nuclear safety problems by clarifying safety requirements applicable to DOE contractors and improving compliance.

Timetable:

Action	Date	FR Cite
NPRM	03/25/93	58 FR 16268
NPRM Comment Period End	06/22/93	
Final Action	12/00/97	

Small Entities Affected:

None

Government Levels Affected:

Federal

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RIN: 1901–AA38

DOE—ENDEP

23. OCCUPATIONAL RADIATION PROTECTION—AMENDMENT

Priority:

Other Significant

Legal Authority:

42 USC 2201; 42 USC 7191

CFR Citation:

10 CFR 835

Legal Deadline:

None

Abstract:

10 CFR part 835 establishes the basic requirements for DOE contractor and subcontractor activities to ensure radiation protection of occupational workers at DOE facilities. See 58 FR 65458 (December 14, 1993). The proposed amendment to part 835 would include items not previously covered such as sealed radioactive source accountability and control, posting of areas where radioactive material is present, and surface contamination values for tritium. Several additional changes are proposed to ensure continuity in DOE's system of radiation protection standards by codifying in part 835 critical provisions of the "DOE Radiological Control Manual" which is no longer a mandatory document. DOE also proposes to exclude explicitly from part 835 radiological transportation conducted in compliance with applicable DOE Orders and certain activities conducted on foreign soil. This rulemaking stems from DOE's ongoing effort to strengthen the protection of health and safety from the nuclear and radiological hazards that may exist at these DOE facilities.

Statement of Need:

The purpose of this rule is to ensure that the Department's obligation to protect health and safety is fulfilled and to provide, if needed, a basis for the assessment of civil and criminal penalties consistent with the Price-Anderson Amendments Act of 1988.

Summary of the Legal Basis:

Under the Atomic Energy Act of 1954, as amended, the Department has the authority to regulate activities at facilities under its jurisdiction. The Department is committed to honoring its obligation to ensure the health and safety of the public and workers affected by its operations and the protection of the environs around its facilities.

Alternatives:

The Department could continue to impose protection standards through directives made applicable to its contractors through the terms of their contracts.

Anticipated Costs and Benefits:

The incremental costs of the proposed rules should be minimal because contractors are currently bound by comparable contractural obligations. Full compliance by contractors with nuclear safety standards will result in substantial societal benefits.

Risks:

This rulemaking should reduce the risk of nuclear safety problems by clarifying safety requirements applicable to DOE contractors and improving performance.

Timetable:

Action	Date	FR Cite
NPRM	12/23/96	61 FR 67600
NPRM Comment Period End	03/31/97	
Final Action	04/00/98	

Small Entities Affected:

None

Government Levels Affected:

Federal

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DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Statement of Regulatory and Deregulatory Priorities

Departmentwide Priorities

This statement of regulatory priorities begins with an "Overall Priorities" overview, followed by statements of priorities for those components of the Department with major regulatory responsibilities—the Health Care Financing Administration, the Food and Drug Administration, and the Administration for Children and Families.

Overall Priorities

The Department of Health and Human Services (HHS) is statutorily obligated to protect and promote the health and the social and economic well-being of all Americans, and, in particular, of those least able to help themselves—children, the elderly, persons with disabilities, and the disadvantaged—by helping them and their families develop and maintain healthy, productive, and independent lives.

HHS's responsibilities range from some of the largest programs in Government (Medicare, Medicaid) to some of the smallest; from improving infant health to providing care for the elderly; from gathering basic national health statistics to providing front-line clinical and Head Start services; from sponsoring pioneering biomedical research to ensuring the safety of products that account for 25 cents of every dollar spent by the American people. The Department's regulatory priorities essentially involve effective management of the regulations necessary for implementation of these and other statutory authorities.

Over the foreseeable future, the Department's regulatory priorities will reflect emerging policy agendas in welfare reform; health insurance reform; the combating of waste, fraud, and abuse in the health care system; and children's health and food safety. Also, the Balanced Budget Act (BBA) of 1997 alone includes numerous provisions requiring regulatory action that will substantially affect the characteristics and administration of the Medicare Program, touching upon areas such as changes in Medicare reimbursement rules for graduate medical education; revisions to payment procedures for hospice and home health services; and negotiated rulemaking to establish solvency standards for provider-sponsored organizations.

The Department's early response to the BBA has been a focus on the new title XXI State Children's Health Insurance Program. This optional program allows States to initiate and expand child health assistance to uninsured, low-income children by providing health benefits coverage for those children. Federal funding will support the State-selected benchmark benefits package, providing at least certain basic services; that is, inpatient and outpatient hospital services, physicians' surgical and medical services, laboratory and x-ray services, and well-baby and well-child care, including age-appropriate immunization. The Department published, on September 12, Federal Register documents that provide information to States as to the level of financial allotments available to implement their program.

To address concerns about the integrity of services and quality of care delivered to beneficiaries in need of home health services, we are also planning to implement quickly the BBA requirement for surety bonds for Home Health Agencies. The requirement will help to assure that the agencies providing those health services to Medicare and Medicaid beneficiaries are sound and stable business concerns, legitimately providing protection to that vulnerable population in need of that care.

The Health Insurance Portability and Accountability Act of 1996, in addition to its health insurance reforms, gives the Department major new responsibilities concerning health data standards and health record privacy. Enacted with bipartisan support and at the urging of industry, these provisions require the Secretary to adopt a series of data standards to support electronic data interchange for health insurance and related transactions, such as claims processing and enrollment. The standards will apply to the entire health industry, not just Federal programs. Adoption of the standards will involve a significant regulatory activity and extensive consultation with the industry. It is estimated that this initiative could save as much as $9 billion a year in the health sector administrative costs.

Underlying these initiatives in 1998 and beyond, there will remain the new focus and discipline that the September 1993 issuance of Executive Order 12866 brought to the Department's regulatory program. Under the principles enunciated by the Order and through the Administration's subsequent regulatory reform initiative, the Department assures that rules:

- Focus specifically on clearly identified problems, avoiding overly broad one-size-fits-all approaches;
- Emphasize performance standards and market incentives over prescriptive command-and-control requirements;
- Regularly use benefit-cost analysis to achieve policy objectives in the most cost-effective manner; and
- Are developed in consultation with those most affected, especially our partners in the Federal system at the State and local levels.

Efforts to comply with these principles have been a major undertaking of the Department since 1993. The changes in our rulemaking approach are resulting in reduced burden, better communication with our customers, solid consensus building, and a less adversarial environment, while maintaining the health and safety protections that American people expect. A few recent illustrative examples include:

- A final rule with comment period published on January 13, 1997, reflecting close cooperation with the State governments, that allows States additional time to make Medicaid eligibility redeterminations without losing Federal financial participation because of changes in the link between Medicaid eligibility and the new systems introduced by the 1996 welfare reform legislation.
- A final rule published in June 1997 concerning substances prohibited from use in animal food or feed, which reflected the results of a comprehensive cost-benefit analysis and an intensive dialogue with affected industries. This FDA rule was intended to prevent bovine spongiform encephalopathy—otherwise known as "mad cow disease"—from becoming established in the United States cattle population through animal feed.
- A proposal published on July 23, 1997, after consulting widely with grantees and other affected organizations, to clarify, streamline, simplify, and unify the Federal child care block grant program. Under this proposal, the Department would revise existing regulations in light of the child care amendments contained in the welfare-reform legislation and thus assure the health and safety of children in child care, achieve a balance between program flexibility and accountability, and recognize that child care is a key support for work as envisioned in the Temporary

Assistance to Needy Families program.

- A final rule published on August 8, 1997, developed through the involvement of all concerned constituencies in a formal negotiated rulemaking process, determined the wage index that is used to adjust Medicare payment rates to hospices.

Health Care Financing Administration

The Health Care Financing Administration (HCFA) continues to pursue the President's and Vice President's initiatives for reinventing health care financing regulations, through a focus on action to reduce unnecessary burden throughout the Medicare and Medicaid systems while ensuring continual improvement in the quality of services to beneficiaries.

For example, on March 10, 1997, HCFA revised criteria that home health agencies must meet to participate in the Medicare and Medicaid programs. These criteria reflect HCFA's movement toward a patient outcome-based system, with a focus on quality assessment, performance improvement, and an interdisciplinary team approach to home health care delivery. A final rule is being prepared.

Similar rules for hospitals and for end-stage renal disease facilities are also under development. HCFA has worked closely with industry and beneficiary groups in developing the new standards. These two rules would also provide for the collection and analysis of patient care data needed for continuous quality improvement and performance evaluation, to increase consistency of requirements across providers, and ask the customer to provide input on what the outcome measures should be and evaluate the services they received.

On April 8, 1997, HHS, in partnership with the Departments of Labor (DOL) and Treasury, promulgated a rule implementing major provisions of the Health Insurance Portability and Accountability Act of 1996, concerning access, portability, and renewability requirements for group health plans. On the same day, HCFA also published a regulation detailing similar protections in the individual health insurance market. And, HCFA is working with DOL and Treasury on implementation of the provisions of both the Mental Health Parity Act of 1996 and the Newborns' and Mothers' Health Protection Act of 1996. These statutes provide, respectively, for parity in the application of limits on certain mental health benefits with limits on medical and surgical benefits, and for the protection of mothers and their newborn children with respect to the length of hospital stays following fht birth of a child.

HCFA also issued a notice with comment period May 14, 1997, specifying the formula to be used to allocate the enhanced Federal matching funds for increased administrative costs resulting from welfare reform. Under another rule to be published jointly with the Administration on Children and Families, HCFA will address cases where a parent is unemployed. The rule will facilitate coordination among the Temporary Assistance for Needy Families (TANF) program, Medicaid, and foster care programs, where a State has expanded coverage under its TANF plan beyond the definition of unemployed parent contained in existing rules. It will revise the definition of unemployment of a principal wage earner for purposes of coverage of dependent children of unemployed parents, and it will allow States to eliminate inequitable policies that are disincentives to family unity.

HCFA will also act to meet its obligations to combat fraud and abuse. New rules will promote the integrity of the Medicare program through HCFA contracts with eligible entities to perform certain program integrity functions. They include the review of provider and supplier activities, including medical fraud and utilization review; audit of cost reports; Medicare secondary payer provision; education of providers, suppliers, beneficiaries, and other persons regarding payment integrity and quality assurance issues; and developing and updating a list of durable medical equipment items subject to prior authorization. The proposed rule would also define entities eligible to perform Medicare program integrity activities, the services to be procured, and other areas of the Medicare Integrity Program. An additional proposed rule would apply stricter standards for durable medical equipment suppliers.

HCFA and the Centers for Disease Control and Prevention (CDC), which share a responsibility for the Clinical Laboratory Improvement Act (CLIA) program, have continually taken actions to reduce burden and improve the entire CLIA system. Final rules concerning the categorization of waived tests are under development, as are revisions to the CLIA implementing regulations. Tests classified under the new criteria are waived from certain CLIA requirements. These rules will not only improve the waiver approval process, but will also generally reduce the burden on laboratories, allowing them to perform more tests at a lower cost, and increase physician access to high quality clinical laboratory testing.

Food and Drug Administration

The Food and Drug Administration's (FDA) regulatory strategy involves three main goals: (1) To eliminate unnecessary burdens on industry; (2) to provide more information to consumers so that they may use FDA-regulated products more safely or effectively; and (3) to reflect new technologies or programs that will benefit the public, affected industries, and the agency or further protect the public health.

For example, on January 29, 1997 (62 FR 4221), FDA proposed to amend its regulations pertaining to biological establishments. Under preexisting regulations, biological product manufacturers had to name a "responsible head" who would exercise control of the manufacturing establishment in all matters and would represent the manufacturer in all pertinent matters with FDA. However, because biological product manufacturing encompasses a range of complex functions, each with its own specific expertise, it became impractical to expect manufacturers to find one "responsible head." Thus, to reduce unnecessary regulatory burdens on the biologics industry, the agency proposed to eliminate this requirement.

Better consumer information was the goal of another proposed rule, which appeared in the **Federal Register** on February 27, 1997 (62 FR 9024). The proposal would create a standardized format for over-the-counter (OTC) drug product labeling. As health costs increase and OTC drugs—including some drugs that were once available only by prescription—become increasingly available, consumers are engaging in more frequent self-medication. Consequently, it is increasingly important that consumers read and understand OTC drug product labeling, and so FDA's proposal is intended to enable consumers to better read and understand OTC drug product labeling and to apply this information so they can use OTC drug products safely and effectively.

Other FDA regulations were designed to provide greater benefits or greater protection to the public health. One proposed rule concerned the treatment use of investigational devices (December 19, 1996). This rule was intended to make promising new therapeutic and diagnostic devices available to patients with serious or immediately life threatening diseases or conditions, when no comparble or satisfactory device, drug, or other therapy exits, as early in the device development process as possible.

Another important rule involved iron-containing supplements and drugs. In response to acute iron poisonings, including deaths, in children under 6 years of age due to accidental overdoses of iron-containing products, FDA published a final rule in the **Federal Register** on January 15, 1997 (62 FR 2218), to require warning statements on iron-containing food supplements and drugs. The warning statement explained that the accidental overdose of iron-containing products is a leading cause of fatal poisoning in children under 6. The warning also said that the product should be kept out of reach of children, and that, if an accidental overdose occurs, to call a doctor or poison center immediately. The final rule also required unit dose packaging for iron-containing drug products in dosage forms of 30 milligrams or more per dosage unit. This type of packaging would help ensure against an accidental overdose.

FDA regulations also address new technologies and new public health risks. On March 20, 1997, FDA issued a final rule on electronic records and signatures. The rule was intended to provide the widest possible use of electronic technology compatible with FDA's responsibility to promote and protect public health. On June 5, 1997 (62 FR 30936), FDA issued a final rule concerning substances prohibited from use in animal food or feed. This rule was intended to prevent bovine spongiform encephalopathy (BSE)—commonly known as "mad cow disease"—from becoming established and spreading in the United States cattle population through animal feed. BSE may be associated with a fatal human disease called new variant Creutzfeldt-Jakob disease. Thus, by preventing BSE from becoming established and spreading in cattle, the final rule minimizes the risk of BSE to animals and humans.

Plan Entries

FDA's plan continues to reflect the Agency's goals of eliminating unnecessary burdens on the industry, providing more information to consumers so that they may use FDA-regulated products more safely or effectively, using new programs to benefit the public and affected industries, and protecting the public.

The Plan includes a proposed rule that would establish requirements for a comprehensive food safety assurance program for domestically produced and imported juices based on Hazard Analysis Critical Control Points (HACCP) principles. This initiative is a response to several outbreaks of illness associated with juice products. FDA's current view is that a HACCP system of preventative controls would be an effective and efficient way to ensure that these products are safe.

Another proposal would require manufacturers of human cellular and tissue-based products to register with FDA and to submit a list of all products. The proposal is designed to provide a rational, comprehensive, and clear framework for a rapidly growing industry that produces human cellular and tissue-based products.

A third propsal would amend the regulation for hearing aids. Current regulations require consumers to be examined by a physician before they purchase a hearing aid, but also allow for a waiver. Because this waiver provision may be misused, FDA is considering whether to eliminate the waiver provision and instead require a medical evaluation when certain previously undiagnosed conditions are found or when the prospective hearing aid user is under 18 years of age. Additionally, the proposal would restrict the dispensing of a hearing aid to patients who have undergone a comprehensive hearing assessment within the past 12 months and evaluated to select and fit a hearing aid. This proposal reflects changes in the nature of hearing aids because, in the past, hearing loss often was caused by medically treatable conditions. Due to advances in health care, such cases of hearing loss are less common today so there may be less need for a medical examination. However, advances in hearing aid technology necessitate proper testing in order for a hearing aid to be effective.

The plan includes a final rule that would require manufacturers to assess the safety and effectiveness of new drugs and biological products in pediatric patients. A limited class of new drug and biological products will require pediatric studies so that the products will have sufficient data and information to support directions for pediatric use for the claimed indications.

Finally, the plan includes a final rule on OTC drug product labeling to standardize the format and content requirements for such labeling. The final rule will include legibility and design features of such information as the product's uses, directions for use, warnings, drug interactions, precautions, active ingredients, and other information that consumers need to know to use a product safely and effectively.

Administration for Children and Families

The Administration for Children and Families (ACF) continues to pursue regulatory reform as an integral part of the Agency's mission to improve the lives of children and families. With the passage of major welfare reform legislation in August 1996 (the Personal Responsibility and Work Opportunity Reconciliation Act of 1996), ACF has a unique opportunity to meet its responsibilities to implement this comprehensive new law in ways to reflect both the letter and spirit of the President's Regulatory Reinvention Initiative.

For example, in developing proposed regulations on the Temporary Assistance for Needy Families (TANF) program, as well as on the child care program, the child support enforcement program, and other welfare reform-related provisions, ACF conducted extensive consultations with hundreds of State and local government officials, advocates, labor organizations, academics, researchers, and technical experts. ACF also met with other Federal agencies and held a series of policy discussions within the Department. These productive consultations informed our work throughout the regulatory development process. As a result, the proposed welfare reform regulations benefited from the broad input we received.

ACF's regulatory plan describes our regulatory initiative governing key provisions of the new welfare block grant program known as the Temporary Assistance for Needy Families—or TANF—program. The regulation addresses the work, accountability, 5-year time limit, and data collection and reporting provisions of the TANF program. It provides States with a basic set of rules which will assist them in implementing welfare reform; emphasizes the importance of work participation and the potential impact of TANF on needy children and families; demonstrates our good faith in implementing the law and assuming our new Federal role; and encourages and supports State flexibility, innovation, and creativity.

ACF is committed to continuing this important process of consultation as we work with our partners in the coming year to develop and publish final regulations to implement the welfare reform law.

HHS—Food and Drug Administration (FDA)

PROPOSED RULE STAGE

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24. HEARING AIDS; PROFESSIONAL AND PATIENT LABELING; CONDITIONS FOR SALE

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

This action may affect State, local or tribal governments and the private sector.

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

21 USC 351; 21 USC 352; 21 USC 360d; 21 USC 371; 21 USC 360j(e)

CFR Citation:

21 CFR 801.420; 21 CFR 801.421

Legal Deadline:

None

Abstract:

FDA is considering revising its present regulation governing the labeling and conditions for sale of hearing aids. The present rule requires an examination by a physician before purchase of a hearing aid, but permits an informed adult to waive that requirement. There is some evidence that this waiver provision is being misused. FDA is considering eliminating the waiver provision and instead requiring a medical evaluation when certain previously undiagnosed medical conditions are found or when the prospective hearing aid user is under 18 years of age. In addition, FDA is considering restricting the dispensing of a hearing aid to patients who have undergone a comprehensive hearing assessment within the past 12 months and an evaluation to select and fit a hearing aid, both of which would be required to be conducted by hearing care professionals licensed by the States as competent to conduct such assessments and evaluations. FDA is also considering revisions to its professional and patient labeling requirements to require updated information.

Statement of Need:

FDA has become aware of changes in the nature of the causes of hearing loss and the technology of hearing aids that necessitate reconsideration of the regulations governing the types of testing needed before a hearing aid purchase and the labeling for health professionals and patients. In the past, hearing loss often was caused by medically treatable conditions: because of advances in health care, this is less common. Therefore, there may be less need for medical evaluation. On the other hand, advances in hearing aid technology necessitate proper testing in order for a hearing aid to be effective.

Summary of the Legal Basis:

Under 21 USC 360j(e), FDA has the authority to restrict the sale, distribution, or use of a medical device, if FDA determines that, without such restrictions, there cannot be reasonable assurance of its safety and effectiveness. Under 21 USC 352, FDA has the authority to require that the labeling of a medical device include adequate directions for use.

Alternatives:

FDA considered applying the rule only to first time purchasers of hearing aids. FDA believes, however, that this would not adequately protect present users of inappropriate or unneeded hearing aids. FDA also considered requiring additional tests, but has preliminarily determined to list these tests as recommended only in order to provide additional flexibility.

Anticipated Costs and Benefits:

FDA has estimated the costs of the mandatory testing required by the rule would add an additional $24.8 million to $51.7 million depending upon the assumptions concerning present practices. On the average, FDA estimates that this would add about $24 to the cost of a hearing aid. FDA expects that the benefits from the rule would include: (1) Improving the quality of life of hearing aid users; (2) avoiding the cost of inappropriate hearing aid purchase; (3) reducing doctor visits for hearing aid evaluations; (4) lowering treatment costs due to early detection of serious conditions; and (5) encouraging the dissemination of accurate information concerning the benefits and limitations of hearing aids.

Risks:

If the hearing aid purchaser inappropriately waives the medical evaluation requirement under the existing rule, treatable causes of hearing loss may go undetected. Many purchasers who have not had proper testing before a hearing aid purchase will forego the use of a hearing aid because the one purchased does not adequately improve their hearing ability. At this time, FDA believes that many hearing impaired people who may benefit from a hearing aid do not purchase one because they fear that they will not benefit from one due to inaccurate information.

Timetable:

Action	Date	FR Cite
ANPRM	11/10/93	58 FR 59695
ANPRM Comment Period End	01/10/94	
NPRM	03/00/98	

Small Entities Affected:

Businesses

Government Levels Affected:

State

Additional Information:

Previously reported under RIN 0905-AE46.

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RIN: 0910–AA39

HHS—FDA

25. DEVELOPMENT OF HAZARD ANALYSIS CRITICAL CONTROL POINTS FOR CERTAIN UNPASTEURIZED FRUIT AND VEGETABLE JUICES

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

21 USC 321 et seq; 42 USC 264

CFR Citation:

21 CFR 120

Legal Deadline:

None

Abstract:

FDA announced in an advance notice of proposed rulemaking of August 4, 1994, its plans to consider the development of regulations establishing requirements for a new comprehensive food safety assurance program for both domestically produced and imported foods that would be based on the principles of Hazard Analysis Critical Control Points (HAGCP). The new food safety program would respond to new challenges, such as new food processing and packaging technologies, new food distribution and consumption patterns, exposure to industrial chemicals and chemical waste, the increasing importation of foods, new microbial pathogens, and resource constraints. Current information shows that the most serious of these challenges is presented by food-borne pathogens. The number of recognized food-borne pathogens has broadened considerably, as has the awareness of long-term complications from certain food-borne illnesses--such as arthritis, heart disease, and kidney and neurological damage. To meet such challenges, FDA intends to shift the focus of its food safety assurance program away from periodic visual inspection and end-product testing and toward prevention of food safety risks and problems, utilizing the HACCP state-of-the-art preventive approach. A first step was taken when FDA published a HACCP regulation for fish and fishery products on December 18, 1995. Consistent with FDA's HACCP efforts, USDA published a HACCP regulation for meat and poultry on July 25, 1996. As a next step in this food safety program, FDA will propose a HACCP regulation for the processing of juice. As part of the development of this document, FDA is considering information obtained during agency HACCP pilot activities, and comments and scientific and technological information relating to fresh juices provided during and after an agency public meeting on juice held on December 16 and 17, 1996. As a separate rulemaking, the agency intends to propose to require label warning statements on juice products that have not been treated to destroy harmful bacteria that may be present. This requirement for warning labels will serve as an interim measure to reduce the risk of food-borne illness until regulations are promulgated and implemented to require that juice be processed under a HACCP program.

Statement of Need:

In this proposed rule, the Food and Drug Administration (FDA) is proposing to adopt regulations that would establish requirements for a new comprehensive food safety assurance program for both domestically produced and imported juices that would be based on the principles of Hazard Analysis Critical Control Points (HACCP). FDA will propose a juice HACCP regulation because there have been a number of outbreaks of illnesses associated with juice products, including some directly affecting children, and because the agency believes that a system of preventive controls is the most effective and efficient way to ensure that these products will be safe.

Summary of the Legal Basis:

Failure of a processor to have and implement a HACCP system will render the food products of that processor adulterated under section 402(a)(4) of the Federal Food, Drug, and Cosmetic Act. Whether a processor's actions are consistent with ensuring the safety of food will be determined through an evaluation of the overall implementation of the firm's HACCP system.

Alternatives:

The two principal alternatives to HACCP are end-product testing and comprehensive current good manufacturing practices (CGMPs). FDA has concluded, based on available information at this time, that these alternatives lack the distinct advantages of a HACCP-based approach. End-product testing does not address the root causes of food safety problems, is not preventive by design, and requires that a large number of samples be analyzed to ensure product integrity. CGMPs are not practical because they are plant-wide operating procedures and do not concentrate on the identification and prevention of food hazards.

Anticipated Costs and Benefits:

In general terms, HACCP focuses on prevention and is designed to prevent the occurrence of hazards affecting food; HACCP permits more effective and efficient oversight by Federal, State, and local governments; and HACCP appropriately places primary responsibility for ensuring food safety appropriately on the food manufacturer/distributor to analyze in a rational, scientific manner its production processes in order to identify critical control points and establish critical limits and monitorin procedures. FDA anticipates that cost to industry generated by implementation of HACCP would be offset in four ways: (1) by reducing th amount of food-borne illnesses (for example, total illness reduction benef estimated to result from FDA's HACC based requirements for seafood regulation are between $15 and $75 million per year); (2) by increasing public confidence in the Nation's foo supply; (3) by enabling U.S. food companies to compete more effectivel in the world market (for example, current recommendations of the Code Alimentarius Commission's Committe on Food Hygiene encourage the international use of the HACCP syste and the European Community (EC) ha begun to require that foods produced within the EC be processed under HACCP requirements); and (4) by decreasing the number of future product recalls.

Risks:

Any potential for contamination of th food supply with industrial chemicals or microbial pathogens must be considered a highly serious risk because of the possibility that such contamination would be widespread, affecting whole segments of the population, causing some severe long-term effects and even loss of life. FDA made a decision to adopt a HACCP-based approach to regulation of seafood, based on a considerable body of literature and expertise in this area. Likewise, FDA has reviewed current information on hazards associated wit unpasteurized juice, and intends to propose that processors use HACCP in the manufacture of certain juice products.

Timetable:

Action	Date	FR Cite
ANPRM	08/04/94	59 FR 3988
ANPRM Comment Period End	12/02/94	
Notice of Intent	08/28/97	62 FR 4559
NPRM	01/00/98	

Small Entities Affected:

Businesses

Government Levels Affected:

Undetermined

Additional Information:

Previously reported under RIN 0905-AE60.

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RIN: 0910–AA43

HHS—FDA

26. ESTABLISHMENT REGISTRATION AND LISTING OF HUMAN CELLULAR AND TISSUE-BASED PRODUCTS

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 264

CFR Citation:

21 CFR 1271

Legal Deadline:

None

Abstract:

This action is a continuation of FDA's approach for the regulation of human tissues and is part of FDA's reinventing government initiative. The proposed rule would require manufacturers of human cellular and tissue-based products to register with the agency and submit a list of all such products produced. Future regulations would include the promulgation of good tissue practices (GTP) that will provide good manufacturing standards and regulations for donor screening and testing, promotion and labeling, and compliance and procedural issues. The proposed approach would provide a rational, comprehensive, and clear framework under which tissue processors can develop and market their products without being subjected to unnecessary regulation and without sacrificing the protection of the public health.

Statement of Need:

Presently, FDA can only approximate the numbers of manufacturers involved in the production of human cellular and tissue-based products. Recent innovations in the methods of manipulating human cells and tissues for therapeutic purposes has resulted in the rapid growth of the industry producing human cellular and tissue-based products. The growth has occurred in industry segments that normally communicate with the agency as well as in segments that have not previously had any contact with FDA. In order to characterize the industry and establish a basis for communication with that industry, FDA is proposing that all manufacturers of human cellular and tissue-based products register with FDA and submit lists of all their products to the agency.

Summary of the Legal Basis:

The Public Health Service Act (42 USC 216 et seq.) and the Federal Food, Drug, and Cosmetic Act (21 USC 321 et seq.) authorize FDA to regulate biological products and to ensure that the products are safe, pure, potent, and effective. The Public Health Service Act also contains the authority under which FDA can promulgate regulations designed to prevent the spread of communicable diseases. In order to meet these objectives, FDA must be able to identify those manufacturers participating in activities that may be subject to regulation. FDA proposes the registration and listing as a simple and efficient means of acquiring the needed information.

Alternatives:

FDA has considered two alternatives. The first alternative would be an information collection undertaken by the agency that would be entirely dependent on voluntary compliance. FDA considers this alternative inefficient and lacking in any compliance inducements.

The second alternative is to compel the registration of manufacturers and require registrants to list their products with the agency. Such a system has been proposed to industry and gained general acceptance. Manufacturers would simply fill out an electronically available, registration and listing form and fax or mail the completed form to the agency with periodic updates. No other paperwork should be required.

Anticipated Costs and Benefits:

Registration and listing will enable FDA to characterize the industry without imposing any significant procedural or monetary burdens. Registration and listing would provide effective means by which FDA can monitor the production of human cellular and tissue-based products. The costs of registration and listing are expected to be minimal because, as stated above, the process would require only the information necessary for FDA to identify the affected industry.

Risks:

FDA believes that the risks posed by requiring registration and listing of human cellular and tissue-based products are minimal. In contrast, failure to identify manufacturers involved in the production of human cellular and tissue-based products would subject the public to the great and avoidable risk of contracting debilitating communicable diseases. Without any mechanism to target regulations intended to ensure the safety, purity and potency of human cellular and tissue-based products, FDA's oversight of the industry would be severely hindered and the protection of the public health jeopardized.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	
NPRM Comment Period End	06/00/98	

Small Entities Affected:

Businesses

Government Levels Affected:

None

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RIN: 0910–AB05

HHS—FDA

27. • REGULATIONS REQUIRING MANUFACTURERS TO ASSESS THE SAFETY AND EFFECTIVENESS OF NEW DRUGS AND BIOLOGICAL PRODUCTS IN PEDIATRIC PATIENTS

Priority:

Other Significant

Legal Authority:

21 USC 321; 21 USC 331; 21 USC 352; 21 USC 355; 21 USC 371; 21 USC 502; 42 USC 262

CFR Citation:

21 CFR 200; 21 CFR 312; 21 CFR 314; 21 CFR 601

Legal Deadline:

None

Abstract:

The final rule requires pediatric studies of a limited class of new drug and biological products so that the products will have sufficient data and information to support directions for pediatric use for the claimed indications.

Statement of Need:

Many new drugs and biological products represent treatments that are, at least at times, the best available treatment for children, but most of them have not been adequately tested in the pediatric population. As a result, product labeling frequently fails to provide directions for safe and effective use in pediatric patients. The absence of pediatric labeling information poses a number of disadvantages to pediatric patients, including the potential for under- or over-dosing leading to ineffective treatment or excessive or unanticipated side effects. It may also result in the failure to provide optimal treatment to children because of the lack of appropriate scientific data.

Despite previous efforts to increase the amount of pediatric use information in drug labeling, the majority of new drugs and biological products are still insufficiently tested in the pediatric population and their labeling carries little or no information on pediatric safety and effectiveness. The final rule would help address this lack of pediatric information.

Summary of the Legal Basis:

Under 502(a), 502(f), 505(d)(7), and 201(n) of the Federal Food, Drug, and Cosmetic Act (the act), FDA may require a product to carry labeling that provides safety and effectiveness information on use in subpopulations in which the product is customarily or commonly used. Section 505(i) of the act that authorizes the issuance of regulations governing the use of investigational drugs, and the provision 505(k) of the act, which requires regulations issued under 505(i) to have "due regard * * * for the interests of patients," together authorize FDA to impose conditions on the investigation of new drugs, including conditions related to the interests of patients. Section 351 of the Public Health Service Act (42 USC 262) provides authority to regulate the labeling and shipment of biological products.

Alternatives:

With OMB's concurrence FDA previously published proposed and final rules in an attempt to encourage manufacturers to include pediatric labeling on specific drug products known to be prescribed to pediatric patients despite the lack of directions for use. These previous attempts included a NPRM published on October 16, 1992 (57 FR 47423), and a final rule published on December 13, 1994 (59 FR 64240). These previous attempts which stopped short of requiring studies failed to produce the desired results. This final rule will be a step towards correcting those deficiencies.

Anticipated Costs and Benefits:

Estimated costs will range from $13.5 million to $20.9 million when implemented. The rule will result in fewer adverse reactions in children (i.e., drug reactions that occur because of the use of inadvertent drug overdoses or other drug administration problems that can be avoided with better information on appropriate pediatric use); and will help prevent the under treatment of children with potentially safe and effective drug products because the physician either prescribed an inadequate dosage regimen, prescribed a less effective drug, or did not prescribe a drug, due to the physician's uncertainty about whether the drug or the dose was safe and effective in children. Approved pediatric indications should therefore increase sales of affected products to pediatric patients.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	08/15/97	62 FR 43909
NPRM Comment Period End	11/13/97	
Final Action	10/00/98	

Small Entities Affected:

Businesses

Government Levels Affected:

None

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RIN: 0910–AB20

HHS—FDA

FINAL RULE STAGE

28. OVER-THE-COUNTER HUMAN DRUGS; LABELING REQUIREMENTS

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

21 USC 321; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 357; 21 USC 360; 21 USC 371

CFR Citation:

21 CFR 330

Legal Deadline:

None

Abstract:

The final rule will provide standardized format and content requirements for OTC drug product labeling, including legibility and design features of such information as the uses for the drug, directions for use, warnings, drug interactions, precautions, active ingredients, and other information that the consumer would need to know to use the product safely and effectively.

Statement of Need:

Currently, the design, format, and placement of required labeling information vary considerably among OTC products. As a result, consumers often have difficulty finding, reading, and understanding this labeling information. Modifying and simplifying the manner in which the information is presented can improve the legibility and understandability of OTC drug product labeling. Therefore, this final

rule will establish a standardized format for the labeling of all marketed OTC drug products. This action is intended to enable consumers to better read and understand OTC drug product labeling and to apply this information to the safe and effective use of OTC drug products.

Summary of the Legal Basis:

FDA's legal authority to modify and simplify the manner in which certain information is presented in OTC drug product labeling derives from sections 201, 502, 505, 507, and 701 of the Federal Food, Drug, and Cosmetic Act (the act). Regulating the order, appearance, and format of OTC drug product labeling is consistent with the agency's authority to ensure that drug labeling convey all material information to the consumer (21 USC 321(n) and 352(a)), and that the labeling communicates this information in a manner that is "likely to be read and understood by the ordinary individual under customary conditions of purchase and use." (21 USC 352(c)). Regulating the content of OTC drug product labeling is consistent with FDA's authority to ensure that the products are safe and effective for use (sections 201(n) and (p), 502, 505, and 507 of the act).

Alternatives:

FDA considered several alternatives. First, the agency considered but rejected a voluntary labeling scheme, as previous industry efforts have been unsuccessful in achieving both a uniform format and an acceptable minimum print size for a majority of the products on the market. Second, the agency considered but rejected revising all OTC monographs on an individual basis because this approach would not achieve a standardized labeling format for a majority of the marketed products in a timely manner. Third, the agency considered alternative implementation periods but chose the option proposed because it believed that the chosen approach provides significant reduction in cost while meeting the agency objective of achieving a standardized labeling format for a majority of the products in a timely manner.

Anticipated Costs and Benefits:

The final rule is expected to cost a total of $14 million when implemented. This cost includes a 1-year extension for implementation time of individual OTC drug products having sales of less than $25,000 per year.

In general, the rule will benefit consumers by allowing them to make more appropriate choices for self-treatment, and to reduce trial and error approaches to self-medication. Consequently, this could lead to decreased overall health care costs resulting from reduced visits to the doctor or hospital for treatment. Additionally, the easy to read, standardized format will directly benefit consumers by helping ensure the safe and effective use of the product.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	02/27/97	62 FR 9024
NPRM Comment Period End	10/06/97	62 FR 33379
Final Action	07/00/98	

Small Entities Affected:

Businesses

Government Levels Affected:

None

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RIN: 0910–AA79

HHS—Health Resources and Services Administration (HRSA)

FINAL RULE STAGE

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29. ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK RULES

Priority:

Other Significant

Legal Authority:

42 USC 1320b-8 sec 1138 of the Social Security Act; 42 USC 274 sec 372 of the Public Health Service Act; 42 USC 274b sec 374 of the Public Health Service Act; 42 USC 216 sec 215 of the Public Health Service Act

CFR Citation:

42 CFR 121

Legal Deadline:

None

Sections 215, 372 and 374 of the PHS Act provide general authority to regulate the activities of the Organ Procurement and Transplantation Network (OPTN) established under section 372.

Abstract:

Section 1138 of the Social Security Act requires Medicare and Medicaid participating hospitals that perform organ transplants to be members of and abide by the rules and requirements of the Organ Procurement and Transplantation Network (OPTN) as established by section 372 of the Public Health Service Act. Section 1138 also requires that for organ procurement costs attributable to payments to an Organ Procurement Organization (OPO) to be paid by Medicare or Medicaid, the OPO must be a member of and abide by the rules and requirements of the OPTN. No other entity (for example, a histocompatibility laboratory) is required to be a member of or abide by the rules of the OPTN under the provisions of the statute. It is the Department's position that no rule, requirement, policy, or other issuance of the OPTN will be considered to be a "rule or requirement" of the Network within the meaning of section 1138 unless the Secretary has formally approved that rule. The OPTN is currently in operation and these rules will impose no further cost.

Statement of Need:

These regulations are needed to establish a legally binding framework for the operation of the OPTN and for participation in the OPTN by transplant hospitals and OPOs.

Summary of the Legal Basis:

Section 215 of the Public Health Service Act, along with the provision of sections 372 and 374 of the Act (42 USC 216, 274 and 274, respectively) provide authority to issue OPTN regulations. In addition section 113B of the Social Security Act (42 USC 1320b-8) requires Medicare and Medicaid participating hospitals that perform organ transplants to be members of and abide by the rules and requirements of the Organ Procurement and Transplantation Network (OPTN) as established by section 372 of the Public Health Service Act (42 USC 274).

Alternatives:

The alternative was to continue without codifying existing policies.

Anticipated Costs and Benefits:

There are no anticipated costs beyond the cost of preparing the regulations (approximately $100,000.00). The anticipated benefit is that the regulations will make mandatory adherence to the policies set forth in the regulations.

Risks:

None known.

Timetable:

Action	Date	FR Cite
NPRM	09/08/94	59 FR 46482
NPRM Comment Period End	12/07/94	
Final Action	10/00/97	

Small Entities Affected:

None

Government Levels Affected:

None

Additional Information:

Previously reported under RIN 0905-AD26.

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RIN: 0906–AA32

HHS—Health Care Financing Administration (HCFA)

PROPOSED RULE STAGE

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30. REVISION OF MEDICARE HOSPITAL CONDITIONS OF PARTICIPATION (BPD-745-P)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 1395x; 42 USC 1302; 42 USC 1395(cc); 42 USC 1395(hh); 42 USC 1320(b-8)

CFR Citation:

42 CFR 416; 42 CFR 482; 42 CFR 485; 42 CFR 489

Legal Deadline:

None

Abstract:

This proposed rule would revise the requirements that hospitals must meet to participate in the Medicare and Medicaid programs. The revised requirements focus on patient care and the outcomes of that care, reflect a cross-functional view of patient treatment, encourage flexibility in meeting quality standards, and eliminate unnecessary procedural requirements. These changes are necessary to reflect advances in health care practices since the requirements were last revised in 1986.

Statement of Need:

The purpose of the hospital conditions of participation is to protect patient health and safety and help assure that quality care is furnished to all hospital patients. Hospitals must meet the conditions of participation in order to participate in Medicare or Medicaid. Revised conditions are necessary to ensure that our regulations focus primarily on the actual quality of care furnished to patients, and the outcomes of that care, rather than on procedural compliance. These changes are intended to give hospitals the flexibility needed to achieve high-quality outcomes in the most cost-effective manner.

In addition, the regulations are intended to promote a cross-functional, interdisciplinary approach to hospital performance, instead of an approach geared towards evaluating each department of a hospital as a stand-alone entity. This approach is in line with current best practices in hospitals, in which patients routinely encounter many caregivers and services that often cut across department lines.

Summary of the Legal Basis:

Section 1861(e) of the Social Security Act (the Act) provides that a hospital participating in the Medicare program must meet certain specified requirements. In addition, section 1861(e)(9) of the Act specifies that a hospital also must meet such requirements that the Secretary finds are necessary in the interest of the health and safety of the hospital's patients. Under this authority, the Secretary has established in regulations the requirements that a hospital must meet to participate in Medicare. These requirements are set forth in regulations at 42 CFR part 482, Conditions of Participation for Hospitals. Section 1905(a) of the Act provides that Medicaid payments may be applied to hospital services. Under regulations at 42 CFR 440.10(a)(3)(iii), hospitals generally are required to meet the Medicare conditions of participation in order to participate in Medicaid.

Alternatives:

HCFA considered the possibility of revising individual sections of the current hospital regulations. However, we determined that the best means of achieving the systematic changes needed in the regulations was to revise the hospital conditions in their entirety. The specific areas that are likely to form the core of the revised requirements include patient rights, patient assessment, patient care, quality assessment and improvement, and information management.

Anticipated Costs and Benefits:

There would not be significant costs associated with this proposed rule. The benefits that would be derived from the rule are discussed in the Need section, above.

Risks:

By revising these regulations to focus on the quality of the actual care given to an individual and the effectiveness of that care for the individual patient, we hope to reduce risks to beneficiaries' health and safety. Revised procedures can better focus on ensuring that the care being given to a patient is the care that is actually necessary and effective for that patient. No quantitative estimates of risk reductions are available yet.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected:

Businesses, Organizations

Government Levels Affected:

None

Additional Information:

BPD-745

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RIN: 0938–AG79

HHS—HCFA

31. END STAGE RENAL DISEASE (ESRD) CONDITIONS FOR COVERAGE (BPD-818-P)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 1395rr

CFR Citation:

42 CFR 400; 42 CFR 405; 42 CFR 406; 42 CFR 409; 42 CFR 410; 42 CFR 412; 42 CFR 413; 42 CFR 414; 42 CFR 489; 42 CFR 492

Legal Deadline:

None

Abstract:

This proposed rule would revise the current conditions for coverage for end stage renal disease (ESRD) facilities approved to provide ESRD service under Medicare. It would update the conditions to reflect developments in technology and equipment, emphasize the total patient experience and develop performance expectations for the facility that result in quality, comprehensive care for the dialysis patient.

Statement of Need:

Section 1881(b)(1) of the Social Security Act stipulates that payment is made to individuals, providers of services, and renal dialysis facilities that meet the requirements for institutional dialysis services and supplies that are determined by the Secretary. These requirements are the end-stage renal disease (ESRD) conditions for coverage.

Our decision to propose major changes to the existing conditions is based on several considerations. Revising the ESRD requirements is part of HCFA's effort to move toward a patient outcome-based system that focuses on quality assessment and performance improvement. We believe that revising the conditions will encourage improved outcomes of care for beneficiaries. The ESRD conditions for coverage have not been comprehensively revised since their inception in 1976. The existing requirements emphasize the policies and procedures that must be in place to support good patient care, and they focus on a facility's capacity to furnish care rather than on the actual provision of quality care to patients and the outcomes of that care.

During the 1980's and early 1990's major changes took place in the delivery of services to dialysis patients, and these advances are not reflected in the existing requirements. Thus we have concluded that significant revisions to the conditions for coverage for ESRD facilities are essential. The regulation would have an emphasis on the patient's total experience with dialysis. The proposed changes, which were undertaken in a collaborative effort with the renal community, reflect improvements in standard care practices, the use of more advanced technology and equipment, and, most notably, the adoption of quantifiable performance measures that are viewed in the renal community to be related, at least in part, to the quality of care provided to dialysis patients.

Following publication of the proposed rule, we will consult further with the industry.

Summary of the Legal Basis:

Section 1881(b)(1) of the Act authorizes the Secretary to prescribe health and safety requirements (known as conditions for coverage) that a facility providing dialysis and transplantation services to dialysis patients must meet to qualify for Medicare reimbursement. In addition, section 1881(c) of the Act establishes ESRD network areas and network organizations to assure that dialysis patients are provided appropriate care. The requirements from section 1881(b) and (c) are implemented in regulations at 42 CFR part 405, subpart U, Conditions for Coverage for ESRD Facilities.

Section 1138(b)(1)(D) of the Act requires hospitals to be members and abide by the rules and requirements of the Organ Procurement and Transplant Network. Section 1861(s)(2)(F) of the Act describes "medical and other health services" covered under Medicare to include home dialysis supplies and equipment, self-care home dialysis support services, and institutional dialysis services and supplies, and section 1862(a) of the Act specifies the exclusions from coverage.

Section 1889(e)(9) of the Act requires hospitals to meet such other requirements as the Secretary finds necessary in the interest of health and safety of individuals who are furnished services in the institution.

Alternatives:

In the past, HCFA has revised sections of the ESRD regulations. However, we have determined that a complete and thorough revision would be a more effective mechanism for developing a comprehensive approach to quality care for the dialysis patient. In addition, this approach provides greater potential for successful implementation. Another option is to update the current regulations and maintain the process-oriented standards without focusing on patient outcome. However, for the reasons discussed, we believe it is important to move forward with a proposed regulation that is patient-centered and intended to stimulate improvements in processes and outcomes of care.

Anticipated Costs and Benefits:

The purpose of this proposed rule is to ensure that ESRD beneficiaries are receiving quality care dialysis and transplantation. We believe that revised regulations are necessary to ensure that all facilities are using the most effective technology and equipment. The primary benefit of updating the conditions for coverage is the development of performance expectations for the facility that would result in the comprehensive, integrated care and outcomes the patient needs and wants. As a result, the beneficiaries would receive an improved quality of care. The revised regulations would also address the issue of adequacy of dialysis, which would have a significant impact on ensuring that patients are not being underdialyzed.

Items that have the potential to affect the cost of the ESRD program include data gathering, infection control, and achieving the specified outcome measure. However, at this time the cost or savings to the Medicare program have not yet been established, but costs should not be significant.

Risks:

If the ESRD conditions are not updated, our regulations will not reflect new developments in the industry, thereby denying the improved protections to patients' health care that would result from this proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	

Small Entities Affected:

Businesses, Organizations

Government Levels Affected:

None

Additional Information:

BPD-818

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RIN: 0938–AG82

HHS—HCFA

32. ADDITIONAL SUPPLIER STANDARDS (BPD-864-P)

Priority:

Other Significant. Major under 5 USC 801.

Legal Authority:

42 USC 1302; 42 USC 1395hh; 42.USC 1395m(j)

CFR Citation:

42 CFR 424.57

Legal Deadline:

None

Abstract:

This rule would establish additional standards for entities seeking to qualify as Medicare suppliers for purposes of submitting claims for durable medical equipment and supplies. This rule is part of HCFA's regulatory reform initiative and includes changes related to Surety Bonds required by the Balanced Budget Act of 1997.

Statement of Need:

Section 131 of The Social Security Act Amendments of 1994, established additional requirements that a supplier of durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) must meet, effective January 1, 1996, in order to obtain a number to bill the Medicare program. In addition, the Amendments gave the Secretary of HHS responsibility to develop other supplier standards. The requirements are designed to protect beneficiaries from abusive practices by suppliers. These legislative changes indicate that the Congress has serious concerns about the business practices employed by certain suppliers, and that beneficiaries require additional protection from these practices. We believe it is the Congress' intent to strengthen existing supplier standards in order to protect the public interest. Three of the standards spontaneously required by section 1834(j)(i)(B) were addressed in a final rule with comment period published in the Federal Register on December 11, 1995, (60 FR 3440). At the same time we incorporated the statutorily required standards items in regulations, we intensified our oversight of fraudulent and abusive supplier practices and identified a number of additional requirements that, if implemented, would provide additional safeguards. Failure to comply with any one of the standards may result in revocation of the supplier billing number.

Summary of the Legal Basis:

Section 131 of the Social Security Act Amendments of 1994 (Public Law 103-432, enacted on October 31, 1994) added a new subsection (j) to section 1834 of the Act dealing with supplier standards and required the Secretary to promulgate regulations setting forth additional standards after consulting with representatives of suppliers, carriers and consumers. Section 4312 of the Balanced Budget Act of 1997 (Pub. L. 105-33) requires Durable Medical Equipment suppliers to provide the Secretary with a surety bond in an amount that is not less than $50,000. The Secretary also issues regulations under the general authority of section 1102 of the Social Security Act.

Alternatives:

We believe it was the Congress' intent to strengthen DMEPOS supplier standards to protect beneficiaries and the Medicare program from potential fraud and abuse in billing practices. The statutorily listed supplier standards are minimal safeguards and we attempted to balance any additional requirements against possible barriers to competition and adding burdens on the many small businesses involved in this area of activity. For example, imposing requirements with respect to liability insurance but not proposing a specified minimum amount. Similarly we are proposing a requirement that suppliers obtain a surety bond but suggest use of a sliding scale so that the final bond amount will not discourage new participants to the Medicare program.

Anticipated Costs and Benefits:

In that the regulation will diminish the possibility of abusive suppliers getting or retaining a Medicare billing number the Trust Funds will not suffer from fraudulent and abusive practices found in the past. It should be noted that HCFA also is energetically pursuing other opportunities to find and stop abusive practices of all those who furnish services to our beneficiaries. Therefore, the savings specifically associated with this rule are indeterminable at this time.

Risks:

Durable Medical Equipment associations and leaders of the industry join us in a quest to strengthen supplier standards in order to keep out fraudulent suppliers. As noted, many of the proposed requirements are good business practices currently being met voluntarily. The supplies that Medicare patients need are abundantly available in all sections of the country, so that no scarcity will result. Rather we believe that what these standards would do in terms of protecting the health and safety of beneficiaries and preserving the Medicare Trust Fund far outweighs any slight cutback in the overall number of suppliers.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected:

Businesses

Government Levels Affected:

None

Additional Information:

BPD-864

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RIN: 0938–AH19

HHS—HCFA

33. MEDICARE PROGRAM; MEDICARE INTEGRITY PROGRAM (OFH-020-P)

Priority:

Other Significant. Major under 5 USC 801.

Legal Authority:

PL 104-191

CFR Citation:

42 CFR 421

Legal Deadline:

None

Abstract:

This proposed rule would implement section 1893 of the Social Security Act (added by section 202 of the Health Insurance Portability and Accountability Act of 1996) by establishing the Medicare Integrity Program to carry out Medicare payment integrity activities. Under this program HCFA may enter into new contracts with entities to perform these activities. This proposed rule would identify the services to be procured, set forth competitive requirements, establish procedures for identification, evaluation, and resolution of conflicts of interest, and rules regarding contractor liability. In addition, this proposed rule would revise the list of intermediary and carrier functions set forth in existing regulations to make them consistent with sections 1816, 1842, and 1893 of the Social Security Act.

Statement of Need:

The Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191 creates the Medicare Integrity Program (MIP). Among other things, it requires the Department to set forth procedures for entering into contracts for the performance of specific Medicare program integrity activities.

The MIP will help us shift emphasis from post-payment recoveries on fraudulent claims to prepayment strategies to ensure claims are paid correctly the first time. It will allow us to broaden our use of contractors to include a variety of contractors with new and different skill sets, bringing innovation into the fraud and abuse prevention arena. Through conflict of interest provisions, it will permit us to deal with the current phenomenon of diversification of ownership arrangements, especially where Medicare intermediaries and carriers become closely allied with managed care and other providers and suppliers.

Summary of the Legal Basis:

Sections 1816(a) and 1842(a), (b) and (f) of the Social Security Act, which pertain to contracting with intermediaries and carriers remain in effect. HIPAA added a new section 1893 to the Act, under which HCFA is required to use competitive procedures in awarding MIP contracts as established in Federal Acquisition Rules.

Alternatives:

We considered identifying specific situations in which we would never award a contract because potential conflicts of interest existed. We favor an approach that permits an offeror to mitigate conflicts, thereby opening competition to both current Medicare contractors and other entities. We also considered whether the regulation should specify all the information that would be needed in all situations to determine whether a conflict of interest exists. We decided on an approach that gives us flexibility to tailor our requirements for information to the specific procurement.

Anticipated Costs and Benefits:

The Congress provided a direct apportionment from the Health Insurance Trust Funds for carrying out the Medicare Integrity Program. We expect that, on average, every dollar expended in fiscal year 1998 to perform integrity functions will save $12 in Medicare program costs.

Risks:

The statute provides that we may enter into MIP contracts without final rules having been published. However, the statute requires that we establish, by regulation, competitive procedures to be used in awarding those contracts, as well as procedures for identifying, evaluating, and resolving conflicts of interest, and procedures under which a contract may be renewed noncompetitively. It also requires that we provide, in regulations, for limitation of a contractor's liability under the contract. We believe that this proposed rule should be published as soon as possible so that the procedures related to conflicts of interest can be established in regulations.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	

Small Entities Affected:

None

Government Levels Affected:

None

Additional Information:

OFH-020-P, PL 104-1191, sec. 202

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RIN: 0938–AI09

HHS—HCFA

34. • CHANGES TO THE HOSPITAL INPATIENT PROSPECTIVE PAYMENT SYSTEMS AND FISCAL YEAR 1999 RATES (HCFA-1001-P)

Priority:

Other Significant. Major under 5 USC 801.

Legal Authority:

42 USC 1395ww

CFR Citation:

42 CFR 412; 42 CFR 413

Legal Deadline:

NPRM, Statutory, April 1, 1998. Final, Statutory, August 1, 1998.

Abstract:

Medicare pays for hospital inpatient services under a prospective payment system (PPS) in which payment is made at a predetermined specific rate for the operating and capital-related costs associated with each discharge. These rules would announce the prospective payment rates for operating and capital-related costs for FY 1999 that reflect changes made by the Balanced Budget Act of 1997. We would also revise the Medicare hospital inpatient prospective payment systems for operating and capital-related costs to implement necessary changes arising from our continuing experience with the systems.

Statement of Need:

Section 1886(e)(5) of the Social Security Act, as amended by section 4644(a)(1) and (b)(1) of the Balanced Budget Act of 1997, requires the Secretary to publish a proposed rule on prospective payment system policies and payment rates in the Federal Register by April 1 and a final rule by August 1.

Summary of the Legal Basis:

As noted above, publication of proposed and final rules concerning hospital prospective payment system policies and payment rates is required by law. The statute sets forth several specific requirements concerning what must be included in the prospective payment system proposed and final rules. (See sections 1886(b)(3)(B), 1886(d)(1)(A), 1886(d)(2)(H), 1886(d)(3)(A), 1886(d)(3)(E), 1886(d)(4)(C), 1886(e)(5), and 1886(G)(1)(A).)

Alternatives:

Publication of these rules is not discretionary. Thus, no alternatives exits.

Anticipated Costs and Benefits:

Estimates of the economic impact that will stem from these rules have not yet been completed.

Risks:

Not applicable.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	
Final Action	08/00/98	

Small Entities Affected:

Businesses, Organizations

Government Levels Affected:

Federal

Additional Information:

HCFA-1001

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RIN: 0938–AI22

HHS—HCFA

35. • CHILDREN'S HEALTH INSURANCE: PROGRAM IMPLEMENTATIONS; STATE PLAN APPROVAL; STATE PAYMENT; COORDINATION WITH STATE MEDICAID PROGRAM

Priority:

Economically Significant

Legal Authority:

PL 105-33, sec 4901 to 4913

CFR Citation:

42 CFR ch IV

Legal Deadline:

None

Abstract:

Several proposed rules will include regulations for States on the implementation of the new State Children's Health Insurance Program (CHIP) under title XXI of the Social Security Act and corresponding changes to title XIX (Medicaid). The CHIP program was established to provide Federal funding to help States to initiate and expand child health assistance to uninsured, low-income children. The regulations will address a variety of aspects of CHIP, including but not limited to the procedure for approving state child health plans, policies on the issuance of grants and the distribution of payments to States with approved plans and the coordination of a State's approved child health plan with its Medicaid program. The following changes related to title XIX will be included among the regulations: (1) the Medicaid option for targeted low-income children; (2) Medicaid optional presumptive eligibility for children; and (3) the Medicaid option to accelerate phase in of poverty level group for children up to 19. The regulations will also establish financial rules that would apply to the treatment of various program expenditures.

Statement of Need:

The statutory authority afforded by CHIP necessitates the promulgation of regulations to complement the statute. Title XXI allows for States to submit state plans and, if approved, receive Federal matching funds each year up to the specified allotments for use by the States in the provision of insurance coverage and other child health assistance for targeted low- income children for periods beginning October 1, 1997. The Department of Health and Human Services must issue regulations on a timely basis in order for States to carry out the provisions of the statute to comply with plan approval requirements, requirements for State payment and requirements for coordination of the child health plan with the State's Medicaid program. Absent such regulatory guidance, there is the potential that the intent of the legislation to provide health coverage for low-income, uninsured children will not be realized.

Summary of the Legal Basis:

Title XXI of the Social Security Act constitutes budget authority in advance of appropriations (Section 2101(c)) and represents the obligation of the Federal Government to provide for the payment to States of amounts provided under section 2104 of the Act.

Alternatives:

This is a new program for Federal oversight and is optional for States. Once States elect the option to establish a CHIP program under title XXI, there are no alternatives to providing Federal funding under approved State child health plans for approved program expenditures.

Anticipated Costs and Benefits:

Section 2104 of the Social Security Act specifies the following Federal funding allotment amounts that are to be provided to States and Territories: $4.275 billion each for FY 1998, FY 1999, FY 2000, and FY 2001; $3.150 billion for FY 2002, FY 2003, and FY 2004; $4.050 billion for FY 2005 and FY 2006; and $5 billion for FY 2007. Benefits: More low-income children will receive needed health coverage.

Risks:

Unknown at this time.

Timetable:

Allotments and State Payment Policies	
NPRM with comment period	01/00/98
Other CHIP Activities	
NPRM with comment period	04/00/98

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Federal

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RIN: 0938–AI28

HHS—HCFA

FINAL RULE STAGE

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36. REVISIONS TO REGULATIONS IMPLEMENTING CLIA (HSQ-226-F)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 263a

CFR Citation:

42 CFR 493

Legal Deadline:

None

Abstract:

This rule will respond to public comments received on a final rule with comment period published on February 28, 1992. The rule revised regulations applicable to laboratories and implemented provisions of the Clinical Laboratory Improvement Amendments of 1988 (CLIA). The regulations apply to laboratories that examine human specimens for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, human beings. They specify the performance requirements, based on test complexity and risk factors related to erroneous test results as required by CLIA. They also list requirements that permit waiver of the certification and inspection requirements for laboratories performing only limited testing.

Statement of Need:

On October 31, 1988, the Congress enacted comprehensive changes to existing laboratory regulations in CLIA. This statute requires the regulation of any facility (including physician offices) that performs tests on human beings for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, human beings. CLIA requires that the Department regulate by test, using what is commonly referred to as the "complexity model" to categorize individual laboratory tests based on the experience, skills, and judgement required to perform each test accurately. Requirements vary as a function of the complexity of the tests the laboratory conducts.

The law requires the Secretary to implement the numerous provisions through regulation to ensure the quality of laboratory testing, regardless of where it is provided or who is providing the testing. The law also requires that the CLIA program be operated through the assessment of user fees paid by entities subject to these requirements.

On May 21, 1990, the Department published proposed rules to implement CLIA and received public comments from over 60,000 commenters. Based on analysis of these comments, the Centers for Disease Control and Prevention together with Health Care Financing Administration developed a final rule with comment period that set forth standards for all entities performing laboratory testing based on test complexity. This rule was published on February 28, 1992, and was effective September 1, 1992. This regulation was revised by regulations with comment periods published on January 19, 1993, December 6, 1994, April 24, 1995, and May 12, 1997.

Issues addressed in this rule include quality control; quality assurance; personnel standards; cytology requirements; proficiency testing (PT) requirements; employee workplace drug testing; and other issues raised by commenters based on experience with CLIA implementation.

The Clinical Laboratory Improvement Advisory Committee (CLIAC), which is composed of members of professional organizations and private citizens, is actively involved in making recommendations regarding technical and scientific aspects of the regulations. In addition, we actively solicit comments from outside organizations such as the American Medical Association, the Association of State and Territorial Public Health Laboratory Directors, and other professional and medical organizations regarding the interpretive guidelines for surveyors.

Summary of the Legal Basis:

This rule summarizes and responds to CLIA recommendations and public comments to several previously published CLIA regulations.

Alternatives:

We continually assess ongoing program experience and input from laboratories and our partners in carrying out CLIA-related activities. Issues not requiring regulation changes are addressed using administrative mechanisms.

Anticipated Costs and Benefits:

It is not possible to project costs and benefits of the rule at this time. These regulations serve to ensure consistent, reliable laboratory testing that is an integral part of ensuring that individuals receive appropriate treatment.

Risks:

Inferior and inappropriate laboratory testing can result in misdiagnosis causing patient harm. CLIA reduces the potential for inaccurate diagnosis resulting from poorly performed laboratory testing since entities must meet requirements (e.g., quality assurance, proficiency testing, quality control, personnel requirements) that have a direct impact on laboratory testing results. Overly stringent standards could, however, discourage needed testing and reduce early detection of health problems. The Department does not at this time have an estimate of the magnitude and severity of these types of risks, but believes that both the original regulations and the revisions will, on balance, contribute to better diagnosis.

Timetable:

Action	Date	FR Cite
NPRM	05/21/90	55 FR 20896
Comment Period End	09/21/90	
Final Rule With Comment Period	02/28/92	57 FR 7002
Comment Period End	04/28/92	
Effective Date	09/01/92	
Final Rule with Comment Period	01/19/93	58 FR 5215
Final Rule Effective Date	01/19/93	
Comment Period End	03/22/93	
Final Rule	09/00/98	

Small Entities Affected:

Businesses

Government Levels Affected:

None

Additional Information:

HSQ-226

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RIN: 0938–AE47

HHS—HCFA

37. HOME HEALTH AGENCY (HHA) CONDITIONS OF PARTICIPATION (BPD-819-F)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 1302; 42 USC 1395x; 42 USC 1395cc(a); 42 USC 1395hh; 42 USC 1395bbb

CFR Citation:

42 CFR 484

Legal Deadline:

None

Abstract:

This final rule will revise home health agency conditions of participation to center on the patient, using outcome-oriented measures. Most of the current HHA conditions of participation have remained unchanged since home health services became a Medicare benefit in 1966. Some limited modifications have been made over the years to comply with legislative changes. As a result, most of the conditions of participation continue to be structure and process oriented. They do not effectively support the mandate of the Omnibus Budget Reconciliation Act of 1987 (OBRA '87) to develop a patient-centered, outcome-oriented survey process that focuses on the organization and delivery of quality care services.

Statement of Need:

Because the existing survey process continues to focus on structure and process measures, the discrepancy between a Congressional mandate for outcome-oriented care and the authority for measuring the actual performance capabilities of HHAs in patient care services remains a problem. It presents difficulties for both providers and surveyors in areas of survey/certification, medical review, developing data based performance standards for HHA management and monitoring, and implementing a continuous quality improvement system for outcomes of care.

Regulations containing the Medicare HHA conditions of participation must be revised in order to provide a regulatory basis for a patient-centered, outcome-oriented system of home health quality assurance. The implementation of such a system will enhance Medicare's ability to ensure that high-quality care is furnished to the patients of Medicare-certified home health agencies. The Social Security Act authorizes us to regulate this area and no improvements in the survey process can be made without underlying regulatory authority.

The Health Care Financing Administration has already met with a variety of provider and consumer representatives to discuss the development of revised standards. Representatives of consumers, providers, and States participated in this effort. Additional consultations are ongoing.

Summary of the Legal Basis:

Section 1861(o) of the Social Security Act (the Act) specifies certain requirements that a home health agency must meet to participate in the Medicare program. In particular section 1861(o)(6) provides that a home health agency must meet the conditions of participation specified in section 1891(a) of the Act and such other conditions of participation as the Secretary finds necessary in the interest of the health and safety of patients. Section 1891(a) of the Act establishes specific requirements for home health agencies in several areas, including patient rights, home health aide training and competency and compliance with applicable Federal, State and local laws. Under this authority, the Secretary has established in regulations at 42 CFR part 484, the requirements that a home health agency must meet to participate in Medicare. Regulations at 42 CFR 440.70(d) provide that home health agencies participating in the Medicaid program must also meet the Medicare conditions of participation.

Alternatives:

Congress has mandated the implementation of an outcome-oriented quality assurance system for home health. Therefore, the Medicare home health agency conditions of participation must be revised to provide the basis for implementation of such a system. Because of this mandate no alternatives to this action have been considered.

Anticipated Costs and Benefits:

The primary benefit of this rule will be the implementation of a more effective, efficient, and patient-centered system of quality assurance for HHAs. We do not anticipate that the provisions of this final rule will have a substantial economic impact on most HHAs. In general, this rule will decrease the administrative burden related to compliance with detailed Federal requirements, thus reducing costs incurred by the typical HHA. However, in the few situations where the requirements result in some immediate costs to an HHA, we believe that the changes that the HHA will make produce real, though difficult to estimate, long-term economic benefits.

Risks:

This rule will have the potential for reducing risks to patient health and safety. Failure to publish this final rule would jeopardize broad-based improvement in the quality of care furnished to home health patients.

Timetable:

Action	Date	FR Cite
NPRM	03/10/97	62 FR 11005
NPRM Comment Period End	06/09/97	
Final Action	06/00/98	

Small Entities Affected:

Businesses, Organizations

Government Levels Affected:

None

Additional Information:

BPD-819

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RIN: 0938–AG81

HHS—HCFA

38. CLIA PROGRAM: CATEGORIZATION OF WAIVED TESTS (HSQ-225-F)

Priority:

Other Significant. Major under 5 USC 801.

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 263a

CFR Citation:

42 CFR 493.2; 42 CFR 493.7; 42 CFR 493.8; 42 CFR 493.9; 42 CFR 493.15; 42 CFR 493.20; 42 CFR 493.25; 42 CFR 493.35; 42 CFR 493.37; 42 CFR 493.39; 42 CFR 493.45; 42 CFR 493.47; 42 CFR 493.49; 42 CFR 493.53; 42 CFR 493.1775

Legal Deadline:

None

Abstract:

As part of the CLIA program (see RIN: 0938-AE47), this rule will revise our current process of evaluating tests against generic criteria. A waiver will be granted to any test that meets the statutory criteria, provided that scientifically valid data are submitted verifying that the criteria were met.

Statement of Need:

This final rule will clarify the waiver criteria and streamline the waiver process so that more tests may be categorized as waived; that is, exempt from CLIA performance and personnel requirements.

Summary of the Legal Basis:

The CLIA statute specifically authorizes the Secretary to determine which simple laboratory procedures have an insignificant risk of an erroneous result, and to waive otherwise applicable quality standards for these procedures. Additionally, the Clinical Laboratory Improvement Advisory Committee (CLIAC) was established to advise and make recommendations on technical and scientific aspects of the regulations. The CLIAC recommended that the criteria for categorizing tests as waived be better defined. As a result of the comments concerning waived tests and the CLIAC recommendations, the Centers for Disease Control and Prevention developed criteria for placing tests in the waived category as outlined in this proposal.

Alternatives:

Performance standards based on current analysis of specific criteria would continue to limit technology and inhibit expansion of waived tests.

Anticipated Costs and Benefits:

This regulation decreases burden, especially for physician office laboratories performing waived tests due to virtually no regulatory oversight. It increases access to a greater variety of waived tests. Physician office laboratories may expand the range of tests they perform without an increase in costs/burden. The regulation creates incentives for manufacturers to develop more test systems that meet the clarified waiver criteria and criteria for approval for home use. It eliminates inspection fees for many of the 60,000 physician offices and other small laboratories performing tests that will fall into the waived category as a result of the clarifications to the waived criteria.

Risks:

The clarification of the waived criteria and development of a process protocol will provide for consistent application of detailed standards in order to ensure that tests categorized as waived preclude any reasonable risk of harm to a patient as a result of a testing error.

Timetable:

Action	Date	FR Cite
NPRM	09/13/95	60 FR 47534
NPRM Comment Period End	11/13/95	
Final Action	03/00/98	

Small Entities Affected:

Businesses

Government Levels Affected:

None

Additional Information:

HSQ-225

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RIN: 0938–AG99

HHS—HCFA

39. USE OF THE OASIS AS PART OF THE CONDITIONS OF PARTICIPATION FOR HOME HEALTH AGENCIES (HSQ-238-F)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 1302; 42 USC 1395hh; 42 USC 1395x(o); 42 USC 12395bb

CFR Citation:

42 CFR 484

Legal Deadline:

None

Abstract:

This final rule adds requirements to the recently proposed revision of the conditions of participation for home health agencies (HHAs). Specifically, this final rule requires that HHAs use a standard core assessment data set, the "Outcome and Assessment Information Set" (OASIS) when evaluating adult, non-maternity patients receiving home health care. This final rule is an integral part of the Administration's efforts to achieve broad-based, measurable improvement in the quality of care furnished through Federal programs.

Statement of Need:

This final rule is a fundamental component in the transition to a quality assessment and performance improvement approach that focuses on stimulating measurable improved outcomes of care and patient satisfaction in the Medicare home health benefit and in home care services in managed care. The information that an HHA derives from its quality assessment and performance improvement program will enable the HHA to implement real and lasting change to enhance outcomes of care. We intend that the OASIS become one of the most important aspects of the HHA's quality assessment and performance improvement efforts. By integrating a core standard assessment program such as the OASIS into its own more comprehensive assessment system, an HHA can use the data set as the foundation for valid and reliable information for patient assessment care planning, and service delivery as well as to build a strong and effective quality assessment and performance improvement program. The implementation of a final rule requiring use of the OASIS will enhance Medicare's ability to ensure that high-quality care is furnished to the patients of Medicare-certified home health agencies.

Summary of the Legal Basis:

Home health services are covered for the elderly and disabled under the Hospital Insurance (part A) and Supplemental Medical Insurance (part B) benefits of the Medicare program and are described in section 1861(m) of the Social Security Act (the Act). These services must be furnished by, or under arrangement with, an HHA that participates in the Medicare program. Section 1816(o) of the Act specifies certain requirements that a home health agency must meet to participate in the Medicare program. In particular, section 1861(o)(6) provides that an HHA must meet the conditions of participation specified in section 1891(a) of the Act and such other conditions of participation as the Secretary finds necessary in the interest of the health and safety of patients of HHA's. Section 1891(a) of the Act establishes specific requirements for HHAs in several areas, including patient rights, home health aide training and competency, and compliance with applicable Federal, State, and local laws. Under this authority, the Secretary has established in regulations at 42 CFR part 484 the requirements that HHAs must meet to participate in Medicare. Regulations at 42 CFR 440.70(d) provide that HHAs participating in the Medicaid program must also meet the Medicare conditions of participation.

Alternatives:

We considered an alternative to requiring use of the OASIS. Specifically, rather than requiring HHAs to incorporate the OASIS items into their own assessment systems, we considered permitting HHAs to choose, with our approval, among sets of measures including those they devise themselves. We rejected this option because the OASIS is the only rigorously validated and reliable core assessment data set available today in home care. Use of the OASIS is essential for the development of an accurate data set that HHAs can use to enhance outcomes of care. In time we will entertain the possibility of other standard data sets if they meet our needs.

Anticipated Costs and Benefits:

HHAs will incur some additional cost from implementation of the proposed OASIS rule. These costs are allowable costs and will be paid on a reasonable cost basis subject to the applicable Medicare rules. Most of these costs are associated with the collection of information. These costs can be divided into two categories: startup costs and ongoing costs. We estimate that the start-up cost for each HHA will be $2,256. Nationally, there are 9,187 HHAs. Therefore, we expect a total national start-up cost of $20.7 million. We estimate that the average yearly ongoing cost per HHA will be $2,583, for a total national ongoing cost of $25.9 million.

The information derived from use of the OASIS will benefit individual HHAs and the home health industry as a whole. An HHA will be able to use outcome reports in its quality assessment and performance improvement program to identify its strengths and weakness. Aggregate HHA outcome reports will be in the public domain. These can be used for such purposes as comparative performance assessment.

Risks:

While we have anecdotal evidence that some home care companies have already incorporated the OASIS into their existing comprehensive assessment protocols, there may be some negative reaction from some large HHAs and support companies that have their own quality management systems and products. These organizations may see the OASIS as a threat to their business or as requiring them to undo what they have already built and to rebuild using the OASIS.

Timetable:

Action	Date	FR Cite
NPRM	03/10/97	62 FR 11035
NPRM Comment Period End	06/09/97	
Final Action	06/00/98	

Small Entities Affected:

Businesses

Government Levels Affected:

Local

Additional Information:

HSQ-238

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RIN: 0938–AH74

HHS—HCFA

40. MEDICARE PROGRAM; REVISIONS TO PAYMENT POLICIES AND ADJUSTMENTS TO THE RELATIVE VALUE UNITS UNDER THE PHYSICIAN FEE SCHEDULE, OTHER PART B PAYMENT POLICIES FOR CALENDAR YEAR 1998 (BPD-884-FC)

Priority:

Other Significant

Legal Authority:

42 USC 1395w-4

CFR Citation:

42 CFR 410; 42 CFR 414

Legal Deadline:

None

Abstract:

This rule will update physician payments by Medicare as required by section 1848 of the Social Security Act. It includes a provision to limit practice expense RVUs and certain codes in 1998 and increase practice expense RVUs for office visits. It also will include several policy changes involving services and supplies incident to a physician's service, supervision of diagnostic tests, geographic practice cost index changes, general surgical services, clinical psychologist services, and drugs and biologicals covered incident to a physician's services.

Statement of Need:

As pertinent to this regulation, the Balanced Budget Act of 1997-- (1) Delayed implementation of the resource-based system for determining practice expense relative value units until January 1, 1999 and provided for a 4-year transition. (2) Expanded coverage of screening mammography services, effective January 1, 1998, to provide for payment for annual screening for all women beneficiaries age 40 and over. (3) Provided for Medicare coverage of colorectal cancer screening tests effective for services provided on or after January 1, 1998. (4) Provided for new coverage of screening pelvic exams (including a clinical breast exam) for all women beneficiaries subject to certain frequency and payment limitations. (5) Provided for a limitation on practice expense RVUs and reinstated payment for transportation of EKG equipment. (6) Required that physical and occupational therapy services provided incident to a physician's service are furnished under the same standards as when the services are performed by independently practicing physical or occupational therapists.

Furthermore, since we established the physician fee schedule on January 1, 1992, our experience indicates that some of our part B payment policies need to be reconsidered. This final rule is intended to correct inequities in physician payment. In addition, we are finalizing the 1997 interim work RVUs and are issuing interim work RVUs for new and revised codes for 1998.

Summary of the Legal Basis:

Since January 1, 1992, Medicare has paid for physician services under section 1848 of the Social Security Act (the Act), "Payment for Physicians' Services." This section contains three major elements: (1) A fee schedule for the payment of physician services; (2) a sustainable growth rate system for the rates of increase in Medicare expenditures for physician services; and (3) limits on the amounts that nonparticipating physicians can charge beneficiaries. The Act requires that payments under the fee schedule be based on national uniform RVUs based on the resources used in furnishing a service. Section 1848(c) of the Act requires that national RVUs be established for physician work, practice expense, and malpractice expense.

Section 1848(c)(2)(ii)(II) of the Act provides that adjustments in RVUs because of changes resulting from a review of those RVUs may not cause total physician fee schedule payments to differ by more than $20 million from what they would have been had the adjustments not been made. If this tolerance is exceeded, we must make adjustments to the conversion factors (CFs) to preserve budget neutrality.

Section 1848(e)(1)(C) of the Act requires us to review and, if necessary, adjust the geographic practice cost indices (GPCIs) at least every 3 years and implement only one-half of any adjustment if more than 1 year has elapsed since the last GPCI revision. The GPCIs were first implemented in 1992 and have not been reviewed since that time. Thus, we are required to complete the first GPCI review and implement only one-half of any adjustment by 1998 and one-half in 1999.

There is no definition of "actual charge" in the Medicare statute. However, we believe that section 1871(a) of the Act grants us broad authority to interpret the term in a manner that is reasonable and consistent with the Medicare law. Thus, we are defining the term "actual charge" in the context of what the physician, supplier, or other person has voluntarily agreed to accept as payment in full for the service furnished to the beneficiary.

Alternatives:

If this final rule is not published, we would not implement the Balanced Budget Act of 1997 provisions related to physician services. Also, we would not review and adjust the geographic practice costs indices. In addition, known payment problems would not be resolved for the 1998 physician fee schedule and for other payment policies.

Anticipated Costs and Benefits:

The reallocation of the practice expense relative value units will result in a shift among relative value units not to exceed $390 million.

The statute requires that revisions to payment policies not cause total annual physician fee schedule payments to differ by more than $20 million from what they would have been had the revisions not be made. If this threshold is exceeded, we would make adjustments to the conversion factor to preserve budget neutrality provision.

Risks:

We expect some reaction to the newly required levels of physician supervision of diagnostic tests. We expect that some physicians will argue that the levels are either too high or too low for a group of tests and that physicians may ask for exceptions for specific tests within a group.

Timetable:

Action	Date	FR Cite
NPRM	06/18/97	62 FR 33158
NPRM Comment Period End	08/18/97	
Final Action	11/00/97	

Small Entities Affected:

Businesses

Government Levels Affected:

None

Additional Information:

BPD-884-P

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RIN: 0938–AH94

HHS—HCFA

41. • MEDICARE + CHOICE PROGRAM; REGULATORY PROGRAM TO IMPLEMENT CERTAIN MEDICARE PROVISIONS OF THE BALANCED BUDGET ACT OF 1997 (OMC-030-IFC)

Priority:

Other Significant. Major under 5 USC 801.

Legal Authority:

42 USC 1935m

CFR Citation:

42 CFR 417

Legal Deadline:

Other, Statutory, June 1, 1998.

Interim Final Rule.

Abstract:

This interim final rule with a comment period establishes rules for the Medicare + Choice Program. It implements section 4001 and other appropriate provisions of the Balanced Budget Act of 1997 (Pub. L. 105-33).

Statement of Need:

The Balanced Budget Act of 1997, (Pub. L. 105-33) significantly expanded the types of organizations that may be eligible for contracts with

us to provide all Medicare part A and Medicare part B items and services directly to beneficiaries on a prospective reimbursement basis. In addition, the current Medicare requirements for managed care organizations, with respect to reimbursement, beneficiary participation, beneficiary and program protections, organizational requirements, marketing activities, and provider participation, have been significantly revised by the Congress. The Act requires that the Secretary promulgate implementing regulations through an interim final rule by June 1, 1998.

Summary of the Legal Basis:

Section 1876 of the Social Security Act (42 U.S.C. 1935mm) established the authority for Medicare reimbursement of managed care organizations that meet specific requirements. Regulations implementing the statutory requirements are found at 42 CFR 417.400 et. seq. The Balanced Budget Act (BBA) establishes a new part C statutory authority under title XVIII of the Social Security Act. Provisions in the new part C establish the conditions under which entities may qualify to contract directly with HCFA as "Medicare + Choice" plans to provide all Medicare part A and part B services to beneficiaries. Part C also establishes significant new program requirements in the following areas: contractor reimbursement, beneficiary eligibility and enrollment, information dissemination, solvency standards, marketing, quality of care, data reporting, access and coverage.

Alternatives:

The Balanced Budget Act of 1997 requires that the provisions in part C be implemented through regulations.

Anticipated Costs and Benefits:

These rules will accomplish the objectives of increasing availability of services and access for beneficiaries that reside in rural and underserved urban areas of the country. The implementation of statutory provisions at part C will also result in significant Medicare program cost savings, by expanding the types of entities that can elect to receive payment on a capitated basis, and by revising the reimbursement methodology for such payments.

We do not anticipate any impact on Medicare program costs since the payment provisions were designed to be budget neutral.

Risks:

Regulated industries and providers have a significant stake in the provisions of the final rules and we anticipate significant volume and complexity of comments once the rules are published. Publication will demonstrate the Administration's position on various sensitive and political issues related to the legislative provisions.

One possible risk is that beneficiaries will be confused by the wide array of choices and make selections that are not in their best interest. The comparative information provided by HCFA will facilitate plan selection.

Timetable:

Action	Date	FR Cite
Interim final rule w/comment period	06/00/98	

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Tribal, Federal

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RIN: 0938–AI29

HHS—HCFA

42. • SURETY BOND AND CAPITALIZATION REQUIREMENTS FOR HOME HEALTH AGENCIES (BPO-152-FC)

Priority:

Other Significant

Legal Authority:

42 USC 1302; 42 USC 1395(hh); 42 USC 1395x(v)(1)(A)

CFR Citation:

42 CFR 413; 42 CFR 484; 42 CFR 489

Legal Deadline:

None

Abstract:

This final rule with comment establishes that each home health agency (HHA) must obtain a surety bond in the amount of $50,000 or 15 percent of its prior year's Medicare payments, whichever is greater. The rule implements section 4312(b) of the Balanced Budget Act of 1997 (Pub. L. 105-33). The rule also sets forth capitalization requirements for HHAs, consistent with a commitment that the Department would publish a rule requiring new HHAs to have enough funds on hand to operate for the first three to six months.

Statement of Need:

Section 4312(b) of the Balanced Budget Act of 1997 requires each Medicare participating HHA to obtain a surety bond by January 1, 1998 regardless of the date its Medicare participation began. Requiring HHAs to obtain surety bonds will improve HCFA's ability to collect overpayments received by an HHA as a result of fraudulent or abusive HHA billings.

Frequently, HHAs are not sufficiently capitalized in relation to the operating expenses as reflected in their annual operating budget to sustain their operations. This rule requires HHAs entering the Medicare program on or after January 1, 1998 to demonstrate to their Medicare intermediary that they have adequate initial-reserve operating funds with which to start the business and operate it for the first six months. The HHA cannot receive a provider agreement until it has met this requirement by providing the information to the intermediary and showing evidence that the appropriate resources exist and are committed to the business.

Summary of the Legal Basis:

Sections 1861(o) and 1891 of the Social Security Act (the Act) provide the basis for conditions that an HHA must meet in order to participate in Medicare. Specific participation requirements for HHAs are located in our regulations at 42 CFR part 484. As a participating supplier of services, HHAs also must comply with applicable requirements for supplier approval located in our regulations at 42 CFR part 489.

Section 4312(b)(1) of the Balanced Budget Act of 1997 (Pub. L. 105-33), enacted August 5, 1997, amended section 1861(o) of the Act to require each HHA, on a continuing basis, to furnish us with a surety bond in a form specified by the Secretary and in an amount that is not less than $50,000.

Section 4312(b)(2) of the Balanced Budget Act of 1997 amended the definition of "reasonable cost" in section 1861(v)(1)(H) of the Act to

provide that the cost of a surety bond is not included as an allowable Medicare cost.

Section 1891(b) of the Act provides that it is the responsibility of the Secretary to assure, among other things, that the conditions of participation and the requirements in section 1861(o) of the Act and the enforcement of such conditions and requirements are adequate to protect the health and safety of individuals under the care of the HHA and to promote the effective and efficient use of public moneys. Section 1861(o)(5), in conjunction with 1861(z)(1), and further implemented in 42 CFR 484.14(i), requires that an HHA have an annual operating budget. Section 1861(o)(7) authorizes the Secretary to establish requirements that the Secretary finds necessary for the effective and efficient operation of the program, and section 1861(o) provides that an HHA is to meet such requirements.

Alternatives:

We did not choose the alternative of requiring a surety bond in the minimum statutory amount of $50,000. Instead, to provide the maximum protection to Medicare we have required that the bond amount be the greater of $50,000 or 15 percent of the HHA's prior year Medicare payments. Although we are authorized to waive the surety bond requirement if an HHA provides a comparable surety bond under State law, we have not implemented that waiver authority in this rule. The limited amount of time available to us, between the enactment of the Balanced Budget Act of 1997 and the effective date of the surety bond requirement, did not permit us sufficient time to effectively analyze the potential specifications of a waiver provision.

The capitalization requirement is to establish the financial stability of HHAs. Without this provision, an under-funded HHA may be forced to close pending development of an adequate and reliable stream of revenue. When an HHA is forced to close, the Medicare program is harmed financially if it is unable to recover payments owed to the program. More importantly, the closing of an HHA adversely affects the quality of care to its patients and, in turn, the health and safety of those patients. Therefore, the Department finds no alternative to this requirement.

Anticipated Costs and Benefits:

Using 1996 data, if all Medicare participating HHAs, including all government-operated HHAs, purchased surety bonds, we estimate the cost of the surety bond requirement to be approximately $22.5 million. Exempting government-operated HHAs from purchasing surety bonds lowers the estimated cost of the surety bond requirement to approximately $18.4 million. This rule will assist to reduce losses to the Medicare program due to fraudulent and abusive HHA billings. We expect this rule to have a "significant impact" on an unknown number of HHAs, effectively preventing some of them from repeating their past aberrant billing activities. In addition, we believe this rule reinforces the behavior of HHAs that are not currently billing inappropriately, by encouraging them to continue billing only for appropriate Medicare services.

Sections 1861(o)(5) and (z)(1) of the Act already require that an HHA must submit an operating budget, the budget to be used for determining an HHA's capitalization requirement. Therefore, this requirement calls for no additional HHA costs in developing an operating budget. The capitalization requirement will help ensure that only financially stable HHAs enter the Medicare program, resulting in fewer HHAs unexpectedly closing. Therefore, the Department will minimize its financial liability in the case of agencies that are forced to close while indebted to the Medicare program. In addition, since unexpected HHA closings jeopardize the quality of care of HHA patients, the capitalization requirement is being implemented to minimize those events.

Risks:

The Congress has mandated that we establish a surety bond requirement for HHAs. There is a risk that the HHAs whose required surety bond amount is above the minimum mandated by the statute may protest their additional cost. HCFA believes the public interest is best served by establishing the requirement in such a way that it largely addresses the risk of unrecoverable losses to the Medicare Trust Funds, and will likely have the greatest impact on those HHAs that receive the largest Medicare payments. We believe that most HHAs will not be adversely affected to a significant degree as a result of this requirement. Moreover, we discern no adverse effects on the health and safety of Medicare beneficiaries. We do not believe the capitalization requirement will be a significant barrier because, although an HHA must demonstrate that it has funds to meet the requirement, up to 50 percent of the amount does not have to be equity of the HHA. That is, up to half the required amount could be in the form of loans or in a line of credit.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/97	

Small Entities Affected:

Businesses, Organizations

Government Levels Affected:

None

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HHS—HCFA

43. • HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) OF 1996: ADMINISTRATIVE SIMPLIFICATION

Priority:

Other Significant

Legal Authority:

42 USC 1320-d; 42 USC 1320-d1 to 1320-d8; 42 USC 1302; 42 USC 1395(hh)

CFR Citation:

45 CFR 142

Legal Deadline:

Final, Statutory, February 21, 1998.

Abstract:

We are proposing six regulations to adopt standards that would implement the administrative simplifications provisions of the Health Insurance Portability and Accountability Act (HIPAA) of 1996. These regulations would establish four unique identifiers, ten transactions and security safeguards.

Statement of Need:

The administrative simplification provisions of HIPAA are intended to reduce the costs and administrative burdens of health care by making possible the standardization of electronic transmission of certain administrative and financial transactions which are currently carried out manually on paper. To accomplish this goal, the law requires the Secretary to adopt national uniform standards for these transactions. The law requires that the standards be followed any time the transactions are conducted electronically.

Summary of the Legal Basis:

Subtitle F of title II of HIPAA added to title XI of the Social Security Act a new part C, entitled "Administrative Simplification." Part C of title XI consists of sections 1171 through 1179 of the Act. These sections define various terms and impose several requirements on HHS, health plans, health care clearinghouses, and certain health care providers concerning the electronic transmission of health information specific transactions and providers penalties for noncompliance. They also establish a process for developing and adopting standards for code sets; unique identifiers for health care providers, health plans, employers and individuals; the transactions; and security safeguards.

Alternatives:

In order to determine which standards to propose for adoption, we surveyed industry standards and compared them against selection criteria that we developed. There is more than one standard from which to choose for a number of standards; our proposed regulations discuss our reasons for choosing the standards that we are proposing.

Anticipated Costs and Benefits:

We estimate that, although there will be initial one-time costs to some plans and providers in the health care industry for conversion to the new standards, over a five-year period there will be $1.5 billion savings to the health care industry.

Risks:

Since the implementation of these regulations will have an effect on the entire health care industry, any mistakes that are made will have an industry-wide impact. We have tried to mitigate any negative effect by developing these rules through the Administrative Procedure Act by requiring public review and comment, as well as, by having an unprecedented representation of the health care industry involved in the development of the standards we propose to adopt through these regulations.

Timetable:

Action	Date	FR Cite
Final Action	02/00/98	

Small Entities Affected:

Businesses, Organizations

Government Levels Affected:

State, Local, Federal

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RIN: 0938–AI32

HHS—Administration for Children and Families (ACF)

PROPOSED RULE STAGE

44. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)

Priority:

Other Significant

Legal Authority:

42 USC 601; 42 USC 601 note; 42 USC 603 to 604; 42 USC 606 to 611; 42 USC 613; 42 USC 617; 42 USC 619; 42 USC 862a; 42 USC 1302; 42 USC 1308

CFR Citation:

45 CFR 270 to 275

Legal Deadline:

None

Abstract:

This regulation governs key provisions of the new welfare block grant program enacted in August 1996 as part of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). This new program, called the Temporary Assistance for Needy Families -- or TANF -- program, replaced the national welfare program known as Aid to Families with Dependent Children (AFDC) and the related programs known as the Job Opportunities and Basic Skills Training Program (JOBS) and the Emergency Assistance (EA) program. The regulation addresses the five-year time limit, work, accountability, and data collection and reporting provisions of the new TANF program.

Statement of Need:

This regulation is necessary to provide States with a basic set of rules which will assist them in implementing the TANF program.

Alternatives:

There are no viable alternatives.

Anticipated Costs and Benefits:

No additional costs to the public.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected:

None

Government Levels Affected:

State, Tribal, Federal

Additional Information:

This action includes information previously reported under RIN 0970-AB64 and RIN 0970-AB76.

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BILLING CODE 4150-04-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Statement of Regulatory Priorities

Revitalizing HUD's Mission

The regulatory plan of the Department of Housing and Urban Development (HUD) for fiscal year 1998 reflects the revitalized mission that Secretary Andrew Cuomo has established for HUD. While HUD's traditional goals remain the same—fighting for fair housing, increasing the supply of affordable housing and opportunities for homeownership, reducing homelessness, promoting jobs and economic development—the Secretary determined that HUD's mission must be updated, renewed, and refocused. If HUD is going to be a significant, value-added player, helping American communities move from an industrial to an information economy, with welfare reform hanging in the balance, HUD must strive to empower people, giving them the tools they need to succeed. HUD must be an ally to communities, not a bureaucratic adversary; a creator of opportunities, not obstacles. At the same time, in a balanced-budget environment, HUD must refocus its energy, ingenuity, and resources on eliminating waste, fraud, and abuse in all HUD programs. Therefore, two distinct, yet interrelated missions for HUD are evident as we approach the 21st century:

The Departmental Mission: Empower communities and their residents, particularly the poor and disadvantaged, so that, together with HUD, they can develop viable urban communities, provide decent housing and suitable living environment for all citizens, without discrimination, in order to improve themselves, both as individuals and as a community, to succeed in today's time of transition.

The Secretary's Personal Mission: Restore the public trust by achieving and demonstrating competence.

Under the empowerment mission, HUD will focus on shifting: (1) From top-down programs with inflexible mandates to bottom-up, community-driven partnerships that demonstrate a comprehensive community development strategy; (2) from long-term dependence programs to those that nurture self-sufficiency and self-reliance; (3) from working in isolation to collaboration with other Federal agencies to provide vital community resources; and (4) from working against the free market to harnessing market forces wherever possible to use these forces to help people become self-sufficient.

Under the public trust mission, HUD will focus on moving from process and perpetuation to performance and product. HUD will consolidate programs and reorganize and retrain staff to align the Agency's resources; develop and implement stringent internal controls; and increase program monitoring and measurement to ensure higher performance.

To accomplish these two revitalizing missions, the Secretary has directed HUD to focus on the following strategic objectives that are designed to reflect the core business of HUD:

1. Empower communities to meet local needs.

2. Help communities and States establish a full continuum of housing and services designed to assist homeless individuals and families in achieving permanent housing and self-sufficiency.

3. Increase availability of affordable housing in standard condition to families and individuals.

4. Reduce the isolation of low-income groups within a community or geographical area.

5. Provide empowerment and self-sufficiency opportunities to support low-income individuals and families as they make the transition from dependency to work.

6. Increase homeownership opportunities, especially in central cities, through a variety of tools, such as expanding access to mortgage credit.

7. Promote equal housing opportunities for those protected by law.

To assist HUD in fulfilling its missions and in accomplishing these strategic objectives, the Secretary has requested the Congress to pass legislation that will reform public housing, reform the management of multifamily properties, and consolidate the homeless assistance programs. In the absence of this legislation, HUD will continue to pursue through regulations, to the extent possible given the statutory parameters, the program reforms and consolidations that are needed to help HUD fulfill its mission. The regulatory priorities set forth in HUD's regulatory plan for fiscal year 1998 and the regulations set forth in HUD's semiannual regulatory agenda are designed to implement HUD's mission and address the core business of HUD.

Regulatory Priorities

Regulatory Action: Homeless Assistance Fund Regulation

This rule would implement legislation that consolidates McKinney Act homeless assistance funding into a formula-based flexible program as proposed in the President's FY 1997 Budget. The proposed legislation would totally reorganize the currently fragmented approach to HUD's homeless assistance efforts by streamlining program requirements and application processes. Cities and States, in partnership with nonprofit homeless providers and others, would be empowered to design and implement community-based continuum of care systems in their jurisdictions.

(Furthers Strategic Objective 2)

Regulatory Action: CDBG National Objective to Eliminate Slums or Blighting Conditions

This rule is designed to facilitate the redevelopment of underutilized property for housing or economic development purposes. The rule will increase CDBG recipients' flexibility to undertake activities which meet the national objective of preventing or eliminating slums or blighting conditions. The criteria for meeting the slum/blight national objective will be revised to specifically recognize economic obsolescence of buildings and the presence of environmental contaminants as blighting influences on an area or property.

(Furthers Strategic Objective 4)

Regulatory Action: Clarification of the Nature of Required CDBG Expenditure Documentation and Accounting for Applicable Credits

The rule will clarify the level of expenditure and documentation that is needed to meet the financial management requirement that grantees and subrecipients maintain adequate records to identify the use of funds provided for assisted activities. This rule ensures better grantee and subrecipient accounting for all CDBG expenditures, as well as applicable credits to those expenditures.

(Furthers Strategic Objective 1)

Regulatory Action: Performance Grants for Urban Empowerment Zones and Enterprise Communities

This rule will identify activities that are eligible for funding with performance grants proposed in the President's FY 1998 Budget. These grants would be used to carry out activities described in EZ/EC Strategic Plans. Grants would be provided for funding that is not available, for gap financing, or for leveraging with other funds. A key criterion in awarding grants will be the performance of the EZ or EC in carrying out the activities contemplated in the Strategic Plan and reflected in the performance review process. Support for welfare-to-work initiatives that promote self-sufficiency of poor persons and families residing in empowerment zones and enterprise communities would be encouraged.

(Furthers Strategic Objectives 1 and 5)

Regulatory Action: Replacement Housing Factor in Public Housing Modernization Funding

Since the elimination of the statutory requirement of one-for-one replacement of public housing units demolished and the cessation of appropriations for new public housing development, PHAs have been struggling to find sources of funding to replace units that they determine are not able to be restored to decent, safe, and sanitary condition. Thus far, the Department has been able to address nearly all unmet replacement housing needs by providing tenant-based vouchers to replace demolished units. However, replacement vouchers do not meet some local needs as well as hard replacement units do. Therefore, the Department is proposing to add a factor to the modernization formula for funding PHAs with more than 250 units to offset the loss in funding over a 5-year period that would otherwise occur as a result of demolition and the resulting decrease in number of units for PHAs that use the resulting funding for replacement housing.

(Furthers Strategic Objectives 3 and 4)

Regulatory Action: Section 8 Rental Voucher and Certificate Programs—Section 8 Management Assessment Program (SEMAP)

Under the section 8 Management Assessment Program established by the rule, HUD assesses whether the section 8 tenant-based assistance programs operate effectively to achieve the intended result of helping eligible families afford decent rental units at a reasonable subsidy cost. SEMAP establishes an objective system for HUD to measure HA performance in key section 8 program areas to enable the Department to ensure program integrity and accountability. SEMAP also provides procedures for HUD to identify housing agency management capabilities and deficiencies in order to target monitoring and program assistance more effectively.

(Furthers Strategic Objective 3)

Regulatory Action: Assessment of the Reasonable Revitalization of Certain Public Housing

On September 26, 1996, the Department published at 61 FR 50632, a notice to implement section 202 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. 104-134, approved April 26, 1996) (OCRA). Section 202 requires PHAs to identify certain distressed public housing developments that cost more than section 8 rental assistance and cannot be reasonably revitalized. Households in occupancy that will be affected by the activities will be offered tenant-based or project-based assistance (that can include other public housing units) and will be relocated to other decent, safe, sanitary, and affordable housing which is, to the maximum extent practicable, housing of their choice. After residents are relocated, the distressed developments (or affected buildings) for which no reasonable means of revitalization exists will be removed from the public housing inventory. The September 26, 1996, notice invited public comments. This interim rule takes into consideration the comments received on the September 26, 1996, notice and codifies the modified requirements in a new part 971.

(Furthers Strategic Objective 4)

Regulatory Action: Public Housing Admission and Occupancy Reforms and Streamlining

This rule includes provisions that help make public housing a more desirable place to live. It provides Public Housing Agencies (PHAs) the authority to screen out applicants and to terminate tenancies of tenants, who are engaged in criminal and antisocial behavior. Specifically, PHAs will take action against those involved in drug or alcohol abuse that "may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents of the project" or who have been evicted previously for drug-related criminal activity. The screening process is to include appropriate criminal background checks. These changes implement legislation enacted in 1996 (the Housing Opportunity Program Extension Act of 1996, Pub. L. 104-120, 110 Stat. 834). Additional changes are being made to streamline the rule and to respond to relevant recommendations made by the statutorily created Public and Assisted Housing Occupancy Task Force, which issued its report in April 1994.

(Furthers Strategic Objective 3)

Regulatory Action: Housing Opportunity Program Extension Act of 1996 Implementation Provisions and Section 8 Certificate, Voucher, and Moderate Rehabilitation Admission and Occupancy Policies Revisions

This rule will amend the admission and occupancy requirements for the Section 8 Rental Certificate, Rental Voucher, and Moderate Rehabilitation Programs as follows: Make certain applicants ineligible for admission if evicted from housing assisted under the United States Housing Act of 1937; terminate assistance to tenant-based certificate and voucher participants evicted for serious lease violations; screen out illegal drug users and alcohol abusers; and terminate assistance to illegal drug users and alcohol abusers.

(Furthers Strategic Objective 3)

Regulatory Action: Strengthening the Title I Property Improvement Loan Insurance Program

This rule would amend the Department's Title I regulations to require that a certain amount of the proceeds of property improvement loans must be used for correcting code violations, health and safety defects, accessibility improvements, or energy improvements. This rule would establish time limits for completing improvements.

(Furthers Strategic Objective 3)

Regulatory Action: Disclosure of Fees Paid to Mortgage Brokers

This proposed rule would provide consumers with increased disclosure concerning the mortgage broker's function and fees and would provide mortgage brokers with greater clarity regarding application of the Real Estate Settlement Procedures Act (RESPA) to mortgage broker fees. The mortgage brokers would be encouraged to enter into a contract with the consumer early in a mortgage financing transaction in order to provide the consumer with information about the mortgage broker's duties and compensation.

(Furthers Strategic Objective 6)

Regulatory Action: Fair Housing Planning Performance Standard

This rule will assist communities in complying with the legal requirement to certify that they are affirmatively furthering fair housing. It will provide a performance standard rather than

prescribing precisely what a community should do. Thus, communities will have a clear idea of what is expected of them and the standards HUD will use in reviewing their certifications.

(Furthers Strategic Objectives 1 and 7)

Regulatory Action: Lead-Based Paint Poisoning Prevention in Certain Residential Structures

This rule implements sections 1012 and 1013 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, which sets forth significant new requirements concerning lead-based paint hazard notification, evaluation, and reduction for federally owned residential property and housing receiving Federal assistance.

(Furthers Strategic Objective 3)

HUD—Office of the Secretary (HUDSEC)

FINAL RULE STAGE

45. LEAD-BASED PAINT POISONING PREVENTION IN CERTAIN RESIDENTIAL STRUCTURES (FR-3482)

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

Undetermined

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 4822; 42 USC 3535(d)

CFR Citation:

24 CFR 35

Legal Deadline:

Final, Statutory, January 1, 1995.

Abstract:

The Office of Lead Hazard Control was established by Congress within the Office of the Secretary of HUD. The Office provides overall direction to HUD's lead-based paint activities.

Currently, 24 CFR part 35 addresses the Department's requirements on lead hazards in housing. Additional requirements are specified for each housing program in the CFR part pertaining to each program. Sections 1012 and 1013 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, which is title X of the Housing and Community Development Act of 1992 (title X), require substantial revisions to HUD's current regulations for the evaluation and control of lead-based paint hazards in federally assisted and federally owned housing. The legislation evidences a concern with developing a national strategy to build the infrastructure necessary to eliminate lead-based paint hazards in all pre-1978 housing that may be occupied by young children. Because of the scope of the problem, the strategy will be implemented on a priority basis and, in part, is to be based on guidelines issued by the Secretary on August 25, 1995, on the conduct of federally supported work involving risk assessments, inspections, interim controls and abatement of lead-based paint hazards ("Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing"). The revisions required by title X will affect HUD's housing programs and the housing programs of other Federal agencies.

HUD is consolidating in a revised part 35 of title 24 of the Code of Federal Regulations the multitude of lead-based paint regulations found throughout HUD programs and will make them consistent, creating a single point of reference for the Department's lead-based paint requirements. Proposed regulations were published for public comment on June 7, 1996.

Statement of Need:

The Centers for Disease Control and Prevention (CDC), the American Academy of Pediatrics, and the National Academy of Sciences have labeled lead poisoning as the leading environmental health hazard facing America's children. Childhood lead exposure has been shown to cause damage to the brain and nervous system, which causes behavior and learning problems; reduced IQ; slowed growth; hearing problems; hypertension and heart disease; reproductive problems for both men and women; kidney damage; and many other adverse health effects, in some cases even seizures, coma, and death. These effects result in increased medical care costs, increased special education costs, and decreased lifetime earnings. The reductions in IQ appear to be irreversible, and because lead is stored primarily in bone, internal exposures can occur for decades, even if environmental exposures are controlled.

The results of CDC's third National Health and Nutrition Examination Survey indicate that population blood lead levels have continued to decrease dramatically as a result of the de-leading of gasoline and the elimination of lead in solder in food canning, as well as the ban on lead in household paint (which was effective in 1978). Nevertheless, CDC found that, during the period 1991-1994, 4.4 percent of all American children aged 1-5, or 930,000 children, had blood lead levels greater than the CDC level of concern (10 ug/dl). CDC has concluded that the most serious remaining sources of lead exposure are lead in deteriorated paint in older housing and dust and soil contaminated by paint and residues from past emissions of leaded gasoline. These sources must be controlled to assure continued declines in childhood lead poisoning.

The prevalence of elevated blood lead levels is statistically associated with low family income, older housing, and African-American or Mexican-American race/ethnicity. For instance, approximately 8.6 percent of children aged 1-5 living in housing built before 1946 had elevated blood lead levels during the 1991-1994 period, compared to 4.4 percent for all children of that age. For children in low income families living in pre-1946 housing, the percentage was 16.4; and among non-Hispanic black children living in pre-1946 housing, the percentage was 21.9.

Summary of the Legal Basis:

Title X amends the Lead-Based Paint Poisoning Prevention Act (42 USC 4822) to focus attention and resources on identifying and controlling lead-based paint hazards in federally assisted and federally owned housing before children are poisoned.

Alternatives:

The statute is generally prescriptive in requiring regulatory action to be taken by HUD. For certain HUD programs the Department has some discretion in the level of hazard evaluation and control measures to be undertaken. Alternatives being considered are related primarily to: (1) the amount of on-site work that is required for hazard evaluation and control; (2) targeting by year of construction; and (3) likelihood of occupancy by families with children.

Anticipated Costs and Benefits:

The Department has estimated the present value of some of the major benefits of protecting children from lead exposure that would flow from first-year activities required under the regulations proposed on June 7, 1996. These quantified benefits included increased lifetime earnings associated with higher IQs for children with lower blood lead levels, and avoided costs of special education and medical treatment. Estimated benefits also included market-value increases resulting from housing renovation associated with lead-based paint hazard controls. Using a three percent discount rate for lifetime earnings, total estimated benefits were approximately $1.5 billion; using a seven percent rate, the estimate was approximately $500 million. Costs of activities that would be newly required in the first year of the proposed regulations were estimated at approximately $460 million, for a net benefit of over $1 billion using a three percent discount rate and $40 million using seven percent.

Additional possible benefits not included in these estimates are: reduced infant mortality; reduced hypertension; improvements to children's stature, hearing and vitamin D metabolism; reductions in juvenile delinquency and the burden on the educational system; avoidance of the parental and family time, expense and emotional costs of caring for poisoned children; and reductions in personal injury claims and court cases

This analysis may be modified for the final rule.

Risks:

Without the regulatory changes required by title X, childhood lead exposures will continue at or near current levels.

Timetable:

Action	Date	FR Cite
NPRM	06/07/96	61 FR 29170
NPRM Comment Period End	09/05/96	
Final Action	01/00/98	

Small Entities Affected:

Businesses

Government Levels Affected:

State, Local, Federal

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HUD—Office of Housing (OH)

PROPOSED RULE STAGE

46. RESPA: DISCLOSURE OF FEES PAID TO RETAIL LENDERS (BROKERS) (FR-3780)

Priority:

Other Significant

Legal Authority:

12 USC 2601; 42 USC 3535(d)

CFR Citation:

24 CFR 3500

Legal Deadline:

None

Abstract:

A proposed rule which would provide consumers with increased disclosure concerning the mortgage broker's function and fees and would provide mortgage brokers with greater clarity regarding application of the Real Estate Settlement Procedures Act (RESPA) to mortgage broker fees.

Statement of Need:

Confusion about how RESPA applies to mortgage broker fees has led to litigation and numerous requests for clarification. The proposed rule was developed after receiving comments on a prior proposed rule and after parties to a negotiated rulemaking process, including consumer and industry groups, could not reach a consensus.

In order to benefit from greater clarity about permissibility of fees, mortgage brokers would be encouraged to enter into a contract with the consumer early in a mortgage financing transaction. The agreement would provide the consumer with information about the mortgage broker's duties and compensation.

Summary of the Legal Basis:

The Real Estate Settlement Procedures Act, 12 U.S.C. 2601 et seq., prohibits the payment of certain fees which are unearned or for the referral of business. Under this rule, we will clarify the circumstances when certain fees to mortgage brokers are permissible and when they are prohibited under RESPA.

Alternatives:

The Department attempted to reach consensus through the negotiated rulemaking process, however, a consensus was not achieved.

Anticipated Costs and Benefits:

There are some costs for mortgage brokers associated with the additional disclosure. However, these may be offset by the benefits of greater certainty about which fees are permitted and which are prohibited. Consumers will benefit because increased clarity about the mortgage broker's rule and fees associated with the transaction will allow them to more effectively shop for a competitive loan.

Risks:

This rule poses no threat to public safety, health, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	09/13/95	60 FR 47650
Notice	10/25/95	60 FR 54794
NPRM Comment Period End	11/13/95	
Notice Comment Period End	11/24/95	
NPRM	10/00/97	
Final Action	12/00/97	
Final Action Effective	03/00/98	

Small Entities Affected:

Businesses

Government Levels Affected:

State, Federal

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HUD—OH

FINAL RULE STAGE

47. • STRENGTHENING THE TITLE I PROPERTY IMPROVEMENT LOAN INSURANCE PROGRAM (FR-4246)

Priority:

Other Significant

Legal Authority:

12 USC 1703; 42 USC 1436a; 42 USC 3535(d)

CFR Citation:

24 CFR 201

Legal Deadline:

None

Abstract:

This rule proposes to amend HUD's regulations for the Title I Property Improvement Loan Insurance Program. This rule would require that at least some of the loan proceeds must be used for correcting code violations, health and safety defects, accessibility improvements, or energy improvements. This rule would also require the lender to certify that no party that is debarred or subject to a limited denial of participation will be involved in connection with the loan; that the property has been inspected and the proposed work meets the eligibility requirements; and that a post-completion inspection and verification of completion of the work has occurred. This rule would also establish time limits for completing improvements and streamline requirements, where appropriate. This rule will be finalized in conjunction with FR-3718.

Statement of Need:

This rule will propose changes to the Title I Property Improvement Loan Program necessary to reflect the market and economic changes in home improvement lending in this country. With regard to the market, many new conventional no-equity or low-equity loan products have been introduced in the last few years. Economically, the Department wants to reduce fraud and abuse in the program to mitigate the financial impact on the FHA Insurance Fund. In addition, changes are needed to ensure that use of the program complies with the Congressional intent of the program.

Summary of the Legal Basis:

Title I of the National Housing Act, as amended.

Alternatives:

There has been too much abuse and fraud in the existing program to leave the current rules unchanged. Insufficient information is available to judge the merits and disadvantages of terminating the whole program.

Anticipated Costs and Benefits:

Lenders will incur some minor additional costs for additional documentation and review of borrower and contractor performance. However, the benefits of the reduced defaults that are projected should offset these additional costs. A program with less fraud and abuse should attract additional lenders to the program making the program more readily available to borrowers.

Risks:

Some existing lenders have already decided to reduce their participation in the current program by focusing on alternative loan products. These changes could accelerate this situation and reduce the availability of Title I loans in some markets.

Timetable:

Action	Date	FR Cite
Final Action	01/00/98	
Final Action Effective	02/00/98	

Small Entities Affected:

None

Government Levels Affected:

None

Agency Contact:

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Home Mortgage Insurance Division
Department of Housing and Urban Development
Office of Housing
Phone: 202 708-2121

RIN: 2502–AG95

HUD—Office of Community Planning and Development (CPD)

PROPOSED RULE STAGE

48. HOMELESS ASSISTANCE FUND REGULATION (FR-4130)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 3535(d)

CFR Citation:

24 CFR ch V

Legal Deadline:

None

Abstract:

The proposed Homeless Assistance Fund legislation will reorganize six separate Stewart B. McKinney Homeless Assistance Act grant programs into a single program that will be formula-based, flexible, and designed to help States and cities develop and implement community-devised continuum of care systems. The specific details and timing of the regulations required to support the new Homeless Assistance Fund will be determined after enactment.

Statement of Need:

The Homeless Assistance Fund will address several key problems that plague community efforts to address homelessness. The current separate grant programs require providers of housing and services to apply discrete programs for particular needs. Each categorical program has its own funding cycle, application process, and program and reporting requirements, thereby increasing paperwork and hampering project development and implementation.

Summary of the Legal Basis:

Legislation to create the Homeless Assistance Fund is currently pending before Congress.

Alternatives:

There is no alternative. If the legislation is passed, a rule must be issued in order to implement the program and continue to provide communities with funding for homeless assistance.

Anticipated Costs and Benefits:

Benefit: Combining six separate categorical programs into one formula-based grant program will result in a significant reduction in paperwork for both grantees and HUD. Costs: Specific estimates of the cost savings involved cannot be determined until the details of the legislation become clear.

Risks:

This rule poses no threat to public safety, health, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	09/00/98	

Small Entities Affected:

Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Federal

Agency Contact:

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Department of Housing and Urban Development
Office of Community Planning and Development
Phone: 202 708-4300

RIN: 2506–AB88

HUD—CPD

FINAL RULE STAGE

49. • CDBG SLUM/BLIGHT NATIONAL OBJECTIVE RULE (FR-4260)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 3535; 42 USC 5300 to 5320

CFR Citation:

24 CFR 570.208; 24 CFR 570.483

Legal Deadline:

None

Abstract:

This rule will be a key step in the implementation of the Department's Brownfields Initiative. (The Brownfields Initiative will stimulate economic development through the redevelopment of contaminated industrial properties.) It will increase Community Development Block Grant (CDBG) recipients' flexibility to undertake activities which meet the national objective of preventing or eliminating slums or blighting conditions. The criteria for meeting the slum/blight national objective will be revised to specifically recognize economic obsolescence of buildings and the presence of environmental contaminants as blighting influences on an area or property.

Statement of Need:

Current CDBG regulations concerning the slum/blight national objective only recognize the presence of physically deteriorated buildings or public improvements as blighting influences on an area or property. Professional practice and thinking in the community development field is evolving toward a more encompassing view of the factors which influence urban decay. Failure to update and streamline CDBG program rules would hinder grantees' efforts to redevelop underutilized properties and improve physical conditions in neighborhoods.

Summary of the Legal Basis:

Section 104 of the Housing and Community Development Act of 1974 establishes certain national objectives for CDBG assisted activities. Among other goals, section 104 makes the prevention or elimination of slums or blight a national objective for the CDBG program.

Alternatives:

None considered.

Anticipated Costs and Benefits:

Costs: None. Benefits: Grantees will gain the flexibility to use CDBG funds to assist in redeveloping a larger universe of properties whose conditions negatively influence the condition of the surrounding area.

Risks:

This rule poses no threat to public safety, health or the environment. Any cleanup of contaminated sites will be governed by existing federal and state standards for environmental remediation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/97	

Small Entities Affected:

None

Government Levels Affected:

State, Local

Agency Contact:

Steve Johnson
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State and Small Cities Division
Department of Housing and Urban Development
Office of Community Planning and Development
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RIN: 2506–AB94

HUD—CPD

50. • CLARIFICATION OF THE NATURE OF REQUIRED CDBG EXPENDITURE DOCUMENTATION AND ACCOUNTING FOR APPLICABLE CREDITS (FR-4261)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 3535 (d); 42 USC 5300 to 5320

CFR Citation:

24 CFR 570.200; 24 CFR 570.502; 24 CFR 570.506

Legal Deadline:

None

Abstract:

This rule will clarify the level of expenditure documentation that is needed to meet the financial management requirement that grantees and subrecipients maintain adequate records to identify the use of funds provided for assisted activities. This rule will further advise grantees and subrecipients regarding the need to net all applicable credits from costs to be paid with CDBG funds.

Statement of Need:

Office of Inspector General (OIG) audits have found various cases in which grantees and subrecipients were not maintaining sufficient documentation to clearly identify the actual use of CDBG funds provided to assisted projects. This issue has particularly arisen in regard to special economic development projects where the funds are ultimately expended by for-profit businesses. An audit has also found that applicable credits have not always been properly netted from costs before the costs were paid with CDBG funds.

Such findings increase the potential for misuse of CDBG funds.

Summary of the Legal Basis:

Section 104 of the Housing and Community Development Act of 1974 provides the statutory authority for this rule.

Alternatives:

None considered.

Anticipated Costs and Benefits:

Costs: None. Benefits: The public will be more assured that CDBG funds are used only for allowable purposes.

Risks:

This rule poses no threat to public safety, health or the environment.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/00/98	

Small Entities Affected:

None

Government Levels Affected:

Local

Agency Contact:

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Department of Housing and Urban Development
Office of Community Planning and Development
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RIN: 2506–AB95

HUD—CPD

51. • PERFORMANCE GRANTS FOR URBAN EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES (FR-4262)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

26 USC 1391; 42 USC 3535(d)

CFR Citation:

24 CFR 597

Legal Deadline:

None

Abstract:

This rule would identify activities eligible for funding with performance grants proposed in the President's FY 1998 Budget. These grants would be used to carry out activities described in EZ/EC Strategic Plans. Grants would be provided to provide for funding that is not available, which will provide gap financing, or which will leverage other funds. A key criterion in awarding grants will be the performance of the EZ or EC in carrying out the activities contemplated in the Strategic Plan and reflected in the performance review process.

Support for welfare to work initiatives that promote self-sufficiency of poor persons and families residing in Empowerment Zones and Enterprise Communities would be encouraged. Applicants would identify specific regulatory or other impediments to the implementation of strategies that are designed to support self-sufficiency and make welfare reform work.

Statement of Need:

The goal of these grants is to revitalize city neighborhoods in a way that retains and attracts middle-class residents and provides employment opportunities that move people from welfare to work. This will enable Empowerment Zones and Enterprise Communities to continue to create economic opportunity in America's distressed communities, with a special emphasis on stimulating job creation linked to welfare reform. Flexible grant funds can be used to integrate human capital needs with economic development initiatives. This includes day care, transportation, job training and other social support designed to enable welfare recipients to achieve self sufficiency.

Summary of the Legal Basis:

Pending Legislation.

Alternatives:

None considered.

Anticipated Costs and Benefits:

This will enable Empowerment Zones and Enterprise Communities to continue to create economic opportunity in America's distressed communities, with a special emphasis on stimulating job creation linked to welfare reform.

Risks:

This rule poses no threat to public safety, health, or the environment.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/00/98	

Small Entities Affected:

None

Government Levels Affected:

Local

Agency Contact:

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Office of Economic Development
Department of Housing and Urban Development
Office of Community Planning and Development
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RIN: 2506–AB96

HUD—Office of Fair Housing and Equal Opportunity (FHEO)

PROPOSED RULE STAGE

52. FAIR HOUSING PLANNING PERFORMANCE STANDARD (FR-4133)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 3535(d); 42 USC 3600 to 3620

CFR Citation:

24 CFR 570

Legal Deadline:

None

Abstract:

This rule will assist communities in complying with the legal requirement to certify that they are affirmatively furthering fair housing. It will provide a performance standard (for accepting a certification) rather than prescribing precisely what a community should do. Thus, communities will have a clear idea of what is expected of them and the standards HUD will use in reviewing their certifications.

Statement of Need:

Currently, the CDBG regulation provides for HUD review and oversight.

However, the regulation does not contain a performance standard for grantee actions to affirmatively further fair housing. Without such a performance standard, HUD cannot determine the acceptability of the AFFH certification.

This revision to the existing CDBG regulation would provide a performance review for grantee actions to affirmatively further fair housing.

Summary of the Legal Basis:

Section 104 of the Housing and Community Development Act of 1974 and HUD's regulations at 24 CFR part 570, subpart O establish the legal basis for this rule.

Alternatives:

None considered.

Anticipated Costs and Benefits:

Costs: None.

Benefit: The benefit is that there will be more certainty for grantees about the standards that HUD will use to review their certifications.

Risks:

This rule poses no threat to public safety, health, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected:

None

Government Levels Affected:

State, Local

Agency Contact:

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Office of Fair Housing and Equal Opportunity
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RIN: 2529–AA81

HUD—Office of Public and Indian Housing (PIH)

PROPOSED RULE STAGE

53. REPLACEMENT HOUSING FACTOR IN MODERNIZATION FUNDING (FR-4125)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 1437l(k)(2)(B); 42 USC 3535(d)

CFR Citation:

24 CFR 968

Legal Deadline:

None

Abstract:

The replacement housing factor would offset for five years much of the loss of formula share funding due to the reduction of units as a result of demolition, disposition, or conversion from October 1, 1996, as long as the reduced units are not in developments receiving MROP or HOPE IV implementation funding and as long as the funds conserved by the offset are used for approved replacement housing.

Statement of Need:

Drafters of the 1990 statutory requirement of a three year phase-down of funding for units reduced as a result of demolition, disposition, or conversion did not envision the drastic reduction in non-viable units that HUD and Congress are now implementing or the drastic reduction in new development funding that could be used to strategically restructure the public housing inventory. By allowing a Housing Authority with reduced units to stabilize its funding if it uses the offset portion of funding for replacement housing, the proposed rule will make more acceptable the reduction of non-viable units in downsizing Housing Authorities and their communities.

Summary of the Legal Basis:

The enabling statute allows a proposed rule process for changes in the formula. The drafters of the statute realized that formulas have to adapt to changing conditions.

Alternatives:

Legislation to authorize preservation of funding for housing authorities with significant demolition of units, or decreased production of replacement units for those now being demolished.

Anticipated Costs and Benefits:

The proposed rule would have the benefit of speeding and making more rational the reduction and restructuring of the public housing inventory. Additional costs to the PHA or to HUD would be negligible.

Risks:

The rule poses no risk to public health, safety, or the environment. To the extent the new rule hastened the reduction of non-viable units, it would improve public health and safety.

Timetable:

Action	Date	FR Cite
NPRM	09/10/97	62 FR 47720
NPRM Comment Period End	12/09/97	
Final Action	03/00/98	

Small Entities Affected:

None

Government Levels Affected:

State, Local

Agency Contact:

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Department of Housing and Urban Development
Office of Public and Indian Housing
Phone: 202 708-0713

RIN: 2577–AB71

HUD—PIH

FINAL RULE STAGE

54. HOUSING OPPORTUNITY PROGRAM EXTENSION ACT OF 1996 IMPLEMENTATION PROVISIONS AND SECTION 8 CERTIFICATE, VOUCHER, & MODERATE REHABILITATION ADMISSION & OCCUPANCY POLICIES REVISIONS (FR-4159)

Priority:

Other Significant

Legal Authority:

42 USC 1437a; 42 USC 1437c; 42 USC 1437f; 42 USC 3535(d)

CFR Citation:

24 CFR 982

Legal Deadline:

None

Abstract:

This proposed rule would amend the admission and occupancy requirements for the section 8 Rental Certificate, Rental Voucher, and Moderate

Rehabilitation Programs as follows: Make certain applicants ineligible for admission if evicted from housing assisted under the United States Housing Act of 1937; terminate assistance to tenant-based certificate and voucher participants evicted for serious lease violations; screen out illegal drug users and alcohol abusers; and terminate assistance to illegal drug users and alcohol abusers.

Statement of Need:

This rule is needed to clarify relevant provisions in the Housing Opportunity Program Extension Act of 1996 (the Extension Act), specifically with regard to the sharing of information about drug-related criminal activity on the part of applicants for housing assistance.

Summary of the Legal Basis:

Section 10 of the Housing Opportunity Program Extension Act, signed into law on March 28, 1996, contains the statutory foundation for this rule.

Alternatives:

None considered.

Anticipated Costs and Benefits:

There is some administrative burden for housing authorities, because HAs must establish standards for prohibiting occupancy based on the guidelines provided in the rule. This cost is negligible. Significant benefits will result from implementation of this rule in the areas of tenant relations and facilities management.

Risks:

The rule poses no risk to public health, safety, or to the environment. A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. To the extent the new rule facilitated housing authority efforts to promote good citizenship and adherence to laws among tenants, it would improve public health and safety.

Timetable:

Action	Date	FR Cite
NPRM	03/31/97	62 FR 15346
NPRM Comment Period End	05/30/97	
Final Action	12/00/97	

Small Entities Affected:

None

Government Levels Affected:

None

Agency Contact:

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Department of Housing and Urban Development
Office of Public and Indian Housing
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RIN: 2577–AB72

HUD—PIH

55. PUBLIC HOUSING ADMISSION AND OCCUPANCY REFORMS AND STREAMLINING (FR-4084)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 1437a; 42 USC 1437c; 42 USC 1437d; 42 USC 1437n; 42 USC 3535(d)

CFR Citation:

24 CFR 960; 24 CFR 966

Legal Deadline:

None

Abstract:

This rule streamlines admission and occupancy regulations, and implements relevant parts of the Housing Opportunity Program Extension Act of 1996.

Additional administrative flexibility is provided to housing authorities through this rule: HAs can verify information about an applicant's disability to determine appropriate accommodations, to verify information relative to qualification for a preference, and to determine deductions for calculating adjusted income. It clarifies that the HA makes the final determination of whether an applicant's failure to meet the HA's tenant selection criteria is outweighed with respect to these issues. The rule also provides explicit authorization for HAs to adopt income limits for continued occupancy and removes language that required a tenant's approval for direct payment of a utility reimbursement to a utility provider.

In addition, the rule implements relevant portions of the Housing Opportunity Program Extension Act of 1996. The Extension Act of 1996 amended the U.S. Housing Act of 1937 to make drug-related criminal activity a criterion for denial of admission to housing assisted under the 1937 Act. The Extension Act also made drug use and/or alcohol abuse a criterion for eviction from housing assisted under the 1937 Act.

Statement of Need:

On March 4, 1995, President Clinton issued a memorandum to all Federal departments and agencies regarding regulatory reinvention. In response to this memorandum, HUD determined that the regulations under 24 CFR parts 960 and 966 could be improved and streamlined by eliminating unnecessary language and by simplifying remaining requirements. On March 28, 1996, the Housing Opportunity Program Extension Act of 1996 was passed.

Summary of the Legal Basis:

The Housing Opportunity Program Extension Act of 1996 and the U.S. Housing Act of 1937, as amended.

Alternatives:

None considered.

Anticipated Costs and Benefits:

This rule will have the benefit of increasing administrative flexibility for housing authorities. Additional costs will be negligible.

Risks:

This rule does not pose a risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	05/09/97	62 FR 25728
Final Action	01/00/98	

Small Entities Affected:

Governmental Jurisdictions

Government Levels Affected:

State, Local

Agency Contact:

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RIN: 2577–AB67

HUD—PIH

56. • ASSESSMENT OF THE REASONABLE REVITALIZATION POTENTIAL OF CERTAIN PUBLIC HOUSING REQUIRED BY LAW (FR-4120)

Priority:

Other Significant

Legal Authority:

PL 104-134 Sec. 202 of the OCRA of 1996

CFR Citation:

24 CFR 971

Legal Deadline:

None

Abstract:

Section 202 of the Omnibus Consolidated Rescissions Act (OCRA) of 1996 requires PHAs to identify certain distressed public housing developments which may be required to be converted to section 8 vouchers or certificates. The requirement covers developments that are on the same or contiguous sites, are more expensive than tenant-based assistance, and cannot be revitalized through reasonable programs. To be subject to these requirements, the developments must have more than 300 dwelling units and have a vacancy rate of at least ten percent for dwelling units not in funded on-schedule modernization programs.

Statement of Need:

The rule provides further information on statutory provisions that are already in effect through notice. Because of the technical nature of the requirements, the Department is issuing an interim rule in 1997 that solicits public comments on HUD's implementation of the statute.

Summary of the Legal Basis:

Section 202 of the Omnibus Consolidated Rescissions Act of 1996 requires PHAs to identify certain distressed public housing developments that will be required to be replaced with tenant-based assistance if they cannot be revitalized by any reasonable means.

Alternatives:

None considered.

Anticipated Costs and Benefits:

The rule will have the benefit of speeding and making more rational the reduction and restructuring of the public housing inventory. Additional costs to the PHA or to HUD would be negligible.

Risks:

The rule poses no risk to public health, safety, or to the environment. A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50 that implement section 102(2)(c) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. To the extent the new rule hastened the reduction of non-viable units, it would improve public health and safety.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/22/97	62 FR 49572
Interim Effective	10/22/97	
Interim Comment	11/21/97	
Final Action	01/00/98	

Small Entities Affected:

None

Government Levels Affected:

State, Local

Agency Contact:

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RIN: 2577–AB79

HUD—PIH

57. SECTION 8 RENTAL VOUCHER AND CERTIFICATE PROGRAMS—SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP) (FR-3998)

Priority:

Other Significant

Legal Authority:

42 USC 1437f; 42 USC 3535(d); 42 USC 1437a; 42 USC 1437c

CFR Citation:

24 CFR 985

Legal Deadline:

None

Abstract:

Under the section 8 Management Assessment Program established by the rule, HUD assesses whether the section 8 tenant-based assistance programs operate effectively to achieve the intended result of helping eligible families afford decent rental units at a reasonable subsidy cost. SEMAP establishes an objective system for HUD to measure HA performance in key section 8 program areas to enable the Department to ensure program integrity and accountability. SEMAP provides procedures for HUD to identify housing agency management capabilities and deficiencies in order to target monitoring and program assistance more effectively. Housing agencies can use the SEMAP performance analysis to assess and improve their own program operations.

Statement of Need:

At a time of diminishing HUD staffing resources, use of SEMAP will enable the Department to improve its risk assessment and to effectively target monitoring and program assistance to housing agency programs needing most improvement and posing the greatest risk.

Summary of the Legal Basis:

The Department of Housing and Urban Development Act charges HUD with achieving the best administration of the principal programs of the Federal Government which provide assistance for housing.

Alternatives:

None considered.

Anticipated Costs and Benefits:

Costs: The SEMAP rule implementation costs will be minimal, as the Department has sought to assess performance using readily available data, without imposing substantial new or undue recordkeeping burdens on housing agencies. The systematic assessment of housing agency performance under the rule is expected to substantially improve HUD oversight of the section 8 tenant-based programs and to help HUD target monitoring and assistance to programs that pose the greatest risk and to housing agencies needing most improvement.

Risks:

This rule poses no risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	12/02/96	61 FR 63930
NPRM Comment Period End	01/31/97	
Final Action	12/00/97	

Small Entities Affected:

Governmental Jurisdictions

Government Levels Affected:

State, Local

Agency Contact:

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RIN: 2577–AB60
BILLING CODE 4210-01-P

DEPARTMENT OF THE INTERIOR (DOI)

Statement of Regulatory Priorities

As the Nation's principal conservation agency, the Department of the Interior (DOI) has immense land management and resource protection responsibilities. DOI's mission is to protect and provide access to our Nation's natural and cultural heritage and honor our trust responsibilities to American Indians, Alaska Natives, and residents of island territories under the jurisdiction of the United States. We are responsible for more than 450 million acres of Federal lands, approximately 3 billion acres of the outer Continental Shelf, and more than 57,000 buildings.

Interior executes its mission through numerous programs, its eight bureaus and the following objectives:

- Conserve, protect, and enhance the Nation's national parks, wilderness, and fish and wildlife resources;
- Manage, develop, and protect the quality of water resources;
- Promote economic opportunity and improve the trust assets of American Indians, Indian tribes, Alaska Natives, and people of the U.S. territories;
- Improve the Federal Government's relationships with State, local, tribal, and territorial governments; and
- Enhance America's ability to meet its needs for domestic energy and mineral resources.

Major Regulatory Areas

Among the Department's bureaus and offices the Office of Surface Mining, Reclamation and Enforcement (OSM) has the highest concentration of regulatory responsibilities. OSM, in cooperation with the States and Indian tribes, has the responsibility for setting and enforcing environmental standards during coal mining and reclamation operations.

A Other DOI bureaus rely on regulations to implement legislatively mandated programs by focusing on the management of natural resources, and public or trust lands. Some of these regulatory activities include:

- Management of migratory birds and preservation of certain marine mammals and endangered species;
- Management of dedicated lands, such as national parks, wildlife refuges, and American Indian trust lands;
- Management of public lands open to multiple use;
- Leasing and oversight of development of Federal energy, minerals, and renewable resources;
- Management of revenues from American Indian and Federal minerals;
- Fulfillment of trust and other responsibilities pertaining to American Indian tribes;
- Natural resource damage assessments; and
- Management of financial and nonfinancial assistance programs.

Regulatory Policy

How DOI Regulatory Procedures Relate to the Administration's Regulatory Policies

Within the general requirements and guidance in Executive Orders 12866, 12612, and 12630, DOI's regulatory program seeks to: Fulfill all legal requirements as specified by statutes or court orders; perform essential functions that cannot be handled by non-Federal entities; minimize regulatory costs to society while maximizing societal benefits; and operate programs openly, efficiently, and in cooperation with Federal and non-Federal entities.

During the past year, we concentrated on eliminating and reinventing regulations, fostering partnerships with regulated entities, and maximizing the use of negotiated rulemaking. We acknowledge that regulatory reform is a continuing process.

To improve the overall efficiency of the department, DOI transferred the administrative functions for regulatory review from the Solicitor's Office, back to the Secretary's Office, within the Office of the Executive Secretariat (OES). This move enables OES and the Office of Regulatory Affairs (ORA) to:

- Increase assistance and the availability of resources to the bureaus;
- Facilitate better departmental review as mandated by new statutory reform guidelines such as the Small Business Regulatory Enforcement Fairness Act (SBREFA); and
- Upgrade the regulatory data base system to expedite regulatory review.

OES has initiated and facilitated a series of training workshops agencywide to educate the Departmental staff about the regulatory process.

DOI is committed to improving the regulatory process through the use of plain English. We have used plain English techniques to write several clear and concise regulations. This new approach will be the new standard for drafting regulations. To further ensure the success and effectiveness of plain English within DOI, we will adopt the Plain English Network handbook as a guide for writing and reviewing plain English regulations. In addition, the Regulatory Affairs staff and the Office of Policy Analysis (OPA) have proposed updated guidance on regulation procedures which you can view on DOI's web site.

Encouraging Responsible Management of the Nation's Resources

One of DOI's fundamental goals is to encourage the responsible management of the Nation's natural heritage. The regulatory program is designed to help achieve this by striking an appropriate balance between the use and preservation of natural resources. In this vein, we are seeking ways to provide incentives for users of public resources to adopt long-term strategies designed to meet current needs while preserving resources for future generations. We are also seeking to ensure that the Government receives fair prices for public resources.

Minimizing Regulatory Burdens

DOI has made a major effort to streamline its regulations and to reduce the burdens that they impose. We have changed the planning processes for land use and water development to reduce unnecessary delays and paperwork associated with agency decisionmaking. Moreover, we are currently reviewing regulations to determine whether their benefits continue to outweigh their costs to society.

The Department's review of potential rules focuses both on assuring consistency with broad regulatory policies and goals and on making certain that rules are technically feasible and understandable. We encourage the use of performance standards rather than traditional command-and-control regulations; this gives regulated entities greater flexibility to develop more efficient and less burdensome compliance procedures.

Encouraging Public Participation and Involvement in the Regulatory Procedure Process

One of the goals of Executive Order 12866 is to ensure that the public has full and adequate opportunities to participate in developing new regulations. Encouraging increased public participation in the regulatory process to make regulatory policies more responsive to our customers' needs is a priority under this Administration.

The Department is reaching out to communities and seeking their input on a variety of regulatory issues. For example, every year the Fish and Wildlife Service (FWS) establishes migratory bird hunting seasons in partnership with "flyway councils."

which are made up of State fish and wildlife agencies. As the process evolves each year FWS holds a series of public meetings to afford other interested parties, including hunters and other interested groups, adequate opportunity to participate in establishing the upcoming seasons' regulations.

Another part of our efforts to encourage public participation is our continuing effort to use negotiated rulemaking. Several bureaus have used negotiated rulemaking to enhance public participation in the regulatory process. For example, the Bureau of Indian Affairs (BIA) used negotiated rulemaking to develop new rules implementing the Indian Self-Determination and Education Assistance Act (ISDEA). BIA is also negotiating with tribal representatives the rules to implement the Self-Determination amendments to the ISDEA. The National Park Service has also used negotiated rulemaking to amend its rules governing off-road vehicle use at Cape Cod National Seashore. Several bureaus are currently employing negotiated rulemaking techniques or are exploring whether negotiated rulemaking is appropriate and feasible for particular rules.

Finally, departmental policies are designed to delegate decisionmaking. This means operating our regulatory programs at the lowest appropriate level. With decentralization, bureaus can develop procedures that are sensitive to the various local needs and interests affected by DOI programs.

The Future of DOI

In compliance with the Government Performance and Results Act of 1993 (GPRA), DOI has developed a comprehensive agencywide strategic plan to prepare DOI for the 21st century. The strategic plan covers the period from 1997 through the year 2002. It provides employees and managers with clear goals and strategies to help meet the mission and fulfill the Department's commitment to the Nation. The strategic plan is divided into two sections. The first section covers goals and initiatives for the individual bureaus, whereas the second encompasses the entire departmental overview. You can see a copy of DOI's strategic plan on the Internet at this address:

http://doi.gov/master2.html

Bureaus and Offices Within DOI

The following are brief descriptions of the regulatory functions of DOI's major regulatory bureaus and offices.

Office of the Secretary, Office of Environmental Policy and Compliance

The regulatory functions of the Office of Environmental Policy and Compliance (OPEC) stem from requirements under section 301(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA). Section 301(c) requires the development of natural resource damage assessment rules and the biennial review and revision, as appropriate, of these rules. Rules have been promulgated for the optional use of natural resource trustees to assess compensation for damages to natural resources caused by hazardous substances. OPEC is overseeing the study and possible promulgation of additional rules pursuant to section 301(c)(2) and the review and possible revision of the existing rules in compliance with section 301(c)(3).

In undertaking DOI's responsibilities under section 301(c), OPEC is striving to meet three regulatory objectives: (a) That the minimum amount of regulation necessary be developed; (b) that the assessment process provide for tailoring to specific discharges or releases; and (c) that the process not be considered punitive, but rather a system system to achieve fair and just compensation for injuries sustained.

Bureau of Indian Affairs

The philosophy of the Bureau of Indian Affairs (BIA) is to encourage the development and management of human and other resources among American Indians and Alaska Natives, to encourage tribal assumption of BIA programs, and to fulfill trust and other responsibilities of the U.S. Government. BIA regulatory actions serve to balance its dual role as: (a) Advocate in assisting tribes and encouraging their participation in BIA programs and (b) trustee protecting and/or enhancing American Indian trust resources.

Important BIA programs are promulgated through regulations, rather than informal guidelines, so that American Indians are aware of and have an opportunity to participate in the development of standards and procedures affecting them. BIA regulatory policies seek to accomplish the following: (a) Ensure consistent policies throughout American Indian country; (b) promote American Indian involvement in the operation, management, planning, and evaluation of BIA programs and services; (c) provide guidance to applicants for BIA services; and (d) govern the development of American Indian lands and provide for the protection of American Indian treaty and statutory rights.

BIA's regulatory program is designed (a) to promote American Indian self-determination, (b) to provide American Indians and Alaska Natives with high-quality education and tribal development opportunities, (c) to meet BIA's trust responsibilities, and (d) to meet the needs of tribes and their members.

In furtherance of the goals mentioned above, the Bureau will publish, this year, a significant rule to implement the Tribal Self-Governance Act of 1994. The Act allows tribes to receive their share of the funds used to administer certain programs within the Bureau. Tribal governments then assume total responsibility for providing services under these programs to their citizens and exercise discretion over the use of the funds according to tribal priorities. Tribes also are eligible to negotiate to operate certain non-BIA programs or services at the discretion of the Secretary. In these instances, funding amounts are negotiated and incorporated in annual funding agreements between the tribe and the non-BIA bureau.

Bureau of Land Management

The Bureau of Land Management manages about 268 million acres of land surface and about 570 million acres of mineral estate in the 17 conterminous western States and Alaska and the 31 States east of or adjoining the Mississippi River. These lands consist of extensive grasslands, forests, mountains, artic tundra, and deserts. Resources on the lands include energy and minerals, timber, forage, wild horse and burro populations, habitat for fish and wildlife, wilderness areas, and archaeological and cultural sites. BLM must manage these lands and resources for multiple use and for the sustained yield of renewable resources. Primary statutes for which the agency is responsible include: the Federal Land Policy and Management Act of 1976; the General Mining Law of 1872; the Mineral Leasing Act of 1920, as amended; the Recreation and Public Purposes Act; the Taylor Grazing Act; and the Wild, Free-Roaming Horses and Burros Act.

The regulatory program mirrors statutory responsibilities and agency objectives. Agency objectives include:

- Providing for a wide variety of public uses without compromising the long-term health and diversity of the land and without sacrificing significant natural, cultural, and historical resource values;
- Understanding the arid, semi-arid, artic, and other ecosystems we manage and committing to using the best scientific and technical information to make resource management decisions;
- Understanding the needs of the publics who use BLM-managed lands and providing them with quality service;
- Committing to recovering a fair return for using publicly owned resources and avoiding the creation of long-term liabilities for American taxpayers; and
- Resolving problems and implementing decisions in collaboration with other agencies, States, tribal governments, and the public.

The regulatory program contains its own objectives. These include preparing regulations that:

- Contain to the extent possible outcomes that can be measured and evaluated;
- Reflect the product of coordination and consultation with all affected members of the public;
- Are understandable to the general public, especially those to whom they are directly applicable; and
- Are reviewed periodically to determine whether or not BLM still needs them and whether or not they need to be updated to reflect statutory and policy changes.

Minerals Management Service

The Minerals Management Service (MMS) has two major responsibilities: (1) Timely and accurate collecting, distributing, accounting for, and auditing of revenues owed by holders of Federal onshore, offshore, and tribal land mineral leases in a manner that meets or exceeds Federal financial integrity requirements and recipient expectations and (2) management of the resources of the Outer Continental Shelf in a manner that provides for safety, protection of the environment, and conservation of natural resources. These responsibilities are carried out under the provisions of the Federal Oil and Gas Royalty Management Act, the Minerals Leasing Act, the Outer Continental Shelf Lands Act, the Indian Mineral Leasing Act, and other related statutes.

The regulatory philosophy of MMS is to develop clear, enforceable rules that support the missions of each program. For the Offshore Program, MMS will issue final regulations implementing the Deep Water Royalty Relief Act. MMS will also publish a final rule to address financial responsibility under the Oil Pollution Act of 1990. MMS will continue to review rules and issue amendments in response to new technology and new industry practices.

MMS also plans to continue its review of existing regulations and to issue rules to refine the Royalty Management regulations in chapter II of 30 CFR. Revisions to the royalty management regulations cover oil and gas valuation of Federal and Indian leases. The Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 will require numerous additional changes to the royalty management regulations, including the delegation of royalty collection and related activities to States.

Office of Surface Mining Reclamation and Enforcement

The Office of Surface Mining Reclamation and Enforcement (OSM) was created by the Surface Mining Control and Reclamation Act of 1977 (SMCRA) to "strike a balance between protection of the environment and agricultural productivity and the Nation's need for coal as an essential source of energy."

The principal regulatory provisions contained in title V of SMCRA set minimum requirements for obtaining a permit for surface coal mining operations, set standards for surface coal mining operations, require land reclamation once mining ends, and require rules and enforcement procedures to ensure that the standards are met. Under SMCRA, OSM serves as the primary enforcer of SMCRA until the States achieve "primacy"; that is, until they demonstrate that their regulatory programs meet all the specifications in SMCRA and have regulations consistent with those issued by OSM.

A primacy State takes over the permitting, inspection, and enforcement activities of the Federal Government. OSM then changes its role from regulating mining activities directly to overseeing and evaluating State programs. Today, 24 of the 27 key coal-producing States have primacy. In return for assuming primacy, States are entitled to regulatory grants and to grants for reclaiming abandoned mine lands. In addition, under cooperative agreements, some primacy States have agreed to regulate mining on Federal lands within their borders. Thus, OSM regulates mining directly only in nonprimacy States, on Federal lands in States where no cooperative agreements are in effect, and on American Indian lands.

SMCRA charges OSM with the responsibility of publishing rules as necessary to carry out the purposes of the Act. The most fundamental mechanism for ensuring that the purposes of SMCRA are achieved is the basic policy and guidance established through OSM's permanent regulatory program and related rulemakings. Its regulatory framework is developed, reviewed, and applied according to policy directives and legal requirements.

Litigation by the coal industry and environmental groups is responsible for some of the rules now being considered by OSM. Others are the result of efforts by OSM to address areas of concern that have arisen during the course of implementing OSM's regulatory program, and one is the result of legislation.

OSM has sought to develop an economical, safe, and environmentally sound program for the surface mining of coal by providing a stable regulatory framework. To achieve stability, OSM has endeavored to create a regulatory program that provides a high degree of continuity in its requirements and creates minimal uncertainty concerning the nature and pace of changes to existing provisions.

OSM also has worked to create a consistent regulatory framework. At the same time, however, OSM has recognized the need (a) to respond to local conditions, (b) to provide flexibility to react to technological change, (c) to be sensitive to geographic diversity, and (d) to eliminate burdensome recordkeeping and reporting requirements that over time have proved unnecessary to ensure an effective regulatory program.

Major regulatory objectives regarding the mining of surface coal include:

- Continuing outreach activities with interested groups during the rulemaking process to increase the quality of the rulemaking process, improve the substance of the rules, and, to the greatest extent possible, reflect consensus on regulatory issues;
- Minimizing the recordkeeping and regulatory compliance burden imposed on the public by means of a review and, where advisable, revision of unnecessary and burdensome regulatory requirements; and
- Publishing final rules to implement the Energy Policy Act of 1992, Public Law 102-486.

U.S. Fish and Wildlife Service

The U.S. Fish and Wildlife Service has three basic mission objectives:

- To assist in the development and application of an environmental stewardship ethic based on ecological principles and scientific knowledge of fish and wildlife;
- To guide the conservation, development, and management of the Nation's fish and wildlife resources; and
- To administer a national program to provide the public with opportunities to understand, appreciate, and wisely use fish and wildlife resources.

These objectives are met through the following regulatory programs:

- Management of Service lands, primarily national wildlife refuges;
- Management of migratory bird resources;
- Conservation of certain marine mammals and endangered species;
- Allowance of certain activities that would otherwise be prohibited by law; and
- Administration of grant and assistance programs.

The Service maintains a comprehensive set of regulations in the first category—those that govern public access, use, and recreation on national wildlife refuges and in national fish hatcheries. As required by law, the Service is authorized to allow such uses only if they are compatible with the purpose for which each area was established. These regulations will be as consistent with State and local laws as practicable and will afford the public as much economic and recreational opportunity as possible. Consistent with the purposes for which those areas are established, with very few exceptions, the Service provides these types of opportunities on each of the more than 500 refuges and hatcheries. These regulations are developed and continually reviewed for improvements, with a substantial amount of public input, and are typically of limited geographical interest.

Management of migratory bird resources, covered by the second category of regulations, entails fulfilling U.S. obligations contained in various international treaties. This regulatory program entails an annual issuance on migratory bird hunting seasons and bag limits, developed in partnership with the States, American Indian tribal governments, and the Canadian Wildlife Service. Although these rules are issued annually, this regulatory program has been in existence for more than 50 years and has not significantly changed over that period of time. The regulations are necessary to permit migratory bird hunting that would otherwise be prohibited. Although recent declines in waterfowl populations have reduced the numbers of such birds that may be harvested, the regulations generally do not change significantly from one year to another.

The third category includes regulations to fulfill the statutory obligation to identify and conserve species faced with extinction. The basis for determining endangered species is limited by law to biological considerations, although priorities for allocating Service resources are established consistent with the President's policies (by directing the Service's efforts to species most threatened and those whose protection is of the most benefit to the natural resource). Also included in this program are regulations to enhance the conservation of listed species and of marine mammals for which DOI has management responsibility. This program also contains regulations that provide guidance to other Federal agencies to assist them in complying with section 7 of the Endangered Species Act, which requires them not to conduct activities that would jeopardize the existence of endangered species or adversely modify critical habitat of listed species.

In designating critical habitat, the Service considers biological information and economic and other impacts of the designation. Areas may be excluded from the designation where the benefits of exclusion outweigh the benefits of inclusion, provided that the exclusion will not result in the extinction of the species.

The fourth category—the Service's regulatory program that permits activities otherwise prohibited by law—entails regulating possession, sale or trade, scientific research, and educational activities involving fish and wildlife and their parts or products. Generally, these regulations are supplemental to State protective regulations and cover activities that involve interstate or foreign commerce, which must comply with various laws and international obligations. The Service is continually working with foreign and State governments, the industry and individuals affected, and other interested parties to minimize the burdens associated with Service-related activities. The easing of such burdens through regulatory actions continues to balance the benefits that may be made available with the necessity to ensure adequate protection to the natural resource. Most of the regulatory activities are permissive in nature, and the concerns of the public generally center on technical issues.

The last category—the Service's assistance programs—includes a limited number of regulations necessary to ensure that assistance recipients comply with applicable laws and Office of Management and Budget (OMB) Circulars. Regulations in this program help the affected parties to obtain assistance and to comply with requirements imposed by Congress and OMB.

Bureau of Reclamation

The Bureau of Reclamation's mission is to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public. To accomplish this mission, Reclamation applies management, engineering, and scientific skills that result in effective and environmentally sensitive solutions.

Reclamation projects provide for some or all of the following concurrent purposes: Irrigation water service, municipal and industrial water supply, hydroelectric power generation, water quality improvement, groundwater management, fish and wildlife enhancement, outdoor recreation, flood control, navigation, river regulation and control, system optimization, and related uses.

The Bureau's regulatory program is designed to ensure that its mission is carried out expeditiously and efficiently.

DOI—Bureau of Indian Affairs (BIA)

PROPOSED RULE STAGE

58. TRIBAL SELF-GOVERNANCE

Priority:

Other Significant

Legal Authority:

PL 103-413

CFR Citation:

25 CFR 1000

Legal Deadline:

None

Abstract:

This rule will clarify how the Department and tribes will carry out their respective responsibilities under the Tribal Self-Governance Act of 1994. At the request of a majority of Indian tribes with self-governance agreements, the Secretary has established a negotiated rulemaking committee to negotiate and promulgate such regulations as are necessary to carry out the Act.

Statement of Need:

The Department of the Interior (DOI) needs to clarify how it and the tribes will carry out their respective responsibilities under the Tribal Self-Governance Act of 1994. Provisions are needed to clarify or establish:

- Procedures for conducting negotiations, defining stable base budgets, time lines for the transfer of funds for tribes, and the amount of residual funds to be retained;
- The processes for accepting new tribes into the self-governance program planning and negotiation process, for awarding planning and negotiation grants, for approving waiver requests, and for determining and negotiating tribal shares of BIA and eligible non-BIA programs;
- Mechanisms for reviewing tribal trust functions;
- Retrocession procedures;
- Procedures for ensuring that proper health and safety standards exist in construction projects and are included in annual funding agreements;
- Reporting requirements of tribes and DOI; and
- A mechanism for negotiating the inclusion of specific provisions of Federal procurement regulations into annual funding agreements.

DOI expects that the rulemaking process will identify other components of the program that require clarification.

Summary of the Legal Basis:

The Tribal Self-Governance Act of 1994 requires DOI, upon request of a majority of self-governance tribes, to negotiate and promulgate regulations to carry out the tribal self-governance program. The Act calls for a negotiated rulemaking committee under 5 USC 565, composed of Federal and tribal representatives, with a majority of the tribal representatives from self-governance tribes. The Act also authorizes DOI to adapt negotiated rulemaking procedures to the unique context of self-governance and the government-to-government relationship between the United States and the Indian tribes. On November 1, 1994, a majority of self-governance tribes wrote the Secretary requesting the immediate initiation of negotiated rulemaking.

Alternatives:

There is a range of alternatives for each of the program components, from maintaining discretion and flexibility at the local level to standardizing requirements and procedures on the national level.

Anticipated Costs and Benefits:

The rule is expected to promote greater efficiency of Federal and tribal government operations. It is also expected to reduce opportunity costs resulting from untimely Federal actions. The rule will improve the ability of Federal and tribal governments to plan their self-governance activities. This should lead to greater stability of operations. Clarifying procedures for conducting operations will improve the ability of governments to plan for the time and cost of conducting negotiations. Clarifying time lines for transfer of base funding and other funds to tribes will improve planning and reduce the opportunity costs resulting from the untimely transfer of funds under the self-governance program. Budget and operation planning will be improved by specifying the process for accepting additional tribes into the self-governance program planning and negotiating process as well as the process for awarding planning and negotiation grants. Since retrocession procedures will be specified, governments will be better able to plan for retrocessions. Standardization of tribal shares will allow the self-governance program to comply with statutory requirements not to limit or, reduce the services, contracts, or funds that any other Indian tribe or tribal organization is eligible to receive.

Risks:

By removing uncertainty and promoting a more stable framework for the program, the rule will greatly lower the risk of not achieving the stated goals of tribal self-governance. It will change the role of Federal agencies that serve tribes by shifting their responsibilities from day-to-day management of tribal affairs to those concerned with protecting and advocating tribal interests.

Timetable:

Action	Date	FR Cite
Notice of Intent to Establish a Negotiated Rulemaking Committee	02/15/95	60 FR 8806
NPRM	10/00/97	

Small Entities Affected:

Governmental Jurisdictions

Government Levels Affected:

Tribal, Federal

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DOI—Minerals Management Service (MMS)

PROPOSED RULE STAGE

59. VALUATION OF OIL FROM INDIAN LEASES

Priority:

Other Significant

Legal Authority:

25 USC 396 et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq

CFR Citation:

30 CFR 206

Legal Deadline:

None

Abstract:

This rule would modify the regulations that establish royalty value for oil produced from Indian leases and create a new form for collecting value and value differential data. These changes would decrease reliance on oil posted prices and make Indian oil royalty valuation more consistent with the terms of Indian leases.

Statement of Need:

Current oil valuation regulations rely primarily on posted prices and prices under arm's-length sales. Recently,

posted prices have become increasingly suspect as a fair measure of market value. This rulemaking would modify valuation regulations to place substantial reliance on the higher of crude oil futures prices, major portion prices, or gross proceeds, and eliminate any direct reliance on posted prices. This rulemaking would also add more certainty to valuation of oil produced from Indian leases.

Summary of the Legal Basis:

The primary legal basis for this rulemaking is the Federal Oil and Gas Royalty Management Act of 1982, as amended, which defines the Secretary of the Interior's (1) authority to implement and maintain a royalty management system for oil and gas leases on Indian lands, and (2) trust responsibility to administer Indian oil and gas resources.

Alternatives:

MMS considered a range of valuation alternatives such as making minor adjustments to the current gross proceeds valuation method, using spot prices, using index-based prices with fixed adjustments for production from specific geographic zones, relying on some type of field pricing other than posted prices, and taking oil in-kind. MMS chose New York Mercantile Exchange (NYMEX)-based prices as the primary method because (1) it represents the price for a widely-traded domestic crude oil, (2) there is little likelihood that any particular participant in NYMEX trading could impact the prices, and (3) NYMEX prices are regarded by many experts to be the best available measure of oil market value.

Anticipated Costs and Benefits:

MMS estimates compliance with this rulemaking would cost the oil and gas industry approximately $46,000 annually. Additional costs to industry and MMS would be up-front computer programming and other administrative costs associated with processing the new form. The benefits of this rulemaking would be an estimated $3.6 million increase in annual royalties collected on oil produced from Indian leases. Additional benefits would include simplification and increased certainty of oil pricing, reduced audit efforts, and reduced valuation determinations and associated litigation.

Risks:

The risk of not modifying current oil valuation regulations is that Indian recipients may not receive royalties based on the highest paid price or offered for the major portion of oil produced--a common requirement in most Indian leases. These modifications ensure that the Department fulfills its trust responsibilities for administering Indian oil and gas leases under governing mineral leasing laws, treaties, and lease terms.

Timetable:

Action	Date	FR Cite
ANPRM	12/20/95	60 FR 65610
ANPRM Comment Period End	03/19/96	
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

Tribal

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DOI—MMS

FINAL RULE STAGE

60. VALUATION OF OIL FROM FEDERAL MINERAL LEASES

Priority:

Other Significant

Legal Authority:

30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1701 et seq; 30 USC 1001 et seq; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation:

30 CFR 206

Legal Deadline:

None

Abstract:

This rule would modify the valuation procedures for both arm's-length and non-arm's length crude oil transactions, establish a new MMS form for collecting value differential data, and amend the valuation procedures for the sale of Federal royalty oil. These changes would decrease reliance on oil posted prices and assign a value to crude oil that better reflects. reflects market value.

Statement of Need:

Current oil valuation regulations rely primarily on posted prices and prices under arm's length sales. Recently, posted prices have become increasingly suspect as a fair measure of market value. This rulemaking would modify valuation regulations to eliminate any direct reliance on posted prices.

Summary of the Legal Basis:

The primary legal basis for this rulemaking is the Federal Oil and Gas Royalty Management Act of 1982, as amended, which defines the Secretary of the Interior's authority to implement and maintain a royalty management system for Federal oil and gas leases.

Alternatives:

MMS considered a range of valuation alternatives such as making minor adjustments to the current gross proceeds valuation method, using futures prices adjusted for location and quality, using spot prices tabulated by various publications, using the P-plus market, and taking oil in-kind. MMS chose to retain the concept that, for arm's-length sales, gross proceeds generally represent royalty value. For most non-arm's length sales of non-California and non-Alaska oil, MMS chose to use New York Mercantile Exchange (NYMEX)-based prices because (1) NYMEX represents the price for a widely-traded domestic crude oil, (2) there is little likelihood that any particular trading participant could impact the prices, and (3) many experts regard NYMEX as the best available measure of oil market value. MMS chose Alaska North Slope (ANS) spot prices for the geographically isolated California and Alaska markets because ANS spot prices represent large volumes of oil delivered into the California market and many experts regard ANS spot prices as the best indicator of value for California and Alaska production.

Anticipated Costs and Benefits:

MMS estimates compliance with this rulemaking would cost the oil and gas industry approximately $845,000 annually. Additional costs to industry and MMS would be up-front computer programming and other administrative costs associated with processing the new form. The benefits of this rulemaking would be an estimated $54.2 million increase in annual royalties collected on oil produced from Federal leases. Additional benefits would include simplification and increased certainty of oil pricing, reduced audit efforts, and reduced valuation determinations and associated litigation

Risks:

The risk of not modifying current oil valuation regulations is that royalty recipients such as State and local governments and the U.S. Treasury would not receive royalties based on the true market value of oil produced from Federal leases.

Timetable:

Action	Date	FR Cite
ANPRM	12/20/95	60 FR 65610
ANPRM Comment Period End	03/19/96	
NPRM	01/24/97	62 FR 3742
NPRM Comment Period End	03/25/97	
NPRM Comment Period Extended to	04/28/97	62 FR 7189
NPRM Comment Period Extended to	05/28/97	62 FR 19966
Supplemental NPRM	07/03/97	62 FR 36030
Supplemental NPRM Comment Period	08/04/97	62 FR 36030
Final Action	03/00/98	
Final Action Effective	04/00/98	

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

State

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DOI—Bureau of Land Management (BLM)

PROPOSED RULE STAGE

61. OIL AND GAS LEASING AND OPERATIONS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

30 USC 181 et seq

CFR Citation:

43 CFR 3100 to 3160

Legal Deadline:

None

Abstract:

This rule will revise BLM's current Federal oil and gas leasing and operations regulations, except those concerning drainage (section 3100.2-2), combined hydrocarbon leasing (part 3140), and oil and gas leasing in the National Petroleum Reserve--Alaska (part 3130), to: (1) use performance standards in certain places instead of prescriptive requirements. Performance standards allow more flexibility for operators and protect the environment and Federal royalty interests; (2) cite industry standards and incorporate them by reference rather than repeating those standards in the rule itself; (3) incorporate the requirements of the Onshore Oil and Gas Orders and national notices to lessees into the regulations to eliminate their overlap with the current regulations; (4) revise and replace BLM's current unitization regulations with a more flexible unit agreement process; and (5) eliminate redundancies, clarify procedures and regulatory requirements and streamline procedures.

Statement of Need:

This rulemaking complies with the requirements of the Government Performance and Results Act, the recommendations of the National Performance Review and other initiatives. It will be presented in a user-friendly format and presented by process, rather than than by subject matter.

Summary of the Legal Basis:

The Mineral Leasing Act gives BLM the authority to issue and administer the terms of oil and gas leases on Federal lands, to conduct inspections of drilling operations and to promulgate and enforce regulations pertaining to oil and gas leasing and operations. BLM is the only Federal agency with authority to issue leases for publicly owned oil and gas resources.

Alternatives:

The only alternative to the proposed regulations would be to continue to operate under the existing regulations. These regulations are not performance based and are at times ambiguous and hard to understand. Further, the important information found Onshore Operating Orders is published separately from the regulations and at irregular intervals. The proposed rule is preferable.

Anticipated Costs and Benefits:

BLM anticipates the following benefits: (1) more clearly written rules will be better understood by both oil and gas lessees and operators and members of the general public; (2) performance standards, rather than prescriptive requirements, will allow lessees and operators and BLM greater flexibility to deal with unique geological or engineering circumstances within the standards set by the rule; (3) and streaming and clarifying procedures will result in better customer service and decreased time and money for both BLM and the user public.

Risks:

The public may misunderstand one or more performance standards. BLM will publish user guides that explain in detail the standards and will provide examples of how operators might meet specific standards.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected:

None

Government Levels Affected:

State, Local, Federal

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RIN: 1004–AC94

DOI—BLM

62. • SURFACE MANAGEMENT (LOCATABLE MINERALS)

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

18 USC 1001; 30 USC 22; 30 USC 42; 30 USC 612; 43 USC 1061 et seq; 18 USC 3571 et seq

CFR Citation:

43 CFR 3809

Legal Deadline:

None

Abstract:

The proposed rule would: (1) redefine "unnecessary and undue degradation" to require the use of the "best available technology and practices" or other technology-based standards during the mining of locatable minerals and during the reclamation of mined lands, (2) incorporate performance standards for locatable mineral exploration and development, and (3) treat mining operations involving disturbance to 5 acres or less in a more stringent fashion. fashion.

Statement of Need:

Current locatable mineral mining regulations provide insufficient environmental protection and insufficient enforcement authority for BLM to regulate mining activities which disturb 5 acres or less of public lands. The proposed regulations would strengthen environmental protection and would increase BLM's oversight of mining operations on 5 acres or less of public lands.

Summary of the Legal Basis:

Section 302(b) of the Federal Land Policy and Management Act gives the Secretary of the Interior or his delegated representative the authority to regulate the use, occupancy and development of public lands. Although the Secretary may not impair the rights of mining claimants by regulating these activities, he or she may take any action necessary to prevent the unnecessary and undue degradation of the public lands.

Alternatives:

The proposed rule could consider three alternatives for increasing oversight on mining activities which disturb 5 acres or less of public lands: (1) repeal the current notice provision and treat these small operations like large ones, (2) narrow the scope of the notice exception so that it does not apply in areas of environmental sensitivity, and (3) better protect the environment against abuse by measures such as: requiring more information from operators, giving BLM a longer time to review the notices, and imposing greater penalties for not meeting notice requirements.

Anticipated Costs and Benefits:

A cost-benefit analysis has not yet been prepared. On balance, the general public is expected to benefit by decreasing the public health and safety costs associated with the clean up of hazardous and toxic substances generated by the mining of various locatable minerals (acid, draining, etc.) There may or may not be increased costs to operators on mining claims from their exploration, development and reclamation activities, if the surface management regulations require using the best available technology in exploration, mining and reclamation activities.

Risks:

Claimants unable to comply with increased mining costs could cease operations and go out of business. Some portion of the mining industry could cease exploration and mining operations in the United States and begin or increase mining operations in other countries whose policies are less stringent.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	

Small Entities Affected:

Undetermined

Government Levels Affected:

State, Local, Federal

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BILLING CODE 4310-RK-F

DEPARTMENT OF JUSTICE (DOJ)

Statement of Regulatory Priorities

The Department of Justice is not a major regulatory agency, and it carries out its vital investigative, prosecutorial, and other law enforcement activities principally through means other than the regulatory process. Even so, the Department does have significant responsibilities for implementing the Americans with Disabilities Act (ADA), as well as the immigration laws, including the Immigration Reform and Control Act of 1986 and the Immigration Act of 1990. The Department's key regulatory goals and initiatives are set forth in detail below.

The Department has worked actively to implement the general regulatory principles of Executive Order 12866. Relatively few of the Department's rules are significant regulatory actions requiring review by the Office of Management and Budget (OMB) under the Executive order. Accordingly, the orientation of the OMB review process to focus on significant rules has required the Department to increase its own efforts to ensure that all of its regulations are carefully reviewed for consistency with the Administration's regulatory principles, including the large majority of rules that are not reviewed directly by OMB as significant regulatory actions.

Pursuant to section 4(c) of Executive Order 12866, the Department of Justice provides the following statement of regulatory priorities, focusing in particular on four regulatory initiatives in the areas of civil rights and immigration.

In addition to the specific initiatives set forth below, several other components of the Department carry out important responsibilities through the regulatory process. Although their regulatory efforts are not singled out for specific attention in this Regulatory Plan, those components carry out key roles in implementing the Department's law enforcement priorities. In particular, the Drug Enforcement Administration (DEA) is responsible for controlling abuse of narcotics and dangerous drugs by restricting the aggregate supply of those drugs. DEA accomplishes its objectives through coordination with State, local, and other Federal officials in drug enforcement activities, development and maintenance of drug intelligence systems, regulation of legitimate controlled substances, and enforcement coordination and intelligence-gathering activities with foreign government agencies. DEA has various regulatory actions under development relating to the diversion control requirements and to the requirements of the Comprehensive Methamphetamine Control Act of 1996 which regulates certain drug products that are being diverted for the production of methamphetamine.

Also, on March 20, 1997, the Federal Bureau of Investigation promulgated final cost recovery regulations under the Communications Assistance to Law Enforcement Act of 1994 (CALEA). Congress enacted CALEA to address the recent and continuing advances in telecommunications technology, which have impaired and, in some instances precluded, law enforcement agencies from fully conducting various types of court-authorized electronic surveillance. The Attorney General is authorized to reimburse carriers for all of the reasonable costs directly associated with the modifications they perform on equipment, facilities, and services deployed on or before January 1, 1995. These regulations provide the cost accounting standards for reimbursements.

In response to public comments during the cost recovery rulemaking, the FBI is drafting a proposed rule defining the terms "significant upgrade" and "major modification." Further, the FBI is drafting an interim rule with request for comment modeled on the CALEA cost recovery rule to allow newly eligible equipment manfacturers and support service providers to recover certain CALEA implementation costs. Finally, the FBI, on behalf of law enforcement, will also publish a Final Notice of Capacity, which follows two previously published proposed notices on the same subject, to inform carriers of the estimated actual and maximum number of simultaneous interceptions that law enforcement might conduct on or after specified dates.

Civil Rights

The Department and its Civil Rights Division are deeply committed to a rigorous and revitalized approach to the enforcement of this Nation's civil rights laws. In keeping with that commitment, the Division will be reviewing, updating, and improving its civil rights regulations; implementing the Americans with Disabilities Act of 1990 (ADA); and promulgating regulations implementing the prohibition against sex discrimination in federally assisted education programs and activities that is contained in title IX of the Education Amendments of 1972. The Department's regulatory plan has two civil rights initiatives.

The Department is planning to make revisions in its regulations implementing titles II and III of the ADA to amend the ADA Standards for Accessible Design to be consistent with the revised accessibility guidelines for State and local facilities and children's facilities that have been developed by the Architectural and Transportation Barriers Compliance Board (Access Board) and to make conforming changes in the Department's rules. Title II of the ADA prohibits discrimination on the basis of disability by public entities and title III prohibits such discrimination by places of public accommodation and requires accessible design and construction of places of public accommodation and commercial facilities. The Access Board's new accessibility guidelines for State and local facilities and children's facilities are the subject of related, pending rulemakings that are expected to be completed before December 1997. These rulemakings have been the subject of considerable scrutiny through the Board's regulatory process. The Department of Justice, which is required by statute to promulgate standards that are consistent with the guidelines developed by the Access Board, has proposed to incorporate them in the Department's regulations.

These amendments to the ADA regulations are an important step forward in fulfilling the promise of the ADA in ushering in a new era of opportunity and dignity for the many millions of Americans with disabilities. These regulations will open doors that have shut out people with disabilities in the past.

In addition, the Department will be promulgating regulations implementing the prohibition against sex discrimination in federally assisted education programs and activities that is contained in title IX of the Education Amendments of 1972. The Department will be issuing this regulation as part of a joint rulemaking by several Federal agencies in the coming year.

The Department's promulgation of a regulation implementing title IX will provide guidance to its recipients who administer education programs or activities. Since all departments and agencies should interpret title IX consistently, it is important that they all be governed by similar regulatory standards. The Department's regulation will closely follow that of the Department of Education, which funds most educational institutions covered

by title IX. A regulation is essential for adequate enforcement of title IX because a regulation contains administrative requirements (such as promulgation of grievance procedures, designation of a coordinator, and processing of complaints), as well as essential statutory interpretations.

Immigration

The immigration and Naturalization Service (INS) is responsible for facilitating the entry of persons legally admissible as visitors or as immigrants to the United States, for preventing unlawful entry or receipt of immigration benefits by those who are not entitled to receive them, and for apprehending or removing those aliens who enter or remain illegally in the United States. Though many of the Administration's goals for more effective immigration process flow from either new statutory authority or increased resources, the regulatory process is a vital aspect of carrying out the goals of the immigration laws.

Certainly, one of the regulatory challenges facing the Department of Justice is to improve the effectiveness of those regulatory efforts. Commissioner Meissner established three fundamental goals at the time of her confirmation: To increase the professionalism of the Service, to provide immigration control with compassion, and to build the Service's role in immigration policy leadership and communication. The regulatory priorities for the Service follow those priorities, though other desired improvements may require legislative action. Two INS initiatives are included in this regulatory plan.

First, the Service will publish a proposed rule to implement the new grounds of inadmissibility and their waivers, especially those established under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). This regulation will clarify the interplay between the new grounds of inadmissibility and existing law and will set forth changes in procedures and policies. Second is the Service's ongoing effort to facilitate the U.S. business community's ability to comply with the employer sanctions provisions of the Immigration Control and Reform Act. The Service has published a supplemental proposed rule, which not only further reduced the number of acceptable documents for verifying employment eligibility, but also proposed the addition, based on public comments, of an employee attestation provision. Additionally, the Service will be promulgating regulations which will propose to eliminate references to several types of employment authorization documents (EADs) and to phase in replacement of these documents by a new, more secure, EAD.

DOJ—Civil Rights Division (CRT)

PROPOSED RULE STAGE

63. NONDISCRIMINATION ON THE BASIS OF SEX IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES—IMPLEMENTATION OF TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

Priority:

Other Significant

Legal Authority:

20 USC 1682 et seq

CFR Citation:

28 CFR 42 subpart J (New)

Legal Deadline:

None

Abstract:

On June 17, 1980, the Department published a proposed regulation to implement the requirements of title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of an individual's sex in federally assisted educational programs. That regulation was never issued in final form. As a result of subsequent statutory amendments, it is necessary to revise the prior proposed title IX regulation and begin a new rulemaking process. The Department's regulation will be published as a common rule with other agencies that need Title IX regulations.

Statement of Need:

Title IX directs each department and agency that provides Federal financial assistance to effectuate its provisions by issuing rules, regulations, or orders of general applicability, 20 U.S.C. 1682. The Department must issue a title IX regulation because it funds many educational programs. Since all departments and agencies should interpret title IX consistently, it is important that they all be governed by similar regulatory standards. The Department's regulation will closely follow that of the Department of Education, which funds most educational institutions covered by title IX. A regulation is essential for adequate enforcement of title IX because a regulation contains administrative requirements (such as promulgation of grievance procedures, designation of a coordinator, and processing of complaints) as well as essential statutory interpretations.

Summary of the Legal Basis:

Title IX specifically authorized the promulgation of regulations to effectuate the statute, 20 U.S.C. 1682.

Alternatives:

Because title IX requires an agency (such as the Department of Justice) that funds educational programs to issue implementing regulation, issuance of a title IX regulation is mandatory. With respect to the contents of a title IX regulation, the Department will consider all comments received during the public comment period before issuing a final regulation.

Anticipated Costs and Benefits:

In order to carry out this Administration's commitment to equal educational opportunity for women, it is essential that the Department of Justice issue its own regulation implementing Title IX. Currently, the Department has no regulation in place to provide guidance to recipients on compliance or identify formal procedures for addressing complaints of sex discrimination in funded programs. In providing Federal financial assistance to educational programs, the Department and its recipients have been subject to the requirements of title IX since it was enacted in 1972. Therefore, promulgating this regulation should not impose any new costs upon recipients of Federal financial assistance.

Risks:

Without a regulation, individuals who are granted protection from discrimination on the basis of sex will not have their rights protected in the Department's programs to the same extent as if they participated in programs funded by agencies with title IX regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	02/00/98	

Small Entities Affected:

Governmental Jurisdictions

Government Levels Affected:

State, Local

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DOJ—CRT

FINAL RULE STAGE

64. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN STATE AND LOCAL GOVERNMENT SERVICES; PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES; ACCESSIBILITY STANDARDS

Priority:

Other Significant

Legal Authority:

42 USC 12134; 42 USC 12186; 5 USC 301; 28 USC 509; 28 USC 510; PL 101-336

CFR Citation:

28 CFR 35; 28 CFR 36; 28 CFR 37; 28 CFR 38

Legal Deadline:

None

Abstract:

On July 26, 1991, the Department published its final rules implementing titles II and III of the Americans with Disabilities Act (ADA), which prohibits discrimination on the basis of disability by public entities (title II) and in places of public accommodation and commercial facilities (title III). Those regulations included accessibility guidelines required for facilities covered by title III -- The ADA Standards for Accessible Design (ADA Standards) -- but did not specifically include guidelines for facilities covered by title II, such as courthouses or prisons. Title II entities now have the option of using the ADA Standards (without certain exceptions applicable only to title III facilities) or another existing standard, the Uniform Federal Accessibility Standards.

The final rule will amend titles II and III to adopt a revised version of the ADA Standards, which incorporates new guidelines for facilities typically covered by title II. The new guidelines were issued as the interim final ADA Accessibility Guidelines (ADAAG) by the Access Board and were published on the same day as the Department's proposed rule.

Statement of Need:

Section 504 of the ADA requires the Access Board to issue supplemental minimum guidelines and requirements for accessible design of buildings and facilities subject to the ADA, including titles II and III. Sections 204(c) and 306(c) of the ADA provide that the Attorney General shall promulgate regulations implementing titles II and III that are consistent with the Access Board's ADA guidelines. Because the Department of Justice is required by statute to promulgate regulations that do not go below the Access Board's minimum guidelines, and because this rule will adopt standards that are consistent with the guidelines issued by the Access Board, as also required by statute, this rule is required by statute.

Summary of the Legal Basis:

The summary of the legal basis of authority for this regulation is set forth above in the Legal Authority and in Statement of Need.

Alternatives:

The Department is required by the ADA to issue this regulation as described in the Statement of Need above. All comments (including those that suggest alternatives to the current proposed guidelines) received by the Department on the proposed rule and by the Access Board on its current interim rule and its guidelines published December 21, 1992, have been thoroughly analyzed and considered by the Department. The Department anticipates publishing a supplemental notice of proposed rulemaking to clarify certain issues prior to the publication of the final rule.

Anticipated Costs and Benefits:

The Clinton Administration is deeply committed to ensuring that the goals of the ADA are met. Promulgating this amendment to the Department's ADA regulations will ensure that entities subject to the ADA will have one comprehensive regulation to follow. Currently, entities subject to title II of the ADA (State and local governments) have a choice between following the Department's ADA standards for title III, which were adopted for places of public accommodation and commercial facilities and which do not contain standards for common State and local government buildings (such as courthouses and prisons), or the Uniform Federal Accessibility Standards (UFAS). By developing one comprehensive standard, the Department will eliminate the confusion that arises when governments try to mesh two different standards. As a result, the overarching goal of improving access to the built environment to persons with disabilities will be better served.

The Access Board has analyzed the impact of applying its proposed amendments to ADAAG to entities covered by titles II and III of the ADA and has determined that they are a significant regulatory action for purposes of Executive Order 12866. The Access Board has prepared a Regulatory Assessment, which includes a cost impact analysis for certain accessibility elements and a discussion of the regulatory alternatives considered.

The Access Board has determined that this proposed rule will have a significant economic impact on a substantial number of small entities and, therefore, has included the flexibility analysis required by the Regulatory Flexibility Act in its regulatory assessment. The Access Board has made every effort to lessen the economic impacts of its proposed rule on small entities, but recognizes that such impacts are the necessary result of the mandate of the ADA itself. The Access Board's analysis also applies to the Department's proposed adoption of the revised ADAAG. The Department's proposed procedural amendments will not have a significant economic impact on small entities.

The Access Board has made every effort to lessen the impact of its proposed guidelines on State and local governments, but recognizes that the guidelines will have some federalism impacts. These impacts are discussed in the Access Board's Regulatory Assessment, which also applies to the Department's proposed rule.

Risks:

Without this amendment to the Department's ADA regulations, regulated entities will be subject to confusion and delay as they attempt to sort out the requirements of conflicting design standards. This amendment should eliminate the costs and risks associated with that process.

Timetable:

Action	Date	FR Cite
NPRM	06/20/94	59 FR 31808
NPRM Comment Period End	08/19/94	
Final Action	03/00/98	

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

State, Local

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DOJ—Immigration and Naturalization Service (INS)

PROPOSED RULE STAGE

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65. REVISED GROUNDS OF INADMISSIBILITY, WAIVERS FOR IMMIGRANTS AND NONIMMIGRANTS, AND EXCEPTIONS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186A; 8 USC 1201; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1252; 8 USC 1255; 8 USC 1304; 8 CFR 2

CFR Citation:

8 CFR 103; 8 CFR 204; 8 CFR 207; 8 CFR 208; 8 CFR 209; 8 CFR 210; 8 CFR 212; 8 CFR 213; 8 CFR 223a; 8 CFR 235; 8 CFR 236; 8 CFR 238; 8 CFR 239; 8 CFR 249; 8 CFR 299

Legal Deadline:

None

Abstract:

This regulation changes the grounds of inadmissibility applicable to those aliens seeking admission to the United States. On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) that substantially revised most grounds of inadmissibility under section 212 of the Act and the waivers available to both immigrants and nonimmigrants. The Immigration and Naturalization Service will publish regulations implementing these new grounds of inadmissibility and new/revised waiver provisions. In addition, this rule will incorporate the changes made to the grounds of inadmissibility and waivers provided for in IMMACT 90; Pub. L. 101-649; MTINA, Pub. L. 102-232; the National Institutes of Health Revitalization Act of 1993, Pub. L. 103-43; INTCA, Pub. L. 103-416; and AEDPA, Pub. L. 104-132.

Statement of Need:

This regulation is necessary to implement the IIRIRA and IMMACT 90, Pub. L. 101-649; the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (MTINA), Pub. L. 102-232; the National Institutes of Health Revitalization Act of 1996, Pub. L. 103-43; and the Anti-Terrorism and Effective Death Penalty Act of 1996 (AEDPA) Pub. L. 104-132.

Summary of the Legal Basis:

See statement of Need item 9a.

Alternatives:

None

Anticipated Costs and Benefits:

The INS anticipates a relatively low cost for staff time and resources necessary to conduct training and disseminate new guidelines to the field on implementation of the revised grounds of inadmissibility and waivers available to both immigrants and nonimmigrants. With respect to certain waivers for the new vaccination requirements that fall under the health-related grounds of inadmissibility, the blanket waiver procedures (that entail a delegation of authority from INS to Department of State consular officers) minimize the administrative burdens not only on the agencies responsible for administering this requirement--Center for Disease Control, Department of State, and INS--but also the administrative burden on the alien applicant for such waiver. This, in turn, reduces the incentive for fraud, that enhances the public health initiative contemplated by the newly enacted vaccination requirements. Moreover, the new application for waiver, Form I-724, that will be implemented concurrently with the promulgation of the regulation will consolidate numerous forms currently used to determine eligibility for such classes of aliens.

Risks:

This regulatory initiative is critical for complete and clear implementation of the new grounds of inadmissibility and their waivers, especially those established under IIRIRA. The regulation will clarify the confusion that presently exists due to the interplay between the new grounds of inadmissibility and existing law. It will also clarify changes in procedures or policies.

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1232) Comment Period End 2/5/90	01/05/90	55 FR 438
NPRM	11/00/97	
Final Action	03/00/98	

Small Entities Affected:

None

Government Levels Affected:

Federal

Additional Information:

INS No. 1413-92

Consolidated INS Rules 1304, RIN 1115-AC01; 1235, RIN 1115-AB39; 1232, RIN 1115-AB45; and 1648, RIN 1115-AD62.

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RIN: 1115–AB45

DOJ—INS

66. REDUCTION OF THE NUMBER OF ACCEPTABLE DOCUMENTS AND OTHER CHANGES TO EMPLOYMENT VERIFICATION REQUIREMENTS

Priority:

Other Significant, Major under 5 USC 801.

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

8 USC 1324a; PL 104-208

CFR Citation:

8 CFR 274a

Legal Deadline:

Final, Statutory, October 1997.

The Administration is seeking a 1 year extension on this deadline

Abstract:

On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). Section 412(a) of IIRIRA requires a reduction in the number of documents that may be accepted in the employment verification process. Section 412(d) clarifies the applicability of section 274A to the Federal Government. Section 610 of the Regulatory Flexibility Act requires agencies to review rules that have a significant economic impact on a substantial number of small entities every 10 years. The Service is conducting this review in conjunction with IIRIRA implementation. This proposed rulemaking will implement sections 412(a) and (d) of IIRIRA and propose other changes to the employment verification process identified through that review. A revised Form I-9 will be included with the rulemaking.

It should be noted that this action supersedes the previously published regulatory plan titled "Reduction in the Number of Documents Accepted for Employment Verification." In order to avoid confusion, this regulatory action is being referenced under the current RIN, which captures all prior actions related to employment verification.

Statement of Need:

The Immigration Reform and Control Act of 1986 amended the I&NA to require employers to hire only persons who are eligible to work in the United States and to verify the work eligibility of all new hires. Form I-9 was designated for that purpose. Newly hired individuals must attest to the status that makes them eligible to work and present documents that establish their identity and eligibility to work. In its third review of employer sanctions regulations, the GAO reported that employer confusion over the "multiplicity" of acceptable documents contributed to discrimination against authorized workers. See GAO/GGD report no. 90-62 dated March 29, 1990. Section 412(a) of IIRIRA requires a reduction in the number of documents that may be accepted in the employment verification process. Implementation of these provisions along with other simplifications and clarifications, will reduce potential employment discrimination based upon misapplication of the verification requirements.

Comments in response to 1993 and 1995 proposals asked that the Service delay publication of a final rule citing the potential for congressional action.

Summary of the Legal Basis:

The legal basis of authority for this regulation is set forth above in Legal Authority. Parts of this regulatory action are required by IIRIRA.

Alternatives:

The lists of documents for employment verification have been controversial throughout the 10 years that employer sanctions have been in effect. When the INS first published implementing regulations in 1987, the Supplementary information noted that the list of identity documents had been expanded in response to public comment. When the law was new, a consensus emerged that an inclusive list of documents would ensure that all persons who are eligible to work could easily meet the requirements. As early as 1990, there was evidence that some employers found the list confusing. As noted in the "Statement of Need", GAO linked employer confusion over the "multiplicity" of acceptable documents to discrimination against authorized workers. The INS has taken steps to address this criticism. In July 1988, INS committed to the establishment of a uniform employment authorization policy. First the INS limited the number and types of "paper" documents on which employment could be authorized. Second, a standardized Employment Authorization Document(EAD) I-688B in 1989. In February 1997, a more secure EAD Form (I-766) was produced with state of the art technology.

Anticipated Costs and Benefits:

Employment is often the magnet that attracts individuals to come to or stay in the United States illegally. The employer sanctions provisions help reduce the strength of this magnet by requiring employers to hire only those individuals who may legally work in the United States. This rule, by reducing the number of documents that are acceptable for employment eligibility verification purposes and clarifying other requirements, will reduce confusion on the part of employers. This in turn, will increase employer compliance, preserving jobs for persons who are eligible to work in the United States.

Risks:

An employment eligibility verification system that relies on a wide range of documents may result in employment discrimination based upon misapplication of the employment eligibility verification requirements. In addition, a complicated system may encourage fraud and result in individuals who are authorized to work in the United States being displaced by unauthorized individuals.

Timetable:

Action	Date	FR Cite
NPRM (INS 1399); Comment Period End 12/23/93	11/23/93	58 FR 61846
Supplemental NPRM (INS 1339S) Comment Period End 7/24/95	06/22/95	60 FR 32472
Applications Due 1/29/96 Public Notice Pilot Demonstration Program (INS 1713)	11/30/95	60 FR 61630
Appl. Extension Through 3/8/96 Public Notice Pilot Demonstration Program (INS 1713)	02/08/96	61 FR 4378
Final Rule INS No. 1399E	09/04/96	61 FR 46534
Proposed Rule (INS No. 1819-96)	11/00/97	
Final Rule (1819-96)	02/00/98	

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Tribal, Federal

Additional Information:

The Administration has submitted a technical amendment to Congress that would extend the deadline for implementing Section 412(a) of IIRIRA for 1 year. The rulemaking has been delayed by the need to coordinate implementation with other provisions of IIRIRA, by several complex policy and regulatory issues that have taken time to resolve, and by the review

required by section 610 of the Regulatory Flexibility Act.

INS No. 1819-96; PL 104-208, title 4.

INS Nos. 1399 and 1399S-94, Control of Employment of Aliens, Supplemental Rule; Action for INS No. 1399 and 1399S is canceled as a result of IIRIRA requirements.

INS No. 1399E is an extracted portion of INS No. 1399, published separately to allow for the production of a new, more secure Employment Authorization Document.

INS No. 1713-95, Demonstration Project for Electronic I-9s, contact Anne Veysey, (202) 514-2998.

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RIN: 1115–AB73

BILLING CODE 4410-01-F

DEPARTMENT OF LABOR (DOL)

Statement of Regulatory Priorities

Executive Summary

The Secretary of Labor has set five goals for the Department: First, to equip every working American with the skills to find and hold good jobs with rising incomes throughout their lives; second, to help people move from welfare to work; third, to assure that health and pension benefits are secure while Americans are working and after they retire; fourth, to guarantee every American a safe, fair, and equal opportunity workplace; and fifth, to help working people balance work and family. The 180 labor laws and related regulations that the Department of Labor (DOL) administers advance these goals.

Regulations that implement newly enacted legislation help DOL and its stakeholders work together to achieve that statute's goal by providing clear, effective, flexible plans of action for the regulated community. Rules that revise existing regulations also facilitate the achievement of DOL's goals by updating old or ineffective standards or making them easier to understand and use. DOL has always recognized that changes in the workplace, such as new business practices, improved or safer technologies, or new hazards, may render existing rules ineffective or demand the creation of new ones.

The Department remains committed to issuing regulations that are easy to understand and effective and that minimize burdens on the regulated community. Regulations that are easy to understand help promote voluntary compliance and improve customer satisfaction. Most of the regulated community would comply with workplace regulations if given the information and knowledge they need. When writing or revising rules, DOL will explore new approaches to achieve our regulatory goals at lower costs and with greater flexibility for the regulated community. DOL will also ensure that those who are protected by the new rules or must abide by them have been given the opportunity to participate in the rulemaking process and that they have been provided timely, user-friendly compliance assistance materials. Finally, the rules will be consistent and easy-to-understand.

DOL's 1997 regulatory plan highlights the Department's 22 most important, significant regulations from five of our major regulatory agencies: Employment Standards Administration (ESA), Mine Safety and Health Administration (MSHA), Occupational Safety and Health Administration (OSHA), Pension and Welfare Benefits Administration (PWBA), and Employment and Training Administration (ETA). The entries in the regulatory plan were carefully selected as the most important; that is, they are essential to the fulfillment of the Department's five goals.

The Secretary of Labor's Goals

Lifelong Learning and Skill Development: This first goal is to assure that American workers can obtain the tools they will need throughout their careers to enhance their productivity and raise their standard of living. In the new economy—and on the edge of a new century—education can no longer end with a high school diploma, or even with a college degree. Education must mean lifelong learning and constant development of new skills.

Promoting Welfare to Work: Under the welfare reform effort launched last year, millions of people must make their way from a welfare check to paycheck. This will not be an easy task. Together with Governors and Mayors, businesses and unions, churches and community organizations, the Department's goal is to create opportunities for welfare recipients to find real jobs at fair wages that reward work.

Enhancing Retirement Security: Like skills development, economic security is a lifelong concern. The Department will continue to do all it can to safeguard the health and pension benefits of American workers and retirees, urge workers to save on their own for retirement, and encourage employers to establish pension plans for their workers.

Safe, Fair, and Equal Opportunity Workplaces: In this intensely competitive global economy, smart employers must utilize all of the talent that is available to them. The Department is working with employers to prevent workplace discrimination and to help them recognize the benefits of ensuring equal opportunity for all workers. DOL is also committed to doing all it can to guarantee safety and health in the workplace and to obtain compliance with other important labor standards such as the minimum wage, overtime, and family and medical leave requirements. The Department's ultimate goal is full compliance with employment laws which will ensure workers a safe and fair workplace.

Helping Working Americans Balance Work and Family: The fifth goal is to help workers balance work and family—this is simply good business and good for family values.

Regulatory Priorities

The Employment Standards Administration's (ESA's) Wage and Hour Division is responsible for implementing and enforcing several statutes establishing minimum labor standards that protect the Nation's work force, including the Fair Labor Standards Act (FLSA), the Migrant and Seasonal Agricultural Worker Protection Act, the Family and Medical Leave Act, the Service Contract Act, the Davis-Bacon Act, the Employee Polygraph Protection Act, and certain provisions of the Immigration and Nationality Act. These labor standards include requirements for payment of minimum wages and overtime pay, protections for working youth under child labor standards, job protection for employees who take leave for certain family or medical reasons, and minimum working conditions for agricultural workers. The regulatory activities required to implement these statutory responsibilities represent an important aspect of the Division's work—affecting over 100 million employees in the work force. When developing regulatory proposals, the Division's focus is to assure fair, safe, and healthful workplaces for the Nation's workers, while at the same time providing clear compliance guidance and minimizing burdens on the regulated community.

Updating the child labor regulations issued under the Fair Labor Standards Act (FLSA) will help guarantee a safe, healthy, and fair workplace for the Nation's working youth to balance their education with job-related experiences. Many workers first gain job-related skills through their initial exposure to work as teenagers. Updated child labor regulations that better reflect today's workplace will ensure that young workers are employed in safe jobs that give them the opportunity to gain the skills necessary to find and hold good jobs with the potential to increase their earnings over time. Ensuring safe and reasonable work hours for working youth will also ensure that top priority is given to education while allowing young workers to contribute to their family's income. The updated child labor regulations will assist families as they strive to balance the demands of work and family.

Updating and clarifying the criteria that define the minimum wage and overtime exemptions for "executive," "administrative," "professional," and "outside sales" employees under the

FLSA and clarifying when "helpers" may be used on federally funded and assisted construction contracts covered by the prevailing wage requirements of the Davis-Bacon and related acts, will also help guarantee workers a safe, healthy, and fair workplace. Revising and updating these regulations will help employers meet their obligations voluntarily and enhance employees' understanding of their rights and benefits.

ESA's Office of Federal Contract Compliance Programs (OFCCP) is charged with enforcing the requirements of Executive Order 11246, selected provisions of the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA), and Section 503 of the Rehabilitation Act of 1973. Regulations issued under the Executive order and the two Acts cover nondiscrimination and affirmative action obligations for Federal contractors and subcontractors. They help to ensure that workplace policies and practices are fair and provide equal opportunity to all workers. OFCCP's regulatory plan entry, the proposed amendments to regulations implementing Executive Order 11246, some of which became effective September 18, 1997, will streamline and clarify the existing regulatory language and reduce paperwork requirements of covered Federal contractors while ensuring that their obligations under the Executive Order and the two Acts are met.

The mission of the Mine Safety and Health Administration (MSHA) is to protect the safety and health of the Nation's miners—an essential part of the Secretary's goal to guarantee workers a safe and healthful workplace. The Federal Mine Safety and Health Act of 1977 (Mine Act) places primary responsibility for preventing unsafe and unhealthful working conditions in mines on the mine operators, with the assistance of the miners. It requires MSHA to determine compliance with Federal safety and health standards through inspections and investigations and to work cooperatively with States and the mining industry to improve training programs aimed at preventing accidents and occupationally caused diseases.

MSHA is committed to providing the Nation's miners a safer and healthier workplace. Despite MSHA's efforts, miners face safety and health hazards daily at levels unknown in most other occupations. Government intervention alone cannot eliminate occupational deaths, injuries, and illnesses in mining. The commitment of miners and mine operators is also needed. MSHA's 1997 regulatory plan reflects this commitment. It concentrates on improving existing health and safety standards and addressing emerging health and safety hazards in mining—especially occupational exposure to coal mine dust, noise, and diesel exhaust particulate. Also included in MSHA's plan is the update of metal and nonmetal electrical standards. Coal mine dust, noise, diesel exhaust particulate, and electrical hazards are pervasive in all types of mines; that is, surface and underground mines and large and small mines.

While there have been significant reductions in levels of respirable coal mine dust over the years, some miners exposed to respirable coal mine dust at certain mine operations continue to develop coal workers' pneumoconiosis (black lung) and silicosis. In February 1996, the Secretary of Labor convened a Federal advisory committee (Committee) to assess the adequacy of MSHA's current coal dust program and standards, as well as other ways to eliminate black lung and silicosis among coal miners. The Committee submitted its report to the Secretary in November 1996. MSHA has published an internal administrative letter to implement some of the Committee's recommendations. MSHA intends to develop additional policy letters and one or more proposed rules to implement other recommendations of the Committee.

MSHA also has determined that its existing standards for exposure to noise are not adequate. Many miners are exposed to the maximum noise levels currently permitted by MSHA regulations and, as a result, may be suffering hearing impairments. MSHA's final noise rule will improve the level of protection provided by existing standards.

To complement the recently published diesel-powered equipment standard, MSHA intends to issue a separate proposed rule for diesel particulate to reduce the potential health hazards associated with the exhaust emitted by diesel-powered equipment in the confined mining environment. MSHA has been concerned about the link between serious lung diseases and exposure to exhaust from diesel equipment, particularly given the increasing use of diesel equipment and the difficulty in controlling air quality in underground mines.

In addition, MSHA believes its existing electrical standards for metal and nonmetal mines have proven inadequate to prevent injuries from improper grounding, despite substantial regulation and enforcement. MSHA's proposed rule will update these standards.

Several years ago, the Occupational Safety and Health Administration (OSHA) recognized the need to find a better way to carry out its mission—to save the lives and improve the safety and health of America's working men and women. As a result, it has changed its fundamental mode of operation from one of command and control to one that provides employers with a real choice between partnership with OSHA and a traditional enforcement relationship. In the regulatory arena, this meant that OSHA had to change its regulatory approach to establish clear and sensible priorities, emphasize consensus-based approaches to rulemaking, focus on developing a basic safety and health programs rule, and eliminate out-of-date, confusing, or duplicative rules from the books.

The eight regulations in OSHA's regulatory plan directly support OSHA's mission as well as the Secretary's goal of safe workplaces. Each regulation is designed to reduce occupational deaths, injuries, and illnesses among America's workers or to enhance compliance through "plain English" revision of detailed, outdated, and confusing regulations. OSHA's plan entries address the causes of the most dangerous occupational injuries; i.e., those with fatal or disabling consequences, those affecting large numbers of workers, those for which recognized solutions are available, or those identified as top priorities by the Agency's priority planning process. In addition, some entries, such as OSHA's revision to its reporting and recordkeeping system, are included because employers, employees, academics, and safety and health professionals have long recognized these efforts as essential to obtaining better data on workplace injuries, fatalities, and illnesses.

Some of OSHA's standards, particularly those adopted wholesale from national consensus standards in 1971, are written in highly detailed, specification-driven language that limits compliance flexibility. To address these problems, OSHA has launched a series of initiatives aimed at streamlining and rationalizing the Agency's regulations and ensuring that all future OSHA rules will pass plain English and common sense tests. In addition, the Agency is actively soliciting input from stakeholders—business, labor, small employers, professional associations, and affected government entities—as it moves forward on these rulemaking initiatives. The OSHA rules in the 1997 regulatory plan reflect the rulemaking approach that is being followed by the "New OSHA." For example, the Agency is actively working with stakeholders to lower the permissible exposure limits (PELs) for a group of hazardous air contaminants that both OSHA and the regulated community recognize are too high to provide adequate worker protection. The rulemaking requires the development of new risk assessment methods for linking exposure to these substances to such potentially life-threatening effects as neurological damage, occupational asthma, and heart disease. The first rulemaking stage will be reached in this important initiative when OSHA issues a proposal in the spring of 1998.

One of the most important regulatory initiatives ever undertaken by OSHA—development of a safety and health programs rule—is the centerpiece of the Agency's current regulatory plan. This standard will ensure that employers in all industries treat worker protection as a fundamental goal of their business and will help employers identify job-related hazards in the workplace, correct those so identified, and prevent others from occurring. Evidence of the effectiveness of safety and health programs in achieving OSHA's ultimate goal—the prevention of deaths, injuries, and illnesses on the job—is widespread and growing daily, as more and more companies report that their accident rates and their workers' compensation costs have fallen after the implementation of such programs. During the past 2 years, OSHA has held a series of stakeholder meetings designed to identify ways of meeting the business community's need for a strong but simple rule and of recognizing existing safety and health programs that are demonstrably effective. OSHA has recently completed a series of regional meetings with small businesses to gain input on the rule at the grassroots level. The Department believes that, by actively involving both employers and employees in the implementation of safety and health programs, this standard will help to produce the high-performance workplaces of tomorrow.

In summary, OSHA's regulatory strategy is designed to achieve a body of standards that will make sense to ordinary people and protect the safety and health of the U.S. work force.

The Pension and Welfare Benefits Administration's (PWBA) regulatory priorities for the 1997 regulatory plan will continue to build on legislative efforts to simplify and otherwise facilitate compliance with benefit laws, to improve pension and welfare plan coverage, and to protect the benefits of American workers. PWBA's top regulatory priorities will involve implementation of the three key legislative initiatives addressing improved health care protections for the American people: The Health Insurance Portability and Accountability Act of 1996, which guarantees increased portability of health care coverage through restrictions on preexisting condition limitations and protection from discrimination in health care coverage on the basis of health status; the Mental Health Parity Act of 1996, which provides for parity in the application of limitations on mental health benefits; and the Newborns' and Mothers' Protection Act of 1996, which provides protection for mothers and their newborn children with regard to the length of hospital stays following the birth of a child.

PWBA's other top regulatory priority is the publication, in conjunction with the Internal Revenue Service and the Pension Benefit Guaranty Corporation, of simplified annual return/report forms (the Form 5500 Series) for all employee benefit plans subject to the Employee Retirement Income Security Act's (ERISA) annual reporting requirements.

Section 5001 of the Balanced Budget Act of 1997 authorized the Department of Labor to provide Welfare-to-Work Grants to State and local communities to create additional job opportunities for the hardest-to-employ recipients of the Temporary Assistance for Needy Families (TANF)—the new system of block grants created by passage of the new welfare reform legislation. The Employment and Training Administration (ETA) will issue planning guidance under this recently enacted legislation. Moving people from welfare to work is not only a primary goal of Federal welfare to work opportunities but specifically responds to the Secretary of Labor's goal of promoting welfare-to work opportunities. Guidance and regulations will reflect minimal amplification of the law and will be written only when further information or clarification is needed to make the program operational. Reporting requirements will assure program integrity and provide timely information for tracking performance against established standards. Performance standards will be consistent with long-term goals and will support potential evaluation criteria under a long-term evaluation. Wherever possible, existing regulations and systems will be used.

ETA has contacted its stakeholders for their ideas and concerns about this new initiative. ETA's plan is to convene National Forum meetings as necessary for amplification, expansion, discussion, and identification of additional issues.

DOL—Employment Standards Administration (ESA)

PROPOSED RULE STAGE

67. GOVERNMENT CONTRACTORS: NONDISCRIMINATION AND AFFIRMATIVE ACTION OBLIGATIONS (ESA/OFCCP) (SECTION 610 REVIEW)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

EO 11246, as amended; 38 USC 4212; 29 USC 793

CFR Citation:

41 CFR 60-1; 41 CFR 60-2; 41 CFR 60-20; 41 CFR 60-30; 41 CFR 60-50; 41 CFR 60-60; 41 CFR 60-250; 41 CFR 60-741; 41 CFR 60-742; 41 CFR 60-4

Legal Deadline:

None

Abstract:

These regulations cover nondiscrimination and affirmative action obligations of Federal contractors under Executive Order 11246, as amended; 38 USC 4212 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; and section 503 of the Rehabilitation Act of 1973, as amended (section 503). The NPRM published 08/25/81 and supplemented on 04/23/82 extended the effective date of a final rule published 12/30/80 and proposed amendments to that rule. The NPRM published 5/21/96 proposed revisions to reduce burdens on the regulated community and to improve the administration of the Executive

Order. OFCCP's review of regulatory options continues with emphasis on streamlining and clarifying the regulatory language and reducing paperwork requirements associated with compliance.

Statement of Need:

Parts of the regulations implementing Executive Order 11246 need to be revised to reflect changes in the law that have occurred over time, streamlined, and clarified. Executive Order 11246 requires all Federal contractors and subcontractors and federally assisted construction contractors and subcontractors to apply a policy of nondiscrimination and affirmative action in employment with respect to race, color, religion, sex, and national origin. The regulatory revisions are necessary in order to allow the DOL to effectively and efficiently enforce the provisions of the Executive Order. As a first step in updating its Executive Order regulations, the Department proposed changes to the provisions that govern preaward review requirements; recordkeeping and record retention requirements; certification requirements; and related provisions. In addition, revisions will be made that will conform Executive Order 11246 regulations to the recent changes made in the Department's regulations implementing section 503 of the Rehabilitation Act.

A second phase of revision will contain proposals to change provisions that govern requirements for written affirmative action plans and the provisions concerning evaluation of contractor procedures.

Summary of the Legal Basis:

No aspect of this action is required by statute or court order.

Alternatives:

After careful review, it was decided that the most effective way to improve compliance with the Executive Order 11246 provisions, and reduce burdens on contractors, was to propose revisions to these regulations. Administrative actions alone could not produce the desired results. A determination was also made to publish revisions to the remaining regulatory provisions of the Executive Order at a later date so that careful consideration can be given to what changes are needed in each of the parts of the regulations.

Anticipated Costs and Benefits:

It is anticipated that the net effect of the proposed changes will increase compliance with the nondiscrimination and affirmative action requirements of the Executive Order and reduce compliance costs to Federal contractors. The Department will also be able to utilize its resources more efficiently and more effectively.

Risks:

An assessment of the magnitude of the risk addressed by this action and how it relates to other risks within the jurisdiction of DOL will be prepared once decisions are reached on specific proposed changes in Executive Order 11246.

Timetable:

Action	Date	FR Cite
ANPRM	07/14/81	46 FR 36213
NPRM Compliance Reviews (60-1)	05/21/96	61 FR 25516
NPRM Compliance Reviews (60-60)	05/21/96	61 FR 25516
Final Compliance Reviews (60-1)	08/19/97	62 FR 44174
Final Compliance Reviews (60-60)	08/19/97	62 FR 44174
NPRM Affirmative Action Plans (60-2)	02/00/98	
Final Affirmative Action Plans (60-2)	04/00/98	

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State

Additional Information:

Under the reinventing government initiative, OFCCP's emphasis is on regulatory reform, e.g., to revise the Executive Order 11246 regulations to reduce paperwork burdens, eliminate unnecessary regulations, and simplify and clarify the regulations while improving the efficiency and effectiveness of the contract compliance program.

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DOL—ESA

68. CHILD LABOR REGULATIONS, ORDERS, AND STATEMENTS OF INTERPRETATION (ESA/W-H)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

29 USC 203(e)

CFR Citation:

29 CFR 570

Legal Deadline:

None

Abstract:

Section 3(l) of the Fair Labor Standards Act requires the Secretary of Labor to issue regulations with respect to minors between 14 and 16 years of age ensuring that the periods and conditions of their employment do not interfere with their schooling, health, or well-being. The Secretary is also directed to designate occupations that may be particularly hazardous for minors 16 and 17 years of age. Child Labor Regulation No. 3 sets forth the permissible industries and occupations in which 14- and 15-year-olds may be employed, and specifies the number of hours in a day and in a week, and time periods within a day, that such minors may be employed. The Department has invited public comment in considering whether changes in technology in the workplace and job content over the years require new hazardous occupation orders, and review of some of the applicable hazardous occupation orders and the method of their promulgation. Comment has also been solicited on whether revisions should be considered in the permissible hours and time of day standards for 14- and 15-year-olds. Comment has been sought on appropriate changes required to implement school-to-work transition programs. Additionally, Congress enacted Public Law 104-174 (August 6, 1996), which amended FLSA section 13(c) and requires changes in the regulations under Hazardous Occupation Order No. 12, regarding power-driven paper balers and compactors, to allow 16- and 17-year olds to load, but not operate or unload, machines meeting applicable American National Standards Institute (ANSI)

safety standards and certain other conditions.

Statement of Need:

Because of changes in the workplace and the introduction of new processes and technologies, the Department is undertaking a comprehensive review of the regulatory criteria applicable to child labor. Other factors necessitating a review of the child labor regulations are changes in places where young workers find employment opportunities, the existence of differing Federal and State standards, and the divergent views on how best to correlate school and work experiences.

Under the Fair Labor Standards Act, the Secretary of Labor is directed to provide by regulation or by order for the employment of youth between 14 and 16 years of age under periods and conditions which will not interfere with their schooling, health and well-being. The Secretary is also directed to designate occupations that may be particularly hazardous for youth between the ages of 16 and 18 years or detrimental to their health or well-being. The Secretary has done so by specifying, in regulations, the permissible industries and occupations in which 14- and 15-year-olds may be employed, and the number of hours per day and week and the time periods within a day in which they may be employed. In addition, these regulations designate the occupations declared particularly hazardous for minors between 16 and 18 years of age or detrimental to their health or well-being.

Public comment has been invited in considering whether changes in technology in the workplace and job content over the years require new hazardous occupation orders or necessitate revision to some of the existing hazardous orders. Comment has also been invited on whether revisions should be considered in the permissible hours and time-of-day standards for the employment of 14- and 15-year-olds, and whether revisions should be considered to facilitate school-to-work transition programs. When developing regulatory proposals (after receipt of public comment on the advance notice of proposed rulemaking), the Department's focus will be on assuring healthy, safe and fair workplaces for young workers, and at the same time promoting job opportunities for young people and making regulatory standards less burdensome to the regulated community.

Alternatives:

Regulatory alternatives will be developed based on the public comments responding to the advance notice of proposed rulemaking. Alternatives likely to be considered include specific additions or modifications to the hazardous occupation orders and changes to the hours 14- and 15-year-olds may work.

Anticipated Costs and Benefits:

Preliminary estimates of the anticipated costs and benefits of this regulatory action will be developed once decisions are reached on particular proposed changes in the child labor regulations. Benefits will include safer working environments and the avoidance of injuries with respect to young workers.

Risks:

An assessment of the magnitude of the risk addressed by this action will be prepared once decisions are reached on particular proposed changes in the child labor regulations.

Timetable:

Action	Date	FR Cite
Final Action on HOs 2, 10, 12	11/20/91	56 FR 58626
Final Action Effective Date	12/20/91	
ANPRM	05/13/94	59 FR 25167
ANPRM Comment Period End	08/11/94	59 FR 40318
NPRM	01/00/98	

Small Entities Affected:

None

Government Levels Affected:

None

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DOL—ESA

69. DEFINING AND DELIMITING THE TERM "ANY EMPLOYEE EMPLOYED IN A BONA FIDE EXECUTIVE, ADMINISTRATIVE, OR PROFESSIONAL CAPACITY" (ESA/W-H)

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect State, local or tribal governments and the private sector.

Legal Authority:

29 USC 213(a)(1)

CFR Citation:

29 CFR 541

Legal Deadline:

None

Abstract:

These regulations set forth the criteria for exemption from the Fair Labor Standards Act's minimum wage and overtime requirements for "executive," "administrative," "professional" and "outside sales employees." To be exempt, employees must meet certain tests relating to duties and responsibilities and be paid on a salary basis at specified levels. A final rule increasing the salary test levels was published on January 13, 1981 (46 FR 3010), to become effective on February 13, 1981, but was indefinitely stayed on February 12, 1981 (46 FR 11972). On March 27, 1981, a proposal to suspend the final rule indefinitely was published (46 FR 18998), with comments due by April 28, 1981. As a result of numerous comments and petitions from industry groups on the duties and responsibilities tests, and as a result of recent case law developments, the Department concluded that a more comprehensive review of these regulations was needed. An ANPRM reopening the comment period and broadening the scope of review to include all aspects of the regulations was published on November 19, 1985, with the comment period subsequently extended to March 22, 1986.

The Department has revised these regulations since the ANPRM to address specific issues. In 1991, as the result of an amendment to the Fair Labor Standards Act (FLSA), the regulations were revised to permit certain computer systems analysts,

computer programmers, software engineers, and other similarly skilled professional employees to qualify for the exemption, including those paid on an hourly basis if their rates of pay exceed 6-1/2 times the applicable minimum wage. Also, in 1992 the Department issued a final rule which provided, in part, that an otherwise exempt public sector employee would not be disqualified from the exemption's requirement for payment on a "salary basis" solely because the employee is paid according to a public pay and leave system that, absent the use of paid leave, requires the employee's pay to be reduced for absences of less than one workday. In addition, a number of court rulings have caused confusion on the factors to consider in meeting the regulation's "salary basis" criteria, in both the public and private sectors.

Statement of Need:

These regulations set forth the criteria used in the determination of the application of the FLSA exemption for "executive," "administrative," "professional," and "outside sales employees." The existing salary test levels used in determining which employees qualify as exempt from the minimum wage and overtime rules were adopted in 1975 on an interim basis. These salary level tests are outdated and offer little practical guidance in the application of the exemption. In addition, numerous comments and petitions have been received in recent years from industry groups regarding the duties and responsibilities tests in the regulations. These factors, as well as recent case law developments, have led the Department to conclude that a review of these regulations is needed.

These regulations have been revised in recent years to deal with specific issues. In 1991, as the result of an amendment to the FLSA, the regulations were revised to permit certain computer systems analysts, computer programmers, software engineers, and other similarly skilled professional employees to qualify for the exemption, including those paid on an hourly basis if their rates of pay exceed 6 1/2 times the applicable minimum wage. Also in 1991, the Department undertook separate rulemaking on another aspect of the regulations, the definition of "salary basis" for public-sector employees. This interim final rule provided, in part, that an otherwise exempt public-sector employee would not be disqualified from the exemption's requirement for payment on a "salary basis" solely because the employee is paid according to a public pay and leave system that, absent the use of paid leave, requires the employee's pay to be reduced for absences of less than one workday. In 1992, the Department issued its final rule on this matter.

Because of the limited nature of these revisions, the regulations are still in need of updating and clarification. In addition, recent court rulings have caused confusion as to what constitutes compliance with the regulation's "salary basis" criteria in both the public and private sectors.

Alternatives:

The Department will involve affected interest groups in developing regulatory alternatives. Following completion of these outreach and consultation activities, full regulatory alternatives will be developed.

Although legislative proposals have been introduced in the Congress to address certain aspects of these regulations, the Department will continue to pursue revisions to the regulations as the appropriate response to the concerns raised. Alternatives likely to be considered include particular changes to address "salary basis" and salary level issues to a comprehensive overhaul of the regulations that also addresses the duties and responsibilities tests.

Anticipated Costs and Benefits:

Some 23 million employees are estimated to be within the scope of these regulations. Legal developments in court cases are causing progressive loss of control of the guiding interpretations under this exemption and are creating law without considering a comprehensive analytical approach to current compensation concepts and workplace practices. These court rulings are creating apprehension in both the private and public sectors. Clear, comprehensive, and up-to-date regulations would provide for central, uniform control over the application of these regulations and ameliorate this apprehension. In the public sector, State and local government employers contend that the rules are based on production workplace environments from the 1940s and 1950s, and that they do not readily adapt to contemporary government functions. The Federal government also has concerns regarding the manner in which the courts and arbitration decisions are applying the exemption to the Federal workforce. Resolution of confusion over how the regulations are to be applied in the public sector will ensure that employees are protected, that employers are able to comply with their responsibilities under the law, and that the regulations are enforceable. Preliminary estimates of the specific costs and benefits of this regulatory action will be developed once the various regulatory alternatives are identified.

Risks:

This action does not affect public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
Indefinite Stay of Final Rule	02/12/81	46 FR 11972
Proposal To Suspend Rule Indefinitely	03/27/81	46 FR 18998
ANPRM	11/19/85	50 FR 47696
Extension of ANPRM Comment Period From 01/21/86 to 03/22/86	01/17/86	51 FR 2525
ANPRM Comment Period End	03/22/86	51 FR 2525
NPRM	09/00/98	

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Federal

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DOL—ESA

70. PROCEDURES FOR PREDETERMINATION OF WAGE RATES (29 CFR PART 1) AND LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (29 CFR PART 5)

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect State, local or tribal governments and the private sector.

Legal Authority:

40 USC 276a to 276a(7)

CFR Citation:

29 CFR 1; 29 CFR 5

Legal Deadline:

None

Abstract:

The Department attempted to implement revised rules governing the circumstances in which "helpers" may be used on federally funded and assisted construction contracts subject to the Davis-Bacon Act in May 1982 (see 47 FR 23644, 23658 (May 28, 1982); 47 FR 32090 (July 20, 1982)). After protracted litigation, a final rule was published in January 1989 (see 54 FR 4234) which became effective on February 4, 1991. Thereafter, on two occasions, Congress acted to prevent the Department from expending any funds to implement these revised helper regulations—through the Dire Emergency Supplemental Appropriations Act of 1991, PL 102-27, 105 Stat. 130,151 (1991), and then through section 104 of the DOL Appropriations Act of 1994, PL 103-112. There is no such prohibition in the DOL's Appropriations Act for fiscal year 1997, Public Law 104-208 (September 30, 1996). Given the uncertainty of continuation of such moratoriums, the Department has determined that the helper issue needs to be addressed through further rulemaking. A notice inviting public comment on a proposal to continue the suspension of the former helper regulations while the Department conducts additional rulemaking proceedings was published August 2, 1996 (61 FR 40366). A final rule continuing the suspension while further rulemaking is considered was published December 30, 1996 (61 FR 68641).

Statement of Need:

The current helper rules are difficult to administer and enforce, and--as evidenced by the prolonged litigation history and subsequent Congressional actions--are highly controversial. In May 1982, the Department attempted to implement revised rules governing the circumstances in which "helpers" may be used on federally funded and assisted construction contracts subject to the Davis-Bacon Act. After protracted litigation, a final rule was published in January 1989 and became effective on February 4, 1991. Thereafter, on two occasions, Congress acted to prevent the Department from expending any funds to implement these revised helper regulations through appropriations riders. Given the uncertainty of continuation of such moratoriums, the Department has determined that the helper issue needs to be addressed through further rulemaking. No such prohibition applies under DOL's Appropriations Act for fiscal year 1997, PL 104-208 (September 30, 1996).

Alternatives:

The Administration has determined that there are only limited alternatives to addressing this issue through rulemaking, in addition to possible legislative changes.

Anticipated Costs and Benefits:

A new rulemaking regarding the helper criteria will seek to make administration of the Davis-Bacon Act more efficient by establishing reasonable "helper" criteria and methodology--thus resolving the controversy and uncertainty currently experienced by interested parties. Changes in the helper regulations may affect prior estimates of potential construction procurement cost savings anticipated from the earlier rulemaking. Estimates of the financial impacts of revised "helper" regulations will be prepared for inclusion in the NPRM.

Risks:

This action does not affect public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM Continue Suspension	08/02/96	61 FR 40367
Final Continue Suspension	12/30/96	61 FR 68641
NPRM	01/00/98	

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Tribal, Federal

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DOL—Employment and Training Administration (ETA)

FINAL RULE STAGE

71. • WELFARE TO WORK GRANTS

Priority:

Other Significant

Legal Authority:

42 USC 603(a)(5)(C)(viii)

CFR Citation:

Not yet determined

Legal Deadline:

Final, Statutory, November 3, 1997.

90 days from enactment

Abstract:

The Employment and Training Administration is proposing to publish regulations covering the implementation of the Welfare-to-Work Grants Program. The Personal Responsibility and Work Opportunity Reconciliation Act reformed the Nation's welfare laws, when enacted in August 1996, by creating a new system of block grants to the States for Temporary Assistance for Needy families (TANF). Moving people from welfare to work is one of the primary goals of Federal welfare policy as well as one of five goals the Secretary of Labor has identified for the Department of Labor. Section 5001 of the Balanced Budget Act of 1997 authorized the Department of Labor to provide Welfare-to-Work Grants to States and local communities to create additional job opportunities for the hardest-to-employ recipients of TANF. The Welfare-to-Work Grants will be provided to the States through the use of a formula, and in a competitive process to local communities. A small amount of total grant funds will be set aside for special purposes: One percent for Indian tribes, 0.8 percent for

evaluation; and $100 million for performance bonuses to successful States.

The proposed regulations and other guidance will focus on providing maximum local flexibility. Guidance and regulations will reflect minimal amplification of the law and will be written only when further information or clarification is needed to make the program operational. Existing regulations and systems will be used wherever possible. Reporting requirements will assure program integrity and provide timely information for tracking performance against established standards. Performance standards established will be consistent with long-term goals and support potential evaluation criteria under a long-term evaluation. Products provided will seek to link welfare agencies and workforce development system agencies at the operational level of service provision to welfare recipients in order to maximize resources available and avoid duplication and overlap. Leveraging of non-Federal resources at the State and local level will be encouraged.

These funds will allow States and local communities to help move eligible individuals into jobs by: job creation through public or private sector wage subsidies; on-the-job training; contracts with public or private providers of job readiness, job placement, and post-employment services; job vouchers for similar services; community service or work experience; or job retention and supportive services (if such services are not otherwise available).

Statement of Need:

Since the passage of the Personal Responsibility and Work Opportunity Reconciliation Act, the President and the Congress recognized the need for a measure to complement the Temporary Assistance for Needy Families (TANF) block grant created as a result of the Act. On August 5, 1997, President Clinton signed into law the Balanced Budget Act of 1997, which authorized the Department of Labor to provide Welfare-to-Work Grants to States and local communities to create additional job opportunities for the hardest-to-employ recipients of TANF. The basic goal of the program is to move welfare recipients into unsubsidized jobs with good career potential for economic self-sufficiency. Welfare-to-Work formula and competitive grants provide States and local communities with an array of tools to help them accomplish this goal in ways that make sense and are most effective for their particular population needs. The Employment and Training Administration will issue regulations and other guidance, provide technical assistance, and establish performance standards which will drive State and local efforts towards the program's goal while still allowing maximum local flexibility.

Successful implementation of the Welfare Reform's efforts launched last year is a top Presidential priority. The Department of Labor and its partners must move quickly to mount this important new program. The law requires that regulations or other published guidance must be issued within 90 days.

Alternatives:

Regulatory alternatives will be developed once determinations have been made with regard to the scope and nature of the regulatory guidance which will be necessary to carry out the new provisions.

Anticipated Costs and Benefits:

Preliminary estimates of the anticipated costs of this regulatory action have not been determined at this time and will be determined at a later date. It is anticipated, however, that the successful implementation of this program will result in significant benefits to the nation. Welfare recipients will receive job placement and temporary, transitional employment opportunities leading to lasting employment and self-sufficiency. Employers will have ready access to a large pool of motivated, hard-working entry-level workers who will be eligible for job retention and support services to maintain employment. Businesses will be eligible to receive wage and on-the-job training subsidies when they hire the hard-to-employ welfare recipients.

Risks:

This action does not affect public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/97	

Small Entities Affected:

None

Government Levels Affected:

State, Local, Tribal

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DOL—Pension and Welfare Benefits Administration (PWBA)

PROPOSED RULE STAGE

72. REVISION OF THE FORM 5500 SERIES AND IMPLEMENTING AND RELATED REGULATIONS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (ERISA)

Priority:

Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

29 USC 1021; 29 USC 1022; 29 USC 1023; 29 USC 1024; 29 USC 1025; 29 USC 1026; 29 USC 1027; 29 USC 1029; 29 USC 1030; 29 USC 1059; 29 USC 1135; 29 USC 1166; 29 USC 1168

CFR Citation:

Not yet determined

Legal Deadline:

None

Abstract:

Under title I of ERISA, title IV of ERISA, and the Internal Revenue Service code, as amended, pension and other employee benefit plans are generally required to file return/reports annually concerning, among other things, the financial condition and operations of the plan. These annual reporting requirements are satisfied generally by filing the form 5500 series in accordance with its instructions and related regulations. The Department of Labor, IRS, and PBGC are undertaking a comprehensive review of the annual return/report forms in an effort to streamline the information required to be reported and the methods by which such information is filed and processed. The proposed revised form 5560 series and regulations are being developed as a result of that review.

Statement of Need:

This project was included in PWBA's Fall 1996 Regulatory Plan and will be included in the Fall 1997 Plan. The Form 5500 Series is the primary source of information concerning the operation, funding, assets and investments of pension and other employee benefit plans, and is both an important compliance and research tool for the Department, and a disclosure document for plan participants and beneficiaries and a source of information and data for use by other Federal agencies, Congress, and the private sector in assessing employee benefit, tax, and economic trends and policies.

The Department, the IRS and the PBGC are conducting a comprehensive review of the annual return/report forms in an effort to streamline the information required to be reported and the methods by which the information is filed and processed. The proposed revised Form 5500 Series and regulations are being developed as a result of this review.

Summary of the Legal Basis:

Title I of ERISA, sections 101 through 105, 107, 209, and 606, impose specific reporting and disclosure obligations on administrators of employee benefit plans. Section 104(a)(3) and 110 of ERISA provide the Secretary with the authority to prescribe exemptions and alternative methods of compliance for employee welfare benefit plans and employee pension benefit plans. Section 505 provides the Secretary with general authority to prescribe regulations necessary or appropriate to carry out the provisions of title I of ERISA.

Alternatives:

Amendments to implementing and related regulations will be developed once determinations have been made, in conjunction with other concerned agencies, with regard to the scope and nature of the revisions to the Form 5500 Series.

Anticipated Costs and Benefits:

By simplifying the Form 5500 Series and creating an automated processing system for the filed reports, it is anticipated that filer costs of preparing forms, and Government processing costs, will be reduced. It is the goal of the Department to eliminate reporting requirements for information that is not needed to discharge its statutory responsibilities, while ensuring that participants and beneficiaries have access to the information they need to protect their rights and benefits under ERISA.

Risks:

Failure to revise the Form 5500 Series Annual Reports for Employee Benefit Plans could deprive plans, sponsors and participants and beneficiaries, as well as the Government, of the cost savings and related benefits associated with streamlining the forms and their processing.

Timetable:

Action	Date	FR Cite
Proposed Forms Revisions	09/03/97	62 FR 46156
Proposed Forms Comment Period End	11/03/97	

Small Entities Affected:

Undetermined

Government Levels Affected:

Undetermined

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DOL—PWBA

FINAL RULE STAGE

73. REGULATIONS IMPLEMENTING THE HEALTH CARE ACCESS, PORTABILITY AND RENEWABILITY PROVISIONS OF THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

PL 104-91 section 101; 29 USC 1027; 29 USC 1059; 29 USC 1135; 29 USC 1171; 29 USC 1172; 29 USC 1177

CFR Citation:

Not yet determined

Legal Deadline:

NPRM, Statutory, April 1, 1997.

Per Section 707 of ERISA, as added by Section 101 of HIPAA

Abstract:

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) amended title I of ERISA by adding a new part 7, designed to improve health care access, portability and renewability. This rulemaking will provide regulatory guidance to implement these provisions.

Statement of Need:

HIPAA added a new part 7 to title I of ERISA, containing provisions designed to improve the availability and portability of health insurance coverage. Part 7 includes provisions limiting exclusions for preexisting conditions and providing credit for prior coverage, guaranteeing availability of health coverage for small employers, prohibiting discrimination against employees and dependents based on health status, and guaranteeing renewability of health coverage to employers and individuals. Section 702(g)(4), also added by HIPAA, provides that the Secretary shall, consistent with section 104 of HIPAA, first issue by not later than April 1, 1997, such regulations as may be necessary to carry out these provisions.

Alternatives:

Regulatory alternatives will be developed once determinations have been made, in conjunction with other concerned agencies, with regard to the scope and nature of the regulatory guidance which will be necessary to carry out the new provisions.

Anticipated Costs and Benefits:

Preliminary Estimates of the anticipated costs and benefits of the regulatory actions found to be necessary to implement the new provision will be developed once decisions are reached on which specific actions are necessary.

Risks:

Failure to provide regulatory guidance necessary to carry out these important health care reforms would adversely impact the availability and portability

of health insurance coverage for American families.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/08/97	62 FR 16894
Interim Final Rule Effective	06/07/97	
Interim Final Rule Comment Period End	07/07/97	
Final Action	12/00/98	

Small Entities Affected:

Undetermined

Government Levels Affected:

None

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DOL—PWBA

74. AMENDMENT OF SUMMARY PLAN DESCRIPTION AND RELATED ERISA REGULATIONS TO IMPLEMENT STATUTORY CHANGES IN THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

PL 104-191 section 101; PL 104-204 section 603

CFR Citation:

29 CFR 2520.102-3; 29 CFR 2520.104b-1; 29 CFR 2520.104b-3

Legal Deadline:

NPRM, Statutory, April 1, 1997.

Per Section 707 of ERISA, as added by Section 101 of HIPAA.

Abstract:

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) amended ERISA's summary plan description (SPD) and related reporting and disclosure provisions to require that participants and beneficiaries receive from their group health plans: (i) more timely notice if there is a material reduction in services or benefits under the plan; (ii) more information regarding the financing and administration of the plan; and (iii) specific identification of Department of Labor offices through which they can seek assistance or information about HIPAA. This rulemaking will amend the Department's SPD and related regulations to implement those statutory changes.

Statement of Need:

The existing SPD and related reporting and disclosure provisions need to be revised to reflect the changes made by HIPAA. HIPAA's statutory changes modify the requirements concerning the manner and timing of how certain important plan information is communicated to participants and beneficiaries by plan administrators. Without revised regulatory guidance, administrators may not be able to improve the timely disclosure of plan information on both a quantitative and qualitative basis. HIPAA also requires the Secretary to issue regulations within 180 days after its enactment providing alternative mechanisms to delivery by mail through which group health plans may notify participants and beneficiaries of material reductions in covered services or benefits.

Alternatives:

Regulatory alternatives will be developed once determinations have been made with regard to the scope and nature of the regulatory guidance which will be necessary to carry out the new provisions.

Anticipated Costs and Benefits:

Estimates of the anticipated costs and benefits of the regulatory actions found to be necessary to implement the new provision will be developed once decisions are reached on which specific actions are necessary.

Risks:

The SPD is a critical plan document for participants and beneficiaries. Without access to accurate and timely information, participants and beneficiaries will not be able to protect their rights under ERISA. Improved disclosure requirements also should serve to facilitate compliance by plan administrators, thereby reducing litigation and penalty risks to plan administrators. The failure to issue revised disclosure regulations also may result in a failure to achieve HIPAA's objective of improving the disclosure of plan information.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/08/97	62 FR 16979
Interim Final Rule Comment Period End	05/31/97	
Interim Final Rule Effective	06/01/97	
Final Action	06/00/98	

Small Entities Affected:

Undetermined

Government Levels Affected:

None

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DOL—PWBA

75. • INTERIM RULES RELATING TO MENTAL HEALTH BENEFITS PARITY

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

29 USC 1135; 29 USC 1182 (PL 104-204; 110 Stat 2944); 29 USC 1194

CFR Citation:

Not yet determined

Legal Deadline:

None

Abstract:

The Mental Health Parity Act of 1996 (MHPA) was enacted on September 26, 1996 (P.L. 104-204). MHPA amended the Public Health Service Act (PHSA) and the Employee Retirement Income Security Act of 1974, as amended, (ERISA) to provided for parity in the application of limits on certain mental health benefits with limits on medical and surgical benefits. MHPA provisions are set forth in title XXVII of the PHSA and part 7 of Subtitle B of title I of ERISA. The interim rules will provide guidance with regard to the provisions of the MHPA.

Statement of Need:

These regulations are needed to provide guidance to the public concerning the application of the provisions of section 712 of ERISA, which provides for parity in the application of limits on certain mental health benefits with limits on medical and surgical benefits.

Summary of the Legal Basis:

Promulgation of these regulations is authorized by section 505 and 734 of ERISA.

Alternatives:

Regulatory alternatives will be developed once determinations have been made with regard to the scope and nature of the regulatory guidance which will be necessary to implement section 712 of ERISA.

Anticipated Costs and Benefits:

Preliminary estimates of the anticipated costs and benefits of the regulatory actions found to be necessary to implement the new provision will be developed once decisions are reached on which specific action are necessary.

Risks:

Failure to issue these regulations would be likely to impair compliance by group health plans with the requirements established by section 712 of ERISA for mental health benefits parity.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/97	

Small Entities Affected:

Undetermined

Government Levels Affected:

None

Additional Information:

LEGAL AUTHORITIES CONT: Secs. 107, 209, 505, 701-703, 711, 712, 731-734 of ERISA (29 U.S.C. 1027, 1059, 1135, 1171-1173, 1181, 1182, 1191-1194), as amended by HIPAA (Pub. L. 104-191, 101 Stat. 1936) and NMHPA (Pub. L. 104-204) and Secretary of Labor's Order No. 1-87, 52 FR 13139, April 21, 1987.

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DOL—PWBA

76. • INTERIM RULES RELATING TO HEALTH CARE STANDARDS FOR MOTHERS AND NEWBORNS

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

29 USC 1181 (PL 104-204; 110 Stat 2935); 29 USC 1135; 29 USC 1194

CFR Citation:

Not yet determined

Legal Deadline:

None

Abstract:

The Newborns' and Mothers' Health Protection Act of 1996 (NMHPA) was enacted on September 26, 1996 (PL 104-204). NMHPA amended the Public Health Service Act (PHSA) and the Employee Retirement Income Security Act of 1974, as amended, (ERISA) to provide protection for mothers and their newborn children with regard to the length of hospital stays following the birth of a child. NMHPA provisions are set forth in title XXVII of the PHSA and part 7 of Subtitle B of title I of ERISA. The interim rules will provide guidance with regard to the provisions of the NMHPA.

Statement of Need:

These regulations are needed to provide guidance to the public concerning the application of the provisions of section 711 of ERISA, which establishes requirements for group health plan standards for minimum hospital stays following birth.

Summary of the Legal Basis:

Promulgation of these regulations is authorized by sections 505 and 734 of ERISA.

Alternatives:

Regulatory alternatives will be developed once determinations have been made with regard to the scope and nature of the regulatory guidance which will be necessary to implement Section 711 of ERISA.

Anticipated Costs and Benefits:

Preliminary estimates of the anticipated costs and benefits of the regulatory actions found to be necessary to implement the new provision will be developed once decisions are reached on which specific actions are necessary.

Risks:

Failure to issue these regulations would be likely to impair compliance by group health plans with the new standards established by section 711 of ERISA for mothers' and newborns' health care.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/97	

Small Entities Affected:

Undetermined

Government Levels Affected:

None

Additional Information:

LEGAL AUTHORITY CONT: Secs. 107, 209, 505, 701-703, 711, 712, 731-734 of ERISA (29 U.S.C. 1027, 1059, 1135, 1171-1173, 1181, 1182, 1191-1194), and amended by HIPAA (Pub. L. 104-191, 101 Stat. 1936) and NMHPA (Pub. L. 104-204) and Secretary of Labor's Order No. 1-87, 52 FR 13139, April 21, 1987.

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DOL—Mine Safety and Health Administration (MSHA)

PRERULE STAGE

77. COAL MINE DUST

Priority:

Other Significant

Legal Authority:

30 USC 811; 30 USC 812

CFR Citation:

30 CFR 70; 30 CFR 71; 30 CFR 90

Legal Deadline:

None

Abstract:

The Federal Coal Mine Health and Safety Act of 1969 established the first comprehensive respirable dust standards for coal mines. These standards were designed to reduce the incidence of coal workers' pneumoconiosis ("black lung") and silicosis and eventually eliminate these diseases. While significant progress has been made toward improving the health conditions in our Nation's coal mines, miners continue to be at risk of developing occupational lung disease, according to the National Institute for Occupational Safety and Health (NIOSH). In February 1996, the Secretary convened a Federal Advisory Committee on the Elimination of Pneumoconiosis Among Coal Miners (Advisory Committee) to assess the adequacy of MSHA's current program and standards to control respirable dust in underground and surface coal mines, as well as other ways to eliminate black lung and silicosis among coal miners. The Committee submitted its report to the Secretary in November 1996, with the majority of the recommendations unanimously supported by the Committee members.

MSHA has completed a preliminary review of the Advisory Committee's recommendations. There are 20 principal recommendations set out in the Advisory Committee report, which are further subdivided into a total of approximately 100 distinct action items. The recommendations are both extensive and significant, and warrant thorough consideration by the Agency. MSHA, therefore, is proceeding with an in-depth evaluation of the recommendations and will respond to them in an orderly fashion.

MSHA has issued five Procedure Instruction Letters implementing some of the recommendations of the Advisory Committee. The Agency will notify the mining community as it determines how to implement other Advisory Committee recommendations.

Statement of Need:

Respirable coal mine dust levels in this country are significantly lower than they were 25 years ago. Despite this progress, there continues to be concern about the respirable coal-mine-dust sampling program and its effectiveness in presenting an accurate picture of exposure levels in mines. Such exposure levels are linked directly to the development of pneumoconiosis. In response to this concern, MSHA undertook an extensive review of the Agency's respirable coal-mine-dust program. The MSHA Coal Mine Respirable Dust Task Group Report, issued June 1992, found that vulnerabilities exist which could impact miner health protection and made recommendations for improving the monitoring program. The Advisory Committee also addressed this issue and made recommendations.

Alternatives:

MSHA will consider all of the Advisory Committee's recommendations carefully. Some recommendations could be adopted quickly through administrative changes. Other recommendations will demand longer-term consideration, research, or rulemaking.

The Agency also is evaluating the recommendations set forth in the NIOSH Criteria Document on Respirable Coal Mine Dust and the Agency's Dust Task Group Report to determine which proposed rules are warranted.

Anticipated Costs and Benefits:

MSHA is in the early stages of developing proposed rules and does not have cost estimates. As we proceed, however, we will develop estimates and make them available for public review. Benefits sought are reduced dust levels over a miner's working lifetime--the key to eliminating black lung and silicosis as a risk to coal miners. Enhanced protection to miners from these diseases will also reduce the cost of future black lung benefits and lead to lower operator insurance premiums.

Risks:

Respirable coal mine dust is one of the most serious occupational hazards in the mining industry. Long-term exposure to excessive levels of respirable coal mine dust can cause black lung and silicosis, which are both potentially disabling and can cause death. MSHA is pursuing both regulatory and nonregulatory actions to eliminate pneumoconiosis through the control of coal mine respirable dust levels and the reduction of miners' exposure.

Timetable:

Action	Date	FR Cite
Availability of Recommendations	11/26/96	61 FR 60120
Agency Response to Advisory Committee Recommendations	01/24/97	62 FR 3717
Policy Document - Phase 1 Press Release - Effective 6/15/97	05/05/97	
Policy Document - Phase 2	10/00/97	
Policy Document - Phase 3	12/00/97	
NPRM - Phase 4	04/00/98	

Small Entities Affected:

Businesses

Government Levels Affected:

None

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DOL—MSHA

PROPOSED RULE STAGE

78. DIESEL PARTICULATE

Priority:

Other Significant

Legal Authority:

30 USC 811

CFR Citation:

Not yet determined

Legal Deadline:

None

Abstract:

Several epidemiological studies have found that diesel exhaust presents potential health risks to workers. These possible health effects range from headaches and nausea to respiratory disease and cancer. In 1988, the National Institute for Occupational Safety and Health recommended that "whole diesel exhaust be regarded as a potential occupational carcinogen." In addition, in 1989 the International Agency for Research on Cancer concluded that "diesel engine exhaust is probably carcinogenic to humans."

In 1988, a Secretarial advisory committee made recommendations to the Secretary of Labor concerning safety and health standards for the use of diesel-powered equipment in underground coal mines. One of the recommendations was that the Secretary of Labor set in motion a mechanism whereby a diesel particulate standard could be set. Based on that recommendation, the Mine Safety and Health Administration (MSHA) published an advance notice of proposed rulemaking, in January 1992, seeking information relative to exposure limits, risk assessment, sampling and monitoring methods, and control feasibility. Because of the potential health risk, MSHA is investigating a variety of approaches that would control the exposure of miners to diesel particulate.

Statement of Need:

The use of diesel-powered equipment in both surface and underground mines has increased significantly and rapidly during the past decade. MSHA estimates that approximately 30,000 miners are occupationally exposed to diesel exhaust emissions in underground mines and another 200,000 are potentially exposed at surface operations.

Several epidemiological studies have shown a positive carcinogenic risk associated with exposure to diesel exhaust. Other reported health effects associated with exposure to diesel exhaust include dizziness, drowsiness, headaches, nausea, decreased visual acuity, and forced expiratory volume. In addition, studies by MSHA and the former Bureau of Mines show that miners working in underground mining operations that use diesel equipment are probably the most heavily exposed workers of any occupational group. Based on the levels of diesel particulate measured in underground mining operations and the evidence of adverse health effects associated with exposure to diesel exhaust, MSHA is concerned about the potential health risk to miners. MSHA currently has no health regulations that specifically address the exposure of miners to diesel particulate.

Alternatives:

In the Fall of 1995 MSHA held a series of public workshops to gather suggestions for possible approaches to limit miners' exposure to diesel particulate. In addition, over the past 10 years, MSHA and the former Bureau of Mines have conducted research on methodologies for the measurement and control of diesel particulate in the mining environment. This research has demonstrated that the use of low sulfur fuel, good engine maintenance, exhaust after-treatment, new engine technology, and optimized application of ventilating air all play a role in reducing miners' exposure to diesel exhaust particulate matter. MSHA therefore, is considering whether or not to require any of these methods or other approaches such as establishing a permissible exposure limit (PEL) to reduce miners' exposure to diesel exhaust particulate.

Anticipated Costs and Benefits:

MSHA is in the early stages of developing potential cost figures related to the various possible approaches in a proposed diesel particulate standard for surface and underground coal and metal and nonmetal mines. Costs will depend on the ultimate approach chosen, but will relate to engine control technology, fuel requirements, ventilation changes, sampling practices, and requirements for exhaust control devices on diesel-powered equipment.

The projected costs of technology development are expected to be somewhat minimized by research and development conducted by the former Bureau of Mines and others which resulted in a number of exhaust control devices that have proven effective and safe when properly maintained. In addition, low sulfur fuel is readily available because of current Environmental Protection Agency (EPA) regulations.

Benefits to health and safety would result from reducing miners' exposure to diesel particulate in workplaces where diesel-powered equipment is used. One such benefit would be a reduction in the incidence of potential illnesses associated with exposure to diesel exhaust particulate.

Risks:

Laboratory tests have shown diesel exhaust to be carcinogenic in rats, as well as toxic and mutagenic. In addition, several epidemiological studies have found that exposure to diesel exhaust presents potential health risks to workers. These potential adverse health effects range from headaches and nausea to respiratory disease and cancer. In the confined space of the underground mine environment, occupational exposure to diesel exhaust may present a greater hazard due to ventilation limitations and the presence of other airborne contaminants, such as toxic mine dusts or mine gases. The Agency believes that the health evidence forms a reasonable basis for exploring possible methods to reduce miners' exposure to diesel particulate.

Timetable:

Action	Date	FR Cite
ANPRM	01/06/92	57 FR 500
ANPRM Comment Period End	07/10/92	57 FR 7906
NPRM	02/00/98	

Small Entities Affected:

Businesses

Government Levels Affected:

Undetermined

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DOL—MSHA

79. ELECTRICAL STANDARDS FOR METAL AND NONMETAL MINES

Priority:

Other Significant

Legal Authority:

30 USC 811

CFR Citation:

30 CFR 56; 30 CFR 57

Legal Deadline:

None

Abstract:

Electric power is widely used in the mining and processing of minerals. Large, highly productive mining equipment, such as continuous miners, loaders, shuttle cars, draglines, shovels and drills, are electrically powered. In addition, electricity is used for the transportation of material on conveyors, for electric railroads, and for processing plants. MSHA's accident records related to inadequate equipment

grounding support the need for improved safety standards. The number of electrical accidents could be reduced by proper equipment grounding. The proposed rule would revise MSHA's existing safety standards addressing hazards associated with the grounding of circuits, equipment, and metal enclosures at surface and underground metal and nonmetal mines. The proposed standard would specify requirements for grounding conductors to ensure that safe methods of grounding are used.

Statement of Need:

There are two major types of electrical accidents. One type occurs when a miner inadvertently contacts energized parts. To protect against this hazard, MSHA standards require that electrically powered equipment be deenergized, and power switches be locked out to prevent equipment from being energized, before mechanical work is done; warning signs be posted at the power switch; principal power switches be labeled to show which units they control; danger signs be posted at major electrical installations; and nonconductive material be kept in place at all switchboards and power-control switches where shock hazards exist.

The other type of electrical accident occurs when a miner contacts energized metallic frames or enclosures that are normally not energized. Ground faults occur on the metallic frames or enclosures of electrical mine equipment causing shock hazards to miners.

Dust, vibration, corrosion, moisture, and heat, coupled with the additional wear and tear associated with the mining process, cause the premature degradation of circuit insulation which leads to ground faults on the equipment. When a ground fault occurs on circuits without an equipment grounding conductor, the frames or enclosures become energized and create a dangerous shock hazard. An effective equipment grounding conductor reduces the shock voltage on the frames or enclosures to safe levels. An equipment grounding conductor is the most critical part of the grounding system.

MSHA existing standards 56/57.12025 require that all metal enclosing or encasing electrical circuits be grounded or provided with equivalent protection. The intent of this existing rule is to prevent electrical shock hazards to persons working on or coming into contact with these metal enclosures or metal encased electrical circuits.

MSHA's enforcement of existing sections 56/57.12025 has been guided by the Agency's reliance on its own technical experience in electrical grounding as well as using the National Fire Protection Association publication, NFPA No. 70, National Electrical Code (NEC). The NEC is a nationally recognized consensus standard containing electrical safety criteria and procedures accepted throughout the United States. MSHA's reliance on the NEC in the enforcement of sections 56/57.12025 has been questioned by several Federal Mine Safety and Health Review Commission (FMSHRC) judges' decisions. Contractors Sand and Gravel Supply, Inc., 18 FMSHRC 384 (March 1996), Mulzer Crushed Stone Company, 3 FMSHRC 1238 (May 1981), and McCormick Sand Corporation, 2 FMSHRC 21 (Jan. 1980). These decisions have held that section 56.12025 is deficient in several respects.

In response to these decisions, MSHA decided to develop a more effective standard by clarifying compliance requirements for electrical grounding of equipment and enclosures consistent with the NEC which covers all aspects of adequate equipment grounding.

Alternatives:

Adopting applicable articles of the 1996 edition of NEC in the proposed rule is an outgrowth of MSHA's longstanding position that compliance with the NEC would provide the most effective protection for miners from electrical shock hazards. Moreover, because the grounding specifications in the NEC are well established and have had few changes in the last twenty years, MSHA believes the applicable articles of the 1996 edition of the NEC would remain in effect for the foreseeable future.

Anticipated Costs and Benefits:

MSHA expects costs could be incurred from the purchase of equipment grounding conductors which limit the voltage on non-current carrying metallic parts of equipment. MSHA believes that adoption of the proposed requirements are necessary to prevent shock hazards and would improve miner protection as compared to the existing standard.

Risks:

Electrical hazards are a cause of fatal and nonfatal injuries in metal and nonmetal mines. MSHA's accident records related to inadequate equipment grounding supports the need for improved safety standards. An analysis of fatal accidents from 1986 to 1996 reveals that 13 fatalities or 25% of all electrical fatalities in metal and nonmetal mines can be directly attributed to faulty grounding.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected:

Businesses

Government Levels Affected:

Undetermined

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DOL—MSHA

FINAL RULE STAGE

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80. NOISE STANDARD

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

30 USC 811

CFR Citation:

30 CFR 56; 30 CFR 57; 30 CFR 62; 30 CFR 70; 30 CFR 71

Legal Deadline:

None

Abstract:

Notwithstanding MSHA's firm enforcement of its current noise regulations, miners are continuing to incur hearing impairment. Data indicate that hearing impairment can be reduced significantly, however, if effective protective action is used both to reduce or eliminate the noise and to minimize exposure to the noise. MSHA has published a proposed rule applicable to all types of mining which would require that protective measures be taken where exposure to noise is at a level lower than that which is currently permitted. The proposed rule would require, for example, that the mine operator make audiometric testing available and provide hearing protection under particular circumstances when a miner's exposure exceeds the "action level."

Statement of Need:

MSHA's existing standards, in spite of enforcement efforts, do not provide adequate protection against exposure to hazardous occupational noise levels. Several factors have shown that there is a need to replace the existing standards so that miners are adequately protected. One factor is that miners are continuing to incur occupational, noise-induced hearing loss. Another factor is that existing MSHA standards no longer reflect the opinions of experts or the current scientific evidence. In addition, MSHA's current noise standards for coal mines differ from those for metal and nonmetal mines. MSHA's final rule will provide consistent requirements for all mines.

Summary of the Legal Basis:

Section 101(a) of the Mine Act requires that MSHA's promulgation of health standards adequately assure, on the basis of the best available evidence, that no miner will suffer material impairment of health or functional capacity over the miner's working lifetime. In addition to the attainment of the highest degree of health and safety protection for the miner, the Mine Act requires that factors, such as the latest scientific data in the field, the feasibility of the standard, and the experience gained under the Mine Act and other health and safety laws, be considered when promulgating mandatory standards pertaining to toxic materials or harmful physical agents.

Alternatives:

MSHA published a proposed rule which requested comments and data on a number of regulatory alternatives. In addition, MSHA held six public hearings providing the public an opportunity to comment on the noise proposal and submit data. Based upon its own research and experience, and data and information submitted to the record, MSHA is considering the respective roles of engineering controls and administrative controls and the use of personal hearing protection in controlling noise exposure; lowering the permissible exposure level and implementing a new action level; the lowering of the exchange rate; and the parameters and criteria for audiometric testing, exposure monitoring, and miner training. The proposed rule reflected the Agency's tentative decisions on these alternatives, mindful of their economic impact on small mines. The final rule will derive from MSHA's deliberations and decisions on the issues and alternatives.

Anticipated Costs and Benefits:

MSHA prepared an analysis of benefits which compared the numbers of miners projected to incur a material impairment of hearing under the existing standards and under the proposal. The proposed rule would reduce the risk of impairment by 67 percent, protecting about 500 miners per year from developing an occupationally related material impairment of hearing. The incremental annual cost of the proposed rule would be about $8.3 million. The scope and nature of the final rule is currently under development and, thus, estimates of costs and benefits are preliminary.

Risks:

Noise is a serious occupational hazard in the mining industry. Occupational exposure to loud noises results in hearing loss and hearing impairment, which affect both quality of life and functional capacity. In addition, cases of hearing loss reported to MSHA indicate that a significant number of these miners received all of their noise exposure under existing standards. The Agency believes that the health evidence forms a reasonable basis for proposing revisions to MSHA's existing noise standards.

Timetable:

Action	Date	FR Cite
ANPRM	12/04/89	54 FR 50209
ANPRM Comment Period End	08/22/90	55 FR 8011
NPRM	12/17/96	61 FR 66346
Extension of Comment Period to 4/21/97; Notice of Public Hearings	02/06/97	62 FR 5554
NPRM Comment Period End	02/18/97	
Final Action	03/00/98	

Small Entities Affected:

Businesses

Government Levels Affected:

None

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DOL—Occupational Safety and Health Administration (OSHA)

PRERULE STAGE

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81. STANDARDS ADVISORY COMMITTEE ON METALWORKING FLUIDS

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

Undetermined

Legal Authority:

29 USC 655(b)(1); 29 USC 656(b)

CFR Citation:

Not yet determined

Legal Deadline:

None

Abstract:

In December 1993, the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW) petitioned OSHA to take emergency regulatory action to protect workers from the risks of occupational cancers and respiratory illnesses due to exposure to metalworking fluids. OSHA sent an interim response to the UAW stating that the decision to proceed with rulemaking would depend on the results of the OSHA Priority Planning Process. Following the Priority Planning Process report, which identified metalworking fluids as an issue worthy of Agency action, the Assistant Secretary asked the National Advisory Committee on Occupational Safety and Health (NACOSH) for a recommendation about how to proceed with a rulemaking for metalworking fluids. NACOSH unanimously recommended that OSHA form a Standards Advisory Committee (SAC)

to address the health risks caused by occupational exposure to metalworking fluids. The Assistant Secretary accepted the recommendation of NACOSH; OSHA has established a 15-member SAC to make recommendations regarding a standard, a guideline, or other appropriate response to the dangers of occupational exposures to metalworking fluids. The Committee has a balanced membership, including individuals appointed to represent the following affected interests: industry; labor; federal and state safety and health organizations; professional organizations; and national standards-setting groups.

Statement of Need:

Under Table Z-1 of the 1971 air contaminants rule, OSHA enforces a permissible exposure limit of 5 mg/m3 for mineral oil mists, but evidence suggests this level is outdated and that exposure to metalworking fluids can lead to cancer, non-malignant lung disease and dermatitis. Giving a SAC the opportunity to examine and comment upon current studies and data concerning the risks associated with all metalworking fluid mixtures (straight oils, synthetic, and semisynthetic) will provide valuable information the Agency can use to develop a proposed rule for metalworking fluids or other appropriate response to hazards posed by occupational exposure to metalworking fluids. The SAC will also report on related issues such as fluid management, engineering controls, medical surveillance, and economic and technological feasibility.

Alternatives:

The Agency recognizes the complex and difficult nature of the issues surrounding the regulation of metalworking fluids and believes a SAC can best alleviate some areas of confusion. The Committee has a unique opportunity to provide needed data and academic and professional expertise, as well as large and small industry and labor perspectives. Through OSHA's exhaustive Priority Planning Process and NACOSH recommendation, metalworking fluids were identified as a regulatory candidate that could be handled most successfully through a SAC. The option of going directly to 6(b) rulemaking has been bypassed in favor of a SAC which will give beneficial input to the agency as to how best to deal with the problems, and the opportunity to build some consensus before a proposal is issued.

Anticipated Costs and Benefits:

Because the SAC has only recently begun to meet, the form of the Committee's recommendations is unknown at the present time. However, once the SAC report is written, the scope of the proposed rule will be determined. Quantitative estimates of costs and benefits will be made only after the proposed rule has been drafted.

Timetable:

Action	Date	FR Cite
Appointed Names	07/11/97	
Charter Approved	08/15/97	
First Meeting of Committee	09/02/97	
Recommendations	00/00/00	

Small Entities Affected:

Undetermined

Government Levels Affected:

Undetermined

Additional Information:

The Agency is particularly concerned with the potential impact a metalworking fluids rule would have on small businesses. OSHA has been working closely with the Small Business Administration to reach small employers to involve them in the process at the earliest possible time. At least 30 small business interests have been identified to date. The Agency is required to have balanced committee representation, and small business will be represented on the SAC.

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DOL—OSHA

PROPOSED RULE STAGE

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82. STEEL ERECTION (PART 1926) (SAFETY PROTECTION FOR IRONWORKERS)

Priority:

Economically Significant. Major under 5 USC 801.

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

29 USC 655; 40 USC 333

CFR Citation:

29 CFR 1926.750 (Revision); 29 CFR 1926.751 (Revision); 29 CFR 1926.752 (Revision)

Legal Deadline:

None

Abstract:

On December 29, 1992, the Occupational Safety and Health Administration (OSHA) announced its intention to form a negotiated rulemaking advisory committee to negotiate issues associated with a revision of the existing steel erection standard. The Steel Erection Negotiated Rulemaking Advisory Committee (SENRAC), a 20-member committee, was established, and the SENRAC charter was signed by Secretary Reich on May 26, 1994, and was recently re-chartered for a 2-year period. Four of the primary issues the committee negotiated include the need to expand the scope and application of the existing standard, construction specifications and work practices, written construction safety erection plans, and fall protection. The Committee met 11 times over an 18-month period and completed work on the draft regulatory text for the proposed steel erection standard on December 1, 1995.

The negotiated rulemaking process has been successful in bringing together the interested parties that will be affected by the proposed revision to the steel erection rule to work out contrasting positions, find common ground on the major issues, and develop language for a proposed rule. The use of this process and a neutral facilitator allowed the stakeholders to develop an ownership stake in the proposal that they would not have had without the use of this process.

The process has led to a proposed revision to subpart R of 29 CFR 1926 that contains innovative provisions that will help to minimize the major causes of steel erection injuries and fatalities. Many of these provisions could not have been developed without this process, which has brought together industry experts, via face-to-face negotiations, to discuss different approaches to resolving the issues. This process has proved mutually beneficial to all the parties involved (including OSHA), with each Committee member participating in resolving the issues and developing practical and effective rules to make the steel erection industry safer.

Statement of Need:

In 1989, OSHA was petitioned by the Iron Workers Union and National Erectors Association to revise its construction safety standard for steel erection through the negotiated rulemaking process. OSHA asked an independent consultant to review the issues involved in a steel erection revision, render an independent opinion, and recommend a course of action to revise the standard. The consultant recommended that OSHA address the issues by using the negotiated rulemaking process. Based on the consultant's findings and the continued requests for negotiated rulemaking, OSHA decided to use the negotiated rulemaking process to develop a proposed revision of subpart R. The use of negotiated rulemaking was thought to be the best approach to resolving steel erection safety issues, some of which have proven intractable in the past.

Alternatives:

An alternative to using the negotiated rulemaking process is to publish a notice of proposed rulemaking developed by Agency staff and consider the concerns of the affected interests through the public comment and public hearing process. It is anticipated that using this alternative would result in an extremely long and contentious rulemaking proceeding, with subsequent challenge in the Court of Appeals. This alternative was therefore rejected. Another alternative would be not to revise the Agency's current steel erection rules for construction. This alternative was rejected because it would permit steel erection-related injuries and fatalities to continue.

Anticipated Costs and Benefits:

The estimated compliance costs of the proposal are approximately $50 million per year, and the Agency believes that the benefits of the standard would include the prevention of an estimated 14 fatalities and 824 lost workday injuries per year.

Risks:

The magnitude of the risk associated with steel erection activities is great. It is estimated that 28 workers are killed every year during steel erection activities. Falls are currently the number one killer of construction workers, and since the erection of buildings necessarily involves high exposure to fall hazards, the central focus of this rule will be to eliminate or reduce the risks associated with falls.

Timetable:

Action	Date	FR Cite
Notice of Committee Establishment	05/11/94	59 FR 24389
NPRM	12/00/97	

Small Entities Affected:

Businesses

Government Levels Affected:

None

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DOL—OSHA

83. PREVENTION OF WORK-RELATED MUSCULOSKELETAL DISORDERS

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Legal Authority:

29 USC 651; 29 USC 652; 29 USC 655; 29 USC 657; 33 USC 941; 40 USC 333

CFR Citation:

29 CFR 1910; 29 CFR 1915; 29 CFR 1917; 29 CFR 1918; 29 CFR 1926; 29 CFR 1928

Legal Deadline:

None

Abstract:

Work-related musculoskeletal disorders (MSDs) are a leading cause of pain, suffering, and disability in American workplaces. Since the 1980's, the Occupational Safety and Health Administration (OSHA) has had a number of initiatives related to addressing these problems, including enforcement under the general duty clause, issuance of guidelines for the meatpacking industry, and development of other compliance-assistance materials.

Ultimately, the Agency decided that, given the increasing magnitude of the problem, a regulatory approach should be explored to ensure that the largest possible number of employers and employees become aware of the problems and ways of preventing work-related musculoskeletal disorders. An open process to develop and consider regulatory alternatives was initiated with the publication of an advance notice of proposed rulemaking on August 3, 1992 (57 FR 34192). About 300 comments were received in response to that request. In addition to the public comments, OSHA has examined and analyzed the extensive scientific literature documenting the problem of work-related musculoskeletal disorders, the causes of the problem, and effective solutions; conducted a telephone survey of over 3,000 establishments regarding their current practices to prevent work-related musculoskeletal disorders; and completed a number of site visits to facilities with existing programs. The Agency has also held numerous stakeholder meetings to solicit input from individuals regarding the possible contents of a standard to prevent work-related musculoskeletal disorders, and on a draft proposed regulatory text and supporting documents. Agency representatives have delivered numerous outreach presentations to people who are interested in this subject; consulted professionals in the field to obtain expert opinions on various aspects of the options considered by the Agency; and field-tested certain requirements under consideration for the standard. Information obtained from these activities is undergoing Agency review. Options for regulatory action are being considered.

The Agency believes that the scientific evidence supports the need for a standard and that the availability of effective and reasonable means to control these hazards has been demonstrated. The criteria that have been developed for setting OSHA priorities support the Agency's determination that action is needed now to stop the occurrence of work-related musculoskeletal disorders. The Agency is currently considering options to develop a proposed rule for ergonomics. The National Institute for

Occupational Safety and Health (NIOSH) has recently issued a report evaluating the scientific basis for the relationship of workplace stressors to MSDs. The report concludes that such a relationship exists for many stressors.

Statement of Need:

OSHA estimates that the occurrence of work-related musculoskeletal disorders in the United States ranges from more than 700,000 lost workday injuries and illnesses (30% of all lost workdays reported to the Bureau of Labor Statistics (BLS)) to more than 2.7 million annually awarded workers' compensation claims. These disorders now account for one out of every three dollars spent on workers' compensation. It is estimated that employers spend $20 billion a year on direct costs for workers' compensation, and up to five times that much for indirect costs, such as those associated with hiring and training replacement workers. In addition to these monetary effects, these disorders often impose a substantial personal toll on workers who experience their effects, and as a result are no longer able to work or to perform simple personal tasks like buttoning their clothes or brushing their hair.

Scientific evidence associates these disorders with stresses to various body parts caused by the way certain tasks are performed. The positioning of the body and the type of physical work that must be done to complete the tasks of a job may cause persistent pain and lead over time to deterioration of the affected joints, tissues, and muscles. The longer the time the worker must maintain a fixed or awkward posture, exert force, repeat the same movements, experience vibration, or handle heavy items, the greater the chance that such a disorder will occur. These job-related stresses are referred to as "workplace risk factors," and the scientific literature demonstrates that exposure to these risk factors, particularly in combination with each other, significantly increases an employee's risk of developing a work-related musculoskeletal disorder. Jobs involving exposure to workplace risk factors appear in all types of industries and in all sizes of facilities.

Musculoskeletal disorders occur in all parts of the body-- the upper extremity, the lower extremity, and the back. An example of the increasing magnitude of the problem involves repeated trauma to the upper extremity, or that portion of the body above the waist, in forms such as carpal tunnel syndrome and shoulder tendinitis. In 1995, employers reported 302,000 upper extremity repeated trauma cases to the BLS. As a point of comparison, the number of reported cases in this category was only 22,700 in 1981. Adjusting the data to reflect changes in the size of the employee population indicates that there has been a greater than 7-fold increase in such cases in the last ten years. In industries such as meatpacking, more than 10 out of every 100 workers report a work related musculoskeletal disorder from repeated trauma each year. In automotive assembly, approximately 10 out 100 workers are affected. The number of work-related back injuries occurring each year is even larger than the number of upper extremity disorders. Industries reporting a large number of cases of back injuries include hospitals and personal care facilities.

The evidence OSHA has assembled and analyzed indicates that there are technologically and economically feasible measures available that can significantly reduce exposures to workplace risk factors and the risk of developing work-related musculoskeletal disorders. Many companies that have voluntarily implemented ergonomics programs have demonstrated that effective ergonomic interventions are available and implementation of them is beneficial to the employer and the employee. Many of these interventions are simple and inexpensive, but nevertheless have a significant effect on the occurrence of work-related musculoskeletal disorders. Substantial savings in workers' compensation costs, increased productivity, and decreased turnover are among the benefits found.

Alternatives:

OSHA has considered many different regulatory alternatives since initiating the rulemaking process. These include variations in the scope of coverage, particularly with regard to industrial sectors, work processes, and degree of hazard. Various phasing options related to the size of facility have also been considered. The agency is still in the process of developing and refining a number of regulatory alternatives.

Anticipated Costs and Benefits:

Implementation costs associated with a regulatory approach would include those related to identifying and correcting problem jobs using engineering and administrative controls. Benefits expected include reduced pain and suffering, both from prevented disorders as well as reduced severity in those disorders that do occur, fewer workers' compensation claims and lower associated costs, and reduced lost work time. Secondary benefits may accrue from improved quality and productivity due to better designed work systems.

Risks:

The data OSHA has obtained and analyzed indicate that employees are at a significant risk of developing or aggravating musculoskeletal disorders due to exposure to risk factors in the workplace. In addition, information OSHA has obtained from site visits, scientific literature, compliance experience, and other sources indicates that there are economically and technologically feasible means of addressing and reducing these risks to prevent the development or aggravation of such disorders, or to reduce their severity. These data and analyses will be presented in the preamble to any proposed standard published in the Federal Register.

Timetable:

Action	Date	FR Cite
ANPRM	08/03/92	57 FR 34192
ANPRM Comment Period End	02/01/93	
NPRM	00/00/00	

Small Entities Affected:

Undetermined

Government Levels Affected:

Undetermined

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DOL—OSHA

84. SAFETY AND HEALTH PROGRAMS (FOR GENERAL INDUSTRY)

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Legal Authority:

29 USC 655; 29 USC 652; 29 USC 654; 29 USC 657

CFR Citation:

29 CFR 1910; 29 CFR 1915; 29 CFR 1918; 29 CFR 1926

Legal Deadline:

None

Abstract:

The Occupational Safety and Health Administration (OSHA), many of the States, members of the safety and health community, insurance companies, professional organizations, companies participating in the Agency's Voluntary Protection Program, and many proactive employers in all industries have recognized the value of worksite-specific safety and health programs in preventing job-related injuries, illnesses, and fatalities. The effectiveness of these programs is seen most dramatically in the reductions in job-related injuries and illnesses, workers' compensation costs, and absenteeism that occur after employers implement such programs. To assist employers in establishing safety and health programs, OSHA in 1989 (54 FR 3904) published nonmandatory guidelines that were based on a distillation of the best safety and health management practices observed by OSHA in the years since the Agency was established. OSHA's decision to expand on these guidelines by developing a safety and health programs rule is based on the Agency's recognition that occupational injuries, illnesses, and fatalities are continuing to occur at an unacceptably high rate; for example, an average of 17 workers were killed each day in 1995 in occupational fatalities.

Although the precise scope of the standard (e.g., what industries will be covered, what sizes of firms will be covered) has not yet been determined, the safety and health programs contained in the proposed rule will include at least the following elements: management leadership of the program; active employee participation in the program; analysis of the worksite to identify serious safety and health hazards of all types; and requirements that employers eliminate or control those hazards in an effective and timely way. In addition, in response to extensive stakeholder involvement, OSHA has, among other things, focused the rule on serious hazards, deleted required medical surveillance, and reduced burdens on small business.

Statement of Need:

Worksite-specific safety and health programs are increasingly being recognized as the most effective way of reducing job-related accidents, injuries, and illnesses. Many States have to date passed legislation and/or regulations mandating such programs for some or all employers, and insurance companies have also been encouraging their client companies to implement these programs, because the results they have achieved have been so dramatic. In addition, all of the companies in OSHA's Voluntary Protection Program have established such programs and are reporting injury and illness rates that are sometimes only 20 percent of the average for other establishments in their industry. Safety and health programs apparently achieve these results by actively engaging front-line employees, who are closest to operations in the workplace and have the highest stake in preventing job-related accidents, in the process of identifying and correcting occupational hazards. Finding and fixing workplace hazards is a cost-effective process, both in terms of the avoidance of pain and suffering and the prevention of the expenditure of large sums of money to pay for the direct and indirect costs of these injuries and illnesses. For example, many employers report that these programs return between $5 and $9 for every dollar invested in the program, and almost all employers with such programs experience substantial reductions in their workers' compensation premiums. OSHA believes that having employers evaluate the job-related safety and health hazards in their workplace and address any hazards identified before they cause occupational injuries, illnesses, or deaths is an excellent example of "regulating smarter," because all parties will benefit: workers will avoid the injuries and illnesses they are currently experiencing; employers will save substantial sums of money and increase their productivity and competitiveness; and OSHA's scarce resources will be leveraged as employers and employees join together to identify, correct, and prevent job-related safety and health hazards.

Alternatives:

In the last few years, OSHA has considered both nonregulatory and regulatory alternatives in the area of safety and health program management. First, OSHA published, in 1989, a set of voluntary management guidelines designed to assist employers to establish and maintain programs such as the one envisioned by the proposed safety and health programs rule. Although these guidelines have received widespread praise from many employers and professional safety and health associations, they have not been effective in reducing job-related deaths, injuries, and illnesses, which have continued to occur at unacceptably high levels. Many of the States have also recognized the value of these programs and have mandated that some or all covered employers establish them; however, this has led to inconsistent coverage from State to State, with many States having no coverage and others imposing stringent program requirements.

Anticipated Costs and Benefits:

The scope and nature of the proposed rule are currently under development, and thus estimates of costs and benefits have not been determined at this time.

Risks:

Workers in all major industry sectors in the United States continue to experience an unacceptably high rate of occupational fatalities, injuries, and illnesses. In 1994 the Bureau of Labor Statistics reports that 6.8 million injuries and illnesses occurred within private industry, and in 1995, 6,210 workers lost their lives on the job. There is increasing evidence that addressing hazards in a piecemeal fashion, as employers tend to do in the absence of a comprehensive safety and health program, is considerably less effective in reducing accidents than a systematic approach. Dramatic evidence of the seriousness of this problem can be found in the staggering workers' compensation bill paid by America's employers and employees: $54 billion annually. These risks can be reduced by the implementation of safety and health programs, as evidenced by the experience of OSHA's Voluntary Protection Program participants, who regularly achieve injury and illness rates averaging one-fifth to one-third those of competing firms in their industries. Other benefits of reducing accidents include enhanced productivity, improved employee morale, and reduced absenteeism. Because these programs address all serious job-related hazards--including those that are covered by OSHA standards as well as those not currently addressed by these standards--the proposed rule will be effective in ensuring a systematic approach to the control of long-recognized hazards, such as lead, and emerging hazards, such as lasers and heat stress.

Timetable:

Action	Date	FR Cite
NPRM	06/00/98	

Small Entities Affected:

Businesses

Government Levels Affected:

State

Additional Information:

Separate standards are being developed for the construction (29 CFR 1926) and the maritime (29 CFR 1915, 1917 and 1918) industries, which are being coordinated with this standard.

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DOL—OSHA

85. OCCUPATIONAL EXPOSURE TO TUBERCULOSIS

Priority:

Economically Significant. Majos under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Legal Authority:

29 USC 655(b)

CFR Citation:

29 CFR 1910.1035

Legal Deadline:

None

Abstract:

On August 25, 1993, the Occupational Safety and Health Administration (OSHA) was petitioned by the Labor Coalition to Fight TB in the Workplace to initiate rulemaking for a permanent standard to protect workers against occupational transmission of tuberculosis (TB). Although the Centers for Disease Control and Prevention (CDC) have developed recommendations for controlling the spread of TB in several work settings (e.g., correctional institutions, health-care facilities, and homeless shelters), the petitioners stated that in every recent TB outbreak investigated by the CDC, noncompliance with CDC's TB control guidelines was evident. After reviewing the available information, OSHA has preliminarily concluded that significant risk of occupational transmission of TB does exist for some workers and has initiated a 6(b) standard rulemaking. The Agency is currently developing a proposed rule that would require certain employers to take steps to eliminate or minimize employee exposure to TB. OSHA already regulates the biological hazard of bloodborne pathogens (e.g., HIV, hepatitis B) under 29 CFR 1910.1030 and believes that development of a TB standard is consistent with the Agency's mission and previous activity.

OSHA has consulted with parties outside of the Agency with regard to the developing proposal. The draft preliminary Risk Assessment has been peer-reviewed by four individuals with specific knowledge in the areas of tuberculosis and risk assessment. One reviewer is from the CDC and three are from academia. In addition, OSHA has conducted stakeholder meetings with representatives of relevant professional organizations, trade associations, labor unions, and other groups. These meetings provided the opportunity for both general and frontline stakeholder representatives to present OSHA with their individual comments, observations, and concerns about the contents of the draft proposal. The draft proposal has also been reviewed and commented on by affected small business entities under the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). In addition, the draft proposed standard and preamble have been reviewed by the office of Management and Budget. In response to the consultations and reviews, OSHA has made changes to improve the proposed standard.

Statement of Need:

For centuries, TB has been responsible for the deaths of millions of people throughout the world. TB is a contagious disease caused by the bacterium *Mycobacterium tuberculosis*. Infection is generally acquired by the inhalation of airborne particles carrying the bacterium. These airborne particles, called droplet nuclei, can be generated when persons with pulmonary or laryngeal tuberculosis in the infectious state of the disease cough, sneeze, speak, or sing. In some individuals exposed to droplet nuclei, TB bacilli enter the alveoli and establish an infection. In most cases, the bacilli are contained by the individual's immune response. However, in some cases, the bacilli are not contained by the immune system and continue to grow and invade the tissue, leading to the progressive destruction of the organ involved. While in most cases this organ is the lung (i.e., pulmonary tuberculosis), other organs outside of the lung may also be infected and become diseased (i.e., extrapulmonary tuberculosis).

From 1953, when active cases began to be reported in the United States, until 1984, the number of annual reported cases declined 74 percent, from 84,304 to 22,255. However, this steady decline in TB cases has not continued. Instead, from 1985 through 1992, the number of reported TB cases increased 20.1 percent. In 1992, more than 26,000 new cases of active TB were reported in the United States. In New York City alone, 3,700 cases of active TB were reported in 1991. While a decrease in active cases has been observed recently, there were still 22,813 reported cases in 1995. A large portion of the decrease occurred in high incidence areas where intervention efforts have been focused. However, over twenty states showed an increase or no change in the number of reported cases. In addition, the factors that led to the recent resurgence of TB (e.g., increases in homelessness, HIV infection, immigration from countries with high rates of infection) still exist and the job duties of certain workers require them to be exposed to patients and clients with suspected or confirmed infectious TB. In addition, strains of tuberculosis have emerged that are resistant to several of the first-line anti-TB drugs. This multidrug-resistant TB (MDR-TB) is often fatal due to the difficulty of halting the progression of the disease. Individuals with MDR-TB often remain infectious for longer periods of time due to delays in diagnosing resistance patterns and initiating proper treatment. This lengthened period of infectiousness increases the risk that the organism will be transmitted to other persons coming in contact with such individuals.

Providing health care for individuals with the disease increases the risk of occupational exposure to TB among health care workers. In fact, several outbreaks of tuberculosis, including MDR-TB, have recently occurred in health care facilities, resulting in transmission to both patients and health care workers. CDC found that factors contributing to these outbreaks included delayed diagnosis of TB, delayed recognition of drug resistance, delayed initiation of effective therapy, delayed initiation and inadequate duration of TB isolation, inadequate ventilation in TB isolation rooms, lapses in TB isolation practices, inadequate precautions for cough-inducing procedures, and lack of adequate respiratory protection. CDC's analysis of data collected from three of the health care facilities involved in the outbreaks indicated that transmission of TB decreased significantly or ceased entirely in areas where recommended TB control measures were implemented. In addition, workers outside of health care may provide services to patient or client populations that have an increased rate of TB. For example, occupational transmission of TB has been documented in correctional facilities.

Summary of the Legal Basis:

The legal basis for the proposed TB standard is a preliminary finding by the Secretary of Labor that workers in hospitals, nursing homes, hospices, correctional facilities, homeless shelters and certain other work settings are at significant risk of incurring TB infection while caring for their patients and clients or performing certain procedures.

Alternatives:

Prior to a decision to publish a proposal, OSHA considered a number of options, including whether or not to develop an emergency temporary standard, publish an advance notice of proposed rulemaking, or to enforce existing regulations.

Anticipated Costs and Benefits:

Costs will be incurred by employers for engineering controls, respiratory protection, medical surveillance, training, exposure control, recordkeeping, and work practice controls. Benefits will include the prevention of occupationally-related TB transmissions and infections, and a corresponding reduced risk of exposure among the general population. The scope and nature of the proposed rule are currently under development and thus estimates of costs and benefits have not been determined at this time.

Risks:

From 1985 to 1992, the number of reported cases of TB in the U.S. increased, reversing a previous 30-year downward trend. While there has been a rpcent decrease in the reported number of cases of TB in the general population, a large part of this decrease can be attributed to focused intervention efforts in areas of high incidence of TB. Over 20 states showed an increase or no change in the number of reported TB cases and the factors that contributed to the resurgence continue to exist, along with exposure of certain workers to patient and client populations with an increased rate of TB. In addition, strains of multidrug-resistant TB have emerged which are more often fatal. Therefore, employees in work settings such as health care or correctional facilities, who have contact with infectious individuals, retain a risk of occupational transmission. TB is a contagious disease spread by airborne particles known as droplet nuclei. Active disease can cause signs and symptoms such as fatigue, weight loss, fever, night sweats, loss of appetite, persistent cough, and shortness of breath, and may possibly result in serious respiratory illness or death.

Timetable:

Action	Date	FR Cite
SBREFA Panel	09/10/96	
NPRM	10/00/97	

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Tribal, Federal

Additional Information:

During the rulemaking, OSHA will meet with small business stakeholders to discuss their concerns, and will conduct an initial Regulatory Flexibility Analysis to identify any significant impacts on a substantial number of small entities. In addition, OSHA will conduct a special study of homeless shelters and will designate certain hearing dates for persons who wish to testify on homeless shelter issues.

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RIN: 1218–AB46

DOL—OSHA

86. PERMISSIBLE EXPOSURE LIMITS (PELS) FOR AIR CONTAMINANTS

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Legal Authority:

29 USC 655 (b)

CFR Citation:

29 CFR 1910.1000

Legal Deadline:

None

Abstract:

OSHA enforces hundreds of permissible exposure limits (PELs) for toxic air contaminants found in U.S. workplaces. These PELs set OSHA-enforceable limits on the magnitude and duration of employee exposure to each contaminant. The amount of exposure permitted by a given PEL depends on the toxicity and other characteristics of the particular substance. OSHA's PELs for air contaminants are codified in 29 CFR 1910.1000, Tables Z-1, Z-2, and Z-3. The air contaminant limits were adopted by OSHA in 1971 from existing national consensus standards issued by the American Conference of Governmental Industrial Hygienists and the American National Standards Institute. These PELs, which have not been updated since 1971, thus reflect the results of research conducted in the 1950s and 1960s. Since then, much new information has become available that indicates that, in most cases, these early limits are outdated and insufficiently protective of worker health. To correct this situation, OSHA published a proposal in 1988 updating the air contaminant limits in general industry. That proposal became a final rule in 1989 (54 FR 2332); it lowered the existing PEL for 212 toxic air contaminants and established PELs for 164 previously unregulated air contaminants. On June 12, 1992 (57 FR 26001), OSHA proposed a rule that would have extended these limits to workplaces in the construction, maritime, and agriculture industries. However, on July 10, 1992, the Eleventh Circuit Court of Appeals vacated the 1989 final rule on the grounds that "(1) OSHA failed to establish that existing exposure limits in the workplace presented significant

risk of material health impairment or that new standards eliminated or substantially lessened the risk; (2) OSHA did not meet its burden of establishing that its 428 new permissible exposure limits (PELs) were either economically or technologically feasible." The Court's decision to vacate the rule forced the Agency to return to the earlier, insufficiently protective limits.

OSHA continues to believe that establishing a rulemaking approach that will permit the Agency to update existing air contaminant limits and establish new ones as toxicological evidence of the need to do so becomes available is a high priority. The rulemaking described in this Regulatory Plan entry reflects OSHA's intention to move forward with this process. In determining how to proceed, OSHA is being guided by the OSH Act and the Eleventh District Court decision regarding the extent of the risk and feasibility analyses required to support revised and new air contaminant limits. The Agency will rely on a risk-based prioritization system to identify those air contaminants that present significant risks to exposed employees and for which technologically and economically feasible controls exist. State-of-the-art risk assessment methodologies will be utilized for both carcinogens and noncarcinogens, and the determinations of feasibility contained in the economic analysis accompanying the proposal will be extensive. OSHA published (61 FR 1947) the substances selected for proposed new PELs for the first update of the air contaminants rule: carbon disulfide, carbon monoxide, chloroform, dimethyl sulfate, epichlorohydrin, ethylene dichloride, glutaraldehyde, n-hexane, 2-hexanone, hydrazine, hydrogen sulfide, manganese and compounds, mercury and compounds, nitrogen dioxide, perchloroethylene, sulfur dioxide, toluene, toluene diisocyanate, trimellitic anhydride, and vinyl bromide. The specific hazards associated with the air contaminants preliminarily selected for regulation include cancer, neurotoxicity, respiratory sensitivity, etc. Using the same criteria as those used in the Priority Planning Process, OSHA evaluated each substance: severity of the health effect, the number of exposed workers, toxicity of the substance, uses and prevailing exposure levels of the substance, the potential risk reduction, availability and quality of information useful in quantitative risk assessment to ensure that significant risks are addressed and that workers will experience substantial benefits in the form of enhanced health and safety. Publication of the proposal will allow OSHA to institutionalize a mechanism for updating and extending its air contaminant limits, which will, at the same time, provide added protection to many workers who are currently being overexposed to toxic substances in the workplace. OSHA is also considering supplemental mechanisms proposed by stakeholders to increase the effectiveness of the process.

Statement of Need:

OSHA's current Tables Z-1, Z-2, and Z-3 contain approximately 470 PELs for various forms (e.g., dust, fumes, vapors) of the regulated contaminants, many of which are widely used in industrial settings. These PELs, which were adopted wholesale by OSHA in 1971 and have not been revised since then, often lead to adverse effects when workers are exposed to them. In addition, new chemicals are constantly being introduced into the working environment, and exposure to these substances can result in both acute and chronic health effects. Acute effects include respiratory and sensory irritation, chemical burns, and ocular damage; chronic effects include cardiovascular disease, respiratory, liver and kidney disease, reproductive effects, neurological damage, and cancer. For these reasons, it is a high OSHA priority to establish an ongoing regular process that will allow OSHA routinely to update existing PELs and establish limits for previously unregulated substances. The first step in achieving this goal is to publish an air contaminants proposal for approximately 12 substances that will establish streamlined but scientifically sound and defensible procedures for conducting risk assessments and performing feasibility analyses that will permit regular updating and review of permissible exposure limits for air contaminants. The ability to lower existing limits and establish limits for new contaminants is an essential component of OSHA's mandate to protect the health and functional well-being of America's workers.

Summary of the Legal Basis:

Section 6(b) of the OSH Act.

Alternatives:

OSHA has considered a variety of nonregulatory approaches to address the problem of the Agency's outdated exposure limits for air contaminants. These include the issuance of nonmandatory guidelines, enforcing lower limits through the "general duty" clause of the OSH Act in cases where substantial evidence exists that exposure presents a recognized hazard of serious physical harm, and the issuance of hazard alerts. OSHA believes, however, that the problem of overexposure to hazardous air contaminants is so widespread, and the Agency's current limits are so out of date, that only a regulatory approach will achieve the necessary level of protection. The regulatory approach also has advantages for employers, because it gives them the information they need to establish appropriate control strategies to protect their workers and reduce the costs of job-related illnesses. This first phase of an ongoing air contaminants updating and revision process will begin to resolve a problem of long-standing and major occupational health import.

Anticipated Costs and Benefits:

The scope of the proposed rule is currently under development, and thus quantitative estimates of costs and benefits have not been determined at this time. Implementation costs associated with the proposed standard include primarily those related to identifying and correcting over-exposures using engineering controls and work practices. Additional costs may be incurred for the implementation of administrative controls and the purchase and use of personal protective equipment. Estimates of the magnitude of the problem of occupational illnesses, both acute and chronic, vary considerably. In 1989, OSHA concluded that its Air Contaminants rule in general industry, which lowered 212 exposure limits and added 164 where none had previously existed, would result in a reduction of approximately 700 deaths, 55,000 illnesses and over 23,300 lost-workday illnesses annually. Chronic effects include cardiovascular disease, respiratory, liver and kidney disease, reproductive effects, neurological damage, and cancer. Acute effects include respiratory and sensory irritation, chemical burns, and ocular effects.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	

Small Entities Affected:

Businesses

Government Levels Affected:

State, Federal

Additional Information:

During the rulemaking,OSHA will meet with small business stakeholders to discuss their concerns, and will conduct an initial Regulatory Flexibility Screening Analysis to identify any significant impacts on a substantial number of small entities.

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DOL—OSHA

87. PLAIN ENGLISH REVISION OF EXISTING STANDARDS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

29 USC 655(b); 5 USC 553

CFR Citation:

29 CFR 1910.107; 29 CFR 1910.108; 29 CFR 1910.94(c); 29 CFR 1910.94(d); 29 CFR 1910.35; 29 CFR 1910.36; 29 CFR 1910.37; 29 CFR 1910.38

Legal Deadline:

None

Abstract:

The Occupational Safety and Health Administration (OSHA) adopted its initial package of workplace safety and health standards in the 1970's from various nationally recognized consensus standards and from standards that had already been promulgated by other Federal agencies. Section 6(a) of the Act permitted OSHA to adopt nationally recognized consensus standards, developed by groups such as the National Fire Protection Association (NFPA) and the American National Standards Institute (ANSI), and existing Federal standards for use as OSHA standards without public participation or public comment. Many of these 6(a) standards have been identified by the regulated community as being overly complex, difficult to read and follow, and out of date with current technology.

This project is part of a Presidential initiative to respond to the general criticism concerning the complexity and obsolescence of certain Federal regulations. OSHA believes that some of the Agency's section 6(a) standards in subpart E and subpart H of part 1910 meet the criteria for critical review set forth in the Presidential initiative. OSHA is initiating three separate rulemakings that will revise three of OSHA's most complex and out-of-date section 6(a) standards. These specific standards address means of egress (exit routes), spray finishing using flammable and combustible liquids; and dip tanks containing flammable and combustible liquids. 29 CFR 1910.107 and 1910.108, (spray finishing using flammable and combustible liquids and dip tanks, respectively) also contain substantive ventilation requirements that are duplicative with ventilation requirements contained in 29 CFR 1910.94, paragraphs (c) and (d). The purpose of these rulemakings is to simplify and clarify these standards and to write them in "plain English," as directed by the President's report.

Statement of Need:

These three OSHA safety standards are being revised as part of the President's initiative on Federal regulations discussed in the U.S. Department of Labor report of June 15, 1995. The Department of Labor report was issued in response to the President's Regulatory Reform Initiative dated April 24, 1995.

Fire hazards in the workplace associated with exposure to flammable and combustible liquids create a variety of safety and health problems, including thermal burns, chemical burns, smoke inhalation, respiratory inflammations, nausea, dizziness, other serious physical injuries and death. Overexposure to vapors, fumes, and mists created during spray applications or dipping processes involving flammable or combustible liquids create a variety of health problems, including respiratory infections, nausea, dizziness, respiratory allergies, heart disease, lung cancer, decreases in pulmonary function, other serious illnesses, and death. In case of an emergency, proper exit routes are needed to protect employees from being trapped in hazardous work areas and lead them to safety.

Alternatives:

OSHA has considered several alternative approaches to controlling these hazards, including issuing guidelines, using the "general duty clause" of the OSHA Act to cite serious and unsafe work practices not regulated by the existing standards, issuing hazard alerts, issuing program directives, and revising and updating the current OSHA standards to reflect the updated national consensus standards. OSHA believes that, in this case, revising and updating these standards is the most appropriate way to proceed. It is the only approach that will assure public participation in the revision of outdated, complex, and obsolete rules.

Anticipated Costs and Benefits:

Because these plain English revisions are not substantively changing these rules, no cost impacts will be associated with these revisions.

Risks:

Because these revisions are designed to simplify and clarify these standards, no assessment of risks is required.

Timetable:

Action	Date	FR Cite
NPRM Exit Routes (Means of Egress)	09/10/96	61 FR 47712
Hearing on Exit Routes	04/29/97	62 FR 9402
NPRM Dip Tanks	10/00/97	
NPRM Spray Finishing	12/00/97	
Final Action Exit Routes	12/00/97	

Small Entities Affected:

None

Government Levels Affected:

Undetermined

Additional Information:

Means of Egress, 29 CFR 1910 subpart E, Spray Finishing Using Flammable and Combustible Materials, 29 CFR 1910.107, Dip Tanks Containing Flammable and Combustible Liquids, 29 CFR 1910.108 are three standards selected for revision under a Presidential Initiative to revise outdated, duplicative, or obsolete Federal regulations. They will also be formatted to make them easier to read. 29 CFR 1910.94(c) will be combined with 29 CFR 1910.107 to eliminate

duplicative standards, as will 29 CFR 1910.94(d) and 29 CFR 1910.106. Flammable and Combustible Liquids, 1910.106, has been moved to RIN 1218-AB61.

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DOL—OSHA

FINAL RULE STAGE

88. RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES (SIMPLIFIED INJURY/ILLNESS RECORDKEEPING REQUIREMENTS)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

29 USC 657; 29 USC 673

CFR Citation:

29 CFR 1904; 29 CFR 1952.4

Legal Deadline:

None

Abstract:

Over the years, concerns about the reliability and utility of injury and illness data derived from the employer-maintained OSHA records have been raised by Congress, the National Institute for Occupational Safety and Health (NIOSH), the Bureau of Labor Statistics (BLS), the National Academy of Sciences, the Office of Management and Budget (OMB), the General Accounting Office, business, and labor, as well as OSHA. In the late 1980s, to facilitate national policy dialogues, OSHA contracted with Keystone Center to bring together representatives of industry, labor, government, and academia in a year-long effort to discuss problems with OSHA's injury and illness recordkeeping system. Keystone issued a report with specific recommendations on how to improve the system. Early in 1996, OSHA held several meetings with stakeholders from business, labor, and government in order to obtain feedback on a draft OSHA recordkeeping proposal and to gather related information. As a result of these efforts, OSHA published a Notice of Proposed Rulemaking (NPRM) in the February 2, 1996 Federal Register that contained revised recordkeeping requirements, new recordkeeping forms, and new interpretive material. The stated goals of the NPRM were to improve the Nation's injury and illness statistics, simplify the injury and illness recordkeeping system, and reduce the burden of the new rule on employers. Benefits will include: (1) a system that is more compatible with modern computer technology and is easier for employers, employees and government to use; (2) more reliable and useful records; (3) for the first time, comprehensive injury and illness records for construction sites; and (4) greater employee involvement in and awareness of safety and health matters. The original 90-day public comment period was extended another 60 days and ended July 1, 1996. In addition, two public meetings were held in Washington, DC (March 26-29 and April 30-May 1). Over 450 sets of comments were entered into Docket R-02, along with 1200 pages of input derived from nearly 60 presentations given at the public meetings.

OSHA is now planning to issue a final rule that incorporates changes based upon an analysis of the comments and testimony received during the public comment period discussed above.

Statement of Need:

A revision to OSHA's outdated recordkeeping system has been contemplated for some time. The process of revision originated in BLS in 1987 and moved in 1990 to OSHA, when the recordkeeping function was transferred to the Agency.

The proposed rule reflects the input of many stakeholders, including OSHA field and national office staff, the participants in the 1987 Keystone policy dialogue, staff from other government agencies (BLS, the Mine Safety and Health Administration, (MSHA), the Federal Railroad Administration (FRA), NIOSH and the States), and members of OSHA's advisory committees. OSHA has discussed the proposed revision with thousands of employers and representatives of the safety/health community in over 100 presentations for employer groups, trade associations, safety councils, and union groups.

The occupational injury and illness records maintained by employers are an important component of OSHA's program. The records are used by employers and employees to discover and evaluate workplace safety and health hazards, and they provide OSHA personnel with necessary information during workplace inspections. The records also provide the source data for the Annual Survey of Occupational Injuries and Illnesses conducted by the BLS.

The records have their greatest value when they are used by employers and employees to manage and develop workplace safety and health programs. These records are an effective way to quantify a firm's injury and illness experience. When problems are quantified and presented to employers and employees, they are much more likely to be solved. Hazardous conditions, departments and jobs also can be identified by reviewing injury and illness records. Once hazards are discovered and corrective actions are taken, the records can be used to monitor the effectiveness of control approaches taken. Employers and employees can also use injury and illness records to develop and operate safety and health programs. When information on workplace injuries and illnesses is not available or is incorrect, the ability to identify problems and take corrective action is diminished.

The Government also has several uses for injury and illness records. These records are used by OSHA safety and health inspectors during worksite visits to highlight potential problems that require additional scrutiny. The records are the source documents for the Bureau of Labor Statistics Annual Survey of Occupational Injuries and Illnesses, the nation's primary source of information on workplace injury and illness. The resulting statistics on the frequency, rate, and factors contributing to job-related injury and illness are used to measure the performance of the Nation's safety and health policies, determine regulatory actions, and provide a point of comparison for an individual company's safety and health performance. The statistics are also used by NIOSH, academia, and other safety and health researchers to determine trends, discover emerging occupational conditions, and evaluate occupational safety and health policies.

The records are also the source documents for OSHA's data collection initiative. This program will allow OSHA to use limited resources to focus intervention efforts (e.g., consultation, training, outreach, and enforcement) on worksites with the highest injury and illness rates. The data collection initiative also provides OSHA with a means for measuring its performance in terms of outcomes--changes in workplace injuries and illnesses--rather than activities.

Alternatives:

One alternative to publication of a final rule is to take no action and continue to administer the injury and illness recordkeeping system using the current regulation, forms and guidelines. Another alternative is to revise the current rule without changing the coverage and scope of the rule (i.e., continue the current rule's small employer and Standard Industrial Classification exemptions).

The first alternative is unacceptable because it does not address the recognized problems of the current system. The second alternative is also unacceptable. Evaluation of the most current injury and illness data available shows that modification of the existing coverage (of small employers and employers in certain Standard Industrial Classification Codes) will lead to the collection of more injury and illness information and reduce the paperwork burden on employers with smaller-sized establishments and those operating in less hazardous private industry sectors.

Anticipated Costs and Benefits:

The average establishment affected by the proposed changes to the recordkeeping requirements would incur a net reduction in recordkeeping costs. Thus the proposed rule would not impose adverse economic impacts on firms in the regulated community. The proposed exemption from the regulation of all nonconstruction establishments with fewer than 20 employees would mean that small entities are likely to experience the greatest cost savings.

Risks:

Benefits of the proposal would include: (a) a system that is more compatible with and easier for government to use; (b) more reliable and useful records; (c) information for entire construction sites; and (d) greater employee involvement.

Timetable:

Action	Date	FR Cite
NPRM	02/02/96	61 FR 4030
NPRM Comment Period End	07/02/96	
Final Action	06/00/98	
Final Action Effective	01/01/99	

Small Entities Affected:

Businesses, Organizations

Government Levels Affected:

None

Sectors Affected:

All

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BILLING CODE 4510-23-P

DEPARTMENT OF TRANSPORTATION (DOT)

Statement of Regulatory Priorities

The Department of Transportation (DOT) consists of nine operating administrations, the Office of the Secretary, and the Bureau of Transportation Statistics (BTS), each of which has statutory responsibility for a wide range of regulations. For example, DOT regulates safety in the aviation, motor carrier, railroad, mass transit, motor vehicle, maritime, commercial space, and pipeline transportation areas. DOT regulates aviation consumer and economic issues and provides financial assistance and writes the necessary implementing rules for programs involving highways, airports, mass transit, the maritime industry, railroads, and motor vehicle safety. It writes regulations carrying out such disparate statutes as the Americans with Disabilities Act and the Uniform Time Act. It regulates the construction and operation of bridges over navigable waters, the prevention of oil pollution, and the security of commercial aviation and passenger vessels. Finally, DOT has responsibility for developing policies that implement a wide range of regulations that govern internal programs such as acquisition and grants, access for the disabled, environmental protection, energy conservation, information technology, property asset management, seismic safety, security, and the use of aircraft and vehicles.

Although it carries this heavy regulatory workload, the Department has long been recognized as a leader in Federal efforts to improve and streamline the regulatory process and ensure that regulations do not impose unnecessary burdens. The Department was the first major Federal agency to establish a comprehensive internal management and review process for new and existing regulations. This process is codified in the Department's regulatory policies and procedures, which ensure that the Secretary and other appropriate appointed officials review and concur in all significant DOT rules.

For virtually all DOT rules, the initiating office must prepare an analysis that includes a discussion of the problem intended to be addressed, the major alternatives, the reasons for choosing one alternative over another, and the economic and other consequences of the action. The Department has a management process that permits key officials to follow closely the development of significant regulatory projects. The process is intended to ensure that these rulemakings are completed in a timely manner, and it facilitates top management's involvement in these actions.

The Department has adopted a regulatory philosophy that applies to all its rulemaking activities. This philosophy is articulated as follows: DOT regulations must be clear, simple, timely, fair, reasonable, and necessary. They will be issued only after an appropriate opportunity for public comment, which must provide an equal chance for all affected interests to participate, and after appropriate consultation with other governmental entities. The Department will fully consider the comments received. It will assess the risks addressed by the rules and their costs and benefits, including the cumulative effect. The Department will consider appropriate alternatives, including nonregulatory approaches. It will also make every effort to ensure that legislation does not impose unreasonable mandates.

Consistent with this process and the Department's regulatory philosophy, DOT continually seeks ways of improving the way it conducts its regulatory work. The creation of an electronic, internet-accessible docket for the Department; the use of direct final rulemaking; and the increased use of regulatory negotiation are three examples of this.

This Department's regulatory process and philosophy also facilitated the Department's successful participation in President Clinton's Regulatory Reinvention Initiative. The cumulative impact of this effort was significant. The Department removed 1382 pages (14 percent) and proposed to remove an additional 124 pages (.9 percent) of its Code of Federal Regulations (CFR) pages. In addition, it reinvented 3318 pages (30 percent) and proposed to reinvent 245 pages (2 percent) of its CFR pages. These actions included a number of specific, substantial regulatory steps.

In responding to other Presidential initiatives, the Department is ensuring that compliance efforts reward results and deemphasize red tape. It is stressing results, and education and training programs, to assist regulators and customers to work together to achieve compliance.

The Department has engaged in a wide variety of activities to help cement the partnerships between its agencies and its customers that will produce good results for transportation programs and safety. These have included summits with front-line regulators and representatives of regulated industries. In addition, the Department's agencies have established a number of continuing partnership mechanisms in the form of rulemaking advisory committees.

The Department of Transportation was a pioneer in creating the regulatory negotiation concept, and it conducted the Federal Government's first negotiated rulemaking. Since that time, DOT has conducted regulatory negotiations on a variety of subjects, such as the Air Carrier Access Act and aspects of the Oil Pollution Act. The Department has also used advisory committees to obtain customer input on regulatory projects, such as the Americans with Disabilities Act rule. Regulatory negotiation projects currently planned, underway, or completed concern such subjects as roadway worker safety (FRA), oxygen use by airline passengers (OST), certification requirement for multistage vehicles (the National Highway Traffic Safety Administration, NHTSA), incorporating physical fitness determinations in the commercial drivers' license program (FHWA), and qualifications for pipeline personnel (RSPA).

Office of the Secretary of Transportation (OST)

The Office of the Secretary (OST) oversees the regulatory process for the Department. OST implements the Department's regulatory policies and procedures and is responsible for ensuring the involvement of top management in regulatory decisionmaking. Through the General Counsel's office, OST is also responsible for ensuring that the Department complies with Executive Order 12866 and other legal and policy requirements affecting rulemaking, including a number of new statutes and Executive orders. Although OST's principal role concerns the review of the Department's significant rulemakings, this office also plays an important role in the substance of projects concerning aviation economic rules and those having cross-modal significance. In connection with its oversight and coordination role, the Office of the Secretary also led the Department's work to carry out President Clinton's Regulatory Reinvention Initiative.

OST provides guidance for use by regulatory personnel throughout the Department on compliance with requirements concerning the regulatory process. For example, OST provided guidance concerning implementation of the regulatory portions of the Unfunded Mandates Act, the Paperwork Reduction Act of 1995, and the Small Business Regulatory Enforcement Act of 1996 (including congressional review of rules). It also provides updated information on such matters as compliance with Executive orders, economic analyses, the regulatory agenda and plan, and other regulatory policy matters. OST provides guidance and training concerning cost-benefit analyses and risk assessments, as well as offering DOT personnel periodic training on regulatory development and process.

OST also leads and coordinates the Department's response to Administration and congressional proposals that concern the regulatory process. The General Counsel's office works closely with representatives of other agencies, the Office of Management and Budget, the White House, and congressional staff to provide information on how various proposals would affect the ability of the Department to perform its safety, infrastructure, and other missions.

OST is incorporating new technology into its rulemaking process. OST initiated the effort to consolidate nine Department rulemaking (and adjudicatory) docket facilities into one centrally managed facility. OST worked with the other DOT agencies to accomplish the consolidation and the phased transition from a paper-based docket system to storage of electronic images in unalterable form. This includes all rulemaking and support documents, public comments, and other documents included in the public docket. Currently OST, BTS, NHTSA, FHWA, SLSDC, RSPA, and FTA are on this system with the remaining agencies expected to be added in the future. Recently, this electronic docket became accessible via the internet.

OST is redesigning its internet home page and will include hyperlinks to other useful DOT websites, including the public rulemaking dockets, and contacts for many issues of special interests to the public.

OST is planning for electronic rulemaking for individual rules where the public will be able to reveiw rulemaking documents and submit their comments electronically. Finally, some OST offices provide commonly-requested regulations, informational documents, guidance, and updates through fax on-demand systems.

United States Coast Guard (USCG)

The United States Coast Guard has many peacetime missions, which include protecting the marine environment, enforcing laws and treaties, performing search and rescue, maintaining aids to navigation, and ensuring marine safety and security. The Coast Guard traditionally provides for pollution prevention and safety of passengers, crew, cargo, and ports through a framework of regulations that apply to U.S. flag vessels and foreign vessels calling at U.S. ports. The Coast Guard's Marine Safety Council, a group of senior Coast Guard officers, establishes regulatory policy, reviews each rulemaking project, and advises the Commandant on regulatory matters.

The Coast Guard, in an effort to improve the safety and performance of the regulated community and to expand and obtain early involvement from the regulated community, has formed four Quality Partnerships and has nine standing advisory committees.

The Coast Guard, responding to an industry call to reduce the cost disadvantage attributed to inspection and certification of U.S. merchant vessels and to improve the competitiveness of the U.S. merchant fleet, has implemented an alternative compliance program. Under this program, vessels receive Coast Guard certification based on compliance with classification society rules, international conventions, and a U.S. supplement to class society rules. The Coast Guard also is undertaking an evaluation to limit supplements to those items which it determines are necessary and are not embodied in current international standards. The Coast Guard will continue to promote initiatives at the International Maritime Organization to ensure international standards are comparable with U.S. domestic requirements.

The Coast Guard is also establishing a Streamlined Inspection Program, which will afford vessel owners, through the development of written procedures, the ability to perform many of the tests and requirements currently performed by Coast Guard marine inspectors. Required vessel inspection would still be done by Coast Guard marine inspectors. The Coast Guard expects the inspection program to increase the participation of a vessel's crew in vessel safety system maintenance, resulting in trained and qualified shipboard personnel performing specific inspection tasks on a more frequent basis than is done for periodic Coast Guard inspections.

In responding to a petition for rulemaking from the National Oilseed Processors Association, the Coast Guard is reviewing its vessel and facility response planning requirements for non-petroleum oils. Under the Oil Pollution Act of 1990, the Coast Guard requires plans for responding to an oil spill, including a non-petroleum oil spill. The Coast Guard currently differentiates between petroleum oil and non-petroleum oils in response planning as required by the Edible Oil Regulatory Reform Act.

Under the Regulatory Flexibility Act, each agency is required to publish a plan for the periodic review of all agency rules that have a significant economic impact on a substantial number of small entities. The Coast Guard carefully analyzes and drafts each rulemaking to avoid significant economic impacts and to minimize other impacts on small entities. Consistent with the Coast Guard's obligations to continually assess the impacts of its regulations, the Coast Guard recently requested public comments for a Coast Guard-sponsored comprehensive review of its current boating safety regulations.

Federal Aviation Administration (FAA)

Title 49, United States Code, subtitle VII—Aviation Programs, charges the Administrator of the FAA with promoting safety of flight of civil aircraft in air commerce. The stated FAA mission is to provide a safe, secure, and efficient global aviation system, which contributes to national security and the encouragement of U.S. aviation. The agency relies on its regulatory plan to provide that system.

The FAA currently has underway a major initiative to improve the regulatory process in the spirit of Executive Order 12866, which charges agencies to promulgate regulations that are effective, consistent, sensible, and understandable. As a matter of policy, the FAA will promulgate no regulation if a nonregulatory solution exists. Other actions include:

- Continuing to involve the aviation community early in the regulatory process to obtain input, both on the rule and the economics, from affected parties prior to publishing a proposed regulation. The Aviation Rulemaking Advisory Committee represents members from all aviation interests and is presently working on the resolution of more than 77 issues. To date, the ARAC has accomplished the issuance of more than 30 rulemaking documents.

- Continuing to harmonize the U.S. aviation regulations with those of other countries. The harmonization of the U.S. regulations with the European Joint Aviation Regulations (JAR) is the FAA's most comprehensive long-term rulemaking effort. The differences worldwide in certification standards, practices and procedures, and operating rules must be identified and minimized to reduce the regulatory burden on the international aviation system. The differences between the FAA regulations and the requirements of other nations impose a heavy burden on U.S. aircraft manufacturers and operators. Harmonization and standardization should help the U.S. aerospace industry, which contributed approximately $23 billion in trade surplus for 1990, to remain internationally competitive. While the overall effort to achieve this is global, it will be accomplished by many small, individual, nonsignificant rulemaking projects.
- Implementing the recommendations of the White House Commission on Aviation Safety and Security. That commission had numerous initiatives. FAA rulemaking actions will be undertaken in these areas: 1) Standards for cargo and baggage compartments in transport category aircraft which address detection and suppression of fire and smoke in all cargo holds; 2) an employment history rule which will require an employment background investigation, with trigger mechanisms to initiate a criminal background check for all airport and airline employees and screeners with access to secure areas; and 3) a rule that will provide for certification of screening companies and improve screener performance.
- Recognizing the needs of small businesses by complying with the Small Business Regulatory Enforcement Act by designating a Small Entity Contact and by establishing a web site on the FAA's home page, a toll free number, and an e-mail address for receipts of inquiries.
- Continuing to implement Challenge 2000. In the final report, the FAA noted that it faces a rapidly changing aviation environment, which is becoming global in nature with increased growth and technology. This in turn could accelerate a pace of change that would also have to meet increasing public expectations. In terms of the regulatory process, it found that the regulatory process is lengthy, that additional regulations alone will not answer the future challenges, and that Government and industry must build effective partnerships to achieve the challenge of the years ahead. The FAA is committed to identifying industry best practices, to developing centers of excellence, to using empowered rulemaking teams, and to promulgating performance-based rules, and writing regulations in plain English.
- Improving the rulemaking process internally. Vice President Gore's National Performance Review directed the FAA to streamline regulatory processes and make rulemaking more responsive to public needs. In response to this review, the FAA conducted a 6-month long Rulemaking Business Process Reengineering project. The goals of the project were to develop a rulemaking process that is efficient and effective; produces high quality rule documents; reduces average processing time; resolves policy issues in a timely manner; improves public participation in the process; increases control and accountability through standards and guidelines; is flexible to manage crises; and is proactive in recognizing and resolving issues early in the rulemaking process. The FAA has begun to implement the recommendations of the project through Steering and Coordination Committees.
- Establishing mechanisms to ensure that the congressional mandates for rulemaking deadlines established by the FAA Reauthorization Act of 1996, such as the issuance of a final rule 16 months after the close of comment on the proposed rule, are in place. In addition, other allowances of the Act, such as the use of experts and consultants in the rulemaking process, are being explored.

Top regulatory priorities for 1997-1998 include the regulations governing the upgrade to the fire safety standards of part 25 for cargo or baggage compartments in certain transport category airplances by eliminating Class D compartments altogether, regulations to initiate employment background investigations, to include a criminal history check if warranted, a duty limitations and rest requirements rule to ensure that pilots are sufficiently rested for duty, and a national overflight of the national parks to reduce or prevent the negative effects of aircraft noise in the national parks.

Federal Highway Administration (FHWA)

The FHWA anticipates that its priority for fiscal year 1998 will be implementation of the legislation that reauthorizes the surface transportation programs administered by the FHWA. The FHWA will seek to implement this legislation in the least burdensome and restrictive way possible consistent with the FHWA's mission. The FHWA will also pursue regulatory reform in areas where project development can be streamlined or accelerated, duplicative requirements can be consolidated, recordkeeping requirements can be reduced or simplified, and the decisionmaking authority of our State and local partners can be increased.

Another major area in which the FHWA will initiate or continue significant rulemaking actions is in the ongoing zero-base review of the Federal Motor Carrier Safety Regulations. The goals and objectives of the zero-base review project are to (a) focus on those areas of enforcement and compliance which are most effective in reducing motor carrier accidents, (b) reduce compliance costs, (c) encourage innovation, (d) clearly and succinctly describe what is required, and (e) facilitate enforcement. Through the zero-base review, the FHWA intends to develop a unified, performance-based regulatory system that will enhance safety on our Nation's highways while minimizing the burdens placed on the motor carrier industry. In addition, the FHWA is currently redrafting the Rules of Practice for Motor Carrier Safety and Hazardous Materials Proceedings. It plans to simplify the current process to facilitate responses by the accused motor carriers and drivers and to offer alternative means of adjudicating the claims. It also intends to promulgate comprehensive rules covering the entire enforcement process from initial contact with the motor carrier to the final disposition of the claim.

National Highway Traffic Safety Administration (NHTSA)

The statutory responsibilities of the National Highway Traffic Safety Administration (NHTSA) include reducing and mitigating motor vehicle crashes and related fatalities and injuries, providing motor vehicle information to consumers, and improving automotive fuel efficiency. The Agency pursues policies that encourage the development of nonregulatory approaches when feasible in meeting its statutory mandate; issues new standards and regulations or amendments to existing standards and regulations when appropriate; ensures that regulatory alternatives reflect a careful assessment of the problem and a comprehensive analysis of the benefits, costs, and other impacts associated with the proposed regulatory action; and considers alternatives consistent with the Administration's regulatory principles.

In addition to numerous programs that focus on the safety and performance of the motor vehicle, the Agency is engaged in a variety of programs to improve driver behavior. These programs emphasize the human aspects of motor vehicle safety and recognize the important role of the States in this common pursuit. This goal is accomplished by a number of means, including encouraging initiatives in such areas as safety belt usage, motorcycle helmet usage, child safety-seat usage, activities aimed at combating drunk driving and driving under the influence of other drugs, and consumer information activities.

Furthering initiatives begun under the National Performance Review, NHTSA is conducting several program evaluations that are designed to review and evaluate the actual benefits, costs, and overall effectiveness of existing standards and regulations. For example, the Agency will continue evaluating Standard 208's automatic crash protection requirement and Standard 214's new dynamic side-impact protection requirement and begin evaluating Standard 108's requirement for reflective marking (either retroreflective tape or reflex reflectors) on heavy truck trailers to enhance their detectability at night or under other conditions of reduced visibility. NHTSA will also begin evaluating the implementation of the American Automobile Labeling Act, which requires new passenger cars, light trucks, and multipurpose passenger vehicles to carry labels providing information on their domestic and foreign parts content.

NHTSA's regulatory program includes additional proposals that will be undertaken in order to allow design flexibility, promote new technology, and encourage market competition and consumer choice. Also, pursuant to the President's 1995 Regulatory Reinvention Initiative, NHTSA has undertaken a review of all its regulations and directives. During the course of this review, the Agency identified regulations that are potential candidates for rescission or amendment. NHTSA completed action on many of the candidate regulations and will complete action on the few remaining ones in the coming year. The Agency will also be continuing other ongoing safety rulemakings.

Federal Railroad Administration (FRA)

The Federal Railroad Administration (FRA) exercises regulatory authority over all areas of railroad safety. The Federal Railroad Safety Act of 1970 is the primary source of this authority.

FRA promotes safe, environmentally sound, and successful railroad transportation to meet the current and future needs of all its customers. It encourages policies and investment in infrastructure and technology to enable rail to reach its full potential.

FRA seeks to develop a regulatory program that is based on the regulatory principles enunciated in Executive Order 12866 and that satisfies the Order's basic criteria for such programs. FRA's vision is of a regulatory program that protects the health and safety of all persons affected by railroading in America and enhances the environment without imposing unreasonable costs on society. FRA seeks to create regulations that are as "effective, consistent, sensible, and understandable" as those envisioned by the President in his Order.

While railroad safety has improved substantially over the past decade due to the implementation of easy and obvious risk reduction measures, significant risk remains due to the nature of rail transportation. Fashioning solutions that have favorable benefit-to-cost ratios, and that, where feasible, incorporate flexible performance standards, requires cooperative action by all affected parties. Interested parties have traditionally approached rail safety rulemakings in an adversarial manner, however, which greatly inhibited the development of the best regulatory approaches to resolve difficult safety issues.

FRA began addressing these concerns when it decided to use negotiated rulemaking to create a rule addressing the safety of roadway workers. Begun early in 1995, the negotiated rulemaking advisory committee reached a consensus agreement about how best to ensure the safety of roadway workers and issued a final rule in December of 1996. This negotiated rulemaking represented an historic departure from FRA's traditional rulemaking program.

Building on its success with this collaborative rulemaking experience, FRA established the Railroad Advisory Committee (RSAC) in late March 1996. Making collaborative rulemaking a new way of doing business at FRA is essential to future improvements in public and railroad employee safety. RSAC provides the foundation for accomplishing this objective because it represents a rare commitment on the part of labor unions, railroads, and private associations to work together, and with FRA, on the establishment of regulatory priorities, the gathering and analysis of safety data, and the development of standards which are necessary to ensure that maximum safety levels are both obtained and maintained. As such, it is important to the creation of trust, both between the Agency and the industry, as well as among industry members.

The purpose of RSAC is to develop consensus recommendations for regulatory action on issues referred to it by FRA. Where consensus is achieved, and FRA believes it serves the public interest, the resulting rule is very likely to be better understood, more widely accepted, more cost-beneficial, and more correctly applied. Where consensus cannot be achieved, however, FRA will fulfill its regulatory role without the benefit of RSAC's recommendations.

The RSAC has met on a quarterly basis so far and currently has established working groups to address the following tasks: (1) The revision of the regulations governing track safety standards; (2) the revision of the regulations governing radio standards and procedures; (3) the revision of the regulations governing locomotive inspection standards for steam-powered locomotives; (4) the review of FRA regulations for their applicability to historic railroads; (5) the development of locomotive crew safety standards (crashworthiness and working conditions); and (6) the development of locomotive event recorder accident survivabilty standards. To date, the RSAC's recommendations have led to two NPRMs, one on Railroad Communications and the other on Track Safety Standards.

In addition to RSAC, FRA has successfully used collaborative rulemaking to address passenger safety issues. In February of 1997, FRA published an NPRM on Passenger Train Emergency Preparedness based on the recommendations of a working group and expects to issue the rule in final in the fall of 1997. Additionally, FRA established a working group to develop Passenger Equipment Safety Standards and published an Advanced Notice of

Proposed Rulemaking on June 17, 1996. FRA plans to publish an NPRM in the fall of 1997.

Federal Transit Administration (FTA)

The Federal Transit Administration (FTA) provides financial assistance to State and local governments for mass transportation purposes. The regulatory activity of FTA focuses on establishing the terms and conditions of Federal financial assistance available under the Federal transit laws.

FTA's policy regarding regulations is to:

- Implement statutory authorities in ways which provide the maximum net benefits to society;
- Keep paperwork requirements to a minimum;
- Allow for as much local flexibility and discretion as is possible within the law;
- Ensure the most productive use of limited Federal resources;
- Protect the Federal interest in local investments; and
- Incorporate good management principles into the grant management process.

As mass transportation needs have changed over the years, so have the requirements for Federal financial assistance under the Federal transit laws and related statutes. FTA's regulatory priority for 1997 is to assist FTA recipients comply with the drug and alcohol testing regulations and the State safety oversight rule. FTA will be conducting workshops on charter bus regulations.

Maritime Administration (MARAD)

MARAD administers Federal laws and programs designed to promote and maintain a U.S. merchant marine capable of meeting the Nation's shipping needs for both national security and domestic and foreign commerce.

MARAD's regulatory objectives and priorities are prescribed by statute and reflect the Agency's responsibility for ensuring the availability of adequate and efficient water transportation services for American shippers and consumers. To advance these objectives, MARAD issues regulations, which are principally administrative and interpretive in nature, when appropriate, in order to provide a net benefit to the U.S. maritime industry. In developing its regulations MARAD routinely consults with other interested agencies, for example, the Departments of Defense and Agriculture, to ensure that its cargo preference regulations can be implemented by those agencies in a cost-effective manner.

In 1997, priority will be given to updating existing regulations to reduce unnecessary burden on the public.

Research and Special Programs Administration (RSPA)

The Research and Special Programs Administration (RSPA) has responsibility for rulemaking under two programs. Through the Associate Administrator for Hazardous Materials Safety, RSPA administers regulatory programs under Federal hazardous materials transportation law and the Federal Water Pollution Control Act, as amended by the Oil Pollution Act of 1990. Through the Associate Administrator for Pipeline Safety, RSPA administers regulatory programs under the Federal pipeline safety laws and the Federal Water Pollution Control Act, as amended by the Oil Pollution Act of 1990.

In the area of hazardous materials transportation, the regulatory priority is to update and consolidate requirements in the hazardous materials regulations for the manufacture, maintenance, requalification, repair, and use of compressed gas cylinders. In this rulemaking, RSPA intends to recognize advances in cylinder manufacturing technology and to clarify and simplify regulatory requirements. Another priority is to clarify, through rulemaking action, the applicability of the regulations to the loading, unloading, and storage of hazardous materials incidental to their movement in commerce. Clarifying the applicability of the regulations will facilitate compliance with them and also clarify when other requirements of Federal, State, local, and Indian tribe governmental bodies apply.

The regulatory priorities in the pipeline area are to manage the risks inherent in pipeline transportation through strategies directed at prevention, detection, and mitigation activities. Specific regulatory actions to implement these activities include the use of emergency flow-restricting devices and other mechanisms to detect and locate pipeline ruptures and minimize releases, excavation damage prevention programs, mandating participation in one-call notification systems, increased inspection requirements using instrumented internal inspection devices, and prescribing risk-based approaches to pipeline safety regulations.

Bureau of Transportation Statistics (BTS)

The Intermodal Surface Transportation Efficiency Act of 1991 created the Bureau of Transportation Statistics (BTS). BTS is responsible for compiling, analyzing, and making accessible information on the Nation's transportation systems; collecting information on intermodal transportation and other areas as needed; and enhancing the quality and effectiveness of the statistical program of DOT through research, the development of guidelines, and the promotion of improvements in data acquisition and use.

One of BTS's regulatory priorities is to completely review its motor carriers of property financial data collection program. The data are collected under recently revised statutory authority, which requires BTS to give consideration to: (1) Safety needs; (2) the need to preserve confidential business information and trade secrets and prevent competitive harm; (3) private sector, academic, and public use of information in the reports; and (4) the public interest. Further, the statute calls for BTS to "streamline and simplify" reporting requirements to the "maximum extent practicable." Among the issues BTS plans to address are: Which motor carriers should report, what data items should be collected, and how often should data be collected. BTS has proposed using negotiated rulemaking to help it design a collection program that meets legitimate public and private sector data needs while minimizing the burden on the industry.

BTS's Office of Airline Information (OAI), collects airline passenger, cargo, traffic, and financial data. This information gives the Government consistent and comprehensive economic and market data on individual airline operations and is used, for instance, in supporting policy initiatives, negotiating international bilateral aviation agreements, awarding international route authorities, and meeting international treaty obligations. The aviation, travel, and tourism communities value this information for a variety of purposes, such as conducting analyses of on-time performance, denied boardings, and market trends.

BTS's long range regulatory priority in the aviation area is to conduct a complete review and modernization of the passenger origin and destination survey. BTS can make significant improvements by providing data for the needs of DOT and other users in a way that takes advantage of the information revolution and matches the dramatically changing airline industry.

Saint Lawrence Seaway Development Corporation (SLSDC)

The Saint Lawrence Seaway Development Corporation (SLSDC) is a wholly owned Government corporation created by Congress in 1954. The primary operating service of the SLSDC is the safe transit of commercial and noncommercial vessels through the two U.S. locks and the navigation channels of the St. Lawrence Seaway System. The SLSDC works jointly with the St. Lawrence Seaway Authority (SLSA) of Canada to operate and maintain this deep draft waterway between the Great Lakes and the Atlantic Ocean.

The SLSDC also works jointly with SLSA on all matters related to rules and regulations, overall operations, vessel inspection, traffic control, navigation aids, safety, operating dates, and trade development programs.

The regulatorty priority of the SLSDC is to provide its customers with the safest, most reliable, and most efficient Seaway System possible.

DOT—Office of the Secretary (OST)

FINAL RULE STAGE

89. +PASSENGER MANIFEST INFORMATION

Priority:

Other Significant

Legal Authority:

49 USC 44909

CFR Citation:

14 CFR 243

Legal Deadline:

Final, Statutory, March 16, 1991.

Abstract:

This rule would require that each air carrier and foreign air carrier collect basic information from specified passengers traveling on flight segments to or from the United States. U.S. carriers would collect the information for all passengers and foreign air carriers would collect the information for U.S. citizens. The information would include the passenger's full name and passport number and issuing country code, if a passport is required for travel. In addition, airlines would be required to solicit the name and telephone number of a person or entity to be contacted in case of emergency. Airlines would be required to make a record of passengers who decline to provide an emergency contact. The information would be provided to the Departments of Transportation and State in case of an aviation disaster. This rulemaking is considered significant because of substantial public interest and the congressional mandate.

Statement of Need:

During the immediate aftermath of the tragic bombing of Pan American Flight over Lockerbie, Scotland in 1988, the Department of State experienced difficulties in securing complete and accurate passenger manifest information and in notifying the families of victims. The Department of State did not receive the information for "more than seven hours after the tragedy" and then, in accordance with current airline practice, it included only the passengers' surnames and first initials which was insufficient information to permit notification of the victims' families in a timely manner. There were continuing problems after subsequent crashes on international flights from the U.S. that took place near Cali, Columbia, in December 1995, and off Long Island, New York, in July 1996.

Summary of the Legal Basis:

This proposal is being issued in order to implement the requirements of 49 USC 44909. In 1990, Congress mandated that the Secretary of Transportation require all U.S. air carriers to provide a passenger manifest for any flight to an appropriate representative of the U.S. Department of State (1) not later than 1 hour after any such carrier is notified of an aviation disaster outside the United States which involves such flight; or (2) if it is not technologically feasible or reasonable to fulfill the requirement of this subsection within 1 hour, then as expeditiously as possible, but no later than 3 hours after such notification.

In addition, the statute states that the passenger manifest information should include the full name of each passenger, the passport number of each passenger, if a passport is required for travel, and the name and telephone number of an emergency contact for each passenger. The statute further notes that the Secretary of Transportation shall consider the necessity and feasibility of requiring U.S. carriers to collect passenger manifest information as a condition for passenger boarding of any flight subject to the passenger manifest requirements. Finally, the statute provides that the Secretary of Transportation shall consider a requirement for foreign air carriers comparable to that imposed on U.S. air carriers.

Alternatives:

The Department proposed to waive compliance with certain requirements if an air carrier has in effect a signed Memorandum of Understanding with the Department of State concerning cooperation and mutual assistance following aviation disasters abroad.

The Department proposed to allow air carriers to develop their own passenger manifest data collection systems. Air carriers would be free to adopt any system that minimizes the burden on them, so long as the system is capable of meeting the requirements set out in the statute. In an attempt to not disproportionately burden smaller air carriers, DOT is considering, in addition, a longer phase-in period for these air carriers.

Anticipated Costs and Benefits:

The Department estimated that the rule would cost between $27.6 and $44.8 million per year plus a one-time start-up cost of $30.5 million. The direct benefits would include prompt and accurate notification to families of victims of aviation disasters that occur on flights to and from the United States and a general increase in the response capability of the Department of State regarding its duties to U.S. citizens and to foreign governments following an aviation disaster.

Risks:

This action addresses the need for prompt and accurate notification of families of victims of aviation disasters on international flights to or from the U.S. We expect the action to significantly reduce, if not eliminate, many of the notification problems that the air carriers and the Department of State have encountered in previous aviation disasters.

Timetable:

Action	Date	FR Cite
ANPRM	01/31/91	56 FR 3810
ANPRM Correction	02/12/91	56 FR 5665
ANPRM Comment Period End	02/19/91	
Notice: Public Meeting 3/29/96	03/15/96	61 FR 10708
NPRM	09/10/96	61 FR 47692
NPRM Comment Period End	11/12/96	
Final Action	12/00/97	

Small Entities Affected:

Businesses

Government Levels Affected:

Undetermined

Analysis:

Regulatory Evaluation 09/10/96 (61 FR 47692)

Additional Information:

This entry was formerly titled Aviation Security: Passenger Manifest Information. The Department's rulemaking on Domestic Passenger Manifest Information is RIN 2105-AC62 and an ANPRM was published 3/13/97, 62 FR 11789.

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RIN: 2105–AB78

DOT—U.S. Coast Guard (USCG)

PROPOSED RULE STAGE

90. +FACILITY RESPONSE PLANS FOR HAZARDOUS SUBSTANCES (CGD 94-048)

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

Undetermined

Legal Authority:

33 USC 1321(j); PL 101-380

CFR Citation:

33 CFR 154

Legal Deadline:

None

Abstract:

This project would implement provisions of the Oil Pollution Act of 1990 that require an owner or operator of a marine transportation-related facility transferring bulk hazardous substances to develop and operate in accordance with an approved response plan. The regulations would apply to marine transportation-related facilities that, because of their location, could cause harm to the environment by discharging a hazardous substance into or on the navigable waters or adjoining shoreline. A separate rulemaking under RIN 2115-AE88 would address hazardous response plan requirements for tank vessels. This action is considered significant because of substantial public interest.

Statement of Need:

This rulemaking is intended to reduce the impact from hazardous substance spills from vessels and marine transportation-related facilities.

Summary of the Legal Basis:

Section 4202(a) of the Oil Pollution Act of 1990 (OPA 90), codified at 33 USC 1321(j)(5), mandates that the President issue regulations requiring the preparation of oil and hazardous substance discharge response plans. Although 4202(b)(4) of OPA 90 established an implementation schedule for these response plans for oil, it did not establish a deadline for submission or approval of hazardous substances response plans. The Coast Guard has issued separate final rules governing response plan requirements for vessels carrying oil in bulk as cargo and facilities that handle, store, or transport oil in bulk. Under section 1321, "hazardous substances" are designated by the Administrator of the Environmental Protection Agency. The Administrator has designated 297 chemicals as hazardous substances under this section. The Coast Guard has identified 84 hazardous substances currently carried in bulk by vessels.

Alternatives:

The Coast Guard intends to determine what types of response strategies would be required to address spills of different types of hazardous substances. For some substances, containment and recovery may be the appropriate response. However, some spilled substances may not be recoverable from the water and other actions may be necessary. Plans would be required, by statute, to address responses to a "worst case discharge." For facilities, a "worst case discharge" is "the largest foreseeable discharge in adverse weather conditions."

Anticipated Costs and Benefits:

The potential costs of this rulemaking may include the costs of developing and implementing a hazardous substance response plan, maintaining contracts for response resources, reviewing and updating hazardous substance response plans, maintaining any required equipment, and training and exercising response personnel. Potential benefits include, reduced risk of human exposure, enhanced environmental quality from improved ability to respond to, contain, and recover spilled hazardous substances and a reduction in the severity of the impact of accidental hazardous substance discharges. Specific estimates of potential monetary costs and benefits will depend upon the approach selected. Although an analysis has not yet been conducted, some approaches have potential costs that could exceed $100 million; therefore, this is considered an economically significant action. A key element in developing effective regulations for hazardous substance response plans will be the development of an approach for addressing different types of hazardous substances.

Risks:

Response plans are required by statute. A response plan will not prevent a discharge of a hazardous substance, but it may improve the response and help to minimize personal injury and damage to the environment. This rule should not affect the economic viability of facilities involved in transferring hazardous substances in bulk or have a significant impact on the volume of hazardous substances shipped by marine transportation-related facilities. Most facilities involved in transferring hazardous substances in bulk have developed plans, but there have not been requirements for standardization.

Timetable:

Action	Date	FR Cite
ANPRM	05/03/96	61 FR 20084
Notice of Public Hearings	07/03/96	61 FR 34775
ANPRM Comment Period End	09/03/96	
NPRM	00/00/00	

Small Entities Affected:

Undetermined

Government Levels Affected:

None

Agency Contact:

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RIN: 2115–AE87

DOT—USCG

91. +TANK VESSEL RESPONSE PLANS FOR HAZARDOUS SUBSTANCES (CGD 94-032)

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

33 USC 1231; 33 USC 1321(j); PL 101-380

CFR Citation:

33 CFR 155

Legal Deadline:

None

Abstract:

This project would implement provisions of the Oil Pollution Act of 1990 that require an owner or operator of a tank vessel carrying bulk hazardous substances to develop and operate in accordance with an approved response plan. The regulations would apply to vessels operating on the navigable waters or within the Exclusive Economic Zone (EEZ) of the U.S. that carry bulk hazardous substances. A separate rulemaking under RIN 2115-AE87 would address hazardous substances response plan requirements for marine transportation-related facilities. This action is considered significant because of substantial public interest.

Statement of Need:

This rulemaking is intended to reduce the impact from hazardous substance spills from vessels.

Summary of the Legal Basis:

Section 4202(a) of the Oil Pollution Act of 1990 (OPA 90), codified at 33 USC 1321(j)(5), mandates that the President issue regulations requiring the preparation of oil and hazardous substance discharge response plans. Although 4202(b)(4) of OPA 90 established an implementation schedule for these response plans for oil, it did not establish a deadline for submission or approval of hazardous substances response plans. The Coast Guard has issued separate final rules governing response plan requirements for vessels carrying oil in bulk as cargo and facilities that handle, store, or transport oil in bulk. Under section 1321, "hazardous substances" are designated by the Administrator of the Environmental Protection Agency. The Administrator has designated 297 chemicals as hazardous substances under this section. The Coast Guard has identified 84 hazardous substances currently carried in bulk.

Alternatives:

The Coast Guard intends to determine what types of response strategies would be required to address spills of different types of hazardous substances. For some substances, containment and recovery may be the appropriate response. However, some spilled substances may not be recoverable from the water and other actions may be necessary. Plans would be required, by statute, to address responses to a "worst case discharge." For vessels, a "worst case discharge" is "a discharge in adverse weather conditions of its entire cargo."

Anticipated Costs and Benefits:

The potential costs of this rulemaking may include the costs of developing and implementing a hazardous substance response plan, maintaining contracts for spill-response resources, reviewing and updating hazardous substance response plans, maintaining any required equipment, and training and exercising response personnel. Potential benefits include, reduced risk to human health, enhanced environmental quality from improved ability to respond to, contain, and recover spilled hazardous substances and a reduction in the severity of the impact of accidental hazardous substance discharges. The Coast Guard does not yet have sufficient information to estimate the potential monetary costs and benefits of this rule. A key element in developing effective regulations for hazardous substance response plans will be the development of an approach for addressing different types of hazardous substances.

Risks:

Response plans are required by statute. A response plan will not prevent a discharge of a hazardous substance, but it may improve the response and help to minimize personal injury and damage to the environment. This rule should not affect the economic viability of vessels involved in transferring hazardous substances in bulk, or have a significant impact on the volume of hazardous substances shipped by vessel. Most vessels carrying hazardous substances in bulk have developed plans, but there have not been requirements for standardization.

Timetable:

Action	Date	FR Cite
ANPRM	05/03/96	61 FR 20084
Notice of Public Hearings	07/03/96	61 FR 34775
ANPRM Comment Period End	09/03/96	
NPRM	01/00/98	

Small Entities Affected:

Undetermined

Government Levels Affected:

None

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RIN: 2115–AE88

DOT—Federal Aviation Administration (FAA)

PROPOSED RULE STAGE

92. +OVERFLIGHTS OF UNITS OF THE NATIONAL PARK SYSTEM

Priority:

Other Significant

Legal Authority:

49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44701; 49 USC 44702; 49 USC 44705; 49 USC 44709; 49 USC 44711 to 44713; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306

CFR Citation:

14 CFR 91; 14 CFR 93; 14 CFR 121; 15 CFR 135

Legal Deadline:

None

Abstract:

The FAA and National Park Service have established a joint working group which is tasked with developing a notice of proposed rulemaking to reduce or prevent adverse effects of aircraft noise over our national park system. At the same time, the working group is charged with affording those persons who wish to visit our national parks from the air the opportunity to do so. The working group, which met

the first time on May 20 -21, 1997, was asked to complete its task in 100 days. This rulemaking is significant because of substantial public interest.

Statement of Need:

The need to reduce or prevent the adverse effects of aircraft noise over the national parks is apparent for the preservation of a valuable national resource. In its Report to Congress, the National Park Service identified 98 parks that potentially have an overflight problem. The FAA recognizes its role both to provide for the safe and efficient use of airspace and to enhance the environment by minimizing the adverse effects of aviation in the national park.

Summary of the Legal Basis:

The FAA has broad authority and responsibility to regulate the operation of aircraft and the use of the airspace and to establish safety standards for and regulate the certification of airmen, aircraft, and air carriers. 49 U.S.C. 40101, et. seq. The FAA also has responsibility to protect persons and property on the ground. The President's Memorandum of April 22, 1996, directed the FAA, working with the National Park Service, to issue a notice of proposed rulemaking for the management of sightseeing aircraft in those National Parks where it is deemed necessary to reduce or prevent the adverse effects of noise from such aircraft.

Alternatives:

The FAA and National Park Service anticipate that the working group will consider any alternatives, such as voluntary programs, that would provide an opportunity for interested parties - the air tour operator, the NPS, the FAA and the public - to come together and seek a reasonable agreement.

Anticipated Costs and Benefits:

Undetermined.

Risks:

This rulemaking addresses the risk of destruction of valuable national resources: the right to enjoy the natural quiet in our national parks. At the same time, taking this risk has to be balanced against any potential safety problems that restrictions on overflights might create. Both the National Park Service and FAA are confident that a solution can be reached whereby all visitors to the park may be accommodated through an agreed upon park airspace management plan.

Timetable:

Action	Date	FR Cite
ANPRM	03/17/94	59 FR 12740
ANPRM Correction	04/01/94	59 FR 15350
ANPRM Comment Period End	06/15/94	
Extended Comment Period End 07/15/94	06/20/94	59 FR 31883
Notice: Formation of Working Group	05/22/97	62 FR 28100
Notice of Public Meeting	06/06/97	62 FR 31187
NPRM	12/00/97	

Small Entities Affected:

None

Government Levels Affected:

None

Analysis:

Regulatory Evaluation 12/00/97

Additional Information:

Refer to 1996 Regulatory Plan entry RIN 2120-AF93, Airspace Management: Special Flight Rules in the Vicinity of the Grand Canyon and also RIN 2120-AG11, Special Flight Rules in the Vicinity of the Rocky Mountain National Park.

Project Number: ARM-97-318A

Agency Contact:

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RIN: 2120–AF46

DOT—FAA

FINAL RULE STAGE

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93. +FLIGHT CREWMEMBER DUTY PERIOD LIMITATIONS, FLIGHT TIME LIMITATIONS, AND REST REQUIREMENTS

Priority:

Other Significant

Legal Authority:

49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44701; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912

CFR Citation:

14 CFR 121; 14 CFR 135

Legal Deadline:

None

Abstract:

This rulemaking would amend the regulations to establish one set of duty period limitations, flight time limitations, and rest requirements for flight crewmembers engaged in air transportation. The FAA has determined that rulemaking is required as a result of public and congressional interest in regulating flight crewmember rest requirements, NTSB Safety Recommendations, petitions for rulemaking, and scientific data contained in recent National Aeronautics and Space Administration reports. The proposal would replace certain outdated regulations with a simplified regulatory approach based on scientific studies of fatigue. The objective of the proposal is to ensure that flight crewmembers are provided with the opportunity to obtain sufficient rest to perform their routine and emergency safety duties. The FAA issued a notice of proposed rulemaking in December 1995. As a result of comments received on that proposal, the FAA has determined that additional rulemaking is needed in the form of a supplemental notice. In that additional proposal, the FAA will seek to accommodate the needs of the aviation community while ensuring that pilots are allowed sufficient time to be rested for duty. This action is considered significant because of substantial public interest.

Statement of Need:

The aviation community requires 24-hour activities to meet operational demands. Growth in long-haul, regional, overnight cargo, and short-haul domestic operations are increasing. Therefore, shift work, night work, irregular work schedules, and time zone changes will continue to be commonplace.

With this growth, the scientific knowledge about sleep, sleep disorders, circadian physiology, fatigue, and performance decrements has also grown. Some of the scientific knowledge has indicated that aviators experience performance-impairing fatigue from sleep loss resulting from current flight and duty practices. A primary purpose of this rulemaking is to incorporate as much as possible of the scientific knowledge into the applicable regulations.

In addition, industry and individuals have told the FAA that the current regulations are confusing and difficult to enforce. Therefore, a second purpose of the rulemaking is to establish consistent and clear duty period limitations and rest requirements for all types of operations.

Summary of the Legal Basis:

Section 44701, Title 49 of the United States Code states that the Administrator shall promote safety of flight of civil aircraft in air commerce by prescribing minimum standards required in the interest of safety.

Alternatives:

One obvious alternative would be to continue with the current rules, which would be very expensive for the industry. In reviewing the comments, the FAA is also considering other reserve alternatives that would not penalize certain segments of the industry, such as the air ambulance operators. There is no overall alternative to rest and duty regulations; however, there may be some alternatives that would lend flexibility for operators.

Anticipated Costs and Benefits:

The FAA estimates in the NPRM that total discounted costs over a 10-year period would range between $536 and $800.17 million. Benefits accruing from preventing a fatal accident and the opportunity for using pilots more intensively, are estimated to be approximately $780 million over 10 years.

Risks:

Although there has been only one identifiable accident due to pilot fatigue, fatigue is increasingly becoming the focus of possible causes following all accidents. Pilot reports of being fatigued to the point of incapacity are not uncommon, and intuitively, it is reasonable, given the sheer volume of air traffic, to expect fatigue to be a factor in future accidents if the regulations are not corrected.

Timetable:

Action	Date	FR Cite
NPRM	12/20/95	60 FR 65951
NPRM Comment Period End	03/19/96	
Extended Comment Period End 6/19/96	03/20/96	61 FR 11492
Final Action	06/00/98	

Small Entities Affected:

None

Government Levels Affected:

None

Analysis:

Regulatory Evaluation 12/20/95 (60 FR 65951)

Additional Information:

Project Number AFS-94-443R

Agency Contact:

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DOT—FAA

94. +EMPLOYMENT HISTORY, VERIFICATION, AND CRIMINAL HISTORY RECORDS CHECKS

Priority:

Other Significant

Legal Authority:

49 USC 106(g); 49 USC 5103; 49 USC 40113; 49 USC 40119; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44901 to 44905; 49 USC 44907; 49 USC 44912; 49 USC 44912; 49 USC 44913 to 44914; 49 USC 44932; 49 USC 44935 to 44936; 49 USC 46105

CFR Citation:

14 CFR 107; 14 CFR 108

Legal Deadline:

None

Abstract:

This rule would require an employment background investigation for persons who screen passengers and cargo in airports. The employment background investigation would include a fingerprint-based criminal history record check in certain cases, for unescorted access privileges to security areas at airports. The purpose of this rule is to help ensure the integrity and safety of the airport environment. This rulemaking is considered significant because of the safety factor.

Statement of Need:

Both Vice President Gore's Commission on Aviation Safety and Security and the Congress in the FAA Reauthorization Act of 1996 have found that additional employment background investigations for persons who screen passengers and cargo are needed for reasons of national security.

Summary of the Legal Basis:

49 USC section 44701 empowers the Administrator to prescribe regulations and minimum standards in the interest of safety for aircraft and equipment.

Alternatives:

The current requirements for background investigations for employees who perform screening functions have been determined to be inadequate to ensure a sufficient level of security in access areas. Alternatives to the rule include going even further back in the line of persons responsible for delivery, packaging, etc., of cargo. The FAA determined that background checks on screeners and their supervisors provide a reasonable safety improvement in the airport atmosphere.

Anticipated Costs and Benefits:

The costs of this rule were estimated to range from $4.16 million to $5.44 million over 10 years. Though not directly quantifiable, the benefits compare to the avoidance of a tragedy if a bomb or other explosive were to destroy an aircraft.

Risks:

The purpose of this rulemaking is to provide an additional measure of security at airports in terms of ensuring that the front line of persons who screen passengers and cargo are not themselves a security risk. Commenters have told the FAA of some difficulties of administering the rule, which are receiving due attention. However, the FAA finds that these additional measures for providing a more secure airport environment are worth the effort of promulgation and enforcement.

Timetable:

Action	Date	FR Cite
NPRM	03/19/97	62 FR 13262
Correction	04/08/97	62 FR 16892
NPRM Comment Period End	05/19/97	
Final Rule	06/00/98	

Small Entities Affected:

None

Government Levels Affected:

None

Analysis:

Regulatory Evaluation 03/19/97 (62 FR 13262)

Additional Information:

Project Number: ACP-96-557R.

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RIN: 2120–AG32

DOT—FAA

95. • +REVISED STANDARDS FOR CARGO OR BAGGAGE COMPARTMENTS IN TRANSPORT CATEGORY AIRPLANES

Priority:

Other Significant

Legal Authority:

49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704; 49 USC 44705; 49 USC 44711 to 44713; 49 USC 44715 to 44717

CFR Citation:

14 CFR 25; 14 CFR 121; 14 CFR 135

Legal Deadline:

None

Abstract:

This action proposes to upgrade the fire safety standards for cargo or baggage compartments in certain transport category airplanes by eliminating Class D compartments altogether. Compartments that could no longer be designated as Class D would have to meet the standards for Class C or Class E compartments, as applicable. Certain other transport category airplanes that would not have to meet these new standards for type certification would have to meet them for use in air carrier, commuter, on-demand, or commercial service. These improved standards are needed to increase protection from possible in-flight fires. This rulemaking is considered significant because of the safety implications.

Statement of Need:

There have been a number of fires in the cargo or baggage compartments of transport category airplanes in recent years. Some of which have resulted in accidents and loss of life. Although the FAA has already taken action to improve the safety of these compartments by improving the fire-resistance of liners, the continuing occurrence of fires and the seriousness of the consequences of an uncontrolled fire have resulted in a review of the entire cargo compartment classification system.

Summary of the Legal Basis:

49 USC empowers the Administrator to prescribe regulations and minimum standards in the interest of safety for aircraft and equipment.

Alternatives:

The FAA considered the possibility of requiring only the installation of detection systems. Having a detection system would enable the flight crew to abort a takeoff if an ignition occurred during the brief period before the airplane became airborne. If, on the other hand, the fire occurred after the airplane became airborne, which is more likely, the fire could burn out of control before a safe landing could be made. Since the installation of detection systems alone would provide only a small incremental increase in safety, it is essential that both detection and suppression systems be provided for these compartments.

Other alternatives include use of suppression agents other than halogenated hydrocarbon (halon) and use of a waterspray system. The FAA has participated in an extensive program to develop criteria on which to evaluate possible alternatives. Objectives of this international program, with active participation by the aviation industry and other regulatory authorities, include research and development of alternative agents and systems. The FAA has accelerated development of criteria for certification of alternatives and is committed to expeditious review and certification of alternatives as they are developed.

Anticipated Costs and Benefits:

The rule would allow three years for compliance. Therefore, airplanes that are expected to be permanently retired from service on or before December 31, 2001, are omitted from the analysis (assuming the rule would become effective on January 1, 1998). The FAA estimates that total life-cycle costs for the retrofitted fleet in nominal terms are approximately $296 million or $194 million at present value. The expected reduction in the proportion of occupants fatally injured in an accident resulting from a fire occurring in a Class D compartment is estimated as the ratio of fatalities to total occupants. Of the 1,411 individuals involved in accidents discussed in the regulatory evaluation, 523 were fatally injured, representing approximately 37% of occupants. Applying a risk reduction estimate to airplane-specific departure, capacity, and load factor information, the FAA estimates that the rule would yield benefits of approximately $458 million over the life of the affected in-service fleet (or approximately $228 million at present value.)

Risks:

At least 19 fires have occurred in Class D compartments over the past two decades. The consequences of those fires ranged from no airplane damage and no occupant injury to complete destruction of an airplane. The exception, insofar as injuries are concerned, was the fire that occurred in May of 1996 in the Class D compartment of a McDonnell Douglas DC-9 operated by Valujet Airlines, which resulted in the destruction of the airplane with a loss of 110 lives.

An additional potential hazard in the cargo or baggage compartments of passenger-carrying airplanes has resulted from passengers transporting aerosol cans in checked baggage. Tests show that these cans can burst if they are in a burning suitcase for more than two minutes. These tests further show that if the burst occurs in a non-inert atmosphere, such as that of a Class D compartment, there is an immediate auto-ignition of the propellant. If, on the other hand, the burst occurs in an inert atmosphere, such as that of a Class C compartment in which an extinguishing agent has been discharged, the propellant does not ignite and poses no further hazard.

Improved standards are needed to increase protection from possible in-flight fires.

Timetable:

Action	Date	FR Cite
NPRM	06/13/97	62 FR 32412
NPRM Comment Period End	09/11/97	
Final Rule	12/00/97	

Small Entities Affected:

Undetermined

Government Levels Affected:

Undetermined

Analysis:

Regulatory Evaluation 06/13/97 (62 FR 32412)

Additional Information:

Project Number: ANM-97-009R

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DOT—National Highway Traffic Safety Administration (NHTSA)

PROPOSED RULE STAGE

96. +FEDERAL MOTOR VEHICLE SAFETY STANDARDS: HEAD IMPACT PROTECTION

Priority:

Other Significant

Legal Authority:

49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation:

49 CFR 571.201

Legal Deadline:

None

Abstract:

This rulemaking would amend Federal motor vehicle standard No. 201 "Occupant Protection in Interior Impact" to modify the performance requirement and test procedures for head impact protection in order to facilitate the introduction and assess the performance of crash deployed restraint systems that will provide occupants with protection in side impacts and other crash modes. This action is considered significant because of substantial public interest.

Statement of Need:

Having installed air bags to provide crash-deployed protection in frontal crashes, motor vehicle manufacturers are now developing a variety of technologies for providing crash-deployed protection in other crash modes, including side crashes. However, the manufacturers believe that they cannot manufacture and install these without amendments to the upper interior head protection requirements of Federal motor vehicle safety standard No. 201.

Those requirements are intended to reduce deaths and injuries to motor vehicle occupants resulting from head impacts with the interior of the passenger compartment. They were adopted in a rulemaking proceeding completed in 1995. In that year, NHTSA published a final rule amending Standard 201 to require passenger cars and trucks, busses, and multipurpose passenger vehicles (collectively, LTVs) with a gross vehicle weight rating (GVWR) of 10,000 pounds or less, to provide protection against injury when an occupant's head strikes upper interior components, including pillars, side rails, headers, and the roof, during a crash (60 FR 43031). The amendments added procedures and performance requirements for a new in-vehicle component test. It is expected that vehicle manufacturers will comply using a variety of energy absorbing materials. The potential benefits of this rulemakings place it among the highest benefit rulemaking in the agency history.

The advent of new crash-deployed restraint and head protection systems such as side air bags, may require modification of this standard. These systems, which may offer significant safety benefits, may not conform to the standard as it is currently written. Accordingly, NHTSA is considering amendments to Standard No. 201 that would facilitate the introduction of these crash-deployed systems and specify new requirements and test procedures to assess their performance.

Summary of the Legal Basis:

Section 30111, Title 49 of the United States Code, states that the Secretary shall prescribe motor vehicle safety standards. Section 2503(5) of the Intermodal Surface Transportation Efficiency Act required the Secretary to issue requirements for improved head injury protection. Authority to prescribe such standards is delegated to the Administrator by 49 CFR 501.2.

Alternatives:

Based in part on the comments and suggestions included in petitions for reconsideration of the August 1995 final rule, the agency is evaluating a variety of performance requirements and test procedures for the purpose of making a tentative assessment of which would most appropriately measure the performance of the crash-deployed systems, and assure their effectiveness. Given that the petitioners are contemplating significantly different types of technology, more than one set of requirements and test procedures may be necessary.

Anticipated Costs and Benefits:

The potential costs and benefits of this action have not yet been determined.

Risks:

Even in the future when all cars and light trucks on the road are equipped with air bags, an estimated 1,924 fatalities per year will occur from an occupant's head striking an upper interior surface. A variety of crash-deployed systems are being considered as an alternative or supplement to simply padding certain portions of these surfaces. Padding is estimated to be able to reduce these fatalities by 873 to 1,045 annually. The effectiveness of crash-deployed systems, some of which also address additional accident modes, is currently being studied.

Timetable:

Action	Date	FR Cite
ANPRM	03/07/96	61 FR 9136
ANPRM Comment Period End	04/22/96	
NPRM	08/26/97	62 FR 45202
NPRM Comment Period End	10/27/97	
Final Action	06/00/98	

Small Entities Affected:

None

Government Levels Affected:

None

Analysis:

Regulatory Evaluation 08/26/97 (62 FR 45202)

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RIN: 2127–AG07

DOT—NHTSA

97. +ADVANCED AIR BAGS

Priority:

Other Significant

Legal Authority:

49 USC 332; 49 USC 30115; 49 USC 30117; 49 USC 30122; 49 USC 30166

CFR Citation:

49 CFR 571.208

Legal Deadline:

None

Abstract:

The agency is proposing to set a phase-in schedule for the next generation of air bags. The proposal will include a definition and performance tests for advanced air bags. With the growth of research and competition in air bag technology, the agency believes that advanced air bags will substantially reduce air bag-related deaths and seeks to secure their introduction while preserving design flexibility. Advanced air bags will suppress or adjust air bag deployment in response to factors like occupant size and location and crash severity. This action is considered significant because of the degree of public interest in this subject.

Statement of Need:

As part of NHTSA's program to mitigate adverse effects of current-design air bags, the agency has stated that the next step in the evolution of air bags would be systems that automatically prevent those effects. As of July 1, 1997, the agency was aware of 40 children and 30 adults who had been killed by current air bags. The agency has already required warning labels on all new air-bag-equipped vehicles, permitted depowered air bags and participated in public programs to increase safety belt and child restraint use, to reduce fatalities. This program will pursue the next step: advanced, interactive restraint systems.

Summary of the Legal Basis:

Section 30111, Title 49 of the United States Code, states that the Secretary shall prescribe motor vehicle safety standards. Authority to prescribe such standards is delegated to the Administrator by 49 CFR 501.2.

Alternatives:

The agency is participating with motor vehicle manufacturers, equipment suppliers, the insurance industry, and academia, through the Advanced Air Bag Technology Working Group of NHTSA's Motor Vehicle Research Advisory Committee. The agency is utilizing the resources of this partnership in identifying alternatives for this proposed rulemaking process. Moreover, the agency has joined with the National Aeronautics and Space Administration in a comprehensive state-of-the-art assessment for near-term air bag technology. We anticipate that these partnerships will lead to a comprehensive identification of options to promote future air bag technology.

Anticipated Costs and Benefits:

The potential costs and benefits of this action have not yet been determined.

Risks:

Air bags have been shown to substantially reduce fatalities in traffic accidents. When fully implemented, NHTSA estimates that air bags will save 3,000 lives per year and result in about 34,000 fewer moderate-to critical injuries. However, almost all current air bags deploy the same way for all occupants, regardless of their size or location at the time of deployment, and for all crashes above a deployment threshold, regardless of their severity. As a result, there have been some adult and child fatalities. Therefore, the development and introduction of advanced air bags is being pursued aggressively by both the industry and the agency.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected:

None

Government Levels Affected:

None

Analysis:

Regulatory Evaluation 12/00/97

Additional Information:

This rulemaking action is an additional part of the Adverse Side Effects of Air Bags (RIN 2127-AG14). A technical workshop was held February 11 and 12, 1997, in Washington, DC.

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RIN: 2127–AG70

DOT—Federal Railroad Administration (FRA)

PROPOSED RULE STAGE

98. +PASSENGER EQUIPMENT SAFETY STANDARDS

Priority:

Other Significant

Legal Authority:

49 USC 20103; 49 USC 20133; 49 USC 20111 to 20113; 49 USC 20301 to 21311; PL 103-440, sec 215

CFR Citation:

49 CFR 238

Legal Deadline:

Final, Statutory, November 2, 1997.

Final, Statutory, November 2, 1999.

Abstract:

This action would establish comprehensive federal safety standards for railroad passenger equipment. It is being taken pursuant to the Federal Railroad Safety Authorization Act of 1994. This action will address inspection, testing, and maintenance of passenger equipment; equipment design and performance criteria related to passenger and crew survivability in the event of a train accident; and the safe operation of passenger train service, supplementing existing railroad safety standards. This is considered significant due to public interest.

Statement of Need:

Effective federal safety standards for freight equipment have long been in place, but equivalent federal standards for certain aspects of railroad passenger equipment do not exist. Further, the rail passenger environment is rapidly changing. Worldwide, operating speeds are increasing and several passenger trainsets have been proposed for operation at high speeds in the United States. A clear set of federal safety standards for passenger equipment is needed to provide for the safety of the nation's rail passenger service.

Summary of the Legal Basis:

This rulemaking is required by section 215 of the Federal Railroad Safety Authorization Act of 1994, PL 103-440.

Alternatives:

The proposed rule permits railroads under specified conditions to obtain special approval to comply with safety standards in the alternative to certain

of those standards specifically prescribed in the rule. In addition, the proposed rule allows railroads to petition FRA to operate equipment that does not specifically comply with individual standards in the rule, provided the railroad can demonstrate that the equipment will otherwise operate at a level of safety at least equivalent to that afforded by the provisions of the rule with which the equipment does not comply. FRA would expect an analysis showing the effectiveness of clearly compensating features, such as closing grade crossings, providing absolute separation of lighter rail equipment from heavy rail equipment, or using highly capable signal and train control systems that significantly reduce the probability of accidents caused by human error.

Anticipated Costs and Benefits:

The rule is expected to save the passenger rail industry a Net Present Value (NPV) of approximately $40.6 million over the next 20 years. The estimated NPV of the total 20-year costs associated with the rule is $41.0 million, and the estimated NPV of the total 20-year savings (economic benefits) expected to accrue from the rule is $81.6 million. The total net impact of the proposed rule could be a savings of $26.6 million, however, depending on the results of fire safety analyses and accompanying remedial action required by the rule. Overall, the net savings results from reducing current regulatory burdens specifically involving the inspection, testing, and maintenance of power brakes for passenger trains, by providing for safety through less burdensome requirements proposed as part of a comprehensive set of passenger equipment safety regulations. Additional benefits will accrue, although such benefits have not been estimated, as rail accidents are prevented or their effects are mitigated by restricting the use of passenger equipment not having necessary structural or emergency features, by providing for comprehensive mechanical inspections, and by requiring system safety planning, in addition to other safety requirements.

Risks:

In the last six years there have been at least six passenger train accidents which resulted in more than one train occupant fatality. Notably, on February 16, 1996, a Maryland Rail Commuter Service (MARC) train collided with an Amtrak train near Silver Spring, Maryland, resulting in the deaths of three crewmembers and eight passengers on board the MARC train. Further, passenger trains are exposed to risks from operating commingled with very heavy and long freight trains, as well as from operating over track with frequent grade crossings used by heavy highway equipment. However, comprehensive federal safety standards governing the design, maintenance, and safety planning of rail passenger equipment do not currently exist.

Timetable:

Action	Date	FR Cite
ANPRM	06/17/96	61 FR 30672
ANPRM Comment Period End	07/09/96	
NPRM	10/00/97	

Small Entities Affected:

Undetermined

Government Levels Affected:

Undetermined

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RIN: 2130–AA95

DOT—FRA

FINAL RULE STAGE

99. +RAIL PASSENGER SERVICE: EMERGENCY PREPAREDNESS

Priority:

Other Significant

Legal Authority:

49 USC 20103; 49 USC 20133; 49 USC 20111 to 20113; 49 USC 20301 to 20306; 49 USC 21301 to 21302; 49 USC 21304 to 21311; PL 103-440, sec 215

CFR Citation:

49 CFR 239

Legal Deadline:

NPRM, Statutory, November 2, 1997.

Final, Statutory, November 2, 1997.

Final, Statutory, November 2, 1999.

Abstract:

This action would establish minimum emergency preparedness standards to ensure that railroads involved in passenger train operations can effectively and efficiently manage emergencies. This action is being taken pursuant to the Federal Railroad Safety Authorization Act of 1994. The NPRM provides flexibility to each railroad to establish procedures and policies appropriate to its particular operations, subject to review and approval by the FRA. This is considered significant due to public interest.

Statement of Need:

After the 1993 derailment of the "Sunset Limited" near Mobile, Alabama, the NTSB found that rescue efforts were delayed by a lack of prompt and accurate communication between Amtrak and emergency responders. Even before this, the FRA had commissioned a study by the Volpe Transportation Systems Center, which resulted in a publication containing guidelines for emergency preparedness for passenger train operators. Finally, some passengers in the MARC train collision in Silver Spring, Maryland had difficulty finding and opening emergency window exits.

Summary of the Legal Basis:

This proposal would implement a number of statutory requirements contained in the Federal Railroad Safety Authorization Act of 1994, PL 103-440, section 215 entitled Passenger Car Safety Standards. The Secretary of Transportation has delegated these rulemaking responsibilities to the FRA.

Alternatives:

The proposed rule is expected to incorporate a variety of alternatives, in order to allow each railroad to adapt the basic requirements to its specific operations. In addition, the NPRM invites comment on whether certain additional emergency preparations should be mandatory for all railroads conducting passenger operations.

Anticipated Costs and Benefits:

FRA has assessed quantitative measurements of costs and benefits expected from the adoption of the proposed rule. The net present value of the total twenty-year costs which the industry is expected to incur is $4.510 million. The amount associated with the requirements aimed at ensuring that in a life threatening situation passengers trapped in a car would be afforded enough opportunity to escape safely is $1.2 million. Specifically, the $1.2 million cost figure applies to the proposed requirement for equipping each passenger car with a pry bar, as well as marking and inspecting emergency exits.

If as a result of adoption of the proposed regulations only two fatalities were to be avoided over a twenty-year period, then the rule would be cost beneficial. Also, FRA believes that it is reasonable to expect that the measures called for in this proposal would prevent or mitigate the severity of injuries greater in value than the costs of developing and implementing emergency preparedness plans.

Risks:

Although the passenger rail industry has a very high level of safety, the potential for injuries and loss of life in certain emergencies is very high. In the last ten years, there have been about seven passenger train accidents which resulted in a significant loss of life. This action addresses the need for standards for the preparation, adoption, and implementation of emergency preparedness plans by railroads connected with the operation of passenger trains, including freight railroads hosting the operations of rail passenger service. This action is expected to shorten emergency response time, improve the effectiveness of evacuating passengers, and minimize the effects of an emergency.

Timetable:

Action	Date	FR Cite
NPRM	02/24/97	62 FR 8330
Notice of Public Hearing	03/06/97	62 FR 10248
NPRM Comment Period End	04/24/97	
Final Action	10/00/97	

Small Entities Affected:

None

Government Levels Affected:

None

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DOT—Research and Special Programs Administration (RSPA)

PROPOSED RULE STAGE

100. +REQUIREMENTS FOR CYLINDERS (SECTION 610 REVIEW)

Priority:

Other Significant

Legal Authority:

49 USC 5101 to 5127

CFR Citation:

49 CFR 172; 49 CFR 173; 49 CFR 178

Legal Deadline:

None

Abstract:

This rulemaking would amend the Hazardous Materials Regulations (HMR) to update and consolidate requirements for the manufacture, maintenance, requalification, repair, and use of compressed gas cylinders. RSPA intends to provide for the manufacture of compressed gas cylinders to certain new DOT specifications and to revise requirements applicable to the maintenance, requalification, and repair of all DOT specification cylinders (including those cylinders that may no longer be manufactured). RSPA also proposes to simplify the requirements for filling cylinders and consolidate and revise requirements applicable to persons who requalify cylinders. This rulemaking will recognize advances in cylinder manufacturing technology and clarify and simplify regulatory requirements. This rulemaking, which will affect persons who manufacture, requalify, repair, refill and use compressed gas cylinders, is of significant interest to the compressed gas industry. As part of this action, a small entities review under 5 USC section 610 will be included.

Statement of Need:

This rulemaking action is the first comprehensive review and revision of the cylinder requirements since the first cylinder specification was adopted in the early 1900's. Since that time, additional cylinder specifications and related requirements for cylinder requalification and use have been added on a piece-meal basis in response to the development of new construction materials, accidents and incidents, shipping experience, and the development of industry consensus standards. RSPA seeks to improve the integrity of cylinders by adopting manufacturing and testing standards based more on performance than detailed design requirements. RSPA has received over 25 petitions for rulemaking and has issued numerous exemptions relating to requirements for cylinders and for the transportation of hazardous materials in cylinders. The merits of these petitions and the need to convert provisions of exemptions into regulations of general applicability will be considered in this rulemaking action.

Summary of the Legal Basis:

Section 5103 of Title 49 U.S.C. specifies that the Secretary shall prescribe regulations for the safe transportation of hazardous materials in intrastate, interstate, and foreign commerce. These regulations shall apply to persons transporting or causing to transport hazardous materials in commerce, and persons manufacturing, fabricating, marking, maintaining, repairing or testing packagings that are represented, marked, certified, or sold by such persons as qualified for use in transporting hazardous materials in commerce.

Alternatives:

The proposed rule is expected to incorporate a variety of alternatives to provide greater flexibility to cylinder manufacturers, refillers and users. There will be proposals to allow harmonizing of the manufacturing practices between the U.S. and other countries, to provide greater flexibility in the filling of cylinders based on performance criteria, and to simplify the regulations by streamlining the commodity sections and by standardizing the new cylinder specifications.

Anticipated Costs and Benefits:

A preliminary regulatory evaluation is being developed. The potential costs and benefits of this action have not yet been determined. A major industry association has indicated that this rulemaking could result in significant cost reductions for the cylinder manufacturing industry.

Risks:

Improving the integrity of cylinders will reduce the risk of leakage in overturns and other accidents. In addition, simplifying the regulations will reduce misunderstandings and the possibility of processing errors that may adversely affect safety.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	

Small Entities Affected:

None

Government Levels Affected:

None

Analysis:

Regulatory Evaluation

Additional Information:

Formerly entitled Review: Consolidation of Specifications for High-Pressure Seamless Cylinders. Docket No. HM-220.

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RIN: 2137–AA92.

DOT—RSPA

101. +EMERGENCY FLOW RESTRICTING DEVICES

Priority:

Other Significant

Legal Authority:

49 USC 60101 to 60125

CFR Citation:

49 CFR 195

Legal Deadline:

Final, Statutory, October 24, 1996.

Abstract:

This rulemaking would specify those circumstances under which operators of hazardous liquid pipelines are required to use emergency flow-restricting devices (EFRDs) and other procedures, systems, and equipment to detect and locate pipeline ruptures and minimize releases. This action is considered significant because of substantial public interest.

Statement of Need:

The adverse safety and environmental effects of pipeline accidents are often the result of an operator's failure to rapidly detect and locate a leak and to rapidly shut down the pipeline. Quicker response to pipeline leaks through the strategic placement and use of additional emergency flow-restricting devices, with a reliable leak detection capability, can reduce the amount of liquid spilled into the environment and the consequent damages to life and property.

Summary of the Legal Basis:

Section 60102 of Title 49 U.S.C. requires the Secretary to survey and assess the effectiveness of emergency flow-restricting devices (including remotely controlled valves and check valves) and other equipment used to detect and locate pipeline ruptures and minimize product releases. It also requires the Secretary, within two years after completing the survey and assessment, to issue regulations prescribing the circumstances under which operators of hazardous liquid pipeline facilities must use emergency flow-restricting devices or other equipment.

Alternatives:

The alternatives under consideration are different types of emergency flow-restricting devices and associated leak detection systems.

Anticipated Costs and Benefits:

The potential costs and benefits of this action have not yet been determined.

Risks:

This action addresses the increased risks to safety and the environment that result from the lack of prompt response to a line leak. Although the magnitude of potential risk reduction has not yet been determined, an example of the type of accident that this action might mitigate is the 1989 spill from an Exxon pipeline in the harbor between New York and New Jersey. Over 500,000 gallons of No. 2 fuel oil entered the water from a gash in the pipeline. A leak detection system that had been malfunctioning failed to immediately alert the operator to shut down the pipeline system.

Timetable:

Action	Date	FR Cite
ANPRM	01/19/94	59 FR 2802
ANPRM Comment Period End	04/19/94	
NPRM	10/00/97	

Small Entities Affected:

None

Government Levels Affected:

None

Additional Information:

Docket No. PS-133; RIN 2127-AC39. Public workshop was held on 10/19/95 (60 FR 44822). This action is being coordinated with other rulemakings on onshore emergency response plans (Docket No. PS-130; RIN 2137-AC30), areas unusually sensitive to environmental damage (Docket No PS-140; RIN 2137-AC34), and pipeline leak detection systems (Docket No. RSPA 97-2362; RIN 2137-AD05). These actions are being pursued in coordination with and as part of the response to the EFRD mandate.

First, RSPA has engaged in a rulemaking to require pipeline operators to file onshore emergency response plans as required by the Oil Pollution Act of 1990. Operators have filed plans and participated in emergency response spills under an interim final rule in Docket No. PS-130. This rule, which is subject to change based a recent response plan experience, requires operators to develop and execute oil spill response plans. Like the EFRD action, this is directed toward improving operator's accident response capabilities and minimizing accident consequences.

Second, RSPA is preparing a proposed rule to adopt the American Petroleum Institute's (API) pipeline leak detection system technical standard (Standard API 1130, Computational Pipeline Monitoring) to guide industry implementation of leak detection systems. This proposal would require that operators of hazardous liquid pipelines use API 1130 in conjunction with other information in the design, evaluation, operation, maintenance, and testing of their software-based leak detection systems. This will result in a significant advancement toward the acceptance of leak detection technology on hazardous liquid pipelines. This is a necessary precedent to the possible adoption of regulations on emergency flow restricting devices. This matter is being considered under Docket No. RSPA-97-2362.

Third, RSPA is working cooperatively with the Environmental Protection Agency (EPA), the U.S. Coast Guard and others to develop a definition of "areas unusually sensitive to environmental damage from pipeline spills" (USAs) in Docket No. PS-140. This effort will define areas that are candidates for the application of additional emergency flow-restricting devices.

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DOT—RSPA

102. +RISK-BASED ALTERNATIVE TO PRESSURE TESTING RULE

Priority:
Other Significant

Legal Authority:
49 USC 60101 to 60125

CFR Citation:
49 CFR 195

Legal Deadline:
None

Abstract:
This rulemaking would provide a risk-based alternative to the existing pressure testing rule for older hazardous liquid and carbon dioxide pipelines. On June 7, 1994 (59 FR 29379), RSPA issued a final rule requiring the hydrostatic pressure testing of certain older pipelines. On June 23, 1995, the American Petroleum Institute (API) filed a petition on behalf of many liquid pipeline operators that recommended a risk-based alternative to the required pressure testing rule. RSPA finds considerable merit in a risk-based approach to pressure testing and thus has suspended the time for compliance with the final rule issued on June 7, 1994, to allow for evaluation of the API petition. The risk-based alternative would allow operators to elect an approach to evaluating the integrity of these lines that takes into account individual risk factors. This would allow operators to focus resources on higher-risk pipelines and effect a greater reduction in the overall risk from pipeline accidents. This rulemaking is considered significant because of the substantial industry interest.

Statement of Need:
API's petition expressed strong concerns about requiring pressure testing of all older pipelines. RSPA evaluated the API proposal and found merit in it. RSPA has been working actively with the pipeline industry to develop a risk management approach to safety and environmental protection. The API proposal provides an opportunity to pilot a risk-based approach in a rulemaking forum. OPS anticipates increased use of risk-based approaches in future rulemakings.

Summary of the Legal Basis:
Section 60102 of title 49 U.S.C requires the Secretary of Transportation to prescribe minimum safety standards for pipeline transportation and for pipeline facilities. These standards apply to owners and operators of pipeline facilities and cover design, construction, inspection, emergency plans, and operations and maintenance.

Alternatives:
An alternative to the rule is to continue with RSPA's June 7, 1994 final rule on "Pressure Testing Older Hazardous Liquid and Carbon Dioxide Pipelines," to ensure that certain older pipelines have an adequate safety margin between their maximum operating pressure and test pressure. This safety margin is to be provided by pressure testing according to part 195 standards or operation at 80 percent or less of a qualified prior test or operating pressure.

Anticipated Costs and Benefits:
RSPA analyzed this risk based-alternative to pressure testing and found the increased flexibility given to pipelines operators will result in an even more cost-beneficial rule. The regulatory evaluation of the risk-based alternative to pressure testing will result in a present value cost of approximately $90 million compared to the pressure testing rule which was estimated to cost approximately $160 million. RSPA believes the benefits of the risk-based alternative will be similar to the pressure testing rule. The present value benefits of the pressure testing rule are approximately $250 million.

Risks:
Older pipelines may contain inherent defects that could lead to failure over time. Pressure testing and internal inspection can detect many of these defects. This rulemaking is intended to reduce the risk of pipeline failure by focusing regulatory requirements on the basis of the level of that risk.

Timetable:

Action	Date	FR Cite
Notice of Public Meeting	03/08/96	61 FR 9415
NPRM	10/00/97	

Small Entities Affected:
Undetermined

Government Levels Affected:
None

Additional Information:
Docket No. PS-144. A final rule issued 8/20/96 (61 FR 43026) extends time for compliance with the final rule issued June 7, 1994 (58 FR 29379).

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DEPARTMENT OF THE TREASURY (TREAS)

Statement of Regulatory Priorities

The primary missions of the Department of the Treasury are: Protecting and collecting the revenue under the Internal Revenue Code and customs laws; supervising national banks and thrift institutions; managing the fiscal operations of the Federal Government; enforcing laws relating to counterfeiting, Federal Government securities, firearms and explosives, money laundering, foreign commerce in goods and financial instruments, and smuggling and trafficking in contraband; administering the Community Development Financial Institutions program; protecting the President, Vice President, and certain foreign diplomatic personnel; training Federal, State, and local law enforcement officers; and producing coins and currency.

Consistent with these missions, most regulations of the Department and its constituent bureaus are promulgated to interpret and implement the laws as enacted by the Congress and signed by the President. Unless circumstances require otherwise, it is the policy of the Department to issue a notice of proposed rulemaking (NPRM) and carefully consider public comments before adopting final regulations. Also, in particular cases, the Department invites interested parties to submit views on rulemaking projects while the NPRM is being developed and to hold public hearings to discuss a proposed rule.

To the extent permitted by law, it is the policy of the Department to adhere to the regulatory philosophy and principles set forth in Executive Order 12866 and to develop regulations that maximize aggregate net benefits to society while minimizing the economic and paperwork burdens imposed on persons and businesses subject to those regulations.

Pursuant to the President's 1995 regulatory reform initiative, each of the Department's regulatory offices and bureaus conducted a thorough page-by-page review of all of its regulations. As a result of this process, which included consultation with regulated entities, the Department identified over 2,200 pages of its non-tax regulations in the Code of Federal Regulations (CFR) that will be streamlined or eliminated. In addition, the Internal Revenue Service identified over 1,200 pages of CFR regulations and other ruling documents that will be streamlined or eliminated. During fiscal years 1996 and 1997, the Department accorded priority to implementing as many of these changes as possible, taking into consideration its ongoing regulatory responsibility to issue regulations necessary to implement or interpret the laws as enacted by the Congress. As a result of these efforts, the Department initiated or completed rulemakings or other actions to eliminate or streamline over 3,200 pages of its regulations and other ruling documents.

Internal Revenue Service

The Internal Revenue Service (IRS), working with the Office of the Assistant Secretary (Tax Policy), promulgates regulations that interpret and implement the Internal Revenue Code and related tax statutes. In developing these regulations, every effort is made to carry out the tax policy determined by Congress in a fair, impartial, and reasonable manner, taking into account the intent of Congress, the realities of relevant transactions, the need for the Government to administer the rules and monitor compliance, and the overall integrity of the Federal tax system. The goal is to make the regulations practical and as clear and simple as possible.

Most IRS regulations interpret tax statutes to resolve ambiguities or fill gaps in the tax statutes. This includes interpreting particular words, applying rules to broad classes of circumstances, and resolving apparent and potential conflicts between various statutory provisions.

During fiscal year 1998, the IRS will accord priority to the following regulatory projects:

- Stock Transfer Rules under Section 367. Section 367 of the Internal Revenue Code governs the application of the corporate nonrecognition rules to transactions involving foreign corporations. The IRS published proposed regulations addressing stock transfers under section 367(a) and (b) on August 26, 1991. The portion of these regulations involving transfers of domestic stock to foreign corporations was finalized on December 30, 1996. The IRS expects to finalize the remainder of the proposed regulations in fiscal year 1998.
- Excise Taxes on Excess Benefit Transactions. The Taxpayer Bill of Rights 2 (July 30, 1996) added section 4958 to the Internal Revenue Code. Section 4958 imposes excise taxes on excess benefit transactions occurring after September 13, 1995. Disqualified persons, and in some instances organization managers, are liable for these new taxes. Under section 4958, a disqualified person is any person who was, at any time during the 5-year period ending on the date of the excess benefit transaction, in a position to exercise substantial influence over the affairs of the tax-exempt organization involved in the transaction. Only transactions with section 501(c)(3) (except private foundations) or section 501(c)(4) organizations are subject to the taxes. An excess benefit transaction is any transaction in which an economic benefit is provided by an applicable organization directly or indirectly to, or for the use of, any disqualified person if the value o the economic benefit provided exceeds the value of the consideration (including the performance of services) received for providing the benefit. The taxable excess benefit amount is the excess of the benefit over the value of the consideration. Proposed regulations will be issued to clarify certain definitions and rules contained in section 4958.
- Application of the Partnership Rules to Subpart F of the Code. Subpart F of the Internal Revenue Code requires certain income (called subpart F income) of a controlled foreign corporation to be currently included in the gross income of its U.S. shareholder, whether or not this income actually is distributed to the U.S. shareholder. The IRS has opened a regulations project to clarify how the subpart F rules operate with respect to a CFC partner's distributive share of partnership income in light of the Eighth Circuit's decision in Brown Group, Inc. v. Commissioner (8th Cir. 1996). In Brown Group, the court held that a CFC partner's distributive share of the partnership's commission income was not subpart F income, although it would have been subpart F income to the CFC if it had earned this income directly, under the circumstances in which the partnership earned the income. The proposed regulations will confirm that whether a CFC partner's distributive share of partnership income is subpart F income generally is determined at the CFC partner level.
- Amortization of Intangible Assets. The Omnibus Budget Reconciliation Act of 1993 (OBRA 1993) added section 197 to the Internal Revenue Code. Section 197 provides for a 15-year amortization of goodwill and certain other intangible assets. OBRA 1993 also amended section 167 of the Code

to provide specified amortization periods for certain computer software and mortgage servicing rights. These provisions are generally effective for intangibles acquired after August 10, 1993. Final regulations will be issued to implement these two Code sections and to provide guidance to taxpayers on the meaning and scope of certain provisions of the statute and its anti-churning rules.

- Credit for Increasing Research Activities. Section 41 of the Internal Revenue Code provides a tax credit equal to a percentage of the amount by which a taxpayer's qualified research expenses for a taxable year exceeds its base amount for that year. To be qualified research, the research activities must not only satisfy the requirements of section 174 of the Code but must be undertaken for the purpose of discovering information that is technological in nature; the application of which is intended to be useful in the development of a new or improved business component of the taxpayer; and substantially all of the activities of which must constitute a process of experimentation pertaining to the functional aspects, performance, reliability, or quality of a business component. The regulations under section 41 will explain the term "qualified research" and the exclusions from research credit eligibility.
- Health Insurance Portability and Accountability Act of 1996 (HIPAA). HIPAA contains parallel provisions amending the Internal Revenue Code, the Employee Retirement Income Security Act, and the Public Health Service Act. In April 1997, the IRS, together with the Department of Labor and the Department of Health and Human Services, issued temporary regulations that provided significant guidance on the health insurance certification requirements and preexisting condition limitations imposed by HIPAA. The temporary regulations also contained some guidance on the nondiscrimination provisions of HIPAA. During fiscal year 1998, the IRS, working with the Departments of Labor and Health and Human Services, intends to issue temporary regulations providing additional guidance on the nondiscrimination provisions of HIPAA.
- Private Activity Rules for Output Facilities. Section 141 of the Internal Revenue Code defines the term "private activity bond" and sets forth certain additional conditions imposed on private activity bonds in order for such bonds to qualify as tax-exempt bonds. In 1994, the IRS issued proposed regulations regarding the definition of private activity bonds. On January 16, 1997, the IRS published final regulations regarding the 1994 proposed regulations but reserved, among other issues, special rules affecting output facilities such as electric power generation facilities. This project will, for example, address issues including the tax-exempt status of bonds used to finance municipal output facilities that subsequently sell electricity to, or permit the use of their transmission facilities by, other providers of electricity.
- Tax Refund Offset Program. Section 6402(c) of the Internal Revenue Code provides that the amount of a tax refund generally shall be reduced by the amount of certain past-due child support obligations owed by the taxpayer. Section 6402(d) provides that the amount of a tax refund shall be reduced by the amount of certain past-due legally enforceable debt that the taxpayer owes to certain Federal agencies. Under section 6402, the amount by which the refund is reduced shall be remitted to the relevant State (in the case of past-due support obligations) or to the Federal agency (in the case of certain debt owed to a Federal agency). The IRS intends to issue regulations to conform existing guidance under section 6402(c) and (d) to reflect the transfer of the Tax Refund Offset Program to Treasury's Financial Management Service pursuant to the Debt Collection Improvement Act of 1996.

Office of the Comptroller of the Currency

The Office of the Comptroller of the Currency (OCC) charters, regulates, and supervises national banks to ensure a safe, sound, and competitive national banking system that supports the citizens, communities, and economy of the United States. The substantive content of the OCC's regulations reflects four organizing principles that support this mission:

- The OCC's regulations help ensure safety and soundness by establishing standards that set the limits of acceptable conduct for national banks.
- The OCC's regulations promote competitiveness by facilitating a national bank's ability to develop new lines of business, subject to any safeguards that are necessary to ensure that the bank has the expertise to manage risk effectively and adapt its business practices to deal responsibly with its customers.
- Regulations can also affect national banks' ability to compete by contributing significantly to their costs. The OCC's goal is to improve efficiency and reduce burden by updating and streamlining its regulations and eliminating those that no longer contribute significantly to the fulfillment of its mission.
- The OCC's regulations help assure fair access to financial services for all Americans by removing unnecessary impediments to the flow of credit to consumers and small businesses, by encouraging national banks' involvement in community development activities, and by implementing Federal laws designed to protect consumers of financial services.

In December 1996 the OCC completed the review and revision of all of its rules pursuant to its Regulation Review Program. The program comprised a top-to-bottom review of all of the OCC's regulations and was part of the OCC's overall effort to promote an environment where risk is prudently managed by banks and appropriately monitored by the OCC, without imposing unnecessary regulatory burdens that undermine the ability of banks to operate efficiently, compete vigorously, and provide credit and other financial products and services to the public. The program was also designed to respond to the need for regulation that is effective but sensible and cost-conscious.

Among the significant regulatory projects completed are:

- Investment Securities: The OCC substantially revised its rules that prescribe the standards under which national banks may purchase, sell, deal in, and underwrite investment securities. The new regulations group related subjects together, clarify areas where the previous rules were unclear, and updated various provisions to address market developments and incorporated significant OCC interpretations, judicial decisions, and amendments to the governing statute.
- Disposition of Credit Life Insurance: The OCC revised its regulations regarding the provision of credit life insurance by national banks, which were both outdated and incomplete.
- Fiduciary Activities of National Banks: The final rule makes less burdensome the requirements regarding the exercise of fiduciary powers, while preserving appropriate protection for trust customers. The rule reflects recent court and administrative decisions relating to, among other things, collective funds for IRA and Keogh accounts.
- Recordkeeping and Confirmation Requirements for Securities Transactions: The OCC revised its regulations specifying the recordkeeping and confirmation requirements for bank securities transactions to bring them up to date, as well as to streamline and clarify them.
- Community Development Corporation and Project Investments: The OCC rules relating to community development corporations and project investments were revised to conform the regulation's standards and procedures to the processes and concepts used in other OCC regulations. This revision also gives banks greater flexibility in conducting their community development activities and investments.

The OCC's regulatory priorities for fiscal year 1998 include the continuation of the OCC's work with the other Federal banking agencies to maintain and, where necessary, improve consistency in the agencies' risk-based capital standards. Regulatory projects in this area include the following, all of which would amend Part 3 of the OCC's rules.

- Risk-Based Capital Guidelines Generally: The OCC, the FRB, the FDIC, and the OTS are considering several amendments to their respective risk-based capital guidelines to eliminate certain interagency differences in capital treatment. Specific areas in the risk-based capital guidelines under consideration include (1) junior and senior liens on one-to-four family residential mortgages, (2) presold one-to-four family construction loans, and (3) mutual funds.
- Servicing Assets: In 1995, the banking agencies published an interim rule to eliminate the distinctions between originated mortgage servicing rights and purchased mortgage servicing rights and to clarify that both originated and purchased mortgage servicing rights are subject to the deduction requirements for regulatory capital. This interim rule was developed to respond to the Financial Accounting Standards Board (FASB) Financial Accounting Statement (FAS) 122, which addressed mortgage servicing rights. Subsequent to the interim rule, FASB published FAS 125, which eliminated the distinction between excess and normal servicing fees relating to servicing rights. The agencies are planning to issue a new proposed rule on capital treatment of excess servicing fees; a final rule will address both mortgage servicing rights and excess servicing fees.
- Recourse on Small Business Loan Obligations: This rule, which implements section 208 of the Riegle Community Development and Regulatory Improvement Act of 1994, Public Law 103-325 (September 23, 1994) (CDRIA), generally would permit banks to hold capital against the face amount of recourse obligation (rather than the amount of the asset transferred with recourse) on qualifying small business loans if the bank establishes a reserve equal to the bank's reasonable estimated liability under the recourse obligation.
- Recourse and Direct Credit Substitutes: This proposal by the banking agencies will amend the risk-based capital guidelines to provide consistency between the capital treatment for recourse arrangements and for direct credit substitutes. The agencies expect to describe several approaches that would enable them to match the risk-based capital assessment more closely to an institution's relative risk of loss in asset securitization.
- Unrealized Revaluation Gains: This joint notice of proposed rulemaking (NPRM) would amend the risk-based capital guidelines to permit a bank to include up to 45 percent of unrealized revaluation gains on available-for-sale equity securities in Tier 2 capital. This proposed rule is consistent with the International Convergence of Capital Measurement and Capital Standards as adopted by the Basle Committee on Banking Regulations and Supervisory Practices (Basle Accord) and would make the risk-based capital treatment of unrealized revaluation gains uniform among the banking agencies.

The OCC's other regulatory priorities for the coming fiscal year include the following:

- Professional Qualification Requirements in Connection with the Recommendation or Sale of Certain Securities: The OCC, together with the FRB and the FDIC, is considering issuing a proposed rule that would require bank employees who want to sell non-deposit investment products to pass the same licensing and continuing education requirements that apply to persons not employed by banks. This currently would entail passing the Series 6 and Series 7 examinations administered by the National Association of Securities Dealers and complying with the continuing education requirements in the second, fifth, and tenth years after becoming licensed.
- Allocated Transfer Risk Reserves: The OCC is working in consultation with the FRB and the FDIC to review the agencies' current regulations implementing the International Lending Supervision Act of 1983 and is considering issuing a proposed rule updating the OCC's regulations that apply to national banks. Under the OCC's regulations, a national bank must establish an allocated transfer risk reserve (ATRR) if required by the OCC to guard against risks presented by certain international lending activities. The regulations provide guidance on the criteria that is applied to determine when a bank must establish and the amount of an ATRR, as well as the accounting treatment of the ATRR and other fees charged by banks in connection with international loans.
- Prohibition Against Deposit Production Offices: The OCC, as part of a joint agency rulemaking effort with the FRB, the FDIC, and the OTS are promulgating a new regulation required by section 109 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (Public Law No. 103-328 (12 U.S.C. 1835a)).
- Examination Frequency/Increase in Asset Amount: The OCC, as part of a joint agency rulemaking effort with the FRB, the FDIC, and the OTS expect to promulgate a new rule that raises the maximum asset limit on institutions eligible for an 18-month examination schedule. Section 306 of the CDRIA gives the Federal banking regulatory agencies discretion to raise the $100 million maximum asset limit on CAMEL 2-rated institutions eligible for the 18-month examination schedule to as much as $175 million. The agencies have already issued an interim rule implementing this provision.
- Lending Limits: The OCC intends to issue a final rule, making several technical amendments to the current lending limit regulation.

Office of Thrift Supervision

As the primary Federal regulator of the thrift industry, the Office of Thrift Supervision (OTS) has established regulatory objectives and priorities to effectively and efficiently supervise thrift institutions. These objectives include maintaining and enhancing: The safety and soundness of the thrift

industry; a flexible, responsive regulatory structure that enables savings associations to provide credit and other financial services to their communities, particularly housing credit; and an approach to supervision that is risk-focused and proactive. The objectives and priorities of OTS are consistent with those established by the President.

During fiscal year 1997, OTS issued in final form a series of substantive rules to make significant burden-reducing changes in a number of key areas of its regulations, including regulations governing lending, subsidiaries, corporate governance, and conflicts of interest.

Under the auspices of the Federal Financial Institutions Examination Council, OTS continues to implement, with the other Federal banking agencies, section 303(a)(2) of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRIA), which requires the Federal banking agencies to make uniform all regulations and guidelines implementing common statutory provisions or supervisory policies.

Interagency capital-related projects underway include amendments concerning:

- The leverage capital standard and the risk-based capital standards for certain loans involving residential properties and investments in mutual funds.
- Risk-based capital standards for recourse obligations and direct credit substitutes that expose institutions to credit risk.
- Capital standards for servicing assets.
- Risk-based capital standards for collateralized transactions.
- Risk-based capital treatment of small business loans and leases of personal property with recourse.
- Risk-based capital standards for unrealized gains on equity securities.

It is anticipated that, in fiscal year 1998, a final rule will be issued regarding risk-based capital treatment of small business loans and leases of personal property with recourse and that proposed rules will be issued regarding the remainder of the capital-related issues listed above.

In addition, section 306 of CDRIA authorizes the Federal banking agencies to increase the threshold asset size of certain financial institutions that may be examined every 18 months. The Federal banking agencies issued an interim rule implementing this authority in February 1997 and anticipate completing this rulemaking during fiscal year 1998.

In the past, OTS identified and brought to Congress's attention certain statutory impediments to OTS' efforts to reduce the regulatory burden and to update some regulations. For example, OTS recommended that savings associations be provided with additional lending flexibility under the Qualified Thrift Lender requirements under section 10(m) of the Home Owners' Loan Act (HOLA). Recently, Congress enacted the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA), which provided that investments in education, small business, credit card, and credit card account loans are includable for the purposes of the QTL test. In April 1997, OTS put in place a final regulation implementing EGRPRA.

OTS has also made recommendations for statutory changes regarding the liquidity regulation at part 566, which is required by section 6 of the HOLA, and the requirement that Federal savings associations maintain membership in a Federal Home Loan Bank, which is required by section 5(f) of the HOLA. In the interim, OTS proposed revisions to its liquidity regulation to update, simplify, and streamline it to the extent possible under the current statutory framework. The proposal, which was issued in May 1997, would reduce the liquidity base calculation, decrease the frequency of the calculations, decrease the liquid asset requirement, and allow additional types of liquid assets to be counted toward satisfying the requirement. OTS expects to issue a final rulemaking on liquidity early in fiscal year 1998.

During fiscal year 1998 OTS intends to pursue a number of new regulatory projects as part of its ongoing effort to review and streamline its regulations. These projects include revisions to OTS's regulations concerning application processing, deposits, fiduciary powers, and conversions.

The application processing rule would revise and reorganize existing regulations governing the comment procedures for certain applications and notices. The rule regarding deposits would streamline OTS' existing deposit regulations to eliminate duplication and overlap and consolidate them in a single part. OTS' fiduciary powers regulations would be updated and streamlined to better reflect current legal, regulatory, and business developments in that area. The conversion rule would facilitate the conversion of mutual depository institutions, including credit unions, to Federal mutual savings associations by eliminating several steps in the conversion process. Lastly, following a detailed review of all definitions contained in its regulations, OTS plans to propose a complete overhaul of the definitions, which includes the creation of a new part devoted solely to definitions.

Notices of proposed rulemaking were issued in April 1997 regarding application processing, deposits, and conversions. It is expected that final rules in these areas, in addition to proposed rules concerning fiduciary powers and definitions, will be issued during fiscal year 1998.

In April 1997, OTS published an advance notice of proposed rulemaking seeking comment on whether its existing regulations impede savings associations' appropriate use of advancing electronic banking technology. OTS would like to ensure that its rules are sufficiently flexible to accommodate technological changes in the marketplace and that the regulated industry uses technology within the boundaries of safety and soundness standards. OTS expects to complete this rulemaking during the first quarter of fiscal year 1998.

United States Customs Service

The United States Customs Service is responsible, among other things, for administering laws concerning the importation of goods into the United States. This includes inspecting imports, collecting applicable duties, overseeing the activities of persons and businesses engaged in importing, and enforcing the laws concerning smuggling and trafficking in contraband. The regulatory priorities of Customs for fiscal year 1998 are to continue to facilitate procedures for legitimate commercial transactions and to provide further obstacles to the flow of narcotics and other contraband into the United States.

During fiscal year 1997, one of Customs priorities was to continue the reinvention of its regulatory procedures began under the authority granted by the Customs Modernization provisions of the North American Free Trade Implementation Act (the Customs Mod Act). Customs reinvention efforts, in accordance with the principles of E.O. 12866, have involved and will continue to involve much input from the importing public. Two key regulatory packages that are integral to implementation of the Customs Mod Act were published as proposals during the past fiscal year. One proposed to revise the Customs regulations regarding drawback and the other proposed

provisions regarding the recordkeeping responsibilities of persons involved with Customs transactions. Customs expects to finalize these regulations this fiscal year.

During fiscal year 1998, Customs will also accord priority to publishing proposals to revise the procedures by which Customs will issue administrative rulings answering requests of prospective importers as to how Customs will treat their transactions and to revise the regulations pertaining to customs brokers.

During the fiscal year 1998, Customs also plans to undertake several other regulatory actions that will affect the traveling and importing public, customs brokers, carriers, and commercial importers. Customs will accord priority to several regulatory actions focusing on the development of a more automated environment to expedite the entry, processing, and release of imported commercial merchandise. These regulations will benefit the importing public by streamlining the work of Customs officers and the trade community. Among the actions that Customs will pursue in this regard, which will improve the efficiency of Customs operations and reduce paperwork and administrative costs, are:

- Liquidations. Customs will propose regulations allowing paperless procedures for extension and suspension of liquidation notices, improving and clarifying the administrative process, and simplifying the regulations pertaining to liquidations and extensions and suspensions of liquidation.
- Entry Reconciliation. Customs will propose regulations to establish a "reconciliation" process that will allow elements of an entry (other than those relating to the admissibility of merchandise) that are undetermined at the time an entry summary or an import activity summary statement is required to be submitted to be provided to Customs at a later date. A "reconciliation" will permit importers to submit information not available at the time of entry that is necessary for the importer and Customs to determine the correct amount of duty on a shipment. The procedure will allow Customs to finalize the duty assessment process by liquidating the underlying entry as to all merchandise covered by the entry, except the merchandise identified by the importers as requiring the submission of additional information.
- Commercial Laboratories. Customs will propose regulations to provide standards and procedures for accrediting commercial laboratories that will permit them to analyze a wide range of commercial products for Customs purposes. This change will facilitate the release of merchandise because it will enable importers to receive laboratory results earlier.
- Remote Location Filing. Customs will propose regulations allowing electronic filing of entries with Customs from locations in the United States other than the port of arrival of the merchandise or the place at which the merchandise is examined. Remote location filing will provide entry filers (such as brokers and couriers) with greater flexibility and will allow Customs to make more efficient use of its resources.

Bureau of Alcohol, Tobacco and Firearms

The Bureau of Alcohol, Tobacco and Firearms (ATF) issues regulations to enforce the Federal laws relating to the manufacture and commerce of alcohol products, tobacco products, firearms, and explosives.

ATF's regulations carry out these missions and are designed to:

- Curb illegal traffic in, and criminal use of, firearms and assist State, local, and other Federal law enforcement agencies in reducing crime and violence;
- Facilitate investigations of violations of Federal explosives laws and arson-for-profit schemes;
- Regulate the alcohol, tobacco, firearms, and explosives industries, including the issuance of licenses and permits;
- Assure the collection of all alcohol, tobacco, firearms, and ammunition tax revenues and obtain a high level of voluntary compliance with those laws.
- Suppress commercial bribery, consumer deception, and other prohibited practices in the alcoholic beverage industry;
- Suppress the illicit manufacture and sale of alcoholic beverages for which Federal tax has not been paid; and
- Assist the States in their efforts to eliminate interstate trafficking in, and the sale and distribution of, cigarettes in avoidance of State taxes.

ATF is in the final stages of accomplishing the goals of the President's regulatory reform initiative. The previously reported page-by-page review of all its regulations—and its outreach effort with the public and the regulated industries—resulted in the streamlining or eliminating of many regulatory requirements. For example, ATF is analyzing the current alcohol beverage label and formula approval system with the goal of changing to a simplified registration system and to reduce the administrative burdens associated with the current basic permit application process for producers, wholesalers, and importers of alcohol beverages. A reduced and simplified basic permit application form will be implemented this year.

ATF is according priority during fiscal year 1998 to issuing a notice of proposed rulemaking to revise its regulations governing storage requirements for explosives, including firew materials. ATF published a general notice soliciting public comments on January 10, 1997. As a result of the comments received and a further analysis of the matter, ATF plans to issue the notice of proposed rulemaking that will be expanded to address additional explosives issues. This project is described in more detail in Part II of this Regulatory Plan.

Another priority during fiscal year 1998 will be the issuance of a notice of proposed rulemaking to streamline regulations applying to the brewing industry. These proposed changes have been incorporated into a broader beer regulation revision project that will address related matters. This project is described in more detail in Part II of this Regulatory Plan.

Financial Management Service

The Financial Management Service (FMS) issues regulations to improve the quality of Government financial management; link program and financial management objectives; and provide financial services, information, advice, and assistance.

FMS' regulatory priorities for fiscal year 1998 consist of continuing to implement the provisions of the Debt Collection Improvement Act of 1996 (DCIA). The DCIA contains important provisions governing the use of electronic funds transfer (EFT) for Federal payments and establishes the Treasury Department as the lead agency for the enhancement and centralization of Federal debt collection efforts. FMS will promulgate new regulations to provide guidance for Federal agencies in making payments by EFT; this rule is discussed in Part II of this Regulatory Plan.

FMS also will promulgate new regulations concerning the DCIA's debt

collection tools. These regulations will govern the administrative offset of Federal payments for the collection of debts owed to Federal agencies and States and for the collection of past-due child support. Regulations will be issued addressing the collection of Taxpayer Identifying Numbers (TINs), the status of payment requests lacking TINs, administrative wage garnishment, cross-servicing, barring delinquent debtors from obtaining Federal loans or guarantees, dissemination of delinquent debtor information, debt sales, and matching for Federal salary offset. FMS also will continue implementing the Electronic Federal Tax Payment System to eliminate paper processing.

FMS also plans to revise its rules governing the Federal Government's participation in the Automated Clearing House (ACH). These revisions will provide the basis for broader use of the ACH system to meet future payment, collection, and information management needs. They will speed the flow of funds to the Treasury and ease the regulatory burden on private industry.

With the establishment of a permanent and indefinite source of funding as an integral part of the Check Forgery Insurance Fund, FMS plans to revise its regulations which govern the processing of claims on Treasury checks that are lost or stolen and then paid over forged or unauthorized endorsements. Finally, FMS plans to revise its regulations to implement DCIA provisions governing the Treasury Check Offset program, which authorizes collection by offset of amounts owed by financial institutions to the U.S. Government.

Bureau of the Public Debt

The Bureau of the Public Debt (BPD) administers regulations governing transactions in Government securities by Government securities brokers and dealers and regulations that implement Treasury's borrowing authority, including rules governing the sale and issue of marketable Treasury securities.

The Government Securities Act of 1986 (GSA) authorizes the Secretary of the Treasury to prescribe rules governing financial responsibility, the protection of customer funds and securities, recordkeeping, reporting, audit, and large position reporting for all Government securities brokers and dealers, including financial institutions. These rules fulfill the Treasury's statutory responsibilies to safeguard the efficient functioning of the Government securities market and are designed to prevent fraudulent and manipulative acts and practices and to protect the integrity, efficiency, and liquidity of the market. The Department and BPD are committed to implementing rules that make sense from both a regulatory and market efficiency perspective. Accordingly, the Department and BPD seek to balance the benefits of regulation with the compliance costs imposed on the Government securities market and its participants.

The rules setting out the terms and conditions for the sale and issue by the Department to the public of marketable book-entry Treasury bills, notes, and bonds are also known as the uniform offering circular. These rules apply to securities held in accounts in the book-entry system established by the Department and operated by the Federal Reserve Banks, known as the Treasury/Reserve Automated Debt Entry System, as well as to securities held in accounts directly with Treasury in the TREASURY DIRECT system. The uniform offering circular describes the types of securities offered for sale, the auction methods by which they are sold, the process by which bidders submit bids, the process for awarding securities to successful bidders, and the authorized payment methods.

In fiscal year 1998, priority will be given to amending the uniform offering circular to accommodate fungible stripped interest components of Treasury inflation-indexed securities. Making the inflation-indexed interest components fungible means that each interest component with the same payment/maturity date would be treated as the same security and would have the same security identification number, even if the components were stripped from different securities. Fungibility would increase the liquidity and efficiency of the market for inflation-indexed securities since fungibility facilitates trading of the stripped interest components because they would be interchangeable.

Financial Crimes Enforcement Network

The regulations of the Financial Crimes Enforcement Network (FinCEN) constitute the core of Treasury's anti-money laundering initiative and an essential component of Treasury's anti-narcotics effort. The Bank Secrecy Act (BSA) authorizes the Secretary of the Treasury to issue regulations requiring financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, or regulatory proceedings and to implement counter-money laundering programs and compliance procedures.

Since mid-1994, FinCEN has been engaged in a thorough review of its regulatory policies and has been building a partnership between Government and the financial sector to fight money laundering. The keystone of that partnership is the recognition that only a cooperative relationship between Government and industry can provide a way to implement a three-pronged strategy of prevention, detection, and enforcement against those who seek to use the financial system to promote or further illegal activity. FinCEN recognizes that BSA compliance imposes costs on the financial community and that recordkeeping and reporting should be required only when the benefits to law enforcement efforts are clear.

During fiscal year 1998, FinCEN will continue to review and revise its existing regulations. In all cases, FinCEN will continue to work with the financial community to reduce administrative burdens associated with complying with the statutes while enhancing the usefulness of BSA information for law enforcement, financial regulators, and policymakers. FinCEN is continuing a general revision and simplification of all of its regulations and will accord priority to the following projects:

- Federal Registration of Money Services Businesses. In response to a specific statutory directive, FinCEN published, in May 1997, a notice of proposed rulemaking setting forth the terms and conditions under which certain non-bank financial institutions or money services businesses must register with the Treasury Department. FinCEN will issue a final rule during fiscal year 1998.
- Suspicious Transaction Reports. FinCEN will finalize a May 1997 notice of proposed rulemaking that would require suspicious transactions reporting by certain money services businesses. FinCEN also plans to issue proposed rules to extend this requirement to casinos and securities brokers and dealers.
- Special Currency Transaction Reporting. In order to address the misuse of money transmitters by money launderers, FinCEN will finalize a May 1997 proposed rule to require money transmitters and their agents to report and retain records of currency transactions in amounts between $750 and $10,000 in connection with a transmission or other transfer of funds to a person outside the United States and to verify the identity of the senders of such transmissions or transfers.
- Exemptions from Cash Transaction Reporting (CTR) Requirements. As required by legislation enacted in 1994, FinCEN is seeking to reduce by 30 percent the number of CTRs required to be filed. FinCEN recently finalized an interim rule issued in April 1996 that exempts many transactions from the CTR filing requirement and issued a notice of proposed rulemaking to exempt additional transactions. FinCEN plans to finalize this proposal in fiscal year 1998.
- Foreign Bank Drafts. FinCEN will expects to finalize its rulemaking to expand the definition of "monetary instrument" to include certain foreign bank drafts for purposes of the reporting of cross-border transportation. This expansion will implement only as much of the broad authority granted by a 1994 amendment to the BSA as FinCEN believes is required to address the issue of the sale of these foreign bank drafts.
- "Know Your Customer" and Other Anti-Money Laundering Programs. FinCEN plans to issue proposed regulations to require banks and other financial institutions to implement certain "know your customer' and other anti-money laundering programs. These programs are closely related to the requirement to report suspicious transactions.
- Delegation of Civil Penalty Authority for Bank Secrecy Act Violations to Bank Regulatory Agencies. Pursuant to a specific statutory directive, FinCEN intends to delegate to the five financial institutions supervisory agencies and the Securities and Exchange Commission the authority to impose and collect civil monetary penalties for BSA violations committed by their respective regulated institutions. FinCEN will work closely with those agencies in developing this rulemaking.

Community Development Financial Institutions Fund

The Community Development Financial Institutions Fund (Fund) was established by the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4701 et seq.). The primary purpose of the Fund is to promote economic revitalization and community development through investments in and assistance to community development financial institutions (CDFIs), principally through the CDFI Program. The Fund administers the Bank Enterprise Award (BEA) Program, which encourages insured depository institutions to engage in certain eligible development activities and to make equity investments in CDFIs. The Fund also administers the Presidential Awards for Excellence in Microenterprise Development, which recognize outstanding microenterprise development and support programs in an effort to advance an understanding of "best practices" in the field of domestic microenterprise development.

The Fund's regulatory priority for fiscal year 1998 is to continue to streamline the application and review process for the CDFI and BEA programs.

TREAS—Financial Management Service (FMS)

PROPOSED RULE STAGE

103. MANAGEMENT OF FEDERAL AGENCY DISBURSEMENTS

Priority:

Other Significant

Legal Authority:

5 USC 301; 31 USC 321; 31 USC 3301-2; 31 USC 3321; 31 USC 3325; 31 USC 3327-8; 31 USC 3332; 31 USC 3335; 31 USC 6503

CFR Citation:

31 CFR 208

Legal Deadline:

Final, Statutory, January 1999.

Abstract:

Public Law 104-134 amended 12 USC 3332 to require Federal agencies to convert all Federal payments (other than payments under the Internal Revenue Code) from checks to electronic funds transfer (EFT) in two phases. First, persons who become eligible for Federal payments on or after July 26, 1996 are to receive those payments by EFT. The first phase was implemented by interim regulations published that date. Second, persons who were receiving Federal payments before July 26, 1996 will receive those payments by EFT beginning January 2, 1999. A notice of proposed rulemaking to implement phase two was published on September 16, 1997.

Statement of Need:

Section 31001(x) of the Debt Collection Improvement Act of 1996 (DCIA) amended 31 U.S.C. 3332 to require Federal agencies to convert all Federal payments (other than payments under the Internal Revenue Code) from checks to electronic funds transfer (EFT) in two phases. Phase one began July 26, 1996; all recipients who become eligible to receive Federal payments on or after that date are required to receive such payments by EFT unless the recipient certifies in writing that the recipient does not have an account at a financial institution or authorized payment agent. The Financial Management Service issued an interim rule on July 26, 1996 to implement these requirements.

Phase two begins for payments made after January 1, 1999. The DCIA provides that, subject to the authority of the Secretary of the Treasury to grant waivers, all Federal payments (other than payments under the Internal Revenue Code) made after that date must be made by EFT. After a 90-day public comment period for the proposed rule, FMS will issue final regulations to implement the requirements that take effect after January 1, 1999.

Summary of the Legal Basis:

Section 31001(x) of the DCIA amends 31 U.S.C. 3332 to require Federal agencies to convert from paper-based payment methods to EFT in two phases under regulations prescribed by the Secretary of the Treasury.

Alternatives:

FMS is evaluating options for implementing the Secretary's authority to grant waivers from the EFT requirements.

Anticipated Costs and Benefits:

Costs and benefits of converting from paper checks to EFT are directly imposed by the underlying statute and are not attributable to the implementing regulations.

Risks:

Not applicable.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/26/96	61 FR 39254
Interim Rule Comment Period End	11/25/96	
NPRM	09/16/97	62 FR 48714
NPRM Comment Period End	12/16/97	
Final Action	03/00/98	

Small Entities Affected:

None

Government Levels Affected:

Federal

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TREAS—Bureau of Alcohol, Tobacco and Firearms (BATF)

PROPOSED RULE STAGE

104. REVISION OF BREWERY REGULATIONS AND ISSUANCE OF REGULATIONS FOR TAVERNS ON BREWERY PREMISES (BREWPUBS)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

26 USC 5051 to 5056; 26 USC 5401 to 5417; 27 USC 205

CFR Citation:

27 CFR 7; 27 CFR 25

Legal Deadline:

None

Abstract:

ATF intends to streamline regulations applying to breweries. ATF will eliminate obsolete regulatory provisions. A formula system for manufactured beer products will replace statements of process attached to the brewers notice. The annual notice for small brewers to pay reduced rate of tax will be eliminated. Separate regulations for brewpubs will be added to part 25. A section will be added to part 25 to authorize and regulate the alternating use of brewery premises by different brewers. Regulations authorizing the operation of brew-on-premises facilities will be added to part 25.

Statement of Need:

ATF intends to streamline its regulations applying to the brewing industry. These changes will simplify brewery reports and operations and eliminate obsolete regulatory provisions. Specific changes would include the implementation of a formula system for the breweries to replace the statement of process; the establishment of a separate subpart containing simplified regulations for brewpubs; authorizing alternating brewery premises among different proprietors; eliminating the annual notice to pay reduced rate of tax for most breweries; authorizing brewers to file the Brewer's Report of Operations on a quarterly basis; and authorizing many brewers to take inventories quarterly rather than monthly. The rule will also propose minimum production standards for beer thereby reducing formula filings and a revised statement of net contents requirement for certain container sizes.

Summary of the Legal Basis:

ATF has undertaken this review of brewery regulations as part of the President's Regulatory Initiative. These regulations are issued under the general authority of the Secretary of the Treasury to promulgate regulations to implement the Internal Revenue Code and the Federal Alcohol Administration Act.

Alternatives:

Not applicable. ATF believes that industry will support these regulatory changes because they will streamline regulatory requirements applying to the brewing industry.

Anticipated Costs and Benefits:

The proposed regulations will benefit the brewing industry by reducing required inventories, notices, and other submissions to ATF.

Risks:

Not applicable.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected:

Businesses

Government Levels Affected:

None

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TREAS—BATF

105. • COMMERCE IN EXPLOSIVES (INCLUDING EXPLOSIVES IN THE FIREWORKS INDUSTRY)

Priority:

Other Significant

Legal Authority:

5 USC 552(a); 18 USC 847; 18 USC 921 to 930; 18 USC 1261; 19 USC 1612 to 1613; 19 USC 1618; 26 USC 7101; 26 USC 7322 to 7326; 31 USC 9301; 31 USC 9303 to 9304; 40 USC 304(k)

CFR Citation:

27 CFR 55

Legal Deadline:

None

Abstract:

Pursuant to section 610 of the Regulatory Flexibility Act, ATF published a notice on January 10, 1997 seeking public comments on whether it should revise its regulations codified at 27 CFR part 55, governing Commerce in Explosives (Including Explosives in the Fireworks Industry). Based on comments received, ATF plans to initiate a rulemaking to revise these regulations in 1998.

Statement of Need:

This notice of proposed rulemaking will address many of the issues in part 55 - Commerce in Explosives, especially the storage requirements for explosives, including fireworks explosive materials. Pursuant to the periodic review requirements of the Regulatory Flexibility Act (5 U.S.C. 610), ATF published on January 10, 1997 a General Notice initiating the review of a final rule published in 1990 concerning the storage of fireworks explosives materials. The 1990 rule, which was issued as a result of the number and severity of explosions occurring on the premises of special fireworks plants, amended certain regulations codified at 27 CFR part 55, generally concerning the recordkeeping

and storage of fireworks explosive materials. The regulations also codified two fireworks related rulings issued in 1979 and 1985, and the provisions of Pub. L. 99-308 relating to black powder. As a result of the public comments received in response to the General Notice and further study of this issue, ATF will issue a notice of proposed rulemaking covering this and related commerce and storage of explosives issues.

Summary of the Legal Basis:

Section 847 of title 18, United States Code, grants the Secretary of the Treasury broad discretion to promulgate regulations necessary for the importation, manufacture, distribution and safe storage of explosives materials. Section 846 of title 18, United States Code, authorizes the Secretary to prescribe precautionary measure to prevent the recurrence of accidental explosions in which explosive materials were involved. The General Notice and upcoming notice of proposed rulemaking are also being issued pursuant to section 610 of the Regulatory Flexibility Act (5 U.S.C. 610), which requires an agency to review within ten years of publication rules for which an agency prepared a final regulatory flexibility analysis addressing the impact of the rule on small businesses or other small entities.

Alternatives:

Alternatives will be examined in the context of public comments to the notice of proposed rulemaking.

Anticipated Costs and Benefits:

Unknown at this time.

Risks:

Not applicable.

Timetable:

Action	Date	FR Cite
General Notice of Regulatory Review	01/10/97	62 FR 1386
NPRM	03/00/98	
NPRM Comment Period End	06/00/98	

Small Entities Affected:

Businesses

Government Levels Affected:

None

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BILLING CODE 4810-25-P

DEPARTMENT OF VETERANS AFFAIRS (VA)

Statement of Regulatory Priorities

The Department of Veterans Affairs (VA) is the custodian and administrator of important public obligations to those who served this Nation. The VA's regulatory responsibility is almost solely confined to carrying out the mandate of the laws enacted by Congress relating to programs for veterans and their beneficiaries. The VA's major regulatory objective is to implement these laws with fairness, justice, and efficiency.

Most of the regulations issued by the VA involve three VA components: The Veterans Benefits Administration, the Veterans Health Administration, and the National Cemetery System. The basic goal of the Veterans Benefits Administration is to provide high-quality and timely nonmedical benefits to eligible veterans and their beneficiaries. The principal goal of the Veterans Health Administration is to provide high-quality health care on a timely basis to eligible veterans through its system of medical centers, nursing homes, domiciliaries, and outpatient medical and dental facilities. The National Cemetery System's primary mission is to bury eligible veterans, members of the Reserve components, and their dependents in VA National Cemeteries and to maintain those cemeteries as national shrines in perpetuity as a final tribute of a grateful Nation to honor the memory and service of those who served in the Armed Forces.

VA

FINAL RULE STAGE

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106. SCHEDULE FOR RATING DISABILITIES—THE CARDIOVASCULAR SYSTEM

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

38 USC 1155

CFR Citation:

38 CFR 4.100; 38 CFR 4.101; 38 CFR 4.102; 38 CFR 4.103; 38 CFR 4.104

Legal Deadline:

None

Abstract:

The Department of Veterans Affairs (VA) is conducting the first comprehensive review of its rating schedule since 1945. These revisions will update the rating schedule to ensure that it uses current medical terminology and unambiguous criteria, and that it reflects medical advances that have occurred since the last review. This comprehensive review includes a review of the different body systems identified under additional information.

Statement of Need:

Because evaluation criteria in the rating schedule are based on medical findings, the advances that have occurred in medicine since the last overall revision of the rating schedule in 1945 need to be incorporated into the schedule so that it reflects the current state of medicine, including the use of new techniques and procedures, such as liver and heart transplants. Some medical terms and nomenclature in the current schedule are obsolete, and the course of some illnesses has changed because of modern therapy. The rating schedule criteria need to reflect these advances. There are also new disease entities that have been defined or become more common since the last revision.

Summary of the Legal Basis:

Under 38 USC 1155, the Secretary of Veterans Affairs is required to establish a schedule for rating disabilities and has the authority to readjust the schedule from time to time in accordance with experience.

Alternatives:

Although VA has made some ad hoc revisions and additions to the rating schedule, this is the first comprehensive review since 1945. We could continue to make ad hoc revisions; however, we feel that this would be inadequate. We also intend to review three to four body systems per year on a cyclical basis to ensure that the schedule remains current.

Anticipated Costs and Benefits:

There are no known administrative costs directly related to these regulatory amendments of 38 CFR part 4. The same personnel will adjudicate disability claims utilizing the same procedures. There are no readily ascertainable entitlement costs or savings related to these amendments. There is no accurate way to quantify their impact. We expect these revisions to result in greater precision and consistency within the disability evaluation process, but anticipate no net savings or cost within the entitlement account.

Risks:

None known.

Timetable:

Action	Date	FR Cite
ANPRM	02/26/90	55 FR 6858
ANPRM Comment Period End	04/27/90	
NPRM	01/19/93	58 FR 4954
NPRM Comment Period End	03/22/93	
Final Action	12/00/97	

Small Entities Affected:

None

Government Levels Affected:

None

Additional Information:

For the purposes of the Regulatory Plan, VA has identified the individual schedules for rating disabilities (AE91, AF00, AF22, AF23, AF24, AH05, AH43) under the umbrella RIN 2900-AE40.

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RIN: 2900–AE40

BILLING CODE 8320-01-F

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Statement of Regulatory Priorities

An Era of Opportunity

During the past 25 years, the Nation made great headway in cleaning up the air, water, and land. But as the next century approaches, we are finding that many of the problems remaining are more complex than those of the past and they require more sophisticated, tailor-made remedies. EPA has begun a wholesale effort to rethink its current public health and environmental strategies to better meet the challenges of today and the future. And because this effort comes at the same time the President and Vice President are calling for a Government that works better and costs less, EPA has had an unprecedented opportunity to develop tough, new protections that not only solve today's difficult problems, but do so in cheaper and smarter ways.

Building a Better System

EPA's efforts to develop a system that works better and costs less are focused on four areas: Reducing regulatory and paperwork burdens, improving environmental compliance, regulating for greater results, and increasing community participation and partnerships. We are pursuing this through every possible venue, internally and externally, and we can already see results.

Internally, EPA has streamlined its management, restructured programs, and given EPA employees broader responsibilities. For example, enforcers are emphasizing compliance assistance, permitters are paying more attention to pollution prevention and market mechanisms, and rule writers are developing public health and environmental protections that include alternatives proposed by regulated industries. These are innovative alternatives that are less costly but that still meet environmental and public health protection goals.

Externally, EPA is bringing together stakeholders from businesses, State and local governments, and labor and public interest groups so that all interested parties can participate in the design of innovative, less costly approaches to environmental and public health protection. This stakeholder involvement increases flexibility, promotes local stewardship, and helps establish and strengthen partnerships between the public and private sectors—all without sacrificing environmental or public health protection.

Also, as EPA develops this new regulatory system, it will increase its focus on protecting the health of children, taking into account their unique characteristics and vulnerabilities. By April 24, 1998, EPA will develop guidance to implement the new Executive order on protecting children's health from environmental risks. This guidance will assist the Agency in preparing a "Children's Impact Statement" for economically significant regulations. In addition, following an inclusive public process, EPA will identify and then reevaluate five existing environmental or public health standards to ensure that they sufficiently protect children's health.

Eliminating Unnecessary Regulations

The Agency continues to examine existing environmental regulations and paperwork in order to simplify and streamline compliance for the regulated community. This is consistent with the President's announcement in February 1995 that all Federal agencies must conduct a line-by-line review of their regulations and eliminate those that are obsolete or redundant. EPA has already made changes to more than 70 percent of its regulations and eliminated approximately 1,400 pages of obsolete rules from the Code of Federal Regulations (CFR), some 10 percent of EPA's total CFR regulations. In March 1995, EPA set a goal of reducing by 25 percent the paperwork burden associated with requirements in effect as of January 1, 1995. By January 1997, EPA had removed 15.6 million hours of paperwork burden, a reduction of about 15 percent, and had targeted an additional 8.3 million hours for future removal. In a more recent analysis prepared in April 1997 for the Agency's Information Streamlining Plan, EPA projects that by October 1, 1998, reductions will exceed the Agency's goal by more than 2 million hours.

EPA is creating several opportunities for regulatory and paperwork streamlining. For example, in partnership with the States, the Agency is developing a "one-stop" environmental reporting system that will allow facilities to submit required environmental permitting and compliance data on-line. This can save businesses and other regulated facilities time and money, help bring about quicker decisions on permitting and compliance actions, improve data accuracy, and enhance public access to environmental information.

In the area of clean water regulation, an innovative streamlining policy allows facilities to significantly reduce discharge monitoring and reporting, as long as they have good historical compliance records and are discharging higher quality water than required by their permit. In pesticide regulation, a new streamlining procedure allows pesticide registrants to make limited changes to their registration with a simple notification to the agency rather than with the usual burdensome amendment application.

Improving Environmental Compliance

Once EPA establishes public health and environmental protection rules, the Agency must ensure that businesses and others can understand and comply with them. This is particularly important for small businesses and communities that have limited staff and resources. To help these small entities, EPA is taking several steps. First, the Agency is establishing compliance assistance centers to serve as direct, readily available sources of information on the latest regulatory requirements for small businesses. EPA is also offering to reduce or eliminate penalties for violations if small businesses establish programs to detect, publicly disclose, and fix problems—as long as the violation does not involve criminal activity or a serious risk to public health or the environment. Besides making life easier for businesses and other regulated facilities, these steps can help prevent pollution and lessen the burden and expense of cleanup.

Increasing Community Participation and Partnerships

EPA recognizes that a new and improved system of environmental protection must include stronger partnerships between the public and private sectors and between the States and the Federal Government. It would also include a greater role for citizens in local, community-based decisionmaking. The Agency has taken several steps to improve these relationships and involve citizens. For example, the Agency offers Brownfields grants and Sustainable Development Challenge grants that give communities the resources necessary to clean up contamination, especially from abandoned industrial sites, and to restore environmental quality and provide environmentally sound economic opportunities. EPA also is providing better public access to environmental data, including information specific to individual communities. In fact, the public

retrieves more than 3.5 million EPA electronic documents every month, information that citizens can use to make a difference in their communities.

EPA and the States are reinventing their working relationship to strengthen management of the Nation's environmental programs. Under the National Environmental Performance Partnership System (NEPPS), EPA has negotiated agreements with 30 States to give strong State programs more leeway to set environmental priorities, design new strategies, and manage their own programs, while concentrating EPA oversight and technical assistance on weaker programs. Also, the recent agreement between EPA and the States on Core Performance Measures is another major step forward. These measures emphasize outcomes over activities and should strengthen EPA's ability to measure environmental progress over the long term.

To stregthen the relationship between the private and public sectors, EPA now is consulting with regulated industries earlier in its rule development processes. EPA sometimes employs formal consensus-based rulemaking, such as regulatory negotiations. More frequently, however, the Agency depends on informal outreach to potentially affected parties. The Agency has paid particular attention to its relationship with small businesses and, in fact, EPA has long been prominent among Federal agencies in its outreach to these small entities. The Agency not only rigorously implements the Small Business and Regulatory Enforcement Fairness Act of 1996 (SBREFA) and the Regulatory Flexibility Act (RFA), but it also uses its Small Business Ombudsman and its Office of State and Local Relationships to reach out to small entities.

Highligts of EPA's Regulatory Plan for 1997

EPA's regulatory plan for 1997 reflects the Agency's continuing commitment to create new environmental protection strategies that better protect public health and the environment at lower cost. Here are some highlights from each program office:

Office of Air and Radiation

EPA is committed to taking advantage of the flexibility granted by the Clean Air Act that enables companies, States, and communities to meet clean air goals with innovative, low-cost approaches. The Office of Air and Radiation will make nearly 200 changes in existing rules and regulations and is drafting future rules to reflect the common-sense principles of the reinvention effort. Here are a few examples:

- EPA recently established more stringent air quality standards for ozone and particulate matter based on new scientific and technical information. While the new standards offer tough protection for public health and the environment, EPA is also developing an implementation strategy that gives States and industry flexibility with which they can meet these air quality goals. The implementation strategy: (a) Respects agreements already reached by communities and businesses and does not disrupt current progress toward improving air quality; (b) recognizes the need to take regional approaches toward addressing air pollution and finds that the most cost-effective mechanism for doing so is an emissions trading plan for utilities that was recommended by 37 States; (c) gives areas that use these regional measures a "transitional" status and allows EPA to devise an approach that eliminates unnecessarily burdensome planning and pollution reduction requirements; and (d) provides sufficient time for developing cost-effective control plans and for compliance.
- EPA, building on successful State programs, has been working with stakeholders to develop a more streamlined way that facilities can get operating permit updates from State or local agencies. Depending on the environmental significance of the change, States would have greater flexibility to decide the appropriate amount of EPA and public review for most permit revisions.
- EPA will issue a final policy for open-market trading of ozone/smog precursors (volatile organic compounds and oxides of nitrogen) that will allow companies to trade emission credits without prior State or Federal approval. EPA believes this flexibility will help areas meet or maintain EPA's ozone standard at far less cost and provide greater incentive for companies to develop innovative emission reduction technologies.
- EPA will issue a final rule requiring additional emission reductions of nitrogen oxides, hydrocarbons, and particulate matter from mobile heavy-duty engines such as those used in trucks and buses. The Agency brought together potentially affected industries, States, regional air management organizations, and public health and environmental interest groups to participate in the rule's development.
- The Agency has proposed changes to simplify and streamline the New Source Review Program, which requires newly built facilities or those undergoing major modification to obtain a permit to ensure that emissions will not cause or contribute to air pollution problems.
- EPA will issue a final rulemaking to complete the framework for the national low-emission vehicle (NLEV) program. The program, developed in conjunction with States, automakers, and others will help States meet national air quality standards by providing cleaner cars nationwide.
- Reflecting a new emphasis on multi-media environmental protection, EPA will soon issue a final integrated rule for the pulp and paper industry that controls the release of pollutants to both water and air. The regulations are being developed jointly to provide greater protection to human health and the environment, promote pollution prevention, and enable the industry to comply more effectively.
- Because the ozone/smog problem in the cities cannot be solved by emissions reductions from cars and factories alone, the Clean Air Act calls for reducing emissions from smaller sources of smog-causing volatile organic compounds (VOCs). EPA is developing final rules to require such reductions from consumer products and architectural coatings. EPA is soliciting extensive input from the regulated industries, especially small businesses, and is designing the rules to maximize their cost-effectiveness and sensitivity to small business concerns.
- EPA has worked with major stakeholders to design a final rule assuring that air emissions control equipment is properly monitored and maintained. This underscores EPA's commitment to preventing pollution rather than imposing additional command-and-control regulations.
- From discussions with affected industries, EPA has learned that many companies find it difficult to know what is expected of them given the growing complexity of the regulatory system during the last 25 years. In many cases, regulations may be duplicative, overlapping, or inconsistent, especially in the areas of monitoring, recordkeeping, and reporting. In response to these problems, early next year, EPA will propose a rule intended to consolidate and synchronize all Federal air regulations that apply to the synthetic organic chemical manufacturing industry. If this pilot program proves successful, it will be expanded to cover air rules for other industries and also possibly to water and waste requirements.
- EPA will also carry out its statutory responsibility to certify whether the Department of Energy's Waste Isolation Pilot Plant (WIPP) in New Mexico complies with regulations governing the disposal of radioactive waste. In addition, the Agency will establish health and safety standards for the high-level nuclear waste repository planned for Yucca Mountain in Nevada and will set safety standards for cleanup of radioactively contaminated sites.

Office of Water

- On August 6, 1996, President Clinton signed the Safe Drinking Water Act Amendments of 1996. The amendments will bring about substantial changes to the national drinking water program for EPA, States, and water utilities and provide greater protection and information for the 240 million Americans served by public water systems. To implement the new law, EPA will be involving diverse stakeholders in developing a new program to protect water sources; developing guidelines for consumer confidence reports that water suppliers will provide to their customers; increasing research and cost-benefit analysis; gathering data that will be used to develop a list of potential drinking water contaminants; and helping the States implement a billion-dollar drinking water State revolving fund.
- To provide more regulatory flexibility, EPA is streamling five of its water-related programs: The National Pollutant Discharge Elimination System (NPDES) program, the pretreatment program, the national primary drinking water program, the sewage sludge program, and the water quality planning and management program.
- In the NPDES program, EPA is removing outdated requirements, removing and streamlining unnecessary procedures, streamlining permit application and modification procedures, and reducing monitoring and reporting requirements. For example, EPA will consolidate and revise industrial and municipal permit application forms and streamline the application process.
- EPA is proposing to streamline the 301(h) regulations, which allow POTWs the opportunity to obtain a modification of secondary treatment requirements under certain conditions. This action would streamline the renewal process for POTWs with 301(h) modified NPDES permits.
- EPA is revising NPDES pretreatment program regulations to simplify program operation and streamline requirements. The Agency is currently considering a number of simplifying changes that would reduce the current burden to publicly owned treatment works (POTWs) and industrial users discharging to POTWs. The changes under consideration include exclusions from various requirements for small facilities that contribute insignificant amounts of pollution and reduced and/or more flexible reporting, inspection, and sampling requirements.
- The Agency is reformatting existing drinking water and effluent-guideline standards to make them easier for Federal, State, and local governments and the regulated community to read and understand.
- The Agency is also streamlining the drinking water monitoring requirements to provide greater latitude for State discretion in customizing the timing and sampling frequencies for monitoring to local circumstances.
- EPA is modifying the Round I Sewage Sludge Use or Disposal Regulations to make the requirements for sewage sludge incinerators self-implementing and to provide the regulated community flexibility in meeting other sludge requirements. These changes will increase flexibility and reduce regulatory burden.
- The Agency is also streamlining the State Sewage Sludge Management Regulations to make it easier for States with well-run sewage sludge management programs to be eligible for program authorization without having to make unnecessary administrative changes to their programs.
- EPA is revising requirements for water quality planning and management to reduce the burden associated with the program and to make it more efficient. EPA is also working with a FACA Committee to identify ways to improve the efficiency, effectiveness, and pace of EPA, State, and tribal total maximum daily load programs. FACA recommendations may include changes to the water quality planning and management regulations.
- Finally, the Agency will be pursuing innovative, less-costly, nonregulatory water protection strategies, such as effluent trading within watersheds.

Office of Prevention, Pesticides, and Toxic Substances

- The new Food Quality Protection Act (FQPA), signed into law on August 3 1996, overhauls U.S. pesticide laws regulate pesticides on foods and bett protect children. During the next 2 years, EPA will be engaged in an intensive implementation effort, including developing new regulations, guidance, and programs As specific regulatory and program changes are identified, the Agency will enter them into the regulatory agenda.
- EPA will continue to improve the public's right to know about toxic chemicals in their community through the Toxic Release Inventory (TRI) program of the Emergency Planning and Community Right-to-Know Act (EPCRA). The TRI is a da base that provides communities wit information on releases to air, water and land for approximately 600 toxi chemicals. Armed with this information, communities can bette understand the nature of toxic releases at the local level, assess risk and make informed decisions about local priorities.
- For chemicals that are highly toxic a very low dose levels, persist for extended periods in the environmen and/or bioaccumulate through the food chain, EPA is evaluating under TRI whether to lower the reporting threshold amount—the amount of chemical a facility uses, manufactures, or processes before it must report releases. In addition, EP is working with stakeholders to simplify the chemical reporting form and the Agency's annual reports to make them easier to understand.
- By the end of 1997 or early 1998, EPA plans to issue a final rule that will streamline the Toxic Substances Control Act's (TSCA) PCB management program. This rule is th first comprehensive review of the PC regulations in 17 years. The modification will allow currently prohibited activities that do not pos an unreasonable risk to health and th environment and is expected to resu in significant cost savings for the regulated community.
- Currently, chemical manufacturers a required to report the names of the chemicals they produce, the quantity produced, and the locations of manufacturing facilities. EPA plans propose expanding this to include information on potential exposure to

the chemical and how the chemicals are used (e.g., in manufacturing processes). This allows EPA and others to identify the chemicals of highest concern so that the Agency can set goals for chemical assessment, risk management, and prevention programs. The action will also encourage pollution prevention by identifying safer chemical substitutes.

- EPA intends to issue the remaining regulations mandated by the Residential Lead-Based Hazard Reduction Act of 1992, which requires EPA to establish standards for lead-based paint, lead-contaminated soil, and lead-contaminated dust. EPA will issue final regulations that require renovators to provide a lead-hazard information brochure (developed by EPA) to clients before beginning work. EPA will also propose regulations identifying what lead levels in paint, dust, and soil and what lead-paint conditions (e.g., flaking, peeling) pose a health hazard.

Office of Solid Waste and Emergency Response

- The Office of Solid Waste and Emergency Response (OSWER) is planning to propose a number of actions to streamline and simplify compliance under the Resource Conservation and Recovery Act (RCRA), the Federal law governing hazardous waste management. As part of its effort to refocus hazardous waste regulations on high-risk wastes, EPA is undertaking a number of actions to tailor standards to the nature or degree of risk posed by particular wastes. One example of this is the development of management standards for cement kiln dust. The proposed standards for this large volume waste will be tailored to protect public health and the environment while imposing minimal burden on the regulated community.
- EPA is streamlining the regulation of materials that contain substances listed as hazardous waste. Certain regulations are overly broad in that they apply regardless of the concentrations of the listed wastes or the mobility of the toxicant in the waste. As a result, they regulate certain low-risk wastes (in particular, treatment residuals) as if they posed high risk. EPA's common-sense approach would exempt these low-risk wastes from the full management requirements designed for high-risk hazardous wastes.
- On May 1, 1996, EPA published an advance notice of proposed rulemaking to solicit comment on alternative approaches to contamination cleanup at hazardous waste management facilities. EPA believes final regulations are needed to promote national consistency, clarify cleanup requirements, and reduce the number of site-specific negotiations and costly litigation.
- EPA is developing a regulation which will address the problems posed by contaminated media found at hazardous waste management facility cleanups. The Agency plans to make targetted fixes which will promote ongoing and future cleanups, as well as provide significant regulatory relief in several areas.
- EPA also plans to establish new emissions standards for hazardous waste combustors under joint Clean Air Act and RCRA authority. These revised standards will avoid duplicative Agency effort and piecemeal regulation of the hazardous waste management industry while protecting public health and the environment from chlorinated dioxins and furans.
- Finally, EPA is in the process of developing new streamlined rules governing the definition of solid waste. These rules will make it easier for companies to determine what wastes/processes are subject to RCRA jurisdiction. In addition, EPA is streamlining the requirements for managing recycled hazardous waste to provide more clarity and to remove disincentives to safe recycling.

Summary

In developing all of these actions, EPA is committed to flexible, common-sense, cost-effective regulatory programs that protect public health and the environment.

EPA

PRERULE STAGE

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107. REPORTING THRESHOLD AMENDMENT; TOXIC CHEMICALS RELEASE REPORTING; COMMUNITY RIGHT-TO-KNOW

Priority:

Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

PL 99-499

CFR Citation:

40 CFR 372

Legal Deadline:

None

Abstract:

The Toxics Release Inventory (TRI) currently requires reporting from facilities which manufacture or process at least 25,000 pounds of a listed chemical, or otherwise use 10,000 lbs of a listed chemical. These thresholds were initially established under the Emergency Planning and Community Right-to-know Act (EPCRA) section 313(f)(1). Section 313(f)(2) of EPCRA gives the Administrator the power to establish a threshold amount for a toxic chemical different from the amount established by paragraph (1) and that such altered thresholds may be based on classes of chemicals. EPA is considering lowering the thresholds for those chemicals which it determines to be highly toxic at very low dose levels and/or have physical, chemical, or biological properties that make the chemicals persist for extended periods in the environment, and/or bioaccumulate through the food chain. Persistent bioaccumulative toxic chemicals are of particular concern in ecosystems such as the Great Lakes Basin due to the long retention time of the individual lakes and the cycling of the chemicals from one component of the ecosystem to another. EPA is currently conducting analysis to determine which chemicals present the specific problems described above, and to determine what the altered threshold value(s) should be.

Statement of Need:

TRI is the most complete and accessible source of information for the public on toxic chemical releases in communities across the United States. The intention of Congress was for TRI, and indeed all of EPCRA, to provide information to local communities. Communities need this information to better understand the nature of the releases at the local level. The intent of TRI has been to share information on releases with local communities to help in their assessments of the risks. This basic local empowerment is the cornerstone of the right-to-know program.

Yet because of the current reporting thresholds, TRI does not collect release and transfer data on small quantities of chemicals that may persist and bioaccumulate in the environment. Even small releases of such chemicals can have significant impacts on human health and the environment. Congress gave EPA the authority to adjust reporting thresholds, because it recognized that this might be necessary in order to address the American publics right to know what is happening to the environment near their homes, schools, and businesses.

Summary of the Legal Basis:

42 USC 11013; 42 USC 11023; 42 USC 11048; 42 USC 11076; EPCRA S313

Alternatives:

EPA recognizes the reporting burden inherent in TRI, and is continuing to take every reasonable opportunity to minimize this burden while ensuring the public's right-to-know. As such, all available alternatives will be identified and evaluated.

Anticipated Costs and Benefits:

The anticipated costs related to this action are unknown at present. At this point the Agency is still unsure how low to set reporting thresholds or for what specific list of chemicals the lower reporting thresholds should apply. The information reported in TRI increases the knowledge levels of pollutants released to the environment and pathways to exposure, improving scientific understanding of the health and environmental risks of toxic chemicals; allows the public to make informed decisions on where to work and live; enhances the ability of corporate lenders and purchasers to more accurately gauge a facility's potential liability; and assists Federal, State, and local authorities in making better decisions on acceptable levels of toxics in communities.

Risks:

Currently communities do not have access to TRI data on chemicals that, although released in relatively small quantities, pose a potential risk to human health and the environment because they persist and bioaccumulate. By lowering the reporting thresholds for such chemicals the public will be able to determine if such chemicals are being released into their communities and whether any action should be taken to reduce potential risks.

Timetable:

Action	Date	FR Cite
ANPRM	03/00/98	

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

Federal

Sectors Affected:

495 Sanitary Services; 516 Chemicals and Allied Products; 517 Petroleum and Petroleum Products; 738 Miscellaneous Business Services

Analysis:

Regulatory Flexibility Analysis

Additional Information:

SAN No. 3880.

OTHER SECTORS AFFECTED: Manufacturing industries in SIC codes 20-39 plus the following industries and SIC codes: Metal Mining (SIC code 10 except SIC codes 1011, 1081, and 1094); Coal Mining (SIC code 12 except SIC code 1241); Electric Utilities (SIC codes 4911, 4931, 4939).

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RIN: 2070–AD09

EPA

PROPOSED RULE STAGE

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108. • TOXICS RELEASE INVENTORY (TRI): REVIEW OF CHEMICALS ON ORIGINAL TRI LIST

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 1101 et seq

CFR Citation:

40 CFR 372

Legal Deadline:

None

Abstract:

When TRI was established by Congress in 1986, the statutory language placed 309 chemicals and 20 categories of chemicals on the TRI list; that is referred to as the original TRI list. The chemicals on the original list were taken from two existing lists of toxic substances: the Maryland Chemical Inventory Report List of Toxic or Hazardous Substances, and the New Jersey Environmental Hazardous Substances list. This action constitutes the first systematic review of toxicolog and environmental data for all the chemicals on the original TRI list to determine whether data for those chemicals conform with the statutory criteria for listing of chemicals on TRI. Chemicals for which data do not meet the statutory criteria will be delisted.

Statement of Need:

When chemicals on the original TRI li have been subjects of petitions for delisting, thorough reviews have been carried out of toxicity and environmental data for the chemicals t determine whether the chemicals should be retained on TRI or should be delisted. Although petitions for delisting have resulted in reviews of a substantial number of chemicals on the original TRI list, this action is the first systematic review of toxicity and environmental data for all the chemicals on the original list. This action is needed to ensure that TRI lis chemicals for which data on toxicity and environmental harm meet the statutory criteria, therefore justifying the burden placed on entities required to report for the TRI program.

Summary of the Legal Basis:

Section 313(d) of EPCRA authorizes EPA to add or delete chemicals from the TRI list, and sets forth criteria for these actions.

Alternatives:

EPA recognizes the reporting burden inherent in compliance with TRI, and takes all reasonable opportunities to minimize the burden while ensuring that the public receives information necessary for protection of health and the environment. Reporting burdens would be reduced if chemicals are taken off the TRI list as a result of the data review. The possibility that chemicals will be delisted as a result of the data review is an alternative to retaining chemicals on the TRI list.

Anticipated Costs and Benefits:

The anticipated costs to industry related to this action are unknown at present. Costs to industry would be reduced if chemicals are removed from the TRI list. Benefits would result from any reduction in reporting burden as a result of the delisting of a chemical.

Risks:

TRI provides information to industry, governments and the public on chemicals that can cause harm to health or the environment. The review of toxicology and environmental data for all chemicals on the original TRI list will ensure that the list focuses only on those chemicals that pose meaningful possibilities of risks to human health or the environment, increasing the effectiveness of the TRI.

Timetable:

Action	Date	FR Cite
NPRM	07/00/98	
Final Action	12/00/98	

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

State, Federal

Sectors Affected:

495 Sanitary Services; 516 Chemicals and Allied Products; 517 Petroleum and Petroleum Products; 738 Miscellaneous Business Services

Additional Information:

SAN No. 4015.

OTHER AFFECTED SECTORS: Identify the affected industry(ies) and provide the SIC code(s): Manufacturing industries in SIC codes 20-39 plus the following industries and SIC codes: Metal Mining (SIC code 10 except SIC codes 1011, 1081, and 1094); Coal Mining (SIC code 12 except SIC code 1241); Electric Utilities (SIC codes 4911, 4931, 4939).

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RIN: 2070–AD18

EPA

109. TRI CHEMICAL EXPANSION; FINALIZATION OF DEFERRED CHEMICALS

Priority:

Other Significant

Legal Authority:

42 USC 11013; 42 USC 11023; 42 USC 11048; 42 USC 11076; Emergency Planning and Community Right-To-Know Act sec 313

CFR Citation:

40 CFR 372

Legal Deadline:

None

Abstract:

On November 30, 1994, EPA added 286 chemicals and chemical categories to the EPCRA section 313 list, including 39 chemicals as part of two delineated categories. Each chemical and chemical category was found to meet the statutory criteria described in EPCRA section 313(d)(2)(A)-(C). At the time, EPA deferred final action on 40 chemicals and one chemical category until a later date. These were deferred because the comments received on them raised difficult technical or policy issues which required additional time to address. EPA chose not to delay final action on the 286 chemicals and chemical categories because the additional time needed to address the issues surrounding the smaller group of 40 chemicals and one chemical category; rather, EPA believed it to be in the spirit of community right-to-know to proceed with the final rulemaking of the addition of the 286 chemicals and chemical categories.

Statement of Need:

The original Toxic Release Inventory (TRI) chemical list consisted of 320 chemicals and chemical categories. In an effort to provide the public with a broader picture of chemicals in their communities, EPA, in accordance with EPCRA section 313(d), is expanding the original toxic chemical list. By providing the public with information on these chemicals they can participate in informed environmental decisionmaking to reduce risks to human health and the environment. On January 12, 1994 (59 FR 1788), EPA published a proposed rule to add 313 chemicals and chemical categories to the TRI chemical list. Of the 313 chemicals and chemical categories proposed, there are approximately 160 pesticide active ingredients. The chemicals being proposed were selected from numerous other regulatory lists and meet the criteria for human health and environmental toxicity in EPCRA section 313(d)(2). In addition, the chemicals passed a production volume screen to ensure that reports would be received if they are added to the TRI list. Part of this activity included the review of 17 chemicals, previously described in RIN 2070-AC40/SAN 3007. Sixteen of these chemicals are from a list of hazardous air pollutants subject to requirements of the Clean Air Act Amendments of 1990, and one was considered for addition due to its extreme aquatic toxicity. Of these 17 chemicals nine were included in the proposed rule.

Summary of the Legal Basis:

EPCRA section 313(d) authorizes EPA to add or delete chemicals from the TRI list and sets forth the criteria for these actions.

Alternatives:

EPA recognizes the reporting burden inherent in TRI, and is continuing to take every reasonable opportunity to minimize this burden while ensuring the public's right-to-know. As such, all alternatives will be identified and evaluated.

Anticipated Costs and Benefits:

The final total costs are not yet known, since the final listing decisions have not yet been made. However, estimates of the potential costs were provided as part of the economic analysis that was prepared for the proposed action. Undoubtedly, the addition of any of these chemicals or the chemical category will result in additional costs to the reporting community. The additional information reported in TRI increases the public's knowledge regarding the levels of pollutants released to the environment and pathways of exposure, improving scientific understanding of the health and environmental risks of toxic chemicals. It allows the public to make informed decisions on where to work and live; enhances the ability of corporate lenders and purchasers to more accurately gauge a facility's potential liabilities; and assists Federal, State, and local authorities in making better decisions on acceptable levels of toxics in communities.

Risks:

With more information, communities will be empowered to determine whether they need to take action to reduce risks potentially associated with the chemicals being released in their communities. Without such information, local communities would not be aware of potential risks to the environment and human health that may result from the chemical releases of local facilities. The public can also use this data to evaluate potential risks from these chemicals and to determine how to avoid these risks.

Timetable:

Action	Date	FR Cite
NPRM	01/12/94	59 FR 1788
Final Finalizes listing of 286 chemicals and chemical categories	11/30/94	59 FR 61432
Supplemental NPRM Deferred Chemicals	04/00/98	
Final Deferred Chemicals	12/00/98	

Small Entities Affected:

Businesses

Government Levels Affected:

State, Federal

Sectors Affected:

20 Food and Kindred Products; 21 Tobacco Products; 22 Textile Mill Products; 23 Apparel and Other Finished Products Made from Fabrics and Similar Materials

Additional Information:

SAN No. 3007.

Includes SIC codes 10 (except 1011, 1081, 1094); 12 (except 1241); 20-39, 4911; 4931; 4939; 4953; 5169; 5171; and 7389

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RIN: 2070–AC47

EPA

110. TSCA INVENTORY UPDATE RULE AMENDMENTS

Priority:

Other Significant

Legal Authority:

15 USC 2607(a)

CFR Citation:

40 CFR 710

Legal Deadline:

None

Abstract:

This action would amend the current Toxic Substances Control Act (TSCA) Inventory Update Rule (IUR) to require chemical manufacturers to report to EPA data on exposures and the industrial and consumer end uses of chemicals they produce. Currently, EPA requires chemical manufacturers to report the names of the chemicals they produce, as well as the locations of manufacturing facilities and the quantities produced. About 3,000 facilities reported data on about 9,000 unique chemicals during the last reporting cycle under the IUR. Data obtained would be used by EPA and others to: better understand the potential for chemical exposures and then screen the chemicals now in commerce and identify those of highest concern; establish priorities and goals for their chemical assessment, risk management and prevention programs and monitor their progress; encourage pollution prevention by identifying potentially safer substitute chemicals for uses of potential concern; and enhance the effectiveness of chemical risk communication efforts. EPA has held meetings with representatives of the chemical industry, environmental groups, environmental justice leaders, labor groups, State governments and other Federal agencies to insure public involvement in the TSCA Inventory Update Rule Amendments Project.

Statement of Need:

There are approximately 70,000 chemicals in commerce and listed on the updated TSCA Inventory. EPA faces the challenge of sorting through these chemicals to identify the ones of most concern and then taking action to mitigate unreasonable risks. The current IUR collects some of the key data, such as production volumes, that help to identify chemicals of concern; however, information on how chemicals are used commercially, which is essential to determining possible exposure routes and scenarios and potential safer substitute chemicals, is not covered by IUR. This action will propose to modify the inventory update process so that data essential to an effective TSCA Inventory screening program are available to EPA.

In addition to the specifics of the kind and format of the desired end use data reporting, EPA will consider reforms of the IUR: How to include inorganic chemicals, which have been exempted from reporting in the past, so that risks from these chemicals can be better assessed and managed; How to ease the linkage of amended IUR data to other environmental data sources like the Toxic Release Inventory to enhance the data's usefulness; and How to change IUR reporting so that the frequency of submitter confidentiality claims is reduced so that the public can have better access to relevant data on toxics.

A national report will make data collected via the amended IUR publicly available. This report will not contain any information claimed to be confidential.

Alternatives:

Although data on the use of specific chemicals can be found in varying sources, there is no national, comprehensive, current searchable database providing consistent information on a wide variety of chemicals. EPA has examined alternate sources of the information including state information, Federal databases and privately collected information. EPA can find no information comparable to the data anticipated to be collected through amendments to the IUR.

Anticipated Costs and Benefits:

EPA anticipates costs of this action to be well under $100 million for the first year of reporting. Total costs of this action depend on the amendments to IUR that are contained in a proposed rule. The amended IUR will assist EPA in screening chemicals in commerce and identify those of highest concern; establishing priorities and goals for its chemical assessment, risk management and prevention programs and monitor their progress; identifying potentially safer substitute chemicals for uses of potential concern; and enhancing the effectiveness of chemical risk communication efforts.

Risks:

This action will secure data on describing how chemicals in commerce are used; this data is essential to determine possible exposure routes and scenarios. Using these exposure estimates, EPA's toxics program will be able to better focus on chemical risks of most concern.

Timetable:

Action	Date	FR Cite
NPRM	05/00/98	

Small Entities Affected:

Businesses

Government Levels Affected:

Federal

Additional Information:

SAN No. 3301.

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RIN: 2070–AC81

EPA

111. DATA EXPANSION AMENDMENTS; TOXIC CHEMICAL RELEASE REPORTING; COMMUNITY RIGHT-TO-KNOW

Priority:

Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

42 USC 11013; Emergency Planning and Community Right-To-Know Act sec 313; 42 USC 11023; 42 USC 11048; 42 USC 11076

CFR Citation:

40 CFR 372

Legal Deadline:

None

Abstract:

The original Toxics Release Inventory (TRI) required reporting from manufacturing facilities on the releases and transfers of toxic chemicals and wastes including waste treatment and disposal methods. This requirement was imposed under the Emergency Planning and Community Right-to-Know Act (EPCRA) section 313(g). Information on waste management practices, including recycling, energy recovery, and source reduction activities, were added to TRI pursuant to the 1990 passage of the Pollution Prevention Act. EPA is currently considering whether additional data elements related to a mass balance/materials accounting program should be considered for incorporation into the TRI database. The additional data elements included for consideration include: quantity brought on site; quantity produced on site; quantity consumed on site; quantities manufactured, processed or otherwise used; quantity contained in or as product; quantity stored on site as waste, and beginning and ending raw materials inventory. The issue of collecting mass balance/materials accounting information has been debated for over a decade. Congress, in enacting EPCRA, directed the National Academy of Sciences (NAS) to study this issue further. NAS recommended that the issue of adding materials accounting data merited further analysis.

Statement of Need:

TRI is the most complete and accessible source of information for the public on toxic chemical releases in communities across the United States. The intention of Congress was for TRI, and indeed all of EPCRA, to provide information to local communities. Communities need this information to better understand the nature of the releases at the local level. The intent of TRI has been to share information on releases with local communities to help in their assessments of the risks. This basic local empowerment is the cornerstone of the right-to-know program.

Yet TRI would be enhanced by collecting chemical use/ materials accounting data. This additional data would provide the public with the information to measure source reduction progress, better participate in pollution prevention planning, identify source reduction opportunities and follow the flow of toxic chemicals into the community, through the manufacturing process and leaving the plant not only as transfers and releases, but also in products. Materials accounting information also allows a method of checking data reported to TRI, provides a better picture for regulatory integration and can be used for others objectives such as research and priority-setting. Congress gave EPA the authority to expand TRI, both in terms of the data reported and the facilities required to report, because it recognized that the American public has a right to know what is happening to the environment near their homes, schools, and businesses.

Summary of the Legal Basis:

42 USC 11013; 42 USC 11023; 42 USC 11048; 42 USC 11076; EPCRA Sec. 313

Alternatives:

EPA recognizes the reporting burden inherent in TRI, and is continuing to take every reasonable opportunity to minimize this burden while ensuring the public's right-to-know. As such, all available alternatives will be identified and evaluated.

Anticipated Costs and Benefits:

The anticipated costs related to this action are unknown at present. At this point the Agency is still unsure about what data elements need to be added to TRI, whether this data will even need to be collect or is already available and therefore is unable to estimate any costs. The information reported in TRI increases the knowledge levels of pollutants released to the environment and pathways to exposure, improving scientific understanding of the health and environmental risks of toxic chemicals; allows the public to make informed decisions on where to work and live; enhances the ability of corporate lenders and purchasers to more accurately gauge a facility's potential liability; and assists Federal, State, and local authorities in making better decisions on acceptable levels of toxics in communities.

Risks:

Currently communities do not have access to chemical use/ materials accounting data on the TRI. By adding such data to the TRI the public will have a more complete picture of the use and distribution of toxic chemicals in their communities as well as potential risks that might result from such use. The public will also be able to better assess how pollution prevention activities may be reducing potential risks in their communities.

Timetable:

Action	Date	FR Cite
ANPRM	10/01/96	61 FR 51322
NPRM	08/00/98	

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

Federal

Sectors Affected:

495 Sanitary Services; 516 Chemicals and Allied Products; 517 Petroleum and Petroleum Products; 738 Miscellaneous Business Services

Analysis:

Regulatory Flexibility Analysis

Additional Information:

SAN No. 3877.

OTHER SECTORS AFFECTED: Manufacturing industries in SIC codes 20-39 plus the following industries and SIC codes: Metal Mining (SIC code 10 except SIC codes 1011, 1081, and 1094); Coal Mining (SIC code 12 except SIC code 1241); Electric Utilities (SIC codes 4911, 4931, 4939).

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EPA

112. • TRI; ADDITION OF OIL AND GAS EXPLORATION AND PRODUCTION TO THE TOXIC RELEASE INVENTORY

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Legal Authority:

42 USC 11013; EPCRA 313; 42 USC 11023; 42 USC 1108; 42 USC 11076

CFR Citation:

40 CFR 372

Legal Deadline:

None

Abstract:

The original Toxics Release Inventory (TRI) required reporting from facilities in Standard Industrial Classification (SIC) codes 20-39. These SIC codes cover manufacturing facilities only. This requirement was specified under the Emergency Planning and Community Right-To-Know Act (EPCRA) section 313(b)(1)(A). EPCRA section 313(b)(1)(B) and (b)(2) provide the Administrator with the authority to add or delete SIC codes and the discretion to add particular facilities based on a broad set of factors. The Environmental Protection Agency (EPA) has recently expanded this original list of covered industries. EPA is beginning analyses to determine whether facilities which perform exploration and production of oil and gas should also be added to the list of facilities covered under EPCRA section 313. Facilities recently added include certain electric generating facilities, waste management facilities, metal and coal mining, hazardous waste treatment facilities, solvent recyclers, and wholesale distributors of chemicals and petroleum products.

Statement of Need:

The Emergency Planning and Community Right-To-Know Act (EPCRA) was passed to better plan for and prevent chemical accidents and emergencies and to provide the public with access to information regarding the release and disposition of toxic chemicals in their communities. The public access requirements of EPCRA originally covered facilities operating within the manufacturing sector. It has come to EPA's attention that industry groups not classified within the manufacturing sector also manage toxic chemicals and that information concerning their management practices is limited and not publicly available. EPA believes that activities conducted by oil and gas exploration and production facilities involve toxic chemicals and may be associated with wastes that are managed for which limited information is publicly available. EPA believes that information related to the management of wastes associated with oil and gas exploration and production activities may significantly contribute to the public's knowledge of the release and disposition of toxic chemicals in the environment.

Summary of the Legal Basis:

This requirement was specified under the Emergency Planning and Community Right-To-Know Act (EPCRA) section 313(b)(1)(A). EPCRA section 313(b)(1)(B) and (b)(2) provide the Administrator with the authority to add or delete SIC codes and the discretion to add particular facilities based on a broad set of factors. The statute as originally passed required reporting from facilities in Standard Industrial Classification (SIC) codes 20-39 only. The Environmental Protection Agency (EPA) has recently expanded this original list of covered industries.

Alternatives:

Based on currently available information, existing sources of information are incomplete and do not satisfy the need of making publicly available information on the release and disposition of toxic chemicals in communities.

Anticipated Costs and Benefits:

Based on the current status of the project, anticipated costs are unknown. Estimated costs for compliance with EPCRA section 313 reporting requirements are available, but until further evaluation is completed no estimates are available for the impact of the resulting requirements. Equally true, until further evaluations are performed, estimated benefits cannot be accurately calculated. Generally, anticipated benefits will be in the form of making available more complete information regarding the release and disposition of toxic chemicals in the environment.

Timetable:

Action	Date	FR Cite
NPRM	09/00/98	
Final	09/00/99	

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

State, Federal

Sectors Affected:

13 Oil and Gas Extraction

Analysis:

Regulatory Flexibility Analysis

Additional Information:

SAN No. 4023.

Program is implemented at the Federal level. States are designated as co-recipients of the information, but are not required to manage the information in any particular manner.

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RIN: 2070–AD19

EPA

113. TRI; POLLUTION PREVENTION ACT INFORMATION REQUIREMENTS

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 11013; Pollution Prevention Act

CFR Citation:

40 CFR 372

Legal Deadline:

None

Abstract:

Section 6607(b) of the Pollution Prevention Act of 1990 (PPA)(Pub.L. 101-508) requires the addition of several data elements to the Toxic Chemical Release Inventory (TRI) reporting requirements as promulgated under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (Pub.L. 99-499). Section 313 of EPCRA requires owners or operators of certain facilities that manufacture, process or otherwise use listed toxic chemicals to annually report their releases of these chemicals to each environmental medium. The PPA mandates that section 313 covered facilities also report on source reduction and recycling activities relating to the toxic chemicals beginning with the 1991 reporting year. Since 1991, covered facilities have been providing this information to EPA in section 8 of EPA's Form R. On September 25, 1991 (56 FR 48475), EPA proposed regulations which would provide definitions and instructions for reporting the PPA data elements on the Form R. EPA intends to issue a supplemental proposal to amend certain aspects of the 1991 proposed rule, as well as seek comment on a few new proposals.

Statement of Need:

TRI is the most complete and accessible source of information for the public on toxic chemical releases in communities across the United States. The intention of Congress was for TRI, and indeed all of EPCRA, to provide information to local communities. Communities need this information to better understand the nature of the releases at the local level. The intent of TRI has been to share information on toxic chemical releases with local communities to help in their assessments of the potential risks associated with such releases. This basic local empowerment is the cornerstone of the right-to-know program.

Beginning with the 1991 reporting year, the PPA has mandated the collection of source reduction and recycling information on the Form R. Without complete instructions and definitions for the terms used, facilities across the nation have been reporting this information inconsistently. These inconsistencies severely compromise the data quality of the information reported. This action will improve the understanding, awareness, and decision-making related to the collection, provision, and distribution of these required data elements.

Summary of the Legal Basis:

Section 6607 of the Pollution Prevention Act of 1990 requires the reporting of pollution prevention data under the TRI program established by section 313 of EPCRA. In order to collect data of good quality, EPA must provide instructions and definitions to ensure consistency in the interpretation of the various words and phrases used by the PPA.

Alternatives:

EPA recognizes the reporting burden inherent in TRI and the PPA, and is continuing to take every reasonable opportunity to minimize related burdens, while ensuring the public's right-to-know. Providing guidance to facilities on how to properly report the PPA data will reduce their overall reporting burden.

Anticipated Costs and Benefits:

EPA estimates that industry currently incurs a cost of $61.3 million annually to report PPA data on the Form R. This estimate does not include the costs related to the seven industries newly subject to EPCRA 313. The cost to EPA to process source reduction and waste management data equals $2.7 million each year. This action is not expected to add to these existing costs, and may actually result in a reduction to the overall industry burden and costs .

Risks:

Because of the inconsistencies in the PPA data currently reported on the Form R, communities are unable to accurately compare the risks related to release and recycling activities between different facilities. By providing covered facilities with clear guidance for reporting this information, the public will be better equipped to determine and compare the risks associated with toxic chemicals being released and managed in their community.

Timetable:

Action	Date	FR Cite
NPRM	09/25/91	56 FR 48475
Supplemental NPRM	04/00/98	
Final	12/00/98	

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

State, Federal

Sectors Affected:

516 Chemicals and Allied Products; 517 Petroleum and Petroleum Products; 738 Miscellaneous Business Services

Analysis:

Regulatory Flexibility Analysis

Additional Information:

SAN No. 2847.

Affected Sectors Include: SIC 10 (except 1011, 1081,1094); 12 (except 1241); 20-39; 4911; 4931; 4939; 4953;

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RIN: 2070–AC24

EPA

114. SELECTED RULEMAKINGS FOR ABATING LEAD HAZARDS

Priority:

Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

15 USC 2683; PL 102-550

CFR Citation:

40 CFR 745

Legal Deadline:

Final, Statutory, April 28, 1994, (Sections 402(a) - 403 - 404).

Other, Statutory, October 28, 1994, See additional information.

Abstract:

The Residential Lead-Based Hazard Reduction Act of 1992 requires EPA to promulgate a number of regulations intended to address lead poisoning in the U.S. EPA is to promulgate regulations to (a) identify the paint conditions and lead levels in dust and soil that would result in adverse human health effects (Section 403) (on July 14, 1994, EPA issued guidance to provide preliminary information while a proposal is being developed); (b) promulgate regulations (section 402(a)) governing lead-based paint activities to ensure that individuals engaged in such activities are properly trained, that training programs are accredited, and that contractors engaged in such activities are certified (in addition, EPA must promulgate a Model State program (section 404) which may be adopted by any State which seeks to administer and enforce a State Program); (c) promulgate regulations (section 406) requiring renovators to provide a lead hazard information brochure (developed separately by EPA) to clients before beginning work; (d) promulgate, with HUD, regulations (section 1018) that require the following before the sale or lease of pre-1978 housing: disclosure of lead-based paint hazards, provisions of a lead-paint information brochure to the prospective buyer or renter, and for buyers, and the opportunity to conduct a lead risk assessment or inspection; and (e) promulgate regulations (section 402(c)(3)) addressing lead risks from renovation and remodeling activities or state why no regulation is necessary.

Statement of Need:

Childhood lead poisoning is a pervasive problem in the United States, with almost a million young children having more than 10 ug/dl of lead in their blood, Center for Disease Control's level of concern. Elevated blood-lead levels can lead to reduced intelligence and neurobehavioral problems in young children, as well as causing other adverse health effects in children and adults. Although there have been dramatic declines in blood-lead levels due to reductions of lead in paint, gasoline, and food sources, remaining paint in older houses remains the significant source of childhood lead poisoning. These rules are designed to reduce exposure to that source in a targeted and sensible manner.

Alternatives:

Alternatives to each of the mandated activities will be analyzed. However, in many cases (particularly regulations written under Sections 406 and 1018) the statute is very prescriptive.

Anticipated Costs and Benefits:

For rules promulgated under section 406 cost estimates have been provided with the proposed rule, and will be available with the final rule. For sections 402, 404 and 1018, the costs have been provided in the final economic impact analysis that was prepared in conjunction with the final rules. For section 403, costs will still need to be estimated in a draft economic impact analysis that will be prepared for the proposed rule. Since benefits depend on private sector implementation of certain lead hazard abatement activities which are not mandated by any of these rules, benefits will be difficult to quantify.

Risks:

These rules are aimed at reducing the prevalence and severity of lead poisoning, particularly in children.

Timetable:

Action	Date	FR Cite
NPRM Section 406(b)	03/02/94	59 FR 11108
NPRM Sections 402(a) and 404 (Residential)	09/02/94	59 FR 45872
NPRM Section 1018	11/02/94	59 FR 54964
Final Section 1018	03/06/96	61 FR 9064
Final Sections 402(a) and 404 (Residential)	08/29/96	61 FR 45778
Final Section 406(b)	12/00/97	
NPRM Section 403	02/00/98	
NPRM Section 402(a) (Debris)	03/00/98	
NPRM Sections 402(a)(3)/404(h)	08/00/98	
NPRM Section 402(a) (Public/Commercial)	12/00/98	
NPRM Section 402(c)	12/00/98	
Final Section 402(a) (Debris)	12/00/98	
Final Section 402(a) (Public/Commercial)	12/00/99	
Final Section 402(c)	12/00/99	
Final Section 403	12/00/99	
Final Sections 402(a)(3)/404(h)	02/00/00	

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Tribal, Federal

Additional Information:

SAN No. 3243.

Lead Hazard Standards (section 403)(RIN 2070-AC83)

SAN 3244 - Lead-Based Paint Activities Rules: Training, Accreditation and Certification Rule and Model State Plan Rule (Sections 402 and 404(RIN: 2070-AC84).

SAN 3242 - Lead-Based Paint Disclosure Requirements at Renovation of Target Housing (section 406)(RIN: 2070-AC85).

SAN 3499 - Lead-Based Paint Hazard Information Requirements at the Transfer of Target Housing: joint with HUD (Section 1018)(RIN: 2070-AC75) Lead-Based Paint Activities, Training, and Certification: Renovation and Remodeling (section 402(c)(3))(RIN: 2070-AC83).

Legal Deadlines: Statutory: (sections 403; 402; 404) Final: Statutory April 28, 1994 (sections 403; 402; 404), Other Statutory: (sections 406; 1018) Final; Statutory; October 28, 1994 (sections 406; 1018); Final Statutory; October 28, 1996 (Section 402(c)(3)).

Additional Legal dateline information: Fin. Stat. (Sec. 1018; 406(b)); Fin. Stat.: 10/28/96 (Sec. 402(c)); Fin. Stat.: 08/30/98 (Sec. 404(h); 402(a)(3)).

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EPA

115. NPDES STREAMLINING RULE—ROUND III

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

33 USC 1311; Clean Water Act sec 301; 33 USC 1312; Clean Water Act sec 302;

33 USC 1314; Clean Water Act sec 304; 33 USC 1316; Clean Water Act sec 306; 33 USC 1318; Clean Water Act sec 308; 33 USC 1342; Clean Water Act sec 402; 33 USC 1361; Clean Water Act sec 501

CFR Citation:

40 CFR 122; 40 CFR 123; 40 CFR 124

Legal Deadline:

None

Abstract:

On February 21, 1995, President Clinton issued a directive requesting that Federal agencies review their regulatory programs to eliminate any obsolete, ineffective, or unduly burdensome regulations. In response to that directive, EPA plans to issue several rulemaking packages to revise NPDES requirements in parts 122, 123, and 124 to eliminate redundant regulations, provide clarification, and remove or streamline unnecessary procedures. Revisions under consideration in this rule include adding additional permit modifications that can be considered minor modifications at 122.63, and changes to requirements concerning EPAs review of State permits. Other revisions may be considered as work on this rule progresses. This rulemaking is expected to affect entities which implement the NPDES program or are regulated by it. This includes small businesses and State, Tribal and local governments. Most of these effects are expected to be deregulatory or streamlining in nature. This rulemaking is in the very early stages.

Statement of Need:

This is in response to the President's directive.

Summary of the Legal Basis:

This action is not being taken as a result of a court order and is not required by law.

Alternatives:

Rulemaking is in too early a stage for there to be alternatives. However, alternatives will be considered later on.

Anticipated Costs and Benefits:

Rulemaking is expected to provide benefits in costs and labor to regulated entities and permitting authorities. Rule is not expected to impose substantial costs.

Risks:

Risk is expected to be minimal.

Timetable:

Action	Date	FR Cite
NPRM	09/00/98	
Final	09/00/99	

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

State, Local, Tribal, Federal

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SAN No. 3786.

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RIN: 2040–AC84

EPA

116. STREAMLINING THE GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES OF POLLUTION

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

33 USC 1314; Clean Water Act sec 304; 33 USC 1317; Clean Water Act sec 307; 33 USC 402(b)(8); Clean Water Act sec 402(b)(8); 33 USC 1361; Clean Water Act sec 501

CFR Citation:

40 CFR 403

Legal Deadline:

None

Abstract:

The National Pretreatment Program was established in 1972. The Office of Water is exploring ways to reduce federally mandated activities under the program that don't result in benefits to the environment and to improve program efficiencies. For example, this rule will consider appropriate exclusions or variable requirements for numerous smaller facilities that contribute insignificant amounts of pollutants.

Statement of Need:

Many POTWs and smaller industrial users have identified problems with the effectiveness of some requirements of the Pretreatment Program. Reducing the administrative and monitoring costs for these entities will provide greater flexibility in the use of program resources to achieve environmental protection.

Summary of the Legal Basis:

This action is not required by law or court order.

Alternatives:

None known.

Anticipated Costs and Benefits:

Undetermined as of this date; a very preliminary estimate of the burden reduction is 10-20% of the total annual burden (a net reduction of 176,000 - 350,000 hours).

Risks:

None known.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
Final	12/00/98	

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

State, Local, Tribal, Federal

Additional Information:

SAN No. 3663.

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EPA

117. REVISION OF NPDES INDUSTRIAL PERMIT APPLICATION REQUIREMENTS AND FORM 2C—WASTEWATER DISCHARGE INFORMATION

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

33 USC 1342; Clean Water Act sec 402

CFR Citation:

40 CFR 122.21(g)

Legal Deadline:

None

Abstract:

All existing manufacturing, commercial, mining, and silvicultural operations requiring a National Pollutant Discharge Elimination System (NPDES) permit must submit an application in order to obtain a permit. The existing industrial application form has not been revised since 1984 and needs to be updated to reflect statutory and regulatory changes in the NPDES program, advances in analytical methods and an increased emphasis on toxic control. The purpose of this action is to revise and consolidate existing application forms and requirements for industries, and to streamline the permit application process for these facilities. The Agency seeks to establish a unified process that minimizes the need for additional information from applicants while providing permit writers the necessary information, including toxics data, to ensure that permits adequately address concerns of permittees and environmental protection. The Agency will seek to allow the use of existing data to the extent possible and to avoid unnecessary reporting. The Agency is also considering how to utilize electronic data submission. Although these forms will increase the burden on permittees not already required to provide these data, many other permittees are already required to submit the data. The Agency is reviewing ways to minimize the need for information from small dischargers, including tribal facilities. EPA will also seek to minimize and reduce the burden on States through improvements to the application forms.

Statement of Need:

Section 402(a) of the CWA, as amended, authorizes the EPA to issue permits under the National Pollutant Discharge Elimination System (NPDES) permits program for the discharge of any pollutants or combination of pollutants. Form 2C is the NPDES permit application for discharges from manufacturing, commercial, mining and silviculture operations. Form 2C has not been revised since 1984 despite many amendments to the CWA and to the regulations under the Act which have significantly changed the permitting strategy of the NPDES program. The proposed rule will finalize changes to the regulations at 122.21(d) and 122.21(g) and to Form 2C that will make a number of improvements to the Form 2C permitting process. The proposed rule will consolidate application requirements and clarify the process for permit applicants, therefore, reducing redundant reporting and reduce permitting burden on facilities. It will effectively provide permit writers with the information necessary to develop appropriate NPDES permits consistent with requirements of the CWA. Additionally, the proposed rule will meet the updated NPDES requirements, scientific advancements, and current socioeconomical concerns.

Summary of the Legal Basis:

Not required by law or court order.

Alternatives:

The Form 2C workgroup identified several key issues to be addressed and revised. For each key issue several options were suggested and consensus was reached on these options during an April, 1996 initial Form 2C workgroup closure meeting. The proposed rule reflects the options selected.

Anticipated Costs and Benefits:

It is anticipated that the rule will reduce permitting application burden to facilities and improve the permit writers ability to evaluate discharges because of improvements made to information and data submission requirements. Generally, it is anticipated that the rule will clarify the permitting application requirements. As a whole, such changes to the rule and Form 2C will enable it to serve its regulatory purpose more efficiently, thereby, benefitting the environment and human health.

Risks:

The application form rule will allow permit writers to better evaluate industrial discharges, and the better a permit writer can evaluate the discharge the better he or she can protect the environment and human health.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	
Final	03/00/99	

Small Entities Affected:

Businesses

Government Levels Affected:

State, Local, Tribal, Federal

Additional Information:

SAN No. 3234.

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RIN: 2040–AC26

EPA

118. COMPREHENSIVE NPDES STORMWATER PHASE II REGULATIONS

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

33 USC 1311; Clean Water Act sec 301; 33 USC 1342; Clean Water Act sec 402; 33 USC 1361; Clean Water Act sec 501

CFR Citation:

40 CFR 122; 40 CFR 123

Legal Deadline:

NPRM, Judicial, November 25, 1997.

Final, Judicial, March 1, 1999.

Abstract:

EPA will be proposing changes to the stormwater regulations for the remaining unregulated dischargers that require regulation. Also known as Phase II dischargers, these sources potentially could include all stormwater discharges from municipal separate storm sewer systems serving populations of less than 100,000 and construction activities resulting in the land disturbance of less than 5 acres. Data collected under sections 305(b) and 402(p)(5) of the CWA indicate that benefits will be derived from addressing these discharges under the Phase II program. Urban stormwater runoff is a real cause of water quality use impairment. EPA has invited stakeholders to participate in the development of comprehensive Phase II

rules under the Federal Advisory Committee Act (FACA). This FACA subcommittee is assisting in the development of the rule. Currently, all Phase II dischargers are required to have stormwater permits by 2001. EPA is planning to limit the universe of designated Phase II sources and is planning to recommend an approach that would promote the use of general permits for most Phase II sources. The proposed changes would also provide regulatory relief by waiving Phase I facilities that have no exposure to stormwater from applicable requirements.

Statement of Need:

Data collected under sections 305(b) and 402(p)(5) of the CWA indicate that uncontrolled stormwater discharges from municipalities serving populations less than 100,000 and construction sites that result in the disturbance of less than 5 acres of land cause water quality use impairment. The proposed changes to the NPDES stormwater regulations would address these currently unregulated stormwater discharges. The proposed changes would also provide needed regulatory relief to Phase I facilities that have no exposure to stormwater and do not cause water quality use impairment.

Summary of the Legal Basis:

CWA section 402(p)(6) requires EPA, in consultation with States and local officials, to issue regulations for the designation of the remaining unregulated discharges to be regulated to protect water quality. The United States Court of Appeals for the Ninth Circuit remanded EPA's de minimis exemption of construction sites below 5 acres and the no exposure exemption for category (XI) industrial facilities under the Phase I rule (NRDC v. EPA, 966 F.2d 1292 (9th Cir. 1992)). This remand requires EPA to examine construction sites below 5 acres for possible designation. EPA is also currently subject to a court order to propose supplemental rules under CWA section 402(p)(6) by November 25, 1997, and finalize these rules by March 1, 1999 (NRDC v. Browner, Civ. No. 95-634 PLF (D.D.C., April 6, 1995)).

Alternatives:

The proposed changes to the NPDES stormwater regulations are being developed with significant input from the FACA subcommittee. Alternative options, as well as successive drafts of the proposed changes, were distributed to FACA members for comment. The language of the proposed changes are the result of extensive stakeholder input. The Agency plans to solicit comments on alternative approaches in the preamble to the proposed rule.

Anticipated Costs and Benefits:

Undetermined as of this date. However, the no exposure waiver would reduce administrative and compliance costs for those Phase I facilities that have no exposure to stormwater.

Risks:

The proposed changes to the NPDES stormwater regulations will reduce adverse water quality impacts from stormwater thereby reducing risks to aquatic habitat and public health.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
Final	03/00/99	

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Tribal, Federal

Analysis:

Regulatory Flexibility Analysis

Additional Information:

SAN No. 3785.

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RIN: 2040–AC82

EPA

119. MANAGEMENT OF CLASS V INJECTION WELLS UNDER PART C OF THE SAFE DRINKING WATER ACT

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

42 USC 300h; Safe Drinking Water Act sec 1421 to 1425

CFR Citation:

40 CFR 144; 40 CFR 145; 40 CFR 146

Legal Deadline:

NPRM, Judicial, June 18, 1998.

Final, Judicial, July 31, 1999.

Abstract:

In the Safe Drinking Water Act (SDWA) of 1987, Congress required that EPA protect current and future underground sources of drinking water (USDWs) from endangerment. The 1987 Report to Congress: Class V Injection Wells determined that certain types of high risk Class V wells may be contaminating, or have the potential to contaminate, USDWs. Through this regulatory action, EPA intends to propose additional requirements addressing the environmental and health threats posed by the highest risk Class V wells. Class V wells likely to be impacted by this regulation include industrial and commercial disposal wells and large capacity cesspools.

Statement of Need:

Class V wells vary from simple dry wells to complex geothermal wells; injected fluids range from storm water runoff to industrial process wastewater. Likewise, the potential risk posed by the different types of Class V wells varies. A well's potential to endanger Underground Sources of Drinking Water depends largely on its injection fluid quality and volumes, its proximity to the USDW, and its construction and operation. Class V wells that are used to dispose of industrial and commercial wastes present the greatest danger to USDWs. In most cases, industrial and commercial wastes are disposed of in shallow drywells and "misused" septic systems that release fluids in strata above USDWs. Cesspools, which inject untreated sanitary wastes, also have a high potential to endanger USDWs.

Class V wells currently are subject to only two major requirements. First, owners or operators of Class V injection wells are prohibited from allowing the movement of fluid that contains any contaminant into USDWs if the presence of that contaminant may cause a violation of any primary drinking water standards. Second, the owner or operator must submit inventory information. While all Class V wells are subject to these general provisions of non-endangerment, instances of ground water contamination from high risk Class V wells have occurred across the country pointing to the need for more specific requirements.

Summary of the Legal Basis:

This action is required by Consent Order (Civil Action No.93-2644 NHJ) filed with the U.S. District Court on January 28, 1997.

Alternatives:

The Agency is considering proposing a geographically targeted Class V rule where the additional requirements would apply only to wells within Source Water Protection Areas around drinking water supply wells. Additionally, the Agency is considering a variety of management control measures to impose on the highest risk Class V wells. These measures could include best management practices, treatment options, and in some instances, bans on certain injection practices.

Anticipated Costs and Benefits:

Because the proposed rule has not completed final Agency review, cost and benefit information have not been completed and are therefore unavailable.

Risks:

Risks posed by Class V wells relate directly to other risks within the Agency's jurisdiction. Many Superfund sites with significant ground-water contamination are a result of uncontrolled discharges from certain Class V wells. Placing these wells under adequate regulatory controls by effective State UIC programs will serve to prevent future Superfund sites. Additionally the control of these wells directly affects other programs under the Safe Drinking Water Act such as the Source Water Protection Program.

Timetable:

Action	Date	FR Cite
NPRM	08/28/95	60 FR 44652
Reproposal	06/00/98	
Final	07/00/99	

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

State, Local, Tribal, Federal

Additional Information:

SAN No. 2778.

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RIN: 2040–AB83

EPA

120. MODIFICATIONS TO THE DEFINITION OF SOLID WASTE AND REGULATIONS OF HAZARDOUS WASTE RECYCLING: GENERAL

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 6905; Resource Conservation Recovery Act sec 1004; 42 USC 6921 to 6928; Resource Conservation Recovery Act sec 3001 to 3008

CFR Citation:

40 CFR 261; 40 CFR 266

Legal Deadline:

None

Abstract:

Recycling of hazardous waste is governed by the Resource Conservation and Recovery Act (RCRA) hazardous waste regulations. The portion of these regulations known as the Definition of Solid Waste (DSW) specifies whether hazardous materials that are recycled are subject to RCRA regulatory jurisdiction or not. Other parts of the regulations set forth requirements for managing recycled hazardous waste. This regulatory action will revise the hazardous waste recycling regulations to respond to concerns that they are overly complex, difficult to understand, and that they pose a barrier to safe hazardous waste recycling.

Statement of Need:

Revisions are needed to improve EPA's regulations for hazardous waste recycling by: (a) eliminating disincentives for the safe recycling of hazardous waste; and (b) developing simpler definitions and regulations.

Summary of the Legal Basis:

This action is not mandated by statute or court order. However, the Agency intends to address several court decisions by clarifying which recyclable materials are excluded from RCRA hazardous waste management requirements.

Alternatives:

The Agency has been developing two options to co-propose for regulating hazardous waste recycling, known as the Transfer-Based option and the In-Commerce option. The Agency presented the general outlines of these options to interested stakeholders and the public at a public meeting in November of 1996 (61 FR 55252). Generally, the Transfer-Based option would regulate those materials that are recycled or managed in certain identified ways (e.g., burned for energy recovery or managed on the land) and materials that are transferred to an off-site entity other than the generator for recycling. This option includes changes to the RCRA hazardous waste management regulations, particularly permitting, to streamline and simplify compliance for those materials that are regulated only because they are transferred to another off-site entity for recycling. The In-Commerce option would regulate only those materials that are recycled in certain identified ways (e.g., burned for energy recovery or managed on the land). These materials would be subject to the existing RCRA regulations for those activities. Based on preliminary analyses of the impacts of these two options and initial reactions from stakeholders, the Agency is at this time assessing potential revisions it may make to the options prior to publishing the proposal.

Anticipated Costs and Benefits:

Analysis of costs and benefits will be conducted as part of the economic analysis for this rule as required under Executive Order 12866.

Risks:

This action aims at more effective risk management by streamlining and tailoring management requirements for low-risk recyclers (including eliminating requirements that are redundant with other statutes). This will allow regulatory resources to be concentrated on those recyclers who engage in activities posing a greater threat to human health and the environment.

Timetable:

Action	Date	FR Cite
NPRM	07/00/98	

Small Entities Affected:

Undetermined

Government Levels Affected:

State, Tribal, Federal

Additional Information:

SAN No. 2872.

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RIN: 2050–AD18

EPA

121. MANAGEMENT OF CEMENT KILN DUST (CKD)

Priority:

Other Significant

Unfunded Mandates:

Undetermined

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 6903(5)(b); Resource Conservation Recovery Act sec 1004(5)(B); 42 USC 6912(a); Resource Conservation Recovery Act sec 2002(a); 42 USC 6921(a); Resource Conservation Recovery Act sec 3001(a); Resource Conservation Recovery Act sec 3001(b)(3); 42 USC 6924(x); Resource Conservation Recovery Act sec 3004(x)

CFR Citation:

Not yet determined

Legal Deadline:

None

Abstract:

CKD is a high volume material by-product of the cement manufacturing process. While it contains potentially hazardous constituents such as lead, cadmium and chromium, it has been exempted since November 1980 from hazardous waste regulation under RCRA Subtitle C by the Bevill Amendment, which modified Section 3001 of RCRA to exempt certain special wastes until further studies could be completed and any applicable regulations were promulgated. In December 1993, EPA submitted a Report to Congress with its findings on the nature and management practices associated with CKD. This was followed in January 1995 by an EPA regulatory determination published in the Federal Register (60 FR 7366, 2/7/95), which concluded that additional control of CKD is warranted. In the regulatory determination EPA committed to develop additional tailored regulations under RCRA Subtitle C and, if necessary, the Clean Air Act. As part of its regulatory development effort, the Office of Solid Waste within EPA's Office of Solid Waste and Emergency Response has initiated further studies and has held informal discussions with stakeholders interested in regulations under RCRA Subtitle C for the management of CKD. The proposed regulations will be tailored to protect human health and the environment while limiting burden on the regulated community.

Statement of Need:

This action follows EPA's RCRA mandated regulatory determination on CKD, published in the Federal Register (60 FR 7366, 2/7/95), which concluded that additional control of CKD is warranted in order to protect human health, and to prevent environmental damage associated with current disposal practices for this waste.

Alternatives:

EPA will develop a range of landfill management standards for sensitive and non-sensitive environments, each involving protections for groundwater and air pathways. It is anticipated that the base standards would be performance based, and form the basis for a conditional exclusion from Subtitle C regulation. If an owner/operator complied with the base performance standards, his CKD waste would not be subject to Subtitle C regulation. Alternatively, an owner/operator could comply with default technical requirements under Subtitle C.

It is anticipated that the conditions for exclusion and the default technical requirements would be similar and would include: fugitive dust controls, provisions and restrictions for landfills located in sensitive environments, groundwater monitoring requirements, performance standards for liners and caps, metals limits for CKD used as agricultural lime, and corrective action for currently active units. The Agency hopes to afford States considerable flexibility in setting and tailoring requirements in their own programs.

Anticipated Costs and Benefits:

Analysis of costs and benefits will be conducted as part of the economic analysis for this rule as required under Executive Order 12866.

Risks:

As explained in the regulatory determination for CKD, EPA believes that subjecting CKD waste to the full RCRA Subtitle C program would be prohibitively burdensome on the cement industry. EPA believes it is appropriate to apply only those components of Subtitle C that are necessary, based on our current knowledge of the cement industry and the human health and environmental concerns associated with CKD, thereby achieving a common sense result with respect to the hazards posed by CKD on a site-specific basis. EPA anticipates that any such standards would be designed to be protective, yet minimally burdensome, and may not necessarily apply to all facilities, or may not apply to all facilities in the same manner or to the same extent.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	

Small Entities Affected:

Undetermined

Government Levels Affected:

Undetermined

Additional Information:

SAN No. 3856.

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RIN: 2050–AE34

EPA

122. WASTE ISOLATION PILOT PLANT (WIPP) COMPLIANCE CERTIFICATION RULEMAKING

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

PL 102-579 (as amended by PL 104-201)

CFR Citation:

40 CFR 194

Legal Deadline:

Other, Statutory, October 31, 1997, Statutory.

Abstract:

The Waste Isolation Pilot Plant (WIPP) Land Withdrawal Act (Act), was signed by the President on October 30, 1992. The Act gives the EPA the authority to certify WIPP's compliance with standards developed by EPA for disposal of radioactive waste. This Act supplements EPA's authority, under the Atomic Energy Act and Reorganization Plan No. 3 of 1970, to establish environmental standards that protect the public and the environment from radioactive materials. The Act prescribed the framework for EPA's regulatory oversight of the WIPP disposal system.

The Department of Energy (DOE) is developing the WIPP which is a potential geologic disposal facility for transuranic radioactive waste generated as by-products from nuclear weapons production. If the WIPP opens, waste will be stored approximately 2,100 feet underground in excavated, natural salt formations near Carlsbad, New Mexico.

Before DOE can dispose of waste at the WIPP, it must demonstrate that the WIPP complies with EPA's radioactive waste disposal standards at subparts B and C of 40 CFR 191. DOE submitted its compliance certification application (CCA) to EPA on October 29, 1996, showing how the WIPP facility will meet the standards. The compliance criteria at 40 CFR 194, which are specific to the WIPP, will be used by EPA to implement the radioactive waste disposal standards. The purpose of this rulemaking is to certify, through the use of the compliance criteria, whether the WIPP complies with the disposal standards before waste disposal can begin.

Upon receipt of the CCA in October 1996, EPA began reviewing the CCA for both completeness and technical adequacy. On November 15, 1996 the Agency published in the Federal Register, 61 FR 58499, and Advance Notice of Proposed Rulemaking (ANPR) announcing that the CCA had been received and announcing the Agency's intent to conduct a rulemaking to certify whether the WIPP facility will comply with the disposal regulations. The notice also announced a public comment period and EPA's intent to hold public hearings in New Mexico. In its preliminary review, EPA identified additional information necessary for the CCA to constitute a complete application. EPA requested additional information in a letter transmitted to DOE on December 19, 1996. DOE submitted the requested information in letters to EPA in January and February of 1997. On May 16, 1997, the Administrator informed the Secretary of DOE that the CCA was complete. The completeness determination was announced in the Federal Register on May 22, 1997, 62 FR 27996. EPA is required under the WIPP LWA S8(d)(1)(B) to certify compliance within one year after receipt of the Department of Energy's compliance certification application.

Statement of Need:

The DOE is developing the WIPP near Carlsbad in southeastern New Mexico as a potential deep geologic repository for the disposal of defense transuranic (TRU) radioactive waste currently being stored on Federal reservations in 10 states, including Washington, Ohio, Idaho, New Mexico, Tennessee, South Carolina, Nevada, and Colorado. TRU waste consists of materials containing one or more elements having atomic numbers greater than 92, in concentrations greater than 100 nanocuries of alpha-emitting TRU isotopes per gram of waste, with half-lives greater than twenty years. Most TRU waste consists of items that have become contaminated (e.g., rags, equipment, tools, and organic and inorganic sludges) as a result of activities associated with the production of nuclear weapons. TRU waste is often mixed with hazardous chemical constituents. Before beginning disposal of radioactive waste at the WIPP, DOE must demonstrate that the WIPP complies with the EPA's radioactive waste disposal standards at subparts B and C of 40 CFR 191.

The WIPP LWA specifies that underground emplacement of transuranic wastes for disposal at the WIPP may not commence unless and until EPA makes a positive compliance certification decision. If the Agency certifies compliance, the WIPP LWA requires EPA to subsequently conduct periodic re-certifications of continued compliance throughout waste disposal operations (estimated to last about 30 years) at the WIPP. EPA published the final compliance criteria at 40 CFR 194 on February 1, 1996. DOE submitted its compliance certification application to EPA on October 29, 1996. The Agency is reviewing DOE's application and will make a decision as to WIPP's compliance with the disposal regulations. The WIPP compliance certification rule will be limited to consideration of the WIPP's compliance with the disposal regulations found in subparts B and C of 40 CFR 191 (which include containment requirements, assurance requirements, individual protection requirements, and groundwater protection requirements).

Summary of the Legal Basis:

Under the authority of the Atomic Energy Act, as amended, of 1954, EPA has the responsibility to protect people and the environment from the harmful effects of ionizing radiation. In addition, Reorganization Plan No. 3 of 1970 provides EPA with the authority to establish standards for the protection of people and the environment from the effects of all radioactive materials. Finally, the WIPP Land Withdrawal Act, as amended, of 1992 requires that EPA issue criteria to implement the Agency's radioactive waste disposal regulations specifically at the WIPP, and then certify, through use of such criteria, whether or not the WIPP complies with the regulations and should be allowed to open.

Alternatives:

The compliance certification rule is intended to determine whether or not the WIPP should be allowed to open. The Agency recognizes the uncertainty inherent in projections of the WIPP's performance during the 10,000-year regulatory period. Accordingly, the Agency requires a demonstration of a reasonable expectation that compliance will be achieved. This demonstration will be based on consideration of the entire application for certification submitted by DOE. The criteria against which the WIPP's compliance will be evaluated contain four subparts, consisting of:

(1) subpart A, which specifies general administrative requirements with which DOE must comply during the compliance application and subsequent rulemaking processes. Requirements are specified which contain format and protocols for the submission of applications plus any subsequent suspension, revocation or modification of compliance status.

(2) subpart B, which outlines the information necessary for inclusion with compliance applications. The criteria require DOE to analyze the performance of WIPP and predict release of waste, doses received by individuals and doses received through ground water. The criteria list the information needs for such assessments. Subsequent applications for determinations must note any changes in such information that might have occurred since initial certification.

(3) subpart C, which implements the specific containment, assurance, individual and groundwater protection

requirements of the disposal standards of 40 CFR 191. To account for the likelihood of human activity and human intrusion into the repository during the 10,000- year regulatory period, the criteria specify how the frequency and consequences of such events shall be determined. The results of compliance assessments of individual and groundwater protection shall be expressed to show the likelihood of a given exposure or greater occurring. To increase confidence in performance and compliance assessments, the criteria specify requirements on quality assurance methodologies and characterization of radioactive waste proposed for emplacement in the repository.

Anticipated Costs and Benefits:

The party primarily affected under this action is the DOE, owner and operator of the WIPP. The Agency prepared an Economic Impact Analysis (EIA) for the WIPP compliance criteria (40 CFR 194). This EIA estimated those costs imposed on the WIPP project in excess of those being incurred presently due to other applicable regulations or program requirements. While the total cost may have appeared sizeable, it did not appear to be so sizeable that it would have been significant as defined under the provisions of Executive Order No. 12866, i.e., more than $100 million per year. The portion of the criteria concerning human intrusion into the WIPP was the only potential contributor to significant increases in cost (i.e., as much as $20 million or less than one percent of the total cost; the total cost of the WIPP project is over $8 billion to date). Additional costs could be incurred if compliance could only be achieved through redesign of the repository or treatment of waste in order to reduce the likelihood and consequences of human intrusion.

Risks:

Because this regulation is not setting standards, but implementing an existing standard (40 CFR 191) and making a compliance decision, no analysis of risk has been performed.

Timetable:

Action	Date	FR Cite
ANPRM	11/15/96	61 FR 58499
NPRM	10/00/97	
Final	05/00/98	

Small Entities Affected:

None

Government Levels Affected:

Federal

Additional Information:

SAN No. 3873.

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RIN: 2060–AG65

EPA

123. IMPLEMENTATION OF OZONE AND PARTICULATE MATTER (PM) NATIONAL AMBIENT AIR QUALITY STANDARDS (NAAQS) AND REGIONAL HAZE REGULATIONS

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Legal Authority:

Clean Air Act of 1990, title 1, subpart 1

CFR Citation:

40 CFR 51; 40 CFR 81

Legal Deadline:

None

Abstract:

EPA recently issued updated, new air quality standards for ozone (62 FR 38856) and particulate matter (PM) (62 FR 38652). Pursuant to President Clinton's directive as outlined in a memorandum to EPA Administrator Carol Browner, EPA is developing a plan for sensibly and cost-effectively meeting the new standards. This plan is being developed with significant stakeholder involvement provided through a committee established in September 1995 under the Federal Advisory Committee Act. Consistent with the schedule outlined in a memorandum from President Clinton dated July 16, 1997, EPA will publish a combination of guidance and rules by the end of 1998 designed to give States, local governments and business the flexibility they'll need to meet protective public health standards in a reasonable, cost-effective manner.

For ozone, the implementation plan will emphasize a regional, State-sponsored approach that addresses the long-distance transport of ozone. On October 10, 1997, EPA issued a proposal (sometimes referred to as the "OTAG SIP call") to require broad regional emissions reductions of nitrogen oxides (NOx) gases which contribute to the formation of ozone (which will appear shortly in the Federal Register). EPA will work with the affected States to develop a regional NOx emissions cap-and-trade program modeled after the program used to achieve sulfur dioxide reductions in the acid rain program.

In order to help areas covered by EPA's regional plan avoid burdensome measures associated with non-compliance, EPA will create a new "transitional" classification. Areas that attain the 1-hour ozone standard but not the new 8-hour standard as of the time the EPA promulgates designations for the 8-hour standard could obtain this classification if they participate in a regional strategy and/or opt to submit early plans addressing the new 8-hour standard. Because many areas will need little or no additional new local emission reductions to reach attainment, beyond those reductions that will be achieved through the regional control strategy, and will come into attainment earlier than otherwise required, the EPA will exercise its discretion under the law to eliminate unnecessary local planning requirements for such areas. The EPA will revise its rules for new source review (NSR) and conformity so that States will be able to comply with only minor revisions to their existing programs in areas classified as transitional.

In late October, EPA plans to identify areas that have air quality meeting the 1-hour air ozone standard, and revoke that standard for those areas.

For PM2.5 (fine particles), the implementation approach will give businesses ample time to find the most cost-effective pollution controls. Another full scientific review of the health effects of fine particulates will be completed before any "non-attainment" designations are made or local controls mandated. EPA will allow five years to gather and analyze necessary data, and then use its discretion under the Clean Air Act to allow another three years for areas that are not in compliance to submit air quality plans on how they will meet the new standard. Following another year and a half for review of the plans, it will be several more years before many areas will actually have to comply with the new standard for PM2.5. In the fall of 1997, EPA will publish a schedule for reviewing the PM2.5 standard.

For PM10, the EPA is revising the current set of standards. Given that health effects from coarse particles are still of concern, the overall goal during this transition period is to ensure that PM10 control measures remain in place to maintain the progress that has been achieved toward attainment of the current PM10 NAAQS (and which provides benefits for PM2.5) and protection of public health. To ensure that this goal is met, the existing PM10 NAAQS will continue to apply until certain critical actions by the EPA, and by States and local agencies, have been taken to sustain the progress already made. For areas not attaining the existing PM10 NAAQS when the revised standards go into effect, those standards remain in effect until the EPA has completed a section 172(e) rulemaking to prevent backsliding. The EPA will propose this rulemaking in the fall of 1997. For areas attaining the existing PM10 NAAQS, the EPA will retain the existing PM10 NAAQS until the State submits and the EPA approves the section 110 SIP which States are required to submit within 3 years of a NAAQS revision. Once those areas have an approved SIP, the EPA will take action so the standard no longer applies. In addition, the EPA will take action within 3 years to designate areas for the revised PM10 standards.

EPA's approach to addressing regional haze was proposed concurrently with the promulgation of the final ozone and PM NAAQS. The public comment period on this proposal closes on December 5, 1997. EPA plans to promulgate the regional haze rulemaking in the spring of 1998.

Statement of Need:

Development of programs for ozone and PM are necessary to implement the revised NAAQS under title 1 of the Clean Air Act.

Anticipated Costs and Benefits:

EPA's Regulatory Impact Analyses (RIA) for the ozone and PM2.5 NAAQS and the proposed regional haze rulemaking were released on July 17, 1997. This benefit-cost comparison was intended to generally inform the public about the potential costs and benefits that may result when revisions to the ozone and PM2.5 NAAQS are implemented by the States. Costs and benefits of the proposed regional haze rule were included. Monetized benefit-cost comparisons were presented. Significant nonmonetized benefits are also expected. In considering these estimates, it should be stressed that these estimates contain significant uncertainties as discussed in the RIA.

Estimated partial attainment benefits of the PM2.5 standard far outweigh estimated partial attainment costs. Estimated quantifiable partial attainment net benefits (benefits minus costs) of the PM2.5 standard range from positive $10 billion to positive $96 billion. Estimated quantifiable full attainment net benefits range from negative $17 billion to positive $73 billion. Estimated partial attainment quantified and monetized net benefits of the ozone standard range from negative $0.7 billion to positive $1.0 billion. Full attainment benefit estimates are smaller than full attainment cost estimates. Quantifiable net benefits for full attainment of the ozone standard are estimated to range from negative $8.1 billion to negative $1.1 billion.

Estimated quantifiable net benefits from the proposed regional haze program range from $0 to positive $3.0 billion.

Risks:

On July 16, 1997, EPA issued updated air quality standards for ozone and particulate matter. The updated standards, when implemented, will provide cleaner air for 125 million people, including 35 million children. Benefits from the new, updated standards include reductions in premature mortality, aggravated asthma and cases of decreased lung function in children from exposure to these air pollutants.

Timetable:

Action	Date	FR Cite
ANPRM	12/13/96	61 FR 65784
Notice of Proposed Policy	12/13/96	61 FR 65752
Regional Haze Rule (Proposal)	07/31/97	62 FR 41138
Notice Identifying Areas That Have Air Quality Meeting the 1-hour Ozone Standard	10/00/97	
NOx Regional Strategy SIP Call (Proposal)	10/00/97	
Review Schedule for PM2.5 Standard	10/00/97	
Final Guidance on Implementing Pre-existing NAAQS	12/00/97	
Conformity Rule for Transitional Areas (Proposal)	06/00/98	
NSR Rule for Transitional Areas (Proposal)	06/00/98	
Regional Haze Rule (Final)	06/00/98	
Antibacksliding Rule Under Section 172(e) for Existing PM10 Standard (Final)	09/00/98	
NOx Regional Strategy SIP Call (Final)	09/00/98	
Conformity Rule for Transitional Areas (Final)	12/00/98	
Final Implementation Guidance	12/00/98	
NSR Rule for Transitional Areas (Final)	12/00/98	
Antibacksliding Rule Under Section 172(e) for Existing PM10 Standard (Proposal)	00/00/00	

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

State, Local, Tribal, Federal

Analysis:

Regulatory Flexibility Analysis

Additional Information:

SAN No. 3553.

SAN No. 3552 for Regional Haze

By Presidential Memorandum dated 07/16/97, EPA was directed to complete these rules by 12/31/98.

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RIN: 2060–AF34

EPA

124. CONSOLIDATED FEDERAL AIR RULE FOR THE SYNTHETIC ORGANIC CHEMICAL MANUFACTURING INDUSTRY

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 7401 et seq

CFR Citation:

40 CFR 60; 40 CFR 61; 40 CFR 63

Legal Deadline:

None

Abstract:

Over the past 25 years, EPA has issued a series of national air regulations, many of which affect the same facility. Some facilities are now subject to five or six national rules, sometimes affecting the same emission points. Each rule has emission control requirements as well as monitoring, record keeping and reporting requirements.

These requirements may be duplicative, overlapping, difficult to understand or inconsistent. It is often difficult for plant managers to determine compliance strategies to satisfy all requirements and for State and local permitting agencies to determine the applicability of different requirements for permitting purposes. Resources are often wasted by both industry and states and localities in sorting out and complying with the panoply of multiple requirements. Moreover, as the Agency continues to issue new air toxics rules, as mandated by the CAA, the problem is compounded.

All existing Federal air rules applicable to an industry sector will be reviewed to determine whether there provisions can be consolidated into a single new rule. Affected industries, state agencies, and other stakeholders will be consulted to identify duplicative and conflicting provisions and to provide assistance in drafting the single rule. The chemical industry and state representatives have agreed to work on a pilot project with EPA's air programs to explore this approach. If the approach is successful with the chemical industry, it will be expanded to air rules for other industry sectors. EPA will then consider extending this program to water and waste requirements.

Statement of Need:

Both industry and regulatory agencies have expressed a great desire to streamline and simplify rules. This rule streamlines and simplifies by consolidating and collapsing the numerous federal rules that apply to the chemical industry, with resulting improved compliances.

Alternatives:

The main alternative is to do nothing and let the many rules with their many provisions remain the only compliance mechanism.

Anticipated Costs and Benefits:

This rule will result in considerable savings to the affected industry. There is significant burden reduction associated with recordkeeping and reporting. The rule will be easier to follow and understand. There will be no change in applicability of the rules being consolidated.

Risks:

This rulemaking deals with consolidated reporting to simplify existing rules. The risks addressed by each of these existing rules were addressed in those individual rulemakings.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected:

None

Government Levels Affected:

State, Federal

Sectors Affected:

286 Industrial Organic Chemicals

Additional Information:

SAN No. 3748.

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RIN: 2060–AG28

EPA

125. ENVIRONMENTAL RADIATION PROTECTION STANDARDS FOR YUCCA MOUNTAIN, NEVADA

Priority:

Other Significant

Legal Authority:

Energy Policy Act sec 801

CFR Citation:

40 CFR 197

Legal Deadline:

Final, Statutory, August 1, 1998.

Abstract:

This rulemaking is in response to section 801 of the Energy Policy Act of 1992 which directs the Administrator to promulgate public health and safety standards for protection of the public from releases from radioactive materials stored or disposed of in the repository at the Yucca Mountain site. The only regulated entity is the U.S. Department of Energy.

Statement of Need:

In 1985, the Agency issued generic standards for the management and disposal of spent nuclear fuel and high-level radioactive waste. The Nuclear Waste Policy Amendments Act of 1987 mandated the study of Yucca Mountain, Nevada to determine its suitability to be a repository for spent nuclear fuel and high-level radioactive waste. The Waste Isolation Pilot Plant Land Withdrawal Act of 1992 exempted Yucca Mountain from coverage under the 1985 generic standards. Concurrently, the Energy Policy Act of 1992 gave EPA the responsibility of setting site-specific, radiation-protection standards for Yucca Mountain.

Summary of the Legal Basis:

The legal authority is derived from the Energy Policy Act of 1992.

Alternatives:

Since this action is legally mandated, there are no alternatives.

Anticipated Costs and Benefits:

Since the potential cost is dependent upon several factors whose determination has not yet been made, a precise assessment of the economic impact of the rulemaking is not possible at this time. Likewise, the benefits, i.e., the adverse effects averted (which are required to complete a cost-benefit analysis), cannot be determined in a meaningful manner at this time since the effect of these standards is to avert potential adverse health effects that may occur during very long periods into the future and are, therefore, quantifiable only with a high degree of uncertainty.

Risks:

The potential risks which would be allowed under these standards is dependent upon the level of protection and the regulatory time frame which is selected. Since the standards have not yet been proposed, it is not possible to estimate the potential risks.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final	01/00/98	

Small Entities Affected:

None

Government Levels Affected:

Federal

Additional Information:

SAN No. 3568.

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RIN: 2060–AG14

EPA

126. INTEGRATED NESHAP AND EFFLUENT GUIDELINES: PULP AND PAPER

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

42 USC 7412; 42 USC 7414; 42 USC 7601; Clean Air Act Amendments of 1990 sec 112; Clean Air Act Amendments of 1990 sec 114; Clean Air Act Amendments of 1990 sec 301; 33 USC 1314; 33 USC 1316; 33 USC 1317; 33 USC 1318; 33 USC 1361; Clean Water Act sec 301; Clean Water Act sec 304; Clean Water Act sec 306 to 308; Clean Water Act sec 501

CFR Citation:

40 CFR 63; 40 CFR 430

Legal Deadline:

Final, Statutory, November 15, 1997.

Abstract:

The Clean Air Act (CAA) Amendments of 1990 direct the Environmental Protection Agency (EPA) to set National Emission Standards for Hazardous Air Pollutants (NESHAP) for new and existing sources under section 112 and to base these standards on maximum achievable control technology (MACT). The Clean Water Act (CWA) directs EPA to develop effluent guidelines for certain categories and classes of point sources. These guidelines are used for setting discharge limits for specific facilities that discharge to surface waters or municipal sewage treatment systems. For the pulp and paper industry, EPA is developing an integrated regulation that includes both effluent guidelines and air emission standards to control the release of pollutants to both the water and the air. The regulations are being developed jointly to provide greater protection to human health and the environment, to promote the concept of pollution prevention, and to enable the industry to more effectively plan compliance via a multimedia approach.

This Regulatory Plan entry also includes RIN 2040-AB53, Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category, reported in full in part III of this issue of the Federal Register.

Statement of Need:

This action will limit surface water discharges of toxic, conventional, and nonconventional pollutants and emissions of hazardous air pollutants (HAPs) from pulp and paper mills. The NESHAP will limit the release of HAPs such as chloroform, formaldehyde, acetaldehyde, and methanol. The effluent guidelines will limit the discharge of dioxin, furan, and other toxic and conventional pollutants to rivers and other surface waters. The Statutory authorities and deadlines are cited above. Additionally, EPA is required to promulgate these effluent guidelines to satisfy a provision in a Consent Decree entered in settlement of Environmental Defense Fund and National Wildlife Federation v. Thomas, Civ. No. 85-0973 (D.D.C.).

Alternatives:

Both the CAA and the CWA specify that these regulations be established on a technology basis. The CAA specifies that MACT for existing sources can be no less stringent than the average emission limitations achieved by the best-performing similar source. The CWA specifies that effluent limitations guidelines and standards be based on specific technology levels, such as the best available technology economically achievable. For the integration of air and water standards, EPA developed regulatory alternatives from combinations of process changes and pollution control technologies. The Agency considered the combined costs and impacts of these alternatives while remaining responsive to the statutory requirements under both laws.

Anticipated Costs and Benefits:

The proposed integrated air and water rules comprise effluent guidelines for all pulp and paper mills and MACT standards for the noncombustion sources at all Kraft, soda, sulfite, and semi-chemical pulp and paper mills. The Agency plans to propose MACT standards for the chemical recovery combustion sources at these mills at the same time the Agency promulgates the integrated air and water rules. For the rulemaking components that have been proposed, the Agency estimated total annualized costs of $600 million (1992 dollars).

The types of benefits associated with the proposed integrated rule include improvements to air and water quality and reduced human health risks. The estimated reductions in HAP emissions exceed 120,000 tons per year. An estimated reduction in volatile organic compound emissions of 700,000 tons per year and a reduction in total reduced sulfur emissions of 300,000 tons per year are also projected to occur as a result of the proposed integrated rule. Projected reductions in specific toxic pollutant effluent discharges are approximately 2,800 tons per year; conventional pollutant reductions of over 200,000 tons per year are projected. Some categories of the benefits can be expressed in monetary terms; they are in the range of $160 million to $980 million.

The Agency has received extensive public comments and new data since proposal and is in the process of revising these cost and pollutant reduction estimates.

Risks:

Two types of pollutants found in pulp and paper wastestreams, dioxin and furan, are of particular concern due to their carcinogenic risk and their toxicity to aquatic life. Reducing the discharge and emission of these and other toxic pollutants reduces the exposure risks to human health and the environment.

Timetable:

Action	Date	FR Cite
NPRM NESHAP Phase III - Nonchemical and Other Mills	03/08/96	61 FR 9383
NPRM NESHAP Phase II - Combustion Sources	10/00/97	
Final NESHAP Phases I and III and Effluent Guidelines Phase I	10/00/97	
Final All NESHAP Phases	09/00/98	
Final NESHAP Phase II - Combustion Sources	09/00/98	
Final Effluent Guidelines Phase III - Dissolving Grade	03/00/99	

Small Entities Affected:

Businesses

Government Levels Affected:

State, Local, Federal

Additional Information:

SAN No. 3105 (Air) and SAN No. 2712 (Water).

ADDITIONAL AGENCY CONTACT: Jeff Telander (Combustion Sources)

ADDITIONAL AGENCY CONTACT: Elain Manning (Nonchemical and other Pulp and Paper Mills)

SAN No. 2712 (Water) was formerly listed under RIN 2040-AB53.

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RIN: 2060–AD03

EPA

FINAL RULE STAGE

127. PESTICIDES; SELF-CERTIFICATION

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

7 USC 136 to 136y

CFR Citation:

40 CFR 152

Legal Deadline:

None

Abstract:

The Environmental Protection Agency (EPA) is evaluating self-certification as a possible approach to reinventing the registration process for pesticides. The goal of this effort is to simplify, speed up, and increase the efficiency of the registration process while maintaining protection to human health and the environment.

Statement of Need:

EPA registers pesticides for sale and use in the United States under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). EPA has issued rules, notices, and guidance which specify how applicants may obtain approval for registration of pesticide products. Against a backdrop of declining resources and a continuous workload of pesticide applications, EPA is examining many possible ways of reinventing the registration process to handle applications faster, more efficiently, and with fewer resources. One of these approaches is self-certification, a concept in which a registrant may certify that a registration application (or part of it) complies with Agency requirements and may then obtain EPA approval for the registration after an abbreviated review or no review at all. EPA has several projects that are exploring the possible use of self-certification in different ways. First, EPA has reinvented the process by which registrants may accomplish amendment of products by notification or nonnotification. The revised process allows a registrant to certify that an application for amendment meets EPA's criteria as a low-risk amendment. This revised process is described in PR Notice 95-2 (May 31, 1995). To formally implement this type of self-certification, EPA has also revised existing rules (40 CFR 152.44 and 152.46) on notifications and nonnotifications.

Second, self-certification of product chemistry data is being considered as a means of reducing the number of studies reviewed by EPA in connection with registration applications. This voluntary program would allow registrants to submit a brief summary of the physical chemical properties of a product, rather than submitting the data. A draft PR Notice was made available for public comment on February 4, 1997 (62 FR 5228), and a final PR Notice is expected to be issued in the Fall of 1997.

Alternatives:

Various alternatives to self-certification are being actively pursued by EPA for reinventing or improving the registration process, including, but not limited to, reviews with the California Department of Pesticide Regulation, issuing guidance for acceptable acute toxicity data, exempting certain active ingredients from registration, developing computer software to standardize precautionary labeling, publishing a manual describing all labeling requirements, automating certain documents, piloting electronic labeling, making labeling policy documents publicly available, and developing internal guidance on how to process "fast track" registrations.

Anticipated Costs and Benefits:

EPA does not intend to perform cost analyses on self-certification per se, but will qualitatively evaluate the potential costs and benefits of different kinds of self-certification.

Risks:

EPA will determine whether self-certification will help or hinder protection of human health and the environment. EPA will not adopt any self-certification measure which does the latter.

Timetable:

Action	Date	FR Cite
Final Notification Rule	06/26/96	61 FR 33039
Draft PR Notice Self-Certification of Product Chemistry Data	02/04/97	62 FR 5228
Final PR Notice Self-Certification of Product Chemistry Data	12/00/97	

Small Entities Affected:

Businesses

Government Levels Affected:

State, Federal

Additional Information:

SAN No. 3932.

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RIN: 2070–AD00

EPA

128. PESTICIDES AND GROUND WATER STATE MANAGEMENT PLAN REGULATION

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect State, local or tribal governments.

Legal Authority:

7 USC 136a; Federal Insecticide, Fungicide, and Rodenticide Act sec 3

CFR Citation:

40 CFR 152.170

Legal Deadline:

None

Abstract:

This regulation would establish State Management Plans (SMPs) as a new regulatory requirement for certain pesticides. Absent an EPA-approved SMP specifying risk-reduction measures, use of the chemical would be prohibited. The rule would also specify procedures and deadlines for development, approval and implementation of SMPs.

Statement of Need:

EPA is proposing regulations to make specific pesticides subject to the provisions of EPA-approved State Management Plans (SMPs) because of their strong ground-water contamination potential. The rule will also establish SMPs as an "other regulatory restriction" and defines the minimum requirements and procedures for developing, approving and managing SMPs. Upon promulgation of this rule, the labels of the designated pesticides will be changed to require use in conformance with EPA-approved SMPs, and to prohibit sale and use in States without such approved Plans (after a period allowed for development and EPA review of these Plans).

An SMP is a State's commitment to EPA and the public to manage the use of a certain pesticide in such a way as to avoid unreasonable risks to ground water that would otherwise warrant cancellation of the use. An approved plan will embody a combination of educational, scientific, and regulatory tools to fulfill the State's ground-water protection goals, developed through a process of public participation. A plan will include a process for disseminating this information to pesticide users and marketers, and for monitoring the effectiveness of the plan through the development of appropriate indicators of environmental improvement and/or protection.

Summary of the Legal Basis:

The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) generally requires EPA to regulate pesticide use in such a manner as to prevent unreasonable risks to human health and the environment. Specifically, 7 USC 136a authorizes EPA to prescribe by regulation "other regulatory restrictions" for pesticides that may generally cause unreasonable risks to the environment (such as those that are associated with ground-water contamination potential) without those restrictions.

Alternatives:

This Rule is a direct outgrowth of the Pesticides and Ground Water Strategy, published in October 1991 (after extensive consultation with States, localities, and other affected stakeholders). In publishing the Strategy EPA conducted an analysis of three different alternatives to the regulation of pesticides' ground-water risks. One option was to rely exclusively on orthodox national-level pesticide regulatory tools (tantamount to a "baseline"), which would entail tolerating or remediating a certain level of ground-water contamination. At the other extreme, outright cancellation of candidate pesticides with significant ground-water contamination potential was considered to provide full assurance that no further ground water contamination would occur (taking into account the high economic losses due to the removal of the pesticide from the market). The analysis concluded that a "partnership" approach, providing a mechanism for more tailored management of pesticide use (i.e., taking into account the prevailing influence of highly variable hydrologic "sensitivity" factors), would be simultaneously a more effective and least costly alternative.

Anticipated Costs and Benefits:

EPA anticipates four categories of costs entailed in requiring SMPs. Federal Program Costs are those of administering ground-water protection activities, such as the review of State proposals. State Program Costs entail both capital and annual costs. Registrant and Pesticide-user impacts are the economic losses ascribed to the reduced use of the classified pesticides, as well as the costs (to the registrants) of complying with Federal and State provisions. Benefits accrue from the reduced levels of pesticide residues in ground water, and a corresponding reduction in: 1) human and ecological risk (see below); and 2) threats to the economic and intrinsic values of the ground-water resource. Enormous uncertainties attend the quantification of these benefits, however.

Risks:

The pesticides under consideration are those most frequently detected (and frequently detected at concentrations exceeding health-based reference points) of currently-registered pesticides, and display physical and chemical characteristics associated with a ground-water contamination potential. The level of potential contamination (and related risk to both human health and the environment) represent a potential unreasonable risk to the environment in the absence of local management measures. State management measures are expected to avert these risks substantially.

Timetable:

Action	Date	FR Cite
NPRM	06/26/96	61 FR 33259
Final	06/00/98	

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

State, Local, Tribal, Federal

Analysis:

Regulatory Flexibility Analysis

Additional Information:

SAN No. 3222.

Effective Date will be 3 years after promulgation.

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RIN: 2070–AC46

EPA

129. POLYCHLORINATED BIPHENYLS (PCBS) DISPOSAL AMENDMENTS (SECTION 610 REVIEW)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

15 USC 2605(e); Toxic Substances Control Act sec 6(e)

CFR Citation:

40 CFR 761

Legal Deadline:

None

Abstract:

This rulemaking will make over 50 modifications, additions, and deletions to the existing PCB management program under the Toxic Substances Control Act (TSCA). A notice of proposed rulemaking was published on December 6, 1994 and covered the manufacture (including import) processing, distribution in commerce, export use, disposal, and marking of PCBs.

Statement of Need:

This rulemaking is the first comprehensive review of the PCB regulations in the 19-year history of the program. The Agency has become aware of a number of instances where the existing regulations do not allow for activities which do not pose an unreasonable risk of injury to health and the environment or where they require unreasonable, unrealistic, or non-cost-effective solutions to PCB problems.

Summary of the Legal Basis:

TSCA section 6(e) bans the manufacture, processing, distribution in commerce and use (except in a totally enclosed manner) of PCBs. It also directs EPA to establish standards for disposal and marking of PCBs. However, section 6(e) allows the EPA to modify these bans, through rulemaking, where it finds no unreasonable risk of injury to health and the environment.

Alternatives:

On December 6, 1994, EPA proposed a number of alternatives to the existing statutory bans in section 6(e). The proposal also included new options and standards for disposal (including remediation) of PCBs.

Anticipated Costs and Benefits:

The EPA projects significant cost savings from authorizations for existing uses and the disposal of large-volume wastes such PCB-contaminated environmental media. In addition, the relaxation of certain administrative requirements should increase the speed of remediation of contaminated sites and accelerate the removal from use of PCBs. EPA projects minimal implementation costs and is reviewing comments which highlight areas for additional cost savings over the proposal.

Risks:

The EPA estimates that millions of tons of PCB-contaminated environmental media will be remediated under this rule, thus preventing large quantities of this long-lived, bioaccumulating chemical from entering the food chain.

Timetable:

Action	Date	FR Cite
ANPRM	06/10/91	56 FR 26738
NPRM	12/06/94	59 FR 62788
Final	12/00/97	

Small Entities Affected:

Businesses

Government Levels Affected:

State, Local, Tribal, Federal

Analysis:

Regulatory Flexibility Analysis

Additional Information:

SAN No. 2878.

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RIN: 2070–AD04

EPA

130. STREAMLINING THE STATE SEWAGE SLUDGE MANAGEMENT REGULATIONS

Priority:

Other Significant

Legal Authority:

33 USC 1345(f); Clean Water Act sec 405(f)

CFR Citation:

40 CFR 123; 40 CFR 501

Legal Deadline:

None

Abstract:

The requirements for States seeking authorization of their sewage sludge programs are set out at 40 CFR parts 123 (for National Pollutant Discharge Elimination System (NPDES) programs) and 501 (for non-NPDES programs). These requirements were modeled on the NPDES requirements for authorization of wastewater effluent discharge programs. Many States manage sewage sludge through their solid waste programs, which are often structured differently from NPDES programs. As a result, States may not always be able to meet all the requirements of parts 123 or 501. The Agency wants States with well-run sewage sludge management programs to be eligible for authorization without having to make unnecessary administrative changes to their programs. Proposed changes would streamline the existing regulations to ease the authorization process for States and ensure that decisions are made based on true environmental and public health considerations.

Statement of Need:

EPA wants States with well-run biosolids management programs to be able to become authorized without having to make unnecessary administrative changes to their programs. This rule will streamline the current regulations to ease the authorization process for States.

Summary of the Legal Basis:

This action is not required by law or court order.

Alternatives:

Several drafts were distributed for wide-spread comment. These drafts ranged from minimum changes to very extensive revisions. The proposed alternative was a compromise based on comments.

Anticipated Costs and Benefits:

There are no anticipated costs to this rule. It provides States with additional flexibility in complying with pre-existing rules. The anticipated benefits are that more States will become authorized to manage the Federal biosolids program.

Risks:

This rule should not have any effect on risks to public health, safety, or the environment since it is a rule to streamline program management requirements.

Timetable:

Action	Date	FR Cite
NPRM	03/11/97	62 FR 11270
Final	12/00/97	

Small Entities Affected:

None

Government Levels Affected:

State, Local, Tribal, Federal

Additional Information:

SAN No. 3788.

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RIN: 2040–AC87

EPA

131. NPDES STREAMLINING RULE—ROUND II

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

33 USC 1311; Clean Water Act sec 301;
33 USC 1314; Clean Water Act sec 304;
33 USC 1312; Clean Water Act sec 302;
33 USC 1316; Clean Water Act sec 306;
33 USC 1318; Clean Water Act sec 308;
33 USC 1342; Clean Water Act sec 402;
33 USC 1361; Clean Water Act sec 501

CFR Citation:

40 CFR 122; 40 CFR 123; 40 CFR 124; 40 CFR 125

Legal Deadline:

None

Abstract:

On February 21, 1995, President Clinton issued a directive requesting that Federal agencies review their regulatory programs to eliminate any obsolete, ineffective, or unduly burdensome regulations. In response to that directive, the Office of Wastewater Management plans to issue a comprehensive rulemaking package revising certain NPDES requirements in parts 122, 123 and 124 to eliminate redundant regulations, provide clarification, and remove or streamline unnecessary procedures which do not provide any environmental benefits. Some of these revisions include: 1) consolidating regulatory definitions; 2) removal of Part 124 Subpart F non-adversary panel hearings; 3) possible removal of storm water group application requirements; 4) streamlining permit termination procedures; and 5) removing Part 124 evidentiary hearing procedures.

This rulemaking is expected to affect entities who operate the NPDES program or who are regulated by it. This includes small businesses and State and local governments. Most of these effects are expected to be deregulatory or streamlining in nature.

Statement of Need:

This rule is in response to the President's directive.

Summary of the Legal Basis:

This action is not being taken as a result of a court order and is not required by law.

Alternatives:

Alternatives are being considered as part of the proposed rule's comment review.

Anticipated Costs and Benefits:

The proposed rule is expected to provide savings for the regulated entities and permit issuing authorities in respect to costs and labor. It is not expected to result in any increased costs to those entities.

Risks:

Risks to the environment are expected to be minimal.

Timetable:

Action	Date	FR Cite
NPRM	12/11/96	61 FR 65267
Final	12/00/97	

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Tribal, Federal

Additional Information:

SAN No. 3762.

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RIN: 2040–AC70

EPA

132. NPDES WASTEWATER PERMIT APPLICATION FORMS AND REGULATORY REVISIONS FOR MUNICIPAL DISCHARGES AND SEWAGE SLUDGE USE OR DISPOSAL

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

33 USC 1342; Clean Water Act sec 402;
33 USC 1314; Clean water Act sec 304;
33 USC 1318; Clean Water Act sec 308;
33 USC 1345; Clean Water Act sec 405;
33 USC 1361; Clean Water Act sec 501

CFR Citation:

40 CFR 122.21(j); 40 CFR 122.21(g)

Legal Deadline:

None

Abstract:

The purpose of this action is to revise and consolidate existing application

forms and requirements for Publicly Owned Treatment Works (POTWs) and other Treatment Works Treating Domestic Sewage (TWTDS), and to streamline the application process for these facilities. The Agency seeks to establish a unified process that minimizes the need for additional information from applicants while providing permit writers the necessary information, including toxics data, to ensure that permits adequately address concerns of permittees and environmental protection. The Agency seeks to allow the use of existing data and to avoid unnecessary reporting. The Agency is also considering how to utilize electronic data submission. Although these forms will increase the burden on permittees not already required to submit these data, the Agency is minimizing the need for information from small entities, including tribal facilities. The burden on States would be minimized because of improvements to the application forms.

Statement of Need:

Section 402(a) of the CWA, as amended, authorizes the EPA to issue permits for the discharge of any pollutant or combination of pollutants. The content of the application forms 2A/2S is derived from the requirements in proposed 122.21(j) and 122.21(q). Currently POTWs submit standard form A or short form A (based on size) for wastewater discharges and the interim sewage sludge application form for sludge discharges. EPA has not revised the wastewater forms since 1973, despite many amendments to the CWA and to the regulations under the Act which have significantly changed the permitting strategy of the NPDES program. Increased wastewater treatment required by the CWA has resulted in increased generation of sewage sludge. The interim sludge application form was developed in 1993 in response to regulatory changes to the part 503 sewage sludge regulations.

This rule will finalize changes to the regulations at 122.21(j) and (q) and forms 2A and 2S to provide permit writers with sufficient data to develop appropriate permit limitations that will be effective in ensuring that permittees meet the requirements of the regulations.

Summary of the Legal Basis:

This action is not required by law or court order.

Alternatives:

In preparation of the proposed rulemaking several scenarios for data collection were evaluated for both 2A and 2S. EPA looked at several options for the collection in 2A including all POTWs reporting the maximum data elements. In the end the proposal required two levels of data collection for Form 2A.

Proposed form 2S also evaluated various levels of data collection. In the proposed rule Class 1 facilities complete the most information and the sludge only facilities complete the least.

Anticipated Costs and Benefits:

This rule is a streamlining rule. It is anticipated that overall the final rule will decrease burden on facilities from the existing application burden. The burden reduction will come from streamlined application procedures which will decrease the number of 308 letters necessary.

The costs of the final rule will be decreased from the proposal. The proposed rule costs included a lot of testing which has been eliminated in the final.

Risks:

The application forms rule will allow permit writers to better evaluate discharges from POTWs and other TWTDS. The better the permit writer can evaluate the discharge the better he can protect the environment and public health with appropriate limits and necessary conditions in the permits.

Timetable:

Action	Date	FR Cite
NPRM	12/06/95	60 FR 62545
Final	02/00/98	

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

State, Local, Tribal, Federal

Additional Information:

SAN No. 2501.

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RIN: 2040–AB39

EPA

133. NATIONAL PRIMARY DRINKING WATER REGULATIONS: STAGE I DISINFECTANT/DISINFECTION BYPRODUCTS RULE

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect State, local or tribal governments.

Legal Authority:

42 USC 300; Safe Drinking Water Act sec 1412

CFR Citation:

40 CFR 141; 40 CFR 142

Legal Deadline:

Final, Statutory, November 1998.

Abstract:

The 1996 SDWA amendments require EPA to promulgate an Interim Enhanced Surface Water Treatment Rule (IESWTR) and a Stage 1 Disinfectants/Disinfection Byproducts (DBP) Rule by November 1998. EPA proposed both rules in 1994 as a result of formal regulatory negotiations. The regulations, along with a long-term ESWTR and Stage 2 DBP Rule that will be promulgated later, are intended to expand existing public health protections and address concerns about risk trade-offs between pathogens and disinfection byproducts.

EPA is working under an expedited schedule to meet the November 1998 deadline for the final IESWTR and Stage 1 Rule. The Agency plans to issue a Notice of Data Availability (NODA) for public comment in the fall of 1997 as part of this schedule. The M/DBP Advisory Committee (established under the Federal Advisory Committee Act (FACA)) met from March through July 1997 to discuss, evaluate and provide advice on data, analysis and approaches to the NODA and develop consensus recommendations on a number of key elements in the rule.

Anticipated Costs and Benefits:

Cost-benefit data is under development and will be available as part of the Fall 1997 NODA.

Timetable:

Action	Date	FR Cite
NPRM	07/29/94	59 FR 38668
Notice of Data Availability	11/00/97	
Final	11/00/98	

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Tribal, Federal

Analysis:

Regulatory Flexibility Analysis

Additional Information:

SAN No. 2772.

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RIN: 2040–AB82

EPA

134. NATIONAL PRIMARY DRINKING WATER REGULATIONS: INTERIM ENHANCED SURFACE WATER TREATMENT RULE

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect State, local or tribal governments.

Legal Authority:

42 USC 300; Safe Drinking Water Act sec 1412

CFR Citation:

40 CFR 141; 40 CFR 142

Legal Deadline:

Final, Statutory, November 1998.

Abstract:

The 1996 SDWA amendments require EPA to promulgate an Interim Enhanced Surface Water Treatment Rule (IESWTR) and a Stage 1 Disinfectants/Disinfection By-Products (DBP) Rule by November 1998. EPA proposed both rules in 1994 as a result of formal regulatory negotiations. The regulations, along with a long-term ESWTR and Stage 2 DBP Rule that will be promulgated later, are intended to expand existing public health protections and address concerns about risk trade-offs between pathogens and disinfection byproducts.

EPA is working under an expedited schedule to meet the November 1998 deadline for the IESWTR and Stage 1 Rule. The Agency plans to issue a Notice of Data Availability for public comment in the fall of 1997 as part of this schedule. The Agency has also established a committee under the Federal Advisory Committee Act (FACA) to assist in development of the rules. The M/DBP Advisory Committee met from March through July to discuss, evaluate and provide advice on data, analysis and approaches to be included in the NODA to be published in November 1997. On July 15, the Committee formally reached consensus and signed an agreement that includes recommendations to EPA on a number of key rule elements.

Anticipated Costs and Benefits:

Cost-benefit data is under development and will be available as part of the Fall 1997 NODA.

Timetable:

Action	Date	FR Cite
NPRM	07/29/94	59 FR 38832
Notice of Data Availability	11/00/97	
Final	11/00/98	

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Tribal, Federal

Additional Information:

SAN No. 2304.

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RIN: 2040–AC91

EPA

135. REVISED STANDARDS FOR HAZARDOUS WASTE COMBUSTION FACILITIES

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

Undetermined

Legal Authority:

42 USC 6924; Resource Conservation Recovery Act sec 3004; 42 USC 6925; Resource Conservation Recovery Act sec 3005; Clean Air Act sec 112; Clean Air Act sec 114

CFR Citation:

40 CFR 60; 40 CFR 63; 40 CFR 260; 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 266; 40 CFR 270; 40 CFR 271

Legal Deadline:

Final, Judicial, April 1998, Settlement agreement: industrial furnaces & incinerators 4/98 - boilers 12/99.

Abstract:

The Environmental Protection Agency's (EPA's) strategy for hazardous waste minimization and combustion and a judicial settlement agreement commit EPA to upgrade its standards for burning hazardous waste in incinerators, boilers, and industrial furnaces. These standards would be applicable during the construction and operation of these combustion facilities.

Statement of Need:

Under the Clean Air Act (CAA) Amendments of 1990, EPA is required to establish National Emission Standards for Hazardous Air Pollutants (NESHAPs) for most hazardous waste combustors (HWCs) (i.e., incinerators, cement kilns, boilers, and some types of smelting furnaces). In addition, under the Resource Conservation and Recovery Act (RCRA), EPA is required to establish standards for all HWCs as necessary to ensure protection of human health and the environment. EPA is concerned that its current RCRA standards for HWCs may not be adequately protective given that the standards do not take into account indirect pathways of exposure and that there have been advances both in risk assessment and control technologies since promulgation of the current standards.

Consequently, the Agency plans to establish new emissions standards for HWCs under joint CAA and RCRA authority. This will avoid duplicative Agency effort and piecemeal regulation of the hazardous waste combustion industry.

Alternatives:

Under provisions of the CAA, the Agency plans to consider the cost-effectiveness of emission limits more stringent than the minimum limits mandated by the statute. Further, the Agency plans to evaluate approaches to reduce emissions of hazardous air pollutants by improving good operating practices (e.g., controlling the way in which problematic materials such as toxic metals are introduced into the combustor).

Anticipated Costs and Benefits:

EPA's analysis of the proposed rule indicates that some combustion facilities may experience a substantial change in the cost of burning waste, but that this change is likely to have a limited impact on combustion markets. In terms of effects on waste-burning cost structure, cement kilns and lightweight aggregate kilns (LWAKs) are most affected by the regulation. This is primarily a product of their relatively low baseline costs of burning, meaning that incremental compliance costs represent a large increase in their overall cost of burning waste. For incinerators, compliance costs are lower, represent smaller additions to baseline costs, and change little across regulatory options. The analysis concludes that cement kilns have the lowest waste burning costs even after regulation, and so will continue to have the greatest flexibility in marketing their services.

To the extent that compliance costs cannot be passed through to generators and fuel blenders, the profitability of waste burning in kilns will fall. Nonetheless, waste burning kilns are expected to have healthy operating profit margins after the rule. Market exit in all sectors is concentrated among facilities that burn small quantities of hazardous waste. While as many as 98 combustion facilities may stop burning hazardous wastes as a result of the proposed MACT options, the small quantities these facilities burn suggest that market dislocations will be minor.

Overall, the social costs of the rule are balanced by a set of potentially substantial benefits. Given the severity of the potential adverse health effects from dioxin and mercury (cancer, adverse developmental effects in children, severe neurological effects in adults, and bioaccumulation in ecosystems), EPA believes the substantial reductions of these pollutants from hazardous waste burning sources under the MACT standard justifies moving ahead with the proposed beyond the floor (BTF) option. An alternative way of valuing benefits is the potential increase in property values around closed or more stringently regulated combustion facilities. The fact that this approach also suggests potentially substantial benefits strengthens EPA's belief that the costs of moving forward with the proposed BTF option for certain pollutants and/or source categories are justified.

Risks:

EPA has estimated that hazardous waste incinerators and hazardous-waste burning cement and light weight aggregate kilns currently emit a total of 0.94kg toxicity equivalent (TEQ) of TCDD and TCDF (isomers of dioxin) per year. Therefore, hazardous waste burning sources represent about 9 percent of total anthropogenic emissions of dioxins in the U.S.

EPA estimates that dioxin emissions from hazardous waste-burning sources will be reduced to 0.07kg TEQ per year at the floor levels and to 0.01kg TEQ per year at the proposed beyond the floor standard. These reductions would result in decreases of approximately 8 and 9 percent, respectively, in total estimated anthropogenic U.S. emissions. EPA expects that reductions in dioxin emissions from hazardous waste-burning sources, in conjunction with reductions in emissions from other dioxin-emitting sources, will help reduce dioxin levels over time in foods used for human consumption and, therefore, reduce the likelihood of adverse health effects, including cancer, occurring in the general population.

EPA has estimated that hazardous waste incinerators and hazardous waste-burning cement and lightweight aggregate kilns currently emit a total of 10.1 Mg of mercury per year. Based on these estimates, hazardous waste-burning sources represent about 4 percent of total anthropogenic emissions of mercury in the U.S.

EPA estimates that mercury emissions from hazardous waste-burning sources will be reduced to 3.3Mg per year at the proposed floor levels and to 2.0Mg per year at the proposed beyond the floor standard. These reductions would result in reductions of total anthropogenic U.S. emissions of approximately 3 percent. EPA expects that reductions in emissions from other mercury-emitting sources, will help reduce mercury levels in fish over time and therefore, fish consuming populations.

Timetable:

Action	Date	FR Cite
NPRM Cement Kilns, LWAKs; Incinerators	04/19/96	61 FR 17358
Final MACT "Fasttrack"	02/00/98	

Small Entities Affected:

Businesses

Government Levels Affected:

State

Additional Information:

SAN No. 3333.

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RIN: 2050–AE01

EPA

138. REQUIREMENTS FOR MANAGEMENT OF HAZARDOUS CONTAMINATED MEDIA COMMONLY REFERRED TO AS HAZARDOUS WASTE IDENTIFICATION RULE FOR CONTAMINATED MEDIA OR HWIR-MEDIA

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 6912(a); Resource Conservation Recovery Act sec 2002(a); 42 USC 6921; Resource Conservation Recovery Act sec 3001; 42 USC 6924; Resource Conservation Recovery Act sec 3004; 42 USC 6926; Resource Conservation Recovery Act sec 3006; 42 USC 6927; Resource Conservation Recovery Act sec 3007

CFR Citation:

40 CFR 260; 40 CFR 261; 40 CFR 264; 40 CFR 268; 40 CFR 269; 40 CFR 271

Legal Deadline:

None

Abstract:

The Agency's goal for the HWIR-media proposal was to provide significant relief from administrative and substantive obstacles for the management of remediation wastes, so that states and EPA could base waste management decisions on actual site conditions and waste characteristics, according to their professional judgment instead of strict national requirements that are not uniformly appropriate at all cleanup sites. The Agency wanted to reduce the overlap between RCRA and the Clean Water Act (CWA) or Marine Protection, Research and Sanctuaries Act (MPRSA) for dredging operations, and EPA was considering withdrawing the regulations for Corrective Action Management Units (CAMUs). Finally, an additional goal was to streamline state authorization.

The Agency has decided on the general framework for finalization of the HWIR-media rule. The Agency plans to promulgate only targeted elements of the proposal rather than go forward with a more comprehensive approach. EPA plans to complement the targeted elements by leaving the CAMU regulations in place, rather than withdrawing these regulations as proposed. Targeted elements EPA plans to focus on are: alternative land disposal restriction treatment standards for hazardous contaminated soil; streamlined permitting for cleanup sites that would eliminate the requirements for facility-wide corrective action at cleanup-only sites; options for remediation piles that resolve issues raised in the public comments; and a RCRA exclusion for dredged materials managed under CWA or MPRSA permits. At this time, EPA is not planning to finalize the portions of the proposal which would have distinguished between lower- and higher-risk contaminated media and would have given regulatory agencies the flexibility to exempt lower-risk contaminated media from RCRA regulations.

Statement of Need:

Since 1980, the Environmental Protection Agency (EPA) has promulgated comprehensive regulations under subtitle C of RCRA governing the treatment, storage, disposal, and transportation of hazardous wastes. These regulations have been designed to, among other things, discourage hazardous waste generation, and for those wastes generated, to prevent future environmental contamination by ensuring safe management and disposal. In contrast, the primary objective of the cleanup program is to achieve environmental improvement as quickly and effectively as possible.

Although EPA conducted a lengthy outreach process before developing the HWIR-media proposal and tried to balance the concerns and interests of various stakeholder groups, it is now clear after reviewing public comment on the proposal that stakeholders have fundamental disagreements on many remediation waste management issues. EPA has concluded that pursuing comprehensive regulatory reform would be a time and resource intensive process that would most likely result in a rule that would provoke additional years of litigation and associated uncertainty. This uncertainty would be detrimental to the program and have a negative effect on ongoing and future cleanups. Based on these conclusions, the Agency has decided that a regulatory response will not solve the remediation waste management issues that HWIR-media was designed to solve.

While EPA believes the targeted elements and corrective action management unit regulations would improve remediation waste management and expedite cleanups, the Agency also recognizes that additional reform is needed, especially for management of non-media remediation wastes like remedial sludges. The Agency will continue to participate in discussions on potential legislation to promote this additional needed reform.

Alternatives:

Alternative regulatory approaches for this rule were proposed and analyzed.

Anticipated Costs and Benefits:

Analyses of costs and benefits will be conducted as part of the economic analysis for this rule required under Executive Order 12866.

Risks:

One of the primary objectives of this rule is to establish requirements for management of contaminated media and other remediation wastes that more accurately reflect the risks posed by such wastes. Thus, the rule is expected to result in cleanups that achieve the Agency's risk reduction objectives in a more efficient and expeditious manner. More quantitative analysis of the risks associated with this rule will be included in the economic analysis.

Timetable:

Action	Date	FR Cite
NPRM	05/20/92	57 FR 21450
NPRM Withdrawn	10/30/92	57 FR 49280
NPRM	04/29/96	61 FR 18780
Final	06/00/98	

Small Entities Affected:

Businesses

Government Levels Affected:

State, Federal

Additional Information:

SAN No. 2982.

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EPA

137. COMPLIANCE ASSURANCE MONITORING RULE (PREVIOUSLY ENHANCED MONITORING PROGRAM)

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

Clean Air Act Amendments of 1990, sections 114(a)(3), 503(b),; Clean Air Act Amendments of 1990, section 504(b)

CFR Citation:

40 CFR 64; 40 CFR 70; 40 CFR 71

Legal Deadline:

Final, Statutory, November 1992.

NPRM, Judicial, September 30, 1993.

Final, Judicial, October 4, 1997.

Abstract:

This action is required by the 1990 Clean Air Act (the Act) Amendments to assure better compliance with existing rules. This rule will require major stationary sources who must obtain permits under title V of the Act to conduct monitoring that provides reasonable assurance of ongoing compliance of the significant emission units with applicable requirements. Affected sources will use the monitoring data in conjunction with other compliance-related data to certify compliance with emission standards and other permit conditions.

Statement of Need:

The Clean Air Act Amendments of 1990 require major stationary sources to provide ongoing monitoring and periodic certification of compliance. Current compliance data based on initial or periodic performance testing, provide only snapshots of the compliance status of stationary sources. Current minimal operation and maintenance monitoring of control technology performance, if applied, provides little assurance of continued good pollution control and little incentive for the source owner or operator to maintain or improve

performance. The compliance assurance monitoring (CAM) rule would require owners or operators of emission sources to increase awareness of the operational status of pollution control technology and to act on discrepancies in that operation to reduce emissions. Certification of compliance would be based on a combination of compliance testing or other compliance data and demonstration of continued good control technology performance and appropriate and timely corrective action.

Alternatives:

The CAM program is designed to assure ongoing compliance with requirements under the Act. If owners or operators are already required to determine continuous compliance with emission limitations or standards, that satisfies the purpose of CAM and no additional assurance of compliance is necessary. If these circumstances do not exist, CAM would use a two-pronged approach to assure compliance. First, CAM would require that owners or operations have reasonable information available to them that can indicate potential problems in emission control performance. Second, CAM would require that owners or operators act on that information in a timely fashion to avoid (if preventable) or reduce (if not preventable) emission control problems that could result in excess emissions. This type of monitoring does not need to be so rigorous as to determine exactly or predict emission levels, but rather should be sufficient to allow for reasonable optimization of the method used by a source to achieve ongoing compliance with emission limitations or standards under the Act.

This approach is consistent with President Clinton's regulatory reform initiatives and EPA's Common Sense Initiative in that it focuses on preventing pollution rather than imposing additional command-and-control regulations on regulated sources. This represents a significant change in Agency direction for implementation of of the monitoring and compliance certification requirements in titles V and VII of the Act. The goal of CAM is to provide a reasonable assurance of compliance. Rather than a direct connection between monitoring and certification, CAM allows for an indirect, symbiotic relationship between these two methods for assuring compliance. The result of this change will be to reduce the emphasis on assuring compliance through the threat of enforcement. Instead, CAM emphasizes assuring compliance by placing the burden on regulated sources to monitor their performance and take proactive steps to minimize emission exceedances.

Anticipated Costs and Benefits:

In keeping with Executive Order 12866, EPA will prepare a detailed regulatory impact analysis (RIA) that will provide costs and benefits associated with the CAM rule.

EPA believes that the adoption of CAM can result in tangible benefits for a facility. Although a self-monitoring program may not always be justified purely on the basis of economic benefit to a source, self-monitoring can, in some situations, reduce operating costs. For example, monitoring data can be used to increase combustion efficiency in an industrial boiler or to increase capture and reuse of solvents at a coating plant. The CAM approach will also alert owners or operators that potential control device problems may exist. The owner or operator can use this information to target control devices for routine maintenance and repair, and reduce the potential for costly breakdowns.

The Agency also believes that the CAM approach will result in tangible benefits to the general public health and welfare. A primary benefit of CAM will be a reduction in overall emissions through increased compliance with the requirements of the Act. The key elements of CAM that will provide these reductions are (a) the emphasis on monitoring that alerts owners or operators to deteriorating control conditions and (b) the requirement that steps be taken to correct those conditions. This approach emphasizes minimizing emissions by avoiding or remedying as quickly as possible situations that may involve emissions in excess of applicable requirements. In addition to the direct environmental benefit of decreased emissions, increased compliance rates will also achieve a corollary economic benefit. As a general matter, increased compliance rates with existing rules will lower the long-term overall cost of air pollution control by decreasing the need for additional regulations to obtain necessary emission reductions, especially for nonattainment areas.

Risks:

Compliance Assurance Monitoring will apply to over 50,000 emission units nationally. The establishment of CAM requirements is estimated to impact about 97 percent of the emissions of carbon monoxide, nitrogen oxide, particulate matter, sulfur dioxide, and volatile organic compounds, as well as certain hazardous air pollutants such as benzene and mercury; exact reductions which will be obtained are yet to be determined. The CAM provisions will apply to existing Clean Air Act standards only; new regulations will incorporate continuous compliance monitoring provisions. As these new rules are developed, pollution reduction will be achieved beyond those obtained through CAM.

Timetable:

Action	Date	FR Cite
NPRM	10/22/93	58 FR 54648
Supplemental Proposal	12/28/94	59 FR 66844
Final Action	10/00/97	

Small Entities Affected:

None

Government Levels Affected:

None

Additional Information:

SAN No. 2942.

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EPA

138. NEW SOURCE REVIEW (NSR) REFORM

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

Clean Air Act Amendments of 1990 Title I

CFR Citation:

40 CFR 51.160 to 51.166; 40 CFR 52.21; 40 CFR 52.24

Legal Deadline:

None

Abstract:

The purpose of this action is to revise the Clean Air Act new source review

(NSR) regulations, which govern the preconstruction air quality review and permitting programs that are implemented by States and the Federal Government for new and modified major stationary sources of air pollution. This rulemaking will deregulate, that is, exclude from major NSR program requirements those activities of sources that, with respect to air pollution, have little environmental impact. The rulemaking will encourage pollution control and pollution prevention projects at existing sources. Control technology requirements will be clarified with respect to when and how they apply to sources that are covered. The action seeks to more clearly define the appropriate roles and requirements of sources, permitting authorities and Federal land managers and EPA in the protection of air-quality-related values in Federal Class I areas (i.e., certain national parks and wilderness areas) under the new source review regulations. State, local, and tribal permitting agencies will be given more flexibility to implement program requirements in a manner that meet their specific air quality management needs. Consequently, the rulemaking decreases the number of activities that are subject to NSR requirements and also expedites the permitting process for those sources that are subject to NSR. This action is designed to reduce the regulatory burden over all industries without respect to commercial size or capacity; therefore, it should have no detrimental impact on small businesses. Finally, this action also addresses several pending petitions for judicial review and administrative action pertaining to new source review applicability requirements and control technology review requirements. Regulations that will be affected are State implementation plan requirements for review of new sources and modifications to existing sources (40 CFR 51.160-166), the Federal prevention of significant deterioration program (40 CFR 52.21), and Federal restriction on new source construction (40 CFR 52.24) to be proposed in another rulemaking action.

Statement of Need:

In August 1992, EPA voluntarily initiated a comprehensive effort to reform the NSR process. This effort was initiated to examine complaints from the regulated community that the current regulatory scheme is too complex, needlessly delays projects, and unduly restricts source flexibility. Currently there are no applicable statutory or judicial deadlines for the NSR reform rulemaking effort. The goal of this effort is to address industries' concerns without sacrificing the environmental benefits embodied in the present approach; that is, protecting and improving local air quality, and stimulating pollution prevention and advances in control technologies.

In July 1993, the New Source Review (NSR) Reform Subcommittee was formed under the auspices of the Clean Air Act Advisory Committee. The Subcommittee's purpose is to provide independent advice and counsel to EPA on policy and technical issues associated with reforming the NSR rules. The Subcommittee was composed of representatives from industry, State/local air pollution control agencies, environmental organizations, EPA headquarters and regions, and other Federal agencies (Federal Land Managers, National Park Service and Forest Service), Department of Energy, and the Office of Management and Budget).

Summary of the Legal Basis:

There are no applicable statutory or judicial deadlines for the NSR reform rulemaking effort. However, the rule will address two outstanding settlement agreements: CMA Exhibit B and Top-down BACT. The pending settlement on WEPCO may impose a judicial deadline on the rulemaking.

Alternatives:

The Subcommittee discussed numerous options for implementing NSR reform. However, EPA's primary focus will be to consider the specific recommendations developed by the Subcommittee and, where appropriate, use them in this rulemaking effort. In January 1996, EPA, as part of another regulatory streamlining measure, merged portions of a separate rulemaking to implement the 1990 CAA Amendments with the Reform effort. The combined package was proposed in the Federal Register on July 23, 1996.

Anticipated Costs and Benefits:

From a cost perspective, this rulemaking represents a decrease in applications and recordkeeping costs to industry of at least $13 million per year, as compared to the preexisting program, based primarily on the fact that fewer sources will need to apply for major source permits. In addition, the cost to State and local agencies will be reduced by approximately $1.4 million per year. The Federal Government should realize a savings of approximately $116,000 per year. Additional cost reductions, which are difficult to quantify, will be realized due to the streamlining effect of the rulemaking on the permitting process, for example, the opportunity costs for shorter time periods between permit application and project completion and reduced uncertainty in planning for future source growth.

Risks:

This is a procedural rule applicable to a wide variety of source categories. Moreover, it applies to criteria pollutants for which NAAQS have been established. This action is considered environmentally neutral. However, any potential risks are considered in the NAAQS rulemaking from a national perspective.

Timetable:

Action	Date	FR Cite
NPRM	07/23/96	61 FR 38249
Final	06/00/98	

Small Entities Affected:

None

Government Levels Affected:

State, Local, Federal

Additional Information:

SAN No. 3259.

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EPA

139. OPERATING PERMITS: REVISIONS (PART 70)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 7661 et seq

CFR Citation:

40 CFR 70; 40 CFR 71; 40 CFR 51

Legal Deadline:

None

Abstract:

In response to litigation on the part 70 regulations, to several problems identified through implementation of part 70, and to comments provided in response to notices of proposed rulemaking, parts 51, 70, and 71 are being revised. The changes include the following: streamlined procedures for revising stationary-source operating permits issued by State and local permitting authorities or the Environmental Protection Agency (EPA) under title V of the Clean Air Act; changes to the certification of compliance that is required to be submitted as part of the permit documentation; clarification of the title I and title V permitting requirements for research and development facilities; and changes in public participation requirements for minor new source review actions under title I of the Act.

Statement of Need:

These revised rules will establish a simpler, more flexible system for revising operating permits. These revisions reflect the principles articulated in the President's and the Vice President's March 16, 1995 report Reinventing Environmental Regulation. That report established as goals for environmental regulation the building of partnerships between EPA and State and local agencies, minimizing costs, providing flexibility in implementing programs, tailoring solutions to the problem, and shifting responsibility to State and local programs.

Alternatives:

The Clean Air Act requires that EPA develop regulations which set minimum standards for State operating-permit programs. The Clean Air Act also requires that EPA promulgate and administer a Federal operating-permits program for States that have not obtained EPA approval by November 15, 1995. In response to concerns expressed in comments on the initial notice of proposed rulemaking, the EPA talked with representatives from State and local permitting authorities, industry and environmental groups to hear their implementation concerns. This action incorporates many of those recommendations into a final rule.

Anticipated Costs and Benefits:

The administrative cost of implementing the final rules by permitting authorities, EPA, and permitted sources was estimated. Administrative costs include a range of costs which cover the source's preparing an application through EPA's and the permitting authority's effort to complete the process. The administrative costs are estimated to be approximately $33 million. By comparison, the cost of implementing the current part 70 permit revision system is approximately $118 million. Implementing the revised regulations will reduce costs by about $85 million.

Risks:

All major sources of air pollution are required to have a permit to operate by the Clean Air Act. No adverse effect on the public health or ecosystems should result from this action, because the rule will require permit revisions with significant environmental impact to undergo public and EPA review.

Timetable:

Action	Date	FR Cite
NPRM	08/29/94	59 FR 44460
NPRM Supplemental Proposal for Part 71	04/27/95	60 FR 20804
NPRM Supplemental Proposal for Part 70	08/31/95	60 FR 45530
FINAL	03/00/98	

Small Entities Affected:

Governmental Jurisdictions

Government Levels Affected:

State, Local, Tribal, Federal

Analysis:

Regulatory Flexibility Analysis

Additional Information:

SAN No. 3412.

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RIN: 2060–AF70

EPA

140. NAAQS: SULFUR DIOXIDE (REVIEW AND IMPLEMENTATION)

Priority:

Economically Significant

Legal Authority:

42 USC 7409; Clean Air Act sec 109

CFR Citation:

40 CFR 50.4; 40 CFR 50.5; 40 CFR 51

Legal Deadline:

NPRM, Judicial, November 1, 1994, (review only).

Final, Judicial, April 22, 1996, (review only).

Abstract:

On November 15, 1994, the Environmental Protection Agency (EPA) proposed not to revise the existing 24-hour and annual primary standards. The EPA sought public comment on the need to adopt additional regulatory measures to address the health risk to asthmatic individuals posed by short-term peak sulfur dioxide exposure.

On March 7, 1995, EPA proposed implementation strategies for reducing short-term high concentrations of sulfur dioxide emissions in the ambient air.

On May 22, 1996, EPA published its final decision not to revise the primary sulfur dioxide NAAQS. The notice stated that EPA would shortly propose a new implementation strategy to assist States in addressing short-term peaks of sulfur dioxide. The new implementation strategy - the Intervention Level Program - was proposed on January 2, 1997. Final action on the Intervention level program is anticipated for May, 1998.

Statement of Need:

Brief exposures to elevated concentrations of sulfur dioxide causes bronchoconstriction, sometimes accompanied by symptoms (coughing, wheezing, and shortness of breath), in mild to moderate asthmatic individuals. The existing sulfur dioxide National Ambient Air Quality Standard (NAAQS) provides substantial protection against short-term peak sulfur dioxide levels. At issue is whether additional measures are needed to further reduce the health risk to asthmatic individuals.

Alternatives:

The March 7, 1995, proposal notice sought public comment on three alternatives to further reduce the public health risk to asthmatic individuals posed by short-term peak sulfur dioxide exposures. These included: (a) a new 5-minute NAAQS; (b) a new program under section 303 of the Act; and (c) a targeted monitoring program to ensure sources likely to cause or contribute to high 5-minute peaks are in attainment with the existing standard. The January 2, 1997, notice proposed an alternative program under section 303 of the Act that will assist States in addressing high 5-minute peaks.

Anticipated Costs and Benefits:

A draft regulatory impact analysis was completed and made available for public comment at the time of the January 2, 1997 proposal.

Risks:

Exposure analyses indicate from the national perspective that the likelihood of exposure to high 5-minute sulfur dioxide concentrations is very low. Asthmatic individuals in the vicinity of certain sources or source categories, however, may be at higher risk of exposure than the population as a whole.

Timetable:

Action	Date	FR Cite
NPRM NAAQS Review	11/15/94	59 FR 58958
NPRM NAAQS Implementation (part 51)	03/07/95	60 FR 12492
Final NAAQS Review	05/22/96	61 FR 25566
NPRM Revised NAAQS Implementation (Part 51)	01/02/97	62 FR 210
Final NAAQS Implementation (Part 51)	05/00/98	

Small Entities Affected:

None

Government Levels Affected:

State

Additional Information:

SAN No. 1002.

(Primary Standard) and SAN No

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RIN: 2060–AA61

EPA

141. VOC REGULATION FOR ARCHITECTURAL COATINGS

Priority:

Other Significant

Legal Authority:

42 USC 7401; Clean Air Act sec 183

CFR Citation:

40 CFR 59

Legal Deadline:

Final, Statutory, March 15, 1997.

Abstract:

This regulation will control volatile organic compound (VOC) emissions from architectural coatings. These coatings are applied to stationary structures and their appurtenances, to portable buildings, to pavements, or to curbs. Traditional VOC limitations, market-based approaches, and phased-in approaches are all being considered. The EPA is working with coating manufacturers and other stakeholders to ensure that this rule is based on the best possible understanding of the industry and that it affords the flexibility to achieve the necessary emission reductions in the most sensible, cost-effective ways.

Statement of Need:

This regulation will establish VOC content limits for over 50 categories of architectural coatings. These limits will reduce the VOC emissions from architectural coatings and will reflect best available controls, as defined by section 183(e) of the Clean Air Act (CAA). The architectural coatings category is a significant contributor of VOC emissions in ozone nonattainment areas.

Summary of the Legal Basis:

Section 183(e) of the CAA requires that the EPA list those categories of consumer and commercial products (CCP) that account for at least 80 percent of VOC from all CCP in ozone nonattainment areas and establish a schedule for regulating the categories. The architectural coatings category was included on the list and schedule published March 23, 1995, and is in the group of categories to be regulated by March 1997.

Alternatives:

There are many alternatives to the proposed rule that were or are being considered, including: alternative VOC content limits for some types of coatings; issuance of a control techniques guideline in lieu of a national rule; low-volume exemptions; payment of fees, if desired, to exceed the VOC content limits; variances based on economic hardship; and an incentive to recycle paint. The requirements in the proposed rule are based on product reformulation, a pollution prevention method.

Anticipated Costs and Benefits:

The proposed rule would impose an estimated cost of $25 million per year for coating manufacturers and would reduce VOC emissions from architectural coatings by an estimated 106,000 tons per year. VOC are a main component in formation of ground-level ozone which can damage lung tissue and cause serious respiratory illness.

Risks:

In the past, the CAA has focused on reducing VOC emissions from mobile sources (cars and trucks) and stationary sources, such as power plants and factories. Requiring additional controls on these sources may be very costly for the emissions reductions achieved. Regulating consumer and commercial products may prove to be a more cost-effective way of substantially reducing VOC emissions nationwide. Consumer and commercial products, such as surface coatings, personal care products, and household cleaning products, contribute about six million tons (approximately 30 percent) annually of VOC emissions nationwide. The architectural coating category is one of the largest contributors.

Timetable:

Action	Date	FR Cite
NPRM	06/25/96	61 FR 32729
Final	11/00/97	

Small Entities Affected:

Businesses

Government Levels Affected:

State, Local

Additional Information:

SAN No. 3351.

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RIN: 2060–AE55

EPA

142. NATIONAL VOC EMISSION STANDARDS FOR CONSUMER PRODUCTS

Priority:

Other Significant

Legal Authority:

42 USC 7401 et seq

CFR Citation:

40 CFR 59

Legal Deadline:

Final, Statutory, March 1997.

Abstract:

This regulation will reduce volatile organic compound (VOC) emissions from 24 types of consumer products which are currently regulated by California and several other States. The EPA is working with consumer product manufacturers and other stakeholders to ensure that this rule is based on the best possible understanding of the industry and that it affords the flexibility to achieve the necessary emission reductions in the most sensible, cost-effective ways.

Statement of Need:

This regulation will establish VOC content limits for 24 types of consumer products. These limits will reduce the VOC emissions from these products and will reflect best available controls, as defined by section 183(e) of the Clean Air Act. The consumer products category is a significant contributor of VOC emissions in ozone nonattainment areas.

Summary of the Legal Basis:

Section 183(e) of the CAA requires that the EPA list those categories of consumer and commercial products (CCP) that account for at least 80 percent of VOC from all CCP in ozone nonattainment areas and establish a schedule for regulating the categories. The consumer products category was included on the list and schedule published March 23, 1995, and is in the group of categories to be regulated by March 1997.

Alternatives:

Alternatives to requirements in the proposed rule that were or are being considered, include alternative VOC content limits; issuance of a control techniques guideline in lieu of a national rule; variances based on economic hardship; and an incentive for innovative product development. The requirements in the proposed rule are based on product reformulation, a pollution prevention method.

Anticipated Costs and Benefits:

The rule would impose an estimated cost of $27 million per year for consumer product manufacturers and would reduce VOC emissions from the products by an estimated 90,000 tons per year. VOC are a main component in formation of ground-level ozone which can damage lung tissue and cause serious respiratory illness.

Risks:

In the past, the CAA has focused on reducing VOC emissions from mobile sources (cars and trucks) and stationary sources, such as power plants and factories. Requiring additional controls on these sources may be very costly for the emissions reductions achieved. Regulating consumer and commercial products may prove to be a more cost-effective way of substantially reducing VOC emissions nationwide. Consumer and commercial products, such as surface coatings, personal care products, and household cleaning products, contribute about six million tons (approximately 30 percent) annually of VOC emissions nationwide. The consumer products category is one of the largest contributors.

Timetable:

Action	Date	FR Cite
NPRM	04/02/96	61 FR 14531
Final Action	11/00/97	

Small Entities Affected:

Businesses

Government Levels Affected:

State, Local, Tribal

Sectors Affected:

284 Soaps, Detergents, and Cleaning Preparations, Perfumes, Cosmetics, and Other Toilet Preparations; 287 Agricultural Chemicals; 289 Miscellaneous Chemical Products

Analysis:

Regulatory Flexibility Analysis

Additional Information:

SAN No. 3658.

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RIN: 2060–AF62

EPA

143. OPEN-MARKET TRADING GUIDANCE

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

Clean Air Act sec 182; Clean Air Act sec 187

CFR Citation:

40 CFR 51

Legal Deadline:

None

Abstract:

The Environmental Protection Agency (EPA) will issue a final policy for open-market trading of ozone smog precursors (volatile organic compounds and oxides of nitrogen) that will provide more flexibility than ever before for companies to trade emission credits without prior State or Federal approval. Once a rule is in the State implementation plan (SIP), companies could engage in emissions trades without prior regulatory approval as long as accountability is ensured in accordance with the guidance. The intended benefits of an active market in emissions trading are compliance with the ozone standard at far less cost and an increased incentive to develop innovative emission-reduction technologies. standard at far less cost and an increased incentive to develop innovative emission-reduction technologies.

Statement of Need:

In the last 25 years great progress has been made toward achieving healthy air quality, yet more than 50 million people still live in areas that do not meet the ozone health standard. Continued reductions in ozone precursor emissions are important to protect public health, but additional emission reductions are increasingly more costly to obtain. Emissions trading is one way to lower the overall cost of achieving additional reductions. Historically, the volume of emissions trading under EPA's existing trading policies has been low, suggesting high transaction costs associated with the delays of trade-by-trade government review. Additionally, there have been

significant problems of quality control, reducing the environmental effectiveness of the program. EPA's policy on open-market emissions trading is intended to establish a trading program that minimizes transaction costs and harnesses the power of the marketplace to enhance quality control.

Alternatives:

The EPA endorses several forms of emissions trading, including interfacility and intrafacility emissions trading under the 1986 Emissions Trading Policy Statement, the 1994 Economic Incentive Program Rules and Economic Incentive Program Rules (April 7, 1994). The open-market program is yet another form of emissions trading that can reduce the overall cost of compliance with the ozone standard.

Anticipated Costs and Benefits:

Market-based emissions trading programs allow for greater and/or faster reductions in emissions, lower the cost of pollution control, reduce the adverse impacts of regulation on industry and consumer prices, lower the human health consequences, and improve the environment by achieving early reductions, and provide incentives to develop lower-costs pollution control methods. The actual benefits of open-market trading programs depend on a number of variables, including the number of States that adopt such programs and the number of sources that participate. Estimates of costs savings from established emissions-trading programs such as the nationwide acid rain trading program, the RECLAIM program in the Los Angeles area, and the lead phasedown range from nearly 20 to over 40 percent.

Risks:

Not applicable.

Timetable:

Action	Date	FR Cite
NPRM	08/03/95	60 FR 39668
Notice Inclusion of Proposed Model Rule	08/25/95	60 FR 44290
Final	10/00/97	

Small Entities Affected:

None

Government Levels Affected:

State, Local, Tribal, Federal

Analysis:

Regulatory Flexibility Analysis

Additional Information:

SAN No. 3660.

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RIN: 2060–AF60

EPA

144. VOLUNTARY STANDARDS FOR LIGHT-DUTY VEHICLES (NATIONAL 49 STATE LOW-EMISSION VEHICLES PROGRAM)

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

Clean Air Act sec 202; Clean Air Act sec 301(a)

CFR Citation:

Not yet determined

Legal Deadline:

None

Abstract:

This rulemaking is a voluntary emissions standards program applicable to manufacturers of light-duty vehicles and trucks beginning in model year 1997. This program would apply only to those manufacturers that chose to opt into the program. This program is designed to be an alternative national program that provides emissions reductions equivalent to the Northeast Ozone Transport Commission's (OTC's) low-emission vehicle (LEV) program.

Statement of Need:

If agreement is reached between the OTC states and the auto makers on a voluntary 49-State LEV program, this rulemaking will establish the regulations for the LEV program. Under these regulations, auto makers would be able to volunteer to comply with more stringent tailpipe standards for cars and trucks (light-duty). Once an auto maker opted into the program, EPA would enforce the standards in the same manner as any other federal motor vehicle pollution control requirement. EPA is proposing that this program would relieve the 13 states in the Northeastern part of the country (OTR) of the December, 1994, regulatory obligation to adopt their own motor vehicle programs. This rulemaking also harmonizes Federal and California motor vehicle standards and test procedures to enable auto makers to design and test vehicles to one set of standards nationwide.

Alternatives:

Under the CAA, EPA is prohibited from adopting more stringent auto tailpipe standards prior to fiscal year 2004. The OTC petitioned the Environmental Protection Agency (EPA) in 1994 and was granted approval to adopt the California Low-Emission Vehicle Program in the OTR. This rulemaking would establish a voluntary LEV program in 49 states.

Anticipated Costs and Benefits:

The annualized costs of the OTC LEV Program will be roughly $400 million. The National LEV program created in this rulemaking is expected to have an annual cost of $1.1 billion. The OTC program would only apply to 2 million vehicles sold in the OTR. The National LEV program would apply to all new vehicles sold in 49 States comprising a vehicle fleet of 12.5 million vehicles sold annually. On a per car basis, EPA expects vehicle price to increase $100. The National LEV program will provide air pollution reductions throughout the country. There are currently 38 ozone nonattainment areas outside the OTR and CA with a combined population of approximately 45 million that will benefit from this voluntary national program.

Risks:

Motor vehicles are a significant cause of smog because of emissions of volatile organic compounds (VOC) and nitrogen oxide (NOx). EPA has projected that, without the California LEV in the OTR, highway vehicles will account for roughly 38 percent of NOx and 22 percent of VOC emissions in 2005. EPA currently estimates that VOC emissions should be reduced by roughly 95 tons per day and NOx emissions by approximately 195 tons per day as a result of the National LEV program.

Timetable:

Action	Date	FR Cite
NPRM	10/10/95	60 FR 52734
Final	12/00/97	

Small Entities Affected:

None

Government Levels Affected:

State, Federal

Analysis:

Regulatory Flexibility Analysis

Additional Information:

SAN No. 3646.

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RIN: 2060–AF75

EPA

145. CONTROL OF EMISSIONS OF AIR POLLUTION FROM HIGHWAY HEAVY-DUTY ENGINES AND DIESEL ENGINES

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

Undetermined

Legal Authority:

Clean Air Act sec 202(a); Clean Air Act sec 211(c); Clean Air Act sec 213(a); Clean Air Act sec 301(a)

CFR Citation:

40 CFR 9; 40 CFR 86; 40 CFR 89

Legal Deadline:

Final, Judicial, August 29, 1997.

Abstract:

The primary focus of this action will be reducing emissions of nitrogen oxides (NOx), non-methane hydrocarbon (NMHC) and particulate matter (PM) from diesel and gasoline fueled engines used in highway trucks and buses and in nonroad equipment and vehicles. Nitrogen oxides are a significant contributor to urban ozone pollution (smog), acid rain, and particulate pollution. Particulates, including those emitted directly and secondary particulates formed in the atmosphere, have been associated with increased death and illness rates as well as impaired visibility. Non-Methane hydrocarbons also contribute to ozone pollution. Highway and nonroad engines and vehicles are very significant contributors to these air-quality problems. This initiative has been marked by an unprecedented degree of cooperation between EPA, the State of California, and the engine-manufacturing industry, as well as the involvement of States, regional air-management organizations, and public interest and environmental organizations. The result has been a plan for very stringent new emission standards that have the support of the industry. EPA has proposed new standards for highway truck and bus engines, and discussions are progressing toward similar standards for nonroad diesel engines. This action will focus on the emission standards and related requirements for control of air pollution from 2004 and later model year highway heavy-duty engines. It will include an assessment of the feasibility of the requirements for these engines promulgated in 1997 plus further consideration of a number of issues left open in the rule including potential diesel fuel changes, diesel particulate control, and other initiatives to control emissions in use.

Statement of Need:

Ozone pollution poses a serious threat to the health and well-being of millions of Americans and a large burden to the U.S. economy. Many ozone nonattainment areas face great difficulties in reaching and maintaining attainment of the ozone health-based air quality standards in the years ahead. Recognizing this challenge, States, local governments, and others have called on the Environmental Protection Agency (EPA) to promulgate additional national measures to reduce nitrogen oxides (NOx), hydrocarbons and particulate matter in order to protect the public from the serious health effects of ozone pollution.

Alternatives:

EPA will consider alternatives for this rule as part of the notices of proposed rulemaking (NPRMs) planned for this initiative.

Risks:

Oxides of nitrogen comprise a family of highly reactive gaseous compounds that contribute to air pollution in both urban and rural environments. NOx is directly harmful to human health and the environment, contributes to particulate pollution, and plays a critical role in the formation of atmospheric ozone. Based on studies of human populations exposed to high concentrations of particles and laboratory studies of animals and humans, there are major human health concerns associated with PM. These include deleterious effects on breathing and respiratory systems, aggravation of existing respiratory and cardiovascular disease, alterations in the body's defense systems against foreign materials, damage to lung tissue, carcinogenesis, and premature death.

Timetable:

Action	Date	FR Cite
ANPRM	08/30/95	60 FR 45580
NPRM Highway	08/27/96	61 FR 33421
ANPRM Nonroad	01/02/97	62 FR 200
Final Action Highway	10/00/97	
Final Action Nonroad	10/00/97	
NPRM Hwy Heavy Duty Diesel 2004 & later	12/00/98	
Final Hwy Heavy Duty Diesel 2004 & later	12/00/99	

Small Entities Affected:

Undetermined

Government Levels Affected:

Undetermined

Analysis:

Regulatory Flexibility Analysis

Additional Information:

SAN No. 3645, 4014, 4043.

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RIN: 2060–AF76

BILLING CODE 6560-50-P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

Statement of Regulatory and Deregulatory Priorities

The Equal Employment Opportunity Commission (EEOC) enforces six statutes prohibiting discrimination in employment. Title VII of the Civil Rights Act of 1964, as amended, prohibits employment discrimination on the basis of race, color, sex, religion, or national origin. The Equal Pay Act of 1963, as amended, prohibits the payment of different wages to women and men working in the same establishment, performing equal work that requires equal skill, effort, and responsibility under similar working conditions, unless the pay differential is based on factor(s) other than sex. The Age Discrimination in Employment Act of 1967, as amended (ADEA), prohibits employment discrimination on the basis of age against people age 40 and older. Title I of the Americans with Disabilities Act of 1990, as amended (ADA), prohibits employment discrimination against qualified individuals with disabilities. Sections 501 and 505 of the Rehabilitation Act of 1973, as amended, prohibit Federal agencies from discrimination in employment against qualified individuals with disabilities and require agencies to accommodate the special needs of persons with disabilities. The Government Employee Rights Act of 1991 extends protections against employment discrimination to certain employees who were not previously covered.

The mission of the Agency is to ensure equality of opportunity by vigorously enforcing Federal legislation prohibiting discrimination in employment. Enforcement is accomplished through investigation, conciliation, alternative methods of dispute resolution, litigation, coordination, and regulation, as well as by education, policy research, and technical assistance. In pursuing its mission of eradicating discrimination in the workplace, the Commission intends that its enforcement be certain and predictable and that its remedies be preventive and remedial in scope.

One important step toward these ends is to make sure that employees, employers, and union representatives understand their rights and obligations under the Federal laws prohibiting employment discrimination. In accordance with the President's national regulatory principles, EEOC develops regulations necessary to inform employees and employers of their rights and obligations under the statutes it enforces. EEOC further educates the public on an ongoing and proactive basis through interpretive guidelines, policy documents, management directives, and other public guidance programs.

EEOC is currently considering one significant action of a regulatory nature, which would be published for public comment.

The Commission is considering regulatory guidance on title II of the Older Workers Benefit Protection Act of 1990, which amended the ADEA to permit knowing and voluntary unsupervised waivers of rights and claims arising under the Act. Representatives of both the employer and employee communities have strongly demonstrated their interest in the issuance of additional guidance in this area. As part of the development of a regulation on waivers under the ADEA, the Commission has engaged in a regulatory negotiation to obtain a consensus recommendation to the Commission. The Negotiated Rulemaking Committee began work on December 6, 1995, and conducted a series of meetings culminating on July 23-24, 1996. Thereafter, the Committee unanimously forwarded a recommended proposed rule to EEOC for its consideration. On March 10, 1997, EEOC published for public comment the proposed rule (NPRM) recommended by the Negotiated Rulemaking Committee. EEOC is now assessing all comments received in response to the March 10th NPRM. Future action regarding a possible final regulation on waivers under the ADEA presently is undetermined.

(Consistent with section 4(c) of Executive Order 12866, this statement was reviewed and approved by the Chairman of the Agency. The statement has not been reviewed or approved by the other members of the Commission.)

EEOC

FINAL RULE STAGE

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146. REGULATIONS INTERPRETING TITLE II OF THE OLDER WORKERS BENEFIT PROTECTION ACT OF 1990 (OWBPA)

Priority:

Other Significant

Legal Authority:

29 USC 628

CFR Citation:

29 CFR 1625

Legal Deadline:

None

Abstract:

The Age Discrimination in Employme Act of 1967 (ADEA) was amended in 1990 by OWBPA. Title II of OWBPA sets forth the statutory requirements f a valid waiver of rights under the ADEA.

Regulations under title II would provide guidance on implementing OWBPA's requirements for unsupervised ADEA waivers. As part the development of this regulation, th Commission engaged in regulatory negotiations on waivers of rights and claims under the ADEA.

Statement of Need:

In 1990, Congress amended the ADEA to permit knowing and voluntary unsupervised waivers of rights and claims arising under the Act. In 1992, the Commission published a notice in the **Federal Register** seeking public comment on various ADEA issues, including the topic of waiver agreements. In response to the notice the Commission received numerous detailed comments on the waiver provisions which demonstrated a nee for regulatory guidance. Over the ensuing years, representatives of employer and employee communities have expressed a continuing interest i receiving such guidance. Waiver agreements are widely used in the workplace, particularly when employers find it necessary to reduce the size of the workforce. Employees who sign waiver agreements are bargaining away important Federal rights in return for some form of consideration. Employers are offering additional benefits, sometimes quite substantial, in exchange for employee agreements to forgo potential recovery in age discrimination lawsuits. Both sides have a substantial stake in this area of the law and would benefit from regulatory guidance.

Summary of the Legal Basis:

Section 9 of the ADEA authorizes the Commission to issue such rules and regulations as it may consider necessary or appropriate for carrying out the Act. Moreover, regulatory negotiation is authorized by the Negotiated Rulemaking Act of 1990,

and is consistent with the President's goal of involving stakeholders in the regulatory process.

Alternatives:

The objective of a regulatory negotiation is to seek to obtain a consensus recommendation to the Commission. Thus, the process itself involved consideration of various alternatives with the affected parties agreeing upon proposed regulatory positions.

Anticipated Costs and Benefits:

Clear regulatory guidance for the use of waiver agreements should lead to increased voluntary resolution of potential employment disputes, which in turn will reduce the possibility of protracted and costly litigation. At the same time, providing clear regulatory guidance on what constitutes a valid waiver agreement will ensure that persons enter into such agreements only in a knowing and voluntary manner. It is not anticipated that any costs will arise from issuing regulatory guidance.

Risks:

Regulatory guidance for drafting and implementing valid waiver agreements will lessen the risk that persons might waive important Federal civil rights in an unknowing or involuntary manner. The Commission has a substantial interest in addressing this risk. The ADEA is intended to implement the strong public interest in attaining a workplace free of age discrimination. Individual employees serving as private attorneys general are an integral part of the ADEA enforcement scheme crafted by Congress. Thus, it is of critical import that persons who may choose to relinquish their Federal civil rights do so voluntarily and with full knowledge. Moreover, other Federal civil rights laws enforced by the Commission, for example title VII, envision an important role for aggrieved individuals as private attorneys general. Insofar as waiver agreements may be used under statutes other than the ADEA, clear guidance will also lessen the risk of abuse in those areas.

Timetable:

Action	Date	FR Cite
ANPRM	03/27/92	57 FR 10626
ANPRM Comment Period End	07/27/92	
Notice of Intent To Form Rulemaking Advisory Committee	08/31/95	60 FR 45388
Notice of Establishment of Rulemaking Advisory Committee	10/20/95	60 FR 54207
NPRM	03/10/97	62 FR 10787
NPRM Comment Period End	05/09/97	
Final Action	05/00/98	

Small Entities Affected:

Undetermined

Government Levels Affected:

Undetermined

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BILLING CODE 6570-06-P

GENERAL SERVICES ADMINISTRATION (GSA)

Statement of Regulatory and Deregulatory Priorities

The General Services Administration (GSA) establishes policy for and provides economical and efficient management of Government property and records, including construction and operation of buildings; procurement and distribution of supplies; utilization and disposal of property; and transportation, traffic, and communications management.

GSA's regulatory priorities for fiscal year 1998 are to ensure our regulations reflect the President's philosophy of being consistent, sensible, and understandable and do not place an undue burden on the public. Toward that end, in the upcoming year, GSA will monitor and review regulations and use regulatory direction only when it is essential to carry out GSA's mission and responsibilities.

GSA

FINAL RULE STAGE

147. FEDERAL TRAVEL REGULATIONS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

5 USC 5707; 5 USC 5738; EO 11609, 36 FR 13747, 3 CFR, 1971 to 1975 Comp, p 586

CFR Citation:

41 CFR 301-1; 41 CFR 301-11; 41 CFR 301-15; 41 CFR 302-1; 41 CFR 302-10

Legal Deadline:

None

Abstract:

GSA proposes to amend the FTR to implement statutory and regulatory changes as a result of Joint Financial Management Improvement Program (JFMIP) recommendations and the Federal Employee Travel Reform Act of 1996.

Statement of Need:

The JFMIP identified and addressed obstacles that impede the use of best travel practices in the Federal Government. GSA will implement the FTR changes. The major changes will be in the areas of temporary duty travel and Federal employee relocation reimbursement areas.

Amendment to the FTR includes:

Maximum use of Government charge cards for all travel and relocation expenses, but not limited to, transportation tickets (in conjunction with common carrier reservations), lodging, and car rentals; and increased use of automated teller machines (ATMs) to distribute travel advances and cash for out-of-pocket expenses.

Federal agencies will outsource to Travel Management Centers (TMCs) all travel arrangements and travel cost estimations and expense reports. Agencies will partner to identify requirements to develop a range of expanded standard services. TMCs can use management information to integrate agency defined cost limit controls and meet agency fire safety reporting requirements.

In the area of employee relocation the FTR amendments will include:

Limited relocation allowances for a temporary change of station.

Alternatives:

Continue paying relocation costs and temporary duty duty station travel as currently done, or implement JFMIP recommendations.

Anticipated Costs and Benefits:

Implementation of these changes to the FTR will save the Government $760 million in administrative and direct costs. By amending the FTR, Federal agencies and employees will have options not previously available to them when they are relocating or performing extended assignments. These changes will ease the administrative burden on agencies, and it will provide more equitable reimbursement to employees. The changes reduce paperwork, cut red tape, and humanize the treatment of employees by establishing a parity with their private sector counterparts.

Timetable:

Action	Date	FR Cite
Final Action	04/00/98	

Small Entities Affected:

None

Government Levels Affected:

Federal

Additional Information:

See RIN 3090-AF88, 3090-AF96, and 3090-AF98 for completed actions.

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RIN: 3090–AG11

BILLING CODE 6820-34-F

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

Statement of Regulatory Priorities

The National Aeronautics and Space Administration (NASA) was established by the National Aeronautics and Space Act of 1958, which laid the foundation for NASA's mission. It directs NASA to conduct space activities devoted to peaceful purposes for the benefit of all humankind. We are to preserve the leadership of the United States in aeronautics and space science and technology, and we are to expand knowledge of the Earth and space. To carry out this mission, NASA is authorized to conduct research for the solution of problems of flight within and outside the Earth's atmosphere; to develop, construct, test, and operate aeronautical and space vehicles for research purposes; to operate a space transportation system including the space shuttle, upper stages, space station, and related equipment; and to perform such other activities as may be required for the exploration of space. NASA conducts activities required for the exploration of space with human-tended and expendable vehicles and arranges for the most effective utilization of the scientific and engineering resources of the United States with other nations engaged in aeronautical and space activities for peaceful purposes.

NASA's mission, as documented in its Strategic Plan, dated February 1996, is to explore, use, and enable the development of space for human enterprise; to advance scientific knowledge and understanding of the Earth, the solar system, and the universe and use the environment of space for research; and to research, develop, verify, and transfer advanced aeronautics, space, and related technologies.

The following are narrative descriptions of the most important regulations being planned for publication in the **Federal Register** during fiscal year 1998.

The Federal Acquisition Regulation (FAR), 48 CFR chapter 1, contains procurement regulations that apply to NASA and other Federal agencies. NASA implements and supplements FAR requirements through the NASA FAR Supplement (NFS), 48 CFR chapter 18. Consistent with recommendations of the National Performance Review, NASA has completed the final phase of revising the NFS to simplify, shorten, and clarify the regulation, while delegating more responsibility. Major revisions are not expected in FY 98, except to conform to FAR changes that are currently being promulgated in part 15, Contracting by Negotiation; part 19, Small Business Programs; and part 45, Government Property.

In a continuing effort to keep the NFS current with NASA initiatives and Federal procurement policy, minor revisions to the NFS may be published. For instance, NASA is implementing performance-based contracting (PBC) for contracts for services, hardware, and research and development. All new contracts will be considered for suitability to PBC. Existing contracts will be converted to PBC when it is expected to be more efficient and the ongoing mission is not adversely affected. NASA's implementation is expected to result in NFS revisions.

NASA is working on revision of its regulations for implementing the National Environmental Policy Act (NEPA), which are presented at 14 CFR subparts 1216.1 and 1216.3. These changes are being contemplated to streamline and clarify the Agency's NEPA process and conserve time and other resources, while more effectively addressing the purposes of NEPA and developing more responsibility to NASA centers.

NASA is working on technical amendments to revise, refine, and clarify the cross-waiver of liability in NASA contracts and agreements involving activities such as launch services.

BILLING CODE 7510-01-F

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)

Statement of Regulatory Priorities

The National Archives and Records Administration (NARA) promulgates (a) regulations directed to other Federal agencies regarding adequate and proper documentation of the policies and transactions of the Federal Government and for ensuring proper records disposition and (b) regulations directed to the public relating to access to and use of the historically valuable archives, donated historical materials, Nixon Presidential materials, and Presidential records in the National Archives, regional archives, Presidential libraries, and Presidential Materials Projects operated by NARA. NARA also promulgates regulations relating to the National Historical Publications and Records Commission (NHPRC) grant programs.

NARA's regulatory priorities for fiscal year 1998 will be the clarification and updating of records-management regulations concerning Federal agency recordkeeping requirements.

NARA records-management regulations must provide agencies with the guidance they need to fulfill their statutory obligation to make and preserve records containing adequate and proper documentation of the agency's business. This guidance must be reviewed and updated periodically to reflect changing information technology and recordkeeping practices in agencies. NARA has determined that existing regulations on personal papers and on the removal of nonrecord and personal materials do not provide sufficient protection against improper removal of Federal records from agency control. NARA plans to expand guidance on personal papers and add a requirement for agencies to protect against the removal of Federal records by issuing written procedures for the removal of nonrecord and personal materials. NARA also sees a need to revise regulations on records creation and maintenance to emphasize their applicability to electronic records. 3NARA also intends to review and revise other records management regulations, which are discussed in greater detail in the NARA section of the Unified Agenda of Federal Regulatory and Deregulatory Actions. These regulations include NARA evaluations of agency records management programs, storage of non-paper records and three-dimensional objects in records centers, and facility standards for agency records centers.

NARA plans no significant rulemakings in the area of public use of archival records and materials in NARA research rooms in FY 1998. As described in the NARA section of the Unified Agenda, NARA intends to revise its regulations on research room procedures and use of NARA facilities to reflect changes in policies and procedures.

NARA

PROPOSED RULE STAGE

148. STANDARDS FOR AGENCY RECORDKEEPING REQUIREMENTS—RECORDS, NONRECORD MATERIALS, AND PERSONAL PAPERS

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

44 USC 2904; 44 USC 2905; 44 USC 3101; 44 USC 3102; 44 USC 3301; 44 USC 3314

CFR Citation:

36 CFR 1222

Legal Deadline:

None

Abstract:

This revision of the regulation expands the guidance on personal papers and adds a requirement for agencies to protect against the removal of Federal records by issuing written procedures for the removal of nonrecord and personal materials. It also adds a requirement that agencies document the removal of nonrecord and personal materials and certify that no Federal records were taken. Finally, this revision provides more explicit guidance on records in electronic form.

Statement of Need:

This regulation is needed to ensure that Federal records are not improperly removed from agency custody by departing officials and that agencies fully recognize the applicability of records management requirements to records in electronic form.

Summary of the Legal Basis:

This regulation reflects the legal requirements for agencies to create and maintain adequate and proper documentation, to correctly identify documentation that meets the definition of *Federal record*, and to prevent the unauthorized destruction or removal of Federal records. The National Archives and Records Administration (NARA) is required by law to issue standards and guidelines to Federal agencies regarding adequate and proper documentation of the policies and transactions of the Federal Government and for ensuring proper records disposition. The Archivist of the United States is also statutorily responsible for establishing standards for the selective retention of records of continuing value. This regulation reflects the statutory requirements and responsibilities by providing guidance on applying the legal definition of Federal records to materials created on any media including electronic, distinguishing records from nonrecord materials, identifying and maintaining personal papers, and ensuring that appropriate documentation is provided by contractors.

Alternatives:

An alternative to this regulatory change would be to state in the regulations only the statutory requirements for creation of adequate and proper documentation without regard to their applicability to electronic records and without strengthening the requirements for protection against removal of records. NARA plans to issue a records management guide on recordkeeping requirements that contains interpretation and guidance on implementing the statutory requirements and regulations; this guidance could be expanded to include provisions that would be deleted from the regulation under this approach. This alternative, however, would reduce the effectiveness of the regulation since the applicability of the regulations to electronic records and the methods for implementing statutory requirements would be contained in nonmandatory guidance.

Anticipated Costs and Benefits:

The only new costs associated with compliance with the regulation would be in Federal agency staff resources to implement the requirement to review nonrecord and personal materials that individuals wish to remove from their agency and to certify that Federal records are not included. Agencies could choose to implement the requirement by prohibiting the removal of any documentary materials, at little or no cost, or by various levels of

review, where the costs would depend on the size of the agency and the number of individuals likely to request permission to remove materials. We are unable to quantify the costs at this time, but will ask agencies to estimate their costs in the notice of proposed rulemaking. The benefits that will accrue from adherence to this regulation are also not easily quantifiable; they include creation and protection of Federal records that may be needed for accountability, audit and inspection, continuity, and protection of the rights of the Government and of individuals directly affected by Government actions.

Risks:

Failure to follow these regulations could result in an inability to account for the expenditure of funds, lack of documentation of significant decisions that could have serious or wide-ranging effects on the public, lack of evidence of wrongdoing, resources wasted in "reinventing the wheel," failure to acquire useful documentation created under contract, inefficient operation of Government programs resulting from burdensome searches for needed information, and lack of documentation for future research.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	
Final Action	03/00/98	
Final Action Effective	04/00/98	

Small Entities Affected:

None

Government Levels Affected:

Federal

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BILLING CODE 7515-01-F

OFFICE OF PERSONNEL MANAGEMENT (OPM)

Statement of Regulatory Priorities

The Office of Personnel Management's (OPM) regulatory priorities for the coming year will continue to focus on human resource management reforms that will enable the Federal Government to meet the challenges of downsizing, increased use of technology, delayering, decentralization, improved labor-management relationships, and other changes that are reinventing the Federal workforce.

The progress made by this Administration to date to reinvent Federal human resource management systems has been both important and far-reaching as we strive to build a powerful bridge to the 21st century. It is now critical to continued progress toward centrally needed reform that there be passage of the Federal Human Resource Management Reinvention Act. Many of its provisions will increase the opportunities for Federal agencies to use broadbanding, more demonstration projects, and performance-based pay plans, such as team incentives and goal sharing. All of these tools are needed to lead Federal human resource management into the 21st century.

Pending passage of this legislation, OPM is using its regulatory authority, whenever possible, to achieve these goals. We will be continuing our implementation of the Hatch Act Reform Amendments of 1993 to address issues relevant to the localities whose federally employed residents have been granted a partial exemption from the Reform Amendments' prohibitions on candidacy for partisan political office and on soliciting, accepting, or receiving political contributions.

OPM also expects to produce final regulations implementing provisions of the Family and Medical Leave Act of 1993. These regulations, reflecting the Administration's goal of a family-friendly workplace, will ensure that all employees are fairly treated when they need time off for medical or family needs.

OPM will continue to improve its existing human resource management systems in order to attract and keep the best possible talent, to promote fairness and diversity, and to create a Government that works better and costs less.

OPM

FINAL RULE STAGE

149. POLITICAL ACTIVITY—FEDERAL EMPLOYEES RESIDING IN DESIGNATED LOCALITIES

Priority:

Other Significant. Major under 5 USC 801.

Legal Authority:

5 USC 7325

CFR Citation:

5 CFR 733

Legal Deadline:

Final, Statutory, February 3, 1994.

Abstract:

Congress amended the Hatch Act through the Hatch Act Reform Amendments of 1993. An interim regulation with a request for comments was issued on February 4, 1994, 59 FR 5313. In view of the comments submitted on the interim regulation, substantive revisions to the regulation were proposed (June 24, 1997, 62 FR 34017). The proposed regulation would broaden employee coverage to include employees who work in the sensitive agencies and positions described in 5 U.S.C. 7323(b), specifically describe political activities which the Reform Amendments permit and prohibit in connection with employee participation in elections for local partisan political office in the designated localities, and add two localities to the regulatory list of designated localities.

Statement of Need:

Congress amended the Hatch Act through the Hatch Act Reform Amendments of 1993. An interim regulation with a request for comments was issued on February 4, 1994, 59 FR 5313. In view of the comments submitted on the interim regulation, substantive revisions to the regulation were proposed (62 FR 34017, June 24, 1997). The proposed regulation would broaden employee coverage to include employees who work in the sensitive agencies and positions described in 5 U.S.C. 7323(b), specifically describe political activities which the Reform Amendments permit and prohibit in connection with employee participation in elections for local partisan political office in the designated localities, and add two localities to the regulatory list of designated localities.

Summary of the Legal Basis:

The legal basis for issuing this regulation is the Hatch Act Reform Amendments of 1993, Pub.L. 103-94, 107 Stat. 1001, as codified at 5 U.S.C. 7325.

Alternatives:

A regulatory proposal with a notice and comment period was necessary in view of the substantive changes that were proposed. A final regulation is required to place covered employees on notice of the political activities that the Reform Amendments permit and prohibit in connection with elections for local partisan political office in the designated localities. A consistent interpretation of the Reform Amendments' provisions also is required for purposes of enforcement.

Anticipated Costs and Benefits:

There are no anticipated costs or risks associated with publication of a proposed regulation concerning the political activity of Federal employees residing in designated localities.

Risks:

None

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/04/94	59 FR 5313
NPRM	06/24/97	62 FR 34017
Final Action	02/00/98	

Small Entities Affected:

None

Government Levels Affected:

None

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BILLING CODE 6325-01-F

PENSION BENEFIT GUARANTY CORPORATION (PBGC)

Statement of Regulatory and Deregulatory Priorities

PBGC Insurance Programs

The Pension Benefit Guaranty Corporation (PBGC) administers two insurance programs for private defined benefit plans under title IV of the Employee Retirement Income Security Act of 1974 (ERISA): A single-employer plan termination insurance program and a multiemployer plan insolvency insurance program. PBGC protects the pensions of nearly 42 million working men and women in about 50,000 private defined benefit plans, including about 2,000 multiemployer plans.

Under the single-employer program, PBGC pays guaranteed and certain other pension benefits to participants and beneficiaries if their plan terminates with insufficient assets (distress and involuntary terminations). At the end of fiscal year 1996, PBGC was trustee of about 2,300 plans and paid $792 million in benefits to nearly 200,000 people during 1996. Another 240,000 people will receive benefits when they retire in the future.

Most terminating single-employer plans terminate with sufficient assets to pay all benefits. PBGC has administrative responsibility for these terminations (standard terminations), but its role is limited to seeing that proper procedures are followed and participants and beneficiaries receive their plan benefits.

The multiemployer program (which covers about 8.6 million workers and retirees in about 2,000 insured plans) is funded and administered separately from the single-employer program and differs in several significant ways. The multiemployer program covers only collectively bargained plans involving more than one unrelated employer. PBGC provides financial assistance (in the form of a repayable loan) to the plan if the plan is unable to pay benefits at the guaranteed level. Guaranteed benefits are generally less than a participant's full benefit under the plan (and less than the single-employer guaranteed benefit). PBGC financial assistance occurs infrequently.

PBGC receives no funds from general tax revenues. Operations are financed by insurance premiums, investment income, assets from pension plans trusteed by PBGC, and recoveries from the companies formerly responsible for the trusteed plans.

To carry out these functions, PBGC must issue regulations interpreting such matters as the termination process, establishment of procedures for the payment of premiums, and assessment and collection of employer liability.

Objectives and Priorities

PBGC regulatory objectives and priorities are developed in the context of the statutory purposes of title IV: (1) To encourage voluntary private pension plans, (2) to provide for the timely and uninterrupted payment of pension benefits to participants and beneficiaries, and (3) to maintain the premiums that support the insurance programs at the lowest possible levels consistent with carrying out the PBGC's statutory obligations (ERISA section 4002(a)).

PBGC implements its statutory purposes by developing regulations designed (1) to assure the security of the pension benefits of workers, retirees, and beneficiaries; (2) to improve services to participants; (3) to ensure that the statutory provisions designed to minimize losses for participants in the event of plan termination are effectively implemented; (4) to facilitate the collection of monies owed to plans and to the PBGC, while keeping the related costs as low as possible; and (5) to simplify the termination process.

Legislative Initiatives

On December 8, 1994, the Retirement Protection Act of 1994 was enacted. The Retirement Protection Act (1) accelerates the funding of underfunded single-employer pension plans, (2) phases out the cap on the variable rate portion of the premium paid to PBGC by underfunded single-employer plans, (3) provides PBGC with better tools to prevent employers from escaping their plan funding obligations through corporate transactions, (4) requires better information to participants in underfunded plans on plan funding status and PBGC guarantees, and (5) helps assure that workers do not lose pensions because they have lost contact with a terminating pension plan covered by PBGC.

In May 1996, the President submitted the Retirement Savings and Security Act to Congress. The RSAA would have expanded coverage, increased portability and worker protection, and simplified pension law. The proposal included a doubling of the guarantees in the multiemployer insurance program to address inflation since 1980 and expansion of PBGC's missing participant program to include terminating defined contribution plans and non-PBGC-covered defined benefit plans. The Small Business Job Creation Act of 1996, signed by the President on August 20, 1996, included many of these provisions. It did not include the doubling of the multiemployer guarantee or the expansion of the missing participant program. These changes remain legislative objectives.

Regulatory and Deregulatory Initiatives

To implement the new requirements of the Retirement Protection Act (RPA), PBGC issued regulations:

- Requiring plan administrators of underfunded plans to annually notify participants and beneficiaries about the plan's funding status and the limits on PBGC's guarantee of benefits (final rule, June 30, 1995).
- Creating a clearinghouse in PBGC to locate and pay benefits to missing participants in terminating fully funded pension plans (final rule, December 1, 1995).
- Requiring certain corporate groups with large underfunded pension plans to provide annually to PBGC financial and actuarial information (final rule, December 20, 1995).
- Requiring plan administrators and sponsors to report to PBGC certain "reportable events" that may jeopardize workers' pensions and the pension insurance system (final rule, December 2, 1996). This rule was developed using a negotiated rulemaking process for the first time.

The RPA regulations seek to facilitate compliance. Regulations on participant notice and corporate reporting allow use of information prepared for other purposes. The reportable events regulation waives reporting in many cases to minimize the number of plans affected and uses existing information for reporting thresholds. Both the reportable events and participant notice regulations include optional notice forms. The missing participants regulation ties reporting to forms and deadlines already provided for under the termination regulations.

PBGC also took additional actions to reduce regulatory burden, encourage compliance, and simplify existing regulations by:

- Proposing to extend the time limits for various actions required to terminate a fully funded single-employer plan ("standard termination")(proposed rule, March 14, 1997).
- Reducing penalties for late premiums that are paid before PBGC notifies the plan of the delinquency (Federal Register Notice, December 2, 1996).

- Reorganizing, renumbering, and "reinventing" its regulations to key them to the numbering system of the statutory sections they implement and to reduce the volume of regulations by 20 percent (final rule, July 1, 1996).

PBGC is continuing to review its regulations to look for further simplification opportunities.

The PBGC's regulatory plan for October 1, 1997, to September 30, 1998, consists of one significant regulatory action.

PBGC

PROPOSED RULE STAGE

150. CALCULATION AND PAYMENT OF UNFUNDED NONGUARANTEED BENEFITS

Priority:

Other Significant

Legal Authority:

29 USC 1302(b)(3); 29 USC 1322(c)

CFR Citation:

29 CFR 4022 subpart C

Legal Deadline:

None

Abstract:

In the Pension Protection Act, Congress created a scheme by which to channel employer liability recoveries to plan participants and beneficiaries (amended ERISA section 4022(c)). Under section 4022(c), participants no longer have a direct claim for employer liability. Instead, the PBGC's claim covers both its shortfall (unfunded guaranteed benefits) and participants' losses (unfunded nonguaranteed benefits (UNBs)). In turn, the PBGC is to use a portion of its employer liability recovery to pay UNBs to participants and beneficiaries.

Statement of Need:

Section 4022(c) contains several ambiguities and also leaves to the PBGC the development of specific rules and procedures necessary to make this system work.

Summary of the Legal Basis:

The PBGC has the authority to issue rules and regulations necessary to carry out the purposes of title IV of ERISA.

Alternatives:

The statute provides that the amounts of UNBs that the PBGC will pay under terminated plans be based in most cases on the PBGC's recoveries on its statutory claims for employer liability with respect to plans that terminate during a prescribed time period. However, the statute does not prescribe when the PBGC is to determine its recovery experience during the applicable historical period. An earlier determination would mean that fewer recoveries would be included in the historical average. While the historical average could be updated when more recoveries can be included, this would result in differing payments depending on when the PBGC makes benefit determinations for a plan subject to the historical average. A later determination would ensure more complete data for inclusion in the historical average, but may delay benefit determinations.

Anticipated Costs and Benefits:

Because of the complexities involved, it may take a long time for the PBGC to determine what its recovery will be. In addition, it may be difficult to value a recovery in cases where the PBGC receives assets other than cash or readily marketable securities. Thus, the accuracy of the PBGC's computation of the amounts payable to participants would be enhanced by waiting longer to make that computation. However, long delays are not generally in the best interest of plan participants. The regulation will address these concerns in developing rules governing the calculation of the historical average.

Risks:

Not applicable.

Timetable:

Action	Date	FR Cite
NPRM	05/00/98	
NPRM Comment Period End	07/00/98	

Small Entities Affected:

None

Government Levels Affected:

None

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BILLING CODE 7708-01-P

RAILROAD RETIREMENT BOARD (RRB)

Statement of Regulatory and Deregulatory Priorities

The Railroad Retirement Board administers a retirement program for railroad workers and their families under the Railroad Retirement Act of 1974 and an unemployment and sickness benefit program for railroad workers under the Railroad Unemployment Insurance Act. Regulations issued by the Railroad Retirement Board under these two statutes and certain Governmentwide statutes are contained in chapter II of title 20 of the Code of Federal Regulations.

The Board has been involved in a multiyear project to review, revise, and update its regulations. During this project, the Board has published final rules amending nearly all of its regulations. In addition, there are several regulations actively under consideration by the Board at this time. The Board's short-term plan is to publish final regulations to complete the total review and revision project undertaken previously. The Agency has also initiated a systematic review of its regulations consistent with the work plan submitted to the Office of Information and Regulatory Affairs.

The regulations issued by the Railroad Retirement Board are designed to be informative and to assist the Agency's constituents in understanding the benefit systems administered by the Board. In promulgating regulations, the Agency is mindful of the burdens that may be imposed on the public and crafts its regulations in such a way as to impose the least possible burden on the public. In addition, through regulation, the Board makes every effort to simplify and streamline administration of the programs it administers. We believe the Board's regulatory review program is consistent with the priorities and objectives of the Administration.

RRB

FINAL RULE STAGE

151. RECOVERY OF OVERPAYMENTS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

45 USC 231f(b)(5)

CFR Citation:

20 CFR 255

Legal Deadline:

None

Abstract:

The Board plans to issue a final regulation dealing with collection and waiver of overpayments under the Railroad Retirement Act. This regulation clarifies the agency's policy and practice with respect to debt collection.

Statement of Need:

The agency's policy and practice with respect to recovery and waiver of recovery of overpayments, as established through normal adjudication, has evolved beyond the current regulation and the regulation is being updated to reflect this current policy and practice.

Summary of the Legal Basis:

The general authority for issuance of regulations under the Railroad Retirement Act is provided for in section 7(b)(5) of the Act (45 USC 231f(b)(5)).

Alternatives:

None.

Anticipated Costs and Benefits:

This regulation should result in savings in administrative costs associated with protests and appeals in debt recovery cases.

Risks:

None.

Timetable:

Action	Date	FR Cite
ANPRM	09/19/91	56 FR 47426
ANPRM Comment Period End	10/21/91	
NPRM	12/28/95	60 FR 67108
NPRM Comment Period End	01/29/96	
Final Action	10/00/97	

Small Entities Affected:

None

Government Levels Affected:

Federal

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RRB

152. DETERMINING DISABILITY

Priority:

Other Significant

Legal Authority:

45 USC 231f

CFR Citation:

20 CFR 220

Legal Deadline:

None

Abstract:

The Board amends its regulations to update and revise its standards for determining occupational disability under the Railroad Retirement Act.

Statement of Need:

The Agency's regulation needs to be updated to reflect occupational disability standards agreed upon by rail labor and management.

Summary of the Legal Basis:

The general authority for issuance of regulations under the Railroad Retirement Act is provided for in section 7(b)(5) of the Act (45 USC 231f(b)(5)) and also in section 2(a)(2) (45 USC 231a(a)(2)).

Alternatives:

None.

Anticipated Costs and Benefits:

There will be no additional costs or burdens imposed by this regulation over and above those imposed by the statute or existing regulation.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	09/24/97	62 FR 50056
NPRM Comment Period End	10/24/97	
Final Action	02/00/98	

Small Entities Affected:

None

Government Levels Affected:

Federal

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SMALL BUSINESS ADMINISTRATION (SBA)

Statement of Regulatory Priorities

The Small Business Administration (SBA) continues to focus its regulatory efforts towards delivering sound economic development programs to small businesses through streamlined, customer-oriented regulations. SBA began its efforts to streamline SBA regulations in 1994 in response to a Presidential directive to all agencies to review, revise, and eliminate regulations. SBA followed the directive, thoroughly reviewed all regulations, and, by 1996, revised the bulk of SBA's regulations. The revised regulations are less burdensome, more "user-friendly," and provide for more efficient operations. The regulations incorporate SBA's mission to ensure access to capital to our Nation's small businesses.

SBA's 1996 Regulatory Plan

The SBA's 1996 regulatory plan included two initiatives: (i) Plans to revise the last part of SBA regulations—those that govern the Agency's section 8(a) program and (ii) plans to revise, in accordance with anticipated legislation, SBA's regulations governing pledging and securitizing the unguaranteed portions of SBA 7(a) loans. In 1997, SBA, with the approval of the Justice Department, published the proposed revised section 8(a) regulations. The revisions streamlined and clarified the regulations, converted them to plain language, and incorporated substantive changes consistent with Justice Department affirmative action guidance.

In 1997, Congress, as anticipated, enacted legislation that required SBA to issue regulations that permit SBA depository lenders to pledge or securitize the unguaranteed portions of SBA 7(a) loans. SBA promulgated regulations providing guidance to 7(a) program participants on the pledging and securitizing process. The legislation and resulting regulations relieve SBA depository lenders from earlier restrictions on outside funding. The regulations' ultimate effect will be to allow small businesses even greater access to capital.

SBA's 1997 Regulatory Plan

Today, SBA regulations are streamlined and current. The SBA expects Congress to enact legislation in September 1997 that will require some alterations to SBA's lending and investment programs (13 CFR 107 and 120). SBA does not anticipate the need to draft substantive regulations for the Agency's 1997 initiatives and, therefore, submits no new regulations for the 1997 Regulatory Plan.

BILLING CODE 8025-01-P

SOCIAL SECURITY ADMINISTRATION (SSA)

Statement of Regulatory Priorities

The Social Security Administration (SSA) administers the retirement, survivors, and disability insurance programs under title II of the Social Security Act (the Act) and the supplemental security income (SSI) program under title XVI of the Act. For the most part, SSA's regulations do not impose burdens on the private sector or on State or local governments. Our regulations codify the requirements for entitlement to benefits under the programs we administer.

SSA's nine entries for The Regulatory Plan represent areas of major importance in benefit program administration of the retirement, disability, and supplemental security income programs.

In response to the Reinventing Government initiative to create a Federal Government that works better and costs less, SSA lists one regulatory initiative—Permit Department of State and the Immigration and Naturalization Service to Collect Information Needed to Assign Social Security Numbers to Aliens. The goal of this process is to coordinate services to customers who, under current procedures, must deal with multiple Federal agencies to establish their status as alien residents of the United States. The proposed regulatory authority would support a project with INS whereby it would transmit data to SSA electronically so that SSA can issue social security numbers to certain resident aliens.

SSA is currently testing elements of a reengineered disability process that, when fully tested and implemented, will prove that complex Government operations can deliver dramatically better customer service at a lower cost. Successful implementation of the reengineered disability process is one of the highest priorities of the Social Security Administration. Five of SSA's nine regulations on The Regulatory Plan implement parts of the Disability Redesign.

Three entries implement several proposals of the Process Unification Initiative, which is part of the Disability Redesign. The aim of the Process Unification initiative is to foster use of the same adjudicative standards by disability adjudicators at all levels of adjudication. The first, Weight of Disability Determination Service (DDS) Medical Consultant Opinions, will define the specific weight to be given to DDS medical consultant opinions in hearing decisions. The second, Assessment of Residual Functional Capacity, will clarify the guidelines in our regulations used in determining whether an individual lacks the capacity to perform less than a full range of sedentary work. The third, Quality Review of Administrative Appeal-Level Decisions, provides for a preeffectuation review of hearing-level decisions made by Office of Hearings and Appeals (OHA). Favorable decisions that appear to be unsupported by the evidence of record will be forwarded to the OHA Appeals Council for review in accordance with 20 CFR 404.970 or 416.1470.

The fourth regulatory initiative related to Disability Redesign, Prehearing Procedures and Decisions by Adjudication Officers, will provide the authority to establish the position of an adjudication officer who will be the focal point for all prehearing activities when a request for a hearing before an ALJ is filed. These procedures are currently being tested in a number of locations throughout the United States. We plan to implement the procedures nationally only after completion of testing and evaluation of the test procedures.

A fifth regulatory initiative related to Disability Redesign, Disability Determinations by a Single Decisionmaker, will modify the disability determination procedures SSA uses to make determinations of disability under titles II and XVI of the Social Security Act to provide that, after appropriate medical or psychological consultation, a single decisionmaker will make determinations of eligibility for benefits based on disability.

Also included in this year's Plan is a regulation modifying the standard of disability for children under the Supplemental Security Income program (1996 Welfare Reform) and a regulation to modify SSA's acquiescence process. The remaining item is a regulation providing for redeterminations of entitlement when there is reason to believe fraud was involved in the application for benefits. This is the most significant regulatory action we will take in the upcoming 12 months in support of the Agency's goal of "zero tolerance for fraud."

We are also giving priority attention to two other regulatory initiatives not included in the Plan—regulations to revise our rules on Plans to Achieve Self-Support and changes to the Representative Payment provisions of the title II and title XVI regulations. We did not include these priority regulations in the 1997 Plan because they may not be ready for publication before the end of this Regulatory Plan year.

Consistent with the President's Regulatory Reinvention Initiative, we are working diligently to improve our program benefit regulations and to develop partnerships with large segments of the community of stakeholders interested in Social Security programs. We expect that the partnerships will contribute to the successful development of our Regulatory Plan entries.

SSA

PROPOSED RULE STAGE

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153. PERMIT DEPARTMENT OF STATE AND THE IMMIGRATION AND NATURALIZATION SERVICE TO COLLECT INFORMATION NEEDED TO ASSIGN SOCIAL SECURITY NUMBERS TO ALIENS (569P)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 405; 42 USC 1383

CFR Citation:

20 CFR 422.103; 20 CFR 422.106; 20 CFR 422.107; 20 CFR 422.110

Legal Deadline:

None

Abstract:

Aliens will apply for social security cards at the same time they complete Immigration and Naturalization (INS) paperwork. Currently, alien applicants are required to furnish almost the same information to both SSA and INS. This one-stop service will reduce the potential for issuing social security cards based on fraudulent INS documents, and will result in efficiencies for the government.

Statement of Need:

This regulation is necessary to implement a Reinventing Government initiative.

Summary of the Legal Basis:

These changes are not required by statute or court order.

Alternatives:

None.

Anticipated Costs and Benefits:

We will need to reimburse INS for the enumeration work they perform. We estimate that there is a 20 percent greater efficiency to the government if INS gathers the information to enumerate these applicants. After reimbursing INS, we expect to save approximately $13 million for the period 1998-2002.

Risks:

At this time we have not identified any risks associated with the proposal.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final Action	00/00/00	

Small Entities Affected:

None

Government Levels Affected:

Federal

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SSA

154. ASSESSMENT OF RESIDUAL FUNCTIONAL CAPACITY (599P)

Priority:

Other Significant

Legal Authority:

42 USC 423; 42 USC 405(a); 42 USC 902(a)(5)

CFR Citation:

20 CFR 404.1500, app 2

Legal Deadline:

None

Abstract:

This rule would make minor clarifications to the Social Security Medical-Vocational guidelines used to evaluate disability in individuals under age 50 who have severe impairments that do not meet or equal the criteria of any listed impairment but have a residual functional capacity for no more than the full range of sedentary work. The guidelines are contained in appendix 2 of subpart P of 20 CFR 404.

Statement of Need:

This regulation is necessary to implement one of several process unification initiatives approved by the Commissioner on July 8, 1996.

Summary of the Legal Basis:

None.

Alternatives:

None.

Anticipated Costs and Benefits:

Since these regulations merely clarify existing policy, they impose no additional program or administrative costs.

Risks:

None--Because the only purpose of these regulations is to clarify existing policy.

Timetable:

Action	Date	FR Cite
NPRM	09/23/97	62 FR 49636
NPRM Comment Period End	11/24/97	
Final Action	06/00/98	

Small Entities Affected:

None

Government Levels Affected:

Federal

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SSA

155. IDENTIFICATION AND REFERRAL OF CASES FOR QUALITY REVIEW UNDER THE APPEALS COUNCIL'S AUTHORITY TO REVIEW CASES ON ITS OWN MOTION (623F)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

31 USC 3720A; 42 USC 401(j); 42 USC 405(a); 42 USC 405(b); 42 USC 405(d) to 405(h); 42 USC 405(j); 42 USC 421(d); 42 USC 423(h); 42 USC 425; 42 USC 902(a)(5); PL 96-265, sec 304(g)

CFR Citation:

20 CFR 404.900ff; 20 CFR 416.1400ff

Legal Deadline:

None

Abstract:

These regulations are in furtherance of our published Plan for a New Disability Claim Process and, specifically, the quality assurance aspect of that Plan (59 FR 47918). This initiative provides for a preeffectuation review of decisions made by Office of Hearings and Appeals (OHA) administrative law judges. Decisions that appear to be unsupported by the evidence of record will be forwarded to the OHA Appeals Council for review in accordance with 20 CFR 404.970 or 416.1470. These regulations will set out the procedures by which we will identify and refer these cases to the Appeals Council for quality review under its existing authority to review cases on its own motion.

Statement of Need:

This regulation is necessary to implement one of several process unification initiatives approved by the Commissioner on July 8, 1996.

Summary of the Legal Basis:

None.

Alternatives:

None.

Anticipated Costs and Benefits:

We do not anticipate any additional program or administrative costs.

Risks:

At this time we have not identified any risks associated with the proposal.

Timetable:

Action	Date	FR Cite
NPRM	09/25/97	62 FR 50266
NPRM Comment Period End	11/24/97	
Final Action	05/00/98	

Small Entities Affected:

None

Government Levels Affected:

Federal

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SSA

156. IMPLEMENTING MODIFICATIONS TO PREHEARING PROCEDURES AND DECISIONS BY ADJUDICATION OFFICERS (616P)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

31 USC 3720A; 42 USC 401(j); 42 USC 405(a); 42 USC 405(b); 42 USC 405(d) to 405(h); 42 USC 421(d); 42 USC 425; 42 USC 902(a)(5)

CFR Citation:

20 CFR 404.943 (New); 20 CFR 416.1443 (New)

Legal Deadline:

None

Abstract:

We are amending our rules to implement use of an adjudication officer, who, under the Plan for a New Disability Claim Process approved by the Commissioner of Social Security in September 1994 (the disability redesign plan), would be the focal point for all prehearing activities when a request for a hearing before an administrative law judge (ALJ) is filed. The adjudication officer position is an integral part of the disability redesign plan. These proposed rules will add several new sections setting out the responsibilities of the adjudication officer in connection with a claim for Social Security or Supplemental Security Income (SSI) benefits based on disability.

Statement of Need:

These regulations are needed to implement a major initiative discussed in the Plan for a New Disability Claim Process approved by the Commissioner of Social Security in September 1994 (the disability redesign plan).

Summary of the Legal Basis:

None.

Alternatives:

None.

Anticipated Costs and Benefits:

No program costs are expected. There will be some administrative costs as a result of setting up these new positions in the field offices. However we expect these costs to be offset by subsequent processing efficiencies resulting in significant administrative savings.

Risks:

At this time we have not identified any risks associated with the proposal.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	
Final Action	05/00/98	

Small Entities Affected:

None

Government Levels Affected:

Federal

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SSA

157. WEIGHT OF DISABILITY DETERMINATION SERVICES' MEDICAL AND PSYCHOLOGICAL CONSULTANTS' OPINIONS (624F)

Priority:

Other Significant

Legal Authority:

42 USC 405(a); 42 USC 405(b); 42 USC 902(c)(5); 42 USC 1382C; 42 USC 221

CFR Citation:

20 CFR 404.1502; 20 CFR 404.1512; 20 CFR 404.1513; 20 CFR 404.1519; 20 CFR 404.1527; 20 CFR 416.902; 20 CFR 416.912; 20 CFR 416.913; 20 CFR 416.919; 20 CFR 416.927

Legal Deadline:

None

Abstract:

We propose to revise our disability regulations to clarify the weight administrative law judges and the Appeals Council are to give to opinion evidence from State agency medical and psychological consultants, other program physicians and psychologists, and medical experts in claims for disability benefits under title II and title XVI of the Social Security Act.

Statement of Need:

This regulation is necessary to implement one of several process unification initiatives approved by the Commissioner on July 8, 1996.

Summary of the Legal Basis:

None.

Alternatives:

None.

Anticipated Costs and Benefits:

We do not anticipate any additional program or administrative costs.

Risks:

At this time we have not identified any risks associated with the proposal.

Timetable:

Action	Date	FR Cite
NPRM	09/25/97	62 FR 50270
NPRM Comment Period End	11/24/97	
Final Action	12/00/98	

Small Entities Affected:

None

Government Levels Affected:

Federal

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SSA

158. • DETERMINING DISABILITY AND BLINDNESS; PROVIDING FOR USE OF A SINGLE DECISIONMAKER TO MAKE DETERMINATIONS OF DISABILITY UNDER TITLES II AND XVI OF THE SOCIAL SECURITY ACT

Priority:

Other Significant. Major under 5 USC 801.

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will

revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 421; 42 USC 405(a); 42 USC 405(b); 42 USC 902(a); 42 USC 1382c; 42 USC 1383b

CFR Citation:

20 CFR 404.1546; 20 CFR 404.1615; 20 CFR 416.946; 20 CFR 416.1015

Legal Deadline:

None

Abstract:

We propose to amend our rules to provide for a single decisionmaker who will make determinations of disability under title II and title XVI of the act after consultation with a medical or psychological consultant, as appropriate. The decisionmaker would have the authority to request, review, and evaluate evidence and make the disability determination without having the medical consultant sign the disability determination forms.

Statement of Need:

This regulation is necessary to implement one of several proposals of the Disability Redesign.

Summary of the Legal Basis:

None.

Alternatives:

None.

Anticipated Costs and Benefits:

Increased DDS productivity without deterioration of decisional accuracy.

Risks:

At this time we have not identified any risks associated with this proposal.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
Final Action	03/00/98	

Small Entities Affected:

None

Government Levels Affected:

State, Federal

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SSA

159. • APPLICATION OF CIRCUIT COURT LAW—STRENGTHENING THE ACQUIESCENCE PROCESS AND FURTHERING NATIONAL UNIFORMITY IN PROGRAM ADMINISTRATION

Priority:

Other Significant. Major under 5 USC 801.

Legal Authority:

42 USC 405; 42 USC 1383

CFR Citation:

20 CFR 404.985; 20 CFR 416.1485

Legal Deadline:

None

Abstract:

This proposed rule would revise our regulations to strengthen SSA's acquiescence process and to ensure to the extent possible national uniformity in the administration of its programs. These rules would apply to circuit court decisions which contain a holding which SSA determines conflicts with its interpretation of a provision of the Social Security Act or regulations.

Statement of Need:

These regulations are needed because we propose to change the process by which we apply holdings of the United States Courts of Appeals that we determine conflict with SSA policy in adjudicating claims under title II and title XVI of the Social Security Act.

Summary of the Legal Basis:

These changes are not required by statute or court order.

Alternatives:

None.

Anticipated Costs and Benefits:

We do not anticipate any significant costs or savings associated with this proposal.

Risks:

At this time we have not identified any risks associated with the proposal.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
Final Action	05/00/98	

Small Entities Affected:

None

Government Levels Affected:

Federal

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SSA

160. • REFLECT A REQUIREMENT OF THE SOCIAL SECURITY ACT THAT THE COMMISSIONER DISREGARD EVIDENCE IN CERTAIN SITUATIONS INVOLVING FRAUD OR SIMILAR FAULT UNDER TITLES II OR XVI OF THE ACT

Priority:

Other Significant. Major under 5 USC 801.

Legal Authority:

42 USC 405; 42 USC 1383

CFR Citation:

Not yet determined

Legal Deadline:

None

Abstract:

This regulation would reflect amendments to the Social Security Act by P.L. 103-296 concerning program fraud. Those amendments specify that SSA, when redetermining the entitlement, or making an initial determination of entitlement of an individual, will disregard evidence if there is reason to believe that fraud or similar fault was involved in the providing of such evidence. The regulation will include definitions of key terms to be used by SSA or the State disability determination services in making a fraud or similar fault finding.

Statement of Need:

This regulation is intended to help curb program fraud.

Summary of the Legal Basis:

These regulatory changes would reflect amendments to sections 205 and 1631 of the Act.

Alternatives:

None.

Anticipated Costs and Benefits:

Although there may be additional costs for development and processing of the relatively small number of cases in which fraud or similar fault is suspected, those costs result from the statute rather than these regulatory amendments. However, these administrative costs will be offset by savings that will result from properly documented denials, cessations, and adverse reopenings which might otherwise have resulted in regular program payments.

Risks:

At this time we have not identified any risks associated with the proposal.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	
Final Action	10/00/98	

Small Entities Affected:

None

Government Levels Affected:

State, Federal

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SSA

FINAL RULE STAGE

161. SUPPLEMENTAL SECURITY INCOME; DETERMINING DISABILITY FOR A CHILD UNDER AGE 18 (625F)

Priority:

Economically Significant

Legal Authority:

42 USC 405(a); 42 USC 902(a)(5); PL 104-193

CFR Citation:

20 CFR 404.1500 app 1; 20 CFR 416.901; 20 CFR 416.906; 20 CFR 416.911; 20 CFR 416.912; 20 CFR 416.913; 20 CFR 416.919a; 20 CFR 416.919n; 20 CFR 416.924; 20 CFR 416.924a to 416.924e; 20 CFR 416.925; 20 CFR 416.926a; 20 CFR 416.927; 20 CFR 416.929; 20 CFR 416.987 (New); ...

Legal Deadline:

Final, Statutory, November 22, 1996.

90 Days After Enactment–3 months after the effective date of P.L. 104-193, August 22, 1996

Abstract:

These regulations will implement provisions of P.L. 104-193, The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, (Welfare Reform), which eliminate the comparable severity standard for children and provides instead that a child under age 18 be considered under a disability if he/she has a medically determinable impairment which results in marked and severe functional limitations and which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. These new childhood disability eligibility criteria are applicable to individuals whose claims for child's disability benefits are filed on or after August 22, 1996, and those whose claims were not "finally adjudicated" as of August 21, 1996. In addition, these new eligibility criteria will also apply when redetermining a child's continuing eligibility for benefits.

Statement of Need:

This regulation is necessary to implement provision of P.L. 104-193.

Summary of the Legal Basis:

These regulations are required by P.L. 104-193.

Alternatives:

None.

Anticipated Costs and Benefits:

As required by the legislation we will review the claims of certain children currently receiving SSI Disability benefits. Benefits will be terminated for some of these children, and others who file new applications will be denied under the new standard.

Risks:

At this time we have not identified any risks associated with the proposal.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/11/97	62 FR 6408
Interim Final Rule Comment Period End	04/14/97	
Final Action	09/00/98	

Small Entities Affected:

None

Government Levels Affected:

Federal

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BILLING CODE 4190-29-F

COMMODITY FUTURES TRADING COMMISSION (CFTC)

Statement of Regulatory Priorities

The mission of the Commodity Futures Trading Commission is to protect market users and the public from fraud, manipulation, and abusive practices related to the sale of commodity futures and options and to foster open, competitive, and financially sound commodity futures and option markets. The Commission's objectives are to: (1) Foster futures and option markets that accurately reflect the forces of supply and demand for the underlying commodity and are free of disruptive activity; (2) oversee markets which can be used effectively by producers, processors, financial institutions, and other firms for the purposes of price discovery and risk shifting; (3) promote compliance with and deter violations of Federal commodities laws; (4) require commodities professionals to meet high standards; (5) provide a forum for effectively and expeditiously handling customer complaints against persons or firms registered under the Act; (6) ensure sound financial practices of clearing organizations and firms holding customer funds; (7) promote and enhance effective self-regulation of the commodity futures and option markets; (8) facilitate the continued development of an effective, flexible regulatory environment responsive to evolving market conditions; and (9) promote markets free of trade practice abuses.

CFTC

PROPOSED RULE STAGE

162. • TRADE OPTIONS ON THE AGRICULTURAL COMMODITIES ENUMERATED IN THE COMMODITY EXCHANGE ACT

Priority:
Other Significant

Legal Authority:
7 USC 1a; 7 USC 2; 7 USC 4; 7 USC 6c; 7 USC 12a

CFR Citation:
17 CFR 32

Legal Deadline:
None

Abstract:
In this action, the Commission is considering whether it should propose rules to lift the prohibition on the offer or sale of off-exchange trade options on the agricultural commodities enumerated in the Commodity Exchange Act subject to regulatory conditions and, if so, what conditions would be appropriate. This action is based upon the analysis and recommendations of a May 14, 1997 study prepared by the Commission's Division of Economic Analysis on the prohibition.

Statement of Need:
Agricultural markets in the United States are undergoing profound changes. The changes increase the uncertainty in agricultural markets and expand the need for risk-shifting strategies. The Commission is now considering whether it should propose rules that would create a new risk-shifting strategy by lifting the prohibition.

Alternatives:
The alternative to lifting the ban would be the status quo which prohibits the offer or sale of off-exchange options on the agricultural commodities enumerated in the Commodity Exchange Act.

Risks:
As a financial regulator, the Commission is acutely aware of the costs of regulation. Throughout its history, the Commission has taken into account the costs of its proposed regulations in order to ensure that the benefits of its regulations outweigh the costs.

Timetable:

Action	Date	FR Cite
ANPRM	06/09/97	63 FR 31375
Notice of Public Meetings	06/19/97	62 FR 33379
NPRM	11/00/97	

Small Entities Affected:
Undetermined

Government Levels Affected:
Undetermined

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CFTC

FINAL RULE STAGE

163. PROHIBITION ON VOTING BY INTERESTED MEMBERS

Priority:
Other Significant

Legal Authority:
7 USC 7a(a)(17)

CFR Citation:
17 CFR 1.69

Legal Deadline:
None

Abstract:
The regulation will implement the provisions of section 217 of the Futures Trading Practices Act of 1992, which require contract markets to adopt rules to avoid conflicts of interest in deliberations and voting by members of the governing board and disciplinary and other oversight committees. The rulemaking will define the relationships between a named party in interest and a member of the governing board or committee that would require abstention from deliberations and voting. The rulemaking will also provide guidelines on situations that would require a member to abstain from voting on a significant action because of a substantial financial interest in the outcome of the vote, based on positions held personally or at an affiliated firm, as well as on other matters addressed by the statute. The action potentially impacts the selection and composition of contract market governing boards and committees.

Statement of Need:
This rulemaking will further the regulatory objective of oversight of contract markets so as to assure that the markets remain open, competitive, and efficient.

Alternatives:
These rules are required by statutory mandate set forth in the Futures Trading Practices Act of 1992. The Commission intends to pursue this rulemaking to achieve rules that will fulfill this statutory mandate in a cost-effective manner.

Anticipated Costs and Benefits:
As a financial regulator, the Commission is acutely aware of the costs of regulation. Throughout its history, the Commission has taken into account the costs of its proposed regulations in order to ensure that the benefits of its regulations outweigh the costs. To date, we know of no Commission regulation that adversely affected small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. 601-611 (1988).

Timetable:

Action	Date	FR Cite
NPRM	05/03/96	61 FR 19969
NPRM Comment Period End	07/02/96	
Final Action	12/00/97	

Small Entities Affected:
None

Government Levels Affected:
None

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BILLING CODE 6351-01-F

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

Statement of Regulatory Priorities

The U.S. Consumer Product Safety Commission is charged with protecting the public from unreasonable risks of death and injury associated with consumer products. To achieve this goal, the Commission:

- Participates in the development or revision of voluntary product safety standards;
- Develops mandatory product safety standards or banning rules when other, less restrictive efforts are inadequate to address a safety hazard;
- Obtains repair, replacement, or refund of the purchase price for defective products that present a substantial product hazard; and
- Develops information and education campaigns about the safety of consumer products.

When deciding which of these approaches to take in any specific case, the Commission gathers the best available data about the nature and extent of the hazard presented by the product. The Commission then analyzes this information to determine the best way to reduce the hazard in each case. The Commission's rules require the Commission to consider, among other factors, the following criteria when deciding the level of priority for any particular project:

- Frequency and severity of injury;
- Causality of injury;
- Chronic illness and future injuries;
- Cost and benefit of Commission action;
- Unforeseen nature of the risk;
- Vulnerability of the population at risk; and
- Probability of exposure to the hazard.

Additionally, if the Commission proposes a mandatory safety standard for a particular product, the Commission is generally required to make statutory cost-benefit findings and adopt the least burdensome requirements that adequately protect the public.

The Commission's statutory authority requires it to rely on voluntary standards rather than mandatory standards whenever a voluntary standard is likely to result in the elimination or adequate reduction of the risk of injury and it is likely that there will be substantial compliance with the voluntary standard. As a result, much of the Commission's work involves cooperative efforts with other participants in the voluntary standard-setting process rather than promulgating mandatory standards.

In fiscal year 1998, the Commission's significant rulemaking activities will involve development of options to address risks of fire associated with upholstered furniture; issuance of performance requirements for bicycle helmets as directed by the Children's Bicycle Helmet Safety Act of 1994; and development of a proposed standard for multi-purpose lighters to make those products resist operation by young children. These projects are described in detail below.

All of the rulemaking proceedings in the Commission's 1998 regulatory plan are related to protection of vulnerable populations. Upholstered furniture fires kill and injure children, the elderly, and families and individuals with lower incomes disproportionately to the representation of these persons in the population. With regard to issuance of a standard for bicycle helmets, children are more likely than older riders to suffer head injuries in accidents associated with bicycles. The Commission's proposed standard for bicycle helmets, which Congress directed the Commission to develop, includes a requirement to help prevent the helmet from coming off the rider's head in an accident and other provisions that are applicable to the safety of helmets intended for children. Finally, with regard to multi-purpose lighters, children younger than 5 years of age usually are incapable of dealing with a fire once it has started. Consequently, they and their families are at special risk of injury from fires started by children playing with multi-purpose lighters. Most fatalities from the fires resulting from children playing with multi-purpose lighters reported to the Commission were the children who started the fires.

The emphasis on these rulemaking activities in the Commission's 1997 regulatory plan is consistent with the Commission's statutory mandate and its criteria for setting priorities. Additionally, the Commission's 1997 regulatory plan supports the President's goal to reduce costs of health care by preventing injuries to individuals who are among the most likely to be injured in accidents associated with the use of consumer products.

CPSC

PROPOSED RULE STAGE

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164. FLAMMABILITY STANDARD FOR UPHOLSTERED FURNITURE

Priority:

Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

15 USC 1193 Flammable Fabrics Act

CFR Citation:

16 CFR 1640

Legal Deadline:

None

Abstract:

On June 15, 1994, the Commission published an advance notice of proposed rulemaking (ANPRM) to begin a proceeding for development of a flammability standard to address risks of death, injury, and property damage from fires associated with ignition of upholstered furniture by small open-flame sources, such as matches, lighters, or candles. This ANPRM was issued after the Commission granted part of a petition requesting development of a mandatory flammability standard to address risks of injury from ignition of upholstered furniture by (1) small open-flame sources; (2) large open-flame sources; and (3) cigarettes. The Commission voted to deny that part of the petition requesting development of a mandatory standard to address hazards associated with ignition of upholstered furniture by large open-flame sources. The Commission also voted to defer a decision on that part of the petition requesting development of a standard to address cigarette ignition, and directed the staff to report to the Commission on the effectiveness of, and the extent of industry compliance with, a voluntary program to reduce risks of ignition of upholstered furniture by cigarettes. The Commission staff is now conducting technical research to develop a draft standard to address ignition of upholstered furniture by small open-flame sources. In 1997, the staff is scheduled to brief the Commission on its findings and will present alternatives for future action by the Commission.

Statement of Need:

In 1994, approximately 680 deaths, more than 1,780 injuries, and $240 million in property damage resulted from all residential fires in the United States in which upholstered furniture was the first item to ignite.

The total societal cost attributable to upholstered furniture fires was approximately $3.9 billion in 1994. A significant portion of that total -- $1 billion was associated with upholstered furniture fires ignited by open-flame sources. Most of the losses from upholstered furniture fires ignited by open-flame sources involved fires started by small open-flame sources, such as matches, lighters, or candles. These fires are not addressed by any national standard or voluntary program.

Summary of the Legal Basis:

Section 4 of the Flammable Fabrics Act (FFA) (15 USC 1193) authorizes the Commission to issue a flammability standard or other regulation for a product of interior furnishing if the Commission determines that such a standard is "needed to adequately protect the public against unreasonable risk of the occurrence of fire leading to death or personal injury, or significant property damage." No aspect of the Commission's regulatory proceeding is required by statute or court order.

The Commission's regulatory proceeding could lead to several results, one of which could be a mandatory standard requiring that upholstered furniture sold in the United States meet mandatory labeling requirements, or resist ignition from open-flame sources, or meet other performance criteria under test conditions specified in the standard.

Alternatives:

The ANPRM stated that the Commission was considering the following alternatives: (1) The Commission could issue a mandatory flammability standard if the Commission finds that a standard is needed to address an unreasonable risk of the occurrence of fire from ignition of upholstered furniture by small open-flame sources. (2) The Commission could issue mandatory requirements for labeling of upholstered furniture, in addition to, or as an alternative, to the requirements of a mandatory flammability standard. (3) The Commission could terminate the proceeding for development of a flammability standard and rely on a voluntary standard if a voluntary standard could adequately address the risk of fire and substantial compliance with such a standard is likely to result. (4) The Commission could terminate the proceeding and withdraw the ANPRM.

Anticipated Costs and Benefits:

The estimated annual cost of imposing a mandatory standard to address ignition of upholstered furniture by small open-flame sources will depend upon the test requirements imposed by the standard and the steps manufacturers take to meet those requirements. The average annual societal cost of fires involving upholstered furniture ignited by small open-flame sources since 1990 is more than $600 million. For this reason, the potential benefits of a mandatory standard to address the risk of ignition of upholstered furniture by small open-flame sources could be significant, even if the standard did not prevent all such fires started by open-flame sources.

Risks:

The estimated total cost to society from all residential fires associated with upholstered furniture was $3.9 billion in 1994. Societal costs associated with upholstered furniture fires are among the highest associated with any product subject to the Commission's authority. A voluntary or mandatory standard may have the potential to reduce significantly that portion of societal costs resulting from upholstered furniture fires ignited by small open-flame sources.

Timetable:

Action	Date	FR Cite
ANPRM	06/15/94	59 FR 30735
ANPRM Comment Period End	08/15/94	
Staff Briefing of Commission on NPRM	10/00/97	

Small Entities Affected:

Undetermined

Government Levels Affected:

Undetermined

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CPSC

165. REQUIREMENTS FOR CHILD-RESISTANCE OF MULTI-PURPOSE LIGHTERS

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

5 USC 553 Administrative Procedure Act; 15 USC 2051 Consumer Product Safety Act

CFR Citation:

Not yet determined

Legal Deadline:

None

Abstract:

On January 16, 1997, the Commission published an advance notice of proposed rulemaking (ANPRM) to begin a proceeding which may result in a mandatory rule requiring multi-purpose lighters to resist operation by children. The Commission began this proceeding after granting a petition from Judy L. Carr. A mandatory product safety rule for multi-purpose lighters could take the form of an amendment of the Safety Standard for Cigarette Lighters (16 CFR part 1210) to bring multi-purpose lighters within its scope, or could be issued as a separate safety standard for multi-purpose lighters. The cigarette lighter standard requires lighters subject to its provisions to have a child-resistant mechanism to prevent operation by most children younger than five years of age. At this time, that standard applies to disposable and novelty lighters used to ignite cigarettes, cigars, and pipes, but not to multi-purpose lighters used to ignite fuel for fireplaces or charcoal or gas-fueled grills. The staff is preparing a briefing package for consideration by the Commission when deciding whether to continue this proceeding by publication of a notice of proposed rulemaking (NPRM). That briefing package will include a discussion of comments received in response to the ANPRM; the staff's analysis of issues raised by those comments; and other information developed by the staff. The staff is scheduled to transmit a briefing package to the Commission in February 1998.

Statement of Need:

When the safety standard for cigarette lighters was issued in 1993, multi-purpose lighters were excluded from its requirements because the Commission lacked information to establish that

multi-purpose lighters were associated with an unreasonable risk of injury from fires set by children playing with such lighters. However, since issuance of the cigarette lighter standard, the Commission staff has obtained information about 53 incidents occurring between January 1988 through October 1996 in which children younger than five years of age started fires using multi-purpose lighters. These fires resulted in 10 deaths and 24 injuries. Children younger than five years of age usually are incapable of dealing with a fire once it has started. Consequently, they and their families are at special risk of injury from fires started by child-play. Almost all of the fatalities in the fires resulting from children playing with multi-purpose lighters were the children who started the fires. At least three of the 24 persons injured in fires started by children with multi-purpose lighters were hospitalized for treatment. One 15-month-old infant was treated for second and third degree burns over 80 percent of his body after his three-year-old brother used a multi-purpose lighter to ignite the playpen in which the infant was sleeping. Fires started by young children playing with multi-purpose lighters are not addressed by any voluntary standard or other voluntary program.

Summary of the Legal Basis:

Sections 7 and 9 of the Consumer Product Safety Act (CPSA) authorize the Commission to issue a consumer product safety standard to eliminate or reduce an unreasonable risk of injury associated with a consumer product. No aspect of this proceeding is required by statute or court order.

Alternatives:

This proceeding could result in the establishment of requirements for multi-purpose lighters to reduce risks of death and injury associated with fires ignited by multi-purpose lighters operated by young children. The ANPRM discussed the following alternatives: (1) Establishment of a mandatory standard with performance requirements for multi-purpose lighters to reduce risks of death and injury from fires ignited by multi-purpose lighters operated by young children; (2) Establishment of mandatory labeling requirements to warn of the risks of death and injury associated with fires ignited by multi-purpose lighters operated by young children, either instead of, or in addition to, a mandatory standard with performance requirements. (3) Development of a voluntary standard containing performance, labeling, or other requirements to address risks of death and injury associated with fires ignited by multi-purpose lighters operated by young children. (4) The Commission could terminate the proceeding and and withdraw the ANPRM.

Anticipated Costs and Benefits:

The estimated cost to society in 1995 of fires started by children playing with multi-purpose lighters was approximately $10.3 million. The staff is developing additional data needed to estimate the potential benefits of a mandatory standard to require multi-purpose lighters to be child-resistant. The Commission staff plans to test multi-purpose lighters currently on the market using the protocol in the Safety Standard for Cigarette Lighters. The results of this testing will establish the extent to which those lighters are child-resistant. This information is needed to estimate the potential benefits of any standard. The estimated costs of a mandatory standard for multi-purpose lighters will depend on the requirements imposed by the standard and the steps manufacturers take to meet those requirements.

Risks:

The Commission has information indicating that from January 1988 through October 1996, children younger than five years of age started about 53 fires using multi-purpose lighters. These fires resulted in 10 deaths and 24 injuries. Based on information about fires started in 1995 by children playing with multi-purpose lighters, the Commission staff estimates that the total cost to society of those fires was about $10.3 million. The estimated societal costs of fires resulting from children playing with multi-purpose lighters during 1996 and 1997 is expected to be greater because of an apparent increase in the number of incidents. This increase may be related, in part, to increased sales of multi-purpose lighters, which are expected to continue. A voluntary or mandatory standard for multi-purpose lighters may have the potential to reduce these societal costs.

Timetable:

Action	Date	FR Cite
ANPRM	01/16/97	62 FR 2327
ANPRM Comment Period End	03/17/97	
Staff Briefing Package on NPRM	02/00/98	

Small Entities Affected:

Undetermined

Government Levels Affected:

Undetermined

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CPSC

FINAL RULE STAGE

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166. SAFETY STANDARD FOR BICYCLE HELMETS

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

5 USC 553 Administrative Procedure Act; 15 USC 6004 Children's Bicycle Helmet Safety Act of 1994

CFR Citation:

16 CFR 1203

Legal Deadline:

NPRM, Statutory, August 15, 1994.

Abstract:

The Children's Bicycle Helmet Safety Act of 1994 directs the Commission to begin a proceeding to issue a safety standard for bicycle helmets. That legislation also directs the Commission to designate appropriate existing standards for bicycle helmets as interim safety standards.

On August 15, 1994, the Commission published a notice of proposed rulemaking (NPRM) to begin a proceeding for issuance of safety standard for bicycle helmets. The proposed standard included impact-attenuation requirements, and other requirements derived from existing voluntary standards for bicycle helmets. The proposed standard also contained requirements to help prevent helmets from coming off the rider's head during an accident, and other provisions specifically applicable to helmets intended for children.

In March 1995, the Commission designated the following standards as interim safety standards for bicycle helmets: (1) American National Standards Institute (ANSI) standard Z90.4-1984, Protective Headgear for Bicyclists; (2) ASTM (The American Society for Testing and Materials) standards F 1447-93 or F 1447-94, Standard Specification for Protective Headgear Used in Bicycling, incorporating relevant provisions of ASTM F 1446-93 or F 1446-94, Standard Test Methods for Evaluating the Performance Characteristics of Protective Headgear; (3) Canadian Standard Association standard for Cycling Helmets, CAN/CSA- D113.2-M89; (4) Snell Memorial Foundation (Snell) 1990 Standard for Protective Headgear for Use in Bicycling (designated B-90); (5) Snell 1990 Standard for Protective Headgear for Use in Bicycling, including March 9, 1994 Supplement (designated B-90S); (6) Snell 1994 Standard for Protective Headgear for Use in Non-Motorized Sports (designated N-94); (7) Snell 1995 Standard for Protective Headgear for Use With Bicycles (designated B-95). Bicycle helmets manufactured after March 16, 1995, must conform with the requirements of one of these interim standards until the Commission issues a final standard for bicycle helmets.

After the staff evaluated public comments on the proposed standard and conducted additional research, the Commission revised the proposed safety standard for bicycle helmets. The Commission published the revised proposal for public comment on December 6, 1995. The staff has considered comments on the revised proposed standard and is completing the work needed to issue final standard. In November 1997 the staff is scheduled to transmit a briefing package to the Commission concerning issuance of final standard.

Statement of Need:

The Commission estimates that on average, one-half million injuries associated with bicycles are treated in hospital emergency rooms each year in the United States. Additionally, an average of about 1,000 fatalities associated with bicycles occur each year according to the National Safety Council. A study of bicycle use and hazard patterns conducted by the Commission in 1993 indicated that almost one-third of the injuries associated with bicycles involved the head. Information available to the Commission indicated that in recent years, almost two-thirds of all deaths associated with bicycles involved head injuries.

Younger children are particularly at risk of head injury. The Commission's study showed that one-half of the bicycle-related injuries to children younger than 10 years of age involved the head, whereas the head was involved in only about one-fifth of the bicycle-related injuries to older children.

Summary of the Legal Basis:

The Children's Bicycle Helmet Safety Act of 1994 (section 205 of P. L. 103-267, 108 Stat. 722, June 16, 1994) directs the Commission to begin a proceeding under provisions of section 553 of the Administrative Procedure Act (5 USC 553) to develop a standard for bicycle helmets. That legislation provides further that the standard shall include a provision to protect against the risk of a helmet coming off a rider's head and provisions to address risks of bicycle-related injuries to children.

The bicycle-helmet legislation also requires that bicycle helmets manufactured after March 15, 1995, must conform to one of three voluntary standards specified by that legislation or to "any other standard that the Commission determines is appropriate" until the Commission issues a final safety standard for bicycle helmets. On March 23, 1995, the Commission published a notice in the Federal Register to designate and codify seven existing standards as interim safety standards for bicycle helmets. Those standards are listed above in the Abstract.

Alternatives:

The Children's Bicycle Helmet Safety Act requires the Commission to review the requirements of the interim standards and to establish a final mandatory standard based on those requirements. Accordingly, the Commission cannot consider deferring to an existing voluntary standard or developing a new voluntary standard.

In the Federal Register of August 15, 1994, the Commission published a proposed safety standard for bicycle helmets. The proposed standard included an impact protection test, chin strap strength and effectiveness tests, and construction and labeling requirements. In the Federal Register of December 6, 1995, the Commission published a revised proposed safety standard for bicycle helmets to solicit written comments on the revised proposal.

Anticipated Costs and Benefits:

After the final standard becomes effective, helmet manufacturers may incur costs to redesign helmets to meet the requirements of the standard. However, costs of redesign would be amortized over the course of production and are expected to be small on a per-unit basis. Costs of testing to support certificates of compliance with the final standard are not expected to increase because the vast majority of helmet manufacturers now use third-party certification programs for conformance to one of the interim standards. Similarly, most helmet manufacturers currently label their products. If manufacturers are given sufficient lead time for any changes to labels required by the final standard, any additional costs associated with labeling required by the final standard are expected to be minimal.

The anticipated benefits of the standard are helmets, which if worn properly are less likely to come off the head in an accident; helmets which provide adequate coverage of critical areas of the head; and helmets which provide protection more suitable to younger children. These benefits could lead to a reduction in the number of deaths and serious head injuries from accidents associated with bicycles. Consumer confusion over differing standards would also be reduced by the creation of a single, uniform standard for bicycle helmets.

Risks:

Information available to the Commission indicates that almost 200,000 head injuries each year are associated with bicycles, and that 500 to 600 deaths each year result from those head injuries. Many of those deaths and injuries are to children younger than 10 years of age. The standard could prevent a portion of those deaths and injuries.

Timetable:

Action	Date	FR Cite
NPRM	08/15/94	59 FR 41719
NPRM Comment Period End	10/31/94	
Designation of Interim Standards	03/23/95	60 FR 15231
Revised NPRM	12/06/95	60 FR 62662
NPRM Comment Period End	02/20/96	60 FR 62662
Staff Sends Briefing Package to Commission	11/00/97	
Commission Decision	12/00/97	

Small Entities Affected:

None

Government Levels Affected:

None

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BILLING CODE 6355-01-F

FEDERAL HOUSING FINANCE BOARD (FHFB)

Statement of Regulatory and Deregulatory Priorities

The Federal Housing Finance Board (Finance Board) is an independent agency that is statutorily charged with supervising and regulating the Nation's Federal Home Loan Bank (FHLBank) System. The FHLBank System consists of 12 regional FHLBanks that are each owned by their member financial institutions and that provide wholesale credit to members and certain nonmembers to be used for mortgage lending and related activities. The FHLBank System also includes the Office of Finance, which issues FHLBank System consolidated obligations. The Finance Board is required to prepare the following regulatory plan pursuant to section 4 of Executive Order 12866.

As always, the Finance Board's highest regulatory priorities during the coming year are to ensure the safety and soundness of the FHLBank System and to ensure that the FHLBanks fulfill their housing finance and community development mission. In addition, during 1997-98 the Finance Board plans to continue its "Governance Project," whereby the Agency has been devolving to the FHLBanks authority over matters of corporate governance, to the extent that such devolution is permitted by statute and does not impair the ability of the Finance Board to carry out its regulatory responsibilities. To further these priorities, the Agency plans two significant regulatory actions in the coming year: One involving the Financial Management Policy for the FHLBanks (FMP) and the other involving the election of FHLBank directors. These prospective regulatory actions are in harmony with the regulatory philosophy and principles set forth by the President in Executive Order 12866 in that they are either necessary for the Agency to carry out effectively its statutory role as safety and soundness regulator of the FHLBank System or are intended to establish guidelines under which certain authorities may be devolved from the Agency to the FHLBanks.

During 1997-98, the Finance Board plans to revise its FMP, which governs the FHLBanks' investments and other aspects of their financial management, and to codify its contents into one or more regulations (RIN 3069-AA50). As part of its safety and soundness responsibilities, the Finance Board intends to address control of interest rate risk assumed by the FHLBanks in the regulation. As part of its effort to ensure that the FHLBanks fulfill their statutory mission, the Finance Board also plans to structure the regulation to encourage the FHLBanks to focus their balance sheets away from investments that are not related to housing finance and community development to a combination of advances and other assets that are mission-related.

As part of the Finance Board's Governance Project, the Agency intends to transfer to the FHLBanks the authority to determine the eligibility of prospective and incumbent directors and to administer the process through which FHLBank directors are elected (RIN 3069-AA55). The Finance Board will retain its responsibility to select all appointive FHLBank directors. The Agency hopes to complete its Governance Project during the coming year by devolving several remaining "second tier" governance authorities through a series of smaller regulatory initiatives.

In addition to these regulatory initiatives, the Finance Board has been working and will continue to work with members of Congress and their staffs to refine and promote pending FHLBank System reform legislation. This legislation, if enacted, would allow the Finance Board to devolve further governance authorities to the FHLBanks, would correct several technical and structural anomalies in the Bank Act, and would position the FHLBank System to operate at maximum efficiency and effectiveness in the financial world of the 21st century.

FHFB

PROPOSED RULE STAGE

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167. FEDERAL HOME LOAN BANK FINANCIAL MANAGEMENT

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

12 USC 1422b(a); 12 USC 1431; 12 USC 1436(a)

CFR Citation:

12 CFR Not yet determined

Legal Deadline:

None

Abstract:

The Finance Board will revise its Financial Management Policy (FMP) for the Federal Home Loan Bank System and will codify it as a regulation.

Statement of Need:

In December 1993, the Finance Board adopted the FMP to provide guidance to and establish limits for the FHLBanks in their implementation of financial programs and strategies. The Finance Board will be amending the policy to more thoroughly address FHLBanks' assumption of interest rate risk and to direct FHLBank funds toward investments that are more closely related to their housing finance mission. For the first time, the Finance Board will be promulgating the FMP as a regulation.

Summary of the Legal Basis:

Sections 11(h) and 16(a) of the Federal Home Loan Bank Act (Bank Act) authorize the FHLBanks to make certain types of investments. Section 11 generally authorizes the FHLBanks to seek various sources of funding for their operations. Section 2B(a) of the Bank Act authorizes the Finance Board to supervise the FHLBanks and to promulgate such regulations as are necessary to carry out the provisions of the Act.

Alternatives:

The Finance Board is considering various alternative methods for controlling FHLBank interest rate risk and encouraging investment in mission-related assets. In addition, the agency will consider all alternatives suggested by the public during the notice and comment process.

Anticipated Costs and Benefits:

The Finance Board anticipates that the new FMP provisions may result in slightly lower investment income for the FHLBanks to the extent that the interest rate risk controls and mission-related investment requirements may narrow the range of high-income assets in which the FHLBanks may invest. However, these costs will be counterbalanced by FHLBanks' assumption of less interest rate risk and by the FHLBanks' greater support for the mortgage markets. The regulation would not otherwise impose any direct financial costs upon the FHLBanks or their member institutions.

Risks:

Although FHLBank interest rate risk is already well-managed under the current FMP, the proposed regulation will

attempt to further minimize such risk by incorporating state-of-the-art models and methods for monitoring and controlling the risk. The Finance Board is considering whether there are any circumstances under which there should be reserve requirements against interest rate risk exposure. Because the regulation is in its preliminary stages of preparation, the agency cannot now quantify the amount by which such risk will be reduced.

Timetable:

Action	Date	FR Cite
Proposed Statement of Policy	03/19/97	62 FR 13146
Comment Period End	04/18/97	
NPRM	02/00/98	
NPRM Comment Period End	04/00/98	

Small Entities Affected:

None

Government Levels Affected:

None

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RIN: 3069–AA50

FHFB

168. ELECTION OF FEDERAL HOME LOAN BANK DIRECTORS

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

12 USC 1422b(a); 12 USC 1427

CFR Citation:

12 CFR 932

Legal Deadline:

None

Abstract:

The Finance Board is considering amending its regulation on the election and appointment of FHLBank directors to address procedural issues that have arisen since the adoption of the regulation and to set guidelines for the operation of the election process by the FHLBanks themselves.

Statement of Need:

Since its inception in 1989, the Finance Board has determined the eligibility of prospective and incumbent elective and appointive FHLBank directors and has administered the FHLBank director election and appointment processes. The Finance Board believes that the FHLBanks should have broad discretion to manage their affairs, including the election of FHLBank directors. Accordingly, as part of the Agency's continuing effort to devolve corporate management and governance responsibilities to the FHLBanks, the Agency intends to transfer to the FHLBanks the authority to determine the eligibility of prospective and incumbent directors and to administer the director election process. The Finance Board will retain the authority to select all appointive FHLBank directors.

Summary of the Legal Basis:

Section 2B(a)(1) of the Federal Home Loan Bank Act (Bank Act) authorizes the Finance Board to promulgate regulations necessary to carry out the provisions of the Act. Section 7 of the Bank Act sets forth the eligibility criteria for FHLBank directors and governs the director election process.

Alternatives:

In deciding whether to publish proposed amendments to the regulations governing the election of FHLBank directors, the Finance Board considered and rejected the possibility of retaining responsibility for the determination of director eligibility and the administration of the election process. In addition, the Finance Board will consider all alternatives suggested by the public during the notice-and-comment process.

Anticipated Costs and Benefits:

At this time it is not possible to quantify the expected costs and benefits of the amendments to the regulations governing the election of FHLBank directors. In general, the Finance Board expects the amendments to increase slightly the operating costs of the FHLBanks, who will now have the responsibility for the administration of their own director election processes. However, the Agency expects that the amendments will result in greater efficiency in each FHLBank's election process.

Risks:

The amendments to the regulations governing the election of FHLBank directors do not address issues of financial or other risk to the FHLBanks.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	02/00/98	

Small Entities Affected:

None

Government Levels Affected:

None

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BILLING CODE 6725-01-F

FEDERAL MARITIME COMMISSION (FMC)

Statement of Regulatory and Deregulatory Priorities

The Federal Maritime Commission's (Commission) regulatory objectives are guided by the agency's basic mission. The Commission's mission is to administer the shipping statutes as effectively as possible to provide an efficient, economic, and nondiscriminatory ocean transportation system in an environment free of unfair foreign maritime trade practices. Commission regulations are designed to implement each of the various statutes the agency administers in a manner consistent with this mission and in a way that minimizes regulatory costs, fosters economic efficiencies, and promotes international harmony.

Proposed legislation pending in Congress could alter significantly the regulatory scheme regarding ocean commerce. This same legislation could also affect the continued existence of the Commission. The Commission will be monitoring this legislation closely as it obviously would affect the Agency's regulatory planning and priorities, and depending on the effective date(s) of its provisions, could require regulatory action during the coming year. If enacted in its current proposed version, this legislation will require review and rewrite of many of the Commission's substantive regulations. Until any such legislation is enacted and an implementation schedule is determinable, the principal objective or priority of the Agency's current regulatory plan will be to continue to assess its major existing regulations for continuing need, effectiveness, burden on the regulated industry, fairness, and clarity.

The Commission continues to have under review, inter alia, regulations regarding passenger vessel operator financial responsibility and co-loading arrangements between non-vessel-operating common carriers. The Commission's review of existing regulations exemplifies its objective to regulate fairly and effectively while imposing a minimum burden on the regulated entities, following the principles stated by the President in Executive Order 12866.

Description of the Most Significant Regulatory Actions

The Commission currently has no actions under consideration that constitute "significant regulatory actions" under the definition in Executive Order 12866.

BILLING CODE 6730-01-F

FEDERAL TRADE COMMISSION (FTC)

Statement of Regulatory Priorities

Regulatory Priorities

Background

The Federal Trade Commission (FTC or Commission) is an independent agency charged with protecting American consumers from "unfair methods of competition" and "unfair or deceptive acts or practices" in the marketplace. The Commission strives to ensure that consumers benefit from a vigorously competitive marketplace. The Commission's work is rooted in a belief that free markets work—that competition among producers and information in the hands of consumers brings the best products at the lowest prices for consumers, spurs efficiency and innovation, and strengthens the economy. The Commission is, first and foremost, a law enforcement agency.

The Commission pursues its goal of promoting competition in the marketplace through two different, but complementary, approaches. First, for competition to thrive, curbing deception and fraud is critical. Through its consumer protection activities, the Commission seeks to ensure that consumers receive accurate, not false or misleading, information in the marketplace. At the same time, for consumers to have a choice of products and services at competitive prices and quality, the marketplace must be free from anticompetitive business practices. Thus, the second part of the Commission's basic mission—antitrust enforcement—is to prohibit anticompetitive mergers or other anticompetitive business practices without interfering with the legitimate activities of businesses. These two complementary parts of its mission make the Commission the Nation's only Federal agency to be given this combination of statutory authority to protect consumers.

The Commission pursues its mandate primarily through case-by-case enforcement of the Federal Trade Commission Act and other statutes. The Commission, however, is also charged with the responsibility of issuing and enforcing regulations under a number of statutes. In addition, under the FTC Act, the Commission currently has in place 15 trade regulation rules. The Commission also has adopted a number of voluntary industry guides. Most of the regulations and guides pertain to consumer protection matters, and are generally intended to ensure that consumers receive the information necessary to evaluate competing products and make informed purchasing decisions.

Ten-Year Review Program

In 1992, the Commission implemented a 10-year review program to review its rules and guides. The Commission's review program is patterned after provisions in the Regulatory Flexibility Act. Under the Commission's program, however, rules are reviewed at least every 10 years, not just once as usually required by section 610 of the Regulatory Flexibility Act. 5 U.S.C. 601 et seq. Thus, this program provides the Commission with an ongoing systematic approach for seeking information about the costs and benefits of its rules and guides and whether there are changes that could minimize any adverse economic effects, not just a "significant economic impact upon a substantial number of small entities."

As part of the 10-year plan, the Commission examines the effect of rules and guides on small businesses and on the marketplace in general. These reviews often lead to the reform of rules and guides to ensure that the Commission's consumer protection and competition goals are achieved efficiently and at the least cost to business. In a number of instances, the Commission has determined that existing rules and guides were no longer necessary or in the public interest. As a result of the review program, the Commission has repealed 42 percent of its trade regulation rules and 42 percent of its guides since 1992. The Commission accelerated the process in 1995, and as a result, repealed more than 28 percent of its industry guides and more than 38 percent of its trade regulation rules since 1995. The Commission believes that its systematic review program will ensure that all of its rules and guides remain necessary and in the public interest.

Calendar Year 1997 Reviews

CY 1997 reviews, discussed below, are part of the Commission's 10-year plan to review and seek information about all of its regulations and guides, their costs and benefits, and their regulatory and economic impact. These reviews may also address other matters or issues, such as review of the impact of a rule on small businesses, as required by the Regulatory Flexibility Act.

In 1997, the Commission initiated reviews of four trade regulation and three statutory rules: (1) Dry Cell Batteries Rule, 16 CFR part 403; (2) Negative Option Plans Rule, 16 CFR part 425; (3) Power Output Claims for Amplifiers Rule, 16 CFR part 432; (4) Ophthalmic Practices Rules, 16 CFR part 456; (5) Informal Dispute Settlement Procedures under Magnuson-Moss Warranty Act, 16 CFR part 703; (6) Hobby Protection Act Rules, 16 CFR part 304; and (7) 900-Number Rule, 16 CFR part 308. See 61 FR 68173 (December 27, 1996). The 900-Number Rule has been included in the 1997 review schedule because the terms of the Rule itself require the Commission to begin its review during 1997. See 16 CFR 308.9.

All of these rules pertain to consumer protection matters and are intended to ensure that consumers receive the information necessary to evaluate competing products and make informed purchasing decisions. For example, the Ophthalmic Practices Rule requires that optometrists and ophthalmologists provide their patients with a copy of the patients' eyeglass prescriptions immediately after an eye exam is completed and at no extra cost. The Rule also prohibits optometrists and ophthalmologists from conditioning the availability of an eye exam on a requirement that patients agree to buy their ophthalmic goods from the optometrist or ophthalmologist. The Rule further prohibits optometrists or ophthalmologists from giving patients certain disclaimers or waivers of liability. See 62 FR 15865 (April 3, 1997).

The Commission reviews its rules to determine, among other things, the continuing need for each rule, possible conflicts between each rule and State, local, and other Federal laws, and the effect on each rule of any technological, economic, or other industry changes. For example, the Commission has proposed the repeal of one trade regulation rule, the Dry Cell Battery Rule, as no longer being necessary due to established industry practices and the existence of a national industry standard which contains notification requirements regarding dry cell batteries. See 62 FR 14049 (March 25, 1997).

In two other instances, the Commission is considering whether rules should be expanded to protect consumer interests. In the 900-Number Rule review, the Commission has requested comments on whether the Rule should cover audio information or audio entertainment services provided through dialing patterns other than 900 numbers. See 62 FR 11750 (March 12, 1997). In reviewing the Amplifier Rule, the Commission noted a tentative determination that the Rule applies to self-powered speakers for use with home computers and home sound systems, as well as other amplification equipment for home computers, but asked for comments on whether such products should be outside the Rule's scope. The Commission also requested comments from the public on whether the Rule's provision should be extended to automobile sound systems and whether existing testing and disclosure requirements need to be modified for use with automotive sound amplification. See 62 FR 16500 (April 7, 1997).

NAFTA Related Reviews

Where possible, the Commission also is attempting to harmonize various regulations among the United States, Canada, and Mexico, the North American Free Trade Agreement (NAFTA) countries. For example, the Commission is currently reviewing the Wool Products Rule, 16 CFR part 300; the Fur Products Rule, 16 CFR part 301; and the Textile Identification Rule, 16 CFR part 303, in part to determine the feasibility of a system of shared information for manufacturer, importer, or other responsible company identification among the NAFTA countries that would streamline and promote harmonization of labeling requirements.

In connection with its review of the Care Labeling Rule, 16 CFR part 423, the Commission published a Conditional Exemption with request for public comments. See 62 FR 5724 (February 6, 1997). The Conditional Exemption, which became effective on July 1, 1997, allows the use of the symbol system developed by the American Society for Testing and Materials on care labels. The symbols, which show consumers how to safely launder or clean their clothing, will be permitted on care labels so long as the manufacturers include with the garments a written explanation of what the symbols mean for the first 18 months they are in use. In granting the industry permission to use symbols on care labels instead of written words, the FTC pledged to coordinate a national campaign to help consumers in the transition to symbols by making sure they have easy access to additional descriptive information regarding how to care for their clothing.

Ongoing Reviews

The Commission began a number of reviews in 1996, some of which have been partially completed. For example, in 1996 the Commission completed the regulatory review of the R-Value Rule, 16 CFR part 460. See 61 FR 13659 (March 28, 1996). The Rule is designed to assist consumers in evaluating and comparing the thermal performance characteristics of competing home insulation products. In response to a request for comments, staff received strong support for retaining the Rule; 30 of 31 commenters expressing a continuing need for the regulation. Staff is now preparing a report on whether the Commission should propose substantive changes, such as whether the Rule should impose additional requirements on manufacturers or installers to help ensure that the R-Values disclosed to consumers are accurate and based on uniform standards.

The Commission is hosting six public workshops in five cities during CY 1997 to promote its review of the Franchise Rule, 16 CFR part 436. The Commission will provide additional information and seek additional comments on issues relating to how prospective franchisees can evaluate their investment decisions. Specifically, the Commission has requested comments on whether it should revise the Rule to more closely align Federal and State disclosure requirements governing franchise sales, and to address changes in the marketing of franchises, such as the sale of franchises internationally and through the Internet. See 62 FR 9115 (February 28, 1997).

The Commission continues its review of two warranty-related rules and one warranty-related interpretation. The Rule Governing Disclosure of Written Consumer Product Warranty Terms and Conditions, 16 CFR part 701, establishes requirements disclosing the terms and conditions of written warranties on certain consumer products. The Rule Governing the Pre-Sale Availability of Written Warranty Terms, 16 CFR part 702, establishes certain requirements for sellers and warrantors for making the terms of a written warranty available to the consumer prior to sale. At the same time, the Commission also sought comments on Interpretations of the Magnuson-Moss Warranty Act, 16 CFR part 700, See 61 FR 14888 (April 3, 1996). In 1997, the Commission began review of another warranty-related rule, the Informal Dispute Settlement Procedures Rule, 16 CFR part 703, which sets out requirements governing informal dispute settlement mechanisms established by manufacturers to resolve disputes between warrantors and consumers. See 62 FR 15636 (April 2, 1997).

Rescissions of Rules and Guides and Amendments to Guides

The Commission has recently repealed two rules, finding that both were no longer necessary or in the public interest. In October 1996, the Commission repealed the Used Oil Rule, noting that the Recycled Oil Rule, 16 CFR part 311, preempted certain provisions of the Used Oil Rule and that repeal of the Rule wold eliminate unnecessary duplication and any inconsistency with the goals of the Energy Policy and Conservation Act (EPCA), which required promulgation of the Recycled Oil Rule. See 61 FR 55095 (October 24, 1996). In December 1996, the Commission rescinded the Games of Chance Rule, noting that the abuses that prompted adoption of the Rule have largely disappeared and that changes in industry practice have made the Rule outdated. See 61 FR 68143 (December 27, 1996).

In connection with its review of industry guides, the Commission has repealed the Mirror Guides, 16 CFR part 21, and has revised both the Jewelry Guides, 16 CFR part 23, and the Environmental Guides, 16 CFR part 260. In connection with the Environmental Guides, the Commission also has requested additional comments.

The Commission repealed the Mirror Guides in 1996, stating that the mirror industry has undergone significant technological changes and industry standards have been promulgated that govern the quality and durability of glass suitable in mirrors. See 61 FR 59181 (November 21, 1996). The Commission revised section 7 of the Jewelry Guides regarding platinum products to simplify that section and to bring its guidance into closer accord with international standards. See 62 FR 16669 (April 8, 1997). The Commission also modified the Environmental Guides to ensure that the guides continue to reflect current technology and changing consumer perception, and to address newer environmental claims in the marketplace.

In each case that the Commission has decided to retain a guide, industry members and other members of the public have expressed a continuing need for the guide. For example, in the review of the Environmental Guides, the general consensus among commenters was that the guides benefit both consumers and industry. Also, many industry members commented generally on the dificulties that differing State standards for environmental marketing claims can pose to marketers and voiced strong opposition to changing the guides

in any way that would undermine the important State support the guides are now receiving. The few commenters who dissented indicated that they would prefer an environmental trade regulation rule instead of a guide because a rule would have the force of law and preempt State laws regulating the use of environmental advertising claims. See 61 FR 53311 (October 11, 1996).

The Commission also received broad support for retaining its Vocational Schools Guides, 16 CFR part 254, which provide guidance about acceptable or unacceptable claims in advertisements or promotional materials for resident or correspondence courses or training or instruction programs by private career or vocational schools. The Commission has preliminarily determined to retain the Guides to prohibit deceptive claims about future employment or job placement success. See 61 FR 14685 (April 3, 1996); 62 FR 19703 (April 23, 1997).

CY 1998

The Commission expects to initiate review of two rules, one exemption, and two industry guides in 1998. The rules presently scheduled for review in 1998 are the Hart-Scott-Rodino Coverage Rules and the Hart-Scott-Rodino Transmittal Rules, 16 CFR parts 801 and 802. The Commission will also review the Hart-Scott-Rodino Exemption Rules, 16 CFR part 802. The guides scheduled for review in 1998 are the Used Auto Parts Industry Guides, 16 CFR part 20, and the Decorative Wall Paneling Guides, 16 CFR part 243.

Summary

With regard to both content and process, the FTC's ongoing and proposed regulatory actions are compatible with the President's priorities. The actions under consideration inform and protect consumers and reduce the regulatory burden on business. The Commission will continue working toward these goals. The Commission's efforts in 1997 also share to promote environmental protection, conserve energy resources, and foster a system of shared information consistent with NAFTA. The Commission's 10-year review program is patterned after provisions in the Regulatory Flexibility Act and complies with the Small Business Regulatory Enforcement Fairness Act of 1996. The Commission's 10-year program also is consistent with President Clinton's National Regulatory Reinvention Initiative, which, among other things, urges agencies to eliminate obsolete or unnecessary regulations. The program corresponds as well to section 5(a) of Executive Order 12866, 58 FR 51735 (Sept. 30, 1993), which directs executive branch agencies to develop a plan to reevaluate periodically all of their significant existing regulations.

As set forth in Executive Order 12866, the Commission continues to identify and weigh the costs and benefits of proposed actions and possible alternative actions and receive the broadest practicable array of comments from affected consumers, businesses, and the public at large. As stated above, since August 1995 the Commission has repealed more than 28 percent of its industry guides and more than 38 percent of its trade regulation rules that were in existence in 1992 because they had ceased to serve a useful purpose. In sum, the Commission's regulatory actions are aimed at efficiently and fairly promoting the ability of "private markets to protect or improve the health and safety of the public, the environment, or the well-being of the American people." Executive Order 12866, section 1.

II. Regulatory Actions

The Commission has no actions that constitute "significant regulatory actions" under the definition in Executive Order 12866.

BILLING CODE 6750-01-F

NATIONAL INDIAN GAMING COMMISSION (NIGC)

Statement of Regulatory Priorities

The Indian Gaming Regulatory Act (IGRA or the Act), 25 U.S.C. 2701 et seq., was signed into law on October 17, 1988. The Act established the National Indian Gaming Commission (NIGC or the Commission). The stated purpose of the Commission is to regulate the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments. It is the Commission's intention to provide regulation of Indian gaming to adequately shield it from organized crime and other corrupting influences, to ensure that the Indian tribe is the primary beneficiary of the gaming operation, and to assure that gaming is conducted fairly and honestly by both the operator and players.

The NIGC's regulatory priorities for the next fiscal year are to:

1. Use the rulemaking process to consider amending the National Indian Gaming Commission's definition regulations located at 25 CFR 500-599. These regulations define key terms in the Indian Gaming Regulatory Act of 1988. The regulations are intended to provide guidance to tribes, their attorneys, enforcement personnel, and others interested in Indian gaming. The Commission will invite the public to comment and assist the NIGC in determining the need, if any, for additional rules governing this area.

2. Amend the schedule of annual fees to be paid to the Commission by gaming operations. The NIGC is attempting to lift the current statutory fee cap in order to effectively meet its regulatory obligations. If the statutory fee cap is lifted, it will be necessary to amend the fee schedule regulations to be consistent with the statute.

3. Develop regulations to establish processes for the classification review and approval of games and devices used in tribal gaming.

NIGC

PRERULE STAGE

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169. • DEFINITIONS OF ELECTRONIC AID AND ELECTRONIC FACSIMILE

Priority:

Other Significant

Legal Authority:

25 USC 2706

CFR Citation:

25 CFR 502 (Revision)

Legal Deadline:

None

Abstract:

The Commission will use the rulemaking process to request public comment designed to assist the NIGC in its evaluation of the decision to amend its current definition of electronic aid and electronic facsimile. Specifically, the Commission seeks input on the effectiveness of the current regulations in distinguishing between a Class II aid and a Class III facsimile, as well as suggestions for amendments.

Statement of Need:

After consideration of this issue, the NIGC has determined that the appropriate course of action is to publish an Advance Notice of Proposed Rulemaking to collect further information. Concurrently with the collection of this information, the Agency will enforce existing regulations. The issue of how best to amend the current definition regulations, if at all, is a question with implications for tribal governments, State governments, and other Federal officials. Before the Commission proceeds in this area, it intends to have the benefit of a full airing of the issues through the public comment process.

Summary of the Legal Basis:

The IGRA expressly authorizes the Commission to "promulgate such regulations and guidelines as it deems appropriate to implement the provisions of this (Act)"(25 USC section 2706(b)(10))." On April 9, 1992, the Commission published final rules (57 FR 12392) defining key statutory terms, including "electronic, computer or other technologic aid" and "electronic or electromechanical facsimile." These current definitions can be found at 25 CFR sections 502.7 and 25 CFR 502.8. Because of confusion arising within the regulated community, the Commission is considering amending its regulations to provide better guidance regarding the distinction between a Class II "aid" and a Class III "facsimile."

IGRA was enacted to establish a comprehensive system for regulating gambling activities on Indian lands. IGRA divides gaming into three categories or classes. Class I gaming consists of social gaming for minimal prizes and traditional gaming and is regulated exclusively by the tribes (25 USC sections 2703(6) and 2710(a)(1)). Class II gaming consists of bingo, pull-tabs, bingo-like games, and non-banking card games (i.e., games such as poker that are played against other players, rather than against the house)(25 USC 2703(7)(A)). A tribe may conduct, license, and regulate Class II gaming if: (1) the State in which the tribe is located permits such gaming for any purpose by any person, organization, or entity and (2) the governing body of the tribe adopts a gaming ordinance which is approved by the Chairman of the National Indian Gaming Commission (25 USC 2710(a)(2) and (b)).

All forms of gaming not included in either Class I or Class II, such as banking card games (e.g., blackjack), casino games, slot machines, and electronic facsimiles of any game of chance are designated as Class III gaming under the IGRA (25 USC 2703(8)). Class III gaming may lawfully be conducted by an Indian tribe if: (1) the State in which the tribe is located permits such gaming for any purpose by any person, organization, or entity; (2) the tribe and the State have negotiated a tribal-State compact which has been approved by the Secretary of the Interior; and (3) the tribe has adopted a gaming ordinance which has been approved by the Chairman of the Commission (25 USC 2710(d)(1)).

Alternatives:

The Commission could choose not to amend the current definition regulations and continue to use the existing ones. The Commission is keeping this option available by using an Advance Notice of Proposed Rulemaking to seek comment on whether the existing regulations are sufficient.

Anticipated Costs and Benefits:

The anticipated costs of implementing this regulatory action are minimal. The potential benefits are to gain a better understanding of the classification of games under IGRA and the jurisdictional roles of Federal, State, and tribal governments.

Risks:

There are no determined risks to this regulatory action.

Timetable:

Action	Date	FR Cite
ANPRM	09/02/97	62 FR 46227

Action	Date	FR Cite
ANPRM Comment Period End	11/03/97	

Small Entities Affected:

Undetermined

Government Levels Affected:

State, Tribal

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NIGC

PROPOSED RULE STAGE

170. GAME CLASSIFICATION

Priority:

Other Significant

Legal Authority:

25 USC 2703; 25 USC 2706

CFR Citation:

Not yet determined

Legal Deadline:

None

Abstract:

This rule will establish processes for the classification, review, and approval of games and devices used in tribal gaming.

Statement of Need:

Over the course of the past couple of years, the NIGC has received numerous requests for advisory opinions on the classification of a particular game or device. The Commission has through an informal process issued several advisory opinions. However, given the growing number of requests and the need for some degree of predictability and certainty in the industry regarding the classification of games or devices, the Commission believes it is necessary to develop a formal process. Consequently, the Commission will use the rulemaking process to promulgate regulations in this area.

Summary of the Legal Basis:

The Indian Gaming Regulatory Act specifically defines both Class II and Class III gaming (25 USC section 2703). The Act also expressly authorizes the Commission to "promulgate such regulations and guidelines as it deems appropriate to implement the provisions of this Act (25 USC section 2706 (b)(10))." The Commission relies on these sections of the statute to authorize the development by regulation of a process of formal classification of particular games and devices.

Alternatives:

At this time, the only identified alternative is to continue with the informal process of issuing advisory opinions regarding particular games.

Anticipated Costs and Benefits:

The potential benefits to this regulatory action are to bring more clarity and predictability to the industry regarding classification. Those engaged in Indian gaming need to have some degree of certainty regarding the legal consequences of playing a particular game. For those tribes without tribal-State compacts, the need is even greater to know with as much certainty as possible the classification of a particular game or device. The anticipated costs of implementing a classification system are unknown at this time.

Risks:

The only identifiable risk at this time is the ability to pay for a formal classification process. The Commission is trying to expand its budget by lifting the statutory fee cap. These actions may be connected because without an increase in funding, it is highly unlikely that the Commission could afford to develop a formal classification system.

Timetable:

Action	Date	FR Cite
NPRM	07/00/98	

Small Entities Affected:

Undetermined

Government Levels Affected:

State, Tribal

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RIN: 3141–AA12

NIGC

171. • ANNUAL FEES

Priority:

Other Significant

Legal Authority:

25 USC 2706; 25 USC 2708; 25 USC 2710; 25 USC 2717; 25 USC 2717(a)

CFR Citation:

25 CFR 514 (Revision)

Legal Deadline:

None

Abstract:

The NIGC is attempting to lift the current statutory fee cap in order to effectively meet its regulatory obligations. If the statutory fee cap is lifted, it will be necessary to amend the fee schedule regulations to be consistent with the statute.

Statement of Need:

In order to effectively meet the Commission's regulatory obligations it is necessary to increase the Commission's budget. The Commission has legislation pending, which if passed by Congress will allow the Commission to collect fees from Class II and Class III gaming operations.

Summary of the Legal Basis:

Included in the Commission's jurisdiction is regulating Class II gaming on Indian lands. The current annual fee regulations of the Commission are located at 25 CFR 514.1 and provide for a system of fee assessment and payment that is self-administered by the Class II gaming operations. Pursuant to those regulations, the Commission is required to adopt and communicate assessment rates. The gaming operations are then required to apply those rates to their revenues, compute the fees to be paid, and report and remit the fees to the Commission on a quarterly basis. The current regulations mirror the statute and place a limit of $1,500,000. The Commission is attempting to amend the statute to lift the current fee cap in order to effectively meet its regulatory commitments. If the statutory fee cap is lifted during this session of Congress, it will be necessary to immediately amend the regulations to make them consistent with the statute.

Alternatives:

The alternative is to leave the annual fees regulations unchanged. If Congress does not pass legislation to lift the statutory fee cap, then this alternative will be utilized.

Anticipated Costs and Benefits:

The benefits of this regulatory action will be the much needed increase of the Commission's current budget. This increase will allow the Commission to more effectively regulate Indian gaming. The anticipated costs to the agency are minimal because the fees are self-administered and the infrastructure needed to process the receipt of fees already exists.

Risks:

No risks have been identified at this time.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	

Small Entities Affected:

None

Government Levels Affected:

Tribal

Agency Contact:

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RIN: 3141–AA18

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NUCLEAR REGULATORY COMMISSION (NRC)

Statement of Regulatory Priorities

Under the authority of the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended, the Nuclear Regulatory Commission (NRC) regulates the possession and use of source, byproduct, and special nuclear material. The NRC's regulatory mission is to ensure that civilian uses of nuclear materials and facilities are carried out in a manner that will protect public health and safety and the environment and that will not be inimical to the common defense and security of the United States. The NRC regulates the operation of nuclear power plants and fuel cycle plants; the safeguarding of nuclear materials from theft and sabotage; the safe transportation of nuclear materials; the decommissioning and return to safe use of licensed facilities that are no longer in operation; and the medical, industrial, and research applications of nuclear material.

The NRC's regulatory priority for the next fiscal year is to ensure that nuclear power plants and other licensed facilities are operated safely and that nuclear materials are possessed and used in a manner that will adequately protect public health and safety.

The NRC is addressing its regulatory initiatives in a manner that is consistent with the President's regulatory philosophy. The NRC routinely conducts comprehensive regulatory analyses that examine the costs and benefits of contemplated regulations as part of its regulatory process. The NRC has been aggressive and innovative in expanding the scope of public and industry participation in its most significant rulemakings. For example, the NRC has conducted several public workshops and established an electronic bulletin board to facilitate participation in the rulemaking to establish radiological criteria for decommissioning. The NRC has also developed internal procedures and programs to ensure that only necessary requirements are imposed on its licensees and to review existing regulations to determine whether the requirements imposed are still necessary.

NRC

PROPOSED RULE STAGE

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172. • REVISION OF FEE SCHEDULES; 100% FEE RECOVERY, FY 1998

Priority:

Economically Significant. Major under 5 USC 801.

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 2201; 42 USC 5841

CFR Citation:

10 CFR 170; 10 CFR 171

Legal Deadline:

Other, Statutory, September 30, 1998.

Omnibus Budget Reconciliation Act of 1990

Abstract:

The proposed rule would amend the licensing, inspection and annual fees charged to NRC licensees and applicants for an NRC license. The amendments are necessary to recover approximately 100 percent of the NRC budget authority for Fiscal Year 1998 less the amounts appropriated from the Nuclear Waste Fund and the General Fund. The Omnibus Budget Reconciliation Act of 1990, as amended,(OBRA-90) requires that the NRC accomplish the 100 percent recovery through the assessment of fees. The dollar amount is not yet determined but is expected to be in a range close to $462 million. The Act requires that the fees for FY 1998 must be collected by September 30, 1998. Therefore, the final rule is to become effective by June 30, 1998.

Statement of Need:

This rulemaking would amend the licensing, inspection, and annual fees charged to NRC licensees and applicants for an NRC license. The amendments are necessary to recover approximately 100 percent of the NRC budget authority for Fiscal Year 1998 less the amounts appropriated from the Nuclear Waste Fund and the General Fund. The OBRA-90 requires that the NRC accomplish the 100 percent recovery through the assessment of fees. The NRC assesses two types of fees to recover its budget authority. License and inspection fees are assessed under the authority of the Independent Offices Appropriation Act to recover the costs of providing individually identifiable services to specific applicants and licensees (10 CFR part 170). OBRA-90 requires that the NRC recover the full cost to the NRC of all identifiable regulatory services that each applicant or licensee receives. The NRC recovers generic and other regulatory costs not recovered from fees imposed under 10 CFR part 170 through the assessment of annual fees under the authority of OBRA-90 (10 CFR part 171). Annual fee charges are consistent with the guidance in the Conference Committee Report on OBRA-90 that the NRC assess the annual charge under the principle that licensees who require the greatest expenditure of the agency's resources should pay the greatest annual fee.

Summary of the Legal Basis:

The Omnibus Budget Reconciliation Act of 1990, as amended, requires that the NRC recover approximately 100 percent of its budget authority, less the amount appropriated from the Nuclear Waste Fund, for Fiscal Years 1991 through 1998. The Act requires that the fees for FY 1998 must be collected by September 30, 1998. Therefore, the final rule is to become effective by June 30, 1998.

Alternatives:

Because this action is mandated by statute and the fees must be assessed through rulemaking, the NRC did not consider alternatives to this action.

Anticipated Costs and Benefits:

The cost to NRC licensees is the NRC FY 1998 budget authority less the amount appropriated from the Nuclear Waste Fund. The dollar amount is not yet determined but is expected to be in a range close to $462 million.

Risks:

Not applicable.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	
Final Action	04/00/98	

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

None

Agency Contact:

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Wednesday
October 29, 1997

Part III

Department of Agriculture

Semiannual Regulatory Agenda

DEPARTMENT OF AGRICULTURE (USDA)

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Subtitle A, Chs. I-VII, IX-XII, XIV-XVIII, XXI, XXIV-XXIX

9 CFR Chs. I-IV

36 CFR Ch. II

41 CFR Ch. 4

Semiannual Regulatory Agenda, October 1997

AGENCY: Office of the Secretary, USDA.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda provides summary descriptions of significant and non-significant regulations being developed in agencies of the U.S. Department of Agriculture (USDA) in conformance with Executive Order 12866 "Regulatory Planning and Review." The agenda also describes regulations affecting small entities as required by section 602 of the Regulatory Flexibility Act, Public Law 96-354.

USDA has attempted to list all regulations and regulatory reviews pending at the time of publication except for minor and routine or repetitive actions, but some may have been inadvertently missed. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the date shown.

FOR FURTHER INFORMATION CONTACT: For further information on any specific entry shown in this agenda, please contact the person listed for that action. Requests for copies of the agenda should include a self-addressed, stamped envelope and be directed to: Regulatory Agenda, OBPA, Office of the Secretary, Room 116-E, Jamie Whitten Building, U.S. Department of Agriculture, Washington, DC 20250, (202) 720-1272.

SUPPLEMENTARY INFORMATION: For this edition of USDA's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

Dated: August 25, 1997.

Marvin J. Shapiro,

Chief, Legislative, Regulatory, and Automated Systems Division.

Agricultural Marketing Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
173	National Organic Program (Section 610 Review)	0581-AA40
174	National Laboratory Accreditation Program	0581-AB42
175	Federal Meat Grading and Certification Services—1997 User Fees	0581-AB44
176	Kiwifruit Research, Promotion, and Consumer Information Order	0581-AB46
177	Federal Milk Order Consolidation and Reform	0581-AB49

Agricultural Marketing Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
178	Popcorn Promotion, Research, and Consumer Information Order	0581-AB45
179	Dairy Products; Grading and Inspection, Fee Increase	0581-AB50

Agricultural Marketing Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
180	Revision of Regulations Governing the Inspection and Grading Services of Manufactured or Processed Dairy Products	0581-AA45
181	Revision of Part 46.46 Regulations Under the Perishable Agricultural Commodities Act; Trust Provisions	0581-AB47

Agricultural Marketing Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
182	Perishable Agricultural Commodities, License Fee	0581-AB48

USDA

Farm Service Agency—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
183	Subordination of Direct Loan Basic Security to Secure a Guaranteed Loan	0560-AE92
184	1998-Crop Marketing Quotas and Price Support Levels for Eight Kinds of Tobacco	0560-AF20
185	Lender Buyback of Repurchased Guaranteed Loans	0560-AF21

Farm Service Agency—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
186	Amendment to the Cotton Warehouse Regulations Regarding the Definition of "Unnecessary Delay"	0560-AF13
187	Amendment to the Farm Reconstitution Regulations	0560-AF16
188	Tree Assistance Program for 1997	0560-AF17
189	1998-Crop Marketing Quota and Price Support Level for Burley Tobacco	0560-AF18

Farm Service Agency—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
190	Program Ineligibility for Noncompliance With Boll Weevil Eradication Program	0560-AD57
191	Sugar and Crystalline Fructose Information and Recordkeeping Requirements	0560-AD88
192	Amendment to the Warehouse Regulations Regarding Auction Tobacco Warehouses	0560-AD92
193	Farmer Programs Guaranteed Interest Assistance Program	0560-AE01
194	Farmer Credit Program Account Servicing Policies for Section 1816 and Other Related Sections for the "1990 FACT Act"	0560-AE02
195	Implement Section 1818 (Borrower Training) of the Food, Agriculture, Conservation, and Trade Act of 1990 (FACT Act)	0560-AE04
196	Guaranteed Loan Programs; Monitoring Liquid Accounts	0560-AE05
197	Implementation of Certified Lender Program	0560-AE07
198	Insured and Guaranteed Operating and Farm Ownership Loan and Related Instructions To Implement Sections 4, 5, 7, 8, 9, and 19 of the Agricultural Credit Improvement Act of 1992	0560-AE09
199	Loans to Indian Tribes and Tribal Corporations	0560-AE10
200	Section 14 of the Agricultural Credit Improvement Act of 1992, (Graduation) and Sections 1819 (Loan Assessment) and 1821 (Market Placement) of the "FACT Act"	0560-AE11
201	The Agricultural Credit Improvement Act of 1992	0560-AE13
202	Implement Sections 11 and 13 of the Agriculture Credit Improvement Act 1993 (Application Processing Timeframe)	0560-AE14
203	Acquisition and Management of Real and Chattel Property	0560-AE15
204	Small Farmer Outreach Training and Technical Assistance Program	0560-AE17
205	Decision to Liquidate	0560-AE19
206	Disaster Assistance	0560-AE22
207	Revisions to the Direct Farm Ownership Loan Regulation (1943-A) Outreach Program for Members of Socially Disadvantaged Groups	0560-AE23
208	Socially Disadvantaged Outreach Program	0560-AE24
209	Part 1946 Mediation; Subpart A Agricultural Loan Mediation Program	0560-AE26
210	Amendment to Conservation Program Appeal Regulations Regarding Jurisdiction	0560-AE30
211	Selection and Functions of Farm Service Agency State and County Committees	0560-AE33
212	Permit FSA To Sell or Assign Farm Loan Mortgages and Notes	0560-AE35
213	Implementation Procedures for Highly Erodible Land and Wetlands Conservation Provisions of the Food Security Act	0560-AE38
214	Amendments to the Farmer Account Servicing Policies	0560-AE42
215	Amendments to the Standards for Approval of Warehouses for Commodity Credit Corporation Storage Contracts	0560-AE50
216	Deletion of FSA Regulations Regarding Colorado River Basin Salinity Control Program	0560-AE54
217	Amendment to the Conservation Reserve Program Regarding Early Contract Terminations	0560-AE56
218	Implementation of Five-Year Direct Line of Credit Program	0560-AE58
219	Amendments to the Regulations for Cotton Warehouses Under the United States Warehouse Act—Electronic Block Warehouse Receipts, Insurance Requirements, and Other Provisions	0560-AE60

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Farm Service Agency—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
220	Collection of Shared Appreciation Agreements	0560-AE61
221	Post-Bankruptcy Loan Servicing Notification	0560-AE62
222	Consolidate FSA Farm Credit Programs Regulations—Miscellaneous Program Requirements	0560-AE64
223	Consolidate FSA Farm Credit Programs Direct Loan Servicing Regulations—Management and Disposal of Acquired Property	0560-AE65
224	Consolidate FSA Farm Credit Program Direct Loan Servicing Regulations—Delinquent Account Restructuring and Liquidation	0560-AE66
225	Consolidate FSA Farm Credit Programs Direct Loan Servicing Regulations—Management Advice, Tax Servicing, Collection, and Security Servicing	0560-AE67
226	Eliminate Internal Agency Provisions From FSA Farm Credit Programs Regulations—Miscellaneous Program Requirements	0560-AE68
227	Eliminate Internal Administrative Provisions From FSA Farm Credit Program Regulations—Management and Disposal of Acquired Property	0560-AE69
228	Eliminate Internal Administrative Provisions From FSA Farm Credit Program Direct Loan Regulations—Delinquent Account Servicing and Liquidation	0560-AE70
229	Eliminate Internal Administrative Provisions From FSA Farm Credit Programs Direct Loan Servicing Regulations	0560-AE71
230	Elimination of Administrative Provisions From FSA Farm Credit Program Direct Loanmaking Regulations	0560-AE73
231	Consolidation of FSA Farm Credit Programs Direct Loanmaking Regulations	0560-AE74
232	Elimination of Administrative Provisions From FSA Farm Credit Programs Guaranteed Loanmaking Regulations	0560-AE75
233	Consolidation of FSA Farm Credit Programs Guaranteed Loanmaking Regulations	0560-AE76
234	Elimination of Administrative Provisions From FSA Regulations Pertaining to Farm Credit Programs Loan Rates, Funding, and Loan Authorities	0560-AE77
235	Consolidation of FSA Farm Credit Programs Regulations Pertaining to Loan Rates, Funding, and Loan Authorities	0560-AE78
236	Elimination of Administrative Provisions From FSA Farm Credit Programs Environmental Regulations	0560-AE79
237	Consolidation of Farm Service Agency Environmental Programs Regulations	0560-AE80
238	Suspension of the Emergency Livestock Assistance Regulations for Crop Years 1996 to 2002	0560-AE86
239	Revision to the Direct Loanmaking Regulations	0560-AE87
240	Revision of the Inventory Property Management Regulations	0560-AE88
241	Revisions to the Delinquent Account Servicing Regulations	0560-AE89
242	Direct Line of Credit Program	0560-AE90
243	Revision of Regulations Pertaining to Indian Tribes and Tribal Corporations	0560-AE91
244	Amendments to the Tobacco Marketing Quota Regulations	0560-AE96
245	Disaster Set-Aside Program	0560-AE98
246	Boll Weevil Eradication Loan Program	0560-AE99
247	1997-Crop Peanuts National Poundage Quota, National Average Loan Rates, and Minimum CCC Export-Edible Sales Price for Additional Peanuts	0560-AF01
248	Amendments To Update the Tobacco Program Regulations	0560-AF05
249	Amendments To Update the Peanut Program Regulations	0560-AF06
250	Amendments to the Regulations for Procurement of Processed Agricultural Commodities for Donation To Comply With the Maritime Security Act of 1996	0560-AF09
251	Amendments To Update Farm Program Payment Limitation and Disaster Regulations Under the National Performance Review	0560-AF10
252	Special Combinations of Flue-Cured Tobacco Allotments and Quotas	0560-AF14
253	Amendments to the Debt Settlement Policies and Procedures to Conform to the Debt Collection Improvement Act of 1996	0560-AF22

Farm Service Agency—Completed Actions

Sequence Number	Title	Regulation Identifier Number
254	Amendments to CCC Debt Settlement Regulations Regarding Waiver of Restriction on Program Eligibility and Collection of Judgments by Administrative Offset	0560-AD09
255	Conservation Environmental Programs Regulations Regarding Water Quality Incentives Project, Cost Share Provisions of the Emergency Conservation Program, and Other Revisions	0560-AD18
256	National Average Loan Rates for 1996-Crop Quota and Additional Peanuts and Minimum Commodity Credit Corporation (CCC) Export-Edible Sales Price for Additional Peanuts	0560-AE43
257	Amendment to the Peanut Poundage Quota Regulations	0560-AE82

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Farm Service Agency—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
258	Handling Payments From the Farm Service Agency to Delinquent Farm Credit Program Borrowers	0560-AE93
259	Sugar Loan Program Crop Year Definition	0560-AE94
260	1997-Crop Marketing Quota and Price Support Level for Flue-Cured Tobacco	0560-AF00
261	1997-Crop Marketing Quota and Price Support Level for Burley Tobacco	0560-AF02
262	1997-Crop Marketing Quotas and Price Support Level for Six Kinds of Tobacco	0560-AF03
263	Standards for Approval of Cold Storage Warehouses for Peanuts	0560-AF04
264	Amendments To Update Regulations for Various Commodity Warehouses	0560-AF07
265	Disaster Reserve Assistance Program	0560-AF11
266	1997 Cotton Eligibility Requirements for Marketing Assistance Loans and Loan Deficiency Payments	0560-AF12
267	Livestock Indemnity Program	0560-AF15

Animal and Plant Health Inspection Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
268	User Fees, Veterinary Diagnostics	0579-AA70
269	Phytosanitary Export Certification; Accreditation of Nongovernment Facilities	0579-AA75
270	Animal Welfare—Standards for Animal Auctions	0579-AA76
271	Humane Treatment of Dogs and Cats; Licensing and Consignment Requirements	0579-AA79
272	Plant Pest Regulations; Review of Current Provisions	0579-AA80
273	Importation of Logs, Lumber, and Other Unmanufactured Wood Articles	0579-AA82
274	Garbage; Inspection at Airports	0579-AA86
275	Veterinary Services Multi-Year User Fees	0579-AA87

Animal and Plant Health Inspection Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
276	Addition of Cervidae to the Regulations Concerning Tuberculosis in Livestock	0579-AA53
277	Animal Welfare—Standards for Marine Mammals	0579-AA59
278	Importation of Animals and Animal Products	0579-AA71
279	Humane Treatment of Dogs and Cats; Wire Flooring	0579-AA78
280	Karnal Bunt	0579-AA83
281	Interstate Movements of Imported Plants and Plant Parts	0579-AA85

Animal and Plant Health Inspection Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
282	Importation of Fruits and Vegetables	0579-AA58
283	Importation of Certain Embryos and Animal Semen	0579-AA63
284	HSTAIC Repair and Maintenance Fees	0579-AA69

Animal and Plant Health Inspection Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
285	Imported Seed and Screenings	0579-AA64
286	Definition of "Biological Products" and "Guidelines"	0579-AA65
287	In Vitro Tests for Serial Release	0579-AA66
288	Genetically Engineered Organisms; Simplification of Requirements and Procedures	0579-AA73

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Animal and Plant Health Inspection Service—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
289	Humane Treatment of Dogs and Cats; Tethering and Temperature Requirements	0579-AA74
290	User Fees—Agricultural Quarantine and Inspection Services	0579-AA81

Cooperative State Research, Education, and Extension Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
291	Agricultural Telecommunications Program Administrative Provisions	0524-AA12
292	Hispanic Education Partnership Grants Program; Administrative Provisions	0524-AA17
293	Community Food Projects Administrative Provisions	0524-AA19

Cooperative State Research, Education, and Extension Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
294	Higher Education Challenge Grants Program; Administrative Provisions	0524-AA02
295	1890 Institution Capacity Building Grants Program; Administrative Provisions	0524-AA03

Cooperative State Research, Education, and Extension Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
296	Higher Education Multicultural Scholars Program; Administrative Provisions	0524-AA09

Cooperative State Research, Education, and Extension Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
297	Small Business Innovation Research Program Administrative Provisions	0524-AA18

Rural Housing Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
298	Civil Rights Compliance Requirements—1901-E to 1940-D	0575-AA83
299	Community Programs Guaranteed Loans	0575-AB48
300	Accessibility of Existing Multi-Family Housing Complexes	0575-AC06
301	Direct Single Family Housing Loans and Grants	0575-AC11
302	Multi-Family Housing Reinvention	0575-AC13
303	Section 538 Guarantee Rural Rental Housing Program	0575-AC14
304	Community Facility Loans	0575-AC16

Rural Housing Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
305	Denying Credit to Applicants Delinquent on Any Federal Debt	0575-AA66

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Rural Housing Service—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
306	Rural Rental and Rural Cooperative Housing Loan Policies, Procedures, and Authorizations	0575-AB93
307	Reengineering and Reinvention of the Direct Section 502 and 504 Single Family Housing Program	0575-AB99
308	Community Facility Grants	0575-AC10
309	Servicing Community Programs Loans and Grants	0575-AC12
310	Section 515 Reform Regulations	0575-AC15

Rural Housing Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
311	Environmental Program Streamline Environmental Process	0575-AB98
312	Provide Information Regarding Lease Write-Off and Annual Lease Statements	0575-AC01
313	National Flood Insurance Regulations	0575-AC07

Rural Housing Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
314	Housing Preservation Grants for Replacement of Housing	0575-AB43
315	Environmental Program	0575-AB64
316	Security Servicing for Multiple-Family Housing Loans	0575-AB73
317	Community Facility Loans: Internal Revenue Service Taxpayers Identification Number	0575-AB77
318	Servicing Cases Where Unauthorized Loan or Other Financial Assistance Was Received—Multiple Family Housing	0575-AC02
319	Farm Labor Housing	0575-AC03
320	RD Instruction 1942-A, "Community Facility Loans"	0575-AC05
321	Management and Supervision of Multiple Family Housing Borrowers and Grant Recipients	0575-AC09

Federal Crop Insurance Corporation—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
322	General Administrative Regulations; High Risk Land Regulations	0563-AA98
323	General Administrative Regulations; Subpart V; Submission of Policies and Provisions of Policies and Rates of Premium	0563-AB15
324	General Administrative Regulations; Subpart N; Disaster Assistance Act of 1988	0563-AB20

Federal Crop Insurance Corporation—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
325	Common Crop Insurance Regulations; Canning and Processing Tomato Crop Insurance Provisions	0563-AA94
326	General Administrative Regulations; Subpart D; Application for Crop Insurance	0563-AB00
327	Group Risk Plan Crop Insurance Provisions; Part 407	0563-AB06

USDA

Federal Crop Insurance Corporation—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
328	Common Crop Insurance Regulations; Tobacco (Guaranteed Plan) Crop Insurance Provisions	0563-AA84
329	Common Crop Insurance Regulations; Peanut Crop Insurance Provisions	0563-AA85
330	Common Crop Insurance Regulations; Northern Potato Crop Insurance Provisions	0563-AA89
331	Common Crop Insurance Regulations; Rice, Fig, Almond, Raisin, Forage Production, Hybrid Sorghum Seed, Pear, Apple, Canning and Processing Sweet Corn, Dollar Plan Fresh Market Tomato,	0563-AB03
332	General Administrative Regulations; Subpart S; Regulations for Insurance Coverage by Written Agreement	0563-AB07
333	General Administrative Regulations; Subpart J; Appeal Procedure Regulations	0563-AB17
334	1998 Crop Year Coffee Crop Insurance Program for Puerto Rico	0563-AB33
335	1998 Crop Year Fruit Trees (Avocado, Oranges, Mango, Citron, Lemon) Insurance Program for Puerto Rico	0563-AB36
336	Common Crop Insurance Regulations; Sunflower Seed Crop Insurance Provisions	0563-AB42
337	Tobacco, Quota Plan Crop Insurance Regulations	0563-AB47
338	Popcorn Corn Insurance Regulations	0563-AB48
339	Federal Crop Insurance on Highly Erodible Land and Wetlands— Part 400	0563-AB59
340	Federal Crop Insurance on Highly Erodible Land and Wetlands— Part 401	0563-AB60

Federal Crop Insurance Corporation—Completed Actions

Sequence Number	Title	Regulation Identifier Number
341	Common Crop Insurance Regulations; Onion Crop Insurance Provisions	0563-AA87
342	Common Crop Insurance Regulations; Sugarbeet Crop Insurance Provisions	0563-AA93
343	Common Crop Insurance Regulations; Fresh Market Tomato (Guaranteed Production) Crop Insurance Provisions	0563-AA95
344	General Administrative Regulations; Subpart U; Ineligible File— Crop Insurance Ineligibility	0563-AB01
345	General Administrative Regulations; Nonstandard Classification System; Subpart O	0563-AB05
346	General Administrative Regulations; Federal Jurisdiction and Statute of Limitation for Suits Based Upon Denial of Claims for Indemnity	0563-AB21
347	General Administrative Regulations; Actual Production History Coverage Program; Transitional Yields for Producers of Feed or Forage	0563-AB23
348	General Administrative Regulations: Subpart Q: Collection and Storage of Social Security Account Numbers and Employer Identification Numbers	0563-AB26
349	1996 Crop Year Plantain and Banana Insurance Program and Banana Crop Intensive Cultivation Insurance Program for Puerto Rico	0563-AB30
350	1996 Crop Year Coffee Plantation Insurance Program for Puerto Rico	0563-AB34
351	1996 Crop Year Fruit Crop (Avocado, Oranges, Mango, Citron, Lemon, Papaya, Passion) Insurance Program for Puerto Rico	0563-AB35
352	1996 Crop Year Sugarcane Insurance Program for Puerto Rico	0563-AB40
353	1996 Crop Year Vegetable Insurance Program for Puerto Rico	0563-AB41

Grain Inspection, Packers and Stockyards Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
354	Grain Inspection General Regulations	0580-AA53
355	General Regulations and Standards for Certain Agricultural Commodities	0580-AA54
356	Official/Unofficial Weighing Services	0580-AA55

Grain Inspection, Packers and Stockyards Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
357	Tolerances for Dividers	0580-AA57

USDA

Grain Inspection, Packers and Stockyards Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
358	Poultry Grower Contracts, Scales, Weighing	0580-AA51

Grain Inspection, Packers and Stockyards Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
359	Fees for Official Inspection and Official Weighing Services	0580-AA52
360	Fees for Official Inspection and Official Weighing Services	0580-AA56

Food and Consumer Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
361	WIC: Notice Announcing USDA's Decision To Retain the 6-Gram Sugar Limit for WIC Cereals	0584-AC59

Food and Consumer Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
362	Special Supplemental Food Program for Women, Infants, and Children (WIC): Food Delivery Systems Integrity (Reg Plan Seq. No. 1)	0584-AA80
363	Special Supplemental Food Program for Women, Infants, and Children (WIC): Miscellaneous Provisions	0584-AB10
364	Food Distribution Programs—Implementation of 1990 Farm Bill	0584-AB26
365	Commodity Supplemental Food Program: Elderly-Only Sites, Administrative Funding, Referrals to Health and Social Services, Caseload Allocation Process, Priority System, and Miscellaneous	0584-AB37
366	Provisions of Computer Matching and Privacy Protection Act of 1988, Amendments of 1990, and Implementation of the Disqualified Recipient Subsystem	0584-AB51
367	Elimination of Whole Cow's Milk from the Infant Meal Pattern	0584-AB81
368	Food Stamp Program: Food Stamp Recipient Claim Establishment and Collection Standards (Reg Plan Seq. No. 2)	0584-AB88
369	Food Stamp Program: Revisions to the Retail Food Store Definition and Program Authorization Guidance (Reg Plan Seq. No. 3)	0584-AB90
370	Food Stamp Program: Retailer Application Processing	0584-AC05
371	Summer Food Service Program: Program Meal Service During the School Year	0584-AC06
372	Amendment To Remove Formulated Grain—Fruit Product Section	0584-AC09
373	Consolidation of National School Lunch Program and School Breakfast Program Into Comprehensive School Meal Program	0584-AC10
374	FSP: Collection of Delinquent Retailer Debts: Administrative Offset	0584-AC11
375	Modification of the "Vegetable Protein Products" Portion of Appendix A of 7 CFR Parts 210, 225, and 226	0584-AC18
376	Release of Free and Reduced Price School Meal Eligibility Information	0584-AC21
377	Food Stamp Program: Welfare Reform and Regulatory Review of Program Management	0584-AC22
378	Improving Management and Program Integrity in the Child and Adult Care Food Program	0584-AC24
379	Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools: Provision 2 and Provision 3	0584-AC25
380	NSLP/SBP/SMP/FDP/CACFP/SFSP/WIC: Nonprocurement Debarment	0584-AC26
381	Food Stamp Program Regulatory Review: Certification of Eligible Households	0584-AC28
382	WIC: Bloodwork Requirements	0584-AC30
383	Part 240, Cash In Lieu of Donated Foods and Part 250, Food Distribution Regulations	0584-AC31
384	Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Infant Formula Cost Containment Requirements	0584-AC33
385	Nutrition Education and Training Program Requirements	0584-AC34
386	Food Stamp Program Regulatory Review: FSP Standards for Approval and Operation of Food Stamp Electronic Benefit Transfer Systems	0584-AC37
387	National School Lunch Program and School Breakfast Program: Additional Menu Planning Alternatives	0584-AC38

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Food and Consumer Service—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
388	FSP: Personal Responsibility Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Reg Plan Seq. No. 4)	0584-AC39
389	FSP: State Flexibility and Certification Provisions of Public Law 104-193 (Reg Plan Seq. No. 5)	0584-AC40
390	FSP: Nondiscretionary Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Reg Plan Seq. No. 6)	0584-AC41
391	Food Stamp Program: Simplified Food Stamp Program Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996	0584-AC43
392	Electronic Benefit Transfer (EBT) Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996	0584-AC44
393	Food Stamp Program: Work Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Reg Plan Seq. No. 7)	0584-AC45
394	Food Stamp Program: Retailer Integrity, Fraud Reduction and Penalties	0584-AC46
395	Regulatory Reform: Provisions Relating to Firms Participating in the Food Stamp Program	0584-AC48
396	Food Distribution Program: Regulatory Implementation of Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PL 104-193, 110 Stat 2105)	0584-AC49
397	Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Disqualification of WIC Vendors Who Are Disqualified From the Food Stamp Program	0584-AC50
398	Food Distributions Programs: Commodity Acceptability Report	0584-AC56

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Food and Consumer Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
399	Child and Adult Care Food Program: Authority To Collect Overclaims	0584-AB19
400	Food Distribution Programs—Paperwork Reduction	0584-AB27
401	Permanent Agreements/Direct Certification in National School Lunch, School Breakfast, and Special Milk Programs	0584-AB35
402	Food Stamp Program: 1995 Quality Control Technical Amendments	0584-AB38
403	Food Distribution Program on Indian Reservations—Oklahoma Waiver Authority	0584-AB56
404	Food Stamp Program: Anticipating Income and Reporting Changes	0584-AB57
405	Food Stamp Program: Payment of Certain Administrative Costs of State Agencies	0584-AB66
406	Food Distribution Program on Indian Reservations: Definition of Indian Tribal Household	0584-AB67
407	Food Stamp Program: Quality Control Provisions of the Mickey Leland Childhood Hunger Relief Act	0584-AB75
408	School Nutrition Programs: Technical and Nondiscretionary Amendments	0584-AC01
409	Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Implementation of WIC Mandates of the Healthy Meals for Healthy Americans Act of 1994	0584-AC02
410	Child and Adult Care Food Program: Child Nutrition and WIC Reauthorization Act of 1989 and Other Amendments	0584-AC07
411	Child and Adult Care Food Program: Child Nutrition and WIC Reauthorization Act Amendments and Healthy Meals for Healthy Americans Act of 1994	0584-AC20
412	Implementation of Legislative Reforms in the Summer Food Service Program	0584-AC23
413	Improved Targeting of Day Care Home Reimbursements in the Child and Adult Care Food Program (Reg Plan Seq. No. 8)	0584-AC42
414	Special Supplemental Nutrition Program for WIC: Implementation of WIC-Related Provisions of PL 104-193, Personal Responsibility and Work Opportunity Reconciliation Act of 1996	0584-AC51
415	Implementation of Legislative Changes in the Child and Adult Care Food Program	0584-AC52
416	WIC: Evaluation of WIC Program Infant Formula Rebate Contracts	0584-AC55
417	Food Stamp Program: Maximum Allotments for the 48 States and DC	0584-AC57
418	Food Stamp Program: Maximum Allotments for Alaska, Hawaii, Guam, and the Virgin Islands	0584-AC58

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

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Food and Consumer Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
419	Food Stamp Program: Emergency Assistance for Victims of Disasters	0584-AA85
420	Special Supplemental Food Program for Women, Infants, and Children (WIC): Food Cost Containment Requirements	0584-AB11
421	Special Supplemental Food Program for Women, Infants, and Children (WIC): Infant Formula Procurement Act of 1992	0584-AB52
422	WIC: Minor WIC Food Package Adjustments and Corrections	0584-AC29
423	Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Accommodation of Cultural Food Preferences in the WIC Program	0584-AC32
424	Revision of the Regulations Governing the Determination of Eligibility for Free and Reduced Price Meals and Free Milk in Schools	0584-AC36

Food and Consumer Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
425	FSP: Electronic Benefits Transfer Card Specifications	0584-AC27
426	Request for Information on Electronic Benefit Transfer (EBT) Interoperability	0584-AC47
427	Maximum Allotments for the 48 States and DC	0584-AC53
428	Maximum Allotments for Alaska, Hawaii, Guam, and the Virgin Islands	0584-AC54

Food Safety and Inspection Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
429	Use of Trisodium Phosphate (TSP) on Raw, Unchilled Poultry Carcasses	0583-AB80
430	Meat and Poultry Standards of Identity and Composition	0583-AC01
431	Grant and Inauguration of Inspection	0583-AC07
432	Beef or Pork With Barbecue Sauce; Revision of Standards	0583-AC09
433	Procedural Due Process for Official Establishments Rules of Practice	0583-AC12
434	Performance Standards for the Production of Certain Meat and Poultry Products With Established Standards of Identity	0583-AC18
435	Performance Standards for the Thermal Processing of Meat and Poultry Products	0583-AC19
436	Performance Standards for the Irradiation of Poultry To Control Foodborne Pathogens	0583-AC20
437	Performance Standards for the Handling, Chilling, and Freezing of Poultry	0583-AC21
438	Prevention of Physical or Chemical Contamination of Meat and Poultry Products or Product Ingredients	0583-AC22
439	Retained Water in Raw Meat and Poultry Products; Poultry Chilling Performance Standards	0583-AC26
440	Addition of Mexico to List of Countries Eligible To Export Poultry Products to the United States	0583-AC33
441	Rules of Practice (Reg Plan Seq. No. 9)	0583-AC34
442	Elimination of Requirements for Partial Quality Control Programs (Reg Plan Seq. No. 10)	0583-AC35
443	Elimination of Prior Approval Requirements for Proprietary Substances and Nonfood Compounds	0583-AC37
444	Sanitation Requirements for Official Meat and Poultry Establishments (Reg Plan Seq. No. 11)	0583-AC39

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Food Safety and Inspection Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
445	Requirements for Foreign Country Import Certification and Live Animal Importation	0583-AA47
446	Food Standards: Requirements for Processed Meat and Poultry Products Named by Use of an Expressed Nutrient Content Claim and a Standardized Term	0583-AB51
447	Nutrition Labeling: Health Claims on Meat and Poultry Products	0583-AB64
448	Performance Standards for Certain Meat Products and Poultry Products (Reg Plan Seq. No. 12)	0583-AB94
449	Continuous Chilling of Split Poultry Portions	0583-AB95

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Food Safety and Inspection Service—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
450	Use of Sorbitol in Cooked Roast Beef Products	0583-AC02
451	Nutrition Labeling; Reference Daily Intakes	0583-AC15
452	Use of a Blend of Carrageenan, Locust Bean Gum, and Xanthan Gum as a Binder Matrix in Water-Added Hams	0583-AC16
453	Use of Two Kinds of Poultry Without Label Change	0583-AC17
454	Use of Modified Food Starch in Ham With Natural Juices	0583-AC29
455	Performance Standards for the Production of Certain Meat and Poultry Products (Reg Plan Seq. No. 13)	0583-AC38

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Food Safety and Inspection Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
456	Substances Approved for Use in the Preparation of Meat Food and Poultry Products	0583-AB02
457	Nutrition Labeling of Ground Beef and Hamburger	0583-AB74
458	Nutrition Labeling; New Product Categories and Reference Amounts	0583-AB81
459	Use of Soy Protein Concentrate and Food Starch—Modified as Binders in Cured Pork Products	0583-AB82
460	Refrigeration and Labeling Requirements for Shell Eggs	0583-AC04
461	Transportation and Storage Requirements for Potentially Hazardous Foods	0583-AC05
462	Elimination of Prior Approval Requirements for Egg Product Plant Drawings, Specifications, and Equipment	0583-AC06
463	Labeling of Egg Products	0583-AC23
464	Performance Standard for Carcasses Cut into Primal Parts Within an Establishment	0583-AC27
465	Hazard Analysis and Critical Control Point (HACCP) Systems for Egg Products	0583-AC30
466	Generic E. coli Testing for Sheep, Goats, Ducks, Geese, and Guineas	0583-AC32

Food Safety and Inspection Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
467	FSIS Agenda for Change: Regulatory Review; Food Standards	0583-AB89
468	Elimination of Prior Approval Requirements for Establishment Drawings and Specifications, Facilities Equipment, and Certain Partial Quality Control Programs	0583-AB93
469	Glycerine Used as a Humectant in Shelf Stable Meat Snacks	0583-AC00
470	Use of Sodium Diacetate and Sodium Acetate as Flavoring Agents in Meat and Poultry Products	0583-AC11
471	Use of Liquid Nitrogen for Contact Freezing Meat and Meat Products	0583-AC14
472	Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems—Technical Corrections and Amendments	0583-AC28

Foreign Agricultural Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
473	Dairy Tariff Rate Import Quota Licensing	0551-AA27
474	Export Sales Reporting Requirement	0551-AA51

Foreign Agricultural Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
475	CCC Supplier Credit Guarantee Program	0551-AA30
476	Facility Guarantee Program	0551-AA35
477	Sugar Import Licensing	0551-AA39

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Foreign Agricultural Service—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
478	Regulation Governing the Financing of Commercial Sales of Agricultural Commodities (PL 480, Title I)	0551-AA42

Foreign Agricultural Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
479	Proposed Regulations Governing Implementation of the Cooperator Market Development Program Overseas	0551-AA26
480	Reform of Export Bonus Program	0551-AA41

Foreign Agricultural Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
481	Export Bonus Programs CCC Export Credit Guarantee Programs	0551-AA50

Forest Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
482	National Forest Prohibitions	0596-AA75
483	Small Tracts Act Regulations	0596-AA79
484	Timber Sale Performance and Payment Bond Form Revision	0596-AA94
485	Species Surplus to Domestic Manufacturing Needs	0596-AB27
486	Retention of Downpayment on Timber Sale Contracts	0596-AB28
487	National Forest System Land and Resource Management Planning Forest Service Manual Chapter 1920	0596-AB31
488	Collection of Reimbursable Costs for Processing Special-Use Applications and Administration of Special-Use Authorizations	0596-AB36
489	Appeal of Decisions Relating to Occupancy and Use of National Forest System Lands	0596-AB45
490	Sale and Disposal of National Forest System Timber; Extension of Timber Sale Contracts To Permit Urgent Removal of Other Timber	0596-AB48
491	Disposal of National Forest Timber: Timber Sale Contract Revisions	0596-AB52
492	National Environmental Policy Act; Revised Policy and Procedures; Categorical Exclusions	0596-AB54
493	Disposal of National Forest System Timber; Modification of Timber Sale Contracts in Extraordinary Conditions	0596-AB58
494	Appeal of Decisions Relating to Occupancy and Use of National Forest System Lands; Mediation of Grazing Permit Disputes	0596-AB59
495	Fee Schedule for Communications Facilities Authorized To Use and Occupy National Forest System Lands in Regions 8, 9, and 10	0596-AB60
496	Law Enforcement Support Activities	0596-AB61
497	Administrative, Cooperative Funds Agreements	0596-AB63
498	Smith River National Recreation Area	0596-AB64
499	Categorical Exclusion for Certain Ski Area Permit Actions	0596-AB65
500	NEPA Procedure for Emergency Actions	0596-AB66

Forest Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
501	Hydropower Applications	0596-AA47
502	Indian Allotments on National Forest System Lands	0596-AA52
503	State and Private Forestry Assistance Stewardship Incentive Program	0596-AB32
504	Special-Use Applications and Administration of Special-Use Authorizations	0596-AB36

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Forest Service—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
505	Sale and Disposal of National Forest Timber; Market-Related Contract Term Additions	0596-AB41
506	Preference for Visitor Service; Alaska National Forest Conservation System Units	0596-AB57
507	Small Business Timber Sale Set-Aside Program; Appeal Procedure on Recomputation of Shares	0596-AB62

Forest Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
508	National Forest System Land and Resource Management Planning	0596-AB20
509	Disposal of National Forest Timber; Cancellation of Timber Sale Contracts	0596-AB21

Forest Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
510	Isolated Cabin Policy	0596-AA85
511	Subsistence Management Regulations for Public Lands in Alaska	0596-AB56

Office of Chief Financial Officer—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
512	Administrative Requirements for Grantees To Reflect Single Audit Act Amendments	0505-AA10

Office of Chief Financial Officer—Completed Actions

Sequence Number	Title	Regulation Identifier Number
513	Audits of State, Local, and Indian Tribal Governments	0505-AA09

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
514	Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments	0503-AA16
515	Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations	0503-AA17

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
516	Supplemental Standards of Ethical Conduct for Employees of the Department of Agriculture	0503-AA05
517	Nondiscrimination in USDA-Conducted Programs and Activities	0503-AA15

USDA

Rural Business-Cooperative Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
518	Rural Business Opportunity Grants	0570-AA85
519	Rural Economic Development Loan and Grant Program	0570-AA19
520	National Sheep Industry Improvement Center	0570-AA21
521	Direct Business and Industry Loan Program	0570-AA22
522	Rural Venture Capital Demonstration Program	0570-AA25

Rural Business-Cooperative Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
523	Rural Business Enterprise Grants and Television Demonstration Grants	0570-AA06
524	Intermediary Relending Program Rewrite	0570-AA15

Rural Business-Cooperative Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
525	Rural Business and Industrial Loan Program Preferred Lender Program	0570-AA23
526	Affirmative Fair Housing Marketing Plan	0570-AA24

Rural Business-Cooperative Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
527	Rural Cooperative Development Grants	0570-AA20

Rural Utilities Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
528	Electric System Planning and Design—Policies and Procedures	0572-AA48
529	Electric Standards and Specifications for Materials and Construction	0572-AA67
530	Post-Loan Policies and Procedures Common to Insured and Guaranteed Electric Loans	0572-AA71
531	RUS Fidelity and Insurance Requirements for Electric and Telecommunications Borrowers	0572-AA86
532	Use of General Funds Investments, Loan Guarantees, and Retirement of Capital Credits by Electric Borrowers	0572-AB01
533	Environmental Policies and Procedures	0572-AB33
534	Telecommunications System Construction Policies and Procedures	0572-AB34
535	Special Equipment Contract (Including Installation)	0572-AB35
536	RUS Approval of Additions and Extensions to Electric Plants	0572-AB38

Rural Utilities Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
537	Electric Systems Operations and Maintenance	0572-AA74
538	Long-Range Financial Forecasts of Electric Borrowers	0572-AA89
539	General Information; Delegation of Authority	0572-AB37

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Rural Utilities Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
540	Loan Security Documents—Telecommunications Program	0572-AA30
541	Loan Account Computations, Policies, and Procedures	0572-AA65
542	Civil Rights Policies Applicable to RUS Borrowers	0572-AA75
543	Loan Documents—Bank Program	0572-AA76
544	Depreciation Rates and Procedures	0572-AA80
545	Preservation of Records Accounting Requirements for RUS Electric Borrowers	0572-AA92
546	RUS Approval of Sale of Capital Assets by Electric Borrowers	0572-AB02
547	Power Requirement Studies	0572-AB05
548	Community Facility Loans—Timber-Dependent Communities	0572-AB11
549	Liquidation of Loans and Acquisition, Management, and Disposal of Security Property	0572-AB13
550	Solid Waste Management Grants	0572-AB14
551	Technical Assistance and Training Grants	0572-AB15
552	Water and Waste Loan and Grant Servicing	0572-AB23

Rural Utilities Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
553	Wholesale Contracts for the Purchase and Sale of Electric Power and Energy	0572-AA41
554	Margin Stabilization Plans and Revenue and Expense Deferrals	0572-AA50
555	Loan Deferments for Energy Resources Conservation—Electric Program	0572-AB03
556	Streamlining the Rural Utilities Service's Water and Waste Program Regulations	0572-AB20
557	Establish Water and Waste Disposal Regulations Within the Rural Utilities Service	0572-AB21
558	Settlement of Debt Owed by Electric Borrowers	0572-AB26
559	RUS Privatization Demonstration Prepayment Program for the State of Alaska	0572-AB27
560	Distance Learning and Telemedicine Loan and Grant Program	0572-AB28
561	Rural Development Grants to States	0572-AB29
562	Rural Telephone Bank & Telecommunications Program Loan Policies, Types of Loans, and Loan Requirements	0572-AB32
563	Accounting Requirements for RUS Electric Borrowers	0572-AB36

Natural Resources Conservation Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
564	7 CFR Part 610 Technical Assistance	0578-AA22

Natural Resources Conservation Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
565	Highly Erodible Land and Wetland Conservation	0578-AA17
566	Conservation Farm Option (CFO)	0578-AA20
567	Wildlife Habitat Incentives Program (WHIP)	0578-AA21

Natural Resources Conservation Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
568	Environmental Quality Incentive Program (EQIP) Established in the Federal Agriculture Improvement of Reform Act of 1996	0578-AA19

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Natural Resources Conservation Service—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
569	Conservation of Private Grazing Land (CPGL)	0578-AA23

Office of Operations—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
570	New Restrictions on Lobbying	0599-AA03

DEPARTMENT OF AGRICULTURE (USDA)

Proposed Rule Stage

Agricultural Marketing Service (AMS)

173. NATIONAL ORGANIC PROGRAM (SECTION 610 REVIEW)

Priority: Economically Significant

Legal Authority: PL 101-624, sec 2101 to 2123; 7 USC 6501 to 6522

CFR Citation: 7 CFR 205

Legal Deadline: NPRM, Statutory, May 28, 1992. Final, Statutory, October 1, 1993. Other, Statutory, May 28, 1991. The Organic Foods Production Act calls for the Secretary to appoint the National Organic Standards Board 180 days after enactment and convene it within 60 days thereafter.

Abstract: The program is proposed under the Organic Foods Productions Act of 1990 (Title XXI of the Food, Agriculture, Conservation and Trade Act, P.L. 101-624), as amended (OFPA or Act), which requires the establishment of national standards governing the marketing of certain agricultural products as organically produced to facilitate commerce in fresh and processed food that is organically produced and to assure consumers that such products meet consistent standards. This program would establish national standards for the organic production and handling of agricultural products, which would include a National List of synthetic substances approved for use in the production and handling of organically produced products. It also would establish an accreditation program for State officials and private persons who want to be accredited to certify farms and handling operations that comply with the program's requirements, and a certification program for farms and handling operations that want to be certified as meeting the programs requirements. The program additionally would include labeling requirements for organic products and products containing organic ingredients, and enforcement provisions. The rule provides for the approval of State organic programs and the importation into the United States of organic agricultural products from foreign programs determined to have equivalent requirements. Comments regarding this rule should be sent to: U.S. Department of Agriculture, AMS/TMD, P.O. Box 96456- Room 4006-So. Bldg., Washington, DC 20090-6456, Attention: Eileen Stommes.

Timetable:

Action	Date	FR Cite
Organic Livestock Hearings	12/30/93	58 FR 69315
Notice - Procedure To Submit Names of Substances for National List	03/27/95	60 FR 15744
NPRM	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: State

Analysis: Regulatory Flexibility Analysis

Agency Contact: Eileen Stommes, Director, Transportation and Marketing Division, Department of Agriculture, Agricultural Marketing Service, Room 4006 South Building, P.O. Box 96456, Washington, DC 20090-6456 Phone: 202 720-3252

RIN: 0581--AA40

174. NATIONAL LABORATORY ACCREDITATION PROGRAM

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 7 USC 138 to 138i

CFR Citation: None

Legal Deadline: None

Abstract: The 1990 Farm Bill authorized the creation of a National Laboratory Accreditation Program (NLAP) for laboratories that request accreditation and conduct residue testing of agricultural products concerning chemical residue levels on agricultural products. The program is designed to protect human health by ensuring that laboratories which make claims to the public concerning pesticide residue levels meet minimum quality and reliability standards. The standards for the NLAP will be provided by the Food and Drug Administration with the operation of the program under the Agricultural Marketing Service, USDA. The program costs will be offset by a fee schedule. The one-time appropriation was used to provide for a fully equipped pesticide laboratory to verify the findings of those laboratories applying for accreditation.

Timetable:

Action	Date	FR Cite
ANPRM	11/20/92	57 FR 54727
ANPRM Comment Period End	01/19/93	
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: Undetermined

USDA—AMS

Proposed Rule Stage

Agency Contact: I-Pin Ho, Chemist, Technical Services Branch, Department of Agriculture, Agricultural Marketing Service, USDA, AMS, Science and Technology Division, P.O. Box 96456, Room 3517-South, Washington, DC 20090-6456
Phone: 202 205-4993
Fax: 202 720-6496

RIN: 0581–AB42

175. FEDERAL MEAT GRADING AND CERTIFICATION SERVICES—1997 USER FEES

Priority: Routine and Frequent

Legal Authority: 7 USC 1621

CFR Citation: 7 CFR 54

Legal Deadline: None

Abstract: The purpose of this rule is to raise the fees for Federal meat grading and certification services to ensure the program operates on a financially self-supporting basis. The fee increase is in response to a variable, geographic region. The unit cost for providing Federal meat grading and certification services is expected to remain at approximately $.0006 per pound.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Larry R. Meadows, Chief, Meat Grading and Certification Branch, Department of Agriculture, Agricultural Marketing Service, USDA, AMS, LS, MGC, P.O. Box 96456, Room 2628-South, Washington, DC 20090-6456
Phone: 202 720-0343
Fax: 202 690-4119

RIN: 0581–AB44

176. KIWIFRUIT RESEARCH, PROMOTION, AND CONSUMER INFORMATION ORDER

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 7461 to 7473

CFR Citation: 7 CFR 1214

Legal Deadline: None

Abstract: Two proposals were submitted to the Department of Agriculture for a Kiwifruit Research, Promotion, and Consumer Information Order. Under the proposals, producers and importers would pay an assessment not to exceed 10 cents per 7-pound tray of kiwifruit. The assessments would be used to conduct a general program to maintain, expand, and develop markets for kiwifruit.

Timetable:

Action	Date	FR Cite
ANPRM	10/02/96	61 FR 51378
ANPRM Comment Period End	12/02/96	
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Flexibility Analysis

Agency Contact: Martha B. Ransom, Chief, Research and Promotion Branch, Department of Agriculture, Agricultural Marketing Service, USDA, AMS/F&V Division-R&P Branch, P.O. Box 96456, Room 2535-So. Bldg., Washington, DC 20090-6456
Phone: 202 720-9915
Fax: 202 205-2800

RIN: 0581–AB46

177. • FEDERAL MILK ORDER CONSOLIDATION AND REFORM

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 7 USC 601 to 674, PL 104-127

CFR Citation: 7 CFR 1139

Legal Deadline: Final, Statutory, April 4, 1999.
Required by Public Law 104-127

Abstract: The Federal Agriculture Improvement and Reform Act requires that the current 32 Federal milk marketing orders be consolidated into between 10 to 14 orders by 4/4/99. The 1996 Farm Bill also directs the Secretary to designate the State of California as a Federal order if California dairy producers petition for and approve such an order. The Act specifies that USDA use informal rulemaking to implement these reforms.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	02/00/98	
Interim Final Rule	08/00/98	
Final Action	12/00/98	
Final Action Effective	04/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Agency Contact: John F. Borovies, Branch Chief, Department of Agriculture, Agricultural Marketing Service, USDA-AMS-Dairy-Order Formulation Branch, P.O. Box 96456, Room 2971-So. Bldg., Washington, D.C 20090-6456
Phone: 202 720-6274
Fax: 202 690-0552
Email: john__f__borovies@usda.gov

RIN: 0581–AB49

DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Marketing Service (AMS)

Final Rule Stage

178. POPCORN PROMOTION, RESEARCH, AND CONSUMER INFORMATION ORDER

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 7481 to 7491

CFR Citation: 7 CFR 1215

Legal Deadline: None

Abstract: A proposal was submitted to the Department of Agriculture for a Popcorn Promotion, Research, and Consumer Information Order. Under the proposal, the processor would pay an assessment not to exceed 5 cents per hundredweight. The assessments would be used to conduct a generic program to maintain and expand markets for popcorn.

Timetable:

Action	Date	FR Cite
ANPRM	09/30/96	61 FR 51046
ANPRM Comment Period End	11/29/96	

USDA—AMS

Final Rule Stage

Action	Date	FR Cite
NPRM	03/21/97	62 FR 13551
Final Action	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Martha B. Ransom, Chief, Research and Promotion Branch, Department of Agriculture, Agricultural Marketing Service, USDA, AMS, F&V/R&P Branch, P.O. Box 96456, Room 2535-So. Bldg., Washington, DC 20090-6456
Phone: 202 720-9915
Fax: 202 205-2800

RIN: 0581–AB45

179. • DAIRY PRODUCTS; GRADING AND INSPECTION, FEE INCREASE

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1621 to 1627

CFR Citation: 7 CFR 58

Legal Deadline: None

Abstract: This rule would revise the regulations to increase the fees charged users of the service. The increased fees are necessary to recover the costs of dairy standards activities, Federal employees pay costs and other operating costs for inspection and grading services. The program is voluntary, with all costs covered by user fees.

Timetable:

Action	Date	FR Cite
Final Action	12/00/97	
Final Action Effective	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Agency Contact: F. Tracy Schonrock, Chief, Dairy Grading Branch, Dairy Division, Department of Agriculture, Agricultural Marketing Service, P.O.Box 96456, Room 2968-So., Washington, DC 20090-6456
Phone: 202 720-3171
Fax: 202 690-0552

RIN: 0581–AB50

DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Marketing Service (AMS)

Long-Term Actions

180. REVISION OF REGULATIONS GOVERNING THE INSPECTION AND GRADING SERVICES OF MANUFACTURED OR PROCESSED DAIRY PRODUCTS

Priority: Routine and Frequent

CFR Citation: 7 CFR 58

Timetable:

Action	Date	FR Cite
NPRM	08/10/92	57 FR 35492
NPRM Comment Period End	10/09/92	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: F. Tracy Schonrock
Phone: 202 690-0530

RIN: 0581–AA45

181. • REVISION OF PART 46.46 REGULATIONS UNDER THE PERISHABLE AGRICULTURAL COMMODITIES ACT; TRUST PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 499o, 46 Stat 537, Sec 15

CFR Citation: 7 CFR 46

Legal Deadline: None

Abstract: The proposed revisions to the regulations are needed to recognize that electronic data transmissions used in fruit and vegetable transactions are ordinary and usual billing or invoice statements under the Perishable Agricultural Commodities Act (PACA). Public Law 104-48 permits PACA licensees to preserve trust benefits by giving notice of the trust using existing invoice and billing documentation and eliminates the need for the trust creditor to provide additional notice of the creditor's intention to preserve trust benefits to the debtor. The law does not specify that electronic transmissions are "ordinary and usual billing or invoice statements" in order to qualify for this method of trust preservation. This rulemaking seeks to clarify that electronic transmissions transactions are, in fact, "ordinary and usual billing or invoice statements" and that PACA licensees engaged in electronic transactions may use the trust preservation method prescribed in section 5(c)(4) of the PACA (7 U.S.C. 499e(c)(4)).

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles W. Parrott, Assistant Chief, PACA Branch, Department of Agriculture, Agricultural Marketing Service, Room 2095-South, F&V Division, AMS, Washington, DC 20250
Phone: 202 720-4180
Fax: 202 690-4413
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RIN: 0581–AB47

DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Marketing Service (AMS)

Completed Actions

182. • PERISHABLE AGRICULTURAL COMMODITIES, LICENSE FEE

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 4990

CFR Citation: 7 CFR 46

Legal Deadline: None

Abstract: Revision of license fee (sec. 46.6) conform the current PACA regulations to the PACA amendments of 1995 (PL 104-48), which was signed by President Clinton on November 15, 1995. The changes to the PACA license fee structure were required by statute and implemented on November 15,

USDA—AMS — Completed Actions

1995. Specifically, the changes to the license fee structure phase retailers and grocery wholesalers out of license fee payments over a 3-year period; establish a one-time administrative fee for new retailers and grocery wholesalers entering the program after the 3-year phase-out period; and increase license fees from $400 to $500 annually for all other licensees.

Timetable:

Action	Date	FR Cite
NPRM	03/31/97	62 FR 15129
NPRM Comment Period End	04/30/97	
Final Action	08/14/97	62 FR 43453

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Agency Contact: James R. Frazier, Chief, PACA Branch, Department of Agriculture, Agricultural Marketing Service, U.S. Dept. of Agriculture, AMS, F&V, P.O. Box 96456, Washington, DC 20099-6546
Phone: 202 720-4180
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Email: james_r_frazier@usda.gov

RIN: 0581–AB48

BILLING CODE 3410-02-F

DEPARTMENT OF AGRICULTURE (USDA) — Proposed Rule Stage
Farm Service Agency (FSA)

183. SUBORDINATION OF DIRECT LOAN BASIC SECURITY TO SECURE A GUARANTEED LOAN

Priority: Other Significant

Legal Authority: 5 USC 301; 7 USC 1989; 42 USC 1480

CFR Citation: 7 CFR 1962; 7 CFR 1965; 7 CFR 1980

Legal Deadline: Final, Statutory, July 2, 1996.

Abstract: This action will amend the farm credit programs loan servicing regulations to allow FSA to subordinate its lien on "hard security" and provide a 90 percent guarantee to a lender to secure a line of credit when commercial lenders in the borrower's service area refuse to provide farmers operating credit when projected crop or livestock production is to be the only security. Current regulations allow subordination of crops and feeder livestock security to secure a guaranteed loan made for similar purposes with a guarantee of up to 90 percent of principal and interest. However, a guarantee is not currently allowed when "hard security" is subordinated.

Timetable:

Action	Date	FR Cite
NPRM	09/09/97	62 FR 47384
NPRM Comment Period End	11/10/97	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Acting Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, MS 0572, 1400 Independence Avenue SW., Washington, DC 20250-0572
Phone: 202 205-5851
Fax: 202 720-5233
Email: twitzig@wdc.fsa.usda.gov

RIN: 0560–AE92

184. • 1998-CROP MARKETING QUOTAS AND PRICE SUPPORT LEVELS FOR EIGHT KINDS OF TOBACCO

Priority: Other Significant

Legal Authority: 7 USC 1312; 7 USC 1445

CFR Citation: 7 CFR 723; 7 CFR 1464

Legal Deadline: None

Abstract: This program is required by statute to provide marketing quotas/acreage allotments and price support for specific kinds of tobacco. Quotas and allotments are determined by statutory formula to balance supply with demand to assure stable supplies for domestic and export use. Marketing quotas are implemented if approved by producers in referenda. Price support levels are set by statutory formula. The Secretary may reduce levels at the request of producer associations and may limit increases to 65 percent of the formula increase. Gross loan outlays of $3 million are expected in FY 1998, to be offset by loan redemptions and no-net-cost assessments in FY 1998 and subsequent years, for a net cost of 0. 1998 and 1999 are expected to be offset by repayments and no-net-cost assessments in FY 1998 and subsequent years, for a net cost of 0.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	
Final Action	05/00/98	

Small Entities Affected: None

Government Levels Affected: None

185. • LENDER BUYBACK OF REPURCHASED GUARANTEED LOANS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 5 USC 301; 7 USC 1989; 42 USC 1480

CFR Citation: 7 CFR 1980 subpart B

Legal Deadline: None

Abstract: The Farm Service Agency (FSA) proposes to amend its guaranteed farm loan program regulations to allow a lender to repurchase the guaranteed portion of a loan from a secondary market holder. This change will allow a lender to reimburse the agency, retain the guarantee and service the loan.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Phillip Elder, Senior Loan Officer, Department of Agriculture, Farm Service Agency, P.O. Box 2415, STOP 0523, Washington, DC 20013
Phone: 202 690-4012
Fax: 202 720-7686
Email: pelder@wdc.fsa.usda.gov

RIN: 0560–AF21

USDA—FSA — Proposed Rule Stage

DEPARTMENT OF AGRICULTURE (USDA) — Final Rule Stage
Farm Service Agency (FSA)

186. • AMENDMENT TO THE COTTON WAREHOUSE REGULATIONS REGARDING THE DEFINITION OF "UNNECESSARY DELAY"

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 262

CFR Citation: 7 CFR 735

Legal Deadline: None

Abstract: This action will amend the regulations for cotton warehouses under the U.S. Warehouse Act to establish a regulatory guideline for the statutory phrase "without unnecessary delay," which pertains to the shipping times between shipper-merchants and warehouse operators in order to resolve differences regarding this issue. A charge of 1 to 2 cents per warehouse receipt would be necessary to pay for monitoring the guideline. Total annual cost is expected to be $80,000 to $120,000.

Timetable:

Action	Date	FR Cite
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Acting Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, MS 0572, 1400 Independence Avenue SW., Washington, DC 20250-0572
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Fax: 202 720-5233
Email: twitzig@wdc.fsa.usda.gov

RIN: 0560–AF13

187. • AMENDMENT TO THE FARM RECONSTITUTION REGULATIONS

Priority: Other Significant

Legal Authority: 7 USC 1373; 7 USC 1374; 7 USC 7201 et seq; 15 USC 714b; 15 USC 714c

CFR Citation: 7 CFR 718

Legal Deadline: None

Abstract: This action will amend the regulations regarding farm reconstitution of bases, allotments, and quotas as follows: 1) Amend, add or change definitions to be more consistent with the Federal Agriculture Improvement and Reform Act of 1996; 2) Add a method of division for farms in the Conservation Reserve Program to allow the protection of crop acreage bases; 3) Add a stipulation that requires county committees to notify farm owners and operators of the results of the reconstitution; and 4) Provide that reconstitutions after advance payments will not be effective for the current fiscal year. No significant cost is expected.

Timetable:

Action	Date	FR Cite
Final Action	12/00/97	
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Acting Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, MS 0572, 1400 Independence Avenue SW., Washington, DC 20250-0572
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RIN: 0560–AF16

188. • TREE ASSISTANCE PROGRAM FOR 1997

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-18

CFR Citation: 7 CFR 1478

Legal Deadline: None

Abstract: The 1997 Emergency Supplemental Appropriations Act appropriated $9 million for assistance to small orchardists to replace or rehabilitate trees and vineyards damaged by natural disasters. This action will revise the regulations governing the tree assistance program to provide that: (1) cost-share payments are available for losses suffered to orchard trees and vineyards in FY 1997 from flooding and other natural disasters, (2) cost-share payments may not exceed $25,000 per person, and (3) cost-share payments will be provided on losses to individual stands that exceed 25 percent of the stand, adjusted for normal mortality.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/29/97	62 FR 50849
Interim Final Rule Effective	10/29/97	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Acting Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, MS 0572, 1400 Independence Avenue SW., Washington, DC 20250-0572
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RIN: 0560–AF17

189. • 1998-CROP MARKETING QUOTA AND PRICE SUPPORT LEVEL FOR BURLEY TOBACCO

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 7 USC 1314; 7 USC 1445

CFR Citation: 7 CFR 723; 7 CFR 1464

Legal Deadline: Final, Statutory, February 1, 1998.
Final Deadline for Marketing Quotas is 02/01/98

Abstract: This program is required by statute. Its purpose is to balance supply with demand at levels assuring stable supplies for domestic and export use at prices that are considered sufficient for producers. The national quota is based on cigarette manufacturers'

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intentions, 3-year average exports, loan stocks adjustment, and a discretionary adjustment of plus or minus 3 percent. The price support is based on a formula that averages market prices (2/3 weight) and a cost index (1/3 weight), plus discretion to limit any increase to 65 percent of the formula increase. Producers will hold a referendum in February, 1988, to determine if they will approve marketing quotas for the 1998-2000 marketing years. Gross loan outlays of $50 million in FY 1999 are expected to be offset by loan repayments and no-net-cost assessments in FY 1999 and subsequent years for a net cost of 0.

Timetable:

Action	Date	FR Cite
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Acting Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, MS 0572, 1400 Independence Ave SW., Washington, DC 20250-0572
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RIN: 0560–AF18

DEPARTMENT OF AGRICULTURE (USDA)
Farm Service Agency (FSA)

Long-Term Actions

190. PROGRAM INELIGIBILITY FOR NONCOMPLIANCE WITH BOLL WEEVIL ERADICATION PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: None

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
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Email: twitzig@wdc.fsa.usda.gov

RIN: 0560–AD57

191. SUGAR AND CRYSTALLINE FRUCTOSE INFORMATION AND RECORDKEEPING REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1435

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
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Email: twitzig@wdc.fsa.usda.gov

RIN: 0560–AD88

192. AMENDMENT TO THE WAREHOUSE REGULATIONS REGARDING AUCTION TOBACCO WAREHOUSES

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 723; 7 CFR 737

Timetable:

Action	Date	FR Cite
NPRM	07/28/95	60 FR 38766
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AD92

193. FARMER PROGRAMS GUARANTEED INTEREST ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1980 subpart A; 7 CFR 1980 subpart B; 7 CFR 1980 subpart D; 7 CFR 1980 subpart E; 7 CFR 1980 subpart G

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/28/91	56 FR 8258
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Tom Witzig
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RIN: 0560–AE01

194. FARMER CREDIT PROGRAM ACCOUNT SERVICING POLICIES FOR SECTION 1816 AND OTHER RELATED SECTIONS FOR THE "1990 FACT ACT"

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1900 subpart B; 7 CFR 1924 subpart B; 7 CFR 1951 subpart S

Timetable:

Action	Date	FR Cite
NPRM	10/23/91	56 FR 54970
NPRM Comment Period End	11/22/91	
Interim Final Rule	04/30/92	57 FR 18612
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Tom Witzig
Phone: 202 205-5851
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RIN: 0560–AE02

195. IMPLEMENT SECTION 1816 (BORROWER TRAINING) OF THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990 (FACT ACT)

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1910 subpart A; 7 CFR 1943 subpart B; 7 CFR 1924 subpart B; 7 CFR 1941 subpart A; 7 CFR 1945 subpart D; 7 CFR 1943 subpart A; 7 CFR 1951 subpart S; 7 CFR 1980 subpart B; 7 CFR 1962 subpart A; 7 CFR 1965 subpart A

Timetable:

Action	Date	FR Cite
NPRM	11/25/92	57 FR 55473
NPRM Comment Period End	12/28/92	

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Action	Date	FR Cite
Interim Final Rule	12/30/93	58 FR 69190
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Tom Witzig
Phone: 202 205-5851
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Email: twitzig@wdc.fsa.usda.gov

RIN: 0560–AE04

196. GUARANTEED LOAN PROGRAMS; MONITORING LIQUID ACCOUNTS

Priority: Other Significant

CFR Citation: 7 CFR 1980 subpart A; 7 CFR 1980 subpart B

Timetable:

Action	Date	FR Cite
NPRM	05/05/94	59 FR 23173
NPRM Comment Period End	07/05/94	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Tom Witzig
Phone: 202 205-5851
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Email: twitzig@wdc.fsa.usda.gov

RIN: 0560–AE05

197. IMPLEMENTATION OF CERTIFIED LENDER PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1980 subpart A; 7 CFR 1980 subpart B

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/24/93	58 FR 34302
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Tom Witzig
Phone: 202 205-5851
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Email: twitzig@wdc.fsa.usda.gov

RIN: 0560–AE07

198. INSURED AND GUARANTEED OPERATING AND FARM OWNERSHIP LOAN AND RELATED INSTRUCTIONS TO IMPLEMENT SECTIONS 4, 5, 7, 8, 9, AND 19 OF THE AGRICULTURAL CREDIT IMPROVEMENT ACT OF 1992

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1910; 7 CFR 1924; 7 CFR 1941; 7 CFR 1943; 7 CFR 1945; 7 CFR 1980; 7 CFR 1955

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/30/93	58 FR 48275
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Tom Witzig
Phone: 202 205-5851
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Email: twitzig@wdc.fsa.usda.gov

RIN: 0560–AE09

199. LOANS TO INDIAN TRIBES AND TRIBAL CORPORATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1942 subpart F; 7 CFR 1823; 7 CFR 2.23; 7 CFR 2.70

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Tribal

Agency Contact: Tom Witzig
Phone: 202 205-5851
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Email: twitzig@wdc.fsa.usda.gov

RIN: 0560–AE10

200. SECTION 14 OF THE AGRICULTURAL CREDIT IMPROVEMENT ACT OF 1992, (GRADUATION) AND SECTIONS 1819 (LOAN ASSESSMENT) AND 1821 (MARKET PLACEMENT) OF THE "FACT ACT"

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1910; 7 CFR 1924; 7 CFR 1941; 7 CFR 1951; 7 CFR 1980; 7 CFR 1943; 7 CFR 1945; 7 CFR 1962

Timetable:

Action	Date	FR Cite
NPRM	12/30/93	58 FR 69274
NPRM Comment Period End	02/28/94	
Interim Final Rule	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Tom Witzig
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Email: twitzig@wdc.fsa.usda.gov

RIN: 0560–AE11

201. THE AGRICULTURAL CREDIT IMPROVEMENT ACT OF 1992

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1946; 7 CFR 1980

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/17/93	58 FR 65871
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Tom Witzig
Phone: 202 205-5851
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Email: twitzig@wdc.fsa.usda.gov

RIN: 0560–AE13

202. IMPLEMENT SECTIONS 11 AND 13 OF THE AGRICULTURE CREDIT IMPROVEMENT ACT 1993 (APPLICATION PROCESSING TIMEFRAME)

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1910; 7 CFR 1980

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/29/93	58 FR 68717
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Tom Witzig
Phone: 202 205-5851
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Email: twitzig@wdc.fsa.usda.gov

RIN: 0560–AE14

203. ACQUISITION AND MANAGEMENT OF REAL AND CHATTEL PROPERTY

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 2.23; 7 CFR 2.70; 7 CFR 1955A; 7 CFR 1955C

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/29/93	58 FR 68722
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Tribal

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: twitzig@wdc.fsa.usda.gov

RIN: 0560–AE15

204. SMALL FARMER OUTREACH TRAINING AND TECHNICAL ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1943 subpart C

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/27/94	59 FR 66441
Final Action	00/00/00	

Small Entities Affected: Organizations

Government Levels Affected: State

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: twitzig@wdc.fsa.usda.gov

RIN: 0560–AE17

205. DECISION TO LIQUIDATE

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1980

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: twitzig@wdc.fsa.usda.gov

RIN: 0560–AE19

206. DISASTER ASSISTANCE

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1945 subpart A

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State, Tribal

Agency Contact: Tom Witzig
Phone: 202 205-5851
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Email: twitzig@wdc.fsa.usda.gov

RIN: 0560–AE22

207. REVISIONS TO THE DIRECT FARM OWNERSHIP LOAN REGULATION (1943-A) OUTREACH PROGRAM FOR MEMBERS OF SOCIALLY DISADVANTAGED GROUPS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1943 subpart A

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Tom Witzig
Phone: 202 205-5851
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RIN: 0560–AE23

208. SOCIALLY DISADVANTAGED OUTREACH PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1941 subpart A; 7 CFR 1980 subpart B

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Tom Witzig
Phone: 202 205-5851
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RIN: 0560–AE24

209. PART 1946 MEDIATION; SUBPART A AGRICULTURAL LOAN MEDIATION PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1946 subpart A

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
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RIN: 0560–AE26

210. AMENDMENT TO CONSERVATION PROGRAM APPEAL REGULATIONS REGARDING JURISDICTION

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 780

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/29/95	60 FR 67296
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
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RIN: 0560–AE30

211. SELECTION AND FUNCTIONS OF FARM SERVICE AGENCY STATE AND COUNTY COMMITTEES

Priority: Info./Admin./Other

CFR Citation: 7 CFR 7

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE33

212. PERMIT FSA TO SELL OR ASSIGN FARM LOAN MORTGAGES AND NOTES

Priority: Economically Significant

CFR Citation: 7 CFR 1962; 7 CFR 1965

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

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RIN: 0560–AE35

213. IMPLEMENTATION PROCEDURES FOR HIGHLY ERODIBLE LAND AND WETLANDS CONSERVATION PROVISIONS OF THE FOOD SECURITY ACT

Priority: Other Significant

CFR Citation: 7 CFR 1940

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE38

214. AMENDMENTS TO THE FARMER ACCOUNT SERVICING POLICIES

Priority: Economically Significant

CFR Citation: 7 CFR 1900; 7 CFR 1910; 7 CFR 1924; 7 CFR 1941; 7 CFR 1943; 7 CFR 1951; 7 CFR 1955; 7 CFR 1956; 7 CFR 1962; 7 CFR 1965

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/14/88	53 FR 35636
NPRM	10/23/91	56 FR 54970
Interim Final Rule	04/30/92	57 FR 18612
Interim Final Rule	10/15/92	57 FR 47257
Interim Final Rule	03/23/93	58 FR 15418
Interim Final Rule	05/26/93	58 FR 30104
Interim Final Rule	12/30/93	58 FR 69190
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE42

215. AMENDMENTS TO THE STANDARDS FOR APPROVAL OF WAREHOUSE FOR COMMODITY CREDIT CORPORATION STORAGE CONTRACTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1421; 7 CFR 1423; 7 CFR 1427

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE50

216. DELETION OF FSA REGULATIONS REGARDING COLORADO RIVER BASIN SALINITY CONTROL PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 7 CFR 702; 7 CFR 703; 7 CFR 752

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE54

217. AMENDMENT TO THE CONSERVATION RESERVE PROGRAM REGARDING EARLY CONTRACT TERMINATIONS

Priority: Other Significant

CFR Citation: 7 CFR 704

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/15/96	61 FR 10571
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE56

218. IMPLEMENTATION OF FIVE-YEAR DIRECT LINE OF CREDIT PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1941, subpart A

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE58

219. AMENDMENTS TO THE REGULATIONS FOR COTTON WAREHOUSES UNDER THE UNITED STATES WAREHOUSE ACT—ELECTRONIC BLOCK WAREHOUSE RECEIPTS, INSURANCE REQUIREMENTS, AND OTHER PROVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 735

Timetable:

Action	Date	FR Cite
NPRM	11/29/96	61 FR 60637
NPRM Comment Period End	01/28/97	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE60

220. COLLECTION OF SHARED APPRECIATION AGREEMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1951

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE61

221. POST-BANKRUPTCY LOAN SERVICING NOTIFICATION

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1962

Timetable:

Action	Date	FR Cite
NPRM	07/18/96	61 FR 37405
NPRM Comment Period End	08/02/96	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE62

222. CONSOLIDATE FSA FARM CREDIT PROGRAMS REGULATIONS—MISCELLANEOUS PROGRAM REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1806; 7 CFR 1900; 7 CFR 1901; 7 CFR 1902; 7 CFR 1910; 7 CFR 1940; 7 CFR 1950; 7 CFR 1951; 7 CFR 2018; 7 CFR 2045; 7 CFR ch XIV

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE64

223. CONSOLIDATE FSA FARM CREDIT PROGRAMS DIRECT LOAN SERVICING REGULATIONS—MANAGEMENT AND DISPOSAL OF ACQUIRED PROPERTY

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1955; 7 CFR 1951; 7 CFR ch XIV

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE65

224. CONSOLIDATE FSA FARM CREDIT PROGRAM DIRECT LOAN SERVICING REGULATIONS—DELINQUENT ACCOUNT RESTRUCTURING AND LIQUIDATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1951; 7 CFR 1955; 7 CFR 1956; 7 CFR 1962; 7 CFR 1965; 7 CFR ch XVIII

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE66

225. CONSOLIDATE FSA FARM CREDIT PROGRAMS DIRECT LOAN SERVICING REGULATIONS—MANAGEMENT ADVICE, TAX SERVICING, COLLECTION, AND SECURITY SERVICING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1924; 7 CFR 1925; 7 CFR 1951; 7 CFR 1962; 7 CFR 1965; 7 CFR ch XIV

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE67

226. ELIMINATE INTERNAL AGENCY PROVISIONS FROM FSA FARM CREDIT PROGRAMS REGULATIONS—MISCELLANEOUS PROGRAM REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 7 CFR 1806; 7 CFR 1900; 7 CFR 1901; 7 CFR 1902; 7 CFR 1910; 7 CFR 1940; 7 CFR 1950; 7 CFR 1951; 7 CFR 2018; 7 CFR 2045

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE68

227. ELIMINATE INTERNAL ADMINISTRATIVE PROVISIONS FROM FSA FARM CREDIT PROGRAM REGULATIONS—MANAGEMENT AND DISPOSAL OF ACQUIRED PROPERTY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 7 CFR 1951; 7 CFR 1955

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE69

228. ELIMINATE INTERNAL ADMINISTRATIVE PROVISIONS FROM FSA FARM CREDIT PROGRAM DIRECT LOAN REGULATIONS—DELINQUENT ACCOUNT SERVICING AND LIQUIDATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 7 CFR 1951; 7 CFR 1955; 7 CFR 1956; 7 CFR 1962

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE70

229. ELIMINATE INTERNAL ADMINISTRATIVE PROVISIONS FROM FSA FARM CREDIT PROGRAMS DIRECT LOAN SERVICING REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 7 CFR 1924; 7 CFR 1925; 7 CFR 1951; 7 CFR 1962; 7 CFR 1965

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE71

230. ELIMINATION OF ADMINISTRATIVE PROVISIONS FROM FSA FARM CREDIT PROGRAM DIRECT LOANMAKING REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 7 CFR 1823; 7 CFR 1901; 7 CFR 1910; 7 CFR 1924; 7 CFR 1927; 7 CFR 1940; 7 CFR 1941; 7 CFR 1943; 7 CFR 1945; 7 CFR 1951

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE73

231. CONSOLIDATION OF FSA FARM CREDIT PROGRAMS DIRECT LOANMAKING REGULATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1823; 7 CFR 1901; 7 CFR 1910; 7 CFR 1924; 7 CFR 1927; 7 CFR 1940; 7 CFR 1941; 7 CFR 1943; 7 CFR 1945; 7 CFR 1951; 7 CFR ch XIV

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE74

232. ELIMINATION OF ADMINISTRATIVE PROVISIONS FROM FSA FARM CREDIT PROGRAMS GUARANTEED LOANMAKING REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 7 CFR 1980

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE75

233. CONSOLIDATION OF FSA FARM CREDIT PROGRAMS GUARANTEED LOANMAKING REGULATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1980

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE76

234. ELIMINATION OF ADMINISTRATIVE PROVISIONS FROM FSA REGULATIONS PERTAINING TO FARM CREDIT PROGRAMS LOAN RATES, FUNDING, AND LOAN AUTHORITIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 7 CFR 1810; 7 CFR 1901; 7 CFR 1902; 7 CFR 1940; 7 CFR 1951

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE77

235. CONSOLIDATION OF FSA FARM CREDIT PROGRAMS REGULATIONS PERTAINING TO LOAN RATES, FUNDING, AND LOAN AUTHORITIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1810; 7 CFR 1901; 7 CFR 1902; 7 CFR 1940; 7 CFR 1951; 7 CFR ch XIV

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE78

236. ELIMINATION OF ADMINISTRATIVE PROVISIONS FROM FSA FARM CREDIT PROGRAMS ENVIRONMENTAL REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 7 CFR 1901; 7 CFR 1940

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE79

237. CONSOLIDATION OF FARM SERVICE AGENCY ENVIRONMENTAL PROGRAMS REGULATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1901; 7 CFR 1940; 7 CFR ch XIV

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE80

238. SUSPENSION OF THE EMERGENCY LIVESTOCK ASSISTANCE REGULATIONS FOR CROP YEARS 1998 TO 2002

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1475

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE86

239. REVISION TO THE DIRECT LOANMAKING REGULATIONS

Priority: Other Significant

CFR Citation: 7 CFR 1910; 7 CFR 1941; 7 CFR 1943; 7 CFR 1945; 7 CFR 1980

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/03/97	62 FR 9351
Interim Final Rule Comment Period End	03/24/97	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE87

240. REVISION OF THE INVENTORY PROPERTY MANAGEMENT REGULATIONS

Priority: Other Significant

CFR Citation: 7 CFR 1955

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE88

241. REVISIONS TO THE DELINQUENT ACCOUNT SERVICING REGULATIONS

Priority: Other Significant

CFR Citation: 7 CFR 1951; 7 CFR 1956; 7 CFR 1962; 7 CFR 1965

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/05/97	62 FR 10117
Interim Final Rule Comment Period End	05/13/97	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE89

242. DIRECT LINE OF CREDIT PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 1910; 7 CFR 1924; 7 CFR 1941

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE90

243. REVISION OF REGULATIONS PERTAINING TO INDIAN TRIBES AND TRIBAL CORPORATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1823; 7 CFR 1942-F; 7 CFR 1956-C

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE91

244. AMENDMENTS TO THE TOBACCO MARKETING QUOTA REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 723

Timetable:

Action	Date	FR Cite
NPRM	03/21/97	62 FR 13546
NPRM Comment Period End	05/20/97	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE96

245. DISASTER SET-ASIDE PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 1951, subpart S

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/01/97	62 FR 41251
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE98

246. BOLL WEEVIL ERADICATION LOAN PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1941, subpart C

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/16/97	62 FR 26918
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AE99

247. 1997-CROP PEANUTS NATIONAL POUNDAGE QUOTA, NATIONAL AVERAGE LOAN RATES, AND MINIMUM CCC EXPORT-EDIBLE SALES PRICE FOR ADDITIONAL PEANUTS

Priority: Other Significant

CFR Citation: 7 CFR 729; 7 CFR 1464; 7 CFR 1421

Timetable:

Action	Date	FR Cite
NPRM	11/25/96	61 FR 59640
NPRM Comment Period End	12/09/96	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF01

248. AMENDMENTS TO UPDATE THE TOBACCO PROGRAM REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 711; 7 CFR 714; 7 CFR 717; 7 CFR 723; 7 CFR 1464

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF05

249. AMENDMENTS TO UPDATE THE PEANUT PROGRAM REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1446

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
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USDA—FSA

Long-Term Actions

Email: twitzig@wdc.fsa.usda.gov

RIN: 0560–AF08

250. AMENDMENTS TO THE REGULATIONS FOR PROCUREMENT OF PROCESSED AGRICULTURAL COMMODITIES FOR DONATION TO COMPLY WITH THE MARITIME SECURITY ACT OF 1996

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1496

Timetable:

Action	Date	FR Cite
NPRM	02/12/97	62 FR 6497
NPRM Comment Period End	04/14/97	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF09

251. AMENDMENTS TO UPDATE FARM PROGRAM PAYMENT LIMITATION AND DISASTER REGULATIONS UNDER THE NATIONAL PERFORMANCE REVIEW

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 7 CFR 777; 7 CFR 795; 7 CFR 1400

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
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RIN: 0560–AF10

252. • SPECIAL COMBINATIONS OF FLUE-CURED TOBACCO ALLOTMENTS AND QUOTAS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1314c

CFR Citation: 7 CFR 718; 7 CFR 723

Legal Deadline: None

Abstract: This rule provides for special, highly limited, combinations of flue-cured tobacco allotments and quotas for farms having production flexibility contracts under the Federal Agriculture Improvement and Reform Act of 1996 with farms without production flexibility contracts. It also provides, for burley tobacco, an exemption to the loss of quota on farms with less than 1,000 pounds of quota when the farm would otherwise meet the requirements for a farm combination but for the existence of a production flexibility contract. No significant cost is expected.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/02/97	62 FR 15599
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Acting Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, MS 0572, 1400 Independence Avenue SW., Washington, DC 20250-0572
Phone: 202 205-5851
Fax: 202 720-5233
Email: twitzig@wdc.fsa.usda.gov

RIN: 0560–AF14

253. • AMENDMENTS TO THE DEBT SETTLEMENT POLICIES AND PROCEDURES TO CONFORM TO THE DEBT COLLECTION IMPROVEMENT ACT OF 1996

Priority: Other Significant

Legal Authority: 15 USC 714

CFR Citation: 7 CFR 792; 7 CFR 1403; 7 CFR 1404

Legal Deadline: None

Abstract: This action will amend the FSA and CCC debt settlement policies and procedures in order to conform to the requirements of the Debt Collection Improvement Act of 1996 (DCIA) and to make technical corrections. This action will improve FSA's and CCC's ability to collect debts. The DCIA requires all agencies to either adopt the administrative offset provisions of the Department of Justice, the General Accounting Office or the Department of the Treasury, or to amend its own regulations to conform to the regulations of one of those agencies. This action will amend FSA's and CCC's regulations to conform to the regulations of one of the three agencies. The specific agency is not known at this time.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Acting Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, MS 0572, 1400 Independence Ave. SW., Washington, DC 20250-0572
Phone: 202 205-5851
Fax: 202 720-5233
Email: twitzig@wdc.fsa.usda.gov

RIN: 0560–AF22

DEPARTMENT OF AGRICULTURE (USDA)
Farm Service Agency (FSA)

Completed Actions

254. AMENDMENTS TO CCC DEBT SETTLEMENT REGULATIONS REGARDING WAIVER OF RESTRICTION ON PROGRAM ELIGIBILITY AND COLLECTION OF JUDGMENTS BY ADMINISTRATIVE OFFSET

Priority: Other Significant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Withdrawn - Cancelled	06/01/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: twitzig@wdc.fsa.usda.gov

RIN: 0560–AD09

255. CONSERVATION ENVIRONMENTAL PROGRAMS REGULATIONS REGARDING WATER QUALITY INCENTIVES PROJECT, COST SHARE PROVISIONS OF THE EMERGENCY CONSERVATION PROGRAM, AND OTHER REVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 701

Completed:

Reason	Date	FR Cite
Final Action	05/22/97	62 FR 28257

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: twitzig@wdc.fsa.usda.gov

RIN: 0560–AD16

256. NATIONAL AVERAGE LOAN RATES FOR 1996-CROP QUOTA AND ADDITIONAL PEANUTS AND MINIMUM COMMODITY CREDIT CORPORATION (CCC) EXPORT-EDIBLE SALES PRICE FOR ADDITIONAL PEANUTS

Priority: Economically Significant

CFR Citation: 7 CFR 1421; 7 CFR 1446

Completed:

Reason	Date	FR Cite
Withdrawn	10/01/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: twitzig@wdc.fsa.usda.gov

RIN: 0560–AE43

257. AMENDMENT TO THE PEANUT POUNDAGE QUOTA REGULATIONS

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 7 CFR 729

Completed:

Reason	Date	FR Cite
Final Action	05/09/97	62 FR 25433

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: twitzig@wdc.fsa.usda.gov

RIN: 0560–AE82

258. HANDLING PAYMENTS FROM THE FARM SERVICE AGENCY TO DELINQUENT FARM CREDIT PROGRAM BORROWERS

Priority: Other Significant

CFR Citation: 7 CFR 1951

Completed:

Reason	Date	FR Cite
Final Action	10/01/97	62 FR 41744

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: twitzig@wdc.fsa.usda.gov

RIN: 0560–AE93

259. SUGAR LOAN PROGRAM CROP YEAR DEFINITION

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 777; 7 CFR 780; 7 CFR 1435

Completed:

Reason	Date	FR Cite
Final Action	08/27/97	62 FR 34611

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: twitzig@wdc.fsa.usda.gov

RIN: 0560–AE94

260. 1997-CROP MARKETING QUOTA AND PRICE SUPPORT LEVEL FOR FLUE-CURED TOBACCO

Priority: Other Significant

CFR Citation: 7 CFR 723; 7 CFR 1464

Completed:

Reason	Date	FR Cite
Final Action	05/07/97	62 FR 24799

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: twitzig@wdc.fsa.usda.gov

RIN: 0560–AF00

261. 1997-CROP MARKETING QUOTA AND PRICE SUPPORT LEVEL FOR BURLEY TOBACCO

Priority: Other Significant

CFR Citation: 7 CFR 723; 7 CFR 1464

Completed:

Reason	Date	FR Cite
Final Action	06/03/97	62 FR 30229

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: twitzig@wdc.fsa.usda.gov

RIN: 0560–AF02

262. 1997-CROP MARKETING QUOTAS AND PRICE SUPPORT LEVEL FOR SIX KINDS OF TOBACCO

Priority: Other Significant

CFR Citation: 7 CFR 723; 7 CFR 1464

Completed:

Reason	Date	FR Cite
Final Action	08/18/97	62 FR 43917

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: twitzig@wdc.fsa.usda.gov

RIN: 0560–AF03

USDA—FSA

Completed Actions

263. STANDARDS FOR APPROVAL OF COLD STORAGE WAREHOUSES FOR PEANUTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 7 CFR 1442

Completed:

Reason	Date	FR Cite
Final Action	10/03/97	62 FR 51760

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: twitzig@wdc.fsa.usda.gov

RIN: 0560–AF04

264. AMENDMENTS TO UPDATE REGULATIONS FOR VARIOUS COMMODITY WAREHOUSES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 735 to 743

Completed:

Reason	Date	FR Cite
Final Action	06/20/97	62 FR 33539

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: twitzig@wdc.fsa.usda.gov

RIN: 0560–AF07

265. DISASTER RESERVE ASSISTANCE PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 1439

Completed:

Reason	Date	FR Cite
Final Action	08/21/97	62 FR 44391

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: twitzig@wdc.fsa.usda.gov

RIN: 0560–AF11

266. • 1997 COTTON ELIGIBILITY REQUIREMENTS FOR MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 7231 to 7237; 15 USC 714b; 15 USC 714c

CFR Citation: 7 CFR 1427

Legal Deadline: None

Abstract: This action amends the CCC commodity loan program regulations for the 1997 through 2002 crops of upland and extra long staple cotton to simplify the use of electronic warehouse receipts in the loan-making and loan deficiency payment processes. The requirements that "open yard" endorsements and fire insurance certifications be on warehouse receipts will be removed. The endorsements and certifications themselves will continue to be required.

Timetable:

Action	Date	FR Cite
Final Action	04/18/97	62 FR 19023

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Acting Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, MS 0572, 1400 Independence Avenue SW., Washington, DC 20250-0572
Phone: 202 205-5851
Fax: 202 720-5233
Email: twitzig@wdc.fsa.usda.gov

RIN: 0560–AF12

267. • LIVESTOCK INDEMNITY PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: PL 105-18

CFR Citation: 7 CFR 1439

Legal Deadline: None

Abstract: This action sets forth the terms and conditions of the Livestock Indemnity Program as authorized by the 1997 Emergency Supplemental Appropriations Act, which may be made available to eligible producers for livestock and poultry losses that occurred as a result of natural disasters that occurred between October 1, 1996 and June 12, 1997, for which a Presidential or Secretarial disaster was requested by June 12, 1997, and subsequently approved. The Act authorized up to $50 million for the program. This action will also remove some obsolete regulations as part of the President's Regulatory Review Initiative.

Timetable:

Action	Date	FR Cite
Final Action	06/24/97	62 FR 33984

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Acting Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, MS 0572, 1400 Independence Avenue SW., Washington, DC 20250-0572
Phone: 202 205-5851
Fax: 202 720-5233
Email: twitzig@wdc.fsa.usda.gov

RIN: 0560–AF15

BILLING CODE 3410-05-F

DEPARTMENT OF AGRICULTURE (USDA)
Animal and Plant Health Inspection Service (APHIS)

Proposed Rule Stag

268. USER FEES, VETERINARY DIAGNOSTICS

Priority: Other Significant

Legal Authority: 5 USC 5542; 7 USC 1622; 19 USC 1306; 21 USC 102 to 105; 21 USC 111; 21 USC 114; 21 USC 114a; 21 USC 134a to 134d; 21 USC 134f; 21 USC 135; 21 USC 136; 21 USC 136a

CFR Citation: 9 CFR 130

Legal Deadline: None

Abstract: The Animal and Plant Health Inspection Service (APHIS) is proposing to revise current fees for cost increases or decreases in the user fee program and to propose additional fees for goods and services which APHIS provides. The purpose is to more accurately provide for full-cost recovery of Agency activities. Fees being revised include: user fees at APHIS's animal import centers and user fees at the National Veterinary Services Laboratories (NVSL) (including the labs at the Foreign Animal Diseases Diagnostic Laboratory (FADDL)) to account for cost increases and decreases. New user fees are being proposed for the following: use of new spaces at the APHIS animal center in Newburgh, NY; hourly services; and veterinary diagnostic tests, reagents, and services.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Barbara Thompson, Chief, BAD, Financial Systems Services Branch, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 54, Riverdale, MD 20737-1232
Phone: 301 734-5901

RIN: 0579–AA70

269. PHYTOSANITARY EXPORT CERTIFICATION; ACCREDITATION OF NONGOVERNMENT FACILITIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 147a; 21 USC 136; 21 USC 136a; 44 USC 35

CFR Citation: 7 CFR 353

Legal Deadline: None

Abstract: APHIS is proposing to amend the export certification regulations to provide for the establishment of a program under which non-government facilities could become accredited to perform specific laboratory testing or phytosanitary inspection services that could serve as the basis for the issuance of Federal phytosanitary certificates. The accreditation criteria for particular laboratory testing and phytosanitary inspection services would be developed by APHIS in cooperation with other appropriate governmental, industry, academic, or research entities. Currently, only tests conducted by public laboratories or inspections carried out by Federal or State inspectors and agents may be used as the basis for the issuance of a Federal phytosanitary certificate. The proposed accreditation program would provide a mechanism for qualified nongovernment facilities to become accredited to perform the testing or inspection services that may be used as supporting documentation for the issuance of phytosanitary certificates for certain plants or plant products.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mr. Narcy G. Klag, Senior Operations Officer, Department of Agriculture, Animal and Plant Health Inspection Service, Port Operations, PPQ, APHIS, 4700 River Road Unit 139, Riverdale, MD 20737-1236
Phone: 301 734-8537
Email: nklag@aphis.usda.gov

RIN: 0579–AA75

270. ANIMAL WELFARE—STANDARDS FOR ANIMAL AUCTIONS

Priority: Other Significant

Legal Authority: 7 USC 2131 to 2159

CFR Citation: 9 CFR 1; 9 CFR 2; 9 CFR 3

Legal Deadline: None

Abstract: This proposal would establish standards designed specifically for the humane handling, care, treatment, and transportation of animals covered by the Animal Welfare Act that are held in auction markets. Currently, the treatment of animals at auction sales is being enforced under general regulations for warmblooded animals that are not otherwise covered by the regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Stephen Smith, Staff Animal Health Technician, Animal Care, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 84, Riverdale, MD 20737-1234
Phone: 301 734-4972
Fax: 301 734-4978

RIN: 0579–AA76

271. HUMANE TREATMENT OF DOGS AND CATS; LICENSING AND CONSIGNMENT REQUIREMENTS

Priority: Other Significant

Legal Authority: 7 USC 2131 to 2159

CFR Citation: 9 CFR 2; 9 CFR 3

Legal Deadline: None

Abstract: This rule would amend the regulations for the humane treatment of dogs and cats under the Animal Welfare Act to require that no person who has a contract to enforce local animal control regulations may be licensed as a Class B dealer of dogs and cats. This rule would also include several revisions to certificates used for certifying dogs and cats for sale and consigning dogs and cats to intermediate handlers. We believe these changes are necessary to help eliminate an avenue for pets to be sold for research, teaching, or testing purposes, and to make understanding of and compliance with the regulations easier. We do not expect this proposal to have a significant economic impact on any affected entities.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	02/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Stephen Smith, Staff Animal Health Technician, Animal Care, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 84, Riverdale, MD 20737-1234
Phone: 301 734-4972
Email: snsmith@aphis.usda.gov

RIN: 0579–AA79

272. PLANT PEST REGULATIONS; REVIEW OF CURRENT PROVISIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 149; 7 USC 150bb; 7 USC 150dd; 7 USC 150ee; 7 USC 150ff; 7 USC 154; 7 USC 159; 7 USC 160; 7 USC 162; 7 USC 2260; 21 USC 136; 21 USC 136a; 31 USC 9701

CFR Citation: 7 CFR 330

Legal Deadline: None

Abstract: APHIS has published an advance notice of proposed rulemaking to solicit public comment on several issues pertaining to our current regulations regarding the importation and interstate movement of plant pests. Specifically, the advance notice of proposed rulemaking sought public comment on the criteria used to determine whether an organism is a plant pest; what type of direct and indirect injury or damage to plants and plant products should be regulated; how to facilitate the interstate movement and use of biological control organisms; and how to best evaluate the safety of proposed releases into the environment of organisms with plant pest characteristics. The information gathered through the advance notice of proposed rulemaking will be used by APHIS as we consider the need for regulatory changes and weigh alternative methods of addressing plant pest risk as it pertains to the importation, interstate movement, and release into the environment of plant pest or potential plant pest organisms.

Timetable:

Action	Date	FR Cite
ANPRM	09/27/96	61 FR 50767
ANPRM Comment Period End	12/26/96	
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Sally McCammon, Science Advisor, Department of Agriculture, Animal and Plant Health Inspection Service, P.O. Box 96464, Washington, DC 20090-6464
Phone: 202 720-6014
Fax: 202 720-3054
Email: smccammon@aphis.usda.gov

RIN: 0579–AA80

273. IMPORTATION OF LOGS, LUMBER, AND OTHER UNMANUFACTURED WOOD ARTICLES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 150dd; 7 USC 150ee; 7 USC 150ff; 7 USC 151 to 167; 7 USC 450; 7 USC 2803; 7 USC 2809; 21 USC 136; 21 USC 136a

CFR Citation: 7 CFR 319

Legal Deadline: None

Abstract: This rule would amend the universal importation option for importing wood chips fumigated with methyl bromide to make it apply only to shipments totaling 120 cubic feet or less. This action appears necessary because methyl bromide fumigation has proven to be ineffective when used on shipments of more than 120 cubic feet. We have, however, determined that a surface pesticide treatment is effective in rendering large shipments of Pinus radiata wood chips from Chile free of plant pests, and have approved a surface pesticide treatment for use on Pinus radiata wood chips from Chile. Therefore, this rule would also allow the importation of Pinus radiata wood chips from Chile if the surfaces of the wood chips are treated with a pesticide approved by the Administrator. We do not believe that this change would have a significant economic impact on U.S. wood chip producers because imports from Chile would not be in direct competition with wood chips produced in the United States. An immediate positive impact would be that several U.S. pulp producers at risk of being forced to reduce production or close due to lack of wood chip supply would be able to remain in production. This rule would also allow solid wood packing materials used with nonregulated articles to be imported without an importer document.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ronald Campbell, Operations Officer, Program Support Staff, PPQ, APHIS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road UNIT 60, Riverdale, MD 20737-1236
Phone: 301 734-8295
Email: rcampbell@aphis.usda.gov

RIN: 0579–AA82

274. • GARBAGE; INSPECTION AT AIRPORTS

Priority: Info./Admin./Other

Unfunded Mandates: Undetermined

Major: Undetermined

Legal Authority: 7 USC 147a; 7 USC 150bb; 7 USC 150dd to 150ff; 7 USC 161 to 162; 7 USC 164a; 7 USC 450; 19 USC 1306; 21 USC 111; 21 USC 114a; 21 USC 134a to 134c; 21 USC 134f; 21 USC 136 to 136a; 31 USC 9701; 42 USC 4331 to 4332

CFR Citation: 9 CFR 94; 7 CFR 330

Legal Deadline: None

Abstract: We are proposing to amend the regulations in 7 CFR 330 and 9 CFR 94 that apply to garbage that can introduce diseases or pests of livestock, poultry, or plants. The amendment would clarify the requirement that aircraft with regulated garbage on board must remain at the airport gate at which the aircraft arrives until the garbage has been removed.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	
Final Action	11/00/98	
Final Action Effective	12/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Ronald B. Caffey, PPQ, Assistant to the Deputy Administrator, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 129, Riverdale, MD 20737-1236
Phone: 301 734-7633

RIN: 0579–AA86

275. • VETERINARY SERVICES MULTI-YEAR USER FEES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 5542; 7 USC 1622; 19 USC 1306; 21 USC 102 to 105; 21 USC 111; 21 USC 114 to 114a; 21 USC 134a to 134d; 21 USC 134f; 21 USC 135; 21 USC 136 to 136a

CFR Citation: 9 CFR 130

Legal Deadline: None

Abstract: We are proposing to amend the user fee regulations by adjusting the fees charged for veterinary services we provide for import and export related activities. We are proposing to adopt user fees for these services for fiscal year 1998 through 2003. Costs to operate the Veterinary Services import-export program increase slightly from year to year due to increase in employee costs (i.e., cost of living, etc.) and changes in other operational costs. Therefore, we have determined that the fees must be adjusted to reflect the anticipated cost of providing these services through fiscal year 2003.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Louise Lothery, Director, VS, Resource Management Support Staff, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 44, Riverdale, MD 20737
Phone: 301 734-7517

Ms. Donna Ford, Section Head, M&B, Budget and Accounting Division, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 54, Riverdale, MD 20737
Phone: 301 734-5785

RIN: 0579–AA87

DEPARTMENT OF AGRICULTURE (USDA)
Animal and Plant Health Inspection Service (APHIS)

Final Rule Stage

276. ADDITION OF CERVIDAE TO THE REGULATIONS CONCERNING TUBERCULOSIS IN LIVESTOCK

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 105; 21 USC 111 to 113; 21 USC 114; 21 USC 114a; 21 USC 115 to 117; 21 USC 120 to 121; 21 USC 134b; 21 USC 134f

CFR Citation: 9 CFR 77; 9 CFR 91

Legal Deadline: None

Abstract: Bovine tuberculosis is a contagious, infectious, and communicable disease affecting cattle, bison, and other species, including humans. The spread of bovine tuberculosis in the United States could have serious consequences for the United States cattle and bison industries, as well as for human health. Currently, the regulations concerning control and eradication programs for bovine tuberculosis in livestock only regulate cattle, bison, and swine. Recent outbreaks in the United States of bovine tuberculosis in semi-domesticated herds of cervidae (such as deer and elk) have made apparent the need to also regulate captive cervids raised for agricultural purposes, sport, or exhibition, in order to prevent the spread of bovine tuberculosis.

Timetable:

Action	Date	FR Cite
NPRM	04/04/96	61 FR 14982
NPRM Comment Period End	06/03/96	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Agency Contact: Dr. Mitchell Essey, Senior Staff Veterinarian, VS, National Animal Health Program, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 36, Riverdale, MD 20737-1231
Phone: 301 734-7727
Email: messey@aphis.usda.gov

RIN: 0579–AA53

277. ANIMAL WELFARE—STANDARDS FOR MARINE MAMMALS

Priority: Other Significant

Legal Authority: 7 USC 2131 to 2159

CFR Citation: 9 CFR 3

Legal Deadline: None

Abstract: The Department regulates the treatment of certain marine mammals under the Animal Welfare Act. The present standards for treatment of these animals have been in effect for over 10 years. During this time, advances have been made and new information has been developed with regard to the housing and care of marine mammals. The Department has given notice of its review of the present standards to determine what revisions or additions might be necessary, and has requested comments on appropriate specific standards for treatment of marine mammals. The Department has conducted negotiated rulemaking (Reg Neg) and is developing proposed changes to the regulations. In addition to identifying regulatory provisions for revision based on negotiated rulemaking the Department is conducting separate rulemaking to establish standards governing "swim with the dolphins" (SWTD) programs. The Department has published a proposal on SWTD standards and is currently reviewing comments received on that proposal.

Timetable:

Action	Date	FR Cite
ANPRM	07/23/93	58 FR 39458
ANPRM Comment Period End	10/06/93	
NPRM	01/23/95	60 FR 4383
NPRM Comment Period End	02/22/95	

Action	Date	FR Cite
NPRM Comment Period Extended (Swim With the Dolphins (SWTD))	02/28/96	60 FR 10810
NPRM Comment Period Extended SWTD	03/09/95	60 FR 12908
NPRM Reopened and Extended Comment Period (SWTD)	03/24/95	60 FR 15524
Notice, Establish a Committee (Reg Neg)	05/22/95	60 FR 27049
Correction (Reg Neg)	06/02/95	60 FR 28834
Final Action SWTD	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Barbara Kohn, Veterinary Medical Officer, Animal Care, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 84, Riverdale, MD 20737-1234
Phone: 301 734-7833

RIN: 0579–AA59

278. IMPORTATION OF ANIMALS AND ANIMAL PRODUCTS

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 147a; 7 USC 150ee; 7 USC 161 to 162; 7 USC 450; 7 USC 1622; 19 USC 1306; 21 USC 102 to 105; 21 USC 111; 21 USC 114a; 21 USC 134a to 134d; 21 USC 134f; 21 USC 135; 21 USC 136; 21 USC 136a; 31 USC 9701; ...

CFR Citation: 9 CFR 92; 9 CFR 93; 9 CFR 94; 9 CFR 95; 9 CFR 96; 9 CFR 98

Legal Deadline: None

Abstract: APHIS plans to amend the animal and animal product importation regulations that currently identify entire countries as those that are either free of certain diseases or those in which the diseases exist. The changes would allow for regionalization of countries–i.e., disease classification of parts of a country, an entire country, or groups of countries. The rule change would also recognize levels of disease risk in regions. Although APHIS anticipates expanding these proposed provisions to apply to the importation of all regulated animals and animal products, at this time the changes apply only to ruminants and swine, and their products.

Timetable:

Action	Date	FR Cite
NPRM	04/18/96	61 FR 16978
NPRM Comment Period End	07/17/96	
NPRM Comment Period Extended	09/16/96	61 FR 36520
Interim Final Rule	05/09/97	62 FR 25439
Final Rule for Pork From Sonora, MX Effective 07/08/97	05/09/97	62 FR 25439
Final Rule for Beef From Argentina Effective 08/25/97	06/26/97	62 FR 34385
Final Action Effective	07/08/97	
Final Rule for Importation of Animal and Animal Products Products	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Gary Colgrove, Chief Staff Veterinarian, VS, National Center for Import and Export, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 38, Riverdale, MD 20737-1231
Phone: 301 734-8590
Fax: 301 734-3222

RIN: 0579–AA71

279. HUMANE TREATMENT OF DOGS AND CATS; WIRE FLOORING

Priority: Other Significant

Legal Authority: 7 USC 2131 to 2159

CFR Citation: 9 CFR 3

Legal Deadline: None

Abstract: This rule would amend the regulations for the humane treatment of dogs and cats under the Animal Welfare Act to prohibit bare wire flooring in primary enclosures for dogs and cats. The rule would further require that, if the floor of a primary enclosure for dogs or cats is constructed of wire, the wire must be coated with a material such as plastic or fiberglass. We believe that bare wire floors are inadequate in providing for the comfort and well-being of dogs and cats because of their potential to cause foot injuries and because they are difficult to clean and sanitize thoroughly. Requiring coated wire to be used for wire floors in primary enclosures would improve comfort, help eliminate foot injuries, and help provide clean and sanitary housing for dogs and cats. The cost to affected businesses of replacing bare wire flooring with coated wire is expected to be a considerable initial expense. However, coated wire flooring is more durable and needs to be replaced less often than bare wire flooring.

Timetable:

Action	Date	FR Cite
NPRM	07/02/96	61 FR 34389
NPRM Comment Period End	09/03/96	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen Smith, Staff Animal Health Technician, Animal Care, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 84, Riverdale, MD 20737-1234
Phone: 301 734-4972
Email: snsmith@aphis.usda.gov

RIN: 0579–AA78

280. KARNAL BUNT

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 7 USC 150bb; 7 USC 150dd; 7 USC 150ee; 7 USC 150ff; 7 USC 161; 7 USC 162; 7 USC 164 to 167

CFR Citation: 7 CFR 301

Legal Deadline: None

Abstract: Karnal bunt is a fungal disease of wheat (Triticum aestivum), durum wheat (Triticum durum), and triticale (Triticum aestivum x Secale cereale), a hybrid of wheat and rye. The establishment of Karnal bunt in the United States would have significant consequences with regard to the export of wheat to international markets. Prior to March 8, 1996, Karnal bunt was not known to exist in the United States. Since March 8, 1996, Karnal bunt has been detected within several States. In response, we have established regulations that define regulated areas in certain States because of Karnal bunt, that restrict the movement of certain articles from the regulated areas to prevent the spread of Karnal bunt, and provide compensation for certain growers, handlers, and other individuals in the regulated areas to mitigate losses and expenses incurred because of actions taken by the Secretary to prevent the spread of Karnal bunt. As part of a continuing Karnal bunt program, we anticipate that the regulations concerning regulated areas, movement restrictions, and compensation will be revised as more is known about the Karnal bunt situation in the United States.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/05/96	61 FR 35102
NPRM	08/02/96	61 FR 40354
NPRM Comment Period End	09/03/96	
Final Rule	10/04/96	61 FR 52190
Final Rule Effective Date	11/04/96	
NPRM Compensation, Wheat/Seed/Straw 95-96 Season	07/30/97	62 FR 40756
NPRM Comment Period End	08/29/97	
Final Rule 96-97 Season	12/00/97	
Final Rule, Wheat/Seed/Straw 96-96 Season	12/00/97	
Compensation for 1996-96 Crop Season		
Final Rule Effective 04/30/97 05/08/97 (62 FR 24746)		
Compensation for 1996-97 Crop Season		
NPRM Comments Due 09/09/97 07/11/97 (62 FR 37159)		
Reg. Flex. & Reg. Impact Analysis		
Final Rule (95-96 Season) 05/06/97 (62 FR 24753)		
Regulated Areas		
Interim Rule Effective 04/25/97 05/01/97 (62 FR 23620)		

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Mike Stefan, Operations Officer, Domestic and Emergency Operations,PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 134, Riverdale, MD 20737-1236
Phone: 301 734-8247
Email: mstefan@aphis.usda.gov

RIN: 0579–AA83

281. • INTERSTATE MOVEMENTS OF IMPORTED PLANTS AND PLANT PARTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 7 USC 150bb; 7 USC 150dd; 7 USC 150ee; 7 USC 150ff; 7 USC 161; 7 USC 162; 7 USC 164 to 167

CFR Citation: 7 CFR 301

Legal Deadline: None

Abstract: We are establishing a new domestic quarantine notice to help prevent the introduction of a foreign plant pest or disease through imported plants or plant parts. This domestic quarantine notice would prohibit the subsequent interstate movement of imported plants and plant parts whose importation into the United States is restricted by a foreign quarantine notice to certain states or areas. We are also removing the domestic quarantine notice, "Subpart-Unshu Oranges," because the new domestic quarantine notice described above makes "Subpart-Unshu Oranges" no longer necessary. We believe this generic domestic quarantine notice will strengthen APHIS' ability to take regulatory action against persons who violate certain foreign quarantine notices.

Timetable:

Action	Date	FR Cite
NPRM	10/02/96	61 FR 51376
Final Action	10/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen Poe, Operations Officer, PPQ, Domestic and Emergency Operations, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 134, Riverdale, MD 20737-1236
Phone: 301 734-8699

RIN: 0579–AA85

DEPARTMENT OF AGRICULTURE (USDA)
Animal and Plant Health Inspection Service (APHIS)

Long-Term Actions

282. IMPORTATION OF FRUITS AND VEGETABLES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 319.56

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ms. Jane Levy
Phone: 301 734-8259

RIN: 0579–AA58

283. IMPORTATION OF CERTAIN EMBRYOS AND ANIMAL SEMEN

Priority: Substantive, Nonsignificant

CFR Citation: 9 CFR 98

Timetable:

Action	Date	FR Cite
ANPRM	07/08/93	58 FR 36625
ANPRM Comment Period End	09/07/93	
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Roger Perkins
Phone: 301 734-8170

RIN: 0579–AA63

284. HSTAIC REPAIR AND MAINTENANCE FEES

Priority: Other Significant

CFR Citation: 9 CFR 92.430; 9 CFR 92.522

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

USDA—APHIS — Long-Term Actions

Government Levels Affected: Undetermined

Agency Contact: Joan Montgomery
Phone: 301 734-8172
RIN: 0579–AA69

DEPARTMENT OF AGRICULTURE (USDA)
Animal and Plant Health Inspection Service (APHIS) — Completed Actions

285. IMPORTED SEED AND SCREENINGS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 201

Completed:

Reason	Date	FR Cite
Final Action (Other Amendments)	09/08/97	62 FR 48456
Final Action Effective	10/06/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Polly Lehtonen
Phone: 301 734-8896

RIN: 0579–AA64

286. DEFINITION OF "BIOLOGICAL PRODUCTS" AND "GUIDELINES"

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 9 CFR 101

Completed:

Reason	Date	FR Cite
Final Action	06/09/97	62 FR 31326
Final Action Effective	07/09/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Frank Y. Tang
Phone: 301 734-4833

RIN: 0579–AA65

287. IN VITRO TESTS FOR SERIAL RELEASE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 9 CFR 113

Completed:

Reason	Date	FR Cite
Final Action	04/18/97	62 FR 19033
Final Action Effective	05/19/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Albert Morgan
Phone: 301 734-8245

RIN: 0579–AA66

288. GENETICALLY ENGINEERED ORGANISMS; SIMPLIFICATION OF REQUIREMENTS AND PROCEDURES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 340

Completed:

Reason	Date	FR Cite
Final Action	05/02/97	62 FR 23945
Final Action Effective	06/02/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Michael Schechtman
Phone: 301 734-7601

RIN: 0579–AA73

289. HUMANE TREATMENT OF DOGS AND CATS; TETHERING AND TEMPERATURE REQUIREMENTS

Priority: Other Significant

CFR Citation: 9 CFR 1; 9 CFR 3

Completed:

Reason	Date	FR Cite
Final Action (Technical Correction to Final Rule-9/25/97-62 FR 50244)	08/13/97	62 FR 43272
Final Action Effective	09/12/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mr. Stephen Smith
Phone: 301 734-4972
Email: snsmith@aphis.usda.gov

RIN: 0579–AA74

290. USER FEES—AGRICULTURAL QUARANTINE AND INSPECTION SERVICES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 7 CFR 354.3

Completed:

Reason	Date	FR Cite
Final Action	07/24/97	62 FR 39747
Final Action Effective	09/01/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jim Smith
Phone: 301 734-8295

RIN: 0579–AA81

BILLING CODE 3410-34-F

DEPARTMENT OF AGRICULTURE (USDA)
Cooperative State Research, Education, and Extension Service (CSREES) — Proposed Rule Stage

291. AGRICULTURAL TELECOMMUNICATIONS PROGRAM ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 3318

CFR Citation: 7 CFR 3417

Legal Deadline: None

Abstract: We propose to establish Administrative Provisions for the Agricultural Telecommunications Program to institute procedures to be followed in preparing proposals, to outline requirements which grant recipients must meet, to provide instructions on how to apply for a grant, and to provide general information about post-award administration of grants under the program.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phillip A. Carter, Policy Advisor, Policy & Program Liaison Staff, Department of Agriculture, Cooperative State Research, Education, and Extension Service, 1400 Independence Ave. SW., STOP 2299, Washington, DC 20250-2299
Phone: 202 720-9181
Fax: 202 401-7752
Email: pcarter@reeusda.gov

RIN: 0524–AA12

292. HISPANIC EDUCATION PARTNERSHIP GRANTS PROGRAM; ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 3241

CFR Citation: 7 CFR 3412

Legal Deadline: None

Abstract: Regulation will establish the procedures to be followed annually in the solicitation of proposals, the evaluation of such proposals, and the award of project grants under the Hispanic Education Partnership Grants Program.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phillip A. Carter, Policy Advisor, Policy & Program Liaison Staff, Department of Agriculture, Cooperative State Research, Education, and Extension Service, 1400 Independence Ave. SW., STOP 2299, Washington, DC 20250-2299
Phone: 202 720-9181
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Email: pcarter@reeusda.gov

RIN: 0524–AA17

293. COMMUNITY FOOD PROJECTS ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 2034

CFR Citation: 7 CFR 3416

Legal Deadline: None

Abstract: This regulation proposes to establish Administrative Provisions for the Community Food Projects to institute procedures to be followed in preparing proposals, to outline requirements which grant recipients must meet, to provide instructions on how to apply for a grant, and to provide general information about post-award administration of grants under the program.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phillip Carter, Policy and Program Liaison Staff, Office of Extramural Programs, Department of Agriculture, Cooperative State Research, Education, and Extension Service, 1400 Independence Ave. SW., STOP 2299, Washington DC. 20250-2299
Phone: 202 720-9181
Fax: 202 401-7752
Email: pcarter@reeusda.gov

RIN: 0524–AA19

DEPARTMENT OF AGRICULTURE (USDA)
Cooperative State Research, Education, and Extension Service (CSREES) — Final Rule Stage

294. HIGHER EDUCATION CHALLENGE GRANTS PROGRAM; ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 3152

CFR Citation: 7 CFR 3405

Legal Deadline: None

Abstract: Regulation will establish the procedures to be followed annually in the solicitation of proposals, the evaluation of such proposals, and the award of project grants under the Higher Education Challenge Grants Program.

Timetable:

Action	Date	FR Cite
NPRM	12/19/95	60 FR 65444
NPRM Comment Period End	01/18/96	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phillip A. Carter, Policy Advisor, Policy & Program Liaison Staff, Department of Agriculture, Cooperative State Research, Education, and Extension Service, 1400 Independence Ave. SW., STOP 2299, Washington, DC 20250-2299
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Fax: 202 401-7752
Email: pcarter@reeusda.gov

RIN: 0524–AA02

295. 1890 INSTITUTION CAPACITY BUILDING GRANTS PROGRAM; ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 3152(b)(4)

CFR Citation: 7 CFR 3406

Legal Deadline: None

Abstract: Regulation will establish the procedures to be followed annually in the solicitation of proposals, the evaluation of such proposals, and award of project grants under the 1890

USDA—CSREES

Final Rule Stage

Institution Capacity Building Grants Program.

Timetable:

Action	Date	FR Cite
NPRM	12/20/95	60 FR 66014
NPRM Comment Period End	01/19/96	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phillip A. Carter, Policy Advisor, Policy & Program Liaison Staff, Department of Agriculture, Cooperative State Research, Education, and Extension Service, 1400 Independence Ave. SW., Stop 2299, Washington DC 20250-2299
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RIN: 0524–AA03

DEPARTMENT OF AGRICULTURE (USDA)

Long-Term Actions

Cooperative State Research, Education, and Extension Service (CSREES)

296. HIGHER EDUCATION MULTICULTURAL SCHOLARS PROGRAM; ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 3409

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phillip A. Carter
Phone: 202 720-9181
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Email: pcarter@reeusda.gov

RIN: 0524–AA09

DEPARTMENT OF AGRICULTURE (USDA)

Completed Actions

Cooperative State Research, Education, and Extension Service (CSREES)

297. SMALL BUSINESS INNOVATION RESEARCH PROGRAM ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 3403

Completed:

Reason	Date	FR Cite
Final Action	05/12/97	62 FR 26168
Final Action Effective	05/12/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phillip Carter
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Email: pcarter@reeusda.gov

RIN: 0524–AA18

BILLING CODE 3410-22-F

DEPARTMENT OF AGRICULTURE (USDA)

Proposed Rule Stage

Rural Housing Service (RHS)

298. CIVIL RIGHTS COMPLIANCE REQUIREMENTS—1901-E TO 1940-D

Priority: Other Significant

Legal Authority: PL 100-259; PL 88-352; 42 USC 2000d et seq; PL 90-284; 42 USC 3601 to 3619; PL 100-430; PL 92-318; 20 USC 1681 et seq; PL 93-112; 29 USC 794; PL 94-135; 42 USC 6101 et seq; PL 94-239; 15 USC 1601 et seq; EO 11246

CFR Citation: 7 CFR 15; 12 CFR 202; 28 CFR 42; 45 CFR 90; 41 CFR 60 to 64; 24 CFR 14; 7 CFR 1940 subpart D; 7 CFR 1901 subpart E

Legal Deadline: None

Abstract: Will effectuate a comprehensive civil rights regulation implementing the following laws: The Equal Credit Opportunity Act (ECOA); title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (The Fair Housing Act); the Age Discrimination Act of 1975, and programs and activities; Amendments of 1972; and Executive Order 11246. The revised regulations will provide detailed guidelines for field offices for improved enforcement and compliance with these laws which heavily impact the Agency's programs. Mechanisms for monitoring compliance by field offices and recipients of financial assistance at all levels will decrease the Agency's vulnerability due to noncompliance with recently enacted Civil Rights legislation.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	
NPRM Comment Period End	03/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Carlton L. Lewis, Chief, Program Compliance Branch, Department of Agriculture, Rural Housing Service, Stop 0703, 1400 Independence Ave. SW., Washington, DC 20250
Phone: 202 690-9810
TDD: 202 690-9809
Fax: 202 690-9803

RIN: 0575–AA83

USDA—RHS

Proposed Rule Stage

299. COMMUNITY PROGRAMS GUARANTEED LOANS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 1980 subpart I

Legal Deadline: None

Abstract: To amend subject regulation which will provide more comprehensive guidance to applicants, lenders, and agency staff regarding financial assistance for essential guaranteed community facilities loans. Justification: These regulatory changes are necessary to streamline and reduce the burden on the public. These changes will also expand the use of the Community Facilities (CF) guarantee program by providing the ability to guarantee tax-exempt loans, and (in general) make the program more accessible to rural lenders. Finally, these changes will reflect our new Agency structure under USDA's reorganization.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
NPRM Comment Period End	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Melvin Padgett, Loan Specialist, Community Programs Division, Department of Agriculture, Rural Housing Service, Stop 3222, 1400 Independence Ave. SW., Washington, DC 20250
Phone: 202 720-1495

RIN: 0575–AB48

300. ACCESSIBILITY OF EXISTING MULTI-FAMILY HOUSING COMPLEXES

Priority: Other Significant

Legal Authority: 42 USC 1480

CFR Citation: 7 CFR 1924 subpart A; 7 CFR 1944 subpart E; 7 CFR 1965 subpart B

Legal Deadline: None

Abstract: The Rural Housing Service proposes to amend its regulations to establish a cost basis for defining substantial alterations or rehabilitations to existing rural rental housing complexes, and to require that such complexes undergoing substantial rehabilitations be made accessible to persons with disabilities in accordance with Uniform Federal Accessibility Standards (UFAS) to the maximum extent feasible. The action is taken to provide consistent criteria for requiring that existing housing complexes be made accessible during rehabilitation.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	01/00/98	
Final Action	03/00/98	
Final Action Effective	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Larry Fleming, Architect, Program Support Staff, Department of Agriculture, Rural Housing Service, 1400 Independence Ave. SW., Stop 0761, Room 6309 South Building, Washington, DC 20250
Phone: 202 720-8547

RIN: 0575–AC08

301. DIRECT SINGLE FAMILY HOUSING LOANS AND GRANTS

Priority: Other Significant

Legal Authority: 42 USC 1472

CFR Citation: 7 CFR 1924 subpart A; 7 CFR 1944 subpart E; 7 CFR 1980 subpart D; 7 CFR 3550 subpart B

Legal Deadline: None

Abstract: The Agency is changing the thermal requirements for manufactured housing. Manufactured homes are no longer required to meet the RHS's thermal requirements. The recent HUD increase in the thermal requirements of the building envelope for manufactured home is substantial. The thermal performance of a unit built to the requirements is comparable to the thermal performance of a unit built to the requirements of RHS climatic zones.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	
Final Action	04/00/98	
Final Action Effective	05/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sam Hodges, III, Architect, Program Support Staff, Department of Agriculture, Rural Housing Service, Stop 0761, Rm. 6309 South Building, 1400 Independence Ave. SW., Washington, DC 20250
Phone: 202 720-9653
Fax: 202 690-4335

RIN: 0575–AC11

302. MULTI-FAMILY HOUSING REINVENTION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 5 USC 301; 7 USC 1989; 42 USC 1475; 42 USC 1479; 42 USC 1480; 42 USC 1481; 42 USC 1484; 42 USC 1485; 42 USC 1486; 42 USC 1490a

CFR Citation: 7 CFR 1806 subpart A; 7 CFR 1930 subpart C; 7 CFR 1944 subpart D; 7 CFR 1944 subpart E; 7 CFR 1951 subpart C; 7 CFR 1951 subpart D; 7 CFR 1951 subpart K; 7 CFR 1951 subpart N; 7 CFR 1955 subpart A; 7 CFR 1955 subpart B; 7 CFR 1955 subpart C; 7 CFR 1956 subpart B; 7 CFR 1965 subpart B; 7 CFR 1965 subpart E

Legal Deadline: None

Abstract: Reinvention of the Rural Housing Service's Multi-Family Housing Programs will consolidate regulations pertaining to section 515 Rural Rental Housing, section 514 Farm Labor Housing Loans, section 516 Farm Labor Housing Grants and section 521 Rental Assistance Payments. Fourteen published regulations will be reduced to one regulation and handbooks for program administration. This will simplify loan origination and portfolio management for applicants, borrowers and housing operators as well as Rural Development field staff. This will also provide flexibility for program modifications to reflect current and foreseeable changes. It will also reduce regulations that address solely internal agency program administration. Finally, the regulation will be more customer

USDA—RHS

Proposed Rule Stage

friendly and responsive to the needs of the public.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	
NPRM Comment Period End	05/00/98	
Final Action	08/00/98	
Final Action Effective	09/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Pentecost, Deputy Division Director, Multi-Family Housing Processing Div., Department of Agriculture, Rural Housing Service, 1400 Independence Ave. SW., Washington, DC 20250
Phone: 202 720-1604
Fax: 202 690-3444

RIN: 0575–AC13

303. SECTION 538 GUARANTEE RURAL RENTAL HOUSING PROGRAM

Priority: Other Significant

Legal Authority: 42 USC 1490p-2; 5 USC 301; 7 USC 1

CFR Citation: 7 CFR 3565

Legal Deadline: None

Abstract: Implement the Rural Rental Housing Guarantee Loan Program authorized by section 538 of the Housing Act of 1949 as amended. This program will serve moderate income rural families with incomes up to 115 percent of area median. This will increase the stock and affordable decent safe and sanitary housing for such families and individuals at reduced cost to the Government. Where current direct lending costs $50 per $100 lent, the guarantee program will cost approximately $4 per $100 guaranteed.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
NPRM Comment Period End	01/00/98	
Final Action	05/00/98	
Final Action Effective	06/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carl Wagner, Senior Loan Officer, Multi-Family Housing Processing Div., Department of Agriculture, Rural Housing Service, 1400 Independence Ave. SW., Washington, DC 20250
Phone: 202 720-1604
Fax: 202 690-3444
Email: cwagner@usda.gov

RIN: 0575–AC14

304. • COMMUNITY FACILITY LOANS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 7 USC 1989; 16 USC 1005

CFR Citation: 7 CFR 1942

Legal Deadline: None

Abstract: The regulation will be revised to incorporate the Single Audit Act Amendments of 1996 for Community Facilities Loans and Grants. We will incorporate new requirements in RD Instruction 1942-A, section 1942.17(g) which includes information and procedures designed for use by professional consultants and agents who provide audit-related services relative to application processing, facility planning and development and project management. Applicants also reference this section to ensure the proper methods of preparing financial statements and management reports for the agency and auditors use. The impact will promote sound financial management.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon Douglas, Loan Specialist, Community Programs Division, Department of Agriculture, Rural Housing Service, 1400 Independence Ave. SW., STOP 3222, Washington, DC 20250
Phone: 202 720-1506
TDD: 202 690-0471

RIN: 0575–AC16

DEPARTMENT OF AGRICULTURE (USDA)

Final Rule Stage

Rural Housing Service (RHS)

305. DENYING CREDIT TO APPLICANTS DELINQUENT ON ANY FEDERAL DEBT

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 1942 subpart C; 7 CFR 1944 subpart E; 7 CFR 1948 subpart B; 7 CFR 1951 subpart E; 7 CFR 1942 subpart A; 7 CFR 1942 subpart G; 7 CFR 1944 subpart D; 7 CFR 1948 subpart C; 7 CFR 1980 subpart E; 7 CFR 1980 subpart I

Legal Deadline: None

Abstract: OMB Circular A-129 dated November 25, 1988, recommends that the processing of applications for Federal direct loans be suspended and requires private lenders to suspend processing of loan guarantee applications when an applicant is found to be delinquent on a Federal debt. The Federal Debt Collections Procedures Act of 1990 also requires that credit be denied if an outstanding judgment lien obtained by the United States in a Federal Court (other than the United States Tax Court), which has been recorded, is found.

Timetable:

Action	Date	FR Cite
NPRM	05/04/94	59 FR 23018
NPRM Comment Period End	07/05/94	
Final Action	10/00/97	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Local, Tribal, Federal

Agency Contact: Sherie Hinton Henry, Director, Financial Management Division, Department of Agriculture, Rural Housing Service, 1400 Independence Ave. SW., Stop 0707, Washington, DC 20250
Phone: 202 690-0300
Fax: 202 720-5184

RIN: 0575–AA66

USDA—RHS

Final Rule Stage

306. RURAL RENTAL AND RURAL COOPERATIVE HOUSING LOAN POLICIES, PROCEDURES, AND AUTHORIZATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1489; 5 USC 301; 42 USC 1480

CFR Citation: 7 CFR 1944 subpart E

Legal Deadline: None

Abstract: This regulatory action provides guidance for participation loans, addresses eligibility requirements for applicants with noncompliance issues or fair housing violations and allows the use of a market survey to establish market feasibility on a case-by-case basis for proposals of 12 or fewer units.

Timetable:

Action	Date	FR Cite
NPRM	01/17/96	61 FR 1153
NPRM Comment Period End	03/18/96	
Final Rule	05/07/97	62 FR 25071
Final Rule Effective	06/06/97	
NPRM Comment Period Extended	07/08/97	62 FR 36467
NPRM Comment Period End	08/07/97	
Final Action	10/00/97	
Final Action Effective	11/00/97	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Obediah G. Baker, Jr., Director, Multi Family Housing, Processing Division, Department of Agriculture, Rural Housing Service, 1400 Independence Ave. SW., Room 5339 South Building, Washington, DC 20250
Phone: 202 720-1604

RIN: 0575–AB93

307. REENGINEERING AND REINVENTION OF THE DIRECT SECTION 502 AND 504 SINGLE FAMILY HOUSING PROGRAM

Priority: Other Significant. Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 7 USC 1989; 42 USC 1480; 31 USC 3700

CFR Citation: 7 CFR 1806; 7 CFR 1900; 7 CFR 1944; 7 CFR 1951; 7 CFR 1955; 7 CFR 1956; 7 CFR 1965; 7 CFR 3550

Legal Deadline: None

Abstract: Rural Housing Service (RHS) has purchased a state-of-the-art dedicated loan origination servicing system (DLOSS) which includes escrow capability. To conform to this new system, RHS proposes to make further amendments to the regulations to allow the agency to provide escrow services to Single Family Housing borrowers which follow industry standards. In addition, the agency proposes to amend its regulations to conform to processes and techniques currently utilized by the private sector.

Timetable:

Action	Date	FR Cite
NPRM	04/08/96	61 FR 15395
NPRM Comment Period End	06/07/96	
Interim Final Rule	11/22/96	61 FR 59762
Final Action	11/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Betsy Fletcher, Senior Loan Specialist, Single Family Housing, Department of Agriculture, Rural Housing Service, 1400 Independence Ave. SW., STOP 0783, Washington, DC 20250
Phone: 202 720-1486

RIN: 0575–AB99

308. COMMUNITY FACILITY GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1989; 16 USC 1005; 5 USC 301

CFR Citation: 7 CFR 3570 subpart B

Legal Deadline: None

Abstract: The Agency is establishing a new grant program for community facilities. Grant purposes are the same as the Community Facilities direct and guaranteed programs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/07/97	62 FR 16465
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jennifer Barton, Loan Specialist, Community Programs Division, Department of Agriculture, Rural Housing Service, 1400 Independence Ave. SW., Stop 3222, Washington, DC 20250
Phone: 202 720-1504

RIN: 0575–AC10

309. SERVICING COMMUNITY PROGRAMS LOANS AND GRANTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 7 USC 1989; 31 USC 3711; 42 USC 1480

CFR Citation: 7 CFR 3570 subpart D; 7 CFR 1951 subpart E; 7 CFR 1951 subpart O; 7 CFR 1955 subpart A; 7 CFR 1955 subpart B; 7 CFR 1955 subpart C; 7 CFR 1956 subpart C; 7 CFR 1951 subpart F

Legal Deadline: None

Abstract: The Agency is combining seven regulations affecting the servicing of Community Program loans and grants into one regulation. Justification: This is part of the reinventing Government initiative. There are no policy or procedural changes. The published regulation will be simplified by removing the administrative portion and will only contain the information affecting the public. Agency field staff will receive an Instruction which will include the administrative portion and the published regulations.

Timetable:

Action	Date	FR Cite
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Beth Jones, Loan Specialist, Community Programs

USDA—RHS — Final Rule Stage

Division, Department of Agriculture, Rural Housing Service, 1400 Independence Ave. SW., STOP 3222, Washington, DC 20250
Phone: 202 720-1498
Fax: 202 690-0471

RIN: 0575–AC12

310. SECTION 515 REFORM REGULATIONS

Priority: Other Significant

Legal Authority: PL 104-180, sec 734; 7 USC 1989; 5 USC 301

CFR Citation: 7 CFR 1930 subpart C; 7 CFR 1944 subpart D; 7 CFR 1944 subpart E; 7 CFR 1951 subpart K; 7 CFR 1965 subpart B; 7 CFR 1965 subpart E

Legal Deadline: None

Abstract: Changes to appropriate Rural Development Regulations to implement reforms to the section 515 Rural Rental Housing Program required by section 734 of the Agriculture Appropriation Act of 1996 (PL 104-180) addressing project transfers (7 CFR 1965-B), occupancy surcharge (7 CFR 1930-C, 1951-K, 1965-B), equity loan eligibility (7 CFR 1944-D & E) and Equity Skimming (7 CFR 1930-C). Changes also required by PL 104-180, sec. 734 include providing only necessary assistance to applicants and prioritizing areas of assistance. These reforms will simplify the program, reduce cost of the government subsidies, assure the program reaches most needy communities and penalize those participants in the program who fraudulently remove equity or resources belonging to the housing financed by USDA-RHS.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/07/97	62 FR 25062
Final Action	11/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Armour, Senior Loan Officer, Multi-Family Housing Processing Division, Department of Agriculture, Rural Housing Service, 1400 Independence Ave. SW., Washington, DC 20250
Phone: 202 720-1604
Fax: 202 690-3444

RIN: 0575–AC15

DEPARTMENT OF AGRICULTURE (USDA) — Long-Term Actions
Rural Housing Service (RHS)

311. ENVIRONMENTAL PROGRAM STREAMLINE ENVIRONMENTAL PROCESS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 300; 40 CFR 260; 40 CFR 700; 40 CFR 400

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Susan Wieferich
Phone: 202 720-9647

RIN: 0575–AB98

312. PROVIDE INFORMATION REGARDING LEASE WRITE-OFF AND ANNUAL LEASE STATEMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1955 subpart B

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kristine Kenniston
Phone: 314 539-2261
Fax: 314 539-2764

RIN: 0575–AC01

313. NATIONAL FLOOD INSURANCE REGULATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1926 subpart B; 7 CFR 1806 subpart B

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Don Lander
Phone: 202 720-9656

RIN: 0575–AC07

DEPARTMENT OF AGRICULTURE (USDA) — Completed Actions
Rural Housing Service (RHS)

314. HOUSING PRESERVATION GRANTS FOR REPLACEMENT OF HOUSING

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1944 subpart N

Completed:

Reason	Date	FR Cite
Final Action	05/13/97	62 FR 26207
Final Action Effective	06/12/97	

Small Entities Affected: Organizations

Government Levels Affected: State, Local, Tribal

Agency Contact: Sue M. Harris
Phone: 202 720-1606

RIN: 0575–AB43

USDA—RHS — Completed Actions

315. ENVIRONMENTAL PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 1940 subpart G

Completed:

Reason	Date	FR Cite
Withdrawn - RUS & RHS/RBS are now pursuing two separate regulations	07/14/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Susan Wieferich
Phone: 202 720-9647

RIN: 0575–AB64

316. SECURITY SERVICING FOR MULTIPLE-FAMILY HOUSING LOANS

Priority: Other Significant

Unfunded Mandates: Undetermined

CFR Citation: 7 CFR 1965 subpart B

Completed:

Reason	Date	FR Cite
Withdrawn - Incorporated into RIN 0575-AC13	07/21/97	

Small Entities Affected: Organizations

Government Levels Affected: Federal

Agency Contact: James E. Vollmer
Phone: 202 720-1060

RIN: 0575–AB73

317. COMMUNITY FACILITY LOANS: INTERNAL REVENUE SERVICE TAXPAYERS IDENTIFICATION NUMBER

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1942; 7 CFR 1948; 7 CFR 1951; 7 CFR 1980

Completed:

Reason	Date	FR Cite
Withdrawn - Will be incorporated into a later rule	07/08/97	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, Tribal

Agency Contact: Yoonie MacDonald
Phone: 202 720-1501

RIN: 0575–AB77

318. SERVICING CASES WHERE UNAUTHORIZED LOAN OR OTHER FINANCIAL ASSISTANCE WAS RECEIVED—MULTIPLE FAMILY HOUSING

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1951 subpart N

Completed:

Reason	Date	FR Cite
Withdrawn - Incorporated into RIN 0575-AC13	07/21/97	

Small Entities Affected: Businesses

Government Levels Affected: Local

Agency Contact: Ernest W. Harris
Phone: 202 720-1613
Fax: 202 720-0302

RIN: 0575–AC02

319. FARM LABOR HOUSING

Priority: Other Significant

Unfunded Mandates: Undetermined

CFR Citation: 7 CFR 1944 subpart D; 7 CFR 1930 subpart C

Completed:

Reason	Date	FR Cite
Withdrawn - Incorporated into RIN 0575-AC13	07/21/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: James E. Vollmer
Phone: 202 720-1060

RIN: 0575–AC03

320. RD INSTRUCTION 1942-A, "COMMUNITY FACILITY LOANS"

Priority: Other Significant

CFR Citation: 7 CFR 1942 subpart A

Completed:

Reason	Date	FR Cite
Withdrawn - Will be incorporated into a later rule	07/08/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jennifer Barton
Phone: 202 720-1504

RIN: 0575–AC05

321. MANAGEMENT AND SUPERVISION OF MULTIPLE FAMILY HOUSING BORROWERS AND GRANT RECIPIENTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1930 subpart C

Completed:

Reason	Date	FR Cite
Withdrawn - Incorporated into RIN 0575-AC13	07/21/97	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Larry Anderson
Phone: 202 720-1611

RIN: 0575–AC09

BILLING CODE 3410-07-F

DEPARTMENT OF AGRICULTURE (USDA) — Proposed Rule Stage
Federal Crop Insurance Corporation (FCIC)

322. GENERAL ADMINISTRATIVE REGULATIONS; HIGH RISK LAND REGULATIONS

Priority: Other Significant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation adds new regulations to be known as High Risk Land Regulations. The intended effect of this rule is to set forth rates apart from those prescribed by standard actuarial tables and coverage procedures for acreage on which actual or expected frequency and severity of loss does not reasonably conform to standard insurance coverage and rating determination methods.

USDA—FCIC

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0525, 1400 Independence Avenue SW., Washington, DC 20250-0525
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AA96

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323. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART V; SUBMISSION OF POLICIES AND PROVISIONS OF POLICIES AND RATES OF PREMIUM

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: This rule proposes to add a new subpart to the General Administrative Regulations which will provide guidelines for FCIC approval of supplemental and alternative crop insurance policies and policy provisions developed by FCIC approved insurance providers.

Timetable:

Action	Date	FR Cite
NPRM	09/11/97	62 FR 47772
NPRM Comment Period End	11/10/97	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0525, 1400 Independence Avenue SW., Washington, DC 20250-0525
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB15

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324. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART N; DISASTER ASSISTANCE ACT OF 1988

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: This rule proposes to revise subpart N of the General Administrative Regulations by repealing obsolete disaster guidelines and requiring the mandatory purchase of catastrophic crop insurance for program crops as a prerequisite for obtaining benefits under any commodity price subpart, production adjustment, or conservation program administered by USDA, or any farmer loan program, whether these programs are administered by FCIC or CFSA.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0525, 1400 Independence Avenue SW., Washington, DC 20250-0525
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB20

DEPARTMENT OF AGRICULTURE (USDA)
Federal Crop Insurance Corporation (FCIC)

Final Rule Stage

325. COMMON CROP INSURANCE REGULATIONS; CANNING AND PROCESSING TOMATO CROP INSURANCE PROVISIONS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 457

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation hereby proposes regulations for provisions to insure canning and processing tomatoes. The provisions will be used in conjunction with the Common Crop Insurance Policy which contains standard terms and conditions common to most crops. The intended effect of this action is to provide automatic coverage for late and prevented planting as well as make other minor policy changes to better meet the needs of the insured. This rule proposes to remove the Canning and Processing tomato policy which currently is located at part 401.114 under the General Crop Insurance Regulations and move under part 457, Common Crop Insurance Regulations.

Timetable:

Action	Date	FR Cite
NPRM	08/23/97	62 FR 33763
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0525, 1400 Independence Avenue SW., Washington, DC 20250-0525
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AA94

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326. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART D; APPLICATION FOR CROP INSURANCE

Priority: Other Significant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation amends the General Administrative Regulations by revising the "Collection of Information and Data (Privacy Act)" statement found on the general crop insurance application. The proposed amendments to the statement include defining "substantial beneficial interest" as those persons whose interest in the policyholder is in excess of 10 percent. Other minor changes have been made to more fully comply with provisions of the Privacy Act.

Timetable:

Action	Date	FR Cite
Final Action	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0525, 1400 Independence Avenue SW., Washington, DC 20250-0525
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB00

USDA—FCIC

Final Rule Stage

327. GROUP RISK PLAN CROP INSURANCE PROVISIONS; PART 407

Priority: Other Significant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 407

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation (FCIC) hereby proposes to issue provisions which will outline a new risk management tool to be known as the Group Risk Plan of Insurance (GRP). This plan will insure against the widespread loss of production of certain crops in a county and is intended primarily for use by those farmers whose yields tend to follow the county average yield. GRP pays only when the average yield of the entire county drops below the expected county yield for the insured crop set by the FCIC. Payment is based on the percentage of county or area wide loss below the insured's trigger yield. Specific GRP Crop Insurance Provisions will be proposed for cotton, wheat, barley, corn, grain, sorghum, soybeans, forage production, and peanuts.

Timetable:

Action	Date	FR Cite
NPRM	10/08/96	61 FR 52717
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0525, 1400 Independence Avenue SW., Washington, DC 20250-0525
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB06

DEPARTMENT OF AGRICULTURE (USDA)
Federal Crop Insurance Corporation (FCIC)

Long-Term Actions

328. COMMON CROP INSURANCE REGULATIONS; TOBACCO (GUARANTEED PLAN) CROP INSURANCE PROVISIONS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 401.129

Timetable:

Action	Date	FR Cite
NPRM	08/16/97	62 FR 32544
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AA84

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329. COMMON CROP INSURANCE REGULATIONS; PEANUT CROP INSURANCE PROVISIONS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 457

Timetable:

Action	Date	FR Cite
NPRM	05/01/97	62 FR 23685
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AA85

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330. COMMON CROP INSURANCE REGULATIONS; NORTHERN POTATO CROP INSURANCE PROVISIONS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 457

Timetable:

Action	Date	FR Cite
NPRM	04/23/97	62 FR 19691
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AA89

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331. COMMON CROP INSURANCE REGULATIONS; RICE, FIG, ALMOND, RAISIN, FORAGE PRODUCTION, HYBRID SORGHUM SEED, PEAR, APPLE, CANNING AND PROCESSING SWEET CORN, DOLLAR PLAN FRESH MARKET TOMATO,

Priority: Routine and Frequent

CFR Citation: 7 CFR 457

Timetable:

Action	Date	FR Cite
NPRM	06/15/95	60 FR 31375
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman
Phone: 202 690-2803

USDA—FCIC

Long-Term Actions

Fax: 202 690-2818
RIN: 0563–AB03

332. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART S; REGULATIONS FOR INSURANCE COVERAGE BY WRITTEN AGREEMENT

Priority: Other Significant
CFR Citation: 7 CFR 400
Timetable:

Action	Date	FR Cite
NPRM	08/20/97	62 FR 33575
Final Action	00/00/00	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Kenneth D. Ackerman
Phone: 202 690-2803
Fax: 202 690-2818
RIN: 0563–AB07

333. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART J; APPEAL PROCEDURE REGULATIONS

Priority: Routine and Frequent
CFR Citation: 7 CFR 400
Timetable:

Action	Date	FR Cite
Interim Final Rule	12/29/95	60 FR 67296
Final Action	00/00/00	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Kenneth D. Ackerman
Phone: 202 690-2803
Fax: 202 690-2818
RIN: 0563–AB17

334. 1996 CROP YEAR COFFEE CROP INSURANCE PROGRAM FOR PUERTO RICO

Priority: Substantive, Nonsignificant
CFR Citation: Not yet determined
Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Kenneth D. Ackerman
Phone: 202 690-2803
Fax: 202 690-2818
RIN: 0563–AB33

335. 1996 CROP YEAR FRUIT TREES (AVOCADO, ORANGES, MANGO, CITRON, LEMON) INSURANCE PROGRAM FOR PUERTO RICO

Priority: Substantive, Nonsignificant
CFR Citation: Not yet determined
Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Kenneth D. Ackerman
Phone: 202 690-2803
Fax: 202 690-2818
RIN: 0563–AB36

336. COMMON CROP INSURANCE REGULATIONS; SUNFLOWER SEED CROP INSURANCE PROVISIONS

Priority: Substantive, Nonsignificant
CFR Citation: 7 CFR 457.108
Timetable:

Action	Date	FR Cite
NPRM	04/11/97	62 FR 17758
Final Action	00/00/00	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Kenneth D. Ackerman
Phone: 202 690-2803
Fax: 202 690-2818
RIN: 0563–AB42

337. TOBACCO, QUOTA PLAN CROP INSURANCE REGULATIONS

Priority: Substantive, Nonsignificant
CFR Citation: 7 CFR 435
Timetable:

Action	Date	FR Cite
NPRM	05/13/97	62 FR 26248
Final Action	00/00/00	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Kenneth D. Ackerman
Phone: 202 690-2803
Fax: 202 690-2818
RIN: 0563–AB47

338. POPCORN CORN INSURANCE REGULATIONS

Priority: Substantive, Nonsignificant
CFR Citation: 7 CFR 447
Timetable:

Action	Date	FR Cite
NPRM	04/09/97	62 FR 17103
Final Action	00/00/00	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Kenneth D. Ackerman
Phone: 202 690-2803
Fax: 202 690-2818
RIN: 0563–AB48

339. FEDERAL CROP INSURANCE ON HIGHLY ERODIBLE LAND AND WETLANDS—PART 400

Priority: Other Significant
CFR Citation: 7 CFR 400.47
Timetable:

Action	Date	FR Cite
Interim Final Rule	07/23/96	61 FR 38057
Final Action	00/00/00	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Kenneth D. Ackerman
Phone: 202 690-2803
Fax: 202 690-2818
RIN: 0563–AB59

340. FEDERAL CROP INSURANCE ON HIGHLY ERODIBLE LAND AND WETLANDS—PART 401

Priority: Other Significant
CFR Citation: 7 CFR 401.8
Timetable:

Action	Date	FR Cite
Interim Final Rule	07/26/96	61 FR 39048
Final Action	00/00/00	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Kenneth D. Ackerman
Phone: 202 690-2803
Fax: 202 690-2818
RIN: 0563–AB60

DEPARTMENT OF AGRICULTURE (USDA)
Federal Crop Insurance Corporation (FCIC)

Completed Actions

341. COMMON CROP INSURANCE REGULATIONS; ONION CROP INSURANCE PROVISIONS

Priority: Routine and Frequent
Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.
CFR Citation: 7 CFR 457
Completed:

Reason	Date	FR Cite
Final Action	05/27/97	62 FR 28609

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Kenneth D. Ackerman
Phone: 202 690-2803
Fax: 202 690-2818
RIN: 0563–AA87

342. COMMON CROP INSURANCE REGULATIONS; SUGARBEET CROP INSURANCE PROVISIONS

Priority: Routine and Frequent
Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.
CFR Citation: 7 CFR 457
Completed:

Reason	Date	FR Cite
Final Action	11/19/96	61 FR 58769

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Kenneth D. Ackerman
Phone: 202 690-2803
Fax: 202 690-2818
RIN: 0563–AA93

343. COMMON CROP INSURANCE REGULATIONS; FRESH MARKET TOMATO (GUARANTEED PRODUCTION) CROP INSURANCE PROVISIONS

Priority: Routine and Frequent
Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.
CFR Citation: 7 CFR 457
Completed:

Reason	Date	FR Cite
Final Action	05/01/97	62 FR 23266

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Kenneth D. Ackerman
Phone: 202 690-2803
Fax: 202 690-2818
RIN: 0563–AA95

344. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART U; INELIGIBLE FILE—CROP INSURANCE INELIGIBILITY

Priority: Other Significant
CFR Citation: 7 CFR 400
Completed:

Reason	Date	FR Cite
Final Action	08/05/97	62 FR 42037

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Kenneth D. Ackerman
Phone: 202 690-2803
Fax: 202 690-2818
RIN: 0563–AB01

345. GENERAL ADMINISTRATIVE REGULATIONS; NONSTANDARD CLASSIFICATION SYSTEM; SUBPART O

Priority: Substantive, Nonsignificant
CFR Citation: 7 CFR 400
Completed:

Reason	Date	FR Cite
Final Action	04/28/97	62 FR 22873

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Kenneth D. Ackerman
Phone: 202 690-2803
Fax: 202 690-2818
RIN: 0563–AB05

346. GENERAL ADMINISTRATIVE REGULATIONS; FEDERAL JURISDICTION AND STATUTE OF LIMITATION FOR SUITS BASED UPON DENIAL OF CLAIMS FOR INDEMNITY

Priority: Routine and Frequent
CFR Citation: 7 CFR 400
Completed:

Reason	Date	FR Cite
Withdrawn	10/01/97	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Kenneth D. Ackerman
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Fax: 202 690-2818
RIN: 0563–AB21

347. GENERAL ADMINISTRATIVE REGULATIONS; ACTUAL PRODUCTION HISTORY COVERAGE PROGRAM; TRANSITIONAL YIELDS FOR PRODUCERS OF FEED OR FORAGE

Priority: Other Significant
CFR Citation: 7 CFR 400
Completed:

Reason	Date	FR Cite
Withdrawn	10/01/97	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Kenneth D. Ackerman
Phone: 202 690-2803
Fax: 202 690-2818
RIN: 0563–AB23

348. GENERAL ADMINISTRATIVE REGULATIONS: SUBPART Q: COLLECTION AND STORAGE OF SOCIAL SECURITY ACCOUNT NUMBERS AND EMPLOYER IDENTIFICATION NUMBERS

Priority: Substantive, Nonsignificant
CFR Citation: 7 CFR 400
Completed:

Reason	Date	FR Cite
Final Action	05/27/97	62 FR 28807

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Kenneth D. Ackerman
Phone: 202 690-2803
Fax: 202 690-2818
RIN: 0563–AB26

349. 1996 CROP YEAR PLANTAIN AND BANANA INSURANCE PROGRAM AND BANANA CROP INTENSIVE CULTIVATION INSURANCE PROGRAM FOR PUERTO RICO

Priority: Substantive, Nonsignificant
CFR Citation: 7 CFR Not yet determined
Completed:

Reason	Date	FR Cite
Withdrawn	10/01/97	

USDA—FCIC

Completed Actions

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB30

350. 1996 CROP YEAR COFFEE PLANTATION INSURANCE PROGRAM FOR PUERTO RICO

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Withdrawn	10/01/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB34

351. 1996 CROP YEAR FRUIT CROP (AVOCADO, ORANGES, MANGO, CITRON, LEMON, PAPAYA, PASSION) INSURANCE PROGRAM FOR PUERTO RICO

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Withdrawn	10/01/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB35

352. 1996 CROP YEAR SUGARCANE INSURANCE PROGRAM FOR PUERTO RICO

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Withdrawn	10/01/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB40

353. 1996 CROP YEAR VEGETABLE INSURANCE PROGRAM FOR PUERTO RICO

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Withdrawn	10/01/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB41

BILLING CODE 3410-08-P

DEPARTMENT OF AGRICULTURE (USDA)
Grain Inspection, Packers and Stockyards Administration (GIPSA)

Proposed Rule Stage

354. GRAIN INSPECTION GENERAL REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 71

CFR Citation: 7 CFR 800.

Legal Deadline: None

Abstract: This proposal, a housekeeping-type rulemaking, is the result of GIPSA's review, under the NPR, of regulations contained in 7 CFR 800. These regulations relate to inspection of grain under the U.S. Grain Standards Act and consist of administrative direction on how the public can request service, how Federal, State or private laboratories must provide service and what fees are charged for the service. In determining what changes to propose in this section, GIPSA consulted users of the service on what changes they felt were needed in the regulations, discussed with legal counsel information required to be in the regulations for enforcement purposes, and reviewed information taken from its day-to-day operations. These changes are being proposed to clarify the language and update the regulations to reflect current technology and operating practices.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	02/00/98	
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George W. Wollam, Regulatory Liaison, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Room 0623 S. Bldg, 1400 Independence Ave. SW., Washington, DC 20250
Phone: 202 720-0292
Fax: 202 720-4628
Email: gwollam@fgisdc.usda.gov

RIN: 0580–AA53

355. • GENERAL REGULATIONS AND STANDARDS FOR CERTAIN AGRICULTURAL COMMODITIES

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1621 et seq

CFR Citation: 7 CFR 868.1; 7 CFR 868.80

Legal Deadline: None

Abstract: GIPSA proposes to amend regulations under the AMA of 1946 to allow FGIS and State cooperators to use contractors to perform specified inspection services. FGIS has determined that private firms, institutions, and individuals, working under contract with FGIS field offices and State cooperators, may be able to perform some inspection services, at certain locations, more effectively or at less cost than if those services were performed by Department or State employees. Consequently, FGIS proposes to amend the regulations to allow FGIS and State cooperators to contract for service work and to license individual contractors and those employed by contractors.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
NPRM Comment Period End	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Wollam, Regulatory Liaison, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Room 0623 S, 1400 Independence Ave SW., Washington, DC 20250
Phone: 202 720-0292
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RIN: 0580–AA54

USDA—GIPSA

Proposed Rule Stage

356. • OFFICIAL/UNOFFICIAL WEIGHING SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 71 et seq

CFR Citation: 7 CFR 800.76; 7 CFR 800.186; 7 CFR 800.195; 7 CFR 800.196

Legal Deadline: None

Abstract: GIPSA proposes to amend portions of part 800, General Regulations under the U.S. Grain Standards Act, to allow official agencies to provide both official and unofficial weighing within their assigned area of responsibility but not at the same facility. This action will make official Class X and Class Y weighing services more readily available at a lower cost to the grain industry at non-export locations.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
NPRM Comment Period End	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Wollam, Regulatory Liaison, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Room 0623 South, 1400 Independence Ave SW., Washington, DC 20250
Phone: 202 720-0292
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Email: gwollam@fgisdc.usda.gov

RIN: 0580–AA55

DEPARTMENT OF AGRICULTURE (USDA)
Grain Inspection, Packers and Stockyards Administration (GIPSA)

Final Rule Stage

357. • TOLERANCES FOR DIVIDERS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 71 et seq

CFR Citation: 7 CFR 801.10

Legal Deadline: None

Abstract: GIPSA proposes to remove section 801.10, Tolerance for Dividers, from the CFR. Since GIPSA no longer tests dividers, the rule is no longer needed. By using the direct final rule process GIPSA will give the public general notice of its intent to remove the rule and provide interested persons an opportunity to participate in the rulemaking through submission of comments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Wollam, Regulatory Liaison, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Room 0623 S, 1400 Independence Ave SW., Washington, DC 20250
Phone: 202 720-0292
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Email: gwollam@fgisdc.usda.gov

RIN: 0580–AA57

DEPARTMENT OF AGRICULTURE (USDA)
Grain Inspection, Packers and Stockyards Administration (GIPSA)

Long-Term Actions

358. POULTRY GROWER CONTRACTS, SCALES, WEIGHING

Priority: Other Significant

CFR Citation: 9 CFR 201

Timetable:

Action	Date	FR Cite
ANPRM	02/10/97	62 FR 5935
ANPRM Comment Period End	05/12/97	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: George Wollam
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RIN: 0580–AA51

DEPARTMENT OF AGRICULTURE (USDA)
Grain Inspection, Packers and Stockyards Administration (GIPSA)

Completed Actions

359. FEES FOR OFFICIAL INSPECTION AND OFFICIAL WEIGHING SERVICES

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 800.71

Completed:

Reason	Date	FR Cite
Final Action	06/11/97	62 FR 31701
Final Action Effective	06/15/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George W. Wollam
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RIN: 0580–AA52

360. • FEES FOR OFFICIAL INSPECTION AND OFFICIAL WEIGHING SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 71 et seq

CFR Citation: 7 CFR 800.71(a)

Legal Deadline: None

Abstract: GIPSA is proposing to increase by $500,000 the administrative volume fee that it charges export elevators for official inspection and weighing services effective October 1, 1997. The proposed increase in the administrative volume fee is designed to recover Agency overhead costs and begin restoring the Official Inspection and Official Weighing operating reserve to a 3-month reserve ($6 million).

Timetable:

Action	Date	FR Cite
NPRM	07/18/97	62 FR 38488
NPRM Comment Period End	08/18/97	
Final Action	10/01/97	62 FR 46936
Final Action Effective	10/01/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Wollam, Regulatory Liaison, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Room 0623 S., 1400 Independence Ave SW., Washington, DC 20250
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Email: gwollam@fgisdc.usda.gov

RIN: 0580–AA56

BILLING CODE 3410-EN-F

DEPARTMENT OF AGRICULTURE (USDA)
Food and Consumer Service (FCS)

Prerule Stage

361. • WIC: NOTICE ANNOUNCING USDA'S DECISION TO RETAIN THE 6-GRAM SUGAR LIMIT FOR WIC CEREALS

Priority: Other Significant

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: This Notice summarizes the public comments received on the earlier March 18, 1996 Notice and announces the Department's intent to conduct a WIC food package review. USDA's Center for Nutrition Policy and Promotion will be spearheading this effort in conjunction with the Food and Consumer Service. Until this review is completed, the Department will not make any decisions about whether to propose a regulatory change in the Federal sugar cap for WIC-eligible cereals. (96-018)

Timetable:

Action	Date	FR Cite
ANPRM	03/18/96	61 FR 10903
ANPRM Comment Period End	06/17/96	
Ann. of Prop. Rulemaking (Notice)	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246
Fax: 703 305-2921

RIN: 0584–AC59

DEPARTMENT OF AGRICULTURE (USDA)
Food and Consumer Service (FCS)

Proposed Rule Stage

362. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): FOOD DELIVERY SYSTEMS INTEGRITY

Regulatory Plan: This entry is Seq. No. 1 in Part II of this issue of the Federal Register.

RIN: 0584–AA80

363. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): MISCELLANEOUS PROVISIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: This proposed rule responds to a variety of program concerns, most of which have been expressed by WIC State agencies. The proposal strengthens the provision of services to participants in the areas of eligibility determination and nutrition education and increases State agency flexibility regarding the sharing of participant information with other programs. Several minor clarifications and technical corrections are also made. (89-515)

USDA—FCS

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	03/00/98	
Final Action	07/00/98	
Final Action Effective	10/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB10

364. FOOD DISTRIBUTION PROGRAMS—IMPLEMENTATION OF 1990 FARM BILL

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: PL 101-624

CFR Citation: 7 CFR 250; 7 CFR 251

Legal Deadline: Final, Statutory, July 30, 1992.

Abstract: This rule will revise the requirements for evaluation of State warehousing and distribution systems and conversion to commercial systems. (91-004)

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	02/00/98	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB28

365. COMMODITY SUPPLEMENTAL FOOD PROGRAM: ELDERLY-ONLY SITES, ADMINISTRATIVE FUNDING, REFERRALS TO HEALTH AND SOCIAL SERVICES, CASELOAD ALLOCATION PROCESS, PRIORITY SYSTEM, AND MISCELLANEOUS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 612c

CFR Citation: 7 CFR 247

Legal Deadline:
Final, Statutory, October 1, 1990, for funding provisions.
Final, Statutory, October 1, 1991, for all other provisions.

Abstract: This proposed rule would amend regulations governing the Commodity Supplemental Food Program (CSFP) to replace the current method of assigning caseload with a system that is based on the allocation of grants to the State agencies. (91-015)

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB37

366. PROVISIONS OF COMPUTER MATCHING AND PRIVACY PROTECTION ACT OF 1988, AMENDMENTS OF 1990, AND IMPLEMENTATION OF THE DISQUALIFIED RECIPIENT SUBSYSTEM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 552(a) Computer Matching and Privacy Protection Act; 7 USC 2015(b) Food Stamp Act

CFR Citation: 7 CFR 272; 7 CFR 273

Legal Deadline: None

Abstract: In accordance with the Computer Matching and Privacy Protection Act, PL 100-503, and the Computer Matching and Privacy Protection Amendments of 1990, PL 101-508, the Food Stamp Program must extend certain protections to persons whose benefits could be adversely affected by computer matches. These protections include independent verification of computer information, notification to the affected individual and provision of an opportunity to respond to the information before an adverse action becomes effective.

In addition, this proposed rule describes requirements for State agencies to report information on individuals disqualified from the program for intentional program violations to FCS and the related FCS computer matching program known as the Disqualified Recipient Subsystem (DRS). (89-010)

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
NPRM Comment Period End	01/00/98	
Final Action	07/00/98	
Final Action Effective	10/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB51

367. ELIMINATION OF WHOLE COW'S MILK FROM THE INFANT MEAL PATTERN

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1751 to 1760; 42 USC 1762a; 42 USC 1765; 42 USC 1766; 42 USC 1773; 42 USC 1779

CFR Citation: 7 CFR 210; 7 CFR 220; 7 CFR 226

Legal Deadline: None

Abstract: This action proposes three amendments that would affect meal pattern requirements for infants under the National School Lunch Program, School Breakfast Program, and Child and Adult Care Food Program, 7 CFR parts 210, 220, and 226, respectively. Scientific studies on infant nutrition have demonstrated that it is difficult for infants to consume a balanced diet, with adequate nutrients, when whole cow's milk replaces breast milk or iron-

fortified formula. Given the nutritional and medical concerns about cow's milk, this rule proposes to prohibit the service of whole cow's milk to infants through age 11 months, and would require that breast milk or iron-fortified formula be served for an infant's entire first year of life. Tables describing infant meal requirements are amended and new tables are added to indicate what the Department's recommendations are regarding the offering of breast milk to infants, and clarify which meals containing breast milk in place of iron-fortified formula may fulfill the infant meal pattern. These changes would provide additional assistance to child care providers who refer to the infant meal pattern for guidance. Finally, this rule proposes to correct the definition of "infant formula" in part 226 and make the wording consistent with the definition that is currently used in parts 210 and 220. (95-005)

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	02/00/98	
Final Action	08/00/98	
Final Action Effective	07/00/98	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB81

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368. FOOD STAMP PROGRAM: FOOD STAMP RECIPIENT CLAIM ESTABLISHMENT AND COLLECTION STANDARDS

Regulatory Plan: This entry is Seq. No. 2 in Part II of this issue of the **Federal Register**.

RIN: 0584–AB88

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369. FOOD STAMP PROGRAM: REVISIONS TO THE RETAIL FOOD STORE DEFINITION AND PROGRAM AUTHORIZATION GUIDANCE

Regulatory Plan: This entry is Seq. No. 3 in Part II of this issue of the **Federal Register**.

RIN: 0584–AB90

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370. FOOD STAMP PROGRAM: RETAILER APPLICATION PROCESSING

Priority: Other Significant

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 278.1

Legal Deadline: None

Abstract: This rule would increase from 30 to 60 days the initial application processing time frame for stores that apply for authorization. It would also allow FCS to request specific documentation to verify applicant firms' eligibility. Such information would include, but would not be limited to, business licenses, photographic identification cards, bills of sale, deeds, leases, sales contracts, certificates of incorporation, sales records, invoice records, and tax records. This documentation would be used to confirm self-reported information provided on the application form and to obtain third-party verification. (95-008)

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC05

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371. SUMMER FOOD SERVICE PROGRAM: PROGRAM MEAL SERVICE DURING THE SCHOOL YEAR

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-448; 42 USC 1769a

CFR Citation: 7 CFR 225

Legal Deadline: None

Abstract: Implements provision of PL 103-448 which permits Summer Food Service Program (SFSP) meal service to be provided at non-school sites to children who are not in school for a period during the months of October through April due to a natural disaster, building repair, court order, or similar cause. Rule also simplifies the SFSP sponsor application and State monitoring requirements in order to eliminate unnecessary paperwork and reduce administrative burden for sponsors and State agencies. (95-011)

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	
NPRM Comment Period End	04/00/98	
Final Action	06/00/98	
Final Action Effective	08/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC06

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372. AMENDMENT TO REMOVE FORMULATED GRAIN—FRUIT PRODUCT SECTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1773; 42 USC 1779

CFR Citation: 7 CFR 220 app A

Legal Deadline: None

Abstract: Formulated grain-fruit products are specially fortified pastry type products which are currently authorized for use in the School Breakfast Program (SBP) to meet one bread/bread alternate and the fruit/vegetable requirements of the meal pattern. Originally intended to increase participation in the SBP by comprising a reimbursable meal when served with milk, subsequent additions to the meal patterns have made this impossible. In addition, these products do not make favorable contributions to a healthy diet. There is a minimum of 22% fat in the product specification, and high sugar levels are also necessary to meet the calorie minimum and produce a palatable product. These products are also low in fiber. Interest in these products from the food industry is low; only a few companies have approved grain-fruit products. These companies could reformulate their existing products into lower fat, tastier products without the constraints of this regulation. This regulation is no longer necessary or effective in promoting participation in the SBP. (95-010)

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC09

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373. CONSOLIDATION OF NATIONAL SCHOOL LUNCH PROGRAM AND SCHOOL BREAKFAST PROGRAM INTO COMPREHENSIVE SCHOOL MEAL PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-448

CFR Citation: 7 CFR 210; 7 CFR 220

Legal Deadline: Final, Statutory, May 2, 1996.

Abstract: Sec. 301 of P.L. 103-448 required the consolidation of the school lunch program and the school breakfast program into a comprehensive school meal program. In establishing the comprehensive school meal program, (a) children who are eligible for free and reduced price benefits will continue to receive such benefits; (b) the meals will continue to meet the nutritional requirements of sec. 9(a)(1) of the National School Lunch Act (NSLA) and sec. 4(e)(1) of the Child Nutrition Act (CNA); and (c) breakfast and lunch payments will continue to meet the requirements of sec. 4 and 11 of the NSLA and sec. 4 of the CNA. This regulation will consolidate the two programs by making structural changes to the framework of 7 CFR part 210 to accommodate the incorporation of the breakfast program and by removing repetitive and obsolete provisions. Further, 7 CFR part 220 will be removed in its entirety. (95-013)

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	
NPRM Comment Period End	07/00/98	
Final Action	02/00/99	
Final Action Effective	02/00/99	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC10

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374. FSP: COLLECTION OF DELINQUENT RETAILER DEBTS: ADMINISTRATIVE OFFSET

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: PL 97-365; PL 104-134

CFR Citation: 7 CFR 278.6

Legal Deadline: None

Abstract: This rule notifies the public that FCS will begin referring delinquent retailer debts to the Treasury for administrative offset. These debts represent monetary penalties which FCS assessed against retailers who have violated Food Stamp Program rules and regulations. This rule implements authority granted by the Debt Collection Improvement Act, as amended. (95-014)

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC11

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375. MODIFICATION OF THE "VEGETABLE PROTEIN PRODUCTS" PORTION OF APPENDIX A OF 7 CFR PARTS 210, 225, AND 226

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1758; 42 USC 1759a; 42 USC 1761; 42 USC 1762a; 42 USC 1765; 42 USC 1766

CFR Citation: 7 CFR 210 app A; 7 CFR 210.10(k)(3)(i); 7 CFR 210.10a(d)(2)(i); 7 CFR 225 app A; 7 CFR 225.16(f)(3); 7 CFR 226 app A; 7 CFR 220 app A

Legal Deadline: None

Abstract: The usage level of vegetable protein products (VPP) is currently limited to a 30 percent substitution of meat, fish or poultry. A nutritional profile has been established which specifies fortification of certain nutrients as well as a protein quality requirement. This regulation could better serve the child nutrition programs if it is modified to allow an increased utilization of foods containing VPP. The food industry has requested that we allow 100 percent soy products to serve as meat alternates in the food based system, since there are no restrictions on their use under the nutrient based system. In addition, current fortification levels of iron and zinc established for the VPP used in the child nutrition programs were based on early dietary research. It is now believed that these levels may be excessive if the VPP is used at greater than a 30 percent level of substitution in the diet. The Department intends to propose a rule to modify the regulations governing the use of vegetable protein products in the child nutrition programs which will provide a consistent nutritional policy regardless of menu planning system used, and will remove confusing regulatory burdens from programs and industry. (95-018)

Timetable:

Action	Date	FR Cite
NPRM	08/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC18

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376. RELEASE OF FREE AND REDUCED PRICE SCHOOL MEAL ELIGIBILITY INFORMATION

Priority: Other Significant

Legal Authority: PL 103-448, sec 108

CFR Citation: 7 CFR 245

Legal Deadline: None

Abstract: This rule would allow the disclosure and use of a student's free

and reduced price school meal or free milk eligibility information when needed for certain educational programs, to facilitate eligibility determinations in other means tested programs, and for certain monitoring and investigative purposes. The rule would (1) establish limits on the persons and programs that may have access to a student's free and reduced price school meal or free milk eligibility information, (2) require that households be notified that information may be shared, and (3) provide penalties for unauthorized disclosures. The proposed amendments are intended to facilitate children's access to certain programs serving low-income children and protect free and reduced price eligibility information from misuse and unauthorized disclosures. (95-022)

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	02/00/98	
Final Action	09/00/98	
Final Action Effective	10/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC21

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377. FOOD STAMP PROGRAM: WELFARE REFORM AND REGULATORY REVIEW OF PROGRAM MANAGEMENT

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 271; 7 CFR 272; 7 CFR 273.15; 7 CFR 274; 7 CFR 275; 7 CFR 276; 7 CFR 281

Legal Deadline: None

Abstract: The Department of Agriculture is proposing substantial revisions to the Food Stamp Program regulations governing State agency administrative and management requirements. This action is being taken to incorporate certain provisions from the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Welfare Reform) and in response to the President's Regulatory Reform effort and as part of the Department's ongoing effort to expand State flexibility. This action will provide the State agencies with more flexibility in operating the Food Stamp Program by eliminating outdated or overly prescriptive requirements. This rule also proposes to implement provisions of the Government Performance and Results Act of 1993 (GPRA), which shifts the focus of Federal agencies from managing processes to achieving results. (95-023)

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	
NPRM Comment Period End	06/00/98	
Final Action	03/00/99	
Final Action Effective	12/00/99	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC22

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378. IMPROVING MANAGEMENT AND PROGRAM INTEGRITY IN THE CHILD AND ADULT CARE FOOD PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1758; 42 USC 1766

CFR Citation: 7 CFR 226

Legal Deadline: None

Abstract: This rulemaking proposes to incorporate in the Child and Adult Care Food Program regulations several recommendations suggested by the Department's Office of Inspector General as a result of recently conducted audits. The audits revealed high levels of noncompliance by sponsors and family day care homes in several areas of Program operations.

The Department also proposes to incorporate in the regulations several recommendations from a State-Federal task force in the areas of (1) State approval of both new and renewing institutions; (2) State oversight of institutions; and (3) training and operational requirements for child care institutions, sponsors of family day care homes, outside-school-hours care centers, and family day care home providers.

As a result of the task force's recommendations, this rulemaking also proposes other changes to the CACFP regulations which are intended to streamline the operation of the program at the State and local levels, improve its integrity, and strengthen oversight control. (95-024)

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	
NPRM Comment Period End	07/00/98	
Final Action	01/00/99	
Final Action Effective	03/00/99	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC24

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379. DETERMINING ELIGIBILITY FOR FREE AND REDUCED PRICE MEALS AND FREE MILK IN SCHOOLS: PROVISION 2 AND PROVISION 3

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-448

CFR Citation: 7 CFR 245

Legal Deadline: None

Abstract: Currently, schools that serve all meals free for 3 consecutive years may determine free and reduced price school meal eligibility and take daily meal counts by category (free, reduced price and paid) once every 3 years. In years when actual meal counts by category are not taken, schools claim meals for reimbursement based on claiming percentages. This counting and claiming alternative is commonly referred to as Provision 2. This rule would allow schools to extend current procedures an additional 2 years if the socioeconomic status of the schools' population remains stable and allow subsequent 5-year cycles. This rule would also add another alternative for schools that serve all meals free for 4 consecutive years. These schools would receive the same level of cash and commodity assistance they received in the last year free and reduced price eligibility determinations were made, adjusted for inflation and changes in enrollment. For both alternatives, meal costs that exceed reimbursement must be paid for with other than Federal funds. (96-003)

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	02/00/98	
Final Action	12/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246
Fax: 703 305-2921

RIN: 0584–AC25

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380. NSLP/SBP/SMP/FDP/ CACFP/SFSP/WIC: NONPROCUREMENT DEBARMENT

Priority: Other Significant

Legal Authority: PL 103-448

CFR Citation: None

Legal Deadline: None

Abstract: This rule will propose procedures and clarifications that are needed to enhance the Department's ability to promote the prevention and deterrence of fraud, bidrigging and other anticompetitive activities in the procurement of products for the child nutrition programs. In addition to proposing those fraud-deterrence provisions that are exclusive to the child nutrition programs, the rule will augment already existing provisions concerning debarment of persons and companies that are convicted of violations of antitrust laws, fraud or other types of offenses that breach public agreements or transactions. (96-004)

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	03/00/98	
Final Action	09/00/98	
Final Action Effective	10/00/98	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246
Fax: 703 305-2921

RIN: 0584–AC26

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381. FOOD STAMP PROGRAM REGULATORY REVIEW: CERTIFICATION OF ELIGIBLE HOUSEHOLDS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 7 USC 2011 to 2026

CFR Citation: 7 CFR 273

Legal Deadline: None

Abstract: This action proposes to amend Food Stamp Program rules governing the certification of eligible households. It results from a comprehensive, page-by-page review of all existing Food Stamp Program regulations conducted in response to the President's regulatory reform initiative. The proposed changes would empower States to set their own procedures for case management and customer service; remove overly prescriptive, outdated, and redundant provisions; and emphasize recipient responsibility for complying with Program requirements. (96-006)

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	03/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive Room 308, Alexandria VA 22302
Phone: 703 305-2246

RIN: 0584–AC28

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382. WIC: BLOODWORK REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: This rule would propose revisions to the bloodwork requirements for WIC applicants. Currently, to be certified as eligible for the Program, applicants must be determined at nutritional risk. In determining nutritional risk, at a minimum height or length and weight must be measured, and a hematological test for anemia must be performed. This rule would eliminate the requirement for a hematological test for anemia as part of the certification process if another risk factor is present that would qualify the applicant as nutritionally at risk. Hematological test data for anemia would still be required for counseling and food package purposes. (96-008)

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	
NPRM Comment Period End	04/00/98	
Final Action	09/00/98	
Final Action Effective	10/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246
Fax: 703 305-2921

RIN: 0584–AC30

383. PART 240, CASH IN LIEU OF DONATED FOODS AND PART 250, FOOD DISTRIBUTION REGULATIONS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-448

CFR Citation: 7 CFR 240; 7 CFR 250

Legal Deadline: None

Abstract: This rule will incorporate provisions of the Healthy Meals for Healthy Americans Act of 1994 relative to schools participating in the National School Lunch Program. (96-010)

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	02/00/98	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
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Fax: 703 305-2921

RIN: 0584–AC31

384. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): INFANT FORMULA COST CONTAINMENT REQUIREMENTS

Priority: Other Significant

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: This proposed rule would update current cost containment regulations to ensure that free and open competition is maintained to achieve the greatest cost savings for infant formula. The rule will also address issues regarding the maintenance of contracts. (96-012)

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	
NPRM Comment Period End	06/00/98	
Final Action	01/00/99	
Final Action Effective	02/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Tribal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sheri Ackerman, Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC33

385. NUTRITION EDUCATION AND TRAINING PROGRAM REQUIREMENTS

Priority: Other Significant

Legal Authority: 42 USC 1788

CFR Citation: 7 CFR 227

Legal Deadline: None

Abstract: This proposed rule would amend the Nutrition Education and Training Program (NET) regulations to comply with the statutory mandate of Public Law 101-147 and 103-448.

Section 124 of Public Law 101-147 amends the National School Lunch Act by requiring that school food service personnel be trained in the principles and practices of food service management, in cooperation with materials developed at any food service management institute established as authorized by section 21(a)(2) of the National School Lunch Act.

In addition to schools and child care institutions, nutrition education activities are also required to be conducted in institutions offering summer food service programs under section 13 of the National School Lunch Act. Also, the State Plan requirement to solicit advice from the National Advisory Council on Child Nutrition will be deleted because the council requirement has been deleted.

Additionally, section 214 of Public Law 101-147 amends the National School Lunch Act by requiring States to modify their NET plans annually rather than resubmitting the entire plan each year. This proposed rule would bring the NET regulations into conformance with the National School Lunch Act by requiring States to submit a full plan for the first year of the five-year reauthorization mandated by Public Law 101-147, and thereafter to submit annual updates. (96-013)

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC34

386. FOOD STAMP PROGRAM REGULATORY REVIEW: FSP STANDARDS FOR APPROVAL AND OPERATION OF FOOD STAMP ELECTRONIC BENEFIT TRANSFER SYSTEMS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 2011 TO 2034

CFR Citation: 7 CFR 274.12

Legal Deadline: None

Abstract: This rule proposes revisions to food stamp regulations affecting the standards and administration of EBT systems for food stamp issuance. Current regulations at 7 CFR 274.12 delineate the standards that EBT systems must meet in order to be approved for operation. This rule will revise those regulations to provide the State agency more flexibility in implementing and operating those systems. Clarifications and FCS settlement improvements will also be incorporated into the rule. (96-016)

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
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RIN: 0584–AC37

387. NATIONAL SCHOOL LUNCH PROGRAM AND SCHOOL BREAKFAST PROGRAM: ADDITIONAL MENU PLANNING ALTERNATIVES

Priority: Other Significant

Legal Authority: PL 104-149

CFR Citation: 7 CFR 210; 7 CFR 220

Legal Deadline: None

Abstract: Public Law 104-149, enacted on May 29, 1996, establishes additional menu planning alternatives for the school meals programs and requires the secretary to establish guidelines for the use of these additional alternatives. One alternative specified in the statute was the meal pattern in effect for the 1994-95 school year; the other was "any reasonable approach." This proposed regulation would reestablish the meal pattern as a menu planning alternative and provide guidelines for school food authorities to develop a different approach to menu planning. (96-017)

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	
NPRM Comment Period End	04/00/98	
Final Action	09/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246
Fax: 703 305-2921

RIN: 0584–AC38

388. FSP: PERSONAL RESPONSIBILITY PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

Regulatory Plan: This entry is Seq. No. 4 in Part II of this issue of the Federal Register.

RIN: 0584–AC39

389. FSP: STATE FLEXIBILITY AND CERTIFICATION PROVISIONS OF PUBLIC LAW 104-193

Regulatory Plan: This entry is Seq. No. 5 in Part II of this issue of the Federal Register.

RIN: 0584–AC40

390. FSP: NONDISCRETIONARY PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

Regulatory Plan: This entry is Seq. No. 6 in Part II of this issue of the Federal Register.

RIN: 0584–AC41

391. FOOD STAMP PROGRAM: SIMPLIFIED FOOD STAMP PROGRAM PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 104-193, sec 854

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This proposed rule would implement section 854 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and provides State agencies with an option to align food stamp and Temporary Assistance for Needy Families program requirements in determining benefit levels for low-income eligible families. (96-023)

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	02/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2446

RIN: 0584–AC43

392. ELECTRONIC BENEFIT TRANSFER (EBT) PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 104-193, sec 825

CFR Citation: 7 CFR 274.3; 7 CFR 274.12

Legal Deadline: Other, Statutory, October 1, 2002.
Statutory implementation date of EBT systems per section 825.

Abstract: On August 22, 1996, the President signed the Personal Responsibility and Work Opportunity Act of 1996 (Pub. L. 104-193). This rule proposes to implement the Electronic Benefit Transfer (EBT) provisions found in section 825 of this law which effect the Food Stamp Program. These provisions are meant to encourage implementation of EBT systems to replace food stamp coupons. (96-024)

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
NPRM Comment Period End	01/00/98	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Alexandria, VA 22302

USDA—FCS

Proposed Rule Stage

Phone: 703 305-2246

RIN: 0584–AC44

393. FOOD STAMP PROGRAM: WORK PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

Regulatory Plan: This entry is Seq. No. 7 in Part II of this issue of the Federal Register.

RIN: 0584–AC45

394. FOOD STAMP PROGRAM: RETAILER INTEGRITY, FRAUD REDUCTION AND PENALTIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 104-193; PL 104-127

CFR Citation: 7 CFR 271; 7 CFR 278; 7 CFR 279

Legal Deadline: None

Abstract: This rulemaking will implement the three-tiered legislative initiative for combating retailer fraud in the Food Stamp Program: (1) Pre-authorization screening - tightens applicant retailer verification requirements to ensure only legitimate stores are authorized; (2) post-authorization controls - allows FCS to: move quickly to immediately suspend stores that are caught trafficking; access more information from more sources about business integrity; and better track stores using up-to-date technology; (3) stiffer penalties - will impose tougher penalties on retailers found violating the program. (96-026)

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC46

395. REGULATORY REFORM: PROVISIONS RELATING TO FIRMS PARTICIPATING IN THE FOOD STAMP PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 278; 7 CFR 279

Legal Deadline: None

Abstract: In response to the President's regulatory reform effort, the Food and Consumer Service is proposing to revise or eliminate certain sections of parts 278 and 279 of the Food Stamp Program (FSP) regulations which govern the authorization and sanctioning of firms which participate in the FSP. The proposed changes which will be made to parts 278 and 279 are discretionary. (96-028)

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246
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RIN: 0584–AC48

396. FOOD DISTRIBUTION PROGRAM: REGULATORY IMPLEMENTATION OF PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996 (PL 104-193, 110 STAT 2105)

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-193

CFR Citation: 7 CFR 250 (Revision); 7 CFR 251 (Revision)

Legal Deadline: None

Abstract: This rule proposes to amend provisions of the Food Distribution Program Regulations and the Emergency Food Assistance Program Regulations to implement the personal Responsibility and Work Opportunity Reconciliation Act of 1996, commonly known as Welfare Reform, while generally streamlining and providing greater clarity to these regulations. In accordance with the Welfare Reform legislation, the proposals contained in this rule would address various program changes required by the repeal of Section 110 of the Hunger Prevention Act of 1988, which authorized the former Soup Kitchens/Food Banks Program (SK/FB) and the amendment of definitional terms regarding organizational eligibility in the Emergency Food Assistance Program (TEFAP), contained in the Emergency Food Assistance Act of 1983, accompanying the absorption of SK/FB into TEFAP. Changes to term definitions are also proposed in order to provide greater clarity to the regulations. As required by Welfare Reform, this rule also proposes changes in the required contents and frequency of submission of the TEFAP State plan of operation, an encouragement for States to create advisory boards comprised of public and private entities with an interest in the distribution of TEFAP commodities, broadening the definition of allowable usage of TEFAP administrative funds at the State level, and greater flexibility for States in meeting the TEFAP maintenance of effort requirement. In order to reduce the paperwork burden and afford the States greater flexibility, this rule also proposes changes in TEFAP recordkeeping, monitoring, and reporting requirements. (96-029)

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC49

USDA—FCS

Proposed Rule Stage

397. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC): DISQUALIFICATION OF WIC VENDORS WHO ARE DISQUALIFIED FROM THE FOOD STAMP PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1786

CFR Citation: None

Legal Deadline: None

Abstract: This rule would establish criteria for the disqualification of WIC vendors who are disqualified from the Food Stamp Program, as required by Pub. L. 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. As mandated in Pub. L. 104-193, such disqualifications are for the same period of time as the Food Stamp Program disqualification and are not subject to judicial or administrative review. This rule would also establish mandatory sanctions for the most serious WIC program violations. (96-030)

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	03/00/98	
Final Action	06/00/98	
Final Action Effective	10/00/98	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC50

398. • FOOD DISTRIBUTIONS PROGRAMS: COMMODITY ACCEPTABILITY REPORT

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: PL 100-237

CFR Citation: 7 CFR 250.13(k)

Legal Deadline: None

Abstract: Food Distribution Programs - Reduction of the Paperwork Burden Associated with this Requirement for State and Local Agencies. This rule proposes to reduce the paperwork burden for State and local agencies administering Food Distribution Programs by reducing the sample size needed for collecting commodity acceptability report information for the National School Lunch Program, Child and Adult Care Food Program, Commodity Supplemental Food Program, and the Food Distribution Program on Indian Reservations. A sixty-day comment period will be provided. (97-004)

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC56

DEPARTMENT OF AGRICULTURE (USDA)
Food and Consumer Service (FCS)

Final Rule Stage

399. CHILD AND ADULT CARE FOOD PROGRAM: AUTHORITY TO COLLECT OVERCLAIMS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1766

CFR Citation: 7 CFR 226

Legal Deadline: None

Abstract: Establishes the Department's authority to collect overclaims where participating institutions fail to comply with regulatory recordkeeping requirements. (96-009)

Timetable:

Action	Date	FR Cite
NPRM	12/05/95	60 FR 62227
NPRM Comment Period End	02/05/96	
Final Action	11/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB19

400. FOOD DISTRIBUTION PROGRAMS—PAPERWORK REDUCTION

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: PL 101-147

CFR Citation: 7 CFR 250; 7 CFR 251; 7 CFR 253

Legal Deadline: None

Abstract: This rule will implement the food distribution portion of the recommendations of the August 1990 task force on paperwork reduction. These recommendations were included in a report to Congress and included perpetual State/Federal agreements and longer contract duration for warehouses. (94-007)

Timetable:

Action	Date	FR Cite
NPRM	03/14/97	62 FR 12106
NPRM Comment Period End	05/13/97	
Final Action	12/00/97	
Final Action Effective	02/00/98	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB27

401. PERMANENT AGREEMENTS/DIRECT CERTIFICATION IN NATIONAL SCHOOL LUNCH, SCHOOL BREAKFAST, AND SPECIAL MILK PROGRAMS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 101-147; PL 104-193

CFR Citation: 7 CFR 210; 7 CFR 215; 7 CFR 220; 7 CFR 245

Legal Deadline: Final, Statutory, July 1, 1990.

Abstract: In response to the Child Nutrition and WIC Reauthorization Act of 1989, the Department proposed to (1) make the agreement between the State agency and school food authorities a permanent document, which may be amended as necessary; and (2) allow school officials to certify children eligible for free meals based on information obtained directly from the State or local agency administering the Food Stamp or Aid for Families with Dependent Children (AFDC) Program. As part of the permanent agreement, the Department had also proposed to make most of the provisions in the school food authorities' free and reduced price school meal policy statement permanent. Subsequent to the proposal, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 further amended the National School Lunch Act to eliminate the annual submission of the free and reduced price policy statement. In accordance with the statute, the school food authority shall not be required to resubmit its policy statement to the State agency for approval unless there is a substantive change, as specified by the State agency, in the school food authorities' free and reduced price policy. The statute also replaces AFDC with the Temporary Assistance for Needy Families (TANF) program. Children in households participating in TANF in States that the Secretary determines have comparable standards or more stringent standards than the program on June 1, 1995, shall continue to be automatically eligible for free meals. (89-520)

Timetable:

Action	Date	FR Cite
NPRM	05/28/91	56 FR 24033
NPRM Comment Period End	07/29/91	
Final Action	05/00/98	
Final Action Effective	06/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB35

402. FOOD STAMP PROGRAM: 1996 QUALITY CONTROL TECHNICAL AMENDMENTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 271.2; 7 CFR 275.3; 7 CFR 275.10; 7 CFR 275.11; 7 CFR 275.12; 7 CFR 275.13; 7 CFR 275.23

Legal Deadline: None

Abstract: The Food and Consumer Service is proposing technical changes to the Food Stamp Program's Quality Control System which will reduce the workload on State agencies and improve the efficiency of the quality control system. The proposed changes would: (1) permit State agencies to reduce their sample sizes; (2) clarify the minimum size of the Federal subsample; (3) clarify State sampling procedures; (4) change the formulas for calculating Federal subsample sizes; (5) clarify the process of conducting a quality control review of negative subsystem cases and add suspended cases, those cases that are certified for the Program but do not receive benefits, to the sample universe of cases that are reviewed under the negative subsystem; (6) change the error dollar tolerance level; (7) modify the requirements regarding a home visit in active quality control reviews; (8) provide a variance exclusion under certain circumstances for errors resulting from incorrect policy issued in written State agency policies or directives; (9) adjust the case completion standard; and (10) codify into regulations those circumstances under which Federal quality control findings or disposition for a case will be changed. (92-006)

Timetable:

Action	Date	FR Cite
NPRM	09/10/96	61 FR 47680
NPRM Comment Period End	11/12/96	
Final Action	12/00/97	
Final Action Effective	10/00/98	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: RIN 0584-AB07 has been withdrawn, and the actions in that proposed rule have been included in this action.

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB38

403. FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS—OKLAHOMA WAIVER AUTHORITY

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: PL 97-98, Sec 1338; PL 95-113

CFR Citation: 7 CFR 254

Legal Deadline: None

Abstract: This interim rule will extend the Department's authority to grant waivers to serve urban places in excess of 10,000 people. This authority expired on September 30, 1985. (94-002)

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/97	
Final Action	03/00/98	
Final Action Effective	03/00/98	

Small Entities Affected: None

Government Levels Affected: State, Tribal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB56

404. FOOD STAMP PROGRAM: ANTICIPATING INCOME AND REPORTING CHANGES

Priority: Other Significant

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 272; 7 CFR 273

Legal Deadline: None

Abstract: This rule proposes revisions in Food Stamp Program procedures for reporting and acting on changes in earned income. The changes are designed to increase State agency flexibility and improve procedures for determining the eligibility and benefits of households whose income fluctuates unpredictably. Under this proposal, State agencies would choose from three different reporting requirements for households with earned income. The reporting requirement a State agency selects would replace the current requirement that households report a change of more than $25 in earned income. In addition to reporting a change in source of income, households would be required to report one of the following: a change in wage rate or salary and a change in part-time or full-time status, provided the household is certified for no more than 3 months; a change in wage rate or salary and a change of more than 5 hours a week that is expected to continue for more than a month; or a change in the amount earned of more than $80 a month. (93-005)

Timetable:

Action	Date	FR Cite
NPRM	12/17/96	61 FR 66233
NPRM Comment Period End	02/18/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB57

405. FOOD STAMP PROGRAM: PAYMENT OF CERTAIN ADMINISTRATIVE COSTS OF STATE AGENCIES

Priority: Other Significant

Legal Authority: 7 USC 2011 to 2032; PL 103-66, sec 13961

CFR Citation: 7 CFR 277

Legal Deadline: Other, Statutory, April 1, 1994.
The Act requires funding rate reduction effective 04/01/94.

Abstract: State agencies are reimbursed by FCS at standard or enhanced Federal reimbursement level for all allowable costs incurred in the State's operation of the Food Stamp Program. This proposed rule would reduce the Federal reimbursement rate for State agencies for fraud control, system development, and immigration status verification to the standard 50 percent rate. It would also limit the time period during which State agencies may file a claim for retroactive funding, and allows the cost of certifying aid to families with dependent children to be charged to the Food Stamp Program for purposes of Federal reimbursement. (93-010)

Timetable:

Action	Date	FR Cite
NPRM	11/22/94	59 FR 60079
NPRM Comment Period End	01/23/95	
Final Action	03/00/98	
Final Action Effective	07/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB66

406. FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS: DEFINITION OF INDIAN TRIBAL HOUSEHOLD

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: PL 88-525; PL 97-98, sec 1338; PL 95-113

CFR Citation: 7 CFR 253; 7 CFR 254

Legal Deadline: None

Abstract: This final rule will amend part 253 to permit households containing a Native American living in "near areas" to participate in the Food Distribution Program on Indian Reservations (FDPIR) regardless of the Native American's tribal affiliation or age. It will also amend part 254 to permit households containing a Native American to participate in FDPIR in Oklahoma regardless of the Native American's age. (92-217)

Timetable:

Action	Date	FR Cite
NPRM	10/20/87	52 FR 39158
Interim Final Rule	01/11/94	59 FR 1447
Final Action	03/00/98	
Final Action Effective	03/00/98	

Small Entities Affected: None

Government Levels Affected: State, Tribal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB67

407. FOOD STAMP PROGRAM: QUALITY CONTROL PROVISIONS OF THE MICKEY LELAND CHILDHOOD HUNGER RELIEF ACT

Priority: Other Significant

Legal Authority: PL 103-66, sec 13951

CFR Citation: 7 CFR 272; 7 CFR 275

Legal Deadline: None

Abstract: To implement quality control changes to the Food Stamp Act required by section 13951 of the Mickey Leland Childhood Hunger Relief Act in the following areas: 1) interest on quality control claims, 2) the formula for determining quality control claim amounts, 3) variance exclusion for the application of new regulations, 4) time frames for completion of the arbitration process, 5) time frames for determining final error rates, the national average payment error rate, and the amounts of payment claims against State agencies, 6) time frames for notifying State agencies of payment claims, 7) the addition of specific criteria for a determination that "good cause" exists for not imposing a payment claim, and 8) the transfer of authority to make "good cause" determinations from FNS

to the Administrative Law Judges. These provisions are nondiscretionary and will not result in an annual effect on the economy of $100 million or more, or a major increase in costs or prices for consumers, individuals, industries, Federal, State or local government agencies, or geographical regions. (93-018)

Timetable:

Action	Date	FR Cite
NPRM	06/23/95	60 FR 32615
NPRM Comment Period End	08/22/95	
Final Rule	06/02/97	62 FR 29652
Final Rule Comment Period End	12/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB75

408. SCHOOL NUTRITION PROGRAMS: TECHNICAL AND NONDISCRETIONARY AMENDMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-488

CFR Citation: 7 CFR 215; 7 CFR 235; 7 CFR 245

Legal Deadline: None

Abstract: The rule proposes to (1) allow USDA to withhold State Administrative Expense (SAE) funds when State agencies are seriously deficient in program administration and to withhold SAE funds from State agencies unwilling to participate in studies; (2) remove the authority for child care centers in the Commonwealth of Puerto Rico to participate in the lunch and breakfast program; and (3) make other technical amendments to remove obsolete references. (96-001)

Timetable:

Action	Date	FR Cite
Final Action	11/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC01

409. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): IMPLEMENTATION OF WIC MANDATES OF THE HEALTHY MEALS FOR HEALTHY AMERICANS ACT OF 1994

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: This final rule implements the WIC-related reauthorization provisions mandated in Pub. L. 103-448, the Healthy Meals for Healthy Americans Act of 1994. All of the WIC-related provisions may be deemed nondiscretionary. These provisions include: counting the unborn child of an otherwise income-ineligible pregnant woman, allowing State agencies to deem income-eligible pregnant women presumptively eligible for a period not to exceed 60 days, an increase in the national breastfeeding promotion and support expenditure, and a requirement that Medicaid managed care providers be included in the programs to which WIC must make referrals. (95-004)

Timetable:

Action	Date	FR Cite
Final Action	12/00/97	
Final Action Effective	01/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman, Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC02

410. CHILD AND ADULT CARE FOOD PROGRAM: CHILD NUTRITION AND WIC REAUTHORIZATION ACT OF 1989 AND OTHER AMENDMENTS

Priority: Other Significant

Legal Authority: PL 101-147; PL 102-342; PL 102-375

CFR Citation: 7 CFR 226

Legal Deadline: None

Abstract: This interim rule implements changes required in the Child and Adult Care Food Program (CACFP) by the Child Nutrition and WIC Reauthorization Act of 1989 (P.L. 101-147), the Child Nutrition Improvement Act of 1992 (P.L. 102-342) and the Older Americans Act Amendments of 1992 (P.L. 102-375) by: (1) allowing the Governor of a State to designate a State administering agency for the adult day care component of the Program that is different from the State agency which administers the child care component; (2) changing the basis for making commodities available to State agencies; (3) permitting private for-profit child care centers to participate in CACFP if at least 25 percent of their enrolled children or 25 percent of their licensed capacity, whichever is less, are title XX recipients; (4) allowing adult day care centers to participate in the CACFP if they provide day care services to qualified persons in a group setting outside their homes, or in a group living arrangement; and (5) making two specific technical adjustments in Program regulations. This interim rule also makes a discretionary change which allows households participating in the Food Distribution Program on Indian Reservations (FDPIR) to be categorically eligible as free meal recipients under the CACFP. These changes are intended to reduce the level of administrative burden at the Federal, State and local levels. (95-009)

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/01/97	62 FR 23613
Final Action	02/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC07

411. CHILD AND ADULT CARE FOOD PROGRAM: CHILD NUTRITION AND WIC REAUTHORIZATION ACT AMENDMENTS AND HEALTHY MEALS FOR HEALTHY AMERICANS ACT OF 1994

Priority: Other Significant

Legal Authority: 42 USC 1758; 42 USC 1766

CFR Citation: 7 CFR 226

Legal Deadline: Final, Statutory, January 1, 1997.
Only the two provisions related to administrative funds are mandated by Pub. L. 104-193 to be implemented into regulations by 01/01/97.

Abstract: This interim rule incorporates changes to the Child and Adult Care Food Program (CACFP) as required by the Child Nutrition and WIC Reauthorization Act of 1989 and the Healthy Meals for Healthy Americans Act of 1994 by: (1) providing administrative funds to family day care home sponsors for expansion into low-income or rural areas; (2) granting federally funded income-eligible Head Start participants automatic eligibility for free CACFP meals without further application or eligibility determination; (3) granting pre-kindergarten Even Start participants automatic eligibility for free CACFP meals without further application or eligibility determination; and (4) allowing the use of administrative funds to assist unlicensed day care homes in becoming licensed. These revisions are intended to encourage program participation in low-income and rural areas and to reduce the level of administrative and paperwork burden for Federal, State and local program administrators and for program participants. (90-508)

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/97	
Final Action	02/00/98	
Final Action Effective	04/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC20

412. IMPLEMENTATION OF LEGISLATIVE REFORMS IN THE SUMMER FOOD SERVICE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1758; 42 USC 1761; 42 USC 1762a

CFR Citation: 7 CFR 225

Legal Deadline: None

Abstract: Recent legislative actions have made a number of changes to conditions affecting reimbursement, participation of certain service organizations, and State administration under the Summer Food Service Program (SFSP). This interim rule implements several nondiscretionary amendments to SFSP that are prescribed by the Healthy Meals for Healthy Americans Act of 1994 (Pub. L. 103-448) and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104-193). This rule also formalizes categorical eligibility for households participating in the Food Distribution Program on Indian reservations, and makes a number of technical corrections to part 225. (95-025)

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/97	
Final Action	03/00/98	
Final Action Effective	03/00/98	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC23

413. IMPROVED TARGETING OF DAY CARE HOME REIMBURSEMENTS IN THE CHILD AND ADULT CARE FOOD PROGRAM

Regulatory Plan: This entry is Seq. No. 8 in Part II of this issue of the Federal Register.

RIN: 0584–AC42

414. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WIC: IMPLEMENTATION OF WIC-RELATED PROVISIONS OF PL 104-193, PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: This rule would implement the WIC-related provisions of Pub. L. 104-193, the Personal Responsibility and Work Opportunity Act of 1996. These provisions include: sharing of WIC information with the Immigration and Naturalization Service; revision to the definition of homeless individual; and the elimination of several current requirements including annual evaluation of nutrition education and breastfeeding promotion and support efforts, provision of written information on certain programs, and timeframes for action on local agency applications for program participation. (96-031)

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/98	
Final Action	10/00/98	
Final Action Effective	12/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC51

USDA—FCS — Final Rule Stage

415. IMPLEMENTATION OF LEGISLATIVE CHANGES IN THE CHILD AND ADULT CARE FOOD PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 104-193

CFR Citation: 7 CFR 226

Legal Deadline: None

Abstract: This interim rulemaking will implement non-discretionary changes to the Child and Adult Care Food Program regulations mandated by Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. This rule will not implement changes to section 708(a) of P.L. 104-193, targeting reimbursement for meals served in family day care homes, which was addressed in a separate interim rulemaking published on January 7, 1997 (62 FR 889). (96-032)

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/00/98	
Final Action	07/00/98	
Final Action Effective	08/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC52

416. • WIC: EVALUATION OF WIC PROGRAM INFANT FORMULA REBATE CONTRACTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: This rule would implement the mandates of P.L. 104-180, title IV, Appropriations Act for Domestic Food Programs, relative to food cost containment in the Special Supplemental Nutrition Program for Women, Infants and Children (WIC). Specifically, the rule would require State agencies that are required to procure infant formula through a sole-source infant formula rebate system to award infant formula rebate contracts to the bidder offering the lowest net price unless the State agency demonstrates to the satisfaction of the Food and Consumer Service that the weighted average retail price for different brands of infant formula in the State does not vary by more than five percent. (97-003)

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/97	
Final Action	09/00/98	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246
Fax: 703 306-2921

RIN: 0584–AC55

417. • FOOD STAMP PROGRAM: MAXIMUM ALLOTMENTS FOR THE 48 STATES AND DC

Priority: Info./Admin./Other

Legal Authority: 7 USC 2011 to 2032

CFR Citation: None

Legal Deadline: Final, Statutory, October 1, 1997.

Abstract: This notice will publish the cost-of-living adjustments to the maximum food stamp allotments for the 48 states and DC and the income eligibility guidelines for the 48 states, DC, Alaska, Hawaii, Guam, and the Virgin Islands (97-006)

Timetable:

Action	Date	FR Cite
Final Action	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246
Fax: 703 305-2921

RIN: 0584–AC57

418. • FOOD STAMP PROGRAM: MAXIMUM ALLOTMENTS FOR ALASKA, HAWAII, GUAM, AND THE VIRGIN ISLANDS

Priority: Info./Admin./Other

Legal Authority: 7 USC 2011 to 2032

CFR Citation: None

Legal Deadline: Final, Statutory, October 1, 1997.

Abstract: This notice will publish the cost-of-living adjustments to the maximum allotments for Alaska, Hawaii, Guam and the Virgin Islands (97-007)

Timetable:

Action	Date	FR Cite
Final Action	10/00/97	

Small Entities Affected: Organizations

Government Levels Affected: State, Tribal, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246
Fax: 703 305-2921

RIN: 0584–AC58

DEPARTMENT OF AGRICULTURE (USDA)
Food and Consumer Service (FCS) — Long-Term Actions

419. FOOD STAMP PROGRAM: EMERGENCY ASSISTANCE FOR VICTIMS OF DISASTERS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 7 CFR 271; 7 CFR 272; 7 CFR 273; 7 CFR 274; 7 CFR 280

Timetable: Next Action Undetermined

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: Sheri Ackerman
Phone: 703 305-2246
Fax: 703 305-2921

RIN: 0584–AA85

420. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): FOOD COST CONTAINMENT REQUIREMENTS

Priority: Other Significant

CFR Citation: 7 CFR 246

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/15/90	55 FR 9709
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Sheri Ackerman
Phone: 703 305-2246

RIN: 0584–AB11

421. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): INFANT FORMULA PROCUREMENT ACT OF 1992

Priority: Other Significant

CFR Citation: 7 CFR 246

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State, Tribal, Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sheri Ackerman
Phone: 703 305-2246

RIN: 0584–AB52

422. WIC: MINOR WIC FOOD PACKAGE ADJUSTMENTS AND CORRECTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 246

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman
Phone: 703 305-2246
Fax: 703 305-2921

RIN: 0584–AC29

423. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): ACCOMMODATION OF CULTURAL FOOD PREFERENCES IN THE WIC PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 246

Timetable:

Action	Date	FR Cite
ANPRM	08/23/94	59 FR 32406
ANPRM Comment Period End	12/20/94	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman
Phone: 703 305-2246
Fax: 703 305-2921

RIN: 0584–AC32

424. REVISION OF THE REGULATIONS GOVERNING THE DETERMINATION OF ELIGIBILITY FOR FREE AND REDUCED PRICE MEALS AND FREE MILK IN SCHOOLS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 245

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman
Phone: 703 305-2246

RIN: 0584–AC36

DEPARTMENT OF AGRICULTURE (USDA)
Food and Consumer Service (FCS) — Completed Actions

425. FSP: ELECTRONIC BENEFITS TRANSFER CARD SPECIFICATIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 7 CFR 274.12

Completed:

Reason	Date	FR Cite
Withdrawn - Determined to be not cost beneficial	06/02/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Sheri Ackerman
Phone: 703 305-2246

RIN: 0584–AC27

USDA—FCS

Completed Actions

426. REQUEST FOR INFORMATION ON ELECTRONIC BENEFIT TRANSFER (EBT) INTEROPERABILITY

Priority: Info./Admin./Other

CFR Citation: 7 CFR 274.12

Completed:

Reason	Date	FR Cite
Final Action	03/25/97	62 FR 14111

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sheri Ackerman
Phone: 703 305-2246

RIN: 0584–AC47

427. • MAXIMUM ALLOTMENTS FOR THE 48 STATES AND DC

Priority: Info./Admin./Other

Legal Authority: 7 USC 2011 to 2032

CFR Citation: None

Legal Deadline: Final, Statutory, October 1, 1996.

Abstract: This notice will publish the cost-of-living adjustments to the maximum food stamp allotments for the 48 States and DC and the income eligibility guidelines for the 48 States, DC, Alaska, Hawaii, Guam, and the Virgin Islands. (97-001)

Timetable:

Action	Date	FR Cite
Final Action Effective	10/01/96	
Final Action	04/16/97	62 FR 18579

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC53

428. • MAXIMUM ALLOTMENTS FOR ALASKA, HAWAII, GUAM, AND THE VIRGIN ISLANDS

Priority: Info./Admin./Other

Legal Authority: 7 USC 2011 to 2032

CFR Citation: None

Legal Deadline: Final, Statutory, October 1, 1996.

Abstract: This notice will publish the cost-of-living adjustments to the maximum allotments for Alaska, Hawaii, Guam and the Virgin Islands. (97-002)

Timetable:

Action	Date	FR Cite
Final Action Effective	10/01/96	
Final Action	04/16/97	62 FR 18578

Small Entities Affected: None

Government Levels Affected: State, Tribal, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC54

BILLING CODE 3410-30-F

DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS)

Proposed Rule Stage

429. USE OF TRISODIUM PHOSPHATE (TSP) ON RAW, UNCHILLED POULTRY CARCASSES

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 451 et seq

CFR Citation: 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the poultry products inspection regulations to permit the application of trisodium phosphate (TSP) on raw, unchilled poultry carcasses. TSP would be permitted as an antimicrobial agent on raw, unchilled poultry carcasses. Tests conducted by industry and FSIS have shown that the use of TSP reduces microbial populations on raw, unchilled poultry carcasses. This proposed rule is in response to a petition.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	
NPRM Comment Period End	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Stolfa, Assistant Deputy Administrator, Regulations and Inspection, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 205-0699

RIN: 0583–AB80

430. MEAT AND POULTRY STANDARDS OF IDENTITY AND COMPOSITION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: FSIS is carrying out a thoroughgoing regulatory review that will decide the future of its standards of identity and composition for meat and poultry products. These standards, established over many years, define particular products or product categories in terms of meat and poultry content or other characteristics. The standards are enforced through prior approval of labeling and by other means. Because of new technologies, changing lifestyles, changed consumer expectations, and the information now available to consumers through ingredient and nutrition labeling, the usefulness of many of the standards is in question. FSIS is soliciting information from the interested public on what direction reform of its food standards regulations should take, including suggestions on whether to fundamentally alter or eliminate entirely this regulatory program. FSIS recognizes that the current program impedes innovation, slowing the introduction of nutritionally beneficial products in the marketplace. FSIS seeks information on how its product standards—if they are needed at all—can provide sound and reliable consumer protection, while being flexible enough

USDA—FSIS

Proposed Rule Stage

to encourage the development and marketing of improved meat and poultry products.

Timetable:

Action	Date	FR Cite
ANPRM	09/09/96	61 FR 47453
ANPRM Comment Period End	11/25/96	
NPRM	01/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William Hudnall, Assistant Deputy Administrator, Standards and Methods Review, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250-3700
Phone: 202 720-7773

RIN: 0583–AC01

431. GRANT AND INAUGURATION OF INSPECTION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 304; 9 CFR 305

Legal Deadline: None

Abstract: FSIS is proposing to streamline and clarify the regulations in 9 CFR parts 304 and 305, which provide for grant and inauguration of inspection in meat and poultry establishments.

Under the current regulations, prior to commercial operation, establishments must apply for grant of inspection by submitting for FSIS review and approval establishment floor plans and blueprints, equipment specifications, and other information. If FSIS approves this information and grants inspection, a circuit supervisor visits the establishment to inform the operator of the applicable regulations. Subsequently, FSIS inspection is inaugurated and the establishment may begin manufacturing product for commercial distribution.

FSIS is proposing to streamline and clarify these requirements in light of (1) new section 304.3, under which compliance with requirements in the Agency's regulations on sanitation standard operating procedures and hazard analysis and critical control point systems (parts 416 and 417) are conditions for receiving inspection, and (2) final action on the Agency's proposal (Docket No. 95-032P) to eliminate the requirement that floor plans, blueprints, equipment specifications be preapproved by FSIS before inspection is granted.

This rule will amend FSIS's regulations to describe, in part 300, the Agency's responsibilities and current organization. As part of its regulatory modernization initiative, FSIS has reorganized its headquarters offices and field structure, and it is reorganizing and amending its regulations to reflect these and other changes in the Agency's responsibilities. This rule will provide information on the location of FSIS's new field offices and the reassignment of regulatory activities under the Federal Meat Inspection Act, and the Poultry Products Inspection Act, and the Egg Products Inspection Act.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Stolfa, Assistant Deputy Administrator, Regulations and Inspection, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 205-0699

RIN: 0583–AC07

432. BEEF OR PORK WITH BARBECUE SAUCE; REVISION OF STANDARDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 319

Legal Deadline: None

Abstract: The Food Safety and Inspection Service (FSIS) has been petitioned to amend the Federal meat inspection regulations by removing a meat yield requirement for the standardized products "Beef With Barbecue Sauce" and "Pork With Barbecue Sauce." Current regulations for these products require that the product contain not less than 50 percent of the species identified on the label, and that the weight of the cooked pork or beef not exceed 70 percent of the uncooked weight of the meat. The first requirement is consistent with other meat and sauce requirements, but the second requirement is not. The petitioner asserts that the product standard (promulgated in 1952) does not reflect current production practices or the commercial marketability of beef or pork with barbecue sauce. The petitioner further states that producers of these products are at a competitive disadvantage with other meat and sauce producers, because other meat and sauce producers do not have a 70 percent yield requirement. For example, producers of the standardized products "Beef with Gravy," "Meat Pies," and "Spaghetti with Meat and Sauce" and similar standardized products do not have any meat yield requirements.

FSIS has determined that the petitioner's request should be granted. This action would permit fair competition between meat and barbecue sauce producers, and poultry and sauce producers, and would provide consistent requirements in both the meat and poultry inspection regulations.

Timetable:

Action	Date	FR Cite
NPRM	09/03/97	62 FR 46450
NPRM Comment Period End	11/03/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Hudnall, Assistant Deputy Administrator, Standards and Methods Review, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250-3700
Phone: 202 720-7773

RIN: 0583–AC09

433. PROCEDURAL DUE PROCESS FOR OFFICIAL ESTABLISHMENTS RULES OF PRACTICE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 335; 9 CFR 381

Legal Deadline: None

Abstract: FSIS is proposing to amend the Federal meat and poultry inspection regulations by streamlining and consolidating the rules of practice governing FSIS procedures to: refuse or withdraw inspection service because of unfitness of responsible establishment officials to engage in a business requiring inspection, or because of failure to maintain sanitary conditions; withdraw inspection service because of failure to destroy condemned carcasses, parts, or products; suspend inspection service because of inhumane slaughtering or because of threats against, intimidation or assault of an FSIS employee; or suspend or withdraw inspection service because of inadequate hazard analysis and critical control point (HACCP) systems. The proposed amendments would ensure procedural due process for official establishments under FSIS's "Pathogen Reduction; HACCP Systems" regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Stolfa, Assistant Deputy Administrator, Regulations and Inspection, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250-3700
Phone: 202 205-0699

RIN: 0583–AC12

434. PERFORMANCE STANDARDS FOR THE PRODUCTION OF CERTAIN MEAT AND POULTRY PRODUCTS WITH ESTABLISHED STANDARDS OF IDENTITY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 319; 9 CFR 381

Legal Deadline: None

Abstract: The Food Safety and Inspection Service (FSIS) is proposing to amend the Federal meat and poultry inspection regulations by establishing food safety performance standards for certain raw, partially cooked, and ready-to-eat meat and poultry products listed in 9 CFR 319. Performance standards spell out the objective level of performance establishments must meet during their operations to produce safe products, but allow the use of customized, plant-specific processing procedures. The standards of identity or composition in part 319 define these products in terms of meat and poultry content, ingredients, methods of processing and preparation, or other characteristics relative to product content, representation, and labeling. However, currently there are few food safety standards or requirements specific to the processing or handling of these products in the regulations. FSIS must rely upon statutory authorities, general regulations, regulations for similar products, or FSIS directives when regulating these products. Establishing food safety performance standards specific to these products would provide FSIS with a better regulatory mechanism for ensuring their safety and would grant establishments flexibility to comply with the new requirements.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Stolfa, Assistant Deputy Administrator, Regulations and Inspection, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250-3700
Phone: 202 205-0699

RIN: 0583–AC18

435. PERFORMANCE STANDARDS FOR THE THERMAL PROCESSING OF MEAT AND POULTRY PRODUCTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: FSIS is proposing to replace the current, "command-and-control" procedures for the thermal processing of meat and poultry products with performance standards. The current regulations are highly prescriptive, redundant with HACCP, and inhibit the adoption by the industry of new, more efficient technologies. The proposed performance standards, which spell out the objective level of performance establishments must meet during their operations, would permit the use of alternative processing procedures by establishments. Establishments would be required to develop written process schedules describing their alternative procedures, but could incorporate these schedules into their HACCP plans. FSIS would allow establishments that do not develop alternative procedures to follow the current regulations, which would be retained as "safe harbors."

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Stolfa, Assistant Deputy Administrator, Regulations and Inspection, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250-3700
Phone: 202 205-0699

RIN: 0583–AC19

436. PERFORMANCE STANDARDS FOR THE IRRADIATION OF POULTRY TO CONTROL FOODBORNE PATHOGENS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 451 et seq

CFR Citation: 9 CFR 381

Legal Deadline: None

Abstract: FSIS is proposing to amend the Federal poultry products inspection regulations to replace the current "command-and-control" procedures for the irradiation of poultry to control foodborne pathogens with performance standards. The current regulations are highly prescriptive, redundant with HACCP, and inhibit the adoption by the industry of new, more efficient technologies. The proposed performance standards spell out the objective level of performance establishments must meet during their operations to produce safe products, but allow the use of customized, plant-specific procedures. Establishments would be required to develop written process schedules describing their alternative procedures, but could incorporate these schedules into their HACCP plans. FSIS would allow establishments that do not develop alternative procedures to follow the current regulations, which would be retained as "safe harbors."

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Stolfa, Assistant Deputy Administrator, Regulations and Inspection, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250-3700
Phone: 202 205-0699

RIN: 0583–AC20

437. PERFORMANCE STANDARDS FOR THE HANDLING, CHILLING, AND FREEZING OF POULTRY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 451 et seq

CFR Citation: 9 CFR 381

Legal Deadline: None

Abstract: FSIS is proposing to replace the current, "command-and-control" procedures for the handling, chilling, and freezing of poultry products in 9 CFR 381.66 with performance standards. The current regulations are highly prescriptive, redundant with HACCP, and inhibit the adoption by the industry of new, more efficient technologies. The proposed performance standards, which spell out the objective level of performance establishments must meet during their operations, would permit the use of alternative procedures, but could incorporate these schedules into their HACCP plans. FSIS would allow establishments that do not develop alternative procedures to follow the current regulations, which would be retained as "safe harbors."

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Stolfa, Assistant Deputy Administrator, Regulations and Inspection, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 205-0699

RIN: 0583–AC21

438. PREVENTION OF PHYSICAL OR CHEMICAL CONTAMINATION OF MEAT AND POULTRY PRODUCTS OR PRODUCT INGREDIENTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: FSIS is proposing to replace with performance standards the current regulations ensuring that meat and poultry products and product ingredients are not physically or chemically contaminated. Performance standards spell out the objective level of performance establishments must meet during their operations to produce safe products, but allow the use of customized, plant-specific processing procedures. Under requirements for mandatory establishment-operated HACCP systems, the performance standards and establishment-developed procedures could be a part of establishment HACCP plans. FSIS would allow establishments that do not develop alternative procedures to follow the current regulations, which would be retained as "safe harbors."

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Stolfa, Assistant Deputy Administrator, Regulations and Inspection, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250-3700
Phone: 202 205-0699

RIN: 0583–AC22

439. RETAINED WATER IN RAW MEAT AND POULTRY PRODUCTS; POULTRY CHILLING PERFORMANCE STANDARDS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 451 et seq

CFR Citation: 9 CFR 317; 9 CFR 381; 9 CFR 440

Legal Deadline: None

Abstract: FSIS is developing a proposal to limit the amount of water absorbed and retained by single-ingredient raw meat and poultry products to the amount that is unavoidable in carrying out washing or chilling procedures. Such products include immersion-chilled poultry carcasses and raw meat byproducts that are chilled in water. A requirement for raw products to bear a labeling statement on absorbed water content is being considered. However, establishments having data that demonstrate their raw products do not gain weight as a result of washing or chilling would not have to label the products with such a statement. The proposal also would replace the command-and-control provisions of the regulations on poultry chilling and moisture control with performance standards. This proposal is being made in furtherance of the Agency's regulatory reform effort and in response to a July 23, 1997, U.S. District Court order setting aside current moisture limits for frozen, cooked, or consumer-packaged whole poultry. The labeling provisions of this proposal would be intended to provide consumers with additional information for making purchasing decisions.

Affected establishments would have to bear the minimal costs associated with any required labeling modifications.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	02/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Alice Thaler, Chief, Concepts and Design Branch, Inspection Methods Design and Development Department of Agriculture, Food Safety and Inspection Service, Division, Washington, DC 20250
Phone: 202 720-3219

RIN: 0583–AC26

440. • ADDITION OF MEXICO TO LIST OF COUNTRIES ELIGIBLE TO EXPORT POULTRY PRODUCTS TO THE UNITED STATES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 7 USC 138f; 7 USC 450; 21 USC 451; 21 USC 470

CFR Citation: 9 CFR 196

Legal Deadline: None

Abstract: The Food Safety and Inspection Service (FSIS) is proposing to add Mexico to the list of countries eligible to export poultry products listed in the Poultry Products Inspection Act (PPIA) into the United States. Reviews of Mexico's laws, regulations, and other materials indicate that its poultry processing system is acceptable under the PPIA and its implementing regulations. Poultry slaughtered in Mexico would not be permitted to be imported into the United States. Only poultry products that have been slaughtered in federally inspected establishments in the United States and processed in certified Mexican establishments would be permitted to be imported into the United States. This action would enable processed poultry products from certified processing establishments in Mexico to be imported into the United States.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Stolfa, Assistant Deputy Administrator, Regulations and Inspection, Department of Agriculture, Food Safety and Inspection Service, Office of Policy, Program Development and Evaluation, Washington, DC 20250-3700
Phone: 202 205-0699

RIN: 0583–AC33

441. • RULES OF PRACTICE

Regulatory Plan: This entry is Seq. No. 9 in Part II of this issue of the **Federal Register**.

RIN: 0583–AC34

442. • ELIMINATION OF REQUIREMENTS FOR PARTIAL QUALITY CONTROL PROGRAMS

Regulatory Plan: This entry is Seq. No. 10 in Part II of this issue of the **Federal Register**.

RIN: 0583–AC35

443. • ELIMINATION OF PRIOR APPROVAL REQUIREMENTS FOR PROPRIETARY SUBSTANCES AND NONFOOD COMPOUNDS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 450; 21 USC 601

CFR Citation: 9 CFR 308; 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: FSIS is proposing to eliminate the requirements that proprietary substances and nonfood compounds be approved by FSIS prior to use in meat and poultry establishment (9 CFR 308.3, 308.7, 318.7, 318.15, 381.60, and 381.147). The types of compounds subject to prior approval include maintenance chemicals (sanitizers, cleaning compounds, water treatments, lubricants, and pesticides) and proprietary food processing chemicals (branding inks, scalding agents, rendering agents, and denaturants). Prior approval provides some assurance that use of the compounds will not result in the adulteration or contamination of food products, providing they are used properly; prior approval also ensures that certain compounds, such as sanitizers, meet minimum standards of effectiveness.

However, this prior approval system is subject to the same limitations as other prior approval programs: it provides no assurance that approved compounds will be used as intended. Further, in making efficacy judgments, the Agency is taking on a responsibility that belongs to the inspected establishment. FSIS has determined that appropriately separating and clarifying the roles and responsibilities of enhancements in food safety benefits and result in better utilization of scarce public resources.

FSIS would continue to require that meat and poultry products be neither adulterated nor misbranded through the misuse of proprietary additives and nonfood compounds, but establishments would be responsible for determining which compounds are safe and effective for their purposes. FSIS expects that the burden of demonstrating safety and efficacy would fall on the manufacturers of these specialty chemical compounds. Establishments considering purchasing and using such products would demand such information as part of their decision-making in the private marketplace.

As a result of this proposal, approximately 7,500 chemical manufacturing and distributor companies would no longer be required to request FSIS authorization for nonfood compounds and proprietary substances prior to use. FSIS takes about 10,000 approval or rejection actions each year.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Notice of Policy Change Nonfood Compounds and Proprietary Substances	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Stolfa, Assistant Deputy Administrator, Regulations and Inspection, Department of Agriculture, Food Safety and Inspection Service, Office of Policy, Program Development and Evaluation, Washington, DC 20250-3700
Phone: 202 205-0699

RIN: 0583–AC37

444. • SANITATION REQUIREMENTS FOR OFFICIAL MEAT AND POULTRY ESTABLISHMENTS

Regulatory Plan: This entry is Seq. No. 11 in Part II of this issue of the **Federal Register**.

RIN: 0583–AC39

DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS)

Final Rule Stage

445. REQUIREMENTS FOR FOREIGN COUNTRY IMPORT CERTIFICATION AND LIVE ANIMAL IMPORTATION

Priority: Substantive, Nonsignificant

Legal Authority: PL 99-198

CFR Citation: 9 CFR 327; 9 CFR 381

Legal Deadline: None

Abstract: This rule will respond to amendments to the Federal Meat Inspection Act by the Food Security Act of 1985. The amendments require that FSIS periodically certify residue control programs submitted by foreign countries desiring to export meat and poultry products to the United States. The amendments also provide the Secretary with the authority to issue an order prohibiting the importation of livestock for immediate slaughter that has been administered a drug or antibiotic banned for use in the United States.

Timetable:

Action	Date	FR Cite
NPRM	07/26/88	53 FR 27998
NPRM Comment Period End	09/26/88	
Reproposal	03/09/90	55 FR 8956
Reproposal Comment Period End	04/09/90	
Final Action	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence Skinner, Director, Foreign Programs Division, International Programs, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-6933

RIN: 0583–AA47

446. FOOD STANDARDS: REQUIREMENTS FOR PROCESSED MEAT AND POULTRY PRODUCTS NAMED BY USE OF AN EXPRESSED NUTRIENT CONTENT CLAIM AND A STANDARDIZED TERM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 319; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry regulations to establish a general definition and standard of identity for standardized meat and poultry food products that have been modified to qualify for use of certain expressed nutrient content claims as part of the product name. These products would be identified by a nutrient content claim, such as "fat free," in conjunction with an appropriate standardized product name, e.g., "fat free frankfurter." The general standard proposes to set requirements that would allow for modified versions of standardized meat and poultry food products, i.e., "substitute standardized products." These products would be formulated and processed with ingredients otherwise not in or in amounts greater than that allowed by FSIS regulatory food standards in 9 CFR parts 319 and 381, subpart P.

FSIS is taking this action to: (1) Assist consumers in maintaining healthy dietary practices by providing for substitute versions of standardized processed meat food and poultry food products that have reductions in certain constituents that are of health concern to consumers, such as fat and cholesterol, (2) increase regulatory flexibility and support product

innovation in accord with Executive Orders 12861 and 12866 and with President Clinton's Memorandum to Heads of Departments and Agencies, "Regulatory Reinvention Initiative," dated March 4, 1995, and (3) provide consumers with an informative nutrition labeling system.

Timetable:

Action	Date	FR Cite
NPRM	12/29/95	60 FR 67474
NPRM Comment Period Extended	02/27/96	61 FR 26470
NPRM Comment Period End	11/25/96	
Final Action	01/00/98	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: William Hudnall, Assistant Deputy Administrator, Standards and Methods Review, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-7773

RIN: 0583–AB51

447. NUTRITION LABELING: HEALTH CLAIMS ON MEAT AND POULTRY PRODUCTS

Priority: Other Significant

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: 9 CFR 317; 9 CFR 381

Legal Deadline: None

Abstract: This rule will amend the Federal meat and poultry products inspection regulations to permit the use of health claims that characterize the relationship of a substance to a disease-related or health-related condition on labeling of meat and poultry products. The rule will also establish a labeling application process for such health claims. This action stems from the final nutrition labeling regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/25/94	59 FR 27144
NPRM Comment Period End	07/25/94	
Final Action	10/00/97	
Final Action Effective	11/00/97	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Charles Edwards, Director, Facilities, Equipment, Labeling and Compounds Review Division, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 418-8900

RIN: 0583–AB64

448. PERFORMANCE STANDARDS FOR CERTAIN MEAT PRODUCTS AND POULTRY PRODUCTS

Regulatory Plan: This entry is Seq. No. 12 in Part II of this issue of the Federal Register.

RIN: 0583–AB94

449. CONTINUOUS CHILLING OF SPLIT POULTRY PORTIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 451 et seq

CFR Citation: 9 CFR 381

Legal Deadline: None

Abstract: FSIS is proposing to amend the poultry products inspection regulations to clarify that the continuous immersion chilling of the front or rear portions of transversely split carcasses is permitted. The existing regulations permit the continuous chilling of whole carcasses or "major portions," including front or rear portions, resulting from trimming or salvage. This proposal would define "major portions" to include the front or rear portions of transversely split carcasses without identifying the operation creating the portions. The proposed change would afford additional flexibility to poultry establishments in adopting efficient production techniques, such as on-line carcass splitting, that meet food safety performance standards.

Timetable:

Action	Date	FR Cite
NPRM	08/08/97	62 FR 31017
NPRM Comment Period End	09/05/97	
Final Action	03/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Alice M. Thaler, Slaughter Inspection Standards and Procedures Division, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-3219

RIN: 0583–AB95

450. USE OF SORBITOL IN COOKED ROAST BEEF PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318

Legal Deadline: None

Abstract: FSIS is proposing to amend the Federal meat inspection regulations to permit the use of sorbitol in cooked roast beef products. Sorbitol is listed in 21 CFR 184.1835 as a substance generally recognized as safe for various uses when used in accordance with good manufacturing practices. Sorbitol functions as a sweetening agent and prevents charring of meat and meat food products due to its moisture-retention properties. Sorbitol could be used for these two purposes in cooked roast beef products, at a level not more than two percent of the weight of the formula excluding the formula weight of water or ice.

Timetable:

Action	Date	FR Cite
NPRM	03/14/97	62 FR 12117
NPRM Comment Period End	05/13/97	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Edwards, Director, Product Assessment Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250-3700
Phone: 202 254-2588

RIN: 0583–AC02

451. NUTRITION LABELING; REFERENCE DAILY INTAKES

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 317; 9 CFR 381

Legal Deadline: None

Abstract: The Food Safety and Inspection Service (FSIS) is proposing to amend the list of Reference Daily Intakes (RDI's) in the Federal meat and poultry products inspection regulations by adding RDI values for vitamin K, selenium, manganese, chromium, molybdenum, and chloride. FSIS is also proposing to modify the units of measure for the RDI values for calcium, folate, biotin, and phosphorus. This action would provide consistency between the Food and Drug Administration's and FSIS's nutrition labeling requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/13/96	61 FR 65490
NPRM Comment Period End	02/11/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: William Hudnall, Assistant Deputy Administrator, Standards and Method Review, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250-3700
Phone: 202 720-7773

RIN: 0583–AC15

452. USE OF A BLEND OF CARRAGEENAN, LOCUST BEAN GUM, AND XANTHAN GUM AS A BINDER MATRIX IN WATER-ADDED HAMS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318

Legal Deadline: None

Abstract: FSIS plans to amend the Federal meat inspection regulations to permit the use of a blend of carrageenan, locust bean gum, and xanthan gum as a binder to prevent purging of brine solution in water-added hams. Carrageenan and xanthan gum are permitted as direct food additives under 21 CFR 172.620 and 172.695 at use-levels consistent with good manufacturing practice as stabilizers, emulsifiers, or thickeners. The currently permitted use-level for carrageenan is 1.5 percent of the formulation of water-added hams. The Federal meat and poultry products inspection regulations already allow the use of xanthan gum in various meat and poultry products without a restriction for use as a binder. Locust bean gum is listed in 21 CFR 184.1343 as a substance generally recognized as safe at a maximum use-level of 0.5 percent as a stabilizer and thickener.

The maximum use-level for the binder matrix will be 0.5 percent, consisting of 70 percent carageenan, 15 percent xanthan gum, and 15 percent locust bean gum. Permitting the use of this binder matrix in water-added hams will provide ham processors with another binder option from which to choose when formulating their product.

Timetable:

Action	Date	FR Cite
Direct Final Rule	01/00/98	
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Patricia Stolfa, Assistant Deputy Administrator, Regulations and Inspection, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250-3700
Phone: 202 205-0699

RIN: 0583–AC16

453. USE OF TWO KINDS OF POULTRY WITHOUT LABEL CHANGE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 451

CFR Citation: 9 CFR 381

Legal Deadline: None

Abstract: The Food Safety and Inspection Service (FSIS) has been petitioned to amend the poultry products inspection regulations by permitting the use of different amounts of two kinds of poultry to be used in a poultry product without changing the product's ingredients statement. Currently, the Federal meat inspection regulations provide that beef and pork may be interchanged in a product formulation without requiring new labels for each formulation. In these situations, the word "and," instead of a comma, between the declaration of the two meat components in the ingredients statement indicates that the order of predominance of the two meat components may be interchanged.

The regulation for meat products was promulgated to allow meat processors flexibility in utilizing least cost formulations, while maintaining label integrity. Formulations can be modified within set parameters without requiring new labels, thus reducing required label inventories and lowering costs.

FSIS has determined that the petition should be granted. There are no health or safety issues involved with this proposed change. The ingredients statement of the product will still list both kinds of poultry that are present in the product. However, under this proposal, poultry producers, like their meat counterparts, would not need to change labels when the order of predominance of the poultry ingredients changes.

This action would make the regulations consistent with regard to the flexibility afforded meat and poultry processors to adjust product formulations without having to change labels.

Timetable:

Action	Date	FR Cite
NPRM	12/27/96	61 FR 68167
NPRM Comment Period End	02/27/97	
Final Action	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Cheryl Wade, Food Labeling Division, Department of Agriculture, Food Safety and Inspection Service, Regulatory Programs, Washington, DC 20250-3700
Phone: 202 254-2590

RIN: 0583–AC17

454. USE OF MODIFIED FOOD STARCH IN HAM WITH NATURAL JUICES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 319

Legal Deadline: None

Abstract: The Food Safety and Inspection Service (FSIS) is permitting the use of modified food starch in "Ham with Natural Juices" products. FSIS currently permits the use of food starch modified as a binder and

USDA—FSIS

Final Rule Stage

extender in cured pork products labeled "Ham water added" and "Ham and water product-X% of weight is added ingredients." FSIS is allowing modified food starch in "Ham with Natural Juices" products in an amount not exceeding 2 percent of product formulation.

Timetable:

Action	Date	FR Cite
NPRM	04/25/97	62 FR 20130
Final Action	04/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Stolfa, Assistant Deputy Administrator, Regulations and Inspection, Department of Agriculture, Food Safety and Inspection Service, Office of Policy, Program Development, and Evaluation, Washington, DC
Phone: 202 205-0699

RIN: 0583–AC29

455. • PERFORMANCE STANDARDS FOR THE PRODUCTION OF CERTAIN MEAT AND POULTRY PRODUCTS

Regulatory Plan: This entry is Seq. No. 13 in Part II of this issue of the Federal Register.

RIN: 0583–AC38

DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS)

Long-Term Actions

456. SUBSTANCES APPROVED FOR USE IN THE PREPARATION OF MEAT FOOD AND POULTRY PRODUCTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 9 CFR 318; 9 CFR 381

Timetable:

Action	Date	FR Cite
NPRM	12/29/95	60 FR 67459
NPRM Comment Period End	05/06/96	
Final Action	01/00/99	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia Stolfa
Phone: 202 205-0699

RIN: 0583–AB02

457. NUTRITION LABELING OF GROUND BEEF AND HAMBURGER

Priority: Other Significant

CFR Citation: 9 CFR 317; 9 CFR 381

Timetable:

Action	Date	FR Cite
NPRM	05/24/94	59 FR 26916
NPRM Extension of Comment Period	07/05/94	59 FR 34396
NPRM Comment Period End	07/08/94	
NPRM Extension of Comment Period End	08/22/94	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William Hudnall
Phone: 202 720-7773

RIN: 0583–AB74

458. NUTRITION LABELING; NEW PRODUCT CATEGORIES AND REFERENCE AMOUNTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 9 CFR 317; 9 CFR 381

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Post
Phone: 202 418-8900

RIN: 0583–AB81

459. USE OF SOY PROTEIN CONCENTRATE AND FOOD STARCH—MODIFIED AS BINDERS IN CURED PORK PRODUCTS

Priority: Routine and Frequent

CFR Citation: 9 CFR 318

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Post
Phone: 202 418-8900

RIN: 0583–AB82

460. REFRIGERATION AND LABELING REQUIREMENTS FOR SHELL EGGS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 7 CFR 56; 7 CFR 59

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ralph Stafko
Phone: 202 205-0700

RIN: 0583–AC04

461. TRANSPORTATION AND STORAGE REQUIREMENTS FOR POTENTIALLY HAZARDOUS FOODS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 9 CFR 305; 9 CFR 381

Timetable:

Action	Date	FR Cite
ANPRM	11/22/96	61 FR 59372
ANPRM Comment Period End	02/20/97	
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ralph Stafko
Phone: 202 205-0700

RIN: 0583–AC05

USDA—FSIS

Long-Term Actions

462. ELIMINATION OF PRIOR APPROVAL REQUIREMENTS FOR EGG PRODUCT PLANT DRAWINGS, SPECIFICATIONS, AND EQUIPMENT

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 55; 7 CFR 59

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
NPRM Comment Period End	03/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Patricia Stolfa
Phone: 202 205-0699

RIN: 0583–AC06

463. LABELING OF EGG PRODUCTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 59

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Hudnall
Phone: 202 720-7773

RIN: 0583–AC23

464. PERFORMANCE STANDARD FOR CARCASSES CUT INTO PRIMAL PARTS WITHIN AN ESTABLISHMENT

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 9 CFR 381

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Stolfa
Phone: 202 205-0699

RIN: 0583–AC27

465. HAZARD ANALYSIS AND CRITICAL CONTROL POINT (HACCP) SYSTEMS FOR EGG PRODUCTS

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 7 CFR 355; 7 CFR 359

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Hasiak
Phone: 202 501-7615

RIN: 0583–AC30

466. • GENERIC E. COLI TESTING FOR SHEEP, GOATS, DUCKS, GEESE, AND GUINEAS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 601; 21 USC 451

CFR Citation: 9 CFR 310; 9 CFR 381

Legal Deadline: None

Abstract: The Food Safety and Inspection Service (FSIS) is proposing to require establishments slaughtering sheep, goats, horses, mules, and other equine, and establishments slaughtering ducks, geese, and guineas to sample and test carcasses for generic E. coli. This proposal extends the sampling and testing requirements already applied to establishments that slaughter cattle, swine, chickens, and turkeys. Regular microbial testing by slaughter establishments is necessary to verify the adequacy of the establishments' process controls for the prevention and removal of fecal contamination and associated bacteria.

An estimated 115 federally inspected establishments and an unknown but small number of State establishments that slaughter sheep, goats, equine, ducks, geese, or guineas would be affected by this proposed rule. Of these 115 establishments, only 25 are not currently testing some type of livestock or poultry. FSIS has made an initial determination that no significant economic burden would be imposed on establishments that slaughter sheep, goats, equine, ducks, geese, or guineas.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Stolfa, Assistant Deputy Administrator, Regulations and Inspection, Department of Agriculture, Food Safety and Inspection Service, Office of Policy, Program Development and Evaluation, Washington, DC 20250-3700
Phone: 202 205-0699

RIN: 0583–AC32

DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS)

Completed Actions

467. FSIS AGENDA FOR CHANGE: REGULATORY REVIEW; FOOD STANDARDS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 9 CFR 301 to 350; 9 CFR 381

Completed:

Reason	Date	FR Cite
Final Action	12/29/95	60 FR 67469

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Stolfa
Phone: 202 205-0699

RIN: 0583–AB89

468. ELIMINATION OF PRIOR APPROVAL REQUIREMENTS FOR ESTABLISHMENT DRAWINGS AND SPECIFICATIONS, FACILITIES EQUIPMENT, AND CERTAIN PARTIAL QUALITY CONTROL PROGRAMS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 9 CFR 304; 9 CFR 308; 9 CFR 317; 9 CFR 318; 9 CFR 319; 9 CFR 381

Completed:

Reason	Date	FR Cite
Final Action	08/25/97	62 FR 45016
Final Action Effective	10/24/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia Stolfa
Phone: 202 205-0699

RIN: 0583–AB93

469. GLYCERINE USED AS A HUMECTANT IN SHELF STABLE MEAT SNACKS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 9 CFR 317

Completed:

Reason	Date	FR Cite
Final Action	08/15/97	62 FR 43631
Final Action Effective	10/14/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Hudnall
Phone: 202 720-7773

RIN: 0583–AC00

470. USE OF SODIUM DIACETATE AND SODIUM ACETATE AS FLAVORING AGENTS IN MEAT AND POULTRY PRODUCTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 9 CFR 318; 9 CFR 381

Completed:

Reason	Date	FR Cite
Final Action	08/23/97	62 FR 33744

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Hudnall
Phone: 202 720-7773

RIN: 0583–AC11

471. USE OF LIQUID NITROGEN FOR CONTACT FREEZING MEAT AND MEAT PRODUCTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 9 CFR 318

Completed:

Reason	Date	FR Cite
Final Action	05/22/97	62 FR 27940

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Stolfa
Phone: 202 205-0699

RIN: 0583–AC14

472. PATHOGEN REDUCTION; HAZARD ANALYSIS AND CRITICAL CONTROL POINT (HACCP) SYSTEMS—TECHNICAL CORRECTIONS AND AMENDMENTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 9 CFR 306; 9 CFR 310; 9 CFR 381; 9 CFR 416

Completed:

Reason	Date	FR Cite
Final Action	05/13/97	62 FR 26211
Final Action Effective	06/12/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Stolfa
Phone: 202 205-0699

RIN: 0583–AC28

BILLING CODE 3410-DM-F

DEPARTMENT OF AGRICULTURE (USDA)
Foreign Agricultural Service (FAS)

Proposed Rule Stage

473. DAIRY TARIFF RATE IMPORT QUOTA LICENSING

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 624; 19 USC 1202; 31 USC 9701; PL 103-465

CFR Citation: 7 CFR 6.20 to 6.34

Legal Deadline: Final, Statutory, January 1, 1995.

Abstract: This rule would supersede the import regulation which governs the administration of the Import Licensing System for certain dairy products which are subject to in-quota tariff rates established in the harmonized tariff schedule of the United States resulting from the entry into force of certain provisions in the Uruguay Round Agreement.

Timetable:

Action	Date	FR Cite
ANPRM	08/02/94	59 FR 28495
ANPRM Comment Period End	08/01/94	
Interim Final Rule	05/02/95	60 FR 21425
Interim Final Rule	09/13/95	60 FR 47453
NPRM	01/18/96	61 FR 1233
NPRM Comment Period End	03/18/96	
Final Rule	10/09/96	61 FR 53002
NPRM	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert Riston, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, Washington, D. C. 20250
Phone: 202 720-6713

RIN: 0551–AA27

474. EXPORT SALES REPORTING REQUIREMENT

Priority: Other Significant

Legal Authority: 7 USC 5712

CFR Citation: 7 CFR 20

Legal Deadline: None

Abstract: Consideration of a proposal to add meat and meat products to the list of commodities to be reported under the Export Sales Reporting requirements. The Advance Notice of Proposed Rulemaking requested public comment on the benefits, costs, and methods for collecting meat export sales information.

Timetable:

Action	Date	FR Cite
ANPRM	11/14/96	61 FR 58343
ANPRM Comment Period End	02/12/97	
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert Riston, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957-S, Washington, DC 20250-1000
Phone: 202 720-6713

RIN: 0551–AA51

DEPARTMENT OF AGRICULTURE (USDA)
Foreign Agricultural Service (FAS)

Final Rule Stage

475. CCC SUPPLIER CREDIT GUARANTEE PROGRAM

Priority: Economically Significant

Legal Authority: 15 USC 714(b); 15 USC 714(f); 7 USC 5602; 7 USC 5622; 7 USC 5661; 7 USC 5663; 7 USC 5664; 7 USC 5676

CFR Citation: 7 CFR 1493

Legal Deadline: None

Abstract: The final rule will amend regulations for CCC export credit guarantee programs by adding a new subpart D, supplier credit guarantee program. Subpart D will establish the terms and conditions by which U.S. exporters of U.S. agricultural commodities and products may obtain CCC credit guarantees for short term credits extended directly to foreign buyers.

Timetable:

Action	Date	FR Cite
Final Rule	10/19/94	59 FR 52866
NPRM	07/19/95	60 FR 37025
NPRM Comment Period End	09/18/95	
Interim Final Rule	07/01/96	61 FR 33825
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Riston, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, Washington, DC 20250
Phone: 202 720-6713

RIN: 0551–AA30

476. FACILITY GUARANTEE PROGRAM

Priority: Other Significant

Legal Authority: 7 USC 5622(b)

CFR Citation: 7 CFR 17; 7 CFR 1493

Legal Deadline: None

Abstract: The regulations will provide the terms and conditions of obtaining a Commodity Credit Corporation Export Credit Guarantee for the establishment or improvement of an agricultural related facility in an emerging market that will primarily benefit the export of U.S. Agricultural Commodities.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	03/01/93	
Interim Final Rule Comment Period End	06/01/93	
Interim Final Rule	08/08/97	62 FR 42651
Interim Final Rule Comment Period End	10/07/97	
Final Action	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CCC will issue a second interim final rule for the facilities guarantee program. The rule will make changes to substitute "Emerging Market" for "Emerging Democracy" as per the 1996 Fair Act. The interim rule will provide operational requirements for applicants to apply for facility guarantees. The interim final will be pilot tested before a final rule is developed.

USDA—FAS — Final Rule Stage

Agency Contact: Robert Riston, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, 14th & Independence Ave SW., Washington, DC 20250
Phone: 202 720-6713

RIN: 0551–AA35

477. SUGAR IMPORT LICENSING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 1202

CFR Citation: 7 CFR 1530 subpart A; 7 CFR 1530 subpart B; 7 CFR 1530 subpart C

Legal Deadline: None

Abstract: This notice of proposed rulemaking addresses some administrative changes to the sugar import licensing programs. These changes are intended to increase the regulatory efficiency, assist in verifying program compliance and provide for the adherence of the applicable sugar provisions of the North American Free Trade Agreement.

The NPRM will also provide for implementation of certain changes to the lead note to chapter 17 of the Harmonized Tariff Schedule of the United States, pursuant to the Uruguay Round agreement.

Timetable:

Action	Date	FR Cite
ANPRM	05/04/94	59 FR 23017
ANPRM Comment Period End	07/08/94	
NPRM	08/06/96	61 FR 40749
NPRM Comment Period End	10/07/96	
Final Action	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Robert Riston, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, Washington, DC 20250-1000
Phone: 202 720-6713

RIN: 0551–AA39

478. REGULATION GOVERNING THE FINANCING OF COMMERCIAL SALES OF AGRICULTURAL COMMODITIES (PL 480, TITLE I)

Priority: Other Significant

Legal Authority: 7 USC 1701 to 1705; 7 USC 1736a; 7 USC 1736c; 7 USC 5676; EO 1220

CFR Citation: 7 CFR 17

Legal Deadline: None

Abstract: The proposed rule revises the P.L. 480, title I financing regulations to simplify and streamline the purchasing and shipment of commodities by -- Removing the requirement that the buyer open letters of credit through a U.S. bank for the commodity and for ocean freight costs financed by CCC. Instead, CCC would pay the suppliers directly. --Permitting any suppliers eligible under the GSM-102 or GSM-103 programs to participate in title I, without submitting additional information. --Eliminating the requirement that suppliers report to USDA any payments to representatives of the importer or importing country, due to repeal of the underlying legislation. --Deleting appendices A and B from the regulations; the specific contracting and documentation requirements for the commodity will be placed in each purchase authorization. --Defining the term "private entity" based on the 1996 FAIR Act, which provided that title I agreements may be signed with private entities as well as with foreign governments. --Requiring shipping agents to provide background information only once per fiscal year instead of with every nomination. -- Transferring to FAS the notice of sale, price review, and vessel approval functions for cotton, which are now performed by the Kansas City Commodity Office, FSA.

Timetable:

Action	Date	FR Cite
ANPRM	09/13/95	60 FR 47495
ANPRM Comment Period End	11/12/95	
NPRM	01/27/97	62 FR 3811
NPRM Comment Period End	03/27/97	
Final Action	10/00/97	
Final Action Effective	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Riston, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, 14th and Independence Ave.,SW, Washington, DC 20250-1060
Phone: 202 720-6713

RIN: 0551–AA42

DEPARTMENT OF AGRICULTURE (USDA)
Foreign Agricultural Service (FAS) — Long-Term Actions

479. PROPOSED REGULATIONS GOVERNING IMPLEMENTATION OF THE COOPERATOR MARKET DEVELOPMENT PROGRAM OVERSEAS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 7 CFR 1550

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Riston
Phone: 202 720-6713

RIN: 0551–AA26

480. REFORM OF EXPORT BONUS PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 1494; 7 CFR 1570

Timetable:

Action	Date	FR Cite
ANPRM	06/26/95	60 FR 32923
ANPRM Comment Period End	07/26/95	

Next Action Undetermined

Small Entities Affected: Undetermined

USDA—FAS — Long-Term Actions

Government Levels Affected: Undetermined

Agency Contact: Robert Riston
Phone: 202 720-6713

RIN: 0551–AA41

DEPARTMENT OF AGRICULTURE (USDA)
Foreign Agricultural Service (FAS) — Completed Actions

481. EXPORT BONUS PROGRAMS CCC EXPORT CREDIT GUARANTEE PROGRAMS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 7 CFR 1493; 7 CFR 1494

Completed:

Reason	Date	FR Cite
Final Action	05/08/97	62 FR 24560

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Riston
Phone: 202 720-6713

RIN: 0551–AA50

BILLING CODE 3410-10-P

DEPARTMENT OF AGRICULTURE (USDA)
Forest Service (FS) — Proposed Rule Stage

482. NATIONAL FOREST PROHIBITIONS

Priority: Other Significant

Legal Authority: 16 USC 472; 16 USC 551; 16 USC 683; 7 USC 1011(f); 16 USC 1246(i); 16 USC 1133(c) to 1133(d)(1); 16 USC 4306 to 4307

CFR Citation: 36 CFR 261

Legal Deadline: None

Abstract: Regulations at 36 CFR 261, subpart A, set out the acts prohibited on National Forest System (NFS) lands. These prohibitions derive from either statutes governing National Forest programs or other regulations. The regulations at subpart B authorize Regional Foresters, Forest Supervisors, or Station Directors to close National Forest System lands under their jurisdiction to certain uses or to restrict some uses of NFS lands. These closures are issued by order. Comments on the first proposed rule have been reviewed. Because of the high level of public interest in this rulemaking the Agency has decided to issue a second proposed rule for comment. This action no longer includes the minor revisions to part 262, Law Enforcement Support Activities, which is now described as a separate action.

Timetable:

Action	Date	FR Cite
NPRM	02/16/94	59 FR 7880
NPRM Comment Period End	05/16/94	
Second NPRM	12/00/97	
Second NPRM Comment Period End	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: RIN 0596-AA65 was combined with RIN 0596-AA75

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AA75

483. SMALL TRACTS ACT REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 521(c) to 521(i)

CFR Citation: 36 CFR 254, subpart C

Legal Deadline: None

Abstract: Implementation of the Agency's Small Tracts regulations (adopted in 1984) has revealed an inadvertent inconsistency between the regulations at 36 CFR 254.35(f) and 254.41(a) and the legislative history of the Small Tracts Act of January 12, 1983. The regulations imply that the disposal of mineral fractions by sale can only be made in response to an application from an abutting landowner, thus discouraging the conveyance by sale to the public. The Act clearly authorizes sale of mineral fractions to the public through public sale, as well as individual applications, provided that certain conditions are met. The revisions will clarify the application of the Act to ensure that both individual applications and public sale are permissible means of disposing of qualifying tracts.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	
NPRM Comment Period End	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AA79

484. TIMBER SALE PERFORMANCE AND PAYMENT BOND FORM REVISION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 31 USC 9301 to 9309; 31 USC 3717

CFR Citation: None

Legal Deadline: None

Abstract: The Forest Service has experienced a number of contract defaults associated with timber sales which were bid during a pre-1982 period of high-priced bidding. Subsequently, the Forest Service has had difficulty making collections from some sureties on their bonds guaranteeing performance for these timber sales. As part of a financial security initiative affecting future timber sales, the Forest Service is proposing to revise payment and performance bond forms currently used to clarify surety's obligation as to what

is being guaranteed, when payment is due in case of default, what additional charges will be assessed if payment is not made when due, and when collection action may be suspended. Other alternatives include eliminating surety bonds as a form of security for timber sale contracts, reducing surety guarantee to the contract's mid-point and to guarantee periodic payments, and retention of current bond forms. Upon adoption, the final revised bond forms will be issued for use by Forest Service Contracting and Fiscal Officers within future timber sale contracts. The former title, Surety Bond Form Revision, has been modified to more accurately reflect the content of the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	01/17/89	54 FR 1742
NPRM Comment Period End	03/20/89	
Second NPRM	10/00/97	
Second NPRM Comment Period End	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Final action on this entry was delayed to obtain advice of the Comptroller General. Because of the lengthy delay this action will be published as proposed once more.

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090 Phone: 703 235-1488

RIN: 0596–AA94

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485. SPECIES SURPLUS TO DOMESTIC MANUFACTURING NEEDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 620 et seq

CFR Citation: 36 CFR 223.200

Legal Deadline: None

Abstract: This proposed rule would amend 36 CFR 223.200, to list species proposed to be surplus to domestic manufacturing needs. This proposed rule would implement a portion of section 620a(b) of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 USC 620 et seq). Section 620a(a) of the Act provides that no person who acquires unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States may export such timber from the United States, or sell, trade, exchange or otherwise convey such timber from the United States, unless such timber has been determined under subsection (b) to be surplus to the needs of timber manufacturing facilities in the United States. Section 620a(b) of the Act provides that the prohibition contained in section (a) shall not apply to specific quantities of grades and species of unprocessed timber originating in Federal lands which the Secretary determines, through rulemaking, to be surplus to domestic manufacturing needs.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	
NPRM Comment Period End	03/00/98	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090 Phone: 703 235-1488

RIN: 0596–AB27

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486. RETENTION OF DOWNPAYMENT ON TIMBER SALE CONTRACTS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 472(a); 16 USC 618

CFR Citation: 36 CFR 223.49

Legal Deadline: None

Abstract: The Federal Timber Sale Contract Payment Modification Act directs the Forest Service to require purchasers to make downpayments and periodic payment on timber sales. The objective of these requirements is to discourage speculative bidding on National Forest System timber sales. This rule will identify the requirements to hold downpayments until the timber sale contract is substantially completed.

Timetable:

Action	Date	FR Cite
ANPRM	02/02/94	59 FR 4879
ANPRM Comment Period End	03/04/94	
NPRM	01/00/98	
NPRM Comment Period End	03/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $10,000; Yearly Recurring Cost: $0

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090 Phone: 703 235-1488

RIN: 0596–AB28

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487. NATIONAL FOREST SYSTEM LAND AND RESOURCE MANAGEMENT PLANNING FOREST SERVICE MANUAL CHAPTER 1920

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1600 et seq

CFR Citation: None

Legal Deadline: None

Abstract: The proposed manual policy would streamline planning requirements to guide forest plan amendment revisions until such time as new planning regulations are adopted.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	
NPRM Comment Period End	03/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090 Phone: 703 235-1488

RIN: 0596–AB31

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488. COLLECTION OF REIMBURSABLE COSTS FOR PROCESSING SPECIAL-USE APPLICATIONS AND ADMINISTRATION OF SPECIAL-USE AUTHORIZATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 43 USC 1764; 30 USC 181

CFR Citation: 36 CFR 251

Legal Deadline: None

Abstract: The objective of this proposal is to incorporate into regulation the authority contained in the Mineral Leasing Act and the Federal Land Policy and Management Act to reimburse the United States for reasonable administrative costs associated with the issuance and administration of special-use authorizations on National Forest System lands. It responds to a recommendation contained in GAO Audit Report RCED-97-16 (12/98).

Timetable:

Action	Date	FR Cite
NPRM	06/00/98	
NPRM Comment Period End	08/00/98	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: Cost reimbursement for processing special-use applications and administration of special-use authorizations was originally included under RIN 0596-AA36. All provisions pertaining to the special-use application and administration process have been merged with RIN 0596-AB35. Thus, this rulemaking addresses only the cost-reimbursement provisions.

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090 Phone: 703 235-1488

RIN: 0596–AB36

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489. APPEAL OF DECISIONS RELATING TO OCCUPANCY AND USE OF NATIONAL FOREST SYSTEM LANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 472; 16 USC 551

CFR Citation: 36 CFR 251, subpart C; 36 CFR 214

Legal Deadline: None

Abstract: These proposed regulations would redesignate these appeals rules as a new part 214, thus placing all appeals and notices and comment rules in close proximity. Additionally, this proposed rule would revise a number of existing provisions. For example, changes to part 251 would clarify the application of this rule to the issuance of permits for occupancy and use of National Forest System lands. When 36 CFR part 251, subpart C, regulations were promulgated in 1989, NEPA analysis and documentation was not consistently applied to the authorization of special uses. Now the authorization and the issuance of permits and other authorization requires application of the NEPA process prior to issuance. In addition, since these regulations were implemented, Congress has passed the Appeal Reform Act. The proposed changes to the permit related appeal rules are needed to make this regulation consistent with regulations at 36 CFR part 215. Among specific proposed changes being considered are removing the second level of appeal opportunity, removing the discretionary review option, shortening timeframes for scheduling oral presentations, and changes to conform terminology and definitions with 36 CFR part 215.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090 Phone: 703 235-1488

RIN: 0596–AB45

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490. SALE AND DISPOSAL OF NATIONAL FOREST SYSTEM TIMBER; EXTENSION OF TIMBER SALE CONTRACTS TO PERMIT URGENT REMOVAL OF OTHER TIMBER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 472a; 16 USC 618; 16 USC 620

CFR Citation: 36 CFR 223.50; 36 CFR 223.53

Legal Deadline: None

Abstract: This rule and policy change will provide for extension of National Forest System (NFS) timber sale contracts when such extension will permit the prompt removal and utilization of non-NFS owned timber damaged by catastrophic events. The change will define the responsibilities of the parties for requesting and approving such extensions and specify when such extension should be approved. This change will also allow for the use of scarce timber resources and the recovery of economic benefits from timber that might otherwise be lost because of contractual obligations to harvest undamaged timber.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090 Phone: 703 235-1488

RIN: 0596–AB48

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491. DISPOSAL OF NATIONAL FOREST TIMBER: TIMBER SALE CONTRACT REVISIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 472a; 16 USC 618; 16 USC 620 et seq

CFR Citation: None

Legal Deadline: None

Abstract: This proposed policy would revise form 2400-6 and the 2400-6T timber sale contracts currently used by the Forest Service to sell National Forest System timber. The proposed timber sale contract provisions will be included as part of the proposed policy. The proposed contracts reflect recent court decisions and recent natural resource and environmental legislation and would clarify the rights, responsibilities, and obligations of the contracting parties. The proposed policy also would address specific provisions in the current contract that have generated costly litigation in the past between the Government and the purchaser and would address the concerns regarding timber theft and log accountability.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	02/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Marian Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AB52

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492. NATIONAL ENVIRONMENTAL POLICY ACT; REVISED POLICY AND PROCEDURES; CATEGORICAL EXCLUSIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 4371

CFR Citation: None

Legal Deadline: None

Abstract: The proposed revision to Forest Service Manual and Handbook direction would be revised to clarify the environmental analysis process used by the Forest Service to implement the NEPA regulations at 40 CFR part 1500. The proposal will focus on better defining the process for determining when projects are categorically excluded and expanding the categories of action that can be excluded under NEPA.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
NPRM Comment Period End	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Department of Agriculture, Forest Service, P. O. Box 96090, Washington, DC 20090
Phone: 703 235-1488

RIN: 0596–AB54

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493. DISPOSAL OF NATIONAL FOREST SYSTEM TIMBER; MODIFICATION OF TIMBER SALE CONTRACTS IN EXTRAORDINARY CONDITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 472(a)

CFR Citation: 36 CFR 223.115

Legal Deadline: None

Abstract: The proposed rule will revise the existing regulations regarding noncompetitive sale of timber based on the Secretary of Agriculture's determination that extraordinary conditions exist to apply to sales agencywide. The Secretary promulgated an interim final rule in the Federal Register on April 3, 1996 (61 FR 14618), to implement authority at 36 CFR part 472a(d) to dispose of timber, without advertisement, through sales released pursuant to section 2001(k) of the 1995 Rescissions Act, which were subject to section 318 of the 1990 Interior and Related Agencies Appropriations Act. The proposed rule incorporates comments received from the public on the interim rule that recommended the authority for all timber sales be expanded, whether the sales are modified to prevent environmental damage or modified to make them consistent with amendments or revisions of land and resource management plans adopted subsequent to award.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/03/96	61 FR 14618
Interim Final Rule Comment Period End	05/20/96	
NPRM	03/00/98	
NPRM Comment Period End	05/00/98	

Small Entities Affected: None

Government Levels Affected: Local, Federal

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service
Phone: 703 235-1488

RIN: 0596–AB58

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494. APPEAL OF DECISIONS RELATING TO OCCUPANCY AND USE OF NATIONAL FOREST SYSTEM LANDS; MEDIATION OF GRAZING PERMIT DISPUTES

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 5101 to 5106

CFR Citation: 36 CFR 251, subpart C

Legal Deadline: None

Abstract: Under section 282 of the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994, the Secretary of Agriculture is required to offer mediation of grazing permit disputes on National Forest System lands in those States which have USDA certified mediation programs. In response to the Act, the Forest Service proposes to publish proposed modifications of the Agency's administrative appeal rule at 36 CFR part 251, subpart C, to allow for mediation of grazing permit disputes. Final modifications will be promulgated after the public comment period ends.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Liaison, Department of Agriculture, Forest Service, PO Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AB59

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495. FEE SCHEDULE FOR COMMUNICATIONS FACILITIES AUTHORIZED TO USE AND OCCUPY NATIONAL FOREST SYSTEM LANDS IN REGIONS 8, 9, AND 10

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1764

CFR Citation: None

Legal Deadline: None

Abstract: The Forest Service proposes to adopt a revised policy and fee schedule for communications uses authorized on National Forest System lands in the southern and eastern States and Alaska (Forest Service Regions 8, 9, and 10, respectively). The proposed fee schedule and policy for communications uses are identical to the fee schedule and policy adopted in Regions 1-6 (60 FR 55089 October 27, 1995). The proposal is based on sound business management practices and reflects fair market value, as required by title V of the Federal Land Policy and Management Act of 1976, the Independent Offices Appropriations Act of 1952, and the Office of Management and Budget Circular A-25. The total number of communications uses in Regions 8, 9, and 10 (1,400 permit holders) accounts for approximately 20 percent of all communication uses (7,000 permit holders) on the National Forests. Therefore, the proposed fee schedule and policy affect a relatively small number of interested parties, since communications fee issues do not attract the interest of the public at large. The agency expects controversy over this issue to be isolated to a few permit holders and does not expect congressional interest due to the limited scope of this proposal. Many of the interested parties in Regions 8, 9, and 10 (1,400) are national entities and, therefore, have already commented on and are now subject to the new fee schedule in the rest of the country (Regions 1-6).

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, PO Box 96090, Washington, DC 20090
Phone: 703 235-1488

RIN: 0596–AB60

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496. LAW ENFORCEMENT SUPPORT ACTIVITIES

Priority: Info./Admin./Other

Legal Authority: 7 USC 1011(f); 16 USC 472; 16 USC 551; 16 USC 559(a) to 559(g); 40 USC 484(m)

CFR Citation: 36 CFR 262

Legal Deadline: None

Abstract: In February, 1994, the Forest Service published proposed rule changes for parts 261 and 262 of title 36 of the Code of Federal Regulations. Due to the high level of interest in and comment on part 261, the decision was made to publish a second proposed rule. The majority of the public comment on part 262 referred to the definition section which has been revised to respond to those comments. The Forest Service has decided to issue a second proposed rule for comment on part 262, Law Enforcement Support Activities. Proposed revisions to part 261 will proceed separately.

Timetable:

Action	Date	FR Cite
NPRM	02/16/94	59 FR 7880
NPRM Comment Period End	05/18/94	
Second NPRM	10/00/97	
Second NPRM Comment Period End	12/00/97	
Final Action	03/00/98	
Final Action Effective	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, PO Box 96090, Washington, DC 20090
Phone: 703 235-1488

RIN: 0596–AB61

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497. ADMINISTRATIVE, COOPERATIVE FUNDS AGREEMENTS

Priority: Info./Admin./Other

Legal Authority: 16 USC 498 et seq

CFR Citation: 36 CFR 211

Legal Deadline: None

Abstract: The Forest Service proposes to amend current regulations to establish minimum requirements applicable to written agreements between cooperators and the Forest Service. This rulemaking expands the basis for executing written agreements by allowing reimbursable payments by the cooperator and provides guidance to address conflict of interest as well as appearance of conflict of interest, in addition to protecting the Government's interest. The agency anticipates no additional cost for this regulation. Allowing the cooperator to reimburse the Forest Service upon completion of a project for their contribution will benefit both parties in that now there will be only one payment. The proposed rule will result in the elimination of refunds from the Forest Service to the cooperator for delayed or cancelled projects or for variances from the original cost estimates. The Government's interests are protected through guaranteed reimbursement by the cooperator, when the cooperator's contributions are greater than $25,000, by Department of Treasury approved corporate sureties, Federal Government obligations or irrevocable letters of credit.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AB63

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498. ◆ SMITH RIVER NATIONAL RECREATION AREA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 460bbb(b); 16 USC 478; 16 USC 551

CFR Citation: 36 CFR 292

Legal Deadline: None

Abstract: This proposed rule is being prepared pursuant to section 8(d) of the Smith River National Recreation Area (SRNRA) Act of 1990 which requires the Secretary of Agriculture to issue supplementary mining regulations to promote and protect the purposes for which the SRNRA was designated. The proposed rule will explain the process to be used by the Forest Service to evaluate mineral operations on National Forest System lands within the SRNRA and will invite public comment. Because the supplementary mining regulations are required by law, there is no alternative to a rulemaking. This particular rulemaking is also the subject of a pending lawsuit initiated by the largest mining claimholder in the SRNRA. The expected result of this action is to develop a final rule (based on the proposed rule and the public comment) which would allow for mineral operations to be conducted in a manner that is consistent with the purposes for which Congress established the SRNRA.

Timetable:

Action	Date	FR Cite
NPRM	09/08/97	62 FR 47167
NPRM Comment Period End	11/10/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AB64

USDA—FS — Proposed Rule Stage

499. • CATEGORICAL EXCLUSION FOR CERTAIN SKI AREA PERMIT ACTIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: Not applicable

CFR Citation: None

Legal Deadline: None

Abstract: The Forest Service proposes to issue interim directives (ID) to guide employees in complying with the National Environmental Policy Act when changes to or issuance of a ski area permit are purely ministerial actions and no changes are proposed in permitted activities or facilities. The ID would interpret a provision in section 701(i) of the Omnibus Parks and Public Lands Act of 1996 that reissuance of a ski area permit for activities similar in nature and amount to the activities authorized under the previous permit shall not constitute a major Federal action. The ID to sec. 31.1b of FSH 1909.15, Environmental Policy and Procedures Handbook, would add to the existing list of categorical exclusions established by the Chief a new category including permits for existing areas when no changes to the Master Development Plan and no new facilities or activities are authorized: (1) to a new owner of the ski area improvements; (2) to the existing owner upon expiration of the current permit; or (3) to a holder of a permit issued under the Term Permit and Organic Act when converting to a permit under the National Forest Ski Area Permit Act of 1986. Public comment is invited and will be considered in adopting the final ID.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington DC 20090-6090 Phone: 703 235-1488

RIN: 0596–AB65

500. • NEPA PROCEDURE FOR EMERGENCY ACTIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: Not applicable

CFR Citation: None

Legal Deadline: None

Abstract: The Forest Service proposes to issue interim directives (ID) to guide employees in complying with the National Environmental Policy Act (NEPA) when emergencies require alternative arrangements be made with the Council on Environmental Quality (CEQ) as required at 40 CFR 1506.11. This ID clarifies that alternative arrangements have been made with CEQ for specific actions for flood control, rehabilitation of burn areas, human health and safety, and hazardous substance cleanup, in addition to the current alternative arrangement for fire suppression. Public comment is invited and will be considered in adopting the final ID.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington DC 20090-6090 Phone: 703 235-1488

RIN: 0596–AB66

DEPARTMENT OF AGRICULTURE (USDA)

Forest Service (FS)

Final Rule Stage

501. HYDROPOWER APPLICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 551; 43 USC 1761

CFR Citation: None

Legal Deadline: None

Abstract: The Forest Service is revising its current policy and procedures implemented in February 1987, concerning administration of hydropower authorizations and the processing of proposals for hydropower projects affecting National Forest System lands. These revisions are necessary to make agency policy and procedures consistent with regulatory changes by the Federal Energy Regulatory Commission (FERC). The proposed policy was published in the Federal Register on May 22, 1995 (60 FR 27153) for a 60-day public comment period, which was extended for another 45 days (60 FR 36401). The final policy incorporates revisions and addresses comments received during the public comment period.

Timetable:

Action	Date	FR Cite
NPRM	05/22/95	60 FR 27153
NPRM Comment Period Extended	07/17/95	60 FR 36401
NPRM Comment Period End	09/05/95	
Final Action	12/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090 Phone: 703 235-1488

RIN: 0596–AA47

502. INDIAN ALLOTMENTS ON NATIONAL FOREST SYSTEM LANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 472; 16 USC 551; 16 USC 1603; 43 USC 1740; 25 USC 337

CFR Citation: 36 CFR 254, subpart D (New)

Legal Deadline: None

Abstract: This rule sets forth Forest Service procedures and role in the regulation of Indian allotments on National Forest System land. The Indian Allotment Act, as amended, authorizes the Secretary of the Interior to make allotments of National Forest System lands to Indians for homesteading and agricultural and grazing purposes. The Forest Service has relied upon USDI rules and procedures at 43 CFR 2533 to govern its involvement in Indian allotment cases. Litigation and a decision by the Interior Board of Land Appeals require the Forest Service to set forth its own regulations.

Timetable:

Action	Date	FR Cite
NPRM	08/22/97	62 FR 23473
NPRM Comment Period End	07/22/97	
Final Action	01/00/98	
Final Action Effective	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090 Phone: 703 235-1488

RIN: 0596–AA52

USDA—FS — Final Rule Stage

503. STATE AND PRIVATE FORESTRY ASSISTANCE STEWARDSHIP INCENTIVE PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 2101 et seq

CFR Citation: 36 CFR 230

Legal Deadline: None

Abstract: This final rule would incorporate streamlined procedural changes in response to public comments on the interim rule published December 4, 1991. The interim rule established the interim procedures for administration of the Stewardship Incentive Program. The Program is intended to encourage private landowners, through cost-share assistance, to manage their forest lands for economic, environmental, and social benefits. Only two alternatives were considered in detail: (1) to implement the Program in accordance with 16 USC 2101, et seq, and (2) not to implement the Program, in which case there would be no accelerated program for multiple resource management on nonindustrial private forest lands. The overall effects of the Program over time will be environmentally beneficial by enhancing wetlands, wildlife habitat, forest health, forest productivity, and recreation. The Program will help meet future demand for commodity and noncommodity forest resources. There are no potential negative impacts anticipated for the Program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/04/91	56 FR 63581
Interim Final Rule Public Comment Period End	01/21/92	
Final Action	01/00/98	
Final Action Effective	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090 Phone: 703 235-1488

RIN: 0596–AB32

504. SPECIAL-USE APPLICATIONS AND ADMINISTRATION OF SPECIAL-USE AUTHORIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1764; 31 USC 483(a); 30 USC 181; 16 USC 551

CFR Citation: 36 CFR 251, subpart B

Legal Deadline: None

Abstract: The Forest Service is amending the regulations governing the special use and occupancy of National Forest System lands to minimize application expenses, streamline and make more efficient environmental analysis of special use proposals, provide the ability to use one-time payments for easements as presently used in the marketplace, limit certain liability requirements to amounts determined by a risk assessment, make certain definitions more explicit, and clarify direction on renewal of existing special use regulations. The intended effect is to reduce costs to proponents and the agency, expedite decisionmaking, and administer authorizations in a more "user friendly" manner by removing certain requirements deemed unnecessary and/or outdated. This rulemaking responds to goals identified in the National Performance Review Regulatory Reform effort.

Timetable:

Action	Date	FR Cite
NPRM	08/14/92	57 FR 36618
NPRM Comment Period End	09/28/92	
Final Action	12/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090 Phone: 703 235-1488

RIN: 0596–AB35

505. SALE AND DISPOSAL OF NATIONAL FOREST TIMBER; MARKET-RELATED CONTRACT TERM ADDITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 472a; 16 USC 618

CFR Citation: 36 CFR 223.52

Legal Deadline: None

Abstract: Based on General Accounting Office Testimony Report Number T-RCED-92-58, 04/28/92, the Secretary of Agriculture agreed to reexamine the use of the Bureau of Labor Statistics unadjusted indices to determine whether wood product prices have shown a drastic decline. This final rule will provide improved procedures for identifying drastic declines in lumber market prices that will trigger the need for contract-term additions.

Timetable:

Action	Date	FR Cite
NPRM	10/21/96	61 FR 54589
NPRM Comment Period End	01/21/97	
Final Action	10/00/97	
Final Action Effective	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090 Phone: 703 235-1488

RIN: 0596–AB41

USDA—FS — Final Rule Stage

506. PREFERENCE FOR VISITOR SERVICE; ALASKA NATIONAL FOREST CONSERVATION SYSTEM UNITS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 3197

CFR Citation: 36 CFR 251

Legal Deadline: None

Abstract: The Forest Service is issuing regulations to define and establish procedures for administering the statutory rights and preferences established by the Alaska National Interest Lands Act of 1980 for historical operators, Native Corporations, and local residents to conduct revenue producing visitor services on certain National Forest System Lands in Alaska. The regulations are necessary to comply with section 1307 of the Alaska National Interest Lands Act which requires the Secretary of Agriculture to give preference to persons he determines by rule are local residents. The regulations, which have been developed in close consultation with the other Federal land managing agencies in Alaska, will apply only to Conservation System Units administered by the Forest Service.

Timetable:

Action	Date	FR Cite
NPRM	04/25/97	62 FR 20140
NPRM Comment Period End	06/24/97	
Final Action	02/00/98	
Final Action Effective	02/00/98	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Marian P. Connolly, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AB57

507. SMALL BUSINESS TIMBER SALE SET-ASIDE PROGRAM; APPEAL PROCEDURE ON RECOMPUTATION OF SHARES

Priority: Info./Admin./Other

Legal Authority: 16 USC 472a; 16 USC 618; 16 USC 620; PL 104-208

CFR Citation: 36 CFR 223.118

Legal Deadline: None

Abstract: This final rule provides an opportunity for timber purchasers to comment on and appeal the recomputation of small business's share of timber sales. The Conference Report accompanying the 1997 Omnibus Appropriations Act (P.L. 104-208) directs the Forest Service to reimplement an administrative appeals procedure for the Small Business Administration (SBA) timber sale set-aside program. The final rule will establish procedures for appealing decisions relating to the recomputation of SBA shares.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/24/97	62 FR 13826
Interim Final Rule Comment Period End	05/23/97	
Final Action	10/00/97	
Final Action Effective	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AB62

DEPARTMENT OF AGRICULTURE (USDA)
Forest Service (FS) — Long-Term Actions

508. NATIONAL FOREST SYSTEM LAND AND RESOURCE MANAGEMENT PLANNING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 36 CFR 219

Timetable:

Action	Date	FR Cite
ANPRM	02/15/91	56 FR 6506
NPRM	04/13/95	60 FR 18886
NPRM Comment Period End	08/17/95	60 FR 36767
Second NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Marian P. Connolly
Phone: 703 235-1488

RIN: 0596–AB20

509. DISPOSAL OF NATIONAL FOREST TIMBER; CANCELLATION OF TIMBER SALE CONTRACTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 36 CFR 223.30; 36 CFR 223.40; 36 CFR 223.116

Timetable:

Action	Date	FR Cite
NPRM	12/30/96	61 FR 68690
NPRM Comment Period End	02/13/97	
Final Action	10/00/98	
Final Action Effective	11/00/98	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Marian P. Connolly
Phone: 703 235-1488

RIN: 0596–AB21

DEPARTMENT OF AGRICULTURE (USDA)
Forest Service (FS) — Completed Actions

510. ISOLATED CABIN POLICY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 36 CFR 251

Completed:

Reason	Date	FR Cite
Withdrawn - Agency changed priorities.	08/26/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly
Phone: 703 235-1488

RIN: 0596–AA85

511. SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

Priority: Other Significant

CFR Citation: 36 CFR 242; 50 CFR 100

Completed:

Reason	Date	FR Cite
Final Action	05/29/97	62 FR 29016
Final Action Effective	07/01/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Marian P. Connolly
Phone: 703 235-1488

RIN: 0596–AB56

BILLING CODE 3410-11-F

DEPARTMENT OF AGRICULTURE (USDA)
Office of Chief Financial Officer (OCFO) — Final Rule Stage

512. • ADMINISTRATIVE REQUIREMENTS FOR GRANTEES TO REFLECT SINGLE AUDIT ACT AMENDMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: PL 104-156

CFR Citation: 7 CFR 3052

Legal Deadline: Final, Statutory, August 30, 1997.

Abstract: USDA will codify, as an interim final rule, the revised OMB Circular A-133 "Audits of States, Local Governments and Non-Profit Organizations" in a new 7 CFR 3052, remove audit requirements from 7 CFR part 3015, 7 CFR 3051, amend 7 CFR Part 3016 and 7 CFR part 3019, and withdraw the October 17, 1995, proposed rule whose audit provisions have been superseded by the Single Audit Act Amendments of 1996 and the June 24, 1997, revision of OMB Circular A-133.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/29/97	62 FR 45937
Interim Final Rule Effective	09/29/97	
Interim Final Rule Comment Period End	10/28/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Pat Wensel, Director, Planning and Accountability Division, Department of Agriculture, Office of Chief Financial Officer, 14th & Independence Ave. SW., Room 3027, Washington, DC 20250
Phone: 202 720-1175
Fax: 202 690-3561

RIN: 0505–AA10

DEPARTMENT OF AGRICULTURE (USDA)
Office of Chief Financial Officer (OCFO) — Completed Actions

513. AUDITS OF STATE, LOCAL, AND INDIAN TRIBAL GOVERNMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 3015; 7 CFR 3016; 7 CFR 3050

Completed:

Reason	Date	FR Cite
Withdrawn - Combined and reissued with OMB Circular A-133. FR Notices	08/01/97	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Agency Contact: Allen Johnson
Phone: 202 720-8345

RIN: 0505–AA09

BILLING CODE 3410-KS-F

DEPARTMENT OF AGRICULTURE (USDA)
Office of the Secretary (AgSEC) — Proposed Rule Stage

514. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

Priority: Other Significant

Legal Authority: 5 USC 301

CFR Citation: 7 CFR 3016

Legal Deadline: None

Abstract: The USDA is proposing to move the administrative requirements for open-ended entitlement programs currently in 7 CFR part 3015 from part 3015 to 7 CFR part 3016 and (1) to expand the scope of part 3016 to include open-ended entitlement awards and subawards to State and local governmental organizations and (2) to include in subpart E of part 3016 any deviations or exceptions from the

USDA—AgSEC — **Proposed Rule Stage**

requirements of subparts A to D of that part to apply only to entitlement programs.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: Gerald Miske, Supervisory Management Analyst, Office of the Chief Financial Officer, Department of Agriculture, Office of the Secretary, Rm. 3022-S, 1400 Independence Ave. SW., Washington, DC 20250
Phone: 202 720-1553
Fax: 202 690-1529

RIN: 0503–AA16

515. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NONPROFIT ORGANIZATIONS

Priority: Other Significant

Legal Authority: 5 USC 301

CFR Citation: 7 CFR 3019

Legal Deadline: None

Abstract: USDA is proposing to expand the scope of 7 CFR part 3019 to expressly include USDA open-ended entitlement awards and subawards to nonprofit and nongovernmental organizations.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerald Miske, Supervisory Management Analyst, Office of the Chief Financial Officer, Department of Agriculture, Office of the Secretary, 1400 Independence Avenue SW., Washington, DC 20250
Phone: 202 720-1553
Fax: 202 690-1529

RIN: 0503–AA17

DEPARTMENT OF AGRICULTURE (USDA)
Office of the Secretary (AgSEC)

Long-Term Actions

516. SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE DEPARTMENT OF AGRICULTURE

Priority: Other Significant

CFR Citation: 5 CFR 2635

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gary M. Whitaker
Phone: 202 720-3327

RIN: 0503–AA05

517. NONDISCRIMINATION IN USDA-CONDUCTED PROGRAMS AND ACTIVITIES

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 15

Timetable:

Action	Date	FR Cite
NPRM	04/23/96	61 FR 17851
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lloyd Wright
Phone: 202 720-5212

RIN: 0503–AA15

BILLING CODE 3410-90-F

DEPARTMENT OF AGRICULTURE (USDA)
Rural Business-Cooperative Service (RBS)

Proposed Rule Stage

518. RURAL BUSINESS OPPORTUNITY GRANTS

Priority: Other Significant

Legal Authority: 7 USC 1989; 7 USC 1926

CFR Citation: 7 CFR 4284; 7 CFR 1951

Legal Deadline: None

Abstract: The Rural Business-Cooperative Service proposes to add a new regulation implementing a grant program to fund local technical assistance and planning activities in rural areas for the purpose of improving economic conditions in the areas. Grants will be available to public bodies and nonprofit organizations. This action is necessary to comply with P.L. 104-127. Grants may be used for technical assistance and training for small businesses, identifying and analyzing business opportunities in rural areas establishing business support centers, conducting local or multi-county economic development planning, coordination of economic development activities, and leadership development training of local government officials.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Wayne Stansbery, Loan Specialist, Department of Agriculture, Rural Business-Cooperative Service, 1400 Indpendence Ave. SW., Room 2246- South, Washington, DC 20250
Phone: 202 720-6819
Fax: 202 720-6003

RIN: 0570–AA05

519. RURAL ECONOMIC DEVELOPMENT LOAN AND GRANT PROGRAM

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 7 USC 940c

CFR Citation: 7 CFR 1703 subpart B

Legal Deadline: None

Abstract: The current provisions that govern grant fund disbursement that were published on March 14, 1994, and October 27, 1994, need to be revised

USDA—RBS — **Proposed Rule Stage**

to provide more flexibility to advance grant funds to electric and telephone borrowers (the "grantees"). The Agency will review on a case-by-case basis the requirements for disbursement of funds and provide for the advance of funds on an appropriate basis. This rule will greatly improve the Agency's ability to advance grant funds in a manner that is in both the government's and the grantee's best interest. The Agency and current grantees believe the changes should be made effective as soon as possible to avoid financial hardships for both the grantees and the ultimate recipients who will receive loans from the revolving loan funds. The Agency may also propose revisions to other sections pertaining to the selection factors, appeals process, bidding, and field review process. It will also receive a new number in the CFR.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $25,000; Yearly Recurring Cost: $25,000; Base Year for Dollar Estimates: 1995

Sectors Affected: None

Agency Contact: Mark Wyatt, Team Leader, Specialty Lenders Division, Department of Agriculture, Rural Business-Cooperative Service, Room 5413 South Building, Washington, DC 20250
Phone: 202 720-0410

RIN: 0570–AA19

520. NATIONAL SHEEP INDUSTRY IMPROVEMENT CENTER

Priority: Other Significant

Legal Authority: 5 USC 301; 7 USC 1989

CFR Citation: 7 CFR 4286 subpart A

Legal Deadline: Other, Statutory, April 4, 1997.
By PL 104-127, Board of Directors must hold public hearing on strategic plan by April 4, 1997.

Abstract: Rule will establish a National Sheep Industries Improvement Center as called for by the 1996 Farm Bill. Rule will establish procedures for appointing the Board of Directors who will operate the Center. The Center will have control over a revolving fund from which low or zero interest loans, grants, contracts, and agreements may be made. The Center's activities will focus on the production and marketing of meat, fiber and hair in order to assist and strengthen the U.S. sheep and goat industries.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas H. Stafford, Director, Cooperative Marketing Division, Department of Agriculture, Rural Business-Cooperative Service, Stop 3252, 1400 Independence Ave. SW., Washington, DC 20250
Phone: 202 690-0368
Fax: 202 690-2723
Email: thomas.stafford@usda.gov

RIN: 0570–AA21

521. DIRECT BUSINESS AND INDUSTRY LOAN PROGRAM

Priority: Other Significant

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 1980 subpart A; 7 CFR 1980 subpart E; 7 CFR 1942 subpart A; 7 CFR 1951 subpart E

Legal Deadline: None

Abstract: The Agency has received $50 million direct Business and Industry (B&I) loan authority for Fiscal Year 1997. The Agency currently utilizes RD Instructions 1980-A and E, 1942-A, 1951-E to make and service new and existing Direct B&I loans. These regulations contain very limited direction in Direct B&I loan making. The Agency is writing a new regulation to replace the instructions for direct loan making and servicing. This program will complement the Agency's existing guaranteed (B&I) loan program.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	
NPRM Comment Period End	07/00/98	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Richard Bonnet, Senior Loan Specialist, Business Program Loan Processing, Department of Agriculture, Rural Business-Cooperative Service, 1400 Independence Ave. SW., Room 5419 South Building, Washington, DC 20250
Phone: 202 720-1804

RIN: 0570–AA22

522. RURAL VENTURE CAPITAL DEMONSTRATION PROGRAM

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 309

CFR Citation: 7 CFR 4279 subpart A; 7 CFR 4279 subpart F; 7 CFR 4287 subpart G

Legal Deadline: None

Abstract: We are implementing a provision of the 1996 Farm Bill which authorizes designation of up to 10 community development venture capital organizations for a rural venture capital demonstration project. Up to $15 million from the B&I National Reserve will be used to guarantee up to 30 percent of funds in a rural investment pool to be established by the selected community development venture capital organizations.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/97	62 FR 17107
ANPRM Comment Period End	05/00/97	
NPRM	02/00/98	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Richard Bonnet, Senior Loan Specialist, Business Program Loan Processing, Department of Agriculture, Rural Business-Cooperative Service, 1400 Independence Ave. SW., Room 5419 South Building, Washington, DC 20250
Phone: 202 690-4100

RIN: 0570–AA25

DEPARTMENT OF AGRICULTURE (USDA)
Rural Business-Cooperative Service (RBS)

Final Rule Stage

523. RURAL BUSINESS ENTERPRISE GRANTS AND TELEVISION DEMONSTRATION GRANTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 102-552; 7 USC 1927; 7 USC 1939 (c)

CFR Citation: 7 CFR 1942 subpart G; 7 CFR 4284 subpart B

Legal Deadline: None

Abstract: Public Law 102-554 authorizes grants to qualified nonprofit organizations for the provision of technical assistance and training to rural communities for the purpose of improving passenger transportation services or facilities; to amend the definition for small and emerging private business enterprise to agree with the program size standards established by the Small Business Administration; to clarify certain administrative regulatory guidelines in order to effect improved program administration; and also authorizes grants for educational purposes and distance learning networks.

Timetable:

Action	Date	FR Cite
RBEG: Interim Final Rule To Provide Educational/Job Training Instruction.	05/23/94	59 FR 26585
NPRM	08/09/97	59 FR 40478
Final Action	10/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Carole Boyko, Rural Development Specialist, Specialty Lenders Division, Department of Agriculture, Rural Business-Cooperative Service, Room 5404 South Building, Washington, DC 20250
Phone: 202 720-0661

RIN: 0570–AA08

524. INTERMEDIARY RELENDING PROGRAM REWRITE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 7 USC 1932 note; 5 USC 301

CFR Citation: 7 CFR 1948 subpart C; 7 CFR 4274 subpart D

Legal Deadline: None

Abstract: This regulatory package is an initiative to enhance the program through revisions based on experience with operation of the program. The primary changes under consideration include the following: (1) Provide clarifications as to which requirements apply only to Rural Business-Cooperative Service (RBS) Intermediary Relending Program (IRP) loan funds and which apply to everything in the IRP revolving funds, (2) Authorize State Offices to accept and process applications, (3) Clarify conditions under which an intermediary that does not have lending experience may qualify, (4) Provide that proposed intermediaries that are delinquent on a Federal debt are not eligible, (5) Authorize loans for refinancing, (6) Provide general guidelines for interest rates and terms of loan to ultimate recipients, (7) Provide that intermediaries may receive a series of subsequent loans of up to $1 million each and raise the ceiling on loans to an ultimate recipient to $250,000, (8) Provide for a reserve for bad debts, (9) Allow intermediaries to draw up to 25 percent of their loan at loan closing, (10) Revise application requirements to eliminate some items, provide more detail and provide for streamlined subsequent loan applications, (11) Adjust the priority point scoring system, and (12) Provide guidelines for RBS concurrence in proposed loans to ultimate recipients.

Timetable:

Action	Date	FR Cite
Interim Final Rule To Raise Loan Limit From $2 Million to $4 million	05/12/94	59 FR 24635
NPRM	01/18/96	60 FR 3566
NPRM Comment Period End	03/20/96	
Second Interim Final Rule To Raise Loan Limit From $2 Million to $4 Million	02/22/96	61 FR 6761
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local

Additional Information: This entry was reported as RIN 0575-AB83 prior to the reorganization of USDA.

Agency Contact: Wayne Stansbery, Loan Specialist, Specialty Lenders Division, Department of Agriculture, Rural Business-Cooperative Service, Stop 1512, 1400 Independence Ave. SW., Washington, DC 20250
Phone: 202 720-6819

RIN: 0570–AA15

DEPARTMENT OF AGRICULTURE (USDA)
Rural Business-Cooperative Service (RBS)

Long-Term Actions

525. RURAL BUSINESS AND INDUSTRIAL LOAN PROGRAM PREFERRED LENDER PROGRAM

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 7 CFR 1980 subpart E; 7 CFR 4279 subpart A; 7 CFR 4279 subpart B; 7 CFR 4287 subpart B

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Bonnet
Phone: 202 720-1804

RIN: 0570–AA23

526. AFFIRMATIVE FAIR HOUSING MARKETING PLAN

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 7 CFR 1948 subpart C; 7 CFR 1942 subpart G; 7 CFR 4284 subpart B; 7 CFR 1980 subpart E; 7 CFR 4279 subpart B; 7 CFR 1703 subpart B; 7 CFR 1980 subpart A

USDA—RBS

Long-Term Actions

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: David Lewis
Phone: 202 690-0797

RIN: 0570–AA24

DEPARTMENT OF AGRICULTURE (USDA)
Rural Business-Cooperative Service (RBS)

Completed Action

527. RURAL COOPERATIVE DEVELOPMENT GRANTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 4284 subpart F; 7 CFR 1940 subpart L; 7 CFR 1951 subpart E; 7 CFR 1901 subpart A; 7 CFR 1901 subpart E; 7 CFR 1940 subpart J

Completed:

Reason	Date	FR Cite
Final Action	08/07/97	62 FR 42385

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Tribal, Federal

Agency Contact: James E. Haskell
Phone: 202 720-8460
Fax: 202 720-4641
Email: james.haskell@usda.gov

RIN: 0570–AA20

BILLING CODE 3410-07-F

DEPARTMENT OF AGRICULTURE (USDA)
Rural Utilities Service (RUS)

Proposed Rule Stage

528. ELECTRIC SYSTEM PLANNING AND DESIGN—POLICIES AND PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1724

Legal Deadline: None

Abstract: This rule will codify and update Agency policies and procedures for the planning and design of electrical systems of RUS borrowers.

Timetable:

Action	Date	FR Cite
NPRM	08/04/97	62 FR 41883
NPRM Comment Period End	10/02/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Director, Program Support & Reg Analysis, Department of Agriculture, Rural Utilities Service, 14th & Independence Avenue SW., Room 4036 South Building, Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA48

529. ELECTRIC STANDARDS AND SPECIFICATIONS FOR MATERIALS AND CONSTRUCTION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1728

Legal Deadline: None

Abstract: This regulation provides RUS borrowers and the public with specifications for material and equipment as a complement to the list of construction standards and specifications incorporated by reference.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Director, Program Support & Reg Analysis, Department of Agriculture, Rural Utilities Service, 14th & Independence Avenue SW., Room 4036 South Building, Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA67

530. POST-LOAN POLICIES AND PROCEDURES COMMON TO INSURED AND GUARANTEED ELECTRIC LOANS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1717, subparts A to F; 7 CFR 1717, subparts J to K

Legal Deadline: None

Abstract: This regulation will codify most basic post-loan policies and procedures common to insured and guaranteed electric loans.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Director, Program Support & Reg Analysis, Department of Agriculture, Rural Utilities Service, 14th & Independence Avenue SW., Room 4036

USDA—RUS

Proposed Rule Stage

South Building, Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA71

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531. RUS FIDELITY AND INSURANCE REQUIREMENTS FOR ELECTRIC AND TELECOMMUNICATIONS BORROWERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1788

Legal Deadline: None

Abstract: The Rural Utilities Service (RUS) is considering revising its regulations concerning the fidelity and insurance requirements for electric and telecommunications borrowers.

Timetable:

Action	Date	FR Cite
ANPRM	04/28/93	58 FR 25786
ANPRM Comment Period End	06/28/93	
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Director, Program Support & Reg Analysis, Department of Agriculture, Rural Utilities Service, 1400 Independence Ave. SW., Room 4036 South Building, Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA86

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532. USE OF GENERAL FUNDS INVESTMENTS, LOAN GUARANTEES, AND RETIREMENT OF CAPITAL CREDITS BY ELECTRIC BORROWERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1717 O

Legal Deadline: None

Abstract: This rule will set forth procedures for RUS approval of a borrower's use of its own funds that are not the proceeds of RUS loans for additions to electric plan. RUS loans are secured by a first mortgage on the borrower's total electric system. RUS approvals are intended to ensure that the proposed capital additions will not adversely affect the borrower's ability to provide service consistent with the RE Act and to repay its RUS loans.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: RUS is splitting the old RIN due to the fact that the four subparts of the old RIN were split into separate actions which are progressing at different rates in the regulatory process.

Agency Contact: F. Lamont Heppe, Jr., Director, Program Support & Reg Analysis, Department of Agriculture, Rural Utilities Service, 1400 Independence Ave. SW., Room 4036 South Building, Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB01

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533. ENVIRONMENTAL POLICIES AND PROCEDURES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 104-127

CFR Citation: 7 CFR 1794

Legal Deadline: None

Abstract: The revision of the existing procedures shall reduce regulatory requirements on recipients of financial assistance for the planning and construction of rural electric power, telecommunications, and water and waste facilities while improving the integrity of RUS' environmental protection responsibilities.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Director, Program Support & Reg. Analysis, Department of Agriculture, Rural Utilities Service, 1400 Independence Ave. SW., Room 4036 South Building, Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB33

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534. • TELECOMMUNICATIONS SYSTEM CONSTRUCTION POLICIES AND PROCEDURES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq; 7 USC 1921; PL 103-354

CFR Citation: 7 CFR 1753

Legal Deadline: None

Abstract: The Rural Utilities Service (RUS) proposes to revise its regulations on telecommunications system construction policies and procedures. This revision includes empowering the telephone borrowers by reducing oversight by RUS with respect to preparation of plans and specifications, bid approvals and final document approvals. In addition to reducing the requirements for facilities construction, RUS will also make technical corrections and clarifications, and minor technical changes.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	

Small Entities Affected: None

USDA—RUS

Proposed Rule Stage

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Director, Program Support & Reg Analysis, Department of Agriculture, Rural Utilities Service, Room 4036-SBldg. (STOP 1522), Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB34

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535. • SPECIAL EQUIPMENT CONTRACT (INCLUDING INSTALLATION)

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 901 et seq, 1921 et seq, 6941 et seq

CFR Citation: 7 CFR 1755.397

Legal Deadline: None

Abstract: RUS is proposing to amend its regulation on RUS Telecommunications Standards and Specifications for Material, Equipment and Construction. This action codifies RUS Form 397, Special Equipment Contract (including installation).

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Director, Program Support & Reg Analysis, Department of Agriculture, Rural Utilities Service, STOP 1522, 1400 Independence Ave. SW., Room 4036, Washington, DC 20250-1522
Phone: 202 720-0736
Fax: 202 720-4120

RIN: 0572–AB35

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536. • RUS APPROVAL OF ADDITIONS AND EXTENSIONS TO ELECTRIC PLANTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-354; 7 USC 901 to 905b

CFR Citation: 7 CFR 1717.603

Legal Deadline: None

Abstract: The Rural Utilities Service (RUS) is amending its regulations so that electric power supply borrowers may proceed more expeditiously to construct additions and extensions to their electric utility plant using their own funds.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Director, Program Support & Reg Analysis, Department of Agriculture, Rural Utilities Service, 1400 Independence Ave. SW., Room 4036-SBldg., Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB38

DEPARTMENT OF AGRICULTURE (USDA)
Rural Utilities Service (RUS)

Final Rule Stage

537. ELECTRIC SYSTEMS OPERATIONS AND MAINTENANCE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1730

Legal Deadline: None

Abstract: The Rural Utilities Service (RUS) proposes to codify and clarify RUS policy concerning operation and maintenance of borrower electric systems. In addition, it is proposed to add RUS policies relating to the review and evaluation of borrower systems and facilities financed with loans from RUS. These policies are presently contained in RUS Bulletin 161-5 which will be rescinded upon publication of the final rule.

Timetable:

Action	Date	FR Cite
NPRM	04/16/97	62 FR 18544
NPRM Comment Period End	06/10/97	
Final Action	10/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Director, Program Support & Reg Analysis, Department of Agriculture, Rural Utilities Service, 14th & Independence Avenue SW., Room 4036 South Building, Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA74

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538. LONG-RANGE FINANCIAL FORECASTS OF ELECTRIC BORROWERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 to 950(b); PL 99-591

CFR Citation: 7 CFR 1710 G

Legal Deadline: None

Abstract: The Rural Utilities Service (RUS) proposes to amend its pre-loan regulations for electric loans to clarify and revise the requirement that borrowers submit to RUS a long-range financial forecast as part of an application for a loan, loan guarantee, lien accommodation. This proposed rule is intended to strengthen credit practices and to assist borrowers in preparing, and RUS staff in reviewing loan applications.

Timetable:

Action	Date	FR Cite
NPRM	05/20/97	62 FR 27546
NPRM Comment Period End	07/21/97	
Final Action	10/00/97	
Final Action Effective	12/00/97	

USDA—RUS

Final Rule Stage

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Director, Program Support & Reg Analysis, Department of Agriculture, Rural Utilities Service, 1400 Independence Ave. SW., Room 4036 South Building, Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA89

539. ◆ GENERAL INFORMATION; DELEGATION OF AUTHORITY

Priority: Info./Admin./Other

Legal Authority: 7 USC 901 et seq, 1921 et seq, 6941 et seq

CFR Citation: 7 CFR 1700

Legal Deadline: None

Abstract: RUS revises its delegation of authority and description of its functions and responsibilities to reflect several changes in RUS organizational structure.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Director, Program Support & Reg. Analysis, Department of Agriculture, Rural Utilities Service, STOP 1522, 1400 Independence Ave. SW., Room 4036-S, Washington, DC 20250-1522
Phone: 202 205-3660
Fax: 202 720-4120

RIN: 0572–AB37

DEPARTMENT OF AGRICULTURE (USDA)
Rural Utilities Service (RUS)

Long-Term Actions

540. LOAN SECURITY DOCUMENTS—TELECOMMUNICATIONS PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1744

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA30

541. LOAN ACCOUNT COMPUTATIONS, POLICIES, AND PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1785; 7 CFR 1786 A

Timetable:

Action	Date	FR Cite
NPRM	04/07/93	58 FR 18043
NPRM Comment Period End	05/07/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA65

542. CIVIL RIGHTS POLICIES APPLICABLE TO RUS BORROWERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1790

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA75

543. LOAN DOCUMENTS—BANK PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1620

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA76

544. DEPRECIATION RATES AND PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1767 C

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA80

USDA—RUS

Long-Term Actions

545. PRESERVATION OF RECORDS ACCOUNTING REQUIREMENTS FOR RUS ELECTRIC BORROWERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1787 D

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA92

546. RUS APPROVAL OF SALE OF CAPITAL ASSETS BY ELECTRIC BORROWERS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1717 P

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB02

547. POWER REQUIREMENT STUDIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1710 E

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB05

548. COMMUNITY FACILITY LOANS—TIMBER-DEPENDENT COMMUNITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 7 CFR 1942 subpart A

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB11

549. LIQUIDATION OF LOANS AND ACQUISITION, MANAGEMENT, AND DISPOSAL OF SECURITY PROPERTY

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1698; 7 CFR 1697; 7 CFR 1951 subpart E; 7 CFR 1955 subpart A; 7 CFR 1955 subpart B; 7 CFR 1955 subpart C; 7 CFR 2.23; 7 CFR 2.70

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB13

550. SOLID WASTE MANAGEMENT GRANTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1775 subpt B

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB14

551. TECHNICAL ASSISTANCE AND TRAINING GRANTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1775 subpt A

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB15

552. WATER AND WASTE LOAN AND GRANT SERVICING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1782

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB23

DEPARTMENT OF AGRICULTURE (USDA)

Rural Utilities Service (RUS)

Completed Actions

553. WHOLESALE CONTRACTS FOR THE PURCHASE AND SALE OF ELECTRIC POWER AND ENERGY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1717.300 to 1717.349

Completed:

Reason	Date	FR Cite
Withdrawn	05/07/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA41

554. MARGIN STABILIZATION PLANS AND REVENUE AND EXPENSE DEFERRALS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1767, subpart E

Completed:

Reason	Date	FR Cite
Withdrawn	05/07/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA50

555. LOAN DEFERMENTS FOR ENERGY RESOURCES CONSERVATION—ELECTRIC PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1717 L

Completed:

Reason	Date	FR Cite
Withdrawn	05/07/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB03

556. STREAMLINING THE RURAL UTILITIES SERVICE'S WATER AND WASTE PROGRAM REGULATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1775; 7 CFR 1777; 7 CFR 1778; 7 CFR 1780; 7 CFR 1781

Completed:

Reason	Date	FR Cite
Final Action	06/19/97	62 FR 33462
Final Action Effective	08/19/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB20

557. ESTABLISH WATER AND WASTE DISPOSAL REGULATIONS WITHIN THE RURAL UTILITIES SERVICE

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1680; 7 CFR 1690; 7 CFR 1691; 7 CFR 1693; 7 CFR 1694

Completed:

Reason	Date	FR Cite
Withdrawn	06/19/97	62 FR 33462

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB21

558. SETTLEMENT OF DEBT OWED BY ELECTRIC BORROWERS

Priority: Other Significant

Unfunded Mandates: Undetermined

CFR Citation: 7 CFR 1717 subpt Y

Completed:

Reason	Date	FR Cite
Final Action	09/26/97	62 FR 50486
Final Action Effective	09/26/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB26

559. RUS PRIVATIZATION DEMONSTRATION PREPAYMENT PROGRAM FOR THE STATE OF ALASKA

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 7 CFR 1786 D

Completed:

Reason	Date	FR Cite
Final Action	08/18/97	62 FR 32477
Final Action Effective	08/18/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-0736
Fax: 202 720-4120

RIN: 0572–AB27

560. DISTANCE LEARNING AND TELEMEDICINE LOAN AND GRANT PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1703, subpart D

Completed:

Reason	Date	FR Cite
Final Action	06/13/97	62 FR 18678
Final Action Effective	08/13/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB28

561. RURAL DEVELOPMENT GRANTS TO STATES

Priority: Other Significant

CFR Citation: 7 CFR 1774

USDA—RUS

Completed Actions

Completed:

Reason	Date	FR Cite
Withdrawn	07/22/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB29

562. RURAL TELEPHONE BANK & TELECOMMUNICATIONS PROGRAM LOAN POLICIES, TYPES OF LOANS, AND LOAN REQUIREMENTS

Priority: Other Significant

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1610; 7 CFR 1735; 7 CFR 1737; 7 CFR 1739; 7 CFR 1746

Completed:

Reason	Date	FR Cite
Final Action	09/05/97	62 FR 46867
Final Action Effective	10/06/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB32

563. • ACCOUNTING REQUIREMENTS FOR RUS ELECTRIC BORROWERS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 901 et seq, 1921 et seq, 6941 et seq

CFR Citation: 7 CFR 1767

Legal Deadline: None

Abstract: The rule will streamline certain RUS accounting procedures for electric borrowers to allow greater flexibility. Among the rules provisions are: (1) allowing borrowers to implement some revenue and expense deferral plans without RUS approval; (2) changing costing methods for employee pensions and benefits, payroll taxes, and insurance; (3) establishing accounting procedures for a National Rural Electric Cooperative Association insurance program; and (4) providing accounting procedures for some new electronic metering systems.

Timetable:

Action	Date	FR Cite
NPRM	04/29/97	62 FR 23297
NPRM Comment Period End	05/29/97	
Final Action	09/06/97	62 FR 42263
Final Action Effective	09/05/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Director, Program Support & Reg Analysis, Department of Agriculture, Rural Utilities Service, STOP 1522, 1400 Independence Ave. SW., Room 4036-S, Washington, DC 20250-1522
Phone: 202 720-0736
Fax: 202 720-4120

RIN: 0572–AB36

BILLING CODE 3410-15-F

DEPARTMENT OF AGRICULTURE (USDA)

Natural Resources Conservation Service (NRCS)

Proposed Rule Stage

564. 7 CFR PART 610 TECHNICAL ASSISTANCE

Priority: Other Significant

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: PL 104-129

CFR Citation: 7 CFR 610

Legal Deadline: None

Abstract: Section 342 subtitle E of the Federal Agriculture Improvement and Reform Act of 1996 (FAIRA) expands the membership and roles of State Technical Committees set forth in section 1261 of Subtitle G of the Food Security Act of 1985, as amended. Under these guidelines, the Secretary is required to establish a technical committee in each State to assist in making technical considerations relating to the implementation of conservation provisions. The Natural Resources Conservation Service (NRCS) uses these State Technical Committees in an advisory capacity. The rule will set forth the policies and procedures for the use of State Technical Committees by the United States Department of Agriculture, membership criteria, and the responsibilities assigned to these committees.

The NRCS has delivered the majority of the technical assistance provided to private landowners through the authorities provided in 7 CFR part 610.2. Section 610.2 has not yet been revised to provide for the responsibilities assigned to the NRCS beyond that of soil conservation. To more accurately reflect the broader mission of NRCS, particularly as it relates to technical assistance provided to private grazing land. Section 610.2 is being amended to acknowledge that one of NRCS's missions is to improve the quality of all agricultural lands, including grazing land, pastureland, rangeland, forestland, and cropland so that the long-term sustainability of the resource base is achieved.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
NPRM Comment Period End	12/00/97	
Final Action	02/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: 0578-AA23 has been withdrawn and incorporated into this regulation.

Agency Contact: Peter Zeck, Regulatory Liaison, Department of Agriculture, Natural Resources Conservation Service, PO Box 2890, Room 5235-S, Washington, DC 20013
Phone: 202 690-4860
Fax: 202 690-3174
Email: pzeck@usda.gov

RIN: 0578–AA22

DEPARTMENT OF AGRICULTURE (USDA)
Natural Resources Conservation Service (NRCS)

Final Rule Stage

565. HIGHLY ERODIBLE LAND AND WETLAND CONSERVATION

Priority: Other Significant

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: 16 USC 3801 et seq

CFR Citation: 7 CFR 12

Legal Deadline: NPRM, Statutory, July 3, 1996.

Abstract: Soil erosion and its results, including damage to water quality and air quality, loss of productive capacity of the land, and offsite damages, is caused in part by inadequate or inappropriate systems. The 1985 Food Security Act required producers who farm highly erodible land to do so in accordance with an acceptable conservation system in order to remain eligible for most USDA program benefits. This act gave producers a major incentive to install conservation practices on the country's most fragile lands. The 1996 Farm Bill refines these requirements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/06/96	61 FR 47019
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Peter Zeck, Regulatory Liaison, Department of Agriculture, Natural Resources Conservation Service, P.O. Box 2890, Room 5235-S, Washington, DC 20013
Phone: 202 690-4860
Fax: 202 690-3174
Email: pzeck@usda.gov

RIN: 0578–AA17

566. CONSERVATION FARM OPTION (CFO)

Priority: Other Significant

Legal Authority: PL 104-127

CFR Citation: 7 CFR 1468

Legal Deadline: None

Abstract: A conservation farm option pilot program is established for producers of wheat, feed grains, cotton, and rice. Owners or operators with farms that have a production flexibility contract are eligible for participation. Under the pilot program producers may receive one consolidated USDA program payment in lieu of a list of specified payments. The producer must implement a conservation plan that addresses soil, water, and related resources, water quality, wetlands, and wildlife habitat. Participation is voluntary and based upon a 10-year contract between the Secretary and the producer. Funding varies by year through 2002 with a total of $197.5 million, coming from CCC, dedicated to this option.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter Zeck, Regulatory Liaison, Department of Agriculture, Natural Resources Conservation Service, PO Box 2890, Room 5235-S, Washington, DC 20013
Phone: 202 690-4860
Fax: 202 690-3174
Email: pzeck@usda.gov

RIN: 0578–AA20

567. WILDLIFE HABITAT INCENTIVES PROGRAM (WHIP)

Priority: Other Significant

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: PL 104-127; 15 USC 714b to 714c; 7 USC 14452

CFR Citation: 7 CFR 1470

Legal Deadline: None

Abstract: Wildlife habitats of all types have become degraded as a result of development pressures of modern society. Some habitat types are disappearing from the face of the earth, such as natural prairie. As development encroaches and a habitat disappears, the wildlife dependent upon that habitat also disappear. The rate of species lost to extinction has exceeded any known prior extinction event and the single, most significant cause cited is the loss of habitat. The U.S. Department of Agriculture recognizes the environmental, social, economic, and aesthetic importance of wildlife. The Wildlife Habitat Incentives Program (WHIP) provides landowners incentives for developing and restoring habitat for wildlife.

Timetable:

Action	Date	FR Cite
NPRM	12/13/96	61 FR 65485
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Peter Zeck, Regulatory Liaison, Department of Agriculture, Natural Resources Conservation Service, PO Box 2890, Room 5235-S, Washington, DC 20013
Phone: 202 690-4860
Fax: 202 690-3174
Email: pzeck@usda.gov

RIN: 0578–AA21

DEPARTMENT OF AGRICULTURE (USDA)
Natural Resources Conservation Service (NRCS)

Completed Actions

568. ENVIRONMENTAL QUALITY INCENTIVE PROGRAM (EQIP) ESTABLISHED IN THE FEDERAL AGRICULTURE IMPROVEMENT OF REFORM ACT OF 1996

Priority: Economically Significant

Unfunded Mandates: This action may affect State, local or tribal governments.

CFR Citation: 7 CFR 1466

Completed:

Reason	Date	FR Cite
Final Action	05/22/97	62 FR 28258

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Peter Zeck
Phone: 202 690-4860
Fax: 202 690-3174
Email: pzeck@usda.gov

RIN: 0578–AA19

569. CONSERVATION OF PRIVATE GRAZING LAND (CPGL)

Priority: Other Significant

Unfunded Mandates: This action may affect State, local or tribal governments.

CFR Citation: None

Completed:

Reason	Date	FR Cite
Withdrawn - Incorporated into RIN 0578-AA22	08/01/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter Zeck
Phone: 202 690-4860
Fax: 202 690-3174
Email: pzeck@usda.gov

RIN: 0578–AA23

BILLING CODE 3410-16-F

DEPARTMENT OF AGRICULTURE (USDA)
Office of Operations (OO)

Long-Term Actions

570. NEW RESTRICTIONS ON LOBBYING

Priority: Routine and Frequent

CFR Citation: 7 CFR 3018

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Joseph J. Daragan
Phone: 202 720-5729
Fax: 202 720-8972

RIN: 0599–AA03

[FR Doc. 97-24018 Filed 10-28-97; 8:45 am]

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October 29, 1997

Part IV

Department of Commerce

Semiannual Regulatory Agenda

DEPARTMENT OF COMMERCE (DOC)

DEPARTMENT OF COMMERCE

Office of the Secretary

13 CFR Ch. III

15 CFR Subtitle A; Subtitle B, Chs. I, II, III, IV, VII, VIII, IX, and XI

19 CFR Ch. III

37 CFR Chs. I, IV, and V

48 CFR Ch. 13

50 CFR Chs. II, III, IV, and VI

October 1997 Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Commerce.

ACTION: Semiannual regulatory agenda.

SUMMARY: In compliance with Executive Order 12866 entitled "Regulatory Planning and Review" and the Regulatory Flexibility Act, as amended, the Department of Commerce, in April and October of each year, publishes in the **Federal Register** an agenda of regulations under development or review over the next 12 months. Rulemaking actions are grouped according to prerulemaking, proposed rules, final rules, long-term actions, and rulemaking actions completed since the April 1997 agenda. The purpose of the agenda is to provide information to the public on regulations currently under review, being proposed, or issued by the Department. The agenda is intended to facilitate comments and views by interested members of the public.

The Department's October 1997 regulatory agenda includes regulatory activities that are expected to be conducted during the period October 1, 1997, through September 30, 1998.

FOR FURTHER INFORMATION CONTACT:

Specific: For additional information about specific regulatory actions listed in the agenda, contact the individual identified as the contact person.

General: Comments or inquiries of a general nature about the agenda should be directed to Michael A. Levitt, Assistant General Counsel for Legislation and Regulation, U.S. Department of Commerce, Washington, DC 20230; telephone: 202-482-0646.

SUPPLEMENTARY INFORMATION: Executive Order 12866 requires agencies to publish an agenda of those regulations that are under consideration pursuant to this order. By memorandum of June 10, 1997, the Office of Management and Budget issued guidelines and procedures for the preparation and publication of the October 1997 Unified Agenda of Federal Regulatory and Deregulatory Actions. The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires agencies to publish, in April and October of each year, a regulatory flexibility agenda which contains a brief description of the subject area of any rule which is likely to have a significant economic impact on a substantial number of small entities. The agenda also identifies those entries that have been selected for periodic review under section 610 of the Regulatory Flexibility Act.

Department of Commerce Regulatory Plan

For this edition of the Department of Commerce's agenda, the most significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

Explanation of Information Contained in the Agenda

Within the Department, the Office of the Secretary and various operating units may issue regulations. Operating units, such as the Bureau of Export Administration, the International Trade Administration, the National Oceanic and Atmospheric Administration (NOAA), and the Patent and Trademark Office, issue the greatest share of the Department's regulations.

A large number of regulatory actions reported in the agenda deal with fishery management programs of NOAA's National Marine Fisheries Service (NMFS). To avoid repetition of programs and definitions, as well as to provide some understanding of the technical and institutional elements of the NMFS programs, a section on "Explanation of Information Contained in NMFS Regulatory Entries" is provided below.

Explanation of Information Contained in NMFS Regulatory Entries

The Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) (Act) governs the management of fisheries within the Exclusive Economic Zone (EEZ). The EEZ refers to those waters from the outer edge of the State boundaries, generally 3 nautical miles, to a distance of 200 nautical miles. Fishery Management Plans (FMPs) are to be prepared for fisheries which require conservation and management measures. Regulations implementing these FMPs regulate domestic fishing and foreign fishing where permitted. Foreign fishing can be conducted in a fishery for which there is no FMP only if a preliminary fishery management plan has been issued to govern that foreign fishing. Under the Act, eight Regional Fishery Management Councils (Councils) prepare FMPs or amendments to FMPs for fisheries within their respective areas. In the development of such plans or amendments and their implementing regulations, the Councils are required by law to conduct public hearings on the draft plans and to consider the use of alternative means of regulating.

The Council process for developing FMPs and amendments makes it difficult for NMFS to determine the significance and timing of some regulatory actions under consideration by the Councils at the time the semiannual regulatory agenda is published.

The DOC October 1997 regulatory agenda follows.

Dated: August 15, 1997.

Andrew Pincus,

General Counsel.

DOC

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
571	Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting From Federal Financial Assistance	0690-AA28

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
572	Guidelines for Empowerment Contracting	0690-AA25

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
573	Standards of Ethical Conduct—Department of Commerce Supplemental Regulations	0690-AA23

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
574	Streamlining of Commerce Acquisition Process	0690-AA26

Bureau of Economic Analysis—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
575	Annual Survey of Royalties, License Fees, and Other Receipts and Payments for Intangible Rights Between U.S. and Unaffiliated Foreign Persons	0691-AA28
576	Benchmark Survey of Foreign Direct Investment in the United States—1997	0691-AA29
577	Annual Survey of Selected Services Transactions With Unaffiliated Foreign Persons	0691-AA30
578	Change in Reporting Requirements for BE-13/BE-14, Initial Report on a Foreign Person's Direct or Indirect Acquisition, Establishment, or Purchase of the Operating Assets, of a U.S	0691-AA31
579	Change in Reporting Requirements for BE-15, Annual Survey of Foreign Direct Investment in the United States	0691-AA32
580	Change in Reporting Requirements for BE-605, Transactions of U.S. Affiliate, Except a U.S. Banking Affiliate, With Foreign Parent and BE-606 Bank, Transactions of U.S. Banking Affiliate	0691-AA33

Bureau of the Census—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
581	Changes to the Foreign Trade Statistical Regulations (FTSR) to Conform Requirements and Wording to the U.S. Customs Service Requirements for the Automated Export System (AES)	0607-AA19
582	Changes to the Foreign Trade Statistical Regulations (FTSR) To Clarify the Definition of Exporter	0607-AA20
583	Changes to the Foreign Trade Statistical Regulations (FTSR) Requiring a Designator When the Export Shipment Is a Foreign Military Sale	0607-AA22
584	Special Services and Studies by the Bureau of the Census; General	0607-AA24
585	Furnishing Personal Census Data From Census of Population Schedules; General Requirements	0607-AA25
586	Furnishing Personal Census Data From Census of Population Schedules: General Requirements	0607-AA26

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Bureau of the Census—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
587	Special Services and Studies by the Bureau of the Census; Fee Structure for Age Search and Citizenship Information	0607-AA27

Bureau of the Census—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
588	Cutoff Dates for Recognition of Boundary Changes for the 2000 Decennial Census of Population and Housing	0607-AA18

Bureau of the Census—Completed Actions

Sequence Number	Title	Regulation Identifier Number
589	Changes to the Foreign Trade Statistical Regulations (FTSR) Requiring the Filing of Shipper's Export Declarations (SEDs) for Company-Owned Tools of Trade	0607-AA23

Economic Development Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
590	General Requirements for Financial Assistance—Excess Capacity	0610-AA55

Economic Development Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
591	Regulations Contingent on the Economic Development Partnership Act of 1997	0610-AA56

General Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
592	Uniform Administrative Requirement for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofits and Commercial Organizations	0605-AA09
593	Administrative Requirements for Grantees To Reflect Single Audit Act Amendments	0605-AA11

International Trade Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
594	Antidumping and Countervailing Duty Proceedings; Administrative Protective Order Procedures and Procedures for Imposing Sanctions for Violation of a Protective Order	0625-AA43
595	Antidumping Duties; Countervailing Duties	0625-AA45
596	Technical Amendments to Regulations of the Foreign Trade Zones Board	0625-AA49

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International Trade Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
597	Proposed Change in Definition of Scientific Instruments and Apparatus for Florence Agreement Program	0625-AA47

Bureau of Export Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
598	Defense Priorities and Allocations System (DPAS)	0694-AA02
599	Implementation of Chemical Weapons Convention	0694-AB06

Bureau of Export Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
600	Transfer of Dual-Use Items From U.S. Munitions List to the Commerce Control List	0694-AA52
601	Transfer of Certain Remote Sensing Satellites From the U.S. Munitions List to the CCL	0694-AB09
602	Implementation of the Wassenaar Arrangement List of Dual-Use Items: Revisions to the Commerce Control List and Reporting Under the Wassenaar Arrangement	0694-AB35
603	Change the Commerce Control List To Revise Controls on Communication Intercepting Devices (Export Commerce Control Number ECCN 5A980)	0694-AB41
604	Licensing of, and Expansion of National Security and Foreign Policy Controls on, Recoverable Encryption Software	0694-AB47
605	Clarification of License Exception GFT (Humanitarian Donations)	0694-AB49
606	Revisions to EAR as a Result of the Addition of Brazil and Ukraine to the Nuclear Suppliers Group	0694-AB50
607	Revisions to Commerce Control List: Addition of Technology and Software Controls for Certain Crime Control Commodities	0694-AB53
608	Revisions and Clarifications to the Export Administration Regulations; Commerce Control List	0694-AB55
609	Exports of Technology and Software; Release of Technology or Source Code to Foreign Nationals in the United States	0694-AB59
610	Oscilloscopes: ECCNs 3A202 and 3E201	0694-AB61
611	De Minimis Exclusion for Technology and Software	0694-AB62
612	Revisions to Antiterrorism Controls	0694-AB63
613	Revisions to the Export Administration Regulations: Duty To Inquire	0694-AB64

Bureau of Export Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
614	Revision of Foreign Boycott Provisions of Export Administration Regulations	0694-AA11
615	Clarification of Enhanced Proliferation Control Initiative (EPCI) "Catch-All" Provision and Validated License Requirements	0694-AB10
616	Administration of State Log Exports Ban	0694-AB25
617	Libya: Expansion of Foreign Policy Controls	0694-AB28
618	Revisions to the Export Administration Regulations; Additions to the Entity List	0694-AB60

Bureau of Export Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
619	Revisions to the EAR: Establishment of a Standard Saving Clause	0694-AB15
620	Revisions to Licensing Policy for North Korea	0694-AB19
621	Chemical Weapons Convention Implementing Regulations (Enforcement)	0694-AB39

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Bureau of Export Administration—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
622	Changes to the Export Administrative Regulations To Implement the Guidelines and Information Sharing Provisions of the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use	0694-AB40
623	Export Regulation for Certain Exports of Business Equipment for Support to the Cuban People	0694-AB43
624	Revisions and Clarifications to the Export Administration Regulations	0694-AB56

National Institute of Standards & Technology—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
625	Procedures for Implementation of Fastener Quality Act	0693-AB43
626	Amendments to the Advanced Technology Program Regulations	0693-AB44

National Oceanic and Atmospheric Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
627	Atlantic Mackerel, Squid, and Butterfish Fisheries	0648-AK37
628	Options for 1997 Rulemaking for Banning the Sale of Undersized Atlantic Swordfish	0648-AK39

National Oceanic and Atmospheric Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
629	Amendment 10 to the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries	0648-AF41
630	Amendment 8 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic	0648-AG27
631	General Provisions for Domestic Fisheries—Standard Definitions	0648-AG46
632	Regulatory Amendment To Impose Restrictions on Fishing Black Rockfish Off Oregon	0648-AG81
633	Regulatory Amendment for Managing Pelagic Fisheries by U.S. Vessels Beyond EEZ Throughout Pacific	0648-AG85
634	Amendment 3 to the Fishery Management Plan for the Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands	0648-AG87
635	Amendment 1 to the Fishery Management Plan for Corals and Reef-Associated Plants and Invertebrates for Puerto Rico and the U.S. Virgin Islands	0648-AG88
636	Regulatory Amendment To Facilitate Monitoring and Enforcement in the Pacific Coast Groundfish Fishery	0648-AH21
637	Amendment 7 to the Fishery Management Plan for American Lobster	0648-AH41
638	Amendment 1 to the Fishery Management Plan for Atlantic Bluefish	0648-AH63
639	FMP Amendment 36 for the Groundfish Fishery of the BSAI and FMP Amendment 39 for the Groundfish of the GOA	0648-AH87
640	Regulatory Amendment Requiring Longline Vessel Operators in the Western Pacific Pelagic Fisheries To Carry Observers at No Cost to U.S. Government	0648-AI31
641	Regulatory Amendment To Adjust the Annual Total Allowable Catch for Royal Red Shrimp in the Gulf of Mexico	0648-AI39
642	Amendment to the Observer Program	0648-AI69
643	Fishery Management Plan for the Atlantic Herring Fishery	0648-AI78
644	Regulatory Amendment To Revise the Product Recovery Rate Regulations	0648-AI87
645	Proposed Rule To Implement Vessel Identification and Reporting Requirements under the High Seas Fishing Compliance Act of 1995	0648-AI99
646	Fishery Data Reporting for Western Pacific Pelagic Fisheries	0648-AJ06
647	Regulatory Amendment To Establish Total Allowable Catch Limits for the Atlantic and Gulf of Mexico Groups of King and Spanish Mackerel for the 1997-98 Fishing Year	0648-AJ12
648	Amendment 15 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico	0648-AJ14
649	Amendment 11 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico - Resubmitted Measure	0648-AJ16
650	Regulatory Amendment To Restrict Pacific Groundfish Limited Entry Permit Transfers	0648-AJ20
651	Regulatory Amendment To Extend California Gillnet Regulations to the EEZ	0648-AJ21

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National Oceanic and Atmospheric Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
652	Amendment 10 to the Pacific Coast Groundfish FMP Regarding Salmon Bycatch in Groundfish Trawl	0648-AJ22
653	Amendment 7 to the Fishery Management Plan for the Atlantic Sea Scallop Fishery	0648-AJ33
654	Implementation of Use of Interactive Voice Response (IVR) System To Monitor Commercial Landings of Quota Managed Species on Weekly Basis	0648-AJ37
655	Amendment 9 to the Northeast Multispecies Fishery Management Plan	0648-AJ44
656	Amendment 3 to the Fishery Management Plan for the Scallop Fishery Off Alaska	0648-AJ51
657	Regulatory Amendment To Establish a Program for the Collection and Use of Fees in the Individual Fishing Quota and Community Development Quota Programs	0648-AJ52
658	Implementation of Pacific Insular Area Fishing Agreement Provisions of the Magnuson-Stevens Act	0648-AJ60
659	Atlantic Shark Fisheries; Amendment 2 (including rebuilding schedule)	0648-AJ64
660	Atlantic Tuna Fisheries; Regulatory Adjustments	0648-AJ66
661	Atlantic Tuna Fisheries; Fishery Management Plan Implementation	0648-AJ67
662	Atlantic Highly Migratory Species; Take Reduction Team Plan Implementation	0648-AJ68
663	Proposed Rule To Implement Procedures for Issuance of Permits Under Section 204(d) of the Magnuson-Stevens Fishing Conservation and Management Act	0648-AJ70
664	Amendment 49 to the Fishery Management Plan for the Groundfish Fishery of the Gulf of Alaska	0648-AJ71
665	Interim Final Rule to the Fishery Management Plan for the American Lobster Fishery	0648-AJ74
666	Implementation of Data Collection and Reporting Requirements to the Fishery Management Plan for the American Lobster Fishery	0648-AJ75
667	Proposed Rule To Implement Observer Provisions Required by the Magnuson-Stevens Fishery Conservation and Management Act as Amended October 11, 1996	0648-AJ76
668	Fisheries Obligation Guarantee Program—Statutory Amendments to Establish "Central Title and Lien Registry for Limited Access Permits"	0648-AJ77
669	Final Rule To Implement Framework Adjustment 18 to the Fishery Management Plan for the Northeast Multispecies Fishery	0648-AJ79
670	Regulatory Amendment To Change Membership Requirements for the Regional Fishery Management Councils	0648-AJ82
671	Halibut Donation Program	0648-AJ87
672	Interim Final Rule To Increase Minimum Size Limit for Vermillion Snapper in Federal Waters of Gulf of Mexico	0648-AJ89
673	Implement a Framework to the FMP for the Northeast Multispecies Fisheries To Protect Winter Flounder	0648-AJ92
674	Final Rule To Implement Framework Adjustment 24 to the Fishery Management Plan for the Northeast Multispecies Fishery	0648-AJ96
675	Regulatory Amendment To Change the Scallop Season Opening Date	0648-AJ98
676	Proposed Rule on Taking Marine Mammals Incidental to Power Plant Operations at Seabrook, New Hampshire	0648-AK00
677	Endangered and Threatened Species; Regulations Consolidation	0648-AK02
678	Amendments to Fishery Management Plans To Implement Sustainable Fisheries Act Amendments to the Magnuson-Stevens Act	0648-AK03
679	Amendment 9 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic	0648-AK05
680	Regulatory Amendment To Allow Retention of Undersized Halibut in CD Fishery	0648-AK06
681	Regulatory Amendment To Revise Specified Maximum Retainable Bycatch Percentages	0648-AK09
682	Regulatory Amendment To Implement Rolling Closures During the Sablefish Fishery in the Gulf of Alaska	0648-AK10
683	Adjustment of Management Program for Pelagic Species Fisheries in the Western Pacific	0648-AK11
684	FMP Amendment 46 for the Groundfish Fishery of the Gulf of Alaska	0648-AK13
685	Amendment 34 to the Groundfish of the Bering Sea and Aleutian Islands	0648-AK14
686	Rulemaking To Extend the Interim Observer Program Through 1998	0648-AK15
687	Rulemaking To Revise the Halibut Catch Share Plan Amendment for 1998	0648-AK18
688	Regulatory Amendment To Revise "Surviving Spouse" Language	0648-AK19
689	Regulatory Amendment To Specify Minimal Vessel Ownership Requirements for the Hired Skipper Provision in the IFQ Fisheries	0648-AK20
690	Adjustment of the Management Program for Bottomfish and Seamount Groundfish Fisheries in the Western Pacific	0648-AK21
691	Adjustment of Management Program for the Northwestern Hawaiian Islands Crustacean Fisheries	0648-AK22
692	Adjustment of the Management Program for Precious Corals Fisheries in the Western Pacific	0648-AK23
693	Regulatory Amendment To Implement 1998 Nontrawl Sablefish Harvest Region	0648-AK27
694	Regulatory Amendment To Adjust Management Measures Under the Fishery Management Plan for Reef Fish Species of the Gulf of Mexico (FMP) for the 1998 Fishing Season	0648-AK28
695	Additional Measures of Amendment 2 to the Fishery Management Plan for the Shrimp Fishery of the South Atlantic—Procedures for Testing and Certification of Bycatch Reduction Devices (BRDS)	0648-AK29
696	Rulemaking To Clarify a Provision in the Observer Program CGL Insurance Coverage Requirements	0648-AK30
697	Amendment 16 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico	0648-AK31

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National Oceanic and Atmospheric Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
698	Regulatory Amendment for a Bycatch Reduction Device (BRD) Testing and Certification Protocol Under Amendment 9 to the FMP for the Shrimp Fishery of the Gulf of Mexico	0648-AK32
699	Regulations Governing the Incidental Taking of Ringed Seals During Seismic Operations During Winter in the U.S. Beaufort Sea	0648-AK33
700	Regulatory Amendment to Revise the Recordkeeping and Reporting Requirements for Groundfish Fisheries of the EEZ Off of Alaska for 1998	0648-AK36
701	Regulatory Amendment to Implement Seabird Avoidance Measures in the Pacific Halibut Fishery Off of Alaska	0648-AK38
702	Foreign Nations' Marine Mammal Program Amendments	0648-AG05
703	Taking and Importing of Marine Mammals; Taking of Marine Mammals Under the ATA Permit After February 28, 1994	0648-AG36
704	Designated Critical Habitat; Pacific Steelhead	0648-AG49
705	Proposed Designation of Critical Habitat for Puget Sound Salmon Stocks	0648-AH11
706	Proposed Rule To Provide Regulations for Permits for Capture, Transport, Import and Export of Protected Species for Public Display, and for Maintaining a Captive Marine Mammal Inventory	0648-AH26
707	Proposed Rule Governing the Issuance of Permits for Marine Mammal Photography	0648-AH31
708	Amend Regulations Governing the Taking and Importing of Marine Mammals	0648-AH63
709	Critical Habitat Designation for Green and Hawksbill Sea Turtle in Puerto Rico	0648-AH68
710	Taking of Marine Mammals Incidental to Commercial Fishing Operations; Take Reduction Plan Regulations and Emergency Regulations	0648-AI84
711	Implementation of 1997 MMPA Amendments Affecting Yellowfin Tuna Purse Seine Fishing in the Eastern Tropical Pacific	0648-AI85
712	Amendment 10 to the Summer Flounder Fishery Management Plan	0648-AJ55
713	Operations of Motorized Personal Watercraft in the Gulf of the Farallones National Marine Sanctuary	0648-AK01
714	Licensing of Private Commercial Remote-Sensing Satellite Systems **(Reg Plan Seq. No. 14)**	0648-AC84
715	Policies and Procedures Regarding Use of the NOAA-Based Data Collection Systems	0648-AK04

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

National Oceanic and Atmospheric Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
716	Regulatory Amendment To Implement Permit, Reporting, and Recordkeeping Requirements for Processing Vessels Over 125 Feet and Their Catcher Vessels: Pacific Coast Groundfish	0648-AE01
717	Secretarial Amendment to the FMP for Atlantic Swordfish	0648-AE09
718	Financial Disclosure of Fishery Management Council Nominees, Members, and Executive Directors	0648-AG16
719	Amendment 8 to the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP)	0648-AG25
720	Regulatory Amendment To Establish a Certification Program for At-Sea Scales	0648-AG32
721	Amendment 9 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico	0648-AH52
722	Amendment 39 to the FMP for Groundfish Fishery of BSAI, Amendment 41 to the FMP for Groundfish of the GOA and Amendment 5 to the FMP for Commercial King & Tanner Crab Fisheries of the BSAI	0648-AH65
723	Plan Amendment to FMP for Sharks of the Atlantic Ocean That Would Limit Entry	0648-AH78
724	Consolidation of Atlantic Highly Migratory Species Regulations	0648-AI28
725	Regulatory Amendment to Limited Access Management of Federal Fisheries In and Off of Alaska	0648-AJ00
726	Consolidation of the Rules for Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic and Stone Crab Fishery of the Gulf of Mexico	0648-AJ28
727	Guidelines for the Description, Identification, Conservation, and Enhancement of Essential Fish Habitat	0648-AJ30
728	Amendment 49 to the FMP for the Groundfish Fishery of the BSAI	0648-AJ36
729	Amendment 40 to the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands	0648-AJ45
730	Magnuson-Stevens Act Provisions; National Standards Guidelines	0648-AJ58
731	Atlantic Swordfish Fishery; Quotas	0648-AJ63
732	Withdrawal of the Fishery Management Plan for the American Lobster Fishery	0648-AJ73
733	Final Definition of the Zero Mortality Rate Goal	0648-AJ84
734	List of Fisheries for 1998	0648-AJ85
735	Endangered and Threatened Species: Take of Threatened Southern Oregon/Northern California Coast Evolutionarily Significant Unit (ESU) Coho Salmon	0648-AJ91
736	Antarctic Marine Living Resources Convention Act of 1984; Conservation and Management Measures	0648-AJ94

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National Oceanic and Atmospheric Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
737	Magnuson Act Provisions; Appointment of Indian Tribal Representative to Pacific Fishery Management Council	0648-AJ95
738	Northern Anchovy Fishery; Quotas for the 1998-99 Fishing Year (Annual Specifications)	0648-AK24
739	1998-1999 Management Measures for Commercial, Recreational, and Treaty Indian Salmon Fisheries Off the Coasts of Washington, Oregon, and California	0648-AK25
740	Regulatory Amendment To Implement Observer Requirements for Processing Vessels Over 125 Feet: Pacific Coast Groundfish	0648-AK26
741	Endangered and Threatened Species; Regulations Consolidation	0648-AK34
742	Final Rule To Modify the Regulations Implementing the Northeast Multispecies Fishery Management Plan	0648-AK35
743	Civil Procedures	0648-AF96
744	Taking and Importing of Marine Mammals; Dolphin Mortality Limits During Purse Seine Sets on Marine Mammals in the Eastern Tropical Pacific	0648-AF07
745	Taking and Importing of Marine Mammals; "Dolphin-Safe" Tuna Labeling	0648-AF08
746	Designated Critical Habitat; Johnson's Seagrass	0648-AF79
747	Take of Marine Mammals by the U.S. Navy Incidental to Military Activities in the South Atlantic of the United States	0648-AG55
748	Designated Critical Habitat; Pacific Coho Salmon	0648-AG56
749	Designated Critical Habitat; Umpqua River Sea-Run Cutthroat Trout	0648-AG58
750	Final Rule To Establish Guidelines for Nonlethally Deterring Marine Mammals From Endangering Personal Safety or Damaging Public or Private Property	0648-AH19
751	General Authorization for Scientific Research Involving Level B Harassment	0648-AH20
752	North Atlantic Right Whale Protection; Interim Final Rule	0648-AH47
753	Joint Draft Policy for Safe Harbor and Candidate Species Conservation (CSC) Agreements	0648-AJ54
754	Thunder Bay National Marine Sanctuary	0648-AE41
756	Allowance of Small-Scale Non-Intrusive Jade Collecting in Monterey Bay National Marine Sanctuary	0648-AI06

National Oceanic and Atmospheric Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
756	Fishery Management Plan for Tilefish	0648-AF87
757	Amendment 1 to the Fishery Management Plan for Atlantic Billfish	0648-AF88
758	Regulatory Amendment for the Gulf of Alaska Seamount Fisheries	0648-AG94
759	Regulatory Amendment To Require Electronic Submission by Alaska Groundfish Processors of Weekly Production Reports and Check In/Out Reports	0648-AI86
760	Regulatory Amendment To Prevent Overfishing and Rebuild Stocks	0648-AJ46
761	Regulatory Amendment To Implement Bycatch Reduction Measures	0648-AJ47
762	Amendments to the BSAI and GOA Fishery Management Plans To Implement a Data Collection Program for Recreational, Charter, and Commercial Fishing	0648-AJ49
763	Regulatory Amendment To Revise Definitions	0648-AJ50
764	FMP Amendments to BSAI Groundfish and the Groundfish of the GOA to Allocate Shortraker Rougheye Rockfish between Gear Types	0648-AJ99
765	Rulemaking To Establish the North Pacific Loan Program	0648-AK07
766	Regulatory Amendment To Develop a C. Bairdi Vessel Incentive Program	0648-AK08
767	FMP Amendments for the Groundfish Fishery of the Bering Sea and Aleutian Islands and for the Groundfish of the Gulf of Alaska	0648-AK12
768	Regulatory Amendment To Allocate Pacific Halibut to the Halibut Subsistence Fishery	0648-AK16
769	Regulatory Amendment To Allocate Pacific Halibut to the Charter Boat Fleet	0648-AK17
770	Performance Standards for Tuna Vessel Operators	0648-AD03
771	Sea Turtle Monitoring and Conservation Measures for Nonshrimp Fisheries	0648-AE54
772	Proposed Rule To Require Certain Fish From Mexico To Retain Heads and Tails Intact in Order To Protect the Endangered Totoaba	0648-AF32
773	Taking of Marine Mammals Incidental to Fisheries-Related Research	0648-AF50
774	Direct Take of Threatened Salmon by Native Americans	0648-AG15
775	Taking and Importing of Marine Mammals: Tuna Purse Seine Vessel Observer Expenses	0648-AG35
776	General Provisions; Endangered Fish or Wildlife; Threatened Fish and Wildlife; Sea Turtle Conservation Measures (Section 9 Protection)	0648-AG38
777	Designated Critical Habitat; Atlantic Salmon	0648-AG50

DOC

National Oceanic and Atmospheric Administration—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
778	Proposed Rule To Authorize Lethal Takings of Marine Mammals by State Authorities	0648-AG79
779	Final Rule To Amend Marine Mammal Regulations To Authorize Incidental Takings of Marine Mammals by Harassment as Authorized by Public Law 103-238	0648-AG80
780	Taking and Importing of Marine Mammals: Proposed Rule Prohibiting U.S. Citizens From Encircling Marine Mammals During Tuna Fishing Operations	0648-AH04
781	Shrimp Vessel Registration Requirement	0648-AH87
782	Revision of Federal Consistency Regulations Under the Coastal Zone Management Act	0648-AD83
783	Revision of Overflight Regulations	0648-AI91
784	Regional Marine Research Program	0648-AF20
785	NOAA Climate and Global Change Program—Proposal Submission Guidelines	0648-AG51
786	National Undersea Research Program Funding Regulations	0648-AH90

National Oceanic and Atmospheric Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
787	Regulatory Adjustments to the FMP for Sharks of the Atlantic Ocean	0648-AH77
788	Regulatory Amendment To Establish Management Measures for Atlantic and Gulf Groups of King and Spanish Mackerel for the 1996-97 Fishing Year	0648-AI13
789	Advance Notice of Proposed Rulemaking for the American Lobster Fishery Management Plan	0648-AI14
790	Amendment 2 to the Fishery Management Plan for the Shrimp Fishery of the South Atlantic	0648-AI15
791	Withdrawal of Federal Fisheries Regulations	0648-AI16
792	Amendment 7 to the Atlantic Sea Scallop Fishery Management Plan	0648-AI36
793	Regulatory Amendment To Revise the Recordkeeping and Reporting Requirements for Groundfish Fisheries of the EEZ off of Alaska for 1998	0648-AI68
794	Pacific Whiting Allocation Among Non-Tribal Sectors and Seasonal Framework	0648-AI80
795	Amendment 12 to FMP for Salmon Fisheries Off the Coasts of Washington, Oregon, and California	0648-AI82
796	Amendment 2 to the Fishery Management Plan for the Scallop Fishery Off Alaska	0648-AI88
797	A Moratorium on Issuance of New Permits for Fishing in the Mau Zone Portion of the NWHI Bottomfish Fishery	0648-AJ02
798	Options for Angling Category Season for the Atlantic Season for the Atlantic Bluefin Tuna Fisheries	0648-AJ04
799	Proposed Rule To Implement Amendment 6 to the Fishery Management Plan for Atlantic Mackerel, Squid, and Butterfish Fisheries	0648-AJ06
800	1997-98 Management Measures for Commercial, Recreational, and Treaty Indian Salmon Fisheries Off the Coasts of WA, OR, and CA	0648-AJ09
801	Regulatory Amendment To Adjust Reef Fish Management Measures to the Gulf of Mexico for the 1997 Season	0648-AJ13
802	Weakfish Regulations for the Exclusive Economic Zone (EEZ)	0648-AJ15
803	Regulatory Amendment To Implement 1997 Nontrawl Sablefish Harvest Regime	0648-AJ19
804	Amendment 9 to the Pacific Coast Groundfish FMP To Require Endorsements in the Sablefish Fishery	0648-AJ23
805	Regulations of Greater Amberjack, Lesser Amberjack, Banded Rudderfish, and/or Almaco jack Under the FMP for Reeffish Resources of GOM	0648-AJ27
806	Framework Adjustment 23 to the Fishery Management Plan for the Northeast Multispecies Fishery	0648-AJ32
807	Implementation of Measures Contained in Framework Adjustment 21 to the Northeast Multispecies FMP	0648-AJ34
808	Regulatory Amendment to Require a Six-Hour Notice of Landing of Individual Fishing Quota (IFQ) Species	0648-AJ35
809	Amendment of Consolidated Regulations at 50 CFR 679 To Include the High Seas Salmon Fishery Off Alaska Regulations	0648-AJ38
810	Implementation of Measures To Avoid Sea Birds in the Alaska Longline Groundfish Fishery	0648-AJ39
811	Summer Flounder, Scup, and Black Sea Bass Fishery, 1997 Summer Flounder Recreational Fishery Specifications	0648-AJ42
812	Final rule to implement Framework Adjustment 20 to the Fishery Management Plan for the Northeast Multispecies Fishery	0648-AJ43
813	Framework Adjustment 22 to the Northeast Multispecies and Framework Adjustment 4 to the American Lobster Fishery Management Plans	0648-AJ48
814	Summer Flounder, Scup, and Black Sea Bass Fisheries; 1997 Scup Recreational Fishery Specifications	0648-AJ53
815	1997 Harvest Guideline for Northwestern Hawaiian Islands Lobster Fishery	0648-AJ56
816	Adjustment of Area Closure for Northwestern Hawaiian Islands (NWHI) Lobster Fishery for Vessels With Vessel Monitoring System Equipment	0648-AJ57
817	Magnuson-Stevens Act Provisions; Foreign Fishing Vessels in Internal Waters	0648-AJ59

DOC

National Oceanic and Atmospheric Administration—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
818	Adjustment of Northwestern Hawaiian Islands (NWHI) Lobster Harvest Guideline System To Prevent Overfishing	0648-AJ61
819	Framework Adjustment 9 to the Atlantic Sea Scallop Fishery Management Plan	0648-AJ62
820	Atlantic Tuna Fisheries; Effort Controls	0648-AJ65
821	Atlantic Tuna Fisheries; Annual Atlantic Bluefin Tuna Quotas	0648-AJ69
822	Procedures Governing Establishment and Operation of Fishery Negotiation Panels	0648-AJ72
823	Final Rule To Add Regulation Implementing the Fishery Management Plan for the Atlantic Bluefish Fishery to the Consolidated Northeast Fisheries Regulations	0648-AJ78
824	Final Rule To Implement Framework Adjustment 16 to the Northeast Multispecies Fishery Management Plan	0648-AJ80
825	Final Rule To Incorporate the Regulations Governing the Northern Anchovy Into the Consolidated Regulations for Fisheries Off the West Coast and in the Western Pacific	0648-AJ81
826	Fur Seal Subsistence Harvest Estimates for 1997-1999; 1994-1996 Subsistence Harvests on the Pribilof Islands	0648-AJ86
827	Establishment of Control Date for Black Sea Bass Pot Fishery of South Atlantic EEZ	0648-AJ88
828	Proposed Trade Restrictions for Atlantic Bluefin Tuna	0648-AJ93
829	Final Rule To Implement a Framework Adjustment to the Fishery Management Plan for the Northeast Multispecies Fishery	0648-AJ97
830	Procedure for Setting Quotas on Removal of Atlantic Bottlenose Dolphins From the Waters of the Gulf of Mexico and Florida's East Coast	0648-AD39
831	Designation of Critical Habitat for the Gulf of Maine Population of Harbor Porpoise	0648-AG06
832	Final Rule; Taking and Importing of Marine Mammals; Consolidation of Regulations	0648-AI89
833	Hawaiian Islands Humpback Whale National Marine Sanctuary	0648-AH91
834	Revision of Coastal Zone Management Act Regulations To Conform to Statutory Changes	0648-AJ24
835	National Weather Service Modernization Criteria for Automation of D-Service Level NWS Sites	0648-AJ83

Patent and Trademark Office—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
836	Requirements for Registration to Practice Before the PTO in Patent Cases	0651-AA93
837	1996 Changes to Patent Practice and Procedure	0651-AA94
838	Technical Requirements for Registration To Practice Before the PTO in Patent Cases	0651-AA95
839	Revision of Patent and Trademark Fees for Fiscal Year 1998	0651-AA96

Patent and Trademark Office—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
840	Changes To Implement 18-Month Publication of Patent Applications	0651-AA75
841	Rules of Practice in Patent Cases; Reexamination Proceedings	0651-AA79
842	Changes To Patent Practice and Procedure	0651-AA80
843	Miscellaneous Changes to TTAB Rules	0651-AA87
844	Changes Implementing International Acceptable Nucleotide and/or Amino Acid Sequence Listings	0651-AA88

Patent and Trademark Office—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
845	Patent Application Electronic Submission Rules	0651-AA50
846	Limitations in Patent Claims	0651-AA91

DOC

Patent and Trademark Office—Completed Actions

Sequence Number	Title	Regulation Identifier Number
847	Patent Process Reengineering	0651-AA84
848	Revision of Patent and Trademark Fees for Fiscal Year 1998	0651-AA92

Technology Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
849	Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements	0692-AA14
850	Acquisition and Protection of Foreign Rights in Inventions	0692-AA15

Technology Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
851	Promotion of Private Sector Industrial Technology Partnerships	0692-AA13
852	Licensing of Government-Owned Inventions	0692-AA17

Technology Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
853	Licensing of Foreign Patents Acquired by the Government	0692-AA16

DEPARTMENT OF COMMERCE (DOC)
Office of the Secretary (OS)

Proposed Rule Stage

571. • NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Priority: Other Significant

Legal Authority: PL 92-318, sec 901 and 902

CFR Citation: 15 CFR 8a

Legal Deadline: None

Abstract: The Department of Commerce plans to join with the Department of Justice and other agencies in a Governmentwide common rule to enforce title IX of the Education Amendments of 1972. The rule will provide guidelines for enforcing nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kimberly H. Walton, Acting Director, Office of Civil Rights, Department of Commerce, Office of the Secretary, Room 6010, Washington, DC 20230
Phone: 202 482-3940

RIN: 0690–AA28

DEPARTMENT OF COMMERCE (DOC)
Office of the Secretary (OS)

Final Rule Stage

572. GUIDELINES FOR EMPOWERMENT CONTRACTING

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: EO 13005, Empowerment Contracting

CFR Citation: 15 CFR 3

Legal Deadline: None

Abstract: The purpose of Executive Order 13005 is to strengthen the economy and secure broad-based competition for Federal contractors in economically distressed communities. The Order charged the Secretary of Commerce, in consultation with Secretaries of Housing and Urban Development, Labor and Defense and the Administrators of the General Service Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Office of Federal Procurement Policy, to develop policies and procedures to ensure that Federal agencies, when awarding contracts in unrestricted competitions, grant qualified large and small businesses appropriate price or evaluation incentives to encourage business activity in areas of general economic distress. The Department will issue regulations which, together with revisions to the Federal Acquisition Regulations, will implement the Executive order.

Timetable:

Action	Date	FR Cite
NPRM	09/13/96	61 FR 48483
NPRM Comment Period End	12/01/96	61 FR 55616
NPRM Comment Period Extended to	01/06/97	61 FR 64321
Second NPRM	05/20/97	62 FR 27556
Second NPRM Comment Period End	07/21/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Joe Levine, Attorney-Advisor, Department of Commerce, Office of the Secretary, 14th and Constitution NW., Washington, DC 20230
Phone: 202 482-1071

RIN: 0690–AA25

DEPARTMENT OF COMMERCE (DOC)
Office of the Secretary (OS)

Long-Term Actions

573. STANDARDS OF ETHICAL CONDUCT—DEPARTMENT OF COMMERCE SUPPLEMENTAL REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karen Kucik
Phone: 202 219-9132

RIN: 0690–AA23

DEPARTMENT OF COMMERCE (DOC)
Office of the Secretary (OS)

Completed Actions

574. STREAMLINING OF COMMERCE ACQUISITION PROCESS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 1301 to 1353

Completed:

Reason	Date	FR Cite
Withdrawn	07/18/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joe Gray
Phone: 202 482-4185
Email: jgray2@doc.gov

RIN: 0690–AA26

DEPARTMENT OF COMMERCE (DOC)
Bureau of Economic Analysis (BEA)

Proposed Rule Stage

575. ANNUAL SURVEY OF ROYALTIES, LICENSE FEES, AND OTHER RECEIPTS AND PAYMENTS FOR INTANGIBLE RIGHTS BETWEEN U.S. AND UNAFFILIATED FOREIGN PERSONS

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 3101 to 3108, Intl Investment & Trade in Svs Survey Act

CFR Citation: 15 CFR 801

Legal Deadline: None

Abstract: This is the annual survey of international transactions with unaffiliated foreign persons involving rights to use patents, trademarks, copyrights, and other intangible property (BE-93), which will cover transactions beginning in 1997. It is conducted to obtain data that are needed for compiling the balance of payments and national income and product accounts, and will be used in developing U.S. trade policy and supporting U.S. trade policy initiatives. Consideration is being given to expanding coverage to include transactions in copyrights and other intellectual property rights that are related to computer software. At present, such transactions are covered on another BEA survey, which would be revised simultaneously.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	11/00/97	
Final Action	12/00/97	
Final Action Effective	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: R. David Belli, Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, Washington, DC 20230
Phone: 202 606-9800
Fax: 202 606-5318
Email: david.belli@bea.doc.gov

RIN: 0691–AA28

576. BENCHMARK SURVEY OF FOREIGN DIRECT INVESTMENT IN THE UNITED STATES—1997

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 3101 to 3108, Intl Investment & Trade in Svs Survey Act

CFR Citation: 15 CFR 806

Legal Deadline: None

Abstract: This action will amend existing 15 CFR 806.17 to provide for the conduct of the BE-12, Benchmark Survey of Foreign Direct Investment in the United States-1997, as required in the International Investment and Trade in Services Survey Act, 22 USC 3101 to 3108 (see especially section 4(b) or the Act). The existing rule covers a similar survey for 1992 which has been completed and which the new survey will update.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	11/00/97	
Final Action	12/00/97	
Final Action Effective	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: R. David Belli, Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, (BE-50), Washington, DC 20230
Phone: 202 606-9800
Fax: 202 606-5318
Email: david.belli@bea.doc.gov

RIN: 0691–AA29

577. ANNUAL SURVEY OF SELECTED SERVICES TRANSACTIONS WITH UNAFFILIATED FOREIGN PERSONS

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 3101 to 3108 Intl Investment & Trade in Svs Survey Act

CFR Citation: 15 CFR 801

Legal Deadline: None

Abstract: This is the annual survey of selected services transactions with unaffiliated foreign persons (BE-22), which will cover transactions beginning in 1997. It is conducted to obtain annual sample data on a variety of business and professional services, such as advertising; computer and data processing services; management, consulting, and public relations; legal services; and telecommunications. The data will be used to produce universe level estimates for 1997 and beyond based on data reported in the 1996 BE-20 benchmark survey of selected services. The data are needed to compile the balance of payments and national income and product accounts, and to support U.S. trade policy. Categories of services covered on the BE-22 survey may be modified to bring them into conformity with the 1996 BE-20 survey.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	11/00/97	
Final Action	12/00/97	
Final Action Effective	01/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: R. David Belli, Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, (BE-50), Washington, DC 20230
Phone: 202 606-9800
Fax: 202 606-5318
Email: david.belli@bea.doc.gov

RIN: 0691–AA30

578. • CHANGE IN REPORTING REQUIREMENTS FOR BE-13/BE-14, INITIAL REPORT ON A FOREIGN PERSON'S DIRECT OR INDIRECT ACQUISITION, ESTABLISHMENT, OR PURCHASE OF THE OPERATING ASSETS, OF A U.S

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 3101 to 3108 Intl Investment and Trade in Svs Survey Act

CFR Citation: 15 CFR 806

Legal Deadline: None

Abstract: This action will amend existing rule 15 CFR 806.15 to bring reporting on the BE-13, Initial Report on a Foreign Person's Direct or Indirect Acquisition, Establishment, or Purchase of the Operating Assets, of a U.S. Business Enterprise, Including Real Estate and BE-14, Report by a U.S. Person Who Assists or Intervenes in the Acquisition of a U.S. Business Enterprise by, or Who Enters Into a Joint Venture With, a Foreign Person, into conformity with the proposed BE-12, Benchmark Survey of Foreign Direct Investment in the United States - 1997. The proposed changes raise the exemption level for reporting to $3 million from $1 million and, on the BE-13, change the industry coding to the new North American Industry Coding System (NAICS).

DOC—BEA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	
Final Action	01/00/98	
Final Action Effective	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: R. David Belli, Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, Washington, DC 20230
Phone: 202 606-9800
Fax: 202 606-5318

RIN: 0691–AA31

579. • CHANGE IN REPORTING REQUIREMENTS FOR BE-15, ANNUAL SURVEY OF FOREIGN DIRECT INVESTMENT IN THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 3101 to 3108, Intl Investment & Trade in Svs Survey Act

CFR Citation: 15 CFR 806

Legal Deadline: None

Abstract: This action will amend existing rule 15 CFR 806.15 to bring reporting on the BE-15, Annual Survey of Foreign Direct Investment in the United States, into conformity with the proposed BE-12, Benchmark Survey of Foreign Direct Investment in the United States - 1997. The proposed changes will raise the threshold for reporting on the BE-15(LF) long form to $100 million from $50 million and on the BE-15(SF) short form to $30 million from $10 million.

Timetable:

Action	Date	FR Cite
NPRM	09/00/98	
NPRM Comment Period End	11/00/98	
Final Action	12/00/98	
Final Action Effective	01/00/99	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: R. David Belli, Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, (BE-50), Washington, DC 20230
Phone: 202 606-9800
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Email: david.belli@bea.doc.gov

RIN: 0691–AA32

580. • CHANGE IN REPORTING REQUIREMENTS FOR BE-605, TRANSACTIONS OF U.S. AFFILIATE, EXCEPT A U.S. BANKING AFFILIATE, WITH FOREIGN PARENT AND BE-606 BANK, TRANSACTIONS OF U.S. BANKING AFFILIATE

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 3101 to 3108, Intl Investment & Trade in Svs Survey Act

CFR Citation: 15 CFR 806

Legal Deadline: None

Abstract: This action will amend existing rule 15 CFR 806.15 to bring reporting on the BE-605, Transactions of U.S. Affiliate, Except a U.S. Banking Affiliate, with Foreign Parent and on the BE-606 Bank, Transactions of U.S. Banking Affiliate with Foreign Parent, into conformity with the proposed BE-12, Benchmark Survey of Foreign Direct Investment in the United States - 1997. The proposed changes raise the exemption level for reporting to $30 million from $20 million and request that detail by type of service on trade in services between U.S. affiliates and their foreign parents be reported once each year.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	
Final Action	01/00/98	
Final Action Effective	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: R. David Belli, Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, (BE-50), Washington, DC 20230
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RIN: 0691–AA33

DEPARTMENT OF COMMERCE (DOC)
Bureau of the Census (CENSUS)

Proposed Rule Stage

581. CHANGES TO THE FOREIGN TRADE STATISTICAL REGULATIONS (FTSR) TO CONFORM REQUIREMENTS AND WORDING TO THE U.S. CUSTOMS SERVICE REQUIREMENTS FOR THE AUTOMATED EXPORT SYSTEM (AES)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 13 USC 301 to 307

CFR Citation: 15 CFR 30.1; 15 CFR 30.3; 15 CFR 30.4; 15 CFR 30.5

Legal Deadline: None

Abstract: The Census Bureau proposes to amend the FTSR to conform requirements and language to agree with proposed changes in the U.S. Customs Service regulations implementing and supporting operation of the AES. The AES will provide the exporting community with a single automated system throughout which the exporting community can ultimately provide the trade information required by the U.S. Government.

Timetable:

Action	Date	FR Cite
NPRM	07/00/98	
NPRM Comment Period End	09/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: The title 13 U.S.C. legislation governing export statistical collection requires minor amendments to clarify U.S. Customs Service authority necessary to collect the required information via the AES. Draft legislation, sponsored by the Customs Service, is now at the Commerce Department for initial

review. This legislation must be enacted before 15 CFR can be amended.

Agency Contact: Bruce C. Walter, Assistant Division Chief, Foreign Trade Division, Department of Commerce, Bureau of the Census, FB3, Room 2104, Washington, DC 20233
Phone: 301 457-2210
Fax: 301 457-2645

RIN: 0607–AA19

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582. CHANGES TO THE FOREIGN TRADE STATISTICAL REGULATIONS (FTSR) TO CLARIFY THE DEFINITION OF EXPORTER

Priority: Substantive, Nonsignificant

Legal Authority: 13 USC 301 to 307

CFR Citation: 15 CFR 30.4; 15 CFR 30.7

Legal Deadline: None

Abstract: The Census Bureau proposes to amend the FTSR definition of exporter for purposes of clarifying responsibility to report trade information. The FTSR also will be amended to reinforce the requirement for filing a power of attorney when an agent acts for an exporter specifying the essential provisions to be included with additional requirements if the exporter does not have a permanent U.S. residence.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	02/00/98	
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bruce C. Walter, Assistant Division Chief, Foreign Trade Division, Department of Commerce, Bureau of the Census, FB3, Room 2104, Washington, DC 20233
Phone: 301 457-2210
Fax: 301 457-2645

RIN: 0607–AA20

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563. CHANGES TO THE FOREIGN TRADE STATISTICAL REGULATIONS (FTSR) REQUIRING A DESIGNATOR WHEN THE EXPORT SHIPMENT IS A FOREIGN MILITARY SALE

Priority: Substantive, Nonsignificant

Legal Authority: 13 USC 301 to 307

CFR Citation: 15 CFR subpart A, 30.7

Legal Deadline: None

Abstract: The Census Bureau proposes to amend the FTSR to require exporters or their designated agents to provide a foreign military sales indicator when merchandise is exported from the United States under the Department of Defense (DOD) Foreign Military Sales (FMS) Program. The indicator would be inserted in the area on the SED currently reserved for the Harmonized System Check Digit. This action is taken to assist the Bureau of Economic Analysis in collecting actual FMS value data. Currently this information is derived from crude estimates provided by DOD.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	11/00/97	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Bruce C. Walter, Assistant Division Chief, Foreign Trade Division, Department of Commerce, Bureau of the Census, FB3, Room 2104, Washington, DC 20233
Phone: 301 457-2210
Fax: 301 457-2645

RIN: 0607–AA22

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584. SPECIAL SERVICES AND STUDIES BY THE BUREAU OF THE CENSUS; GENERAL

Priority: Info./Admin./Other

Legal Authority: 15 USC 1526; 13 USC 8

CFR Citation: 15 CFR 50.1(d)

Legal Deadline: None

Abstract: Chapter 1, part 50.1(d) should be amended to read as follows: If a search is unsuccessful and additional information for a further search is requested by the Bureau, such information must be received within 90 days of the request or the case will be considered closed. Additional information received after 90 days must be accompanied by a new fee and will be considered a new request.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	
NPRM Comment Period End	02/00/98	
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stanley M. Domzalski, Assistant Division Chief (Services), Data Preparation Division, Department of Commerce, Bureau of the Census, 1201 East 10th Street, Jeffersonville, IN 47132
Phone: 812 218-3579
Fax: 812 218-3293

RIN: 0607–AA24

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585. FURNISHING PERSONAL CENSUS DATA FROM CENSUS OF POPULATION SCHEDULES; GENERAL REQUIREMENTS

Priority: Info./Admin./Other

Legal Authority: 13 USC 8

CFR Citation: 15 CFR 80.1(c)

Legal Deadline: None

Abstract: Chapter 1, part 80.1(c): Change the address from Pittsburg, Kansas 66762 to Jeffersonville, Indiana 47131.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	
NPRM Comment Period End	02/00/98	
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stanley M. Domzalski, Assistant Division Chief (Services), Data Preparation Division, Department of Commerce, Bureau of the Census, 1201 East 10th Street, Jeffersonville, IN 47132
Phone: 812 218-3579
Fax: 812 218-3293

RIN: 0607–AA25

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586. FURNISHING PERSONAL CENSUS DATA FROM CENSUS OF POPULATION SCHEDULES: GENERAL REQUIREMENTS

Priority: Info./Admin./Other

Legal Authority: 13 USC 8

CFR Citation: 15 CFR 80.1(g)

Legal Deadline: None

Abstract: Chapter 1, part 80.1(g): The language may be clarified by changing it to read: Census information will not be furnished to another person unless the person to whom the information relates authorizes such release in the space provided on the Form BC-600.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	
NPRM Comment Period End	03/00/98	
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stanley M. Domzalski, Assistant Division Chief (Services), Data Preparation Division, Department of Commerce, Bureau of the Census, 1201 East 10th Street, Jeffersonville, IN 47132
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RIN: 0607–AA26

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587. SPECIAL SERVICES AND STUDIES BY THE BUREAU OF THE CENSUS; FEE STRUCTURE FOR AGE SEARCH AND CITIZENSHIP INFORMATION

Priority: Info./Admin./Other

Legal Authority: 15 USC 1526; 13 USC 8

CFR Citation: 15 CFR 50.5

Legal Deadline: None

Abstract: Chapter 1, part 50.5: the note following the chart of the fee structure can be eliminated since we have not had a fee increase since February 1993.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	
NPRM Comment Period End	02/00/98	
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stanley M. Domzalski, Assistant Division Chief (Services), Data Preparation Division, Department of Commerce, Bureau of the Census, 1201 East 10th Street, Jeffersonville, IN 47132
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RIN: 0607–AA27

DEPARTMENT OF COMMERCE (DOC)
Bureau of the Census (CENSUS)

Final Rule Stage

588. CUTOFF DATES FOR RECOGNITION OF BOUNDARY CHANGES FOR THE 2000 DECENNIAL CENSUS OF POPULATION AND HOUSING

Priority: Info./Admin./Other

Legal Authority: 13 USC 4 and 6

CFR Citation: 15 CFR 70.1 to 70.3

Legal Deadline: None

Abstract: The Census Bureau will amend 15 CFR part 70 to reflect the cutoff dates for recognition of boundary changes for the 2000 Census of Population and Housing (Census 2000). For the tabulation and dissemination of data from the 2000 Census of Population and Housing, the Bureau of the Census will recognize only those boundaries legally in effect on January 1, 2000 that have been reported officially to the Bureau of the Census no later than March 1, 2000. The Bureau of the Census enumerates all residents of the United States and its territories on the date of the decennial census as residing within the legal limits of municipalities, county subdivisions, counties, states, and statistically equivalent entities as those limits exist on January 1, 2000.

Timetable:

Action	Date	FR Cite
Final Action	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joel L. Morrison, Chief, Geography Division, Department of Commerce, Bureau of the Census, SPC, Room 101, Washington, DC 20233
Phone: 301 457-1132
Fax: 301 457-4710

RIN: 0607–AA18

DEPARTMENT OF COMMERCE (DOC)
Bureau of the Census (CENSUS)

Completed Actions

589. CHANGES TO THE FOREIGN TRADE STATISTICAL REGULATIONS (FTSR) REQUIRING THE FILING OF SHIPPER'S EXPORT DECLARATIONS (SEDS) FOR COMPANY-OWNED TOOLS OF TRADE

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 30.56(b)(1)

Completed:

Reason	Date	FR Cite
Final Action	09/22/97	62 FR 49436
Final Action Effective	09/22/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bruce C. Walter
Phone: 301 457-2210
Fax: 301 457-2645

RIN: 0607–AA23

DEPARTMENT OF COMMERCE (DOC)
Economic Development Administration (EDA)

Final Rule Stage

590. GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE—EXCESS CAPACITY

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3211; 43 USC 3212

CFR Citation: 13 CFR 316

Legal Deadline: None

Abstract: EDA intends to clarify its rule regarding studies, reports, and exemptions necessary pursuant to its statutory requirement that financial assistance is not extended to any project when the result would be to increase the production of goods, materials, or commodities, or the availability of services or facilities in excess of the demand for such goods or services.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Sectors Affected: Multiple

Agency Contact: Edward M. Levin, Acting Chief Counsel, Department of Commerce, Economic Development Administration, 14th & Constitution Avenue NW., Washington, DC 20230
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Email: edwardlevin@occ@eda

RIN: 0610–AA55

DEPARTMENT OF COMMERCE (DOC)
Economic Development Administration (EDA)

Long-Term Actions

591. • REGULATIONS CONTINGENT ON THE ECONOMIC DEVELOPMENT PARTNERSHIP ACT OF 1997

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: Contingent on the Economic Development Partnership Act of 1997

CFR Citation: 13 CFR ch III

Legal Deadline: None

Abstract: These regulations are contingent on passage and signing into law of the Economic Development Partnership Act of 1997 (EDPA). EDPA and these regulations will: preserve the integrity and flexibility of EDA programs; eliminate obsolete provision of PWEDA; achieve programmatic consistency while recognizing current programs; serve EDA grantees and applicants with existing resources; enhance further the EDA focus on distress; expand EDA partnerships in economic development including cooperation amongst Federal agencies; and implement cost-saving provisions that will maximize the use of Federal dollars.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Sectors Affected: Multiple

Agency Contact: Edward M. Levin, Chief Counsel, Department of Commerce, Economic Development Administration, 14th Street and Constitution Avenue NW., Washington, DC 20230
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RIN: 0610–AA56

DEPARTMENT OF COMMERCE (DOC)
General Administration (ADMIN)

Final Rule Stage

592. UNIFORM ADMINISTRATIVE REQUIREMENT FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NONPROFITS AND COMMERCIAL ORGANIZATIONS

Priority: Other Significant

Legal Authority: 5 USC 301

CFR Citation: 15 CFR 14

Legal Deadline: None

Abstract: On November 29, 1993, Office of Management and Budget (OMB) Circular A-110, "Uniform Administrative Requirements for Grants and Agreements, with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations" was published in the Federal Register (58 FR 62992). In the published revised circular, OMB specified as "required action" that Federal agencies responsible for awarding and administering grants and other agreements to recipients described therein, shall adopt the language of the Circular unless other provisions are required by Federal Statute or exceptions or deviations are approved by OMB. This interim final rule adopts the provisions of the Circular and its language to the maximum extent feasible with minor language changes made to make the language apply specifically to the DOC and its operating units.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Phelan III, Director, Office of Executive Assistance Management, Department of Commerce, Office of Administration, 14th Street & Constitution Avenue NW., Washington, DC 20230
Phone: 202 482-4115

RIN: 0605–AA09

593. • ADMINISTRATIVE REQUIREMENTS FOR GRANTEES TO REFLECT SINGLE AUDIT ACT AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301

CFR Citation: 15 CFR 24

Legal Deadline: None

Abstract: The Department of Commerce is joining with other agencies in a common rule to adopt the Office of Management and Budget revised Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations" pursuant to the Single Audit Act of 1984, as amended.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/29/97	62 FR 45937
Interim Final Rule Effective	09/29/97	
Interim Final Rule Comment Period End	10/28/97	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: John J. Phelan III, Director, Office of Executive Assistance Management, Department of Commerce, Room 6020, 14th Street and Constitution Avenue NW., Washington, DC 20230
Phone: 202 482-4115

RIN: 0605–AA11

DOC—ADMIN

Final Rule Stage

DEPARTMENT OF COMMERCE (DOC)
International Trade Administration (ITA)

Final Rule Stage

594. ANTIDUMPING AND COUNTERVAILING DUTY PROCEEDINGS; ADMINISTRATIVE PROTECTIVE ORDER PROCEDURES AND PROCEDURES FOR IMPOSING SANCTIONS FOR VIOLATION OF A PROTECTIVE ORDER

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 19 USC 1677f

CFR Citation: 19 CFR 351; 19 CFR 354

Legal Deadline: None

Abstract: The Department needs to enhance the administrative efficiency of its investigations of alleged violations of administrative protective orders (APOs) and of the process for imposing sanctions for violations, as well as the fairness of the procedures to all concerned parties. In addition, the Department needs to simplify and streamline the APO administrative process and reduce the administrative burdens on the ITA and trade practitioners. The Department is considering a variety of amendments to its existing regulations to achieve these goals. With respect to APO violations and sanctions, the Department is considering (1) expedited procedures for certain APO violations that are uncontested, inadvertent, and technical; (2) providing for warnings to be issued where a finding of a violation would lead to unjustifiably harsh sanctions; (3) where warranted, permitting the agency to dismiss a charge without prejudice without the appointment or approval of an administrative law judge; (4) providing for a sunset provision that is fairer to past violators and that eases the administrative burden; and (5) permitting a private reprimand as a sanction without requiring as a precondition that parties engage in settlement discussions. The Department expects to benefit from gains in administrative efficiency and fairness without incurring any additional costs.

Timetable:

Action	Date	FR Cite
NPRM	02/08/96	61 FR 4826
NPRM Comment Period End	03/11/96	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joan MacKenzie, Senior Attorney, Department of Commerce, International Trade Administration, Room H4621, 14th Street & Constitution Avenue NW., Washington, DC 20230
Phone: 202 482-1310

RIN: 0625–AA43

595. ANTIDUMPING DUTIES; COUNTERVAILING DUTIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 1671 et seq; 19 USC 1673 et seq; 19 USC 1303

CFR Citation: 19 CFR 351; 19 CFR 353; 19 CFR 355

Legal Deadline: Other, Statutory, January 1, 1996.
Section 103(b) of the Uruguay Round Agreements Act establishes January 1, 1996, as the deadline for interim final regulations.

Abstract: Revisions of the antidumping and countervailing duty regulations are necessary due to enactment of legislation implementing the results of the Uruguay Round multilateral trade negotiations. Clarifying the methodologies and procedures used in administering the antidumping and countervailing duty laws will enhance the efficiency and fairness of these laws at little, if any, additional cost. Final antidumping regulations were issued on May 19, 1997. Proposed countervailing duty regulations were issued on February 26, 1997.

Timetable:

Action	Date	FR Cite
ANPRM	01/03/95	60 FR 80
ANPRM Comment Period End	02/24/95	
Interim Final Rule	05/11/95	60 FR 25130
Interim Final Rule Effective	05/11/95	
NPRM	02/27/96	61 FR 7308
NPRM Comment Period End	06/17/96	
NPRM for Countervailing Duty Regulations	02/26/97	62 FR 8818
Final Rule for Antidumping Regulations	05/19/97	62 FR 27296
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard N. Moreland, Director, Office of Antidumping Investigations, Department of Commerce, International Trade Administration, Room 3093, 14th Street & Constitution Avenue NW., Washington, DC 20230
Phone: 202 482-1768

RIN: 0625–AA45

DOC—ITA

Final Rule Stage

596. • TECHNICAL AMENDMENTS TO REGULATIONS OF THE FOREIGN TRADE ZONES BOARD

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 81a to 81u

CFR Citation: 15 CFR 400

Legal Deadline: None

Abstract: The Foreign Trade Zones Board plans to amend the regulations to conform with an amendment to the Foreign Trade Zones Act by section 910 of the National Defense Authorization Act of 1996, which removed the Secretary of the Army from membership on the Foreign Trade Zones Board, and recent revisions by the U.S. Customs Service to its organizational structure, which eliminated Regional Commissioner and District Director positions.

Timetable:

Action	Date	FR Cite
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. DaPonte, Jr., Executive Secretary, FTZ Board, Department of Commerce, International Trade Administration, Room 3716, Washington, DC 20230
Phone: 202 482-2862

RIN: 0625–AA49

DEPARTMENT OF COMMERCE (DOC)
International Trade Administration (ITA)

Completed Actions

597. PROPOSED CHANGE IN DEFINITION OF SCIENTIFIC INSTRUMENTS AND APPARATUS FOR FLORENCE AGREEMENT PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 15 CFR 301

Completed:

Reason	Date	FR Cite
Withdrawn - Seeking Statutory Authority	07/16/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Creel
Phone: 202 482-4216
Fax: 202 482-0949

RIN: 0625–AA47

DEPARTMENT OF COMMERCE (DOC)
Bureau of Export Administration (BXA)

Proposed Rule Stage

598. DEFENSE PRIORITIES AND ALLOCATIONS SYSTEM (DPAS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 50 USC app 2061 et seq; 50 USC app 468; EO 12656; EO 12742; EO 12919

CFR Citation: 15 CFR 700

Legal Deadline: None

Abstract: The Defense Priorities and Allocations System (DPAS) implements the priorities and allocations authority of title I of the Defense Production Act of 1950, as amended, and the priorities authority of section 18 of the Selective Service Act of 1948. The DPAS was published as a final rule on July 30, 1984. Based on the findings and recommendations of an interagency sponsored study concerning the controlled materials program, and comments from both defense agency and industry users, this proposed rule would amend the DPAS to remove the controlled materials provisions and make certain revisions to its procedural requirements. These amendments will have no costs associated with them, would reduce the regulatory and information reporting burden on industry and make the DPAS more effective and efficient, would result in cost savings for defense contractors, would update certain other provisions to conform to statutory and jurisdictional changes, and would make the DPAS more compatible with current industry practices.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: Richard V. Meyers, DPAS Program Manager, Department of Commerce, Bureau of Export Administration, Off of Strategic Industries Econ Security, National Security Preparedness Div., Room 3878, Washington, DC 20230
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RIN: 0694–AA02

599. IMPLEMENTATION OF CHEMICAL WEAPONS CONVENTION

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 12924; Notice of August 14, 1995 (61 FR 42527)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Bureau of Export Administration is developing regulations and procedures that specify industry obligations under the chemical weapons convention.

This rule will also set forth the acts which constitute a violation under the Chemical Weapons Convention and the penalties for violators.

DOC—BXA

Proposed Rule Stage

In addition, this rule will implement the provisions of the Chemical Weapons Convention that affect exports and reexports subject to the jurisdiction of the Commerce Department.

Timetable:

Action	Date	FR Cite
ANPRM	12/23/94	59 FR 66291
ANPRM Comment Period End	01/23/95	
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Crowe, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440
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RIN: 0694–AB06

DEPARTMENT OF COMMERCE (DOC)
Bureau of Export Administration (BXA)

Final Rule Stage

600. TRANSFER OF DUAL-USE ITEMS FROM U.S. MUNITIONS LIST TO THE COMMERCE CONTROL LIST

Priority: Other Significant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 74301(e); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 14, 1996 (61 FR 42527)

CFR Citation: 15 CFR 799.1

Legal Deadline: None

Abstract: The former COCOM Industrial List (IL) controls so-called dual-use items, which have both civil and military uses. There is not a direct correspondence between the IL and BXA's Commerce Control List (CCL) because some IL items are controlled by the State Department in the U.S. Munitions List. In his November 15, 1990, memorandum of disapproval of H.R. 4653, the President determined that, "By June 1, 1991, the United States will remove from the U.S. Munitions List all items contained on the COCOM dual-use list unless significant U.S. national security interests would be jeopardized." This rule will implement BXA controls through the CCL on those items removed from the U.S. Munitions List as a result of the President's decision.

Timetable:

Action	Date	FR Cite
Transfer of Communications Satellites	10/23/92	57 FR 48312
Navigation and Avionics	06/23/93	58 FR 34211
Final Rule: Transfer of Commercial Communication Satellites	09/08/93	58 FR 47322
Transfer of Items From the USMI to the CCL; Imposition of Certain Foreign Policy Controls	10/26/93	58 FR 57549
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James A. Lewis, Director, Office of Strategic Trade & Foreign Policy Controls, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-4196
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RIN: 0694–AA52

601. TRANSFER OF CERTAIN REMOTE SENSING SATELLITES FROM THE U.S. MUNITIONS LIST TO THE CCL

Priority: Other Significant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 14, 1996 (61 FR 42527)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: The former COCOM Industrial List (IL) controls dual-use items, which have both civil and military applications. At present, there is not a direct correspondence between the IL and the Commerce Control List (CCL) because some IL items are controlled by the State Department under the United States Munitions List (USML). In his November 15, 1990 memorandum disapproving H.R. 4653, former President Bush determined that "by June 1, 1991, the United States will remove from the U.S. Munitions List all items contained on the COCOM dual-use list unless significant U.S. national security interests would be jeopardized." This rule will implement Commerce controls on those items removed from the USML as a result of the President's 1990 decision. Remote sensing satellites are such an item, and this rule specifically provides for their transfer from the USML to the CCL.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/21/96	61 FR 54540
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James A. Lewis, Director, Office of Strategic Trade and Foreign Policy Control, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
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RIN: 0694–AB09

602. IMPLEMENTATION OF THE WASSENAAR ARRANGEMENT LIST OF DUAL-USE ITEMS: REVISIONS TO THE COMMERCE CONTROL LIST AND REPORTING UNDER THE WASSENAAR ARRANGEMENT

Priority: Other Significant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 14, 1996 (61 FR 42527)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

DOC—BXA

Final Rule Stage

Abstract: The United States and 27 allied countries are implementing a new regime to succeed the Coordinating Committee for Multilateral Export Controls (COCOM) which dissolved on March 31, 1994. The new organization, called the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, is expected to implement controls in April 1996. New lists of goods to be controlled have been agreed by the members, who will each have to amend their existing national procedures to harmonize them with the Wassenaar Arrangement. Commerce will need to make extensive changes in the Commerce Control List when the Wassenaar Arrangement dual-use control list becomes effective.

In addition, procedural guidelines and provisions for sharing information between members will have to be harmonized in members' national regulations. Commerce will need to amend the Export Administration Regulations to reflect the Wassenaar guidelines and information-sharing provision agreed on by the members.

Timetable:

Action	Date	FR Cite
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

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RIN: 0694–AB35

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603. CHANGE THE COMMERCE CONTROL LIST TO REVISE CONTROLS ON COMMUNICATION INTERCEPTING DEVICES (EXPORT COMMERCE CONTROL NUMBER ECCN 5A980)

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 14, 1996 (61 FR 42527)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: Individual validated licenses are required for the export of all communication intercept devices to all destinations (including Canada). The Export Administration Regulations specify that such exports will only be issued to: (1) a provider of wire or electronic communication service or an officer, agent or employee of or person under contract with such a provider in the normal course of the business of providing that wire or electronic communication service; or (2) officers, agents, or employees of, or person under contract with the United States, one of the 50 States, or a political subdivision thereof, when engaged in the normal course of government activities. Commerce will need to make changes to the Commerce Control List and the Export Administration Regulations to clarify the requirements for issuing export licenses.

Timetable:

Action	Date	FR Cite
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

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RIN: 0694–AB41

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604. LICENSING OF, AND EXPANSION OF NATIONAL SECURITY AND FOREIGN POLICY CONTROLS ON, RECOVERABLE ENCRYPTION SOFTWARE

Priority: Other Significant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 14, 1996 (61 FR 42527)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: This rule will amend the Export Administration Regulations by imposing enhanced national security and foreign policy controls on certain recoverable encryption to supplement the national security controls on those items. This rule will also amend the FAR to exclude recoverable encryption software from the de minimis provisions for exports from abroad of foreign-origin software incorporating U.S.-origin software. In addition, this rule amends the Commerce Control List by adding ECCNs to control recoverable encryption software transferred from the U.S. Munitions List.

The December 13, 1996, and December 30, 1996, rules were inadvertently published with the RIN (regulatory identifier number) 0648-AB09.

Timetable:

Action	Date	FR Cite
Licensing of Key Escrow Encryption Equipment and Software	12/13/96	61 FR 65460
Encryption Items Transferred From the USMC to the CCC	12/30/96	61 FR 68572
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Crowe, Export Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB47

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605. CLARIFICATION OF LICENSE EXCEPTION GFT (HUMANITARIAN DONATIONS)

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 14, 1996 (61 FR 42527)

CFR Citation: 15 CFR 740

Legal Deadline: None

Abstract: This rule amends the Export Administration Regulations by clarifying the terms and conditions of applying to the shipment of humanitarian donations under license exception GFT. This rule provides guidance on the types of donors, end-users, and items that are eligible for this license exception.

Timetable:

Action	Date	FR Cite
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hillary Hess, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB49

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606. REVISIONS TO EAR AS A RESULT OF THE ADDITION OF BRAZIL AND UKRAINE TO THE NUCLEAR SUPPLIERS GROUP

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2570 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 24091 et seq; 46 USC 466 9e 0; EO 12924; Notice of August 14, 1996 (61 FR 42527)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: As a result of Brazil and Ukraine being admitted to the Nuclear Suppliers Group (NSG), this rule adds Brazil and Ukraine to Supplement Number 1 to part 740-, Country Group A, Column A:4 (Nuclear Suppliers) and removes Brazil and Ukraine from the Commerce Country Chart, NP Column 1 (Nuclear Nonproliferation). The subscribing governments have agreed to establish export licensing procedures for the transfer of items identified on the Annex to the "Nuclear-Related Dual-Use Equipment, Materials, and Related Technology List," which is published by the International Atomic Energy Agency and adhered to by the United States and other subscribing governments in the Nuclear Suppliers Group.

This action will lessen the administrative burden on U.S. Exporters by decreasing licensing requirements for exports of items controlled for nuclear nonproliferation reasons to Brazil and Ukraine.

Timetable:

Action	Date	FR Cite
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
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RIN: 0694–AB50

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607. REVISIONS TO COMMERCE CONTROL LIST: ADDITION OF TECHNOLOGY AND SOFTWARE CONTROLS FOR CERTAIN CRIME CONTROL COMMODITIES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2570 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 14, 1996 (61 FR 42527)

CFR Citation: 14 CFR 799

Legal Deadline: None

Abstract: The Bureau of Export Administration is amending the Commerce Control List (CCL) of the Export Administration Regulations (15 CFR parts 730 to 774) to add technology and software controls for certain crime control commodities.

Timetable:

Action	Date	FR Cite
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB53

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608. REVISIONS AND CLARIFICATIONS TO THE EXPORT ADMINISTRATION REGULATIONS; COMMERCE CONTROL LIST

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 11912; EO 12924; Notice of August 14, 1996 (61 FR 425527)R

CFR Citation: 15 CFR 774

Legal Deadline: None

Abstract: The Bureau of Export Administration (BXA) published an interim final rule on March 25, 1996 (61 FR 12714) that restructured and reorganized the Export Administration Regulations (EAR). The interim final rule clarified the language of the EAR and simplified the application and made the export control regulatory regime more user-friendly. BXA now plans to amend the Commerce Control List of the EAR by making certain revisions and clarifications, and in some cases, inserting material inadvertently omitted from the March 25 interim final rule.

Timetable:

Action	Date	FR Cite
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Muldonian, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB55

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609. • EXPORTS OF TECHNOLOGY AND SOFTWARE; RELEASE OF TECHNOLOGY OR SOURCE CODE TO FOREIGN NATIONALS IN THE UNITED STATES

Priority: Other Significant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 10 USC 7429; 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 11912; EO 12924; Notice of August 14, 1996 (61 FR 42527)

CFR Citation: 15 CFR 730 to 799

Legal Deadline: None

Abstract: This rule will modify the Department of Commerce's current "deemed export" rule covering foreign nationals working on controlled U.S. high technology or source code in the United States or abroad.

DOC—BXA

Final Rule Stage

DOC—BXA

Final Rule Stage

Timetable:

Action	Date	FR Cite
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hillary Hess, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB59

610. • OSCILLOSCOPES: ECCNS 3A202 AND 3E201

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 10 USC 7429; 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 11912; EO 12924; Notice of August 14, 1996 (61 FR 42527)

CFR Citation: 15 CFR 730 to 799

Legal Deadline: None

Abstract: This rule revises the nuclear reason for control for oscilloscopes (including certain transient recorders) from NP column 1 to NP column 2. In addition, revisions are made to NP column 2 of the Commerce Country Chart and Country Column D:2, to reflect that Algeria, Andorra, Angola, Comoros, Djibouti, Micronesia, Oman, United Arab Emirates, and Vanuatu have signed the Nuclear Nonproliferation Treaty. This revision will substantially reduce the paperwork burden on the public by decreasing the number of license applications exporters and reexporters are required to submit for oscilloscopes.

Timetable:

Action	Date	FR Cite
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB61

611. • DE MINIMIS EXCLUSION FOR TECHNOLOGY AND SOFTWARE

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 10 USC 7429; 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 50 USC app 2401 et seq; 46 USC 466(c); 43 USC 1354; EO 11912; EO 12924; Notice of August 14, 1996 (61 FR 42527)

CFR Citation: 15 CFR 730 to 799

Legal Deadline: None

Abstract: This interim rule will amend the Export Administration Regulations by revising the one-time reporting requirement for reliance on calculation for the "de minimis" exclusion for software and technology. This rule will make the report voluntary.

Timetable:

Action	Date	FR Cite
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Crowe, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB62

612. • REVISIONS TO ANTITERRORISM CONTROLS

Priority: Other Significant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 14, 1996 (61 FR 42527)

CFR Citation: 15 CFR 730 to 799

Legal Deadline: None

Abstract: This rule will revise the antiterrorism provisions of the Export Administration Regulations (EAR). The rule will be published in two parts. The first part makes export or reexport to entities named on the Office of Foreign Assets Control's list of Specially Designated Terrorists a violation of the EAR, and it is not significant. The second part of the rule, which is significant, prohibits exports of parts or components for the service or repair of civil aircraft owned or controlled by the military of a terrorist-supporting country and expands the list of items controlled for antiterrorism reasons on the Commerce Control List.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hillary Hess, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB63

613. • REVISIONS TO THE EXPORT ADMINISTRATION REGULATIONS: DUTY TO INQUIRE

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 14, 1996 (61 FR 42527)

CFR Citation: 15 CFR 730 to 799

Legal Deadline: None

Abstract: The Department of Commerce maintains export controls to limit the proliferation of chemical or biological weapons, nuclear weapons, or explosive devices, and missile systems. The Export Administration Regulations (EAR) provide that the Bureau of Export Administration may inform exporters, individually or through amendment to the EAR, that a license is required for exports or reexports to certain end-users when there exists an unacceptable risk of use in or diversion to certain nuclear missile or chemical or biological weapons end-uses. This rule amends the EAR to provide a duty to inquire of any party on the Entity List that is also a party to your export or reexport transaction regarding the end-use of items not specified in the Entity List.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

DOC—BXA

Final Rule Stage

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB64

DEPARTMENT OF COMMERCE (DOC)
Bureau of Export Administration (BXA)

Long-Term Actions

614. REVISION OF FOREIGN BOYCOTT PROVISIONS OF EXPORT ADMINISTRATION REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 769

Timetable:

Action	Date	FR Cite
NPRM	09/26/89	54 FR 39415
NPRM Comment Period End	10/26/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dexter Price
Phone: 202 482-5775

RIN: 0694–AA11

615. CLARIFICATION OF ENHANCED PROLIFERATION CONTROL INITIATIVE (EPCI) "CATCH-ALL" PROVISION AND VALIDATED LICENSE REQUIREMENTS

Priority: Other Significant

CFR Citation: 15 CFR 700 to 799

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hillary Hess
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB10

616. ADMINISTRATION OF STATE LOG EXPORTS BAN

Priority: Other Significant

CFR Citation: 15 CFR 700 to 799

Timetable:

Action	Date	FR Cite
ANPRM	06/07/95	60 FR 30030
ANPRM Comment Period End	07/07/95	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Bernard Kritzer
Phone: 202 482-0694
Fax: 202 482-0751

RIN: 0694–AB25

617. LIBYA: EXPANSION OF FOREIGN POLICY CONTROLS

Priority: Other Significant

CFR Citation: 15 CFR 700 to 799

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharron Cook
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB28

618. • REVISIONS TO THE EXPORT ADMINISTRATION REGULATIONS; ADDITIONS TO THE ENTITY LIST

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 10 USC 7429; 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 11912; EO 12924; Notice of August 14, 1996 (61 FR 42527)

CFR Citation: 15 CFR 744

Legal Deadline: None

Abstract: The Export Administration Regulations (EAR) provide that the Bureau of Export Administration may inform exporters, individually or through amendment to the EAR, that a license is required for exports or reexports to certain entities. The EAR contains a list of such entities. This rule adds entities to the Entity List, and requires a license for all exports and reexports of all items subject to the EAR.

Timetable:

Action	Date	FR Cite
Addition to Entity List	05/16/97	62 FR 26922
Addition to Entity List	06/30/97	62 FR 35334
Addition to Entity List	06/30/97	62 FR 35335
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB60

DEPARTMENT OF COMMERCE (DOC)
Bureau of Export Administration (BXA)

Completed Actions

619. REVISIONS TO THE EAR: ESTABLISHMENT OF A STANDARD SAVING CLAUSE

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 700 to 799

Completed:

Reason	Date	FR Cite
Withdrawn	06/30/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharron Cook
Phone: 202 482-3355

RIN: 0694–AB15

620. REVISIONS TO LICENSING POLICY FOR NORTH KOREA

Priority: Other Significant

CFR Citation: 15 CFR 700 to 799

Completed:

Reason	Date	FR Cite
Withdrawn	07/21/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Crowe
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB19

621. CHEMICAL WEAPONS CONVENTION IMPLEMENTING REGULATIONS (ENFORCEMENT)

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Combined With Proposed Rule - RIN 0694-AB06	07/07/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William H. Arvin
Phone: 202 482-1564
Fax: 202 482-4173
Email: warvin@bxa.doc.gov

RIN: 0694–AB39

622. CHANGES TO THE EXPORT ADMINISTRATIVE REGULATIONS TO IMPLEMENT THE GUIDELINES AND INFORMATION SHARING PROVISIONS OF THE WASSENAAR ARRANGEMENT ON EXPORT CONTROLS FOR CONVENTIONAL ARMS AND DUAL-USE

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 700 to 799

Completed:

Reason	Date	FR Cite
Combined With RIN 0694-AB35	06/30/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James A. Lewis
Phone: 202 482-4196
Fax: 202 482-4094

RIN: 0694–AB40

623. EXPORT REGULATION FOR CERTAIN EXPORTS OF BUSINESS EQUIPMENT FOR SUPPORT TO THE CUBAN PEOPLE

Priority: Other Significant

CFR Citation: 15 CFR 700 to 799

Completed:

Reason	Date	FR Cite
Final Action	03/03/97	62 FR 9364
Final Action Effective	03/03/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James A. Lewis
Phone: 202 482-4196
Fax: 202 482-4094
Email: jlewis@bxa.doc.gov

RIN: 0694–AB43

624. REVISIONS AND CLARIFICATIONS TO THE EXPORT ADMINISTRATION REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 730 to 799

Completed:

Reason	Date	FR Cite
Final Action	05/09/97	62 FR 25451
Final Action Effective	05/09/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Muldonian
Phone: 202 482-2440
Fax: 202 482-3355

RIN: 0694–AB56

DEPARTMENT OF COMMERCE (DOC)
National Institute of Standards & Technology (NIST)

Proposed Rule Stage

625. • PROCEDURES FOR IMPLEMENTATION OF FASTENER QUALITY ACT

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-592; PL 104-113

CFR Citation: 15 CFR 280

Legal Deadline: None

Abstract: The National Institute of Standards and Technology and the Bureau of Export Administration plan to amend the Fastener Quality Act regulations to allow accreditation of in-process inspection activities of qualifying statistical process control manufacturing facilities, address the issue of passing laboratory inspection and testing reports along the supply chain to the fastener manufacturer, address the issue of significant alteration by removal of manufacturer or grade identification markings for decorative purposes at the customer's request, address the issue of grandfathering fasteners, and revise definitions and related sections for clarity and to correct editorial errors.

Timetable:

Action	Date	FR Cite
NPRM	09/08/97	62 FR 47240
NPRM Comment Period End	11/07/97	
Final Action	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Subhas Malghan, FQA Program Manager, Department of Commerce, National Institute of Standards & Technology, Room 311 Tech Building 820, Gaithersburg, MD 20899
Phone: 301 975-4510

RIN: 0693–AB43

DOC—NIST

Proposed Rule Stage

626. • AMENDMENTS TO THE ADVANCED TECHNOLOGY PROGRAM REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 272

CFR Citation: 15 CFR 295

Legal Deadline: None

Abstract: Pursuant to a Department study and issuance of a 30-day notice requesting comment on ways to improve the operation of the Advanced Technology Program, the National Institute of Standards and Technology plans to amend the Advanced Technology Program regulations to improve the effectiveness of the program. These amendments will strengthen the fundamental mission of the program: for Government to work in partnership with industry to foster the development and broad dissemination of challenging high-risk technologies that offer the potential for significant, broad-based economic benefits for the Nation. The amendments will ensure that the fundamental strengths of the program remain unchanged, especially the requirement that the program continue to be a wholly merit-driven program based on peer review.

Timetable:

Action	Date	FR Cite
NPRM	09/17/97	62 FR 48802
NPRM Comment Period End	10/17/97	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Rubin, Deputy Chief Counsel, Department of Commerce, National Institute of Standards & Technology, Room 811 Admin Building, Gaithersburg, MD 20899
Phone: 301 975-2803

RIN: 0693–AB44

DEPARTMENT OF COMMERCE (DOC)
National Oceanic and Atmospheric Administration (NOAA)

Prerule Stage

NATIONAL MARINE FISHERIES SERVICE

627. • ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FISHERIES

Priority: Info./Admin./Other

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: Advance notice of proposed rulemaking to announce that anyone entering the Atlantic Mackerel Fishery after the control date will not be assured of future access, should a management regime that limits the number of participants in the Fishery be developed.

Timetable:

Action	Date	FR Cite
ANPRM	09/12/97	62 FR 48047
ANPRM Comment Period End	10/14/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Andrew A. Rosenberg, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9200

RIN: 0648–AK37

628. • OPTIONS FOR 1997 RULEMAKING FOR BANNING THE SALE OF UNDERSIZED ATLANTIC SWORDFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 971 et seq

CFR Citation: 50 CFR 630

Legal Deadline: None

Abstract: A recommendation was adopted by ICCAT member nations that would reduce fishing mortality on swordfish in the entire Atlantic Ocean. The ICCAT alternate minimum size recommendation called for a ban on the sale of fish less than the minimum size. By implementing the minimum size on U.S. vessels operating in the Atlantic, the ban on sale has been effectively applied to U.S. production of Atlantic swordfish. However, the United States is a major market for imported swordfish and there is evidence that Atlantic swordfish less than the minimum size are entering U.S. markets. NMFS solicits comments on the possible implementation strategy of this ban on sale of swordfish less than the minimum size.

Timetable:

Action	Date	FR Cite
ANPRM	09/09/97	62 FR 47416
ANPRM Comment Period End	10/06/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jill Stevenson, Sea Grant Fellow, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East West Highway, Silver Spring, MD 20910
Phone: 301 713-2347
Fax: 301 713-1917

RIN: 0648–AK39

DEPARTMENT OF COMMERCE (DOC)
National Oceanic and Atmospheric Administration (NOAA)

Proposed Rule Stage

NATIONAL MARINE FISHERIES SERVICE

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629. AMENDMENT 10 TO THE FISHERY MANAGEMENT PLAN FOR THE ATLANTIC SURF CLAM AND OCEAN QUAHOG FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This amendment would manage the fishery for mahogany clams (ocean quahogs) off a portion of the coast of Maine, in the EEZ.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	01/00/98	
Final Action	02/00/98	
Final Action Effective	03/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Andrew A. Rosenberg, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9200

RIN: 0648–AF41

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630. AMENDMENT 8 TO THE FISHERY MANAGEMENT PLAN FOR THE SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: NPRM, Statutory. Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 8 would limit future participation in the snapper grouper fishery based on a vessel's landings during the 1993-1996 period. Initial eligibility for participation in the snapper grouper fishery would be limited to owners of boats/vessels that: (1) can demonstrate any landings of species in the snapper grouper management unit in 1993, 1994, 1995, or 1996 (as of 8/20/96) and (2) had a valid snapper grouper permit between 2/11/96 and 2/11/97. Vessels landing at least 1,000 pounds of species in the snapper grouper management unit in any of these years would receive a transferable permit. All other vessels would receive a non-transferable permit and are limited to a 225-pound trip limit. In addition, fishermen will be allowed to use one bait net up to 50 feet long by 10 feet high with a stretched mesh of 1.5" or smaller. A vessel will be allowed one bait net and may use cast nets for catching bait. Vessels will be allowed to possess species within the snapper-grouper management unit (whether whole or fillets) caught in Bahamian waters in accordance with Bahamian law provided the vessel is in transit from the Bahamas and valid Bahamian fishing and cruising permits are onboard.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	11/00/97	
Final Action	12/00/97	
Final Action Effective	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AG27

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631. GENERAL PROVISIONS FOR DOMESTIC FISHERIES—STANDARD DEFINITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 600

Legal Deadline: None

Abstract: This action would standardize definitions for: vessels-for-hire engaged in recreational fishing (VHERF), charter boat, headboat; and marine recreational and commercial fishing and fishermen.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	11/00/97	
Final Action	12/00/97	
Final Action Effective	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard H. Schaefer, Chief, Staff Office for Intergovernmental and Recreational Fisheries Affairs, Department of Commerce, National Oceanic and Atmospheric Administration, 8484 Georgia Avenue Suite 425, Silver Spring, MD 20910
Phone: 301 427-2014
Fax: 301 427-2313
Department of Commerce, National Oceanic and Atmospheric Administration
Phone: 301 713-2339

RIN: 0648–AG46

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632. REGULATORY AMENDMENT TO IMPOSE RESTRICTIONS ON FISHING BLACK ROCKFISH OFF OREGON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory action would impose trip limits and time/area closures on black rockfish fishing off the coast of Oregon in order to preserve declining stocks of black rockfish. Restrictions on harvest and areas fished would adversely affect fishermen in the short term, but these measures are designed to protect black rockfish and encourage the rebuilding of stocks in the long term. These measures will be developed by the State of Oregon and complement measures in state waters.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	
NPRM Comment Period End	05/00/98	
Final Action	07/00/98	
Final Action Effective	08/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

DOC—NOAA

Proposed Rule Stage

Agency Contact: William Stelle, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-0070
Phone: 206 526-6150

RIN: 0648–AG81

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633. REGULATORY AMENDMENT FOR MANAGING PELAGIC FISHERIES BY U.S. VESSELS BEYOND EEZ THROUGHOUT PACIFIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory amendment would extend permit, reporting, and observer placement requirements on longline vessels of the U.S. that are fishing stocks in the management unit for the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region beyond the exclusive economic zone in the Pacific Ocean. The rule is necessary for comprehensive monitoring of all vessels fishing common stocks and possibly affecting the status of the shared stocks, other fishery interests, or protected resources so that the need for conservation and management measures can be determined.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	
NPRM Comment Period End	04/00/98	
Final Action	06/00/98	
Final Action Effective	08/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. William T. Hogarth, Acting Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90804-4213
Phone: 562 980-4001

RIN: 0648–AG85

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634. AMENDMENT 3 TO THE FISHERY MANAGEMENT PLAN FOR THE REEF FISH FISHERY OF PUERTO RICO AND THE U.S. VIRGIN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of the end of the comment period.

Abstract: Amendment 3 would: Revise the overfishing definition for red hind to ensure better conservation of this highly utilized resource and restrict the use of gillnets in the exclusive economic zone of the Caribbean.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	01/00/98	
Final Action	02/00/98	
Final Action Effective	03/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AG87

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635. AMENDMENT 1 TO THE FISHERY MANAGEMENT PLAN FOR CORALS AND REEF-ASSOCIATED PLANTS AND INVERTEBRATES FOR PUERTO RICO AND THE U.S. VIRGIN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of the end of the comment period.

Abstract: Amendment 1 would establish marine conservation districts to conserve representative reef areas and fishery habitat in the exclusive economic zone of the Caribbean.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Action	Date	FR Cite
NPRM Comment Period End	12/00/97	
Final Action	01/00/98	
Final Action Effective	02/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AG88

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636. REGULATORY AMENDMENT TO FACILITATE MONITORING AND ENFORCEMENT IN THE PACIFIC COAST GROUNDFISH FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action would implement new regulatory provisions and modify existing regulatory provisions to facilitate monitoring of fishing activities and enforcement in the Pacific Coast groundfish fishery. This includes requiring that all groundfish species caught be sorted and copies of fish tickets be kept on board the vessel.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
NPRM Comment Period End	12/00/97	
Final Action	03/00/98	
Final Action Effective	04/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Stelle, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-0070
Phone: 206 526-6150

RIN: 0648–AH21

637. AMENDMENT 7 TO THE FISHERY MANAGEMENT PLAN FOR AMERICAN LOBSTER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 649

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This amendment is designed to address overfishing of American lobster in four different effort management areas for this species. Measures may include effort control provisions such as trip limit-sea allocations or gear restrictions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	01/00/98	
Final Action	03/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Andrew A. Rosenberg, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930 Phone: 508 281-9200

RIN: 0648–AH41

638. AMENDMENT 1 TO THE FISHERY MANAGEMENT PLAN FOR ATLANTIC BLUEFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This amendment would revise the management of the fishery and include measures which will be specified annually for commercial quotas and recreational possession limits for Atlantic Bluefish in the U.S. EEZ.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	01/00/98	
Final Action	02/00/98	
Final Action Effective	03/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Andrew A. Rosenberg, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930 Phone: 508 281-9200

RIN: 0648–AH63

639. FMP AMENDMENT 36 FOR THE GROUNDFISH FISHERY OF THE BSAI AND FMP AMENDMENT 39 FOR THE GROUNDFISH OF THE GOA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: NPRM, Statutory. Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: These amendments would define a forage fish species category in both FMPs and implement the following forage fish management measures: (1) Directed fishing for forage fish would be prohibited at all times, (2) a maximum retainable bycatch (MRB) percentage of 2 percent would be established for forage fish, and (3) the sale, barter, trade and any other commercial exchange, as well as the processing of forage fish in a commercial processing facility, would be prohibited, except for fishmeal which could be processed and sold within the 2 percent MRB. The intended effect of this action is to prevent the development of an unrestricted fishery for forage fish which are a critical food source for many marine mammal, seabird and fish species.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	11/00/97	
Final Action	12/00/97	
Final Action Effective	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802 Phone: 907 586-7228

RIN: 0648–AH67

640. REGULATORY AMENDMENT REQUIRING LONGLINE VESSEL OPERATORS IN THE WESTERN PACIFIC PELAGIC FISHERIES TO CARRY OBSERVERS AT NO COST TO U.S. GOVERNMENT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: The current NMFS-funded longline fishery observer program would be replaced by an industry-funded program. NMFS would certify third-party providers of observer services, and vessel owners would contract with these third parties for observer services when advised that an observer must be carried by the vessel. An Observer Plan prepared by NMFS would establish the roles and relationships of NMFS, observer providers, and vessel owners.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	02/00/98	
Final Action	04/00/98	
Final Action Effective	06/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Agency Contact: Dr. William T. Hogarth, Acting Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213 Phone: 562 980-4001

RIN: 0648–AI31

641. REGULATORY AMENDMENT TO ADJUST THE ANNUAL TOTAL ALLOWABLE CATCH FOR ROYAL RED SHRIMP IN THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory amendment, prepared under the framework rulemaking procedure of the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP), would amend the regulations implementing the FMP to temporarily increase the total allowable catch (TAC) for royal red shrimp by 30 percent each year for two years, thereby increasing TAC from 392,000 pounds to 509,600 pounds.

Timetable:

Action	Date	FR Cite
NPRM	05/00/98	
NPRM Comment Period End	06/00/98	
Final Action	07/00/98	
Final Action Effective	08/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432 Phone: 813 570-5301

RIN: 0648–AI39

642. AMENDMENT TO THE OBSERVER PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendments to FMP Amendment 47 to the Groundfish of the BSAI and FMP Amendment 47 to the Gulf of Alaska Groundfish to implement an observer program, replacing the interim Observer Program.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	
NPRM Comment Period End	05/00/98	
Final Action	06/00/98	
Final Action Effective	07/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802 Phone: 907 586-7228

RIN: 0648–AI69

643. FISHERY MANAGEMENT PLAN FOR THE ATLANTIC HERRING FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 600

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This fishery management plan would supersede the preliminary management plan and regulate fishing activity in the EEZ.

Timetable:

Action	Date	FR Cite
NPRM	05/00/98	
NPRM Comment Period End	07/00/98	
Final Action	09/00/98	
Final Action Effective	10/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Dr. Andrew A. Rosenberg, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930 Phone: 508 281-9200

RIN: 0648–AI78

644. REGULATORY AMENDMENT TO REVISE THE PRODUCT RECOVERY RATE REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Regulatory amendment to implement new product codes for certain species for conversion of product weight to round weight for groundfish fisheries off of Alaska.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	11/00/97	
Final Action	12/00/97	
Final Action Effective	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802 Phone: 907 586-7228

RIN: 0648–AI87

645. PROPOSED RULE TO IMPLEMENT VESSEL IDENTIFICATION AND REPORTING REQUIREMENTS UNDER THE HIGH SEAS FISHING COMPLIANCE ACT OF 1995

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 5501

CFR Citation: 50 CFR 300

Legal Deadline: None

Abstract: This action will implement vessel identification and reporting requirements for U.S. vessels licensed to fish on the high seas.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary Matlock, Director, Office of Sustainable Fisheries, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, Md. 20910 Phone: 301 713-2334 Fax: 301 713-0596

RIN: 0648–AI99

DOC—NOAA

Proposed Rule Stage

646. FISHERY DATA REPORTING FOR WESTERN PACIFIC PELAGIC FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action will ensure collection and availability of data on catch, effort, and economic values needed to develop, implement, evaluate, and modify pelagic fisheries management measures under the Magnuson-Stevens Fishery Conservation and Management Act. The regulations will require fishery participants to report to NMFS if existing state data systems are not providing data when, where, and in the format needed for management decisions.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	
NPRM Comment Period End	03/00/98	
Final Action	05/00/98	
Final Action Effective	06/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth, Acting Regional Administrator, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 501 W. Ocean Boulevard, Suite 4200, Long Beach, CA 90802
Phone: 562 980-4001

RIN: 0648–AJ08

647. REGULATORY AMENDMENT TO ESTABLISH TOTAL ALLOWABLE CATCH LIMITS FOR THE ATLANTIC AND GULF OF MEXICO GROUPS OF KING AND SPANISH MACKEREL FOR THE 1997-98 FISHING YEAR

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: NPRM, Statutory. Final, Statutory.
Final regulations to be published within 30 days of end ofNPRM comment period.

Abstract: This regulatory amendment, prepared under the framework rulemaking procedure of the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP), would amend the regulations implementing the FMP to establish the total allowable catch limits and associated measures (e.g., trip and bag limits) for Atlantic and Gulf groups of king and Spanish mackerel for the 1997-98 fishing year.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	11/00/97	
Final Action	12/00/97	
Final Action Effective	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone; 813 570-5301

RIN: 0648–AJ12

648. AMENDMENT 15 TO THE FISHERY MANAGEMENT PLAN FOR THE REEF FISH RESOURCES OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: NPRM, Statutory. Final, Statutory.
Final regulations to be published within 30 days of end ofNPRM comment period.

Abstract: Amendment 15 proposes a comprehensive limited access system for the commercial red snapper fishery in the Gulf of Mexico to begin with the 1996 season.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	11/00/97	
Final Action	12/00/97	
Final Action Effective	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AJ14

649. AMENDMENT 11 TO THE FISHERY MANAGEMENT PLAN FOR THE REEF FISH RESOURCES OF THE GULF OF MEXICO - RESUBMITTED MEASURE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: NPRM, Statutory. Final, Statutory.
Final regulations to be published within 30 days of end ofNPRM comment period.

Abstract: The Gulf of Mexico Fishery Management Council will revise a measure of Amendment 11 previously disapproved by the National Marine Fisheries Service. The revised and resubmitted measure would change the definition for optimum yield for each management species.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
NPRM Comment Period End	12/00/97	
Final Action	01/00/98	
Final Action Effective	02/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This action was part of RIN 0648-AG29. It was split from this RIN and assigned a new RIN to better allow display of the full information required for each separate regulatory action.

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AJ16

DOC—NOAA

Proposed Rule Stage

650. REGULATORY AMENDMENT TO RESTRICT PACIFIC GROUNDFISH LIMITED ENTRY PERMIT TRANSFERS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory amendment would impose restrictions on transferring limited entry permits in the Pacific Coast groundfish fishery.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	11/00/97	
Final Action	12/00/97	
Final Action Effective	01/00/98	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Stelle, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700 Bldg. 1, Seattle, WA 98115-0070
Phone: 206 526-6150

RIN: 0648–AJ20

651. REGULATORY AMENDMENT TO EXTEND CALIFORNIA GILLNET REGULATIONS TO THE EEZ

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Potential extension to Federal waters of California regulations closing certain areas to use of set (gill) nets.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	11/00/97	
Final Action	12/00/97	
Final Action Effective	01/00/98	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: William Stelle, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN, C15700 Bldg. 1, Seattle, WA 48115-0070
Phone: 206 526-6150

RIN: 0648–AJ21

652. AMENDMENT 10 TO THE PACIFIC COAST GROUNDFISH FMP REGARDING SALMON BYCATCH IN GROUNDFISH TRAWL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Regulations implementing Amendment 10 to the Pacific Coast Groundfish FMP would require retention, landing, and reporting of salmon caught in whiting and other groundfish trawl fisheries.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	
NPRM Comment Period End	02/00/98	
Final Action	04/00/98	
Final Action Effective	05/00/98	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Stelle, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-070
Phone: 206 526-6150

RIN: 0648–AJ22

653. AMENDMENT 7 TO THE FISHERY MANAGEMENT PLAN FOR THE ATLANTIC SEA SCALLOP FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 7 would allow vessels in the Atlantic sea scallop fishery to consolidate days at sea.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	02/00/98	
Final Action	04/00/98	
Final Action Effective	08/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Duplicate RIN for the same action - RIN 0648-AI36 is being processed under this RIN (RIN 0648-AJ33).

Agency Contact: Dr. Andrew A. Rosenberg, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9200

RIN: 0648–AJ33

654. IMPLEMENTATION OF USE OF INTERACTIVE VOICE RESPONSE (IVR) SYSTEM TO MONITOR COMMERCIAL LANDINGS OF QUOTA MANAGED SPECIES ON WEEKLY BASIS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: This action would implement an interactive voice response system to monitor dealer purchases of quota-managed species.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	11/00/97	
Interim Final Rule	01/00/98	
Final Action	02/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Dr. Andrew A. Rosenberg, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9200

RIN: 0648–AJ37

DOC—NOAA

Proposed Rule Stage

655. AMENDMENT 9 TO THE NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 9 would implement management measures for the monkfish fishery.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	
NPRM Comment Period End	03/00/98	
Final Action	05/00/98	
Final Action Effective	07/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Dr. Andrew A. Rosenberg, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9200

RIN: 0648–AJ44

656. AMENDMENT 3 TO THE FISHERY MANAGEMENT PLAN FOR THE SCALLOP FISHERY OFF ALASKA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: NPRM, Statutory. Final, Statutory.
Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This FMP amendment delegates management authority to the State of Alaska.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	
NPRM Comment Period End	05/00/98	
Final Action	06/00/98	
Final Action Effective	07/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AJ51

657. REGULATORY AMENDMENT TO ESTABLISH A PROGRAM FOR THE COLLECTION AND USE OF FEES IN THE INDIVIDUAL FISHING QUOTA AND COMMUNITY DEVELOPMENT QUOTA PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory amendment would establish a program for the collection and use, including the procedures, of fees in the Individual Fishing Quota (IFQ) and Community Development Quota (CDQ) Programs. The collection of fees would recover the costs of managing and enforcing IFQ and CDQ programs.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
NPRM Comment Period End	12/00/97	
Final Action	01/00/98	
Final Action Effective	02/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AJ52

658. IMPLEMENTATION OF PACIFIC INSULAR AREA FISHING AGREEMENT PROVISIONS OF THE MAGNUSON-STEVENS ACT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory.

Abstract: This rule would implement provisions of the Sustainable Fisheries Act that authorizes the Secretary of State to negotiate Pacific Insular Areas Fishing Agreements (PIAFAs) under which foreign vessels could have access to portions of the U.S. Exclusive Economic Zone around insular "States" such as Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, or around U.S. Possessions in the Pacific. Fees paid to the U.S. for such access would revert to the government of the insular area around which the fishing occurred. PIAFAs could only be entered into with the agreement of the Governor of the relevant insular area. Conservation plans, which must be prepared in consultation with the Western Pacific Fishery Management Council and must be consistent with relevant fishery management plans, would specify such things as allowable levels of fishing and activities for which funds collected would be spent. Foreign fishing permits would specify conditions and restrictions governing foreign vessel activities. The rule would revise the foreign fishing regulations at 50 CFR part 600 to allow fishing under a PIAFA and might also establish terms and conditions common to fishing under PIAFAs.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
NPRM Comment Period End	01/00/98	
Final Action	03/00/98	
Final Action Effective	04/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Dr. William T. Hogarth, Acting Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 562 980-4001

RIN: 0648–AJ60

DOC—NOAA

Proposed Rule Stage

659. ATLANTIC SHARK FISHERIES; AMENDMENT 2 (INCLUDING REBUILDING SCHEDULE)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 630

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: The Magnuson-Stevens Fisheries Conservation & Management Act requires that the shark FMP be amended within one year. HMS intends to incorporate a new rebuilding schedule in that amendment.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	11/00/97	
Final Action	01/00/98	
Final Action Effective	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AJ66

660. ATLANTIC TUNA FISHERIES; REGULATORY ADJUSTMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 630

Legal Deadline: None

Abstract: NMFS proposes to amend regulations governing the Atlantic tuna fisheries to modify target catch requirements for the Incidental longline ABT fishery.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	11/00/97	

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AJ64

661. ATLANTIC TUNA FISHERIES; FISHERY MANAGEMENT PLAN IMPLEMENTATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 630

Legal Deadline: None

Abstract: Magnuson Management Plan for Atlantic Tunas Fishery.

Timetable:

Action	Date	FR Cite
NPRM	05/00/98	
Final Action	11/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AJ67

662. ATLANTIC HIGHLY MIGRATORY SPECIES; TAKE REDUCTION TEAM PLAN IMPLEMENTATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 630

Legal Deadline: None

Abstract: Regulations to implement the Atlantic Offshore Cetaceans Take Reduction Plan.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	11/00/97	
Final Action	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AJ68

663. PROPOSED RULE TO IMPLEMENT PROCEDURES FOR ISSUANCE OF PERMITS UNDER SECTION 204(D) OF THE MAGNUSON-STEVENS FISHING CONSERVATION AND MANAGEMENT ACT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1824

CFR Citation: 50 CFR 600 subpart F

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: The Sustainable Fisheries Act amended the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA) to, among other things, provide for the issuance of transshipment permits under the newly established section 204(d) of the MSFCMA. This action will specify procedures to be used to issue permits.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AJ70

664. AMENDMENT 49 TO THE FISHERY MANAGEMENT PLAN FOR THE GROUNDFISH FISHERY OF THE GULF OF ALASKA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: NPRM, Statutory.
Final, Statutory.
Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This amendment would implement an improved retention and utilization plan.

Timetable:

Action	Date	FR Cite
NPRM	08/18/97	62 FR 43977
NPRM Comment Period End	10/02/97	
Final Action	12/00/97	
Final Action Effective	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AJ71

665. INTERIM FINAL RULE TO THE FISHERY MANAGEMENT PLAN FOR THE AMERICAN LOBSTER FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 649

Legal Deadline: None

Abstract: This action would prohibit any vessel that takes lobsters in the EEZ with mobile gear from landing lobsters at any location within the United States in excess of (1) 100 lobsters for each fishing trip of 24 hours or less duration, or (2) 500 lobsters for a fishing trip of 5 days or longer.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Andrew A. Rosenberg, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9200

RIN: 0648–AJ74

666. IMPLEMENTATION OF DATA COLLECTION AND REPORTING REQUIREMENTS TO THE FISHERY MANAGEMENT PLAN FOR THE AMERICAN LOBSTER FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 649

Legal Deadline: None

Abstract: Data collection and reporting requirements would be implemented contingent upon the Atlantic States Marine Fisheries Commission not developing regulations under the Atlantic Coastal Fisheries Cooperative Management Act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Dr. Andrew A. Rosenberg, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9200

RIN: 0648–AJ75

667. PROPOSED RULE TO IMPLEMENT OBSERVER PROVISIONS REQUIRED BY THE MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT AS AMENDED OCTOBER 11, 1996

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 600

Legal Deadline: NPRM, Statutory.

Abstract: NMFS is proposing regulations that pertain to fishery observers and the vessels that carry them. The Magnuson-Stevens Fishery Conservation and Management Act, as amended October 11, 1996, requires that the Secretary of Commerce (Secretary) establish health and safety guidelines and regulations for fishing vessels that carry observers. Vessel owners and operators would be required to comply with the guidelines, regulations, and conditions. The intent of the regulation is to ensure the health and safety of observers. Its impact will be to increase compliance with existing safety regulations and to improve the general working conditions for observers. This rule would implement statutory requirements and is not controversial.

Timetable:

Action	Date	FR Cite
NPRM	09/22/97	62 FR 49463
NPRM Comment Period End	10/22/97	
Final Action	10/00/97	
Final Action Effective	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Bellows, Plan Reviewer, Domestic Fisheries Division, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2344
Fax: 301 713-0596

RIN: 0648–AJ76

668. FISHERIES OBLIGATION GUARANTEE PROGRAM—STATUTORY AMENDMENTS TO ESTABLISH "CENTRAL TITLE AND LIEN REGISTRY FOR LIMITED ACCESS PERMITS"

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 1271 to 1279

CFR Citation: 50 CFR 253; 50 CFR 600

Legal Deadline: None

Abstract: Advance Notice of Proposed Rulemaking and Request for Comments regarding establishment of a central title and lien registry as required by the Magnuson-Stevens Fishery Conservation and Management Act.

Timetable:

Action	Date	FR Cite
ANPRM	05/07/97	62 FR 24897
ANPRM Comment Period End	08/05/97	
NPRM	01/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles L. Cooper, Program Leader, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2396
Fax: 301 589-2686

RIN: 0648–AJ77

669. FINAL RULE TO IMPLEMENT FRAMEWORK ADJUSTMENT 18 TO THE FISHERY MANAGEMENT PLAN FOR THE NORTHEAST MULTISPECIES FISHERY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: Framework Adjustment 18 would allow Herring and Mackerel Harvest with Pelagic Mid-Water Trawls in areas of Georges Bank now closed to all gear capable of taking groundfish.

Timetable:

Action	Date	FR Cite
NPRM	09/19/97	62 FR 49193
NPRM Comment Period End	10/06/97	
Final Action	11/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Dr. Andrew A. Rosenberg, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9300

RIN: 0648–AJ79

670. REGULATORY AMENDMENT TO CHANGE MEMBERSHIP REQUIREMENTS FOR THE REGIONAL FISHERY MANAGEMENT COUNCILS

Priority: Info./Admin./Other

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 600

Legal Deadline: None

Abstract: Regulations governing the operation and membership of the Regional Fishery Management Councils will be revised based on provisions in the Sustainable Fisheries Conservation and Management Act.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AJ82

671. • HALIBUT DONATION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: NPRM, Statutory.
Final, Statutory.
Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Authorizes the donation of Pacific halibut taken as bycatch in BSAI groundfish trawl fisheries to economically disadvantaged individuals through a NMFS-authorized distributor.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	11/00/97	
Final Action	12/00/97	
Final Action Effective	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802-1668
Phone: 907 586-7221
Fax: 907 586-7249

RIN: 0648–AJ87

672. • INTERIM FINAL RULE TO INCREASE MINIMUM SIZE LIMIT FOR VERMILLION SNAPPER IN FEDERAL WATERS OF GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: None

Abstract: This interim rule will increase the vermillion snapper minimum size limit from 8 to 10 inches total length in order to improve the status of the resource now undergoing overfishing.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/11/97	62 FR 47765
NPRM Comment Period End	10/14/97	
Final Action	10/00/97	
Final Action Effective	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 813 570-5301
Fax: 813 570-5300

RIN: 0648–AJ89

673. • IMPLEMENT A FRAMEWORK TO THE FMP FOR THE NORTHEAST MULTISPECIES FISHERIES TO PROTECT WINTER FLOUNDER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: This framework is an action to protect incoming year classes of winter flounder while a plan amendment is being developed. This framework proposes that multispecies trawl vessels fish with 6 inch diamond mesh throughout the body of the net and that the codend be either 6 inch diamond or 6 1/2 inch - 7 inch square mesh, when fishing in the Gulf of Maine, Georges Bank, and Southern New England regulated mesh areas (except Jeffrey's Ledge and Stellwagen Bank Juvenile Protection Areas).

Timetable:

Action	Date	FR Cite
NPRM	05/00/98	
NPRM Comment Period End	07/00/98	
Final Action	08/00/98	
Final Action Effective	10/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Andrew A. Rosenberg, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930 Phone: 508 281-9200

RIN: 0648–AJ92

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674. • FINAL RULE TO IMPLEMENT FRAMEWORK ADJUSTMENT 24 TO THE FISHERY MANAGEMENT PLAN FOR THE NORTHEAST MULTISPECIES FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: This framework would: (1) allow vessels to carry-over up to 10 days of unused multispecies days-at-sea (DAS) into the next fishing year; (2) exempt multispecies vessels from DAS when fishing in the NAFO regulated area; and (3) implement a lay-over requirement for vessels exceeding the cod trip limit.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	11/00/97	
Final Action	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Andrew A. Rosenberg, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930 Phone: 508 281-9300

RIN: 0648–AJ96

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675. • REGULATORY AMENDMENT TO CHANGE THE SCALLOP SEASON OPENING DATE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: NPRM, Statutory.
Final, Statutory.
Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action would change the scallop season opening date from January 10 to July 1 in the Prince William Sound and Yakutat Registration Areas to make the fishing season in those areas consistent with the scallop fishing season in the rest of the State.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	11/00/97	
Final Action	11/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802 Phone: 907 586-7228

RIN: 0648–AJ96

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676. • PROPOSED RULE ON TAKING MARINE MAMMALS INCIDENTAL TO POWER PLANT OPERATIONS AT SEABROOK, NEW HAMPSHIRE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: NMFS has received an application under the Marine Mammal Protection Act for the taking of seals incidental to power plant operations from North Atlantic Energy Corporation over the next five year period. In order to authorize the taking, NMFS must determine that the mortality of several species of seals will not be more than negligible.

Timetable:

Action	Date	FR Cite
ANPRM	07/24/97	62 FR 39799
ANPRM Comment Period End	08/25/97	
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth R. Hollingshead, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910 Phone: 301 713-2055 Fax: 301 713-0376

RIN: 0648–AK00

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677. • ENDANGERED AND THREATENED SPECIES; REGULATIONS CONSOLIDATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1531 et seq

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The National Oceanic and Atmospheric Administration plans to issue a rule to consolidate and reorganize existing regulations regarding implementation of the Endangered Species Act by the National Marine Sanctuaries Service. This action will result in the deletion of 10 regulatory sections and the consolidation of 107 sections into 73 sections. This action is part of the President's Regulatory Reinvention Initiative to reduce the amount of regulations and streamline those remaining.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert C. Ziobro, Chief, Endangered Species Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, SSMC #2, Silver Spring, MD 20910 Phone: 301 713-1401

RIN: 0648–AK02

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678. • AMENDMENTS TO FISHERY MANAGEMENT PLANS TO IMPLEMENT SUSTAINABLE FISHERIES ACT AMENDMENTS TO THE MAGNUSON-STEVENS ACT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622; 50 CFR 630; 50 CFR 648; 50 CFR 660; 50 CFR 679

Legal Deadline: Other, Statutory, October 1998.
Statutory deadlines will depend on the specific measures taken, but must comply with the Sustainable Fisheries Act.

Abstract: The Sustainable Fisheries Act requires that Fishery Management Plans (FMPs) prepared by the Regional Fishery Management Councils (Councils) comply with new requirements, including essential fish habitat, overfishing definitions, rebuilding plans, and bycatch minimization. Until national standard guidelines are implemented and the councils can assess the need to amend their FMPs, it is not known how many individual amendments will be prepared, or how they may be combined. Therefore, this action is considered generic at this time.

Timetable:

Action	Date	FR Cite
NPRM	07/00/98	
NPRM Comment Period End	08/00/98	
Final Action	09/00/98	
Final Action Effective	10/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910 Phone: 301 713-2334

RIN: 0648–AK03

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679. • AMENDMENT 9 TO THE FISHERY MANAGEMENT PLAN FOR THE SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory.
Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 9 would address overfishing in the snapper grouper fishery management unit. Proposed management actions include: (1) increasing the red porgy minimum size limit from 12 inches total length (TL) to 13 inches TL for both recreational and commercial fishermen together with a recreational bag limit of 2 fish per person per day; (2) increasing the black sea bass minimum size limit from 8 inches TL to 10 inches TL for both recreational and commercial fishermen together with a recreational bag limit of 20 fish per person per day; (3) requiring escape vents and escape panels with degradable fasteners in black sea bass pots; (4) establishing measures for greater amberjack that would close the fishery during April and May to commercial fishing, prohibit any sale during this period, prohibit coring, and reduce the recreational bag limit to 1 fish per person per day; (5) increasing the vermilion snapper minimum size limit from 10 inches TL to 12 inches TL for the recreational fishery; (6) increasing the gag minimum size limit from 20 inches TL to 24 inches TL for recreational and commercial fisheries, and prohibiting all harvest January through March; (7) increasing the black grouper minimum size limit from 20 inches TL to 24 inches TL for recreational and commercial fisheries; (8) specifying that no more than 2 fish may be gag or black grouper within the 5-fish aggregate grouper bag limit; (9) establishing an aggregate recreational bag limit of 20 fish, inclusive of all snapper grouper species currently not under a bag limit; (10) specifying that all vessels with bottom longline gear aboard may only possess snowy grouper, Warsaw grouper, yellowedge grouper, misty grouper, golden tilefish, blueline tilefish, and sand tilefish; and (11) including options to reduce fishing mortality, such as a variable 3-month closure, an aggregate temperate mid-shelf species (TEMS) quota for (red porgy, gag, scamp, and black sea bass), a black sea bass commercial quota, and establishing by framework, seasons to achieve reductions in landings of TEMS species (with and without black sea bass) not less than 25 percent of the 1993-1995 average landings.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	
Final Action	01/00/98	
Final Action Effective	02/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive, N., St. Petersburg, FL 33702-2432 Phone: 813 570-5301 Fax: 813 570-5300

RIN: 0648–AK05

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680. • REGULATORY AMENDMENT TO ALLOW RETENTION OF UNDERSIZED HALIBUT IN CD FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory.
Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory amendment would allow undersized halibut caught in CDQ halibut fisheries to be retained in IPHC Area 4E.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	11/00/97	
Final Action	12/00/97	
Final Action Effective	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802

DOC—NOAA

Proposed Rule Stage

Phone: 907 586-7228

RIN: 0648–AK06

681. • REGULATORY AMENDMENT TO REVISE SPECIFIED MAXIMUM RETAINABLE BYCATCH PERCENTAGES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Revise specified maximum retainable bycatch percentages in the shortraker/rougheye fishery to a lower level and allocate the TAC between gear groups.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	11/00/97	
Final Action	12/00/97	
Final Action Effective	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802
Phone: 907 586-7228

RIN: 0648–AK09

682. • REGULATORY AMENDMENT TO IMPLEMENT ROLLING CLOSURES DURING THE SABLEFISH FISHERY IN THE GULF OF ALASKA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: NPRM, Statutory. Final, Statutory.
Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Implement Rolling closures during the Sablefish fishery in the Gulf of Alaska.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	
NPRM Comment Period End	03/00/98	
Final Action	04/00/98	
Final Action Effective	05/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802
Phone: 907 586-7228

RIN: 0648–AK10

683. • ADJUSTMENT OF MANAGEMENT PROGRAM FOR PELAGIC SPECIES FISHERIES IN THE WESTERN PACIFIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action will modify the management program for the fisheries for swordfish, tuna, and associated species in the western Pacific region. Possible changes include measures to prevent or mitigate the take of seabirds or turtles in the longline fishery, to address bycatch of sharks, to establish new measures and/or limited entry for the longline fishery in American Samoa, and measures to prevent gear conflicts at seamounts used by different gear types.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	
NPRM Comment Period End	06/00/98	
Final Action	08/00/98	
Final Action Effective	10/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. William T. Hogarth, Acting Regional Administrator, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 70275
Phone: 562 980-4001

RIN: 0648–AK11

684. • FMP AMENDMENT 46 FOR THE GROUNDFISH FISHERY OF THE GULF OF ALASKA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: NPRM, Statutory. Final, Statutory.
Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Remove black and blue rockfish from the FMP so that management is transferred to the State of Alaska.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	11/00/97	
Final Action	12/00/97	
Final Action Effective	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 99802, Juneau, Alaska 99802
Phone: 907 586-7228

RIN: 0648–AK13

685. • AMENDMENT 34 TO THE GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: NPRM, Statutory. Final, Statutory.
Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Allocate a percentage of the TAC annually specified for Bering Sea Atka mackerel to vessels using jig gear to provide more opportunity to a small-vessel jig gear fleet to fish for Atka mackerel and supply bait fishery without direct competition from the large trawl fleet that harvests Atka mackerel.

DOC—NOAA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	09/22/97	62 FR 49464
NPRM Comment Period End	11/06/97	
Final Action	12/00/97	
Final Action Effective	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802
Phone: 907 586-7228

RIN: 0648–AK14

686. • RULEMAKING TO EXTEND THE INTERIM OBSERVER PROGRAM THROUGH 1998

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: NPRM, Statutory. Final, Statutory.
Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Extend the existing interim observer program to assure uninterrupted observer coverage requirements through 1998.

Timetable:

Action	Date	FR Cite
NPRM	09/19/97	62 FR 49198
NPRM Comment Period End	10/20/97	
Final Action	11/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802
Phone: 907 586-7228

RIN: 0648–AK15

687. • RULEMAKING TO REVISE THE HALIBUT CATCH SHARE PLAN AMENDMENT FOR 1998

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: NPRM, Statutory. Final, Statutory.
Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Revise the halibut catch share plan for Area 4 (Bering Sea and Aleutian Islands) to remove the prescribed apportionments for subareas 4A and 4B to prevent a conflict between the Council's and Commission's recommendations for those subareas.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	11/00/97	
Final Action	12/00/97	
Final Action Effective	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802
Phone: 907 586-7228

RIN: 0648–AK18

688. • REGULATORY AMENDMENT TO REVISE "SURVIVING SPOUSE" LANGUAGE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: NPRM, Statutory. Final, Statutory.
Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Revise the halibut catch share plan for Area 4 (Bering Sea and Aleutian Islands) to remove the prescribed apportionments for Subareas 4A and 4B to prevent a conflict between the Council's and Commission's recommendation for those subareas.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802
Phone: 907 586-7228

RIN: 0648–AK19

689. • REGULATORY AMENDMENT TO SPECIFY MINIMAL VESSEL OWNERSHIP REQUIREMENTS FOR THE HIRED SKIPPER PROVISION IN THE IFQ FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final requirements to be published within 30 days of end of NPRM comment period.

Abstract: Specify minimal vessel ownership requirements for the hired skipper provision in the IFQ fisheries.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	11/00/97	
Final Action	12/00/97	
Final Action Effective	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802
Phone: 907 586-7228

RIN: 0648–AK20

690. • ADJUSTMENT OF THE MANAGEMENT PROGRAM FOR BOTTOMFISH AND SEAMOUNT GROUNDFISH FISHERIES IN THE WESTERN PACIFIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action will modify the management program for the fisheries for bottomfish and seamount groundfish in the northwestern Hawaiian Islands. Possible changes include a new limited entry program for the Mau Zone, allowing transfers of Ho'omalu Zone limited entry permits, establishing new measures for consistency of Federal and State management around the main Hawaiian Islands, and extending indefinitely the moratorium on harvest of seamount groundfish.

Timetable:

Action	Date	FR Cite
NPRM	06/00/98	
NPRM Comment Period End	08/00/98	
Final Action	10/00/98	
Final Action Effective	01/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. William T. Hogarth, Acting Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802 Phone: 562 980-4001

RIN: 0648–AK21

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691. • ADJUSTMENT OF MANAGEMENT PROGRAM FOR THE NORTHWESTERN HAWAIIAN ISLANDS CRUSTACEAN FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action will streamline the management program and may include announcing the annual harvest guideline earlier in the year for greater advance notice to fishers, opening the season one month sooner to take advantage of better weather, change the logbook for improved data collection, reducing bycatch, and resolving inconsistencies in Federal and State regulations governing the harvest of crustaceans.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	
NPRM Comment Period End	03/00/98	
Final Action	04/00/98	
Final Action Effective	06/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. William T. Hogarth, Acting Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90275 Phone: 562 980-4001

RIN: 0648–AK22

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692. • ADJUSTMENT OF THE MANAGEMENT PROGRAM FOR PRECIOUS CORALS FISHERIES IN THE WESTERN PACIFIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action will modify the management program for the fisheries for precious corals in the western Pacific region. Possible changes include establishment of framework procedures for rapid implementation of future changes in regulations in response to new information or conditions, and changes in harvest limits for different types of coral beds as new information is obtained from permit holders.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	
NPRM Comment Period End	06/00/98	
Final Action	08/00/98	
Final Action Effective	10/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. William T. Hogarth, Acting Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802 Phone: 562 980-4001

RIN: 0648–AK23

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693. • REGULATORY AMENDMENT TO IMPLEMENT 1998 NONTRAWL SABLEFISH HARVEST REGION

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action would implement regulatory changes to divide limited entry, fixed gear, endorsed permit holders into three tiers based on their historic fishery participation levels. Each endorsed permit holder would have an opportunity to fish towards the cumulative limit assigned to their tier during the annual primary fishery. This action is necessary to eliminate the derby-style fishery without severely redistributing catch allocation.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
NPRM Comment Period End	12/00/97	
Final Action	03/00/98	
Final Action Effective	04/00/98	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Stelle, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-0070 Phone: 206 526-6150

RIN: 0648–AK27

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694. • REGULATORY AMENDMENT TO ADJUST MANAGEMENT MEASURES UNDER THE FISHERY MANAGEMENT PLAN FOR REEF FISH SPECIES OF THE GULF OF MEXICO (FMP) FOR THE 1998 FISHING SEASON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action would amend the regulations implementing the FMP to establish management measures for the 1998 fishing season, in accordance with the FMP's framework procedure for setting annual total allowable catch (TAC) limits and associated measures for all managed species. Adjusted measures may include revised: TAC limits, commercial and recreational fishery quotas, size limits for harvested fish, closed fishing seasons or areas, and rebuilding schedules for overfished species (e.g., red snapper). The FMP regulates commercial and recreational fishing in the exclusive economic zone of the Gulf of Mexico and was developed by the Gulf of Mexico Fishery Management Council (Council) and approved/implemented by the National Marine Fisheries Service (NMFS). Annual management changes are proposed by the Council; NMFS publishes a proposed rule to obtain public comment on these proposals for consideration in approving/disapproving them. Approved measures are implemented by final rule.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
NPRM Comment Period End	12/00/97	
Final Action	01/00/98	
Final Action Effective	02/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive, North, St. Petersburg, FL 33702-2432 Phone: 813 570-5301

RIN: 0648–AK28

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695. • ADDITIONAL MEASURES OF AMENDMENT 2 TO THE FISHERY MANAGEMENT PLAN FOR THE SHRIMP FISHERY OF THE SOUTH ATLANTIC—PROCEDURES FOR TESTING AND CERTIFICATION OF BYCATCH REDUCTION DEVICES (BRDS)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: All measures of Amendment 2 were approved by the National Marine Fisheries Service (NMFS) on February 24, 1997. Under Amendment 2, BRDs certified by the NMFS are required to be used in all penaeid shrimp trawls in the exclusive economic zone (EEZ) in the South Atlantic (EEZ off North Carolina to Florida inclusive). The final rule to implement Amendment 2, effective April 21, 1997, certified three BRDs for such use (73 FR 18536). Amendment 2 specifies that a testing protocol would be developed so that additional BRDs could be tested and implemented, if they meet the bycatch reduction criterion for Spanish mackerel and weakfish (must reduce bycatch by 40 percent in number of weakfish and Spanish mackerel). The testing protocol was not completed when the proposed rule to implement Amendment 2 was published but was published with the final rule. This action would implement that part of Amendment 2 allowing testing of new BRDs and would specify that a person who proposes a BRD for certification must test such BRD and submit the results to the Regional Administrator, Southeast Region, NMFS, in accordance with the "Bycatch Reduction Device Testing Protocol Manual" (Manual), which contains the testing protocol and the specific reporting requirements for the test results.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	11/00/97	
Final Action	12/00/97	
Final Action Effective	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive, North, St. Petersburg, FL 33702-2432 Phone: 813 570-5301

RIN: 0648–AK29

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696. • RULEMAKING TO CLARIFY A PROVISION IN THE OBSERVER PROGRAM CGL INSURANCE COVERAGE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory amendment will clarify a provision in the current observer program on proof of insurance coverage.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802 Phone: 907 586-7228

RIN: 0648–AK30

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697. • AMENDMENT 16 TO THE FISHERY MANAGEMENT PLAN FOR THE REEF FISH RESOURCES OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 16 would: Establish revised conservation and management measures for fishing for greater amberjack in the exclusive economic zone (EEZ) of the Gulf of

Mexico, including possible allocations between the commercial and recreational fisheries; consider establishing a limited entry program for the reef fish fishery subsequent to the end of the current moratorium on commercial fishing permits for reef fish that ends December 31, 2000; consider establishing marine reserves (areas where fishing is prohibited) in the Gulf EEZ reflecting a multi-species approach to fisheries management; modify the FMP's list of species considered to be in fishery but not in the management unit; and establish bag and size limits for various reef fish species to conform Federal measures with those of Florida.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	
NPRM Comment Period End	04/00/98	
Final Action	05/00/98	
Final Action Effective	06/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive, North, St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AK31

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696. • REGULATORY AMENDMENT FOR A BYCATCH REDUCTION DEVICE (BRD) TESTING AND CERTIFICATION PROTOCOL UNDER AMENDMENT 9 TO THE FMP FOR THE SHRIMP FISHERY OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 9: Requires the use of BRDs certified by the National Marine Fisheries Service (NMFS) in most shrimp trawls used in the exclusive economic zone of the Gulf of Mexico shoreward of the 100-fathom depth contour west of Cape San Blas, Florida; sets the bycatch reduction criterion for the certification of BRDs (BRDs must reduce the bycatch mortality of juvenile red snapper by at least 44 percent from a prescribed baseline level); and establishes an FMP framework procedure for modifying the bycatch reduction criterion, for establishing and modifying the BRD testing protocol and its specifications, and for certifying and decertifying BRDs. Amendment 9 is intended to significantly reduce the shrimp fishery bycatch of red snapper (and other finfish) to allow rebuilding of this valuable, overfished species. If NMFS approves Amendment 9 and implements it through a final rule, the subject action would amend that rule to establish, consistent with the FMP's framework procedure, a BRD testing and certification protocol to be used by NMFS for certifying new or modified BRDs.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	11/00/97	
Final Action	12/00/97	
Final Action Effective	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive No., St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AK32

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699. • REGULATIONS GOVERNING THE INCIDENTAL TAKING OF RINGED SEALS DURING SEISMIC OPERATIONS DURING WINTER IN THE U.S. BEAUFORT SEA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: Several oil and gas exploration companies have petitioned NMFS to renew for an additional 5-years, regulations authorizing the harassment of small numbers of ringed seals incidental to conducting on-ice seismic operations during the winter in the Beaufort Sea off Alaska. In order to authorize the taking, NMFS must determine that the harassment of ringed seals will not be more than negligible.

Timetable:

Action	Date	FR Cite
ANPRM	08/08/97	62 FR 42737
ANPRM Comment Period End	09/08/97	
NPRM	11/00/97	
NPRM Comment Period End	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth R. Hollingshead, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East West Highway, Silver Spring, MD 20910
Phone: 301 713-2055
Fax; 301 713-0376

RIN: 0648–AK33

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700. • REGULATORY AMENDMENT TO REVISE THE RECORDKEEPING AND REPORTING REQUIREMENTS FOR GROUNDFISH FISHERIES OF THE EEZ OFF OF ALASKA FOR 1998

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: NPRM, Statutory. Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Revise the recordkeeping and reporting requirements for the 1998 fishing year. The revision includes some definition changes and a requirement for motherships operating in the EEZ to submit directly to ADF&G fish tickets on behalf of individual catcher vessels.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	11/00/97	
Final Action	12/00/97	
Final Action Effective	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802
Phone: 907 586-7228

RIN: 0648–AK36

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701. • REGULATORY AMENDMENT TO IMPLEMENT SEABIRD AVOIDANCE MEASURES IN THE PACIFIC HALIBUT FISHERY OFF OF ALASKA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Implement seabird avoidance measures in the Pacific halibut longline fishery. Require gear modifications, seabird avoidance devices, or changes in fishing methods designed to reduce the incidental mortality of seabirds in the directed Pacific halibut fishery in U.S. convention waters off Alaska.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	11/00/97	
Final Action	12/00/97	
Final Action Effective	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802
Phone: 907 586-7228

RIN: 0648–AK36

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702. FOREIGN NATIONS' MARINE MAMMAL PROGRAM AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216.24(e)(5)(v)(B)

Legal Deadline: None

Abstract: This rule will change the requirement that foreign nations make changes to their marine mammal programs within 180 days of the date such changes are effective for U.S. fishermen. This is necessary to provide more time for foreign governments to make such changes.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Hilda Diaz-Soltero, Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 310 980-4001

RIN: 0648–AG05

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703. TAKING AND IMPORTING OF MARINE MAMMALS; TAKING OF MARINE MAMMALS UNDER THE ATA PERMIT AFTER FEBRUARY 28, 1994

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216

Legal Deadline: Final, Statutory, March 1, 1994.

Abstract: The International Dolphin Conservation Act provides that, if no major purse seine tuna fishing country enters into an agreement for a moratorium on setting on marine mammals during the course of commercial fishing operations, the total dolphin mortalities authorized under the general permit issued to the American Tunaboat Association shall not exceed the number of dolphin mortalities which occurred under the permit during the preceding year.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	11/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Hilda Diaz-Soltero, Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 310 980-4001

RIN: 0648–AG36

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704. DESIGNATED CRITICAL HABITAT; PACIFIC STEELHEAD

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1533

CFR Citation: 50 CFR 226

Legal Deadline: NPRM, Statutory, February 16, 1995. Final, Statutory, August 9, 1998.
Endangered Species Act section 4(b)(3)(D)(ii). If steelhead are listed under the ESA by 8/9/97, then critical habitat designation will be due 8/9/98.

Abstract: If proposed, the regulation will designate critical habitat for any coastal steelhead populations that are listed under the Endangered Species Act in California, Oregon, Idaho and, Washington.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	
NPRM Comment Period End	06/00/98	
Final Action	08/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joe Blum, Fisheries Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1315 East-West Highway, F/PR3, Silver Spring, MD 20910
Phone: 301 713-1401

RIN: 0648–AG49

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706. PROPOSED DESIGNATION OF CRITICAL HABITAT FOR PUGET SOUND SALMON STOCKS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq The Endangered Species Act

CFR Citation: 50 CFR 226

Legal Deadline: None
A proposed listing of one or more of these stocks or a denial of the petition was due March 14, 1995. A final determination would be due one year after a proposed listing. Critical (cont)

Abstract: NMFS will propose critical habitat for Puget Sound salmon stocks if the species is/are proposed for listing under the Endangered Species Act.

These stocks include (1) Hood Canal summer chum salmon, (2) Elwha River pink salmon, (3) Lower Dungeness River pink salmon, (4) North Fork Nooksack River spring chinook salmon, (5) South Fork Nooksack River spring chinook salmon, (6) Dungeness River spring chinook salmon, (7) Baker River sockeye salmon, (8) Discovery Bay chum salmon, and (9) White River spring chinook salmon. Mud Bay/Eld Inlet chum salmon were petitioned for listing on April 4, 1994, so this stock will be included in this rule, if warranted.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	
NPRM Comment Period End	06/00/98	
Final Action	08/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: LEGAL DEADLINE CONT: habitat designation is due no later than one year after date of publication of a final listing under the ESA.

Agency Contact: Joe Blum, Fisheries Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910-3226
Phone: 301 713-1401

RIN: 0648–AH11

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706. PROPOSED RULE TO PROVIDE REGULATIONS FOR PERMITS FOR CAPTURE, TRANSPORT, IMPORT AND EXPORT OF PROTECTED SPECIES FOR PUBLIC DISPLAY, AND FOR MAINTAINING A CAPTIVE MARINE MAMMAL INVENTORY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1372 (c)

CFR Citation: 50 CFR 216

Legal Deadline: Final, Statutory, January 1, 1995.

Abstract: This proposed rule would revise and simplify criteria and procedures specific to permits for taking, transporting, importing, and exporting protected species for public display and provide convenient formats for reporting marine mammal captive holdings and transports as required by amendments made in 1994 to the Marine Mammal Protection Act.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	11/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ann Terbush, Chief, Permits Division, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2289

RIN: 0648–AH26

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707. PROPOSED RULE GOVERNING THE ISSUANCE OF PERMITS FOR MARINE MAMMAL PHOTOGRAPHY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1372 (c)(6)

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: This rule will provide for the issuance of permits to take marine mammals by only level B harassment for the purpose of educational or commercial photography.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ann Terbush, Chief, Permits Division, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2289

RIN: 0648–AH31

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708. AMEND REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1371 (a)(6)

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: The proposed rule implements certain changes in the prohibitions on importing or exporting marine mammals or marine mammal parts and products that occurred with the enactment of the Marine Mammal Protection Act Amendments of 1994 (Pub. L. 104-238). This action prohibits the export of marine mammals or marine mammal products for purposes other than public display, scientific research, or enhancing the survival of a species or stock and establishes three new categories of exceptions to the prohibition on importing marine mammal parts and products. This is a non-controversial action that is not significant as it will have only minor effects on a small number of people, most of whom will benefit by the new exceptions.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	11/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ann Terbush, Chief, Permits Division, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2289

RIN: 0648–AH83

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709. CRITICAL HABITAT DESIGNATION FOR GREEN AND HAWKSBILL SEA TURTLE IN PUERTO RICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 226

Legal Deadline: NPRM, Statutory, November 7, 1997.
Petition to designate critical habitat was received 11/07/96. According to regulations, we have 1-year to propose rulemaking.

Abstract: NOAA proposes to designate critical habitat for the threatened Atlantic green sea turtle (Chelonia mydas) and endangered Hawksbill turtle (Eretmochelys imbricatta) pursuant to the Endangered Species Act of 1973 (ESA). The geographic area proposed for critical habitat designation comprises all coastal waters surrounding the islands of Mona, Monito, and the Culebra archipelago, from the Mean High Water line out to 3 nautical miles (nm). Isla de Culebra (Culebra) lies approximately 16 nm east of the northeast coast of Puerto Rico. This designation will provide green and hawksbill turtles with the necessary shelter, cover, and food resources for their survival in the region. The designation of critical habitat provides explicit notice to Federal agencies and the public that these areas and features are vital to the conservation of the species.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Barbara Schroeder, Sea Turtle Coordinator, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Fax: 301 713-0376

RIN: 0648–AH88

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710. TAKING OF MARINE MAMMALS INCIDENTAL TO COMMERCIAL FISHING OPERATIONS; TAKE REDUCTION PLAN REGULATIONS AND EMERGENCY REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq The Marine Mammal Protection Act

CFR Citation: 50 CFR 229

Legal Deadline: None

Abstract: The Marine Mammal Protection Act amendments of 1994 (Public Law 103-238) provide for the development and implementation of take reduction plans to assist in the recovery or prevent the depletion of strategic marine mammal stocks. These take reduction plans shall be developed by take reduction teams, comprised of representatives of Federal, state, and other government agencies, as well as other non-governmental organizations. In some cases, take reduction plans may recommend regulatory measures for effective implementation. NMFS must publish proposed regulations to implement such plans for public review and comment during a period not to exceed 90 days.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/22/97	62 FR 39157
NPRM	08/15/97	62 FR 43302
NPRM Comment Period End	10/14/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Vicki Cornish/Michael Payne, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2322
Fax: 301 713-0376

RIN: 0648–AI84

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711. IMPLEMENTATION OF 1997 MMPA AMENDMENTS AFFECTING YELLOWFIN TUNA PURSE SEINE FISHING IN THE EASTERN TROPICAL PACIFIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216.24

Legal Deadline: None

Abstract: This rule would propose implementation of the 1996 amendments to the Marine Mammal Protection Act regarding regulation of the U.S. yellowfin tuna fishery and the importation of yellowfin tuna into the United States from other harvesting nations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Legislation amending the MMPA regarding the yellowfin tuna fishery will require implementation of regulations 3 months after the effective date of the legislation.

Agency Contact: Hilda Diaz-Soltero, Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 310 980-4001

RIN: 0648–AI85

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712. AMENDMENT 10 TO THE SUMMER FLOUNDER FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM commend period.

Abstract: Amendment 10 would extend the moratorium for Summer Flounder, revise the commercial quota, and implement other management measures.

Timetable:

Action	Date	FR Cite
NPRM	09/19/97	62 FR 49195
NPRM Comment Period End	11/03/97	
Final Action	12/00/97	
Final Action Effective	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Dr. Andrew A. Rosenberg, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9200

RIN: 0648–AJ55

DOC—NOAA

Proposed Rule Stage

NATIONAL OCEAN SURVEY/OFFICE OF COASTAL RESOURCES MANAGEMENT

713. • OPERATIONS OF MOTORIZED PERSONAL WATERCRAFT IN THE GULF OF THE FARALLONES NATIONAL MARINE SANCTUARY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1431 et seq

CFR Citation: 15 CFR 922

Legal Deadline: None

Abstract: The National Oceanic and Atmospheric Administration's Sanctuaries and Reserves Division is soliciting any information from interested parties to assist the agency in evaluating the operation of motorized personal watercraft in the area of the Gulf of the Farallones National Marine Sanctuary. This information will be used in assessing the present and potential use and impacts of motorized personal watercraft in the Sanctuary and the need, if any, for appropriate regulation to protect Sanctuary resources or reduce user conflict in the Sanctuary.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Stephanie R. Thornton, Chief, Sanctuaries and Reserve Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1305 East-West Highway (N/ORM2), Silver Spring, MD 20910
Phone: 301 713-3155

RIN: 0648–AK01

OFFICE OF THE ADMINISTRATOR

714. LICENSING OF PRIVATE COMMERCIAL REMOTE-SENSING SATELLITE SYSTEMS

Regulatory Plan: This entry is Seq. No. 14 in Part II of this issue of the Federal Register.

RIN: 0648–AC84

715. • POLICIES AND PROCEDURES REGARDING USE OF THE NOAA-BASED DATA COLLECTION SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 313; 49 USC 44720; 15 USC 1525; 7 USC 4506; 5 USC 552

CFR Citation: 15 CFR 911

Legal Deadline: None

Abstract: Following analysis of information received at a December 1996 public meeting on space-based data collection systems, NOAA has developed a new system use proposal for the Argos Data Collection System. This new system-use policy will be integrated into current regulations which govern the use of NOAA's GOES Data Collection System. By codifying existing practice, as well as the new system-use policy, NOAA is making the process by which it administers its space-based data collection systems more transparent to U.S. users.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	
Final Action	02/00/98	
Final Action Effective	02/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Dane Clark, Department of Commerce, National Oceanic and Atmospheric Administration, NESDIS/Direct Services Division, Federal Building 4, Room 0158, 4401 Suitland Road, Suitland, MD 20746
Phone: 301 457-5678
Email: satinfo@nesdis.noaa.gov

RIN: 0648–AK04

DEPARTMENT OF COMMERCE (DOC)

National Oceanic and Atmospheric Administration (NOAA)

Final Rule Stage

NATIONAL MARINE FISHERIES SERVICE

716. REGULATORY AMENDMENT TO IMPLEMENT PERMIT, REPORTING, AND RECORDKEEPING REQUIREMENTS FOR PROCESSING VESSELS OVER 125 FEET AND THEIR CATCHER VESSELS: PACIFIC COAST GROUNDFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Regulations would implement a comprehensive data collection and regulatory program for all processing vessels longer than 125 feet and for all harvesting vessels that deliver their catch to those vessels in the groundfish fishery off Washington, Oregon, and California. This program would consist of: (1) a requirement for a mandatory Federal permit; (2) recordkeeping and reporting requirements; and (3) a definition for "fishing trip" for processing vessels over 125 feet in length for the purpose of applying trip landing and frequency limits.

Timetable:

Action	Date	FR Cite
NPRM	11/19/92	57 FR 54552
NPRM Comment Period End	12/21/92	
Final Action	03/00/98	
Final Action Effective	05/00/98	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Stelle, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-0070
Phone: 206 526-6150

RIN: 0648–AE01

717. SECRETARIAL AMENDMENT TO THE FMP FOR ATLANTIC SWORDFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq; 16 USC 971 et seq

CFR Citation: 50 CFR 630

Legal Deadline: Final, Statutory.

DOC—NOAA

Final Rule Stage

Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: FMP Amendment to reduce overfishing by placing a moratorium on issuance of new permits and developing a limited entry system of management.

Timetable:

Action	Date	FR Cite
NPRM	02/26/97	62 FR 8672
NPRM Comment Period End	04/28/97	
Final Action	10/00/97	
Final Action Effective	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AE09

718. FINANCIAL DISCLOSURE OF FISHERY MANAGEMENT COUNCIL NOMINEES, MEMBERS, AND EXECUTIVE DIRECTORS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 601

Legal Deadline: None

Abstract: This rule revises regulations concerning the practices, procedures and operations of the Regional Fishery Management Councils under the Magnuson Fishery Conservation and Management Act. It increases the detail and availability of information in required financial disclosures of Councils' nominees, voting members, and Executive Directors and is intended to reduce the likelihood of financial conflicts of interest.

Timetable:

Action	Date	FR Cite
NPRM	08/07/97	62 FR 42474
NPRM Comment Period End	09/08/97	
Final Action	10/00/97	
Final Action Effective	10/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AG16

719. AMENDMENT 8 TO THE FISHERY MANAGEMENT PLAN FOR COASTAL MIGRATORY PELAGIC RESOURCES OF THE GULF OF MEXICO AND SOUTH ATLANTIC (FMP)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of the end of the comment period.

Abstract: Amendment 8 would revise the earned income requirement for a commercial vessel permit for king or Spanish mackerel, establish a moratorium on the issuance of commercial vessel permits for king mackerel, extend the management area for cobia to include the exclusive economic zone (EEZ) off the states of Virginia through New York, specify allowable gear in the fisheries for coastal migratory pelagic resources, allow the retention of up to five cut-off king mackerel in excess of an applicable commercial trip limit, and add to the management measures that may be established or modified by the FMP's framework procedure. In addition, NMFS proposes to clarify that a Federal vessel permit is not required for the use of a sea bass pot north of Cape Hatteras, NC; clarify what constitutes commercial fishing for the purpose of obtaining a commercial vessel permit; revise the definition of "charter vessel" to conform to a new definition of charter fishing in the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act); make explicit the authority of NMFS to reopen a fishery that has been closed prematurely, i.e., prior to a quota having been reached; and correct references in the codified text.

Timetable:

Action	Date	FR Cite
NPRM	06/23/97	62 FR 33800
NPRM Comment Period End	08/07/97	
Final Action	10/00/97	
Final Action Effective	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AG25

720. REGULATORY AMENDMENT TO ESTABLISH A CERTIFICATION PROGRAM FOR AT-SEA SCALES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, August 15, 1997.

Abstract: Regulatory amendment to establish requirements for testing and certifying scales used by processor vessels to comply with requirements to weigh catch at sea.

Timetable:

Action	Date	FR Cite
ANPRM	02/20/96	61 FR 6337
ANPRM Comment Period End	03/21/96	
NPRM	08/16/97	62 FR 32564
NPRM Comment Period End	07/16/97	
Final Action	10/00/97	
Final Action Effective	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AG32

721. AMENDMENT 9 TO THE FISHERY MANAGEMENT PLAN FOR THE SHRIMP FISHERY OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

DOC—NOAA

Final Rule Stage

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of the end of the comment period.

Abstract: Amendment 9 would require, with limited exceptions, the use of certified bycatch reduction devices (BRDs) in shrimp trawls in the exclusive economic zone in the Gulf of Mexico shoreward of the 100-fathom (183-m) depth contour west of 85 degree 30W. long.; set the bycatch reduction criterion for the certification of BRDs; and establish a fishery management plan framework procedure for modifying the bycatch reduction criterion, for establishing and modifying the BRD testing protocol and its specification, and for certifying and decertifying BRDs.

Timetable:

Action	Date	FR Cite
NPRM	07/02/97	62 FR 35774
NPRM Comment Period End	08/18/97	
Final Action	10/00/97	
Final Action Effective	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AH52

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722. AMENDMENT 39 TO THE FMP FOR GROUNDFISH FISHERY OF BSAI, AMENDMENT 41 TO THE FMP FOR GROUNDFISH OF THE GOA AND AMENDMENT 5 TO THE FMP FOR COMMERCIAL KING & TANNER CRAB FISHERIES OF THE BSAI

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: NPRM, Statutory. Final, Statutory.
Final regulations to be published within 30 days of the end of the comment period on the proposed rule.

Abstract: This rule would implement (1) a License Limitation Program intended to halt the increase in fishing vessels and limit their fishing capacity and (2) a multi-species Community Development Quota program for certain western Alaska communities.

Timetable:

Action	Date	FR Cite
NPRM	08/15/97	62 FR 43866
NPRM Comment Period End	09/29/97	
Final Action	10/00/97	
Final Action Effective	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AH65

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723. PLAN AMENDMENT TO FMP FOR SHARKS OF THE ATLANTIC OCEAN THAT WOULD LIMIT ENTRY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 678

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment allows for permit moratorium/limited entry into the Commercial Shark Fishery.

Timetable:

Action	Date	FR Cite
NPRM	12/20/96	61 FR 68202
NPRM Comment Period End	02/18/97	
Final Action	10/00/97	
Final Action Effective	01/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gary C.Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AH78

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724. CONSOLIDATION OF ATLANTIC HIGHLY MIGRATORY SPECIES REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 15 CFR 902; 50 CFR 285; 50 CFR 630; 50 CFR 644; 50 CFR 678

Legal Deadline: None

Abstract: Consolidates existing Atlantic highly migratory species regulations to enhance usability and reduce regulatory text.

Timetable:

Action	Date	FR Cite
NPRM	11/06/96	61 FR 57361
NPRM Comment Period End	12/23/96	
Final Action	10/00/97	
Final Action Effective	01/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gary Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AI28

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725. REGULATORY AMENDMENT TO LIMITED ACCESS MANAGEMENT OF FEDERAL FISHERIES IN AND OFF OF ALASKA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Regulatory amendment to clarify certain Individual Fishing Quota program provisions. Technical clarification of official weight of fish at landing, overages/underages; weighing of fish at time of landing; and establish standard allowance for deducting weight of ice and slime.

DOC—NOAA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	08/17/97	62 FR 32734
NPRM Comment Period End	07/17/97	
Final Action	10/00/97	
Final Action Effective	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AJ00

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726. CONSOLIDATION OF THE RULES FOR SPINY LOBSTER FISHERY OF THE GULF OF MEXICO AND SOUTH ATLANTIC AND STONE CRAB FISHERY OF THE GULF OF MEXICO

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: NMFS had proposed to withdraw the Fishery Management Plans for Spiny Lobster and Stone Crab (FMPs). The regulations implementing these FMPs were not included in the consolidated regulations for Fisheries of the Caribbean, Gulf, and South Atlantic at 50 CFR part 622. Recently, NMFS withdrew the proposed rules that would have withdrawn the FMPs. This final rule will incorporate the rules implementing these FMPs in the consolidated regulations without substantive change.

Timetable:

Action	Date	FR Cite
Final Action	12/00/97	
Final Action Effective	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive, N., St. Petersburg, FL 33702-2432
Phone: 813 570-5301
Fax: 813 570-5300

RIN: 0648–AJ28

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727. GUIDELINES FOR THE DESCRIPTION, IDENTIFICATION, CONSERVATION, AND ENHANCEMENT OF ESSENTIAL FISH HABITAT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 600

Legal Deadline: Final, Statutory, April 11, 1997.

Abstract: Guidelines to assist Fishery Management Councils in the description and identification of essential fish habitat (EFH), including adverse impacts on EFH, and in the consideration of actions to conserve and enhance EFH, in fishery management plans.

Timetable:

Action	Date	FR Cite
ANPRM	11/08/96	61 FR 57843
ANPRM Comment Period End	12/09/96	
Second ANPRM	01/09/97	62 FR 1306
Second ANPRM Comment Period End	02/12/97	
NPRM	04/23/97	62 FR 19723
NPRM Comment Period End	07/08/97	
Final Action	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James P. Burgess, Director, Office of Habitat Conservation, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910-3282
Phone: 301 713-2325
Fax: 301 713-1043
Email: james.burgess@noaa.gov

RIN: 0648–AJ30

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728. AMENDMENT 49 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE BSAI

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, September 10, 1997.

Abstract: Implement an improved retention and utilization plan.

Timetable:

Action	Date	FR Cite
NPRM	06/26/97	62 FR 34429
NPRM Comment Period End	08/11/97	
Final Action	10/00/97	
Final Action Effective	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AJ36

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729. AMENDMENT 40 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE BERING SEA AND ALEUTIAN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: NPRM, Statutory. Final, Statutory.
Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This amendment would establish prohibited species catch limits for snow crab (chionoecetes opilio).

Timetable:

Action	Date	FR Cite
NPRM	08/13/97	62 FR 43307
NPRM Comment Period End	09/29/97	
Final Action	10/00/97	
Final Action Effective	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AJ45

730. MAGNUSON-STEVENS ACT PROVISIONS; NATIONAL STANDARDS GUIDELINES

Priority: Info./Admin./Other

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 600

Legal Deadline: None

Abstract: NMFS revises guidelines to national standards 1, 2, 4, and 5, and adds new national standards 8, 9, and 10, as required by the Sustainable Fisheries Act. The national standards apply to fishery management plans and amendments developed by the Regional Fishery Management Councils under authority of the Magnuson-Stevens Act.

Timetable:

Action	Date	FR Cite
NPRM	08/04/97	62 FR 41907
NPRM Comment Period End	09/18/97	
Final Action	10/00/97	
Final Action Effective	10/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AJ58

731. ATLANTIC SWORDFISH FISHERY; QUOTAS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 971 et seq

CFR Citation: 50 CFR 630

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: NMFS amends the regulations governing the Atlantic Swordfish fishery by setting the total allowable catch by gear and season.

Timetable:

Action	Date	FR Cite
NPRM	07/25/97	62 FR 40039
NPRM Comment Period End	08/21/97	
Final Action	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AJ63

732. WITHDRAWAL OF THE FISHERY MANAGEMENT PLAN FOR THE AMERICAN LOBSTER FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 649

Legal Deadline: None

Abstract: This action would withdraw approval of the Fishery Management Plan (FMP) and would remove the regulations implementing the FMP upon development of regulations by the Atlantic States Marine Fisheries Commission.

Timetable:

Action	Date	FR Cite
Final Action	03/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: RIN 0648-AI14 (Advanced Notice of Proposed Rulemaking for American Lobster) and RIN 0648-AI16 (Withdrawal of Federal Fisheries Regulations) are being processed under RIN 0648-AJ73. RIN 0648-XX55 is being processed under RIN 0648-AJ73.

Agency Contact: Dr. Andrew A. Rosenberg, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9200

RIN: 0648–AJ73

733. FINAL DEFINITION OF THE ZERO MORTALITY RATE GOAL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361

CFR Citation: 50 CFR 229

Legal Deadline: Other, Statutory, April 1, 1997.

NMFS must initiate a report to Congress on fisheries progress towards the Zero Mortality Rate Goal by April 1, 1997

Abstract: The Marine Mammal Protection Act, as amended in 1994, requires that commercial fisheries reduce incidental serious injury and mortality of marine mammals to insignificant levels approaching a zero mortality and serious injury rate by April 30, 2001. This rule provides the final definition of the Zero Mortality Rate Goal as part of the new management regime for the unintentional taking of marine mammals incidental to commercial fishing operators.

Timetable:

Action	Date	FR Cite
NPRM	06/15/95	60 FR 31666
NPRM Comment Period End	09/14/95	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robyn Angliss, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Hwy., Silver Spring, MD 20910
Phone: 301 713-2322
Fax: 301 713-0376
Email: robyn.angliss@noaa.gov

RIN: 0648–AJ84

734. LIST OF FISHERIES FOR 1998

Priority: Routine and Frequent

Legal Authority: 16 USC 1361

CFR Citation: 50 CFR 229

Legal Deadline: Final, Statutory, December 30, 1997.
The List of Fisheries must be published at least annually.

Abstract: The List of Fisheries published pursuant to section 118 of the Marine Mammal Protection Act, classifies all U.S. commercial fisheries into one of three categories based on the level of incidental serious injuries and mortality to marine mammals. Participants in fisheries placed in Category I, II, or III are subject to different regulatory requirements under 50 FR 229.

Timetable:

Action	Date	FR Cite
NPRM	05/27/97	62 FR 28657
NPRM Comment Period End	08/25/97	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robyn Angliss, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Hwy., Silver Spring, MD 20910
Phone: 301 713-2322
Fax: 301 713-0376
Email: robyn.angliss@noaa.gov

RIN: 0648–AJ85

735. • ENDANGERED AND THREATENED SPECIES: TAKE OF THREATENED SOUTHERN OREGON/NORTHERN CALIFORNIA COAST EVOLUTIONARILY SIGNIFICANT UNIT (ESU) COHO SALMON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq to 16 USC 1543 et seq subpart B Sec 227.12; 16 USC 1361 et seq

CFR Citation: 50 CFR 227

Legal Deadline: None

Abstract: On May 6, 1997, NMFS listed the Southern Oregon/Northern California Coast ESU of Coho Salmon as threatened. NMFS is now issuing protective regulations under section 4(d) of the ESA which will apply section 9(a) prohibitions to all activities within this ESU unless: in compliance with section 10 or other exemptions under the ESA; in accordance with a timely application for a permit for scientific purposes to enhance propagation or survival of the species; or within carefully circumscribed harvest hatchery, research and monitoring, or habitat restoration activity exceptions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/97	
Final Action	10/00/97	
Final Action Effective	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joe Blum, Fisheries Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Fax: 301 713-0376
Email: joe.blum@noaa.gov

RIN: 0648–AJ91

736. • ANTARCTIC MARINE LIVING RESOURCES CONVENTION ACT OF 1984; CONSERVATION AND MANAGEMENT MEASURES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 2431 et seq

CFR Citation: 50 CFR 300

Legal Deadline: None

Abstract: Resolutions and measures adopted by the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) since the framework regulations were adopted are announced, and public comment invited, in the Federal Register by the Department of State each year following the Commission meeting. Following this comment period, a final regulatory notice is published in the Federal Register by the Department of Commerce (NMFS).

Timetable:

Action	Date	FR Cite
Final Action	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robin Tuttle, Foreign Affairs Officer, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East West Highway, Silver Spring, MD 20910
Phone: 301 713-2282

RIN: 0648–AJ94

737. • MAGNUSON ACT PROVISIONS; APPOINTMENT OF INDIAN TRIBAL REPRESENTATIVE TO PACIFIC FISHERY MANAGEMENT COUNCIL

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1801 et seq; 5 USC 561

CFR Citation: 50 CFR 600.215

Legal Deadline: None

Abstract: Establishes the regulations and procedures for appointing an Indian Tribal Representative to the Pacific Fishery Management Council.

Timetable:

Action	Date	FR Cite
NPRM	08/05/97	62 FR 42093
NPRM Comment Period End	09/11/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Robinson, Chief, Fishery Management Division, Northwest Regional Office, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., Seattle, WA 98115
Phone: 206 526-6140

RIN: 0648–AJ95

738. • NORTHERN ANCHOVY FISHERY; QUOTAS FOR THE 1998-99 FISHING YEAR (ANNUAL SPECIFICATIONS)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, August 1, 1998.

Abstract: This final rule would implement harvest quotas for the northern anchovy fishery for the 1998-99 season. These specifications would include quotas for the reduction and non-reduction fisheries and a total allowable level of foreign fishing. These harvest quotas are issued in accordance with procedures for annual specifications under the Northern Anchovy Fishery Management Plan as recommended by the Pacific Fishery Management Council.

Timetable:

Action	Date	FR Cite
Final Action	08/00/98	
Final Action Effective	08/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth, Acting Regional Administrator, Southwest Region, NMFS, Department of Commerce,

DOC—NOAA

Final Rule Stage

National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90804-4213
Phone: 562 980-4001

RIN: 0648–AK24

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739. • 1998-1999 MANAGEMENT MEASURES FOR COMMERCIAL, RECREATIONAL, AND TREATY INDIAN SALMON FISHERIES OFF THE COASTS OF WASHINGTON, OREGON, AND CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: None

Abstract: Annual management measures for the 1998-99 fishing year would specify allowable ocean harvest levels (including quotas), allocations, management boundaries and zones, minimum size limits, gear definitions, seasons, selective fisheries, and in-season notice procedures.

Timetable:

Action	Date	FR Cite
Final Action	04/00/98	
Final Action Effective	05/00/98	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: William Stelle, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-0070
Phone: 206 526-6150

RIN: 0648–AK25

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740. • REGULATORY AMENDMENT TO IMPLEMENT OBSERVER REQUIREMENTS FOR PROCESSING VESSELS OVER 125 FEET: PACIFIC COAST GROUNDFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Regulations would require processing vessels 125 feet and longer to carry fishery observers approved by NMFS for the purpose of monitoring catch and gathering data.

Timetable:

Action	Date	FR Cite
NPRM	11/19/92	57 FR 54552
NPRM Comment Period End	12/21/92	
Final Action	03/00/98	
Final Action Effective	05/00/98	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Stelle, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-0070
Phone: 206 526-6150

RIN: 0648–AK26

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741. • ENDANGERED AND THREATENED SPECIES; REGULATIONS CONSOLIDATION

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 44 USC 3501 et seq; 16 USC 1531 et seq; 16 USC 742a et seq; 31 USC 9701 Act of August 31, 1951, 65 Stat. 290; 16 USC 1361 et seq

CFR Citation: 50 CFR 217; 50 CFR 220; 50 CFR 221; 50 CFR 222; 50 CFR 223; 50 CFR 225; 50 CFR 226; 50 CFR 227

Legal Deadline: None

Abstract: This final rule consolidates and reorganizes existing regulations regarding implementation of the Endangered Species Act. The action is part of the President's Regulatory Reinvention Initiative.

Timetable:

Action	Date	FR Cite
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Therese Conant, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Fax: 301 713-0376

RIN: 0648–AK34

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742. • FINAL RULE TO MODIFY THE REGULATIONS IMPLEMENTING THE NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: This rule would allow a seasonal exempted gillnet fishery from June 1 through October 31 each year for bonito and little tunny in an area extending south from the Rhode Island coast to the 43880 Loran C line. Vessels fishing under the exemption would be required to use a minimum of 5.5 inch square or diamond mesh gillnet.

Timetable:

Action	Date	FR Cite
Final Action	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Andrew A. Rosenberg, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9300

RIN: 0648–AK35

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743. CIVIL PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 to 1882; 16 USC 1531 to 1543; 16 USC 1361 to 1407; 16 USC 3371 to 3378; 16 USC 1431 to 1439; 16 USC 773 to 773k; 16 USC 951 to 961; 16 USC 1021 to 1032; 16 USC 3631 to 3644; 42 USC 9101 et seq; 30 USC 1401 et seq; 16 USC 971 to 971i; 16 USC 781 et seq; 16 USC 972 to 972b; 16 USC 916 to 916l; ...

CFR Citation: 15 CFR 904

Legal Deadline: None

Abstract: This interim final rule amends NOAA's regulations to make them consistent with a Federal District Court ruling on the Agency's consideration of a respondent's ability to pay when assessing a civil penalty.

DOC—NOAA

Final Rule Stage

The amendment removed a provision which placed the burden on the respondent to raise and prove inability to pay an assessed penalty when the statute involved requires NOAA to take ability to pay into account. A subsequent amendment to the statute in the Magnuson-Stevens Fishery Conservation and Management Act will require changes to the interim final rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/02/93	58 FR 58484
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This rule remains in interim final status. The final rule will reflect changes necessitated by recent statutory amendments enacted as part of the Magnuson-Stevens Fisheries Conservation and Management Act.

Agency Contact: Hugh Schratwieser, Attorney Adviser, Department of Commerce, National Oceanic and Atmospheric Administration, Office of the Assistant General Counsel for Enforcement and Litigation (GCEL), 8484 Georgia Ave. 4th Fl, Silver Spring, MD 20910
Phone: 301 427-2202

RIN: 0648–AF96

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744. TAKING AND IMPORTING OF MARINE MAMMALS; DOLPHIN MORTALITY LIMITS DURING PURSE SEINE SETS ON MARINE MAMMALS IN THE EASTERN TROPICAL PACIFIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216.24

Legal Deadline: None

Abstract: This interim final rule will amend the current performance standards in the MMPA regulations to ensure that U.S. vessels can be legally prevented from making sets on tuna associated with dolphins in the eastern tropical Pacific Ocean once the vessels' dolphin mortality limit is reached. This rule also implements portions of the International Dolphin Conservation Act of 1992.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/19/93	58 FR 29127
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hilda Diaz-Soltero, Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 310 980-4001

RIN: 0648–AF07

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745. TAKING AND IMPORTING OF MARINE MAMMALS; "DOLPHIN-SAFE" TUNA LABELING

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216; 50 CFR 247

Legal Deadline: None

Abstract: This rule will finalize the interim final rule implementing the Dolphin Protection Consumer Information Act. The interim final rule: (1) identified fish and fish products subject to importation requirements mandated by the Marine Mammal Protection Act, as amended by the DPC14; (2) specified the use and contents of a new NOAA form required to import into the United States certain fish and fish products potentially harvested with methods injurious to marine mammals; (3) required importers of certain fish and fish products harvested by nations that engage in high seas large-scale driftnet fishing to provide certification by a responsible government official of the harvesting nation that the items to be imported were not harvested with large-scale driftnets in certain areas of the high seas; and (4) regulated the use of labels suggesting that tuna products are "dolphin safe." This rule also implements portions of the High Seas Driftnet Fisheries Enforcement Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/19/91	56 FR 47418
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hilda Diaz-Soltero, Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 310 980-4001

RIN: 0648–AF08

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746. DESIGNATED CRITICAL HABITAT; JOHNSON'S SEAGRASS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1533

CFR Citation: 50 CFR 226

Legal Deadline: None

Abstract: The National Marine Fisheries Service (NMFS) has proposed that Johnson's seagrass be listed as threatened under the Endangered Species Act (ESA). Section 4(b)(2) of the ESA requires that critical habitat be designated for a listed species after taking into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. Critical habitat is the specific area within the geographical range of the species that has physical or biological features essential to the conservation of the species and which may require special management consideration or protection.

Timetable:

Action	Date	FR Cite
NPRM	08/04/94	59 FR 39716
NPRM Comment Period End	10/13/94	
Final Action	06/00/98	
Final Action Effective	07/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret C. Lorenz, Marine Resource Management Specialist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401

RIN: 0648–AF79

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747. TAKE OF MARINE MAMMALS BY THE U.S. NAVY INCIDENTAL TO MILITARY ACTIVITIES IN THE SOUTH ATLANTIC OF THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216

DOC—NOAA

Final Rule Stage

Legal Deadline: None

Abstract: The U.S. Navy has petitioned NMFS for regulations that would authorize a small take of marine mammals incidental to ship shock trials in oceanic waters offshore Florida or Virginia. Under the Marine Mammal Protection Act, NMFS is allowed to authorize these takings if certain findings are made and regulations are issued that include requirements for monitoring and reporting.

Timetable:

Action	Date	FR Cite
ANPRM	06/14/96	61 FR 30212
ANPRM Comment Period End	07/15/96	
NPRM	08/02/96	61 FR 40377
NPRM Comment Period End	09/17/96	
Final Action	10/00/97	
Final Action Effective	11/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Kenneth Hollingshead, Fishery Biologist, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2055

RIN: 0648–AG55

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748. DESIGNATED CRITICAL HABITAT; PACIFIC COHO SALMON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1533

CFR Citation: 50 CFR 226

Legal Deadline: NPRM, Statutory, October 26, 1994. Final, Statutory, October 31, 1997.
Critical habitat designation for central California coast coho salmon is due one year after the listing, or 10/31/97.
Critical habitat designation for other coho salmon populations (cont)

Abstract: The regulation will propose critical habitat designation for central California coast coho salmon and any other coho salmon populations that are listed in April 1997.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/18/97	62 FR 38479
Final Action	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: LEGAL DEADLINE CONT: will be 1-year after final ESA listing.

Agency Contact: Joe Blum, Fisheries Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1315 East-West Highway, F/PR3, Silver Spring, MD 20910
Phone: 301 713-1401

RIN: 0648–AG56

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749. DESIGNATED CRITICAL HABITAT; UMPQUA RIVER SEA-RUN CUTTHROAT TROUT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1533

CFR Citation: 50 CFR 226

Legal Deadline: NPRM, Statutory, April 1, 1994. Final, Statutory, August 9, 1997.
Endangered Species Act sec. 4(b)(3)(D)(ii) Due August 9, 1997, which is one year after final listing of the species under the ESA.

Abstract: NMFS has issued a final rule to list the Umpqua River cutthroat trout in Oregon as endangered under the Endangered Species Act of 1973. Upon completion of an analysis on the critical habitat for the Umpqua River cutthroat trout, NMFS will make a determination on designating critical habitat for the species.

Timetable:

Action	Date	FR Cite
NPRM	07/30/97	62 FR 40786
NPRM Comment Period End	09/29/97	
Final Action	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: NMFS is planning to designate critical habitat on a multi-species level by combining it for several listed salmonids in one FR notice.

Agency Contact: Joe Blum, Fisheries Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1315 East-West Highway, F/PR3, Silver Spring, MD 20910
Phone: 301 713-1401

RIN: 0648–AG58

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750. FINAL RULE TO ESTABLISH GUIDELINES FOR NONLETHALLY DETERRING MARINE MAMMALS FROM ENDANGERING PERSONAL SAFETY OR DAMAGING PUBLIC OR PRIVATE PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq The Marine Mammal Protection Act

CFR Citation: 50 CFR 216

Legal Deadline: Final, Statutory, January 1, 1995.

Abstract: On April 30, 1994, the President signed Pub. L. 103-238, the Marine Mammal Protection Act Amendments of 1994. One part of this law implemented a new section 101(a)(4) to authorize the nonlethal harassment takings by citizens of the United States to deter marine mammals from: (1) Damaging commercial fishing gear or catch; (2) damaging private property; (3) endangering public safety; or (4) damaging public property. The amendments require a list of guidelines for use in safely deterring marine mammals and provide for prohibiting certain deterrent measures that may have a significant adverse impact on marine mammals.

Timetable:

Action	Date	FR Cite
NPRM	05/05/95	60 FR 22345
NPRM Comment Period End	07/05/95	
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth R. Hollingshead, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910-3226
Phone: 301 713-2055

RIN: 0648–AH19

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751. GENERAL AUTHORIZATION FOR SCIENTIFIC RESEARCH INVOLVING LEVEL B HARASSMENT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1151 et seq Fur Seal Act; 16 USC 1631 et seq Marine Mammal Protection Act

CFR Citation: 50 CFR 216

Legal Deadline: Final, Statutory, August 30, 1994.

DOC—NOAA

Final Rule Stage

Abstract: This final rule is required by the 1994 amendments to the Marine Mammal Protection Act. These regulations establish a general authorization for bona fide scientific research on non-endangered and non-threatened marine mammals that may result in harassment with only the potential to disturb. Inclusion under the general authorization is achieved by letter of intent to the National Marine Fisheries Service and a letter of confirmation from the Service.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/03/94	59 FR 50372
Interim Final Rule Comment Period End	11/17/94	
Final Action	10/00/97	
Final Action Effective	11/00/97	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Ruth Johnson, Marine Resources Management Specialist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910-3226
Phone: 301 713-2289

RIN: 0648–AH20

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752. NORTH ATLANTIC RIGHT WHALE PROTECTION; INTERIM FINAL RULE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 742 et seq; 16 USC 1361 et seq; 16 USC 1531 et seq

CFR Citation: 50 CFR 222; 50 CFR 217

Legal Deadline: Final, Judicial, February 7, 1997.
This deadline is motivated by the Strahan V. Linnon litigation.

Abstract: Disturbance has been identified in the Final Recovery Plan for the Northern Right Whale (Recovery Plan) as among the principal human-induced factors impeding right whale recovery. Accordingly, as recommended in the Recovery Plan, NMFS is establishing a minimum approach distance to northern right whales in an attempt to reduce the current level of disturbance and potential for vessel interaction and injury. Specifically, this interim final rule will prohibit approaches within 500 yards (460m) of a right whale, whether by vessel, aircraft or other means. The rule will require right whale avoidance measures if a vessel or aircraft is within the restricted area. Generally, vessels are required to immediately depart from the whale. Exceptions are provided for emergency situations, where certain authorizations are provided, for aircraft operations (unless the aircraft is conducting whale watch activities), for certain right whale disentanglement/rescue efforts and investigations, and for a vessel restricted in its ability to maneuver and unable to comply with the right whale avoidance measures.

Timetable:

Action	Date	FR Cite
ANPRM	12/27/94	59 FR 66513
ANPRM Comment Period End	02/27/95	
NPRM	08/07/96	61 FR 41116
NPRM Comment Period End	11/07/96	
Interim Final Rule	02/13/97	62 FR 6729
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margot Bohan, Marine Mammal Division, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2322

RIN: 0648–AH47

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753. JOINT DRAFT POLICY FOR SAFE HARBOR AND CANDIDATE SPECIES CONSERVATION (CSC) AGREEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 222

Legal Deadline: None

Abstract: The National Marine Fisheries Service and the Fish and Wildlife Service will be jointly proposing these policies, which would allow non-federal landowners to obtain ESA section 10(a)(1)(A) enhancement of survival permits associated with a Safe Harbor or CSC Agreements. The Agreements would be between NMFS and/or FWS and non-Federal landowners to provide a net conservation benefit to endangered, threatened, candidate, proposed, and other unlisted species. After terms of the Agreement are completed, the enrolled lands could be returned to the baseline or agreed upon conditions through incidental taking authorized in the permit. These enhancement permits will provide non-Federal landowners, who undertake voluntary conservation activities agreed to in the agreements, assurances that future land use will not be restricted as a result of their conservation efforts. The enhancement of survival permits would authorize the incidental taking in performing management actions to achieve the net conservation benefit as well as incidental take authorized to return the land to target conditions upon the completion of all the management action. Participating landowners will derive regulatory certainty, because the ESA will not prohibit them from returning their land to original or agreed upon conditions once the Agreement is fulfilled. The Agreements encourage beneficial land-use, which helps imperiled species. The FWS have their own permit regulations and have made a similar request under EO12866, their request number is RIN 108-AD95.

Timetable:

Action	Date	FR Cite
NPRM	06/12/97	62 FR 113
NPRM Comment Period End	08/11/97	
Final Action	10/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Margaret Lorenz, ESA Policy Coordinator, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Fax: 301 713-0376

RIN: 0648–AJ54

NATIONAL OCEAN SURVEY/OFFICE OF COASTAL RESOURCES MANAGEMENT

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754. THUNDER BAY NATIONAL MARINE SANCTUARY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1431 to 1445

CFR Citation: 15 CFR 922

Legal Deadline: None

Abstract: These regulations will protect the ecological, recreational, and esthetic resources of the waters surrounding Thunder Bay if the area is designated as a national marine sanctuary.

Timetable:

Action	Date	FR Cite
NPRM	06/23/97	62 FR 33768
NPRM Comment Period End	09/22/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Completion of this regulation within the dates projected in the timetable is subject to the availability of appropriated funds for NOAA after March 15, 1996. At this time NOAA anticipates that sufficient funds will be appropriated to complete this project.

Agency Contact: Stephanie R. Thornton, Chief, Sanctuaries and Reserve Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1305 East-West Highway (N/ORM2), Silver Spring, MD 20910
Phone: 301 713-3155

RIN: 0648–AE41

755. ALLOWANCE OF SMALL-SCALE NON-INTRUSIVE JADE COLLECTING IN MONTEREY BAY NATIONAL MARINE SANCTUARY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1434(a)(5)

CFR Citation: 15 CFR 944

Legal Deadline: None

Abstract: The National Ocean Service, Sanctuaries and Reserve Division (SRD) is issuing an ANPRM to inform the public that it is considering allowing small-scale, non-intrusive jade collecting in the MBNMS, and to invite written comments, advice, and recommendations. There has been public interest in allowing jade collection in the MBNMS and this action will respond to and address those interests. If SRD determines to amend the regulations, it will issue a proposed rule with an additional 45-day comment period.

This action is considered not significant because the advance notice of proposed rulemaking simply presents an issue and course of action under consideration by SRD and requests comments from the public. This action will ensure that SRD takes into account all views on this issue. This action does not have an annual effect on the economy of $100 million or more, nor does it adversely effect in a material way the economy, environment, public health or safety.

Timetable:

Action	Date	FR Cite
ANPRM	08/09/95	60 FR 40540
ANPRM Comment Period End	09/08/95	
NPRM	06/13/97	62 FR 32246
NPRM Comment Period End	08/12/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Completion of this regulation within the projected dates in the timetable is subject to the availability at appropriated funds for NOAA after March 15, 1996. At this time, NOAA anticipates that sufficient funds will be appropriated to completed this project.

Agency Contact: Elizabeth Moore, Sanctuaries and Reserves Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1305 East-West Highway (N/ORM2), Silver Spring, MD 20910
Phone: 301 713-3145

RIN: 0648–AI06

DEPARTMENT OF COMMERCE (DOC)

Long-Term Actions

National Oceanic and Atmospheric Administration (NOAA)

NATIONAL MARINE FISHERIES SERVICE

756. FISHERY MANAGEMENT PLAN FOR TILEFISH

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
NPRM Comment Period End	02/00/99	
Final Action	08/00/99	
Final Action Effective	09/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Andrew A. Rosenberg
Phone: 508 281-9300

RIN: 0648–AF87

757. AMENDMENT 1 TO THE FISHERY MANAGEMENT PLAN FOR ATLANTIC BILLFISH

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 644

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Action	09/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary C. Matlock
Phone: 301 713-7334

RIN: 0648–AF88

758. REGULATORY AMENDMENT FOR THE GULF OF ALASKA SEAMOUNT FISHERIES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AG94

759. REGULATORY AMENDMENT TO REQUIRE ELECTRONIC SUBMISSION BY ALASKA GROUNDFISH PROCESSORS OF WEEKLY PRODUCTION REPORTS AND CHECK INVOUT REPORTS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AI66

760. REGULATORY AMENDMENT TO PREVENT OVERFISHING AND REBUILD STOCKS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AJ46

761. REGULATORY AMENDMENT TO IMPLEMENT BYCATCH REDUCTION MEASURES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AJ49

763. REGULATORY AMENDMENT TO REVISE DEFINITIONS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AJ50

762. AMENDMENTS TO THE BSAI AND GOA FISHERY MANAGEMENT PLANS TO IMPLEMENT A DATA COLLECTION PROGRAM FOR RECREATIONAL, CHARTER, AND COMMERCIAL FISHING

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AJ99

764. • FMP AMENDMENTS TO BSAI GROUNDFISH AND THE GROUNDFISH OF THE GOA TO ALLOCATE SHORTRAKER ROUGHEYE ROCKFISH BETWEEN GEAR TYPES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: NPRM, Statutory. Final, Statutory.
Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: These FMP amendments would allocate Aleutian Island area shortraker rougheye rockfish between vessels using trawl and vessels using fixed gear to address potential gear preemption issues and overfishing concerns for these species.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802
Phone: 907 586-7228

RIN: 0648–AJ99

765. • RULEMAKING TO ESTABLISH THE NORTH PACIFIC LOAN PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: NPRM, Statutory. Final, Statutory.
Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This rulemaking would establish a North Pacific Loan Program which would provide financing for loans to fishermen who fish from small vessels or entry level fishermen fishing IFQ fisheries.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802 Phone: 907 586-7228

RIN: 0648–AK07

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766. • REGULATORY AMENDMENT TO DEVELOP A C. BAIRDI VESSEL INCENTIVE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: NPRM, Statutory.
Final, Statutory.
Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Inshore/Offshore reallocation.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802 Phone: 907 586-7228

RIN: 0648–AK08

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767. • FMP AMENDMENTS FOR THE GROUNDFISH FISHERY OF THE BERING SEA AND ALEUTIAN ISLANDS AND FOR THE GROUNDFISH OF THE GULF OF ALASKA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: NPRM, Statutory.
Final, Statutory.
Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Inshore/Offshore allocation of pollock and Pacific cod and reauthorization of pollock CDQ program.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802 Phone: 907 586-7228

RIN: 0648–AK12

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768. • REGULATORY AMENDMENT TO ALLOCATE PACIFIC HALIBUT TO THE HALIBUT SUBSISTENCE FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: NPRM, Statutory.
Final, Statutory.
Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Establish measures to allocate halibut and manage the halibut subsistence fishery.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802 Phone: 907 586-7228

RIN: 0648–AK16

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769. • REGULATORY AMENDMENT TO ALLOCATE PACIFIC HALIBUT TO THE CHARTER BOAT FLEET

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: NPRM, Statutory.
Final, Statutory.
Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Establish measures to manage the halibut charter boat industry.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802 Phone: 907 586-7228

RIN: 0648–AK17

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770. PERFORMANCE STANDARDS FOR TUNA VESSEL OPERATORS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 216

Timetable:

Action	Date	FR Cite
NPRM	11/01/89	54 FR 46086
NPRM Comment Period End	12/01/89	
Interim Final Rule	05/17/90	55 FR 20458
Interim Final Rule Comment Period End	09/03/90	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hilda Diaz-Soltero Phone: 310 980-4001

RIN: 0648–AD03

771. SEA TURTLE MONITORING AND CONSERVATION MEASURES FOR NONSHRIMP FISHERIES

Priority: Other Significant

CFR Citation: 50 CFR 217; 50 CFR 222; 50 CFR 227

Timetable:

Action	Date	FR Cite
ANPRM	07/10/92	57 FR 30709
ANPRM Comment Period End	08/08/92	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Therese Conant Phone: 301 713-1401

RIN: 0648–AE54

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772. PROPOSED RULE TO REQUIRE CERTAIN FISH FROM MEXICO TO RETAIN HEADS AND TAILS INTACT IN ORDER TO PROTECT THE ENDANGERED TOTOABA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 227

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kenneth R. Hollingshead Phone: 301 713-2055

RIN: 0648–AF32

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773. TAKING OF MARINE MAMMALS INCIDENTAL TO FISHERIES-RELATED RESEARCH

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 228; 50 CFR 216

Timetable:

Action	Date	FR Cite
ANPRM	12/09/91	56 FR 64234
ANPRM Comment Period End	01/08/92	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Kenneth Hollingshead Phone: 301 713-2055

RIN: 0648–AF50

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774. DIRECT TAKE OF THREATENED SALMON BY NATIVE AMERICANS

Priority: Other Significant

CFR Citation: 50 CFR 227.21

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joe Blum Phone: 301 713-1401

RIN: 0648–AG15

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775. TAKING AND IMPORTING OF MARINE MAMMALS: TUNA PURSE SEINE VESSEL OBSERVER EXPENSES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 216.24

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Hilda Diaz-Soltero Phone: 301 980-4001

RIN: 0648–AG35

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776. GENERAL PROVISIONS; ENDANGERED FISH OR WILDLIFE; THREATENED FISH AND WILDLIFE; SEA TURTLE CONSERVATION MEASURES (SECTION 9 PROTECTION)

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 217; 50 CFR 220; 50 CFR 221; 50 CFR 222; 50 CFR 223; 50 CFR 224; 50 CFR 227

Timetable:

Action	Date	FR Cite
ANPRM	07/10/92	57 FR 30709
ANPRM Comment Period End	08/08/92	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Robert C. Ziobro Phone: 310 713-1401

RIN: 0648–AG38

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777. DESIGNATED CRITICAL HABITAT; ATLANTIC SALMON

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 226

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marta Nammack Phone: 301 713-1401

RIN: 0648–AG50

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778. PROPOSED RULE TO AUTHORIZE LETHAL TAKINGS OF MARINE MAMMALS BY STATE AUTHORITIES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 216

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kenneth R. Hollingshead Phone: 301 713-2055

RIN: 0648–AG79

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779. FINAL RULE TO AMEND MARINE MAMMAL REGULATIONS TO AUTHORIZE INCIDENTAL TAKINGS OF MARINE MAMMALS BY HARASSMENT AS AUTHORIZED BY PUBLIC LAW 103-238

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 50 CFR 216

Timetable:

Action	Date	FR Cite
NPRM	05/31/95	60 FR 28379
NPRM Comment Period End	10/16/95	60 FR 35801
Interim Final Rule	04/10/96	61 FR 15884
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: Kenneth R. Hollingshead Phone: 301 713-2055

RIN: 0648–AG80

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780. TAKING AND IMPORTING OF MARINE MAMMALS: PROPOSED RULE PROHIBITING U.S. CITIZENS FROM ENCIRCLING MARINE MAMMALS DURING TUNA FISHING OPERATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 216.24

Timetable:

Action	Date	FR Cite
NPRM	10/12/94	59 FR 51552

DOC—NOAA

Long-Term Actions

Action	Date	FR Cite
NPRM Comment Period End	11/14/94	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hilda Diaz-Soltero
Phone: 310 980-4001

RIN: 0648–AH04

781. SHRIMP VESSEL REGISTRATION REQUIREMENT

Priority: Other Significant

CFR Citation: 50 CFR 227

Timetable:

Action	Date	FR Cite
ANPRM	09/13/95	60 FR 47597
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Therese Conant
Phone: 301 713-1401

RIN: 0648–AH87

NATIONAL OCEAN SURVEY/OFFICE OF COASTAL RESOURCES MANAGEMENT

782. REVISION OF FEDERAL CONSISTENCY REGULATIONS UNDER THE COASTAL ZONE MANAGEMENT ACT

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 930

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Margo F. Jackson
Phone: 301 713-2967

RIN: 0648–AD83

783. REVISION OF OVERFLIGHT REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 922

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Elizabeth Moore
Phone: 301 713-3145

RIN: 0648–AI91

OFFICE OF THE ADMINISTRATOR

784. REGIONAL MARINE RESEARCH PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Don Scavia
Phone: 301 713-3338

RIN: 0648–AF20

785. NOAA CLIMATE AND GLOBAL CHANGE PROGRAM—PROPOSAL SUBMISSION GUIDELINES

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Irma DuPree
Phone: 301 427-2089

RIN: 0648–AG51

786. NATIONAL UNDERSEA RESEARCH PROGRAM FUNDING REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: None

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Henry Frey
Phone: 301 713-2448

RIN: 0648–AH90

DEPARTMENT OF COMMERCE (DOC)

National Oceanic and Atmospheric Administration (NOAA)

Completed Actions

787. REGULATORY ADJUSTMENTS TO THE FMP FOR SHARKS OF THE ATLANTIC OCEAN

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 678

Completed:

Reason	Date	FR Cite
Final Action	04/07/97	62 FR 16648

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gary C. Matlock
Phone: 301 713-2334

RIN: 0648–AH77

788. REGULATORY AMENDMENT TO ESTABLISH MANAGEMENT MEASURES FOR ATLANTIC AND GULF GROUPS OF KING AND SPANISH MACKEREL FOR THE 1996-97 FISHING YEAR

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 622

Completed:

Reason	Date	FR Cite
Final Action	05/01/97	62 FR 23671

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer
Phone: 813 570-5301

RIN: 0648–AI13

789. ADVANCE NOTICE OF PROPOSED RULEMAKING FOR THE AMERICAN LOBSTER FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 649

DOC—NOAA

Completed Actions

Completed:

Reason	Date	FR Cite
Withdrawn See "Additional Information"	07/14/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Andrew A. Rosenberg
Phone: 508 281-9200

RIN: 0648–AI14

790. AMENDMENT 2 TO THE FISHERY MANAGEMENT PLAN FOR THE SHRIMP FISHERY OF THE SOUTH ATLANTIC

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 622

Completed:

Reason	Date	FR Cite
Final Action	04/16/97	62 FR 18536
Final Action Effective	04/21/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer
Phone: 813 570-5301

RIN: 0648–AI15

791. WITHDRAWAL OF FEDERAL FISHERIES REGULATIONS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 50 CFR 649

Completed:

Reason	Date	FR Cite
Withdrawn	07/14/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gary C. Matlock
Phone: 301 713-2334

RIN: 0648–AI16

792. AMENDMENT 7 TO THE ATLANTIC SEA SCALLOP FISHERY MANAGEMENT PLAN

Completed:

Reason	Date	FR Cite
Withdrawn - Duplicate of RIN 0648-AJ33	07/14/97	

RIN: 0648–AI36

793. REGULATORY AMENDMENT TO REVISE THE RECORDKEEPING AND REPORTING REQUIREMENTS FOR GROUNDFISH FISHERIES OF THE EEZ OFF OF ALASKA FOR 1998

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Completed:

Reason	Date	FR Cite
Final Action	04/11/97	62 FR 17753
Final Action Effective	05/12/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AI68

794. PACIFIC WHITING ALLOCATION AMONG NON-TRIBAL SECTORS AND SEASONAL FRAMEWORK

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
Final Action	05/20/97	62 FR 27519
Final Action Effective	05/14/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William Stelle
Phone: 206 526-6150

RIN: 0648–AI80

795. AMENDMENT 12 TO FMP FOR SALMON FISHERIES OFF THE COASTS OF WASHINGTON, OREGON, AND CALIFORNIA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
Final Action	07/01/97	62 FR 35450
Final Action Effective	07/31/97	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Tribal, Federal

Agency Contact: William Stelle
Phone: 206 526-6150

RIN: 0648–AI82

796. AMENDMENT 2 TO THE FISHERY MANAGEMENT PLAN FOR THE SCALLOP FISHERY OFF ALASKA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Completed:

Reason	Date	FR Cite
Final Action	04/11/97	62 FR 17749
Final Action Effective	05/02/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AI88

797. A MORATORIUM ON ISSUANCE OF NEW PERMITS FOR FISHING IN THE MAU ZONE PORTION OF THE NWHI BOTTOMFISH FISHERY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
Final Action	02/26/97	62 FR 8637
Final Action Effective	03/27/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth
Phone: 562 980-4001

RIN: 0648–AJ02

798. OPTIONS FOR ANGLING CATEGORY SEASON FOR THE ATLANTIC SEASON FOR THE ATLANTIC BLUEFIN TUNA FISHERIES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 285

Completed:

Reason	Date	FR Cite
Final Action	06/05/97	62 FR 30741
Final Action Effective	07/14/97	62 FR 38485

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gary C. Matlock
Phone: 301 713-2334

RIN: 0648–AJ04

DOC—NOAA

Completed Actions

799. PROPOSED RULE TO IMPLEMENT AMENDMENT 6 TO THE FISHERY MANAGEMENT PLAN FOR ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FISHERIES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
Final Action	02/26/97	62 FR 8636
Final Action Effective	03/28/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Andrew A. Rosenberg
Phone: 518 281-9250

RIN: 0648–AJ06

800. 1997-98 MANAGEMENT MEASURES FOR COMMERCIAL, RECREATIONAL, AND TREATY INDIAN SALMON FISHERIES OFF THE COASTS OF WA, OR, AND CA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
Final Action	05/05/97	62 FR 24335
Final Action Effective	05/01/97	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: William Stelle
Phone: 206 526-6150

RIN: 0648–AJ09

801. REGULATORY AMENDMENT TO ADJUST REEF FISH MANAGEMENT MEASURES TO THE GULF OF MEXICO FOR THE 1997 SEASON

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 622

Completed:

Reason	Date	FR Cite
Final Action	09/04/97	62 FR 46677
Final Action Effective	10/06/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Andrew Kemmerer
Phone: 813 570-5301

RIN: 0648–AJ13

802. WEAKFISH REGULATIONS FOR THE EXCLUSIVE ECONOMIC ZONE (EEZ)

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 697

Completed:

Reason	Date	FR Cite
Final Action	09/22/97	62 FR 49451
Final Action Effective	10/22/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Richard H. Schaefer
Phone: 301 427-2014
Fax: 301 427-2313

RIN: 0648–AJ15

803. REGULATORY AMENDMENT TO IMPLEMENT 1997 NONTRAWL SABLEFISH HARVEST REGIME

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
Final Action	08/27/97	62 FR 45350
Final Action Effective	08/21/97	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Stelle
Phone: 206 526-6150

RIN: 0648–AJ19

804. AMENDMENT 9 TO THE PACIFIC COAST GROUNDFISH FMP TO REQUIRE ENDORSEMENTS IN THE SABLEFISH FISHERY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
Final Action	06/27/97	62 FR 34670
Final Action Effective	07/28/97	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Stelle
Phone: 206 526-6150

RIN: 0648–AJ23

805. REGULATIONS OF GREATER AMBERJACK, LESSER AMBERJACK, BANDED RUDDERFISH, AND/OR ALMACOJACK UNDER THE FMP FOR REEFFISH RESOURCES OF GOM

Priority: Info./Admin./Other

CFR Citation: 50 CFR 622

Completed:

Reason	Date	FR Cite
Withdrawn	11/15/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Andrew Kemmerer
Phone: 813 570-5301

RIN: 0648–AJ27

806. FRAMEWORK ADJUSTMENT 23 TO THE FISHERY MANAGEMENT PLAN FOR THE NORTHEAST MULTISPECIES FISHERY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
Final Action	04/01/97	62 FR 15425
Final Action Effective	03/27/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Andrew A. Rosenberg
Phone: 508 281-9200

RIN: 0648–AJ32

807. IMPLEMENTATION OF MEASURES CONTAINED IN FRAMEWORK ADJUSTMENT 21 TO THE NORTHEAST MULTISPECIES FMP

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
Final Action	02/25/97	62 FR 8404
Final Action Effective	02/20/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Andrew A. Rosenberg
Phone: 508 281-9200

RIN: 0648–AJ34

DOC—NOAA

Completed Actions

808. REGULATORY AMENDMENT TO REQUIRE A SIX-HOUR NOTICE OF LANDING OF INDIVIDUAL FISHING QUOTA (IFQ) SPECIES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Completed:

Reason	Date	FR Cite
Final Action	05/12/97	62 FR 26246
Final Action Effective	06/13/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AJ35

809. AMENDMENT OF CONSOLIDATED REGULATIONS AT 50 CFR 679 TO INCLUDE THE HIGH SEAS SALMON FISHERY OFF ALASKA REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Completed:

Reason	Date	FR Cite
Final Action	04/23/97	62 FR 19686
Final Action Effective	05/23/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AJ38

810. IMPLEMENTATION OF MEASURES TO AVOID SEA BIRDS IN THE ALASKA LONGLINE GROUNDFISH FISHERY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Completed:

Reason	Date	FR Cite
Final Action	04/29/97	62 FR 23176
Final Action Effective	05/29/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AJ30

811. SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS FISHERY, 1997 SUMMER FLOUNDER RECREATIONAL FISHERY SPECIFICATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
Final Action	07/11/97	62 FR 37154
Final Action Effective	07/08/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Andrew A. Rosenberg
Phone: 508 281-9250
Fax: 508 281-9135

RIN: 0648–AJ42

812. FINAL RULE TO IMPLEMENT FRAMEWORK ADJUSTMENT 20 TO THE FISHERY MANAGEMENT PLAN FOR THE NORTHEAST MULTISPECIES FISHERY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
Final Action	09/19/97	62 FR 49144
Final Action Effective	09/18/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Andrew A. Rosenberg
Phone: 508 281-9200

RIN: 0648–AJ43

813. FRAMEWORK ADJUSTMENT 22 TO THE NORTHEAST MULTISPECIES AND FRAMEWORK ADJUSTMENT 4 TO THE AMERICAN LOBSTER FISHERY MANAGEMENT PLANS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 50 CFR 648; 50 CFR 649

Completed:

Reason	Date	FR Cite
Final Action	03/10/97	62 FR 10747
Final Action Effective	03/17/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Andrew A. Rosenberg
Phone: 508 281-9272

RIN: 0648–AJ48

814. SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS FISHERIES; 1997 SCUP RECREATIONAL FISHERY SPECIFICATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
Final Action	07/16/97	62 FR 38036
Final Action Effective	08/14/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Andrew A. Rosenberg
Phone: 508 281-9250
Fax: 508 281-9135

RIN: 0648–AJ53

815. 1997 HARVEST GUIDELINE FOR NORTHWESTERN HAWAIIAN ISLANDS LOBSTER FISHERY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
Final Action	05/23/97	62 FR 28376
Final Action Effective	07/01/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth
Phone: 562 980-4001

RIN: 0648–AJ58

816. ADJUSTMENT OF AREA CLOSURE FOR NORTHWESTERN HAWAIIAN ISLANDS (NWHI) LOBSTER FISHERY FOR VESSELS WITH VESSEL MONITORING SYSTEM EQUIPMENT

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
Final Action	07/01/97	62 FR 35448
Final Action Effective	08/13/97	62 FR 43294

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth
Phone: 562 980-4001

RIN: 0648–AJ57

817. MAGNUSON-STEVENS ACT PROVISIONS; FOREIGN FISHING VESSELS IN INTERNAL WATERS

Priority: Info./Admin./Other

CFR Citation: 50 CFR 600

Completed:

Reason	Date	FR Cite
Final Action	05/19/97	62 FR 27182
Final Action Effective	06/18/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gary C. Matlock
Phone: 301 713-2334

RIN: 0648–AJ59

818. ADJUSTMENT OF NORTHWESTERN HAWAIIAN ISLANDS (NWHI) LOBSTER HARVEST GUIDELINE SYSTEM TO PREVENT OVERFISHING

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
Final Action	06/23/97	62 FR 33761
Final Action Effective	06/23/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth
Phone: 562 980-4001

RIN: 0648–AJ61

819. FRAMEWORK ADJUSTMENT 9 TO THE ATLANTIC SEA SCALLOP FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
Final Action	08/14/97	62 FR 43469
Final Action Effective	08/15/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Andrew A. Rosenberg
Phone: 508 281-9200

RIN: 0648–AJ62

820. ATLANTIC TUNA FISHERIES; EFFORT CONTROLS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 50 CFR 285

Completed:

Reason	Date	FR Cite
Final Action	07/21/97	62 FR 38939
Final Action Effective	07/15/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary C. Matlock
Phone: 301 713-2334

RIN: 0648–AJ65

821. ATLANTIC TUNA FISHERIES; ANNUAL ATLANTIC BLUEFIN TUNA QUOTAS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 50 CFR 285

Completed:

Reason	Date	FR Cite
Final Action	08/30/97	62 FR 35107

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary C. Matlock
Phone: 301 713-2334

RIN: 0648–AJ69

822. PROCEDURES GOVERNING ESTABLISHMENT AND OPERATION OF FISHERY NEGOTIATION PANELS

Priority: Info./Admin./Other

CFR Citation: 50 CFR 600

Completed:

Reason	Date	FR Cite
Final Action	05/01/97	62 FR 23668

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary C. Matlock
Phone: 301 713-2334

RIN: 0648–AJ72

823. FINAL RULE TO ADD REGULATION IMPLEMENTING THE FISHERY MANAGEMENT PLAN FOR THE ATLANTIC BLUEFISH FISHERY TO THE CONSOLIDATED NORTHEAST FISHERIES REGULATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 50 CFR 628; 50 CFR 648

Completed:

Reason	Date	FR Cite
Final Action	03/20/97	62 FR 13296
Final Action Effective	03/20/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Andrew A. Rosenberg
Phone: 508 281-9300

RIN: 0648–AJ78

824. FINAL RULE TO IMPLEMENT FRAMEWORK ADJUSTMENT 16 TO THE NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
Final Action	03/03/97	62 FR 9377
Final Action Effective	04/02/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Andrew A. Rosenberg
Phone: 508 281-9300

RIN: 0648–AJ80

825. FINAL RULE TO INCORPORATE THE REGULATIONS GOVERNING THE NORTHERN ANCHOVY INTO THE CONSOLIDATED REGULATIONS FOR FISHERIES OFF THE WEST COAST AND IN THE WESTERN PACIFIC

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
Final Action	04/18/97	62 FR 19042
Final Action Effective	04/18/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth
Phone: 562 980-4001

RIN: 0648–AJ81

826. • FUR SEAL SUBSISTENCE HARVEST ESTIMATES FOR 1997-1999; 1994-1996 SUBSISTENCE HARVESTS ON THE PRIBILOF ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1151 et seq; 16 USC 1361 et seq

CFR Citation: 50 CFR 216, subpart F

Legal Deadline: Final, Statutory, June 23, 1997.

Abstract: The northern fur seal population is considered depleted under the MMPA. The subsistence harvest of northern fur seals on the Pribilof Islands, AK, is governed by regulations found in 50 CFR Part 216. The purpose of these regulations is to limit the take of fur seals to a level providing for the subsistence needs of the Pribilof Aleuts, while using humane harvesting methods and restricting taking by sex, age, and season for herd management purposes.

Pursuant to the regulations governing northern fur seal subsistence taking on the Pribilof Islands, and following a 30-day public comment period on the proposed subsistence need estimates of the Pribilof Aleuts, NMFS is publishing this final rule establishing annual northern fur seal harvest range levels for 1997-1999 and summarizing the annual harvest for 1994-1996.

Timetable:

Action	Date	FR Cite
NPRM	04/11/97	62 FR 17774
NPRM Comment Period End	05/12/97	
Final Action	06/19/97	62 FR 33374

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Margot Bohan, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2322
Fax: 301 713-0376

RIN: 0648–AJ86

827. • ESTABLISHMENT OF CONTROL DATE FOR BLACK SEA BASS POT FISHERY OF SOUTH ATLANTIC EEZ

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: None

Abstract: The black sea bass fishery is managed under the Fishery Management Plan for the Snapper-Grouper of the South Atlantic Region by the South Atlantic Fishery Management Council (Council). An advanced notice of proposed rulemaking (control date) for the black sea bass pot fishery in the South Atlantic was published in the Federal Register on April 23, 1997. The control date notifies the public that the Council is considering the need to impose additional management measures limiting entry into the commercial pot fishery for black sea bass in the exclusive economic zone off the southern Atlantic states, and, if there is a need, what management measures should be imposed. The control date is April 23, 1997. After that date, anyone entering the commercial sea bass pot fishery may not be assured of future participation in the fishery if a limited entry management regime is implemented. This control date applies only south of Cape Hatteras, North Carolina. Fishermen who take black sea bass with hook-and-line gear would not be affected by the sea bass pot control date.

Timetable:

Action	Date	FR Cite
Final Action	04/23/97	62 FR 19732

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 813 570-5301
Fax: 813 570-5300

RIN: 0648–AJ88

828. • PROPOSED TRADE RESTRICTIONS FOR ATLANTIC BLUEFIN TUNA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 971 et seq

CFR Citation: 50 CFR 285

Legal Deadline: None

Abstract: This action prohibits importation of bluefin tuna harvested by vessels of Hondures, Belize and Panama.

Timetable:

Action	Date	FR Cite
NPRM	07/17/97	62 FR 38246
NPRM Comment Period End	08/04/97	
Final Action Effective	08/20/97	
Final Action	08/21/97	62 FR 44422

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary C. Matlock, Director, Office of Sustainable, Fisheries, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AJ93

829. • FINAL RULE TO IMPLEMENT A FRAMEWORK ADJUSTMENT TO THE FISHERY MANAGEMENT PLAN FOR THE NORTHEAST MULTISPECIES FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: This framework would require vessels that exceed the Gulf of Maine (GOM) cod trip limit to layover at the dock until its days-at-sea (DAS) used equate to the allowable cod landings. Vessels would be allowed to transit from port to port during this time if they contact law enforcement for authorization.

DOC—NOAA

Completed Actions

Timetable:

Action	Date	FR Cite
Withdrawn - Consolidated into RIN 0648-AJ96	08/05/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Andrew A. Rosenberg, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9300

RIN: 0648–AJ97

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830. PROCEDURE FOR SETTING QUOTAS ON REMOVAL OF ATLANTIC BOTTLENOSE DOLPHINS FROM THE WATERS OF THE GULF OF MEXICO AND FLORIDA'S EAST COAST

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 216

Completed:

Reason	Date	FR Cite
Withdrawn	07/10/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ann D. Terbush
Phone: 301 713-2289

RIN: 0648–AD39

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831. DESIGNATION OF CRITICAL HABITAT FOR THE GULF OF MAINE POPULATION OF HARBOR PORPOISE

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 226

Completed:

Reason	Date	FR Cite
Withdrawn - Species Not Listed	07/10/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Payne
Phone: 301 713-2322

RIN: 0648–AG06

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832. FINAL RULE; TAKING AND IMPORTING OF MARINE MAMMALS; CONSOLIDATION OF REGULATIONS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 50 CFR 215; 50 CFR 216

Completed:

Reason	Date	FR Cite
Final Action	03/22/96	61 FR 11750

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margot Bohan
Phone: 301 713-2322
Fax: 301 713-0376

RIN: 0648–AI89

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833. HAWAIIAN ISLANDS HUMPBACK WHALE NATIONAL MARINE SANCTUARY

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Final Action	03/28/97	62 FR 14799

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephanie R. Thornton
Phone: 301 713-3125

RIN: 0648–AH91

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834. REVISION OF COASTAL ZONE MANAGEMENT ACT REGULATIONS TO CONFORM TO STATUTORY CHANGES

Priority: Info./Admin./Other

CFR Citation: 15 CFR 921; 15 CFR 923; 15 CFR 930

Completed:

Reason	Date	FR Cite
Final Action	03/17/97	62 FR 12539
Final Action Effective	03/17/97	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Vickie Allin
Phone: 301 713-3086

RIN: 0648–AJ24

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835. NATIONAL WEATHER SERVICE MODERNIZATION CRITERIA FOR AUTOMATION OF D-SERVICE LEVEL NWS SITES

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 946; 15 CFR 946 app A

Completed:

Reason	Date	FR Cite
Final Action	07/21/97	62 FR 38901
Final Action Effective	10/01/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nicholas Scheller
Phone: 301 713-0454
Fax: 301 713-1002

RIN: 0648–AJ83

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO)

Proposed Rule Stage

836. REQUIREMENTS FOR REGISTRATION TO PRACTICE BEFORE THE PTO IN PATENT CASES

Priority: Substantive, Nonsignificant

Legal Authority: 35 USC 31; 35 USC 32

CFR Citation: 37 CFR 1.21; 37 CFR 10.7; 37 CFR 10.11

Legal Deadline: None

Abstract: This rulemaking involves the restructuring of the administration and format of the Registration Examination for Patent Practitioners and the establishment of a continuing education requirement and annual fee for registered practitioners.

Timetable:

Action	Date	FR Cite
ANPRM	09/30/96	61 FR 51072
ANPRM Comment Period End	12/06/96	
NPRM	02/00/98	
NPRM Comment Period End	03/00/98	
Final Action	06/00/98	
Final Action Effective	07/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karen L. Bovard, Director of Enrollment and Discipline, Department of Commerce, Patent and Trademark Office, Commissioner of Patents and Trademarks, Box 4, Washington, DC 20231
Phone: 703 305-5316
Fax: 703 305-5276

RIN: 0651–AA93

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837. 1998 CHANGES TO PATENT PRACTICE AND PROCEDURE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1; 37 CFR 5

Legal Deadline: None

Abstract: The proposed rule changes would simplify requirements, rearrange for better context, and eliminate unnecessary rules.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hiram H. Bernstein, Senior Legal Advisor, Department of Commerce, Patent and Trademark Office, Box DAC, Assistant Commissioner for Patents, Washington, DC 20231
Phone: 703 305-9285
Fax: 703 308-6916

RIN: 0651–AA94

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838. • TECHNICAL REQUIREMENTS FOR REGISTRATION TO PRACTICE BEFORE THE PTO IN PATENT CASES

Priority: Substantive, Nonsignificant

Legal Authority: 35 USC 31; 35 USC 32

CFR Citation: 37 CFR 10.7

Legal Deadline: None

Abstract: This rulemaking amends the rules of practice before the PTO to include the technical requirements for registration to practice before the PTO in patent cases.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	11/00/97	
Final Action	02/00/98	
Final Action Effective	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karen L. Bovard, Director of Enrollment and Discipline, Department of Commerce, Patent and Trademark Office, Box 4, Washington, DC 20231
Phone: 703 305-5316
Fax: 703 305-5276

RIN: 0651–AA95

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839. • REVISION OF PATENT AND TRADEMARK FEES FOR FISCAL YEAR 1998

Priority: Routine and Frequent

Legal Authority: 35 USC 41; 15 USC 1115; 35 USC 6; 35 USC 376; 15 USC 1051; 15 USC 1113; 15 USC 1123; PL 101-508; PL 102-204; PL 103-66

CFR Citation: 37 CFR 1.16 to 1.21; 37 CFR 1.28; 37 CFR 1.445; 37 CFR 1.482; 37 CFR 1.492; 37 CFR 2.6

Legal Deadline: Final, Statutory, October 1, 1998.

Abstract: This rulemaking revises certain patent and trademark fees to reflect fluctuations in the Consumer Price Index (CPI) consistent with the Patent and Trademark Authorization Act of 1991 (PL 102-204).

Timetable:

Action	Date	FR Cite
NPRM	05/00/98	
NPRM Comment Period End	06/00/98	
Final Action	07/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Matthew Lee, Systems Analyst, Department of Commerce, Patent and Trademark Office, Washington, DC 20231
Phone: 703 305-8051

RIN: 0651–AA96

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO)

Final Rule Stage

840. CHANGES TO IMPLEMENT 18-MONTH PUBLICATION OF PATENT APPLICATIONS

Priority: Other Significant

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1

Legal Deadline: None

Abstract: Congress is considering legislation that would mandate early publication of pending patent applications, except those under secrecy order. Early publication will require printing some information about pending patent applications 18 months after the effective filing date of each patent application. This rulemaking implements that legislation.

Timetable:

Action	Date	FR Cite
Notice of Public Hearing and Request for Public Comments	12/12/94	59 FR 63906
NPRM	06/15/95	60 FR 42352
NPRM Comment Period End	09/19/95	
Final Action	03/00/98	
Final Action Effective	04/00/98	
Procedures for Amending Patent Applications		
Final Rule	08/19/96	(61 FR 42790)
Final Rule Effective	09/23/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This rulemaking incorporates RIN 0651-AA62: Procedures for Amending Patent Applications. Two final rules will issue from this action.

Agency Contact: Stephen G. Kunin, Deputy Assistant Commissioner for Patent Policy and Projects, Department of Commerce, Patent and Trademark

DOC—PTO

Final Rule Stage

Office, Box DAC, Assistant Commissioner for Patents, Washington, DC 20231
Phone: 703 305-8850
Fax: 703 305-8825

RIN: 0651–AA75

841. RULES OF PRACTICE IN PATENT CASES; REEXAMINATION PROCEEDINGS

Priority: Substantive, Nonsignificant

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1.901 to 1.907; 37 CFR 1.909; 37 CFR 1.911; 37 CFR 1.913; 37 CFR 1.915; 37 CFR 1.917; 37 CFR 1.919; 37 CFR 1.921; 37 CFR 1.923

Legal Deadline: None

Abstract: Proposed rules establish procedures for the Commissioner to reexamine U.S. patents. The rules afford third parties opportunity for greater participation.

Timetable:

Action	Date	FR Cite
NPRM	08/11/95	60 FR 41035
NPRM Comment Period End	09/22/95	
Final Action	03/00/98	
Final Action Effective	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerald A. Dost, Senior Legal Advisor, Department of Commerce, Patent and Trademark Office, Commissioner of Patents & Trademarks, Office of Petitions, Crystal Park 1, Rm. 520
Phone: 703 305-9282
Fax: 703 305-8825

RIN: 0651–AA79

842. CHANGES TO PATENT PRACTICE AND PROCEDURE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1; 37 CFR 3; 37 CFR 5; 37 CFR 7

Legal Deadline: None

Abstract: The proposed rule changes would simplify requirements, rearrange for better context, and eliminate unnecessary rules.

Timetable:

Action	Date	FR Cite
NPRM	09/23/96	61 FR 49820
NPRM Comment Period End	11/22/96	
Final Action	10/00/97	
Final Action Effective	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hiram H. Bernstein, Senior Legal Advisor, Department of Commerce, Patent and Trademark Office, Box DAC, Assistant Commissioner for Patents, Washington, DC 20231
Phone: 703 305-9285
Fax: 703 308-6916

RIN: 0651–AA80

843. MISCELLANEOUS CHANGES TO TTAB RULES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1123

CFR Citation: 37 CFR 2.76(a) and (g); 37 CFR 2.85(e); 37 CFR 2.87(b); 37 CFR 2.101(d)(1); 37 CFR 2.102(c) and (d); 37 CFR 2.111(b) and (c)(1); 37 CFR 2.117; 37 CFR 2.119(d); 37 CFR 2.120(a); 37 CFR 2.121(d); 37 CFR 2.122(b) and (d); 37 CFR 2.123(b) and (f); 37 CFR 2.127(b); 37 CFR 2.134(a); 37 CFR 2.146(e)(1); ...

Legal Deadline: None

Abstract: These changes clarify TTAB rules, conform the rules to current practice, make minor modifications to simplify practice, and make minor corrections.

Timetable:

Action	Date	FR Cite
NPRM	09/05/97	62 FR 30802
NPRM Comment Period End	08/04/97	
Final Action	12/00/97	
Final Action Effective	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Sams, Chief Administrative Trademark Judge, Department of Commerce, Patent and Trademark Office, 2900 Crystal Drive, BOX TTAB, Arlington, VA 22202
Phone: 703 308-9300
Fax: 703 308-9333

RIN: 0651–AA87

844. CHANGES IMPLEMENTING INTERNATIONAL ACCEPTABLE NUCLEOTIDE AND/OR AMINO ACID SEQUENCE LISTINGS

Priority: Substantive, Nonsignificant

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1.77; 37 CFR 1.821; 37 CFR 1.822; 37 CFR 1.823; 37 CFR 1.824; 37 CFR 1.825

Legal Deadline: None

Abstract: This rulemaking simplifies the requirements for submitting nucleic acid or amino acid sequences in computer readable form.

Timetable:

Action	Date	FR Cite
NPRM	10/04/96	61 FR 51855
NPRM Comment Period End	12/03/96	
Final Action	10/00/97	
Final Action Effective	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Esther M. Kepplinger, Department of Commerce, Patent and Trademark Office, Box Comments-Patents, Assistant Commisioner for Patents, Washington, DC 20231
Phone: 703 308-2339
Fax: 703 308-3601
Email: esther.kepplinger@uspto.gov

RIN: 0651–AA88

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO)

Long-Term Actions

845. PATENT APPLICATION ELECTRONIC SUBMISSION RULES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 37 CFR 1; 37 CFR 2

Timetable:

Action	Date	FR Cite
ANPRM	11/30/92	57 FR 56537
ANPRM Comment Period End	03/01/93	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Salmon
Phone: 703 305-8600

RIN: 0651–AA50

846. LIMITATIONS IN PATENT CLAIMS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 37 CFR 1.75

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth Corsello
Phone: 202 305-9041
Fax: 703 305-9373
Email: kenneth.corsello@uspto.gov

RIN: 0651–AA91

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO)

Completed Actions

847. PATENT PROCESS REENGINEERING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 37 CFR 1

Completed:

Reason	Date	FR Cite
Withdrawn Prior to Publication	08/15/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen G. Kunin
Phone: 703 305-8850
Fax: 703 305-8825

RIN: 0651–AA84

848. REVISION OF PATENT AND TRADEMARK FEES FOR FISCAL YEAR 1998

Priority: Substantive, Nonsignificant

CFR Citation: 37 CFR 1.16; 37 CFR 1.17; 37 CFR 1.18; 37 CFR 1.19; 37 CFR 1.20; 37 CFR 1.21; 37 CFR 1.26; 37 CFR 1.445; 37 CFR 1.482; 37 CFR 1.492; 37 CFR 2.6

Completed:

Reason	Date	FR Cite
Final Action	07/29/97	62 FR 40450
Final Action Effective	10/01/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Matthew Lee
Phone: 703 305-8051

RIN: 0651–AA92

DEPARTMENT OF COMMERCE (DOC)
Technology Administration (TA)

Final Rule Stage

849. RIGHTS TO INVENTIONS MADE BY NONPROFIT ORGANIZATIONS AND SMALL BUSINESS FIRMS UNDER GOVERNMENT GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS

Priority: Other Significant

Legal Authority: 35 USC 206

CFR Citation: 37 CFR 401

Legal Deadline: None

Abstract: We are evaluating the comments and will be making minor changes to the regulation which permitted electronic reporting of inventions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/14/95	60 FR 41611
Comment Period End	09/13/95	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Jon Paugh, Acting Director, Technology Competitiveness, Department of Commerce, Technology Administration, Washington, DC 20230
Phone: 202 482-2100

RIN: 0692–AA14

850. ACQUISITION AND PROTECTION OF FOREIGN RIGHTS IN INVENTIONS

Priority: Substantive, Nonsignificant

Legal Authority: EO 10096; 15 USC 3710d

CFR Citation: 37 CFR 101; 37 CFR 501

Legal Deadline: None

Abstract: On August 7, 1996, 37 CFR part 101 was abolished and 37 CFR part 501 expanded to cover foreign rights of inventions made by Federal employees.

We are evaluating the comments received on the interim final rule and will be making minor changes to the regulation.

DOC—TA — Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/07/96	61 FR 40997
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: John H. Raubitschek, Patent Counsel, Department of Commerce, Technology Administration, RH4613, Washington, DC 20230
Phone: 202 482-8010
Fax: 202 482-0523

RIN: 0692–AA15

DEPARTMENT OF COMMERCE (DOC)
Technology Administration (TA)

Long-Term Actions

851. PROMOTION OF PRIVATE SECTOR INDUSTRIAL TECHNOLOGY PARTNERSHIPS

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 1160 subpart A

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mark Bohannon
Phone: 202 482-1984

RIN: 0692–AA13

852. LICENSING OF GOVERNMENT-OWNED INVENTIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 37 CFR 404

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John H. Raubitschek
Phone: 202 482-8010
Fax: 202 482-0523

RIN: 0692–AA17

DEPARTMENT OF COMMERCE (DOC)
Technology Administration (TA)

Completed Actions

853. LICENSING OF FOREIGN PATENTS ACQUIRED BY THE GOVERNMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 37 CFR 102; 37 CFR 404

Completed:

Reason	Date	FR Cite
Final Action	08/07/96	61 FR 40997
Final Action Effective	08/07/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: John H. Raubitschek
Phone: 202 482-8010
Fax: 202 482-0528

RIN: 0692–AA16

[FR Doc. 97-22219 Filed 10-28-97; 8:45 am]
BILLING CODE 3510-BW-F

federal register

Wednesday
October 29, 1997

Part V

Department of Defense

Semiannual Regulatory Agenda

DEPARTMENT OF DEFENSE (DOD)

DEPARTMENT OF DEFENSE

32 CFR Chs. I, V, VI, and VII

33 CFR Ch. II

36 CFR Ch. III

Improving Government Regulations; Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Department of Defense (DoD).

ACTION: Semiannual regulatory agenda.

SUMMARY: The Department of Defense (DoD) is publishing this semiannual agenda of regulatory documents, including those that are procurement-related, for public information and comments under E.O. 12866 "Regulatory Planning and Review" and section 25 of the Office of Federal Procurement Policy Act of 1988 (41 U.S.C. 421(g)). This agenda incorporates the objective and criteria, when applicable, of the regulatory reform program under E.O. 12866, the Federal Procurement Policy Act, and other regulatory guidance. It contains DoD issuances initiated by DoD components that may have economic and environmental impact on State, local, or tribal interests under the criteria of E.O. 12866. Although most DoD issuances listed in the agenda are of negligible public impact, their nature may be of public interest and, therefore, are published to provide notice of rulemaking and an opportunity for public participation in the internal DoD rulemaking process.

The agenda portion of this document updates the report published on April 25, 1997, and includes regulations expected to be issued and under review over the next 12 months. The procurement-related agenda items included herein will also be used by the Office of Federal Procurement Policy to publish the "Procurement Regulatory Activity Report" required by the Office of Federal Procurement Policy Act Amendments of 1988.

The next agenda is scheduled to be published in April 1998, with the next regulatory plan scheduled for October 1998. In addition to this agenda, DoD components also publish rulemaking notices pertaining to their specific statutory administration requirements as required.

FOR FURTHER INFORMATION CONTACT: For information concerning the overall DoD regulatory improvement program and for general semiannual agenda information, contact Mr. Robert Cushing, telephone 703-604-4582, or write to Directorate for Information Operations and Reports, Washington Headquarters Services, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302.

For questions of a legal nature concerning the agenda and its statutory requirements or obligations, write to Office of the General Counsel, 1600 Defense Pentagon, Washington, DC 20301-1600, or call 703-697-2714.

For general information on Office of the Secretary regulations, other than those which are procurement-related, contact Mr. Dan Cragg, Directives and Records Division, Directorate for Correspondence and Directives, Washington Headquarters Services; telephone 703-697-4111. For general information on Office of the Secretary agenda items which are procurement-related, contact Ms. Kathleen Fenk, telephone 703-602-0131, or write to Defense Acquisition Regulations Directorate, 3062 Defense Pentagon, Washington, DC 20301-3062.

For general information on Department of the Army regulations, contact Mr. Gregory D. Showalter, telephone 703-806-3708, or write to U.S. Army Records Management Program Division, Records Management Program Services, ATTN: TAPC-PDR-P, 6000 6th Street, Stop C55, Fort Belvoir, Virginia 22060-5576.

For general information on the U.S. Army Corps of Engineers regulations, contact Mr. Michael L. Davis, telephone 703-695-1370, or write to Office of the Deputy Assistant Secretary of the Army (Policy and Legislation), 108 Army Pentagon, Room 2E569, Washington, DC 20310-0108.

For general information on Department of the Navy regulations, contact Captain Clifford Szafran, telephone 703-602-6882, or write to Department of the Navy, Commander, Naval Information Systems Management Center, Crystal Gateway 2, Room 1500, 1225 Jefferson Davis Highway, Arlington, Virginia 22202-4311.

For general information on Department of the Air Force regulations, contact Ms. Carolyn A. Lunsford, telephone 703-697-9057, or write to Department of the Air Force, SAF/AAX, 1720 Air Force Pentagon, Washington, DC 20330-1720.

For specific agenda items, contact the appropriate individual indicated in each DoD component report.

SUPPLEMENTARY INFORMATION: This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions is composed of the regulatory status reports, including procurement-related regulatory status reports, from the Office of the Secretary of Defense (OSD) and the Departments of the Army, Navy, and Air Force. Included also is the regulatory status report from the U.S. Army Corps of Engineers, whose civil works functions fall under the reporting requirements of E.O. 12866 and involve water resource projects and regulation of activities in waters of the United States.

For this edition of DoD's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

DoD issuances range from DoD directives (reflecting departmental policy) to implementing instructions and regulations (largely internal and used to implement directives). The OSD agenda section contains the primary directives under which DoD components promulgate their implementing regulations.

To ease identification and to differentiate among the variety of issuances reported, they are identified by their DoD internal numbering system, which denotes component level of authority and type of issuance, in addition to the required CFR number.

In addition, this agenda, although published under the reporting requirements of E.O. 12866, continues to be the DoD single-source reporting vehicle, which identifies issuances that are currently applicable under the various regulatory reform programs in progress. Therefore, DoD components will identify those rules which come under the criteria of the:

a. Regulatory Flexibility Act;

b. Paperwork Reduction Act of 1995;

c. Office of Federal Procurement Policy Act Amendments of 1988.

Those DoD issuances, which are directly applicable under these statutes, will be identified in the agenda and their action status indicated. Generally, the regulatory status reports in this agenda will contain four sections: (1) Prerule stage; (2) proposed rule stage; (3) final rule stage; and (4) completed actions. Where certain regulatory actions indicate that small entities are affected, the effect on these entities may not necessarily have significant economic impact on a substantial number of these entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601(6)).

Although not a regulatory agency, DoD will continue to participate in regulatory initiatives designed to reduce economic costs and unnecessary environmental burdens upon the public. Comments and recommendations are invited on the rules reported and should be addressed to the DoD component representatives identified herein. Although sensitive to the needs of the public, as well as regulatory reform, DoD reserves the right to exercise the exemptions and flexibility permitted in its rulemaking process in order to proceed with its overall defense-oriented mission. The publishing of this agenda does not waive the applicability of the military affairs exemption in section 553 of title 5 and section 3 of E.O. 12866.

Dated: August 13, 1997.

D. O. Cooke,

Director, Administration and Management.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
854	Commercial Activities Program Procedures (DoD Instruction 4100.33)	0790-AG44
855	Closed, Transferred, and Transferring Ranges Containing Military Munitions (Reg Plan Seq. No. 15)	0790-AG46
856	Personnel and General Claims	0790-AG47
857	Collection From Third Party Payers of Reasonable Costs of Healthcare Services	0790-AG51

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
858	National Security Education Program (NSEP) Grants to Institutions of Higher Education (DoD Instruction 1025.5)	0790-AF59
859	Technical Assistance for Public Participation (TAPP) in Defense Environmental Restoration Activities	0790-AG14
860	Educational Requirement for Appointment of Reserve Component Officers to a Grade Above First Lieutenant or Lieutenant (Junior Grade) (DoD Instruction 1215.17)	0790-AG27
861	DoD Grant and Agreement Regulations (DoD 3210.6-R)	0790-AG28
862	Conduct on the Pentagon Reservation	0790-AG30
863	Revitalizing Base Closure Communities and Community Assistance; Amendment (DoD Instruction 4165.67)	0790-AG40
864	Military Recruiting and Reserve Officer Training Corps Program Access to Institutions of Higher Education	0790-AG42
865	Compensation of Certain Former Operatives Incarcerated by the Democratic Republic of Vietnam	0790-AG43
866	DoD Freedom of Information Act (FOIA) Program (DoD Directive 5400.7)	0790-AG45
867	Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments; Amendment	0790-AG49
868	Collection From Third Party Payers of Reasonable Costs of Healthcare Services	0790-AG50
869	Civilian Employment and Reemployment Rights of Applicants for, and Service Members and Former Service Members of the Uniformed Services (DoD Instruction 1205.12)	0790-AG52

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
870	Release of Acquisition-Related Information (DoD Directive 5230.as)	0790-AC82
871	Science, Mathematics, and Engineering (SME) Education	0790-AF27
872	Teacher and Teacher's Aide Placement Assistance Program (Troops to Teachers)(DoD Instruction 1404.13)	0790-AF71
873	DLA Acquisition Regulation; Small Business and Small Disadvantaged Business Concerns	0790-AF72
874	DLA Acquisition Regulation; Fuel Allocation Procedures	0790-AF73
875	DoD Key Assets Protection Program (KAPP) (DoD Directive 5160.54)	0790-AG20
876	Military Assistance for Civil Disturbances (MACDIS) (DoD Directive 3025.12)	0790-AG21
877	Former Spouse Payments From Retired Pay; Amendment (DoD Directive 1340.16 and DoD 7000.14-R, Vol 7, Part B)	0790-AG22
878	University Research Initiative Support Program (URISP)	0790-AG26

DOD

Office of the Secretary—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
879	Restoration Advisory Board (RABs)	0790-AG31
880	Alcohol and Drug Abuse by DoD Personnel (DoD Directive 1010.4) Amendment	0790-AG34

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
881	Total Quality Management (DoD Directive 5000.51)	0790-AB33
882	Pilot Program Policy	0790-AF26
883	Civil-Military Program (DoD Directive 1100aa)	0790-AF84
884	Civil-Military Program Procedures (DoD Instruction 1100bb)	0790-AF85
885	Contractor's Safety for Ammunition and Explosives	0790-AG06
886	Revitalizing Base Closure Communities and Community Assistance- Community Redevelopment and Homeless Assistance (DoD Instruction 4165.66)	0790-AG16
887	Activation, Mobilization, and Demobilization of the Ready Reserve (DoD Directive 1235.10)	0790-AG19
888	Information Security Program Regulation (DoD 5200.1-R); Amendment	0790-AG23
889	DoD Information Security Program (DoD Directive 5200.1 and DoD 5200.1-R)	0790-AG32
890	DoD Personnel Security Program (DoD 5200.2-R) Amendment	0790-AG33
891	Department of Defense Newspapers, Magazines, and Civilian Enterprise Publications(DoD Instruction 5120.4)	0790-AG37
892	DoD Freedom of Information Act Program Regulation (DoD 5400.7-R)	0790-AG41
893	Investigative Standards, Adjudicative Guidelines and Temporary Access Guidelines	0790-AG46

Defense Acquisition Regulations Council—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
894	Incremental Funding, Fixed Price Contracts (DAR Case 90-037)	0750-AA07
895	Demilitarization (DFARS Case 92-D024)	0750-AA09
896	Finance (DFARS Case 95-D710)	0750-AA88
897	Cost Principles (Proposed) (DFARS Case 95-D714)	0750-AA89
898	Past Performance (DFARS Case 95-D715)	0750-AA91
899	Acquisition of Commercial Items (DFARS Case 95-D712)	0750-AB00
900	IR&D/B&P Costs for FY96 and Beyond (DFARS Case 95-D040)	0750-AB04
901	Cost Reimbursement Rules for Indirect Costs—Private Sector Work of Defense Contractor (DFARS Case 96-D303)	0750-AB17
902	Antiterrorism Training (DFARS Case 96-D016)	0750-AB26
903	DFARS Commercially Available Off-The-Shelf Items (DFARS Case 96-D316)	0750-AB40
904	Multiyear and Other Miscellaneous Provisions (DFARS Case 95-D703)	0750-AB42
905	Earned Value Management Systems (DFARS Case 96-D024)	0750-AB49
906	Streamlined R&D Test Results (DFARS Case 97-D002)	0750-AB52
907	Duty-Free Entry (DFARS Case 96-D020)	0750-AB56
908	Sales Commissions and Contingent Fees—FMS (DFARS Case 96-D021)	0750-AB57
909	Authority to Waive Foreign Purchase Restrictions (DFARS Case 96-D319)	0750-AB58
910	Revisions to Berry Amendment (DFARS Case 96-D333)	0750-AB61
911	Central Contractor Registration (DFARS Case 97-D005)	0750-AB75
912	Binding Arbitration in Alternative Dispute Resolution (DFARS Case 97-D304)	0750-AB79
913	Certificate of Requests for Equitable Adjustment (DFARS Case 97-D302)	0750-AB80
914	Approval of Nonstatutory Certification Requirements (DFARS Case 97-D301)	0750-AB81
915	DD Form 1155 (DFARS Case 97-D024)	0750-AB82
916	Buy American Act Waiver for Information Technology Products (DFARS Case 97-D022)	0750-AB83
917	Architect-Engineer Selection Process (DFARS Case 97-D015)	0750-AB84
918	Balance of Payments Program—Reporting of United States Expenditures (DFARS Case 97-D006)	0750-AB85
919	Specialty Metals—Agreements with Qualifying Countries (DFARS Case 97-D007)	0750-AB86
920	Distribution of Contract Financing Payments (DFARS Case 97-D011)	0750-AB87
921	Revision of DFARS Regarding Contracting Action Reporting (DFARS Case 97-D013)	0750-AB88

DOD

Defense Acquisition Regulations Council—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
922	Test Contract Format (DFARS Case 97-D017)	0750-AB89
923	DFARS Part 215 Rewrite (DFARS Case 97-D018)	0750-AB90
924	FAR Part 30 Deviations (DFARS Case 97-D016)	0750-AB91
925	Data Universal Numbering System Number (DFARS Case 97-D019)	0750-AB92
926	Contractor Insurance/Pension Review (DFARS Case 97-D012)	0750-AB93
927	Single Process Initiative (DFARS Case 97-D014)	0750-AB94
928	ITMRA—Telecommunications Services (DFARS Case 97-D305)	0750-AB95
929	Employment Prohibition on Persons Convicted of Fraud (DFARS Case 97-D020)	0750-AB96
930	Research and Development Definitions (DFARS Case 97-D021)	0750-AB97
931	Report of 10-Year-Term Contracts (DFARS Case 97-D303)	0750-AB98
932	Weighted Guidelines—Federally Funded Research and Development Centers (DFARS Case 97-D025)	0750-AB99
933	DFARS Part 213 Rewrite (DFARS Case 97-D306)	0750-AC00

Defense Acquisition Regulations Council—Completed Actions

Sequence Number	Title	Regulation Identifier Number
934	EUCOM Supplement (DFARS Case 94-D001)	0750-AA34
935	Small Business (DFARS Case 95-D706)	0750-AA87
936	Truth in Negotiations Act and Related Changes (DFARS Case 95-D708)	0750-AA96
937	Revise DD Form 1149 (DFARS Case 95-D041)	0750-AB02
938	Comprehensive Subcontracting Plans (DFARS Case 96-D304)	0750-AB18
939	Institutions of Higher Education (DFARS Case 96-D305)	0750-AB19
940	Contract Administration Under No-Charge Reciprocal Agreements (DFARS Case 96-D014)	0750-AB25
941	Automatic Data Processing Equipment Leasing Costs (DFARS Case 96-D011)	0750-AB27
942	Individual Compensation (DFARS Case 96-D314)	0750-AB29
943	DFARS Information Technology Management Reform Act (ITMRA) (DFARS Case 96-D017)	0750-AB30
944	Offset Arrangements (DFARS Case 96-D018)	0750-AB31
945	Certificate of Competency (DFARS Case 96-D003)	0750-AB32
946	Carbon Fiber (DFARS Case 96-D010)	0750-AB35
947	Petroleum Products from Caribbean Basin Countries (DFARS Case 96-D312)	0750-AB36
948	Trade Agreements Clauses (DFARS Case 96-D006)	0750-AB38
949	Caribbean Basin and Designated Countries (DFARS Case 96-D015)	0750-AB41
950	Simplified Acquisition Threshold/FACNET (DFARS Case 95-D709)	0750-AB43
951	Aircraft Ejection Seats (DFARS Case 96-D022)	0750-AB46
952	Commercial Transactions with the Government of a Terrorist Country (DFARS Case 96-D026)	0750-AB47
953	Program Manager Definition (DFARS Case 97-D003)	0750-AB48
954	Streamlined Research and Development Clause Lists (DFARS Case 96-D028)	0750-AB50
955	Foreign Environmental Technology (DFARS Case 96-D322)	0750-AB51
956	Individual Compensation (DFARS Case 96-D330)	0750-AB53
957	Restructuring Costs (DFARS Case 96-D334)	0750-AB54
958	Restructuring Costs/Bonuses (DFARS Case 96-D332)	0750-AB55
959	Restriction on MILCON Overseas A-E Contracts (DFARS Case 96-D329)	0750-AB59
960	Preference for U.S. Firms on MILCON Overseas Construction (DFARS Case 96-D328)	0750-AB60
961	Ball and Roller Bearings-Waiver (DFARS Case 97-D300)	0750-AB62
962	Small Business Competitiveness Demonstration Program—Dredging (DFARS Case 96-D025)	0750-AB63
963	Bond Waivers (DFARS Case 96-D019)	0750-AB64
964	Reporting Real Property Leases (DFARS Case 97-D001)	0750-AB65
965	Monitoring Contractor Costs (DFARS Case 96-D029)	0750-AB66
966	Notice of Termination (DFARS Case 96-D320)	0750-AB67
967	Economically Disadvantaged Representations (DFARS Case 97-D004)	0750-AB74
968	Submission of Commercial Freight Bills (DFARS Case 97-D008)	0750-AB76
969	Designation of Hong Kong (DFARS Case 97-D023)	0750-AB77
970	Nondomestic Construction Materials (DFARS Case 97-D009)	0750-AB78

DOD

U.S. Army Corps of Engineers—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
971	Regulatory Programs of the Corps of Engineers	0710-AA30
972	Environmental Quality; Procedures for Implementing the National Environmental Policy Act (NEPA)	0710-AA42

U.S. Army Corps of Engineers—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
973	Regulatory Program of the Corps of Engineers—Administrative Appeals	0710-AA41

U.S. Army Corps of Engineers—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
974	Regulatory Programs of the Corps of Engineers, Wetland Delineator Certification Program	0710-AA36

Department of the Navy—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
975	Adjustments to Prices Under Shipbuilding Contracts	0703-AA34
976	Use of Department of the Navy Aviation Facilities by Other Than United States Department of Defense Aircraft	0703-AA48

Department of the Navy—Completed Actions

Sequence Number	Title	Regulation Identifier Number
977	Board for Correction of Naval Records	0703-AA49

Office of Assistant Secretary for Health Affairs—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
978	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); TRICARE Program; Reimbursement	0720-AA37
979	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Revisions to the Eligibility Requirements	0720-AA39
980	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Exception to the Dual Compensation/Conflict of Interest Provisions	0720-AA41

Office of Assistant Secretary for Health Affairs—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
981	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Former Spouse/Widow(er) and Federal Claims Collection Act (DoD 6010.8-R)	0720-AA07
982	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Hospital Payment for Ambulatory Care (DoD 6010.8-R)	0720-AA20

DOD

Office of Assistant Secretary for Health Affairs—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
983	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Provider Certification Requirements—Corporate Services Provider Class; Occupational Therapists (DoD 6010.8-R)	0720-AA27
984	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Transplants (DoD 6010.8-R)	0720-AA28
985	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Individual Case Management (DoD 6010.8-R)	0720-AA30
986	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Health Promotion and Disease Prevention Visits and Immunizations	0720-AA33
987	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Nonavailability Statement (DoD 6010.8-R)	0720-AA35
988	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Extension of the Active Duty Dependents Dental Plan to Overseas Areas	0720-AA36
989	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); TRICARE Retiree Dental Program	0720-AA38
990	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Selected Reserve Dental Program	0720-AA40

Office of Assistant Secretary for Health Affairs—Completed Actions

Sequence Number	Title	Regulation Identifier Number
991	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Supplemental Insurance Plans (DoD 6010.8-R)	0720-AA01
992	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Program for the Handicapped (DoD 6010.8-R)	0720-AA04
993	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Basic Program (DoD 6010.8-R)	0720-AA06
994	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Program With Disabilities (DoD 6010.8-R)	0720-AA32
995	Tricare Senior: Demonstration of Military Managed Care CHAMPUS Demonstration Project Notice	0720-AA34

DEPARTMENT OF DEFENSE (DOD)
Office of the Secretary (OS)

Proposed Rule Stage

854. • COMMERCIAL ACTIVITIES PROGRAM PROCEDURES (DOD INSTRUCTION 4100.33)

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 5 USC 552

CFR Citation: 32 CFR 164

Legal Deadline: None

Abstract: OMB issued a revised Circular No. A-76 supplemental handbook that contained streamlined cost comparison guidance. This rule updates DoD unique policies and assigns responsibility for commercial activities as contained in OMB Circular No. A-76, Revised Supplemental Handbook, "Performance of Commercial Activities." This rule also removes 32 CFR part 169a.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Horsfall, Department of Defense, Office of the Secretary
Phone: 703 604-6735

RIN: 0790–AG44

855. • CLOSED, TRANSFERRED, AND TRANSFERRING RANGES CONTAINING MILITARY MUNITIONS

Regulatory Plan: This entry is Seq. No. 15 in Part II of this issue of the Federal Register.

RIN: 0790–AG46

856. • PERSONNEL AND GENERAL CLAIMS

Priority: Other Significant

Legal Authority: 5 USC 5584; 10 USC 2575; 10 USC 2771; 10 USC 2774; 24 USC 420; 31 USC 3702; 32 USC 714; 32 USC 716; 37 USC 554

CFR Citation: 32 CFR 153

Legal Deadline: None

Abstract: The Legislative Branch Appropriations Act of 1996 transferred to the Director of the Office of Management and Budget (OMB) the Comptroller General's authority to settle claims. The OMB Director subsequently delegated some of these authorities to the Department of Defense (DoD). Later, the General Accounting Office Act of 1996 codified many of these delegations and transferred to the OMB Director the authority of the Comptroller General to

DOD—OS — Proposed Rule Stage

waive uniformed service member and employee debts arising out of the erroneous payment of pay or allowances exceeding $1,500. The OMB Director subsequently delegated the authority to waive such debts of uniformed service members to DoD and the authority to waive employee debts to the employee's agency (non-DoD agencies may request an advisory opinion from DoD). The Secretary of Defense further delegated his claims settlement authority to the Defense Office of Hearings and Appeals (DOHA). This proposed rule seeks public comments on the procedures that DOHA proposes to use to implement these authorities.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: Pending analysis of public comments and issuance of final regulations, DOHA intends to use the procedures and practices applicable to claims and waiver applications before the effective dates of the transfers of authority, June 30, 1996, and December 18, 1996, respectively, which are published in title 4, Code of Federal Regulations, chapter 1, subchapters C and G. See also 61 FR 50285, September 25, 1996; and 62 FR 5367, February 5, 1997.

Agency Contact: Michael Hipple, Department of Defense, Office of the Secretary
Phone: 703 696-8524

RIN: 0790–AG47

857. • COLLECTION FROM THIRD PARTY PAYERS OF REASONABLE COSTS OF HEALTHCARE SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 10 USC 1095

CFR Citation: 32 CFR 220

Legal Deadline: None

Abstract: This proposed rule implements several recent statutory changes and makes other revisions to the Third Party Collection Program. The primary matters include: a new initiative to identify third party payer situations, similar to an activity currently in effect for the Medicare Program; implementation of new statutory authority to include worker's compensation programs under the Third Party Collection Program; the addition of special rules for collections from preferred provider organizations; and other program revisions.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: CDR Patrick Kelly, Department of Defense, Office of the Secretary
Phone: 703 681-8910

RIN: 0790–AG51

DEPARTMENT OF DEFENSE (DOD) — Final Rule Stage

Office of the Secretary (OS)

858. NATIONAL SECURITY EDUCATION PROGRAM (NSEP) GRANTS TO INSTITUTIONS OF HIGHER EDUCATION (DOD INSTRUCTION 1025.5)

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 1141(a)

CFR Citation: 32 CFR 206

Legal Deadline: Final, Statutory, April 5, 1994.

Abstract: The National Security Education Act provided for the National Security Education Program, the National Security Education Board, and a Trust Fund in the U.S. Treasury to provide all resources for the program. Under the Act the Secretary is directed to carry out a program to award undergraduate scholarships, graduate fellowships, and grants to institutions of higher education. This rule is to inform those concerned with institutional grants to be offered under the 1994-1995 pilot grants program of the preliminary guidelines.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	05/05/94	59 FR 26116
Interim Final Rule	05/19/94	59 FR 26116
Interim Final Rule Comment Period End	07/18/94	
Final Action	10/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Steve Door, Department of Defense, Office of the Secretary
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Fax: 703 696-5667
Email: nsep@nsep.policy.osd.mil

RIN: 0790–AF59

859. TECHNICAL ASSISTANCE FOR PUBLIC PARTICIPATION (TAPP) IN DEFENSE ENVIRONMENTAL RESTORATION ACTIVITIES

Priority: Other Significant

Legal Authority: 10 USC 2705

CFR Citation: 32 CFR 203

Legal Deadline: NPRM, Statutory, September 15, 1996.

Abstract: In accordance with the National Defense Authorization Act (NDAA) for Fiscal Year 1996, the Department of Defense plans to finalize this rule to provide technical assistance to local community members of Restoration Advisory Boards (RABs) and Technical Review Committees (TRCs). RABs and TRCs are established to review and comment on DoD actions at military installations and formerly used defense sites undertaking environmental restoration activities within the United States and its territories.

Timetable:

Action	Date	FR Cite
ANPRM	05/24/95	60 FR 27460
Notice of Request for Expressions of Interest	07/10/95	60 FR 35553
ANPRM Comment Period End	07/24/95	60 FR 27460

DOD—OS — Final Rule Stage

Action	Date	FR Cite
Notice of Request for Expressions of Interest Submittal Period End	09/08/95	60 FR 35553
NPRM	12/27/96	61 FR 68184
NPRM Comment Period End	02/25/97	
Final Action	10/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Patricia Ferrebee, Department of Defense, Office of the Secretary
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Email: ferrebpi@acq.osd.mil

RIN: 0790–AG14

860. EDUCATIONAL REQUIREMENT FOR APPOINTMENT OF RESERVE COMPONENT OFFICERS TO A GRADE ABOVE FIRST LIEUTENANT OR LIEUTENANT (JUNIOR GRADE) (DOD INSTRUCTION 1215.17)

Priority: Info./Admin./Other

Legal Authority: 10 USC 12205

CFR Citation: 32 CFR 67

Legal Deadline: None

Abstract: This rule adds criteria by which a post-secondary educational institution that is not accredited by an agency recognized by the Secretary of Education can obtain recognition by the Department of Defense as a qualifying educational institution. This is necessary to determine those unaccredited educational institutions whose baccalaureate degrees the Department of Defense will recognize for the purpose of meeting the military officer educational requirement for promotion in the Army Reserve, Naval Reserve, Air Force Reserve, or Marine Corps Reserve, or for federal recognition in the Army National Guard or Air National Guard.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	10/01/95	60 FR 54301
Interim Final Rule	10/23/95	60 FR 54301
Interim Final Rule Comment Period End	12/22/95	
Final Action	10/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Col Rowan Bronson, Department of Defense, Office of the Secretary
Phone: 703 693-7490
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Email: rbronson@osd.pentagon.mil

RIN: 0790–AG27

861. DOD GRANT AND AGREEMENT REGULATIONS (DOD 3210.6-R)

Priority: Other Significant

Legal Authority: 5 USC 301; 10 USC 113

CFR Citation: 32 CFR 21; 32 CFR 22; 32 CFR 28; 32 CFR 32; 32 CFR 33; 32 CFR 34

Legal Deadline: None

Abstract: The Department of Defense is taking the next step toward establishing the DoD Grant and Agreement Regulations. They are being established to satisfy a need for uniform policies and procedures for DoD Components' award and administration of grants and cooperative agreements. The Department of Defense proposes to add four new parts and to make minor amendments that update two of the four existing parts of the DoD Grant and Agreement Regulations. The four proposed new parts: address DoD Components' overall management of grant and agreement functions; set forth DoD Components' and grants officers' responsibilities related to the award and administration of grants and agreements; implement administrative requirements in OMB Circular A-110 for grants and agreements awarded to institutions of higher education and other nonprofit organizations; and establish administrative requirements for awards to commercial organizations. The proposed minor amendments to the two existing parts: provide DoD-specific procedures related to Governmentwide restrictions on lobbying; and update administrative requirements for awards to State and local governments, to conform with recent changes in statutes and statutory implementation.

Timetable:

Action	Date	FR Cite
NPRM	08/26/96	61 FR 43867
NPRM Comment Period End	10/25/96	
Final Action	10/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Herbst, Department of Defense, Office of the Secretary
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Fax: 703 325-6374
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RIN: 0790–AG28

862. CONDUCT ON THE PENTAGON RESERVATION

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 131; 10 USC 2674(c)s

CFR Citation: 32 CFR 234

Legal Deadline: None

Abstract: This rule revises DoD policy concerning conduct on the Pentagon reservation. The revisions are intended to ensure the DoD regulations are consistent with the statutory authority on which they are based, and to promote the safer, more efficient, and more secure operation of the Pentagon Reservation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/08/96	61 FR 541
Interim Final Rule Effective	01/08/96	
Interim Final Rule Comment Period End	03/08/96	
Final Action	10/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Brooke, Department of Defense, Office of the Secretary
Phone: 703 693-7374
Fax: 703 697-1068

RIN: 0790–AG30

863. REVITALIZING BASE CLOSURE COMMUNITIES AND COMMUNITY ASSISTANCE; AMENDMENT (DOD INSTRUCTION 4165.67)

Priority: Other Significant

Legal Authority: 10 USC 2687

CFR Citation: 32 CFR 175

Legal Deadline: None

DOD—OS

Final Rule Stage

Abstract: This part promulgates policies and procedures for implementing section 2837 of the National Defense Authorization Act for FY96 concerning the Federal agency lease back of property transferred to Local Redevelopment Authorities (LRAs) at installations approved for closure or realignment.

Timetable:

Action	Date	FR Cite
NPRM	02/21/97	62 FR 7966
NPRM Comment Period End	04/22/97	
Final Action	10/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Jennifer Atkin, Department of Defense, Office of the Secretary
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RIN: 0790–AG40

864. • MILITARY RECRUITING AND RESERVE OFFICER TRAINING CORPS PROGRAM ACCESS TO INSTITUTIONS OF HIGHER EDUCATION

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 983

CFR Citation: 32 CFR 216

Legal Deadline: Final, Statutory, March 29, 1997.

Abstract: The Department of Defense adopts this interim rule to implement the National Defense Authorization Act for Fiscal Years 1995 and 1996, and the Omnibus Consolidated Appropriations Act of 1997 which state that no funds available under appropriations acts for any fiscal year for the Departments of Defense, Transportation (with respect to recruiting), Labor, Health and Human Services, Education, and related Agencies may be provided by contract or grant (including a grant of funds to be available for student aid) to a covered school that has a policy or practice (regardless of when implemented) that either prohibits, or in effect prevents, the Secretary of Defense from obtaining, for military recruiting purposes, entry to campuses, access to students on campuses, access to directory information on students or that has an anti-ROTC policy.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	03/29/97	62 FR 16691
Interim Final Rule	04/08/97	62 FR 16691
Interim Final Rule Comment Period End	07/07/97	
Final Action	10/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Carr, Department of Defense, Office of the Secretary
Phone: 703 697-8444

RIN: 0790–AG42

865. • COMPENSATION OF CERTAIN FORMER OPERATIVES INCARCERATED BY THE DEMOCRATIC REPUBLIC OF VIETNAM

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-201

CFR Citation: 32 CFR 270

Legal Deadline: Final, Statutory, March 23, 1997.

Abstract: This rule implements section 657 of the National Defense Authorization Act for Fiscal Year 1997, which authorizes the Secretary of Defense to make payments to persons captured and incarcerated by the Democratic Republic of Vietnam. This rule establishes policy and procedures concerning the payments to these persons.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	05/15/97	62 FR 39941
Interim Final Rule	07/25/97	62 FR 39941
Interim Final Rule Comment Period End	09/23/97	
Final Action	10/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: LTC David Pronchick, Department of Defense, Office of the Secretary
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Fax: 703 697-8725
Email: pronchid@pr.osd.mil

RIN: 0790–AG43

866. • DOD FREEDOM OF INFORMATION ACT (FOIA) PROGRAM (DOD DIRECTIVE 5400.7)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552

CFR Citation: 32 CFR 285

Legal Deadline: None

Abstract: This rule provides substantive and administrative changes to the DoD Freedom of Information Act (FOIA) Program. This rule conforms to the requirements of the Electronic Freedom of Information Act Amendments of 1996, as amended by Public Law 104-231.

Timetable:

Action	Date	FR Cite
NPRM	05/12/97	62 FR 25875
NPRM Comment Period End	07/11/97	
Interim Final Rule	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charlie Talbott, Department of Defense, Office of the Secretary
Phone: 703 697-1171
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RIN: 0790–AG45

867. • UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS; AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 10 USC 113

CFR Citation: 32 CFR 33

Legal Deadline: None

Abstract: This rule amends the audit requirements in the Governmentwide common rule on administration of grants and cooperative agreements to State and local governments. The amendment implements the Single Audit Act Amendments of 1996 (PL 104-156) by adding a reference to the recently issued revision of OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations." With this amendment, the requirements for grants and cooperative agreements awarded by components of the Department of Defense will continue to parallel the requirements for awards made by other Federal Agencies.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Herbst, Department of Defense, Office of the Secretary
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Email: herbstm@acq.osd.mil

RIN: 0790–AG49

868. • COLLECTION FROM THIRD PARTY PAYERS OF REASONABLE COSTS OF HEALTHCARE SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 10 USC 1095

CFR Citation: 32 CFR 220

Legal Deadline: None

Abstract: This rule implements, without embellishment or additional requirements, the recently enacted statutory authority to collect Social Security account numbers from all DoD beneficiaries as part of the program to identify third party payer situations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: CDR Patrick Kelly, Department of Defense, Office of the Secretary
Phone: 703 681-8910

RIN: 0790–AG50

869. • CIVILIAN EMPLOYMENT AND REEMPLOYMENT RIGHTS OF APPLICANTS FOR, AND SERVICE MEMBERS AND FORMER SERVICE MEMBERS OF THE UNIFORMED SERVICES (DOD INSTRUCTION 1205.12)

Priority: Info./Admin./Other

Legal Authority: 38 USC ch 43

CFR Citation: 32 CFR 104

Legal Deadline: None

Abstract: This rule publishes DoD guidelines for implementing policy, assigns responsibilities, and prescribes procedures for informing Service members of their reemployment protections. Updates, codifies, and strengthens the civilian employment rights and benefits of Services members and individuals who apply for uniformed service, and specifies the obligations of Service members and applicants for uniformed service.

Timetable:

Action	Date	FR Cite
Final Action	10/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Col Rowan Bronson, Department of Defense, Office of the Secretary
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RIN: 0790–AG52

DEPARTMENT OF DEFENSE (DOD)
Office of the Secretary (OS)

Long-Term Actions

870. RELEASE OF ACQUISITION-RELATED INFORMATION (DOD DIRECTIVE 5230.AA)

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 286h

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/12/90	55 FR 28614
Interim Final Rule Comment Period End	08/13/90	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steve Slavsky
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RIN: 0790–AC82

871. SCIENCE, MATHEMATICS, AND ENGINEERING (SME) EDUCATION

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 118

Timetable:

Action	Date	FR Cite
NPRM	12/17/93	58 FR 65956
NPRM Comment Period End	02/15/94	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Keith Thompson
Phone: 703 325-3733
Fax: 703 325-6374

RIN: 0790–AF27

872. TEACHER AND TEACHER'S AIDE PLACEMENT ASSISTANCE PROGRAM (TROOPS TO TEACHERS)(DOD INSTRUCTION 1404.13)

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 254

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/15/94	59 FR 7213
Interim Final Rule Effective	02/22/94	
Interim Final Rule Comment Period End	04/18/94	
Interim Final Rule; Amendment Effective	11/25/94	60 FR 30188
Interim Final Rule; Amendment	06/06/95	60 FR 30188
Interim Final Rule; Amendment Comment Period End	08/07/95	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Otto Thomas
Phone: 703 614-4074
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RIN: 0790–AF71

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873. DLA ACQUISITION REGULATION; SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

Priority: Routine and Frequent

Unfunded Mandates: Undetermined

Major: Undetermined

CFR Citation: 48 CFR 5419; 48 CFR 5452

Timetable:

Action	Date	FR Cite
NPRM	04/28/94	59 FR 21954
NPRM Comment Period End	06/27/94	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Melody Reardon
Phone: 703 767-1362

RIN: 0790–AF72

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874. DLA ACQUISITION REGULATION; FUEL ALLOCATION PROCEDURES

Priority: Routine and Frequent

Unfunded Mandates: Undetermined

Major: Undetermined

CFR Citation: 48 CFR 5452

Timetable:

Action	Date	FR Cite
NPRM	04/28/94	59 FR 21956
NPRM Comment Period End	06/27/94	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Melody Reardon
Phone: 703 767-1362

RIN: 0790–AF73

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875. DOD KEY ASSETS PROTECTION PROGRAM (KAPP) (DOD DIRECTIVE 5160.54)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 32 CFR 52

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: J. Tomko
Phone: 703 697-5454

RIN: 0790–AG20

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876. MILITARY ASSISTANCE FOR CIVIL DISTURBANCES (MACDIS) (DOD DIRECTIVE 3025.12)

Priority: Other Significant

CFR Citation: 32 CFR 215

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: G. Warren
Phone: 703 697-5454

RIN: 0790–AG21

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877. FORMER SPOUSE PAYMENTS FROM RETIRED PAY; AMENDMENT (DOD DIRECTIVE 1340.16 AND DOD 7000.14-R, VOL 7, PART B)

Priority: Info./Admin./Other

CFR Citation: 32 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	04/06/95	60 FR 17507
NPRM Comment Period End	06/06/95	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Fiti Malufau
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Email: malufauf@cleveland.dfas.mil

RIN: 0790–AG22

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878. UNIVERSITY RESEARCH INITIATIVE SUPPORT PROGRAM (URISP)

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 209

Timetable:

Action	Date	FR Cite
NPRM	03/02/95	60 FR 11642
NPRM Comment Period End	05/01/95	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Murday
Phone: 703 325-0726
Fax: 703 325-6374

RIN: 0790–AG26

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879. RESTORATION ADVISORY BOARD (RABS)

Priority: Other Significant

CFR Citation: 32 CFR 202

Timetable:

Action	Date	FR Cite
NPRM	08/06/96	61 FR 40764
NPRM Comment Period End	11/04/96	61 FR 40765
Proposed Rule, Extension of Comment Period	11/19/96	61 FR 58803
Proposed Rule, Comment Period End	01/20/97	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Marcia Read
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Fax: 703 695-4961
Email: readmw@acq.osd.mil

RIN: 0790–AG31

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880. ALCOHOL AND DRUG ABUSE BY DOD PERSONNEL (DOD DIRECTIVE 1010.4) AMENDMENT

Priority: Info./Admin./Other

CFR Citation: 32 CFR 62

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: John Heaphy
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Email: depsec@policy1.policy.osd.mil

RIN: 0790–AG34

DEPARTMENT OF DEFENSE (DOD)
Office of the Secretary (OS)

Completed Actions

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881. TOTAL QUALITY MANAGEMENT (DOD DIRECTIVE 5000.51)

Priority: Routine and Frequent

CFR Citation: 32 CFR 281

Completed:

Reason	Date	FR Cite
Withdrawn - No Further Action Anticipated	07/28/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Doherty
Phone: 703 695-2300

RIN: 0790–AB33

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882. PILOT PROGRAM POLICY

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 2

Completed:

Reason	Date	FR Cite
Final Action	04/10/97	62 FR 17549
Final Action Effective	04/10/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Sylvester
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RIN: 0790–AF26

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883. CIVIL-MILITARY PROGRAM (DOD DIRECTIVE 1100AA)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 32 CFR 213

Completed:

Reason	Date	FR Cite
Withdrawn - No Further Action Anticipated	07/28/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: A. Hickox
Phone: 703 614-0636
Fax: 703 693-5371

RIN: 0790–AF84

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884. CIVIL-MILITARY PROGRAM PROCEDURES (DOD INSTRUCTION 1100BB)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 32 CFR 214

Completed:

Reason	Date	FR Cite
Withdrawn - No Further Action Anticipated	07/28/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: A. Hickox
Phone: 703 614-0636
Fax: 703 693-5371

RIN: 0790–AF85

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885. CONTRACTOR'S SAFETY FOR AMMUNITION AND EXPLOSIVES

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 32 CFR 184

Completed:

Reason	Date	FR Cite
Withdrawn - No Further Action Anticipated	07/28/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: R. Sawyer
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Fax: 703 325-6227
Email: sawyerra@ddesb.acq.osd.mil

RIN: 0790–AG06

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886. REVITALIZING BASE CLOSURE COMMUNITIES AND COMMUNITY ASSISTANCE- COMMUNITY REDEVELOPMENT AND HOMELESS ASSISTANCE (DOD INSTRUCTION 4165.66)

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 176

Completed:

Reason	Date	FR Cite
Final Action	07/01/97	62 FR 35343
Final Action Effective	07/01/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Patrick O'Brien
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DOD—OS

Completed Actions

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RIN: 0790–AG18

887. ACTIVATION, MOBILIZATION, AND DEMOBILIZATION OF THE READY RESERVE (DOD DIRECTIVE 1235.10)

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 76

Completed:

Reason	Date	FR Cite
Withdrawn - No Further Action Anticipated	07/28/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: M. ANGELO
Phone: 703 697-0739

RIN: 0790–AG19

888. INFORMATION SECURITY PROGRAM REGULATION (DOD 5200.1-R); AMENDMENT

Priority: Info./Admin./Other

CFR Citation: 32 CFR 159a

Completed:

Reason	Date	FR Cite
Withdrawn - Rule removed from CFR, will not publish in FR in future	07/28/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: W. Bell
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RIN: 0790–AG23

889. DOD INFORMATION SECURITY PROGRAM (DOD DIRECTIVE 5200.1 AND DOD 5200.1-R)

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 32 CFR 159

Completed:

Reason	Date	FR Cite
Withdrawn - Rule not to be published in the FR	07/28/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: W. Bell
Phone: 703 695-2686
Fax: 703 695-8215

RIN: 0790–AG32

890. DOD PERSONNEL SECURITY PROGRAM (DOD 5200.2-R) AMENDMENT

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 32 CFR 154

Completed:

Reason	Date	FR Cite
Withdrawn - Rule removed from CFR, will not publish in FR in future	07/28/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: P. Nelson
Phone: 703 697-3969
Fax: 703 695-8215

RIN: 0790–AG33

891. DEPARTMENT OF DEFENSE NEWSPAPERS, MAGAZINES, AND CIVILIAN ENTERPRISE PUBLICATIONS(DOD INSTRUCTION 5120.4)

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 247

Completed:

Reason	Date	FR Cite
Final Action	08/11/97	62 FR 42905
Final Action Effective	08/16/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: LTC Wayne White
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Email: wmwhite@hq.afis.osd.mil

RIN: 0790–AG37

892. DOD FREEDOM OF INFORMATION ACT PROGRAM REGULATION (DOD 5400.7-R)

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 286

Completed:

Reason	Date	FR Cite
Final Action	07/01/97	62 FR 35351
Final Action Effective	06/22/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charlie Talbott
Phone: 703 697-1171
Fax: 703 693-7341

RIN: 0790–AG41

893. • INVESTIGATIVE STANDARDS, ADJUDICATIVE GUIDELINES AND TEMPORARY ACCESS GUIDELINES

Priority: Other Significant

Legal Authority: Not yet determined

CFR Citation: 32 CFR 159

Legal Deadline: None

Abstract: This rule describes the parameters of consideration in conducting background investigations, adjudicating security clearances and providing temporary access to classified information.

Timetable:

Action	Date	FR Cite
Withdrawn - No Further Action Anticipated	07/28/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Terence Thompson, Department of Defense, Office of the Secretary
Phone: 703 602-9969

RIN: 0790–AG48

DEPARTMENT OF DEFENSE (DOD)

Defense Acquisition Regulations Council (DARC)

Long-Term Actions

894. INCREMENTAL FUNDING, FIXED PRICE CONTRACTS (DAR CASE 90-037)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 232.7; 48 CFR 252.232

Timetable:

Action	Date	FR Cite
Case opened	09/26/90	
Interim Final Rule	09/01/93	58 FR 46091
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA07

895. DEMILITARIZATION (DFARS CASE 92-D024)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 245.6; 48 CFR 245.73; 48 CFR 252.245

Timetable:

Action	Date	FR Cite
Case opened	07/22/92	
NPRM	03/16/94	59 FR 12223
NPRM Comment Period End	06/30/94	
NPRM	03/23/95	60 FR 15276
NPRM Comment Period End	05/22/95	
NPRM	06/05/97	62 FR 30832
NPRM Comment Period End	08/04/97	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA09

896. FINANCE (DFARS CASE 95-D710)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 232

Timetable:

Action	Date	FR Cite
Case opened	08/26/95	
NPRM	01/24/96	61 FR 1889
NPRM Comment Period End	03/25/96	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA88

897. COST PRINCIPLES (PROPOSED) (DFARS CASE 95-D714)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 231

Timetable:

Action	Date	FR Cite
Case opened	08/18/95	
NPRM	10/13/95	60 FR 53320
NPRM Comment Period End	12/12/95	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA89

898. PAST PERFORMANCE (DFARS CASE 95-D715)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 213.106; 48 CFR 214.201; 48 CFR 215.605; 48 CFR 242.1502; 48 CFR 242.1503

Timetable:

Action	Date	FR Cite
Case opened	09/22/95	
NPRM	11/17/95	60 FR 57691
NPRM Comment Period End	01/16/96	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA91

899. ACQUISITION OF COMMERCIAL ITEMS (DFARS CASE 95-D712)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 203; 48 CFR 207; 48 CFR 210; 48 CFR 211; 48 CFR 212; 48 CFR 217; 48 CFR 225; 48 CFR 227; 48 CFR 246; 48 CFR 234

Timetable:

Action	Date	FR Cite
Case opened	10/04/95	
Interim Final Rule	11/30/95	60 FR 61585
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AB00

900. IR&D/B&P COSTS FOR FY96 AND BEYOND (DFARS CASE 96-D040)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 48 CFR 242.771; 48 CFR 225.7303; 48 CFR 231.205

Timetable:

Action	Date	FR Cite
Case opened	12/06/95	
NPRM	01/03/97	62 FR 374
NPRM Comment Period End	03/04/97	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AB04

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901. COST REIMBURSEMENT RULES FOR INDIRECT COSTS—PRIVATE SECTOR WORK OF DEFENSE CONTRACTOR (DFARS CASE 96-D303)

Priority: Substantive, Nonsigaificant

CFR Citation: 48 CFR 231

Timetable:

Action	Date	FR Cite
Case opened	02/07/96	
Interim Final Rule	05/13/96	61 FR 21973

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AB17

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902. ANTITERRORISM TRAINING (DFARS CASE 96-D016)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 211; 48 CFR 252.211

Timetable:

Action	Date	FR Cite
Case opened	06/14/96	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AB26

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903. DFARS COMMERCIALLY AVAILABLE OFF-THE-SHELF ITEMS (DFARS CASE 96-D316)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 212

Timetable:

Action	Date	FR Cite
Case opened	08/29/96	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AB40

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904. MULTIYEAR AND OTHER MISCELLANEOUS PROVISIONS (DFARS CASE 95-D703)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 217; 48 CFR 233; 48 CFR 250; 48 CFR 247; 48 CFR 216.3; 48 CFR 237.104

Timetable:

Action	Date	FR Cite
Case opened	03/01/95	
NPRM	11/13/96	60 FR 56972
NPRM Comment Period End	01/12/96	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AB42

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905. EARNED VALUE MANAGEMENT SYSTEMS (DFARS CASE 96-D024)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 234.005; 48 CFR 242.302; 48 CFR 252.234; 48 CFR 252.242

Timetable:

Action	Date	FR Cite
Case opened	10/25/96	
Interim Final Rule	03/05/97	62 FR 9990

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AB49

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906. STREAMLINED R&D TEST RESULTS (DFARS CASE 97-D002)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 48 CFR 235.70

Timetable:

Action	Date	FR Cite
Case opened	01/15/97	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AB52

907. DUTY-FREE ENTRY (DFARS CASE 96-D020)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 225.105; 48 CFR 225.109; 48 CFR 225.406; 48 CFR 225.602; 48 CFR 225.603; 48 CFR 225.605; 48 CFR 242.302; 48 CFR 252.212; 48 CFR 252.225

Timetable:

Action	Date	FR Cite
Case opened	09/24/96	
NPRM	03/11/97	62 FR 11142
NPRM Comment Period End	05/12/97	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AB56

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908. SALES COMMISSIONS AND CONTINGENT FEES—FMS (DFARS CASE 96-D021)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 48 CFR 225.7302; 48 CFR 225.7303; 48 CFR 225.7308; 48 CFR 252.225

Timetable:

Action	Date	FR Cite
Case opened	09/25/96	
Interim Final Rule	01/17/97	62 FR 2616
NPRM	06/05/97	62 FR 30831
NPRM Comment Period End	08/04/97	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AB57

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909. AUTHORITY TO WAIVE FOREIGN PURCHASE RESTRICTIONS (DFARS CASE 96-D319)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 225; 48 CFR 252.225

Timetable:

Action	Date	FR Cite
Case opened	09/27/96	
Interim Final Rule	01/17/97	62 FR 2615
Interim Final Rule	08/24/97	62 FR 34114

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AB58

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910. REVISIONS TO BERRY AMENDMENT (DFARS CASE 96-D323)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 212.504; 48 CFR 225.7002; 48 CFR 252.225; 48 CFR 244.403; 48 CFR 252.212; 48 CFR 252.244

Timetable:

Action	Date	FR Cite
Case opened	10/08/96	
Interim Final Rule	02/07/97	62 FR 5779

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AB61

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911. CENTRAL CONTRACTOR REGISTRATION (DFARS CASE 97-D005)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 204; 48 CFR 212; 48 CFR 252

Timetable:

Action	Date	FR Cite
Case opened	02/12/97	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AB75

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912. • BINDING ARBITRATION IN ALTERNATIVE DISPUTE RESOLUTION (DFARS CASE 97-D304)

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-330; PL 104-106, Sec 4321(a)(7)

CFR Citation: 48 CFR 233.214; 48 CFR 233.215

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to provide guidance on the appropriate use of binding arbitration, and on when an officer or employee of the Department has the authority to settle an issue in controversy through binding arbitration.

Timetable:

Action	Date	FR Cite
Case opened	04/30/97	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062

Phone: 703 602-0131

RIN: 0750–AB79

913. • CERTIFICATE OF REQUESTS FOR EQUITABLE ADJUSTMENT (DFARS CASE 97-D302)

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 2410

CFR Citation: 48 CFR 243.205; 48 CFR 252.243

Legal Deadline: NPRM, Statutory, May 1, 1995. Final, Statutory, September 8, 1995.

Abstract: Modify the Defense FAR Supplement to implement statutory requirement at 10 USC 2410, as amended by Section 2301 of Public Law 103-355, for certification of requests for equitable adjustment to contract terms exceeding the simplified acquisition threshold.

Timetable:

Action	Date	FR Cite
Case opened	03/24/97	
Interim Final Rule	07/11/97	62 FR 37146
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AB80

914. • APPROVAL OF NONSTATUTORY CERTIFICATION REQUIREMENTS (DFARS CASE 97-D301)

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-106, Sec 4301(b)(2)

CFR Citation: 48 CFR 201.107; 48 CFR 201.304

Legal Deadline: NPRM, Statutory, September 7, 1996. Final, Statutory, January 8, 1997.

Abstract: Modify the Defense FAR Supplement to implement statutory requirement at 41 USC 425, as amended by section 4301(b)(2) of Public Law 104-106, that restricts the addition of new certification requirements in the procurement regulations of an executive agency.

Timetable:

Action	Date	FR Cite
Case opened	03/18/97	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AB81

915. • DD FORM 1155 (DFARS CASE 97-D024)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 253.213; 48 CFR 253.3

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to revise DD Form 1155, Order for Supplies or Services, and DD Form 1155C-1, Order for Supplies or Services (Commissary Continuation Sheet).

Timetable:

Action	Date	FR Cite
Case opened	06/24/97	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AB82

916. • BUY AMERICAN ACT WAIVER FOR INFORMATION TECHNOLOGY PRODUCTS (DFARS CASE 97-D022)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 212.301; 48 CFR 225; 48 CFR 252.212; 48 CFR 252.225

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to implement the Buy American Exception Findings and Determination of Inconsistency with the Public Interest that the Under Secretary of Defense (Acquisition and Technology) signed on May 16, 1997. This exception to the Buy American Act applies to information technology products in Federal Supply Groups 70 or 74, that are substantially transformed in the United States, when the Trade Agreements Act applies.

Timetable:

Action	Date	FR Cite
Case opened	05/28/97	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AB83

917. • ARCHITECT-ENGINEER SELECTION PROCESS (DFARS CASE 97-D015)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 236.602

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to streamline the architect-engineer selection and approval process.

Timetable:

Action	Date	FR Cite
Case opened	04/22/97	
NPRM	07/29/97	62 FR 40497
NPRM Comment Period End	09/29/97	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AB84

918. • BALANCE OF PAYMENTS PROGRAM—REPORTING OF UNITED STATES EXPENDITURES (DFARS CASE 97-D008)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 225.305; 48 CFR 252.225

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to update the reporting requirements in the clause at DFARS 252.225-7005, Balance of Payments Program—Reporting of U.S. Expenditures.

Timetable:

Action	Date	FR Cite
Case opened	02/28/97	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AB85

919. • SPECIALTY METALS—AGREEMENTS WITH QUALIFYING COUNTRIES (DFARS CASE 97-D007)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 252.225

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to expand the exception relating to purchase of specialty metals from qualifying countries.

Timetable:

Action	Date	FR Cite
Case opened	02/28/97	
NPRM	05/01/97	62 FR 23741
NPRM Comment Period End	08/30/97	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AB86

920. • DISTRIBUTION OF CONTRACT FINANCING PAYMENTS (DFARS CASE 97-D011)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 214.201; 48 CFR 215.406

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to specify that, when a contract contains multiple accounting classification citations and a provision for contract financing payments, the contracting officer also shall include instructions adequate to permit the paying office to distribute the contract financing payments in proportions that reasonably reflect the performance of work under the contract.

Timetable:

Action	Date	FR Cite
Case opened	03/12/97	
NPRM	08/05/97	62 FR 30829
NPRM Comment Period End	08/04/97	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AB87

921. • REVISION OF DFARS REGARDING CONTRACTING ACTION REPORTING (DFARS CASE 97-D013)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 204.8; 48 CFR 253.204

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to revise DD Form 350 to obtain data for contingency contracting actions above the simplified acquisition threshold, and actions applying the newly established special simplified

procedures for certain commercial items during the 3-year test program.

Timetable:

Action	Date	FR Cite
Case opened	03/18/97	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AB88

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922. • TEST CONTRACT FORMAT (DFARS CASE 97-D017)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 215.406

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to provide for an alternative solicitation/contract format.

Timetable:

Action	Date	FR Cite
Case opened	05/07/97	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AB89

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923. • DFARS PART 215 REWRITE (DFARS CASE 97-D018)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 215; 48 CFR 252.215

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to conform to FAR part 15 rewrite.

Timetable:

Action	Date	FR Cite
Case opened	05/06/97	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AB90

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924. • FAR PART 30 DEVIATIONS (DFARS CASE 97-D016)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 201

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to conform with Cost Accounting Standards recodification and allow the Government to deviate from its own policies and procedures.

Timetable:

Action	Date	FR Cite
Case opened	04/30/97	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AB91

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925. • DATA UNIVERSAL NUMBERING SYSTEM NUMBER (DFARS CASE 97-D019)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 204; 48 CFR 253

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to replace the Contractor Establishment Code with the Data Universal Numbering System number as a means of identifying contractors in the Federal Procurement Data System to conform to FAR.

Timetable:

Action	Date	FR Cite
Case opened	05/06/97	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AB92

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926. • CONTRACTOR INSURANCE/PENSION REVIEW (DFARS CASE 97-D012)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 242.73

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to replace the current biannual contractor insurance/pension review requirement with risk based review criteria.

Timetable:

Action	Date	FR Cite
Case opened	03/18/97	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AB93

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927. • SINGLE PROCESS INITIATIVE (DFARS CASE 97-D014)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 211.2; 48 CFR 252.211

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to establish policy and procedures to facilitate the Single Process Initiative.

Timetable:

Action	Date	FR Cite
Case opened	04/14/97	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AB94

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928. • ITMRA—TELECOMMUNICATIONS SERVICES (DFARS CASE 97-D305)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 239.7405

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to reflect implementation of telecommunication coverage in the Federal Property Management Regulation.

Timetable:

Action	Date	FR Cite
Case opened	07/08/97	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AB95

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929. • EMPLOYMENT PROHIBITION ON PERSONS CONVICTED OF FRAUD (DFARS CASE 97-D020)

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 2408; 41 USC 421

CFR Citation: 48 CFR 203.570

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to provide the flexibility for agencies to prohibit defense-related contract felons from working on defense contracts beyond the 5 year minimum provided for in 10 USC 2408.

Timetable:

Action	Date	FR Cite
Case opened	05/13/97	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AB96

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930. • RESEARCH AND DEVELOPMENT DEFINITIONS (DFARS CASE 97-D021)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 235.001

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to conform with the definitions in the Financial Management Regulations.

Timetable:

Action	Date	FR Cite
Case opened	05/16/97	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AB97

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931. • REPORT OF 10-YEAR-TERM CONTRACTS (DFARS CASE 97-D303)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: PL 104-106, Sec 1062(c)

CFR Citation: 48 CFR 235.002

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to delete the reporting requirement to Congress for any research and development contract with a term exceeding 10 years.

Timetable:

Action	Date	FR Cite
Case opened	05/13/97	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AB98

932. • WEIGHTED GUIDELINES—FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS (DFARS CASE 97-D025)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 215.9

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to exempt Federally Funded Research and Development Centers from the weighted guidelines for establishing profit and fee objectives.

Timetable:

Action	Date	FR Cite
Case opened	07/22/97	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AB99

933. • DFARS PART 213 REWRITE (DFARS CASE 97-D306)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 213

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to reorganize and revise material in part 213 and conform to changes made in the Federal Acquisition Regulation, part 13, under FAR Case 94-772.

Timetable:

Action	Date	FR Cite
Case opened	07/28/97	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AC00

DEPARTMENT OF DEFENSE (DOD)

Defense Acquisition Regulations Council (DARC)

Completed Actions

934. EUCOM SUPPLEMENT (DFARS CASE 94-D001)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 216; 48 CFR 222; 48 CFR 225; 48 CFR 227; 48 CFR 228; 48 CFR 229; 48 CFR 232; 48 CFR 233; 48 CFR 236; 48 CFR 246; 48 CFR 252

Completed:

Reason	Date	FR Cite
Final Action	06/24/97	62 FR 34114
Final Action Effective	06/24/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk Phone: 703 602-0131

RIN: 0750–AA34

935. SMALL BUSINESS (DFARS CASE 95-D706)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 219

Completed:

Reason	Date	FR Cite
Case closed	07/30/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk Phone: 703 602-0131

RIN: 0750–AA87

936. TRUTH IN NEGOTIATIONS ACT AND RELATED CHANGES (DFARS CASE 95-D708)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 48 CFR 204.805; 48 CFR 215.8; 48 CFR 216.203; 48 CFR 232.502; 48 CFR 233.7000; 48 CFR 235.015; 48 CFR 239.7406; 48 CFR 246.770; 48 CFR 252.215; 48 CFR 252.216; 48 CFR 252.243; 48 CFR 253.204

Completed:

Reason	Date	FR Cite
Final Action	07/29/97	62 FR 40471
Final Action Effective	07/29/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk Phone: 703 602-0131

RIN: 0750–AA95

937. REVISE DD FORM 1149 (DFARS CASE 95-D041)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 253

Completed:

Reason	Date	FR Cite
Final Action	06/24/97	62 FR 34114
Final Action Effective	06/24/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk Phone: 703 602-0131

RIN: 0750–AB02

938. COMPREHENSIVE SUBCONTRACTING PLANS (DFARS CASE 96-D304)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 219.7; 48 CFR 252.219

Completed:

Reason	Date	FR Cite
Final Action	06/24/97	62 FR 34114
Final Action Effective	06/24/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk Phone: 703 602-0131

RIN: 0750–AB18

939. INSTITUTIONS OF HIGHER EDUCATION (DFARS CASE 96-D305)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 209; 48 CFR 243

Completed:

Reason	Date	FR Cite
Final Action	06/24/97	62 FR 34114
Final Action Effective	06/24/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk Phone: 703 602-0131

RIN: 0750–AB19

940. CONTRACT ADMINISTRATION UNDER NO-CHARGE RECIPROCAL AGREEMENTS (DFARS CASE 96-D014)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 242.101

Completed:

Reason	Date	FR Cite
Final Action	06/24/97	62 FR 34114
Final Action Effective	06/24/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk Phone: 703 602-0131

RIN: 0750–AB25

941. AUTOMATIC DATA PROCESSING EQUIPMENT LEASING COSTS (DFARS CASE 96-D011)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 48 CFR 239.73

Completed:

Reason	Date	FR Cite
Final Action	06/24/97	62 FR 34114
Final Action Effective	06/24/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk Phone: 703 602-0131

RIN: 0750–AB27

942. INDIVIDUAL COMPENSATION (DFARS CASE 96-D314)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 231.205; 48 CFR 231.303; 48 CFR 231.603; 48 CFR 231.703

Completed:

Reason	Date	FR Cite
Final Action	06/24/97	62 FR 34114
Final Action Effective	06/24/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk Phone: 703 602-0131

RIN: 0750–AB29

943. DFARS INFORMATION TECHNOLOGY MANAGEMENT REFORM ACT (ITMRA) (DFARS CASE 96-D017)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 239.001; 48 CFR 239.002; 48 CFR 239.70

Completed:

Reason	Date	FR Cite
Final Action	06/24/97	62 FR 34114
Final Action Effective	06/24/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk Phone: 703 602-0131

RIN: 0750–AB30

944. OFFSET ARRANGEMENTS (DFARS CASE 96-D018)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 48 CFR 225.7307

Completed:

Reason	Date	FR Cite
Final Action	06/24/97	62 FR 34114
Final Action Effective	06/24/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AB31

945. CERTIFICATE OF COMPETENCY (DFARS CASE 96-D003)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 219.602; 48 CFR 252

Completed:

Reason	Date	FR Cite
Final Action	06/24/97	62 FR 34114
Final Action Effective	06/24/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AB32

946. CARBON FIBER (DFARS CASE 96-D010)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 48 CFR 208.7203; 48 CFR 225.7013; 48 CFR 225.7020; 48 CFR 225.7101; 48 CFR 225.7102; 48 CFR 225.7103; 48 CFR 225.7104; 48 CFR 225.7105; 48 CFR 252.225

Completed:

Reason	Date	FR Cite
Final Action	06/24/97	62 FR 34114
Final Action Effective	06/24/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AB35

947. PETROLEUM PRODUCTS FROM CARIBBEAN BASIN COUNTRIES (DFARS CASE 96-D312)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 225.403; 48 CFR 252.225

Completed:

Reason	Date	FR Cite
Final Action	06/24/97	62 FR 34114
Final Action Effective	06/24/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AB36

948. TRADE AGREEMENTS CLAUSES (DFARS CASE 96-D009)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 252.225

Completed:

Reason	Date	FR Cite
Final Action	06/24/97	62 FR 34114
Final Action Effective	06/24/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AB38

949. CARIBBEAN BASIN AND DESIGNATED COUNTRIES (DFARS CASE 96-D015)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 252.225-7007

Completed:

Reason	Date	FR Cite
Final Action	06/24/97	62 FR 34114
Final Action Effective	06/24/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AB41

950. SIMPLIFIED ACQUISITION THRESHOLD/FACNET (DFARS CASE 95-D709)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 213

Completed:

Reason	Date	FR Cite
Case closed	07/30/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AB43

951. AIRCRAFT EJECTION SEATS (DFARS CASE 96-D022)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 48 CFR 225.7009

Completed:

Reason	Date	FR Cite
Final Action	06/24/97	62 FR 34114
Final Action Effective	06/24/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AB46

952. COMMERCIAL TRANSACTIONS WITH THE GOVERNMENT OF A TERRORIST COUNTRY (DFARS CASE 96-D026)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 48 CFR 209.104; 48 CFR 252.209

Completed:

Reason	Date	FR Cite
Final Action	06/24/97	62 FR 34114
Final Action Effective	06/24/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AB47

953. PROGRAM MANAGER DEFINITION (DFARS CASE 97-D003)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 203.104

Completed:

Reason	Date	FR Cite
Case closed	03/05/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AB48

954. STREAMLINED RESEARCH AND DEVELOPMENT CLAUSE LISTS (DFARS CASE 96-D029)

Priority: Info./Admin./Other

CFR Citation: 48 CFR 235.70

Completed:

Reason	Date	FR Cite
Final Action	04/04/97	62 FR 16099
Final Action Effective	04/04/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AB50

955. FOREIGN ENVIRONMENTAL TECHNOLOGY (DFARS CASE 96-D322)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 208.104

Completed:

Reason	Date	FR Cite
Final Action	06/24/97	62 FR 34114
Final Action Effective	06/24/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AB51

956. INDIVIDUAL COMPENSATION (DFARS CASE 96-D330)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 231.205

Completed:

Reason	Date	FR Cite
Final Action	06/24/97	62 FR 34114
Final Action Effective	06/24/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AB53

957. RESTRUCTURING COSTS (DFARS CASE 96-D334)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 231.205

Completed:

Reason	Date	FR Cite
Final Action	06/24/97	62 FR 34114
Final Action Effective	06/24/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AB54

958. RESTRUCTURING COSTS/BONUSES (DFARS CASE 96-D332)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 231.205

Completed:

Reason	Date	FR Cite
Final Action	06/24/97	62 FR 34114
Final Action Effective	06/24/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AB55

959. RESTRICTION ON MILCON OVERSEAS A-E CONTRACTS (DFARS CASE 96-D329)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 225.7004; 48 CFR 236.102; 48 CFR 236.602; 48 CFR 236.609; 48 CFR 252.236

Completed:

Reason	Date	FR Cite
Final Action	06/24/97	62 FR 34114
Final Action Effective	06/24/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AB59

960. PREFERENCE FOR U.S. FIRMS ON MILCON OVERSEAS CONSTRUCTION (DFARS CASE 96-D328)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 225.7000; 48 CFR 225.7003; 48 CFR 236.274; 48 CFR 236.570; 48 CFR 252.236

Completed:

Reason	Date	FR Cite
Final Action	06/24/97	62 FR 34114
Final Action Effective	06/24/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AB60

961. BALL AND ROLLER BEARINGS-WAIVER (DFARS CASE 97-D300)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 225.7019

Completed:

Reason	Date	FR Cite
Final Action	06/24/97	62 FR 34114
Final Action Effective	06/24/97	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AB62

962. SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM—DREDGING (DFARS CASE 96-D025)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 219.1005

Completed:

Reason	Date	FR Cite
Final Action	06/24/97	62 FR 34114
Final Action Effective	06/24/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AB63

963. BOND WAIVERS (DFARS CASE 96-D019)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 219.808; 48 CFR 219.811; 48 CFR 252.219

Completed:

Reason	Date	FR Cite
Final Action	06/24/97	62 FR 34114
Final Action Effective	06/24/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AB64

964. REPORTING REAL PROPERTY LEASES (DFARS CASE 97-D001)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 204.670

Completed:

Reason	Date	FR Cite
Final Action	06/24/97	62 FR 34114
Final Action Effective	06/24/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131
Fax: 703 602-0350

RIN: 0750–AB65

965. MONITORING CONTRACTOR COSTS (DFARS CASE 96-D029)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 242.70

Completed:

Reason	Date	FR Cite
Final Action	06/24/97	62 FR 34114
Final Action Effective	06/24/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AB66

966. NOTICE OF TERMINATION (DFARS CASE 96-D320)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 249.7003; 48 CFR 252.249

Completed:

Reason	Date	FR Cite
Final Action	06/24/97	62 FR 34114
Final Action Effective	06/24/97	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AB67

967. ECONOMICALLY DISADVANTAGED REPRESENTATIONS (DFARS CASE 97-D004)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 252.219

Completed:

Reason	Date	FR Cite
Final Action	06/24/97	62 FR 34114
Final Action Effective	06/24/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
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RIN: 0750–AB74

968. SUBMISSION OF COMMERCIAL FREIGHT BILLS (DFARS CASE 97-D006)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 242.1402; 48 CFR 252.242

Completed:

Reason	Date	FR Cite
Final Action	06/24/97	62 FR 34114
Final Action Effective	06/24/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AB76

969. • DESIGNATION OF HONG KONG (DFARS CASE 97-D023)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 252.225

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to implement direction from the United States Trade Representative to treat products of Hong Kong as eligible products under the Trade Agreements Act.

Timetable:

Action	Date	FR Cite
Case opened	06/17/97	
Final Action	07/11/97	62 FR 37147
Final Action Effective	07/11/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131

RIN: 0750–AB77

970. • NONDOMESTIC CONSTRUCTION MATERIALS (DFARS CASE 97-D009)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 225.205; 48 CFR 252.225

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to delete the nondomestic construction materials clause, and the corresponding prescriptive language. The Defense FAR Supplement clause has been superseded by a FAR clause, as amended by Federal Acquisition Circular 90-46.

Timetable:

Action	Date	FR Cite
Case opened	03/03/97	
Final Action	06/24/97	62 FR 34114
Final Action Effective	06/24/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131

RIN: 0750–AB78

DEPARTMENT OF DEFENSE (DOD)
U.S. Army Corps of Engineers (COE)

Proposed Rule Stage

971. REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 401; 33 USC 403; 33 USC 1344; 33 USC 1413

CFR Citation: 33 CFR 320 to 330

Legal Deadline: None

Abstract: The Corps of Engineers intends to make numerous clarifications to its existing regulations at 33 CFR 320 to 330, to consolidate all permit regulations into one document, and to reorganize 33 CFR 325 for clarity. Since the Corps Regulatory Program final regulations were published in the Federal Register on November 13, 1986 (51 CFR 41206), there has been need to clarify several of those provisions. Since 1986, the Corps has adopted two new appendices at 33 CFR 325, appendices B and C, and the Corps has also adopted revisions to the Nationwide Permit Program (33 CFR 330), Class 1 Administrative Civil Penalties (33 CFR 326), and revisions to the definition of discharge of Dredged Material and Fill Material and prior converted croplands. For clarity, the Corps intends to consolidate all these changes into one document.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	
NPRM Comment Period End	05/00/98	
Final Action	12/00/98	
Final Action Effective	02/00/99	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Victor Cole, Biologist, Department of Defense, U.S. Army Corps of Engineers, 20 Massachusetts Avenue NW., ATTN: CECW-OR, Washington, DC 20314-1000
Phone: 202 761-0201

RIN: 0710–AA30

972. ENVIRONMENTAL QUALITY; PROCEDURES FOR IMPLEMENTING THE NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4321 et seq; 40 CFR 1500.6

CFR Citation: 33 CFR 230

Legal Deadline: None

Abstract: The purpose of this regulatory revision is to clarify and provide additional guidance for Corps NEPA requirements for activities at Federal water resource development projects and lands.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	
Final Action	03/00/98	
Final Action Effective	05/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Forrester Einarsen, Biologist, Department of Defense, U.S. Army Corps of Engineers, Office of Environmental Policy (CECW-AR-E), 7701 Telegraph Road, Alexandria, VA 22315-3861
Phone: 703 428-7061
Fax: 703 428-6529

RIN: 0710–AA42

DEPARTMENT OF DEFENSE (DOD)
U.S. Army Corps of Engineers (COE)

Final Rule Stage

973. REGULATORY PROGRAM OF THE CORPS OF ENGINEERS—ADMINISTRATIVE APPEALS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 401; 33 USC 403; 33 USC 1344; 33 USC 1413

CFR Citation: 33 CFR 331

Legal Deadline: None

Abstract: The regulation establishes an administrative appeal process for permit denials by permit applicants and wetland delineations by property owners. This process is included in the President's Wetland Protection Plan to increase fairness in the permitting process by allowing landowners to seek a speedy recourse of these decisions without having to go to court.

Timetable:

Action	Date	FR Cite
NPRM	07/19/95	60 FR 37280
NPRM Comment Period End	09/05/95	
Final Action	12/00/97	
Final Action Effective	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Chowning, Assistant Chief, Policy Development Section, Department of Defense, U.S. Army Corps of Engineers, ATTN: CECW-OR, Washington, DC 20314-1000
Phone: 202 761-1781

RIN: 0710–AA41

DEPARTMENT OF DEFENSE (DOD)
U.S. Army Corps of Engineers (COE)

Long-Term Actions

974. REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS, WETLAND DELINEATOR CERTIFICATION PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 33 CFR 320; 33 CFR 323; 33 CFR 325; 33 CFR 328; 33 CFR 333

Timetable:

Action	Date	FR Cite
NPRM	03/14/95	60 FR 13654
NPRM Comment Period End	04/13/95	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Collen Charles
Phone: 202 761-1784

RIN: 0710–AA38

DEPARTMENT OF DEFENSE (DOD)
Department of the Navy (NAVY)

Final Rule Stage

975. ADJUSTMENTS TO PRICES UNDER SHIPBUILDING CONTRACTS

Priority: Info./Admin./Other

Legal Authority: 10 USC 2405

CFR Citation: 48 CFR 52

Legal Deadline: None

Abstract: The interim rule prescribes policies and procedures to restrict contract price adjustments under shipbuilding contracts, thus implementing by regulation the requirements of 10 USC 2405. The interim rule also defines the terminology of 10 USC 2405 and promulgates a solicitation provision and contract clause on price adjustments to shipbuilding contracts. This action is intended to clarify the meaning and ensure the consistent interpretation, implementation, and administration of the statute.

Timetable:

Action	Date	FR Cite
NPRM	11/16/89	54 FR 47689
NPRM Comment Period End	02/15/90	55 FR 3608
NPRM	08/29/90	55 FR 26708
NPRM Comment Period End	08/16/90	55 FR 33541
Public Hearing	10/26/90	55 FR 43150
Interim Final Rule	12/05/91	56 FR 63664
Final Action	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: CDR J.W. Coyne, Department of Defense, Department of the Navy, Office of the Assistant Secretary of the Navy (Research, Development and Acquisition), Washington, DC 20350-1000
Phone: 703 602-9977
Fax: 703 602-4514
Email: coyne.john@hq.navy.mil

RIN: 0703–AA34

976. USE OF DEPARTMENT OF THE NAVY AVIATION FACILITIES BY OTHER THAN UNITED STATES DEPARTMENT OF DEFENSE AIRCRAFT

Priority: Info./Admin./Other

Legal Authority: 49 USC 1507

CFR Citation: 32 CFR 766

Legal Deadline: None

Abstract: This part establishes the policy and procedures for the use of Navy and Marine Corps aviation facilities by aircraft other than United States Department of Defense aircraft.

Timetable:

Action	Date	FR Cite
NPRM	12/01/94	59 FR 61561
NPRM Comment Period End	01/03/95	
Final Action	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: CDR F.P. Olic, Department of Defense, Department of the Navy, Office of the Chief of Naval Operations, (N885) Pentagon, Washington, DC 20350
Phone: 703 614-2710
Fax: 703 693-2969

RIN: 0703–AA48

DEPARTMENT OF DEFENSE (DOD)
Department of the Navy (NAVY)

Completed Actions

977. BOARD FOR CORRECTION OF NAVAL RECORDS

Priority: Info./Admin./Other

CFR Citation: 32 CFR 723

Completed:

Reason	Date	FR Cite
Final Action	02/24/97	62 FR 8186
Final Action Effective	02/24/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dean Pfeiffer
Phone: 703 614-9800
Fax: 703 614-9857

RIN: 0703–AA49

DEPARTMENT OF DEFENSE (DOD)
Office of Assistant Secretary for Health Affairs (DODOASHA)

Proposed Rule Stage

978. • CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); TRICARE PROGRAM; REIMBURSEMENT

Priority: Info./Admin./Other

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule proposes to revise certain requirements and procedures for reimbursement under the TRICARE program, the purpose of which is to implement a comprehensive managed health care delivery system composed of military medical treatment facilities and CHAMPUS. Issues addressed in this rule include: implementation of changes made to the Medicare Prospective Payment System (PPS) upon which the TRICARE/CHAMPUS DRG-based payment system is modeled and required by law to follow wherever practicable, along with changes to make our DRG-based payment system operate better; extension of the balance billing limitations currently in place for individual and professional providers to non-institutional, non-professional providers; adjusting the CHAMPUS maximum allowable charge (CMAC) rate in the small number cases where the CMAC rate is less than the Medicare rate; and implementing the government-wide debarment rule where any provider excluded or suspended from CHAMPUS shall be excluded from all other programs and activities involving Federal financial assistance, such as Medicare or Medicaid, and adding violations of our balance billing or claims filing requirements to the list of provider actions considered violations of the CHAMPUS program.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Major Kathy Larkin, Department of Defense, Office of Assistant Secretary for Health Affairs
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Fax: 703 693-8233
Email: larkink@ha.osd.mil

RIN: 0720–AA37

979. • CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); REVISIONS TO THE ELIGIBILITY REQUIREMENTS

Priority: Info./Admin./Other

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule revises the comprehensive CHAMPUS regulation pertaining to basic CHAMPUS benefits in accordance with several statutory changes. This rule: sets forth the requirements for reinstatement of CHAMPUS eligibility for beneficiaries under age 65 who would otherwise have lost eligibility for CHAMPUS due to eligibility for Medicare as a result of disability or end-stage renal disease (ESRD); establishes new classes of CHAMPUS eligibles; establishes the Transitional Assistance Management Program which provides transitional health care for members (and their dependents) who served on active duty in support of a contingency operation and for members (and their dependents) who are involuntarily separated from active duty; allows former spouses who buy a conversion health policy to keep CHAMPUS eligibility for twenty-four (24) months for preexisting conditions that are not covered by the conversion policy; and makes minor technical revisions to the double coverage provisions. In order to expedite compliance with the statutory requirements, all of these provisions have been implemented under interim instructions. This proposed rule also adds a new category of eligible beneficiary under the Continued Health Care Benefit Program.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: LtCol Jo Longley, Department of Defense, Office of Assistant Secretary for Health Affairs
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RIN: 0720–AA39

980. • CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); EXCEPTION TO THE DUAL COMPENSATION/CONFLICT OF INTEREST PROVISIONS

Priority: Info./Admin./Other

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: Currently, any individual who is a civilian employee of the United States government cannot be authorized by CHAMPUS as a provider of medical services. We propose to provide an exception to this prohibition to permit these individuals to be authorized CHAMPUS providers if they meet three conditions. First, they must be employed by the government agency on a part-time basis, that is, less than twenty (20) hours per week. Second, the agency must certify that unique or special circumstances detrimental to the delivery of quality health care exist that can be overcome only by employing part-time, non-government physicians. Third, the agency and the physician must certify that they understand and have taken appropriate measures to avoid violation of Standards of Conduct, dual compensation, and conflict of interest requirements including protection against referral of patients to the employee's private practice.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steve Isaacson, Department of Defense, Office of Assistant Secretary for Health Affairs
Phone: 303 361-1172
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Email: isaccs@novell.ochampus.mil

RIN: 0720–AA41

DEPARTMENT OF DEFENSE (DOD)
Office of Assistant Secretary for Health Affairs (DODOASHA)

Final Rule Stage

981. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); FORMER SPOUSE/WIDOW(ER) AND FEDERAL CLAIMS COLLECTION ACT (DOD 6010.8-R)

Priority: Info./Admin./Other

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule updates regulation changes to stipulate that annulled remarriages of former spouses or widows or widowers will be regarded as if the remarriage had never taken place and will reinstate their eligibility effective 12:01 a.m. of the day following the annulment; will clarify the effect of Medicare entitlement of former spouses; and will adopt the Federal Claims Collection Act and the Federal Claims Collection Standards by reference.

Timetable:

Action	Date	FR Cite
NPRM	09/24/91	56 FR 48135
NPRM Comment Period End	10/24/91	
Final Action	10/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The Federal Claims Collection portion of this rule was published as a Final Rule in the Federal Register on June 30, 1997 (62 FR 30586). The Former Spouse portion of this rule has been incorporated into another proposed rule (CHAMPUS; Revisions to the Eligibility Requirements) currently pending OMB review.

Agency Contact: Steve Isaacson, Department of Defense, Office of Assistant Secretary for Health Affairs
Phone: 303 361-1172
Fax: 303 361-1179
Email: isaacs@novell.ochampus.mil

RIN: 0720–AA07

982. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); HOSPITAL PAYMENT FOR AMBULATORY CARE (DOD 6010.8-R)

Priority: Info./Admin./Other

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule establishes a new payment method for ambulatory care (other than ambulatory surgery) provided by hospitals to CHAMPUS beneficiaries, under which payment amounts would be based on the cost of the service rather than on the billed charge, as at present.

Timetable:

Action	Date	FR Cite
NPRM	01/20/94	59 FR 3046
NPRM Comment Period End	03/21/94	
Final Action	10/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steve Lillie, Department of Defense, Office of Assistant Secretary for Health Affairs
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Email: lillies@ha.osd.mil

RIN: 0720–AA20

983. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); PROVIDER CERTIFICATION REQUIREMENTS—CORPORATE SERVICES PROVIDER CLASS; OCCUPATIONAL THERAPISTS (DOD 6010.8-R)

Priority: Info./Admin./Other

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule presents requirements to permit payment of professional or technical health care services rendered by certain corporate providers and to self-employed occupational therapists; makes amendments to clarify the general requirements for individual professional providers; and adds standard provider participation agreement provisions when such agreements are otherwise required.

Timetable:

Action	Date	FR Cite
NPRM	03/08/95	60 FR 12717
NPRM Comment Period End	05/08/95	
Final Action	10/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The Occupational Therapists portion of this rule was published in the Federal Register as a Final Rule on June 30, 1997 (62 FR 35066).

Agency Contact: Mike Kottyan, Department of Defense, Office of Assistant Secretary for Health Affairs
Phone: 303 361-1120
Fax: 303 361-1179

RIN: 0720–AA27

984. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); TRANSPLANTS (DOD 6010.8-R)

Priority: Info./Admin./Other

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule establishes coverage for heart-lung, single or double lung, and combined liver-kidney transplantation for those patients who meet specific patient selection criteria; establishes preauthorization requirements for heart, liver, heart-lung, single or double lung, combined liver-kidney transplantation, high dose chemotherapy and stem cell transplantation, and air ambulance (in conjunction with lung or heart-lung transplantation preauthorizations); extends coverage of cardiac rehabilitation to those patients who have had heart valve surgery, heart or heart-lung transplantation; authorizes an exception to the ambulance benefit to allow organ transplantation candidates to be transported to a certified CHAMPUS organ transplant center instead of the closest appropriate facility; authorizes pulmonary rehabilitation for beneficiaries whose conditions are considered appropriate for pulmonary rehabilitation according to guidelines adopted by the Director, OCHAMPUS, or a designee; recognizes certain transplant centers that meet specific criteria as an authorized CHAMPUS institutional provider; and clarifies the CHAMPUS position on consortium programs for organ transplantation to allow individual hospitals which are members of a consortium to use the combined (pooled) experience and survival data of the consortium team to meet

CHAMPUS requirements for authorization as a certified CHAMPUS organ transplant center.

Timetable:

Action	Date	FR Cite
NPRM	03/17/95	60 FR 14403
NPRM Comment Period End	05/16/95	
Final Action	10/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cyndi Speight, Department of Defense, Office of Assistant Secretary for Health Affairs
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RIN: 0720–AA28

985. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); INDIVIDUAL CASE MANAGEMENT (DOD 6010.8-R)

Priority: Info./Admin./Other

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule implements provisions of the 1993 National Defense Authorization Act which allows the Secretary of Defense to establish a case management program for CHAMPUS beneficiaries with extraordinary medical or psychological disorders and to allow such beneficiaries medical or psychological services, supplies, or durable medical equipment excluded by law or regulation as a CHAMPUS benefit. Under this program, waiver of benefit limits to the Basic CHAMPUS program may be authorized for beneficiaries when the provision of such services or supplies is cost-effective and clinically appropriate, as compared to historical or projected CHAMPUS/MTF utilization of health care services. It is designed to develop a cost-effective plan of care by targeting appropriate resources to meet the individual needs of the beneficiary.

Timetable:

Action	Date	FR Cite
NPRM	01/04/96	61 FR 338
NPRM Comment Period End	03/04/96	
Final Action	10/01/97	
Final Action Effective	12/01/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Capt. Deborah Kamin, Department of Defense, Office of Assistant Secretary for Health Affairs
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RIN: 0720–AA30

986. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); HEALTH PROMOTION AND DISEASE PREVENTION VISITS AND IMMUNIZATIONS

Priority: Info./Admin./Other

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule expands well-baby visits and immunizations to dependents under the age of six and improves access to preventive benefits for dependents age six and above to include health promotion and disease prevention visits in connection with immunizations, pap smears and mammograms.

Timetable:

Action	Date	FR Cite
NPRM	11/05/96	61 FR 56929
NPRM Comment Period End	01/06/97	
Final Action	10/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cyndi Speight, Department of Defense, Office of Assistant Secretary for Health Affairs
Phone: 703 697-8975
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RIN: 0720–AA33

987. • CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); NONAVAILABILITY STATEMENT (DOD 6010.8-R)

Priority: Info./Admin./Other

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule revises certain requirements and procedures for the TRICARE Program, the purpose of which is to implement a comprehensive managed health care delivery system composed of military medical treatment facilities and CHAMPUS. Issues addressed in this rule include priority for access to care in military treatment facilities and requirements for payment of enrollment fees. This rule also includes provisions revising the requirement that certain beneficiaries obtain a non-availability statement from a military treatment facility commander prior to receiving certain health care services from civilian providers.

Timetable:

Action	Date	FR Cite
NPRM	04/07/97	62 FR 16510
NPRM Comment Period End	06/06/97	
Final Action	10/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steve Lillie, Department of Defense, Office of Assistant Secretary for Health Affairs
Phone: 703 695-3350
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RIN: 0720–AA35

988. • CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); EXTENSION OF THE ACTIVE DUTY DEPENDENTS DENTAL PLAN TO OVERSEAS AREAS

Priority: Info./Admin./Other

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule implements recently enacted statutory authority for the extension of the Active Duty Dependents Dental Plan to overseas areas. This rule provides for adjustments in the program in overseas areas. This rule details the implementation and operation of the program which will ensure access to dental care for family members accompanying their active sponsors while overseas.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/25/97	62 FR 39940
Final Action	10/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carol Ortega, Department of Defense, Office of Assistant Secretary for Health Affairs
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RIN: 0720–AA36

989. • CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); TRICARE RETIREE DENTAL PROGRAM

Priority: Info./Admin./Other

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule establishes the TRICARE Retiree Dental Program (TRDP) to provide dental care to military members entitled to retired pay and eligible family members and their dependents. This rule details operation of the program.

Timetable:

Action	Date	FR Cite
NPRM	06/24/97	62 FR 34032
NPRM Comment Period End	07/24/97	
Final Action	10/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cyndi Speight, Department of Defense, Office of Assistant Secretary for Health Affairs
Phone: 703 695-3323
Fax: 703 693-8233
Email: speightc@ha.osd.mil

RIN: 0720–AA38

990. • CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); SELECTED RESERVE DENTAL PROGRAM

Priority: Info./Admin./Other

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule establishes the TRICARE Selected Reserve Dental Program (TSRDP) to provide dental care to members of the Selected Reserves of the Ready Reserve. This rule details operation of the program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/16/97	62 FR 26939
Final Action	10/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cyndi Speight, Department of Defense, Office of Assistant Secretary for Health Affairs
Phone: 703 695-3323
Fax: 703 693-8233
Email: speightc@ha.osd.mil

RIN: 0720–AA40

DEPARTMENT OF DEFENSE (DOD)

Office of Assistant Secretary for Health Affairs (DODOASHA)

Completed Actions

991. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); SUPPLEMENTAL INSURANCE PLANS (DOD 6010.8-R)

Priority: Info./Admin./Other

CFR Citation: 32 CFR 199

Completed:

Reason	Date	FR Cite
Final Action	06/30/97	62 FR 35086
Final Action Effective	10/28/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mike Kottyan
Phone: 303 361-1120
Fax: 303 361-1179

RIN: 0720–AA01

992. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); PROGRAM FOR THE HANDICAPPED (DOD 6010.8-R)

Priority: Info./Admin./Other

CFR Citation: 32 CFR 199

Completed:

Reason	Date	FR Cite
Final Action	06/30/97	62 FR 35086
Final Action Effective	10/28/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mike Kottyan
Phone: 303 361-1120
Fax: 303 361-1179

RIN: 0720–AA04

993. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); BASIC PROGRAM (DOD 6010.8-R)

Priority: Info./Admin./Other

CFR Citation: 32 CFR 199

Completed:

Reason	Date	FR Cite
Final Action	06/30/97	62 FR 35086
Final Action Effective	10/28/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mike Kottyan
Phone: 303 361-1120
Fax: 303 361-1179

RIN: 0720–AA06

994. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); PROGRAM WITH DISABILITIES (DOD 6010.8-R)

Priority: Info./Admin./Other

CFR Citation: 32 CFR 199

Completed:

Reason	Date	FR Cite
Final Action	06/30/97	62 FR 35086
Final Action Effective	10/28/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mike Kottyan
Phone: 303 361-1120
Fax: 303 361-1179

RIN: 0720–AA32

995. • TRICARE SENIOR: DEMONSTRATION OF MILITARY MANAGED CARE CHAMPUS DEMONSTRATION PROJECT NOTICE

Priority: Info./Admin./Other

Legal Authority: 10 USC 1072

CFR Citation: None

Legal Deadline: None

Abstract: This notice is to advise interested parties of a demonstration project in which DoD will enroll a certain number of Medicare eligible military retirees in a managed care program, called TRICARE Senior, at selected military treatment facilities (MTFs). This project will be conducted in two phases, the first of which is the subject of this notice. The TRICARE Senior demonstration project seeks to show that a DoD-operated managed care program can provide more effective and efficient health care services to beneficiaries eligible for both military health care and Medicare. In the initial phase of the project, DoD will grant enrollees in the program priority access to health care at designated MTFs in exchange for their agreement to receive all of their health care from DoD providers or from providers to whom enrollees are referred by DoD. Funding for the demonstration will come from the current level of DoD expenditures on care provided to the Medicare-eligible population at MTFs on a space-eligible basis, referred to as DoD's level of effort. Claims for care provided to enrollees outside the MTF will be submitted to Medicare on a fee-for-service basis by the civilian provider. At the end of each year of the project, DoD, in consultation with the Department of Health and Human Services (HHS), the Health Care Financing Administration(HCFA), will conduct an analysis of the costs of the program to determine the amount Medicare would have reimbursed DoD for care provided enrollees in the program had DoD been operating like a HCFA-approved Medicare-risk HMO. That is, DoD will, to the limited extent feasible, simulate reimbursement from Medicare. DoD will conduct this demonstration over three years and three months, from June 1, 1997, to August 31, 2000, or until a Medicare demonstration project begins.

Timetable:

Action	Date	FR Cite
Withdrawn - Demonstration notice, to be withdrawn from OMB review	07/28/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Scott Nelson, Department of Defense, Office of Assistant Secretary for Health Affairs
Phone: 703 695-3350
Email: nelsons@ha.osd.mil

RIN: 0720–AA34

[FR Doc. 97-22220 Filed 10-28-97; 8:45 am]
BILLING CODE 5000-04-F

federal register

Wednesday
October 29, 1997

Part VI

Department of Education

Semiannual Regulatory Agenda

DEPARTMENT OF EDUCATION (ED)

DEPARTMENT OF EDUCATION

Office of the Secretary

34 CFR Subtitles A and B

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Office of the Secretary, Education.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Secretary of Education publishes a semiannual agenda of Federal regulations issued under the authority of section 4(b) of Executive Order 12866 "Regulatory Planning and Review." The purpose of the agenda is effective public participation in the regulatory process by providing the public with early information about pending regulatory activities.

FOR FURTHER INFORMATION CONTACT: Questions or comments related to specific regulations listed in this agenda should be directed to the agency contact listed for the regulations. Questions or comments related to preparation of this agenda should be directed to Kenneth C. Depew, Division of Regulatory Services, Office of the General Counsel, Department of Education, Room 5112, FB-10, 600 Independence Avenue SW., Washington, DC 20202-2241; telephone: (202) 401-8300. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 4(b) of Executive Order 12866, dated September 30, 1993, requires the Department of Education (ED) to publish, at a time and in a manner specified by the Administrator of the Office of Information and Regulatory Affairs, OMB, an agenda of all regulations under development or review. The Regulatory Flexibility Act, 5 U.S.C. 602(a), requires ED to publish, in October and April of each year, a regulatory flexibility agenda. The regulatory flexibility agenda may be combined with any other agenda that satisfies the statutory requirements (5 U.S.C. 605(a)). In compliance with the Executive order and the Regulatory Flexibility Act, the Secretary publishes this agenda.

For each set of regulations listed, the agenda provides the title of the document, the type of document, a citation to any rulemaking or other action taken since publication of the most recent agenda, and planned dates of future rulemaking. In addition, the agenda provides the following information:

- An abstract, which includes a description of the problem to be addressed, any principal alternatives being considered, and potential costs and benefits of the action.
- An indication of whether the planned action is likely to have significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601(b)).
- A reference to where a reader can find the current regulations in the Code of Federal Regulations.
- A citation of legal authority.
- The name, address, and telephone number of the contact person at the Department from whom a reader can obtain additional information regarding the planned action.

In accordance with the Secretary's Principles for Regulating, listed in the Department's regulatory plan, the Department of Education is committed to regulating that improves the quality and equality of services to its customers, learners of all ages. ED will regulate only when absolutely necessary and then in the most flexible, most equitable, least burdensome way possible.

Interested members of the public are invited to comment on any of the items listed in this agenda that they believe are not consistent with the Principles for Regulating.

The Department also will review all regulations that will be published to ensure that, if appropriate, those regulations support the National Education Goals.

This publication in the **Federal Register** does not impose any binding obligation on the Department with regard to any specific item on the agenda. The Department may elect not to pursue any of the regulatory actions listed here, and regulatory action in addition to the items listed is not precluded. Dates of future regulatory actions are subject to revision in subsequent agendas.

For this edition of ED's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

Jamienne S. Studley,
Acting General Counsel.

Departmental Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
996	Student Rights in Research, Experimental Programs, and Testing	1880-AA66

Departmental Management—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
997	General Education Provisions Act (GEPA)—Enforcement: Proportionality and Equitable Offsets	1880-AA58
998	Protection of Human Subjects	1880-AA75

ED

Departmental Management—Completed Actions

Sequence Number	Title	Regulation Identifier Number
999	Direct Grant Programs	1880-AA76

Office of the Chief Financial Officer—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1000	Education Department General Administrative Regulations (EDGAR)	1890-AA00
1001	Education Department General Administrative Regulations (EDGAR)	1890-AA02

Office of the Chief Financial Officer—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1002	Administrative Requirements for Grantees To Reflect Single Audit Act Amendments	1890-AA04

Office of the Chief Financial Officer—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1003	Education Department General Administrative Regulations (EDGAR)	1890-AA03
1004	Department of Education Acquisition Regulation	1890-AA01

Office of Educational Research and Improvement—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1005	Standards for the Conduct and Evaluation of Activities Carried Out by the Office of Educational Research and Improvement (OERI) —Evaluation of the Performance of Recipients of Grants	1850-AA54

Office of Educational Research and Improvement—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1006	Standards for the Conduct and Evaluation of Activities Carried Out by the OERI—Designation of Exemplary and Promising Programs	1850-AA52

Office of Elementary and Secondary Education—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1007	Title I—Helping Disadvantaged Children Meet High Standards	1810-AA87

ED

Office of Elementary and Secondary Education—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1008	Impact Aid Program	1810-AA84
1009	Desegregation Programs	1810-AA85
1010	Title XIV—General Provisions	1810-AA82

Office of Postsecondary Education—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1011	Student Assistance General Provisions, Federal Family Education Loan (FFEL) Program, and William D. Ford Federal Direct Loan Program (Parity) **(Reg Plan Seq. No. 16)**	1840-AC45
1012	Federal Perkins Loan Program, Federal Family Education Loan (FFEL) Program, and William D. Ford Federal Direct Loan Program (Consolidation) **(Reg Plan Seq. No. 17)**	1840-AC44

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Office of Postsecondary Education—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1013	Student Assistance General Provisions (Technical Changes)	1840-AC47
1014	Student Assistance General Provisions (Financial Responsibility)	1840-AC36

Office of Postsecondary Education—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1015	Elimination of Postsecondary Education Regulations	1840-AC38
1016	Higher Education Programs in Modern Foreign Language Training and Area Studies	1840-AC26
1017	Perkins Loan Program	1840-AC40
1018	Campus-Based Programs (Technical Changes)	1840-AC46
1019	Federal Family Education Loan (FFEL) Program	1840-AC16
1020	William D. Ford Federal Direct Loan Program	1840-AC42
1021	William D. Ford Federal Direct Loan Program	1840-AC43

Office of Special Education and Rehabilitative Services—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1022	Assistance for Education of All Children with Disabilities **(Section 610 Review) (Reg Plan Seq. No. 18)**	1820-AB40
1023	The State Vocational Rehabilitation Services Program—Evaluation Standards and Performance Indicators	1820-AB14

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Office of Vocational and Adult Education—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1024	Regulatory Reinvention for Adult and Vocational Education Programs	1830-AA20

DEPARTMENT OF EDUCATION (ED)
Departmental Management (EDMAN)
Final Rule Stage

996. STUDENT RIGHTS IN RESEARCH, EXPERIMENTAL PROGRAMS, AND TESTING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1232h

CFR Citation: 34 CFR 098

Legal Deadline: None

Abstract: These regulations are needed to implement section 1017 of the Goals 2000: Educate America Act (Pub. L. 103-227, 20 U.S.C. section 123h). That provision amends the Protection of Pupil Rights Amendment (PPRA) to require schools, in certain instances, to make specific educational materials available to parents for inspection. The provision also amends the PPRA to prohibit schools from requiring a student to submit to certain surveys, analyses, or evaluations without prior parental consent. The regulations are being developed in accordance with the Department's Principles for Regulating.

Timetable:

Action	Date	FR Cite
NPRM	08/28/95	60 FR 44696
NPRM Comment Period End	10/27/95	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ellen Campbell, Family Policy Compliance Office, Department of Education, 600 Independence Avenue SW., Room 1366, FB-10, Washington, DC 20202-4605
Phone: 202 260-3887

RIN: 1880–AA66

DEPARTMENT OF EDUCATION (ED)
Departmental Management (EDMAN)
Long-Term Actions

997. GENERAL EDUCATION PROVISIONS ACT (GEPA)—ENFORCEMENT: PROPORTIONALITY AND EQUITABLE OFFSETS

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 1221e-3(a)(1); 20 USC 1234; 20 USC 3474(a)

CFR Citation: 34 CFR 75; 34 CFR 76; 34 CFR 81; 34 CFR 83

Legal Deadline: None

Abstract: These proposed regulations clarify circumstances under which benefits to a grant or cooperative agreement and equitable offset are taken into account in determining harm to an identifiable Federal interest under the General Education Provisions Act (GEPA).

Timetable:

Action	Date	FR Cite
NPRM	08/20/95	60 FR 32552
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Theodore Sky, Senior Counsel, Office of the General Counsel, Department of Education, 600 Independence Avenue SW., Room 5364, FB-10, Washington, DC 20202-2110
Phone: 202 401-2605

RIN: 1880–AA56

998. PROTECTION OF HUMAN SUBJECTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 20 USC 1221e-3; 20 USC 3474; 42 USC 300v-1(b)

CFR Citation: 34 CFR 97

Legal Deadline: None

Abstract: These regulations amend existing regulations to add special protections for children who are involved as subjects of research. Specifically, these regulations remove exemptions and further limit the risks to which children may be made vulnerable.

Timetable:

Action	Date	FR Cite
NPRM	05/22/97	62 FR 28156
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kent Hannaman, Information Management Team Leader, Department of Education, 600 Independence Avenue SW., Room 5622, ROB-3, Washington, DC 20202
Phone: 202 708-5307

RIN: 1880–AA75

DEPARTMENT OF EDUCATION (ED)
Departmental Management (EDMAN)
Completed Actions

999. DIRECT GRANT PROGRAMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 34 CFR 75

Completed:

Reason	Date	FR Cite
Final Action	07/28/97	62 FR 40422

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Greg Vick
Phone: 202 708-8199
TDD: 800 877-8339

RIN: 1880–AA76

DEPARTMENT OF EDUCATION (ED)
Office of the Chief Financial Officer (OCFO)

Proposed Rule Stage

1000. EDUCATION DEPARTMENT GENERAL ADMINISTRATIVE REGULATIONS (EDGAR)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1221e-3(a)(1)

CFR Citation: 34 CFR 75; 34 CFR 76; 34 CFR 77

Legal Deadline: None

Abstract: These proposed regulations would reinvent key parts of EDGAR by eliminating unnecessary, obsolete, or duplicative provisions; replacing some provisions with non-regulatory guidance; and revising other sections to improve clarity and ease of use by the Department's customers.

Timetable:

Action	Date	FR Cite
ANPRM	08/23/96	61 FR 43640
NPRM	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Valerie A. Sinkovits, Management Analyst, Grants Policy; Oversight Staff, Department of Education, Office of the Chief Financial Officer, 600 Independence Avenue SW., Room 3652, ROB-3, Washington, DC 20202-4248
Phone: 202 708-7568
TDD: 800 877-8339
Fax: 202 205-0667
Email: valerie__sinkovits@ed.gov

RIN: 1890–AA00

1001. EDUCATION DEPARTMENT GENERAL ADMINISTRATIVE REGULATIONS (EDGAR)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1221e-3(a)(1); 20 USC 3474

CFR Citation: 34 CFR 75

Legal Deadline: None

Abstract: These regulations are needed to implement features of the Department's redesigned discretionary grants process. These regulations will establish the procedures the Secretary may use for reviewing and selecting applications submitted for new grants under discretionary grant programs. Options for application review and selection procedures will be based on the average award size for the discretionary grant program or the nature of the program. Several new review and selection procedures will be established and defined. These regulations will also provide that the Secretary may establish novice set-asides for discretionary grant programs and will define the procedures for reviewing and selecting applications submitted under a novice set-aside.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final Action	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Valerie A. Sinkovits, Management Analyst, Department of Education, Office of the Chief Financial Officer, 600 IndependenceAvenue SW., Room 3652, ROB-3, Washington, DC 20202-4248
Phone: 202 708-7568
TDD: 800 877-8339
Fax: 202 205-0667
Email: valerie__sinkovits@ed.gov

RIN: 1890–AA02

DEPARTMENT OF EDUCATION (ED)
Office of the Chief Financial Officer (OCFO)

Final Rule Stage

1002. • ADMINISTRATIVE REQUIREMENTS FOR GRANTEES TO REFLECT SINGLE AUDIT ACT AMENDMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 34 CFR 74; 34 CFR 80

Legal Deadline: None

Abstract: This interim final rule amends the grants management common rule, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments" and the codification of OMB Circular A-110 to implement the Single Audit Act Amendments of 1996 and the revised OMB Circular A-133.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/29/97	62 FR 45937
Interim Final Rule Effective	09/29/97	
Interim Final Rule Comment Period End	10/28/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kathy Thomas, Department of Education, Office of the Chief Financial Officer, 600 Independence Avenue SW., Room 3652, ROB-3, Washington, DC 20202-4258

RIN: 1890–AA04

DEPARTMENT OF EDUCATION (ED)
Office of the Chief Financial Officer (OCFO)

Completed Actions

1003. EDUCATION DEPARTMENT GENERAL ADMINISTRATIVE REGULATIONS (EDGAR)

Priority: Substantive, Nonsignificant

CFR Citation: 34 CFR 75

Completed:

Reason	Date	FR Cite
Withdrawn	08/05/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Valerie A. Sinkovits
Phone: 202 708-7568
TDD: 800 877-8339
Fax: 202 205-0667

RIN: 1890–AA03

1004. DEPARTMENT OF EDUCATION ACQUISITION REGULATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 3400 to 3499

Completed:

Reason	Date	FR Cite
Withdrawn	08/05/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rich Galloway
Phone: 202 708-8266

RIN: 1890–AA01

DEPARTMENT OF EDUCATION (ED)
Office of Educational Research and Improvement (OERI)

Proposed Rule Stage

1005. STANDARDS FOR THE CONDUCT AND EVALUATION OF ACTIVITIES CARRIED OUT BY THE OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT (OERI) —EVALUATION OF THE PERFORMANCE OF RECIPIENTS OF GRANTS

Priority: Other Significant

Legal Authority: 20 USC 6011(i)

CFR Citation: 34 CFR 702

Legal Deadline: None

Abstract: These regulations establish standards for evaluating the performance of all recipients of grants from and contracts and cooperative agreements with the Office of Educational Research and Improvement. The recipients will be evaluated both during and at the conclusion of their project. The purpose of the evaluations is to promote excellence in the performance of contractors, grantees, and recipients of cooperative agreement awards.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Boesel, Department of Education, Office of Educational Research and Improvement, 555 New Jersey Avenue NW., Room 214D, Washington, DC 20208-5523
Phone: 202 219-1598

RIN: 1850–AA54

DEPARTMENT OF EDUCATION (ED)
Office of Educational Research and Improvement (OERI)

Final Rule Stage

1006. STANDARDS FOR THE CONDUCT AND EVALUATION OF ACTIVITIES CARRIED OUT BY THE OERI—DESIGNATION OF EXEMPLARY AND PROMISING PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 6011(i)

CFR Citation: 34 CFR 701

Legal Deadline: None

Abstract: These regulations establish standards for the evaluation of programs which have applied to receive the designation of exemplary or promising programs. Adding this designation will broaden the range of educational resources available for school improvement efforts.

Timetable:

Action	Date	FR Cite
NPRM	08/03/96	61 FR 27990
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon Bobbitt, Department of Education, Office of Educational Research and Improvement, 555 New Jersey Avenue NW., Room 508, Washington, DC 20208-5643
Phone: 202 219-2126

RIN: 1850–AA52

DEPARTMENT OF EDUCATION (ED)
Office of Elementary and Secondary Education (OESE)

Long-Term Actions

1007. TITLE I—HELPING DISADVANTAGED CHILDREN MEET HIGH STANDARDS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 6313(b); 20 USC 1221e-3; 20 USC 8474; 20 USC 6322(a); 20 USC 6322(b); 20 USC 6322(c)

CFR Citation: 34 CFR 200

Legal Deadline: None

Abstract: These regulations would amend the title I regulations that were issued on July 3, 1996. One of the amendments is needed due to the enactment of the Omnibus Consolidated Rescissions and Appropriations Act of 1996. The other amendments would provide additional flexibility and accuracy to the regulations currently found in 34 CFR part 200.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Agency Contact: Wendy Jo New, Education Program Specialist, Department of Education, Office of Elementary and Secondary Education, 600 Independence Avenue SW., Room 4404, Portals, Washington, DC 20202-6321
Phone: 202 260-0982
Fax: 202 260-7764

RIN: 1810–AA87

DEPARTMENT OF EDUCATION (ED)
Office of Elementary and Secondary Education (OESE)

Completed Actions

1008. IMPACT AID PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 34 CFR 222

Completed:

Reason	Date	FR Cite
Final Action	07/01/97	62 FR 35408

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Wooten
Phone: 202 260-1922

RIN: 1810–AA84

1009. DESEGREGATION PROGRAMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 34 CFR 270; 34 CFR 271; 34 CFR 272

Completed:

Reason	Date	FR Cite
Withdrawn	08/05/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Wooten
Phone: 202 260-1922

RIN: 1810–AA85

1010. TITLE XIV—GENERAL PROVISIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 34 CFR 299

Completed:

Reason	Date	FR Cite
Final Action	05/22/97	62 FR 28248

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: William Wooten
Phone: 202 260-1922

RIN: 1810–AA82

DEPARTMENT OF EDUCATION (ED)
Office of Postsecondary Education (OPE)

Proposed Rule Stage

1011. • STUDENT ASSISTANCE GENERAL PROVISIONS, FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAM, AND WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM (PARITY)

Regulatory Plan: This entry is Seq. No. 16 in Part II of this issue of the Federal Register.

RIN: 1840–AC45

1012. • FEDERAL PERKINS LOAN PROGRAM, FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAM, AND WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM (CONSOLIDATION)

Regulatory Plan: This entry is Seq. No. 17 in Part II of this issue of the Federal Register.

RIN: 1840–AC44

DEPARTMENT OF EDUCATION (ED)
Office of Postsecondary Education (OPE)

Final Rule Stage

1013. • STUDENT ASSISTANCE GENERAL PROVISIONS (TECHNICAL CHANGES)

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1085; 20 USC 1088; 20 USC 1091; 20 USC 1092; 20 USC 1094; 20 USC 1099b; 20 USC 1099c; 20 USC 1141

CFR Citation: 34 CFR 600; 34 CFR 668

Legal Deadline: None

Abstract: These regulations would make technical changes in the Student Assistance General Provisions regulations.

Timetable:

Action	Date	FR Cite
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lorraine Kennedy, Program Specialist, Department of Education, Office of Postsecondary Education, 600 Independence Ave. SW., Washington, DC 20202
Phone: 202 708-8242

RIN: 1840–AC47

1014. STUDENT ASSISTANCE GENERAL PROVISIONS (FINANCIAL RESPONSIBILITY)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1085; 20 USC 1088; 20 USC 1091; 20 USC 1092; 20 USC 1094; 20 USC 1099c; 20 USC 1141

CFR Citation: 34 CFR 668

Legal Deadline: None

Abstract: These changes are part of the Department's efforts to improve its oversight of institutions that participate in programs authorized by title IV of the Higher Education Act of 1965, as amended (HEA). The Department is required by sections 487(c) and 498(c) of the HEA to determine the financial responsibility of those institutions on the basis of an annual audited financial report.

Timetable:

Action	Date	FR Cite
NPRM	09/20/96	61 FR 49552
NPRM Comment Period Reopened	12/18/96	61 FR 66854
NPRM Comment Period Extended	02/18/97	62 FR 7333
NPRM Comment Period End	03/24/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Partial final regulations under 1840-AC36 were issued separately on 11/29/96 (61 FR 60565).

Agency Contact: John A. Kolotos, Department of Education, Office of Postsecondary Education, 600 Independence Avenue SW., Room 3052, ROB-3, Washington, DC 20202-5444
Phone: 202 708-7888

RIN: 1840–AC36

DEPARTMENT OF EDUCATION (ED)
Office of Postsecondary Education (OPE)

Completed Actions

1015. ELIMINATION OF POSTSECONDARY EDUCATION REGULATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 34 CFR 607 et seq

Completed:

Reason	Date	FR Cite
Withdrawn	08/05/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth C. Depew
Phone: 202 401-8300

RIN: 1840–AC38

1016. HIGHER EDUCATION PROGRAMS IN MODERN FOREIGN LANGUAGE TRAINING AND AREA STUDIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 34 CFR 662; 34 CFR 663; 34 CFR 664

Completed:

Reason	Date	FR Cite
Withdrawn	08/05/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Scarfo
Phone: 202 401-9770

RIN: 1840–AC26

1017. PERKINS LOAN PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 34 CFR 674

Completed:

Reason	Date	FR Cite
Final Action	09/26/97	62 FR 50846

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gail McLarnon
Phone: 202 708-8242

RIN: 1840–AC40

1018. • CAMPUS-BASED PROGRAMS (TECHNICAL CHANGES)

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

ED—OPE — **Completed Actions**

Legal Authority: 20 USC 421 to 429; 42 USC 2751 to 2756a; 20 USC 1070b to 1070b-3; 20 USC 1087aa to 1087hh

CFR Citation: 34 CFR 674; 34 CFR 675; 34 CFR 676

Legal Deadline: None

Abstract: To correct minor technical errors and omissions in the Campus-Based Regulations and to conform with the self-implementing provisions of the Higher Education Act of 1965, as amended (HEA).

Timetable:

Action	Date	FR Cite
Withdrawn	10/01/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kathy Cause, Program Specialist, Department of Education, Office of Postsecondary Education, 600 Independence Ave. SW., Washington, DC 20202
Phone: 202 708-8242

RIN: 1840–AC46

1019. FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 34 CFR 682

Completed:

Reason	Date	FR Cite
Final Action	03/21/97	62 FR 13539

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Beavan
Phone: 202 708-8242

RIN: 1840–AC16

1020. WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 34 CFR 685

Completed:

Reason	Date	FR Cite
Final Action	06/03/97	62 FR 30412

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jon Utz
Phone: 202 708-9406

RIN: 1840–AC42

1021. • WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

Priority: Other Significant

Legal Authority: 20 USC 1087a et seq

CFR Citation: 34 CFR 685

Legal Deadline: None

Abstract: These regulations revised income percentage factors for the income contingent repayment plan.

Timetable:

Action	Date	FR Cite
Final Action	07/01/97	62 FR 35602

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rachel Edelstein, Department of Education, Office of Postsecondary Education, 600 Independence Ave SW., Room 3053, ROB-3, Washington, DC 20202
Phone: 202 708-8242

RIN: 1840–AC43

DEPARTMENT OF EDUCATION (ED)
Office of Special Education and Rehabilitative Services (OSERS) — **Proposed Rule Stage**

1022. • ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH DISABILITIES (SECTION 610 REVIEW)

Regulatory Plan: This entry is Seq. No. 18 in Part II of this issue of the Federal Register.

RIN: 1820–AB40

1023. THE STATE VOCATIONAL REHABILITATION SERVICES PROGRAM—EVALUATION STANDARDS AND PERFORMANCE INDICATORS

Priority: Other Significant

Legal Authority: 29 USC 726; PL 102-569

CFR Citation: 34 CFR 361

Legal Deadline: None

Abstract: These proposed revisions to existing regulations are needed because of changes in the authorizing legislation made by the Rehabilitation Act Amendments of 1992 (Pub. L. 102-569). The 1992 Amendments require the development of standards and performance indicators. The proposed regulations are being developed in accordance with the Department's Principles for Regulating.

Timetable:

Action	Date	FR Cite
ANPRM	02/19/93	58 FR 9458
NPRM	10/00/97	
Final Action	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Beverlee Stafford, Director, Planning, Policy, and Evaluation Services, Department of Education, Office of Special Education and Rehabilitative Services, 600 Independence Avenue SW., Room 3014, Switzer Building, Washington, DC 20202-2531
Phone: 202 205-8299

RIN: 1820–AB14

DEPARTMENT OF EDUCATION (ED)
Office of Vocational and Adult Education (OVAE) — **Completed Actions**

1024. REGULATORY REINVENTION FOR ADULT AND VOCATIONAL EDUCATION PROGRAMS

Priority: Other Significant

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 34 CFR 400 to 403; 34 CFR 406; 34 CFR 410 to 413; 34 CFR 415; 34 CFR 421; 34 CFR 425 to 429; 34 CFR 460; 34 CFR 461; 34 CFR 464; 34 CFR 472; 34 CFR 477; 34 CFR 489 to 491

Completed:

Reason	Date	FR Cite
Withdrawn	08/05/97	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Jon Weintraub
Phone: 202 205-5602
Fax: 202 260-9183
Email: jon__weintraub@ed.gov

RIN: 1830–AA20

[FR Doc. 97-24019 Filed 10-28-97; 8:45 am]
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federal register

Wednesday
October 29, 1997

Part VII

Department of Energy

Semiannual Regulatory Agenda

DEPARTMENT OF ENERGY (DOE)

DEPARTMENT OF ENERGY

10 CFR Chs. II, III, and X

48 CFR Ch. 9

Regulatory Agenda

AGENCY: Department of Energy.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Department of Energy has prepared and today is publishing its semiannual regulatory agenda pursuant to instructions of the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB).

FOR FURTHER INFORMATION CONTACT: For further information about any particular item on the regulatory agenda, please contact the individual listed under that item. For further information on the regulatory agenda in general, please contact: Richard L. Farman, Room 6E-078, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-8145.

SUPPLEMENTARY INFORMATION: Entries appended to this notice reflect the status of activities as of approximately August 15, 1997. They are divided into categories, first by subagencies and then according to their stage of rulemaking action: Prerule, proposed rulemaking, final rulemaking, long-term action, or completed action.

A draft of this regulatory agenda has been transmitted to the Chief Counsel for Advocacy of the U.S. Small Business Administration for comment, if any, pursuant to 5 U.S.C. 602(b).

For this edition of the Department of Energy's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

Issued in Washington, DC, on September 4, 1997.

Eric J. Fygi,

Acting General Counsel.

Energy Efficiency and Renewable Energy—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1025	Energy Efficiency Standards for Central Air Conditioners and Heat Pumps	1904-AA77
1026	Determination for Electric Distribution Transformers	1904-AA85

Energy Efficiency and Renewable Energy—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1027	Equivalent Petroleum-Based Fuel Economy Calculation for Electric and Hybrid Electric Vehicles	1904-AA40
1028	Test Procedures for Central Air Conditioners and Heat Pumps— Amendments	1904-AA46
1029	Energy Efficiency Standards for Lamp Ballasts	1904-AA75
1030	Energy Efficiency Standards for Water Heaters	1904-AA76

Energy Efficiency and Renewable Energy—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1031	Test Procedures for Kitchen Ranges, Ovens and Microwaves	1904-AA52
1032	Energy Efficiency Code for New Federal Residential Low Rise Buildings	1904-AA53
1033	State and Local Incentives Program; Alternative Fuels	1904-AA66
1034	Energy Efficiency Standards Rulemakings and Determinations for High Priority Consumer Products and Commercial Equipment **[Reg Plan Seq. No. 19]**	1904-AA67
1035	Energy Code for New Federal Commercial and Multi-Family High Rise Residential Buildings	1904-AA69
1036	Test Procedures and Certification Requirements for Plumbing Products; and Certification Requirements for Residential Appliances	1904-AA71
1037	Energy Conservation Program for Certain Commercial and Industrial Equipment: Test Procedures, Labeling, and Certification Requirements for Electric Motors	1904-AA82
1038	Energy Efficiency Standards for Kitchen Ranges, Ovens and Microwave Ovens	1904-AA84
1039	Test Procedures for Water Heaters—Amendment	1904-AA88
1040	Test Procedures for Refrigerators and Refrigerator-Freezers	1904-AA93

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

DOE

Energy Efficiency and Renewable Energy—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1041	National Voluntary Residential Energy Efficiency Rating Guidelines	1904-AA74
1042	Energy Efficiency Standards for Residential Furnaces and Mobile Home Furnaces	1904-AA78
1043	Determination for High Intensity Discharge Lamps	1904-AA86
1044	Determination for Small Electric Motors	1904-AA87
1045	Energy Efficiency Standards for Clothes Dryers and Dishwashers	1904-AA89
1046	Energy Efficiency Standards for Pool Heaters and Direct Heating Equipment	1904-AA90
1047	Energy Efficiency Standards for 1-200 HP Electric Motors	1904-AA91
1048	Energy Efficiency Standards for Fluorescent and Incandescent Lamps	1904-AA92

Energy Efficiency and Renewable Energy—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1049	Energy Efficiency Standards for Room Air Conditioners	1904-AA36
1050	Test Procedures for Furnaces/Boilers, Vented Home Heating Equipment, and Pool Heaters—Amendment	1904-AA45
1051	Energy Efficiency Standards for Refrigerators, Refrigerator-Freezers, and Freezers	1904-AA47
1052	Test Procedures for Fluorescent and Incandescent Reflector Lamps	1904-AA61
1053	Clothes Washer Test Procedure Amendments	1904-AA68
1054	Private/Local Alternative Fuels Fleet Program	1904-AA72
1055	State Energy Program	1904-AA81

Defense and Security Affairs—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1056	General Criteria and Procedures for Determining Eligibility for Access to Classified Matters or Special Nuclear Material	1992-AA22

Defense and Security Affairs—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1057	Personnel Assurance Program	1992-AA14
1058	Information Classification	1992-AA21

Defense and Security Affairs—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1059	Physical Protection of Security Interests	1992-AA23

Departmental and Others—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1060	Freedom of Information Act	1901-AA32
1061	Enforcement of Employee Safety Standards at Nuclear Weapons Facilities	1901-AA44
1062	The Office of Energy Research Financial Assistance Program	1901-AA54
1063	Payments for Special Burdens and in Lieu of Taxes	1901-AA58

DOE

Departmental and Others—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1064	Privacy Act Exemption of Certain Contractor Employee Reprisal Complaint and Investigation System of Records ..	1901-AA66
1065	Privacy Act System of Records Update	1901-AA69
1066	Occupational Protection Program for Exposures to Beryllium (Reg Plan Seq. No. 20)	1901-AA75
1067	Community Transition Activities	1901-AA77

References in boldface appear in the Regulatory Plan in Part II of this issue of the Federal Register.

Departmental and Others—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1068	Nuclear Safety Management (Reg Plan Seq. No. 21)	1901-AA34
1069	Radiation Protection of the Public and the Environment (Reg Plan Seq. No. 22)	1901-AA38
1070	Annotation of Land Records for Remediated Properties in the Uranium Mill Tailings Remedial Action Project (UMTRA)	1901-AA57
1071	Occupational Radiation Protection—Amendment (Reg Plan Seq. No. 23)	1901-AA59
1072	Privacy Act—Exemption of an Inspector General System of Records	1901-AA62
1073	General Guidelines for the Recommendation of Sites for Nuclear Waste Repository	1901-AA72

References in boldface appear in the Regulatory Plan in Part II of this issue of the Federal Register.

Departmental and Others—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1074	Electric Power System Permits and Reports; Applications; Administrative Procedures and Sanctions	1901-AA19
1075	Environmental Management Financial Assistance Program	1901-AA71

Departmental and Others—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1076	Energy Board of Contract Appeals; Organization, Functions, and Authorities; Rules of Practice	1901-AA30
1077	Allocation of Canadian Entitlement to Mid-Columbia Project Owners	1901-AA73
1078	Inflation Adjustment of Civil Monetary Penalties	1901-AA76

Office of Procurement and Assistance Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1079	DEAR: Financial Management Clauses	1991-AB02
1080	Fee Policy	1991-AB32
1081	DEAR: Implementation of FASA and FARA Statutes	1991-AB35
1082	DEAR: Management and Operating Contract Whistleblower Costs	1991-AB36

Office of Procurement and Assistance Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1083	Department of Energy Property Management Regulations; Miscellaneous Personal Property	1991-AA28
1084	FASA 1994, Sections 2051, 2151, and 2192	1991-AB29

DOE

Office of Procurement and Assistance Management—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1085	Security, Counterintelligence, and Options	1991-AB30
1086	FARA, DOE Certification Requirements	1991-AB31
1087	DEAR Amendment for Rights in Data	1991-AB33
1088	DEAR: Department of Energy Management and Operating Contracts	1991-AB37
1089	Agency Implementation of Revised OMB Circular A-133	1991-AB38

Office of Procurement and Assistance Management—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1090	Amendment to Workplace Substance Abuse Programs at DOE Sites	1991-AA90

Office of Procurement and Assistance Management—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1091	DEAR: Security Procedures	1991-AA86
1092	DEAR: Amendment to Workplace Substance Abuse Programs at DOE Sites	1991-AA97
1093	DEAR: Review of M&O Contractor Purchasing Systems	1991-AB07
1094	Competition for Management and Operating Contracts	1991-AB09
1095	Small Business Subcontracting Program	1991-AB17
1096	Revisions to Organizational Conflicts of Interest	1991-AB26
1097	Contract Reform	1991-AB28

Office of General Counsel—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1098	Payment of Travel Expenses of Persons Who Are Not Government Employees	1990-AA15
1099	Conduct of Employees	1990-AA19

DEPARTMENT OF ENERGY (DOE)

Prerule Stage

Energy Efficiency and Renewable Energy (EE)

1025. ENERGY EFFICIENCY STANDARDS FOR CENTRAL AIR CONDITIONERS AND HEAT PUMPS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430.32

Legal Deadline: Final, Statutory, January 1, 1994.

Abstract: The Energy Policy and Conservation Act, as amended, establishes initial energy-efficiency standard levels for most types of major residential appliances and generally requires DOE to undergo two subsequent rulemakings, at specified times, to determine whether the extant standard for a covered product should be amended.

This is the initial review of the statutory standards for central air conditioners and heat pumps.

Timetable:

Action	Date	FR Cite
ANPRM	08/06/93	58 FR 47326
Screening Workshop	07/00/98	
Supplemental ANPRM	04/00/00	
NPRM	05/00/01	
Final Action	11/00/01	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local

DOE—EE

Prerule Stage

Additional Information: Due to the Department's limited staff and financial resources, the regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a high priority, and the Department is actively working on this action.

This action is covered in the Regulatory Plan entry 1904-AA67, which appears in part II of this issue of the Federal Register.

Agency Contact: Michael Raymond, Program Manager, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-9611
Fax: 202 586-4617
Email: michael.raymond@ee.doe.gov

RIN: 1904–AA77

1026. DETERMINATION FOR ELECTRIC DISTRIBUTION TRANSFORMERS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6317

CFR Citation: 10 CFR 430

Legal Deadline: Other, Statutory, April 24, 1995.
Determination Notice

Abstract: The Energy Policy Act of 1992 requires the Department to prescribe testing requirements for electric distribution transformers for which the Secretary makes a determination that energy conservation standards would be technologically feasible and economically justified, and would result in significant energy savings.

Timetable:

Action	Date	FR Cite
Determination Notice	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a high priority, and the Department is working actively on this action.

This action is covered in the Regulatory Plan entry 1904-AA67, which appears elsewhere in part II of this issue of the Federal Register.

Agency Contact: Kathi Epping, Program Manager, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., 1J-018, Washington, DC 20585
Phone: 202 586-7425
Fax: 202 586-4617

RIN: 1904–AA85

DEPARTMENT OF ENERGY (DOE)

Proposed Rule Stage

Energy Efficiency and Renewable Energy (EE)

1027. EQUIVALENT PETROLEUM-BASED FUEL ECONOMY CALCULATION FOR ELECTRIC AND HYBRID ELECTRIC VEHICLES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 96-185, sec 18; PL 94-413, sec 13(c); PL 94-163, sec 503(a)(3); PL 103-272

CFR Citation: 10 CFR 474

Legal Deadline: None

Abstract: The final rule on the inclusion of electric vehicles in the Corporate Average Fuel Economy (CAFE) program was issued by DOE on April 15, 1981. It established a methodology for determining the equivalent petroleum-based fuel economy (PEF) for electric vehicles so that they could be included in a manufacturer's overall CAFE program. This methodology was based on several factors including the energy efficiency of the vehicle, the efficiency of electric generation and transmission, the fuels used to generate electricity, and the driving patterns of electric vehicles. It established a method for determining the PEF of electric vehicles that are recharged from stationary sources only. Hybrid electric vehicles, a type of electric vehicle, are electrically recharged by an on-board mobile generator. This rulemaking would establish a methodology that is necessary for calculating the CAFE credits for electric vehicles that are recharged by mobile sources, and would update the methodology for calculating the CAFE credits for electric vehicles that are recharged by stationary sources. Rulemaking authority for establishing PEF values for electric and hybrid electric vehicles is provided under Public Law 103-272 (49 USC 32904).

Timetable:

Action	Date	FR Cite
NPRM	02/04/94	59 FR 5336
Reopen Comment Period	10/00/97	
Final Action	07/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Hamilton, Program Manager, Electric and Hybrid Propulsion Division, Department of Energy, Energy Efficiency and Renewable Energy, EE-321, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-2314
Fax: 202 586-1600

RIN: 1904–AA40

1028. TEST PROCEDURES FOR CENTRAL AIR CONDITIONERS AND HEAT PUMPS—AMENDMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430

Legal Deadline: None

Abstract: These revisions to the test procedures for central air conditioners and heat pumps in accordance with the Energy Policy and Conservation Act, as amended, will reorganize the document in a logical order and update the references. The revisions include an updated nomenclature compatible with the eventual test procedure for conamed appliances, additional tables listing tests tolerances, a clearer specification for the demand defrost credit, and test methods for ECM blowers and history-dependent defrosts. Due to higher priority rulemakings, the Department does not plan to work on this test procedure until Fiscal Year 1998.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Michael Raymond, Program Manager, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-9611
Fax: 202 586-4617
Email: michael.raymond@hq.doe.gov

RIN: 1904–AA46

DOE—EE

Proposed Rule Stage

1029. ENERGY EFFICIENCY STANDARDS FOR LAMP BALLASTS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430.32

Legal Deadline: Final, Statutory, January 1, 1992.

Abstract: The Energy Policy and Conservation Act (EPCA), as amended, establishes initial energy-efficiency standard levels for most types of major residential appliances and generally requires DOE to undergo two subsequent rulemakings, at specified times, to determine whether the extant standard for a covered product should be amended.

This is the initial review of the statutory standards for fluorescent lamp ballasts.

Timetable:

Action	Date	FR Cite
ANPRM	09/28/90	55 FR 39624
NPRM	03/04/94	59 FR 10464
Ballast Analysis Workshop	03/18/97	
Reissue NPRM	08/00/98	
Final Action	02/00/99	

Small Entities Affected: None

Government Levels Affected: State, Local

Additional Information: Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a high priority, and the Department is working actively on this action.

This action is covered in the Regulatory Plan entry 1904-AA67, which appears elsewhere in part II of this issue of the Federal Register.

Agency Contact: Anthony Balducci, Program Manager, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-8459
Fax: 202 586-4617
Email: anthony.balducci@ee.doe.gov

RIN: 1904–AA75

1030. ENERGY EFFICIENCY STANDARDS FOR WATER HEATERS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430.32

Legal Deadline: Final, Statutory, January 1, 1992.

Abstract: The Energy Policy and Conservation Act as amended, establishes initial energy-efficiency standard levels for most types of major residential appliances and generally requires DOE to undergo two subsequent rulemakings, at specified times, to determine whether the extant standard for a covered product should be amended.

This is the initial review of the statutory standards for electric water heaters.

Timetable:

Action	Date	FR Cite
ANPRM	09/28/90	55 FR 39624
NPRM	03/04/94	59 FR 10464
Screening Workshop	06/24/97	
Notice of Availability	01/00/98	
Impact Workshop	03/00/98	
Reissue NPRM	07/00/98	
Final Action	07/00/99	

Small Entities Affected: None

Government Levels Affected: State, Local

Additional Information: Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a high priority, and the Department is working actively on this action.

This action is covered in the Regulatory Plan entry 1904-AA67, which appears elsewhere in part II of this issue of the Federal Register

Agency Contact: Terry Logee, Program Manager, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Ave. SW., Room 1J-018, Washington, DC 20585
Phone: 202 586-1680
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Email: terry.logee@hq.doe.gov

RIN: 1904–AA76

DEPARTMENT OF ENERGY (DOE)

Energy Efficiency and Renewable Energy (EE)

Final Rule Stage

1031. TEST PROCEDURES FOR KITCHEN RANGES, OVENS AND MICROWAVES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430

Legal Deadline: None

Abstract: In accordance with the Energy Policy and Conservation Act as amended, the test procedures are being revised. The revision will include new constants for annual cooking energy, incorporation by reference of test procedures adopted by the International Electrotechnical Commission and revised number of times for self cleaning operation

Timetable:

Action	Date	FR Cite
NPRM	03/23/95	60 FR 15330
NPRM Comment Period End	08/31/95	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Terry Logee, Program Manager, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., 1J-018, Washington, DC 20585
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Email: terry.logee@hq.doe.gov

RIN: 1904–AA52

1032. ENERGY EFFICIENCY CODE FOR NEW FEDERAL RESIDENTIAL LOW RISE BUILDINGS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6834

CFR Citation: 10 CFR 435

Legal Deadline: Final, Statutory, October 24, 1994.

Abstract: Title III of the Energy Conservation and Production Act as amended by the Energy Policy Act of 1992 (PL 102-486, October 24, 1992) provides that DOE establish Federal building energy standards that require in new Federal buildings those energy efficiency measures that are technologically feasible and economically justified. The standards for Federal buildings are intended to parallel closely the voluntary building energy codes of the Energy Policy Act for private sector construction. Interim energy performance standards which DOE had issued before enactment of the Energy Policy Act are to remain in effect for the Federal sector until the new Federal building energy standards become effective.

Timetable:

Action	Date	FR Cite
NPRM	05/02/97	62 FR 24164
NPRM Comment Period End	07/14/97	
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stephen P. Walder, Program Manager, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-9209

RIN: 1904–AA53

1033. STATE AND LOCAL INCENTIVES PROGRAM: ALTERNATIVE FUELS

Priority: Other Significant

Legal Authority: 42 USC 13235

CFR Citation: 10 CFR 490

Legal Deadline: Final, Statutory, April 24, 1993.

Abstract: The Energy Policy Act of 1992 requires DOE to issue regulations establishing the State and Local Incentives Program. Under this Program DOE may grant financial assistance to States for projects in DOE-approved State plans to promote use of alternative fuels and alternative fueled vehicles. With the publication of an integrated State Energy Program (61 FR 35890), the alternative fuel grant programs may be a part of the state grant special projects, depending on funding availability. The next action will be a cancellation notice of any separate state grant program.

Timetable:

Action	Date	FR Cite
NPRM	03/21/95	60 FR 15020
NPRM Comment Period End	05/22/95	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Marcy A. Rood (EE-34), Program Manager, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Ave SW., Washington, DC 20585
Phone: 202 586-8161
Fax: 202 586-1558
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RIN: 1904–AA66

1034. ENERGY EFFICIENCY STANDARDS RULEMAKINGS AND DETERMINATIONS FOR HIGH PRIORITY CONSUMER PRODUCTS AND COMMERCIAL EQUIPMENT

Regulatory Plan: This entry is Seq. No. 19 in Part II of this issue of the **Federal Register**.

RIN: 1904–AA67

1035. ENERGY CODE FOR NEW FEDERAL COMMERCIAL AND MULTI-FAMILY HIGH RISE RESIDENTIAL BUILDINGS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6834

CFR Citation: 10 CFR 434; 10 CFR 435 subpart A

Legal Deadline: Final, Statutory, November 14, 1997.

Abstract: Title III of the Energy Conservation and Production Act as amended by the Energy Policy Act of 1992 (PL 102-486) provides that DOE establish Federal building energy standards that require in new Federal buildings those energy efficiency measures that are technologically feasible and economically justified. The standards for Federal buildings are intended to parallel closely the voluntary building energy codes of the Energy Policy Act for private sector construction. Interim energy performance standards which DOE had issued before enactment of the Energy Policy Act are to remain in effect for the Federal sector until the new Federal building energy standards become effective.

Timetable:

Action	Date	FR Cite
NPRM	08/06/96	61 FR 40882
NPRM Comment Period End	11/04/96	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Ronald B. Majette, Program Manager, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-7935
Fax: 202 586-4617
Email: ronald.majette@hq.doe.gov

RIN: 1904–AA69

1036. TEST PROCEDURES AND CERTIFICATION REQUIREMENTS FOR PLUMBING PRODUCTS; AND CERTIFICATION REQUIREMENTS FOR RESIDENTIAL APPLIANCES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6293; 42 USC 6295; 42 USC 6296

CFR Citation: 10 CFR 430.2; 10 CFR 430.32; 10 CFR 430.62

Legal Deadline: None

Abstract: This action would codify water conservation standards and test procedures established in EPCA for plumbing products, incorporate by reference water conservation standards and test procedures for faucets and test procedures for showerheads revised by the American Society of Mechanical Engineers/American National Standards Institute (ASME/ANSI), and provide for certification of compliance with plumbing products standards. The proposed rule would also clarify the certification requirements applicable to all residential appliances.

Timetable:

Action	Date	FR Cite
NPRM	02/20/97	62 FR 7834
Final Action	12/00/97	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: William W. Hui, Program Manager, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-9145
Fax: 202 586-4617
Email: william.hui@hq.doe.gov

RIN: 1904–AA71

1037. ENERGY CONSERVATION PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT: TEST PROCEDURES, LABELING, AND CERTIFICATION REQUIREMENTS FOR ELECTRIC MOTORS

Priority: Other Significant

Legal Authority: 42 USC 6311 to 6317

CFR Citation: 10 CFR 431

Legal Deadline: Final, Statutory, October 24, 1997.

Abstract: The Energy Policy and Conservation Act, as amended, establishes energy efficiency standards for commercial and industrial electric motors, prescribes test procedures, and requires labeling for such equipment. The Department proposes to create a new part (10 CFR part 431) in the Code of Federal Regulations. This action will establish procedures for energy efficiency testing, labeling, and certification requirements for certain commercial and industrial electric motors.

Timetable:

Action	Date	FR Cite
NPRM	11/27/96	61 FR 60440
NPRM Comment Period End	03/10/97	62 FR 6888
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Raba, Energy Technology Program Specialist, Department of Energy, Energy Efficiency and Renewable Energy, EE-43, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8654
Fax: 202 586-4617
Email: jim.raba@hq.doe.gov

RIN: 1904–AA82

1038. ENERGY EFFICIENCY STANDARDS FOR KITCHEN RANGES, OVENS AND MICROWAVE OVENS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430.32

Legal Deadline: Final, Statutory, January 1, 1992.

Abstract: The Energy Policy and Conservation Act, as amended, establishes initial energy efficiency standards levels for most types of major residential appliances and generally requires the Department to determine whether the extant standards for a covered product should be amended.

This action reviews the statutory standards for kitchen ranges, ovens, and microwave ovens to determine whether the standard needs to be amended. This is the first reanalysis of the standard levels.

Timetable:

Action	Date	FR Cite
ANPRM	09/28/93	55 FR 39624
NPRM	03/04/94	59 FR 10464
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local

Additional Information: Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a high priority, and the Department is working actively on this action.

DOE—EE

Final Rule Stage

DOE—EE

Final Rule Stage

This action is covered in the Regulatory Plan entry 1904-AA67, which appears elsewhere in part II of this issue of the Federal Register.

Agency Contact: Kathi Epping, Program Manager, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
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RIN: 1904–AA84

1039. TEST PROCEDURES FOR WATER HEATERS—AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430

Legal Deadline: None

Abstract: In accordance with the Energy Policy and Conservation Act, as amended, the test procedures for water heaters are being revised. Rulemaking issues include: inclusion of electric instantaneous water heaters and storage water heaters with less than 20 gallons volume and revision of the first hour rating.

Timetable:

Action	Date	FR Cite
NPRM	03/23/95	60 FR 15330
NPRM Comment Period End	08/31/95	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This action was separated from RIN 1904-AA52.

Agency Contact: Terry Logee, Program Manager, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., 1J-018, Washington, DC 20585
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Email: terry.logee@hq.doe.gov

RIN: 1904–AA86

1040. TEST PROCEDURES FOR REFRIGERATORS AND REFRIGERATOR-FREEZERS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6291 to 6309

CFR Citation: 10 CFR 430

Legal Deadline: None

Abstract: This action is to amend 10 CFR part 430 to include test procedures for externally vented refrigerators. The proposed amendment would not change the test procedures for existing classes of refrigerators or refrigerator-freezers nor would it affect existing or future energy use standards.

Timetable:

Action	Date	FR Cite
NPRM	04/08/97	62 FR 16739
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Raymond, Program Manager, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-9611
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Email: michael.raymond@hq.doe.gov

RIN: 1904–AA93

DEPARTMENT OF ENERGY (DOE)

Long-Term Actions

Energy Efficiency and Renewable Energy (EE)

1041. NATIONAL VOLUNTARY RESIDENTIAL ENERGY EFFICIENCY RATING GUIDELINES

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 437

Timetable:

Action	Date	FR Cite
NPRM	07/25/95	60 FR 37949
NPRM Comment Period End	05/00/96	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Reese
Phone: 202 586-7819

RIN: 1904–AA74

1042. ENERGY EFFICIENCY STANDARDS FOR RESIDENTIAL FURNACES AND MOBILE HOME FURNACES

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 430.32

Timetable:

Action	Date	FR Cite
ANPRM	09/08/93	58 FR 47326
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Cyrus Nasseri
Phone: 202 586-9138

RIN: 1904–AA78

1043. DETERMINATION FOR HIGH INTENSITY DISCHARGE LAMPS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 430

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Terry Logee
Phone: 202 586-1689
Fax: 202 586-4617

RIN: 1904–AA88

DOE—EE

Long-Term Actions

1044. DETERMINATION FOR SMALL ELECTRIC MOTORS

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 430

Timetable:

Action	Date	FR Cite
Determination Notice	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jim Raba
Phone: 202 586-9654
Fax: 202 586-4617

RIN: 1904–AA87

1045. ENERGY EFFICIENCY STANDARDS FOR CLOTHES DRYERS AND DISHWASHERS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 430.32

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Bill Hui
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Fax: 202 586-4617

RIN: 1904–AA90

1046. ENERGY EFFICIENCY STANDARDS FOR POOL HEATERS AND DIRECT HEATING EQUIPMENT

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 430.32

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Bill Hui
Phone: 202 586-9145
Fax: 202 586-4617

RIN: 1904–AA89

1047. ENERGY EFFICIENCY STANDARDS FOR 1-200 HP ELECTRIC MOTORS

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 10 CFR 431

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Raba
Phone: 202 586-8654
Fax: 202 586-4617

RIN: 1904–AA91

1048. ENERGY EFFICIENCY STANDARDS FOR FLUORESCENT AND INCANDESCENT LAMPS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 430.32

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Terry Logee
Phone: 202 586-1689
Fax: 202 586-4617

RIN: 1904–AA92

DEPARTMENT OF ENERGY (DOE)

Completed Actions

Energy Efficiency and Renewable Energy (EE)

1049. ENERGY EFFICIENCY STANDARDS FOR ROOM AIR CONDITIONERS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6295; 42 USC 6313

CFR Citation: 10 CFR 430.32

Legal Deadline: Final, Statutory, January 1, 1992.

Abstract: The Energy Policy and Conservation Act (EPCA), as amended, establishes initial energy efficiency levels for most types of major residential appliances and generally requires DOE to undergo two subsequent rulemakings, at specified times, to determine whether the extant standard for a covered product should be amended.

This is the initial review of the statutory standard for room room air conditioners.

Timetable:

Action	Date	FR Cite
ANPRM	09/28/90	55 FR 39624
NPRM	03/04/94	59 FR 10464
Final Action	09/24/97	62 FR 50122

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Michael McCabe, Director, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-9127

RIN: 1904–AA36

1050. TEST PROCEDURES FOR FURNACES/BOILERS, VENTED HOME HEATING EQUIPMENT, AND POOL HEATERS—AMENDMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430

Legal Deadline: None

Abstract: These revisions to the test procedures for furnaces and boilers, vented home heating equipment and pool heaters in accordance with the Energy Policy and Conservation Act, as amended, would incorporate by reference ASHRAE Standard 103-1993 and would include waivers granted to manufacturers. This revision is prompted by the ASHRAE revision of Standard 103-1983 and the need to include waivers granted to manufacturers. DOE reopened the comments period on January 20, 1995, regarding new energy descriptors and a cost factor for the production and use of electricity. Based on the comments received, DOE has decided to eliminate the new energy descriptors and to issue a final rule based on the existing energy descriptor.

Timetable:

Action	Date	FR Cite
NPRM	08/23/93	58 FR 44583
NPRM Comment Period End	03/21/95	60 FR 4348
Final Action	05/12/97	62 FR 26140

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cyrus Nasseri, Program Leader, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Ave. SW., Washington, DC 20585-0103
Phone: 202 586-9138

RIN: 1904–AA45

1051. ENERGY EFFICIENCY STANDARDS FOR REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430.32

Legal Deadline: Final, Statutory, November 17, 1994.

Abstract: The Energy Policy and Conservation Act, as amended, establishes initial energy-efficiency standard levels for most types of major residential appliances and generally requires DOE to determine whether the extant standard for a covered product should be amended.

Initial standard levels were effective in 1990. Revised standards were issued by the DOE effective 1993. This final rule will revise again the standards.

Timetable:

Action	Date	FR Cite
ANPRM	09/09/93	58 FR 47326
NPRM	07/20/95	60 FR 37338
Final Action	04/28/97	62 FR 23101

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Michael Raymond, Program Manager, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-9611

RIN: 1904–AA47

1052. TEST PROCEDURES FOR FLUORESCENT AND INCANDESCENT REFLECTOR LAMPS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430

Legal Deadline: None

Abstract: The test procedures will require manufacturers to use an accredited laboratory and a standardized method to measure the energy efficiency of fluorescent and incandescent reflector lamps and to measure the color rendering index of fluorescent lamps. These measurements will determine whether products comply with the energy efficiency standards established by the Energy Policy and Conservation Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/28/94	59 FR 49468
Interim Final Rule Effective	10/28/94	
Interim Final Rule Comment Period End	12/12/94	
Final Action	05/29/97	62 FR 29222
Final Action Effective	10/18/97	62 FR 35067

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Terry Logee, Program Manager, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-1689

RIN: 1904–AA61

1053. CLOTHES WASHER TEST PROCEDURE AMENDMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430

Legal Deadline: None

Abstract: The current test procedure requires revision to address the issue of temperature selections which are not offered (locked out) of the normal cycle. The test procedure also is being updated to incorporate waivers regarding water heating clothes washers and to address the testing of innovative clothes washers (i.e. high spin speed and automatic water fill).

Timetable:

Action	Date	FR Cite
NPRM	11/08/96	61 FR 57794
NPRM Comment Period End	11/25/96	
Final Action	08/27/97	62 FR 45484

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bryan Berringer, Program Manager, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Ave. SW., Washington, DC 20585
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Fax: 202 586-4617

RIN: 1904–AA68

1054. PRIVATE/LOCAL ALTERNATIVE FUELS FLEET PROGRAM

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 42 USC 13257

CFR Citation: 10 CFR 490

Legal Deadline: Final, Statutory, December 15, 1996.

Abstract: The Energy Policy Act of 1992 requires DOE to initiate a rulemaking to determine whether a private and local fleet program is deemed necessary to meet the fuel displacement goals in the Act. The criteria for making this determination are mandated by the Act. The Department has two options under the local and private fleet program: an early rule, which must have been published in the Federal Register by December 15, 1996; and a late rule, which must be proposed by May 1, 1999, and be finalized by January 1, 2000. The early rule is no longer being considered as an option. The Department is planning on entering into discussions with stakeholders as to whether the late rule will be pursued or whether the Department will pursue other voluntary or incentive measures.

Timetable:

Action	Date	FR Cite
ANPRM	08/07/96	61 FR 41032
ANPRM Comment Period End	11/05/96	
Withdrawn	04/23/97	62 FR 19701

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: Kenneth Katz, Program Manager, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-6116
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Email: kenneth.katz@hq.doe.gov

RIN: 1904–AA72

1055. STATE ENERGY PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6321 et seq; 42 USC 7101 et seq

CFR Citation: 10 CFR 420

Legal Deadline: None

Abstract: This action is in response to instructions from the Congress to consolidate the Institutional Conservation Program and the State Energy Conservation Program. The consolidated program will be known as the State Energy Program and will be based on the regulations for the State Energy Conservation Program (10 CFR part 420) as revised to effect the consolidation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/08/96	61 FR 35690
Final Action	05/14/97	62 FR 26724
Final Action Effective	06/13/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: Thomas Stapp, Department of Energy, Energy Efficiency and Renewable Energy, EE-44, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-2096
Fax: 202 586-7848

RIN: 1904–AA81

DEPARTMENT OF ENERGY (DOE)
Defense and Security Affairs (DSA)

Proposed Rule Stage

1056. GENERAL CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO CLASSIFIED MATTERS OR SPECIAL NUCLEAR MATERIAL

Priority: Info./Admin./Other

Legal Authority: EO 12968; 42 USC 2201

CFR Citation: 10 CFR 710 subpart A

Legal Deadline: None

Abstract: 10 CFR part 710, which stipulates DOE access authorization "due process" procedures, will be revised to comply with Section 5.2(a) of EO 12968. This section requires three decision levels in the process of determining whether an individual's access to classified matter will be denied or revoked, with the final decision being made by a three member high level appeal panel. While the DOE decision structure will be revised, the DOE will continue to offer the individual the right to a hearing before a hearing officer in such cases. These revisions are not expected to significantly impact the costs, time intervals, or risks associated with DOE's administrative review process. There are no alternatives to the Department for assuring full compliance with the new requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry Dalinsky, Personnel Security Specialist, Office of Safeguards and Security, Department of Energy, Germantown, MD 20874-1290
Phone: 301 903-5010
Fax: 301 903-6545

RIN: 1992–AA22

DEPARTMENT OF ENERGY (DOE)
Defense and Security Affairs (DSA)

Final Rule Stage

1057. PERSONNEL ASSURANCE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2012 et seq, Atomic Energy Act of 1954

CFR Citation: 10 CFR 711

Legal Deadline: None

Abstract: The Department of Energy (DOE) conducts a Personnel Assurance Program (PAP) under DOE Order 452.2A, "Safety of Nuclear Explosive Operations", and 10 CFR part 711, "Personnel Assurance Program." The PAP was created in order to assure the reliability and safety of individuals in certain critical positions and is a part of the DOE nuclear weapons and explosives safety program. To further minimize the potential risks to personnel, public health and safety, and national security, the Department now proposes these procedures and standards for DOE and DOE contractor employees who are assigned nuclear explosives duties at DOE facilities. The PAP is a systematic program, previously established by internal DOE directive, to prevent accidental or unauthorized detonation of nuclear explosives as a result of assignment of nuclear explosive duties to employees who have become emotionally, mentally, or physically incapacitated. The proposed rule includes medical standards for evaluating DOE and contractor employees in the PAP. The DOE employees under the PAP are part of the DOE Drug-Free Workplace Program (DOE 3792.3). The DOE contractors under the PAP are part of the Workplace Substance Abuse Programs at DOE facilities (10 CFR part 707).

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/09/96	61 FR 53018
NPRM	06/04/97	62 FR 30469
Final Action	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry Rich, Office of Weapons Surety, Defense Programs, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 301 903-3462
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Randall Weidman, Office of Weapons Surety, Defence Programs, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 301 903-3154
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RIN: 1992–AA14

1058. INFORMATION CLASSIFICATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: EO 12958; 42 USC 2161; 42 USC 2162

CFR Citation: 10 CFR 1045

Legal Deadline: Final, Statutory, October 16, 1995.
EO 12958 requires implementation regulation by 10/16/95

Abstract: This regulation establishes the policies and procedures which implement requirements of the Atomic Energy Act for the classification and declassification of information as Restricted Data and Formerly Restricted Data and which implement the requirements of EO 12958 concerning Classified National Security Information that directly affect the public. This regulation prescribes procedures to be used by all Agencies in dealing with Restricted Data and Formerly Restricted Data, and describes how members of the public may request DOE National Security Information and appeal DOE classification decisions regarding such requests.

Timetable:

Action	Date	FR Cite
NPRM	01/15/97	62 FR 2252
NPRM Comment Period End	03/17/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Janet O'Connell, Security Specialist, Department of Energy, Office of Declassification (NN-521), Washington, DC 20585
Phone: 301 903-1113
Fax: 301 903-1230

RIN: 1992–AA21

DEPARTMENT OF ENERGY (DOE)
Defense and Security Affairs (DSA)

Long-Term Actions

1059. PHYSICAL PROTECTION OF SECURITY INTERESTS

Priority: Routine and Frequent

CFR Citation: 10 CFR 1046 subpart A; 10 CFR 1046 subpart B

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Russell Showers
Phone: 301 903-5122
Fax: 301 903-8717

RIN: 1992–AA23

DEPARTMENT OF ENERGY (DOE)
Departmental and Others (ENDEP)

Proposed Rule Stage

1060. FREEDOM OF INFORMATION ACT

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552

CFR Citation: 10 CFR 1004

Legal Deadline: None

Abstract: On October 23, 1991, DOE proposed to amend the procedures and principles to be applied in responding to requests for records under the Freedom of Information Act (FOIA) 5 USC 552. The proposal updated names and addresses of organizational entities, and updated guidelines for the schedule of fees associated with processing requests. A proposed section on policies clarified DOE's operation of a first-in, first-out policy in responding to FOIA requests, and the role of the Office of Hearings and Appeals was clarified. The proposal also included a statement of DOE policy on contractor records.

On December 12, 1994, DOE adopted the contractor records policy, with certain modifications. DOE expects to take final action on the remainder of the proposal in the near future.

The new regulations will clarify the FOIA process by clearly defining the roles of the FOIA Officer and the Denying Official. The new regulations will be written in a more customer-friendly manner in plain English.

Timetable:

Action	Date	FR Cite
Final Rule (Contractor Records)	12/12/94	59 FR 63882
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: All

Agency Contact: GayLa Sessoms, Director, FOIA and Privacy Act Division, Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-5955

RIN: 1901–AA33

1061. ENFORCEMENT OF EMPLOYEE SAFETY STANDARDS AT NUCLEAR WEAPONS FACILITIES

Priority: Other Significant

Legal Authority: PL 102-190, sec 3131

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Public Law 102-190, section 3131, directs the Department of Energy to assess civil penalties against contractors at DOE nuclear weapons facilities who fail either to provide training to employees engaged in hazardous substance response and emergency response or fail to certify that such workers have been adequately trained.

Timetable:

Action	Date	FR Cite
ANPRM	08/26/94	59 FR 44139
NPRM	10/00/97	
Final Action	06/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Martin S. Mathamel, Associate Deputy Assistant Secretary, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 301 903-5639
Fax: 301 903-2582

RIN: 1901–AA44

1062. THE OFFICE OF ENERGY RESEARCH FINANCIAL ASSISTANCE PROGRAM

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2051; 42 USC 5817; 42 USC 5901 et seq; 42 USC 7254; 42 USC 7256; 31 USC 6301 et seq

CFR Citation: 10 CFR 605

Legal Deadline: None

Abstract: Action to be taken will improve grants administration by providing a more streamlined and uniform approach to post-award requirements, yet maintain stewardship and accountability responsibilities.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: John A. Alleva, Director, Grants and Contracts Division, Department of Energy, Office of Energy Research, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 301 903-5212

RIN: 1901–AA54

1063. PAYMENTS FOR SPECIAL BURDENS AND IN LIEU OF TAXES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2208 Atomic Energy Act of 1954, sec 168

CFR Citation: 10 CFR 610

Legal Deadline: None

Abstract: To revise the Department of Energy's policy on making payments for special burdens and in lieu of taxes to State and local taxing jurisdictions pursuant to the Atomic Energy Act of 1954. Prior to the 1987 issuance of DOE Order 2100.12, the Department and its predecessor agencies approved such payment requests on an ad hoc basis. To ensure all eligible taxing jurisdictions are provided appropriate opportunity to comment, the revised policy is being established through the rulemaking process. The Department anticipates no added costs by issuing the revised policy as a regulation rather than as an internal directive revision.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Local

Agency Contact: Helen O. Sherman, Director, Office of Financial Policy, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-4860

RIN: 1901–AA58

DOE—ENDEP — Proposed Rule Stage

1064. PRIVACY ACT EXEMPTION OF CERTAIN CONTRACTOR EMPLOYEE REPRISAL COMPLAINT AND INVESTIGATION SYSTEM OF RECORDS

Priority: Info./Admin./Other

Legal Authority: 5 USC 552a

CFR Citation: 10 CFR 1008

Legal Deadline: None

Abstract: This action would amend the Department's Privacy Act Regulations 10 CFR 1008, by adding a new system of records to the list of systems exempted from certain provisions of the Act. The proposed new system of records will be titled "Contractor Employee Reprisal Complaint and Investigation Files (DOE-89)." These exemptions are needed to enable the Office of Contractor Employee Protection to perform its administrative, analytical and investigatory duties and responsibilities.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: GayLa D. Sessoms, Director, FOIA/Privacy Act Division, Office of the Executive Secretariat, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-5955

RIN: 1901–AA66

1065. PRIVACY ACT SYSTEM OF RECORDS UPDATE

Priority: Info./Admin./Other

Legal Authority: 5 USC 552a

CFR Citation: 10 CFR 1008

Legal Deadline: None

Abstract: This action will amend the Department's Privacy Act Regulations, 10 CFR 1008, by deleting Privacy Act system notices no longer used by the Department. It will also update the remaining systems, many of which require minor amendments to location, authority, purpose, storage, or system manager.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: GayLa D. Sessoms, Director, FOIA and Privacy Act Division, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-5955
Fax: 202 586-0575
Email: gayla.sessoms@hq.doe.gov

RIN: 1901–AA69

1066. OCCUPATIONAL PROTECTION PROGRAM FOR EXPOSURES TO BERYLLIUM

Regulatory Plan: This entry is Seq. No. 20 in Part II of this issue of the Federal Register.

RIN: 1901–AA75

1067. • COMMUNITY TRANSITION ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7274h

CFR Citation: 10 CFR Not yet determined

Legal Deadline: None

Abstract: Section 3161 of the National Defense Authorization Act for Fiscal Year 1993, 42 U.S.C. 7274h, provides authority for DOE to provide impact assistance to communities that are adversely affected by work force restructuring. This action would establish the regulations governing the community transition program.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Deborah Swichkow, Deputy Director, Office of Worker and Community Transition, Department of Energy, 1000 Independence SW., Washington, DC 20585
Phone: 202 586-0876
Fax: 202 586-8403

RIN: 1901–AA77

DEPARTMENT OF ENERGY (DOE)
Departmental and Others (ENDEP) — Final Rule Stage

1068. NUCLEAR SAFETY MANAGEMENT

Regulatory Plan: This entry is Seq. No. 21 in Part II of this issue of the Federal Register.

RIN: 1901–AA34

1069. RADIATION PROTECTION OF THE PUBLIC AND THE ENVIRONMENT

Regulatory Plan: This entry is Seq. No. 22 in Part II of this issue of the Federal Register.

RIN: 1901–AA38

1070. ANNOTATION OF LAND RECORDS FOR REMEDIATED PROPERTIES IN THE URANIUM MILL TAILINGS REMEDIAL ACTION PROJECT (UMTRA)

Priority: Info./Admin./Other

Legal Authority: PL 95-604, sec 104(d); PL 104-259, sec 4(a)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Under section 104(d) of the Uranium Mill Tailings Radiation Control Act of 1978, the Department of Energy (DOE) is required to issue appropriate rules and regulations concerning the annotation of land records of designated inactive uranium mill sites and vicinity properties included for remedial action under the Act. The annotation is intended to ensure that future purchasers of remediated inactive uranium mill sites and vicinity properties will be notified, prior to such purchase, of the condition of the land.

Timetable:

Action	Date	FR Cite
NPRM	04/14/89	54 FR 29732
Interim Final Rule	08/00/98	

Small Entities Affected: None

DOE—ENDEP — Final Rule Stage

Government Levels Affected: State, Federal

Additional Information: Public Law 104-259, signed into law on October 9, 1996, amended the annotation requirement to provide for States to receive certification from the Secretary for "a program which would achieve the purposes" of the annotation under section 104(d) of the UMTRCA in regards to vicinity properties. Letters have been sent to the affected States regarding the amendment language.

Agency Contact: Loretta Fahy, Environmental Protection Spec. UMTRA Team, Department of Energy, Cloverleaf Building, 19901 Germantown Rd., Germantown, MD 20874-1290
Phone: 301 903-3895
Fax: 301 903-3877

RIN: 1901–AA57

1071. OCCUPATIONAL RADIATION PROTECTION—AMENDMENT

Regulatory Plan: This entry is Seq. No. 23 in Part II of this issue of the Federal Register.

RIN: 1901–AA59

1072. PRIVACY ACT—EXEMPTION OF AN INSPECTOR GENERAL SYSTEM OF RECORDS

Priority: Info./Admin./Other

Legal Authority: 5 USC 552a

CFR Citation: 10 CFR 1008

Legal Deadline: None

Abstract: The purpose of this action is to exempt one system of records from certain subsections of the Privacy Act (5 U.S.C. 552a). The system of records is Inspection Abstract Report Files of the Office of Inspector General (DOE-83). These rules will enable the Office of the Inspector General to carry out its administrative, analytical, and investigatory duties and responsibilities.

Timetable:

Action	Date	FR Cite
NPRM	01/29/97	62 FR 4404
NPRM Comment Period End	03/31/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: GayLa D. Sessoms, Director, FOIA/Privacy Act Division, Office of the Executive Secretariat, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-5955

RIN: 1901–AA62

1073. GENERAL GUIDELINES FOR THE RECOMMENDATION OF SITES FOR NUCLEAR WASTE REPOSITORY

Priority: Other Significant

Legal Authority: 42 USC 10132

CFR Citation: 10 CFR 960

Legal Deadline: None

Abstract: This action would implement the guidelines that will be used by the Department in deciding whether to recommend a site for the development of the geologic repository for the disposal of high-level radioactive waste and spent nuclear fuel. The amended guidelines will reflect statutory and policy changes that have occurred since the Nuclear Waste Policy Act was passed in 1982. The amendments will also be based on the experience the Department has gained over the last decade of investigative efforts.

Timetable:

Action	Date	FR Cite
NPRM	12/16/96	61 FR 66158
NPRM Comment Period End	03/17/97	
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Susan Rivas, Counsel, Department of Energy, Yucca Mountain Site Characterization Office, PO Box 98608, Las Vegas, NV 89193
Phone: 702 794-5519
Fax: 702 794-7907

RIN: 1901–AA72

DEPARTMENT OF ENERGY (DOE)
Departmental and Others (ENDEP) — Long-Term Actions

1074. ELECTRIC POWER SYSTEM PERMITS AND REPORTS; APPLICATIONS; ADMINISTRATIVE PROCEDURES AND SANCTIONS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 205.300

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ellen Russell
Phone: 202 586-9824
Fax: 202 586-5736
Email: ellen.russell@hq.doe.gov

RIN: 1901–AA19

1075. ENVIRONMENTAL MANAGEMENT FINANCIAL ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 600

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Malika S. Hobbs
Phone: 202 586-6174
Fax: 202 586-9469

RIN: 1901–AA71

DEPARTMENT OF ENERGY (DOE)
Departmental and Others (ENDEP)

Completed Actions

1076. ENERGY BOARD OF CONTRACT APPEALS; ORGANIZATION, FUNCTIONS, AND AUTHORITIES; RULES OF PRACTICE

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 41 USC 601 et seq

CFR Citation: 10 CFR 1023

Legal Deadline: None

Abstract: Update statement of Board organization, functions and authorities; update rules of practice for contract appeals to provide for alternative dispute resolution (ADR) and other purposes.

Timetable:

Action	Date	FR Cite
NPRM	10/30/96	61 FR 55932
NPRM Comment Period End	12/30/96	
Final Action	05/07/97	62 FR 24804

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: E. Barclay Van Doren, Chairman, Board of Contract Appeals, Department of Energy, 4040 N. Fairfax Drive, Rm 1006, Arlington, VA 22203
Phone: 703 235-2700

RIN: 1901–AA30

1077. ALLOCATION OF CANADIAN ENTITLEMENT TO MID-COLUMBIA PROJECT OWNERS

Priority: Info./Admin./Other

Legal Authority: EO 11177

CFR Citation: Not applicable

Legal Deadline: None

Abstract: The Columbia River Treaty requires the United States to return to Canada half of the power benefits produced downstream in the U.S. from the storage operation in Canada. These benefits are generated at both federal and non-federal generation projects. This proposed rule would set the Mid-Columbia owner's share of the return obligation, i.e., the non-federal allocation. The rule would also grant to the Mid-Columbia owners the right to use the improved stream flow that results from the Canadian upstream project.

Timetable:

Action	Date	FR Cite
Withdrawn	04/29/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phil Mesa, Hydraulic Engineer, Bonneville Power Authority, Department of Energy, 911 NE 11th Avenue, MGHO-DITT2, Portland, OR 97232
Phone: 360 418-2152

RIN: 1901–AA73

1078. • INFLATION ADJUSTMENT OF CIVIL MONETARY PENALTIES

Priority: Substantive, Nonsignificant

Legal Authority: 28 USC 2461 note

CFR Citation: 10 CFR 207; 10 CFR 218; 10 CFR 430; 10 CFR 490; 10 CFR 501; 10 CFR 601; 10 CFR 820; 10 CFR 1013; 10 CFR 1017; 10 CFR 1050

Legal Deadline: Final, Statutory, October 23, 1996.

Abstract: Federal Civil Penalties Inflation Act of 1990, as amended by the Debt Collection Improvement Act of 1996, requires that each agency adjust for inflation the civil penalties within its jurisdiction. This rule adjusts the civil monetary penalties of Title 10 of the Code of Federal Regulations.

Timetable:

Action	Date	FR Cite
Final Action	09/02/97	62 FR 46181

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen Duarte, Attorney, Department of Energy, Office of General Counsel, 1000Independence Avenue SW., Washington, DC 20585
Phone: 202 586-9507

RIN: 1901–AA76

DEPARTMENT OF ENERGY (DOE)
Office of Procurement and Assistance Management (PR)

Proposed Rule Stage

1079. DEAR: FINANCIAL MANAGEMENT CLAUSES

Priority: Info./Admin./Other

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: This rule revises selected financial management clauses and clarifies language in existing clauses. It will strengthen M&O contractor financial management and make the regulation easier to understand.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Michael L. Righi, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8175

RIN: 1991–AB02

1080. FEE POLICY

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: This action will redefine the Department's policy regarding fees paid to nonprofit entities, incentives paid to contractors for cost avoidance and cost reduction, and the use of multiple fee arrangements. It is an integral part of the Department's contract reform initiative to improve contractor performance and reduce overall program costs.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Connie Fournier, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8245
Fax: 202 586-0545

RIN: 1991–AB32

DOE—PR

Proposed Rule Stage

1081. DEAR: IMPLEMENTATION OF FASA AND FARA STATUTES

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 901 to 952

Legal Deadline: None

Abstract: This action represents the Department's supplemental implementation of the regulations set forth at 48 CFR parts 1 through 52, which implement the provisions of the Federal Acquisition Streamlining Act of 1996 (FASA) and the Federal Acquisition Reform Act of 1996 (FARA).

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
Final Action	05/00/98	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: John R. Bashista, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8192
Fax: 202 586-0545

RIN: 1991–AB35

1082. DEAR: MANAGEMENT AND OPERATING CONTRACT WHISTLEBLOWER COSTS

Priority: Info./Admin./Other

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 922; 48 CFR 952; 48 CFR 970

Legal Deadline: None

Abstract: The Department's acquisition regulation is being amended to implement a recommendation of its Department-wide contract reform initiative concerning allowability of costs in whistleblower actions.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final Action	09/00/98	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: P. Devers Weaver, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8250

RIN: 1991–AB36

DEPARTMENT OF ENERGY (DOE)
Office of Procurement and Assistance Management (PR)

Final Rule Stage

1083. DEPARTMENT OF ENERGY PROPERTY MANAGEMENT REGULATIONS; MISCELLANEOUS PERSONAL PROPERTY

Priority: Info./Admin./Other

Legal Authority: 42 USC 7254

CFR Citation: 41 CFR 109

Legal Deadline: None

Abstract: Updates the Property Management Regulations regarding management of the Department's personal property. DOE Property Management Regulations will be updated to incorporate recently developed policy in the areas of High Risk personal property, math and science equipment gifts program and the transfer of personal property identified for economic development near DOE sites that are being reconfigured or closed. Revision also includes coverage on contractor self-assessment program, and expanded duties of the Organizational Property Management Officers. Many of these changes are a result of Contract Reform, streamlining and reinvention initiatives.

Timetable:

Action	Date	FR Cite
NPRM	09/11/96	61 FR 48006
NPRM Comment Period End	11/12/96	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Julia Harman, Supply Management Representative, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-1435
Fax: 202 586-9358

RIN: 1991–AA28

1084. FASA 1994, SECTIONS 2051, 2151, AND 2192

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 9

DOE—PR

Final Rule Stage

Legal Deadline: None

Abstract: Revises policy to implement FASA statutory provisions related to contract financing and allowable costs.

Timetable:

Action	Date	FR Cite
NPRM	06/04/97	62 FR 30558
NPRM Comment Period End	08/04/97	
Final Action	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Terrence Sheppard, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Ave SW., HR-51, Washington, DC 20585
Phone: 202 586-8174
Fax: 202 586-0545

RIN: 1991–AB29

1086. SECURITY, COUNTERINTELLIGENCE, AND OPTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 917; 48 CFR 970

Legal Deadline: None

Abstract: Revises policy for processing contractor employee security clearance requests, establishes counterintelligence procedures for contractors involved in classified or sensitive programs and promotes exercise of options as a performance incentive.

Timetable:

Action	Date	FR Cite
NPRM	11/20/96	61 FR 59072
NPRM Comment Period End	01/21/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Richard Langston, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Ave SW., HR-51, Washington, DC 20585
Phone: 202 586-8247
Fax: 202 586-0545

RIN: 1991–AB30

1088. FARA, DOE CERTIFICATION REQUIREMENTS

Priority: Info./Admin./Other

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 9

Legal Deadline: NPRM, Statutory, September 6, 1996.

Abstract: The Federal Acquisition Reform Act of 1996 requires each agency to review their procurement regulations that contain certification requirements not specifically imposed by statute to determine whether they should be eliminated.

Timetable:

Action	Date	FR Cite
NPRM	08/28/96	61 FR 45391
NPRM Comment Period End	10/28/96	
Final Action	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: John Bashista, Procurement Analyst (HR-51), Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8192
Fax: 202 586-0545

RIN: 1991–AB31

1087. DEAR AMENDMENT FOR RIGHTS IN DATA

Priority: Info./Admin./Other

Legal Authority: 42 USC 7254; 42 USC 486(c)

CFR Citation: 48 CFR 915; 48 CFR 927; 48 CFR 952; 48 CFR 970

Legal Deadline: None

Abstract: This action will make changes to the rights in technical data provisions of the DEAR to rely more on FAR technical data coverage.

Timetable:

Action	Date	FR Cite
NPRM	03/31/97	62 FR 1513
NPRM Comment Period End	05/30/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Robert Webb, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8264
Fax: 202 586-0545

RIN: 1991–AB33

1089. DEAR: DEPARTMENT OF ENERGY MANAGEMENT AND OPERATING CONTRACTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 2254

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: This action is to codify the Department's practice since 1993 of incorporating model special contract clauses on diversity in individual management and operating contracts.

Timetable:

Action	Date	FR Cite
NPRM	09/20/97	62 FR 44350
NPRM Comment Period End	09/19/97	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Romulo L. Diaz Jr., Department of Energy, Office of General Counsel, 1000 Independence Avenue SW., Washington, DC 20385
Phone: 202 586-2902
Fax: 202 586-0722

RIN: 1991–AB37

DOE—PR

Final Rule Stage

1089. • AGENCY IMPLEMENTATION OF REVISED OMB CIRCULAR A-133

Priority: Info./Admin./Other

Legal Authority: PL 104-156

CFR Citation: 10 CFR 600.126; 10 CFR 600.226

Legal Deadline: None

Abstract: Agency implementation of revised OMB circular A-133 pursuant to Single Audit Act Amendments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/97	
Final Action	06/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Cherlyn Seckinger, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8241
Fax: 202 586-0545

RIN: 1991–AB38

DEPARTMENT OF ENERGY (DOE)

Long-Term Actions

Office of Procurement and Assistahce Management (PR)

1090. AMENDMENT TO WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES

Priority: Other Significant

CFR Citation: 10 CFR 707

Timetable:

Action	Date	FR Cite
NPRM	07/22/92	57 FR 32664
NPRM Comment Period End	09/21/92	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Edmondson
Phone: 202 586-9008

RIN: 1991–AA90

DEPARTMENT OF ENERGY (DOE)

Completed Actions

Office of Procurement and Assistance Management (PR)

1091. DEAR: SECURITY PROCEDURES

Priority: Info./Admin./Other

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 904; 48 CFR 952

Legal Deadline: None

Abstract: Revise security procedures regarding foreign ownership, control and influence to clarify requirements and simplify approval process.

Timetable:

Action	Date	FR Cite
Withdrawn	08/11/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Richard Langston, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-8247

RIN: 1991–AA86

1092. DEAR: AMENDMENT TO WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES

Priority: Info./Admin./Other

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 923.5; 48 CFR 970.2305

Legal Deadline: None

Abstract: To implement revised requirements of 10 CFR part 707 concerning alcohol abuse in contracts subject to DOE's Workplace Substance Abuse Programs. This rule would conform the Department of Energy Acquisition Regulation to 10 CFR part 707 in this respect. See RIN 1991-AA90.

Timetable:

Action	Date	FR Cite
Withdrawn	08/11/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Richard Langston, Procurement Analyst, Office of Policy, Department of Energy, Office of Procurement and Assistance Management, Washington, DC 20585
Phone: 202 586-8247

RIN: 1991–AA97

1093. DEAR: REVIEW OF M&O CONTRACTOR PURCHASING SYSTEMS

Priority: Info./Admin./Other

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 944; 48 CFR 970

Legal Deadline: None

Abstract: This action is being reviewed in light of the "Federal norm" rulemaking, which was proposed March 2, 1995 (60 FR 11646). See RIN 1991-AB20. This action then may amend the DOE Acquisition Regulation (DEAR) to provide changed coverage on management and operating (M&O) contractor purchasing system reviews and new coverage on M&O contractor self-assessment reviews of their purchasing systems.

Timetable:

Action	Date	FR Cite
Withdrawn	08/11/97	

Small Entities Affected: None

Government Levels Affected: None

DOE—PR

Completed Actions

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: This action was incorrectly reported as withdrawn in the October 1994 edition of the Department of Energy regulatory agenda.

Agency Contact: P. Devers Weaver, Department of Energy, Office of Procurement and Assistance Management, Procurement Policy Division, Washington, DC 20585
Phone: 202 586-8250

RIN: 1991–AB07

1094. COMPETITION FOR MANAGEMENT AND OPERATING CONTRACTS

Priority: Routine and Frequent

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: Revise policy to place greater emphasis on competition for management and operating contracts. This action is part of the Department's Contract Reform initiative.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/24/96	61 FR 32584
Final Action	08/27/97	62 FR 34872

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Connie Fournier, Procurement Analyst (HR-51), Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Ave SW., Washington, DC 20585
Phone: 202 586-8245
Fax: 202 586-0545

RIN: 1991–AB09

1095. SMALL BUSINESS SUBCONTRACTING PROGRAM

Priority: Info./Admin./Other

Legal Authority: 42 USC 7254; 40 USC 486(c); PL 102-486

CFR Citation: 48 CFR 919; 48 CFR 970

Legal Deadline: None

Abstract: This rule would amend the Department's regulations regarding requirements associated with subcontracting plans and goals.

Timetable:

Action	Date	FR Cite
Withdrawn	08/11/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gwendolyn Cowan, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8159

RIN: 1991–AB17

1096. REVISIONS TO ORGANIZATIONAL CONFLICTS OF INTEREST

Priority: Info./Admin./Other

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 909; 48 CFR 952; 48 CFR 970

Legal Deadline: None

Abstract: As a result of the repeal of Public Laws 93-577 and 93-275, the Department is proposing to amend its regulation to conform the DOE's Organizational Conflicts of Interest (OCI) policy to the extent practical to the Governmentwide requirements of the FAR and OFPP policy letter 89-1.

Timetable:

Action	Date	FR Cite
NPRM	08/06/96	61 FR 40775
NPRM Comment Period End	10/07/96	
Final Action	07/30/97	62 FR 40748

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Robert Webb, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8264
Fax: 202 586-0545

RIN: 1991–AB26

1097. CONTRACT REFORM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 7254

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: This action would amend the Department of Energy Acquisition Regulation to implement certain key recommendations of the Department's contract reform initiative. Changes are made to the following areas: fines, penalties, third-party liability and property liability; requirements for contractor make-or-buy plans; payment of fee; laws, regulations, and Department directives; environment; ownership of records; and contractor overtime. A related action, RIN 1991-AB09 on Competition for Management and Operating Contracts, completes the Department's contract reform changes.

Timetable:

Action	Date	FR Cite
NPRM	08/24/96	61 FR 32588
NPRM Comment Period End	08/23/96	
Final Action	06/27/97	62 FR 34842
Final Action Effective	08/26/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Connie Fournier, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8245
Fax: 202 586-0545

RIN: 1991–AB28

DEPARTMENT OF ENERGY (DOE)
Office of General Counsel (OGC)

Long-Term Actions

1098. PAYMENT OF TRAVEL EXPENSES OF PERSONS WHO ARE NOT GOVERNMENT EMPLOYEES

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 1060

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: MaryAnn Shebek
Phone: 202 586-1522

RIN: 1990–AA15

1099. CONDUCT OF EMPLOYEES

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 1010; 5 CFR 2635

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/05/96	61 FR 35085
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Susan Beard
Phone: 202 586-1522

RIN: 1990–AA19

[FR Doc. 97-24020 Filed 10-28-97; 8:45 am]
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federal register

Wednesday
October 29, 1997

Part VIII

Department of Health and Human Services

Semiannual Regulatory Agenda

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

21 CFR Ch. I

42 CFR Chs. I-V

45 CFR Subtitle A, Chs. II, III, and XIII

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Office of the Secretary, HHS.

ACTION: Semiannual regulatory agenda.

SUMMARY: The President's September 30, 1993, Executive Order 12866 and the Regulatory Flexibility Act require that the Department semiannually publish an agenda summarizing all rulemaking under development and indicating those regulatory actions being analyzed for impact on small businesses. The Department published its last such agenda on April 25, 1997.

FOR FURTHER INFORMATION CONTACT: Ann White, Department of Health and Human Services, Washington, DC 20201, (202) 690-6824, or the contact person for a specific division or agency of the Department as listed below.

SUPPLEMENTARY INFORMATION: The agenda set out below continues to reflect the Department's efforts to exemplify in its rulemaking practices and products the President's initiative to reinvent the Federal regulatory system so that it provides important benefits to the American people while creating fewer burdens. The agenda also reflects emerging policy mandates facing the Department in areas as diverse as welfare reform; health insurance reform; food safety; the combating of waste, fraud, and abuse in the health care system; and children's health.

The Balanced Budget Act (BBA) of 1997 alone includes numerous provisions requiring regulatory action substantially affecting the characteristics and administration of the Medicare Program. These actions will touch upon areas such as Medicare reimbursement rules for graduate medical education, revisions to payment procedures for hospice and home health services, and solvency standards for provider-sponsored organizations.

To address concerns about the integrity of services and quality of care delivered to beneficiaries in need of home health services, the Department will move quickly to implement the BBA requirement for surety bonds for Home Health Agencies. The requirement will help to assure that the agencies providing home health services to Medicare and Medicaid beneficiaries are sound and stable business concerns, legitimately providing protection to that vulnerable population in need of that care.

In addition, the Health Insurance Portability and Accountability Act of 1996, along with its health insurance reforms, gives the Department major new responsibilities concerning health data standards and health record privacy. These provisions require the Secretary to adopt a series of data standards to support electronic data interchange for health insurance and related transactions, such as claims processing and enrollment. The standards will apply to the entire health industry, not just Federal programs.

Underlying these initiatives in 1998 and beyond, there will remain the new focus and discipline that the principles articulated in the President's Executive Order 12866 brought to the Department's regulatory program. Comments are invited to assist the Department in continuing to pursue the President's purposes. Comments should be sent to the addresses listed below, depending on the specific agenda entry that is of interest. Comments may be sent to the Office of the Secretary if the responsible component of the Department is not apparent or if a comment covers subjects crossing agency lines.

For this edition of the Department's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

Health Care Financing Administration: Sue Brown, Director, Division of Regulations and Issuances, 7500 Security Boulevard, C5-09-27, Baltimore, Maryland 21244; phone 410-786-4473.

Food and Drug Administration: Ed Dutra, Director, Regulatory Policy and Management Staff, 5600 Fishers Lane, Rockville, Maryland 20857; phone 301-443-3480.

Administration on Children and Families: Madeline Mocko, Director, Division of Policy and Legislation, 7th Floor, 370 L'Enfant Promenade SW., Washington, DC 20447; phone 202-401-9223.

Administration on Aging: David Bunoski, Executive Secretariat, Room 4753, Wilbur H. Cohen Building, 330 Independence Avenue SW., Washington, DC 20201; phone 202-260-0669.

Agency for Health Care Policy and Research: Peggy Washburn, 2101 East Jefferson Street, Suite 603, Rockville, Maryland 20852; phone 301-594-1455.

Centers for Disease Control: Dana Weller, Policy Analyst, Office of Program and Planning and Evaluation, Office of the Director, 1600 Clifton Road, Building 16, Mail Stop D23, Atlanta, Georgia 30333; phone 404-639-7077.

Health Resource Services Administration: Dolores R. Etherith, 5600 Fishers Lane, Room 14-A-08, Rockville, Maryland 20857; phone 301-443-1786.

Indian Health Service: Betty Penn, 12300 Twinbrook Parkway, Suite 450, Rockville, Maryland 20857; phone 301-443-1116.

National Institutes of Health: Jerry Moore, 9000 Rockville Pike, Building 31, Room 1B25, Bethesda, Maryland 20892; phone 301-496-4606.

Substance Abuse and Mental Health Services Administration: Joe Faha, 5600 Fishers Lane, Room 12-A-17, Rockville, Maryland 20857; phone 301-443-4640.

Office of the Secretary: Jacquelyn Y. White, Deputy Executive Secretary to the Department, Office of the Executive Secretariat, Room 603H, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

William V. Corr,

Chief of Staff.

HHS

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1100	Revised OIG Exclusion Authorities Resulting From Public Law 104-191	0991-AA87
1101	Revised OIG Civil Money Penalties Resulting From Public Law 104-191	0991-AA90

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1102	Clarification of the Initial OIG Safe Harbor Provisions and Establishment of Additional Safe Harbor Provisions Under the Anti-Kickback Statute	0991-AA66
1103	Reproduction and Sale of Official Forms and Publications	0991-AA83
1104	Shared Risk Exception to the Safe Harbor Provisions	0991-AA91
1105	Administrative Requirements for Grantees To Reflect Single Audit Act Amendments	0991-AA92
1106	Issuance of Advisory Opinions by the Inspector General	0991-AA94

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1107	Civil Money Penalties (CMPs) for Certain Hospital Physician Incentive Plans	0991-AA45
1108	Civil Money Penalties (CMPs) for Certain Practices Relating to Medicare Supplemental Policies	0991-AA53
1109	Civil Money Penalties for Referrals to Entities and for Prohibited Arrangements and Schemes	0991-AA65
1110	Civil Money Penalties for Notifying a Home Health Agency, or a Home or Community-Based Health Care Center or Provider, of a Standard Survey	0991-AA79
1111	Civil Money Penalties for False Information on Drug Manufacturer Price Surveys and Rebate Agreements	0991-AA80
1112	Senior Biomedical Research Services	0991-AA82

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1113	Revised PRO Sanctions for Failing To Meet Statutory Obligations	0991-AA86
1114	Indirect Cost Appeals	0991-AA88

Substance Abuse and Mental Health Services Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1115	Protection and Advocacy for Individuals With Mental Illness	0930-AA02

Substance Abuse and Mental Health Services Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1116	Block Grants for Prevention and Treatment of Substance Abuse	0930-AA01

HHS

Departmental Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1117	Implementation of the Equal Access to Justice Act in Agency Proceedings	0990-AA02

Food and Drug Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1118	Investigational New Drug Applications; Request for Information and Comments	0910-AA83
1119	Prescription Drug Compounding	0910-AB13
1120	Exports; Reporting and Recordkeeping Requirements	0910-AB16
1121	Requirements Pertaining to the Sale and Distribution of Cigarettes and Smokeless Tobacco To Protect Children and Adolescents; Use of Nontobacco Trade or Brand Names	0910-AB17

Food and Drug Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1122	Over-the-Counter (OTC) Drug Review	0910-AA01
1123	Biological Product Reporting of Errors and Accidents in Manufacturing	0910-AA12
1124	Review of Warnings, Use Instructions, and Precautionary Information Under Section 314 of the National Childhood Vaccine Injury Act of 1986	0910-AA14
1125	Hearing Aids; Professional and Patient Labeling; Conditions for Sale (Reg Plan Seq. No. 24)	0910-AA39
1126	Development of Hazard Analysis Critical Control Points for Certain Unpasteurized Fruit and Vegetable Juices (Reg Plan Seq. No. 25)	0910-AA43
1127	Registration of Producers of Drugs and Listing of Drugs in Commercial Distribution	0910-AA49
1128	Bioavailability and Bioequivalence Requirements	0910-AA51
1129	Drugs Used for Treatment of Narcotic Addicts	0910-AA52
1130	Investigational New Drug Applications; Clinical Holds	0910-AA73
1131	Parenteral Drug Products Containing Aluminum as an Ingredient or Contaminant; Labeling Requirements; Warning Statement	0910-AA74
1132	Debarment Certification Regulations for Drug Applications	0910-AA76
1133	Investigational New Drug Applications; Clinical Holds for Drugs for Life-Threatening Illnesses	0910-AA84
1134	Adverse Experience Reporting, Recordkeeping, and Records Access Requirements for Marketed OTC Drugs That Are Now the Subjects of Approved New Drug or Abbreviated New Drug Applications	0910-AA86
1135	Sterility Requirements for Inhalation Solution Products	0910-AA88
1136	Direct-to-Consumer Promotion Regulations	0910-AA90
1137	Labeling for Human Prescription Drugs; Revised Format	0910-AA94
1138	Adverse Drug Reaction Reporting Requirements for Human Drug and Biological Products; Expedited Reports	0910-AA97
1139	Current Good Manufacturing Practice in Manufacturing, Processing, Packing, or Labeling of Drugs; Revision of Certain Labeling Controls	0910-AA98
1140	Chlorofluorocarbon Propellants in Self-Pressurized Containers; Determinations That Uses Are No Longer Essential	0910-AA99
1141	Radioactive Drugs for Basic Research	0910-AB00
1142	Investigational New Animal Drug Regulations	0910-AB02
1143	Establishment Registration and Listing of Human Cellular and Tissue-Based Products (Reg Plan Seq. No. 26)	0910-AB05
1144	Definition of Substantial Evidence	0910-AB06
1145	Veterinary Feed Directives: Distributor Notification	0910-AB09
1146	Use of Ozone-depleting Substances in Aerosol Products or Other Pressurized Dispensers; Determinations That Uses Are No Longer Essential	0910-AB10
1147	Clarification of the Scope of Treatment Uses With Investigational New Drugs That Can Be Authorized Under INDs and the Criteria for Charging for Investigational New Drugs Under INDs	0910-AB11
1148	New Drugs for Human Use; Clarification of Requirements for Patent Holder Notification	0910-AB12
1149	Administrative Practices and Procedures; Advisory Opinions and Guidelines	0910-AB14
1150	Medicated Feed Mill Licensee	0910-AB18
1151	Exemption From Preemption of State and Local Cigarette and Smokeless Tobacco Requirements; Applications for Exemption Submitted by Various State Governments; Group 1; Group 2	0910-AB19

HHS

Food and Drug Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1152	Regulations Requiring Manufacturers To Assess the Safety and Effectiveness of New Drugs and Biological Products in Pediatric Patients (Reg Plan Seq. No. 27)	0910-AB20

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Food and Drug Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1153	New Animal Drug Approval Process; Implementation of Title I of the Generic Animal Drug and Patent Term Restoration Act (GADPTRA)	0910-AA02
1154	Prescription Drug Marketing Act of 1987; Policy Information, Guidance, and Clarifications	0910-AA08
1155	Mammography Quality Standards Act of 1992	0910-AA24
1156	Tamper-Evident Packaging Requirements for Over-the-Counter Human Drug Products	0910-AA26
1157	Financial Disclosure by Clinical Investigators	0910-AA30
1158	Prescription Drug Product Labeling; Medication Guide	0910-AA37
1159	Current Good Manufacturing Practice in Manufacturing, Processing, Packing, or Holding of Drugs; Proposed Amendment of Certain Requirements for Finished Pharmaceuticals	0910-AA45
1160	New Drug Applications; Drug Master File	0910-AA78
1161	Over-the-Counter Human Drugs; Labeling Requirements (Reg Plan Seq. No. 28)	0910-AA79
1162	Investigational New Drug Applications and New Drug Applications	0910-AA82
1163	Postmarketing Periodic Adverse Experience Reporting Requirements for Human Drug and Licensed Biological Products	0910-AA85
1164	New Drugs for Human Use; Clarification of Requirements for Application Supplements	0910-AA87
1165	Definition of Adequate and Well-Controlled Studies	0910-AB01

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Food and Drug Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1166	Infant Formula: Good Manufacturing Practice, Quality Control Procedures, Quality Factors, Notification Requirements, and Records and Reports	0910-AA04
1167	Fees for Certification Services; Insulin and Color Additive Certification Programs	0910-AA07
1168	Implementation of the Safe Medical Devices Act of 1990	0910-AA09
1169	Food Labeling Review	0910-AA19
1170	Medical Foods	0910-AA20
1171	Amalgam Ingredient Labeling	0910-AA33
1172	Classification of Computer Software Programs That Are Medical Devices	0910-AA41
1173	Habit-Forming Drugs	0910-AA50
1174	Revocation of Certain Regulations	0910-AA54
1175	Reinventing FDA Food Regulations	0910-AA58
1176	Dietary Supplement Regulations in Response to DSHEA	0910-AA59
1177	Export Requirements for Drugs for Investigational Use in Other Countries	0910-AA61
1178	Reinvention of Administrative Procedures Regulations	0910-AA69
1179	Long-Term Contraceptive Drug Products and Medical Devices; Informed Consent Requirements	0910-AA75
1180	Certification of Drugs Composed Wholly or Partly of Insulin	0910-AA77
1181	Informed Consent for Human Drugs and Biologics; Determination That Informed Consent Is Not Feasible	0910-AA89
1182	FDA Export Reform and Enhancement Act of 1996; Reporting and Recordkeeping Requirements for Unapproved or Violative Products Imported for Further Processing or Incorporation and Later Export	0910-AB06
1183	Animal Drug Approvals for Minor Species and Minor Usage	0910-AB07

HHS

Food and Drug Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1184	Specific Requirements on Content and Format of Labeling for Human Prescription Drugs; Addition of "Geriatric Use" Subsection in the Labeling	0910-AA25
1185	Adverse Experience Expedited Reporting Requirements for Human Drug and Licensed Biological Products	0910-AA28
1186	Latex Condoms: Expiration Date Labeling	0910-AA32
1187	Latex Warning	0910-AA34
1188	Human Tissue Intended for Transplantation	0910-AA40
1189	Changes to an Approved Application	0910-AA57
1190	Export Requirements for Medical Devices	0910-AA62
1191	Adverse Experience Reporting for Human Drug and Licensed Biological Products; Increased Frequency Reports	0910-AA72
1192	National Environmental Policy Act; Policies and Procedures	0910-AA80
1193	Current Good Manufacturing Practice for Finished Pharmaceutical; Positron Emission Tomography	0910-AA81
1194	Substances Prohibited From Use in Animal Food or Feed; Protein Derived From Ruminants Prohibited in Ruminant Feed	0910-AA91
1195	Treatment Use of Investigational Device Exemptions	0910-AA92
1196	Revision of the Requirements for a Responsible Head for Biological Establishments	0910-AA93
1197	Disqualification of a Clinical Investigator	0910-AA95
1198	Exemption from Preemption of State and Local Cigarette and Smokeless Tobacco Requirements; Applications for Exemption Submitted by Various State Governments	0910-AB03
1199	Content and Format of Labeling for Human Prescription Drugs; Pregnancy Labeling Section; Notice of Public Hearing; Request for Comments	0910-AB15

Health Resources and Services Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1200	National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners: Corporate Shield	0906-AA41
1201	National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners: Charge for Self-Queries	0906-AA42
1202	National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners: Reporting Adverse and Negative Actions	0906-AA43
1203	Designation of Medically Underserved Populations and Health Professional Shortage Areas	0906-AA44
1204	Health Care Fraud and Abuse	0906-AA46
1205	National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Providers: Clarification and Modernization of Regulatory Terms	0906-AA48

Health Resources and Services Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1206	Organ Procurement and Transplantation Network Rules **(Reg Plan Seq. No. 29)**	0906-AA32
1207	Grants for Residency Training and Advanced Education in the General Practice of Dentistry; Technical Amendments	0906-AA47

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Health Resources and Services Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1208	Drug Pricing Program: Prime Vendor User Charge	0906-AA45

HHS

Health Resources and Services Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1209	Health Education Assistance Loan (HEAL) Program: Lenders'/ Holders' Performance Standards	0906-AA33

Indian Health Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1210	Acquisition Under the Buy Indian Act	0917-AA00
1211	Indian Child Protection and Family Violence Prevention Act Minimum Standards of Character	0917-AA02

National Institutes of Health—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1212	National Institutes of Health AIDS Research Loan Repayment Program	0925-AA02
1213	Undergraduate Scholarship Program Regarding Professions Needed by the NIH	0925-AA10
1214	Traineeships (Termination Policies)	0925-AA11
1215	Additional DHHS Protections for Pregnant Women and Human Fetuses Involved as Subjects in Research, and Pertaining to Human In Vitro Fertilization	0925-AA14
1216	National Research Service Awards	0925-AA16
1217	Removal of National Cancer Institute Clinical Cancer Education Program	0925-AA17
1218	National Institutes of Health Loan Repayment Program for Research	0925-AA18
1219	National Institute of Child Health and Human Development Contraception and Infertility Research Loan Repayment Program	0925-AA19
1220	Scientific Peer Review of Research Grant Applications and Research and Development Contract Projects	0925-AA20

National Institutes of Health—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1221	National Institutes of Health Construction Grants	0925-AA04
1222	National Institutes of Health Clinical Research Loan Repayment Program for Individuals From Disadvantaged Backgrounds	0925-AA09

Office of Assistant Secretary for Health—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1223	Standards of Compliance for Abortion-Related Services in Family Planning Service Projects	0937-AA00

Public Health Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1224	Public Health Service Standards for the Protection of Research Misconduct Whistleblowers	0905-AE71

HHS

Health Care Financing Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1225	Medicare Program: Monthly Actuarial Rates and Monthly Supplementary Medicare Insurance Premium Rate Beginning January 1, 1998 (OACT-055-N)	0938-AI03
1226	Medicare Program; Physician Fee Schedule Update for Calendar Year 1998 and Physician Volume Performance Standard Rates of Increase For Federal Fiscal Year 1998 (BPD-893-FN)	0938-AI16
1227	Health Insurance Portability: Newborns' and Mothers' Health Protection (BPD-892-IFC)	0938-AI17

Health Care Financing Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1228	"Without Fault" and Beneficiary Waiver of Recovery As It Applies to Medicare Overpayment Liability (BPD-719-P)	0938-AD95
1229	Provider Reimbursement Determinations and Appeals (BPD-727-P)	0938-AF28
1230	Conditions of Participation for Rural Health Clinics (BPD-764-P)	0938-AG05
1231	Alternative Sanctions for Renal Dialysis Facilities (HSQ-204-P)	0938-AG31
1232	Effect of Change of Ownership on Provider and Supplier Penalties, Sanctions, Underpayments and Overpayments (HSQ-215-P)	0938-AG59
1233	Medicaid: Optional Coverage of TB-Related Services for Individuals Infected With Tuberculosis (MB-062-P)	0938-AG72
1234	Revision of Medicare Hospital Conditions of Participation (BPD-745-P) **(Reg Plan Seq. No. 30)**	0938-AG79
1235	Physicians' Referrals to Health Care Entities With Which They Have Financial Relationships—Expanded to Designated Health Services (BPD-809-P)	0938-AG80
1236	End Stage Renal Disease (ESRD) Conditions for Coverage (BPD-818-P) **(Reg Plan Seq. No. 31)**	0938-AG82
1237	Clinical Laboratory Improvement Amendment (CLIA) Fee Schedule Revision (HSQ-219-GNC)	0938-AG87
1238	Liability for Third Parties To Pay for Care and Services (MB-060-P)	0938-AH01
1239	Definition of Skilled Nursing Facility (SNF) for Coverage of Durable Medical Equipment (DME) (BPD-834-P)	0938-AH16
1240	Additional Supplier Standards (BPD-864-P) **(Reg Plan Seq. No. 32)**	0938-AH19
1241	State Plan Amendment (SPA) Reconsideration Process (MB-096-P)	0938-AH24
1242	Medicare Coverage of Services of Speech-Language Pathologists and Audiologists (BPD-843-P)	0938-AH37
1243	Payment Amount If Customary Charges Are Less Than Reasonable Costs (BPD-860-FC)	0938-AH49
1244	Supplier Participation Agreements and Limits on Actual Charges of Nonparticipating Physicians (BPD-862-P)	0938-AH50
1245	Revision to Accrual Basis of Accounting Policy (BPD-876-P)	0938-AH61
1246	Medicaid; Estate Recoveries (MB-063-P)	0938-AH63
1247	Medicaid Hospice Care (MB-007-P)	0938-AH65
1248	Provider and Supplier Billing When Medicare Is Secondary Payor to Liability Insurance (BPD-848-P)	0938-AH66
1249	Elimination of Certain Requirements for Peer Review Organizations in the Utilization and Quality Review Process and a Change in the Length of Peer Review Organization Contracts (HSQ-235-FC)	0938-AH68
1250	Update of Ratesetting Methodology, Payment Rates and the List of Covered Surgical Procedures for Ambulatory Surgical Centers Effective for Calendar Year 1998 (BPD-885-P)	0938-AH81
1251	Revisions to Conditions for Coverage for Ambulatory Surgical Centers (BPD-887-P)	0938-AH83
1252	Disclosure of Peer Review Organization Information in Response to Beneficiary Complaints (HSQ-241-P)	0938-AH85
1253	Medicare Program; Beneficiary Incentives Programs (BPO-144-P)	0938-AH86
1254	National Standard for Identifiers of Health Plans (BPO-145-P)	0938-AH87
1255	Medicare Coverage of Certified Nurse-Midwife Services (BPD-496-P)	0938-AH96
1256	National Standard Health Care Provider Identifier (BDM-45-P)	0938-AH99
1257	Medicare Program; Medicare Integrity Program (OFH-020-P) **(Reg Plan Seq. No. 33)**	0938-AI09
1258	Medicare Program; Improvements to the Appeals Process for Medicare Beneficiaries Enrolled in HMOs, CMPs, and HCPPs (OMC-024-P)	0938-AI11
1259	Mental Health Parity and Newborns' and Mothers' Health Protection	0938-AI13
1260	Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 1999 Rates (HCFA-1001-P) **(Reg Plan Seq. No. 34)**	0938-AI22
1261	Children's Health Insurance: Program Implementations; State Plan Approval; State Payment; Coordination With State Medicaid Program **(Reg Plan Seq. No. 35)**	0938-AI28

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

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Health Care Financing Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1262	Payment for Clinical Diagnostic Laboratory Tests (BPD-309-F)	0938-AB50
1263	Effective Dates for Provider Agreements and Supplier Approvals (HSQ-139-F)	0938-AC88
1264	Medicare Secondary Payer for Disabled Individuals (BPD-482-F)	0938-AD73
1265	Revisions to Regulations Implementing CLIA (HSQ-226-F) **(Reg Plan Seq. No. 36)**	0938-AE47
1266	Resident Assessment in Long-Term Care Facilities (HSQ-180-F)	0938-AE61
1267	Post-Contract Beneficiary Protections and Other Provisions (OMC-003-F)	0938-AE63
1268	Payment for Nursing and Allied Health Science Education (BPD-685-F)	0938-AE79
1269	Coverage of Screening Pap Smears (BPD-705-F)	0938-AE96
1270	Requirements for Certain Health Insuring Organizations and OBRA'90 Technical Amendments (OMC-018-F)	0938-AF15
1271	Medicaid Payment for Covered Outpatient Drugs Under Rebate Agreements (MB-046-FC)	0938-AF42
1272	Retroactive Enrollment and Disenrollment in Risk Health Maintenance Organizations and Competitive Medical Plans (OMC-015-F)	0938-AF96
1273	Payment for Preadmission Services (BPD-731-F)	0938-AG00
1274	Change in Provider Agreement Regulations Related to Federal Employee Health Benefits (BPD-748-F)	0938-AG03
1275	Medicare Program: Limitations on Medicare Coverage of Intermittent Positive Pressure Breathing Machine Therapy (BPD-781-FN)	0938-AG44
1276	Noncoverage of Electrostimulation of Salivary Glands for the Treatment of Xerostomia (Dry Mouth) (BPD-782-FN)	0938-AG45
1277	Telephone Requests for Review of Part B Initial Claim Determinations (BPO-121-F)	0938-AG48
1278	Home Health Agency (HHA) Conditions of Participation (BPD-819-F) **(Reg Plan Seq. No. 37)**	0938-AG81
1279	CLIA Program: Categorization of Waived Tests (HSQ-225-F) **(Reg Plan Seq. No. 38)**	0938-AG99
1280	Ambulance Services (BPD-813-P)	0938-AH13
1281	Adjustment in Payment Amounts for New Technology Intraocular Lenses (BPD-831-F)	0938-AH15
1282	CLIA Program: Cytology Proficiency Testing (HSQ-233-N)	0938-AH35
1283	Limitations on Liability (BPD-859-FC)	0938-AH51
1284	Terms, Definitions, and Addressees: Technical Amendments (BPD-877-FC)	0938-AH53
1285	Changes to the Hospital Inpatient Prospective Payment System and Fiscal Year 1998 Rates (BPD-878-F)	0938-AH55
1286	Home Health Agency Physician Certification Regulations (BPD-875-NC)	0938-AH59
1287	Medicare Program; Establishment of an Expedited Review Process for Medicare Beneficiaries Enrolled in HMOs, CMPs, and HCPPs (OMC-25-FC)	0938-AH62
1288	Utilization Control and Discontinued Review Activities; Medicaid (MB-101-FC)	0938-AH64
1289	Use of the OASIS as Part of the Conditions of Participation for Home Health Agencies (HSQ-238-F) **(Reg Plan Seq. No. 39)**	0938-AH74
1290	Individual Market Health Ins. Reform Portability from Group to Indiv. Coverage; Federal Rules for Access in the Indiv. Market; State Alternative Mechanisms to Federal Rules (BPD-882-F)	0938-AH75
1291	Medicaid Program; Redeterminations of Medicaid Eligibility Due to Welfare Reform (MB-105-F)	0938-AH76
1292	CLIA Program; Simplifying CLIA Regulations to Accreditation Exemption of Laboratories Under a State Licensure Program, and Proficiency Testing and Inspection (HSQ-239-FC)	0938-AH82
1293	Final Limitations on Aggregate Payments to Disproportionate Share Hospitals: Federal Fiscal Year 1997 (MB-110-N)	0938-AH93
1294	Medicare Program; Revisions to Payment Policies and Adjustments to the Relative Value Units Under the Physician Fee Schedule, Other Part B Payment Policies for Calendar Year 1998 (BPD-884-FC) **(Reg Plan Seq. No. 40)**	0938-AH94
1295	Revision to the Definition of an Unemployed Parent (MB-106-FC)	0938-AH96
1296	Health Insurance Reform: Parity in the Application of Certain Limits to Mental Health Benefits (BPD-891-IFC)	0938-AI05
1297	Portability and Nondiscrimination in the Group Health Insurance Market (BPD-890-F)	0938-AI08
1298	Part A Premium for 1998 for the Uninsured Aged and for Certain Disabled Individuals Who Have Exhausted Other Entitlement (OACT-056-N)	0938-AI10
1299	Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts for 1998 (OACT-057-N)	0938-AI12
1300	Medicare Program: Update of Ambulatory Surgical Center Payment Rates Effective for Services On or Before October 1, 1997 (BPD-897-N)	0938-AI18
1301	Schedule of Limits on Home Health Agency Cost Per Visit for Cost Reporting Periods Beginning On or After October 1, 1997 (BPD-904-FC)	0938-AI24
1302	Solvency Standards for Provider-Sponsored Organizations; Intent To Form Negotiated Rulemaking Committee	0938-AI25
1303	Medicare Program; Notice for the Solicitation for Proposals for a Demonstration Project for Congestive Heart Failure Case Management ORD-104-N	0938-AI26
1304	GME: Incentive Payments under Plans for Voluntary Reduction in Number of Residents (HCFA-1003-IFC)	0938-AI27
1305	Medicare + Choice Program; Regulatory Program to Implement Certain Medicare Provisions of the Balanced Budget Act of 1997 (OMC-030-IFC) **(Reg Plan Seq. No. 41)**	0938-AI29

HHS

Health Care Financing Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1306	Surety Bond and Capitalization Requirements for Home Health Agencies (BPO-152-FC) **(Reg Plan Seq. No. 42)**	0938-AI31
1307	Health Insurance Portability and Accountability Act (HIPAA) of 1996: Administrative Simplification **(Reg Plan Seq. No. 43)**	0938-AI32

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Health Care Financing Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1308	Deduction of Incurred Medical Expenses (Spenddown) (MB-020-F)	0938-AB07
1309	Participation in CHAMPUS and CHAMPVA, Hospital Admissions for Veterans, Discharge Rights Notice, and Hospital Responsibility for Emergency Care (BPD-393-F)	0938-AC58
1310	Criteria and Procedures for Developing Medical Services Coverage Policy (BPD-432-F)	0938-AD07
1311	Medicare Coverage of Outpatient Occupational Therapy Services (BPD-425-P)	0938-AD32
1312	Prohibition on Unbundling of Hospital Outpatient Services (BPD-426-F)	0938-AD33
1313	Changes to Peer Review Organization Regulations (HSQ-135-F)	0938-AD38
1314	Omnibus Nursing Home Reform Requirements (BPD-488-F)	0938-AD81
1315	Protection of Income and Resources for Community Spouses of Institutionalized Individuals (MB-023-P)	0938-AE12
1316	Survey Requirements and Alternative Sanctions for Home Health Agencies (HSQ-169-F)	0938-AE39
1317	Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) Services (MB-26-F)	0938-AE72
1318	Medicare Coverage of, and Application of the Outpatient Mental Health Treatment Limitation to, Clinical Psychologist and Clinical Social Worker Services (BPD-706-F)	0938-AE99
1319	Changes to the Long-Term Care Facility Survey Process (HSQ-175-FC)	0938-AF02
1320	Case Management (MB-27-F)	0938-AF07
1321	Alternative Sanctions for Psychiatric Hospitals (HSQ-191-P)	0938-AF32
1322	Referral to Child Support Enforcement Agencies of Medicaid Families (MB-051-F)	0938-AF68
1323	Medicaid: Outstationed Intake Locations for Certain Low-Income Pregnant Women, Infants, and Children Under Age 19 (MB-052-F)	0938-AF69
1324	Assessing Interest Against Medicare Secondary Payer (MSP) Debts (BPO-106-P)	0938-AF87
1325	Revisions to Rules on Health Care Prepayment Plans (OMC-016-P)	0938-AF97
1326	Revised Medicaid Management Information Systems (MB-38-FN)	0938-AG10
1327	Description of HCFA's Evaluation Methodology for the Peer Review Organizations Fifth Scope of Work Contracts (HSQ-207-NC)	0938-AG32
1328	Disclosure of Confidential PRO and ESRD Network Organization Information for Research Purposes (HSQ-206-P)	0938-AG33
1329	Salary Equivalency Guidelines for Physical Therapy, Respiratory Therapy, Speech Pathology, and Occupational Therapy (BPD-808-F)	0938-AG70
1330	Distinct Part Requirements for Nursing Homes and Prohibition of Financial Screening of Applicants for Nursing Home Admission (BPD-815-P)	0938-AG84
1331	Categorization and Certification Requirements for a New Subcategory of Moderate Complexity Testing (HSQ-222-F)	0938-AG98
1332	Medicare Coverage of Organ Transplantation (BPD-835-PN)	0938-AH17
1333	Criteria and Procedures for Extending Coverage to Certain Devices and Related Services (BPD-841-F)	0938-AH21
1334	Delegation of Civil Money Penalties (BPO-135-FC)	0938-AH22
1335	Hospice Care—Conditions of Participation (BPD-844-P)	0938-AH27
1336	Requirements for Enrollment of Medicaid Recipients Under Cost Effective Employer-Based Group Health Plans (MB-047-FC)	0938-AH48
1337	Medicare Secondary Payer Clarifications and Amendments (BPD-865-P)	0938-AH52
1338	Conditions for Certification of Community Mental Health Centers and Coverage Requirements for Partial Hospitalization Services (BPD-871-P)	0938-AH58
1339	Medicare Technical Conforming Amendments (BPD-858-FC)	0938-AH67
1340	Determination of Substandard Care in SNFs and NFs (HSQ-240-P)	0938-AH69
1341	Waiver of Staffing Requirements for End Stage Renal Disease (ESRD) Facilities Participating in an Experiment (HSQ-236-GNC)	0938-AH72
1342	Information Requirements for Medicare Professional Suppliers Billing Privileges (BPO-143-P)	0938-AH73
1343	Medicaid Program; Amendment to the Preadmission Screening and Annual Resident Review Program (MB-107-P)	0938-AH89
1344	Allocation of Enhanced Federal Matching Funds for Increased Administrative Costs (MB-103-N)	0938-AH90
1345	Medically Needy Determinations Under Welfare Reform (MB-109-IFC)	0938-AH92

HHS

Health Care Financing Administration—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
1346	Medicaid Program; Coverage and Payment for Federally Qualified Health Center Services (MB-43-P)	0938-AH95
1347	Medicaid Program: Charges for Vaccine Administration Under the Vaccines for Children (VCF) Program (MB-94-N)	0938-AI20
1348	Medicaid: Medical Child Support (MB-081-P)	0938-AI21

Health Care Financing Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1349	Fire Safety Standards for Hospitals, Long-Term Care Facilities, and Intermediate Care Facilities for the Mentally Retarded (BPD-650-FC)	0938-AE97
1350	Presumptive Limits on Payments to HMOs, CMPs, and HCPPs (OMC-006-F)	0938-AF16
1351	End-Stage Renal Disease (ESRD) Payment Exception Requests and Organ Procurement Costs (BPD-763-F)	0938-AG20
1352	Wage Index Used To Adjust Payment Rates for Hospice Services Under the Medicare Program (BPD-820-F)	0938-AG93
1353	Medicaid Coverage of Personal Care Services (MB-071-F)	0938-AH00
1354	Update of the Reasonable Compensation Equivalent Limits for Services Furnished by Physicians (BPD-816-N)	0938-AH14
1355	Changes in Coverage and Payment Policies for Physician Assistant Services (BPD-829-P)	0938-AH26
1356	Limitations on Payment for Home Oxygen Therapy Based on Inherent Reasonableness Criteria (BPD-845-FN)	0938-AH28
1357	Designation of Independent Rural Primary Care Hospitals (RPCHs) (BPD-784-N)	0938-AH60
1358	Initiative To Recognize Hemodialysis Facilities of Achievement (HSQ-232-N)	0938-AH71
1359	Clinical Laboratory Requirements—Extension of Certain Effective Dates for Clinical Laboratory Requirements Under CLIA (HSQ-237-F)	0938-AH84
1360	Medicare Program; Schedule of Limits on Home Health Agency Cost Per Visit for Cost Reporting Periods Beginning On or After July 1, 1997 (BPD-889-N)	0938-AH86
1361	Medicare Appeals of Individual Claims (BPD-453-FC)	0938-AH97
1362	Medicare Program; Adjustments to Cost Limits for SNF Inpatient Routine Service Costs (BPD-896-PN)	0938-AI14
1363	Medicare Program; Schedules of Limits and Prospectively Determined Rates for SNF Inpatient Routine Service Costs (BPD-895-NC)	0938-AI15
1364	Medicaid Program: Limitation on Provider-Related Donations and Health Care-Related Taxes; Revision on Waiver Criteria for Tax Programs Based Exclusively on Regional Variations; Correction	0938-AI30

Administration for Children and Families—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1365	Title IV-E Foster Care Eligibility Reviews and Child and Family Services State Plan Reviews	0970-AA97
1366	Designation of Alternative Agency To Serve Indian Tribal Children	0970-AB52
1367	Construction of Head Start Facilities	0970-AB54
1368	Methodology for Determining Child Poverty Rates	0970-AB65
1369	Bonus to Reward High Performance States Under the Temporary Assistance for Needy Families Block Grant	0970-AB66
1370	Quarterly Wage and Unemployment Compensation Claims Reporting to the National Directory of New Hires	0970-AB67
1371	State Case Registry and Expansion of the Federal Parent Locator Service (FPLS)	0970-AB68
1372	State Law Concerning Paternity Establishment	0970-AB69
1373	Automated Data Processing Requirements	0970-AB70
1374	Automated Data Processing Funding Limitation	0970-AB71
1375	Grants to States for Access and Visitation Programs	0970-AB72
1376	Child Support Enforcement for Indian Tribes	0970-AB73
1377	Temporary Assistance for Needy Families (TANF) **(Reg Plan Seq. No. 44)**	0970-AB77
1378	Requirements for the Tribal Programs	0970-AB78
1379	Bonus to Reward Decrease in Out-of-Wedlock Birth Ratio	0970-AB79
1380	Case Closure	0970-AB82
1381	Refugee Resettlement Program: Responding and Conforming to TANF Replacing AFDC	0970-AB83
1382	Child Support Non-Performance Penalty	0970-AB85
1383	Child Abuse and Neglect Prevention and Treatment	0970-AB86
1384	Head Start Appeal Timelines	0970-AB87

HHS

Administration for Children and Families—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1385	Title IV-B Planning Requirements for Tribes	0970-AB88
1386	Title IV-E Training	0970-AB89
1387	Designation of Family Child Care as a Program Option for Head Start Programs	0970-AB90

References in boldface appear in the Regulatory Plan in Part II of this issue of the Federal Register.

Administration for Children and Families—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1388	Standards for Safe Transportation	0970-AB24
1389	Standards for Purchase of Facilities	0970-AB31
1390	Income Eligibility Criteria for Indian Tribes	0970-AB53
1391	Income and Resource Disregards Related to Interests of Individual Indians in Trust or Restricted Lands	0970-AB59
1392	Child Care and Development Fund	0970-AB74
1393	Child Support Enforcement Program Omnibus Conforming Regulation	0970-AB81
1394	Personal Responsibility and Work Opportunity Reconciliation Act of 1996 Conforming Regulation	0970-AB84
1395	Data Collection and Reporting for the Welfare to Work Program	0970-AB92

Administration for Children and Families—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1396	Data Collection and Reporting Under the Temporary Assistance for Needy Families Block Grant	0970-AB64
1397	TANF Penalties and Administrative Costs	0970-AB76

Administration on Aging—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1398	Grants for State and Community Programs on Aging, Intrastate Funding Formulas; Training, Research and Discretionary Programs; Vulnerable Elder Rights; and Grants to Indians & Native Hawaiians	0985-AA00

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Office of the Secretary (OS)

Proposed Rule Stage

1100. REVISED OIG EXCLUSION AUTHORITIES RESULTING FROM PUBLIC LAW 104-191

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-191, sec 211; PL 104-191, sec 212; PL 104-191, sec 213

CFR Citation: 42 CFR 1000; 42 CFR 1001; 42 CFR 1002; 42 CFR 1005

Legal Deadline: None

Abstract: This proposed rule addresses revisions to the OIG's sanction authorities in conjunction with sections 211, 212, and 213 resulting from the Health Insurance Portability and Accountability Act of 1996, along with other technical and conforming changes to the OIG exclusion authorities. The revisions are specifically designed to expand the protection of certain basic fraud authorities and revise and strengthen the current legal authorities pertaining to exclusions from the Medicare and State health care programs.

Timetable:

Action	Date	FR Cite
NPRM	09/08/97	62 FR 47182
NPRM Comment Period End	11/07/97	
Final Action	06/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, OCIG, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-0089

RIN: 0991–AA87

HHS—OS

Proposed Rule Stage

1101. REVISED OIG CIVIL MONEY PENALTIES RESULTING FROM PUBLIC LAW 104-191

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-191, sec 231(a); PL 104-191, sec 231(b); PL 104-191, sec 231(c); PL 104-191, sec 231(d); PL 104-191, sec 231(e); PL 104-191, sec 231(h); PL 104-191, sec 232

CFR Citation: 42 CFR 1003; 42 CFR 1005; 42 CFR 1006

Legal Deadline: None

Abstract: This proposed rule would revise the OIG's civil money penalty provisions in conjunction with new and revised authorities set forth in the Health Insurance Portability and Accountability Act of 1996. Among other provisions this proposed rulemaking would codify new civil money penalties for (1) excluded individuals retaining ownership or control interest in an entity; (2) upcoding and claims for medically unnecessary services; (3) offering inducements to beneficiaries; and (4) false certification of eligibility for home health services.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	
NPRM Comment Period End	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of the Inspector General, OCIG, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-0089

RIN: 0991–AA90

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Office of the Secretary (OS)

Final Rule Stage

1102. CLARIFICATION OF THE INITIAL OIG SAFE HARBOR PROVISIONS AND ESTABLISHMENT OF ADDITIONAL SAFE HARBOR PROVISIONS UNDER THE ANTI-KICKBACK STATUTE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 100-93, Sec 2; PL 100-93, Sec 14

CFR Citation: 42 CFR 1001

Legal Deadline: None

Abstract: This final rule serves both to clarify various aspects of the original safe harbor provisions and to add new safe harbors as authorized under section 14 of PL 100-93. Specifically, this rule modifies the original set of final safe harbor provisions (56 FR 35952, 7/29/91) to give greater clarity to the rulemaking's original intent. In addition, this rule sets forth an expanded listing of safe harbor provisions designed to protect additional payment and business practices from criminal prosecution and civil sanctions under the anti-kickback statute.

Timetable:

Action	Date	FR Cite
NPRM	09/21/93	58 FR 49008
NPRM Comment Period End	11/22/93	
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This final rule incorporates the safe harbor clarification provisions previously addressed in RIN 0991-AA74 and set forth in proposed rulemaking (59FR37202, July 21, 1994).

Agency Contact: Joel Jay Schaer, Regulations Officer, Office of Inspector General, OCIG, Department of Health and Human Services, Office of the Secretary, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-0089

RIN: 0991–AA66

1103. REPRODUCTION AND SALE OF OFFICIAL FORMS AND PUBLICATIONS

Priority: Info./Admin./Other

Legal Authority: PL 103-296, sec 312 (42 USC 1320b-10)

CFR Citation: 45 CFR 101

Legal Deadline: None

Abstract: This interim final rule with comment period will establish procedures for implementation of section 312 of the Social Security Independence Act. That section amends existing prohibitions against "misuse of symbols, emblems, or names in reference to Social Security or Medicare." Section 312 newly prohibits the "unauthorized reproduction, reprinting, or distribution for fee" of a "form, application, or other publication of the Social Security Administration or of the Department of Health and Human Services". It requires prior authorization for any such activity in accordance with the Secretary's regulations. The Department plans to distinguish between forms and publications that potentially involve misuse in contrast to benign or desirable reproductions and distributions, and to provide pre-authorization for the latter. The rule will be developed in consultation with the Social Security Administration.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Walton Francis, Senior Advisor, Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, Office of the Secretary, 200 Independence Avenue SW., Washington, DC 20201
Phone: 202 690-8291

RIN: 0991–AA83

1104. • SHARED RISK EXCEPTION TO THE SAFE HARBOR PROVISIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or

duplication, or streamline requirements.

Legal Authority: PL 104-191, sec 216

CFR Citation: 41 CFR 1001

Legal Deadline: Final, Statutory, January 1, 1997.

Abstract: This interim final rule would establish a new statutory exception for risk-sharing arrangements under the Federal health care programs anti-kickback provisions. The rule would set forth an exception from liability for remuneration between an eligible organization under section 1876 of the Social Security Act and an individual or entity providing items or services in accordance with a written agreement between these parties. The rule would also allow remuneration between an organization and an individual or entity if a written agreement places the individual or entity at "substantial financial risk" for the cost or utilization of the items or services which the individual or entity is obligated to provide.

Timetable:

Action	Date	FR Cite
ANPRM	05/23/97	62 FR 28410
ANPRM Comment Period End	06/09/97	
Interim Final Rule	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, OCIG, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-0089

RIN: 0991–AA91

1105. • ADMINISTRATIVE REQUIREMENTS FOR GRANTEES TO REFLECT SINGLE AUDIT ACT AMENDMENTS

Priority: Info./Admin./Other

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 5 USC 301; 42 USC 300 w et seq

CFR Citation: 45 CFR 74; 45 CFR 92; 45 CFR 96

Legal Deadline: None

Abstract: This interim final rule implements the Single Audit Act Amendments of 1996 and OMB Circular A-133 for HHS grantees.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/29/97	62 FR 45937
Interim Final Rule Effective	09/29/97	
Interim Final Rule Comment Period End	10/28/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: Charles Gale, Director, Office of Grants Management, Department of Health and Human Services, Office of the Secretary, Room 517-D, 200 Independence Ave. SW., Washington, DC 20201
Phone: 202 690-6377
TDD: 202 690-6902
Fax: 202 690-6415

RIN: 0991–AA92

1106. • ISSUANCE OF ADVISORY OPINIONS BY THE INSPECTOR GENERAL

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 800

CFR Citation: 42 CFR 1008

Legal Deadline: Final, Statutory, February 21, 1997.

Abstract: This final rule sets forth the specific procedures by which the OIG, in consultation with the Department of Justice, will issue advisory opinions to outside parties regarding the interpretation and applicability of certain statutes relating to the Medicare and State health care programs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/19/97	62 FR 7350
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-0089

RIN: 0991–AA94

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Office of the Secretary (OS)

Long-Term Actions

1107. CIVIL MONEY PENALTIES (CMPS) FOR CERTAIN HOSPITAL PHYSICIAN INCENTIVE PLANS

Priority: Substantive, Nonsignificant

Legal Authority: PL 99-509, Sec 9313(c); PL 101-239, Sec 6003(g)(3); PL 101-508, Sec 4204(a)(3); PL 101-508, Sec 4731(b)(1)

CFR Citation: 42 CFR 1001; 42 CFR 1003

Legal Deadline: None

Abstract: This final rule will prohibit a hospital from knowingly making incentive payments to a physician as an inducement to reduce or limit services provided to Medicare or Medicaid beneficiaries who are under the direct care of that physician. The rule would also set forth standards governing the imposition of CMPs for each such individual for whom payments are made.

Timetable:

Action	Date	FR Cite
NPRM	12/01/94	59 FR 61571
NPRM Comment Period End	01/30/95	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, OCIG, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-0089

RIN: 0991–AA45

1108. CIVIL MONEY PENALTIES (CMPS) FOR CERTAIN PRACTICES RELATING TO MEDICARE SUPPLEMENTAL POLICIES

Priority: Substantive, Nonsignificant

Legal Authority: PL 100-360, Sec 428(b); PL 101-508, Sec 4204(g)(1); PL 101-508, Sec 4351; PL 101-508, Sec 4354(a)(1)(E); PL 101-508, Sec 4354(a)(2); PL 101-508, Sec 4355(a); PL 101-508, Sec 4357

CFR Citation: 42 CFR 1003

Legal Deadline: None

Abstract: This rule would authorize CMPs against any individual or entity who knowingly and willfully uses misleading or fraudulent practices in the advertisement, solicitation, offering for sale or delivery of Medicare supplemental health insurance (Medigap) policies. Penalties would also be established for failure to (1) meet Medigap policy loss-ratio requirements, (2) comply with policy simplification standards, or (3) obtain Secretarial certification of Medigap policies in States with non-approved regulatory programs. In addition, this rule would also set forth CMPs for the failure of sellers or issuers to solicit information, and to provide notice, about Medicaid status and eligibility before selling or issuing Medigap policies.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, OCIG, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-0089

RIN: 0991–AA53

1109. CIVIL MONEY PENALTIES FOR REFERRALS TO ENTITIES AND FOR PROHIBITED ARRANGEMENTS AND SCHEMES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 101-239, Sec 6204; PL 101-508, Sec 4207(e); PL 101-508, Sec 4207(m)(2); PL 103-66, Sec 13562

CFR Citation: 42 CFR 1001; 42 CFR 1003

Legal Deadline: None

Abstract: This revised final rule is designed to implement civil money penalty authority for prohibited physician referrals as set forth in section 1877 of the Social Security Act. This rule addresses comments raised as a result of the final rule with comment period (60 FR 16580), and several technical changes to 42 CFR 1001 and 1003 resulting from Government reinvention efforts.

Timetable:

Action	Date	FR Cite
NPRM	10/20/93	58 FR 54066
NPRM Comment Period End	12/20/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Office of Inspector General, OCIG, Department of Health and Human Services, Office of the Secretary, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-0089

RIN: 0991–AA65

1110. CIVIL MONEY PENALTIES FOR NOTIFYING A HOME HEALTH AGENCY, OR A HOME OR COMMUNITY-BASED HEALTH CARE CENTER OR PROVIDER, OF A STANDARD SURVEY

Priority: Substantive, Nonsignificant

Legal Authority: PL 100-203, Sec 4022(a); PL 100-360, Sec 411(d)(2)(A); PL 100-485, Sec 808(d)(20)(A); PL 101-508, Sec 4711(b)(a)

CFR Citation: 42 CFR 1003

Legal Deadline: None

Abstract: This proposed rule would set forth civil money penalties against any individual or entity that notifies, or causes to notify, a home health agency, or a home or community-based health care center or provider, of the time or date on which a standard survey is scheduled to be conducted by a State or local agency.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, OCIG, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-0089

RIN: 0991–AA79

1111. CIVIL MONEY PENALTIES FOR FALSE INFORMATION ON DRUG MANUFACTURER PRICE SURVEYS AND REBATE AGREEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-508, Sec 4401(a)(3)

CFR Citation: 42 CFR 1003

Legal Deadline: None

Abstract: This proposed rule would set forth civil money penalties against any wholesale or manufacturer of covered outpatient drugs that fails to respond to a request for information about charges or prices, or knowingly provides false information, in a survey by the Secretary to verify manufacturers' reported prices under the Medicaid drug rebate program. In addition, this rule would set forth civil money penalties against any drug manufacturer that, in accordance with section 1927(b)(3)(A) of the Social Security Act, fails to provide rebate agreement price information on a timely basis.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of

HHS—OS — Long-Term Actions

Health and Human Services, Office of the Secretary, Office of Inspector General, OCIG, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-0089

RIN: 0991–AA80

1112. SENIOR BIOMEDICAL RESEARCH SERVICES

Priority: Info./Admin./Other

Legal Authority: 42 USC 228

CFR Citation: 42 CFR 24

Legal Deadline: None

Abstract: This regulation implements the Senior Biomedical Research Service (SBRS), a personnel system established in the Public Health Service by section 304 of Public Law 101-509. The SBRS will consist of 500 members appointed by the Secretary without regard to the provisions of title 5, U.S. Code, regarding appointment, who are outstanding in the field of biomedical research or clinical research evaluation. Appointments to the SBRS will be only to individuals with doctoral-level degrees in biomedicine or a related field. The regulation describes basic eligibility criteria, pay rates, performance appraisal system, optional retirement system, and procedure for removal from the SBRS.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/21/96	61 FR 6557
Interim Final Rule Comment Period End	03/31/96	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Rosemary Taylor, Personnel Management Specialist, Department of Health and Human Services, Office of the Secretary, 200 Independence Avenue SW., Room 522A, Washington, DC 20201
Phone: 202 690-7358
Fax: 202 690-6758

RIN: 0991–AA82

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Completed Actions
Office of the Secretary (OS)

1113. REVISED PRO SANCTIONS FOR FAILING TO MEET STATUTORY OBLIGATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 42 CFR 1004

Completed:

Reason	Date	FR Cite
Final Action	04/29/97	62 FR 23140

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Joel Jay Schaer
Phone: 202 619-0089

RIN: 0991–AA86

1114. INDIRECT COST APPEALS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 45 CFR 16; 45 CFR 74; 45 CFR 75; 45 CFR 95

Completed:

Reason	Date	FR Cite
Final Action	07/17/97	62 FR 38217

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ronald Speck
Phone: 202 401-2751
TDD: 202 690-6415

RIN: 0991–AA88

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Final Rule Stage
Substance Abuse and Mental Health Services Administration (SAMHSA)

1115. PROTECTION AND ADVOCACY FOR INDIVIDUALS WITH MENTAL ILLNESS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 10801 et seq, as amended by PL 102-173

CFR Citation: 45 CFR 51

Legal Deadline: Final, Statutory, May 27, 1992.
Section 9 of PL 102-173, enacted on 11/27/91, sets this deadline.

Abstract: Sets requirements for funding State and State-designated systems for protecting and advocating for individuals with mental illness. By law, these requirements must be set out in regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/14/94	59 FR 64367
NPRM Comment Period End	02/13/95	
Final Action	12/00/97	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Additional Information: Previously reported under RIN 0905-AD99.

Alternate Contact: Lorinda Daniel, DLEA, SAMHSA, PHS; Room 12C-15, 5600 Fishers Lane, Rockville, MD 20857; 301-443-4640

Agency Contact: Joseph D. Faha, Director, DLEA, SAMHSA, Department of Health and Human Services,

HHS—SAMHSA — Final Rule Stage

Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Room 12C-15, Rockville, MD 20857
Phone: 301 443-4640

RIN: 0930–AA02

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Long-Term Actions
Substance Abuse and Mental Health Services Administration (SAMHSA)

1116. BLOCK GRANTS FOR PREVENTION AND TREATMENT OF SUBSTANCE ABUSE

Priority: Other Significant

Legal Authority: 42 USC 300-x et seq, as amended by PL 102-321

CFR Citation: 45 CFR 96

Legal Deadline: Final, Statutory, August 25, 1992.
Awards to States after January 1, 1993 cannot be made until implementing regulations are published.

Abstract: Sets requirements for block grants for prevention and treatment of substance abuse. The requirements include criteria for approval of State plans which must by statute be prescribed in regulations. These provisions would replace the existing interim final rule published March 31, 1993. Given the pending reauthorization of SAMHSA and the current Administration's FY 1996 legislative proposal to turn the block grant into a "Performance Partnership," publication of this regulation has been put on hold.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/31/93	58 FR 17062
Interim Final Rule Comment Period End	06/01/93	
Final Action	00/00/00	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Tribal

Additional Information: Previously reported under RIN 0905-AD98.

Alternate Contact: Jim Sayers, DSP, C SAT SAMHSA, 5515 Security Lane, Suite 800, Rockville, MD 20852; 301-443-3820.

Agency Contact: Joseph D. Faha, Director, DLEA, SAMHSA, Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Room 12C-15, Rockville, MD 20857
Phone: 301 443-4640

RIN: 0930–AA01

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Proposed Rule Stage
Departmental Management (HHSDM)

1117. IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN AGENCY PROCEEDINGS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 504(c)(1)

CFR Citation: 45 CFR 13

Legal Deadline: None

Abstract: The Equal Access to Justice Act requires agencies to pay fees to parties prevailing against the government in certain administrative proceedings. The Act has been amended several times since its 1980 enactment, most recently by the Contract with America Advancement Act of 1996, which increased the amount of the hourly fees payable. The proposed rule revises 45 CFR Part 13 (HHS' regulation implementing the Equal Access to Justice Act) to conform with statutory changes.

Timetable:

Action	Date	FR Cite
NPRM	08/19/87	52 FR 23311
NPRM Comment Period End	08/17/87	
Second NPRM	11/00/97	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leslie L. Clune, Associate General Counsel, Business and Administrative Law Division, Department of Health and Human Services, Room 5362, HHS Cohen Building, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-0150

RIN: 0990–AA02

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Prerule Stage
Food and Drug Administration (FDA)

1118. INVESTIGATIONAL NEW DRUG APPLICATIONS; REQUEST FOR INFORMATION AND COMMENTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355 to 357; 21 USC 371; 42 USC 262

CFR Citation: 21 CFR 56; 21 CFR 312

Legal Deadline: None

Abstract: The advance notice of proposed rulemaking would permit certain uses of investigational new drugs by individual investigators who are not included in a commercial sponsor's application provided that, among other things, the drugs are in Phase 2 of commercial development.

Timetable:

Action	Date	FR Cite
ANPRM	01/00/98	
ANPRM Comment Period End	04/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Murray Lumpkin, M.D., Deputy Center Director (Review Management), Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-2), 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-5417
Fax: 301 594-6197

RIN: 0910–AA83

1119. • PRESCRIPTION DRUG COMPOUNDING

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355 to 358; 21 USC 360; 21 USC 371; 21 USC 374; 21 USC 379; 42 USC 216; 42 USC 241; 42 USC 262; 42 USC 264

CFR Citation: 21 CFR 201; 21 CFR 207; 21 CFR 211; 21 CFR 310; 21 CFR 314

Legal Deadline: None

Abstract: This advance notice of proposed rulemaking would describe proposed regulatory requirements and policies that FDA is considering and seek public input concerning prescription drug compounding practices, including delineating those compounding practices subject to state oversight and those subject to FDA regulations

Timetable:

Action	Date	FR Cite
ANPRM	03/00/98	
ANPRM Comment Period End	06/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lana Ogram, Office of Compliance, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-330), 7500 Standish Place, Rockville, MD 208552
Phone: 301 594-0101
Fax: 301 594-5998

RIN: 0910–AB13

1120. • EXPORTS; REPORTING AND RECORDKEEPING REQUIREMENTS

Priority: Routine and Frequent

Legal Authority: 15 USC 1453 to 1455; 21 USC 321; 21 USC 343; 21 USC 352; 21 USC 355; 21 USC 360b; 21 USC 362; 21 USC 371; 21 USC 381; 21 USC 382; 21 USC 393; 42 USC 216; 42 USC 241; 42 USC 243; 42 USC 262

CFR Citation: 21 CFR 1

Legal Deadline: None

Abstract: The proposed rule would establish the recordkeeping and notification requirements for persons exporting human drugs, animal drugs, biologics, and devices under the FDA Export Reform and Enhancement Act.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Philip L. Chao, Senior Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Office of Policy (HF-23), 5600 Fishers Lane, Room 15-74, Rockville, MD 20857
Phone: 301 827-3380
Fax: 301 443-6906
Email: pchao@bangate.fda.gov

RIN: 0910–AB16

1121. • REQUIREMENTS PERTAINING TO THE SALE AND DISTRIBUTION OF CIGARETTES AND SMOKELESS TOBACCO TO PROTECT CHILDREN AND ADOLESCENTS; USE OF NONTOBACCO TRADE OR BRAND NAMES

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 352; 21 USC 360; 21 USC 360(j); 21 USC 371; 21 USC 372

CFR Citation: 21 CFR 897

Legal Deadline: None

Abstract: The proposed rule would clarify the restrictions on the use of nontobacco product names and other identification on tobacco products and would modify the list of established names for smokeless tobacco products.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Philip L. Chao, Senior Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Office of Policy (HF-23), 5600 Fishers Lane, Room 15-74, Rockville, MD 20857
Phone: 301 827-3380
Fax: 301 443-6906
Email: pchao@bangate.fda.gov

RIN: 0910–AB17

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Food and Drug Administration (FDA)

Proposed Rule Stage

1122. OVER-THE-COUNTER (OTC) DRUG REVIEW

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 21 USC 321p; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 360e; 21 USC 371a

CFR Citation: 21 CFR 310; 21 CFR 330; 21 CFR 333; 21 CFR 334; 21 CFR 335; 21 CFR 336; 21 CFR 337; 21 CFR 338; 21 CFR 339; 21 CFR 340; 21 CFR 341; 21 CFR 342; 21 CFR 343; 21 CFR 344; 21 CFR 345; ...

Legal Deadline: None

Abstract: The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. NOTE: NPRM for "Antidotes, Toxic Ingestion Products" was combined with NPRM for "Emetic Products" and reproposed as "Poison Treatment Products." NPRM for "Astringent (Wet Dressings) Products" was included in the NPRM for "Skin Protectant Products." NPRM for "Diaper Rash Products" was included in NPRMs for "Antifungal," "Antimicrobial," "External Analgesic" and "Skin Protectant Products." NPRM for "Fever Blister/Cold Sore Products (External)" was included in NPRMs for "External Analgesic" and "Skin Protectant Products." NPRM for "Insect Bites and Stings (Relief) Products" was included in NPRMs for "External Analgesic" and "Skin Protectant Products." "Poison Ivy/Oak/Sumac Prevention" was included in NPRMs for "External Analgesic" and "Skin Protectant Products." NPRM for "Mercurial (Topical) Products" was included in revised NPRM for "Antimicrobial Products." NPRM for "Alcohol (Topical) Products" was included in revised NPRM for "Antimicrobial Products." The NPRM for "Antimicrobial Products" was updated and split into two sections: First Aid Products and Health Care Antiseptic Products.

SMALL ENTITIES AFFECTED: The effects, if any, vary depending on the individual rulemaking. However, the Agency anticipates that the rules would not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act.

Timetable:

Acne (Topical) Products
- ANPRM 03/23/82 (47 FR 12430)
- NPRM 01/15/85 (50 FR 2172)
- NPRM (Amendment) 08/07/91 (56 FR 37622)
- Final Action 08/16/91 (56 FR 41008)

Alcohol (Oral) in OTC Drug Products
- NPRM 10/21/93 (58 FR 54466)
- Final Action 03/13/95 (60 FR 13590)
- NPRM (Amendment) 05/10/96 (61 FR 21392)
- Final Action (Amendment) 11/18/96 (61 FR 58629)

Alcohol (Topical) Products (To be merged w/other rulemkg)
- ANPRM 05/21/82 (47 FR 22324)

Anorectal Products
- ANPRM 05/27/80 (45 FR 35576)
- NPRM 08/15/88 (53 FR 30756)
- Final Action 08/03/90 (55 FR 31778)
- Final Action (LYCD) 09/02/93 (58 FR 46746)
- Final Action (Witch Hazel) 08/03/94 (59 FR 28766)

Antacid Drug Products
- ANPRM 04/05/73 (38 FR 8714)
- NPRM 11/12/73 (38 FR 31260)
- Final Action 08/04/74 (39 FR 9862)
- NPRM (Amendment) (Overindulgence) 12/24/91 (56 FR 66754)
- Final Action (Amendment) (Warning) 08/26/93 (58 FR 45204)
- NPRM (Amendment) (Testing) 09/23/93 (58 FR 49826)
- NPRM (Amendment)(Sodium Bicarb.) 02/02/94 (59 FR 5060)
- Final Action (Technical Amendment) 11/25/94 (59 FR 60555)
- Final Action (Amendment) (Testing) 02/08/96 (61 FR 4822)
- Final Action (Amendment)(Sodium B.) 05/00/98

Antihelmintic Products
- ANPRM 09/09/80 (45 FR 59541)
- NPRM 08/24/82 (47 FR 37062)
- Final Action 08/01/86 (51 FR 27758)

Antibiotic First Aid Products
- ANPRM 04/01/77 (42 FR 17642)
- NPRM 07/09/82 (47 FR 29866)
- Final Action 12/11/87 (52 FR 47312)
- NPRM (Amendment) 08/18/89 (54 FR 34188)
- Final Action 03/15/90 (55 FR 9721)
- NPRM (Amendment) 05/11/90 (55 FR 19668)
- NPRM (Amendment) 06/08/90 (55 FR 23450)
- Final Action (Amendment) 10/03/90 (55 FR 40379)
- Final Action (Amendment) 12/05/90 (55 FR 50171)
- NPRM (Amendment) (Warning) 02/14/96 (61 FR 5918)
- Final Action (Amendment)(Warning) 11/15/96 (61 FR 58471)

Anticaries Products
- ANPRM 03/28/80 (45 FR 20666)
- NPRM 09/30/85 (50 FR 39854)
- NPRM 08/15/88 (53 FR 22430)
- Final Action 10/06/95 (60 FR 52474)
- Final Action (Technical Amendment) 10/07/96 (61 FR 52285)

Antidiarrheal Products
- ANPRM 03/21/75 (40 FR 12924)
- NPRM 04/30/86 (51 FR 16138)
- NPRM (Amendment)(Trav. Diar.) 06/00/98
- Final Action 06/00/98

Antidotes, Toxic Ingestion Prdts (New Poison Treatment Prdts)
- ANPRM 01/05/82 (47 FR 444)

Antiemetic Products
- ANPRM 03/21/75 (40 FR 12934)
- NPRM 07/13/79 (44 FR 41064)
- Final Action 04/30/87 (52 FR 15886)
- NPRM (Amendment) 08/26/93 (58 FR 45216)
- Final Action 04/11/94 (59 FR 16981)
- NPRM (Amendment)(Warning) 08/29/97 (62 FR 45767)

Antiflatulent Drug Products
- NPRM 11/12/73 (38 FR 31260)
- Final Action 08/04/74 (39 FR 19877)
- NPRM (Amendment) 01/29/88 (53 FR 2716)
- Final Action (Amendment) 03/05/96 (61 FR 8836)

Antifungal (Topical) Products
- ANPRM 03/23/82 (47 FR 12460)
- NPRM 12/12/89 (54 FR 51136)
- NPRM (Amendment) (Diaper Rash) 06/20/90 (55 FR 25240)
- Final Action (Amdt.)(Diaper Rash) 12/18/92 (57 FR 60430)
- Final Action (Partial) 09/02/93 (58 FR 46744)
- Final Action 09/23/93 (58 FR 49890)

Antimicrobial Products
- ANPRM 09/13/74 (39 FR 33103)
- NPRM 01/06/78 (43 FR 1210)
- NPRM (Amendment) (Diaper Rash) 06/20/90 (55 FR 25246)

Antiperspirant Products
- ANPRM 10/10/78 (43 FR 46684)
- NPRM 08/20/82 (47 FR 36492)
- Final Action 08/00/98

Antiseptic First Aid
- ANPRM 09/13/74 (39 FR 33103)
- NPRM 01/06/78 (43 FR 1210)
- NPRM (Revised) 07/22/91 (56 FR 33644)
- Final Action 00/00/00

Antiseptic Products (Professional Use)
- ANPRM 09/13/74 (39 FR 33103)
- NPRM 01/06/78 (43 FR 1210)
- NPRM (Revised) 08/17/94 (59 FR 31402)

Aphrodisiac Products
- ANPRM 10/01/82 (47 FR 43572)
- NPRM 01/15/85 (50 FR 2168)
- Final Action 07/07/89 (54 FR 28780)

Aspirin (Heart Labeling)
- NPRM 10/20/93 (58 FR 54224)

Aspirin (Reye Syndrome)
- NPRM 10/20/93 (58 FR 54228)

Astringent (Wet Dressings) Prdts (Merged w/other rulemkg)
- ANPRM 09/07/82 (47 FR 39436)

Benign Prostatic Hypertrophy Products
- ANPRM 10/01/82 (47 FR 43566)
- NPRM 02/20/87 (52 FR 5406)
- Final Action 02/27/90 (55 FR 6926)

Boil Ointments
- ANPRM 06/29/82 (47 FR 28306)
- NPRM 01/26/88 (53 FR 2198)
- Final Action 11/15/93 (58 FR 60332)

Camphorated Oil Drug Products
- ANPRM 09/26/80 (45 FR 63866)
- Final Action 09/21/82 (47 FR 41716)

Cholecystokinetic Products
ANPRM 02/12/80 (45 FR 9286)
NPRM 08/24/82 (47 FR 37068)
Final Action 06/10/83 (48 FR 27004)
NPRM (Amendment) 08/15/88 (53 FR 30786)
Final Action (Amendment) 02/28/89 (54 FR 8320)

Corn and Callus Remover Products
ANPRM 01/05/82 (47 FR 522)
NPRM 02/20/87 (52 FR 5412)
Final Action 08/14/90 (55 FR 33256)

Cough/Cold (Anticholinergic) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 07/09/82 (47 FR 30002)
Final Action 11/08/85 (50 FR 46582)

Cough/Cold (Antihistamine) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 01/15/85 (50 FR 2200)
NPRM (Amendment) 08/24/87 (52 FR 31892)
Final Action 12/09/92 (57 FR 58356)
Final Action (Amendment)(Warning) 01/28/94 (59 FR 4216)
NPRM (Amendment)(Warning) 08/29/97 (62 FR 45767)

Cough/Cold (Antitussive) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 10/19/83 (48 FR 48576)
Final Action 08/12/87 (52 FR 30042)
NPRM (Amendment) 07/09/89 (54 FR 28442)
NPRM (Amendment) 10/02/89 (54 FR 40412)
Final Action (Amendment) 07/09/90 (55 FR 27806)
Final Action (Amendment) 10/03/90 (55 FR 40381)
NPRM (Amendment)(Warning) 06/19/92 (57 FR 27666)
NPRM (Amendment)(Ingredients) 12/09/92 (57 FR 58378)
Final Action (Amendment)(Warning) 10/20/93 (58 FR 54232)
Final Action (Amdt.)(Ingredients) 06/03/94 (59 FR 29172)
NPRM (Amendment)(Warning) 08/29/97 (62 FR 45767)
NPRM (Amendment)(Warning) 03/00/98

Cough/Cold (Bronchodilator) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 10/26/82 (47 FR 47520)
Final Action 10/02/86 (51 FR 35326)
NPRM (Amendment)(Warning) 06/19/92 (57 FR 27662)
Final Action (Amendment)(Warning) 10/20/93 (58 FR 54238)
NPRM (Amendment)(MDI) 03/09/95 (60 FR 13014)
NPRM (Amendment)(Ephedrine) 07/27/95 (60 FR 38643)
Final Action (Amendment) (MDI) 05/20/96 (61 FR 25142)

Cough/Cold (Combination) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 08/12/88 (53 FR 30522)
NPRM (Amendment)(DPH Combinations) 02/23/95 (60 FR 10286)
Final Action (Theophylline) 07/27/95 (60 FR 38636)
Final Action 03/00/99

Cough/Cold (Diphenhydramine) Products
Final Action/Enforcement Policy 04/09/96 (61 FR 15700)

Cough/Cold (Expectorant) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 07/09/82 (47 FR 30002)
Final Action 02/28/89 (54 FR 8494)
Final Action (Technical Changes) 06/30/92 (57 FR 29176)

Cough/Cold (Expectorant/Ipecac) Products
Final Action 09/14/92 (57 FR 41857)

Cough/Cold (Nasal Decongestant) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 01/15/85 (50 FR 2220)
NPRM (Amendment) 08/19/92 (57 FR 27658)
Final Action 08/23/94 (59 FR 43386)
Final Action; Partial Stay 03/08/96 (61 FR 9570)
NPRM (Phenylpropanolamine) 00/00/00

Dandruff, Seborrheic Dermatitis and Psoriasis Control Products
ANPRM 12/03/82 (47 FR 54646)
NPRM 07/30/86 (51 FR 27346)
Final Action 12/04/91 (56 FR 63554)
NPRM (Amendment) 04/05/93 (58 FR 17554)
Final Action 01/28/94 (59 FR 4000)

Daytime Sedatives
ANPRM 12/08/75 (40 FR 57292)
NPRM 06/13/78 (43 FR 25544)
Final Action 06/22/79 (44 FR 36378)

Diaper Rash Products (Merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39406)

Digestive Aid Products
ANPRM 01/05/82 (47 FR 454)
NPRM 01/29/88 (53 FR 2706)
Final Action 10/21/93 (58 FR 54450)

Eligibility Criteria for Additional Conditions
ANPRM 10/03/96 (61 FR 51625)
NPRM 04/00/98

Emetic Products
ANPRM 03/21/75 (40 FR 12939)
NPRM 09/05/78 (43 FR 39544)

Exocrine Pancreatic Insufficiency Products
ANPRM 12/21/79 (44 FR 75666)
NPRM 11/08/85 (50 FR 46594)
NPRM (Reproposed) 07/15/91 (56 FR 32282)
Final Action 04/24/95 (60 FR 20162)

External Analgesic Products
ANPRM 12/04/79 (44 FR 69768)
NPRM 02/08/83 (48 FR 5852)
NPRM (Amendment) (Dandruff) 07/30/86 (51 FR 27360)
NPRM (Amendment) (Anorectal) 08/25/88 (53 FR 32582)
NPRM (Amendment) (Poison Ivy) 10/03/89 (54 FR 40818)
NPRM (Amendment) (Fvr Blister/Ext) 01/31/90 (55 FR 3370)
NPRM (Amendment) (1%Hydrocortisone) 02/27/90 (55 FR 6932)
NPRM (Amendment) (Diaper Rash) 08/20/90 (55 FR 25234)
Final Action (Diaper Rash) 12/18/92 (57 FR 60426)
NPRM (Amendment)(Warning) 08/29/97 (62 FR 45767)
Final Action 00/00/00

Fever Blister Products (Internal)
ANPRM 01/05/82 (47 FR 502)
NPRM 06/17/85 (50 FR 25156)
Final Action 08/30/92 (57 FR 29166)

Fvr Blister/Cold Sore Prdts (Ext.) (To be merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39436)

Hair Grower and Hair Loss Prevention Products
ANPRM 11/07/80 (45 FR 73955)
NPRM 01/15/85 (50 FR 2190)
Final Action 07/07/89 (54 FR 28772)

Hormone (Topical) Products
ANPRM 01/05/82 (47 FR 430)
NPRM 10/02/89 (54 FR 40618)
Final Action 09/09/93 (58 FR 57608)

Hypo/Hyperphosphatemia Products
ANPRM 12/09/80 (45 FR 81154)
NPRM 01/15/85 (50 FR 2160)
Final Action 05/11/90 (55 FR 19852)

Ingrown Toenail Relief Products
ANPRM 10/17/80 (45 FR 69128)
NPRM 09/03/82 (47 FR 39120)
Final Action 09/09/93 (58 FR 47602)

Insect Bite & Sting (Relief) Prdts (Merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39412)

Insect Repellent Drug Products (Internal)
ANPRM 01/05/82 (47 FR 424)
NPRM 06/10/83 (48 FR 26986)
Final Action 08/17/85 (50 FR 25170)

Internal Analgesic Products
ANPRM 07/08/77 (42 FR 35346)
NPRM 11/16/88 (53 FR 46204)
NPRM (Amendment) (Overindulgence) 12/24/91 (56 FR 66782)
NPRM (Amdt.)(Sodium Bicarbonate) 02/02/94 (59 FR 5068)
NPRM (Prof. Labeling)(Acute MI) 08/13/96 (61 FR 30002)
NPRM (Amendment)(Alcohol Warning) 11/00/97
Final Action (ProfessionalLabeling) 04/00/98
NPRM (Labeling-revised indications) 10/00/98

Internal Deodorant Products
ANPRM 01/05/82 (47 FR 512)
NPRM 06/17/85 (50 FR 25162)
Final Action 05/11/90 (55 FR 19862)

Labeling of Drug Products for OTC Human Use
NPRM 04/05/93 (58 FR 17553)
Final Action 01/28/94 (59 FR 3998)
NPRM (Do not mix drugs) 08/03/94 (59 FR 39499)
NPRM (Amendment) (Do not mix drugs) 10/04/95 (60 FR 52058)
NPRM (Unless a doctor tells you) 03/04/96 (61 FR 8450)
NPRM (Calcium/Magnesium/Potassium) 04/22/96 (61 FR 17807)
NPRM (Unless a doc. tells you)(Wi.) 02/27/97 (62 FR 9024)
Final Action (Ca/Mg/K) 08/00/98
Final Action (Format/Examples) 07/00/98

Laxative Products
ANPRM 03/21/75 (40 FR 12902)
NPRM 01/15/85 (50 FR 2124)
NPRM (Amendment) (Directions/Bulk) 10/01/86 (51 FR 35136)
NPRM (Amendment) (Docusate Salts) 09/02/93 (58 FR 46589)
NPRM (Amendment)(Sodium Phosphates) 03/31/94 (59 FR 15139)
NPRM (Phenolphthalein) 09/02/97 (62 FR 46223)
Final Action (Phenolphthalein) 11/00/97
Final Action (Sodium Phosphates) 02/00/98
NPRM (Amendment)(Phosphates Label) 02/00/98
Final Action 08/00/98

Leg Muscle Cramps (Nocturnal Relief) Products
ANPRM 10/01/82 (47 FR 43562)
NPRM 11/08/85 (50 FR 46588)
Final Action 08/22/94 (59 FR 43234)

Male Genital Deodorizer Products
ANPRM 09/07/82 (47 FR 39412)
NPRM 10/02/85 (50 FR 40260)
Final Action 08/19/92 (57 FR 27654)

Menstrual Products
ANPRM 12/07/82 (47 FR 55075)
NPRM 11/16/88 (53 FR 46194)

Mercurial (Active/Inactive)
NPRM 02/00/98

Mercurial (Topical) Products (To be merged w/other rulemkg)
ANPRM 01/05/82 (47 FR 436)

Nailbiting/Thumbsucking Deterrent Products
ANPRM 10/17/80 (45 FR 69122)
NPRM 09/03/82 (47 FR 39096)
Final Action 09/02/93 (58 FR 46749)

Nighttime Sleep Aid Products
ANPRM 12/08/75 (40 FR 57292)
NPRM 06/13/78 (43 FR 25544)
Final Action 02/14/89 (54 FR 6814)
NPRM (Amendment) 08/26/93 (58 FR 45217)
Final Action (Amendment) 04/11/94 (59 FR 16962)
NPRM (Amendment) (Warning) 08/29/97 (62 FR 45767)

NDA Labeling Exclusivity
NPRM 11/09/98 (58 FR 59622)
Final Action 03/00/98

Ophthalmic Products
ANPRM 05/06/80 (45 FR 30002)
NPRM 08/28/83 (48 FR 29788)
Final Action 03/04/86 (53 FR 7076)
Final Action (Anti-infective) 12/18/92 (57 FR 60416)

Oral Discomfort (Relief) Products
ANPRM 05/25/82 (47 FR 22712)
NPRM 09/24/91 (56 FR 48302)

Oral Health Care Products
ANPRM 05/25/82 (47 FR 22760)
NPRM 01/27/86 (53 FR 2436)
NPRM (Amendment) (Antimicrobials) 02/09/94 (59 FR 6084)
Final Action 00/00/00

Oral Mucosal Injury Products (Merged w/Oral Health Care)
ANPRM 11/02/79 (44 FR 63270)
NPRM 07/26/83 (48 FR 33984)

Oral Wound Healing Products
ANPRM 11/02/79 (44 FR 63270)
NPRM 07/26/83 (48 FR 33984)
Final Action 07/18/86 (51 FR 26112)

Otic Products (Dry Water-Clogged Ears)
NPRM (Amendment) 02/00/98

Otic Products (Earwax)
NPRM 07/09/82 (47 FR 30012)
Final Action 08/08/86 (51 FR 28656)

Otic Products (Swimmers Ear)
NPRM 07/30/86 (51 FR 27386)
Final Action 02/15/95 (60 FR 8916)
Final Action Partial Stay 08/16/95 (60 FR 42435)

Overindulgence Remedies
ANPRM 10/01/82 (47 FR 43540)
NPRM 12/24/91 (56 FR 66742)
NPRM (Amendment) (Warning) 05/05/93 (58 FR 26886)
Final Action (Amendment) (Warning) 08/00/98

Overindulgence Remedies/Prevention of Inebriation
ANPRM 10/01/82 (47 FR 43540)
Final Action 07/19/83 (48 FR 32872)

Pediculicide Products
ANPRM 06/29/82 (47 FR 28312)
NPRM 04/03/89 (54 FR 13480)
Final Action 12/14/93 (58 FR 65452)

Phenylpropanolamine Products (Labeling)
NPRM 02/14/96 (61 FR 3912)
Final Action 00/00/00

Poison Ivy/Oak/Sumac Prevention (Merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39412)

Poison Treatment Products
NPRM 01/15/85 (50 FR 2244)
NPRM (Amendment) 07/00/98
Final Action 12/00/98

Quinine for Malaria
NPRM 04/19/95 (60 FR 19650)
Final Action 02/00/98

Reporting of Adverse Reactions
NPRM 01/00/98

Skin Bleaching Products
ANPRM 11/03/78 (43 FR 51546)
NPRM 09/03/82 (47 FR 39108)
NPRM (Reproposed) 08/00/98

Skin Protectant Products
ANPRM 08/04/78 (43 FR 34628)
NPRM 02/15/83 (48 FR 6820)
NPRM (Amendment) (Astringent) 04/03/89 (54 FR 13490)
NPRM (Amendment) (Poison Ivy) 10/03/89 (54 FR 40808)
NPRM (Amendment) (Fvr Blister/Ext) 01/31/90 (55 FR 3362)
NPRM (Amendment) (Diaper Rash) 08/20/90 (55 FR 25204)
Final Action (Astringent) 10/21/93 (58 FR 54466)
Final Action (Witch Hazel) 06/03/94 (59 FR 28767)
Final Action (Poison Ivy) 01/00/98
Final Action 01/00/98

Smoking Deterrent Products
ANPRM 01/05/82 (47 FR 490)
NPRM 07/03/85 (50 FR 27552)
Final Action 08/01/93 (58 FR 31236)

Sodium Labeling
NPRM 04/25/91 (56 FR 19222)
Final Action 04/22/96 (61 FR 17798)
Final Action (Technical Amendment) 06/00/98

Status of Certain Category II and III Ingredients
NPRM 05/16/90 (55 FR 20434)
Final Action 11/07/90 (55 FR 46914)
NPRM 08/25/92 (57 FR 38568)
Final Action 05/10/93 (58 FR 27636)
NPRM 02/00/98

Stimulant (Overindulgence) Products
NPRM (Amendment) 12/24/91 (56 FR 66758)

Stimulant Products
ANPRM 12/08/75 (40 FR 57292)
NPRM 06/13/78 (43 FR 25544)
Final Action 02/29/88 (53 FR 6100)

Stomach Acidifier Products
ANPRM 10/19/79 (44 FR 60316)
NPRM 01/15/85 (50 FR 2184)
Final Action 08/17/88 (53 FR 31270)

Sunscreen Products
ANPRM 08/25/78 (43 FR 38206)
NPRM 05/12/93 (58 FR 28194)
NPRM (Amendment) 06/08/94 (59 FR 29706)
NPRM (Amendment)(Avobenzone) 09/16/96 (61 FR 48645)
Final Action (Avobenzone Enf. Pol.) 04/30/97 (62 FR 23350)

Sweet Spirits of Nitre
ANPRM 02/22/80 (45 FR 11848)
Final Action 08/27/80 (45 FR 43400)

Topical Drug Products Containing Benzoyl Peroxide (Labeling)
NPRM 02/17/95 (60 FR 9554)

Vaginal Contraceptive Products
ANPRM 12/12/80 (45 FR 82014)
NPRM 02/03/95 (60 FR 6892)

Vaginal Drug Products
ANPRM 10/13/83 (48 FR 46684)
Withdrawal 02/03/95 (60 FR 5226)

Vitamin/Mineral Products
ANPRM 03/16/79 (44 FR 16126)
Withdrawal 11/27/81 (46 FR 57914)

Wart Remover Products
ANPRM 10/03/80 (45 FR 65609)
NPRM 09/03/82 (47 FR 39102)
NPRM (Amendment) 03/27/87 (52 FR 9992)
Final Action 08/14/90 (55 FR 33246)
NPRM (Amendment)(Directions) 01/28/94 (59 FR 4015)
Final Action (Amdt.)(Directions) 11/23/94 (59 FR 60315)

Water Soluble Gums
NPRM 10/30/90 (55 FR 45782)
Final Action 08/26/93 (58 FR 45194)

Weight Control Products
ANPRM 02/26/82 (47 FR 8466)
NPRM 10/30/90 (55 FR 45788)
Final Action 08/08/91 (56 FR 37792)
NPRM (Amendment) 10/00/97

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AA66.

NOTE: Reinventing government applies only to the Antacid Drug Products final action.

Agency Contact: William E. Gilbertson, Assoc. Director for OTC Drug Monographs, Office of Drug Evaluation V, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-105), 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-2304

RIN: 0910–AA01

1123. BIOLOGICAL PRODUCT REPORTING OF ERRORS AND ACCIDENTS IN MANUFACTURING

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 360i; 21 USC 371; 21 USC 374; 42 USC 216; 42 USC 262 to 264

CFR Citation: 21 CFR 600; 21 CFR 606

Legal Deadline: None

Abstract: FDA is proposing to amend the regulations that require licensed manufacturers of biological products to report errors and accidents in manufacturing that may affect the safety, purity, or potency of a product. FDA proposes to define terms used; establish a reporting period for all licensed biological products; and amend the current good manufacturing practice (CGMP) regulations for blood and blood components to require error and accident reporting by registered blood establishments and transfusion services currently reporting on a voluntary basis. The proposed reporting requirements will expedite reporting of errors and accidents in manufacturing of biological products; provide FDA with a more accurate surveillance of the Nation's blood supply, enabling FDA to monitor actions taken in response to the errors and accidents detected for all establishments involved in the manufacture of blood and blood components; and facilitate a rapid response where public health may be at risk. The cost to licensed establishments would be minimal, since they already are required to report. Unlicensed establishments would only have to make some changes in standard operating procedures. Unlicensed establishments are already required to keep records and conduct investigations. Under the proposed rule they would have to establish reporting procedures and report to FDA. The transfusion services would have to assure that their recordkeeping and investigation procedures are sufficient, and establish reporting procedures.

Timetable:

Action	Date	FR Cite
NPRM	09/23/97	62 FR 49642
NPRM Comment Period End	12/22/97	
Final Action	12/00/98	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AD67.

Agency Contact: Paula S. McKeever, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFM-17), 1401 Rockville Pike, Suite 200N, Rockville, MD 20852-1448
Phone: 301 827-6210

RIN: 0910–AA12

1124. REVIEW OF WARNINGS, USE INSTRUCTIONS, AND PRECAUTIONARY INFORMATION UNDER SECTION 314 OF THE NATIONAL CHILDHOOD VACCINE INJURY ACT OF 1986

Priority: Other Significant

Legal Authority: PL 99-660, sec 314

CFR Citation: 21 CFR 601

Legal Deadline: Final, Statutory, February 1, 1991.

Abstract: Section 314 of the National Childhood Vaccine Injury Act of 1986 mandated that the warnings, use instructions, and precautionary information of specified childhood vaccines be reviewed and that their adequacy in warning health care professionals of the nature and extent of dangers posed by such vaccines be determined. This precautionary information is contained in the package insert of each vaccine licensed by the agency. FDA held a public meeting to receive public comment on the adequacy of these package inserts.

Timetable:

Action	Date	FR Cite
Notice of Public Meeting; Public Comment on Package Inserts	07/31/92	57 FR 33915
NPRM	03/00/98	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: Previously reported under RIN 0905-AD72.

A public meeting was held on 9/16/92 on section 314 Labeling Review. Presentations were made by FDA, CDC, manufacturers, parents groups, and the public on the adequacy of the current labeling.

Agency Contact: Dano B. Murphy, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFM-17), 1401 Rockville Pike, Suite 200N, Rockville, MD 20852-1448
Phone: 301 827-6210

RIN: 0910–AA14

1125. HEARING AIDS; PROFESSIONAL AND PATIENT LABELING; CONDITIONS FOR SALE

Regulatory Plan: This entry is Seq. No. 24 in Part II of this issue of the **Federal Register**.

RIN: 0910–AA39

1126. DEVELOPMENT OF HAZARD ANALYSIS CRITICAL CONTROL POINTS FOR CERTAIN UNPASTEURIZED FRUIT AND VEGETABLE JUICES

Regulatory Plan: This entry is Seq. No. 25 in Part II of this issue of the **Federal Register**.

RIN: 0910–AA43

1127. REGISTRATION OF PRODUCERS OF DRUGS AND LISTING OF DRUGS IN COMMERCIAL DISTRIBUTION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 356; 21 USC 357; 21 USC 360; 21 USC 371

CFR Citation: 21 CFR 207

Legal Deadline: None

Abstract: The proposed rule would substantially revise the regulations under part 207 to clarify the burden on manufacturers packers, and distributors, and to consolidate, reorganize, and streamline the requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	
NPRM Comment Period End	07/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lee D. Korb, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
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RIN: 0910–AA49

1128. BIOAVAILABILITY AND BIOEQUIVALENCE REQUIREMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 357; 21 USC 371

CFR Citation: 21 CFR 320

Legal Deadline: None

Abstract: The proposed rule would revise and clarify certain sections of part 320 and eliminate duplication and inconsistencies.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	03/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Christine Rogers, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
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RIN: 0910–AA51

1129. DRUGS USED FOR TREATMENT OF NARCOTIC ADDICTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 355; 21 USC 371; 21 USC 823; 42 USC 241; 42 USC 257; 42 USC 290; 42 USC 300

CFR Citation: 21 CFR 291

Legal Deadline: None

Abstract: The proposed rule will revise the regulations under part 291 to provide for the certification of narcotic treatment programs as a basis for fulfilling the Department's requirements of the Narcotic Addict Treatment Act of 1974. Certification will be based on accreditation by non-profit accrediting bodies. This new system will replace the current system which relies solely on direct FDA approval and inspection for determining whether narcotic treatment programs comply with Federal treatment standards. The proposed rule will provide for a transition period for programs operating under the existing regulatory system.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Nicholas Reuter, Associate Director for International and Domestic Drug Control, Department of Health and Human Services, Food and Drug Administration, Office of Health Affairs (HFY-20), 5600 Fishers Lane, Rockville, MD 20857
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Email: nreuter@bangate.fda.gov

RIN: 0910–AA52

1130. INVESTIGATIONAL NEW DRUG APPLICATIONS; CLINICAL HOLDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 356; 21 USC 357; 21 USC 371; 42 USC 262

CFR Citation: 21 CFR 312

Legal Deadline: None

Abstract: The proposed rule would revise existing regulations to reduce the timeframe within which FDA will issue a written explanation to a sponsor describing the reasons for imposing the clinical hold. The proposed rule would also state that a clinical study may resume within a specified timeframe after FDA receives the sponsor's complete reply to all issues raised in the clinical hold, unless FDA notifies the sponsor that it has reinstated the clinical hold.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	
NPRM Comment Period End	04/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Murray Lumpkin, MD, Deputy Center Director (Review Management), Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-2), 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-5417

Fax: 301 594-6197

RIN: 0910–AA73

1131. PARENTERAL DRUG PRODUCTS CONTAINING ALUMINUM AS AN INGREDIENT OR CONTAMINANT; LABELING REQUIREMENTS; WARNING STATEMENT

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355 to 358; 21 USC 360; 21 USC 371; 21 USC 374; 21 USC 379; 42 USC 216; 42 USC 241; 42 USC 262; 21 USC 264

CFR Citation: 21 CFR 201

Legal Deadline: None

Abstract: The proposed rule would establish a maximum level of aluminum permitted in large volume parenterals used in total parenteral nutrition therapy; require that the maximum aluminum content present at the time of release be stated on the immediate container label of certain small volume parenterals and pharmacy bulk packages; require that the package insert of all parenterals include a warning statement on the effects of aluminum toxicity in patients with impaired kidneys receiving total parenteral nutrition therapy; and require manufacturers to develop validated assay methods for determining the aluminum content.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	03/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Leanne Cusumano, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
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RIN: 0910–AA74

1132. DEBARMENT CERTIFICATION REGULATIONS FOR DRUG APPLICATIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 15 USC 1451 to 1461; 21 USC 321; 21 USC 331; 21 USC 335; 21 USC 351 to 353; 21 USC 355 to 357; 21 USC 360; 21 USC 371; 21 USC 374; 21 USC 379; 21 USC 381 to 382; 42 USC 216; 42 USC 241; 42 USC 262 to 263

CFR Citation: 21 CFR 314; 21 CFR 514; 21 CFR 601

Legal Deadline: None

Abstract: The proposed rule would amend the regulations to require applicants to certify that they did not and will not use in any capacity the services of a debarred person, and would require certain applicants to list certain Federal felony, Federal misdemeanor, or State felony convictions of the applicant and affiliated persons responsible for the development or submission of the application that have occurred within the preceding 5 years.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	
NPRM Comment Period End	05/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Leanne Cusumano, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
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RIN: 0910–AA76

1133. INVESTIGATIONAL NEW DRUG APPLICATIONS; CLINICAL HOLDS FOR DRUGS FOR LIFE-THREATENING ILLNESSES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 356; 21 USC 357; 21 USC 371; 42 USC 262

CFR Citation: 21 CFR 312

Legal Deadline: None

Abstract: The final rule amends the provisions governing investigational new drug applications to permit FDA to place a clinical hold on one or more studies under an IND involving a drug that is intended to treat a life-threatening disease affecting both genders if men or women with reproductive potential who have the disease are excluded from eligibility in any phase of the investigation because of a risk or potential risk of reproductive or developmental toxicity from use of the investigational drug.

Timetable:

Action	Date	FR Cite
NPRM	09/24/97	62 FR 49946
NPRM Comment Period End	12/23/97	
Final Action	07/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Nancy E. Derr, Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-5), 1451 Rockville Pike, Suite 6027, Rockville, MD 20852
Phone: 301 594-5400
Fax: 301 594-6197

RIN: 0910–AA84

1134. ADVERSE EXPERIENCE REPORTING, RECORDKEEPING, AND RECORDS ACCESS REQUIREMENTS FOR MARKETED OTC DRUGS THAT ARE NOW THE SUBJECTS OF APPROVED NEW DRUG OR ABBREVIATED NEW DRUG APPLICATIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 356; 21 USC 357; 21 USC 358; 21 USC 360; 21 USC 371; 21 USC 374; 21 USC 375; 21 USC 379; 42 USC 216; ...

CFR Citation: 21 CFR 201; 21 CFR 211; 21 CFR 327; 21 CFR 330

Legal Deadline: None

Abstract: The proposed rule would require applicants and manufacturers, packers, and distributors of marketed nonprescription human drug products to report to FDA information they receive about adverse experiences associated with the use of their drug products; to maintain records of adverse drug experiences; and to permit access by FDA to adverse drug experience records.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	
NPRM Comment Period End	05/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Audrey Thomas, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AA86

1135. STERILITY REQUIREMENTS FOR INHALATION SOLUTION PRODUCTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355 to 358; 21 USC 360; 21 USC 371; 21 USC 374 to 375.

CFR Citation: 21 CFR 200

Legal Deadline: None

Abstract: The final rule requires that all inhalation solution products be manufactured to be sterile. Based on reports of adverse drug experiences from contaminated nonsterile inhalation solution products and recalls of these products, FDA is taking this action to prevent future additional adverse health consequences.

Timetable:

Action	Date	FR Cite
NPRM	09/23/97	62 FR 49638
NPRM Comment Period End	12/22/97	
Final Action	07/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carol Drew, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AA88

1136. DIRECT-TO-CONSUMER PROMOTION REGULATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 334; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 356; 21 USC 357; 21 USC 358; 21 USC 360e to 360l; 21 USC 360k; 21 USC 361; 21 USC 362; 21 USC 371; ...

CFR Citation: 21 CFR 200; 21 CFR 800

Legal Deadline: None

Abstract: The Food and Drug Administration will issue proposed regulations for direct-to-consumer promotion of human and animal prescription drugs, biologics, and restricted devices. The regulations will set forth the requirements for what information shall be contained in the consumer directed advertisements for these products and how the information shall be presented.

Timetable:

Action	Date	FR Cite
NPRM	06/00/98	
NPRM Comment Period End	09/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Ostrove, Public Health Analyst, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation Research, (HFD-40), Room 17B-04, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-3882

RIN: 0910–AA90

1137. LABELING FOR HUMAN PRESCRIPTION DRUGS; REVISED FORMAT

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 356; 21 USC 357; 21 USC 358; 21 USC 360; 21 USC 360b; 21 USC 360gg to 360ss; 21 USC 371; 21 USC 374; 21 USC 379e

CFR Citation: 21 CFR 201

Legal Deadline: None

Abstract: The proposed rule would revise existing regulations governing the format of prescription drug labeling directed toward prescribers and other health care professionals to increase the usefulness of this labeling. The revisions to part 201.57 would reorder the content areas of the labeling; add an introductory section of highlights and an index; and institute an identification system to enhance accessibility to detailed information.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	
NPRM Comment Period End	05/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Nancy Ostrove, Division of Drug Marketing, Advertising and Communications, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-40), 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-2828
Fax: 301 594-6759

RIN: 0910–AA94

1138. ADVERSE DRUG REACTION REPORTING REQUIREMENTS FOR HUMAN DRUG AND BIOLOGICAL PRODUCTS; EXPEDITED REPORTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 216; 21 USC 262; 21 USC 263; 21 USC 263a; 21 USC 264; 21 USC 300aa; 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355 to 357; 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 20; 21 CFR 310; 21 CFR 312; 21 CFR 314; 21 CFR 600

Legal Deadline: None

Abstract: The proposed rule would amend the expedited safety reporting regulations for human drugs and biological products to revise certain definitions and reporting formats as recommended by the International Conference on Harmonization and to define new terms; to add to or revise current reporting requirements; to revise certain reporting time frames; and to make other revisions to these regulations to enhance the quality of adverse drug reaction reports received by FDA.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	
NPRM Comment Period End	05/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Audrey Thomas, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AA97

1139. CURRENT GOOD MANUFACTURING PRACTICE IN MANUFACTURING, PROCESSING, PACKING, OR LABELING OF DRUGS; REVISION OF CERTAIN LABELING CONTROLS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 356; 21 USC 357; 21 USC 360b; 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 210; 21 CFR 211

Legal Deadline: None

Abstract: The final rule amends the labeling control provisions in the current good manufacturing practice regulations to make the provisions less burdensome while still reducing the frequency of drug product mislabeling and associated drug product recalls associated with cut labeling.

Timetable:

Action	Date	FR Cite
NPRM	07/29/97	62 FR 40489
NPRM Comment Period End	10/27/97	
Final Action	06/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas Kuchenberg, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AA96

1140. CHLOROFLUOROCARBON PROPELLANTS IN SELF-PRESSURIZED CONTAINERS; DETERMINATIONS THAT USES ARE NO LONGER ESSENTIAL

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 15 USC 402; 15 USC 409; 21 USC 321; 21 USC 331; 21 USC 335; 21 USC 342; 21 USC 346a; 21 USC 348; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 357; 21 USC 360b; 21 USC 361; 21 USC 371

CFR Citation: 21 CFR 2

Legal Deadline: None

Abstract: The proposed rule presents the policy FDA is proposing to adopt on making and implementing determinations that uses of chlorofluorocarbons (CFCs) currently designated essential will no longer be deemed essential under section 610 of the Clean Air Act due to the availability of safe and effective medical product technology that does not use CFCs.

Timetable:

Action	Date	FR Cite
ANPRM	03/06/97	62 FR 10242
ANPRM Comment Period End	05/05/97	
NPRM	03/00/98	
NPRM Comment Period End	06/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Wayne H. Mitchell, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AA99

1141. RADIOACTIVE DRUGS FOR BASIC RESEARCH

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 371; 42 USC 262

CFR Citation: 21 CFR 361

Legal Deadline: None

Abstract: The proposed rule would update FDA's regulations on the use of radioactive drugs for basic research to reflect technological changes in the field of radiopharmaceuticals. The proposed rule would also clarify and correct certain provisions.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	
NPRM Comment Period End	04/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Brian L. Pendleton, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB00

1142. INVESTIGATIONAL NEW ANIMAL DRUG REGULATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 353; 21 USC 360b; 21 USC 371; 21 USC 381

CFR Citation: 21 CFR 511; 21 CFR 512

Legal Deadline: None

Abstract: FDA is proposing to revise its regulations governing investigational use of new animal drugs by proposing to delete 21 CFR 511 and establish in 21 CFR part 512 revised investigational use new animal drug regulations. The investigational use new animal drug regulations are expected to include regulations to implement provisions of the Animal Drug Availability Act of 1996 specifically presubmission conferences, and implement parts of the President's National Performance Report "Reinventing the Regulation of Animal Drugs," May 1996. In the reinventing regulations report, FDA proposed to revise its regulations to reflect numerous new process changes and programs that will enable a more streamlined animal drug application review and approval process, and which would result in less regulatory burden upon industry and FDA while maintaining safety and effectiveness of new animal drugs.

Timetable:

Action	Date	FR Cite
ANPRM	11/21/96	61 FR 59209
ANPRM Comment Period End	01/21/97	
NPRM	06/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marty Schoenemann, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-120), 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-0220

RIN: 0910–AB02

1143. ESTABLISHMENT REGISTRATION AND LISTING OF HUMAN CELLULAR AND TISSUE-BASED PRODUCTS

Regulatory Plan: This entry is Seq. No. 26 in Part II of this issue of the Federal Register.

RIN: 0910–AB05

1144. • DEFINITION OF SUBSTANTIAL EVIDENCE

Priority: Other Significant

Legal Authority: 21 USC 360(b); PL 104-250

CFR Citation: 21 CFR 514.4

Legal Deadline: NPRM, Statutory, October 9, 1997. Final, Statutory, October 9, 1998.

Abstract: The ADAA requires FDA to issue within 12 months after the date of its enactment proposed regulations to encourage dose range labeling and to further define the term "substantial evidence," as the term is defined in section 512(d)(3) of the Federal Food, Drug, and Cosmetic Act, as amended by the ADAA, in a manner that encourages the submission of applications and supplemental applications.

Timetable:

Action	Date	FR Cite
ANPRM	11/21/96	61 FR 59209
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gail Schmerfeld, Special Assistant, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-100), 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-0205
Fax: 301 594-2297

RIN: 0910–AB08

1145. • VETERINARY FEED DIRECTIVES; DISTRIBUTOR NOTIFICATION

Priority: Other Significant

Legal Authority: PL 104-250

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Animal Drug Availability Act (ADAA) amended the Federal Food, Drug, and Cosmetic Act (the act) to create a new section 504, Veterinary Feed Directive Drugs (VFD Drugs). VFD drugs are animal drugs intended for use in or on animal feed which are limited by an approved application filed pursuant to section 512(b) of the act to use under the professional supervision of a licensed veterinarian in the course of the veterinarian's professional practice. This section requires, among other things, that the labeling, distribution and use of a VFD drug be consistent with its approval; persons involved in the distribution and use of a VFD drug maintain copies of the VFD; and, persons distributing animal feed must provide a one time notice upon first engaging in the distribution of VFD drugs. The proposed rule will provide guidance to the industry about how to comply with section 504 of the act and will serve as a basis for enforcement action.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: George Graber, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-228), 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1733
Fax: 301 594-1512

RIN: 0910–AB09

1146. • USE OF OZONE-DEPLETING SUBSTANCES IN AEROSOL PRODUCTS OR OTHER PRESSURIZED DISPENSERS; DETERMINATIONS THAT USES ARE NO LONGER ESSENTIAL

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 15 USC 402; 15 USC 409; 21 USC 321; 21 USC 331; 21 USC 335; 21 USC 342; 21 USC 348a; 21 USC 348; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 357; 21 USC 360b; 21 USC 361; 21 USC 371

CFR Citation: 21 CFR 2

Legal Deadline: None

Abstract: FDA is proposing to amend its regulations governing use of ozone-depleting substances to provide stricter scrutiny of proposed new essential uses that seek exemption from the general ban on the use of ozone-depleting substances. FDA is also proposing to amend the regulations to better conform to other statutes and regulations relating to ozone-depleting substances to eliminate potential confusion and conflicts. FDA is proposing to eliminate out-of-date transitional provisions and make other nonsubstantive housekeeping changes to its regulations on ozone-depleting substances.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	
NPRM Comment Period End	04/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Wayne H. Mitchell, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 827-5562

RIN: 0910–AB10

1147. • CLARIFICATION OF THE SCOPE OF TREATMENT USES WITH INVESTIGATIONAL NEW DRUGS THAT CAN BE AUTHORIZED UNDER INDS AND THE CRITERIA FOR CHARGING FOR INVESTIGATIONAL NEW DRUGS UNDER INDS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355 to 357; 21 USC 371; 42 USC 262

CFR Citation: 21 CFR 312

Legal Deadline: None

Abstract: The proposed rule would revise 21 CFR part 312 to describe types of treatment uses that can be authorized under INDs in addition to those treatment uses that meet the criteria for a treatment IND under 21 CFR 312.34. The proposed rule would also amend 21 CFR 312.7(d) (charging for and commercialization of investigational drugs) to clarify criteria for charging for investigational drugs in a controlled clinical trial or under a treatment IND, and to set forth criteria for authorizing charging for drugs for treatment use under an established access protocol or a continuation protocol.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	
NPRM Comment Period End	04/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph Griffin, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB11

1148. • NEW DRUGS FOR HUMAN USE; CLARIFICATION OF REQUIREMENTS FOR PATENT HOLDER NOTIFICATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355 to 357; 21 USC 371; 21 USC 374; 21 USC 379e

CFR Citation: 21 CFR 314

Legal Deadline: None

Abstract: This proposed rule would clarify the methods by which application holders may provide notice to patent holders.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	03/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Leanne Cusumano, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB12

1149. • ADMINISTRATIVE PRACTICES AND PROCEDURES; ADVISORY OPINIONS AND GUIDELINES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 15 USC 1451 to 1461; 21 USC 41 to 50; 21 USC 141 to 149; 21 USC 321 to 394; 21 USC 467f; 21 USC 679; 21 USC 821; 21 USC 1034; 42 USC 201; 42 USC 262; 42 USC 263b; 42 USC 264

CFR Citation: 21 CFR 10; 21 CFR 808

Legal Deadline: None

Abstract: This proposed rule would amend FDA regulations in 21 CFR part 10 concerning advisory opinions and guidelines to provide consistency with the agency's Good Guidance Practices and applicable case law.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	
NPRM Comment Period End	05/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrea Masciale, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-5648

RIN: 0910–AB14

1150. • MEDICATED FEED MILL LICENSES

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-250

CFR Citation: 21 CFR 5; 21 CFR 207; 21 CFR 225; 21 CFR 510; 21 CFR 514; 21 CFR 515; 21 CFR 558

Legal Deadline: None

Abstract: The Animal Drug Availability Act of 1996 (ADAA) amends sections 512(a) and 512(m) of the Federal Food, Drug, and Cosmetic Act (the act) to require a single facility license for the manufacture of feeds containing approved new animal drugs, rather than multiple medicated feed applications (MFAs) for each feed mill, as previously required by the act. Prior to the passage of the ADAA, an approved medicated feed application was required by the act for the manufacture of medicated feed. The ADAA eliminates the requirement that a feed mill submit a separate medicated feed application for the manufacture of each type of medicated feed and instead provides for feed mills to be licensed and allows a licensed facility to manufacture any feed containing an approved new animal drug. Additionally, the act as amended by the ADAA provides the agency with the authority to exempt facilities that manufacture certain types of medicated feed from the requirement of a medicated feed mill license.

The Food and Drug Administration published on July 30, 1997, a proposed rule to amend the animal drug regulations and add a new part (21 CFR 515) to provide for feed mill licensing in accordance with the ADAA. The proposed regulation implements the requirements for feed mill licensing set forth in the ADAA. Under this proposal, those medicated feeds exempted from the MFA requirement under 21 CFR 558.4 will also be exempt from the requirement of a medicated feed mill license.

Timetable:

Action	Date	FR Cite
NPRM	07/30/97	62 FR 40765
NPRM Comment Period End	10/28/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William D. Price, Special Assistant, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-200), 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1724

RIN: 0910–AB18

1151. • EXEMPTION FROM PREEMPTION OF STATE AND LOCAL CIGARETTE AND SMOKELESS TOBACCO REQUIREMENTS; APPLICATIONS FOR EXEMPTION SUBMITTED BY VARIOUS STATE GOVERNMENTS; GROUP 1; GROUP 2

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 360k; 21 USC 371

CFR Citation: 21 CFR 808

Legal Deadline: None

Abstract: FDA published a notice of proposed rulemaking on November 7, 1996, announcing that the agency would be accepting applications for exemption from Federal preemption for State and local cigarette and smokeless tobacco requirements. The notice explained that FDA would consider the applications in two groups and set deadlines for submitting applications. Group 1 applications, due December 9, 1996, pertain to State and local requirements governing the sale and distribution of cigarettes and smokeless tobacco that are different from, or in addition to, FDA requirements under section 897.14(a) and section 897.14(b) of the final tobacco rule (the age and identification requirements). Group 2 applications, due May 6, 1997, pertain to State and local requirements governing the sale and distribution of cigarettes and smokeless tobacco that are different from, or in addition to, all other requirements under the final tobacco rule.

Timetable:

Group 1
NPRM 02/19/97 (62 FR 7390)
NPRM Comment Period End 06/23/97
Final Action 12/00/97
Group 2
NPRM 12/00/97
Groups 1 and 2
Notice 11/07/96 (61 FR 57685)

Small Entities Affected: None

Government Levels Affected: State, Local

Additional Information: Formerly listed under RIN 0910-AB03.

Agency Contact: Anne M. Kirchner, Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Office of Policy (HFD-11), 5600 Fishers Lane, Room 14-72, Rockville, MD 20857
Phone: 301 827-5321
Fax: 301 443-5169

RIN: 0910–AB19

1152. • REGULATIONS REQUIRING MANUFACTURERS TO ASSESS THE SAFETY AND EFFECTIVENESS OF NEW DRUGS AND BIOLOGICAL PRODUCTS IN PEDIATRIC PATIENTS

Regulatory Plan: This entry is Seq. No. 27 in Part II of this issue of the Federal Register.

RIN: 0910–AB20

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Food and Drug Administration (FDA)

Final Rule Stage

1153. NEW ANIMAL DRUG APPROVAL PROCESS; IMPLEMENTATION OF TITLE I OF THE GENERIC ANIMAL DRUG AND PATENT TERM RESTORATION ACT (GADPTRA)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 360b; 21 USC 371; 21 USC 379e; 21 USC 381

CFR Citation: 21 CFR 514

Legal Deadline: Final, Statutory, November 16, 1989.
The deadline applies to the GADPTRA sections. There is no deadline relating to the other sections.

Abstract: On December 17, 1991, the Agency published a proposed revision of the existing regulations that is consistent with the current procedural regulations for human drugs where appropriate. The New Animal Drug Application (NADA) revisions articulate general requirements in regulations containing performance standards and would complement them through detailed guidelines on, among other matters, appropriate ways of meeting requirements for submission of chemistry, pharmacology, and statistical data that would better address the intricate scientific issues involved. A separate proposed rule for reporting requirements for marketed animal drugs also was published on that date. The agency intends to repropose the NADA proposed rule to incorporate some recent changes in procedure. The NADA revisions are expected to include regulations to implement the provisions of the Animal Drug Availability Act of 1996, specifically the definitions of substantial evidence and flexible labeling, and implement parts of the President's National Performance Report "Reinventing the Regulation of Animal Drugs," May 1996. In the reinventing regulations report, FDA proposed to revise its regulations to reflect numerous new process changes and programs that will maintain safety and effectiveness of new animal drugs and enable a more streamlined animal drug application review and approval process which will result in less regulatory burden upon industry and FDA. The Agency also proposes to amend its regulations to implement title I of the Generic Animal Drug and Patent Term Restoration Act, which established new standards for marketing approval of generic copies of animal drugs approved after 1962.

Timetable:

Action	Date	FR Cite
ANPRM	11/21/96	61 FR 59209
ANPRM Comment Period End	01/21/97	
New Animal Drug Approval Process		
NPRM 12/17/91 (56 FR 65544)		
NPRM 12/00/98		
Reporting Requirements for Marketed Animal Drugs		
NPRM 12/17/91 (56 FR 65581)		
Final Action 11/00/97		

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AA96.

For information concerning reporting requirements for marketed animal drugs, contact William C. Keller, Director, Division of Surveillance, Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Place, Rockville, MD 20855, (301) 594-1722. For further information concerning generic animal drugs, contact Lonnie W. Luther, Chief, Generic Animal Drug and Quality Control Staff, Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Place, Rockville, MD 20855, (301) 594-1623.

Agency Contact: Margaret Miller, Deputy Director, Office of New Animal Drug Evaluation, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-100), 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1620

RIN: 0910–AA02

1154. PRESCRIPTION DRUG MARKETING ACT OF 1987; POLICY INFORMATION, GUIDANCE, AND CLARIFICATIONS

Priority: Other Significant

Legal Authority: PL 100-293 Prescription Drug Marketing Act of 1987

CFR Citation: 21 CFR 203

Legal Deadline: None

Abstract: The Prescription Drug Marketing Act of 1987 (PDMA) amended the Federal Food, Drug, and Cosmetic Act to: (1) require State licensing of wholesale distributors of prescription human drugs under Federal guidelines including minimum standards for storage, handling, and recordkeeping; (2) ban the reimportation of prescription human drugs produced in the United States, except when reimported by the manufacturer or for emergency use; (3) ban the sale, trade, or purchase of drug samples; (4) ban trafficking in or counterfeiting of drug coupons; (5) mandate storage, handling, and recordkeeping requirements for drug samples; (6) require licensed practitioners to request drug samples in writing; (7) prohibit, with certain exceptions, the resale of prescription human drugs purchased by hospitals or health care facilities; and (8) set forth criminal and civil penalties for violations of these provisions. In the Federal Register of September 14, 1990 (55 FR 38012), FDA issued a final rule setting forth Federal guidelines for State licensing of wholesale drug distributors. This final rule would provide information, guidance, and clarification of those sections of PDMA that are not related to State licensing of wholesale distributors.

Timetable:

Action	Date	FR Cite
NPRM	03/14/94	59 FR 11842
NPRM Comment Period End	08/01/94	
Final Action	01/00/98	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Federal

Additional Information: Previously reported under RIN 0905-AD44.

Agency Contact: Lee D. Korb, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
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RIN: 0910–AA08

HHS—FDA

Final Rule Stage

1155. MAMMOGRAPHY QUALITY STANDARDS ACT OF 1992

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: PL 102-539 Mammography Quality Standards Act of 1992; 42 USC 263b

CFR Citation: 21 CFR 900

Legal Deadline: Final, Statutory, July 27, 1993.
Standards for accreditation bodies are required by July 27, 1993.

Abstract: The purpose of the Mammography Quality Standards Act of 1992 (MQSA), enacted October 27, 1992, is to assure quality in all aspects of the practice of mammography. The primary mechanisms for this is oversight of all mammography facilities through a certification, accreditation, and inspection programs. Only facilities certified by the Secretary are permitted to produce, process, or interpret mammographic images. One of the requirements for certification is accreditation by an approved accreditation body. The statute also required the establishment of an advisory committee to advise on appropriate quality standards and also provided for the establishment of surveillance systems to evaluate breast cancer screening programs.

The agency published interim regulations on December 21, 1993, which were drafted and implemented so as to maximize lawful operation by facilities under existing quality standards, and to ensure adequate examinee access to quality mammography during the transition to more comprehensive national standards.

Concurrent with the implementation of the interim rules, FDA proceeded with the development of proposed regulations to replace the interim rules. The agency recently issued proposed rules, with the advice and consultation of the National Mammography Quality Assurance Advisory Committee, on requirements for accreditation bodies, equipment and quality assurance requirements, facility requirements, and personnel requirements.

Timetable:

Action	Date	FR Cite
Alternative Approaches		
NPRM 04/03/96 (61 FR 14856)		
Final Action 10/00/97		
Approval of Accrediting Bodies		
Interim Final Rule 12/21/93 (58 FR 67558)		
Draft Proposed Quality Standards		
Notice of Availability 01/26/95 (60 FR 5152)		
Draft X-Ray and Medical Physicist Standards Proposals		
Notice of Availability; 12/30/94 (59 FR 67710)		
General Facility Requirements		
NPRM 04/03/96 (61 FR 14870)		
Final Action 10/00/97		
Mammography Quality Standards Act of 1992; Inspection Fees		
Notice 03/17/95 (60 FR 14584)		
Personnel Requirements		
NPRM 04/03/96 (61 FR 14898)		
Final Action 10/00/97		
Quality Standards for Mammography Equipment and QA		
NPRM 04/03/96 (61 FR 14908)		
Final Action 10/00/97		
Quality Standards for Mammography Facilities		
Interim Final Rule 12/21/93 (58 FR 67565)		
Quality Standards/Certification Rqmts.		
Interim Final Rule 09/30/94 (59 FR 49808)		
Requirements for Accreditation Bodies and Quality Standards		
Notice (Advisory Committee) 12/21/94 (59 FR 65776)		
NPRM 04/03/96 (61 FR 14884)		
Final Action 10/00/97		

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: Previously reported under RIN 0905-AE07.

Agency Contact: Ruth Fischer, Office of Health and Industry Programs, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health (HFZ-240), 1350 Piccard Drive, Rockville, MD 20850
Phone: 301 594-3311

RIN: 0910–AA24

1156. TAMPER-EVIDENT PACKAGING REQUIREMENTS FOR OVER-THE-COUNTER HUMAN DRUG PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 371

CFR Citation: 21 CFR 211

Legal Deadline: None

Abstract: FDA has required tamper-resistant packaging features for OTC drug products since 1982. The tamper-resistant packaging regulations were revised in 1989 in response to continuing tampering incidents. Despite the regulatory protection provided by the regulations, two-piece, hard gelatin capsules remain vulnerable to malicious tampering and were implicated in tampering incidents in 1991. This action is in response to the 1991 tampering incidents and requires use of the term "tamper-evident" instead of "tamper-resistant", and that all OTC human drug products marketed in two-piece, hard gelatin capsules be sealed.

Timetable:

Action	Date	FR Cite
NPRM	01/18/94	59 FR 2542
NPRM Comment Period End	03/21/94	
Final Action	12/00/97	
Final Action Effective	12/00/98	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: Previously reported under RIN 0905-AE27.

Agency Contact: Thomas Kuchenberg, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
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RIN: 0910–AA26

1157. FINANCIAL DISCLOSURE BY CLINICAL INVESTIGATORS

Priority: Other Significant

Legal Authority: 42 USC 262; 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 356; 21 USC 357; 21 USC 360; 21 USC 371; 21 USC 372; 21 USC 373; 21 USC 374; 21 USC 375; ...

CFR Citation: 21 CFR 54; 21 CFR 312.53; 21 CFR 312.57; 21 CFR 312.64; 21 CFR 314.50; 21 CFR 314.60; 21 CFR 314.94; 21 CFR 314.200; 21 CFR 314.300; 21 CFR 320.36; 21 CFR 330.10; 21 CFR 601.2; 21 CFR 807.31; 21 CFR 807.87; 21 CFR 807.100; ...

Legal Deadline: None

Abstract: This final regulation would address the problem of certain financial arrangements and interests of clinical

investigators that have the potential to bias the outcome of clinical trials. The problem is significant because clinical research data provide the basis for FDA's evaluation of drugs, biologics and devices for marketing. The regulation would require the sponsor of a product that is the subject of a marketing application to submit either a statement certifying that a clinical investigator who participates in a covered study is not a party to any certain financial interests and arrangements that could potentially bias the outcome of the study, or disclose such interests and arrangements if they exist. This information will enable FDA to subject clinical research data to an appropriate level of scrutiny and help assure its reliability. Alternatives to the regulation would be to prohibit investigators from holding certain financial interests altogether or to require divestiture by the investigator of a prohibited interest. The estimated costs to industry associated with preparation, submission, and retention of the information required by this final rule are well below the $100 million threshold that defines a significant regulatory action. The final rule is not expected to impose a significant resource burden on FDA because the submission of statements is limited to clinical data submitted in support of marketing applications, ruling out data from the large number of studies that do not lead to applications, and FDA estimates that sponsors will be able to certify for the majority of their clinical investigators, so that most submitted data will not require intensified scrutiny. The final rule will strengthen the FDA review process.

Timetable:

Action	Date	FR Cite
NPRM	09/22/94	59 FR 47807
NPRM Comment Period End	12/21/94	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE32.

Agency Contact: Mary Gross, Department of Health and Human Services, Food and Drug Administration, Office of External Affairs (HF-24) 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-3440
Fax: 301 594-0113

RIN: 0910–AA30

1158. PRESCRIPTION DRUG PRODUCT LABELING; MEDICATION GUIDE

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 352; 21 USC 371; 21 USC 355; 42 USC 262

CFR Citation: 21 CFR 201; 21 CFR 208; 21 CFR 314; 21 CFR 600

Legal Deadline: None

Abstract: In August, 1995 the Food and Drug Administration (FDA) published a proposed rule that specified standards for the distribution and quality of useful prescription medication information, designed for patients, that voluntary, private-sector efforts should supply to patients receiving new prescriptions. On August 6, 1996, section 601 of the Agriculture Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1997 was enacted which places the proposed rule as it relates to a voluntary program in abeyance. The legislation did not address the provisions that would have required mandatory Medication Guides in relatively rare instances where a product poses a serious and significant public health concern requiring immediate distribution of FDA-approved patient information. FDA is currently considering its options concerning whether and how to finalize the requirement for mandatory Medication Guides for these products.

Timetable:

Action	Date	FR Cite
NPRM	09/24/95	60 FR 44182
Final Action	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: Previously reported under RIN 0905-AE43.

Agency Contact: Louis A. Morris, Chief, Marketing Practices & Communication Branch, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-240), 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 594-6828

RIN: 0910–AA37

1159. CURRENT GOOD MANUFACTURING PRACTICE IN MANUFACTURING, PROCESSING, PACKING, OR HOLDING OF DRUGS; PROPOSED AMENDMENT OF CERTAIN REQUIREMENTS FOR FINISHED PHARMACEUTICALS

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 351 to 352; 21 USC 355 to 357; 21 USC 360b; 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 210.3; 21 CFR 211.22; 21 CFR 211.68; 21 CFR 211.82; 21 CFR 211.84; 21 CFR 211.101; 21 CFR 211.103; 21 CFR 211.110; 21 CFR 211.111; 21 CFR 211.113; 21 CFR 211.115; 21 CFR 211.160; 21 CFR 211.166; 21 CFR 211.192; 21 CFR 211.220; ...

Legal Deadline: None

Abstract: FDA is finalizing revisions to the current good manufacturing practice (CGMP) regulations at 21 CFR parts 210 and 211 regarding finished pharmaceuticals. The new regulations codify current agency policies or current industry practices. Among other things, the rule will create or clarify requirements for process and methods validation, appropriate laboratory testing procedures, and protection against contamination. The rule is designed to update the CGMP regulations in response to technological changes and the agency's experience with the regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/03/96	61 FR 20104
NPRM Comment Period End	09/30/96	
Final Action	03/00/98	
Final Action Effective	06/00/98	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: Previously reported under RIN 0905-AE83.

Agency Contact: Thomas Kuchenberg, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
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RIN: 0910–AA45

1160. NEW DRUG APPLICATIONS; DRUG MASTER FILE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355 to 357; 21 USC 371; 21 USC 374; 21 USC 379

CFR Citation: 21 CFR 314

Legal Deadline: None

Abstract: The final rule eliminates Type I Drug Master Files, which contain information about manufacturing sites, facilities, operating procedures, and personnel, because these files contain outdated information, duplicate information contained in marketing applications, and are not used by application review divisions or field inspectors.

Timetable:

Action	Date	FR Cite
NPRM	07/03/95	60 FR 34486
NPRM Comment Period End	10/02/95	
Final Action	12/00/97	
Final Action Effective	06/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Kuchenburg, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
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RIN: 0910–AA78

1161. OVER-THE-COUNTER HUMAN DRUGS; LABELING REQUIREMENTS

Regulatory Plan: This entry is Seq. No. 28 in Part II of this issue of the **Federal Register**.

RIN: 0910–AA79

1162. INVESTIGATIONAL NEW DRUG APPLICATIONS AND NEW DRUG APPLICATIONS

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355 to 357; 21 USC 371; 21 USC 374; 21 USC 379; 42 USC 262

CFR Citation: 21 CFR 312; 21 CFR 314

Legal Deadline: None

Abstract: The final rule will define in the NDA format and content requirements the need to present effectiveness and safety data for important demographic subgroups, specifically gender, age, and racial subgroups, and will require IND sponsors to tabulate in their annual reports the number of subjects in a clinical study according to age group, gender, and race.

Timetable:

Action	Date	FR Cite
NPRM	09/08/95	60 FR 46794
NPRM Comment Period End	12/07/95	
Final Action	12/00/97	
Final Action Effective	06/00/98	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Nancy E. Derr, Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, (HFD-5), 1451 Rockville Pike, Suite 6027, Rockville, MD 20852
Phone: 301 594-5400
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RIN: 0910–AA82

1163. POSTMARKETING PERIODIC ADVERSE EXPERIENCE REPORTING REQUIREMENTS FOR HUMAN DRUG AND LICENSED BIOLOGICAL PRODUCTS

Priority: Other Significant

Legal Authority: 21 USC 216; 21 USC 262; 21 USC 263; 21 USC 264; 21 USC 300; 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 356; 21 USC 357; 21 USC 371; 21 USC 374; ...

CFR Citation: 21 CFR 314; 21 CFR 600

Legal Deadline: None

Abstract: The final rule will amend the periodic adverse experience reporting requirements to provide new definitions and to revise reporting periods and formats as recommended by the International Conference on Harmonization of Technical Requirements for Registration of Pharmaceuticals for Human Use and the World Health Organization's Council for International Organizations of Medical Sciences.

Timetable:

Action	Date	FR Cite
NPRM	10/27/94	59 FR 54046
Final Action	02/00/98	
Final Action Effective	08/00/98	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Audrey Thomas, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
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RIN: 0910–AA85

1164. NEW DRUGS FOR HUMAN USE; CLARIFICATION OF REQUIREMENTS FOR APPLICATION SUPPLEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355 to 357; 21 USC 371; 21 USC 374; 21 USC 379

CFR Citation: 21 CFR 314

Legal Deadline: None

Abstract: The final rule will clarify the scope of certain reporting obligations imposed on holders of approved applications permitting an applicant to make certain changes in an approved application without submitting a supplemental application if the changes are made to comply with an official compendium and are described in the annual report.

Timetable:

Action	Date	FR Cite
NPRM	08/04/86	51 FR 20310
Final Action	01/00/98	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Leanne Cusumano, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852

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RIN: 0910–AA87

1165. DEFINITION OF ADEQUATE AND WELL - CONTROLLED STUDIES

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-250

CFR Citation: 21 CFR 514.117

Legal Deadline: NPRM, Statutory, April 9, 1997.

Abstract: FDA, as directed by the Animal Drug Availability Act of 1996, is publishing a proposed regulation to further define the term "adequate and well-controlled" to require that field investigations be designed and conducted in a scientifically sound manner and generate data that are reliable and sufficiently controlled to permit evaluation by FDA.

Timetable:

Action	Date	FR Cite
ANPRM	11/21/96	61 FR 59209
ANPRM Comment Period End	01/21/97	
NPRM	05/08/97	62 FR 25153
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Marty Schoenemann, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-120), 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-0220

RIN: 0910–AB01

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Food and Drug Administration (FDA)

1166. INFANT FORMULA: GOOD MANUFACTURING PRACTICE, QUALITY CONTROL PROCEDURES, QUALITY FACTORS, NOTIFICATION REQUIREMENTS, AND RECORDS AND REPORTS

Priority: Other Significant

Legal Authority: 21 USC 350a

CFR Citation: 21 CFR 107; 21 CFR 106

Legal Deadline: None

Abstract: The agency published a proposed rule on July 9, 1996, that will establish current good manufacturing practice regulations, quality control procedures, quality factors, notification requirements, and reports for the production of infant formulas. This proposal was issued in response to the Infant Formula Act of 1986.

Timetable:

Current Good Mfg. Practices; Qual Control Proc
NPRM 07/09/96 (61 FR 36154)
NPRM Comment Period End 12/06/96
Final Rule 00/00/00

Infant Form Cons Comp, Micro Test & Recd Retention Req
NPRM 01/26/89 (54 FR 3783)
NPRM Comment Period End 03/27/89
Final Rule 12/24/91 (56 FR 66566)

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AC46.

Agency Contact: Carolyn W. Miles, Nutritionist, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-456), 200 C Street SW., Washington, DC 20204
Phone: 202 401-9858

RIN: 0910–AA04

1167. FEES FOR CERTIFICATION SERVICES; INSULIN AND COLOR ADDITIVE CERTIFICATION PROGRAMS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 356; 21 USC 371; 21 USC 379e(e)

CFR Citation: 21 CFR 80; 21 CFR 429

Legal Deadline: None

Abstract: Insulin Certification Program:

In the Federal Register of October 4, 1991 (56 FR 50248), FDA issued an interim rule effective on November 4, 1991, with opportunity for public comment, revising the fee schedule for insulin certification services. In the Federal Register of November 9, 1995 (60 FR 56515), FDA issued an interim final rule, which was effective December 11, 1995. This interim final rule decreased the fees charged for insulin certification services due to lower program and administrative costs. The public had the opportunity to submit written comments to FDA by February 7, 1996.

Color Certification Program:

In the Federal Register of November 29, 1994, FDA issued an interim rule effective December 29, 1994, which amended the color additive regulations by increasing the fees for certification services. In the Federal Register of February 1, 1996 (61 FR 3571), FDA issued a final rule, effective March 4, 1996, which incorporated comments FDA received from the International Association of Color Manufacturers (IACM) on the interim rule. FDA received an objection from IACM to an annual escalator provision which would have allowed FDA to increase the fees for color certification services by a rate proportional with Federal salary increases. After considering the objection, FDA decided not to implement this provision. The FDA's Office of Financial Management completed a fee study of the color certification program in May 1997 which supports the maintenance of the existing fee schedule.

Timetable:

Color Additives
Interim Final Rule 11/29/94 (59 FR 60896)
Final Action 02/01/96 (61 FR 3571)

Insulin
Interim Final Rule 10/04/91 (56 FR 50248)
Interim Final Rule 11/09/95 (60 FR 56515)
Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AD34 and RIN 0910-AA27.

Agency Contact: David R. Petak, Director, Division of Accounting, Department of Health and Human Services, Food and Drug Administration, Office of Financial Management (HFA-120), 5600 Fishers Lane, Rockville, MD 20857

Phone: 301 827-5004
Fax: 301 443-6242
RIN: 0910–AA07

1168. IMPLEMENTATION OF THE SAFE MEDICAL DEVICES ACT OF 1990

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 101-629 Safe Medical Devices Act of 1990

CFR Citation: 21 CFR 860; 21 CFR 820; 21 CFR 807; 21 CFR 803; 21 CFR 17; 21 CFR 812; 21 CFR 7; 21 CFR 814; 21 CFR 821; 21 CFR 861; 21 CFR 895

Legal Deadline:
NPRM, Statutory, August 28, 1991, for Medical Device Tracking.
Final, Statutory, November 28, 1991, for Exemption of Humanitarian Devices, etc.
Other, Statutory, December 1, 1991, for Classification of Transitional Devices Notice.
Final, Statutory, August 28, 1993, for Medical Device Tracking.

Abstract: The Safe Medical Devices Act of 1990 (SMDA), enacted November 28, 1990, was intended to assure that marketed devices are safe and effective, that FDA learns quickly of device problems, and that FDA has authority to remove defective devices from the market. The act directs or authorizes FDA to develop these regulations: Medical Device Reporting--These rules require healthcare facilities and distributors to report deaths and serious injuries/illnesses related to medical devices. Medical Device Tracking--This regulation requires manufacturers to track certain devices to the user. Classification of Transitional Devices--. FDA issued a notice to require submission of adverse safety and effectiveness data on transitional devices. FDA will now propose to keep each transitional device in class III, or reclassify it in class I or II. Good Manufacturing Practices for Medical Devices--FDA has added preproduction design validation to the CGMP regulations. Exemption of Humanitarian Devices--The final rule establishes procedures for applications for certain premarket review exemptions for humanitarian devices. Summaries of Safety and Effectiveness for Premarket Notification--The final rule sets forth information to be included in summaries of substantial equivalence determinations. Recall of Medical Devices--A final rule sets forth procedures for using authority to order device recalls and notifications. Reports of Removal and Corrections--FDA finalized procedures for manufacturers to report to FDA health-related market removals and corrections of devices. Civil Money Penalties--A final rule established procedures for a hearing to which persons are entitled before the imposition of civil money penalties. Procedural Changes in Medical Device Regulations--This final rule revised existing regulations to conform with procedural changes mandated by the SMDA. Premarket Review of Combination Products--FDA published a final rule establishing procedures for determining which FDA center will review premarket approval applications for products that are a combination of a device and a drug or biologic.

Timetable:

Assignment of Agency Component for Review of Premarket Applctns
Notice (Public Hearing) 07/12/91 (56 FR 31951)
Final Action 11/21/91 (56 FR 31951)

Civil Money Penalties
NPRM 05/26/93 (58 FR 30680)
Final Action 07/27/95 (60 FR 38612)

Classification of Transitional Devices
Notice 11/14/91 (56 FR 57980)
Notice(Extension of Comment Period) 03/10/92 (57 FR 8462)
Notice (Extension of Deadline) 11/30/92 (57 FR 56586)
Final Rule (Contact Lenses) 03/04/94 (59 FR 10263)

CGMPs for Medical Devices
ANPRM (Revisions;Request for Cmnts) 06/15/90 (55 FR 24544)
ANPRM (Suggested Changes;Availblty) 11/30/90 (55 FR 49644)
ANPRM (Extension of Comment Period) 02/14/91 (56 FR 5985)
Notice (Open Public Advsy Cmte Mtg) 04/17/91 (56 FR 15626)
NPRM 11/23/93 (58 FR 61952)
NPRM 07/24/95 (60 FR 37856)
Final Action 10/07/96 (61 FR 52602)
Final Action Effective Date 06/01/97

Distributor Reporting
NPRM 00/00/00

Exemption of Humanitarian Devices
NPRM 12/21/92 (57 FR 60491)
Final Action 08/26/96 (61 FR 33232)
Stay of Effective Date 10/29/96 (61 FR 55741)

Medical Device Recall Authority
NPRM 06/14/94 (59 FR 30656)
NPRM (Correction) 08/23/94 (59 FR 32489)
Final Action 11/20/96 (61 FR 59004)

Medical Device Reporting
Notice (Public Conf; Rqst for Info) 03/28/91 (56 FR 12934)
NPRM 11/26/91 (56 FR 60024)
Final Rule (Distributor Reporting) 09/01/93 (58 FR 46514)
Final Action 12/11/95 (60 FR 63578)
Final Action(Ext.Eff.Date-7/31/96) 04/11/96 (61 FR 16043)

Medical Device Tracking
NPRM 03/27/92 (57 FR 10702)
NPRM 05/29/92 (57 FR 22971)
Final Action 05/29/92 (57 FR 22966)
Final Action-Not Stat Eff Date 08/16/93 (58 FR 43442)

Miscellaneous Procedural Changes in Medical Device Regulations
Final Action 12/10/92 (57 FR 58400)

Pre-Amendment Class III Devices (merged with 0905-AE34)
Notice 05/08/94 (59 FR 23731)

Reports of Removals and Corrections of Medical Devices
NPRM 06/04/94 (59 FR 13828)
Final Action 05/19/97 (62 FR 27183)

Safe Medical Devices Act of 1990; Implementation Plans
Notice 04/05/91 (56 FR 14111)

Summaries of Safety & Effectiveness for Premarket Notification
Final Action 04/28/92 (57 FR 18082)
Notice (Stay of Effective Date) 08/01/92 (57 FR 23059)
Final Action 12/14/94 (59 FR 64287)

Temporary Suspension of a Premarket Approval Application
NPRM 10/12/93 (58 FR 52729)
Final Action 04/05/96 (61 FR 15180)

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Additional Information: Previously reported under RIN 0905-AD59.

Agency Contact: Joseph M. Sheehan, Chief, Regulations Staff, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health (HFZ-215), 1350 Piccard Drive, Rockville, MD 20850
Phone: 301 594-4765

RIN: 0910–AA09

1169. FOOD LABELING REVIEW

Priority: Routine and Frequent

Legal Authority: 15 USC 1453; 15 USC 1454; 15 USC 1455; 21 USC 321; 21 USC 331; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 371

CFR Citation: 21 CFR 100; 21 CFR 101; 21 CFR 102; 21 CFR 161

Legal Deadline: None

Abstract: The Nutrition Labeling and Education Act of 1990 (NLEA) requires that most foods bear nutrition labeling. The agency issued final rules implementing most of the provisions contained in the NLEA on January 6, 1993. Subsequently, however, the agency has identified additional areas that should be the subject of rulemaking. FDA issued a proposal on January 6, 1993, to establish requirements for the identification of certain ingredients on food labels. FDA proposed on June 15, 1993, to amend its January 6, 1993, final rules on nutrient content and health claims to remove the provisions that exempted restaurant menus from the requirements for how nutrient content claims and health claims are to be made. The agency proposed January 4, 1994, to establish reference daily intakes based on the 9th and 10th editions of the National Research Council's Recommended Dietary Allowances. On March 14, 1994, FDA published a proposal describing the provisions for exemptions for low-volume food products of small businesses that were established by the Nutrition Labeling and Education Act Amendments of 1993. On August 16, 1993, FDA published a proposal concerning the placement of the nutrition facts panel on food labels. Finally, on July 18, 1994, FDA published proposed revised guidelines for the voluntary declaration of nutrition labeling for raw produce and fish. A final rule concerning the placement of the nutrition facts panel was published on April 5, 1995. A final rule establishing reference daily intakes based on the 9th and 10th editions of Recommended Dietary Allowances was published on December 28, 1995.

FDA published a final rule on August 2, 1996, on nutrient content claims and health claims to remove the provisions that exempted restaurant menus from the requirements for how nutrient content claims and health claims are to be made. FDA published a final rule on August 7, 1996, describing provisions for an exemption for small businesses from the requirements for nutrition labeling and providing instructions on how to file a notice claiming the exemption. FDA published on August 16, 1996, final guidelines in the voluntary declaration of nutrition labeling for raw produce and fish.

Timetable:

Action	Date	FR Cite
Amend Standard of Identity for Grain Products (Folic Acid)		
NPRM	10/14/93	58 FR 53305
Final Action	03/05/96	61 FR 8781
Health Claims and Label Statements		
NPRM Folic Acid and Neural Tube Def	10/14/93	58 FR 53254
Final Action	03/05/96	61 FR 8752
Misleading Containers; Nonfunctional Slack Fill		
NPRM	01/06/93	58 FR 2957
Final Action	12/06/93	58 FR 64123
Nutrient Content Claims and Health Claims; Restaurant Foods		
NPRM	06/15/93	58 FR 33055
Final Action	08/02/96	61 FR 40320
Nutrient Content, Definition of the Term, Healthy		
NPRM	01/06/93	58 FR 2944
Final Action	05/10/94	59 FR 24232
Placement of Nutrition Facts Panel		
NPRM	08/18/93	58 FR 44091
Final Action	04/05/95	60 FR 17202
Final Action Effective	05/05/95	
Final Action Correction	08/12/95	60 FR 30788
Protein Hydrolysates; Broth in Tuna; and/or Labeling		
NPRM (Declaration of Ingredients)	01/06/93	58 FR 2950
Final Action (Dec. of Ingredients)	00/00/00	
Reference Daily Intakes		
NPRM	01/04/94	59 FR 427
Final Action	12/28/95	60 FR 67164
Small Business Exemption, Nutrition Labeling		
NPRM	03/14/94	59 FR 11872
Final Action	08/07/96	61 FR 40963
Voluntary Guidelines for Nutrition Labeling Produce		
NPRM	07/18/94	59 FR 36379
Final Action	08/16/96	61 FR 42742

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: Previously reported under RIN 0905-AD89.

Agency Contact: Elizabeth J. Campbell, Director, Office of Food Labeling, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-150), 200 C Street SW., Washington, DC 20204
Phone: 202 205-4561
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RIN: 0910–AA19

1170. MEDICAL FOODS

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 341; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 350; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 360ee; 21 USC 371

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Food and Drug Administration is considering development of regulations for medical foods, as defined by the Orphan Drug Act Amendments of 1988 (21 USC 360ee(b)(3)) to assure, among other things, the safety and effectiveness of these products, proper labeling of the nutrient content and purported uses, including adequate and appropriate directions for use, and quality control and good manufacturing practices.

Timetable:

Action	Date	FR Cite
ANPRM	11/29/96	61 FR 60661
ANPRM Comment Period End	04/28/97	
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: Previously reported under RIN 0905-AD91.

Agency Contact: Robert Moore, Senior Regulatory Scientist, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-456), 200 C Street SW., Washington, DC 20204
Phone: 202 205-4605
Fax: 202 260-8957

RIN: 0910–AA20

1171. AMALGAM INGREDIENT LABELING

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 352

CFR Citation: 21 CFR 801

Legal Deadline: None

Abstract: Certain dental amalgams may contain ingredients which may cause some persons severe adverse reactions. Therefore, FDA would propose that labeling for dental amalgams must include the ingredients so that health professionals may choose the appropriate dental material for the patient.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE39.

Agency Contact: Joseph M. Sheehan, Chief, Regulations Staff, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health (HFZ-215), 1350 Piccard Drive, Rockville, MD 20850
Phone: 301 594-4765

RIN: 0910–AA33

1172. CLASSIFICATION OF COMPUTER SOFTWARE PROGRAMS THAT ARE MEDICAL DEVICES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321(h); 21 USC 351; 21 USC 352; 21 USC 360; 21 USC 360c to 360l; 21 USC 371 to 374

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: FDA is considering whether to classify stand-alone computer software products that fit the definition of a medical device under the Federal Food, Drug, and Cosmetic Act. Although the Secretary has not made a final decision to initiate such a program, the Agency is considering classifying these devices by using a risk-based approach as required under the Medical Device Amendments to the act. In addition, the agency would use existing exemptions from regulation where appropriate. Under this approach, low risk medical software devices would be subject only to the adulteration and misbranding provisions of the act. Moderate risk devices would additionally be subject to the registration, listing, good manufacturing practice requirements, and reporting and recordkeeping requirements. High risk devices would be the only products to require premarket submissions. FDA is also seeking comment on potential criteria related to the intended uses of medical software devices that might be used in determining the level of risk.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE58.

Agency Contact: Chuck Furfine, Regulatory Review Scientist/Software Expert, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health (HFZ-84), 2098 Gaither Road, Rockville, MD 20850
Phone: 301 594-4765

RIN: 0910–AA41

1173. HABIT-FORMING DRUGS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 371

CFR Citation: 21 CFR 329

Legal Deadline: None

Abstract: The proposed rule would revise and clarify the regulations under part 329 to be consistent with the Drug Enforcement Administration regulations and the Controlled Substances Act.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Wayne H. Mitchell, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
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RIN: 0910–AA50

1174. REVOCATION OF CERTAIN REGULATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 21 USC 321 to 394; 21 USC 41 to 50; 21 USC 141 to 149; 21 USC 467F; 21 USC 679; 21 USC 821; 21 USC 1034; 42 USC 202; 42 USC 262; 42 USC 263B; 42 USC 264; 15 USC 1451 to 1461; 5 USC 551 to 558; 5 USC 701 to 721; 28 USC 2112; ...

CFR Citation: 21 CFR 100 to 101; 21 CFR 103 to 105; 21 CFR 109; 21 CFR 137; 21 CFR 161; 21 CFR 163; 21 CFR 182; 21 CFR 186; 21 CFR 197; 21 CFR 505; 21 CFR 507 to 508; 21 CFR 601; 21 CFR 620; 21 CFR 630; 21 CFR 640 to 660; ...

Legal Deadline: None

Abstract: The Food and Drug Administration (FDA) is proposing to revoke certain regulations that either do not achieve public health goals or do not need to be codified as regulations to do so. These regulations include regulations that are actually statements of policy or guidance, that are duplicative, that are obsolete, or that have been made inaccurate by changes in legislation and technology.

FDA is taking this action in response to President Clinton's directive of March 4, 1995, to all Federal agencies to conduct a page-by-page review of their regulations and to eliminate or revise those that are outdated or otherwise in need of reform. As a result of its regulations review, FDA is proposing to eliminate 36 percent of its regulations that it has determined are obsolete or no longer necessary to achieve public health goals (735 pages of which will first require Congressional action). In addition, FDA plans to revise or modify an additional 45 percent of its remaining regulations to ease the burden on regulated industry and the consumer without sacrificing public health protection. For those regulations requiring Congressional permission to eliminate or reform, the Administration is seeking legislation. This proposal contains deletions that can be accomplished administratively. Examples include regulations that refer to substances no longer used in product formulations or to products that are no longer marketed; and regulations that codify product standards that can be more flexibly handled and updated within the context of the review process. FDA is providing a 90-day period for public comment on these proposed deletions.

Timetable:

Action	Date	FR Cite
NPRM	10/13/95	60 FR 53480

Action	Date	FR Cite
NPRM Comment Period End	01/11/96	
Final Action	00/00/00	

Revocation of Certain Regulations; General
NPRM 01/25/96 (61 FR 2192)
Final Action 07/23/97 (62 FR 39439)
Revocation of Obsolete Animal Food and Drug Regulations
Final Action 07/19/96 (61 FR 37680)
Revocation of Obsolete Biological Regulations
Final Action 08/01/96 (61 FR 40153)
Revocation of Obsolete Drug Regulations
Final Action 06/11/96 (61 FR 29476)
Revocation of Obsolete Food Regulations
Final Action 06/03/96 (61 FR 27771)
Revocation of Obsolete Medical Device Regulations
Final Action 07/19/96 (61 FR 37682)

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Lisa M. Helmanis, Office of Policy (HF-26), Department of Health and Human Services, Food and Drug Administration, 5600 Fishers Lane Rockville, MD 20857
Phone: 301 443-3480
Fax: 301 443-2946

RIN: 0910–AA54

1175. REINVENTING FDA FOOD REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 1453; 15 USC 1454; 15 USC 1455; 21 USC 321 *et seq*

CFR Citation: 21 CFR 101; 21 CFR 102; 21 CFR 103; 21 CFR 131; 21 CFR 133; 21 CFR 135; 21 CFR 136; 21 CFR 137; 21 CFR 139; 21 CER 145; 21 CFR 146; 21 CFR 150; 21 CFR 152; 21 CFR 155; 21 CFR 156; ...

Legal Deadline: None

Abstract: In response to President Clinton's memorandum to heads of departments and agencies entitled "Regulatory Reinvention Initiative," FDA has initiated rulemaking to retain, revise, or revoke certain of its regulations for food. FDA published an advance notice of proposed rulemaking (ANPR) on December 29, 1995, requesting information on the need to retain, revise, or revoke its food standards of identity regulations and its common or usual name regulations. In the same issue of the Federal Register FDA proposed to improve the coordination of the food additive, GRAS, and color additive approval process with USDA for substances used in meat and poultry products. FDA proposed to revoke several lower fat milk standards on November 9, 1995. On June 12, 1996, FDA published an ANPR announcing its intention to review (1) its human food labeling regulations pertaining to the exemption for soft drinks from requirements for the type size and placement of certain information on the information panel, requirements for listing "statements of identity," and requirements for flavor labeling; (2) its infant formula regulations to ensure that they fully reflect the Federal Food, Drug, and Cosmetic Act; (3) its regulations pertaining to the discharge of waste aboard casino ships, passenger ships, and ferries; and (4) its food additive regulations to consolidate certain existing regulations. In the same June 12 issue of the Federal Register, FDA published a second ANPR seeking public comment on possible ways to streamline various food additive regulations. FDA also proposed on June 12, 1996, to revoke certain food labeling regulations pertaining to labeling of food with number of servings and labeling Kosher and Kosher-style foods and to revoke the agency's voluntary filing of cosmetic product experiences. The latter was published August 12, 1997.

On October 13, 1995, FDA proposed to revoke certain agency regulations that were obsolete or no longer necessary to achieve public health goals. The final rule (pertaining to food regulations only) published on June 3, 1996. A confirmation of effective date (CED) on those regulations promulgated under the formal rulemaking procedures of section 701(e) of the Federal Food, Drug, and Cosmetic Act (21 USC 371(e)) pertaining to diabetic labeling (21 CFR 105.67) and sodium intake (cont)

Timetable:

Exempt Infant Formula; Plan for Revisions
ANPRM 08/12/96 (61 FR 29701)
Comment Period End 10/10/96
NPRM 00/00/00
Food Standards of Identity, Quality, and Fill of Container
ANPRM 12/29/95 (60 FR 67492)
Comment Period Ends 06/28/96
NPRM 00/00/00
Food, Color Additive, GRAS Regulations
ANPRM 08/12/96 (61 FR 29701)
Comment Period Ends 09/10/96
NPRM 00/00/00
Food, Color, and GRAS; Simult. Pet. Rev. by USDA (Meat/Poultry)
NPRM 12/29/95 (60 FR 67490)
Comment Period End 03/14/96
Extension of Comment Period 06/03/96
Final Action 00/00/00
Notification Procedures for Independent GRAS Determinations
NPRM 04/17/97 (62 FR 18938)
NPRM Comment Period End 07/16/97
Final Action 00/00/00
Revocation of Certain Food Labeling and Cosmetic Regulations
NPRM 08/12/96 (61 FR 29706)
Comment Period Ends 08/26/96
Final Action 08/12/97 (62 FR 43071)
Revocation of Lower Fat Milk Standards
NPRM 11/09/95 (60 FR 56541)
Comment Period Ends 01/23/96
Partial Final 11/20/96 (61 FR 58991)
Confirmation of Effective Date 02/24/97 (62 FR 8163)
Revocation of Lower Fat Yogurt Standards
NPRM 11/09/95 (60 FR 56541)
Confirmation of Effective Date 00/00/00
Final Action (Yogurt) 09/00/00
Revocation of Obsolete Regulations
NPRM 10/13/95 (60 FR 53480)
Comment Period Ends 01/11/96
Final Action 06/03/96 (61 FR 27771)
Confirmation of Eff. Date 08/27/96 (61 FR 43963)

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: ABSTRACT CONT: labeling (21 CFR 105.69) was published on August 27, 1996.

In the Federal Register of April 17, 1997 (62 FR 18938), FDA proposed to establish a notification procedure for companies to use for independent GRAS determinations.

Agency Contact: L. Robert Lake, Director, Office of Policy Planning and Strategic Initiatives, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-150), 200 C Street SW., Washington, DC 20204
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Fax: 202 401-7739

RIN: 0910–AA58

1176. DIETARY SUPPLEMENT REGULATIONS IN RESPONSE TO DSHEA

Priority: Other Significant

Legal Authority: 15 USC 1453; 15 USC 1454; 15 USC 1455; 21 USC 321; 21 USC 331; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 371

CFR Citation: 21 CFR 101

Legal Deadline: None

Abstract: On January 4, 1994, FDA published final rules relative to nutrition labeling, nutrient content claims and health claims for dietary supplements. The Dietary Supplement Health and Education Act (DSHEA) was enacted on October 25, 1994, modifying the provisions for labeling of dietary supplements. FDA has initiated rulemaking to modify its regulations for dietary supplements accordingly. One proposal would modify the nutrition labeling and ingredient declaration requirements. A second proposal would provide for the use of nutrient content claims and health claims on dietary supplements and establish procedures for the use of a disclaimer to accompany statements of nutritional support. A third proposal would define the terms "high potency" and "antioxidant." These three proposals were published in the Federal Register on December 28, 1995. An ANPRM was published in February 1997 seeking public comments on issues related to the establishment of current good manufacturing practices for dietary supplements.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

CGMPs in the Manufacturing, Packing, or Holding of Dietary Supps.
ANPRM 02/06/97 (62 FR 5700)
Comment Period End 06/06/97
High Potency and Antioxidant Terms; Dietary Supplements
NPRM 12/28/95 (60 FR 67184)
Comment Period End 06/10/96
Final Action 09/23/97 (62 FR 49808)
Nutrient Content and Health Claims; Dietary Supplements
Final Action 09/23/97 (62 FR 49859)
Nutrient Content and Health Claims; Dietary Supplements
NPRM 12/28/95 (60 FR 67176)
Comment Period End 06/10/96
Nutrient Labeling and Ingredient Labeling; Dietary Supplements
NPRM 12/28/95 (60 FR 67194)
Comment Period End 06/10/96
Final Action 09/23/97 (62 FR 49826)

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Betty Campbell, Acting Director, Office of Food Labeling, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-150), 200 C Street SW. Washington, DC 20204
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RIN: 0910–AA59

1177. EXPORT REQUIREMENTS FOR DRUGS FOR INVESTIGATIONAL USE IN OTHER COUNTRIES

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 331; 21 USC 351 to 352; 21 USC 355 to 357; 21 USC 360; 21 USC 360b; 21 USC 360ss to 360dd; 21 USC 371 to 372; 21 USC 374; 21 USC 379e; 21 USC 379g; 21 USC 381 to 382; 21 USC 393; 42 USC 216; 42 USC 241; 42 USC 242l

CFR Citation: 21 CFR 312.110

Legal Deadline: None

Abstract: FDA is proposing to amend its regulations on investigational new drug products to streamline requirements for exports of unapproved drugs for investigational use to foreign countries. The proposed rule would permit an unapproved drug product to be exported under three different options. The first option would permit exportation of a drug under an approved investigational new drug application (IND). This would be consistent with the preexisting rule. The second option would permit exportation of a drug to a country other than one specified in section 802 (b)(1)(A) of the Federal Food, Drug, and Cosmetic Act, without an IND or prior FDA approval, provided that adverse event information is reported to the FDA. This would represent a significant change from the existing rule and reflects FDA's experience with drugs exported for investigational use (whereby a minute percentage of all drugs exported for investigational use result in any safety concerns). The third option would permit exportation of drugs for investigational use to one of the countries specified in section 802(b)(1)(A) of the Federal Food, Drug, and Cosmetic Act without an IND or prior FDA approval. This third option would implement part of the FDA Export Reform and Enhancement Act.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Horton, Director, International Policy Staff, Office of Policy (HF-23), Department of Health and Human Services, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-3344

RIN: 0910–AA61

1178. REINVENTION OF ADMINISTRATIVE PROCEDURES REGULATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 504; 5 USC 551 to 558; 5 USC 701 to 721; 7 USC 138; 7 USC 2271; 15 USC 638; 15 USC 1261 to 1282; 15 USC 1451 to 1461; 15 USC 3701 to 3711; 21 USC 41 to 50; 21 USC 61 to 63; 21 USC 141 to 149; 21 USC 321 to 394

CFR Citation: 21 CFR 1 to 3; 21 CFR 5; 21 CFR 10; 21 CFR 12; 21 CFR 19 to 20; 21 CFR 56; 21 CFR 58

Legal Deadline: None

Abstract: FDA is considering ways to further streamline its administrative procedure regulations that are outdated or otherwise in need of reform. The agency is taking this action in response to President Clinton's March 4, 1995 directive to all Federal agencies to conduct a page-by-page review of their regulations as part of the "Reinventing Government" initiative. FDA plans to reinvent approximately 45 percent of its regulations to ease the burden on regulated industry and consumers without sacrificing public health protection. For those regulations requiring Congressional permission to reinvent, the Administration will seek legislative changes.

Timetable:

Action	Date	FR Cite
ANPRM	06/04/96	61 FR 28116
NPRM	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Lisa M. Helmanis, Office of Policy (HF-26), Department of Health and Human Services, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857
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RIN: 0910–AA69

1179. LONG-TERM CONTRACEPTIVE DRUG PRODUCTS AND MEDICAL DEVICES; INFORMED CONSENT REQUIREMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 356; 21 USC 357; 21 USC 358; 21 USC 360; 21 USC 371; 21 USC 374; 21 USC 379; 42 USC 216; 42 USC 241; ...

CFR Citation: 21 CFR 201; 21 CFR 801

Legal Deadline: None

Abstract: The proposed rule would require that patient labeling for long-acting contraceptive drugs and medical devices include an informed consent form that must be signed by the patient before any long-acting contraceptive is administered. The proposed rule is intended to help ensure that patients receive adequate information to enable them to make an informed decision about whether or not to use a long-acting contraceptive.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carol Drew, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
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RIN: 0910–AA75

1180. CERTIFICATION OF DRUGS COMPOSED WHOLLY OR PARTLY OF INSULIN

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 356; 21 USC 357; 21 USC 358; 21 USC 360; 21 USC 371; 21 USC 374; 21 USC 375

CFR Citation: 21 CFR 200; 21 CFR 429

Legal Deadline: None

Abstract: The proposed rule would revise part 429 to base insulin certification on compliance with an approved application and the U.S.P.; eliminate certain tests performed by manufacturers as well as packaging and labeling requirements; establish a new labeling system; and modify the requirement to submit samples.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Wayne Mitchell, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
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RIN: 0910–AA77

1181. INFORMED CONSENT FOR HUMAN DRUGS AND BIOLOGICS; DETERMINATION THAT INFORMED CONSENT IS NOT FEASIBLE

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 357; 21 USC 360; 21 USC 371; 21 USC 381; 42 USC 216; 42 USC 241; 42 USC 262

CFR Citation: 21 CFR 50

Legal Deadline: None

Abstract: The Food and Drug Administration is evaluating its interim final regulation promulgated December 21, 1990, in light of recommendations made by the Presidential Advisory Committee on Gulf War Veterans' Illnesses as well as other information that has come to its attention. The interim rule established requirements to allow agency to grant requests for the waiver of informed consent in the use of investigational drugs or biologics in certain military combat circumstances. In examining its interim rule, several areas have engendered significant discussion and debate. Because these issues are complex, on July 31, 1997, FDA published a notice in the Federal Register soliciting comments on the advisability of revoking or amending the interim final rule that permitted the FDA Commissioner to determine that obtaining informed consent from military personnel for the use of an investigational product is not feasible in certain military exigencies. FDA is also soliciting comments identifying the evidence needed to demonstrate safety and effectiveness for such investigational drugs that cannot ethically be tested on humans for purposes of determining their efficacy. The written comments are intended to provide FDA with information to help the agency in making policy decisions on the use of investigational products during military exigencies and appropriate evidence needed to demonstrate safety and effectiveness for drug and biological products used in military or other exigencies when traditional efficacy studies are not feasible. Written comments are to be submitted by October 29, 1997.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bonnie M. Lee, Senior Policy Analyst, Office of the Executive Secretariat (HF-40), Department of Health and Human Services, Food and Drug Administration, Office of the Commissioner, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-4433
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RIN: 0910–AA89

1182. FDA EXPORT REFORM AND ENHANCEMENT ACT OF 1996; REPORTING AND RECORDKEEPING REQUIREMENTS FOR UNAPPROVED OR VIOLATIVE PRODUCTS IMPORTED FOR FURTHER PROCESSING OR INCORPORATION AND LATER EXPORT

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 381 to 382

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The FDA Export Reform and Enhancement Act of 1996 allows the import of certain FDA regulated products that may not be offered for sale in the United States because they are in violation of the Federal Food, Drug, and Cosmetic Act when the purpose of the importation is to have the articles processed in the United States and then exported. FDA is proposing reporting, recordkeeping, and labeling requirements to enable the importer to assure, and the FDA to monitor, that the imported products are further processed and exported and do not enter domestic commerce.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Eric Flamm, Senior Policy Advisor, Office of Policy, Department of Health and Human Services, Food and Drug Administration, Office of the Commissioner, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-3344

RIN: 0910–AB06

1183. • ANIMAL DRUG APPROVALS FOR MINOR SPECIES AND MINOR USAGE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 104-250

CFR Citation: Not yet determined

Legal Deadline: Other, Statutory, April 9, 1998.
Animal Drug Availability Act of 1996.

Abstract: The Animal Drug Availability Act of 1996 (ADAA) requires FDA to consider legislative and regulatory options for facilitating approval of NAD's intended for use in minor species and for minor uses, and to announce no later than April 9, 1998, proposals for legislative or regulatory change to the approval process for such drugs. Because the markets are small for approved NADs intended for minor species or for minor uses, there are often insufficient economic incentives to motivate sponsors to develop the data necessary to support approvals. Manufacturers have not, in many cases, been willing to fund research to obtain these data, so only small numbers of new animal drugs intended for minor species or for minor uses have been approved and are legally marketed. Facilitating approvals for minor uses and minor species will bring about an increase in approvals of new animal drugs intended for these uses, which would be desirable to address the scarcity of approved, legally marketed new animal drugs intended for minor species or minor uses.

Timetable:

Action	Date	FR Cite
ANPRM	06/23/97	62 FR 33781
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Request for Comments 62 FR 33789, 6/23/97.

Agency Contact: Linda Wilmot, Veterinary Medical Officer, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-112), 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-0614

RIN: 0910–AB07

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Food and Drug Administration (FDA)

Completed Actions

1184. SPECIFIC REQUIREMENTS ON CONTENT AND FORMAT OF LABELING FOR HUMAN PRESCRIPTION DRUGS; ADDITION OF "GERIATRIC USE" SUBSECTION IN THE LABELING

Priority: Other Significant

CFR Citation: 21 CFR 201

Completed:

Reason	Date	FR Cite
Final Action	08/27/97	62 FR 45313
Final Action Effective	08/27/98	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Thomas Kuchenberg
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RIN: 0910–AA25

1185. ADVERSE EXPERIENCE EXPEDITED REPORTING REQUIREMENTS FOR HUMAN DRUG AND LICENSED BIOLOGICAL PRODUCTS

Priority: Other Significant

CFR Citation: 21 CFR 20; 21 CFR 310; 21 CFR 312; 21 CFR 314; 21 CFR 600

Completed:

Reason	Date	FR Cite
Final Action	10/08/97	62 FR 52237
Final Action Effective	04/06/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Audrey Thomas
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RIN: 0910–AA28

1186. LATEX CONDOMS: EXPIRATION DATE LABELING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 21 CFR 801

Completed:

Reason	Date	FR Cite
Final Action	09/26/97	62 FR 50497

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph M. Sheehan
Phone: 301 594-4765

RIN: 0910–AA32

1187. LATEX WARNING

Priority: Substantive, Nonsignificant

CFR Citation: 21 CFR 801

Completed:

Reason	Date	FR Cite
Final Action	09/30/97	62 FR 51021

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph M. Sheehan
Phone: 301 594-4765

RIN: 0910–AA34

1188. HUMAN TISSUE INTENDED FOR TRANSPLANTATION

Priority: Other Significant

CFR Citation: 21 CFR 1270

Completed:

Reason	Date	FR Cite
Final Action	07/29/97	62 FR 40429
Final Action Effective	01/26/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Paula S. McKeever
Phone: 301 827-6210

RIN: 0910–AA40

1189. CHANGES TO AN APPROVED APPLICATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 21 CFR 314; 21 CFR 600; 21 CFR 601; 21 CFR 610; 21 CFR 640

Completed:

Reason	Date	FR Cite
Final Action	07/24/97	62 FR 39889
Final Action Effective	10/07/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Steven F. Falter
Phone: 301 827-6210

RIN: 0910–AA57

1190. EXPORT REQUIREMENTS FOR MEDICAL DEVICES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 21 CFR 812.18

Completed:

Reason	Date	FR Cite
Withdrawn	06/06/97	62 FR 31023

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Horton
Phone: 301 827-3344

RIN: 0910–AA62

1191. ADVERSE EXPERIENCE REPORTING FOR HUMAN DRUG AND LICENSED BIOLOGICAL PRODUCTS; INCREASED FREQUENCY REPORTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 21 CFR 310; 21 CFR 314; 21 CFR 600

Completed:

Reason	Date	FR Cite
Final Action	06/25/97	62 FR 34166
Final Action Effective	07/25/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Audrey Thomas
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AA72

1192. NATIONAL ENVIRONMENTAL POLICY ACT; POLICIES AND PROCEDURES

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 21 CFR 25

Completed:

Reason	Date	FR Cite
Final Action	07/29/97	62 FR 40569
Final Action Effective	09/28/97	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Nancy Sager
Phone: 301 594-5629
Fax: 301 594-6197

RIN: 0910–AA80

1193. CURRENT GOOD MANUFACTURING PRACTICE FOR FINISHED PHARMACEUTICAL; POSITRON EMISSION TOMOGRAPHY

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 21 CFR 211

Completed:

Reason	Date	FR Cite
Final Action	04/22/97	62 FR 19494
Final Action Effective	04/28/97	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Brian L. Pendleton
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AA81

1194. SUBSTANCES PROHIBITED FROM USE IN ANIMAL FOOD OR FEED; PROTEIN DERIVED FROM RUMINANTS PROHIBITED IN RUMINANT FEED

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 21 CFR 589.2000

Completed:

Reason	Date	FR Cite
Final Action	06/05/97	62 FR 30955
Final Action Effective	08/04/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: G.A. Mitchell
Phone: 301 827-0139

RIN: 0910–AA91

1195. TREATMENT USE OF INVESTIGATIONAL DEVICE EXEMPTIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 21 CFR 812

Completed:

Reason	Date	FR Cite
Final Action	09/18/97	62 FR 48948

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Joseph M. Sheehan
Phone: 301 594-4765

RIN: 0910–AA92

1196. REVISION OF THE REQUIREMENTS FOR A RESPONSIBLE HEAD FOR BIOLOGICAL ESTABLISHMENTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 21 CFR 600; 21 CFR 601; 21 CFR 606

Completed:

Reason	Date	FR Cite
Final Action	10/15/97	62 FR 53536
Final Action Effective	10/15/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Astrid Szeto
Phone: 301 827-6210

RIN: 0910–AA93

1197. DISQUALIFICATION OF A CLINICAL INVESTIGATOR

Priority: Substantive, Nonsignificant

CFR Citation: 21 CFR 312

Completed:

Reason	Date	FR Cite
Final Action	09/05/97	62 FR 46875

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Kuchenberg
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AA95

1198. EXEMPTION FROM PREEMPTION OF STATE AND LOCAL CIGARETTE AND SMOKELESS TOBACCO REQUIREMENTS; APPLICATIONS FOR EXEMPTION SUBMITTED BY VARIOUS STATE GOVERNMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 21 CFR 808

Completed:

Reason	Date	FR Cite
NPRM	02/19/97	62 FR 7390
Notice of Opportunity for Oral Hearing	02/19/97	62 FR 7395
Withdrawn - Currently listed under RIN 0910-AB19	03/25/97	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Anne M. Kirchner
Phone: 301 827-5321

RIN: 0910–AB03

1199. • CONTENT AND FORMAT OF LABELING FOR HUMAN PRESCRIPTION DRUGS; PREGNANCY LABELING SECTION; NOTICE OF PUBLIC HEARING; REQUEST FOR COMMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355 to 358; 21 USC 360; 21 USC 371; 21 USC 374; 21 USC 379e; 42 USC 216; 42 USC 241; 42 USC 262; 42 USC 264

CFR Citation: 21 CFR 201

Legal Deadline: None

Abstract: FDA is announcing a public hearing regarding the regulations that set forth requirements for the content and format of the pregnancy subsection of labeling for human prescription drugs (21 CFR 201.57(f)(6)). The purpose of the public hearing is to elicit comment on pregnancy labeling categories to help the agency identify the range of problems associated with the categories and identify and evaluate options that might address identified problems, including alternative ways of presenting information on reproductive and developmental risk, and advising clinicians and patients on use of drugs in pregnant women and women of child bearing potential.

Timetable:

Action	Date	FR Cite
Notice of Public Hearing	07/31/97	62 FR 41061

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph Griffin, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 1451 Rockville Pike, Suite 3047, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB15

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Health Resources and Services Administration (HRSA)

Proposed Rule Stage

1200. NATIONAL PRACTITIONER DATA BANK FOR ADVERSE INFORMATION ON PHYSICIANS AND OTHER HEALTH CARE PRACTITIONERS: CORPORATE SHIELD

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 11131

CFR Citation: 45 CFR 60

Legal Deadline: None

Abstract: This NPRM proposes to require that in addition to reporting the National Practitioner Data Bank medical malpractice payments made where physicians or other health care practitioners are named in judgments or settlements, payments be reported where they are made for the benefit of physicians or other health care practitioners not named in the judgements or settlements but who furnished or failed to furnish the health care services upon which the actions or claims were based. The purpose of this NPRM is to prevent the evasion of the medical malpractice payment reporting requirement of the Data Bank through the agreement of the parties to a lawsuit to use the "corporate shield" to prevent the health care practitioner from being reported.

It would also allow, in very limited circumstances when it is impossible to identify the practitioner who furnished or failed to furnish the health care services upon which the actions or claims were based, to report why the practitioner could not be identified, the name of the hospital or health care organization for whose benefit the payment was made, the amount of payment, and the name (if known) of any hospital or health care organization with which the practitioner is affiliated or associated.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas C. Croft, Director, Division of Quality Assurance, Bureau of Health Professions, HRSA, Department of Health and Human Services, Health Resources and Services Administration, Parklawn Building, Room 8A-55, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 443-2300

RIN: 0906–AA41

1201. NATIONAL PRACTITIONER DATA BANK FOR ADVERSE INFORMATION ON PHYSICIANS AND OTHER HEALTH CARE PRACTITIONERS: CHARGE FOR SELF-QUERIES

Priority: Info./Admin./Other

Legal Authority: 42 USC 11137

CFR Citation: 45 CFR 60

Legal Deadline: None

Abstract: The NPRM proposes to amend the existing regulations for the National Practitioner Data Bank to give the Data Bank the authority to charge a fee to practitioners requesting information about themselves (self-queries). The current $10 cost per self-query is being underwritten by health care provider organizations which query the Data Bank directly and are charged a fee based on the number of transmissions and payment. The NPRM would amend the existing fee structure so that the Data Bank can fully recover its cost, as required by law, in an equitable manner.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas C. Croft, Director, Division of Quality Assurance, Bureau of Health Professions, HRSA, Department of Health and Human Services, Health Resources and Services Administration, Parklawn Building, Room 8A-55, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 443-2300

RIN: 0906–AA42

1202. NATIONAL PRACTITIONER DATA BANK FOR ADVERSE INFORMATION ON PHYSICIANS AND OTHER HEALTH CARE PRACTITIONERS: REPORTING ADVERSE AND NEGATIVE ACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396r-2, note

CFR Citation: 45 CFR 60

Legal Deadline: None

Abstract: Public Law 100-93 amended section 1921 of the Social Security Act to require that each State have in effect a system of reporting disciplinary licensure actions taken against all licensed health care practitioners and entities. It also requires States to report any negative action or finding which a peer review organization, private accreditation entity or a State has concluded against a health care practitioner or entity. Section 1921 directs the Secretary to provide for maximum appropriate coordination in the implementation of these reporting requirements with those of the Health Care Quality Improvement Act of 1986 (title IV of Public Law 99-660).

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas C. Croft, Director, Division of Quality Assurance, Bureau of Health Professions, Department of Health and Human Services, Health Resources and Services Administration, Parklawn Building, Room 8A-55, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 443-2300

RIN: 0906–AA43

1203. DESIGNATION OF MEDICALLY UNDERSERVED POPULATIONS AND HEALTH PROFESSIONAL SHORTAGE AREAS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 254b; 42 USC 254e

CFR Citation: 42 CFR 5; 42 CFR 51c

Legal Deadline: None

Abstract: This rule would consolidate the process for designating areas of health professional shortage and medical underservice that apply in several department programs, and would improve the criteria for designating medically underserved populations (MUPs) and Primary Care Health Professional Shortage Areas (HPSAs).

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
NPRM Comment Period End	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Lee, Public Health Analyst, Bureau of Primary Health Care, Department of Health and Human Services, Health Resources and Services Administration, 4350 East-West Highway, Bethesda, MD 20814
Phone: 301 594-3729

RIN: 0906–AA44

1204. • HEALTH CARE FRAUD AND ABUSE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1320a-7e

CFR Citation: 42 CFR 61 (New)

Legal Deadline: None

Abstract: This Notice of Proposed Rulemaking proposes to implement the requirements of section 1128E of the Social Security Act, as added by sec. 221(a) of the Health Insurance Portability and Accountability Act of 1996. Section 1128E directs the Secretary of Health and Human Services to establish a national health care fraud and abuse data collection program for the reporting and disclosure of certain final adverse actions taken against health care providers, suppliers, or practitioners. The statute also requires the Secretary to implement the national health care fraud and abuse data collection program in such a manner as to avoid duplication with reporting requirements established for the National Practitioner Data Bank under the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11101 et seq.).

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Thomas C. Croft, Director, Division of Quality Assurance, Bureau of Health Professions, Department of Health and Human Services, Health Resources and Services Administration, Parklawn Building, Room 8A-55, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 443-3014

RIN: 0906–AA46

1205. • NATIONAL PRACTITIONER DATA BANK FOR ADVERSE INFORMATION ON PHYSICIANS AND OTHER HEALTH CARE PROVIDERS: CLARIFICATION AND MODERNIZATION OF REGULATORY TERMS

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 11101 to 11152

CFR Citation: 45 CFR 60

Legal Deadline: None

Abstract: Since the opening of the Data Bank, the Department has received feedback that several terms defined in the regulations have caused a great deal of confusion. Based on this feedback, the Department reviewed the Health Care Quality Improvement Act of 1986 and its regulations. Through this review, the Department recognizes the need to clarify and/or broaden certain definitions due to the rapid evolution of the health care system in order to fully implement Congressional intent, which was to give access to Data Bank information to those health care organizations reviewing the quality of physician care in order to protect patients from incompetent practitioners with previous damaging or incompetent performance. Since these terms, as defined in the regulations, particularly "health care entity," "formal peer review process" and "clinical privileges" are not currently fully implementing Congressional intent and have caused a great deal of confusion, the Department proposes to clarify them.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas C. Croft, Director, Division of Quality Assurance, Bureau of Health Professions, Department of Health and Human Services, Health Resources and Services Administration, Parklawn Building, Room 8-A55, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 443-2300

RIN: 0906–AA48

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Resources and Services Administration (HRSA)

Final Rule Stage

1206. ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK RULES

Regulatory Plan: This entry is Seq. No. 29 in Part II of this issue of the Federal Register.

RIN: 0906–AA32

1207. • GRANTS FOR RESIDENCY TRAINING AND ADVANCED EDUCATION IN THE GENERAL PRACTICE OF DENTISTRY; TECHNICAL AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 293m

CFR Citation: 42 CFR 57 subpart L

Legal Deadline: None

Abstract: This technical amendment revises the Grants for Residency Training and Advanced Education in the General Practice of Dentistry program regulations to modify the review criteria to be consistent with current agency streamlining efforts, and provide the flexibility required to adequately meet the needs and requirements of the program and its constituents.

Timetable:

Action	Date	FR Cite
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bernice Parlak, Acting Director, Division of Associated Dental and Public Health Professions, Department of Health and Human Services, Health Resources and Services Administration, Parklawn Building, Room 8-101, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 443-6853
Fax: 301 443-1164

RIN: 0906–AA47

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Resources and Services Administration (HRSA)

Long-Term Actions

1208. DRUG PRICING PROGRAM: PRIME VENDOR USER CHARGE

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 102-585

CFR Citation: 45 CFR 8

Legal Deadline: None

Abstract: This rule proposes to include a user charge (not over 1/2 of 1% of total drug sale revenue) to be paid by the prime vendor to HRSA. It is intended to cover costs that HRSA incurs in providing information and services essential to prime vendor operations.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Annette Byrne, Director, Office of Drug Pricing, Department of Health and Human Services, Health Resources and Services Administration, 4350 East/West Highway, Bethesda, MD 20814
Phone: 301 594-4353
Fax: 301 594-4992

RIN: 0906–AA45

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Resources and Services Administration (HRSA)

Completed Actions

1209. HEALTH EDUCATION ASSISTANCE LOAN (HEAL) PROGRAM: LENDERS'/ HOLDERS' PERFORMANCE STANDARDS

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 60

Completed:

Reason	Date	FR Cite
Withdrawn	09/17/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Heningburg
Phone: 301 443-1173

RIN: 0906–AA33

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Indian Health Service (IHS)

Proposed Rule Stage

1210. ACQUISITION UNDER THE BUY INDIAN ACT

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 47

CFR Citation: 48 CFR ch 3, app A

Legal Deadline: None

Abstract: This regulation will update and standardize existing regulations for the Buy Indian Act to coincide with the Department of Interior regulations at 48 CFR chapter 14. There are no costs associated with these revised regulations. These revisions will increase competition among Indian economic enterprises and facilitate economic development of Indian reservations by increasing opportunities for Indian businesses.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: Tribal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Additional Information: Previously reported under RIN 0905-AE09.

Agency Contact: Myrna Mooney, Small and Disadvantaged Business Utilization Specialist, Department of Health and Human Services, Indian Health Service, 12300 Twinbrook Parkway, Suite 450, Rockville, MD 20852
Phone: 301 443-1480

RIN: 0917–AA00

1211. INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION ACT MINIMUM STANDARDS OF CHARACTER

Priority: Info./Admin./Other

Legal Authority: 25 USC 3201 et seq

CFR Citation: 42 CFR 36

Legal Deadline: None

Abstract: The Indian Health Service (IHS) is proposing to establish regulations as mandated by the Indian Child Protection and Family Violence Protection Act, P.L. 101-630, 25 U.S.C. 3201-3211, that prescribe minimum standards of character for individuals whose duties and responsibilities involve regular contact with, or control over, Indian children.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	01/00/98	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Ramona D. Williams, Child Protection Coordinator, Department of Health and Human Services, Indian Health Service, 5300 Homestead Road NE., Albuquerque, NM 87110
Phone: 505 837-4245

RIN: 0917–AA02

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
National Institutes of Health (NIH)

Proposed Rule Stage

1212. NATIONAL INSTITUTES OF HEALTH AIDS RESEARCH LOAN REPAYMENT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 288-1

CFR Citation: 42 CFR 68

Legal Deadline: None

Abstract: Section 487A of the Public Health Service Act creates a program through which appropriately qualified health professionals may obtain federally funded repayment of educational loans by conducting AIDS research as NIH employees.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Previously reported under RIN 0905-AD18.

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Building 31, Room 1B-25, 31 Center Drive MSC 2075, Bethesda, MD 20892-2075
Phone: 301 496-4606
Fax: 301 402-0169
Email: moorej@od31emi.nih.gov

RIN: 0925–AA02

1213. UNDERGRADUATE SCHOLARSHIP PROGRAM REGARDING PROFESSIONS NEEDED BY THE NIH

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 288-4

CFR Citation: 42 CFR 68b

Legal Deadline: None

Abstract: Section 487D of the PHS Act, as added by the NIH Revitalization Act of 1993, creates a program offering scholarships, in an amount not to exceed $20,000 per year of academic study, to individuals from disadvantaged backgrounds who are enrolled as full-time students at accredited institutions pursuing academic programs appropriate for careers in professions needed by the NIH. For each year of scholarship support, the recipient agrees to service (employment) after graduation, at the NIH, for one year. Additionally, the individual agrees to at least ten consecutive weeks of service (employment) at the NIH during which the individual is attending the institution and receiving the NIH scholarship. The proposed new regulations will cover this program.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE57.

Agency Contact: Jerry Moore, NIH Regulations Officer Department of Health and Human Services, National Institutes of Health, Building 31, Room 1B-25, 31 Center Drive MSC 2075, Bethesda, MD 20892
Phone: 301 402-4606

RIN: 0925–AA10

1214. TRAINEESHIPS (TERMINATION POLICIES)

Priority: Info./Admin./Other

Legal Authority: 42 USC 216; 42 USC 283g(d); 42 USC 284(b)(1)(C); 42 USC 286b-3; 42 USC 287c(b)

CFR Citation: 42 CFR 63

Legal Deadline: None

Abstract: Regulations governing NIH traineeships will be amended to set forth additional conditions under which awards may be terminated.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE62.

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Building 31, Room 1B-25, 31 Center Drive MSC 2075, Bethesda, MD 20892-2075
Phone: 301 496-4606
Fax: 301 402-0169
Email: moorej@od31emi.nih.gov

RIN: 0925–AA11

1215. ADDITIONAL DHHS PROTECTIONS FOR PREGNANT WOMEN AND HUMAN FETUSES INVOLVED AS SUBJECTS IN RESEARCH, AND PERTAINING TO HUMAN IN VITRO FERTILIZATION

Priority: Other Significant

Legal Authority: 5 USC 301; 42 USC 289

CFR Citation: 45 CFR 46, subpart B

Legal Deadline: None

Abstract: Current regulations which have been in effect for two decades will be revised to reflect provisions of Public Law 103-43 and recent changes in NIH and FDA policies on the involvement of women and human fetuses in research.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: E. William Dommel, Jr., J.D., Senior Policy Analyst, Department of Health and Human Services, National Institutes of Health, Office for Protection from Research Risks, 6100 Executive Blvd., Ste. 3B01, MSC 7507, Rockville, MD 20892-7507
Phone: 301 496-7005
Fax: 301 402-2803
Email: wd3u@nih.gov

RIN: 0925–AA14

1216. NATIONAL RESEARCH SERVICE AWARDS

Priority: Info./Admin./Other

Legal Authority: 42 USC 216; 42 USC 288

CFR Citation: 45 CFR 66

Legal Deadline: None

Abstract: Current HHS regulations will be amended to reflect provisions of the ADAMHA Reorganization Act and the NIH Revitalization Act and the NIH Revitalization Act of 1993. New language concerning the service payback obligation will set forth that a service payback obligation is incurred only during the first twelve months of postdoctoral support and individuals may pay back this service obligation by engaging in an equal period of health-related teaching, or if the individual finished the first twelve months of

support, by engaging in a second year of NRSA supported research training.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Building 31, Room 1B-25, 31 Center Drive MSC 2075, Bethesda, MD 20892-2075
Phone: 301 496-4606
Fax: 301 402-0169
Email: moorej@od31em1.nih.gov

RIN: 0925–AA16

1217. REMOVAL OF NATIONAL CANCER INSTITUTE CLINICAL CANCER EDUCATION PROGRAM

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 216

CFR Citation: 42 CFR 52d

Legal Deadline: None

Abstract: Current regulations relating to the National Cancer Institute Clinical Cancer Education Program will be rescinded because the regulations are obsolete. Current guidelines communicated by NCI with respect to the care of cancer patients no longer reflect the type of program described in the current regulations. This action will not affect the authority of the Director, NCI, to support appropriate programs of education and training, including clinical research training set forth in section 414 of the Public Health Service Act.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Building 31, Room 1B-25, 31 Center Drive MSC 2075, Bethesda, MD 20892-2075
Phone: 301 496-4606
Fax: 301 402-0169
Email: moorej@od31em1.nih.gov

RIN: 0925–AA17

1218. NATIONAL INSTITUTES OF HEALTH LOAN REPAYMENT PROGRAM FOR RESEARCH

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 288-3

CFR Citation: 42 CFR 68d

Legal Deadline: None

Abstract: Regulations will be issued to govern the awarding of educational loan repayments for research authorized under section 487C of the Public Health Service Act, as added by provisions of the NIH Revitalization Act of 1993.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, 9000 Rockville Pike, Room 1B25, 31 Center Drive MSC 2075, Bethesda, MD 20892-0275
Phone: 301 496-4606
Fax: 301 496-0125
Email: moorej@od31em1.nih.gov

RIN: 0925–AA18

1219. NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT CONTRACEPTION AND INFERTILITY RESEARCH LOAN REPAYMENT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 288-2

CFR Citation: 42 CFR 68c

Legal Deadline: None

Abstract: Section 487B of the Public Health Service Act creates a program through which appropriately qualified health professionals may obtain federally funded repayment of education loans by conducting research with respect to contraception and/or infertility. The initial implementation of the program will be limited to employees of the three NICHD Contraception Research Centers and two NICHD Infertility Research Centers due to limited availability of funds.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, 9000 Rockville Pike, Room 1B25, 31 Center DR MSC 2075, Bethesda, MD 20892-2075
Phone: 301 496-4607
Fax: 301 402-0169
Email: moorej@od31em1.nih.gov

RIN: 0925–AA19

1220. SCIENTIFIC PEER REVIEW OF RESEARCH GRANT APPLICATIONS AND RESEARCH AND DEVELOPMENT CONTRACT PROJECTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 282(b)(6); 42 USC 284(c)(3); 42 USC 289a; 42 USC 290aa-3

CFR Citation: 42 CFR 52h

Legal Deadline: None

Abstract: NIH staff have been reexamining the peer review process as part of its reinvention initiatives and have found ambiguities, misstatements, and voids in the existing regulations governing peer review in NIH, SAMHSA, and HRSA. These regulations, which govern the first level of review, would be amended to reflect current policies and procedures.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, 9000 Rockville Pike, Room 1B25, Bethesda, MD 20892-2075
Phone: 301 496-4606
Fax: 301 402-0169
Email: moorej@od31em1.nih.gov

RIN: 0925–AA20

1221. NATIONAL INSTITUTES OF HEALTH CONSTRUCTION GRANTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 216; 42 USC 285a-2; 42 USC 285a-3; 42 USC 285b-3; 42 USC 285b-4; 42 USC 285d-6; 42 USC 285i; 42 USC 285m-3; 42 USC 285o-4; 42 USC 287a-2; 42 USC 287a-3; 42 USC 300cc-41

CFR Citation: 42 CFR 52b

Legal Deadline: None

Abstract: Regulations concerning NCI construction grants will be amended to make them generally applicable to all NIH extramural programs with construction grant authority. Additionally, the regulations will be amended to show new administrative and technical requirements, add new procedures for the recovery of grant funds for facilities no longer used for biomedical research, show new PHS Act section numbers, and update the listing of other HHS regulations relevant to construction grants.

Timetable:

Action	Date	FR Cite
NPRM	07/06/95	60 FR 35266
NPRM Comment Period End	09/05/95	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AD49.

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Building 31, Room 1B-25, 31 Center Drive MSC 2075, Bethesda, MD 20892-2075
Phone: 301 496-4606
Fax: 301 402-0169
Email: moorej@od31emi.nih.gov

RIN: 0925–AA04

1222. NATIONAL INSTITUTES OF HEALTH CLINICAL RESEARCH LOAN REPAYMENT PROGRAM FOR INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 288-5

CFR Citation: 42 CFR 68a

Legal Deadline: None

Abstract: Regulations will be issued to govern the awarding of educational loan repayments under the NIH Clinical Research Loan Repayment Program for Individuals From Disadvantaged Backgrounds authorized by section 487E of the Public Health Service Act, as added by provisions of the NIH Revitalization Act of 1993.

Timetable:

Action	Date	FR Cite
NPRM	02/10/97	62 FR 5953
NPRM Comment Period End	04/11/97	
Final Action Effective	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE56.

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Building 31, Room 1B-25, 31 Center Drive MSC 2075, Bethesda, MD 20892-2075
Phone: 301 496-4606
Fax: 301 402-0169
Email: moorej@od31emi.nih.gov

RIN: 0925–AA09

1223. STANDARDS OF COMPLIANCE FOR ABORTION-RELATED SERVICES IN FAMILY PLANNING SERVICE PROJECTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 300a-4

CFR Citation: 42 CFR 59

Legal Deadline: None

Abstract: This rule would return the Family Planning Service Program, funded under title X of the Public Health Service Act, to the compliance standards operative prior to February 2, 1988, with regard to the statutory provision prohibiting abortion as a method of family planning in projects funded under that title.

Timetable:

Action	Date	FR Cite
NPRM	02/05/93	58 FR 7464
NPRM Comment Period End	06/09/93	58 FR 34024
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: Previously reported under RIN 0905-AE03.

Agency Contact: Thomas C. Kring, Acting Deputy Assistant Secretary for Population Affairs, Department of Health and Human Services, Office of Assistant Secretary for Health, East-West Towers, Suite 200, West Bldg., 4350 East-West Highway, Bethesda, MD 20814
Phone: 301 594-4000

RIN: 0937–AA00

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Public Health Service (PHS)

Proposed Rule Stage

1224. PUBLIC HEALTH SERVICE STANDARDS FOR THE PROTECTION OF RESEARCH MISCONDUCT WHISTLEBLOWERS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 241; 42 USC 289b

CFR Citation: 42 CFR 94

Legal Deadline: None

Abstract: To implement section 493(e) of the Public Health Service Act (added by section 163 of the NIH Revitalization Act of 1993, Public Law 103-43), the Department is proposing to add a new Part 94 to title 42 of the Code of Federal Regulations. Under this proposed regulation, covered institutions must follow certain requirements for preventing and responding to occurrences of retaliation against whistleblowers. The purpose of this part is to protect: (1) persons who make a good faith allegation that a covered institution or member thereof engaged in, or failed to respond adequately to an allegation of, research misconduct, and (2) persons who cooperate in good faith with an investigation of research misconduct.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	
NPRM Comment Period End	03/00/98	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State

Agency Contact: Ms. Barbara Bullman, Policy Analyst, OPHS, Office of Research Integrity, Department of Health and Human Services, Public Health Service, 5515 Security Lane, Suite 700, Rockville, MD 20852
Phone: 301 443-5300
Fax: 301 443-5351

RIN: 0905–AE71

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Care Financing Administration (HCFA)

Prerule Stage

1225. MEDICARE PROGRAM: MONTHLY ACTUARIAL RATES AND MONTHLY SUPPLEMENTARY MEDICARE INSURANCE PREMIUM RATE BEGINNING JANUARY 1, 1998 (OACT-055-N)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395r

CFR Citation: 45 CFR 900

Legal Deadline: Final, Statutory, September 30, 1997.

Abstract: This notice announces the monthly actuarial rates for aged (age 65 and over) and disabled (under age 65) enrollees, in the Medicare Supplementary Insurance (SMI) Program for the 12 months beginning January 1, 1998. It also announces the monthly SMI premium rate to be paid by all enrollees during the 12 months beginning January 1, 1998

Timetable:

Action	Date	FR Cite
ANPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carter Warfield, Deputy Director, Division of Medicare and Medicaid Cost Estimates, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-6396

RIN: 0938–AI03

1226. • MEDICARE PROGRAM; PHYSICIAN FEE SCHEDULE UPDATE FOR CALENDAR YEAR 1998 AND PHYSICIAN VOLUME PERFORMANCE STANDARD RATES OF INCREASE FOR FEDERAL FISCAL YEAR 1998 (BPD-893-FN)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 42 USC 1395w-4

CFR Citation: None

Legal Deadline: None

Abstract: This notice announces the calendar year 1998 updates to the Medicare physician fee schedule and the Federal fiscal year 1998 performance standard rates of increase for expenditures and volume of physicians' services under the Medicare Supplementary Medical Insurance (part B) program as required by sections 1848(d) and (f) of the Social Security Act.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Terrence Kay, Center for Health Plans and Providers, Division of Practitioner and Ambulatory Care, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., C4-10-26, Baltimore, MD 21244
Phone: 410 786-4497

RIN: 0938–AI16

1227. • HEALTH INSURANCE PORTABILITY: NEWBORNS' AND MOTHERS' HEALTH PROTECTION (BPD-892-IFC)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 300gg-4; 42 USC 300gg-51

CFR Citation: 45 CFR 146.136; 45 CFR 148.151

Legal Deadline: None

Abstract: This interim final rule implements the Newborns' and Mothers' Health Protection Act of 1996. It provides that a health insurance issuer that covers hospital length of stay in connection with childbirth may not restrict the stay for the mother or newborn to less than 48 hours following a normal vaginal delivery or 96 hours following a cesarean section. However, discharge may occur earlier if the attending provider in consultation with the mother decides to discharge earlier.

Timetable:

Action	Date	FR Cite
ANPRM	11/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Mark Thomas, Health Insurance Standards Team, Department of Health and Human Services, Health

HHS—HCFA

Prerule Stage

Care Financing Administration, 7500 Security Blvd, C4-02-16, Baltimore, MD 21244
Phone: 410 786-7154

RIN: 0938–AI17

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Care Financing Administration (HCFA)

Proposed Rule Stage

1228. "WITHOUT FAULT" AND BENEFICIARY WAIVER OF RECOVERY AS IT APPLIES TO MEDICARE OVERPAYMENT LIABILITY (BPD-719-P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395gg

CFR Citation: 42 CFR 401; 42 CFR 403.310; 42 CFR 405; 42 CFR 410.1; 42 CFR 411.23; 42 CFR 411.28; 42 CFR 413.20; 42 CFR 413.153; 42 CFR 447.31; 42 CFR 466.86; 42 CFR 466.94; 42 CFR 473.14; 42 CFR 493.1834

Legal Deadline: None

Abstract: This rule would amend the Medicare regulations to clarify our interpretation of "without fault" as it applies to physician, provider, supplier and beneficiary liability for overpayments. This definition would result in greater uniformity of determinations by carriers and intermediaries. Additionally, this rule would amend the Medicare regulations governing liability for overpayments to eliminate application of certain regulations of the Social Security Administration and to replace them with HCFA regulations more specific to circumstances involving Medicare overpayments.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: BPD-719

Agency Contact: David Walczak, Center for Health Plans and Providers, Plan & Provider Purchasing Policy Group, Department of Health and Human Services, Health Care Financing Administration, C4-07-07, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4475

RIN: 0938–AD95

1229. PROVIDER REIMBURSEMENT DETERMINATIONS AND APPEALS (BPD-727-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1395f(b); 42 USC 1395g(a); 42 USC 1395l; 42 USC 1395x(v); 42 USC 1395x(v)(1)A; 42 USC 1395hh; 42 USC 1395ii; 42 USC 1395oo; 42 USC 1395ww; 42 USC 405; 42 USC 300e; 42 USC 300e-5; 42 USC 300e-9; 31 USC 9701

CFR Citation: 42 CFR 405.1801 to 405.1889; 42 CFR 413.30 to 413.64; 42 CFR 417.576; 42 CFR 417.810

Legal Deadline: None

Abstract: Section 1878 of the Social Security Act and 42 CFR Part 405, subpart R provide for administrative and judicial review in accordance with prescribed requirements, of certain disputes regarding Medicare reimbursement for participating providers of services. This proposed rule would revise, update, and clarify various provisions of the regulations pertaining to provider appeals and make conforming changes to other regulations

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: BPD-727

Agency Contact: Morty Marcus, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, C4-07-07, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4477

RIN: 0938–AF28

1230. CONDITIONS OF PARTICIPATION FOR RURAL HEALTH CLINICS (BPD-764-P)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395l(a); 42 USC 1395x(aa); 42 USC 1395y(a)(14); 42 USC 1396a(a)(13)(E); 42 USC 263a; 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 405; 42 CFR 410; 42 CFR 491

Legal Deadline: None

Abstract: This rule would update our regulations to incorporate several health care coverage and payment provisions contained in OBRAs '86, '87, '89, and '90 and would propose administrative changes that clarify policy related to sharing space between rural health clinics and other entities, such as physician offices, the replacement of the provider-based cost basis system with the all-inclusive rate payment system, and the allowance of separate payment under part B for more complex laboratory services. Some changes pertain to federally qualified health centers as well as rural health clinics.

Timetable:

Action	Date	FR Cite
NPRM	05/00/98	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: BPD-764

Agency Contact: Helen Klein, Center for Health Plans and Providers, Division of Integrated Services, Department of Health and Human Services, Health Care Financing Administration, C4-06-07, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4641

RIN: 0938–AG05

1231. ALTERNATIVE SANCTIONS FOR RENAL DIALYSIS FACILITIES (HSQ-204-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395rr(c); 42 USC 1395rr(g)

CFR Citation: 42 CFR 405; 42 CFR 488; 42 CFR 498

Legal Deadline: None

Abstract: This proposed rule would set forth circumstances under which HCFA could impose denial of payment as an alternative sanction instead of terminating coverage when an ESRD facility is not in substantial compliance with the conditions for coverage, but its deficiencies do not pose immediate jeopardy to patient health or safety. Before section 1881 of the Social Security Act was amended by section 12 of the Medicare and Medicaid Patient and Program Protection Act of 1987 (Public Law 100-93), HCFA was authorized to impose alternative sanctions only when an ESRD facility failed to cooperate in the goals and activities of the ESRD network for the area in which the facility is located.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: HSQ-204

Agency Contact: Judith Kari, Center for Medicaid and State Operations, Division of Outcomes and Improvements, Department of Health and Human Services, Health Care Financing Administration, S2-19-26, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6829

RIN: 0938–AG31

1232. EFFECT OF CHANGE OF OWNERSHIP ON PROVIDER AND SUPPLIER PENALTIES, SANCTIONS, UNDERPAYMENTS AND OVERPAYMENTS (HSQ-215-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1395f(b); 42 USC 1395g(a); 42 USC 1395hh; 42 USC 1395ii; 42 USC 1395oo; 42 USC 1395xx; 42 USC 1395x(v); 42 USC 13951

CFR Citation: 42 CFR 405.1803; 42 CFR 405.1811; 42 CFR 405.1835; 42 CFR 405.1843; 42 CFR 405.1805; 42 CFR 489.2; 42 CFR 489.18

Legal Deadline: None

Abstract: This rule would amend the regulations on provider and certain supplier agreements by clarifying the effect a change of ownership has on penalties and sanctions incurred by the former provider or supplier. It also would clarify our policy on changes involving leased departments.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: HSQ-215

LEGAL AUTHORITY CONT: 42 USC 1395f(b) 42 USC 1395l 42 USC 1395ww

Agency Contact: Mike Goldman, Division of Integrated Health Systems, Department of Health and Human Services, Health Care Financing Administration, S2-14-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6813

RIN: 0938–AG59

1233. MEDICAID: OPTIONAL COVERAGE OF TB-RELATED SERVICES FOR INDIVIDUALS INFECTED WITH TUBERCULOSIS (MB-082-P)

Priority: Other Significant

Legal Authority: 42 USC 1396a(a)(10)(A)(ii); PL 103-66, Sec 13603; 42 USC 1396a(z)

CFR Citation: 42 CFR 435.219; 42 CFR 435.201; 42 CFR 440.250; 42 CFR 436.201; 42 CFR 436.219; 42 CFR 440.164

Legal Deadline: None

Abstract: This rule would provide for optional Medicaid coverage of low-income individuals infected with tuberculosis (TB). These individuals would be eligible only for specified TB-related services. The rule would incorporate and interpret provisions of section 13603 of OBRA '93.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local

Additional Information: MB-082

Agency Contact: Ingrid Osborne, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, C4-19-24, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4461

RIN: 0938–AG72

1234. REVISION OF MEDICARE HOSPITAL CONDITIONS OF PARTICIPATION (BPD-745-P)

Regulatory Plan: This entry is Seq. No. 30 in Part II of this issue of the Federal Register.

RIN: 0938–AG79

1235. PHYSICIANS' REFERRALS TO HEALTH CARE ENTITIES WITH WHICH THEY HAVE FINANCIAL RELATIONSHIPS—EXPANDED TO DESIGNATED HEALTH SERVICES (BPD-809-P)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395nn; 42 USC 1396b

CFR Citation: 42 CFR 411.350 to 411.361; 42 CFR 424.22; 42 CFR 435.1012; 42 CFR 455.108; 42 CFR 455.109

Legal Deadline: None

Abstract: This proposed rule would provide that a physician who has (or whose immediate family member has) a financial relationship with a health care entity may not make referrals to that entity for certain services (designated health services) under the Medicare program except under specified circumstances. In the Medicaid context, this proposed rule would deny payment to a State for expenditures for designated health services furnished on the basis of a physician referral that, all things being equal, would result in denial of payment under Medicare. The provisions of the proposed rule are based on sections 13562 and 13624 of OBRA '93 and section 152 of SSAA '94.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: BPD-809

Agency Contact: Joanne Sinsheimer, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, C4-11-23, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4620

RIN: 0938–AG80

1236. END STAGE RENAL DISEASE (ESRD) CONDITIONS FOR COVERAGE (BPD-818-P)

Regulatory Plan: This entry is Seq. No. 31 in Part II of this issue of the Federal Register.

RIN: 0938–AG82

1237. CLINICAL LABORATORY IMPROVEMENT AMENDMENT (CLIA) FEE SCHEDULE REVISION (HSQ-219-GNC)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395x(e); 42 USC 1395x(s)(11); 42 USC 1395x(s)(12); 42 USC 1395x(s)(13); 42 USC 1395x(s)(14); 42 USC 1395x(s)(15)

CFR Citation: 42 CFR 493.638; 42 CFR 493.639

Legal Deadline: None

Abstract: This general notice with comment period will announce updated certificate fees that laboratories must pay as required by CLIA '88. Fee increases are necessary to meet the costs of program administration, which are to be borne by the laboratories.

Timetable:

Action	Date	FR Cite
General Notice with Comment Period	08/29/97	
Comment Period End	10/28/97	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: HSQ-219

Agency Contact: Judy Yost, Division of Outcomes and Improvements, Department of Health and Human Services, Health Care Financing Administration, S2-09-28, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-3531

RIN: 0938–AG87

1238. LIABILITY FOR THIRD PARTIES TO PAY FOR CARE AND SERVICES (MB-080-P)

Priority: Other Significant

Legal Authority: 42 USC 1396a(a)(25)(A); 42 USC 1396b(o)

CFR Citation: 42 CFR 433.135 to 433.152

Legal Deadline: None

Abstract: This rule would incorporate provisions of OBRA '93 by amending the regulations governing third party liability. It would add ERISA plans, service benefit plans, and health maintenance organizations to the definition of liable third parties. It would require States to prohibit any health insurer from taking into account, when enrolling or making payments, that an individual is eligible for or receiving Medicaid. It would also require States to enact a law under which the State is deemed to have acquired a recipient's right to payment by a third party.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: MB-080

Agency Contact: Robert Nakielny, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, C4-21-01, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4466

RIN: 0938–AH01

1239. DEFINITION OF SKILLED NURSING FACILITY (SNF) FOR COVERAGE OF DURABLE MEDICAL EQUIPMENT (DME) (BPD-834-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395x(n); 42 USC 1395i(a)(1); 42 USC 1396r(a)(1)

CFR Citation: 42 CFR 409; 42 CFR 410

Legal Deadline: None

Abstract: This proposed rule would define skilled nursing facilities (SNFs) under section 1819(A)(1) of the Social Security Act for purposes of Medicare coverage of durable medical equipment (DME) and home health services. A Medicare SNF (as defined under section 1819 of the Social Security Act) cannot be considered a home under Medicare part B for DME and home health coverage. This proposed rule would presume that all Medicare nursing facilities are section 1819(A)(1) facilities and thus would not be considered a home for DME. This proposed rule would presume that all Medicare skilled nursing facilities are section 1819(A)(1) facilities and thus would not be considered a home for DME. This would define non-Medicare nursing homes as skilled facilities based upon the receipt of skilled care by at least once a week by a proportion of its residents population.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: BPD-834

Agency Contact: Thomas Hoyer, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, C4-02-16, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4605

RIN: 0938–AH16

1240. ADDITIONAL SUPPLIER STANDARDS (BPD-864-P)

Regulatory Plan: This entry is Seq. No. 32 in Part II of this issue of the Federal Register.

RIN: 0938–AH19

1241. STATE PLAN AMENDMENT (SPA) RECONSIDERATION PROCESS (MB-096-P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1396a(a)

CFR Citation: 42 CFR 430.18; 42 CFR 430.60

Legal Deadline: None

Abstract: This proposed rule would revise and streamline the State Plan Amendment (SPA) reconsideration process. Currently, when a State

requests reconsideration of a denied SPA, a hearing is held in all cases, even when the only dispute is over the interpretation of the statute. Under the proposed regulation, the State and HCFA could avoid the cost and delay of the hearing process when the only issue is interpretation of the statute by permitting the State expedited judicial review, without a full administrative hearing, after HCFA has a brief opportunity to reconsider its decision.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: MB-096

Agency Contact: Robert Tomlinson, Center for Medicaid and State Operations, Medicaid Bureau, Department of Health and Human Services, Health Care Financing Administration, C4-20-21, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4463

RIN: 0938–AH24

1242. MEDICARE COVERAGE OF SERVICES OF SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS (BPD-843-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1395x; 42 USC 1395x(cc)(1); 42 USC 1395x(ll)

CFR Citation: 42 CFR 484; 42 CFR 485

Legal Deadline: None

Abstract: This proposed rule would implement SSA '94 provisions to provide coverage for speech-language pathology services furnished by a qualified pathologist.

Timetable:

Action	Date	FR Cite
NPRM	06/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: BPD-843

Agency Contact: Jackie Gordon, Division of Cost Reporting, Department of Health and Human Services, Health Care Financing Administration, C4-07-14, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4517

RIN: 0938–AH37

1243. PAYMENT AMOUNT IF CUSTOMARY CHARGES ARE LESS THAN REASONABLE COSTS (BPD-860-FC)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 1395f(b); 42 USC 1395l(a); 42 USC 1395m(a)

CFR Citation: 42 CFR 413.13

Legal Deadline: None

Abstract: A provider whose charges are lower than its reasonable costs for those services in any cost reporting period beginning January 1, 1974, but before April 28, 1988, may carry forward costs that are unreimbursed for two succeeding cost reporting periods. Sufficient time has passed since the publication of this provision to warrant the deletion from the regulation text of any reference to the carryover provision. Since payment for durable medical equipment (DME) provided by home health agencies (HHAs) is no longer based on the lesser of the reasonable cost or reasonable charge but rather on 80% of the lesser of the actual charge for the item or the payment amount recognized under the DME fee schedule and, for nominal charge HHAs, on 80% of the DME fee schedule amount, the lesser of costs or charges provision no longer applies and should be deleted from the CFR.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: BPD-860

Agency Contact: Ward Pleines, Chronic Care Purchasing Policy Group, Division of Cost Reporting, Department of Health and Human Services, Health Care Financing Administration, C5-02-23, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4528

RIN: 0938–AH49

1244. SUPPLIER PARTICIPATION AGREEMENTS AND LIMITS ON ACTUAL CHARGES OF NONPARTICIPATING PHYSICIANS (BPD-862-P)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1395u(h); 42 USC 1395hh; 42 USC 1395rr(b)(1)

CFR Citation: 42 CFR 400; 42 CFR 414

Legal Deadline: None

Abstract: The Deficit Reduction Act of 1984 established a voluntary participation program for physicians and suppliers under which physicians and suppliers enter into an agreement with Medicare that binds them to accept payment on an assignment-related basis for all services they furnish to Medicare beneficiaries. This proposed rule would set forth the terms and conditions of the participation agreements. This proposed rule would reflect provisions of OBRA '93 as to the suppliers subject to the charge limits, and provisions of SSA '94 as to administrative procedures for enforcing the charge limits. This rulemaking will revise text in the CFR to reduce burden or duplication, or streamline requirements. It will give beneficiaries the opportunity to make informed consumer decisions regarding the choice of Medicare Part B services.

Timetable:

Action	Date	FR Cite
NPRM	09/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: BPD-862

Agency Contact: Anita Heygster, Center for Health Plans & Providers, Department of Health and Human Services, Health Care Financing Administration, C4-04-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4486

RIN: 0938–AH50

1245. REVISION TO ACCRUAL BASIS OF ACCOUNTING POLICY (BPD-876-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395x(v); 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 413.100

Legal Deadline: None

Abstract: The proposed rule would specify the providers' share of the costs of FICA and other employee payroll taxes that will be allowable under Medicare when the payroll period ends subsequent to the end of the reporting period. The proposed rule would allow that portion of employees FICA or other taxes that have accrued up to the end of the reporting period to be credited as allowable cost in the current reporting period and the remainder in the following period.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: BPD-876

Agency Contact: John Eppinger, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, C5-03-18, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4518

RIN: 0938–AH61

1246. MEDICAID; ESTATE RECOVERIES (MB-083-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396a; 42 USC 1396p

CFR Citation: 42 CFR 433.36

Legal Deadline: None

Abstract: This proposed rule is being developed as a result of the OBRA 1993 provisions that mandated States to seek adjustment or recovery from the estates of Medicaid beneficiaries for amounts correctly spent by Medicaid on permanently institutionalized individuals (any age) and individuals age 55 or older for certain services. The OBRA 1993 provision also defines "estate," and further requires States to establish hardship procedures, in accordance with standards specified by the Secretary for waiver of recovery in cases where undue hardship would result.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: State

Additional Information: MB-083

Agency Contact: Ingrid Osborne, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, C4-22-06, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4461

RIN: 0938–AH63

1247. MEDICAID HOSPICE CARE (MB-007-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 418.24; 42 CFR 418.28; 42 CFR 418.98; 42 CFR 440.167; 42 CFR 440.250(q); 42 CFR 441; 42 CFR 447

Legal Deadline: None

Abstract: This proposed rule would provide for optional Medicaid coverage of hospice care for terminally ill recipients who elect to receive care from a participating hospice, establish eligibility requirements, covered services, reimbursement procedures, and conditions that a hospice must meet to provide services to Medicaid recipients, and makes conforming technical revisions to the Medicare regulations governing hospice care.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Additional Information: MB-007

Agency Contact: Tom Shenk, Center for Medicaid and State Operations, Medicaid Bureau, Department of Health and Human Services, Health Care Financing Administration, C4-13-01, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-3295

RIN: 0938–AH65

1248. PROVIDER AND SUPPLIER BILLING WHEN MEDICARE IS SECONDARY PAYOR TO LIABILITY INSURANCE (BPD-848-P)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1395cc; 42 USC 1395dd; 42 USC 1395hh; 42 USC 1395ww; 42 USC 1395x; 42 USC 1395aa

CFR Citation: 42 CFR 411; 42 CFR 489

Legal Deadline: None

Abstract: This proposed rule would revise current regulations to require that providers and suppliers attempt to collect payment from the proceeds of liability insurance during the "promptly period." This rule would also permit providers and suppliers to choose either to pursue collection of payment from the proceeds of liability insurance after the "promptly period" has ended or to bill Medicare.

Timetable:

Action	Date	FR Cite
NPRM	09/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: BPD-848

Agency Contact: Anita Heygster, Center for Health Plans and Providers, Division of Integrated Services, Department of Health and Human Services, Health Care Financing Administration, C4-08-25, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4486

RIN: 0938–AH66

1249. ELSIMINATION OF CERTAIN REQUIREMENTS FOR PEER REVIEW ORGANIZATIONS IN THE UTILIZATION AND QUALITY REVIEW PROCESS AND A CHANGE IN THE LENGTH OF PEER REVIEW ORGANIZATION CONTRACTS (HSQ-235-FC)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or

duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 462.107; 42 CFR 466.71; 42 CFR 466.73

Legal Deadline: None

Abstract: This proposed rule would eliminate the requirement that Peer Review Organizations (PROs) conduct quarterly random sample reviews of hospital discharges. It would also change the period for PRO contracts from 2 years to 3 years and would eliminate certain notification requirements regarding contract awards.

Timetable:

Action	Date	FR Cite
NPRM	09/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: HSQ-235-FC

Agency Contact: Bill Roskey, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, S1-09-18, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-0433

RIN: 0938–AH68

1250. UPDATE OF RATESETTING METHODOLOGY, PAYMENT RATES AND THE LIST OF COVERED SURGICAL PROCEDURES FOR AMBULATORY SURGICAL CENTERS EFFECTIVE FOR CALENDAR YEAR 1998 (BPD-885-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 13951(i)

CFR Citation: 42 CFR 416.61(b); 42 CFR 416.65(a)(4); 42 CFR 416.65(c); 42 CFR 416.120(c)(1); 42 CFR 416.125; 42 CFR 416.130; 42 CFR 416.140(a); 42 CFR 416.140(b)

Legal Deadline: None

Abstract: This proposed rule discusses several policy changes affecting coverage of and payment for Ambulatory Surgical Center (ASC) facility services as provided under sections 1833(i)(1A) and (2A) of the Social Security Act. It would include the criteria for identifying procedures that are appropriate and safely performed in an ASC; the method used to set ASC payment rates; and the schedule for publishing and implementing payment and coverage updates.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: BPD-885-P

Agency Contact: Joan Sanow, Division of Practitioner and Ambulatory Care, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-5723

RIN: 0938–AH81

1251. REVISIONS TO CONDITIONS FOR COVERAGE FOR AMBULATORY SURGICAL CENTERS (BPD-887-P)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 416

Legal Deadline: None

Abstract: This proposed rule would revise the ambulatory surgical center conditions for coverage to reflect current innovations in healthcare delivery, quality assessment, and performance improvement. The focus would be to improve outcomes of health care and satisfaction for Medicare beneficiaries, while streamlining structural and procedural requirements where possible.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: BPD-887

Agency Contact: Judy Goldfarb, Office of Clinical Standards & Quality, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, S2-199.06, Baltiore, MD 21244
Phone: 410 786-6747

RIN: 0938–AH83

1252. DISCLOSURE OF PEER REVIEW ORGANIZATION INFORMATION IN RESPONSE TO BENEFICIARY COMPLAINTS (HSQ-241-P)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1320c-3(a)(14); 42 USC 1395hh

CFR Citation: 42 CFR 466.70(a); 42 CFR 476.101; 42 CFR 476.107; 42 CFR 476.132; 42 CFR 476.133(b)(4)

Legal Deadline: None

Abstract: This proposed rule would change our policy regarding the disclosure of peer review organization (PRO) information in responding to beneficiary complaints about physicians, other practitioners, and other institutional and non-institutional providers of health care, including Health Maintenance Organizations and Competitive Medical Plans. Under the proposal, we would permit the disclosure of PRO information about physicians and other individual practitioners without their permission to the extent necessary to comply with section 1154(a)(14) of the Social Security Act. This section requires PROs to conduct reviews of beneficiary complaints about the quality of services that do not meet professionally recognized standards of health care and inform each beneficiary of the final disposition of his or her complaint.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William Roskey, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, S1-09-07, Baltimore, MD 21244
Phone: 410 786-0433

RIN: 0938–AH85

1253. MEDICARE PROGRAM; BENEFICIARY INCENTIVES PROGRAMS (BPO-144-P)

Priority: Other Significant

Legal Authority: PL 104-191, sec 203

CFR Citation: 42 CFR 420.400; 42 CFR 420.405; 42 CFR 420.410

Legal Deadline: Final, Statutory, October 21, 1996.

Abstract: This proposed rule would establish a program for payment to individuals who provide information on Medicare fraud and abuse. It would also establish a program to collect suggestions to improve Medicare program efficiency and allow for payment to the individuals who provide the suggestions. Overall, it would implement sections 203(b) and 203(c) of the Health Insurance Portability and Accountability Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: BPO-144-P

Agency Contact: Bambi Straw, Program Integrity Group, Office of Financial Management, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, S3-08-05, Baltimore, MD 21244
Phone: 410 786-7539

RIN: 0938–AH86

1254. NATIONAL STANDARD FOR IDENTIFIERS OF HEALTH PLANS (BPO-145-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1320d; 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 421.100; 42 CFR 421.200; 42 CFR 424.5; 42 CFR 434.6; 42 CFR 442.12; 42 CFR 447.3; 45 CFR 142

Legal Deadline: None

Abstract: This rule would implement a standard identifier to identify health plans that process and pay certain electronic health care transactions. It would implement one of the requirements for administrative simplification in section 262 of the Health Insurance Portability and Accountability Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: BPO-145

Agency Contact: Faye Broseker, Center for Beneficiary Services, Department of Health and Human Services, Health Care Financing Administration, Bureau of Program Operations, S3-04-05, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-3342

RIN: 0938–AH87

1255. MEDICARE COVERAGE OF CERTIFIED NURSE-MIDWIFE SERVICES (BPD-496-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395x(s); 42 USC 1395x(gg)

CFR Citation: 42 CFR 405.2411; 42 CFR 405.2414; 42 CFR 405.2415; 42 CFR 410.10; 42 CFR 410.77

Legal Deadline: None

Abstract: This proposed rule would implement section 4073 of OBRA 1987 by amending Medicare regulations to reflect part B coverage of the services of certified nurse-midwives furnished without the supervision of a physician. It would define "certified nurse-midwife" and "certified nurse-midwife services."

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: BPD-496-P

Agency Contact: Roberta Epps, Center for Health Plans and Providers, Division of Practitioner & Ambulatory Care, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, C4-0516, Baltimore, MD 21244
Phone: 410 786-4475

RIN: 0938–AH98

1256. NATIONAL STANDARD HEALTH CARE PROVIDER IDENTIFIER (BDM-45-P)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 42 USC 1320d

CFR Citation: 45 CFR 142; 42 CFR 421.100; 42 CFR 421.200; 42 CFR 424.5; 42 CFR 434.6; 42 CFR 442.12; 42 CFR 447.3; 42 CFR 489.10

Legal Deadline: None

Abstract: This rule would address the health care industry's need for a standardized provider identifier. It would implement one of the requirements for administrative simplification in section 262 of the Health Insurance Portability and Accountability Act of 1996. A standard provider identifier would save the health insurance industry significant costs incurred in maintaining multiple identifier systems.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: BDM-45-P

Agency Contact: Karen Trudel, Office of Information Services, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., N3-06-13, Baltimore, MD 212244
Phone: 410 786-9937

RIN: 0938–AH99

1257. MEDICARE PROGRAM; MEDICARE INTEGRITY PROGRAM (OFH-020-P)

Regulatory Plan: This entry is Seq. No. 33 in Part II of this issue of the Federal Register.

RIN: 0938–AI09

1258. MEDICARE PROGRAM; IMPROVEMENTS TO THE APPEALS PROCESS FOR MEDICARE BENEFICIARIES ENROLLED IN HMOS, CMPS, AND HCPPS (OMC-024-P)

Priority: Other Significant

Legal Authority: 42 USC 1395mm(c)(5)

CFR Citation: 42 CFR 417

Legal Deadline: None

Abstract: This proposed rule would establish new administrative review requirements for Medicare beneficiaries enrolled in health maintenance organizations (HMOs), competitive medical plans (CMPs), and health care prepayment plans. This rule would implement section 1876(c)(5) of the Social Security Act, which specifies the appeal and grievance rights of Medicare enrollees in HMOs and CMPs. This rule would reduce time lines for nonurgent denials of care and make other improvements. We will also address

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Proposed Rule Stage

related requirements of the Balanced Budget Act of 1997.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cheryl Slay, Director, Division of Beneficiary Protections, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-6478

RIN: 0938–AI11

1259. • MENTAL HEALTH PARITY AND NEWBORNS' AND MOTHERS' HEALTH PROTECTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 100

CFR Citation: 45 CFR 300

Legal Deadline: None

Abstract: This needs information.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ann White, Regulations Coordinator, Department of Health and Human Services, Health Care Financing Administration, 200 Indepedendence Avenue, Washington, DC 20201
Phone: 202 690-6824

RIN: 0938–AI13

1260. • CHANGES TO THE HOSPITAL INPATIENT PROSPECTIVE PAYMENT SYSTEMS AND FISCAL YEAR 1999 RATES (HCFA-1001-P)

Regulatory Plan: This entry is Seq. No. 34 in Part II of this issue of the Federal Register.

RIN: 0938–AI22

1261. • CHILDREN'S HEALTH INSURANCE: PROGRAM IMPLEMENTATIONS; STATE PLAN APPROVAL; STATE PAYMENT; COORDINATION WITH STATE MEDICAID PROGRAM

Regulatory Plan: This entry is Seq. No. 35 in Part II of this issue of the Federal Register.

RIN: 0938–AI28

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Care Financing Administration (HCFA)

Final Rule Stage

1262. PAYMENT FOR CLINICAL DIAGNOSTIC LABORATORY TESTS (BPD-309-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1395f(b); 42 USC 1995g; 42 USC 1395k; 42 USC 1395l; 42 USC 1395x; 42 USC 1395hh; 42 USC 1395rr; 42 USC 1395tt; 42 USC 1395ww; 42 USC 1396b

CFR Citation: 42 CFR 405; 42 CFR 413; 42 CFR 414; 42 CFR 424; 42 CFR 431; 42 CFR 447

Legal Deadline: None

Abstract: This rule will incorporate provisions of the Deficit Reduction Act of 1984, COBRA '85, OBRA '86, OBRA '87, TMRA '88, OBRA '89, and OBRA '90 regarding payment and "assignment" for diagnostic clinical laboratory tests establishing in regulations the methods for implementing fee schedules. This rule will set forth the methods by which the fee schedules will be updated and will allow certain adjustments for exceptions to the fee schedule. It will also reflect a statutory revision mandated by OBRA '93.

Timetable:

Action	Date	FR Cite
NPRM	08/18/93	58 FR 43156
NPRM Comment Period End	10/18/93	
Final Action	09/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: BPD-309

Agency Contact: Charles Spalding, Center for Medicaid and State Operations, Division of Acute Care, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4498

RIN: 0938–AB50

1263. EFFECTIVE DATES FOR PROVIDER AGREEMENTS AND SUPPLIER APPROVALS (HSQ-139-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 431; 42 CFR 442; 42 CFR 488; 42 CFR 489; 42 CFR 498

Legal Deadline: None

Abstract: This rule will establish uniform criteria for determining the effective dates of Medicare and Medicaid provider agreements and of the approval of Medicare suppliers when the provider or supplier is subject to survey as a basis for determining participation in those programs. It also establishes appeal rights and procedures for entities that are dissatisfied with effective date determinations.

Timetable:

Action	Date	FR Cite
NPRM	10/08/92	57 FR 46362
NPRM Comment Period End	12/07/92	
Final Action	11/00/97	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: HSQ-139

Agency Contact: Diane Bavaria, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S2-19-26, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-6773

RIN: 0938–AC88

HHS—HCFA

Final Rule Stage

1264. MEDICARE SECONDARY PAYER FOR DISABLED INDIVIDUALS (BPD-482-F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395y(b); 44 USC 3501 to 3511

CFR Citation: 42 CFR 400; 42 CFR 411

Legal Deadline: None

Abstract: This rule will codify in the CFR the Medicare secondary payer (MSP) provision, under the Social Security Act, for disabled individuals who are covered under large group health plans (LGHPs). Under this provision LGHPs may not take into account that such individuals are entitled to Medicare. The rule contains procedures under which a plan can appeal a determination of nonconformance which could lead to an excise tax. It reflects statutory revisions mandated by OBRA '86, OBRA '89, and OBRA '93, some of which also affect the MSP provisions for persons who are entitled on the basis of age or end-stage renal disease.

Timetable:

Action	Date	FR Cite
NPRM	03/08/90	55 FR 8491
Comment Period End	05/08/90	
Comment Period End	10/30/92	
Final Rule	08/31/95	60 FR 45344
Effective Date	10/02/95	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: BPD-482

Agency Contact: Herbert Pollock, Center for Health Plans and Providers, Division of Integrated Services, Department of Health and Human Services, Health Care Financing Administration, C4-08-14, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4474

RIN: 0938–AD73

1265. REVISIONS TO REGULATIONS IMPLEMENTING CLIA (HSQ-226-F)

Regulatory Plan: This entry is Seq. No. 36 in Part II of this issue of the Federal Register.

RIN: 0938–AE47

1266. RESIDENT ASSESSMENT IN LONG-TERM CARE FACILITIES (HSQ-180-F)

Priority: Other Significant

Legal Authority: 42 USC 1395i-3; 42 USC 1396r

CFR Citation: 42 CFR 483

Legal Deadline: None

Abstract: This final rule will provide Medicare and Medicaid nursing homes the requirements for a comprehensive, standardized, reproducible resident assessment instrument. All certified nursing homes are currently required to assess residents using a standardized data set known as the minimum data set (MDS). Nursing homes have been collecting this information manually since October 1990. Most States implemented a second generation assessment instrument, known as MDS 2.0, on January 1, 1996. The use of the MDS as the core of the comprehensive assessment requirement has improved the quality of nursing home services by assuring that the assessment is consistently based on all information that is necessary to evaluate a resident's needs. Accurate and comprehensive resident assessments have improved the accuracy of the care planning process and ultimately, the care provided by the nursing home. However, in order to realize the full benefits of the MDS, the information needs to be computerized, and reconfigured as an analytical tool. Publication of this rule will allow this goal to be realized by requiring electronic reporting of MDS data and provide support for the computerization of the MDS.

Timetable:

Action	Date	FR Cite
NPRM	12/28/92	57 FR 61614
NPRM Comment Period End	02/26/93	
Final Action	10/00/97	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: HSQ-180

Agency Contact: Cindy Hake, Center for Medicaid and State Operations, Elderly and Disabled Programs Group, Department of Health and Human Services, Health Care Financing Administration, S2-20-08, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-3404

RIN: 0938–AE61

1267. POST-CONTRACT BENEFICIARY PROTECTIONS AND OTHER PROVISIONS (OMC-003-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395mm

CFR Citation: 42 CFR 417

Legal Deadline: None

Abstract: This rule will require health maintenance organizations (HMOs) or competitive medical plans (CMPs) that cease to contract with HCFA under section 1876 of the Social Security Act to arrange for supplemental coverage for former Medicare enrollees who would otherwise be subject to a pre-existing condition exclusion under a Medicare supplemental policy; provide a 30-day open enrollment period for individuals who would otherwise lose prepaid Medicare coverage as a result of termination, non-renewal or reduction in service area of a risk contract; accelerate the deadline for risk contracting HMOs and CMPs to furnish a copy of an executed enrollment application form to Medicare applicants; and, require health care prepayment plans to comply with HMO/CMP beneficiary application procedures. We will also address relative requirements of the Balanced Budget Act of 1997.

Timetable:

Action	Date	FR Cite
NPRM	03/11/94	59 FR 11230
NPRM Comment Period End	05/09/94	
Final Action	11/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: OMC-003

Agency Contact: Tracy Jensen, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, S3-02-01, 7500 Security Boulevard, Baltimore, MD 21244

Phone: 410 786-1033

RIN: 0938–AE63

1268. PAYMENT FOR NURSING AND ALLIED HEALTH SCIENCE EDUCATION (BPD-685-F)

Priority: Other Significant

Legal Authority: PL 101-239, Sec 6205; PL 101-508, Sec 4004; PL 101-508, Sec 4159; 42 USC 1395x

CFR Citation: 42 CFR 413

Legal Deadline: Final, Statutory, June 30, 1990.

Abstract: This rule will set forth our policy for the payment of the costs of approved nursing and allied health science programs, as directed by section 6205(b)(2) of OBRA '89. For the most part, the provisions set forth in this rule restate or clarify our current policies governing these costs, which were previously set forth in the provider reimbursement manual and other documents, but have never been included in the regulations. In addition, we are amending the list of approved programs and clarifying payment rules for certified registered nurse anesthetist programs. This rule will also address section 4004 of OBRA '90 which provides that, effective with cost reporting periods beginning on or after October 1, 1990, under certain conditions, costs incurred by a hospital or educational institution related to the hospital for clinical training are treated as pass-through costs and paid on the basis of reasonable cost even though the hospital does not operate the education programs.

Timetable:

Action	Date	FR Cite
NPRM	09/22/92	57 FR 43659
NPRM Comment Period End	11/23/92	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: BPD-685

Agency Contact: Marc Hartstein, Center for Health Plans & Providers, Department of Health and Human Services, Health Care Financing Administration, C5-08-27, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4539

RIN: 0938–AE79

1269. COVERAGE OF SCREENING PAP SMEARS (BPD-705-F)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 410.10; 42 CFR 410.32; 42 CFR 410.56; 42 CFR 411.15

Legal Deadline: None

Abstract: This rule establishes regulations under section 6115 of OBRA '89 to govern Medicare part B coverage of screening pap smears (including a physician's interpretation of the test results) provided to a woman for the early detection of cervical cancer.

Timetable:

Action	Date	FR Cite
NPRM	11/26/93	58 FR 62312
NPRM Comment Period End	01/24/94	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: BPD-705

Agency Contact: Joyce Eng, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, C4-02-26, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4619

RIN: 0938–AE98

1270. REQUIREMENTS FOR CERTAIN HEALTH INSURING ORGANIZATIONS AND OBRA'90 TECHNICAL AMENDMENTS (OMC-018-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396b(m); 42 USC 1396a(e)(2)(A)

CFR Citation: 42 CFR 434.20 to 72; 42 CFR 435.212; 42 CFR 435.326

Legal Deadline: None

Abstract: This final rule amends the Medicaid regulations to apply Medicaid regulations governing prepaid health plans to those health insuring organizations that provide or arrange for health care services to Medicaid recipients but are not subject to the requirements for health maintenance organizations (HMOs) set forth in section 1903(m)(2)(A) of the Social Security Act. It also incorporates technical amendments relating to HMO and/or competitive medical plan enrollment, disenrollments, guaranteed eligibility, and provisional status included in OBRA '90 and the Balanced Budget Act of 1997.

Timetable:

Action	Date	FR Cite
NPRM	05/09/94	59 FR 23820
NPRM Comment Period End	07/08/94	
Final Action	04/00/98	

Small Entities Affected: Organizations

Government Levels Affected: None

Additional Information: OMC-018

Agency Contact: Jane McClard, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S3-02-14, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4460

RIN: 0938–AF15

1271. MEDICAID PAYMENT FOR COVERED OUTPATIENT DRUGS UNDER REBATE AGREEMENTS (MB-046-FC)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1396a(a); 42 USC 1396r-8; 42 USC 1396b(a); 42 USC 1302

CFR Citation: 42 CFR 447; 42 CFR 441

Legal Deadline: None

Abstract: This final rule with comment period will incorporate section 4401 of OBRA '90 to add specific requirements for Medicaid payment for covered outpatient drugs. The requirements concern: denial of Federal financial participation unless rebate agreements and drug use review are in effect; prohibiting some State plan drug access limitations for drugs covered under a rebate agreement; and the content of the rebate agreements. (The drug rebate agreement was previously published in the Federal Register on February 21, 1991 (56 FR 7049)). This rule will reflect statutory revisions mandated by the Veteran's Health Care Act of 1992 and OBRA '93. Revision of the drug rebate dispute resolution process is part of the Department's regulatory reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	09/19/95	60 FR 48442
NPRM Comment Period End	11/20/95	
Final Action	02/00/98	

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: MB-046

Agency Contact: Sue Williamson, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, C4-15-26, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-3334

RIN: 0938–AF42

1272. RETROACTIVE ENROLLMENT AND DISENROLLMENT IN RISK HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS (OMC-015-F)

Priority: Other Significant

Legal Authority: 42 USC 1395mm; 42 USC 300e; 42 USC 300e-5; 42 USC 300e-9; 42 USC 1302; 42 USC 1395hh; 31 USC 9701

CFR Citation: 42 CFR 417.448; 42 CFR 417.450; 42 CFR 417.456; 42 CFR 417.460; 42 CFR 417.461; 42 CFR 417.462; 42 CFR 417.464; 42 CFR 417.584; 42 CFR 417.436

Legal Deadline: None

Abstract: This rule implements section 4204(e) of OBRA '90. It permits HCFA to make retroactive payments for up to 90 days when there is a delay in notifying HCFA that a beneficiary has enrolled under a section 1876 (of the Social Security Act) risk contract through an employer health plan. In addition, the rule will permit the Secretary to authorize retroactive disenrollment in specific cases. We will also address related requirements of the Balanced Budget Act of 1997.

Timetable:

Action	Date	FR Cite
NPRM	12/27/93	58 FR 68366
Comment Period End	02/25/94	
Final Action	06/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: OMC-015

Agency Contact: Anne Manley, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, S3-02-01, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-1096

RIN: 0938–AF98

1273. PAYMENT FOR PREADMISSION SERVICES (BPD-731-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395ww(a)(4)

CFR Citation: 42 CFR 412.2(c); 42 CFR 413.40

Legal Deadline: None

Abstract: This rule finalizes provisions published in an interim final rule with comment period on January 12, 1994, and responds to comments received on that rule. The interim final rule implemented section 4003 of OBRA '90, entitled "Expansion of DRG Payment Window," which amended the statutory definition of "operating costs of inpatient hospital services" to include certain preadmission services.

Timetable:

Action	Date	FR Cite
Effective Date	01/12/94	59 FR 1654
Interim Final Rule With Comment Period	01/12/94	59 FR 1654
Comment Period End	03/14/94	
Final Action	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: BPD-731

Agency Contact: Nancy Edwards, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, C5-06-27, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4531

RIN: 0938–AG00

1274. CHANGE IN PROVIDER AGREEMENT REGULATIONS RELATED TO FEDERAL EMPLOYEE HEALTH BENEFITS (BPD-748-F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 8904(b)

CFR Citation: 42 CFR 489

Legal Deadline: None

Abstract: This final rule will amend current Medicare regulations to require that payment limitations apply to hospitals that furnish inpatient hospital services to retired Federal workers, aged 65 or older, who are enrolled in a Federal Employee Health Benefits (FEHB) plan but not covered under Medicare part A (Hospital Insurance). The payment amount will approximate the Medicare diagnosis-related group payment rates established under the inpatient hospital Medicare prospective payment rate. This rule will also amend current Medicare regulations to authorize HCFA to consider terminating or nonrenewing a hospital's Medicare provider agreement if the hospital repeatedly fails to accept the Medicare rate as payment in full for inpatient hospital services provided to retired Federal workers enrolled in a fee-for-service from a FEHB plan who do not have Medicare part A coverage. This rule will implement section 7002(f) of OBRA '90, enacted November 5, 1990. It will clarify that an institutional provider may not discriminate against Medicare patients in providing services because it is dissatisfied with the level of Medicare payment.

Timetable:

Action	Date	FR Cite
NPRM	02/10/94	59 FR 6228
NPRM Comment Period End	04/11/94	
Final Action	11/00/97	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: BPD-748

Agency Contact: Bernadette Schumaker, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, C4-02-26, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4568

RIN: 0938–AG03

1275. MEDICARE PROGRAM: LIMITATIONS ON MEDICARE COVERAGE OF INTERMITTENT POSITIVE PRESSURE BREATHING MACHINE THERAPY (BPD-781-FN)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395x(n); 42 USC 1395y(a)(1)(A)

CFR Citation: 45 CFR 500

Legal Deadline: None

Abstract: Intermittent positive pressure breathing (IPPB) machine therapy is currently covered under Medicare as durable medical equipment for patients whose ability to breathe is severely impaired. Based on an Office of Health Technology Assessment recommendation, we will place limitations on Medicare coverage of IPPB machine therapy.

Timetable:

Action	Date	FR Cite
Proposed Notice	06/29/94	59 FR 33520
Comment Period End	08/29/94	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: BPD-781

Agency Contact: Francine Spencer, Office of Clinical Standards and Quality, Coverage and Analysis Group, Department of Health and Human Services, Health Care Financing Administration, C4-04-05, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4614

RIN: 0938–AG44

1276. NONCOVERAGE OF ELECTROSTIMULATION OF SALIVARY GLANDS FOR THE TREATMENT OF XEROSTOMIA (DRY MOUTH) (BPD-782-FN)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395y(a)(1)(A)

CFR Citation: 45 CFR 300

Legal Deadline: None

Abstract: This notice announces the Medicare program's intent to exclude from coverage electrostimulation of the salivary glands in the treatment of xerostomia secondary to Sjogren's Syndrome. Public Health Service (PHS) studies show that there is insufficient data to establish the clinical utility of electrostimulation to evaluate its long-term effectiveness, or to identify those xerostomia patients who would benefit from this procedure. Also, PHS reports that electrostimulation is not widely accepted as a treatment for xerostomia secondary to Sjogren's Syndrome.

Timetable:

Action	Date	FR Cite
Proposed Notice	05/23/94	59 FR 26653
Comment Period End	07/22/94	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: BPD-782

Agency Contact: Francine Spencer, Office of Clinical Standards and Quality, Coverage and Analysis Group, Department of Health and Human Services, Health Care Financing Administration, C4-04-05, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4614

RIN: 0938–AG45

1277. TELEPHONE REQUESTS FOR REVIEW OF PART B INITIAL CLAIM DETERMINATIONS (BPO-121-F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1395ff(b); 42 USC 1395hh; 42 USC 1395u(b)(3)(C)

CFR Citation: 42 CFR 405.802; 42 CFR 405.807

Legal Deadline: None

Abstract: This rule will make it easier for beneficiaries, providers, and physicians (and other suppliers) who are entitled to appeal Medicare part B initial claim determinations to request review of the carrier's initial determination. Currently, these appeals must be in writing. This expanded rule will also allow appeals to be made by telephone, which will expedite the appeal process, and save time and costs for all parties. Allowing the use of telephone requests will supplement, not replace, the current review procedures. By providing quick and easy access to the appeals process, this rule will also improve carrier relationships with the provider and beneficiary communities.

Timetable:

Action	Date	FR Cite
NPRM	07/10/95	60 FR 35544
NPRM Comment Period End	09/08/95	
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: BPO-121

Agency Contact: Rosalind Little, Center for Beneficiary Services, Department of Health and Human Services, Health Care Financing Administration, S1-05-18, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6972

RIN: 0938–AG48

1278. HOME HEALTH AGENCY (HHA) CONDITIONS OF PARTICIPATION (BPD-819-F)

Regulatory Plan: This entry is Seq. No. 37 in Part II of this issue of the Federal Register.

RIN: 0938–AG81

1279. CLIA PROGRAM: CATEGORIZATION OF WAIVED TESTS (HSQ-225-F)

Regulatory Plan: This entry is Seq. No. 38 in Part II of this issue of the Federal Register.

RIN: 0938–AG99

1280. AMBULANCE SERVICES (BPD-813-P)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 410.40; 42 CFR 410.41; 42 CFR 424.124

Legal Deadline: None

Abstract: This rule updates and revises policy on coverage of ambulance services. It bases coverage and payment for ambulance services on the medical services needed to treat the beneficiary's condition. It also clarifies Medicare policy on coverage of non-emergency ambulance services for Medicare beneficiaries. It defines an ambulance by describing the requirements for furnishing both basic and advanced life support levels of ambulance services. The rule would require use of additional HCFA common procedure coding systems (HCPCS) codes to show the origin and destination of the ambulance transportation on the billing form. It requires use of international classification of diseases, 9th revision, clinical modification (ICD-9-CM) codes to bill the Medicare program for basic and advanced levels of ambulance services.

Timetable:

Action	Date	FR Cite
NPRM	06/17/97	62 FR 32715
NPRM Comment Period End	08/17/97	
Final Action	04/00/98	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: BPD-813

Agency Contact: Margot Bilge, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, C4-02-26, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4642

RIN: 0938–AH13

1281. ADJUSTMENT IN PAYMENT AMOUNTS FOR NEW TECHNOLOGY INTRAOCULAR LENSES (BPD-831-F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395k(a)(2); 42 USC 1395l; 42 USC 2630

CFR Citation: 42 CFR 416

Legal Deadline: NPRM, Statutory, October 31, 1995.

Abstract: This rule establishes a process under which interested parties could request, with respect to a class of new technology intraocular lenses (IOLs), a review of the appropriateness of the current payment amount for IOLs furnished by Medicare-participating ambulatory surgical centers. This rule is part of HCFA's regulatory reform initiative.

Timetable:

Action	Date	FR Cite
NPRM	09/04/97	62 FR 46698
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: BPD-831

Agency Contact: Cathaleen Ahern, Center for Health Plans and Providers, Division of Practitioner & Ambulatory Care, Department of Health and Human Services, Health Care Financing Administration, C4-09-24, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4515

RIN: 0938–AH15

1282. CLIA PROGRAM: CYTOLOGY PROFICIENCY TESTING (HSQ-233-N)

Priority: Other Significant

Legal Authority: 42 USC 263a(f)(4)(B)(iv)

CFR Citation: 42 CFR 493.855

Legal Deadline: None

Abstract: This notice announces the withdrawal of a proposed rule on cytology proficiency testing that was published in the Federal Register November 30, 1995, and instead, announces a supplement to the rulemaking record of a final rule published February 28, 1992. In publishing the proposed rule, HHS complied with a Federal court order requiring publication of a proposal that would require that cytology proficiency testing be conducted to the extent practicable, under normal working conditions. As required, we proposed to revise regulations to require that proficiency testing be conducted at a pace corresponding to the maximum workload rate for individuals examining slides. We also solicited comments on the use of computer facsimile representations of cytology specimens, as an alternative to glass-slide proficiency testing. After the proposed rule was published, the appeals court revised the lower court's order, allowing us to withdraw the proposed rule and supplement the record to the final rule.

Timetable:

Action	Date	FR Cite
NPRM	11/30/95	60 FR 61509
NPRM Comment Period End	01/29/96	
Final Action	03/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: HSQ-233-N. We are publishing a notice to advise the public that no final rule is necessary because the court decided the case in our favor.

Agency Contact: Rhonda Whalen, Senior Health Scientist, Department of Health and Human Services, Centers for Disease Control and Prevention, 4770 Buford Highway, NE., MS F 11, Atlanta, GA 30341-3724
Phone: 770 488-7670

RIN: 0938–AH35

1283. LIMITATIONS ON LIABILITY (BPD-859-FC)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1302hh; 42 USC 1395pp

CFR Citation: 42 CFR 411.404

Legal Deadline: None

Abstract: This final rule with comment period will implement section 1879 (h) of the Social Security Act, which limits beneficiary liability for certain medical equipment and supplies. This rulemaking is part of the Reinventing Government effort. We are working with industry representatives to develop guidelines that will streamline requirements, reduce burden and duplication, and give beneficiaries the opportunity to make informed consumer decisions regarding certain medical equipment and supplies.

Timetable:

Action	Date	FR Cite
Final Action	05/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: BPD-859

Agency Contact: Denis Garrison, Division of Beneficiary Protections, Department of Health and Human

Services, Health Care Financing Administration, C4-06-21, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-5643

RIN: 0938–AH51

1284. TERMS, DEFINITIONS, AND ADDRESSES: TECHNICAL AMENDMENTS (BPD-877-FC)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 1302; 42 USC 1395x(v)(1)(A); 42 USC 1395hh

CFR Citation: 42 CFR 413.118; 42 CFR 413.122

Legal Deadline: None

Abstract: This is a technical final rule with comment period that will initiate the rationalization of our system of definitions, correct outdated addresses and formulas, clarify which steps of the appeals process are binding and which are final, remove content that is duplicative or unnecessary, and make other clarifying editorial changes.

Timetable:

Action	Date	FR Cite
Final Rule With Comment Period	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: BPD-877

Agency Contact: Luisa Iglesias, Division of Regulation and Issuances, Department of Health and Human Services, Health Care Financing Administration, Room 409-B Humphry Bldg, 200 Independence Ave SW., Washington, DC
Phone: 202 690-6383

RIN: 0938–AH53

1285. CHANGES TO THE HOSPITAL INPATIENT PROSPECTIVE PAYMENT SYSTEM AND FISCAL YEAR 1998 RATES (BPD-878-F)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 42 USC 1395ww

CFR Citation: 42 CFR 412; 42 CFR 413; 42 CFR 489

Legal Deadline: NPRM, Statutory, May 1, 1997. Final, Statutory, September 1, 1997.

Abstract: Medicare pays for hospital inpatient services under a prospective payment system (PPS) in which payment is made at a predetermined specific rate for the operating and capital-related costs associated with each discharge. These rules announce the prospective payment rates for operating and capital-related costs for FY 1998. We will also revise the Medicare hospital inpatient prospective payment systems for operating costs and capital-related costs to implement necessary changes resulting from the Balanced Budget Act of 1997, Public Law 105-33, and changes arising from our continuing experience with the systems. In addition, we will set forth rate-of-increase limits as well as policy changes for hospitals and hospital units excluded from the prospective payment systems. These changes will be applicable to discharges occurring on or after October 1, 1997.

Timetable:

Action	Date	FR Cite
NPRM	06/02/97	62 FR 29902
NPRM Comment Period End	08/01/97	
Final Action	10/00/97	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Federal

Additional Information: BPD-878

Agency Contact: Tzvi Hefter, Division of Acute Care, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, C5-08-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-1304

RIN: 0938–AH55

1286. HOME HEALTH AGENCY PHYSICIAN CERTIFICATION REGULATIONS (BPD-875-NC)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395nn; 42 USC 1395hh; 42 USC 1395f; 42 USC 1395n

CFR Citation: 42 CFR 424.22

Legal Deadline: None

Abstract: This notice with comment period will deal with the applicability of current Medicare regulations pertaining to the indirect compensation of physicians who certify or recertify the need for home health services or who establish or review the home plan of care.

Timetable:

Action	Date	FR Cite
Notice With Comment Period	10/00/97	
Final Action	00/00/00	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: BPD-875

Agency Contact: Jennifer Carter, Chronic Care Purchasing Policy Group, Department of Health and Human Services, Health Care Financing Administration, C4-07-05, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4615

RIN: 0938–AH59

1287. MEDICARE PROGRAM; ESTABLISHMENT OF AN EXPEDITED REVIEW PROCESS FOR MEDICARE BENEFICIARIES ENROLLED IN HMOS, CMPS, AND HCPPS (OMC-25-FC)

Priority: Other Significant

Legal Authority: 42 USC 1395mm(c)(5)

CFR Citation: 42 CFR 417.600; 42 CFR 417.604; 42 CFR 417.606; 42 CFR 417.608; 42 CFR 417.609; 42 CFR 417.614; 42 CFR 417.616; 42 CFR 417.617; 42 CFR 417.618; 42 CFR 417.620

Legal Deadline: None

Abstract: This final rule establishes a new administrative review requirement for Medicare beneficiaries enrolled in health maintenance organizations (HMOs), competitive medical plans (CMPs), and health care prepayment plans (HCPPs) and will apply to part C Medicare choice plans. This rule implements section 1876(c)(5) of the Social Security Act, which specifies the appeal and grievance rights for Medicare enrollees and HMOs and CMPs. This rule requires that an HMO, CMP, or HCPP establish and maintain, as part of the health plan's appeals procedures, an expedited process for making organization determinations and reconsider determinations when an adverse determination could seriously jeopardize the life or health of the enrollee or the enrollee's ability to regain maximum function. This rule also revises the definition of appealable determinations to clarify that it includes a decision to discontinue services.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/30/97	62 FR 23368
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: OMC-25-F

Agency Contact: Maureen Miller, Division of Integrated Delivery Systems, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, S3-21-17, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-1097

RIN: 0938–AH62

1288. UTILIZATION CONTROL AND DISCONTINUED REVIEW ACTIVITIES; MEDICAID (MB-101-FC)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1396a(a)(26); 42 USC 1396(a)(30); 42 USC 1396a(a)(31); 42 USC 1396(a)(44); 42 USC 1396b(g)

CFR Citation: 42 CFR 400; 42 CFR 431; 42 CFR 456

Legal Deadline: None

Abstract: This proposed rule would codify in regulations the statutory requirements that make physician certification and development of plan of care and utilization review State plan requirements under the Medicaid program. States would no longer be required to make quarterly showings that they have complied with those requirements and other provisions would be removed. Regulatory provisions on regional staff subsampling of State Medicaid quality control.

Timetable:

Action	Date	FR Cite
Final Action	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: MB-101

Agency Contact: Wanda White, Office of Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, C4-25-02, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-2638

RIN: 0938–AH64

1289. USE OF THE OASIS AS PART OF THE CONDITIONS OF PARTICIPATION FOR HOME HEALTH AGENCIES (HSQ-238-F)

Regulatory Plan: This entry is Seq. No. 39 in Part II of this issue of the **Federal Register.**

RIN: 0938–AH74

1290. INDIVIDUAL MARKET HEALTH INS. REFORM PORTABILITY FROM GROUP TO INDIV. COVERAGE; FEDERAL RULES FOR ACCESS IN THE INDIV. MARKET; STATE ALTERNATIVE MECHANISMS TO FEDERAL RULES (BPD-882-F)

Priority: Other Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 42 USC 201

CFR Citation: 45 CFR 148

Legal Deadline: None

Abstract: This final rule addresses comments received on the interim final rule published on April 8, 1997 and further clarifies the Departmental position on HIPAA requirements in the individual market.

Timetable:

Action	Date	FR Cite
Interim Final Rule with Comment Period	04/08/97	62 FR 16985
Interim Rule Effective Date	04/08/97	
Interim Rule Public Comment Period End	07/07/97	
Final Action	04/00/98	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Additional Information: BPD-882-F

Agency Contact: Gertrude Saunders, Insurance Standards Team, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-5888

RIN: 0938–AH75

1291. MEDICAID PROGRAM; REDETERMINATIONS OF MEDICAID ELIGIBILITY DUE TO WELFARE REFORM (MB-105-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302

CFR Citation: 42 CFR 435.1003

Legal Deadline: None

Abstract: The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and the Contract With America Advancement Act of 1996 made statutory changes affecting the eligibility of large numbers of Medicaid recipients. Changes were made to the definition of disability for children and eligibility requirements of non-U.S. citizens and individuals receiving disability cash assistance based on a finding of alcoholism and drug addiction. In order to protect Federal financial participation in State Medicaid expenditures for States with unusual volumes of eligibility redeterminations caused by these statutory changes, we published a final rule with comment period on January 13, 1997. That rule changed our regulations to provide additional time for States to process redeterminations and provide services pending the redeterminations. We are analyzing the public comments to the January 13 rule in preparation of a final rule.

Timetable:

Action	Date	FR Cite
Final Rule With Comment Period	01/13/97	62 FR 1682
Final Action Effective	01/13/97	
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Bob Tomlinson, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, Medicaid Bureau, C4-20-21, 7500 Security Blvd., Baltimore, MD 21244

Phone: 410 786-4463

RIN: 0938–AH76

1292. CLIA PROGRAM; SIMPLIFYING CLIA REGULATIONS TO ACCREDITATION EXEMPTION OF LABORATORIES UNDER A STATE LICENSURE PROGRAM, AND PROFICIENCY TESTING AND INSPECTION (HSQ-239-FC)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 263a; 42 USC 1302; 42 USC 1395x(e); 42 USC 1395x(s)(11) to 1395x(s)(16)

CFR Citation: 42 CFR 493

Legal Deadline: None

Abstract: This final rule with comment period will respond to various comments received on an earlier final rule with a comment period implementing the Clinical Laboratory Improvement Amendments of 1988, which was published in the Federal Register on February 28, 1992, in the areas of proficiency testing and inspections for clinical laboratories. This rule will follow the Administration's regulatory reform initiative by reducing duplicative material, emphasizing outcome-oriented results, and simplifying regulations. We also are streamlining our regulation in the areas of State exemption, and granting deemed status to laboratories accredited by an approved accreditation organization.

Timetable:

Action	Date	FR Cite
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: HSQ-239

Agency Contact: Judy Yost, Center for Medicaid and State Operations, Division of Outcomes and Improvement, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-3531

RIN: 0938–AH82

1293. FINAL LIMITATIONS ON AGGREGATE PAYMENTS TO DISPROPORTIONATE SHARE HOSPITALS: FEDERAL FISCAL YEAR 1997 (MB-110-N)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396(a)(13); 42 USC 1396r-4(f)

CFR Citation: 42 CFR 447.297; 42 CFR 447.298; 42 CFR 447.299

Legal Deadline: Other, Statutory, April 1997.
Regulatory Deadline

Abstract: This notice announces the final Federal fiscal year 1997 national target and individual State allotments for Medicaid payment adjustments made to hospitals that serve a disproportionate number of Medicaid recipients and low-income patients with special needs.

Timetable:

Action	Date	FR Cite
Notice	11/00/97	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: MB-110

Agency Contact: Richard Strauss, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., C4-17-27, Baltimore, MD 21244
Phone: 410 786-2019

RIN: 0938–AH93

1294. MEDICARE PROGRAM; REVISIONS TO PAYMENT POLICIES AND ADJUSTMENTS TO THE RELATIVE VALUE UNITS UNDER THE PHYSICIAN FEE SCHEDULE, OTHER PART B PAYMENT POLICIES FOR CALENDAR YEAR 1998 (BPD-884-FC)

Regulatory Plan: This entry is Seq. No. 40 in Part II of this issue of the Federal Register.

RIN: 0938–AH94

1295. REVISION TO THE DEFINITION OF AN UNEMPLOYED PARENT (MB-108-FC)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 607; 42 USC 1369u-1

CFR Citation: 45 CFR 233

Legal Deadline: None

Abstract: This final rule with comment period will make a change necessary for a State to further facilitate coordination of its Medicaid and foster care program in cases where coverage has been expanded under its Temporary Assistance for Needy Families beyond the definition of unemployed parent contained in existing Aid to Families with Dependent Children regulations. This rule revises the definition of unemployment of a principal wage earner for purposes of coverage of dependent children of unemployed parents. It will also allow States to eliminate inequitable policies that are a disincentive to family unity.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/97	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: MB-106

Agency Contact: Judith Rhoades, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., CA-20-05, Baltimore, MD 21244
Phone: 410 786-4462
Fax: 410 786-3252

RIN: 0938–AH98

1296. HEALTH INSURANCE REFORM: PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS (BPD-891-IFC)

Priority: Other Significant

Legal Authority: 42 USC 300gg-5

CFR Citation: 45 CFR 146

Legal Deadline: None

Abstract: This interim final rule will impose requirements on the group health plan market. It will require parity of mental health benefits with medical and surgical benefits under a group health plan in the application of aggregate lifetime limits and annual limits. It will implement sections 702 and 703 of the Mental Health Parity Act of 1996.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: Marc Thomas, Center for Medicaid & State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-7154

RIN: 0938–AI05

1297. PORTABILITY AND NONDISCRIMINATION IN THE GROUP HEALTH INSURANCE MARKET (BPD-890-F)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 42 USC 201

CFR Citation: 45 CFR 146

Legal Deadline: None

Abstract: This final rule addresses comments received on the interim final rule published April 8, 1997. It also further clarifies the Department's position on the minimum requirements applicable with respect to group health plans and health insurance issuers offering group health insurance coverage. A group health plan or health insurance issuer offering group health coverage may provide greater rights to participants and beneficiaries than those currently provided. This rule includes the following: (1) limitations on preexisting condition exclusion periods; (2) certification and disclosure of previous coverage; (3) special enrollment periods for individuals (and dependents) losing other coverage; (4) use of affiliation period by HMOs as alternative to preexisting condition exclusion; (5) prohibited discrimination against individual participants and beneficiaries based on health status; and (6) guaranteed renewability in multiemployer plans and multiple employer welfare arrangements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/08/97	62 FR 16894
Effective Date	06/07/97	
Comment Period End	07/07/97	
Final Rule	03/00/98	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: BPD-890-IFC

Agency Contact: Dave Holstein, Insurance Standards Team, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-1564

RIN: 0938–AI08

1298. PART A PREMIUM FOR 1998 FOR THE UNINSURED AGED AND FOR CERTAIN DISABLED INDIVIDUALS WHO HAVE EXHAUSTED OTHER ENTITLEMENT (OACT-056-N)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 42 USC 1395i-2; 42 USC 1395i-20

CFR Citation: 45 CFR 300

Legal Deadline: Other, Statutory, September 30, 1997.
Notice publication

Abstract: This notice announces the hospital insurance premium for calendar year 1998 under Medicare's hospital insurance program (part A) for the uninsured aged and for certain disabled individuals who have exhausted other entitlement. The uninsured aged are those individuals who are not insured under the Social Security or Railroad Retirement Acts and do not otherwise meet the requirements for entitlement to Medicare part A. The disabled beneficiaries are those who lose monthly Social Security cash payments because they returned to work even though their disability continues. Section 1818(d) of the Social Security Act specifies the method to be used to determine this amount.

Timetable:

Action	Date	FR Cite
Notice	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Wandishin, Deputy Director, Division of Medicare and Medicaid Cost Estimates, Department of Health and Human Services, Health Care Financing Administration, N3-26-00, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-6389

RIN: 0938–AI10

1299. INPATIENT HOSPITAL DEDUCTIBLE AND HOSPITAL AND EXTENDED CARE SERVICES COINSURANCE AMOUNTS FOR 1998 (OACT-057-N)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395e

CFR Citation: None

Legal Deadline: None

Abstract: This notice announces the inpatient hospital deductible and the hospital and extended care services coinsurance amounts for services furnished in calendar year 1998 under Medicare's hospital insurance program (Medicare Part A). The Medicare statute specifies the formula to be used to determine these amounts.

Timetable:

Action	Date	FR Cite
Notice	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Wandishin, Deputy Director, Division of Medicare and Medicaid Cost Estimates, Department of Health and Human Services, Health Care Financing Administration, N3-26-24, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-6389

RIN: 0938–AI12

1300. • MEDICARE PROGRAM: UPDATE OF AMBULATORY SURGICAL CENTER PAYMENT RATES EFFECTIVE FOR SERVICES ON OR BEFORE OCTOBER 1, 1997 (BPD-897-N)

Priority: Other Significant

Legal Authority: 42 USC 1395e(a)(2)(f)i; 42 USC 1395e(i)(l)a

CFR Citation: 42 CFR 416.25

Legal Deadline: None

Abstract: This notice implements section 1833(i)(2)(c) of the Social Security Act, which mandates an inflation adjustment to Medicare payment amounts for ambulatory surgical center (ASC) facility services during the years when the payment amounts are not updated based on a survey of the actual audited costs incurred by ASCs.

Timetable:

Action	Date	FR Cite
Final Action	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joan Sanow, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd., C4-11-16, Baltimore, MD 21244
Phone: 410 786-5763

RIN: 0938–AI18

1301. • SCHEDULE OF LIMITS ON HOME HEALTH AGENCY COST PER VISIT FOR COST REPORTING PERIODS BEGINNING ON OR AFTER OCTOBER 1, 1997 (BPD-904-FC)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 100

CFR Citation: 42 CFR 50

Legal Deadline: None

Abstract: This notice sets forth an updated schedule of limits on home health agency costs that may be paid under the Medicare program. As required by section 4602 of the Balanced Budget Act of 1997, Public Law number 105-33 this notice supersedes the limits that were effective 07/01/97. It also reinstates the effect of the freeze on payment increases from 07/01/94 to 06/30/96 (Section 4601).

Timetable:

Action	Date	FR Cite
Final Action Effective	01/01/98	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Ann White, Regulations Coordinator, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, C4-10-26, Baltimore, MD 21244
Phone: 202 690-6824

RIN: 0938–AI24

1302. • SOLVENCY STANDARDS FOR PROVIDER-SPONSORED ORGANIZATIONS; INTENT TO FORM NEGOTIATED RULEMAKING COMMITTEE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 238

CFR Citation: 45 CFR 700

Legal Deadline: None

Abstract: The Balanced Budget Act of 1997, Pub. L. 105-33 requires the Secretary to establish a Negotiated Rulemaking Committee under the Federal Advisory Committee Act (FACA). The Committee's purpose will be to negotiate the solvency standards for provider-sponsored organizations under part C of the Medicare program. The Committee will consist of representatives of interests that are likely to be significantly affected by the solvency rule. The Committee will be assisted by a neutral facilitator.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Maureen Miller, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-1097

RIN: 0938–AI25

1303. • MEDICARE PROGRAM; NOTICE FOR THE SOLICITATION FOR PROPOSALS FOR A DEMONSTRATION PROJECT FOR CONGESTIVE HEART FAILURE CASE MANAGEMENT ORD-104-N

Priority: Info./Admin./Other

Legal Authority: 42 USC 1395 b-1

Legal Deadline: None

Abstract: This notice announces HCFA's solicitation for proposals for a demonstration project to test the applicability of cost-effective, existing clinical case management delivery models for beneficiaries with congestive heart failure in the Medicare fee-for-service program. Section 402 (axi) of the Social Security Amendments of 1967 (P.L. 90-248) authorizes projects for one of eleven specified purposes. HCFA solicits proposals for demonstrations that will use innovative case management interventions to improve clinical outcomes and quality of life for Medicare beneficiaries with congestive heart failure while saving Medicare funds.

Timetable:

Action	Date	FR Cite
Notice	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Catherine Jansto, Social Science Research Analyst, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, C3-15-06, Baltimore, MD 21244
Phone: 410 786-7762
Email: cjansto@hcfa.gov

RIN: 0938–AI26

1304. • GME: INCENTIVE PAYMENTS UNDER PLANS FOR VOLUNTARY REDUCTION IN NUMBER OF RESIDENTS (HCFA-1003-IFC)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 1395ww(h); PL 105-33, Sec 4626

CFR Citation: 42 CFR 413

Legal Deadline: Other, Statutory, February 5, 1998.
Interim final regulations with comment period must be published within 6 months of the date of enactment of the Balanced Budget Act 1997 (August 5, 1997).

Abstract: Under current law and regulations, hospitals are paid for direct medical education based on the number of residents participating in accredited graduated medical education programs. This interim final rule would implement section 4626 of the Balanced Budget Act of 1997 which allows hospitals to apply to received incentive payments in exchange for reducing the number of residents in training. The hospital must submit a plan to the Secretary outlining how they will make voluntary residency reductions.

Timetable:

Action	Date	FR Cite
Interim Final Rule With Comment Period	11/00/97	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: HCFA-1003-IFC

Agency Contact: Marc Hartstein, Health Insurance Specialist, Department of Health and Human Services, Health Care Financing Administration, Center for Health Plans and Providers, C5-08-16, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-4539

RIN: 0938–AI27

1305. • MEDICARE + CHOICE PROGRAM; REGULATORY PROGRAM TO IMPLEMENT CERTAIN MEDICARE PROVISIONS OF THE BALANCED BUDGET ACT OF 1997 (OMC-030-IFC)

Regulatory Plan: This entry is Seq. No. 41 in Part II of this issue of the Federal Register.

RIN: 0938–AI29

1306. • SURETY BOND AND CAPITALIZATION REQUIREMENTS FOR HOME HEALTH AGENCIES (BPO-152-FC)

Regulatory Plan: This entry is Seq. No. 42 in Part II of this issue of the Federal Register.

RIN: 0938–AI31

1307. • HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) OF 1996: ADMINISTRATIVE SIMPLIFICATION

Regulatory Plan: This entry is Seq. No. 43 in Part II of this issue of the Federal Register.

RIN: 0938–AI32

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Care Financing Administration (HCFA)

Long-Term Actions

1308. DEDUCTION OF INCURRED MEDICAL EXPENSES (SPENDDOWN) (MB-020-F)

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: 42 USC 1302

CFR Citation: 42 CFR 435.831; 42 CFR 436.831

Legal Deadline: None

Abstract: This final rule amends and responds to comments on a final rule with comment period published in the Federal Register on January 12, 1994. That rule permits States flexibility to revise the process by which incurred medical expenses are considered to reduce an individual's or a family's income in order for the individual or family to become Medicaid eligible. The revisions permit States greater flexibility by offering options that will allow them to simplify the administration of their Medicaid programs.

Timetable:

Action	Date	FR Cite
NPRM	09/02/83	48 FR 39959
NPRM Comment Period End	11/16/83	
Interim Final Rule	01/12/94	59 FR 1659
Final Rule With Comment Period	01/12/94	59 FR 1659
Comment Period End	03/14/94	
Effective Date	03/14/94	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: MB-020

Agency Contact: Jackie Wilder, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, C4-23-07, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4579

RIN: 0938–AB07

1309. PARTICIPATION IN CHAMPUS AND CHAMPVA, HOSPITAL ADMISSIONS FOR VETERANS, DISCHARGE RIGHTS NOTICE, AND HOSPITAL RESPONSIBILITY FOR EMERGENCY CARE (BPD-393-F)

Priority: Other Significant

Legal Authority: 42 USC 1395x; 42 USC 1395cc; 42 USC 1395dd

CFR Citation: 42 CFR 488.18; 42 CFR 489.20; 42 CFR 489.24; 42 CFR 489.25; 42 CFR 489.26; 42 CFR 489.27; 42 CFR 489.53; 42 CFR 1003

Legal Deadline: None

Abstract: This final rule will require Medicare participating hospitals with emergency departments to provide upon request medical examinations and treatments for individuals with emergency medical conditions and women in labor. A participating hospital that has specialized capabilities or facilities (such as burn, shock trauma, or neonatal intensive care units) must accept an appropriate transfer if they have the capacity to treat the individual. Hospitals failing to meet those requirements may have their Medicare provider agreements terminated, and hospitals and responsible physicians may be subject to civil money penalties. Under section 9122 of COBRA '85, Medicare participating hospitals are required to accept CHAMPUS and CHAMPVA payment as payment in full for services provided to CHAMPUS and CHAMPVA beneficiaries. These regulations also implement section 9305(b) of OBRA '86, which requires Medicare hospitals to give patients a notice of their discharge rights.

Timetable:

Action	Date	FR Cite
NPRM	06/16/88	53 FR 22513
NPRM Comment Period End	08/15/88	
Final Action Effective	08/15/88	
Final Rule With Comment Period	08/22/94	59 FR 32086
Effective Date	07/22/94	
Comment Period End	08/22/94	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: BPD-393

Agency Contact: Tzvi Hefter, Center for Health Plans and providers, Department of Health and Human Services, Health Care Financing Administration, C5-08-27, 7500 Security Blvd., Baltimore, MD 21244

Phone: 410 786-1304

RIN: 0938–AC58

1310. CRITERIA AND PROCEDURES FOR DEVELOPING MEDICAL SERVICES COVERAGE POLICY (BPD-432-F)

Priority: Other Significant

Legal Authority: 42 USC 1395y

CFR Citation: 42 CFR 400.404; 42 CFR 405.201; 42 CFR 405.203; 42 CFR 405.205; 42 CFR 405.207; 42 CFR 405.211

Legal Deadline: None

Abstract: This rule will announce generally applicable criteria and procedures for determining whether a service is "reasonable and necessary" under the Medicare program. It will also announce generally applicable criteria and procedures for determining whether a service is "reasonable and necessary" under the Medicare program.

Timetable:

Action	Date	FR Cite
NPRM	01/30/89	54 FR 4302
NPRM Comment Period End	03/31/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: BPD-432

Agency Contact: Ron Milhorn, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, C4-10-07, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-5663

RIN: 0938–AD07

1311. MEDICARE COVERAGE OF OUTPATIENT OCCUPATIONAL THERAPY SERVICES (BPD-425-P)

Priority: Substantive, Nonsignificant

Legal Authority: 2 USC 1302; 42 USC 1395hh; 42 USC 1395k; 42 USC 13951; 42 USC 1395w-4; 42 USC 1395x(s); 42 USC 1395x(p); 42 USC 1395cc(e); 44 USC 3501 to 3511

CFR Citation: 42 CFR 400; 42 CFR 410; 42 CFR 424; 42 CFR 484; 42 CFR 485; 42 CFR 486; 42 CFR 488; 42 CFR 489; 42 CFR 498

Legal Deadline: None

Abstract: This rule would implement section 9337 of OBRA '86 which provides Medicare coverage for outpatient occupational therapy services furnished by providers and independent practitioners, identical to the coverage for outpatient physical therapy. It also would implement section 6133(a) of OBRA '89 which increased the payment limit for outpatient occupational therapy services provided by independent practitioners.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: BPD-425

Agency Contact: Sheridan Gladhill, Center for Health Plans and Providers, Division of Chronic Care Management, Department of Health and Human Services, Health Care Financing Administration, C4-03-18, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-1782

RIN: 0938–AD32

1312. PROHIBITION ON UNBUNDLING OF HOSPITAL OUTPATIENT SERVICES (BPD-426-F)

Priority: Other Significant

Legal Authority: 42 USC 1395y(a)(14); 42 USC 1395cc(a)(1)(H); 42 USC 1395cc(g); 42 USC 1395x(w)(1)

CFR Citation: 42 CFR 409; 42 CFR 410; 42 CFR 411; 42 CFR 412; 42 CFR 489; 42 CFR 1003

Legal Deadline: None

Abstract: This final rule, to be issued jointly by HCFA and the Department's Office of Inspector General (OIG) will prohibit Medicare payment for nonphysician services furnished to a hospital outpatient by a provides or supplier other than the hospital, unless the services are furnished under an arrangement with the hospital. The hospital is obligated by its provider agreement to furnish the services directly or under an arrangement. These regulations will also authorize the OIG to impose a civil money penalty, not to exceed $2,000, against any individual who knowingly and willfully presents, or causes to be presented, a bill or request for payment, for items or services furnished under Medicare, that is inconsistent with an arrangement under section 1866(a)(1)(H) of the Social Security Act or is in violation of the requirements for an arrangement. These regulations implement section 9343(c) of OBRA '86, section 4085(i)(17) of OBRA '87, and section 4157 of OBRA '90.

Timetable:

Action	Date	FR Cite
NPRM	08/05/88	53 FR 29486
NPRM Comment Period End	10/04/88	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: BPD-426

Agency Contact: Janet Wellham, Center for Health Plans and Providers, Division of Practitioner and Ambulatory Care, Department of Health and Human Services, Health Care Financing Administration, C4-11-16, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4510

RIN: 0938–AD33

1313. CHANGES TO PEER REVIEW ORGANIZATION REGULATIONS (HSQ-135-F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395y(a); 42 USC 1320c; 42 USC 1396a(a)(30); 42 USC 1395cc(a)

CFR Citation: 42 CFR 400.200; 42 CFR 411.15; 42 CFR 431.630; 42 CFR 433.15; 42 CFR 462.1; 42 CFR 462.101; 42 CFR 462.102; 42 CFR 462.106; 42 CFR 462.107; 42 CFR 466.1; 42 CFR 466.71; 42 CFR 466.76; 42 CFR 466.78; 42 CFR 466.83

Legal Deadline: None

Abstract: This rule will set forth several changes to regulations that govern Peer Review Organizations (PROs) and is based on statutory changes contained in COBRA '85 and OBRA '86. In addition, several technical changes will be included as a result of experience gained with the PRO program by HCFA. This rule also implements the new quality review requirements for certain Medicaid health maintenance organization contracts.

Timetable:

Action	Date	FR Cite
NPRM	03/16/88	53 FR 8654
NPRM Comment Period End	05/16/88	
Final Action	10/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: HSQ-135

Agency Contact: Bill Roskey, Office of Clinical Standards and Quality, Health Standards and Quality Bureau, Department of Health and Human Services, Health Care Financing Administration, S1-09-18, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-0433

RIN: 0938–AD38

1314. OMNIBUS NURSING HOME REFORM REQUIREMENTS (BPD-488-F)

Priority: Other Significant. Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395i-3; 42 USC 1395x; 42 USC 1396r; 42 USC 1302

CFR Citation: 42 CFR 431; 42 CFR 482; 42 CFR 483; 42 CFR 488

Legal Deadline: None

Abstract: This final rule will implement several provisions of OBRA '87 that concern services to residents of nursing homes. This rule will implement provisions that include Federal standards for evaluating State waivers of nursing facility nurse staffing requirements, use of physical and chemical restraints in nursing facilities, qualifications of facility administrators, notice of Medicaid rights to be given to persons admitted to nursing facilities, and other technical changes.

Timetable:

Action	Date	FR Cite
NPRM	02/05/92	57 FR 4516
NPRM Comment Period End	04/06/92	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: BPD-488

Agency Contact: Bill Ullman, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, C4-11-06, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-5667

RIN: 0938–AD81

1315. PROTECTION OF INCOME AND RESOURCES FOR COMMUNITY SPOUSES OF INSTITUTIONALIZED INDIVIDUALS (MB-023-P)

Priority: Other Significant

Legal Authority: 42 USC 1396r-5; 42 USC 1302

CFR Citation: 42 CFR 435.650 to 674; 42 CFR 435.750 to 754

Legal Deadline: None

Abstract: This rule would interpret statutory changes made in 1988, 1989, 1990 and 1993 that allocate income and resources between an institutionalized spouse and the spouse remaining in the the community. It would also provide special post-eligibility rules for institutionalized individuals who have spouses in the community to retain more income to meet living expenses.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local

Additional Information: MB-023

Agency Contact: Roy Trudel, Center for Medicaid & State Operations, Department of Health and Human Services, Health Care Financing Administration, C4-20-15, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-3417

RIN: 0938–AE12

1316. SURVEY REQUIREMENTS AND ALTERNATIVE SANCTIONS FOR HOME HEALTH AGENCIES (HSQ-169-F)

Priority: Other Significant

Legal Authority: 42 USC 1395bb; 42 USC 1395hh

CFR Citation: 42 CFR 488; 42 CFR 489; 42 CFR 498

Legal Deadline: None

Abstract: These rules will establish periodic, unannounced surveys of home health agencies (HHAs) and other survey requirements and also will specify sanctions that could be used when an HHA is out of compliance with Federal requirements (as an alternative or in addition to terminating an HHA's participation in the Medicare program).

Timetable:

Action	Date	FR Cite
NPRM	08/02/91	56 FR 37054
NPRM Comment Period End	10/01/91	
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: HSQ-169

TIMETABLE CONT: Pending completion of RIN 0938-AG81 (BPD-819)

Agency Contact: Wayne Smith, Ph.D., Director, Division of Integrated Health Systems, Department of Health and Human Services, Health Care Financing Administration, S2-11-07, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-6762

RIN: 0938–AE39

1317. EARLY AND PERIODIC SCREENING, DIAGNOSTIC, AND TREATMENT (EPSDT) SERVICES (MB-26-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396a(a)(43); 42 USC 1396d(r)

CFR Citation: 42 CFR 441.50; 42 CFR 440.40

Legal Deadline: None

Abstract: Section 1905(r) of the Social Security Act, added by section 6403 of OBRA '89 defines the following EPSDT services: screening services, vision

services, dental services and hearing services. EPSDT services also are defined to include such other necessary health care, diagnostic services, treatment, and other measures described in section 1905(a) of the Act to correct or ameliorate defects, illnesses and conditions discovered by the screening services whether or not the services are covered under the State plan. Section 1902(a)(43) of the Act requires States to report to the Secretary certain information about EPSDT services provided under the plan during each fiscal year. This rule would set forth requirements to implement these statutory provisions.

Timetable:

Action	Date	FR Cite
NPRM	10/01/93	58 FR 51288
NPRM Comment Period End	11/30/93	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local

Additional Information: MB-028

Agency Contact: Cindy Ruff, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, C4-16-08, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-5916

RIN: 0938–AE72

1318. MEDICARE COVERAGE OF, AND APPLICATION OF THE OUTPATIENT MENTAL HEALTH TREATMENT LIMITATION TO, CLINICAL PSYCHOLOGIST AND CLINICAL SOCIAL WORKER SERVICES (BPD-706-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395l(c); 42 USC 1395x(hh)(2); 42 USC 1395x(ii)

CFR Citation: 42 CFR 410; 42 CFR 417; 42 CFR 424

Legal Deadline: None

Abstract: This rule will address provisions of OBRA '89 and OBRA '90. OBRA '89 provides the services of clinical psychologists (CPs) and clinical social workers. It requires CPs to agree to consult with the patient's primary care or attending physician. (Also, it will eliminate the dollar limitation that previously applied to mental health services, although the 62.5 percent limitation still applies). OBRA '89 also provides coverage for clinical social worker services, but places two limitations on separate payment, which apply to services provided to inpatients of hospitals and skilled nursing facilities that are Medicare participating. OBRA '90 unbundled CP services from the definition of "inpatient hospital services." It also implements two sections (psychology services in hospitals and consultation by social workers) of the Social Security Act Amendments of 1994.

Timetable:

Action	Date	FR Cite
NPRM	12/29/93	58 FR 68829
NPRM Comment Period End	02/28/94	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: BPD-706

Agency Contact: Regina Walker, Center for Health Plans and Providers, Division of Practitioner & Ambulatory Care, Department of Health and Human Services, Health Care Financing Administration, C4-08-16, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-6735

RIN: 0938–AE99

1319. CHANGES TO THE LONG-TERM CARE FACILITY SURVEY PROCESS (HSQ-175-FC)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: PL 101-239, Sec 6901(a); 42 USC 1395i-3; 42 USC 1395aa(d); 42 USC 1396r

CFR Citation: 42 CFR 442; 42 CFR 488

Legal Deadline: None

Abstract: This final rule with comment period will amend the Medicare and Medicaid regulations by removing obsolete long-term care survey forms, guidelines, and procedures used by State agencies when they evaluate a Medicare skilled nursing facility or a Medicaid nursing facility for compliance with Federal certification requirements. Effective October 1, 1990, the application of new Federal participation requirements for these facilities with an increased focus on actual or potential resident outcomes has made the survey forms and process in existing regulations outdated. Retention of the outdated items can cause confusion in connection with directions State survey agencies must follow in determining facility compliance. This rule is part of the Administration's reinventing government and regulatory reform initiatives. Publication of this regulation is dependent upon court approval which has been sought.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: HSQ-175

TIMETABLE: This regulation may be published only with the concurrence of the U.S. District Court in Smith v. Shalala.

Agency Contact: Helene Fredeking, Director, Division of Outcomes and Improvements, Department of Health and Human Services, Health Care Financing Administration, S2-21-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-7304

RIN: 0938–AF02

1320. CASE MANAGEMENT (MB-27-F)

Priority: Other Significant

Legal Authority: 42 USC 1396d; 42 USC 1396n

CFR Citation: 42 CFR 431.51(c); 42 CFR 431.54; 42 CFR 440.169; 42 CFR 440.250; 42 CFR 441.10; 42 CFR 441.18; 42 CFR 447.327

Legal Deadline: None

Abstract: This rule will incorporate provisions of COBRA '85, OBRA '86, TEFRA '86, OBRA '87 and TMRA '88 dealing with case management services. It will provide for optimal Medicaid coverage of case management services furnished to specific groups in specific geographic areas or political subdivisions within a State.

Timetable:

Action	Date	FR Cite
NPRM	10/15/93	58 FR 53481
NPRM Comment Period End	12/14/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Local

Additional Information: MB-027

Agency Contact: Pat Helphenstine, Disabled & Elderly Health Program Group, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, C4-13-13, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-5900

RIN: 0938–AF07

1321. ALTERNATIVE SANCTIONS FOR PSYCHIATRIC HOSPITALS (HSQ-191-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395cc; 42 USC 1396a

CFR Citation: 42 CFR 488

Legal Deadline: None

Abstract: This proposed rule would provide an alternative to terminating a psychiatric hospital's participation in the Medicare and Medicaid programs for facilities found to be out of compliance with participation requirements. Alternative sanctions could be imposed instead of, or in addition to, terminating a psychiatric hospital's participation in the Medicare and Medicaid programs when deficiencies do not pose immediate jeopardy to the health and safety of psychiatric hospital patients. These amendments are necessary to conform HCFA regulations to changes made by OBRA '89 and OBRA '90. The statutory and regulatory revisions are intended to encourage correction of deficiencies that do not jeopardize patient health and safety before termination of a facility becomes necessary.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Federal

Additional Information: HSQ-191

Agency Contact: Robert Streimer, Center for Medicaid and State Operations, Disabled and Elderly Health Program Group, Department of Health and Human Services, Health Care Financing Administration, S2-14-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6810

RIN: 0938–AF32

1322. REFERRAL TO CHILD SUPPORT ENFORCEMENT AGENCIES OF MEDICAID FAMILIES (MB-051-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396k; 42 USC 1302

CFR Citation: 42 CFR 433.135; 42 CFR 433.137; 42 CFR 433.151; 42 CFR 433.160

Legal Deadline: None

Abstract: This rule will require State Medicaid agencies to refer Medicaid families with an absent parent to child support enforcement (CSE) agencies. Section 9142 of OBRA '87 required CSE agencies to provide all CSE services to such Medicaid families who have assigned to the State their rights to medical support. The purpose of these rules is to require States to make this referral to State CSE agencies to ensure that those recipients requiring CSE services receive them.

Timetable:

Action	Date	FR Cite
NPRM	09/22/93	58 FR 49272
NPRM Comment Period End	11/22/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: MB-051

Agency Contact: Robert Nakielny, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, C4-21-01, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4466

RIN: 0938–AF68

1323. MEDICAID: OUTSTATIONED INTAKE LOCATIONS FOR CERTAIN LOW-INCOME PREGNANT WOMEN, INFANTS, AND CHILDREN UNDER AGE 19 (MB-052-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396a(a)(55)

CFR Citation: 42 CFR 435.901; 42 CFR 435.902; 42 CFR 435.903; 42 CFR 435.904; 42 CFR 435.907; 42 CFR 436.2; 42 CFR 436.3; 42 CFR 435.3

Legal Deadline: None

Abstract: This rule will finalize the interim final rule that requires State Medicaid agencies to provide for receipt and initial processing of Medicaid applications filed by certain low-income pregnant women, infants, and children under age 19, at locations which are other than those used for receipt and processing of applications for cash assistance under title IV-A of the Social Security Act. The rule is based on section 1902(a)(55) of the Social Security Act, as added by section 4602 of OBRA '90, PL 101-508.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/23/94	59 FR 48805
Interim Final Rule With Comment Period	09/23/94	59 FR 48805
Effective Date	10/24/94	
Comment Period End	11/22/94	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: MB-052

Agency Contact: Robert Tomlinson, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, C4-20-21, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4463

RIN: 0938–AF69

1324. ASSESSING INTEREST AGAINST MEDICARE SECONDARY PAYER (MSP) DEBTS (BPO-106-P)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3711; 42 USC 1395y(b)(2)(B)

CFR Citation: 42 CFR 405.378; 42 CFR 411.24(m); 42 CFR 411.39

Legal Deadline: None

Abstract: This proposed rule would amend the regulations concerning interest charges on amounts owed to the Federal government when an overpayment occurs because Medicare was billed and made payment as the primary payer, rather than as the secondary payer. We also propose to clarify the date of determination that an overpayment has occurred so that all parties would have a clear understanding of the period subject to payment of interest charges.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: BPO-108

Agency Contact: John Albert, Office of Financial Management, Department of Health and Human Services, Health Care Financing Administration, S3-02-26, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-7457

RIN: 0938–AF87

1325. REVISIONS TO RULES ON HEALTH CARE PREPAYMENT PLANS (OMC-016-P)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 300e; 42 USC 300e-5; 42 USC 300e-9; 42 USC 31; 42 USC 9701

CFR Citation: 42 CFR 471.800; 42 CFR 417.801; 42 CFR 417.806; 42 CFR 417.812; 42 CFR 417.814; 42 CFR 417.816; 42 CFR 417.818; 42 CFR 417.820; 42 CFR 417.822; 42 CFR 417.824

Legal Deadline: None

Abstract: This regulation would impose a range of requirements on health care prepayment plans (HCPP) corresponding to certain provisions for prepaid health plans under section 1876 of the Social Security Act. The expanded regulatory requirements would increase beneficiary protections and strengthen Federal oversight of the HCPP program. We will also address related requirements of the Balanced Budget Act of 1997.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: OMC-016

Agency Contact: Tracy Jensen, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, S3-23-25, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-1033

RIN: 0938–AF97

1326. REVISED MEDICAID MANAGEMENT INFORMATION SYSTEMS (MB-38-FN)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396b(r)

CFR Citation: None

Legal Deadline: None

Abstract: This notice sets forth revised general functional requirements for the Medicaid Management Information System (MMIS). The MMIS consists of software and hardware used to process Medicaid claims and to retrieve and produce utilization and management information about services that are required by the Medicaid agency or Federal Government for administrative or audit purposes. The revised requirements allow States more flexibility to exercise variations in the implementation.

Timetable:

Action	Date	FR Cite
Proposed Notice	11/22/93	58 FR 61692
Comment Period End	01/21/94	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: MB-038

Agency Contact: Richard Friedman, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, C4-22-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4451

RIN: 0938–AG10

1327. DESCRIPTION OF HCFA'S EVALUATION METHODOLOGY FOR THE PEER REVIEW ORGANIZATIONS FIFTH SCOPE OF WORK CONTRACTS (HSQ-207-NC)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1320c; 42 USC 1320c-2

CFR Citation: 42 CFR 462

Legal Deadline: None

Abstract: This notice with comment period will provide general criteria and standards that will be used to evaluate the effective and efficient performance of Utilization and Quality Control Peer Review Organizations (known as PROs) for new contracts entered into on or after April 1, 1998.

Timetable:

Action	Date	FR Cite
NPRM	07/02/97	62 FR 35824
NPRM Comment Period End	09/02/97	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: HSQ-207

Agency Contact: Heidi Gelzer, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, S1-08-24, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-9352

RIN: 0938–AG32

1328. DISCLOSURE OF CONFIDENTIAL PRO AND ESRD NETWORK ORGANIZATION INFORMATION FOR RESEARCH PURPOSES (HSQ-208-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1320c-9; 42 USC 1302

CFR Citation: 42 CFR 405.2115; 42 CFR 476.144

Legal Deadline: None

Abstract: This rule would allow Peer Review Organizations (PROs) to disclose confidential information to researchers without the consent of the individuals who would be identified. Currently, PROs can only disclose to the public nonconfidential aggregate data where no one is specifically identified. The statute, however, provides for limited disclosure and allows the Secretary to provide for disclosure in the regulations while assuring adequate protection of the rights and interests of patients, health care practitioners, and providers. HCFA is now emphasizing the sharing of PRO data for educational and research purposes as evidenced by the implementation of the Uniform Clinical Data Set and the Health Care Quality Improvement Initiative. This regulatory revision would make confidential PRO information accessible to researchers while still protecting the identities of beneficiaries and practitioners from unwarranted disclosure.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: HSQ-208

Agency Contact: Bill Roskey, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, S1-09-26, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-0433

RIN: 0938–AG33

1329. SALARY EQUIVALENCY GUIDELINES FOR PHYSICAL THERAPY, RESPIRATORY THERAPY, SPEECH PATHOLOGY, AND OCCUPATIONAL THERAPY (BPD-808-F)

Priority: Other Significant

Legal Authority: 42 USC 1395x(v)(5)

CFR Citation: 42 CFR 413.106

Legal Deadline: None

Abstract: This final rule will revise the salary equivalency guidelines for Medicare payment for the reasonable costs of physical and respiratory therapy services furnished by providers under arrangements with an outside contractor. It also sets forth initial salary equivalency guidelines for speech language pathology and occupational therapy services furnished by providers under arrangements with an outside contractor. The guidelines are to be used by Medicare fiscal intermediaries to determine the maximum allowable costs of those services.

Timetable:

Action	Date	FR Cite
NPRM	03/28/97	62 FR 14851
NPRM Comment Period End	05/27/97	
Final Action	00/00/00	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: BPD-808

Agency Contact: Jacqueline Gordon, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, C4-07-14, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4517

RIN: 0938–AG70

1330. DISTINCT PART REQUIREMENTS FOR NURSING HOMES AND PROHIBITION OF FINANCIAL SCREENING OF APPLICANTS FOR NURSING HOME ADMISSION (BPD-815-P)

Priority: Other Significant

Legal Authority: 42 USC 1395i-3; 42 USC 1396r(a); 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 409; 42 CFR 483

Legal Deadline: None

Abstract: In this proposed rule we would define "distinct part" by specifying that a distinct part is a physically identifiable unit of an institution (that is, an entire ward, wing, floor, or building) including all beds in the unit. This proposed rule would also prohibit nursing homes from financially screening private pay applicants for admission. Instead, nursing homes would be permitted private pay applications to charge up to a 2-month deposit before admission to ensure that sufficient funds are available to pay for care to which the individual may be entitled.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: BPD-815

Agency Contact: William Ullman, Department of Health and Human Services, Health Care Financing Administration, C4-13-15, 7500 Security Blvd., Baltimore, MD 21244
Phone: 401 786-5667

RIN: 0938–AG84

1331. CATEGORIZATION AND CERTIFICATION REQUIREMENTS FOR A NEW SUBCATEGORY OF MODERATE COMPLEXITY TESTING (HSQ-222-F)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 263a

CFR Citation: 42 CFR 493.2; 42 CFR 493.3; 42 CFR 493.5; 42 CFR 493.18; 42 CFR 493.20; 42 CFR 493.21; 42 CFR 493.25; 42 CFR 493.43; 42 CFR 493.45; 42 CFR 493.48; 42 CFR 493.49; 42 CFR 493.51; 42 CFR 493.53; 42 CFR 493.638

Legal Deadline: None

Abstract: As part of the CLIA program (see RIN 0938-AE47), this rule will develop criteria for simple and easy-to-use test systems that have demonstrated accuracy and precision through scientific studies. We have proposed to waive the routine 2-year survey of users of accurate and precise technology (APT) tests, conducting surveys only if there are indications of problems or complaints. We also proposed that a small number of surveys be conducted to validate the criteria for determining APT and to assure quality.

Timetable:

Action	Date	FR Cite
NPRM	09/15/95	60 FR 47982
NPRM Comment Period End	11/14/95	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: HSQ-222

Agency Contact: Judy Yost, Center for Medicaid and State Operations, Division of Outcomes and Improvement, Department of Health and Human Services, Health Care Financing Administration, S2-09-26, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-3531

RIN: 0938–AG98

1332. MEDICARE COVERAGE OF ORGAN TRANSPLANTATION (BPD-835-PN)

Priority: Other Significant

Legal Authority: 42 USC 1395y(a)(1)(A)

CFR Citation: None

Legal Deadline: None

Abstract: This proposed notice would announce changes in Medicare's national coverage policy for organ transplantations.

Timetable:

Action	Date	FR Cite
Proposed Notice	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: BPD-835

Agency Contact: Jacqueline Sheridan, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, C5-05-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4653

RIN: 0938–AH17

1333. CRITERIA AND PROCEDURES FOR EXTENDING COVERAGE TO CERTAIN DEVICES AND RELATED SERVICES (BPD-841-F)

Priority: Other Significant

Legal Authority: 42 USC 1395y(a)(1)(A)

CFR Citation: 42 CFR 405.201 TO 215; 42 CFR 411.15; 42 CFR 411.406

Legal Deadline: None

Abstract: We published a final rule with comment period that certain medical devices with an investigational device exemption approved by the FDA may be covered under Medicare. It set forth the process by which the FDA is to assist HCFA in identifying nonexperimental investigational devices that may be potentially covered under Medicare. This final rule responds to comments on that rule and restates the policy after considering the comments.

Timetable:

Action	Date	FR Cite
Final Rule	09/19/95	60 FR 48417
Comment Period End	10/20/95	
Effective Date	11/01/95	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: BPD-841

Agency Contact: Sharon Hippler, Office of Clinical Standards & Quality, Department of Health and Human Services, Health Care Financing Administration, C4-11-04, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4633

RIN: 0938–AH21

1334. DELEGATION OF CIVIL MONEY PENALTIES (BPO-135-FC)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405(a); 42 USC 1302; 42 USC 1320a to 7a; 42 USC 1395cc; 42 USC 1395u(j)(2); 42 USC 1395hh; 42 USC 1395ii

CFR Citation: 42 CFR 402

Legal Deadline: None

Abstract: This final rule with comment period will contain the processes and procedures to be undertaken in the imposition of civil money penalties and assessments and in the appeals process.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: BPO-135

Agency Contact: Joel Cohen, Office of Financial Management, Department of Health and Human Services, Health Care Financing Administration, S3-11-26, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-3349

RIN: 0938–AH22

1335. HOSPICE CARE—CONDITIONS OF PARTICIPATION (BPD-844-P)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395x(dd); 42 USC 1395hh

CFR Citation: 42 CFR 418

Legal Deadline: None

Abstract: This proposed rule would revise the Medicare conditions of participation for hospices to help ensure the provision of quality care through an emphasis on patient-centered outcomes. Areas of change would include, among others, assessment of patient needs, clarification of physician roles, coordination of care for hospice patients residing in nursing homes, clarification of nursing roles, patient rights, and provision of services.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: BPD-844

Agency Contact: Thomas Saltz, Department of Health and Human Services, Health Care Financing Administration, C4-05-27, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4480

RIN: 0938–AH27

1336. REQUIREMENTS FOR ENROLLMENT OF MEDICAID RECIPIENTS UNDER COST EFFECTIVE EMPLOYER-BASED GROUP HEALTH PLANS (MB-047-FC)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396a(a)10; 42 USC 1396a(u)(1); 42 USC 1396d(a); 42 USC 1396a(a)(25); 42 USC 1396a(e); 42 USC 1396e

CFR Citation: 42 CFR 435; 42 CFR 436

Legal Deadline: None

Abstract: This rule will provide for continuation of payment of health insurance premiums for individuals who are entitled to elect COBRA continuation coverage under a group health plan provided by an employer with 75 or more employees; require Medicaid recipients to apply for enrollment in. Medicaid recipients may be required to apply for enrollment in employer-based cost eligibility; require State agencies to pay for premiums, eligibility. This rule also requires State agencies to pay for premiums, deductibles, coinsurances and other cost sharing obligations under employer-based cost effective group health plans, and define "COBRA continuation coverage" and "COBRA beneficiaries." In addition, this rule incorporates the changes to section 1906 due to the Balanced Budget Act of 1997.

Timetable:

Action	Date	FR Cite
NPRM	08/20/94	59 FR 31569
NPRM Comment Period End	08/19/94	
Final Action	10/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: MB-047

Previously published under RIN 0938-AF64.

Agency Contact: Gwendolyn Talvert, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, C4-20-20, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-5928

RIN: 0938–AH48

1337. MEDICARE SECONDARY PAYER CLARIFICATIONS AND AMENDMENTS (BPD-865-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 411

Legal Deadline: None

Abstract: This proposed rule would codify in regulations policies regarding liability insurance, such as structured liability settlements, future medical expenses, provider malpractice, wrongful death, and Federal Tort Claims Act policy. It would also clarify the rules dealing with group health plan bankruptcies, religious orders, and foreign group health plans, and make numerous other changes.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: BPD-865

Agency Contact: Herb Pollock, Center for Health Plans & Providers, Division of Integrated Services, Department of Health and Human Services, Health Care Financing Administration, C4-08-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4474

RIN: 0938–AH52

1338. CONDITIONS FOR CERTIFICATION OF COMMUNITY MENTAL HEALTH CENTERS AND COVERAGE REQUIREMENTS FOR PARTIAL HOSPITALIZATION SERVICES (BPD-871-P)

Priority: Other Significant

Legal Authority: 42 USC 1395k; 42 USC 1395x; 42 USC 1395cc

CFR Citation: 42 CFR 410.43; 42 CFR 410.110; 42 CFR 410.150; 42 CFR 410.172

Legal Deadline: None

Abstract: This proposed rule would establish health and safety standards that Community Mental Health Centers (CMHCs) must meet to participate in the Medicare program. It would also establish requirements for coverage of partial hospitalization services furnished by CMHCs or furnished in hospital outpatient settings. These changes would provide oversight for CMHCs, help curtail inappropriate utilization of partial hospitalization services, and ensure Medicare payment of reasonable and necessary services to eligible individuals.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: BPD-871

Agency Contact: Janet Samen, Center for Health Plans and Policy, Department of Health and Human Services, Health Care Financing Administration, C4-08-15, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-9161

RIN: 0938–AH58

1339. MEDICARE TECHNICAL CONFORMING AMENDMENTS (BPD-858-FC)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1395k

CFR Citation: 42 CFR 409.50; 42 CFR 409.61; 42 CFR 410.152

Legal Deadline: None

Abstract: This final rule with comment period will update our regulations to reflect that payment for durable medical equipment is on the basis of a fee schedule.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	10/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: BPD-858

Agency Contact: Martha Kuespert, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, C4-02-16, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4605

RIN: 0938–AH67

1340. DETERMINATION OF SUBSTANDARD CARE IN SNFS AND NFS (HSQ-240-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395i-3; 42 USC 1395r

CFR Citation: 42 CFR 488.301

Legal Deadline: None

Abstract: This proposed rule would revise the definition of "substandard quality of care" as it applies to skilled nursing facilities, in the Medicare program, and nursing facilities, in the Medicaid program. "Substandard quality of care" is one type of noncompliance with Federal participation requirements that carries with it statutory consequences to facilities providing such care. The purpose of this proposed revision is to improve the definition of substandard quality of care so that the process can make a more meaningful distinction between facility noncompliance that warrants the consequences mandated by the statute for a finding of substandard quality of care and noncompliance that does not.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Local, Federal

Additional Information: HSQ-240

Agency Contact: Pat Miller, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S2-19-14, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6780

RIN: 0938–AH69

1341. WAIVER OF STAFFING REQUIREMENTS FOR END STAGE RENAL DISEASE (ESRD) FACILITIES PARTICIPATING IN AN EXPERIMENT (HSQ-236-GNC)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1320; 42 USC 1395x; 42 USC 1395y; 42 USC 1395hh; 42 USC 1395rr

CFR Citation: 42 CFR 405.2136; 42 CFR 405.2161; 42 CFR 405.2162; 42 CFR 405.2163

Legal Deadline: None

Abstract: This general notice with comment period announces our intention to conduct a demonstration that would grant selected ESRD facilities a 2-year waiver of staffing requirements. The ESRD staffing requirements pertain to: the governing body and management, director of a facility, on-duty licensed health care professionals, and providing adequate laboratory, social, and dietetic services. Facilities would be given flexibility to deviate from specified regulation requirements, provided assurances are in place ensuring that quality of care standards are not being compromised.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: HSQ-236

Agency Contact: William Roskey, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S1-09-07, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-0433

RIN: 0938–AH72

1342. INFORMATION REQUIREMENTS FOR MEDICARE PROFESSIONAL SUPPLIERS BILLING PRIVILEGES (BPO-143-P)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 489

Legal Deadline: None

Abstract: This proposed rule would establish conditions for enrolling providers and suppliers that furnish items or services to Medicare beneficiaries. These conditions would improve current enrollment procedures so as to more accurately identify such providers and suppliers and to secure information and documentation necessary to the effective and efficient administration of the Medicare program. The more accurate identification of providers and suppliers, coupled with the collection of certain information, will facilitate the administration of many aspects of the Medicare program including, but not necessarily limited to, monitoring for compliance with program rules and combating fraud and abuse. Improvements in enrolling providers and suppliers will afford both the Medicare trust funds and program beneficiaries with greater protection.

Timetable:

Action	Date	FR Cite
NPRM	03/08/90	55 FR 8491
Comment Period End	05/08/90	
Final Rule	08/31/95	60 FR 45344
Effective Date	10/02/95	
Comment Period End	10/30/95	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: BPO-143

Agency Contact: Ralph Goldberg, Center for Health Plans and Providers, Provider Purchasing and Administration Group, Department of Health and Human Services, Health Care Financing Administration, S3-16-07, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4870

RIN: 0938–AH73

1343. MEDICAID PROGRAM; AMENDMENT TO THE PREADMISSION SCREENING AND ANNUAL RESIDENT REVIEW PROGRAM (MB-107-P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1396r(e); 42 USC 1396r(b)

CFR Citation: 42 CFR 405; 42 CFR 431; 42 CFR 433; 42 CFR 441; 42 CFR 483

Legal Deadline: None

Abstract: This proposed rule would make changes to the preadmission screening and annual resident review program in accordance with the provisions of Public Law 104-315, which were included in the Reinventing Government effort. The rule would repeal the Medicaid program requirement for an annual review of nursing facility (NF) residents with mental illness or mental retardation. This proposed rule also would add the requirement for NFs to notify the State when there is a significant change in the physical or mental condition of a resident and add a statutory requirement that the State conduct a review promptly after notification of the resident's change in condition.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State

Additional Information: MB-107

Agency Contact: Jan Earle, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, C4-12-23, Baltimore, MD 21244
Phone: 410 786-3326
Fax: 410 786-3262

RIN: 0938–AH89

1344. ALLOCATION OF ENHANCED FEDERAL MATCHING FUNDS FOR INCREASED ADMINISTRATIVE COSTS (MB-103-N)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396a(a)

CFR Citation: None

Legal Deadline: None

Abstract: This notice will provide a formula for the allocation of a special $500 million fund for enhanced Federal matching for State Agency's expenditures attributable to additional Medicaid administrative costs of Medicaid eligibility determinations as a result of the provisions of 1931 of the Social Security Act as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Timetable:

Action	Date	FR Cite
Notice With Comment Period	05/14/97	62 FR 26545
NPRM Comment Period End	06/13/97	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: MB-103

Agency Contact: Richard Strauss, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, C4-18-26, Baltimore, MD 21244
Phone: 410 786-2019

RIN: 0938–AH90

1345. MEDICALLY NEEDY DETERMINATIONS UNDER WELFARE REFORM (MB-109-IFC)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1396a(a)(10)(C)

CFR Citation: 42 CFR 435; 42 CFR 436

Legal Deadline: None

Abstract: This interim final rule with comment period will revise our rules to allow States to include individuals who are described as categorically needy to be covered as medically needy. The State must specify the income and resources criteria for the medically needy group in the State plan. If an individual is also described as categorically needy, the individual would receive Medicaid as categorically needy if the State elected to cover the categorically needy group into which the individual fits. If the State has not elected to cover that group, the individual would be medically needy. This change will allow more individuals to become eligible for Medicaid as medically needy and eliminate an inequity in current regulations. This revision also allows some individuals who would otherwise lose their Medicaid benefits to retain their eligibility.

Timetable:

Action	Date	FR Cite
Interim Final Rule With Comment Period	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: MB-109

Agency Contact: Jackie Wilder, Center for Medicaid and State Operations, Medicaid Bureau, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, C4-20-06, Baltimore, MD 21244
Phone: 410 786-4579

RIN: 0938–AH92

1346. MEDICAID PROGRAM; COVERAGE AND PAYMENT FOR FEDERALLY QUALIFIED HEALTH CENTER SERVICES (MB-43-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396a(a)(13); 42 USC 1396d(a)

CFR Citation: 42 CFR 431; 42 CFR 440; 42 CFR 441; 42 CFR 447

Legal Deadline: None

Abstract: This proposed rule would incorporate and interpret in regulations coverage and payment requirements for services furnished by a federally qualified health center (FQHC) under the Medicaid program. This rule will include changes in the payment provisions to FQHCS made by section 4712 of the Balanced Budget Act of 1997.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Tribal

Additional Information: MB-43

Agency Contact: David Worgo, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Blvd, C4-15-18, Baltimore, MD 21244
Phone: 410 786-5919

RIN: 0938–AH95

1347. • MEDICAID PROGRAM: CHARGES FOR VACCINE ADMINISTRATION UNDER THE VACCINES FOR CHILDREN (VCF) PROGRAM (MB-84-N)

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 42 USC 1396(2)(62)

CFR Citation: 45 CFR 200

Legal Deadline: None

Abstract: This notice lists, by State, the finalized regional maximum charges that providers may impose for the administration of pediatric vaccines to federally vaccine-eligible children under the Vaccines for Children (VFC) program. This notice also specifies the methodology that HCFA used to establish the revised maximum charges. In addition, this notice provides States that purchase vaccines for all children the option to use these regional maximum charges or devise their own administration fees, and clarifies that State Medicaid agencies may establish lower fees than these maximum charges if the agencies assure access to immunizations for Medicaid-eligible children to the same extent as the general population. This notice also responds to comments on the October 3, 1994 notice with comment period.

Timetable:

Action	Date	FR Cite
Notice With Comment Period	10/03/94	59 FR 50235
Notice	04/10/95	60 FR 18136
Final Notice	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: MB-84

Agency Contact: Marge Sciulli, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, C4-22-06, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-0691

RIN: 0938–AI20

1348. • MEDICAID: MEDICAL CHILD SUPPORT (MB-081-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1396a(a)(60)

CFR Citation: 42 CFR 433

Legal Deadline: None

Abstract: This proposed rule would require States to provide assurances satisfactory to the Secretary that the State has in effect laws relating to medical child support. This requirement would implement section 13623 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66), commonly cited as OBRA 1993. The medical child support laws that the States must have in effect are set forth in section 1908 of the Social Security Act (the Act). These laws would impose requirements on insurers, employers, and State Medicaid agencies.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State

Additional Information: MB-81

Agency Contact: Sue Knefley, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-0488

RIN: 0938–AI21

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Care Financing Administration (HCFA)

Completed Actions

1349. FIRE SAFETY STANDARDS FOR HOSPITALS, LONG-TERM CARE FACILITIES, AND INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED (BPD-650-FC)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 42 CFR 482.41(b)(1); 42 CFR 483.70(a); 42 CFR 483.470(j)(2)(i)(C); 42 CFR 483.470(j)(1)

Completed:

Reason	Date	FR Cite
Withdrawn	09/30/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: James Kenton
Phone: 410 786-5629

RIN: 0938–AE97

1350. PRESUMPTIVE LIMITS ON PAYMENTS TO HMOS, CMPS, AND HCPPS (OMC-006-F)

Priority: Other Significant

CFR Citation: 42 CFR 417.532(a)(3); 42 CFR 417.802; 42 CFR 417.800(c)

Completed:

Reason	Date	FR Cite
Withdrawn	05/22/97	59 FR 8435

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: A. G. D'Alberto
Phone: 410 786-1100

RIN: 0938–AF16

1351. END-STAGE RENAL DISEASE (ESRD) PAYMENT EXCEPTION REQUESTS AND ORGAN PROCUREMENT COSTS (BPD-763-F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 42 CFR 412.113; 42 CFR 413.170; 42 CFR 413.172; 42 CFR 413.174; 42 CFR 413.176; 42 CFR 413.178; 42 CFR 413.180; 42 CFR 413.182; 42 CFR 413.184; 42 CFR 413.186; 42 CFR 413.188; 42 CFR 413.190; 42 CFR 413.192; 42 CFR 413.194; 42 CFR 413.196; ...

Completed:

Reason	Date	FR Cite
Final Action	08/15/97	62 FR 43657

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Michael Powell
Phone: 410 786-4557

RIN: 0938–AG20

1352. WAGE INDEX USED TO ADJUST PAYMENT RATES FOR HOSPICE SERVICES UNDER THE MEDICARE PROGRAM (BPD-820-F)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 42 CFR 418

Completed:

Reason	Date	FR Cite
Final Action	08/08/97	62 FR 42860

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Janice Flaherty
Phone: 410 786-4637

RIN: 0938–AG93

1353. MEDICAID COVERAGE OF PERSONAL CARE SERVICES (MB-071-F)

Priority: Other Significant

CFR Citation: 42 CFR 440.70; 42 CFR 440.167; 42 CFR 440.170

Completed:

Reason	Date	FR Cite
Final Action	09/11/97	62 FR 49726

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Linda Peltz
Phone: 410 786-3399

RIN: 0938–AH00

1354. UPDATE OF THE REASONABLE COMPENSATION EQUIVALENT LIMITS FOR SERVICES FURNISHED BY PHYSICIANS (BPD-816-N)

Priority: Other Significant

CFR Citation: 42 CFR 405.482(f)

Completed:

Reason	Date	FR Cite
Final Action	05/05/97	62 FR 24483

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Ward Pleines

Phone: 410 786-4528

RIN: 0938–AH14

1355. CHANGES IN COVERAGE AND PAYMENT POLICIES FOR PHYSICIAN ASSISTANT SERVICES (BPD-829-P)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 410.10; 42 CFR 410.74; 42 CFR 410.150; 42 CFR 414.1; 42 CFR 414.52; 42 CFR 491.2

Completed:

Reason	Date	FR Cite
Withdrawn	10/01/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Roberta Epps
Phone: 410 786-4503

RIN: 0938–AH26

1356. LIMITATIONS ON PAYMENT FOR HOME OXYGEN THERAPY BASED ON INHERENT REASONABLENESS CRITERIA (BPD-845-FN)

Priority: Economically Significant

CFR Citation: 42 CFR 405.502(g); 42 CFR 414.210(d)

Completed:

Reason	Date	FR Cite
Withdrawn - Superseded by Section 4552 of the Balanced Budget Act	08/05/97	62 FR 38100

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William J. Long
Phone: 410 786-5655

RIN: 0938–AH28

1357. DESIGNATION OF INDEPENDENT RURAL PRIMARY CARE HOSPITALS (RPCHS) (BPD-784-N)

Priority: Substantive, Nonsignificant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Withdrawn	07/14/97	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Thomas Hoyer
Phone: 410 786-5661

RIN: 0938–AH60

1358. INITIATIVE TO RECOGNIZE HEMODIALYSIS FACILITIES OF ACHIEVEMENT (HSQ-232-N)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 45 CFR 900

Completed:

Reason	Date	FR Cite
Final Action	04/29/97	62 FR 23251

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Judith Kari
Phone: 410 786-6829

RIN: 0938–AH71

1359. CLINICAL LABORATORY REQUIREMENTS—EXTENSION OF CERTAIN EFFECTIVE DATES FOR CLINICAL LABORATORY REQUIREMENTS UNDER CLIA (HSQ-237-F)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 493.1202; 42 CFR 493.1443; 42 CFR 493.1203

Completed:

Reason	Date	FR Cite
Withdrawn - If final rule is developed, will be addressed in HSQ-226-F	09/10/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Rhonda S. Whalen
Phone: 770 488-7655

RIN: 0938–AH84

1360. MEDICARE PROGRAM; SCHEDULE OF LIMITS ON HOME HEALTH AGENCY COST PER VISIT FOR COST REPORTING PERIODS BEGINNING ON OR AFTER JULY 1, 1997 (BPD-889-N)

Priority: Other Significant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Withdrawn - Will be addressed in BPD-904-NC	09/10/97	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Michael Bussacca
Phone: 410 786-4602

RIN: 0938–AH88

1361. MEDICARE APPEALS OF INDIVIDUAL CLAIMS (BPD-453-FC)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 405.717 to 718; 42 CFR 405.724; 42 CFR 405.730; 42 CFR 405.732; 42 CFR 405.750; 42 CFR 405.801 to 803; 42 CFR 405.806; 42 CFR 405.833 to 836; 42 CFR 405.853; 42 CFR 405.855 TO 857; 42 CFR 405.860; 42 CFR 417.634; 42 CFR 473.46

Completed:

Reason	Date	FR Cite
Final Rule (No changes required after evaluating comments).	05/12/97	62 FR 25844

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morty Marcus
Phone: 410 786-4477

RIN: 0938–AH97

1362. • MEDICARE PROGRAM; ADJUSTMENTS TO COST LIMITS FOR SNF INPATIENT ROUTINE SERVICE COSTS (BPD-896-PN)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1320

CFR Citation: 42 CFR 1001

Legal Deadline: None

Abstract: This is a test. Please fill in correct information.

Timetable:

Action	Date	FR Cite
Notice With Comment Period (Comment Period End - 12/01/97)	10/01/97	62 FR 51551

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ann White, Regulations Coordinator, Department of

HHS—HCFA — Completed Actions

Health and Human Services, Health Care Financing Administration, 200 Independence Avenue, Washington, DC 20201
Phone: 202 690-6824

RIN: 0938–AI14

1363. • MEDICARE PROGRAM; SCHEDULES OF LIMITS AND PROSPECTIVELY DETERMINED RATES FOR SNF INPATIENT ROUTINE SERVICE COSTS (BPD-895-NC)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 50

CFR Citation: 42 CFR 10

Legal Deadline: None

Abstract: Information needed.

Timetable:

Action	Date	FR Cite
Notice With Comment Period (Comment Period End 12/01/97)	10/01/97	62 FR 51536

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ann White, Regulations Coordinator, Department of Health and Human Services, Health Care Financing Administration, 200 Independence Avenue, Washington, DC 20201
Phone: 202 690-6824

RIN: 0938–AI15

1364. •MEDICAID PROGRAM: LIMITATION ON PROVIDER-RELATED DONATIONS AND HEALTH CARE-RELATED TAXES; REVISION ON WAIVER CRITERIA FOR TAX PROGRAMS BASED EXCLUSIVELY ON REGIONAL VARIATIONS; CORRECTION

Completed:

Reason	Date	FR Cite
Correcting Amendment for RIN 0938-AF99	10/15/97	62 FR 53571

RIN: 0938–AI30

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Administration for Children and Families (ACF)

Proposed Rule Stage

1365. TITLE IV-E FOSTER CARE ELIGIBILITY REVIEWS AND CHILD AND FAMILY SERVICES STATE PLAN REVIEWS

Priority: Other Significant

Legal Authority: 42 USC 627; 42 USC 671; 42 USC 1302; 42 USC 1320a to 1a

CFR Citation: 45 CFR 1355; 45 CFR 1356; 45 CFR 1357

Legal Deadline: Final, Statutory, July 1, 1995.

Abstract: This NPRM will propose requirements that implement the statutory provisions of the Social Security Act Amendments of 1994 on review of State programs under parts B and E of the Social Security Act for conformity with State Plan requirements. It will also propose requirements that govern on-site eligibility reviews that the Administration for Children and Families conducts to assure State agencies' compliance with the statutory requirements under title IV-E of the Social Security Act for the eligibility of foster care providers and the eligibility of children in foster care.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: This action was previously reported under RIN 0970-AB60.

Agency Contact: Daniel H. Lewis, Deputy Associate Commissioner, Children's Bureau, Adm. on Children, Youth & Families, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013
Phone: 202 205-8594

RIN: 0970–AA97

1366. DESIGNATION OF ALTERNATIVE AGENCY TO SERVE INDIAN TRIBAL CHILDREN

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1302

Legal Deadline: None

Abstract: This NPRM will specify a process by which an Indian tribe may identify and establish an alternative agency to provide Head Start Services if the agency previously serving the tribe is terminated.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	

Small Entities Affected: Organizations

Government Levels Affected: Tribal

Agency Contact: Douglas Klafehn, Deputy Associate Commissioner, Head Start Bureau, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013
Phone: 202 205-8569

RIN: 0970–AB52

1367. CONSTRUCTION OF HEAD START FACILITIES

Priority: Other Significant

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1309

Legal Deadline: None

Abstract: This NPRM will establish procedures to be used by Head Start agencies in requesting to use Head Start grant funds to construct or renovate a Head Start facility.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, Tribal

Agency Contact: Douglas Klafehn, Deputy Associate Commissioner, Head Start Bureau, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013
Phone: 202 205-8569

RIN: 0970–AB54

HHS—ACF — Proposed Rule Stage

1368. METHODOLOGY FOR DETERMINING CHILD POVERTY RATES

Priority: Other Significant

Legal Authority: 42 USC 613(i)(5)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This NPRM will propose a methodology to be used by States to determine their child poverty rates: section 413(i) of the Social Security Act, as amended, requires that the Secretary establish this methodology by regulation and mentions three specific factors which shall be included in the methodology. States must begin reporting their rates by May 31, 1998.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Don Oellerich, Director, Division of Data and Technical Analysis, Off of the Asst Secr for Plan & Ev, Department of Health and Human Services, Administration for Children and Families, Room 404E, 200 Independence Avenue SW., Washington, DC 20201
Phone: 202 690-6805

RIN: 0970–AB65

1369. BONUS TO REWARD HIGH PERFORMANCE STATES UNDER THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT

Priority: Other Significant

Legal Authority: 42 USC 403 (a)(4)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Administration for Children and Families with the National Governors Association and the American Public Welfare Association, will propose a formula for measuring State performance under the Temporary Assistance for Needy Families Block Grant as the basis for payment of a bonus to high performing states

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Howard Rolston, Director, Office of Planning, Research and Evaluation, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., 7th Floor West, Washington, DC 20447
Phone: 202 401-9220
Fax: 202 205-3598

RIN: 0970–AB66

1370. QUARTERLY WAGE AND UNEMPLOYMENT COMPENSATION CLAIMS REPORTING TO THE NATIONAL DIRECTORY OF NEW HIRES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 653A(g)(2)(B)

CFR Citation: 45 CFR 303

Legal Deadline: NPRM, Statutory, November 1997.

Abstract: This regulation specifies the information on wages and unemployment compensation paid to individuals that certain State entities will be required to provide to the National Directory of New Hires on a quarterly basis.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Anne M. Benson, Program Specialist, Department of Health and Human Services, Administration for Children and Families, OCSE, DHHS, 370 L'Enfant Promenade SW., Mail Stop: OCSE/DPP, Washington, DC 20447
Phone: 202 401-1467
Fax: 202 401-5559
Email: abenson@acf.dhhs.gov

RIN: 0970–AB67

1371. STATE CASE REGISTRY AND EXPANSION OF THE FEDERAL PARENT LOCATOR SERVICE (FPLS)

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-193, sec 311 and 316

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This regulation specifies what constitutes the minimum amount of information on child support cases recorded in the State Case Registry that is necessary to operate the Federal Case Registry. It also specifies the necessary information to identify the individuals who owe or are owed support and the State or States which have the case.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Anne M. Benson, Program Specialist, Department of Health and Human Services, Administration for Children and Families, OCSE, DHHS, 370 L'Enfant Promenade SW., Mail Stop: OCSE/DPP, Washington, DC 20447
Phone: 202 401-1467
Fax: 202 401-5559
Email: abenson@acf.dhhs.gov

RIN: 0970–AB68

1372. STATE LAW CONCERNING PATERNITY ESTABLISHMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 666(a)(5)

CFR Citation: 45 CFR 302.70; 45 CFR 303.5; 45 CFR 304.20

Legal Deadline: None

Abstract: This regulation covers voluntary paternity establishment services offered by hospitals and birth record agencies and specifies the types of other entities that may offer voluntary paternity establishment services. The provision of such services must include a requirement that such an entity use the same notice provision, materials, training, and evaluation as the ones used by the voluntary paternity establishment programs of hospitals and birth record agencies.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Jan Rothstein, Program Specialist, Division of Policy and Planning, Department of Health and Human Services, Administration for Children and Families, OCSE, DHHS, 370 L'Enfant Promenade SW.,

Mail Stop: OCSE/DPP, Washington, DC 20447
Phone: 202 401-5073
Fax: 202 401-5559
Email: jrothstein@acf.dhhs.gov

RIN: 0970–AB69

1373. AUTOMATED DATA PROCESSING REQUIREMENTS

Priority: Other Significant

Legal Authority: 42 USC 654(24)

CFR Citation: 45 CFR 302.85; 45 CFR 304.20; 45 CFR 307

Legal Deadline: Final, Statutory, August 22, 1998.

Abstract: This regulation, which should be finalized not later than two years after date of enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193), sets a deadline of October 1, 2000, for implementation of new Automated Data Processing requirements for the Child Support Enforcement Program. The deadline, however, shall be extended by one day for each day that the Secretary misses the two-year deadline.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Michael P. Fitzgerald, Senior Computer Specialist, Department of Health and Human Services, Administration for Children and Families, DHHS Room 326F, 200 Independence Avenue SW., Washington, DC 20201
Phone: 202 401-6403

RIN: 0970–AB70

1374. AUTOMATED DATA PROCESSING FUNDING LIMITATION

Priority: Other Significant

Legal Authority: PL 104-193, sec 344

CFR Citation: 45 CFR 307.30

Legal Deadline: None

Abstract: This regulation will set the allocation formula for the total amount payable to a State for fiscal years 1996 through 2001 based on the $400 million in federal funds for automated child support enforcement systems enhancements under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193).

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Helen Morgan Smith, Electronic Benefits Transfer Specialist, Department of Health and Human Services, Administration for Children and Families, OPS/OSS/OD, Room 326F, DHHS/HHH, 200 Independence Avenue SW., Washington, DC 20201
Phone: 202 690-6639
Fax: 202 401-6400

RIN: 0970–AB71

1375. GRANTS TO STATES FOR ACCESS AND VISITATION PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-193, sec 391

CFR Citation: 45 CFR 300

Legal Deadline: None

Abstract: This regulation specifies the monitoring, evaluating, and reporting of State grants designed to support and facilitate absent parents' access to and visitation of their children.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: David Arnaudo, Technical Advisor, Department of Health and Human Services, Administration for Children and Families, OCSE/DHHS, 370 L'Enfant Promenade SW., Mail Stop: OCSE/DPP, Washington, DC 20447
Phone: 202 401-5364
Fax: 202 401-5559
Email: darnaudo@acf.dhhs.gov

RIN: 0970–AB72

1376. CHILD SUPPORT ENFORCEMENT FOR INDIAN TRIBES

Priority: Other Significant

Legal Authority: 42 USC 655(b)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This NPRM will specify how tribes can obtain direct payments from the Department of Health and Human Services for provision of child support enforcement services if they submit a plan meeting the requirements of title IV-D.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	

Small Entities Affected: None

Government Levels Affected: State, Tribal

Agency Contact: Elizabeth C. Matheson, Director, Division of Policy and Planning, Department of Health and Human Services, Administration for Children and Families, OCSE/DHHS, 370 L'Enfant Promenade SW., Mail Stop: OCSE/DPP, Washington, DC 20447
Phone: 202 401-9386
Fax: 202 401-5559
Email: ematheson@acf.dhhs.gov

RIN: 0970–AB73

1377. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)

Regulatory Plan: This entry is Seq. No. 44 in Part II of this issue of the Federal Register.

RIN: 0970–AB77

1378. REQUIREMENTS FOR THE TRIBAL PROGRAMS

Priority: Other Significant

Legal Authority: 42 USC 612

CFR Citation: 45 CFR 286; 45 CFR 287

Legal Deadline: None

Abstract: This NPRM proposes a process for Tribes that operate a Tribal TANF program a process for reviewing Tribal plans, establishing criteria to determine Tribal plans, establishing criteria to determine minimum work participation requirements and time limits, and a process for determining Tribal family assistance grant funding when there is a disagreement with State submittal data.

The NPRM also proposes procedures for planning and operating a program to make work activities available to Tribal members. Funds for this program are available to Indian tribes and Alaska Native organizations that operated a Job Opportunities and Basic Skills Training (JOBS) program in fiscal year 1995. This Tribal work activities program is called the Native Employment Works (NEW) Program.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	

Small Entities Affected: None

Government Levels Affected: State, Tribal, Federal

Agency Contact: John Bushman, Director, Division of Tribal Services, Department of Health and Human Services, Administration for Children and Families, Office of Community Services, 370 L'Enfant Promenade SW., Washington, DC 20447
Phone: 202 401-2418
Fax: 202 205-5887
Email: jbushman@acf.dhhs.gov

RIN: 0970–AB78

1379. BONUS TO REWARD DECREASE IN OUT-OF-WEDLOCK BIRTH RATIO

Priority: Other Significant

Legal Authority: 42 USC 603

CFR Citation: 45 CFR 283

Legal Deadline: None

Abstract: This regulation specifies, for each bonus year, the requirements that eligible States must meet to receive grants from the Secretary for reducing their out-of-wedlock birth ratios. The regulation specifies the amount of grant, defines "eligible States," and gives the appropriate years for the grant.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Kelleen Kaye, Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, Administration for Children and Families, 200 Independence Avenue SW., Washington, DC 20201
Phone: 202 401-6634
Email: kkaye@osaspe.dhhs.gov

RIN: 0970–AB79

1380. CASE CLOSURE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 651 to 658; 42 USC 660; 42 USC 663; 42 USC 664; 42 USC 666; 42 USC 667; 42 USC 1302; 42 USC 1396a(a)(25); 42 USC 1396(d)(2); 42 USC 1396b(o); 42 USC 1396b(p); 42 USC 1396(k)

CFR Citation: 45 CFR 303.11

Legal Deadline: None

Abstract: This NPRM proposes to amend regulations governing the case closure process in the child support enforcement program.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: Elizabeth C. Matheson, Director, Division of Policy and Planning, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Mail Stop: OCSE/DPP, Washington, DC 20447
Phone: 202 401-9385
Fax: 202 401-5559
Email: ematheson@acf.dhhs.gov

RIN: 0970–AB82

1381. REFUGEE RESETTLEMENT PROGRAM: RESPONDING AND CONFORMING TO TANF REPLACING AFDC

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1522(a)(9)

CFR Citation: 45 CFR 400

Legal Deadline: None

Abstract: This regulation will revise refugee resettlement program regulations to respond and conform to the Temporary Assistance to Needy Families (TANF) program replacing the Aid to Families with Dependent Children (AFDC) program.

Timetable:

Action	Date	FR Cite
NPRM	06/00/98	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Toyo Biddle, Director, Division of Refugee Self-Sufficiency, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447
Phone: 202 401-9250

RIN: 0970–AB83

1382. • CHILD SUPPORT NON-PERFORMANCE PENALTY

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 609(a)(8)

CFR Citation: 45 CFR 305

Legal Deadline: None

Abstract: This regulation will implement the requirements in section 409(a) (8) of the Social Security Act which provides for a a penalty of 1 percent to 5 percent of a State's Temporary Assistance for Needy Families (TANF) funds if the Secretary of HHS determines that the State failed to meet the paternity establishment percentages or other performance measures established by the Secretary.

Timetable:

Action	Date	FR Cite
NPRM	06/00/98	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Elizabeth C. Matheson, Director, Division of Policy and Planning, Department of Health and Human Services, Administration for Children and Families, DHHS/Administration for Children & Families, 370 L'Enfant Promenade SW., Mail Stop OCSE/DPP Washington, DC 20447
Phone: 202 401-9385
Fax: 202 401-5559
Email: ematheson@acf.dhhs.gov

RIN: 0970–AB85

1383. • CHILD ABUSE AND NEGLECT PREVENTION AND TREATMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5101 et seq

CFR Citation: 45 CFR 1340

Legal Deadline: None

Abstract: To amend current regs to reflect statutory changes in the CAPTA Amendments of 1996.

HHS—ACF

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Agency Contact: Emily Cooke, Department of Health and Human Services, Administration for Children and Families, DHHS/ACF/NCCAN, 330 C Street SW., Room 2106, Switzer Building, Washington, DC 20201
Phone: 202 205-8709
Fax: 202 260-9351
Email: ecooke@acf.dhhs.gov

RIN: 0970–AB86

1384. • HEAD START APPEAL TIMELINES

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1303

Legal Deadline: None

Abstract: This proposed amendment to part 1303 will provide timelines for conducting administrative hearings on adverse actions taken against Head Start agencies.

Timetable:

Action	Date	FR Cite
NPRM	06/00/98	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Agency Contact: Douglas Klafehn, Deputy Commissioner, Head Start Bureau, Department of Health and Human Services, Administration for Children and Families, DHHS/ACF/ACYF, P.O. Box 1182, Washington, DC 20013
Phone: 202 205-8569

RIN: 0970–AB87

1385. • TITLE IV-B PLANNING REQUIREMENTS FOR TRIBES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 628; 42 USC 629

CFR Citation: 45 CFR 1356; 45 CFR 1357

Legal Deadline: None

Abstract: This NPRM will revise the title IV-B, subpart 1, planning requirements to make the plans more accurately reflect of the amount of funding available to the Indian Tribes/Tribal Organizations through the program.

Timetable:

Action	Date	FR Cite
NPRM	06/00/98	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Tribal

Agency Contact: Paul Blatt, Child Welfare Specialist, Children's Bureau, Department of Health and Human Services, Administration for Children and Families, DHHS/ACF/ACYF, P.O. Box 1182, Washington, DC 20013
Phone: 202 205-8324

RIN: 0970–AB88

1386. • TITLE IV-E TRAINING

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: 42 USC 672; 42 USC 673

CFR Citation: 45 CFR 1356.60; 45 CFR 235.63 to 235.66(a)

Legal Deadline: None

Abstract: This NPRM will revise the title IV-E training regulations. The current title IV-E training regulations are a carryover from the old title IV-A regulations. They have never been revised to reflect the different requirements and emphases that Public Law 96-272 placed on states regarding the removal of children from their homes, the efforts required to prevent removal and work for reunification or other permanent placements for children in foster care. In addition, there are areas of ambiguity in the current rule which need clarification to assure consistent application of policy.

Timetable:

Action	Date	FR Cite
NPRM	06/00/98	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Judith Reich, Training Specialist, Children's Bureau, Department of Health and Human Services, Administration for Children and Families, DHHS/ACYF/ACF, Washington, DC 20013
Phone: 202 205-8713

RIN: 0970–AB89

1387. • DESIGNATION OF FAMILY CHILD CARE AS A PROGRAM OPTION FOR HEAD START PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1306

Legal Deadline: None

Abstract: This Rule Change will allow Head Start Programs to choose Family Child Care as Head Start Program Option.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Agency Contact: Douglas Klafehn, Deputy Associate Commissioner, Head Start, Bureau, Department of Health and Human Services, Administration for Children and Families, DHHS/ACYF/ACF, PO Box 1182, Washington, DC 20013
Phone: 202 205-8569

RIN: 0970–AB90

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Administration for Children and Families (ACF)

Final Rule Stage

1388. STANDARDS FOR SAFE TRANSPORTATION

Priority: Other Significant

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1310

Legal Deadline: None

Abstract: This rule establishes Head Start Performance Standards for the safe transportation of Head Start children, including vehicle requirements, driver qualifications and training and safety rules for children and staff while en route and loading and unloading of vehicles.

Timetable:

Action	Date	FR Cite
NPRM	08/15/95	60 FR 31612
NPRM Comment Period End	08/14/95	
Final Action	06/00/98	

Small Entities Affected: Organizations

Government Levels Affected: Local, Tribal

Agency Contact: Douglas Klafehn, Deputy Associate Commissioner, Head Start Bureau, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013
Phone: 202 205-8569

RIN: 0970–AB24

1389. STANDARDS FOR PURCHASE OF FACILITIES

Priority: Other Significant

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1309

Legal Deadline: None

Abstract: This regulation establishes standards for the purchase of facilities as required by the Head Start Improvement Act of 1992.

Timetable:

Action	Date	FR Cite
NPRM	12/01/94	59 FR 61575
NPRM Comment Period End	01/30/95	
Final Action	02/00/98	

Small Entities Affected: Organizations

Government Levels Affected: Local, Tribal

Agency Contact: Douglas Klafehn, Deputy Associate Commissioner, Head Start Bureau, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013
Phone: 202 205-8569

RIN: 0970–AB31

1390. INCOME ELIGIBILITY CRITERIA FOR INDIAN TRIBES

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 9801 et seq

CFR Citation: 45 CFR 1305

Legal Deadline: None

Abstract: This Final Rule will revise the income eligibility criteria used in enrolling Head Start children and families to allow Indian tribes, in certain situations, to enroll more children whose families do not meet Head Start's income criteria than would otherwise be possible.

Timetable:

Action	Date	FR Cite
NPRM	10/25/95	60 FR 54648
NPRM Comment Period End	12/26/95	
Final Action	02/00/98	

Small Entities Affected: Organizations

Government Levels Affected: Tribal

Agency Contact: Douglas Klafehn, Deputy Associate Commissioner, Head Start Bureau, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013
Phone: 202 205-8569

RIN: 0970–AB53

1391. INCOME AND RESOURCE DISREGARDS RELATED TO INTERESTS OF INDIVIDUAL INDIANS IN TRUST OR RESTRICTED LANDS

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 1408

CFR Citation: 45 CFR 233

Legal Deadline: None

Abstract: These rules incorporate statutory disregards in the AFDC program and the Adult Assistance programs in Guam, Puerto Rico and the Virgin Islands. The first provides that up to $2,000 per year of income derived from interests of individual Indians in trust or restricted lands shall not be considered in determining assistance under the Social Security Act or any other Federally assisted program. The second is a provision requiring that interests of individual Indians in trust or restricted lands shall not be considered a resource in determining eligibility for assistance under the Social Security Act or any other Federally assisted program.

Timetable:

Action	Date	FR Cite
NPRM	10/25/94	59 FR 51536
Final Action	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mack A. Storrs, Director, Division of AFDC Program, Office of Family Assistance, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447
Phone: 202 401-9289

RIN: 0970–AB59

1392. CHILD CARE AND DEVELOPMENT FUND

Priority: Other Significant

Legal Authority: 42 USC 618; 42 USC 9858

CFR Citation: 45 CFR 98.14; 45 CFR 98.33; 45 CFR 98.43; 45 CFR 98.50; 45 CFR 98.51; 45 CFR 98.52; 45 CFR 98.53; 45 CFR 98.60; 45 CFR 98.61; 45 CFR 98.62; 45 CFR 98.63; 45 CFR 98.64; 45 CFR 98.66; 45 CFR 98.81; 45 CFR 98.83; ...

Legal Deadline: None

Abstract: The Administration for Children and Families will amend existing regulations which govern the administration of the Child Care and Development Block Grant program. The purpose of this regulatory package will be to implement the legislative changes contained in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	07/23/97	62 FR 39610
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: State, Tribal

Agency Contact: Joan Lombardi, Associate Commissioner, Child Care Bureau, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013

HHS—ACF — Final Rule Stage

Phone: 202 690-6782
RIN: 0970–AB74

1393. CHILD SUPPORT ENFORCEMENT PROGRAM OMNIBUS CONFORMING REGULATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1102

CFR Citation: 45 CFR 304; 45 CFR 305

Legal Deadline: None

Abstract: This rule eliminates child support enforcement program regulations rendered obsolete or inconsistent with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Timetable:

Action	Date	FR Cite
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Marilyn R. Cohen, Program Specialist, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Mail Stop: OCSE/DPP, Washington, DC 20447
Phone: 202 401-5366
Fax: 202 401-5559
Email: mcohen@acf.dhhs.gov

RIN: 0970–AB81

1394. PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996 CONFORMING REGULATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 601 note; 42 USC prec 601; 42 USC 601 to 610; 42 USC 612; 42 USC 613; 42 USC 615 to 617

CFR Citation: 45 CFR 205; 45 CFR 232; 45 CFR 233; 45 CFR 250; 45 CFR 255; 45 CFR 256; 45 CFR 257

Legal Deadline: None

Abstract: This regulation will eliminate regulations repealed by title I of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193).

Timetable:

Action	Date	FR Cite
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: State, Tribal, Federal

Agency Contact: Ann Burek, Program Analyst, Office of Legislative Affairs and Budget, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447
Phone: 202 401-9223

RIN: 0970–AB84

1395. • DATA COLLECTION AND REPORTING FOR THE WELFARE TO WORK PROGRAM

Priority: Other Significant

Legal Authority: 42 USC 611

CFR Citation: Not yet determined

Legal Deadline: Final, Statutory, November 5, 1997.
Implementing regulations must be issued within 90 days after the date of enactment.

Abstract: This interim final rule will specify the data collection and reporting requirements for the Welfare-to-Work program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/97	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Howard Rolston, Director, Office of Planning, Research and Evaluation, Department of Health and Human Services, Administration for Children and Families, DHHS/ACF, 370 L'Enfant Promenade SW., 7th Floor West, Washington, DC 20447
Phone: 202 401-9220
Fax: 202 205-3598

RIN: 0970–AB92

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Completed Actions
Administration for Children and Families (ACF)

1396. DATA COLLECTION AND REPORTING UNDER THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT

Priority: Other Significant

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Merged With RIN 0970-AB77	10/01/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: Howard Rolston
Phone: 202 401-9220
Fax: 202 205-3598

RIN: 0970–AB64

1397. TANF PENALTIES AND ADMINISTRATIVE COSTS

Priority: Other Significant

CFR Citation: 45 CFR 201

Completed:

Reason	Date	FR Cite
Merged With RIN 0970-AB77	10/01/97	

Small Entities Affected: None

Government Levels Affected: State, Tribal, Federal

Agency Contact: Mack Storrs
Phone: 202 401-9289
Fax: 202 205-5887
Email: mstorrs@acf.dhhs.gov

RIN: 0970–AB76

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Long-Term Actions
Administration on Aging (AOA)

1398. GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING, INTRASTATE FUNDING FORMULAS; TRAINING, RESEARCH AND DISCRETIONARY PROGRAMS; VULNERABLE ELDER RIGHTS; AND GRANTS TO INDIANS & NATIVE HAWAIIANS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3001 et seq

CFR Citation: 45 CFR 1321; 45 CFR 1324; 45 CFR 1326; 45 CFR 1327; 45 CFR 1328

Legal Deadline: None
Unknown until law is reauthorized.

Abstract: The Administration on Aging (AoA) anticipates revising current rules to reflect the changes resulting from the pending reauthorization of the Older Americans Act which incorporates greater flexibility for the States.
PURPOSE: The purpose of these revisions is to implement the newly enacted law in the development and provision of community-based services.

Timetable:

Action	Date	FR Cite
NPRM - OAA Amendments in FY '98	11/00/98	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Tribal

Additional Information: The Administration on Aging, in consultation with the Office of Management and Budget, has determined that it is no longer necessary to pursue final action on rules earlier proposed to implement the 1992 amendments to the Older Americans Act. The provisions of the Act remain in force and need no further regulations to implement them. AoA anticipates promulgating rules in the latter part of 1998 to implement the provisions to the next reauthorization of the Older Americans Act, if necessary.

Agency Contact: Edwin Walker, Director, Office of Program Operations and Development, Department of Health and Human Services, Administration on Aging, 330 Independence Avenue SW., Room 4733, Cohen Bldg., Washington, DC 20201
Phone: 202 619-0011

RIN: 0985–AA00

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Wednesday
October 29, 1997

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The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions

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Wednesday
October 29, 1997

Part IX

Department of Housing and Urban Development

Semiannual Regulatory Agenda

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Subtitles A and B

[Docket No. FR-4218-02]

Semiannual Agenda of Regulations

AGENCY: Department of Housing and Urban Development.

ACTION: Semiannual regulatory agenda.

SUMMARY: In accordance with section 4(b) of Executive Order 12866 "Regulatory Planning and Review," the Department is publishing its agenda of regulations already issued or expected to be issued and of currently effective rules that are under review. Also, under section 602 of the Regulatory Flexibility Act, the Department has prepared an agenda of regulations expected to be proposed or promulgated, which are likely to have a significant economic impact on a substantial number of small entities. As permitted by Executive Order 12866 and the Regulatory Flexibility Act, the two agendas are combined for publication.

One of the purposes of the semiannual regulatory agenda is to encourage more effective public participation in the regulatory process by providing the public with early information about regulatory actions.

FOR FURTHER INFORMATION CONTACT: Camille E. Acevedo, Assistant General Counsel for Regulations, Department of Housing and Urban Development, Room 10276, 451 Seventh Street SW., Washington, DC 20410, (202) 708-3055. (This is not a toll-free number.) A telecommunications device for hearing- and speech-impaired individuals (TTY) is available at 1-800-877-8339 (Federal Information Relay Service).

SUPPLEMENTARY INFORMATION: Executive Order 12866 "Regulatory Planning and Review," published on October 4, 1993 (58 FR 51735), requires each agency to publish semiannually an agenda of regulations that the agency has issued or expects to issue and of currently effective regulations that are under agency review. Consistent with the principles set forth in Executive Order 12866 to reduce and streamline regulations and to regulate only when necessary, the Department continues to examine those rules proposed to be issued under these principles.

The Regulatory Flexibility Act, 5 U.S.C. 601-612, requires each agency to publish semiannually a regulatory agenda of rules expected to be proposed or promulgated, which are likely to have a significant economic impact on a substantial number of "small entities," meaning small businesses, small organizations, or small governmental jurisdictions.

Executive Order 12866 and section 605 of the Regulatory Flexibility Act each permits incorporation of the agenda required with any other prescribed agenda. Accordingly, the agenda set out below combines the information required by the Executive order and by the Regulatory Flexibility Act. In addition, the agenda contains certain information not required by either the Executive order or by the Act, which the Department considers useful both better to inform the public and to enhance the Department's own inventory control over its body of regulations.

For purposes of Executive Order 12866, "regulation" or "rule" is defined as "an agency statement of general applicability and future effect, which the agency intends to have the force and effect of law, that is designed to implement, interpret, or prescribe law or policy or to describe the procedure or practice requirements of an agency" subject to certain exceptions. The agenda published below concentrates upon regulatory material contained or expected to be contained in the Code of Federal Regulations (CFR) (or incorporated therein by reference) following publication in the **Federal Register**. As appropriate, however, issuances in the nature of general statements of policy may be published in the **Federal Register** but not for codification in the CFR.

The Department also is subject to certain requirements involving congressional review of rulemaking action, including publication of an agenda. Section 7(o) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)) requires that the Secretary transmit to the congressional committees having jurisdictional oversight (the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Banking and Financial Services) a semiannual agenda of all rules or regulations which are under development or review by the Department. A rule appearing on the agenda cannot be published for comment before or during the first 15 calendar days after transmittal of the agenda. If, within that period, either committee notifies the Secretary that it intends to review any rule or regulation which appears on the agenda, the Secretary must submit to both committees a copy of the rule or regulation, in the form it is intended to be proposed, at least 15 calendar days before it is published for comment. The semiannual agenda published today is the agenda transmitted to the committees in compliance with the foregoing requirement.

The agenda items are divided first by program office. Within each program office, the agenda items are divided into four groups: (i) Prerulemaking actions, (ii) publication or other implementations of notices of proposed rulemaking, (iii) publications or other implementations of final rules, and (iv) completed actions. Within each grouping, rules are listed in chronological order by the part number of the CFR affected. Where a rule affects multiple parts of the CFR, the rule is listed by the first affected part number. Priority rules include all regulations designated for priority development by the Department.

Items listed in this agenda are from the following offices within the Department: Office of the Secretary; Office of Housing; Office of Public and Indian Housing; Office of Community Planning and Development; Office of Fair Housing and Equal Opportunity; Office of Administration; Office of Policy Development and Research; and the Government National Mortgage Association.

The Department notes that section 610(c) of the Regulatory Flexibility Act requires each agency to publish annually a list of the rules that have a significant economic impact upon a substantial number of small entities, which are to be reviewed in accordance with section 610 during the succeeding 12 months. All rules under development, published in each HUD agenda, are reviewed in accordance with the principles of section 610 of the Regulatory Flexibility Act. The Department invites comments from the public on any rule in this agenda specifically on the issue of whether the public believes the rule will have a significant economic impact on a substantial number of small entities.

HUD

For this edition of the Department's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bold reference in parentheses, which directs the reader to the appropriate Sequence Number in Part II.

The Department invites all interested members of the public to comment on the rules listed in this October 1997 agenda to assist the Department in improving its regulatory products and procedures.

Dated: August 15, 1997.

Dwight F. Robinson,

Deputy Secretary.

Office of the Secretary—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1399	24 CFR 91 Site and Neighborhood Standards for Development of HUD-Assisted Rental Housing (FR-3826)	2501-AC15

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1400	24 CFR 6 Nondiscrimination in HUD Programs and Activities Receiving Assistance Under Title I of the Housing and Community Development Act of 1974 (FR-4092)	2501-AC26
1401	24 CFR 24 Limited Denial of Participation in HUD Programs; Clarifying Amendments (FR-3975)	2501-AC08
1402	24 CFR 42 Streamlining Regulations Implementing Uniform Relocation Act and Other Relocation Requirements in HUD Programs (FR-4122)	2501-AC31
1403	24 CFR 51 HUD's Environmental Criteria and Standards; Amendments (FR-4060)	2501-AC25
1404	24 CFR 55 Floodplain Management and Protection of Wetlands (FR-4142)	2501-AC33
1405	24 CFR 56 Flood Insurance and HUD Assisted Buildings Located Within Special Flood Hazard Areas (FR-4273)	2501-AC40
1406	24 CFR 761 Drug Elimination Program; Proposed Amendments (FR-4058)	2501-AC23

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1407	24 CFR 5, subpart E Revised Restriction on Assistance to Noncitizens (FR-4154)	2501-AC36
1408	24 CFR 35 Lead-Based Paint Poisoning Prevention in Certain Residential Structures (FR-3482) (Reg Plan Seq. No. 46)	2501-AB57
1409	24 CFR 45 Administrative Requirements for Grantees To Reflect Single Audit Act Amendments (FR-4258)	2501-AC39
1410	24 CFR 58 Technical Amendment to HUD's Regulations Governing the Environmental Review Procedures for Entities Assuming HUD's Environmental Responsibilities (FR-4138)	2501-AC32
1411	24 CFR 92 HOME Investment Partnerships Program—Additional Streamlining (FR-4111)	2501-AC30

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1412	24 CFR 10 Rulemaking Policies and Procedures—Expediting Rulemaking and Policy Implementation (FR-3282)	2501-AB43
1413	24 CFR 882.109 Occupancy Standards Under the Fair Housing Act (FR-3815)	2501-AC05

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1414	24 CFR 1 Consolidation of Fair Housing and Equal Opportunity Requirements for Programs (FR-3935)	2501-AC01
1415	24 CFR 5 $400 Earned Income Exclusion for Public Housing and Indian Housing Programs (FR-4158)	2501-AC37

HUD

Office of the Secretary—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
1416	24 CFR 5 Admission Preferences and Public Housing Development Regulations; Technical Amendments (FR-4166)	2501-AC38
1417	24 CFR 81 Book Entry Procedures for Government-Sponsored Enterprises (FR-4095)	2501-AC35

Office of Housing—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1418	24 CFR 203 Mortgage Insurance Premium Reduction in Central Cities (FR-4284)	2502-AH07
1419	24 CFR 200 Multifamily Provisions of the Part 200 Regulations—Further Streamlining and Technical Amendments (FR-4184)	2502-AG90
1420	24 CFR 200 Use of Material Bulletins (FR-4265)	2502-AH02
1421	24 CFR 200.925 to 926 Update of the Model Energy Code (MEC) (FR-4272)	2502-AH03
1422	24 CFR 202 Approval of Lending Institutions and Mortgagees (FR-4132)	2502-AG82
1423	24 CFR 203 Suspension of FHA Single Family Mortgage Insurance Program for Mortgages on Indian Reservations Insured Pursuant to Section 248 of the National Housing Act (FR-4251)	2502-AH00
1424	24 CFR 206.45(e) Home Equity Conversion Mortgages; Right of First Refusal Permitted for Condominium Associations (FR-4267)	2502-AG93
1425	24 CFR 291 Single Family Property Disposition: Advanced Notice of Proposed Rulemaking (FR-4244)	2502-AG96
1426	24 CFR 2910 subpart E Suspension of New Leases Under the Single-Family Property Disposition Homeless Program (FR-4275)	2502-AH06
1427	24 CFR 3280 Metal Roofing for Manufactured Housing—Interpretative Bulletin (FR-4271)	2502-AH05
1428	24 CFR 3282 Special Procedures Permitting Limited Completion of Manufactured Homes On-Site (FR-4216)	2502-AG92
1429	24 CFR 3500 RESPA: Disclosure of Fees Paid to Retail Lenders (Brokers) (FR-3780) **(Reg Plan Seq. No. 46)**	2502-AG40
1430	24 CFR 3500 Contingency Funding Including Flood Plain Certifications—Real Estate Settlement Procedures Act (FR-3930)	2502-AG56
1431	24 CFR 3500 Improvement of Disclosures Under the Real Estate Settlement Procedures Act and the Truth in Lending Act (FR-4184)	2502-AG86

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Office of Housing—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1432	24 CFR 200 Changes in the Minimum Property Standards; Technical Suitability of Products Program (FR-4137)	2502-AG84
1433	24 CFR 200 Delegation of Insuring Authority to Direct Endorsement Mortgagees (FR-4169)	2502-AG87
1434	24 CFR 201 Title I Property Improvement and Manufactured Home Loan Insurance Programs (FR-4242)	2502-AG94
1435	24 CFR 201 Strengthening the Title I Property Improvement Loan Insurance Program (FR-4246) **(Reg Plan Seq. No. 47)**	2502-AG95
1436	24 CFR 201 Termination of an Approved Mortgagee's Origination Approval Agreement (FR-4239)	2502-AG99
1437	24 CFR 203 Streamlining Single Family Mortgage Insurance Program (FR-4109)	2502-AG79
1438	24 CFR 207 Electronic Payment of Multifamily Insurance Premiums (FR-4203)	2502-AG91
1439	24 CFR 216 Single Family Risk-Sharing With Housing Finance Agencies and With Private Mortgage Insurers (FR-3982)	2502-AH01
1440	24 CFR 242 Risk-Sharing Hospital Mortgage Insurance Program (FR-3914)	2502-AG53
1441	24 CFR 203 Loss Mitigation—Single Family (FR-4032)	2502-AG72
1442	24 CFR 3280 Department of Transportation—Federal Highway Administration & HUD Requirements Regarding "Manufactured Home Tire Overloading" (FR-3943)	2502-AG54
1443	24 CFR 3500 Real Estate Settlement Procedures Act: Escrow Accounting Procedures (FR-4079)	2502-AG75
1444	24 CFR 3500 Amendment to RESPA; Exemption for Employer Payments to Employees Who Make Like-Provider Referrals, and Other Amendments (FR-4173)	2502-AG88

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

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Office of Housing—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1445	24 CFR 200 Multifamily Housing Mortgage Insurance—Technical Amendment (FR-4236)	2502-AG96
1446	24 CFR 201 Title I Loan Insurance (FR-3718)	2502-AG32
1447	24 CFR 202 Approval of Lending Institutions and Mortgagees—Streamlining (FR-4106)	2502-AG78

Office of Community Planning and Development—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1448	24 CFR ch V Homeless Assistance Fund Regulation (FR-4130) **(Reg Plan Seq. No. 48)**	2506-AB88
1449	24 CFR 573 Loan Guarantee Recovery Fund: Loan Guarantee Assistance in Response to Acts of Arson or Terrorism Motivated by Race, Color, or Ethnicity (FR-4282)	2506-AB98
1450	24 CFR 570 Community Development Block Grant Program; National Objective and Streamlining Changes (FR-4144)	2506-AB90
1451	24 CFR 570 Section 108 Loan Guarantee Program; Loan Pooling/Risk Sharing Arrangements (FR-4214)	2506-AB92

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Office of Community Planning and Development—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1452	24 CFR 91 CDBG Program for States; Community Revitalization Strategy Requirements & Miscellaneous Technical Amendments (FR-4081)	2506-AB83
1453	24 CFR 570 Community Development Block Grant Program; Dispute Resolution and Enforcement Actions, Loan Guarantee Application Requirements (FR-3298)	2506-AB43
1454	24 CFR 570 Section 108 Loan Guarantee Program (FR-4039)	2506-AB80
1455	24 CFR 570 Community Development Block Grant Programs for States; Program Income (FR-4087)	2506-AB82
1456	24 CFR 570 Community Development Block Grants: Amendments to the New York Small Cities Program (FR-4155)	2506-AB91
1457	24 CFR 570.208 CDBG Slum/Blight National Objective Rule (FR-4260) **(Reg Plan Seq. No. 49)**	2506-AB94
1458	24 CFR 570.200 Clarification of the Nature of Required CDBG Expenditure Documentation and Accounting for Applicable Credits (FR-4261) **(Reg Plan Seq. No. 50)**	2506-AB95
1459	24 CFR 597 Performance Grants for Urban Empowerment Zones and Enterprise Communities (FR-4262) **(Reg Plan Seq. No. 51)**	2506-AB96

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Office of Community Planning and Development—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1460	00 CFR Not yet determined Administrative Guidelines for CPD Programs; Sec. 102(d) Limitation on Combining Other Government Assistance With CPD Housing Assistance (FR-3135)	2506-AB74

Office of Community Planning and Development—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1461	24 CFR 180 Incorporation of Nondiscrimination Hearing Procedures Under Section 109 of the Housing and Community Act of 1974 (FR-4140)	2506-AB89
1462	24 CFR 572 HOPE For Homeownership of Single Family Homes Program (HOPE 3) (FR-3857)	2506-AB71
1463	24 CFR 585 Youthbuild Program; Further Streamlining (FR-4226)	2506-AB93

HUD

Office of Community Planning and Development—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
1464	24 CFR 586 Base Closure Community Redevelopment and Homeless Program (FR-3820)	2506-AB72

Government National Mortgage Association—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1465	24 CFR 300.3 Ginnie Mae/Finance - Native American (FR-4215)	2503-AA11

Office of Fair Housing and Equal Opportunity—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1466	24 CFR 570 Fair Housing Planning Performance Standard (FR-4133) **(Reg Plan Seq. No. 52)**	2529-AA81

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register.**

Office of Fair Housing and Equal Opportunity—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1467	24 CFR 100 Implementation of the Housing for Older Persons Act of 1995 (FR-4094)	2529-AA80
1468	24 CFR 100 Fair Lending—Self-Testing (FR-4160)	2529-AA82
1469	24 CFR 135 Economic Opportunities for Low- and Very Low-Income Persons (FR-2896)	2529-AA49

Office of Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1470	48 CFR 2401 HUD Acquisition Regulation—II (FR-4115)	2536-AA24

Office of the Inspector General—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1471	24 CFR 2003 Implementation of Privacy Act of 1974 (FR-4270)	2508-AA09
1472	24 CFR 2003 Privacy Act of 1974; Consolidation of Existing Systems of Records Into Single System of Records (FR-4283)	2508-AA10

Policy Development and Research—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1473	24 CFR 570 Community Development Hispanic-Serving Institutions Work Study Program (FR-4269)	2528-AA07

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Policy Development and Research—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1474	24 CFR 570 Community Development Hispanic-Serving Institutions Work Study Program (FR-4070)	2528-AA06

Office of Public and Indian Housing—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1475	00 CFR Not yet determined Administrative Guidelines for PIH Regarding Sec. 102(d) Limitations on Combining Other Government Assistance ("Subsidy Layering") (FR-3100)	2577-AB53
1476	24 CFR 982 Section 8 Program Rent Limits in Tax Credit Projects (FR-4268)	2577-AB80

Office of Public and Indian Housing—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1477	24 CFR 5, subpart F Ceiling Rents for Public Housing (FR-3880)	2577-AB75
1478	24 CFR 945 Designated Housing (FR-3964)	2577-AB57
1479	24 CFR 968 Replacement Housing Factor in Modernization Funding (FR-4125) **(Reg Plan Seq. No. 53)**	2577-AB71

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register.**

Office of Public and Indian Housing—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1480	24 CFR 982 Housing Opportunity Program Extension Act of 1996 Implementation Provisions and Section 8 Certificate, Voucher, & Moderate Rehabilitation Admission & Occupancy Policies Revisions (FR-4159) **(Reg Plan Seq. No. 54)**	2577-AB72
1481	24 CFR 904 Streamlining of Turnkey III Program Regulations (FR-4217)	2577-AB76
1482	24 CFR 941 Public Housing Development Regulations (FR-3569)	2577-AB37
1483	24 CFR 941 Public Housing Mixed-Finance Partnership Development—Streamlining (FR-4113)	2577-AB69
1484	24 CFR 950 Implementation of the Native American Housing Assistance and Self-Determination Act of 1996 (FR-4170)	2577-AB74
1485	24 CFR 954 Indian HOME: Revised Program Regulations (FR-3567)	2577-AB35
1486	24 CFR 955 Loan Guarantee for Indian Housing; Direct Guarantee Processing (FR-4241)	2577-AB78
1487	24 CFR 960 Public Housing Admission and Occupancy Reforms and Streamlining (FR-4084) **(Reg Plan Seq. No. 55)**	2577-AB67
1488	24 CFR 971 Assessment of the Reasonable Revitalization Potential of Certain Public Housing Required by Law (FR-4120) **(Reg Plan Seq. No. 56)**	2577-AB79
1489	24 CFR 982 Section 8 Tenant-Based Programs: Addition of Provisions on Rents and Special Housing Types (FR-4054)	2577-AB63
1490	24 CFR 982 Section 8 Program Restrictions on Leasing to Relatives (FR-4149)	2577-AB73
1491	24 CFR 985 Section 8 Rental Voucher and Certificate Programs—Section 8 Management Assessment Program (SEMAP) (FR-3986) **(Reg Plan Seq. No. 57)**	2577-AB60
1492	24 CFR 990 Public Housing Performance Funding System: Incentives (FR-4072)	2577-AB65

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register.**

Office of Public and Indian Housing—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1493	24 CFR 5 Strengthening the Role of Fathers in Public Housing Families (FR-4087)	2577-AB68

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Office of Public and Indian Housing—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
1494	24 CFR 882 Section 8 Moderate Rehabilitation; Rent Adjustments; Annual and Special Adjustments; Comparability Studies; Rent Reduction (FR-3709)	2577-AB48
1495	24 CFR 913 Optional Earned Income Exclusion (FR-4060)	2577-AB66
1496	24 CFR 1005 Processing of Mortgage Loans (FR-4219)	2577-AB77

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of the Secretary (HUDSEC)

Prerule Stage

1399. SITE AND NEIGHBORHOOD STANDARDS FOR DEVELOPMENT OF HUD-ASSISTED RENTAL HOUSING (FR-3826)

Priority: Other Significant

Legal Authority: 42 USC 3608(e)(5); 42 USC 3614a; 42 USC 5304(b)(2); 42 USC 12705(b)(14)

CFR Citation: 24 CFR 91; 24 CFR 92; 24 CFR 150; 24 CFR 570; 24 CFR 880; 24 CFR 881; 24 CFR 882; 24 CFR 883; 24 CFR 885; 24 CFR 889; 24 CFR 890; 24 CFR 941; 24 CFR 970; 24 CFR 983

Legal Deadline: None

Abstract: Existing site and neighborhood standards requirements were adopted in the early 1980s. The current rule has been criticized as unreasonably preventing development in areas of minority concentration (a term not defined in the present regulation). The current rule also places the decision on site approval with the Federal Government (except in the HOME Investment Partnerships Program). In addition, the current rule does not apply to the Community Development Block Grant Program although that program has increasingly become a vehicle for the development of lower-income housing.

The Department proposes to issue an Advanced Notice of Proposed Rulemaking to identify the major problem areas in the current rule and seek the advice of the public as to the optimum solutions.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: William Dudley Gregorie, Acting Director, Office of Programs Operations and Standards, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 708-2288

RIN: 2501–AC15

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of the Secretary (HUDSEC)

Proposed Rule Stage

1400. NONDISCRIMINATION IN HUD PROGRAMS AND ACTIVITIES RECEIVING ASSISTANCE UNDER TITLE I OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974 (FR-4092)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5309; 42 USC 3535(d)

CFR Citation: 24 CFR 6; 24 CFR 8; 24 CFR 570

Legal Deadline: None

Abstract: This proposed rule would add a new part 6 to HUD's regulations. Part 6 would set forth HUD's procedures and policies to assure nondiscrimination in programs and activities receiving federal financial assistance from HUD under Title I of the Housing and Community Development Act of 1974.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Betsy Ryan, Director, Program Compliance Div., Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 708-0404

RIN: 2501–AC28

1401. LIMITED DENIAL OF PARTICIPATION IN HUD PROGRAMS; CLARIFYING AMENDMENTS (FR-3975)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 24

Legal Deadline: None

Abstract: This rule would streamline and clarify the causes for a limited denial of participation (LDP) in most HUD programs; conform the provisions with Governmentwide regulations; clarify calculation of a time period; and make other technical corrections.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local

HUD—HUDSEC

Proposed Rule Stage

Agency Contact: Emmett Roden, Assistant General Counsel for Administrative Proceedings, Department of Housing and Urban Development, Office of the General Counsel
Phone: 202 708-2350

RIN: 2501–AC08

1402. STREAMLINING REGULATIONS IMPLEMENTING UNIFORM RELOCATION ACT AND OTHER RELOCATION REQUIREMENTS IN HUD PROGRAMS (FR-4122)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d); 42 USC 4601; 42 USC 5304; 42 USC 12705(b)

CFR Citation: 24 CFR 42; 24 CFR 92; 24 CFR 215; 24 CFR 219; 24 CFR 221; 24 CFR 236; 24 CFR 290; 24 CFR 882; 24 CFR 511; 24 CFR 570; 24 CFR 574; 24 CFR 576; 24 CFR 582; 24 CFR 583; 24 CFR 585; ...

Legal Deadline: None

Abstract: In an effort to comply with the President's regulatory reform initiatives, HUD proposes streamlining its regulations for displacement, relocation assistance, and real property acquisition, by consolidating into part 42 similar provisions appearing throughout title 24 of the Code of Federal Regulations and by eliminating provisions that repeat statutory language or are otherwise unnecessary. HUD issued an advance notice of proposed rulemaking procedure to identify potential problems with this large-scale undertaking.

Timetable:

Action	Date	FR Cite
ANPRM	10/11/96	61 FR 53341
ANPRM Comment Period End	12/10/96	
Comments Due	12/10/96	
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gordon McKay, Director, Office of Affordable Housing Programs, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-2685

RIN: 2501–AC31

1403. HUD'S ENVIRONMENTAL CRITERIA AND STANDARDS; AMENDMENTS (FR-4060)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 51

Legal Deadline: None

Abstract: This rule would substantively amend HUD's environmental criteria and standards located in 24 CFR part 51. Specifically, the rule would update part 51 to more accurately reflect the current organization of HUD and its clients. The rule would also remove cumbersome or obsolete requirements and streamline all other HUD environmental review procedures. Further, this rule proposes to establish a new subpart E to part 51 which would describe the procedures HUD will utilize to determine compliance with section 176(c) of the Clean Air Act (42 USC 7401 et seq.) and the implementing EPA regulations at 40 CFR part 93, subpart B. Section 176(c) requires that all actions taken by Federal departments, agencies and their instruments conform to the appropriate State Implementation Plan (SIP). The SIP is a plan which provides for the implementation, maintenance, and enforcement of the National Ambient Air Quality Standards established by the EPA for certain pollutants.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
NPRM Comment Period End	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Broun, Director, Office of Community Viability, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1104

RIN: 2501–AC25

1404. FLOODPLAIN MANAGEMENT AND PROTECTION OF WETLANDS (FR-4142)

Priority: Other Significant

Legal Authority: 42 USC 3535(d); EO 11990

CFR Citation: 24 CFR 55

Legal Deadline: None

Abstract: HUD is adopting procedures to implement Executive Order 11990, "Protection of Wetlands." HUD's proposed rule published on January 4, 1990 (55 FR 396), proposed to implement wetlands procedures, but the final rule published on April 21, 1994 (59 FR 19109) only contained procedures implementing Executive Order 11988 on Floodplain Management. References to the wetlands procedures were removed from the 1994 final rule because at that time the Administration was revising Federal policy concerning wetlands. This rule will amend part 55 to implement the procedures for wetlands protection in accordance with Executive Order 11990. The rule would also propose several other changes, including expanding the number of HUD programs that would be subject to the four-step decision-making process for ensuring compliance with part 55.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Walter Prybyla, Deputy Director for Policy, Environmental Review Div., Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1201

RIN: 2501–AC33

1405. • FLOOD INSURANCE AND HUD ASSISTED BUILDINGS LOCATED WITHIN SPECIAL FLOOD HAZARD AREAS (FR-4273)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing

Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 58; 24 CFR 511.16(d); 24 CFR 570.605; 24 CFR 570.640; 24 CFR 572.425(f); 24 CFR 574.640; 24 CFR 583.330(a); 24 CFR 761.40(b); 24 CFR 882.407(c)(2); 24 CFR 886.313(c)(8); 24 CFR 891.155(c); 24 CFR 941.202(j); 24 CFR 968.110(d); 24 CFR 983.7(a)(6)

Legal Deadline: None

Abstract: This rulemaking is part of the Reinventing Government effort to remove redundancy throughout title 24 of CFR for flood insurance requirements as currently cited in the affected HUD program regulations. The rule would streamline, consolidate, and codify into a single CFR part all the flood insurance and disaster assistance requirements described separately in each of the individual HUD program regulations of title 24 of the CFR. The flood insurance and disaster assistance requirements are general and cross-cutting and applicable to all HUD programs that provide financial assistance for buildings located within Special Flood Hazard Areas. As presently described in each of the affected individual HUD program regulations, the text is redundant, sometimes outdated or incomplete, uninformative, and less than user-friendly.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Walter Frybyla, Deputy Director for Policy, Environmental Review Div., Department of Housing and Urban Development, Office of the Secretary
Phone: 202 708-1201

RIN: 2501–AC40

1406. DRUG ELIMINATION PROGRAM; PROPOSED AMENDMENTS (FR-4058)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d); 42 USC 11901

CFR Citation: 24 CFR 761

Legal Deadline: None

Abstract: This rule makes several substantive amendments to the Department's Drug Elimination Program regulations in order to make the program requirements more flexible from year to year. One of the amendments proposed in this rule is to remove certain requirements from the regulations and include them in the annual Notice of Funding Availability. The provisions of this proposed rule will allow the Department to target the drug elimination funds to their most efficient use.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
NPRM Comment Period End	12/00/97	
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sonia Burgos, Crime Prevention and Security Div., Office of Community Relations & Investment, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-4197

RIN: 2501–AC23

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of the Secretary (HUDSEC)

Final Rule Stage

1407. REVISED RESTRICTION ON ASSISTANCE TO NONCITIZENS (FR-4154)

Priority: Other Significant

Legal Authority: 42 USC 1436a; 42 USC 3535(d)

CFR Citation: 24 CFR 5, subpart E

Legal Deadline: Other, Statutory, November 29, 1996.
Interim

Abstract: Section 214 of the Housing and Community Development Act of 1980 prohibits HUD from making certain financial assistance available to persons other than United States citizens, nationals, or certain categories of eligible noncitizens. On November 29, 1996 (62 FR 60535), HUD published an interim rule revising HUD's regulations governing assistance to noncitizens to incorporate the statutory amendments made to section 214 by the Use of Assisted Housing by Aliens Act of 1996 ("Immigration Reform Act"). This rule finalizes the policies and procedures described in the November 29, 1996 interim rule and addresses the public comments received on the interim rule. This rule does not implement the provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 ("Welfare Reform Act") which concern immigration.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/29/96	61 FR 60535
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Campbell, Director, Marketing and Leasing Division, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0744

Michael Diggs, Office of Asset Management and Disposition, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-3944

RIN: 2501–AC36

1408. LEAD-BASED PAINT POISONING PREVENTION IN CERTAIN RESIDENTIAL STRUCTURES (FR-3482)

Regulatory Plan: This entry is Seq. No. 45 in Part II of this issue of the **Federal Register**.

RIN: 2501–AB57

1409. • ADMINISTRATIVE REQUIREMENTS FOR GRANTEES TO REFLECT SINGLE AUDIT ACT AMENDMENTS (FR-4256)

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d); PL 104-156

CFR Citation: 24 CFR 45

Legal Deadline: None

Abstract: This rule adopts the final revision of OMB Circular A-133 "Audits of States, Local Governments, and Non-Profit Organizations" to establish uniform audit requirements for non-Federal entities that administer Federal awards and to implement the Single Audit Act Amendments of 1996. OMB Circular A-128 "Audits of States and Local Governments" is rescinded as a result of the consolidation of audit requirements under Circular A-133.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James Heist, Director, Financial Audits Division, Department of Housing and Urban Development, Office of the Inspector General
Phone: 202 708-0383

RIN: 2501–AC39

1410. TECHNICAL AMENDMENT TO HUD'S REGULATIONS GOVERNING THE ENVIRONMENTAL REVIEW PROCEDURES FOR ENTITIES ASSUMING HUD'S ENVIRONMENTAL RESPONSIBILITIES (FR-4138)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1707, note; 42 USC 1437(o)(i)(1) and (2); 42 USC 3535(d); 42 USC 3547; 42 USC 4332; 42 USC 4852; 42 USC 5304(g); 42 USC 11402; 42 USC 12838; 42 USC 1437x; EO 11514; EO 11991

CFR Citation: 24 CFR 58

Legal Deadline: None

Abstract: On April 30, 1996 (61 FR 19120), HUD published a final rule revising 24 CFR part 58 in its entirety. Part 58 provides instructions and guidance to recipients of HUD assistance and other responsible entities for conducting environmental reviews in accordance with the National Environmental Policy Act of 1969 (42 USC 4321-4347) (NEPA), the NEPA implementing regulations of the Council on Environmental Quality, and other NEPA-related Federal laws and authorities. The April 30, 1996 final rule updated and streamlined these regulations. This interim rule makes several technical and clarifying amendments to the April 30, 1996 final rule. Additionally, this rule increases the options available to responsible entities by authorizing combined notice periods during a local emergency.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Broun, Director, Office of Community Viability, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-2894

RIN: 2501–AC32

1411. HOME INVESTMENT PARTNERSHIPS PROGRAM—ADDITIONAL STREAMLINING (FR-4111)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 3535(d); 42 USC 12701 to 12839

CFR Citation: 24 CFR 92

Legal Deadline: None

Abstract: This rule implements the proposed rule published December 11, 1996 and amends the existing HOME Program final rule by: replacing the hearing procedures in section 92.552 of the current HOME rule with the Department-wide streamlined hearing procedures at 24 CFR part 28, published as a final rule on September 24, 1996 (61 FR 50208); removing the closeout requirements specified in section 92.507 and instead providing that HOME funds will be closed out in accordance with procedures established by HUD; replacing the extensive requirements for the competitive reallocation of HOME funds in subpart J of part 92 with a citation to the selection factors in the HOME statute and a statement of the maximum number of points that may be awarded for each factor; and amending section 93.220(a)(1)(iii)(B) to establish a separate market promulgates on an interim basis subject to public comment an amendment to section 92.252(i)(2) to limit the rents charged to tenants of HOME-assisted units whose income rises above 80 percent of area median income in HOME projects in which the HOME-assisted units "float."

Timetable:

Action	Date	FR Cite
NPRM	12/11/96	61 FR 65296
NPRM Comment Period End	02/10/97	
Final Rule	08/22/97	62 FR 44838
Final Rule Effective	09/22/97	
Comment Period End	10/21/97	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Kolesar, Director, Program Policy Division, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-2470

RIN: 2501–AC30

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of the Secretary (HUDSEC)

Long-Term Actions

1412. RULEMAKING POLICIES AND PROCEDURES—EXPEDITING RULEMAKING AND POLICY IMPLEMENTATION (FR-3292)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 5 USC 552; 5 USC 553; 42 USC 3535(d); See H.R. 2158

CFR Citation: 24 CFR 10

Legal Deadline: None

Abstract: Part 10 of HUD's regulations (24 CFR part 10), commonly known as HUD's "Rule on Rules," contains HUD's policies and procedures for the promulgation and issuance of rules, including the use of public participation in the rulemaking process. This rule proposes to remove part 10 and replace this part with a policy statement, published through notice in the Federal Register, that would advise the public of HUD's policies and procedures regarding rulemaking. This rule also proposes to revise HUD's rulemaking policies by removing the commitment to undertake notice and comment rulemaking for those matters that are exempt from notice and comment rulemaking under the Administrative Procedure Act. HUD's proposed statement of regulatory policies and procedures is part of this notice of proposed rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	10/14/92	57 FR 47166
NPRM Comment Period End	12/14/92	
Second NPRM	08/16/96	61 FR 42722
Second NPRM Comment Period End	10/15/96	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: Camille E. Acevedo, Assistant General Counsel for Regulations, Department of Housing and Urban Development, Office of the General Counsel
Phone: 202 708-3055

RIN: 2501–AB43

1413. OCCUPANCY STANDARDS UNDER THE FAIR HOUSING ACT (FR-3815)

Priority: Other Significant

Legal Authority: 42 USC 3601 to 3620; 42 USC 3535(d)

CFR Citation: 24 CFR 882.109; 24 CFR 960; 24 CFR 100

Legal Deadline: None

Abstract: The Fair Housing Act prohibits discrimination in housing on the basis of race, color, religion, sex, handicap, familial status, or national origin. Such discrimination can include policies and practices such as restrictive occupancy standards that, in effect, work to exclude certain protected groups from otherwise acceptable housing. However, the Fair Housing Act states that nothing in the Act prohibits "reasonable" Federal, State, or local codes regulating maximum occupancy of dwellings. Housing industry officials, both public and private, have urged HUD to establish rules governing occupancy standards in order to provide guidance on what constitutes a reasonable, nondiscriminatory standard to limit occupancy. This rule would establish permissible policies and standards regarding the maximum number of persons who can occupy dwellings under the Fair Housing Act.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Peter Kaplan, Director, Office of Regulatory Initiatives & Federal Coordination, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 708-2904

RIN: 2501–AC05

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of the Secretary (HUDSEC)

Completed Actions

1414. CONSOLIDATION OF FAIR HOUSING AND EQUAL OPPORTUNITY REQUIREMENTS FOR PROGRAMS (FR-3935)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 1; 24 CFR 8; 24 CFR 107; 24 CFR 121; 24 CFR 146; 24 CFR 175

Completed:

Reason	Date	FR Cite
Withdrawn	08/05/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Dudley Gregorie
Phone: 202 708-2287

RIN: 2501–AC01

1415. $400 EARNED INCOME EXCLUSION FOR PUBLIC HOUSING AND INDIAN HOUSING PROGRAMS (FR-4158)

Priority: Other Significant

CFR Citation: 24 CFR 5; 24 CFR 950

Completed:

Reason	Date	FR Cite
Withdrawn	08/05/97	

Small Entities Affected: None

Government Levels Affected: Local, Tribal

Agency Contact: Linda J. Campbell
Phone: 202 708-0744

RIN: 2501–AC37

1416. ADMISSION PREFERENCES AND PUBLIC HOUSING DEVELOPMENT REGULATIONS; TECHNICAL AMENDMENTS (FR-4166)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 5; 24 CFR 941

Completed:

Reason	Date	FR Cite
Final Action	05/16/97	62 FR 27124
Final Action Effective	06/16/97	

Small Entities Affected: None

HUD—HUDSEC

Completed Actions

Government Levels Affected: None

Agency Contact: Bill Flood
Phone: 202 708-1640
Fax: 800 877-8339

RIN: 2501–AC38

1417. BOOK ENTRY PROCEDURES FOR GOVERNMENT-SPONSORED ENTERPRISES (FR-4095)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 81

Completed:

Reason	Date	FR Cite
Final Action	05/29/97	62 FR 28977
Final Action Effective	06/30/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Janet A. Tasker
Phone: 202 708-2224

RIN: 2501–AC35

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Housing (OH)

Proposed Rule Stage

1418. • MORTGAGE INSURANCE PREMIUM REDUCTION IN CENTRAL CITIES (FR-4284)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 12 USC 1709; 12 USC 1715b

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: This proposed rule would amend HUD's regulations in 24 CFR part 203 to reduce the Up-Front Mortgage Insurance Premium from 1.75 percent to 1.50 percent for qualified first-time homebuyers with counseling located in "central cities."

Section 424 of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act of 1997 mandated that the Up-Front Mortgage Insurance Premium not exceed 2.00 percent for first-time homebuyers. The further reduction from 1.75 to 1.50 is consistent with the Administration's homeownership strategy.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Stephen Samelsberger, Single Family Home Mortgage Insurance Division, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2121

RIN: 2502–AH07

1419. MULTIFAMILY PROVISIONS OF THE PART 200 REGULATIONS—FURTHER STREAMLINING AND TECHNICAL AMENDMENTS (FR-4164)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1701 to 1715z-18

CFR Citation: 24 CFR 200

Legal Deadline: None

Abstract: This rule is a follow-up to the rule published on April 1, 1996, titled "Streamlining of the FHA Single Family Housing, and Multifamily Housing and Health Care Facility Mortgage Insurance Programs Regulations" (61 FR 14396). That rule amended HUD's FHA regulations in 24 CFR chapter II, to consolidate a number of regulatory provisions that were applicable to both the FHA Single Family and Multifamily Programs. Subsequent to issuance of that rule, additional regulatory provisions in part 207 were identified as eligible for consolidation in the amended part 200 issued on April 1, 1996. Additionally, certain provisions in the April 1, 1996 rule require clarification.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Diggs, Acting Director, Program Management Division, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3944

RIN: 2502–AG90

1420. • USE OF MATERIAL BULLETINS (FR-4285)

Priority: Routine and Frequent

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 12 USC 1701 to 1715z-18; 42 USC 3535(d)

CFR Citation: 24 CFR 200

Legal Deadline: None

Abstract: The proposed rule would adopt a number of Use of Material Bulletins (UMs) and references related to national voluntary consensus standards in accordance with OMB Circular 119A. It also supplements the HUD Building Product Standards and Certification Program by requiring that additional information be included on the label, tag, or mark that each manufacturers affixes to the certified product. The labeling of these products is in the public interest because it will allow consumers to readily identify those products that comply with existing voluntary consensus standards. In addition, it eliminates the need for manufacturers of these building products to seek HUD acceptance for individual products. HUD will not accept them on a generic basis for use in houses covered under HUD mortgage insurance programs, thus streamlining Departmental requirements. In addition, this proposed rule specifies the frequency with which products should be tested in order to be acceptable to HUD. Section (c)(1) of 24 CFR 200.935 shall be modified to accept

organizations that comply with International Standards Organization (ISO) standard Guide 65-96 "General Requirements for Bodies Operating Product Certification Systems" as an alternative to the acceptance qualifications specified in this section. Also Section (d)(3) of 24 CFR 200.935 shall be modified to allow the use of International Standards Organization (ISO) standard Guide 25-90 "General Requirements for the Competency of Calibration and Testing Laboratories", as a voluntary guideline for accrediting laboratories.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Williamson, Director, Office of Consumer and Regulatory Affairs, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-6401

RIN: 2502–AH02

1421. • UPDATE OF THE MODEL ENERGY CODE (MEC) (FR-4272)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 102-486 Energy Policy Act of 1992; 42 USC 12709 Cranston-Gonzalez National Affordable Housing Act

CFR Citation: 24 CFR 200.925 to 926

Legal Deadline: None

Abstract: The Energy Policy Act of 1992 (EPAct) modified section 109 of the National Affordable Housing Act so that HUD must require improved energy efficiency standards for all new housing subject to mortgages insured under the National Housing Act. The EPAct also requires HUD to examine whether compliance with the 1995 edition of the MEC should be required for loan programs. HUD must adopt the updated MEC unless its requirements do not significantly increase energy efficiency or are not technologically feasible or economically justified.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: David R. Williamson, Director, Office of Consumer and Regulatory Affairs, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-6423

RIN: 2502–AH03

1422. APPROVAL OF LENDING INSTITUTIONS AND MORTGAGEES (FR-4132)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1703(a); 12 USC 1709(b)(1); 12 USC 1715b

CFR Citation: 24 CFR 202

Legal Deadline: None

Abstract: Part 202 sets forth the requirements lending institutions must meet to originate, service, hold or sell HUD-insured title I loans and title II mortgages. This proposed rule will eliminate the differences between the title I and title II lender approval requirements and allow lending institutions to more easily participate in both programs.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Lynn Herbert, Director, Lender Approval & Recertification Division, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3976

RIN: 2502–AG82

1423. • SUSPENSION OF FHA SINGLE FAMILY MORTGAGE INSURANCE PROGRAM FOR MORTGAGES ON INDIAN RESERVATIONS INSURED PURSUANT TO SECTION 248 OF THE NATIONAL HOUSING ACT (FR-4251)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 12 USC 1715z-13; 42 USC 3535(d)

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: This rule proposes to suspend the authority of the HUD Secretary to provide FHA insurance pursuant to section 248 of the National Housing Act for mortgage loans made for the financing of single family homes on Indian reservations. The suspension would be in effect whenever authority is available to the Department to guarantee additional loans under its Indian Housing Loan Guarantee program authorized by section 184 of the Housing and Community Development Act of 1992. The rule would suspend a program that has not been effective in promoting housing opportunities for Native Americans and permit HUD to focus scarce resources on the similar section 184 program, whenever authority under that program is available.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: John J. Coonts, Director, Insured Single Family Housing, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3046

RIN: 2502–AH00

1424. • HOME EQUITY CONVERSION MORTGAGES; RIGHT OF FIRST REFUSAL PERMITTED FOR CONDOMINIUM ASSOCIATIONS (FR-4267)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1715z-20; 42 USC 3535(d)

CFR Citation: 24 CFR 206.45(e)

Legal Deadline: None

Abstract: This interim rule removes the current restriction on FHA mortgage insurance for the Home Equity Conversion Mortgage (HECM) program for a dwelling unit in a condominium project where the condominium association has a right of first refusal to purchase units that are offered for sale.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Coonts, Director, Office of Insured Single Family Housing, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3046

RIN: 2502–AG93

1425. • SINGLE FAMILY PROPERTY DISPOSITION: ADVANCED NOTICE OF PROPOSED RULEMAKING (FR-4244)

Priority: Other Significant

Legal Authority: 12 USC 1709; 12 USC 1715b; 42 USC 1441; 42 USC 1551; 42 USC 3535(d); 42 USC 1441a

CFR Citation: 24 CFR 291

Legal Deadline: None

Abstract: HUD proposes to develop innovative methods for disposing of HUD-owned single family properties in a cost-efficient manner that furthers HUD's mission of providing decent, safe, and affordable housing. These new disposal methods would be a more effective alternative to HUD's current principal method of disposal, which is through competitive sales individuals.

Timetable:

Action	Date	FR Cite
ANPRM	08/13/97	62 FR 32251
ANPRM Comment Period End	07/14/97	
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	
Final Action	05/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kitty Woodley, Director, Single Family Property Disposition Division, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-0470

RIN: 2502–AG96

1426. • SUSPENSION OF NEW LEASES UNDER THE SINGLE-FAMILY PROPERTY DISPOSITION HOMELESS PROGRAM (FR-4275)

Priority: Substantive, Nonsignificant

Legal Authority: 17 USC 1709 to 1715b; 42 USC 1441 to 1441a; 42 USC 3535(d)

CFR Citation: 24 CFR 2910 subpart E

Legal Deadline: None

Abstract: This rule proposes to permanently suspend new leases under the Single-Family Property Disposition Homeless Program. This rule would not affect the terms and conditions of existing leases nor would it affect lease with Option to Purchase under the Supportive Housing Program and Direct Sales to Homeless Providers.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kitty Woodley, Director, Single Family Property Disposition Division, Department of Housing and Urban Development, Office of Housing, Single-Family Property Disposition Division
Phone: 202 708-2470

RIN: 2502–AH06

1427. • METAL ROOFING FOR MANUFACTURED HOUSING—INTERPRETATIVE BULLETIN (FR-4271)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 5424; 42 USC 3535(d)

CFR Citation: 24 CFR 3280

Legal Deadline: None

Abstract: Manufactured homes designed to be sited in high wind areas must be designed to resist either the design wind loads in a specified industry standard or alternative wind pressures set out in a table in 24 CFR 3280.305. Some questions have arisen concerning: (1) whether manufacturers that design their products using the wind pressures in the table must provide sheathing under metal roofing; and (2) the appropriateness of the testing of metal roofing that has been done. The Interpretative Bulletin will clarify the Department's policy with regard to these questions and the regulations.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David R. Williamson, Director, Office of Consumer and Regulatory Affairs, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-6401

RIN: 2502–AH05

1428. SPECIAL PROCEDURES PERMITTING LIMITED COMPLETION OF MANUFACTURED HOMES ON-SITE (FR-4216)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 5424; 42 USC 3535(d)

CFR Citation: 24 CFR 3282

Legal Deadline: None

Abstract: This rule will propose a new process, under which manufacturers and State and private inspection agencies could agree to permit limited site work, under certain conditions, to complete production of manufactured homes, without prior approval by the Secretary. This new process would supplement the current process for approving alternative construction methods.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David R. Williamson, Director, Office of Consumer & Regulatory Affairs, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-6401

RIN: 2502–AG92

HUD—OH

Proposed Rule Stage

1429. RESPA: DISCLOSURE OF FEES PAID TO RETAIL LENDERS (BROKERS) (FR-3780)

Regulatory Plan: This entry is Seq. No. 46 in Part II of this issue of the Federal Register.

RIN: 2502–AG40

1430. CONTINGENCY FUNDING INCLUDING FLOOD PLAIN CERTIFICATIONS—REAL ESTATE SETTLEMENT PROCEDURES ACT (FR-3930)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 2601; 42 USC 3535(d)

CFR Citation: 24 CFR 3500

Legal Deadline: None

Abstract: This rule will set forth interpretations of the Real Estate Settlement Procedures Act (RESPA) regarding the practice of exchanging portfolio reviews for future business in matters covered by the National Flood Insurance Reform Act of 1994, as well as other contingency funding or "wash-out" arrangements, where the settlement service is not paid for unless the larger transactions is completed.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
NPRM Comment Period End	01/00/98	
Final Action	04/00/98	
Final Action Effective	05/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David R. Williamson, Director, Officer of Consumer and Regulatory Affairs, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-4560

RIN: 2502–AG56

1431. IMPROVEMENT OF DISCLOSURES UNDER THE REAL ESTATE SETTLEMENT PROCEDURES ACT AND THE TRUTH IN LENDING ACT (FR-4184)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 2601 et seq; 12 USC 3806; 15 USC 1604; 15 USC 1637(c)(5); 42 USC 3535(d); PL 104-208

CFR Citation: 24 CFR 3500

Legal Deadline: NPRM, Statutory, March 31, 1997.

Proposed Rule issued within six months of enactment of Pub. L. 104-208.

Abstract: An ANPR was issued jointly by HUD and the Federal Reserve Board to initiate fact-finding to assist the agencies in revising disclosures to consumers under the Real Estate Settlement Procedures Act and the Truth in Lending Act, as provided in the Economic Growth and Regulatory Paperwork Reduction Act of 1996. To ensure that these disclosures meet the consumer protection goals with minimal compliance burdens, HUD and the Board solicited public comments on what regulatory or legislative changes might be made to achieve these goals. The ANPR will be followed by a proposed rule.

Timetable:

Action	Date	FR Cite
ANPRM	12/31/96	61 FR 69055
ANPRM Comment Period End	01/30/97	
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	
Final Action	03/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: David R. Williamson, Director, Office of Consumer and Regulatory Affairs, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-4560

RIN: 2502–AG86

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Office of Housing (OH)

Final Rule Stage

1432. CHANGES IN THE MINIMUM PROPERTY STANDARDS; TECHNICAL SUITABILITY OF PRODUCTS PROGRAM (FR-4137)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1735f-4; 42 USC 1735e

CFR Citation: 24 CFR 200

Legal Deadline: None

Abstract: This rule, the second of its type in two years after a long hiatus, will permit generic acceptances of additional building products or systems. These acceptances are called "Use of Material Bulletins" (UMs) and they supersede separate approvals for individual products without having each manufacturer apply for a separate Materials release on a specific product.

Timetable:

Action	Date	FR Cite
NPRM	05/19/97	62 FR 27486
NPRM Comment Period End	07/18/97	
Final Action	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: David R. Williamson, Director, Office of Consumer and Regulatory Affairs, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-6409

RIN: 2502–AG84

HUD—OH

Final Rule Stage

1433. DELEGATION OF INSURING AUTHORITY TO DIRECT ENDORSEMENT MORTGAGEES (FR-4169)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1709; 12 USC 1710; 12 USC 1715b; 12 USC 1715u; 42 USC 3535(d); PL 104-204

CFR Citation: 24 CFR 200; 24 CFR 202; 24 CFR 203; 24 CFR 206

Legal Deadline: None

Abstract: This rule implements the Lender Insurance program, which reflects the Secretary's new authority to delegate the issuance of Mortgage Insurance Certificates (MICs) to mortgagees that are approved under the Direct Endorsement program. This rule will provide that eligible mortgagees that participate in the Lender Insurance program will be responsible for conducting a pre-endorsement review during the origination of their single family mortgage loans, and they will be responsible for endorsing the mortgages for insurance. HUD intends that delegating this insurance authority through the Lender program will be consistent with HUD's efforts to reinvent the Federal Housing Administration (FHA) by creating a more efficient and less burdensome process for providing single family mortgage insurance.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/02/97	62 FR 30222
Interim Final Rule Effective	07/02/97	
Interim Final Rule Comment Period End	08/01/97	
Final Action	10/00/97	
Final Action Effective	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Coonts, Director, Office of Insured Single Family Housing, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3046

RIN: 2502–AG87

1434. • TITLE I PROPERTY IMPROVEMENT AND MANUFACTURED HOME LOAN INSURANCE PROGRAMS (FR-4242)

Priority: Other Significant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 12 USC 1703; 42 USC 1436a; 42 USC 3535 (d); 12 USC 1703, 1709, and 1715b

CFR Citation: 24 CFR 201; 24 CFR 202

Legal Deadline: None

Abstract: This rule will amend HUD's regulations for the Title I Property Improvement and Manufactured Home Loan Insurance Programs. In this rule, HUD would eliminate the portion of the program through which sellers, contractors, or suppliers of goods or services assist borrowers in preparing credit applications or otherwise obtaining Title I property improvement loans from HUD-insured lenders. Property improvement loans would still, however, be available directly from lenders. This rule would attempt to end the abuses and excessive claims that HUD has experienced in the dealer loan portion of the Title I Property Loan Program.

Timetable:

Action	Date	FR Cite
NPRM	07/03/97	62 FR 36194
NPRM Comment Period End	09/02/97	
Final Action	11/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark W. Holman, Acting Director, Home Mortgage Insurance Division, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2121

RIN: 2502–AG94

1435. • STRENGTHENING THE TITLE I PROPERTY IMPROVEMENT LOAN INSURANCE PROGRAM (FR-4246)

Regulatory Plan: This entry is Seq. No. 47 in Part II of this issue of the Federal Register.

RIN: 2502–AG95

1436. • TERMINATION OF AN APPROVED MORTGAGEE'S ORIGINATION APPROVAL AGREEMENT (FR-4239)

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 12 USC 1703; 12 USC 1709

CFR Citation: 24 CFR 201; 24 CFR 202; 24 CFR 203

Legal Deadline: None

Abstract: This interim rule clarifies changes to 24 CFR parts 202 and 203 to improve the provisions regarding termination of a single family mortgagee's origination approval agreement with FHA. The interim rule also corrects errors in 24 CFR parts 201 and 202.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phillip Murray, Director, Office of Lender Activities and Program Compliance, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-1515

RIN: 2502–AG99

1437. STREAMLINING SINGLE FAMILY MORTGAGE INSURANCE PROGRAM (FR-4109)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1709

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: As part of the Department's ongoing reinvention effort, this rule would streamline 24 CFR part 203, the Single Family Mortgage Insurance Program regulations. It would eliminate material that duplicates explicit statutory requirements. It would also remove material that is more appropriate for nonbinding guidance.

Timetable:

Action	Date	FR Cite
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Coonts, Director, Office of Insurance Single Family Housing, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3046

RIN: 2502–AG79

1438. ELECTRONIC PAYMENT OF MULTIFAMILY INSURANCE PREMIUMS (FR-4203)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1515b; 12 USC 1715z-9; 12 USC 1701x-11(e); 12 USC 1713; 12 USC 1715b; 42 USC 3535(d)

CFR Citation: 24 CFR 207; 24 CFR 251; 24 CFR 252; 24 CFR 255

Legal Deadline: None

Abstract: This rule proposes that all Multifamily Mortgage Insurance Premium (MIP) collections in accordance with 24 CFR 207 be made by the Automated Clearing House (ACH) program. The purpose of this rule is to improve the efficiency of the multifamily mortgage insurance program and reduce costs to HUD lenders.

Timetable:

Action	Date	FR Cite
NPRM	07/02/97	62 FR 35716
NPRM Comment Period End	09/02/97	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Samuel N. Conner, Acting Director, Multifamily Financial Operations Division, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-0223

RIN: 2502–AG91

1439. • SINGLE FAMILY RISK-SHARING WITH HOUSING FINANCE AGENCIES AND WITH PRIVATE MORTGAGE INSURERS (FR-3862)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 12 USC 1715z-9

CFR Citation: 24 CFR 218

Legal Deadline: None

Abstract: This rule implements a program under which the Secretary is authorized to enter into risk-sharing agreements for single family mortgages held by State or local Housing Finance Agencies (HFAs). This interim rule also implements a demonstration program under which the Secretary is authorized to enter into risk-sharing agreements with private mortgage insurance companies (MIs). The primary purpose of these programs is to endorse homeownership opportunities in areas not adequately covered by other FHA single family programs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/97	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: John Coonts, Director, Office of Insured Single Family Housing, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3046

RIN: 2502–AH01

1440. RISK-SHARING HOSPITAL MORTGAGE INSURANCE PROGRAM (FR-3914)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1715z

CFR Citation: 24 CFR 242

Legal Deadline: None

Abstract: This rule implements a program under which the Secretary will be authorized to enter into risk-sharing agreements with mortgagees to facilitate the financing of hospitals. The concept of risk-sharing is one of the underpinnings of the Federal Housing Administration's (FHA's) reinvention efforts and is critical to our intensified focus on customer service. The hospital risk-sharing initiative is one component of a comprehensive risk-sharing strategy for all FHA program types to assure that FHA has a method of reducing its exposure and strengthening its financial and actuarial positions.

Timetable:

Action	Date	FR Cite
NPRM	12/04/96	61 FR 64414
NPRM Comment Period End	02/03/97	
Final Action	11/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John U. Sepulveda, Director, Hospital Mortgage Insurance Staff, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-0599

RIN: 2502–AG53

1441. LOSS MITIGATION—SINGLE FAMILY (FR-4032)

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 203

Legal Deadline: Other, Statutory, May 28, 1996.
Interim regs required 30 days after enactment by Sec. 221(c) of P.L. 104-134.

Abstract: This rule sets forth HUD's policies and procedures with regard to the servicing of FHA-insured single family mortgages in the context of loss mitigation and foreclosure avoidance. Lenders are provided an expanded menu of foreclosure avoidance and loss mitigation tools from which to choose the most appropriate in addressing each mortgage in default. Among these would be special forbearances, loan modifications, pre-foreclosure sales, streamline refinancing, partial claims, and deeds-in-lieu of foreclosure. The Department's interest is to encourage lenders to acclimate themselves to the use of these various methods, and HUD will pay incentives to mortgagees for the appropriate use of these loss mitigation and foreclosure avoidance techniques.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/03/96	61 FR 35014
Interim Final Rule Effective	08/02/96	
Interim Final Rule Comment Period End	09/03/96	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph McCloskey, Director, Single Family Servicing Div., Department of Housing and Urban Development, Office of Housing
Phone: 202 708-1672

RIN: 2502–AG72

1442. DEPARTMENT OF TRANSPORTATION—FEDERAL HIGHWAY ADMINISTRATION & HUD REQUIREMENTS REGARDING "MANUFACTURED HOME TIRE OVERLOADING" (FR-3943)

Priority: Other Significant

Legal Authority: 42 USC 3535(d); 42 USC 5424; 42 USC 5301

CFR Citation: 24 CFR 3280

Legal Deadline: None

Abstract: The Federal Highway Administration (FHWA), DOT, and HUD are proposing amendments to the Federal Motor Carrier Safety Regulations and an interpretation of the Manufactured Home Construction and Safety Standards concerning the transportation of manufactured homes. A proposed rule was published for public comment on April 23, 1996. These changes are needed to clarify the regulations of both agencies and to resolve differences in regulations on the overloading of tires used in the transportation of manufactured homes.

Timetable:

Action	Date	FR Cite
NPRM	04/23/96	61 FR 18014
NPRM Comment Period End	06/24/96	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: David R. Williamson, Director, Office of Consumer & Regulatory Affairs, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-6401

RIN: 2502–AG54

1443. REAL ESTATE SETTLEMENT PROCEDURES ACT: ESCROW ACCOUNTING PROCEDURES (FR-4079)

Priority: Other Significant

Legal Authority: 12 USC 2601; 42 USC 3535(d)

CFR Citation: 24 CFR 3500

Legal Deadline: None

Abstract: This rule will address three problems involving escrow accounting procedures under HUD's regulations implementing the Real Estate Settlement Procedures Act (RESPA). One set of problems arises where a servicer changes, from installments to one lump sum payment or vice versa, the disbursement date for items held in a mortgage escrow account. Depending on the switch, the consumer either may be required to make up a substantial shortage in the escrow account or may lose part of his or her income tax deduction for that year. Local governments also may suffer a temporary shortfall in property tax receipts as a result of the switch. A second problem arises when disbursements for escrow items are anticipated by the servicer to be much higher in the second year of disbursement than in the first year, which also could force the consumer to make up a substantial shortage in the escrow account. A third problem relates to complications in certain parts of settlement statements that are a result of requiring the use of an aggregate accounting method.

Timetable:

Action	Date	FR Cite
NPRM	09/03/96	61 FR 46511
NPRM Comment Period End	11/04/96	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David R. Williamson, Director, Office of Consumer & Regulatory Affairs, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-4560

RIN: 2502–AG75

1444. AMENDMENT TO RESPA; EXEMPTION FOR EMPLOYER PAYMENTS TO EMPLOYEES WHO MAKE LIKE-PROVIDER REFERRALS, AND OTHER AMENDMENTS (FR-4173)

Priority: Other Significant

Legal Authority: 12 USC 2601 to 2617; 42 USC 3535(d); PL 104-208

CFR Citation: 24 CFR 3500

Legal Deadline: None

Abstract: In this proposed rule, the Department is considering a new exemption under Regulation X, its regulation implementing the Real Estate Settlement Procedures Act of 1974 (RESPA). The exemption would allow payments by an employer to its own bona fide employees for the referral of settlement service business to an affiliated settlement service provider, provided that the settlement service business that is referred is the category of settlement service as provided by the employer of the employee making the referral, the employee makes the affiliated business arrangement disclosure as provided in 24 CFR section 3500.15, and the employee making the referral does not perform any other category of settlement service in the same transaction. This rule also implements two amendments to RESPA in recent legislation. One concerns referrals of settlement service business through telemarketing, in writing, or through electronic media. The other concerns mortgage servicing sales or transfers.

Timetable:

Action	Date	FR Cite
NPRM	05/09/97	62 FR 25740
NPRM Comment Period End	07/08/97	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David R. Williamson, Director, Office of Consumer and Regulatory Affairs, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-4560

RIN: 2502–AG88

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Housing (OH)

Completed Actions

1445. • MULTIFAMILY HOUSING MORTGAGE INSURANCE—TECHNICAL AMENDMENT (FR-4236)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1701 to 1715z-18

CFR Citation: 24 CFR 200

Legal Deadline: None

Abstract: This final rule makes technical amendments to the regulations at 24 CFR part 200, which relate to multifamily housing mortgage insurance. In an effort to comply with the President's regulatory reform initiatives, this part was streamlined by removing provisions that were duplicative and unnecessary and by simplifying the organization of text that was being retained. Inadvertently, certain necessary provisions were removed. This final rule replaces those provisions and makes certain minor clarifications.

Timetable:

Action	Date	FR Cite
Withdrawn - Merged with FR-4164 (RIN 2502-AG90)	08/13/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Hunter, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-4182

RIN: 2502–AG98

1446. TITLE I LOAN INSURANCE (FR-3718)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 201

Completed:

Reason	Date	FR Cite
Merged With FR-4248 (RIN 2502-AG85)	08/06/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Holman, Acting Director
Phone: 202 708-2121

RIN: 2502–AG32

1447. APPROVAL OF LENDING INSTITUTIONS AND MORTGAGEES—STREAMLINING (FR-4106)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 24 CFR 202

Completed:

Reason	Date	FR Cite
Final Action	04/24/97	62 FR 20080
Final Action Effective	05/27/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lynn Herbert
Phone: 202 708-3976

RIN: 2502–AG78

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Community Planning and Development (CPD)

Proposed Rule Stage

1448. HOMELESS ASSISTANCE FUND REGULATION (FR-4130)

Regulatory Plan: This entry is Seq. No. 48 in Part II of this issue of the Federal Register.

RIN: 2506–AB88

1449. • LOAN GUARANTEE RECOVERY FUND: LOAN GUARANTEE ASSISTANCE IN RESPONSE TO ACTS OF ARSON OR TERRORISM MOTIVATED BY RACE, COLOR, OR ETHNICITY (FR-4282)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 18 USC 241; 42 USC 3535(d)

CFR Citation: 24 CFR 573

Legal Deadline: None

Abstract: The Church Arson Prevention Act of 1996 (Pub.L. 104-155) (the Act) provides Federal, State, and local law enforcement agencies with the needed additional tools to address violent crimes against nonprofit organizations, including places of worship, strengthens the penalties for these crimes, and authorizes Federal assistance for rebuilding efforts made necessary by such crimes. Section 4 of the Act, entitled "Loan Guarantee Recovery Fund," authorizes the Secretary of HUD to guarantee loans made by financial institutions to assist certain nonprofit organizations (organizations described in 501(c)(3) of the Internal Revenue Code of 1986) that have been damaged or destroyed as a result of acts of arson or terrorism. On September 6, 1996 (61 FR 47404), HUD published a final rule implementing section 4 of the Act, and these regulations were codified in 24 CFR part 573. Certain technical corrections were made in a final rule published on May 6, 1997 (62 FR 24573).

This proposed rule would amend the part 573 regulations to explicitly include the requirement that an act of arson or terrorism be motivated by race, color, or ethnicity to qualify for loan guarantee assistance.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Anthony Johnston, Deputy Director, Financial Management Division, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1871

RIN: 2506–AB96

1450. COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM; NATIONAL OBJECTIVE AND STREAMLINING CHANGES (FR-4144)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

HUD—CPD

Proposed Rule Stage

Legal Authority: 42 USC 3535(d); 42 USC 5301 to 5321

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This rule would make a variety of changes and clarifications to the regulations for the Community Development Block Grant (CDBG) Entitlement program. This rule would, in part, codify statutory changes made by section 225 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 and section 807(a) of the Housing and Community Development Act of 1992. This rule would also make further changes necessary to conform the CDBG and HOME programs, particularly in regard to national objective requirements, and make other changes to the national objectives regarding job retention for low- and moderate-income persons.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: Deirdre Maguire-Zinni, Director, Entitlement Communities Division, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1577

RIN: 2506–AB90

1451. SECTION 108 LOAN GUARANTEE PROGRAM; LOAN POOLING/RISK SHARING ARRANGEMENTS (FR-4214)

Priority: Other Significant

Legal Authority: 42 USC 3535(d); 42 USC 5300 to 5320

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This proposed rule will permit public entities that use Section 108 guaranteed loan funds to make loans to local borrowers to enter into voluntary pooling and risk sharing arrangements. The pool of third party loans (and related loss reserves) may be pledged as security for repayment of a corresponding pool of loans guaranteed by HUD. The pool will be structured so as to generate sufficient cash flow for the payment of principal and interest on the section 108 pool.

Timetable:

Action	Date	FR Cite
NPRM	08/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Paul Webster, Director, Financial Management Division, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1871

RIN: 2506–AB92

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Community Planning and Development (CPD)

Final Rule Stage

1452. CDBG PROGRAM FOR STATES; COMMUNITY REVITALIZATION STRATEGY REQUIREMENTS & MISCELLANEOUS TECHNICAL AMENDMENTS (FR-4081)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d); 42 USC 3601 to 3619; 42 USC 5300 to 5320; 42 USC 11331 to 11388; 42 USC 12701 to 12711; 42 USC 12741 to 12756; 42 USC 12901 to 12912

CFR Citation: 24 CFR 91; 24 CFR 570

Legal Deadline: None

Abstract: This rule implements the Community Revitalization Strategies concept into the State CDBG program. This concept will provide States additional flexibility in meeting certain requirements regarding the program's national objectives and public benefit. This rule also makes several technical amendments to correct errors from previous rulemaking and to enhance and clarify the regulation. These amendments are consistent with recent changes to the Entitlement CDBG program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/22/96	61 FR 54914
Interim Final Rule Effective	11/21/96	
Interim Final Rule Comment Period End	02/18/97	
Final Action	12/00/97	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Steve Johnson, Assistant Director, State and Small Cities Div., Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1322

RIN: 2506–AB83

1453. COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM; DISPUTE RESOLUTION AND ENFORCEMENT ACTIONS, LOAN GUARANTEE APPLICATION REQUIREMENTS (FR-3296)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d); 42 USC 5301 to 5320

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This rule proposes revisions to HUD's regulations governing the imposition of administrative sanctions in the CDBG program for entitlement grantees. The rule would establish clear standards for determining what constitutes substantial noncompliance entitling grantees to a hearing before an Administrative Law Judge. In addition, this rule would clarify certain regulations on CDBG performance standards and HUD's review

HUD—CPD

Final Rule Stage

procedures. A previous proposed rule for CDBG Sanctions was published in the Federal Register on November 12, 1993. While the final rulemaking for that proposal was under consideration, HUD decided to substantially revise the informal hearing procedures. Therefore, HUD decided to publish another proposed rule and solicit public comments.

Timetable:

Action	Date	FR Cite
NPRM	11/12/93	58 FR 60068
NPRM Comment Period End	01/11/94	
Second NPRM	09/26/96	61 FR 50654
Final Action	10/00/97	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local

Agency Contact: Jan C. Opper, Senior Program Officer, Office of Block Grant Assistance, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-3587

RIN: 2506–AB43

1454. SECTION 108 LOAN GUARANTEE PROGRAM (FR-4039)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d); 42 USC 5300 to 5320

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This rule deletes misleading and unnecessary language from the regulations that govern security requirements for loans guaranteed under the section 108 Loan Guarantee Program.

Timetable:

Action	Date	FR Cite
Final Action	06/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Webster, Director, Financial Management Div., Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1871

RIN: 2506–AB80

1455. COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAMS FOR STATES; PROGRAM INCOME (FR-4067)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d); 42 USC 5300 to 5320

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This rule will make many small changes and clarifications to the regulations for the State CDBG Program. This rule will allow States to apply additional requirements to units of general local government that are not inconsistent with statutes and regulations. It will clarify the standards for spending funds outside the recipient's jurisdiction. It will clarify the conflict of interest provisions, and update the national objective of benefit to low- and moderate-income persons. It will also make conforming changes to update the regulations based on recent statutory amendments.

Timetable:

Action	Date	FR Cite
NPRM	03/11/97	62 FR 11284
NPRM Comment Period End	05/12/97	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Steve Johnson, Assistant Director, State and Small Cities Division, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1322

RIN: 2506–AB82

1456. COMMUNITY DEVELOPMENT BLOCK GRANTS: AMENDMENTS TO THE NEW YORK SMALL CITIES PROGRAM (FR-4155)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5301 to 5320; 42 USC 3535(d)

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This proposed rule would amend the Community Development Block Grant (CDBG) Program for New York State, in compliance with the 1996 Appropriations Act.

Timetable:

Action	Date	FR Cite
NPRM	06/11/97	62 FR 31944
NPRM Comment Period End	07/11/97	
Final Action	10/00/97	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local

Agency Contact: Cornelia Robertson Terry, State and Small Cities Division, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1322

RIN: 2506–AB91

1457. • CDBG SLUM/BLIGHT NATIONAL OBJECTIVE RULE (FR-4260)

Regulatory Plan: This entry is Seq. No. 49 in Part II of this issue of the Federal Register.

RIN: 2506–AB94

1458. • CLARIFICATION OF THE NATURE OF REQUIRED CDBG EXPENDITURE DOCUMENTATION AND ACCOUNTING FOR APPLICABLE CREDITS (FR-4261)

Regulatory Plan: This entry is Seq. No. 50 in Part II of this issue of the Federal Register.

RIN: 2506–AB95

1459. • PERFORMANCE GRANTS FOR URBAN EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES (FR-4262)

Regulatory Plan: This entry is Seq. No. 51 in Part II of this issue of the Federal Register.

RIN: 2506–AB96

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Community Planning and Development (CPD)

Long-Term Actions

1460. ADMINISTRATIVE GUIDELINES FOR CPD PROGRAMS; SEC. 102(D) LIMITATION ON COMBINING OTHER GOVERNMENT ASSISTANCE WITH CPD HOUSING ASSISTANCE (FR-3135)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3535(d)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This document sets forth the administrative guidelines the Office of Community Planning and Development will follow in determining, on a case-by-case basis, that the amount of assistance being provided by HUD for a specific housing project, for which other government assistance is also being made available, is not more than is necessary to make the assisted activity feasible after taking into account the other government assistance. HUD is required to make these determinations, and to so certify, under section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 for certain CPD programs.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Duncan, Deputy Director, Office of Block Grants, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-3587

RIN: 2506–AB74

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Community Planning and Development (CPD)

Completed Actions

1461. INCORPORATION OF NONDISCRIMINATION HEARING PROCEDURES UNDER SECTION 109 OF THE HOUSING AND COMMUNITY ACT OF 1974 (FR-4140)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 572

Completed:

Reason	Date	FR Cite
Final Action	08/24/97	62 FR 34144
Final Action Effective	07/24/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gordon McKay
Phone: 202 708-2685

RIN: 2506–AB71

1462. HOPE FOR HOMEOWNERSHIP OF SINGLE FAMILY HOMES PROGRAM (HOPE 3) (FR-3857)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 180; 24 CFR 570

Completed:

Reason	Date	FR Cite
Merged With FR-4092 (RIN 2501-AC28)	08/06/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jan C. Opper
Phone: 202 708-3587
Betsy Ryan
Phone: 202 708-0404

RIN: 2506–AB89

1463. • YOUTHBUILD PROGRAM: FURTHER STREAMLINING (FR-4226)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 8011

CFR Citation: 24 CFR 585

Legal Deadline: None

Abstract: This final rule further streamlines the regulations for the Youthbuild Program at 24 CFR part 585 to remove subpart B. Subpart B contains provisions that do not need to be codified because they pertain to the application and grant award process and will be set forth in the Notice of Funding Availability.

Timetable:

Action	Date	FR Cite
Final Action	08/11/97	62 FR 31954
Final Action Effective	07/11/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Priest, Director, Office of Economic Development, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-2290

RIN: 2506–AB93

1464. BASE CLOSURE COMMUNITY REDEVELOPMENT AND HOMELESS PROGRAM (FR-3820)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 586

Completed:

Reason	Date	FR Cite
Final Action	07/11/97	62 FR 37478
Final Action Effective	08/11/97	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Bill Poythress
Phone: 404 331-5001

RIN: 2506–AB72

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Government National Mortgage Association (GNMA)

Proposed Rule Stage

1465. GINNIE MAE/FINANCE - NATIVE AMERICAN (FR-4215)

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-330

CFR Citation: 24 CFR 300.3; 24 CFR 320; 24 CFR 330; 24 CFR 340

Legal Deadline: None

Abstract: Section 701(c) of the Native American Housing Assistance and Self-Determination Act of 1996 permits Ginnie Mae to securitize loans guaranteed by the Secretary. This rule will make amendments to the Ginnie Mae regulations to reflect this change and to make certain technical amendments to the Ginnie Mae regulations.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nicholas Shelley, Acting President for Policy Planning and Risk Management, Department of Housing and Urban Development, Government National Mortgage Association
Phone: 202 708-4141

RIN: 2503–AA11

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Fair Housing and Equal Opportunity (FHEO)

Proposed Rule Stage

1466. FAIR HOUSING PLANNING PERFORMANCE STANDARD (FR-4133)

Regulatory Plan: This entry is Seq. No. 52 in Part II of this issue of the Federal Register.

RIN: 2529–AA81

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Fair Housing and Equal Opportunity (FHEO)

Final Rule Stage

1467. IMPLEMENTATION OF THE HOUSING FOR OLDER PERSONS ACT OF 1995 (FR-4094)

Priority: Other Significant

Legal Authority: 42 USC 3601 to 3619; 42 USC 3535(d)

CFR Citation: 24 CFR 100

Legal Deadline: None

Abstract: The Housing for Older Persons Act (HOPA) of 1995 (Pub. L. 104-76), signed in law on December 28, 1995, amends the 55 and older senior housing exemption to the Fair Housing Act's (the Act) prohibition against discrimination based on familial status. The HOPA eliminates the requirement that "housing for older persons" have significant services and facilities for their residents and establishes a good faith reliance defense for monetary damages legitimate belief that the housing was entitled to an exemption. In order to qualify for the "55 or over housing" exemption, a housing community must be able to meet the following criteria: 1) at least 80 percent of the units are occupied by at least one person 55 years of age or older per unit; 2) the publication and adherence to policies and procedures which demonstrate an intent by the owner or manage to provide housing for persons 55 years of age or older; and 3) verification of the ages of its residents through reliable surveys and affidavits. This rule proposes to update HUD's regulations to reflect the changes made by the HOPA. A final rule implementing the HOPA will be published shortly.

Timetable:

Action	Date	FR Cite
NPRM	01/14/97	62 FR 2000
NPRM Comment Period End	03/17/97	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sara K. Pratt, Director, Office of Investigations, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 708-0836

RIN: 2529–AA80

1468. FAIR LENDING—SELF-TESTING (FR-4160)

Priority: Other Significant

Legal Authority: PL 104-208, Sec 2302

CFR Citation: 24 CFR 100

Legal Deadline: Final, Statutory, March 31, 1997.

Abstract: This rule proposes to implement sec. 2302 of the Economic Growth and Regulatory Paperwork Reduction Act (Pub. L. 104-208) ("Act"), which encourages voluntary compliance by lenders with the Fair Housing Act (FHAct) and the Equal Credit Opportunity Act (ECOA) through lender-initiated self-tests of lenders' residential real estate-related lending transactions and, where appropriate, corrective action designed to remedy any possible violations of the FHAct or ECOA revealed by such tests.

Timetable:

Action	Date	FR Cite
NPRM	01/31/97	62 FR 4882
NPRM Comment Period End	03/03/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: Peter Kaplan, Director, Office of Policy & Regulatory Initiatives, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 708-2904

RIN: 2529–AA82

HUD—FHEO

Final Rule Stage

1469. ECONOMIC OPPORTUNITIES FOR LOW- AND VERY LOW-INCOME PERSONS (FR-2898)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1450; 42 USC 3301; 12 USC 1701u; 42 USC 3535(d)

CFR Citation: 24 CFR 135

Legal Deadline: Final, Statutory, April 28, 1993.

Abstract: The regulations at 24 CFR 135 were revised substantially to incorporate the statutory amendments in the Housing and Community Development Act of 1992, to reflect certain changes in the design of the Department's programs that are subject to the section 3 regulations to clarify the obligations of individuals and entities subject to the requirements of section 3, and to simplify the Department's administration of section 3 requirements. The final rule may make further revisions in response to public comment.

Timetable:

Action	Date	FR Cite
NPRM	10/08/93	58 FR 52534
Notice	11/09/93	58 FR 59423
Notice Comment Period End	12/08/93	
Interim Final Rule	06/30/94	59 FR 33886
Interim Final Rule Effective	08/01/94	
Interim Final Rule Comment Period End	08/29/94	
Final Rule Extension of Effective Period of Interim Rule	05/31/95	60 FR 28325
Extension Effective	08/30/96	
Final Action	10/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: John Waller, Director, Office of Economic Opportunity, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 708-2251

RIN: 2529–AA49

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Administration (OA)

Final Rule Stage

1470. HUD ACQUISITION REGULATION—II (FR-4115)

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 42 USC 3535(d); 41 USC 251

CFR Citation: 48 CFR 2401

Legal Deadline: None

Abstract: This rule will implement changes stemming from the "Federal Acquisition Reform Act of 1996."

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Edward L. Girovasi, Jr., Director, Policy & Evaluation Div., Office of Procurement & Contracts, Department of Housing and Urban Development, Office of Administration
Phone: 202 708-0294

RIN: 2535–AA24

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of the Inspector General (HUDIG)

Proposed Rule Stage

1471. • IMPLEMENTATION OF PRIVACY ACT OF 1974 (FR-4270)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 5 USC 552a; 5 USC app 3; 42 USC 3535(d)

CFR Citation: 24 CFR 2003

Legal Deadline: None

Abstract: Proposed regulatory change amends existing regulations referencing Office of Inspector General Systems of Records to conform with changes to OIG systems of records.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis A. Rashka, Director, Human Resource and ADP Division, Department of Housing and Urban Development, Office of the Inspector General
Phone: 202 708-0006

RIN: 2506–AA09

1472. • PRIVACY ACT OF 1974; CONSOLIDATION OF EXISTING SYSTEMS OF RECORDS INTO SINGLE SYSTEM OF RECORDS (FR-4283)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 5 USC 552a; 5 USC app, Inspector General Act of 1978; 42 USC 3535(d)

CFR Citation: 24 CFR 2003

Legal Deadline: None

Abstract: This proposed rule would amend the regulations of the Office of Inspector General (OIG), found in 24

HUD—HUDIG

Proposed Rule Stage

CFR part 2003, that implement the Privacy Act of 1974 to conform with OIG's notice consolidating its four existing systems of records into a single new system of records titled "Office of Inspector General Audit, Support and Investigation Systems" or OASIS.

The OIG currently maintains four systems of records pursuant to the Privacy Act of 1974: (1) Investigative Files of the Office of Inspector General (HUD/OIG-1); (2) Hotline Complaint Files of the Office of Inspector General (HUD/OIG-2); Name Indices System of the Office of Inspector General (HUD/OIG-3); and (4) Independent Auditor Monitoring Files of the Office of Inspector General (HUD/OIG-4). The notice for these systems of records was last published on June 12, 1992 (57 FR 25069).

The OIG's new OASIS automated information tracking and storage system will effectively consolidate, replace, and expand upon these existing systems of records. OASIS is designed to function as a general reference system for all types of "requests" generated of received by the OIG for work of any kind. These requests may involve investigations, hotline and other complaints or referrals, the planning, conduct, and resolution of reviews of HUD programs and participants in those programs, legal assistance requests, and information requests. For each request, the system contains information regarding the date received, the relevant geographic location, a request summary, the level of security assigned, the HUD program at issue, the focus of the work to be performed, and the main indices.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Philip Kesaris, Associate Counsel to the Inspector General, Department of Housing and Urban Development, Office of the Inspector General
Phone: 202 708-1613

RIN: 2506–AA10

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Policy Development and Research (PD&R)

Proposed Rule Stage

1473. • COMMUNITY DEVELOPMENT HISPANIC-SERVING INSTITUTIONS WORK STUDY PROGRAM (FR-4269)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5307(c)

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: The rule proposes to change eligibility standards to broaden the program to schools beyond those on the U.S. Department of Education's Hispanic Serving Institutions list to all community colleges that have at least 25 percent full-time hispanic enrollment.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jane Karadbil, Office of University Partnerships, Department of Housing and Urban Development, Policy Development and Research
Phone: 202 708-1537

RIN: 2528–AA07

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Policy Development and Research (PD&R)

Completed Actions

1474. COMMUNITY DEVELOPMENT HISPANIC-SERVING INSTITUTIONS WORK STUDY PROGRAM (FR-4070)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 570

Completed:

Reason	Date	FR Cite
Final Action	04/09/97	62 FR 17492
Final Action Effective	05/09/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jane Karadbil
Phone: 202 708-1537

RIN: 2528–AA06

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Public and Indian Housing (PIH)

Prerule Stage

1475. ADMINISTRATIVE GUIDELINES FOR PIH REGARDING SEC. 102(D) LIMITATIONS ON COMBINING OTHER GOVERNMENT ASSISTANCE ("SUBSIDY LAYERING") (FR-3100)

Priority: Other Significant

Legal Authority: 42 USC 3535(d)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This notice sets forth the PIH administrative guidelines which HUD, or in certain circumstances Housing Credit Agencies (HCAs), will follow in implementing "subsidy layering" reviews in accordance with section 102(d) of the HUD Reform Act of 1989 and section 911 of the Housing and Community Development Act of 1992 for public and Indian housing programs. Such reviews are necessary to ensure that the amount of assistance being provided by HUD for a specific housing project is not more than is necessary to make the assisted activity feasible after taking into account assistance from other government sources.

HUD—PIH

Prerule Stage

Timetable:

Action	Date	FR Cite
Notice	07/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: G. Dewayne Kimbrough, Urban Revitalization Specialist, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0614

RIN: 2577–AB53

1476. • SECTION 8 PROGRAM RENT LIMITS IN TAX CREDIT PROJECTS (FR-4266)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1437a; 42 USC 1437c; 42 USC 1437f; 42 USC 3535(d)

CFR Citation: 24 CFR 982

Legal Deadline: None

Abstract: This proposed rule would limit the rent for any section 8 certificate or voucher family leasing a rent restricted unit in a low income housing project under the Low Income Housing Tax Credit (LIHTC) program. The reasonable rent for the unit would not exceed the restricted rent under the LIHTC program.

Timetable:

Action	Date	FR Cite
ANPRM	11/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gerald J. Benoit, Director, Rental Assistance Division, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0477

RIN: 2577–AB80

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Public and Indian Housing (PIH)

Proposed Rule Stage

1477. CEILING RENTS FOR PUBLIC HOUSING (FR-3880)

Priority: Other Significant

Legal Authority: 42 USC 1437a; 42 USC 1437c; 42 USC 1437d; 42 USC 1437f; 42 USC 1437n; 42 USC 3535(d)

CFR Citation: 24 CFR 5, subpart F

Legal Deadline: None

Abstract: This rule would permit public housing agencies (PHA) to adopt caps on rents for projects or dwelling units that are assisted under the U.S. Housing Act of 1937 and that are owned and operated by the PHA. The Balanced Budget Downpayment Act I amended the 1937 Act to permit the establishment of caps or ceiling rents on the income-based monthly rental payment that reflect the reasonable market value of the housing, but are not less than the monthly costs (1) to operate the housing of the PHA; and (2) to make a deposit to a replacement reserve (in the sole discretion of the PHA).

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Campbell, Director, Marketing and Leasing Management, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0744

RIN: 2577–AB75

1478. DESIGNATED HOUSING (FR-3964)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1423; 42 USC 3535(d)

CFR Citation: 24 CFR 945

Legal Deadline: None

Abstract: The proposed rule will amend HUD's Designated Housing Program regulations at 24 CFR part 945 to implement certain new requirements made to this program by the Housing Opportunity Program Extension Act of 1996 (Pub.L. 104-120, approved March 28, 1996). In addition to implementing these requirements the regulations will be streamlined to allow autonomy and flexibility.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gloria Cousar, Deputy Assistant Secretary for Public Assisted Housing Operations, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0614

RIN: 2577–AB57

1479. REPLACEMENT HOUSING FACTOR IN MODERNIZATION FUNDING (FR-4125)

Regulatory Plan: This entry is Seq. No. 53 in Part II of this issue of the Federal Register.

RIN: 2577–AB71

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Public and Indian Housing (PIH)

Final Rule Stage

1480. HOUSING OPPORTUNITY PROGRAM EXTENSION ACT OF 1996 IMPLEMENTATION PROVISIONS AND SECTION 8 CERTIFICATE, VOUCHER, & MODERATE REHABILITATION ADMISSION & OCCUPANCY POLICIES REVISIONS (FR-4159)

Regulatory Plan: This entry is Seq. No. 54 in Part II of this issue of the Federal Register.

RIN: 2577–AB72

1481. STREAMLINING OF TURNKEY III PROGRAM REGULATIONS (FR-4217)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1437 to 1437ee; 42 USC 3535(d)

CFR Citation: 24 CFR 904

Legal Deadline: None

Abstract: HUD's regulations at 24 CFR part 904 describe the requirements for the Homeownership Opportunities Program for Low-Income Families (Turnkey III). This final rule makes several streamlining amendments to part 904. Specifically, this final rule eliminates the sections of part 904 that are obsolete or are best set forth in non-regulatory guidance. This rule also amends the remaining provisions of part 904 to reduce redundancy and regulatory burden. HUD's reinvention of part 904 will make the Turnkey III Program regulations more concise and easier to understand.

Timetable:

Action	Date	FR Cite
Final Action	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary Van Buskirk, Director, Homeownership Division, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 401-8812

RIN: 2577–AB76

1482. PUBLIC HOUSING DEVELOPMENT REGULATIONS (FR-3569)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1437c

CFR Citation: 24 CFR 941

Legal Deadline: None

Abstract: This rule finalizes a comprehensive revision of the public housing development and acquisition program regulation at 24 CFR 941. This rule will respond to comments received on three interim rules. The first of those rules redesigned the public housing development process to give housing authorities and localities maximum flexibility in developing public housing in their communities. The second of those rules (FR-3919, RIN 2577-AB54) provided procedures to permit housing agencies to enter a partnership with an entity to develop and own public housing properties in mixed-income developments using a mixed-financed development method. The third rule (FR-4133, RIN 2577-AB69) streamlined and modified this mixed finance component.

Timetable:

Action	Date	FR Cite
Interim Final Rule (FR-3919)	05/02/96	61 FR 19706
Interim Final Rule Effective (FR 3919)	07/01/96	
Interim Final Rule Effective	08/21/96	
Interim Final Rule Comment Period End (FR 3569)	09/20/96	
Final Action	03/00/98	
Interim Final Rule (FR 3569)	07/22/96	61 FR 38014
Interim Final Rule Effective	08/21/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: William Flood, Director, Office of Capital Improvements, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-1640

RIN: 2577–AB37

1483. PUBLIC HOUSING MIXED-FINANCE PARTNERSHIP DEVELOPMENT—STREAMLINING (FR-4113)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1427b; 42 USC 1437c; 42 USC 3535(d)

CFR Citation: 24 CFR 941

Legal Deadline: None

Abstract: This rule will streamline the provisions of the new subpart F of part 941, which provides for mixed-finance partnerships to develop public housing. The rule is needed because questions have arisen during implementation of the current version of subpart F. The clarification afforded by this removal of duplicative language will be highly beneficial.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Flood, Director, Office of Capital Improvements, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-1800

RIN: 2577–AB69

1484. IMPLEMENTATION OF THE NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION ACT OF 1996 (FR-4170)

Priority: Economically Significant

Legal Authority: 25 USC 4101 et seq

CFR Citation: 24 CFR 950; 24 CFR 953; 24 CFR 955; 24 CFR 1000; 24 CFR 1003; 24 CFR 1005

Legal Deadline: Final, Statutory, September 1, 1997.

Abstract: On July 2, 1997 (62 FR 35718), HUD published a rule proposing to implement the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA). As required by section 106(b)(2) of NAHASDA, HUD developed the proposed rule with active tribal participation and using the procedures of the Negotiated Rulemaking Act. NAHASDA reorganizes the system of Federal housing assistance to Native Americans by eliminating several separate programs of assistance and replacing them with a single block grant program. In addition to simplifying the process of providing housing assistance, the purpose of NAHASDA is to provide Federal assistance for Indian tribes in a manner that recognizes the right of Indian self-determination and tribal self-governance while ensuring accountability for taxpayer funds. This rule finalizes the policies and procedures described in the July 2, 1997 proposed rule, and takes into consideration the public comments received on the proposed rule.

Timetable:

Action	Date	FR Cite
Transition Notice	01/27/97	62 FR 3972
NPRM	07/02/97	62 FR 35718
NPRM Comment Period End	08/18/97	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Karen Garner-Wing, Acting Deputy Assistant Secretary for Native American Programs, Department of Housing and Urban Development, Office of Public and Indian Housing, 1999 Broadway, Suite 3390, Denver, CO 80202
Phone: 303 675-1600

RIN: 2577–AB74

HUD—PIH

Final Rule Stage

1485. INDIAN HOME: REVISED PROGRAM REGULATIONS (FR-3567)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 5301

CFR Citation: 24 CFR 954

Legal Deadline: None

Abstract: This rule would streamline requirements and incorporate experience in program implementation during the first two funding cycles. It will facilitate use of the program by client tribes and incorporate various legislative changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/21/96	61 FR 32292
Interim Final Rule Effective	07/22/96	
Interim Final Rule Comment Period End	08/20/96	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karen Garner-Wing, Acting Deputy Assistant Secretary for Native American Programs, Department of Housing and Urban Development, Office of Public and Indian Housing, 1999 Broadway, Suite 3390, Denver, CO 80202
Phone: 303 675-1600

RIN: 2577–AB35

1486. • LOAN GUARANTEE FOR INDIAN HOUSING; DIRECT GUARANTEE PROCESSING (FR-4241)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1715z-13a

CFR Citation: 24 CFR 955

Legal Deadline: None

Abstract: This interim rule would authorize a processing alternative known as "direct guarantee" under which HUD would not issue guarantee commitments and would not review an application for guarantee until after a loan has closed.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/97	
Final Action	01/00/98	
Final Action Effective	02/00/98	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Karen Garner-Wing, Acting Deputy Assistant Secretary for Native American Programs, Department of Housing and Urban Development, Office of Public and Indian Housing, 1999 Broadway Suite 3390, Office of Native American Programs, Denver, CO 80202
Phone: 303 675-5600

RIN: 2577–AB78

1487. PUBLIC HOUSING ADMISSION AND OCCUPANCY REFORMS AND STREAMLINING (FR-4084)

Regulatory Plan: This entry is Seq. No. 55 in Part II of this issue of the Federal Register.

RIN: 2577–AB67

1488. • ASSESSMENT OF THE REASONABLE REVITALIZATION POTENTIAL OF CERTAIN PUBLIC HOUSING REQUIRED BY LAW (FR-4120)

Regulatory Plan: This entry is Seq. No. 56 in Part II of this issue of the Federal Register.

RIN: 2577–AB79

1489. SECTION 8 TENANT-BASED PROGRAMS: ADDITION OF PROVISIONS ON RENTS AND SPECIAL HOUSING TYPES (FR-4054)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1437f; 42 USC 3535(d)

CFR Citation: 24 CFR 982; 24 CFR 983

Legal Deadline: None

Abstract: This rule adds to part 982 the two subparts that have previously been reserved: subpart K, Rents and subpart M, Special Housing Types. It also covers contract rents and rent adjustments for the project-based certificate program. The rule completes the rulemaking process for tenant-based section 8 assistance first published in July 1994, streamlining provisions throughout part 982.

Timetable:

Action	Date	FR Cite
Final Action	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerald Benoit, Director, Operations Division, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0477

RIN: 2577–AB83

HUD—PIH

Final Rule Stage

1490. SECTION 8 PROGRAM RESTRICTIONS ON LEASING TO RELATIVES (FR-4149)

Priority: Other Significant

Legal Authority: 42 USC 1437a; 42 USC 1437c; 42 USC 1437f; 42 USC 3535(d)

CFR Citation: 24 CFR 982

Legal Deadline: None

Abstract: This final rule would limit the circumstances under which a landlord could lease a unit with section 8 certificate or voucher assistance to a relative of the landlord. It would permit such leasing only if an HA determines that the leasing would accommodate a person with disabilities. The rule is intended to reduce the potential for misuse of section 8 assistance. It would reduce the likelihood of families that have the ability to assist a family member from seeking Federal rental assistance and, thereby, would help to direct scarce Federal financial assistance to the more needy.

Timetable:

Action	Date	FR Cite
NPRM	03/10/97	62 FR 10786
NPRM Comment Period End	05/09/97	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerald Benoit, Director, Operations Division, Office of Rental Assistance, Department of Housing and Urban Development, Office of Public and Indian Housing Phone: 202 708-0477

RIN: 2577–AB73

1491. SECTION 8 RENTAL VOUCHER AND CERTIFICATE PROGRAMS—SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP) (FR-3986)

Regulatory Plan: This entry is Seq. No. 57 in Part II of this issue of the **Federal Register**.

RIN: 2577–AB60

1492. PUBLIC HOUSING PERFORMANCE FUNDING SYSTEM: INCENTIVES (FR-4072)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1437g; 42 USC 3535(d)

CFR Citation: 24 CFR 990

Legal Deadline: None

Abstract: In addition to codifying minor changes to the Performance Funding System inspired by the continuing resolution and implemented by a Notice to Housing Agencies with respect to FYs '96, '97 and '98, this rule provides for a gradual phase-down of operating subsidy with respect to public housing units being demolished.

Timetable:

Action	Date	FR Cite
ANPRM	09/20/96	61 FR 51178
Interim Final Rule	09/20/96	61 FR 51178
Interim Final Rule Effective	10/30/96	
Interim Final Rule Comment Period End	11/29/96	
Final Action	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joan DeWitt, Director, Finance & Budget Division, Department of Housing and Urban Development, Office of Public and Indian Housing Phone: 202 708-1872

RIN: 2577–AB65

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Office of Public and Indian Housing (PIH)

Completed Actions

1493. STRENGTHENING THE ROLE OF FATHERS IN PUBLIC HOUSING FAMILIES (FR-4067)

Priority: Other Significant

CFR Citation: 24 CFR 5

Completed:

Reason	Date	FR Cite
Withdrawn	08/05/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Campbell Phone: 202 708-0744

RIN: 2577–AB68

1494. SECTION 8 MODERATE REHABILITATION; RENT ADJUSTMENTS; ANNUAL AND SPECIAL ADJUSTMENTS; COMPARABILITY STUDIES; RENT REDUCTION (FR-3709)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 882

Completed:

Reason	Date	FR Cite
Withdrawn	08/04/97	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Madeline Hastings Phone: 202 708-2841

RIN: 2577–AB48

1495. OPTIONAL EARNED INCOME EXCLUSION (FR-4080)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 913

Completed:

Reason	Date	FR Cite
Final Action	05/05/97	62 FR 24334
Final Action Effective	06/04/97	

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: Linda Campbell Phone: 202 708-0744

RIN: 2577–AB66

HUD—PIH

Completed Actions

1496. PROCESSING OF MORTGAGE LOANS (FR-4219)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 1005

Completed:

Reason	Date	FR Cite
Merged With RIN 2577-AB78	10/01/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karen Garner-Wing Phone: 303 675-1600

RIN: 2577–AB77

[FR Doc. 97-22221 Filed 10-28-97; 8:45 am]

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Wednesday
October 29, 1997

Part X

Department of the Interior

Semiannual Regulatory Agenda

DEPARTMENT OF THE INTERIOR (DOI)

DEPARTMENT OF THE INTERIOR

Office of the Secretary

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Semiannual Regulatory Agenda

AGENCY: Office of the Secretary, Interior.

ACTION: Semiannual regulatory agenda.

SUMMARY: This notice provides the semiannual agenda of rules scheduled for review or development between October 1997 and April 1998. An agenda is required by the Regulatory Flexibility Act and Executive Order 12866.

ADDRESSES: Unless otherwise indicated, all agency contacts are located at the Department of the Interior, 1849 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: All comments and inquiries with regard to these rules should be directed to the appropriate agency contact. General comments relating to the agenda should be directed to the Office of Executive Secretariat, Department of the Interior, at the address above or on 202-208-5271.

SUPPLEMENTARY INFORMATION: With this publication, the Department satisfies the requirement of Executive Order 12866 that the Department publish an agenda of rules that have been issued or are expected to be issued and of currently effective rules that are scheduled for review.

Simultaneously, the Department meets the requirement of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that an agenda be published in April and October of each year identifying rules that will have significant economic effects on a substantial number of small entities. Rules that will have such effects are specifically identified in the agenda.

For this edition of the Department's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of today's **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference that directs the reader to the appropriate Sequence Number in Part II.

Dated: August 15, 1997.

Richard A. Stephan,

Federal Register Liaison Officer.

Assistant Secretary for Policy, Management and Budget—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1497	Natural Resource Damage Assessments: Type B Procedures	1090-AA29
1498	Principles of Ethical Conduct	1090-AA38
1499	Records and Testimony; Freedom of Information Act	1090-AA61
1500	Nondiscrimination on the Basis of Sex in Federally Assisted Education Programs or Activities	1090-AA64

Assistant Secretary for Policy, Management and Budget—Final Rule Stage

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1501	Administrative Requirements for Grantees To Reflect Single Audit Act Amendments	1090-AA62
1502	General Rules Relating to Procedures and Practice; Effect of Decision Pending Appeal	1090-AA63
1503	Department of the Interior Acquisition Regulation; Foreign Acquisitions	1090-AA65

Assistant Secretary for Policy, Management and Budget—Long-Term Actions

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Assistant Secretary for Policy, Management and Budget—Completed Actions

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Office of the Special Trustee—Proposed Rule Stage

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1507	Individual Indian Money Accounts	1035-AA02
1508	Appealing Administrative Actions of the Office of the Special Trustee	1035-AA03

United States Fish and Wildlife Service—Proposed Rule Stage

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1509	Revision of Migratory Bird Hunting Regulations, 50 CFR Part 20	1018-AD01
1510	Export of Appendix I Specimens That Were Bred for Commercial Purposes	1018-AD64
1511	Reclassification of Yacare Caiman From Endangered to Threatened With Special Rule	1018-AD67
1512	Migratory Bird Hunting: Regulations Regarding Prohibition Against Artificially Altering/Manipulating Natural Vegetation in Moist Areas To Attract Waterfowl	1018-AD74
1513	Federal Aid in Sport Fish Restoration Program Participation for District of Columbia and Insular Territories and Commonwealths	1018-AD83
1514	Convention on International Trade in Endangered Species (CITES)	1018-AD87
1515	Rescission of Administrative Procedures for Grants in Aid (Marine Mammal Protection Act of 1972)	1018-AD92
1516	Endangered and Threatened Wildlife and Plants; Proposed Reintroduction of a Nonessential Experimental Population of Grizzly Bears in Idaho and Montana	1018-AE00
1517	Proposed Special Rule With the Reclassification of the Vicuna From Endangered to Threatened	1018-AE04
1518	Importation, Exportation, Transportation of Wildlife	1018-AE08
1519	Subsistence Management Regulations for Public Lands in Alaska; Subparts C&D—1998-99 Subsistence Taking of Fish and Wildlife Regulations	1018-AE12
1520	Export of American Alligator for the 1998-2000 Harvest Seasons	1018-AE15
1521	Revisions to the Federal Aid Administrative Requirements	1018-AE17
1522	Establishment of Regulations Governing the Conduct on Midway Atoll	1018-AE19
1523	Importation of Polar Bear Trophies from Canada; Addition of Populations to the List of Areas Approved for Import	1018-AE26
1524	Exportation of Marine Mammal Products for Cultural Exchange	1018-AE33
1525	Injurious Wildlife; Addition of Brush-Tailed Possum	1018-AE34
1526	Migratory Bird Hunting; Temporary Approval of Tungsten-Polymer Shot as Non-Toxic for 1998-99 Season	1018-AE35

United States Fish and Wildlife Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1527	List of Migratory Birds	1018-AB72
1528	Migratory Bird Hunting: Revised Test Protocol for Nontoxic Approval Procedures for Shot and Shot Coatings	1018-AB80
1529	Eagle Permits	1018-AB81
1530	Export of American Ginseng Harvested in 1994-1996	1018-AC55
1531	Seizure and Forfeiture Procedures	1018-AC89
1532	Standards for the Humane and Healthful Transport of Wild Reptiles and Amphibians to the United States	1018-AD98
1533	Proposed Depredation Order for the Double-Crested Cormorant	1018-AE11
1534	Announcement of CITES Action Concerning Changes to Appendices to Listed Species; Service Announcement Concerning Reservations	1018-AE16
1535	Regulations for Administrative and Visitor Facility Sites on National Wildlife Refuges	1018-AE21

United States Fish and Wildlife Service—Long-Term Actions

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1536	Captive-Bred Wildlife	1018-AB10
1537	Endangered and Threatened Wildlife and Plants	1018-AB66
1538	Endangered and Threatened Wildlife and Plants	1018-AB97

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1540	Endangered and Threatened Wildlife and Plants; Reclassification of the Loch Lomond Coyote Thistle	1018-AC14
1541	Endangered and Threatened Wildlife and Plants: Critical Habitat for the Pecos Pupfish	1018-AC18
1542	Endangered and Threatened Wildlife and Plants: Parish's Alkali Grass	1018-AC21
1543	Endangered and Threatened Species: Sacramento Splittail	1018-AC26
1544	Endangered and Threatened Wildlife and Plants: Two California Butterflies and a Snake	1018-AC32
1545	Endangered and Threatened Wildlife and Plants: Intercross Progeny Policy and Definitions	1018-AC54
1546	General Provisions and General Permit Procedures	1018-AC57
1547	Endangered and Threatened Wildlife and Plants: Arkansas River Shiner	1018-AC82
1548	Endangered and Threatened Wildlife and Plants: Seven Freshwater Mussels from Alabama, Florida, and Georgia	1018-AC83
1549	Migratory Bird Hunting and Migratory Bird Permits	1018-AC89
1550	Endangered and Threatened Wildlife and Plants: Tropical Birds	1018-AC77
1551	Endangered and Threatened Wildlife and Plants: Four Southwestern California Plants	1018-AC88
1552	Critical Habitat Designation for the Lost River and Shortnose Suckers	1018-AC90
1553	Endangered and Threatened Wildlife and Plants: Least Chub	1018-AC91
1554	Endangered and Threatened Wildlife and Plants: Ten Plants From the California Sierra Nevada Mountains Foothills	1018-AC99
1555	Endangered and Threatened Wildlife and Plants: Northern and Southern Populations of the Bog Turtle	1018-AD05
1556	Endangered and Threatened Wildlife and Plants: Brother's Island Tuatara	1018-AD06
1557	Endangered and Threatened Wildlife and Plants: Reintroduction of a Nonessential Experimental Population of Mexican Wolves	1018-AD07
1558	Endangered and Threatened Wildlife and Plants: California Plants and the Black Legless Lizard	1018-AD09
1559	Endangered and Threatened Wildlife and Plants: Critical Habitat Designation for the Western Snowy Plover	1018-AD10
1560	Endangered and Threatened Wildlife and Plants: U.S. Populations of Atlantic Salmon	1018-AD12
1561	Endangered and Threatened Wildlife and Plants: Two San Francisco Marsh Plants	1018-AD14
1562	Marine Mammal Protection Act; Unintentional Take of Marine Mammals by Harassment Only in Activities Other Than Commercial Fishing	1018-AD18
1563	Marine Mammal Protection Act; Measures to Safely Deter Marine Mammals, Including Threatened and Endangered Marine Mammals	1018-AD19
1564	Endangered and Threatened Wildlife and Plants; Special Rule for the Northern Spotted Owl	1018-AD20
1565	Taxonomic Change From Subspecies to Vertebrate Population Segment for the Virgin River Chub	1018-AD22
1566	Critical Habitat Proposal for Virgin River Fishes	1018-AD23
1567	Endangered Species Listing: Three Aquatic Invertebrates in Comal and Hays Counties, Texas	1018-AD28
1568	Seven Plants From the Mountains of Southern California	1018-AD34
1569	Endangered and Threatened Wildlife and Plants: Pallid Manzanita	1018-AD35
1570	Endangered and Threatened Wildlife and Plants: Nine Plants From California	1018-AD36
1571	Endangered and Threatened Wildlife and Plants: Four Southwestern California Plants	1018-AD38
1572	Endangered and Threatened Wildlife and Plants: Four Plants From Interior Chaparral of Southwestern California and Northwestern Baja California, Mexico	1018-AD60
1573	Export of River Otters Taken in Missouri in 1996-1997 and Subsequent Seasons	1018-AD63
1574	Consolidation of Lists of Wildlife of Federal Concern	1018-AD66
1575	Subsistence Management Regulations for Public Lands in Alaska	1018-AD68
1576	Endangered and Threatened Species: Removal of Lloyd's Hedgehog Cactus From Federal List of Endangered and Threatened Plants	1018-AD91
1577	Safe Harbor Policy and Guidance for Candidate Agreements	1018-AD95
1578	Endangered and Threatened Wildlife and Plants; Proposed Establishment of a Nonessential Experimental Population of Black-footed Ferrets in Northwestern Colorado and Northeastern UT	1018-AD99
1579	Endangered and Threatened Wildlife and Plants; Proposed Establishment of Nonessential Experimental Population of Ten Freshwater Mussels in Holston River System in TN and VA	1018-AE01
1580	Revision to Subchapter C—The National Wildlife Refuge System	1018-AE02
1581	Proposed Approval of Selected State Programs Allowing the Export of Ginseng Harvested in 1997-1999	1018-AE03
1582	Endangered Species Listing: Preble's Meadow Jumping Mouse	1018-AE06
1583	Endangered and Threatened Wildlife and Plants: Proposed Endangered Status for Blackburn's Sphinx Moth from the Hawaiian Islands	1018-AE20
1584	Endangered and Threatened Wildlife and Plants; Proposed Status for Ten Plant Taxa from Maui Nui, Hawaii	1018-AE22
1585	Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Two Larkspurs from Coastal Northern California	1018-AE23
1586	No Surprises Policy	1018-AE24

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United States Fish and Wildlife Service—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
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1588	Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for Newcomb's Snail from the Hawaiian Islands	1018-AE27
1589	Endangered and Threatened Wildlife and Plants; Proposal to List Klamath River Population Segment of Bull Trout as Endangered and Columbia River Population Segment as Threatened	1018-AE29
1590	Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for the Plant Keck's Sidalcea from Tulare County, California	1018-AE30
1591	Endangered and Threatened Wildlife and Plants; Proposed Rule to List the Illinois Cave Amphipod as Endangered	1018-AE31
1592	Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Plant in Wenatchee Mountains of Washington	1018-AE32

United States Fish and Wildlife Service—Completed Actions

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1593	Endangered and Threatened Wildlife and Plants: Flat-Tailed Horned Lizard	1018-AC10
1594	Endangered and Threatened Wildlife and Plants: Alaska Breeding Population of the Steller's Eiders	1018-AC19
1595	Endangered and Threatened Wildlife and Plants: Golden Paintbrush	1018-AC52
1596	Endangered and Threatened Wildlife and Plants: Jaguar	1018-AC61
1597	Clean Vessel Act National Pumpout Symbol	1018-AC67
1598	Endangered and Threatened Wildlife and Plants: Eggert's Sunflower	1018-AC74
1599	Endangered and Threatened Wildlife and Plants: Tropical Butterflies	1018-AC76
1600	Endangered and Threatened Wildlife and Plants: Holmgren's Milkvetch and Shem's Milkvetch	1018-AC92
1601	Endangered and Threatened Wildlife and Plants: Four California Plants From Vernal Pools	1018-AC96
1602	Endangered and Threatened Wildlife and Plants: Two San Francisco Plants	1018-AC98
1603	Endangered and Threatened Wildlife and Plants: Three Plants From the Channel Islands of Southern California	1018-AD37
1604	Endangered and Threatened Wildlife and Plants: Sixteen Plant Taxa From the Northern Channel Islands, California	1018-AD39
1605	Endangered and Threatened Wildlife and Plants: Designation of Experimental Nonessential Whooping Crane Populations	1018-AD45
1606	Endangered Species Listing: Guajon or Rock Frog	1018-AD52
1607	Endangered and Threatened Wildlife and Plants: 42 South American Birds	1018-AD59
1608	Disposition of Surplus Range Animals	1018-AD75
1609	Subsistence Management Regulations for Public Lands in Alaska, Subparts C & D—1997-1998 Subsistence Taking of Fish and Wildlife Regulations	1018-AD90
1610	Regulations for the Administration of Special Use Permits on National Wildlife Refuges in Alaska	1018-AD93
1611	Endangered and Threatened Wildlife and Plants; Designated Ports for Listed Plants	1018-AD97
1612	1997 Migratory Bird Hunting and Conservation Stamp (Federal Duck Stamp) Contest	1018-AE07
1613	Migratory Bird Hunting: Temporary Approval of Tungsten-Iron Shot as Nontoxic for 1997-98 Season	1018-AE09
1614	Endangered and Threatened Wildlife and Plants: Change in Listing Status of Steller Sea Lions	1018-AE10
1615	Migratory Bird Harvest Information Program—Participating States for the 1997-98 Season	1018-AE13
1616	Migratory Bird Hunting: Proposed 1997-98 Migratory Game Bird Hunting Regulations (Preliminary) With Requests for Indian Tribal Proposals	1018-AE14
1617	1997-98 Refuge Specific Regulations	1018-AE18
1618	Endangered and Threatened Wildlife and Plants; Threatened Status for Southern Oregon/Northern California Coast Evolutionarily Significant Unit of Coho Salmon	1018-AE28

National Park Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1619	National Park Service Symbols: United States Park Police Insignia	1024-AB94
1620	Rights-of-Way	1024-AC01
1621	Applicability and Resource Protection Revisions	1024-AC38

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National Park Service—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1622	Non-Federal Oil and Gas Rights	1024-AC53
1623	Native American Graves Protection and Repatriation Act Regulations Future Applicability	1024-AC57
1624	Denali National Park and Preserve, Special Regulations	1024-AC58
1625	Delaware Water Gap NRA, Bicycle Trail	1024-AC62
1626	Hydroelectric Power Projects in the National Park System	1024-AC64

National Park Service—Final Rule Stage

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1627	National Natural Landmarks Program	1024-AB96
1628	Glacier Bay National Park, Alaska Fishing Regulations	1024-AB99
1629	Voyageurs National Park: Aircraft Operations	1024-AC23
1630	Shenandoah National Park: Backcountry and Fishing Regulations	1024-AC33
1631	Grand Teton National Park and John D. Rockefeller, Jr. Memorial Parkway: Snowmobile and Snowplane Routes and Regulations	1024-AC34
1632	Procedures for State, Tribal, and Local Government Historic Preservation Programs	1024-AC44
1633	Off-Road Operation of Motor Vehicles	1024-AC47
1634	Native American Graves Protection and Repatriation Act Regulations; Civil Penalties	1024-AC48
1635	Big Cypress National Preserve; Recreational Frogging	1024-AC54
1636	National Capital Region; Kennedy Center and Distribution of Literature	1024-AC61
1637	Safety Belts	1024-AC63

National Park Service—Completed Actions

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1638	Badlands National Park—Commercial Vehicles	1024-AC30
1639	Boating and Water Activities: Prohibited Operations	1024-AC46
1640	Virgin Islands National Park: Vessel Mooring and Anchoring	1024-AC56
1641	General Provisions; Definitions; Change in Organizational Titles	1024-AC60

Bureau of Indian Affairs—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1642	Administration of the Higher Education Program	1076-AA10
1643	Indian School Equalization Program	1076-AD09
1644	Tribal Self-Governance (Reg Plan Seq. No. 58)	1076-AD20
1645	Leasing Restricted Lands of Members of the Five Civilized Tribes, Oklahoma, for Mining	1076-AD33
1646	Exploration, Mining, and Reclamation of Lands	1076-AD36
1647	Tribal Reorganization Under a Federal Statute	1076-AD46
1648	Petitioning Procedures	1076-AD47
1649	Academic and Dormitory Standards	1076-AD55
1650	Education Contracts Under the Johnson-O'Malley Act	1076-AD58
1651	Loans to Indians from the Revolving Loan Fund	1076-AD59
1652	School Construction Contracts for Public Schools	1076-AD69
1653	Adult Vocational Training	1076-AD72
1654	Loan Guarantee Program	1076-AD73
1655	Employment Assistance for Adult Indians	1076-AD75
1656	Certificates of Degree of Indian Blood	1076-AD78
1657	Use of Columbia River Fish Access Sites	1076-AD83

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Bureau of Indian Affairs—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1658	Mortgages and Deeds of Trust on Individually Owned Trust Land or Land Subject to a Restriction on Alienation	1076-AD85

References in boldface appear in the Regulatory Plan in Part II of this issue of the Federal Register.

Bureau of Indian Affairs—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1659	Administration of the Indian Adult Education Programs	1076-AA15
1660	Leasing and Permitting	1076-AA29
1661	Roads of the Bureau of Indian Affairs	1076-AB05
1662	Navajo Partitioned Lands Grazing Regulations	1076-AC81
1663	Range Regulations	1076-AD04
1664	Preference in Employment	1076-AD05
1665	Grants to Tribally Controlled Community Colleges and Navajo Community College	1076-AD08
1666	Indian Tribal Justice Support	1076-AD15
1667	Leasing Osage Reservation Lands for Mining of Minerals Other Than Oil and Gas	1076-AD34
1668	Lead and Zinc Mining Operations and Leases on Quapaw Indian Lands	1076-AD35
1669	Management of the Tribal Assets of the Ute Indian Tribe	1076-AD37
1670	Irrigation Projects and Systems	1076-AD44
1671	Indian Electric Power Utilities	1076-AD45
1672	Appeals from Administrative Actions	1076-AD50
1673	Housing Improvement Program	1076-AD52
1674	Arrangement with States, Territories, or Other Agencies for Social Welfare and Relief of Distrees of Indians	1076-AD61
1675	Indian Business Development Program	1076-AD70
1676	Tribal Revenue Allocation Plans	1076-AD74
1677	Courts of Indian Offenses	1076-AD76

Bureau of Indian Affairs—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1678	Indian Highway Safety Program Competitive Grant Selection Criteria	1076-AD82

Bureau of Indian Affairs—Completed Actions

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1680	Leasing Wind River Reservation Lands for Oil and Gas Mining	1076-AD38
1681	Special Education	1076-AD49
1682	Indian Country Law Enforcement	1076-AD56
1683	Applicability of Rules of the Bureau of Indian Affairs	1076-AD64
1684	Operation of U.S.M.S. North Star Between Seattle, WA, and Alaska	1076-AD66
1685	Indian Fishing—Hoopa Valley Indian Reservation	1076-AD68

Minerals Management Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1686	Valuation of Oil from Indian Leases (Reg Plan Seq. No. 59)	1010-AC24
1687	Suspension of Orders or Decisions Pending Appeal To Allow for Self-Bonding Based Upon Financial Solvency	1010-AC28

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Minerals Management Service—Proposed Rule Stage (Continued)

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1688	Takes vs. Entitlements Reporting	1010-AC29
1689	Accounting Relief for Marginal Properties	1010-AC30
1690	Prepayment of Royalties	1010-AC31
1691	Postlease Operations	1010-AC32
1692	Chronic Erroneous Reporting	1010-AC34
1693	Oil and Gas Production Rates	1010-AC36
1694	Pipelines	1010-AC39
1695	Electronic Reporting	1010-AC40
1696	Training Lessee and Contractor Employees Engaged in Oil and Gas Operations in the Outer Continental Shelf	1010-AC41

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Minerals Management Service—Final Rule Stage

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1697	Valuation of Gas From Indian Leases	1010-AB57
1698	Credit Adjustments	1010-AB73
1699	Gas Measurement and Commingling	1010-AB97
1700	Allowances for Transportation and Processing Costs Associated With Gas Valuation	1010-AC06
1701	Valuation of Oil From Federal Mineral Leases (Reg Plan Seq. No. 60)	1010-AC09
1702	Geological and Geophysical Exploration of the Outer Continental Shelf	1010-AC10
1703	Royalty Relief for Outer Continental Shelf Leases in the Gulf of Mexico	1010-AC13
1704	Deep Water Royalty Relief—Tracts Offered Between November 28, 1995, and November 28, 2000	1010-AC14
1705	Seismic Reassessment of California Outer Continental Shelf Platforms	1010-AC17
1706	Administrative Appeals Process	1010-AC21
1707	Amendments to Standards for Reporting and Paying Royalties on Gas and the Gas Analysis Report	1010-AC23
1708	Oil Spill Responsibility for Offshore Facilities	1010-AC33
1709	Blowout Preventer Testing Requirements	1010-AC37

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Minerals Management Service—Long-Term Actions

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Minerals Management Service—Completed Actions

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1712	Revision of Requirements Governing Corporate Surety Bonds for Outer Continental Shelf Leases	1010-AB92
1713	Royalties, Rentals, Bonuses, and Other Monies	1010-AC01
1714	Valuation of Gas Production—Federal Leases	1010-AC02
1715	Fees for Lease Assignments and Pipeline Rights of Way	1010-AC04
1716	Release of Third Party Proprietary Information	1010-AC08
1717	Civil Penalty Procedures	1010-AC11
1718	Safety and Pollution Prevention Equipment	1010-AC12
1719	Amendments to Allowance Determination Regulations	1010-AC22
1720	Delegation to States	1010-AC25
1721	Late Payment and Overpayment Interest	1010-AC26
1722	Designation of Payor Recordkeeping	1010-AC38

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Office of Surface Mining Reclamation and Enforcement—Proposed Rule Stage

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1724	Abandoned Coal Refuse Sites—Title I	1029-AB70
1725	Contemporaneous Reclamation	1029-AB79
1726	Indian Lands	1029-AB83
1727	Alluvial Valley Floors	1029-AB85
1728	Enhancing AML Reclamation	1029-AB89
1729	Dam Safety Rules	1029-AB92
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1731	Ownership and Control—Redesign	1029-AB94

Office of Surface Mining Reclamation and Enforcement—Final Rule Stage

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1732	Definition and Criteria for Valid Existing Rights	1029-AB42
1733	Coal Moisture	1029-AB78
1734	Prohibitions Under Section 522(e) of SMCRA	1029-AB82
1735	Inflation Adjustment Rule	1029-AB90

Office of Surface Mining Reclamation and Enforcement—Completed Actions

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1736	Basis for Coal Weight Determination	1029-AB68
1737	Notification and Permit Processing	1029-AB80
1738	State Program Amendments—Elimination of Provisions—Part I	1029-AB86
1739	State Program Amendments—Elimination of Provisions—Part II	1029-AB87
1740	Ownership and Control of Surface Mining Operations	1029-AB91

Bureau of Reclamation—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1741	Recovering the Value of Rights of Use and Related Administrative Costs	1006-AA39

Bureau of Reclamation—Proposed Rule Stage

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1742	Central Valley Project of California—Purposes, Uses, and Allocation of Water Supplies	1006-AA34
1743	Management of Lake Berryessa	1006-AA36
1744	Offstream Storage of Colorado River Water and Interstate Marketing of Storage Credits in the Lower Division States	1006-AA40

Bureau of Reclamation—Final Rule Stage

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Bureau of Reclamation—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1746	Adjustments to the 1988 Operating Criteria for the Newlands Irrigation Project, Nevada	1006-AA37

Bureau of Reclamation—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1747	Acreage Limitation Rules for Trusts	1006-AA38

Bureau of Land Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1748	Leases, Permits, and Easements	1004-AB51
1749	Oil and Gas Leasing; Drainage	1004-AC54
1750	Desert Land Entries	1004-AC56
1751	Disposal of Reserved Minerals Under the Stock Raising Homestead Act	1004-AC59
1752	Land Withdrawals	1004-AC63
1753	Cost Recovery; Mineral Filings and Operations	1004-AC64
1754	Grazing Administration; Alaska; Livestock	1004-AC70
1755	Rights-of-Way Under the Mineral Leasing Act	1004-AC74
1756	Use; Rights-of-Way	1004-AC75
1757	Railroad Grants	1004-AC76
1758	Land Classification	1004-AC78
1759	Conveyances, Disclaimers, and Correction Documents	1004-AC82
1760	Application Procedures	1004-AC83
1761	Segregation and Opening of Lands	1004-AC84
1762	Oil and Gas Leasing and Operations **(Reg Plan Seq. No. 61)**	1004-AC94
1763	Appeals Procedures; Hearings Procedures	1004-AC99
1764	Color of Title and Omitted Lands	1004-AD00
1765	Paleontological Resources	1004-AD03
1766	Geothermal Resource Unit Agreement	1004-AD10
1767	Coal Management	1004-AD11
1768	Oil and Gas Leasing; National Petroleum Reserve, Alaska— Transfers, Extensions, and Consolidations	1004-AD13
1769	Authorities/Mission Statement	1004-AD15
1770	Assignments	1004-AD17
1771	Qualifications	1004-AD18
1772	BLM Insignia	1004-AD20
1773	Surface Management (Locatable Minerals) **(Reg Plan Seq. No. 62)**	1004-AD22
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1775	Helium Contracts	1004-AD24
1776	Use Authorizations (Recreation)	1004-AD25
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Bureau of Land Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1779	Public Availability of Minerals Resources Information	1004-AB55
1780	Management of Designated Wilderness Area	1004-AB89
1781	Coalbed Methane Development	1004-AC27
1782	Management of Solid Minerals Other Than Coal	1004-AC49

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Bureau of Land Management—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1783	Special Areas; State Irrigation Districts	1004-AC53
1784	State Exchanges; National Park System Exchanges; Wildlife Refuge Exchanges; Miscellaneous Exchanges	1004-AC58
1785	Mineral Materials Disposal	1004-AC68
1786	State Grants	1004-AC71
1787	Definitions	1004-AC73
1788	Indian Allotments	1004-AC77
1789	Carey Act Grants	1004-AC80
1790	Wild and Scenic Rivers	1004-AC87
1791	Patent Preparation and Issuance	1004-AC88
1792	Reclamation/Townsites	1004-AC91
1793	Sustained Yield Forest Units	1004-AC93
1794	National Forest Exchanges	1004-AC97
1795	Gifts; Acquisition of Lands or Interest in Lands by Purchase or Condemnation	1004-AC98
1796	Mining Claims Under the General Mining Laws	1004-AD05
1797	Grazing Administration: Alaska; Reindeer	1004-AD06
1798	Geothermal Resources Leasing	1004-AD08
1799	Logical Mining Units: General; LMU Application Procedures; LMU Approval Criteria; LMU Diligence; Administration of LMU Operations	1004-AD12

Bureau of Land Management—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1800	Sales—Federal Land Policy and Management Act	1004-AB77
1801	Alaska Native Selections	1004-AC72
1802	Planning; Programming, and Budgeting	1004-AC86

Bureau of Land Management—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1803	Tramroads and Logging Roads	1004-AC24
1804	Emergency Fire and Disaster Rehabilitation	1004-AC36
1805	Bodie Bowl, California: Surface Management	1004-AC60
1806	Protection, Management, and Control of Wild Free-Roaming Horses and Burros; Private Maintenance; Adoption Fees	1004-AC61
1807	Non-Mineral Entry on Mineral Land	1004-AC65
1808	Public Land Records	1004-AC81
1809	Equitable Adjudication	1004-AC89
1810	Free Use of Timber	1004-AC92
1811	Special Resource Values; Shore Space	1004-AD01
1812	Wildlife Management	1004-AD02
1813	Delegation of Authority, Cooperative Agreements and Contracts for Oil and Gas Inspection	1004-AD09
1814	National Petroleum Reserve in Alaska	1004-AD14
1815	Bonding	1004-AD16
1816	Application Procedures	1004-AD19

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1817	Transportation and Utility Systems In and Across, and Access Into, Conservation System Units in Alaska	1093-AA07

DEPARTMENT OF THE INTERIOR (DOI)
Assistant Secretary for Policy, Management and Budget (ASPMB)

Proposed Rule Stage

1497. NATURAL RESOURCE DAMAGE ASSESSMENTS: TYPE B PROCEDURES

Priority: Other Significant

Legal Authority: 42 USC 9651(c)

CFR Citation: 43 CFR 11

Legal Deadline: None

Abstract: CERCLA and the Clean Water Act allow natural resource trustees to bring a claim against a potentially responsible party for resources that have been injured by a release of a hazardous substance. CERCLA requires that natural resource damage assessment regulations be promulgated and that the regulations be reviewed, and revised as appropriate, every two years. This rulemaking is the biennial review of the administrative process for conducting assessments as well as the so-called "type B" procedures for determining injury and damages through scientific and economic studies. This rulemaking will also address the calculation of lost non-use values of natural resources, in compliance with State of Ohio v. Department of the Interior, 880 F.2d 432 (D.C. Cir. 1989), which ordered the Department to allow for the assessment of all reliably calculated values lost as a result of a natural resource injury.

Timetable:

Action	Date	FR Cite
ANPRM	07/16/96	61 FR 37031
ANPRM Comment Period End	09/16/96	
NPRM	05/00/98	
NPRM Comment Period End	08/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Willie R. Taylor, Director, Office of Environmental Policy and Compliance, Department of the Interior, Assistant Secretary for Policy, Management and Budget, Room 2340, MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3891

RIN: 1090–AA29

1498. PRINCIPLES OF ETHICAL CONDUCT

Priority: Info./Admin./Other

Legal Authority: 5 USC 7301; 5 USC app (Ethics Reform Act of 1989); EO 12731

CFR Citation: 5 CFR 3501

Legal Deadline: None

Abstract: The U.S. Office of Government Ethics (OGE) has issued new standards of conduct regulations. The Department of the Interior (DOI) is preparing special conduct regulations (applies only to DOI employees) to supplement OGE's new standards of conduct. Interior's supplemental regulations, if approved by OGE, will be codified in 5 CFR part 3501.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: On June 10, 1993, the Department published a final rule that removed portions of 43 CFR 20 that have been superseded by Standards of Conduct regulations issued by the U.S. Office of Government Ethics (OGE). The remaining regulations in 43 CFR 20 are preserved until they can be recodified in 5 CFR 3501 on or before February 3, 1994. OGE recently extended this date until February 3, 1995. Draft proposed supplemental regulations have been submitted to OGE and it has agreed to extend the recodification deadline for the Department.

Agency Contact: Mason Tsai, Deputy Ethics Program Coordinator, Department of the Interior, Assistant Secretary for Policy, Management and Budget, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-5916

RIN: 1090–AA38

1499. RECORDS AND TESTIMONY; FREEDOM OF INFORMATION ACT

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552 Freedom of Information Act

CFR Citation: 43 CFR 2

Legal Deadline: Final, Statutory, October 2, 1997.

Abstract: 43 CFR part 2, subparts A and B, are being revised in their entirety to reflect the provisions of the new FOIA law, "Electronic FOIA Amendments of 1996," Pub. L. 104-231, the recommendations of the National Performance Review lab, and other changes as necessary.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alexandra Mallus, DOI FOIA Officer (OIRM), Department of the Interior, Assistant Secretary for Policy, Management and Budget, 1849 C Street NW., MS 5312, MIB, Washington, DC 20240
Phone: 202 208-5342
Fax: 202 501-2360
Email: alexandra_mallus@ios.doi.gov

RIN: 1090–AA61

1500. • NONDISCRIMINATION ON THE BASIS OF SEX IN FEDERALLY ASSISTED EDUCATION PROGRAMS OR ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: PL 92-318; PL 93-568, sec 3; 20 USC 1681; 29 USC 1682; 20 USC 1683; 20 USC 1685; 20 USC 1686

CFR Citation: 43 CFR 17, subpart D

Legal Deadline: None

Abstract: The purpose of this regulatory action is to proscribe discrimination on the basis of sex in federally assisted education programs or activities of the Department of the Interior.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Melvin C. Fowler, Civil Rights Staff Assistant, Department of the Interior, Assistant Secretary for

DOI—ASPMB

Proposed Rule Stage

Policy, Management and Budget, Office for Equal Opportunity, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3455
Fax: 202 219-2184

RIN: 1090–AA64

DEPARTMENT OF THE INTERIOR (DOI)
Assistant Secretary for Policy, Management and Budget (ASPMB)

Final Rule Stage

1501. • ADMINISTRATIVE REQUIREMENTS FOR GRANTEES TO REFLECT SINGLE AUDIT ACT AMENDMENTS

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 31 USC 6101 note; 31 USC 7501; 41 USC 252a; 41 USC 701 et seq; PL 104-208, sec 501; PL 104-208, sec 307; EO 12549; EO 12674; EO 12689; EO 12731; OMB Circular A-102; OMB Circular A-110; OMB Circular A-133

CFR Citation: 43 CFR 12

Legal Deadline: None

Abstract: This rule will remove the reference to OMB Circular A-128, "Audit Requirements for State and Local Governments," in several subparts. OMB Circular A-128 will be rescinded upon publication of the final revision to OMB Circular A-133, which will replace it.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/29/97	62 FR 45937
Interim Final Rule Effective	09/29/97	
Interim Final Rule Comment Period End	10/28/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: Debra E. Sonderman, Director, Procurement and Property Management Systems, Department of the Interior, Assistant Secretary for Policy, Management and Budget, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3336
Fax: 202 219-4244
Email: debra_sonderman@ios.doi.gov

RIN: 1090–AA62

1502. • GENERAL RULES RELATING TO PROCEDURES AND PRACTICE; EFFECT OF DECISION PENDING APPEAL

Priority: Substantive, Nonsignificant

Legal Authority: RS 2478, as amended; 43 USC 1201

CFR Citation: 43 CFR 4.21

Legal Deadline: None

Abstract: The Office of Hearings and Appeals is proposing to amend its rules to provide that except as otherwise provided by law or other regulation, a decision will be stayed, if it is appealed, until there is a dispositive decision on appeal.

Timetable:

Action	Date	FR Cite
NPRM	06/26/97	62 FR 45606
NPRM Comment Period End	12/02/97	62 FR 51822
Final Action	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James L. Byrnes, Chief Administrative Judge, Interior Board of Land Appeals, Department of the Interior, Assistant Secretary for Policy, Management and Budget, Office of Hearings and Appeals, 4015 Wilson Blvd., Arlington, VA 22203
Phone: 703 235-3750

RIN: 1090–AA63

1503. • DEPARTMENT OF THE INTERIOR ACQUISITION REGULATION; FOREIGN ACQUISITIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 63 Stat 390, sec 205(c); 40 USC 486(c); 5 USC 301; PL 103-355

CFR Citation: 48 CFR 1401.105; 48 CFR 1425; 48 CFR 1452.225-70

Legal Deadline: None

Abstract: Under the auspices of the National Performance Review, the Department conducted a thorough review of the DIAR. The reviewers determined that only a few DIAR sections required codification in the CFR. This action will remove from 48 CFR chapter 14 part 1425 and clause 1452.225-70. This action will also remove one segment from section 1401.105 as it is now part of the Federal Acquisition Regulation.

Timetable:

Action	Date	FR Cite
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Mary L. McGarvey, Procurement Analyst, Department of the Interior, Assistant Secretary for Policy, Management and Budget, 1849 C Street NW., MS 5512, Washington, DC 20240
Phone: 202 208-3158
Fax: 202 219-4244
Email: mary_mcgarvrvey@ios.doi.gov

RIN: 1090–AA65

DEPARTMENT OF THE INTERIOR (DOI)
Assistant Secretary for Policy, Management and Budget (ASPMB)

Long-Term Actions

1504. REVISED STATUTE 2477 RIGHTS-OF-WAY

Priority: Other Significant

Legal Authority: 43 USC 1201; 43 USC 1732(b); 43 USC 1740; 43 USC 1457; 43 USC 1782(c); 16 USC 668dd; 16 USC 460k-3; 16 USC 1 to 4

CFR Citation: 43 CFR 39

Legal Deadline: None

Abstract: This proposed rule would implement the Secretary of the Interior's June 1, 1993, recommendation to Congress that the Department promulgate regulations addressing rights-of-way pursuant to R.S. 2477 across lands now administered by the Bureau of Land Management, the National Park Service, and the U.S. Fish and Wildlife Service. R.S. 2477--a provision adopted in 1866 that granted a right-of-way for the construction of highways across public land not reserved for public uses--was repealed in 1976, but valid existing rights-of-way were not terminated. This proposed rule is intended to clarify the meaning of the statute and provide a workable administrative process and standards for recognizing valid claims.

Timetable:

Action	Date	FR Cite
NPRM	08/01/94	59 FR 39216
NPRM Comment Period End	08/01/95	60 FR 4135
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State, Local

Additional Information: Congress provided in the Department's appropriation act that final regulations cannot take effect unless "expressly authorized by an Act of Congress" subsequent to the enactment of the appropriation. Pub. L. 104-208, 108, 110 Stat. 3009 (1996).

Agency Contact: Ron Montagna, Realty Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240 Phone: 202 452-7782

RIN: 1090–AA44

DEPARTMENT OF THE INTERIOR (DOI)
Assistant Secretary for Policy, Management and Budget (ASPMB)

Completed Actions

1505. DEPARTMENT OF THE INTERIOR ACQUISITION REGULATION SYSTEM

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 1401

Completed:

Reason	Date	FR Cite
Final Action	04/14/97	62 FR 18053
Final Action Effective	05/14/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Mary L. McGarvey Phone: 202 208-3158 Fax: 202 208-6301 Email: mary__mcgarvey@ios.doi.gov

RIN: 1090–AA66

BILLING CODE 4310-RK-F

DEPARTMENT OF THE INTERIOR (DOI)
Office of the Special Trustee (OST)

Proposed Rule Stage

1506. SPECIAL DEPOSITS

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 2; 25 USC 9; PL 97-100; PL 97-257

CFR Citation: 25 CFR 114

Legal Deadline: None

Abstract: This rule sets forth the conditions governing the deposit, investment, and distribution of interest on funds held by BIA in special deposits. It also provides procedures for determination of ownership and distribution of funds that are on deposit in account 14X6703, Indian monies proceeds of labor escrow account - pending determination of ownership.

Timetable:

Action	Date	FR Cite
Tribal Consultation	01/21/97	62 FR 3051
NPRM	04/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bird Ford, Chief, Policies and Procedures, Department of the Interior, Office of the Special Trustee, 505 Marquette NW., Albuquerque, NM 87102 Phone: 505 248-5751

RIN: 1035–AA01

1507. • INDIVIDUAL INDIAN MONEY ACCOUNTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-412

CFR Citation: 25 CFR 1215; 25 CFR 115

Legal Deadline: None

Abstract: This rule will clarify the responsibilities of the Office of Trust Funds Management in the administration of Individual Indian Money accounts.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	
NPRM Comment Period End	05/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: J. Bird Ford, Chief, Branch of Policies and Procedures, Department of the Interior, Office of the Special Trustee, 505 Marquette NW., Suite 1000, Albuquerque, NM 87102 Phone: 505 248-5711 Fax: 505 248-5782

RIN: 1035–AA03

BILLING CODE 4310-RK-F

DOI—OST

Proposed Rule Stage

1508. • APPEALING ADMINISTRATIVE ACTIONS OF THE OFFICE OF THE SPECIAL TRUSTEE

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-412

CFR Citation: 25 CFR 1202

Legal Deadline: None

Abstract: This rule will establish a procedure for appealing decisions of the Office of the Special Trustee and the Office of Trust Funds Management.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	
NPRM Comment Period End	05/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: J. Bird Ford, Chief, Branch of Policies and Procedures, Department of the Interior, Office of the Special Trustee, 505 Marquette NW., Suite 1000, Albuquerque, NM 87102 Phone: 505 248-5711 Fax: 505 248-5782

RIN: 1035–AA03

BILLING CODE 4310-RK-F

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)

Proposed Rule Stage

1509. REVISION OF MIGRATORY BIRD HUNTING REGULATIONS, 50 CFR PART 20

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 703 to 711; 16 USC 712; 16 USC 742a to 742d; 16 USC 742e to 742j

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: The Service proposes to revise and update regulations governing migratory bird hunting. Changes will be proposed that will clarify and include all the specific prohibitions in part 20 to apply to migratory game hunting during closed and open hunting seasons.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: John J. Doggett, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, MS-500 Arlington Square, 1849 C Street NW., Washington, DC 20240 Phone: 703 358-1949

RIN: 1018–AD01

1510. EXPORT OF APPENDIX I SPECIMENS THAT WERE BRED FOR COMMERCIAL PURPOSES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: The regulations need to be updated to clarify the process of obtaining export permits for appendix I specimens that are bred for commercial purposes including the procedure for becoming registered with the Convention on International Trade in Endangered Species (CITES) Secretariat.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Margaret Tieger, Chief, Branch of Permits, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS-420 Arlington Square, 1849 C Street NW., Washington, DC 20240 Phone: 703 358-2104 Fax: 703 358-2281

RIN: 1018–AD64

1511. RECLASSIFICATION OF YACARE CAIMAN FROM ENDANGERED TO THREATENED WITH SPECIAL RULE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service will develop regulations to declassify populations of the Yacare caiman in South America. Also included in this rulemaking is a special rule to allow commercial trade in skins, other parts, and products of Yacare caimans from South America. The combination of actions proposed will have the effect of stimulated legal and responsible trade in Yecare caiman hides, and in this respect, constitutes removal of a barrier to trade.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Charles W. Dane, Chief, Office of Scientific Authority, U.S. Fish and Wildlife Service, Department of the Interior, United States Fish and Wildlife Service, MS-750 Arlington Square, 1849 C Street NW., Washington, DC 20240 Phone: 703 358-1708

RIN: 1018–AD67

1512. MIGRATORY BIRD HUNTING: REGULATIONS REGARDING PROHIBITION AGAINST ARTIFICIALLY ALTERING/MANIPULATING NATURAL VEGETATION IN MOIST AREAS TO ATTRACT WATERFOWL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 703 et seq; 16 USC 712; 16 USC 742

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: This action notifies the public and invites comments regarding promulgation of a separate rulemaking that will govern the manner in which or if at all natural vegetation in moist soil areas may be altered or manipulated artificially to attract waterfowl for hunting purposes. Previously, the subject regulations had been part of the ongoing review of 50

CFR 28 but now will be considered separately.

Timetable:

Action	Date	FR Cite
ANPRM	03/22/96	61 FR 11805
ANPRM Comment Period End	06/20/96	
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Striegler, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, MS520 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1949

RIN: 1018–AD74

1513. FEDERAL AID IN SPORT FISH RESTORATION PROGRAM PARTICIPATION FOR DISTRICT OF COLUMBIA AND INSULAR TERRITORIES AND COMMONWEALTHS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 669i; 16 USC 777i

CFR Citation: 50 CFR 80

Legal Deadline: None

Abstract: The Service is proposing to define new standards for the District of Columbia and Insular Territories and Commonwealths for participation in the Federal Aid in Sport Fish Restoration program by waiving the 10 percent cap on use of these funds for education.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bob Lang, Chief, Division of Federal Aid, Department of the Interior, United States Fish and Wildlife Service, MS 140 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2156

RIN: 1018–AD83

1514. CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES (CITES)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: This will be a revision to an existing rule that will incorporate decisions/interpretations made at the last six Conferences of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ken Stansel, Deputy Chief, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS 430 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2093

RIN: 1018–AD87

1515. RESCISSION OF ADMINISTRATIVE PROCEDURES FOR GRANTS IN AID (MARINE MAMMAL PROTECTION ACT OF 1972)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 16 USC 1361 to 1407

CFR Citation: 50 CFR 82

Legal Deadline: None

Abstract: The Service is rescinding 50 CFR 82, Administrative Procedures for Grants-in-Aid (Marine Mammal Protection Act of 1972). This regulation was determined unnecessary because funding has not been provided for many years and adequate instructions are contained in the Act and in existing regulations to disseminate funds if they become available in the future. This action is part of the regulatory reinvention effort and the Service is skipping the proposed rule stage and going directly to a final rule.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bob Lang, Chief, Division of Federal Aid, Department of the Interior, United States Fish and Wildlife Service, MS 140 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2156

RIN: 1018–AD92

1516. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED REINTRODUCTION OF A NONESSENTIAL EXPERIMENTAL POPULATION OF GRIZZLY BEARS IN IDAHO AND MONTANA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to establish a nonessential experimental population of grizzly bears into the Bitterroot ecosystem in central Idaho and western Montana in late September or early October 1996. This experimental population is proposed to be designated a nonessential experimental population in accordance with section 10(j) of the Act.

Timetable:

Action	Date	FR Cite
NPRM	07/02/97	62 FR 35782
NPRM Comment Period End	10/09/97	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE00

1517. PROPOSED SPECIAL RULE WITH THE RECLASSIFICATION OF THE VICUNA FROM ENDANGERED TO THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: This special rule will be associated with the reclassification of vicuna from endangered to threatened under the Endangered Species Act. The rule will provide for the conservation of the species and will stipulate conditions that must be met to allow for the importation of commercial specimens of the species.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Charles W. Dane, Chief, Office of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, MS 750 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1708

RIN: 1018–AE04

1518. IMPORTATION, EXPORTATION, TRANSPORTATION OF WILDLIFE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: This rule would revise the Service regulations providing for user fee collections from commercial importers and exporters of wildlife and wildlife products. The Service proposes a licensing and fee scheme which will exempt certain commercial importers and exporters from our inspection fee, based upon specific criteria including, country of origin, numbers of items, and permitting requirements. We propose to modify our user fee regulations to grant relief to certain individuals and small businesses, meeting the outlined criteria, from the designated port inspection fee and nondesignated administrative fee and hourly minimums only. This proposal, if implemented, will allow us to continue to collect data on fee collections in order to analyze the impact of user fees on small businesses for future decision making.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Thomas L. Striegler, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, MS500 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1949

RIN: 1018–AE08

1519. SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA; SUBPARTS C&D—1998-99 SUBSISTENCE TAKING OF FISH AND WILDLIFE REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 3111 to 3126

CFR Citation: 50 CFR 100

Legal Deadline: None

Abstract: This rule would revise the customary and traditional use determinations and establish regulations for hunting and trapping seasons, harvest limits, methods, and means related to taking of wildlife for subsistence uses during the 1998-1999 regulatory year. The rulemaking is necessary because subpart D regulations require annual public review, and the customary and traditional use determinations also are open to the same annual regulatory revision process. When final this rulemaking will replace hunting and trapping regulations in "Subsistence Management Regulations for Public Lands in Alaska, subparts C and D - 1997-1998 Subsistence Taking of Fish and Wildlife Regulations," which expire on June 30, 1998. This is a joint program with the Departments of Interior and Agriculture.

Timetable:

Action	Date	FR Cite
NPRM	07/25/97	62 FR 39987
NPRM Comment Period End	10/24/97	
Final Action	06/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Pospahala, Chief, Office of Subsistence Management, Department of the Interior, United States Fish and Wildlife Service, 1011 E Tudor Road, Anchorage, AK 99503
Phone: 907 786-3467

RIN: 1018–AE12

1520. EXPORT OF AMERICAN ALLIGATOR FOR THE 1998-2000 HARVEST SEASONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23.57; 50 CFR 17.42(a)

Legal Deadline: None

Abstract: This rule will make minor changes in the tagging requirements for American alligator skins to conform with the CITES tagging resolution and announces proposed findings on the effects of the export of American alligator under CITES for the 1998-2000 harvest seasons. This rule provides for the export of American alligator parts and products under CITES.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Susan Lieberman, Chief, Branch of Operations, Department of the Interior, United States Fish and Wildlife Service, MS 430 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2095

RIN: 1018–AE15

1521. REVISIONS TO THE FEDERAL AID ADMINISTRATIVE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 777i; 16 USC 669i; 18 USC 701

CFR Citation: 50 CFR 80

Legal Deadline: None

Abstract: The Service proposes to revise part 80 to clarify the language in the administrative requirements section and simplify some of the procedures to enable the states and the public to better understand the procedures and requirements for obtaining and administering grants under the Federal Aid in Fish and Federal Aid in Wildlife Restoration Acts.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	

Small Entities Affected: Governmental Jurisdictions

DOI—FWS

Proposed Rule Stage

Government Levels Affected: State, Tribal

Agency Contact: Bob Lang, Chief, Division of Federal Aid, Department of the Interior, United States Fish and Wildlife Service, MS 420 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2156

RIN: 1018–AE17

1522. ESTABLISHMENT OF REGULATIONS GOVERNING THE CONDUCT ON MIDWAY ATOLL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 460k; 16 USC 668dd; 16 USC 742(a); 16 USC 3101 et seq; 44 USC 359 et seq; 5 USC 301

CFR Citation: 50 CFR 26

Legal Deadline: None

Abstract: The Service proposes regulations to establish a special criminal and civil code of regulations for Midway Atoll, an unincorporated possession of the United States. The U.S. Navy had special criminal and civil regulations in 32 CFR part 762 - Midway Islands Code, during their tenure as administrators. It is necessary to reestablish this code because the existing code terminated when the U.S. Naval Air Facility was closed and the atoll was transferred to the U.S. Fish and Wildlife Service for administration as Midway Atoll National Wildlife Refuge by Executive Order 13022 on October 31, 1996.

Timetable:

Action	Date	FR Cite
NPRM	08/27/97	62 FR 45381
NPRM Comment Period End	10/27/97	
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Shallenberger, Chief, Division of Refuge Management, Department of the Interior, United States Fish and Wildlife Service, MS 670 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1744

RIN: 1018–AE19

1523. • IMPORTATION OF POLAR BEAR TROPHIES FROM CANADA; ADDITION OF POPULATIONS TO THE LIST OF AREAS APPROVED FOR IMPORT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: This rule announces proposed findings on the import of polar bears taken in sport hunts in the areas formerly known as Parry Channel-Baffin Bay and Queen Elizabeth Islands, Northwest Territories, Canada. These findings include polar bears taken but not imported prior to enactment of the 1994 amendments to the Marine Mammal Protection Act (MMPA). The Service summarizes the new research data used by Canada to redefine these areas into five populations: Queen Elizabeth Islands, Norwegian Bay, Kane Basin, Lancaster Sound and Baffin Bay and provides a summary of the Nunavut Land Claim and the new flexible quota option. The Service proposes to find that Lancaster Sound and Norwegian Bay meet the requirements of the MMPA and to add them to the list of approved populations in the regulations. On the other hand, the Service proposes to defer the decision on the remaining three populations; Queen Elizabeth Islands, Baffin Bay and the Kane Basin. The Service intends to make these findings for multiple sport hunting seasons pending receipt of substantial new information or review as required under the MMPA.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Maggie Tieger, Chief, Branch of Permits, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, 420 ARLSQ, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2104

RIN: 1018–AE26

1524. • EXPORTATION OF MARINE MAMMAL PRODUCTS FOR CULTURAL EXCHANGE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: This regulatory action concerns a modification to export marine mammal products and to Native exemption provisions in the Marine Mammal Protection Act. The action will be made to allow for cultural exchange of marine mammal products between Natives of Alaska, Greenland, Russia and Canada.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Thomas Striegler, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, 520 ARLSQ, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1949

RIN: 1018–AE33

1525. • INJURIOUS WILDLIFE; ADDITION OF BRUSH-TAILED POSSUM

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 42

CFR Citation: 50 CFR 16

Legal Deadline: None

Abstract: The Service proposes to review the economic and biological information on the brush-tailed possum of genus Trichosurus for possible addition to the list of injurious wildlife under the Lacey Act.

Timetable:

Action	Date	FR Cite
ANPRM	01/24/96	61 FR 1893
ANPRM Comment Period End	03/25/96	
NPRM	03/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Hannibal Bolton, Chief, Fish and Wildlife Management, Assistance, Department of the Interior, United States Fish and Wildlife Service, 840 ARLSQ, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1718

RIN: 1018–AE34

DOI—FWS

Proposed Rule Stage

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: The Service proposes to temporarily approve tungsten-polymer shot as non-toxic for the 1998-99 migratory bird hunting season. The toxicological report, an extensive literature search and analysis, suggests that tungsten-polymer is nontoxic under conditions for the proposed shot configuration. Analysis of the toxicity study reveal no adverse effects over a 30-day period when dosing mallards with 8 BB-size tungsten-polymer shot.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul R. Schmidt, Chief, Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, 634 ARLSQ, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1838

RIN: 1018–AE35

1526. • MIGRATORY BIRD HUNTING; TEMPORARY APPROVAL OF TUNGSTEN-POLYMER SHOT AS NON-TOXIC FOR 1998-99 SEASON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 703 to 711; 16 USC 712; 16 USC 742a to 742j

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)

Final Rule Stage

1527. LIST OF MIGRATORY BIRDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 704; 16 USC 712

CFR Citation: 50 CFR 10.13

Legal Deadline: None

Abstract: The List of Migratory Birds found at 50 CFR 10.13 is being revised to (1) bring the list into conformity with generally accepted taxonomy and nomenclature--English (common) and scientific names, as reflected in four published supplements to the 6th (1983) edition of the American Ornithologists' Union Checklist of North American Birds; and (2) add species that are of regular occurrence in the United States that are not included on the current list.

Timetable:

Action	Date	FR Cite
NPRM	05/09/95	60 FR 24686
Final Action	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul R. Schmidt, Chief, Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, MS-634 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1714

RIN: 1018–AB72

1528. MIGRATORY BIRD HUNTING: REVISED TEST PROTOCOL FOR NONTOXIC APPROVAL PROCEDURES FOR SHOT AND SHOT COATINGS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 703 et seq

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: The principal purpose of this action is to promulgate a rulemaking that will update and amend the current nontoxic shot approval procedures by establishing a 3-tiered approval process. Shot approval will be considered at each tier with the testing becoming progressively more demanding. An environmentally benign shot could be granted approval at the first tier. This process is designed to include both candidate shot and shot coatings. Service has a policy regarding regulating anticorrosive coatings of steel shot to ensure nontoxicity, the policy has not been codified. The Service will seek public comment on its regulation of shot coatings to prevent inadvertent toxicity problems for waterfowl and other migratory birds.

Timetable:

Action	Date	FR Cite
ANPRM	06/30/93	58 FR 35332
ANPRM Comment Period End	09/28/93	
NPRM	01/26/96	61 FR 2470
NPRM Comment Period Reopened	04/29/96	61 FR 18924
Final Action	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This RIN was completed in error in the October 1995 agenda.

Agency Contact: Paul R. Schmidt, Chief, Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, MS-634, Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1838

RIN: 1018–AB80

1529. EAGLE PERMITS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 668

CFR Citation: 50 CFR 22

Legal Deadline: None

Abstract: Presently, the taking, possession, and transportation of bald or golden eagles, or their parts, nests, or eggs for the religious use of Native Americans is a permitted activity. The Service proposes to revise 50 CFR 22.22 to provide an import or export mechanism for eagle feathers legally possessed by Native Americans.

Timetable:

Action	Date	FR Cite
NPRM	06/16/94	59 FR 30892
NPRM Comment Period End	08/15/94	
Final Action	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas L. Striegler, Deputy Chief, Division of Law

Enforcement, Department of the Interior, United States Fish and Wildlife Service, MS-500 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1949

RIN: 1018–AB81

1530. EXPORT OF AMERICAN GINSENG HARVESTED IN 1994-1996

Priority: Routine and Frequent

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: NPRM, Statutory.

Abstract: This proposed rule will announce findings on the export of American ginseng from the 1994-96 harvest season in 21 States. The Service reviews information and data as a basis for determining whether to continue approval of export from specified States for this harvest season, or to initiate changes. Also, North Dakota has applied to export cultivated ginseng under a State program, and Michigan has submitted draft legislation and is intending to apply soon to export ginseng. Acceptance of information provided by State ginseng management programs allows the Service to expedite the issuance of permits as required by the CITES treaty.

Timetable:

Action	Date	FR Cite
NPRM	09/26/94	59 FR 49046
NPRM Comment Period End	10/26/94	
Final Action	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Marshall Jones, Assistant Director, International Affairs, Department of the Interior, United States Fish and Wildlife Service, U.S. Fish and Wildlife Service, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-6393

RIN: 1018–AC55

1531. SEIZURE AND FORFEITURE PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 4222 to 4241; 16 USC 4901 to 4916; 16 USC 42

CFR Citation: 50 CFR 12

Legal Deadline: None

Abstract: The Service proposes to amend regulations in 50 CFR part 12 that establish procedures relating to property seized or subject to administrative forfeiture under various laws enforced by the Service. This revision is intended to provide uniform guidance for the bonded release, appraisement, administrative proceeding, petition for remission, and disposal of items subject to forfeiture. Also these revisions are intended to provide for greater consistency of Service seizure and forfeiture procedures with those of the U.S. Customs Service.

Timetable:

Action	Date	FR Cite
NPRM	11/27/95	60 FR 58468
Interim Final Rule	10/00/97	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Thomas L. Striegler, Deputy Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, MS-500 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1949

RIN: 1018–AC89

1532. STANDARDS FOR THE HUMANE AND HEALTHFUL TRANSPORT OF WILD REPTILES AND AMPHIBIANS TO THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 42(c); 16 USC 3371 to 3378; 16 USC 1538d to 1538f; 16 USC 1540(f); 16 USC 1382; 16 USC 705; 16 USC 712(j); 31 USC 483(a)

CFR Citation: 50 CFR 14

Legal Deadline: None

Abstract: The purpose of these regulations is to prescribe requirements necessary to ensure that the wild reptiles and amphibians shipped to the United States arrive alive, healthy and uninjured and that transportation of such animals occurs under humane and healthful conditions.

Timetable:

Action	Date	FR Cite
NPRM	08/06/97	62 FR 31044
NPRM Comment Period Reopened	08/05/97	62 FR 42091
NPRM Comment Period End	09/04/97	
Final Action	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. Susan Liberman, Chief, Branch of Operations, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS 430 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2095

RIN: 1018–AD98

1533. PROPOSED DEPREDATION ORDER FOR THE DOUBLE-CRESTED CORMORANT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 712

CFR Citation: 50 CFR 21

Legal Deadline: None

Abstract: The Service proposes to implement a depredation order for the double-crested cormorant. In those states in which double-crested cormorants have been shown to be seriously injurious to commercial freshwater aquaculture, and when found committing or about to commit depredations upon aquaculture stock, persons engaged in the production of aquaculture commodity stocks would be allowed, without a Federal permit, to take or cause to be taken such double-crested cormorants as might be necessary to protect aquaculture stocks.

Timetable:

Action	Date	FR Cite
NPRM	06/23/97	62 FR 33960
NPRM Comment Period End	08/22/97	
Final Action	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Paul R. Schmidt, Chief, Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, MS 634 Arlington Square, 1849 C Street NW., Washington, DC 20240

Phone: 703 358-1838

RIN: 1018–AE11

1534. ANNOUNCEMENT OF CITES ACTION CONCERNING CHANGES TO APPENDICES TO LISTED SPECIES; SERVICE ANNOUNCEMENT CONCERNING RESERVATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: The Service will announce decisions by the Conference of the Parties to CITES held in Harare, Zimbabwe, June 9-20, 1997, and request comments on possible reservations.

Timetable:

Action	Date	FR Cite
NPRM	08/22/97	62 FR 44627
NPRM Comment Period End	09/12/97	
Final Action	04/00/98	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Federal

Agency Contact: Charles W. Dane, Chief, Office of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, MS 750 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1708

RIN: 1018–AE16

1535. • REGULATIONS FOR ADMINISTRATIVE AND VISITOR FACILITY SITES ON NATIONAL WILDLIFE REFUGES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 16 USC 460k; 16 USC 668dd; 16 USC 742a; 16 USC 3101; 44 USC 3501

CFR Citation: 50 CFR 36

Legal Deadline: None

Abstract: The Service proposes this amendment to current regulations in order to provide the Service with the proper authority to enforce regulations concerning public safety, protection of government property, and applicable State of Alaska fish and wildlife regulations on administrative and visitor facility sites which commonly are located outside the approved boundaries of national wildlife refuges.

Timetable:

Action	Date	FR Cite
NPRM	06/27/97	62 FR 34681
NPRM Comment Period End	08/26/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rick Coleman, Chief, Division of Refuges, Department of the Interior, United States Fish and Wildlife Service, 670 ARLSQ, 1849 C Streets NW., Washington, DC 20240
Phone: 703 358-2029

RIN: 1018–AE21

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)

Long-Term Actions

1536. CAPTIVE-BRED WILDLIFE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Fish and Wildlife Service regulates certain activities involving non-native endangered or threatened wildlife species that are born in captivity in the United States. Currently, this is accomplished by requiring persons who wish to conduct otherwise prohibited activities with such wildlife to register with the Service to obtain a captive-bred wildlife or CBW registration. These regulations will be reviewed to determine if further action is necessary to relieve certain restrictions on the public that may have become burdensome, counterproductive, or outmoded.

Timetable:

Action	Date	FR Cite
ANPRM	01/07/92	57 FR 548
ANPRM Comment Period End	03/09/92	
NPRM	08/11/93	58 FR 32632
NPRM Comment Period End	09/09/93	
Interim Final Rule	12/27/93	58 FR 68323
Final Action	00/00/00	
Captive-bred wildlife regulations, part 2 NPRM 12/27/93 (58 FR 68323)		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: On June 11, 1993, the Service published a proposed rule that would revise the captive-bred wildlife regulations and the definitions of the terms "harass" and "enhance the propagation or survival". During the 90-day comment period, extensive comments on the proposal were received. The Service has decided to eliminate education as the sole basis for justifying issuance of a captive-bred wildlife registration, and a final rule to that effect was published on December 27, 1993 (58 FR 68323). The Service will split this action into three final rules and reopen the comment period on the balance of the issues in the proposals, including the question of the value of education as it relates to endangered species permits.

Agency Contact: Kenneth Stansell, Chief, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS-420 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2093

RIN: 1018–AB10

1537. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the

Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Addax antelope
NPRM 11/05/91 (56 FR 56491)
NPRM Comment Period Reopened 06/08/92 (57 FR 24220)
Final Action 00/00/00

Dama gazelle
NPRM 11/05/91 (56 FR 56491)
NPRM Comment Period Reopened 06/08/92 (57 FR 24220)
Final Action 00/00/00

Ohio emerald dragonfly
Final Action 01/26/95 (60 FR 5267)

Oryx antelope
NPRM 11/05/91 (56 FR 56491)
NPRM Comment Period Reopened 06/08/92 (57 FR 24220)
Final Action 00/00/00

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AB66

1538. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Appalachian elktoe
NPRM 09/03/93 (58 FR 46940)
Final Action 11/23/94 (59 FR 60324)

Arroyo southwestern toad
NPRM 08/03/93 (58 FR 41378)
NPRM Comment Period Reopened 09/09/93 (58 FR 47428)
Final Action 12/16/94 (59 FR 64859)

Dugong
NPRM 08/05/93 (58 FR 41688)
Withdrawn 08/26/96

Louisiana black bear, critical habitat
NPRM 12/03/93 (58 FR 63560)
NPRM Comment Period Reopened 03/07/94 (59 FR 10607)
Final Action 00/00/00

McFarlane's four-o'clock
NPRM 08/26/93 (58 FR 45085)
Final Action 03/15/96 (61 FR 10693)

Pahrump poolfish
Final Action 08/05/93 (58 FR 41688)
NPRM 09/22/93 (58 FR 49279)

Southwestern willow flycatcher, critical habitat
Final Action 07/22/97 (62 FR 39129)

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AB97

1539. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: SAN XAVIER TALUSSNAIL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, the San Xavier talussnail under the Endangered Species Act. Where prudent, critical habitat will be identified for the endangered or threatened species. Such actions are taken only upon determination that the species is endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
NPRM	11/29/93	58 FR 62629
NPRM Comment Period End	01/28/94	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC13

1540. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; RECLASSIFICATION OF THE LOCH LOMOND COYOTE THISTLE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which will list, reclassify, or delist, as appropriate, the Loch Lomond coyote thistle under the Endangered Species Act. Where prudent, critical habitat will be identified for the species. Such actions are taken upon determination that the species is endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
NPRM	03/23/94	59 FR 13691
NPRM Comment Period End	05/23/94	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC13

Phone: 703 358-2171

RIN: 1018–AC14

1541. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: CRITICAL HABITAT FOR THE PECOS PUPFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be proposed that will determine the appropriate status for the Pecos pupfish and identify critical habitat.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC18

1542. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: PARISH'S ALKALI GRASS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will list, reclassify, or delist, as appropriate, Parish's alkali grass, under the Endangered Species Act, and where prudent, critical habitat is identified. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
NPRM	03/28/94	59 FR 14378
NPRM Comment Period End	05/27/94	
NPRM Comment Period Reopened	08/30/94	59 FR 44700
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC21

1543. ENDANGERED AND THREATENED SPECIES: SACRAMENTO SPLITTAIL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will list, reclassify, or delist, as appropriate, the Sacramento splittail under the Endangered Species Act, and where prudent, will identify critical habitat. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
NPRM	01/06/94	59 FR 862
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC26

1544. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: TWO CALIFORNIA BUTTERFLIES AND A SNAKE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for the Callippe silverspot butterfly, the Behren's silverspot butterfly, and the Alameda whipsnake. All three species, and the larval food plants on which the female butterflies lay their eggs are threatened by over-collection, commercial/residential development, alien plant competition, unsuitable levels of livestock grazing, trampling by hikers, livestock, and off-road vehicle use.

Timetable:

Action	Date	FR Cite
NPRM	02/04/94	59 FR 5377
NPRM Comment Period End	04/05/94	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC32

1545. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: INTERCROSS PROGENY POLICY AND DEFINITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Fish and Wildlife Service and the National Marine Fisheries Service propose to amend the regulations implementing the Endangered Species Act by adding

definitions for intercross and intercross progeny (to include hybrids). Also, 50 CFR 17.11(g) and 17.12(g) will be amended by adding wording to indicate that the listing of a taxon as endangered or threatened would include all individuals that share characteristic traits of that taxon, including individuals produced under conditions of confinement. The amendments are necessary in order to proceed with the evaluation and implementation of intercrossing as a recovery technique for the Florida panther.

Timetable:

Action	Date	FR Cite
NPRM	02/07/96	61 FR 4710
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC54

1546. GENERAL PROVISIONS AND GENERAL PERMIT PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 10; 50 CFR 13; 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to amend 50 CFR part 13 which provides uniform permit procedures relating to the application, issuance, renewal, suspension, revocation and general administration of Service permits. The Service's criteria for suspension and revocation of permits and its review procedures will also be revised. Permit fee rates are amended to increase rates for the cost of processing certain permits. This change is necessary in order to recover a larger percentage of the cost of processing the permits. Several new permit fee exemptions will be added.

Timetable:

Action	Date	FR Cite
NPRM	09/05/95	60 FR 46087
NPRM Comment Period Reopened	11/15/95	60 FR 57386
Final Action	10/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas L. Striegler, Deputy Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, MS-500 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1949

RIN: 1018–AC57

1547. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: ARKANSAS RIVER SHINER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for the Arkansas River population of the Arkansas River shiner. This small minnow is endemic to the Arkansas River drainage in Arkansas, Kansas, New Mexico, Oklahoma, and Texas, but is presently almost entirely restricted to the Canadian/South Canadian River in Oklahoma, Texas, and New Mexico.

Timetable:

Action	Date	FR Cite
NPRM	08/03/94	59 FR 39532
NPRM Comment Period End	10/03/94	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC62

1548. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: SEVEN FRESHWATER MUSSELS FROM ALABAMA, FLORIDA, AND GEORGIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for seven freshwater mussels from the Apalachicolan Region of SE Alabama, SW Georgia and north Florida. The seven species are: Chipola slabshell, Purple bankclimber, Fat three-ridge, Shiny-rayed pocketbook Gulf moccasinshell, Ochlockonee moccasinshell, and Oval pigtoe. Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	08/03/94	59 FR 39524
NPRM Comment Period End	11/01/94	
NPRM (Reopening of Comment Period)	12/12/94	59 FR 63987
NPRM (Reopening of Comment Period)	04/24/95	60 FR 20072
NPRM (Reopening of Comment Period)	07/09/96	61 FR 36020
Final Action	09/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC63

1549. MIGRATORY BIRD HUNTING AND MIGRATORY BIRD PERMITS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 703 to 711; 16 USC 712; 16 USC 742(a) to 742 (d); 16 USC 742(e) to 742 (j)

CFR Citation: 50 CFR 20; 50 CFR 21

Legal Deadline: None

Abstract: In November 1991, the Service began a review of its regulations on migratory bird hunting and migratory bird permits. In a notice published in the Federal Register on December 1, 1993, (58 FR 63488) the issues were described and needed changes and possible alternatives were discussed. That notice also provided additional information that would facilitate public comment on the regulations being reviewed. The Service will develop regulations that will clarify the regulations in 50 CFR parts 20 and 21 that are perceived by many individuals to be unclear, update any outdated information, and correct any technical errors.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas L. Striegler, Deputy Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, MS-500 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1949

RIN: 1018–AC69

1550. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: TROPICAL BIRDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for up to 38 species of tropical birds.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Charlie Dane, Chief, Office of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, MS 750 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1708

RIN: 1018–AC77

1551. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: FOUR SOUTHWESTERN CALIFORNIA PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed to determine the appropriate status for four plants found in southwestern California and northwestern Baja California, Mexico. These species are: Munz's onion, San Jacinto Valley crownscale, Thread-leaved brodiaea, and Spreading navarretia. These four plants occur in vernal pools and other wetlands or on clay soils and moist grasslands throughout their range. Critical habitat will be proposed for the San Jacinto Valley crownscale, only at this time.

Timetable:

Action	Date	FR Cite
NPRM	12/15/94	59 FR 64794
NPRM Comment Period End	02/13/95	
NPRM (Reopening of Comment Period)	03/07/95	60 FR 12531
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC88

1552. CRITICAL HABITAT DESIGNATION FOR THE LOST RIVER AND SHORTNOSE SUCKERS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will identify critical habitat for the Lost River and Shortnose suckers, two species federally listed as endangered. Both species are endemic to the Upper Klamath River Basin of Oregon and California.

Timetable:

Action	Date	FR Cite
NPRM	12/01/94	59 FR 61744
NPRM Comment Period End	01/30/95	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC90

1553. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: LEAST CHUB

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend that rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for the Least chub under the Endangered Species Act.

Timetable:

Action	Date	FR Cite
NPRM	09/29/95	60 FR 50518
NPRM Comment Period End	11/28/95	

Action	Date	FR Cite
NPRM (Reopening of Comment Period)	06/07/96	61 FR 29047
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 G Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC91

1554. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: TEN PLANTS FROM THE CALIFORNIA SIERRA NEVADA MOUNTAINS FOOTHILLS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine appropriate status for 10 plants: Chinese Camp brodiaea, Piute Mountains navarretia, Carpenteria, Springville clarkia, Kelso Creek monkeyflower, Red Hills vervain, Rawhide Hill onion, Mariposa lupine, Mariposa pussypaws, and Greenhorn adobe lily, under the Endangered Species Act. Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	10/04/94	59 FR 50540
NPRM Comment Period End	12/05/94	
NPRM Comment Period Reopened	12/29/94	59 FR 67268
NPRM Comment Period Reopened	02/14/95	60 FR 8342
NPRM Comment Period Reopened	02/04/97	62 FR 5199
NPRM Comment Period Reopened	08/30/97	62 FR 35116
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC99

1555. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: NORTHERN AND SOUTHERN POPULATIONS OF THE BOG TURTLE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for the northern population (ranges from New York to Maryland) of the bog turtle, and the southern population (ranges from southwestern Virginia to northern Georgia) as endangered due to similarity of appearance. This action is being taken because of constriction of the species' range, the declining size of remaining populations, and illegal collection. Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	01/29/97	62 FR 4229
NPRM Comment Period End	04/29/97	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD05

1556. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: BROTHER'S ISLAND TUATARA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed to determine the status for the reptile, Brother's Island tuatara. This reptile is known only from North Brother's Island in Cook Strait, New Zealand. Although legally covered by an endangered classification, this species previously was considered part of the related and more widespread tuatara (Sphenodon punctatus). Both species are threatened by various factors (excessive human hunting) especially predation from introduced rats.

Timetable:

Action	Date	FR Cite
NPRM	01/26/95	60 FR 5159
NPRM Comment Period End	04/26/95	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Charlie Dane, Chief, Office of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, MS 750 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1708

RIN: 1018–AD06

1557. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: REINTRODUCTION OF A NONESSENTIAL EXPERIMENTAL POPULATION OF MEXICAN WOLVES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: Regulations will be developed designating a nonessential experimental population of Mexican wolves, three family groups per year for

five years, into the Blue Range Area (Arizona) primary wolf recovery zone and allow population expansion into secondary wolf recovery zones in the Apache and Gila National Forests in New Mexico.

Timetable:

Action	Date	FR Cite
NPRM	05/01/96	61 FR 19237
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD07

1558. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: CALIFORNIA PLANTS AND THE BLACK LEGLESS LIZARD

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for five plants--Coastal dunes milk-vetch, Yadon's piperia, Hickman's potentilla, Monterey clovers, Gowen cypress, and the Black legless lizards--under the Endangered Species Act. Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	08/02/96	60 FR 39326
NPRM Comment Period End	09/25/95	
NPRM Comment Period Reopened	04/02/97	62 FR 15646
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD09

1559. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: CRITICAL HABITAT DESIGNATION FOR THE WESTERN SNOWY PLOVER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Judicial, June 1, 1995.

Abstract: The Service proposes to designate critical habitat for the Pacific coast population of the Western snowy plover. The plover was listed as a threatened species on March 5, 1993. Critical habitat for the plover is proposed in coastal areas of Washington, Oregon, and California.

Timetable:

Action	Date	FR Cite
NPRM	03/02/95	60 FR 11768
NPRM (Reopening of Comment Period)	05/15/95	60 FR 25682
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD10

1560. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: U.S. POPULATIONS OF ATLANTIC SALMON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for a distinct population segment (in seven eastern Maine river systems) of anadromous Atlantic salmon without critical habitat, under the Endangered Species Act. Where once the Atlantic salmon occurred from the Housatonic River, Connecticut to the St. Croix River on the Maine-New Brunswick, Canada border, now most salmon populations have been extirpated and some spawning habitat is no longer accessible or is unsuitable, due to dams or water pollution. Currently, remnant populations of anadromous Atlantic salmon are restricted to several rivers in eastern Maine. This is a joint Fish and Wildlife Service/National Marine Fisheries Service rule/finding with neither agency having the lead.

Timetable:

Action	Date	FR Cite
NPRM	09/29/95	60 FR 50530
NPRM Comment Period End	12/28/95	
NPRM Comment Period Extended to 06/23/97	06/23/97	62 FR 28413
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD12

1561. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: TWO SAN FRANCISCO MARSH PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for two San Francisco marsh plants, Suisun thistle and Soft bird's-beak, under the Endangered Species Act. These two species are restricted to either salt or brackish marshes within the greater San

Francisco Bay area in northern California.

Timetable:

Action	Date	FR Cite
NPRM	06/12/95	60 FR 31000
NPRM Comment Period End	07/27/95	
NPRM (Comment Period Extended)	09/08/96	61 FR 47105
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD14

1562. MARINE MAMMAL PROTECTION ACT; UNINTENTIONAL TAKE OF MARINE MAMMALS BY HARASSMENT ONLY IN ACTIVITIES OTHER THAN COMMERCIAL FISHING

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: The Marine Mammal Protection Act, as amended in April 1994, authorizes the Secretary to allow U.S. citizens to incidentally, unintentionally take small numbers of marine mammals by harassment only for periods up to one year during specified activities other than commercial fishing. This regulatory action would implement this statutory provision.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Peoples, Acting Chief, Division of Fish and Wildlife Management Assistance, Department of the Interior, United States Fish and Wildlife Service, MS-840 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1718

RIN: 1018–AD18

1563. MARINE MAMMAL PROTECTION ACT; MEASURES TO SAFELY DETER MARINE MAMMALS, INCLUDING THREATENED AND ENDANGERED MARINE MAMMALS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: The Marine Mammal Act as amended in April 1994, requires the Service to develop a list of guidelines to safely deter marine mammals for which the Service has statutory management responsibility, including threatened and endangered species. Such measures of deterrence are for use in protecting: (1) fishing gear or catch; (2) private property; (3) personal human safety; or (4) public property. This regulatory action would implement these statutory provisions.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Peoples, Acting Chief, Division of Fish and Wildlife Management Assistance, Department of the Interior, United States Fish and Wildlife Service, MS-840 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1718

RIN: 1018–AD19

1564. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; SPECIAL RULE FOR THE NORTHERN SPOTTED OWL

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service will propose a section 4(d) rule for the northern spotted owl under the Endangered Species Act that will define the conditions under which incidental take of the species through habitat modification would not be a violation of section 9 of the Act. An environmental impact statement is also being prepared, and will be available for review concurrent with the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	02/17/95	60 FR 9484
NPRM Comment Period End	05/18/95	
NPRM Comment Period Reopened	05/18/95	60 FR 26712
NPRM Comment Period Reopened	07/17/95	60 FR 36382
NPRM Comment Period Reopened	09/25/95	60 FR 49358
NPRM Comment Period Reopened	11/27/95	60 FR 58323
NPRM Comment Period Reopened	01/31/96	61 FR 3360
NPRM Comment Period Reopened	02/23/96	61 FR 6964
NPRM Comment Period Reopened	04/08/96	61 FR 15452
NPRM Comment Period Reopened	05/10/96	61 FR 21426
NPRM Comment Period Reopened	06/17/96	61 FR 30588
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD20

1565. TAXONOMIC CHANGE FROM SUBSPECIES TO VERTEBRATE POPULATION SEGMENT FOR THE VIRGIN RIVER CHUB

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: Recent taxonomic work concluded that specific rank is warranted for the Virgin River chub, a federally listed endangered species found in the Virgin River system of Arizona, Nevada, and Utah. Additionally, researchers concluded that the chub in the Muddy River of Nevada, is conspecific with the Virgin River chub. Previously this distinctive population of the Virgin River chub, a category 2 candidate for Federal listing, was considered a separate, unnamed subspecies of roundtail chub, and was referred to as the Moapa roundtail chub. Because of this recent taxonomic work, the Service accepts that specific rank is warranted for the Virgin River chub and proposes to change the listing of the Virgin River chub in the Virgin River from a subspecies to a vertebrate population segment in the List of Endangered and Threatened Wildlife. In addition, the Service initiates a status review of the Virgin River chub in the Muddy River to determine whether this vertebrate population warrants listing as a threatened or endangered species.

Timetable:

Action	Date	FR Cite
NPRM	07/24/95	60 FR 37886
NPRM Comment Period End	09/22/95	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Local

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD22

1566. CRITICAL HABITAT PROPOSAL FOR VIRGIN RIVER FISHES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: The Service proposes to designate critical habitat for the Virgin River Chub, the Woundfin and Virgin spinedace. The Virgin River chub and Woundfin are listed as endangered; the Virgin spinedace has been proposed for listing as threatened (May 18, 1994), but the listing has not been finalized as yet.

Timetable:

Action	Date	FR Cite
NPRM	04/05/96	60 FR 17296
NPRM Comment Period End	06/05/96	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: This rulemaking was inadvertently published as RIN 1018-AD22. The final rule will be published with the correct RIN 1018-AD23. The rulemaking action(s) listed under this RIN has (have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD23

1567. ENDANGERED SPECIES LISTING: THREE AQUATIC INVERTEBRATES IN COMAL AND HAYS COUNTIES, TEXAS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for three aquatic invertebrates: Peck's cave amphipod, Comal Springs riffle beetle and Comal Springs dryopid beetle. These species are known only from springs in Comal County and Hays County, Texas. They are threatened by loss of necessary aquatic habitat due to increasing groundwater withdrawal by humans throughout the aquifer that supplies the springs and by the potential for contamination of their limited range.

Timetable:

Action	Date	FR Cite
NPRM	06/05/95	60 FR 29537
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD28

1568. SEVEN PLANTS FROM THE MOUNTAINS OF SOUTHERN CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: The Service will develop regulations that will determine the appropriate status for seven plants from the mountains of southern California: San Bernardino bluegrass, California dandelion, Johnson's rock-cress, Bear Valley sandwort, Ash-grey Indian paintbrush, Southern mountain wild buckwheat, and Hidden Lake bluecurls.

Timetable:

Action	Date	FR Cite
NPRM	09/02/95	60 FR 39337
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD34

1569. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: PALLID MANZANITA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for the Pallid

manzanita. This plant species is found only in dry chaparral habitat within or near the northern Diablo Range of California in Alameda and Contra Costa Counties. The species is threatened by shading and competition from native and non-native plants, fire suppression, habitat regulatory mechanisms, and stochastic events by virtue of the small isolated nature of the remaining populations. All occurrences of this species are located on state, county and private lands.

Timetable:

Action	Date	FR Cite
NPRM	08/02/95	60 FR 39309
NPRM Comment Period Reopened	02/25/97	62 FR 8417
NPRM Comment Period Extended to 06/04/97	05/05/97	62 FR 24386

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD35

1570. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: NINE PLANTS FROM CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for nine California plants: Sonoma alopecurus, Clara Hunt's milkvetch, white sedge, Vine Hill clarkia, Pitkin marsh lily, Calistoga allocarya, Napa bluegrass, Kenwood marsh checkermallow, and Showy Indian clover. These plants are found in the grasslands and mesic areas of the central coast of California. Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	08/02/95	60 FR 39314
NPRM (Comment Period Extended)	09/11/96	61 FR 47856

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD36

1571. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: FOUR SOUTHWESTERN CALIFORNIA PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for four California plants: San Diego thornmint, Laguna Beach liveforever, Otay tarweed and Willowy monardella. These species are found in San Diego County and northern Baja, California. Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	08/09/95	60 FR 40549

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD38

1572. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: FOUR PLANTS FROM INTERIOR CHAPARRAL OF SOUTHWESTERN CALIFORNIA AND NORTHWESTERN BAJA CALIFORNIA, MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for four plants Nevin's barberry, Mexican flannelbush, Vail Lake ceanothus and Deheea beargrass. These perennial shrubs and plants are found in chaparral habitat west of the Peninsular Ranges in southwestern California and northwestern Baja California, Mexico. Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	10/02/95	60 FR 51445

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD60

1573. EXPORT OF RIVER OTTERS TAKEN IN MISSOURI IN 1996-1997 AND SUBSEQUENT SEASONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) regulates international trade in certain animal and plant species. Exports of animals and plants listed on appendix II of CITES require an export permit from the country of origin. The purpose of this rulemaking is to announce findings by the Scientific and Management Authorities of the United States on the proposed export of river otters harvested in the State of Missouri, and to add Missouri to the list of States and Indian Nations for which the export of river otters is approved. The Service intends to apply these findings to harvests in Missouri during the 1996-97 season and subsequent seasons, subject to the conditions applying to approved states.

Timetable:

Action	Date	FR Cite
NPRM	04/02/96	61 FR 14543
NPRM Comment Period End	06/03/96	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Marshall Jones, Assistant Director, International Affairs, Department of the Interior, United States Fish and Wildlife Service, U.S. Fish and Wildlife Service, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-6393

RIN: 1018–AD66

1575. SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 3101 to 3126

CFR Citation: 36 CFR 242; 50 CFR 100

Legal Deadline: None

Abstract: Identification of waters included within ANILCA definition of public lands and amendment of Federal Subsistence Board's authority.

Timetable:

Action	Date	FR Cite
ANPRM	04/04/96	61 FR 15014
ANPRM Comment Period End	06/14/96	
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The Department of Justice has advised the U.S. District Court that the proposed rulemaking will be published within 60 days of February 5, 1996.

Agency Contact: Tom Boyd, Office of Subsistence Management, U.S. Fish and Wildlife Service, Department of the Interior, United States Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, AK 99503
Phone: 907 786-3447
Fax: 907 786-3898

RIN: 1018–AD68

1576. ENDANGERED AND THREATENED SPECIES: REMOVAL OF LLOYD'S HEDGEHOG CACTUS FROM FEDERAL LIST OF ENDANGERED AND THREATENED PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to remove Lloyd's hedgehog cactus from the Federal list of endangered and threatened plants. Lloyd's hedgehog cactus was listed as endangered on October 26, 1979, due to threats of collection and highway projects. Recent evidence indicates that Lloyd's hedgehog cactus is not a distinct species but rather a hybrid. Lloyd's hedgehog cactus is presently known from four counties in west Texas and one county in New Mexico and from Chihuahua, Mexico.

Timetable:

Action	Date	FR Cite
NPRM	08/14/96	61 FR 30209
NPRM Comment Period End	08/13/96	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD81

1574. CONSOLIDATION OF LISTS OF WILDLIFE OF FEDERAL CONCERN

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1531 et seq; 16 USC 703; 16 USC 1361; 16 USC 4901; 16 USC 42; 16 USC 3371

CFR Citation: 50 CFR 10

Legal Deadline: None

Abstract: The Service proposes to consolidate into this part 10 lists of plants and wildlife currently contained in various parts of Subchapter B (parts 14, 15, 16, 17, 18, and 23).

Timetable:

Action	Date	FR Cite
ANPRM	03/19/96	61 FR 11180
ANPRM Comment Period End	05/03/96	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marshall Jones, Assistant Director, International Affairs, Department of the Interior, United States Fish and Wildlife Service, U.S. Fish and Wildlife Service, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-6393

RIN: 1018–AD63

1577. SAFE HARBOR POLICY AND GUIDANCE FOR CANDIDATE AGREEMENTS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 13; 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes technical amendments to its general regulations implementing its permitting program. The proposed revisions would explain and clarify applicable general permit conditions to the permitting procedures associated with habitat conservation plans and safe harbor agreements issued under section 10 of the Endangered Species Act of 1973. The Service also announces a safe harbor policy under the Act, providing incentives for private and other non-Federal landowners to restore, enhance, or maintain habitat for endangered and threatened species. The Service, in cooperation with the appropriate State agencies, may enter into safe harbor agreements with non-Federal landowners to enhance the survival of listed species with the concurrence of the landowner, include proposed or

candidate species in such agreements. A procedure and guidance for providing assurances to non-Federal landowners involved in candidate conservation also is proposed.

Timetable:

Action	Date	FR Cite
NPRM	08/12/97	62 FR 32189
NPRM Comment Period End	08/11/97	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD95

1578. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ESTABLISHMENT OF A NONESSENTIAL EXPERIMENTAL POPULATION OF BLACK-FOOTED FERRETS IN NORTHWESTERN COLORADO AND NORTHEASTERN UT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service, in conjunction with the Bureau of Land Management, the Colorado Division of Wildlife, and the Utah Division of Wildlife Resources, proposes to introduce black-footed ferrets into northwestern Colorado/northeastern Utah. The northwestern Colorado/northeastern Utah experimental population area is proposed to be designated a nonessential experimental population in accordance with section 10(j) of the Endangered Species Act.

Timetable:

Action	Date	FR Cite
NPRM	04/29/97	62 FR 23202
NPRM Comment Period End	06/30/97	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD99

1579. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ESTABLISHMENT OF NONESSENTIAL EXPERIMENTAL POPULATION OF TEN FRESHWATER MUSSELS IN HOLSTON RIVER SYSTEM IN TN AND VA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service plans to reintroduce ten mussels (Appalachian monkeyface pearlymussel, cracking pearlymussel, Cumberland monkeyface pearlymussel, dromedary pearlymussel, fanshell, orange-foot pimpleback pearlymussel, ring pink mussel, rough pigtoe and tan riffleshell) into historic habitat in the next two to three years. The mussels to be used in the reintroduction will include artificially propagated juveniles and adults taken from the wild, under certain circumstances. Mussel propagation technology currently is being developed using nonendangered surrogate species. The 4(d) rule will exempt unavoidable and unintentional take, such as fishing, boating, trapping, or wading.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE01

1580. REVISION TO SUBCHAPTER C—THE NATIONAL WILDLIFE REFUGE SYSTEM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 460k

CFR Citation: 50 CFR subchapter C

Legal Deadline: None

Abstract: The Service plans to rewrite Subchapter C to include new public recreation policy on National Wildlife Refuges to include opening refuges to all public recreation (hunting, fishing, wildlife observation, photography, boating, hiking, camping, and picnicking) at the time of purchase. This is an administrative action and will not involve compliance cost to the public.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Shallenberger, Chief, Division of Refuge Management, Department of the Interior, United States Fish and Wildlife Service, MS 670 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1744

RIN: 1018–AE02

1581. PROPOSED APPROVAL OF SELECTED STATE PROGRAMS ALLOWING THE EXPORT OF GINSENG HARVESTED IN 1997-1999

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: This rule will announce findings on the export of American ginseng from the 1997-1999 harvest season in 25 states. The Service reviews information and data as a basis for determining whether to continue approval of export from specific states for this harvest season or to initiate changes. The State of Oregon intends to apply soon to export ginseng.

Acceptance of information provided by State ginseng management programs allows the Service to expedite the issuance of permits as required by the CITES treaty.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Agency Contact: Charles W. Dane, Chief, Office of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, MS 750 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1708

RIN: 1018–AE03

1582. ENDANGERED SPECIES LISTING: PREBLE'S MEADOW JUMPING MOUSE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533 the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: The Service proposes to list Preble's Meadow Jumping Mouse, a small rodent, as an endangered species throughout its range without critical habitat. Preble's is restricted to four counties in Colorado and two counties in Wyoming. An undetermined number of Preble's on 10 sites are endangered due to modification and loss of wetland and riparian habitat from a range of human land uses including agricultural, residential, commercial, industrial, and recreational development.

Timetable:

Action	Date	FR Cite
NPRM	03/25/97	62 FR 14093
NPRM Comment Period End	05/27/97	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE06

1583. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: PROPOSED ENDANGERED STATUS FOR BLACKBURN'S SPHINX MOTH FROM THE HAWAIIAN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: The Service is proposing to add the Blackburn's sphinx moth to the list of endangered and threatened wildlife. The single remaining population is found of the island of Maui in the Hawaiian Islands. It is the largest (in adult form) native insect with a wing span of 5 inches.

Timetable:

Action	Date	FR Cite
NPRM	04/02/97	62 FR 15640
NPRM Comment Period End	06/02/97	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE20

1584. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED STATUS FOR TEN PLANT TAXA FROM MAUI NUI, HAWAII

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: The Service proposes endangered status pursuant to the Endangered Species Act of 1973 for 10 plant taxa without critical habitat designation. All 10 taxa are endemic to the Maui Nui group of islands in the Hawaiian Islands. This group includes Maui, Molokai, Lanai, and Kahoolawe and are found in a wide range of vegetative communities, elevation zones and moisture regimes. The 10 plant taxa and their habitats have been variously affected or are currently threatened by one or more of the following: competition, predation or habitat degradation from alien species, natural disasters and random environmental events.

Timetable:

Action	Date	FR Cite
NPRM	05/15/97	62 FR 26757
NPRM Comment Period End	07/14/97	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARL SQ, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE22

1585. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ENDANGERED STATUS FOR TWO LARKSPURS FROM COASTAL NORTHERN CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: The Service proposes endangered status pursuant to the Endangered Species Act of 1973 for two plants (Baker's larkspur and yellow larkspur). These species grow in a variety of habitats including coastal

prairie, coastal scrub or chaparral in Sonoma and Marin counties in northern California. Habitat loss and degradation, sheep grazing, road maintenance activities, and overcollection imperil the continued existence of these plants. Random events increase the risk of extinction to the extremely small plant populations.

Timetable:

Action	Date	FR Cite
NPRM	08/19/97	62 FR 33383
NPRM Comment Period End	08/18/97	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARL SQ, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE23

1586. • NO SURPRISES POLICY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: This rule contains the Service's proposed regulatory changes to part 17 of title 50 CFR and the National Marine Fisheries Service (NMFS) proposed regulatory changes to part 222 of title 50 necessary to implement the No Surprises Policy. These proposed revisions, which codify the Administration's No Surprises Policy, will provide regulatory assurance to permittees that have obtained an issued habitat conservation planning permit under section 10 of the Endangered Species Act. The policy was developed jointly by the Departments of Commerce and Interior. The policy sets forth a clear commitment by the FWS, NMFS, and the Departments of Commerce and Interior that, to the extent consistent with the requirements of the ESA and other Federal laws, the Government will honor its agreements under an approved HCP for which the permittee is in good faith implementing the HCP's terms and conditions.

Timetable:

Action	Date	FR Cite
NPRM	05/29/97	62 FR 29091
NPRM Comment Period End	07/28/97	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARL SQ, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE24

1587. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ENDANGERED STATUS FOR IONE BUCKWHEAT AND THREATENED STATUS FOR IONE MANZANITA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: The Service proposed endangered status for ione buckwheat (a perennial herb) and threatened status for ione manzanita (an evergreen shrub of the heath family). These two species occur primarily on gravelly clay soils with ion oxide crust within chaparral (derived from the ione formation) in Amador or Calaveras counties in the central Sierra Nevada foothills of California. They are imperiled by one or more of the following factors: mining, clearing of vegetation for agriculture and fire protection, disease, inadequate regulatory mechanisms, habitat fragmentation, residential and commercial development, changes in fire frequency and continued erosion due to prior off-road vehicle use. Random events increase the risk to the few, small populations of ione buckwheat. Ownership of most occurrences of these two species is private. One population of each occurs on Federal land managed by the Bureau of Land Management. Other potential Federal involvement includes the use of Federal highway funds, the permitting of lignite or coal mines through the Office of Surface Mining Reclamation and Enforcement, and the relicensing of hydro-electric projects by the Federal Energy Regulatory Commission.

Timetable:

Action	Date	FR Cite
NPRM	06/25/97	62 FR 34190
NPRM Comment Period End	08/25/97	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE25

1588. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED THREATENED STATUS FOR NEWCOMB'S SNAIL FROM THE HAWAIIAN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: The Service proposes threatened status pursuant to the Endangered Species Act of 1973, as amended, for Newcomb's snail. This freshwater snail is restricted to the Hawaiian Island of Kauai. The known historic distribution of this snail has greatly decreased and extant populations are presently limited to restricted habitats on five perennial streams on State land. The five known populations of this snail and its habitat are currently threatened by predation by a species of non-native predatory snail and two species of non-native marsh flies. These populations are also subject to an increased likelihood of extirpation from naturally occurring events, including natural disasters such as hurricanes and landslides. All populations of this species occur on State-owned lands.

Timetable:

Action	Date	FR Cite
NPRM	07/21/97	62 FR 38953
NPRM Comment Period End	09/19/97	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE27

1589. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST KLAMATH RIVER POPULATION SEGMENT OF BULL TROUT AS ENDANGERED AND COLUMBIA RIVER POPULATION SEGMENT AS THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: The Service proposes to list the Klamath River population segment of bull trout (members of the char subgroup in the salmon family) as endangered from south-central Oregon and the Columbia River population segment of bull trout as threatened from the northwestern United States and British Columbia, Canada, with a special rule pursuant to the Endangered Species Act of 1973. The Klamath River population segment, comprised of seven bull trout populations from south-central Oregon, is threatened by habitat degradation, passage restrictions at dams, and competition from non-native lake and brook trout. The special rule allows for take of bull trout within the Columbia River population segment if in accordance with applicable State fish and wildlife conservation laws and regulations. Pursuant to a court order, this rule is based on the 1994 administrative record. All available information, including current data, will be considered prior to promulgation of a final rule.

Timetable:

Action	Date	FR Cite
NPRM	08/13/97	62 FR 32268
NPRM Comment Period Reopened	08/05/97	62 FR 42092
NPRM Comment Period End	08/12/97	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE29

1590. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ENDANGERED STATUS FOR THE PLANT KECK'S SIDALCEA FROM TULARE COUNTY, CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: The Service proposes to list Sidalcea keckii (Keck's sidalcea) as endangered pursuant to the Endangered Species Act of 1973. This annual herb (belonging to the mallow family) is threatened by urban development, agricultural land conversion, and random events. The species (found on sparsely vegetated slopes of serpentine-derived clay in annual grasslands) is known only from one population in the south-central Tulare county on private land is not in an approved habitat conservation plan. The likelihood of any Federal involvement is small, however, the Bureau of Reclamation's renewal of the Central Valley Project firant water contracts may affect the species.

Timetable:

Action	Date	FR Cite
NPRM	07/28/97	62 FR 40325
NPRM Comment Period End	09/26/97	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE30

1591. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED RULE TO LIST THE ILLINOIS CAVE AMPHIPOD AS ENDANGERED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: The Service proposes endangered status pursuant to the Endangered Species Act of 1973 for the Illinois cave amphipod, Gammarus acherondytes. Historically, the amphipod was known from six cave streams in Monroe and St. Clair counties, Illinois. Recent surveys have found the species at only three of the original six sites. The species is believed to be threatened primarily by groundwater pollution which is likely due to the application of pesticides in cave stream recharge areas. A possible secondary threat is contamination of subsurface water by human and animal wastes from sewage and septic systems and livestock feedlots. The Monroe-Randolph Bi-County Health Department supports listing this species as a means of justifying greater protection for groundwater in the Karst area. Also the Natural Heritage Division of the Illinois Department of Conservation supports Federal listing of this species. It is currently a State-listed endangered species.

Timetable:

Action	Date	FR Cite
NPRM	07/28/97	62 FR 40319

Action	Date	FR Cite
NPRM Comment Period End	09/26/97	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE31

1592. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ENDANGERED STATUS FOR PLANT IN WENATCHEE MOUNTAINS OF WASHINGTON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.

In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: The Service proposes endangered species status pursuant to the Endangered Species Act of 1973 for the Wenatchee Mountains checker-mallow (Sidalcea oregana var calva). This plant is endemic to meadows that have surface water on saturated soil in the spring and early summer at middle elevations in the Wenatchee Mountains of Chelan county, Washington. Although five populations of this plant are known, three of these have very few individuals. The estimated total number of plants is about 3,300. The primary threats to this plant include alterations of hydrology, rural residential development and associated activities, competition from native and alien plants, recreation, fire suppression and activities associated with fire suppression. To a lesser extent, the taxon is threatened by livestock grazing, road construction and timber harvesting and associated impacts including changes in surface-runoff in the small watersheds in which the plant occurs. This proposal, if made final, would implement the Federal protection and recovery programs of the Act for this plant.

Timetable:

Action	Date	FR Cite
NPRM	08/01/97	62 FR 41328
NPRM Comment Period End	09/30/97	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE32

DEPARTMENT OF THE INTERIOR (DOI)

United States Fish and Wildlife Service (FWS)

Completed Actions

1593. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; FLAT-TAILED HORNED LIZARD

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	07/15/97	62 FR 37852

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith
Phone: 703 358-2171

RIN: 1018–AC10

1594. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: ALASKA BREEDING POPULATION OF THE STELLER'S EIDERS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	06/11/97	62 FR 31748
Final Action Effective	07/11/97	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith
Phone: 703 358-2171

RIN: 1018–AC19

1595. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: GOLDEN PAINTBRUSH

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	06/11/97	62 FR 31740
Final Action Effective	07/11/97	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith
Phone: 703 358-2171

RIN: 1018–AC52

1596. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: JAGUAR

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	07/22/97	62 FR 39147
Final Action Effective	08/21/97	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith
Phone: 703 358-2171

RIN: 1018–AC81

1597. CLEAN VESSEL ACT NATIONAL PUMPOUT SYMBOL

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 85

Completed:

Reason	Date	FR Cite
Final Action	08/27/97	62 FR 45344

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bob Lang
Phone: 703 358-2156

RIN: 1018–AC87

1598. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: EGGERT'S SUNFLOWER

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	05/22/97	62 FR 27973
Final Action Effective	06/23/97	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith
Phone: 703 358-2171

RIN: 1018–AC74

1599. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: TROPICAL BUTTERFLIES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	07/25/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charlie Dane
Phone: 703 358-1708

RIN: 1018–AC76

1600. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: HOLMGREN'S MILKVETCH AND SHEM'S MILKVETCH

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	07/25/97	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith
Phone: 703 358-2171

RIN: 1018–AC92

1601. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: FOUR CALIFORNIA PLANTS FROM VERNAL POOLS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	06/18/97	62 FR 33029
Final Action Effective	07/18/97	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith
Phone: 703 358-2171

RIN: 1018–AC96

1602. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: TWO SAN FRANCISCO PLANTS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	06/19/97	62 FR 33368
Final Action Effective	07/21/97	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith
Phone: 703 358-2171

RIN: 1018–AC98

1603. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: THREE PLANTS FROM THE CHANNEL ISLANDS OF SOUTHERN CALIFORNIA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	08/08/97	62 FR 42692
Final Action Effective	09/08/97	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith
Phone: 703 358-2171

RIN: 1018–AD37

1604. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: SIXTEEN PLANT TAXA FROM THE NORTHERN CHANNEL ISLANDS, CALIFORNIA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	07/31/97	62 FR 40954

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith
Phone: 703 358-2171

RIN: 1018–AD39

1605. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: DESIGNATION OF EXPERIMENTAL NONESSENTIAL WHOOPING CRANE POPULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	07/21/97	62 FR 38932
Final Action Effective	08/20/97	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith
Phone: 703 358-2171

RIN: 1018–AD45

1606. ENDANGERED SPECIES LISTING: GUAJON OR ROCK FROG

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	06/11/97	62 FR 31757
Final Action Effective	07/11/97	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith
Phone: 703 358-2171

RIN: 1018–AD52

1607. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: 42 SOUTH AMERICAN BIRDS

Completed:

Reason	Date	FR Cite
Withdrawn - Duplicate of RIN 1018-AC77	07/28/97	

RIN: 1018–AD59

1608. DISPOSITION OF SURPLUS RANGE ANIMALS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 30

Completed:

Reason	Date	FR Cite
Final Action	04/24/97	62 FR 19936
Final Action Effective	05/27/97	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Robert Shallenberger
Phone: 703 358-1744

RIN: 1018–AD75

1609. SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA, SUBPARTS C & D—1997-1998 SUBSISTENCE TAKING OF FISH AND WILDLIFE REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 100

Completed:

Reason	Date	FR Cite
Final Action	05/29/97	62 FR 29016
Final Action Effective	07/01/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Pospahala
Phone: 907 786-3467

RIN: 1018–AD90

1610. REGULATIONS FOR THE ADMINISTRATION OF SPECIAL USE PERMITS ON NATIONAL WILDLIFE REFUGES IN ALASKA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 36

Completed:

Reason	Date	FR Cite
Final Action	08/27/97	62 FR 45336

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Shallenberger
Phone: 703 358-1744

RIN: 1018–AD93

1611. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DESIGNATED PORTS FOR LISTED PLANTS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 24

Completed:

Reason	Date	FR Cite
Final Action	06/05/97	62 FR 30773
Final Action Effective	06/05/97	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal

Agency Contact: Dr. Susan Lieberman
Phone: 703 358-2095

RIN: 1018–AD97

1612. 1997 MIGRATORY BIRD HUNTING AND CONSERVATION STAMP (FEDERAL DUCK STAMP) CONTEST

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 91

Completed:

Reason	Date	FR Cite
Final Action	05/07/97	62 FR 24844
Final Action Effective	07/01/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Lesino
Phone: 202 208-4354

RIN: 1018–AE07

1613. MIGRATORY BIRD HUNTING: TEMPORARY APPROVAL OF TUNGSTEN-IRON SHOT AS NONTOXIC FOR 1997-98 SEASON

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 20

Completed:

Reason	Date	FR Cite
Final Action	08/13/97	62 FR 43444

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul R. Schmidt
Phone: 703 358-1838

RIN: 1018–AE09

1614. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: CHANGE IN LISTING STATUS OF STELLER SEA LIONS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	06/05/97	62 FR 30772
Final Action Effective	06/04/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: E. LaVerne Smith
Phone: 703 358-2171

RIN: 1018–AE10

1615. MIGRATORY BIRD HARVEST INFORMATION PROGRAM—PARTICIPATING STATES FOR THE 1997-98 SEASON

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 20

Completed:

Reason	Date	FR Cite
Final Action (Completion published in error under RIN 1018-AD08)	08/28/97	62 FR 45706

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul R. Schmidt
Phone: 703 358-1714

RIN: 1018–AE13

1616. MIGRATORY BIRD HUNTING: PROPOSED 1997-98 MIGRATORY GAME BIRD HUNTING REGULATIONS (PRELIMINARY) WITH REQUESTS FOR INDIAN TRIBAL PROPOSALS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 20

Completed:

Reason	Date	FR Cite
Final Action	09/30/97	62 FR 51298

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul R. Schmidt
Phone: 703 358-1714

RIN: 1018–AE14

1617. 1997-98 REFUGE SPECIFIC REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 32

Completed:

Reason	Date	FR Cite
Final Action	09/09/97	62 FR 47372

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Shallenberger
Phone: 703 358-1744

RIN: 1018–AE18

1618. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; THREATENED STATUS FOR SOUTHERN OREGON/NORTHERN CALIFORNIA COAST EVOLUTIONARILY SIGNIFICANT UNIT OF COHO SALMON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.

In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: The Service is adding the southern Oregon/northern California coast evolutionarily significant unit (ESU) of coho salmon to the List of Endangered and Threatened Wildlife list as a threatened species in accordance with the Endangered Species Act of 1973. This amendment to the list includes all coho salmon naturally reproduced in streams between Cape Blanco in Curry County, Oregon and Punta Gorda in Humboldt county, California. This amendment is based on a determination by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, which has jurisdiction over this species. All coho salmon populations in this ESU are very depressed, currently numbering less than 10,000 naturally produced adults. The threats to this ESU are numerous and varied. Several human-caused factors, including habitat degradation, harvest and artificial propagation, exacerbate the adverse effects of natural environmental variability brought about by drought, floods and poor ocean conditions. The Service is responsible for actual addition of a species and changes in reclassification to the list of endangered and threatened wildlife in 50 CFR 17.11(h).

Timetable:

Action	Date	FR Cite
Final Action Effective	06/05/97	
Final Action	06/18/97	62 FR 33038

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 ARLSQ, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE28

BILLING CODE 4310-55-F

DEPARTMENT OF THE INTERIOR (DOI)
National Park Service (NPS)

Proposed Rule Stage

1619. NATIONAL PARK SERVICE SYMBOLS: UNITED STATES PARK POLICE INSIGNIA

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 11

Legal Deadline: None

Abstract: The National Park Service proposed rule and request for comments relates to the United States Park Police insignia. It will recognize an official United States Park Police insignia, provide for its future protection and prevent the unauthorized use of the insignia.

Timetable:

Action	Date	FR Cite
NPRM	06/00/98	
NPRM Comment Period End	08/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis Burnett, Staff Park Ranger, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127
Phone: 202 208-4874
Fax: 202 208-6756
Email: dennis_burnett@nps.gov

RIN: 1024–AB94

1620. RIGHTS-OF-WAY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 3; 16 USC 5; 16 USC 79

CFR Citation: 36 CFR 14

Legal Deadline: None

Abstract: The regulations for rights-of-way found at 36 CFR part 14, subparts A to H were promulgated as interim regulations in 1980. The regulations no longer meet the needs of the Service or of rights-of-way applicants. Final regulations need to be developed through a revision of part 14.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
NPRM Comment Period End	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dick Young, Park Ranger, Department of the Interior, National Park Service, Colonial National Park, P.O. Box 210, Yorktown, VA 23690
Phone: 804 898-3400

RIN: 1024–AC01

1621. APPLICABILITY AND RESOURCE PROTECTION REVISIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in

the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 462

CFR Citation: 36 CFR 2

Legal Deadline: None

Abstract: A major revision of 36 CFR part 2 was completed in 1983. This current review is to address clarification of the applicability of these regulations in National Park Service areas, and to update existing resource protection and visitor use regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/98	
NPRM Comment Period End	08/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis Burnett, Staff Park Ranger, Department of the Interior, National Park Service, Room 3315, MS 650, P.O. Box 37127, Washington, DC 20013-7127
Phone: 202 208-4874
Fax: 202 208-6756

RIN: 1024–AC38

1622. NON-FEDERAL OIL AND GAS RIGHTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1; 16 USC 230a; 16 USC 450kk; 16 USC 459d-3; 16 USC 459h-3; 16 USC 460ee; 16 USC 460cc-2(i); 16 USC 460m; 16 USC 698c; 16 USC 698f; 16 USC 3101; 16 USC 3571; 16 USC 3581; 43 USC 600d

CFR Citation: 36 CFR 9

Legal Deadline: None

Abstract: This rule will update existing regulations that were promulgated in 1978 to make them consistent with existing laws, policies, and practices and will improve their clarity and workability. The rule will implement Congressional mandates for park resource protection contained in the Big Cypress National Preserve Act of 1988. The rule will strengthen the ability of the NPS to protect the natural, cultural, and historic resources of system units from non-Federal oil and gas and geothermal operations within park boundaries.

Timetable:

Action	Date	FR Cite
NPRM	06/00/98	
NPRM Comment Period End	08/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carol McCoy, Chief, Policy and Regulations Section, Mining and Minerals Branch, Department of the Interior, National Park Service, P.O. Box 25287, Denver CO 80225-0287
Phone: 303 969-2096

RIN: 1024–AC53

1623. NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT REGULATIONS FUTURE APPLICABILITY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 25 USC 3001

CFR Citation: 43 CFR 10.13

Legal Deadline: None

Abstract: The proposed rule relates to one section of regulations implementing NAGPRA. This section outlines procedures for the future applicability of NAGPRA to museums and Federal agencies.

Timetable:

Action	Date	FR Cite
NPRM	06/00/98	
NPRM Comment Period End	08/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Francis P. McManamon, Departmental Consulting Archaeologist, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127
Phone: 202 343-4101

RIN: 1024–AC57

1624. DENALI NATIONAL PARK AND PRESERVE, SPECIAL REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 462(k); 16 USC 3101 et seq

CFR Citation: 36 CFR 13.63

Legal Deadline: None

Abstract: This proposed rule will change out-of-date references to Mount McKinley National Park to Denali National Park. It will also consolidate in the special regulations existing designations, closures, permit requirements, and other restrictions regarding vehicle use, vehicle traffic, oversize vehicles, snowmachines, and public health, safety, and resource protection postings and closures.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	
NPRM Comment Period End	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Russ Wilson, Alaska Desk Officer, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127
Phone: 202 208-6381

RIN: 1024–AC58

1625. • DELAWARE WATER GAP NRA, BICYCLE TRAIL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 460(g); 16 USC 462(k)

CFR Citation: 36 CFR 7.71

Legal Deadline: None

Abstract: This rule will designate certain routes within a nondeveloped area of Delaware Water Gap NRA as open to bicycle use, and will regulate their use in this area.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	
NPRM Comment Period End	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Wayne Valentine, Supervisory Park Ranger, Department of the Interior, National Park Service, Delaware Water Gap NRA, Bushkill, PA 18324
Phone: 908 841-9533

RIN: 1024–AC62

1626. • HYDROELECTRIC POWER PROJECTS IN THE NATIONAL PARK SYSTEM

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 791a et seq; 16 USC 797c

CFR Citation: 36 CFR 19

Legal Deadline: None

Abstract: The rule will implement section 2402 of the Energy Policy Act of 1992 (16 USC 797c). The rule will establish the procedure for the Director to follow in determining whether a new hydroelectric project located within the boundaries of any unit of the National Park System would have a direct adverse effect on Federal lands within that unit and the procedures for applicants to follow when filing with the Federal Energy Regulatory Commission.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Dennis Burnett, Park Ranger-Program Manager, Department of the Interior, National Park Service, Ranger Activities Division, 1849 C Street NW., Mail Stop 7408, Washington, DC 20240
Phone: 202 208-4874
Fax: 202 208-6756
Email: dennis_burnett@nps.gov

RIN: 1024–AC64

DEPARTMENT OF THE INTERIOR (DOI)
National Park Service (NPS)

Final Rule Stage

1627. NATIONAL NATURAL LANDMARKS PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 461 et seq

CFR Citation: 36 CFR 62

Legal Deadline: None

Abstract: This proposed rulemaking will amend the current regulations for the National Natural Landmarks Program. Proposed changes include strengthening and clarifying provisions for landowner notification, adding requirements for voluntary landowner consent for natural landmark designation, and providing for review of natural landmark nominations by the National Park System Advisory Board.

Timetable:

Action	Date	FR Cite
ANPRM	10/29/90	55 FR 43384
NPRM	11/21/91	56 FR 58790
NPRM Comment Period End	02/19/92	
Final Action	07/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary Johnston, Chief, Wildlife and Vegetation Division, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127
Phone: 202 343-8115

RIN: 1024–AB96

1628. GLACIER BAY NATIONAL PARK, ALASKA FISHING REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 3101 et seq

CFR Citation: 36 CFR 13.65

Legal Deadline: None

Abstract: The proposed regulations would allow several exemptions for specific commercial fishing activities in Glacier Bay National Park's marine waters from the existing Nationwide National Park Service prohibition on such activities. Some commercial fishing activities would cease at the end of their exemption period.

Timetable:

Action	Date	FR Cite
NPRM	08/05/91	56 FR 37262
NPRM Comment Period End	11/03/91	56 FR 46589
Reproposal	04/16/97	62 FR 18547
Comment Period End	10/15/97	
Final Action	09/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James M. Brady, Superintendent, Department of the Interior, National Park Service, Glacier Bay National Park, P.O. Box 140, Gustavus, AK 99826-0140
Phone: 907 697-2230

RIN: 1024–AB99

1629. VOYAGEURS NATIONAL PARK: AIRCRAFT OPERATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a

CFR Citation: 36 CFR 7.33

Legal Deadline: None

Abstract: This proposed rulemaking amends the current special regulations for Voyageurs National Park by adding a section designating areas open to aircraft use within the Park. This addition is necessary because National Park Service general regulations require such special regulatory designations for areas in parks open to the operation or use of aircraft. The intended effects are to increase safety, protect resources, and provide appropriate enjoyment to park users.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/02/95	60 FR 39257
NPRM	01/31/96	61 FR 3360

Action	Date	FR Cite
NPRM Comment Period End	09/05/96	61 FR 20775
Final Action	09/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bruce McKeeman, Chief Ranger, Department of the Interior, National Park Service, Voyageurs National Park, HCR 9, Box 600, International Falls, MN 56649-9701
Phone: 218 283-9821

RIN: 1024–AC23

1630. SHENANDOAH NATIONAL PARK: BACKCOUNTRY AND FISHING REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a

CFR Citation: 36 CFR 7.15

Legal Deadline: None

Abstract: The National Park Service is proposing to remove the majority of the backcountry and fishing regulations specific to Shenandoah National Park. This rule will retain only those regulations not covered by parts 1 and 2 of 36 CFR and deemed necessary for the proper management of the park.

Timetable:

Action	Date	FR Cite
NPRM	02/12/96	61 FR 5364
NPRM Comment Period End	04/13/96	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis Burnett, Staff Park Ranger, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127
Phone: 202 208-4874

RIN: 1024–AC33

1631. GRAND TETON NATIONAL PARK AND JOHN D. ROCKEFELLER, JR. MEMORIAL PARKWAY: SNOWMOBILE AND SNOWPLANE ROUTES AND REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a

CFR Citation: 36 CFR 7.22

Legal Deadline: None

Abstract: The National Park Service proposes to change the special regulations relating to the use of and designated routes for snowmobiles and snowplanes within Grand Teton National Park and John D. Rockefeller, Jr. Memorial Parkway. The proposed rule will define more clearly the use of snowmobiles, snowplanes, and designated routes. This rule can eliminate the use of snowmobiles in the Potholes-Baseline Flats area at the discretion of the Superintendent and establish special regulations allowing snowmobile use on the Continental Divide Snowmobile Trail. The proposed rule will also establish a requirement for operators of snowmobiles within Grand Teton National Park to have a valid driver's license or learner's permit.

Timetable:

Action	Date	FR Cite
NPRM	10/25/95	60 FR 54633
NPRM Comment Period End	12/26/95	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis Burnett, Staff Park Ranger, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127
Phone: 202 208-4874

RIN: 1024–AC34

1632. PROCEDURES FOR STATE, TRIBAL, AND LOCAL GOVERNMENT HISTORIC PRESERVATION PROGRAMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 470 et seq

CFR Citation: 36 CFR 61

Legal Deadline: None

Abstract: The National Park Service proposes to revise the requirements for State and local historic preservation programs as well as the way the NPS administers these programs. The proposed changes are intended to provide more flexibility in (1) State historic preservation office staffing; (2) State Historic Preservation Review Board membership and operations; and (3) carrying out State Historic Preservation Officer responsibilities. The revision streamlines the process for certification of local governments to participate officially in the national historic preservation program. This proposed revision also officially recognizes the growing role of tribal historic preservation programs. Some of the changes are necessary because of the 1992 amendments to the National Historic Preservation Act.

Timetable:

Action	Date	FR Cite
NPRM	10/02/96	61 FR 51536
NPRM Comment Period End	12/02/96	
Final Action	02/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: John W. Renaud, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127
Phone: 202 343-1059
Fax: 202 343-1836

RIN: 1024–AC44

1633. OFF-ROAD OPERATION OF MOTOR VEHICLES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 460(g); 16 USC 462(k)

CFR Citation: 36 CFR 7.67

Legal Deadline: None

Abstract: This proposed rule will amend the existing off-road vehicle use regulations at Cape Cod National Seashore through a negotiated rulemaking committee.

Timetable:

Action	Date	FR Cite
NPRM	05/06/97	62 FR 24624
NPRM Comment Period End	06/05/97	
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Canzanelli, Assistant Superintendent, Department of the Interior, National Park Service, Cape Cod National Seashore, South Wellfleet, MA 0663
Phone: 508 349-3785

RIN: 1024–AC47

1634. NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT REGULATIONS; CIVIL PENALTIES

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 3001

CFR Citation: 43 CFR 10

Legal Deadline: None

Abstract: This proposed rule details procedures for assessing civil penalties upon institutions receiving Federal funds that fail to comply with applicable provisions of the Act and implementing regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/13/97	62 FR 1820
Final Action	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Francis P. McManamon, Departmental Consulting Archaeologist, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127
Phone: 202 343-4101

RIN: 1024–AC48

1635. BIG CYPRESS NATIONAL PRESERVE; RECREATIONAL FROGGING

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a

CFR Citation: 36 CFR 7.86

Legal Deadline: None

Abstract: This rule will allow the recreational, non-commercial taking of the pig frog (Rana grylio) in the Preserve. The rule will designate seasons, times, locations, methods, and means of taking, and establish harvest limits and permit requirements.

Timetable:

Action	Date	FR Cite
NPRM	11/22/96	61 FR 59393
NPRM Comment Period End	01/21/97	
Final Action	09/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Carroll, Chief Ranger, Big Cypress National Preserve, Department of the Interior, National Park Service, HCR 61, Box 110, Ochopee, FL 34141
Phone: 941 695-2000

RIN: 1024–AC54

1636. • NATIONAL CAPITAL REGION; KENNEDY CENTER AND DISTRIBUTION OF LITERATURE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 460(g); 16 USC 462(k); Sec 7.96 also issued under DC Code 8-137 and DC Code 40-721

CFR Citation: 36 CFR 7.96

Legal Deadline: None

Abstract: This rule is necessary to update 7.96 because of two recent actions. One change deletes reference to the John F. Kennedy Center for the Performing Arts because PL 103-279 removed the Kennedy Center from NPS jurisdiction. The other change involves two recent court decisions concerning the distribution of printed matter.

Timetable:

Action	Date	FR Cite
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Robbins, Assistant Solicitor, Department of the Interior, National Park Service, Office of the Solicitor, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4338

RIN: 1024–AC61

1637. • SAFETY BELTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 462(k); EO 13043

CFR Citation: 36 CFR 4.15

Legal Deadline: None

Abstract: The National Park Service is proposing to amend its regulations concerning safety belt use within units of the NPS. Currently, the NPS regulations require safety belt use by the operator and each front seat passenger. EO 13043 directs NPS to promulgate regulations requiring all occupants of motor vehicles to use safety belts or child restraint devices at all times within units of the NPS when the vehicle is in motion.

Timetable:

Action	Date	FR Cite
NPRM	07/28/97	62 FR 40317
NPRM Comment Period End	09/26/97	
Final Action	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis Burnett, Park Ranger, Department of the Interior, National Park Service, 1849 C Street NW., MS 7408-MIB, Washington, DC 20240
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RIN: 1024–AC83

DEPARTMENT OF THE INTERIOR (DOI)
National Park Service (NPS)

Completed Actions

1638. BADLANDS NATIONAL PARK—COMMERCIAL VEHICLES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 36 CFR 7.23

Completed:

Reason	Date	FR Cite
Final Action	01/17/97	62 FR 2579
Final Action Effective	02/16/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Scott Lopez
Phone: 605 433-5361

RIN: 1024–AC30

1639. BOATING AND WATER ACTIVITIES: PROHIBITED OPERATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 36 CFR 3.6; 36 CFR 3.23

Completed:

Reason	Date	FR Cite
Final Action	06/23/97	62 FR 33749
Final Action Effective	07/23/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis Burnett
Phone: 202 208-4874
Fax: 202 208-6756
Email: dennis_burnett@nps.gov

RIN: 1024–AC46

1640. VIRGIN ISLANDS NATIONAL PARK: VESSEL MOORING AND ANCHORING

Priority: Substantive, Nonsignificant

CFR Citation: 36 CFR 7

Completed:

Reason	Date	FR Cite
Withdrawn - No further action scheduled	06/25/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis Burnett
Phone: 202 208-4874
Fax: 202 208-6956

RIN: 1024–AC56

1641. GENERAL PROVISIONS; DEFINITIONS; CHANGE IN ORGANIZATIONAL TITLES

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 36 CFR 1.4; 36 CFR 7; 36 CFR 9; 36 CFR 20

Completed:

Reason	Date	FR Cite
Final Action	06/03/97	62 FR 30232
Final Action Effective	06/03/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis Burnett
Phone: 202 208-4874
Fax: 202 208-6756

RIN: 1024–AC60

BILLING CODE 4310-70-F

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Indian Affairs (BIA)

Proposed Rule Stage

1642. ADMINISTRATION OF THE HIGHER EDUCATION PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 13; PL 67-85

CFR Citation: 25 CFR 40

Legal Deadline: None

Abstract: This rule will revise established policies and provide uniform procedures to govern the higher education program administered under the authority of 25 USC 13. This rule applies only to educational grants; Bureau educational loans are governed by 25 CFR part 91. This part has been redesignated from 25 CFR part 32.

Timetable:

Action	Date	FR Cite
Public Consultation	01/23/91	
NPRM	02/19/97	62 FR 7395
NPRM	03/00/98	
NPRM Comment Period End	06/00/98	

Small Entities Affected: None

Government Levels Affected: Tribal, Federal

Additional Information: This rule is being reproposed due to a court decision on the definition of "Indian."

Agency Contact: Garry R. Martin, Education Specialist, Department of the Interior, Bureau of Indian Affairs, Room 3512 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3478
Fax: 202 208-3312

RIN: 1076–AA10

1643. INDIAN SCHOOL EQUALIZATION PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 13; 25 USC 2008

CFR Citation: 25 CFR 39

Legal Deadline: None

Abstract: This rule will change the definitions of some disabling conditions so that they are consistent with Department of Education definitions of some disabling conditions and adjust the way schools are reimbursed for student transportation services.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	

DOI—BIA

Proposed Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	06/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rod Young, Chief, Branch of Administrative Services, Department of the Interior, Bureau of Indian Affairs, Room 3515 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4555
TDD: 202 208-3271

RIN: 1076–AD09

1644. TRIBAL SELF-GOVERNANCE

Regulatory Plan: This entry is Seq. No. 58 in Part II of this issue of the Federal Register.

RIN: 1076–AD20

1645. LEASING RESTRICTED LANDS OF MEMBERS OF THE FIVE CIVILIZED TRIBES, OKLAHOMA, FOR MINING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 356

CFR Citation: 25 CFR 213

Legal Deadline: None

Abstract: BIA is revising this rule to ensure consistency with existing law and to improve operating procedures. Issues to be addressed include authority to lease inherited restricted land, processing lease payments through the Minerals Management Service, and the approval process for division orders.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Robertson, Realty Officer, Muskogee Area Office, Department of the Interior, Bureau of Indian Affairs, 101 North Fifth Street, Muskogee, OK 74401
Phone: 918 687-2324
Fax: 918 687-2454

RIN: 1076–AD33

1646. EXPLORATION, MINING, AND RECLAMATION OF LANDS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 355; 25 USC 396; 25 USC 473; 25 USC 501; 25 USC 396; 5 USC 301

CFR Citation: 25 CFR 216

Legal Deadline: None

Abstract: This rule will update part 216 to incorporate changes in regulations as well as the mining industry. It will bring the bureau into conformance with the standards of the Bureau of Land Management and the Office of Surface Mining and will protect the Indian mineral owners by giving them no less protection than what is given to Federal lands. Indian mineral owners will be protected through the regulation of exploration for minerals by adequate measures that avoid, minimize, or correct damage to the environment, land, water, and the public safety.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Pete Aguilar, Geologist, Department of the Interior, Bureau of Indian Affairs, 12136 West Bayaud Avenue, Lakewood, CO 80228
Phone: 303 969-5270
Fax: 303 969-5273
Email: ksnyder@snakel.cr.usgs.gov

RIN: 1076–AD36

1647. TRIBAL REORGANIZATION UNDER A FEDERAL STATUTE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 473a; 25 USC 476; 25 USC 477; 25 USC 503

CFR Citation: 25 CFR 81

Legal Deadline: None

Abstract: This rule contains uniform procedures for conducting Secretarial elections for voting on proposed constitutions when tribes wish to reorganize, adopt constitutional amendments, ratify and amend charters, or revoke existing constitutions. This revision will incorporate changes to comply with Public Law 100-581.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Delores Springer, Office of Tribal Services, Department of the Interior, Bureau of Indian Affairs, Room 4641 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-7435

RIN: 1076–AD46

1648. PETITIONING PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 473a; 25 USC 476; 25 USC 477; 25 USC 503

CFR Citation: 25 CFR 82

Legal Deadline: None

Abstract: This rule contains procedures for submitting petitions that request the Secretary to call elections to amend tribal constitutions, issue charters, and other actions. The revision will allow the petitioners' spokesman to make technical changes to petitions in consultation with the Bureau and to change the petition format.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Delores Springer, Office of Tribal Services, Department of

the Interior, Bureau of Indian Affairs, Room 4641 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-7435

RIN: 1076–AD47

1649. ACADEMIC AND DORMITORY STANDARDS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 25 USC 2001; 25 USC 2002; 25 USC 2003; PL 95-561; 5 USC 301; 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 36

Legal Deadline: None

Abstract: This rule will eliminate subparts A through G of 25 CFR 36. Of 189 Bureau schools, 179 have adopted State or regional academic standards. BIA will assist the remaining schools to achieve State or regional accreditation. This will render the rules in subparts A through G obsolete.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James C. Martin, Division Chief, Department of the Interior, Bureau of Indian Affairs, Room 3512 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-5810
Fax: 202 208-0030

RIN: 1076–AD55

1650. EDUCATION CONTRACTS UNDER THE JOHNSON-O'MALLEY ACT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 455 to 457

CFR Citation: 25 CFR 273

Legal Deadline: None

Abstract: The rule will include guidelines and responsibilities related to agreements under the provisions of the Indian Self Determination Act Amendments of 1994. The new provisions will reduce the burden of reporting requirements by the tribes.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	
NPRM Comment Period End	06/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Garry R. Martin, Education Specialist, Department of the Interior, Bureau of Indian Affairs, Room 3512, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3478
Fax: 202 208-3312

RIN: 1076–AD58

1651. LOANS TO INDIANS FROM THE REVOLVING LOAN FUND

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 1469

CFR Citation: 25 CFR 101

Legal Deadline: None

Abstract: The direct loan program is being eliminated. We will eliminate most of 25 CFR 101 and will rewrite the rest.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Woody Sneed, Financial Analyst, Department of the Interior, Bureau of Indian Affairs, Room 4648 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4796
Fax: 202 208-3664
Email: woody__sneed@ios.doi.gov

RIN: 1076–AD59

1652. SCHOOL CONSTRUCTION CONTRACTS FOR PUBLIC SCHOOLS

Priority: Info./Admin./Other

Legal Authority: PL 104-4

CFR Citation: 25 CFR 277

Legal Deadline: None

Abstract: This rule is being eliminated because the program it governs has never been funded.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	
NPRM Comment Period End	06/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joann Sebastian Morris, Office of Indian Education Programs, Department of the Interior, Bureau of Indian Affairs, Room 3512 - MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-6123
Fax: 202 208-3312

RIN: 1076–AD69

1653. ADULT VOCATIONAL TRAINING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 309; PL 88-230

CFR Citation: 25 CFR 27

Legal Deadline: NPRM, Statutory, April 30, 1997.

Abstract: The rule for BIA's adult vocational training program is being rewritten in plain English as part of the President's regulatory reform initiative

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dean Poleahla, Office of Economic Development, Department of the Interior, Bureau of Indian Affairs, Room 4642 - MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-2671

Fax: 202 208-3664

RIN: 1076–AD72

1654. LOAN GUARANTEE PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 1451

CFR Citation: 25 CFR 103

Legal Deadline: None

Abstract: The rule for the guaranteed loan program is being rewritten in plain English as part of the President's regulatory reform initiative.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Woody Sneed, Financial Analyst, Department of the Interior, Bureau of Indian Affairs, Room 2063 - MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4796
Fax: 202 208-3664
Email: woody__sneed@ios.doi.gov

RIN: 1076–AD73

1655. EMPLOYMENT ASSISTANCE FOR ADULT INDIANS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 13

CFR Citation: 25 CFR 26

Legal Deadline: NPRM, Statutory, April 30, 1997.

Abstract: The rule for BIA's employment assistance program for adult Indians is being rewritten in plain English as part of the President's regulatory reform initiative.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dean Poleahla, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Room 4642 MIB, Washington, DC 20240
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Fax: 202 208-3664

RIN: 1076–AD75

1656. CERTIFICATES OF DEGREE OF INDIAN BLOOD

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 9; 25 USC 13

CFR Citation: 25 CFR 70

Legal Deadline: None

Abstract: This rule establishes procedures for processing certificates of degree of Indian blood.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	02/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Tribal

Agency Contact: Bettie Rushing, Office of Tribal Services, Department of the Interior, Bureau of Indian Affairs, Room 4641 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3463
Fax: 202 501-0679

RIN: 1076–AD78

1657. USE OF COLUMBIA RIVER FISH ACCESS SITES

Priority: Substantive, Nonsignificant

Legal Authority: PL 100-581

CFR Citation: 25 CFR 247

Legal Deadline: None

Abstract: This rule contains procedures for permitting tribal use of fishing access sites on the Columbia River. These sites are required to allow tribes boat access to the river so that they may exercise their treaty fishing rights. The rule defines who may use the sites, permitted and prohibited activities, and health and safety standards. It also provides rules for using facilities located on the sites.

Timetable:

Action	Date	FR Cite
NPRM	09/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chuck James, Area Archeologist, Department of the Interior, Bureau of Indian Affairs, 911 NE 11th Avenue, Portland, OR 97232
Phone: 503 231-6229
Fax: 503 231-2275

RIN: 1076–AD83

1658. • MORTGAGES AND DEEDS OF TRUST ON INDIVIDUALLY OWNED TRUST LAND OR LAND SUBJECT TO A RESTRICTION ON ALIENATION

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 483a

CFR Citation: 25 CFR 152

Legal Deadline: None

Abstract: Indians may mortgage or give deeds of trust to their restricted land with approval of the Secretary of the Interior. The regulation will state the conditions under which approval will be given.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Woodrow B. Sneed, Financial Analyst, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4796
Fax: 202 208-3664
Email: woody__sneed@ios.doi.gov

RIN: 1076–AD85

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Indian Affairs (BIA)

Final Rule Stage

1659. ADMINISTRATION OF THE INDIAN ADULT EDUCATION PROGRAMS

Priority: Other Significant

Legal Authority: 25 USC 13

CFR Citation: 25 CFR 46

Legal Deadline: None

Abstract: These proposed regulations are designed to provide standardized administrative procedures for administering and operating Indian adult education programs.

Timetable:

Action	Date	FR Cite
NPRM	12/30/87	52 FR 49172
NPRM Comment Period End	02/29/88	52 FR 49172
Public consultation	01/23/91	
NPRM	08/25/94	59 FR 44016
NPRM Comment Period End	01/31/95	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Garry R. Martin, Education Specialist, Department of the Interior, Bureau of Indian Affairs, Office of Indian Education Programs, Room 3512, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3478
TDD: 202 208-3312

RIN: 1076–AA15

1660. LEASING AND PERMITTING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 395; 25 USC 402; 25 USC 403; 25 USC 466

CFR Citation: 25 CFR 162

Legal Deadline: None

Abstract: This rule will reorganize the existing leasing and permitting rule into subparts and incorporate the provisions on range permits and leasing required by Public Law 103-177.

Timetable:

Action	Date	FR Cite
NPRM	08/17/96	61 FR 30560
NPRM Comment Period End	10/15/96	
Final Action	06/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Bradford, Chief, Branch of Agriculture and Range, Department of the Interior, Bureau of Indian Affairs, Room 4513 - MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3598
Fax: 202 219-1255

RIN: 1076–AA29

1661. ROADS OF THE BUREAU OF INDIAN AFFAIRS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 47; 25 USC 318a; 23 USC 202; 23 USC 204

CFR Citation: 25 CFR 170

Legal Deadline: None

Abstract: The Bureau of Indian Affairs is proposing to revise 25 CFR part 170 to reflect the current Bureau of Indian Affairs and Federal Highway Administration policies for road systems on Indian reservations. This change is proposed to assure that funds are apportioned from the Highway Trust Fund for construction projects on Indian reservations roads in accordance with the relative needs of the reservation, and to encourage tribal self-determination.

Timetable:

Action	Date	FR Cite
NPRM	03/24/94	59 FR 14030
NPRM Comment Period End	05/23/94	
Final Action	09/00/98	
Final Action Effective	10/00/98	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: LeRoy Gishi, Chief, Division of Transportation, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Room 4058, MIB, Washington, DC 20240
Phone: 202 208-4359
Fax: 202 208-4696

RIN: 1076–AB05

1662. NAVAJO PARTITIONED LANDS GRAZING REGULATIONS

Priority: Other Significant

Legal Authority: 25 USC 640(d)

CFR Citation: 25 CFR 161

Legal Deadline: None

Abstract: These regulations are necessary for implementation of the livestock and grazing control provisions of 25 USC 640(d). In 1982 the Federal District Court for Arizona abolished 25 CFR 153, Grazing Regulation for the Joint Use Administrative Area and ordered the Secretary to promulgate new regulations for the control of grazing and livestock for the former Joint Use Administrative Area. Due to a lack of tribal concurrence, regulations were not promulgated for lands partitioned to the Navajo Tribe. Navajo tribal concurrence has been recently obtained; therefore, the BIA needs to move forward with publication of these regulations. Any cost associated with the implementation of these regulations will be assumed within the BIA annual budget. Cost associated with compliance of the provisions of these regulations will be borne by the Navajo Tribe or its members. There is no associated cost to the general public.

Timetable:

Action	Date	FR Cite
NPRM	11/01/95	60 FR 55606
NPRM Comment Period End	09/06/96	61 FR 29327
Final Action	06/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Bradford, Chief, Branch of Agriculture and Range, Department of the Interior, Bureau of Indian Affairs, Room 4513, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3598
Fax: 202 219-1255

RIN: 1076–AC81

1663. RANGE REGULATIONS

Priority: Other Significant

Legal Authority: PL 103-177

CFR Citation: 25 CFR 162; 25 CFR 166

Legal Deadline: Final, Statutory, December 3, 1995.

Abstract: This rule implements the Education Trespass and Land Management portion of Public Law 103-177.

DOI—BIA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	06/03/96	61 FR 27824
NPRM Comment Period End	10/01/96	
Final Action	06/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Bradford, Chief, Branch of Agriculture and Range, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Room 4559, Washington, DC 20240
Phone: 202 208-3598
Fax: 202 501-1716

RIN: 1076–AD04

1664. PREFERENCE IN EMPLOYMENT

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 479

CFR Citation: 25 CFR 5

Legal Deadline: None

Abstract: The Bureau is proposing to eliminate provisions relating to preference in employment because they expired on January 5, 1990.

Timetable:

Action	Date	FR Cite
NPRM	07/12/96	61 FR 36671
NPRM Comment Period End	09/10/96	
Final Action	12/00/97	
Final Action Effective	01/00/98	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Bettie Rushing, Office of Tribal Services, Department of the Interior, Bureau of Indian Affairs, Room 4641 MIB, 1849 C Street NW., Washington, DC 20245
Phone: 202 208-4400

RIN: 1076–AD05

1665. GRANTS TO TRIBALLY CONTROLLED COMMUNITY COLLEGES AND NAVAJO COMMUNITY COLLEGE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 1801 to 1852; 25 USC 640; 25 USC 1831

CFR Citation: 25 CFR 41

Legal Deadline: None

Abstract: This rule applies to the provision of financial assistance, technical assistance, and endowments to tribal colleges and Navajo Community College and will strengthen requirements relating to: (1) Criteria for satisfactory programs; (2) counting Indian students; (3) developing planning grants; (5) forward funding; (6) renovation and construction of facilities; and (7) preparing construction feasibility reports.

Timetable:

Action	Date	FR Cite
NPRM	04/01/97	62 FR 15446
NPRM Comment Period End	06/02/97	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Garry R. Martin, Education Specialist, Department of the Interior, Bureau of Indian Affairs, Room 3512, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3478

RIN: 1076–AD08

1666. INDIAN TRIBAL JUSTICE SUPPORT

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-176; 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 13; 25 USC 200; 25 USC 3601 et seq

CFR Citation: 25 CFR 92

Legal Deadline: Final, Statutory, June 3, 1994.

Abstract: This rule will establish a base funding formula for the distribution of appropriations under the Indian Tribal Justice Act. BIA will use this formula to determine the funding levels to be awarded to eligible Indian tribes for use in establishing or enhancing traditional or contemporary justice systems.

Timetable:

Action	Date	FR Cite
Tribal Consultation	06/20/95	
NPRM	07/30/96	61 FR 39607
NPRM Comment Period End	09/30/96	
Final Action	02/00/98	
Final Action Effective	03/00/98	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Bettie Rushing, Office of Tribal Services, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Room 4641 MIB, Washington, DC 20240
Phone: 202 208-4400

RIN: 1076–AD15

1667. LEASING OSAGE RESERVATION LANDS FOR MINING OF MINERALS OTHER THAN OIL AND GAS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 59-321

CFR Citation: 25 CFR 214

Legal Deadline: None

Abstract: This revision eliminates royalties for minerals not found within the Osage Mineral Estate and gives the Osage tribal Council authority for setting applicable royalty rates. This revision also replaces outmoded methods of exchange with modern methods and designates officials responsible for management of non-oil and gas minerals within the Osage Mineral Estate. The revisions will enhance the Department's management of the production of these minerals and eliminate inaccuracies in the current regulations.

Timetable:

Action	Date	FR Cite
NPRM	08/08/96	61 FR 41365
NPRM Comment Period End	10/07/96	
Final Action	10/00/97	
Final Action Effective	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gordon Jackson, Superintendent, Osage Agency, Department of the Interior, Bureau of

Indian Affairs, P.O. Box 1539,
Pawhuska, OK 74056
Phone: 918 287-1032
Fax: 918 287-4320

RIN: 1076–AD34

1668. LEAD AND ZINC MINING OPERATIONS AND LEASES ON QUAPAW INDIAN LANDS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 66-359; PL 75-39

CFR Citation: 25 CFR 215

Legal Deadline: None

Abstract: This rule will update the procedures for leasing and discovery, testing, processing, developing, and mining lead and zinc on lands under the jurisdiction of BIA's Miami Agency in Ottawa County, Oklahoma. The revisions will assist affected Indians with the efficient development of their lead and zinc deposits without waste, avoidable loss, or damage to their natural resources, the environment, or other resources. The rule will also retitle 25 CFR 215.

Timetable:

Action	Date	FR Cite
NPRM	08/27/96	61 FR 44019
NPRM Comment Period End	10/28/96	
Final Action	09/00/98	
Final Action Effective	10/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis Sisco, Superintendent, Miami Agency, Department of the Interior, Bureau of Indian Affairs, P.O. Box 391, Miami, OK 74355
Phone: 918 542-3396
Fax: 918 542-7202

RIN: 1076–AD35

1669. MANAGEMENT OF THE TRIBAL ASSETS OF THE UTE INDIAN TRIBE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 677; 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 217

Legal Deadline: None

Abstract: This rule provides procedures for joint management of undivided assets by the Tribal Business Committee, representing the full-blood group, and the Ute Distribution Corporation, representing the mixed-blood group. This action is required by law to divide net proceeds from the undivided assets between the two groups in proportion to the number of persons comprising the final membership roll of each group.

Timetable:

Action	Date	FR Cite
NPRM	08/03/96	61 FR 27831
NPRM Comment Period End	09/02/96	
Final Action	06/00/98	
Final Action Effective	07/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dave Allison, Superintendent, Uintah and Ouray Agency, Department of the Interior, Bureau of Indian Affairs, P.O. Box 130, Fort Duchesne, UT 84026
Phone: 801 722-4300
Fax: 801 722-2323

RIN: 1076–AD37

1670. IRRIGATION PROJECTS AND SYSTEMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 385

CFR Citation: 25 CFR 171

Legal Deadline: None

Abstract: This rule governs the operation and maintenance of BIA-owned irrigation projects. It is being revised as part of the President's reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	07/05/96	61 FR 35167
NPRM Comment Period End	09/03/96	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ross Mooney, Civil Engineer, Department of the Interior, Bureau of Indian Affairs, Room 4513 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-5480
Fax: 202 219-1255

RIN: 1076–AD44

1671. INDIAN ELECTRIC POWER UTILITIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 385

CFR Citation: 25 CFR 175

Legal Deadline: None

Abstract: This rule contains procedures governing the operation of BIA-owned power utilities. It is being revised as part of the President's reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	06/07/96	61 FR 29040
NPRM Comment Period End	08/06/96	
Final Action	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ross Mooney, Civil Engineer, Department of the Interior, Bureau of Indian Affairs, Room 4513 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-5480
Fax: 202 219-1255

RIN: 1076–AD45

1672. APPEALS FROM ADMINISTRATIVE ACTIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 2

Legal Deadline: None

Abstract: This rule changes the BIA delegations of authority and appeals process. The change will reduce burden on the tribes since there will be less confusion about how to file appeals and the processing of appeals within the Bureau. The revision will also clarify the rule and make it consistent with Bureau policy.

Timetable:

Action	Date	FR Cite
NPRM	06/21/96	61 FR 31875
NPRM Comment Period End	09/19/96	
Final Action	12/00/97	
Final Action Effective	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bettie Rushing, Office of Tribal Services, Department of the Interior, Bureau of Indian Affairs, Room 4641, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4400
Fax: 202 208-5113

RIN: 1076–AD50

1673. HOUSING IMPROVEMENT PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 13

CFR Citation: 25 CFR 256

Legal Deadline: None

Abstract: This revision will simplify, streamline, and update the Bureau's housing program to make it more flexible and responsive to the needs of the tribes and the intended recipients of the benefits that the program provides.

Timetable:

Action	Date	FR Cite
NPRM	07/15/96	61 FR 36829
NPRM Comment Period End	09/13/96	
Final Action	10/00/97	
Final Action Effective	11/00/97	

Small Entities Affected: None

Government Levels Affected: Tribal, Federal

Agency Contact: June Henkel, Chief, Division of Housing Assistance, Department of the Interior, Bureau of Indian Affairs, Room 4603, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3667
Fax: 202 208-2648
Email: june__henkel@ios.doi.gov

RIN: 1076–AD52

1674. ARRANGEMENT WITH STATES, TERRITORIES, OR OTHER AGENCIES FOR SOCIAL WELFARE AND RELIEF OF DISTRESS OF INDIANS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 454

CFR Citation: 25 CFR 21

Legal Deadline: None

Abstract: The Bureau is revising these regulations by rewriting them in plain English so that they will be more user friendly.

Timetable:

Action	Date	FR Cite
NPRM	07/01/96	61 FR 33876
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Larry R. Blair, Chief, Division of Social Services, Department of the Interior, Bureau of Indian Affairs, Room 4603 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-2721

RIN: 1076–AD61

1675. INDIAN BUSINESS DEVELOPMENT PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 25 USC 1524

CFR Citation: 25 CFR 286

Legal Deadline: None

Abstract: The Indian Business Development Program is being discontinued. Entities already having received grants must submit business financial statements. The rule is being rewritten in plain English to reflect this situation.

Timetable:

Action	Date	FR Cite
NPRM	01/30/97	62 FR 4497
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Woody Sneed, Financial Analyst, Department of the Interior, Bureau of Indian Affairs, Room 4648 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4796
Fax: 202 208-3664
Email: woody__sneed@ios.doi.gov

RIN: 1076–AD70

1676. TRIBAL REVENUE ALLOCATION PLANS

Priority: Info./Admin./Other

Legal Authority: 25 USC 13

CFR Citation: 25 CFR 1

Legal Deadline: None

Abstract: Notifies the public of how tribal revenues are allocated.

Timetable:

Action	Date	FR Cite
NPRM	06/07/96	61 FR 29044
NPRM Comment Period End	08/06/96	
Final Action	12/00/97	
Final Action Effective	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The NPRM was published in the Federal Register as RIN 1076-AD14.

Agency Contact: George Skibine, Director, Indian Gaming Management Staff, Department of the Interior, Bureau of Indian Affairs, Room 2070 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4066

RIN: 1076–AD74

DOI—BIA

Final Rule Stage

1677. COURTS OF INDIAN OFFENSES

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 13; 25 USC 200

CFR Citation: 25 CFR 11

Legal Deadline: None

Abstract: This rule will add offenses and clarify the authority of Courts of Indian Offenses.

Timetable:

Action	Date	FR Cite
NPRM	07/05/96	61 FR 35158
NPRM Comment Period End	09/04/96	
Final Action	12/00/97	
Final Action Effective	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bettie Rushing, Office of Tribal Services, Department of the Interior, Bureau of Indian Affairs, Room 4641 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3463
Fax: 202 501-0679

RIN: 1076–AD76

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Indian Affairs (BIA)

Long-Term Actions

1678. INDIAN HIGHWAY SAFETY PROGRAM COMPETITIVE GRANT SELECTION CRITERIA

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 402; 25 USC 13

CFR Citation: 25 CFR 181

Legal Deadline: None

Abstract: This rule will notify Indian tribes how BIA determines which tribes will participate in a grant program that awards funds for reducing the number of traffic accidents.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Charles L. Jaynes, Program Administrator, Department of the Interior, Bureau of Indian Affairs, 505 Marquette NW., Suite 1705, Albuquerque, NM 87102
Phone: 505 248-5053
Fax: 505 248-5064
Email: ihst@flash.net

RIN: 1076–AD82

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Indian Affairs (BIA)

Completed Actions

1679. COAL LEASES: TERMS AND CONDITIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 25 CFR 200

Completed:

Reason	Date	FR Cite
Withdrawn - No further action will be taken at this time	08/01/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Pete Aguilar
Phone: 303 969-5270
Fax: 303 969-5273
Email: ksnyder@snakel.cr.usgs.gov

RIN: 1076–AD32

1680. LEASING WIND RIVER RESERVATION LANDS FOR OIL AND GAS MINING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 25 CFR 227

Completed:

Reason	Date	FR Cite
Withdrawn - No further action will be taken at this time	08/01/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Perry Baker
Phone: 307 332-7810
Fax: 307 332-4578

RIN: 1076–AD38

1681. SPECIAL EDUCATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 25 CFR 45

Completed:

Reason	Date	FR Cite
Final Action	03/12/97	62 FR 11324
Final Action Effective	04/11/97	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Kenneth C. Whitehorn
Phone: 202 208-3559
TDD: 202 273-0030

RIN: 1076–AD49

1682. INDIAN COUNTRY LAW ENFORCEMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 25 CFR 12.100

Completed:

Reason	Date	FR Cite
Final Action	04/02/97	62 FR 15610
Final Action Effective	05/02/97	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Tribal, Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Mark Mullins
Phone: 202 208-5787
Fax: 202 208-6170

RIN: 1076–AD56

1683. APPLICABILITY OF RULES OF THE BUREAU OF INDIAN AFFAIRS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 25 CFR 142

Completed:

Reason	Date	FR Cite
Final Action	04/16/97	62 FR 18515
Final Action Effective	05/06/97	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: James McDivitt
Phone: 202 208-4174
Fax: 202 208-3575

RIN: 1076–AD64

1684. OPERATION OF U.S.M.S. NORTH STAR BETWEEN SEATTLE, WA, AND ALASKA

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 25 CFR 1

Completed:

Reason	Date	FR Cite
Withdrawn - No further action will be taken at this time	08/01/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Warren Heisletz
Phone: 907 586-7177

RIN: 1076–AD66

1685. INDIAN FISHING—HOOPA VALLEY INDIAN RESERVATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 25 CFR 250

Completed:

Reason	Date	FR Cite
Final Action	11/22/96	61 FR 59331
Final Action Effective	11/22/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rick Fielitz
Phone: 916 979-2581
Fax: 916 978-4695

RIN: 1076–AD68

BILLING CODE 4310-02-F

DEPARTMENT OF THE INTERIOR (DOI)
Minerals Management Service (MMS)

Proposed Rule Stage

1686. VALUATION OF OIL FROM INDIAN LEASES

Regulatory Plan: This entry is Seq. No. 59 in Part II of this issue of the Federal Register.

RIN: 1010–AC24

1687. SUSPENSION OF ORDERS OR DECISIONS PENDING APPEAL TO ALLOW FOR SELF-BONDING BASED UPON FINANCIAL SOLVENCY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 30 USC 1721 et seq; 30 USC 1735 et seq; 30 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 243

Legal Deadline: None

Abstract: The Federal Oil and Gas Royalty Simplification and Fairness Act allows for self-bonding based upon financial solvency. Our proposed rule defines financial solvency and outlines the steps we will use to test for financial solvency.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Tribal, Federal

Agency Contact: David S. Guzy, Chief, Rules and Management Staff, Royalty Management Program, Department of the Interior, Minerals Management Service, P.O. Box 25165, Room 3021, Denvr, CO 80225-0165
Phone: 303 231-3432
Fax: 303 231-3385
Email: david_guzy@mms.gov

RIN: 1010–AC28

1688. TAKES VS. ENTITLEMENTS REPORTING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 1735

CFR Citation: 30 CFR 205

Legal Deadline: None

Abstract: This rule addresses reporting and payment requirements for

DOI—BIA

Completed Actions

production removed and sold from a Federal lease, unit participating area, or communitization agreement beginning September 1996.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	
NPRM Comment Period End	08/00/98	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: David S. Guzy, Chief, Rules and Publications Staff, Royalty Management Program, Department of the Interior, Minerals Management Service, P.O. Box 25165, Rooms 3021, Denver, CO 80225-0165
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RIN: 1010–AC29

1689. ACCOUNTING RELIEF FOR MARGINAL PROPERTIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 1735

CFR Citation: 30 CFR 204

Legal Deadline: None

Abstract: This rule allows reporters to seek accounting, reporting, and auditing relief for their marginal properties in accordance with section 117(c) of the Federal Oil and Gas Royalty Management Act of 1982 as amended by the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
NPRM Comment Period End	01/00/98	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: David S. Guzy, Chief, Rules and Procedures Staff, Royalty Management Program, Department of the Interior, Minerals Management Service, P.O. Box 25165, Room 3021, Denver, CO 80225-0165
Phone: 303 231-3432
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RIN: 1010–AC30

1690. PREPAYMENT OF ROYALTIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 1735

CFR Citation: 30 CFR 204

Legal Deadline: None

Abstract: This rule allows payors to prepay royalty in lieu of monthly royalty payments for their marginal properties with approval from the affected States. It will establish the criteria used by payors, States, and MMS to calculate, report, and monitor royalty prepayments.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	
NPRM Comment Period End	08/00/98	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: David S. Guzy, Chief, Rules and Publications Staff, Royalty Management Program, Department of the Interior, Minerals Management Service, P.O. Box 25165, Room 3021, Denver, CO 80225-0165
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RIN: 1010–AC31

1691. POSTLEASE OPERATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: This rule is a complete rewrite in plain English and changes the current regulation by both adding and deleting language. Although some of these changes could be considered significant when compared to the current regulations, they support the policies and procedures now in place. The proposed rule is revised to be as broad and general in scope as feasible.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, Room 4020, 381 Elden Street, Herndon, VA 2017-
Phone: 703 787-1600
Fax: 703 787-1093

RIN: 1010–AC32

1692. CHRONIC ERRONEOUS REPORTING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 43 USC 1801 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq

CFR Citation: 30 CFR 216; 30 CFR 218

Legal Deadline: None

Abstract: This rule eliminates assessments for late reporting and failure to report and modify incorrect assessments. The new rule will define what is considered a chronic erroneous reporter and applicable assessments. Penalties for failure to report are also addressed.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	02/00/98	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: David S. Guzy, Chief, Rules and Publications Staff, Royalty Management Program, Department of the Interior, Minerals Management Service, Room 3021, P.O. Box 25165, Denver, CO 80225-0165
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RIN: 1010–AC34

1693. OIL AND GAS PRODUCTION RATES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: This rule eliminates obsolete and burdensome requirements. In addition, the rule is rewritten in plain English.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, Room 4020, 381 Elden Street, Herndon, VA 20170
Phone: 703 787-1600
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RIN: 1010–AC36

1694. • PIPELINES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: This rule would implement the December 10, 1996, memorandum of understanding (MOU) between the Department of the Interior and the Department of Transportation. The MOU provides for the two departments to jointly regulate Outer Continental Shelf (OCS) Pipelines. MMS regulations would pertain to each OCS oil or gas pipeline located upstream of the point at which operating responsibility for the pipeline transfers from a producing operator to a transporting operator.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	11/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, Room 4020, 381 Elden Street, Herndon, VA 20170
Phone: 703 787-1600
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RIN: 1010–AC39

1695. • ELECTRONIC REPORTING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 3101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701 et seq; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 210; 30 CFR 216

Legal Deadline: None

Abstract: This rule would modify the requirements governing forms that MMS requires for reporting sales, royalties, and production information. The revisions will specify the media required for submission of reports and broaden the use of electronic commerce reporting.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
NPRM Comment Period End	01/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David Guzy, Chief, Rules and Publications Staff, Department of the Interior, Minerals Management Service, P.O. Box 25165, Room 3021, Denver, CO 80225-0165
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RIN: 1010–AC40

1696. • TRAINING LESSEE AND CONTRACTOR EMPLOYEES ENGAGED IN OIL AND GAS OPERATIONS IN THE OUTER CONTINENTAL SHELF

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 43 USC 250

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: This rule would require operators and lessees to ensure that their workers (including contractors) are properly trained and can demonstrate their proficiency to MMS. Operators and lessees will determine the type of training, teaching methods, training length, and frequency. MMS will develop appropriate performance measures and indicators. These measures may include: written testing; hands-on and simulator testing; audits, interviews, or cooperative reviews; and incidence of noncompliance for civil penalty and events data.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	03/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

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RIN: 1010–AC41

DEPARTMENT OF THE INTERIOR (DOI)
Minerals Management Service (MMS)

Final Rule Stage

1697. VALUATION OF GAS FROM INDIAN LEASES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 206

Legal Deadline: None

Abstract: The rule will amend the regulations governing the valuation of gas produced from Indian leases. The primary purpose of these amendments is to ensure that Indian mineral lessors receive maximum revenues from mineral resources on their land consistent with the Department's trust responsibility and lease terms.

Timetable:

Action	Date	FR Cite
ANPRM	08/04/94	59 FR 39712
NPRM	09/23/96	61 FR 49894
NPRM Comment Period End	04/04/97	62 FR 10247
Final Action	10/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: Tribal

Additional Information: This rule is being developed using the negotiated rulemaking process which will include representatives of MMS, Indian tribes, States, and industry. Notice of public meetings will be published in the Federal Register.

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RIN: 1010–AB57

1698. CREDIT ADJUSTMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 218

Legal Deadline: None

Abstract: Section 10 of the Outer Continental Shelf Lands Act (OCSLA), 43 USC 1339, requires that a lessee or payor under an offshore lease submit a request to Minerals Management Service (MMS) for recoupment or refund of an overpayment (credit adjustment) within 2 years of the date of the original payment. However, current law does not provide for a time limitation on credit adjustments under onshore Federal or Indian leases similar to that provided in the OCSLA. This rule would add a new provision entitled "Limitations on Credit Adjustments" which would restrict credit adjustments without prior authorization to payments due within 5 years before the date of the adjustments. The rule provides that MMS could authorize credit adjustments with respect to payments made more than 5 years but less than 10 years before the date of the adjustments. However, credit adjustments with respect to any payment made more than 10 years before the date of the adjustment would be prohibited.

The Debt Collection Act of 1982 (DCA), 31 USC 3716, allows Federal agencies to collect outstanding claims by administrative offset. The DCA instructs each agency to prescribe regulations before collecting a claim by administrative offset, of royalties, interest, or other amounts due under Federal and Indian oil, gas, and other mineral leases.

Timetable:

Action	Date	FR Cite
NPRM	08/17/93	58 FR 43586
NPRM Comment Period End	11/01/93	58 FR 50301
Final Action	12/00/97	
Final Action Effective	02/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This rule now includes the material formerly contained in RIN 1010-AB74.

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RIN: 1010–AB73

1699. GAS MEASUREMENT AND COMMINGLING

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1334; 30 USC 1711

CFR Citation: 30 CFR 250.161; 30 CFR 250.182; 30 CFR 250.184; 30 CFR 250.183; 30 CFR 250.180

Legal Deadline: None

Abstract: This rule would amend and update regulations applicable to oil and gas measurement, add a provision to an existing regulation that would clarify conditions under which surface commingling of gas would be approved, and add a new section to require measurement or estimation of gas volumes used on the leases or otherwise not saved for sale.

Timetable:

Action	Date	FR Cite
NPRM	02/26/97	62 FR 8665
NPRM Comment Period End	05/27/97	
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, Room 4020, 381 Elden Street, Herndon, VA 20170
Phone: 703 787-1600
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RIN: 1010–AB97

1700. ALLOWANCES FOR TRANSPORTATION AND PROCESSING COSTS ASSOCIATED WITH GAS VALUATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301 et seq; 25 USC 396 et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 170 et seq; 31 USC 9701 et seq; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 206

Legal Deadline: None

Abstract: This rule amends the regulations governing valuation for royalty purposes of gas produced from Federal and Indian leases. It primarily addresses allowances for transportation of gas. The amendments would clarify the methods by which gas royalties and deductions for gas transportation are calculated. The rule will also clarify changes required by Federal Energy Regulatory Commission Order 636 which has caused significant changes in the natural gas transportation industry.

Timetable:

Action	Date	FR Cite
NPRM	07/31/96	61 FR 39931
NPRM Comment Period End	09/30/96	
Final Action	10/00/97	
Final Action Effective	11/00/97	

Small Entities Affected: None

Government Levels Affected: State, Tribal

Agency Contact: David Guzy, Chief, Rules and Publications Staff, Department of the Interior, Minerals Management Service, P.O. Box 25165, Room 3021, Denver, CO 80225-0165
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RIN: 1010–AC06

1701. VALUATION OF OIL FROM FEDERAL MINERAL LEASES

Regulatory Plan: This entry is Seq. No. 60 in Part II of this issue of the Federal Register.

RIN: 1010–AC09

1702. GEOLOGICAL AND GEOPHYSICAL EXPLORATION OF THE OUTER CONTINENTAL SHELF

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1331 et seq; 43 USC 4332 et seq

CFR Citation: 30 CFR 251

Legal Deadline: None

Abstract: This rule is being revised to reflect the current requirements and practices and to conform with new or changed laws and regulations. It expands the requirements for filing notice to include all geological and geophysical research not conducted under permit. It also clarifies that these regulations apply only to oil, gas, and sulphur, as all other minerals in the Outer Continental Shelf are covered by 30 CFR 280. This rule will provide other information, such as current filing location addresses.

Timetable:

Action	Date	FR Cite
NPRM	02/11/97	62 FR 6149
NPRM Comment Period End	07/29/97	62 FR 28824
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

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RIN: 1010–AC10

1703. ROYALTY RELIEF FOR OUTER CONTINENTAL SHELF LEASES IN THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-58 Outer Continental Shelf Deep Water Relief Act

CFR Citation: 30 CFR 202; 30 CFR 206; 30 CFR 210; 30 CFR 216; 30 CFR 217; 30 CFR 218; 30 CFR 250.175; 30 CFR 256.32; 30 CFR 260

Legal Deadline: Final, Statutory, May 28, 1996.

Abstract: The Act authorizes the Secretary of the Interior to modify royalty or net profit share terms of certain existing leases and to offer new leases subject to the Act's provisions for royalty suspension volumes in water depths of 200 meters or more in parts of the Central and Western Gulf of Mexico. The Act directs the Secretary to promulgate implementing regulations within 180 days of enactment.

Timetable:

Action	Date	FR Cite
ANPRM	02/23/96	61 FR 6958
ANPRM Comment Period End	04/08/96	
Interim Final Rule	05/31/96	61 FR 27263
Final Action	10/00/97	
Final Action Effective	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Room 4020, Herndon, VA 20171
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RIN: 1010–AC13

1704. DEEP WATER ROYALTY RELIEF—TRACTS OFFERED BETWEEN NOVEMBER 28, 1995, AND NOVEMBER 28, 2000

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-58 Outer Continental Shelf Deep Water Royalty Relief Act

CFR Citation: 30 CFR 260

Legal Deadline: Final, Statutory, May 28, 1996.

Abstract: The Outer Continental Shelf lands Act authorizes the Secretary of the Interior to modify royalty or net profit share terms of certain existing leases and to offer new leases subject to the Act's provisions for royalty suspension volumes in water depths of 200 meters or more in parts of the Central and Western Gulf of Mexico. The Act directs the Secretary to promulgate implementing regulations within 180 days of enactment.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/25/96	61 FR 12022
Final Action	10/00/97	
Final Action Effective	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Room 4020, Herndon, VA 20171
Phone: 703 787-1600

Fax: 703 787-1093

RIN: 1010–AC14

1705. SEISMIC REASSESSMENT OF CALIFORNIA OUTER CONTINENTAL SHELF PLATFORMS

Priority: Substantive, Nonsignificant

Legal Authority: 14 USC 1334

CFR Citation: 30 CFR 250.145

Legal Deadline: None

Abstract: MMS has been investigating the need for platform seismic reassessment guidelines since the Loma Prieta earthquake. This rule will require an operator to ascertain the safety of a platform before making major modifications or after damage to a primary member.

Timetable:

Action	Date	FR Cite
NPRM	06/10/97	62 FR 31538
NPRM Comment Period End	08/11/97	
Final Action	04/00/98	
Final Action Effective	05/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Room 4020, Herndon, VA 20171
Phone: 703 787-1600
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RIN: 1010–AC17

1706. ADMINISTRATIVE APPEALS PROCESS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 2; 25 USC 9; 30 USC 189; 30 USC 285; 30 USC 359; 30 USC 1023; 30 USC 1702 et seq; 31 USC 9701; 43 USC 1334; 43 USC 1335

CFR Citation: 30 CFR 290

Legal Deadline: None

Abstract: Under this rule, the Director generally would be required to decide appeals within 16 months or the appeal would be automatically denied. The appellant could then continue its appeal before the Interior Board of Land Appeals. The rule also would impose a new appellant fee on appeals to the Director, unless the appellant was an Indian tribe or allottee. Indian tribes and allottees pay no filing fee.

Timetable:

Action	Date	FR Cite
NPRM	10/28/96	61 FR 55607
NPRM Comment Period End	12/27/96	
Final Action	12/00/97	
Final Action Effective	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hugh Hilliard, Chief, Appeals Division, Department of the Interior, Minerals Management Service, Room 4230, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-2822

RIN: 1010–AC21

1707. AMENDMENTS TO STANDARDS FOR REPORTING AND PAYING ROYALTIES ON GAS AND THE GAS ANALYSIS REPORT

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 301 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 3716 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 202; 30 CFR 216

Legal Deadline: None

Abstract: To make the Royalty Management Program's regulations consistent with proposed offshore regulations to require gas reporting at the standard conditions of 14.73 psia and adjusted to 60 degrees Fahrenheit.

Timetable:

Action	Date	FR Cite
NPRM	04/03/97	62 FR 16121
NPRM Comment Period End	05/05/97	
Final Action	03/00/98	
Final Action Effective	05/00/98	

Small Entities Affected: None

Government Levels Affected: None

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RIN: 1010–AC23

1708. OIL SPILL RESPONSIBILITY FOR OFFSHORE FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 2701

CFR Citation: 30 CFR 253

Legal Deadline: None

Abstract: This rule requires responsible parties of offshore oil and gas facilities to provide evidence of oil spill financial responsibility.

Timetable:

Action	Date	FR Cite
ANPRM	08/25/93	58 FR 44797
ANPRM Comment Period End	02/25/94	
NPRM	03/25/97	62 FR 14052
NPRM Comment Period End	06/22/97	62 FR 24375
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

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RIN: 1010–AC33

1709. BLOWOUT PREVENTER TESTING REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250.57

Legal Deadline: None

Abstract: This rule allows lessees up to 14 days between blowout preventer (BOP) pressure tests instead of the weekly tests currently required. MMS proposes this revision based upon a recently completed study of BOP performance. This study concluded that no statistical difference exists between 8- and 14-day intervals. MMS estimates that the revised testing time frame could save industry $20 million to $30 million per year without compromising safety.

Timetable:

Action	Date	FR Cite
NPRM	07/15/97	62 FR 37819
NPRM Comment Period End	09/15/97	
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, Room 4020, 381 Elden Street, Herndon, VA 20170
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RIN: 1010–AC37

DEPARTMENT OF THE INTERIOR (DOI)
Minerals Management Service (MMS)

Long-Term Actions

1710. ROYALTY PAYMENT LIABILITY

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 211

Legal Deadline: None

Abstract: Responsibilities of Minerals Management Service include the collection of royalties, bonuses, rentals, and related revenues from Federal and Indian mineral leases. These monies are, for the most part, collected from the current designated payor on the lease. However, if MMS is unable to collect from the current payor, it must pursue collections from a prior payor(s), the lessee, or an assignee of the lease. Existing regulations are unclear as to the responsibilities and liabilities of the parties involved. Therefore, MMS is proposing to amend its regulations to clarify payor, lessee, and assignee requirements and responsibilities.

Timetable:

Action	Date	FR Cite
NPRM	04/13/94	59 FR 17504
NPRM	08/09/95	60 FR 30492
Comment Period Extended to 1/8/96	08/30/95	60 FR 45112
Comment Period Extended to 1/26/96	10/03/95	60 FR 56033
NPRM	10/00/98	
NPRM Comment Period End	12/00/98	

Small Entities Affected: None

Government Levels Affected: None

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RIN: 1010–AB45

1711. REFUNDS AND RECOUPMENT OF OVERPAYMENTS ON OCS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 25 USC 181 et seq; 25 USC 351 et seq; 25 USC 1001 et seq; 25 USC 1701 et seq; 25 USC 1735; 25 USC 3716; 25 USC 3720a; 25 USC 9701; 25 USC 1301 et seq; 25 USC 1331 et seq; 25 USC 1801 et seq

CFR Citation: 30 CFR 230

Legal Deadline: None

Abstract: This rule limits refund procedures to payments received by MMS before 8/13/96 and adds language authorizing payment of interest on royalty overpayments for offshore sales of mineral production.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David S. Guzy, Chief, Rules and Procedures Staff, Royalty Management Program, Department of the Interior, Minerals Management Service, P.O. Box 25162, Denver, CO 80225-0165
Phone: 303 231-3432
Fax: 303 231-3194

RIN: 1010–AC27

DEPARTMENT OF THE INTERIOR (DOI)
Minerals Management Service (MMS)

Completed Actions

1712. REVISION OF REQUIREMENTS GOVERNING CORPORATE SURETY BONDS FOR OUTER CONTINENTAL SHELF LEASES

Priority: Substantive, Nonsignificant

CFR Citation: 30 CFR 250; 30 CFR 251; 30 CFR 256

Completed:

Reason	Date	FR Cite
Final Action	05/22/97	62 FR 27948
Final Action Effective	06/20/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kumkum Ray
Phone: 703 787-1600

RIN: 1010–AB92

1713. ROYALTIES, RENTALS, BONUSES, AND OTHER MONIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in

the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 30 CFR 218

Completed:

Reason	Date	FR Cite
Final Action	04/22/97	62 FR 19497
Final Action Effective	05/22/97	

Small Entities Affected: None

Government Levels Affected: State, Tribal

Agency Contact: David Guzy
Phone: 303 231-3432
Fax: 303 231-3385
Email: david__guzy@mms.gov

RIN: 1010–AC01

1714. VALUATION OF GAS PRODUCTION—FEDERAL LEASES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 30 CFR 206

Completed:

Reason	Date	FR Cite
Withdrawn - No further action will be taken	04/22/97	62 FR 19536

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: David Guzy
Phone: 303 231-3432
Fax: 303 231-3385
Email: david__guzy@mms.gov

RIN: 1010–AC02

1715. FEES FOR LEASE ASSIGNMENTS AND PIPELINE RIGHTS OF WAY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 30 CFR 250.160; 30 CFR 250.163; 30 CFR 256.64

Completed:

Reason	Date	FR Cite
Final Action	07/24/97	62 FR 39773
Final Action Effective	09/22/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kumkum Ray
Phone: 703 787-1600
Fax: 703 787-1043

RIN: 1010–AC04

1716. RELEASE OF THIRD PARTY PROPRIETARY INFORMATION

Priority: Substantive, Nonsignificant

CFR Citation: 30 CFR 243

Completed:

Reason	Date	FR Cite
Withdrawn - No further action to be taken at this time	10/01/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Guzy
Phone: 303 231-3432
Fax: 303 231-3385
Email: david__guzy@mms.gov

RIN: 1010–AC08

1717. CIVIL PENALTY PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 30 CFR 250 subpart N

Completed:

Reason	Date	FR Cite
Final Action	08/08/97	62 FR 42667
Final Action Effective	10/07/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kumkum Ray
Phone: 703 787-1600
Fax: 703 787-1093

RIN: 1010–AC11

1718. SAFETY AND POLLUTION PREVENTION EQUIPMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 30 CFR 250.1; 30 CFR 250.2; 30 CFR 250.124; 30 CFR 250.126

Completed:

Reason	Date	FR Cite
Final Action	08/08/97	62 FR 42669
Final Action Effective	09/08/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kumkum Ray
Phone: 703 787-1600
Fax: 703 787-1093

RIN: 1010–AC12

1719. AMENDMENTS TO ALLOWANCE DETERMINATION REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 30 CFR 206

Completed:

Reason	Date	FR Cite
Withdrawn - No further action to be taken at this time	10/01/97	

Small Entities Affected: Businesses

Government Levels Affected: State, Tribal

Agency Contact: David S. Guzy
Phone: 303 231-3432
Fax: 303 231-3385
Email: david__guzy@mms.gov

RIN: 1010–AC22

1720. DELEGATION TO STATES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 30 CFR 227; 30 CFR 228; 30 CFR 229

Completed:

Reason	Date	FR Cite
Final Action	08/12/97	62 FR 43076
Final Action Effective	09/11/97	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: David S. Guzy

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Fax: 303 231-3385
Email: david__guzy@mms.gov

RIN: 1010–AC25

1721. LATE PAYMENT AND OVERPAYMENT INTEREST

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 30 CFR 206; 30 CFR 218; 30 CFR 230

Completed:

Reason	Date	FR Cite
Withdrawn - Combined with RIN 1010-AC26	08/01/97	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Tribal

Agency Contact: David S. Guzy
Phone: 303 231-3432
Fax: 303 231-3385
Email: david__guzy@mms.gov

RIN: 1010–AC26

1722. • DESIGNATION OF PAYOR RECORDKEEPING

Priority: Other Significant

Legal Authority: 5 USC 301 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 3716 et seq; 31 USC 3720A et seq; 31 USC 9701 et seq; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 210; 30 CFR 218

Legal Deadline: None

Abstract: Lessees sometimes designate others to make royalty payments in their behalf. This rule would allow MMS to collect information from lessees and payors in those situations.

Timetable:

Action	Date	FR Cite
Final Action	08/05/97	62 FR 42063
Final Action Effective	08/05/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David Guzy, Chief, Rules and Publications Staff, Department of the Interior, Minerals Management Service, P.O. Box 25165; Room 3021, Denver, CO 80225-0165
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Email: david__guzy@mms.gov

RIN: 1010–AC38

BILLING CODE 4310-MR-F

DEPARTMENT OF THE INTERIOR (DOI)

Proposed Rule Stage

Office of Surface Mining Reclamation and Enforcement (OSMRE)

1723. APPLICANT/VIOLATOR SYSTEM PERMIT INFORMATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 701; 30 CFR 773; 30 CFR 774; 30 CFR 778; 30 CFR 843

Legal Deadline: None

Abstract: The Office of Surface Mining Reclamation and Enforcement proposes to establish new regulations and amend existing provisions to clarify the role of the Applicant/Violator System (AVS) in the permit application process; amend the definitions of ownership and control and of transfer, assignment or sale of permit rights; establish procedures for successor in interest; and revise requirements for information to be submitted as part of the permit application process.

Timetable:

Action	Date	FR Cite
NPRM	06/26/93	58 FR 34652
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Stephen Sheffield, Chief, Applicant/Violator System Office, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, DC 20240
Phone: 202 208-2883
Email: sheffie@osmre.gov

RIN: 1029–AB62

1724. ABANDONED COAL REFUSE SITES—TITLE I

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 785; 30 CFR 829; 30 CFR 830; 30 CFR 845; 30 CFR 870

Legal Deadline: NPRM, Statutory, October 24, 1993.

Abstract: OSM will propose new regulations governing permitting and performance standards for on-site processing of abandoned coal refuse piles and operations for removal of abandoned coal refuse piles. The rules are required to implement section 2503(e) of the Energy Policy Act of 1992.

Timetable:

Action	Date	FR Cite
NPRM	06/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Doug Growitz, Hydrologist, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, DC 20240
Phone: 202 208-2634
Fax: 202 208-0239
Email: dgrowitz@osmre.gov

RIN: 1029–AB70

1725. CONTEMPORANEOUS RECLAMATION

Priority: Other Significant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 816; 30 CFR 780; 30 CFR 773

Legal Deadline: None

Abstract: This rule will amend regulations to ensure that coal mine operators reclaim their operations in a contemporaneous manner using site-based contemporaneous standards.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Craynon, Chief, Technology Development Staff, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, DC 20240
Phone: 202 208-2866
Fax: 202 219-3100
Email: jcraynon@osmre.gov

RIN: 1029–AB79

1726. INDIAN LANDS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 25 CFR 200; 30 CFR 700

Legal Deadline: None

Abstract: This rule will amend regulations to allow OSM to contract to the Navajo and Hopi Tribes certain functions relating to permitting, mine plan review, bonding, and other functions authorized by the Indian land provisions of SMCRA. The rule is being proposed pursuant to a settlement agreement.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Suzy Hudak, Regulatory Analyst, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, DC 20240
Phone: 202 208-2713
Fax: 202 219-0239
Email: shudak@osmre.gov

RIN: 1029–AB83

1727. ALLUVIAL VALLEY FLOORS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 785

Legal Deadline: None

Abstract: This rule would revise the requirements for determining whether mining is permitted on an alluvial valley floor (AVF). The revision should result in fewer instances where a taking occurs as a result of the prohibition against mining in an AVF. The provisions may substantially lessen compensation costs for the government.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Andy DeVito, Regulatory Analyst, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, DC 20240
Phone: 202 208-2701
Fax: 202 219-3100
Email: adevito@osmre.gov

RIN: 1029–AB85

1728. ENHANCING AML RECLAMATION

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 707

Legal Deadline: None

Abstract: This rule will amend the definition of Government-financed construction in section 707. The definition concerns an exemption from the Surface Mining Control and Reclamation Act that is currently limited to construction funded with 50 percent or more by Government funds. This proposed change would have two impacts. It would create greater efficiency by allowing OSM to leverage limited Abandoned Mine Land Funds. It would also provide a means to address the abandoned unreclaimed refuse piles. The rule would facilitate reclamation through a new cooperative effort using resources and financing from the private sector.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Douglas Growitz, Hydrologist, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, DC 20240
Phone: 202 208-2634
Email: dgrowitz@osmre.gov

RIN: 1029–AB89

1729. • DAM SAFETY RULES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 816; 30 CFR 817

Legal Deadline: None

Abstract: This rule requires the surface coal mining permittee to have an emergency action plan (EAP) at the time a dam is placed in service. This would bring OSM's regulations on EAPs into compliance with the Federal guidelines for dam safety and the Department Manual. It ensures that EAPs are in place for all Class "B" and Class "C" hazard structures that may not necessarily be regulated by the Mine Safety and Health Administration but for which OSM is responsible.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Ruchi Kohli, Civil Engineer, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Consitution Ave. NW., Washington, DC 20240
Phone: 202 208-2971
Fax: 202 219-0239
Email: rkholi@osmre.gov

RIN: 1029–AB92

1730. • REMOVAL OF 30 CFR 870.17

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 870.17

Legal Deadline: None

Abstract: This rule would remove the regulation at 30 CFR 870.17. The regulation governs the scope of audits conducted in connection with OSM's abandoned mine land program. OSM will continue to conduct audits of operators of surface coal mines under the provisions of section 402(d)(2) of SMCRA and 30 CFR 870.16.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jim Krawchyk, Chief, Division of Compliance Management, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave. NW., Washington, DC 20240
Phone: 412 921-2676
Fax: 412 921-2671
Email: jkrawchy@osmre.gov

RIN: 1029–AB93

1731. • OWNERSHIP AND CONTROL—REDESIGN

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1202 et seq

CFR Citation: 30 CFR 773; 30 CFR 778; 30 CFR 843

Legal Deadline: None

Abstract: This rule would succeed the April 21, 1997, interim rule promulgated to comply with the January 31, 1997, decision of the U.S. Court of Appeals. It will further clarify the definition and application of "owned and controlled" and "owns or controls" in permitting and enforcement processes. In developing this rule, we will examine current permitting and enforcement issues that may be ripe for review in order to ensure continued effective implementation of section 520(c) of the Surface Mining Control and Reclamation Act of 1977.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Earl Bandy, Team Leader, Ownership and Control, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, DC 20240
Phone: 606 233-2796
Email: ebandy@osmre.gov

RIN: 1029–AB94

DEPARTMENT OF THE INTERIOR (DOI)

Final Rule Stage

Office of Surface Mining Reclamation and Enforcement (OSMRE)

1732. DEFINITION AND CRITERIA FOR VALID EXISTING RIGHTS

Priority: Other Significant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 740; 30 CFR 745; 30 CFR 761; 30 CFR 772

Legal Deadline: None

Abstract: This rule will amend the portions of the permanent program which address the circumstances which constitute valid existing rights to mine coal in areas where Congress has otherwise prohibited mining under section 522(e) of the Surface Mining Control and Reclamation Act of 1977. This revision is in response to a court decision in round III of the litigation on OSM's permanent program regulations.

Timetable:

Action	Date	FR Cite
NPRM	01/31/97	62 FR 4836
Comment Period Extended to 08/01/97	05/30/97	62 FR 29368
NPRM Comment Period End	08/02/97	62 FR 4836
Final Action	08/00/98	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Dennis Rice, Regulatory Analyst, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave. NW., Washington, DC 20240
Phone: 202 208-2829
Fax: 202 219-0239
Email: drice@osmre.gov

RIN: 1029–AB42

1733. COAL MOISTURE

Priority: Other Significant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 870

Legal Deadline: None

Abstract: This rule adds specific criteria an operator must use in determining an excess moisture allowance claimed under 30 CFR 870.12. These criteria will codify technical guidance contained in AML Payer Letters issued since June 1988. The rule will identify acceptable methods and procedures for estimating total and inherent moisture contained in low rank coal. The criteria are based upon OSM experience and industry practices.

Timetable:

Action	Date	FR Cite
NPRM	12/03/96	61 FR 64220
NPRM Comment Period End	02/03/97	61 FR 64220
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James K. Krawchyk, Chief, Division of Compliance Management, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, Three Parkway Center, Pittsburgh, PA 15220
Phone: 412 921-2976

RIN: 1029–AB78

1734. PROHIBITIONS UNDER SECTION 522(E) OF SMCRA

Priority: Other Significant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 761

Legal Deadline: None

Abstract: This rule will clarify the applicability of section 522 (e) of SMCRA to subsidence resulting from underground coal mining. Section 522 (e) prohibits surface coal mining operations in certain areas designated by Congress, subject to existing rights.

Timetable:

Action	Date	FR Cite
NPRM	01/31/97	62 FR 4864
Comment Period Extended to 08/01/97	05/30/97	62 FR 29368
NPRM Comment Period End	08/02/97	
Final Action	08/00/98	

DOI—OSMRE

Final Rule Stage

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Broderick, Regulatory Analyst, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave. NW., Washington, DC 20240
Phone: 202 208-2700
Fax: 202 219-0239
Email: nbroderi@osmre.gov

RIN: 1029–AB82

1735. INFLATION ADJUSTMENT RULE

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1201 et seq; PL 101-410; PL 104-134

CFR Citation: 30 CFR 723; 30 CFR 724; 30 CFR 845; 30 CFR 846

Legal Deadline: Final, Statutory, October 23, 1996.

Abstract: This rule will adjust OSM's civil monetary penalties (CMPs) for inflation as required by the Debt Collection Improvement Act of 1996. The CMPs are authorized by the Surface Mining Control and Reclamation Act of 1977.

Timetable:

Action	Date	FR Cite
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Andy DeVito, Regulatory Analyst, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, DC 20240
Phone: 202 208-2701
Email: adevito@osmre.gov

RIN: 1029–AB90

DEPARTMENT OF THE INTERIOR (DOI)
Office of Surface Mining Reclamation and Enforcement (OSMRE)

Completed Actions

1736. BASIS FOR COAL WEIGHT DETERMINATION

Priority: Substantive, Nonsignificant

CFR Citation: 30 CFR 870

Completed:

Reason	Date	FR Cite
Withdrawn	06/23/97	62 FR 33784

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James K. Krawchyk
Phone: 412 921-2676

RIN: 1029–AB68

1737. NOTIFICATION AND PERMIT PROCESSING

Priority: Substantive, Nonsignificant

CFR Citation: 30 CFR 773

Completed:

Reason	Date	FR Cite
Withdrawn - No further action will be taken	08/15/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Scott Boyce
Phone: 202 208-2986
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Email: sboyce@osmre.gov

RIN: 1029–AB80

1738. STATE PROGRAM AMENDMENTS—ELIMINATION OF PROVISIONS—PART I

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 30 CFR 901 to 920

Completed:

Reason	Date	FR Cite
Final Action	03/05/97	62 FR 9932
Final Action Effective	04/04/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John A. Trelease
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Email: jtrelease@osmre.gov

RIN: 1029–AB86

1739. STATE PROGRAM AMENDMENTS—ELIMINATION OF PROVISIONS—PART II

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 30 CFR 925 to 950

Completed:

Reason	Date	FR Cite
Final Action	03/05/97	62 FR 9932
Final Action Effective	04/04/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John A. Trelease
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Fax: 202 219-3100
Email: jtrelease@osmre.gov

RIN: 1029–AB87

1740. • OWNERSHIP AND CONTROL OF SURFACE MINING OPERATIONS

Priority: Other Significant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 773; 30 CFR 778; 30 CFR 843

Legal Deadline: None

Abstract: This rule will amend the regulations governing permit application information requirements; criteria for permit issuance; and criteria, procedures, and sanctions for improvidently issued permits. The action is being taken in response to a decision by the U.S. Court of Appeals for the District of Columbia Circuit invalidating the previous rules.

Timetable:

Action	Date	FR Cite
Final Action Effective	04/03/97	62 FR 19450
Final Action	04/21/97	62 FR 19450

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Dennis Rice, Regulatory Analyst, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave. NW., Washington, DC 20240

DOI—OSMRE

Completed Actions

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RIN: 1029–AB91
BILLING CODE 4310-05-P

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Reclamation (RB)

Prerule Stage

1741. RECOVERING THE VALUE OF RIGHTS OF USE AND RELATED ADMINISTRATIVE COSTS

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 387; 31 USC 438a

CFR Citation: 43 CFR 429; 43 CFR 430

Legal Deadline: None

Abstract: This rule will include new requirements to comply with OMB Circular A-25, specify procedures for appealing decisions made by the Bureau, and make other changes. The rule will also rescind 43 CFR part 430, which contains the same procedures for only one site.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Larry Schlumtz, Acting Manager, Reclamation Law Contracts and Repayments Office, Department of the Interior, Bureau of Reclamation, P.O. Box 25007, Denver, CO 80225
Phone: 303 236-1061
Fax: 303 236-0890

RIN: 1006–AA39

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Reclamation (RB)

Proposed Rule Stage

1742. CENTRAL VALLEY PROJECT OF CALIFORNIA—PURPOSES, USES, AND ALLOCATION OF WATER SUPPLIES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 551; 5 USC 553

CFR Citation: 43 CFR 432; 50 CFR 1

Legal Deadline: None

Abstract: The rule will address water for fish and wildlife, water conservation standards, water transfers, land retirement, tiered pricing, renewal of long-term contracts, and implementation of the restoration fund created by the Central Valley Improvement Act. This rule is being developed jointly by the Bureau of Reclamation and the Fish and Wildlife Service.

Timetable:

Action	Date	FR Cite
ANPRM	08/02/94	59 FR 39316
ANPRM Comment Period End	02/01/95	59 FR 67265
NPRM	04/00/98	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: Betty Riley Simpson, Repayment Specialist, Department of the Interior, Bureau of Reclamation, 2800 Cottage Way, Sacramento, CA 95825-1898
Phone: 916 979-2405
Fax: 916 979-2535

RIN: 1006–AA34

1743. MANAGEMENT OF LAKE BERRYESSA

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: PL 93-493

CFR Citation: 43 CFR 430

Legal Deadline: None

Abstract: This rule specifies that the procedures detailed in 43 CFR 4 are available to concessioners at Lake Berryessa, California, for appealing decisions made by the Bureau of Reclamation. This regulation is no longer needed since this information will be included in the amendment to 43 CFR 429.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Ed Cramer, Policy Analyst, Department of the Interior, Bureau of Reclamation, PO Box 25007, Denver, CO 80225
Phone: 303 236-1061
Fax: 303 236-6763

RIN: 1006–AA36

1744. OFFSTREAM STORAGE OF COLORADO RIVER WATER AND INTERSTATE MARKETING OF STORAGE CREDITS IN THE LOWER DIVISION STATES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 43 USC 617; 43 USC 391; 5 USC 553; 43 USC 1501

CFR Citation: 43 CFR 414

Legal Deadline: None

Abstract: Colorado River water use in Arizona, California, and Nevada is so great that not all requests for Colorado River water can be filled. Arizona has established groundwater banking program, created a banking authority, and empowered the bank to store Colorado River water to protect Arizona against future shortages. Arizona law permits California and Nevada to store unused Colorado River water in offstream storage in Arizona and to recover that water to meet their future needs. However, Arizona law does not allow Arizona to enter into contracts with California or Nevada for water storage until the Department adopts a

DOI—RB

Proposed Rule Stage

regulation to govern water banking. In response to Arizona's request, we are developing this regulation.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Action	Date	FR Cite
NPRM Comment Period End	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dale Ensminger, Contract and Repayment Specialist, Department of the Interior, Bureau of Reclamation, Boulder Canyon Operations Office, Post Office Box 61470, Boulder City, NV 89006-1470
Phone: 702 293-8659
Fax: 702 293-8042
Email: densminger@lc.usbr.gov

RIN: 1006–AA40

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Reclamation (RB)

Final Rule Stage

1745. REVENUES MANAGEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553; 43 USC 373; 43 USC 391; 43 USC 392a; 16 USC 835; 30 USC 355; 30 USC 1019; 43 USC 374; 43 USC 375; 43 USC 394; 43 USC 553; 43 USC 501; 43 USC 562; 43 USC 525; 43 USC 648

CFR Citation: 43 CFR 403

Legal Deadline: None

Abstract: This rule specifies crediting methods used for revenues generated by incidental use of Reclamation project lands and facilities in accordance with Federal law. It is being published so that water users have access to the legal requirements that the Bureau of Reclamation applies in crediting.

Timetable:

Action	Date	FR Cite
NPRM	09/12/94	59 FR 46801
NPRM Comment Period End	01/13/95	59 FR 56806
Final Action	09/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alonzo D. Knapp, Manager, Reclamation Law, Contracts, and Repayment Office, Department of the Interior, Bureau of Reclamation, P.O. Box 25007, Denver, CO 80225-0007
Phone: 303 236-1061

RIN: 1006–AA30

1746. ADJUSTMENTS TO THE 1988 OPERATING CRITERIA FOR THE NEWLANDS IRRIGATION PROJECT, NEVADA

Priority: Substantive, Nonsignificant

Legal Authority: 32 Stat 388 et seq; 43 USC 373; 70 Stat 775; 72 Stat 705; 104 Stat 3289

CFR Citation: 43 CFR 418

Legal Deadline: None

Abstract: The 1988 operating criteria for the Newlands Project were approved by the Deputy Secretary and the U.S. District Court for Nevada. They were, however, never promulgated as a rule. The criteria govern the Newlands Project with the goal of improving efficiency and maximizing use of water from the Carson River while minimizing use of water from the Truckee River as a supplemental supply. The proposed adjustments recognize changes in project acreage, provide greater management flexibility, and further reduce reliance on Truckee River water.

Timetable:

Action	Date	FR Cite
NPRM	12/09/96	61 FR 64832
NPRM Comment Period End	04/08/97	62 FR 7201
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $300,000; Base Year for Dollar Estimates: 1994

Agency Contact: Jeffrey P. Zippin, Team Leader, Truckee-Carson Coordination Office, Department of the Interior, Bureau of Reclamation, 1849 C Street NW., Room 4429 MIB, Washington, DC 20240
Phone: 202 208-4979
Fax: 202 208-4867

RIN: 1006–AA37

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Reclamation (RB)

Long-Term Actions

1747. ACREAGE LIMITATION RULES FOR TRUSTS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 43 USC 390aa to 390zz

CFR Citation: 43 CFR 426.7

Legal Deadline: None

Abstract: During the recently completed Reclamation Reform Act of 1982 (RRA) rulemaking, the Department of the Interior received a number of comments regarding the compliance of certain large trusts with the acreage limitation provisions of the RRA. Comments expressed a variety of viewpoints, including the assertion that some trusts with landholdings (owned and leased land) in excess of 960 acres may circumvent the requirements of Federal reclamation law. The Department has received comments on this issue from various parties and is now determining how best to proceed.

Timetable:

Action	Date	FR Cite
ANPRM	12/18/96	61 FR 66827
ANPRM Comment Period End	04/17/97	62 FR 7431
NPRM	10/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Steven Richardson, Director, Policy and External Affairs, Department of the Interior, Bureau of Reclamation, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4662

RIN: 1006–AA38

BILLING CODE 4310-09-F

DOI—RB

Long-Term Actions

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Land Management (BLM)

Proposed Rule Stage

1748. LEASES, PERMITS, AND EASEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1732; 43 USC 1740

CFR Citation: 43 CFR 2920

Legal Deadline: None

Abstract: This rule will amend the existing regulations to provide for improved administration of Leases, Permits and Easements under the Federal Land Policy and Management Act.

Timetable:

Action	Date	FR Cite
NPRM	11/21/90	55 FR 48810
NPRM Comment Period End	01/22/91	
Second NPRM	02/09/95	60 FR 7878
Second NPRM Comment Period End	04/10/95	
Final Rule for Minimum Impact Land Use Permits Only	06/24/96	61 FR 32351
Final Rule Effective	07/24/96	
Third NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeff Holdren, Senior Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-7779

RIN: 1004–AB51

1749. OIL AND GAS LEASING; DRAINAGE

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 3100

Legal Deadline: None

Abstract: This rule will specify who has the responsibility for drainage protection, what it constitutes, and when it begins.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Donnie Shaw, Compliance Team Leader, Department of the Interior, Bureau of Land Management, 1849 C Street NW.
Phone: 202 452-3448

RIN: 1004–AC54

1750. DESERT LAND ENTRIES

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 2520

Legal Deadline: None

Abstract: This rule will transfer much of the regulation on entries of desert land to the BLM Manual if the underlying statute is not repealed as no longer practical.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jeff Holdren, Senior Specialist, Department of the Interior, Bureau of Land Management, Regulatory Management Team (420), 1849 C Street NW., Washington, DC 20240
Phone: 202 452-7776

RIN: 1004–AC56

1751. DISPOSAL OF RESERVED MINERALS UNDER THE STOCK RAISING HOMESTEAD ACT

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 299

CFR Citation: 43 CFR 3814

Legal Deadline: Final, Statutory, October 13, 1993.

Abstract: This rule will establish new procedures for mineral exploration and development under the General Mining Law of 1872 on lands where the surface was patented under the Stock Raising Homestead Act of 1916 and the mineral estate remains reserved to the Federal Government.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Roger Haskins, Mining Law Specialist, Department of the Interior, Bureau of Land Management, Regulatory Management Team, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-0355
Email: rhaskins@wo.blm.gov

RIN: 1004–AC59

1752. LAND WITHDRAWALS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1714; 43 USC 1740

CFR Citation: 43 CFR 2091; 43 CFR 2310; 43 CFR 2370

Legal Deadline: None

Abstract: This rule will revise the regulations on withdrawals and revocations of withdrawals to

streamline operations and clarify the regulations. It will also amend the regulations to expedite the opening of formerly withdrawn lands to the operation of the public land laws.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeff Holdren, Senior Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-7779

RIN: 1004–AC83

1753. COST RECOVERY; MINERAL FILINGS AND OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 181 et seq; 30 USC 351 to 360; 30 USC 1001 et seq; 30 USC 22; 5 USC app; 31 USC 9701; 43 USC 1734

CFR Citation: 43 CFR 3100; 43 CFR 3200; 43 CFR 3400; 43 CFR 3500; 43 CFR 3600; 43 CFR 3700; 43 CFR 3800

Legal Deadline: None

Abstract: This rule will amend regulations for user fees for locatable minerals, mineral materials, and leasable minerals (solids and fluids) to adjust current fees or establish new fees in accordance with title V of the Independent Offices Appropriations Act of 1952 (user charges), OMB Circular A-25 "User Charges" and section 304 of the Federal Land Policy and Management Act of 1976.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Durga N. Rimal, Geologist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-0350
Fax: 202 452-0399

RIN: 1004–AC64

1754. GRAZING ADMINISTRATION; ALASKA; LIVESTOCK

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 315; 43 USC 315(a) to 315(r); 43 USC 1181(d); 43 USC 1701

CFR Citation: 43 CFR 4200

Legal Deadline: None

Abstract: This rule will remove obsolete regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Erica Petacchi, Regulatory Analyst, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Mail Stop BLM-LS501, Washington, DC 20240
Phone: 202 452-5084
Fax: 202 452-0349

RIN: 1004–AC70

1755. RIGHTS-OF-WAY UNDER THE MINERAL LEASING ACT

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 2880

Legal Deadline: None

Abstract: This rule will move much of the existing regulations to manuals, notices to applicants, etc. This action will ease update of cost recovery schedules. Materials will be combined with other rights-of-way guidance.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ron Montagna, Senior Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-7782
Fax: 202 452-7708

RIN: 1004–AC74

1756. USE; RIGHTS-OF-WAY

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 2800

Legal Deadline: None

Abstract: This rule will move material from existing regulations to manuals, notices to applicants, etc. This action will ease update of cost recovery schedules.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ron Montagna, Senior Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-7782
Fax: 202 452-7708

RIN: 1004–AC75

1757. RAILROAD GRANTS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 43 USC 1201; 49 USC 65

CFR Citation: 43 CFR 2630

Legal Deadline: None

Abstract: This rule will remove these regulations in their entirety due to their limited usage.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Erica Petacchi, Regulatory Analyst, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Mail Stop 401 LS, Washington, DC 20240
Phone: 202 452-5084

RIN: 1004–AC76

1758. LAND CLASSIFICATION

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 43 USC 315; EO 6910; EO 6964; 43 USC 1411 to 1418; 43 USC 869

CFR Citation: 43 CFR 2400

Legal Deadline: None

Abstract: This rule will revise 43 CFR group 2400 and redesignate it as part 1620. Most of these regulations are no longer needed because they contain either statutory reiteration or internal procedures best suited to the BLM Manual. Land classification can be accomplished through the BLM planning process.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jeff Holdren, Senior Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Mail Stop BLM-L St. 10th Floor
Phone: 202 452-7779
Fax: 202 452-7708

RIN: 1004–AC78

1759. CONVEYANCES, DISCLAIMERS, AND CORRECTION DOCUMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 15; 43 USC 1161; 43 USC 1201; 43 USC 1745; 43 USC 1746

CFR Citation: 43 CFR 1860

Legal Deadline: None

Abstract: This rule will update portions of the existing regulation and eliminate outdated provisions.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Annetta Cheek, Group Manager, Regulatory Affairs, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Mail Stop LS401
Phone: 202 452-0399

RIN: 1004–AC82

1760. APPLICATION PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 251; 43 USC 263; 43 USC 689; 43 USC 690; 43 USC 1201; 43 USC 1374; 43 USC 1740

CFR Citation: 43 CFR 1820

Legal Deadline: None

Abstract: This rule will revise the existing regulation to consolidate certain business practice rules and update to recognize modern technology.

Timetable:

Action	Date	FR Cite
NPRM	10/01/97	62 FR 51402
NPRM Comment Period End	12/01/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Frank Bruno, Regulatory Analyst, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Mail Stop LS401
Phone: 202 452-0352
Email: fbruno@wo.blm.gov

RIN: 1004–AC83

1761. SEGREGATION AND OPENING OF LANDS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 2091

Legal Deadline: None

Abstract: This rule will simplify and modernize the existing regulations on segregation and opening public lands that are involved in various transactions such as sales or exchanges.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeff O. Holdren, Senior Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-7779

RIN: 1004–AC84

1762. OIL AND GAS LEASING AND OPERATIONS

Regulatory Plan: This entry is Seq. No. 61 in Part II of this issue of the Federal Register.

RIN: 1004–AC94

1763. APPEALS PROCEDURES; HEARINGS PROCEDURES

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1701; 43 USC 1740

CFR Citation: 43 CFR 1840; 43 CFR 1850

Legal Deadline: None

Abstract: BLM proposes to amend its regulations that govern administrative review procedures for protests of proposed decisions, contests, appeals of

DOI—BLM

Proposed Rule Stage

BLM decisions, and hearings on the record. The proposed regulations would provide more consistent procedures for administrative review of BLM decisions, and would clarify when and how BLM decisions go into effect and whether an appeal will stay the effectiveness of a BLM decision.

Timetable:

Action	Date	FR Cite
NPRM	10/17/96	61 FR 54120
NPRM Comment Period End	01/17/97	61 FR 58160
Second NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeff Holdren, Senior Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Mail Stop BLM LS1000, Washington, DC 20240
Phone: 202 452-7779
Fax: 202 452-7708

RIN: 1004–AC99

1764. COLOR OF TITLE AND OMITTED LANDS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 2540

Legal Deadline: None

Abstract: As part of its reinventing government effort, BLM proposes to rewrite the current color of title and omitted lands regulations in plain English. No substantive changes are proposed.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Erica Petacchi, Regulatory Analyst, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-5084
Email: epetacch@wo.blm.gov

RIN: 1004–AD00

1765. PALEONTOLOGICAL RESOURCES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 3622; 43 CFR 8365; 43 CFR 8600

Legal Deadline: None

Abstract: This rule will consolidate into one part of the CFR various BLM regulatory provisions relating to paleontological resource management and rewrite them in plain English.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carl Barna, Paleontological Program Coordinator, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-0325

RIN: 1004–AD03

1766. GEOTHERMAL RESOURCE UNIT AGREEMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740; 30 USC 1001 et seq

CFR Citation: 43 CFR 3280

Legal Deadline: None

Abstract: This rule will rewrite unit agreement regulations, reduce and streamline information and permitting requirements, provide BLM maximum flexibility in permitting decision making to accommodate the full range of unitization scenarios, and reorganize the regulations to make specific requirements easier to find and understand.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Christopher Fontecchio, Regulatory Analyst, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-5012
Email: cfontecc@wo.blm.gov

RIN: 1004–AD10

1767. COAL MANAGEMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 189; 30 USC 359; 30 USC 1266; 43 USC 1733; 43 USC 1740

CFR Citation: 43 CFR 3400

Legal Deadline: None

Abstract: This rule will clarify and streamline policy on coal exploration and post-lease operations. It will reorganize and revise portions of the Federal coal management program regulations, including exploration licenses, lease suspensions, lease administration, diligence, and exploration and mining operations on leased Federal coal.

Timetable:

Action	Date	FR Cite
NPRM	08/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bill Radden-LeSage, Mining Engineer, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-0360
Fax: 202 452-0399
Email: brlesage@wo.blm.gov

RIN: 1004–AD11

DOI—BLM

Proposed Rule Stage

1768. OIL AND GAS LEASING; NATIONAL PETROLEUM RESERVE, ALASKA—TRANSFERS, EXTENSIONS, AND CONSOLIDATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6503; 43 USC 1740

CFR Citation: 43 CFR 3130; 43 CFR 3135

Legal Deadline: None

Abstract: This rule will make clear whether lessees may enter into unit agreements involving lands in the National Petroleum Reserve, Alaska.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Erick Kaarlela, Senior Specialist, Operations and Inspection, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-0341
Email: ekaarlel@wo.blm.gov

RIN: 1004–AD13

1769. AUTHORITIES/MISSION STATEMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 1600

Legal Deadline: None

Abstract: This rule will provide a mission statement for the BLM and consolidate in one part of 43 CFR a description of the statutory authorities underlying the program regulations of the BLM.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Frances Watson, Regulatory Analyst, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-5006
Email: fwatson@wo.blm.gov

RIN: 1004–AD15

1770. ASSIGNMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 1800

Legal Deadline: None

Abstract: This rule will consolidate in one part of 43 CFR all of the provisions relating to assignments of rights and privileges to use or occupy the public lands, including leases, easements, preferences, allotments, and licenses.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carole Smith, Regulatory Analyst, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-0367
Fax: 202 452-5002
Email: csmith@wo.blm.gov

RIN: 1004–AD17

1771. QUALIFICATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 1800

Legal Deadline: None

Abstract: This rule will consolidate in one part of 43 CFR all of the provisions on determining whether a person is qualified for a lease, permit, license, preference, payment, or any other benefit or authorization relating to the public lands.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carole Smith, Regulatory Analyst, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-0367
Fax: 202 452-5002
Email: csmith@wo.blm.gov

RIN: 1004–AD18

1772. BLM INSIGNIA

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 1800

Legal Deadline: None

Abstract: This rule will establish procedures for using BLM insignia.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Frank Bruno, Regulatory Analyst, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-0352
Email: fbruno@wo.blm.gov

RIN: 1004–AD20

DOI—BLM

Proposed Rule Stage

1773. • SURFACE MANAGEMENT (LOCATABLE MINERALS)

Regulatory Plan: This entry is Seq. No. 62 in Part II of this issue of the Federal Register.

RIN: 1004–AD22

1774. • FINANCIAL ASSISTANCE; LOCAL GOVERNMENTS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740; 31 USC 1601 et seq

CFR Citation: 43 CFR 1880

Legal Deadline: None

Abstract: This rule will update the regulations on payments to State and local governments in lieu of taxes to reflect changes in law.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Bill Howell, Accountant, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-7721

RIN: 1004–AD23

1775. • HELIUM CONTRACTS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 3750; 30 CFR 602

Legal Deadline: None

Abstract: This rule will require Federal agencies with major requirements for helium to purchase from authorized Federal helium suppliers, and in turn require those suppliers to purchase a like amount of crude helium from the helium reserve, and set up reporting requirements for the agencies and suppliers.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ian Senio, Regulatory Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., MS 401 LS, Washington, DC 20240
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RIN: 1004–AD24

1776. • USE AUTHORIZATIONS (RECREATION)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740; 16 USC 460l-6a

CFR Citation: 43 CFR 8370

Legal Deadline: None

Abstract: This rule will revise the regulations on the issuance of special recreation permits for purposes of clarification and updating, and will add regulations on the issuance of recreation use permits for the use of fee areas.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Lee Larson, Recreation Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., WAshington, DC 20240
Phone: 202 452-5168

RIN: 1004–AD25

1777. • ADVISORY COMMITTEES

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC app 1; 43 USC 1739; 43 USC 1740

CFR Citation: 43 CFR 1784

Legal Deadline: None

Abstract: This rule will remove most or all of the regulation because it duplicates advisory committee regulations elsewhere in the Code of Federal Regulations.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Bruno, Regulatory Analyst, Department of the Interior, Bureau of Land Management, 1849 C Street NW., MS 401-LS, Washington, DC 20240
Phone: 202 452-0352
Email: fbruno@wo.blm.gov

RIN: 1004–AD26

1778. • COAL MANAGEMENT: GENERAL (PUBLIC PARTICIPATION)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 181 et seq

CFR Citation: 43 CFR 3400

Legal Deadline: None

Abstract: This rule will amend the Federal coal management regulations by listing all opportunities for public comment in the coal leasing process.

Timetable:

Action	Date	FR Cite
NPRM	08/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carole Smith, Regulatory Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-0367

RIN: 1004–AD27

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Land Management (BLM)

Final Rule Stage

1779. PUBLIC AVAILABILITY OF MINERALS RESOURCES INFORMATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552

CFR Citation: 43 CFR 3000

Legal Deadline: None

Abstract: This rule will remove conflicts between existing mineral regulations relating to public availability of mineral resources information and the Freedom of Information Act. The rule will also remove discrepancies among the various mineral regulations regarding public release of information.

Timetable:

Action	Date	FR Cite
NPRM	05/31/91	56 FR 24767
NPRM Comment Period End	07/31/91	
Final Action	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sid Vogelpohl, Asst. District Manager, Mineral Resources, Department of the Interior, Bureau of Land Management, Jackson District Office, 411 Briarwood Drive, Suite 404, Jackson MS 39206
Phone: 601 977-5402
Fax: 601 977-5440

RIN: 1004–AB55

1780. MANAGEMENT OF DESIGNATED WILDERNESS AREA

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1701 et seq; 16 USC 1131 et seq

CFR Citation: 43 CFR 8560; 43 CFR 6300

Legal Deadline: None

Abstract: This rule will amend the existing regulations to remove obsolete provisions, clarify and simplify the regulations, and add provisions on access to inholdings, rights-of-way, use of mechanized equipment by certain individuals, access by Native Americans.

Timetable:

Action	Date	FR Cite
NPRM	12/19/96	61 FR 66968
NPRM Comment Period End	02/18/97	
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeff Jarvis, Wilderness Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-5189

RIN: 1004–AB69

1781. COALBED METHANE DEVELOPMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 13368

CFR Citation: 43 CFR 3170

Legal Deadline: Final, Statutory, October 24, 1995.

Abstract: The rule will implement section 1339 of the Energy Policy Act of 1992. It will prevent conflicts in ownership of coalbed methane from impeding development of that resource by requiring pooling of development and payment of the proceeds into an escrow account until the ownership issue is resolved by a State entity of competent jurisdiction. The rule will also allow States to avoid the Federal regulations by promulgating their own regulations that substantially comply with Federal requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/15/95	60 FR 47920
NPRM Comment Period End	11/14/95	
Final Action	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: David R. Stewart, Assistant Deputy State Director for Mineral Resources, Department of the Interior, Bureau of Land Management, BLM Eastern States, 7450 Boston Boulevard, Springfield, VA 22153
Phone: 703 440-1728

RIN: 1004–AC27

1782. MANAGEMENT OF SOLID MINERALS OTHER THAN COAL

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 3500

Legal Deadline: None

Abstract: This rule will remove repetitive introductory material and combine the common provisions of the series of regulations of leasing of specific non-coal minerals.

Timetable:

Action	Date	FR Cite
NPRM	10/18/96	61 FR 54384
NPRM Comment Period End	03/07/97	62 FR 5373
Final Action	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Christopher Fontecchio, Regulatory Analyst, Department of the Interior, Bureau of Land Management, Regulatory Management Team (420), 1849 C Street NW., Washington, DC 20240
Phone: 202 452-5012
Email: cfontecc@wo.blm.gov

RIN: 1004–AC49

1783. SPECIAL AREAS; STATE IRRIGATION DISTRICTS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 2780

Legal Deadline: None

Abstract: This rule will remove the establishment and operation of State irrigation districts from the regulations and relocate necessary provisions in the BLM Manual.

Timetable:

Action	Date	FR Cite
NPRM	09/13/96	61 FR 48454
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Chris Fontecchio, Regulatory Analyst, Department of the Interior, Bureau of Land Management, Regulatory Management Team (420), 1849 C Street NW.
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Email: cfontecc@wo.blm.gov

RIN: 1004–AC53

1784. STATE EXCHANGES; NATIONAL PARK SYSTEM EXCHANGES; WILDLIFE REFUGE EXCHANGES; MISCELLANEOUS EXCHANGES

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 2210; 43 CFR 2240; 43 CFR 2250; 43 CFR 2270

Legal Deadline: None

Abstract: This rule will remove these subparts, which are merely cross-references to the basic exchange regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/06/96	61 FR 64658
NPRM Comment Period End	01/06/97	
Final Action	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Christopher Fontecchio, Regulatory Analyst, Department of the Interior, Bureau of Land Management, Mail Stop LS401, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-5012
Email: cfontecc@wo.blm.gov

RIN: 1004–AC58

1785. MINERAL MATERIALS DISPOSAL

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 601 et seq

CFR Citation: 43 CFR 3600; 43 CFR 3610; 43 CFR 3620

Legal Deadline: None

Abstract: This rule will amend current regulations to simplify and make bonding requirements easier to follow. It also adds a provision under which certificates of deposit could be used as a bond. In addition, some editorial changes will be made to make the rules easier to understand.

Timetable:

Action	Date	FR Cite
NPRM	08/02/96	61 FR 40373
NPRM Comment Period End	09/03/96	
Final Action	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Durga N. Rimal, Geologist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Mail Stop BLM-LS501, Washington, DC 20240
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Fax: 202 452-0349

RIN: 1004–AC88

1786. STATE GRANTS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 851 and 852; 43 USC 852 NOTE; 43 USC 870

CFR Citation: 43 CFR 2620

Legal Deadline: None

Abstract: The rule will streamline the existing regulations where possible and eliminate portions that pertain to procedural matters.

Timetable:

Action	Date	FR Cite
NPRM	11/15/96	61 FR 58500
NPRM Comment Period End	01/14/97	
Final Action	06/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Erica Petacchi, Regulatory Analyst, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Room 401 LS, Washington, DC 20240
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Email: epetacch@wo.blm.gov

RIN: 1004–AC71

1787. DEFINITIONS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1201; 43 USC 1740

CFR Citation: 43 CFR 1300

Legal Deadline: None

Abstract: This rule will relocate definitions from various sections of BLM's portion of 43 CFR into a central section for general definitions. The new location will be in 43 CFR 1800. Several definitions that had been formerly repeated in various sections will appear as one consolidated definition.

Timetable:

Action	Date	FR Cite
NPRM	11/19/96	61 FR 58843
NPRM Comment Period End	01/21/97	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ted Hudson, Regulatory Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Mail Stop BLM-LS501, Washington, DC 20240
Phone: 202 452-5042
Email: thudson@wo.blm.gov

RIN: 1004–AC73

1788. INDIAN ALLOTMENTS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1201; 25 USC 334; 25 USC 336

CFR Citation: 43 CFR 2530

Legal Deadline: None

Abstract: This rule will convert existing regulations to plain English and remove those portions that relate to procedural matters.

Timetable:

Action	Date	FR Cite
NPRM	10/16/96	61 FR 53887
NPRM Comment Period End	11/15/96	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeff Holdren, Senior Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street NW,, Mail Stop BLM LS-10th Floor
Phone: 202 452-7779
Fax: 202 452-7708

RIN: 1004–AC77

1789. CAREY ACT GRANTS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 43 USC 641 et seq

CFR Citation: 43 CFR 2610

Legal Deadline: None

Abstract: This rule will remove these regulations as they are inconsistent with present day management policies. Application of these provisions of the Carey Act would not be feasible due to limited water and suitable lands.

Timetable:

Action	Date	FR Cite
NPRM	09/10/96	61 FR 47725
NPRM Comment Period End	10/10/96	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeff Holdren, Senior Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Mail Stop BLM-L St.10th Floor, Washington, DC 20240
Phone: 202 452-7779
Fax: 202 452-7708

RIN: 1004–AC80

1790. WILD AND SCENIC RIVERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 8400

Legal Deadline: None

Abstract: This rule will establish standards and procedures for BLM consenting to Federal licensing of or assistance to water resource projects affecting designated wild and scenic rivers and congressionally authorized study rivers.

Timetable:

Action	Date	FR Cite
ANPRM	06/05/96	61 FR 28546
ANPRM Comment Period End	07/05/96	
NPRM	09/10/96	61 FR 47728
NPRM Comment Period Extended	11/04/96	61 FR 56651
NPRM Comment Period End	12/04/96	
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary Marsh, Rivers and Special Areas Program Lead, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 202040
Phone: 202 452-7709
Email: gmarsh@wo.blm.gov

RIN: 1004–AC87

1791. PATENT PREPARATION AND ISSUANCE

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: RS 2450, as amended; 43 USC 1161

CFR Citation: 43 CFR 1862

Legal Deadline: None

Abstract: This rule will remove 43 CFR 1862 and place the procedures in BLM manuals and handbooks.

Timetable:

Action	Date	FR Cite
NPRM	08/16/96	61 FR 42579
NPRM Comment Period End	09/16/96	
Final Action	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Bruno, Regulatory Analyst, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Mail Stop 401LS, Washington, DC 20240
Phone: 202 452-0352
Email: fbruno@wo.blm.gov

RIN: 1004–AC88

1792. RECLAMATION/TOWNSITES

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 2764; 43 CFR 2765

Legal Deadline: None

Abstract: This rule will remove obsolete regulations governing townsites associated with reclamation projects and grants of land in reclamation townsites for school purposes.

Timetable:

Action	Date	FR Cite
NPRM	10/03/96	61 FR 51666
NPRM Comment Period End	12/02/96	
Final Action	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jeff O. Holdren, Senior Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-7779
Fax: 202 452-7708

RIN: 1004–AC91

1793. SUSTAINED YIELD FOREST UNITS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1181e; 43 USC 1740

DOI—BLM

Final Rule Stage

CFR Citation: 43 CFR 5040

Legal Deadline: None

Abstract: This rule will amend part 5040 by removing obsolete sections and rewriting the remaining sections in plain English.

Timetable:

Action	Date	FR Cite
NPRM	11/15/96	61 FR 58501
NPRM Comment Period End	01/14/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lyndon Werner, Forester, Department of the Interior, Bureau of Land Management, Oregon State Office OR-931, P.O. Box 2965, Portland, OR 97208
Phone: 503 952-6071

RIN: 1004–AC93

1794. NATIONAL FOREST EXCHANGES

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 2202

Legal Deadline: None

Abstract: This rule will delete 43 CFR subpart 2202 because it duplicates material contained in BLM's general exchange regulations and the Forest Service's land exchange regulations at 36 CFR 254. BLM also will extend the provisions of its general exchange regulations to National Forest System lands.

Timetable:

Action	Date	FR Cite
NPRM	09/11/96	61 FR 47855
NPRM Comment Period End	10/11/96	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Christopher Fontecchio, Regulatory Analyst, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-5012
Email: cfontecc@wo.blm.gov

RIN: 1004–AC97

1795. GIFTS; ACQUISITION OF LANDS OR INTEREST IN LANDS BY PURCHASE OR CONDEMNATION

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 2110; 43 CFR 2130; 43 CFR 2090

Legal Deadline: None

Abstract: This rule will move 43 CFR 2111.4 to 43 CFR part 2091 and will remove the remainder of 43 CFR parts 2110 and 2130 in their entirety. These regulations are either statements of policy, internal procedures, or restatements of statutory provisions. BLM believes that they can be deleted without having any substantive impact on the public.

Timetable:

Action	Date	FR Cite
NPRM	09/11/96	61 FR 47853
NPRM Comment Period End	10/11/96	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Erica Petacchi, Regulatory Analyst, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Mail Stop LS401, Washington, DC 20240
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RIN: 1004–AC96

1796. MINING CLAIMS UNDER THE GENERAL MINING LAWS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 3744; 43 CFR 3745; 43 CFR 3811; 43 CFR 3824; 43 CFR 3825

Legal Deadline: None

Abstract: This rule will remove the regulations on claimant's rights, helium, the watershed of Prescott, Arizona, the Papago Indian Reservation, and fissionable source material on coal lands. Each of these regulations is unnecessary or obsolete, either because they describe programs that no longer exist, or because they contain requirements already achieved by other regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/03/96	61 FR 51667
NPRM Comment Period End	11/04/96	
Final Action	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Christopher Fontecchio, Regulatory Analyst, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
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Email: cfontecc@wo.blm.gov

RIN: 1004–AD05

1797. GRAZING ADMINISTRATION: ALASKA; REINDEER

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 4300

Legal Deadline: None

Abstract: This rule will convert the current regulations into plain English. No change will be made in the legal or policy content of the regulations.

Timetable:

Action	Date	FR Cite
NPRM	11/01/96	61 FR 56497
NPRM Comment Period End	12/02/96	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Erica Petacchi, Regulatory Analyst, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
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RIN: 1004–AD06

DOI—BLM

Final Rule Stage

1798. GEOTHERMAL RESOURCES LEASING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 3200

Legal Deadline: None

Abstract: This rule will reduce and streamline permitting and informational requirements, provide BLM maximum decisionmaking flexibility on permit applications and processing, accommodate the full range of potential geothermal operations and development scenarios, and provide industry with greater flexibility in submitting applications. It will also provide more specific permit application information to allow more consistent interpretation of requirements by BLM and industry.

Timetable:

Action	Date	FR Cite
NPRM	10/08/96	61 FR 52736
NPRM Comment Period End	01/06/97	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Christopher Fontecchio, Regulatory Analyst, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-5012
Email: cfontecc@wo.blm.gov

RIN: 1004–AD08

1799. LOGICAL MINING UNITS: GENERAL; LMU APPLICATION PROCEDURES; LMU APPROVAL CRITERIA; LMU DILIGENCE; ADMINISTRATION OF LMU OPERATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 189; 30 USC 359; 30 USC 1266; 43 USC 1733; 43 USC 1740

CFR Citation: 43 CFR 3480

Legal Deadline: None

Abstract: This rule will amend the regulations that pertain to formation and administration of logical mining units (LMUs). The rule will implement procedures designed to prevent the use of LMUs to extend the diligent development period of a Federal coal lease unless the lessee demonstrates progress toward production of the Federal coal reserves. The rule will clarify the circumstances in which BLM considers a Federal lease to be "producing" as it relates to section 2(a)2(A) of the Mineral Leasing Act, and also implement a Federal District Court ruling related to submission of resource recovery and protection plans.

Timetable:

Action	Date	FR Cite
NPRM	09/15/95	60 FR 47920
NPRM Comment Period End	11/14/95	
Final Action	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This rule was previously proposed under RIN 1004-AC15, then combined with 1004-AC37. Now 1004-AC37 has been removed and this rule will be published as a final rule.

Agency Contact: Bill Radden-LeSage, Mining Engineer, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-0350
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Email: brlesage@wo.blm.gov

RIN: 1004–AD12

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Land Management (BLM)

Long-Term Actions

1800. SALES—FEDERAL LAND POLICY AND MANAGEMENT ACT

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1701; 43 USC 1713

CFR Citation: 43 CFR 2710

Legal Deadline: None

Abstract: This rule will amend 43 CFR part 2710 to provide for improved administration of sales of public land under the Federal Land Policy and Management Act.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jim Paugh, Realty Specialist, Department of the Interior, Bureau of Land Management, P.O. Box 1828, Cheyenne, WY 82003
Phone: 307 775-6306

RIN: 1004–AB77

1801. ALASKA NATIVE SELECTIONS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1601

CFR Citation: 43 CFR 2650

Legal Deadline: None

Abstract: This rule will revise the regulations to clarify portions and remove those portions pertaining to procedural matters.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Erica Petacchi, Regulatory Analyst, Department of the Interior, Bureau of Land Management, 401 LS, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-5084

RIN: 1004–AC72

DOI—BLM

Long-Term Actions

1802. PLANNING, PROGRAMMING, AND BUDGETING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 1600

Legal Deadline: None

Abstract: This rule will update and streamline the resource planning regulations of BLM. It will amend them to reflect BLM's reorganized field management structure, and will expressly allow management framework plans to remain in effect if they meet the requirements of law.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ted Milesnick, Realty Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-7727
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RIN: 1004–AC86

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Land Management (BLM)

Completed Actions

1803. TRAMROADS AND LOGGING ROADS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 43 CFR 2810

Completed:

Reason	Date	FR Cite
Withdrawn - No further action planned at this time.	07/23/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John Styduhar
Phone: 503 952-6422

RIN: 1004–AC24

1804. EMERGENCY FIRE AND DISASTER REHABILITATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 43 CFR 9240

Completed:

Reason	Date	FR Cite
Withdrawn - Postponed pending field studies.	07/23/97	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Tom Roberts
Phone: 202 452-7769

RIN: 1004–AC36

1805. BODIE BOWL, CALIFORNIA: SURFACE MANAGEMENT

Priority: Substantive, Nonsignificant

CFR Citation: 43 CFR 3826

Completed:

Reason	Date	FR Cite
Withdrawn - No Action Planned at This Time - Issue is Moot	07/23/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roger Haskins
Phone: 202 452-0355
Email: rhaskins@wo.blm.gov

RIN: 1004–AC80

1806. PROTECTION, MANAGEMENT, AND CONTROL OF WILD FREE-ROAMING HORSES AND BURROS; PRIVATE MAINTENANCE; ADOPTION FEES

Priority: Substantive, Nonsignificant

CFR Citation: 43 CFR 4750.4-2

Completed:

Reason	Date	FR Cite
Final Action	02/05/97	62 FR 5338
Final Action Effective	03/07/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lili Thomas
Phone: 702 785-6583

RIN: 1004–AC81

1807. NON-MINERAL ENTRY ON MINERAL LAND

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 43 CFR 2093

Completed:

Reason	Date	FR Cite
Final Action	10/01/97	62 FR 51375
Final Action Effective	10/31/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeff O. Holdren
Phone: 202 452-7779
Fax: 202 452-7708

RIN: 1004–AC85

1808. PUBLIC LAND RECORDS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 43 CFR 1813

Completed:

Reason	Date	FR Cite
Final Action	09/10/97	62 FR 47568
Final Action Effective	10/10/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Wendy Spencer

DOI—BLM

Completed Actions

Phone: 303 236-6642
Fax: 303 236-3327

RIN: 1004–AC81

1809. EQUITABLE ADJUDICATION

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 43 CFR 1870

Completed:

Reason	Date	FR Cite
Withdrawn - Combined With RIN 1004-AC99	07/23/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeff Holdren
Phone: 202 452-7779
Fax: 202 452-7708

RIN: 1004–AC89

1810. FREE USE OF TIMBER

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 43 CFR 5511

Completed:

Reason	Date	FR Cite
Final Action	10/01/97	62 FR 51376
Final Action Effective	10/31/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeff Holdren
Phone: 202 452-7779
Fax: 202 452-7708

RIN: 1004–AC92

1811. SPECIAL RESOURCE VALUES; SHORE SPACE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 43 CFR 2094

Completed:

Reason	Date	FR Cite
Withdrawn - No further action planned at this time	07/23/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeff Holdren
Phone: 202 452-7779
Fax: 202 452-7708

RIN: 1004–AD01

1812. WILDLIFE MANAGEMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 43 CFR 6100

Completed:

Reason	Date	FR Cite
Withdrawn - Postponed pending field studies	07/23/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cal McCluskey
Phone: 208 373-4042

RIN: 1004–AD02

1813. DELEGATION OF AUTHORITY, COOPERATIVE AGREEMENTS AND CONTRACTS FOR OIL AND GAS INSPECTION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 43 CFR 3190

Completed:

Reason	Date	FR Cite
Final Action	09/22/97	62 FR 47568
Final Action Effective	09/22/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ian Senio
Phone: 202 452-5049

RIN: 1004–AD09

1814. NATIONAL PETROLEUM RESERVE IN ALASKA

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 43 CFR 2360

Completed:

Reason	Date	FR Cite
Withdrawn - No further action planned at this time	07/23/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeff Holdren
Phone: 202 452-7779
Fax: 202 452-7708
Email: jholdren@wo.blm.gov

RIN: 1004–AD14

1815. BONDING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 43 CFR 1800

Completed:

Reason	Date	FR Cite
Withdrawn - No action planned at this time	07/23/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Christopher Fontecchio
Phone: 202 452-5012
Email: cfontecc@wo.blm.gov

RIN: 1004–AD16

1816. APPLICATION PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 43 CFR 1820

DOI—BLM — Completed Actions

Completed:

Reason	Date	FR Cite
Withdrawn - Combined with RIN 1004-AC83	07/23/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Bruno
Phone: 202 452-0352
Email: fbruno@wo.blm.gov

RIN: 1004–AD19

BILLING CODE 4310-84-F

DEPARTMENT OF THE INTERIOR (DOI)

Office of the Secretary (OS) — Final Rule Stage

1817. TRANSPORTATION AND UTILITY SYSTEMS IN AND ACROSS, AND ACCESS INTO, CONSERVATION SYSTEM UNITS IN ALASKA

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 668dd et seq; 16 USC 3101 et seq; 43 USC 1201

CFR Citation: 43 CFR 36

Legal Deadline: NPRM, Judicial, April 30, 1995.

Abstract: This rule will revise regulations implementing the provisions of title IX of the Alaska National Interest Lands Conservation Act (ANILCA). The regulations concern transportation and utility systems (TUS) in Alaska when any portion of the route of the TUS will be within any conservation system unit, national recreation area, or national conservation area. The regulations detail the procedures that must be followed to obtain Federal approval needed for a TUS. In addition, the regulations address special access, temporary access, and access to inholdings.

Timetable:

Action	Date	FR Cite
NPRM	09/17/96	61 FR 48873
NPRM Comment Period End	11/18/96	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Russell Wilson, Paralegal, Department of the Interior, Office of the Secretary, Alaska Regional Office, 2525 Gambell Street, Anchorage, AK 99503
Phone: 907 257-2641

RIN: 1093–AA07

[FR Doc. 97-22222 Filed 10-28-97; 8:45 am]

BILLING CODE 4310-RK-F

federal register

Wednesday
October 29, 1997

Part XI

Department of Justice

Semiannual Regulatory Agenda

DEPARTMENT OF JUSTICE (DOJ)

DEPARTMENT OF JUSTICE

8 CFR Ch. I

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Regulatory Agenda

AGENCY: Department of Justice.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Department of Justice is publishing its October 1997 regulatory agenda pursuant to E.O. 12866 "Regulatory Planning and Review," 58 FR 51735, and the Regulatory Flexibility Act, 5 U.S.C. sections 601-612 (1988).

FOR FURTHER INFORMATION CONTACT: Robert Hinchman, Senior Counsel, Office of Policy Development, Department of Justice, Room 4258, 950 Pennsylvania Avenue NW., Washington, DC 20530, (202) 514-8059.

SUPPLEMENTARY INFORMATION: For this edition of the Department of Justice's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

Dated: September 5, 1997.

Eleanor D. Acheson,

Assistant Attorney General, Office of Policy Development.

Bureau of Prisons—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1818	Postsecondary Education Programs	1120-AA25
1819	Correspondence: Excludable Mail	1120-AA65

Bureau of Prisons—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1820	Volunteer Community Service Projects	1120-AA03
1821	Intensive Confinement Centers	1120-AA11
1822	Incoming Publications/Inmate Legal Activities	1120-AA15
1823	Infectious Diseases	1120-AA23
1824	Fines and Costs	1120-AA29
1825	Birth Control, Pregnancy, Child Placement, Abortion	1120-AA31
1826	Literacy Program	1120-AA33
1827	Telephone Regulations and Inmate Financial Responsibility	1120-AA39
1828	Inmate Personal Property	1120-AA46
1829	Correspondence: Restricted Special Mail Procedures	1120-AA48
1830	Telephone Regulations and Inmate Financial Responsibility	1120-AA49
1831	Correspondence: Pretrial Inmates	1120-AA52
1832	Incoming Publications: Nudity and Sexually Explicit Material or Information	1120-AA59
1833	Searching and Detaining or Arresting Persons Other Than Inmates	1120-AA61
1834	Good Conduct Time	1120-AA62
1835	Progress Reports: Triennial Preparation	1120-AA63
1836	Classification and Program Review: Team Meetings	1120-AA64

Bureau of Prisons—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1837	Federal Prison Industries (FPI) Work Program: Deportation Orders	1120-AA57

Bureau of Prisons—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1838	Religious Beliefs and Practices	1120-AA17
1839	English as a Second Language Program	1120-AA19

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Bureau of Prisons—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
1840	Inmate Discipline (Good Conduct Time)	1120-AA34
1841	Postsecondary Education Programs	1120-AA35
1842	Drug Abuse Treatment Programs: Early Release Consideration	1120-AA36
1843	Scope of Rules: National Security Considerations	1120-AA47
1844	Scope of Rules: Prevention of Acts of Violence and Terrorism	1120-AA54
1845	Transfer of Offenders to or From Foreign Countries	1120-AA60
1846	Urine Surveillance	1120-AA68

Civil Rights Division—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1847	Nondiscrimination on the Basis of Sex in Federally Assisted Programs and Activities—Implementation of Title IX of the Education Amendments of 1972 (Reg Plan Seq. No. 63)	1190-AA26
1848	Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, As Amended	1190-AA35

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Civil Rights Division—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1849	Nondiscrimination on the Basis of Disability in State and Local Government Services; Public Accommodations and Commercial Facilities; Accessibility Standards (Reg Plan Seq. No. 64)	1190-AA26
1850	Nondiscrimination on the Basis of Disability in State and Local Government Services	1190-AA36
1851	Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities; Children's Facilities	1190-AA38

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Civil Rights Division—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1852	Amendment to Nondiscrimination in Federally Assisted Programs and Activities—Implementation of Title VI of the Civil Rights Act of 1964	1190-AA31
1853	Amendment to Coordination of Enforcement of Nondiscrimination in Federally Assisted Programs—Implementation of Title VI of the Civil Rights Act of 1964	1190-AA32
1854	Implementation of the Provisions of the Voting Rights Act Regarding Language Minority Groups	1190-AA39

Civil Rights Division—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1855	Redress Provisions for Persons of Japanese Ancestry: Guidelines under Ishida v. United States	1190-AA40

Drug Enforcement Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1856	Removal of Restrictions on Employing Certain Individuals	1117-AA28
1857	Exemption of Chemical Mixtures	1117-AA31

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Drug Enforcement Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1858	Separate Registrations for Separate Locations	1117-AA39
1859	Guidelines for Providing Controlled Substances to Ocean Vessels	1117-AA40
1860	Restriction of Import/Export Requirements for Personal Medical Use	1117-AA41
1861	Listed Chemicals; Proposed Thresholds for Iodine and Hydrochloric Gas (Hydrogen Chloride Gas)	1117-AA43
1862	Implementation of the MCA; Regulation of Pseudoephedrine, Phenylpropanolamine, and Combination Ephedrine Drug Products and Reports of Certain Transactions to Nonregulated Persons	1117-AA44
1863	Removal of Advance Notice Requirement for Certain Chemical Importations	1117-AA45

Drug Enforcement Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1864	Definition and Registration of Disposers	1117-AA19
1865	Registration and Reregistration Application Fees	1117-AA34
1866	Establishment of Freight Forwarding Facilities	1117-AA36
1867	Temporary Exemption From Chemical Registration Requirements for Distributions of Combination Ephedrine Products	1117-AA42

Drug Enforcement Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1868	Reporting on Psychotropic Substances	1117-AA22

Drug Enforcement Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1869	Prescriptions for Controlled Substances, Requirements for Use of Automated Data Processing Systems	1117-AA03
1870	Removal of Exemption for Products Containing Ephedrine With Guaifenesin (Which Are Lawfully Marketed Under the FDCA) From the Chemical Control Provisions of the CSA	1117-AA37

Executive Office for Immigration Review—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1871	Discipline of Attorneys and Representatives	1125-AA13
1872	Office of Chief Administrative Hearing Officer; Administrative Law Judges	1125-AA17
1873	Authority of Immigration Judges to Issue Civil Money Penalties	1125-AA18

Executive Office for Immigration Review—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1874	Rules Concerning Conditional Permanent Residence for Alien Entrepreneurs in Deportation Proceedings	1125-AA02
1875	Conditional Grants of Suspension of Deportation and Cancellation of Removal	1125-AA19

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Executive Office for Immigration Review—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1876	Fees for Motion to Reopen or Reconsider	1125-AA15
1877	Representation and Appearances: Law Students and Law Graduates	1125-AA16

General Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1878	Supplemental Standards of Ethical Conduct for Employees of the Department of Justice	1103-AA25

Immigration and Naturalization Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1879	New Rules Regarding Procedures for Asylum and Withholding of Removal	1115-AE93

Immigration and Naturalization Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1880	Revised Grounds of Inadmissibility, Waivers for Immigrants and Nonimmigrants, and Exceptions **(Reg Plan Seq. No. 65)**	1115-AB45
1881	Reduction of the Number of Acceptable Documents and Other Changes to Employment Verification Requirements **(Reg Plan Seq. No. 66)**	1115-AB73
1882	Educational Requirements for Naturalization	1115-AD52
1883	Nonimmigrant Classes; Diplomat and Government Representatives; Transits; Requirements for Admission, Extension and Maintenance of Status	1115-AD57
1884	Nonimmigrant Classes; S Classification; Law Enforcement Initiatives; Alien Witnesses	1115-AD86
1885	Inspection of Alien Crew Members; 90-day Waiver	1115-AD95
1886	Employment Authorization Document Applications and Process	1115-AE06
1887	Eligibility of Persons for Refugee Status and Withholding of Deportation; Elimination of Parole Review Program for Excludable Mariel Cubans	1115-AE30
1888	Entry and Exclusion Provisions; Arrival and Departure Manifests and Lists; Inspection of Persons Applying for Admission; User Fee Requirements for In-Transit Passengers	1115-AE37
1889	Contracts with Transportation Lines; Limiting Transfers of Transit Without Visa Aliens in the United States to One Electronic Ticketing	1115-AE41
1890	Examinations Fee Account Schedule	1115-AE42
1891	Judicial Review of Decisions of the Executive Office for Immigration Review and the Immigration and Naturalization Service	1115-AE46
1892	Petitioning Requirements for the H Nonimmigrant Classification	1115-AE52
1893	Canadian Border Boat Landing Program	1115-AE53
1894	Charging of Fees for Mexican Border Crossing Cards	1115-AE54
1895	Corporate Reorganizations (Mergers and Acquisitions) and E, H, L Nonimmigrant Classification	1115-AE55
1896	Petition for Employment Creation Aliens	1115-AE56
1897	Suspension of Privilege To Transport Aliens to the United States	1115-AE59
1898	Filing Factual Statements About Alien Prostitutes	1115-AE60
1899	Rights of Habitual Residence Between the United States and the Governments of the Marshall Islands, Micronesia and Palau	1115-AE61
1900	Nonimmigrant Overstays	1115-AE62
1901	F-1 Visa Abusers and Foreign Students	1115-AE63
1902	Use of Parole for Humanitarian Reason or Significant Public Benefit and Report to Congress	1115-AE68
1903	Limiting Liability for Certain Technical Violations of Paperwork Violations	1115-AE70
1904	Collection of Fees Under the Dedicated Commuter Lane Program, Port Passenger Accelerated Service System (PORTPASS) Program	1115-AE71

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Immigration and Naturalization Service—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1905	Certification of Certain Health Care Workers	1115-AE73
1906	Powers and Duties of the Attorney General and the Commissioner Delegation of Immigration Enforcement Authority	1115-AE76
1907	Civil Monetary Penalty Inflation Adjustment	1115-AE79
1908	Surrender of Aliens Ordered Removed From the United States	1115-AE82
1909	Proceedings to Determine Deportability of Aliens in the United States: Apprehension, Custody, Hearing, and Appeal	1115-AE83
1910	Clarification of Age Requirements For Fingerprinting Naturalization Applicants	1115-AE86
1911	Procedures for the Detention and Release of Criminal and Terrorist Aliens by the INS and for Custody Redeterminations by the Executive Office for Immigration Review	1115-AE88
1912	Control of Aliens Departing From the United States	1115-AE89
1913	Examinations Fee Account Schedule—EOIR	1115-AE90

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Immigration and Naturalization Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1914	Seizure and Forfeiture of Conveyances	1115-AA95
1915	Nonimmigrant Classes; NATO-1, 2, 3, 4, 5, 6, and 7; Control of Employment of Aliens (Special Requirement for Admission, Extension and Maintenance of Status; NATO)	1115-AB52
1916	Nonimmigrant Classes; North American Free Trade Agreement (United States-Canada Free Trade Agreement Amendments)	1115-AB72
1917	Visa Waiver Pilot Program	1115-AB93
1918	Removal of Conditional Basis and Lawful Permanent Residence for Certain Alien Spouses and Sons and Daughters; Battered and Abused Conditional Residents	1115-AC47
1919	Adjustment of Status to That of Person Admitted for Permanent Residence: Conditional Residents and Fiance(e)s	1115-AC70
1920	Nonimmigrant Classes; B Visitor for Business or Pleasure	1115-AC89
1921	Inspection of Persons Applying for Admission	1115-AD17
1922	Mexican and Canadian Nonresident Alien Border Crossing Cards (BCCs)	1115-AD24
1923	Adjustment of Status; Certain Nationals of the Peoples Republic of China	1115-AD33
1924	Petitions for Employment-Based Immigrants	1115-AD55
1925	Procedures for Filing a Derivative Petition (Form I-730) for a Spouse and Unmarried Children of a Refugee/Asylee	1115-AD59
1926	Requests for Additional Evidence To Support Immigrant Visa Petitions	1115-AD70
1927	Expansion of Direct Mail Program	1115-AD73
1928	Admission of Certain Nurses Seeking Nonimmigrant Classification Under the H-1A Category	1115-AD74
1929	Fees for Participation in Dedicated Commuter Lanes at Selected Ports of Entry; Collection of Fees Under the Dedicated Commuter Lane Program	1115-AD82
1930	Adjustment of Status to That of Person Admitted for Permanent Residence; Temporary Removal of Certain Restrictions on Eligibility	1115-AD83
1931	Screening Requirements of Carriers for Reduction, Refund, or Waiver of Fines	1115-AD97
1932	Petition to Classify Alien as Immediate Relative of a U.S. Citizen or as a Preference Immigrant; Self-Petitioning for Certain Battered or Abused Alien Spouses and Children	1115-AE04
1933	Miscellaneous Modifications to Naturalization Regulations	1115-AE07
1934	Conditions on Nonimmigrant Status; Disclosure of Information	1115-AE17
1935	Regulations Relating to Temporary Protected Status	1115-AE26
1936	Regulations Pertaining to Adjudications Processing	1115-AE31
1937	Orphan Petitions; Petitions To Classify Alien as Immediate Relative of a United States Citizen or Preference Immigrant; Change in Definition of Child	1115-AE33
1938	Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures	1115-AE47
1939	Agreement Promising Non-Deportation or Other Immigration Benefits	1115-AE50
1940	Definition of the Term "Lawfully Present" for Purposes of Applying for Title II Benefits Under the Social Security Act	1115-AE51
1941	Affidavits of Support on Behalf of Immigrants	1115-AE56
1942	Employment Verification by Collective Bargaining Units	1115-AE67
1943	Ineligibility of Certain Juvenile Offenders for Family Unity Program	1115-AE72

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Immigration and Naturalization Service—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1944	Adjustment of Status for Certain Polish or Hungarian Parolees	1115-AE74
1945	Regulations Pertaining to Battered Aliens and to Mail Order Bride Businesses, as Mandated by IIRIRA	1115-AE77
1946	Pilot Programs to Require Bonding in Addition to the Affidavit of Support	1115-AE78
1947	Establishment of Preinspected Automated Lane (PAL) Program at Immigration and Naturalization Service	1115-AE80
1948	The External Boundary and the Territorial Waters of the United States	1115-AE85
1949	Amendment of the Regulatory Definition of Arriving Alien	1115-AE87

Immigration and Naturalization Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1950	Nonimmigrant Classes; Temporary Employees—H-2A Agricultural	1115-AA25
1951	Field Officers; Powers and Duties; Subpoena	1115-AB83
1952	Termination of Temporary Resident Status	1115-AB74
1953	Temporary Alien Workers Seeking Classification Under the Immigration and Nationality Act	1115-AC72
1954	F, J, and M Nonimmigrant Student Requirements for Admission, Tracking, Maintenance of Status and for Employment Authorization	1115-AD16
1955	Executing Final Order of Exclusion or Deportation; Conforming 72-Hour Notice Provisions	1115-AD71
1956	Regulation Changes Necessitated by the Break-up of the Soviet Union and Czechoslovakia, the Unification of the Two Germanies, and the Name Change of the Democratic Republic of Vietnam	1115-AD96
1957	Notice of Policy Regarding Fines Imposed on Carriers Who Bring Aliens to the United States Without Proper Documentation	1115-AE09
1958	"Master Exhibits" Currently Available	1115-AE14
1959	Employer Sanctions Modifications	1115-AE21
1960	Effect of Parole of Cuban and Haitian Nationals on Resettlement Assistance Eligibility	1115-AE29
1961	Immigration and Naturalization Service P-1 Nonimmigrants	1115-AE36
1962	Order to Show Cause and Notice of Hearing; Apprehension, Custody and Detention	1115-AE57

Immigration and Naturalization Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1963	Contracts With Transportation Lines; Increasing the Liquidated Damages for Carrier Violations of the TWOV Agreement to $3000	1115-AC17
1964	Marriage During Deportation or Exclusion Proceedings; Bona Fide Marriage Exemption to Prohibition Against Approval of Relative Visa Petition or Adjustment of Status	1115-AC43
1965	Treaty Aliens, E Classification	1115-AC51
1966	Unavailability of TWOV to Citizens of the Former Socialist Federal Republic of Yugoslavia	1115-AC87
1967	Issuance of Charging Documents by Asylum Officers	1115-AD64
1968	Waiver of the Two-Year Home Country Physical Presence Requirement for Certain Foreign Medical Graduates	1115-AD69
1969	Preinspection Services for Aircraft, Vessels, and Trains Outside the United States (Preinspection)	1115-AD98
1970	Notice to Carriers of the INS Policy on the Requirements of Arrival/Departure Manifests, Form I-94, and Fines Implications Under Section 231(a)	1115-AE11
1971	Recognized Providers of Immigration Assistance and Forms Preparation Services	1115-AE18
1972	Acquisition of Citizenship; Equal Treatment of Women in Conferring Citizenship to Children Born Abroad	1115-AE19
1973	Periods of Lawful Temporary Resident Status and Lawful Permanent Resident Status To Establish Seven Years of Lawful Domicile	1115-AE27
1974	Registration of Aliens on Criminal Probation or Criminal Parole	1115-AE65
1975	Employer Sanctions: Miscellaneous Provisions	1115-AE66
1976	Addition of Organization to Listing of American Institutions of Research Recognized by the Attorney General	1115-AE84

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Legal Activities—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1977	Federal Claims Collection Standards (FCCS)	1105-AA31
1978	False Claims Amendments Act of 1986—Civil Investigative Demands	1105-AA42
1979	Implementation of the National Stolen Passenger Motor Vehicle Information System (NSPMVIS)	1105-AA44
1980	Filing of Informational Materials	1105-AA45
1981	Guidelines for Megan's Law and the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act	1105-AA50
1982	Operation of the National Instant Criminal Background Check System	1105-AA51
1983	Justice Acquisition Regulations	1105-AA55
1984	Implementation of the Pam Lychner Sexual Offender Tracking and Identification Act	1105-AA56

Legal Activities—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1985	Production or Disclosure of Material or Information	1105-AA20
1986	Implementation of Sections 104 and 109 of the Communications Assistance for Law Enforcement Act	1105-AA39
1987	Civil Monetary Penalties Inflation Adjustment	1105-AA48
1988	Radiation Exposure Compensation Act: Evidentiary Requirements; Definitions and Number of Claims Filed	1105-AA49
1989	Procedures To Review Removals and Suspensions of Standing Trustees and Panel Trustees	1105-AA54

Legal Activities—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1990	Criminal Fines Enforcement	1105-AA16
1991	Violent Crime and Drug Emergency Areas	1105-AA29
1992	Federal Convicted Offender DNA Database Program	1105-AA52

Legal Activities—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1993	Qualifications for Chapter 13 Standing Trustees	1105-AA32
1994	Child Protection Restoration and Penalties Enhancement Act of 1990	1105-AA46
1995	Classified National Security Information and Access to Classified Information	1105-AA53

Office of Justice Programs—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1996	Confidentiality of Identifiable Research and Statistical Information	1121-AA33
1997	Criminal Justice Block Grants	1121-AA34
1998	Private Sector/Prison Industry Enhancement Certification	1121-AA36

Office of Justice Programs—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1999	Young American Medals Program	1121-AA37

DOJ

Office of Justice Programs—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2000	Grants Program for Indian Tribes	1121-AA41
2001	Administrative Requirements for Grantees To Reflect Single Audit Act Amendments	1121-AA45

Office of Justice Programs—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2002	Federal Law Enforcements Dependents Assistance Program	1121-AA44

DEPARTMENT OF JUSTICE (DOJ)
Bureau of Prisons (BOP)

Proposed Rule Stage

1818. POSTSECONDARY EDUCATION PROGRAMS

Priority: Routine and Frequent

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 544

Legal Deadline: None

Abstract: This document restricts eligibility for Bureau payment of tuition for inmates who are refusing participation in the Inmate Financial Responsibility Program and for inmates who have a deportation detainer.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	
NPRM Comment Period End	06/00/98	
Final Action	12/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA25

1819. • CORRESPONDENCE: EXCLUDABLE MAIL

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 551; 5 USC 552a; 18 USC 1791; 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081; 18 USC 4082; 18 USC 5006-5024; 18 USC 5039; 28 USC 509; 28 USC 510

CFR Citation: 28 CFR 540

Legal Deadline: None

Abstract: This document defines exludable mail and establishes procedures for handling such mail.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	
NPRM Comment Period End	04/00/98	
Final Action	10/00/98	
Final Action Effective	11/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA65

DEPARTMENT OF JUSTICE (DOJ)
Bureau of Prisons (BOP)

Final Rule Stage

1820. VOLUNTEER COMMUNITY SERVICE PROJECTS

Priority: Routine and Frequent

Legal Authority: 18 USC 1512; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 551.60

Legal Deadline: None

Abstract: This document establishes provisions for Voluntary Community Service Projects. A volunteer community service project is a project designed to provide for the public good which has been developed by local government or by a nonprofit charitable organization for approval by the Bureau. This rule provides for the voluntary participation by an inmate in a volunteer community service project. The intent of this rule is to promote the public interest and provide for the security and good order of the institution by reducing inmate idleness.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/19/93	58 FR 5210
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

DOJ—BOP

Final Rule Stage

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA03

1821. INTENSIVE CONFINEMENT CENTERS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4046; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 524.31 to 524.34

Legal Deadline: None

Abstract: This document establishes procedures for the operation of a specialized program combining features of a military boot camp with the traditional correctional values of the Bureau of Prisons. Inmates who successfully complete this program may be placed in community-based programs for longer periods of time than ordinarily permitted.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/26/96	61 FR 18658
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA11

1822. INCOMING PUBLICATIONS/INMATE LEGAL ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 551; 5 USC 552a; 18 USC 1791; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510; 28 USC 1346(b); 28 USC 2671 to 2680

CFR Citation: 28 CFR 540.71; 28 CFR 543.11

Legal Deadline: None

Abstract: This document amends Bureau regulations on Incoming Publications to require that inmates in medium security, high security, and administrative institutions may receive softcover publications only from the publisher, book club, or bookstore. A conforming amendment is made to the Bureau's regulations on Inmate Legal Activities.

Timetable:

Action	Date	FR Cite
NPRM	01/18/94	59 FR 2668
NPRM Comment Period End	03/21/94	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA15

1823. INFECTIOUS DISEASES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 549

Legal Deadline: None

Abstract: This document combines existing regulations on HIV programs with provisions applicable to correctional management of tuberculosis and hepatitis B.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/05/95	60 FR 52278
Interim Final Rule Comment Period End	12/04/95	
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA23

1824. FINES AND COSTS

Priority: Routine and Frequent

Legal Authority: 18 USC 3565; 18 USC 3568 to 3569; 18 USC 3621; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 4201 to 4218; 18 USC 5031 to 5042; 28 USC 509 to 510

CFR Citation: 28 CFR 571.50 to 571.56

Legal Deadline: None

Abstract: This document will revise Bureau regulations to update procedures for processing a fine or costs ordered by the court with respect to an inmate convicted of an offense committed before November 1, 1987.

Timetable:

Action	Date	FR Cite
Final Action	11/00/97	
Final Action Effective	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA29

1825. BIRTH CONTROL, PREGNANCY, CHILD PLACEMENT, ABORTION

Priority: Routine and Frequent

Legal Authority: 18 USC 1512; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 551.22 to 551.24

Legal Deadline: None

Abstract: This document removes references to restrictions on Bureau funding of an elective abortion. Removal of these references is necessary to conform to changes in legislative authority. This document also makes various editorial or organizational changes for the sake of clarity.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/08/94	59 FR 62968
Final Action	11/00/97	
Final Action Effective	11/00/97	

Small Entities Affected: None

DOJ—BOP

Final Rule Stage

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA31

1826. LITERACY PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 544.70 to 544.76

Legal Deadline: None

Abstract: This document implements statutory provisions which make an inmate's vesting of good conduct time contingent upon the inmate's obtaining or making satisfactory progress toward obtaining a General Educational Degree or high school diploma. Additional changes to the regulations on the Bureau's literacy program are made for the sake of clarification or simplification.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/26/97	62 FR 50791
Final Action	04/00/98	
Final Action Effective	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA33

1827. TELEPHONE REGULATIONS AND INMATE FINANCIAL RESPONSIBILITY

Priority: Routine and Frequent

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039

CFR Citation: 28 CFR 540

Legal Deadline: None

Abstract: This document postpones the effective date for certain provisions of the final rule on Telephone Regulations and Inmate Financial Responsibility which was published on April 4, 1994.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/02/96	61 FR 90
Final Action	12/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA39

1828. INMATE PERSONAL PROPERTY

Priority: Routine and Frequent

Legal Authority: 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081; 18 USC 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509; 28 USC 510

CFR Citation: 28 CFR 553.10 to 553.15

Legal Deadline: None

Abstract: This document revises procedures governing the transfer of inmate personal property between institutions.

Timetable:

Action	Date	FR Cite
NPRM	04/01/96	61 FR 14440
NPRM Comment Period End	05/31/96	
Final Action	11/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA46

1829. CORRESPONDENCE: RESTRICTED SPECIAL MAIL PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 551; 5 USC 552a; 18 USC 1791; 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081; 18 USC 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509; 28 USC 510

CFR Citation: 28 CFR 540.18

Legal Deadline: None

Abstract: This document provides for restricted special mail procedures in instances where the Warden has reason to believe that the special mail may pose or may threaten physical harm to the intended recipient.

Timetable:

Action	Date	FR Cite
NPRM	02/14/96	61 FR 5846
NPRM Comment Period End	04/15/96	
Final Action	11/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA48

1830. TELEPHONE REGULATIONS AND INMATE FINANCIAL RESPONSIBILITY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 551; 5 USC 552a; 18 USC 1791; 18 USC 3013; 18 USC 3571; 18 USC 3572; 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 3663; 18 USC 4001; 18 USC 4042; 18 USC 4081; 18 USC 4082; 18 USC 5006 to 5024; ...

CFR Citation: 28 CFR 540.105; 28 CFR 545.11

Legal Deadline: None

Abstract: This document establishes limitations on telephone privileges and commissary privileges for inmates who refuse to participate in the inmate financial responsibility program.

Timetable:

Action	Date	FR Cite
NPRM	01/02/96	61 FR 92
NPRM Comment Period End	03/04/96	

DOJ—BOP

Final Rule Stage

Action	Date	FR Cite
Final Action	11/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA49

1831. CORRESPONDENCE: PRETRIAL INMATES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 551; 5 USC 552a; 18 USC 1791; 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081; 18 USC 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509; 28 USC 510

CFR Citation: 28 CFR 540.14

Legal Deadline: None

Abstract: This document requires that general correspondence from pretrial inmates may not be sealed and may be read and inspected by staff.

Timetable:

Action	Date	FR Cite
NPRM	12/09/96	61 FR 64954
NPRM Comment Period End	02/07/97	
Final Action	11/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA52

1832. INCOMING PUBLICATIONS: NUDITY AND SEXUALLY EXPLICIT MATERIAL OR INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 551; 5 USC 552a; 18 USC 1791; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510; PL 104-208

CFR Citation: 28 CFR 540.70 to 540.72

Legal Deadline: None

Abstract: This rule modifies the Bureau of Prisons rule on Incoming Publications in order to implement the provisions of the Fiscal Year 1997 Omnibus Budget Act (Public Law 104-208) prohibiting use of appropriated funds for distributing or making available to an inmate any commercially published information or material when such information or material is sexually explicit or features nudity.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/08/96	61 FR 57586
Final Action	12/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA59

1833. SEARCHING AND DETAINING OR ARRESTING PERSONS OTHER THAN INMATES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 751 to 752; 18 USC 1791 to 1793; 18 USC 3050; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4012; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 511

Legal Deadline: None

Abstract: This document amends the regulations on searching/detaining of non-inmates to authorize the Warden to conduct visual searches of visitors suspected of introducing contraband into a low and above security level institution (or administrative institution, or in a pretrial or in a jail unit within any security level institution) when there is reasonable suspicion that the visitor possesses contraband or is introducing or attempting to introduce contraband into the institution.

Timetable:

Action	Date	FR Cite
NPRM	03/05/97	62 FR 10164
NPRM Comment Period End	05/05/97	
Final Action	11/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA61

1834. GOOD CONDUCT TIME

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3568; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 523

Legal Deadline: None

Abstract: This document implements the Bureau of Prisons discretion in awarding good conduct time when the inmate has not earned or is not making satisfactory progress toward earning a high school diploma or GED.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/27/97	62 FR 50786
Final Action	12/00/97	
Final Action Effective	05/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA62

1835. PROGRESS REPORTS: TRIENNIAL PREPARATION

Priority: Routine and Frequent

Legal Authority: 18 USC 3521 to 3528; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4046; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 21 USC 848; 28 USC 509 to 510

CFR Citation: 28 CFR 524

Legal Deadline: None

Abstract: To amend regulations on progress reports to require that progress reports for designated inmates be prepared at least once every 36 months. The purpose of this change is to streamline operations at Bureau facilities while continuing to provide appropriate program services to inmates.

Timetable:

Action	Date	FR Cite
NPRM	03/05/97	62 FR 10164
NPRM Comment Period End	05/05/97	
Final Action	11/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA63

1836. CLASSIFICATION AND PROGRAM REVIEW: TEAM MEETINGS

Priority: Routine and Frequent

Legal Authority: 18 USC 3521 to 3528; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4046; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 21 USC 848; 28 USC 509 and 510

CFR Citation: 28 CFR 524

Legal Deadline: None

Abstract: To amend regulations on classification and program review to discontinue the practice of permitting inmates to waive appearance at classification team meetings for program reviews. The purpose of this change is to ensure that inmates participate in program reviews.

Timetable:

Action	Date	FR Cite
NPRM	04/21/97	62 FR 19430
NPRM Comment Period End	06/20/97	
Final Action	01/00/98	
Final Action Effective	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA64

DEPARTMENT OF JUSTICE (DOJ)
Bureau of Prisons (BOP)

Long-Term Actions

1837. FEDERAL PRISON INDUSTRIES (FPI) WORK PROGRAM: DEPORTATION ORDERS

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 345

Timetable:

Action	Date	FR Cite
NPRM	04/30/97	62 FR 23536
NPRM Comment Period End	06/30/97	
Final Action	11/00/98	
Final Action Effective	12/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA57

DEPARTMENT OF JUSTICE (DOJ)
Bureau of Prisons (BOP)

Completed Actions

1838. RELIGIOUS BELIEFS AND PRACTICES

Priority: Other Significant

CFR Citation: 28 CFR 548.10 to 548.20

Completed:

Reason	Date	FR Cite
Final Action (Final Rule Comment Period End 10/21/97)	08/22/97	62 FR 44836
Final Action Effective	08/22/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic
Phone: 202 514-6655

RIN: 1120–AA17

1839. ENGLISH AS A SECOND LANGUAGE PROGRAM

Priority: Routine and Frequent

CFR Citation: 28 CFR 544.40 to 544.44

Completed:

Reason	Date	FR Cite
Final Action	07/24/97	62 FR 39916
Final Action Effective	07/24/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic
Phone: 202 514-6655

RIN: 1120–AA19

1840. INMATE DISCIPLINE (GOOD CONDUCT TIME)

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 541

Completed:

Reason	Date	FR Cite
Final Action	09/26/97	62 FR 50787
Final Action Effective	11/03/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic
Phone: 202 514-6655

RIN: 1120–AA34

DOJ—BOP

Completed Actions

1841. POSTSECONDARY EDUCATION PROGRAMS

Priority: Routine and Frequent

CFR Citation: 28 CFR 544.20 to 544.23

Completed:

Reason	Date	FR Cite
Final Action	05/07/97	62 FR 25100
Final Action Effective	05/07/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic
Phone: 202 514-6655

RIN: 1120–AA35

1842. DRUG ABUSE TREATMENT PROGRAMS: EARLY RELEASE CONSIDERATION

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 550

Completed:

Reason	Date	FR Cite
Final Action	09/26/97	62 FR 50787
Final Action Effective	11/03/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic
Phone: 202 514-6655

RIN: 1120–AA36

1843. SCOPE OF RULES: NATIONAL SECURITY CONSIDERATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 501

Completed:

Reason	Date	FR Cite
Final Action	06/20/97	62 FR 33730
Final Action Effective	06/20/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic
Phone: 202 514-6655

RIN: 1120–AA47

1844. SCOPE OF RULES: PREVENTION OF ACTS OF VIOLENCE AND TERRORISM

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 501.3

Completed:

Reason	Date	FR Cite
Final Action	06/20/97	62 FR 33730
Final Action Effective	06/20/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA54

1845. TRANSFER OF OFFENDERS TO OR FROM FOREIGN COUNTRIES

Priority: Info./Admin./Other

CFR Citation: 28 CFR 527

Completed:

Reason	Date	FR Cite
Final Action	05/21/97	62 FR 27872
Final Action Effective	05/21/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA60

1846. • URINE SURVEILLANCE

Priority: Routine and Frequent

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4251 to 4255; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 550

Legal Deadline: None

Abstract: This document allows for the use of discretion by staff in filing an incident report in instances where an inmate is unable to provide a specimen.

Timetable:

Action	Date	FR Cite
Final Action	08/26/97	62 FR 45292
Final Action Effective	08/26/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655
Fax: 202 307-0828

RIN: 1120–AA68

DEPARTMENT OF JUSTICE (DOJ)
Civil Rights Division (CRT)

Proposed Rule Stage

1847. NONDISCRIMINATION ON THE BASIS OF SEX IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES—IMPLEMENTATION OF TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

Regulatory Plan: This entry is Seq. No. 63 in Part II of this issue of the **Federal Register**.

RIN: 1190–AA28

1848. PROCEDURES FOR THE ADMINISTRATION OF SECTION 5 OF THE VOTING RIGHTS ACT OF 1965, AS AMENDED

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 28 USC 509 to 510; 42 USC 1973a(c); 42 USC 1973c

CFR Citation: 28 CFR 51

Legal Deadline: None

Abstract: Revision of the procedures for the administration of section 5 is contemplated as a result of judicial decisions interpreting section 5 of the Voting Rights Act, 42 U.S.C. 1973c, since the last major revision in 1987. Modifications are being considered to assure consistency with judicial interpretation and to assure that the section 5 review process continues to play its proper role in preventing denials or abridgements of the right to vote on account of race, color, or membership in a language minority group.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

DOJ—CRT

Proposed Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	01/00/98	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: David H. Hunter, Attorney, Department of Justice, Civil Rights Division, P.O. Box 66128, Washington, DC 20035
Phone: 202 307-2989
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Email: david.h.hunter@usdoj.gov

RIN: 1190–AA35

DEPARTMENT OF JUSTICE (DOJ)
Civil Rights Division (CRT)

Final Rule Stage

1849. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN STATE AND LOCAL GOVERNMENT SERVICES; PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES; ACCESSIBILITY STANDARDS

Regulatory Plan: This entry is Seq. No. 64 in Part II of this issue of the **Federal Register**.

RIN: 1190–AA26

1850. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN STATE AND LOCAL GOVERNMENT SERVICES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 12134; 5 USC 301; 28 USC 509; 28 USC 510; PL 101-336

CFR Citation: 28 CFR 35

Legal Deadline: None

Abstract: This proposed amendment would revise the Department's regulation implementing title II to clarify the requirement for installation of curb ramps at existing pedestrian walkways and to extend the time period for compliance beyond the current deadline of January 26, 1995. This amendment responds to public concerns about the unique and significant capital expense involved in the installation of curb ramps.

The amendment would establish a two-tier system under which public entities would be required to provide access to pedestrian walkways serving government offices, public transportation, public accommodations, places of employment, and the residences of individuals with disabilities by January 26, 2000. Access to existing pedestrian walkways in other areas would be required by January 26, 2005. The proposed rule would require public entities to include a schedule for the implementation of these requirements in their transition plans.

Timetable:

Action	Date	FR Cite
NPRM	11/27/95	60 FR 58462
NPRM Comment Period End	01/26/96	
Comment Period Extended to 3/1/96	02/06/96	61 FR 4389
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John L. Wodatch, Chief, Disability Rights Section, Department of Justice, Civil Rights Division, P.O. Box 66738, Washington, DC 20035-6738
Phone: 800 514-0301
TDD: 800 514-0383
Fax: 202 307-1198

RIN: 1190–AA36

1851. AMERICANS WITH DISABILITIES ACT ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES; CHILDREN'S FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 12186; 5 USC 301; 28 USC 509; PL 101-336; 28 USC 510

CFR Citation: 28 CFR 36

Legal Deadline: None

Abstract: On July 26, 1991, the Department published its final rules implementing titles II and III of the Americans with Disabilities Act (ADA), which prohibits discrimination on the basis of disability by public entities (title II) and in places of accommodation and commercial facilities (title III). Those regulations included accessibility guidelines but did not specifically include guidelines for facilities designed for children.

This rule amends the ADA Standards for Accessible Design to include guidelines based on children's dimensions and anthropometrics and applies to newly constructed and altered facilities that are designed for use primarily by children. The rule ensures that newly constructed and altered children's facilities are readily accessible to and usable by children with disabilities.

Timetable:

Action	Date	FR Cite
NPRM	07/22/96	61 FR 37964
NPRM Comment Period End	10/21/96	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John L. Wodatch, Chief, Disability Rights Section, Department of Justice, Civil Rights Division, P.O. Box 66738, Washington, DC 20035-6738
Phone: 800 514-0301
TDD: 800 514-0383
Fax: 202 307-1198

RIN: 1190–AA38

DEPARTMENT OF JUSTICE (DOJ)
Civil Rights Division (CRT)

Long-Term Actions

1852. AMENDMENT TO NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES—IMPLEMENTATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Priority: Other Significant

CFR Citation: 28 CFR 42.101 to 42.112

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Merrily A. Friedlander
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TDD: 202 307-2678
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RIN: 1190–AA31

1853. AMENDMENT TO COORDINATION OF ENFORCEMENT OF NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS—IMPLEMENTATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Priority: Other Significant

CFR Citation: 28 CFR 42.401 to 42.415

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Merrily A. Friedlander
Phone: 202 307-2222
TDD: 202 307-2678
Fax: 202 307-0595

RIN: 1190–AA32

1854. IMPLEMENTATION OF THE PROVISIONS OF THE VOTING RIGHTS ACT REGARDING LANGUAGE MINORITY GROUPS

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 55

Timetable: Next Action Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: David H. Hunter
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RIN: 1190–AA39

DEPARTMENT OF JUSTICE (DOJ)
Civil Rights Division (CRT)

Completed Actions

1855. REDRESS PROVISIONS FOR PERSONS OF JAPANESE ANCESTRY: GUIDELINES UNDER ISHIDA V. UNITED STATES

Priority: Other Significant

CFR Citation: 28 CFR 74.3(b)(9)

Completed:

Reason	Date	FR Cite
Final Action	04/24/97	62 FR 19928
Final Action Effective	05/27/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Tink D. Cooper
Phone: 202 219-6900
TDD: 202 219-4710

RIN: 1190–AA40

DEPARTMENT OF JUSTICE (DOJ)
Drug Enforcement Administration (DEA)

Proposed Rule Stage

1856. REMOVAL OF RESTRICTIONS ON EMPLOYING CERTAIN INDIVIDUALS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 822

CFR Citation: 21 CFR 1301.76(a)

Legal Deadline: None

Abstract: This rule removes certain restrictions on the employment by registrants of individuals convicted of a felony offense relating to controlled substances, persons denied DEA registration or who had it revoked for cause.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: DEA-118

Agency Contact: G. Thomas Gitchel, Chief, Liaison and Policy Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration, Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA28

1857. EXEMPTION OF CHEMICAL MIXTURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 802; 21 USC 830; 21 USC 871(b)

CFR Citation: 21 CFR 1310

Legal Deadline: None

Abstract: The Domestic Chemical Diversion Control Act of 1993 removed the exemption from regulation for chemical mixtures. Chemical mixtures are now regulated, unless specifically exempted by the Administrator. In the proposed rule regarding the implementation of the Domestic Chemical Diversion Control Act of 1993, DEA proposed regulations regarding exemption of chemical mixtures. Based on industry comments, the proposed regulations were subsequently withdrawn for reassessment and consultation with industry. Based on extensive consultations with industry, DEA will publish proposed regulations intended to establish the least possible burden on industry while remaining consistent with the requirements of the law.

DOJ—DEA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: DEA-137

Agency Contact: Howard McClain, Jr., Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration
Phone: 202 307-7183

RIN: 1117–AA31

1858. SEPARATE REGISTRATIONS FOR SEPARATE LOCATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 821; 21 USC 822

CFR Citation: 21 CFR 1301.23

Legal Deadline: None

Abstract: DEA is proposing amending 21 CFR 1301.23 to clarify the requirement that a physician must obtain a separate registration for each state in which he/she practices.

Timetable:

Action	Date	FR Cite
ANPRM	09/18/96	61 FR 49086
ANPRM Comment Period End	11/18/96	
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: DEA Number 142N

Agency Contact: G. Thomas Gitchel, Chief, Liaison and Policy Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration
Phone: 202 307-7297
Fax: 202 307-8570

RIN: 1117–AA40

1859. GUIDELINES FOR PROVIDING CONTROLLED SUBSTANCES TO OCEAN VESSELS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 871(b)

CFR Citation: 21 CFR 1301.28

Legal Deadline: None

Abstract: DEA is considering whether to propose amending its regulations regarding the supply of controlled substances to ocean vessels to provide a means of supply more consistent with current industry practices for other materials. The decision on whether to propose amendments will be based on the information and comments submitted in response to this advance notice of proposed rulemaking and DEA's experience with the existing procedures and practices for supplying controlled substances to ocean vessels.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: DEA-149P

Agency Contact: G. Thomas Gitchel, Chief, Liaison and Policy Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration
Phone: 202 307-7297
Fax: 202 307-8570

RIN: 1117–AA39

1860. RESTRICTION OF IMPORT/EXPORT REQUIREMENTS FOR PERSONAL MEDICAL USE

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 952; 21 USC 956 to 958

CFR Citation: 21 CFR 1311.27

Legal Deadline: None

Abstract: DEA is proposing to amend title 21, Code of Federal Regulations, Section 1311.27 to restrict the quantity of controlled substances that may be carried for personal medical use by an individual entering the United States (U.S.) to an amount consistent with the individual's travel. This action is being taken in response to problems with the misuse of the personal medical use exemption as a means to obtain and import controlled substances into the United States in a manner inconsistent with the intent of the law. The amended regulations will allow individuals to carry a supply of controlled substances sufficient to meet their health needs during their travels while preventing the misuse of the exemption.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: DEA-151P

Agency Contact: G. Thomas Gitchel, Chief, Liaison and Policy Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration
Phone: 202 307-7297
Fax: 202 307-8570

RIN: 1117–AA41

1861. LISTED CHEMICALS; PROPOSED THRESHOLDS FOR IODINE AND HYDROCHLORIC GAS (HYDROGEN CHLORIDE GAS)

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 802; 21 USC 871(b); PL 104-237 Comprehensive Methamphetamine Control Act of 1996

CFR Citation: 21 CFR 1310

Legal Deadline: None

Abstract: The Comprehensive Methamphetamine Control Act of 1996 (MCA) establishes that, effective October 3, 1996, Iodine (in its pure crystal form; mixtures such as tincture of iodine and other household products remain exempt from regulation) and Hydrochloric Gas are List II chemicals under the Controlled Substances Act (CSA). The inclusion of these chemicals under the CSA requires that each regulated person must keep records and make reports as specified in title 21, Code of Federal Regulation part 1310. The MCA applied the recordkeeping and reporting requirements to all transactions involving Iodine and Hydrochloric Gas.

This notice proposes to establish a domestic threshold of 0.4 kilograms for iodine, thus providing an exemption for transactions below this level, which would include the vast majority of retail sales. Legitimate commerce in Hydrochloric Gas consists almost exclusively of large volume transactions to commercial customers. However, clandestine methamphetamine laboratories often make use of small volumes of this gas, and, therefore, an effective threshold could not be

established. In those rare cases where legitimate users purchase small quantities, principally for research or scientific purposes, the recordkeeping and reporting requirements will apply only to the distributor; the purchasers will not be subject to the requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/30/97	62 FR 51072
NPRM Comment Period End	12/01/97	
Final Action	06/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: DEA-156P

Agency Contact: Frank Sapienza, Chief, Drug & Chemical Evaluation Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration
Phone: 202 307-7183
Fax: 202 307-8570

RIN: 1117–AA43

1862. • IMPLEMENTATION OF THE MCA; REGULATION OF PSEUDOEPHEDRINE, PHENYLPROPANOLAMINE, AND COMBINATION EPHEDRINE DRUG PRODUCTS AND REPORTS OF CERTAIN TRANSACTIONS TO NONREGULATED PERSONS

Priority: Other Significant

Legal Authority: 21 USC 802; 21 USC 821 TO 824; 21 USC 830; 21 USC 871(b); 21 USC 875; 21 USC 877; 21 USC 951; 21 USC 958

CFR Citation: 21 CFR 1300; 21 CFR 1309; 21 CFR 1310

Legal Deadline: None

Abstract: DEA is proposing amending its regulations to implement the requirements of the Comprehensive Methamphetamine Control Act of 1996 (MCA) establishing pseudoephedrine, phenylpropanolamine, and combination ephedrine drug products as List I chemicals, and the MCA requirement that reports be submitted for certain distributions to nonregulated persons involving pseudoephedrine, phenylpropanolamine, and ephedrine, including drug products containing those chemicals. The MCA establishes pseudoephedrine, phenylpropanolamine, and combination ephedrine products as regulated List I chemicals, and requires that reports of certain distributions to nonregulated persons be reported each month.

To minimize the impact of the new law, DEA is proposing to exempt retail distributors from the registration requirement. This exemption will provide the estimated 750,000 retail distributors with relief from the chemical control requirements of the regulations, including registration. Additionally, the existing exemptions from registration for CSA registrants and for distributors of prescription drug products will help minimize the impact of the requirements on other handlers of the products.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: DEA number 163P

Agency Contact: G. Thomas Gitchel, Chief, Liaison and Policy Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration
Phone: 202 307-7297
Fax: 202 307-8570

RIN: 1117–AA44

1863. • REMOVAL OF ADVANCE NOTICE REQUIREMENT FOR CERTAIN CHEMICAL IMPORTATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 802; 21 USC 830; 21 USC 871(b); 21 USC 971

CFR Citation: 21 CFR 1313

Legal Deadline: None

Abstract: DEA is proposing to amend its regulations to waive the 15 day advance notice requirement for importations of certain chemicals for which such notice is not required in advance for effective enforcement of the chemical controls. Importers will be required to furnish summary reports of such importations on a quarterly basis.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: DEA number 165P

Agency Contact: William Wolf, Chief, Chemical Operations Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration
Phone: 202 307-7204
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RIN: 1117–AA45

DEPARTMENT OF JUSTICE (DOJ)

Drug Enforcement Administration (DEA)

Final Rule Stage

1864. DEFINITION AND REGISTRATION OF DISPOSERS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 821; 21 USC 822; 21 USC 823; 21 USC 824; 21 USC 871(b); 21 USC 875; 21 USC 877

CFR Citation: 21 CFR 1301

Legal Deadline: None

Abstract: In years past, most pharmaceutical manufacturers and wholesalers, as a service to their customers, accepted returns of outdated/damaged merchandise. Also, agencies such as DEA and state Boards of Pharmacy accepted surrendered drugs or witnessed their disposal by controlled substance registrants. Over the past several years, environmental concerns and regulations have eliminated many of the disposal options which had been available. As a result, drug producers and government agencies alike are increasingly reluctant to be involved in the disposal process. Due to these factors and the time and resources expended by DEA and manufacturers, a disposer registration has become an essential link in the legitimate distribution chain. Therefore, DEA is proposing the establishment of a new category of controlled substance registrant as a disposer.

Timetable:

Action	Date	FR Cite
NPRM	08/23/95	60 FR 43732
NPRM Comment Period End	10/23/95	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: DEA 108

Agency Contact: James A. Pacella, Chief, Policy Unit, Office of Diversion Control, Department of Justice, Drug Enforcement Administration,
Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA19

1865. REGISTRATION AND REREGISTRATION APPLICATION FEES

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 802; 21 USC 821; 21 USC 822; 21 USC 871(b)

CFR Citation: 21 CFR 1301

Legal Deadline: None

Abstract: In furtherance of the DEA's 1992 final rule regarding the increase of application fees (57 FR 60148), DEA is publishing this explanation of the components of the diversion control program.

Timetable:

Action	Date	FR Cite
Final Rule Republished for Further Comment	12/30/96	61 FR 68624
Comment Period End	03/31/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: DEA Number 140P

Agency Contact: G. Thomas Gitchel, Chief, Liaison and Policy Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration
Phone: 202 307-7297

RIN: 1117–AA34

1866. ESTABLISHMENT OF FREIGHT FORWARDING FACILITIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 821 to 824; 21 USC 827; 21 USC 871(b); 21 USC 875; 21 USC 877; 21 USC 958(d); 21 USC 965

CFR Citation: 21 CFR 1301; 21 CFR 1304

Legal Deadline: None

Abstract: DEA is proposing to amend its regulations to define the term Freight Forwarding Facility and to exempt such facilities from the requirement of registration, in response to industry requests for recognition of such facilities. The proposed amendments will establish the regulatory guidelines under which registrants may utilize a freight forwarding facility while shipping controlled substances to another registrant.

Timetable:

Action	Date	FR Cite
NPRM	12/18/96	61 FR 66637
NPRM Comment Period End	02/28/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: DEA Number 143P

Agency Contact: G. Thomas Gitchel, Chief, Liaison and Policy Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration
Phone: 202 307-7297
Fax: 202 307-8570

RIN: 1117–AA36

1867. TEMPORARY EXEMPTION FROM CHEMICAL REGISTRATION REQUIREMENTS FOR DISTRIBUTIONS OF COMBINATION EPHEDRINE PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 871(b); PL 104-237 Comprehensive Methamphetamine Control Act of 1996; 21 USC 822(d); 21 USC 957(b)(2)

CFR Citation: 21 CFR 1309; 21 CFR 1310; 21 CFR 1313

Legal Deadline: None

Abstract: DEA is amending its regulations to incorporate certain changes to the Controlled Substances Act made by the Comprehensive Methamphetamine Control Act of 1996 (MCA) and to provide temporary exemption from registration for persons who distribute combination ephedrine products. The MCA established the requirement that, effective October 3, 1996, persons who distribute combination ephedrine products shall be subject to the registration requirement. To avoid interruption in the legitimate distribution of these products, DEA is amending the regulations to provide a temporary exemption from registration pending promulgation of regulations regarding registration for such activities and issuance of such registrations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/11/97	62 FR 5914
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: DEA-154I

Agency Contact: G. Thomas Gitchel, Chief, Liaison and Policy Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration
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Fax: 202 307-8570

RIN: 1117–AA42

DEPARTMENT OF JUSTICE (DOJ)
Drug Enforcement Administration (DEA)

Long-Term Actions

1868. REPORTING ON PSYCHOTROPIC SUBSTANCES

Priority: Substantive, Nonsignificant

CFR Citation: 21 CFR 1304

Timetable:

Action	Date	FR Cite
NPRM	10/18/93	58 FR 53680
NPRM Comment Period End	12/17/93	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James A. Pacella
Phone: 202 307-7297

RIN: 1117–AA22

DEPARTMENT OF JUSTICE (DOJ)
Drug Enforcement Administration (DEA)

Completed Actions

1869. PRESCRIPTIONS FOR CONTROLLED SUBSTANCES, REQUIREMENTS FOR USE OF AUTOMATED DATA PROCESSING SYSTEMS

Priority: Substantive, Nonsignificant

CFR Citation: 21 CFR 1306.21; 21 CFR 1306.22; 21 CFR 1306.26; 21 CFR 1306.31

Completed:

Reason	Date	FR Cite
Withdrawn - Superseded by RIN 1117-AA15 & RIN 1117-AA33	08/01/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: G. Thomas Gitchel
Phone: 202 307-7297

RIN: 1117–AA03

1870. REMOVAL OF EXEMPTION FOR PRODUCTS CONTAINING EPHEDRINE WITH GUAIFENESIN (WHICH ARE LAWFULLY MARKETED UNDER THE FDCA) FROM THE CHEMICAL CONTROL PROVISIONS OF THE CSA

Priority: Substantive, Nonsignificant

CFR Citation: 21 CFR 1309; 21 CFR 1310; 21 CFR 1313

Completed:

Reason	Date	FR Cite
End Review - Superseded by Comprehensive Methamphetamine Control Act	10/03/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Howard McClain, Jr.
Phone: 202 307-7183
Fax: 202 307-8570

RIN: 1117–AA37

DEPARTMENT OF JUSTICE (DOJ)
Executive Office for Immigration Review (EOIR)

Proposed Rule Stage

1871. DISCIPLINE OF ATTORNEYS AND REPRESENTATIVES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1103; 8 USC 1252b; 8 USC 1362

CFR Citation: 8 CFR 3; 8 CFR 292

Legal Deadline: None

Abstract: This rule amends 8 CFR parts 3 and 292 by changing both the present procedures for disciplining attorneys and representatives who practice before the Executive Office for Immigration Review, which includes the Board of Immigration Appeals and the Immigration Courts, and the procedures for disciplining attorneys and representatives who practice before the Immigration and Naturalization Service (INS). This rule also includes a provision which was promulgated as an interim rule on April 6, 1992, pursuant to section 545 of the Immigration Act of 1990, Public Law 101-649 (IMMACT), concerning sanctions against attorneys or representatives who engage in frivolous behavior in immigration proceedings. This rule outlines the authority of EOIR to investigate and impose disciplinary sanctions against attorneys and representatives who practice before its tribunals. The rule clarifies the authority of the INS to investigate complaints regarding attorneys and representatives who practice before the INS and outlines the procedures by which the INS may initiate disciplinary proceedings before EOIR against practitioners who practice before the INS.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	02/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Margaret M. Philbin, General Counsel, Department of Justice, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2400, Falls Church, VA 22041
Phone: 703 305-0470

RIN: 1125–AA13

1872. • OFFICE OF CHIEF ADMINISTRATIVE HEARING OFFICER; ADMINISTRATIVE LAW JUDGES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 5 USC 554; 8 USC 1103; 8 USC 1324a; 8 USC 1324b; 8 USC 1324c

CFR Citation: 28 CFR 68.1 to 54

Legal Deadline: None

Abstract:

The Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), enacted on September 30, 1996, amends the employer sanctions,unfair immigration-related employment practices and document fraud sections of the Immigration and Nationality Act (INA) in several ways (sections 274A, 274B and 274C of the INA, respectively). The Debt Collection Improvement Act mandates that the civil penalties in each of these three sections of the INA be adjusted to reflect inflation. Finally, the Office of the Chief Administrative Hearing Officer has examined its regulations and is making various changes perceived as necessary in light of case-by-case experience since the 1991 amendments to its regulations. All of the changes to the OCAHO regulations set forth herein are designed to make the regulations comport with one of the aforementioned statutes, clarify an existing ambiguity, and/or similarly contribute to the fair and efficient administration of sections 274A, 274B and 274C of the INA.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Margaret M. Philbin, General Counsel, Department of Justice, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2400, Falls Church, VA 22041
Phone: 703 305-0470

RIN: 1125–AA17

1873. • AUTHORITY OF IMMIGRATION JUDGES TO ISSUE CIVIL MONEY PENALTIES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 8 USC 1103; 8 USC 1252 note; 8 USC 1252b; 8 USC 1362; 28 USC 509; 28 USC 510; 28 USC 1746; Reorg. Plan No. 2 of 1950, sec 2; 3 CFR, 1949 to 1953 Comp, p 1002

CFR Citation: 8 CFR 1; 8 CFR 3

Legal Deadline: None

Abstract:

This rule proposes to amend the regulations by implementing the statutory authority given to Immigration Judges to sanction by civil money penalty any action or inaction in contempt of the Judge's proper exercise of authority. This statutory authority is derived from section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. 104-208 (IIRIRA), signed by President Clinton on September 30, 1996. This rule sets forth the types of conduct for which civil money penalty sanctions may be imposed, the procedures for imposing these sanctions, the affirmative defenses which may excuse the imposition of a civil money penalty sanction, and the procedures for appealing such sanctions. The rule also adds an additional ground for disciplinary sanctions under 8 CFR section 3.52 for engaging in a pattern and practice of conduct which has been found to be in contempt of the Immigration Judge's proper exercise of authority. In addition, this rule amends the definition of "Immigration Judge" in part 1 to reflect the new definition in section 371(a) of HRIRA.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret M. Philbin, General Counsel, Department of Justice, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2400, Falls Church, VA 22041
Phone: 703 305-0470
Fax: 703 305-0443

RIN: 1125–AA18

DEPARTMENT OF JUSTICE (DOJ)
Executive Office for Immigration Review (EOIR)

Final Rule Stage

1874. RULES CONCERNING CONDITIONAL PERMANENT RESIDENCE FOR ALIEN ENTREPRENEURS IN DEPORTATION PROCEEDINGS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 8 USC 1103; 8 USC 1252 note; 8 USC 1252b; 8 USC 1362; 28 USC 509; 28 USC 510; 28 USC 1746; Reorg. Plan No. 2 of 1950, sec 2; 3 CFR, 1949 to 1953 Comp, p 1002

CFR Citation: 8 CFR 3

Legal Deadline: None

Abstract: The Immigration Act of 1990 provides that an alien entrepreneur and his or her family may obtain lawful permanent residence on a conditional basis, subject to the requirements of a timely petition and interview for removal of the condition two years after obtaining such status. Termination of such status is made reviewable in deportation proceedings before an Immigration Judge. This rule sets forth the procedures that an Immigration Judge will follow in reviewing the termination by the Immigration and Naturalization Service of conditional permanent resident status of alien entrepreneurs and their families.

Timetable:

Action	Date	FR Cite
NPRM	11/12/93	58 FR 59953
NPRM Comment Period End	12/13/93	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Margaret M. Philbin, General Counsel, Department of Justice, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2400, Falls Church, VA 22041
Phone: 703 305-0470

RIN: 1125–AA02

1875. • CONDITIONAL GRANTS OF SUSPENSION OF DEPORTATION AND CANCELLATION OF REMOVAL

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1186a; 8 USC 1224 to 1227; 8 USC 1251 to 1252

CFR Citation: 8 CFR 240

Legal Deadline: None

Abstract: On September 30, 1996 Congress enacted the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, PL 104-208 (IIRIRA). Under section 304(a)(3), the Attorney General may not cancel the removal and adjust the status under section 240A(b) of the Immigration and Nationality Act (Act), nor suspend the deportation and adjust the status under section 244(a) of the Act of a total of more than 4,000 aliens in a fiscal year. This rule provides the necessary procedures for the processing of suspension of deportation and

DOJ—EOIR — Final Rule Stage

cancellation of removal cases while it is determined how the numerical limitation will be implemented.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	10/01/97	
Interim Final Rule	10/03/97	62 FR 57760
Interim Final Rule Comment Period End	12/01/97	
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Margaret M. Philbin, General Counsel, Department of Justice, Executive Office for Immigration Review, Suite 2400, 5107 Leesburg Pike, Falls Church, VA 22041
Phone: 703 527-0470

RIN: 1125–AA19

DEPARTMENT OF JUSTICE (DOJ)
Executive Office for Immigration Review (EOIR) — Completed Actions

1876. FEES FOR MOTION TO REOPEN OR RECONSIDER

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 8 CFR 3; 8 CFR 103; 8 CFR 242

Completed:

Reason	Date	FR Cite
Final Action	08/26/97	62 FR 45148
Final Action Effective	09/25/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Margaret M. Philbin
Phone: 703 305-0470
Fax: 703 305-0443

RIN: 1125–AA15

1877. REPRESENTATION AND APPEARANCES: LAW STUDENTS AND LAW GRADUATES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 8 CFR 292

Completed:

Reason	Date	FR Cite
Final Action	05/01/97	62 FR 23634
Final Action Effective	06/02/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Margaret M. Philbin
Phone: 703 305-0470
Fax: 703 305-0443
Janice B. Podolny
Phone: 202 514-2895

RIN: 1125–AA16

DEPARTMENT OF JUSTICE (DOJ)
General Administration (DOJADM) — Completed Actions

1878. SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE DEPARTMENT OF JUSTICE

Priority: Info./Admin./Other

CFR Citation: 5 CFR 3801 (New); 28 CFR 45 (Removal)

Completed:

Reason	Date	FR Cite
Final Action	05/02/97	62 FR 23941
Final Action Effective	05/02/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rafael Alberto Madan
Phone: 202 514-3452

RIN: 1103–AA25

DEPARTMENT OF JUSTICE (DOJ)
Immigration and Naturalization Service (INS) — Prerule Stage

1879. • NEW RULES REGARDING PROCEDURES FOR ASYLUM AND WITHHOLDING OF REMOVAL

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1158; 8 USC 1226; 8 USC 1252; 8 USC 1252 note; 8 USC 1252b; 8 USC 1253; 8 USC 1282; 8 USC 1283; 31 USC 9701; 8 CFR 2

CFR Citation: 8 CFR 208

Legal Deadline: NPRM, Statutory, November 1997. Final, Statutory, December 1997.

Abstract: This rule proposes to amend the Immigration and Naturalization Services regulations that govern asylum and withholding of removal. This rule clarifies that, in cases where the applicant has established past persecution, the Attorney General may deny asylum in the exercise of discretion, if it is established by a preponderance of the evidence that the applicant does not face a reasonable possibility of future persecution in the applicant's country of nationality or, if stateless, the applicant's country of last habitual residence.

Timetable:

Action	Date	FR Cite
ANPRM	11/00/97	
NPRM	11/00/97	

DOJ—INS — Prerule Stage

Action	Date	FR Cite
Interim Final Rule	02/00/98	
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1885-97

Agency Contact: Christine Davidson, Senior Policy Analyst, Asylum Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Attn: Ullico Bldg. 3rd Floor, Washington DC 20536
Phone: 202 633-1024

Bo Cooper, Associate General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Washington DC 20536

RIN: 1115–AE93

DEPARTMENT OF JUSTICE (DOJ)
Immigration and Naturalization Service (INS) — Proposed Rule Stage

1880. REVISED GROUNDS OF INADMISSIBILITY, WAIVERS FOR IMMIGRANTS AND NONIMMIGRANTS, AND EXCEPTIONS

Regulatory Plan: This entry is Seq. No. 65 in Part II of this issue of the Federal Register.

RIN: 1115–AB45

1881. REDUCTION OF THE NUMBER OF ACCEPTABLE DOCUMENTS AND OTHER CHANGES TO EMPLOYMENT VERIFICATION REQUIREMENTS

Regulatory Plan: This entry is Seq. No. 66 in Part II of this issue of the Federal Register.

RIN: 1115–AB73

1882. EDUCATIONAL REQUIREMENTS FOR NATURALIZATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1103; 8 USC 1423; 8 USC 1443; 8 USC 1447; 8 USC 1448

CFR Citation: 8 CFR 312

Legal Deadline: None

Abstract: The Immigration and Naturalization Service (INS) is considering amending part 312 in its entirety to address certain changes to the testing requirements under the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416) and to revise and strengthen the current system for approving testing entities to administer standardized tests of U.S. history and government and written English for persons applying to become naturalized citizens of the United States. Concurrent efforts are also underway to develop new standardized examinations and comprehensive study materials for applicants.

No major changes will be considered until the Coopers and Lybrand Business Process Re-engineering Study is completed and reviewed by the INS Office of General Counsel.

Timetable:

Action	Date	FR Cite
NPRM	09/00/98	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Additional Information: INS No. 1275-93

Agency Contact: Craig Howie, Staff Officer, Naturalization, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AD52

1883. NONIMMIGRANT CLASSES; DIPLOMAT AND GOVERNMENT REPRESENTATIVES; TRANSITS; REQUIREMENTS FOR ADMISSION, EXTENSION AND MAINTENANCE OF STATUS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1221; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: This rule clarifies employment and travel limitations for diplomats and representatives of international organizations, including the United Nations. The rule will be undertaken as a result of a working relationship between the INS and the Department of State. The United States Mission to the United Nations will participate in drafting regulations pertaining to the United Nations Headquarters District.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: INS No. 1631

INS No. 1706 (RIN 1115-AE05) will be incorporated in this rulemaking.

Agency Contact: Katharine A. Lorr, Staff Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AD57

1884. NONIMMIGRANT CLASSES; S CLASSIFICATION; LAW ENFORCEMENT INITIATIVES; ALIEN WITNESSES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1252; 8 USC 1324a; 8 CFR 2

CFR Citation: 8 CFR 212; 8 CFR 214; 8 CFR 274a; 8 CFR 299; 8 CFR 103

Legal Deadline: None

Abstract: Two regulatory initiatives dealing with the processing of alien witnesses have been prepared by the INS. INS No. 1683-94 provides the application and approval process for the admission of aliens in S nonimmigrant classification. It provides guidance to the various law enforcement agencies needing alien witnesses and informants to complete

critical law enforcement initiatives in the United States. INS no. 1728-95 establishes a fee for the processing of Form I-854, Inter-Agency Alien Witness and Informant Record, for Law Enforcement Agency (LEA) requests for S nonimmigrant classification for eligible alien witnesses and informants. The fee recovers the costs of the processing of requests for immigration benefits, and is needed to comply with specific Federal immigration laws and Federal user fee statute and regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule (INS No. 1683) Eff. 8/25/95; Comment Period End 12/4/95	08/25/95	60 FR 44260
Interim Final Rule (INS No. 1683) Correction	10/05/95	60 FR 52068
Interim Final Rule (INS No. 1683) Correction	10/05/95	60 FR 52248
Final Rule (INS No. 1683)	03/00/98	
NPRM (INS No. 1728)	03/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: INS No. 1683-94; and INS No. 1728-95. Form I-854 is being revised and the effect of IIRIRA is being assessed.

Agency Contact: Katherine A. Lorr, Staff Officer, Office of Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AD86

1885. INSPECTION OF ALIEN CREW MEMBERS; 90-DAY WAIVER

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1183; 8 USC 1201; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252; 8 USC 1184; 8 USC 1258; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 235; 8 CFR 252

Legal Deadline: None

Abstract: This rule proposes to amend the Immigration and Naturalization Service ("the Service") regulations by establishing a procedure whereby bona fide alien crewmen actively serving on board a maritime ferry or a maritime commercial cruise ship may, at the discretion of the Service, be inspected one time during every 90-day period during which the cruise ship conducts operations between Ports-Of-Entry (POEs) in the United States and a foreign country. This rule is necessary in order for the Service to formally codify the long-standing practice of authorizing certain maritime crewmen landing privileges in the United States without further inspection during the intervening time between 90-day full-crew inspections.

Timetable:

Action	Date	FR Cite
NPRM	08/15/97	62 FR 43676
NPRM Comment Period End	10/14/97	
Final Action	06/00/98	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: INS No. 1695-95

Agency Contact: Catherine Paler-Amaya, Assistant Chief Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 4064, Washington, DC 20536
Phone: 202 305-4803

RIN: 1115–AD95

1886. EMPLOYMENT AUTHORIZATION DOCUMENT APPLICATIONS AND PROCESS

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1324a; 8 CFR 2

CFR Citation: 8 CFR 274a

Legal Deadline: None

Abstract: A final rule (INS No. 1399-96) introducing and authorizing centralized production of a new more secure and fraud-resistant EAD Card or Form I-766 was published in the Federal Register at 61 FR 46534 on September 4, 1996. Centralized production of this new EAD card will be performed by one or more INS Service Centers. Also, an employment authorization document (EAD) application and proposed rule is planned pending Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) regulatory initiatives and related policy actions. The proposed rule will provide a more efficient process for centralized production of the new EAD card.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Additional Information: INS No. 1707

Agency Contact: MayBurn Deboe, Staff Officer, Office of Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AE06

1887. ELIGIBILITY OF PERSONS FOR REFUGEE STATUS AND WITHHOLDING OF DEPORTATION; ELIMINATION OF PAROLE REVIEW PROGRAM FOR EXCLUDABLE MARIEL CUBANS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1158; 8 USC 1182; 8 USC 1184; 8 USC 1187; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252; 8 USC 1282; 8 CFR 2; 31 USC 9701

CFR Citation: 8 CFR 208; 8 CFR 212

Legal Deadline: None

Abstract: This rule would amend two of the existing sections of 8 CFR governing eligibility for refugee status and one of the sections governing eligibility for withholding of deportation. It also would modify sections pertaining to the parole review program for excludable Mariel Cubans.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1752

Additional INS contact Bo Cooper

Agency Contact: Scott Busby, Assistant General Counsel, General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6100, Washington, DC 20536
Phone: 202 514-2895

RIN: 1115–AE30

1888. ENTRY AND EXCLUSION PROVISIONS; ARRIVAL AND DEPARTURE MANIFESTS AND LISTS; INSPECTION OF PERSONS APPLYING FOR ADMISSION; USER FEE REQUIREMENTS FOR IN-TRANSIT PASSENGERS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1221; 8 USC 1228; 8 USC 1229

CFR Citation: 8 CFR 231

Legal Deadline: None

Abstract: This rule proposes to amend the Immigration and Naturalization Service regulations by requiring all carriers to submit Form I-94, Arrival-Departure Record, for all international-to-international IITI transiting passengers formerly known as in-transit lounge (ITL) passengers. This rule also proposes Service regulations regarding the inspection of ITI passengers by codifying ITI inspection procedures and carrier requirements.

This rule further proposes that the Attorney General charge and collect a user fee from every individual arriving aboard a commercial aircraft or commercial vessel from foreign locations, except those individuals arriving from Mexico, Canada, and the adjacent islands by means other than commercial aircraft.

Furthermore, this rule notifies concerned parties that the Service process to increase the amount of liquidated damages imposed on carriers for violations of the Immediate and Continuous Transit Agreement, better known as the Transit Without Visa (TWOV) Agreement, on Form I-426, to $3000.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1757 Changes to section 235 by IIRIRA of 1996 requires regulations to be altered. Discussions must be held at Headquarters, Inspections Division to determine course of action.

Agency Contact: Robert F. Hutnick, Assistant Chief Inspector, Office of Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 4064, Washington, DC 20536
Phone: 202 616-7499

RIN: 1115–AE37

1889. CONTRACTS WITH TRANSPORTATION LINES; LIMITING TRANSFERS OF TRANSIT WITHOUT VISA ALIENS IN THE UNITED STATES TO ONE ELECTRONIC TICKETING

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1228; 8 CFR 2

CFR Citation: 8 CFR 238

Legal Deadline: None

Abstract: This rule will limit the number of stops for Transit Without Visa (TWOV) applicants in the United States to one. It will allow TWOV passengers to present other than airline tickets to inspectors as evidence of continued transit through the United States.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1766

Agency Contact: Robert Hutnick, Assistant Chief Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 4064, Washington, DC 20536
Phone: 202 514-2694

RIN: 1115–AE41

1890. EXAMINATIONS FEE ACCOUNT SCHEDULE

Priority: Other Significant

Legal Authority: 8 USC 1356; PL 100-459; 31 USC 9701; PL 82-137; PL 100-459; PL 101-515; PL 101-567

CFR Citation: 8 CFR 103.7

Legal Deadline: Final, Statutory, January 1, 1998.

Abstract: Proposed rule rescinded and other related services provided at no charge.

INS No. 1768 proposes to adjust the Immigration Examinations Fee account to reflect the cost of providing immigration and naturalization services, plus surcharges for the Asylum Program, as directed by Congress. The fee adjustment is necessary to comply with Federal statutes and Federal cost accounting standards. Implementation of this rule will ensure that sufficient funds are available for immigration and naturalization services, the Asylum Program, and to improve the quality of services provided to users.

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1768)	02/00/98	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: INS No. 1768

Agency Contact: Michael Natchuras, Chief, Fee Policy and Rate Setting Branch, Budget, Office of Management, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6240, Washington, DC 20536
Phone: 202 616-2754

RIN: 1115–AE42

1891. JUDICIAL REVIEW OF DECISIONS OF THE EXECUTIVE OFFICE FOR IMMIGRATION REVIEW AND THE IMMIGRATION AND NATURALIZATION SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 8 USC 1103; 8 USC 1242 note; 8 USC 1324b; 28 USC 509; 28 USC 510; 28 USC 1746

CFR Citation: 8 CFR 3; 8 CFR 103

Legal Deadline: None

Abstract: This rule amends the Executive Office of Immigration Review (EOIR) and the Immigration and Naturalization Service (Service) regulations specifically when an administration decision under the Immigration and Nationality Act is final for purpose of judicial review under the Administrative Procedures Act.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

DOJ—INS

Proposed Rule Stage

Agency Contact: Margaret M. Philbin, General Counsel, Executive Office of Immigration Review, Department of Justice, Immigration and Naturalization Service, 5107 Leesburg Pike Suite 2400, Falls Church, VA 22401
Phone: 703 305-0470

RIN: 1115–AE46

1892. PETITIONING REQUIREMENTS FOR THE H NONIMMIGRANT CLASSIFICATION

Priority: [illegible] and Frequent

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 214; 8 CFR 274

Legal Deadline: None

Abstract: This rule proposes to amend the INS regulations to accommodate the need of certain U.S. workers. Specifically, this rule proposes to amend the Service's regulations with respect to the submission of itineraries and labor condition applications.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	
Interim Final Rule	04/00/98	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: INS No. 1769-96

Agency Contact: John W. Brown, Staff Officer, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-3240

RIN: 1115–AE52

1893. CANADIAN BORDER BOAT LANDING PROGRAM

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1183; 8 USC 1201; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252

CFR Citation: 8 CFR 235.1(e)

Legal Deadline: None

Abstract: This rule clarifies and standardizes procedures for the application, issuance and use of Form I-68, Canadian Border Boat Landing Card.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/11/97	62 FR 47749
NPRM Comment Period End	11/10/97	
Final Action	06/00/98	
Final Action Effective	09/11/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1796-96

Agency Contact: Ronald J. Hays, Staff Officer, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 4064, Washington, DC 20536
Phone: 202 514-0912

RIN: 1115–AE53

1894. CHARGING OF FEES FOR MEXICAN BORDER CROSSING CARDS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 5 USC 552a; 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252 note; 8 USC 1252a; 8 USC 1304; 8 USC 1356; 31 USC 9701

CFR Citation: 8 CFR 102; 8 CFR 212; 8 CFR 235; 8 CFR 264; 8 CFR 286

Legal Deadline: None

Abstract: This rule proposes to amend the regulations to allow the Immigration and Naturalization Service (INS Service) to charge a fee for the processing and issuance of Mexican Border Crossing Cards (BCCs), Form I-586.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1773-96

Agency Contact: Ronald J.Hays, Assistant Chief Inspector, Inspections, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536
Phone: 202 514-0912
Fax: 202 514-8345

RIN: 1115–AE54

1895. CORPORATE REORGANIZATIONS (MERGERS AND ACQUISITIONS) AND E, H, L NONIMMIGRANT CLASSIFICATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1282; 8 CFR 2

CFR Citation: 8 CFR 214.1(h)

Legal Deadline: None

Abstract: The Service solicits comments on establishing policy and administrative procedure for simplifying the processing of nonimmigrant temporary workers involved in mergers, acquisitions consolidations or other corporate restructurings. Streamlining Service Center procedures in this respect is in the public interest in light of increased numbers of corporate reorganizations anticipated in the future.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
Final Action	06/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1797-96

Agency Contact: Katherine A. Lorr, Staff Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536
Phone: 202 514-5014
Fax: 202 514-0198

RIN: 1115–AE55

1896. PETITION FOR EMPLOYMENT CREATION ALIENS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1183; 8 USC 1184; 8 USC 1186a; 8 USC 1186b; 8 USC 1201; 8 USC 1224; 8 USC 1225; 8 USC 1226

CFR Citation: 8 CFR 204; 8 CFR 216; 8 CFR 235

DOJ—INS

Proposed Rule Stage

Legal Deadline: None

Abstract: The Service solicits comments on necessary policy and administrative procedure for resolving current regulatory concerns regarding immigrant investors.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
Final Action	06/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1798-96

Agency Contact: Katharine A. Lorr, Staff Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536
Phone: 202 514-5014
Fax: 202 514-0198

RIN: 1115–AE56

1897. SUSPENSION OF PRIVILEGE TO TRANSPORT ALIENS TO THE UNITED STATES

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1187; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1252

CFR Citation: 8 CFR 212.15

Legal Deadline: None

Abstract: The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) added a provision to the Immigration and Nationality Act that allows INS to suspend a commercial airline's privilege to transport aliens to the United States if the carrier has a record of bringing in aliens who have fraudulent documents. The IIRIRA states that a proposed rule must be published within 90 days of the bill's enactment.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Interim Final Rule	12/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: Re: INS No. 1809-96

Agency Contact: Una Brien, Director, National Fines Office, Inspections Division, Department of Justice, Immigration and Naturalization Service, 1400 Wilson Blvd. Suite 210, Arlington, VA 22209
Phone: 202 305-7018

RIN: 1115–AE59

1898. FILING FACTUAL STATEMENTS ABOUT ALIEN PROSTITUTES

Priority: Other Significant

Legal Authority: 18 USC 2424; PL 104-208

CFR Citation: 28 CFR 94 (New); 8 CFR (New)

Legal Deadline: None

Abstract: On September 30, 1996, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) was enacted. This law not only amended significant portions of title 8 of the United states Code, but also changed the provisions of title 18 United States Code (Crimes and Criminal Procedures). Because section 325 amends 18 USC, the Immigration and Naturalization Service will publish an implementing regulation dealing with the filing of statements by individuals who keep, maintain, control, support or harbor alien prostitutes.

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1810-96)	12/00/97	
Final Rule (INS No. 1810-96)	04/00/98	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: INS No. 1810-96

Agency Contact: David Yost, Senior Special Agent, Investigations Division, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 1000, Washington, DC 20536
Phone: 202 307-0557

RIN: 1115–AE60

1899. RIGHTS OF HABITUAL RESIDENCE BETWEEN THE UNITED STATES AND THE GOVERNMENTS OF THE MARSHALL ISLANDS, MICRONESIA AND PALAU

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 9 USC 1186a; 8 USC 1255; 8 CFR 2

CFR Citation: 8 CFR 204; 8 CFR 214.2

Legal Deadline: None

Abstract: On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. The statute, among other things, requires that INS issue regulations governing the rights of "habitual residence" under 1) the Compact of Free Association between the United States and the Governments of the Marshall Islands and the Federated States of Micronesia; and 2) the Compact of Free Association between the Government of Palau.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final Action	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: RE: INS No. 1811-96

Agency Contact: John Brown/Kathy Rodman, Staff Officer, Office of Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 3214, Washington, DC 20536
Phone: 202 514-3240

RIN: 1115–AE61

1900. NONIMMIGRANT OVERSTAYS

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1201; 8 USC 1202; 8 USC 1221; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1258; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 214.2; 8 CFR 214.2(f); 8 CFR 236; 8 CFR 248

Legal Deadline: None

Abstract: On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). Section 632 of IIRIRA concerns authorized stay, voiding/cancellation of visas and eligibility for readmission to the U.S. Section 632 of IIRIRA concerns authorized stay, voiding/cancellation of visas and eligibility for readmission to the United States (U.S.) as a nonimmigrant. The INS will amend current regulations to provide for the

exclusion of nonimmigrants who have previously over stayed their nonimmigrant status in the United States to reflect the 3-year and 5-year bars to admission specified at section 222(g) of the Immigration and Nationality Act as amended by IIRIRA.

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1812-96)	12/00/97	
Final Rule (INS No. 1812-96)	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: RE: INS No. 1812-96

Agency Contact: Maurice Berez, Staff Officer, Office of Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AE62

1901. F-1 VISA ABUSERS AND FOREIGN STUDENTS

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1187; 8 USC 1201; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1258; 8 USC 1362; PL 104-208

CFR Citation: 8 CFR 214.1; 8 CFR 214.2 (f); 8 CFR 214.3; 8 CFR 214.4; 8 CFR 221.1; 8 CFR 235; 8 CFR 236; 8 CFR 248

Legal Deadline: None

Abstract: On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. The INS will amend current regulations governing F-1 foreign students and the schools authorized to enroll F-1 students. The purpose is to bar F-1 eligibility and status for attendance at a public elementary school and publicly funded adult education programs. In addition, this rulemaking will establish the reimbursement requirements and 12 month limit for F-1 eligibility and status to attend an INS approved public secondary school. The rulemaking will implement the statutorily mandated foreign student tracking provisions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
Final Rule	05/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: RE: INS Docket No. 1813-96

Agency Contact: Maurice Berez, Staff Officer, Office of Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AE63

1902. USE OF PAROLE FOR HUMANITARIAN REASON OR SIGNIFICANT PUBLIC BENEFIT AND REPORT TO CONGRESS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1182

CFR Citation: 8 CFR 212

Legal Deadline: NPRM, Statutory, September 11, 1997.

Abstract: Changes to the current regulations are necessitated by section 602 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. This section has reworded certain parole authority by stipulating parole on a case by case basis for urgent humanitarian reasons or significant public benefit. Furthermore, this section mandates a Report to Congress stating numbers of such parolees, commencing on January 1, 1996.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final Action	11/00/97	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: INS No. 1840-97 This rule effects the following section of the I&NA - section 212, as amended by sections 602 IIRIRA.

Agency Contact: Gary D. Witt, Patrol Agent in Charge, Office of Field Operations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 1000D, Washington, DC 20536
Phone: 202 305-2455

RIN: 1115–AE68

1903. LIMITING LIABILITY FOR CERTAIN TECHNICAL VIOLATIONS OF PAPERWORK VIOLATIONS

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 8 USC 1324a; PL 104-208

CFR Citation: 8 CFR 274a

Legal Deadline: None

Abstract: On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). The INS will publish implementing regulations for section 411 of IIRIRA adding a reference to the "good faith attempt" exception to the employment verification requirements of I&NA 274A(b) and defining the term "technical or procedural failure." The proposed rule will also detail revisions to enforcement procedures to implement this provision.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
Final Action	06/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: RE: INS No. 1819-96 and Public Law 104-208, title 4

Agency Contact: Robert J. Quin, Investigator, Office of Enforcement, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 1000, Washington, DC 20536
Phone: 202 842-9236

RIN: 1115–AE70

1904. COLLECTION OF FEES UNDER THE DEDICATED COMMUTER LANE PROGRAM, PORT PASSENGER ACCELERATED SERVICE SYSTEM (PORTPASS) PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 8 USC 2869q; PL 104-208

CFR Citation: 8 CFR 103; 8 CFR 235; 8 CFR 286; 8 CFR 299

Legal Deadline: None

Abstract: On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. The INS will publish amendatory regulations to remove restrictions currently in place which will limit the locations where the Service can implement dedicated commuter lanes. In addition, the proposed rule will incorporate other projects designed to enhance border security and effective traffic management at Ports-of-Entry. Finally, the regulations may adjust the fee structure in order to administer these projects.

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1820-96)	11/00/97	
Final Rule (INS No. 1820-96)	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: RE: INS No. 1820-96; Pub. L. 104-208, title 1

Agency Contact: Robert Mocny, Inspector, Office of Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW., Room 4214, Washington, DC 20536
Phone: 202 514-0911

RIN: 1115–AE71

1905. CERTIFICATION OF CERTAIN HEALTH CARE WORKERS

Priority: Other Significant

Legal Authority: 8 USC 1182(a)(5); PL 104-208

CFR Citation: 8 CFR 204; 8 CFR 212; 8 CFR 214.2; 8 CFR 245; 8 CFR 248

Legal Deadline: None

Abstract: On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. The statute, among other things, requires that certain foreign health care workers present a certificate from CGFNS or another agency to be determined by the Department of State, or, in the case of adjustment of status, to the Attorney General, in order to enter the United States. The certificate must address such issues as licensure, training, language skills, and education. The Service will be required to amend its regulations in order to provide information to the public concerning this issue.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final Rule	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: RE: INS No. 1824-96; PL 104-208

Agency Contact: John Brown, Staff Officer, Office of Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-3240

RIN: 1115–AE73

1906. POWERS AND DUTIES OF THE ATTORNEY GENERAL AND THE COMMISSIONER DELEGATION OF IMMIGRATION ENFORCEMENT AUTHORITY

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1357

CFR Citation: 8 CFR 2; 8 CFR 287

Legal Deadline: NPRM, Statutory, September 11, 1997.

Abstract: The Commissioner may enter into agreements with States of their political subdivisions for the purpose of assisting in the enforcement of immigration laws as detailed in Service Policy and Memorandum of Understanding between the Service and State and local agencies who have entered into agreement with the Commissioner. This change is intended to augment the number of agents available to the Service who can enforce the immigration laws while providing State and local officers with a means of enforcing laws which were previously restricted to INS employees. This rule implements sections 133 and 373 of IIRIRA.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: INS No. 1833-97 INS Nos. 1834-97

The rules will affect the following section of the INA: -Section 103, as amended by section of IIRIRA; -Section 287, as amended by section 133 of IIRIRA;

Rules are contingent upon the formal recognition of Service Policy and Memorandums of Understanding (MOU) between the Service and the State and/or political subdivisions therein which are delegated the authority to enforce the immigration laws.

Government jurisdictions affected will include local and State Police Agencies, Sheriff's Departments and detention facilities operated by the State or a political subdivision of a State.

Agency Contact: Gary D. Witt, Patrol Agent in Charge, Office of Field Operations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 1000D, Washington, DC 20536
Phone: 202 305-2445

RIN: 1115–AE76

1907. CIVIL MONETARY PENALTY INFLATION ADJUSTMENT

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1324a; 8 USC 1221; 8 USC 1223; 8 USC 1227; 8 USC 1229; 8 USC 1253; 8 USC 1281; 8 USC 1283; 8 USC 1284; 8 USC 1285; 8 USC 1286

CFR Citation: 8 CFR 274a; 8 CFR 280

Legal Deadline: None

Abstract: In accordance with the requirements of section 4 of the Federal Civil Monetary Penalties Inflation Adjustment Act of 1990, the INS is adjusting for inflation civil monetary penalties assessed or enforced by the Government.

This rule amends the INS regulations by providing for the appropriate increased fines and penalties.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
Interim Final Rule	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Also Bob Hinchman at DOJ Office of Policy

Development 514-8059 INS No. 1844-97

Agency Contact: Allen H. Sinsheimer, Systems Accountant, Office of Budget, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536
Phone: 202 616-7715
Fax: 202 514-7860

RIN: 1115–AE79

1908. SURRENDER OF ALIENS ORDERED REMOVED FROM THE UNITED STATES

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1254a; 8 USC 1245a note

CFR Citation: 8 CFR 240.13; 8 CFR 240.14; 8 CFR 240.15; 8 CFR 240.16

Legal Deadline: None
Although there is no formal legal deadline, the rule is an integral part of implementing PL 104-208.

Abstract: This rule requires aliens subject to a final order of removal to surrender to the INS. This rule also establishes procedures for surrender, and bars persons violating these procedures from obtaining discretionary immigration benefits.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	
Final Action	05/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1847-97

Agency Contact: Brian Hayes, Assistant General Counsel, Office of General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street, Room 6100, Washington, DC 20536
Phone: 202 514-4616
Fax: 202 514-0455

RIN: 1115–AE82

1909. PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1223; 8 USC 1227; 8 USC 1251; 8 USC 1253; 8 USC 1256; 8 USC 1330; 8 CFR 2

CFR Citation: 8 CFR 241

Legal Deadline: None

Abstract: This rule establishes an administrative process whereby criminal aliens in state custody convicted of nonviolent offenses may be deported prior to completion of their sentence to imprisonment pursuant to: section 241(a)(4)(B) of the Immigration and Nationality Act, as amended by section 438 of the Antiterrorism and Effective Death Penalty Act and section 305(a)(4)(B) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM INS No. 1848-97	12/00/97	
Final Action INS No. 1848-97	04/00/98	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: INS No.1848-97

Agency Contact: Joan S. Lieberman, Attorney, Office of General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6100, Washington, DC
Phone: 202 514-2895

RIN: 1115–AE83

1910. • CLARIFICATION OF AGE REQUIREMENTS FOR FINGERPRINTING NATURALIZATION APPLICANTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 8 USC 1103; 8 USC 1181; 8 USC 1182; 8 USC 1443; 8 USC 1447; 8 CFR 2.1

CFR Citation: 8 CFR 316

Legal Deadline: None

Abstract: This proposed rule amends Immigration and Naturalization Service regulations relating to requirements for fingerprinting naturalization applicants. This rule is necessary to clarify the age at which naturalization applicants are required to file Form FD - 258 with the naturalization application. The rule requires naturalization applicants 18 years of age or older to file Form FD - 258 with their applications.

Timetable:

Action	Date	FR Cite
NPRM	09/15/97	62 FR 48183
NPRM Comment Period End	10/15/97	
Final Action	02/00/98	
Final Action Effective	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1855-97

Agency Contact: Brad Glassman, General Counsel, Office of General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536
Phone: 202 305-0846

RIN: 1115–AE88

1911. • PROCEDURES FOR THE DETENTION AND RELEASE OF CRIMINAL AND TERRORIST ALIENS BY THE INS AND FOR CUSTODY REDETERMINATIONS BY THE EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1362.

CFR Citation: 8 CFR 236

Legal Deadline: None

Abstract: This rule proposes to amend the Immigration and Naturalization Service and the Executive Office for Immigration Review (EOIR) by establishing a regulatory framework for the detention of criminal and terrorist aliens pursuant to the Transition Period Custody Rules (TPCR) set forth in the Illegal Immigration Reform and Responsibility Act of 1996 (IIRIRA).

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
Final Action	05/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INS Number 1860-97

Agency Contact: Ann Palmer, Staff Officer, Office Of Naturalization Operations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AE86

1912. • CONTROL OF ALIENS DEPARTING FROM THE UNITED STATES

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 8 USC 1104

CFR Citation: 8 CFR 215

Legal Deadline: None

Abstract: IIRIRA requires the Service to implement an arrival/departure management system by October 1, 1998. This regulation will implement that system by requiring that all aliens seeking to enter the United States on or after that date, unless otherwise exempted by Service regulation, be in possession of a machine readable travel document acceptable to the Service. The regulation will establish a requirement that every person seeking to depart from the United States must travel through a Service designated Port-of-Departure and must conform to Service procedures prior to or upon departure. The regulation also will establish penalties for persons who fail to comply with the requirements of the regulation.

Timetable:

Action	Date	FR Cite
NPRM	06/00/98	
NPRM Comment Period End	07/00/98	
Final Action	10/00/98	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Additional Information: INS No. 1869-97

Agency Contact: Ronald J. Hays, Assistant Chief Inspector, Office of Inspections, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 4064, Washington, DC 20536
Phone: 202 514-3019
Fax: 202 514-8345

RIN: 1115–AE89

1913. • EXAMINATIONS FEE ACCOUNT SCHEDULE—EOIR

Priority: Substantive, Nonsignificant

Legal Authority: PL 82-137; PL 100-459; PL 101-515; PL 101-576; 8 USC 1356; 31 USC 9701

CFR Citation: 8 CFR 103.7

Legal Deadline: None

Abstract: INS No.1871-97 proposes to adjust the fee schedule of the Immigration Examinations Fee Account for the Form EOIR-26, Appeal of decision of Immigration Judge over which the Board of Immigration Appeals has appellate jurisdiction; Form EOIR-29, Appeal of decision of INS over which the Board of Immigration Appeals has appellate jurisdiction; Motions to reopen or motions to reconsider any decision under the immigration laws in any type of proceeding over which the Board of Immigration Appeals does not have jurisdiction. The fee adjustments are necessary to comply with Federal statutes and Federal cost accounting standards. These statutes and standards require Federal Agencies to charge fees for specific services that provide a private benefit that does not accrue to the public. Federal agencies require agencies to review the adjust if necessary, their fees biannually to ensure that the fees charged recover the full cost to the Government to providing specific Services. Implementation of this rule will ensure that sufficient funds are available to the Government to provide the services for appeals and motions to reopen, and improve the quality of the services provided to users.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	
Final Action	06/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1871

Agency Contact: Mike Natchuras, Chief, Policy and Rate Setting Branch, Budget, Office of Management, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6240, Washington, DC 20536
Phone: 202 616-2754

RIN: 1115–AE90

DEPARTMENT OF JUSTICE (DOJ)
Immigration and Naturalization Service (INS)

Final Rule Stage

1914. SEIZURE AND FORFEITURE OF CONVEYANCES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1324(b); 18 USC 981; 18 USC 982; 19 USC 1613; 19 USC 1618

CFR Citation: 8 CFR 274.13; 8 CFR 274.14; 8 CFR 274.15; 8 CFR 274.16; 8 CFR 274.17; 8 CFR 274.18; 8 CFR 274.19; 8 CFR 274.8 (Revision); 8 CFR 274.9

Legal Deadline: None

Abstract: Sections 274.13 through 274.19 of 8 CFR have been superseded by the publication at 28 CFR 9 of amended regulations governing the remission or mitigation of civil and criminal forfeitures by the Department of Justice. The INS is affected by these amendments through reference in 28 CFR 9. The amendments to 8 CFR 274 will include the deletion of sections 274.13 through 274.19 and amendments in reference in sections 274.8 and 274.9 from sections 274.13 through 274.17 to 28 CFR 9.

Timetable:

Action	Date	FR Cite
Final Action	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: INS No. 1391-92

INS rule pending DOJ completion of changes to 28 CFR 9; DOJ published a final rule on 1-3-97 at 62 FR 314

DOJ—INS

Final Rule Stage

Cross reference INS No. 1061-88, published 10-26-88 at 53 FR 43192, effective 10-26-88.

Agency Contact: Susan T. Czerwinski, Asset Forfeiture Program Specialist, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 1040, Washington, DC 20536
Phone: 202 616-2737

RIN: 1115–AA95

1915. NONIMMIGRANT CLASSES; NATO-1, 2, 3, 4, 5, 6, AND 7; CONTROL OF EMPLOYMENT OF ALIENS (SPECIAL REQUIREMENT FOR ADMISSION, EXTENSION AND MAINTENANCE OF STATUS; NATO)

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1184; 8 USC 1186a

CFR Citation: 8 CFR 214; 8 CFR 274a; 8 CFR 248; 8 CFR 299

Legal Deadline: None

Abstract: Collaborative effort with INS, DOS, DOD and NATO on revising Service regulations relating to employment authorization for dependents of certain principal aliens in NATO status. The revision is necessary in order to expand and secure employment opportunities on the basis of reciprocity for dependents of U.S. citizens in NATO status in NATO member countries and to make NATO dependent employment provisions conform with those of A and G nonimmigrants.

Timetable:

Action	Date	FR Cite
NPRM	02/07/94	59 FR 5633
NPRM Comment Period End	03/09/94	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1328-93

Agency Contact: Katharine A. Lorr, Staff Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AB52

1916. NONIMMIGRANT CLASSES; NORTH AMERICAN FREE TRADE AGREEMENT (UNITED STATES-CANADA FREE TRADE AGREEMENT AMENDMENTS)

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 CFR 2

CFR Citation: 8 CFR 214; 8 CFR 103; 8 CFR 212; 8 CFR 274a

Legal Deadline: None

Abstract: This regulation provides amendments to part 214 in order to bring it into conformance with procedural changes effected by INS in 1993 and provisions of the North American Free Trade Agreement.

Timetable:

Action	Date	FR Cite
Interim Final Rule; Eff. 1-1-94; Com. Due 2-28-94	12/30/93	58 FR 69205
Interim Final Rule; Correction	01/13/94	59 FR 1992
Final Action	11/00/97	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Additional Information: INS No. 1611-93

Cross reference INS No. 1310 and INS No. 1258.

Agency Contact: Helen V. deThomas, Staff Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AB72

1917. VISA WAIVER PILOT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1356; 8 USC 1187; 8 USC 1103; 8 CFR 2

CFR Citation: 8 CFR 217

Legal Deadline: None

Abstract: The Visa Waiver Pilot Program allows nationals of designated countries to apply for admission to the United States at land border ports, air and sea ports and to enter the United States for business or pleasure for up to 90 days without first obtaining a nonimmigrant visa.

INS Rule No. 1799 will finalize all those Visa Waiver Pilot Program countries which were added through the publication of interim regulations. This rule will also incorporate those statutory changes made to section 217 of the INA by IIRIRA.

Timetable:

Action	Date	FR Cite
NPRM (1406-91) Comment Period End 5/22/91	05/07/91	56 FR 21101
Interim Final Rule (INS No. 1447) Eff. 10/1/91; Comment Period End 10/15/91	09/13/91	56 FR 46716
Public Notice (INS No. 1674) Eff. 10/25/94, Comment Period End 09/30/96	02/21/95	60 FR 9899
Interim Final Rule (INS No. 1685) Eff. 4/1/95; Comment Period End 5/30/95	03/28/95	60 FR 15855
Interim Final Rule (INS No. 1777)	07/08/96	61 FR 35598
Interim Final Rule (INS No. 1782-96 With Comments (Australia)	07/29/96	61 FR 39721
Interim Final Rule (INS 1786-96) With Comments (Slovenia)	09/30/97	62 FR 50998
Final Rule (INS No. 1799)	12/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1447-91, 1622-94, 1685-95, 1777-96, and 1782 are to be consolidated into one final rulemaking which is designated as INS No. 1799.

INS No. 1799 will be jointly published by INS and the Department of State.

INS No. 1447R is cancelled.

The Czech Republic and Slovenia are awaiting country approval by the Attorney General for participation in this program.

The Visa Waiver Pilot Program was extended on September 30, 1996, for one year, until September 30, 1997.

Agency Contact: Patricia Ward, Assistant Chief Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 4064, Washington, DC 20536
Phone: 202 514-0964

RIN: 1115–AB93

DOJ—INS

Final Rule Stage

1918. REMOVAL OF CONDITIONAL BASIS AND LAWFUL PERMANENT RESIDENCE FOR CERTAIN ALIEN SPOUSES AND SONS AND DAUGHTERS; BATTERED AND ABUSED CONDITIONAL RESIDENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1154; 8 USC 1184; 8 USC 1186a; 8 CFR 2

CFR Citation: 8 CFR 216

Legal Deadline: None

Abstract: This rule amends the existing waiver provisions and establishes a third basis for waiving the joint filing requirement to remove the conditional basis of lawful permanent residence for certain alien spouses, sons, and daughters. This rule also allows battered or abused conditional residents to request removal of conditions without filing a joint petition with the abuser.

Timetable:

Action	Date	FR Cite
Interim Final Rule, Eff. 5-16-91; Com. Due 6-17-91	05/16/91	56 FR 22635
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1423-91

Agency Contact: Karen FitzGerald, Staff Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AC47

1919. ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE: CONDITIONAL RESIDENTS AND FIANCE(E)S

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 USC 1257; 8 CFR 2

CFR Citation: 8 CFR 245

Legal Deadline: None

Abstract: This rule clarifies procedures for fiance(e)s who marry after the 90-day period of fiance(e) admission has ended; and also clarifies that persons who have had conditional residence terminated are not eligible to adjust status.

Timetable:

Action	Date	FR Cite
NPRM	08/20/96	61 FR 43028
NPRM Comment Period End	10/21/96	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1353-91

Agency Contact: Ramonia Law-Hill, Staff Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AC70

1920. NONIMMIGRANT CLASSES; B VISITOR FOR BUSINESS OR PLEASURE

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1281; 8 USC 1282; 8 CFR 2; 8 USC 1324a

CFR Citation: 8 CFR 214; 8 CFR 274a

Legal Deadline: None

Abstract: This rule incorporates into current regulations the information contained in the Service's Operations Instructions (OIs) and the interpretive note material to Volume 9 of the Department of State's Foreign Affairs Manual (FAM) relating to the B-1 (visitor for business) and B-2 (visitor for pleasure) classifications, with appropriate modifications due to the passage of the Immigration Act of 1990 and the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991. This rule clarifies the criteria for according B-1 or B-2 classification to applicants for admission to the United States. In addition, by incorporating the applicable portions of the instructions presently contained in the OIs and the FAM notes into regulations such information will be more readily available to the public.

Timetable:

Action	Date	FR Cite
NPRM	11/05/93	58 FR 58982
NPRM Comment Period End	12/06/93	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1441-93

Agency Contact: Helen V. deThomas, Staff Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AC89

1921. INSPECTION OF PERSONS APPLYING FOR ADMISSION

Priority: Routine and Frequent

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1183; 8 USC 1201; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252; 8 USC 1353a; 8 USC 1353b; 31 USC 9701

CFR Citation: 8 CFR 235

Legal Deadline: None

Abstract: This rule provides for the reimbursement to the INS for certain direct salary costs and administrative overhead charges in its overtime billing for arriving trains and vessels under 8 USC 1353b, for all immigration inspection services rendered to crews, and for services rendered to passengers not exempt under 8 USC 1353b or 1356(g).

Timetable:

Action	Date	FR Cite
Proposed Rule Comment Period End 1/21/93	12/22/92	57 FR 60741
2nd Proposed Rule	11/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1512-92

Agency Contact: Rick Marks, Financial Management, Department of Justice,

Immigration and Naturalization Service, 425 I Street NW., Room 6010, Washington, DC 20536
Phone: 202 616-7683

RIN: 1115–AD17

1922. MEXICAN AND CANADIAN NONRESIDENT ALIEN BORDER CROSSING CARDS (BCCS)

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1252; 8 USC 1183; 8 USC 1201; 8 USC 1102; 8 USC 1201a; 8 USC 1301; 8 USC 1305; 8 CFR 2

CFR Citation: 8 CFR 212; 8 CFR 264; 8 CFR 299

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service (Service) regulations to clarify and standardize procedures for the application and issuance of border crossing cards to citizens and residents of Mexico or Canada, or British subjects residing permanently in Canada who wish to enter the United States for business or pleasure; lists types of documentation acceptable as proof of residence or economic solvency; designates specific geographic jurisdictions for the ports to accept applications and issue BCCs; and, provides for issuance of temporary border crossing documents to applicants who appear eligible for BCC issuance. This rule promotes uniformity and clarity in the application requirements, decisionmaking process, and issuance of entry documents, while enhancing effective and efficient border enforcement within the border crossing card program.

Timetable:

Action	Date	FR Cite
NPRM	02/06/96	61 FR 4374
NPRM Comment Period End	04/08/96	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1390

Agency Contact: Ronald Hays, Assistant Chief Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 4064, Washington, DC 20536
Phone: 202 514-2694

RIN: 1115–AD24

1923. ADJUSTMENT OF STATUS; CERTAIN NATIONALS OF THE PEOPLES REPUBLIC OF CHINA

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 USC 1257

CFR Citation: 8 CFR 245

Legal Deadline: None

Abstract: This regulation implements the provisions of Public Law 102-404, the Chinese Student Protection Act of 1992, by providing adjustment of status procedures for certain nationals of the Peoples Republic of China. This regulation allows qualified nationals of the Peoples Republic of China to become lawful permanent residents.

Timetable:

Action	Date	FR Cite
Interim Final Rule Eff. 7-1-93; Com. Due 8-2-93	07/01/93	58 FR 35832
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1607-93

Agency Contact: Lisa Jacobson, Staff Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AD33

1924. PETITIONS FOR EMPLOYMENT-BASED IMMIGRANTS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186A; 8 USC 1255; 8 CFR 2; 8 USC 1153(b)

CFR Citation: 8 CFR 204; 8 CFR 214

Legal Deadline: None

Abstract: This proposed rule will make changes to the regulations governing employment-based immigrant petitions. These regulations were promulgated in November of 1991. Since then, the Service has discovered certain provisions in the regulations which need clarification or revision. The Service also needs to incorporate certain changes made by the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 into the regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/06/95	60 FR 29771
NPRM Comment Period End	08/07/95	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1633-93

Agency Contact: Helen V. de Thomas, Staff Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AD55

1925. PROCEDURES FOR FILING A DERIVATIVE PETITION (FORM I-730) FOR A SPOUSE AND UNMARRIED CHILDREN OF A REFUGEE/ASYLEE

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1157; 8 USC 1159; 8 USC 1182; 8 USC 1158; 8 USC 1228; 8 USC 1252; 8 USC 1282; 8 CFR 2; 31 USC 9701

CFR Citation: 8 CFR 207; 8 CFR 208

Legal Deadline: None

Abstract: This rule responds to the family reunification needs of refugees by establishing an equitable and consistent following-to-join policy for refugees which parallels the current following-to-join procedures for asylees. This rule also proposes to amend asylum regulations by removing children born to or legally adopted by the principal alien and spouse after approval of the principal alien's asylum application from qualified relationship.

Timetable:

Action	Date	FR Cite
NPRM	07/09/96	61 FR 35984
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1639

Agency Contact: Suzy Nguyen, Staff Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AD59

1926. REQUESTS FOR ADDITIONAL EVIDENCE TO SUPPORT IMMIGRANT VISA PETITIONS

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 CFR 2

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This rule amends Immigration and Naturalization Service regulations by providing a petitioner in an immigrant visa petition proceeding with a period of 12 weeks to respond to the Service's request for additional information and/or documentation.

Timetable:

Action	Date	FR Cite
NPRM	07/19/94	59 FR 36729
NPRM Comment Period End	09/19/94	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1659-94

Agency Contact: Jack Rasmussen, Staff Officer, Office of Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AD70

1927. EXPANSION OF DIRECT MAIL PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1103; 8 USC 1101; 8 USC 1182; 8 USC 1255; 8 USC 1255a; 8 USC 1201; 8 USC 1201a; 8 USC 1301; 8 USC 1302; 8 USC 1303; 8 USC 1304; 8 USC 1305; 8 USC 1324a; 8 CFR 2; 8 USC 1356

CFR Citation: 8 CFR 103; 8 CFR 245; 8 CFR 264; 8 CFR 274a; 8 CFR 245a

Legal Deadline: None

Abstract: This rule conveys changes in filing procedures for certain petitions or applications for immigration benefits under the direct mail program. Filing will be done directly with the service centers rather than with the district offices thereby facilitating more expeditious processing of applications and/or petitions. (INS 1660)

The Service initiated the expansion of the direct mail program to include the filing of Form N-400, Application for Naturalization. The Los Angeles, Miami, Chicago, and New York District Offices are the pilot sites for this expanded program. Naturalization applications are mailed to the four service centers in an effort to expedite processing. (INS 1745)

The Service will also expand direct mail to include the filing of adjustment of status applications for employment-based immigrants. (INS 1734). INS is expanding the program to require refugees and asylees to file their application for adjustment of status directly with an INS service center for processing. This procedural change will result in improved customer service by reducing processing times. (INS 1829)

Timetable:

Action	Date	FR Cite
Interim Final Rule INS No. 1660 Direct Mail Prog. Expan. Eff. 7/1/94; Comment Period End 8/30/94	07/01/94	59 FR 33903
Notice; INS No. 1660N Pilot Direct Mail Prog. Baltimore Office, Imple. Date 7/1/94	07/01/94	59 FR 33985
Notice INS No. 1745	01/25/96	61 FR 2266
Notice (INS No. 1734)	10/30/96	61 FR 56060
Interim Rule (INS No. 1829-96)	11/00/97	
Final Rule (INS 1829-96)	03/00/98	
Final Rule (INS No. 1660) Direct Mail Prog. Expansion	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1660, 1734 and 1745

Agency Contact: Michael Aytes, Assistant Commissioner, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AD73

1928. ADMISSION OF CERTAIN NURSES SEEKING NONIMMIGRANT CLASSIFICATION UNDER THE H-1A CATEGORY

Priority: Routine and Frequent

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1282

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: This rule amended existing regulations concerning admission of certain nurses seeking nonimmigrant classification under the H-1A category. This rule is necessary due to a change in the method that the National Council of State Boards of Nursing (NCLEX) uses to administer the permanent State licensure examination. With the change in testing procedures the rule will provide that nurses entering the United States, on the basis of a temporary license issued by the State of intended employment, pass the NCLEX within 6 months after the date of their initial admission to the U.S.

(This class no longer exists and a final rule will be published to remove applicable reference).

Timetable:

Action	Date	FR Cite
Interim Final Rule Comment Period End 12/06/94	10/07/94	59 FR 51101
Interim Final Rule Effective	10/07/94	

Action	Date	FR Cite
Interim Final Rule	03/07/97	62 FR 10422
Interim Final Rule (INS No. 1808) Comment Period End 5/06/97	03/07/97	62 FR 10422
Final Action	11/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1663-94.

Cross Reference INS No. 1654-94, RIN 1115-AD66

Agency Contact: John Brown, Staff Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-3240

RIN: 1115–AD74

1929. FEES FOR PARTICIPATION IN DEDICATED COMMUTER LANES AT SELECTED PORTS OF ENTRY; COLLECTION OF FEES UNDER THE DEDICATED COMMUTER LANE PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252 note; 8 USC 1252b; 8 USC 1304; 8 USC 1356; 8 USC 1182; 8 USC 1183; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252

CFR Citation: 8 CFR 103; 8 CFR 235; 8 CFR 286; 8 CFR 299

Legal Deadline: None

Abstract: These rules provide for the collection of a fee at the time of application for participation in a Dedicated Commuter Lane (DCL), instead of at the time of approval of the application. The DCL program is a pilot project established at selected land border ports of entry to expedite the transborder movement of eligible, pre-screened, low-risk groups through designated traffic lanes. The first rule clarifies the requirements for the use of the DCL. (INS No. 1675). A second rule will set forth the fee required of participants in order to cover the technological costs (INS No. 1794).

Timetable:

Action	Date	FR Cite
Interim Final Rule (INS 1675) Eff. 9/29/95; Comment Period End 11/28/95	09/29/95	60 FR 50386
Interim Rule (INS 1794)	10/11/96	61 FR 53303
Final Rule (INS 1675-94) Effective (INS 1675-94) 10/16/96	10/16/96	61 FR 53630
Final Action (INS 1794-96)	11/00/97	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Additional Information: INS No. 1675 and 1794-96

Agency Contact: Robert Mocny, Assistant Chief Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 4064, Washington, DC 20536
Phone: 202 514-3275

RIN: 1115–AD82

1930. ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE; TEMPORARY REMOVAL OF CERTAIN RESTRICTIONS ON ELIGIBILITY

Priority: Other Significant

Legal Authority: 5 USC 552; 5 USC 552(a); 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252 note; 8 USC 1252b; 8 USC 1304; 8 USC 1356; 8 USC 1102; 8 USC 1182; 8 USC 1184; 8 USC 1225; 8 USC 1226; 8 USC 1228

CFR Citation: 8 CFR 103; 8 CFR 212; 8 CFR 217; 8 CFR 245

Legal Deadline: None

Abstract: This rule allows certain persons in the United States to adjust status to that of a lawful permanent resident before October 1, 1997. These persons, although eligible for immigrant visa issuance abroad, have been barred from adjustment of status because they had entered the United States without inspection or had violated the conditions of temporary nonimmigrant status. The rule allows prospective lawful permanent or conditional residents to avoid the difficulties and expense of travel to a U.S. consulate or embassy abroad. It continues to penalize these violators of the immigration laws by requiring most adult applicants to pay an additional sum in excess of the standard adjustment filing fee. After adjusting status they may lawfully live and work in the United States and may later be eligible to seek United States citizenship through naturalization.

Timetable:

Action	Date	FR Cite
Interim Final Rule Eff. 10-1-94; Com. Due 12-6-94	10/07/94	59 FR 51091
Interim Final Rule Correction	10/20/94	59 FR 53020
Interim Rule INS No. 1676-94 Effective 07/23/97	07/23/97	62 FR 39417
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1676

Agency Contact: Gerard Casale, Staff Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AD83

1931. SCREENING REQUIREMENTS OF CARRIERS FOR REDUCTION, REFUND, OR WAIVER OF FINES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1103

CFR Citation: 8 CFR 273

Legal Deadline: None

Abstract: This rule sets forth the requirements that a carrier must satisfy in order that the INS may reduce, refund, or waive a fine incurred by the carrier for the transportation of an improperly documented alien to the U.S. The rule notifies the public of the requirements the INS expects the carriers to implement at ports of embarkation to satisfy the INS that they have properly screened all passengers on their vessel or aircraft bound for the U.S. The rule also notifies the public of the circumstances under which the INS may reduce, refund, or waive fines imposed on the carrier for the boarding of improperly documented aliens.

Certain qualified carriers that have achieved an Acceptable Performance Level (APL) in the number of improperly documented aliens brought to the United States, as determined by the INS, and having a satisfactory fines payment record, will be eligible for fines mitigation, the extent of the mitigation being determined by the carrier's APL.

Timetable:

Action	Date	FR Cite
NPRM	08/10/96	61 FR 29323
NPRM Comment Period End	08/09/96	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1697

Agency Contact: Robert Hutnick, Assistant Chief Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 4064, Washington, DC 20536
Phone: 202 514-3019

RIN: 1115–AD97

1932. PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A U.S. CITIZEN OR AS A PREFERENCE IMMIGRANT; SELF-PETITIONING FOR CERTAIN BATTERED OR ABUSED ALIEN SPOUSES AND CHILDREN

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 CFR 2; PL 103-322

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This rule allows battered and abused spouses and children of United States Citizens and Lawful Permanent Residents to petition for immigrant classification. The consent of the abuser would not be required.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/26/96	61 FR 13061
Interim Final Rule Effective	03/26/96	
Interim Final Rule Comment Period End	05/28/96	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1705-95

Agency Contact: Karen FitzGerald, Staff Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AE04

1933. MISCELLANEOUS MODIFICATIONS TO NATURALIZATION REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1103; 8 USC 1433; 8 USC 1443; 8 USC 1448

CFR Citation: 8 CFR 322; 8 CFR 337

Legal Deadline: None

Abstract: These regulations implement provisions of the Immigration and Nationality Technical Amendments Act of 1994.

INS No. 1712 implements changes to 8 CFR 322 by establishing procedures for a U.S. citizen parent to apply for the expeditious naturalization of his or her children born outside the U.S. It allows certain U.S. parents who do not meet physical presence requirements to use the physical presence of their U.S. parent (the child's U.S. grandparent). The purpose of the rule is to relax the requirements of U.S. citizenship for children born to or adopted by U.S. citizens abroad.

INS No. 1764 reserves the authority to schedule all administrative oath-taking ceremonies with the District Director. The rule will not impact the Immigration Judges' authority to administer the oath at ceremonies conducted by the Service.

Timetable:

Action	Date	FR Cite
Proposed Rule (INS 1712)	09/10/96	61 FR 47690
Final Rule (INS 1712)	11/00/97	
Final Rule (INS 1764)	11/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Nos. 1712 Contact, Jane Barker

INS No. 1764 Contact, Susan Arroyo

Agency Contact: Jane Barker, Staff Officer, Office of Naturalizations Operations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AE07

1934. CONDITIONS ON NONIMMIGRANT STATUS; DISCLOSURE OF INFORMATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186A; 8 USC 1187; 8 USC 1221; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: This rule removes the current regulatory language conditioning an alien's nonimmigrant status on his or her providing full and truthful information requested by the INS, regardless of the requested information's materiality. This rule would clarify that the nonimmigrant's stay is conditioned on, among other things, the provision of all information deemed necessary to ensure that the alien has acquired, and is maintaining, lawful nonimmigrant status during the entire period of his or her stay, or is eligible to receive any other benefit under the INA.

Timetable:

Action	Date	FR Cite
NPRM	06/14/96	61 FR 30188
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1732-95

Agency Contact: Miriam Jawitz Hetfield, Staff Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AE17

1935. REGULATIONS RELATING TO TEMPORARY PROTECTED STATUS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 8 USC 1103; 8 USC 1254a; 8 USC 1254a note; 8 USC 1362; 8 USC 1324a; 8 USC 1101; 8 USC 1303; 8 CFR 2; 5 USC 301; 5 USC 552; 5 USC 552a; 8 USC 1201; 28 USC 509; 31 USC 9701

CFR Citation: 8 CFR 103; 8 CFR 240; 8 CFR 299

Legal Deadline: None

Abstract: Regulations published under this RIN implement provisions of the Immigration and Nationality Act as established by section 302 of the Immigration Act of 1990, Pub. L. 101-649, which allow for the establishment and implementation of Temporary Protected Status (TPS). Currently, nationals of four countries (Liberia, Somalia, Rwanda, and Bosnia-Hercegovina) have been accorded TPS Status. Such designations are accomplished by notice published in the Federal Register.

Previously published TPS regulations were cited by RIN 1115-AC30.

Current regulatory actions:

INS No. 1606 provides for exceptions to deadlines for registering for TPS and updates the application process.

INS No. 1612 provides for the removal of obsolete TPS language.

Timetable:

Action	Date	FR Cite
TPS Final Rule (INS No. 1612) Removal of Obsolete Sections Covering TPS for Salvadorans	09/10/96	61 FR 47867
TPS Notice (INS No. 1832-97) Designation of Liberia	04/07/97	62 FR 16606
TPS Notice (INS No. 1853-97) Designation of Rwanda Eff. 06/07/97	06/19/97	62 FR 33442
TPS Notice (INS No. 1862-97) Designation of Bosnia-Hercegovina	08/01/97	62 FR 41420
TPS Notice (INS No. 1863-97) Designation of Somalia	08/01/97	62 FR 41421
TPS Notice (INS No. 1878-97) TPS Designation of Montserrat	08/28/97	62 FR 45685
TPS Final Rule (INS No. 1608) Exceptions to Registration	11/00/97	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The Attorney General may designate other countries for TPS.

INS Nos. 1606, 1612, 1832-97, 1853-97 and 1877-97

INS No. 1606 issued as an interim rule on 11/5/93 at 58 FR 58935

Cross reference other TPS actions under RIN 1115-AC30.

Agency Contact: Ronald S. Chirlin, Staff Officer, Office of Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AE26

1936. REGULATIONS PERTAINING TO ADJUDICATIONS PROCESSING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 5 USC 552; 5 USC 552(a); 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1155; 8 USC 1160; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1186b; 8 USC 1187

CFR Citation: 8 CFR 101; 8 CFR 103; 8 CFR 204; 8 CFR 210; 8 CFR 212; 8 CFR 214; 8 CFR 216; 8 CFR 240; 8 CFR 245a; 8 CFR 249; 8 CFR 336

Legal Deadline: None

Abstract: In response to the President's direction to each agency to undertake a review of its regulations for the purpose of reducing the regulations or, when possible, rendering them more readable and comprehensible, the Immigration and Naturalization Service engaged in a thorough line-by-line review of all regulations in title 8 of the Code of Federal Regulations (8 CFR). As a result, the Service is amending its regulations consistent with the President's directive by publishing a series of separate rulemakings in the Federal Register. Over the course of the next two fiscal years, these rulemakings will address all parts of 8 CFR by updating obsolete references; by eliminating portions dealing with terminated programs; by removing language relating to purely procedural matters involving only internal Service processes; by elimination of references which unnecessarily duplicate language contained in the statute or in other portions of the regulations; and by streamlining awkward and confusing language.

Timetable:

Action	Date	FR Cite
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: INS Nos. 1753-96;1754-96;and 1789-96 Additional Legal Authority: 8 USC 1201; 8 USC 1221; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252 note; 8 USC 1252b; 8 USC 1254; 8 USC 1254a note; 8 USC 1255; 8 USC 1255 note; 8 USC 1259; 8 USC 1281; 8 USC 1282; 8 USC 1304; 1356; 8 USC 1443; 8 USC 1447; 8 USC 1448; 31 USC 9701; EO 12356; 47 FR 14874; 47 FR 15557; 3 CFR; 1982 Comp., 166; 8 CFR part 2.

Agency Contact: Lawrence J. Weinig, Director, Field Manual Project Office, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., ULLICO 4th Floor, Washington, DC 20536
Phone: 202 616-7425

RIN: 1115–AE31

1937. ORPHAN PETITIONS; PETITIONS TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR PREFERENCE IMMIGRANT; CHANGE IN DEFINITION OF CHILD

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-51

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This rule amends the Service's existing regulations by replacing the phrase "legitimate child" with "child born in wedlock". This change also makes the criteria for immigration, based on orphan classification and on certain other parent-child relationships, much easier to understand and apply.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1761 (Additional INS contact Ramonia Law-Hill)

Agency Contact: Karen FitzGerald, Staff Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AE33

1938. INSPECTION AND EXPEDITED REMOVAL OF ALIENS; DETENTION AND REMOVAL OF ALIENS; CONDUCT OF REMOVAL PROCEEDINGS; ASYLUM PROCEDURES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 5 USC 552; 5 USC 552a; 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1154; 8 USC 1158; 8 USC 1181; 8 USC 1182; 8 USC 1183; 8 USC 1184; 8 USC 1185; 8 USC 1186a; 8 USC 1187

CFR Citation: 8 CFR 1; 8 CFR 3; 8 CFR 103; 8 CFR 204; 8 CFR 207; 8 CFR 208; 8 CFR 209; 8 CFR 211; 8 CFR 212; 8 CFR 213; 8 CFR 214; 8 CFR 216; 8 CFR 217; 8 CFR 221; 8 CFR 223; ...

Legal Deadline: Final, Statutory, March 1, 1997.
The statute requires the Attorney General to promulgate implementing regulations by March 1, 1997.

Abstract: Many of the provisions of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) became effective April 1, 1997. Some provisions of the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA) that were not superseded by IIRIRA became effective November 1, 1996. On March 6, 1997, INS and EOIR published an interim rule revising the asylum process; providing a mechanism for the determination and review of certain applicants who demonstrate a credible fear of persecution if returned to their own country; defining the inspection and admission process including new expedited removal procedures for aliens attempting to enter the United States through fraud or misrepresentation apprehension, detention, and removal of aliens; addressing conduct of removal proceedings; and revising many other sections of the regulations to conform with the new laws. INS is currently reviewing comments received on the interim rule prior to issuing a final rule.

Timetable:

Action	Date	FR Cite
Proposed Rule (1788-96) Comment Period End 2/3/97	01/03/97	62 FR 444
Interim Rule (1788-96) Comment Period End 7/15/97	03/06/97	62 FR 10312
Interim Rule Correction (Effective Date 04/01/97)	04/01/97	62 FR 15362
Interim Rule (1788-96) Interim Rule Correction	04/09/97	62 FR 17048
Final Action (INS No. 1788-96)	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1788-96 and 1790-96 Additional CFR cites; 8 CFR 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 248, 248, 251, 252, 253, 274a, 286, 287, 299, 316, 318 and 329.

Additional Legal Authorities: 8 USC 1186b, 1187, 1201, 1203, 1221, 1222, 1223, 1224, 1225, 1226, 1227, 1251, 1252, 1252note, 1252a, 1252b, 1253, 1254, 1254a note, 1255, 1256, 1258, 1259, 1281, 1282, 1304, 1324a, 1330, 1356, 1357, 1362, 1429, 1440, 1443, 1447; 28 USC 509, 510, 1746; 31 USC 9701; 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

Agency Contact: Linda Loveless, Assistant Chief Inspector, Office of Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 4064, Washington, DC 20536
Phone: 202 616-7489

Peggy Philbin, General Counsel, Executive Office of Immigration Review, Department of Justice, Immigration and Naturalization Service, 5107 Leesburg Pike, Suite 2400, Falls Church, VA 22041
Phone: 703 305-0470

RIN: 1115–AE47

1939. AGREEMENT PROMISING NON-DEPORTATION OR OTHER IMMIGRATION BENEFITS

Priority: Other Significant

Legal Authority: 5 USC 301; 28 USC 509; 28 USC 509; 28 USC 510; 28 USC 515; 28 USC 516; 28 USC 517; 28 USC 518; 28 USC 519

CFR Citation: 28 CFR 0.197

Legal Deadline: None

Abstract: Requires INS consent for agreements not to deport or agreements promising immigration benefits.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/13/96	61 FR 48405
NPRM Comment Period End	11/12/96	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cristina Hamilton, Chief Enforcement Division, Office of General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6100, Washington, DC 20536
Phone: 202 514-2895
Fax: 202 514-0455

RIN: 1115–AE50

DOJ—INS

Final Rule Stage

1940. DEFINITION OF THE TERM "LAWFULLY PRESENT" FOR PURPOSES OF APPLYING FOR TITLE II BENEFITS UNDER THE SOCIAL SECURITY ACT

Priority: Other Significant

Legal Authority: 5 USC 552; 5 USC 552a; 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252 note; 8 USC 1252B; 8 USC 1304; 8 USC 1356; 31 USC 9701; EO 12356; 47 FR 14874 to 15557; 1982 Comp., p. 166; 8 CFR 2

CFR Citation: 8 CFR 103

Legal Deadline: NPRM, Statutory, September 1, 1996.

Abstract: Section 401(a) of the Personal Responsibility and Work Reconciliation Act of 1996 provides that, with limited exceptions, only qualified aliens, as defined under section 431, may receive certain Federal public benefits. Section 401(b)(2) provides an exception which allows aliens who are "lawfully present in the United States" as determined by the Attorney General to receive Social Security benefits under title II of the Social Security Act.

This interim rule amends the Immigration and Naturalization Service (Service) regulations to define the term "an alien who is lawfully present in the United States" so that the Social Security Administration may determine which aliens are eligible for benefits under title II of the Social Security Act. Aliens who are considered "lawfully present in the United States," however, must otherwise satisfy the requirements for benefits under title II of the Social Security Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule Comment Period End: 11/05/96	09/06/96	61 FR 47039
Final Rule	11/00/97	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: INS No. 1792-96

Agency Contact: Derek C. Smith, Assistant General Counsel, Office of the General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street, Room 3214, Washington, DC 20536
Phone: 202 514-2895

RIN: 1115–AE51

1941. AFFIDAVITS OF SUPPORT ON BEHALF OF IMMIGRANTS

Priority: Other Significant

Legal Authority: 8 USC 1183a; PL 104-208; PL 104-193; 8 CFR 2

CFR Citation: 8 CFR 213a; 8 CFR 299

Legal Deadline: Final, Statutory, November 1997.

Abstract: This rule will amend the INS regulations by establishing that an individual (the sponsor) who files an affidavit of support under section 213A of the I&NA on behalf of an intending immigrant incurs an obligation that may be enforced by a civil action. This rule also specifies the requirements that Federal, state or local agencies or private entities must meet to request reimbursement from the sponsor for provision of means-tested public benefits, and provides procedures for imposing the civil penalty provided for under section 213A of the I&NA, if the sponsor fails to give notice of any change of address. This rule is necessary to ensure that sponsors of aliens meet their obligations under section 213A of the I&NA.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/97	
Interim Final Rule Comment Period End	01/00/98	
Final Rule	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Re: INS No. 1807-96; PL 104-208, title IV and PL 104-193, Title IV

Agency Contact: Miriam Hetfield, Staff Officer, Office of Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AE58

1942. EMPLOYMENT VERIFICATION BY COLLECTIVE BARGAINING UNITS

Priority: Other Significant

Legal Authority: 8 USC 1324a; PL 104-208

CFR Citation: 8 CFR 274a

Legal Deadline: None

Abstract: On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). The INS will publish amendatory regulations adding employers who are members of an association that employs members of a collective bargaining unit under a collective bargaining agreement to those entities which may rely upon the Form I-9 completed by a previous employer within the association under prescribed terms and conditions.

Timetable:

Action	Date	FR Cite
Interim Rule INS No. 1817-96	11/00/97	
Final Rule INS No. 1817-96	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: RE: INS Docket No. 1817-96; PL 104-208, title 4

Agency Contact: Robert J. Quin, Investigator, Office of Enforcement, Department of Justice, Immigration and Naturalization Service, 425 I Street, NW-Room 1000, Washington, DC 20536
Phone: 202 842-9236

RIN: 1115–AE67

1943. INELIGIBILITY OF CERTAIN JUVENILE OFFENDERS FOR FAMILY UNITY PROGRAM

Priority: Other Significant

Legal Authority: 8 USC 1225a note; PL 104-208

CFR Citation: 8 CFR 236.23

Legal Deadline: None

Abstract: On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. The INS will publish a regulation implementing a new basis of ineligibility for Family Unity benefits for certain juvenile offenders.

Timetable:

Action	Date	FR Cite
Interim Rule INS No. 1823-96	10/00/97	
Final Rule INS No. 1823-96	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: RE: INS No. 1823-96; PL 104-208, title III, section 38; and this regulation will affect 8 CFR 242.5 that will be renumbered 8 CFR 236.25.

DOJ—INS

Final Rule Stage

Agency Contact: Ronald Chirlin, Staff Officer, Office of Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AE72

1944. ADJUSTMENT OF STATUS FOR CERTAIN POLISH OR HUNGARIAN PAROLEES

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1182

CFR Citation: 8 CFR 245

Legal Deadline: None

Abstract: Section 646 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (PL 104-208) requires the Attorney General to establish procedures by which certain nationals of Poland or Hungary who were paroled into the United States from 1989 to 1991 may apply for adjustment to permanent resident status in the United States. An implementation policy memorandum and an interim rule are needed to make this new law effective.

Timetable:

Action	Date	FR Cite
Interim Rule (INS No. 1825-97)	05/23/97	62 FR 28314
Final Rule (INS No. 1825-97)	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerard Casale, Staff Officer, Office of Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AE74

1945. REGULATIONS PERTAINING TO BATTERED ALIENS AND TO MAIL ORDER BRIDE BUSINESSES, AS MANDATED BY IIRIRA

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1641(c); PL 104-208

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) included a number of provisions relating to battered aliens and to mail order bride businesses. At present, INS anticipates rulemaking in the following areas.

INS No. 1845-97 is necessitated by the section 501 of IIRIRA, which provides certain types of public benefits for those aliens who have made a prima facie case for eligibility pursuant to the INS'interim rule on self-petitions by battered aliens, published at 61 FR 13061 (March 26, 1995; INS No. 1705-95). This new interim rule will define what constitutes a prima facie case.

INS No. 1838-97 will be an advance notice of proposed rulemaking to solicit public input into the regulation of certain functions of the international matchmaking industry (also referred to as "mail order bride businesses"), as required by section 652 of IIRIRA.

Timetable:

Action	Date	FR Cite
ANPRM INS No. 1838-97 Comments due 09/15/97	07/16/97	62 FR 38041
Interim Rule INS No. 1845-97	10/00/97	
NPRM INS No. 1838-97	11/00/97	
Final Action INS No. 1845-97	01/00/98	
Final Action INS No. 1838-97	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1838-97

Agency Contact: Karen FitzGerald, Staff Officer, Office of Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AE77

1946. PILOT PROGRAMS TO REQUIRE BONDING IN ADDITION TO THE AFFIDAVIT OF SUPPORT

Priority: Other Significant

Legal Authority: 8 USC 1183; PL 104-208

CFR Citation: 8 CFR 213

Legal Deadline: Final, Statutory, November 1997.

Abstract: This rule will amend the Immigration and Naturalization Service regulations by naming five district offices of the Service which will establish and conduct a pilot program to require aliens to post a bond in addition to the affidavit requirements under section 213A of the Immigration and Nationality Act and the deeming requirements under section 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. This rule will establish the criteria and procedures for certifying bonding companies for participation in the program and the debarment of any such company that fails to pay a bond. It will also establish the criteria for setting the amount of the bond. This rule will stipulate that the pilot program will terminate after 3 years of operation.

Timetable:

Action	Date	FR Cite
Interim Rule	11/00/97	
Final Rule	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1843-97; PL 104-208, title 5, Secs. 502 and 564.

Agency Contact: Miriam Hetfield, Staff Officer, Office of Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street, N.W. Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AE78

1947. ESTABLISHMENT OF PREINSPECTED AUTOMATED LANE (PAL) PROGRAM AT IMMIGRATION AND NATURALIZATION SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1225; 8 USC 1226; 8 USC 1251; 8 USC 1252; 8 USC 1357; 8 CFR 2

CFR Citation: 8 CFR 287; 8 CFR 299

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service regulation by establishing a Preinspected Automated Lane (PAL) Program for the use of eligible persons and vehicles at immigration checkpoints within the United States.

DOJ—INS

Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule With Request for Comments by 06/17/97	04/18/97	62 FR 19024
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1830-97

Agency Contact: William Carter, Border Patrol Agent, Office of Enforcement, Department of Justice, Immigration and Naturalization Service, 425 I Street, N.W. 20536, Room 4226 Phone: 202 514-3072

RIN: 1115–AE80

1948. • THE EXTERNAL BOUNDARY AND THE TERRITORIAL WATERS OF THE UNITED STATES

Priority: Info./Admin./Other

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1225; 8 USC 1226; 8 USC 1251; 8 USC 1251; 8 USC 1357; 8 CFR 2

CFR Citation: 8 CFR 287.1

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service (Service) regulations to draw a clearer distinction between the "external boundary" and the "territorial waters" of the United States. The amendment will clarify the authority of the Service to conduct certain warrantless searches within a reasonable distance from the external boundary.

Timetable:

Action	Date	FR Cite
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This amendment was recommended by the Office of Legal Counsel, Department of Justice. 17 Op. Off. Legal Counsel No. 7 (1993)

Agency Contact: Janice Podolny, Associate General Counsel, Chief of Examination Divisions, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6100, Washington, DC 2036 Phone: 202 514-2895 Fax: 202 514-2895

RIN: 1115–AE85

1949. • AMENDMENT OF THE REGULATORY DEFINITION OF ARRIVING ALIEN

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 8 USC 1101; 8 CFR 2

CFR Citation: 8 CFR 1

Legal Deadline: None

Abstract: This rule amends the INS regulations by changing the regulatory definition of an arriving alien. Under section 235(b)(1)(A)(i) of the INA, which was effective on April 1, 1997, certain arriving aliens are subject to expedited removal procedures. The existing regulatory definition of arriving aliens includes parolees. As a matter of policy, the Department has decided that it is appropriate to exempt from the new expedited removal procedures aliens who were paroled into the United States before April, 1997. This rule clarifies that aliens who were paroled before April 1, 1997 will not be subjected to expedited removal. The rule also makes several changes in the wording of 1.1(q) to use language that is clearer and more consistent with the wording of the new statute.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Re: INS No. 1868-97

Agency Contact: Linda Loveless, Inspector, Office of Examinations, Department of Justice, Immigration and Naturalization Service, 425 I NW., Room 4064, Washington, DC 20536 Phone: 202 616-7489

RIN: 1115–AE87

DEPARTMENT OF JUSTICE (DOJ)

Immigration and Naturalization Service (INS)

Long-Term Actions

1950. NONIMMIGRANT CLASSES; TEMPORARY EMPLOYEES—H-2A AGRICULTURAL

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 214

Timetable:

Action	Date	FR Cite
NPRM Comment Period End 10/7/86	08/08/86	51 FR 28576
Interim Final Rule Eff. 6/1/87; Comment Period End 7/31/87	06/01/87	52 FR 20554
2nd Interim Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Michael Strauss Phone: 202 514-5014

RIN: 1115–AA25

1951. FIELD OFFICERS; POWERS AND DUTIES; SUBPOENA

Priority: Routine and Frequent

CFR Citation: 8 CFR 287

Timetable:

Action	Date	FR Cite
NPRM	09/26/91	56 FR 48766
NPRM Comment Period End	10/28/91	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Ronald W. Dodson Phone: 202 514-0747

RIN: 1115–AB63

1952. TERMINATION OF TEMPORARY RESIDENT STATUS

Priority: Other Significant

CFR Citation: 8 CFR 210

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Kathy Redman Phone: 202 514-5014

RIN: 1115–AB74

DOJ—INS

Long-Term Actions

1953. TEMPORARY ALIEN WORKERS SEEKING CLASSIFICATION UNDER THE IMMIGRATION AND NATIONALITY ACT

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 214

Timetable:

Action	Date	FR Cite
NPRM Comment Period Ends 8-12-91 (INS No. 1417-91)	07/11/91	56 FR 31553
Final Rule Eff. 10/1/91 (INS No. 1417-91)	12/02/91	56 FR 61111
Final Rule Correction (INS No. 1417-91)	01/08/92	57 FR 749
Interim Final Rule Com. Due 6/8/92 (INS No. 1454-92)	04/09/92	57 FR 12179
Interim Final Rule Com. End 6/8/92 (INS No. 1452-92)	04/09/92	57 FR 12177
Interim Final Rule Eff. 3/31/92 (INS No. 1452-92)	04/09/92	57 FR 12177
Interim Final Rule Eff. 4/1/92 (INS No. 1454-92)	04/09/92	57 FR 12179
NPRM (INS 1653-94) Comment Period End 10/14/94	08/15/94	59 FR 41843
Final Action (INS No. 1653-94)	04/16/97	62 FR 18508
Final Rule Correction (INS No. 1653-94)	09/03/97	62 FR 46533
Next Action Undetermined		

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: John Brown Phone: 202 514-3240

RIN: 1115–AC72

1954. F, J, AND M NONIMMIGRANT STUDENT REQUIREMENTS FOR ADMISSION, TRACKING, MAINTENANCE OF STATUS AND FOR EMPLOYMENT AUTHORIZATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 8 CFR 214; 8 CFR 274a

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/20/92	57 FR 31954
Interim Final Rule Eff. 7-20-92; Com. Due 9-18-92	07/20/92	57 FR 31954
Notice of Pilot Program (INS 1800)	01/17/97	62 FR 26851
Proposed Rule (INS 1458)	03/00/99	
Final Rule (INS No. 1458)	10/00/99	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Maurice Berez Phone: 202 514-3228

RIN: 1115–AD16

1955. EXECUTING FINAL ORDER OF EXCLUSION OR DEPORTATION; CONFORMING 72-HOUR NOTICE PROVISIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 8 CFR 237; 8 CFR 243

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Cristina Hamilton Phone: 202 514-2895

RIN: 1115–AD71

1956. REGULATION CHANGES NECESSITATED BY THE BREAK-UP OF THE SOVIET UNION AND CZECHOSLOVAKIA, THE UNIFICATION OF THE TWO GERMANIES, AND THE NAME CHANGE OF THE DEMOCRATIC REPUBLIC OF VIETNAM

Priority: Other Significant

CFR Citation: 8 CFR 212

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Robert Hutnick Phone: 202 514-3019

RIN: 1115–AD96

1957. NOTICE OF POLICY REGARDING FINES IMPOSED ON CARRIERS WHO BRING ALIENS TO THE UNITED STATES WITHOUT PROPER DOCUMENTATION

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 273

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Robert Hutnick Phone: 202 514-3019

RIN: 1115–AE09

1958. "MASTER EXHIBITS" CURRENTLY AVAILABLE

Priority: Other Significant

CFR Citation: 8 CFR 208

Timetable:

Action	Date	FR Cite
Notice (To Be Published Upon Availability of New Exhibits)	00/00/00	

Small Entities Affected: Organizations

Government Levels Affected: Federal

Agency Contact: John D. Evans Phone: 202 305-2673 Fax: 202 305-2796 Email: evans@justice.usdoj.gov

RIN: 1115–AE14

1959. EMPLOYER SANCTIONS MODIFICATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 8 CFR 274a

Timetable:

Action	Date	FR Cite
Interim Final Rule (INS 1738)	10/07/96	61 FR 52235
Correction (Final Rule)	10/29/96	61 FR 55840
Final Rule (INS No. 1738)	00/00/00	
Proposed Rule (INS 1737)	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Angelo Sorrento

DOJ—INS

Long-Term Actions

Phone: 202 514-0747
RIN: 1115–AE21

1960. EFFECT OF PAROLE OF CUBAN AND HAITIAN NATIONALS ON RESETTLEMENT ASSISTANCE ELIGIBILITY

Priority: Other Significant
CFR Citation: 8 CFR 212
Timetable:

Action	Date	FR Cite
Interim Final Rule	07/12/96	61 FR 36610
Interim Rule Comment Period End	09/10/96	61 FR 36610
Final Action	00/00/00	

Small Entities Affected: Governmental Jurisdictions, Organizations
Government Levels Affected: State, Local, Federal
Agency Contact: Janice Podolny
Phone: 202 514-2895
RIN: 1115–AE29

1961. IMMIGRATION AND NATURALIZATION SERVICE P-1 NONIMMIGRANTS

Priority: Other Significant
Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.
CFR Citation: 8 CFR 214
Timetable:

Action	Date	FR Cite
Notice of Establishment of an Advisory Committee; Statement of Qualifications Due 5-7-96	03/08/96	61 FR 9496
NPRM	00/00/00	

Small Entities Affected: Businesses, Organizations
Government Levels Affected: Federal
Agency Contact: John Brown
Phone: 202 514-5014
RIN: 1115–AE38

1962. ORDER TO SHOW CAUSE AND NOTICE OF HEARING; APPREHENSION, CUSTODY AND DETENTION

Priority: Substantive, Nonsignificant
CFR Citation: 8 CFR 242
Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Robert Hutnick
Phone: 202 616-7499
RIN: 1115–AE57

DEPARTMENT OF JUSTICE (DOJ)
Immigration and Naturalization Service (INS)

Completed Actions

1963. CONTRACTS WITH TRANSPORTATION LINES; INCREASING THE LIQUIDATED DAMAGES FOR CARRIER VIOLATIONS OF THE TWOV AGREEMENT TO $3000

Priority: Substantive, Nonsignificant
CFR Citation: 8 CFR 238
Completed:

Reason	Date	FR Cite
Combined With RIN 1115-AE37	07/16/97	

Small Entities Affected: None
Government Levels Affected: Federal
Agency Contact: Robert Hutnick
Phone: 202 514-2694
RIN: 1115–AC17

1964. MARRIAGE DURING DEPORTATION OR EXCLUSION PROCEEDINGS; BONA FIDE MARRIAGE EXEMPTION TO PROHIBITION AGAINST APPROVAL OF RELATIVE VISA PETITION OR ADJUSTMENT OF STATUS

Priority: Substantive, Nonsignificant
CFR Citation: 8 CFR 204; 8 CFR 245
Completed:

Reason	Date	FR Cite
Withdrawn by Program Office	07/24/97	

Small Entities Affected: None
Government Levels Affected: Federal
Agency Contact: Rita Arthur
Phone: 202 514-5014
RIN: 1115–AC43

1965. TREATY ALIENS, E CLASSIFICATION

Priority: Other Significant
Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.
CFR Citation: 8 CFR 214
Completed:

Reason	Date	FR Cite
Final Action	09/12/97	62 FR 48136
Final Action Effective	11/12/97	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations
Government Levels Affected: Federal
Agency Contact: Katharine A. Lorr
Phone: 202 514-5014
RIN: 1115–AC51

1966. UNAVAILABILITY OF TWOV TO CITIZENS OF THE FORMER SOCIALIST FEDERAL REPUBLIC OF YUGOSLAVIA

Priority: Other Significant
CFR Citation: 8 CFR 212
Completed:

Reason	Date	FR Cite
Combined With RIN 1115-AD96 per Program Office	07/23/97	

Small Entities Affected: None
Government Levels Affected: Federal
Agency Contact: Robert Hutnick
Phone: 202 514-2694
RIN: 1115–AC87

1967. ISSUANCE OF CHARGING DOCUMENTS BY ASYLUM OFFICERS

Priority: Other Significant
CFR Citation: 8 CFR 103; 8 CFR 208; 8 CFR 236; 8 CFR 242; 8 CFR 274a

DOJ—INS

Completed Actions

Completed:

Reason	Date	FR Cite
Withdrawn by the Program Office	07/10/97	

Small Entities Affected: None
Government Levels Affected: Federal
Agency Contact: Christine Davidson
Phone: 202 305-2663
RIN: 1115–AD64

1968. WAIVER OF THE TWO-YEAR HOME COUNTRY PHYSICAL PRESENCE REQUIREMENT FOR CERTAIN FOREIGN MEDICAL GRADUATES

Priority: Substantive, Nonsignificant
Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.
CFR Citation: 8 CFR 212; 8 CFR 245; 8 CFR 248
Completed:

Reason	Date	FR Cite
Final Action	04/16/97	62 FR 18506
Final Action Effective	04/16/97	

Small Entities Affected: None
Government Levels Affected: State, Federal
Agency Contact: Sophia Cox
Phone: 202 514-5014
RIN: 1115–AD89

1969. PREINSPECTION SERVICES FOR AIRCRAFT, VESSELS, AND TRAINS OUTSIDE THE UNITED STATES (PREINSPECTION)

Priority: Substantive, Nonsignificant
CFR Citation: 8 CFR 235
Completed:

Reason	Date	FR Cite
Withdrawn by Program Office; Incorporated Into INS No. 1788	07/16/97	

Small Entities Affected: None
Government Levels Affected: Federal
Agency Contact: Bill Plunges
Phone: 202 514-3019
RIN: 1115–AD98

1970. NOTICE TO CARRIERS OF THE INS POLICY ON THE REQUIREMENTS OF ARRIVAL/DEPARTURE MANIFESTS, FORM I-94, AND FINES IMPLICATIONS UNDER SECTION 231(A)

Priority: Other Significant
CFR Citation: 8 CFR 231
Completed:

Reason	Date	FR Cite
Withdrawn by Program Office; Combined With RIN 1115-AE37	07/16/97	

Small Entities Affected: None
Government Levels Affected: Federal
Agency Contact: Robert Hutnick
Phone: 202 514-3019
RIN: 1115–AE11

1971. RECOGNIZED PROVIDERS OF IMMIGRATION ASSISTANCE AND FORMS PREPARATION SERVICES

Priority: Other Significant
Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.
CFR Citation: 8 CFR 292; 8 CFR 310
Completed:

Reason	Date	FR Cite
Withdrawn by Program Office	08/01/97	

Small Entities Affected: Businesses, Organizations
Government Levels Affected: State, Federal
Agency Contact: Jody Marten
Phone: 202 514-5014
RIN: 1115–AE18

1972. ACQUISITION OF CITIZENSHIP; EQUAL TREATMENT OF WOMEN IN CONFERRING CITIZENSHIP TO CHILDREN BORN ABROAD

Priority: Substantive, Nonsignificant
CFR Citation: 8 CFR 301
Completed:

Reason	Date	FR Cite
Final Action	07/25/97	62 FR 39926

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Jane Barker
Phone: 202 514-5014
RIN: 1115–AE19

1973. PERIODS OF LAWFUL TEMPORARY RESIDENT STATUS AND LAWFUL PERMANENT RESIDENT STATUS TO ESTABLISH SEVEN YEARS OF LAWFUL DOMICILE

Priority: Substantive, Nonsignificant
CFR Citation: 8 CFR 212
Completed:

Reason	Date	FR Cite
Final Action	08/14/97	62 FR 43486
Final Action Effective	08/14/97	

Small Entities Affected: None
Government Levels Affected: Federal
Agency Contact: David Dixon
Phone: 703 756-6257
RIN: 1115–AE27

1974. REGISTRATION OF ALIENS ON CRIMINAL PROBATION OR CRIMINAL PAROLE

Priority: Other Significant
CFR Citation: 8 CFR 264; 8 CFR 299
Completed:

Reason	Date	FR Cite
Withdrawn by Program Office	07/11/97	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Joseph Calemine
Phone: 202 305-2316
RIN: 1115–AE85

1975. EMPLOYER SANCTIONS: MISCELLANEOUS PROVISIONS

Priority: Other Significant
CFR Citation: 8 CFR 264; 8 CFR 274a
Completed:

Reason	Date	FR Cite
Withdrawn - Incorporated Into Document Reduction NPRM	07/14/97	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Robert J. Quin
Phone: 202 514-2998
RIN: 1115–AE86

DOJ—INS

Completed Actions

1976. ADDITION OF ORGANIZATION TO LISTING OF AMERICAN INSTITUTIONS OF RESEARCH RECOGNIZED BY THE ATTORNEY GENERAL

Priority: Routine and Frequent

CFR Citation: 8 CFR 316

Completed:

Reason	Date	FR Cite
Final Action - INS No. 1861-97	09/19/97	62 FR 49131
Final Action Effective	10/20/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jane Barker
Phone: 202 514-5014

RIN: 1115–AE84

DEPARTMENT OF JUSTICE (DOJ)
Legal Activities (LA)

Proposed Rule Stage

1977. FEDERAL CLAIMS COLLECTION STANDARDS (FCCS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 3711(e)(2)

CFR Citation: 31 CFR 295 to 299; 31 CFR 900 to 904

Legal Deadline: None

Abstract: The Federal Claims Collection Standards (FCCS) are issued jointly by the Secretary of the Treasury and the Attorney General. These regulations prescribe the standards for the administrative collection, compromise, termination of agency collection, and the referral to the Department of Justice for litigation, of civil claims by the Federal Government for money or property. The Department of Justice and the Department of the Treasury are issuing this rule to revise and update the FCCS in order to reflect changes in the substantive law and in government procedures that have taken place since the standards were last issued in March 1984.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
NPRM Comment Period End	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Kathleen A. Haggerty, Director, Debt Collection Management, Department of Justice, Liberty Place Bldg., Second Floor South, 325 7th St. NW., Washington, DC 20530
Phone: 202 514-5343
Fax: 202 514-1965

RIN: 1105–AA31

1978. FALSE CLAIMS AMENDMENTS ACT OF 1986—CIVIL INVESTIGATIVE DEMANDS

Priority: Info./Admin./Other

Legal Authority: 31 USC 3733

CFR Citation: 28 CFR 28

Legal Deadline: None

Abstract: This rule implements and clarifies the provisions concerning civil investigative demands (CIDs) in section 6(a) of the False Claims Amendments Act of 1986, 31 USC 3733. In particular, this rule 1) delegates certain delegable powers and responsibilities that the statute vests in the Attorney General to the Assistant Attorney General for the Civil Division and to the U.S. Attorneys; 2) specifies which United States employees may have access to information produced in response to CIDs; 3) clarifies that Department trial attorneys, in certain circumstances, have authority unilaterally to alter certain features of oral examinations taken pursuant to CIDs, such as date, time, and place; and 4) clarifies the statutory provision allowing Department attorneys to make "official use" of CID material in connection with cases and proceedings, by defining "official use."

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
NPRM Comment Period End	01/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Michael F. Hertz, Director, Commercial Litigation Branch, Department of Justice, Civil Division, P.O. Box 261, Washington, DC 20044
Phone: 202 514-7179

RIN: 1105–AA42

1979. IMPLEMENTATION OF THE NATIONAL STOLEN PASSENGER MOTOR VEHICLE INFORMATION SYSTEM (NSPMVIS)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 33109 to 33111

CFR Citation: 28 CFR 89

Legal Deadline: None

Abstract: The Attorney General is required to establish a National Stolen Passenger Motor Vehicle Information System pursuant to the Anti Car Theft Act of 1992 (49 USC 33109 to 33111). The FBI is coordinating efforts in this matter and, under delegated authority from the Attorney General, the FBI is issuing this rule to establish a national system to verify the theft status of major motor vehicle component parts. The system will include certain information about each passenger motor vehicle reported to a law enforcement agency as stolen and not recovered. The rule provides how an individual or entity may obtain information from the system on whether a vehicle or part is listed as stolen. The rule also provides verification procedures to be followed by insurance carriers and certain motor vehicle part businesses.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
NPRM Comment Period End	01/00/98	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Dan Dubree, Planning Unit Chief, Department of Justice, Federal Bureau of Investigation, CJIS Division, Module C-3, 1000 Custer Hollow Road, Clarksburg, WV 26306
Phone: 304 625-2751
Fax: 304 625-3875

RIN: 1105–AA44

DOJ—LA

Proposed Rule Stage

1980. FILING OF INFORMATIONAL MATERIALS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 22 USC 611 et seq Foreign Agents Registration Act of 1938

CFR Citation: 28 CFR 5.5(d)(10); 28 CFR 5.5(d)(11); 28 CFR 5.100(c); 28 CFR 5.100(d); 28 CFR 5.200(b); 28 CFR 5.201(a)(1); 28 CFR 5.201(a)(2); 28 CFR 5.202(b); 28 CFR 5.202(e); 28 CFR 5.203(e); 28 CFR 5.204(a); 28 CFR 5.205(a); 28 CFR 5.206(b); 28 CFR 5.304(c); 28 CFR 5.306(a); ...

Legal Deadline: None

Abstract: As a result of the passage of the Lobbying Disclosure Act of 1995 (LDA), the Foreign Agents Registration Unit of the Criminal Division is issuing a new regulation concerning changes in the Foreign Agents Registration Act of 1938, as amended, 22 USC 611, et seq (FARA). These regulations replace the term "political propaganda" in the existing regulations with "informational materials" as provided in the LDA and make other changes to the FARA regulations required by the passage of the LDA. The regulations also make other modifications to the existing regulations to facilitate the administration of FARA. In addition, this rule modifies existing regulations to more accurately match the Department's revenue and expenses by in administering FARA by increasing filing and other fees.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
NPRM Comment Period End	01/00/98	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: CFR Citations continued: 28 CFR 5.306(b); 28 CFR 5.307; 28 CFR 5.400; 28 CFR 5.401; 28 CFR 5.402; 28 CFR 5.500(a)(4); 28 CFR 5.600; 28 CFR 5.601(a); 28 CFR 5.601(b).

Agency Contact: Marshall R. Williams, Chief, Registration Unit, Internal Security Section, Department of Justice, Criminal Division, 1400 NY Ave., NW., Room 9300, Washington, DC 20530
Phone: 202 514-1216
Fax: 202 514-2836

RIN: 1105–AA45

1981. GUIDELINES FOR MEGAN'S LAW AND THE JACOB WETTERLING CRIMES AGAINST CHILDREN AND SEXUALLY VIOLENT OFFENDER REGISTRATION ACT

Priority: Other Significant

Legal Authority: PL 104-145,Megan's Law; PL 103-322, sec 170101, Violent Crime Cntl & Law Enf Act, 1994

CFR Citation: None

Legal Deadline: None

Abstract: Megan's Law, PL 104-145, amended subsection (d) of section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, PL 103-322 (codified at 42 USC 14071), which contains the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (the "Wetterling Act"). The Wetterling Act encourages States to establish registration systems for persons who are: (1) convicted of a criminal offense against a victim who is a minor; (2) convicted of a sexually violent offense; or (3) found to be a sexually violent predator. The Department of Justice published Final Guidelines implementing the Wetterling Act on April 4, 1996 at 61 FR 15110.

The provisions of the Wetterling Act amended by Megan's Law relate to the release of registration information. Megan's Law (1) eliminates a general requirement that information collected under State registration programs be treated as private data, and (2) substitutes mandatory language for previously permissive language concerning the release of relevant information that is necessary to protect the public concerning registered offenders. On July 21, 1997 at 62 FR 39009 the Department published Final Guidelines implementing Megan's Law and also clarifying other provisions of the Wetterling Act based upon experience gained from working with States concerning their sex offender registration systems.

The Pam Lychner Sexual Offender Tracking and Identification Act, among other things, 1) requires the Attorney General to establish a national database at the FBI to track convicted sex offenders and 2) requires the FBI to handle registration directly for sex offenders residing in States that do not have "minimally sufficient" sex offender registration programs (as defined by the Act). The FBI will be issuing regulations to carry out its responsibilities under the Lychner Act (See RIN 1105-AA56).

The Lychner Act also amends the Wetterling Act to prescribe more stringent registration requirements in some areas. States have until October 3, 1999 to comply with the provisions of the Lychner Act that amend the Wetterling Act. The Attorney General will be issuing guidelines implementing these new requirements. The Attorney General also may grant a 2-year extension for States that are making good faith efforts to come into compliance.

Timetable:

Action	Date	FR Cite
NPRM	04/04/97	62 FR 16180
NPRM Comment Period End	06/03/97	
Lychner Act		
Proposed Guidelines	10/00/97	
Megan's Law/Wetterling		
Proposed Guidelines	04/04/97	(62 FR 16180)
Final Guidelines	07/21/97	(62 FR 39009)

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: Bonnie J. Campbell, Director, Violence Against Women Office, Department of Justice, 950 Pennsylvania Ave. NW., Washington, DC 20530
Phone: 202 616-8894

RIN: 1105–AA50

1982. OPERATION OF THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 18 USC 922 to 925 Brady Handgun Violence Prevention Act

CFR Citation: 28 CFR 20

DOJ—LA

Proposed Rule Stage

Legal Deadline: Other, Statutory, November 30, 1998.
The Brady Handgun Violence Prevention Act requires the NICS be established not later than 60 months after enactment (11/30/93).

Abstract: This rule notifies State and local law enforcement agencies and Federal Firearms Licensees of the establishment of the National Instant Check System (NICS) and sets forth policies and procedures regarding use of the system, including regulations pertaining to the security and privacy of information.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	
NPRM Comment Period End	03/00/98	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Emmet A. Rathbun, Research and Development Unit, Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Div., 1000 Custer Hollow Road, Clarksburg, WV 26306
Phone: 304 625-2000
Fax: 304 625-3875

RIN: 1105–AA51

1983. • JUSTICE ACQUISITION REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 28 USC 510; 40 USC 486(c)

CFR Citation: 48 CFR 28

Legal Deadline: None

Abstract: Part 28 of Title 48 of the Code of Federal Regulations is being revised in its entirety to implement changes resulting from the Federal Acquisition Streamlining Act, the Federal Acquisition Reform Act and recommendations of the National Performance Review.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
NPRM Comment Period End	01/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Janis A. Sposato, Procurement Executive, Department of Justice, 950 Pennsylvania Ave NW., Room 1111, Washington, DC 20530
Phone: 202 514-3101
Fax: 202 616-6695

RIN: 1105–AA55

1984. • IMPLEMENTATION OF THE PAM LYCHNER SEXUAL OFFENDER TRACKING AND IDENTIFICATION ACT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 104-236, sec 9

CFR Citation: Not yet determined

Legal Deadline: Other, Statutory, October 3, 1997.
The Act does not distinguish between NPRM and Final regulations.

Abstract: The FBI is issuing regulations to carry out the Pam Lychner Sexual Offender Tracking and Identification Act of 1996. These regulations include guidelines as to the operation and use of the interim national sex offender registry established by the FBI, and the notice to be provided to the FBI in the event a registered sex offender moves interstate. The regulaitons also set forth the procedures to be followed by the FBI in registering convicted sex offenders who reside in States that do not have minimally sufficient sex offender registration programs as defined in the Pam Lychner Act, PL 104-236, sec. 2.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Agency Contact: Ralph Charles Thomas, Federal Bureau of Investigation, Department of Justice, 935 Pennsylvania Ave. NW., Washington, DC 20535
Phone: 202 324-3000

RIN: 1105–AA56

DEPARTMENT OF JUSTICE (DOJ)
Legal Activities (LA)

Final Rule Stage

1985. PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552; 5 USC 552a

CFR Citation: 28 CFR 16 subparts A and D

Legal Deadline: Final, Statutory, October 2, 1997.

Abstract: Updating and revision of Department of Justice regulations implementing the Freedom of Information Act and the Privacy Act of 1974. The sections of law covered by this regulation were the subject of legislation enacted near the end of the 104th Congress. The Office of Information and Privacy (OIP) reserved action on these regulations until the legislation was passed and is now proceeding with revisions to the regulations.

Timetable:

Action	Date	FR Cite
NPRM	08/26/97	62 FR 45184
NPRM Comment Period End	09/25/97	
Final Action	06/00/98	

DOJ—LA

Final Rule Stage

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Janice Galli McLeod, Attorney, Department of Justice, Office of Information & Privacy, Flag Building, Suite 570, Washington, DC 20530
Phone: 202 514-4453
Fax: 202 514-1009

RIN: 1105–AA20

1986. IMPLEMENTATION OF SECTIONS 104 AND 109 OF THE COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT ACT

Priority: Other Significant

Legal Authority: PL 103-414 Communications Assistance for Law Enforcement Act; PL 104-208 Omnibus Consolidated Appropriations Act of 1997

CFR Citation: 28 CFR 100

Legal Deadline: Other, Statutory, October 25, 1998.
CALEA requires telecommunications carriers to be in compliance with section 103 by 10/25/98. These regulations assist carriers to meet their obligations under CALEA.

Abstract: As required by section 109 of the Communications Assistance for Law Enforcement Act (CALEA), the FBI promulgated Cost Recovery Regulations allowing telecommunications carriers to recover certain costs associated with implementing CALEA. A final rule was published on March 20, 1997 (62 FR 13307) and became effective on April 21, 1997. In response to public comments received during this rulemaking, on November 19, 1996 (61 FR 58799) the FBI published an ANPRM soliciting input from the telecommunications industry and the general public on the terms "significant upgrade" and "major modification." The FBI is currently drafting an NPRM defining these terms which it anticipates publishing not later than the first quarter of calendar year 1998.

Additionally, on September 30, 1996, the President signed into law the Omnibus Consolidated Appropriations Act of 1997 (PL 104-208), which expanded the eligibility for CALEA reimbursement to include both equipment manufacturers and support service providers. By late 1997, the FBI anticipates publishing an interim rule with request for comments defining the costs eligible for recovery under CALEA for these newly eligible entities. Finally, CALEA section 104 requires the Attorney General to publish a Notice of Actual and Maximum Capacity in order to provide telecommunications carriers with the information they will need to meet law enforcement's future simultaneous electronic surveillance requirements. The FBI published an Initial Notice of Capacity on October 16, 1995 (60 FR 53643) and a Second Notice of Capacity on January 14, 1997 (62 FR 1902). The FBI anticipates publishing a Final Notice of Capacity not later than the first quarter of calendar year 1998.

Timetable:

Action	Date	FR Cite
NPRM	05/10/96	61 FR 21396
NPRM Comment Period End	07/09/96	
"Significant upgrade" & "Major modification"		
ANPRM Soliciting Input on Terms	11/19/96 (61 FR 58799)	
NPRM Proposing Definitions of Terms	02/00/98	
Cost Recovery Rule (Equipment Mfr. & Support Service Providers)		
Interim Rule & Request for Comments	02/00/98	
Cost Recovery Rule (Telecom. Carriers)		
Final Rule	03/20/97 (62 FR 13307)	
Final Rule Effective	04/21/97	
Notice of Actual and Maximum Capacity		
Initial Notice	10/16/95 (60 FR 53643)	
Second Notice	01/14/97 (62 FR 1902)	
Final Notice	01/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Walter V. Meslar, Unit Chief, Telecommunications Contracts and Audit Unit, Department of Justice, Federal Bureau of Investigation, 14800 Conference Center Dr., Suite 300, Chantilly, VA 20151
Phone: 703 814-4900
Fax: 703 814-4730

Michael A. Ponzo, Acting Unit Chief, Telecommunications Industry Liaison Unit, Department of Justice, Federal Bureau of Investigation, 14800 Conference Center Drive, Suite 300, Chantilly, VA 20151
Phone: 703 814-4807
Fax: 703 814-4760

RIN: 1105–AA39

1987. CIVIL MONETARY PENALTIES INFLATION ADJUSTMENT

Priority: Info./Admin./Other

Legal Authority: PL 101-410 Fed. Civ. Monetary Penalties Inflation Adj. Act 1990; PL 104-134, sec 31001 Debt Collection Improvement Act of 1996

CFR Citation: 28 CFR 50.22 (New)

Legal Deadline: Final, Statutory, October 23, 1996.

Abstract: The Federal Civil Monetary Penalties Inflation Adjustment Act of 1990, PL 101-410, hereinafter, Adjustment Act, provided for the regular evaluation of civil monetary penalties to ensure that they continued to maintain their deterrent value and that penalty amounts due the Federal Government were properly accounted for and collected. On April 26, 1996, President Clinton signed into law the Omnibus Consolidated Recissions and Appropriations Act of 1996, PL 104-134, hereinafter, Omnibus Act. Section 31001 of the Omnibus Act (also known as the Debt Collection Improvement Act of 1996, hereinafter, Improvement Act, amended section 4 of the Adjustment Act to require the head of each agency to by regulation adjust each civil monetary penalty provided by law within the jurisdiction of the agency and to publish such regulation in the Federal Register.

Any increase in a civil monetary penalty made pursuant to the Improvement Act shall apply only to violations which occur after the date the increase takes effect. The first adjustment of a civil monetary penalty made pursuant to the Improvement Act may not exceed 10 percent of such penalty. The adjustment for inflation required by the Adjustment Act must be done every four years. This regulation fulfills the Attorney General's obligations under the Improvement Act.

Timetable:

Action	Date	FR Cite
Final Action	10/00/97	
Final Action Effective	11/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert Hinchman, Attorney-Advisor, Department of Justice, Office of Policy Development, 950 Pennsylvania Ave. NW., Washington, DC 20530
Phone: 202 514-8059

DOJ—LA

Final Rule Stage

Fax: 202 514-9112

RIN: 1105–AA48

1988. RADIATION EXPOSURE COMPENSATION ACT: EVIDENTIARY REQUIREMENTS; DEFINITIONS AND NUMBER OF CLAIMS FILED

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 2210 note Radiation Exposure Compensation Act of 1990

CFR Citation: 28 CFR 79

Legal Deadline: None

Abstract: The Department of Justice is amending its existing regulations implementing the Radiation Exposure Compensation Act to: 1) allow claimants to submit affidavits or declarations in support of a claim under certain circumstances; 2) allow the use of high resolution computer tomography reports and pathology reports of tissue biopsies as additional means by which claimants can present evidence of a compensable non-malignant respiratory disease; 3) amend the definitions of "smoker" and "non-smoker"; 4) include in situ lung cancers under the definition of primary cancers of the lung; and 5) allow claimants who have filed claims prior to the implementation of this regulation and have been denied compensation to file another three times.

Timetable:

Action	Date	FR Cite
NPRM	05/23/97	62 FR 28393
NPRM Comment Period End	07/22/97	
Reopening of Comment Period (Comments Due by 09/29/97)	08/29/97	62 FR 45774
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gerald W. Fischer, Assistant Director, Department of Justice, Radiation Exposure Compensation Program, P.O. Box 146, Ben Franklin Station, Washington, DC 20044-0146
Phone: 202 616-4090

RIN: 1105–AA49

1989. • PROCEDURES TO REVIEW REMOVALS AND SUSPENSIONS OF STANDING TRUSTEES AND PANEL TRUSTEES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 28 USC 509; 28 USC 510; 28 USC 586

CFR Citation: 28 CFR 58.6

Legal Deadline: None

Abstract: The United States Trustee Program is the component of the Department of Justice charged with the responsibility of supervising the administration of bankruptcy cases and trustees. The Program consists of a Director and 21 United States Trustees. United States Trustees appoint and supervise standing trustees (private individuals who administer cases filed under chapters 12 and 13 of the Bankruptcy Code) and panel trustees (private individuals who administer cases filed under chapter 7 of the Code).

To ensure that panel and standing trustees properly discharge their fiduciary responsibilities, United States Trustees have the power to suspend or terminate the assignment of cases to panel trustees and--with the concurrence of the Attorney General--the power to suspend or terminate the assignment of cases to standing trustees. The Program encourages trustees who have complaints (for example, about their removal) to first seek resolution through the appropriate United States Trustee and then through the Director, Executive Office for United States Trustees. This rule specifies the method by which a trustee may request review, the manner in which that review will be conducted, and the standard the Director will employ in making a determination.

Timetable:

Action	Date	FR Cite
NPRM	05/23/97	62 FR 28391
NPRM Comment Period End	07/22/97	
Final Action	01/00/98	
Final Action Effective	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: P. Matthew Sutko, Attorney, Executive Office of U.S. Trustees, Department of Justice, 901 E Street, NW., Suite 780, Washington, DC 20530
Phone: 202 307-1399
Fax: 202 307-2397

RIN: 1105–AA54

DEPARTMENT OF JUSTICE (DOJ)
Legal Activities (LA)

Long-Term Actions

1990. CRIMINAL FINES ENFORCEMENT

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 72

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Lynne Solien
Phone: 202 616-6444

RIN: 1105–AA16

1991. VIOLENT CRIME AND DRUG EMERGENCY AREAS

Priority: Other Significant

CFR Citation: 28 CFR 92 (New)

Timetable: Next Action Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Robert Hinchman
Phone: 202 514-8059
Fax: 202 514-8639

RIN: 1105–AA29

1992. FEDERAL CONVICTED OFFENDER DNA DATABASE PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR Not yet determined

Timetable: Next Action Undetermined

Small Entities Affected: None

DOJ—LA

Long-Term Actions

Government Levels Affected: Federal

Agency Contact: Dawn Herkenham
Phone: 202 324-9447
Fax: 202 324-1276

RIN: 1105–AA52

DEPARTMENT OF JUSTICE (DOJ)
Legal Activities (LA)

Completed Actions

1993. QUALIFICATIONS FOR CHAPTER 13 STANDING TRUSTEES

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 28 CFR 58

Completed:

Reason	Date	FR Cite
Final Action	06/02/97	62 FR 30172
Final Action Effective	07/02/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Esther I. Estryn
Phone: 202 307-1399

RIN: 1105–AA32

1994. CHILD PROTECTION RESTORATION AND PENALTIES ENHANCEMENT ACT OF 1990.

Priority: Info./Admin./Other

CFR Citation: 28 CFR 75

Completed:

Reason	Date	FR Cite
Withdrawn - No action expected in next 12 months.	08/01/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Terry R. Lord
Phone: 202 514-5780
Fax: 202 514-1793

RIN: 1105–AA46

1995. CLASSIFIED NATIONAL SECURITY INFORMATION AND ACCESS TO CLASSIFIED INFORMATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 28 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	07/10/97	62 FR 36984
Final Action Effective	08/11/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: D. Jerry Rubino
Phone: 202 514-2094

RIN: 1105–AA53

DEPARTMENT OF JUSTICE (DOJ)
Office of Justice Programs (OJP)

Proposed Rule Stage

1996. CONFIDENTIALITY OF IDENTIFIABLE RESEARCH AND STATISTICAL INFORMATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3789g(a)

CFR Citation: 28 CFR 22

Legal Deadline: None

Abstract: This part provides guidance on complying with the requirements of 42 USC 3789g(a), which requires grantees to maintain strict confidentiality in research or statistical information that is identifiable to an individual, and provides that such information may only be used for the purposes for which it was collected. Although this rule needs to be retained to protect personal privacy interests, as required by law, it will be reinvented to reflect changes in statutory authority, and to ensure that its requirements are as responsive as possible to practical implementation issues of concern to affected State and local governments and individuals.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	
NPRM Comment Period End	06/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Tribal

Agency Contact: John L. Pensinger, Office of the General Counsel, Department of Justice, Office of Justice Programs, 633 Indiana Avenue NW., Washington, DC 20531
Phone: 202 307-0790

RIN: 1121–AA33

1997. CRIMINAL JUSTICE BLOCK GRANTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 3711 et seq

CFR Citation: 28 CFR 33

Legal Deadline: None

Abstract: This part defines eligibility criteria and procedures for applications and administration for State and local government block grant programs, in order to ensure effective agency stewardship of Federal funds. Although the rule needs to be retained to implement this statutory grant program, it will require reinvention in order to reflect changes in the authorizing statutory authority, and to ensure that its requirements are as responsive as possible to the practical implementation issues of concern to affected State and local governments.

DOJ—OJP

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	
NPRM Comment Period End	03/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: John L. Pensinger, Office of the General Counsel, Department of Justice, Office of Justice Programs, 633 Indiana Avenue NW., Washington, DC 20531
Phone: 202 307-0790

RIN: 1121–AA34

1998. PRIVATE SECTOR/PRISON INDUSTRY ENHANCEMENT CERTIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 1761

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Private Sector/Prison Industry Enterprise Certification (PIECP) exempts certified State and local industries from two Federal statutes regulating the interstate commerce and marketability of prison made goods: (the Ashurst Sumners Act, codified at 18 USC section 1761 and the Walsh Healy Public Contracts Act, codified at 41 USC sections 35 to 45). Exempted industries must meet specific requirements aimed at preventing the unfair trade of prison made goods in order to receive Bureau of justice Assistance certification. This guideline implements the statutory requirements set forth at 18 USC 1761(c) and sets forth the administrative procedures of this certification program.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
NPRM Comment Period End	01/00/98	

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Thomas Albrecht, Chief, Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, 633 Indiana Ave. NW., Washington, DC 20531
Phone: 202 514-6236

RIN: 1121–AA36

DEPARTMENT OF JUSTICE (DOJ)
Office of Justice Programs (OJP)

Final Rule Stage

1999. YOUNG AMERICAN MEDALS PROGRAM

Priority: Other Significant

Legal Authority: 42 USC 1921 et seq

CFR Citation: 28 CFR 0.12

Legal Deadline: None

Abstract: The Youth Medals Act 42 USC 1921, et seq., established the Young American Medal for Bravery, which is awarded to a person who has exhibited exceptional courage, extraordinary decisiveness, presence of mind, and unusual swiftness of action regardless of his or her own personal safety, and who was eighteen years of age or younger at the time of the occurrence. The Act also established the Young American Medal for Service, which is awarded to a person who has displayed outstanding character and service and who was eighteen years of age or younger at the time of the contribution. This rule fulfills congressional intent by establishing the outline of the program in a manner that ensures the statutory requirements are applied appropriately to all applicants while soliciting comments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/19/96	61 FR 49259
Final Action	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ellen Wesley, Department of Justice, Office of Justice Programs, 633 Indiana Avenue NW., Washington, DC 20531
Phone: 202 616-3558

RIN: 1121–AA37

2000. GRANTS PROGRAM FOR INDIAN TRIBES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 13701 et seq

CFR Citation: 28 CFR 91

Legal Deadline: None

Abstract: This rule outlines the requirements and procedures to award grants to Indian Tribes for purposes of constructing jails on tribal lands for the incarceration of offenders subject to tribal jurisdiction. This rule implements provisions of the Violent Offender Incarceration and Truth-In-Sentencing Grants Program for Indian Tribes as required by section 114 of the Fiscal Year 1996 Omnibus Consolidated Recissions and Appropriations Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/24/96	61 FR 49960
Correction	10/18/96	61 FR 54333
Interim Final Rule Comment Period End	10/24/96	
Final Action	01/00/98	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Tribal

Agency Contact: Dr. Stephen Amos, Department of Justice, Office of Justice Programs, Correction Program Office, 633 Indiana Ave. NW., Washington, DC 20531
Phone: 202 848-6325

RIN: 1121–AA41

2001. • ADMINISTRATIVE REQUIREMENTS FOR GRANTEES TO REFLECT SINGLE AUDIT ACT AMENDMENTS

Priority: Other Significant

Legal Authority: 42 USC 3711, Omnibus Crime Control & Safe Streets Act; 42 USC 5601,Juvenile Justice & Delinquency Prev. Act of 1974; 42 USC 10601, Victims of Crime Act of 1974; 18 USC 4042; 18 USC 4351 to 4353; PL 104-156, Single Audit Act Amendments of 1996

CFR Citation: 28 CFR 66; 28 CFR 70

Legal Deadline: Final, Statutory, August 29, 1997.

DOJ—OJP

Final Rule Stage

Abstract: The Single Audit Act Amendments of 1996 (PL 104-156) and the June 24, 1997 revision of the Office of Management and Budget (OMB) Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," published on June 30, 1997 at 62 FR 35278, require agencies to adopt in codified regulations the standards in the revised Circular A-133 which colocates audit requirements for States, local governments, and nonprofit organizations. The Department of Justice portion of this common rule fulfills the Attorney General's responsibilities under the Act and under revised OMB Circular A-133.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/29/97	62 FR 45937
Interim Final Rule Effective	09/29/97	
Interim Final Rule Comment Period End	10/28/97	
Final Action	06/00/98	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: James McKay, Director, Financial Management Division, Department of Justice, Office of Justice Programs, 810 7th St. NW., Washington, DC 20531
Phone: 202 616-2687

RIN: 1121–AA45

DEPARTMENT OF JUSTICE (DOJ)
Office of Justice Programs (OJP)

Completed Actions

2002. • FEDERAL LAW ENFORCEMENTS DEPENDENTS ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3796

CFR Citation: 28 CFR 32

Legal Deadline: None

Abstract: The Federal Law Enforcement Dependents Assistance Program will provide financial assistance in the form of awards to the children and spouses of Federal civilian law enforcement officers whose deaths or permanent and total disabilities in the line of duty resulted in the payment of benefits under the Public Safety Officers' Benefits (PSOB) Program. The financial assistance provided through the FLEDA program is designed to defray costs associated with higher education for these children and spouses.

Timetable:

Action	Date	FR Cite
NPRM	04/24/97	62 FR 19958
NPRM Comment Period End	05/27/97	
Final Action	07/15/97	62 FR 37713
Final Action Effective	07/15/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeff Allison, Chief, Public Safety Officers' Benefits, Department of Justice, Office of Justice Programs, 633 Indiana Ave. NW., Washington, DC 20531
Phone: 202 307-0635
Fax: 202 397-3373

RIN: 1121–AA44

[FR Doc. 97-24742 Filed 10-28-97; 8:45 am]
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Wednesday
October 29, 1997

Part XII

Department of Labor

Semiannual Regulatory Agenda

DEPARTMENT OF LABOR (DOL)

DEPARTMENT OF LABOR

Office of the Secretary

20 CFR Chs. I, IV, V, VI, VII, and IX

29 CFR Subtitle A and Chs. II, IV, V, XVII, and XXV

30 CFR Ch. I

41 CFR Ch. 60

48 CFR Ch. 29

Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Labor.

ACTION: Semiannual regulatory agenda.

SUMMARY: This document sets forth the Department's semiannual agenda of regulations that have been selected for review or development during the coming year. The agenda complies with the requirements of both Executive Order 12866 and the Regulatory Flexibility Act. The agenda lists all regulations that are expected to be under review or development between October 1997 and October 1998, as well as those completed during the past 6 months.

FOR FURTHER INFORMATION CONTACT: Roland Droitsch, Deputy Assistant Secretary for Policy, Office of the Assistant Secretary for Policy, U.S. Department of Labor, 200 Constitution Avenue NW., Room S-2312, Washington, DC 20210, (202) 219-6197.

Note: Information pertaining to a specific regulation can be obtained from the agency contact listed for that particular regulation.

SUPPLEMENTARY INFORMATION: Executive Order 12866 and the Regulatory Flexibility Act require the semiannual publication in the **Federal Register** of an agenda of regulations. As permitted by law, the Department of Labor is combining the publication of its agendas under the Regulatory Flexibility Act and Executive Order 12866.

Executive Order 12866 became effective September 30, 1993, and in substance, requires the Department of Labor to publish an agenda listing all the regulations it expects to have under active consideration for promulgation, proposal, or review during the coming 1-year period. The focus of all departmental regulatory activity will be on the development of effective rules that advance the Department's goals and that are understandable and usable to the employers and employees in all affected workplaces.

For this edition of the Department of Labor's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

The Regulatory Flexibility Act became effective on January 1, 1981, and applies only to regulations for which a notice of proposed rulemaking was issued on or after that date. It requires the Department of Labor to publish an agenda listing all the regulations it expects to propose or promulgate that are likely to have a "significant economic impact on a substantial number of small entities" (5 U.S.C. 602).

The Regulatory Flexibility Act (under section 610) also requires agencies to periodically review rules "which have or will have a significant economic impact upon a substantial number of small entities" and to annually publish a list of the rules that will be reviewed during the succeeding 12 months. The purpose of the review is to determine whether the rule should be continued without change, amended, or rescinded. In the November 29, 1996, Unified Agenda, the Department listed four rules that were to be reviewed in the succeeding 12 months.

The Employment Standards Administration (ESA) reviewed Government Contractors: Nondiscrimination and Affirmative Action Obligations, 41 CFR 60-1 and 41 CFR 60-2 (RIN 1215-AA01), that were last reviewed in 1968 and 1970, respectively. ESA determined that there is a continued need for 41 CFR 60-1 and that it does not overlap, duplicate, or conflict with other Federal rules. A notice of proposed rulemaking was published on May 21, 1996, and a final rule on August 19, 1997. ESA has also determined there is a continued need for 41 CFR 60-2. ESA is simplifying the regulation to lessen the impact on small entities and plans to publish a notice of proposed rulemaking in February 1998.

The Occupational Safety and Health Administration (OSHA) had two items on last year's review list—the Ethylene Oxide standard, 29 CFR 1910.1047 (RIN 1218-AB60) and the Lockout/Tagout standard, 29 CFR 1910.147 (RIN 1218-AB59). After a thorough review of the Agency's experience in enforcing both of these standards, the available literature, and the comments received in connection with their reviews, OSHA has determined that there is continued need for these rules; that the rules do not appear to overlap, duplicate, or conflict with other Federal rules or with other State and local rules; and that no technological, economic, or other factors have arisen since the rules were published that would necessitate amendment or rescission of the rules at this time. OSHA has also concluded that no change that is consistent with the objectives of the Occupational Safety and Health Act can be made to these rules that will further minimize any significant impact on a substantial number of small entities. With regard to the Lockout/Tagout standard, OSHA will be responding to comments received during its review by preparing materials to assist employers in complying with the rule.

The Mine Safety and Health Administration (MSHA) has not completed the 610 review of its regulations in 30 CFR part 48 addressing training and retraining of miners and, therefore, is extending this review through fiscal year 1998. Although MSHA has not received any public comments during the past year, the Agency is developing recommended changes based on comments received from earlier requests, Agency experience, and the Agency's own research.

The next 12-month review list for the Department of Labor is provided below and public comment is invited on the listing. A brief description of each rule, the legal basis for the rule, and the agency contact are provided with each agenda item. Agencies will report on the results of each review in the October 1998 regulatory agenda.

Employment Standards Administration

Government Contractors: Nondiscrimination and Affirmative Action Obligations; 41 CFR 60-2 (RIN 1215-AA01)

Occupational Safety and Health Administration

Grain Handling Facilities; 29 CFR 1910.272 (RIN 1218-AB73)

Cotton Dust; 29 CFR 1910.1043 (RIN 1218-AB74)

Mine Safety and Health Administration

Training and Retraining of Miners; 30 CFR 48 (RIN 1219-AB02)

All interested members of the public are invited and encouraged to let departmental officials know how our regulatory efforts can be improved and, of course, to participate in and comment on the review or development of the regulations listed on the agenda.

Alexis M. Herman,

Secretary of Labor.

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Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2003	Production or Disclosure of Information or Materials	1290-AA17
2004	Equal Access to Justice Act	1290-AA18

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2005	Supplemental Standards of Ethical Conduct for Employees of the Department of Labor	1290-AA15
2006	Protection of Individual Privacy and Access to Records Under the Privacy Act of 1974	1290-AA16

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2007	Coordinated Enforcement of Farm Labor Protective Statutes	1290-AA11

Employment Standards Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2008	Government Contractors: Nondiscrimination and Affirmative Action Obligations (ESA/OFCCP) (Section 610 Review) (Reg Plan Seq. No. 67)	1215-AA01
2009	Child Labor Regulations, Orders, and Statements of Interpretation (ESA/W-H) (Reg Plan Seq. No. 68)	1215-AA09
2010	Defining and Delimiting the Term "Any Employee Employed in a Bona Fide Executive, Administrative, or Professional Capacity" (ESA/W-H) (Reg Plan Seq. No. 69)	1215-AA14
2011	Procedures for Predetermination of Wage Rates (29 CFR Part 1) and Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (29 CFR Part 5) (Reg Plan Seq. No. 70)	1215-AA94
2012	Regulations to Implement the Federal Acquisition Streamlining Act of 1994, 29 CFR Parts 4 and 5, 41 CFR Parts 50-201 and 50-206	1215-AA98
2013	Records To Be Kept by Employers Under the Fair Labor Standards Act	1215-AB03
2014	Assessment and Collection of User Fees	1215-AB06
2015	Federal Employees' Compensation Act; Claims for Compensation for Work-Related Injury/Death	1215-AB07
2016	Exemptions Applicable to Agriculture, Processing of Agricultural Commodities, and Related Subjects Under the Fair Labor Standards Act	1215-AB11
2017	Implementation of the 1996 Amendments to the Fair Labor Standards Act	1215-AB13

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Employment Standards Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2018	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors for Special Disabled Veterans and Veterans of the Vietnam Era	1215-AA82
2019	Application of the Fair Labor Standards Act to Domestic Service	1215-AA82
2020	Procedures for Handling Discrimination Complaints Under Federal "Whistleblower" Protection Statutes	1215-AA83

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Employment Standards Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2021	Standards for Waivers Under Section 503 of the Rehabilitation Act	1215-AA84
2022	Benefits Under the Federal Coal Mine Safety and Health Act of 1977, as Amended Affecting the Black Lung Benefits Act	1215-AA99
2023	Labor Condition Applications and Requirements for Employers Using Nonimmigrants on H-1B Visas in Specialty Occupations and as Fashion Models	1215-AB09
2024	Employment of Student-Learners, Apprentices, Learners, Messengers, and Student Workers Under Section 14 of the Fair Labor Standards Act	1215-AB10
2025	Civil Money Penalties Adjustment of the Longshore Act	1215-AB17
2026	Use and Disclosure of Federal Employees' Compensation Act Claims File Material	1215-AB18

Employment Standards Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2027	Enforcement of Contractual Obligations for Temporary Alien Agricultural Workers Admitted Under Section 216 of the Immigration and Nationality Act	1215-AA43
2028	Reporting by Labor Relations Consultants and Other Persons	1215-AB14

Employment Standards Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2029	Executive Order 12933 of October 20, 1994, "Nondisplacement of Qualified Workers Under Certain Conditions"	1215-AA95
2030	Minimum Wages in American Samoa	1215-AB08
2031	Miscellaneous Exemptions Under the Fair Labor Standards Act	1215-AB12

Employment and Training Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2032	Job Training Partnership Act: Indian and Native American Programs	1205-AA96
2033	Job Training Partnership Act: Migrant and Seasonal Farmworker Programs	1205-AA99
2034	Disaster Unemployment Assistance Program, Amendment to Regulations	1205-AB02

Employment and Training Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2035	Trade Adjustment Assistance for Workers—Implementation of 1988 Amendments	1205-AB05
2036	Trade Adjustment Assistance for Workers—Transitional Adjustment Assistance NAFTA-TAA	1205-AB07
2037	Labor Certification Process for the Permanent Employment of Aliens; Researchers Employed by Colleges and Universities	1205-AB11
2038	Welfare to Work Grants **(Reg Plan Seq. No. 71)**	1205-AB15

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

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Employment and Training Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2039	Services to Migrant and Seasonal Farmworkers, Job Service Complaint System, Monitoring, and Enforcement	1205-AA37
2040	Labor Certification Process for the Permanent Employment of Aliens in the United States	1205-AA66
2041	Amendments to the Labor Certification Process for Temporary Agricultural Employment in the United States (H-2A)	1205-AB09
2042	Federal-State Unemployment Compensation Program; Unemployment Insurance Performance System	1205-AB10
2043	Establishment of Fees for Immigration Programs Administered by the Employment and Training Administration	1205-AB14

Employment and Training Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2044	Airline Deregulation: Employee Benefit Program	1205-AA07

Pension and Welfare Benefits Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2045	Rulemaking Relating to Notice Requirements for Continuation of Health Care Coverage	1210-AA60
2046	Request for Information Concerning Employee Benefit Plan Claims Procedures	1210-AA61

Pension and Welfare Benefits Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2047	Revision of the Form 5500 Series and Implementing and Related Regulations Under the Employee Retirement Income Security Act of 1974 (ERISA) **(Reg Plan Seq. No. 72)**	1210-AA52
2048	Limitation of Liability for Insurers and Others Under Part 4 of Title I of ERISA and Section 4975 of the Internal Revenue Code	1210-AA58
2049	Reporting Requirements for MEWAs Providing Medical Care Benefits	1210-AA64
2050	Individual Benefits Reporting Requirements for Defined Contribution Plans	1210-AA65
2051	Requirement to Furnish Plan Documents Upon Request by the Secretary of Labor	1210-AA67
2052	Civil Penalty for Failure to Furnish Certain Plan Documents	1210-AA68

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Pension and Welfare Benefits Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2053	Definition of Collective Bargaining Agreement (ERISA Section 3(40))	1210-AA48
2054	Regulations Implementing the Health Care Access, Portability and Renewability Provisions of the Health Insurance Portability and Accountability Act of 1996 **(Reg Plan Seq. No. 73)**	1210-AA54
2055	Amendment of Summary Plan Description and Related ERISA Regulations to Implement Statutory Changes in the Health Insurance Portability and Accountability Act of 1996 **(Reg Plan Seq. No. 74)**	1210-AA55
2056	Enforcement Policy on AICPA SOP 92-6	1210-AA57
2057	Amendment of Regulations Relating to Definition of "Plan Assets" —Participant Contributions (SIMPLE PLAN)	1210-AA59
2058	Interim Rules Relating to Mental Health Benefits Parity **(Reg Plan Seq. No. 75)**	1210-AA62
2059	Interim Rules Relating to Health Care Standards for Mothers and Newborns **(Reg Plan Seq. No. 76)**	1210-AA63
2060	Elimination of Filing Requirements for Summary Plan Descriptions	1210-AA66

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

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Pension and Welfare Benefits Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2061	Adequate Consideration	1210-AA15
2062	Civil Penalties Under ERISA Section 502(l)	1210-AA37
2063	Reporting and Disclosure Under the Employee Retirement Income Security Act of 1974	1210-AA44

Pension and Welfare Benefits Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2064	Qualified Domestic Relations Orders	1210-AA19
2065	Civil Monetary Penalty Adjustment Regulation	1210-AA56

Mine Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2066	Coal Mine Dust **(Reg Plan Seq. No. 77)**	1219-AA81
2067	Safety Standards for the Use of Roof Bolting Machines	1219-AA94
2068	Training and Retraining of Miners **(Section 610 Review)**	1219-AB02

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Mine Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2069	Diesel Particulate **(Reg Plan Seq. No. 78)**	1219-AA74
2070	Belt Entry Use as Intake Aircourses to Ventilate Working Sections	1219-AA76
2071	Metal/Nonmetal Impoundments	1219-AA83
2072	Surface Haulage	1219-AA93
2073	Safety Standard Revisions for Underground Anthracite Mines	1219-AA96
2074	Electrical Standards for Metal and Nonmetal Mines **(Reg Plan Seq. No. 79)**	1219-AB01
2075	Criteria and Procedures for Proposed Assessment of Civil Penalties	1219-AB03
2076	Observation of Operator Noise Monitoring	1219-AB05
2077	Self-Contained Self-Rescue Devices in Underground Metal and Nonmetal Mines	1219-AB06

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Mine Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2078	Hazard Communication	1219-AA47
2079	Air Quality, Chemical Substances, and Respiratory Protection Standards	1219-AA48
2080	Noise Standard **(Reg Plan Seq. No. 80)**	1219-AA53
2081	Longwall Equipment (Including High-Voltage)	1219-AA75
2082	Mine Shift Atmospheric Condition; Respirable Dust Sample	1219-AA82
2083	Improving and Eliminating Regulations	1219-AA98
2084	Safety Standards for Roof Bolts in Metal and Nonmetal Mines and Underground Coal Mines	1219-AB00
2085	National Mine Health and Safety Academy	1219-AB04

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

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Mine Safety and Health Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2086	Confined Spaces	1219-AA54
2087	Carbon Monoxide Monitor Approval	1219-AA72
2088	Decertification of Certified and Qualified Persons	1219-AA79
2089	Independent Laboratory Testing	1219-AA87
2090	Safety Standards for Methane in Metal and Nonmetal Mines	1219-AA90
2091	Requirements for Approval of Flame-Resistant Conveyor Belts	1219-AA92

Office of the Assistant Secretary for Administration and Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2092	Administrative Requirements for Grantees To Reflect Single Audit Act Amendments	1291-AA25

Office of the Assistant Secretary for Administration and Management—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2093	Department of Labor Acquisition Regulation	1291-AA20
2094	Nondiscrimination on the Basis of Age in Programs and Activities Receiving Federal Financial Assistance From the Department of Labor	1291-AA21

Occupational Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2095	Standards Advisory Committee on Metalworking Fluids **(Reg Plan Seq. No. 81)**	1218-AB58
2096	Control of Hazardous Energy Sources (Lockout/Tagout) **(Section 610 Review)**	1218-AB59
2097	Occupational Exposure to Ethylene Oxide **(Section 610 Review)**	1218-AB60
2098	Fire Brigades	1218-AB64
2099	Grain Handling Facilities **(Section 610 Review)**	1218-AB73
2100	Cotton Dust **(Section 610 Review)**	1218-AB74

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Occupational Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2101	Steel Erection (Part 1926) (Safety Protection for Ironworkers) **(Reg Plan Seq. No. 82)**	1218-AA85
2102	Prevention of Work-Related Musculoskeletal Disorders **(Reg Plan Seq. No. 83)**	1218-AB36
2103	Safety and Health Programs (for General Industry) **(Reg Plan Seq. No. 84)**	1218-AB41
2104	Occupational Exposure to Tuberculosis **(Reg Plan Seq. No. 85)**	1218-AB46
2105	Confined Spaces in Construction (Part 1926) (Construction: Preventing Suffocation/Explosions in Confined Spaces)	1218-AB47
2106	General Working Conditions in Shipyards (Part 1915, Subpart F) (Phase II) (Shipyards: General Working Conditions)	1218-AB50
2107	Fire Protection in Shipyard Employment (Part 1915, Subpart P) (Phase II) (Shipyards: Fire Safety)	1218-AB51
2108	Permissible Exposure Limits (PELs) for Air Contaminants **(Reg Plan Seq. No. 86)**	1218-AB54
2109	Plain English Revision of Existing Standards **(Reg Plan Seq. No. 87)**	1218-AB55
2110	Nationally Recognized Testing Labs Programs: Fees	1218-AB57
2111	Flammable and Combustible Liquids	1218-AB61
2112	Fall Protection in the Construction Industry	1218-AB62

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Occupational Safety and Health Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2113	Process Safety Management of Highly Hazardous Chemicals	1218-AB63
2114	Revocation of Certification Records for Tests, Inspections, and Training	1218-AB65
2115	Plain English Revision of Existing Standards (Phase II)	1218-AB66
2116	Electric Power Transmission and Distribution; Electrical Protective Equipment	1218-AB67
2117	Safety Standards for Scaffolds Used in the Construction Industry —Part II	1218-AB68
2118	Safety and Health Programs for Construction	1218-AB69
2119	Control of Hazardous Energy (Lockout) in Construction (Part 1926) (Preventing Construction Injuries/Fatalities; Lockout)	1218-AB71

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Occupational Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2120	Respiratory Protection (Proper Use of Modern Respirators)	1218-AA05
2121	Longshoring and Marine Terminals (Parts 1917 and 1918)— Reopening of the Record	1218-AA56
2122	Access and Egress in Shipyards (Part 1915, Subpart E) (Phase I) (Shipyards: Emergency Exits and Aisles)	1218-AA70
2123	Recording and Reporting Occupational Injuries and Illnesses (Simplified Injury/Illness Recordkeeping Requirements) (Reg Plan Seq. No. 66)	1218-AB24
2124	Powered Industrial Truck Operator Training (Industrial Truck Safety Training)	1218-AB33
2125	Permit Required Confined Spaces (General Industry: Preventing Suffocation/Explosions in Confined Spaces)	1218-AB52
2126	Standards Improvement Project	1218-AB53

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Occupational Safety and Health Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2127	Scaffolds in Shipyards (Part 1915—Subpart N) (Phase I) (Shipyards: Safer Scaffolds)	1218-AA68
2128	Glycol Ethers: 2-Methoxyethanol, 2-Ethoxyethanol, and Their Acetates: Protecting Reproductive Health	1218-AA84
2129	Walking Working Surfaces and Personal Fall Protection Systems (Part 1910) (Slips, Trips, and Fall Prevention)	1218-AB04
2130	Accreditation of Training Programs for Hazardous Waste Operations (Part 1910)	1218-AB27
2131	Indoor Air Quality in the Workplace	1218-AB37
2132	Occupational Exposure to Hexavalent Chromium (Preventing Occupational Illness: Chromium)	1218-AB45
2133	Occupational Exposure to Crystalline Silica	1218-AB70

Occupational Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2134	Abatement Verification (Hazard Correction)	1218-AB40

DEPARTMENT OF LABOR (DOL)
Office of the Secretary (OS)

Proposed Rule Stage

2003. • PRODUCTION OR DISCLOSURE OF INFORMATION OR MATERIALS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 5 USC 552, amended; 5 USC Reorganization Plan No. 6 of 1950; EO 12600, 52 FR 23781 (June 25, 1987)

CFR Citation: 20 CFR 70

Legal Deadline: None

Abstract: The regulation will incorporate the provisions of the 1996 FOIA amendments. These include extending DOL processing time from 10 to 20 days for most FOIA requests and requiring that all reading room materials created since November 1, 1996, be made available by electronic means such as the Internet.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Miriam McD. Miller, Co-Counsel for Administrative Law, Department of Labor, Office of the Secretary, 200 Constitution Avenue NW., Room N2428, FP Building, Washington, DC 20210
Phone: 202 219-8188
Fax: 202 219-6896
Email: mmiller@dol.gov

RIN: 1290–AA17

2004. • EQUAL ACCESS TO JUSTICE ACT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 504; 28 USC 2412

CFR Citation: 29 CFR 16

Legal Deadline: None

Abstract: The regulation will incorporate the 1996 amendments to the Equal Access to Justice Act and revise the existing regulation to conform with the case law which has evolved since 1981.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Robert A. Shapiro, Associate Solicitor for Legislation and Legal Counsel, Department of Labor, Office of the Secretary, 200 Constitution Avenue NW., Room N2428, FP Building, Washington, DC 20210
Phone: 202 219-8201

RIN: 1290–AA18

DEPARTMENT OF LABOR (DOL)
Office of the Secretary (OS)

Final Rule Stage

2005. SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE DEPARTMENT OF LABOR

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 5 USC 7301; 5 USC 7353; 5 USC app (Ethics in Government Act); EO 12674; 18 USC 208

CFR Citation: 5 CFR 5201; 29 CFR 0; 3 CFR 1989 Comp; 5 CFR 2634; 5 CFR 2635; 3 CFR 1990

Legal Deadline: None

Abstract: The Department of Labor is developing a rule for its employees that supplements the Standards of Ethical Conduct for Employees of the Executive Branch issued by the Office of Government Ethics (OGE). The rule would designate certain components of the Department as separate agencies for the purposes of provisions in the Executive Branch-wide standards regarding gifts from outside sources, the receipt of compensation for teaching, speaking, or writing, and fundraising in a personal capacity. The rule would also restrict the outside financial interests for employees of the Mine Safety and Health Administration and require approval of outside employment for employees of the Office of Inspector General. It repeals existing regulations governing outside employment and financial interests. Issuance of this rule would require OGE concurrence.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/06/96	61 FR 57281
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Robert Shapiro, Associate Solicitor for Legislation and Legal Counsel, Department of Labor, Office of the Secretary, 200 Constitution Avenue NW., Room N2428, FP Building, Washington, DC 20210
Phone: 202 219-8201
Fax: 202 219-6896

RIN: 1290–AA15

2006. PROTECTION OF INDIVIDUAL PRIVACY AND ACCESS TO RECORDS UNDER THE PRIVACY ACT OF 1974

Priority: Other Significant

Legal Authority: 29 USC 552a

CFR Citation: 29 CFR 70a; 29 CFR 71

Legal Deadline: None

Abstract: This proposed regulation will revise the existing regulation under the Privacy Act of 1974. The existing regulation was promulgated 20 years ago and is in need of revision. The proposed regulation will conform Departmental requirements with the case law which has evolved over the past years. The regulation will govern the conduct of Departmental employees and members of the public, as it pertains to the treatment of records covered by the Privacy Act. The proposal will renumber part 70a as part 71, because the Office of the Federal Register no longer permits alphabetical entries for CFR parts.

Timetable:

Action	Date	FR Cite
NPRM	07/28/97	62 FR 40406
NPRM Comment Period End	09/26/97	
Final Action	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Miriam McD. Miller, Co-Counsel for Administrative Law, Division of Legislation and Legislative Counsel, Department of Labor, Office of the Secretary, 200 Constitution Avenue NW., Room N-2428, FP Building, Washington, DC 20210

DOL—OS

Final Rule Stage

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RIN: 1290–AA15

DEPARTMENT OF LABOR (DOL)
Office of the Secretary (OS)

Long-Term Actions

2007. COORDINATED ENFORCEMENT OF FARM LABOR PROTECTIVE STATUTES

Priority: Info./Admin./Other

Legal Authority: 29 USC 49 et seq; 29 USC 201 et seq; 29 USC 651 et seq; 29 USC 1801 et seq; 8 USC 1188(g)(2); 5 USC 301

CFR Citation: 29 CFR 42

Legal Deadline: None

Abstract: The Department intends to revise its regulations for coordinated enforcement of farm protective statutes. The rule will clarify existing regulatory language and update the regulations by making nomenclature and other technical amendments. The sections also will be reorganized for clarification. These regulations were first promulgated in 1980 to coordinate the farm labor enforcement activities of the Department's Employment and Training Administration, the Employment Standards Administration, the Occupational Safety and Health Administration, and the Office of the Solicitor of Labor (45 FR 39489). The regulations establish a National Farm Labor Coordinated Enforcement Committee, which meets quarterly, consisting of the heads of the above DOL agencies, to oversee that coordination. A Regional Farm Labor Coordinated Enforcement Committee, which meets quarterly, is established in each DOL regional office. The Regional Committee is made up of the head of each of the above Agencies' regional offices. Each Regional Committee holds at least one annual public meeting to discuss farm labor issues.

Timetable:

Action	Date	FR Cite
ANPRM	07/24/92	57 FR 32939
ANPRM Comment Period End	08/24/92	
NPRM	01/19/93	58 FR 5158
NPRM Comment Period End	02/18/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Since 1980, a number of changes have taken place in DOL's farm labor activities, such as: The Farm Labor Contractor Registration Act has been replaced by the Migrant and Seasonal Agricultural Worker Protection Act; the title of the head of the National Committee has been changed from Under Secretary to Deputy Secretary; the Immigration Reform and Control Act of 1986 has amended the Immigration and Nationality Act, authorizing DOL to enforce work contracts executed by employers of alien (H-2A) farmworkers; the role of States in operating the Employment Service under the Wagner-Peyser Act was enhanced in 1982; regional offices of the Employment Standards Administration no longer exist and the regional farm labor enforcement role is now coordinated by the Regional Administrator for Wage and Hour; and the Assistant Secretary for Policy has assumed a role in farm labor programs at the national level. These and other changes necessitate updating the coordinated enforcement regulations.

Agency Contact: Ruth Samardick, Chairperson, National Farm Labor Coordinated Enforcement Committee Working Group, Department of Labor, Office of the Secretary, 200 Constitution Avenue NW., Room S2114, FP Building, Washington, DC 20210
Phone: 202 219-6026

RIN: 1290–AA11

DEPARTMENT OF LABOR (DOL)
Employment Standards Administration (ESA)

Proposed Rule Stage

2008. GOVERNMENT CONTRACTORS: NONDISCRIMINATION AND AFFIRMATIVE ACTION OBLIGATIONS (ESA/OFCCP) (SECTION 610 REVIEW)

Regulatory Plan: This entry is Seq. No. 67 in Part II of this issue of the Federal Register.

RIN: 1215–AA01

2009. CHILD LABOR REGULATIONS, ORDERS, AND STATEMENTS OF INTERPRETATION (ESA/W-H)

Regulatory Plan: This entry is Seq. No. 68 in Part II of this issue of the Federal Register.

RIN: 1215–AA09

2010. DEFINING AND DELIMITING THE TERM "ANY EMPLOYEE EMPLOYED IN A BONA FIDE EXECUTIVE, ADMINISTRATIVE, OR PROFESSIONAL CAPACITY" (ESA/W-H)

Regulatory Plan: This entry is Seq. No. 69 in Part II of this issue of the Federal Register.

RIN: 1215–AA14

2011. PROCEDURES FOR PREDETERMINATION OF WAGE RATES (29 CFR PART 1) AND LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (29 CFR PART 5)

Regulatory Plan: This entry is Seq. No. 70 in Part II of this issue of the Federal Register.

RIN: 1215–AA94

DOL—ESA

Proposed Rule Stage

2012. REGULATIONS TO IMPLEMENT THE FEDERAL ACQUISITION STREAMLINING ACT OF 1994, 29 CFR PARTS 4 AND 5, 41 CFR PARTS 50-201 AND 50-206

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-355, 108 Stat. 3243

CFR Citation: 29 CFR 4; 29 CFR 5; 41 CFR 50 to 201; 41 CFR 50 to 206

Legal Deadline: NPRM, Statutory, May 11, 1995. Final, Statutory, October 1, 1995.

Abstract: The Federal Acquisition Streamlining Act of 1994, signed on October 13, 1994, amends several Acts administered by the Department of Labor: (1) It amends the Contract Work Hours and Safety Standards Act (CWHSSA) to limit its applicability to contracts in an amount of $100,000 or greater. (2) It amends the Davis-Bacon Act (DB) to provide waivers from the Act's prevailing wage requirements under selected laws for volunteers performing services to a State or local government or agency and for volunteers performing services to a public or private nonprofit recipient of Federal assistance. (3) It also amends the Walsh-Healey Public Contracts Act (PCA) to eliminate the requirements that contractors on covered contracts be either manufacturers or regular dealers in the items to be supplied under the contract but retains the Secretary of Labor's authority to define the terms "regular dealer" and "manufacturer." A final rule implementing the CWHSSA and PCA changes was published on August 5, 1996 (61 FR 40714).

Timetable:

Action	Date	FR Cite
NPRM	09/07/95	60 FR 46553
NPRM Comment Period End	10/10/95	
Final Walsh-Healey/CWHSSA Rule	08/05/96	61 FR 40714
NPRM Second	10/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: These legislative amendments will require revisions to Regulations, 29 CFR parts 4 and 5 with respect to CWHSSA and DB, and Regulations, 41 CFR part 50-201 and part 50-206 with respect to PCA.

Agency Contact: John R. Fraser, Deputy Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 219-8305
Fax: 202 219-5122

RIN: 1215–AA96

2013. RECORDS TO BE KEPT BY EMPLOYERS UNDER THE FAIR LABOR STANDARDS ACT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 211; 29 USC 201 et seq; 29 USC 207(g); 52 Stat 1066, sec 11; 52 Stat 1060, sec 11; 103 Stat 944, sec 7

CFR Citation: 29 CFR 516 et seq

Legal Deadline: None

Abstract: This regulation gives guidance to employers on the information they must keep in records deemed essential for determining compliance with the monetary requirements of the Fair Labor Standards Act (FLSA) regarding payment of minimum wages and overtime compensation to covered and nonexempt employees, or for determining that certain statutory exemptions to FLSA's requirements for payment of the minimum wage or overtime (or both) may apply. This regulation was included in the Department's regulatory reinvention initiative as a candidate for possible simplification of regulatory language and streamlining of regulatory requirements to ensure that applicable standards are easily understandable and reasonable.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: John R. Fraser, Deputy Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 219-8305
Fax: 202 219-5122

RIN: 1215–AB03

2014. ASSESSMENT AND COLLECTION OF USER FEES

Priority: Info./Admin./Other

Legal Authority: PL 97-470; 96 Stat 2583; 29 USC 1801 to 1872; Secretary's Order No. 1-93 (58 FR 21190); PL 99-603, sec 210A(f); 100 Stat 3359; 8 USC 1161(f); 52 Stat 1068, sec 11 and 14; 75 Stat 74, sec 11; 29 USC 211; 29 USC 214; 52 Stat 1066, sec 11; 63 Stat 910, sec 9; 29 USC 211(d); 80 Stat 843 to 844, sec 501 and 602

CFR Citation: 29 CFR 500.45; 29 CFR 500.52; 29 CFR 519.3; 29 CFR 519.13; 29 CFR 530.4; 29 CFR 530.102

Legal Deadline: None

Abstract: In accordance with the authority provided by title V of the Independent Offices Appropriations Act of 1952, often referred to as the "user fee statute," and the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriation Act of 1995 (PL 103-333), the Department is proposing to establish and collect user fees to recover the costs of providing certain services that are required by law and, without which, the recipients of the services would not legally be allowed to engage in particular employment practices. The services for which user fees are to be collected include processing applications and issuing farm labor contractor certificates of registration under the Migrant and Seasonal Agricultural Worker Protection Act; processing applications and issuing certificates authorizing employers to employ certain students at special minimum wages under section 14(b) of the Fair Labor Standards Act; and processing applications and issuing certificates authorizing employers to employ homeworkers under section 11(d) of the Fair Labor Standards Act.

DOL—ESA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John R. Fraser, Deputy Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 219-8305
Fax: 202 219-5122

RIN: 1215–AB06

2015. FEDERAL EMPLOYEES' COMPENSATION ACT; CLAIMS FOR COMPENSATION FOR WORK-RELATED INJURY/DEATH

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 8101 et seq

CFR Citation: 20 CFR 1; 20 CFR 10; 20 CFR 25

Legal Deadline: None

Abstract: The Office of Workers' Compensation Programs will carry out a comprehensive review of and revision to the regulations implementing the Federal Employees' Compensation Act (FECA) to eliminate outdated or unnecessary rules reflecting a streamlining of the claims process, update rules to reflect legislative changes, modify the medical fee schedule to include hospital and pharmacy charges and simplify language.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	02/00/98	
Final Action	05/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas M. Markey, Director for Federal Employees' Compensation, OWCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3229, FP Building, Washington, DC 20210
Phone: 202 219-7552
Fax: 202 219-7250

RIN: 1215–AB07

2016. EXEMPTIONS APPLICABLE TO AGRICULTURE, PROCESSING OF AGRICULTURAL COMMODITIES, AND RELATED SUBJECTS UNDER THE FAIR LABOR STANDARDS ACT

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 201 et seq

CFR Citation: 29 CFR 780

Legal Deadline: None

Abstract: This regulation interprets various exemptions applicable to employees in agriculture, processing of agricultural commodities, and related issues under the Fair Labor Standards Act (FLSA). The regulation has been targeted for updating and streamlining as part of the Department's regulatory reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: John R. Fraser, Deputy Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S-3502, FP Building, Washington, DC 20210
Phone: 202 219-8305
Fax: 202 219-5122

RIN: 1215–AB11

2017. IMPLEMENTATION OF THE 1996 AMENDMENTS TO THE FAIR LABOR STANDARDS ACT

Priority: Other Significant

Legal Authority: PL 104-188, sec 2101 to 2105; 29 USC 201 et seq

CFR Citation: 29 CFR 4; 29 CFR 531; 29 CFR 541; 29 CFR 778; 29 CFR 785; 29 CFR 790; 29 CFR 870; 41 CFR 50-202

Legal Deadline: None

Abstract: The "Small Business Job Protection Act of 1996" (H.R. 3448) was enacted on August 20, 1996, as Public Law 104-188. Title II of this enactment amended the Portal-to-Portal Act (PA) and the Fair Labor Standards Act (FLSA). The PA amendment excludes (under certain circumstances) from compensable "hours worked" the time spent by an employee in home-to-work travel in an employer-provided vehicle. The FLSA amendments: (1) increase the $4.25 Federal minimum hourly wage by $.90 in two steps over the next two years (i.e., to $4.75 on October 1, 1996, and to $5.15 on September 1, 1997); (2) provide a $4.25 subminimum wage for youth under age 20 in their first 90 calendar days of employment with an employer; (3) set the employer's direct wage payment obligation for tipped employees at $2.13 per hour (provided such employees receive the balance of the full minimum wage in tips); and (4) set the hourly compensation requirements at not less than $27.63 per hour for certain exempt professional employees in computer-related occupations. Changes will be required in the regulations to reflect these amendments.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: John R. Fraser, Deputy Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S-3502, FP Building, Washington, DC 20210
Phone: 202 219-8305
Fax: 202 219-5122

RIN: 1215–AB13

DEPARTMENT OF LABOR (DOL)
Employment Standards Administration (ESA)

Final Rule Stage

2018. AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 4211; 38 USC 4212; PL 93-508 Amended; PL 94-502; PL 95-520; PL 96-466; PL 101-237; EO 11758; PL 97-306; PL 98-223; PL 102-16; PL 102-127; PL 102-484

CFR Citation: 41 CFR 60-250

Legal Deadline: None

Abstract: OFCCP is planning to revise its regulations implementing 38 USC 4212 (formerly 2012) the affirmative action provision of the Vietnam Era Veterans' Readjustment Assistance Act of 1974 to: (1) make its provisions for special disabled veterans consistent with section 503 of the Rehabilitation Act of 1973 (2) incorporate some legislative and other changes that have occurred, and (3) generally clarify 38 USC 4212 Affirmative Action Program (AAP) requirements.

Timetable:

Action	Date	FR Cite
Interim Final Rule Invitation to Self-Identify (41 CFR 60-250.5(d))	05/01/96	61 FR 19336
NPRM	09/24/96	61 FR 50079
NPRM Comment Period End	12/27/96	
Final Action	10/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State

Agency Contact: Joe N. Kennedy, Deputy Director, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room C3325, FP Building, Washington, DC 20210
Phone: 202 219-9475

RIN: 1215–AA62

2019. APPLICATION OF THE FAIR LABOR STANDARDS ACT TO DOMESTIC SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: Sec 13(a)(15), Fair Labor Standards Act (FLSA), as amended; Sec 13(b)(21), FLSA, as amended; 29 USC 213(a)(15); 29 USC 213(b)(21) 88 Stat 62; Sec 29(b), FLSA of 1974; PL 93-259 88 Stat 76

CFR Citation: 29 CFR 552

Legal Deadline: None

Abstract: Section 13(a)(15) of the Fair Labor Standards Act (FLSA) provides an exemption from minimum wage and overtime compensation for domestic service employees engaged in providing companionship services. Section 13(b)(21) of the FLSA provides an exemption from overtime compensation for live-in domestic service employees. DOL proposed certain technical amendments to update the regulations, 29 CFR part 552, Application of the Fair Labor Standards Act to Domestic Service, and to clarify that these exemptions are applicable to third-party employers or temporary help agencies only where the domestic service worker is jointly employed by the third-party employer or temporary help agency and the family or household using their services. (58 FR 69310) After reviewing the public comments, the Department adopted technical changes to update the regulations, including a revision necessitated by recently-enacted amendments to title II of the Social Security Act under Public Law 103-387 (Social Security Domestic Employment Reform Act) 10/22/94, (see 60 FR 46766) and reopened the public comment period on proposed revisions affecting third-party employers (section 552.109).

Timetable:

Action	Date	FR Cite
NPRM	12/30/93	58 FR 69310
NPRM Comment Period End	02/28/94	
NPRM Second	09/08/95	60 FR 46797
Final Rule	09/08/95	60 FR 46766
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: John R. Fraser, Deputy Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 219-8305
Fax: 202 219-5122

RIN: 1215–AA82

2020. PROCEDURES FOR HANDLING DISCRIMINATION COMPLAINTS UNDER FEDERAL "WHISTLEBLOWER" PROTECTION STATUTES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5851; PL 102-486 sec 2902, 106 Stat 2776

CFR Citation: 29 CFR 24

Legal Deadline: None

Abstract: The Energy Policy Act of 1992, Public Law 102-486, was enacted on October 24, 1992. Among other provisions, this law amended the employee protection provisions for nuclear whistleblowers under former section 210 of the ERA. The amendments affect only ERA whistleblower complaints and do not extend to the procedures established in 29 CFR part 24 for handling employee whistleblower complaints under the Federal statutory employee protection provisions other than the ERA. The legislative amendments to ERA apply to whistleblower claims filed under section 211(b)(1) of the ERA as amended (42 USC section 5851(b)(1)) on or after October 24, 1992, the date of enactment of section 2902 of the Energy Policy Act of 1992 (section 2902, Public Law 102-486; 106 Stat. 2776). The Department proposes to establish modified procedures and time frames for handling ERA complaints under 29 CFR part 24 to implement the statutory amendments. (Note: Effective 02/03/97, enforcement authority for these provisions was transferred to the Occupational Safety and Health Administration under Secretary's Order 6-96, 62 FR 111 (01/02/97).)

Timetable:

Action	Date	FR Cite
NPRM	03/16/94	59 FR 12506
NPRM Comment Period End	05/16/94	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: John R. Fraser, Deputy Administrator, Wage and Hour

Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 219-8305
Fax: 202 219-5122

RIN: 1215–AA83

2021. STANDARDS FOR WAIVERS UNDER SECTION 503 OF THE REHABILITATION ACT

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 706; 29 USC 793, as amended by PL 99-506; PL 100-630; PL 100-259; PL 101-336; PL 102-569; EO 11758

CFR Citation: 41 CFR 60-741

Legal Deadline: None

Abstract: OFCCP is planning to issue regulations that will set forth standards for waivers (from provisions of section 503 of the Rehabilitation Act) sought by federal contractors for facilities that they deem totally separate from and not involved in government contract work. OFCCP is required to issue these regulations by the 1992 Rehabilitation Act amendments.

Timetable:

Action	Date	FR Cite
NPRM	02/14/96	61 FR 5902
NPRM Comment Period End	04/15/96	
Final Action	10/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State

Agency Contact: Joe N. Kennedy, Deputy Director, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room C3325, FP Building, Washington, DC 20210
Phone: 202 219-9475

RIN: 1215–AA84

2022. BENEFITS UNDER THE FEDERAL COAL MINE SAFETY AND HEALTH ACT OF 1977, AS AMENDED AFFECTING THE BLACK LUNG BENEFITS ACT

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 901 et seq

CFR Citation: 20 CFR 718; 20 CFR 722; 20 CFR 725; 20 CFR 726; 20 CFR 727

Legal Deadline: None

Abstract: The Division of Coal Mine Workers' Compensation reviewed its existing regulations, pursuant to Executive Order 12866, with a goal of eliminating outdated and unnecessary rules and streamlining the processes. The result is a proposal to revise existing rules to facilitate alternative dispute resolution during the informal conference; streamline the litigation process by encouraging the early development and submission of evidence; reduce the costs of copying and mailing; raise the dollar limit for prior approval for medical equipment; and rewrite existing rules to make them more customer-oriented.

There will be no additional administrative costs associated with these changes, but savings can be expected through streamlining.

Timetable:

Action	Date	FR Cite
NPRM	01/22/97	62 FR 3338
NPRM Comment Period End	03/24/97	
NPRM Comment Period End Extended to 5/21/97	05/24/97	62 FR 8201
Final Action	06/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James L. DeMarce, Director, Coal Mine Workers' Compensation, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room C3520, FP Building, Washington, DC 20210
Phone: 202 219-6692
Fax: 202 219-6568

RIN: 1215–AA99

2023. LABOR CONDITION APPLICATIONS AND REQUIREMENTS FOR EMPLOYERS USING NONIMMIGRANTS ON H-1B VISAS IN SPECIALTY OCCUPATIONS AND AS FASHION MODELS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101(a)(15)(H)(i)(b); 8 USC 1182(n); 8 USC 1184; 29 USC 49 et seq; PL 102-232

CFR Citation: 29 CFR 507

Legal Deadline: None

Abstract: This proposed rule is a republication for notice and public comment of various provisions of the Department's final rule implementing provisions of the Immigration and Nationality Act as it relates to the temporary employment in the United States of nonimmigrants admitted under H-1B visas.

Timetable:

Action	Date	FR Cite
NPRM	10/31/95	60 FR 55339
NPRM Comment Period End	11/30/95	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: John R. Fraser, Deputy Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
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RIN: 1215–AB09

2024. EMPLOYMENT OF STUDENT-LEARNERS, APPRENTICES, LEARNERS, MESSENGERS, AND STUDENT WORKERS UNDER SECTION 14 OF THE FAIR LABOR STANDARDS ACT

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 214

CFR Citation: 29 CFR 520; 29 CFR 521; 29 CFR 522; 29 CFR 523; 29 CFR 527

Legal Deadline: None

Abstract: Section 14(a) of the Fair Labor Standards Act provides that the Secretary of Labor shall by regulations or orders provide for the employment of learners, apprentices and messengers under special certificates at wages lower than the applicable minimum wage, as needed to prevent curtailment of employment opportunities. Five separate parts of the CFR implement these statutory provisions, which can be consolidated and streamlined to reduce duplicative text as part of the regulatory reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	02/14/97	62 FR 7093
NPRM Comment Period End	04/15/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: John R. Fraser, Deputy Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 219-8305
Fax: 202 219-5122

RIN: 1215–AB10

2025. • CIVIL MONEY PENALTIES ADJUSTMENT OF THE LONGSHORE ACT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 939; 28 USC 2461

CFR Citation: 20 CFR 702.204; 20 CFR 702.236; 20 CFR 702.271

Legal Deadline: None

Abstract: Proposed adjustment to civil money penalties levied under Longshore and Harbor Workers' Compensation Act as required by Federal Civil Monetary Penalties Inflation Act of 1990, as amended.

Timetable:

Action	Date	FR Cite
NPRM	07/02/97	62 FR 35715
NPRM Comment Period End	08/01/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Shelby Hallmark, Acting Director, OWCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3524, FP Building, Washington, DC 20210
Phone: 202 219-7503
Fax: 202 219-4321

RIN: 1215–AB17

2026. • USE AND DISCLOSURE OF FEDERAL EMPLOYEES' COMPENSATION ACT CLAIMS FILE MATERIAL

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8149

CFR Citation: 20 CFR 1012

Legal Deadline: None

Abstract: Proposed rule will revise regulations relating to the release, use, and disclosure of documents relating to claims filed under the Federal Employees' Compensation Act. Rule will reserve to OWCP sole authority for ruling on requests for correction of records.

Timetable:

Action	Date	FR Cite
NPRM	07/28/97	62 FR 40418
NPRM Comment Period End	09/26/97	
Final Action	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Shelby Hallmark, Acting Director, OWCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3524, FP Building, Washington, DC 20210
Phone: 202 219-7503
Fax: 202 219-4321

RIN: 1215–AB18

DEPARTMENT OF LABOR (DOL)

Employment Standards Administration (ESA)

Long-Term Actions

2027. ENFORCEMENT OF CONTRACTUAL OBLIGATIONS FOR TEMPORARY ALIEN AGRICULTURAL WORKERS ADMITTED UNDER SECTION 216 OF THE IMMIGRATION AND NATIONALITY ACT

Priority: Substantive, Nonsignificant

Legal Authority: PL 99-603

CFR Citation: 29 CFR 501

Legal Deadline: Final, Statutory, June 1, 1987.

Abstract: The Immigration Reform and Control Act of 1986 contains certain labor standards requirements for foreign agricultural workers employed under the H-2A foreign agricultural worker program, as well as for U.S. workers hired by employers who utilize foreign agricultural workers. The standards relate to pay, working conditions, housing, transportation and recruitment. The Employment Standards Administration issued an interim final rule on June 1, 1987 (53 FR 20524) that incorporates the labor standards issued by the Employment and Training Administration (ETA) and sets forth procedures for enforcement of these labor standards.

Timetable:

Action	Date	FR Cite
NPRM	05/05/87	52 FR 16795
NPRM Comment Period End	05/19/87	
Interim Final Rule	06/01/87	52 FR 20524
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: John R. Fraser, Deputy Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Rm S3502, FP Bldg., Washington, DC 20210
Phone: 202 219-8305
Fax: 202 219-5122

RIN: 1215–AA43

2028. REPORTING BY LABOR RELATIONS CONSULTANTS AND OTHER PERSONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 433; 29 USC 438

DOL—ESA

Long-Term Actions

CFR Citation: 29 CFR 406.3

Legal Deadline: None

Abstract: The Office of Labor-Management Standards (OLMS) is proposing to amend Receipts and Disbursements Report (Form LM-21) to narrow the scope of reporting. A Receipts and Disbursements Report is required in the circumstances specified in section 203(b) of the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA). It is required to be filed by any labor relations consultant, or other individual or organization, who has made or received payment as a party to an agreement or arrangement with an employer, pursuant to which he has undertaken persuader or information-supplying activities on behalf of the employer. The proposed amendment would reflect reporting guidelines established in Donovan v. The Rose Law Firm, 768 F.2d 964 (8th Cir. 1985). This judicial decision narrowed the scope of reporting to eliminate reporting of receipts and disbursements in connection with labor relations advice and services rendered to employers for whom no persuader or information-supplying activities were undertaken.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kay H. Oshel, Chief, Div. of Interpretations and Standards, Office of Labor-Management Standards, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room N5605, FP Building, Washington, DC 20210
Phone: 202 219-7373
Fax: 202 219-6459

RIN: 1215–AB14

DEPARTMENT OF LABOR (DOL)
Employment Standards Administration (ESA)

Completed Actions

2029. EXECUTIVE ORDER 12933 OF OCTOBER 20, 1994, "NONDISPLACEMENT OF QUALIFIED WORKERS UNDER CERTAIN CONDITIONS"

Priority: Other Significant

Legal Authority: EO 12933

CFR Citation: 29 CFR 9

Legal Deadline: None
EO 12933 requires that regulations be issued within 180 days of the date the order was issued, or by April 17, 1995.

Abstract: Executive Order 12933 of October 20, 1994, requires a new clause be inserted in service contracts for maintenance of public buildings which imposes an obligation on successor contractors to offer the employees of predecessor contractors (other than managerial or supervisory personnel) a right of first refusal to employment under the follow-on contract.

Timetable:

Action	Date	FR Cite
NPRM	07/18/95	60 FR 36756
NPRM Comment Period End	09/01/95	
Final Action	05/22/97	62 FR 28176
Final Action Effective	07/21/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: John R. Fraser, Deputy Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 219-8305
Fax: 202 219-5122

RIN: 1215–AA95

2030. MINIMUM WAGES IN AMERICAN SAMOA

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 205; 29 USC 206; 29 USC 208

CFR Citation: 29 CFR 511; 29 CFR 697

Legal Deadline: None

Abstract: The Fair Labor Standards Act minimum wage for American Samoa is determined industry by industry according to recommendations of special industry committees that examine economic and competitive conditions and propose minimum wage levels which will not substantially curtail employment. Part 511 contains procedures for convening industry committees; Part 697 defines industry classifications and prescribes the minimum wage rates to be paid. These separate regulations may be combined and consolidated to reduce unnecessary regulatory text as part of the regulatory reinvention initiative.

Timetable:

Action	Date	FR Cite
Withdrawn	07/25/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: John R. Fraser, Deputy Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 219-8305
Fax: 202 219-5122

RIN: 1215–AB08

2031. MISCELLANEOUS EXEMPTIONS UNDER THE FAIR LABOR STANDARDS ACT

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 201 et seq

CFR Citation: 29 CFR 551; 29 CFR 783; 29 CFR 784; 29 CFR 786; 29 CFR 788; 29 CFR 793; 29 CFR 794

Legal Deadline: None

Abstract: Each of the following CFR parts issued under the Fair Labor Standards Act (FLSA) provides guidance to employers on the requirements for exemption from minimum wage or overtime based on particular statutory provisions: 551, Local delivery drivers and helpers, wage payment plans; 783, Application of the FLSA to employees employed as seamen; 784, Provisions of the FLSA applicable to fishing and operations on aquatic products; 786, Miscellaneous exemptions; 788, Forestry or logging operations in which not more than eight employees are employed; 793, Exemption of certain radio and television station employees from overtime pay requirements under section 13(b)(9) of the FLSA; and 794, Partial overtime exemption for employees of wholesale or bulk petroleum distributors under section 7(b)(3) of the FLSA. Employers meeting the specified criteria may be exempt from FLSA's minimum wage or overtime pay requirements. The guidance under this miscellany of exemptions will be consolidated and streamlined into a single regulation to eliminate separate CFR parts and unnecessary pages of CFR text.

Timetable:

Action	Date	FR Cite
Withdrawn	07/25/97	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: John R. Fraser, Deputy Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S-3502, FP Building, Washington, DC 20210
Phone: 202 219-8305
Fax: 202 219-5122

RIN: 1215–AB12

DOL—ESA

Completed Actions

DEPARTMENT OF LABOR (DOL)
Employment and Training Administration (ETA)

Proposed Rule Stage

2032. JOB TRAINING PARTNERSHIP ACT: INDIAN AND NATIVE AMERICAN PROGRAMS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: Title IV, sec 401 of the JTPA

CFR Citation: 20 CFR 632; 20 CFR 636

Legal Deadline: None

Abstract: The purpose of title IV, section 401 of the Job Training Partnership Act is to provide job training and employment activities to Indians and other Native Americans. Such programs shall be administered in such a manner as to maximize the Federal commitment to support growth and development as determined by representatives for the communities and groups served by this section, including furtherance of the policy of Indian Self-Determination. This rule would implement changes made by the 1992 amendments to JTPA.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	03/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Tribal

Agency Contact: Thomas Dowd, Chief, Division of Indian and Native American Programs, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4641, FP Building, Washington, DC 20210
Phone: 202 219-5500

RIN: 1205–AA96

2033. JOB TRAINING PARTNERSHIP ACT: MIGRANT AND SEASONAL FARMWORKER PROGRAMS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: Title IV, sec 402 of the JTPA

CFR Citation: 20 CFR 633; 20 CFR 636

Legal Deadline: None

Abstract: It is the purpose of title IV, section 402, of the Job Training Partnership Act to provide job training, employment opportunities, and other services for those individuals who suffer chronic seasonal unemployment and underemployment in the agriculture industry. These conditions have been substantially aggravated by continual advancements in technology and mechanization, resulting in displacement, and contribute significantly to the Nation's rural employment problem. This problem is Federal in scope. No alternative solutions are under consideration at this time. Benefits include fuller rural employment. Over $69 million is appropriated annually by Congress for this program. This rule would implement changes made by the 1992 amendments to JTPA.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Kane, Office of National Programs, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4641, FP Building, Washington, DC 20210
Phone: 202 219-5500

RIN: 1205–AA99

2034. DISASTER UNEMPLOYMENT ASSISTANCE PROGRAM, AMENDMENT TO REGULATIONS

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 5177; EO 12673

CFR Citation: 20 CFR 625

Legal Deadline: None

Abstract: Experience in several recent disasters has highlighted the complexity and time-consuming nature of the monetary benefit provisions of the current regulations and brought into

DOL—ETA

Proposed Rule Stage

question other provisions of the current regulations which are perceived to be unduly restrictive and/or result in perceived inequities in some disaster situations. These issues will be addressed in two stages. First, an ANPRM was published, with a 60-day comment period, on 12/08/94 at 59 FR 63670. This ANPRM outlined provisions in the Disaster Unemployment Assistance (DUA) program regulations (20 CFR part 625), other than the monetary benefit provisions, that have come into question and solicits public comment and suggestions relative to these provisions and on other provisions for review and potential revision in a future NPRM. Second, an interim final rule was published May 11, 1995, with a 60-day comment period. This rule simplified the monetary assistance provisions by removing cumbersome administrative provisions and inconsistencies in the computation of a weekly amount. A final rule will be published to incorporate comments and other minor technical amendments.

Timetable:

Action	Date	FR Cite
ANPRM	12/08/94	59 FR 63670
ANPRM Comment Period End	02/06/95	
Interim Final Rule	05/11/95	60 FR 25560
NPRM	11/00/97	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Federal

Agency Contact: Robert Gillham, Team Leader, Federal Programs Team, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Washington, DC 20210
Phone: 202 219-5616

RIN: 1205–AB02

DEPARTMENT OF LABOR (DOL)
Employment and Training Administration (ETA)

Final Rule Stage

2035. TRADE ADJUSTMENT ASSISTANCE FOR WORKERS—IMPLEMENTATION OF 1988 AMENDMENTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 19 USC 2320

CFR Citation: 20 CFR 617

Legal Deadline: None

Abstract: The final rule implementing the 1988 Amendments to the TAA program was published in the Federal Register on January 6, 1994. Although published as final, comments were requested on several material changes, being made in the final rule which differ from the November 1988 proposed rule and on a number of other changes which were not included in the proposed rule. Comments have been received and another final rule will be published relating to these substantive changes.

Timetable:

Action	Date	FR Cite
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Russ Kile, Program Manager, Office of Trade Adjustment Assistance, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4318, FP Building, Washington, DC 20210
Phone: 202 219-5555

RIN: 1205–AB05

2036. TRADE ADJUSTMENT ASSISTANCE FOR WORKERS—TRANSITIONAL ADJUSTMENT ASSISTANCE NAFTA-TAA

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 103-182, title V

CFR Citation: 20 CFR 617

Legal Deadline: None

Abstract: Title V of the North American Free Trade Agreement Implementation Act (PL 103-182) amends chapter 2 of title II of the Trade Act of 1974 by adding a new Transitional Adjustment Assistance Program (NAFTA-TAA) for workers who lose their jobs because of increased imports from or a shift of production to Mexico and Canada. Most of the provisions of title V are in the form of amendments to chapter 2, title II, of the Trade Act. While some of the provisions are not in the form of amendments to the Trade Act, they nonetheless must be given effect in implementing the NAFTA-TAA program. A proposed rule to amend the regulations on the trade adjustment assistance program for workers was published in the Federal Register on January 17, 1995. Comments on this proposed rule are requested before March 20, 1995.

Timetable:

Action	Date	FR Cite
NPRM	01/17/95	60 FR 3472
NPRM Comment Period End	03/20/95	
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Russ Kile, Program Manager, Office of Trade Adjustment Assistance, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4318, FP Building, Washington, DC 20210
Phone: 202 219-5555

RIN: 1205–AB07

2037. LABOR CERTIFICATION PROCESS FOR THE PERMANENT EMPLOYMENT OF ALIENS; RESEARCHERS EMPLOYED BY COLLEGES AND UNIVERSITIES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 8 USC 1182(a)(5)(A)

CFR Citation: 20 CFR 656.40

Legal Deadline: None

Abstract: The Employment and Training Administration is proposing to amend its regulations relating to labor certification for permanent employment of immigrant aliens in the United States. The proposed amendments would change the way prevailing wage determinations are made for researchers employed by colleges and universities. The amendments would also change the way prevailing wages are determined for colleges and universities filing H-1B labor condition applications on behalf of researchers, since the regulations governing prevailing wage determinations for the permanent are followed in determining prevailing wages for the H-1B program.

Timetable:

Action	Date	FR Cite
NPRM	04/22/96	61 FR 17610
NPRM Comment Period End	05/22/96	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Beverly, Director, U.S. Employment Service, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4470, FP Building, Washington, DC 20210
Phone: 202 219-5257
Fax: 202 219-6643
Email: beverlyj@doleta.gov

RIN: 1205–AB11

DOL—ETA

Final Rule Stage

2038. • WELFARE TO WORK GRANTS

Regulatory Plan: This entry is Seq. No. 71 in Part II of this issue of the Federal Register.

RIN: 1205–AB15

DEPARTMENT OF LABOR (DOL)
Employment and Training Administration (ETA)

Long-Term Actions

2039. SERVICES TO MIGRANT AND SEASONAL FARMWORKERS, JOB SERVICE COMPLAINT SYSTEM, MONITORING, AND ENFORCEMENT

Priority: Other Significant

Legal Authority: 29 USC 49k

CFR Citation: 20 CFR 653; 20 CFR 658; 20 CFR 651

Legal Deadline: None

Abstract: ETA is reviewing services to migrant and seasonal farmworkers under the Wagner-Peyser Act as a result of amendments to Wagner-Peyser under title V of the Job Training Partnership Act. It is anticipated that an ANPRM will be published and subsequent rulemaking may result.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Agency Contact: John R. Beverly, Director, U.S. Employment Service, Department of Labor, Employment and Training Administration, 200 Constitution Ave. NW., Rm N4470, FP Building, Washington, DC 20210
Phone: 202 219-5257

RIN: 1205–AA37

2040. LABOR CERTIFICATION PROCESS FOR THE PERMANENT EMPLOYMENT OF ALIENS IN THE UNITED STATES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: INA 212(a)(5)(A)

CFR Citation: 20 CFR 656

Legal Deadline: None

Abstract: The Department of Labor (DOL) is currently re-engineering the labor certification process that is set forth in DOL regulations at 20 CFR 656. DOL's goals are to make fundamental changes and refinements that will (a) better serve customers, (b) streamline the process, (c) improve effectiveness, and (d) save resources. The re-engineering effort is a collaborative effort of Federal and State staff who are involved in the administration of alien certification programs. The re-engineering effort also involves consultation throughout the process with sponsors, stakeholders, State partners, and outside interest groups to solicit ideas and suggestions for change.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: James Norris, Director, Division of Foreign Labor Certifications, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4641, FP Building, Washington, DC 20210
Phone: 202 219-5263
Fax: 202 219-5844
Email: jnorris@doleta.gov

RIN: 1205–AA66

2041. AMENDMENTS TO THE LABOR CERTIFICATION PROCESS FOR TEMPORARY AGRICULTURAL EMPLOYMENT IN THE UNITED STATES (H-2A)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 8 USC 1101(a)(H)(ii)(a); 8 USC 1184(c)

CFR Citation: 20 CFR 655 subpart B

Legal Deadline: None

Abstract: Based on six years of experience with the current regulations, the Department has concluded that they should be amended to clarify a number of regulatory provisions to simplify the administration of the program, and to provide additional protection to U.S. workers.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: James Norris, Director, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4456, FP Building, Washington, DC 20210
Phone: 202 219-4369

RIN: 1205–AB09

2042. FEDERAL-STATE UNEMPLOYMENT COMPENSATION PROGRAM; UNEMPLOYMENT INSURANCE PERFORMANCE SYSTEM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 503(a)(1); 42 USC 503(a)(6); 42 USC 503(b); 42 USC 1302

CFR Citation: 20 CFR 602; 20 CFR 640; 20 CFR 650

Legal Deadline: None

Abstract: This regulation will formally establish a comprehensive system for helping ensure continuous

DOL—ETA — Long-Term Actions

improvement in UI operational performance. It will enunciate as the system's building blocks principles for Federal and State cooperation, key nationwide performance measures, criteria distinguishing satisfactory from unsatisfactory performance, an annual planning process, and actions which the Department may take when a State fails to perform satisfactorily. This regulation will be as brief and general as possible; detail and measures, standards, criteria and plans will be contained in implementing handbooks.

Timetable:

Action	Date	FR Cite
ANPRM	01/16/97	62 FR 2543
ANPRM Comment Period End	03/17/97	
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Sandra King, Chief, Division of Performance Review, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room S4522, FP Building, Washington, DC 20210
Phone: 202 219-5223
Fax: 202 219-8506
Email: king@doleta.gov

RIN: 1205–AB10

2043. ESTABLISHMENT OF FEES FOR IMMIGRATION PROGRAMS ADMINISTERED BY THE EMPLOYMENT AND TRAINING ADMINISTRATION

Priority: Other Significant

Legal Authority: Not yet determined

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The regulation would establish a new fee charged to employers, for processing of alien labor certification and attestation applications by the Department of Labor (DOL) and State Employment Security Agencies. The user fee would be proposed in the FY 1998 Reconciliation Bill. The user fee would be a government receipt and would be applied to Federal and State expenditures for Federal and State program administration in the State Unemployment Insurance and Employment Service account and the Program Operations Account in DOL's Employment and Training Administration (ETA).

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State, Local

Additional Information: Funding of ETA immigration programs has been reduced by 39 percent since FY 1995. The fee proceeds would be used to offset the costs of administering the alien labor certification program. However, in each of Fiscal Years 1998 and 1999 regular appropriations of $41 million would be required in addition to user fees to work off a large backlog of applications already in the pipeline and future growing backlogs created primarily by appropriations reduction in FY 1996 and 1997.

Agency Contact: James Norris, Director, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4641, FP Building, Washington, DC 20210
Phone: 202 219-5263
Fax: 202 219-5844
Email: jnorris@doleta.gov

RIN: 1205–AB14

DEPARTMENT OF LABOR (DOL)
Employment and Training Administration (ETA) — Completed Actions

2044. AIRLINE DEREGULATION: EMPLOYEE BENEFIT PROGRAM

Priority: Other Significant

Legal Authority: 49 USC 1552

CFR Citation: 20 CFR 618

Legal Deadline: None

Abstract: U.S. District Court for the District of Columbia held that section 43 of the Airline Deregulation Act was unconstitutional. On July 16, 1985, the U.S. Court of Appeals decided that the employee protection provisions of section 43 were severable from the legislative veto provisions. The U.S. Supreme Court ruled on March 25, 1987 that the legislative veto provisions were unconstitutional but the first right-to-hire provisions were constitutional, therefore, rulemaking can proceed on the monetary benefits aspect of the employee protection provisions. In 1991 the DOT determined there were no job losses due to deregulation. In September 1993, the U.S. District Court for the District of Columbia ordered the DOT to develop broader guidelines to apply to the air carriers, which may result in a finding of job losses due to deregulation. The Department has reinitiated clearance on the proposed rule. No benefits are payable to eligible workers until the Department of Transportation certifies that an air carrier has experienced a qualifying dislocation after applying broader guidelines consistent with the court's order and Congress appropriates the money to award the benefits. Neither of these two events has occurred.

Timetable:

Action	Date	FR Cite
Withdrawn	08/15/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: Next action is undetermined pending Departmental review due to provision repealing Airline Employee Protection Program contained in S.143.

Agency Contact: Betty Castillo, Chief, Division of Program Development and Implementation, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room S4516, FP Bldg., Washington, DC 20210
Phone: 202 219-5626

RIN: 1205–AA07

DEPARTMENT OF LABOR (DOL)
Pension and Welfare Benefits Administration (PWBA) — Prerule Stage

2045. RULEMAKING RELATING TO NOTICE REQUIREMENTS FOR CONTINUATION OF HEALTH CARE COVERAGE

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1135; 29 USC 1136

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This rulemaking will provide guidance concerning the notification requirements pertaining to continuation coverage under the Employee Retirement Income Security Act of 1974 (ERISA). Section 606 of ERISA requires that group health plans provide employees notification of the continuation coverage provisions of the plan and establishes notification obligations upon plan administrators, employers, employees and qualified beneficiaries relating to certain qualifying events.

Timetable:

Action	Date	FR Cite
ANPRM	09/23/97	62 FR 49894
ANPRM Comment Period End	11/24/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Susan Lahne, Senior Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-0521

RIN: 1210–AA60

2046. • REQUEST FOR INFORMATION CONCERNING EMPLOYEE BENEFIT PLAN CLAIMS PROCEDURES

Priority: Info./Admin./Other

Legal Authority: 29 USC 1133; 29 USC 1135

CFR Citation: 29 CFR 2550.503-1

Legal Deadline: None

Abstract: The Department is requesting information from the public concerning the advisability of amending existing regulations setting forth minimum requirements for employee benefit plan claims procedures. The Department is seeking information to assist it in, among other things, evaluating the extent to which current claims procedure regulations assure that group health plan participants and beneficiaries have effective and timely means of filing and resolving claims for medical care benefits.

Timetable:

Action	Date	FR Cite
Request for Information—Amendment of Regulations on Plan Claims Procedures	09/08/97	62 FR 47262
Comment Period End	11/07/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cynthia Weglicki, Staff Attorney, Office of the Solicitor, Plan Benefits, Security Division, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N4611, FP Building, Washington, DC 20210
Phone: 202 219-4600
Fax: 202 219-7346

RIN: 1210–AA61

DEPARTMENT OF LABOR (DOL)
Pension and Welfare Benefits Administration (PWBA) — Proposed Rule Stage

2047. REVISION OF THE FORM 5500 SERIES AND IMPLEMENTING AND RELATED REGULATIONS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (ERISA)

Regulatory Plan: This entry is Seq. No. 72 in Part II of this issue of the Federal Register.

RIN: 1210–AA52

2048. LIMITATION OF LIABILITY FOR INSURERS AND OTHERS UNDER PART 4 OF TITLE I OF ERISA AND SECTION 4975 OF THE INTERNAL REVENUE CODE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 104-188, Sec 1460; 29 USC 1101(c)(1); 29 USC 1135; 29 USC 1021

CFR Citation: 29 CFR 2550.401(c-1); 29 CFR 2510.3-101

Legal Deadline: NPRM, Statutory, June 30, 1997. Final, Statutory, December 31, 1997. Other, Statutory, September 30, 1997.
The public comment period must close on September 30, 1997. The statute also specifies that June 30, 1999 is the latest date as to which the regulation shall take effect (Cont in Add'l Info)

Abstract: Section 1460 of the Small Business Job Protection Act of 1991 (Public Law 104-188) amended ERISA section 401 to limit the liability of insurers and others under part 4 of title I of ERISA and section 4975 of the Internal Revenue Code with regard to certain claims concerning policies or contracts issued to or for the benefit of employee benefit plans which are supported by assets in the insurers' general accounts. New subsection 401(c) specifies the timetable by which the Secretary must issue regulatory guidance concerning this provision.

Timetable:

Action	Date	FR Cite
Request for Information	11/25/96	61 FR 59845
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: LEGAL DEADLINE (CONT): and that the regulation shall generally not take effect until 18 months after it becomes final.

Agency Contact: Ivan L. Strasfeld, Director of Exemption Determinations, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5649, FP Building, Washington, DC 20210
Phone: 202 219-8194
Fax: 202 219-7291

RIN: 1210–AA58

2049. • REPORTING REQUIREMENTS FOR MEWAS PROVIDING MEDICAL CARE BENEFITS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1135; 29 USC 1021(g)(h) (PL 104-191; 110 Stat 1952); 29 USC 1194

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: These proposed rules will govern certain reporting requirements under title I of the Employee Retirement Income Security Act of 1974, as amended (ERISA) for multiple employer welfare arrangements (MEWAs) that provide benefits consisting of medical care. In part, the rules will implement recent changes made by ERISA by the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The proposed rules will also set forth elements that MEWAs would be required to file with the Department of Labor for the purpose of determining compliance with the portability, nondiscrimination, renewability and other requirements of part 7 of Subtitle B of title I of ERISA including the requirements of the Mental Health Parity Act of 1996 and the Newborns' and Mothers' Protection Act of 1996. The proposed rules would also provide guidance with respect to section 502(c)(5) of ERISA, which authorizes the Secretary of Labor to assess a civil penalty of up to $1,000 a day for failure to comply with the new reporting requirements.

The Health Insurance Portability and Accountability Act of 1996 (HIPAA), PL 104-191, was enacted on August 21, 1996. HIPAA amended the Employee Retirement Income Security Act of 1974, as amended (ERISA) to provide for, among other things, improved portability and continuity of health insurance coverage. The Newborns' and Mothers' Health Protection Act of 1996 (NMHPA), PL 104-204, was enacted on September 26, 1996 to provide parity in the application of limits for certain mental health benefits with limits on medical and surgical benefits. All of the above provisions are set forth in a new part 7 of Subtitle B of title I of ERISA.

Section 101(g)(h) of ERISA, as amended by HIPAA, provides that the Secretary of Labor may prescribe reporting requirements for multiple employer welfare arrangements (MEWAs) that provide benefits consisting of medical care but are not group health plans within the meaning of title I of ERISA. The reporting requirements of section 101(g)(h) of ERISA, as well as the related civil penalty provisions of section 502(c)(5) of ERISA, are intended to help determine the extent to which the requirements of part 7 of Subtitle B of title I of ERISA are being carried out in connection with the provision of medical care by such MEWAS.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: The Department has statutory authority to publish this rule as an interim final rule, with a request for comments. A determination has yet to be made with regard to whether the rule should be promulgated on an interim basis.

Agency Contact: Amy Scheingold, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210 Phone: 202 219-8671

RIN: 1210–AA64

2050. • INDIVIDUAL BENEFITS REPORTING REQUIREMENTS FOR DEFINED CONTRIBUTION PLANS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1025; 29 USC 1059; 29 USC 1135

CFR Citation: 29 CFR 2520.105-1

Legal Deadline: None

Abstract: ERISA sections 105 and 209 require the furnishing of statements of accrued and vested pension benefits upon request of a participant or beneficiary, upon a participant's termination of service with an employer, and upon a participant's incurring a one-year break in service. This regulation will provide guidance with respect to the furnishing of individual benefit reports to participants and beneficiaries in defined contribution pension plans.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Debra M. Golding, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5609, FP Building, Washington, DC 20210 Phone: 202 219-8671

RIN: 1210–AA65

2051. • REQUIREMENT TO FURNISH PLAN DOCUMENTS UPON REQUEST BY THE SECRETARY OF LABOR

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1024; 29 USC 1135; PL 105-34, section 1503

CFR Citation: 29 CFR 2520.104(a)

Legal Deadline: None

Abstract: This rulemaking will implement an amendment to title I of ERISA made by section 1503 of the Taxpayer Relief Act of 1997 (PL 105-34) which requires plan administrators to furnish copies of any documents relating to the plan to the Department on request.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Jeffrey J. Turner, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5671, FP Building, Washington, DC 20210 Phone: 202 219-8671

RIN: 1210–AA67

2052. • CIVIL PENALTY FOR FAILURE TO FURNISH CERTAIN PLAN DOCUMENTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-34, section 1503; 29 USC 1135; 29 USC 1132

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This rulemaking will implement the enforcement aspects of amendments to title I of ERISA made by section 1503 of the Taxpayer Relief Act of 1997 (Public Law 105-34) which, while eliminating the requirement that plan administrators file summary plan descriptions (SPDs), summary material modifications (SMMs) and updated SPDs with the Department of Labor, also provided that administrators must furnish copies of any documents relating to the plan, including but not limited to SPDs, to the Department on request. In addition, the amendments authorize the Secretary of Labor to assess a civil penalty of up to $100 a day, up to a maximum of $1,000 per request, against a plan administrator who fails to furnish the requested documents on a timely basis.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Jeffrey J. Turner, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5671, FP Building, Washington, DC 20210 Phone: 202 219-8671

RIN: 1210–AA68

DEPARTMENT OF LABOR (DOL)

Pension and Welfare Benefits Administration (PWBA)

Final Rule Stage

2053. DEFINITION OF COLLECTIVE BARGAINING AGREEMENT (ERISA SECTION 3(40))

Priority: Other Significant

Legal Authority: 29 USC 1002(40)

CFR Citation: 29 CFR 2510.3-40

Legal Deadline: None

Abstract: The regulation will establish standards for determining whether an employee benefit plan is established or maintained pursuant to one or more collective bargaining agreements for purposes of its exclusion from the Multiple Employer Welfare Arrangement (MEWA) definition in section 3(40) of ERISA, and thus exempted from state regulation. The regulation will clarify the scope of the exception from the MEWA definition for plans maintained under or pursuant to one or more collective bargaining agreements by providing criteria which will serve to distinguish health benefit arrangements which are maintained by legitimate unions pursuant to bona fide collective bargaining agreements from health insurance arrangements promoted and marketed under the guise of ERISA-covered plans exempt from state insurance regulation. The regulation will also serve to limit the extent to which health plans maintained pursuant to bona fide collective bargaining agreements may extend plan coverage to individuals not covered by such agreements.

Timetable:

Action	Date	FR Cite
NPRM	08/01/95	60 FR 39208
NPRM Comment Period Extended to 11/16/95	09/29/95	60 FR 50508
NPRM Comment Period End	10/02/95	60 FR 39208
Final Action	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Elizabeth Goodman, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N-5669, FP Building, Washington, DC 20210 Phone: 202 219-8671

RIN: 1210–AA48

2054. REGULATIONS IMPLEMENTING THE HEALTH CARE ACCESS, PORTABILITY AND RENEWABILITY PROVISIONS OF THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996

Regulatory Plan: This entry is Seq. No. 73 in Part II of this issue of the **Federal Register**.

RIN: 1210–AA54

2055. AMENDMENT OF SUMMARY PLAN DESCRIPTION AND RELATED ERISA REGULATIONS TO IMPLEMENT STATUTORY CHANGES IN THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996

Regulatory Plan: This entry is Seq. No. 74 in Part II of this issue of the **Federal Register**.

RIN: 1210–AA55

2056. ENFORCEMENT POLICY ON AICPA SOP 92-6

Priority: Other Significant

Legal Authority: 29 USC 1021; 29 USC 1023; 29 USC 1024; 29 USC 1026; 29 USC 1027; 29 USC 1029; 29 USC 1030; 29 USC 1135

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Department has received requests not to reject multiemployer welfare plan annual reports (Form 5500) or assess civil penalties solely because the opinion of an independent qualified public accountant, that is required to be included with the Form 5500, either is adverse or qualified due to a failure to comply with the American Institute of Certified Public Accountants (AICPA) Statement of Position 92-6 (SOP 92-6). Under SOP 92-6, the AICPA has modified generally accepted accounting principles to require health and other welfare plans to calculate and disclose as part of their financial statements the present value of their future post-retirement benefit obligations. The Department has decided to invite public comment on the burdens, costs and benefits of accounting for post-retirement welfare benefit obligations in accordance with SOP 92-6 prior to adopting a formal position on this matter for 1997 and future plan years.

Timetable:

Action	Date	FR Cite
Request for Comments	03/13/97	62 FR 11424
NPRM Comment Period End	05/12/97	
Final Action	12/00/97	

DOL—PWBA

Final Rule Stage

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Eric A. Raps, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N-5669, FP Building, Washington, DC 20210
Phone: 202 219-8515

RIN: 1210–AA57

2057. AMENDMENT OF REGULATIONS RELATING TO DEFINITION OF "PLAN ASSETS" —PARTICIPANT CONTRIBUTIONS (SIMPLE PLAN)

Priority: Substantive, Nonsignificant

Legal Authority: PL 93-406, Sec 505 of ERISA, 88 STAT 894, 29 USC 1135; Sec 102 of Reorg. Plan No. 4 of 1978 (43 FR 47713, 10/17/78); Secretary of Labor's Order No. 1- 87 (52 FR 13139, 4/21/87)

CFR Citation: 29 CFR 2510.3-102

Legal Deadline: None

Abstract: The purpose of this rulemaking is to harmonize the rules under Title I of ERISA concerning when participant contributions will be considered assets of the plan with a recent amendment of section 408(p) of the Internal Revenue Code section 1426 of the Small Business Job Protection Act of 1996, P.L. 104-108) which specifies a different maximum time period for depositing salary reduction elective contributions to Savings Incentive Match Plans for Employees (SIMPLE plans) involving Individual Retirement Accounts (IRAs). Specifically, this amendment of the Department's plan asset - participant contributions regulation will provide for a maximum time period with respect to SIMPLE plans of 30 days following the last day of the month with respect to which the contributions are made, consistent with section 408) of the Code.

Timetable:

Action	Date	FR Cite
NPRM	03/27/97	63 FR 14760
NPRM Comment Period End	05/27/97	
Interim Final Rule	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Rudy Nuissl, Supervisory Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-7471
Fax: 202 219-7291

RIN: 1210–AA59

2058. • INTERIM RULES RELATING TO MENTAL HEALTH BENEFITS PARITY

Regulatory Plan: This entry is Seq. No. 75 in Part II of this issue of the Federal Register.

RIN: 1210–AA62

2059. • INTERIM RULES RELATING TO HEALTH CARE STANDARDS FOR MOTHERS AND NEWBORNS

Regulatory Plan: This entry is Seq. No. 76 in Part II of this issue of the Federal Register.

RIN: 1210–AA63

2060. • ELIMINATION OF FILING REQUIREMENTS FOR SUMMARY PLAN DESCRIPTIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 29 USC 1024; 29 USC 1135; PL 105-34, section 1503

CFR Citation: 29 CFR 2520.104a(1); 29 CFR 2520.104a(2); 29 CFR 2520.104a(3); 29 CFR 2520.104a(4); 29 CFR 2520.104a(5); 29 CFR 2520.104a(6); 29 CFR 2520.104a(7)

Legal Deadline: None

Abstract: This rulemaking will remove from the CFR certain regulations that have been superseded by amendments to title I of ERISA effected by the Taxpayer Relief Act of 1997 (PL 105-34), that eliminate the requirement for plan administrators to file summary plan descriptions (SPDs), summary material modifications (SMMs), and updated SPDs with the Department of Labor. Under the amendments, plan administrators must continue to furnish participants and beneficiaries with copies of these documents. Separate rulemaking (RIN: 1210-AA67 and 1210-AA68) will implement the Taxpayer Relief Act amendments that require plan administrators to furnish copies of SPDs and any other documents relating to the plan to the Department on request, and authorize the Secretary of labor to assess a civil penalty for failure to do so.

Timetable:

Action	Date	FR Cite
Final Action	03/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: It is anticipated that this regulation will be published as a final rule pursuant to a determination of good cause within the meaning of section 553(d) of the Administrative Procedure Act, in view of the fact that the regulations being eliminated have already been superseded by section 1503 of the Taxpayer Relief Act of 1997 (PL 105-34).

Agency Contact: Jeffrey J. Turner, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5671, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210–AA66

DEPARTMENT OF LABOR (DOL)
Pension and Welfare Benefits Administration (PWBA)

Long-Term Actions

2061. ADEQUATE CONSIDERATION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1002(18); 29 USC 1135

CFR Citation: 29 CFR 2510

Legal Deadline: None

Abstract: This regulation would provide guidance as to what constitutes "adequate consideration" under section 3(18) of ERISA for assets other than securities for which there is a generally recognized market.

Timetable:

Action	Date	FR Cite
NPRM	05/17/88	53 FR 17632
NPRM Comment Period End	07/18/88	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Mannina, Staff Attorney, Plan Benefits Security Division, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N4611, FP Building, Washington, DC 20210
Phone: 202 219-4592

RIN: 1210–AA15

2062. CIVIL PENALTIES UNDER ERISA SECTION 502(L)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1132

CFR Citation: 29 CFR 2570.80 (Procedural); 29 CFR 2560.502(l)-1 (Substantive)

Legal Deadline: None

Abstract: Section 502(l) of ERISA requires the Secretary of Labor to assess a civil penalty against a fiduciary who breaches a fiduciary duty under, or commits a violation of, part 4 of title I of ERISA, or any other person who knowingly participates in such breach or violation. The Department has published an interim rule setting forth the procedures for the assessment of penalties under ERISA section 502(l) and for petitioning the Secretary to exercise his or her discretion to waive or reduce the mandated assessment, as well as a proposed rule that defines the following pivotal terms contained in section 502(l): "applicable recovery amount," "breach of fiduciary responsibility or violation," "settlement agreement," and "court order." The Department intends to finalize these two regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/20/90	55 FR 25284
Interim Final Rule	06/20/90	55 FR 25284
NPRM Comment Period End	08/20/90	55 FR 25284
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Vicki Shteir-Dunn, Staff Attorney, Plan Benefits Security Division, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N4611, FP Building, Washington, DC 20210
Phone: 202 219-8610

RIN: 1210–AA37

2063. REPORTING AND DISCLOSURE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 1135; 29 USC 1029; 29 USC 1143; 29 USC 1021; 29 USC 1022; 29 USC 1024; 29 USC 1025; 29 USC 1059

CFR Citation: 29 CFR 2520

Legal Deadline: None

Abstract: PWBA has undertaken a comprehensive review of the current reporting and disclosure framework to identify changes that will serve to assure the disclosure of useful and timely information, while eliminating any unnecessary administrative burdens and costs on plans and plan sponsors attendant to compliance with these requirements. As an initial step in this process, PWBA solicited comments, recommendations and information from the public concerning the need for regulatory and legislative changes in the disclosure area. PWBA concluded that only marginal changes to the disclosure requirements can be accomplished through the regulatory process and, therefore, reform efforts should focus on regulatory changes relating to the streamlining of the Form 5500 Series, and related annual reporting regulations, in addition to possible legislative changes to both the reporting and disclosure provisions.

Timetable:

Action	Date	FR Cite
ANPRM	12/27/93	58 FR 68339
ANPRM Comment Period End	02/25/94	
End Review	06/30/95	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John J. Canary, Supervisory Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8521

RIN: 1210–AA44

DEPARTMENT OF LABOR (DOL)
Pension and Welfare Benefits Administration (PWBA)

Completed Actions

2064. QUALIFIED DOMESTIC RELATIONS ORDERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1056(d)(3)(L); 29 USC 1135

CFR Citation: 29 CFR 2530

Legal Deadline: None

Abstract: This regulation would clarify the application of the qualified domestic relations order provisions of section 206(d)(3) of ERISA and related provisions contained in section 414(p) of the Internal Revenue Code which were added by the Retirement Equity Act of 1984.

Timetable:

Action	Date	FR Cite
ANPRM	10/21/93	58 FR 54444
Extension of Comment Period	01/12/94	59 FR 1692
ANPRM Comment Period End	02/18/94	
Published Guidance Booklet	08/17/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The Department has published a booklet providing informal guidance on a variety of QDRO issues. The Department will reassess the need for regulatory guidance at a future date.

Agency Contact: Susan Lahne, Supervisory Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Ave. NW., Rm N5669, FP Building, Washington, DC 20210
Phone: 202 219-7461

RIN: 1210–AA19

2065. CIVIL MONETARY PENALTY ADJUSTMENT REGULATION

Priority: Info./Admin./Other

Unfunded Mandates: Undetermined

Major: Undetermined

Legal Authority: PL 104-134 section 3720E; 29 USC 1135; 29 USC 1132(c)(1)(A); 29 USC 1132(c)(1)(B); 29 USC 1132(c)(2); 29 USC 1132(c)(3); 29 USC 1132(c)(4); 29 USC 1059(b)

CFR Citation: Not yet determined

Legal Deadline: Final, Statutory, October 23, 1996.

Abstract: Section 3720E of the Debt Collection Improvement Act of 1996 (PL 104-134) provides that the head of each agency shall not later than 180 days after enactment and at least once every 4 years thereafter by regulation adjust each civil monetary penalty administered by the agency by the inflation adjustment described in the Act.

Timetable:

Action	Date	FR Cite
NPRM	04/18/97	62 FR 19078
NPRM Comment Period End	05/19/97	
Final Action	07/29/97	62 FR 40896
Final Action Effective	07/29/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rudy Nuisal, Supervisory Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N-5669, FP Building, Washington, DC 20210
Phone: 202 219-7461

RIN: 1210–AA56

DEPARTMENT OF LABOR (DOL)
Mine Safety and Health Administration (MSHA)

Prerule Stage

2066. COAL MINE DUST

Regulatory Plan: This entry is Seq. No. 77 in Part II of this issue of the Federal Register.

RIN: 1219–AA81

2067. SAFETY STANDARDS FOR THE USE OF ROOF BOLTING MACHINES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 57; 30 CFR 75

Legal Deadline: None

Abstract: Recent fatalities in underground coal mines involving roof-bolting machines indicate the need to both modify the design of such machines and take additional precautions in their use. MSHA has evaluated roof-bolting machines currently in use focusing on potential hazards to the machine operators during the drilling and roof-bolt installation procedures. MSHA believes that machine design features may contribute to or cause accidents, and that changes in machine design and operating procedures would make operating the equipment safer for the machine operator. The Agency intends to issue an Advance Notice of Proposed Rulemaking to obtain additional information and data on mine operators' experiences with these machines. The Agency is exploring the use of negotiated rulemaking to address this issue.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910
Fax: 703 235-5551
Email: psilvey@msha.gov

RIN: 1219–AA94

2068. TRAINING AND RETRAINING OF MINERS (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 30 USC 811; 30 USC 825

CFR Citation: 30 CFR 48

Legal Deadline: None

Abstract: The Mine Act and 30 CFR part 48 require all mine operators to have approved training plans. Those plans set forth requirements for training miners. MSHA will review these training requirements as part of its Regulatory Flexibility review to determine if changes are appropriate.

Timetable:

Action	Date	FR Cite
Begin Review	10/00/97	
End Review	09/00/98	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Room 631, Arlington, VA 22203
Phone: 703 235-1910
Fax: 703 235-5551
Email: psilvey@msha.gov

RIN: 1219–AB02

DOL—MSHA

Prerule Stage

DEPARTMENT OF LABOR (DOL)
Mine Safety and Health Administration (MSHA)

Proposed Rule Stage

2069. DIESEL PARTICULATE

Regulatory Plan: This entry is Seq. No. 78 in Part II of this issue of the Federal Register.

RIN: 1219–AA74

2070. BELT ENTRY USE AS INTAKE AIRCOURSES TO VENTILATE WORKING SECTIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75

Legal Deadline: None

Abstract: Since 1970, Mine Safety and Health Administration (MSHA) regulations have generally prohibited belt haulage entries from being used to ventilate active working places. The intention of this prohibition is to prevent smoke from a belt conveyor fire from being coursed to miners in their workplace. Improved technology, including sophisticated atmospheric monitoring systems, has since made it possible to safely use "belt air" to ventilate active working places. This rulemaking would permit the use of belt air, provided that certain safety requirements are met. In many cases, the use of belt air may result in more efficient and effective ventilation systems, enhancing the health and safety of miners. Additionally, because this regulation will eliminate the need for mine operators to seek regulatory variances from MSHA, costs and burdens on both industry and MSHA will be reduced.

Timetable:

Action	Date	FR Cite
NPRM	09/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: A public hearing was held in April 1990.

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910
Fax: 703 235-5551
Email: psilvey@msha.gov

RIN: 1219–AA76

2071. METAL/NONMETAL IMPOUNDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57

Legal Deadline: None

Abstract: Water, sediment, and slurry impoundments for metal and nonmetal mining and milling operations are located throughout the country, and some are within flood range of homes and well traveled roads. Failure of an impoundment could endanger lives and cause property damage. This rulemaking addresses, among other issues, proper design and construction of impoundments. MSHA may explore negotiated rulemaking to address this action.

Timetable:

Action	Date	FR Cite
NPRM	06/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910
Fax: 703 235-5551
Email: psilvey@msha.gov

RIN: 1219–AA83

2072. SURFACE HAULAGE

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 77

Legal Deadline: None

Abstract: Accidents involving surface haulage equipment are a leading safety problem in the mining industry. A review of fatal mining accidents during the past 3 years shows that 30% of the deaths involved surface haulage equipment. This equipment includes large 240-ton haulage vehicles, over-the-road trucks, front-end loaders, and other equipment. Causes of surface haulage accidents include brake failures, unsafe grades, overloaded vehicles, and "blind spots."

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910
Fax: 703 235-5551
Email: psilvey@msha.gov

RIN: 1219–AA93

2073. SAFETY STANDARD REVISIONS FOR UNDERGROUND ANTHRACITE MINES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75

Legal Deadline: None

Abstract: There are two major types of coal mines -- bituminous and anthracite. The mining methods used and hazards encountered in underground anthracite mines are different from underground bituminous coal mines. Mining methods in anthracite mines include minimal use of mechanized equipment, slow rate of advance into the coal seam, and pitching and undulating seams. Because of these differences, some mine operators find it difficult to comply with existing safety standards at their anthracite mines. These anthracite mine operators must request a variance from existing standards to change the requirements. The variance process costs time and money. Because anthracite mines are usually small operations, this burden can be significant. MSHA has received over 300 variance requests from anthracite mine operators since January 1993. MSHA intends to issue a proposed rule to modify several existing safety standards to address more appropriately the specific conditions of the anthracite mining industry.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Room 631, Arlington, VA 22203
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RIN: 1219–AA96

2074. ELECTRICAL STANDARDS FOR METAL AND NONMETAL MINES

Regulatory Plan: This entry is Seq. No. 79 in Part II of this issue of the Federal Register.

RIN: 1219–AB01

2075. CRITERIA AND PROCEDURES FOR PROPOSED ASSESSMENT OF CIVIL PENALTIES

Priority: Info./Admin./Other

Legal Authority: 30 USC 957; PL 104-134 Debt Collection Improvement Act of 1996

CFR Citation: 30 CFR 100

Legal Deadline: Final, Statutory, October 26, 1996.

Abstract: This proposed rule would revise the Mine Safety and Health Administration's (MSHA) statutory penalties found in Sections 110(a), 110(b), 110(c), and 110(g) of the Mine Act and the specific penalty amounts established in 30 CFR part 100 as mandated by the Debt Collection Improvement Act of 1996 (DCIA). The DCIA requires that civil penalties be increased by up to 10 percent within 6 months of its enactment. It also requires subsequent increases at least once every 4 years using a formula based on the Consumer Price Index. MSHA has issued a proposed rule for notice and comment.

Timetable:

Action	Date	FR Cite
NPRM	09/08/97	62 FR 47330
NPRM Comment Period End	11/07/97	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
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RIN: 1219–AB03

2076. • OBSERVATION OF OPERATOR NOISE MONITORING

Priority: Other Significant

Legal Authority: 30 USC 813

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 62; 30 CFR 70; 30 CFR 71

Legal Deadline: None

Abstract: Section 62.120(f) of MSHA's comprehensive proposed rule on occupational noise exposure would require operators to establish a system of monitoring which effectively evaluates each miner's noise exposure. Consistent with the Federal Mine Safety and Health Act of 1977 (Mine Act) and in response to comments MSHA intends to publish a supplemental noise proposal to include a new provision providing affected miners and their representatives with an opportunity to observe this monitoring.

Section 103(c) of the Mine Act requires, among other things, that when the Secretary issues regulations requiring operator monitoring, "such regulations shall provide the miners or their representatives with an opportunity to observe such monitoring or measuring, and to have access to the records thereof." The supplemental noise proposal would implement section 103(c) of the Mine Act.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
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RIN: 1219–AB05

2077. • SELF-CONTAINED SELF-RESCUE DEVICES IN UNDERGROUND METAL AND NONMETAL MINES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 57

Legal Deadline: None

Abstract: The proposed rule would revise existing standards and add new standards to require certain operators of underground metal and nonmetal mines to make self-contained self-rescue devices (SCSRs) available to miners. SCSRs are emergency breathing units that generate oxygen. Existing MSHA standards require that SCSRs be available for emergencies at all underground coal mines. MSHA expects that this proposed rule would affect fewer than 20 metal and nonmetal mines where methane had been detected.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
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RIN: 1219–AB06

DEPARTMENT OF LABOR (DOL) — Final Rule Stage

Mine Safety and Health Administration (MSHA)

2078. HAZARD COMMUNICATION

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Today's complex mining environment subjects miners to well-known hazards, such as coal mine dust and crystalline silica; to emerging hazards, including hazardous wastes burned as fuel supplements at cement kilns; and to changing hazards from the many chemicals brought onto mine property. This rule would provide miners with the means to receive necessary information on the hazards of chemicals to which they are exposed and the actions necessary to protect them from such hazards. In developing this rule, MSHA has reviewed OSHA's hazard communication standard, information collected by NIOSH, and public comments. For its final rule, MSHA intends to publish a user-friendly regulation which will facilitate compliance by mine operators, while providing increased health and safety protection to miners.

Timetable:

Action	Date	FR Cite
ANPRM	03/30/88	53 FR 10257
ANPRM Comment Period End	07/31/88	
NPRM	11/02/90	55 FR 46400
NPRM Comment Period End	01/31/92	56 FR 48720
Final Action	06/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
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RIN: 1219–AA47

2079. AIR QUALITY, CHEMICAL SUBSTANCES, AND RESPIRATORY PROTECTION STANDARDS

Priority: Other Significant

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 58; 30 CFR 70; 30 CFR 71; 30 CFR 72; 30 CFR 75; 30 CFR 90

Legal Deadline: None

Abstract: The Mine Safety and Health Administration's (MSHA's) current air quality standards for exposure to hazardous airborne contaminants were promulgated over 20 years ago. They do not fully protect today's miners, who are potentially exposed to an array of toxic chemicals, including lead, cyanide, arsenic, benzene, asbestos, and other well-documented hazards. Some miners have developed occupational illness (e.g., lead poisoning, acute cyanide poisoning, and silicosis) as a result of their exposure. The final rule would update permissible exposure limits (PELs) applicable to hazards encountered in metal and nonmetal and coal mines, revise requirements for exposure monitoring, improve precautions for handling restricted-use chemicals, provide for miner observation of monitoring, and establish provisions for medical surveillance and transfer of miners required to use respirators and miners exposed to certain carcinogens. MSHA will be issuing the final rule in phases. For example, one phase may address respiratory protection. MSHA also is considering alternatives which may address selected PELs applicable to some of the most serious hazards found in metal and nonmetal and coal mines. These phases expedite the rulemaking and provide for more immediate protection. MSHA has concluded that a gradual phase-in of provisions in the air quality rulemaking will be less burdensome for the industry and provide more immediate protection for the miners exposed to the most serious hazards.

Timetable:

Action	Date	FR Cite
ANPRM	07/08/83	48 FR 31171
ANPRM	11/19/85	50 FR 47702
NPRM	08/29/89	54 FR 35760
NPRM Comment Period End	08/30/91	56 FR 29201
Final Action Phase 2 - Respiratory Protection	04/00/98	
Final Action Phase 3 - PELS	08/00/98	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
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RIN: 1219–AA48

2080. NOISE STANDARD

Regulatory Plan: This entry is Seq. No. 80 in Part II of this issue of the Federal Register.

RIN: 1219–AA53

2081. LONGWALL EQUIPMENT (INCLUDING HIGH-VOLTAGE)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811; 30 USC 957

CFR Citation: 30 CFR 18; 30 CFR 75

Legal Deadline: None

Abstract: Since 1970, MSHA regulations have required that high-voltage cables and transformers be kept at least 150 feet from the coal extraction area. The objective of this requirement is to prohibit the use of high-voltage cables and equipment that could serve as an ignition source for methane and coal dust in close proximity to the work area.

The modern development of highly productive longwall mining systems has resulted in their widespread use in the mining industry. Mine operators, however, currently must apply to MSHA for a variance from the existing standards in order to use this high-voltage equipment. The increased use of high-voltage longwalls in underground coal mines in recent years has led to the design of safe high-voltage electrical equipment and associated cables. These improvements have occurred specifically in the area of design and construction of explosion-proof equipment; insulation, short circuit, ground fault, and mechanical protection of cables; and equipment for safe handling of cables. For these reasons, in August 1992 MSHA published a proposed rule to establish safety requirements for the design, construction, installation, use, and maintenance of high-voltage longwall equipment and associated cables. The proposal would eliminate the need for a variance to use this equipment.

Timetable:

Action	Date	FR Cite
NPRM	08/27/92	57 FR 39036
NPRM Comment Period End	11/13/92	57 FR 46350
Reopen Record	10/18/95	60 FR 53891
Extension of Comment Period	11/14/95	60 FR 57203
Comment Period Closed	12/18/95	60 FR 57203
Final Action	05/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: MSHA reopened the record on October 18, 1995. The comment period finally closed on December 18, 1995.

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RIN: 1219–AA75

2082. MINE SHIFT ATMOSPHERIC CONDITION; RESPIRABLE DUST SAMPLE

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 842(f)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Secretaries of Labor and Health and Human Services have issued a joint proposed finding that the average concentration of respirable dust to which each miner is exposed can be measured accurately over a single shift. This joint finding would rescind their earlier joint finding published in July 1971 and affirmed in February 1972. MSHA believes that enforcement based on single, full-shift respirable dust samples will enhance mine operators' compliance with the requirement to maintain the average concentration of respirable dust in the mine atmosphere during each shift where miners work or travel at or below the applicable standard.

Timetable:

Action	Date	FR Cite
Notice of Coal Mine Respirable Dust Standard Noncompliance Determinations	02/18/94	59 FR 8356
Extension of Comment Period	04/08/94	59 FR 16958
Public Hearing Notice	06/06/94	59 FR 29348
Public Hearing Notice	07/07/94	59 FR 34868
Extension of Comment Period	08/01/94	59 FR 38968
Supplemental Data to Record	09/30/94	59 FR 50007
Reopen Record	03/12/96	61 FR 10012
Final Action	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: MSHA supplemented the record with additional information on September 9, 1994, with a notice in the Federal Register on September 30, 1994. The record closed November 30, 1994. MSHA reopened the record in March 1996, and held a public hearing in May 1996. The record closed on June 10, 1996.

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RIN: 1219–AA82

2083. IMPROVING AND ELIMINATING REGULATIONS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811; 30 USC 957

CFR Citation: 30 CFR 1 to 199

Legal Deadline: None

Abstract: In response to the President's directive, the Mine Safety and Health Administration (MSHA) conducted a review of its existing regulations to identify provisions that are outdated, redundant, unnecessary, or otherwise in need of changing. Many of the changes require notice and comment rulemaking while other non-substantive changes can be implemented upon publication. So far, the Agency has identified nine regulations that could be removed entirely without any adverse impact on miner safety and health. In general, these regulations are obsolete or redundant. MSHA also has identified provisions in over 80 other regulations that need overhauling or the cleanup of non-substantive language. MSHA considers this project to be an evolving, ongoing process and will continue to accept recommendations from the public as the review progresses.

Timetable:

Action	Date	FR Cite
NPRM - Phase 1 Removal of 30 CFR 21 and 24	08/30/96	61 FR 45925
FINAL RULE - Phase 1 Removal of 30 CFR 21 and 24	10/00/97	
NPRM - Phase 2 Removal of 30 CFR 26 and 29	01/00/98	
NPRM - Phase 3 Update to Reference IR 1240	01/00/98	
NPRM - Phase 4 Removal of 30 CFR 75, Subpart S	01/00/98	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: As part of its regulatory improvement project, MSHA published final technical amendments updating addresses in 30 CFR chapter 1 on July 11, 1995 (60 FR 35692).

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RIN: 1219–AA98

2084. SAFETY STANDARDS FOR ROOF BOLTS IN METAL AND NONMETAL MINES AND UNDERGROUND COAL MINES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811; 30 USC 957; 30 USC 961

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 75

Legal Deadline: None

Abstract: MSHA is revising its safety standards for metal and nonmetal mines and underground coal mines to reference the 1995 ASTM standard for roof bolts and accessories (ASTM F432-95). The new standard reflects technological advances in the design of roof and rock bolts and support materials and would improve the level of protection provided to miners. The safety standards for ground control and roof control at mines currently require that mine operators obtain a certification from the manufacturer that rock bolts and accessories are manufactured and tested in accordance with an American Society for Testing and Material (ASTM) publication "Standard Specification for Roof and Rock Bolts and Accessories." MSHA regulations reference the 1983 revision (ASTM F432-83) for metal and nonmetal mines and the 1988 revision (ASTM 432-88) for coal mines. The ASTM standard is a consensus standard used throughout the United States. It contains specifications for the chemical, mechanical, and dimensional requirements for roof and rock bolts and accessories used for ground support systems.

Timetable:

Action	Date	FR Cite
NPRM	04/28/97	62 FR 22998
NPRM Comment Period End	07/14/97	62 FR 35113
Final Action	04/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
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RIN: 1219–AB00

2085. • NATIONAL MINE HEALTH AND SAFETY ACADEMY

Priority: Info./Admin./Other

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 47

Legal Deadline: None

Abstract: This final rule amends existing sections 47.10 and 47.50 regarding tuition fees and room and board charges at the Academy by adding new provisions allowing MSHA discretion to waive such fees and charges for persons invited by MSHA to participate in an MSHA-sponsored program which will contribute to an improvement in the conduct, supervision, or management of a Mine Act function or activity or a function related to an MSHA appropriation.

Timetable:

Action	Date	FR Cite
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
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RIN: 1219–AB04

DEPARTMENT OF LABOR (DOL)

Long-Term Actions

Mine Safety and Health Administration (MSHA)

2086. CONFINED SPACES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 70; 30 CFR 71; 30 CFR 75; 30 CFR 77

Legal Deadline: None

Abstract: In mining operations, the majority of the fatalities associated with

confined spaces occur in storage bins, hoppers, tanks, and stockpiles. The primary hazards to miners occur from being trapped by shifting piles of loose materials, falling into materials, and being struck by overhanging materials. Due to the many chemicals used and stored in mining, the toxic and physical hazards encountered in mining are identical to those confined space hazards that exist in general industry. MSHA intends to explore both regulatory and non-regulatory options to address the hazards associated with working in confined spaces at mines.

Timetable:

Action	Date	FR Cite
ANPRM	12/30/91	56 FR 67364
ANPRM Comment Period End	05/01/92	57 FR 8102
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
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RIN: 1219–AA54

2087. CARBON MONOXIDE MONITOR APPROVAL

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 12

Legal Deadline: None

Abstract: The use of carbon monoxide monitoring systems in underground coal mines can be effective in monitoring mine atmospheres to detect fires in the early stages of development. This rulemaking would address minimum performance criteria for these systems. MSHA may explore the use of negotiated rulemaking to address this regulatory action.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
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RIN: 1219–AA72

2088. DECERTIFICATION OF CERTIFIED AND QUALIFIED PERSONS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 42; 30 CFR 48; 30 CFR 70; 30 CFR 71; 30 CFR 75; 30 CFR 77; 30 CFR 90

Legal Deadline: None

Abstract: MSHA regulations require the certification or qualification of individuals to perform certain tasks at mines. However, the Agency has no formal procedures for revoking a person's certification or qualification when evidence indicates that the individual has not adhered to required regulatory procedures. The final rule would establish generic procedures for decertification of individuals who no longer meet the requirements to be certified or qualified, or who have failed to comply with the regulations in their role as a certified or qualified person.

Timetable:

Action	Date	FR Cite
NPRM	11/02/94	59 FR 54855
NPRM Comment Period End	02/08/95	59 FR 60101
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
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RIN: 1219–AA79

2089. INDEPENDENT LABORATORY TESTING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 6; 30 CFR 18; 30 CFR 19; 30 CFR 20; 30 CFR 21; 30 CFR 22; 30 CFR 23; 30 CFR 24; 30 CFR 26; 30 CFR 27; 30 CFR 28; 30 CFR 29; 30 CFR 33; 30 CFR 35

Legal Deadline: None

Abstract: To ensure that only safe products are used in mines, MSHA sets approval requirements and tests products itself. This rulemaking would allow MSHA to accept testing of certain mine equipment performed by independent laboratories. It also would allow MSHA to approve products which satisfied alternative testing and evaluation requirements, provided that the alternative requirements were equivalent to MSHA's own, or could be enhanced to be equivalent. By reducing its testing activities, MSHA could direct more resources toward verifying that products in use have been manufactured in compliance with the relevant approval. This rulemaking is consistent with a recommendation of the National Performance Review.

Timetable:

Action	Date	FR Cite
NPRM	11/30/94	59 FR 61376
NPRM Comment Period End	02/21/95	
Public Hearing Notice	10/10/95	60 FR 52640
Public Hearing	04/30/96	61 FR 15743
Comment Period Closed	05/31/96	61 FR 15743
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: Public hearing was held April 30, 1996. Comment period closed May 31, 1996.

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RIN: 1219–AA87

2090. SAFETY STANDARDS FOR METHANE IN METAL AND NONMETAL MINES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 57

Legal Deadline: None

Abstract: Current MSHA regulations place metal and nonmetal mines with a history of, or a potential for, methane liberation (gassy mines) into several categories. Safety standards for methane detection and prevention apply to a mine depending on its category. Recent legal decisions have narrowed the application of existing gassy mine standards, leading MSHA to conclude that the standards may need to be revised to protect adequately all miners who work in gassy mines. This action would revise the existing safety standards for methane in metal and nonmetal mines to address dangerous levels of methane in outburst cavities in abandoned, idled, and worked out areas of category II-A mines. It would further address the use of approved equipment in category III mines. The Agency is exploring the use of negotiated rulemaking to address this issue.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
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RIN: 1219–AA90

2091. REQUIREMENTS FOR APPROVAL OF FLAME-RESISTANT CONVEYOR BELTS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 957; 30 USC 811

CFR Citation: 30 CFR 14; 30 CFR 18; 30 CFR 75

Legal Deadline: None

Abstract: The final rule would implement new procedures and requirements for testing and approval of flame-resistant conveyor belts to be used in underground mines. These revisions would replace the existing flame test for conveyor belts. Current regulations require that conveyor belts be flame resistant in accordance with specifications of the Secretary. As part of this rulemaking, the Agency also would promulgate conforming amendments to relevant safety standards.

Timetable:

Action	Date	FR Cite
NPRM	12/24/92	57 FR 61524
NPRM Comment Period End	03/26/93	58 FR 8028
Public Hearing	05/02/95	60 FR 16589
Record Closed	06/05/95	60 FR 16558
Extension of Comment Period	02/05/96	60 FR 65509
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
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RIN: 1219–AA92

DEPARTMENT OF LABOR (DOL)

Final Rule Stage

Office of the Assistant Secretary for Administration and Management (OASAM)

2092. • ADMINISTRATIVE REQUIREMENTS FOR GRANTEES TO REFLECT SINGLE AUDIT ACT AMENDMENTS

Priority: Info./Admin./Other

Major: Undetermined

Legal Authority: 5 USC 301; OMB Circular A-110; OMB Circular A-102

CFR Citation: 29 CFR 95 (Revision); 29 CFR 97 (Revision)

Legal Deadline: Other, Statutory, August 29, 1997.
Interim Final Rule

Abstract: Interim Final Rule to amend DOL's Administrative Requirements for Grants to Reflect Single Audit Act Amendments of 1996 and the June 24, 1996 revision of OMB Circular A-133, "Audits of States, Local Governments and Non-Profit Organizations." The amendment will provide uniform fiscal and administrative requirements applicable to all types of grants and cooperative agreements to state and local governments, institutions of higher education, hospitals, and other nonprofit organizations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/29/97	62 FR 45937
Interim Final Rule Effective	09/29/97	
Interim Final Rule Comment Period End	10/28/97	

Small Entities Affected: None

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Al Stewart, Director, Office of the Acquisition Advocate, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue NW., Room N5425, FP Building, Washington, DC 20210
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Email: astewart@dol.gov

RIN: 1291–AA25

DEPARTMENT OF LABOR (DOL)

Long-Term Actions

Office of the Assistant Secretary for Administration and Management (OASAM)

2093. DEPARTMENT OF LABOR ACQUISITION REGULATION

Priority: Info./Admin./Other

Unfunded Mandates: Undetermined

Major: Undetermined

Legal Authority: 5 USC 301; 40 USC 486(c)

CFR Citation: 48 CFR 2900 to 2999

Legal Deadline: None

Abstract: Revisions to the DOLAR reflect changes in the Federal Acquisition Regulations and organizational changes within DOL.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Additional Information: Revision of the Department of Labor Acquisition Regulation is awaiting the final publication of revisions to the Federal Acquisition Regulation as the result of changes being implemented pursuant to passage of the Federal Acquisition Streamlining Act of 1994 enacted October 13, 1994 and the Federal Acquisition Reform Act of 1995.

Agency Contact: Al Stewart, Director, Office of the Acquisition Advocate, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue NW., Room N5425, FP Bldg., Washington, DC 20210
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RIN: 1291–AA20

2094. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE FROM THE DEPARTMENT OF LABOR

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6101 et seq Age Discrimination Act of 1975

CFR Citation: 45 CFR 90

Legal Deadline: NPRM, Statutory, September 10, 1979.
45 CFR 90 requires publication of the NPRM no later than 90 days after publication of government-wide rule, and submission to HHS of final rule within 120 days of NPRM.

Abstract: The proposed regulatory action is necessary to comply with the Department's statutory and regulatory obligations under the Age Discrimination Act of 1975, as amended (the "Act"). The Act and the general, government-wide implementing rule issued by the Department of Health and Human Services (HHS) (45 CFR 90) require each Federal agency providing financial assistance to any program or activity to publish proposed regulations implementing the Act no later than 90 days after the publication date of the government-wide rule, and to submit final agency regulations to HHS no later than 120 days after publication of the NPRM. As a practical matter, while DOL has not issued proposed or final regulations under the Age Discrimination Act, it has complied with its enforcement obligations. Furthermore, discrimination on the basis of age is prohibited under section 167 of the Job Training Partnership Act of 1982, and the implementing regulations at 29 CFR 34.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Annabelle T. Lockhart, Director, Directorate of Civil Rights, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue NW., Room N4123, FP Building, Washington, DC 20210
Phone: 202 219-8927

RIN: 1291–AA21

DEPARTMENT OF LABOR (DOL)

Prerule Stage

Occupational Safety and Health Administration (OSHA)

2095. STANDARDS ADVISORY COMMITTEE ON METALWORKING FLUIDS

Regulatory Plan: This entry is Seq. No. 81 in Part II of this issue of the **Federal Register**.

RIN: 1218–AB58

2096. CONTROL OF HAZARDOUS ENERGY SOURCES (LOCKOUT/TAGOUT) (SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 29 USC 655(b); 5 USC 553; 5 USC 610

CFR Citation: 29 CFR 1910.147

Legal Deadline: None

Abstract: As required by Section 610 of the Regulatory Flexibility Act and Executive Order 12866, OSHA has reviewd the Agency's standard for the protection of employees from exposure to lookout/tagout hazards, 29 CFR 1910.147, to determine whether the rule should be continued without change or should be amended or rescinded, consistent with the objectives of the rule and of the Occupational Safety and Health Act, to minimize any significant impact on a substantial number of small entities. After a thorough review of the Agency's experience in enforcing this standard, the available literature, and comments received in connection with this review, OSHA has determined that there is a continued need for the rule, that the rule does not appear to overlap, duplicate, or conflict with other Federal rules or with other State and local rules, and that no technologcal, economic, or other factors have arisen since the rule was published that would necessitate amendment or recission of the rule at this time. OSHA has also concluded that no change that is consistent with the objectives of the OSHA Act can be made to the rule that will further minimize any significant impact on a substantial number of small entities. OSHA will be responding to comments received during this review of standard by preparing materials to assist employers in complying with the rule.

DOL—OSHA

Prerule Stage

Timetable:

Action	Date	FR Cite
Begin Review	10/01/96	
End Review	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marthe Kent, Director, Office of Regulatory Analysis, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N-3627, FP Building, Washington, DC 20210
Phone: 202 219-4690
Fax: 202 219-4383

RIN: 1218–AB59

2097. OCCUPATIONAL EXPOSURE TO ETHYLENE OXIDE (SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 29 USC 655(b); 5 USC 553; 5 USC 610

CFR Citation: 29 CFR 1910.1047

Legal Deadline: None

Abstract: OSHA has undertaken a review of the ETO standard in accordance with the requirements of the Regulatory Flexibility Act and EO 12866. The review has considered the continued need for the rule, the impacts of the rule, comments on the rule received from the public, the complexity of the rule, whether the rule overlaps, duplicates or conflicts with other federal, state, or local regulations, and the degree to which technology, economic conditions or other factors may have changed since the rule was last evaluated. The Agency's findings with respect to this review will be published in a report available to the public in October 1997.

Timetable:

Action	Date	FR Cite
End Review	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marthe Kent, Director, Office of Regulatory Analysis, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N-3718, FP Building, Washington, DC 20210
Phone: 202 219-4690
Fax: 202 219-4383

RIN: 1218–AB60

2098. FIRE BRIGADES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 653; 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1910.156

Legal Deadline: None

Abstract: As required by Section 610 of the Regulatory Flexibility Act and Executive Order 12866, OSHA has reviewed the Agency's standard for the protection of employees from exposure to ethylene oxide, 29 CFR 1910.146, to determine whether the rule should be continued without change or should be amended or rescinded, consistent with the objectives of the rule and of the Occupational Safety and Health Act, to minimize any significant impact on a substantial number of small entities. After a thorough review of the Agency's experience in enforcing this standard, the available literature, and comments received in connection with this review, OSHA has determined that there is a continued need for the rule, that the rule does not appear to overlap, duplicate, or conflict with other Federal rules or with other State and local rules, and that no technological, economic, or other factors have arisen since the rule was published that would necessitate amendment or recission of the rule at this time. OSHA has also concluded that no change that is consistent with the objectives of the OSHA Act can be made to the rule that will further minimize any significant impact on a substantial number of small entities.

Timetable:

Action	Date	FR Cite
Notice of Intent to form Negotiated Rulemaking Committee for Fire Brigades	10/00/97	
Appointment of Members	06/00/98	
Approval of Charter	06/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: John F. Martonik, Acting Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061
Fax: 202 219-7477
Email: jmartonik@dol.gov

RIN: 1218–AB64

2099. • GRAIN HANDLING FACILITIES (SECTION 610 REVIEW)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 5 USC 553; 5 USC 610

CFR Citation: 29 CFR 1910.272

Legal Deadline: None

Abstract: The standard (29 CFR 1910.272) will be reviewed to determine impacts on small entities in accordance with the requirements of the Regulatory Flexibility Act and EO 12866. The review will cover the continued need for the rule; the nature of complaints or comments received from the public concerning the rule; the complexity of the rule; the extent to which the rule overlaps, duplicates or conflicts with other Federal rules and, to the extent feasible, with State and local rules; and the degree to which technology, economic conditions, or other factors have changed in the industries affected by the rule.

Timetable:

Action	Date	FR Cite
Begin Review	10/00/97	
End Review	09/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Director, Office of Regulatory Analysis, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Room 3627, Washinton, DC 20210
Phone: 202 219-4690
Fax: 202 219-4383

RIN: 1218–AB73

2100. • COTTON DUST (SECTION 610 REVIEW)

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655 (b); 5 USC 553; 5 USC 610

CFR Citation: 29 CFR 1910.1043

Legal Deadline: None

DOL—OSHA

Prerule Stage

Abstract: The standard (29 CFR 1910.1043) will be reviewed to determine impacts on small entities in accordance with the requirements of the Regulatory Flexibility Act and EO 12866. The review will cover the continued need for the rule; the nature of complaints or comments received from the public concerning the rule; the complexity of the rule; the extent to which the rule overlaps, duplicates or conflicts with other Federal rules and, to the extent feasible, with State and local rules; and the degree to which technology, economic conditions, or other factors have changed in the industries affected by the rule.

Timetable:

Action	Date	FR Cite
Begin Review	10/00/97	
End Review	09/00/98	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Director, Office of Regulatory Analysis, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Room N3627, Washington, DC 20210
Phone: 202 219-4690
Fax: 202 219-4383

RIN: 1218–AB74

DEPARTMENT OF LABOR (DOL)

Proposed Rule Stage

Occupational Safety and Health Administration (OSHA)

2101. STEEL ERECTION (PART 1926) (SAFETY PROTECTION FOR IRONWORKERS)

Regulatory Plan: This entry is Seq. No. 82 in Part II of this issue of the Federal Register.

RIN: 1218–AA65

2102. PREVENTION OF WORK-RELATED MUSCULOSKELETAL DISORDERS

Regulatory Plan: This entry is Seq. No. 83 in Part II of this issue of the Federal Register.

RIN: 1218–AB36

2103. SAFETY AND HEALTH PROGRAMS (FOR GENERAL INDUSTRY)

Regulatory Plan: This entry is Seq. No. 84 in Part II of this issue of the Federal Register.

RIN: 1218–AB41

2104. OCCUPATIONAL EXPOSURE TO TUBERCULOSIS

Regulatory Plan: This entry is Seq. No. 85 in Part II of this issue of the Federal Register.

RIN: 1218–AB46

2105. CONFINED SPACES IN CONSTRUCTION (PART 1926) (CONSTRUCTION: PREVENTING SUFFOCATION/EXPLOSIONS IN CONFINED SPACES)

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1926.36

Legal Deadline: None

Abstract: In January 1993, OSHA issued a general industry rule on preventing suffocation/explosions in confined spaces (58 FR 4462). This standard does not apply to the construction industry because of differences in the nature of the worksite. In discussions with the United Steel Workers of America on a settlement agreement for the general industry standard, OSHA agreed to issue a proposed rule to extend the protection to construction workers, appropriate to their work environment. 1,000,000 construction workers are exposed to this hazard annually. OSHA intends to issue a proposed rule addressing this construction industry hazard in the fall of 1998, after extensive discussion with the Advisory Committee on Construction Safety and Health and other stakeholders.

Timetable:

Action	Date	FR Cite
NPRM	09/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Russell B. Swanson, Director, Construction Standards, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3306, FP Building, Washington, DC 20210
Phone: 202 219-8644

RIN: 1218–AB47

2106. GENERAL WORKING CONDITIONS IN SHIPYARDS (PART 1915, SUBPART F) (PHASE II) (SHIPYARDS: GENERAL WORKING CONDITIONS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.1 et seq; 29 CFR 1915.31 et seq; 29 CFR 1915.91 et seq; 29 CFR 1915.111 et seq; 29 CFR 1915.131 et seq; 29 CFR 1915.161 et seq; 29 CFR 1915.171 et seq; 29 CFR 1915.181; 29 CFR 1910.13 et seq; 29 CFR 1910.14; 29 CFR 1910.15; 29 CFR 1910.95; 29 CFR 1910.96; 29 CFR 1910.97; 29 CFR 1910.141; ...

Legal Deadline: None

Abstract: During the 1980s, OSHA embarked on a project to update and consolidate the various OSHA shipyard standards that were applied in the shipbuilding, shiprepair, and shipbreaking industry. Shipyard employers have been subject to both the "shipyard" standards and OSHA's general industry standards for landside operations. This has sometimes resulted in inconsistent and contradictory requirements for essentially the same operation. Phase 1 of this project aimed at establishing a truly vertical standard for shipyard employment and addressed six subparts of shipyard employment safety standards (Confined Spaces, Welding, Access/Egress, Personal Protective Equipment, Fall Protection and Scaffolding). Proposals

DOL—OSHA

Proposed Rule Stage

on these hazards were issued in November 1988 (53 FR 48092). The remaining hazards were categorized as Phase II of the consolidation project (including general work practices and fire safety). This action was endorsed by the Shipyard Advisory Committee, which was chartered in 1989 to update and consolidate existing shipyard standards. The operations that are addressed in this rulemaking relate to housekeeping, illumination, sanitation, first aid, and lockout/tagout. About 75,000 workers are exposed annually to these hazards.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: John Martonik, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061

RIN: 1218–AB50

2107. FIRE PROTECTION IN SHIPYARD EMPLOYMENT (PART 1915, SUBPART P) (PHASE II) (SHIPYARDS: FIRE SAFETY)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.1 et seq; 29 CFR 1915.31 et seq; 29 CFR 1915.91 et seq; 29 CFR 1915.111 et seq; 29 CFR 1915.131 et seq; 29 CFR 1915.161 et seq; 29 CFR 1915.171 et seq; 29 CFR 1915.181; 29 CFR 1910.13 et seq; 29 CFR 1910.14; 29 CFR 1910.15; 29 CFR 1910.95; 29 CFR 1910.96; 29 CFR 1910.97; 29 CFR 1910.141; ...

Legal Deadline: None

Abstract: During the 1980s, OSHA embarked on a project to update and consolidate the various OSHA shipyard standards that were applied in the shipbuilding, ship repair, and shipbreaking industry. A shipyard employer is subject to both the "shipyard" standards and OSHA's general industry standards. This sometimes results in inconsistent and contradictory requirements for essentially the same operation. Phase 1 of this project aimed at establishing a truly vertical standard for shipyard employment and addressed six subparts of shipyard employment safety standards (Confined Spaces, Welding, Access/Egress, Personal Protective Equipment, Fall Protection and Scaffolding). Proposals on these hazards were issued in November 1988 (53 FR 48092). The remaining hazards were categorized as Phase II of the consolidation project (including general work practices and fire safety). This action was endorsed by the Shipyard Advisory Committee which was chartered in 1989 to update and consolidate existing shipyard standards. The operations that are addressed in this rulemaking relate to fire brigades, fire extinguishers, sprinkler systems, detection systems, alarm systems, fire watches, and emergency plans. 100,000 workers are potentially exposed to these hazards annually. This standard will be developed using the negotiated rulemaking process.

Timetable:

Action	Date	FR Cite
NPRM	09/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: John Martonik, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061

RIN: 1218–AB51

2108. PERMISSIBLE EXPOSURE LIMITS (PELS) FOR AIR CONTAMINANTS

Regulatory Plan: This entry is Seq. No. 86 in Part II of this issue of the Federal Register.

RIN: 1218–AB54

2109. PLAIN ENGLISH REVISION OF EXISTING STANDARDS

Regulatory Plan: This entry is Seq. No. 87 in Part II of this issue of the Federal Register.

RIN: 1218–AB55

2110. NATIONALLY RECOGNIZED TESTING LABS PROGRAMS: FEES

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 9701; 29 USC 653; 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1910.7

Legal Deadline: None

Abstract: A number of OSHA standards require that certain products and equipment used in the workplace be tested and certified by a laboratory that has been recognized and accredited by OSHA. Through the Nationally Recognized Testing Laboratory (NRTL) Program to date, OSHA has recognized 14 laboratories operating approximately 36 sites in the U.S. and Canada as NRTLs. OSHA is proposing to revise 29 CFR 1910.7 to allow OSHA to charge fees to NRTLs for services that are provided to the NRTLs. The fees will be computed on the basis of the cost of the services to the Government. In determining the amount of such fees, OSHA will follow the guidelines established by the Office of Management and Budget as stated in Circular Number A-25.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steve Witt, Directorate of Technical Support, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N-3653, FP Building, Washington, DC 20210
Phone: 202 219-7056

RIN: 1218–AB57

2111. FLAMMABLE AND COMBUSTIBLE LIQUIDS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or

duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 5 USC 553

CFR Citation: 29 CFR 1910.106

Legal Deadline: None

Abstract: This project is part of a presidential initiative to respond to the general criticism concerning the complexity and obsolescence of certain Federal regulations. With this project, OSHA is initiating rulemaking that will revise and update the regulations contained in 29 CFR 1910.106 addressing flammable and combustible liquid storage. The purpose of this rulemaking will be to solicit public participation in the revision of this standard. It is also the purpose of the rulemaking to eliminate the complexity, duplicative nature, and obsolescence of the current standard and to write it in "plain language," as directed by the President's report.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The Flammable and Combustible Liquids Plain Language Revision Project 29 CFR 1910.106 was originally one of four projects listed under RIN 1218-AB55.

Agency Contact: John Martonik, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N-3605, FP Building, Washington, DC 20210
Phone: 202 219-8061
Fax: 202 219-7477

RIN: 1218–AB61

2112. FALL PROTECTION IN THE CONSTRUCTION INDUSTRY

Priority: Other Significant

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1926

Legal Deadline: None

Abstract: OSHA is considering a revision of its existing standards for fall protection in construction to expand coverage to telecommunication towers and tanks and other construction operations; to eliminate certain paperwork requirements and to make editorial revisions. OSHA is also considering raising a number of issues that may lead to further changes to the fall protection rules as they now apply to roofing work, residential construction operations, climbing reinforcement steel and to vendors delivering materials (for example, roofing materials). Such a revision would bring to the attention of the public issues that have arisen since promulgation of the most recent fall protection standard for construction workers that was issued in August 1994.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Russell B. Swanson, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3306, FP Building, Washington, DC 20210
Phone: 202 219-8644
Fax: 202 219-6599

RIN: 1218–AB62

2113. PROCESS SAFETY MANAGEMENT OF HIGHLY HAZARDOUS CHEMICALS

Priority: Other Significant

Legal Authority: 29 USC 653; 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1910.119

Legal Deadline: None

Abstract: The notice will propose to make corrections and technical amendments to the final rule on Process Safety Management of Highly Hazardous Chemicals, published in the Federal Register on February 24, 1992, at 57 FR 6356. In addition, it will propose to modify the final rule by adding certain chemicals included in the Environmental Protection Agency's Risk Management Program but not in the OSHA final rule. OSHA has been requested to bring its chemical list into closer alignment with the Environmental Protection Agency's program. The notice also will request information from the public regarding certain issues that have arisen since the standard became effective in 1992.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chappell D. Pierce, Director, Office of Fire Protection Engineering, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3609, FP Building, Washington, DC 20210
Phone: 202 219-7216

RIN: 1218–AB63

2114. REVOCATION OF CERTIFICATION RECORDS FOR TESTS, INSPECTIONS, AND TRAINING

Priority: Other Significant

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1910; 29 CFR 1915; 29 CFR 1928

Legal Deadline: None

Abstract: OSHA is proposing to revoke certain requirements for employers to prepare and maintain records (certification records) which certify that employers have performed certain tests or inspections of equipment or machinery or that the employer has conducted certain training specified in the standards. The purpose of proposing to revoke these certification records is to minimize the paperwork burdens imposed on employers. OSHA does not believe there will be any reduction in employee safety and health as a result of reducing requirements to fill out paperwork.

Timetable:

Action	Date	FR Cite
NPRM	06/00/98	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: John F. Martonik, Acting Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061
Fax: 202 219-7477
Email: jmartonik@dol.gov

RIN: 1218–AB65

2115. PLAIN ENGLISH REVISION OF EXISTING STANDARDS (PHASE II)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 29 USC 655(b); 5 USC 553

CFR Citation: 29 CFR 1910.219

Legal Deadline: None

Abstract: OSHA has identified two standards from part 1910 that need to be revised as part of the President's initiative on Federal regulations discussed in the U.S. Department Labor Report of June 15, 1995. These standards include 29 CFR 1910.219, Mechanical Power-Transmission Apparatus and 29 CFR 1910, subpart P, Hand and Portable Powered Tools and Other Hand-Held Equipment. OSHA intends to issue two separate rules that will address the following specific sections: Mechanical power-transmission apparatus guarding and maintenance and hand and portable powered tools guarding, use and maintenance. OSHA is developing plain language versions of each of these standards.

Timetable:

Action	Date	FR Cite
NPRM Hand and Portable Tools and Other Hand-Held Equipment	10/00/97	
NPRM Mechanical Power-Transmission Apparatus	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: John F. Martonik, Acting Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061
Fax: 202 219-7477
Email: jmartonik@dol.gov

RIN: 1218–AB66

2116. • ELECTRIC POWER TRANSMISSION AND DISTRIBUTION; ELECTRICAL PROTECTIVE EQUIPMENT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.136; 29 CFR 1910.137; 29 CFR 1910.269; 29 CFR 1926.97; 29 CFR 1926.950 to 968

Legal Deadline: None

Abstract: The annual fatality rate for power line workers is over 50 deaths per 100,000 employees. The standard addressing the safety of these workers during the construction of electric power transmission and distribution lines is over 20 years old. OSHA is developing a revision of this standard that will prevent many of these fatalities, that will add flexibility to the standard, and that will update and streamline the standard. In addition, the corresponding standard for general industry will be revised so that requirements for similar work performed during maintenance of electric power transmission and distribution installations are the same as those for construction.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Martonik, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061
Fax: 202 219-7477

RIN: 1218–AB67

2117. • SAFETY STANDARDS FOR SCAFFOLDS USED IN THE CONSTRUCTION INDUSTRY —PART II

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.450; 29 CFR 1926.451; 29 CFR 1926.452; 29 CFR 1926.453; 29 CFR 1926.454

Legal Deadline: None

Abstract: Since the promulgation of a final rule for scaffolds used in construction in August 1996, several issues have been raised that require reevaluation of certain requirements and the possible need to add new requirements to address concerns not addressed in the present standard. These issues include: (1) access to platforms where decking extends past the ends of the scaffold; (2) changing the minimum width for roof brackets to less than 12 inches; (3) changing the grounding requirements during welding operations; (4) requiring the use of scaffold grade planks. This rulemaking action will address these issues.

Timetable:

Action	Date	FR Cite
NPRM	09/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Russell B. Swanson, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3306, FP Building, Washington, DC 20210
Phone: 202 219-8644
Fax: 202 219-6599
Email: bswanson@dol.gov

RIN: 1218–AB68

2118. • SAFETY AND HEALTH PROGRAMS FOR CONSTRUCTION

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655

CFR Citation: 29 CFR 1926

Legal Deadline: None

DOL—OSHA

Proposed Rule Stage

Abstract: In response to industry requests and OSHA's Advisory Committee on Construction Safety and Health (ACCSH) recommendation, OSHA has determined that the current safety and health program standards contained in subpart C of the construction standards, 29 CFR 1926, need to be revised to provide construction employers with a more comprehensive set of requirements to assist them in establishing safety and health programs. Safety and Health Programs have proven to be an effective, systematic method of identifying and correcting existing workplace safety and health hazards, as well as preventing those that might arise in the future.

The ACCSH has been working to revise the existing construction standards for safety and health programs and training since 1986. After the April 1996 meeting, ACCSH began in earnest to develop language and concepts to submit to OSHA for consideration as the proposed rule. Over 130 stakeholders representing small, medium and large contractors and host employers (such as petroleum producers; contractor associations; labor unions; other governmental agencies; and non-profit institutions) have participated in these ACCSH discussions.

Although the details of a new safety and health standard are still being worked out, the safety and health program requirements will require employers to set up a program for managing workplace safety and health in order to reduce the incidence of occupational deaths, injuries, and illnesses. The standard will not impose duties on employers to control hazards that they are not already required to control. Instead, the standard will provide a basic framework for systematically identifying and controlling workplace hazards already covered by the OSH Act under section 5(a)(1) and current OSHA standards.

Timetable:

Action	Date	FR Cite
NPRM	09/00/98	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: Separate standards are being developed for general industry (29 CFR 1910) and the maritime (29 CFR 1915, 1917 and 1918) industries.

Agency Contact: Russell B. Swanson, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3306, FP Building, Washington, DC 20210
Phone: 202 219-8644

RIN: 1218–AB69

2119. • CONTROL OF HAZARDOUS ENERGY (LOCKOUT) IN CONSTRUCTION (PART 1926) (PREVENTING CONSTRUCTION INJURIES/FATALITIES; LOCKOUT)

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1926

Legal Deadline: None

Abstract: OSHA issued a general industry rule on September 1, 1989 (54 FR 36644) to address the hazards posed to workers by the failure to control hazardous energy (i.e., the failure to properly lock out or tag out machines and equipment) during repair and servicing activities. OSHA has not yet issued a standard to prevent these accidents during equipment repair and maintenance activities in the construction industry. Four million workers annually may be exposed to this hazard in construction workplaces. As a result, OSHA intends to issue a proposal to address this hazard in this industry.

Hazards at construction sites resulting from the absence of effective lockout/tagout procedures to control hazardous energy appear to be caused by several factors, all associated with the nature of the construction industry. These factors basically relate to the types of machines and equipment found in construction; the makeup of the industry (i.e., employment is relatively "short term," lasting only as long as the length of the current project); multiple employers having different employer/employee relationships are present at the same site; and "in-the-field" maintenance activity is usually temporary.

Timetable:

Action	Date	FR Cite
NPRM	09/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

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RIN: 1218–AB71

DEPARTMENT OF LABOR (DOL)

Occupational Safety and Health Administration (OSHA)

Final Rule Stage

2120. RESPIRATORY PROTECTION (PROPER USE OF MODERN RESPIRATORS)

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.134; 29 CFR 1915.152; 29 CFR 1918.102; 29 CFR 1926.103

Legal Deadline: None

Abstract: In 1982, OSHA issued an ANPRM on respirators to address 6,850-11,000 cancer fatalities and 66,500 illnesses occurring annually. Existing standards had been in place for more than 20 years and did not take into consideration the current state-of-the-art for respiratory protection. In addition, the general industry standard for respirators contains redundancies and includes several advisory provisions which should be eliminated or changed. OSHA reviewed the current standards and issued a proposal to modernize the requirements on November 15, 1994 (59 FR 58884). In developing the proposal, OSHA worked closely with the National Institute for Occupational Safety and Health (NIOSH) and the Mine Safety and Health Administration (MSHA). On April 17, 1995 (60 FR 19162), OSHA extended the comment period until May 15, 1995. On May 25, 1995 (60 FR 27707), OSHA published a notice to schedule a technical panel discussion on assigned protection factors as part of the pending rulemaking hearing. Hearings began on June 6, 1995 and ended on June 20, 1995. The post-hearing comment period ended on September 20, 1995. On November 7, 1995 OSHA reopened the record of the rulemaking (60 FR 56127) for the purpose of receiving comments on OSHA's scientific methodology for the development of Assigned Protection Factors (APF), referred to as the "Nicas Report". OSHA extended the comment period on the Nicas Report (61 FR 1725) to January 29, 1996.

In December 1997 OSHA anticipates publishing the final respiratory protection standard, except for the reserved provision on assigned protection factors, which are numbers that estimate the degree of performance of the various classes of respirators. OSHA has developed a statistical model for analyzing available data to be used to derive APFs. Accordingly, OSHA will request further public comment on the analyses conducted using that model, the ANSI Z88.2-1992 APFs, the NIOSH Respirator Decision Logic APFs, and other relevant methodologies for deriving APFs to make certain that public input is received and fully considered before final APFs are incorporated.

Timetable:

Action	Date	FR Cite
ANPRM	05/14/82	47 FR 20603
ANPRM Comment Period End	09/13/82	
Public Comment Period on Preproposal Draft Ends	11/29/85	
NPRM	11/15/94	59 FR 58884
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Adam Finkel, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave. NW., Rm N3718, FP Bldg., Washington, DC 20210
Phone: 202 219-7075

RIN: 1218–AA05

2121. LONGSHORING AND MARINE TERMINALS (PARTS 1917 AND 1918)—REOPENING OF THE RECORD

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 651; 29 USC 655

CFR Citation: 29 CFR 1918.11

Legal Deadline: None

Abstract: OSHA issued a final rule on Longshoring on July 25, 1997 (62 FR 40142). However, OSHA is reopening the record to address the issue of "lifting appliances." In the preamble to the proposed Longshoring rule, the Agency discussed differences between International Labor Organization Conventions 32 and 152, including the requirements in the latter convention to certify lifting appliances under ILO Convention 152, when a container used to lift another container, the top container would fall within the definition of "lifting appliance." Because some commenters to the record questioned the safety of allowing such double lifts and the record does not combine adequate information to allow the Agency to address this issue, OSHA is reopening the rulemaking record to address this issue only.

Timetable:

Action	Date	FR Cite
NPRM	06/06/94	59 FR 28594
NPRM Comment Period End	09/23/94	
Final Rule	07/25/97	62 FR 40142
Re-opening the Record	10/00/97	
Final Action Effective	01/21/98	62 FR 40142
Final Rule	02/00/98	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Sectors Affected: 44 Water Transportation

Agency Contact: John Martonik, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Rm N3605 FP Building, Washington, DC 20210
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RIN: 1218–AA56

2122. ACCESS AND EGRESS IN SHIPYARDS (PART 1915, SUBPART E) (PHASE I) (SHIPYARDS: EMERGENCY EXITS AND AISLES)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.72; 29 CFR 1915.74; 29 CFR 1915.75; 29 CFR 1915.76

Legal Deadline: None

Abstract: In the 1980s, OSHA embarked on a project to update and consolidate OSHA standards that applied to the shipbuilding, shiprepair, and shipbreaking industry. Shipyard employers have been subject to both the "shipyard" standards and OSHA's general industry standards. This has sometimes resulted in inconsistent, and sometimes contradictory, requirements for essentially the same operation.

Phase 1 of this project aimed at establishing a truly vertical standard for shipyard employment and addressed six subparts (Confined Spaces, Welding, Access/Egress, Personal Protective Equipment, Fall Protection and Scaffolding). Proposals on these

DOL—OSHA

Final Rule Stage

hazards were issued in November 1988 (53 FR 48092). The remaining hazards were categorized as Phase II of the consolidation project (including general work practices and fire safety). This action was endorsed by the Shipyard Advisory Committee which was chartered in 1989 to update and consolidate existing shipyard standards.

This particular standard will revise the existing shipyard employment standards covering access and egress and will consolidate all related and applicable 29 CFR part 1910 provisions into 29 CFR part 1915. The revision will develop, in part, performance-oriented standards, address current gaps in coverage, address new technology, and eliminate outmoded and redundant provisions. 75,000 workers are potentially exposed to these hazards annually.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48130
NPRM Comment Period End	02/27/89	
Final Action	08/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Martonik, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Rm N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061

RIN: 1218–AA70

2123. RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES (SIMPLIFIED INJURY/ILLNESS RECORDKEEPING REQUIREMENTS)

Regulatory Plan: This entry is Seq. No. 88 in Part II of this issue of the **Federal Register**.

RIN: 1218–AB24

2124. POWERED INDUSTRIAL TRUCK OPERATOR TRAINING (INDUSTRIAL TRUCK SAFETY TRAINING)

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.178; 29 CFR 1915.120; 29 CFR 1917.43; 29 CFR 1918.77; 29 CFR 1926.602

Legal Deadline: None

Abstract: Operation of powered industrial trucks, such as forklifts, is the second leading cause of fatalities in the private sector, second only to highway vehicle fatalities. On average, there are 107 fatalities and 38,330 injuries annually in the workplace.

The present standard has proven to be ineffective in reducing the number of accidents involving powered industrial trucks. As a result, there has been strong Congressional interest that OSHA issue a new standard to more effectively address this hazard. OSHA intends to revise the present standard to increase its effectiveness by requiring, in performance language, initial and refresher training as necessary. The frequency of the refresher training will be based upon the vehicle operator's knowledge, skills and abilities to perform the job safely. OSHA will also give guidance as to what information the instruction should include. There will also be other amendments to the standard to increase its effectiveness. This proposal, if adopted, would apply to general industry, the maritime industries and construction.

Timetable:

Action	Date	FR Cite
NPRM	03/14/95	60 FR 13782
NPRM Second and Hearing	01/30/96	61 FR 3092
NPRM Comment Period End	08/15/96	
Final Action	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Martonik, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061

RIN: 1218–AB33

2125. PERMIT REQUIRED CONFINED SPACES (GENERAL INDUSTRY: PREVENTING SUFFOCATION/EXPLOSIONS IN CONFINED SPACES)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.146

Legal Deadline: None

Abstract: OSHA issued a final standard on preventing suffocations/explosions in confined spaces in general industry on January 14, 1993 (58 FR 4462). OSHA reached a settlement agreement with the United Steelworkers of America in June 1994. As part of this settlement agreement, OSHA issued a proposal on November 28, 1994 (59 FR 60735) proposing revisions to paragraph (k) of the existing rule, Rescue and Emergency Services, to clarify the standard. OSHA also proposed to allow more flexibility in the point of retrieval line attachment. OSHA also asked whether the standard should have provisions to provide affected employees or their representatives with the opportunity to observe the evaluation of confined spaces, including atmospheric testing, and to have access to evaluation results. Hearings were held September 27-28, 1995. The post hearing comment period ended on December 20, 1995. In February 1996, the record was closed. The final rule is expected to be issued in October 1997.

Timetable:

Action	Date	FR Cite
NPRM	11/28/94	59 FR 60735
NPRM Comment Period End	02/27/95	
Final Action	11/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: John Martonik, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
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RIN: 1218–AB52

2126. STANDARDS IMPROVEMENT PROJECT

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 29 USC 653; 29 USC 655; 29 USC 657; 40 USC 333

CFR Citation: 29 CFR 1910; 29 CFR 1926

Legal Deadline: None

Abstract: OSHA has made a continuing effort to eliminate confusing, outdated, and duplicative regulations. In 1978 and again in 1984, the Agency conducted comprehensive revocation and revision projects that resulted in the elimination of hundreds of unnecessary rules. In 1995, OSHA developed a list of standards it proposed to revoke or revise. These standards were deemed to be out of date, duplicative, inconsistent with other OSHA standards, or preempted by the regulations of other Federal agencies. The agency began this process in March 1996 by revoking various non-substantive provisions that the Agency believed were unnecessary or ineffective in protecting worker health or safety. The Agency followed up this effort by issuing a final and a proposed rule addressing substantive changes.

The first of these, issued on June 20, 1996, eliminated duplicative standards by replacing them with cross references to eliminate any possible confusion and to reduce the volume of the rules. The second one, published on July 22, 1996, proposed to reduce the burden imposed on employers by selected medical surveillance provisions of existing rules, change the emergency-response provisions of the vinyl chloride standard, and eliminate a number of duplicative or unnecessary provisions. A final rule addressing these proposed changes will be issued in 1997. This Standards Improvement Project has two other components: elimination of duplicative requirements and appendices associated with the Agency's Longshoring and Marine Terminals Standards (completed in July 1997) and revision and streamlining of the Agency's respirator standard and appendices, which will be completed in December 1997.

Timetable:

Action	Date	FR Cite
Final - Miscellaneous Minor & Technical Amendments	03/07/96	61 FR 9228
NPRM - Consolidation of Repetitive Provisions; Technical Amendments	06/20/96	61 FR 31427
NPRM - Miscellaneous Changes to General Industry & Construction Standards	07/22/96	61 FR 37849
Final - Longshoring	07/25/97	62 FR 40141
Final - Respirators	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Martonik, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
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RIN: 1218–AB53

DEPARTMENT OF LABOR (DOL)

Occupational Safety and Health Administration (OSHA)

Long-Term Actions

2127. SCAFFOLDS IN SHIPYARDS (PART 1915—SUBPART N) (PHASE I) (SHIPYARDS: SAFER SCAFFOLDS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.71

Legal Deadline: None

Abstract: During the 1980s, OSHA embarked on a project to update and consolidate the various OSHA standards that were applied in the shipbuilding, shiprepair, and shipbreaking industry. Shipyard employers have been subject to both shipyard and general industry standards. This sometimes resulted in inconsistent and contradictory requirements for essentially the same operation.

Phase 1 of this project aimed at establishing a truly vertical standard for shipyard employment and addressed six subparts of shipyard employment safety standards (Confined Spaces, Welding, Access/Egress, Personal Protective Equipment, Fall Protection and Scaffolding). Proposals on these hazards were issued in November 1988 (53 FR 48092). The remaining hazards were categorized as Phase II of the consolidation project (including general work practices and fire safety). This action was endorsed by the Shipyard Advisory Committee which was chartered in 1989 to update and consolidate existing shipyard standards.

This particular regulatory action will revise the existing shipyard employment standards covering scaffolds and will consolidate all related and applicable 29 CFR part 1910 provisions. It will develop, in part, performance-oriented standards, address current gaps in coverage, address new technology, and eliminate outmoded and redundant provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48182
NPRM Comment Period End	02/27/89	
Reopened Record Comment Period Ended 6/13/94	04/12/94	59 FR 17290
Final Action	10/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Martonik, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Rm N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061

RIN: 1218–AA68

2128. GLYCOL ETHERS: 2-METHOXYETHANOL, 2-ETHOXYETHANOL, AND THEIR ACETATES: PROTECTING REPRODUCTIVE HEALTH

Priority: Other Significant

Legal Authority: 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1910.1000

Legal Deadline: None

Abstract: On May 20, 1986, the Environmental Protection Agency (EPA) issued a report to OSHA, under section 9(a) of the Toxic Substance Control Act, stating that EPA has reasonable basis to conclude that the risk of injury to worker health from exposure to four glycol ethers during their manufacture, processing and use is unreasonable, and that this risk may be prevented or reduced to a significant extent by OSHA regulatory action. EPA gave OSHA 180 days in which to respond to its report. OSHA published its response on December 11, 1986, stating that OSHA had preliminarily concluded that occupational exposures to the subject glycol ethers at the current OSHA permissible exposure limits may present significant risks to the health of workers. OSHA published an Advance Notice of Proposed rulemaking (ANPRM) on April 2, 1987, (52 FR 10586). OSHA used the information received in response to the ANPRM, as well as other information and analysis, and published a proposal, March 23, 1993 (58 FR 15526), that would reduce the permissible exposure limits for four glycol ethers and provide protection for approximately 46,000 workers exposed to the substances. OSHA is working toward promulgation of a final rule in 1998.

Timetable:

Action	Date	FR Cite
ANPRM	04/02/87	52 FR 10586
ANPRM Comment Period End	07/31/87	
NPRM	03/23/93	58 FR 15526
NPRM Comment Period End	06/07/93	
Final Action	12/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Adam Finkel, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Rm N3718, FP Bldg., Washington, DC 20210
Phone: 202 219-7075

RIN: 1218–AA84

2129. WALKING WORKING SURFACES AND PERSONAL FALL PROTECTION SYSTEMS (PART 1910) (SLIPS, TRIPS, AND FALL PREVENTION)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.21; 29 CFR 1910.22; 29 CFR 1910.23; 29 CFR 1910.24; 29 CFR 1910.25; 29 CFR 1910.26; 29 CFR 1910.27; 29 CFR 1910.28; 29 CFR 1910.29; 29 CFR 1910.30; 29 CFR 1910.31; 29 CFR 1910.32; 29 CFR 1910.128; 29 CFR 1910.129; 29 CFR 1910.130; ...

Legal Deadline: None

Abstract: Standards for walking and working surfaces and personal fall protection systems will be issued concurrently as a final rule. The Occupational Safety and Health Administration's (OSHA's) existing standards for walking and working surfaces need to be revised because they are out of date and limit technological innovation in the means employers can use to comply. The final rule is performance-oriented, written in plain language, and flexible in the means of compliance permitted. In addition, OSHA's existing standards do not contain criteria for personal fall protection systems. Consequently, requirements containing criteria for such systems will be added to 29 CFR part 1910, subpart I, Personal Protection Equipment, to enhance employee protection from injury and death due to falls from different elevations.

Timetable:

Action	Date	FR Cite
NPRM	04/10/90	55 FR 13360
NPRM Comment Period End	06/22/90	
Hearing	09/11/90	55 FR 29224
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Because RINs 1218-AB05 and 1218-AA48 will be issued concurrently, they have been combined under this RIN 1218-AB04.

Agency Contact: John Martonik, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Rm N3605, FP Bldg., Washington, DC 20210
Phone: 202 219-8061

RIN: 1218–AB04

2139. ACCREDITATION OF TRAINING PROGRAMS FOR HAZARDOUS WASTE OPERATIONS (PART 1910)

Priority: Other Significant

Legal Authority: 29 USC 655(b); PL 101-549 (November 15, 1990); 5 USC 552(a); 5 USC 553

CFR Citation: 29 CFR 1910.121, subpart H

Legal Deadline: None

Abstract: The Superfund Amendments and Reauthorization Act of 1986 (Public Law 99-499) established the criteria under which OSHA should develop and promulgate the Hazardous Waste Operations and Emergency Response standard. OSHA issued an interim final standard on December 19, 1986 (51 FR 45654) to comply with the law's requirements. OSHA issued a permanent final rule for provisions on training to replace this interim rule on March 9, 1989 (29 CFR 1910.120).

On December 22, 1987, as part of an omnibus budget reconciliation bill (PL 100-202), section 126(d)(3) of SARA was amended to include accreditation of training programs for hazardous waste operations. OSHA issued a proposal on January 26, 1990 (55 FR 2776) addressing this issue. OSHA held a public comment period following the issuance of the proposal and held a limited reopening of the public record in June 1992 to allow additional public comment on an effectiveness of training study conducted by OSHA. OSHA has also developed nonmandatory guidelines to further address minimum training criteria.

Timetable:

Action	Date	FR Cite
NPRM	01/26/90	55 FR 2776
NPRM Comment Period End	04/26/90	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: John Martonik, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Bldg, Washington, DC 20210
Phone: 202 219-8061

RIN: 1218–AB27

2131. INDOOR AIR QUALITY IN THE WORKPLACE

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 29 USC 655

CFR Citation: 29 CFR 1910.1033

Legal Deadline: None

Abstract: OSHA was petitioned in March 1987 by Action on Smoking and Health (ASH), Public Citizen, and the American Public Health Association to issue an emergency temporary standard on environmental tobacco smoke (ETS) in the workplace. In March 1992, OSHA was petitioned by the AFL-CIO to establish workplace IAQ standards. In December 1992, ASH again petitioned for rulemaking on ETS. In January OSHA began rulemaking to address the hazards of exposure to ETS and IAQ issues.

Everyday, more than 20 million American workers face an unnecessary health threat because of indoor air pollution in the workplace. Thousands of heart disease deaths, hundreds of lung cancer deaths, respiratory disease, Legionnaire's disease, asthma, and other ailments are estimated to be linked to this occupational hazard. Further, America's workers are at risk of developing thousands of upper respiratory symptoms and headaches from poor indoor air quality (IAQ). EPA estimates that 20 to 35 percent of all workers in modern mechanically ventilated buildings may experience air-quality problems that could result in illnesses, absenteeism, lost productivity, and discomfort.

Surveys of companies have estimated that as many as 85 percent of them had some sort of smoking restriction in place, due to either concerns about production safety or employee health and safety. The fact that this is a national problem suggests that it should be solved at the Federal level.

OSHA published a Request for Information on September 20, 1991, to collect information to determine if a standard regulating indoor air quality is justified and feasible. Information was requested on the ventilation system performance necessary to optimize indoor air quality, techniques for improving ventilation, building maintenance programs, existing workplace indoor air policies, and local and State laws addressing indoor air quality.

After reviewing and analyzing available information, OSHA published a proposed rule on April 5, 1994. The proposal would require employers to write and implement indoor air quality compliance plans that would include inspection and maintenance of current building ventilation systems to ensure they are functioning as designed. In buildings where smoking is allowed, the proposal would require designated smoking areas that would be separate, enclosed rooms where the air would be exhausted directly to the outside. Other proposed provisions would require employers to maintain healthy air quality during renovation, remodeling and similar activities. The provisions for indoor air quality would apply to 70 million workers and more than 4.5 million nonindustrial indoor work environments, including schools and training centers, offices, commercial establishments, health care facilities, cafeterias and factory break rooms. ETS provisions would apply to all 6 million industrial and nonindustrial work environments under OSHA jurisdiction. OSHA preliminarily estimates that 5,583 to 32,502 cancer deaths and 97,700 to 577,818 coronary heart diseases related to occupational exposure to ETS will be prevented over the next 45 years. This represents 140 to 722 cancer deaths and 2,094 to 13,001 heart diseases each year. OSHA preliminarily estimates that the proposed standard will prevent 4.5 million upper respiratory problems over the next 45 years. This is approximately 105,000 upper respiratory symptoms per year. These estimates understate the prevalence of building-related symptoms since they only reflect excess risk in air conditioned buildings.

Timetable:

Action	Date	FR Cite
Request for Information	09/20/91	56 FR 47892
Comment Period End	01/21/92	
NPRM	04/05/94	59 FR 15968
NPRM Comment Period End	08/13/94	59 FR 30560
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Adam Finkel, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3718, FP Building, Washington, DC 20210
Phone: 202 219-7075

RIN: 1218–AB37

2132. OCCUPATIONAL EXPOSURE TO HEXAVALENT CHROMIUM (PREVENTING OCCUPATIONAL ILLNESS: CHROMIUM)

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: In July 1993, the Occupational Safety and Health Administration (OSHA) was petitioned for an emergency temporary standard (ETS) to reduce the permissible exposure limit (PEL) for occupational exposures to hexavalent chromium. The Oil, Chemical, and Atomic Workers International Union (OCAW) and Public Citizen's Health Research Group (HRG) petitioned OSHA to promulgate an ETS to lower the PEL for chromium (CrVI) compounds to 0.5 micrograms per cubic meter of air (ug/m3) as an eight-hour, time-weighted average (TWA). This represents a significant reduction in the current PEL. The current PEL in general industries is found in 29 CFR 1910.1000 Table Z and is a ceiling value of 100 ug/m3 for "Chromic acid and chromates (as CrO3)." These are measured as chromium (VI) and reported as chromic anhydride (CrO3). This equates to a

PEL of 52 ug/m3 of chromium (VI) measured and reported as chromium (VI). This ceiling limit applies to all forms of hexavalent chromium (VI) including chromic acid and chromates, lead chromate, and zinc chromate. The current PEL for chromium (VI) in the construction industry is 100 ug/m3 as a TWA PEL.

The major illnesses associated with occupational exposures to hexavalent chromium are lung cancer and dermatoses. OSHA estimates that approximately one million workers are exposed to hexavalent chromium on a regular basis in all industries. The major uses of hexavalent chromium are: as a structural and anti-corrosive element in the production of stainless steel, ferrochromium, iron and steel, and in electroplating, welding, and painting. After reviewing the petition, OSHA denied the request for an ETS and initiated a section (6)(b) rulemaking. Work on a proposed rule continues.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Adam Finkel, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3718, FP Building, Washington, DC 20210
Phone: 202 219-7075

RIN: 1218–AB45

2133. • OCCUPATIONAL EXPOSURE TO CRYSTALLINE SILICA

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: In 1994, OSHA initiated the Priority Planning Process. This process was aimed at identifying the top priority safety and health hazards. Crystalline silica was one of the priorities designated by this process for rulemaking. OSHA stated that crystalline silica would be added to OSHA's regulatory calendar as other standards were completed and resources became available. Silica exposure remains a serious threat to nearly 2 million U.S. workers including more than 100,000 in high risk jobs, including sandblasters, foundry workers, stonecutters, rock drillers, quarry workers and tunnelers. The seriousness of the health hazard is indicated by continuing deaths from accelerated silicosis in sandblasters and rock drillers and by recent studies which demonstrate a statistically significant increase in lung cancer among silica-exposed workers. In October 1996, the International Agency for Research on Cancer classified crystalline silica as "carcinogenic to humans." Exposure studies indicate that some workers are still exposed to very high levels. While OSHA currently has a permissible exposure limit for crystalline silica (10 mg/m3 divided by the percent of silica in the dust + 2, respirable and 30 mg/m3 divided by the percent of silica in the dust + 2, total dust), over 30% of OSHA-collected silica samples from 1982 through 1991 exceeded it. Additionally, recent studies suggest that the current OSHA standard is insufficient to protect against silicosis. For example, a recent study concluded that a 45-year exposure under the current OSHA standard would lead to a lifetime risk of silicosis of 35% to 47%. OSHA plans to publish a proposed rule on crystalline silica because the agency has concluded that there will be no significant progress in the prevention of silica-related diseases without the adoption of a full and comprehensive silica standard, including provisions for product substitution, engineering controls, training and education, respiratory protection and medical screening and surveillance. A full standard will improve worker protection, ensure adequate prevention programs, and further reduce silica-related diseases.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Adam Finkel, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3718, FP Building, Washington, DC 20210
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RIN: 1218–AB70

DEPARTMENT OF LABOR (DOL)
Occupational Safety and Health Administration (OSHA)

Completed Actions

2134. ABATEMENT VERIFICATION (HAZARD CORRECTION)

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 657; 29 USC 658; 5 USC 553

CFR Citation: 29 CFR 1903

Legal Deadline: None

Abstract: A critical element of OSHA's comprehensive enforcement strategy under the Occupational Safety and Health Act is assurance that employers have abated cited hazards. A May 1991, General Accounting Office report entitled, "Options to Improve Hazard-Abatement Procedures in the Workplace," pointed out deficiencies in OSHA's abatement verification procedures and how they could be improved. The Department of Labor Inspector General, as well as OSHA's internal audits, also identified similar problems. Formerly, unless an employer voluntarily complied with OSHA's request to submit documentation, OSHA had no regulation to require employers to submit proof of hazard abatement. From 1972 to the present, OSHA had implemented several administrative measures to induce employers to provide abatement documentation, but at least 30 percent of cited employers still did not voluntarily do so. The final rule, published in March 1997, tailors the amount of abatement documentation required of employers to the seriousness of the violation and streamlines the abatement verification process. It reduces the amount of paperwork employers are required to complete and enhances employee participation is the process.

Timetable:

Action	Date	FR Cite
NPRM	04/19/94	59 FR 18508
NPRM Comment Period End	07/18/94	
Final Action	03/31/97	62 FR 15323
Final Action Effective	05/30/97	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: John Miles, Director, Directorate of Compliance Assistance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3468, FP Building, Washington, DC 20210
Phone: 202 219-9308

RIN: 1218–AB40

[FR Doc. 97-24743 Filed 10-28-97; 8:45 am]
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federal register

Wednesday
October 29, 1997

Part XIII

Department of State

Semiannual Regulatory Agenda

DEPARTMENT OF STATE (STATE)

DEPARTMENT OF STATE

22 CFR Ch. I

[Public Notice 2595]

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Department of State.

ACTION: Semiannual regulatory agenda.

SUMMARY: Consistent with the Regulatory Flexibility Act of 1980, 5 U.S.C. 602, the Office of Federal Procurement Policy Act Amendments of 1988, 41 U.S.C. 421(g), and OMB guidance to the Department of State pursuant to Executive Order 12866, the October 1997 agenda of the Department of State is set forth below. The purpose of this publication is to provide information to the public on the Department's regulatory plans. Consistent with OMB guidance, this agenda includes active continuing items from prior agendas.

FOR FURTHER INFORMATION CONTACT: D. Stephen Mathias, Assistant Legal Adviser for Legislation and General Management, Department of State, Room 5425, 2201 C Street NW., Washington, DC 20520-6310; telephone (202) 647-5154.

Dated: September 10, 1997.

Bonnie Cohen,

Under Secretary of State for Management.

DEPARTMENT OF STATE (STATE) — Prerule Stage

2135. REVISION TO DEPARTMENT OF STATE ACQUISITION REGULATION (DOSAR)

Priority: Substantive, Nonsignificant

Legal Authority: PL 93-400; PL 96-83

CFR Citation: 48 CFR 6

Legal Deadline: None

Abstract: The Department is revising the DOSAR to comply with changes to the procurement system as a result of the Federal Acquisition Streamlining Act and the Federal Acquisition Reform Act. The Department also plans to make several administrative changes and technical corrections.

Timetable:

Action	Date	FR Cite
ANPRM	11/00/97	
ANPRM Comment Period End	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Gladys Gines, Procurement Analyst, Department of State, Office of the Procurement Executive, Room 603, SA-6, Washington, DC 20520-0602
Phone: 703 516-1691
Fax: 703 875-6155
Email: gladys.g.gines@dos.us-state.gov

RIN: 1400–AA71

2136. IMMIGRATION AND NATURALIZATION ACT: GROUNDS OF INELIGIBILITY, 212(G) WAIVER

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104; PL 104-208, sec 341(b); PL 104-208, sec 345(a)(i); PL 104-208, sec 346; PL 104-208, sec 301(6)

CFR Citation: 22 CFR 40.11; 22 CFR 40.66; 22 CFR 40.67; 22 CFR 40.91; 22 CFR 40.92; 22 CFR 40.93; 22 CFR 40.104; 22 CFR 40.105

Legal Deadline: None

Abstract: This regulation provides new grounds of visa ineligibility. This regulation also provides for a waiver of 212(a)(j)(ii).

This regulation now incorporates RIN 1400-AA80, Inadmissible grounds: Alien Subject to Civil Penalties, RIN 1400-AA81, Inadmissible grounds: Student Visa Abusers, and RIN 1400-AA82, Grounds of Inadmissibility: Aliens Removed and Unlawfully Present.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen K. Fischel, Office Director, Legislation and Regulation and Advisory Assistance, Department of State, 2401 E Street NW., (SA-1), Washington, DC 20522-0113
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA78

2137. INADMISSIBLE GROUNDS: PUBLIC CHARGE

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-208, sec 551; 8 USC 1104

CFR Citation: 22 CFR 40.41

Legal Deadline: None

Abstract: This rule incorporates provisions making petitioning sponsor contractually responsible.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen K. Fischel, Office Director, Legislation and Regulation and Advisory Assistance, Department of State, 2401 E Street NW., (SA-1), Washington, DC 20522-0113
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA79

2138. INADMISSIBLE GROUNDS: ALIENS SUBJECT TO CIVIL PENALTIES

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-208, sec 345(a)(1); 8 USC 1104

CFR Citation: 22 CFR 40.66

Legal Deadline: None

Abstract: This rule incorporates provisions making aliens subject to civil penalty inadmissible. It will be incorporated into RIN 1400-AA78.

STATE — Prerule Stage

Timetable:

Action	Date	FR Cite
ANPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen K. Fischel, Office Director, Legislation and Regulation and Advisory Assistance, Department of State, 2401 E Street NW., (SA-1), Washington, DC 20522-0113
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA80

2139. INADMISSIBLE GROUNDS: STUDENT VISA ABUSERS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-208, sec 346; 8 USC 1104

CFR Citation: 22 CFR 40.67

Legal Deadline: None

Abstract: This rule makes students who violate sec 214(1) of the INA inadmissible. It will be incorporated into RIN 1400-AA78.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen K. Fischel, Office Director, Legislation and Regulation and Advisory Assistance, Department of State, 2401 E Street NW., (SA-1), Washington, DC 20522-0113
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA81

2140. GROUNDS OF INADMISSIBILITY: ALIENS REMOVED AND UNLAWFULLY PRESENT

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-208, sec 301(6); 8 USC 1104

CFR Citation: 22 CFR 40.91; 22 CFR 40.92; 22 CFR 40.93

Legal Deadline: None

Abstract: This rule renders aliens unlawfully present in the United States and aliens removed from the United States inadmissible. It will be incorporated into RIN 1400-AA78.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen K. Fischel, Office Director, Legislation and Regulation and Advisory Assistance, Department of State, 2401 E Street NW., (SA-1), Washington, DC 20522-0113
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA82

DEPARTMENT OF STATE (STATE) — Proposed Rule Stage

2141. FOREIGN PROHIBITIONS ON LONGSHORE WORK BY U.S. NATIONALS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1288(d)

CFR Citation: 22 CFR 89 (Revision)

Legal Deadline: Final, Statutory, December 31, 1995.
Legal deadline reflects the statutory requirement that the list be updated on an annual basis.

Abstract: The above-mentioned statute requires the Secretary of State to compile, and update annually through Notice-and-Comment rulemaking procedures, a list, by particular longshore activity, of countries where performance of such activity is prohibited by law, regulation, or in practice in the country concerned. According to the statute cited above, the Attorney General will use this list for enforcing restrictions on work performed by crewmembers of vessels from such countries. Compilation of the list itself does not involve any significant costs and is based upon information being provided to the Department of State by U.S. diplomatic missions overseas as well as by the public. Questions regarding the policy justification for the list and its use are best directed to the Departments of Labor, Transportation, and Justice.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/30/91	56 FR 24338
Final Rule	12/27/91	56 FR 66970
Final Rule Effective	01/01/92	
Final Rule Correction	01/04/92	57 FR 1384
Updated List of Countries		
NPRM 11/04/92 (57 FR 52600)		
NPRM Comment Period End 12/04/92		
Final Rule 12/13/93 (58 FR 65118)		
Final Rule Effective 12/13/93		
NPRM 03/24/94 (59 FR 13904)		
NPRM Comment Period End 04/25/94		
NPRM 11/24/95 (60 FR 58026)		
NPRM Comment Period End 12/26/95		
NPRM Comment Period Extended to 01/26/96 (60 FR 65609)		
NPRM Comment Period Extended to 02/02/96 (61 FR 2915)		
NPRM 06/06/96 (61 FR 29115)		
Final Rule 08/13/96 (61 FR 29941)		
Comment Period End 10/00/97		
Request for Comments 10/00/97		
Final Rule 12/00/97		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: In accordance with the mandate to maintain annually the list of countries, the Department will issue Final Rules to amend the list as appropriate.

Agency Contact: Stephen Miller, Office of Maritime and Land Transport, Bureau of Economic and Business Affairs, Department of State, 2201 C Street NW., Washington, DC 20520-5816
Phone: 202 647-6961

RIN: 1400–AA34

DEPARTMENT OF STATE (STATE)

Final Rule Stage

2142. VISAS; PART 41 DOCUMENTATION OF NONIMMIGRANTS UNDER THE INA, AS AMENDED

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 51

Legal Deadline: None

Abstract: The Immigration Act of 1990 (the Act), Pub. L. 101-649, enacted on November 29, 1990, constitutes a comprehensive revision of the United States immigration law. This law modified certain nonimmigrant visa (NIV) classifications and created others. The Immigration and Nationality Act at section 104 (8 U.S.C. 1104) grants the Secretary of State general authority over the issuance and refusal of visas and to promulgate necessary regulations. This regulation also incorporated RIN 1400-AA52, Visas: Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended; Business and Media Visas, Treaty Trader, and Treaty Investors.

Timetable:

Action	Date	FR Cite
Creation of New NIV Classification (R Visa)		
Interim Final Rule	01/06/92	(57 FR 341)
Comment Period End	02/05/92	
Modification of E Visa Classification		
NPRM	09/03/91	(56 FR 43565)
Comment Period End	11/04/91	
Final Rule	08/15/95	(60 FR 42034)
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen K. Fischel, Office Director, Legislation and Regulation and Advisory Assistance, Department of State, 2401 E Street NW., (SA-1), Washington, DC 20522-0113
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA36

2143. TRANSIT WITHOUT VISA (TWOV)

Priority: Substantive, Nonsignificant

Legal Authority: Section 212(d)(4)(C) of the Immigration & Nationality Act (INA)

CFR Citation: 22 CFR 41.2(i)

Legal Deadline: None

Abstract: Under the provision of section 212(d)(4)(C), the Secretary of State and the Attorney General acting jointly have the authority to waive nonimmigrant visa requirements for aliens in continuous and direct transit through the United States. Yugoslavia was removed from the list of countries participating in this program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/16/93	58 FR 43438
Interim Final Rule Comment Period End	09/15/93	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen K. Fischel, Office Director, Legislation and Regulation and Advisory Assistance, Department of State, 2401 E Street NW., (SA-1), Washington, DC 20522-0113
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA48

2144. VISA WAIVER PILOT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: PL 99-603, sec 313; PL 101-649, sec 201; PL 102-232, sec 303

CFR Citation: 22 CFR 41.2(l)

Legal Deadline: None

Abstract: Section 313 of PL 99-603 amended the Immigration and Nationality Act by adding section 217 which established the nonimmigrant Visa Waiver Pilot Program (VWPP). This program waives the nonimmigrant visa requirements, to facilitate the admission of certain nonimmigrant alien visitors under the VWPP. Section 217, as amended by PL 101-649 and PL 102-232, revises from time to time the list of countries designated by the Secretary of State and the Attorney General, acting jointly, to participate in the Visa Waiver Pilot Program. Brunei, Argentina, and Australia have been added to that list. Ireland has also been added as a probationary country.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/29/93	58 FR 40585
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen K. Fischel, Office Director, Legislation and Regulation and Advisory Assistance, Department of State, 2401 E Street NW., (SA-1), Washington, DC 20522-0113
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA49

2145. NORTH AMERICAN FREE TRADE AGREEMENT

Priority: Substantive, Nonsignificant

Legal Authority: North American Free Trade Agreement (NAFTA); NAFTA Implementation Act, sec 341 and 342

CFR Citation: 22 CFR 41.51; 22 CFR 41.52; 22 CFR 41.59 (New)

Legal Deadline: NPRM, Statutory, January 11, 1994.

Abstract: Implements chapter 16 of the North American Free Trade Agreement (NAFTA), and sections 341 and 342 of the North American Free Trade Agreement Implementation Act (the Implementation Act), signed December 8, 1993, which addressed the movement of business persons among the United States, Canada, and Mexico. This rule amends regulations concerning two nonimmigrant visa classifications, treaty traders and investors and intracompany transfers, and promulgates new regulations for a category for professionals under INA section 214(e) as amended by the Implementation Act. Regulations spell out requirements for classification as a NAFTA professional.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/26/93	58 FR 68526
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: H. Edward Odom, Division, Chief of Legislation and Regulation, Visa Office, Department of State, 2401 E Street NW., SA-1, Washington, DC 20522-0113
Phone: 202 663-1204

RIN: 1400–AA51

2146. B-1 VISA CLASSIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-649, Immigration Act of 1990

CFR Citation: 22 CFR 41.31

Legal Deadline: NPRM, Statutory, October 1, 1991.

Abstract: B Visa Regulation revisions which incorporate 9FAM notes and INS

STATE

Final Rule Stage

OI reflect changes in interpretation of B Visa classes resulting from enactment of Immigration and Naturalization Act of 1990 and MATINA.

Timetable:

Action	Date	FR Cite
NPRM	07/26/93	58 FR 40024
NPRM Comment Period Extended to 11/23/93	09/23/93	58 FR 49456
NPRM Comment Period End	09/24/93	
NPRM Comment Period Extended to 12/06/93	11/23/93	58 FR 61856
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen K. Fischel, Office Director, Legislation and Regulation and Advisory Assistance, Department of State, 2401 E Street NW., (SA-1), Washington, DC 20522-0113
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA54

2147. REVISION OF U.S. MUNITIONS LIST

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 22 USC 2778

CFR Citation: 22 CFR 121.1; 22 CFR 121.16

Legal Deadline: None

Abstract: Review and revision as appropriate of USML on compliance with AECA.

Timetable:

Action	Date	FR Cite
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Philip Rhoads, Chief, Compliance and Enforcement Branch, Department of State, Room 200, SA-6, Washington, DC 20522-0602
Phone: 703 875-6650
Fax: 703 875-5663

RIN: 1400–AA64

2148. MISCELLANEOUS REGULATIONS BEING ELIMINATED OR REINVENTED AS PART OF REGULATORY REINVENTION INITIATIVE

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 22 USC 2651a

CFR Citation: 22 CFR 2a; 22 CFR 2; 22 CFR 4; 22 CFR 9b; 22 CFR 10; 22 CFR 31; 22 CFR 33; 22 CFR 111; 22 CFR 112; 22 CFR 133; 22 CFR 171; 22 CFR 181

Legal Deadline: None

Abstract: The Department will be eliminating or modifying the above rules in response to the President's Regulatory Reinvention Initiative. The rules affected include rules concerning protection of foreign missions, notification of foreign official status, obtaining press building passes, employee responsibilities and conduct, settlement of property damage and tort claims, fisherman's protective act procedures, reparations and removal of alien enemies, disposal of surplus government property in foreign areas, freedom of information, and coordination and reporting of international agreements.

Timetable:

Action	Date	FR Cite
NPRM - Procedures Under Hague Convention International Child Abduction	05/15/95	60 FR 25843
Final Rule Reinventing Notarial and Related Services	10/03/95	60 FR 51719
NPRM Reinventing Passport Application - Minors	10/03/95	60 FR 51760
Correction to NPRM Reinventing Passport	10/19/95	60 FR 54103
NPRM Reinventing Coordination and Reporting of Int'l Agreements	10/23/95	60 FR 54319
Final Rule - Visas - Certain Aliens Previously Removed from the U.S.	01/24/96	61 FR 1832
Final Rule Eliminating Regs on Admin. Settlement of Tort Claims and Property Damage Claims	01/30/96	61 FR 2915
Final Rule Reinventing Regulations on Press Building Passes	02/02/96	61 FR 3800
Final Rule - Reinventing Passport Application - Minors	02/21/96	61 FR 6505
Final Rule Elim. Regs on Removal of Alien Enemies, WWII Reper. and Disposal of Surplus Property	02/21/96	61 FR 6506
Final Rule Reinventing Passport	02/21/96	61 FR 6505
Final Rule - International Child Abduction	02/26/96	61 FR 7069
Final Rule - Procedures Under Hague Convention International Child Abduction	02/26/96	61 FR 7069
Final Rule Reinventing Coordination and Reporting of Int'l Agreements	02/26/96	61 FR 7070
Final Rule Reinventing Guidelines on Protection of Foreign Missions	03/14/96	61 FR 10447
Final Rule - Shipping and Seamen	06/13/96	61 FR 29940
Final Rule Passports - Application - Release of Information	06/13/96	61 FR 29940
Final Rule Notification of Foreign Official Status	06/24/96	61 FR 32327
NPRM - Availability of Information and Records to the Public	07/31/96	61 FR 39927
Final Rule Nationality and Passports	08/22/96	61 FR 43310
Final Rule Fishermen's Protective Act Guaranty & Fund Procedures	09/24/96	61 FR 49966
Final Rule - Availability of Information and Records to the Public	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: D. Stephen Mathias, Assistant Legal Adviser, Department of State, Office of the Legal Adviser, Washington, DC 20520-0602

STATE

Final Rule Stage

Phone: 202 647-5154
Fax: 202 647-6794

RIN: 1400–AA67

2149. • REVISION OF ADMINISTRATIVE REQUIREMENTS FOR GRANTEES TO REFLECT SINGLE AUDIT ACT REQUIREMENTS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 22 USC 2658

CFR Citation: 22 CFR 135; 22 CFR 145

Legal Deadline: None

Abstract: Revision to the Department of State's grants management common rules to implement the Single Audit Act Amendments of 1996 and the June 24, 1997, revision of OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/29/97	62 FR 45937
Interim Final Rule Effective	09/29/97	
Interim Final Rule Comment Period End	10/28/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gladys Gines, Procurement Analyst, Department of State, Office of the Procurement Executive, Room 603, SA-6, Washington, DC 10520-0602
Phone: 703 516-1691
Fax: 703 875-6155
Email: gladys.g.gines@dos.us-state.gov

RIN: 1400–AA87

DEPARTMENT OF STATE (STATE)

Long-Term Actions

2150. ESTABLISHING OF REGISTRY IN STATE DEPARTMENT FOR INFORMATION ABOUT EXECUTION OF INTERNATIONAL WILLS

Priority: Substantive, Nonsignificant

Legal Authority: International Legal Material, vol XII, no. 6, Nov. 1973, p 1302

CFR Citation: 22 CFR 92.81(b)(3)

Legal Deadline: None

Abstract: By resolution of the international diplomatic conference that adopted the final text of the 1973 convention on the forms of international wills, there was a recommendation that States establish an internal system to permit the optional registration of information to facilitate the discovery of international wills. The President transmitted the convention to the Senate on July 2, 1986, with the recommendation that the Senate give its advice and consent to U.S. ratification of the convention, and information about the intention to establish the Registry in the Department of State (Senate Treaty Doc. 99-29). The Senate gave advice and consent on August 2, 1991. Implementing legislation (the International Wills Act) is required before the United States can take further action to ratify the convention.

Timetable: Next Action Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

Additional Information: U.S. ratification of the 1973 convention providing a uniform law on the form of an international will provides the basis for establishment of the registry.

Agency Contact: Carmen A. DiPlacido, Director, Office of Policy Review and Interagency Liaison, Department of State, Bureau of Consular Affairs, 2201 C Street NW., Washington, DC 20520-5816
Phone: 202 647-3666
Fax: 202 647-0103

RIN: 1400–AA56

2151. ITAR CONTROLS ON BROKERING

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2778

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This regulatory action will implement an amendment to the Arms Export Control Act regarding controls on brokering activities relating to transfers of defense articles and services.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Philip Rhoads, Chief, Compliance and Enforcement Branch, Department of State, Office of Defense Trade Controls, PM/DTC, Room 200, SA-6, Washington, DC 20522-0602
Phone: 703 875-6650
Fax: 703 875-5663

RIN: 1400–AA74

2152. ADDITION OF COUNTRIES ELIGIBLE TO PARTICIPATE IN THE VISA WAIVER PILOT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 41.2(L)

Legal Deadline: None

Abstract: Addition of countries eligible to participate in the Visa Waiver Pilot Program.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen K. Fischel, Office Director, Legislation and Regulation and Advisory Assistance, Department of State, 2401 E Street NW., (SA-1), Washington, DC 20522-0113
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA75

2153. DENIAL OF PASSPORTS FOR NONPAYMENT OF CHILD SUPPORT

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 211a; 22 USC 2658; 22 USC 3926; 42 USC 652

CFR Citation: 22 CFR 51.70; 22 CFR 51.75; 22 CFR 51.80 to 51.89

Legal Deadline: Final, Statutory, October 1, 1997.

STATE

Long-Term Actions

Abstract: 22 USC 211a authorizes the Secretary of State to issue passports. Section 370 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 amends section 452 (42 USC 652), as amended by section 245 of the Act, to require the Secretary of State to deny a passport to a person who is in arrears of child support of more than $5,000 upon certification to that effect by the Secretary of Health and Human Services. The effective date of section 370 is October 1, 1997. This is a new regulation under 22 CFR 51 subpart E - Limitation on Issuance or Extension of Passports.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon E. Palmer-Royston, Attorney-Adviser, Department of State, Passport Policy and Advisory Services, 1111 19th Street NW., Suite 260, Washington, DC 20522-1705
Phone: 202 955-0222
Fax: 202 955-0230

RIN: 1400–AA77

2154. • HAGUE INTERCOUNTRY ADOPTION CONVENTION IMPLEMENTATION

Priority: Other Significant

Legal Authority: Not yet determined

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Regulations will implement the Hague Convention on protection of children and cooperation in respect of intercountry adoption and the Hague intercountry adoption convention and legislation will be sent to the Senate and Congress sometime during 1997. Health and Human Services and the Immigration and Naturalization Service will also write regulations regarding this convention and legislation.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Carmen A. DiPlacido, Director, Office of Policy Review and Interagency Liaison, Department of State, Bureau of Consular Affairs, 2201 C Street NW., Washington, DC 20520-5816
Phone: 202 647-3666
Fax: 202 647-0103

RIN: 1400–AA88

DEPARTMENT OF STATE (STATE)

Completed Actions

2155. NEW IMMIGRANT CLASSIFICATION SYMBOLS FOR BATTERED SPOUSES AND CHILDREN OF U.S. CITIZENS AND LEGAL PERMANENT RESIDENTS

Priority: Substantive, Nonsignificant

CFR Citation: 22 CFR 42.11

Completed:

Reason	Date	FR Cite
Final Action	01/06/97	62 FR 613

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen K. Fischel
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA72

2156. VALIDITY OF NONIMMIGRANT VISAS

Priority: Substantive, Nonsignificant

CFR Citation: 22 CFR 41.112(b)

Completed:

Reason	Date	FR Cite
Final Action	05/05/97	62 FR 24331

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen K. Fischel
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA83

2157. DIVERSITY IMMIGRANTS: FEES

Priority: Substantive, Nonsignificant

CFR Citation: 22 CFR 42.33

Completed:

Reason	Date	FR Cite
Final Action	01/22/96	61 FR 1523

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen K. Fischel
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA84

2158. IMMIGRANT VISA VALIDITY

Priority: Substantive, Nonsignificant

CFR Citation: 22 CFR 42.72

Completed:

Reason	Date	FR Cite
Final Action	05/21/97	62 FR 27693

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen K. Fischel
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA85

[FR Doc. 97-24744 Filed 10-28-97; 8:45 am]
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federal register

Wednesday
October 29, 1997

Part XIV

Department of Transportation

Semiannual Regulatory Agenda

DEPARTMENT OF TRANSPORTATION (DOT)

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Chs. I-III

23 CFR Chs. I-III

33 CFR Chs. I and IV

46 CFR Chs. I-III

48 CFR Ch. 12

49 CFR Subtitle A, Chs. I-VI

[OST Docket No. 59; Notice 97-8]

Department Regulatory Agenda; Semiannual Summary

AGENCY: Office of the Secretary, DOT.

ACTION: Semiannual regulatory agenda.

SUMMARY: The regulatory agenda is a semiannual summary of all current and projected rulemakings, reviews of existing regulations, and completed actions of the Department. The agenda provides the public with information about the Department of Transportation's regulatory activity. It is expected that this information will enable the public to be more aware of and allow it to more effectively participate in the Department's regulatory activity. The public is also invited to submit comments to continuously open regulatory review dockets, suggesting items for consideration as part of the Department's ongoing review of existing regulations.

ADDRESSES: The mailing address for the initiating offices of the Department that appear in the agenda is 400 7th Street SW., Washington, DC 20590; except for the Federal Aviation Administration, which is located at 800 Independence Avenue SW., Washington, DC 20591, and the U.S. Coast Guard, which is located at 2100 2nd Street SW., Washington, DC 20593.

FOR FURTHER INFORMATION CONTACT:

General

For further information on the agenda in general, contact: Neil R. Eisner, Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 400 7th Street SW., Washington, DC 20590, (202) 366-4723.

Specific

For further information about any particular item on the agenda, contact the individual listed in the column headed "Agency Contact" for that item.

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Agenda

SUPPLEMENTARY INFORMATION:

Background

Improvement of Government regulations is a prime goal of the Clinton Administration. There should be no more regulations than necessary, and those that are issued should be simpler, more comprehensible, and less burdensome. Regulations should not be issued without appropriate involvement of the public; once issued, they should be periodically reviewed and revised, as needed, to assure that they continue to meet the needs for which they originally were designed.

To help the Department of Transportation (Department) achieve these goals and in accordance with Executive Order 12866 "Regulatory Planning and Review" (58 FR 51735; October 4, 1993) and the Department's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), the Department prepares a semiannual regulatory agenda for publication in the **Federal Register**. The agenda summarizes all current and projected rulemaking, reviews of existing regulations, and completed actions of the Department. These are matters on which action has begun or is projected during the succeeding 12 months or such longer period as may be anticipated or for which action has been completed since the last agenda.

The agendas are based on reports submitted by the initiating offices in January and July each year. After these reports are consolidated for and reviewed by the Department Regulations Council, the Department's regulations agenda is prepared and published in the **Federal Register**. The Department's last agenda was published in the **Federal Register** on April 25, 1997 (62 FR 21990). The next one is scheduled for publication in the **Federal Register** in April 1998.

For this edition of the Department's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

As a result of the ICC Termination Act of 1995, the Surface Transportation Board, successor to the ICC, has become part of this Department. However, the Surface Transportation Board publishes its rulemaking activities with other independent regulatory agencies in the Unified Agenda.

Regulatory Flexibility Act

In 1980, Congress passed the Regulatory Flexibility Act (RFA), Public Law 96-354, which requires the designation of those regulations for which a Regulatory Flexibility Analysis will be prepared; i.e., those regulations that would have a significant economic impact on a substantial number of small entities. A Regulatory Flexibility Analysis is required for a rulemaking which, in the heading "Small Entities Affected," indicates an effect on small businesses, governmental jurisdictions, or organizations. If a Regulatory Flexibility Analysis will be prepared for a particular rulemaking, that fact also will be noted under the heading "Analysis."

The RFA also requires that, each year, the Department publish a list of those regulations that have a significant economic impact on a substantial number of small entities and are to be reviewed under the Act during the succeeding 12 months. The agenda includes those regulations to be reviewed under the RFA or those for which review has been concluded since the last agenda. The phrase (Section 610 Review) appears at the end of the title for any such review. However, it should be noted that, after a preliminary assessment of the regulations listed for RFA review, it may be found that the regulations, in fact, do not have a significant economic impact on a substantial number of small entities, and a full RFA review will be unnecessary.

Economic Assessment/Evaluation

DOT requires an economic analysis for all its rulemakings. A preliminary and final economic assessment (similar to what used to be identified as a "Regulatory Impact Analysis") is required for each proposed and final regulation, respectively, that is likely to be very costly. For other rulemakings, a regulatory evaluation is prepared.

Definitions

The agenda covers all rules and regulations of the Department, including those that establish conditions for financial assistance. The following definitions are provided for ease in understanding the information in this document.

Initiating office means an operating administration or other organizational element within the Department that formulates regulations.

Significant rulemaking is now being referred to in this agenda as an agency priority. This means a rulemaking that is very costly, controversial, or of substantial public interest; would have a major impact on another Federal agency; would have a substantial effect on State and/or local or tribal governments; would have a substantial impact on a major transportation safety problem; would initiate a substantial regulatory program or change in policy; would be substantially different from international requirements or standards; would materially alter budgetary impacts; or otherwise involves important legal or policy issues.

Office of Management and Budget (OMB)/Secretarial Review

Any rulemaking document OMB identifies as significant is subject to its review and will be classified as significant by DOT. A few rulemakings identified as agency priority by DOT, but not significant by OMB, and some rulemaking documents (e.g., extensions of compliance dates), although part of an otherwise significant rulemaking, are not subject to OMB review. All DOT agency priority rulemaking documents are subject to review by the Secretary of Transportation.

Explanation of Information on the Agenda

The format for this agenda is required by Office of Management and Budget memorandum of June 10, 1997.

First, the agenda is divided by initiating offices. Then, in accordance with the OMB memorandum, for each initiating office, the agenda is divided into five categories: (1) Prerule stage, (2) proposed rule stage, (3) final rule stage, (4) long-term actions, and (5) completed actions. For each entry, the agenda provides the following information: (1) The "significance" of the action; (2) a short descriptive title; (3) the legal basis for the action being taken or the regulation being reviewed; (4) the related regulatory citation in the Code of Federal Regulations; (5) an indication of any legal deadline and, if so, for what type of action (e.g., NPRM, final rule); (6) an abstract of the review or the proposed or final regulation; (7) a timetable, including the earliest expected date for a decision, on whether to issue the proposed or final regulation or complete the review and determine the corrective action to be taken. (The action taken can be revocation or revision of the regulation, or it can be a determination that no regulatory action is necessary because the regulation is found to be achieving its goals and the goals and objectives of Executive Order 12866 and the Department's Regulatory Policies and Procedures.); (8) an indication as to whether the rulemaking will affect small entities and/or levels of government and which categories of small entities or governments will be impacted; (9) if there is information that does not fit in the other categories, it will be included under a separate heading entitled "Additional Information" (which will also note any differences between OMB's "significant" and DOT's "agency priority" classification); (10) a listing, where determined, of any analyses an initiating office will prepare or has prepared for the rulemaking document; e.g., an Economic Assessment, an Environmental Impact Statement (EIS), or a Regulatory Flexibility Analysis; (11) an agency contact office or official who can provide further information, including advice on how to obtain documents referenced in the agenda; (12) a Regulation Identifier Number (RIN) assigned to identify an individual rulemaking in the agenda and facilitate tracing further action on the issue in the **Federal Register** that may occur between agenda publications; (13) an indication of whether the item is part of the Reinventing Government effort and, if so, whether it would revise existing text in the Code of Federal Regulations or eliminate text; (14) an indication if the action is subject to the Unfunded Mandates Act; and (15) an indication if the action is major under the congressional review of rulemaking procedures established by the Small Business Regulatory Enforcement Fairness Act.

For nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements (such as the Federal Aviation Administration's Airspace Rules), to keep those requirements operationally current, only the general category of the regulations, the identity of a contact office or official, and an indication of the expected number of regulations are included; individual regulations are not listed.

If a regulatory docket number has already been established, it may be provided under the "Additional Information" heading. If a member of the public desires further information regarding a particular proposal or regulation, reference should be made to this docket number.

In the "Timetable" column, abbreviations are used to indicate the particular documents being considered for issuance by that date. ANPRM stands for Advance Notice of Proposed Rulemaking, SNPRM for Supplemental Notice of Proposed Rulemaking, NPRM for Notice of Proposed Rulemaking, and FR for Final Rule. Listing a future date in this column is not an indication that a proposed or a final rule will be issued on that date; it is the earliest date on which a decision is expected to be made on whether to issue the document listed. Submittal of any proposed or final rule to the Office of Management and Budget for review under Executive Order 12866 must follow such a decision. If any document is issued, publication in the **Federal Register** would follow within a few days of completion of this review. In addition, these dates are based on current schedules. Information received

subsequent to the issuance of this agenda could result in a decision not to take regulatory action or in changes to proposed publication dates. For example, the need for further evaluation could result in a later publication date; evidence of a greater need for the regulation could result in an earlier publication date.

Finally, a dot (•) preceding an entry indicates that the entry appears in the agenda for the first time.

Request for Comments

Our agenda is intended primarily for the use of the public. Since its inception, we have made modifications and refinements that we believe provide the public with more helpful information, as well as make the agenda easier to use. We would like you, the public, to make suggestions or comments on how the agenda could be further improved.

In an effort to comply further with the spirit of Executive Order 12866 and the Regulatory Flexibility Act, we are also seeking suggestions on which existing regulations issued by an operating administration of the Department or the Office of the Secretary you believe need to be reviewed to determine whether they should be revised or revoked. The Department is particularly interested in obtaining information on requirements that have a "significant economic impact on small entities" and, therefore, must be reviewed under the Regulatory Flexibility Act. If you have any suggested regulations, please send them, along with your explanation of why they should be reviewed, to the concerned operating administration or the Office of the Secretary.

Purpose

The Department is publishing this regulatory agenda in the **Federal Register** to share with interested members of the public the Department's preliminary expectations regarding its future regulatory actions. This should enable the public to be more aware of the Department's regulatory activity. Knowledge of the nature and scope of this activity, as well as the specific proposals and reviews being considered, should result in more effective public participation in the Department's regulatory activity. For example, awareness of the dates when notices may be issued seeking public comment should allow appropriate planning and more efficient use of the comment period. By providing the expected date for a decision on whether to issue a final rule, the Department expects that more appropriate planning by those concerned with the regulation will also be possible. This publication in the **Federal Register** does not impose any binding obligation on the Department or any of the offices within the Department with regard to any specific item on the agenda. Regulatory action, in addition to the items listed, is not precluded. If further information is desired on any of the items listed in the agenda, the public is encouraged to contact the individual listed for the particular item. Additional information concerning the agenda in general or the Department's Regulatory Policies and Procedures may be obtained from Neil R. Eisner, whose address and telephone number appear above.

Issued in Washington, DC, on September 5, 1997.

Rodney E. Slater,

Secretary of Transportation.

Appendix A - Instructions for Obtaining Copies of Regulatory Documents

Some Administrations within the Department differ in procedures or as to inclusion on a mailing list. For the offices listed below, persons desiring to obtain a copy of a specific regulatory document to be issued that is listed in this agenda should communicate, either by telephone or by letter, with the contact person listed with the regulation at the addresses below.

United States Coast Guard (USCG)

(Name of contact person), United States Coast Guard, 2100 2nd Street SW., Washington, DC 20593.

Federal Highway Administration (FHWA)

(Name of contact person), Federal Highway Administration, 400 7th Street SW., Washington, DC 20590.

Federal Railroad Administration (FRA)

(Name of contact person), Federal Railroad Administration, 400 7th Street SW., Washington, DC 20590.

National Highway Traffic Safety Administration (NHTSA)

(Name of contact person), National Highway Traffic Safety Administration, 400 7th Street SW., Washington, DC 20590.

Federal Transit Administration (FTA)

(Name of contact person), Federal Transit Administration, 400 7th Street SW., Washington, DC 20590.

Saint Lawrence Seaway Development Corporation (SLSDC)

(Name of contact person), Saint Lawrence Seaway Development Corporation, 400 7th Street SW., Room 5424, Washington, DC 20590.

Research and Special Programs Administration (RSPA)

(Name of contact person), Research and Special Programs Administration, 400 7th Street SW., Washington, DC 20590.

Maritime Administration (MARAD)

Joel C. Richard, Secretary, Maritime Administration, 400 7th Street SW., Room 7210, Washington, DC 20590, (202) 366-5746.

Federal Aviation Administration (FAA)

The FAA has a mailing list system for notices and advance notices of proposed rulemaking (NPRMs and ANPRMs). Persons interested in obtaining future copies of all of those documents to be issued by the FAA or only of those concerning certain parts of the Federal Aviation Regulations should request a copy of Advisory Circular No. 11-2, which describes the application procedure, by calling (202) 267-3484 or by writing to: Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue SW., Washington, DC 20591.

Office of the Secretary (OST)

Persons desiring to receive future copies of the Department's regulatory agenda should submit their request to: Assistant General Counsel for Regulation and Enforcement, C-50, Office of the General Counsel, Department of Transportation, Washington, DC 20590, (202) 366-4723.

Persons who have an interest in specific regulatory documents to be issued by the Office of the Secretary should forward requests for copies of those documents to the same address. These requests should fully identify the document desired.

Appendix B - General Rulemaking Contact Persons

The following is a list of persons who can be contacted within the Department for general information concerning the rulemaking process within the various operating administrations.

USCG - P. M. Pelcovits, Office of Chief Counsel, USCG Headquarters Building, Room 3406, 2100 2nd Street SW., Washington, DC 20593; telephone: (202) 267-1534.

FAA - Donald Byrne, Office of Chief Counsel, Regulations and Enforcement Division, 800 Independence Avenue SW., Room 915A, Washington, DC 20591; telephone: (202) 267-3073.

FHWA - Thomas Holian, Office of Chief Counsel, 400 7th Street SW., Room 4223, Washington, DC 20590; telephone: (202) 366-1383.

FRA - Elizabeth Fallace, Office of Chief Counsel, 400 7th Street SW., Room 8128, Washington, DC 20590; telephone: (202) 632-3169.

NHTSA - Walter K. Myers, Office of Chief Counsel, 400 7th Street SW., Room 5219, Washington, DC 20590; telephone: (202) 366-2992.

FTA - Nancy Zaczek, Office of Chief Counsel, 400 7th Street SW., Room 9316, Washington, DC 20590; telephone: (202) 366-4011.

SLSDC - Marc Owen, General Counsel's Office, 400 7th Street SW., Room 5424, Washington, DC 20590; telephone: (202) 366-0108.

RSPA - Edward Bonekemper, Office of Chief Counsel, 400 7th Street SW., Room 8405, Washington, DC 20590; telephone: (202) 366-4400.

MARAD - Edmund T. Sommer, Jr., Assistant Chief Counsel, Maritime Administration, 400 7th Street SW., Room 7230, Washington, DC 20590; telephone: (202) 366-5746.

BTS - David Mednick, 400 7th Street SW., Room 3430, Washington, DC 20590; telephone: (202) 366-8871.

OST - Neil Eisner, Office of Regulation and Enforcement, 400 7th Street SW., Room 10424, Washington, DC 20590; telephone: (202) 366-4723.

Appendix C - Public Rulemaking Dockets

The following is a list of Rule Docket locations for the various operating administrations where the public may review regulatory dockets and hand-deliver comments on advance notices and notices of proposed rulemaking:

USCG - Marine Safety Council, 2100 2nd Street SW., Room 3406, Washington, DC 20593. Working Hours: 8:00-3:00 (Monday-Friday).

FAA - Rules Docket (AGC-10), Office of Chief Counsel, Regulations and Enforcement Division, 800 Independence Avenue SW., Room 915G, Washington, DC 20591. Working Hours: 8:30-5:00.

FHWA - Docket Room, 400 7th Street SW., Room 4232, Washington, DC 20590. Working Hours: 8:30-3:30.

FRA - Docket Clerk, 400 7th Street SW., Room 8201, Washington, DC 20590. Working Hours: 8:30-5:00.

NHTSA - Docket Room, 400 7th Street SW., Room 5109, Washington, DC 20590. Working Hours: 9:30-4:00.

FTA - Docket Branch, 400 7th Street SW., Room Pl. 401, Washington, DC 20590. Working Hours: 10:00-5:00.

SLSDC - 400 7th Street SW., Room 5424, Washington, DC 20590. Working Hours: 8:15-4:45.

BTS - 400 7th Street SW., Room Pl. 401, Washington, DC 20590. Working Hours: 9:00-5:00.

RSPA - Docket Branch, 400 7th Street SW., Room 8421, Washington, DC 20590. Working Hours: 8:30-5:00.

MARAD - Docket Clerk, 400 7th Street SW., Room 7210, Washington, DC 20590. Working Hours: 8:30-5:00.

OST - Docket Branch, 400 7th Street SW., Room Pl. 401, Washington, DC 20590. Working Hours: 10:00-5:00.

Office of the Secretary—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2159	+ Computer Reservations System Regulations Comprehensive Review (Section 610 Review)	2105-AC85

+ DOT-designated significant regulation.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2160	+ Proposed Policy on Peak Period Pricing of Airport Landing Fees	2105-AB63
2161	+ Accessibility of Passenger Vessels to Individuals With Disabilities	2105-AB87
2162	+ Transportation for Individuals With Disabilities (Over the Road Buses)	2105-AC00
2163	Domestic Baggage Liability	2105-AC07
2164	Governmentwide Debarment and Suspension (Nonprocurement) and Requirements for Drug-Free Workplace (Grants)	2105-AC24
2165	Fees and Charges for Special Services: Reinvention	2105-AC47
2166	+ Update of Drug and Alcohol Procedural Rules (Section 610 Review)	2105-AC49
2167	Privacy Act Exemptions	2105-AC80
2168	+ Domestic Passenger Manifest Information	2105-AC82
2169	Extension of Computer Reservations System Rules	2105-AC87

+ DOT-designated significant regulation.

DOT

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2170	Direct Air Carrier Responsibility for Returning Stranded Charter Passengers	2105-AA40
2171	Air Travelers: Age Discrimination	2105-AA45
2172	Direct Flights	2105-AA73
2173	Diversion of Flights Within a Metropolitan Area	2105-AA78
2174	Simplified Aviation Exemption Procedures	2105-AA82
2175	Simplified Airline Counter-Sign Notices	2105-AA88
2176	+ Price Advertising	2105-AB50
2177	+ Procedures for Transportation Workplace Drug-Testing Programs	2105-AB71
2178	+ Passenger Manifest Information **(Reg Plan Seq. No. 89)**	2105-AB78
2179	Aviation Charter Rules	2105-AB91
2180	+ Disadvantaged Business Enterprise (DBE) Regulation; General Update	2105-AB92
2181	Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations	2105-AC02
2182	Disclosure of Code-Sharing Arrangements and Long-Term Wet Leases	2105-AC10
2183	Use of Direct Final Rulemaking	2105-AC11
2184	Disinsection of Aircraft	2105-AC14
2185	Disclosure of Change-of-Gauge Services	2105-AC17
2186	Air Carrier Access Act: Miscellaneous Amendments	2105-AC28
2187	+ Computer Reservations System Regulations and Amendments	2105-AC35
2188	Overbooking of Flights: Elimination of Airport Notice Signs	2105-AC45
2189	Rules of Practice in Aviation Economic Proceedings: Reinvention	2105-AC48
2190	Amendments to Modal Alcohol Testing Rules: Pre-Employment Testing	2105-AC50
2191	+ Fair and Accurate Display of Airline Service in Computer Reservation Systems	2105-AC56
2192	Passenger Tariff-Filing Requirements Exemption	2105-AC61
2193	Civil Monetary Penalty Inflation Adjustment	2105-AC63
2194	Uniform Administrative Requirements for Grants and Cooperative Agreements: Common Rule	2105-AC66

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.
+ DOT-designated significant regulation.

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2195	Policy Statement on Airline Preemption	2105-AA46
2196	Baggage Liability Notices in International Air Transportation	2105-AA84
2197	+ Statement of Enforcement Policy on Rebating	2105-AB39
2198	+ New Restrictions on Lobbying	2105-AB57
2199	Smoking Aboard Aircraft	2105-AB58
2200	+ Transportation for Individuals With Disabilities (Accessibility Guidelines)	2105-AC06
2201	Use of Oxygen by Air Carrier Passengers	2105-AC29

+ DOT-designated significant regulation.

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2202	Implementation of Amendments to the Equal Access to Justice Act	2105-AB73
2203	+ Participation by Disadvantaged Business Enterprises in Airport Concessions	2105-AB99
2204	Nonprocurement Debarment and Suspension	2105-AC25
2205	Changes to International Data Submissions by Large Air Carriers	2105-AC34
2206	Ticketless Travel: Passenger Notices	2105-AC36
2207	Classified Information: Revision	2105-AC51
2208	Maintenance of and Access to Records Pertaining to Individuals	2105-AC57
2209	Public Availability of Information	2105-AC58

DOT

Office of the Secretary—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
2210	Inspection and Copying of Department Opinions, Orders, and Records	2105-AC84

+ DOT-designated significant regulation.

U.S. Coast Guard—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2211	Review of Regulations on Boating Safety **(Section 610 Review)**	2115-AF52

U.S. Coast Guard—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2212	Reporting Marine Casualties (CGD 91-216)	2115-AD98
2213	+ Facility Response Plans for Hazardous Substances (CGD 94-048) **(Reg Plan Seq. No. 90)**	2115-AE87
2214	+ Tank Vessel Response Plans for Hazardous Substances (CGD 94-032) **(Reg Plan Seq. No. 91)**	2115-AE88
2215	Numbering of Undocumented Barges (CGD 93-091)	2115-AF13
2216	Licensing and Manning for Operators of Towing Vessels (CGD 94-055)	2115-AF23
2217	Limited Service Domestic Voyage Load Lines for River Barges on Lake Michigan (CGD 95-015)	2115-AF38
2218	Conformance of the Uniform State Waterways Marking System with the United States Aids to Navigation System (CGD 97-018)	2115-AF45
2219	+ User Fees for Marine Licensing, Certificates of Registry, and Merchant Mariner Documents (CGD 97-049)	2115-AF49
2220	Amendment of State Waters for Private Aids to Navigation in Wisconsin and Alabama	2115-AF50

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.
+ DOT-designated significant regulation.

U.S. Coast Guard—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2221	Qualifications for Tankermen and for Persons in Charge of Transfers of Dangerous Liquids and Liquified Gases (CGD 79-116)	2115-AA03
2222	Lifesaving Equipment—Implementation of 1983 Amendments to SOLAS 1974 (CGD 84-069)	2115-AB72
2223	+ Implementation of the Commercial Fishing-Industry Vessel Safety Act (CGD 88-079)	2115-AD12
2224	Permits for the Transportation of Municipal and Commercial Wastes (CGD 89-014)	2115-AD23
2225	Vessel Identification System (CGD 89-050)	2115-AD35
2226	+ Discharge-Removal Equipment for Vessels Carrying Oil (CGD 90-068)	2115-AD66
2227	+ Security for Passenger Vessels and Passenger Terminals (CGD 91-012)	2115-AD75
2228	Amendments to Hull Identification Number Regulations (CGD 92-065)	2115-AE37
2229	Inland Navigation Rules; Lighting Provisions (CGD 94-011)	2115-AE71
2230	Alternate Compliance Via Recognized Classification Society and U.S. Supplement to Rules (CGD 95-010) **(Section 610 Review)**	2115-AF11
2231	Regattas and Marine Parades (CGD 95-054)	2115-AF17
2232	Streamlined Inspection Program (CGD 96-055)	2115-AF37
2233	Coast Guard Vessel Inspection User Fees (CGD 96-067)	2115-AF40
2234	Traffic Separation Scheme in the Approaches to Delaware Bay (CGD 97-004)	2115-AF42
2235	International Management Code for the Safe Operation of Ships and for Pollution Prevention (ISM Code) (CGD 95-073)	2115-AF44
2236	Carriage of Bulk Solid Materials Requiring Special Handling (CGD 97-037)	2115-AF47
2237	Child Development Services (CGD 97-039)	2115-AF48

+ DOT-designated significant regulation.

DOT

U.S. Coast Guard—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2238	Safety/Security Zone Regulations	2115-AA97
2239	Anchorage Area Regulations	2115-AA98
2240	Tank Level or Pressure Monitoring Devices (CGD 90-071)	2115-AD89
2241	Claims Procedures Under the Oil Pollution Act of 1990 (CGD 91-035)	2115-AD90
2242	✦ Escort Vessels for Certain Tankers (CGD 91-202)	2115-AE10
2243	✦ State Access to the Oil Spill Liability Trust Fund (CGD 92-014)	2115-AE19
2244	Handling of Explosives or Other Dangerous Cargoes Within or Contiguous to Waterfront Facilities (CGD 92-026)	2115-AE22
2245	Regatta Regulations	2115-AE46
2246	Drawbridge Regulations	2115-AE47
2247	✦ Escort Vessels in Certain U.S. Waters (91-202a)	2115-AE56
2248	Notice of Hazardous Conditions (CGD 94-027)	2115-AE82
2249	Regulated Navigation Areas	2115-AE84
2250	Immediate Reporting of Casualties (CGD 94-030)	2115-AE89
2251	✦ Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW) (CGD 95-082)	2115-AF26
2252	Propeller Injury Prevention Aboard Rental Boats (CGD 95-041)	2115-AF28
2253	Outer Continental Shelf Activities (CGD 96-068)	2115-AF39

✦ DOT-designated significant regulation.

U.S. Coast Guard—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2254	✦ Offshore Supply Vessel Regulations (CGD 86-074)	2115-AA77
2255	✦ Small Passenger Vessel Inspection and Certification (CGD 85-080)	2115-AC22
2256	Revision to Inflatable Life Raft Approval: SOLAS 74/83 (CGD 85-205)	2115-AC51
2257	✦ Overfill Devices (CGD 90-071a)	2115-AD87
2258	✦ User Fees for Approvals of Equipment, Laboratories, and Servicing Facilities (CGD 92-013)	2115-AE18
2259	Programs for Chemical Drug and Alcohol Testing of Commercial Vessel Personnel: Removal of Foreign Implementation Date (CGD 95-011)	2115-AF02
2260	Harmonization With International Safety Standards (CGD 95-028)	2115-AF10
2261	Electrical Engineering Requirements for Merchant Vessels (CGD 94-106)	2115-AF24
2262	Commercial Fishing Vessel Regulations (CGD 96-046)	2115-AF35
2263	Expanded Signature Authority to Officer in Charge, Marine Inspection (OCMI) (CGD 97-001)	2115-AF41
2264	Antarctic Treaty Environmental Protection Protocol (CGD 97-015)	2115-AF43
2265	Radar Requirements for Towing Vessels 300 Gross Tons or More (CGD 97-034)	2115-AF46
2266	✦ Operational Measures to Reduce Oil Spills from Existing Tank Vessels Without Double Hulls (CGD 91-045)	2115-AF51

✦ DOT-designated significant regulation.

Federal Aviation Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2267	✦ Mountain Flying	2120-AF67
2268	✦ Child Restraint Systems	2120-AG43

✦ DOT-designated significant regulation.

Federal Aviation Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2269	Airworthiness Standards; Crash-Resistant Fuel Systems	2120-AA57
2270	Review of Part 47, Aircraft Registration, and Part 49, Recording of Aircraft Titles and Security Documents	2120-AC17

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Federal Aviation Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2271	✦ Part 145 Review: Repair Stations **(Section 610 Review)**	2120-AC38
2272	Installation of Crashworthy Fuselage Fuel Tanks and Fuel Lines	2120-AC87
2273	✦ Drug Enforcement Assistance	2120-AD16
2274	✦ Revision of Part 107, Airport Security	2120-AD46
2275	✦ Cost of Services and Transfer of Fees to Part 187 From Parts 47, 49, 61, 63, 65, and 143	2120-AD91
2276	Visual Descent Points	2120-AE34
2277	✦ Aging Aircraft Safety	2120-AE42
2278	✦ Airport Noise Compatibility Planning **(Section 610 Review)**	2120-AE84
2279	✦ Corrosion Control Program	2120-AE92
2280	Cincinnati, OH, Class B Airspace	2120-AE97
2281	Flight Attendant English Language Proficiency	2120-AE98
2282	Flight Operational Quality Assurance Program	2120-AF04
2283	✦ Air Tour Standards	2120-AF07
2284	Revision of Certification Requirements: Mechanics and Repairmen	2120-AF22
2285	Normal Category Maximum Weight	2120-AF33
2286	✦ Overflights of Units of the National Park System **(Reg Plan Seq. No. 92)**	2120-AF46
2287	✦ Submission to Drug Tests	2120-AF64
2288	✦ Passenger Facility Charges	2120-AF69
2289	Operational and Structural Difficulty Reports	2120-AF71
2290	Repair Assessment for Pressurized Fuselages	2120-AF81
2291	Bird Ingestion Standards	2120-AF84
2292	Two Approach Charts **(Section 610 Review)**	2120-AF86
2293	Non-Federal Air Traffic Control Facilities	2120-AF91
2294	National Security Areas	2120-AF97
2295	Revision of Certification Requirements: Aircraft Dispatchers	2120-AG04
2296	✦ Duration Between Examinations for First- and Second-Airman Medical Certificates	2120-AG06
2297	Fees for Aeromedical Education Training Services	2120-AG07
2298	✦ False and Misleading Statements Regarding Aircraft Parts	2120-AG08
2299	✦ Security Programs of Foreign Air Carriers and Foreign Operators of U.S. Registered Air Carriers Engaged in Common Carriage	2120-AG13
2300	✦ Licensing Operation of a Non-Federal Launch Site	2120-AG15
2301	✦ Civil Aviation Security User Fees	2120-AG18
2302	Dispute Resolution Regulations	2120-AG19
2303	VFR/IFR Fuel Reserve Requirements: Island Destination Airports For Which No Alternate Airport Is Available	2120-AG29
2304	Certification of Security Screening Companies	2120-AG31
2305	Fees for Obstruction Evaluation Studies	2120-AG33
2306	✦ Prohibition of the Transportation of Devices Designed as Chemical Generators as Cargo in Aircraft	2120-AG35
2307	✦ Protection of Voluntarily Submitted Information	2120-AG36
2308	✦ Licensing of Launch From Non-Federal Launch Site	2120-AG37
2309	✦ Air Tour Operations in the State of Hawaii	2120-AG44
2310	Part 93 Subpart D—Anchorage, Alaska, Terminal Area	2120-AG45
2311	✦ Enhanced Ground Proximity Warning System	2120-AG46

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.
✦ DOT-designated significant regulation.

Federal Aviation Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2312	Objects Affecting Navigable Airspace	2120-AA09
2313	✦ Fuel System Vent Fire Protection	2120-AA49
2314	Miscellaneous Amendments	2120-AA50
2315	IFR Altitudes; Miscellaneous Amendments	2120-AA63
2316	Airworthiness Directives:	2120-AA64
2317	Standard Instrument Approach Procedures; Miscellaneous Amendments	2120-AA65
2318	Airspace Actions	2120-AA66
2319	✦ Improved Standards for Determining Rejected Takeoff and Landing Performance	2120-AB17

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Federal Aviation Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2320	Low Fuel Quantity Alerting System	2120-AB46
2321	+ Improved Survival Equipment for Inadvertent Water Landings	2120-AC72
2322	+ Retrofit of Improved Seats in Air Carrier Transport Category Airplanes	2120-AC84
2323	+ Sole Radio Navigation System; Minimum Standards for Certification	2120-AD26
2324	+ Airworthiness Standards; Occupant Protection Standards for Commuter Category Airplanes	2120-AD27
2325	Airplane Engine Cowling Retention	2120-AD34
2326	1-G Stalling Speed as a Basis for Compliance With Part 25 of the Federal Aviation Regulations	2120-AD40
2327	+ Fatigue Evaluation of Structure	2120-AD42
2328	+ Revision of Part 108, Airplane Operator Security	2120-AD45
2329	Type Certificates for Some Surplus Aircraft of the Armed Forces	2120-AE41
2330	+ Reduced Altitude Separation	2120-AE51
2331	+ Aircraft Ground Deicing and Anti-Icing Program	2120-AE70
2332	+ Pilot, Flight Instructor, Ground Instructor, and Pilot School Certification Rules	2120-AE71
2333	Air Traffic Control Radar Beacon System and Mode S Transponder Requirements in the National Airspace System	2120-AE81
2334	Civil Penalty Assessment Procedures	2120-AE84
2335	+ Revised Access to Type III Exits	2120-AF01
2336	Training and Qualification Requirements for Check Airmen and Flight Instructors	2120-AF08
2337	+ Training and Checking in Ground Icing Conditions	2120-AF09
2338	Los Angeles, CA, Class B Airspace	2120-AF16
2339	+ Revision of Emergency Evacuation Demonstration Procedures To Improve Participant Safety	2120-AF21
2340	Aviation Insurance **(Section 610 Review)**	2120-AF23
2341	+ Suspension of Certain Aircraft Operations From the Transponder With Automatic Pressure Altitude Reporting Capability Requirement	2120-AF30
2342	+ Flight Crewmember Duty Period Limitations, Flight Time Limitations, and Rest Requirements **(Reg Plan Seq. No. 93)**	2120-AF63
2343	Type Certification Procedures for Changed Products	2120-AF68
2344	Rain and Hail Ingestion Standards	2120-AF75
2345	Miscellaneous Cabin Safety Changes	2120-AF77
2346	Revision of Hydraulics Systems Airworthiness Standards To Harmonize With European Airworthiness Standards for Transport Category Airplanes	2120-AF79
2347	Revision of Gate Requirements for High-Lift Device Controls	2120-AF82
2348	Braked Roll Conditions	2120-AF83
2349	Criteria for an Explosive Detection System (EDS), Standards for Detonator Detection	2120-AF95
2350	+ Commercial Space Transportation: Financial Responsibility Requirements for Licensed Launch Activities	2120-AF98
2351	+ Licensing Commercial Space Launch Activities	2120-AF99
2352	+ Policy and Procedures Concerning the Use of Airport Revenue	2120-AG01
2353	Fees for Providing Production Certification-Type Services Outside the United States	2120-AG14
2354	Revised Precision Approach Landing Systems Policy	2120-AG16
2355	+ Fees for Air Traffic Services for Certain Flights Through U.S.-Controlled Airspace and for Aeronautical Studies	2120-AG17
2356	Harmonization of Miscellaneous Rotorcraft Regulations	2120-AG23
2357	+ Employment History, Verification, and Criminal History Records Checks **(Reg Plan Seq. No. 94)**	2120-AG32
2358	+ Noise Limitations for Aircraft Operations in the Vicinity of Grand Canyon National Park	2120-AG34
2359	+ Establishment of Corridors in the Grand Canyon National Park Special Flight Rules Area	2120-AG38
2360	Primary Category Seaplanes	2120-AG39
2361	+ Revised Standards for Cargo or Baggage Compartments in Transport Category Airplanes **(Reg Plan Seq. No. 95)**	2120-AG42
2362	Extension of SFAR 73; Robinson R-22/R-44 Special Training and Experience Requirements	2120-AG47
2363	+ Prohibition Against Certain Flights Within the Flight Information Region of the Democratic People's Republic of Korea	2120-AG48

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.
+ DOT-designated significant regulation.

Federal Aviation Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2364	Aircraft Engines: Fuel and Induction Systems	2120-AB76

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Federal Aviation Administration—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
2365	+ Anti-Drug and Alcohol Misuse Prevention Programs for Employees of Foreign Air Carriers Engaged in Specified Aviation Activities	2120-AE79
2366	+ Controlled Rest on the Flight Deck	2120-AF54
2367	Bird Strike	2120-AF80

+ DOT-designated significant regulation.

Federal Aviation Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2368	Minimum Altitudes for the Use of an Autopilot	2120-AF19
2369	Revised Structural Loads Requirements for Transport Airplanes	2120-AF70
2370	+ Revisions to Digital Flight Data Recorder Rules	2120-AF76
2371	+ Special Flight Rules in the Vicinity of the Grand Canyon National Park	2120-AF93
2372	+ Placarding Certain Cargo or Baggage Compartments	2120-AG12
2373	Commercial Passenger-Carrying Operations in Single Engine Aircraft Under Instrument Flight Rules	2120-AG22
2374	Falsification of Security Records	2120-AG27
2375	+ Prohibition Against Certain Flights Within the Territory and Airspace of Afghanistan	2120-AG40
2376	Organizational Changes and Delegations of Authority	2120-AG41

+ DOT-designated significant regulation.

Federal Highway Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2377	+ Advanced Technology in Commercial Motor Vehicle Operations **(Section 610 Review)**	2125-AD65
2378	+ Qualifications of Motor Carriers to Self-Insure Their Operations and Fees to Support the Approval and Compliance Process	2125-AE06
2379	Winter Home Heating Oil Delivery State Flexibility Program; Hours of Service	2125-AE18
2380	English Language Requirement; Qualifications of Drivers	2125-AE19

+ DOT-designated significant regulation.

Federal Highway Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2381	Periodic Inspection Requirements	2125-AC47
2382	Commercial Learner Permits and CDL Effectiveness	2125-AC54
2383	Revision of Medical Examination Form and Procedures	2125-AC63
2384	+ Minimum Training Requirements for Operators and Training Instructors of Multiple Trailer Combination Vehicles	2125-AC92
2385	+ Training for Entry-Level Drivers of Commercial Motor Vehicles	2125-AD05
2386	+ Commercial Driver Physical Fitness as Part of the CDL Process	2125-AD20
2387	+ Parts and Accessories Necessary for Safe Operation; Lighting Devices, Reflectors, and Electrical Equipment	2125-AD27
2388	+ Department of Transportation (FHWA, FTA, FRA and USCG) NEPA and Related Procedures for Transportation Decisionmaking	2125-AD32
2389	+ Federal Motor Carrier Safety Regulations; General; Motor Vehicle Marking	2125-AD49
2390	+ Hours of Service of Drivers; Supporting Document Recordkeeping	2125-AD52
2391	Safety Performance History of New Drivers	2125-AD66
2392	Railroad Grade Crossing Safety	2125-AD75
2393	Parts and Accessories Necessary for Safe Operation; Television Receivers and Data Display Units	2125-AD76
2394	+ Hours of Service of Drivers **(Section 610 Review)**	2125-AD83
2395	Electronic Filing of Surety Bonds, Trust Fund Agreements, Insurance Certificates; Cancellations	2125-AD94
2396	Registration of For-Hire Motor Carriers, Property Brokers, and Freight Forwarders	2125-AE01

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Federal Highway Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2397	+ Development of a North American Standard for Protection Against Shifting and Falling Cargo	2125-AE05
2398	+ Federal Motor Carrier Safety Regulations; Hours-of-Service and CDL Exemptions	2125-AE09
2399	Minimum Levels of Financial Responsibility for Mexican Motor Carriers	2125-AE14
2400	+ Parts and Accessories Necessary for Safe Operation; Rear Impact Guards and Rear Impact Protection	2125-AE15

+ DOT-designated significant regulation.

Federal Highway Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2401	Acquisition of Real Property for Rights-of-Way	2125-AC17
2402	+ Safety Fitness Procedures; Safety Ratings	2125-AC71
2403	Transportation of Hazardous Materials; Technical Amendments	2125-AD00
2404	+ Parts and Accessories Necessary for Safe Operation; Manufactured Home Tires	2125-AD41
2405	Antilock Brake Systems	2125-AD42
2406	National Standards for Traffic Control Devices; Temporary Traffic Signals	2125-AD45
2407	National Standards for Traffic Control Devices; Metric Conversion	2125-AD63
2408	Rules of Practice for Motor Carrier Proceedings; Investigations; Disqualifications and Penalties	2125-AD64
2409	Standards for Center Line and Edge Line Markings on Streets and Highways	2125-AD68
2410	Zero-Base Review of the Federal Motor Carrier Safety Regulations: Regulatory Removals and Substantive Amendments **(Section 610 Review)**	2125-AD72
2411	Federal-Aid Highway Systems	2125-AD74
2412	Mitigation of Impacts to Wetlands	2125-AD78
2413	Railroad Highway Projects	2125-AD86
2414	National Standards for Traffic Control Devices; Pedestrian, Bicycle, and School Warning Signs	2125-AD89
2415	General Jurisdiction Over Freight Forwarder Service	2125-AE00
2416	Certification of Speed Limit Enforcement	2125-AE17

+ DOT-designated significant regulation.

Federal Highway Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2417	+ Qualification of Drivers; Diabetes	2125-AB91
2418	+ Commercial Driver's License Standards; Biometric Identifier	2125-AC24
2419	+ Federal Motor Carrier Safety Regulations; General; Periodic Registration Requirements for Motor Carriers	2125-AC28
2420	Truck Length and Width Exclusive Devices	2125-AC30
2421	Certification of Size and Weight Enforcement	2125-AC60
2422	+ Qualification of Drivers; Vision	2125-AC62
2423	Parts and Accessories Necessary for Safe Operation: Intermodal Cargo Containers	2125-AC74
2424	+ Federal Motor Carrier Safety Regulations; General Transportation of Hazardous Materials	2125-AC78
2425	+ Qualifications of Drivers; Hearing Deficiencies	2125-AD22
2426	Highway Beautification	2125-AD24
2427	Parts and Accessories Necessary for Safe Operation; Sleeper Berths on Motor Coaches	2125-AD25
2428	Motor Carrier Safety Assistance Program (MCSAP) Allocation Formula	2125-AD30
2429	Parts and Accessories Necessary for Safe Operation; General Amendments	2125-AD40
2430	Advanced Construction of Federal Aid Projects	2125-AD59
2431	Uniform Procedures for State Highway Safety Programs	2125-AD79
2432	Transportation of Hazardous Materials; Driving/Parking Rules	2125-AD80
2433	+ Transportation of Migrant Workers **(Section 610 Review)**	2125-AD81
2434	Inspection, Repair, and Maintenance	2125-AD82
2435	+ Motor Carrier Replacement Information/Registration System	2125-AD91
2436	Traffic Control Devices, Markings, Signals, and Systems for Railroad-Highway Grade Crossings	2125-AE11

+ DOT-designated significant regulation.

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Federal Highway Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2437	Value Engineering	2125-AD33
2438	Design Standards for Highways; A Policy on Geometric Design of Highways and Streets; Design and Construction Criteria	2125-AD38
2439	Federal Aid Project Agreement and Contract Procedures	2125-AD58
2440	Highway Beautification: Amendments of Dire Emergency Supplemental Appropriations Act	2125-AD88
2441	Procedures for Abatement of Highway Traffic Noise and Construction Noise	2125-AD97
2442	Compensated Intercorporate Hauling	2125-AE02
2443	Exemption From Notice Filing Requirements for Agricultural Cooperative Associations	2125-AE03
2444	Truck Size and Weight; National Network; North Carolina	2125-AE04
2445	Minimum Levels of Financial Responsibility for Motor Carriers of Property; General Definitions; Hours of Service of Drivers; Correcting Amendments	2125-AE07
2446	Truck Size and Weight; Technical Corrections	2125-AE08
2447	Motor Carrier Routing Regulations; Disposition of Loss and Damage Claims and Processing Salvage; Preservation of Records	2125-AE10
2448	Technical Amendments to Former Interstate Commerce Commission Regulations in Accordance with the ICC Termination Act	2125-AE12
2449	Commercial Driver's License Program and Controlled Substances and Alcohol Use and Testing; Conforming and Technical Amendments	2125-AE16

National Highway Traffic Safety Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2450	Review: Lamps, Reflective Devices, and Associated Equipment	2127-AB76
2451	Review: Passenger-Car Back Seat Occupant Protection	2127-AE95
2452	Review: Odometer Fraud	2127-AF53
2453	Review: Theft Prevention—5-Year Report to Congress	2127-AF55
2454	Add-On Seat Belt Devices **(Section 610 Review)**	2127-AG49
2455	+ Light Truck Fuel Economy Standards for Model Years 2000-2002	2127-AG72
2456	Review: Child Safety Seat Registration	2127-AG93

+ DOT-designated significant regulation.

National Highway Traffic Safety Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2457	+ Wheelchair Lifts	2127-AD50
2458	Seat Adjustment Position	2127-AE22
2459	Tires on New Trailers	2127-AF05
2460	Upgrade Performance Requirements	2127-AF36
2461	Alternative Geometric Visibility Requirements for Lamps	2127-AF75
2462	Sealed Beam Headlamps	2127-AF89
2463	+ Federal Motor Vehicle Safety Standards: Head Impact Protection **(Reg Plan Seq. No. 96)**	2127-AG07
2464	+ Upgraded Request for Aircraft-Certified Child Seats	2127-AG12
2465	Hybrid III Dummy Specifications—Clothing	2127-AG39
2466	Modified Vehicles to Accommodate a Person's Disability **(Section 610 Review)**	2127-AG40
2467	Convex Cross View Mirrors	2127-AG41
2468	Remove Obsolete Provisions to Occupant Crash Standard	2127-AG42
2469	Upgrade Roof Crashworthiness	2127-AG51
2470	Utility Vehicle Label	2127-AG53
2471	Certification Labels for Multipurpose Passenger Vehicles and Light Duty Trucks	2127-AG65
2472	Fifth Percentile Female Dummy	2127-AG66
2473	Consumer Information on Tire Grading	2127-AG67
2474	+ Advanced Air Bags **(Reg Plan Seq. No. 97)**	2127-AG70
2475	Anthropomorphic Test Dummy for Head Impact Protection	2127-AG74

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National Highway Traffic Safety Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2476	Advanced Air Bag Dummy Rule for Hybrid III Type 6-Year-Old-Size	2127-AG76
2477	Advanced Air Bag Dummy Rule for Hybrid III Type 3-Year-Old-Size	2127-AG77
2478	Advanced Air Bag Dummy Rule for CRABI 12 Month Old Size	2127-AG78
2479	Diodes Used on School Bus Stop Signal Arms	2127-AG81
2480	Motorcycle Headlamp Location Requirement	2127-AG84
2481	Glare Reduction from Daytime Running Lamps	2127-AG86
2482	Administrative Rewrite and Reference Update to the Lighting Standard	2127-AG87
2483	Signal Lamps Used with Light Emitting Diodes	2127-AG88
2484	Retarders and Stop Lights Operation	2127-AG89
2485	State Issued Identification Documents	2127-AG91
2486	Motorcycle Mounted Reflex Reflector Height	2127-AG92

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.
+ DOT-designated significant regulation.

National Highway Traffic Safety Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2487	Truck Rear Underride Protection	2127-AA43
2488	+ Reduce Head Injuries Due to Contact With Upper Vehicle Interior	2127-AB85
2489	Fuel Spillage	2127-AC62
2490	Brake Lining	2127-AC86
2491	+ Film Transmittance of Glazing Materials	2127-AC85
2492	Driving Range Determination for Dual Fuel Electric Passenger Automobiles	2127-AF37
2493	Test Device Placement	2127-AF40
2494	Increase Femur Flexion Motion of the Hybrid III Test Dummy	2127-AF41
2495	Cylinder Requirements	2127-AF51
2496	Seat Belt Exemption for Law Enforcement Vehicles	2127-AF66
2497	Colorfastness Requirements for Seatbelts	2127-AF67
2498	Automatic Drain Valve for Air Reservoir Tanks	2127-AF72
2499	Rescission of Reflecting Surfaces Requirements	2127-AF74
2500	Power-Operated Windows: Roof Panels	2127-AF83
2501	Voluntarily-Installed Shoulder Belts	2127-AF91
2502	Heavy Duty Vehicle Brake Systems	2127-AF96
2503	Exemption From Rearward Displacement Requirements	2127-AG01
2504	Brake System for Electric Vehicles	2127-AG05
2505	Air Brake System Malfunction Lamp for Trailers	2127-AG06
2506	+ Federal Motor Vehicle Safety Standards; Occupant Crash Protection—Warning Labels	2127-AG14
2507	Dummy Containment During Compliance Testing	2127-AG17
2508	Review: Heavy Truck Conspicuity	2127-AG19
2509	National Driver Register Problem Driver Pointer System	2127-AG21
2510	Dealer Notification of Defect or Noncompliance Determination	2127-AG27
2511	Extend Applicability of Braking Requirements to All Light Vehicles	2127-AG35
2512	Power Window Safety Switches	2127-AG36
2513	Plastic Spacer-Inserts for Test Dummies	2127-AG37
2514	Auxiliary Signal Lamps	2127-AG38
2515	Reflex Reflectors for Rear of Truck Tractors	2127-AG47
2516	Pelvic Restraints	2127-AG48
2517	+ Uniform Child Anchorages (Section 610 Review)	2127-AG50
2518	Metric Conversion—Phase II	2127-AG55
2519	Low-Speed Vehicles	2127-AG58
2520	+ Depowering of Air Bags	2127-AG59
2521	+ Passenger-Side Manual Cutoff Switch for Air Bags	2127-AG60
2522	+ Deactivation of Air Bags	2127-AG61
2523	Determination of Functional Equivalency on Harmonization	2127-AG62
2524	Manufacturing Incentives for Alternative Fuel Vehicles	2127-AG63
2525	Procedures for Participating in and Receiving Data From the National Driver Register Problem Driver Pointer System	2127-AG68

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National Highway Traffic Safety Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2526	Uniform Procedures for the State Highway Safety Programs and the Highway Safety Programs; Determinations of Effectiveness	2127-AG69
2527	Schedule of Fees for Nonconforming Vehicles	2127-AG73
2528	Compliance Test Dummy Measurements	2127-AG75
2529	Depower Exclusions from Requirements for Vehicles Certified to the Alternative Sled Test	2127-AG80
2530	Air Bag Warning Label for Rear-Facing Child Seats	2127-AG82
2531	Exemptions to Odometer Disclosure Requirements	2127-AG83
2532	+ Use of Unbelted and Belted Test Dummies	2127-AG85
2533	Extend Participation in the National Driver Register Program	2127-AG90
2534	Head Impact Requirements Relating to Depowering	2127-AG94

+ DOT-designated significant regulation.

National Highway Traffic Safety Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2535	+ Crashworthiness Ratings	2127-AA03
2536	+ Flammability of Interior Materials - School Buses	2127-AA44
2537	Procedures for Considering Environmental Impacts	2127-AB79
2538	+ School Bus Body Joint Strength	2127-AC19
2539	+ Rollover Protection	2127-AC84
2540	Seating Systems Performance	2127-AD08
2541	Certification Requirements of Multistage Vehicles	2127-AE27
2542	Radiator Safety Cap	2127-AE59
2543	Electric Vehicle Safety	2127-AF43
2544	Conversion of Vehicles to Compressed Natural Gas	2127-AF50
2545	+ Review: Side Impact Protection	2127-AF54
2546	Automotive Fuel Economy Reports	2127-AG00
2547	Door Latch Exemption for Vehicles Equipped with Wheelchair Lifts and Ramps	2127-AG16
2548	Review: American Automobile Labeling Act	2127-AG18
2549	Advanced Air Bag Dummy Rule for Hybrid III 95th Percentile Male	2127-AG79

+ DOT-designated significant regulation.

National Highway Traffic Safety Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2550	+ Review: Passenger Car Front Seat Occupant Protection (Federal Motor Vehicle Safety Standard No. 208)	2127-AD62
2551	Miniature and Nonfilament Light Sources	2127-AE97
2552	Retroreflective Conspicuity System	2127-AF59
2553	Regulatory Negotiation for Visual Headlamp Aimability Requirements	2127-AF73
2554	Current and Future State of the Art Innovation for Accelerator Controls	2127-AF76
2555	Rescission of Warning Devices	2127-AF77
2556	Alternative Motorcycle Headlamp Performance Requirements	2127-AF78
2557	Rescind Controls and Displays	2127-AF86
2558	Rescind Windshield Defrosting and Defogging Systems	2127-AF87
2559	Rescind Windshield Wiping and Washing Systems	2127-AF88
2560	Whip Resistance Test for Brake Hoses	2127-AG02
2561	Seat Belts Installed at Adjustable Seats	2127-AG24
2562	Theft Data for Calender Year 1995	2127-AG33
2563	Schedule of Fees for Importers	2127-AG43
2564	Center of Gravity of Test Dummy	2127-AG44
2565	Motor Vehicle Content Labeling	2127-AG46
2566	Consumer Information Regulations; Fees for Course Monitoring Tires	2127-AG54
2567	Insurer Reporting Requirements for October 1997	2127-AG56

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National Highway Traffic Safety Administration—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
2568	List of Noncontorming Vehicles Eligible for Importation	2127-AG57
2569	+ Light Truck Fuel Economy Standards for Model Year 1999	2127-AG64
2570	High-Theft Lines for Model Year 1998	2127-AG71

+ DOT-designated significant regulation.

Federal Railroad Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2571	+ Railroad Communications—Advanced Train Control System	2130-AA94
2572	+ Hours of Service Electronic Recordkeeping Project	2130-AB04
2573	Tourist and Historic Working Group Regulatory Review (Section 610 Review)	2130-AB12

+ DOT-designated significant regulation.

Federal Railroad Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2574	+ Whistle Bans at Highway-Rail Grade Crossings	2130-AA71
2575	Qualification and Certification of Locomotive Engineers	2130-AA74
2576	+ Locomotive Crashworthiness and Working Conditions	2130-AA89
2577	+ Environmental Impact and Related Procedures (FRA, FTA, FHWA)	2130-AA93
2578	+ Passenger Equipment Safety Standards (Reg Plan Seq. No. 98)	2130-AA95
2579	Reinvention of Steam Locomotive Inspection Regulations	2130-AB07
2580	+ Florida Overland Express High Speed Rail Rule of Particular Applicability	2130-AB14
2581	+ Power Brake Regulations: Freight Power Brake Revisions	2130-AB16
2582	Automatic Train Control and Advanced Civil Speed Enforcement System; Northeast Corridor Railroads	2130-AB20

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.
+ DOT-designated significant regulation.

Federal Railroad Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2583	Local Rail Freight Assistance to States	2130-AA60
2584	Alcohol/Drug Regulations; Miscellaneous Technical Amendments and Corrections	2130-AA63
2585	+ Freight Car Safety Standards: Maintenance-of-Way Equipment	2130-AA68
2586	+ Track Safety Standards	2130-AA75
2587	+ Rail Passenger Service: Emergency Preparedness (Reg Plan Seq. No. 99)	2130-AA96
2588	Maintenance, Inspection, and Testing of Grade-Crossing Signal Systems	2130-AA97
2589	Statement of Policy Regarding Safety of Railroad Bridges	2130-AA99
2590	Reinvention of Regulations Addressing Discontinuance or Modification of Signal Systems	2130-AB05
2591	Reinvention of Signal System Reporting Requirements	2130-AB06
2592	Reinvention of Regulations Addressing Railroad User Fees	2130-AB09
2593	Small Railroads; Policy Statement on Enforcement Program	2130-AB15
2594	Use of Remotely Controlled Locomotives in Rail Operations	2130-AB17
2595	Use of One-Person Crews in Rail Operations	2130-AB18
2596	Radio Communications	2130-AB19

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.
+ DOT-designated significant regulation.

DOT

Federal Railroad Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2597	AMTRAK Waste Disposal	2130-AA84
2598	Protection of Utility Employees	2130-AA90

Federal Railroad Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2599	Power Brake Regulations: Two-Way End-of-Train Telemetry Devices	2130-AA73
2600	+ Roadway Worker Protection	2130-AA86
2601	+ Selection and Installation of Grade Crossing Warning Systems	2130-AA92

+ DOT-designated significant regulation.

Federal Transit Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2602	+ Department of Transportation (FTA, FRA, FHWA, and USCG), NEPA, and Related Procedures for Transportation Decisionmaking	2132-AA43
2603	Prevention of Alcohol Misuse in Transit Operations; Prevention of Prohibited Drug Use in Transit Operations	2132-AA56

+ DOT-designated significant regulation.

Federal Transit Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2604	+ Bus Testing	2132-AA30
2605	Charter Services Demonstration Program	2132-AA58

+ DOT-designated significant regulation.

Federal Transit Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2606	Buy America; Rolling Stock, Technical Amendment	2132-AA59

Saint Lawrence Seaway Development Corporation—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2607	Great Lakes Pilotage Points System	2135-AA10

Research and Special Programs Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2608	+ Qualification of Pipeline Personnel	2137-AB38
2609	Pipeline Safety: Pressure Testing Older Hazardous Liquid and Carbon Dioxide Pipelines; Extension of Time	2137-AD05

DOT

Research and Special Programs Administration—Prerule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2610	✦ Hazardous Materials: Safety Standards for Unloading Cargo Tank Motor Vehicles in Liquefied Compressed Gas Service	2137-AD07

✦ DOT-designated significant regulation.

Research and Special Programs Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2611	✦ Requirements for Cylinders **(Section 610 Review) (Reg Plan Seq. No. 100)**	2137-AA92
2612	Gas Gathering Line Definition	2137-AB15
2613	DOT 3AL Aluminum Cylinders; Safety Problems	2137-AB51
2614	Adoption of Industry Standards for Breakout Tanks	2137-AC11
2615	Underwater Abandoned Pipeline Facilities	2137-AC33
2616	Areas Unusually Sensitive to Environmental Damage (USAs)	2137-AC34
2617	✦ Increased Inspection Requirements	2137-AC38
2618	✦ Emergency Flow Restricting Devices **(Reg Plan Seq. No. 101)**	2137-AC39
2619	Hazardous Materials; Miscellaneous Amendments and Corrections	2137-AC41
2620	Labeling Requirements for Poisonous Materials	2137-AC47
2621	Regulated Gas and Hazardous Liquid Gathering Lines	2137-AC53
2622	Periodic Underwater Inspections	2137-AC54
2623	✦ Risk-based Alternative to Pressure Testing Rule **(Reg Plan Seq. No. 102)**	2137-AC78
2624	Drug and Alcohol Testing: Substance Abuse Professional Evaluation for Drug Use	2137-AC84
2625	Requirements for Cargo Tanks	2137-AC90
2626	Metrication	2137-AC98
2627	Pipeline Safety: Incorporation by Reference of Industry Standard on Leak Detection	2137-AD06

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.
✦ DOT-designated significant regulation.

Research and Special Programs Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2628	Quantity Limitations Aboard Aircraft	2137-AA85
2629	Determining the Extent of Corrosion on Exposed Gas Pipelines	2137-AB50
2630	Passage of Internal Inspection Devices	2137-AB71
2631	✦ Response Plans for Onshore Oil Pipelines	2137-AC30
2632	Excess Flow Valve Customer Notification	2137-AC55
2633	Mandatory Participation in Qualified One-Call Systems by Pipeline Operators	2137-AC57
2634	Pipeline Safety User Fees	2137-AC85
2635	Control of Foreign Drug Use and Alcohol Misuse in Natural Gas, Liquefied Natural Gas, and Hazardous Liquid Pipeline Operations	2137-AC87
2636	Low-Stress Hazardous Liquid Pipelines Serving Plants and Terminals	2137-AC87
2637	✦ Prohibition of Oxidizers Aboard Aircraft	2137-AC92
2638	✦ Hazardous Materials: Cargo Tank Motor Vehicles in Liquefied Compressed Gas Service; Interim Final Rule	2137-AC97
2639	Regulations Implementing Memorandum of Understanding with the Department of the Interior	2137-AC99
2640	Further Regulatory Review; Gas Pipeline Safety Standards	2137-AD01
2641	Pipeline Safety: Periodic Updates to Pipeline Safety Regulations (1997)	2137-AD03
2642	Hazardous Materials: Editorial Correction and Clarifications	2137-AD09

✦ DOT-designated significant regulation.

DOT

Research and Special Programs Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2643	✦ Maps and Records of Pipeline Locations and Characteristics; Notification of State Agencies; Pipe Inventory	2137-AB48
2644	✦ Safeguarding Food From Contamination During Transportation	2137-AC00
2645	Tank Cars and Cargo Tank Motor Vehicles: Attendance Requirements	2137-AC24
2646	Retention of Shipping Papers	2137-AC64
2647	Applicability of the Hazardous Materials Regulations	2137-AC68
2648	Filling of Propane Cylinders	2137-AC86

✦ DOT-designated significant regulation.

Research and Special Programs Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2649	✦ Hazardous Materials in Intrastate Commerce **(Section 610 Review)**	2137-AB37
2650	Improvements to Hazardous Materials Identification Systems	2137-AB75
2651	Harmonization With United Nations Recommendations, International Maritime Dangerous Goods Code and International Civil Aviation Organization's Technical Instructions	2137-AC82
2652	Liquefied Natural Gas Regulations; Miscellaneous Amendments	2137-AC88
2653	Control of Drug Use and Alcohol Misuse in Natural Gas, Liquefied Natural Gas, and Hazardous Liquid Pipeline Operations: Amendment to Reporting of Drug and Alcohol Testing Results	2137-AC95
2654	Availability of Interpretations of RSPA Regulations	2137-AD00
2655	Hazardous Materials: Shipping Description and Packaging of Oxygen Generators	2137-AD02
2656	Hazardous Materials: Use of Non-Specification Open-Head Fiber Drum Packagings	2137-AD04
2657	Hazardous Materials: Withdrawal of Radiation Protection Program Requirement	2137-AD08

✦ DOT-designated significant regulation.

Maritime Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2658	Approval of Certain Transactions Before Vessel Documentation	2133-AB30

Maritime Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2659	✦ Guideline Rates: Less-Than-Shipload Lots of Bulk Preference Cargoes on Liner Vessels	2133-AB16
2660	✦ Fair and Reasonable Rates: Bulk and Packaged Preference Cargoes	2133-AB19
2661	Elimination of Mortgagee and Trustee Restrictions	2133-AB29
2662	Citizenship Requirements for Vessels with Obligation Guarantees	2133-AB31

✦ DOT-designated significant regulation.

Maritime Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2663	✦ Maritime Security Program	2133-AB24
2664	Criteria for Granting Waivers of Requirement for Exclusive U.S.-Flag Vessel Carriage of Certain Export Cargoes	2133-AB26

✦ DOT-designated significant regulation.

DOT

Bureau of Transportation Statistics—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2665	Modernizing the Passenger Origin-Destination Survey	2139-AA01
2666	Modernizing the Motor Carriers of Property Financial Data Collections	2139-AA05

Bureau of Transportation Statistics—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2667	+ Amendments to the On-Time Disclosure Rule	2139-AA00

+ DOT-designated significant regulation.

Bureau of Transportation Statistics—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2668	Amendment to Passenger Origin-Destination Survey	2139-AA04

DEPARTMENT OF TRANSPORTATION (DOT)
Office of the Secretary (OST)

Prerule Stage

2159. +COMPUTER RESERVATIONS SYSTEM REGULATIONS COMPREHENSIVE REVIEW (SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 49 USC 41712; 49 USC 40101(a); 49 USC 40113(a); 49 USC 40105

CFR Citation: 14 CFR 255

Legal Deadline:
Final, Statutory, December 31, 1997, Current regulation expires.

Abstract: The Department regulates computer reservations systems owned by airlines or airline affiliates that are used by travel agencies. The current rules are designed to prevent the systems from unreasonably prejudicing the competitive position of other airlines and to ensure that travel agencies can provide accurate and unbiased information to the public. The Department will reexamine its rules to see whether they should be readopted and, if so, whether they should be changed.

Timetable:

Action	Date	FR Cite
ANPRM	09/10/97	62 FR 47606
ANPRM Comment Period End	11/10/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas Ray, Senior Trial Attorney, C-30, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4731
Fax: 202 366-7152

RIN: 2105–AC85

DEPARTMENT OF TRANSPORTATION (DOT)
Office of the Secretary (OST)

Proposed Rule Stage

2160. +PROPOSED POLICY ON PEAK PERIOD PRICING OF AIRPORT LANDING FEES

Priority: Other Significant

Legal Authority: 49 USC 1301 et seq

CFR Citation: 14 CFR 399

Legal Deadline: None

Abstract: The Department proposes to establish a set of guidelines to encourage the voluntary development of peak and off-peak pricing systems for airport landing fees at congested U.S. airports. The guidelines would encourage the application of economic incentives to promote more efficient use of existing airport facilities, which would reduce congestion and delays. This policy statement is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local

Agency Contact: Larry Phillips, Chief, Industry Economics and Finance Div., Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4382

RIN: 2105–AB63

DOT—OST

Proposed Rule Stage

2161. +ACCESSIBILITY OF PASSENGER VESSELS TO INDIVIDUALS WITH DISABILITIES

Priority: Other Significant

Legal Authority: 42 USC 12101 et seq; PL 101-336, Americans with Disabilities Act

CFR Citation: 49 CFR 37

Legal Deadline: None

Abstract: The Department's Americans with Disabilities Act (ADA) final rule, published September 6, 1991 (56 FR 45584), reserved portions of the rule concerning passenger vessels. The ADA covers passenger vessels, but issuing accessibility requirements for vessels involves complex issues unlike those affecting land transportation. This action will address these issues and propose feasible requirements to make passenger vessels accessible to, and usable by, individuals with disabilities. This rulemaking is considered significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
ANPRM	10/12/93	58 FR 52735
ANPRM Comment Period End	11/26/93	
NPRM	03/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Telephone number for TDD is (202) 755-7687.

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC00

2162. +TRANSPORTATION FOR INDIVIDUALS WITH DISABILITIES (OVER THE ROAD BUSES)

Priority: Other Significant

Legal Authority: 49 USC 322; PL 101-336, Americans with Disabilities Act (ADA)

CFR Citation: 49 CFR 27

Legal Deadline:
Final, Statutory, May 16, 1994.

Abstract: The Department is seeking responses to questions concerning requirements for accessibility of over the road buses (OTRBs). DOT is required to consider the recent report of the Office of Technology Assessment in drafting OTRB access rules. This project is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AB87

2163. DOMESTIC BAGGAGE LIABILITY

Priority: Substantive, Nonsignificant

Legal Authority: 49 app USC 1324; 49 app USC 1373 to 1374; 49 app USC 1381

CFR Citation: 14 CFR 254.4; 14 CFR 254.5

Legal Deadline: None

Abstract: The Department is proposing to amend its rule governing the amount by which certain U.S. air carriers may limit their liability to passengers for lost, damaged, and delayed baggage. This action is in response to a petition by Public Citizen and Aviation Consumer Action Project to increase the minimum liability limit from $1,250 to $1,850 per passenger. The Department is also requesting comment on two alternate proposals: (1) to raise the limit to $1,850 with a mechanism that automatically provides for periodic future increases, or (2) to raise the minimum liability limit to $2,000.

Timetable:

Action	Date	FR Cite
NPRM	09/30/94	59 FR 49867
NPRM Comment Period End	11/29/94	
Comment Period Extended	11/29/94	59 FR 60926
Notice Summarizing Aggregated Data	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Carrier data was due 11/29/94. The comment period would end 30 days after the data has been aggregated and placed in the docket.

Agency Contact: Joanne Petrie, Senior Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC07

2164. GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 41 USC 701 et seq; 49 USC 322(a)

CFR Citation: 49 CFR 29

Legal Deadline: None

Abstract: This rule allows for submission of annual certifications by grantees. The current rule requires individual project-by-project certifications. This action would implement a National Performance Review recommendation, reduce administrative requirements and promote the automation of the grant application and award process. This action would also provide for consistency with Federal Acquisition Regulation (48 CFR 14.213) which allows annual certifications.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no

statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Paul Larsen, Office of the General Counsel, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9161

RIN: 2105–AC24

2165. FEES AND CHARGES FOR SPECIAL SERVICES: REINVENTION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 9701; 49 USC 40101; 49 USC 46101

CFR Citation: 14 CFR 389

Legal Deadline: None

Abstract: This action would remove or update obsolete provisions and organizational references, and adjust the fee schedule for certain special services related to aviation economic proceedings that the Department makes available to the public. The regulation has not been comprehensively updated since 1985 and the revisions will take the form of a complete reissuance of part 389.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 01/00/98

Agency Contact: Carol A. Woods, Analyst, Air Carrier Fitness Division, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2340

RIN: 2105–AC47

2166. +UPDATE OF DRUG AND ALCOHOL PROCEDURAL RULES (SECTION 610 REVIEW)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 102; 49 USC 301; 49 USC 5331; 49 USC 20140; 49 USC 31306; 49 USC 45101; 49 USC 45106

CFR Citation: 49 CFR 40

Legal Deadline: None

Abstract: The Department is reviewing its procedural rules for drug and alcohol testing. This review is intended to lead to a notice of proposed rulemaking that will not include major substantive changes to how we test but rather to update and clarify provisions of the rules. This ANPRM seeks suggestions for possible changes to the regulation and the focus is expected to be on drug testing. As part of this action, a small entities review under 5 USC section 610 will be included.

Timetable:

Action	Date	FR Cite
ANPRM	04/29/96	61 FR 18713
ANPRM Comment Period End	07/29/96	
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: This change would apply to regulated parties through each of the six DOT operating administrations' rules. (FAA, FHWA, FTA, FRA, USCG, and RSPA). It is expected that the NPRM to be issued in this action will withdraw an NPRM in a related action RIN 2105-AB71, Procedures for Transportation Workplace Drug-Testing Programs.

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC49

2167. PRIVACY ACT EXEMPTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552a; 49 USC 322

CFR Citation: 49 CFR 10

Legal Deadline: None

Abstract: DOT is amending its rules implementing the Privacy Act of 1974 to exempt from certain provisions of the Act the Coast Guard's new Marine Safety Information System. This new system would consolidate information currently in two existing USCG record systems. The purpose of this exemption is to prevent persons who are the subjects of criminal investigations from learning too early in the investigative process that they are subjects, what information there is in Coast Guard files that indicates that they may have committed unlawful conduct, and who provided such information.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert I. Ross, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9156
Fax: 202 366-9170

RIN: 2105–AC60

2168. +DOMESTIC PASSENGER MANIFEST INFORMATION

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 49 USC 40101; 49 USC 40113 to 40114; 49 USC 41702; 49 USC 41708 to 41709; 49 USC 41711; 49 USC 46301; 49 USC 46310; 49 USC 46316

CFR Citation: 14 CFR 243

Legal Deadline: None

Abstract: This notice requests comments concerning operational and cost issues related to U.S. air carriers collecting information such as full name, date of birth and/or social security number, emergency contact and telephone number, from passengers traveling on flights within the United States. This notice is being issued on the Department's initiative in response to difficulties with notification in the aftermath of domestic aviation disasters and to comply with a recommendation contained in the initial report of the White House Commission on Aviation Safety and Security (1996) that urges the Department to explore immediately the costs and effects of a comprehensive passenger manifest requirement on the domestic aviation system.

Timetable:

Action	Date	FR Cite
ANPRM	03/13/97	62 FR 11789
ANPRM Comment Period End	05/12/97	
Comment Period Reopened	05/30/97	62 FR 29313
Comment Period End	06/20/97	
NPRM	11/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Bernard Gaillard, Director, Office of International Transportation and Trade, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4368

RIN: 2105–AC62

2169. • EXTENSION OF COMPUTER RESERVATIONS SYSTEM RULES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 41712; 49 USC 40101; 49 USC 40102; 49 USC 40105; 49 USC 40113

CFR Citation: 14 CFR 255

Legal Deadline: None

Abstract: This action would extend the expiration date of DOT's rules regulating computer reservations systems owned by airlines or airline affiliates that are used by travel agencies. That rule will expire December 31, 1997. The Department will conduct a reexamination of the rules to see whether they should be continued or modified. That action is being taken under RIN 2105-AC85. Since the Department will be unable to complete that reexamination this year, the extension is necessary so that the current rules will remain in force.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Ray, Senior Trial Attorney, C-30, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4731
Fax: 202 366-7152

RIN: 2105–AC87

DEPARTMENT OF TRANSPORTATION (DOT)
Office of the Secretary (OST)

Final Rule Stage

2170. DIRECT AIR CARRIER RESPONSIBILITY FOR RETURNING STRANDED CHARTER PASSENGERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1371

CFR Citation: 14 CFR 207; 14 CFR 208

Legal Deadline: None

Abstract: This action proposed to make direct air carriers responsible for returning charter passengers stranded by strikes or other service interruptions, by eliminating the force majeure clause from charter contracts. However, the CAB subsequently issued an interpretive rule (ER-1387, 49 FR 33436) which was affirmed in court. (Arrow Air, Inc. v. Dole, 784 F2d 1118 (1986).) Therefore, this action is now moot; the NPRM will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	07/11/80	45 FR 46812
NPRM Comment Period End	09/25/80	
Reply Comment Period End	10/10/80	
To Be Withdrawn	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EDR 405, Docket 37169.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AA40

2171. AIR TRAVELERS: AGE DISCRIMINATION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6102

CFR Citation: 14 CFR 376

Legal Deadline: None

Abstract: This rulemaking action was initiated by the Civil Aeronautics Board to implement the Age Discrimination Act of 1975. A draft final rule was submitted to HHS, as required by that Act, and was approved. However, in view of current airline practices with respect to travel by the elderly, and the absence of complaints of discrimination based on age, there no longer appears to be a need for further rulemaking action, and the NPRM will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	09/26/79	44 FR 55383
Final Action Adopted by the Board	04/10/80	
HHS Approved Final Rule With Changes	07/13/84	
To Be Withdrawn	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SPDR-74, Docket 36639.

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AA45

2172. DIRECT FLIGHTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1381

CFR Citation: 14 CFR 399

Legal Deadline: None

Abstract: Donald L. Pevsner petitioned the CAB to institute a rulemaking proceeding to ban use of the term "direct flight" because it is deceptive,

and to declare use of the term to be a prima facie violation of section 411 of the Federal Aviation Act of 1958. The Department is now considering what action to take in response to the petition.

Timetable:

Action	Date	FR Cite
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The petition is filed in Docket 41217.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AA73

2173. DIVERSION OF FLIGHTS WITHIN A METROPOLITAN AREA

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1301; 49 USC 1302; 49 USC 1305; 49 USC 1324; 49 USC 1371; 49 USC 1375; 49 USC 1377 to 1379; 49 USC 1381; 49 USC 1382; 49 USC 1386; 49 USC 1461; 49 USC 1481; 49 USC 1482; 49 USC 1502; 49 USC 1504

CFR Citation: 14 CFR 253; 14 CFR 399

Legal Deadline: None

Abstract: The CAB proposed to amend its rules requiring notice of contract terms for domestic travel to require that actual notice be given passengers of terms absolving carriers from any responsibility to transport a passenger to the destination named on the ticket, or to reimburse the passenger for expenses in reaching the airport noted on the ticket when a flight is diverted to another airport in the same metropolitan area. Alternatively, the Board proposed to declare it to be an unfair and deceptive practice to divert a passenger without arranging and paying for alternate transportation to the destination airport named on the passenger's ticket. The Board considered a final rule but did not decide what action to take. DOT is withdrawing the NPRM as unnecessary since it appears that carriers no longer have the policies that promoted the CAB's concern.

Timetable:

Action	Date	FR Cite
NPRM	09/23/83	48 FR 43343
NPRM Comment Period End	11/07/83	
To Be Withdrawn	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL LEGAL AUTHORITIES: PL 96-354; 5 USC 601. Docket 41683, EDR 468/PSDR-81.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AA78

2174. SIMPLIFIED AVIATION EXEMPTION PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1371; 49 USC 1372; 49 USC 1386

CFR Citation: 14 CFR 302; 14 CFR 389; 14 CFR 399

Legal Deadline: None

Abstract: A Civil Aeronautics Board rulemaking proposed to revise and simplify the requirements and procedures for applying for exemptions under section 416(b) of the Federal Aviation Act. This action has become unnecessary since the Department included most of its provisions in its rule transferring the CAB's rules to DOT. Therefore, the NPRM will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	10/05/84	49 FR 39337
NPRM Comment Period End	12/04/84	
To Be Withdrawn	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PDR-88/ODR-27/PSDR-83.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AA82

2175. SIMPLIFIED AIRLINE COUNTER-SIGN NOTICES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1301; 49 USC 1302; 49 USC 1324; 49 USC 1371 to 1374; 49 USC 1381; 49 USC 1386; 49 USC 1481; 49 USC 1482

CFR Citation: 14 CFR 221; 14 CFR 250; 14 CFR 256

Legal Deadline: None

Abstract: The American Association of Airport Executives, the Airport Operators Council International, and the Air Transport Association of America petitioned the CAB to simplify its counter-sign requirements. Presently, airlines are required to display four different consumer protection notices on their ticket counters. The petitioners alleged that the current notices are hard to read and, therefore, do not provide much notice to passengers. They proposed replacing the four notices with one simplified counter sign. A CAB NPRM proposed a number of alternatives, such as a long and/or short notice, where the notices would be required to be posted, and whether a smoking notice should be included. DOT decided not to act on these "counter signs" separately, but rather to consider whether there should be a comprehensive re-examination of all forms of notice to passengers, including notices on tickets. This NPRM will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	08/01/84	49 FR 30742
NPRM Comment Period End	09/17/84	
Reply Comment Period End	10/02/84	
To Be Withdrawn	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket 41971; EDR-474

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AA88

2176. +PRICE ADVERTISING

Priority: Other Significant

Legal Authority: 49 USC 1371; 49 USC 1381

CFR Citation: 14 CFR 380; 14 CFR 399

Legal Deadline: None

Abstract: The Department proposed in 1989 to amend its rule and policy statement with respect to air transportation price advertising. This rulemaking is significant because of substantial public interest. Because of the amount of time that has elapsed since the proposal was issued, the Department is withdrawing it.

Timetable:

Action	Date	FR Cite
NPRM	07/26/89	54 FR 31052
Extended Comment Period End 9/25/89	08/23/89	54 FR 35005
NPRM Comment Period End	08/25/89	
To Be Withdrawn	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/26/89 (54 FR 31052)

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AB50

2177. +PROCEDURES FOR TRANSPORTATION WORKPLACE DRUG-TESTING PROGRAMS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 101; 49 USC 102; 49 USC 301; 49 USC 302; 49 USC 322

CFR Citation: 49 CFR 40

Legal Deadline: None

Abstract: The NPRM in 1990 concerned the question of to whom reports of negative drug test results may be sent. It will be formally withdrawn when the Department issues an NPRM under RIN 2105-AC49, Update of Drug and Alcohol Procedural Rules. This action is significant because of substantial public and congressional interest, and multimodal impact.

Timetable:

Action	Date	FR Cite
NPRM	07/13/90	55 FR 28782
NPRM Comment Period End	08/13/90	
To Be Withdrawn	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/13/90 (55 FR 28782)

Additional Information: In the last Agenda, this action was identified as incorporating a 5 USC 610 Review. That review will be conducted as part of the action being taken under a similar rulemaking title, RIN 2105-AC49, for which an ANPRM was published 4/29/96 (61 FR 18713).

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AB71

2178. +PASSENGER MANIFEST INFORMATION

Regulatory Plan: This entry is Seq. No. 89 in Part II of this issue of the Federal Register.

RIN: 2105–AB78

2179. AVIATION CHARTER RULES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 85-726, as amended

CFR Citation: 14 CFR 207 to 208; 14 CFR 212; 14 CFR 294; 14 CFR 298; 14 CFR 380; 14 CFR 389

Legal Deadline: None

Abstract: This rule governs the activities of public charter operators, a type of indirect air carrier that sells charter air transportation to consumers, and airlines that perform the direct air transportation. DOT is revising and updating the rules to recognize: (1) current usage of credit cards for payment to charter operators, and (2) certain changes in procedural practices.

Timetable:

Action	Date	FR Cite
NPRM	09/16/92	57 FR 42864
NPRM Comment Period End	10/16/92	
Extended Comment Period End 11/16/92	10/22/92	57 FR 48193
Final Action	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/16/92 (57 FR 42864)

Agency Contact: C. W. McGuire, Chief, Regulatory Affairs Division, Department of Transportation, Office of the Secretary; 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1037

RIN: 2105–AB91

2180. +DISADVANTAGED BUSINESS ENTERPRISE (DBE) REGULATION; GENERAL UPDATE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: Intermodal Surface Transportation Efficiency Act; PL 102-240; 49 USC 47017(e); 49 USC 47113

CFR Citation: 49 CFR 23

Legal Deadline: None

Abstract: This rule would revise the Department's regulations for the disadvantaged business enterprise program to clarify regulatory provisions and revise program elements in light of experience in administering the program since 1980 and the Administration's review of affirmative action programs. The SNPRM also includes proposed amendments to the airport concession portion of the DBE program on which a separate NPRM was issued 10/6/93 under RIN 2105-AB99, Participation by Disadvantaged Business Enterprises in Airport Concessions, (58 FR 52050). This action is significant because of substantial public interest.

DOT—OST

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	12/09/92	57 FR 58288
Extended NPRM Comment Period End 4/8/93	03/03/93	58 FR 12207
NPRM Comment Period End	03/09/93	
SNPRM	05/30/97	62 FR 29548
Extended SNPRM Comment Period End 9/29/97	07/18/97	62 FR 38952
Final Action	03/00/98	

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Analysis: Regulatory Evaluation 12/09/92 (57 FR 58288)

Additional Information: RIN 2105-AB99 had a statutory deadline of 4/30/93 for a final rule. Its legal authority came from PL 102-581 and PL 97-248.

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AB92

2181. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NONPROFIT ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322(a)

CFR Citation: 49 CFR 19

Legal Deadline: None

Abstract: This action will implement OMB Circular A-110, providing uniform guidance for administering grants to institutions of higher education, hospitals, and other nonprofit organizations. The regulation is essentially a word-for-word issuance of the requirements in OMB Circular A-110. An interim final rule was issued because of the limited ability to change the requirements from those in the Circular.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/04/94	59 FR 15637
Comment Period End	06/03/94	
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Robert G. Taylor, Chief, Grants Management Division, M-62, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4289

RIN: 2105–AC02

2182. DISCLOSURE OF CODE-SHARING ARRANGEMENTS AND LONG-TERM WET LEASES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 40113; 49 USC 41712

CFR Citation: 14 CFR 257

Legal Deadline: None

Abstract: The action would strengthen the Department's current rules requiring airlines to notify passengers of a code-sharing arrangement or long-term wet lease. In these operations, the operator of the aircraft differs from the airline in whose name the transportation was sold. The Department would require that the name of the transporting carrier be disclosed. This action is being undertaken to ensure that consumers have pertinent information about airline code-sharing arrangements on domestic and international flights.

Timetable:

Action	Date	FR Cite
NPRM	08/10/94	59 FR 40836
NPRM Comment Period End	10/11/94	
SNPRM Comment Period End 2/16/95	01/17/95	60 FR 3359
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Laura Trejo, Attorney Advisor, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9183

RIN: 2105–AC10

2183. USE OF DIRECT FINAL RULEMAKING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 1657

CFR Citation: 49 CFR 5.21; 49 CFR 5.35

Legal Deadline: None

Abstract: The Department is considering a new rulemaking procedure to expedite the processing of noncontroversial changes to its regulations. Rules that the Secretary judges to be unlikely to result in public comment would be published as "direct final" rules. Such direct final rules would advise the public that no adverse comment is anticipated and that, unless written adverse comment or notice of intent to submit such comment is received within a specified number of days, the rule will become effective 60 days from the date of publication in the Federal Register.

Timetable:

Action	Date	FR Cite
NPRM	08/04/95	60 FR 39919
NPRM Comment Period End	10/03/95	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Neil Eisner, Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC11

2184. DISINSECTION OF AIRCRAFT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 40113; 49 USC 41712

CFR Citation: 14 CFR 259

Legal Deadline: None

Abstract: The Department is considering a rule that would require airlines and ticket agents (including travel agents) to notify prospective passengers if the country to which they are traveling requires the passenger cabin to be disinsected: that is, sprayed with insecticide in order to kill insects that are vectors of communicable diseases. Currently, about 5 countries routinely require such spraying. This

DOT—OST

Final Rule Stage

rulemaking is being undertaken by departmental initiative.

Timetable:

Action	Date	FR Cite
NPRM	01/18/95	60 FR 3596
NPRM Comment Period End	03/20/95	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Arnold Konheim, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4849

RIN: 2105–AC14

2185. DISCLOSURE OF CHANGE-OF-GAUGE SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 41712

CFR Citation: 14 CFR 257

Legal Deadline: None

Abstract: To ensure that consumers are given pertinent information on the nature of change-of-gauge services, the Department is proposing to codify and augment its current disclosure requirements for itineraries with one flight number that involve a change of aircraft. The Department requested comments on the following three proposed requirements, which would apply to U.S. air carriers, foreign air carriers, and, where appropriate, ticket agents (including travel agents) doing business in the United States: (1) that transporting carriers include notice of aircraft changes in their written or electronic schedule information provided to the public, in the Official Airline Guide, and in computer reservation systems; (2) that consumers be given reasonable and timely notice before they book transportation that a particular service with a single flight number entails a change of aircraft en route, and (3) that written notice of the aircraft change be provided on or with each ticket for such service. This proposal, in part, responds to the petition of American Airlines in Docket 47546 to ban the practice of "funnel flights."

Timetable:

Action	Date	FR Cite
NPRM	01/19/95	60 FR 3778
NPRM Comment Period End	03/20/95	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Further action on this rule is awaiting the final rule in a related code share issue in RIN 2105-AC10.

Agency Contact: Betsy L. Wolf, Senior Trial Attorney, Office of Aviation Enforcement and Proceedings, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9356

RIN: 2105–AC17

2186. AIR CARRIER ACCESS ACT: MISCELLANEOUS AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 374(a); 49 USC 374(c)

CFR Citation: 14 CFR 382

Legal Deadline: None

Abstract: The Department is proposing to amend its rules implementing the Air Carrier Access Act of 1986 concerning seating accommodations for individuals with disabilities and the stowage of collapsible electric wheelchairs. The rule also seeks comment on petitions requesting a smoke-free path through airports for passengers with severe respiratory disabilities.

Timetable:

Action	Date	FR Cite
NPRM	11/01/96	61 FR 56481
NPRM Comment Period End	01/30/97	
Final Action	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306
TDD: 202 755-7687

RIN: 2105–AC28

2187. +COMPUTER RESERVATIONS SYSTEM REGULATIONS AND AMENDMENTS

Priority: Other Significant

Legal Authority: 49 USC 41712

CFR Citation: 49 CFR 255.6

Legal Deadline: None

Abstract: This rulemaking would prohibit contract clauses unreasonably restricting an airline's ability to choose the level of service it wishes to purchase from a computer reservation system (CRS). These contract clauses bar airlines participating in a CRS from participating at a higher level in other systems. This action is expected to increase competition in both the airline and CRS industries. The rule is significant because the affected aviation travel industries have substantial interest in it.

Timetable:

Action	Date	FR Cite
Request for Comments: Comment Period End 1/9/95	12/09/94	59 FR 63736
NPRM	08/14/96	61 FR 42197
NPRM Comment Period End	09/13/96	
Reply Comment Period End	10/03/96	
Final Action	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: See RIN 2105-AC56, Fair and Accurate Display of Airline Service in Computer Reservation Systems, NPRM 8/14/96 (61 FR 42208).

Agency Contact: Thomas Ray, Office of General Counsel, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4731

RIN: 2105–AC35

2188. OVERBOOKING OF FLIGHTS: ELIMINATION OF AIRPORT NOTICE SIGNS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 401; 49 USC 411; 49 USC 413; 49 USC 417

CFR Citation: 14 CFR 250

Legal Deadline: None

Abstract: This action would eliminate a consumer notice about airline overbooking of flights that is required to appear on signs at airports, city ticket offices, and travel agencies. However, that information must accompany every ticket.

Timetable:

Action	Date	FR Cite
NPRM	06/03/96	61 FR 27818
NPRM Comment Period End	07/18/96	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Other rulemakings: RIN 2105-AA88, Simplified Airline Counter-Sign Notices, and RIN 2105-AC36, Ticketless Travel: Passenger Notices.

Agency Contact: Tim Kelly, Aviation Consumer Protection Division, Office of the General Counsel, C-75, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5952

RIN: 2105–AC45

2189. RULES OF PRACTICE IN AVIATION ECONOMIC PROCEEDINGS: REINVENTION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 511; 39 USC 5402; 42 USC 4321; 49 USC 40101; 49 USC 41101; 49 USC 41301; 49 USC 41501; 49 USC 41701; 49 USC 41901; 49 USC 46101; 49 USC 46301

CFR Citation: 14 CFR 302

Legal Deadline: None

Abstract: This action would reorganize in a more logical fashion, regulations that govern the conduct of all aviation economic proceedings before the Department. It would also streamline the regulation to remove redundancies. Procedures relating only to oral evidentiary hearings are being grouped together separate from procedures pertaining only to non-hearing cases. Updates to terminology will be made to reflect the revision and recodification of the Federal Aviation Act. This rule has not been comprehensively updated since 1985 and the revisions will take the form of a complete reissuance of part 302.

Timetable:

Action	Date	FR Cite
NPRM	02/03/97	62 FR 5094
NPRM Comment Period End	04/04/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carol A. Woods, Analyst, Air Carrier Fitness Division, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2340

RIN: 2105–AC48

2190. AMENDMENTS TO MODAL ALCOHOL TESTING RULES: PRE-EMPLOYMENT TESTING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 102; 49 USC 301; 49 USC 5331; 49 USC 20140; 49 USC 31306; 49 USC 45101; 49 USC 45106

CFR Citation: 49 CFR 121; 49 CFR 219; 49 CFR 382; 49 CFR 653; 49 CFR 654

Legal Deadline: None

Abstract: This rule would implement a recent statutory change required by the National Highway Systems Act of 1995, section 342, to the existing pre-employment alcohol testing provisions. It would make pre-employment testing voluntary for employers.

Timetable:

Action	Date	FR Cite
NPRM	05/09/96	61 FR 21149
NPRM Comment Period End	07/08/96	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This action involves four operating administrations: FAA, FHWA, FTA, and FRA. On May 10, 1995, (60 FR 24765) DOT suspended its pre-employment alcohol testing requirements after a court decision vacated the requirements of the FHWA alcohol testing rule.

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC50

2191. +FAIR AND ACCURATE DISPLAY OF AIRLINE SERVICE IN COMPUTER RESERVATION SYSTEMS

Priority: Other Significant

Legal Authority: 49 USC 41712

CFR Citation: 14 CFR 255.4

Legal Deadline: None

Abstract: The Department is proposing two rules to ensure that travel agents using computer reservations systems (CFRs) can obtain a fair and accurate display of airline services. One proposed rule would require each CRS to offer a display that lists all nonstop flights first, all single-plane flights next, and connecting services last.

On-line connections would receive no preference over interline connections. We are proposing to make this display the default or primary display; however, we ask for comments on whether that should be required. The second proposed rule would require that any display offered by a system be based on rational criteria related to consumer preferences. This action is necessary to promote airline competition and ensure that travel agents and consumers can obtain a reasonable display of airline services.

Timetable:

Action	Date	FR Cite
NPRM	08/14/96	61 FR 42208
Correction	08/23/96	61 FR 43500
NPRM Comment Period End	10/15/96	
Reply Comment Period End	11/12/96	
Final Action	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: See also RIN 2105-AC35, Computer Reservations System Regulations and Amendments, NPRM 8/14/96 (61 FR 42197).

Agency Contact: Thomas Ray, Office of General Counsel, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4731

RIN: 2105–AC56

2192. PASSENGER TARIFF-FILING REQUIREMENTS EXEMPTION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 40101; 49 USC 40105; 49 USC 40109; 49 USC 40113 to 40114; 49 USC 41504; 49 USC 41701; 49 USC 41707 to 41709; 49 USC 41712; 49 USC 46101

CFR Citation: 14 CFR 221; 14 CFR 156(j)(2)(ii)

Legal Deadline: None

Abstract: This action would exempt U.S. and foreign air carriers from the statutory and regulatory duty to file with DOT international passenger tariffs in certain instances subject to the reimposition of the duty in specific cases when consistent with the public interest. In addition, the Department proposes to reissue a new version of part 221 that eliminates most of the traditional paper format and filing procedures set forth in the present version.

Timetable:

Action	Date	FR Cite
NPRM	03/10/97	62 FR 10758
NPRM Comment Period End	05/09/97	
Final Action	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/00/98

Agency Contact: John H. Kiser, Chief, Pricing and Multilateral Affairs Division, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2435

RIN: 2105–AC61

2193. CIVIL MONETARY PENALTY INFLATION ADJUSTMENT

Priority: Info./Admin./Other

Legal Authority: PL 104-134; PL 101-410

CFR Citation: 48 CFR 221; 33 CFR 401; 14 CFR 13

Legal Deadline:
Final, Statutory, October 23, 1996.

Abstract: The Federal Civil Penalties Inflation Adjustment Act of 1990 as amended by the Debt Collection Improvement Act of 1996 requires each agency to regularly adjust certain civil monetary penalties in an effort to maintain their remedial impact and promote compliance with the law. The Department reserved a single RIN for agencies to use in publishing these final rules limited to the adoption of statutory language without interpretation.

Timetable:

Action	Date	FR Cite
Final Rule (MARAD)	11/05/96	61 FR 56900
Final Rule (FAA)	12/20/96	61 FR 67444
Final Rule (NHTSA)	02/04/97	62 FR 5167
Final Rule (OST)	02/13/97	62 FR 6719
Final Rule (USCG)	04/08/97	62 FR 16695
Final Rule (USCG Correction)	05/27/97	62 FR 28760
Final Rule (USCG Correction)	06/09/97	62 FR 31339
Final Rule (USCG Correction)	07/22/97	62 FR 39313
Final Action (FRA)	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SLSDC published its rule under RIN 2135-AD09, 10/22/96, 61 FR 54733, before the Departmental RIN was reserved. RSPA published its rule under RIN 2137-AC96, 1/21/97, 62 FR 2970

2194. • UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS: COMMON RULE

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 7501 to 7507

CFR Citation: 49 CFR 18.26; 49 CFR 19.26; 49 CFR 322(a)

Legal Deadline: None

Abstract: The Department is a participating in a voluntary Governmentwide common rule to amend its regulations because OMB amended its Circular A-133 regarding audits of states, local governments, and nonprofit organizations, and also rescinded its Circular A-128. OMB made these changes to comply with the Single Audit Act Amendments of 1996.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/29/97	62 FR 45937
Comment Period End	10/28/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The interim final rule is required to be published not later than 60 days from June 30, 1997, the date of publication of OMB's notice of revision of OMB circular A-133 and rescission of circular A-128.

Agency Contact: Robert G. Taylor, Chief, Grants Management Division, M-62, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4289

RIN: 2105–AC66

2195. POLICY STATEMENT ON AIRLINE PREEMPTION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 41713

CFR Citation: 14 CFR 399

Legal Deadline: None

Abstract: The Civil Aeronautics Board in 1979 issued an interim Policy Statement on preemption. It discusses the policy of the Department with respect to three areas in which State law has been preempted by the Airline Deregulation Act of 1978: regulation of commuter air carriers and air taxis, the rights of airport proprietors, and general State authority as it directly or indirectly affects air transportation competition. The Supreme Court subsequently ruled that section 105 of the ADA preempts even indirect State regulation that "has a connection with or reference to" airline rates, routes, or services. Recently the Supreme Court issued another decision on this provision of the law, ruling that it does not preempt state contract law with respect to interpretation and enforcement of agreements voluntarily entered into by air carriers. The Department is considering the effect of these two holdings on the future course and content of the Policy Statement and whether there is a need for such a policy statement.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/15/79	44 FR 9948
Request for Comments on Interim Rule (PSDR-56, Docket 34684)	02/15/79	44 FR 9953
Comment Period End	04/16/79	
Next Action Undetermined		

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: The 1995 decision issued by the Supreme Court is American Airlines v. Wolens, (S. Ct. No. 93-1286).

Agency Contact: Paul Smith, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9285

RIN: 2105–AA46

2196. BAGGAGE LIABILITY NOTICES IN INTERNATIONAL AIR TRANSPORTATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1302; 49 USC 1324; 49 USC 1371 to 1374; 49 USC 1381; 49 USC 1386; 49 USC 1481 to 1482

CFR Citation: 14 CFR 221

Legal Deadline: None

Abstract: In response to a petition by Mr. Howard Boros, the CAB proposed to amend the baggage liability notices provided to passengers in foreign air travel. The NPRM proposed to eliminate the disclaimer of liability for fragile and perishable items because that notice is false and misleading.

Timetable:

Action	Date	FR Cite
NPRM	12/18/84	49 FR 49111
NPRM Comment Period End	03/19/85	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket 41690; EDR-477.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AA84

2197. +STATEMENT OF ENFORCEMENT POLICY ON REBATING

Priority: Other Significant

Legal Authority: 5 USC 601; 49 USC 1301 to 1302; 49 USC 1305; 49 USC 1324(a); 49 USC 1371 to 1379; 49 USC 1381 to 1382; 49 USC 1384; 49 USC 1386; 49 USC 1481; 49 USC 1481 to 1482; 49 USC 1502; 49 USC 1504

CFR Citation: 14 CFR 399.80; 14 CFR 399.85

Legal Deadline: None

Abstract: The Department is proposing to provide formal notice to the public of its enforcement policy concerning the rebating of international air fares by adopting that policy as a Policy Statement in the regulations. No change in the substance of that policy is intended. The Department also proposes to revoke an existing Policy Statement on the advertising of rebates that is contrary to DOT's current enforcement policy. The proposal responds to a request for such action by the American Society of Travel Agents. The proposed regulation is significant because it involves important departmental policies and substantial industry interest.

Timetable:

Action	Date	FR Cite
NPRM	10/21/88	53 FR 41353
NPRM Comment Period End	12/20/88	
Extended Comment Period End 2/21/89	02/03/89	54 FR 5497
Correction	02/10/89	54 FR 6475
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/21/88 (53 FR 41353)

Agency Contact: Betsy Wolf, Senior Trial Attorney, Office of the General Counsel, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9356

RIN: 2105–AB39

2198. +NEW RESTRICTIONS ON LOBBYING

Priority: Other Significant

Legal Authority: 49 USC 322(a); 31 USC 1352

CFR Citation: 49 CFR 20

Legal Deadline:
Final, Statutory, March 22, 1990.

Abstract: This regulation will implement the provisions of a new section 1352 to title 31, United States Code, that prohibits the use of appropriated funds to influence certain Federal contracting and financial transactions. Organizations that use their own funds to pay for lobbying activities are required to disclose such activity. Guidance was issued by the Office of Management and Budget 12/20/89 (54 FR 52305). OMB guidance based on changes to section 1352 in the Lobbying Disclosure Act of 1995 was published 1/19/96 (61 FR 1412). OMB will convene a Governmentwide panel to develop a common rule to conform to the 1995 legislatively mandated changes. This action is considered significant because it involves agencies or departments governmentwide.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Comment Period End	04/27/90	
Final Action	10/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Additional Information: OMB has control of development of the final rule.

Agency Contact: Robert G. Taylor, Chief, Grants Management Division, M-62, Office of Acquisition and Grant Management, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4289

RIN: 2105–AB57

2199. SMOKING ABOARD AIRCRAFT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1374; 49 USC 1377; 49 USC 1386; PL 101-164

CFR Citation: 14 CFR 252

Legal Deadline: None

Abstract: This interim final rule amends the rules governing smoking aboard aircraft to incorporate a statutory ban on smoking aboard most U.S. flight segments. The statutory ban applies to both U.S. and foreign air carriers. This rulemaking proposed to clarify the current rule and make other minor changes. The interim final rule was significant because of substantial public interest. The present action would merely finalize that already taken and is, therefore, not considered significant.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/13/90	55 FR 4991
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/13/90 (55 FR 4991)

Additional Information: The interim final rule was effective 02/25/90; the comments were due by 04/16/90.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AB58

2200. +TRANSPORTATION FOR INDIVIDUALS WITH DISABILITIES (ACCESSIBILITY GUIDELINES)

Priority: Other Significant

Legal Authority: 5 USC 552a

CFR Citation: 49 CFR 27; 49 CFR 37

Legal Deadline: None

Abstract: This action would amend the rules implementing the Americans with Disabilities Act by adopting the revised accessibility guidelines issued by the Architectural and Transportation Barriers Compliance Board, published June 20, 1994 (59 FR 31676) as Interim final rules. The proposed rule herein would also conform the Department's rule implementing section 504 of the Rehabilitation Act of 1973. Further DOT action is pending ATBCB/ Justice Department action. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	06/20/94	59 FR 31818
NPRM Comment Period End	08/19/94	
Next Action Undetermined		

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Analysis: Regulatory Flexibility Analysis

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC06

2201. USE OF OXYGEN BY AIR CARRIER PASSENGERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 41705

CFR Citation: 14 CFR 382

Legal Deadline: None

Abstract: The Department is considering the use of regulatory negotiation to seek consensus among air carrier, consumer, airports, equipment manufacturers, oxygen suppliers, and safety regulators concerning the use of oxygen by passengers on air carriers when individuals need special private supplies. The need for action stems from a current situation where all carriers do not allow passengers to bring their own oxygen aboard. Issues involve conformance with RSPA and FAA hazardous materials rules and the question of providing oxygen during long layovers. The Department is considering whether to begin a regulatory negotiation.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Local

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC29

DEPARTMENT OF TRANSPORTATION (DOT)
Office of the Secretary (OST)

Completed Actions

2202. IMPLEMENTATION OF AMENDMENTS TO THE EQUAL ACCESS TO JUSTICE ACT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 504

CFR Citation: 49 CFR 6; 48 CFR 6301; 14 CFR 14

Legal Deadline: None

Abstract: This action provides the award of attorney fees and other expenses under the Equal Access to Justice Act to eligible individuals and entities who are parties to certain administrative proceedings before the Department and its various operating administrations. These revisions are necessitated by various statutory changes that have been made since DOT adopted its present rule in 1983. DOT is not making any other substantive alterations to its regulation. All of the Department's proposed changes to its regulations either mirror the currently applicable statutory requirements or are of a minor non-technical nature.

Timetable:

Action	Date	FR Cite
NPRM	08/05/96	61 FR 28831
NPRM Comment Period End	09/05/96	
Final Action	04/21/97	62 FR 19233
Final Action Effective	05/21/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alexander Millard, Attorney, C-30, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9285

RIN: 2105–AB73

2203. +PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN AIRPORT CONCESSIONS

Priority: Other Significant

Legal Authority: PL 102-581; PL 97-248

CFR Citation: 49 CFR 23

Legal Deadline:
Final, Statutory, April 30, 1993.

Abstract: This action would implement recent changes to the Airport and Airway Improvement Act to allow airport sponsors to count new forms of disadvantaged business enterprise (DBE) participation toward the overall goals of a DBE concession plan. These new forms include purchases from DBEs of goods and services used in operating a concession, as well as management contracts and subcontracts with DBEs. This action is significant because of substantial public interest. This action was combined with RIN 2105-AB92, DBE Regulation: General Update at the SNPRM stage.

Timetable:

Action	Date	FR Cite
NPRM	10/06/93	58 FR 52050
NPRM Comment Period End	11/22/93	
Extended Comment Period End 12/14/93	11/30/93	58 FR 63153
Combined With RIN 2105-AB92	05/30/97	62 FR 29548

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local

Analysis: Regulatory Evaluation 10/06/93 (58 FR 52050)

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AB99

2204. NONPROCUREMENT DEBARMENT AND SUSPENSION

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 322; EO 12549; EO 12689; 31 USC 6101

CFR Citation: 49 CFR 29

Legal Deadline: None

Abstract: This revision to the nonprocurement common rule is issued in response to Executive Order 12689 and section 2455 of the Federal Acquisition Streamlining Act of 1994. The Executive Order requires agencies to establish regulations for reciprocal governmentwide effect across procurement and nonprocurement debarment and suspension actions, after technical differences between the procurement and nonprocurement regulations are resolved. This regulation establishes that reciprocity.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/26/95	60 FR 33036
Comment Period End	07/26/95	
Final Action	04/02/97	62 FR 15620
Final Action Effective	04/02/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Paul B. Larsen, Office of the General Counsel, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9161

RIN: 2105–AC25

2205. CHANGES TO INTERNATIONAL DATA SUBMISSIONS BY LARGE AIR CARRIERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 329; 49 USC 40109; 49 USC 40113; 49 USC 41701; 49 USC 41708; 49 USC 41709 et seq

CFR Citation: 14 CFR 217.5(b); 14 CFR 241

Legal Deadline: None

Abstract: This rulemaking would reduce the period of confidentiality for T-100 data from three years to six months. It would also require foreign carriers to report capacity data regarding available seats and available payload weight. Finally, it would consolidate reporting of international revenue passenger and capacity data by large U.S. carriers. There may be an additional action issued to specify changes to the reporting instructions that apply to Form 41, Schedule P-1.2, Statement of Operations, that are the result of this final rule. If so, that action will be issued under a new RIN number.

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Completed Actions

Timetable:

Action	Date	FR Cite
NPRM	02/15/96	61 FR 5963
NPRM Comment Period End	04/15/96	
Final Action	02/13/97	62 FR 6715
Final Action Effective	03/17/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/17/97 (62 FR 6715)

Agency Contact: John Harman, Deputy Director, Office of Aviation Analysis, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1059

RIN: 2105–AC34

2206. TICKETLESS TRAVEL: PASSENGER NOTICES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 41712

CFR Citation: 14 CFR 221; 14 CFR 250; 14 CFR 253; 14 CFR 254

Legal Deadline: None

Abstract: This compliance policy states that the ticket notices required by various DOT rules must be given (or be made readily available) to "ticketless" airline passengers no later than the time that they check in at the airport for the first flight of their itinerary. This information concerns protections afforded by Federal regulations, limitations on carrier liability, and contract terms that passengers may not otherwise be aware of.

Timetable:

Action	Date	FR Cite
Request for Comments: Comment Period End 3/19/96	01/19/96	61 FR 1309
Statement of Compliance Policy	04/22/97	62 FR 19473
Final Action Effective	05/22/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tim Kelly, Office of the General Counsel, C-75, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5952

RIN: 2105–AC36

2207. CLASSIFIED INFORMATION: REVISION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 322; EO 20450; EO 12968

CFR Citation: 49 CFR 1; 49 CFR 8

Legal Deadline: None

Abstract: This action revises regulations regarding the classification and declassification of, and access to, classified information. It delegates to the Assistant Secretary for Administration authority to ensure compliance within DOT with a number of underlying Executive Orders.

Timetable:

Action	Date	FR Cite
NPRM	07/01/96	61 FR 33886
NPRM Comment Period End	08/30/96	
Final Action	05/01/97	62 FR 23661
Final Action Effective	06/02/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert I. Ross, Office of the General Counsel, C-10, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2195
Fax: 202 366-9170

RIN: 2105–AC51

2208. MAINTENANCE OF AND ACCESS TO RECORDS PERTAINING TO INDIVIDUALS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552(a); 45 USC 322

CFR Citation: 49 CFR 10

Legal Deadline: None

Abstract: This revision updates and streamlines information on maintenance and access to records pertaining to individuals. The main revision removes references to appendices since they contain information which describes the systems of records maintained by all Federal agencies. That information is available through the Notice of Records Systems.

Timetable:

Action	Date	FR Cite
NPRM	06/11/96	61 FR 29522
NPRM Comment Period End	09/12/96	
Final Action	05/01/97	62 FR 23666
Final Action Effective	06/30/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dorothy A. Chambers, Office of the General Counsel, C-12, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4542
Fax: 202 366-7152

RIN: 2105–AC57

2209. PUBLIC AVAILABILITY OF INFORMATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 522; 31 USC 9701; 49 USC 322; EO 12600

CFR Citation: 49 CFR 7

Legal Deadline: None

Abstract: This action revises regulations implementing the Freedom of Information Act. It updates organizational changes since the last revision and streamlines the regulations in order to make them more useful.

Timetable:

Action	Date	FR Cite
NPRM	06/26/96	61 FR 33075
NPRM Comment Period End	09/26/96	
Final Action	04/22/97	62 FR 19515
Final Action Effective	06/23/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dorothy A. Chambers, Chief, Freedom of Information Act Division, Office of General Counsel, Department of Transportation, Office of

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Completed Actions

the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4542
Fax: 202 366-7152

RIN: 2105–AC58

2210. INSPECTION AND COPYING OF DEPARTMENT OPINIONS, ORDERS, AND RECORDS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 15 USC 1601 to 1693; 49 USC 40101; 49 USC 41712

CFR Citation: 14 CFR 310; 14 CFR 374; 12 CFR 202; 12 CFR 226

Legal Deadline: None

Abstract: This rule removes regulations on the inspection and copying of DOT opinions, orders, and records and it amends regulations on the implementation of the Consumer Credit Protection Act with respect to air carriers and foreign air carriers. The inspection and copying rules are outdated and already encompassed in another part of the Department's regulations. With regard to the Consumer Credit Protection Act, this action updates both the agency references and statutory citations.

Timetable:

Action	Date	FR Cite
Final Action	05/12/97	62 FR 25840
Final Action Effective	06/11/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dayton Lehman, Office of Aviation Enforcement Proceedings, C-70, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9349

RIN: 2105–AC64

DEPARTMENT OF TRANSPORTATION (DOT)
U.S. Coast Guard (USCG)

Prerule Stage

2211. • REVIEW OF REGULATIONS ON BOATING SAFETY (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1233; 43 USC 1333; 46 USC 2302; 46 USC 3306; 46 USC 4302; 46 USC 4307; 46 USC 4310; 46 USC 4311; 46 USC 6101; 46 USC 12302

CFR Citation: 33 CFR 95; 33 CFR 100; 33 CFR 173; 33 CFR 174; 33 CFR 175; 33 CFR 177; 33 CFR 179; 33 CFR 181; 33 CFR 183

Legal Deadline: None

Abstract: The Coast Guard will conduct a comprehensive review of currently effective boating safety regulations during and after the meeting of the National Boating Safety Advisory Council (NBSAC) in October 1997. This Request describes which of them will come within the review and solicits comments from the boating community in response to issues that this Request will pose. The review is to determine which if any of those regulations need to change. The Coast Guard will provide a summary of the comments received to the members of the NBSAC for them to consider before that meeting, and will itself consider all relevant comments as it determines which if any of those regulations need change. This review is not required, but is consistent with 5 USC 610.

Timetable:

Action	Date	FR Cite
Begin Review, Request for Comments	05/28/97	62 FR 28824
End Comment Period	06/28/97	
Extension of Comment Period	08/26/97	62 FR 45197
End Comment Period	09/30/97	
Complete Review	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carl Perry, Project Manager, G-OPB-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0979

RIN: 2115–AF52

DEPARTMENT OF TRANSPORTATION (DOT)
U.S. Coast Guard (USCG)

Proposed Rule Stage

2212. REPORTING MARINE CASUALTIES (CGD 91-216)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 46 USC 6101; 33 USC 1901 et seq

CFR Citation: 33 CFR 151; 46 CFR 4

Legal Deadline: None

Abstract: This action would add to the definition of a reportable marine casualty "significant harm to the environment." Some casualty reporting requirements are extended to include foreign tank vessels operating in U.S. waters, including the exclusive economic zone.

Timetable:

Action	Date	FR Cite
Notice of Meeting; Request for Comments, Comment Period End 2/20/95	12/20/94	59 FR 65522
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Janet Walton, Project Manager, G-MSR-2, Department of

DOT—USCG

Proposed Rule Stage

Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0257

RIN: 2115–AD98

2213. +FACILITY RESPONSE PLANS FOR HAZARDOUS SUBSTANCES (CGD 94-048)

Regulatory Plan: This entry is Seq. No. 90 in Part II of this issue of the Federal Register.

RIN: 2115–AE87

2214. +TANK VESSEL RESPONSE PLANS FOR HAZARDOUS SUBSTANCES (CGD 94-032)

Regulatory Plan: This entry is Seq. No. 91 in Part II of this issue of the Federal Register.

RIN: 2115–AE88

2215. NUMBERING OF UNDOCUMENTED BARGES (CGD 93-091)

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 46 USC 12301

CFR Citation: 33 CFR 189

Legal Deadline: None

Abstract: The rulemaking would establish a mandatory numbering system, as required by law, for the numbering of undocumented barges over 100 gross tons. The numbering of undocumented barges will allow identification of owners of barges found abandoned and help to prevent future marine pollution from abandoned barges.

Timetable:

Action	Date	FR Cite
Notice of Request for Comments, Comment Period End 1/17/95	10/18/94	59 FR 52646
NPRM	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Carlton Perry, Project Manager, G-OPB-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0979

RIN: 2115–AF13

2216. LICENSING AND MANNING FOR OPERATORS OF TOWING VESSELS (CGD 94-055)

Priority: Substantive, Nonsignificant

Legal Authority: 14 USC 633; 31 USC 9701; 44 USC 3507; 46 USC 2103; 46 USC 7101; 46 USC 7106; 46 USC 7107; 46 USC 7701

CFR Citation: 46 CFR 10; 46 CFR 15

Legal Deadline: None

Abstract: This rulemaking is necessary as part of an overall initiative by the Coast Guard to improve navigational safety for towing vessels. It will help ensure that the mariner piloting a towing vessel has the proper training and qualifications to handle the tug and tow. It will introduce levels of licenses where there has been only one license. Each level will require greater experience and proficiency. This will prevent the new operator with minimal experience from commanding the largest flotillas; it will prevent any operator with any experience from commanding the largest flotillas until he or she has gained, and shown, the necessary competence. This rulemaking also introduces a requirement for demonstration of proficiency as a prerequisite to being issued a license. This will be in addition to the current requirements for sea service and successful testing.

Timetable:

Action	Date	FR Cite
NPRM	08/19/96	61 FR 31332
Correction	07/11/96	61 FR 36606
Correction	08/07/96	61 FR 41206
Notice of Meeting; Comment Period End 10/17/96	08/26/96	61 FR 43720
NPRM Comment Period End	10/17/96	
Notice of Intent	12/18/96	61 FR 66642
SNPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: LCDR Don Darcy, Project Manager, G-MSO-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-4570

RIN: 2115–AF23

2217. LIMITED SERVICE DOMESTIC VOYAGE LOAD LINES FOR RIVER BARGES ON LAKE MICHIGAN (CGD 95-015)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 51

CFR Citation: 46 CFR 45

Legal Deadline: None

Abstract: This regulatory project will allow certain unmanned dry cargo river barges operating on Lake Michigan to be exempted from the normal Great Lakes load line requirements provided instead that they obtain a limited domestic service load line for two specific routes (Chicago to Milwaukee, and Chicago to Muskegon). This will allow certain non-hazardous cargoes originating at inland river ports to be transported as far as Milwaukee and Muskegon by river barge, thereby benefiting from the relatively low cost per ton-mile of river barge transportation. Compliance is not mandatory other than for those river barge operators who voluntarily seek this special load line for their barges.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Thomas Jordan, Project Manager, G-MSE-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-2988

RIN: 2115–AF38

2218. • CONFORMANCE OF THE UNIFORM STATE WATERWAYS MARKING SYSTEM WITH THE UNITED STATES AIDS TO NAVIGATION SYSTEM (CGD 97-018)

Priority: Substantive, Nonsignificant

Legal Authority: 14 USC 83; 14 USC 85; 33 USC 1233; 43 USC 1333

CFR Citation: 33 CFR 62; 33 CFR 66

Legal Deadline: None

Abstract: This rulemaking will consolidate the Uniform State Waterway Marking System (USWMS) with the US Aids to Navigation System (USATONS). The consolidation will eliminate three differences between the

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Proposed Rule Stage

two systems by adopting the markers of the USATONS. The impact on government entities would be minimal because implementation costs will be linked to replacement cycles.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Daniel Andrusiak, Project Manager, G-OPN-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0327

RIN: 2115–AF45

2219. • +USER FEES FOR MARINE LICENSING, CERTIFICATES OF REGISTRY, AND MERCHANT MARINER DOCUMENTS (CGD 97-049)

Priority: Other Significant

Legal Authority: 46 USC 2110; 14 USC 664; 31 USC 9701; 49 CFR 1.46

CFR Citation: 46 CFR 10; 46 CFR 12

Legal Deadline:
Final, Judicial, April 30, 1998.

Abstract: This project would revise user fees for Coast Guard services relating to the issuance of merchant mariner licenses, certificates of registry and MMDs. This rulemaking was ordered by the District Court for the D.C. Circuit to be completed by 4/30/98. The user fees are based on direct and indirect personnel costs and overhead costs associated with specific services, and will affect all mariners obtaining or renewing marine licenses, certificates of registry and Merchant Mariner Documents. This is a significant rulemaking because it may have an impact on Coast Guard budgetary issues, and because it concerns a matter of significant public interest or controversy.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Initial compliance costs to the public are $9.2 million. Annual compliance costs to the public are $9.2 million. Related Dockets are CGD 96-053 and USCG-97-2799.

Agency Contact: LCDR Daniel Rotermund, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593
Phone: 202 267-6982

RIN: 2115–AF49

2220. • AMENDMENT OF STATE WATERS FOR PRIVATE AIDS TO NAVIGATION IN WISCONSIN AND ALABAMA

Priority: Substantive, Nonsignificant

Legal Authority: 33 CFR 66.05-10(e)

CFR Citation: 33 CFR 66

Legal Deadline: None

Abstract: The Coast Guard proposes to reestablish federal jurisdiction over certain waterways in the States of Alabama and Wisconsin for the purposes of private aids to navigation. This action is being taken to implement a request from the State of Alabama and an agreement between the State of Wisconsin and the Coast Guard, and to ensure safe navigation on the affected waterways.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Dan Andrusiak, Project Manager, G-OPN-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0327

RIN: 2115–AF50

DEPARTMENT OF TRANSPORTATION (DOT)
U.S. Coast Guard (USCG)

Final Rule Stage

2221. QUALIFICATIONS FOR TANKERMEN AND FOR PERSONS IN CHARGE OF TRANSFERS OF DANGEROUS LIQUIDS AND LIQUIFIED GASES (CGD 79-116)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 3703; 46 USC 7317; 46 USC 8703; 46 USC 9101; 46 USC 9102

CFR Citation: 33 CFR 154; 33 CFR 155; 46 CFR 7; 46 CFR 12; 46 CFR 13; 46 CFR 30; 46 CFR 31; 46 CFR 35; 46 CFR 78; 46 CFR 90; 46 CFR 97; 46 CFR 98; 46 CFR 105; 46 CFR 151; 46 CFR 153

Legal Deadline: None

Abstract: In response, first, to the Port and Waterways Safety Act of 1978 and, second, to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 ("STCW"), as amended in 1995, this rulemaking established more stringent qualifying criteria for mariners transporting and transferring various oils and other cargoes. The regulated industry, however, has raised concerns with meeting the requirements of 33 CFR 155.710(e), which requires an endorsement to merchant mariners' documents. This rulemaking will delay the date of compliance required for 33 CFR 155.710(e) and invite additional public comment on this section.

Timetable:

Action	Date	FR Cite
NPRM	12/18/80	46 FR 83268
NPRM Comment Period End	03/18/81	
SNPRM Comment Period End 01/16/90	10/17/89	54 FR 42624
Interim Final Rule	04/04/95	60 FR 17134
Interim Final Rule Comment Period End	06/30/95	
Comment Period Reopened	03/26/96	61 FR 13098
Comment Period End	05/18/96	
Final Action	05/08/97	62 FR 25115
Final Action Effective	08/09/97	
Partial Suspension Delay of Effective Date	07/11/97	62 FR 37134
Delay date of Compliance request for comments	09/17/97	62 FR 48769
Comment Period end	11/17/97	

Small Entities Affected: None

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Government Levels Affected: None

Analysis: Regulatory Evaluation 12/18/80 (45 FR 83268)

Additional Information: Former title: Qualifications of the Person in Charge of Oil Transfer Operations: Tankerman Requirements (79-116). Public meetings were held during January and February of 1981. Docket 79-116a (RIN 2115-AD18) has been included in this project and will no longer be listed as a separate Regulatory Agenda item.

Agency Contact: Mark Gould, Project Manager, G-MSO-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6890

RIN: 2115–AA03

2222. LIFESAVING EQUIPMENT—IMPLEMENTATION OF 1983 AMENDMENTS TO SOLAS 1974 (CGD 84-069)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 46 USC 3306

CFR Citation: 46 CFR 31; 46 CFR 33; 46 CFR 35; 46 CFR 70; 46 CFR 71; 46 CFR 75; 46 CFR 78; 46 CFR 91; 46 CFR 94; 46 CFR 97; 46 CFR 107; 46 CFR 108; 46 CFR 109; 46 CFR 154; 46 CFR 160

Legal Deadline: None

Abstract: As part of the President's Regulatory Review initiative to remove or revise unnecessary government regulations, this rule removes numerous obsolete sections from the Code of Federal Regulations and eliminates duplication of other provisions by consolidating the lifesaving requirements for most U.S. inspected vessels making them consistent with the substantive provisions of the Safety of Life at Sea (SOLAS) Convention 1974, to the maximum extent practicable. It not only implements the provisions of chapter III of SOLAS, as amended, but also revises lifesaving regulations for Great Lakes vessels and certain vessels in domestic trade which are not covered by SOLAS. The rule also replaces many prescriptive regulations with performance-based alternatives.

Timetable:

Action	Date	FR Cite
ANPRM	12/31/84	49 FR 50745
ANPRM Comment Period End	03/01/85	
NPRM	04/21/89	54 FR 16198
NPRM Comment Period End	08/21/89	
Comment Period Reopened to 01/03/90	10/05/89	54 FR 41124
Notice of Public Hearing in Seattle 10/17/89	10/05/89	54 FR 41124
Interim Final Rule	05/20/96	61 FR 25272
Interim Final Rule Comment Period End	07/31/96	
Notice of Meeting; Comment Period End 10/31/96	08/26/96	61 FR 43685
Interim Final Rule Effective	10/01/96	
Interim Rule; Partial Suspension	02/19/97	62 FR 7360
Interim Rule; Partial Suspension Effective	02/19/97	
Interim Rule Comment Period End	04/21/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local

Analysis: Regulatory Evaluation 04/21/89 (54 FR 16198)

Additional Information: CFR CITATION CONT: 46 CFR 30; 46 CFR 90; 46 CFR 112; 46 CFR 125; 46 CFR 133; 46 CFR 161; 46 CFR 167; 46 CFR 168; 46 CFR 188; 46 CFR 192; 46 CFR 196; 46 CFR 199.

To prevent any economic expenditures based on the Interim rule which might not be necessary under the Final rule, Coast Guard suspended the implementation requirements for certain provisions in the Interim rule. Suspension of section 199.10(i)(1)(i), (ii) and (iii) is effective February 19,1997.

Agency Contact: Bob Markle, Project Manager, G-MSE-4, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1444

RIN: 2115–AB72

2223. +IMPLEMENTATION OF THE COMMERCIAL FISHING-INDUSTRY VESSEL SAFETY ACT (CGD 88-079)

Priority: Other Significant

Legal Authority: 46 USC 4502; 46 USC 4506; 46 USC 6104(c); 46 USC 10603(b)

CFR Citation: 46 CFR 28

Legal Deadline:
Final, Statutory, January 1, 1993.

Abstract: The Commercial Fishing Industry Vessel Safety Act of 1988 requires the Secretary of Transportation to prescribe regulations for certain safety equipment and vessel operating procedures. A final rule establishing requirements for navigation, radio, firefighting, and lifesaving equipment, and fuel, ventilation, and electrical systems was published in August, 1991. In August, 1992, an interim rule established immersion suit requirements. In May, 1993, regulations for immersion suits on vessels operating on seasonally cold waters were also proposed. Lifesaving equipment and instructor qualifications have been addressed in a separate rule.

Timetable:

Action	Date	FR Cite
ANPRM of Consolidated RIN 2115-AC34	07/09/87	52 FR 25890
ANPRM Correction of Consolidated RIN 2115-AC34	08/10/87	52 FR 29556
ANPRM	12/29/88	53 FR 52735
ANPRM Comment Period End	02/27/89	
ANPRM Extended Comment Period End 4/15/89	03/02/89	54 FR 8765
NPRM	04/19/90	55 FR 14924
NPRM Comment Period End	06/20/90	
Notice of Intent to Publish SNPRM	08/31/90	55 FR 35694
Final Action Except SNPRM Issues; Final Action Effective 09/15/91	08/14/91	56 FR 40364
Final Rule Correction	09/20/91	56 FR 47679
Correcting Amendments to Final Action of 08/14/91	01/06/92	57 FR 363
Interim Final Rule: Immersion Suits	08/03/92	57 FR 34188
SNPRM To Address Stability and Other Small Fishing Vessel Issues	10/27/92	57 FR 48670
SNPRM Correction	12/03/92	57 FR 57129

DOT—USCG

Final Rule Stage

Action	Date	FR Cite
SNPRM Extended Comment Period End 02/28/93	12/18/92	57 FR 60158
SNPRM Correction	01/06/93	58 FR 630
NPRM Seasonally Cold Waters	05/20/93	58 FR 29502
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/27/92 (57 FR 48670)

Additional Information: The final rule published 08/14/91 addressed most issues raised in the NPRM. A final rule implementing provisions of the Aleutian Trade Act was handled under RIN 2115-AE77. Coast Guard docket 86-024, Uninspected Fish Processing Vessels (RIN 2115-AC34) was incorporated into this project in 1987. An interim final rule establishing requirement for exemptions, terminations, lifesaving equipment, and training is being handled separately under RIN 2115-AF35.

Agency Contact: CDR Mark D. Bobal, Project Manager, G-MSO-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0836

RIN: 2115–AD12

2224. PERMITS FOR THE TRANSPORTATION OF MUNICIPAL AND COMMERCIAL WASTES (CGD 89-014)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 2602

CFR Citation: 33 CFR 151

Legal Deadline:
Final, Statutory, June 15, 1989, See discussion in the Abstract.

Abstract: In May 1989, the Coast Guard began a rulemaking to incorporate into regulation certain elements of the Shore Protection Act. Its objective was to help prevent trash, medical debris, and other unsightly and potentially harmful materials from being deposited into the coastal waters of the United States as a result of sloppy waste-handling procedures. Because no additional regulations are needed, the Coast Guard is discontinuing rulemaking under docket number 89-014.

Timetable:

Action	Date	FR Cite
ANPRM	09/15/89	54 FR 38358
ANPRM Comment Period End	12/14/89	
NPRM	10/05/93	58 FR 51920
NPRM Correction	10/15/93	58 FR 53624
NPRM Comment Period End	01/03/94	
NPRM Comment Period Reopened to 03/28/94	02/24/94	59 FR 8681
Interim Final Rule	04/25/95	60 FR 20310
Interim Final Rule Comment Period End	07/24/95	
Interim Final Rule Comment Period Reopened to 12/31/95	10/17/95	60 FR 53727
Interim Final Rule: Change in Effective Date	02/23/96	61 FR 6943
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/05/93 (58 FR 51920)

Additional Information: The effective date of April 24, 1996 applies to all provisions in this interim final rule other than 33 CFR part 187, subpart D, which is suspended through April 23, 1998. The change in effective date of the interim final rule was published 2/23/96, 61 FR 6943.

Agency Contact: LT James Whitehead, Project Manager, G-MRI-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0385

RIN: 2115–AD35

2225. VESSEL IDENTIFICATION SYSTEM (CGD 89-050)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2103; 46 USC 12501

CFR Citation: 33 CFR 187

Legal Deadline: None

Abstract: 46 USC 12501 requires the Secretary of Transportation to establish a Vessel Identification System (VIS). This rulemaking prescribes the manner and form for participating States to make information available for VIS; to establish guidelines for State vessel titling systems; and to establish procedures for certifying compliance with those guidelines.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/24/89	54 FR 22546
Interim Final Rule Correction	06/05/89	54 FR 24078
Comment Period End	08/24/89	54 FR 22546
Notice	12/13/95	60 FR 64001
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/24/89 (54 FR 22546)

Additional Information: Further action depends on Environmental Protection Agency's regulatory decisions and/or legislation to define classes of vessels to be permitted and the appeal process for denial or revocation. This project was formerly known as Implementation of the Shore Protection Act of 1988.

Agency Contact: LCDR Farthing, Project Manager, G-MSO, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6451

RIN: 2115–AD23

2226. +DISCHARGE-REMOVAL EQUIPMENT FOR VESSELS CARRYING OIL (CGD 90-068)

Priority: Other Significant

Legal Authority: 46 USC 4202

CFR Citation: 46 CFR 165

Legal Deadline:
Final, Statutory, August 18, 1992.

Abstract: The Oil Pollution Act of 1990 directed the President by August 18, 1992, to (1) require periodic inspection of discharge-removal equipment to ensure that it is available in an emergency, and (2) require carriage of discharge-removal equipment by vessels operating in the navigable waters of the U.S. and carrying oil or hazardous substances. This action implemented those provisions and is considered significant because of expected costs and substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	08/30/91	56 FR 43534
ANPRM Comment Period End	10/16/91	

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Final Rule Stage

Action	Date	FR Cite
NPRM	09/29/92	57 FR 44912
NPRM Comment Period Extended to 11/16/92	10/26/92	57 FR 48489
NPRM Comment Period End	10/29/92	
Interim Final Rule	12/22/93	58 FR 67988
Interim Final Rule Effective	01/22/94	
Interim Final Rule Correction	01/26/94	59 FR 3749
Interim Final Rule Comment Period End	02/22/94	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/22/93 (58 FR 67988)

Additional Information: The Coast Guard will be evaluating new technology to determine whether additional rulemaking is appropriate.

Agency Contact: LT Mark Ledbetter, Project Manager, G-MSR-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0971

RIN: 2115–AD66

2227. +SECURITY FOR PASSENGER VESSELS AND PASSENGER TERMINALS (CGD 91-012)

Priority: Other Significant

Legal Authority: 33 USC 1226

CFR Citation: 33 CFR 120; 33 CFR 128

Legal Deadline: None

Abstract: The purpose of this action is to improve security measures on passenger vessels engaged in international voyages of 24 hours or more, and on the port facilities serving these vessels. This rulemaking is significant because of substantial public interest and safety implications. It is a high-priority project and involves important departmental policy.

Timetable:

Action	Date	FR Cite
NPRM	03/25/94	59 FR 14290
NPRM Comment Period End	06/23/94	
Comment Period Reopened to 11/30/94	09/07/94	59 FR 46211
Notice of Public Hearings	09/07/94	59 FR 46211
Interim Final Rule	07/18/96	61 FR 37648
Interim Final Rule Comment Period End	09/16/96	
Notice of Policy Clarification	10/03/96	61 FR 51597
Interim Final Rule Effective	10/16/96	
Final Action	05/00/98	

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $546,368; Yearly Recurring Cost: $28,000; Base Year for Dollar Estimates: 1996

Analysis: Regulatory Evaluation 03/25/94 (59 FR 14290)

Agency Contact: CDR Dennis Haise, Project Manager, G-MSO-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6451

RIN: 2115–AD75

2228. AMENDMENTS TO HULL IDENTIFICATION NUMBER REGULATIONS (CGD 92-065)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 4302; 46 USC 12501

CFR Citation: 33 CFR 181

Legal Deadline: None

Abstract: This rulemaking would expand the existing 12 character Hull Identification Number (HIN) applicable to manufacturers of recreational boats to include a two character country of origin, and align the Coast Guard HIN system with the newly adopted Certificate of Origin (COO) with each vessel produced to ensure documented international (ISO) system. Several minor amendments to the HIN regulations are also proposed.

Timetable:

Action	Date	FR Cite
NPRM	05/06/94	59 FR 23651
NPRM Comment Period End	08/08/94	
Notice of Workshop; Comment Period Reopened to 01/09/95	11/09/94	59 FR 55823
SNPRM	02/21/97	62 FR 7971
SNPRM Comment Period End	05/22/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/21/97 (62 FR 7975)

Agency Contact: Alston Colihan, Project Manager, G-OPB-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0984

RIN: 2115–AE37

2229. INLAND NAVIGATION RULES; LIGHTING PROVISIONS (CGD 94-011)

Priority: Substantive, Nonsignificant

Legal Authority: 14 USC 2; 14 USC 633; 33 USC 151(a); 33 USC 2071

CFR Citation: 33 CFR 80; 33 CFR 82; 33 CFR 84; 33 CFR 87; 33 CFR 88; 33 CFR 90

Legal Deadline: None

Abstract: This rulemaking would amend certain technical lighting provisions and interpretive regulations which supplement the Inland Navigation Rules and the International Regulations for Preventing Collisions at Sea (72 COLREGS). These changes would bring certain technical rules into conformity with amendments to the 72 COLREGS scheduled which became effective in November, 1995. The Coast Guard is also proposing several interpretive regulations to clarify ambiguities in the rules.

Timetable:

Action	Date	FR Cite
NPRM	07/20/94	59 FR 37003
NPRM Correction	08/24/94	59 FR 43629
NPRM Comment Period End	09/19/94	
Final Action	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/20/94 (59 FR 37003)

Additional Information: The NPRM of 07/20/94 erroneously indicated RIN 2115-AE72.

Agency Contact: Diane Schneider, Project Manager, G-MOV-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0352

RIN: 2115–AE71

DOT—USCG

Final Rule Stage

2230. ALTERNATE COMPLIANCE VIA RECOGNIZED CLASSIFICATION SOCIETY AND U.S. SUPPLEMENT TO RULES (CGD 95-010) (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 3316; 46 USC 3703

CFR Citation: 46 CFR 8; 46 CFR 31; 46 CFR 71; 46 CFR 91; 46 CFR 107

Legal Deadline: None

Abstract: This rulemaking provides owners of U.S. tank vessels, passenger vessels, cargo vessels, miscellaneous vessels and mobile offshore drilling units an alternative method to fulfill the requirements for vessel design, inspection, and certification. Under the rule, the Coast Guard issues a certificate of inspection based upon a recognized classification society's report that the vessel complies with the International Convention for the Safety of Life at Sea, as amended (SOLAS), other applicable international conventions, classification society rules, and other specified requirements. This will reduce the burden on vessel owners and operators by eliminating duplicative plan reviews and inspections by the classification society and the Coast Guard.

Timetable:

Action	Date	FR Cite
NPRM	06/22/95	60 FR 32476
NPRM Comment Period End	09/20/95	
Interim Final Rule	12/27/96	61 FR 68510
Interim Final rule Effective Date	12/27/96	
Interim Final Rule Comment Period End	03/27/97	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/27/96 (61 FR 68510)

Agency Contact: LCDR Daniel Pippinger, Project Manager, G-MSE-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0171

RIN: 2115–AF11

2231. REGATTAS AND MARINE PARADES (CGD 95-054)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1233

CFR Citation: 33 CFR 100

Legal Deadline: None

Abstract: In keeping with the National Performance Review and the President's Regulatory Reinvention Initiative, the Coast Guard is revising its marine event regulations to eliminate unnecessary requirements while continuing to protect the safety of life. The rulemaking more precisely identifies those events which require a permit, those which require only written notice to the Coast Guard, and those which require neither. The effective date of the interim regulations for this project have been delayed one year to allow the Coast Guard to further assess the potential impact, if any, of the interim rule on the environment.

Timetable:

Action	Date	FR Cite
ANPRM	12/26/95	60 FR 67345
ANPRM Comment Period End	02/09/96	
NPRM	04/17/96	61 FR 16732
NPRM Comment Period End	05/17/96	
Interim Final Rule	06/26/96	61 FR 33027
Interim Final Rule Comment Period End	08/26/96	
Interim Final Rule	11/26/96	61 FR 60027
Final Action	10/00/97	
Interim Final Rule Effective	01/01/98	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Analysis: Regulatory Evaluation 06/26/96 (61 FR 33031)

Agency Contact: Carlton Perry, Project Manager, G-OPB-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0979

RIN: 2115–AF17

2232. STREAMLINED INSPECTION PROGRAM (CGD 96-055)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 3703

CFR Citation: 46 CFR 8

Legal Deadline: None

Abstract: This project will establish a Streamlined Inspection Program (SIP). The SIP would allow owners or operators of inspected vessels to have their own personnel perform many of the tests and requirements currently done by Coast Guard marine inspectors. Owners and operators of inspected vessels would work with the Coast Guard to develop written inspection procedures for each of their vessels enrolled in the program. The SIP would be conducted with Coast Guard oversight, and while Coast Guard marine inspectors would still conduct required inspections, their time on board the vessel would be substantially reduced. The SIP will raise the overall level of safety of a vessel by allowing vessels to meet inspection requirements through a combination of: (1) increased participation of the vessel's crew in continuous vessel maintenance; (2) trained and qualified company personnel conducting specific pre-inspection tasks throughout the vessel inspection cycle; and (3) scheduled inspections conducted on board by Coast Guard marine inspectors.

Timetable:

Action	Date	FR Cite
NPRM	04/08/97	62 FR 17008
NPRM Comment Period End	07/07/97	
Final Action	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: CDR Mark Bobal, Project Manager, G-MSO-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0836

RIN: 2115–AF37

2233. COAST GUARD VESSEL INSPECTION USER FEES (CGD 96-067)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2110; 46 USC 3317; 14 USC 664; 31 USC 9701

CFR Citation: 46 CFR 2

DOT—USCG

Final Rule Stage

Legal Deadline: None

Abstract: The Coast Guard Authorization Act of 1996 capped fees that may be charged for the inspection or examination of small passenger vessels, and exempted publicly owned ferries from vessel inspection user fees. The Act limits annual fees for small passengers vessels less than 65 feet in length to not more than $300, and for small passenger vessels 65 feet or over in length to not more than $600. Fees for vessels in these categories currently range from $450 to $2,585 depending on the length and capacity of the vessel. This rule reduces published fees to the levels established under the caps imposed by the Coast Guard Authorization Act of 1996. This rule also exempts publicly owned ferries from vessel inspection user fees. Additional revisions to the exemption criteria will expand exemptions in certain instances where it is clearly within the public interest to do so, but which are not included under current regulation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/21/97	62 FR 19229
Interim Final Rule Effective	04/21/97	
Comment Period End	08/19/97	
Final Action	11/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Denise J. Mursch, Project Manager, G-MRP-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0785

RIN: 2115–AF40

2234. TRAFFIC SEPARATION SCHEME IN THE APPROACHES TO DELAWARE BAY (CGD 97-004)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1223

CFR Citation: 33 CFR 167

Legal Deadline: None

Abstract: This rule amends the Traffic Separation Scheme in approaches to Delaware Bay by shifting eastern approach lanes southward; establishing a two-way route for use by tug and tow traffic; and reconfiguring the precautionary area to exclude shoal areas too shallow for deep draft vessels.

Timetable:

Action	Date	FR Cite
NPRM	05/01/97	62 FR 23705
NPRM Comment Period End	08/01/97	
Final Action	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The effective dates for mandatory compliance with SOLAS and for U.S. vessels to continue international trading uninterrupted is July 1, 1998, and July 1, 2002, depending on the type of vessel involved.

Agency Contact: Margie G. Hegy, Project Manager, G-MOV-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0415

RIN: 2115–AF42

2235. • INTERNATIONAL MANAGEMENT CODE FOR THE SAFE OPERATION OF SHIPS AND FOR POLLUTION PREVENTION (ISM CODE) (CGD 95-073)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 3203

CFR Citation: 33 CFR 96

Legal Deadline: None

Abstract: This regulatory project will allow U.S. vessels involved in foreign trade to meet the requirements and be certified in compliance with safety management certificate regulations of chapter IX of SOLAS. This will allow continuous operation of U.S. flagged vessels on international trade which must meet the applicability of SOLAS. It will also provide the regulations for the selection of recognized authorities to act on behalf of the U.S. to complete the certification.

Timetable:

Action	Date	FR Cite
Direct Final Rule	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This project was initiated with an ANPRM (28 April 1989), and further developed in an NPRM (12 April 1994). In prioritizing resources, it was terminated on April 13, 1995. With resources available, it can now be completed as a direct final rule. Based on comments to the docket (previously CGD 87-069), this is a non-controversial and welcome amendment to existing regulations.

Agency Contact: Robert M. Gauvin, Project Manager, G-MSO-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1053

RIN: 2115–AF44

2236. • CARRIAGE OF BULK SOLID MATERIALS REQUIRING SPECIAL HANDLING (CGD 97-037)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1321; 46 USC 3306; 46 USC 3703; 46 USC 5111; 46 USC 6101; 49 USC 1804; EO 11735; EO 12234

CFR Citation: 46 CFR 90; 46 CFR 97; 46 CFR 148

Legal Deadline: None

Abstract: This project will add materials carried with Special Permits issued under Coast Guard regulations and other materials contained in the International Maritime Organization Code of Safe Practice for Solid Bulk Cargoes (IMO Bulk Solids Code, or "BC Code"), including coal, to the list of materials permitted under the regulations. The special handling procedures associated with these materials are also included in the new rules. The revisions will harmonize U.S. regulations with recommended international practice, and eliminate the need to apply for Special Permits, except for newly classified hazardous materials.

Timetable:

Action	Date	FR Cite
Direct Final Rule	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This project was initiated with an ANPRM (28 April 1989), and further developed in an NPRM (12 April 1994). In prioritizing resources, it was terminated on April 13, 1995. With resources available, it can now be completed as a direct final rule. Based on comments to the docket (previously CGD 87-069), this is a non-controversial and welcome amendment to existing regulations.

DOT—USCG

Final Rule Stage

Agency Contact: Frank Thompson, Project Manager, G-MOA-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1217

RIN: 2115–AF47

Abstract: This project implements 14 U.S.C. 515, which provides for child development services. The regulations will establish a fee subsidy that will result in lower fees for child care provided by Coast Guard Child Development Centers and Coast Guard certified Family Child Care Providers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: It is necessary to establish the Child Development Services program immediately because funds are currently available, and eligible members and employees can take advantage of the program at the earliest possible date. The interim rule will request comments.

Agency Contact: Elaine Sweetland, Project Manager, G-WPW-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6727

RIN: 2115–AF48

2237. • CHILD DEVELOPMENT SERVICES (CGD 97-039)

Priority: Substantive, Nonsignificant

Legal Authority: 14 USC 515

CFR Citation: 33 CFR 55

Legal Deadline: None

DEPARTMENT OF TRANSPORTATION (DOT)
U.S. Coast Guard (USCG)

Long-Term Actions

2238. SAFETY/SECURITY ZONE REGULATIONS

Priority: Routine and Frequent

Legal Authority: 33 USC 1233; 33 USC 1225

CFR Citation: 33 CFR 100; 33 CFR 165

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected to continue through October 1998: 300.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is an open docket for routine field regulations.

Agency Contact: Margie G. Hegy, Project Manager, G-MOV-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0415

RIN: 2115–AA97

2239. ANCHORAGE AREA REGULATIONS

Priority: Routine and Frequent

Legal Authority: 33 USC 471; 33 USC 2030; 33 USC 2035; 33 USC 2071

CFR Citation: 33 CFR 110

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected to continue through October 1998: 6.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is an open docket for routine field regulations.

Agency Contact: Margie G. Hegy, Project Manager, G-MOV-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0415

RIN: 2115–AA98

2240. TANK LEVEL OR PRESSURE MONITORING DEVICES (CGD 90-071)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 3703; PL 101-380

CFR Citation: 46 CFR 32

Legal Deadline:
Final, Statutory, December 1, 1991.

Abstract: The Coast Guard establishes minimum performance standards for tank level or pressure monitoring devices for single-hull tank vessels that carry oil in bulk as cargo. The purpose of these devices is to reduce the size and impact of an oil spill by alerting the tank vessel operator that a level or pressure change has occurred in a cargo tank. The Coast Guard will evaluate the performance and cost effectiveness of any device which meets the standards set in this rule, if that device is submitted to the Coast Guard during the effective period of this rule.

Timetable:

Action	Date	FR Cite
ANPRM	05/07/91	56 FR 21116
ANPRM Comment Period End	10/04/91	
Notice of Availability of Technical Feasibility Study	02/05/93	58 FR 2292
Notice of Public Meeting	11/15/94	59 FR 58810
NPRM	08/21/95	60 FR 43427
NPRM Comment Period End	11/20/95	
Temporary Rule	03/28/97	62 FR 14828
Temporary Rule Effective	04/28/97	
Final Action	04/00/99	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Formerly titled Overfill and Tank Level or Pressure Monitoring Devices.

Agency Contact: Laura Hamman, Project Manager, G-MSE-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0658

RIN: 2115–AD69

DOT—USCG

Long-Term Actions

2241. CLAIMS PROCEDURES UNDER THE OIL POLLUTION ACT OF 1990 (CGD 91-035)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 2713; 33 USC 2714

CFR Citation: 33 CFR 136

Legal Deadline: None

Abstract: This rulemaking will implement section 1013 (Claims Procedures) and section 1014 (Designation of Source and Advertisement) of the Oil Pollution Act of 1990. This rulemaking was designated significant because of anticipated public interest. However, few comments were received on the interim final rule. Since the final rule will consist of clarifications and editorial corrections, this action is now considered nonsignificant.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/12/92	57 FR 36314
Interim Final Rule Correction	09/09/92	57 FR 41104
Interim Final Rule Comment Period End	12/10/92	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/12/92 (57 FR 36314)

Additional Information: On October 30, 1995, the Comptroller General of the U.S. issued a decision on natural resource damage claims under the Oil Pollution Act of 1990. In his decision, he determined that the Trustees for natural resources may not submit claims against the Oil Spill Liability Trust Fund for natural resources damages pursuant to the general claims provisions of the Oil Pollution Act. Claims previously held in abeyance have been processed or returned as appropriate.

Agency Contact: Don Calkin, Project Manager, National Pollution Fund Center, Department of Transportation, U.S. Coast Guard, 4200 Wilson Blvd, Suite 1000, Arlington, VA 22203-1804
Phone: 703 235-4761

RIN: 2115–AD90

2242. +ESCORT VESSELS FOR CERTAIN TANKERS (CGD 91-202)

Priority: Other Significant

Legal Authority: PL 101-380; 46 USC 3703

CFR Citation: 33 CFR 168

Legal Deadline: None

Abstract: This rulemaking developed standards which implement section 4116(c) of the Oil Pollution Act of 1990. It addressed the areas of Prince William and Puget Sounds where a two-vessel escort will be required for single-hull tankers greater than 5,000 gross tons. This action was considered significant because of substantial public and State government interest.

Timetable:

Action	Date	FR Cite
NPRM	07/07/92	57 FR 30058
NPRM Comment Period End	09/08/92	
NPRM Comment Period Reopened to 07/24/93	03/26/93	58 FR 16391
ANPRM: Further Comments Due 6/28/93	04/27/93	58 FR 25786
Notice of Public Hearings	04/29/93	58 FR 25959
Notice of Public Hearings Correction	05/19/93	58 FR 29157
Notice of Availability of Part I of Study	01/10/94	59 FR 1411
Final Rule: Effective 11/17/94	08/19/94	59 FR 42962
Final Rule: Partial Suspension: Effective 11/17/94	11/01/94	59 FR 54519
Notice of Availability of Part II of Study	02/01/95	60 FR 6345

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/19/94 (59 FR 42962)

Additional Information: The Coast Guard, in cooperation with the Prince William Sound Regional Citizens Advisory Council, PWS Tanker Association, and Alaska Pipeline, conducted a disabled-tanker towing study. The result of the study was incorporated into this rulemaking. Tug escort requirements in areas other than Prince William Sound and Puget Sound are addressed in the project listed under RIN 2115-AE56.

Agency Contact: LTJG Douglas Edgecomb, Project Manager, G-MSR-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1050

RIN: 2115–AE10

2243. +STATE ACCESS TO THE OIL SPILL LIABILITY TRUST FUND (CGD 92-014)

Priority: Other Significant

Legal Authority: 33 USC 2712

CFR Citation: 33 CFR 133

Legal Deadline:
NPRM, Statutory, February 18, 1991.

Abstract: Pursuant to the Oil Pollution Act of 1990 (OPA 90), this action specifies how the authority to obligate the pollution trust fund for oil spill response and cleanup efforts and to enter into agreements with the States will be exercised.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/13/92	57 FR 53968
Interim Final Rule Comment Period End	02/11/93	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/13/92 (57 FR 53968)

Agency Contact: Al Thuring, Project Manager, National Pollution Fund Center, Department of Transportation, U.S. Coast Guard, 4200 Wilson Blvd, Suite 1000, Arlington, VA 22203-1804
Phone: 703 235-4746

RIN: 2115–AE19

2244. HANDLING OF EXPLOSIVES OR OTHER DANGEROUS CARGOES WITHIN OR CONTIGUOUS TO WATERFRONT FACILITIES (CGD 92-026)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 33 USC 1231

CFR Citation: 33 CFR 126

Legal Deadline: None

Abstract: This action would update regulations governing the handling of breakbulk, containerized, and dry bulk dangerous cargoes on waterfront facilities.

Timetable:

Action	Date	FR Cite
ANPRM	01/13/93	58 FR 4127
ANPRM Comment Period End	04/13/93	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Independent study has been completed and incorporated with comments from the public in the preparation of the proposed rulemaking.

Agency Contact: LCDR Charles Barker, Project Manager, G-MSO-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-2498

RIN: 2115–AE22

2245. REGATTA REGULATIONS

Priority: Routine and Frequent

Legal Authority: 33 USC 1233

CFR Citation: 33 CFR 100

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently to ensure the safety of life on navigable waters before, during and after approved regatta and marine parade events. Total actions expected to continue through October 1998: 250.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is an open docket for routine field regulations.

Agency Contact: Carlton Perry, Project Manager, G-OPB-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0979

RIN: 2115–AE46

2246. DRAWBRIDGE REGULATIONS

Priority: Routine and Frequent

Legal Authority: 33 USC 499

CFR Citation: 33 CFR 117

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected to continue through October 1998: 50.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/98	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: This is an open docket for routine field regulations.

Agency Contact: Alesia Steinberger, Project Manager, G-OPT-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6215

RIN: 2115–AE47

2247. +ESCORT VESSELS IN CERTAIN U.S. WATERS (91-202A)

Priority: Other Significant

Legal Authority: PL 101-380; 46 USC 3703

CFR Citation: 33 CFR 168

Legal Deadline: None

Abstract: This regulation would designate those U.S. waters, other than Prince William Sound and Puget Sound, where tankers and other vessels must be escorted by a towing vessel or other appropriate vessel. This action is considered significant because of substantial public and State government interest.

Timetable:

Action	Date	FR Cite
ANPRM	04/27/93	58 FR 25766
ANPRM Comment Period End	06/28/93	
Notice of Meeting; Request for Comments, Comment Period End 2/13/95	12/21/94	59 FR 65741
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This rulemaking is a companion to 2115-AE10, which concerns Prince William Sound and Puget Sound.

Agency Contact: LTJG Douglas Edgecomb, Project Manager, G-MSR-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593
Phone: 202 267-1050

RIN: 2115–AE56

2248. NOTICE OF HAZARDOUS CONDITIONS (CGD 94-027)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1231

CFR Citation: 33 CFR 160

Legal Deadline: None

Abstract: This project clarified the hazardous conditions for which the Coast Guard must be notified, and the parties responsible for providing that notice. It also extended the notice requirement to include hazardous conditions not onboard a vessel.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/03/94	59 FR 39458
Interim Final Rule Effective	08/03/94	
Interim Final Rule Comment Period End	12/01/94	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/03/94 (59 FR 39458)

Agency Contact: Kenneth Olson, Project Manager, G-MAO-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1417

RIN: 2115–AE82

2249. REGULATED NAVIGATION AREAS

Priority: Routine and Frequent

Legal Authority: 33 USC 1233; 50 USC 191; 33 CFR 1.05-1(g); 33 CFR 6.04-1; 33 CFR 6.04-6; 33 CFR 160.5

CFR Citation: 33 CFR 165

Legal Deadline: None

Abstract: Nonsignificant local regulations issued routinely and frequently as part of an established body of technical requirements to keep those requirements operationally current. Occasionally, Regulated Navigation Areas which are more extensive will be listed separately. Fifteen actions expected to continue through October 1998.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is an open docket for routine field regulations.

Agency Contact: Margie G. Hegy, Project Manager, G-MOV-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0415

RIN: 2115–AE84

2250. IMMEDIATE REPORTING OF CASUALTIES (CGD 94-030)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1231; 43 USC 1333; 46 USC 2103; 46 USC 2306; 46 USC 6101; 46 USC 6301; 46 USC 6305; 50 USC 198

CFR Citation: 46 CFR 4

Legal Deadline: None

Abstract: This project clarifies those marine casualties that require immediate notification to the Coast Guard. It specifies when immediate notification was required, who is responsible for providing notice, and to whom notification must be made so that prompt emergency action can be taken as necessary.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/03/94	59 FR 39469
Interim Final Rule Effective	08/03/94	
Interim Final Rule Comment Period End	11/01/94	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth Olson, Project Manager, G-MOA-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1417

RIN: 2115–AE89

2251. +IMPLEMENTATION OF THE 1995 AMENDMENTS TO THE INTERNATIONAL CONVENTION ON STANDARDS OF TRAINING, CERTIFICATION AND WATCHKEEPING FOR SEAFARERS, 1978 (STCW) (CGD 95-062)

Priority: Other Significant

Legal Authority: 31 USC 9701; 44 USC 3507; 46 USC 2103; 46 USC 7101; 46 USC 7107

CFR Citation: 46 CFR 10; 46 CFR 12; 46 CFR 15

Legal Deadline:
Other, Statutory, February 1, 1997, International Convention deadline.

Abstract: The International Maritime Organization (IMO) comprehensively amended the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW), in 1995. The amendments come into force on February 1, 1997. This project is intended to implement them by revising 46 CFR Parts 10, 12, and 15 to ensure that the United States complies with their requirements on (1) the training of merchant mariners, (2) the documenting of their qualifications, and (3) watch-standing and other arrangements aboard seagoing merchant ships of the United States. This rulemaking is considered significant due to potential impact on industry and potential effect on international interests.

Timetable:

Action	Date	FR Cite
Notice of Meeting; Comment Period End 9/29/95	08/02/95	60 FR 39306
Notice of Inquiry; Comment Period End 1/12/96	11/13/95	60 FR 56970
NPRM	03/26/96	61 FR 13284
Notice of Public Meetings	04/08/96	61 FR 15436
NPRM Comment Period End	07/24/96	
Notice of Intent	02/04/97	62 FR 5197
Interim Final Rule	08/26/97	62 FR 34505
Interim Final Rule Effective	07/28/97	
Final Action	12/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Christopher Young, Project Manager, G-MSO, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0216

RIN: 2115–AF26

2252. PROPELLER INJURY PREVENTION ABOARD RENTAL BOATS (CGD 95-041)

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 46 USC 4302 et seq

CFR Citation: 33 CFR S

Legal Deadline: None

Abstract: The Coast Guard published a notice of inquiry on this subject on May 11, 1995. It received 1983 comments, most of which were very general. It is clear that two boating accidents involving fatalities caused by propeller strikes on rented houseboats on Lake Shasta and Lake Havasu and several instances of crippling injuries in the last several years have generated a great deal of concern. This rulemaking would examine the number and nature of injuries sustained from vessel propellers and help the Coast Guard to determine the need for Federal or State regulation of these vessels, the livery companies leasing these vessels, or the operators of these vessels. Any regulation issued would be implemented to reduce future injuries and fatalities involving rented boats. Future action partially dependent upon results of a Technology Comparison and testing of Propellers, Propeller Guards, etc. conducted under a Coast Guard grant.

Timetable:

Action	Date	FR Cite
Notice of Request for Comments, Comment Period End 7/10/95	05/11/95	60 FR 25191
Comment Period Reopened to 11/7/95	08/09/95	60 FR 40545
ANPRM	03/26/96	61 FR 13123
ANPRM Comment Period End	09/01/96	
Notice of Request for Comments, Comment Period End 07/28/97	04/28/97	62 FR 22991
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Randolph J. Doubt, Project Manager, G-OPB-3, Department of Transportation, U.S. Coast Guard,

DOT—USCG

Long-Term Actions

2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6810

RIN: 2115–AF28

2253. OUTER CONTINENTAL SHELF ACTIVITIES (CGD 96-068)

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1333(d)(1); 43 USC 1348(c); 43 USC 1356

CFR Citation: 33 CFR 140 to 147

Legal Deadline: None

Abstract: This project would revise the regulations on Outer Continental Shelf (OCS) activities to (1) add new requirements for lifesaving, fire protection, training, hazardous materials used as stores on fixed OCS facilities, and accommodation spaces; (2) require foreign vessels engaged in OCS activities to comply with requirements similar to those imposed on U.S. vessels similarly engaged; and (3) all mobile inland drilling units (MIDUs) to operate on the OCS out to a defined boundary line, if they meet requirements for lifesaving, firefighting, operations similar to those for fixed OCS facilities. This project would affect the owners and operators of facilities and vessels engaged in offshore activities associated with the exploration for, or development or production of, the minerals of the OCS. The preliminary estimate of costs imposed by these amendments would vary according to the unit.

Timetable:

Action	Date	FR Cite
Notice of Request for Comments, Comment Period End 9/25/95	06/27/95	60 FR 33185
NPRM	12/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The Notice of Request for Comments published 27 June 1995, was assigned Coast Guard docket number 95-016. Due to only three comments being received, continued rulemaking was contemplated and use of CGD 95-016 was discontinued. This project will continue further rulemaking under the more current docket CGD 96-068, and RIN number 2115-AF39.

Agency Contact: James Magill, Project Manager, G-MSO-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1082

RIN: 2115–AF39

DEPARTMENT OF TRANSPORTATION (DOT)
U.S. Coast Guard (USCG)

Completed Actions

2254. +OFFSHORE SUPPLY VESSEL REGULATIONS (CGD 86-074)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 46 USC 3301; 46 USC 3305; 46 USC 3306

CFR Citation: 46 CFR 90; 46 CFR 125 to 136; 46 CFR 170; 46 CFR 174; 46 CFR 175

Legal Deadline: None

Abstract: These regulations consolidate existing Offshore Safety Vessel standards and policy into a single subchapter and make specific revisions to accommodate the unique characteristics and methods of operation and the service in which the vessels are engaged. Rules specifically applicable to liftboats are included. Because of substantial public interest in certain aspects of this rulemaking, it has been classified as significant.

Timetable:

Action	Date	FR Cite
ANPRM	02/14/83	48 FR 6636
Comment Period Extended to 09/12/83	06/09/83	48 FR 26631
ANPRM Comment Period End	06/14/83	
ANPRM of Consolidated RIN 2115-AC63	04/16/87	52 FR 12439
NPRM	05/09/89	54 FR 20006
Comment Period Extended to 12/06/89	08/31/89	54 FR 36040
NPRM Comment Period End	09/06/89	
Interim Final Rule	11/16/95	60 FR 57630
Comment Period Reopened to 3/31/96	02/28/96	61 FR 7425
Interim Final Rule Effective	03/15/96	
Final Action	09/19/97	62 FR 49308
Final Action Effective	10/20/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/09/89 (54 FR 20006)

Additional Information: Coast Guard Docket 86-074 (RIN 2115-AC63) titled Regulations for Self-Elevating Offshore Service and Support Vessels was combined with CGD 82-004. Public hearing was held in New Orleans 09/13/89 in response to House subcommittee request.

Agency Contact: Jim Magill, Project Manager, G-MSO-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1082

RIN: 2115–AA77

2255. +SMALL PASSENGER VESSEL INSPECTION AND CERTIFICATION (CGD 85-080)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 46 USC 3306

CFR Citation: 46 CFR 170; 46 CFR 171; 46 CFR 173; 46 CFR 175 to 185

Legal Deadline: None

Abstract: This rulemaking revises subchapters S and T, creates a new subchapter K to reflect statutory changes, incorporates new technology, and improves safety requirements. Among the changes are changes in inspection intervals, drydocking intervals, lifesaving equipment

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Completed Actions

requirements, and fire protection requirements. This action is considered significant because it affects a broad class of vessels, and there has been substantial public interest evidenced.

Timetable:

Action	Date	FR Cite
NPRM	01/30/89	54 FR 4412
Notice of Hearings and Comment Period Extended to 07/31/89	04/26/89	54 FR 17997
Notice of Public Hearing Change	05/25/89	54 FR 22608
NPRM Comment Period End	05/30/89	
Notice of Intent to Publish SNPRM	09/18/89	54 FR 38410
SNPRM Comment Period End 6/13/94	01/13/94	59 FR 1994
Notice of Public Hearing	03/25/94	59 FR 14132
Interim Final Rule	01/10/96	61 FR 864
Notice of Meeting	02/23/96	61 FR 6961
Interim Final Rule Effective	03/11/96	
Interim Final Rule Correction	05/15/96	61 FR 24464
Interim,Final Rule Comment Period End	06/10/96	
Final Action	09/30/97	62 FR 51326
Final Action Effective	10/30/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/30/89 (54 FR 4412)

Additional Information: On January 13, 1994 the Coast Guard published a Supplemental Notice of Proposed Rulemaking (SNPRM) containing the proposed completed revision of the regulations governing small passenger vessels. A new Subchapter K was introduced for small passenger vessels carrying more than 150 passengers or more than 49 overnight passengers. Seven public hearings were held throughout the country and the comment period closed June 13, 1994. An Interim Final Rule (IFR) was published on January 10, 1996. It provided an opportunity for public comment on those solutions.

Agency Contact: LT Eric P. Christensen, Project Manager, G-MSO-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1056

RIN: 2115–AC22

2256. REVISION TO INFLATABLE LIFE RAFT APPROVAL: SOLAS 74/83 (CGD 85-205)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 159; 46 CFR 160

Legal Deadline: None

Abstract: This project establishes approval requirements for inflatable life rafts complying with the 1974 Safety of Life At Sea (SOLAS) Convention, as amended, as well as adds provisions for approval of Coastal Service inflatable life rafts and inflatable buoyant apparatus for use on certain vessels not subject to SOLAS. The project improves the seaworthiness of inflatable life rafts by specifying minimum requirements for life raft stability. Finally, the project revises the requirements for inspections of life raft production and servicing to reduce direct Coast Guard involvement and the associated burden on Coast Guard resources, while increasing manufacturers' flexibility in scheduling inspections.

Timetable:

Action	Date	FR Cite
ANPRM; RIN 2115-AA50	06/29/81	46 FR 33341
NPRM; RIN 2115-AA50	01/11/85	50 FR 7558
Comment Period Extended to 10/14/85; RIN 2115-AA50	07/05/85	50 FR 27628
Comment Period Extended to 01/10/86; RIN 2115-AA50	09/09/85	50 FR 36639
ANPRM; RIN 2115-AA57	08/14/86	51 FR 29117
Notice of Public Meeting; RIN 2115-AA57	12/22/86	51 FR 45783
NPRM	10/18/94	59 FR 52580
NPRM Comment Period End	02/15/95	
Final Action	05/09/97	62 FR 25525
Final Action Effective	06/09/97	
Correction	07/01/97	62 FR 35392

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/09/97 (62 FR 25525)

Additional Information: Two closely related projects have been consolidated into this one: Inflatable Liferaft Stability (CGD 80-113), RIN 2115-AA50, and Servicing Inflatable Liferafts (CGD 81-010), RIN 2115-AA57.

Agency Contact: Mr. Kurt Heinz, Project Manager, G-MSE-4, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1444

RIN: 2115–AC51

2257. +OVERFILL DEVICES (CGD 90-071A)

Priority: Other Significant

Legal Authority: 46 USC 3703

CFR Citation: 33 CFR 155 to 156

Legal Deadline:
Final, Statutory, August 18, 1991.

Abstract: The Oil Pollution Act of 1990 requires the Secretary of Transportation to issue regulations concerning the use of overfill devices. This action implemented the provisions of this Act and is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	01/12/93	58 FR 4040
NPRM Comment Period End	03/15/93	
Notice of Public Meeting	10/21/93	58 FR 54315
Interim Final Rule	10/21/94	59 FR 53286
Interim Final Rule Comment Period End	01/19/95	
Interim Final Rule Effective	01/19/95	
Final Action	09/17/97	62 FR 48770
Final Action Effective	10/17/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/12/93 (58 FR 4040)

Agency Contact: Christine Meers, Project Manager, G-MSR-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1492

RIN: 2115–AD87

2258. +USER FEES FOR APPROVALS OF EQUIPMENT, LABORATORIES, AND SERVICING FACILITIES (CGD 92-013)

Priority: Other Significant

Legal Authority: 46 USC 2110; 46 USC 664; 31 USC 9701

CFR Citation: 33 CFR 159

Legal Deadline: None

Abstract: This regulatory project would have established direct user fees for Coast Guard services relating to equipment approvals, factory inspections, acceptance of independent laboratories and acceptance of servicing, repair, and testing facilities. After lengthy analysis the Coast Guard determined there was no rational basis on which to established these fees. If it is determined to be needed at a later time, the Coast Guard will submit an entry to the Agenda.

Timetable:

Action	Date	FR Cite
Action Terminated	04/23/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: LT Mark Ledbetter, Project Manager, G-MSR-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0971

RIN: 2115–AE18

2259. PROGRAMS FOR CHEMICAL DRUG AND ALCOHOL TESTING OF COMMERCIAL VESSEL PERSONNEL: REMOVAL OF FOREIGN IMPLEMENTATION DATE (CGD 95-011)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2103; 46 USC 3306; 46 USC 7101; 46 USC 7301; 46 USC 7701

CFR Citation: 46 CFR 16

Legal Deadline: None

Abstract: This project removes the effective date of regulations governing drug testing onboard vessels within waters subject to a foreign jurisdiction.

Timetable:

Action	Date	FR Cite
NPRM	08/21/96	60 FR 43426
NPRM Comment Period End	10/20/95	
Interim Final Rule	12/18/96	61 FR 66612
Interim Final Rule Effective	01/02/97	
Interim Final Rule Comment Period End	02/18/97	
Final Action	06/24/97	62 FR 34014
Final Action Effective	07/24/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/24/97 (62 FR 34014)

Agency Contact: LT Jennifer Ledbetter, Project Manager, G-MOA-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0684

RIN: 2115–AF02

2260. HARMONIZATION WITH INTERNATIONAL SAFETY STANDARDS (CGD 95-028)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 4104

CFR Citation: 33 CFR 155; 33 CFR 159; 46 CFR 2 to 4; 46 CFR 6 to 7; 46 CFR 10; 46 CFR 12; 46 CFR 15 to 16; 46 CFR 24 to 26; 46 CFR 28; 46 CFR 30 to 32; 46 CFR 34 to 35; 46 CFR 39; 46 CFR 50; 46 CFR 56; 46 CFR 58

Legal Deadline: None

Abstract: This rulemaking revises or removes sections of 46 CFR that are excessive when compared to various international standards.

Timetable:

Action	Date	FR Cite
NPRM	11/19/96	61 FR 58804
NPRM Comment Period End	01/21/97	
Final Action	09/30/97	62 FR 51186
Final Action Effective	10/30/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/19/96 (61 FR 58804)

Agency Contact: Wayne Lundy, Project Manager, G-MSE-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0024

RIN: 2115–AF10

2261. ELECTRICAL ENGINEERING REQUIREMENTS FOR MERCHANT VESSELS (CGD 94-108)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 46 USC 2103; 46 USC 2113; 46 USC 3306; 46 USC 3703

CFR Citation: 46 CFR 108; 46 CFR 110 to 113; 46 CFR 161

Legal Deadline: None

Abstract: As part of the President's Regulatory Reinvention Initiative, the Coast Guard amends its electrical engineering regulations to reduce the regulatory burden on the marine industry, purge obsolete and out-of-date regulations, and eliminate requirements that create an unwarranted differential between domestic rules and international standards. This rulemaking harmonizes, where possible, the electrical engineering regulations with recent amendments to the International Convention for the Safety of Life at Sea, 1974, as amended. Additionally, this rulemaking dramatically revises certain prescriptive electrical equipment design, specification, and approval requirements and replaces them with performance-based requirements that incorporate international standards.

Timetable:

Action	Date	FR Cite
NPRM	02/02/96	61 FR 4132
NPRM Correction	02/23/96	61 FR 7050
Notice of Meeting and Comment Period Extended to 4/2/96	02/26/96	61 FR 7090
NPRM Correction	03/05/96	61 FR 8539
NPRM Comment Period End	03/18/96	
Interim Final Rule	06/04/96	61 FR 28260
Interim Final Rule Correction	06/26/96	61 FR 33045
Interim Final Rule Comment Period End	08/05/96	
Interim Final Rule Correction	09/23/96	61 FR 49691
Interim Final Rule Effective	09/30/96	
Interim Final Rule: Policy Notice	10/04/96	61 FR 51789
Final Action	05/01/97	62 FR 23894
Final Action Effective	06/16/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Laura Hamman, Project Manager, G-MSE-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0658

RIN: 2115–AF24

2262. COMMERCIAL FISHING VESSEL REGULATIONS (CGD 96-046)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 4502; 45 USC 4505; 45 USC 4506

CFR Citation: 46 CFR 28

Legal Deadline: None

Abstract: This rule implements procedures for the administration of exemptions and provides that exemptions will be granted by the commandant. It also establishes criteria for termination of unsafe operations and it exempts certain vessels less than 36 feet from survival craft carriage requirements since that equipment could make small vessels unsafe. Vessels not exempt from this rule, certain commercial fishing vessels of 36 feet or greater, will be required to incur a $400-$500 one time cost for the purchase of a survival craft. Finally, it establishes criteria for both instructor qualifications and acceptable course curricula. This final rule reflects changes that are less burdensome and that respond to public comments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/05/96	61 FR 57268
Interim Final Rule Correction	12/27/96	61 FR 68161
Interim Final Rule Correction Extension of Comment Period	12/27/96	61 FR 68161
Interim Final Rule End Comment Period	02/20/97	
Interim Final Rule Effective	03/20/97	
Final Action	09/04/97	62 FR 46872
Final Action Effective	10/06/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This rule has been split from RIN 2115-AD12 (CGD-88-079) because these non controversial sections are not expected to generate substantial public comment. The more controversial survival craft, immersion suit, or stability issues will be addressed under the original RIN 2115-AD12.

Agency Contact: CDR Mark Bobal, Project Manager, G-MSO-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0836

RIN: 2115–AF35

2263. EXPANDED SIGNATURE AUTHORITY TO OFFICER IN CHARGE, MARINE INSPECTION (OCMI) (CGD 97-001)

Priority: Info./Admin./Other

Legal Authority: 33 USC 1903; 43 USC 1333; 46 USC 3306; 46 USC 3703; EO 12334

CFR Citation: 46 CFR 2

Legal Deadline: None

Abstract: This rule revises title 46 CFR part 2 to allow delegation of Officer in Charge, Marine Inspection (OCMI) signature authority to another individual on the OCMI's staff for vessel inspection documents.

Timetable:

Action	Date	FR Cite
Final Action	04/11/97	62 FR 17748
Final Action Effective	04/11/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: LT Eric Christensen, Project Manager, G-MSO-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1055

RIN: 2115–AF41

2264. • ANTARCTIC TREATY ENVIRONMENTAL PROTECTION PROTOCOL (CGD 97-015)

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-227

CFR Citation: 33 CFR 151

Legal Deadline: None

Abstract: This rulemaking implements regulations to prevent pollution from private U.S. vessels operating in the Antarctic, and regulations that provide for prompt and effective response action to oil spills from certain public and private vessels operating in the Antarctic.

Timetable:

Action	Date	FR Cite
Direct Final Rule	04/14/97	62 FR 18043
Confirmation of Effective Date	09/03/97	62 FR 46446
Direct Final Rule Effective	09/30/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: LCDR Ray Perry, Project Manager, G-MSO-4, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-2714

RIN: 2115–AF43

2265. • RADAR REQUIREMENTS FOR TOWING VESSELS 300 GROSS TONS OR MORE (CGD 97-034)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1223

CFR Citation: 33 CFR 164

Legal Deadline: None

Abstract: On July 3, 1996 the Coast Guard published a final rule requiring certain towing vessels of 12 meters (39.4 feet) or more in length, operating in the navigable waters of the United States other than the St. Lawrence Seaway, to be equipped with a marine radar. This final rule included a provision requiring, in some cases, towing vessels of 300 gross tons or more to have a radar that is azimuth stabilized. This requirement is scheduled to go into effect on August 2, 1998. Following issuance of the final rule, the Coast Guard received comments expressing concern about the need for and the expense of this requirement with respect to towing vessels on inland waters, the Coast Guard issued a final rule that revised the radar requirement for a towing vessel of 300 gross tons or more engaged in towing on navigable waters of the U.S. including Western rivers.

Timetable:

Action	Date	FR Cite
Final Action	07/28/97	62 FR 40270
Final Action Effective	07/28/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Revises final rule for towing vessels published on 3 July 1996 entitled, "Navigation Safety Equipment for Towing Vessels." (CGD 94-020, 61 FR 35064)

Agency Contact: Mr. Ed LaRue, Project Manager, G-MOV, Department of Transportation, U.S. Coast Guard, 2100

DOT—USCG

Completed Actions

Second St. SW., Washington, DC 20593-0001
Phone: 202 267-0416

RIN: 2115–AF46

2266. • +OPERATIONAL MEASURES TO REDUCE OIL SPILLS FROM EXISTING TANK VESSELS WITHOUT DOUBLE HULLS (CGD 91-045)

Priority: Other Significant

Legal Authority: 46 USC 3703; PL 101-380

CFR Citation: 33 CFR 157

Legal Deadline:
Final, Statutory, August 26, 1991.

Abstract: This rulemaking was previously assigned RIN 2115-AE01, and had a final rule published on July 30, 1996. The final rule required owners, masters, or operators of tank vessels of 5,000 gross tons or more that do not have double hulls, and that carry oil in bulk as cargo, to comply with certain operational measures. This final rule included a provision requiring, in some cases, owner notification of the vessel's calculated anticipated under-keel clearance, and was scheduled to go into effect on November 27, 1996. Following issuance of the final rule, the Coast Guard received comments, several in the form of petitions for rulemaking, expressing concern about the implementation of the owner notification portion of the under-keel clearance provision, and requesting an additional opportunity to comment on the provision. On November 27, 1996, the Coast Guard granted this request by suspending the provision and giving the public 90 days to comment on the under-keel clearance requirement in general. After reviewing the additional public comments, the Coast Guard issued a final rule which revises the under-keel clearance requirement for single-hull tank vessels and responds to the petitions for rulemaking.

Timetable:

Action	Date	FR Cite
Partial Suspension of Final Rule	11/27/96	61 FR 60189
Final Action	09/23/97	62 FR 49603
Final Action Effective	01/21/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: LT Brian Willis, Project Manager, G-MSR-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-2735

RIN: 2115–AF51

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Aviation Administration (FAA)

Prerule Stage

2267. +MOUNTAIN FLYING

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306; 49 USC 46315

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: The FAA will initiate a rulemaking action on night flying in mountainous areas referred to in the implementation of the Federal Aviation Authorization Act of 1994. The project has been scheduled in accordance with established FAA rulemaking procedures. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number: AFS-95-114R

Agency Contact: John Wensel, Operations Branch, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-7771

RIN: 2120–AF67

2268. • +CHILD RESTRAINT SYSTEMS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715 to 44718; 49 USC 44722; 49 USC 46306; 49 USC 46315; 49 USC 46502; ...

CFR Citation: 14 CFR 91; 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This action is seeking public comment on issues relating to the use of child restraint systems in aircraft during all phases of flight (i.e., taxi, takeoff, landing, or any other time the seat belt sign is illuminated). Specifically, the agency seeks information about existing child restraint systems, the development of new and improved child restraint systems, the ease with which existing or new child restraint systems can be used, and the effectiveness of changing the current child restraint system regulations. This advance notice is intended to gather information in response to a recommendation made by the White House Commission on Aviation Safety and Security (Gore Commission). This information is needed so that the FAA can determine the best way to ensure the safety of children while on board aircraft. After such a determination is made, the FAA will issue a Notice of Proposed Rulemaking with specific regulatory proposals that respond to the Commission's recommendations regarding the use of child restraint systems. This action is considered significant because of safety implications.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Project Number: AFS-97-261R

Agency Contact: Donell Pollard, Air Transportation Division, Department of Transportation, Federal Aviation

DOT—FAA

Prerule Stage

Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3735

RIN: 2120–AG43

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Aviation Administration (FAA)

Proposed Rule Stage

2269. AIRWORTHINESS STANDARDS; CRASH-RESISTANT FUEL SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 40 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This action proposes changes to the airworthiness standards to improve the crash resistance of fuel systems on normal, utility, acrobatic, and commuter category airplanes. The FAA has determined that improved crash resistance of these fuel systems is necessary to prevent deaths and injuries due to fire in survivable crashes. The proposed design changes would limit fuel spillage near ignition sources and would provide additional time for the survivors to evacuate the airplane.

Timetable:

Action	Date	FR Cite
ANPRM	03/05/85	50 FR 8948
ANPRM Comment Period End	07/03/85	
NPRM	02/28/90	55 FR 7280
NPRM Comment Period End	06/28/90	
SNPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/28/90 (55 FR 7280)

Additional Information: Formerly titled "Amend Part 23 To Include Requirements for Crash-Resistant Fuel Systems." Project No. ACE-82-005R.

Agency Contact: Norman Vetter, Standards Office, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 601 E. 12th Street, Kansas City, MO 64106
Phone: 816 426-5688

RIN: 2120–AA57

2270. REVIEW OF PART 47, AIRCRAFT REGISTRATION, AND PART 49, RECORDING OF AIRCRAFT TITLES AND SECURITY DOCUMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113 to 40114; 49 USC 44101 to 44108; 49 USC 44110 to 44111; 49 USC 44713; 49 USC 45302; 49 USC 46104; 49 USC 46301

CFR Citation: 14 CFR 47; 14 CFR 49

Legal Deadline: None

Abstract: This notice would propose to update parts 47 and 49 of the Federal Aviation Regulations to reflect changes in the law, legal interpretations, other recent rulemaking actions, and the FAA's current aircraft registry practices. The intent of these proposed changes is to articulate, modernize, and simplify the existing regulations rather than alter established procedures.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/97

Additional Information: Project Number AFS-89-201R.

Agency Contact: Sharon Ashford, Flight Standards Service, Department of Transportation, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Boulevard, Oklahoma City, Oklahoma 73125
Phone: 405 954-7038

RIN: 2120–AC17

2271. +PART 145 REVIEW: REPAIR STATIONS (SECTION 610 REVIEW)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701; 49 USC 44702; 49 USC 44703; 49 USC 44705; 49 USC 44707; 49 USC 44709; 49 USC 44710; 49 USC 44711; 49 USC 44713; 49 USC 44717; 49 USC 45102 to 45103; 49 USC 45301 to 45302

CFR Citation: 14 CFR 43; 14 CFR 65; 14 CFR 145

Legal Deadline: None

Abstract: The FAA proposes to update and revise the regulations for repair stations. This action is necessary because many portions of the current repair station regulations do not reflect technical advances in aircraft maintenance practices or aircraft technology. The revisions would reorganize the repair station rules to reduce duplication of regulatory language and eliminate obsolete information. The proposal also would establish new requirements that relate to repair station ratings and classes, manual requirements, recordkeeping, and personnel. As part of this action, a small entities review under 5 USC section 610 will be included. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Notice of Public Meetings	07/24/89	54 FR 30866
Notice Correction	08/08/89	54 FR 32563
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/97

Additional Information: Project No. AFS-87-945R. This project was formerly entitled Review and Revision of Repair Station Requirements, and Repair Station and Repairmen Certification Rules.

Agency Contact: Richard Nowak, Aircraft Maintenance Division, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591

DOT—FAA

Proposed Rule Stage

Phone: 202 267-7228

RIN: 2120–AC38

2272. INSTALLATION OF CRASHWORTHY FUSELAGE FUEL TANKS AND FUEL LINES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline:
NPRM, Statutory, February 3, 1989, Public Law 100-591 Aviation Safety Research Act of 1988.

Abstract: This preliminary action was initiated to determine the feasibility of installing, in all air carrier aircraft, crashworthy fuselage fuel tanks and fuselage fuel lines which are rupture resistant and which disconnect and seal in the event of an accident. This notice solicited public participation in identifying and selecting a regulatory course of action by inviting interested persons to submit specific comments and arguments concerning this proposed regulatory action. Originally this rulemaking was considered significant. However, because there is no substantial public interest, this rulemaking is no longer significant.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/89	54 FR 18824
ANPRM Comment Period End	10/30/89	
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/00/97

Additional Information: Project No. ANM-89-005R.

Agency Contact: Mike Dostert, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 425 227-2132

RIN: 2120–AC87

2273. +DRUG ENFORCEMENT ASSISTANCE

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 5121 to 5124; 49 USC 40113 to 40114; 49 USC 44101 to 44108; 49 USC 44110 to 44111; 49 USC 44702 to 44703; 49 USC 44704; 49 USC 44709 to 44710; 49 USC 44713; 49 USC 46101 to 46110; 49 USC 46301 to 46316; 49 USC 46501 to 46502; 49 USC 46504 to 46507; 49 USC 47106; 49 USC 47111

CFR Citation: 14 CFR 13; 14 CFR 47

Legal Deadline:
Final, Statutory, September 18, 1989, FAA Drug Enforcement Assistance Act of 1988.

Abstract: This action would revise certain requirements concerning registration of aircraft, certification of pilots, and penalties associated with registration and certification violations. This notice also announced new procedures for processing major repair and alteration forms which pertain to fuel system modifications. Actions announced in this notice respond to the FAA Drug Enforcement Assistance Act. The requirements and adopted procedures are intended to assist law enforcement agencies in their efforts to stop drug trafficking in general aviation aircraft. This rulemaking is significant because of substantial and public interest.

Timetable:

Action	Date	FR Cite
NPRM	03/12/90	55 FR 9270
NPRM Comment Period End	05/11/90	
Extended Comment Period End 7/11/90	05/16/90	55 FR 20394
SNPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/12/90 (55 FR 9270)

Additional Information: Project No. AFS-89-035R.

Agency Contact: Sharon Ashford, Flight Standards Service, Department of Transportation, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 MacArthur Boulevard, Oklahoma City, Oklahoma 73125
Phone: 405 954-7038

RIN: 2120–AD16

2274. +REVISION OF PART 107, AIRPORT SECURITY

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 5103; 49 USC 40113; 49 USC 40119; 49 USC 44701 to 44702; 49 USC 44706; 49 USC 44901 to 44905; 49 USC 44907; 49 USC 44913 to 44914; 49 USC 44932; 49 USC 44935 to 44936; 49 USC 46105

CFR Citation: 14 CFR 107

Legal Deadline: None

Abstract: This notice would propose to amend part 107 of the Federal Aviation Regulations to incorporate new requirements in response to the worldwide terrorist activity. This rulemaking is considered significant because of its safety implications and substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	08/01/97	62 FR 41760
NPRM Comment Period End	12/01/97	
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/01/97 (62 FR 41760)

Additional Information: Project Number ACS-87-106R.

Agency Contact: Linda Bruce, Office of Civil Aviation Security, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8553

RIN: 2120–AD46

2275. +COST OF SERVICES AND TRANSFER OF FEES TO PART 187 FROM PARTS 47, 49, 61, 63, 65, AND 143

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40104 to 40105; 49 USC 40109; 49 USC 40113 to 40114; 49 USC 44101 to 44108; 49 USC 44110 to 44111; 49 USC 44701; 49 USC 44702; 49 USC 44703 to 44704; 49 USC 44707; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 45102 to 45103; 49 USC 45106; 49 USC 45301; ...

CFR Citation: 14 CFR 47; 14 CFR 49; 14 CFR 61; 14 CFR 63; 14 CFR 65; 14 CFR 143; 14 CFR 187

DOT—FAA

Proposed Rule Stage

Legal Deadline: None

Abstract: This action would assess reasonable charges for certain services provided by the FAA. The charges would be set at a level approximating the cost to the Government to provide these services and would be adjusted periodically as the cost of these services change or as prescribed in the Anti-Drug Abuse Act of 1988. The cost of providing services for aircraft registration and recording and replacement of airmen certificates is not being fully recouped in accordance with the changes reflected in the Consumer Price Index of All Urban Consumers, which was published by the Bureau of Labor Statistics of the Department of Labor, or as set by the Anti-Drug Abuse Act of 1988. This rulemaking would also consolidate all service fees by placing them in part 187 of the Federal Aviation Regulations. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/00/97

Additional Information: Project Number AFS-90-347R.

Agency Contact: Sharon Ashford, Registry Modernization Staff, Mike Monroney Aeronautical Center, Department of Transportation, Federal Aviation Administration, 6500 South MacArthur Boulevard, Oklahoma City, Oklahoma 73125-4939
Phone: 405 954-7038

RIN: 2120–AD91

2276. VISUAL DESCENT POINTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This notice would propose to incorporate visual descent point (VDP) requirements into part 135 of the Federal Aviation Regulations (FAR). In addition, this notice would amend the VDP requirements in part 121 of the FAR to be consistent with the VDP requirements in part 135 of the FAR.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/00/97

Additional Information: Project Number AFS-92-206R.

Agency Contact: Alberta Brown, Regulations Branch, Air Transportation Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8321

RIN: 2120–AE34

2277. +AGING AIRCRAFT SAFETY

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40104 to 40105; 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901 to 44904; 49 USC 44906

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 129; 14 CFR 135; 14 CFR 183

Legal Deadline:
Other, Statutory, April 24, 1992, Aging Aircraft Safety Act of 1991; action must be initiated by 04/24/92.

Abstract: On October 5, 1993, the FAA published an NPRM that proposed to require air carriers of certain aircraft used in air transportation to demonstrate that the aircraft's maintenance has been adequate to ensure the highest degree of safety. After further review, and taking into consideration public comments to the NPRM, the FAA considers it appropriate to withdraw that NPRM. The FAA is developing a new NPRM that would ensure the continuing airworthiness of the most significant aging airplanes operating in air transportation by mandating aging aircraft records reviews and inspections for certain air carriers and certain aircraft and also by applying modern damage-tolerance analyses and inspection techniques to older airplane structures that were certificated before such techniques were available. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/05/93	58 FR 51944
NPRM Comment Period End	02/02/94	
NPRM Comment Period Extended to 03/04/94	02/08/94	59 FR 5741
Withdrawal of NPRM dated 10/05/93	07/22/97	
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/00/97

Additional Information: Project Number AFS-92-029R.

Agency Contact: Frederick Sobeck, Aircraft Maintenance Division, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-7355

RIN: 2120–AE42

2278. +AIRPORT NOISE COMPATIBILITY PLANNING (SECTION 610 REVIEW)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44715; 49 USC 471-1; 49 USC 47501 to 47504

CFR Citation: 14 CFR 150

Legal Deadline: None

Abstract: This action would revise the requirements for developing noise exposure maps and noise compatibility programs and submitting them for FAA approval. The revisions are intended to expedite and simplify the part 150 process. Under the revised process, the mandatory set of noise abatement measures which are presently required to be considered by each airport

sponsor would be limited in scope depending on the characteristics of each airport and its surrounding community. The new process would be supported by appropriate guidance, training, review, standardization, and consultation requirements. As part of this action, a small entities review under 5 USC section 610 will be included. This project is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/00/97

Additional Information: Project Number: AEE-90-410R.

Agency Contact: Alan V. Trickey, Policy and Regulations Division, Office of Environment and Energy, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3496

RIN: 2120–AE84

2279. +CORROSION CONTROL PROGRAM

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40104 to 40105; 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44902

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 129; 14 CFR 135

Legal Deadline: None

Abstract: This project would ensure that airplanes used or not used in common carriage in air transportation have a comprehensive corrosion prevention program within their maintenance or inspection programs. In April 1988, a commercial transport airplane experienced an in-flight decompression and separation of approximately 18 feet of the fuselage skin and structure at the top of the airplane. The airplane had been in service for 19 years and had flown almost 90,000 flights. The National Transportation Safety Board concluded that the failure of the airline to detect skin disbonding resulted in corrosion and metal fatigue leading to separation of the airplane's skin structure. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/00/97

Additional Information: Project Number: AFS-93-382R

Agency Contact: Frederick Sobeck, Aircraft Maintenance Division, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-7355

RIN: 2120–AE92

2280. CINCINNATI, OH, CLASS B AIRSPACE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40101; 49 USC 40103; 49 USC 40105; 49 USC 40109; 49 USC 40113; 49 USC 44110; 49 USC 44502; 49 USC 44701 to 44702; 49 USC 44711; 49 USC 46102

CFR Citation: 14 CFR 11

Legal Deadline: None

Abstract: This action would alter the Cincinnati, OH, Terminal Control Area (TCA) to redefine the airspace around the Cincinnati/Northern International Airport. The objective of this proposal is to substantially increase safety while accommodating the legitimate concerns of airspace users.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/97

Additional Information: Project Number: ATP-93-476T

Agency Contact: Patricia Crawford, Airspace and Obstruction Evaluation Branch, Airspace Rules & Aeronautical Info Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9255

RIN: 2120–AE97

2281. FLIGHT ATTENDANT ENGLISH LANGUAGE PROFICIENCY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40119; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722

CFR Citation: 14 CFR 91; 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: The Training and Qualifications Aviation Rulemaking Advisory Committee (ARAC) is reviewing comments from the ANPRM that proposes establishing requirements to ensure that flight attendants understand sufficient English language to communicate, coordinate, and perform all required safety duties. ARAC is also developing a draft advisory circular and notice of proposed rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	04/18/94	59 FR 18456
ANPRM Comment Period End	07/18/94	
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/97

Additional Information: Project Number: AFS-93-745A

Agency Contact: Donell Pollard, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3735

RIN: 2120–AE98

2282. FLIGHT OPERATIONAL QUALITY ASSURANCE PROGRAM

Priority: Info./Admin./Other

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This action would codify the Federal Aviation Administration's policy not to use information from voluntary Flight Operational Quality Assurance programs in any enforcement actions taken against operators or pilots. The proposed amendment responds to industry groups that have been reluctant to participate. These programs benefit aviation safety by providing information that can lead to improvements in training and operations. In 1995 the FAA initiated a two-year concept demonstration study in partnership with industry. Based on the study, the FAA will issue an Advisory Circular. The FAA will use the information from the study to determine if it is appropriate to codify in the rules the immunity provisions.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/97

Additional Information: Project Number: AFS-93-154R

Agency Contact: Dan Meier, Flight Standards Service, Regulations Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3789

RIN: 2120–AF04

2283. +AIR TOUR STANDARDS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44702; 49 USC 44705; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716

CFR Citation: 14 CFR 91; 14 CFR 135

Legal Deadline: None

Abstract: FAA will propose new regulations for air tour and sightseeing operations that are currently allowed to operate under less stringent regulations than those applied to other types of commercial operations. Over the past decade the number of these operations and the number of accidents and incidents associated with these operations have increased. Hot air balloons and gliders would not be included in this amendment. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/97

Additional Information: Project Number: AFS-91-012R. RIN 2120-AF61 which was proposed as a new item for this agenda was a duplicate of this rulemaking and has been terminated. This rulemaking was previously titled, "Sightseeing Operations."

Agency Contact: Dave Metzbower, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3724

RIN: 2120–AF07

2284. REVISION OF CERTIFICATION REQUIREMENTS: MECHANICS AND REPAIRMEN

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44703; 49 USC 44709 to 44711; 49 USC 45102 to 45103; 49 USC 45301 to 45303

CFR Citation: 14 CFR 65; 14 CFR 66

Legal Deadline: None

Abstract: This action would revise the Federal Aviation Regulations that prescribe the certification and training requirements for mechanics and repairmen. Current regulations prescribing these certification requirements do not reflect the significant technological advances that have occurred in the aviation industry and the enhancements in training and instructional methods that have affected all aviation maintenance personnel. The proposed rule would consolidate and clarify 11 certification, training, experience, and currency requirements for aviation maintenance personnel in a newly established part 66. The proposal would enhance aviation safety by establishing new training programs for aviation maintenance personnel and would decrease the regulatory burden on these personnel by providing alternatives for meeting experience and currency requirements. This is an ARAC project that has 2 phases, phase 1 was addressed in the first NPRM and phase 2 will be addressed in the second NPRM as well as addressing comments received from the first NPRM.

Timetable:

Action	Date	FR Cite
NPRM	08/17/94	59 FR 42430
NPRM Comment Period End	10/17/94	
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/17/94 (59 FR 42430)

Additional Information: Project No. AFS-96-492A. This rulemaking is a recommendation from the Aviation Rulemaking Advisory Committee.

Agency Contact: Leslie Vipond, Aircraft Maintenance Service, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3269

RIN: 2120–AF22

2285. NORMAL CATEGORY MAXIMUM WEIGHT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 27; 14 CFR 29.

Legal Deadline: None

Abstract: The FAA announced a public meeting to discuss the use of Aviation Rulemaking Advisory Committee

(ARAC) procedures in future harmonized rulemaking. One specific rulemaking discussed was a proposed increase in the current maximum gross weight limitation of 6,000 pounds for certification as a normal category rotorcraft. This project has been assigned to ARAC.

Timetable:

Action	Date	FR Cite
Notice of Public Meeting	02/06/94	59 FR 564
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/00/97

Additional Information: Project No. ASW-95-218A.

Agency Contact: Lance Gant, Rotorcraft Standards Staff, Rotorcraft Directorate, Department of Transportation, Federal Aviation Administration, ASW-110, FAA, Fort Worth, TX 76193-0110
Phone: 817 222-5114

RIN: 2120–AF33

2286. +OVERFLIGHTS OF UNITS OF THE NATIONAL PARK SYSTEM

Regulatory Plan: This entry is Seq. No. 92 in Part II of this issue of the Federal Register.

RIN: 2120–AF46

2287. +SUBMISSION TO DRUG TESTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701 to 44703; 49 USC 44707; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 45102 to 45103

CFR Citation: 14 CFR 61; 14 CFR 63; 14 CFR 91

Legal Deadline: None

Abstract: This action would propose amendments to require aircraft crewmembers to submit to tests that show the presence of alcohol, drugs, or drug metabolites when requested by Federal, State, or local law enforcement officers investigating violations of Federal, State, or local law. The proposed amendments are intended to reduce aircraft accidents and incidents attributed to the use of drugs by crewmembers. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/00/97

Additional Information: Project Number: AFS-90-062

Agency Contact: Thomas K. Glista, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8150

RIN: 2120–AF84

2288. +PASSENGER FACILITY CHARGES

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40116 to 40117; 49 USC 47111; 49 USC 47114 to 47116

CFR Citation: 14 CFR 158

Legal Deadline: None

Abstract: This action proposes to increase the amount of compensation that a carrier may earn for collecting and remitting a passenger facility charge from eight cents to ten cents. In addition, the NPRM proposes to clarify that monthly remittances must be received by airport public agencies collecting PFCs on the last day of each month. The NPRM also proposes to amend the regulation to reflect the statutory prohibition on collection of PFCs from passengers using frequent flyer bonus awards. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	04/16/96	61 FR 16678
ANPRM Comment Period End	05/16/96	
Extended Comment Period End 8/16/96	05/21/96	61 FR 25420
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number: APP-94-568P.

Agency Contact: Sheryl Scarborough, Airport Financial Assistance Division, Office of Airports Planning and Programming, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8825

RIN: 2120–AF89

2289. OPERATIONAL AND STRUCTURAL DIFFICULTY REPORTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44707; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 135; 14 CFR 145

Legal Deadline: None

Abstract: This action would amend the reporting requirements for air carrier certificate holders and certificated domestic and foreign repair stations concerning failures, malfunctions, and defects of aircraft, aircraft engines, systems, and components. The proposed rule would clarify and standardize the reporting requirements for the type of information submitted to the FAA, allowing the FAA to identify trends that may affect aviation safety. This action was prompted by an internal FAA review of industry concern over the quality of the data being reported by air carriers. The objective of the proposed rule is to update and improve the reporting system to effectively collect and disseminate clear and concise information, particularly with regard to aging aircraft, to the aviation industry.

Timetable:

Action	Date	FR Cite
NPRM	08/14/95	60 FR 41992
NPRM Comment Period End	11/13/95	
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/14/95 (60 FR 41992)

Additional Information: Project Number: AFS-95-237A. This is a recommendation from the Aviation Rulemaking Advisory Committee.

Agency Contact: Benjamin Burton, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3797

RIN: 2120–AF71

2290. REPAIR ASSESSMENT FOR PRESSURIZED FUSELAGES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40119; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 40711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44912

CFR Citation: 14 CFR 91; 14 CFR 121; 14 CFR 125; 14 CFR 129

Legal Deadline: None

Abstract: This proposed rulemaking would require incorporation of repair assessment guidelines for external fuselage pressure boundary into the FAA-approved maintenance programs of each operator of certain transport category airplane models. The purpose of the repair assessment guidelines is to establish a damage-tolerance based supplemental inspection program for repairs to detect damage, which may develop in a repaired area, before that damage degrades the load carrying capability of the structure below the levels required by the applicable airworthiness standards.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/97

Additional Information: Project Number: ANM-93-722A. This is an Aviation Rulemaking Advisory Committee project.

Agency Contact: Dayton Curtis, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 206 227-2109

RIN: 2120–AF81

2291. BIRD INGESTION STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 33

Legal Deadline: None

Abstract: This action proposes changes to amend the type certification standards for aircraft turbine engines that concern bird ingestion. This proposal updates the current bird ingestion standards to reflect recent analysis defining the actual bird threat encountered by turbine engines. This proposal also harmonizes the FAA's type certification standards on this issue with requirements being drafted by the Joint Aviation Authorities (JAA). The proposed changes, if adopted, would establish one set of common requirements, and thereby reduce the regulatory hardship on the aviation industry by eliminating the need for manufacturers to comply with different sets of standards when seeking type certification from the FAA and validation from the JAA.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/97

Additional Information: Project Number: ANE-93-733A. This is an Aviation Rulemaking Advisory Committee project.

Agency Contact: John Golinski, Engine and Propeller Directorate, Department of Transportation, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803-5299
Phone: 617 238-7119

RIN: 2120–AF84

2292. TWO APPROACH CHARTS (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action proposes to establish a requirement for two sets of approach charts to be available and used by the flight crewmembers during commercial operations under instrument flight rules (IFR). It responds to the National Transportation Safety Board (NTSB) finding (A-93-35) recommending that all pilots operating aircraft under 14 CFR parts 135 and 121 have access to their own set of instrument approach charts and use them during the approach and landing segment of the flight. This notice would also standardize the requirement and rule language for both parts 121 and 135. As part of this action, a small entities review under 5 USC section 610 will be included.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/00/97

Additional Information: Project Number: AFS-95-390R.

Agency Contact: Bernie Busby, Commuter and Air Taxi Branch, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8086

RIN: 2120–AF86

2293. NON-FEDERAL AIR TRAFFIC CONTROL FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: Not yet determined

CFR Citation: None

Legal Deadline: None

Abstract: The FAA proposes to establish rules governing the minimum operational requirements for those air traffic control facilities not operated by the United States (non-Federal). The FAA is taking this action to ensure that these entities operate at a level equivalent to those facilities presently being operated by the Federal Government.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/97

Additional Information: Project Number: ATP-95-021R.

Agency Contact: Joseph C. White, Air Traffic Rules Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-9246

RIN: 2120–AF91

2294. NATIONAL SECURITY AREAS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40120; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This action will propose to add a new section to part 91 of the Code of Federal Regulations that would address National Security Areas and the associated NOTAM responsibility of the FAA Administrator in issuing temporary flight restrictions governing the operational responsibilities of pilots operating aircraft near national security areas.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/97

Additional Information: Project No. ATA-94-622R.

Agency Contact: Joseph C. White, Air Traffic Rules Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-8783

RIN: 2120–AF97

2295. REVISION OF CERTIFICATION REQUIREMENTS: AIRCRAFT DISPATCHERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44703; 49 USC 44707; 49 USC 44709 to 44711; 49 USC 45102 to 45103; 49 USC 45301 to 45302

CFR Citation: 14 CFR 65

Legal Deadline: None

Abstract: This action proposes to amend the regulations that prescribe the certification and training requirements for aircraft dispatchers. Current regulations prescribing these certification requirements do not reflect the significant technological advances that have occurred in the aviation industry and the enhancements in training and instructional methods that have affected all aircraft dispatchers. The proposal would consolidate and clarify all certification, training, and experience requirements for aircraft dispatchers in newly revised part 65, subpart C, and appendix A of part 65.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/97

Additional Information: Project Number: AFS-94-171A.

Agency Contact: Tom Toula, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-8166

RIN: 2120–AG04

2296. +DURATION BETWEEN EXAMINATIONS FOR FIRST- AND SECOND-AIRMAN MEDICAL CERTIFICATES

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44703; 49 USC 44707; 49 USC 44709 to 44711; 49 USC 45102 to 45103; 49 USC 45301 to 45302

CFR Citation: 14 CFR 61

Legal Deadline: None

Abstract: This proposed action would reduce the required frequency of medical examinations for many holders of first- and second-class airman medical certifications, based on the age of the airman. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/97

Additional Information: Project Number: AAM-95-065R.

Agency Contact: Dennis McEachen, Office of Aviation Medicine, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 493-4075

RIN: 2120–AG06

2297. FEES FOR AEROMEDICAL EDUCATION TRAINING SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 9701; 49 USC 106(g); 49 USC 40104; 49 USC 40105; 49 USC 40109; 49 USC 40113 to 40114; 49 USC 44702; 49 USC 45301 to 45303

CFR Citation: 14 CFR 187

Legal Deadline: None

Abstract: This action would establish (1) a schedule of fees for all aeromedical education training services, (2) the methodology for computing user fees, and (3) a timetable for periodical updates of established fees. The proposal is necessary to permit the FAA to recover the costs incurred in sponsoring aeromedical education training services.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/00/97

Additional Information: Project Number: AAM-95-065R.

Agency Contact: B. J. Hudson, Aeromedical Standards Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 493-4077

RIN: 2120–AG07

2298. +FALSE AND MISLEADING STATEMENTS REGARDING AIRCRAFT PARTS

Priority: Other Significant

Legal Authority: 49 USC 44913

CFR Citation: None

Legal Deadline: None

Abstract: This action proposes additional rules that would prohibit certain false or misleading statements regarding civil aircraft, airframes, aircraft engines, propellers, appliances, component parts, and materials, including standard parts, that are used, or may be used, on civil aircraft. The proposals would also permit increased inspection by the FAA of records regarding the quality of aircraft parts. The additional rules are needed to help prevent persons from representing parts as suitable for use on civil aircraft when in fact they may not be. The proposals are intended to provide assurance that aircraft owners and operators, and persons who maintain aircraft, have truthful information on which to determine whether a part may be used in a given civil aircraft application. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/00/97

Additional Information: Project Number: AGC-94-549R.

Agency Contact: Mardi Ruth Thompson, Regulations Division, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3073

RIN: 2120–AG08

2299. +SECURITY PROGRAMS OF FOREIGN AIR CARRIERS AND FOREIGN OPERATORS OF U.S. REGISTERED AIR CARRIERS ENGAGED IN COMMON CARRIAGE

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40104 to 40105; 49 USC 40113; 49 USC 40119; 49 USC 44701 to 44702; 49 USC 44712; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901 to 44904; 49 USC 44906

CFR Citation: 14 CFR 129

Legal Deadline: None

Abstract: As an action intended to implement the Antiterrorism and Effective Death Act of 1996 (PL 104-132, 4/14/96), the FAA is proposing to amend existing airplane operator security rules for foreign air carriers and foreign operators of U.S. registered aircraft. The proposed amendment would require the Administrator to accept a foreign air carrier's program only if the Administrator finds that the security program provides for identical security measures to those provided by U.S. air carriers serving the same airport. The proposed rule will establish the obligation to use identical security measures. The actual measures to be used will be identified through changes to the nonpublic security program of the foreign air carriers. This rule is considered significant due to substantial public interest and concern of foreign governments.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/97

Additional Information: Project No. ACP-96-363R.

Agency Contact: Craig Stier, Civil Aviation Security Division, Office of Civil Aviation Security Policy and Planning, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-5961

RIN: 2120–AG13

2300. +LICENSING OPERATION OF A NON-FEDERAL LAUNCH SITE

Priority: Other Significant

Legal Authority: 49 USC 70101 to 70119

CFR Citation: 14 CFR 415; 14 CFR 417

Legal Deadline: None

Abstract: This action would establish requirements for licensing the operation of a launch site. The law requires anyone who proposes to operate a launch site within the U.S., or a U.S. citizen proposing to operate a launch site outside the U.S., to obtain a license from DOT. This action would govern obtaining a license to operate such a launch site. Currently, commercial rocket launches take place from federal government installations operated by the Department of Defense and NASA. Licensing requirements for those launches are being developed in a related rulemaking (RIN 2120-AF99). In this action, DOT proposes to implement rules regarding obtaining a license to operate a launch site. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/97

Additional Information: Project Number: AST-96-341R.

Agency Contact: Randy Repcheck, Licensing and Safety Division, AST-200, Office of Commercial Space, Department of Transportation, Federal Aviation Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-2258

RIN: 2120–AG15

2301. +CIVIL AVIATION SECURITY USER FEES

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: Undetermined

Legal Authority: 49 USC 9701; 49 USC 106(g); 49 USC 40104 to 40105; 49 USC 40109; 49 USC 40113 to 40114; 49 USC 44702; 49 USC 45301 to 45303

CFR Citation: 14 CFR 187

Legal Deadline: None

Abstract: This action would establish fees for security activities performed by the FAA, which include inspecting air carrier, airport, and FAA navigation and air traffic control security, approving and amending airline and airport security programs, investigating criminal and regulatory violations, testing and approving security equipment, and other functions. This proposal is necessary to allow the FAA to fully recover the costs it incurs in performing these services. The intended effect of this proposal is to contribute toward the FAA's goal of being 100 percent user supported by the year 2003. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/97

Additional Information: Project No. APO-96-355R.

Agency Contact: Cherie Jack, Office of Aviation Policy and Plans, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3323

RIN: 2120–AG18

2302. DISPUTE RESOLUTION REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(f)

CFR Citation: 14 CFR 17

Legal Deadline: None

Abstract: This rulemaking would formally establish procedures the FAA will use to settle contract disputes and protests. The FAA Office of Dispute Resolution (ODR) was established as an organization that has broad discretion to resolve protests and contract disputes, utilize administrative or alternative dispute resolution techniques and provide fair and impartial decisions or recommendations, supported by the facts and law. In order for this office to carry out its function, while providing for appropriate due process, it is necessary that certain of its procedures uniformly have the force and effect of law. This would include matters such as the establishment of filing deadlines; the power to issue subpoenas and protective orders; the power to levy sanctions; and the discretion to establish schedules, and to limit discovery, length of presentations, numbers of exhibits, and other similar matters.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 10/00/97

Additional Information: Project No. AGC-96-353R.

Agency Contact: Jerome Jones, Office of Chief Counsel, Dispute Resolutions, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3824

RIN: 2120–AG19

2303. VFR/IFR FUEL RESERVE REQUIREMENTS: ISLAND DESTINATION AIRPORTS FOR WHICH NO ALTERNATE AIRPORT IS AVAILABLE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709; 49 USC 44711 to 44713; 49 USC 44715 to 44717; 49 USC 44722

CFR Citation: 14 CFR 135

Legal Deadline: None

Abstract: This proposed rule establishes both visual flight rules (VFR) and instrument flight rules (IFR) minimum fuel reserve requirements for airplanes upon arrival at any destination airport located on an island, if no alternate airport is specified. These minimum fuel requirements were not previously mandated in part 135 because they were not envisioned when the current part 135 was issued. This rule is being proposed because of the initiation of this type of operation to such an airport.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 12/00/97

Additional Information: Project Number: AFS-97-036R

Agency Contact: Mike Coffey, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3750

RIN: 2120–AG29

2304. CERTIFICATION OF SECURITY SCREENING COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 5103; 49 USC 40113; 49 USC 40119; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44901 to 44905; 49 USC 44907; 49 USC 44913 to 44914; 49 USC 44932; 49 USC 44935 to 44936; 49 USC 46105

CFR Citation: 14 CFR 108

Legal Deadline: None

Abstract: The FAA sought public comment on proposals to certificate screening companies (other than air carriers) by the FAA, and otherwise enhance the screening by air carriers of passengers and property that will be carried in the cabin of an aircraft, and of checked baggage. This advance notice responded to a recommendation made by the White House Commission on Aviation Safety and Security, and to a requirement in the Federal Aviation Authorization Act of 1996. It is intended to improve the screening of passengers, property, and baggage.

Timetable:

Action	Date	FR Cite
ANPRM	03/17/97	62 FR 12724
ANPRM Comment Period End	05/01/97	
NPRM	02/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 02/00/98

Additional Information: Project Number: ACS-97-029R.

Agency Contact: Penny Anderson, ACP-100, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-5163

RIN: 2120–AG31

DOT—FAA

Proposed Rule Stage

2305. FEES FOR OBSTRUCTION EVALUATION STUDIES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113 to 40114; 49 USC 44502; 49 USC 44701; 49 USC 44718; 49 USC 46101 to 46102; 49 USC 46104

CFR Citation: 14 CFR 77

Legal Deadline: None

Abstract: This action would establish a schedule of fees for obstruction evaluation studies conducted by the FAA. This proposal is necessary to allow the FAA to reasonably recover the cost it incurs in performing these services. The intended effect of this proposal is to contribute toward the FAA's goal of being 100 percent user supported.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 10/00/97

Additional Information: Project Number: APO-97-056R

Agency Contact: Herbert G. Leusch-Carnaroli, Office of Aviation Policy and Plans, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-7550

RIN: 2120–AG33

2306. +PROHIBITION OF THE TRANSPORTATION OF DEVICES DESIGNED AS CHEMICAL GENERATORS AS CARGO IN AIRCRAFT

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716; 49 USC 44722; 49 USC 46301

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: The FAA is proposing to ban the transportation of devices designed to chemically generate oxygen in certain aircraft, with limited exceptions. This proposed ban applies to newly manufactured chemical oxygen generators that have never been filled with chemicals. It would also apply to devices designated as chemical oxygen generators that have been discharged (spent) or that are past their expiration dates. The FAA believes that newly manufactured chemical oxygen generators might be manufactured in one location and transported to another location to be filled. This could lead to human factors errors in determining whether the device designed as a chemical oxygen generator is actually empty.

The Research and Special Programs Administration (RSPA) proposed a ban that applies to "spent" chemical oxygen generators to the extent that such generators have residue chemicals in the canisters. (See RIN 2137-AC92)

This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 10/00/97

Additional Information: Project Number: AFS-97-065R

Agency Contact: Gary Davis, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3747

RIN: 2120–AG35

2307. +PROTECTION OF VOLUNTARILY SUBMITTED INFORMATION

Priority: Other Significant

Legal Authority: Not yet determined

CFR Citation: Not yet determined

Legal Deadline: NPRM, Statutory, October 9, 1996, Federal Aviation Reauthorization Act of 1996. Section 402.

Abstract: The Administrator has been tasked, under the Federal Aviation Reauthorization Act of 1996, to develop regulations to protect safety and security related information voluntarily disclosed by industry. The FAA is in the process of determining what voluntary submitted information should be given protection under the statute. This rulemaking is significant because of substantial industry interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 10/00/97

Additional Information: Project Number: ARM-97-040.

Agency Contact: Jackie Smith, Office of Rulemaking, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-9682

RIN: 2120–AG36

2308. +LICENSING OF LAUNCH FROM NON-FEDERAL LAUNCH SITE

Priority: Other Significant

Legal Authority: 49 USC 70101 to 70119

CFR Citation: 14 CFR 415; 14 CFR 417

Legal Deadline: None

Abstract: This action would establish requirements for licensing the conduct

of a launch from a non-Federal launch site. The law requires anyone who proposes to conduct a launch within the U.S., or a U.S. citizen proposing to conduct a launch site outside the U.S., to obtain a license from DOT. This action would govern obtaining a license to conduct such a launch. Currently, commercial rocket launches take place from Federal Government installations operated by the Department of Defense and NASA. Licensing requirements for those launches are being developed in a related licensing rulemaking (RIN 2120-AF99). In this action, DOT proposes to implement rules regarding obtaining a license to conduct a launch from a commercial launch site, where DOT, rather than NASA or the military has primary responsibility. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 12/00/97

Additional Information: Project Number: AST-97-088R.

Agency Contact: Randy Repcheck, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3747

RIN: 2120–AG37

2309. • +AIR TOUR OPERATIONS IN THE STATE OF HAWAII

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44701; 49 USC 44702; 49 USC 44705; 49 USC 44709; 49 USC 44711 to 44713; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306

CFR Citation: 14 CFR 91; 14 CFR 135

Legal Deadline: None

Abstract: This rulemaking will dispose of comments received in response to the final rule published on September 26, 1994 (59 FR 49138), for certain procedural, operational, and equipment requirements for air tour operations in the State of Hawaii, codified as Special Federal Aviation Regulation (SFAR 71). It also proposes to extend SFAR 71 until the FAA publishes a final rule regulating all air tour operations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 10/00/97

Additional Information: Project Number: AFS-94-453R

Agency Contact: David Metzbower, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3724

RIN: 2120–AG44

2310. • PART 93 SUBPART D—ANCHORAGE, ALASKA, TERMINAL AREA

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40106; 49 USC 40109; 49 USC 40113; 49 USC 44502; 49 USC 44514; 49 USC 44701; 49 USC 44719; 49 USC 46301

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: This action proposes to amend regulations regarding the Anchorage, Alaska, Terminal Area. The FAA is proposing this action to enhance safety and simplify aircraft operating procedures in the Anchorage, Alaska, Terminal Area.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 10/00/97

Agency Contact: Janet Apple, Office of Air Traffic Airspace Management, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-8783

RIN: 2120–AG45

2311. • +ENHANCED GROUND PROXIMITY WARNING SYSTEM

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44712; 49 USC 44715; 49 USC 44716 to 44718; 49 USC 44722; 49 USC 46306; 49 USC 46315; 49 USC 46316; ...

CFR Citation: 14 CFR 91; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action would issue rules that would prohibit the operation of turbine-powered U.S. registered civil airplanes of six or more passenger seats, exclusive of pilot and co-pilot seating, unless that airplane is equipped with an FAA-approved enhanced ground proximity warning system. This proposed rule is intended to further reduce the risk of controlled flight into terrain accidents.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/00/97

Additional Information: Project Number: AIR-96-354R.

Agency Contact: Manny Macedo, Office of Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-9566

RIN: 2120–AG46

2312. OBJECTS AFFECTING NAVIGABLE AIRSPACE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113 to 40114; 49 USC 44502; 49 USC 44701; 49 USC 44718; 49 USC 46101 to 46102; 49 USC 46104

CFR Citation: 14 CFR 77

Legal Deadline: None

Abstract: This action would amend the standards, aeronautical studies, scope, and notice provisions concerning objects affecting navigable airspace. The notice consisted primarily of changes required by recent legislation or recommended by a government/industry task group of the National Airspace Review Advisory Committee. This action would also cover electromagnetic interference phenomenon that could create a hazard to air navigation.

Timetable:

Action	Date	FR Cite
Notice of Review	06/19/78	43 FR 26322
Review Conference	12/08/80	
National Airspace Review Begins	07/09/84	
NPRM	08/03/90	55 FR 31722
NPRM Correction	08/13/90	55 FR 32999
NPRM Correction	08/16/90	55 FR 33577
NPRM Correction	08/28/90	55 FR 35152
NPRM Correction	09/10/90	55 FR 37287
NPRM Comment Period End	12/31/90	
SNPRM Comment Period End	11/30/95	10/16/95 60 FR 53680
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 08/03/90 (55 FR 31722)

Additional Information: Project ATO-85-015R.

Agency Contact: Janet Apple, Air Traffic Rules Procedures Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-8783

RIN: 2120–AA09

2313. +FUEL SYSTEM VENT FIRE PROTECTION

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44704; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44721; 49 USC 44722; 49 USC 44901

CFR Citation: 14 CFR 25; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action would amend the airworthiness standards for transport category airplanes to require fuel vent system protection during post-crash ground fires. This proposed rule would apply to air carriers, air taxi operators, and commercial operators of transport category airplanes, as well as the manufacturers of such airplanes. This action is considered significant because of substantial public interest and the safety implications.

Timetable:

Action	Date	FR Cite
ANPRM	09/26/84	49 FR 38078
ANPRM Comment Period End	01/25/85	
NPRM	02/02/95	60 FR 6832
NPRM Comment Period End	08/02/95	
Final Action	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/02/95 (60 FR 6832)

Additional Information: Docket 24251. Formerly entitled Implementation of SAFER Propulsion System Recommendations. Project No. ANM-82-050R.

Agency Contact: Mike McRae, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055-4056 Phone: 425 227-2116

RIN: 2120–AA49

2314. MISCELLANEOUS AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7572; 49 USC 106(g); 49 USC 5103; 49 USC 40105; 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44703; 49 USC 44705; 49 USC 44706; 49 USC 44707; 49 USC 44709; 49 USC 44710; 49 USC 44711; 49 USC 44712

CFR Citation: 14 CFR 21; 14 CFR 65; 14 CFR 107; 14 CFR 121; 14 CFR 135; 14 CFR 145

Legal Deadline: None

Abstract: The FAA is withdrawing a previously published Notice of Proposed Rulemaking (NPRM) that proposed to amend various sections of the regulations. The proposal was to clarify language, correct improper or obsolete references, and to relax certain existing requirements. Since publication of the NPRM, many other completed, in-process, or planned actions have addressed or will address many of the issues involved. The FAA has determined that all unresolved issues should be included in more recent actions dealing with the specific sections of the regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/03/83	48 FR 45214
NPRM Comment Period End	12/02/83	
Withdrawal Notice	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/03/83 (48 FR 45214)

Additional Information: Docket No. 23781. Project No. ARM-81-128R.

Agency Contact: Jean Casciano, Office of Rulemaking, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-9683

RIN: 2120–AA50

2315. IFR ALTITUDES; MISCELLANEOUS AMENDMENTS

Priority: Routine and Frequent

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40106; 49 USC 40113; 49 USC 40114; 49 USC 40120; 49 USC 44502; 49 USC 44514; 49 USC 44719; 49 USC 44721

CFR Citation: 14 CFR 95

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical

requirements to keep those requirements operationally current. Total actions expected—400. 10/00/97 - 10/00/98.

Timetable:

Action	Date	FR Cite
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Louis C. Cusimano, General Aviation and Commercial Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8212

RIN: 2120–AA63

2316. AIRWORTHINESS DIRECTIVES:

Priority: Routine and Frequent

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701

CFR Citation: 14 CFR 39

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently in order to correct known or expected safety problems on type certificated products. Total actions expected—500. 10/00/97 to 10/00/98.

Timetable:

Action	Date	FR Cite
Final Action	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Jack McGrath, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9580

RIN: 2120–AA64

2317. STANDARD INSTRUMENT APPROACH PROCEDURES; MISCELLANEOUS AMENDMENTS

Priority: Routine and Frequent

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40106; 49 USC 40113 to 40114; 49 USC 40120; 49 USC 44502; 49 USC 44514; 49 USC 44701; 49 USC 44719; 49 USC 44721 to 44722

CFR Citation: 14 CFR 97

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected—2,000. 10/00/97 - 10/00/98.

Timetable:

Action	Date	FR Cite
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Louis C. Cusimano, General Aviation and Commercial Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8212

RIN: 2120–AA65

2318. AIRSPACE ACTIONS

Priority: Routine and Frequent

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; EO 10854

CFR Citation: 14 CFR 71; 14 CFR 73; 14 CFR 75

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected—300, 10/00/97 through 10/00/98.

Timetable:

Action	Date	FR Cite
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Pat Crawford, Manager, Airspace Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9255

RIN: 2120–AA66

2319. +IMPROVED STANDARDS FOR DETERMINING REJECTED TAKEOFF AND LANDING PERFORMANCE

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40119; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701 to 44702; 49 USC 44704; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716

CFR Citation: 14 CFR 25; 14 CFR 121; 14 CFR 135; 14 CFR 1; 14 CFR 91

Legal Deadline: None

Abstract: This action would amend parts 25, 121, and 135 of the Federal Aviation Regulations to add new standards for transport category airplanes which would provide for approval of a reduced takeoff decision speed (V1) methodology for takeoff on wet and contaminated runways. As a result of extensive review and due to the increasing emphasis on harmonizing certification standards with the Joint Aviation Authorities (JAA) of Europe, the NPRM of 11/30/87 was withdrawn and a revised one published. This rulemaking is significant because of substantial public interest in both the United States and Europe.

Timetable:

Action	Date	FR Cite
NPRM	11/30/87	52 FR 45578
NPRM Comment Period End	03/30/88	
NPRM Withdrawn	07/02/93	58 FR 36118
Second NPRM	07/08/93	58 FR 36738
Second NPRM Comment Period End	11/05/93	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/08/93 (58 FR 36738)

Additional Information: This project was formerly entitled "Standards for Approval of a Wet Runway Reduced V1 Methodology and Improved Takeoff and Landing Braking Performance." Project Number ANM-83-030R.

Agency Contact: Don Stimson, Flight Test and Systems Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 425 227-1129

RIN: 2120–AB17

2320. LOW FUEL QUANTITY ALERTING SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action would amend the airworthiness standards for transport category airplanes to require a means to alert the flight crew of potentially unsafe low fuel quantities. There have been several fuel depletion incidents involving loss of power or thrust on all engines that could have resulted in forced landings and injury or loss of life. Most of these incidents resulted from improper fuel management techniques. This proposed amendment would require new transport category airplane designs to incorporate a low fuel quantity alert system that would allow for correction of certain fuel management errors or provide the flightcrew the opportunity to make a safe landing prior to engine fuel starvation.

Timetable:

Action	Date	FR Cite
NPRM	05/12/87	52 FR 17890
NPRM Comment Period End	09/09/87	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/12/87 (52 FR 17890)

Additional Information: Docket No. 25213. Project No. ANM-83-039R.

Agency Contact: Neil Schalekamp, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055-4056
Phone: 425 227-2135

RIN: 2120–AB46

2321. +IMPROVED SURVIVAL EQUIPMENT FOR INADVERTENT WATER LANDINGS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline:
NPRM, Statutory, June 28, 1988, PL 100-223 Section 303 Airport and Airway Safety and Capacity Enhancement Act of 1987.

Abstract: This action would add new requirements for water survival equipment carried aboard airplanes and rotorcraft. The requirements would apply, after specified dates, to U.S.-certificate holders that conduct common-carriage operations with airplanes and rotorcraft. This action is in response to the Airport and Airway Safety and Capacity Enhancement Act of 1987 (PL 100-223) and relates to safety recommendations by the National Transportation Safety Board. The requirements are intended to increase the likelihood of aircraft passengers surviving a crash landing in water and, thus, this rulemaking is significant because of the safety implications.

Timetable:

Action	Date	FR Cite
NPRM	06/30/88	53 FR 24890
NPRM Comment Period End	11/28/88	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/30/88 (53 FR 24890)

Additional Information: Project No. AIR-85-265R.

Agency Contact: John Petrakis, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9574

RIN: 2120–AC72

2322. +RETROFIT OF IMPROVED SEATS IN AIR CARRIER TRANSPORT CATEGORY AIRPLANES

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; ...

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline:
NPRM, Statutory, April 28, 1988, PL 100-223 Sec 303.

Abstract: This action would require that all seats of transport category airplanes used in air carrier operations and transport category airplanes used in scheduled intrastate service comply with improved crashworthiness standards. The Airport and Airways Safety and Capacity Expansion Act of 1987 directs the Secretary of Transportation to initiate a rulemaking proceeding to consider requiring all seats onboard all air carrier aircraft to meet improved crashworthiness standards based upon the best available testing standards. The intended effect of this action is to increase passenger protection and survivability in survivable impact accidents. This rulemaking is considered significant because of its safety implications and statutory requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/17/88	53 FR 17650
NPRM Comment Period End	10/14/88	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/17/88 (53 FR 17650)

Additional Information: Docket 25611, Project No. AIR-88-136R.

Agency Contact: John Petrakis, Aircraft Engineering Division, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9274

RIN: 2120–AC84

2323. +SOLE RADIO NAVIGATION SYSTEM; MINIMUM STANDARDS FOR CERTIFICATION

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306

CFR Citation: 14 CFR 91

Legal Deadline:

Final, Statutory, September 30, 1989, Airway Safety and Capacity Expansion Act of 1987 (PL 100-223).

Abstract: The FAA is withdrawing a previously published Advance Notice of Proposed Rulemaking (ANPRM) that proposed to establish minimum standards under which a radio navigation system may be certified as the sole radio navigation system required in an aircraft conducting Instrument Flight Rules en route and terminal area operations, including nonprecision approach, in controlled airspace of the United States. This rulemaking was considered to be significant because of a congressional mandate. However, the provision was REPEALED in 1994 as part of the recodification of title 49. The prevision was originally enacted as section 310(c) in FAA's 1987 Reauthorization bill, Pub. L. No. 100-123.

Timetable:

Action	Date	FR Cite
ANPRM	01/22/90	55 FR 2206
ANPRM Comment Period End	05/22/90	
Withdrawal Notice	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Project No. AFS-89-215R. This project was formerly entitled Sole Means Radio Navigation System.

Agency Contact: James Crowling, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-5215

RIN: 2120–AD26

2324. +AIRWORTHINESS STANDARDS; OCCUPANT PROTECTION STANDARDS FOR COMMUTER CATEGORY AIRPLANES

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This action would amend the airworthiness standards for normal, utility, acrobatic, and commuter category airplanes by upgrading the requirements for both seat/restraint systems and for flammability standards for seat cushions used in commuter category airplanes. These amendments are needed to improve the occupant protection provisions for these types of airplanes. These new requirements would result in a level of safety commensurate with that provided by the seat/restraint requirements and the flammability standards for transport category airplanes. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	07/14/93	58 FR 38028
NPRM Correction	07/28/93	58 FR 40389
NPRM Comment Period End	11/12/93	
Reopening of Comment Period	11/04/94	59 FR 55225
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/14/93 (58 FR 38028)

Additional Information: Project No. ACE-87-014R. This project was formerly entitled "Improved Seat Safety Standards for Commuter Category Airplanes."

Agency Contact: Michael Downs, Standards Office, Small Airplane Directorate, Department of Transportation, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106 Phone: 816 426-5688

RIN: 2120–AD27

2325. AIRPLANE ENGINE COWLING RETENTION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action would amend the airworthiness standards for transport category airplanes to require improved cowling retention devices. A review of a number of inflight incidents where engine cowlings were lost revealed that the largest single cause of such losses was improper latching of the cowlings. If adopted, this proposal would provide additional design standards to detect improperly latched cowlings and ensure the integrity of the latching system.

Timetable:

Action	Date	FR Cite
NPRM	09/19/89	54 FR 38610
NPRM Comment Period End	03/19/90	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/19/89 (54 FR 38610)

Additional Information: Project No. ANM-87-004R.

Agency Contact: Mike McRae, Airframe and Propulsion Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, WA 98055-4056 Phone: 206 227-2133

RIN: 2120–AD34

2326. 1-G STALLING SPEED AS A BASIS FOR COMPLIANCE WITH PART 25 OF THE FEDERAL AVIATION REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4321; 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704; 49 USC 44715

CFR Citation: 14 CFR 25; 14 CFR 36

Legal Deadline: None

Abstract: This action would amend the Federal Aviation Regulations to redefine the airplane reference stalling speed as the 1-g stalling speed in lieu of the minimum stalling speed. It would: (1) provide for a consistent, repeatable reference stalling speed; (2) ensure consistent and dependable maneuvering margins; (3) clarify the requirement for the use of 1-g stalling speeds in determining structural design speeds; (4) increase the head-on gust structural design requirement; and (5) provide for adjusted multiplying factors to maintain essentially equivalent requirements in areas where the use of minimum stalling speed has proven adequate. These changes are needed since the stalling characteristics of modern jet transports as determined by current methods can result in inconsistent reference stalling speeds. These changes may result in a higher level of safety where current methods have resulted in artificially low reference stalling speeds.

Timetable:

Action	Date	FR Cite
NPRM	01/18/96	61 FR 1260
Correction	02/26/96	61 FR 7157
NPRM Comment Period End	05/17/96	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/18/96 (61 FR 1260)

Additional Information: Project No. ANM-86-041R.

Agency Contact: Don Stimeon, Flight Test and Systems Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, WA 98055-4056 Phone: 425 227-1320

RIN: 2120–AD40

2327. +FATIGUE EVALUATION OF STRUCTURE

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action would revise the fatigue requirements for damage-tolerant structures on transport category airplanes to require full-scale fatigue testing and to require that the thresholds for inspections be based on crack growth from initial flaws in the structure. These proposed changes are based on the service history of airplanes evaluated to the current damage tolerance requirements and are intended to ensure that, should serious fatigue damage occur within the operational life of the airplane, the remaining structure can withstand reasonable loads without failure until the damage is detected. This rulemaking is considered significant because of its safety implications and substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	07/19/93	58 FR 38642
Notice: Additional Compliance Guidance	10/19/93	58 FR 53987
NPRM Comment Period End	11/16/93	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/19/93 (58 FR 38642)

Additional Information: Project Number ANM-88-013R.

Agency Contact: Rich Yarges, Airframe and Propulsion Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, WA 98055-4056 Phone: 425 227-2143

RIN: 2120–AD42

2328. +REVISION OF PART 108, AIRPLANE OPERATOR SECURITY

Priority: Other Significant

Legal Authority: 40 USC 106(g); 49 USC 5103; 49 USC 40113; 49 USC 40119; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44901 to 44905; 49 USC 44907; 49 USC 44913 to 44914; 49 USC 44932; 49 USC 44935 to 44936; 49 USC 46105

CFR Citation: 14 CFR 108

Legal Deadline: None

Abstract: This action would amend part 108 of the Federal Aviation Regulations to incorporate new requirements in response to worldwide terrorist activity. This rulemaking is considered significant because of its safety implications and substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	08/01/97	62 FR 41730
Comment Period End	12/01/97	
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/01/97 (62 FR 41730)

Additional Information: Project Number ACS-87-107R.

Agency Contact: Craig Stier, Office of Civil Aviation Security, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3413

RIN: 2120–AD45

2329. TYPE CERTIFICATES FOR SOME SURPLUS AIRCRAFT OF THE ARMED FORCES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7572; 49 USC 106(g); 49 USC 40105; 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44707; 49 USC 44709; 49 USC 44711; 49 USC 44713; 49 USC 44715; 49 USC 45303

CFR Citation: 14 CFR 21

Legal Deadline: None

Abstract: Following World War II, a substantial number of surplus military airplanes were offered for sale to the public in order to meet an increased demand for civilian-use aircraft not being met by the civil aircraft industry. The current regulation permits both type and airworthiness certification for surplus military aircraft based on the particular aircraft's safety record and condition. As military aircraft have become increasingly complex and sophisticated, that practice is no longer acceptable. This action would remove the regulations for issuing type certificates for these surplus aircraft and eliminate references to obsolete standards. Surplus military aircraft would still be certificated in the normal, utility, acrobatic, commuter, transport, and restricted categories upon compliance with the applicable regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/21/94	59 FR 19114
NPRM Comment Period End	08/20/94	
NPRM Comment Period Reopened: Comment Period End 08/26/94	07/07/94	59 FR 34779
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/21/94 (59 FR 19114)

Additional Information: Project Number AIR-91-354R.

Agency Contact: Brian Yanez, Policy and Procedures Branch, Aircraft Certification Service, Department of

Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-6561

RIN: 2120–AE41

2330. +REDUCED ALTITUDE SEPARATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: In the 1950's, a vertical separation minimum of 2,000 feet was established for use between aircraft operating above flight level 290. Reducing the 2,000-foot separation requirement to 1,000 feet would increase flight level availability, increase en route airspace capacity, enable aircraft to fly at more fuel efficient altitudes, and increase air traffic controller flexibility. This action maintains a level of safety equal to or greater than that provided by the current regulations. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Public Meeting Notice	07/22/93	58 FR 39273
Final Rule Effective	04/09/97	
Final Rule Request for Comments	04/09/97	62 FR 17480
Final Rule Comment Period End	06/09/97	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/09/97 (62 FR 17480)

Additional Information: Project Number: AFS-92-773R

Agency Contact: Roy Grimes, Technical Programs Division, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3755

RIN: 2120–AE51

2331. +AIRCRAFT GROUND DEICING AND ANTI-ICING PROGRAM

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This action establishes a requirement for part 121 certificate holders to develop an FAA-approved ground deicing/anti-icing program and to comply with that program any time conditions are such that frost, ice, or snow could adhere to the aircraft's wings, control surfaces, or propellers. This action is necessary because several accidents and the recent International Conference on Airplane Ground Deicing indicate that, under present procedures, the pilot in command may be unable to effectively determine whether critical airplane components are free of all frost, ice, or snow prior to attempting a takeoff. The action provides an added level of safety to flight operations in adverse weather conditions, and is considered significant because of its safety implications.

Timetable:

Action	Date	FR Cite
NPRM	07/23/92	57 FR 32846
NPRM Comment Period End	09/07/92	
Interim Final Rule	09/29/92	57 FR 44924
Interim Final Rule Effective	11/01/92	
Interim Final Rule Correction	11/09/92	57 FR 53385
Interim Final Rule Comment Period End	04/15/93	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/29/92 (57 FR 44924)

Additional Information: Project Number: AFS-92-280-R.

A proposed advisory circular providing guidance on the program elements that should be included in an air carrier's approved ground deicing and anti-icing program was published September 29, 1992, requesting comments (57 FR 44944).

Various documents of this proceeding were erroneously published under RIN 2120-AE51.

Agency Contact: Larry Youngblut, Regulations Branch, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3755

RIN: 2120–AE70

2332. +PILOT, FLIGHT INSTRUCTOR, GROUND INSTRUCTOR, AND PILOT SCHOOL CERTIFICATION RULES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44703; 49 USC 44707; 49 USC 44709 to 44711; 49 USC 45102 to 45103; 49 USC 45301 to 45302

CFR Citation: 14 CFR 61

Legal Deadline: None

Abstract: This action would update and revise part 61, Certification: Pilots and Flight Instructors; part 141, Pilot Schools; and part 143, Ground Instructors. In order to be more compatible with the current operating environment and evolving demands of the national airspace system, this action would update training, certification, and recency-of-experience requirements. It is considered significant because of substantial public interest in pilot and instructor certification and training issues.

Timetable:

Action	Date	FR Cite
NPRM	08/11/95	60 FR 41160
NPRM Comment Period End	12/11/95	
Extended Comment Period End 2/12/96	12/14/95	60 FR 64129
Final Rule Request for Comments	04/04/97	62 FR 16220
Final Rule Comment Period End	06/03/97	
Correction	07/30/97	62 FR 40888
Final Rule Effective	08/04/97	
Final Action	08/00/98	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/11/95 (60 FR 41160)

Additional Information: Project No.: AFS-90-025R. RIN 2120-AD59 entitled, "Operations Over the High Seas and Within the North Atlantic Minimum Navigation Performance Specification Airspace," has been incorporated into this document (previous Project No.: AFS-89-175R). The present action was formerly entitled "part 61, Phase II."

Agency Contact: John Lynch, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3844

RIN: 2120–AE71

2333. AIR TRAFFIC CONTROL RADAR BEACON SYSTEM AND MODE S TRANSPONDER REQUIREMENTS IN THE NATIONAL AIRSPACE SYSTEM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action would revise the Mode S transponder requirement for all aircraft operating under part 135 and certain aircraft operating under part 121 based on the expected availability of operational capabilities of Mode S ground sensors. For part 121 operators, the action would affect only those aircraft not required to have Traffic Alert and Collision Avoidance System II. An aviation rulemaking advisory committee has recommended that the FAA conduct a study of the installed Mode S ground sensor to determine the extent of the benefits derived and the costs involved in equipage. This action is a relieving action made necessary by the fact that ground sensors are not in place to support the requirement. Further, FAA is studying the need for Mode S transponders in part 135 and certain part 121 operations in light of the fact that transponders may not substantially increase ATC ability to view air traffic.

Timetable:

Action	Date	FR Cite
NPRM	05/23/96	61 FR 26036
NPRM Correction	08/17/96	61 FR 30551
NPRM Comment Period End	07/22/96	
Final Action	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/23/96 (61 FR 26036)

Additional Information: Project Number: AFS-92-297R.

Agency Contact: Daniel V. Meier, Jr., Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3749

RIN: 2120–AE81

2334. CIVIL PENALTY ASSESSMENT PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 6002; 49 USC 106(g); 49 USC 5121 to 5124; 49 USC 40113 to 40114; 49 USC 44103 to 44106; 49 USC 44702 to 44703; 49 USC 44709 to 44710; 49 USC 44713; 49 USC 46101 to 46110; 49 USC 46301 to 46316; 49 USC 46501 to 46502; 49 USC 46504 to 46507; 49 USC 47106; 49 USC 47111; 49 USC 47122

CFR Citation: 14 CFR 13

Legal Deadline: None

Abstract: This action would revise the procedures for the assessment of civil penalties for violations of the Federal Aviation Regulations and other provisions. The procedures proposed would implement the requirements of the FAA Civil Penalty Administrative Assessment Act of 1992, as they modify the procedures for adjudicating a civil penalty against a person acting in the capacity of a pilot, flight engineer, mechanic, or repairman.

Timetable:

Action	Date	FR Cite
NPRM	08/05/94	59 FR 40192
NPRM Comment Period End	10/04/94	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/05/94 (59 FR 40192); Regulatory Evaluation 10/00/97

Additional Information: Project Number: AGC-93-07R. This rulemaking was considered significant, however, after receiving only two comments on the NPRM issued in 8/94, and the lack of controversy regarding this rule, the FAA does not consider this a significant rulemaking.

Agency Contact: Joyce Redos, Regulations Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-7158

RIN: 2120–AE84

2335. +REVISED ACCESS TO TYPE III EXITS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 25; 14 CFR 121

Legal Deadline: None

Abstract: This action would adjust recently adopted requirements for access to type III emergency exits in transport category airplanes with 60 or more passenger seats. The adjustments would reflect new data from tests conducted at the FAA's Civil Aeromedical Institute and are intended to improve the ability of occupants to evacuate an airplane under emergency conditions. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	01/30/95	60 FR 5794

DOT—FAA

Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	05/01/95	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number: ANM-93-005R

Agency Contact: Gary Killion, Transport Airplane and Engine Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 206 227-2114

RIN: 2120–AF01

2336. TRAINING AND QUALIFICATION REQUIREMENTS FOR CHECK AIRMEN AND FLIGHT INSTRUCTORS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This rule amends the training and testing requirements for check airmen and flight instructors who perform their functions in training programs conducted by part 121 and part 135 certificate holders. These amendments are needed to allow check airmen and flight instructors who perform their functions only in flight simulators and flight training devices to do so without having to possess a current medical certificate. The amendments are also needed to make these regulations compatible with proposed regulations for simulator training centers and with the regulations for advanced qualification training programs. Upon reevaluation by FAA, it was determined that this action is not considered significant.

Timetable:

Action	Date	FR Cite
NPRM	02/22/96	61 FR 6898
NPRM Comment Period End	03/25/96	
Final Rule Opportunity for Comment	06/17/96	61 FR 30734
Final Action Effective	06/17/96	
Correction	01/24/97	62 FR 3739
Correction	04/28/97	62 FR 23120
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/22/96 (61 FR 6898); Regulatory Evaluation 06/17/96 (61 FR 30734)

Additional Information: Project Number: AFS-92-747A. This rule is awaiting compliance with OMB information collection requirements regarding public notice.

Agency Contact: Tom Toula, Air Carrier Training Branch, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3718

RIN: 2120–AF08

2337. +TRAINING AND CHECKING IN GROUND ICING CONDITIONS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44710 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722

CFR Citation: 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This amendment requires parts 125 and 135 certificate holders to provide pilot training or testing in ground deicing/anti-icing procedures and to check the airplane for contamination by frost, ice, or snow during ground icing conditions. The proposal is intended to provide an added level of safety to flight operations in adverse weather conditions under parts 125 and 135. This rulemaking is significant because it affects a substantial portion of the aviation industry.

Timetable:

Action	Date	FR Cite
NPRM	09/21/93	58 FR 49164
NPRM Comment Period End	10/06/93	
Interim Final Rule	12/30/93	58 FR 69620
Advisory Circular Published	12/30/93	58 FR 69631
Interim Final Rule: Effective Date	01/31/94	58 FR 69620
Interim Final Rule Comments Due	04/15/94	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 12/30/93 (58 FR 69620)

Additional Information: Project Number: AFS-93-459R

Agency Contact: Larry Youngblut, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3755

RIN: 2120–AF09

2338. LOS ANGELES, CA, CLASS B AIRSPACE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; EO 10854

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: The FAA is withdrawing a previously published Notice of Proposed Rulemaking (NPRM) that proposed to alter the Los Angeles, CA, Class B airspace area. The proposal would have lowered certain ceilings while raising others to provide more visual flight rules altitudes to circumnavigate the Los Angeles Class B airspace and to provide for better containment of arrival turbojets. This action will be handled as a routine airspace action.

Timetable:

Action	Date	FR Cite
NPRM	11/22/94	59 FR 60244
NPRM Comment Period End	01/23/95	
Withdrawal Notice	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/22/94 (59 FR 60244)

DOT—FAA

Final Rule Stage

Additional Information: Project Number: ATP-94-035T RIN number 2120-AF38 was inadvertently used when this rulemaking was published in the Federal Register on November 22, 1994. The correct RIN number is 2120-AF16.

Agency Contact: William Nelson, Airspace and Obstruction Evaluation Branch, Air Traffic Rules and Procedures Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9295

RIN: 2120–AF16

2339. +REVISION OF EMERGENCY EVACUATION DEMONSTRATION PROCEDURES TO IMPROVE PARTICIPANT SAFETY

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25; 49 CFR 1.47

Legal Deadline: None

Abstract: This action would amend part 25 of the FAR by revising Appendix J, Emergency Evacuation, to allow certain alternative procedures in conducting full-scale emergency evacuation demonstrations for transport category airplanes. This is in response to recommendations from the Aviation Rulemaking Advisory Committee. The changes, which are intended to make full-scale emergency evacuation demonstrations safer for participants and to codify existing practices, would also affect manufacturers and operators of transport category airplanes. This action is considered significant because of substantial public interest and safety implications.

Timetable:

Action	Date	FR Cite
NPRM	07/18/95	60 FR 36932
Correction	08/25/95	60 FR 44387
NPRM Comment Period End	10/16/95	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/18/95 (60 FR 36932)

Additional Information: Project Number: ANM-94-124A

Agency Contact: Franklin Tiangsing, Regulations Branch, ANM-114, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 206 227-2121

RIN: 2120–AF21

2340. AVIATION INSURANCE (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44301 to 44310

CFR Citation: 14 CFR 198

Legal Deadline: None

Abstract: This rulemaking would revise and update the aviation insurance requirements. This action is being taken to reflect current legislative language, to be current with industry practices, to reflect industry concerns, and to recapture administrative expenses incurred. As part of this action, a small entities review under 5 USC section 610 will be included. This action will clarify the language and make it conform with the current legislative language and intent.

Timetable:

Action	Date	FR Cite
NPRM	04/17/97	62 FR 19008
NPRM Comment Period End	06/02/97	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/17/97 (62 FR 19008)

Additional Information: Project Number: APO-93-512R

Agency Contact: Ellie Eilenberg, Office of Policy, Plans and Management Analysis, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3090

RIN: 2120–AF23

2341. +SUSPENSION OF CERTAIN AIRCRAFT OPERATIONS FROM THE TRANSPONDER WITH AUTOMATIC PRESSURE ALTITUDE REPORTING CAPABILITY REQUIREMENT

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This action would extend and modify SFAR 62, issued December 5, 1990, which suspends the Mode C transponder requirement for operations to and from certain specific airports located within 30 miles of a Class B airspace primary airport. The operations and routings approved under SFAR 6 include routes within 2 nautical miles of the specified airports and at altitudes that were not excluded from the Mode C transponder requirement. Airports that are served primarily by aircraft required to install Traffic Alert and Collision Avoidance Systems are not included in this exception. This rulemaking was accomplished in 1990 because the scheduled radar system upgrades, required to provide Mode C transponder coverage, have not been placed into full service in all Class B sites. The present action would extend the current exclusions to those airports that have not received the improved radar coverage, and amend the exclusions provided airports that have received improved radar coverage through operational verification of the new radar systems. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	08/25/94	59 FR 43994
NPRM Correction	09/14/94	59 FR 47210
NPRM Comment Period Extended to 11/25/94	09/28/94	59 FR 49360
NPRM Comment Period End	10/11/94	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/25/94 (59 FR 43994)

DOT—FAA

Final Rule Stage

Additional Information: Project Number: ATP-93-474R. As this action merely involves extension of a suspension of a requirement, it is not a rulemaking requiring OMB review in the context of EO 12866. However, it is significant under DOT's regulatory policies and procedures.

Agency Contact: Janet Apple, Air Traffic Branch, Airspace Rules and Aeronautical Info. Div., Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-7698

RIN: 2120–AF30

2342. +FLIGHT CREWMEMBER DUTY PERIOD LIMITATIONS, FLIGHT TIME LIMITATIONS, AND REST REQUIREMENTS

Regulatory Plan: This entry is Seq. No. 93 in Part II of this issue of the Federal Register.

RIN: 2120–AF63

2343. TYPE CERTIFICATION PROCEDURES FOR CHANGED PRODUCTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7572; 49 USC 106(g); 49 USC 40101; 49 USC 40103; 49 USC 40105; 49 USC 40109; 49 USC 40113; 49 USC 44110; 49 USC 44502; 49 USC 44701 to 44702; 49 USC 44707; 49 USC 44709; 49 USC 44711; 49 USC 44713; 49 USC 44715

CFR Citation: 14 CFR 11; 14 CFR 21; 14 CFR 25

Legal Deadline: None

Abstract: This action would amend the procedural regulations for the certification of changes to type certificated products. The amendments are needed to accommodate the trend toward fewer products that are of completely new design and more products with repeated changes of previously approved designs.

Timetable:

Action	Date	FR Cite
NPRM	05/02/97	62 FR 24288
NPRM Comment Period End	09/02/97	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/02/97 (62 FR 24288)

Additional Information: Project Number: AIR-95-053A. This action is the result of an Aviation Rulemaking Advisory Committee recommendation.

Agency Contact: Lyle Davis, Office of Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9583

RIN: 2120–AF68

2344. RAIN AND HAIL INGESTION STANDARDS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 33

Legal Deadline: None

Abstract: This action proposes changes to the water and hail ingestion standards for aircraft turbine engines. This proposal addresses an engine power-loss instability phenomena attributed to operation in extreme rain or hail that is not adequately addressed by current requirements. This proposal also harmonizes with requirements being drafted by the Joint Aviation Authorities (JAA). The proposed changes, if adopted, will establish one set of common requirements, thereby reducing the hardship on the United States and worldwide aviation industry, by eliminating the need for manufacturers to comply with different sets of standards when seeking validation from the FAA and JAA.

Timetable:

Action	Date	FR Cite
NPRM	08/09/96	61 FR 41688
NPRM Comment Period End	11/07/96	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/09/96 (61 FR 41688)

Additional Information: Project Number: ANE-93-734A. This action is in response to an Aviation Rulemaking Advisory Committee recommendation.

Agency Contact: Thomas Boudreau, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803-5299
Phone: 617 238-7117

RIN: 2120–AF75

2345. MISCELLANEOUS CABIN SAFETY CHANGES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This action proposes to revise the airworthiness standards for transport category airplanes relating to flight attendant assist space, flight attendant assist handles, door hold open features, outside viewing means, interior compartment doors and portable oxygen equipment. With one exception, these proposals are not the result of any specific incident or recommendation, but are part of the FAA's continuing effort to upgrade the regulations to improve the overall level of safety in areas where the state-of-the-art and good design practice have indicated that such upgrades are warranted. These proposals would result in both new type design regulations as well as requirements applicable to existing designs implemented via the operating rules.

Timetable:

Action	Date	FR Cite
NPRM	07/24/96	61 FR 38552
NPRM Comment Period End	11/21/96	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/24/96 (61 FR 38552)

Additional Information: Project Number: ANM-90-016R.

Agency Contact: Jeff Gardlin, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 425 227-2136

RIN: 2120–AF77

2346. REVISION OF HYDRAULICS SYSTEMS AIRWORTHINESS STANDARDS TO HARMONIZE WITH EUROPEAN AIRWORTHINESS STANDARDS FOR TRANSPORT CATEGORY AIRPLANES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This notice proposes to amend the airworthiness standards for transport category airplanes to harmonize hydraulic systems design and test requirements with standards proposed for the European Joint Aviation Requirements. These proposals were developed in cooperation with the Joint Aviation Authorities of Europe and the US and European aviation industry through the Aviation Rulemaking Advisory Committee (ARAC). These changes are intended to benefit the public interest by standardizing certain requirements, concepts, and procedures contained in the airworthiness standards without reducing and potentially enhancing the current level of safety.

Timetable:

Action	Date	FR Cite
NPRM	07/03/96	61 FR 35056
Correction	07/29/96	61 FR 39515
Correction	08/12/96	61 FR 41924
NPRM Comment Period End	10/01/96	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/03/96 (61 FR 35056)

Additional Information: Project Number: ANM-96-105A. This action is in response to an Aviation Rulemaking Advisory Committee recommendation.

Agency Contact: Manhidner Wahi, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 206 227-2142
Fax: 206 227-1320

RIN: 2120–AF79

2347. REVISION OF GATE REQUIREMENTS FOR HIGH-LIFT DEVICE CONTROLS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This proposed rulemaking revises the requirements concerning gated positions on the control used by the pilot to select the position of an airplane's high-lift devices. It would update the current standards to take into account the multiple configurations of the high-lift devices provided on current airplanes to perform landings and go-around maneuvers. This rulemaking also harmonizes these standards with those being proposed for the European Joint Aviation Requirements (JAR).

Timetable:

Action	Date	FR Cite
NPRM	08/09/97	62 FR 31482
Correction	07/10/97	62 FR 37124
NPRM Comment Period End	09/08/97	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/09/97 (62 FR 31482)

Additional Information: Project Number: ANM-96-284A. This action is in response to an Aviation Rulemaking Advisory Committee recommendation.

Agency Contact: Don Stimson, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 206 227-1129

RIN: 2120–AF82

2348. BRAKED ROLL CONDITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This proposed rulemaking would amend the requirements for landing gear braking on transport category airplanes to require that the airplane be designed to withstand main landing gear maximum braking forces during ground operations. This action would ensure that the landing gear and fuselage are capable of withstanding the dynamic loads associated with the maximum dynamic braking condition, and would also relieve a burden on industry by eliminating differences between the Federal Aviation Regulations (FAR) and European Joint Aviation Requirements (JAR).

Timetable:

Action	Date	FR Cite
NPRM	08/05/96	61 FR 40710
NPRM Comment Period End	11/04/96	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/05/96 (61 FR 40710)

Additional Information: Project Number: ANM-94-462A. This action is in response to an Aviation Rulemaking Advisory Committee recommendation.

Agency Contact: Ivan Connally, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 206 227-2120

RIN: 2120–AF83

DOT—FAA

Final Rule Stage

2349. CRITERIA FOR AN EXPLOSIVE DETECTION SYSTEM (EDS), STANDARDS FOR DETONATOR DETECTION

Priority: Substantive, Nonsignificant

Legal Authority: Not yet determined

CFR Citation: None

Legal Deadline: None

Abstract: This action would result in the issuance of a performance standard for the certification of equipment, designed to locate improvised explosive devices through automatic detection of detonators, as an Explosive Detection System (EDS). Establishment of minimum performance requirements is a prerequisite to the testing and ultimate deployment of EDS equipment. The proposed notice will include portions of the criteria that do not contain sensitive security information. This notice deals only with the standards for the certification of the equipment and any ultimate deployment decision would be the basis for separate rulemaking.

Timetable:

Action	Date	FR Cite
Notice of Proposed Amendment	08/30/96	61 FR 46011
Comment Period End	10/29/96	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project No. ACP-95-537R.

Agency Contact: Quint Johnson, Office of Civil Aviation Security, Policy and Planning, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8058

RIN: 2120–AF95

2350. +COMMERCIAL SPACE TRANSPORTATION: FINANCIAL RESPONSIBILITY REQUIREMENTS FOR LICENSED LAUNCH ACTIVITIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 70101 to 70119

CFR Citation: 14 CFR 440

Legal Deadline: None

Abstract: Persons authorized to conduct commercial launch activities by a license issued by the Office of Commercial Space Transportation (OCST) are required to obtain insurance or demonstrate financial responsibility, in amounts and on terms prescribed by OCST, to protect against third-party or government property damage claims resulting from the licensed activities. Licensees and other launch participants are also required to enter into reciprocal waivers of claims arising out of licensed activities. In addition, persons engaged in commercial launch operations must provide proof of financial responsibility, or offer other assurances, adequate to protect the Government when its property or personnel are involved in such operations. This rulemaking codifies the procedures by which OCST sets appropriate levels and terms of insurance and financial responsibility required to be carried by persons subject to its authority. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	05/07/85	50 FR 19280
ANPRM Comment Period End	07/08/85	
Public Meeting Notice and Request for Comments	10/13/94	59 FR 52020
Comment Period Extended to 12/16/94	12/05/94	59 FR 62359
NPRM	07/25/96	61 FR 38992
NPRM Comment Period End	09/23/96	
NPRM Comment Period Reopened: Comment Period End 12/2/96	10/02/96	61 FR 51395
NPRM Correction	10/28/96	61 FR 43814
NPRM Comment Period Reopened: Comment Period End 8/4/97	07/03/97	62 FR 36028
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: The rulemaking entitled Commercial Space Transportation: Reciprocal Waiver of Claims, RIN 2105-AB76, has been consolidated into this rulemaking. This rule was transferred from the Office of the Secretary, Department of Transportation, to the Federal Aviation Administration due to Transfer of Delegations. See 60 FR 62762, December 7, 1995, for information of the delegation.

Project Number: AST-96-142R.

Agency Contact: Esta Rosenberg, Attorney Advisor, Department of Transportation, Federal Aviation Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9305

RIN: 2120–AF98

2351. +LICENSING COMMERCIAL SPACE LAUNCH ACTIVITIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 70101 to 70119

CFR Citation: 14 CFR 400 to 415

Legal Deadline: None

Abstract: The Commercial Space Launch Act of 1984, as amended, grants the Department of Transportation authority to license and otherwise regulate commercial launches and the commercial operation of launch sites. In accordance with this authority, delegated to the FAA, the Associate Administrator for Commercial Space Transportation (AST) must ensure that commercial space launch activities are conducted in a manner that does not jeopardize public health and safety and the safety of property, without imposing unnecessary regulatory burdens on the commercial launch industry. The industry has grown in size and complexity since the original regulations were published in 1988, and AST's licensing program continues to evolve to reflect these changes. This rulemaking modifies the current regulations to reflect a streamlined and more mature licensing regime developed over the past few years. Such changes would benefit the industry by reducing regulatory burdens, thus reducing costs. This rulemaking is significant because of substantial public interest.

DOT—FAA

Final Rule Stage

Timetable:

Action	Date	FR Cite
Public Meeting Notice and Request for Comments	10/13/94	59 FR 52020
Extended Comment Period End 12/16/94	12/05/94	59 FR 62359
NPRM: Comment Period End 5/19/97	03/19/97	62 FR 13216
Correction	05/23/97	62 FR 28391
NPRM Comment Period Reopened: Comment Period End 8/4/97	07/03/97	62 FR 36027
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation 03/19/97 (62 FR 13216)

Additional Information: This action first appeared in the Agenda under RIN 2105-AB85. However, it was transferred from the Office of the Secretary, Department of Transportation, to the Federal Aviation Administration due to Transfer of Delegations. See 60 FR 62762, December 7, 1995, for information of the delegation.

Project Number: AST-96-142R.

Agency Contact: Patricia Grace Smith, Acting Associate Administrator for Commercial Space Transportation, Department of Transportation, Federal Aviation Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2937

RIN: 2120–AF99

2352. +POLICY AND PROCEDURES CONCERNING THE USE OF AIRPORT REVENUE

Priority: Other Significant

Legal Authority: Not yet determined

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This document proposes a statement of policy and procedures concerning the use of airport revenue. This statement of policy discusses in detail the requirement that revenue at public airports that have received Federal grants generally be used only for airport purposes. A statement of policy is required by the Federal Aviation Administration Authorization Act of 1994. The FAA is issuing a proposed policy and requesting public comment because of substantial public and industry interest in the subject matter.

Timetable:

Action	Date	FR Cite
Notice of Proposed Policy: Comment Period End 04/28/96	02/26/96	61 FR 7134
Final Policy	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry Molar, Manager, Airports Law Branch, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3473

RIN: 2120–AG01

2353. FEES FOR PROVIDING PRODUCTION CERTIFICATION-TYPE SERVICES OUTSIDE THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 9701; 49 USC 106(g); 49 USC 40104 to 40105; 49 USC 40109; 49 USC 40113 to 40114; 49 USC 44702; 49 USC 45301 to 45303

CFR Citation: 14 CFR 187

Legal Deadline: None

Abstract: The intention of this rulemaking is to implement certain provisions of P.L. 103-305, section 209, Foreign Fee Collection, which permits the FAA to recover the full cost of providing certification-type services outside the United States. It is also intended that the final rule will provide the flexibility for the Aircraft Certification Service to adjust its charges on a case by case basis in accordance with the complexity of the certification-type service rendered. In order for the service to recover full cost of this expanded activity, all charges will be based on actual Personnel Compensation and Benefits, at the time the service is provided, through an arrangement between the FAA and the direct beneficiaries receiving the service.

Timetable:

Action	Date	FR Cite
NPRM	07/15/97	62 FR 38008
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/14/97 (62 FR 38008)

Additional Information: Project No. AIR-96-424R. The FAA initially thought that this rulemaking might generate significant public interest. However, in view of the very small number of manufacturers affected and their option to request this service, the FAA does not consider this a significant rulemaking.

Agency Contact: Ramona Johnson, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8361

RIN: 2120–AG14

2354. REVISED PRECISION APPROACH LANDING SYSTEMS POLICY

Priority: Substantive, Nonsignificant

Legal Authority: Not yet determined

CFR Citation: None

Legal Deadline: None

Abstract: This statement announces the FAA's proposed policy for acquisition, installation, maintenance, and decommissioning of the instrument landing system (ILS) and the microwave landing system (MLS) during the transition to the global positioning system (GPS). The policy statement of December 1989 announced the transition from the ILS to the MLS for precision approach service in the National Airspace System. Since that time, advancement of GPS-based landing system technology has provided a more economical means of providing approach services.

Timetable:

Action	Date	FR Cite
Policy Statement	12/27/89	54 FR 53231
Policy Statement	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Wedge, Airway Facilities Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-7848

RIN: 2120–AG16

DOT—FAA

Final Rule Stage

2356. +FEES FOR AIR TRAFFIC SERVICES FOR CERTAIN FLIGHTS THROUGH U.S.-CONTROLLED AIRSPACE AND FOR AERONAUTICAL STUDIES

Priority: Other Significant

Legal Authority: 49 USC 9701; 49 USC 106 (g); 49 USC 40103; 49 USC 40104 to 40105; 49 USC 40109; 49 USC 40113 to 40114; 49 USC 44502; 49 USC 44701; 49 USC 44702; 49 USC 44716; 49 USC 45301 to 45303; 49 USC 46101 to 46102; 49 USC 46104

CFR Citation: 14 CFR 77; 14 CFR 187

Legal Deadline: None

Abstract: This action would establish a schedule of fees for air traffic services for aircraft which overfly U.S. airspace and for FAA aeronautical studies that are conducted for proposed construction in navigable airspace. This action is necessary to allow the FAA to fully recover the costs it incurs in performing these services. The intended effect of this interim final rule is to contribute toward the FAA's goal of being 100 percent user supported by the year 2003. In addition, the FAA held a public meeting on May 1, 1997, to provide an additional opportunity for the public to comment. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/20/97	62 FR 13496
Correction	04/29/97	62 FR 23295
Correction and Technical Amendment	05/02/97	62 FR 24286
Correction	05/05/97	62 FR 24552
Interim Final Rule Effective	05/19/97	
Interim Final Rule Comment Period End	07/18/97	
Final Rule	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/20/97 (62 FR 13496)

Additional Information: Project No. APO-96-172R.

Agency Contact: Cherie Jack, Office of Aviation Policy and Plans, Department of Transportation, Federal Aviation Administration, 800 Independent Avenue SW., Washington, DC 20591 Phone: 202 267-3323

RIN: 2120–AG17

2356. HARMONIZATION OF MISCELLANEOUS ROTORCRAFT REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: The FAA proposes changes to the type certification requirements for both normal and transport category rotorcraft to increase the regulatory safety level and standardize terminology. The proposed changes to 14 CFR parts 27 and 29 are harmonized with the European Joint Aviation Requirements (JAR).

Timetable:

Action	Date	FR Cite
NPRM	06/09/97	62 FR 31476
Correction	06/30/97	62 FR 35247
NPRM Comment Period End	09/08/97	
Final Action	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 06/09/97 (62 FR 31476)

Additional Information: Project Number: ASW-97-031A.

Agency Contact: Carroll Wright, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 2601 Meacham Drive, Fort Worth, TX 76137 Phone: 817 222-5120

RIN: 2120–AG23

2357. +EMPLOYMENT HISTORY, VERIFICATION, AND CRIMINAL HISTORY RECORDS CHECKS

Regulatory Plan: This entry is Seq. No. 94 in Part II of this issue of the Federal Register.

RIN: 2120–AG32

2358. +NOISE LIMITATIONS FOR AIRCRAFT OPERATIONS IN THE VICINITY OF GRAND CANYON NATIONAL PARK

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40106; 49 USC 40109; 49 USC 40113; 49 USC 44502; 49 USC 44514; 49 USC 44701; 49 USC 44719; 49 USC 46301

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: This rule will establish noise limitations for certain aircraft operated in the vicinity of Grand Canyon National Park. This action is one part of an overall strategy to reduce further the impact of aircraft noise on the park environment and to assist the National Park Service in achieving its statutory mandate imposed by Public Law 100-91 to provide for the substantial restoration of natural quiet and experience in Grand Canyon National Park. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/31/96	61 FR 69334
NPRM Comment Period End	03/31/97	
Final Rule	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 12/31/96 (61 FR 69334)

Additional Information: A final rule, which was published on 12/31/96 (61 FR 69302), establishes new operating restrictions at Grand Canyon National Park. See RIN 2120-AF93 published elsewhere in this Agenda.

Agency Contact: Thomas L. Connor, Office of Environment and Energy, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-8933

RIN: 2120–AG34

2359. • +ESTABLISHMENT OF CORRIDORS IN THE GRAND CANYON NATIONAL PARK SPECIAL FLIGHT RULES AREA

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40106; 49 USC 40109; 49 USC 40113; 49 USC 44502; 49 USC 44514; 49 USC 44701; 49 USC 44719; 49 USC 46301

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: This action proposes to amend two of the Flight-Free Zones within the Grand Canyon National Park by establishing two corridors: the Bright Angel route would be a route for quiet technology only; the National Canyon route would create a viable air tour route while addressing concerns expressed by Native Americans. This proposal is made in response to comments received on related Grand Canyon rulemaking actions. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	05/15/97	62 FR 26902
NPRM Comment Period End	08/16/97	
Final Rule	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David Metzbower, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3724

RIN: 2120–AG38

DOT—FAA

Final Rule Stage

2360. • PRIMARY CATEGORY SEAPLANES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 106(g); 49 USC 40105; 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44707; 49 USC 44709; 49 USC 44711; 49 USC 44713; 49 USC 44715; 49 USC 45303

CFR Citation: 14 CFR 21

Legal Deadline: None

Abstract: This direct final rule increases the maximum weight limit applicable to seaplanes that are proposed for type certification in the primary category. When the FAA established the 2,700 pound maximum weight limit for primary category aircraft, seaplanes were not considered. Seaplanes generally weigh more than comparable landplanes because of the increased airframe weight and drag associated with their designs. Therefore, the 2,700 pound maximum weight limit for primary category aircraft results in a significantly inferior performance, range, and payload when applied to seaplanes than was originally intended for primary category landplanes. Because seaplanes weigh an average of 25 percent more than comparable landplanes, the FAA has determined that a 3,375 pound maximum weight limit (a 25 percent increase over landplanes) would provide seaplanes with a level of utility comparable to primary category landplanes.

Timetable:

Action	Date	FR Cite
Direct Final Rule	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/97

Additional Information: Project Number: AIR-96-496P

Agency Contact: Brian A. Yanez, Certification Procedures Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-9588

RIN: 2120–AG39

2361. • +REVISED STANDARDS FOR CARGO OR BAGGAGE COMPARTMENTS IN TRANSPORT CATEGORY AIRPLANES

Regulatory Plan: This entry is Seq. No. 95 in Part II of this issue of the Federal Register.

RIN: 2120–AG42

2362. • EXTENSION OF SFAR 73; ROBINSON R-22/R-44 SPECIAL TRAINING AND EXPERIENCE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44703; 49 USC 44110 to 44111; 49 USC 45102 to 45103; 49 USC 45301 to 45302

CFR Citation: 14 CFR 61

Legal Deadline: None

Abstract: This action will extend the current SFAR 73. This Special Federal Aviation Regulation (SFAR) establishes special training and experience requirements for pilots operating the Robinson model R-22 or R-44 helicopters to maintain safe operation of Robinson helicopters. It also establishes special training and experience requirements for certified flight instructors conducting student instruction or flight reviews. This extension is necessary to continue the awareness of and training for the potential hazards of particular flight operations in the Robinson helicopters.

Timetable:

Action	Date	FR Cite
Final Rule	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert J. O'Haver, General Aviation and Commercial Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-7031

RIN: 2120–AG47

2363. • +PROHIBITION AGAINST CERTAIN FLIGHTS WITHIN THE FLIGHT INFORMATION REGION OF THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44701; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44722; 49 USC 46306; 49 USC 46315; 49 USC 46502; 49 USC 46504; 49 USC 46506 to 46507; ...

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This action amends Special Federal Aviation Regulation (SFAR) 79 to permit certain flight operations within the airspace controlled by the Democratic People's Republic of Korea. On April 18, 1997, the FAA issued SFAR 79, prohibiting flight operations within the territory and airspace of North Korea (See 62 FR 20076, 4/24/97). This rulemaking will modify the restricted airspace. This rulemaking is significant because of safety implications.

Timetable:

Action	Date	FR Cite
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/97

Additional Information: Project Number: AGC-97-415R.

DOT—FAA — Final Rule Stage

Agency Contact: Patricia Lane, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 303 367-3515

RIN: 2120–AG48

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Aviation Administration (FAA)

Long-Term Actions

2364. AIRCRAFT ENGINES: FUEL AND INDUCTION SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 33

Legal Deadline: None

Abstract: This action would add a new section 33.35(f) to the Federal Aviation Regulations which would incorporate a requirement for the fuel mixture and throttle controls to automatically move to a position allowing continued safe flight if either control becomes disconnected.

Timetable:

Action	Date	FR Cite
ANPRM	02/28/86	51 FR 7224
ANPRM Comment Period End	04/29/86	
NPRM	10/20/92	57 FR 47934
NPRM Comment Period End	02/17/93	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/20/92 (57 FR 47934)

Additional Information: Project No. ANE-85-002R.

Former title: Engine Fuel and Induction Systems.

Agency Contact: Locke Easton, Engine and Propeller Standards Staff, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, MA 01803
Phone: 617 273-7088

RIN: 2120–AB76

2365. +ANTI-DRUG AND ALCOHOL MISUSE PREVENTION PROGRAMS FOR EMPLOYEES OF FOREIGN AIR CARRIERS ENGAGED IN SPECIFIED AVIATION ACTIVITIES

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40104 to 40105; 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44902; 49 USC 44903

CFR Citation: 14 CFR 121; 14 CFR 129

Legal Deadline:
Final, Statutory, October 28, 1992, Omnibus Transportation Employee Act of 1991.

Abstract: The Omnibus Transportation Employee Testing Act of 1991 directs the FAA Administrator to prescribe regulations that require foreign air carriers to establish drug and alcohol testing programs for employees performing safety-sensitive aviation functions. These regulations must be consistent with the international obligations of the United States and take into consideration any applicable laws and regulations of foreign countries. Comments were invited on a variety of issues related to the application of drug and alcohol testing requirements to employees of foreign air carriers operating within the territory of the United States. This action was taken in lieu of a notice of proposed rulemaking to seek the public's view on a variety of issues and to obtain responses to questions that may arise in addressing drug and alcohol testing by foreign air carriers. This action is considered significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
ANPRM	12/15/92	57 FR 59473
ANPRM Comment Period End	02/16/93	
ANPRM Comment Period Extended to 04/01/93	02/18/93	58 FR 8917

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation

Additional Information: Project Number: AAM-93-173R

Agency Contact: Patrice M. Kelly, Drug Abatement Division, Office of Aviation Medicine, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8442

RIN: 2120–AE79

2366. +CONTROLLED REST ON THE FLIGHT DECK

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This proposal would allow part 121 certificate holders who operate aircraft that require three flight crewmembers, two pilots and a flight engineer, to implement a controlled rest on the flight deck program. Under the program, when cockpit workload permits, one flight crewmember at a time would be given the opportunity to sleep for a brief period of time at his or her duty station during the cruise portion of a flight. Before using the controlled rest concept, however, the certificate holder would have to obtain approval for its program from the FAA. This proposal originated as a recommendation from the Aviation Rulemaking Advisory Committee and responds to industry interest in developing a controlled rest program that is approved by the FAA. This rulemaking is considered significant because of substantial public interest.

DOT—FAA — Long-Term Actions

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number: AFS-92-764A

Agency Contact: Larry Youngblut, Air Transportation Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3755

RIN: 2120–AF54

2367. BIRD STRIKE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action proposes to revise the bird strike requirements of part 25 of the Federal Aviation Regulations. These changes are intended to harmonize the bird strike requirement of the FAR and the Joint Aviation Requirements. The proposed changes would revise sections 25.631, 25.571(e), and 25.775(b).

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number: ANM-93-762A. This is an Aviation Rulemaking Advisory Committee project.

Agency Contact: Bill Perrella, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 206 227-2116

RIN: 2120–AF80

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Aviation Administration (FAA)

Completed Actions

2368. MINIMUM ALTITUDES FOR THE USE OF AN AUTOPILOT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This action amends the regulations governing the use of approved flight control guidance systems with automatic capability (autopilot). The current regulations prohibit the use of an autopilot at altitudes less than 500 feet above ground level during the takeoff and initial climb phases of flight. The FAA amended the regulations to permit air carriers to take advantage of technological improvements in the capabilities of autopilot systems and thus enhance safety by decreasing pilot workload during the critical takeoff phase of flight.

Timetable:

Action	Date	FR Cite
NPRM	12/09/94	59 FR 63868
NPRM Comment Period End	01/09/95	
Final Action	05/21/97	62 FR 27920
Final Action Effective	06/20/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/09/94 (59 FR 63868); Regulatory Evaluation 05/21/97 (62 FR 27920)

Additional Information: Project Number: AFS-92-608R

Agency Contact: Richard A. Temple, Technical Programs Division, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-5824

RIN: 2120–AF19

2369. REVISED STRUCTURAL LOADS REQUIREMENTS FOR TRANSPORT AIRPLANES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action revised the structural loads design requirements of the Federal Aviation Regulations (FAR) for transport category airplanes by incorporating changes developed in cooperation with the Joint Aviation Authorities of Europe, and the U.S. and European aviation industry through the Aviation Rulemaking Advisory Committee. This action is necessary because differences between current U.S. and European requirements impose unnecessary costs on airplane manufacturers. This rule is intended to achieve common requirements and language between the requirements of the FAR and the Joint Aviation Requirements without reducing the level of safety provided by the regulations.

Timetable:

Action	Date	FR Cite
NPRM	08/29/95	60 FR 44998
NPRM Comment Period End	11/27/95	
Final Action	07/29/97	62 FR 40702
Final Action Effective	08/28/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/29/95 (62 FR 44998)

Additional Information: Project Number ANM-95-238A.

Agency Contact: James Haynes, Airframe and Propulsion Branch, ANM-

112, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 206 227-2131

RIN: 2120–AF70

2370. +REVISIONS TO DIGITAL FLIGHT DATA RECORDER RULES

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40104 to 40105; 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901 to 44904; 49 USC 44906; 49 USC 44912

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 129; 14 CFR 135

Legal Deadline: None

Abstract: This rule revises the Federal Aviation Regulations to require that additional parameters be recorded by certain aircraft digital flight data recorders. This rulemaking follows a recommendation from the National Transportation Safety Board. This rule will allow for more comprehensive accident and incident information to be gathered. The accident and incident data gathered by recorders is essential to prescribe future corrective action. This rulemaking is considered significant because of anticipated costs and substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	07/16/96	61 FR 37144
NPRM Comments Due on Parts 121, 125, and 135	08/15/96	
NPRM Comments Due on Part 129	11/13/96	
SNPRM	12/10/96	61 FR 65142
SNPRM Comment Period End	12/30/96	
Final Action	07/17/97	62 FR 38362
Final Action Effective	08/18/97	
Correction	08/21/97	62 FR 44408

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/16/96 (61 FR 37144); Regulatory Evaluation 12/10/96 (61 FR 65142)

Additional Information: Project Number: AIR-95-267R. This is an Aviation Rulemaking Advisory Committee project. Note: Comments on Paperwork Reduction Act issues presented in this document must be received by September 15, 1997.

Agency Contact: Gary Davis, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8096

RIN: 2120–AF76

2371. +SPECIAL FLIGHT RULES IN THE VICINITY OF THE GRAND CANYON NATIONAL PARK

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306

CFR Citation: 14 CFR 91; 14 CFR 93; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: In 1987, the Congress enacted P.L. 100-91, commonly known as the National Parks Overflights Act, which stated that noise associated with aircraft overflights at Grand Canyon National Park was causing "a significant adverse effect on the natural quiet and experience of the park and current aircraft operations at the Grand Canyon National Park have raised serious concerns regarding public safety, including concerns regarding the safety of park users." The law mandated a number of studies and required that subsequent recommendations provide for the substantial restoration of the natural quiet and experience of the park and protection of public health and safety from adverse effects associated with overflights. In March 1994, the FAA and the National Park Service issued an ANPRM seeking public comment on policy recommendations addressing the effects of aircraft overflights on National parks, including Grand Canyon National Park. The FAA received more than 30,000 comments.

On April 22, 1996, the President issued a memorandum directing the Secretary of Transportation to issue within 90 days proposed regulations to place appropriate limits on sightseeing aircraft over the Grand Canyon National Park. These regulations reduce the noise immediately and make further progress toward restoration of the natural quiet. The memorandum further directed that action on this rulemaking be completed by the end of 1996. On July 31, 1996, the FAA published a notice of proposed rulemaking to provide a variety of options for the continued elimination of noise in the Grand Canyon National Park. The Department of Transportation has been working with the Department of Interior to address the issue of reducing noise from aircraft overflights of the national parks and restoring the national quiet. In addition to this rule on the Grand Canyon, there are two other significant rulemaking actions which are included in the overall regulatory effort. They are a rule on Special Flight Rules in the Vicinity of the Rocky Mountain National Park (RIN 2120-AG11), issued January 3, 1997, and Overflights of Units of the National Park System (RIN 2120-AF46). On August 21, 1996, the FAA issued a Notice of Availability of the Draft Environmental Assessment for the proposed rule to assure conformance with the National Environmental Policy Act of 1969.

Timetable:

Action	Date	FR Cite
NPRM	07/31/96	61 FR 40120
Correction	08/07/96	61 FR 41040
NPRM Comment Period End	09/30/96	
Extended Comment Period End 11/14/96	10/21/96	61 FR 54716
Final Action	12/31/96	61 FR 69302
FR Correction	01/16/97	62 FR 2445
Final Rule Request for Comments	02/26/97	62 FR 8862
Correction	03/13/97	62 FR 11768
Correction	03/17/97	62 FR 12687
Final Rule Comment Period End	03/24/97	
Final Action Effective	05/01/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/31/96 (61 FR 40120); Regulatory Evaluation 12/31/96 (61 FR 69302)

Additional Information: Project Number: ATP-95-236R.

Agency Contact: Joseph White, Air Traffic Rules Branch, Air Traffic Rules and Procedures Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9246

RIN: 2120–AF93

2372. +PLACARDING CERTAIN CARGO OR BAGGAGE COMPARTMENTS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44704 to 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 25; 14 CFR 121

Legal Deadline: None

Abstract: The FAA is terminating this rulemaking because it will be incorporated in other projects. This action was intended to complement action proposed by the Research and Special Programs Administration to prohibit the transport of oxidizers and oxidizing materials in certain cargo or baggage compartments on both passenger-carrying and cargo airplanes by requiring all such compartments to be properly labeled with an identifying placard, sign, or other marking.

Timetable:

Action	Date	FR Cite
Action Terminated	07/21/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project No. AFS-96-368R.

Agency Contact: Gary Davis, Air Transportation Division, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3413

RIN: 2120–AG12

2373. COMMERCIAL PASSENGER-CARRYING OPERATIONS IN SINGLE ENGINE AIRCRAFT UNDER INSTRUMENT FLIGHT RULES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709; 49 USC 44711 to 44713; 49 USC 44715 to 44717; 49 USC 44722

CFR Citation: 14 CFR 135

Legal Deadline: None

Abstract: This final rule changed the rule on commercial, passenger-carrying operations to allow single-engine aircraft to operate under the safer instrument flight rules except in certain conditions. The effect of this action is to increase the safety of single-engine, passenger-carrying operations because it would allow them to operate under instrument flight plans and would require them to meet the more stringent requirements for such flights, including increased training and checking of pilots, higher levels of pilot experience, and additional aircraft equipment.

Timetable:

Action	Date	FR Cite
NPRM	12/03/96	61 FR 64230
NPRM Comment Period End	02/03/97	
Extended Comment Period End 3/3/97	02/07/97	62 FR 5788
Final Action	08/06/97	62 FR 42364
Correction	08/25/97	62 FR 45014
Final Action Effective	05/03/98	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/03/96 (61 FR 64230); Regulatory Evaluation 08/06/97 (62 FR 42364)

Additional Information: Project Number: AFS-95-012A.

Agency Contact: Kathy Hakala, Air Transportation Division, AFS-200, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8166

RIN: 2120–AG22

2374. FALSIFICATION OF SECURITY RECORDS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 5103; 49 USC 40113; 49 USC 40119; 49 USC 44701 to 44702; 49 USC 44706; 49 USC 44901 to 44905; 49 USC 44907; 49 USC 44913 to 44914; 49 USC 44932; 49 USC 44935 to 44936; 49 USC 46105

CFR Citation: 14 CFR 107; 14 CFR 108

Legal Deadline: None

Abstract: The FAA is adopting rules that prohibit fraudulent or intentionally false statements in certain security records. This action is intended to provide a means for the FAA to take legal enforcement action against persons who make such statements, and thereby enhance the security of aviation. This rule was issued without prior notice and comment. The FAA found that issuing a prior notice was impracticable, unnecessary, and contrary to public interest, in that the FAA needed to immediately protect persons traveling in air transportation through prohibiting the submission of fraudulent or intentionally false records for persons who directly carry out required security measures.

Timetable:

Action	Date	FR Cite
Final Rule Request for Comments	12/03/96	61 FR 64242
Final Action	06/10/97	62 FR 31672
Disposition of Comments		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number: ACS-97-055R

Agency Contact: Robert Cammaroto, Office of Civil Aviation Security Policy and Planning, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3413

RIN: 2120–AG27

2375. • +PROHIBITION AGAINST CERTAIN FLIGHTS WITHIN THE TERRITORY AND AIRSPACE OF AFGHANISTAN

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306; 49 USC 46315; ...

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: A current Special Federal Aviation Regulation (SFAR 67) was issued on May 13, 1994, this is the third extension. This action amends SFAR 67 to extend the prohibition on flight operations within the territory and airspace of Afghanistan. This amendment to SFAR 67 is in effect until May 10, 1998. This action is taken to prevent an undue hazard to persons and aircraft engaged in such flight operations as a result of the ongoing civil war in Afghanistan. This rulemaking is considered significant because of safety.

DOT—FAA

Completed Actions

Timetable:

Action	Date	FR Cite
Final Action	05/05/97	62 FR 26890
Final Action Effective	05/15/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark W. Bury, International Affairs and Legal Policy Staff Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3515

RIN: 2120–AG40

2376. • ORGANIZATIONAL CHANGES AND DELEGATIONS OF AUTHORITY

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 6002; 49 USC 106(g); 49 USC 5121 to 5124; 49 USC 40101; 49 USC 40103; 49 USC 40105; 49 USC 40109; 49 USC 40113; 49 USC 40114; 49 USC 44103; 49 USC 44106; 49 USC 44110; 49 USC 44701 to 44702; 49 USC 46102

CFR Citation: 14 CFR 11; 14 CFR 13; 14 CFR 15; 14 CFR 185

Legal Deadline: None

Abstract: This amendment adopts changes to office titles as a result of changes in the names of various offices within the Office of the Chief Counsel. Theses changes are necessary to make the regulations and delegations of authority consistent with the current agency structure.

Timetable:

Action	Date	FR Cite
Final Action	09/04/97	62 FR 46864
Final Action Effective	09/04/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Christopher Poreda, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803-5299
Phone: 617 238-7942

RIN: 2120–AG41

DEPARTMENT OF TRANSPORTATION (DOT)

Prerule Stage

Federal Highway Administration (FHWA)

2377. +ADVANCED TECHNOLOGY IN COMMERCIAL MOTOR VEHICLE OPERATIONS (SECTION 610 REVIEW)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 395

Legal Deadline: None

Abstract: Current Federal Motor Carrier Safety Regulations limit the hours of service of commercial motor vehicle (CMV) drivers in order to reduce fatigue-related accidents. These regulations include substantial recordkeeping requirements to monitor drivers' hours of service. The Federal Highway Administration (FHWA) is considering ways to reduce the recordkeeping burden while maintaining or improving safety. The FHWA will focus on ways to reduce burdens on small entities. This rulemaking is significant because of the broad industry impacts.

Timetable:

Action	Date	FR Cite
Notice: Request for Information	09/07/95	60 FR 46682
Comment Period End	11/06/95	
Study To Be Completed	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Neill L. Thomas, Chief, Vehicle and Operations, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4009

RIN: 2125–AD65

2378. +QUALIFICATIONS OF MOTOR CARRIERS TO SELF-INSURE THEIR OPERATIONS AND FEES TO SUPPORT THE APPROVAL AND COMPLIANCE PROCESS

Priority: Other Significant

Legal Authority: 49 USC 31138; 49 USC 31139; 49 USC 13906

CFR Citation: 49 CFR 1043; 49 CFR 387; 49 CFR 1.48

Legal Deadline: None

Abstract: This action proposes to amend the regulations governing qualifications for motor carriers that seek authorization to self-insure their transportation operations. Also, the FHWA is proposing technical amendments necessitated by the ICC Termination Act of 1995 (Pub. L. 104-88), which transferred the ICC's authority to qualify motor carriers as self-insurers to DOT. The agency is also requesting comments regarding the need for additional backup collateral or security to protect the public against uncompensated losses. The FHWA believes that this will be a significant regulatory action because of substantial congressional and public interest in the insurance requirements for motor carriers.

Timetable:

Action	Date	FR Cite
ANPRM	09/23/97	62 FR 49654
Correction	09/29/97	62 FR 50892
Comment Period End	11/24/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stanley M. Braverman, Attorney, Department of Transportation, Federal Highway Administration, 400 VA Avenue SW., Suite 600, Washington, DC 20024
Phone: 202 358-7035

RIN: 2125–AE06

2379. • WINTER HOME HEATING OIL DELIVERY STATE FLEXIBILITY PROGRAM; HOURS OF SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31101; 49 USC 31102; 49 USC 31103; 49 USC 31104; 49 USC 31108; 49 USC 31136; 49 USC 31140; 49 USC 31141; 49 USC 31161; 49 USC 31310; 49 USC 31311; 49 USC 31502; PL 104-59, sec 346

DOT—FHWA

Prerule Stage

CFR Citation: 49 CFR 395.3(b); 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA implemented the Winter Home Heating Oil Delivery State Flexibility Program for motor carriers making intrastate home heating oil deliveries within a 100 air-mile radius of a central terminal or distribution point in the States of Connecticut, New Jersey, New York, and Pennsylvania. The program ended April 30, 1997. The National Highway System Designation Act of 1995 (NHS) requires the FHWA to initiate a rulemaking within 90 days after the completion of the pilot program to determine, based in part on the results of the program, whether to permit States to grant waivers of 49 C.F.R 395.3(b) to motor carriers transporting home heating oil, or to amend the hours of service regulations for motor carriers delivering home heating oil during winter periods of peak demand.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nathan C. Root, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8759

RIN: 2125–AE18

2380. • ENGLISH LANGUAGE REQUIREMENT; QUALIFICATIONS OF DRIVERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 504; 49 USC 31133; 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 391; 49 CFR 1.48

Legal Deadline: None

Abstract: The current regulation is little changed from the original rule adopted in 1936. The American Civil Liberties Union (ACLU) has written to the Department asserting that the regulation, as written, is overly broad and subject to arbitrary enforcement, causing potential interference with constitutional guarantees of due process and equal protection. The ACLU requested an opportunity to submit a comprehensive analysis of this issue. This ANPRM is intended to provide the ACLU with such an opportunity and to open this issue for public comment. The FHWA seeks to modify its current regulation to require drivers to possess the basic functional communication/comprehension ability necessary to ensure safety, consistent with applicable law.

Timetable:

Action	Date	FR Cite
ANPRM	09/26/97	62 FR 45200
Comment Period End	10/27/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard H. Singer, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4009

RIN: 2125–AE19

DEPARTMENT OF TRANSPORTATION (DOT)

Proposed Rule Stage

Federal Highway Administration (FHWA)

2381. PERIODIC INSPECTION REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 31131; 49 USC 31137; 49 USC 31142

CFR Citation: 49 CFR 396

Legal Deadline: None

Abstract: The FHWA is proposing to amend its periodic inspection requirements for commercial motor vehicles operated in interstate commerce. The periodic inspection final rule was published on December 7, 1988, at 53 FR 49402, and amended on December 8, 1989, at 54 FR 50722. The December 8, 1989, amendment included a request for comments. In response to the comments received and requests for interpretations from the States and industry, the FHWA has determined that the rule should be amended to clarify the requirements for periodic inspection decals; evidence of the inspector's qualifications; the response time for a motor carrier to transmit a copy of a self-inspection report to an authorized Federal, State or local enforcement official; identity of the motor carrier or other entity offering a vehicle for inspection; and documentation of a State periodic inspection, including proof of inspection on vehicles. The FHWA is also proposing amendments concerning the inspection criteria for brake readjustment limits, brake lining thickness, coupling devices, steering mechanism, tires marked "Not for highway Use", and regrooved tires on steering axles.

Timetable:

Action	Date	FR Cite
Notice: Request for Comments	03/16/89	54 FR 11020
Final Rule: Delay in Compliance Date	12/08/89	54 FR 50722
Notice: State Inspection Programs	12/08/89	54 FR 50726
Petition: Comment Period End 07/02/90	05/02/90	55 FR 18355
Notice: State Inspection Programs	09/23/91	56 FR 47982
Denial of Petition	07/02/92	57 FR 29457
NPRM	04/00/98	

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation

Agency Contact: Larry W. Minor, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2981

RIN: 2125–AC47

2382. COMMERCIAL LEARNER PERMITS AND CDL EFFECTIVENESS

Priority: Substantive, Nonsignificant

Legal Authority: PL 99-570; 49 USC 3102; 49 USC 31136

CFR Citation: 49 CFR 383; 49 CFR 384; 49 CFR 386; 49 CFR 395; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA has reviewed the effectiveness and efficiency of the requirements in the Commercial Driver's License (CDL) program. Areas that may be addressed further include: a) minimum licensing and information system standards for drivers learning to operate a commercial vehicle; and b) increased flexibility in locations where drivers may obtain the training and the final CDL.

Other general issues under review include treatment of various types of violations (i.e. railroad grade crossings, serious traffic offenses, etc.), defining terms, responsibilities when hiring new drivers, and processing information related to CDL convictions.

Finally, there are issues specifically pertaining to the States under review, such as: a) flexibility in States sharing test results to assist new drivers in the licensing process; b) requirements for notification of the licensing State when a driver is convicted; c) appropriate measures to be taken when a driver is found to be unqualified or disqualified according to Federal standards; and d) adding a provision for enforcement of violations of an out-of- service order to State responsibilities in 49 CFR 384.

Timetable:

Action	Date	FR Cite
NPRM	08/22/90	55 FR 34478
NPRM Comment Period End	10/22/90	
NPRM Comment Period Extended to 11/30/90	10/23/90	55 FR 42741
SNPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/22/90 (55 FR 34478)

Additional Information: Because other regulatory changes have been made since the NPRM was published in 1990, the FHWA intends to issue a supplemental NPRM to solicit comments on including additional requirements consistent with changes in the CDL program.

Agency Contact: David Goettee, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4001

RIN: 2125–AC54

2383. REVISION OF MEDICAL EXAMINATION FORM AND PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 2505; 49 USC 3102

CFR Citation: 49 CFR 391

Legal Deadline: None

Abstract: This rulemaking action will seek information for the redesign of the existing medical examination form as well as amend the examination procedures to reflect the latest medical and technological advances.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation

Additional Information: This action was formerly titled "Qualification of Drivers; Medical Examination Form."

Agency Contact: Sandra L. Zywokarte, Health and Welfare Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2981

RIN: 2125–AC83

2384. +MINIMUM TRAINING REQUIREMENTS FOR OPERATORS AND TRAINING INSTRUCTORS OF MULTIPLE TRAILER COMBINATION VEHICLES

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: PL 102-240, sec 4007(b)(2); Intermodal Surface Transportation Efficiency Act (ISTEA)

CFR Citation: 49 CFR 383

Legal Deadline:
Final, Statutory, December 18, 1993.

Abstract: This action will establish minimum training requirements for operators of multiple trailer combination vehicles and the instructors who train these operators. The training would include certification of an operator's proficiency by an instructor who has met the requirements established by the Secretary of Transportation. This action is significant due to public interest.

Timetable:

Action	Date	FR Cite
ANPRM	01/15/93	58 FR 4638
ANPRM Comment Period End	03/16/93	
NPRM	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Robert Redmond, Transportation Specialist, Office of Motor Carrier Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5014

RIN: 2125–AC92

2385. +TRAINING FOR ENTRY-LEVEL DRIVERS OF COMMERCIAL MOTOR VEHICLES

Priority: Other Significant

Legal Authority: PL 102-240, sec 4007

CFR Citation: 49 CFR 383

Legal Deadline:
NPRM, Statutory, December 18, 1992.
Final, Statutory, December 18, 1993.
Other, Statutory, January 18, 1994, Other deadline is for a report to Congress.

Abstract: This action is in response to section 4007 of the Motor Carrier Act of 1991 (title IV of the Intermodal Surface Transportation Efficiency Act of 1991). The Department has initiated a rulemaking on the need to require training of all entry-level drivers of commercial motor vehicles. The agency has submitted a report to Congress (02/05/96) on the effectiveness of private sector efforts to ensure adequate training of all entry-level drivers. This report included a cost-benefit study of requiring training of entry-level drivers. Public comments have been solicited on the report. This rulemaking action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	06/21/93	58 FR 33874
ANPRM Comment Period End	08/20/93	
Report to Congress	02/05/96	
Notice of Availability	04/25/96	61 FR 18355
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The report is available through the National Technical Information Service (Order #PB96-141536). For further information, please call 703-487-4650.

Agency Contact: Ron Finn, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0647

RIN: 2125–AD05

2386. +COMMERCIAL DRIVER PHYSICAL FITNESS AS PART OF THE CDL PROCESS

Priority: Other Significant

Legal Authority: 49 USC app 2704(a)(8); 49 USC app 2505; 49 USC app 3102

CFR Citation: 49 CFR 391; 49 CFR 383; 49 CFR 1.48; 49 CFR 391.11; 49 CFR 391.45

Legal Deadline: None

Abstract: The FHWA is proposing to include the certification of fitness to operate a CMV in the commercial driver's license (CDL) process. Incorporating the commercial driver fitness determination into State administered CDL procedures could allow elimination of the requirement that CMV drivers carry a separate medical certificate. The CDL would be evidence that the CMV driver is physically fit as well as operationally qualified to operate CMVs safely. This action addresses the driver's physical qualifications as they relate to the CDL process; it does not address whether those standards are correct or should be changed. The FHWA has determined that the negotiated rulemaking process will be used to develop regulations governing the proposed merger of the State-administered CDL procedures and the driver physical qualifications requirements. This action is significant due to anticipated substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	07/15/94	59 FR 36338
ANPRM Comment Period End	11/14/94	
NPRM	02/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Please note the following notice publications with respect to the advisory committee: 04/29/96 at 61 FR 18713; 07/26/96 at 61 FR 38133; 08/26/96 at 61 FR 43725; 10/07/96 at 61 FR 52401; 11/05/96 at 61 FR 56936; 12/17/96 at 61 FR 66250; and 02/13/97 at 62 FR 6753.

Agency Contact: Teresa Doggett, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4001

RIN: 2125–AD20

2387. +PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION; LIGHTING DEVICES, REFLECTORS, AND ELECTRICAL EQUIPMENT

Priority: Other Significant

Legal Authority: 49 USC 3102; PL 101-50, sec 15(f)

CFR Citation: 49 CFR 393

Legal Deadline: None

Abstract: The FHWA is proposing measures for reducing the incidence and severity of collisions with large trailers during conditions of darkness or reduced visibility. Specifically, the agency is proposing requirements for the use of retroreflective sheeting or reflex reflectors for certain trailers manufactured prior to December 1, 1993, the effective date of the National Highway Traffic Safety Administration's final rule on conspicuity for newly manufactured trailers. This action is considered significant due to substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
ANPRM	01/19/94	59 FR 2811
ANPRM Comment Period End	03/21/94	
Notice of Intent to Issue NPRM	08/06/96	61 FR 40781
NPRM	11/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: The FHWA intends to consider carefully the costs and benefits associated with various alternative requirements, including the economic impacts of potential changes on small entities.

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4009

RIN: 2125–AD27

2388. +DEPARTMENT OF TRANSPORTATION (FHWA, FTA, FRA AND USCG) NEPA AND RELATED PROCEDURES FOR TRANSPORTATION DECISIONMAKING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 4321; 23 USC 109; 23 USC 128; 23 USC 138; 23 USC 315; PL 102-240; 49 USC 303(c); 49 USC 1602(d); 49 USC 1604(h); 49 USC 1604(i); 49 USC 1610; 33 USC 401; 33 USC 491 et seq; 33 USC 511 et seq; 33 USC 525 et seq

CFR Citation: 23 CFR 771; 49 CFR 622; 40 CFR 1500 to 1508; 49 CFR 1.48(b); 49 CFR 1.51; 33 CFR 114.05

Legal Deadline: None

Abstract: The Federal Highway Administration and the Federal Transit Administration have a joint environmental regulation at 23 CFR 771, "Environmental Impact and Related Procedures." Nevertheless, each agency's guidance for implementing those regulations is procedurally different. This causes difficulties and inconsistencies for sponsors of transportation projects, particularly where joint FHWA and FTA funds are involved. In the ISTEA, the Congress recognized the importance of providing uniformity and consistency between FHWA and FTA environmental procedures. This is needed to accommodate the increased funding flexibility for surface transportation provided by ISTEA. Because of an

increased emphasis on intermodal planning and proposals to advance a high speed rail program, the proposed, new joint regulations will include the Federal Railroad Administration (FRA) and the United States Coast Guard (USCG) bridge permit program. Section 134(h)(4) of title 23, United States Code and section 8(h)(4) of the Federal Transit Act, as amended, direct the Secretary of Transportation to initiate a rulemaking proceeding to conform review requirements for transit projects under the National Environmental Policy Act of 1969 to comparable requirements for highway projects. This action is considered significant because of potential public, congressional and environmental concerns and because it involves several interested departmental modes.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Analysis: Regulatory Evaluation

Agency Contact: Harold Peaks, Senior Staff Specialist, Office of Environment and Planning, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1598

RIN: 2125–AD32

2389. +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL; MOTOR VEHICLE MARKING

Priority: Other Significant

Legal Authority: 49 USC 104; 49 USC 504; 49 USC 521(b)(5)(A); 49 USC 31502; 49 USC 5113; 49 USC 31136; 49 USC 31144; 49 USC 5113

CFR Citation: 49 CFR 390

Legal Deadline: None

Abstract: The FHWA is proposing to revise its regulations dealing with the identification and marking of commercial motor vehicles (CMVs). Five changes are being proposed which would: (1) Apply the marking requirements to all CMVs operated in interstate commerce, including those common and contract motor carriers of property or passengers formerly authorized by the Interstate Commerce Commission (ICC); (2) require motor carriers to mark both sides of each CMV with a specific legal name or name under which it does business (DBA name); (3) require motor carriers to mark each CMV with the city and State of its principal place of business; (4) require all new motor carriers to file Form MCS-150 before beginning operations; and (5) move sec. 385.23 and the appendix to part 385 to a new section in part 390. The States would also be allowed and encouraged to use United States Department of Transportation (USDOT) identification numbers to identify intrastate motor carriers. The proposed changes would improve the identification of motor carriers and CMVs, aid enforcement, and enhance data collection and analysis.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Phillip J. Forjan, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6817

RIN: 2125–AD49

2390. +HOURS OF SERVICE OF DRIVERS; SUPPORTING DOCUMENT RECORDKEEPING

Priority: Other Significant

Legal Authority: PL 103-311

CFR Citation: 49 CFR 395.8

Legal Deadline:
NPRM, Statutory, August 1995.
Final, Statutory, February 1996.

Abstract: A record of duty status (49 CFR 395.8) is required to be prepared for each day a driver operates a commercial motor vehicle in interstate commerce. All motor carriers are required to maintain the record of duty status for at least 6 months along with all documents that support the accuracy of the record of duty status (sec. 395.8(k)). The Hazardous Materials Transportation Authorization Act of 1994 (Pub. L. 103-311) mandates the Federal Highway Administration (FHWA) to specify what documents must be maintained to support the accuracy of the record of duty status. This rule will implement the statutory mandate that requires the agency to describe the type of supporting documents to be generated and maintained, as well as specify the quantity and length of time to maintain the supporting documents.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David Miller, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC
Phone: 202 366-1790

RIN: 2125–AD52

2391. SAFETY PERFORMANCE HISTORY OF NEW DRIVERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31133; 49 USC 31136; 49 USC 31301 et seq; 49 USC 31502; PL 103-311

CFR Citation: 49 CFR 382; 49 CFR 383; 49 CFR 390; 49 CFR 391; 49 CFR 1.48

Legal Deadline:
NPRM, Statutory, February 1996.

Abstract: This action proposes amending FHWA regulations to specify minimum safety information that new or prospective employers must seek from former employers during the investigation of a driver's employment record. This action also proposes to increase the period of time for which carriers must record accident information in the accident register from one to three years. This proposal was mandated by section 114 of the Hazardous Materials Reauthorization Act of 1994.

Timetable:

Action	Date	FR Cite
NPRM	03/14/96	61 FR 10548
NPRM Comment Period End	06/13/96	
SNPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Valerie Height, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1790

RIN: 2125–AD66

2392. RAILROAD GRADE CROSSING SAFETY

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-240; PL 103-311; 49 USC 5101; 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 392; 49 CFR 1.48

Legal Deadline:
Final, Statutory, February 28, 1995, See P.L. 103-311; sec. 112.

Abstract: The FHWA is proposing to prohibit operators of commercial motor vehicles from driving onto a railroad grade crossing unless there is sufficient space to drive completely through the crossing without stopping. The intent of this action is to reduce the incidence of collisions between trains and CMVs. This action is required by the Hazardous Materials Transportation Authorization Act of 1994 (PL 103-311; sec. 112).

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Lehrman, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0994

RIN: 2125–AD75

2393. PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION; TELEVISION RECEIVERS AND DATA DISPLAY UNITS

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-240; 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 393; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA proposed to amend the provision of the Federal Motor Carrier Safety Regulations (FMCSRs) concerning television viewers or screens in commercial motor vehicles. The FHWA is concerned that the current restrictions on the locations of such devices may have the unintended effect of discouraging the use of certain Intelligent Transportation System (ITS) technologies such as collision avoidance and traveler information systems which could improve the safety and efficiency of commercial vehicle operations. In response to comments to the April 3, 1993, notice of proposed rulemaking (61 FR 14733) to rescind the regulation concerning television viewers or screens, the FHWA is considering an SNPRM to propose retaining an explicit prohibition against television viewers or screens but revising the regulation to ensure that it does not impede the development and use of ITS-related technologies.

Timetable:

Action	Date	FR Cite
NPRM	04/03/96	61 FR 14733
NPRM Comment Period End	08/03/96	
SNPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4009

RIN: 2125–AD76

2394. +HOURS OF SERVICE OF DRIVERS (SECTION 610 REVIEW)

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: Undetermined

Legal Authority: PL 104-88

CFR Citation: 49 CFR 395

Legal Deadline:
Other, Statutory, March 1, 1996, See sections 103 and 408 of PL 104-88. Section 408 mandates that the FHWA issue an ANPRM dealing with a variety of fatigue-related.

Abstract: In this action, the FHWA is proposing revision of the FHWA's hours of service regulations. This action is mandated by the Interstate Commerce Commission Termination Act of 1995. The agency is currently in the process of completing several research projects and is interested in obtaining the results of other research (both in the U.S. and in foreign countries); such information will be used by the agency in developing a revised program for the hours of service of commercial motor vehicle drivers. As part of this rulemaking, the FHWA will consider the impacts of the hours of service requirements on small entities. This is considered significant due to substantial congressional and public interest.

Timetable:

Action	Date	FR Cite
ANPRM	11/05/96	61 FR 57251
Notice of Meeting	02/11/97	62 FR 6161
ANPRM Comment Period End	03/31/97	
ANPRM Extension of Comment Period	03/31/97	62 FR 15150
NPRM	08/00/98	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State

Agency Contact: David Miller, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1790

RIN: 2125–AD93

2395. ELECTRONIC FILING OF SURETY BONDS, TRUST FUND AGREEMENTS, INSURANCE CERTIFICATES; CANCELLATIONS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-88

CFR Citation: 49 CFR 387

Legal Deadline: None

Abstract: This action proposes requiring all filings of surety bonds, trust fund agreements, insurance certificates and cancellations of these instruments to be accomplished electronically. Optional electronic filing has proven economical and efficient for both the FHWA and for electronic filers. Given this success, cost of processing paper filings can no longer be justified. Mandatory electronic filings should not impose any significant costs or burdens on either the FHWA or the filers.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

DOT—FHWA

Proposed Rule Stage

Agency Contact: Patricia A. Burke, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 358-7041

RIN: 2125–AD94

2396. REGISTRATION OF FOR-HIRE MOTOR CARRIERS, PROPERTY BROKERS, AND FREIGHT FORWARDERS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553; 5 USC 559; 16 USC 1456; 49 USC 13101; 49 USC 13301; 49 USC 13901 to 13906; 49 USC 14708; 49 USC 31138; 49 USC 31144

CFR Citation: 49 CFR 365; 49 CFR 385

Legal Deadline: None

Abstract: The FHWA intends to publish an NPRM proposing a rule to govern registration of for-hire motor property and passenger carriers, property brokers, and freight forwarders. This action is required by 49 USC 13901 to 13905, which mandates that a registration system be administered by the Secretary of Transportation to replace the former Interstate Commerce Commission's licensing system for motor carriers, property brokers, and freight forwarders. The registration system prescribed in 49 USC 13901 to 13905 is intended to be a temporary and stand-alone procedure while the FHWA undertakes to design and implement the revised system through the 49 USC 13908 rulemaking mandated by Congress to be completed by January 1, 1998.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David Lehrman, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-0994

RIN: 2125–AE01

2397. +DEVELOPMENT OF A NORTH AMERICAN STANDARD FOR PROTECTION AGAINST SHIFTING AND FALLING CARGO

Priority: Other Significant

Legal Authority: 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 393; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA is considering proposing amendments to its regulations concerning cargo securement requirements for commercial motor vehicles engaged in interstate commerce. The FHWA intends to consider adopting new cargo securement guidelines that will be based upon the results of a multi-year comprehensive research program to evaluate current regulations and industry practices. The FHWA is also requesting comments on the process to be used in developing these preliminary cargo securement guidelines. The FHWA is currently working on this research program with the Canadian Council of Motor Transport Administrators (CCMTA), State and Provincial agencies responsible for motor carrier safety activities, the Commercial Vehicle Safety Alliance (CVSA), and U.S. and Canadian industry groups. This research program is scheduled for completion by the end of 1996 with the final report to be published shortly thereafter.

Timetable:

Action	Date	FR Cite
ANPRM	10/17/96	61 FR 54142
ANPRM Comment Period End	12/16/96	
Notice of Meeting	04/21/97	62 FR 19252
Supplemental ANPRM	11/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-4009

RIN: 2125–AE05

2398. +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; HOURS-OF-SERVICE AND CDL EXEMPTIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 104-59, sec 345

CFR Citation: 49 CFR 382; 49 CFR 395

Legal Deadline: None

Abstract: In this action, the FHWA is proposing to clarify its rule incorporating certain exemptions from the hours-of-service and commercial driver's license requirements of the Federal motor carrier safety regulations, created by section 345 of the National Highway System Designation Act of 1995.

The FHWA is also proposing a monitoring program to measure the safety impact of the exemptions. The FHWA would use information obtained from the monitoring program to determine whether the exemptions granted in the NHS Act should be modified or revoked under the standard provided in the authorizing legislation. The FHWA requests comment on the public interest and safety impacts of the exemptions, as well as in the proposed monitoring program.

The final rule that incorporated the exemptions created by section 345 of the NHS Act was issued under RIN 2125-AD83, 4/3/96 (61 FR 14677).

This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Paul Brennan, Director, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-1790

RIN: 2125–AE09

2399. MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MEXICAN MOTOR CARRIERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31138; 49 USC 31139

DOT—FHWA

Proposed Rule Stage

CFR Citation: 49 CFR 387; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA is proposing to amend part 387, Minimum Levels of Financial Responsibility for Motor Carriers to clarify and amend the financial responsibility requirement for Mexican motor carriers.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Peter Chandler, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-5763

RIN: 2125–AE14

2400. • +PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION; REAR IMPACT GUARDS AND REAR IMPACT PROTECTION

Priority: Other Significant

Legal Authority: PL 102-240, sec 1041(b); 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 393; 49 CFR 1.48

Legal Deadline: None

Abstract: In this action, the FHWA proposes to amend the Federal Motor Carrier Safety Regulations (FMCSRs) to require that certain trailers and semitrailers with a gross vehicle weight rating (GVWR) greater than 10,000 pounds and manufactured on or after January 26, 1998, be equipped with rear impact guards and meet the requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 223. This action is intended to ensure that the rear impact protection requirements of the FMCSRs are consistent with the FMVSSs and to improve the safety of operation of commercial motor vehicles by reducing the incidence of underride accidents in which the rear end of the trailer strikes and enters the passenger compartment. This action is considered significant because of substantial public interest in the prevention of rear-underride accidents involving commercial motor vehicles.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington DC 20590 Phone: 202 366-4009

RIN: 2125–AE15

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Highway Administration (FHWA)

Final Rule Stage

2401. ACQUISITION OF REAL PROPERTY FOR RIGHTS-OF-WAY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 315; PL 100-17, sec 126; PL 100-17, sec 146; 42 USC 4601 et seq

CFR Citation: 23 CFR 172; 23 CFR 710; 23 CFR 712; 23 CFR 713; 23 CFR 720; 23 CFR 740; 23 CFR 620; 23 CFR 635; 23 CFR 645

Legal Deadline: None

Abstract: The Federal Highway Administration (FHWA) is proposing to revise and consolidate several right-of-way regulations to improve the organization of the subject matter and update the content. This action will also implement sections 126 and 146 (airspace and donations) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

Timetable:

Action	Date	FR Cite
ANPRM	11/06/95	60 FR 56004
ANPRM Comment Period End	01/05/96	
Interim Final Rule	04/25/96	61 FR 18246
Interim Final Rule Effective	05/28/96	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local

Analysis: Regulatory Evaluation

Additional Information: Two related rulemaking actions are: (1) a proposed rule entitled "Right-of-Way" which appeared in a prior Agenda under RIN 2125-AB58 and (2) a proposed rule entitled "Property Management; Disposals and Airspace" which appeared in a prior Agenda under RIN 2125-AB60. Those entries have been consolidated into this rulemaking. The FHWA has determined that several right-of-way regulati- s are duplicated or otherwise cover- where in DOT regulations. Accord , the FHWA has decided to remove these provisions from its regulations.

Agency Contact: Robert A. Johnson, Chief, Program Services Division, Office of Real Estate Services, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-2020

RIN: 2125–AC17

2402. +SAFETY FITNESS PROCEDURES; SAFETY RATINGS

Priority: Other Significant

Legal Authority: 49 USC app 2512; 49 USC 104; 49 USC 504; 49 USC 521(b)(5)(A); 49 USC 3102; 49 USC app 1814; PL 101-500

CFR Citation: 49 CFR 385

Legal Deadline: None

Abstract: This action will amend the Federal Motor Carrier Safety Regulations to implement provisions of the Motor Carrier Safety Act of 1990 (section 15 of PL 101-500). This enactment prohibits a motor carrier that receives an "unsatisfactory" safety rating from operating commercial motor vehicles to transport hazardous materials in quantities for which vehicle placarding is required or to transport more than 15 passengers, including the drives. The prohibition is effective 45 days after receipt of an

unsatisfactory rating and remains in effect until a satisfactory or conditional rating is secured. This action is considered significant because of substantial public and congressional interest. The FHWA has analyzed public comments received in response to the interim final rule and the September 1994 notice. The FHWA proposed changes to 49 CFR 385 in an NPRM issued under RIN 2125-AD64.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/16/91	56 FR 40801
Notice: Request for Comments	09/14/94	59 FR 47203
NPRM	05/28/97	62 FR 28826
Interim Final Rule	05/28/97	62 FR 28807
Proposed Rule; Additional Comments	07/03/97	62 FR 36039
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/16/91 (56 FR 40801)

Additional Information: The interim final rule was effective upon publication 08/16/91. Statutory prohibition became effective January 1, 1991.

Agency Contact: William Hill, Office of Motor Carrier Research & Standards, Vehicle and Operations Division, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-6347

RIN: 2125–AC71

2403. TRANSPORTATION OF HAZARDOUS MATERIALS; TECHNICAL AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1801 et seq; PL 101-615

CFR Citation: 49 CFR 397; 49 CFR 1.48

Legal Deadline:
Final, Statutory, May 16, 1992.

Abstract: This action revises the FHWA's transportation of hazardous materials regulations to update cross-references to the definitions of class 7 (radioactive) materials in the Federal Hazardous Materials Regulations (HMRs) to provide a current publication for routing of non-radioactive hazardous materials (NRHM) in the Federal standards, to update the address to which States and Indian tribes must provide information for routing designations, and to remove obsolete dates, to correct erroneous references, and to clarify the definition of a preferred route. The amendments are necessary to correct minor errors in citations for sections 397.101(b)(1), (b)(2), (d) and (g).

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/24/92	57 FR 44129
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/24/92 (57 FR 44129)

Additional Information: Pursuant to 5 U.S.C. 553(b), requirements for notice and public comment are not applicable since this action involves a matter of agency practice and procedure. Originally, this action contained language incorporating (without substantive change) the RSPA's regulation at 49 CFR 397, subpart E. However, it was determined that this incorporation should be a part of RIN 2125-AC80, "Transportation of Hazardous Materials; Highway Routing." The final rule for RIN 2125-AC80 was published on October 12, 1994, at 59 FR 51824.

Agency Contact: Nathan Root, Office of Motor Carriers, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-8759

RIN: 2125–AD00

2404. +PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION; MANUFACTURED HOME TIRES

Priority: Other Significant

Legal Authority: 49 USC 31136; 49 USC 31502; 42 USC 5403; 42 USC 3535(d)

CFR Citation: 49 CFR 393.75; 24 CFR 3280.904; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA and HUD are proposing amendments to the Federal Motor Carrier Safety Regulations (FMCSRs) and the Manufactured Home Construction and Safety Standards concerning the transportation of manufactured homes. The FHWA and HUD propose to adopt mutually consistent and readily enforceable regulations that promote the safe and effective transportation of manufactured homes. These changes would clarify FHWA and HUD respective regulations to resolve differences between Federal regulations for the overloading of tires used in the transportation of manufactured homes.

Timetable:

Action	Date	FR Cite
NPRM	04/23/96	61 FR 18014
NPRM Comment Period End	06/24/96	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-4009

RIN: 2125–AD41

2405. ANTILOCK BRAKE SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 393; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA is proposing to amend the Federal Motor Carrier Safety Regulations (FMCSRs) to require that air-braked truck tractors manufactured on or after March 1, 1997, and air-braked single-unit trucks, buses, trailers, and converter dollies manufactured on or after March 1, 1998, be equipped with antilock brake systems (ABSs) that meet the requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 121. The FHWA is also proposing that hydraulic braked trucks and buses manufactured on or after March 1, 1999, be equipped with ABSs that meet the requirements of FMVSS No. 105. This rulemaking is intended to ensure that the in-service brake standards of the FMCSRs are consistent with the FMVSSs and to improve the safety of operation of commercial motor vehicles (CMVs) by reducing the incidence of accidents caused by jackknifing and other losses of directional stability and control during braking. With regard to CMVs manufactured prior to the dates previously mentioned, the FHWA is not proposing that motor carriers be required to retrofit such vehicles with ABSs. However, the FHWA is requesting comments on this subject.

Timetable:

Action	Date	FR Cite
Notice of Intent	03/10/95	60 FR 13306
NPRM	07/12/96	61 FR 36691
NPRM Comment Period End	09/10/96	
Final Action	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-4009

RIN: 2125–AD42

2406. NATIONAL STANDARDS FOR TRAFFIC CONTROL DEVICES; TEMPORARY TRAFFIC SIGNALS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 101(a); 23 USC 104; 23 USC 105; 23 USC 109(d); 23 USC 114(a); 23 USC 135; 23 USC 217; 23 USC 307; 23 USC 315; 23 USC 402(a)

CFR Citation: 23 CFR 655

Legal Deadline: None

Abstract: Part VI of the MUTCD was revised on September 3, 1993, and incorporated by reference into 23 CFR part 655 on December 10, 1993. As revised, the last sentence of the last paragraph in section 6F-8C, inadvertently disallowed the use of certain temporary signalling devices, now in use, which employ neither hard-wiring nor radio-controlled technology. In order to allow the use of such devices the last sentence of the paragraph has been removed. As revised, the section imposes a performance standard, and not a design standard, on all such devices.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/04/95	60 FR 363
Effective Date	01/04/95	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael E. Robinson, Highway Engineer, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-2193

RIN: 2125–AD45

2407. NATIONAL STANDARDS FOR TRAFFIC CONTROL DEVICES; METRIC CONVERSION

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 101(a); 23 USC 104; 23 USC 105; 23 USC 109(d); 23 USC 114(a); 23 USC 135; 23 USC 217; 23 USC 307; 23 USC 315; 23 USC 402(a)

CFR Citation: 23 CFR 655; 23 CFR 1.32; 49 CFR 1.48

Legal Deadline: None

Abstract: Based on the National Highway System (NHS) Designation Act of 1995, the Federal Highway Administration (FHWA) no longer requires metric legends on highway signs. After FY 1996, if a State desires to install metric legend signs, the FHWA will not restrict the use of Federal-aid funds. The NHS Designation Act also revises the Metric Conversion Policy to extend the compliance date to September 30, 2000, for having plans, specifications, and estimates (PS&Es) in metric units (previously September 30, 1996). It is the intent of this rulemaking action to assure that those States and other FHWA partners desiring to convert to metric units will have available a source for formulating their plans in a consistent manner. Therefore, the FHWA is adopting the following two American Association of State Highway and Transportation Officials (AASHTO) publications as its policy for metric conversion: "Guide to Metric Conversion" and "Traffic Engineering Metric Conversion Factors." The FHWA has determined that the interim metric values selected by the AASHTO documents are functionally equivalent to English system measurements previously adopted by notice and comment rulemaking.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/11/96	61 FR 29624
Interim Final Rule Comment Period End	08/11/96	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The FHWA initiated a phased five year plan to convert its activities and business operations to the metric system of weights and measures as required by the Metric Conversion Act of 1975 (Pub. L. 94-168, 89 Stat. 1007), as amended by sec. 5164 of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100-418, 102 Stat. 1107, 1451).

Agency Contact: Ernest Huckaby, Office of Highway Safety, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-9064

RIN: 2125–AD63

2408. RULES OF PRACTICE FOR MOTOR CARRIER PROCEEDINGS; INVESTIGATIONS; DISQUALIFICATIONS AND PENALTIES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 104; 49 USC 307

CFR Citation: 49 CFR 301; 49 CFR 302; 49 CFR 303; 49 CFR 304; 49 CFR 385; 49 CFR 386

Legal Deadline: None

Abstract: The FHWA proposes to amend its rules of practice for motor carrier safety, hazardous materials, and other enforcement proceedings, motor carrier safety ratings, driver qualification proceedings and its schedule of penalties for violations of the FMCSRs and the Hazardous Materials Regulations. The FHWA further proposes to add provisions on investigative authority and procedures and general motor carrier responsibilities. These rules would increase the efficiency of the procedures, enhance due process and the awareness of the public and regulated community, and accommodate recent programmatic changes. The rules would apply to all motor carriers, other business entities and individuals involved in motor carrier safety and hazardous materials administrative actions on the effective date of the final rule.

Timetable:

Action	Date	FR Cite
NPRM	04/29/96	61 FR 18866
NPRM Comment Period End	07/29/96	
Extended Comment Period End 9/13/96	08/06/96	61 FR 40781
SNPRM	10/21/96	61 FR 54601
SNPRM Comment Period End	11/20/96	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Paul Brennan, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0834

RIN: 2125–AD64

2409. STANDARDS FOR CENTER LINE AND EDGE LINE MARKINGS ON STREETS AND HIGHWAYS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 109(d); 23 USC 114(a); 23 USC 315; 23 USC 402(a); PL 102-388

CFR Citation: 23 CFR 655

Legal Deadline: None

Abstract: The Manual on Uniform Traffic Control Devices (MUTCD) is incorporated by reference in 23 CFR part 655, subpart F, and recognized as the national standard for traffic control on all public roads. The DOT and Related Agencies Appropriations Act of 1992, Pub. L. 102-388, sec. 406, requires that the MUTCD include a national standard to define the roads that must have center line or edge line markings or both. The MUTCD amendments proposed in this action are intended to improve traffic operations and safety-providing national standards and guidance to establish uniform application and use of center line and edge line markings on streets and highways.

Timetable:

Action	Date	FR Cite
NPRM	08/02/96	61 FR 40484
NPRM Comment Period End	05/02/97	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ernest D. L. Huckaby, Office of Highway Safety, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9064

RIN: 2125–AD68

2410. ZERO-BASE REVIEW OF THE FEDERAL MOTOR CARRIER SAFETY REGULATIONS: REGULATORY REMOVALS AND SUBSTANTIVE AMENDMENTS (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 31502; 49 USC 31101 et seq; 49 USC 31136; 49 USC 322; 49 USC 504; 49 USC 31133; 49 USC 31138; 49 USC 31139; 49 USC 31502; 49 USC 31504

CFR Citation: 49 CFR 383; 49 CFR 387; 49 CFR 390; 49 CFR 391; 49 CFR 392; 49 CFR 395; 49 CFR 396; 49 CFR 397

Legal Deadline: None

Abstract: The FHWA is requesting comments on whether to remove, amend, and redesignate certain regulations on a variety of subjects. (For example: financial responsibility; general applicability and definitions; accident recordkeeping requirements; qualifications of drivers; driving of commercial motor vehicles; hours of service of drivers; and the transportation of hazardous materials.) This action is in response to the FHWA's Zero Base Regulatory Review. As part of this action, a small entities review under 5 USC section 610 will be included.

Timetable:

Action	Date	FR Cite
NPRM	01/27/97	62 FR 3855
NPRM Comment Period End	05/12/97	62 FR 14662
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Deborah M. Freund, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5541

RIN: 2125–AD72

2411. FEDERAL-AID HIGHWAY SYSTEMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 103(b); 23 USC 103(e)(1),(2),(3); 23 USC 103(f); 23 USC 315

CFR Citation: 23 CFR 470

Legal Deadline: None

Abstract: This regulatory action amends 23 CFR 470 in accordance with legislation enacted in 1991 and 1995. The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) rescinded the Federal-aid Primary and Secondary and Urban Systems; established an interim National Highway System (NHS); and defined Federal-aid highways. The NHS Designation Act of 1995 (NHS Act) authorized the initial National Highway System and also authorized the Secretary to approve modifications. The action also consolidates in appendices all nonregulatory guidance material issued previously by the FHWA on Federal-aid highway systems.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/19/97	62 FR 33351
Interim Final Rule Effective	07/21/97	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The FHWA issued an interim final rule with an opportunity for public comment. The FHWA believes that prior notice and opportunity for comment were unnecessary within the meaning of 5 U.S.C. 553(b)(3)(B) because this rule amends existing regulations in accordance with the requirements of the ISTEA and the NHS Act and will simplify administrative procedures, minimize regulatory burdens, and provide flexibility for accomplishing required system actions. This rule amends regulations that the states comply with as part of the Federal-aid highway program. The FHWA has worked closely with the states, and the states have operated under the basic policies covered by this regulation for many years.

Agency Contact: Tom Weeks, Team Leader, NHS Team, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5002
Fax: 202 493-2198

RIN: 2125–AD74

2412. MITIGATION OF IMPACTS TO WETLANDS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 4321; 23 USC 109(h), 138, 315(i)(1B), 133(b)(11); EO 11990

CFR Citation: 23 CFR 777; 49 CFR 1.48(b)

Legal Deadline: None

Abstract: Revision to the existing rule will bring FHWA's wetland mitigation policies and requirements into full agreement with the provisions of ISTEA sections 1007(b)(11) and section 1006(1)(13). In addition, the revised rule will reflect recent policy issued by the Corps of Engineers and EPA on wetland mitigation banking. FHWA internal policy development on wetland mitigation is also indicated by the proposed revision.

Timetable:

Action	Date	FR Cite
NPRM	06/17/96	61 FR 30553
NPRM Comment Period End	08/16/96	
SNPRM	06/18/97	62 FR 33047
Comment Period End	08/18/97	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Additional authority DOT Order 5660.1A

Agency Contact: Paul Garrett, Natural and Cultural Resources Team, HEP-40, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2067
Fax: 202 366-3409
Email: pgarrett@intergate.dot.gov

RIN: 2125–AD78

2413. RAILROAD HIGHWAY PROJECTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 315; 23 USC 109(e); 23 USC 120(c); 23 USC 130

CFR Citation: 23 CFR 140; 23 CFR 646

Legal Deadline: None

Abstract: The FHWA proposes to amend its regulations on railroad highway projects. The proposed amendments would require railroads to submit final billings within one year following completion of work, delete the requirements of a State's certification that work was completed, increase the ceiling for lump sum agreements from $25,000 to $100,000 and incorporate changes brought about by ISTEA. The FHWA proposes these changes to conform railroad/highway regulations to more recent laws or regulations, and provide State highway agencies clarification and more flexibility in implementing them.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/27/97	62 FR 45236
Comment Period End	10/27/97	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: The FHWA intends to dispense with prior notice and opportunity for comment and to publish an interim final rule. The FHWA believes that prior notice and opportunity for comments are unnecessary because the changes it is making to existing regulations deal with billing procedures to be followed by the States and provide States greater flexibility with respect to an option already available to them to use lump sum agreements. The FHWA does not expect to receive useful comment on these changes. Nevertheless, in issuing an interim final rule, the FHWA is affording interested persons an opportunity to comment on these changes, and the FHWA will carefully consider any comments it receives before making this regulations final.

Agency Contact: Robert Winans, Federal-aid and Design Division, HNG-10, Department of Transportation, Federal Highway Administration, 400 7th Street SW., Washington, DC 20590
Phone: 202 366-4656

RIN: 2125–AD86

2414. NATIONAL STANDARDS FOR TRAFFIC CONTROL DEVICES; PEDESTRIAN, BICYCLE, AND SCHOOL WARNING SIGNS

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 23 USC 109(d); 23 USC 114(a); 23 USC 315; 23 USC 402(a)

CFR Citation: 23 CFR 655

Legal Deadline: None

Abstract: The FHWA announced its intent to rewrite and reformat the MUTCD on January 10, 1992, at 57 FR 1134. In this action, the FHWA is inviting comments on a proposed change to the MUTCD which would assign the color florescent yellow-green for pedestrian, bicycle, and school warning signs.

Timetable:

Action	Date	FR Cite
Notice of Proposed Amendments	08/07/96	61 FR 29234
Comment Period Extended	10/17/96	61 FR 54111
Extended Comment Period End	02/15/97	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ernest Huckaby, Office of Highway Safety, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9064

RIN: 2125–AD89

DOT—FHWA

Final Rule Stage

2415. GENERAL JURISDICTION OVER FREIGHT FORWARDER SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 13701; 49 USC 13709; 49 USC 13906; 49 USC 14101; 49 USC 14706

CFR Citation: 49 CFR 373

Legal Deadline: None

Abstract: This action gives notice of the FHWA's general jurisdiction over all segments of the freight forwarding industry (not just household good freight forwarders), in accordance with the ICC Termination Act of 1995, proposes changes to existing regulations to comport with those mandated by Congress, and clarifies the FHWA's jurisdiction over freight forwarders in other areas.

Timetable:

Action	Date	FR Cite
NPRM	01/28/97	62 FR 4096
NPRM Comment Period End	03/31/97	
Final Action	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research & Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-4012

RIN: 2125–AE00

2416. • CERTIFICATION OF SPEED LIMIT ENFORCEMENT

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-59

CFR Citation: 23 CFR 1260

Legal Deadline: None

Abstract: Section 205(d) of the National Highway System Designation Act of 1995 repealed the National Maximum Speed Limit (NMSL) Compliance Program. It made the repeal effective on December 8, 1995, but provided that the Governors of certain States could delay the effective date of the repeal. All possible delay periods have now passed. This action provides that 23 CFR part 1260, which contains the procedures for implementing the NMSL, is now rescinded.

Timetable:

Action	Date	FR Cite
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Suzanne O'Malley, Attorney, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-0761

RIN: 2125–AE17

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Highway Administration (FHWA)

Long-Term Actions

2417. +QUALIFICATION OF DRIVERS; DIABETES

Priority: Other Significant

Legal Authority: 49 USC 3102; 49 USC app 2505; 23 USC 315

CFR Citation: 49 CFR 391.41(b)(3)

Legal Deadline: None

Abstract: The FHWA is considering revising the driver qualification requirements to allow certain insulin-using diabetics to operate commercial motor vehicles in interstate commerce. The FHWA issued a final disposition accepting waiver applications under certain conditions. The deadline for submitting applications was April 30, 1994. The waiver program ended March 31, 1996. It was instituted to permit the FHWA to observe and collect data on the driving experience of a group of insulin-using drivers. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	11/25/87	52 FR 45204
ANPRM Comment Period End	12/28/87	
ANPRM Comment Period Extended to 02/01/88	01/04/88	53 FR 42
NPRM	10/05/90	55 FR 41028
NPRM Comment Period Extended to 01/03/91	11/01/90	55 FR 46080
NPRM Comment Period End	12/04/90	
Notice of Intent to Issue Waivers: Comment Request	10/21/92	57 FR 48011
Final Action To Accept Waivers	07/29/93	58 FR 40690
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/05/90 (55 FR 41028)

Additional Information: Under RIN 2125-AD73, the FHWA adopted a final rule to allow drivers holding valid waivers from both the vision and diabetes standards to continue to operate in interstate commerce after March 31, 1996. See 61 FR 606 (Jan. 8, 1996) (notice of proposed rulemaking); 61 FR 13338 (March 26, 1996) (final rule); 61 FR 17253 (April 19, 1996) (final rule; technical correction). With the closing of the diabetes waiver study (03-31-96), no definitive empirical results were produced. Therefore, the FHWA initiated a retrospective case-referent study to assess the level of risk associated with the operation of commercial motor vehicles by insulin-using diabetic drivers. This is not a waiver study. Further rulemaking on diabetes is deferred until the completion of the retrospective case-referent study (12-31-97).

Agency Contact: Sandra L. Zywokarte, Health and Welfare Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-2981

RIN: 2125–AB91

2418. +COMMERCIAL DRIVER'S LICENSE STANDARDS; BIOMETRIC IDENTIFIER

Priority: Other Significant

Legal Authority: PL 100-690, sec 9105

CFR Citation: 49 CFR 383

Legal Deadline:

DOT—FHWA

Long-Term Actions

Final, Statutory, December 31, 1990.

Abstract: This action was initiated to improve identification systems for truck and bus drivers as identified by the Congress in the Truck and Bus Regulatory Reform Act of 1988. Alternatives that were considered included retinal eye scans and advanced fingerprint technologies. After (1) further review, (2) a careful analysis of public comments submitted to the ANPRM, and (3) a review of demonstration project results, the FHWA has determined that current technology has not progressed to the point where an identification system could be established nationwide in a cost-effective manner and still provide the benefits for which a system was intended. Therefore, the FHWA has published an informational notice to summarize the results of the pilot study and the comments to the ANPRM to demonstrate how the technologies studied fall short of the demands in a commercial licensing environment. Additional studies are being conducted to assess the current state of the art of technology in biometric identification systems. The public docket will remain open while this research is being conducted. This project is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	05/15/89	54 FR 20875
ANPRM Comment Period End	07/14/89	
Information Notice	03/08/91	56 FR 9925
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation

Agency Contact: Phil Forjan, Transportation Specialist, Office of Motor Carrier Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-8759

RIN: 2125–AC24

2419. +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL; PERIODIC REGISTRATION REQUIREMENTS FOR MOTOR CARRIERS

Priority: Other Significant

Legal Authority: 49 USC 31502; 49 USC 31103; 49 USC 31136

CFR Citation: 49 CFR 390

Legal Deadline: None

Abstract: The FHWA is proposing to require all motor carriers subject to the Federal Motor Carrier Safety Regulations (FMCSRs) to periodically update certain company information maintained by the agency in a national interstate motor carrier census file. This proposal delineates the information which motor carriers may be required to update every 2 years, as well as the methods motor carriers may have available to them to provide such information.

Timetable:

Action	Date	FR Cite
ANPRM	07/17/89	54 FR 29912
ANPRM Comment Period End	09/15/89	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: Please note that this action (2125-AC28) was previously titled "Federal Motor Carrier Safety Regulations; General; Motor Vehicle Marking." A new RIN has been assigned for this subject. See 2125-AD49 for further information about motor vehicle marking. 1992 Agenda.

Agency Contact: Neill L. Thomas, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-5884

RIN: 2125–AC28

2420. TRUCK LENGTH AND WIDTH EXCLUSIVE DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 315; PL 97-424, sec 411; PL 97-424, sec 416

CFR Citation: 23 CFR 658

Legal Deadline: None

Abstract: The FHWA requested public comment on how, under section 411(h) and 416(b) of the Surface Transportation Act of 1982 (STA) (PL 97-424, 96 Stat. 2097), the Secretary may determine which safety or efficiency-enhancing devices are to be excluded when measuring the length and width of vehicles for compliance with federally mandated dimensions. The present system of employing rulemaking proceedings is too time-consuming and cumbersome to meet the needs of industry and is needlessly burdensome for FHWA. Therefore, a new approach will be proposed.

Timetable:

Action	Date	FR Cite
ANPRM	12/26/89	54 FR 52951
ANPRM Comment Period Extended to 06/01/90	03/21/90	55 FR 10468
ANPRM Comment Period End	03/26/90	
ANPRM Docket Reopened; Comment Period Extended to 08/21/90	06/22/90	55 FR 25673
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation

Agency Contact: Max Pieper, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-4029

RIN: 2125–AC30

2421. CERTIFICATION OF SIZE AND WEIGHT ENFORCEMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 127; 23 USC 141; 23 USC 315

CFR Citation: 23 CFR 657

Legal Deadline: None

Abstract: This rulemaking action proposes to amend existing regulations contained in 23 CFR 657 by changing the requirements for State enforcement plans and certifications as well as the FHWA evaluation of State operations under the enforcement plans. The revised requirements will be determined through the rulemaking

process. The revisions will result in evaluations and certifications being based more closely on the approved plans.

Timetable:

Action	Date	FR Cite
ANPRM	12/16/93	58 FR 65830
ANPRM Comment Period Extended to 05/18/94	03/15/94	59 FR 11956
ANPRM Comment Period End	03/16/94	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Kathy Busby, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2976

RIN: 2125–AC60

2422. +QUALIFICATION OF DRIVERS; VISION

Priority: Other Significant

Legal Authority: 49 USC 2505; 49 USC 3102

CFR Citation: 49 CFR 391

Legal Deadline: None

Abstract: As part of a review of the medical qualification standards applicable to interstate CMV drivers, the FHWA requested comments on the need, if any, to amend its driver qualification requirements relating to the vision standard. A temporary waiver program was initiated and was concluded on March 31, 1996, to permit the FHWA to observe and collect data on the driving experience of a group of vision deficient drivers who meet certain preconditions. Additionally, the FHWA is considering further research to develop comprehensive performance-based visual standards for all commercial drivers. Information about the proposed research plan and public hearing on the subject was published in the Federal Register on June 5, 1996, at 61 FR 28547.

Timetable:

Action	Date	FR Cite
ANPRM	02/28/92	57 FR 6793
ANPRM Comment Period End	04/28/92	
Notice Request for Comments	06/05/96	61 FR 28547

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation

Additional Information: Under RIN 2125-AD73, the FHWA adopted a final rule to allow drivers holding valid waivers from both the vision and diabetes standards to continue to operate in interstate commerce after March 31, 1996. See 61 FR 606 (Jan. 8, 1996) (notice of proposed rulemaking); 61 FR 13338 (March 26, 1996) (final rule) 61 FR 17253 (April 19, 1996) (final rule; technical correction). (See notices published at 57 FR 6793, February 28, 1992; 57 FR 10295, March 25, 1992; 57 FR 22370, June 3, 1992; 59 FR 50887, October 6, 1994; 59 FR 59386, November 17, 1994;

Agency Contact: Sandra L. Zywokarte, Health and Welfare Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2981

RIN: 2125–AC82

2423. PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION: INTERMODAL CARGO CONTAINERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 3102; 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 393; 49 CFR 1.48

Legal Deadline: None

Abstract: This rulemaking action addresses the requirements of the Federal Motor Carrier Safety Regulations for securing intermodal cargo containers to trailers.

Timetable:

Action	Date	FR Cite
ANPRM	08/23/93	58 FR 44485
ANPRM Comment Period End	11/22/93	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4012

RIN: 2125–AC74

2424. +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL TRANSPORTATION OF HAZARDOUS MATERIALS

Priority: Other Significant

Legal Authority: 49 USC app 2503; 49 USC app 2505; 49 USC 3102; 49 USC 3104

CFR Citation: 49 CFR 390.3; 49 CFR 397

Legal Deadline:
Final, Statutory, November 15, 1991.

Abstract: This rulemaking will implement the statutory requirements of sections 8 and 15 of the Hazardous Materials Transportation Uniform Safety Act (HMTUSA) of 1990. Section 8 addresses the establishment of motor carrier safety permit regulations for motor carriers transporting Class A or B explosives, liquefied natural gases, hazardous materials designated as extremely toxic by inhalation, or highway route controlled quantity radioactive materials. Section 15 of the HMTUSA requires inspection of vehicles transporting those radioactive materials before each trip. The proposed rule will incorporate those provisions into the safety permit regulations. This action is considered significant because of substantial public and congressional interest and safety implications.

Timetable:

Action	Date	FR Cite
NPRM	08/17/93	58 FR 33418
NPRM Comment Period End	08/16/93	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/17/93 (58 FR 33418)

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4009

RIN: 2125–AC78

2425. +QUALIFICATIONS OF DRIVERS: HEARING DEFICIENCIES

Priority: Other Significant

Legal Authority: 49 USC 3102; 49 USC app 2505

CFR Citation: 49 CFR 391; 49 CFR 1.48

Legal Deadline: None

Abstract: FHWA is considering amending its driver qualification requirements relating to the hearing standard found at 49 CFR 391.41(b)(11). FHWA believes that a review of the standard is necessary to assess the effect advances in medical science and technology may have on the standard. Such advances may lead to amending the current standard. The FHWA published an ANPRM (FHWA Docket No. MC-93-30) seeking comment on the hearing standard. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	12/15/93	58 FR 65634
ANPRM Comment Period Extended to 04/05/94	02/04/94	59 FR 5376
ANPRM Comment Period End	02/14/94	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation

Additional Information: A related notice regarding possible waivers was published at 58 FR 65638 (Dec. 15, 1993). The FHWA has decided not to issue waivers in light of the recent decision of the U.S. Court of Appeals for the DC Circuit in Advocates for Highway and Auto Safety v. the Federal Highway Administration, No. 92-1411, August 2, 1994. In that case, the FHWA rule allowing commercial drivers with impaired vision in one eye to apply for waivers from the federal vision standard was struck down because the court of Appeals held that the agency lacked the data necessary to support its determination that the vision waiver program "is consistent with the safe operation of commercial motor vehicles." The FHWA initiated research in FY 1995 to determine if the hearing requirement is necessary and if so, what criteria it should encompass in relationship to driving tasks.

Agency Contact: Albert Alvarez, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4706

RIN: 2125–AD22

2426. HIGHWAY BEAUTIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 131; 23 USC 315; 49 USC 1651

CFR Citation: 23 CFR 750, subpart B; 23 CFR 750, subpart E; 23 CFR 750, subpart G

Legal Deadline: None

Abstract: The revision of these subparts will reduce their complexity, recognize the existence of State laws, regulations, and organizations implementing 23 USC 131, and emphasize the position of the State as the initial, primary, and principal focal point regarding the requirement of effective control. Potential costs should be reduced, albeit minimally. The principal benefit will be to give the States greater ability, in the context of the broad requirements of 23 USC 131, to respond to concepts and issues relevant to the States. We have been reviewing these regulations with the intent to focus on changes necessitated by ISTEA. We are continuing this review in order to be able to accommodate additions or changes effected by reauthorization of ISTEA.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: FHWA intends to continue review and analysis of all aspects of the HBA under RIN 2125-AD24 to propose changes to reduce the complexity of the highway beautification regulations and to emphasize the role of the State in its implementation. Intended changes which appeared in a prior Agenda under RIN 2125-AD86 related to the Dire Emergency Supplemental Appropriations Act of 1992 have been suspended and consolidated under this rulemaking.

Agency Contact: Robert A. Johnson, Chief, Program Services Division, Office of Real Estate Services, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington DC 20590
Phone: 202 366-2020

RIN: 2125–AD24

2427. PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION; SLEEPER BERTHS ON MOTOR COACHES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 393; 49 CFR 1.48

Legal Deadline: None

Abstract: Comments have been sought on the suitability of existing driver sleeper berth regulations for motor coaches and possible amendment to account for design differences between trucks and motor coaches.

Timetable:

Action	Date	FR Cite
ANPRM	01/12/94	59 FR 1706
ANPRM Comment Period End	03/14/94	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4009

RIN: 2125–AD25

2428. MOTOR CARRIER SAFETY ASSISTANCE PROGRAM (MCSAP) ALLOCATION FORMULA

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-240, sec 4002

CFR Citation: 49 CFR 350

Legal Deadline: None

Abstract: This action would modify the Motor Carrier Safety Assistance Program (MCSAP) distribution formula to allow States with incompatible intrastate regulations limited participation in the basic grant program beyond October 1, 1994. It does not change the distribution formula pertaining to those States that have achieved compatibility with respect to both interstate and intrastate transportation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/03/94	59 FR 5262
Interim Final Rule Effective	03/07/94	
Interim Final Rule Comment Period End	04/04/94	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Linda Taylor, Office of Motor Carrier Field Operations, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6306

RIN: 2125–AD30

2429. PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION; GENERAL AMENDMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 390; 49 CFR 392; 49 CFR 393; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA is proposing to amend part 393 of the Federal Motor Carrier Safety Regulations (FMCSRs), Parts and Accessories Necessary for Safe Operation. The proposed amendments are intended to: remove obsolete and redundant regulatory language; respond to several petitions for rulemaking; provide improved definitions of vehicle types and vehicle components; resolve inconsistencies between part 393 and the National Highway Traffic Safety Administration's Federal Motor Vehicle Safety Standards (49 CFR 571); and codify certain FHWA interpretations of the requirements of part 393.

Timetable:

Action	Date	FR Cite
NPRM	04/14/97	62 FR 18170
Extension of Comment Period	06/12/97	62 FR 32066
NPRM Comment Period End	08/13/97	
Comment Period End	07/28/97	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4009

RIN: 2125–AD40

2430. ADVANCED CONSTRUCTION OF FEDERAL AID PROJECTS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 101(a); 23 USC 104; 23 USC 105; 23 USC 106; 23 USC 109; 23 USC 110; 23 USC 113; 23 USC 115; 23 USC 118; 23 USC 120(e); 23 USC 121(c); 23 USC 125; 23 USC 134; 23 USC 315; 23 USC 320

CFR Citation: 23 CFR 630; 23 CFR 1.32; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA is amending its regulation on advance construction of Federal-aid highway projects to incorporate changes made by the Dire Emergency Supplemental Appropriations Act, 1992, Pub. L. 102-302, 106 Stat. 248, and to provide more flexible funding arrangements for the States.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/19/95	60 FR 36991
Comment Period End	09/18/95	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Max Inman, Office of Fiscal Services, Department of Transportation, Federal Highway Administration, 400 Seventh Street, Washington, DC 20590
Phone: 202 366-2853

RIN: 2125–AD59

2431. UNIFORM PROCEDURES FOR STATE HIGHWAY SAFETY PROGRAMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 402

CFR Citation: 23 CFR 1200

Legal Deadline: None

Abstract: In this action, the FHWA proposes to streamline the Sec. 402 grant approval process. In a separate notice (60 FR 47418) the FHWA announced the creation of a pilot highway safety program for FY 1996 State highway programs under 23 USC 402 and the waiver of certain procedures for States that have elected to participate in the pilot program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/26/97	62 FR 34397
Interim Final Effective	06/26/97	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mila Plosky, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6902

RIN: 2125–AD79

2432. TRANSPORTATION OF HAZARDOUS MATERIALS; DRIVING/PARKING RULES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 31132; 49 USC 31136; 49 USC 31502; 49 USC 31504

CFR Citation: 49 CFR 397; 49 CFR 1.48

Legal Deadline: None

Abstract: In response to the President's Regulatory Reinvention initiative, the FHWA reviewed part 397 and believes this subpart contains requirements that are obsolete and redundant. The FHWA is coordinating with the Research and Special Programs Administration on possible changes to part 397.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nathan Root, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8759

RIN: 2125–AD80

2433. +TRANSPORTATION OF MIGRANT WORKERS (SECTION 610 REVIEW)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5901 to 5907; 49 USC 31132; 49 USC 31133; 49 USC 31136; 49 USC 31502; 49 USC 31504

CFR Citation: 49 CFR 390; 49 CFR 392; 49 CFR 398; 49 CFR 1.48

Legal Deadline: None

Abstract: The Federal Highway Administration would propose to remove 49 CFR part 398 "Transportation of Migrant Workers" and to expand the definition of "commercial motor vehicle" in part 390 to include smaller vehicles operated by private motor carriers of migrant agricultural workers and contract carriers of migrant agricultural workers. This action also proposes transferring certain definitions and driving requirements from part 398 to parts 390 and 392. These changes would eliminate redundant regulations in part 398 and enhance the safety of migrant workers transported in interstate commerce. The FHWA is considering these changes to make it easier for small entities to comply with Federal safety rules. This is considered significant due to substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David Miller, Transportation Specialist, Department of Transportation, Federal Highway Administration, Room 3107, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1790

RIN: 2125–AD81

2434. INSPECTION, REPAIR, AND MAINTENANCE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 31133; 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 396

Legal Deadline: None

Abstract: This action involves the use of technology to reduce recordkeeping. The FHWA issued a notice (60 FR 46682) requesting comments from motor carriers, vehicle and component manufacturers, technology vendors and the public on the use of advanced driver, vehicle and inspection technology. The FHWA plans to evaluate existing technologies to determine if they could be used to simplify or automate compliance with any of the FMCSRs without compromising public safety.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4012

RIN: 2125–AD82

2435. +MOTOR CARRIER REPLACEMENT INFORMATION/REGISTRATION SYSTEM

Priority: Other Significant

Legal Authority: 49 USC 13908

CFR Citation: 49 CFR 36

Legal Deadline:

Final, Statutory, January 1, 1996, See 49 U.S.C. 13908 for more detailed information.

Abstract: This action is in response to the requirements of section 103 of the Interstate Commerce Commission Termination Act of 1995, which added 49 USC 13908. This section requires the Secretary to initiate a rulemaking proceeding to replace the current DOT identification number system, single State registration system, the registration/licensing system, and the financial responsibility system, with a single, on-line Federal system. This action is considered significant due to substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	09/26/96	61 FR 43816
ANPRM Comment Period End	10/25/96	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dixie E. Horton, Office of Motor Carrier Planning and Customer Liaison, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4340

RIN: 2125–AD91

2436. TRAFFIC CONTROL DEVICES, MARKINGS, SIGNALS, AND SYSTEMS FOR RAILROAD-HIGHWAY GRADE CROSSINGS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 23 USC 109(d); 23 USC 114(a); 23 USC 315; 23 USC 402(a)

CFR Citation: 23 CFR 655

Legal Deadline: None

Abstract: This document proposes new text for the Manual on Uniform Traffic Control Devices (MUTCD) in part III, markings; in part IV, signals; and in part VIII, traffic control systems for railroad-highway grade crossings. The purpose of these amendments is to include metric dimensions and values for the design and installation of traffic control devices and to improve the organization and discussion of the contents of the MUTCD.

DOT—FHWA

Long-Term Actions

Timetable:

Action	Date	FR Cite
Notice of Proposed Amendments	01/06/97	62 FR 691
Comment Period End	08/30/97	
Final Action	12/00/99	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda L. Brown, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2192

RIN: 2125–AE11

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Highway Administration (FHWA)

Completed Actions

2437. VALUE ENGINEERING

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 106(d); 23 USC 302; 23 USC 307; 23 USC 315; 23 USC 106(e)

CFR Citation: 23 CFR 627; 49 CFR 18

Legal Deadline: None

Abstract: In this action, the FHWA is establishing a program requiring the application of value engineering (VE) in the design and construction of Federal-aid highway projects funded under the grant-in-aid process. This action also requires State highway agencies (SHAs) to establish VE programs in accordance with section 303 of the NHS Designation Act of 1995 and provides guidance on establishing such programs. This action is considered necessary to implement the provisions of 23 USC 106(e), which provides that the Secretary establish a program to require a value engineering analysis for proposed projects on Federal-aid highway projects on the NHS with estimated value of $25 million or more.

Timetable:

Action	Date	FR Cite
NPRM	11/16/94	59 FR 59182
NPRM Comment Period End	01/17/95	
Final Action	02/14/97	62 FR 6866

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Keith Borkenhagen, Value Engineering Coordinator, Department of Transportation, Federal Highway Administration
Phone: 202 366-4630

RIN: 2125–AD33

2438. DESIGN STANDARDS FOR HIGHWAYS; A POLICY ON GEOMETRIC DESIGN OF HIGHWAYS AND STREETS; DESIGN AND CONSTRUCTION CRITERIA

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 109; 23 USC 315; 23 USC 402

CFR Citation: 23 CFR 625

Legal Deadline: None

Abstract: The standards, policies and standard specifications that have been approved by the FHWA for application on projects located on the National Highway System (NHS) are incorporated by reference in 23 CFR part 625. The American Association of State Highway and Transportation Officials (AASHTO) has revised "A Policy on Geometric Design of Highways and Streets" to incorporate the latest information on geometric design and to change the numeric values used in the policy exclusively to metric units. Through this rulemaking, the FHWA is incorporating this revised AASHTO publication into the regulations on design standards for highways, thus adopting controlling metric criteria for use in the design of projects on the NHS. Several areas of the regulations text will also be changed to reflect establishment of the NHS and update terminology.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/22/96	61 FR 17566
Final Action	04/01/97	62 FR 15392

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/01/97

Additional Information: RIN 2125-AD23 "Design Standards for Highways, Interim Selected Metric Values for Geometric Design; Design and Construction Criteria," has been consolidated into this action.

Agency Contact: Seppo I. Sillan, Chief, Geometric and Roadside Design Branch, Department of Transportation, Federal Highway Administration
Phone: 202 366-1327

RIN: 2125–AD38

2439. FEDERAL AID PROJECT AGREEMENT AND CONTRACT PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 110; 23 USC 121(c); 23 USC 315

CFR Citation: 23 CFR 630; 23 CFR 635; 49 CFR 1.48

Legal Deadline: None

Abstract: This action presents FHWA policies and procedures related to the formal agreement between a State highway agency and the FHWA required for Federal-aid projects. Changes are proposed to provide more flexibility in the format of the agreement document, to shorten its length, and to incorporate provisions reflecting recent changes in Federal statute. This action also proposes to amend FHWA's regulation on contract procedures by incorporating into it provisions regarding overruns in contract time for Federal-aid projects that are currently set forth in the project agreement regulations.

Timetable:

Action	Date	FR Cite
NPRM	01/30/96	61 FR 2973
NPRM Comment Period End	04/01/96	
Final Action	02/14/97	62 FR 6869
Final Action Effective	03/17/97	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 04/01/97

Agency Contact: Jack Wasley, Federal-Aid Program Branch, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4658

RIN: 2125–AD58

DOT—FHWA

Completed Actions

2440. HIGHWAY BEAUTIFICATION: AMENDMENTS OF DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 131; 23 USC 315; 49 USC 1651

CFR Citation: 23 CFR 750.304; 23 CFR 750, subpart E

Legal Deadline: None

Abstract: The FHWA is suspending its proposal for rulemaking action deleting subpart E of 23 USC 750 in order to be able to accommodate possible changes effected by the reauthorization of ISTEA. Subpart E sets forth the procedures by which a State may seek an exemption from the acquisition requirements of 23 USC 131 for signs giving directional information about goods and services in the interest of the traveling public. The deletion of this subpart in its entirety would be consistent with the Dire Emergency Supplemental Appropriations Act of 1992. The Dire Emergency Act amended 23 USC 131(n) and made the expenditure of section 104 funds for the purpose of acquiring and removing nonconforming signs entirely discretionary with the States. This means that a State may use Federal-aid funds to acquire nonconforming signs but if it chooses not to do so, there is no risk of penalty. The principal benefit in repealing this subpart would be that it eliminates a regulation that has become obsolete due to later Federal legislative action.

Timetable:

Action	Date	FR Cite
Action Terminated	07/22/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Future action on this item will be handled under RIN 2125-AD24

Agency Contact: Robert A. Johnson, Chief, Program Services Division, Office of Real Estate Services, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2020

RIN: 2125–AD88

2441. PROCEDURES FOR ABATEMENT OF HIGHWAY TRAFFIC NOISE AND CONSTRUCTION NOISE

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-59; 23 USC 109(h); 23 USC 109(i); 42 USC 4331; 42 USC 4332

CFR Citation: 23 CFR 772

Legal Deadline: None

Abstract: This action revises the FHWA regulation that allows Federal participation for Type II noise abatement projects. Type II projects are proposed Federal or Federal-aid highway projects for noise abatement on an existing highway. This revision will make the regulation consistent with the National Highway System Designation Act of 1995, Pub. L. 104-59, 109 Stat. 605.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/29/96	61 FR 45319
Effective Date	09/30/96	
Comment Period End	11/27/96	
Final Action	08/30/97	62 FR 42903
Final Action Effective	09/30/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The FHWA has determined that prior notice and opportunity for comment are unnecessary under 5 U.S.C. 553(b)(3) because this action, in amending FHWA's regulation on highway traffic noise to restrict Federal participation in Type II abatement, does not impose any new obligation or requirement on States.

Agency Contact: Robert Armstrong, Office of Environment and Planning, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2073

RIN: 2125–AD97

2442. COMPENSATED INTERCORPORATE HAULING

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 13505

CFR Citation: 49 CFR 369

Legal Deadline: None

Abstract: This action removes the regulation that delineates the scope and notice filing requirements of the statutory exemption for compensated intercorporate hauling. Section 103 of the ICC Termination Act removed the requirement that a notice be filed before initiation of compensated intercorporate hauling operations. Removal of the regulation is consistent with the overall intent of the ICC Termination Act to eliminate unnecessary regulation.

Timetable:

Action	Date	FR Cite
NPRM	10/21/96	61 FR 54711
NPRM Comment Period End	12/20/96	
Final Action	07/16/97	62 FR 38034

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Vining, Department of Transportation, Federal Highway Administration, 400 VA Avenue SW., Suite 600, Washington, DC 20024
Phone: 202 358-7028

RIN: 2125–AE02

2443. EXEMPTION FROM NOTICE FILING REQUIREMENTS FOR AGRICULTURAL COOPERATIVE ASSOCIATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 13506

CFR Citation: 49 CFR 372

Legal Deadline: None

Abstract: The FHWA is removing the regulation that specifies the notice filing requirements for agricultural cooperative associations which conduct compensated operations for nonmembers. These operations are exempt from regulation if certain statutory limitations on their scope are observed. Section 103 of the ICC Termination Act removed the

requirement that a notice be filed before initiation of operations under the exemption. Removal of the regulation would reflect this statutory change and is consistent with the overall intent of the ICC Termination Act to eliminate unnecessary regulation.

Timetable:

Action	Date	FR Cite
NPRM	10/21/96	61 FR 54712
NPRM Comment Period End	12/20/96	
Final Action	07/16/97	62 FR 38035

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas T. Vining, Office of Motor Carrier Information Analysis, Department of Transportation, Federal Highway Administration, 400 VA Avenue SW., Suite 600, Washington, DC 20024
Phone: 202 358-7028

RIN: 2125–AE03

2444. TRUCK SIZE AND WEIGHT; NATIONAL NETWORK; NORTH CAROLINA

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 127; 23 USC 315; 49 USC 31111 to 31115

CFR Citation: 23 CFR 658

Legal Deadline: None

Abstract: The FHWA has modified the National Network for Commercial Motor Vehicles by adding a route in North Carolina as requested by the State of North Carolina. This twenty mile segment was reviewed by State and FHWA offices for general adherence to the criteria of 23 CFR 658.9 and found to provide for the safe operation of larger commercial vehicles and for the needs of interstate commerce.

Timetable:

Action	Date	FR Cite
NPRM	10/21/96	61 FR 54588
NPRM Comment Period End	12/20/96	
Final Action	06/05/97	62 FR 30757

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Klimek, Office of Motor Carrier Info. Management, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2976

RIN: 2125–AE04

2445. MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS OF PROPERTY; GENERAL DEFINITIONS; HOURS OF SERVICE OF DRIVERS; CORRECTING AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31138; 49 USC 31139

CFR Citation: 49 CFR 387; 49 CFR 390; 49 CFR 395; 49 CFR 1.48

Legal Deadline: None

Abstract: In this action, the FHWA makes three technical amendments to Federal motor carrier safety regulations: (1) a definition of the term "State" is being added to 49 CFR 387.5, the financial responsibility regulations for motor carriers of property; (2) the definition of farm-to-market agricultural transportation is being removed because it is unnecessary; and (3) finally, this action clarifies the intent to require a CMV driver to show either the number assigned by the motor carrier or the license number and licensing State of each CMV operated during a 24-hour period on his/her record of duty status.

Timetable:

Action	Date	FR Cite
Final Action	04/08/97	62 FR 16707

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This action was issued as a final rule because the FHWA believes that prior notice and opportunity for comment on these amendments are unnecessary. The changes being made by this rule are technical changes not making any substantive change in these regulations.

Agency Contact: Peter C. Chandler, Office of Motor Carriers Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington DC 20590
Phone: 202 366-5763

RIN: 2125–AE07

2446. TRUCK SIZE AND WEIGHT; TECHNICAL CORRECTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 127; 23 USC 141; 49 USC 31111 to 31114; PL 95-599, sec 123, 92 Stat 2689; PL 102-240, 105 Stat 1914

CFR Citation: 23 CFR 657; 23 CFR 658

Legal Deadline: None

Abstract: In this action, the FHWA is amending the truck size and weight limit regulations to incorporate statutory changes made by the National Highway System Designation Act of 1995 and to correct or clarify existing requirements. Changes with regard to either length or weight limitations for commercial motor vehicles (CMVs) on the Interstate system will impact the the following States: Alaska, Arizona, Nebraska, South Dakota, Iowa, Oregon, Michigan, Missouri, Wisconsin and Pennsylvania.

In addition, the regulations are being amended to reflect changes mandated by the NHS Act to an exemption pertaining to axle weight limitations for intrastate public transit buses when operating on the Interstate system. The new exemption does not indicate that transit buses are exempt from axle weight limits, only that the FHWA may not impose financial sanctions on States that allow transit buses with axle weights in excess of Federal limits to operate on the Interstate System.

Finally, technical changes are being made to clarify the "overhang" regulations for automobile transporters, to clarify what citations or civil assessments must be reported by the States in their annual certifications, and to update statutory references.

Timetable:

Action	Date	FR Cite
Final Action, Technical Corrections	03/05/97	62 FR 10178

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This action is being issued as a final rule due to the technical nature of this rulemaking.

Agency Contact: Thomas Klimek, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington DC 20590
Phone: 202 366-1354

RIN: 2125–AE08

2447. MOTOR CARRIER ROUTING REGULATIONS; DISPOSITION OF LOSS AND DAMAGE CLAIMS AND PROCESSING SALVAGE; PRESERVATION OF RECORDS

Priority: Info./Admin./Other

Legal Authority: PL 104-88, sec 204

CFR Citation: 49 CFR 370; 49 CFR 356; 49 CFR 379

Legal Deadline: None

Abstract: This final rule which adds to 49 CFR, chapter III certain motor carrier regulations, also codified in 49 CFR, chapter X, which involve functions delegated to both the FHWA and the Surface Transportation Board under the ICC Termination Act of 1995. These regulations govern motor carrier routing, processing of claims for loss and damage, and preservation of records. The rules make no substantive changes to the chapter X regulations but do contain technical changes to reflect FHWA jurisdiction and updated statutory and regulatory references.

Timetable:

Action	Date	FR Cite
Final Action	06/12/97	62 FR 32040

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Falk, Trial Attorney, Department of Transportation, Federal Highway Administration, 400 Seventh Steet SW., Washington, DC 20590
Phone: 202 366-1384

RIN: 2125–AE10

2448. TECHNICAL AMENDMENTS TO FORMER INTERSTATE COMMERCE COMMISSION REGULATIONS IN ACCORDANCE WITH THE ICC TERMINATION ACT

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-88, sec 204

CFR Citation: 49 CFR 367; 49 CFR 368; 49 CFR 371; 49 CFR 372; 49 CFR 373; 49 CFR 374; 49 CFR 376; 49 CFR 377; 49 CFR 378

Legal Deadline: None

Abstract: This document makes technical amendments to former Interstate Commerce Commission (ICC) regulations which were transferred to the Secretary of Transportation and the FHWA.

Timetable:

Action	Date	FR Cite
Final Action	04/01/97	62 FR 15417
Final Action, Technical Amendments	06/12/97	62 FR 32040

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The FHWA believes that prior notice and opportunity for comment are unnecessary because this rule merely replaces outdated language with terms consistent with current statutory authority and codifies the transfer of regulatory responsibilities from the ICC to the DOT.

Agency Contact: Michael J. Falk, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1384

RIN: 2125–AE12

2449. • COMMERCIAL DRIVER'S LICENSE PROGRAM AND CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING; CONFORMING AND TECHNICAL AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 504; 49 USC 31133; 49 USC 31136; 49 USC 31301 et seq; 49 USC 31502; 49 USC 104; 49 USC 501 et seq; 49 USC 31101 et seq; 49 USC 31138; 49 USC 31139

CFR Citation: 49 CFR 355; 49 CFR 382; 49 CFR 383; 49 CFR 384; 49 CFR 389; 49 CFR 391; 49 CFR 392; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA is making technical amendments to its regulations regarding physical qualifications and examinations for interstate drivers and controlled substance testing for drivers under the commercial driver's license program. The amendments are necessary to correct minor errors and to remove obsolete regulations. This final rule will clarify the agency's statutory authorities and will provide current applicable controlled substances testing regulations. Because this final rule simply makes minor edits to the FHWA's regulations to conform them to various USC citations and to remove obsolete regulations, the FHWA believes that prior notice and opportunity to comment are not required under 5 USC 553(b)(3)(B).

Timetable:

Action	Date	FR Cite
Final Action; Technical Amendments	07/11/97	62 FR 37150
Final Action Effective	08/11/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Snider, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington DC 20590
Phone: 202 366-6121

RIN: 2125–AE16

DEPARTMENT OF TRANSPORTATION (DOT)

Prerule Stage

National Highway Traffic Safety Administration (NHTSA)

2450. REVIEW: LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: Standard 108 requires passenger cars sold after October 1, 1985, to be equipped with center high-mounted stop lamps (CHMSLs). NHTSA undertook a staff evaluation of the safety effectiveness, benefits, and cost of CHMSLs. A preliminary report was published in March 1987 and an interim report in August 1989.

Timetable:

Action	Date	FR Cite
Preliminary Evaluation Report Published	03/20/87	52 FR 9609

DOT—NHTSA

Prerule Stage

Action	Date	FR Cite
Interim Evaluation Report Published	08/04/89	54 FR 32153
Interim Evaluation Report Comments Reviewed and Docketed	02/21/90	
Complete Review	06/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The evaluation report indicated that cars equipped with center high-mounted stop lamps were 17 percent less likely to be struck in the rear while braking than cars without the lamps.

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560
Fax: 202 366-2559

RIN: 2127–AB76

2451. REVIEW: PASSENGER-CAR BACK SEAT OCCUPANT PROTECTION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: Federal Motor Vehicle Safety Standard No. 208 requires passenger cars manufactured after December 11, 1989, to have Type 2 (lap-and-shoulder) belts at the rear outboard seats. The agency will analyze the actual on-the-road experience of vehicles equipped with lap-and-shoulder belts in the rear seats to measure the reduction of fatalities and injuries relative to cars equipped only with lap belts. The regulation was selected for review because of public interest.

Timetable:

Action	Date	FR Cite
Begin Review	07/01/93	
Complete Review	09/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560
Fax: 202 366-2559

RIN: 2127–AE95

2452. REVIEW: ODOMETER FRAUD

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 580

Legal Deadline: None

Abstract: This review involves analysis of the incident rates and costs of odometer fraud and an assessment of state and Federal efforts to combat odometer fraud. To complete this review, the agency has requested permission to collect a sample of odometer readings of registered passenger cars that are less than 10 years old from vehicle dealers, distributors, vehicle title files, and state Department of Motor Vehicle agencies. The Office of Management and Budget is soliciting public comments on the proposed collection of this information. Congress has directed the agency to conduct this review.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/95	
Request for Comment	09/23/96	61 FR 49809
Comment Period End	11/11/96	
Request for Comment	06/06/97	62 FR 31186
Comment Period End	07/07/97	
Complete Review	06/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560
Fax: 202 366-2559

RIN: 2127–AF53

2453. REVIEW: THEFT PREVENTION—5-YEAR REPORT TO CONGRESS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 33112; 49 USC 33113(b)

CFR Citation: 49 CFR 541

Legal Deadline:
Other, Statutory, October 25, 1997, The Anti Car Theft Act of 1992 was enacted on October 25 1992.

Abstract: The standard requires certain passenger motor vehicles have identifying numbers or symbols to be placed on major parts to reduce the incidence of motor vehicle thefts by facilitating the tracking and recovering of parts from stolen vehicles. Five years after enactment of the Anti Car Theft Act of 1992, the Secretary of Transportation shall submit to congress a report on the effects of the standard on motor vehicle thefts and recoveries. The agency seeks public review and comment on this preliminary report prior to its submission to Congress. The report does not contain recommendations at this time. The department will develop recommendations after a review of public comments.

Timetable:

Action	Date	FR Cite
Preliminary Evaluation Report	06/26/97	62 FR 34494
Begin Review	06/26/97	62 FR 34494
Comment Period End	08/11/97	
Complete Review	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The preliminary report indicated that theft rates, which increased during the 1980's, leveled off or even began to decline after 1989–90. Recovery rates changed little during 1984–95. Preliminary indications are that parts marking and anti-theft devices have had beneficial effects on auto thefts and/or recoveries. The provisions of the 1984 and 1992 Theft Acts along with parts marking and anti-theft devices have given law enforcement tools to deter thefts, trace stolen vehicles and parts, and apprehend and convict thieves.

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560
Fax: 202 366-2559

RIN: 2127–AF55

DOT—NHTSA

Prerule Stage

2454. ADD-ON SEAT BELT DEVICES (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is requesting comments to determine real world problems caused by after-market (add-on) seat belt devices and how these devices should be tested. Petition was granted. As part of this action, a small entities review under 5 USC section 610 will be included

Timetable:

Action	Date	FR Cite
Request for Comments	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4919
Fax: 202 366-4329

RIN: 2127–AG49

2455. +LIGHT TRUCK FUEL ECONOMY STANDARDS FOR MODEL YEARS 2000-2002

Priority: Other Significant

Legal Authority: 49 USC 329

CFR Citation: 49 CFR 533

Legal Deadline:
Final, Statutory, March 31, 1998.

Abstract: The agency is proposing to establish fuel economy standards for light trucks for each model year 2000 to 2002.

Timetable:

Action	Date	FR Cite
Request for Comments	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The statutory date requires that a standard be issued at least 18 months before the start of the affected model year. The March 31, 1998, date applies to Model Year 2000.

Agency Contact: Orron Kee, Division Chief, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0846
Fax: 202 493-2739

RIN: 2127–AG72

2456. • REVIEW: CHILD SAFETY SEAT REGISTRATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: This evaluation involves analysis of the effectiveness of registering child safety seats to increase response to reports of faulty seats. This regulation was selected for review because of public interest in child passenger safety.

Timetable:

Action	Date	FR Cite
Begin Review	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560
Fax: 202 366-2559

RIN: 2127–AG93

DEPARTMENT OF TRANSPORTATION (DOT)

National Highway Traffic Safety Administration (NHTSA)

Proposed Rule Stage

2457. +WHEELCHAIR LIFTS

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: This action would establish new requirements for wheelchair lifts used on motor vehicles. The benefits of this action is a reduction in the number of accidents involving wheelchair lifts (these are not crashes). This action is considered significant due to substantial public interest in transportation of the handicapped.

Timetable:

Action	Date	FR Cite
NPRM	02/26/93	58 FR 11562
NPRM Comment Period End	04/27/93	
SNPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/26/93 (58 FR 11562)

Agency Contact: Gayle Dalrymple, Safety Standards Engineer, Office of Crash Avoidance, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6559
Fax: 202 366-4329

RIN: 2127–AD50

2458. SEAT ADJUSTMENT POSITION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.210

Legal Deadline: None

Abstract: The agency solicited comments on a proposal to amend the performance requirements of the

standard to provide that the lap belt angle would be measured for rear adjustable seats with the seats in the rearmost adjustment position. This proposal is intended to resolve ambiguities regarding the seat adjustment position for the current requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/04/91	56 FR 63473
Correction	12/17/91	56 FR 65541
NPRM Comment Period End	02/03/92	
SNPRM	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/04/91 (56 FR 63473)

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4931
Fax: 202 366-4329

RIN: 2127–AE22

2459. TIRES ON NEW TRAILERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.120

Legal Deadline: None

Abstract: In response to a petition for rulemaking, this action is soliciting comments to assist the agency in determining whether to permit the installation of manufacturer-supplied retreaded tires on new trailers. The current requirement states that used or retreaded tires may be installed on new trucks, buses, and trailers only if owned and provided by the vehicle purchaser. Petition was granted.

Timetable:

Action	Date	FR Cite
ANPRM	06/01/95	60 FR 28561
ANPRM Comment Period End	09/29/95	
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Soodoo, Group Leader, Vehicle Dynamics Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5274
Fax: 202 366-4329

RIN: 2127–AF05

2460. UPGRADE PERFORMANCE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.301

Legal Deadline: None

Abstract: This action announces the agency's plan to consider upgrading the standard by making the current crash requirements more stringent and by broadening the standard's focus to include mitigation concepts related to fuel system components and environmental and aging tests related to components. This action also requests comments on the agency's plan to explore a three-phase approach to upgrading the standard, data, methods, and strategies which may assist in the agency's regulatory decisions in defining specific requirements and test procedures for upgrading the standard.

Timetable:

Action	Date	FR Cite
Request for Comments by 2/12/93	12/14/92	57 FR 59041
ANPRM	04/12/95	60 FR 18566
ANPRM Comment Period End	06/12/95	
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This action will respond to RIN 2127-AE83.

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4919
Fax: 202 366-4329

RIN: 2127–AF36

2461. ALTERNATIVE GEOMETRIC VISIBILITY REQUIREMENTS FOR LAMPS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to harmonize the lighting standard's geometric visibility requirements for signal lamps and rear side marker color with those of the ECE. Harmonization of the standard worldwide, without reducing safety, would allow manufacturers to reduce costs by producing to a single world vehicle standard rather than several, thus reducing costs and improving the flow of trade.

Timetable:

Action	Date	FR Cite
NPRM	10/26/95	60 FR 54833
Comment Period Extended to 05/16/96	12/27/95	60 FR 66953
NPRM Comment Period End	05/16/96	
SNPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/26/95 (60 FR 54833)

Additional Information: On February 27, 1997 (62 FR 8883), the agency terminated rulemaking in which the agency had asked for comments on whether the performance and installation of front and rear fog lamps should be regulated. In response to these comments, the SAE has established a Fog Lamp Task Force to develop an internationally-acceptable fog lamp standard, on which a Federal standard could be based. The agency is continuing to review comments on the other issues stated in the October 26, 1995, notice.

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AF75

2462. SEALED BEAM HEADLAMPS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, the agency is proposing to remove certain sealed beam headlamp requirements in the standard. Manufacturers will no longer have to petition for rulemaking to change the specifications of sealed beam lamps. This will result in an administratively restructured and clarified section of the standard dealing exclusively with headlamp requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: In the October 1996 agenda, this action incorrectly indicated that an NPRM had been published.

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AF89

2463. +FEDERAL MOTOR VEHICLE SAFETY STANDARDS: HEAD IMPACT PROTECTION

Regulatory Plan: This entry is Seq. No. 98 in Part II of this issue of the Federal Register.

RIN: 2127–AG07

2464. +UPGRADED REQUEST FOR AIRCRAFT-CERTIFIED CHILD SEATS

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: The agency intends to upgrade the requirements for child seats certified for use on aircraft. It would require child restraints certified for use on aircraft to meet compatibility (fit) requirements and to meet performance criteria when sled tested under conditions more representative of the aircraft environment. This action is considered significant because of the substantial public interest in issues involving child seats on aircraft and because of special interest to another modal Administration.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh St. SW., Washington, DC 20590
Phone: 202 366-4919
Fax: 202 366-4329

RIN: 2127–AG12

2465. HYBRID III DUMMY SPECIFICATIONS—CLOTHING

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: The agency proposes to clarify the Hybrid III dummy clothing and shoes specifications that are to be worn during testing, define an opening in the femur flesh, and the use of the lumbar spine load cell.

Timetable:

Action	Date	FR Cite
NPRM	08/07/97	62 FR 42469
NPRM Comment Period End	10/06/97	
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/07/97 (62 FR 42469)

Agency Contact: Stanley Backaitis, Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4912
Fax: 202 366-4329

RIN: 2127–AG39

2466. MODIFIED VEHICLES TO ACCOMMODATE A PERSON'S DISABILITY (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30122(c)

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: The agency is proposing to establish new conditions under which a vehicle may be modified to accommodate a person's disability so that the modifier will not be subjected to the statutory prohibition against the "making inoperative" requirements. As part of this action, a small entities review under 5 USC Section 610 will be included.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gayle Dalrymple, Safety Engineer, Rollover and Adapted Vehicle Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC, 20590
Phone: 202 366-5559
Fax: 202 366-4329

RIN: 2127–AG40

2467. CONVEX CROSS VIEW MIRRORS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.111

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is requesting comments on the issue of rear mounted cross view mirrors on light and medium duty trucks for the purpose of eliminating the blind spot directly behind the vehicle. The petitioner requested that these mirrors be mandated to eliminate backing accidents where children could be seriously injured or killed. Petition was granted.

Timetable:

Action	Date	FR Cite
Request for Comments	06/17/96	61 FR 30586
Comment Period End	10/15/96	
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Control Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AG41

2468. REMOVE OBSOLETE PROVISIONS TO OCCUPANT CRASH STANDARD

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 20117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: In response to the President's Regulatory Reinvention Initiative, the agency is proposing to revise its occupant crash protection standard to remove obsolete provisions and to reorganize the standard. This revision would substantially clarify and simplify this safety standard without changing any of its substantive requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Action 2127-AG29 is being combined into this action.

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4916
Fax: 202 366-4329

RIN: 2127–AG42

2469. UPGRADE ROOF CRASHWORTHINESS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.216

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering whether to upgrade the roof crashworthiness particularly since a larger percentage of American vehicles consist of light duty and utility vehicles, a class of vehicles more prone to rollover accidents. Petition was granted.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4916
Fax: 202 366-4329

RIN: 2127–AG51

2470. UTILITY VEHICLE LABEL

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 575.105

Legal Deadline: None

Abstract: The agency is proposing to revise the content and format of the utility vehicle label requirements for multipurpose passenger vehicles with a wheelbase of 110 inches or less to improve the effectiveness of the label. The agency may also propose changes in the type of vehicles to which the requirement applies.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Versailles, Office of Planning and Consumer Programs, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2057
Fax: 202 366-4329

RIN: 2127–AG53

2471. CERTIFICATION LABELS FOR MULTIPURPOSE PASSENGER VEHICLES AND LIGHT DUTY TRUCKS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 33101; 49 USC 33102; 49 USC 33103; 49 USC 33104

CFR Citation: 49 CFR 567

Legal Deadline: None

Abstract: The agency is proposing to amend the vehicle certification regulation that specifies the contents of certification labels that manufacturers are required to affix to new motor vehicles. The amendment would require the certification label for multipurpose passenger vehicles and trucks with a gross vehicle weight rating of not more than 6,000 pounds to specify that the vehicle complies with all applicable Federal motor vehicle safety and theft prevention standards. The current regulation only requires a statement of compliance with safety standards. The Anti Car Theft Act of 1992 extended the theft prevention standard to multipurpose passenger vehicles and trucks rated at not more than 6,000 pounds.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Coleman Sachs, Trial Attorney, Office of Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5263

RIN: 2127–AG65

2472. FIFTH PERCENTILE FEMALE DUMMY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: The agency is proposing to adopt the Hybrid III small female size dummy. The notice will specify instrumentation, calibration test procedures, and calibration performance criteria for the Hybrid III small female.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This rulemaking action is an additional part of the Adverse Side Effects of Air Bags (RIN 2127-AG14).

Agency Contact: Stanley Backaitis, Principal Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh St. SW., Washington, DC 20590
Phone: 202 366-4912
Fax: 202 366-4329

RIN: 2127–AG66

2473. CONSUMER INFORMATION ON TIRE GRADING

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30123

CFR Citation: 49 CFR 575

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to eliminate the requirement that new car manufacturers provide their dealers consumer information on the tire grading of new car tires. This action will alleviate a paperwork burden on automobile manufacturers and dealers that has little benefit to consumers.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: P. L. Moore, Standards Engineer, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5222
Fax: 202 366-4327

RIN: 2127–AG67

2474. +ADVANCED AIR BAGS

Regulatory Plan: This entry is Seq. No. 97 in Part II of this issue of the Federal Register.

RIN: 2127–AG70

2475. ANTHROPOMORPHIC TEST DUMMY FOR HEAD IMPACT PROTECTION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: The agency is proposing specifications for a new anthropomorphic test dummy to be used in new test procedures being proposed in amendments to Federal Motor Vehicle Safety Standard No. 201, Head Protection in Interior Impact (2127-AG07). The new test dummy and procedures are being proposed to facilitate the introduction of new technologies in dynamic restraint systems to provide occupants with side impact protection.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stanley Backaitis, Principal Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4912
Fax: 202 366-4329

RIN: 2127–AG74

2476. • ADVANCED AIR BAG DUMMY RULE FOR HYBRID III TYPE 6-YEAR-OLD-SIZE

Priority: Substantive, Nonsignificant

Legal Authority: 49 CFR 322; 49 CFR 30111; 49 CFR 30115; 49 CFR 30117; 49 CFR 30166

CFR Citation: 49 CFR 572; 49 CFR 571.208; 49 CFR 571.213

Legal Deadline: None

Abstract: The agency is proposing specifications for a new Hybrid III type 6-year-old-size test dummy for possible use in test procedures being proposed in amendments to Federal Motor Vehicle Safety Standard Nos. 208 and 213. The new test dummy and procedures are being proposed to facilitate the development and introduction of new advanced air bags and other types of advanced restraints technologies for crash protection of mid-size children in a variety of automobile crash impacts.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stanley Backaitis, Principal Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway

Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4912
Fax: 202 366-4329

RIN: 2127–AG76

2477. • ADVANCED AIR BAG DUMMY RULE FOR HYBRID III TYPE 3-YEAR-OLD-SIZE

Priority: Substantive, Nonsignificant

Legal Authority: 49 CFR 322; 49 CFR 30111; 49 CFR 30115; 49 CFR 30117; 49 CFR 30166

CFR Citation: 49 CFR 572; 49 CFR 571.208; 49 CFR 571.213

Legal Deadline: None

Abstract: The agency is proposing specifications for a new Hybrid III type 3-year-old-size test dummy for possible use in test procedures being proposed in amendments to Federal Motor Vehicle Safety Standard Nos. 208 and 213. The new test dummy and procedures are being proposed to facilitate the development and introduction of new advanced air bags and other types of advanced restraints technologies for crash protection of smaller size children in a variety of automobile crash impacts.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stanley Backaitis, Principal Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4912
Fax: 202 366-4329

RIN: 2127–AG77

2478. • ADVANCED AIR BAG DUMMY RULE FOR CRABI 12 MONTH OLD SIZE

Priority: Substantive, Nonsignificant

Legal Authority: 49 CFR 322; 49 CFR 30111; 49 CFR 30115; 49 CFR 30117; 49 CFR 30166

CFR Citation: 49 CFR 572; 49 CFR 571.208; 49 CFR 571.213

Legal Deadline: None

Abstract: The agency is proposing specifications for a new CRABI 12 month old size test dummy for possible use in test procedures being proposed in amendments to Federal Motor Vehicle Safety Standard Nos. 208 and 213. The new test dummy and procedures are being proposed to facilitate the development and introduction of new advanced air bags and other types of advanced forward and rearward facing child restraints technologies, as well as, protection of smaller size children in car beds in a variety of automobile crash impacts.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stanley Backaitis, Principal Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AG78

2479. • DIODES USED ON SCHOOL BUS STOP SIGNAL ARMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 CFR 322; 49 CFR 30111; 49 CFR 30115; 49 CFR 30117; 49 CFR 30166

CFR Citation: 49 CFR 571.131

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency proposes to amend the standard with respect to the conspicuity requirements for stop signal arms. Specifically, the amendment would permit the use of light emitting diodes (LEDs). Such an amendment would allow States and local jurisdictions to purchase stop signal arms with these types of lamps.

Timetable:

Action	Date	FR Cite
NPRM	07/06/97	62 FR 42226
NPRM Comment Period End	10/06/97	
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/06/97 (62 FR 42226)

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AG81

2480. • MOTORCYCLE HEADLAMP LOCATION REQUIREMENT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to amend the lighting standard to remove the design restriction on the location of headlamps if the motorcycle voluntarily is equipped with two headlamps instead of one headlamp. Petition was granted.

Timetable:

Action	Date	FR Cite
NPRM	09/09/97	62 FR 47414
Comment Period End	10/24/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Control Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AG84

2481. • GLARE REDUCTION FROM DAYTIME RUNNING LAMPS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: Complaints of glare from optionally installed, original equipment daytime running lamps are numerous. Even though limits on glare intensity exist for these lamps, the volume of complaints implies that the achieved intensities by some types of these lamps are still too high. In order to minimize complaints of glare, the agency plans to propose establishing lower maximum intensity values for the more intense types of lamps.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Control Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AG86

2482. • ADMINISTRATIVE REWRITE AND REFERENCE UPDATE TO THE LIGHTING STANDARD

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: The agency is proposing to rewrite the lighting standard. The rewrite will segregate the performance requirements by lamp/device type and will provide a complete listing of performance requirements, referring to referenced documents, solely for test procedures. The rewrite will also include reference to the most current versions of industry consensus standards. The rewrite is important because of the standard's age and numerous amendments which have made it difficult to read and interpret. The revised standard should reduce burden especially to small manufacturers because of improved clarity.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Control Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AG87

2483. • SIGNAL LAMPS USED WITH LIGHT EMITTING DIODES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to revise the requirements for signal lamps equipped with 3 or more light emitting diodes (LED). The current requirements have become design restrictive and a service burden for vehicle and signal lamp manufacturers.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Control Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AG88

2484. • RETARDERS AND STOP LIGHTS OPERATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: The agency plans to propose requiring stop lamp illumination during the operation of a retarder system. A retarder is a supplementary braking system that is independent from the service brakes. Retarders are increasingly being used as a wear-free additional braking system on buses, trucks and heavy-duty vehicles. Currently, there is no requirement that the stop lamps be illuminated to indicate that the vehicle is decelerating as a result of retarder operation. The lack of a clear indication of braking represents an increase in risk of a rear-end crash to any trailing driver. The agency believes that the lack of a brake warning signal during retarder operation (braking) is a safety issue that needs to be addressed.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Control Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AG89

2485. • STATE ISSUED IDENTIFICATION DOCUMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-208, sec 656

CFR Citation: 23 CFR 1325

Legal Deadline: None

Abstract: The agency is proposing to accept; for identification purposes, State issued drivers licenses or comparable identification documents that meet certain criteria set forth in this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: William Holden, Division Chief, Driver Register and Traffic Records Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4800
Fax: 202 366-2746

RIN: 2127–AG91

DOT—NHTSA

Proposed Rule Stage

2486. • MOTORCYCLE MOUNTED REFLEX REFLECTOR HEIGHT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering allowing a lower minimum mounting height for side reflex reflectors on motorcycles. The intent is to harmonize United States lighting safety standards with European and Asian reflector position regulations and improve the flow of trade by creating "windows of harmonization" that will allow manufacturers to market "common" vehicles in global markets.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Control Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AG92

DEPARTMENT OF TRANSPORTATION (DOT)

Final Rule Stage

National Highway Traffic Safety Administration (NHTSA)

2487. TRUCK REAR UNDERRIDE PROTECTION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.223; 49 CFR 571.224

Legal Deadline: None

Abstract: This action establishes two Federal Motor Vehicle Safety Standards which will operate together to reduce the number of injuries and fatalities resulting from the collision of passenger vehicles with the rear end of heavy trailers and semitrailers. The first is Standard No. 223, Rear Guards, or the "equipment standard" which specifies performance requirements that rear impact guards must meet before they can be installed on new trailers and semitrailers. It specifies strength requirements as well as test procedures to be used for compliance. The second is Standard No. 224, Rear Impact Protection, or the "vehicle standard" which requires that most new trailers and semitrailers with a Gross Vehicle Weight Rating of 10,000 lbs. or more be equipped with a rear impact guard meeting the equipment standard, requirements for the location, and requirements that the guard be mounted on the trailer or semitrailer in accordance with the instructions of the guard manufacturer.

Timetable:

Action	Date	FR Cite
NPRM	01/08/81	46 FR 21361
NPRM Comment Period End	04/08/81	
Comment Period End 03/04/92	01/03/92	57 FR 252
Comment Period Extended to 6/08/92	04/09/92	57 FR 12289
Final Rule Effective 01/26/96	01/24/96	61 FR 2003
Petitions Due	03/11/96	
Action on Petitions	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/24/96 (61 FR 2004)

Additional Information: Docket No. 1-11. NPRM, Notice 8. The agency is reviewing six petitions for reconsideration concerning several issues.

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AA43

2488. +REDUCE HEAD INJURIES DUE TO CONTACT WITH UPPER VEHICLE INTERIOR

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.201; 49 CFR 571.205; 49 CFR 571.206; 49 CFR 571.214

Legal Deadline:
NPRM, Statutory, January 31, 1993.
Final, Statutory, February 28, 1995.

Abstract: This action requires passenger cars, trucks, buses, and multipurpose passenger vehicles with a gross vehicle weight rating of 10,000 pounds or less, to provide protection when an occupant's head strikes upper interior components, including pillars, side rails, headers, and the roof, during a crash. This amendment adds procedures and performance requirements for a new in-vehicle component test. Insofar as this rulemaking applies to passenger cars, it is required by the NHTSA Authorization Act of 1991. This action is considered significant because of safety and cost implications (60 FR 43031). In response to petitions for reconsideration of this final rule, the agency is including another phase-in option, allowing manufacturers to carry forward credits for vehicles certified to the new requirements prior to the beginning of the phase-in period, excluding buses with a GVWR of more than 8,500 pounds, specifying that all attachments to the upper interior components are to remain in place during compliance testing, and making other changes to the test procedure clarifying some areas of confusion.

Timetable:

Action	Date	FR Cite
ANPRM	08/19/88	53 FR 31712
ANPRM Comment Period End	10/18/88	
Notice of Intent	08/05/92	57 FR 24008
NPRM	02/08/93	58 FR 7506
NPRM Comment Period End	04/09/93	

DOT—NHTSA

Final Rule Stage

Action	Date	FR Cite
Final Rule Effective 09/18/95	08/18/95	60 FR 43031
Petitions Due	09/18/95	
Action on Petitions	04/08/97	62 FR 16718
Petitions Due	05/23/97	
Action on Petitions	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/08/97 (62 FR 16718)

Additional Information: This entry was formerly titled: Side-Impact Protection, Head/Neck Protection, and Occupant Ejection Mitigation. The agency published on 10/20/93 (58 FR 54099) a notice of a public hearing and reopened the comment period until 12/01/93. This title has since been revised the second time.

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RIN: 2127–AB85

2489. FUEL SPILLAGE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 552; 49 CFR 571

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency published a proposal to require vehicles equipped with a crossover line connecting dual fuel tanks to comply with requirements that would reduce the likelihood of fuel spillage. Petition was granted. Comments were requested on the difference between the agency's proposed test procedures and requirements and those of the Society of Automotive Engineers. After reviewing these comments, the agency has decided to terminate this rulemaking because the limited safety benefits could not be justified by the costs associated with the proposed requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/17/94	59 FR 25590
NPRM Comment Period End	07/18/94	
To Be Terminated	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/17/94 (59 FR 25590)

Additional Information: This entry was formerly titled Fuel System Integrity, Fuel Spillage.

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RIN: 2127–AC62

2490. BRAKE LINING

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.105

Legal Deadline: None

Abstract: Petitions from R. Grabowsky and American Trucking Association (ATA) requested initiation of rulemaking concerning brake linings (all vehicles and aftermarket). Mr. Grabowsky petitioned relative to stability, friction level, fade, wear, and identification of linings. ATA petitioned relative to friction level and identification of linings for heavy vehicles only. Petitions concerned both performance levels and test procedures, and were granted.

Timetable:

Action	Date	FR Cite
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steve Kratzke, Director, Office of Crash Avoidance Standards, Vehicle Dynamics Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4931
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RIN: 2127–AC66

2491. +FILM TRANSMITTANCE OF GLAZING MATERIALS

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.205

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency proposed to revise the light transmittance requirements to replicate real-world conditions more closely and to measure light transmittance of window glazing in a laboratory test at the angle at which the window is mounted in a vehicle. This proposal also makes the light transmittance requirements consistent with passenger cars and light trucks. This rulemaking is considered significant because of the substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
ANPRM	07/20/89	54 FR 30427
Petition for Rulemaking Granted	07/20/89	54 FR 30427
ANPRM Comment Period End	09/18/89	54 FR 30427
NPRM	01/22/92	57 FR 2496
NPRM Comment Period End	03/23/92	
Comment Period Extended to 05/22/92	03/25/92	57 FR 10327
Correction	04/09/92	57 FR 12286
To Be Terminated	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/22/92 (57 FR 2496)

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AC85

2492. DRIVING RANGE DETERMINATION FOR DUAL FUEL ELECTRIC PASSENGER AUTOMOBILES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 32901; 49 USC 32905; 49 USC 32906

DOT—NHTSA

Final Rule Stage

CFR Citation: 49 CFR 538

Legal Deadline: None

Abstract: After reviewing comments received in response to the September 22, 1994 (59 FR 48589) notice, the agency will set the minimum driving range only for dual fueled electric passenger automobiles, otherwise known as hybrid electric vehicles (HEVs), at 17.7 miles when operating on electricity alone. The purpose of establishing the range is to meet a statutory requirement intended to encourage the production of HEVs. An HEV which meets the range requirement would qualify to have its fuel economy calculated according to a special procedure that would facilitate the efforts of its manufacturer to comply with the corporate average fuel economy standard. The agency has also proposed to establish a procedure through which manufacturers of HEVs that do not meet the minimum driving range requirements may petition the agency for relief.

Timetable:

Action	Date	FR Cite
Request for Comments by 11/24/94	09/22/94	59 FR 48589
NPRM	01/03/97	62 FR 375
NPRM Comment Period End	03/04/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/03/97 (62 FR 375)

Agency Contact: Orron Kee, Chief, Motor Vehicle Requirements Division, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AF37

2493. TEST DEVICE PLACEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30111; 49 USC 30168

CFR Citation: 49 CFR 571.216

Legal Deadline: None

Abstract: In response to petitions for rulemaking, the agency has proposed to revise the test procedures to make them more suitable to testing vehicles with highly sloped roofs or raised roofs. This action was taken after reviewing the comments the agency received from the published Request for Comments. Petitions were granted.

Timetable:

Action	Date	FR Cite
Request for Comments Due 2/10/95	12/27/94	59 FR 66504
NPRM	02/27/97	62 FR 8906
NPRM Comment Period End	04/28/97	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/27/97 (62 FR 8906)

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AF40

2494. INCREASE FEMUR FLEXION MOTION OF THE HYBRID III TEST DUMMY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: In response to petitions for rulemaking, this rule has amended the specifications for the Hybrid III test dummy. The dummy is specified by the agency for use in compliance testing under Federal Motor Safety Standard No. 208, Occupant Crash Protection. These amendments make minor modifications of the femurs and ankles to improve biofidelity. While there may be some minimal effect on HIC, chest, and femur test data, the improvement in data quality and reliability will more than offset these differences and make the dummy more useful in tests at more severe impact conditions of some research and vehicle development programs. This rule does not include any amendments based on a proposal to adopt a neck shield for the Hybrid III test dummy.

Timetable:

Action	Date	FR Cite
NPRM	06/30/95	60 FR 34213
NPRM Comment Period End	08/29/95	
Final Action	12/26/96	61 FR 67953
Petitions Due	02/10/97	
Final Action Effective	06/25/97	
Action on Petitions	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/26/96 (61 FR 67953)

Agency Contact: Stanley Backaitis, Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4912
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RIN: 2127–AF41

2495. CYLINDER REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.304

Legal Deadline: None

Abstract: In response to petitions for rulemaking, the agency is proposing to delete the material and manufacturing process requirements for compressed natural gas fuel containers. This proposal is based on the most recent proposed voluntary industry standard. The agency also believes that such an amendment would facilitate technological innovation, without any detriment to safety.

Timetable:

Action	Date	FR Cite
NPRM	05/30/97	62 FR 29323
NPRM Comment Period End	07/14/97	
Final Action	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/30/97 (62 FR 29323)

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4919
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RIN: 2127–AF51

DOT—NHTSA

Final Rule Stage

2496. SEAT BELT EXEMPTION FOR LAW ENFORCEMENT VEHICLES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: In response to a petition for rulemaking, this action provides greater flexibility to design safety belt systems that are better suited for restraining prisoners being transported in the rear seats of law enforcement vehicles.

Timetable:

Action	Date	FR Cite
NPRM	06/13/95	60 FR 31132
NPRM Comment Period End	08/14/95	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/13/95 (60 FR 31132)

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4916
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RIN: 2127–AF66

2497. COLORFASTNESS REQUIREMENTS FOR SEATBELTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.209

Legal Deadline: None

Abstract: In response to the President's Regulatory Reinvention Initiative, this action deletes the colorfastness requirements for seat belt assemblies. The agency concludes that the manufacturers' concerns about public acceptance are sufficient by themselves to ensure that manufacturers will make their belts colorfast. Colorfastness means the safety belt webbing dye will not come off onto clothing.

Timetable:

Action	Date	FR Cite
NPRM	06/19/95	60 FR 31946
NPRM Comment Period End	08/18/95	
Final Rule Effective 06/20/96	05/06/96	61 FR 20170
Petitions Due	06/20/96	
Action on Petitions	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/06/96 (61 FR 20170)

Additional Information: The agency is reviewing two petitions for reconsideration.

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RIN: 2127–AF67

2498. AUTOMATIC DRAIN VALVE FOR AIR RESERVOIR TANKS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 20166

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to require that each air brake-equipped truck, truck tractor, and bus be equipped with a means of automatically removing moisture and contaminants from the air system. The purpose of this proposal is to improve the safety of air-braked vehicles by improving the reliability and durability of antilock braking system (ABS) modulator valves and pneumatic control valves.

Timetable:

Action	Date	FR Cite
Request for Comments	07/24/95	60 FR 37864
Correction	08/17/95	60 FR 42830
NPRM	11/05/96	61 FR 56652
NPRM Comment Period End	01/03/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/04/96 (61 FR 56652)

Agency Contact: George Soodoo, Group Leader, Vehicle Dynamics Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5274
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RIN: 2127–AF72

2499. RESCISSION OF REFLECTING SURFACES REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.107

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, this action proposes to rescind this standard. The agency has tentatively concluded that due to market forces and product liability concerns, the manufacturers will continue to minimize glare causing reflections from vehicle surfaces within the field of view of the driver. Eliminating the standard will remove the need to certify compliance with it. NHTSA believes that the standard can be rescinded without affecting safety.

Timetable:

Action	Date	FR Cite
NPRM	06/26/95	60 FR 32935
Comment Period Extended to 8/25/95	07/25/95	60 FR 37986
Final Rule Effective 5/6/96	03/21/96	61 FR 11587
Petitions Due	05/06/96	
Action on Petitions	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/26/95 (60 FR 32935)

Additional Information: The agency is reviewing two petitions for reconsideration.

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RIN: 2127–AF74

2500. POWER-OPERATED WINDOWS: ROOF PANELS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.118

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering whether to amend the test procedure used to demonstrate compliance by adding an alternative testing specification for non-contact automatic reversal system, in order to provide a more meaningful and realistic method for evaluating the compliance of such systems which do not rely on contact to sense an obstruction. Petition was granted.

Timetable:

Action	Date	FR Cite
NPRM	06/04/96	61 FR 28124
Correction	06/14/96	61 FR 30209
NPRM Comment Period End	08/05/96	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/04/96 (61 FR 28124)

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AF83

2501. VOLUNTARILY-INSTALLED SHOULDER BELTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.210

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is permitting an optional test procedure for the anchorages of a voluntarily-installed shoulder belt on a motor vehicle safety belt. Currently, if a shoulder belt is voluntarily-installed, only the lap belt anchorages are subject to a performance test.

Timetable:

Action	Date	FR Cite
NPRM	05/14/96	61 FR 24265
NPRM Comment Period End	07/15/96	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/14/96 (61 FR 24265)

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4916
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RIN: 2127–AF91

2502. HEAVY DUTY VEHICLE BRAKE SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.105; 49 CFR 571.121

Legal Deadline: None

Abstract: This action responds to petitions for reconsideration of a final rule published December 13, 1995 (60 FR 63965) that amended FMVSS No. 105 and FMVSS No. 121 to require medium and heavy vehicles to be equipped with an antilock brake system (ABS). This action requires continuous power for trailer ABS systems, in place of the dedicated power and separate ground previously required, and delays the implementation date for the in-cab trailer malfunction indicator by four years. This action also extends by three years the period in which exterior ABS failure indicators are required on trailers.

Timetable:

Action	Date	FR Cite
Final Rule Effective 03/01/97	12/13/95	60 FR 63965
Action on Petitions	02/15/96	61 FR 5949
Further Action on Petitions	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/15/96 (61 FR 5949)

Additional Information: RINs 2127-AF97, AF98, and AF99 are consolidated into this action. Compliance dates: Std. No. 121 antilock malfunction signal - March 1, 2001; Std. No. 121 antilock power circuit for towed vehicles - each truck tractor March 1, 1997, and single unit vehicles March 1, 1998; and Std. No. 121 antilock system power trailers - March 1, 1998. The agency is reviewing an additional petition for reconsideration to amend heavy vehicle braking requirements in several areas; including the burnish procedure and test sequence.

Agency Contact: George Soodoo, Group Leader, Vehicle Dynamics Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5274
Fax: 202 366-4329

RIN: 2127–AF96

2503. EXEMPTION FROM REARWARD DISPLACEMENT REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.204

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, this

action proposes to exempt vehicles under 8,500 pounds gross vehicle weight rating (GVWR) from compliance with the rearward displacement requirements of FMVSS No. 204 if they comply with Standard 208 air bag requirements. Standard 208 specifies performance requirements for vehicle occupants and all passenger vehicles below 8,500 pounds GVWR will have air bags by MY 1999, passing this dynamic test should provide the necessary impact protection, in a serious impact. This exemption will save certification costs and second stage manufacturers would benefit from any change.

Timetable:

Action	Date	FR Cite
NPRM	11/16/95	60 FR 57565
NPRM Comment Period End	01/16/96	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/16/95 (60 FR 57565)

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4916
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RIN: 2127–AG01

2504. BRAKE SYSTEM FOR ELECTRIC VEHICLES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.106; 49 CFR 571.135

Legal Deadline: None

Abstract: This action proposes brake requirements for electric vehicles (EVs). The amendments would apply to electric trucks, buses, and multipurpose passenger vehicles. They would also apply to electric passenger cars which had not complied with the option of conforming to Standard No. 135 which will become mandatory on and after September 1, 2000, published February 2, 1995 (60 FR 6411 RIN 2127-AA13). Passenger cars manufactured, including EVs, have the choice of compliance with either braking standard between now and September 1, 2000. At that time, Standard No. 135 will become the sole brake standard that applies to passenger cars. Standard No. 105 will continue to apply to vehicles other than passenger cars. Because EVs are not restricted to passenger cars, and include pickup trucks, vans, and buses, amendments to Standard No. 105 are required to accommodate them.

Timetable:

Action	Date	FR Cite
NPRM	09/26/95	60 FR 49544
NPRM Comment Period End	11/27/95	
Final Rule	09/05/97	62 FR 46907
Final Rule Effective	10/20/97	
Action on Petitions	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/26/95 (60 FR 49544)

Additional Information: This action inadvertently published under RIN 2127-AA13.

Agency Contact: George Soodoo, Group Leader, Vehicle Dynamics Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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Fax: 202 366-4329

RIN: 2127–AG05

2505. AIR BRAKE SYSTEM MALFUNCTION LAMP FOR TRAILERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: This action specifies the location, labeling, color, activation protocol, and photometric intensity of antilock brake system (ABS) malfunction indicator lamps on the exterior of trailers and trailer converter dollies. The purpose of the malfunction indicator lamp is to inform drivers, and maintenance and inspection personnel, of malfunctions in a trailer's ABS.

Timetable:

Action	Date	FR Cite
NPRM	12/13/95	60 FR 64010
NPRM Comment Period End	02/12/96	
Final Rule Effective 3/1/97	09/23/96	61 FR 49691
Petitions Due	11/07/96	
Action on Petitions	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/13/95 (60 FR 64010)

Additional Information: The agency is reviewing two petitions for reconsideration concerning the intensity , photometric requirements and the location of the ABS malfunction indicator lamp.

Agency Contact: George Soodoo, Group Leader, Vehicle Dynamics Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5274
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RIN: 2127–AG06

2506. +FEDERAL MOTOR VEHICLE SAFETY STANDARDS; OCCUPANT CRASH PROTECTION—WARNING LABELS

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: The agency has amended the occupant crash protection standard and child restraint standard to reduce the adverse effects of air bags, especially those on children. One method is requiring new, attention-getting labels. This rule requires vehicles with air bags to bear three new warning labels. Two of the labels replace existing labels on the sun visor. The third is a temporary label on the dash. Eventually, either through market forces or government regulation, the NHTSA expects that "smart" passenger-side air bags will be installed in passenger cars and light trucks to mitigate these adverse effects. The agency considers smart air bags to include any system that automatically prevents an air beg from injuring the two groups of children that experience has shown to be at special risk from

air bags: infants in rear-facing child seats and children who are out-of-position (because they are unbelted or improperly belted) when the air bag deploys. This is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/09/95	60 FR 56554
Comment Period End	12/26/95	
NPRM	08/06/96	61 FR 40784
NPRM Comment Period End	09/20/96	
Final Action	11/27/96	61 FR 60206
Correction	12/04/96	61 FR 64297
Correction	12/11/96	61 FR 65187
Final Action Effective	12/26/96	
Final Action	01/02/97	62 FR 31
Final Action Effective	01/02/97	
Petitions Due	01/13/97	
Interim Final Rule	04/17/97	62 FR 18723
Comment Period End	06/02/97	
Action on Petitions	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/27/96 (61 FR 60206)

Additional Information: The November 27, 1996, final rule stated that one of the labels would have the following statement: "Children Can Be KILLED or INJURED by Passenger Air Bags." The January 2, 1997, final rule, technical amendment revised this label to read: "Children May Be KILLED or INJURED by Passenger Air Bags." Passenger cars, light trucks, and vans that are equipped with passenger air bags that do not qualify as "smart" air bags that are manufactured on or after February 25, 1997, must include the new, attention-getting labels specified in this rule. Child restraint systems that can be used in a rear-facing position and are manufactured on or after May 27, 1997, must include the new, attention-getting label specified in this rule. Manufacturers may voluntarily substitute the new labels for the currently required labels prior to these dates. In response to a request from a manufacturer, the agency published an interim final rule; request for comments to allow additional wording in the required text of the label which clarifies the warning and will not lessen the safety of child restraints.

Agency Contact: Mary Versailles, Attorney Advisor, Planning and Review Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2057

RIN: 2127–AG14

2507. DUMMY CONTAINMENT DURING COMPLIANCE TESTING

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208; 49 CFR 572

Legal Deadline: None

Abstract: NHTSA proposes to amend a provision in the occupant crash protection standard which specifies that, during crash tests, all portions of a test dummy must remain in the vehicle throughout the test. NHTSA is considering a range of alternative requirements. It is taking this action to ensure that the standard's requirements are practicable. This action results from a petition for rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	08/30/96	61 FR 45927
NPRM Comment Period End	10/29/96	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/30/96 (61 FR 45927)

Agency Contact: Stanley Backaitis, Principal Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4912
Fax: 202 366-4329

RIN: 2127–AG17

2508. REVIEW: HEAVY TRUCK CONSPICUITY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: The agency is initiating a study to evaluate the safety effects of the conspicuity systems requirement (section 5.7) of Federal Motor Vehicle Safety Standard No. 108. To carry out the study, the agency is having special motor vehicle crash date collected by the Florida Highway Patrol and the Pennsylvania State Police.

Timetable:

Action	Date	FR Cite
Begin Review	09/01/95	
Request for Comment Comment Period End 08/30/96	07/01/96	61 FR 33891
Preliminary Evaluation Report	09/00/98	
Interim Evaluation Report	09/00/99	
Complete Review	09/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560
Fax: 202 366-2559

RIN: 2127–AG19

2509. NATIONAL DRIVER REGISTER PROBLEM DRIVER POINTER SYSTEM

Priority: Info./Admin./Other

Legal Authority: 49 USC 30301

CFR Citation: 23 CFR 1327

Legal Deadline: None

Abstract: This interim final rule amends the agency's National Driver Register (NDR) regulations to implement an amendment made by the Pilot Records Improvement Act of 1996. The amendment authorizes air carriers to receive information from the National Driver Register regarding the moter vehicle driving records of individuals who are seeking employment with an air carrier as a pilot. This final rule establishes the procedures for those pilots to request, and for those air carriers to receive, NDR information.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/19/97	62 FR 27193
Interim Final Rule Effective	05/19/97	

Action	Date	FR Cite
Request for Comments Due	07/18/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: William Holden, Division Chief, Driver Register and Traffic Records Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4800
Fax: 202 366-2746

RIN: 2127–AG21

2510. DEALER NOTIFICATION OF DEFECT OR NONCOMPLIANCE DETERMINATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30102; 49 USC 30103; 49 USC 30111; 49 USC 30112; 49 USC 30115; 49 USC 30116; 49 USC 30118; 49 USC 30119; 49 USC 30120; 49 USC 30163; 49 USC 30165; 49 USC 30166

CFR Citation: 49 CFR 577

Legal Deadline: None

Abstract: The final rule will implement an amendment to 49 USC chapter 301 which prohibits dealers from selling motor vehicles or motor vehicle equipment that have been determined to contain a safety-related defect or noncompliance with a Federal motor vehicle safety standard until the defect or noncompliance is remedied. The rule will require manufacturers to notify dealers of a defect or noncompliance determination within 5 days of notifying NHTSA, or longer with agency approval. The notice must inform the dealers of their statutory rights and duties with respect to unsold vehicles or items of equipment determined to be defective or noncomplying. The rule will minimize the regulatory burden by permitting notice to be sent electronically and by not imposing any new recordkeeping requirements.

Timetable:

Action	Date	FR Cite
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jonathan D. White, Defects Investigator, Office of Defects Investigation, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5227

RIN: 2127–AG27

2511. EXTEND APPLICABILITY OF BRAKING REQUIREMENTS TO ALL LIGHT VEHICLES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 332; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.135

Legal Deadline: None

Abstract: The agency is proposing to extend the braking requirements to all light vehicles with gross vehicle weight ratings (GVWR) less than or equal to 10,000 lbs. This decision reflects the agency's policy of achieving international harmonization whenever possible, and be consistent with the statutory mandate to ensure motor vehicle safety.

Timetable:

Action	Date	FR Cite
NPRM	05/02/96	61 FR 19602
NPRM Comment Period End	07/01/96	
Final Rule	09/30/97	62 FR 51064
Petitions Due	11/14/97	
Final Rule Effective	12/01/97	
Action on Petitions	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/02/96 (61 FR 19602)

Agency Contact: George Soodoo, Group Leader, Vehicle Dynamics Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5274
Fax: 202 366-4329

RIN: 2127–AG35

2512. POWER WINDOW SAFETY SWITCHES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.118

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is denying the request to commence rulemaking to require that all power windows automatically reverse power when they encounter resistance. The agency has concluded that such a requirement would be unreasonably costly. But the agency is granting the other request by proposing to require each power operated window, interior partition, and roof panel in a motor vehicle to be equipped with a switch designed so that contact by a form representing a child's knee would not cause the window, partition, or panel to close.

Timetable:

Action	Date	FR Cite
NPRM	11/15/96	61 FR 58504
NPRM Comment Period End	01/14/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/15/96 (61 FR 58504)

Agency Contact: Richard Vanlderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AG36

2513. PLASTIC SPACER-INSERTS FOR TEST DUMMIES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.214; 49 CFR 572

Legal Deadline: None

Abstract: The agency is proposing to add plastic spacer-inserts to the lumbar spine of the test dummies to prevent snapping (instant movement) of the spine preload cable within the internal diameter (ID) of the throughhole in the lumbar spine and to modify FMVSS No. 214 test procedure to assure that the damper piston is in the fully extended position prior to the test. Vehicle manufacturers are in favor of

using the spacer-inserts because it would reduce or eliminate contamination of the data by noise spikes. They are also in favor of the placement of the damper piston because it will reduce the dummy's response variability.

Timetable:

Action	Date	FR Cite
NPRM	09/24/96	61 FR 49992
NPRM Comment Period End	11/25/96	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/24/96 (61 FR 49992)

Agency Contact: Stanley Backaitis, Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4912
Fax: 202 366-4329

RIN: 2127–AG37

2514. AUXILIARY SIGNAL LAMPS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency published a request for comments from the driving public on the value of several signal lamp ideas which have been suggested to the agency and on whether the agency should permit auxiliary signal lamps in addition to those required by the standard. The agency also is seeking comments on a policy for the disposition of petitions for rulemaking that request the agency to require or permit safety lighting inventions and which are submitted without proof of their effectiveness.

Timetable:

Action	Date	FR Cite
Request for Comments	12/13/96	61 FR 65510
Comment Period End	03/13/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Control Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AG38

2515. REFLEX REFLECTORS FOR REAR OF TRUCK TRACTORS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering whether to allow only testing under SAE J594f in the horizontal position for rear reflectors of truck tractors. The petitioner believes that given the relatively high position of the vertical pieces, a horizontal designed reflector should work better than a vertical piece, since it would allow for thirty degrees up and down versus left and right. The agency's current requirement is two vertical twelve inch pieces on the rear of the tractor or trailer. Petition was granted.

Timetable:

Action	Date	FR Cite
NPRM	05/14/97	62 FR 26466
NPRM Comment Period End	06/30/97	
Final Action	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/14/97 (62 FR 26466)

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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RIN: 2127–AG47

2516. PELVIC RESTRAINTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.209

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to delete the requirement that the lap belt portion of a safety belt system be designed to remain on the pelvis under all conditions. Petition was granted.

Timetable:

Action	Date	FR Cite
NPRM	07/07/97	62 FR 36251
NPRM Comment Period End	09/05/97	
Final Action	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/07/97 (62 FR 36251)

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4916
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RIN: 2127–AG48

2517. +UNIFORM CHILD ANCHORAGES (SECTION 610 REVIEW)

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: In response to several petitions for rulemaking, the agency is proposing to require that motor vehicles and add-on child restraints be equipped with a means independent of vehicle safety belts for securing the child restraints to vehicle seats. The adoption of the proposal would avoid problems of incompatibility between child restraints and vehicle safety belts and increase the correct installation of child restraints. By reducing allowable head excursion, this proposal would have the effect of requiring child restraints to be equipped with an upper tether strap, and would require vehicles to have two factory-installed, user-ready anchor points for attaching the tether. It would also require vehicles to have a rear vehicle seating position equipped with a specialized lower anchorage system, and require child restraints to be equipped with means of attaching to that system. This action is considered significant because of public interest. Petitions were granted. As part of this action, a small entities review under 5 USC section 610 will be included.

Timetable:

Action	Date	FR Cite
Public Workshop: Request for Comments	09/10/96	61 FR 47728
Correction	09/20/96	61 FR 49427
NPRM	02/20/97	62 FR 7858
NPRM Comment Period End	05/22/97	
Final Action	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/20/97 (62 FR 7858)

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4919
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RIN: 2127–AG50

2518. METRIC CONVERSION—PHASE II

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166; PL 100-418, sec 5164

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: The agency is proposing to amend selected Federal Motor Vehicle Safety Standards by converting English measurements in those standards to metric measurements. This rulemaking is the second in a series that NHTSA will undertake to implement the Federal policy that the metric system is the preferred system of weights and measures for U.S. trade and commerce. The conversions are not intended to change the stringency of the affected Federal Motor Vehicle Safety Standards.

Timetable:

Action	Date	FR Cite
NPRM	04/21/97	62 FR 19253
NPRM Comment Period End	06/20/97	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/21/97 (62 FR 19253)

Agency Contact: Noble Bowie, Director, Office of Planning and Consumer Programs, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AG55

2519. LOW-SPEED VEHICLES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: The agency has proposed that a new category of motor vehicle be established called "low-speed vehicle." A low-speed vehicle (LSV) would be any motor vehicle, other than a motorcycle, whose top speed does not exceed 25 mph. Under a proposed new standard, Federal Motor Vehicle Safety Standard No. 100, LSVs would be equipped with certain basic items of motor vehicle safety equipment, such as seat belts, in lieu of complying with the Federal motor vehicle safety and bumper standards that would apply if the vehicles were categorized according to existing vehicle types. LSVs would also have a label warning against driving them at speeds that exceed 25 mph.

Timetable:

Action	Date	FR Cite
NPRM	01/08/97	62 FR 1077
NPRM Comment Period End	02/24/97	
Final Action	11/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This is in response to oral and written comments received from two public meetings held on July 16, 1996, in Palm Desert, CA. and on July 25, 1996, held in NHTSA Headquarters.

Agency Contact: Taylor Vinson, Senior Attorney, Office of Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5263
Fax: 202 366-3820

RIN: 2127–AG58

2520. +DEPOWERING OF AIR BAGS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 49 USC 322; 49 USC 30115; 49 USC 30117; 49 USC 30122; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: The agency has temporarily amended the occupant crash protection standard to ensure that vehicle manufacturers can quickly depower air bags so that they inflate less aggressively. The agency is taking this action to provide an immediate, but interim, solution to the problem of the fatalities and injuries that current air bag designs are causing in relatively low speed crashes to small, but growing numbers of children, and occasionally to adult occupants. This action is considered significant because of the degree of public interest in this subject.

Timetable:

Action	Date	FR Cite
NPRM	01/06/97	62 FR 807
NPRM Comment Period End	02/06/97	
Final Action	03/19/97	62 FR 12960
Final Action Effective	03/19/97	
Petitions Due	05/05/97	
Action on Petitions	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/19/97 (62 FR 12960)

Additional Information: This rulemaking action is an additional part of the Adverse Side Effects of Air Bags (RIN 2127-AG14).

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
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RIN: 2127–AG59

2521. +PASSENGER-SIDE MANUAL CUTOFF SWITCH FOR AIR BAGS

Priority: Other Significant

Legal Authority: 49 USC 332; 49 USC 30115; 49 USC 30117; 49 USC 30122; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: This rule extends until September 1, 2000, the time period during which vehicle manufacturers are permitted to offer manual cutoff switches for the passenger-side air bag for vehicles without rear seats or with rear seats that are too small to accommodate rear facing infant seats. Rear facing infant seats cannot be used safely in front of an air bag, and should ordinarily be placed in the back seat. The purpose of the option for manual cutoff switches is to ensure that the vehicle manufacturers have a means of accommodating their customers' need to carry rear facing infant seats in vehicles without rear seats or with rear seats that are too small for these devices. The agency is extending the time period for the option to ensure that manufacturers have adequate time to implement better, automatic solutions. This action is considered significant because of the degree of public interest in this subject.

Timetable:

Action	Date	FR Cite
Final Action	01/06/97	62 FR 796
Final Action Effective	02/05/97	
Petitions Due	02/20/97	
Action on Petitions	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/06/97 (62 FR 798)

Additional Information: This rulemaking action is an additional part of the Adverse Side Effects of Air Bags (RIN 2127-AG14).

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2265
Fax: 202 366-4329

RIN: 2127–AG60

2522. +DEACTIVATION OF AIR BAGS

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30122; 49 USC 30166

CFR Citation: 49 CFR 595

Legal Deadline: None

Abstract: The agency is proposing to allow dealers and repair businesses, upon written authorization of a vehicle owner, to deactivate either the passenger-side air bag, the driver-side air bag, or both. Dealers and repair businesses are statutorily prohibited from making Federally required safety equipment inoperative, but NHTSA may exempt them from the prohibition in appropriate circumstances. In order to qualify for the exemption, the dealer or repair business would be required to provide the owner with a NHTSA information sheet describing the circumstances in which deactivation may be appropriate, based upon the comparison of the risks in those circumstances of turning the air bag off versus leaving it on. The authorization would contain a statement that the owner has received and read that sheet. The agency is proposing to require that warning labels be installed as a condition of deactivation. Deactivating an air bag would not be permitted if the vehicle were equipped with a manual cutoff switch for the air bag, or if the air bag were a "smart" air bag, i.e., one capable of either shutting off in appropriate circumstances or controlling its deployment so as to protect against injuring a wide range of occupants. This action is considered significant because of the degree of public interest in this subject.

Timetable:

Action	Date	FR Cite
NPRM	01/06/97	62 FR 831
NPRM Comment Period End	02/05/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/06/97 (62 FR 831)

Additional Information: This rulemaking action is an additional part of the Adverse Side Effects of Air Bags (RIN 2127-AG14).

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329

RIN: 2127–AG61

2523. DETERMINATION OF FUNCTIONAL EQUIVALENCY ON HARMONIZATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30111; 49 USC 30118; 49 USC 30162

CFR Citation: 49 CFR 552

Legal Deadline: None

Abstract: The agency is adopting a policy statement concerning the submission and processing of Rulemaking for determination of functional equivalency on harmonization of motor vehicle safety standards with those of other countries.

Timetable:

Action	Date	FR Cite
Request for Comments	06/17/96	61 FR 30657
Request for Comments	11/14/96	61 FR 58362
Public Workshop	01/16/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rebecca MacPherson, Attorney Advisor, Office of Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2992

Fax: 202 366-3820

RIN: 2127–AG62

2524. MANUFACTURING INCENTIVES FOR ALTERNATIVE FUEL VEHICLES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 32901; 49 USC 32905

CFR Citation: 49 CFR 538

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to allow biodiesel and biodiesel blends as alternative fuels and allow biodiesel alternative fuel vehicles to receive Corporate Average Fuel Economy (CAFE) credits. The potential benefits for biodiesel are improving the environment, enhancing national energy security, creating economic development opportunities, and increasing the sale of rural domestic agricultural commodities.

Timetable:

Action	Date	FR Cite
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henrietta Spinner, Program Analyst, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4802
Fax: 202 366-2739

RIN: 2127–AG63

2525. PROCEDURES FOR PARTICIPATING IN AND RECEIVING DATA FROM THE NATIONAL DRIVER REGISTER PROBLEM DRIVER POINTER SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 1327

CFR Citation: 49 CFR 303

Legal Deadline:
Final, Statutory, February 6, 1997.

Abstract: As a result of a recent statutory change, the agency is amending the rule implementing the National Driver Register (NDR) to allow air carriers seeking to hire pilots to obtain information from the NDR about their driving records.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/19/97	62 FR 27193
Interim Final Rule Effective	05/19/97	
Request for Comments Due	07/18/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: Statute requires access to records to be provided within 120 days after enactment.

Agency Contact: William Holden, Division Chief, Driver Register and Traffic Records Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4800
Fax: 202 366-2729

RIN: 2127–AG68

2526. UNIFORM PROCEDURES FOR THE STATE HIGHWAY SAFETY PROGRAMS AND THE HIGHWAY SAFETY PROGRAMS; DETERMINATIONS OF EFFECTIVENESS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 1200; 23 USC 402

CFR Citation: 49 CFR 402

Legal Deadline: None

Abstract: The agency has established new uniform procedures governing the implementation of State highway safety programs by amending existing requirements to provide a more flexible system under which States are responsible for setting highway safety goals and implementing programs to achieve those goals. These new procedures are issued as an interim final rule to provide guidance to the States before the start of fiscal year 1998. The agency requests comments on this rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/26/97	62 FR 34397
Interim Final Rule Effective	06/26/97	
Request for Comments Due	08/11/97	
Final Rule	09/30/97	62 FR 51064
Petition Due	11/00/97	
Final Rule Effective	12/01/97	
Final Action	12/00/97	
Action on Petitions	04/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Marlene Markison, Division Chief, Program Support Staff, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2121
Fax: 202 366-7394

RIN: 2127–AG69

2527. SCHEDULE OF FEES FOR NONCONFORMING VEHICLES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30141; 31 USC 9701

CFR Citation: 49 CFR 594.10

Legal Deadline: None

Abstract: The agency is amending its regulations establishing fees for the purpose of reimbursing the agency for certain costs incurred in administering the vehicle importation program. The amendment establishes a fee for the agency's review of conformity statements submitted by registered importers. These statements certify that imported vehicles that were not originally manufactured to conform to all applicable Federal motor vehicle safety standards have been brought into conformity with those standards. The fee applies to all imported vehicles for which conformity statements are submitted to the agency, including nonconforming vehicles imported from Canada. Currently, Canadian vehicles account for over 98 percent of the vehicle imports that are monitored by NHTSA. This amendment will further departmental objectives for the vehicle importation program to be self-funding.

Timetable:

Action	Date	FR Cite
NPRM	07/15/97	62 FR 37847

DOT—NHTSA

Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	08/14/97	
Final Rule	09/29/97	62 FR 50878
Final Rule Effective	10/29/97	
Petitions Due	11/13/97	
Action on Petitions	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The rule will have an impact on registered importers of motor vehicles not originally manufactured to conform to all applicable Federal motor vehicle safety standards. By virtue of this registration, these entities are entitled to import, or conform pursuant to contracts with private importers, nonconforming motor vehicles, on the condition that those vehicles be brought into compliance with all applicable standards within 120 days of entry. To demonstrate that a nonconforming vehicle has been brought into compliance with all applicable standards, the registered importer must submit to NHTSA a statement of conformity and appropriate documentation. If the statement meets with the agency's approval, a letter is issued to allow release of a bond that is posted for the vehicle at the time of entry, which secures the obligation that the vehicle be brought into compliance within 120 days. NHTSA has not previously imposed a fee for its review of these conformity statements. This review accounts for a major share of the staff work conducted by the Office of Vehicle Safety Compliance. In view of the Department's desire that the import program be self-funded, the agency has identified a need to begin imposing fees for its review of conformity statements. It is anticipated that the fee will be in the range of $20.00 to $30.00. This cost should not impose a significant burden on registered importers, as it can be passed on to the owner or ultimate purchaser of the vehicle involved.

Agency Contact: Coleman Sachs, Trial Attorney, Office of Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5238
Fax: 202 366-3820

RIN: 2127–AG73

2528. • COMPLIANCE TEST DUMMY MEASUREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30122; 49 USC 30166

CFR Citation: 49 CFR 571.208; 49 CFR 572

Legal Deadline: None

Abstract: The agency is adopting modifications to the Hybrid III test dummy, which is specified by the agency for use in compliance testing under Federal Motor Vehicle Safety Standard No. 208. The agency has decided to require a six axis neck transducer, thereby allowing the test dummy to measure neck flexion, extension moments and tension, compression and sheer forces. The agency has determined that immediate action is in the public interest since the agency needs to ensure compliance with the recent amendment to Standard No. 208 allowing air bag depowering (RIN No. 2127-AG59). The agency is also requesting comments on whether the agency should make permanent its amendment to the Hybrid III dummy.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/20/97	62 FR 27511
Interim Final Rule Effective	05/20/97	
Request for Comments Due	07/14/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/20/97 (62 FR 27511)

Agency Contact: Stanley Backaitis, Principal Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4912
Fax: 202 366-4329

RIN: 2127–AG75

2529. • DEPOWER EXCLUSIONS FROM REQUIREMENTS FOR VEHICLES CERTIFIED TO THE ALTERNATIVE SLED TEST

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: In March 1997, the agency temporarily amended the occupant crash protection standard to ensure that vehicle manufacturers can quickly depower all air bags so that they inflate less aggressively. The agency adopted an unbelted sled test protocol as a temporary alternative to the standard's full scale unbelted barrier crash test. The agency took this action to provide an immediate, but interim, solution to the problem of the fatalities and injuries that current air bag designs are causing in relatively low speed crashes to small, but growing numbers of children, and occasionally to adult occupants. In May 1997, the agency issued an interim final rule making a further amendment to the standard, so that certain exclusions from the requirements in two other safety standards that are available for vehicles certified to the unbelted barrier test will also be available for vehicles certified to the alternative sled test. This action was necessary to prevent a delay in depowering. The agency also solicited comments on this amendment.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	05/09/97	
Interim Final Rule	05/14/97	62 FR 26425
Comments Due	07/14/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/14/97

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329

RIN: 2127–AG80

DOT—NHTSA

Final Rule Stage

2530. • AIR BAG WARNING LABEL FOR REAR-FACING CHILD SEATS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: In response to a request from an automobile manufacturer, the agency is amending the warning label requirement for rear-facing child seats if the child seat deactivates the air bag. Because of new technology that is available that will cut off the passenger-side air bag in vehicles, the agency has determined that it is in the public interest to make the changes effective immediately on an interim basis. The agency also solicits comments on this amendment.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/04/97	62 FR 30464
Interim Final Rule Effective	06/04/97	
Request for Comments Due	07/21/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/04/97 (62 FR 30464)

Agency Contact: Mary Versailles, Program Analyst, Planning and Review Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh St. SW., Washington, DC 20590
Phone: 202 366-2057
Fax: 202 366-4329

RIN: 2127–AG82

2531. • EXEMPTIONS TO ODOMETER DISCLOSURE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-205, sec 332

CFR Citation: 49 CFR 580

Legal Deadline: None

Abstract: This interim final rule amends 49 CFR 580, Odometer Disclosure Requirements, by creating a new section in part 580, moving the present exemptions to that section, and changing the statutory authority for the exemptions to Public Law 104-205, sec 332.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/11/97	62 FR 47763
Comment Period End	10/14/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Eileen Leahy, Attorney, Office of the Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5263
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RIN: 2127–AG83

2532. • +USE OF UNBELTED AND BELTED TEST DUMMIES

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency requested comments to determine the benefits and disbenefits of eliminating the unbelted dummies test procedure for air bags. Currently, the agency believes that section 2508 of the Intermodal Surface Transportation Efficiency Act of 1991 precludes eliminating the unbelted test requirement. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Request for Comments	02/27/97	62 FR 8917
Comment Period End	03/31/97	
Comment Period Extended to 06/02/97	04/01/97	62 FR 15453
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4916
Fax: 202 366-4327

RIN: 2127–AG85

2533. • EXTEND PARTICIPATION IN THE NATIONAL DRIVER REGISTER PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 303

CFR Citation: 23 CFR 1327

Legal Deadline: None

Abstract: The agency is allowing the U.S. Coast Guard access to the National Driver Register information on their members of the U.S. Coast Guard and U.S. Coast Guard Reserve. This action is required by PL 104-324, a recent amendment to the National Driver Register Act of 1982.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/97	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: William Holden, Division Chief, Driver Register and Traffic Records Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4800
Fax: 202 366-2746

RIN: 2127–AG90

2534. • HEAD IMPACT REQUIREMENTS RELATING TO DEPOWERING

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.201; 49 CFR 571.208

Legal Deadline: None

Abstract: Currently, vehicles certified to the unbelted barrier test of the occupant crash protection standard are permitted to comply with a special, less stringent test requirement for head impacts on instrument panels. As a result of this interim final rule, vehicles certified to the new alternative sled test procedure will also be permitted to comply with the less stringent head impact test requirement. This change is to prevent a delay in air bag depowering.

DOT—NHTSA

Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/26/97	62 FR 45172
Interim Final Rule Effective	08/26/97	
Comments Due	10/27/97	
Final Action	08/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
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Fax: 202 366-4329

RIN: 2127–AG94

DEPARTMENT OF TRANSPORTATION (DOT)
National Highway Traffic Safety Administration (NHTSA)

Long-Term Actions

2535. +CRASHWORTHINESS RATINGS

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 5

Legal Deadline: None

Abstract: This action would have required manufacturers to disseminate crashworthiness performance information concerning their cars to the public, to provide consumers with comparative information on the crashworthiness performance of new car models. This rulemaking is considered significant because of the impact on manufacturers, the interest shown by consumers, and the potential significant effects on the automotive marketplace. The agency has requested public comments on the National Academy of Sciences (NAS) study titled "Shopping for Safety - Providing Consumer Automotive Safety Information," (TRB Special Report 248) and how that study should be reflected in the agency's decision on whether, and if so, how, to proceed with a crashworthiness rating for automobiles.

Timetable:

Action	Date	FR Cite
NPRM	01/22/81	46 FR 7025
Comment Period Extended to 10/22/81	04/02/81	46 FR 19947
NPRM Comment Period End	04/22/81	46 FR 7025
Request for Comments	05/20/97	62 FR 27648
Comment Period End	08/18/97	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/22/81 (46 FR 7025)

Agency Contact: Mary Versailles, Office of Planning and Consumer Programs, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2057
Fax: 202 366-4329

RIN: 2127–AA03

2536. +FLAMMABILITY OF INTERIOR MATERIALS - SCHOOL BUSES

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.302

Legal Deadline: None

Abstract: Advance Notice of Proposed Rulemaking requested comments regarding possible upgrade of Standard 302 to reduce the risk of fire to school bus occupants. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	11/04/88	53 FR 44627
ANPRM Comment Period End	01/03/89	
Request for Comments by 4/29/91	02/26/91	56 FR 7826

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4919
Fax: 202 366-4329

RIN: 2127–AA44

2537. PROCEDURES FOR CONSIDERING ENVIRONMENTAL IMPACTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4321 et seq (National Environmental Policy Act-NEPA)

CFR Citation: 49 CFR 520

Legal Deadline: None

Abstract: NHTSA's regulation will be reviewed and reissued, as necessary, where it conflicts with or is duplicative of the regulations of Council on Environmental Quality (CEQ), 40 CFR parts 1500-1508, and with DOT Order 5610.1C, each of which implements the National Environmental Policy Act (NEPA), 42 USC 4321, et seq.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Atelsek, Attorney Advisor, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2992

RIN: 2127–AB79

2538. +SCHOOL BUS BODY JOINT STRENGTH

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.221

Legal Deadline: None

Abstract: In response to NTSB recommendations on body joint strength and maintenance access panels and the agency's own analyses, the agency initiated rulemaking to improve the test requirements and test procedures for body joints and to limit the number and size of maintenance access panels. It is estimated that between 15 to 20 injuries per year could be prevented by this rulemaking. This rulemaking is considered significant because of substantial public and congressional interest.

DOT—NHTSA

Long-Term Actions

Timetable:

Action	Date	FR Cite
ANPRM	08/15/87	52 FR 23314
ANPRM Comment Period End	08/03/87	
Comment Period Extended to 10/15/87	08/12/87	52 FR 29873
NPRM	03/15/91	56 FR 11142
NPRM Comment Period End	05/14/91	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/15/91 (56 FR 11142)

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4916
Fax: 202 366-4329

RIN: 2127–AC19

2539. +ROLLOVER PROTECTION

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571

Legal Deadline:
NPRM, Statutory, May 31, 1992.
Final, Statutory, March 3, 1994, NHTSA may issue either an ANPRM or NPRM.

Abstract: In response to a petition for rulemaking, the agency has initiated research to focus on exploring whether it can develop a practicable, repeatable and appropriate dynamic emergency handling test that assesses a vehicle's propensity for involvement in an on-road, untripped rollover crash. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	01/03/92	57 FR 242
ANPRM Comment Period End	04/03/92	
NPRM	06/28/94	59 FR 33254
Correction	07/26/94	59 FR 38038
Comment Period Extended to 10/21/94	08/26/94	59 FR 44121
Comment Period Reopened to 08/05/96	06/05/96	61 FR 28560
NPRM Comment Period End	08/05/96	
Petition Grant	05/20/97	62 FR 27578

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/28/94 (59 FR 33254)

Additional Information: A notice of availability of a planning document for this rulemaking was published 09/29/92 (57 FR 44721). As part of its comprehensive efforts to address the problem of light vehicle rollover, the agency proposed a new consumer information regulation that would require that passenger cars, and light multipurpose passenger vehicles and trucks be labeled with information about their resistance to rollover. In the NPRM, the agency terminated rulemaking to establish a vehicle stability standard. The agency denied petitions for reconsideration of this termination on 06/05/96 (61 FR 28550). The comment period for the NPRM was reopened after publication of a related study by the National Academy of Sciences (NAS). (This notice was inadvertently published under RIN 2127-AC54). At the same time the agency published the grant notice on the petition for rulemaking, NHTSA published, in a separate notice, its response to the NAS study and requested comments by 08/18/97 (50/20/97 62 FR 27648). See RIN No. 2127-AG53 for related information on warning labels for sport utility vehicles.

Agency Contact: Mike Pyne, Safety Standards Engineer, Office of Crash Avoidance, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4171
Fax: 202 366-4329

RIN: 2127–AC84

2540. SEATING SYSTEMS PERFORMANCE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.207

Legal Deadline: None

Abstract: Environmental Research and Safety Technologists of Flagstaff, AZ, petitioned the agency to reexamine the seatback performance requirements of the standard in rear impact crashes.

Timetable:

Action	Date	FR Cite
ANPRM	10/04/89	54 FR 40896
ANPRM Comment Period End	12/04/89	
Request for Comments by 1/22/93	11/23/92	57 FR 54958

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Petitions for rulemaking were granted 07/24/89. See a related rulemaking action involving these petitioners under RIN 2127-AC57. The first part of the research is complete. A computer model and a prototype seat were developed. Information on this research is available in the docket along with a report on crash data analysis. The agency is currently evaluating the research results and conducting vehicle seat testing.

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4916
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RIN: 2127–AD08

2541. CERTIFICATION REQUIREMENTS OF MULTISTAGE VEHICLES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 567; 49 CFR 568; 49 CFR 1.50

Legal Deadline: None

Abstract: This action proposed to amend the certification requirements that applies to incomplete vehicles other than chassis-cabs. Incomplete vehicles are vehicles that include at least a frame and chassis structure, power train, steering system, suspension system, and brake system, but need further manufacturing performed on them to become completed vehicles. This action would extend the certification requirements currently applying to chassis-cabs to all types of incomplete vehicles. The agency recognizes that manufacturers who build vehicles in more than one stage are faced with somewhat different problems than manufacturers who build vehicles in a single stage, especially when it comes to certifying vehicles to meet Federal Motor Vehicle Safety Standards (FMVSS). Therefore, the agency announced a public meeting to listen to the views of these groups and others with respect to improving the vehicle certification process.

Timetable:

Action	Date	FR Cite
NPRM	12/03/91	56 FR 61392
NPRM Comment Period End	01/31/92	
Comment Period Extended to 03/02/92	02/03/92	57 FR 3963
Announced Public Meeting	11/17/95	60 FR 57694

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/03/91 (56 FR 61392)

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4919
Fax: 202 366-4329

RIN: 2127–AE27

2542. RADIATOR SAFETY CAP

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency has requested comments on the feasibility of and necessity for rulemaking to require the installation of thermal locking radiator caps or other devices on motor vehicles with water-cooled engines to prevent scalding injuries. Although the notice referred only to thermal locking radiator caps, comments were solicited on any device or technology designed to prevent such scalding injuries. Petition was granted.

Timetable:

Action	Date	FR Cite
Request for Comments	08/10/93	58 FR 32503
Comment Period End	09/09/93	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Vanderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
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RIN: 2127–AE59

2543. ELECTRIC VEHICLE SAFETY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 1.50; 49 CFR 501.8

Legal Deadline: None

Abstract: The agency is requesting public comment to help assess the need to regulate electric vehicles (EVs) with respect to battery electrolyte spillage in a crash or rollover, and electric shock hazard in a crash or rollover, and during repair and maintenance.

Timetable:

Action	Date	FR Cite
Request for Comments Comment Period End 11/29/94	09/30/94	59 FR 49901

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4919
Fax: 202 366-4329

RIN: 2127–AF43

2544. CONVERSION OF VEHICLES TO COMPRESSED NATURAL GAS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.303

Legal Deadline: None

Abstract: The agency is considering specifications for converting vehicles to run on compressed natural gas. These requirements would be used in lieu of crash testing, which the standard requires.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4919
Fax: 202 366-4329

RIN: 2127–AF50

2545. +REVIEW: SIDE IMPACT PROTECTION

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.214

Legal Deadline: None

Abstract: This standard requires passenger cars manufactured after September 1, 1996, to provide occupant protection when impacted in the side by a moving deformable barrier. The agency will compare the actual risk of occupant injury in side impact crashes of cars meeting the standard to the risk in pre-standard cars. The cost of the standard will also be estimated. This regulation was selected for review because of its costs, potential benefits, and public interest.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/94	
Complete Review	12/00/99	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560
Fax: 202 366-2559

RIN: 2127–AF54

2546. AUTOMOTIVE FUEL ECONOMY REPORTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 32907

CFR Citation: 49 CFR 537

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, the agency is proposing to remove obsolete reporting requirements. These submission requirements include factors such as "breakover angles" for light trucks, which are essentially never used by NHTSA. Revising this part would reduce the costs to the industry of reporting to NHTSA and could be reduced without substantially affecting NHTSA's legitimate data needs.

Timetable:

Action	Date	FR Cite
NPRM	05/13/96	61 FR 22010
NPRM Comment Period End	07/12/96	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/13/96 (61 FR 22010)

Agency Contact: Orron Kee, Division Chief, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0846
Fax: 202 366-4329

RIN: 2127–AG00

2547. DOOR LATCH EXEMPTION FOR VEHICLES EQUIPPED WITH WHEELCHAIR LIFTS AND RAMPS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.206

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to modify the "Door Locks and Door Retention Components" requirements by exempting vehicles with wheelchair ramps and to establish uniform requirements for vehicles with wheelchair lifts and ramps. These modifications are necessary because of changes in the types of vehicles equipped with wheelchair lifts/ramps and changes in lift/ramp structural designs which have come to pass in recent years. Petition was granted.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: On 05/31/96 (61 FR 27325), the agency published a grant notice. The agency believes that the suggested changes made by the petitioner merits additional study and research. The agency is currently conducting research to determine if door latch exemptions are still necessary. Simultaneously, the agency is developing a door latch procedure for sliding doors.

Agency Contact: Clarke Harper, Division, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4916
Fax: 202 366-4329

RIN: 2127–AG16

2548. REVIEW: AMERICAN AUTOMOBILE LABELING ACT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 32304

CFR Citation: 49 CFR 583

Legal Deadline: None

Abstract: The American Automobile Labeling Act requires new passenger cars and light trucks, beginning October 1, 1994, to bear labels providing information on the extent to which their parts are of domestic origin. The objective of this review is to determine the extent to which new-vehicle buyers know about, understand and use this information, and to estimate the effect of the labels on vehicle production and sales.

Timetable:

Action	Date	FR Cite
Begin Review	12/01/95	
Complete Review	12/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560
Fax: 202 366-2559

RIN: 2127–AG18

2549. • ADVANCED AIR BAG DUMMY RULE FOR HYBRID III 95TH PERCENTILE MALE

Priority: Substantive, Nonsignificant

Legal Authority: 49 CFR 322; 49 CFR 30111; 49 CFR 30115; 49 CFR 30117; 49 CFR 30166

CFR Citation: 49 CFR 572; 49 CFR 571.208

Legal Deadline: None

Abstract: The agency is proposing specifications for a new 95th percentile male Hybrid III size test dummy for possible use in test procedures being proposed in amendments to Federal Motor Vehicle Safety Standard No. 208. The new test dummy and procedures are being proposed to facilitate the development and introduction of new advanced air bags and other types of advanced restraints technologies for crash protection in frontal impacts.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stanley Backaitis, Principal Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4912
Fax: 202 366-4329

RIN: 2127–AG79

DEPARTMENT OF TRANSPORTATION (DOT)

National Highway Traffic Safety Administration (NHTSA)

Completed Actions

2550. +REVIEW: PASSENGER CAR FRONT SEAT OCCUPANT PROTECTION (FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 208)

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: This standard requires the provision of automatic occupant protection in the front outboard seats of passenger cars after September 1, 1989. Air bags and automatic safety seat belts are being installed to meet the standard. The agency will analyze the actual road experience of vehicles equipped with automatic occupant protection to measure the reduction of fatalities and injuries, observe operational performance, and assess public acceptance and costs. The regulation was selected for review because of its costs, potential benefits, and public interest; this review is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Begin Review	01/17/90	55 FR 1586
Interim Evaluation Report	07/08/92	57 FR 30293
End Review	10/10/96	61 FR 53260
Comment Period End	01/08/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Automatic occupant protection, State belt laws, and greater voluntary belt use amount to a winning combination that saves lives and reduces injury severity. The fatality reduction benefit of air bags for all drivers of passenger cars is an estimated 11 percent. Driver air bags save lives in light trucks, small cars, and large cars. Passenger air bags save lives of right-front passengers age 11 or older. Driver air bags provide a significant supplemental life-saving benefit for the driver who buckles up (as well as saving lives of unbelted drivers). Preliminary analyses show a high fatality risk for children age 0 - 12 in cars with current dual air bags than in cars without a passenger air bag. Also, air bags are less effective for drivers age 70 or older than for younger drivers, and they do not have a statistically significant effect for drivers of any age group in oblique-frontal crashes.

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560
Fax: 202 366-2559

RIN: 2127–AD82

2551. MINIATURE AND NONFILAMENT LIGHT SOURCES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: The agency will allow high intensity discharge (HID) light sources to be used in replaceable bulb headlamp systems, in addition to their presently allowed use in integral beam headlamp systems. This amendment relieves design restrictions that may have inadvertently prevented the implementation of certain new-technology light sources in signal lamps.

Timetable:

Action	Date	FR Cite
NPRM	04/08/94	59 FR 16788
NPRM Comment Period End	06/07/94	
Final Action	05/07/96	61 FR 20497

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/07/96 (61 FR 20497)

Additional Information: This action answers a petition for rulemaking under RIN 2127-AF20, the issues of which have been consolidated, herein. The title of RIN 2127-AF20: Specifications for Light Emitting Diode. This action was completed under RIN 2127-AF65.

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AE97

2552. RETROREFLECTIVE CONSPICUITY SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: This action requires that the rear of truck tractors be equipped with retroreflective material similar to that required on the rear of the trailers they tow to increase nighttime conspicuity. Manufacturers may choose either retroreflective sheeting or reflex reflectors. In the case of truck tractors delivered with a temporary mudflap arrangement rather than permanent equipment, the requirement for retroreflective material near the top of the mudflap may be satisfied with material carried by the temporary mudflap brackets that is transferable to the permanent mudflap system. Retroreflective material is also required near the top of the cab in a pattern similar to that used on trailers. NHTSA estimates that the incidence of crashes involving truck tractors struck in the rear by other vehicles in darkness could be reduced by 15 to 25 percent by enhancing conspicuity as required by this rule (61 FR 41355). In response to petitions for reconsideration, the agency is adopting an alternative it originally proposed (for the red/white horizontal element of the conspicuity system) of cab-mounted material and adding additional alternatives of material mounted ahead of or behind the rear axle on separate brackets.

Timetable:

Action	Date	FR Cite
NPRM	06/12/95	60 FR 30820
NPRM Comment Period End	09/11/95	
Final Action	08/08/96	61 FR 41355
Petitions Due	09/23/96	
Actions on Petitions	04/08/97	62 FR 16709
Petitions Due	05/23/97	
Final Action Effective	07/01/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/08/97 (62 FR 16709)

Additional Information: No petitions for reconsideration were received on the April 1997 final rule.

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AF59

2553. REGULATORY NEGOTIATION FOR VISUAL HEADLAMP AIMABILITY REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: The agency amends the Federal motor vehicle safety standard on lighting, to afford an option to

existing headlamp aiming specifications which is intended to improve the objectivity and accuracy of motor vehicle headlamp aim when headlamps are aimed visually and/or optically. This rule reflects the consensus of the agency's Advisory Committee on Regulatory Negotiation concerning the improvement of headlamp aimability performance and visual/optical headlamp aiming. The Committee was composed of representatives of government, industry, and consumer interest groups.

Timetable:

Action	Date	FR Cite
Notice to Conduct a Regulatory Negotiation	06/09/95	60 FR 30506
NPRM	07/10/96	61 FR 36334
Correction	08/08/96	61 FR 43033
NPRM Comment Period End	10/08/96	
Final Action	03/10/97	62 FR 10710
Petitions Due	04/24/97	
Final Action Effective	05/01/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/10/97 (62 FR 10710)

Additional Information: This action terminates RIN 2127-AF24. The agency announced the establishment of the advisory committee for regulatory negotiation and notice of the first meeting (07/14/95 (60 FR 36253)). On August 16, 1995 (60 FR 42496) the schedule of the Advisory Committee meetings was published. On November 16, 1995 (60 FR 57562) a change in the dates and location of the November Advisory Committee meeting was published. On December 21, 1995 (60 FR 66247) the final dates and locations of the three remaining Advisory Committee meetings were published. Changes in the time and location of the next series of meetings were published February 12, 1996 (61 FR 5370). Final meetings and location were published May 29, 1996 (61 FR 26872). No petitions for reconsideration were received on the March 1997 final rule.

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
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RIN: 2127–AF73

2554. CURRENT AND FUTURE STATE OF THE ART INNOVATION FOR ACCELERATOR CONTROLS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.124

Legal Deadline: None

Abstract: The agency withdraws a proposal to amend the safety standard on accelerator control systems that would have deleted a provision that specifies return-to-idle time for a normally operating accelerator control system. The proposal was part of the agency's effort to implement the President's Regulatory Reinvention Initiative. The agency has decided to focus on the broader issue of making the accelerator control system standard more relevant for electronic accelerator systems. A technical workshop is planned for May 20, 1997, to discuss electronic accelerator control technology and potential methods of assuring fail-safe performance.

Timetable:

Action	Date	FR Cite
Request for Comments Comment Period End 02/02/96	12/04/95	60 FR 62061
NPRM	04/30/96	61 FR 19020
NPRM Comment Period End	06/14/96	
Action Withdrawn	03/07/97	62 FR 10514

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/30/96 (61 FR 19020)

Additional Information: Notice of change in date of technical workshop published 3/21/97 (62 FR 13583).

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AF76

2555. RESCISSION OF WARNING DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.125

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, the agency published a notice of proposed rulemaking to rescind the triangular warning devices intended to be placed on the roadway behind disabled buses and trucks that have a gross vehicle weight rating (GVWR) greater than 10,000 pounds. Terminating this rulemaking relieves the Federal Highway Administration (FHWA) of the necessity for conducting a rulemaking proceeding to adopt its own requirements on triangular warning devices. Further, terminating this rulemaking will give the Department more effective enforcement authority regarding the performance of those devices.

Timetable:

Action	Date	FR Cite
NPRM	06/10/96	61 FR 29337
NPRM Comment Period End	07/25/96	
Action Withdrawn	06/16/97	62 FR 32562

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/10/96 (61 FR 29337)

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AF77

2556. ALTERNATIVE MOTORCYCLE HEADLAMP PERFORMANCE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is permitting optional photometric performances for motorcycle and motor-driven cycle headlamps. The benefits are to reduce the risk of accidents associated with nighttime driving.

Timetable:

Action	Date	FR Cite
NPRM	02/21/96	61 FR 6616
NPRM Comment Period End	04/22/96	
Final Rule	08/29/96	61 FR 45359
Petitions Due	10/05/96	
Final Rule Effective	10/15/96	
Action on Petitions	06/06/97	62 FR 31008

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/20/96 (61 FR 6616)

Additional Information: Petition for reconsideration denied because no safety reason for changes was claimed.

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AF78

2557. RESCIND CONTROLS AND DISPLAYS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.101

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, this amendment deletes unnecessary regulatory language by removing two tables and certain regulatory text, all of which apply to motor vehicles manufactured before September 1, 1969.

Timetable:

Action	Date	FR Cite
NPRM	05/30/96	61 FR 27039
NPRM Comment Period End	07/15/96	
Final Action	06/16/97	62 FR 32538
Petitions Due	07/31/97	
Final Action Effective	07/31/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/16/97 (62 FR 32538)

Additional Information: No petitions for reconsideration were received.

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AF86

2558. RESCIND WINDSHIELD DEFROSTING AND DEFOGGING SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.103

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, the agency published a notice of proposed rulemaking to rescind this standard. After reviewing the comments, the agency has decided to terminate rulemaking because the comments show that the current regulatory requirements are not imposing needless regulatory burdens.

Timetable:

Action	Date	FR Cite
NPRM	04/08/96	61 FR 15449
NPRM Comment Period End	05/23/96	
Terminated	06/16/97	62 FR 32559

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/08/96 (61 FR 15449)

Additional Information: This action also terminates RIN 2127-AF88.

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Standard, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590

Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AF87

2559. RESCIND WINDSHIELD WIPING AND WASHING SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.104

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, the agency published a notice of proposed rulemaking to rescind this standard. After reviewing the comments, the agency has decided to terminate rulemaking because the comments show that the current regulatory requirements are not imposing needless regulatory burdens.

Timetable:

Action	Date	FR Cite
NPRM	04/08/96	61 FR 15446
NPRM Comment Period End	05/23/96	
Terminated	06/16/97	62 FR 32559

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/08/96 (61 FR 15446)

Additional Information: This action also terminates RIN 2127-AF87.

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AF88

2560. WHIP RESISTANCE TEST FOR BRAKE HOSES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.106

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is revising the whip resistance test conditions. As amended, the test conditions permit the use of a supplemental support in attaching certain brake hose assemblies for the purpose of compliance testing. This rulemaking amends a provision that had the unintended consequence of prohibiting the manufacture and sale for use on the public roads of a type of brake hose assembly that may have safety advantages.

Timetable:

Action	Date	FR Cite
Final Action Effective	11/16/95	60 FR 57562
NPRM Comment Period End	01/16/96	
Final Action	08/09/96	61 FR 41510
Final Action Effective	08/09/96	
Petitions Due	09/23/96	
Action on Petitions	04/22/97	62 FR 19523

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/09/96 (61 FR 41510)

Additional Information: Petition for reconsideration was denied, 04/22/97 (62 FR 19523).

Agency Contact: Steve Kratzke, Acting Director, Office of Crash Avoidance Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington DC 20590
Phone: 202 366-4931
Fax: 202 366-4329

RIN: 2127–AG02

2561. SEAT BELTS INSTALLED AT ADJUSTABLE SEATS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is extending the effective date, for vehicles with a GVWR between 8,500 and 10,000 pounds, of the final rule which requires that Type 2 safety belts installed at adjustable seats either be integrated with the vehicle seat or be equipped with a means of adjustment to improve the fit and increase the comfort of the belt for a variety of different sized occupants. Petition was granted.

Timetable:

Action	Date	FR Cite
NPRM	07/29/96	61 FR 39432
NPRM Comment Period End	09/12/96	
Final Action	01/10/97	62 FR 1401
Petitions Due	02/24/97	
Final Action Effective	09/01/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/10/97 (62 FR 1401)

Additional Information: No petitions for reconsideration were received on the January 1997 final rule.

Agency Contact: Clarke Harker, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4916
Fax: 202 366-4329

RIN: 2127–AG24

2562. THEFT DATA FOR CALENDAR YEAR 1995

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 33104(b)(4)

CFR Citation: 49 CFR 541

Legal Deadline: None

Abstract: This action publishes the final theft rate data on passenger motor vehicles that occurred in calendar year 1995 for model year 1995 vehicles. The theft data indicate the overall vehicles' theft rate in 1995. Publication of this data fulfills the agency's obligation to periodically obtain and publish this data.

Timetable:

Action	Date	FR Cite
NPRM	02/21/97	62 FR 7967
NPRM Comment Period End	04/22/97	
Final Action	08/21/97	62 FR 44418
Final Action Effective	08/21/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rosalind Proctor, Program Analyst, Theft Prevention Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0846

Fax: 202 366-4329

RIN: 2127–AG33

2563. SCHEDULE OF FEES FOR IMPORTERS

Priority: Info./Admin./Other

Legal Authority: 49 USC 30141

CFR Citation: 49 CFR 594

Legal Deadline:
NPRM, Statutory, October 1996.

Abstract: The agency has established fees for Fiscal Year (FY) 1997 as authorized by 49 USC 30141 relating to the registration of importers and the importation of motor vehicles not certified as conforming to the Federal motor vehicle safety standards (FMVSS).

Timetable:

Action	Date	FR Cite
NPRM	06/24/96	61 FR 32411
NPRM Comment Period End	08/08/96	
Final Action	09/30/96	61 FR 51043

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: George Entwistle, Engineer, Office of Vehicle Safety Compliance, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5306
Fax: 202 366-1024

RIN: 2127–AG43

2564. CENTER OF GRAVITY OF TEST DUMMY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is correcting the regulation specifying the characteristics of the test dummy representing a six-year-old child. The revisions specify location of the center of gravity (cg) of the thorax by moving it forward 0.4 inches from the location currently specified in part 572. The agency also amends the dummy's specifications to show that thorax ballast mass, if used, is mounted on the inside of the anterior wall of the spine box rather than to its sides. Both of these changes bring the drawing specifications in line with the actual construction of the dummy and are intended to ensure that there is no confusion among dummy manufacturers and users as to whether a particular dummy meets the specifications of the agency's regulation.

Timetable:

Action	Date	FR Cite
Final Action	08/20/97	62 FR 44225
Final Action Effective	08/20/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stanley Backaitis, Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4912
Fax: 202 366-4329

RIN: 2127–AG44

2565. MOTOR VEHICLE CONTENT LABELING

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 32304

CFR Citation: 49 CFR 583

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is extending for two years a limited, temporary provision in its content calculation procedures to provide vehicle manufacturers added flexibility in making content determinations where outside suppliers have not responded to requests for content information. This flexibility will be available for up to 10 percent, by value, of a carline's total parts content from outside suppliers, and only for carlines offered for sale prior to January 1, 1999.

Timetable:

Action	Date	FR Cite
Temporary Final Rule; Comment Period End 10/3/96	09/03/96	61 FR 46383
Final Action	08/23/97	62 FR 33756
Final Action Effective	07/23/97	
Petitions Due	08/07/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/23/97 (62 FR 33756)

Additional Information: No petitions for reconsideration were received.

Agency Contact: Orron Kee, Division Chief, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4936
Fax: 202 366-4329

RIN: 2127–AG46

2566. CONSUMER INFORMATION REGULATIONS; FEES FOR COURSE MONITORING TIRES

Priority: Info./Admin./Other

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30123

CFR Citation: 49 CFR 575

Legal Deadline: None

Abstract: This rule amends consumer information regulations on uniform tire quality grading (UTQG) by reducing the fee for the purchase of treadwear course monitoring tires sold by NHTSA at its UTQG test facility in San Angelo, TX. Fee reduction will eliminate charges for testing to establish tires' base course wear rate, which will no longer be performed by NHTSA in view of the agency's decision to fix the base course wear rate for all tires sold in the future at its current value.

Timetable:

Action	Date	FR Cite
Final Action	09/11/96	61 FR 47825
Final Action Effective	10/11/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Because this rule will only benefit the public by reducing the existing fee, the agency dispensed with a notice for comment and made the rule effective upon publication. See RIN 2127-AF17, Uniform Tire Quality Grading final rule 9/9/96 (61 FR 47437) for revised treadwear test procedures. No petitions for reconsideration were received.

Agency Contact: Coleman Sachs, Trial Attorney, Office of the Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5238

Fax: 202 366-3820

RIN: 2127–AG54

2567. INSURER REPORTING REQUIREMENTS FOR OCTOBER 1997

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 33112

CFR Citation: 49 CFR 544

Legal Deadline: None

Abstract: The agency updates its lists in appendices A, B, and C of Part 544 of passenger motor vehicle insurers that are required to file reports on their motor vehicle theft loss experiences. Each insurer included in any of these appendices must file a report for calendar year 1994 not later than October 25, 1997. As long as the insurer remains listed, it must submit reports by each subsequent October 25.

Timetable:

Action	Date	FR Cite
NPRM	02/24/97	62 FR 8206
Correction	03/27/97	62 FR 14736
NPRM Comment Period End	04/25/97	
Final Action	08/23/97	62 FR 33754
Final Action Effective	08/23/97	
Correction	08/04/97	62 FR 41882

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rosalind Proctor, Program Analyst, Theft Prevention Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4807
Fax: 202 366-4329

RIN: 2127–AG56

2568. LIST OF NONCONFORMING VEHICLES ELIGIBLE FOR IMPORTATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30141

CFR Citation: 49 CFR 593

Legal Deadline: None

Abstract: This final action amends the regulation establishing procedures for decisions on whether a vehicle not originally manufactured to conform to the Federal motor vehicle safety standards is eligible for importation. By adding this appendix, the agency will list all vehicles that are now eligible for importation. Because this rule only furnishes information and imposes no regulatory requirement, the agency has good cause to dispense with a proposed notice for comment.

Timetable:

Action	Date	FR Cite
Final Action	10/01/96	61 FR 51243

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Coleman Sachs, Trial Attorney, Office of Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-3820
Fax: 202 366-3820

RIN: 2127–AG57

2569. +LIGHT TRUCK FUEL ECONOMY STANDARDS FOR MODEL YEAR 1999

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 49 USC 329; PL 104-205

CFR Citation: 49 CFR 533

Legal Deadline:
Final, Statutory, March 31, 1997.

Abstract: This final rule establishes the average fuel economy standard for light truck fleets for model year (MY) 1999. It is a direct final rule conforming to the instruction in the Department of Transportation Appropriation Act for FY 1997 that requires the standard not be set at any level that differs from standards promulgated prior to enactment of the Act. The light truck standard for MY 1999 is 20.7 mpg.

Timetable:

Action	Date	FR Cite
Final Action	04/03/97	62 FR 15859
Petitions Due	05/19/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/03/97 (62 FR 15859)

Additional Information: This action is not economically significant because the standard for MY 99 is the same as for MY 98. No petitions for reconsideration were received on the April 1997 final rule.

Agency Contact: Orron Kee, Division Chief, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0846
Fax: 202 366-2739

RIN: 2127–AG64

2570. HIGH-THEFT LINES FOR MODEL YEAR 1998

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 33104

CFR Citation: 49 CFR 541

Legal Deadline: None

Abstract: This action lists the high-theft vehicle lines that are subject to the parts-marking requirements of the theft prevention standard and high-theft lines that are exempted from the parts-marking requirement for Model Year 1998.

Timetable:

Action	Date	FR Cite
Final Action	07/31/97	62 FR 40949

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rosalind Proctor, Group Leader, Theft Prevention Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0846
Fax: 202 493-2739

RIN: 2127–AG71

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Railroad Administration (FRA)

Prerule Stage

2571. +RAILROAD COMMUNICATIONS—ADVANCED TRAIN CONTROL SYSTEM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20103; 49 USC 20111 to 20113; 49 USC 21301 to 21311

CFR Citation: 49 CFR 220

Legal Deadline: None

Abstract: Based on a Congressionally mandated safety inquiry about radio communications and train control, FRA committed to achieve the following: (1) continue to identify high risk corridors for mandatory Positive Train Control (PTC); (2) continue the interest in PTC technology testing and compatibility; and (3) establish the deployment of PTC technology on high risk rail corridors by the year 2000. This action is considered significant due to the substantial interest of both the public and the industry.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FRA has separated out of this rulemaking its action entitled Radio Communication, which proposes to revise its radio rules for more flexibility and to include requirements for the presence of radios and/or some means of wireless communication (RIN 2130-AB19).

Agency Contact: Cynthia Walters, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 632-3181

RIN: 2130–AA94

2572. +HOURS OF SERVICE ELECTRONIC RECORDKEEPING PROJECT

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20103; 49 USC 21101 to 21108; 49 USC 21303 to 21304; 49 USC 21311

CFR Citation: 49 CFR 228

Legal Deadline: None

Abstract: In 1994, the Federal Railroad Administration (FRA) launched a major project to facilitate maintenance of hours-of-service records and submission of "excess service" reports in an electronic, rather than a paper, format. FRA is proposing a model waiver to railroads interested in maintaining electronic records for train and engine service employees. These employees compose the vast majority of those subject to the statutory limitations on hours of service. This project will eventually lead to the formal revision of 49 CFR 228. This is considered significant due to public interest.

Timetable:

Action	Date	FR Cite
Grant or Deny Waiver Application	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David Kasminoff, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Mail Stop 10, Washington, DC 20590
Phone: 202 632-3191

RIN: 2130–AB04

2573. TOURIST AND HISTORIC WORKING GROUP REGULATORY REVIEW (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: PL 92-463; 5 USC app 2

CFR Citation: None

Legal Deadline: None

Abstract: The Tourist and Historic Working Group of the Railroad Safety Advisory Committee was established to review existing and proposed regulations, in accordance with section 610 of the Regulatory Flexibility Act, for their appropriate applicability to one segment of FRA's small business customers, the tourist and historic railroads. In addition, the group is examining FRA's policy with respect to exercise of jurisdiction over railroads off the general system of rail transportation.

Timetable:

Action	Date	FR Cite
Begin Review	04/01/96	
Complete Review	04/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: The group was created in April of 1996 and met on June 17 - 18, 1996. Thus far, the group has reviewed the Steam Locomotive standards and provided recommendations regarding their applicability to the tourist and historic railroad industry. (See Notice of Meeting, 61 FR 54698.) The group will operate at least through March of 1998, at which time the current Railroad Safety Advisory Committee charter will be renewed or expire.

Agency Contact: Lisa Levine, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 362-3189

RIN: 2130–AB12

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Railroad Administration (FRA)

Proposed Rule Stage

2574. +WHISTLE BANS AT HIGHWAY-RAIL GRADE CROSSINGS

Priority: Other Significant

Legal Authority: 49 USC 20103; 49 USC 20153; 49 USC 20111 to 20113; 49 USC 21301 to 21311

CFR Citation: 49 CFR 234; 49 CFR 1.49(f); 49 CFR 1.49(g); 49 CFR 1.49(m)

Legal Deadline:
Final, Statutory, November 2, 1996.
Final, Statutory, November 2, 1998.

Abstract: This action would govern the use of train whistles at grade crossings. This action is considered significant because of substantial public interest. This action is being taken pursuant to statutory mandate.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local

Analysis: Regulatory Evaluation

Agency Contact: Mark Tessler, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 632-3171

RIN: 2130–AA71

2575. QUALIFICATION AND CERTIFICATION OF LOCOMOTIVE ENGINEERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103; 49 USC 20111 to 20113; 49 USC 20135; 49 USC 21301 to 21311; 49 USC 30301 to 30308

CFR Citation: 49 CFR 240

Legal Deadline: None

Abstract: Based on petitions to reconsider several aspects of its previous rules addressing locomotive engineer qualifications, the agency is proposing to revise certain aspects of part 240: (1) the application of this rule to service vehicles; and (2) the process for revoking the certification of locomotive engineers.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/09/93 (58 FR 18982)

Additional Information: On October 31, 1996, FRA tasked the revisions of these qualifications to the Railroad Safety Advisory Committee (RSAC), which the agency established on March 26, 1996 (61 FR 9740). See Notice of RSAC Meeting, 61 FR 54698, Oct. 21, 1996. When FRA receives the advice and recommendations of the RSAC, the agency will move forward with an NPRM.

Agency Contact: Alan Nagler, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 632-3187

RIN: 2130–AA74

2576. +LOCOMOTIVE CRASHWORTHINESS AND WORKING CONDITIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20103; 49 USC 20111 to 20113; 49 USC 21301 to 21311; PL 103-272, sec 4(b)

CFR Citation: 49 CFR 229

Legal Deadline:
Final, Statutory, March 3, 1995.

Abstract: The agency has proposed to address the crashworthiness of locomotives and working conditions on locomotives, pursuant to the Rail Safety Enforcement and Review Act (1992). FRA investigated a variety of locomotive working conditions and crashworthiness, and reported its findings to Congress. On October 31, 1996 the Railroad Safety Advisory Committee (RSAC) accepted a preliminary planning task to schedule handling of these issues. The Locomotive Crew Safety Planning Group met on January 23, 1997 to develop task statements that were forwarded to the full RSAC and accepted on June 24, 1997. This project is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Open Meeting Notice	07/22/94	59 FR 37528
Report to Congress	09/18/96	
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Christine Beyer, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 632-3177

RIN: 2130–AA89

2577. +ENVIRONMENTAL IMPACT AND RELATED PROCEDURES (FRA, FTA, FHWA)

Priority: Other Significant

Legal Authority: 49 USC 322; 42 USC 4332

CFR Citation: 49 CFR 267; 49 CFR 622; 23 CFR 771

Legal Deadline: None

Abstract: The Federal Transit Administration (FTA) and the Federal Highway Administration (FHWA) currently have a joint environmental regulation at 23 CFR 771, "Environmental Impact and Related Procedures," that outlines requirements for complying with the National Environmental Policy Act and related laws and regulations. The Federal Railroad Administration (FRA) has "Procedures for Considering Environmental Impacts" (45 FR 40854, June 16, 1980) which serve the same purposes. FTA and FHWA are revising their regulation to serve program needs. In order to achieve consistency in environmental analysis for surface transportation modes and to update its existing environmental procedures which were issued in 1980, the FRA will join with FTA and FHWA in developing an environmental regulation that applies to all three modal Administrations. This action is considered significant because of public, congressional, and environmental concerns and because it involves several departmental modes. The FTA RIN is 2132-AA43; the FHWA RIN is 2125-AD32.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

DOT—FRA

Proposed Rule Stage

Government Levels Affected: Undetermined

Analysis: Economic Assessment

Agency Contact: William R. Fashouer, Senior Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC.
Phone: 202 632-3163

RIN: 2130–AA93

2578. +PASSENGER EQUIPMENT SAFETY STANDARDS

Regulatory Plan: This entry is Seq. No. 98 in Part II of this issue of the Federal Register.

RIN: 2130–AA95

2579. REINVENTION OF STEAM LOCOMOTIVE INSPECTION REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20701

CFR Citation: 49 CFR 230

Legal Deadline: None

Abstract: Pursuant to the President's Regulatory Reform Initiative, and at the initiative of several industry members, FRA has undertaken to modernize part 230 to reflect current operating realities and, perhaps, to allow greater flexibility in the steam locomotive inspection waiver process. On July 24-25, 1996, the agency tasked the revision of these standards to the Railroad Safety Advisory Committee (RSAC), established by FRA on March 26, 1996 (61 FR 9740). (See Notice of RSAC Meeting, July 10, 1996, 61 FR 36415.) Upon receipt of the advice and recommendations of the RSAC, the agency will move forward with an NPRM.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lisa L. Levine, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 632-3189

RIN: 2130–AB07

2580. +FLORIDA OVERLAND EXPRESS HIGH SPEED RAIL RULE OF PARTICULAR APPLICABILITY

Priority: Other Significant

Legal Authority: 49 USC 20103

CFR Citation: None

Legal Deadline: None

Abstract: FRA has begun work on safety standards for a high speed rail project in the state of Florida. As proposed, the system will operate from Miami to Tampa via Orlando, and will be modeled on the French TGV. As currently designed, the operation will travel at 200 mph on dedicated rail with no grade crossings, and will be used exclusively for passenger service. Florida anticipates beginning operations in the year 2004.

FRA will promulgate safety standards for the system in a rule of particular applicability. Because the equipment, signal system, and operating procedures in this system will differ significantly from any other entity currently operating in the United States, many existing standards of general applicability would not effectively address safety concerns. The rule will take a systems approach, covering equipment, track, signals, operating practices, emergency preparedness, personnel qualification requirements, system qualification requirements, and system safety plan.

FRA hopes to have proposed standards published by September 1997, and final standards in place by December 1997. This action is considered significant due to industry interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Christine Beyer, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20593
Phone: 202 362-3177
Fax: 202 632-3709

RIN: 2130–AB14

2581. +POWER BRAKE REGULATIONS: FREIGHT POWER BRAKE REVISIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 101; 49 USC 20103; 49 USC 20111 to 20113; 49 USC 20141; 49 USC 21301 to 21311

CFR Citation: 49 CFR 232; 49 CFR 231; 49 CFR 229

Legal Deadline:
Final, Statutory, December 31, 1993.

Abstract: Pursuant to the Federal Railroad Safety Enforcement and Review Act of 1992, FRA is revising the power brake rules. After separating proposed revisions regarding freight power brakes from passenger power brakes, FRA tasked the revision of freight power brake standards on April 1-2, 1996 to the Railroad Safety Advisory Committee (RSAC), established by FRA on March 26, 1996 (61 FR 9740). On June 24, 1997, this task was withdrawn from RSAC and FRA is proceeding on its own initiative. This rulemaking is considered significant because of its potential economic impact and congressional and public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: A portion of the task to revise the power brake rules has been completed. FRA revised the existing power brake regulations to mandate the use of two-way end-of-train telemetry devices, RIN 2130-AA73, in a final rule published on January 2, 1997 (62 FR 278). Furthermore, proposals for passenger brake revisions are being developed with the assistance of a passenger equipment standards working group.

Agency Contact: Thomas Herrmann, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 632-3178

RIN: 2130–AB16

DOT—FRA

Proposed Rule Stage

2582. • AUTOMATIC TRAIN CONTROL AND ADVANCED CIVIL SPEED ENFORCEMENT SYSTEM; NORTHEAST CORRIDOR RAILROADS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103; 49 USC 20107; 49 USC 20501 to 20505

CFR Citation: 49 CFR 1.49(f); 49 CFR 1.49(g); 49 CFR 1.49(m)

Legal Deadline: None

Abstract: FRA is proposing to issue an order of particular applicability requiring all trains on the north end of the Northeast Corridor (NEC) between Boston, Massachusetts, and New York, New York, to be controlled by locomotives equipped to respond to a new advanced civil speed enforcement system (ACSES) in addition to the automatic train control (ATC) system that is currently required on the NEC. The proposed order also contains performance standards for the cab signal/ATC and ACSES systems on the NEC. The order would authorize increases in certain maximum authorized train speed and safety requirements supporting improved rail service.

Timetable:

Action	Date	FR Cite
Proposed Order of Particular Applicability	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia V. Sun, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 632-3183

RIN: 2130–AB20

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Railroad Administration (FRA)

Final Rule Stage

2583. LOCAL RAIL FREIGHT ASSISTANCE TO STATES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 22101

CFR Citation: 49 CFR 266

Legal Deadline: None

Abstract: This action is to revise the procedures and requirements for the receipt of financial assistance contained in part 266. These changes are required to reflect statutory modifications resulting from the Local Rail Service Reauthorization Act of 1989. Although the Local Freight Assistance Program has not been reauthorized after FY 1995, final regulations are necessary because states continue to submit applications for new projects from reprogrammed funds and repaid loan funds.

Timetable:

Action	Date	FR Cite
NPRM	11/30/90	55 FR 49648
NPRM Comment Period End	12/31/90	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/30/90 (55 FR 49648)

Additional Information: While this action was to be terminated in October of 1995, the agency reconsidered and has decided to move forward with a final rule.

Agency Contact: JoAnne McGowan, Program Analyst, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 632-3277

RIN: 2130–AA60

2584. ALCOHOL/DRUG REGULATIONS; MISCELLANEOUS TECHNICAL AMENDMENTS AND CORRECTIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20103; 49 USC 20107; 49 USC 20111 to 20113; 49 USC 20140; 49 USC 21301; 49 USC 21304; PL 103-272 (July 5, 1994)

CFR Citation: 49 CFR 219; 49 CFR 217; 49 CFR 1.49(m); 49 CFR 240

Legal Deadline: None

Abstract: In this final action, FRA corrects typographical errors in the current CFR, and makes technical amendments to change telephone numbers, delete outdated definitions and references, and codify previous interpretations.

Timetable:

Action	Date	FR Cite
Final Corrective Action	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: A final rule suspending pre-employment alcohol testing was promulgated with all DOT modes, and published by FRA on 5/10/95. A final rule amending procedures for post-accident toxicological testing was published on 4/19/95 (60 FR 19538).

Agency Contact: Patricia V. Sun, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 632-3183

RIN: 2130–AA63

2585. +FREIGHT CAR SAFETY STANDARDS: MAINTENANCE-OF-WAY EQUIPMENT

Priority: Other Significant

Legal Authority: 49 USC 20103; 49 USC 20111 to 20113; 49 USC 21301 to 21311

CFR Citation: 49 CFR 215

Legal Deadline: None

Abstract: This action proposes to amend the freight car safety standards to subject all maintenance-of-way vehicles to FRA's safety standards, with the exception of stenciled cars not used in revenue service and restricted to a speed of less than 20 miles per hour. This action is considered significant because of substantial public and industry interest.

Timetable:

Action	Date	FR Cite
NPRM	03/10/94	59 FR 11238
NPRM Comment Period End	02/27/95	
Final Action	05/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/10/94 (59 FR 11238)

Additional Information: The original NPRM comment period ended on 4/11/94 but was twice extended; first, to 11/28/94 (59 FR 49374) and then to 02/27/95 (59 FR 67286). Due to various contentious issues raised during the NPRM comment period, FRA believes it may be advantageous to resolve differences in an open forum. Therefore, this action is being considered for possible referral to the Railroad Safety Advisory Committee (RSAC), established by FRA on March 26, 1996 (61 FR 9740).

Agency Contact: Billie Stultz, Deputy Assistant Chief Counsel, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 632-3167

RIN: 2130–AA68

2586. +TRACK SAFETY STANDARDS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20111 to 20113; 49 USC 20142; 49 USC 20301 to 20311

CFR Citation: 49 CFR 213

Legal Deadline:
Final, Statutory, September 1, 1995.

Abstract: FRA had proposed to comprehensively review the track regulations for the first time in over a decade. This revision of FRA's track safety standards was mandated by Congress in the Rail Safety Enforcement and Review Act (PL 102-365) and requested by the Brotherhood of Maintenance of Way workers in their petition requesting several modifications of existing track standards. On April 1-2, 1996, however, FRA tasked the revision of these standards to the Railroad Safety Advisory Committee (RSAC) which the agency established on March 26, 1996 (61 FR 9740). (See Notice of Task Acceptance, 61 FR 29164, June 7, 1996.) After receiving the advice and recommendations of the RSAC, the agency issued an NPRM. This action is significant because of substantial public interest and safety implications.

Timetable:

Action	Date	FR Cite
ANPRM	11/16/92	57 FR 54038
ANPRM Comment Period End	03/12/93	
NPRM	07/03/97	62 FR 36138
Correction	08/12/97	62 FR 43201
NPRM Comment Period End	09/15/97	
Final Action	04/00/98	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Evaluation

Additional Information: A Public Workshop Notice and Schedule was published 01/05/93 (58 FR 338) and subsequently corrected twice, on 1/19/93 (58 FR 4975) and 2/18/93 (58 FR 8928). A Public Hearing on the NPRM will be held on 9/4/97 (62 FR 42733).

Agency Contact: Nancy Lummen Lewis, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 632-3174

RIN: 2130–AA75

2587. +RAIL PASSENGER SERVICE: EMERGENCY PREPAREDNESS

Regulatory Plan: This entry is Seq. No. 99 in Part II of this issue of the Federal Register.

RIN: 2130–AA96

2588. MAINTENANCE, INSPECTION, AND TESTING OF GRADE-CROSSING SIGNAL SYSTEMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20103; 49 USC 20111 to 20113; 49 USC 20301 to 20311

CFR Citation: 49 CFR 234; 49 CFR 1.49(f); 49 CFR 1.49(g); 49 CFR 1.49(m)

Legal Deadline:
Final, Statutory, June 22, 1989.

Abstract: FRA is making technical changes and minor amendments to final regulations which were published on September 30, 1994. These regulations require that railroads take specific and timely actions to protect the travelling public and railroad employees from the hazards posed by malfunctioning highway-rail grade crossing warning systems, and that railroads follow specific standards for maintenance, inspection, and testing of those systems. The amendments clarify issues arising from implementation of this new regulatory program. No new costs are expected.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/20/96	61 FR 31802
Comment Period End	07/22/96	
Interim Final Rule Effective	08/19/96	
Final Action	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local

Additional Information: The final rule, RIN 2130-AA70, was published 9/30/94 (59 FR 50086), and was effective 1/1/95. In response to a petition for reconsideration, FRA conducted a review, together with rail labor and rail management, to address various implementation issues that had surfaced since the rule was enacted. After meeting with these parties in March 1995, FRA issued an Implementation Manual on April 14, 1995. An interim final rule intended to clarify implementation issues by making minor technical amendments was published on June 20, 1996, effective August 19, 1996. Response to the comments on that interim rule may result in further amendment of the rule.

Agency Contact: Mark H. Tessler, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 632-3171

RIN: 2130–AA97

2589. STATEMENT OF POLICY REGARDING SAFETY OF RAILROAD BRIDGES

Priority: Info./Admin./Other

Legal Authority: 49 USC 20103; 49 USC 21301 to 21311; 49 USC 20142; PL 103-44, sec 208

CFR Citation: 49 CFR 213

Legal Deadline: None

Abstract: FRA proposes to publish a policy statement containing maintenance guidelines based on certain common, basic principles that characterize effective bridge management practices. The guidelines are meant to be advisory in nature. They will not have the force of regulations under which FRA ordinarily issues violations and assesses civil penalties.

Timetable:

Action	Date	FR Cite
Statement of Interim Policy	04/27/95	60 FR 20654
Comment Period End	06/26/95	
Final Policy Statement	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy L. Lewis, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 632-3174

RIN: 2130–AA99

2590. REINVENTION OF REGULATIONS ADDRESSING DISCONTINUANCE OR MODIFICATION OF SIGNAL SYSTEMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20501 to 20505

CFR Citation: 49 CFR 235

Legal Deadline: None

Abstract: Pursuant to the President's Regulatory Reform Initiative, FRA intends to revise part 235 by reducing the list of circumstances for which signal system discontinuance approval is required. The amendments clarify issues arising from implementation of this new regulatory program. No new costs are expected.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/01/96	61 FR 33871
Comment Period End	07/31/96	
Interim Final Rule Effective	08/30/96	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Tessler, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 632-3171

RIN: 2130–AB05

2591. REINVENTION OF SIGNAL SYSTEM REPORTING REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20501 to 20505

CFR Citation: 49 CFR 233

Legal Deadline: None

Abstract: Pursuant to the President's Regulatory Reform Initiative, FRA is amending its signal system reporting requirements (part 233) to reduce signal system reporting burdens on the rail industry. The amendments clarify issues arising from implementation of this new regulatory program. No new costs are expected.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/01/96	61 FR 33871
Comment Period End	07/31/96	
Interim Final Rule Effective	08/30/96	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Tessler, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 632-3171

RIN: 2130–AB06

2592. REINVENTION OF REGULATIONS ADDRESSING RAILROAD USER FEES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 421

CFR Citation: 49 CFR 245

Legal Deadline: None

Abstract: The Department intends to submit a request to Congress for legislation to permit FRA to assess and collect railroad user fees. If enacted, FRA would reexamine the burden of the program on small railroads. In the Omnibus Budget Reconciliation Act of 1990, Congress had authorized FRA to assess and collect railroad user fees for a 5-year period which ended September 30, 1995.

Timetable:

Action	Date	FR Cite
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Elizabeth Sorrells, Attorney Advisor, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 632-3185

RIN: 2130–AB09

2593. SMALL RAILROADS; POLICY STATEMENT ON ENFORCEMENT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 601 et seq; PL 104-121; 49 USC 20101 et seq

CFR Citation: 49 CFR 209

Legal Deadline:
Other, Statutory, March 29, 1997, Policy on Small Entities Subject to Railroad Safety Laws.

Abstract: The Small Business Regulatory Enforcement Act (SBREFA) of 1996 requires, among other things, that federal agencies establish communication and enforcement

DOT—FRA

Final Rule Stage

programs to address the unique concerns and operations of small entities.

Pursuant to SBREFA, FRA published communication and enforcement policies with respect to small entities in a Statement of Agency Policy and undertook an interim definition of "small entity" in this process. Also, FRA invited comment from the public for the purpose of adopting a new definition of "small entity" in the future.

Timetable:

Action	Date	FR Cite
Interim Policy Statement Effective 10/10/97	08/11/97	62 FR 43024
Comment Period End	11/30/97	
Final Policy Statement	02/00/98	

Small Entities Affected: Businesses

Government Levels Affected: Local

Agency Contact: Christine Beyer, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20593
Phone: 202 632-3177

RIN: 2130–AB15

2594. USE OF REMOTELY CONTROLLED LOCOMOTIVES IN RAIL OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 21301 to 21311; 49 USC 20103

CFR Citation: 49 CFR 211.51; 49 CFR 229.7

Legal Deadline: None

Abstract: Concerned with the complex and immediate safety issues posed by rail operations involving the use of remotely controlled locomotives, FRA proposes to promulgate an interim final rule to conduct a nationwide pilot program on remote control operations. FRA will require all railroads which propose to use remote control locomotives to enroll in a pilot program and agree to conform to the safety conditions set forth by FRA. The purpose of the pilot program is to determine under what conditions, if any, remote control operations can be operated safely.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: An Informal Safety Inquiry concerning a proposal by Wisconsin Central Ltd. to expand its use of remote control operations and one-person crews was held by FRA on December 4 and 5, 1997 (61 FR 58736, November 18, 1996).

Agency Contact: Mark Tessler, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street St., Washington, DC 20590
Phone: 202 632-3171

RIN: 2130–AB17

2595. USE OF ONE-PERSON CREWS IN RAIL OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103; 49 USC 21301 to 21311

CFR Citation: 49 CFR 211.51; 49 CFR 229.7

Legal Deadline: None

Abstract: Concerned with the complex and immediate safety issues posed by rail operations involving the use of one-person crews, FRA proposes to promulgate an interim final rule to prohibit, except in carefully controlled instances, the use of one-person operations. FRA will require all railroads which propose to use one-person crew operations to enroll in a pilot program and agree to conform to the safety conditions set forth by FRA. The purpose of the pilot program is to determine under what conditions, if any, one-person crew operations can be safely operated.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: An Informal Safety Inquiry concerning a proposal by Wisconsin Central Ltd. to expand its use of one-person crew and remote control operations was held by FRA on December 4 and 5, 1996 (61 FR 58736, November 18, 1996).

Agency Contact: Elisabeth Fallace, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 632-3193

RIN: 2130–AB18

2596. • RADIO COMMUNICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103; 49 USC 20111 to 20113; 49 USC 21301 to 21311

CFR Citation: 49 CFR 220

Legal Deadline: None

Abstract: Based on a Congressionally mandated safety inquiry about radio communications and train control, FRA committed to revise its radio rules for more flexibility and to include requirements for the presence of radios and/or some means of wireless communication for certain trains and roadway workers. On April 1-2, 1996 the agency tasked the revision of these standards to the Railroad Safety Advisory Committee (RSAC), established by FRA on March 26, 1996 (61 FR 9740). (See Notice of Task Acceptance, 61 FR 29164, June 7, 1996.) An NPRM based on RSAC's advice and recommendations was published on June 26, 1997.

Timetable:

Action	Date	FR Cite
NPRM	06/26/97	62 FR 34544
NPRM Comment Period End	08/25/97	
Final Action	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: As originally proposed, this rulemaking also encompassed issues involving positive train control (PTC) technology. However, FRA has separated this rulemaking out from the original proposal to revise its radio rules with respect to PTC technology (RIN 2130-AA94).

Agency Contact: Patricia V. Sun, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 632-3183

RIN: 2130–AB19

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Railroad Administration (FRA)

Long-Term Actions

2597. AMTRAK WASTE DISPOSAL

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-610

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The National and Community Service Act requires the Secretary of Transportation to promulgate such regulations as may be necessary to mitigate the impact of discharge of human waste from railroad passenger cars on areas that may be considered environmentally sensitive.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: William Fashouer, Senior Attorney, Department of Transportation, Federal Railroad Administration, Office of Chief Counsel, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 632-3183

RIN: 2130–AA84

2598. PROTECTION OF UTILITY EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103; 49 USC 20131; 49 USC 20111 to 20113; 49 USC 21301 to 21311

CFR Citation: 49 CFR 218

Legal Deadline: None

Abstract: FRA is in the process of reconsidering Amendments to its "Blue Signal" regulations, which prescribe minimum requirements for the protection of railroad employees engaged in the inspection, testing, repair, and servicing of rolling equipment. The original "blue signal" rule did not include train and yard crews in this protection, with limited exceptions. The final rule, intended to redress this problem, allowed augmentation of a crew by using a "utility" employee, which would increase a railroad's efficient use of its employees. Based on petitions to reconsider several aspects of its final rule treating this subject, FRA issued amendments to this rule. Based on comments received, the agency suspended those amendments and reopened the comment period to further develop this proposal. The agency is currently receiving and reviewing such comments in consideration of revision to the final amendments.

Timetable:

Action	Date	FR Cite
Final Rule Amendments: Comment Period End 5/1/95	03/01/95	60 FR 11047
Amendment to Final Rule Suspended; Comment Period Reopened Indefinitely	08/09/95	60 FR 30469
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: The final rule on utility employees was published August 16, 1993 (58 FR 43287), RIN 2130-AA77.

Agency Contact: Daniel Alpert, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 632-3186

RIN: 2130–AA90

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Railroad Administration (FRA)

Completed Actions

2599. POWER BRAKE REGULATIONS: TWO-WAY END-OF-TRAIN TELEMETRY DEVICES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 101; 49 USC 20103; 49 USC 20111 to 20113; 49 USC 20141; 49 USC 21301 to 21311

CFR Citation: 49 CFR 232; 49 CFR 231; 49 CFR 229

Legal Deadline:
Final, Statutory, December 31, 1993.

Abstract: FRA amended the existing power brake regulations by requiring that all trains not specifically excepted be equipped with two-way end-of-train telemetry devices or a device using alternative technology to perform the same function.

Timetable:

Action	Date	FR Cite
ANPRM	12/31/92	57 FR 62546
ANPRM Comment Period End	03/31/93	
NPRM	09/16/94	59 FR 47676
NPRM Comment Period End	12/31/94	
Extended Comment Period End 2/27/95 for Passenger Brake Issues	01/17/95	60 FR 3375
Extended Comment Period End 4/01/95 for Freight Issues	01/17/95	
Public Regulatory Conference (Two-way end-of-train telemetry devices only)	03/05/96	61 FR 6610
Final Rule Effective Date 7/1/97	01/02/97	62 FR 278
Action on Petitions	06/04/97	62 FR 30461

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/02/97 (62 FR 290)

Additional Information: This action focused solely on Two-Way End-of-Train (EOT) devices. The next action anticipated by FRA is an NPRM to revise the Freight Power Brake Provisions (RIN 2130-AB16). Proposals regarding passenger brake issues are currently being developed with the assistance of a passenger equipment standards working group.

Agency Contact: Thomas Herrmann, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 632-3178

RIN: 2130–AA73

DOT—FRA

Completed Actions

2600. +ROADWAY WORKER PROTECTION

Priority: Other Significant

Legal Authority: 49 USC 20103; 49 USC 20111 to 20113; 49 USC 20142; 49 USC 21301 to 21311; PL 103-440, sec 208

CFR Citation: 49 CFR 214

Legal Deadline:
Final, Statutory, September 1, 1995.

Abstract: The agency established minimum mandatory requirements to provide roadway workers with on-track safety. This rulemaking represents the agency's first use of regulatory-negotiation in its rulemaking process. The rule is considered significant due to substantial public interest and safety considerations.

Timetable:

Action	Date	FR Cite
ANPRM	11/16/92	57 FR 54038
ANPRM Comment Period End	05/04/93	
Negotiations Begin	01/23/95	
Negotiations End	07/28/95	
NPRM	03/14/96	61 FR 10528
NPRM Comment Period End	05/13/96	
Notice of Public Hearing 7/11/96	06/19/96	61 FR 31085
Final Rule Effective 1/15/97	12/16/96	61 FR 65959
Petitions Due	02/14/97	
Response to Petitions	04/21/97	62 FR 19234

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/16/96 (61 FR 65973)

Additional Information: On August 17, 1994 (59 FR 42200), FRA published a notice proposing to form a negotiated rulemaking advisory committee and invited requests for representation, to be received by September 16, 1994. On January 5, 1995 (60 FR 1761), FRA published a notice of the establishment of an advisory committee and announced the first committee meeting. A schedule of further Advisory Committee meetings was published 2/15/95 (60 FR 8619), 5/8/95 (60 FR 22542) and 8/15/95 (60 FR 42214). The Committee met on the following dates: February 16 to 17, 1995 ; March 7 to 8, 1995; March 23 to 24, 1995; April 3 to 4, 1995; April 19 to 21, 1995; May 16 to 17, 1995; and August 30-31, 1995. The Advisory Committee submitted its report, which formed the basis of the NPRM, to Secretary Pena and Administrator Molitoris on May 17, 1995. This action was originally contained in our comprehensive track safety standards revision, RIN 2130-AA75, but was placed in part 214 as it is more directly related to worker safety than to track standards.

Agency Contact: Cynthia Walters, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 632-3188

RIN: 2130–AA86

2601. +SELECTION AND INSTALLATION OF GRADE CROSSING WARNING SYSTEMS

Priority: Other Significant

Legal Authority: 49 USC 20103; 49 USC 20107; 49 USC 20111 to 20113; 49 USC 21301 to 21311

CFR Citation: 49 CFR 234

Legal Deadline: None

Abstract: In its NPRM, FRA proposed to prohibit railroads from unilaterally selecting and installing highway-rail grade crossing warning systems at public highway-rail crossings. FRA also proposed to require that railroads furnish state highway authorities with information necessary for state grade crossing project planning and prioritization purposes. Termination of this rulemaking is based on public comments and FRA's determination that the railroad safety will not be best served by issuance of such a regulation at this time.

Timetable:

Action	Date	FR Cite
NPRM	03/02/95	60 FR 11649
NPRM Comment Period End	05/16/95	
Public Hearings	06/06/95	
Public Hearings	06/07/95	
Termination of Rulemaking	08/08/97	62 FR 42733

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Tessler, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 632-3171

RIN: 2130–AA92

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Transit Administration (FTA)

Proposed Rule Stage

2602. +DEPARTMENT OF TRANSPORTATION (FTA, FRA, FHWA, AND USCG), NEPA, AND RELATED PROCEDURES FOR TRANSPORTATION DECISIONMAKING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5304(e); 42 USC 4321; 23 USC 109; 23 USC 128; 23 USC 138; 23 USC 315; 49 USC 303(c); 33 USC 401; 33 USC 491 et seq; 33 USC 511 et seq; 33 USC 525 et seq; 33 USC 535

CFR Citation: 49 CFR 622; 23 CFR 771; 40 CFR 1500 to 1508; 49 CFR 1.48(b); 49 CFR 1.51; 33 CFR 114.05

Legal Deadline:
Final, Statutory, May 16, 1992.

Abstract: The Federal Transit Administration and the Federal Highway Administration currently have a joint environmental regulation at 23 CFR 771, "Environmental Impact and Related Procedures." The agencies first issued an environmental regulation together in 1980. The joint regulation was amended in 1987 and again in 1991. Even though FTA and FHWA have joint regulations, each agency's guidance for implementing those regulations is procedurally different. This causes difficulties and inconsistencies for sponsors of transportation projects, particularly where joint FTA and FHWA funds are involved. In the ISTEA, the Congress recognized the importance of providing uniformity and consistency between FTA and FHWA environmental procedures. This is needed to accommodate the increased funding flexibility for surface transportation provided by ISTEA. Because of an increased emphasis on intermodal planning and proposals to advance a high-speed rail program, the proposed, new joint regulations will include the Federal Railroad Administration (FRA) and the United States Coast Guard (USCG) bridge permit program.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Analysis: Regulatory Evaluation

Additional Information: Section 134(h)(4) of title 23, United States Code and section 8(h)(4) of the Federal Transit Act, as amended (now 49 USC 5304(e)), direct the Secretary of Transportation to initiate a rulemaking proceeding to conform review requirements for transit projects under the National Environmental Policy Act of 1969 to comparable requirements for highway projects. This action is considered significant because of potential public, congressional, and environmental concerns, and because it involves several interested departmental modes.

Agency Contact: Scott Biehl, Assistant Chief Counsel, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0952

RIN: 2132–AA43

2603. PREVENTION OF ALCOHOL MISUSE IN TRANSIT OPERATIONS; PREVENTION OF PROHIBITED DRUG USE IN TRANSIT OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5331

CFR Citation: 49 CFR 653; 49 CFR 654

Legal Deadline: None

Abstract: FTA is proposing to amend its drug and alcohol rules to allow employers to use the results of a drug or alcohol test administered by state and local law enforcement personnel after an accident has occurred. The existing drug and alcohol rule was published on February 15, 1994, and previously reported under RIN 2132-AA37 and 2132-AA38. The change would make FTA's rule parallel with FHWA's and responds to a request from a transit authority.

Timetable:

Action	Date	FR Cite
NPRM	09/30/97	62 FR 51076
Comment Period End	12/01/97	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Agency Contact: Nancy Zaczek, Attorney Advisor, Department of Transportation, Federal Transit Administration, 400 Seventy Street SW., Washington, DC 20590
Phone: 202 366-4011

RIN: 2132–AA56

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Transit Administration (FTA)

Final Rule Stage

2604. +BUS TESTING

Priority: Other Significant

Legal Authority: 49 USC 5323(c)

CFR Citation: 49 CFR 665

Legal Deadline: None

Abstract: This regulation implements a statutory provision that requires any new bus model purchased after September 30, 1989, to be tested at a facility established by the Secretary in Altoona, PA. This regulation is significant because of the large amount of public interest.

Timetable:

Action	Date	FR Cite
NPRM	05/25/89	54 FR 22716
NPRM Comment Period End	07/24/89	
Interim Final Rule	08/23/89	54 FR 35158
Interim Final Rule: Comment Period Reopened	11/30/89	54 FR 49297
Interim Final Rule: Second	10/09/90	55 FR 41174
Interim Final Rule Extending Interim Procedures	09/13/91	56 FR 46572
Interim Final Rule New Vehicle Types	07/28/92	57 FR 33394
Interim Final Rule Partial Effectiveness Postponed	10/13/92	57 FR 46814
Interim Final Rule Comment Period Reopened to 01/29/93	01/07/93	58 FR 2969
Interim Final Rule Partial Effectiveness Postponed	02/23/93	58 FR 10989
Notice of Meeting	02/26/93	58 FR 11549
Interim Final Rule Small Vehicle Testing, Phase-in of Effective Date	11/03/93	58 FR 58732
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/28/92 (57 FR 33394)

Additional Information: Former section 12(h) of the FT Act, as amended (now 49 USC 5302(a)(9)), defines a "new bus model" as a bus model which has not been used in mass transportation service in the United States before the date of production of such model, or a bus model which has been used in such service, but which is being produced with a major change in configuration or components. A third interim final rule, published on 07/28/92, added two new categories of buses required to be tested. On 10/13/92 FTA published a notice postponing the application of the interim final rule for these vehicle types until 02/10/93. The FTA's fourth interim final rule, issued on 11/3/93, established four subcategories of small vehicles to facilitate the phase-in of testing. The final rule will add the two tests mandated by ISTEA, brake performance and emissions, to the seven tests currently performed at the bus testing facility. In addition, the final rule will clarify the partial testing

DOT—FTA — Final Rule Stage

with regard to what constitutes a "major change" on a bus that has been fully tested, but is later produced with a change in configuration or component.

Agency Contact: Richard Wong, Attorney-Advisor, Department of Transportation, Federal Transit Administration, Office of Chief Counsel, Room 9318, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1936

RIN: 2132–AA30

2605. CHARTER SERVICES DEMONSTRATION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-240, sec 3040

CFR Citation: 49 CFR 604

Legal Deadline:
Final, Statutory, September 18, 1992.

Abstract: This rulemaking presents the results and conclusions drawn from the charter services demonstration program, previously reported under RIN 2132-AA40, which was mandated by section 3040 of the Intermodal Surface Transportation Efficiency Act. That provision directed FTA to conduct a demonstration program in four states to permit public operators to provide needed charter services to certain civic and community groups. In addition to setting forth program results, this rulemaking seeks recommendations regarding improvements to the charter service regulation.

Timetable:

Action	Date	FR Cite
NPRM	08/23/97	62 FR 33793
NPRM Comment Period End	09/22/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rita Daguillard, Attorney Advisor, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1936

RIN: 2132–AA58

DEPARTMENT OF TRANSPORTATION (DOT) — Completed Actions
Federal Transit Administration (FTA)

2606. • BUY AMERICA; ROLLING STOCK, TECHNICAL AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5323(j)

CFR Citation: 49 CFR 661

Legal Deadline:
Final, Statutory, May 30, 1992.

Abstract: This final rule is merely a technical amendment which restores appendices to section 661.11 of the agency's Buy America regulation, which governs procurement of rolling stock. These appendices were inadvertently deleted during a recent revision of the rule (61 FR 6300).

Timetable:

Action	Date	FR Cite
Final Action	07/31/97	62 FR 40953

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Rita Daguillard, Attorney Advisor, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1936

RIN: 2132–AA59

DEPARTMENT OF TRANSPORTATION (DOT) — Long-Term Actions
Saint Lawrence Seaway Development Corporation (SLSDC)

2607. GREAT LAKES PILOTAGE POINTS SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 8105; 46 USC 9303; 46 USC 9304

CFR Citation: 33 CFR 405; 49 CFR 1.52

Legal Deadline: None

Abstract: This action would amend the Great Lakes Pilotage regulations by adding a points system whereby Great Lakes registered pilots who commit speeding and other safety violations will accumulate points against their registration.

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Scott A. Poyer, Chief Economist, Department of Transportation, Saint Lawrence Seaway Development Corporation, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-7147

RIN: 2135–AA10

DEPARTMENT OF TRANSPORTATION (DOT) — Prerule Stage
Research and Special Programs Administration (RSPA)

2608. +QUALIFICATION OF PIPELINE PERSONNEL

Priority: Other Significant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: An NPRM proposed qualification standards for pipeline personnel who perform, or directly supervise those persons performing, regulated operation, maintenance, and emergency-response functions. Public input received through a public meeting, written comments on the NPRM, pipeline advisory committee review, and a petition for withdrawal of the NPRM filed by the American Gas Association led to a decision to convert the rulemaking into a negotiated rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	03/23/87	52 FR 9189
ANPRM Comment Period End	05/07/87	
NPRM	08/03/94	59 FR 39506
Extended Comment Period End 10/31/94	09/07/94	59 FR 46219
Public Meeting Notice	09/07/94	59 FR 46219
NPRM Comment Period End	10/03/94	
Notice of Intent to Form a Negotiated Rulemaking Committee	07/02/96	61 FR 34410
NPRM Withdrawn	07/02/96	61 FR 34413
Public Meeting Notice	02/21/97	62 FR 7985
Notice of Public Meeting	05/21/97	62 FR 27715
Notice of Public Meetings	08/24/97	62 FR 34041
Notice of Public Hearing	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/03/94 (59 FR 39506)

Additional Information: Docket No. PS-94. Formerly entitled: Pipeline Operator Qualifications. The proposals regarding certification of personnel and emergency response in "Proposals for Pipeline Safety," RIN 2137-AB27, have been consolidated into this rulemaking. A negotiated rulemaking procedure is underway.

Agency Contact: E. Wyman, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0918

RIN: 2137–AB38

2609. • PIPELINE SAFETY: PRESSURE TESTING OLDER HAZARDOUS LIQUID AND CARBON DIOXIDE PIPELINES; EXTENSION OF TIME

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: This direct final rule extends the time for compliance with the requirements for pressure testing of older hazardous liquid and carbon dioxide pipelines. Plans for testing, which were to be completed by December 7, 1997, would now be required by December 7, 1998. The dates for actual completion of the testing, previously December 7, 1999, and December 7, 2002, are also extended by one year. RSPA is extending these compliance dates to allow time to complete a rulemaking based on the American Petroleum Institute's (API) petition for a risk-based alternative to the required pressure testing rule. In a separate notice (RIN 2137-AC78), RSPA is issuing a proposed rule for a risk-based alternative to the existing pressure testing rule.

Timetable:

Action	Date	FR Cite
Direct Final Rule	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: In a petition dated June 23, 1995, API submitted a risk-based alternative to the pressure testing final rule issued on June 7, 1994 (59 FR 29379) and requested that RSPA delay implementation of the rule until the API proposal was given full consideration. API argued that the rule on pressure testing older hazardous liquid and carbon dioxide pipelines presents an opportunity to apply a risk-based approach to pressure testing, and proposed a risk-based alternative to the rule. RSPA published a Final Rule (Docket PS-121; 61 FR 43026; August 20, 1996) extending the compliance deadline to plan and schedule pressure testing to December 1997. The dates for actual completion of testing were extended by one year. These dates are being further extended by a year by this rulemaking.

Agency Contact: Mike Israni, General Engineer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4571
Fax: 202 366-4566

RIN: 2137–AD05

2610. • +HAZARDOUS MATERIALS: SAFETY STANDARDS FOR UNLOADING CARGO TANK MOTOR VEHICLES IN LIQUEFIED COMPRESSED GAS SERVICE

Priority: Other Significant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 171; 49 CFR 173; 49 CFR 178; 49 CFR 180

Legal Deadline: None

Abstract: This rulemaking would enhance the safety of cargo tanks by clarifying provisions pertaining to emergency discharge control systems, hose management, and attendance requirements in the Hazardous Materials Regulations.

Timetable:

Action	Date	FR Cite
ANPRM	08/18/97	62 FR 44050
ANPRM Comment Period End	10/17/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. HM-225A.

Agency Contact: Ronald Kirkpatrick, Engineer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC
Phone: 202 366-4545

RIN: 2137–AD07

DEPARTMENT OF TRANSPORTATION (DOT)
Research and Special Programs Administration (RSPA)

Proposed Rule Stage

2611. +REQUIREMENTS FOR CYLINDERS (SECTION 610 REVIEW)

Regulatory Plan: This entry is Seq. No. 100 in Part II of this issue of the Federal Register.

RIN: 2137–AA92

2612. GAS GATHERING LINE DEFINITION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 et seq

CFR Citation: 49 CFR 192

Legal Deadline:
Final, Statutory, October 24, 1994.

Abstract: The existing definition of "gathering line" would be clearly defined to eliminate confusion in distinguishing these pipelines from transmission lines in rural areas. The costs should be minimal since the definition will conform to prevailing practices in government and industry.

Timetable:

Action	Date	FR Cite
NPRM	09/25/91	56 FR 48505
NPRM Comment Period End	11/25/91	
SNPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/25/91 (56 FR 48505)

Additional Information: Docket No. PS-122.

Agency Contact: Richard Huriaux, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4595

RIN: 2137–AB15

2613. DOT 3AL ALUMINUM CYLINDERS; SAFETY PROBLEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 178

Legal Deadline: None

Abstract: Certain DOT 3AL cylinders made of aluminum alloy 6351 have been discovered developing cracks during service, and occasionally leaks developed that resulted in loss of contents. The ANPRM was to alert and inform all persons possessing these cylinders of the problems, identify those cylinders at risk, and suggest steps to minimize risks. The NPRM will address the safety issues involved.

Timetable:

Action	Date	FR Cite
ANPRM	07/10/87	52 FR 26027
ANPRM Comment Period End	08/10/87	
NPRM	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation

Additional Information: Docket No. HM-176A This action is being combined with Docket HM-220, RIN 2137-AA92, 12/97.

Agency Contact: Hattie Mitchell, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553

RIN: 2137–AB51

2614. ADOPTION OF INDUSTRY STANDARDS FOR BREAKOUT TANKS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: This rulemaking proposes to add safety standards for the design, construction, operation and maintenance of pipeline breakout tanks.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: Docket No. RSPA-97-2095. This action incorporates by reference the applicable standards for breakout tank design and construction that are contained in American Petroleum Institute Standard 650-653 and other national standards. These standards are already widely followed in the pipeline industry. In developing this regulation, RSPA has the benefit of a Texas A&M study on breakout tanks.

Agency Contact: A. Garnett, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-2036

RIN: 2137–AC11

2615. UNDERWATER ABANDONED PIPELINE FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline:
Final, Statutory, April 24, 1994.

Abstract: This action would result in regulations specifying procedures for operators to report on underwater pipelines abandoned prior to October 24, 1992.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Docket No. RSPA-97-2094.

Agency Contact: L.E. Herrick, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-5523

RIN: 2137–AC33

2616. AREAS UNUSUALLY SENSITIVE TO ENVIRONMENTAL DAMAGE (USAS)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 195

Legal Deadline:
Final, Statutory, October 24, 1994.

Abstract: This notice would propose criteria for identifying areas unusually sensitive to environmental damage from a hazardous liquid pipeline release. The criteria are needed to carry out statutory requirements.

DOT—RSPA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
Public Meeting and Supplemental Notice	06/22/94	59 FR 32178
Public Meeting Comment Period End	08/01/94	
Extended Comment Period End	08/26/95	
Extended Comment Period End 8/25/95	07/10/95	60 FR 35549
NPRM	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. PS-140. Was originally Docket PS-130B "Environmentally Sensitive Areas," for part 194. Changed to address part 195. A series of public workshops were conducted in 1996 and 1997. Additional workshops will be scheduled as necessary.

Agency Contact: Christina Sames, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-4561

RIN: 2137–AC34

2617. +INCREASED INSPECTION REQUIREMENTS

Priority: Other Significant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline:
Final, Statutory, October 24, 1995.

Abstract: This rulemaking would require gas and hazardous liquid pipelines in high-density, environmentally sensitive, or navigable waterway areas to be inspected by internal inspection devices or equivalent means. The regulations would prescribe circumstances under which such inspections must be conducted. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Public Workshop	10/18/95	60 FR 44821
NPRM	06/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. PS-141.

Agency Contact: L. M. Furrow, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-4559

RIN: 2137–AC38

2618. +EMERGENCY FLOW RESTRICTING DEVICES

Regulatory Plan: This entry is Seq. No. 101 in Part II of this issue of the Federal Register.

RIN: 2137–AC39

2619. HAZARDOUS MATERIALS; MISCELLANEOUS AMENDMENTS AND CORRECTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 171 to 178

Legal Deadline: None

Abstract: RSPA plans to make minor changes to its hazardous materials transportation regulations on an ongoing basis. This periodic (usually annual) rulemaking provides a mechanism to update and correct noncontroversial and technical requirements in response to petitions for rulemaking, industry complaints, technological developments and RSPA's enforcement experience. After notice and comment, RSPA would make a variety of changes, such as updating incorporations by reference, responding to petitions for rulemaking, clarifying requirements and providing regulatory relief.

Timetable:

Action	Date	FR Cite
NPRM	09/24/97	62 FR 50222
Comment Period End	11/24/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. HM-166Y.

Agency Contact: Joan McIntyre, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-8553

RIN: 2137–AC41

2620. LABELING REQUIREMENTS FOR POISONOUS MATERIALS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 172; 49 CFR 174 to 177

Legal Deadline: None

Abstract: This action considers changes to certain labeling provisions of the Hazardous Materials Regulations to require the use of a POISON label on packages containing materials meeting the toxicity criteria for poisonous materials in Division 6.1, Packing Group III. This rulemaking is necessary due to elimination of the Keep Away From Food Label by the UN.

Timetable:

Action	Date	FR Cite
ANPRM	11/08/93	58 FR 59224
ANPRM Comment Period End	01/10/94	
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation

Additional Information: Docket No. HM-217.

Agency Contact: Helen Engrum, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh St. SW., Washington, DC 20590-0001
Phone: 202 366-8553

RIN: 2137–AC47

2621. REGULATED GAS AND HAZARDOUS LIQUID GATHERING LINES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline:
Final, Statutory, October 24, 1995.

Abstract: This action would establish regulations for gas and hazardous liquid gathering lines in rural areas for which there are at present no safety regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/98	

DOT—RSPA

Proposed Rule Stage

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Huriaux, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-4595

RIN: 2137–AC53

2622. PERIODIC UNDERWATER INSPECTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline:
Final, Statutory, October 24, 1995.

Abstract: This action would require operators of natural gas and hazardous liquid pipelines to conduct periodic underwater inspections of offshore pipelines and those in navigable waterways. This action would also define what constitutes an exposed underwater pipeline and what constitutes a hazard to navigation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation

Agency Contact: L. E. Herrick, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-5523

RIN: 2137–AC54

2623. +RISK-BASED ALTERNATIVE TO PRESSURE TESTING RULE

Regulatory Plan: This entry is Seq. No. 102 in Part II of this issue of the **Federal Register**.

RIN: 2137–AC78

2624. DRUG AND ALCOHOL TESTING: SUBSTANCE ABUSE PROFESSIONAL EVALUATION FOR DRUG USE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 199

Legal Deadline: None

Abstract: This action results from the need to make the RSPA drug testing regulations conform with those of the other Departmental operating administrations that fall under the Omnibus Transportation Employee Testing Act of 1991. It would make drug testing among the operating administrations as consistent as possible and simplify the drug testing process for pipeline operations. It would require that an employee who tests positive for drugs be evaluated by a substance abuse professional prior to returning to performing his/her covered function.

Timetable:

Action	Date	FR Cite
NPRM	08/20/97	62 FR 44250
NPRM Comment Period End	10/20/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. PS-128. This rulemaking would modify existing drug regulations. No regulatory analysis was done because there are few, if any, small entities that operate hazardous liquid or carbon dioxide pipelines subject to part 195, or liquid natural gas facilities subject to part 193.

Agency Contact: Catrina Pavlik, Drug/Alcohol Program Analyst, Room 2335, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6199
Fax: 202 366-4566

RIN: 2137–AC84

2625. REQUIREMENTS FOR CARGO TANKS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 107; 49 CFR 173; 49 CFR 178; 49 CFR 180

Legal Deadline: None

Abstract: This rulemaking proposes to revise and clarify certain manufacturing, maintenance and use requirements pertaining to cargo tank motor vehicles in the Hazardous Materials Regulations. FHWA inspections have resulted in a preliminary determination that these regulations need to be amended to make them more practical, understandable, and enforceable.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: HM-213.

Agency Contact: Jennifer Karim, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553

RIN: 2137–AC90

2626. METRICATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60125 to 60125

CFR Citation: 49 CFR 192; 49 CFR 193; 49 CFR 194; 49 CFR 195

Legal Deadline: None

Abstract: This rulemaking would provide metric equivalents for all pipeline safety regulations as required by Executive Order 12770 "Metric Usage in Federal Government Programs" (July 25, 1991).

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: Docket No. PS-153. Public Meeting on Metrication (Houston, Texas) 1/10/97

Agency Contact: Marvin Fell, Economist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6205
Fax: 202 366-4566

RIN: 2137–AC98

2627. • PIPELINE SAFETY: INCORPORATION BY REFERENCE OF INDUSTRY STANDARD ON LEAK DETECTION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 et seq

CFR Citation: 49 CFR 192

DOT—RSPA

Proposed Rule Stage

Legal Deadline: None

Abstract: This rulemaking would incorporate by reference in the regulations an industry publication for leak detection, API 1130, "Computational Pipeline Monitoring," published by the American Petroleum Institute (API). This proposal would require that operators of hazardous liquid pipelines use API 1130 in conjunction with other information in the design, evaluation, operation, maintenance, and testing of software-based leak detection systems in issue. This will result in a significant advancement toward the acceptance of leak detection technology on hazardous liquid pipelines. However, RSPA is not proposing to require operators to install such systems.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Docket No. RSPA-97-2362

Agency Contact: Lloyd Ulrich, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC
Phone: 202 366-4556

RIN: 2137–AD06

DEPARTMENT OF TRANSPORTATION (DOT)
Research and Special Programs Administration (RSPA)

Final Rule Stage

2628. QUANTITY LIMITATIONS ABOARD AIRCRAFT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 175

Legal Deadline: None

Abstract: This action proposed to remove the fifty-pound limit on the quantity of hazardous materials that may be stowed in an inaccessible cargo location on passenger-carrying aircraft. Comments to the NPRM indicated that further evaluation is needed. RSPA has reevaluated this proposal and decided to withdraw it because it could result in safety problems.

Timetable:

Action	Date	FR Cite
ANPRM	04/06/84	49 FR 13717
ANPRM Comment Period End	09/01/84	
NPRM	02/13/85	50 FR 6013
NPRM Comment Period End	05/30/85	
To Be Withdrawn	01/00/98	

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 02/13/85 (50 FR 6013)

Additional Information: This project was formerly entitled: Limitation Aboard Aircraft. Docket HM-192. A related rulemaking is "Prohibition of Oxidizers Aboard Aircraft," HM-224A, RIN 2127-AC92.

Agency Contact: Diane LaValle, Transportation Reg. Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553

RIN: 2137–AA85

2629. DETERMINING THE EXTENT OF CORROSION ON EXPOSED GAS PIPELINES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: Corrosion is a major cause of gas and hazardous liquid pipeline accidents. A safety standard applicable to liquid pipelines requires operators to examine exposed pipe for evidence of external corrosion and, if harmful corrosion is found, to investigate further to determine the extent of the corrosion. This action proposed that exposed gas pipelines with evidence of harmful corrosion be investigated to determine the extent of the corrosion.

Timetable:

Action	Date	FR Cite
NPRM	06/27/89	54 FR 27041
NPRM Comment Period End	09/25/89	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/27/89 (54 FR 27041)

Additional Information: Docket No. PS-107. National Transportation Safety Board Recommendation P. 87-3 provides a basis for this action.

Agency Contact: B. Furrow, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4559

RIN: 2137–AB50

2630. PASSAGE OF INTERNAL INSPECTION DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: This rulemaking established minimum Federal pipeline safety standards requiring that new and replacement gas transmission and hazardous liquid pipelines be designed to accommodate the passage of internal inspection devices. This rulemaking is mandated by 49 U.S.C. 60102(f). In response to petitions for reconsideration of the final rule, an additional NPRM was issued proposing to limit the rule with respect to replacement of offshore gas transmission lines in rural areas.

Timetable:

Action	Date	FR Cite
NPRM	11/20/92	57 FR 54745
Final Rule	04/12/94	59 FR 17275
NPRM	09/30/94	59 FR 49890
NPRM Correction	10/19/94	59 FR 52863
Limited Suspension of Enforcement	02/07/95	60 FR 7133
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

DOT—RSPA

Final Rule Stage

Analysis: Regulatory Evaluation 04/12/94 (59 FR 17275)

Additional Information: Docket No. PS-126. The integrity testing proposal in "Proposals for Pipeline Safety," RIN 2137-AB27, was consolidated, in part, into this rulemaking.

Agency Contact: A. Garnett, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2036

RIN: 2137–AB71

2631. +RESPONSE PLANS FOR ONSHORE OIL PIPELINES

Priority: Other Significant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 194

Legal Deadline:
Final, Statutory, August 18, 1992.

Abstract: This interim final rule establishes regulations requiring response plans for certain onshore oil pipelines. Those regulations are mandated by the Federal Water Pollution Control Act as amended by the Oil Pollution Act of 1990 (Pub. L. 101-380). The purpose of these requirements is to improve response capabilities and minimize the impact of onshore oil spills from pipelines. This rule is significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/05/93	58 FR 244
Comment Period End	02/19/93	
Notice: Public Meeting 6/28/94	06/15/94	59 FR 30755
Public Meeting Comment Period End	08/01/94	
Notice of Public Hearing	11/29/96	61 FR 60679
Correction	01/21/97	62 FR 2969
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/05/93 (58 FR 244)

Additional Information: Docket No. PS-130.

Agency Contact: Jim Taylor, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8860

RIN: 2137–AC30

2632. EXCESS FLOW VALVE CUSTOMER NOTIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192

Legal Deadline:
Final, Statutory, October 24, 1994.

Abstract: This action would require operators of natural gas distribution systems to notify their customers, with lines in which excess flow valves are not required by law, of the availability of excess flow valves, safety benefits of these valves, and the costs of installation.

Timetable:

Action	Date	FR Cite
NPRM	06/27/96	61 FR 33476
NPRM Comment Period End	08/26/96	
Final rule	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: Docket No. PS-118A

Agency Contact: M. Israni, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-4571

RIN: 2137–AC55

2633. MANDATORY PARTICIPATION IN QUALIFIED ONE-CALL SYSTEMS BY PIPELINE OPERATORS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: This action would require the operators of onshore gas, hazardous liquid, and carbon dioxide pipelines to participate in qualified one-call systems as part of the required excavation damage prevention programs. The proposed rule would also limit the current exclusion of certain small gas systems from compliance with the damage prevention program requirements.

Timetable:

Action	Date	FR Cite
NPRM	03/20/95	60 FR 14714
NPRM Comment Period End	05/19/95	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: Docket No. PS-101A.

Agency Contact: C. Sames, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4561

RIN: 2137–AC57

2634. PIPELINE SAFETY USER FEES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60301

CFR Citation: 49 CFR 190

Legal Deadline: None

Abstract: This action clarifies agency definitions and procedures for administering user fee assessments for natural gas, liquefied natural gas, and hazardous liquid pipeline facilities. All issues discussed in the notice were addressed in another docket (PS-138) or will be addressed in a future docket.

Timetable:

Action	Date	FR Cite
Notice: Comment Period End 3/6/95	02/03/95	60 FR 6767
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. PS-138. This is not a rulemaking and is being withdrawn from the agenda.

Agency Contact: Lisa Kokoszka, Management and Program Analyst, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-4554

RIN: 2137–AC85

DOT—RSPA

Final Rule Stage

2635. CONTROL OF FOREIGN DRUG USE AND ALCOHOL MISUSE IN NATURAL GAS, LIQUEFIED NATURAL GAS, AND HAZARDOUS LIQUID PIPELINE OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 199

Legal Deadline: None

Abstract: This amendment will alleviate the burden for pipeline operators located outside the territory of the U.S. from having to comply with the requirement to subject their employees that perform a covered function (i.e., SCADA operators) to the drug testing regulations. Presently there are a small number of pipeline operators with covered employees that are located in Canada performing a covered function. It is not cost effective to require these foreign employees to comply with the regulation. RSPA does not have sufficient resources to inspect these foreign-located employees for compliance with part 199. RSPA does not impose any other safety regulations on any pipeline operator that is located outside the U.S.

Timetable:

Action	Date	FR Cite
Direct Final Rule	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. PS-102.

Agency Contact: Catrina Pavlik, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6199

RIN: 2137–AC87

2636. LOW-STRESS HAZARDOUS LIQUID PIPELINES SERVING PLANTS AND TERMINALS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: RSPA hazardous liquid pipeline safety regulations originally did not apply to steel pipelines that operate at 20 percent or less of specified minimum yield strength (SMYS). The final rule (59 FR 35465; July 12, 1994) extended the regulations to these groups of these pipelines: 1) pipelines that transport highly volatile liquids (HVL), 2) pipelines or pipeline segments in populated areas, and 3) pipelines or pipeline segments located offshore or in commercially navigable waterways. Accidents showed that regulating these pipelines or pipeline segments would be in the interest of public safety. Moreover, the Pipeline Safety Act of 1992 provides that DOT may not exclude hazardous liquid pipelines from regulation based solely on operation at low internal stress. The final rule responded to the statutory prohibition and reduces hazardous liquid pipeline risks.

Subsequently, various pipeline companies and petrochemical manufacturers have expressed concern over what products and which pipelines are actually covered by this regulation. Special concern for very short segments of pipeline carrying petroleum products and short segments of pipeline carrying various petrochemicals between plant sites raised questions as to the necessity for and applicability of aspects of this regulation. In May 1996 OPS published a Notice of Interpretation and Stay of Enforcement (Stay) regarding plant transfer lines less than one mile long or under Coast Guard jurisdiction.

In a new action, RSPA has prepared a direct final rule to amend part 195 to exclude all pipelines covered by the Stay. This action is based on discussions with interested parties, including API, CMA, and RSPA's hazardous liquid pipeline safety advisory committee.

Timetable:

Action	Date	FR Cite
Direct Final Rule	06/09/97	62 FR 31364
Adverse Comment Received	09/29/97	
To Be Withdrawn	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The final rule on hazardous liquid pipelines was issued 7/12/94 (59 FR 35465) under RIN 2137-AB86. Docket No. PS-117.

Agency Contact: L. M. Furrow, Senior Engineer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4559

RIN: 2137–AC87

2637. +PROHIBITION OF OXIDIZERS ABOARD AIRCRAFT

Priority: Other Significant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 175

Legal Deadline: None

Abstract: RSPA is proposing to amend the Hazardous Materials Regulations to prohibit the carriage of oxidizers, including compressed oxygen, aboard passenger-carrying aircraft. The effect of this prohibition would be to limit oxidizers to accessible locations on cargo aircraft. The December 30, 1996, notice of proposed rulemaking analyzed Class D cargo compartments and proposed to add a shipping description to the Hazardous Materials Table for chemical oxygen generators and to require approval of a chemical oxygen generator that is transported with its means of initiation attached. The supplemental proposal specifically analyzes the prohibition of oxidizers in Class B and C cargo compartments. This rulemaking is significant due to congressional and public interest in the hazards presented by these materials when transported as cargo on passenger aircraft.

Timetable:

Action	Date	FR Cite
NPRM	12/30/96	61 FR 68955
NPRM Comment Period End	02/28/97	
SNPRM	08/20/97	62 FR 44374
Comment Period End	10/20/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: HM-224A. See related actions, Prohibition of Oxygen Generators as Cargo in Passenger Aircraft (RIN 2137-AC89), and Hazardous Materials; Shipping Description and Packaging of Oxygen Generators (RIN 2127-AD02).

Agency Contact: Diane LaValle, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553

RIN: 2137–AC92

DOT—RSPA

Final Rule Stage

2638. +HAZARDOUS MATERIALS: CARGO TANK MOTOR VEHICLES IN LIQUEFIED COMPRESSED GAS SERVICE; INTERIM FINAL RULE

Priority: Other Significant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 171

Legal Deadline: None

Abstract: RSPA is amending the Hazardous Materials Regulations to specify the conditions under which certain cargo tank motor vehicles may continue to be used on an interim basis, even though they are equipped with emergency discharge control systems that may not function as required by the regulations under all operating conditions. This rule addresses specification MC 330, MC 331, and certain non-specification cargo tank motor vehicles which are used to deliver propane and other liquefied compressed gases. It responds to a recently discovered safety deficiency which may affect many of these cargo tank motor vehicles and which constitutes an emergency situation. The intended effect of this action is to ensure an acceptable level of safety for delivery of liquefied compressed gases.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/19/97	62 FR 7638
Notice of Delay in Decision on Petitions & Public Meeting	08/09/97	62 FR 31363
Final Rule Effective	08/01/97	
Final Rule	08/18/97	62 FR 44038
Advisory Guidance	09/19/97	62 FR 49171
Response to Petitions	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: HM-225

Agency Contact: Ron Kirkpatrick, General Engineer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-3753

RIN: 2137–AC97

2639. REGULATIONS IMPLEMENTING MEMORANDUM OF UNDERSTANDING WITH THE DEPARTMENT OF THE INTERIOR

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: This rulemaking would implement a provision of a December 10, 1996 Memorandum of Understanding between the Department of Transportation (DOT) and the Department of the Interior concerning pipelines on the Outer Continental Shelf by revising the boundary description for pipelines regulated by DOT.

Timetable:

Action	Date	FR Cite
Direct Final Rule	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. RSPA-97-2096

Agency Contact: L. E. Herrick, Offshore Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5523

RIN: 2137–AC99

2640. FURTHER REGULATORY REVIEW; GAS PIPELINE SAFETY STANDARDS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: In RSPA docket PS-124, entitled "Regulatory Review; Gas Pipeline Safety Standards," RSPA undertook a comprehensive review of Federal gas pipeline safety regulations and published a final rule on June 6, 1996 (61 FR 28770, RIN 2137-AC25) that made revisions to those regulations. RSPA is proposing additional changes that will address comments and issues that were raised in docket PS-124, but not addressed in the June 1996 final rule.

Timetable:

Action	Date	FR Cite
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. PS-124. In 1992, RSPA began an extensive review of Federal gas pipeline safety regulations (49 CFR part 192) and invited public participation (54 FR 4745; Feb. 7, 1992). RSPA published an NPRM proposing changes to part 192 (57 FR 39572; Aug. 31, 1992). At the same time, the National Association of Pipeline Safety Representatives (NAPSR) reported on its review of part 192. Because the NAPSR report discussed regulations covered by the NPRM and had goals similar to RSPA's, RSPA published the report and requested comments on NAPSR's proposed rule changes (58 FR 59431; Nov. 9, 1993). RSPA extended the comment period on December 27, 1992 (58 FR 68382; Dec. 27, 1993) A final rule was published on (61 FR 28770; June 6, 1996), but did not address all proposed changes to part 192. A further review of the regulations in part 192, based on the record in this docket, was initiated in late 1996. This further review identified proposals from the Gas Piping Technology Committee, the ASME B31.8 (gas pipeline safety standards) committee, and NAPSR that have not yet been addressed. This final rule will address those proposals. (In the April 1997 DOT Regulatory Agenda, this rulemaking erroneously appeared as a significant, instead of non-significant rulemaking).

Agency Contact: R. Huriaux, Director, Office of Technology and Regulations, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4565

RIN: 2137–AD01

2641. • PIPELINE SAFETY: PERIODIC UPDATES TO PIPELINE SAFETY REGULATIONS (1997)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5103; 49 USC 60102; 49 USC 60104; 49 USC 60108 to 60110; 49 USC 60113; 49 USC 60118; 49 CFR 1.53

DOT—RSPA

Final Rule Stage

CFR Citation: 49 CFR 192; 49 CFR 193; 49 CFR 195

Legal Deadline: None

Abstract: This rulemaking is designed to update the pipeline safety regulations on an annual basis. It will incorporate the latest consensus standards in the pipeline safety regulations to reflect more recent editions of each document. It will update selected sections of the pipeline safety regulations to allow operators to utilize current technology, materials, and practices. In addition, noncontroversial corrections and updates will be made to both the gas and hazardous liquid pipeline safety regulations. This annual update process is consistent with the President's goal of regulatory reinvention and improvement of customer service.

Timetable:

Action	Date	FR Cite
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No . RSPA-97-2251

Agency Contact: Eben Wyman, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4571

RIN: 2137–AD03

2642. • HAZARDOUS MATERIALS: EDITORIAL CORRECTION AND CLARIFICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 107; 49 CFR 171; 49 CFR 172; 49 CFR 173; 49 CFR 175; 49 CFR 176; 49 CFR 177; 49 CFR 178

Legal Deadline: None

Abstract: This rulemaking would correct editorial errors, make minor regulatory changes, and (in response to requests for clarification) improve the clarity of certain provisions of the Hazardous Materials Regulations (HMR). The intended effect of this rule is to enhance the clarity and accuracy of the HMR.

Timetable:

Action	Date	FR Cite
Final Action	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No: HM-189N

Agency Contact: Charles E. Betts, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Fax: 202 366-8700

RIN: 2137–AD09

DEPARTMENT OF TRANSPORTATION (DOT)

Research and Special Programs Administration (RSPA)

Long-Term Actions

2643. +MAPS AND RECORDS OF PIPELINE LOCATIONS AND CHARACTERISTICS; NOTIFICATION OF STATE AGENCIES; PIPE INVENTORY

Priority: Other Significant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline:
Final, Statutory, November 1, 1969, Deadline pertains to pipeline inventory and State agency information.

Abstract: This action proposes to equalize as far as possible the requirements that gas and hazardous liquid pipeline operators keep maps and records to show the location and other characteristics of pipelines. Operators would be required to keep an inventory of pipe and periodically report mileage and other facts. In addition, operators would be required to provide certain information to State agencies upon request. This is a significant action because of congressional and State concerns about the need for appropriate public officials to have pipeline information.

In response to this mandate the Department of Transportation's Office of Pipeline Safety (OPS) is working with other federal and state agencies and pipeline industry to create a national pipeline mapping system. This system, when complete, will show the location and selected attributes of the major natural gas and hazardous liquid pipelines and liquefied natural gas facilities operating in the United States. OPS will add additional data layers into the system, including layers on population densities, unusually sensitive areas, natural disaster probability and high consequence areas, hydrography, and transportation networks. OPS will use the system to depict pipelines in relation to the public and the environment, and to work with other government agencies and industry during an incident.

A joint government/industry Mapping Quality Action Team (MQAT II) has drafted national pipeline mapping standards that will be used to create the digital pipeline layer. These include standards for electronic data submissions, paper map submissions, and metadata (data on the data). The team has also drafted standards that will be used by the pipeline mapping repository receiving the pipeline information. The team is currently pilot testing the draft standards and is working to establish relationships with state agencies, industry, and others to exchange data that meets the standards. A call for candidates to be pilot repositories for mapping information recently appeared in the Federal Register.

Timetable: Next Action Undetermined.

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: C. Sames, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4561

RIN: 2137–AB48

2644. +SAFEGUARDING FOOD FROM CONTAMINATION DURING TRANSPORTATION

Priority: Other Significant

Legal Authority: 49 USC 5701 to 5714

CFR Citation: 49 CFR 1

Legal Deadline:

Final, Statutory, August 1, 1991.

Abstract: The Sanitary Food Transportation Act of 1990 (49 USC 5701 et seq.) requires the Secretary of Transportation, in consultation with the Secretaries of Agriculture and Health and Human Services and the Administrator of the Environmental Protection Agency, to issue regulations concerning the transportation of food, food additives, drugs, devices, and cosmetics in motor and rail vehicles also used to transport nonfood products that could pose an unreasonable danger to human or animal health when so transported. This rulemaking will implement the statutory requirements. This rulemaking is significant because of substantial public and congressional interest. RSPA's next action is undetermined because there is pending proposed legislation on this subject.

Timetable:

Action	Date	FR Cite
ANPRM	02/20/91	56 FR 6934
Extended Comment Period End 04/29/91	03/21/91	56 FR 11982
ANPRM Comment Period End	03/26/91	
NPRM	05/21/93	58 FR 29698
Public Hearings Notice	05/21/93	58 FR 29698
NPRM Comment Period End	10/18/93	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/21/93 (58 FR 29698)

Additional Information: Docket FS-1. The Department will resubmit to Congress legislation proposing to significantly change the provisions of SFTA.

Agency Contact: Jodi George, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-8553

RIN: 2137–AC00

2645. TANK CARS AND CARGO TANK MOTOR VEHICLES: ATTENDANCE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 174; 49 CFR 177

Legal Deadline: None

Abstract: This action proposes to establish standards to allow the use of electronic surveillance and monitoring equipment (signalling systems) for unloading tank cars and loading cargo tank motor vehicles, and to revise other unloading requirements for tank cars. This action would recognize recent technological innovations and improve safety during the loading/unloading of bulk quantities of hazardous materials.

Timetable:

Action	Date	FR Cite
NPRM	09/14/92	57 FR 42466
NPRM Comment Period End	12/14/92	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/14/92 (57 FR 42466)

Additional Information: Docket No. HM-212.

Agency Contact: Jennifer Karim, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-8553

RIN: 2137–AC24

2646. RETENTION OF SHIPPING PAPERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 172; 49 CFR 174; 49 CFR 175; 49 CFR 176; 49 CFR 177

Legal Deadline: None

Abstract: This action proposes to amend the Hazardous Materials Regulations by requiring shippers and carriers to retain a copy of the hazardous material shipping paper or an electronic image of the shipping paper for a period of one year. Retention of shipping papers is a current requirement as specified in 49 U.S.C. 5110(e). RSPA's next action is undetermined because there is pending proposed legislation on this subject.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. HM-207B.

Agency Contact: Deborah Boothe, Transportation Regulation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-8553

RIN: 2137–AC84

2647. APPLICABILITY OF THE HAZARDOUS MATERIALS REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 106 to 107; 49 CFR 171 to 180

Legal Deadline: None

Abstract: This rulemaking proposes to better define the applicability of Federal Hazardous Materials Regulations, 49 CFR parts 171-180, thereby clarifying the relationship among Federal, State, local and tribal agencies in the regulation of hazardous materials transportation. RSPA has held three public hearings on this rulemaking and is evaluating input from those meetings and numerous public comments.

Timetable:

Action	Date	FR Cite
ANPRM	07/29/96	61 FR 39522
Comment Period End	11/30/96	

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: Docket No. HM-223.

Agency Contact: Nancy Machado, Attorney, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Room 8405, Washington, DC 20590
Phone: 202 366-4400
Fax: 202 366-7041

RIN: 2137–AC88

2648. FILLING OF PROPANE CYLINDERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 173

Legal Deadline: None

Abstract: The ANPRM solicited comments on the merits of a petition for rulemaking to require registration and training of persons who fill propane cylinders, certification of filling equipment operators, and proof of financial responsibility. The proposal is also to allow filling of propane cylinders by volume rather than by weight, which is currently required by the hazardous material regulations.

Timetable:

Action	Date	FR Cite
ANPRM	09/23/96	61 FR 43515
ANPRM Comment Period End	11/21/96	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Docket No. HM-220C

Agency Contact: Eileen Edmonson, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553

RIN: 2137–AC86

DEPARTMENT OF TRANSPORTATION (DOT)
Research and Special Programs Administration (RSPA)

Completed Actions

2649. +HAZARDOUS MATERIALS IN INTRASTATE COMMERCE (SECTION 610 REVIEW)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 107; 49 CFR 171 to 180

Legal Deadline: None

Abstract: This rulemaking extends the application of the hazardous materials regulations (HMR) to all intrastate transportation of hazardous materials in commerce. The 1990 amendments to Federal hazardous material transportation law mandate that the Research and Special Programs Administration (RSPA) regulate the safe transportation of hazardous materials in intrastate, in addition to interstate and foreign, commerce. The goal of this action is to raise the safety level of hazardous materials transportation by promoting uniformity of the regulations. Previously the regulations generally did not apply to intrastate carriage by highway, with the exception of hazardous wastes, hazardous substances, marine pollutants, and flammable cryogenic liquids in portable tanks and cargo tanks. The final rule extends the mandatory compliance date for regulations applicable to certain cargo tanks, and provides a "materials of trade" exception for relatively small quantities of hazardous materials contained on service vehicles operated by plumbing, welding, lawn service, and other non-transportation businesses. As part of this action, a small entities review under 5 USC section 610 was done.

Timetable:

Action	Date	FR Cite
ANPRM	06/29/87	52 FR 24195
Extended Comment Period End 11/28/87	09/21/87	52 FR 35464
ANPRM Comment Period End	09/28/87	
NPRM	07/09/93	58 FR 36920
NPRM Correction	07/15/93	58 FR 38111
NPRM Comment Period End	10/13/93	
SNPRM	03/20/96	61 FR 11484
Extended Comment Period End 8/16/96	05/17/96	61 FR 24904
Final Rule Effective 10/01/97	01/08/97	62 FR 1208
Action on Petitions	09/22/97	62 FR 49560
Final Action Effective	10/01/97	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal

Analysis: Regulatory Evaluation 01/08/97 (62 FR 1208)

Additional Information: Docket No. HM-200.

Agency Contact: Diane LaValle, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553

RIN: 2137–AB37

2650. IMPROVEMENTS TO HAZARDOUS MATERIALS IDENTIFICATION SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 172

Legal Deadline:
Final, Statutory, June 16, 1992.
Final, Statutory, May 16, 1993.

Abstract: This rulemaking makes incremental improvements to the hazardous materials identification system addressing placarding and identification number marking displays on transport vehicles, fumigated materials marking requirements, and carrier requirements for notification of incidents.

Timetable:

Action	Date	FR Cite
ANPRM	06/09/92	57 FR 24532
ANPRM Comment Period Extended to 10/09/92	08/05/92	57 FR 34542
ANPRM Comment Period End	08/10/92	
NPRM	08/15/94	59 FR 41848
Public Hearing Notice	08/15/94	59 FR 41846
NPRM Correction	08/26/94	59 FR 44230
Further NPRM Correction	08/30/94	59 FR 44795
NPRM Comment Period End	12/04/94	
Final Action	01/08/97	62 FR 1217
Corrections and Responses to Petitions	07/22/97	62 FR 39398
Corrections and Responses to Petitions	08/25/97	62 FR 45702
Final Action Effective	10/01/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/08/97 (62 FR 1217)

Additional Information: Docket HM-206. Formerly entitled "Improving Hazardous Materials Identification: Placarding; Reporting/Tracking; and Continually Monitored Telephone Systems."

Agency Contact: H. Engrum, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553

RIN: 2137–AB75

2651. HARMONIZATION WITH UNITED NATIONS RECOMMENDATIONS, INTERNATIONAL MARITIME DANGEROUS GOODS CODE AND INTERNATIONAL CIVIL AVIATION ORGANIZATION'S TECHNICAL INSTRUCTIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 171; 49 CFR 172; 49 CFR 173; 49 CFR 175; 49 CFR 176; 49 CFR 178; 49 CFR 180

Legal Deadline: None

Abstract: This rulemaking makes changes to the Hazardous Materials Regulations to maintain alignment with corresponding provisions of international standards. Recent revisions incorporated in the ninth revised edition of the United Nations Recommendations on the Transport of Dangerous Goods necessitate adoption of parallel domestic provisions to ensure basic consistency between domestic and international regulations and to facilitate the international transportation of hazardous materials.

Timetable:

Action	Date	FR Cite
NPRM	10/26/96	61 FR 55364
NPRM Comment Period End	11/25/96	
Final Rule	12/16/96	61 FR 65958
Supplemental Final Rule	05/06/97	62 FR 24690
Final Rule Correction	08/28/97	62 FR 45702

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. HM-215B

Agency Contact: Joan McIntyre, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC
Phone: 202 366-8553
Fax: 202 366-8700

RIN: 2137–AC82

2652. LIQUEFIED NATURAL GAS REGULATIONS; MISCELLANEOUS AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 193

Legal Deadline: None

Abstract: This direct final rule adopts current industry safety standards for liquefied natural gas (LNG) by replacing the current flammable vapor-gas dispersion protection method with the dense gas dispersion (DEGADIS) model, and replacing the current thermal radiation protection method with a method based on the LNGFIRE program model. In addition, this final rule incorporates by reference the National Fire Protection Association safety requirements for mobile and temporary LNG facilities.

Timetable:

Action	Date	FR Cite
Direct Final Rule	02/25/97	62 FR 8402
Final Action Effective	06/25/97	
Confirmed Effective Date	07/08/97	62 FR 36465
Direct Final Rule	08/01/97	62 FR 41311
Confirmation of Effective Date	09/18/97	62 FR 48952

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. PS-151.

Agency Contact: M. Israni, Senior Engineer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2036

RIN: 2137–AC88

2653. CONTROL OF DRUG USE AND ALCOHOL MISUSE IN NATURAL GAS, LIQUEFIED NATURAL GAS, AND HAZARDOUS LIQUID PIPELINE OPERATIONS: AMENDMENT TO REPORTING OF DRUG AND ALCOHOL TESTING RESULTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 199.25; 49 CFR 199.229

Legal Deadline: None

Abstract: This rulemaking allows the alternative of electronic filing of drug and alcohol testing results. A Direct Final Rule allows pipeline companies subject to the reporting requirements of the drug and alcohol testing regulations the option of filing their annual reports on computer disks provided by RSPA. This rule will ease the reporting burden on industry and the preparation of drug and alcohol testing statistics by RSPA.

Timetable:

Action	Date	FR Cite
Direct Final Rule	12/12/96	61 FR 65364
Confirmation of Direct Final Rule	02/21/97	62 FR 7946
Final Action Effective	04/11/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. PS-152

Agency Contact: Marvin Fell, Economist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington DC 20590
Phone: 202 366-6205

RIN: 2137–AC95

2654. AVAILABILITY OF INTERPRETATIONS OF RSPA REGULATIONS

Priority: Info./Admin./Other

Legal Authority: PL 104-121, sec 213(b)

CFR Citation: 49 CFR 107.14; 49 CFR 190.11

Legal Deadline: None

Abstract: The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) directs Federal agencies which regulate small entities to include in the agency's procedures a program providing informal guidance and regulatory interpretative assistance to small entities. This informational final rule complies with SBREFA by amending the RSPA regulations to set out the details of the informal guidance programs of the Office of Hazardous Materials Safety and the Office of Pipeline Safety, respectively. Because this is a non-controversial, informational rule, it was appropriate for publication as a Final Rule without notice or comment.

Timetable:

Action	Date	FR Cite
Final Action	05/02/97	62 FR 24055
Final Rule Correction	08/26/97	62 FR 34415

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. RSP-3

Agency Contact: Karin Christian, Attorney, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4400

RIN: 2137–AD00

2655. HAZARDOUS MATERIALS: SHIPPING DESCRIPTION AND PACKAGING OF OXYGEN GENERATORS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 171; 49 CFR 172; 49 CFR 173; 49 CFR 174

Legal Deadline: None

Abstract: RSPA is amending the Hazardous Materials Regulations to add a specific shipping description for chemical oxygen generators and requiring approval of a chemical oxygen generator and certain packaging, in order to transport a chemical oxygen generator with its means of initiation attached. Because these subjects were ripe for rulemaking and comments had been received on them, this final rule was published separately from a related rulemaking on prohibition of oxidizers aboard aircraft (See Additional Information).

Timetable:

Action	Date	FR Cite
NPRM	12/30/96	61 FR 68955
NPRM Comment Period End	02/28/97	
Final Action	06/05/97	62 FR 30767
Technical Amendments and Corrections	06/27/97	62 FR 34667
Final Action Effective	07/07/97	
Notice of Public Meeting	07/11/97	62 FR 37149

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket HM-224A. This rulemaking was originally part of RIN 2127-AC92. It has been separated in order to issue a final rule separately from the other proposed in HM-224A to prohibit the transportation of oxidizers as cargo on passenger-carrying aircraft.

Agency Contact: Diane LaValle, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553

RIN: 2137–AD02

2656. • HAZARDOUS MATERIALS: USE OF NON-SPECIFICATION OPEN-HEAD FIBER DRUM PACKAGINGS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5217

CFR Citation: 49 CFR 171

Legal Deadline:
Final, Statutory, September 30, 1997.

Abstract: RSPA is allowing the transportation of certain liquid hazardous materials in non-specification fiber drums until September 30, 1999, if the fiber drums have been filled before, and are not emptied after, the expiration of the current authority for the use of these packagings. RSPA is terminating its rulemakings relating to alternate standards for open-head fiber drums based on the recommendation of the National Academy of Sciences that RSPA should not extend authorization for the transportation of liquid hazardous materials in open-head fiber drums that do not meet the performance-oriented packaging standards drafted in RSPA's rulemaking docket No. HM-181.

Timetable:

Action	Date	FR Cite
Direct Final Rule	08/02/97	62 FR 29673
Comment Period End	08/01/97	
Confirmation of Effective Date	08/25/97	62 FR 44913

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. 97-2501 (HM-221B)

Agency Contact: Frazer C. Hilder, Attorney, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4400
Fax: 202 366-7041

RIN: 2137–AD04

2657. • HAZARDOUS MATERIALS: WITHDRAWAL OF RADIATION PROTECTION PROGRAM REQUIREMENT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 172; 49 CFR 174; 49 CFR 175; 49 CFR 176; 49 CFR 177

Legal Deadline: None

Abstract: This rulemaking would withdraw RSPA's regulation requiring formal preparation of radiation protection programs because of difficulties raised by industry regarding its implementation. Many examples of the effect of this requirement on activities presenting very small exposure to radiation convinced RSPA that it should reconsider the requirement.

Timetable:

Action	Date	FR Cite
Direct Final Rule	09/02/97	62 FR 46214
Effective Date	09/30/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. HM-169B.

Agency Contact: Fred Ferate, Engineer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4545

RIN: 2137–AD06

DEPARTMENT OF TRANSPORTATION (DOT)
Maritime Administration (MARAD)

Proposed Rule Stage

2658. APPROVAL OF CERTAIN TRANSACTIONS BEFORE VESSEL DOCUMENTATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 104-324

CFR Citation: 46 CFR 221

Legal Deadline: None

Abstract: This action would implement statutory provisions that give MARAD the discretion to grant approval of foreign transfer of vessels before they are actually documented under U.S. flag. This should encourage expansion of the U.S. fleet.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Edmund T. Sommer, Jr., Chief, Division of General and International Law, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5181
Fax: 202 366-7485

RIN: 2133–AB30

DEPARTMENT OF TRANSPORTATION (DOT)
Maritime Administration (MARAD)

Final Rule Stage

2659. +GUIDELINE RATES: LESS-THAN-SHIPLOAD LOTS OF BULK PREFERENCE CARGOES ON LINER VESSELS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 46 app USC 1114(b); 46 app USC 1241(b)

CFR Citation: 46 CFR 383

Legal Deadline: None

Abstract: The U.S. Department of Agriculture (USDA) and the Agency for International Development (AID), the major U.S. government shipping agencies, had requested that MARAD consider providing those agencies with guideline rates for bagged and packaged agriculture commodities carried on liner vessels. MARAD already provides guideline rates to USDA and AID for such commodities carried on bulk vessels under similar regulations at 46 CFR Part 382. This amendment to 46 CFR 383 would have extended the scope of the rule to include bagged or packaged agricultural commodities in parcels of 5,000 tons or greater carried on vessels in liner service. It would have been significant because it would have affected other Federal agencies. After review of the methodology proposed in the NPRM, and the comments received, MARAD has concluded that large liner cargo parcels do not take on significant aspects of bulk shipments as was assumed. As a result, MARAD believes that expansion of the scope of the rule is not feasible and will withdraw the NPRM. Furthermore, MARAD now believes that elimination of the regulations in part 383 is the most appropriate course of action. This is supported by the fact that the rule has not been used since 1995. With the recent sharp decline in the number of U.S.-flag general cargo vessels in liner services, few, if any, future cargoes can be expected to fall under the purview of this rule.

Timetable:

Action	Date	FR Cite
NPRM	04/26/95	60 FR 20069
NPRM Comment Period End	06/23/95	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Michael P. Ferris, Director, Office of Cost and Rates, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2324

RIN: 2133–AB16

2660. +FAIR AND REASONABLE RATES: BULK AND PACKAGED PREFERENCE CARGOES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 46 app USC 1114(b); 46 app USC 1241(b)

CFR Citation: 46 CFR 382

Legal Deadline: None

Abstract: In an effort to encourage the development of a modern and efficient U.S. flag bulk fleet and to help lower government-wide cargo preference program costs, MARAD is considering changes in its methodology for the determination of fair and reasonable rates. MARAD has identified three alternative methodologies which it might consider. Fair and reasonable rate determinations are now provided to U.S. government shippers of preference cargo, thereby creating ceiling rates which limit government costs and the revenue U.S. flag operators receive for ocean cargo transportation. This rule is significant due to substantial industry and government interest. Common carrier liner services were being considered in a rulemaking RIN 2133-AB16, which is being withdrawn. The rule will be consistent with maritime reform legislation enacted in October 1996 (PL 104-239).

Timetable:

Action	Date	FR Cite
ANPRM	04/19/95	60 FR 19559
ANPRM Comment Period End	06/19/95	
NPRM	02/28/97	62 FR 9143
NPRM Comment Period End	04/29/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Michael P. Ferris, Director, Office of Costs and Rates, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2324

RIN: 2133–AB19

DOT—MARAD

Final Rule Stage

2661. ELIMINATION OF MORTGAGEE AND TRUSTEE RESTRICTIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: PL 104-324

CFR Citation: 46 CFR 221

Legal Deadline: None

Abstract: This action will eliminate existing requirements that impose restrictions on preferred mortgagees and trustees for certain vessel transactions. This action is taken to conform MARAD regulations to provisions in PL 104-324 (10/19/96).

Timetable:

Action	Date	FR Cite
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Edmund T. Sommer, Jr., Chief, Division of General and International Law, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5181
Fax: 202 366-7485

RIN: 2133–AB29

2662. • CITIZENSHIP REQUIREMENTS FOR VESSELS WITH OBLIGATION GUARANTEES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 46 app USC 1114(b); 46 app USC 1271 to 1279

CFR Citation: 46 CFR 298

Legal Deadline: None

Abstract: MARAD is amending its Obligation Guarantees regulations to make them consistent with the requirements and provisions in the Maritime Security Act of 1996, relating to deregulation with respect to U.S. Citizenship requirements for participants in MARAD's obligation guarantees program (title XI Program). Since this rule merely conforms MARAD regulations to recently enacted legislative requirements; because it is deregulating in nature; and because it removes a burden now imposed on certain participants in the title XI Program; MARAD has determined that the notice and comment requirements of the APA do not apply.

Timetable:

Action	Date	FR Cite
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Doris Lansberry, Office of the Chief Counsel, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5712
Fax: 202 366-7485

RIN: 2133–AB31

DEPARTMENT OF TRANSPORTATION (DOT)
Maritime Administration (MARAD)

Completed Actions

2663. +MARITIME SECURITY PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 104-239

CFR Citation: 46 CFR 295

Legal Deadline:
Final, Statutory, July 13, 1997.

Abstract: This rule provides procedures to implement the provisions of the Maritime Security Act of 1996 which establishes a new 10-year Maritime Security Program to support U.S.-flag vessel operations in foreign commerce through assistance payments. This rule is significant because it represents an important policy change and because of substantial industry interest in it.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/16/96	61 FR 53861
Effective Date	10/16/96	
Comment Period End	11/15/96	
Final Action	07/15/97	62 FR 37733
Final Action Effective	07/17/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Raymond Barberesi, Director, Office of Sealift Support, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2323

RIN: 2133–AB24

2664. CRITERIA FOR GRANTING WAIVERS OF REQUIREMENT FOR EXCLUSIVE U.S.-FLAG VESSEL CARRIAGE OF CERTAIN EXPORT CARGOES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 46 app USC 1241-1

CFR Citation: 46 CFR 384

Legal Deadline: None

Abstract: MARAD solicited public comment concerning the need to revise and codify the criteria that MARAD uses for granting waivers of the U.S.-flag preference, cargo carriage requirement for Ex-Im Bank financed cargoes, pursuant to a policy statement that was issued in 1959. After reviewing written comments and holding a public meeting, MARAD decided that rulemaking is not feasible or necessary. It has withdrawn the rule and issued a policy revision, with the approval of the Ex-Im Bank.

Timetable:

Action	Date	FR Cite
ANPRM	10/28/96	61 FR 55614
ANPRM Comment Period Extended	12/24/96	61 FR 67764
Extended Comment Period End 2/10/97	12/24/96	61 FR 67764

DOT—MARAD — Completed Actions

Action	Date	FR Cite
ANPRM Comment Period End	12/27/96	
Policy Revision	07/02/97	62 FR 35881
Action Withdrawn	07/29/97	62 FR 40494

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James J. Zok, Associate Administrator for Ship Financial Assistance and Cargo Preference, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0364

RIN: 2133–AB26

DEPARTMENT OF TRANSPORTATION (DOT)
Bureau of Transportation Statistics (BTS) — Prerule Stage

2665. MODERNIZING THE PASSENGER ORIGIN-DESTINATION SURVEY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 41708; 49 USC 41709

CFR Citation: 14 CFR 241

Legal Deadline: None

Abstract: Historically, the source document for the Passenger Origin-Destination Survey was the auditor's coupon of the ticket. Until recently, these coupons provided all the information that was needed for the Survey. In the last few years, the carriers have begun using trip passes in conjunction with the tickets, thereby eliminating some of the data that is required to be reported in the Survey. Other innovations used by the industry, such as change-of-gauge flights and code-sharing, have impacted the Survey and obscured some of the data that is required to be reported, such as change of planes and junction points. This rulemaking will explore whether there are alternative sources for the data and modernize the collection system to keep pace with the industry.

Timetable:

Action	Date	FR Cite
ANPRM	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This rulemaking is now being administered by the Bureau of Transportation Statistics (BTS) since the Office of Aviation Information has been transferred to BTS from RSPA. (Formerly RIN 2137-AB92)

Agency Contact: M. Clay Moritz, Jr., Acting Chief, Regulations Division, Office of Airline Information, K-25, Department of Transportation, Bureau of Transportation Statistics, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4385

RIN: 2139–AA01

2666. MODERNIZING THE MOTOR CARRIERS OF PROPERTY FINANCIAL DATA COLLECTIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 14122 to 14123

CFR Citation: 14 CFR 1249

Legal Deadline: None

Abstract: The motor carriers of property financial data collection program was transferred to DOT from the Interstate Commerce Commission by the ICC Termination Act of 1995, which went into effect 1/1/96. The Secretary of Transportation has delegated responsibility for this program to BTS. BTS plans to conduct a rulemaking to review and revise the current program. Revision is necessary because the laws governing data collection were changed slightly by the Act. Also, the data needs of the public and private sectors have changed, an the technology to collect, process, and disseminate data has been vastly improved. Finally, Congress has explicitly called on DOT to streamline and simplify reporting requirements to the maximum extend practicable. BTS is exploring the option of using negotiated rulemaking to accomplish these objectives.

Timetable:

Action	Date	FR Cite
Notice: Negotiated Rulemaking	12/09/96	61 FR 64849
Comment Period Extended	01/23/97	62 FR 3492
Comment Period Extended	02/07/97	62 FR 5792
Decision on Rulemaking Committee	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: BTS proposed the establishment of a negotiated rulemaking advisory committee in December 1996 and in February extended the comment period and set a public meeting date of 3/31/97 to help decide whether a negotiated rulemaking advisory committee is needed and if so, to help determine the committee membership and issues for consideration.

Agency Contact: David Mednick, Analyst, K-2, Department of Transportation, Bureau of Transportation Statistics, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8871
Fax: 202 366-3640

RIN: 2139–AA05

DEPARTMENT OF TRANSPORTATION (DOT)
Bureau of Transportation Statistics (BTS) — Final Rule Stage

2667. +AMENDMENTS TO THE ON-TIME DISCLOSURE RULE

Priority: Other Significant

Legal Authority: 49 USC 40101; 49 USC 40114; 49 USC 41702; 49 USC 41708; 49 USC 41712; 5 USC 553(e)

CFR Citation: 14 CFR 234; 14 CFR 302.38

Legal Deadline: None

Abstract: This action proposes to reinstate the exclusion of flights delayed or cancelled because of mechanical problems from air carriers on-time flight reports.

Timetable:

Action	Date	FR Cite
NPRM	06/05/95	60 FR 29514
NPRM Comment Period End	07/05/95	
Extended Comment Period End 8/5/95	07/06/95	60 FR 35158
Final Action	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The NPRM was published under RSPA RIN 2137-AC67. However, since BTS is now separate from RSPA this new RIN 2139-AA00 has been assigned and will be used for future actions. This rule is significant under DOT regulatory policies and procedures due to the potential impact on safety. However, it is not considered significant under EO 12866.

Agency Contact: Bernie Stankus, Systems Accountant, Department of Transportation, Bureau of Transportation Statistics, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4387
Fax: 202 366-3383

RIN: 2139–AA00

DEPARTMENT OF TRANSPORTATION (DOT)
Bureau of Transportation Statistics (BTS) — Completed Actions

2668. AMENDMENT TO PASSENGER ORIGIN-DESTINATION SURVEY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 41708; 49 USC 41709

CFR Citation: 14 CFR 241

Legal Deadline: None

Abstract: This rulemaking requires that large certificated U.S. air carriers participating in code-share arrangements report both the ticketing and operating air carrier in their quarterly Passenger Origin-Destination Survey reports. The information will be used to assess the effects of code-sharing alliances in air transportation. The rule also standardizes the record layout that is used for electronic submissions and expands by one position the field entitled "Total Dollar Value of Ticket" to accommodate current charges. Rather than awaiting the outcome of a related action in RIN 2139-AA01, Modernizing the Passenger Origin-Destination Survey, this action was finalized because the other action is several years from being a reality.

Timetable:

Action	Date	FR Cite
NPRM	06/24/96	61 FR 32375
NPRM Comment Period End	08/23/96	
Final Action	09/13/97	62 FR 43276
Final Action Effective	01/01/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: A notice on this subject was published 10/23/95 (60 FR 54407).

Agency Contact: M. Clay Moritz, Jr., Acting Chief, Regulations Division, Office of Airline Information, K-25, Department of Transportation, Bureau of Transportation Statistics, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4385

RIN: 2139–AA04

[FR Doc. 97-24745 Filed 10-28-97; 8:45 am]
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Wednesday
October 29, 1997

Part XV

Department of the Treasury

Semiannual Regulatory Agenda

DEPARTMENT OF THE TREASURY (TREAS)

DEPARTMENT OF THE TREASURY

31 CFR Subtitle A, Chs. I and II

Semiannual Agenda and Fiscal Year 1998 Regulatory Plan

AGENCY: Department of the Treasury.

ACTION: Semiannual regulatory agenda and fiscal year 1998 regulatory plan.

SUMMARY: This notice is given pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, September 19, 1980) and Executive Order 12866 ("Regulatory Planning and Review," September 30, 1993), which require the publication by the Department of a semiannual agenda of regulations. E.O. 12866 also requires the publication by the Department of a regulatory plan for fiscal year 1998.

FOR FURTHER INFORMATION CONTACT: For additional information about a specific entry in the agenda or plan, contact the "Agency Contact" identified in the item relating to that regulation.

SUPPLEMENTARY INFORMATION: The semiannual agenda of the Department of the Treasury conforms to the Unified Agenda format developed by the Regulatory Information Service Center (RISC). For this edition of the regulatory agenda of the Department of the Treasury, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference that directs the reader to the appropriate Sequence Number in Part II.

Dated: September 4, 1997.

Neal Comstock,

Executive Secretary.

Departmental Offices—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2669	31 CFR 500.704 Administrative Hearings	1505-AA59
2670	12 CFR 1805 (New) Community Development Financial Institutions Program; Bank Enterprise Award Program Regulations	1505-AA71

Financial Crimes Enforcement Network—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2671	31 CFR 103 Amendment to the Bank Secrecy Act Regulations—Discretionary Exemption of Certain Transactions From Currency Transaction Reporting Requirements	1506-AA12
2672	31 CFR 103 Amendments to the Bank Secrecy Act Regulations - Suspicious Activity Reporting—Broker/Dealers	1506-AA21
2673	31 CFR 103 Amendments to the Bank Secrecy Act Regulations - Suspicious Activity Reporting—Casinos	1506-AA22

Financial Crimes Enforcement Network—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2674	31 CFR 103 Amendment to the Bank Secrecy Act Regulations - Registration Requirement for Certain Non-Bank Financial Institutions—Money Services Businesses (MSBs)	1506-AA09
2675	31 CFR 103 Amendment to the Bank Secrecy Act Regulations Regarding Reporting of Cross-Border Transportation of Certain Monetary Instruments	1506-AA15
2676	31 CFR 103 Amendment to the Bank Secrecy Act Regulations Regarding Reporting and Recordkeeping by Card Clubs	1506-AA18
2677	31 CFR 103 Amendments to the Bank Secrecy Act Regulations - Special Reporting and Recordkeeping Requirements—Money Services Businesses (MSBs)	1506-AA19
2678	31 CFR 103 Amendments to the Bank Secrecy Act Regulations - Suspicious Activity Reporting—Money Services Businesses (MSBs)	1506-AA20

Financial Crimes Enforcement Network—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2679	31 CFR 103 Amendment to the Bank Secrecy Act Regulations—Requirement That Financial Institutions Carry Out Anti-Money-Laundering Programs	1506-AA05

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Financial Crimes Enforcement Network—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
2680	31 CFR 103 Amendment to the Bank Secrecy Act Regulations—Delegation of Authority To Assess Civil Money Penalties on Depository Institutions	1506-AA08

Financial Crimes Enforcement Network—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2681	31 CFR 103 Amendment to the Bank Secrecy Act Regulations—Definitions	1506-AA03
2682	31 CFR 103 Amendment to the Bank Secrecy Act Regulations—Exemptions From the Requirement To Report Transactions in Currency	1506-AA11

Financial Management Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2683	31 CFR 210 Federal Government Participation in the Automated Clearing House	1510-AA17
2684	31 CFR 203 Treasury Tax and Loan Depositaries and Payment of Federal Taxes	1510-AA37
2685	31 CFR 205 Rules and Procedures for Funds Transfers	1510-AA38
2686	31 CFR 240 Indorsement and Payment of Checks Drawn on the United States Treasury	1510-AA45
2687	31 CFR 245 Claims on Account of Treasury Checks	1510-AA51
2688	31 CFR 206 Management of Federal Agency Disbursements (Reg Plan Seq. No. 103)	1510-AA56
2689	31 CFR 900 to 904 Federal Claims Collection Standards	1510-AA57
2690	31 CFR 212 Taxpayer Identifying Number Requirement	1510-AA61
2691	31 CFR 285.4 Offset of Federal Benefit Payments	1510-AA64
2692	31 CFR 285.5 Offset of Federal Payments (Other Than Tax Refund and Federal Benefit Payments) To Collect Past-Due, Legally Enforceable Nontax Debt	1510-AA65
2693	31 CFR 285.6 Offset of Federal Payments (Other Than Tax Refund and Federal Benefit Payments) to Collect Past-Due Debts Owed to States (Other than Child Support)	1510-AA66
2694	31 CFR 285.11 Administrative Wage Garnishment	1510-AA67
2695	31 CFR 285.12 Cross-Servicing—Transfer or Referral of Delinquent Nontax Debts to Treasury and Debt Collection Centers	1510-AA68
2696	31 CFR 285.13 Obtaining Taxpayer Identifying Numbers from Persons Doing Business with the Government	1510-AA69
2697	31 CFR 285.14 Matching of Federal Employee Records for Salary Offset	1510-AA70
2698	31 CFR 285.15 Barring Delinquent Debtors from Obtaining Federal Financial Assistance in the Form of Loans or Loan Guarantees	1510-AA71
2699	31 CFR 285.16 Public Dissemination of Identity of Delinquent Debtors	1510-AA72
2700	31 CFR 285.17 Debt Sales	1510-AA73

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Financial Management Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2701	31 CFR 225 Acceptance of Bonds Secured by Government Obligations in Lieu of Bonds with Sureties	1510-AA36
2702	31 CFR 281 Foreign Exchange Operations	1510-AA48
2703	31 CFR 256 Payments Under Judgment and Private Relief Acts	1510-AA52
2704	31 CFR 285.1 Collection of Past-Due Support by Administrative Offset	1510-AA58
2705	31 CFR 207 Electronic Benefit Transfer; Selection and Designation of Financial Institutions as Depositary and Financial Agents	1510-AA59
2706	31 CFR 285.2 Offset of Tax Refund Payments To Collect Past-Due, Legally Enforceable Nontax Debt	1510-AA62
2707	31 CFR 285.3 Offset of Tax Refund Payments To Collect Past-Due Support	1510-AA63

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Financial Management Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2708	31 CFR 202 Depositaries and Financial Agents of the Government	1510-AA42
2709	31 CFR 226 Recognition of Insurance Covering Treasury Tax and Loan Depositaries	1510-AA53

Bureau of Alcohol, Tobacco and Firearms—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2710	27 CFR 7 Labeling and Advertising of Malt Beverages	1512-AB45

Bureau of Alcohol, Tobacco and Firearms—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2711	27 CFR 9 American Viticultural Areas	1512-AA07
2712	27 CFR 252 Exportation of Liquors	1512-AA98
2713	27 CFR 7 Alcoholic Content Labeling for Malt Beverages	1512-AB17
2714	27 CFR 7 Revision of Brewery Regulations and Issuance of Regulations for Taverns on Brewery Premises (Brewpubs) **(Reg Plan Seq. No. 104)**	1512-AB37
2715	27 CFR 20 Distribution of Denatured Alcohol and Rum	1512-AB57
2716	27 CFR 19.11 Distilled Spirits Plant Regulatory Initiative Proposal	1512-AB58
2717	27 CFR 4.91 Petition To List Johannesburg Riesling as a Grape Variety Name	1512-AB69
2718	27 CFR 55 Commerce in Explosives (Including Explosives in the Fireworks Industry) **(Reg Plan Seq. No. 105)**	1512-AB48
2719	27 CFR 178 Commerce In Firearms and Ammunition	1512-AB64
2720	27 CFR 178 Brady Bill Regulations - Permanent Provision	1512-AB67
2721	27 CFR 178 Posting of Signs and Written Notifications to Purchasers of Handguns	1512-AB68

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Bureau of Alcohol, Tobacco and Firearms—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2722	27 CFR 4.40 Procedures for Revoking Previously Approved Certificates of Label Approval, Exemptions From Label Approval, or Distinctive Liquor Bottle Approvals	1512-AB34
2723	27 CFR 5.26 Registration of Formulas and Statements of Process for Domestically Produced Alcoholic Beverages	1512-AB40
2724	27 CFR 5 Labeling of Unaged Grape Brandy	1512-AB46
2725	27 CFR 22.21 Distribution and Use of Tax-Free Alcohol	1512-AB51
2726	27 CFR 18.56 Production of Volatile Fruit Flavored Concentrate	1512-AB59
2727	27 CFR 21.3 Formulas For Denatured Alcohol and Rum	1512-AB60
2728	27 CFR 24.278 Implementation of Wine Credit Provisions of Public Law 104-188	1512-AB65
2729	27 CFR 55 Commerce in Explosives	1512-AB55
2730	27 CFR 47 Implementation of Public Law 104-132, the Antiterrorism and Effective Death Penalty Act of 1996, Relating to the Marking of Plastic Explosives for the Purpose of Detection	1512-AB63
2731	27 CFR 53 Firearms and Ammunition Excise Taxes	1512-AB33
2732	27 CFR 55 Implementation of Public Law 103-322, the Violent Crime Control and Law Enforcement Act of 1994	1512-AB35
2733	27 CFR 53 Manufacturers Excise Tax—Firearms and Ammunition Exemption Certificates/Statements	1512-AB42
2734	27 CFR 47.52 Removal of Restrictions on Importation of Defense Articles From Specified New Independent States of the Former Soviet Union and Yugoslavia	1512-AB62
2735	27 CFR 178 Residency Requirement for Persons Acquiring Firearms	1512-AB66
2736	27 CFR 70.511 to 70.526 27 CFR Part 70—Conference and Practice Requirements for the Bureau of Alcohol, Tobacco, and Firearms	1512-AB11
2737	27 CFR 70 Recodification of Statement of Procedural Rules	1512-AB54

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Bureau of Alcohol, Tobacco and Firearms—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2738	27 CFR 5 Petition To Regulate Use of the Term Margarita, and To Regulate Use of Certain Terms With Flavored Malt Beverages	1512-AB50
2739	27 CFR 53.61(b) Firearms and Ammunition Excise Taxes Parts and Accessories	1512-AB49
2740	27 CFR 290 Exportation of Tobacco Products and Cigarette Papers and Tubes, Without Payment of Tax, or With Drawback of Tax	1512-AB03

Bureau of Alcohol, Tobacco and Firearms—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2741	27 CFR 7 Standards of Identity for Malt Beverages	1512-AA95
2742	27 CFR 4 Grape Wine Designation—Gamay Beaujolais	1512-AB08
2743	27 CFR 4.25a(d) to 4.25a(e) Multistate Appellations of Origin for Contiguous States	1512-AB28
2744	27 CFR 4 Alteration of Labels on Containers of Distilled Spirits, Wine, Beer	1512-AB32
2745	27 CFR 178 Definition for the Category of Persons Prohibited From Receiving Firearms	1512-AB41

Comptroller of the Currency—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2746	12 CFR 3 Capital Rules	1557-AB14
2747	12 CFR 8 Assessment of Fees; National Banks; District of Columbia Banks	1557-AB41
2748	12 CFR 19 Uniform Rules of Practice and Procedure; Regulation Review	1557-AB43
2749	12 CFR 26 Management Official Interlocks	1557-AB60
2750	12 CFR 10 Municipal Securities Dealers	1557-AB62

Comptroller of the Currency—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2751	12 CFR 12 Qualification Requirements for Transactions in Certain Securities	1557-AB54
2752	12 CFR 32 Lending Limits	1557-AB55
2753	12 CFR 4 Expanded Examination Cycle for Certain Small Financial Institutions	1557-AB56
2754	12 CFR 9 Fiduciary Activities of National Banks	1557-AB63

Comptroller of the Currency—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2755	12 CFR 27 Fair Housing Home Loan Data System	1557-AB53
2756	12 CFR 28 International Lending Supervision	1557-AB58
2757	00 CFR Not yet determined Treatment of Financial Contracts by OCC-Appointed Receivers and Conservators for Uninsured Financial Institutions	1557-AB59
2758	12 CFR 7.4001 Interpretive Rulings	1557-AB61

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Comptroller of the Currency—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2759	12 CFR 25 Prohibition Against Using Interstate Branches Primarily for Deposit Production	1557-AB50
2760	12 CFR 13 Government Securities Sales Practices	1557-AB52
2761	12 CFR 8 Assessment of Fees; National Banks; District of Columbia Banks	1557-AB64

United States Customs Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2762	19 CFR 133 Parallel Imports and Other Trademarked Goods	1515-AB49
2763	19 CFR 12 Textiles and Textile Products Subject to Textile Trade Agreements	1515-AB54
2764	19 CFR 10 Andean Trade Preference	1515-AB59
2765	19 CFR 151 Accreditation of Commercial Testing Laboratories; Approval of Commercial Gaugers	1515-AB60
2766	19 CFR 134 Country-of-Origin Marking Requirements for Frozen Produce Packages	1515-AB61
2767	19 CFR 159 Liquidation; Extension; Suspension	1515-AB66
2768	19 CFR 12 Detention, Seizure, and Forfeiture of "Bootleg" Sound Recording and Music Videos of Live Musical Performances	1515-AB74
2769	19 CFR 12 Interest on Underpayments and Overpayments of Customs Duties Fees and Interest	1515-AB76
2770	19 CFR 142 Reconciliation	1515-AB85
2771	19 CFR 123 Foreign-Based Commercial Motor Vehicles in International Traffic	1515-AB88
2772	19 CFR 171 Petitions for Relief; Seizures, Penalties, and Liquidated Damages	1515-AC01
2773	19 CFR 118 Centralized Examination Stations	1515-AC07
2774	19 CFR 171 Guidelines for the Imposition and Mitigation of Penalties for Violation of 19 USC 1592	1515-AC08
2775	19 CFR 123 Designated Land Border Crossing Locations for Certain Conveyances	1515-AC12
2776	19 CFR 123 Land Border Carrier Initiative Program	1515-AC16
2777	19 CFR 192 Exportation of Used Motor Vehicles	1515-AC19
2778	19 CFR 162 Penalties for False Drawback Claims	1515-AC21
2779	19 CFR 111 Remote Location Filing	1515-AC23

United States Customs Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2780	19 CFR 142 Publication of Filer Codes	1515-AB27
2781	19 CFR 133 Disclosure of Information to Intellectual Property Rights Owners	1515-AB28
2782	19 CFR 10 Warehouse Withdrawals; Aircraft Fuel Supplies; Pipeline Transportation in Bond of Merchandise	1515-AB67
2783	19 CFR 151 Detention of Merchandise	1515-AB75
2784	19 CFR 162 Recordkeeping Requirements	1515-AB77
2785	19 CFR 181 North American Free Trade Agreement (NAFTA)—Implementation of Duty-Deferral Program Provisions	1515-AB87
2786	19 CFR 103 Electronic Requests for Confidential Treatment of Export Manifest Data	1515-AB89
2787	19 CFR 191 Drawback	1515-AB95
2788	19 CFR 12 Entry of Softwood Lumber Shipments From Canada	1515-AB97
2789	19 CFR 162 Prior Disclosure	1515-AB98
2790	19 CFR 4 Lay Order Period: General Order: Penalties	1515-AB99
2791	19 CFR 12 Determination of the Country of Origin of Textiles and Textile Products	1515-AC00
2792	19 CFR 19 General Enforcement Provisions; Removal of Agency Management Regulations	1515-AC02
2793	19 CFR 114 Bilateral Carnet Agreement Between the American Institute in Taiwan and the Taipei Economic and Cultural Representative	1515-AC03
2794	19 CFR 12 Importation of Chemicals Subject to the Toxic Substances Control Act	1515-AC04
2795	19 CFR 133 Anticounterfeiting Consumer Protection Act: Disposition of Merchandise Bearing Counterfeit American Trademarks; Civil Penalties	1515-AC10
2796	19 CFR 141 Increase of Maximum Amount For Informal Entries to $2000	1515-AC11
2797	19 CFR 141 Customs Entry Documentation Pursuant to Anticounterfeiting Consumer Protection Act	1515-AC15
2798	19 CFR 10 Procedural Change Regarding American Shooks and Staves	1515-AC18

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United States Customs Service—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2799	19 CFR 12 Elimination of Certification Requirement for Film Importers	1515-AC20

United States Customs Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2800	19 CFR 4 Harbor Maintenance Fee	1515-AA57
2801	19 CFR 24 Donated Cargo Exemption From Harbor Maintenance Fee	1515-AA87
2802	19 CFR 102 (New) Rules of Origin	1515-AB19
2803	19 CFR 113 Automated Surety Interface	1515-AB25
2804	19 CFR 24 Fees Assessed for Defaulted Payments	1515-AB38
2805	19 CFR 134 Country-of-Origin Marking for Watches	1515-AB68
2806	19 CFR 148 Treatment of Merchandise Imported by Foreign Governments or Designated International Organizations	1515-AB92
2807	19 CFR 146 Weekly Entry Procedure for Foreign Trade Zones	1515-AC05
2808	19 CFR 103 Public Disclosure of Aircraft Manifests	1515-AC13

United States Customs Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2809	19 CFR 7.8 U.S. Insular Possessions—Duty-Free Treatment	1515-AB14
2810	19 CFR 12 Importer Certification Regarding Country of Origin of Textiles and Textile Products	1515-AB43
2811	19 CFR 10 Use of Containers Designated as Instruments of International Traffic in Point-to-Point Local Traffic	1515-AB79
2812	19 CFR 134 Country-of-Origin Marking	1515-AB82
2813	19 CFR 123 Port Passenger Acceleration Service System (PORTPASS) Program	1515-AB90
2814	19 CFR 133 Disposition of Excluded Articles Pursuant to the Anticounterfeiting Consumer Protection Act	1515-AC09
2815	19 CFR 12 Archaeological and Ethnological Material From Canada	1515-AC14
2816	19 CFR 12 Archaeological and Ethnological Material from Peru	1515-AC17
2817	19 CFR 12 Import Restrictions Imposed on Significant Archaeological Artifacts From Mali	1515-AC22

Internal Revenue Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2818	26 USC 0141 Private Activity Bond Rules for Output Facilities	1545-AV31

Internal Revenue Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2819	26 USC 0041 Definition of Qualified Research and Computation of Research Credit Under Section 41 of the Code, After 1986, 1989 and 1993 Acts	1545-AO51
2820	26 USC 0072 Loans Treated as Distributions	1545-AE41
2821	26 USC 0125 Tax Treatment of Cafeteria Plans	1545-AV43
2822	26 USC 0141 Abatement of Interest	1545-AV32
2823	26 USC 0141 Private Activity Rules for Output Facilities	1545-AV46
2824	26 USC 0141 Private Activity Bond Rules for Output Facilities	1545-AV47
2825	26 USC 0179A Determination of Section 30 Credit and Section 179A Deduction	1545-AR66
2826	26 USC 0263A Rules for Property Produced in a Farming Business	1545-AQ91
2827	26 USC 0263A Production of Creative Property	1545-AQ92

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Internal Revenue Service—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2828	26 USC 0337 Corporate Inversion Transactions	1545-AS91
2829	26 USC 0338 Purchase Price Allocation	1545-AV58
2830	26 USC 0367 Section 361 Outbound Transfers of Property to Foreign Corporations	1545-AM97
2831	26 USC 0402 Withdrawal of Proposed Regulations	1545-AV35
2832	26 USC 0460 Accounting for Long-Term Contracts	1545-AQ30
2833	26 USC 0468B Escrow Funds and Other Similar Funds	1545-AR82
2834	26 USC 0471 Inventories by Dealers in Securities Section 1.471-5	1545-AS57
2835	26 USC 0475 Mark to Market for Securities Dealers; Application of Held for Investment Exemption to Consolidated Groups	1545-AU87
2836	26 USC 0482 Taxation of Global Trading	1545-AP01
2837	26 USC 0672 Income Taxation of Trusts and Estates	1545-AJ20
2838	26 USC 0679 Foreign Grantor Trusts	1545-AO75
2839	26 USC 0743 Adjustments Following Sales of Partnership Interests	1545-AS39
2840	26 USC 0863 Source of Income From Sales of Inventory Partly From Sources Within a Possession of the United States	1545-AU79
2841	26 USC 0863 Source Rules for Payments Made Pursuant to Certain Swap Arrangements	1545-AU89
2842	26 USC 0865 Source Rules for Personal Property Sales	1545-AJ83
2843	26 USC 0872 Income Tax—Reciprocal Exemptions for Certain Transportation Income	1545-AJ57
2844	26 USC 0954 Guidance Under Subpart F Relating to Partnerships	1545-AV11
2845	26 USC 1092 Equity Options Without Standard Terms	1545-AV48
2846	26 USC 1293 Qualified Electing Fund Elections	1545-AV39
2847	26 USC 1293 Qualified Electing Fund Elections	1545-AV40
2848	26 USC 1361 Electing Small Business Trust	1545-AU76
2849	26 USC 1361 S Corporation Subsidiaries	1545-AU77
2850	26 USC 1441 Regulations Under Section 1441 Regarding the Electronic Transmission of Withholding Certificates	1545-AV27
2851	26 USC 1441 Regulations Under Section 1441 Regarding Withholding on Sales of Debt Obligations Between Interest Payment Dates	1545-AV41
2852	26 USC 2805 Private Activity Rules for Output Facilities	1545-AU80
2853	26 USC 6041 Purchasing and Reporting	1545-AV49
2854	26 USC 6104 Public Disclosure of Material Relating to Tax-Exempt Organizations	1545-AV13
2855	26 USC 7623 Rewards for Information Relating to Violations of Internal Revenue Laws	1545-AU85
2856	26 USC 7623 Rewards for Information Relating to Violations of Internal Revenue Laws	1545-AU88
2857	26 USC 7805 Technical Corrections for Chapter 14	1545-AR49
2858	26 USC 7805 Pass Through Items of S Corporation to its Shareholders	1545-AT52
2859	26 USC 7805 Property Distributed in Kind and Treatment of Multiple Trusts	1545-AT68
2860	26 USC 7805 To Add Provisions Relating to Start-Up Expenditures	1545-AT71
2861	26 USC 7805 Reporting Requirements for Widely Held Fixed Investment Trusts	1545-AU15
2862	26 USC 7805 Permitted Election Changes Under Cafeteria Plans	1545-AU61
2863	26 USC 7805 Civil Cause of Action for Certain Unlawful Collection Actions	1545-AU68
2864	26 USC 7805 Disclosure of Certain Returns and Return Information by Other Federal Agencies	1545-AU83
2865	26 USC 7805 Disclosure of Certain Returns and Return Information by Other Federal Agencies	1545-AU84
2866	26 USC 7805 Special Rules Applicable to Sales of Debt Instrument Between Record Dates and the End of Accrual Periods	1545-AU95
2867	26 USC 7805 Legending of Remic Certificates	1545-AU96
2868	26 USC 7805 Agreements for Payment of Tax Liabilities in Installments	1545-AU97
2869	26 USC 7805 Return of Partnership Income—Section 6031	1545-AU99
2870	26 USC 7805 Withdrawal of Notice of Federal Tax Lien	1545-AV00
2871	26 USC 7805 Return of Levied Property in Certain Cases	1545-AV01
2872	26 USC 7805 Deposits of Excise Taxes	1545-AV02
2873	26 USC 7805 Deposits of Excise Taxes	1545-AV03
2874	26 USC 7805 Taxpayer Identification Numbers (TINs) for Adopted Children	1545-AV08
2875	26 USC 7805 Credit for Increasing Research Activities	1545-AV14
2876	26 USC 7805 Certain Investment Income—7704	1545-AV15
2877	26 USC 7805 Treatment of Elective Entity Classification Changes—7701	1545-AV16
2878	26 USC 7805 Recourse Debt and Qualified Nonrecourse Financing	1545-AV17
2879	26 USC 7805 Cash Advances of Compensation to Service Providers	1545-AV21
2880	26 USC 7805 Imported Recycled Halons	1545-AV24
2881	26 USC 7805 Electronic Tip Reporting	1545-AV28

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Internal Revenue Service—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2882	26 USC 7805 Temporary Regulations Regarding the Capitalization of Costs of Producing Property in a Farming Business	1545-AV37
2883	26 USC 7805 TBOR 2 Changes to Section 7805(b)	1545-AV42
2884	26 USC 7805 Marital Deduction	1545-AV45
2885	26 USC 7805 HIPAA Nondiscrimination Rules	1545-AV51
2886	26 USC 7805 HIPAA Newborns' and Mothers' Health Protection Act	1545-AV52
2887	26 USC 7805 HIPAA Mental Health Parity	1545-AV53
2888	26 USC 7805 Qualified Long-Term Care Services and Insurance	1545-AV56
2889	26 USC 7811 Taxpayer Assistance Orders	1545-AU01
2890	26 USC 7805 Treatment of Conduit Financing Using Fast Pay Preferred Stock	1545-AV07
2891	31 USC 9701 User Fees	1545-AV34

Internal Revenue Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2892	05 USC 0552 Statement of Procedural Rules—Part 601.702 Appendix B - Internal Revenue Service - 31 CFR Part 1	1545-AR99
2893	26 USC 0042 Available Unit Rule	1545-AT60
2894	26 USC 0148 Arbitrage Restrictions on Tax Exempt Bonds	1545-AU39
2895	26 USC 0165 Section 5f.163-1(B)(2)	1545-AP33
2896	26 USC 0280B Demolition of Structures Definitions	1545-AR63
2897	26 USC 0337 Certain Asset Transfers to a Tax-Exempt Entity	1545-AN21
2898	26 USC 0367 Income Tax—Part 1—Stock Transfer Rules	1545-AI32
2899	26 USC 0367 Amendment of the Income Tax Regulations Under Section 367 of the Code (Transfers to Foreign Corporations) To Reflect Section 131 of the Tax Reform Act of 1984 (P.L. 98-369)	1545-AK74
2900	26 USC 0367 Transfers of Stock or Securities by U.S. Persons to Foreign Corporations	1545-AP81
2901	26 USC 0368 Continuity of Interest Requirement in Corporate Reorganizations	1545-AU72
2902	26 USC 0453 Installment Obligations Received From Liquidating Corporations	1545-AB43
2903	26 USC 0467 Section 467 Rental Agreements	1545-AU11
2904	26 USC 0475 Mark-to-Market Upon Disposition	1545-AS85
2905	26 USC 0832 Determination of Earned Premiums	1545-AU60
2906	26 USC 0861 Classification of Certain Transactions Involving Computer Programs	1545-AU70
2907	26 USC 0864 Allocation and Apportionment of Interest Expense and Certain Other Expenses	1545-AM20
2908	26 USC 0865 Allocation of Loss on Disposition of Stock	1545-AT41
2909	26 USC 0904 Application of Section 904 to Income Subject to Separate Limitations and Section 864(e) Affiliated Group Expense Allocation Rules	1545-AQ43
2910	26 USC 0905 Income Tax—Taxpayer's Obligation To File a Notice of Redetermination of Foreign Tax and Civil Penalties for Failure to File	1545-AC09
2911	26 USC 0905 Section 905(b) Regulations	1545-AP36
2912	26 USC 0921 Removal of Temporary Regulations	1545-AV36
2913	26 USC 0953 Insurance Income	1545-AJ70
2914	26 USC 0985 Rules for a QBU Changing From the Profit-and-Loss Method to DASTM	1545-AR28
2915	26 USC 0985 Change From the Dollar Approximate Separate Transactions Method (DASTM) to the Profit-and-Loss Method of Accounting	1545-AS68
2916	26 USC 1058 Certain Payments Made Pursuant to a Securities Lending Transaction	1545-AP71
2917	26 USC 1202 Qualified Small Business Stock	1545-AU34
2918	26 USC 1245 Partnerships and Depreciation Recapture	1545-AT32
2919	26 USC 1275 Inflation-Indexed Securities	1545-AU45
2920	26 USC 1295 QEF Shareholder Election	1545-AM41
2921	26 USC 1441 Section 1441 Final Regulations	1545-AU43
2922	26 USC 1502 Consolidated Returns—Limitations on the Use of Certain Losses and Credits	1545-AV30
2923	26 USC 2702 Sale of Residence From Qualified Personal Residence Trust	1545-AU12
2924	26 USC 3306 FICA Taxation of Certain Deferred Compensation and Salary Reduction Arrangements	1545-AF97
2925	26 USC 3306 FUTA Taxation of Amounts Under Employee Benefit Plans	1545-AT99
2926	26 USC 4082 Diesel Fuel Excise Tax; Dye Injection Systems and Markers	1545-AT18
2927	26 USC 4082 Diesel Fuel Tax—1996 Amendment	1545-AU53

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Internal Revenue Service—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2928	26 USC 6011 Time for Filing Form 4720 Return	1545-AU66
2929	26 USC 6061 Voice Signatures	1545-AQ68
2930	26 USC 6114 6114 Reporting Requirements Waived	1545-AP35
2931	26 USC 6662 Definition of Reasonable Basis	1545-AU38
2932	26 USC 7701 Treatment of Obligation-Shifting Transactions	1545-AU19
2933	26 USC 7701 Residence of Trusts and Estates—7701	1545-AU74
2934	26 USC 7805 Disclaimer of Interests and Power	1545-AR52
2935	26 USC 7805 Debt Instruments With OID; Annuity Contracts	1545-AS76
2936	26 USC 7805 Intangible Amortization	1545-AS77
2937	26 USC 7805 Effective Date of Temporary Backup Withholding Regulations	1545-AT77
2938	26 USC 7805 Modification of Bad Debts and Dealer Assignments of Notional Principal Contracts	1545-AU06
2939	26 USC 7805 Magnetic Media Filing Requirements	1545-AU08
2940	26 USC 7805 Bond Premium Amortization	1545-AU09
2941	26 USC 7805 Definition of Limited Partner for Self-Employment Tax Purposes	1545-AU24
2942	26 USC 7805 Estate and Gift Tax Regulation	1545-AU27
2943	26 USC 7805 Section 468A Revised Schedules of Ruling Amounts	1545-AU28
2944	26 USC 7805 Empowerment Zone Employment Credit	1545-AU30
2945	26 USC 7805 Extensions of Time to Make Elections	1545-AU42
2946	26 USC 7805 Treatment of Warrants as Securities	1545-AU67
2947	26 USC 7805 Tax Attribute Reduction	1545-AU71
2948	26 USC 7805 Target Asset and Stock Drops Following Reorganization	1545-AU73
2949	26 USC 7805 Section 42(d)(5) Federal Grants	1545-AU92
2950	26 USC 7805 Taxpayer Identification Numbers (TINs) for Adopted Children	1545-AV09
2951	26 USC 7805 Regulations Under Sections 871, 881, and 894 Regarding Payments to Partnerships, and Other Transparent Arrangements	1545-AV10
2952	26 USC 7805 Proposed Regulations Respecting the Adoption or Change of Accounting Method	1545-AV20

Internal Revenue Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2953	26 USC 0044 Disabled Access Credit	1545-AT72
2954	26 USC 0059 Section 59(e); Election for Qualified Costs	1545-AU40
2955	26 USC 0079 Section 79, Table I, Update	1545-AN54
2956	26 USC 0101 The Treatment of Accelerated Death Benefits Under Sections 101, 7702 and 7702A of the Internal Revenue Code	1545-AQ70
2957	26 USC 0126 Exclusion From Income of Certain Cost-Sharing Payments Under Government Programs	1545-AT73
2958	26 USC 0141 Definition of "Private Activity Bonds"	1545-AU98
2959	26 USC 0162 Continuation Coverage Requirements of Group Health Plans	1545-AI93
2960	26 USC 0163 Qualified Residence Interest	1545-AL67
2961	26 USC 0163 Earnings Stripping Payments	1545-AO24
2962	26 USC 0168 Changes in Use Under Section 168(i)(5)	1545-AJ38
2963	26 USC 0263A Foreign Taxpayers	1545-AQ83
2964	26 USC 0274 Substantiation of Expenses—Receipt Threshold	1545-AT97
2965	26 USC 0280G Golden Parachute Payments	1545-AH49
2966	26 USC 0337 Guidance in Notice 89-37, Which Treats the Receipt of a Corporate Partner's Stock by the Corporate Partner as a Circumvention of General Utilities Repeal	1545-AP52
2967	26 USC 0367 Treatment of Section 355 Distribution by US Corporations to Foreign Persons	1545-AU22
2968	26 USC 0381 Carryovers of Methods of Accounting	1545-AT38
2969	26 USC 0382 Regulations Under Section 382	1545-AU33
2970	26 USC 0404A Income Tax—Deduction for Certain Foreign Deferred Compensation Plans	1545-AD81
2971	26 USC 0411 Allocation of Accrued Benefits Between Employer and Employee Contributions	1545-AT82
2972	26 USC 0412 Revising the Definition of the Full Funding Limitation for Purposes of the Minimum Funding Requirement for Pension Plans	1545-AL53
2973	26 USC 0414 Definition of "Highly Compensated Employee"	1545-AQ74
2974	26 USC 0417 Valuation of Plan Distribution	1545-AT27
2975	26 USC 0419 Treatment of Funded Welfare Benefit Plans	1545-AG14

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Internal Revenue Service—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
2976	26 USC 0446 Hybrid Instruments	1545-AR13
2977	26 USC 0465 Guidance on What Constitutes an Interest Other Than That of a Creditor	1545-AO32
2978	26 USC 0468 Guidance on Section 468	1545-AT59
2979	26 USC 0469 Application of Passive Activity Loss and Credit Limitations to Trusts, Estates, and Their Beneficiaries	1545-AN62
2980	26 USC 0469 Limitations on Passive Activity Losses and Credits—Self-Charged Items	1545-AN64
2981	26 USC 0472 Definition of an Item for LIFO	1545-AT39
2982	26 USC 0482 Intercompany Transfer Pricing for Services	1545-AR32
2983	26 USC 0501 Section 501(c)(4) Regulation Changes Re: TBOR2	1545-AV57
2984	26 USC 0529 Qualified State Tuition Programs	1545-AV18
2985	26 USC 0643 Inbound Grantor Trusts with Foreign Grantors	1545-AU90
2986	26 USC 0664 Guidance Regarding Charitable Remainder Trust	1545-AU25
2987	26 USC 0736 Payments to a Retiring Partner or a Deceased Partner's Successor in Interest	1545-AT31
2988	26 USC 0817 Treatment of Modified Guaranteed Contracts	1545-AU58
2989	26 USC 0842 Foreign Insurance Companies	1545-AL82
2990	26 USC 0860F Extension of Time for Real Estate Mortgage Investment Conduits To Provide Reporting Information	1545-AP73
2991	26 USC 0860L FASIT-Consolidated Groups/Transitional Start-up	1545-AU94
2992	26 USC 0861 Fringe Benefit Sourcing Under Section 861	1545-AO72
2993	26 USC 0861 Charitable Contributions	1545-AP30
2994	26 USC 0863 Transportation Income Source Rules	1545-AJ68
2995	26 USC 0864 Treatment of Related Person Factoring Income; Certain Investments in United States Property; and Stock Redemptions Through Related Corporations	1545-AH85
2996	26 USC 0864 Integrated Financial Transaction	1545-AR20
2997	26 USC 0882 Proposed Regulation Under Section 882 and 884	1545-AT96
2998	26 USC 0892 Income of Foreign Governments and International Organizations	1545-AL93
2999	26 USC 0897 Nonrecognition of Corporate Distributions and Reorganizations Under the Foreign Investment in Real Property Tax Act	1545-AK79
3000	26 USC 0898 Conforming Taxable Years of CFCs and FPHCs: 1989 Change	1545-AO22
3001	26 USC 0904 Clarification of Treatment of Separate Limitation Losses	1545-AM11
3002	26 USC 0924 FSC Transfer Pricing Rules, Distributions, Dividends Received, Deduction, and Other Special Rules for FSC	1545-AI16
3003	26 USC 0936 Income Tax—Definition of Qualified Possession Source Investment Income for Purposes of Puerto Rico and Possession Tax Credit	1545-AC10
3004	26 USC 0936 CBI Investments of Section 936 Funds	1545-AM91
3005	26 USC 0953 Foreign Insurance Company—Domestic Election	1545-AO25
3006	26 USC 0958 Application of Attribution Rules to Foreign Trusts	1545-AU91
3007	26 USC 0960 Coordination of Pre-1987 Deemed Paid Taxes	1545-AT85
3008	26 USC 0964 Earnings and Profits of Controlled Foreign Corporations	1545-AM90
3009	26 USC 0964 Use of GAAP Earnings as E&P of Foreign Corporations	1545-AQ55
3010	26 USC 0987 Computation of a Branch's Taxable Income; Taxation of Exchange Gain or Loss on Branch Remittances	1545-AM12
3011	26 USC 0988 Mark-to-Market Method of Accounting Under Section 988	1545-AP78
3012	26 USC 0995 Income Tax—Tax Reform Act of 1984 Relating to Interest Charge DISCs	1545-AG71
3013	26 USC 1041 Stock Redemption Incident to Divorce	1545-AT24
3014	26 USC 1278 Disposition Gain Representing Accrued Market Discount Treated as Ordinary Income; Deferral of Interest Deduction Allocable to Accrued Market Discount	1545-AH82
3015	26 USC 1296 Passive Foreign Investment Companies—Special Rules for Foreign Banks and Securities Dealers	1545-AS46
3016	26 USC 1362 S Corporation Banks Section 1362	1545-AU75
3017	26 USC 1446 Temporary Regulation on Withholding Tax on Payments From Partnerships to Foreign Partners	1545-AL32
3018	26 USC 1502 Consolidated Alternative Minimum Tax	1545-AN73
3019	26 USC 1502 Consolidated Returns—Limitations on the Use of Certain Losses, Deductions, and Credits	1545-AU31
3020	26 USC 1502 Regulations Under Section 1502	1545-AU32
3021	26 USC 1502 Consideration of Repeal of Old 1.1502-13	1545-AV54
3022	26 USC 1503 Applications of Section 1503(d) to Partnerships and Other Items	1545-AR26
3023	26 USC 2032A Estate Tax—Valuation of Certain Farm, Etc., Real Property	1545-AT86
3024	26 USC 2055 Reformation of Charitable Transfers—Definition of Guaranteed Annuity and Lead Unitrust Interest	1545-AT85
3025	26 USC 3221 Exception From Supplemental Tax	1545-AT56

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Internal Revenue Service—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3026	26 USC 3506 Treatment of Real Estate Agents and Direct Sellers as Nonemployees for Employment Tax Purposes—Reporting Requirements With Respect to Direct Sellers	1545-AE62
3027	26 USC 4001 Retail Excise Taxes on Certain Luxury Items	1545-AP24
3028	26 USC 4003 Luxury Excise Tax Changes Under OBRA 1993	1545-AS34
3029	26 USC 404A Application of Grantor Trust Rules to Nonexempt Employees' Trust	1545-AU29
3030	26 USC 4091 Excise Tax on Aviation Fuel	1545-AL43
3031	26 USC 4251 Communications Tax Issues	1545-AU86
3032	26 USC 4611 Tax on Petroleum	1545-AJ23
3033	26 USC 6037 Subchapter S Items	1545-AU78
3034	26 USC 6038 Information Reporting and Record Maintenance Under Section 6038C	1545-AP10
3035	26 USC 6039E Information From Passport and Immigration Applicants	1545-AJ93
3036	26 USC 6046A 6046A—Returns as to Interests in Foreign Partnerships	1545-AK75
3037	26 USC 6048 Section 6048 Regulations	1545-AR25
3038	26 USC 6205 Interest-Free Adjustments	1545-AQ61
3039	26 USC 6302 Railroad Unemployment Repayment Tax	1545-AN40
3040	26 USC 6302 Expansion of Form 945	1545-AU51
3041	26 USC 6402 Revision of Tax Refund Offset Program	1545-AV50
3042	26 USC 7701 Special Rules for S Corps Under 301.7701(b)-7	1545-AS88
3043	26 USC 7805 Extension of Statute of Limitations in John Doe Summons Disputes	1545-AM67
3044	26 USC 7805 Suspension of Running of Period of Limitations During Proceeding To Enforce Designated Summons	1545-AQ01
3045	26 USC 7805 Reissuance of Qualified Tender Bonds	1545-AT09
3046	26 USC 7805 Reissuance of Qualified Tender Bonds	1545-AT10
3047	26 USC 7805 Straddles—Miscellaneous Issues	1545-AT46
3048	26 USC 7805 Effect of the Family and Medical Leave Act on the Operation of Cafeteria Plans	1545-AT47
3049	26 USC 7805 Excise Tax on Heavy Trucks, Truck Trailers and Semitrailers, and Tractors	1545-AT63
3050	26 USC 7805 Amortization-Goodwill Intangibles 197	1545-AT70
3051	26 USC 7805 ERISA Sec. 204(h) Notice	1545-AT78
3052	26 USC 7805 Timing of Notice and Consent Requirements	1545-AU05
3053	26 USC 7805 Nonresident Alien Shareholder; S Corporation Stock	1545-AU18
3054	26 USC 7805 Relief from Disqualification for Plans Accepting Rollovers	1545-AU46
3055	26 USC 7805 Recomputation of Life Insurance Reserves	1545-AU49
3056	26 USC 7805 Payment From the Presidential Primary Matching Payment Account	1545-AU57
3057	26 USC 7805 Remedial Amendment Period	1545-AV22
3058	26 USC 7805 Permitted Elimination of Pre-Retirement Optional Forms of Benefit	1545-AV25
3059	26 USC 7805 Permitted Elimination of Pre-Retirement Optional Forms of Benefit	1545-AV26
3060	26 USC 7805 Section 42 Miscellaneous Compliance	1545-AV44
3061	26 USC 7805 Withdrawal of Proposed Regulations and Temporary Regulations That Provide Rules for Substantiating Travel Expense Deductions for Members of Congress	1545-AV55
3062	26 USC 7872 Regulations on Income Tax Under the Tax Reform Act of 1984, Relating to Below-Market Loans	1545-AH72
3063	26 USC 9801 Group Health Plan Portability, Access, and Renewability Requirements	1545-AV12

Internal Revenue Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3064	26 USC 0104 Personal Injury Damages	1545-AT29
3065	26 USC 0263A Method Change Rules for the Uniform Capitalization Rules	1545-AQ94
3066	26 USC 0269B Rules for Treatment of Foreign Corporation Whose Stock Is Stapled to the Stock of a Domestic Corporation	1545-AN20
3067	26 USC 0274 Substantiation of Expenses—Receipt Threshold	1545-AT98
3068	26 USC 0338 Deemed Purchase Price When Certain Stock Purchases Are Treated as Asset Acquisitions	1545-AF29
3069	26 USC 0338 Section 338(h)(10) and Insurance Companies	1545-AS56
3070	26 USC 0403 Nondiscrimination and Other Rules Applicable to Section 403(b) Annuities	1545-AI90
3071	26 USC 0501 Requirements for Tax Exempt Labor Organizations	1545-AT95
3072	26 USC 0708 Section 708 and Section 704	1545-AU14
3073	26 USC 0860E REMIC Regulations	1545-AR88

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Internal Revenue Service—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3074	26 USC 0863 Sourcing Rule Applicable to Certain Insurance Income	1545-AQ37
3075	26 USC 0864 Treatment of Deferred Payments and Appreciation Arising Out of Business Conducted Within the United States	1545-AM53
3076	26 USC 0864 Tiered Partnership Rules	1545-AQ26
3077	26 USC 0871 Guidance Regarding Claims for Certain Income Tax Convention Benefits	1545-AV33
3078	26 USC 0884 Proposed Regulations Under Section 1.884-3	1545-AQ72
3079	26 USC 0884 Regulations Under Section 1.884-2	1545-AQ73
3080	26 USC 0897 FIRPTA Cleanup	1545-AJ72
3081	26 USC 0897 Income Tax—Partnership Rules Regarding Taxation of Foreign Investment in United States Real Property Interests	1545-AL77
3082	26 USC 0931 Exclusion of Possession Source Income From Gross Income of Certain Individuals	1545-AS42
3083	26 USC 0932 Coordination of U.S. and Virgin Islands Income Taxes	1545-AS41
3084	26 USC 0952 Subpart F—Use of Deficits	1545-AJ71
3085	26 USC 0955 Subpart F Shipping Amendments	1545-AM46
3086	26 USC 0960 Deemed-Paid Credit Under Section 960, Determined on Accumulated Basis	1545-AQ34
3087	26 USC 0986 Determination of Foreign Taxes and Foreign Corporations' Earnings and Profits	1545-AN37
3088	26 USC 1059 Extraordinary Dividends/1059(e)(2)	1545-AU16
3089	26 USC 1059A Amendment of Regulations Under IRC Section 1059A	1545-AS80
3090	26 USC 1248 Section 1248 - Gain From Sale or Exchange of Stock in Foreign Corporations	1545-AC31
3091	26 USC 1248 Gains From Certain Sales or Exchanges in Certain Foreign Corporations	1545-AL89
3092	26 USC 1275 Annuity Contracts Issued by Foreign Insurance Companies; Certain Compensation Arrangements	1545-AV29
3093	26 USC 1491 Regulations Under Sections 1491, 1492, and 1494	1545-AN39
3094	26 USC 1502 Section 1.1502-47 Regulations—Supplemental	1545-AR89
3095	26 USC 1504 Income Tax—Includibility in an Affiliated Group of Subsidiaries Formed To Comply With Foreign Laws	1545-AC58
3096	26 USC 2039 Estate Tax—Annuity Exclusion Repeal	1545-AP60
3097	26 USC 2104 Situs of Partnership Interests Held by a Nonresident Alien for Estate Tax Purposes	1545-AP07
3098	26 USC 2663 Generation-Skipping Transfer Tax	1545-AU26
3099	26 USC 3406 TIN Matching	1545-AU54
3100	26 USC 4671 Chemical Tax Under Section 4461 and Imported Substance Tax Under Section 4671	1545-AL73
3101	26 USC 6302 Federal Tax Deposits by Electronic Funds Transfer	1545-AS79
3102	26 USC 7518 Interim Fishing Vessel Capital Construction Fund Procedures	1545-AS80
3103	26 USC 7805 Arbitrage Restriction on Tax-Exempt Bonds	1545-AS49
3104	26 USC 7805 Guidance for Air Cargo Carriers	1545-AT30
3105	26 USC 7805 Qualified Transportation Fringe	1545-AT45
3106	26 USC 7805 Taxpayer Bill of Rights 2, Miscellaneous Provisions, Proposed Regulations	1545-AU84
3107	26 USC 7805 Temporary Regulations Respecting the Adoption of Change of Accounting Method	1545-AV19
3108	26 USC 7805 Remedial Amendment Period	1545-AV23
3109	26 USC 9801 Group Health Plan Portability, Access, and Renewability Requirements	1545-AV05

Office of Thrift Supervision—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3110	12 CFR 563 Capital Distributions	1550-AA72
3111	12 CFR 545 Deposits and Electronic Banking	1550-AB00
3112	12 CFR 563f Management Official Interlocks	1550-AB07
3113	12 CFR 574 Agency Disapproval of Directors and Senior Executive Officers	1550-AB10
3114	12 CFR 567 Capital Rules	1550-AB11

Office of Thrift Supervision—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3115	12 CFR 566 Liquidity	1550-AA77

TREAS

Office of Thrift Supervision—Final Rule Stage (Continued)

Sequence Number	Title		Regulation Identifier Number
3116	12 CFR 543	Application Processing	1550-AA83
3117	12 CFR 563	Expanded Examination Cycle for Certain Small Insured Institutions	1550-AB02
3118	12 CFR 575	Mutual Savings and Loan Holding Companies	1550-AB04
3119	12 CFR 545	Fiduciary Powers of Federal Savings Associations; Community Reinvestment Act	1550-AB09

Office of Thrift Supervision—Completed Actions

Sequence Number	Title		Regulation Identifier Number
3120	12 CFR 567	Risk-Based Capital Requirements—Recourse and Direct Credit Substitutes	1550-AA70
3121	12 CFR 543	"De Novo" Applications for a Federal Savings Association Charter	1550-AA78
3122	12 CFR 567	Risk-Based Capital Requirements, Small Business Loan Recourse Obligations	1550-AA81
3123	12 CFR 585	Risk-Based Capital: Servicing Rights	1550-AA84
3124	12 CFR 567	Risk-Based Capital Standards; Collateralized Transactions	1550-AA98
3125	12 CFR 567	Risk-Based Capital and Leverage Capital Standards	1550-AB03
3126	12 CFR 543	Incorporation, Organization, and Conversion of Federal Mutual Associations	1550-AB08

DEPARTMENT OF THE TREASURY (TREAS)
Departmental Offices (DO)

Final Rule Stage

2669. ADMINISTRATIVE HEARINGS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 50 USC app 1 to 44, Trading With the Enemy Act; 22 USC 6001 to 6010, The Cuban Democracy Act of 1992

CFR Citation: 31 CFR 500.704; 31 CFR 515.704

Legal Deadline: None

Abstract: The Foreign Assets Control Regulations, 31 CFR part 500, and the Cuban Assets Control Regulations, 31 CFR part 515, are being amended to provide for detailed procedures governing administrative hearings, as provided in section 1710(c) of the Cuban Democracy Act of 1992 (the CDA). Because the CDA amends section 16 of the Trading with the Enemy Act to permit the imposition of civil monetary penalties and civil forfeiture, subpart G is revised to establish the procedures governing administrative hearings. The regulations impose no obligations or duties, but rather make available administrative hearing procedures for those persons wishing to appeal the assessment of a civil administrative penalty issued under parts 500 or 515.

Timetable:

Action	Date	FR Cite
NPRM	02/14/97	62 FR 6896
NPRM Comment Period End	03/17/97	
Final Action	10/00/97	
Final Action Effective	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Serena D. Moe, Deputy Chief Counsel, Department of the Treasury, MT Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220
Phone: 202 622-2410

RIN: 1505–AA59

2670. COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS PROGRAM; BANK ENTERPRISE AWARD PROGRAM REGULATIONS

Priority: Other Significant

Legal Authority: 12 USC 4703; 12 USC 4713; PL 104-19; 42 USC 4332

CFR Citation: 12 CFR 1805 (New); 12 CFR 1806 (New); 12 CFR 1815 (New)

Legal Deadline: None

Abstract: The Department of the Treasury has issued a revision of a temporary rule for public comment to implement two programs that will be administered by the Community Development Financial Institutions (CDFI) Fund: the CDFI Program and the Bank Enterprise Award (BEA) Program. These programs were authorized by the Community Development Banking and Financial Institutions Act of 1994. The CDFI Program's core component provides direct assistance to CDFIs that serve their target markets through loans, investments and other activities. The CDFI Program's new intermediary component provides financial assistance to CDFIs that provide financing primarily to other CDFIs and/or support the formation of CDFIs. The purpose of the BEA Program is to encourage insured depository institutions to engage in certain development and service activities within distressed communities and to make equity investments in CDFIs. The regulations establish eligibility criteria and application procedures for financial assistance through these programs. The regulations also establish the appropriate environmental review procedures for these two programs.

TREAS—DO

Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/19/95	60 FR 54110
Interim Final Rule Comment Period End	01/15/96	
Extended Comment Period End	03/15/96	61 FR 1699
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maurice Jones, Legal Counsel, Department of the Treasury, CDFI Fund, 1500 Pennsylvania Avenue NW., Washington, DC 20220
Phone: 202 622-8662
Fax: 202 622-7754

RIN: 1505–AA71

BILLING CODE 4810-25-F

DEPARTMENT OF THE TREASURY (TREAS)
Financial Crimes Enforcement Network (FINCEN)

Proposed Rule Stage

2671. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS—DISCRETIONARY EXEMPTION OF CERTAIN TRANSACTIONS FROM CURRENCY TRANSACTION REPORTING REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 5313(e) Bank Secrecy Act

CFR Citation: 31 CFR 103

Legal Deadline: None
31 USC 5313(e)(6) permits a phase-in of discretionary exemptions over a 2-year period ending September 23, 1996.

Abstract: This NPRM proposes to exempt depository institutions from the currency transaction reporting obligations of 31 USC 5313 with respect to transactions with certain customers.

Timetable:

Action	Date	FR Cite
NPRM	09/08/97	62 FR 47156
NPRM Comment Period End	12/08/97	
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen R. Kroll, Legal Counsel, Department of the Treasury, Financial Crimes Enforcement Network, 2070 Chain Bridge Road, Suite 200, Vienna, VA 22182
Phone: 703 905-3590

RIN: 1506–AA12

2672. AMENDMENTS TO THE BANK SECRECY ACT REGULATIONS - SUSPICIOUS ACTIVITY REPORTING—BROKER/DEALERS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 5318(g)

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This NPRM will propose to require suspicious activity reporting by broker/dealers.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Stephen R. Kroll, Legal Counsel, Department of the Treasury, Financial Crimes Enforcement Network, 2070 Chain Bridge Road, Suite 200, Vienna, VA 22182
Phone: 703 905-3590

RIN: 1506–AA21

2673. • AMENDMENTS TO THE BANK SECRECY ACT REGULATIONS - SUSPICIOUS ACTIVITY REPORTING—CASINOS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 5318(g)

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This NPRM will propose to require suspicious activity reporting by casinos.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Stephen R. Kroll, Legal Counsel, Department of the Treasury, Financial Crimes Enforcement Network, 2070 Chain Bridge Road, Suite 200, Vienna, VA 22182
Phone: 703 905-3590

RIN: 1506–AA22

DEPARTMENT OF THE TREASURY (TREAS)
Financial Crimes Enforcement Network (FINCEN)

Final Rule Stage

2674. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS - REGISTRATION REQUIREMENT FOR CERTAIN NON-BANK FINANCIAL INSTITUTIONS—MONEY SERVICES BUSINESSES (MSBS)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 5330

CFR Citation: 31 CFR 103

Legal Deadline: NPRM, Statutory, March 23, 1995.
Section 408 of PL 103-325 requires money transmitting businesses to register by March 23, 1995.

Abstract: This rule will identify money-transmitting and other businesses that must register with the Secretary, and will prescribe procedures for registration.

Timetable:

Action	Date	FR Cite
NPRM	05/21/97	62 FR 27890
NPRM Comment Period End	09/30/97	
Final Action	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Stephen R. Kroll, Legal Counsel, Department of the Treasury, Financial Crimes Enforcement Network, 2070 Chain Bridge Road, Suite 200, Vienna, VA 22182
Phone: 703 905-3590

RIN: 1506–AA09

2675. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS REGARDING REPORTING OF CROSS-BORDER TRANSPORTATION OF CERTAIN MONETARY INSTRUMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 5312(a)(3) Bank Secrecy Act

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This rule will require reporting of cross-border transportation of certain negotiable instruments.

Timetable:

Action	Date	FR Cite
NPRM	01/22/97	62 FR 3249
NPRM Comment Period End	04/22/97	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen R. Kroll, Legal Counsel, Department of the Treasury, Financial Crimes Enforcement Network, 2070 Chain Bridge Road, Suite 200, Vienna, VA 22182
Phone: 703 905-3590

RIN: 1506–AA15

2676. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS REGARDING REPORTING AND RECORDKEEPING BY CARD CLUBS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 5312

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This rule will include within the definition of "financial institution" those gaming establishments commonly known as "card clubs."

Timetable:

Action	Date	FR Cite
NPRM	12/20/96	61 FR 67260
NPRM Comment Period End	03/20/97	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Stephen R. Kroll, Legal Counsel, Department of the Treasury, Financial Crimes Enforcement Network, 2070 Chain Bridge Road, Suite 200, Vienna, VA 22182
Phone: 703 905-3590

RIN: 1506–AA18

2677. AMENDMENTS TO THE BANK SECRECY ACT REGULATIONS - SPECIAL REPORTING AND RECORDKEEPING REQUIREMENTS—MONEY SERVICES BUSINESSES (MSBS)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 5313; 31 USC 5318

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This rule will propose to require special currency transaction reporting and recordkeeping by certain classes of businesses.

Timetable:

Action	Date	FR Cite
NPRM	05/21/97	62 FR 27909
NPRM Comment Period End	09/30/97	
Final Action	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Stephen R. Kroll, Legal Counsel, Department of the Treasury, Financial Crimes Enforcement Network, 2070 Chain Bridge Road, Suite 200, Vienna, VA 22182
Phone: 703 905-3590

RIN: 1506–AA19

2678. AMENDMENTS TO THE BANK SECRECY ACT REGULATIONS - SUSPICIOUS ACTIVITY REPORTING—MONEY SERVICES BUSINESSES (MSBS)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 5318(g)

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This rule will propose to require suspicious activity reporting by certain classes of businesses.

Timetable:

Action	Date	FR Cite
NPRM	05/21/97	62 FR 27900
NPRM Comment Period End	09/30/97	
Final Action	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Stephen R. Kroll, Legal Counsel, Department of the Treasury, Financial Crimes Enforcement Network, 2070 Chain Bridge Road, Suite 200, Vienna, VA 22182
Phone: 703 905-3590

RIN: 1506–AA20

DEPARTMENT OF THE TREASURY (TREAS)
Financial Crimes Enforcement Network (FINCEN)

Long-Term Actions

2679. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS—REQUIREMENT THAT FINANCIAL INSTITUTIONS CARRY OUT ANTI-MONEY-LAUNDERING PROGRAMS

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 103

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Stephen R. Kroll
Phone: 703 905-3590

RIN: 1506–AA05

2680. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS—DELEGATION OF AUTHORITY TO ASSESS CIVIL MONEY PENALTIES ON DEPOSITORY INSTITUTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 103

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stephen R. Kroll
Phone: 703 905-3590

RIN: 1506–AA08

DEPARTMENT OF THE TREASURY (TREAS)
Financial Crimes Enforcement Network (FINCEN)

Completed Actions

2681. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS—DEFINITIONS

Priority: Info./Admin./Other

CFR Citation: 31 CFR 103

Completed:

Reason	Date	FR Cite
Merged With RIN 1506-AA09	05/21/97	62 FR 27890

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen R. Kroll
Phone: 703 905-3590

RIN: 1506–AA03

2682. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS—EXEMPTIONS FROM THE REQUIREMENT TO REPORT TRANSACTIONS IN CURRENCY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 31 CFR 103

Completed:

Reason	Date	FR Cite
Final Action	09/08/97	62 FR 47141

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen R. Kroll
Phone: 703 905-3590

RIN: 1506–AA11

BILLING CODE 4820-03-F

DEPARTMENT OF THE TREASURY (TREAS)
Financial Management Service (FMS)

Proposed Rule Stage

2683. FEDERAL GOVERNMENT PARTICIPATION IN THE AUTOMATED CLEARING HOUSE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 3720; 31 USC 3335; 31 USC 321; 5 USC 5525; 31 USC 3332; 31 USC 3321; 31 USC 3301; 31 USC 3302; 12 USC 391

CFR Citation: 31 CFR 210

Legal Deadline: None

Abstract: This revision of 31 CFR part 210 will reconcile Government Automated Clearing House (ACH) regulations and private industry rules as set forth by the National Automated Clearing House Association, by incorporating certain industry rules into Federal law. The revision will broaden the use of the ACH and thereby further Treasury's requirement to disburse public funds solely by means of electronic funds transfer by 1999.

Timetable:

Action	Date	FR Cite
NPRM	09/30/94	59 FR 50112
Extension of Comment Period	11/25/94	59 FR 60576
Comment Period End	01/03/95	
NPRM	11/00/97	
NPRM Comment Period End	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Cynthia L. Johnson, Director, Cash Management Policy & Planning Division, Department of the Treasury, Financial Management Service, Room 420, 401 14th Street SW.; Washington, DC 20227
Phone: 202 874-6590

RIN: 1510–AA17

2684. TREASURY TAX AND LOAN DEPOSITARIES AND PAYMENT OF FEDERAL TAXES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 26 USC 6302(h); 31 USC 321; 31 USC 323; 12 USC 265 to 266; 31 USC 3301 to 3304; 12 USC 332; 12 USC 2013; 12 USC 90; 12 USC 2122; 12 USC 391; 12 USC 1789a; 12 USC 1452(d); 12 USC 1464(k); 12 USC 1767

CFR Citation: 31 CFR 203

Legal Deadline: None

Abstract: This revision of 31 CFR part 203 will reflect the development and implementation of the Electronic Federal Tax Payment System. This new system will supplement the current Treasury Tax and Loan Tax Deposit system. The first revision (NPRM I) will add the necessary rules for financial institutions and Federal Reserve Banks regarding processing Federal taxes using electronic funds transfer mechanisms. The second revision (NPRM II) will lift the current restriction on Treasury Tax and Loan Depositaries from accepting compensation for processing Federal Tax Deposit coupons.

Timetable:

Action	Date	FR Cite
NPRM I	09/30/96	61 FR 51186
NPRM I Comment Period End	01/13/97	61 FR 59211
Final Rule (NPRM I)	10/00/97	
NPRM II	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Dressler, Financial Program Specialist, Cash Management Policy & Planning Division, Department of the Treasury, Financial Management Service, Room 420, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-7106

RIN: 1510–AA37

2685. RULES AND PROCEDURES FOR FUNDS TRANSFERS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 31 USC 321; 31 USC 3335; 31 USC 6501; 31 USC 6503

CFR Citation: 31 CFR 205

Legal Deadline: None

Abstract: This regulation governs the transfer of Federal assistance funds to state governments and implements the Cash Management Improvement Act of 1990, as amended. Revisions to the regulation will address concerns raised by both states and Federal agencies about intergovernmental financing. Rules and procedures for funds transfers will be revised to provide more options and greater flexibility.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Catherine McHugh, Financial Program Specialist, Asset Management Policy & Planning Division, Department of the Treasury, Financial Management Service, Room 415B, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-7497

RIN: 1510–AA38

2686. INDORSEMENT AND PAYMENT OF CHECKS DRAWN ON THE UNITED STATES TREASURY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 12 USC 391; 31 USC 321; 31 USC 3328; 31 USC 3331; 31 USC 3343; 31 USC 3711; 31 USC 3716; 31 USC 3717; 31 USC 3334; 31 USC 3712; 31 USC 3327; 31 USC 3702 note; 318 US 363 (1943)

CFR Citation: 31 CFR 240

Legal Deadline: None

Abstract: The first notice of proposed rulemaking (NPRM I) is a reissuance of the NPRM published on 9/21/95. The 9/21/95 notice proposed to fix the time by which Treasury can decline payment on Treasury checks, provide financial institutions with a date certain for final payments, and provide greater clarity by defining previously undefined terms. Finally, that notice proposed that the Department of the Treasury may instruct Federal Reserve Banks to intercept benefit payment checks to deceased payees and to return, unpaid, those checks. NPRM I will announce the Department of the Treasury's intent that this regulation supersede Federal common law regarding the risk of loss on checks containing forged disbursing officer signatures, such as counterfeits. The second notice of proposed rulemaking (NPRM II) will further amend this regulation to implement provisions of the Debt Collection Improvement Act of 1996 authorizing the collection of debts owed by presenting banks through Treasury Check Offset. Among other things, NPRM II will broaden the use of powers of attorney for purposes of negotiating Treasury checks.

Timetable:

Action	Date	FR Cite
NPRM	09/21/95	60 FR 48940
NPRM Comment Period End	11/06/95	
NPRM I	05/30/97	62 FR 29314
Final Rule (NPRM I)	10/00/97	
NPRM II	10/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Ronald Brooks, Senior Program Analyst, Financial Information, Department of the Treasury, Financial Management Service, Room 725-D, 3700 East-West Highway, Hyattsville, MD 20782
Phone: 202 874-7573
Fax: 202 874-7534
Email: ronald.brooks@fms.sprint.com

RIN: 1510–AA45

2687. CLAIMS ON ACCOUNT OF TREASURY CHECKS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 321; 31 USC 3328; 31 USC 3331; 31 USC 3343; 31 USC 3702; 31 USC 3712

CFR Citation: 31 CFR 245

Legal Deadline: None

Abstract: 31 CFR part 245 governs the issuance of replacement checks for checks drawn on the United States Treasury when (1) the original check has been lost, stolen, destroyed or mutilated or defaced to such an extent that it is rendered non-negotiable; (2) the original check has been negotiated and paid on a forged or unauthorized indorsement; and (3) the original check has been cancelled pursuant to 31 CFR part 240. The regulation is being revised to update the regulation definitions to make them consistent with the language of the proposed revisions to the definitions in 31 CFR part 240. Other revisions will govern the use of the Check Forgery Insurance Fund (Fund). The Fund is a revolving fund established to settle payee claims of non-receipt where the original check has been fraudulently negotiated. The Fund will ensure that innocent payees, whose Treasury checks have been fraudulently cashed, will receive replacement checks in a timely manner.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Ella White, Customer Liaison Specialist, Department of the Treasury, Financial Management Service, 3700 East-West Highway, Room 8A26, Hyattsville, MD 20782
Phone: 202 874-7475

RIN: 1510–AA51

2688. MANAGEMENT OF FEDERAL AGENCY DISBURSEMENTS

Regulatory Plan: This entry is Seq. No. 103 in Part II of this issue of the **Federal Register**.

RIN: 1510–AA56

2689. FEDERAL CLAIMS COLLECTION STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3701; 31 USC 3711; 31 USC 3717; 31 USC 3718; 31 USC 3720B; 31 USC 3716

CFR Citation: 31 CFR 900 to 904

Legal Deadline: None

Abstract: The Federal Claims Collection Standards prescribe basic standards for Federal agencies for collection of non-tax claims. The current standards originally were published in 1984 jointly by the Department of Justice and the General Accounting Office at 4 CFR parts 101-105. The Department of the Treasury has been added as a co-signor by the Debt Collection Improvement Act of 1996 (Act) and the General Accounting Office was removed as a co-signor by the General Accounting Office Act of 1996. This revision, which will move the standards to 31 CFR parts 285-299, is being made to simplify the language of the current standards and to incorporate changes made by the Act concerning such topics as disbursing official offset, cross-servicing of debts, interest and penalties on claims, and contracts for collection services.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gerry Isenberg, Financial Program Specialist, Department of the Treasury, Financial Management Service, 401 14th St. SW., Room 151, Washington, DC 20227
Phone: 202 874-6859

RIN: 1510–AA57

2690. TAXPAYER IDENTIFYING NUMBER REQUIREMENT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 31 USC 321; 31 USC 3301; 31 USC 3302; 31 USC 3321; 31 USC 3325; 31 USC 3528

CFR Citation: 31 CFR 212

Legal Deadline: None

Abstract: The Debt Collection Improvement Act requires executive agencies to include a taxpayer identifying number (TIN) for each payment request on a certified voucher submitted to a disbursing official. This rulemaking will provide notice that in the future disbursing officials will reject any executive agency payment request that does not include the TIN.

Timetable:

Action	Date	FR Cite
NPRM	09/02/97	62 FR 46428
NPRM Comment Period End	11/03/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Catherine McHugh, Financial Program Specialist, Asset Management Policy & Planning Division, Department of the Treasury, Financial Management Service, Room 415B, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-7497

RIN: 1510–AA61

2691. • OFFSET OF FEDERAL BENEFIT PAYMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3716; 31 USC 321

CFR Citation: 31 CFR 285.4

Legal Deadline: None

Abstract: This rule establishes the rules governing the administrative offset of benefit payments issued under the Social Security Act (other than Supplemental Security Income(SSI)), part B of the Black Lung Benefits Act, and any law administered by the Railroad Retirement Board (other than the 2 Benefit Payments).

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gerry Isenberg, Financial Program Specialist, Department of the Treasury, Financial Management Service, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-6859

RIN: 1510–AA64

2692. • OFFSET OF FEDERAL PAYMENTS (OTHER THAN TAX REFUND AND FEDERAL BENEFIT PAYMENTS) TO COLLECT PAST-DUE, LEGALLY ENFORCEABLE NONTAX DEBT

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3716; 31 USC 321

CFR Citation: 31 CFR 285.5

Legal Deadline: None

Abstract: This rule governs administrative offset of Federal payments by disbursing officials of the United States.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gerry Isenberg, Financial Program Specialist, Department of the Treasury, Financial Management Service, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-6859

RIN: 1510–AA65

TREAS—FMS

Proposed Rule Stage

2693. • OFFSET OF FEDERAL PAYMENTS (OTHER THAN TAX REFUND AND FEDERAL BENEFIT PAYMENTS) TO COLLECT PAST-DUE DEBTS OWED TO STATES (OTHER THAN CHILD SUPPORT)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3716; 31 USC 321

CFR Citation: 31 CFR 285.6

Legal Deadline: None

Abstract: This rule governs the administrative offset of Federal payments for the collection of debts owed to States, other than debts for past-due child support.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Gerry Isenberg, Financial Program Specialist, Department of the Treasury, Financial Management Service, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-6859

RIN: 1510–AA66

2694. • ADMINISTRATIVE WAGE GARNISHMENT

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3720D; 31 USC 321

CFR Citation: 31 CFR 285.11

Legal Deadline: None

Abstract: This rule establishes the procedures for Federal agencies to garnish the disposable pay of an individual to collect delinquent non-tax debts owed to the United States. Administrative wage garnishment allows Federal agencies to garnish the wages of non-Federal employees without first obtaining a court judgement.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: Gerry Isenberg, Financial Program Specialist, Department of the Treasury, Financial Management Service, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-6859

RIN: 1510–AA67

2695. • CROSS-SERVICING—TRANSFER OR REFERRAL OF DELINQUENT NONTAX DEBTS TO TREASURY AND DEBT COLLECTION CENTERS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3711; 31 USC 321

CFR Citation: 31 CFR 285.12

Legal Deadline: None

Abstract: This rule describes procedures for Federal agencies to transfer all debts, with certain exemptions, which are over 180-days delinquent to Treasury or Treasury-designated debt collection centers.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gerry Isenberg, Financial Program Specialist, Department of the Treasury, Financial Management Service, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-6859

RIN: 1510–AA68

2696. • OBTAINING TAXPAYER IDENTIFYING NUMBERS FROM PERSONS DOING BUSINESS WITH THE GOVERNMENT

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 7701; 31 USC 321

CFR Citation: 31 CFR 285.13

Legal Deadline: None

Abstract: This rule provides guidance for the implementation of the Debt Collection Improvement Act requirement that agencies obtain taxpayer identifying numbers from persons doing business with the Federal Government.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gerry Isenberg, Financial Program Specialist, Department of the Treasury, Financial Management Service, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-6859

RIN: 1510–AA69

2697. • MATCHING OF FEDERAL EMPLOYEE RECORDS FOR SALARY OFFSET

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5514

CFR Citation: 31 CFR 285.14

Legal Deadline: None

Abstract: This rule governs the centralized computer matching of Federal Employee Records for purposes of salary offset to collect non-tax delinquent debt owed the Federal Government.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gerry Isenberg, Financial Program Specialist, Department of the Treasury, Financial Management Service, 401 14th Street SW., Washington, DC 20227
Phone: 202 873-6859

RIN: 1510–AA70

2698. • BARRING DELINQUENT DEBTORS FROM OBTAINING FEDERAL FINANCIAL ASSISTANCE IN THE FORM OF LOANS OR LOAN GUARANTEES

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3720B; 31 USC 321

CFR Citation: 31 CFR 285.15

Legal Deadline: None

Abstract: The Debt Collection Improvement Act requires agencies to deny loans and Loan Guarantees to persons with delinquent Federal debts. This rule establishes standards for determining whether a debtor is in delinquent status and when the delinquency is resolved.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

TREAS—FMS

Proposed Rule Stage

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gerry Isenberg, Financial Program Specialist, Department of the Treasury, Financial Management Service, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-6859

RIN: 1510–AA71

2699. • PUBLIC DISSEMINATION OF IDENTITY OF DELINQUENT DEBTORS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3720E; 31 USC 321

CFR Citation: 31 CFR 285.16

Legal Deadline: None

Abstract: This rule implements the authority provided in the Debt Collection Improvement Act for Federal Agencies to publicly disseminate information regarding the identity of delinquent debtors.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gerry Isenberg, Financial Program Specialist, Department of the Treasury, Financial Management Service, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-6859

RIN: 1510–AA72

2700. • DEBT SALES

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3711; 31 USC 321

CFR Citation: 31 CFR 285.17

Legal Deadline: None

Abstract: This Rule establishes general procedures and guidelines for the sale of non-tax debt that is more than 90-days delinquent.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gerry Isenberg, Financial Program Specialist, Department of the Treasury, Financial Management Service, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-6859

RIN: 1510–AA73

DEPARTMENT OF THE TREASURY (TREAS)

Financial Management Service (FMS)

Final Rule Stage

2701. ACCEPTANCE OF BONDS SECURED BY GOVERNMENT OBLIGATIONS IN LIEU OF BONDS WITH SURETIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 321; 31 USC 9301; 31 USC 9303; 12 USC 391

CFR Citation: 31 CFR 225

Legal Deadline: None

Abstract: This regulation was last updated in 1969. Since that time, several significant changes have taken place in pledging securities. The most significant has been the advent of book-entry securities. This revision will provide Federal agencies with the flexibility to design operating procedures that consider the unique characteristics of their operations, systems, policies, legislation, regulations and expectations of their customers and programs. In addition, this revision provides that in the event of a default, the proceeds from the sale of pledged Government obligations will be available to satisfy any claim of the United States. This is an expansion of the current rule which limits the application of the proceeds to damages arising out of the default.

Timetable:

Action	Date	FR Cite
NPRM	11/15/96	61 FR 58493
NPRM Comment Period End	12/16/96	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Michael Dressler, Financial Program Specialist, Cash Management Policy & Planning Division, Department of the Treasury, Financial Management Service, Room 420, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-7106

RIN: 1510–AA36

2702. FOREIGN EXCHANGE OPERATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 3513; EO 10488; EO 10900; 22 USC 2363

CFR Citation: 31 CFR 281

Legal Deadline: None

Abstract: This regulation governs the administration of the purchase, custody, deposit, transfer, sale and reporting of foreign exchange (including credits and currencies) by executive departments and agencies. Currently, this regulation allows the purchase of foreign currency to an amount which, together with the balance on hand in the bank, may not exceed estimated requirements for a 30-day period. The revised rule allows the purchase of foreign currency to a balance "commensurate with immediate disbursing requirements."

Timetable:

Action	Date	FR Cite
NPRM	01/29/96	61 FR 2750
NPRM Comment Period End	02/28/96	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gerard Bauer, Senior Advisor, International Funds Branch, Department of the Treasury, Financial Management Service, Room 5A19,

TREAS—FMS

Final Rule Stage

PGCII, 3700 East-West Highway, Hyattsville, MD 20782
Phone: 202 874-8923

RIN: 1510–AA48

2703. PAYMENTS UNDER JUDGMENT AND PRIVATE RELIEF ACTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 104-53; PL 104-316; 31 USC 1304; 28 USC 2414; 28 USC 2517

CFR Citation: 31 CFR 256

Legal Deadline: None

Abstract: This regulation governs the procedure for securing payment for money judgments against the United States. The proposed revision will update the procedure for making claims. This will benefit claimants and others in understanding the claims process. This regulation currently describes a process that involves the General Accounting Office (GAO) and the Treasury Department. The change would eliminate the GAO from this description to reflect legislative amendments that effect this change. Also, the regulation currently identifies monetary thresholds that no longer exist. The change would reflect the removal of these monetary limitations and the resulting submission requirements. These changes in the regulation would make it consistent with current practices for claimants securing money judgments against the United States.

Timetable:

Action	Date	FR Cite
NPRM	01/08/96	61 FR 552
NPRM Comment Period End	02/07/96	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Wanda Rogers, Manager, Judgment Fund Branch, Department of the Treasury, Financial Management Service, 3700 East-West Highway, Room 622D, Hyattsville, MD 20782
Phone: 202 874-6664

RIN: 1510–AA52

2704. COLLECTION OF PAST-DUE SUPPORT BY ADMINISTRATIVE OFFSET

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 321; 31 USC 3716; EO 13019

CFR Citation: 31 CFR 285.1

Legal Deadline: None

Abstract: This regulation implements provisions in the Debt Collection Improvement Act of 1996 and Executive Order 13019 -- Supporting Families: Collecting Delinquent Child Support Obligations which authorize the offset of Federal non-tax payments to collect delinquent child support obligations being enforced by State Governments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/07/97	62 FR 36205
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Gerry Isenberg, Financial Program Specialist, Department of the Treasury, Financial Management Service, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-6859

RIN: 1510–AA58

2705. ELECTRONIC BENEFIT TRANSFER; SELECTION AND DESIGNATION OF FINANCIAL INSTITUTIONS AS DEPOSITARY AND FINANCIAL AGENTS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 90; 12 USC 265 to 266; 12 USC 391; 12 USC 1452(d); 12 USC 1767; 12 USC 1789a; 12 USC 2013; 12 USC 2122; 31 USC 321; 31 USC 3122; 31 USC 3303; 31 USC 3321; 31 USC 3327; 31 USC 3332; 31 USC 3335; ...

CFR Citation: 31 CFR 207

Legal Deadline: None

Abstract: Part 207 will provide a legal framework for implementation of Direct Federal electronic benefits transfer (EBT), a program which permits the delivery of benefits by electronic funds transfer to the unbanked. Part 207 describes the responsibilities of those financial institutions that are designated by Treasury as its financial agents for EBT.

Timetable:

Action	Date	FR Cite
NPRM	05/09/97	62 FR 25572
NPRM Comment Period End	07/08/97	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John P. Galligan, Director, Card Technology Division, Department of the Treasury, Financial Management Service, 401 14th St. SW., Washington, DC 20227
Phone: 202 874-6550

RIN: 1510–AA59

2706. • OFFSET OF TAX REFUND PAYMENTS TO COLLECT PAST-DUE, LEGALLY ENFORCEABLE NONTAX DEBT

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6402; 31 USC 321; 31 USC 3720A

CFR Citation: 31 CFR 285.2

Legal Deadline: None

Abstract: Effective January 1, 1998, the Department of the Treasury will merge the Tax Refund offset program with the centralized administrative offset program operated by the Financial Management Service, a bureau of the Department of the Treasury. The merger of the two offset programs is intended to maximize and improve Treasury's Governmentwide collection of delinquent non-tax debt owed to the Federal Government.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/25/97	62 FR 34175
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gerry Isenberg, Financial Program Specialist, Department of the Treasury, Financial Management Service, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-6859

RIN: 1510–AA62

TREAS—FMS

Final Rule Stage

2707. • OFFSET OF TAX REFUND PAYMENTS TO COLLECT PAST-DUE SUPPORT

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6402; 31 USC 321; 42 USC 664; EO 13019

CFR Citation: 31 CFR 285.3

Legal Deadline: None

Abstract: Effective January 1, 1999, the Department of the Treasury will merge the Tax Refund Offset Program for the collection of past-due child support with the centralized Administrative Offset Program operated by the Financial Management Service, a Bureau of the Department of the Treasury. This merger of the two offset programs is intended to maximize and improve the collection of past-due child support.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/97	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Gerry Isenberg, Financial Program Specialist, Department of the Treasury, Financial Management Service, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-6859

RIN: 1510–AA63

DEPARTMENT OF THE TREASURY (TREAS)
Financial Management Service (FMS)

Completed Actions

2708. DEPOSITARIES AND FINANCIAL AGENTS OF THE GOVERNMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 31 CFR 202

Completed:

Reason	Date	FR Cite
Final Action	08/27/97	62 FR 45520
Final Action Effective	09/26/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Michael Dressler
Phone: 202 874-7106

RIN: 1510–AA42

2709. RECOGNITION OF INSURANCE COVERING TREASURY TAX AND LOAN DEPOSITARIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 31 CFR 226

Completed:

Reason	Date	FR Cite
Withdrawn -Agency determined change to regulation no longer justified	10/01/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Dressler
Phone: 202 874-7106

RIN: 1510–AA53

BILLING CODE 4810-35-F

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Prerule Stage

ALCOHOL

2710. LABELING AND ADVERTISING OF MALT BEVERAGES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 5412; 27 USC 205(e); 27 USC 205(f)

CFR Citation: 27 CFR 7; 27 CFR 25

Legal Deadline: None

Abstract: ATF has received petitions from brewing industry members seeking changes in the regulations regarding labeling and advertising of malt beverages. Changes sought include identifying the brewer who produces beer under contract for another person, requiring the actual place of production be shown on labels of malt beverage and the elimination of the principal place of business as the address on malt beverage labels. Other changes requested would require freshness dating on labels, and would establish a definition of "microbrewery". ATF is considering seeking comments on the petitions.

Timetable:

Action	Date	FR Cite
ANPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Bacon, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602
Email: cnbacon@atfhq.atf.treas.gov

RIN: 1512–AB45

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Proposed Rule Stage

ALCOHOL

2711. AMERICAN VITICULTURAL AREAS

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 9

Legal Deadline: None

Abstract: Establishes grape-growing regions as American viticultural areas for purposes of labeling and advertising of wine.

Timetable:

Chiles Valley, CA (contact David Brokaw)
NPRM 11/00/97
Davis Mountains, TX (contact Marj Ruhf)
NPRM 05/06/97 (62 FR 24622)
Comment Period End 07/07/97
Final Rule 11/00/97
Diablo Grande, CA (contact David Brokaw)
NPRM 06/24/97 (62 FR 34027)
Comment Period End 08/25/97
Final Rule 11/00/97
Mendocino Ridge, CA (contact David Brokaw)
NPRM 04/07/97 (62 FR 16502)
Comment Period End 05/22/97
Final Rule 11/00/97
San Francisco Bay, CA (contact David Brokaw)
NPRM 11/00/97
Yorkville Highlands & Realignment of Mendocino, CA (Marj Ruhf)
NPRM 07/25/97 (62 FR 39984)
NPRM Comment Period End 09/23/97
Final Rule 11/00/97

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: See Timetable, American Viticultural Areas, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AA07

2712. EXPORTATION OF LIQUORS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 252

Legal Deadline: None

Abstract: ATF is proposing recodification of 27 CFR part 252 to eliminate obsolete or unnecessary rules and forms and streamline export processing, while providing adequate protection for the revenue.

Timetable:

Action	Date	FR Cite
ANPRM	09/08/92	57 FR 40887
ANPRM Comment Period End	10/08/92	
ANPRM Comment Period Extended	10/15/92	57 FR 47320
ANPRM Comment Period Extended End	12/07/92	
ANPRM	08/09/96	61 FR 41500
ANPRM Comment Period End	12/10/96	
NPRM	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marjorie Ruhf, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AA98

2713. ALCOHOLIC CONTENT LABELING FOR MALT BEVERAGES

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205(e)

CFR Citation: 27 CFR 7

Legal Deadline: None

Abstract: A 10/28/92 decision in the U.S. District Court for the District of Colorado held that the Federal Alcohol Administration Act prohibition against the statement of alcoholic content on malt beverage labels is unconstitutional under the First Amendment. ATF issued an interim rule on 4/19/93 which permits the optional labeling of malt beverages with their alcoholic content. The Supreme Court heard oral arguments in the appeal of this court decision on 11/30/94. The Supreme Court decided this case on April 19, 1995, in favor of Coors, and unanimously found the FAA Act prohibition against labeling malt beverages with their alcohol content unconstitutional. ATF will issue an NPRM on the subject of malt beverage labeling to request information on tolerances, type size, placement, and whether such an alcoholic content labeling requirement should be mandatory.

Timetable:

Action	Date	FR Cite
NPRM	04/19/93	58 FR 21233
Interim Final Rule	04/19/93	58 FR 21228
NPRM Comment Period End	07/19/93	
NPRM Comment Period Extended	07/19/93	58 FR 38543
NPRM Comment Period Extended End	09/17/93	
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Bacon, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602
Email: cnbacon@atfhq.atf.treas.gov

RIN: 1512–AB17

2714. REVISION OF BREWERY REGULATIONS AND ISSUANCE OF REGULATIONS FOR TAVERNS ON BREWERY PREMISES (BREWPUBS)

Regulatory Plan: This entry is Seq. No. 104 in Part II of this issue of the **Federal Register**.

RIN: 1512–AB37

2715. DISTRIBUTION OF DENATURED ALCOHOL AND RUM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 26 USC 5001; 26 USC 5206; 26 USC 5214; 26 USC 5241 to 5252

CFR Citation: 27 CFR 20

Legal Deadline: None

Abstract: ATF is conducting a complete review of all Federal Government regulations relating to the distribution and use of denatured alcohol and rum. ATF believes that the regulations can be modernized and simplified since the last major revision in 1985. ATF is proposing changes to the regulations to simplify such regulations so as to greatly reduce or eliminate unnecessary regulatory burden on industry members while continuing to provide adequate protection of the revenue.

Timetable:

Action	Date	FR Cite
ANPRM	06/13/96	61 FR 30019
ANPRM Comment Period End	08/12/96	
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Mary Wood, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210
Fax: 202 927-8602

RIN: 1512–AB57

TREAS—BATF

Proposed Rule Stage

2716. DISTILLED SPIRITS PLANT REGULATORY INITIATIVE PROPOSAL

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 19.11; 27 CFR 19.49; 27 CFR 19.153; 27 CFR 19.201 to 206; 27 CFR 19.311; 27 CFR 19.454; 27 CFR 19.605; 27 CFR 19.770; 27 CFR 19.1001; 27 CFR 19.1003; 27 CFR 19.1010

Legal Deadline: None

Abstract: ATF is proposing changes to the distilled spirits plant regulations to implement the Administration's Reinventing Government effort to reduce the regulatory burden and streamline requirements. ATF believes these proposed changes will benefit distilled spirits plant proprietors and other industry members by enabling them to operate more easily and with less regulatory oversight from the Government. ATF is also requesting comments on the possibility of revising the distilled spirits plant recordkeeping requirements to accomplish the Government's goals through a system that would be based, as much as possible, on proprietors' own recordkeeping methods.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Steve Simon, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210
Fax: 202 927-8602

RIN: 1512–AB58

2717. • PETITION TO LIST JOHANNESBURG RIESLING AS A GRAPE VARIETY NAME

Priority: Other Significant

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4.91; 27 CFR 4.92

Legal Deadline: None

Abstract: ATF has been petitioned to permit use of the term Johannesberg Riesling as a grape variety name for American wines. This term was not authorized by T.D. ATF-370, January 8, 1996, which phases out use of Johannesberg Riesling after December 31, 1998. ATF will consider whether to amend section 4.92 to permit use of Johannesberg Riesling after December 31, 1998.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Bacon, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602
Email: cnbacon@atfhq.atf.treas.gov

RIN: 1512–AB69

FIREARMS

2718. • COMMERCE IN EXPLOSIVES (INCLUDING EXPLOSIVES IN THE FIREWORKS INDUSTRY)

Regulatory Plan: This entry is Seq. No. 105 in Part II of this issue of the **Federal Register**.

RIN: 1512–AB48

2719. COMMERCE IN FIREARMS AND AMMUNITION

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 847; 18 USC 921 to 930

CFR Citation: 27 CFR 178

Legal Deadline: None

Abstract: The Omnibus Consolidated Appropriations Act of 1997 contains amendments to the Gun Control Act of 1986 (18 U.S.C. chapter 44). These amendments add to the category of "prohibited persons" anyone convicted of a "misdemeanor crime of domestic violence". The amendments require individuals acquiring handguns from Federal firearms licenses to certify (in accordance with the Brady Law) that they have not been convicted of such a crime. The amendments also provide for sales between Federal firearms licensees of curio and relic firearms away from their licensed premises.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
Interim Final Rule	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry Fields, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB64

2720. • BRADY BILL REGULATIONS - PERMANENT PROVISION

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 5 USC 552(a); 18 USC 847; 18 USC 921 to 930; 44 USC 3504(h)

CFR Citation: 27 CFR 178

TREAS—BATF

Proposed Rule Stage

Legal Deadline: None

Abstract: This proposed rule implements the provisions of Public Law 103-159, relating to the permanent instant background check provision of the Brady Handgun Violence Prevention Act. The proposed regulations implement the law by requiring a licensed firearms importer, manufacturer, or dealer to contact the national instant criminal background check system (NICS) before transferring any firearm to a nonlicensed individual.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: James Ficaretta, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB67

2721. • POSTING OF SIGNS AND WRITTEN NOTIFICATIONS TO PURCHASERS OF HANDGUNS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 522(a); 18 USC 847; 18 USC 921 to 930; 44 USC 3504(h)

CFR Citation: 27 CFR 178

Legal Deadline: None

Abstract: The Bureau of Alcohol, Tobacco and Firearms is proposing to amend the regulations to require that signs be posted on the premises of Federal firearms licensees and that written notifications be issued with each handgun sold advising of the Youth Handgun Safety Act, 18 USC 922(x).

Timetable:

Action	Date	FR Cite
NPRM	08/27/97	62 FR 45364
NPRM Comment Period End	11/25/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marsha Baker, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB68

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Final Rule Stage

ALCOHOL

2722. PROCEDURES FOR REVOKING PREVIOUSLY APPROVED CERTIFICATES OF LABEL APPROVAL, EXEMPTIONS FROM LABEL APPROVAL, OR DISTINCTIVE LIQUOR BOTTLE APPROVALS

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205; 26 USC 5301; 26 USC 7805

CFR Citation: 27 CFR 4.40; 27 CFR 4.50; 27 CFR 5.56; 27 CFR 5.51; 27 CFR 5.55; 27 CFR 7.31; 27 CFR 7.41; 27 CFR 13 (New); 27 CFR 19.633; 27 CFR 19.641

Legal Deadline: None

Abstract: This notice of proposed rulemaking proposes to establish regulatory procedures to revoke previously approved certificates of label approval, exemptions from label approval, or distinctive liquor bottle approvals. These revocation procedures are necessary where label approvals, etc., have been approved in error. Adoption of these procedures will allow ATF to revoke, in an orderly and efficient manner, label approvals, exemptions from label approval, or distinctive liquor bottle approvals which have been approved in error and will provide for appeals by industry members.

Timetable:

Action	Date	FR Cite
NPRM	09/13/95	60 FR 47506
NPRM Comment Period End	12/12/95	
Reopening of Comment Period	01/22/96	61 FR 1545
Reopening of Comment Period End	02/21/96	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marj Ruhf, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB34

2723. REGISTRATION OF FORMULAS AND STATEMENTS OF PROCESS FOR DOMESTICALLY PRODUCED ALCOHOLIC BEVERAGES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 81c; 19 USC 1311; 26 USC 5001; 26 USC 5002; 26 USC 5004 to 5006; 26 USC 5008; 26 USC 5010; 26 USC 5041; 26 USC 5061; 26 USC 5062; 26 USC 5066; 26 USC 5081; 26 USC 5101; 26 USC 5111 to 5113; 27 USC 205; ...

CFR Citation: 27 CFR 5.26; 27 CFR 5.28; 27 CFR 19.187; 27 CFR 19.324; 27 CFR 19.331; 27 CFR 19.378; 27 CFR 24.80 to 24.83; 27 CFR 24.127; 27 CFR 24.201; 27 CFR 24.211; 27 CFR 25.67; 27 CFR 25.71(b)(2); 27 CFR 70.421; 27 CFR 70.423 to 70.428; 27 CFR 250.56

Legal Deadline: None

Abstract: ATF is proposing to amend the regulations to require the registration, rather than approval, of formulas and statements of process for certain domestically produced wines, distilled spirits, and malt beverages. ATF believes that the proposed regulations will provide greater flexibility to the industry by enabling propriators to commence production operations in a more expeditious manner.

TREAS—BATF

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	11/27/95	60 FR 58311
NPRM Comment Period End	01/26/96	
NPRM Comment Period Extended	01/26/96	61 FR 2459
NPRM Comment Period Extended End	02/26/96	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Ficaretta, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB40

2724. LABELING OF UNAGED GRAPE BRANDY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 5

Legal Deadline: None

Abstract: ATF is proposing to amend the regulations to permit the use of the word "unaged" as an alternative to "immature," to describe grape brandy which has not been stored in oak containers.

Timetable:

Action	Date	FR Cite
NPRM	06/13/96	61 FR 30015
NPRM Comment Period End	09/11/96	
Final Action	11/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: James Ficaretta, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB46

2725. DISTRIBUTION AND USE OF TAX-FREE ALCOHOL

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 26 USC 5001; 26 USC 5121; 26 USC 5142; 26 USC 5143; 26 USC 5146; 26 USC 5206; 26 USC 5214; 26 USC 5271 to 5276; 26 USC 5311; 26 USC 5552

CFR Citation: 27 CFR 22.21; 27 CFR 22.25 to 22.27; 27 CFR 22.43; 27 CFR 22.59; 27 CFR 22.60; 27 CFR 22.62; 27 CFR 22.63; 27 CFR 22.68; 27 CFR 22.152

Legal Deadline: None

Abstract: This proposal is being issued to revise, eliminate, and liberalize certain regulatory requirements relating to tax-free alcohol. ATF believes that these proposed revisions will greatly reduce and simplify the qualification process governing the tax-free alcohol permit application process.

Timetable:

Action	Date	FR Cite
NPRM	06/13/96	61 FR 30019
NPRM Comment Period End	09/12/96	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Wood, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210
Fax: 202 927-8602

RIN: 1512–AB51

2726. PRODUCTION OF VOLATILE FRUIT FLAVORED CONCENTRATE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 26 USC 5001; 26 USC 5172; 26 USC 5178; 26 USC 5179; 26 USC 5203; 26 USC 5511; 26 USC 5552; 26 USC 6065; 26 USC 7805; 44 USC 3504(h)

CFR Citation: 27 CFR 18.56

Legal Deadline: None

Abstract: The proposed amendment would specifically authorize the transfer of volatile fruit-flavor concentrate (VFFC) unfit for beverage use from one VFFC plant to another for further processing. The proposed amendment would clarify the regulations in order to allow greater flexibility in the production processes of VFFC plants.

Timetable:

Action	Date	FR Cite
NPRM	06/13/96	61 FR 30017
NPRM Comment Period End	09/12/96	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Wood, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210
Fax: 202 927-8602

RIN: 1512–AB59

2727. FORMULAS FOR DENATURED ALCOHOL AND RUM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552(a); 26 USC 5242; 26 USC 7805

CFR Citation: 27 CFR 21.3; 27 CFR 21.6; 27 CFR 21.11; 27 CFR 21.21; 27 CFR 21.31 to 21.34; 27 CFR 21.56; 27 CFR 21.65; 27 CFR 21.76; 27 CFR 21.91; 27 CFR 21.95 to 21.97

Legal Deadline: None

Abstract: This document proposes to amend part 21 to incorporate denaturants that have been approved pursuant to applications but not yet published in this part, as well as to clarify the regulations where necessary. Additionally, this document proposes to make a minor technical correction.

TREAS—BATF

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	07/31/96	61 FR 39929
NPRM Comment Period End	09/30/96	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Wood, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210
Fax: 202 927-8602

RIN: 1512–AB60

2728. IMPLEMENTATION OF WINE CREDIT PROVISIONS OF PUBLIC LAW 104-188

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552(a); 26 USC 5041

CFR Citation: 27 CFR 24.278; 27 CFR 24.279

Legal Deadline: None

Abstract: ATF is amending wine regulations to implement a law change which allows certain transferees in bond to deduct small wine producers tax credit. Changes to bond calculation are also included in this regulation.

Timetable:

Action	Date	FR Cite
NPRM	06/02/97	62 FR 29681
Interim Final Rule	06/02/97	62 FR 29663
NPRM Comment Period End	08/01/97	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marjorie Ruhf, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB65

EXPLOSIVES

2729. COMMERCE IN EXPLOSIVES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 18 USC 842; 18 USC 846; 18 USC 847

CFR Citation: 27 CFR 55

Legal Deadline: None

Abstract: The Bureau of Alcohol, Tobacco and Firearms proposes to amend the regulations in 27 CFR part 55 to: 1) require the explosives industry to notify the chief, law enforcement officer and fire departments of sites where explosives are stored; 2) increase license and permit fees; 3) eliminate the manufacturer limited license; 4) amend the definitions of "fireworks", "fireworks or process building", and "highway"; and 5) amend the American table of distances to conform with the explosive industry's latest revisions.

Timetable:

Action	Date	FR Cite
NPRM	10/15/96	61 FR 53688
NPRM Comment Period End	01/13/97	
Final Action	11/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gail Hosey-Davis, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8310
Fax: 202 927-7488

RIN: 1512–AB55

2730. IMPLEMENTATION OF PUBLIC LAW 104-132, THE ANTITERRORISM AND EFFECTIVE DEATH PENALTY ACT OF 1996, RELATING TO THE MARKING OF PLASTIC EXPLOSIVES FOR THE PURPOSE OF DETECTION

Priority: Other Significant

Legal Authority: 18 USC 847; 22 USC 2778

CFR Citation: 27 CFR 47; 27 CFR 55

Legal Deadline: Other, Statutory, April 24, 1997.
Provisions of the law will become effective 4/24/97.

Abstract: This temporary rule implements certain provisions of the Antiterrorism and Effective Death Penalty Act of 1996 (Public law 104-132). These regulations implement the law by requiring detection agents for plastic explosives. The temporary rule also authorizes the use of four specific detection agents to mark plastic explosives and provides for the designation of other detection agents.

Timetable:

Action	Date	FR Cite
NPRM	06/28/95	60 FR 33664
Interim Final Rule	06/28/95	60 FR 33665
NPRM Comment Period End	09/26/95	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tami Light, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210
Fax: 202 927-8602

RIN: 1512–AB33

FIREARMS

2731. FIREARMS AND AMMUNITION EXCISE TAXES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 4181

CFR Citation: 27 CFR 53

Legal Deadline: None

Abstract: Regulations will simplify the deposit rules for firearms and ammunition manufacturers excise taxes by revising the method for making deposits of these taxes. Temporary rule will be finalized with minor changes.

Timetable:

Action	Date	FR Cite
NPRM	02/25/97	62 FR 8412
Interim Final Rule	02/25/97	62 FR 8374
Final Action Effective	04/24/97	
NPRM Comment Period End	05/27/97	62 FR 8374
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Ficaretta, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB63

TREAS—BATF

Final Rule Stage

2732. IMPLEMENTATION OF PUBLIC LAW 103-322, THE VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994

Priority: Other Significant

Legal Authority: 5 USC 522(a); 18 USC 847; 18 USC 921 to 930; 18 USC 1261; 19 USC 1607; 19 USC 1610; 19 USC 1612 to 1613; 19 USC 1618; 26 USC 7101; 26 USC 7322 to 7326; 31 USC 9301; 31 USC 9303 to 9304; 31 USC 9306; 40 USC 304(k); 44 USC 3504(h); ...

CFR Citation: 27 CFR 55; 27 CFR 72; 27 CFR 178; 27 CFR 179

Legal Deadline: None

Abstract: The Bureau of Alcohol, Tobacco, and Firearms (ATF) is issuing this temporary rule to implement the provisions of Public Law 103-322, the Violent Crime Control and Law Enforcement Act of 1994, enacted September 13, 1994. These regulations implement the law by restricting the manufacture, transfer, and possession of certain semiautomatic assault weapons and large-capacity ammunition feeding devices. Regulations are also prescribed with regard to reports of theft or loss of firearms from a licensee's inventory or collection, new requirements for Federal firearms licensing, responses by firearms licensees to requests for gun trace information, possession of firearms by persons subject to restraining orders, and possession of a handgun, or ammunition for a handgun, by juveniles.

Timetable:

Action	Date	FR Cite
NPRM	04/06/95	60 FR 17494
Interim Final Rule	04/06/95	60 FR 17446
NPRM Comment Period End	07/05/95	
NPRM	07/29/96	61 FR 39372
Interim Final Rule	07/29/96	61 FR 39320
NPRM Comment Period End	10/28/96	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Ficaretta, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
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Fax: 202 927-8602

RIN: 1512–AB35

2733. MANUFACTURERS EXCISE TAX—FIREARMS AND AMMUNITION EXEMPTION CERTIFICATES/STATEMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 26 USC 4181

CFR Citation: 27 CFR 53

Legal Deadline: None

Abstract: Exemption certificates and vendor/vendee statements are required documents to support the taxpayers claim for refund or credit of Federal excise tax. The Bureau has prepared these documents in a printed format and will make them available for use by the taxpayer. Currently industry must draft their own documents according to guidelines in the regulations. The pre-printed documents relieve industry from the burden of drafting these documents.

Timetable:

Action	Date	FR Cite
NPRM	07/16/96	61 FR 37022
Interim Final Rule	07/16/96	61 FR 37005
NPRM Comment Period End	10/15/96	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marsha Baker, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB42

2734. REMOVAL OF RESTRICTIONS ON IMPORTATION OF DEFENSE ARTICLES FROM SPECIFIED NEW INDEPENDENT STATES OF THE FORMER SOVIET UNION AND YUGOSLAVIA

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2778

CFR Citation: 27 CFR 47.52; 27 CFR 47.57

Legal Deadline: None

Abstract: The Arms Export Control Act of 1976, 22 U.S.C 2778, gives the President the authority to control the importation of defense articles and defense services. ATF has the authority to control the import of defense articles and defense services, but is guided by the Department of State on matters affecting foreign policy. The Department of State recommended that ATF formally remove some of the former States of the Soviet Union from the list in 27 CFR 47.52(a) of countries from which the import of defense articles into the United States is proscribed. The countries removed are Georgia, Kazakstan, Kyrgyzstan, Moldova, Russian Federation, Turkmenistan, Ukraine, and Uzbekistan. The regulations will also be amended to implement import restrictions on defense articles from these States resulting from an April 3, 1996, agreement between the United States and Russia, and subsequent instructions from the State Department. With the exception of Serbia and Montenegro the States of the former Yugoslavia are also remove from the list. Also, applications to import parts of military firearms or ammunition of U.S. manufacture must be accompanied by a statement certifying that the parts were not furnished to a foreign government under a foreign assistance or sales program of the United States.

Timetable:

Action	Date	FR Cite
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Larry White, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8320
Fax: 202 927-2697

RIN: 1512–AB62

2735. • RESIDENCY REQUIREMENT FOR PERSONS ACQUIRING FIREARMS

Priority: Other Significant

Legal Authority: 5 USC 552(a); 18 USC 847; 18 USC 921 to 930; 44 USC 3504(h)

CFR Citation: 27 CFR 178

Legal Deadline: None

Abstract: The temporary rule amends the regulations to provide for a firearms

TREAS—BATF — Final Rule Stage

purchaser's affirmative statement of his or her State of residence on ATF Form 4473 (Firearms Transaction Record) and ATF Form 5300.35 (Statement of Intent to Obtain a Handgun) in acquiring a firearm from a Federal firearms licensee. The temporary rule also amends the regulations to require that aliens purchasing a firearm provide proof of residency through the use of substantiating documentation, such as utility bills or a lease agreement. In addition, the regulations are being amended to require that licensees examine a photo identification document from aliens purchasing firearms. These regulations implement President Clinton's March 5, 1997, announcement of firearms initiatives intended to protect the American public from gun violence.

Timetable:

Action	Date	FR Cite
NPRM	04/21/97	62 FR 19446
Interim Final Rule	04/21/97	62 FR 19442
NPRM Comment Period End	07/21/97	
Final Action	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Ficaretta, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB66

PROCEDURAL

2736. 27 CFR PART 70—CONFERENCE AND PRACTICE REQUIREMENTS FOR THE BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 70.511 to 70.526

Legal Deadline: None

Abstract: To document the adoption of certain conference and practice rules from IRS regulations in 26 CFR part 600 to ATF regulations in 27 CFR part 70. Currently the conference and practice regulations for ATF are still found in 26 CFR part 600 which is administered by IRS. By this final rule sections 601.521 through 601.525 are adopted in whole and applicable sections of 601.501 through 601.509 are adopted in part and placed in 27 CFR part 70 which is administered by ATF.

Timetable:

Action	Date	FR Cite
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Bryce, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8220
Fax: 202 927-8602

RIN: 1512–AB11

2737. RECODIFICATION OF STATEMENT OF PROCEDURAL RULES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 18 USC 847; 18 USC 926; 26 USC 7805; 27 USC 201 to 219(a)

CFR Citation: 27 CFR 70

Legal Deadline: None

Abstract: ATF is proposing to revise and recodify the statement of procedural rules for ease of use.

Timetable:

Action	Date	FR Cite
NPRM	06/13/96	61 FR 30013
NPRM Comment Period End	08/12/96	
Final Action	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marjorie Ruhf, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB54

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Long-Term Actions

ALCOHOL

2738. PETITION TO REGULATE USE OF THE TERM MARGARITA, AND TO REGULATE USE OF CERTAIN TERMS WITH FLAVORED MALT BEVERAGES

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 5; 27 CFR 7

Timetable:

Action	Date	FR Cite
ANPRM	11/07/96	61 FR 57597
ANPRM Comment Period End	02/05/97	
ANPRM Comment Period Extended	02/20/97	62 FR 7742
ANPRM Comment Period Extended End	03/07/97	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Bacon
Phone: 202 927-8230
Fax: 202 927-8602
Email: cnbacon@atfhq.atf.treas.gov

RIN: 1512–AB50

FIREARMS

2739. FIREARMS AND AMMUNITION EXCISE TAXES PARTS AND ACCESSORIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 27 CFR 53.61(b)

TREAS—BATF — Long-Term Actions

Timetable:

Action	Date	FR Cite
NPRM	08/29/96	61 FR 45377
NPRM Comment Period End	11/27/96	
Final Action	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marsha Baker
Phone: 202 927-8210
Fax: 202 927-8602

RIN: 1512–AB49

TOBACCO PRODUCTS

2740. EXPORTATION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX, OR WITH DRAWBACK OF TAX

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 27 CFR 290

Timetable:

Action	Date	FR Cite
ANPRM	09/08/92	57 FR 40899
ANPRM Comment Period End	10/08/92	
ANPRM Comment Period Extended	01/08/93	58 FR 3247
ANPRM Comment Period Extended End	03/09/93	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marjorie Ruhf
Phone: 202 927-8210
Fax: 202 927-8602

RIN: 1512–AB03

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Completed Actions

2741. STANDARDS OF IDENTITY FOR MALT BEVERAGES

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 7

Completed:

Reason	Date	FR Cite
Withdrawn further study required.	07/24/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Bacon
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Email: cnbacon@atfhq.atf.treas.gov

RIN: 1512–AA95

2742. GRAPE WINE DESIGNATION—GAMAY BEAUJOLAIS

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 4

Completed:

Reason	Date	FR Cite
Final Action	04/07/97	62 FR 16479
Final Action Effective	05/07/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas Busey
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB08

2743. MULTISTATE APPELLATIONS OF ORIGIN FOR CONTIGUOUS STATES

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 4.25a(d) to 4.25a(e)

Completed:

Reason	Date	FR Cite
Withdrawn further study required.	06/01/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: David Brokaw
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB28

2744. ALTERATION OF LABELS ON CONTAINERS OF DISTILLED SPIRITS, WINE, BEER

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 4; 27 CFR 5; 27 CFR 7

Completed:

Reason	Date	FR Cite
Withdrawn further study required.	06/01/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel J. Hiland
Phone: 202 927-8210
Fax: 202 927-8602

RIN: 1512–AB32

2745. DEFINITION FOR THE CATEGORY OF PERSONS PROHIBITED FROM RECEIVING FIREARMS

Priority: Other Significant

CFR Citation: 27 CFR 178

Completed:

Reason	Date	FR Cite
Final Action	06/27/97	62 FR 34634
Final Action Effective	08/26/97	

Small Entities Affected: None

Government Levels Affected: None

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RIN: 1512–AB41

BILLING CODE 4810-31-P

DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC)

Proposed Rule Stage

2746. CAPITAL RULES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 161; 12 USC 1828 Note; 12 USC 1828(n); 12 USC 1831n Note; 12 USC 1835; 12 USC 3907; 12 USC 3909

CFR Citation: 12 CFR 3

Legal Deadline: None

Abstract: As part of the OCC's ongoing efforts to develop and refine capital standards to ensure the safety and soundness of the national banking system and to implement statutory requirements, the OCC is proposing to amend various provisions of the capital rules for national banks. Specifically, these changes include: (1) collateralized transactions; (2) servicing rights; (3) two rules on recourse arrangements ((a) recourse arrangements and direct credit substitutes; and (b) small business loans); (4) technical and conforming amendments under section 303 of the Riegle Community Development and Improvement Act of 1994, Pub. L. 103-325 (Sept. 23, 1994) (CDRI section 303); and (5) unrealized revaluation gains on certain equity securities.

Timetable:

Collateralized Transactions	
NPRM 08/16/96 (61 FR 42565)	
Final Rule 11/00/97	
CDRI Section 303 Capital Amendments	
NPRM 11/00/97	
Recourse: Recourse and Direct Credit Substitutes	
ANPRM/NPRM 05/25/94 (59 FR 27116)	
NPRM 11/00/97	
Recourse: Small Business Loans	
Interim Rule 09/13/95 (60 FR 47455)	
Final Rule 11/00/97	
Servicing Assets	
Interim Rule 08/01/95 (60 FR 39226)	
NPRM 08/04/97 (62 FR 42006)	
Final Rule 11/00/97	
Unrealized Revaluation Gains on Certain Equity Securities	
NPRM 11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Roger Tufts, Senior Economic Advisor, or Christina Benson, National Bank Examiner, Office of the Chief National Bank Examiner, (202) 874-5270, fax (202)874-5417, 250 E Street SW., Washington, DC 20219.

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RIN: 1557–AB14

2747. ASSESSMENT OF FEES; NATIONAL BANKS; DISTRICT OF COLUMBIA BANKS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 481; 12 USC 482; 12 USC 5102; 15 USC 78c and 78l; 26 DC Code 102

CFR Citation: 12 CFR 8

Legal Deadline: None

Abstract: These rulemakings (1) authorize the OCC to reduce assessments for national banks in a bank holding company, other than the largest national banks; (2) remove a specific formula for calculating fees for conducting fiduciary examinations; and (3) seek comment on possible methods to recoup the increased costs of supervising certain national banks.

Timetable:

Assessment Surcharge	
NPRM 11/00/97	
Assessments Review	
Interim Rule w/Req. for Comments 12/02/96 (61 FR 64000)	
Final Rule 11/00/97	
Trust Fees	
Interim Rule 11/18/94 (59 FR 59640)	
Final Rule 11/00/97	

Small Entities Affected: None

Government Levels Affected: None

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RIN: 1557–AB41

2748. UNIFORM RULES OF PRACTICE AND PROCEDURE; REGULATION REVIEW

Priority: Info./Admin./Other

Legal Authority: 5 USC 504; 5 USC 554 to 557; 12 USC 93(b); 12 USC 164; 12 USC 505; 12 USC 1817; 12 USC 1818; 12 USC 1820; 12 USC 1831o; 12 USC 1972; 12 USC 3102; 12 USC 3108; 12 USC 3909

CFR Citation: 12 CFR 19

Legal Deadline: None

Abstract: The OCC would implement section 112(g)(4) of the Federal Deposit Insurance Corporation Improvement Act of 1991 to develop joint agency procedures for the suspension and debarment of accountants, upon a showing of good cause, from performing certain audit services.

Timetable:

Suspension and Debarment of Accountants	
NPRM 12/00/97	

Small Entities Affected: None

Government Levels Affected: None

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RIN: 1557–AB43

2749. MANAGEMENT OFFICIAL INTERLOCKS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 3201 et seq

CFR Citation: 12 CFR 26

Legal Deadline: None

Abstract: The rulemaking will amend the current regulation to conform the regulation to recent changes made to the Depository Institutions Management Interlocks Act (DIMIA). DIMIA was amended to raise the asset threshold for the prohibition against interlocks involving an institution with at least $1 billion in total assets and an institution with at least $500 million in total assets. DIMIA also was amended to expand the exemptive authority of the OCC and other Federal banking agencies.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

TREAS—OCC

Proposed Rule Stage

Small Entities Affected: None

Government Levels Affected: None

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RIN: 1557–AB60

2750. MUNICIPAL SECURITIES DEALERS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 15 USC 78o-4(c)(5); 15 USC 78q to 78w

CFR Citation: 12 CFR 10

Legal Deadline: None

Abstract: The OCC is proposing to streamline the regulation by eliminating language that is substantively identical to regulations of the Municipal Securities Rulemaking Board (MSRB). The proposed revision would amend the current OCC regulation by replacing duplicative language with a reference to the appropriate MSRB regulation.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joanna Hadley, Attorney, Department of the Treasury, Comptroller of the Currency, Legislative & Regulatory Activities Division, 250 E Street SW., Washington, DC 20219
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RIN: 1557–AB62

DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC)

Final Rule Stage

2751. QUALIFICATION REQUIREMENTS FOR TRANSACTIONS IN CERTAIN SECURITIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1818; 12 USC 1831p-1

CFR Citation: 12 CFR 12

Legal Deadline: None

Abstract: The regulation will require bank employees to meet certain qualification standards before selling non-deposit investment products in a bank.

Timetable:

Action	Date	FR Cite
NPRM	12/30/96	61 FR 68823
Final Action	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Joel Miller, Senior Attorney, Securities and Corporate Practices Division, (202)874-5210, fax (202)874-5279, 250 E Street SW., Washington, DC 20219.

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RIN: 1557–AB54

2752. LENDING LIMITS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 84; 12 USC 93a

CFR Citation: 12 CFR 32

Legal Deadline: None

Abstract: The OCC intends to make several technical corrections to the current lending limit regulation.

Timetable:

Action	Date	FR Cite
NPRM	07/17/96	61 FR 37227
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

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RIN: 1557–AB55

2753. EXPANDED EXAMINATION CYCLE FOR CERTAIN SMALL FINANCIAL INSTITUTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1820(d)(8)

CFR Citation: 12 CFR 4

Legal Deadline: None

Abstract: The OCC is implementing section 306 of the Riegle Community Development and Improvement Act of 1994, Pub. L. 103-325 (Sept. 23, 1994) (CDRI section 306). CDRI section 306 permits the agencies to raise the asset threshold for institutions eligible for an expanded, 18-month examination schedule. Certain small financial institutions would become eligible for an examination every 18 months rather than every 12 months.

Timetable:

18-Month Exam Cycle for Federal Branches and Federal Agencies	
NPRM 12/00/97	
18-Month Exam Cycle for National Banks	
Interim Rule w/Request for Comments 02/12/97 (62 FR 6449)	
Interim Rule Effective Date 02/12/97	
Final Rule 11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joanna Hadley, Attorney, Department of the Treasury,

TREAS—OCC — Final Rule Stage

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RIN: 1557–AB56

2754. • FIDUCIARY ACTIVITIES OF NATIONAL BANKS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 92a; 12 USC 93a

CFR Citation: 12 CFR 9

Legal Deadline: None

Abstract: The OCC is proposing to add an interpretive ruling to 12 CFR Part 9, governing national banks' fiduciary activities. This interpretive ruling would codify OCC Interpretive Letter #769 (January 28, 1997), which clarifies the types of investment advisory activities that part 9 covers. Generally, the term "investment adviser," as used in part 9, means a national bank providing advice or recommendations concerning the purchase or sale of specific securities, such as a bank engaged in portfolio advisory and management activities.

Timetable:

Action	Date	FR Cite
NPRM	07/09/97	62 FR 36746
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

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RIN: 1557–AB63

DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC) — Long-Term Actions

2755. FAIR HOUSING HOME LOAN DATA SYSTEM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 27

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Tenhundfeld
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RIN: 1557–AB53

2756. INTERNATIONAL LENDING SUPERVISION

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 28

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Tenhundfeld
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RIN: 1557–AB58

2757. TREATMENT OF FINANCIAL CONTRACTS BY OCC-APPOINTED RECEIVERS AND CONSERVATORS FOR UNINSURED FINANCIAL INSTITUTIONS

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Michaleski
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RIN: 1557–AB59

2758. INTERPRETIVE RULINGS

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 7.4001

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jacqueline Lussier
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RIN: 1557–AB61

DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC) — Completed Actions

2759. PROHIBITION AGAINST USING INTERSTATE BRANCHES PRIMARILY FOR DEPOSIT PRODUCTION

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 25

Completed:

Reason	Date	FR Cite
Final Action	09/10/97	62 FR 47728
Final Action Effective	10/10/97	

Small Entities Affected: None

Government Levels Affected: None

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TREAS—OCC — Completed Actions

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RIN: 1557–AB50

2760. GOVERNMENT SECURITIES SALES PRACTICES

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 13

Completed:

Reason	Date	FR Cite
Final Action	03/19/97	62 FR 13276
Final Action Effective	07/01/97	

Small Entities Affected: None

Government Levels Affected: None

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RIN: 1557–AB52

2761. • ASSESSMENT OF FEES; NATIONAL BANKS; DISTRICT OF COLUMBIA BANKS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 481; 12 USC 482; 12 USC 3102; 15 USC 78c; 15 USC 78l; 26 DC Code 102

CFR Citation: 12 CFR 8

Legal Deadline: None

Abstract: The proposal would solicit comment on an amendment to 12 CFR Part 8 that would impose a surcharge on institutions requiring additional supervisory resources.

Timetable:

Action	Date	FR Cite
Merged into RIN 1557-AB41	08/01/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Tenhundfeld, Assistant Director, Department of the Treasury, Comptroller of the Currency, Legislative & Regulatory Activities Division, 250 E Street SW., Washington, DC 20219
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RIN: 1557–AB64

BILLING CODE 4810-33-F

DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS) — Proposed Rule Stage

2762. PARALLEL IMPORTS AND OTHER TRADEMARKED GOODS

Priority: Substantive, Nonsignificant

Legal Authority: 17 USC 101; 17 USC 601; 17 USC 602; 17 USC 603; 19 USC 66; 19 USC 1624; 31 USC 9701

CFR Citation: 19 CFR 133

Legal Deadline: None

Abstract: Amendment to provide for restrictions on the importation of certain foreign-made articles bearing genuine trademarks identical to or substantially indistinguishable from a valid, recorded U.S. trademark where the imported articles and the articles bearing the authorized U.S. trademark are materially and physically different.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karl Wm. Means, Attorney, Intellectual Property Rights Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-6960

RIN: 1515–AB49

2763. TEXTILES AND TEXTILE PRODUCTS SUBJECT TO TEXTILE TRADE AGREEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1624; 7 USC 1854

CFR Citation: 19 CFR 12

Legal Deadline: None

Abstract: Amendment to the country of origin standards and documentary requirements applicable to textiles and textile products subject to section 204 of the Agricultural Act of 1956. Amendment involves simplification of regulatory text, has no substantive effect on the U.S. textile import program as administered by Customs and is intended to ensure that the wording of the Customs Regulations is consistent with the product coverage of section 204.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dick Crichton, Operations Officer, Office of Strategic Trade, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-0162

RIN: 1515–AB54

2764. ANDEAN TRADE PREFERENCE

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1481; 19 USC 1484; 19 USC 1498; 19 USC 1508; 19 USC 1624; 19 USC 3203

CFR Citation: 19 CFR 10

Legal Deadline: None

Abstract: Amendment to implement the duty preference provisions of the Andean Trade Preference Act.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joyce Metzger, Office of Field Operations, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-0792

RIN: 1515–AB59

2765. ACCREDITATION OF COMMERCIAL TESTING LABORATORIES; APPROVAL OF COMMERCIAL GAUGERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1499; 19 USC 1624

CFR Citation: 19 CFR 151; 19 CFR 113

Legal Deadline: None

Abstract: Amendment to set forth procedures for the accreditation of commercial laboratories and the approval of commercial gaugers and the suspension and revocation of such accreditations and the approvals. Amendments are pursuant to authority of the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ira Reese, Chief, Technical Branch, Office of Laboratories & Scientific Services, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-1060

RIN: 1515–AB60

2766. COUNTRY-OF-ORIGIN MARKING REQUIREMENTS FOR FROZEN PRODUCE PACKAGES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1304; 19 USC 1624

CFR Citation: 19 CFR 134

Legal Deadline: None

Abstract: Requires that the country of origin of imported produce be marked on the front panel of packages of frozen produce in order for the marking to comply with the statutory requirement that marking be in a "conspicuous place."

Timetable:

Action	Date	FR Cite
ANPRM	02/02/95	60 FR 6464
ANPRM Comment Period End	03/20/95	
NPRM	07/23/96	61 FR 38119
NPRM Comment Period End	10/17/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Cohen, Attorney, Special Classification and Marking Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 482-6980

RIN: 1515–AB61

2767. LIQUIDATION; EXTENSION; SUSPENSION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1500; 19 USC 1504; 19 USC 1624

CFR Citation: 19 CFR 159

Legal Deadline: None

Abstract: Document would amend the Customs Regulations to implement amendments to section 504 of the Tariff Act of 1930, as amended, which pertains to limitations on the liquidation of entries, that were contained in the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act. Amendments would allow the reconciliation of entries to be treated as if they were entry summaries, subject to normal liquidation requirements; authorize the electronic transmittal of notices of extension and suspension of liquidation; extend the time period in which customs must liquidate a suspended entry after the suspension is removed; remove the application of the four-year limitation to suspended entries; and provide that Customs must also inform sureties when an entry is suspended or extended.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Allan J. Stevenson, Attorney, Entry and Carrier Rulings Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-7040

RIN: 1515–AB66

2768. DETENTION, SEIZURE, AND FORFEITURE OF "BOOTLEG" SOUND RECORDING AND MUSIC VIDEOS OF LIVE MUSICAL PERFORMANCES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 58a; 19 USC 58b; 19 USC 58c; 19 USC 66; 17 USC 101; 17 USC 601; 17 USC 602; 17 USC 603; 31 USC 9701

CFR Citation: 19 CFR 12; 19 CFR 24; 19 CFR 133

Legal Deadline: None

Abstract: Amendment to provide for the detention, seizure, and forfeiture of unauthorized (bootleg) copies of sound recordings and music videos of live musical performances recorded outside of and imported into the United States, as provided by section 513(a) of the Uruguay Round Agreements Act.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Susan Wilson, Attorney-Advisor, Intellectual Property Rights Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-6960

RIN: 1515–AB74

2769. INTEREST ON UNDERPAYMENTS AND OVERPAYMENTS OF CUSTOMS DUTIES FEES AND INTEREST

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 58a; 19 USC 58b; 19 USC 58c; 19 USC 1202; 19 USC 1505; 19 USC 1623; 19 USC 1624; 31 USC 9701

CFR Citation: 19 CFR 12; 19 CFR 113

Legal Deadline: None

Abstract: Amendment to reflect the provisions of section 505 of the Tariff Act of 1930 as amended by section 642(c) of the North American Free Trade Agreement Implementation Act, regarding the assessment of interest due to underpayments or overpayments to Customs of duties and fees pertaining to imported merchandise, including interest thereon. Amendment will also pertain to the payment of interest due to underpayments or overpayments of fees and other charges, including interest thereon, that are not expressly covered by the terms of 19 USC 1505, but to which the same principles should apply. Interest, per the amendment, would accrue from the date the duties, fees, or other charges are deposited, or are required to be deposited, with Customs rather than from the date appearing on the bill for payment subsequently issued by Customs.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Lloyd, Financial Officer, Financial Policy Division, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-0119

RIN: 1515–AB76

2770. RECONCILIATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1484; 19 USC 1500; 19 USC 1624

CFR Citation: 19 CFR 142; 19 CFR 159

Legal Deadline: None

Abstract: Amendment to allow those elements of an entry, other than those elements relating to the admissibility of the merchandise, that are undetermined at the time an entry summary or an import activity summary is required to be submitted, to be provided to Customs at a later date.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Durant, Director, Tariff Classification Appeals Division, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 482-6990

RIN: 1515–AB85

2771. FOREIGN-BASED COMMERCIAL MOTOR VEHICLES IN INTERNATIONAL TRAFFIC

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1431; 19 USC 1433; 19 USC 1322; 19 USC 1624

CFR Citation: 19 CFR 123

Legal Deadline: None

Abstract: Document would amend the Customs Regulations to allow certain foreign-based commercial motor vehicles, which are admitted to the United States as instruments of international traffic, to retain such status provided they exit the United States within 365 days of the date of their admission, and provided the country in which such vehicles are based accords corresponding United States-based vehicles reciprocal treatment.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Glen Vereb, Attorney-Advisor, Entry and Carrier Rulings Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-6940

RIN: 1515–AB88

2772. PETITIONS FOR RELIEF; SEIZURES, PENALTIES, AND LIQUIDATED DAMAGES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1592; 19 USC 1618; 19 USC 1624; 19 USC 1623

CFR Citation: 19 CFR 171; 19 CFR 172; 19 CFR 18; 19 CFR 24; 19 CFR 111; 19 CFR 113; 19 CFR 114; 19 CFR 125; 19 CFR 145; 19 CFR 162; 19 CFR 10; 19 CFR 12

Legal Deadline: None

Abstract: Amendments relating to the filing of petitions in penalty, liquidated damages and seizure cases. Amendments are designed to allow more flexibility and useful contact with Government officials in an effort to administer cases in the most efficient way possible. Amendments promote a more customer-friendly atmosphere and eliminate needless or redundant provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeremy Baskin, Attorney, Penalties Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-6950

RIN: 1515–AC01

2773. CENTRALIZED EXAMINATION STATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1499; 19 USC 1623; 19 USC 1624

CFR Citation: 19 CFR 118

Legal Deadline: None

Abstract: Amendment to allow a centralized examination station (CES) to handle exported as well as imported merchandise and to make CES application procedures more flexible.

Timetable:

Action	Date	FR Cite
NPRM	08/19/97	62 FR 44102
NPRM Comment Period End	10/20/97	
Final Action	05/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bill Kotlowy, Operations Officer, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-1364

RIN: 1515–AC07

2774. GUIDELINES FOR THE IMPOSITION AND MITIGATION OF PENALTIES FOR VIOLATION OF 19 USC 1592

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1592; 19 USC 1624

CFR Citation: 19 CFR 171

Legal Deadline: None

Abstract: Revision of guidelines for remitting and mitigating penalties relating to violations of section 592 of the Tariff Act of 1930, as amended. A violation of 592 involves the entry or introduction or attempted entry or introduction of merchandise into the United States by fraud, gross negligence or negligence.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Pisani, Attorney, Penalties Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Ave. NW., Franklin Court, Washington, DC 20229
Phone: 202 482-6946

RIN: 1515–AC08

2775. • DESIGNATED LAND BORDER CROSSING LOCATIONS FOR CERTAIN CONVEYANCES

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1431; 19 USC 1433; 19 USC 1459; 19 USC 1624

CFR Citation: 19 CFR 123

Legal Deadline: None

Abstract: Amendment would allow Customs to designate land border crossing locations for certain traffic and merchandise. At ports of entry with multiple crossing points, port directors would have express authority to require by local instructions that certain trucks and other commercial conveyances enter the United States at specific land border crossing locations within the port of entry designated for the processing and clearance of those conveyances.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ed Schack, Customs Officer, Office of Field Operations, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-0251

RIN: 1515–AC12

2776. • LAND BORDER CARRIER INITIATIVE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1431; 19 USC 1433; 19 USC 1448; 19 USC 1484; 19 USC 1624

CFR Citation: 19 CFR 123; 19 CFR 142

Legal Deadline: None

Abstract: Document provides for the Land Border Carrier Initiative Program, a program designed to prevent smugglers of illicit drugs from utilizing commercial land conveyances for their contraband. The program provides for agreements between carriers and Customs in which the carrier agrees to increase its security measures and cooperate more closely with Customs and Customs agrees to apply special administrative provisions pertaining to penalty amounts and expedited processing of penalty actions if illegal drugs are found on a conveyance belonging to the participating carrier. Further, at certain high risk locations along the land border, an importer's use of the Line Release method of the processing of entries of merchandise by Customs is conditioned on the carriers and drivers carrying that merchandise participating in the Land Border Carrier Initiative Program.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jim Kelly, Customs officer, Anti-Smuggling Division, Department of the Treasury, United States Customs Service, Office of Field Operations, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-0458

RIN: 1515–AC16

2777. • EXPORTATION OF USED MOTOR VEHICLES

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1624; 19 USC 1627a; 19 USC 1646a; 19 USC 1646c

CFR Citation: 19 CFR 192

Legal Deadline: None

Abstract: Amendment to clarify the intent of Customs Regulations relating to the exportation of used self-propelled vehicles. Goal of amendments are to provide for uniformity and standardized procedures and to more efficiently and effectively deter the export of stolen vehicles.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hugh Austin, Customs Officer, Outbound Process, Department of the Treasury, United States Customs Service, Office of Field Operations, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-3735

RIN: 1515–AC19

2778. • PENALTIES FOR FALSE DRAWBACK CLAIMS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1592; 19 USC 1593a; 19 USC 1618; 19 USC 1624

CFR Citation: 19 CFR 162; 19 CFR 171

Legal Deadline: None

Abstract: Amendment sets forth the procedures to be followed when false drawback claims are filed and penalties are thereby incurred. Amendment implements section 622 of the Customs modernization provisions of the North American Free Trade Agreement Implementation Act. Provisions track, to the greatest extent possible, the procedures which have been set forth for section 592 of the Tariff Act of 1930, as amended.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harriett Dorn, Attorney, Penalties Branch, Department of the Treasury, United States Customs Service, Office of Regulations and Rulings, Franklin Court, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 482-6950

RIN: 1515–AC21

2779. • REMOTE LOCATION FILING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1484; 19 USC 1624; 19 USC 1641

CFR Citation: 19 CFR 111; 19 CFR 113; 19 CFR 141; 19 CFR 143

Legal Deadline: None

Abstract: Amendment to allow entry filers to electronically file entries of merchandise with Customs from locations within the United States other than at the port of arrival of the merchandise or the location of examination of the merchandise.

Timetable:

Action	Date	FR Cite
NPRM	06/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Durant, Director, Tariff Classification Appeals Division, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-6990

RIN: 1515–AC23

DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS)

Final Rule Stage

2780. PUBLICATION OF FILER CODES

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1448; 19 USC 1484; 19 USC 1624

CFR Citation: 19 CFR 142; 19 CFR 143

Legal Deadline: None

Abstract: Provides for the publication of a list of filer codes and the identity of individuals, licensed Customs brokers or importers assigned the specific number. Publication will improve control for various components of the trade community and reduce numerous problems for Customs relating to entry processing requirements, but could also provide a means to access commercial import information heretofore treated as confidential by Customs.

Timetable:

Action	Date	FR Cite
ANPRM	01/13/93	58 FR 4115
ANPRM Comment Period End	03/15/93	
NPRM	04/22/97	62 FR 19534
NPRM Comment Period End	06/23/97	
Final Action	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Hegland, Attorney, Entry and Carrier Rulings Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 482-7040

RIN: 1515–AB27

2781. DISCLOSURE OF INFORMATION TO INTELLECTUAL PROPERTY RIGHTS OWNERS

Priority: Substantive, Nonsignificant

Legal Authority: 17 USC 101; 17 USC 601; 17 USC 602; 17 USC 603; 19 USC 66; 19 USC 1624; 31 USC 9701

CFR Citation: 19 CFR 133

Legal Deadline: None

Abstract: Provides intellectual property rights owners with information regarding importations so that they may pursue injunctive relief or other civil remedies against the party involved in infringing transactions.

Timetable:

Action	Date	FR Cite
NPRM	08/23/93	58 FR 44476
NPRM Comment Period End	10/22/93	
NPRM - Revision of Initial Proposal	07/14/95	60 FR 36249
NPRM Comment Period End - Revision of Initial Proposal	09/12/95	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karl Means, Attorney, Intellectual Property Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-6960

RIN: 1515–AB28

2782. WAREHOUSE WITHDRAWALS; AIRCRAFT FUEL SUPPLIES; PIPELINE TRANSPORTATION IN BOND OF MERCHANDISE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in

the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1321; 19 USC 1481; 19 USC 1484; 19 USC 1498; 19 USC 1508; 19 USC 1623; 19 USC 1624; 19 USC 1557; 19 USC 1551; 19 USC 1552; 19 USC 1553; 19 USC 1553a

CFR Citation: 19 CFR 10; 19 CFR 18

Legal Deadline: None

Abstract: Document implements certain statutory amendments to the Customs laws regarding recordkeeping for merchandise transported by pipeline and duty-free withdrawals from Customs bonded warehouses of aircraft turbine fuel. These statutory amendments are contained in the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act. The document also clarifies the procedures applicable to aircraft turbine fuel which is withdrawn from a Customs bonded warehouse for certain duty-free use and is commingled with other lots of fuel before being so used.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/22/96	61 FR 6772
Final Action	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Craig Clark, Attorney, Entry and Carrier Rulings Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-7069

RIN: 1515–AB67

2783. DETENTION OF MERCHANDISE

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1499; 19 USC 1624

CFR Citation: 19 CFR 151

Legal Deadline: None

Abstract: Amendment to provide for procedures regarding the detention of merchandise that is undergoing Customs examination. Amendment will reflect Customs Modernization Act.

Timetable:

Action	Date	FR Cite
NPRM	06/05/96	61 FR 28522
NPRM Comment Period End	08/05/96	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeremy Baskin, Attorney-Advisor, Penalties Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-6950

RIN: 1515–AB75

2784. RECORDKEEPING REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1624; 19 USC 1508; 19 USC 1509; 19 USC 1510

CFR Citation: 19 CFR 162; 19 CFR 163 (New)

Legal Deadline: None

Abstract: Amendment to reflect statutory amendments contained in the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act covering recordkeeping, examination of books and witnesses, regulatory audit procedures, and judicial enforcement.

Timetable:

Action	Date	FR Cite
NPRM	04/23/97	62 FR 19704
NPRM Comment Period End	06/23/97	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stan Hodziewich, Regulatory Auditor, Office of Regulatory Audit, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-0999

RIN: 1515–AB77

2785. NORTH AMERICAN FREE TRADE AGREEMENT (NAFTA)—IMPLEMENTATION OF DUTY-DEFERRAL PROGRAM PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1448; 19 USC 1481; 19 USC 1484; 19 USC 1202; 19 USC 1315; 19 USC 1624; 19 USC 3314

CFR Citation: 19 CFR 181; 19 CFR 113; 19 CFR 141; 19 CFR 144; 19 CFR 10

Legal Deadline: Final, Statutory, January 1, 1996.

Abstract: Document amends regulations to establish procedural and other requirements that apply to the collection, waiver, and reduction of duties under the duty-deferral program provisions of the North American Free Trade Agreement. The document prescribes the documentary and other requirements that must be followed when merchandise is withdrawn from a U.S. duty-deferral program either for exportation to another NAFTA country or for entry into a duty-deferral program of another NAFTA country, the procedures that must be followed in filing a claim for a waiver or reduction of duties collected on such merchandise, and the procedures for finalization of duty collections and duty waiver or reduction claims.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/30/96	61 FR 2908
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Angela Downey, Operations Officer, Department of the Treasury, United States Customs Service, Office of Field Operations, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-1082

RIN: 1515–AB87

2786. ELECTRONIC REQUESTS FOR CONFIDENTIAL TREATMENT OF EXPORT MANIFEST DATA

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 5 USC 552; 5 USC 552a; 19 USC 66; 19 USC 1624; 31 USC 9701

CFR Citation: 19 CFR 103

Legal Deadline: None

Abstract: Document would amend Customs Regulations concerning export manifest data to enable shippers to request confidential treatment of their name and address information on the Automated Export System.

Timetable:

Action	Date	FR Cite
NPRM	09/12/96	61 FR 48098
NPRM Comment Period End	11/12/96	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carla Brooks, Automated Export System Team, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-2246

RIN: 1515–AB89

2787. DRAWBACK

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1309; 19 USC 1313; 19 USC 1514; 19 USC 1557; 19 USC 81c; 18 USC 1550

CFR Citation: 19 CFR 191; 19 CFR 10; 19 CFR 145; 19 CFR 173; 19 CFR 174; 19 CFR 181; 19 CFR 7

Legal Deadline: None

Abstract: Amendment to implement extensive substantive changes to the drawback law pursuant to the Customs Modernization Act. The goals of the changes are to expedite the filing and processing of drawback claims, while maintaining effective Customs enforcement and control over the drawback program.

Timetable:

Action	Date	FR Cite
NPRM	01/21/97	62 FR 3082
NPRM Comment Period End	04/24/97	62 FR 9401
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maryanne Carney, Chief, Drawback and Records Branch, Department of the Treasury, United States Customs Service, 6 World Trade Center, New York, New York 10048
Phone: 212 466-4575

Paul Hegland, Attorney, Entry and Carrier Rulings Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-7040

RIN: 1515–AB95

2788. ENTRY OF SOFTWOOD LUMBER SHIPMENTS FROM CANADA

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1624; 19 USC 2416; 19 USC 2171

CFR Citation: 19 CFR 12; 19 CFR 113

Legal Deadline: None

Abstract: Document sets forth amendments establishing additional entry requirements applicable to shipments of softwood lumber from Canada. Amendment involves the collection of certain additional information for purposes of monitoring and enforcing a recent agreement between the Governments of the United States and Canada regarding trade in softwood lumber.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/97	62 FR 8620
Final Action	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary Manes, Office of Field Operations, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-1133

RIN: 1515–AB97

2789. PRIOR DISCLOSURE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1592; 19 USC 1593a; 19 USC 1624

CFR Citation: 19 CFR 162

Legal Deadline: None

Abstract: Document would amend regulations governing "prior disclosure" as well as implement a provision of the Customs Modernization portion of the North American Free Trade Implementation Act (Mod Act) concerning prior disclosure by a person of a violation of law committed by that person involving the entry or introduction or attempted entry or introduction of merchandise into the United States by fraud, gross negligence, or negligence. Pursuant to 19 USC 1592(c)(4), if a person who commits such a violation discloses the circumstances of the violation before, or without knowledge of the "commencement of a formal investigation" of such violation, merchandise shall not be seized and any monetary penalty to be assessed shall be limited. Amendment would spell out when there is "commencement of a formal investigation."

Timetable:

Action	Date	FR Cite
NPRM	09/26/96	61 FR 50459
NPRM Comment Period End	11/25/96	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Pisani, Attorney, Penalties Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-6946

RIN: 1515–AB98

2790. LAY ORDER PERIOD: GENERAL ORDER: PENALTIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1431; 19 USC 1433; 19 USC 1624; 19 USC 1498; 19 USC 1584; 19

USC 1448; 19 USC 1436; 19 USC 1459; 19 USC 1644; 19 USC 1644a; 42 USC 269; 46 USC app 100

CFR Citation: 19 CFR 4; 19 CFR 122; 19 CFR 123; 19 CFR 148; 19 CFR 192

Legal Deadline: None

Abstract: Amendment to provide for penalties against importing carriers for failure to notify Customs of the presence of merchandise that has remained at the place of arrival or unlading beyond the lay order period without entry having been completed. Amendment would require that the carrier notify a bonded warehouse proprietor of the presence of such merchandise, thereby initiating the obligation of the bonded warehouse proprietor to arrange for transportation and storage of the unentered merchandise at the risk and expense of the consignee. These amendments reflect amendments to the underlying statutory authority enacted as part of the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act.

Timetable:

Action	Date	FR Cite
NPRM	07/31/97	62 FR 40992
NPRM Comment Period End	09/29/97	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeremy Baskin, Attorney, Penalties Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-6950

RIN: 1515–AB99

2791. DETERMINATION OF THE COUNTRY OF ORIGIN OF TEXTILES AND TEXTILE PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 7 USC 1854; 19 USC 66; 19 USC 1624; 19 USC 1202

CFR Citation: 19 CFR 12

Legal Deadline: None

Abstract: Amendment to provide stricter entry requirements for textiles and textile products to assist Customs in ensuring compliance with quota restrictions and visa requirements or other requirements, such as country-of-origin marking, under the U.S. textile import program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Laria, Chief, Commercial Enforcement, Office of Field Operations, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-0370

RIN: 1515–AC00

2792. GENERAL ENFORCEMENT PROVISIONS; REMOVAL OF AGENCY MANAGEMENT REGULATIONS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1624; 19 USC 1600; 19 USC 1619

CFR Citation: 19 CFR 19; 19 CFR 101; 19 CFR 146; 19 CFR 161

Legal Deadline: None

Abstract: Amendment would remove several general enforcement provisions that relate to Customs management which do not serve to inform the public of any requirements, relocate a general enforcement provision concerning Customs supervision from one part of the regulations to a different part of the Customs Regulations, and consolidate certain other general enforcement provisions.

Timetable:

Action	Date	FR Cite
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Elam, Attorney, Office of Chief Counsel, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-6900

RIN: 1515–AC02

2793. BILATERAL CARNET AGREEMENT BETWEEN THE AMERICAN INSTITUTE IN TAIWAN AND THE TAIPEI ECONOMIC AND CULTURAL REPRESENTATIVE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1551; 19 USC 1552; 19 USC 1553; 19 USC 1623; 19 USC 1624

CFR Citation: 19 CFR 114; 19 CFR 18; 19 CFR 10

Legal Deadline: None

Abstract: Amendment to Customs Regulations applicable to carnets to reflect a recently signed bilateral agreement between the Taipei Economic and Cultural Representative in the United States (TECRO) and the American Institute in Taiwan (AIT). This agreement established a TECRO/AIT carnet for the temporary admission of goods, commercial samples and professional equipment.

Timetable:

Action	Date	FR Cite
NPRM	11/04/96	61 FR 56645
NPRM Comment Period End	01/03/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis Sequeira, Director, International Organizations Division, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-0971

RIN: 1515–AC03

2794. IMPORTATION OF CHEMICALS SUBJECT TO THE TOXIC SUBSTANCES CONTROL ACT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 15 USC 2601 et seq; 19 USC 66; 19 USC 1202; 19 USC 1624

CFR Citation: 19 CFR 12

Legal Deadline: None

Abstract: Amendment to the Customs Regulations regarding submission of an importer's certification in connection with the importation of chemical substances subject to the Toxic Substances Control Act. Amendment permits use of a blanket certification for each individual shipment.

Timetable:

Action	Date	FR Cite
NPRM	01/09/90	55 FR 738
NPRM Comment Period End	03/12/90	
Final Action	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Brad Lund, Operations Officer, Office of Field Operations, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-0192

RIN: 1515–AC04

2795. ANTICOUNTERFEITING CONSUMER PROTECTION ACT: DISPOSITION OF MERCHANDISE BEARING COUNTERFEIT AMERICAN TRADEMARKS; CIVIL PENALTIES

Priority: Substantive, Nonsignificant

Legal Authority: 17 USC 101; 17 USC 601 to 603; 19 USC 66; 19 USC 1624; 31 USC 9701

CFR Citation: 19 CFR 133

Legal Deadline: Final, Statutory, January 2, 1997.

Abstract: Amendment to implement two statutory changes contained in the Anticounterfeiting Consumer Protection Act of 1996. The changes concern government disposition of merchandise bearing counterfeit American trademarks and increased civil penalties on those involved in the importation of counterfeit goods.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Ressin, Chief, Penalties Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-6950

John Atwood, Chief, Intellectual Property Rights Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-6960

RIN: 1515–AC10

2796. INCREASE OF MAXIMUM AMOUNT FOR INFORMAL ENTRIES TO $2000

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1321; 19 USC 1481; 19 USC 1484; 19 USC 1448; 19 USC 1202; 19 USC 1624; 19 USC 1496; 18 USC 545; 19 USC 1618; 19 USC 1498

CFR Citation: 19 CFR 141; 19 CFR 143; 19 CFR 145; 19 CFR 148; 19 CFR 10

Legal Deadline: None

Abstract: Amendment to increase the informal entry value limit to $2000.

Timetable:

Action	Date	FR Cite
NPRM	06/09/97	62 FR 31383
NPRM Comment Period End	08/08/97	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Walfish, Trade Compliance Officer, Office of Field Operations, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-0042

Jerry Laderberg, Chief, Entry and Carrier Rulings Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-7052

RIN: 1515–AC11

2797. • CUSTOMS ENTRY DOCUMENTATION PURSUANT TO ANTICOUNTERFEITING CONSUMER PROTECTION ACT

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1448; 19 USC 1484; 19 USC 1624

CFR Citation: 19 CFR 141

Legal Deadline: Final, Statutory, January 2, 1997.

Abstract: Document implements section 12 of the Anticounterfeiting Consumer Protection Act of 1996 (ACPA) which was enacted by Congress to protect consumers and American businesses from counterfeit copyrighted and trademarked products. Section 12 of the ACPA concerns the content of entry documentation required by Customs to determine whether the imported merchandise or its packaging bears an infringing trademark. Amendment requires importers to provide on the invoice a listing of all trademarks appearing on imported merchandise and its packaging.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Millie Gleason, Customs Officer, Cargo Control and Entry Operations, Department of the Treasury, United States Customs Service, Office of Field Operations, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-0625

RIN: 1515–AC15

2798. • PROCEDURAL CHANGE REGARDING AMERICAN SHOOKS AND STAVES

Priority: Routine and Frequent

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1321; 19 USC 1481; 19 USC 1484; 19 USC 1498; 19 USC 1508; 19 USC 1623; 19 USC 1624

CFR Citation: 19 CFR 10

Legal Deadline: None

Abstract: Amendment to require the submission of a Customs Form 4455, Certificate of Registration, rather than a Customs Form 3311, Declaration for Free Entry of Returned American Products, when shooks and staves produced in the United States are exported from the United States with the intention that they will be returned to the United States, exempt from duty, in the form of complete boxes or barrels in use as usual containers of merchandise. When boxes or barrels made from the exported American shooks and staves, for which a CF 4455 has been submitted, are imported, the importer of the boxes or barrels must use the CF 4455 as well to make such

TREAS—CUSTOMS

Final Rule Stage

a claim. Shooks and staves produced in the United States that are exported and so returned are exempt from customs duties provided their identity is established by the proper submission of the Customs Form 4455.

Timetable:

Action	Date	FR Cite
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Wygant, Customs Officer, Trade Compliance Branch, Department of the Treasury, United States Customs Service, Office of Field Operations, 1301 Constitution Avenue,N.W., Washington, DC 20229
Phone: 202 927-1167

RIN: 1515–AC18

2799. • ELIMINATION OF CERTIFICATION REQUIREMENT FOR FILM IMPORTERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1305; 19 USC 1202; 19 USC 1624

CFR Citation: 19 CFR 12

Legal Deadline: None

Abstract: Currently, importers of film are required to certify on Customs Form (CF) 3291, Certificate In Connection with Importation of Films, that the imported film contains no obscene or immoral matter, nor any matter advocating or urging treason or insurrection against the United States, nor any threat to take the life or inflict bodily harm upon any person in the United States. This amendment would reflect that Customs no longer requires such certification by an importer of a film. Customs is eliminating the CF 3291. As Customs makes an independent determination of whether the contents of a film contain such matter that would prohibit its importation, the certification regarding the contents of the film no longer is necessary.

Timetable:

Action	Date	FR Cite
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kathy Dapkins, Operations Officer, Office of Field Operations, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-0333

RIN: 1515–AC20

DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS)

Long-Term Actions

2800. HARBOR MAINTENANCE FEE

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 4; 19 CFR 24; 19 CFR 146; 19 CFR 178

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/30/87	52 FR 10198
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Barbare
Phone: 202 927-0034

RIN: 1515–AA57

2801. DONATED CARGO EXEMPTION FROM HARBOR MAINTENANCE FEE

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 24

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/08/92	57 FR 607
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Barbare
Phone: 202 927-0034

RIN: 1515–AA87

2802. RULES OF ORIGIN

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 102 (New); 19 CFR 4.80b(a); 19 CFR 10.12(e); 19 CFR 10.14(b); 19 CFR 10.171(c); 19 CFR 10.191(b)(3); 19 CFR 134.1; 19 CFR 134.35; 19 CFR 177.22(a)

Timetable:

Action	Date	FR Cite
NPRM	09/25/91	56 FR 48448
NPRM Comment Period End	01/09/92	56 FR 61214
NPRM revising initial proposal	05/05/95	60 FR 22312
NPRM additionally revising proposal	07/12/95	60 FR 35878
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sandra L. Gethers
Phone: 202 482-6980

RIN: 1515–AB19

2803. AUTOMATED SURETY INTERFACE

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 113

Timetable:

Action	Date	FR Cite
NPRM	01/22/93	58 FR 5680
NPRM Comment Period End	04/22/93	58 FR 16632
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diane Hundertmark
Phone: 202 927-0355

RIN: 1515–AB25

2804. FEES ASSESSED FOR DEFAULTED PAYMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 24

Timetable:

Action	Date	FR Cite
NPRM	03/23/94	59 FR 13664
NPRM Comment Period End	05/23/94	
Next Action Undetermined		

TREAS—CUSTOMS

Long-Term Actions

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Baker
Phone: 202 927-0620

RIN: 1515–AB38

2805. COUNTRY-OF-ORIGIN MARKING FOR WATCHES

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 134

Timetable:

Action	Date	FR Cite
ANPRM	03/20/95	60 FR 14705
ANPRM Comment Period End	05/04/95	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Burton Schlissel
Phone: 202 482-6980

RIN: 1515–AB68

2806. TREATMENT OF MERCHANDISE IMPORTED BY FOREIGN GOVERNMENTS OR DESIGNATED INTERNATIONAL ORGANIZATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 19 CFR 148

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marsha Malbrough
Phone: 202 927-0457

RIN: 1515–AC05

2807. WEEKLY ENTRY PROCEDURE FOR FOREIGN TRADE ZONES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 19 CFR 146

Timetable:

Action	Date	FR Cite
NPRM	03/14/97	62 FR 12129
NPRM Comment Period End	04/14/97	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis Sequeira
Phone: 202 927-1480

RIN: 1515–AB92

2808. • PUBLIC DISCLOSURE OF AIRCRAFT MANIFESTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 5 USC 552; 5 USC 552a; 19 USC 66; 19 USC 1431; 19 USC 1624; 31 USC 9701; 46 USC app 91

CFR Citation: 19 CFR 103

Legal Deadline: Final, Statutory, January 2, 1997.

Abstract: Amendment would implement section 11 of the Anticounterfeiting Consumer Protection Act of 1996 which amended section 431 of the Tariff Act of 1930 to provide for the public disclosure of information on aircraft manifests and to include trademarks among the types of manifest information that are subject to disclosure. Amendment addresses both the basic principle of disclosability of aircraft manifest information and the treatment of requests for confidentiality of certain information.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lee Kramer, Attorney, Disclosure Law Branch, Department of the Treasury, United States Customs Service, Office of Regulations and Rulings, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-6916

RIN: 1515–AC13

DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS)

Completed Actions

2809. U.S. INSULAR POSSESSIONS—DUTY-FREE TREATMENT

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 7.8

Completed:

Reason	Date	FR Cite
Final Action	09/03/97	62 FR 46433
Final Action Effective	10/03/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Craig Walker
Phone: 202 482-6980

RIN: 1515–AB14

2810. IMPORTER CERTIFICATION REGARDING COUNTRY OF ORIGIN OF TEXTILES AND TEXTILE PRODUCTS

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 12

Completed:

Reason	Date	FR Cite
Withdrawn because it will be incorporated within RIN 1515–AC00.	07/28/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dick Crichton
Phone: 202 927-0162

RIN: 1515–AB43

2811. USE OF CONTAINERS DESIGNATED AS INSTRUMENTS OF INTERNATIONAL TRAFFIC IN POINT-TO-POINT LOCAL TRAFFIC

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 19 CFR 10

Completed:

Reason	Date	FR Cite
Final Action	08/06/97	62 FR 42209
Final Action Effective	12/04/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Glen Vereb
Phone: 202 482-6940

RIN: 1515–AB79

2812. COUNTRY-OF-ORIGIN MARKING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 19 CFR 134

Completed:

Reason	Date	FR Cite
Final Action	08/20/97	62 FR 44211
Final Action Effective	09/19/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sandra L. Gethers
Phone: 202 482-6980

RIN: 1515–AB82

2813. PORT PASSENGER ACCELERATION SERVICE SYSTEM (PORTPASS) PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 19 CFR 123

Completed:

Reason	Date	FR Cite
Final Action	06/12/97	62 FR 32030
Final Action Effective	07/14/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph O'Gorman
Phone: 202 927-0543

RIN: 1515–AB90

2814. DISPOSITION OF EXCLUDED ARTICLES PURSUANT TO THE ANTICOUNTERFEITING CONSUMER PROTECTION ACT

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 133

Completed:

Reason	Date	FR Cite
Final Action	04/22/97	62 FR 19492
Final Action Effective	05/22/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Atwood
Phone: 202 482-6960

RIN: 1515–AC09

2815. • ARCHAEOLOGICAL AND ETHNOLOGICAL MATERIAL FROM CANADA

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1624; 19 USC 2612

CFR Citation: 19 CFR 12

Legal Deadline: None

Abstract: Document amends the Customs Regulations to reflect the imposition of import restrictions on certain archaeological and ethnological material of Canada's native peoples and certain underwater archaeological material. These restrictions are being imposed pursuant to an agreement between the United States and Canada which has been entered into under the authority of the Convention on Cultural Property Implementation Act in accordance with the United Nations Educational, Scientific and Cultural Organization Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

Timetable:

Action	Date	FR Cite
Final Action	04/22/97	62 FR 19488

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donnette Rimmer, Attorney, Intellectual Property Rights Branch, Department of the Treasury, United States Customs Service, Office of Regulations and Rulings, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-6960
Louis Alfano, Customs Officer, Commercial Enforcement, Department of the Treasury, United States Customs Service, Office of Field Operations, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-0005

RIN: 1515–AC14

2816. • ARCHAEOLOGICAL AND ETHNOLOGICAL MATERIAL FROM PERU

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1624; 19 USC 2612

CFR Citation: 19 CFR 12

Legal Deadline: None

Abstract: Document amends the Customs Regulations to reflect the imposition of import restrictions on certain archaeological and ethnological material of Peru's native peoples and certain ethnological materials from Peru dating to the Colonial period. These restrictions are being imposed pursuant to an agreement between the United States and Peru which has been entered into under the authority of the Convention on Cultural Property Implementation Act in accordance with the United Nations Educational, Scientific and Cultural Organization Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

Timetable:

Action	Date	FR Cite
Final Action	06/11/97	62 FR 31713

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donnette Rimmer, Attorney, Intellectual Property Rights Branch, Department of the Treasury, United States Customs Service, Office of Regulations and Rulings, 1301 Constitution Avenue,N.W., Franklin Court, Washington, DC 20229
Phone: 202 482-6960
Louis Alfano, Operations Officer, Office of Commercial Enforcement, Department of the Treasury, United States Customs Service, Office of Field Operations, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-0005

RIN: 1515–AC17

2817. • IMPORT RESTRICTIONS IMPOSED ON SIGNIFICANT ARCHAEOLOGICAL ARTIFACTS FROM MALI

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1624; 19 USC 2612

CFR Citation: 19 CFR 12

Legal Deadline: None

Abstract: Amendment reflects the imposition of import restrictions on culturally significant archaeological artifacts from the region of the Niger River Valley of Mali and the Bandiagara Escarpment (Cliff), Mali. These restrictions are being imposed pursuant to an agreement between the United States and Mali which has been entered into under the authority of the Convention on Cultural Property Implementation Act in accordance with the United Nations Educational, Scientific and Cultural Organization Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

Timetable:

Action	Date	FR Cite
Final Action	09/23/97	62 FR 49594
Final Action Effective	09/23/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donnette Rimmer, Attorney Advisor, Intellectual Property Rights Branch, Department of the Treasury, United States Customs Service, Office of Regulations and Rulings, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-6960
Joan Sebanler, Customs Officer, Office of Trade Operations, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-0402

RIN: 1515–AC22

BILLING CODE 4820-02-F

DEPARTMENT OF THE TREASURY (TREAS)
Internal Revenue Service (IRS)

Prerule Stage

2818. • PRIVATE ACTIVITY BOND RULES FOR OUTPUT FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulatory action contains temporary regulations that provide guidance to state and local governments that issue bonds for output facilities. This regulatory action also contains temporary regulations that provide guidance to certain nongovernmental persons that are engaged in the local furnishing of electric energy or gas using facilities financed with state or local government bonds. These temporary regulations reflect changes made by the Tax Reform Act of 1986 and the Small Business Job Protection Act of 1996. The temporary regulations will affect State and local government issuers of obligations and nongovernmental persons engaged in the local furnishing of electric energy or gas after the effective date of these regulations.

Timetable:

Action	Date	FR Cite
Temporary regulations	10/00/97	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: REG-252485-96

Drafting attorney: Allan B. Seller (202) 622-3421.

Reviewing attorney: Michael G. Bailey (202) 622-3900.

Treasury attorney: Linda Schakel (202) 622-1339.

CC:DOM:FI&P

Agency Contact: Allan B. Sellar, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3421
Fax: 202 622-4425

RIN: 1545–AV31

DEPARTMENT OF THE TREASURY (TREAS)
Internal Revenue Service (IRS)

Proposed Rule Stage

2819. DEFINITION OF QUALIFIED RESEARCH AND COMPUTATION OF RESEARCH CREDIT UNDER SECTION 41 OF THE CODE, AFTER 1986, 1989 AND 1993 ACTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; PL 101-239

CFR Citation: 26 CFR 602; 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide rules for excluding research related to internal-use software from eligibility for the research credit and the exceptions to the exclusion.

Timetable:

Action	Date	FR Cite
NPRM	01/02/97	62 FR 81
NPRM Comment Period End	04/22/97	
Hearing	05/13/97	62 FR 81
Second NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-209494-90 (PS-16-90)

Drafting attorney: Robert B. Hanson, Jr. (202) 622-3120.

Reviewing attorney: Christine Ellison (202) 622-3120.

Treasury attorney: Paul Crispino (202) 622-0224.

CC:DOM:P&SI

Agency Contact: Robert B. Hanson, Jr., Attorney, Department of the Treasury, Internal Revenue Service, 1111

Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3120
Fax: 202 622-4743

RIN: 1545–AO51

2820. LOANS TREATED AS DISTRIBUTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 72

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance on the application of rules for determining the income tax treatment to be accorded loans to participants or beneficiaries from qualified employer plans. The loan rules are provided in section 72(p) of the Internal Revenue Code of 1986.

Timetable:

Action	Date	FR Cite
NPRM	12/21/95	60 FR 66233
NPRM Comment Period End	03/20/96	
Hearing	06/28/96	61 FR 20766
Second NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-209476-82 (EE-106-82)

Drafting tax law Specialist: Vernon S. Carter (202) 622-6070.

Reviewing attorney: Alan Tawshunsky (202) 622-6000.

Treasury attorney: William Bortz (202) 622-1352.

CC:EBEO

Agency Contact: Vernon S. Carter, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6070
Fax: 202 622-3912

RIN: 1545–AE41

2821. • TAX TREATMENT OF CAFETERIA PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The temporary regulations provide guidance on the circumstances under which a cafeteria plan participant may revoke an existing election and make a new election during a period of coverage.

Timetable:

Action	Date	FR Cite
Temporary regulations	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-243025-96

Drafting attorney: Sharon Cohen (202) 622-6080.

Reviewing attorney: Harry Beker (202) 622-6080.

Treasury attorney: Mark Hamelburg (202) 622-1341.

CC:EBEO

Agency Contact: Sharon Cohen, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6080
Fax: 202 622-3912

RIN: 1545–AV43

2822. • ABATEMENT OF INTEREST

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The notice of proposed rulemaking contains proposed regulations relating to the abatement of interest attributable to unreasonable errors or delays by an officer or employee of the Internal Revenue Service in performing a ministerial or managerial act.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-209276-87

Drafting attorney: David Auclair (202) 622-4910.

Reviewing attorney: Rochelle Hodes (202) 622-4910.

Treasury attorney: Chris Rizek (202) 622-1338.

CC:DOM:IT&A

Agency Contact: David Auclair, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4910

RIN: 1545–AV32

2823. • PRIVATE ACTIVITY RULES FOR OUTPUT FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 141; 26 CFR 142

Legal Deadline: None

Abstract: Proposed regulations providing special rules for output facilities to determine whether arrangements for purchases of output from an output facility cause bonds to meet the private business tests of section 141(b).

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: REG-110965-97

Drafting attorney: Allan B. Seller (202) 622-3421.

Reviewing attorney: Michael G. Bailey (202) 622-3900.

Treasury attorney: Linda Schakel (202) 622-1339.

CC:DOM:FI&P

Agency Contact: Allan B. Seller, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7870

RIN: 1545–AV46

2824. • PRIVATE ACTIVITY BOND RULES FOR OUTPUT FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 141; 26 CFR 142

Legal Deadline: None

Abstract: This regulatory action contains temporary regulations that provide guidance to state and local governments that issue bonds for output facilities. This regulatory action also contains temporary regulations that provide guidance to certain nongovernmental persons that are engaged in the local furnishings of electric energy or gas using facilities financed with state or local government bonds. These temporary regulations reflect changes made by the Tax Reform Act of 1986 and the Small Business Job Protection Act of 1996. The temporary regulations will affect state and local government issuers of obligations and nongovernmental persons engaged in the local furnishing of electric energy or gas after the effective date of these regulations.

Timetable:

Action	Date	FR Cite
Temporary regulations	10/00/97	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: REG-110965-97

Drafting attorney: Allan B. Seller (202) 622-3421.

Reviewing attorney: Michael G. Bailey (202) 622-3900.

Treasury attorney: Linda Schakel (202) 622-1339.

CC:DOM:FI&P

Agency Contact: Allan B. Seller, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3421

RIN: 1545–AV47

2825. DETERMINATION OF SECTION 30 CREDIT AND SECTION 179A DEDUCTION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 179A; 26 USC 30

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations will assist taxpayers in determining what costs are eligible for the section 30 credit and for the section 179A deduction and how to compute this credit and this deduction.

Timetable:

Action	Date	FR Cite
ANPRM	06/09/93	58 FR 32317
NPRM	02/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: REG-208645-93 (PS-43-93)

Drafting attorney: Winston Douglas (202) 622-3110.

Reviewing attorney: David Haglund (202) 622-3110.

CC:DOM:P&SI

Agency Contact: Winston Douglas, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3110

RIN: 1545–AR66

2826. RULES FOR PROPERTY PRODUCED IN A FARMING BUSINESS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 263A

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The rules provide general rules regarding the application of the uniform capitalization rules to taxpayers engaged in farming.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-208151-91 (IA-65-91)

Drafting attorney: Jan Skelton (202) 622-4970.

Reviewing attorney: Don Barnes (202) 622-4970.

Treasury attorney: Annette Smith (202) 622-0868.

CC:DOM:IT&A

NPRMs were issued in 1987 dealing with 263A. The regulations project was split into several projects. Since substantial changes are being made, another NPRM will be issued.

Agency Contact: Jan Skelton, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4970

RIN: 1545–AQ91

2827. PRODUCTION OF CREATIVE PROPERTY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 263A

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The rules provide general rules regarding the application of the uniform capitalization rules to creative properties.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-208152-91 (IA-66-91)

Drafting attorney: Jan Skelton (202) 622-4970.

Reviewing attorney: Don Barnes (202) 622-4970.

CC:DOM:IT&A

Agency Contact: Jan Skelton, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4970

RIN: 1545–AQ92

2828. CORPORATE INVERSION TRANSACTIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 337

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Treatment of corporate inversion transaction where subsidiary issues disproportionate number of new shares (shares with a value in excess of the value of the parent stock

received by the subsidiary) to the shareholder of the inverted parent, thereby diluting the parent corporation's pre-inversion value.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: REG-209715-94 (CO-35-94)

Drafting attorney: Kirsten L. Simpson (202) 622-7550.

Reviewing attorney: Ken Cohen (202) 622-7790.

Treasury attorney: Rose Williams (202) 622-1788.

CC:DOM:CORP

Agency Contact: Kirsten L. Simpson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-7550

RIN: 1545–AS91

2829. • PURCHASE PRICE ALLOCATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 26 USC 7805; 26 USC 338; 26 USC 1060

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This proposed regulation revises the rules governing purchase price allocations in certain asset acquisitions under section 1060 and deemed asset acquisitions under section 338. They also revise other rules under these section.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Additional Information: REG-107069-97

Drafting attorney: Richard Starke (202) 622-7790.

Reviewing attorney: Victor Penico (202) 622-7790.

Treasury attorney: Kevin Anderson (202) 622-1981.

CC:DOM:CORP

REG-209168-86 (CO-191-82) and REG-209161-86 (CO-119-86) were merged with this project.

Agency Contact: Richard Starke, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7790

RIN: 1545–AV58

2830. SECTION 361 OUTBOUND TRANSFERS OF PROPERTY TO FOREIGN CORPORATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 367

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The income tax regulations under section 367(a) will be amended to reflect the changes made to that section by the Technical and Miscellaneous Corrections Act of 1988. Section 367(a)(5) now provides that a transfer of assets to a foreign corporation in an exchange described in section 361 is subject to section 367(a)(1) unless certain ownership requirements and other conditions are met. The regulations will provide guidance regarding the application of this section. The change in the statute was necessitated by the repeal of "General Utilities."

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-209006-89 (INTL-089-89)

Drafting attorney: Philip Tretiak (202) 622-3860.

Reviewing attorney: Charlie Besecky (202) 622-3850.

CC:INTL

Agency Contact: Philip Tretiak, Attorney-Adviser, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AM97

2831. • WITHDRAWAL OF PROPOSED REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This document withdraws obsolete proposed regulations as part of the President's Regulatory Reinvention Intiative.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-112650-97

Drafting attorney: Robert Basso (202) 622-4940.

CC:DOM:IT&A

Agency Contact: Robert Basso, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AV35

2832. ACCOUNTING FOR LONG-TERM CONTRACTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 26 USC 7805; 26 USC 460

CFR Citation: 26 CFR 1; 26 CFR 301

Legal Deadline: None

Abstract: Section 460 requires a taxpayer to use the percentage-of-completion method of accounting for long-term contracts. The proposed regulations will provide general guidelines for determining whether a manufactured item is "unique" or normally requires more than 12 months to complete. In addition, the proposed regulations will provide general rules for long-term contracts, including special accounting rules for exempt construction contracts.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Additional Information: REG-208156-91 (IA-58-91)

Drafting attorney: Leo F. Nolan II (202) 622-4960.

Reviewing attorney: Robert M. Casey (202) 622-4960.

Treasury attorney: Annette Smith (202) 622-0868.

CC:DOM:IT&A

Agency Contact: Leo F. Nolan II, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4960
Fax: 202 622-6316

RIN: 1545–AQ30

2833. ESCROW FUNDS AND OTHER SIMILAR FUNDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 0468

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Further guidance relating to certain escrow funds and other similar funds.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-209619-93 (IA-17-93)

Drafting attorney: Michael L. Gompertz (202) 622-4910.

Reviewing attorney: Debra Carlisle (202) 622-4910.

Treasury attorney: Kevin Anderson (202) 622-1981.

CC:DOM:IT&A

Agency Contact: Michael L. Gompertz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4910

RIN: 1545–AR82

2834. INVENTORIES BY DEALERS IN SECURITIES SECTION 1.471-5

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation adds effective date to section 1.471-5 to reflect the enactment of IRC section 475.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-209699-94 (FI-19-94)

Drafting attorney: Nicholas G. Bogos (202) 622-3920.

Reviewing attorney: Alan Munro (202) 622-3491.

Treasury attorney: Clarissa Potter (202) 622-0999.

CC:DOM:FI&P

Agency Contact: Nicholas G. Bogos, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3920

RIN: 1545–AS57

2835. MARK TO MARKET FOR SECURITIES DEALERS; APPLICATION OF HELD FOR INVESTMENT EXEMPTION TO CONSOLIDATED GROUPS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 475(e)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Guidance on the application of the held for investment exemption from mark to market treatment in the consolidated group context.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: REG-253307-96

Drafting attorney: Jo Lynn Ricks (202) 622-3411.

Reviewing attorney: Alan Munro & Mike Novey (202) 622-3920.

Treasury attorney: Clarissa Potter (202) 622-0999.

CC:DOM:FI&P

Agency Contact: JoLynn Ricks, Attorney-Adviser, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3411

RIN: 1545–AU87

2836. TAXATION OF GLOBAL TRADING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 864; 26 USC 482; 26 USC 863

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations to improve the taxation of global trading.

Timetable:

Action	Date	FR Cite
ANPRM	08/28/90	55 FR 35152
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-208299-90 (INTL-70-90)

Drafting attorney: Richard Hoge (202) 622-3870.

Reviewing attorney: Paul Epstein (202) 622-3870.

Treasury attorney: Patricia Brown (202) 622-1781.

CC:INTL

Agency Contact: Richard Hoge, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AP01

2837. INCOME TAXATION OF TRUSTS AND ESTATES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 672; 26 USC 673; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules regarding taxation of certain grantor trusts.

Timetable:

Action	Date	FR Cite
NPRM	06/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-209417-86 (PS-108-86)

Drafting attorney: James Quinn (202) 622-3060.

Reviewing attorney: J. Thomas Hines (202) 622-3060.

Treasury attorney: Beth Kaufman (202) 622-1766.

CC:DOM:P&SI

Agency Contact: James Quinn, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3060
Fax: 202 622-4513

RIN: 1545–AJ20

2838. FOREIGN GRANTOR TRUSTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 679

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance to taxpayers concerning the income tax treatment of transfers by U.S. persons to foreign trusts having U.S. beneficiaries. The amendments will conform to changes made by section 1013 of the Tax Reform Act of 1976.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-209038-89 (INTL-243-89)

Drafting attorney: Willard Yates (202) 622-3870.

Reviewing attorney: Elizabeth Karzon (202) 622-3860.

Treasury attorney: David Sutherland (202) 622-1754.

Completed in error in the October 1995 Unified Agenda.

CC:INTL

Agency Contact: Willard Yates, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washignton, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AO75

2839. ADJUSTMENTS FOLLOWING SALES OF PARTNERSHIP INTERESTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 743; 26 USC 751; 26 USC 755

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide guidance with respect to adjustments relating to book/tax disparities when partnership interests are sold.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-209682-94 (PS-2-94)

Drafting attorney: Terri Belanger (202) 622-3080.

Reviewing attorney: Brian M. Blum (202) 622-3070.

Treasury attorney: Seth Green (202) 622-0865.

CC:DOM:P&SI

Agency Contact: Terri Belanger, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3080

RIN: 1545–AS39

2840. SOURCE OF INCOME FROM SALES OF INVENTORY PARTLY FROM SOURCES WITHIN A POSSESSION OF THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 863

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposed regulations would provide rules for determining the source of income for property provided (in whole or in part) in the United States and sold in a possession of the United States, or produced (in whole or in part) in a possession of the United States and sold in the United States, as well as rules for determining the source of income for property purchased in a possession and sold in the United States.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-251985-96

Drafting attorney: Anne Shelburne (202) 622-3880.

Reviewing attorney: Christine Halphen (202) 622-3810.

Treasury attorney: David Sutherland (202) 622-1754.

CC:INTL

Agency Contact: Anne Shelburne, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3880
Fax: 202 622-4476

RIN: 1545–AU79

2841. SOURCE RULES FOR PAYMENTS MADE PURSUANT TO CERTAIN SWAP ARRANGEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 863; 26 USC 7701

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposed regulations would provide rules for determining the source and character of payments made in certain swap transactions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-253560-96

Drafting attorney: Ramon Camacho (202) 622-3870.

Reviewing attorney: Jeffrey Dorfman (202) 622-3870.

Treasury attorney: Patricia A. Brown (202) 622-1781.

CC:INTL

Agency Contact: Ramon Camacho, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AU89

2842. SOURCE RULES FOR PERSONAL PROPERTY SALES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 865

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules under section 865(d) for determining the source of income from sales of personal property. The regulation will set forth rules for sales by U.S. residents and non-residents and specify special rules for depreciable personal property, intangibles, sales connected with an office or other fixed place of business, and sales of a foreign affiliate by a U.S. corporation.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-208278-86 (INTL-946-86)

Drafting attorney: Seth B. Goldstein (202) 622-3850.

Reviewing attorney: Barbara A. Felker (202) 622-3850.

CC:INTL

Agency Contact: Seth B. Goldstein, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AJ83

2843. INCOME TAX—RECIPROCAL EXEMPTIONS FOR CERTAIN TRANSPORTATION INCOME

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 883; 26 USC 872

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation would provide rules with respect to whether a foreign country will be considered to grant a reciprocal Aircraft/Shipping exemption to U.S. corporations for purposes of section 883 of the Code, or to U.S. citizens for purposes of section 872 of the Code.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-208280-86 (INTL-948-86)

Drafting attorney: Patricia A. Bray (202) 622-3840.

Reviewing attorney: Charles Saverude (202) 622-3800.

Treasury attorney: David Sutherland (202) 622-1754.

CC:INTL

Agency Contact: Patricia A. Bray, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AJ57

2844. • GUIDANCE UNDER SUBPART F RELATING TO PARTNERSHIPS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance under subpart F with regard to transactions involving partnerships.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-104537-97

Drafting attorney: Valerie Mark (202) 622-3840.

Reviewing attorney: Maura Sullivan (202) 622-3880.

Treasury attorney: William Morris (202) 622-1779.

CC:INTL

Agency Contact: Valerie Mark, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3840
Fax: 202 622-4408

RIN: 1545–AV11

2845. • EQUITY OPTIONS WITHOUT STANDARD TERMS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 1092

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide guidance about the effect of equity

options without standard terms upon the definition of a qualified covered call.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-104641-97

Drafting attorney: Pamela Lew (202) 622-3950.

Reviewing attorney: Alice M. Bennett (202) 622-3950.

Treasury attorney: Clarissa Potter (202) 622-0999.

CC:DOM:FI&P

Agency Contact: Pamela Lew, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3950
Fax: 202 622-4425

RIN: 1545–AV48

2846. • QUALIFIED ELECTING FUND ELECTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1293; 26 USC 1295

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provide guidance to shareholders of passive foreign investment companies for making timely or retroactive elections under section 1295 to treat the passive foreign investment companies as qualified electing funds.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-209040-88

Drafting attorney: Gayle Novig (202) 622-3840.

Drafting attorney: Judith Cavell Cohen (202) 622-3840.

Reviewing attorney: Philip Garlett (202) 622-3840.

Treasury attorney: Stuart Leblang (202) 622-0851.

CC:INTL

This proposed regulation contains different sections than proposed regulation issued under RIN 1545-AM41 in December 1996.

Agency Contact: Gayle Novig, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3840

RIN: 1545–AV39

2847. • QUALIFIED ELECTING FUND ELECTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1293; 26 USC 1295

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provide guidance to shareholders of passive foreign investment companies for making timely or retroactive elections under section 1295 to treat the passive foreign investment companies as qualified electing funds.

Timetable:

Action	Date	FR Cite
Temporary regulations	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-209040-88

Drafting attorney: Gayle Novig (202) 622-3840.

Drafting attorney: Judith Cavell Cohen (202) 622-3840.

Reviewing attorney: Philip Garlett (202) 622-3840.

Treasury attorney: Stuart Leblang (202) 622-0851.

CC:INTL

This temporary regulation contains the same sections of proposed regulations being issued under RIN 1545-AV39.

Agency Contact: Gayle Novig, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3840

RIN: 1545–AV40

2848. ELECTING SMALL BUSINESS TRUST

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 26 USC 7805; 26 USC 1361; 26 USC 641

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides necessary guidance for defining and treating electing small business trusts which are now eligible shareholders of S corporation stock as provided by the Small Business Job Protection Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	05/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-251701-96

Drafting attorney: Steven R. Schneider (202) 622-3060.

Reviewing attorney: J. Thomas Hines (202) 622-3060.

Treasury attorney: Kevin Anderson (202) 622-1981.

CC:DOM:PS&I

Agency Contact: Steven R. Schneider, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3060
Fax: 202 622-4513

RIN: 1545–AU76

2849. S CORPORATION SUBSIDIARIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 26 USC 1361; 26 USC 1362

CFR Citation: 26 CFR 601

Legal Deadline: None

Abstract: Prior to enactment of the Small Business Job Protection Act of 1996, (SBJPA), S corporations were prohibited from owning 80 percent or more of the stock of another corporation. In addition, an S corporation could not have as a shareholder another corporation. The SBJPA amended the code, allowing S corporations to own 80 percent or more of a C corporation. Furthermore, an S corporation is allowed to own a qualified subchapter S subsidiary. This regulation project interprets section 1308 of the (SBJPA), providing guidance to taxpayers in both situations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: REG-251698-96

Drafting attorney: Deanna Walton (202) 622-3050.

Reviewing attorney: Dianna Miosi (202) 622-3050.

Treasury attorney: Seth Green (202) 622-0865.

CC:DOM:P&SI

Agency Contact: Deanna Walton, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3050
Fax: 202 622-4524

RIN: 1545–AU77

2850. • REGULATIONS UNDER SECTION 1441 REGARDING THE ELECTRONIC TRANSMISSION OF WITHHOLDING CERTIFICATES

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 26 USC 7805; 26 USC 6061; 26 USC 1441

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation pertains to the guidance for the electronic transmission of withholding certificates.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-107872-97

Drafting attorney: Lilo Hester (202) 874-1490.

Reviewing attorney: Christine Halphen (202) 622-3810.

CC:INTL

Agency Contact: Lilo Hester, Attorney-Adviser, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3840
Fax: 202 622-4408

RIN: 1545–AV27

2851. • REGULATIONS UNDER SECTION 1441 REGARDING WITHHOLDING ON SALES OF DEBT OBLIGATIONS BETWEEN INTEREST PAYMENT DATES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1441

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Guidance relating to withholding on sales of debt obligations between interest payment dates.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-114000-97

Drafting attorney: Lilo Hester (202) 622-3840.

Reviewing attorney: Christine Halphen (202) 622-3810.

CC:INTL

Agency Contact: Lilo Hester, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3840

RIN: 1545–AV41

2852. PRIVATE ACTIVITY RULES FOR OUTPUT FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposed regulations providing special rules for output facilities to determine whether arrangements for purchases of output from an output facility cause bonds to meet the private business tests of section 141(b).

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-252485-96

Drafting attorney: Allan Seller (202) 622-3980.

Reviewing attorney: Michael G. Bailey (202) 622-3900.

Treasury attorney: Linda B. Schakel (202) 622-1339.

CC:DOM:FI&P:5

Agency Contact: Allan Seller, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3980
Fax: 202 622-4437

RIN: 1545–AU80

2853. • PURCHASING AND REPORTING

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 3406; 26 USC 7805

CFR Citation: 26 CFR 6041; 26 CFR 3406

Legal Deadline: None

Abstract: These regulations will address the information reporting and backup withholding requirements for purchases made through a purchasing card.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-105298-97

Drafting attorney: Donna Welch (202) 622-4910.

Reviewing attorney: John Coulter, Jr. (202) 622-4910.

CC:DOM:IT&A

Agency Contact: Donna Welch, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4910

RIN: 1545–AV49

2854. • PUBLIC DISCLOSURE OF MATERIAL RELATING TO TAX-EXEMPT ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6104

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The proposed regulations affect tax-exempt organizations, and generally require a tax-exempt organization to make its annual information returns and its application for tax-exemption available for public inspection. In addition, the proposed regulations require tax-exempt organizations to comply with requests made in writing or in person from individuals who seek a copy of those documents.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-246250-96

Drafting attorney: Michael Blumenfeld (202) 622-6070.

Reviewing attorney: Paul Feinberg (202) 622-6000.

Treasury attorney: Catherine E. Livingston (202) 622-1343.

CC:EBEO

Agency Contact: Michael Blumenfeld, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6070
Fax: 202 622-3912

RIN: 1545–AV13

2855. REWARDS FOR INFORMATION RELATING TO VIOLATIONS OF INTERNAL REVENUE LAWS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Issuance of NPRM regulating to rewards for information that leads to detection and punishment of violations of civil and criminal Internal Revenue Laws; regulations to reflect changes to relevant law made by TBOR2.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-252936-96

Drafting attorney: Judith Lintz (202) 622-4940.

Reviewing attorney: Rudolf Planert (202) 622-4940.

Treasury attorney: Chris Rizek (202) 622-1338.

CC:DOM:IT&A

Agency Contact: Judith A. Lintz, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AU85

2856. REWARDS FOR INFORMATION RELATING TO VIOLATIONS OF INTERNAL REVENUE LAWS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Issuance of temporary regulations relating to rewards for information that leads to detection and punishment of violations of civil and criminal Internal Revenue laws; regulations to reflect changes to relevant law made by TBOR2.

Timetable:

Action	Date	FR Cite
Temporary regulations	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-252936-96

Drafting attorney: Judith Lintz (202) 622-4940.

Reviewing attorney: Rudolf Planert (202) 622-4940.

Treasury attorney: Chris Rizek (202) 622-1338.

CC:DOM:IT&A

Agency Contact: Judith A. Lintz, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AU88

2857. TECHNICAL CORRECTIONS FOR CHAPTER 14

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 25

Legal Deadline: None

Abstract: The regulation relates to the special valuation rules of the under sections 2701, 2702, 2703 and 2704 of the Code.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-209611-93 (PS-8-93)

Drafting attorney: Dale Carlton (202) 622-3090.

Reviewing attorney: George Masnik (202) 622-3090.

Treasury attorney: Beth Kaufman (202) 622-1766.

CC:DOM:P&SI

Agency Contact: Dale Carlton, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3090

RIN: 1545–AR49

2858. PASS THROUGH ITEMS OF S CORPORATION TO ITS SHAREHOLDERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation deals with the pass through of items of an S corporation to its shareholders, the character of those items, and the basis limitation on losses and deductions taken into account by the shareholders.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: REG-209446-82 (PS-261-82)

Drafting attorney: Deane Burke (202) 622-3080.

Reviewing attorney: Donna Young (202) 622-3080.

Treasury attorney: Seth Green (202) 622-0865.

CC:DOM:P&SI

Agency Contact: Deane M. Burke, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3080

RIN: 1545–AT52

2859. PROPERTY DISTRIBUTED IN KIND AND TREATMENT OF MULTIPLE TRUSTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1; 26 CFR 643

Legal Deadline: None

Abstract: These regulations will provide rules relating to the tax consequences when property is distributed in kind from a trust or estate, including rules specifying what gain is recognized upon distribution, who recognizes such gain, and what the basis of the distributed property is in the hands of the distributee.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-209371-85 (PS-34-85)

Drafting attorney: Laura Howell (202) 622-3060.

Reviewing attorney: Thomas J. Hines (202) 622-3060.

CC:DOM:P&SI

Agency Contact: Laura Howell, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3060
Fax: 202 622-4513

RIN: 1545–AT68

2860. TO ADD PROVISIONS RELATING TO START-UP EXPENDITURES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance to taxpayers electing to amortize start-up expenditures relating to the creation or acquisition of an active trade or business.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-209373-81 (PS-36-81)

Drafting attorney: David Selig (202) 622-3040.

Reviewing attorney: Walter Woo (202) 622-3040.

Treasury attorney: Paul Crispino (202) 622-0224.

CC:DOM:P&SI

Agency Contact: David Selig, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3040
Fax: 202 622-4524

RIN: 1545–AT71

2861. REPORTING REQUIREMENTS FOR WIDELY HELD FIXED INVESTMENT TRUSTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 671; 26 USC 6034A; 26 USC 7805

CFR Citation: 26 CFR 1; 26 CFR 301

Legal Deadline: None

Abstract: Proposed regulations on the reporting requirements for widely held fixed investment trusts.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-209813-96 (PS-6-96)

Drafting attorney: Faith Colson (202) 622-3060.

Reviewing attorney: H. Grace Kim (202) 622-3060.

Treasury attorney: Paul Crispino (202) 622-0224.

CC:DOM:P&SI

Agency Contact: Faith Colson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3060
Fax: 202 622-4513

RIN: 1545–AU15

2862. PERMITTED ELECTION CHANGES UNDER CAFETERIA PLANS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The notice of proposed rulemaking contains revisions to the Income Tax Regulations (26 CFR part 1) under section 125 of Internal Revenue Code of 1986. These revisions are proposed to clarify Q&A-6 regarding the circumstances under which a

cafeteria plan participant may revoke an existing election and make a new election during a period of coverage.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-243025-96

Drafting paralegal: Catherine Fuller (202) 622-6080.

Reviewing attorney: Harry Beker (202) 622-6080.

CC:EBEO

Agency Contact: Catherine Fuller, Paralegal Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6080
Fax: 202 622-3912

RIN: 1545–AU61

2863. CIVIL CAUSE OF ACTION FOR CERTAIN UNLAWFUL COLLECTION ACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The proposed regulations raise the cap on damages under IRC 7433 from $100,000 to $1,000,000 and provide that if a taxpayer fails to exhaust the administrative remedies available before the Internal Revenue Service, the court may reduce the award of damages.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-251502-96

Drafting attorney: Kevin B. Connelly (202) 622-3640.

Reviewing attorney: Robert A. Miller (202) 622-3640.

CC:EL:GL

Agency Contact: Kevin B. Connelly, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3640

RIN: 1545–AU68

2864. DISCLOSURE OF CERTAIN RETURNS AND RETURN INFORMATION BY OTHER FEDERAL AGENCIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6103

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: These proposed regulations relate to the disclosure of certain returns and return information by Federal agencies other than the Service. The amendments would permit the Service to authorize other Federal agencies to which returns and return information have been disclosed to further disclose such returns and return information to other authorized recipients with the Commissioner's authorization.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-251725-96

Drafting attorney: Julie Schwartz (202) 622-4570.

Reviewing attorney: Joseph J. Urban (202) 622-4570.

Treasury attorney: Chris Rizek (202) 622-1338.

CC:EL:DL

Agency Contact: Julie C. Schwartz, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4570
Fax: 202 622-9888

RIN: 1545–AU83

2865. DISCLOSURE OF CERTAIN RETURNS AND RETURN INFORMATION BY OTHER FEDERAL AGENCIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6103

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: These temporary regulations relate to the disclosure of certain returns and return information by Federal agencies other than the Service. The amendments would permit the Service to authorize other Federal agencies to which returns and return information have been disclosed to further disclose such return information to other authorized recipients with the Commissioner's authorization.

Timetable:

Action	Date	FR Cite
Temporary regulations	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-251725-96

Drafting attorney: Julie Schwartz (202) 622-4570.

Reviewing attorney: Joseph J. Urban (202) 622-4570.

Treasury attorney: Chris Rizek (202) 622-1338.

CC:EL:DL

Agency Contact: Julie Schwartz, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4570

RIN: 1545–AU84

2866. SPECIAL RULES APPLICABLE TO SALES OF DEBT INSTRUMENT BETWEEN RECORD DATES AND THE END OF ACCRUAL PERIODS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provides rules to calculate allocation of interest and amount of sale price when debt instrument is sold between a record date and a payment date (so that seller receives first distribution of interest and principal following sale).

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-242919-96

Drafting attorney: Kenneth Christman (202) 622-3950.

Reviewing attorney: Marshall Feiring (202) 622-3960.

Treasury attorney: Clarissa Potter (202) 622-0999.

CC:DOM:FI&P

Agency Contact: Kenneth Christman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3950

RIN: 1545–AU95

2867. LEGENDING OF REMIC CERTIFICATES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6049

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Rescind requirements that issuers of REMICs and Collateralized Debt Obligations provide certain information related to accrual of original issue discount on face of certificate; possibly will require information to be provided by other means.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-100905-97

Drafting attorney: Kenneth Christman (202) 622-3950.

Reviewing attorney: Marshall Feiring (202) 622-3960.

Treasury attorney: Clarissa Potter (202) 622-0999.

CC:DOM:FI&P

Agency Contact: Kenneth Christman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3950

RIN: 1545–AU96

2868. AGREEMENTS FOR PAYMENT OF TAX LIABILITIES IN INSTALLMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The proposed regulations reflect the amendment of IRC 6159 by section 202 of the Taxpayer Bill of Rights 2, which provides that upon request by a taxpayer the Secretary shall provide an independent review of the termination of an installment agreement.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-100841-97

Drafting attorney: Kevin Connelly (202) 622-3640.

Reviewing attorney: Robert Miller (202) 622-3640.

CC:EL:GL

Agency Contact: Kevin Connelly, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3640

RIN: 1545–AU97

2869. RETURN OF PARTNERSHIP INCOME—SECTION 6031

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: To provide guidance regarding partnership returns, to revise exceptions to partnership filing requirement, especially as it applies to foreign partnerships.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-209322-82

Drafting attorney: Martin Schaffer (202) 622-3080.

Drafting attorney: Christopher Kelley (202) 622-3080.

Reviewing attorney: William O'Shea (202) 622-3070.

Treasury attorney: Seth Green (202) 622-0865.

CC:DOM:P&SI

Agency Contact: Martin Schaffer, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3080

RIN: 1545–AU99

2870. WITHDRAWAL OF NOTICE OF FEDERAL TAX LIEN

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Section 501 of the Taxpayer Bill of Rights 2 amends section 6323 of the Internal Revenue Code to authorize the Secretary to withdraw a notice of federal tax lien in four enumerated circumstances. Section 501 also provides that upon written request by the taxpayer, the Secretary shall make reasonable efforts to notify any credit reporting agencies and any financial institution or creditor identified by the taxpayer of the withdrawal. The regulations set forth the circumstances in which the Secretary may withdraw a notice of lien and procedures for requesting the Secretary to notify creditors of the withdrawal.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-101519-97

Drafting attorney: Kevin Connelly (202) 622-3640.

Reviewing attorney: Robert Miller (202) 622-3640.

CC:EL:GL

Agency Contact: Kevin Connelly, Senior Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3640
Fax: 202 622-3766

RIN: 1545–AV00

2871. RETURN OF LEVIED PROPERTY IN CERTAIN CASES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Section 501(b) of the Taxpayer Bill of Rights 2 amended section 6343 of the Internal Revenue Code to authorize the Secretary to return levied upon property in four enumerated circumstances. The regulations set forth the circumstances in which the Secretary may return property and procedures to implement section 501(b).

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-101520-97

Drafting attorney: Kevin Connelly (202) 622-3640.

Reviewing attorney: Robert Miller (202) 622-3640.

CC:EL:GL

Agency Contact: Kevin Connelly, Senior Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3640
Fax: 202 622-3766

RIN: 1545–AV01

2872. DEPOSITS OF EXCISE TAXES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6302

CFR Citation: 26 CFR 40

Legal Deadline: None

Abstract: Amendment of 26 CFR 40.6302(c)-1 to limit availability of safe harbor based on look-back quarter liability in certain cases.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-102894-97

Drafting attorney: Ruth Hoffman (202) 622-3130.

Reviewing attorney: Richard Kocak (202) 622-3130.

Treasury attorney: John Parcell (202) 622-3130.

CC:DOM:P&SI

Agency Contact: Ruth Hoffman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3130

RIN: 1545–AV02

2873. DEPOSITS OF EXCISE TAXES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6302

CFR Citation: 26 CFR 40

Legal Deadline: None

Abstract: Amendment to 26 CFR 40.6302(c)-1 to limit availability of safe harbor based on look-back quarter liability in certain cases.

Timetable:

Action	Date	FR Cite
Temporary regulations	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-102894-97

Drafting attorney: Ruth Hoffman (202) 622-3130.

Reviewing attorney: Richard Kocak (202) 622-3130.

Treasury attorney: John Parcell (202) 622-3130.

CC:DOM:P&SI

Agency Contact: Ruth Hoffman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3130

RIN: 1545–AV03

2874. • TAXPAYER IDENTIFICATION NUMBERS (TINS) FOR ADOPTED CHILDREN

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6109

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations will establish criteria and procedures for the assignment of Taxpayer Identification Numbers (TINs) to children who are in the process of being adopted.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: REG-103330-97

Drafting attorney: Michael Gompertz (202) 622-4910.

Reviewing attorney: Rochelle Hodes (202) 622-4910.

Treasury attorney: Maura Sullivan.

CC:DOM:IT&A

Agency Contact: Michael L. Gompertz, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4910

RIN: 1545–AV08

2875. • CREDIT FOR INCREASING RESEARCH ACTIVITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 41

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The project is to draft proposed regulations to reflect amendment to section 41 made by the Tax Reform Act of 1986, the Revenue Reconciliation Act of 1989, the Revenue Reconciliation Act of 1993, and the Small Business Job Protection Act of 1996. The proposed regulations will contain new rules for amounts paid to research consortia under section 41(b), the trade or business requirement of section 41(b), the computation of the credit under section 41(c) and (f), the definition of qualified research under section 41(d), and the computation of basic research payments under section 41(e). The proposed amendments also provide certain technical amendments to the regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-105170-97

Drafting attorney: Lisa Shuman (202) 622-3120.

Reviewing attorney: Christine Ellison (202) 622-3120.

Treasury attorney: Paul Crispino (202) 622-0224.

CC:DOM:P&SI

Agency Contact: Lisa Shuman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Anveue NW., Washington, DC 20224
Phone: 202 622-3120
Fax: 202 622-4743

RIN: 1545–AV14

2876. • CERTAIN INVESTMENT INCOME—7704

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7704; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provides guidance on the definition of "qualifying income" for purposes of section 7704.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-105163-97

Drafting attorney: Christopher Kelley (202) 622-3080.

Reviewing attorney: William O'Shea (202) 622-3070.

Treasury attorney: John Rooney (202) 622-1335.

CC:DOM:P&SI

Agency Contact: Christopher Kelley, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3080

RIN: 1545–AV15

2877. • TREATMENT OF ELECTIVE ENTITY CLASSIFICATION CHANGES—7701

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 7701

CFR Citation: 26 CFR 1; 26 CFR 301; 26 CFR 602

Legal Deadline: None

Abstract: This regulation describes the treatment of conversions by election from partnership to corporation and from corporation to partnership.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: REG-105162-97

Drafting attorney: Ann Venings (202) 622-3080.

Reviewing attorney: William P. O'Shea (202) 622-3070.

Treasury attorney: John Rooney (202) 622-1335.

CC:DOM:P&SI

Agency Contact: Ann M. Veninga, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3080

RIN: 1545–AV16

2878. • RECOURSE DEBT AND QUALIFIED NONRECOURSE FINANCING

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 465

CFR Citation: 26 CFR 475

Legal Deadline: None

Abstract: The regulation covers two issues regarding qualified nonrecourse financing under section 465(b)(6). First, whether financing satisfies the nonrecourse requirement under 465(b)(6) when it is recourse to a limited liability company? Second, if financing is secured by real property and other property used in the activity of holding real property, can the financing be qualified nonrecourse financing under section 465(b)(6)?

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: REG-105160-97

Drafting attorney: Jeffrey Erickson (202) 622-3070.

Reviewing attorney: Bill O'Shea (202) 622-3070.

Treasury attorney: John Rooney (202) 622-1335.

CC:DOM:P&SI

Agency Contact: Jeffrey A. Erickson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3070

RIN: 1545–AV17

2879. • CASH ADVANCES OF COMPENSATION TO SERVICE PROVIDERS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 451

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations provide rules for distinguishing cash advances of compensation, which are includible in the gross income of the service provider at the time the cash advances are received, from loans, which are excludible from the income of the service provider. The regulations provide that cash advances will be includible in the service provider's gross income even if they must be repaid upon the happening of a condition subsequent. Further, the regulations provide a method for service providers to change the method of accounting for cash advances, and provide that any section 481(a) adjustment that results from the change in method may be included in gross income by the service provider over a 4-year spread period if the service provider complies with this method.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-103332-97

Drafting attorney: Edward C. Schwartz (202) 622-4960.

Reviewing attorney: William A. Jackson (202) 622-4960.

Treasury attorney: Louise Epstein (202) 622-1778.

CC:DOM:IT&A

Agency Contact: Edward C. Schwartz, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4960

RIN: 1545–AV21

2880. • IMPORTED RECYCLED HALONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 52

Legal Deadline: None

Abstract: Regulations relating to exemption from tax imposed by section 4681 for imported recycled halons under section 4682(d)(1).

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: REG-107193-97

Drafting attorney: Susan Athy (202) 622-3130.

Reviewing attorney: Ruth Hoffman (202) 622-3130.

Treasury attorney: John Parcell (202) 622-2578.

CC:DOM:P&SI

Agency Contact: Susan Athy, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3130

RIN: 1545–AV24

2881. • ELECTRONIC TIP REPORTING

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: The proposed regulations provide rules authorizing employers to establish electronic systems for use by their employees in reporting tips to the employer.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-104691-97

Drafting attorney: Karin Loverud (202) 622-8060.

Reviewing attorney: Paul Feinberg (202) 622-6000.

Treasury attorney: Kevin Knopf (202) 622-2329.

CC:EBEO

Agency Contact: Karin Loverud, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6060

RIN: 1545–AV28

2882. • TEMPORARY REGULATIONS REGARDING THE CAPITALIZATION OF COSTS OF PRODUCING PROPERTY IN A FARMING BUSINESS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: Other, Statutory, August 1, 1997.
1.263A-4T regs may sunset on 08/01/97.

Abstract: These regulations provide guidance with respect to the application of section 263A to property produced in a farming business.

Timetable:

Action	Date	FR Cite
Temporary regulations	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-208151-91

Drafting attorney: Jan Skelton (202) 622-4970.

Reviewing attorney: Don Barnes (202) 622-4970.

Treasury attorney: Annette Smith (202) 622-0868.

CC:DOM:IT&A

We have a RIN (1545-AQ91) for the 1.263A-4 regulations. We are issuing proposed and temporary regulations. We will use the RIN that we have for the proposed regulations. We need another RIN for the temporary regulations.

Agency Contact: Jan Skelton, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4970

RIN: 1545–AV37

2883. • TBOR 2 CHANGES TO SECTION 7805(B)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Section 1101 of the Taxpayer Bill of Rights 2 Pub. L. No. 104-168 amended section 7805(b) of the Internal Revenue Code. As amended, section 7805(b) limits the ability to issue retroactive regulations for statutory provisions enacted on or after July 30, 1996. The regulations would implement changes made by Section 1101 of Pub. L. No. 104-168 to section 7805(b) of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Additional Information: REG-105146-97

Drafting attorney: Cheryl Peterson (202) 622-7790.

Reviewing attorney: John Geracimos (202) 622-7790.

CC:DOM:CORP

Agency Contact: Cheryl Peterson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7790

RIN: 1545–AV42

2884. • MARITAL DEDUCTION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 721

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Valuation of property passing to surviving spouse.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-114663-97

Drafting attorney: Deborah Ryan (202) 622-3090.

Reviewing attorney: Katherine Mellody (202) 622-3090.

Treasury attorney: Beth Kaufman (202) 622-1776.

CC:DOM:P&SI

Agency Contact: Deborah Ryan, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3090

RIN: 1545–AV45

2885. • HIPAA NONDISCRIMINATION RULES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 9833

CFR Citation: 26 CFR 54

Legal Deadline: None

Abstract: These regulations provide guidance to group health plans and to the employers maintaining them regarding the prohibition on discriminating against individuals on the basis of a health status related factor in eligibility or premiums.

Timetable:

Action	Date	FR Cite
NPRM	06/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-109707-97

Drafting attorney: Russell Weinheimer (202) 622-4695.

Reviewing attorney: Alan Tawshunsky (202) 622-6000.

Treasury attorney: Bill Bortz (202) 622-1352.

CC:EBEO

These regulations are related to temporary regulations previously published in the Federal Register on April 8, 1997 (REG-253578-96, RIN 1545-AV05).

Agency Contact: Russell Weinheimer, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4695

RIN: 1545–AV51

2886. • HIPAA NEWBORNS' AND MOTHERS' HEALTH PROTECTION ACT

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 9833

CFR Citation: 26 CFR 54

Legal Deadline: None

Abstract: These regulations provide guidance to group health plans with maternity benefits and to the employers maintaining such plans relating to the obligation to provide benefits for a minimum length of hospital stay following the birth of a child.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-109708-97

Drafting attorney: Russell Weinheimer (202) 622-4695.

Reviewing attorney: Alan Tawshunsky (202) 622-6000.

Treasury attorney: Kevin Knopf (202) 622-2329.

CC:EBEO

These regulations are related to temporary regulations previously published in the Federal Register on April 8, 1997 (REG-253578-96, RIN 1545-AV05).

Agency Contact: Russell Weinheimer, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4695

RIN: 1545–AV52

2887. • HIPAA MENTAL HEALTH PARITY

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 9833

CFR Citation: 26 CFR 54

Legal Deadline: None

Abstract: These regulations provide guidance to group health plans with mental health benefits and to the employers maintaining such plans regarding the statutory restrictions on the imposition by such plans of lifetime or annual dollar limits on mental health benefits.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-109704-97

Drafting attorney: Russell weinheimer (202) 622-4695.

Reviewing attorney: Alan Tawshunsky (202) 622-6000.

Treasury attorney: Kevin Knopf (202) 622-2329.

CC:EBEO

These regulations are related to temporary regulations previously published in the Federal Register on April 8, 1997 (REG-253578-96, RIN 1545-AV05).

Agency Contact: Russell Weinheimer, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4695

RIN: 1545–AV53

2888. • QUALIFIED LONG-TERM CARE SERVICES AND INSURANCE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 213; 26 USC 7702

CFR Citation: 26 CFR 1

Legal Deadline: None

TREAS—IRS

Proposed Rule Stage

Abstract: This project will provide guidance relating to the excludability from income of proceeds received under a qualified long-term care insurance contract and the deductibility of qualified long-term care expenses.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-109333-97

Drafting attorney: Katherine A. Kiss (202) 622-4920.

Reviewing attorney: Michael J. Montemurro (202) 622-7269.

Treasury attorney: William Bortz (202) 622-1352.

CC:DOM:IT&A

Agency Contact: Katherine A. Kiss, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4920

RIN: 1545–AV56

2889. TAXPAYER ASSISTANCE ORDERS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7811

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: This proposed regulation provides that only the Commissioner, Deputy Commissioner or Taxpayer Advocate can modify or rescind a taxpayer assistance order under section 7811. A written explanation to the Taxpayer Advocate is required. The terms of a taxpayer assistance order have been expanded to allow the ordering of any action permitted by law as well as requiring action with a specific period. The changes to the existing regulations are necessary because action 7811 was modified by Taxpayer Bill of Rights 2 (TBOR), P.L. No. 104-134.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: REG-209808-96

Drafting attorney: Robert Miller (202) 622-3640.

Reviewing attorney: Joyce E. Bauchner (202) 622-3600.

CC:EL:GL

Agency Contact: Robert Miller, Technical Assistant, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3640

RIN: 1545–AU01

2890. • TREATMENT OF CONDUIT FINANCING USING FAST PAY PREFERRED STOCK

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 7701

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will recharacterize multiple-party financing transactions involving conduit entities that issue fast-pay preferred stock (or other economically self-amortizing securities). To prevent the avoidance of tax, the regulations will recharacterize these conduit financing transactions, as transactions directly between the holders of stock in the conduit entity and the obligors of the assets held by the conduit entity. These regulations will be applicable to taxable years ending on or after February 27, 1997.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-104072-97

Drafting attorney: Jonathon Zelnik (202) 622-3940.

Reviewing attorney: Marshall Feiring (202) 622-3930.

Treasury attorney: Clarissa Potter (202) 622-0999.

Treasury attorney: Seth Green (202) 622-0865.

CC:DOM:FI&P

Agency Contact: Jonathon Zelnik, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3940
Fax: 202 622-4425

RIN: 1545–AV07

2891. • USER FEES

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 9701

CFR Citation: 26 CFR 300

Legal Deadline: None

Abstract: User fees under 26 CFR part 300 are changed.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: REG-111941-97

Drafting attorney: Ruth Hoffman (202) 622-3130.

Reviewing attorney: Phil Howard (202) 622-3000.

Treasury attorney: John Parcell (202) 622-2578.

CC:DOM:P&SI

Agency Contact: Ruth Hoffman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3130

RIN: 1545–AV34

DEPARTMENT OF THE TREASURY (TREAS)
Internal Revenue Service (IRS)

Final Rule Stage

2892. STATEMENT OF PROCEDURAL RULES—PART 601.702 APPENDIX B - INTERNAL REVENUE SERVICE - 31 CFR PART 1

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 5 USC 301

CFR Citation: 26 CFR 601; 31 CFR 1

Legal Deadline: Other, Statutory, October 2, 1997.
Most provisions of the Electronic FOIA Amendments take effect 180 days from enactments, i.e. 3/31/97. Sections 7 & 8 take effect 1 year after the date of enactment, i.e. 10/2/97.

Abstract: The document contains final rules amending the Statement of Procedural Rules (SPR) (26 CFR 601.702). Some amendments reflect procedures heretofore only made available to the public in the Internal Revenue Manual, which is maintained in Internal Revenue Service reading rooms. The SPR also reflects changes in the title and nomenclature and changes of addresses to be contacted for Freedom of Information requests. The rules affect persons requesting records from the Internal Revenue Service. The document also contains proposed rules amending 31 CFR part 1 appendix B, Disclosure of Records, Freedom of Information Act, Internal Revenue Service Rules, to reflect changes mandated by the Electronic Freedom of Information Act Amendments of 1996, Pub. L. No. 104-231 (October 2, 1996).

Timetable:

Action	Date	FR Cite
Statement of Procedural Rules	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-209791-95 (DL-41-95)

Drafting attorney: Charles B. Christopher (202) 622-4580.

CC:EL:DL

Agency Contact: Charles B. Christopher, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4580
Fax: 202 622-6279

RIN: 1545–AR99

2893. AVAILABLE UNIT RULE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 0042

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance regarding the available unit rule of section 42(g)(2)(D) of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
NPRM	05/30/96	61 FR 27036
NPRM Comment Period End	08/27/96	
Final Action	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-209776-95 (PS-29-95)

Drafting attorney: David Selig (202) 622-3040.

Reviewing attorney: Susan Reaman (202) 622-3040.

CC:DOM:P&SI

Agency Contact: David Selig, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3040
Fax: 202 622-4524

RIN: 1545–AT60

2894. ARBITRAGE RESTRICTIONS ON TAX EXEMPT BONDS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 148

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations amend the Income tax Regulations (26 CFR Part 1) by providing and clarifying rules relating to establishing fair market value of non purpose investments under section 148. These revisions include additions to the existing regulations under section 1.148-5 (d) and (e) providing (1) a solicitation for a guaranteed investment contract will be rebuttably presumed to be bona fide if certain requirements are met, (2) a rebuttable presumption for establishing fair market value for Treasury obligations purchased other than directly from the United States Treasury and (3) a special rule to determine qualified administrative costs for Treasury obligations purchased other than directly from the United States Treasury.

Timetable:

Action	Date	FR Cite
NPRM	06/27/96	61 FR 33405
NPRM Comment Period End	09/25/96	
Hearing	10/24/96	61 FR 33405
Final Action	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Tribal

Additional Information: REG-110586-97

Drafting attorney: David White (202) 622-3980.

Reviewing attorney: Michael G. Bailey (202) 622-4438.

CC:DOM:FI&P

REG-209836-96 (FI-28-96) was inadvertently closed. It was reopened as REG-110586-97.

Agency Contact: David White, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20024
Phone: 202 622-3980
Fax: 202 622-4437

RIN: 1545–AU39

2895. SECTION 5F.163-1(B)(2)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 165

CFR Citation: 26 CFR 5f

Legal Deadline: None

Abstract: This regulation project will finalize all outstanding proposed regulations under section 1.163-1(b)(2).

Timetable:

Action	Date	FR Cite
NPRM	01/21/93	58 FR 5316
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-208245-90 (INTL-115-90)

Drafting attorney: Carl M. Cooper (202) 622-3840.

Reviewing attorney: Christine Halphen (202) 622-3810.

CC:INTL

Agency Contact: Carl M. Cooper, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AP33

2896. DEMOLITION OF STRUCTURES DEFINITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 280B

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provides a definition of the term "Structure" for purposes of section 280B of the Code.

Timetable:

Action	Date	FR Cite
NPRM	06/20/96	61 FR 31473
NPRM Comment Period End	09/18/96	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-209641-93 (PS-39-93)

Drafting attorney: Bernard Harvey (202) 622-3110.

Reviewing attorney: Peter Friedman (202) 622-3110.

CC:DOM:P&SI

Agency Contact: Bernard Harvey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3110
Fax: 202 622-4524

RIN: 1545–AR63

2897. CERTAIN ASSET TRANSFERS TO A TAX-EXEMPT ENTITY

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 337

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The Tax Reform Act of 1986 (the "Act") repealed the last vestiges of the General Utilities doctrine ("GU repeal"), and corporations must recognize gain, in most cases, upon the distribution of appreciated property to their shareholders. The Act granted the Secretary authority to promulgate regulations necessary to carry out the purposes of the Act. This project will develop regulations to prevent the circumvention of GU repeal by conversion of for-profit corporations to tax-exempt entities and by other transactions involving tax-exempt entities.

Timetable:

Action	Date	FR Cite
NPRM	01/15/97	62 FR 2064
NPRM Comment Period End	04/15/97	
Hearing	05/06/97	62 FR 2064
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Additional Information: REG-209121-89 (CO-14-89)

Drafting attorney: Stephen R. Cleary (202) 622-7530.

Reviewing attorney: Mark S. Jennings (202) 622-7750.

Treasury attorney: Rose Williams (202) 622-1788.

CC:DOM:CORP

Agency Contact: Stephen R. Cleary, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-7530

RIN: 1545–AN21

2898. INCOME TAX—PART 1—STOCK TRANSFER RULES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 367

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The extent to which a foreign corporation shall be considered to be a corporation under section 367 in connection with an exchange described in sections 332, 351, 354, 355, 356 or 361.

Timetable:

Action	Date	FR Cite
NPRM	08/26/91	56 FR 41993
NPRM Comment Period End	10/25/91	
Hearing	11/22/91	56 FR 41992
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: REG-209035-86 (INTL-178-86)

Drafting attorney: Irwin Halpern (202) 622-3850.

Reviewing attorney: Charles Besecky (202) 622-3860.

Treasury attorney: Phil West (202) 622-1762.

CC:INTL

Agency Contact: Irwin Halpern, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AI32

2899. AMENDMENT OF THE INCOME TAX REGULATIONS UNDER SECTION 367 OF THE CODE (TRANSFERS TO FOREIGN CORPORATIONS) TO REFLECT SECTION 131 OF THE TAX REFORM ACT OF 1984 (P.L. 98-369)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 367

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The Income Tax Regulations under section 367 will be amended to reflect the changes made to that section by the Tax Reform Act of 1984. Section 367 now provides generally that a foreign corporation will not be considered to be a corporation, for purposes of certain nonrecognition provisions of the Code, upon the transfer of property to such corporation by a U.S. person. The statute provides certain exceptions to that rule, exemptions to those exceptions, and special rules applicable to certain specified transfers. The regulations will provide guidance concerning the applicability of the general rule and its exceptions and special rules, including guidance concerning transfers of assets for use in the active conduct of a trade or business, stock transfers, transfers of intangible assets, and transfers of branch operations that have operated at a loss.

Timetable:

Action	Date	FR Cite
NPRM	05/16/86	51 FR 17990
Final Action	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-209042-86 (INTL-610-86)

Drafting attorney: Philip Tretiak (202) 622-3860.

Reviewing attorney: Charlie Besecky (202) 622-3860.

CC:INTL

Agency Contact: Philip Tretiak, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AK74

2900. TRANSFERS OF STOCK OR SECURITIES BY U.S. PERSONS TO FOREIGN CORPORATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 367

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The final regulations will replace the temporary income tax regulations under section 1.367(a)-1T(c)(2) and section 1.367(a)-3T. They provide guidance on the application of section 367(a) to transfers of stock or securities by U.S. persons to foreign corporations. This regulation has been broken out of a larger regulation project (listed under REG-209042-86 (INTL-610-86), RIN 1545-AK74) that will amend the remainder of the temporary income tax regulations under section 367(a).

Timetable:

Action	Date	FR Cite
NPRM	08/26/91	56 FR 41993
Hearing	11/22/91	56 FR 41992
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-208165-91 (INTL-54-91)

Drafting attorney: Philip Tretiak (202) 622-3860.

Reviewing attorney: Charlie Besecky (202) 622-3860.

CC:INTL

Agency Contact: Philip Tretiak, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AP61

2901. CONTINUITY OF INTEREST REQUIREMENT IN CORPORATE REORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide that former target corporation shareholders who receive acquiring corporation stock in a tax free reorganization may, in general, sell that stock to third parties without violating the continuity of interest requirement.

Timetable:

Action	Date	FR Cite
NPRM	12/23/96	61 FR 67512
NPRM Comment Period End	03/24/97	
Hearing	05/07/97	61 FR 67512
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-252231-96

Drafting attorney: Phoebe Bennett (202) 622-7750.

Reviewing attorney: Nelson F. Crouch (202) 622-7750.

Treasury attorney: Kevin Anderson (202) 622-1981.

CC:DOM:CORP

Agency Contact: Phoebe Bennett, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7750

RIN: 1545–AU72

2902. INSTALLMENT OBLIGATIONS RECEIVED FROM LIQUIDATING CORPORATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 0453

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations would provide rules for reporting gain in respect of installment obligations received as liquidating distributions from corporations under a plan of complete liquidation. Additionally includes rules regarding the allocation of consideration received in a multiple asset sale if a disposition of any one of the properties would qualify for installment sale treatment.

Timetable:

Action	Date	FR Cite
NPRM	01/13/84	49 FR 1742
NPRM Comment Period End	03/16/84	
Second NPRM	01/22/97	62 FR 3244
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-209332-80 (IA-184-80)

Drafting attorney: George Wright (202) 622-4950.

Reviewing attorney: Doug Fahey (202) 622-4950.

Treasury attorney: Kevin Anderson (202) 622-1981.

CC:DOM:IT&A

Agency Contact: George Wright, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4950

RIN: 1545–AB43

2903. SECTION 467 RENTAL AGREEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 467; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations amend the Income Tax Regulations relating to section 467 of the Internal Revenue

Code in general, section 467 requires parties to certain rental agreements to accrue rent and interest in accordance with section 467. The regulations provide guidance regarding the applicability of section 467 and the amount of rent and interest required to be accrued under section 467.

Timetable:

Action	Date	FR Cite
NPRM	06/03/96	61 FR 27834
NPRM Comment Period End	09/03/96	
Hearing	09/25/96	61 FR 27834
Final Action	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-209350-84 (IA-292-84)

Drafting attorney: Forest Boone (202) 622-4960.

Reviewing attorney: Steve Toomey (202) 622-4960.

Treasury attorney: Kevin Anderson (202) 622-1981.

CC:DOM:IT&A

Agency Contact: Forest Boone, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4960

RIN: 1545–AU11

2904. MARK-TO-MARKET UPON DISPOSITION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 475

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations to address the relationship between mark-to-market accounting and accrual of stated interest, discount and premium, and between mark-to-market accounting and the tax treatment of bad debts. Regulations also provide securities are to be marked to market upon disposition by a dealer and the exemption from marking to market in certain securitization transactions.

Timetable:

Action	Date	FR Cite
NPRM	01/04/95	60 FR 397
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-209724-94 (FI-42-94)

Drafting attorney: Robert Williams (202) 622-3960.

Reviewing attorney: Michael Novey (202) 622-3900.

Treasury attorney: Clarissa Potter (202) 622-0999.

CC:DOM:FI&P

Sections 1.475(a)-3 finalized in TD 8700. Sections 1.475(b)-4 finalized in TD 8700. Sections 1.475(c)-2 finalized in TD 8700.

Agency Contact: Robert Williams, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3960
Fax: 202 622-4425

RIN: 1545–AS85

2905. DETERMINATION OF EARNED PREMIUMS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 832

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations will address the treatment of certain items for purposes of determining gross written premiums and unearned premiums under section 832(b)(4), including advance premiums. Retrospective premium adjustments, and the determination of written premiums with respect to certain policies with variable exposures.

Timetable:

Action	Date	FR Cite
NPRM	01/02/97	62 FR 72
Hearing	04/30/97	62 FR 72
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-209839-96 (FI-31-96)

Drafting attorney: Gary Geisler (202) 622-3970.

Reviewing attorney: Stephen Hoos (202) 622-3970.

Treasury attorney: Louise Epstein (202) 622-1778.

CC:DOM:FI&P

Agency Contact: Gary Geisler, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-5970

RIN: 1545–AU60

2906. CLASSIFICATION OF CERTAIN TRANSACTIONS INVOLVING COMPUTER PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Tax treatment of certain transactions involving the transfer of computer programs. Regulations will provide rules for classifying such transactions as sales, licenses, leases, or the provision of services or of know-how under certain international provisions of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
NPRM	11/13/96	61 FR 58152
Hearing	03/19/97	61 FR 58152
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-251520-96

Drafting attorney: Anne Shelburne (202) 622-3880.

Reviewing attorney: Steven Musher (202) 622-3880.

Treasury attorney: Bruce Cohen (202) 622-0871.

CC:INTL

Agency Contact: Anne Shelburne, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3880
Fax: 202 622-4408

RIN: 1545–AU70

2907. ALLOCATION AND APPORTIONMENT OF INTEREST EXPENSE AND CERTAIN OTHER EXPENSES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 864

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations providing rules for the allocation and apportionment of interest expense and certain other expenses for purposes of the foreign tax credit rules and certain other international tax provisions.

Timetable:

Action	Date	FR Cite
NPRM	03/12/91	56 FR 10397
Hearing	06/21/91	56 FR 21640
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-208267-86 (INTL-952-86)

Drafting attorney: David F. Bergkuist (202) 622-3860.

Reviewing attorney: Charles Saverude (202) 622-3800.

Treasury attorney: Stuart Leblang (202) 622-1779.

CC:INTL

Agency Contact: David F. Bergkuist, Attorney-Advisors, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AM20

2908. ALLOCATION OF LOSS ON DISPOSITION OF STOCK

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 0865

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules for determining the source of loss realized on the sale of stock.

Timetable:

Action	Date	FR Cite
NPRM	07/08/96	61 FR 35696
NPRM Comment Period End	10/07/96	
Final Action	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-209750-95 (INTL-004-95)

Drafting attorney: Seth Goldstein (202) 622-3850.

Reviewing attorney: Barbara Felker (202) 622-3850.

Treasury attorney: Bruce Cohen (202) 622-0871.

CC:INTL

Agency Contact: Seth Goldstein, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
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Fax: 202 622-4476

RIN: 1545–AT41

2909. APPLICATION OF SECTION 904 TO INCOME SUBJECT TO SEPARATE LIMITATIONS AND SECTION 864(E) AFFILIATED GROUP EXPENSE ALLOCATION RULES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 904; 26 USC 864; 26 USC 954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations modify proposed income tax regulations relating to affiliated group expense allocation rules of section 864(e)(5) and (6). In addition, the regulations propose changes to the section 904(d) final foreign tax credit limitation regulations. The final regulations also amend final regulations under section 954.

Timetable:

Action	Date	FR Cite
NPRM	05/14/92	57 FR 20860
Final Action	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: REG-209527-92 (INTL-001-92)

Drafting attorney: Caren S. Shein (202) 622-3850.

Reviewing attorney: Barbara A. Felker (202) 622-3850.

CC:INTL

Agency Contact: Caren S. Shein, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3850
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RIN: 1545–AQ43

2910. INCOME TAX—TAXPAYER'S OBLIGATION TO FILE A NOTICE OF REDETERMINATION OF FOREIGN TAX AND CIVIL PENALTIES FOR FAILURE TO FILE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 905; 26 USC 6689

CFR Citation: 26 CFR 1; 26 CFR 301; 26 CFR 602

Legal Deadline: None

Abstract: The regulations will establish procedures for taxpayers by which they must notify the Service of a change in foreign tax liability for a taxable year for which they claimed the foreign tax credit. The regulations provide special rules for redetermining the taxpayer's United States tax liability when the dollar value of the foreign currency fluctuates between the time for which the foreign tax credit is originally claimed and the time for which the foreign tax credit is redetermined. In addition, the regulations set forth deadlines for compliance with the notification requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/23/88	53 FR 23650
Final Action	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-209020-86 (INTL-061-86)

Drafting attorney: Caren Shein (202) 622-3850.

Reviewing attorney: Barbara A. Felker (202) 622-3850.

CC:INTL

Agency Contact: Caren Shein, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AC09

2911. SECTION 905(B) REGULATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 601 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 905

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will address the substantiation of foreign tax credits.

Timetable:

Action	Date	FR Cite
NPRM	01/13/97	62 FR 1700
NPRM Comment Period End	04/14/97	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-208288-90 (INTL-067-90)

Drafting attorney: Joan Thomsen (202) 622-3840.

Reviewing attorney: Phyllis E. Marcus (202) 622-3840.

Completed in error in the October 1995 Unified Agenda.

CC:INTL

Agency Contact: Joan Thomsen, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AP36

2912. • REMOVAL OF TEMPORARY REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This document removes obsolete temporary regulations as part of the President's Regulatory Reinvention Initiative.

Timetable:

Action	Date	FR Cite
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-112848-97

Drafting attorney: Robert Basso (202) 622-4940.

CC:DOM:IT&A

Agency Contact: Robert Basso, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AV36

2913. INSURANCE INCOME

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 953

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation defines related person insurance income; and sets forth rules regarding the amount of related person insurance income to be included in gross income. In addition, the regulation defines insurance income under section 953(a), prescribes rules of allocation and apportionment of deductions, and prescribes rules for the interaction of subchapter L and subchapter N.

Timetable:

Action	Date	FR Cite
NPRM	04/17/91	56 FR 15540
Hearing	06/21/91	56 FR 15570
Final Action	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-208289-86 (INTL-939-86)

Drafting attorney: Valerie A. Mark (202) 622-3840.

Reviewing attorney: Philip Garlett (202) 622-3880.

Treasury attorney: Mary Gillmarten (202) 622-0726.

CC:INTL

Agency Contact: Valerie A. Mark, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3840
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RIN: 1545–AJ70

2914. RULES FOR A QBU CHANGING FROM THE PROFIT-AND-LOSS METHOD TO DASTM

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules for a qualified business unit ("QBU") changing from the profit and loss method of accounting to DASTM and also rules for any adjustments required due to the change in method.

Timetable:

Action	Date	FR Cite
NPRM	01/05/93	58 FR 300
Final Action	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-209572-92 (INTL-045-92)

Drafting attorney: Howard Weiner (202) 622-3870.

Reviewing attorney: Jeffrey Dorfman (202) 622-3870.

Treasury attorney: Bruce Cohen (202) 622-0871.

CC:INTL

Agency Contact: Howard Weiner, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AR28

2915. CHANGE FROM THE DOLLAR APPROXIMATE SEPARATE TRANSACTIONS METHOD (DASTM) TO THE PROFIT-AND-LOSS METHOD OF ACCOUNTING

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 985

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide rules for qualified business units ("QBU's") whose currency is no longer hyperinflationary including any necessary adjustment.

Timetable:

Action	Date	FR Cite
NPRM	07/25/94	59 FR 37733
Final Action	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-209727-92 (INTL-066-92)

Drafting attorney: Howard Weiner (202) 622-3870.

Reviewing attorney: Jeffrey Dorfman (202) 622-3870.

Treasury attorney: Bruce Cohen (202) 622-0871.

CC:INTL

Agency Contact: Howard Weiner, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AS68

2916. CERTAIN PAYMENTS MADE PURSUANT TO A SECURITIES LENDING TRANSACTION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 861; 26 USC 871; 26 USC 881; 26 USC 894; 26 USC 1058; 26 USC 1441

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations concern the source, character and income tax treaty treatment of substitute interest and dividend payments made pursuant to a transfer of securities described in section 1058(a) or a substantially similar transaction between a U.S. person and a foreign person. To determine the source and character of cross-border substitute payments, a substitute payment will be treated as interest or dividend income received with respect to the transferred security. Where a treaty looks to U.S. law to define a payment subject to a withholding tax, a substitute payment will be treated as interest or dividend income with respect to the transferred security.

Timetable:

Action	Date	FR Cite
NPRM	01/09/92	57 FR 860
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-209006-89 (INTL-106-89)

Drafting attorney: Ramon Camacho (202) 622-3870.

Reviewing attorney: Paul Epstein (202) 622-3870.

Treasury attorney: Patricia A. Brown (202) 622-1781.

CC:INTL

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Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AP71

2917. QUALIFIED SMALL BUSINESS STOCK

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 26 USC 7805; 26 USC 1202

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Section 1202(c) does not treat stock as qualified small business stock if the corporation has made certain purchases of its own stock. This regulation establishes exceptions for de minimis purchases and for purchases in connection with termination of services, death or disability or mental incompetency.

Timetable:

Action	Date	FR Cite
NPRM	06/06/96	61 FR 28821
NPRM Comment Period End	09/04/96	
Hearing	10/02/96	61 FR 28821
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-209706-94 (IA-26-94)

Drafting attorney: Catherine Probofsky (202) 622-4930.

Reviewing attorney: Christopher Kane (202) 622-4930.

Treasury attorney: John Parcell (202) 622-2578.

CC:DOM:IT&A

Agency Contact: Catherine Probofsky, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4930

RIN: 1545–AU34

2918. PARTNERSHIPS AND DEPRECIATION RECAPTURE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance on how partnerships shall allocate depreciation recapture income.

Timetable:

Action	Date	FR Cite
NPRM	12/12/96	61 FR 65371
NPRM Comment Period End	03/06/97	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-209762-95 (PS-15-95)

Drafting attorney: Daniel J. Coburn (202) 622-3050.

Reviewing attorney: Deborah H. Harrington (202) 622-3050.

Treasury attorney: John Rooney (202) 622-1335.

CC:DOM:P&SI

Agency Contact: Daniel J. Coburn, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3050

RIN: 1545–AT32

2919. INFLATION-INDEXED SECURITIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1275; 26 USC 1286

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance on the tax treatment of inflation indexed-bonds.

Timetable:

Action	Date	FR Cite
NPRM	01/06/97	62 FR 694
Hearing	04/30/97	62 FR 694
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-242996-96

Drafting attorney: Jeffrey W. Maddrey (202) 622-3930.

Reviewing attorney: William E. Blanchard (202) 622-3950.

Treasury attorney: Clarissa Potter (202) 622-0999.

CC:DOM:FI&P

Agency Contact: Jeffrey Maddrey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3940

RIN: 1545–AU45

2920. QEF SHAREHOLDER ELECTION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1295

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation relates to shareholder elections under section 1295.

Timetable:

Action	Date	FR Cite
NPRM	12/24/96	61 FR 67752
NPRM Comment Period End	04/17/97	
Final Action	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-209040-88 (INTL-579-88)

Drafting attorney: Gayle Novig & Judith Cohen (202) 622-3880.

Reviewing attorney: Philip Garlett (202) 622-3880.

Treasury attorney: Stuart Leblang (202) 622-0851.

CC:INTL

Agency Contact: Gayle Novig, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3880
Fax: 202 622-4476

RIN: 1545–AM41

2921. SECTION 1441 FINAL REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1441; 26 USC 3401

CFR Citation: 26 CFR 1; 26 CFR 31; 26 CFR 35; 26 CFR 301

Legal Deadline: None

Abstract: Regulations under section 1441 and information reporting.

Timetable:

Action	Date	FR Cite
NPRM	04/22/96	61 FR 17614
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-242282-96

Drafting attorney: Lilo Hester (202) 622-3840.

Reviewing attorney: Christine Halphen (202) 622-3810.

Treasury attorney: Ann Fisher (202) 622-1775 &

Phil West (202) 622-1762.

CC:INTL

These regulations were published in proposed format on April 22, 1996 under INTL-62-90 (RIN 1545-AO27), INTL-32-93 (RIN 1545-AR90), and INTL-52-94 (RIN 1545-AT00), and as a final regulations (TD 8664) under INTL-52-96 (RIN 1545-AL99). The old INTL numbers, as well as their corresponding RIN numbers were closed in the previous agenda.

Agency Contact: Lilo Hester, Assistant Chief Counsel, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AU43

2922. • CONSOLIDATED RETURNS—LIMITATIONS ON THE USE OF CERTAIN LOSSES AND CREDITS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 1502; 26 USC 7805

CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: None

Abstract: This document contains temporary amendments to the consolidated return regulations. The amendments govern the use of tax credits of a consolidated group and its members.

Timetable:

Action	Date	FR Cite
Temporary regulations	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-104062-97

Drafting attorney: David Madden (202) 622-7550.

Reviewing attorney: Charles Whedbee (202) 622-7550.

Treasury attorney: Seth Green (202) 622-0865.

CC:DOM:CORP

Agency Contact: Diana Fulton, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7550

RIN: 1545–AV30

2923. SALE OF RESIDENCE FROM QUALIFIED PERSONAL RESIDENCE TRUST

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 2702

CFR Citation: 26 CFR 25

Legal Deadline: None

Abstract: The regulations provide additional rules for qualification as a qualified personal residence trust.

Timetable:

Action	Date	FR Cite
NPRM	04/16/96	61 FR 16823
Hearing	06/24/96	61 FR 16823
Final Action	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-209811-96 (PS-4-96)

Drafting attorney: Dale Carlton (202) 622-3090.

Reviewing attorney: George Masnik (202) 622-3090.

Treasury attorney: Beth Kaufman (202) 622-1766.

CC:DOM:P&SI

Agency Contact: Dale Carlton, Senior Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224

Phone: 202 622-3090

RIN: 1545–AU12

2924. FICA TAXATION OF CERTAIN DEFERRED COMPENSATION AND SALARY REDUCTION ARRANGEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6302

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: Regulations would provide rules concerning the treatment of certain deferred compensation and salary reduction arrangements under section 3121 (v) and section 3306 (r) of the Internal Revenue Code of 1954, thereby giving needed guidance to the public on how the Internal Revenue Service intends to interpret those sections of the Code.

Timetable:

Action	Date	FR Cite
NPRM	01/25/96	61 FR 2194
NPRM Comment Period End	04/24/96	
Hearing	06/24/96	61 FR 20767
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-209484-87 (EE-142-87)

Reviewing attorney: Alan Tawshunsky (202) 622-6000.

Treasury attorney: William Bortz (202) 622-1352.

CC:EBEO

Agency Contact: Alan Tawshunsky, Special Counsel, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6000

RIN: 1545–AF97

2925. FUTA TAXATION OF AMOUNTS UNDER EMPLOYEE BENEFIT PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 3306

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: Guidance of FUTA tax of nonqualified deferred compensation.

Timetable:

Action	Date	FR Cite
NPRM	01/25/96	61 FR 2214
NPRM Comment Period End	04/24/96	
Hearing	06/24/96	61 FR 2214
Final Action	03/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-209807-95 (EE-55-95)

Reviewing attorney: Alan Tawshunsky (202) 622-6000.

Treasury attorney: William Bortz (202) 622-1352.

CC:EBEO

Agency Contact: Alan Tawshunsky, Special Counsel, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6000

RIN: 1545–AT99

2926. DIESEL FUEL EXCISE TAX; DYE INJECTION SYSTEMS AND MARKERS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 4082

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: Diesel fuel excise tax; rules relating to the use of dye injection systems and markers.

Timetable:

Action	Date	FR Cite
NPRM	03/14/96	61 FR 10490
NPRM Comment Period End	06/12/96	
• Hearing	06/20/96	61 FR 10490
Final Action	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-209753-95 (PS-6-95)

Drafting attorney: Frank K. Boland (202) 622-3130.

Reviewing attorney: Richard A. Kocak (202) 622-3130.

Treasury attorney: John Parcell (202) 622-2578.

CC:DOM:P&SI

Agency Contact: Frank K. Boland, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3130
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RIN: 1545–AT18

2927. DIESEL FUEL TAX—1996 AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 4082

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: Application of the diesel fuel tax in certain states exempt from dyeing requirements after 9/30/96.

Timetable:

Action	Date	FR Cite
NPRM	12/17/96	61 FR 66246
Final Action	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-247678-96

Drafting attorney: Frank Boland (202) 622-3130.

Reviewing attorney: Dick Kocak (202) 622-3130.

Treasury attorney: John Parcell (202) 622-2578.

CC:DOM:P&SI

Agency Contact: Frank Boland, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3130

RIN: 1545–AU53

2928. TIME FOR FILING FORM 4720 RETURN

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6071

CFR Citation: 26 CFR 53

Legal Deadline: None

Abstract: Amend 26 CFR 53.6071-1 to specify the filing dates for the form used by disqualified persons and organization managers liable for 26 USC 4958 excise tax.

Timetable:

Action	Date	FR Cite
NPRM	01/02/97	62 FR 84
Final Action	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: REG-102548-97

Drafting Attorney: Phyllis Haney (202) 622-4290.

Reviewing Attorney: Paul Accettura (202) 622-6070.

Treasury Attorney: Catherine Livingston (202) 622-1343.

CC:EBEO

The project number for this regulation has changed from REG-247862-96 to REG-102548-97. There was only one project number for both a final regulation under 53.6011 and a temporary regulation under 53.6071 and an NPRM by cross-reference to the temporary regulation. The final and temporary were together in TD 8705 RIN 1545-AU65, and the NPRM by cross-reference had RIN 1545-AU66. Because of the final regulation under 6011, the original project number was closed as 1/2/97, the date of the publication of TD 8705 in the Federal Register. A new project number (REG-102548-97) was opened to finalize the temporary and NPRM. RIN 1545-AU66 will be used for this final regulation under 53.6071.

Agency Contact: Phyllis Haney, General Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4290

RIN: 1545–AU66

2929. VOICE SIGNATURES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6061; 26 USC 6012

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will enable the Service to accept a voice signature in lieu of a handwritten signature. This will allow the Service to test the feasibility of voice signatures for one year with certain taxpayers who live in the geographic area of the Cincinnati district office. The regulations also address the effect of a taxpayer using a voice signature.

Timetable:

Action	Date	FR Cite
NPRM	01/13/93	58 FR 4125
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-209789-95 (IA-39-95)

Drafting attorney: Beverly A. Baughman (202) 622-4940.

Reviewing attorney: Rudolf Planert (202) 622-4940.

CC:DOM:IT&A

Agency Contact: Beverly A. Baughman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AQ68

2930. 6114 REPORTING REQUIREMENTS WAIVED

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6114

CFR Citation: 26 CFR 301; 26 CFR 602

Legal Deadline: None

Abstract: The regulation will provide that reporting under section 6114 is required in situations where the residency of an individual is determined under a treaty and apart from the Code.

Timetable:

Action	Date	FR Cite
NPRM	04/27/92	57 FR 15272
NPRM Comment Period End	06/26/92	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: REG-208214-90 (INTL-121-90)

Drafting attorney: David A. Juster (202) 622-3850.

Reviewing attorney: Barbara Felker (202) 622-3850.

Treasury attorney: P. Ann Fisher (202) 622-1755.

This regulation project has been split with REG-209720-94 (INTL-40-94).

CC:INTL

Agency Contact: David A. Juster, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AP35

2931. DEFINITION OF REASONABLE BASIS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 6662

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulation relates to the accuracy related penalty. This regulation provides a definition of reasonable basis and provides corrections to the final regulations relating to the accuracy-related penalty.

Timetable:

Action	Date	FR Cite
NPRM	11/12/96	61 FR 58020
NPRM Comment Period End	02/04/97	
Hearing	02/25/97	61 FR 58020
Final Action	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: REG-209792-95 (IA-42-95)

Drafting attorney: Beverly Baughman (202) 622-4940.

Reviewing attorney: Norlyn Miller (202) 622-4940.

CC:DOM:IT&A

Agency Contact: Beverly Baughman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4940
Fax: 202 622-6316

RIN: 1545–AU38

2932. TREATMENT OF OBLIGATION-SHIFTING TRANSACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 7701

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations addressing financing transactions issued under the authority granted by section 7701(l). The regulations are necessary to determine whether and how stripping transactions should be recharacterized under section 7701(l).

Timetable:

Action	Date	FR Cite
NPRM	12/27/96	61 FR 68175
NPRM Comment Period End	04/08/97	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-209817-96 (FI-10-96)

Drafting attorney: Jonathan Zelnik (202) 622-3940.

Reviewing attorney: Bill Coppersmith (202) 622-3930.

Treasury attorney: Kevin Anderson (202) 622-1991.

Treasury attorney: Seth Green (202) 622-0865.

CC:DOM:FI&P

Agency Contact: Jonathan Zelnik, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3940
Fax: 202 622-4425

RIN: 1545–AU19

2933. RESIDENCE OF TRUSTS AND ESTATES—7701

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 7701

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: These regulations will provide guidance for the application of the terms "domestic trust" and "foreign trust" for federal tax purposes.

Timetable:

Action	Date	FR Cite
NPRM	06/05/97	62 FR 30796
NPRM Comment Period End	08/04/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-251703-96

Drafting attorney: James A. Quinn (202) 622-3060.

Drafting attorney: Eliana Dolgoff (202) 622-3060.

Reviewing attorney: J. Thomas Hines (202) 622-3060.

Treasury attorney: Beth Kaufman (202) 622-1766.

CC:DOM:P&SI

Agency Contact: James A. Quinn, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3060
Fax: 202 622-4513

RIN: 1545–AU74

2934. DISCLAIMER OF INTERESTS AND POWER

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 25

Legal Deadline: None

Abstract: These regulations contain amendments regarding the disclaimer of jointly owned property.

Timetable:

Action	Date	FR Cite
NPRM	08/14/96	61 FR 43197
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-208216-91 (PS-2-91)

Drafting attorney: Dale Carlton (202) 622-3090.

Reviewing attorney: George Masnik (202) 622-3090.

Treasury attorney: Beth Kaufman (202) 622-1766.

CC:DOM:P&SI

Agency Contact: Dale Carlton, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3090

RIN: 1545–AR52

2935. DEBT INSTRUMENTS WITH OID; ANNUITY CONTRACTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1275

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations determine which annuity contracts issued by banks are debt instruments for purposes of OID regs.

Timetable:

Action	Date	FR Cite
NPRM	04/07/95	60 FR 17731
NPRM Comment Period End	07/18/95	
Hearing	08/08/95	60 FR 17731
Final Action	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-209713-94 (FI-33-94)

Drafting attorney: Jeffrey Maddrey (202) 622-3940.

Reviewing attorney: Mike Novey (202) 622-3900.

CC:DOM:FI&P

Agency Contact: Jeff Maddrey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3940
Fax: 202 622-4425

RIN: 1545–AS76

2936. INTANGIBLE AMORTIZATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; PL 103-66

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations under section 197 and section 167 relating to the amortization of goodwill and certain other intangibles.

Timetable:

Action	Date	FR Cite
ANPRM	06/24/94	59 FR 32670
ANPRM Comment Period End	08/23/94	
NPRM	01/16/97	62 FR 2336
Hearing	05/15/97	62 FR 2336
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-209709-94 (PS-29-94)

Drafting attorney: John Huffman (202) 622-3110.

Reviewing attorney: Susan Reaman (202) 622-3110.

Treasury attorney: John Parcell (202) 622-2578.

CC:DOM:P&SI

Agency Contact: John Huffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3110

RIN: 1545–AS77

2937. EFFECTIVE DATE OF TEMPORARY BACKUP WITHHOLDING REGULATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 31; 26 CFR 35

Legal Deadline: None

Abstract: To provide effective date for temporary regulations on backup withholding.

Timetable:

Action	Date	FR Cite
NPRM	12/21/95	60 FR 66243
NPRM Comment Period End	03/20/96	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: REG-209781-95 (IA-33-95)

Drafting attorney: Renay France (202) 622-4910.

Reviewing attorney: John Coulter (202) 622-4910.

Treasury attorney: Phil West (202) 622-1782.

CC:DOM:IT&A

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3065

RIN: 1545–AT77

2938. MODIFICATION OF BAD DEBTS AND DEALER ASSIGNMENTS OF NOTIONAL PRINCIPAL CONTRACTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance to taxpayers that modify the terms of a debt instrument after deducting an amount for partial worthlessness.

Timetable:

Action	Date	FR Cite
NPRM	06/26/96	61 FR 32728
NPRM Comment Period End	09/23/96	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-209743-94 (FI-59-94)

Drafting attorney: Craig Wojay (202) 622-3018.

Reviewing attorney: Alvin J. Kraft (202) 622-3920.

CC:DOM:FI&P

Agency Contact: Craig Wojay, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3018
Fax: 202 622-4425

RIN: 1545–AU06

2939. MAGNETIC MEDIA FILING REQUIREMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301; 26 CFR 1

Legal Deadline: Final, Statutory, October 10, 1999.
Section 7805(e) provides that any temporary regulation shall expire 3 years after the date of issuance.

Abstract: This document amends regulations relating to the filing requirements for information returns on magnetic media or in other machine - readable form under 6011(e) of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
NPRM	08/27/96	61 FR 33396
NPRM Comment Period End	09/25/96	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-209798-95 (FI-48-95)

Drafting attorney: Jeffrey W. Maddrey (202) 622-3940.

Reviewing attorney: William E. Blanchard (202) 622-3970.

Treasury attorney: Clarissa Potter (202) 622-0999.

2940. BOND PREMIUM AMORTIZATION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 171

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project updates the section 171 regulations and incorporates changes made by the 1986 Act (Requiring premium to be amortized on constant yield method) and by 1988 Act (providing premium is an offset to income not a deduction).

Timetable:

Action	Date	FR Cite
NPRM	10/10/96	61 FR 53161
Final Action	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-209803-95 (IA-52-95)

Drafting attorney: Donna Welch (202) 622-4910.

Reviewing attorney: John McGreevy (202) 622-4910.

Treasury attorney: Annette Smith (202) 622-0868.

CC:DOM:IT&A

Agency Contact: Donna Welch, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4910

RIN: 1545–AU08

CC:DOM:FI&P

Agency Contact: Jeffrey W. Maddrey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3940

RIN: 1545–AU09

2941. DEFINITION OF LIMITED PARTNER FOR SELF-EMPLOYMENT TAX PURPOSES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation defines which partners in a partnership will be treated as limited partners for purposes of section 1402(a)(13) of the Code.

Timetable:

Action	Date	FR Cite
NPRM	01/13/97	62 FR 1702
Hearing	05/21/97	62 FR 1702
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-209824-96 (PS-17-96)

Drafting attorney: Robert Honigman (202) 622-3050.

Reviewing attorney: Diana K. Miosi (202) 622-3050.

CC:DOM:P&SI

Agency Contact: Robert Honigman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3050

RIN: 1545–AU24

2942. ESTATE AND GIFT TAX REGULATION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 20

Legal Deadline: None

Abstract: This regulation relates to the final estate tax marital deduction regulations that were published on March 1, 1994, in the Federal Register (59 FR 9642). The changes are made to conform the final estate tax regulations to recent court decisions in Estate of Clayton v Commissioner 97 T.C. 327 (1991), rev'd 976 F. 2d 1986 (5th Cir. 1992), Estate of Roberston v Commissioner, 98 T.C. 678 (1992), rev'd 15 F. 3d 779 (8th Cir. 1994), Estate of Spencer v Commissioner, T.C. Memo 1992-579, rev'd, 43 F. 3d 228 (6th Cir. 1995) and Estate of Clack v Commissioner, 106 T.C. 131 (1996).

Timetable:

Action	Date	FR Cite
NPRM	02/18/97	62 FR 7188
Hearing	06/03/97	62 FR 7188
Final Action	11/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-209830-96 (PS-23-96)

Drafting attorney: Susan B. Hurwitz (202) 622-3090.

Reviewing attorney: Katherine A. Mellody (202) 622-3090.

Treasury attorney: Beth Kaufman (202) 622-1766.

CC:DOM:P&SI

Agency Contact: Susan Hurwitz, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3090

RIN: 1545–AU27

2943. SECTION 468A REVISED SCHEDULES OF RULING AMOUNTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation changes the regulations under section 468A relating to requests for schedules of ruling amounts. Specifically, the proposed regulations would ease the burden on electing taxpayers by expanding the scope and availability of schedules of ruling amounts based on a formula or method.

Timetable:

Action	Date	FR Cite
NPRM	12/23/96	61 FR 67510
NPRM Comment Period End	03/24/97	
Hearing	05/13/97	61 FR 67510
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-209828-96 (PS-21-96)

Drafting attorney: Peter Friedman (202) 622-3110.

Reviewing attorney: Charles Ramsey (202) 622-3110.

Treasury attorney: John Parcell (202) 622-2578.

CC:DOM:P&SI

Agency Contact: Peter Friedman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3110
Fax: 202 622-4779

RIN: 1545–AU28

2944. EMPOWERMENT ZONE EMPLOYMENT CREDIT

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1396; 26 USC 1397

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will answer questions that have been asked about the applicable period for determining whether the employee satisfies the requirement of working in the zone.

Timetable:

Action	Date	FR Cite
NPRM	12/16/96	61 FR 66000
NPRM Comment Period End	03/17/97	
Hearing	05/07/97	61 FR 66000
Final Action	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-106306-97

Drafting attorney: Robert Wheeler (202) 622-6060.

Reviewing attorney: Mark Schwimmer (202) 622-6060.

Treasury attorney: Val Strehlow (202) 622-0869.

CC:EBEO

REG-209834-96 (EE-27-96) was advertently closed. It was reopened as REG-106306-97.

Agency Contact: Robert G. Wheeler, General Attorney (Tax), Department of

the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Room 5203, Washington, DC 20224
Phone: 202 622-6060
Fax: 202 622-4617

RIN: 1545–AU30

2945. EXTENSIONS OF TIME TO MAKE ELECTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: These regulations provide the standards the Commissioner will use to grant taxpayers extensions of time to make certain elections.

Timetable:

Action	Date	FR Cite
NPRM	08/27/96	61 FR 33408
NPRM Comment Period End	09/25/96	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-209837-96 (IA-29-96)

Drafting attorney: Robert Testoff (202) 622-7277.

Reviewing attorney: Eric Pleat (202) 622-4970.

Treasury attorney: Annette Smith (202) 622-0868.

CC:DOM:IT&A

Agency Contact: Robert Testoff, Counsel to the Assistant Chief Counsel, (IT&A), Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7277

RIN: 1545–AU42

2946. TREATMENT OF WARRANTS AS SECURITIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations would reverse existing final regulations and generally permit stock rights and stock warrants to be received without the recognition of gain or loss in connection with certain reorganizations and stock distributions qualifying under sections 368 or 355 of the Internal Revenue Code of 1986.

Timetable:

Action	Date	FR Cite
NPRM	12/23/96	61 FR 67508
NPRM Comment Period End	03/25/97	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-249619-96

Drafting attorney: Michael Danbury (202) 622-7750.

Reviewing attorney: David P. Madden (202) 622-7550.

Treasury attorney: Seth M. Green (202) 622-1788.

CC:DOM:CORP

Agency Contact: Michael Danbury, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7750

RIN: 1545–AU67

2947. TAX ATTRIBUTE REDUCTION

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 108; 26 USC 1017

CFR Citation: 26 CFR 1; 26 CFR 301

Legal Deadline: None

Abstract: The proposed regulations provide ordering rules for the reduction of bases of property under sections 108 and 1017 of the Internal Revenue Code of 1986. The regulations will affect certain taxpayers that exclude discharge of indebtedness from gross income under section 108.

Timetable:

Action	Date	FR Cite
NPRM	01/07/97	62 FR 955
Hearing	05/29/97	62 FR 12582
Final Action	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Additional Information: REG-208172-91

Drafting attorney: Sharon Hall (202) 622-4930.

Reviewing attorney: Christopher F. Kane (202) 622-4930.

Reviewing attorney: Linda Kroening (202) 622-8248.

Treasury attorney: Seth Green (202) 622-0865.

CC:DOM:IT&A

Agency Contact: Sharon Hall, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4930
Fax: 202 622-6316

RIN: 1545–AU71

2948. TARGET ASSET AND STOCK DROPS FOLLOWING REORGANIZATION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Under prescribed conditions, the proposed regulations allow the acquiring corporation to transfer acquired assets to partnerships and successively transfer acquired assets or stock to subsidiaries without violating the requirements of continuity of interest and continuity of business enterprise.

Timetable:

Action	Date	FR Cite
NPRM	01/03/97	62 FR 361
Hearing	05/07/97	62 FR 361
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-252233-96

Drafting attorney: Marlene Peake Oppenheim (202) 622-7750.

Reviewing attorney: Nelson F. Crouch (202) 622-7740.

Treasury attorney: Rose Williams (202) 622-1788.

CC:DOM:CORP

Agency Contact: Marlene Peake Oppenheim, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7750

RIN: 1545–AU73

2949. SECTION 42(D)(5) FEDERAL GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations describes the effect that section 42(d)(5) has on certain rental assistance payments made under section 42(g)(2)(B)(i).

Timetable:

Action	Date	FR Cite
NPRM	01/27/97	62 FR 3848
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-254394-96

Drafting attorney: Christopher J. Wilson (202) 622-3040.

Reviewing attorney: Susan Reaman (202) 622-3040.

Treasury attorney: Linda Schakel (202) 622-1339.

CC:DOM:P&SI

Agency Contact: Christopher J. Wilson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3040

RIN: 1545–AU92

2950. • TAXPAYER IDENTIFICATION NUMBERS (TINS) FOR ADOPTED CHILDREN

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6109

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations will establish criteria and procedures for the assignment of Taxpayer Identification Numbers (TINs) to children who are in the process of being adopted.

Timetable:

Action	Date	FR Cite
Temporary regulations	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: REG-103330-97

Drafting attorney: Michael Gompertz (202) 622-4910.

Reviewing attorney: Rochelle Hodes (202) 622-4910.

Treasury attorney: Maura Sullivan.

CC:DOM:IT&A

Agency Contact: Michael L. Gompertz, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4910

RIN: 1545–AV09

2951. • REGULATIONS UNDER SECTIONS 871, 881, AND 894 REGARDING PAYMENTS TO PARTNERSHIPS, AND OTHER TRANSPARENT ARRANGEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 871; 26 USC 881; 26 USC 894

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Guidance for imposing tax liability on foreign persons deriving US source income through partnerships or other transparent arrangements.

Timetable:

Action	Date	FR Cite
NPRM	07/02/97	62 FR 35755
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-104893-97

Drafting attorney: Lilo Hester (202) 622-3860.

Reviewing attorney: Elizabeth Karzon (202) 622-3860.

Treasury attorney: Stuart Leblang (202) 622-1755.

CC:INTL

Agency Contact: Lilo Hester, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3880

RIN: 1545–AV10

2952. • PROPOSED REGULATIONS RESPECTING THE ADOPTION OR CHANGE OF ACCOUNTING METHOD

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 301; 26 USC 552

CFR Citation: 26 CFR 1; 26 CFR 601

Legal Deadline: None

Abstract: The time period for a taxpayer to file its application to change an accounting method is to be modified.

Timetable:

Action	Date	FR Cite
NPRM	05/15/97	62 FR 26755
NPRM Comment Period End	08/13/97	
Final Action	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: REG-105299-97

Drafting attorney: Cheryl Ossekey (202) 622-4970.

Reviewing attorney: Robert Testoff (202) 622-4800.

Treasury attorney: Annette Smith (202) 622-0868.

CC:DOM:IT&A

Agency Contact: Cheryl Lynn Ossekey, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4970
Fax: 202 622-6316

RIN: 1545–AV20

DEPARTMENT OF THE TREASURY (TREAS)
Internal Revenue Service (IRS)

Long-Term Actions

2953. DISABLED ACCESS CREDIT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Mark Pitzer
Phone: 202 622-3110
Fax: 202 622-4524

RIN: 1545–AT72

2954. SECTION 59(E); ELECTION FOR QUALIFIED COSTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert B. Hanson, Jr.
Phone: 202 622-3120

RIN: 1545–AU40

2955. SECTION 79, TABLE I, UPDATE

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Betty Clary
Phone: 202 622-6070

RIN: 1545–AN54

2956. THE TREATMENT OF ACCELERATED DEATH BENEFITS UNDER SECTIONS 101, 7702 AND 7702A OF THE INTERNAL REVENUE CODE

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/15/92	57 FR 59319
NPRM Comment Period End	02/26/93	57 FR 59324
Hearing	03/19/93	57 FR 59324
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ann H. Logan
Phone: 202 622-3970
Fax: 202 622-4451

RIN: 1545–AQ70

2957. EXCLUSION FROM INCOME OF CERTAIN COST-SHARING PAYMENTS UNDER GOVERNMENT PROGRAMS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	05/21/81	46 FR 27723
NPRM Comment Period End	07/20/81	
Hearing	12/01/81	46 FR 50808
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: A. Michael Santoro
Phone: 202 622-3120

RIN: 1545–AT73

2958. DEFINITION OF "PRIVATE ACTIVITY BONDS"

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/30/94	59 FR 67658
NPRM Comment Period End	05/01/95	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Rebecca Harrigal
Phone: 202 622-3980
Fax: 202 622-4437

RIN: 1545–AU98

2959. CONTINUATION COVERAGE REQUIREMENTS OF GROUP HEALTH PLANS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1; 26 CFR 54

Timetable:

Action	Date	FR Cite
NPRM	06/15/87	52 FR 22716
NPRM Comment Period End	08/14/87	
Hearing	11/04/87	52 FR 22716
Second NPRM	12/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Russell Weinheimer
Phone: 202 622-6060

RIN: 1545–AI93

2960. QUALIFIED RESIDENCE INTEREST

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon L. Hall
Phone: 202 622-4930

RIN: 1545–AL67

2961. EARNINGS STRIPPING PAYMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	08/18/91	56 FR 27907
Hearing	09/25/91	56 FR 27927
Final Action	12/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jacob Feldman
Phone: 202 622-3870

TREAS—IRS

Long-Term Actions

Fax: 202 622-4476

RIN: 1545–AO24

2962. CHANGES IN USE UNDER SECTION 168(I)(5)

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bernard P. Harvey
Phone: 202 622-3110

RIN: 1545–AJ38

2963. FOREIGN TAXPAYERS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	03/30/87	52 FR 10118
NPRM Comment Period End	05/29/87	
Hearing	12/08/87	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeffery G. Mitchell
Phone: 202 622-4970

RIN: 1545–AQ93

2964. SUBSTANTIATION OF EXPENSES—RECEIPT THRESHOLD

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	03/25/97	62 FR 14051
NPRM Comment Period End	06/23/97	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donna Crisali
Phone: 202 622-4920
Fax: 202 622-6316

RIN: 1545–AT97

2965. GOLDEN PARACHUTE PAYMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	05/05/89	54 FR 19390
NPRM Comment Period End	07/05/89	
Hearing	11/21/89	54 FR 39548
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Misner
Phone: 202 622-6060

RIN: 1545–AH49

2966. GUIDANCE IN NOTICE 89-37, WHICH TREATS THE RECEIPT OF A CORPORATE PARTNER'S STOCK BY THE CORPORATE PARTNER AS A CIRCUMVENTION OF GENERAL UTILITIES REPEAL

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/15/92	57 FR 59324
NPRM Comment Period End	01/20/93	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Keith E. Stanley
Phone: 202 622-7530

RIN: 1545–AP52

2967. TREATMENT OF SECTION 355 DISTRIBUTION BY US CORPORATIONS TO FOREIGN PERSONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	08/14/96	61 FR 42217
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Philip L. Tretiak
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AU22

2968. CARRYOVERS OF METHODS OF ACCOUNTING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cheryl Lynn Oesekey
Phone: 202 622-4970

RIN: 1545–AT38

2969. REGULATIONS UNDER SECTION 382

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	06/27/96	61 FR 33391
NPRM Comment Period End	09/26/96	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Fulton
Phone: 202 622-7550

RIN: 1545–AU33

2970. INCOME TAX—DEDUCTION FOR CERTAIN FOREIGN DEFERRED COMPENSATION PLANS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	05/07/93	58 FR 27219
NPRM Comment Period End	05/07/93	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robin Ehrenberg
Phone: 202 622-6080

RIN: 1545–AD81

2971. ALLOCATION OF ACCRUED BENEFITS BETWEEN EMPLOYER AND EMPLOYEE CONTRIBUTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/22/95	60 FR 66532
NPRM Comment Period End	03/21/96	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Janet Laufer
Phone: 202 622-6060
Fax: 202 622-4617

RIN: 1545–AT82

2972. REVISING THE DEFINITION OF THE FULL FUNDING LIMITATION FOR PURPOSES OF THE MINIMUM FUNDING REQUIREMENT FOR PENSION PLANS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Marshall
Phone: 202 622-6030

RIN: 1545–AL53

2973. DEFINITION OF "HIGHLY COMPENSATED EMPLOYEE"

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	02/19/88	53 FR 4999
NPRM Comment Period End	04/19/88	
Partially Closed by TD 8546	08/27/94	59 FR 32911

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Patricia McDermott
Phone: 202 622-6030

RIN: 1545–AQ74

2974. VALUATION OF PLAN DISTRIBUTION

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	04/05/95	60 FR 17286
NPRM Comment Period End	07/05/95	
Hearing	07/25/95	60 FR 17286

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Linda Marshall
Phone: 202 622-6030

RIN: 1545–AT27

2975. TREATMENT OF FUNDED WELFARE BENEFIT PLANS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	07/03/85	50 FR 27456
Temporary regulations	07/03/85	50 FR 27427
NPRM Comment Period End	09/03/85	50 FR 27456

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Janet Laufer
Phone: 202 622-6060

RIN: 1545–AG14

2976. HYBRID INSTRUMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan Munro
Phone: 202 622-3920
Fax: 202 622-4425

RIN: 1545–AR13

2977. GUIDANCE ON WHAT CONSTITUTES AN INTEREST OTHER THAN THAT OF A CREDITOR

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeffrey Erickson
Phone: 202 622-3080

RIN: 1545–AO32

2978. GUIDANCE ON SECTION 468

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Brenda M. Stewart
Phone: 202 622-3120

RIN: 1545–AT59

2979. APPLICATION OF PASSIVE ACTIVITY LOSS AND CREDIT LIMITATIONS TO TRUSTS, ESTATES, AND THEIR BENEFICIARIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Katherine Mellody
Phone: 202 622-3090

RIN: 1545–AN62

2980. LIMITATIONS ON PASSIVE ACTIVITY LOSSES AND CREDITS—SELF-CHARGED ITEMS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	04/05/91	56 FR 14034
Hearing	09/06/91	56 FR 14040

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ann Veninga
Phone: 202 622-3080
Fax: 202 622-4524

RIN: 1545–AN64

2981. DEFINITION OF AN ITEM FOR LIFO

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeffery G. Mitchell
Phone: 202 622-4970

RIN: 1545–AT39

2982. INTERCOMPANY TRANSFER PRICING FOR SERVICES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lisa G. Sams
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AR32

2983. • SECTION 501(C)(4) REGULATION CHANGES RE: TBOR2

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 501

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide guidance regarding the private investment prohibition applicable to section 501(c)(4) organizations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-102318-97

Drafting attorney: Cynthia Morton (202) 622-6070.

Reviewing attorney: Paul Accettura (202) 622-6070.

Reviewing attorney: Paul Feinberg (202) 622-6000.

Treasury attorney: Catherine Livingston (202) 622-1343.

CC:EBEO

Agency Contact: Cynthia Morton, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6070

RIN: 1545–AV57

2984. • QUALIFIED STATE TUITION PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 529

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide guidance regarding certain reporting requirements and transition rules applicable to qualified state tuition programs (QSTPs). QSTPs must satisfy requirements relating to contributions, refunds, and maintenance of separate accounts for each designated beneficiary in the program. In addition, QSTPs must prohibit investment direction, the use of any interest in the program as security for a loan, excess contributions. The regulations also provide guidance concerning these requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: REG-106177-97

Drafting attorney: Monica Rosenbaum (202) 622-6070.

Reviewing attorney: James Brokaw (202) 622-6070.

Reviewing attorney: Paul Feinberg (202) 622-6000.

Treasury attorney: Catherine Livingston (202) 622-1343.

Treasury attorney: Clarissa Potter (202) 622-0999.

CC:EBEO

Agency Contact: Monica Rosenbaum, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6070

RIN: 1545–AV18

2985. INBOUND GRANTOR TRUSTS WITH FOREIGN GRANTORS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	06/05/97	62 FR 30785
NPRM Comment Period End	08/04/97	
Final Action	11/00/99	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Grace Fleeman
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AU90

2986. GUIDANCE REGARDING CHARITABLE REMAINDER TRUST

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	04/18/97	62 FR 19072

Action	Date	FR Cite
NPRM Comment Period End	06/19/97	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeff Erickson or Mary Beth Collins
Phone: 202 622-3070

RIN: 1545–AU25

2987. PAYMENTS TO A RETIRING PARTNER OR A DECEASED PARTNER'S SUCCESSOR IN INTEREST

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Terri A. Belanger
Phone: 202 622-3080

RIN: 1545–AT31

2988. TREATMENT OF MODIFIED GUARANTEED CONTRACTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary Geisler
Phone: 202 622-3970

RIN: 1545–AU58

2989. FOREIGN INSURANCE COMPANIES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Gillmarten
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AL82

2990. EXTENSION OF TIME FOR REAL ESTATE MORTGAGE INVESTMENT CONDUITS TO PROVIDE REPORTING INFORMATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	09/30/91	56 FR 49525
Hearing	12/05/91	56 FR 49526

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth P. Christman
Phone: 202 622-3950
Fax: 202 622-4425

RIN: 1545–AP73

2991. FASIT-CONSOLIDATED GROUPS/TRANSITIONAL START-UP

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301; 26 CFR 1

Timetable:

Action	Date	FR Cite
ANPRM	11/04/96	61 FR 56848
ANPRM Comment Period End	12/31/96	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David L. Meyer
Phone: 202 622-3960
Fax: 202 622-4451

RIN: 1545–AU94

2992. FRINGE BENEFIT SOURCING UNDER SECTION 861

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: M. Grace Fleeman
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AO72

2993. CHARITABLE CONTRIBUTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	03/12/91	56 FR 10395
Hearing	06/01/91	56 FR 23823
Final Action	12/00/99	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carl M. Cooper
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AP30

2994. TRANSPORTATION INCOME SOURCE RULES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia A. Bray
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AJ68

2995. TREATMENT OF RELATED PERSON FACTORING INCOME; CERTAIN INVESTMENTS IN UNITED STATES PROPERTY; AND STOCK REDEMPTIONS THROUGH RELATED CORPORATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	06/14/88	53 FR 22186
NPRM Comment Period End	08/15/88	
Hearing	02/09/89	53 FR 49885

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jeffrey L. Vinnik
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AH85

2996. INTEGRATED FINANCIAL TRANSACTION

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ramon Camacho
Phone: 202 622-3870

RIN: 1545–AR20

2997. PROPOSED REGULATION UNDER SECTION 882 AND 884

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Kirsch
Phone: 202 622-3880
Fax: 202 622-4476

RIN: 1545–AT96

2998. INCOME OF FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	06/27/88	53 FR 24100
NPRM Comment Period End	08/26/88	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David A. Juster
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AL93

2999. NONRECOGNITION OF CORPORATE DISTRIBUTIONS AND REORGANIZATIONS UNDER THE FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	05/05/88	53 FR 16233
Hearing	03/01/89	54 FR 1189
Final Action	12/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Sharon Bomgardner
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AK79

3000. CONFORMING TAXABLE YEARS OF CFCS AND FPHCS: 1999 CHANGE

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/05/93	58 FR 280
Final Action	12/00/99	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeffrey Vinnik
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AO22

3001. CLARIFICATION OF TREATMENT OF SEPARATE LIMITATION LOSSES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Willard W. Yates
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AM11

3002. FSC TRANSFER PRICING RULES, DISTRIBUTIONS, DIVIDENDS RECEIVED, DEDUCTION, AND OTHER SPECIAL RULES FOR FSC

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	03/03/87	52 FR 6467
NPRM Comment Period End	05/02/87	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard L. Chewning
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AI16

3003. INCOME TAX—DEFINITION OF QUALIFIED POSSESSION SOURCE INVESTMENT INCOME FOR PURPOSES OF PUERTO RICO AND POSSESSION TAX CREDIT

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/21/86	51 FR 2726

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: W. Edward Williams
Phone: 202 874-1490
Fax: 202 874-1896

RIN: 1545–AC10

3004. CBI INVESTMENTS OF SECTION 936 FUNDS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	05/13/91	56 FR 21963
Hearing	07/12/91	56 FR 21963

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: W. Edward Williams
Phone: 202 874-1490
Fax: 202 874-1896

RIN: 1545–AM91

3005. FOREIGN INSURANCE COMPANY—DOMESTIC ELECTION

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Valerie A. Mark
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AO25

3006. APPLICATION OF ATTRIBUTION RULES TO FOREIGN TRUSTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Elizabeth G. Beck
Phone: 202 622-3680
Fax: 202 622-4406

RIN: 1545–AU91

3007. COORDINATION OF PRE-1987 DEEMED PAID TAXES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Irwin Halpern
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AT85

3008. EARNINGS AND PROFITS OF CONTROLLED FOREIGN CORPORATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/25/90	55 FR 2535
Final Action	12/00/99	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: M. Grace Fleeman
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AM90

3009. USE OF GAAP EARNINGS AS E&P OF FOREIGN CORPORATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	07/01/92	57 FR 29246
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: M. Grace Fleeman
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AQ55

3010. COMPUTATION OF A BRANCH'S TAXABLE INCOME; TAXATION OF EXCHANGE GAIN OR LOSS ON BRANCH REMITTANCES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	09/25/91	56 FR 48457
Final Action	12/00/99	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Hoge
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AM12

3011. MARK-TO-MARKET METHOD OF ACCOUNTING UNDER SECTION 988

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	03/17/92	57 FR 9217
Final Action	12/00/99	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Ramon Camacho
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AP78

3012. INCOME TAX—TAX REFORM ACT OF 1984 RELATING TO INTEREST CHARGE DISCS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	02/02/87	52 FR 3256
Final Action	12/00/99	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Bergkuist
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AG71

3013. STOCK REDEMPTION INCIDENT TO DIVORCE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Susie Bird
Phone: 202 622-4960

RIN: 1545–AT24

3014. DISPOSITION GAIN REPRESENTING ACCRUED MARKET DISCOUNT TREATED AS ORDINARY INCOME; DEFERRAL OF INTEREST DEDUCTION ALLOCABLE TO ACCRUED MARKET DISCOUNT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Jeffrey Maddrey
Phone: 202 622-3920
Fax: 202 622-4425

RIN: 1545–AH82

3015. PASSIVE FOREIGN INVESTMENT COMPANIES—SPECIAL RULES FOR FOREIGN BANKS AND SECURITIES DEALERS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	04/28/95	60 FR 20922
Hearing	09/11/95	60 FR 39902
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Judith Cohen
Phone: 202 622-3880
Fax: 202 622-4476

RIN: 1545–AS46

3016. S CORPORATION BANKS SECTION 1362

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Martin Schaffer
Phone: 202 622-3080

RIN: 1545–AU75

3017. TEMPORARY REGULATION ON WITHHOLDING TAX ON PAYMENTS FROM PARTNERSHIPS TO FOREIGN PARTNERS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Ronald Gootzeit
Phone: 202 622-3880
Fax: 202 622-4476

RIN: 1545–AL32

3018. CONSOLIDATED ALTERNATIVE MINIMUM TAX

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/30/92	57 FR 62251
NPRM Comment Period End	03/01/93	
Hearing	04/06/93	57 FR 62251
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Martin Scully
Phone: 202 622-4960

RIN: 1545–AN73

3019. CONSOLIDATED RETURNS—LIMITATIONS ON THE USE OF CERTAIN LOSSES, DEDUCTIONS, AND CREDITS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	06/27/96	61 FR 33393
NPRM Comment Period End	09/26/96	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Fulton
Phone: 202 622-7550

RIN: 1545–AU31

3020. REGULATIONS UNDER SECTION 1502

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	06/27/96	61 FR 33395
NPRM Comment Period End	09/26/96	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Fulton
Phone: 202 622-7550

RIN: 1545–AU32

3021. • CONSIDERATION OF REPEAL OF OLD 1.1502-13

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 1502

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: In July 1995, the Service finalized new intercompany regulations under section 1.1502-13 (the "New Regulations") governing the treatment of transactions between members of a consolidated group. Prior to the publication of the New Regulations, the taxation of intercompany transactions was controlled by the old intercompany regulations under former section 1.1502-13 and -14 (the "Old Regulations"). The New Regulations are generally only effective for intercompany transactions occurring in taxable years beginning on or after July 12, 1995. See section 1.1502-13(l)(1). Intercompany transactions that occurred in taxable year beginning prior to July 12, 1995 continue to be subject to the Old Regulations regardless of when the restoration event requiring the intercompany item to be taken into account occurs. Since the Old Regulations remain effective for future years, both the Old and New Regulations apply concurrently (the "dual system"). As a result of the dual system, taxpayers and agents may need to understand and apply both sets of regulations. It has been proposed that the dual system be removed and that a single system should govern all intercompany transactions. This regulation project reexamines the decision to retain a dual system. The regulation project also considers the appropriateness of eliminating the dual system.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-109760-97

Drafting attorney: Jeffrey Vogel (202) 622-7770.

Reviewing attorney: Edward Cohen (202) 622-7770.

CC:DOM:CORP

Agency Contact: Jeffrey L. Vogel, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7770

RIN: 1545–AV54

3022. APPLICATIONS OF SECTION 1503(D) TO PARTNERSHIPS AND OTHER ITEMS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joan M. Thomsen
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AR26

3023. ESTATE TAX—VALUATION OF CERTAIN FARM, ETC., REAL PROPERTY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 20; 26 CFR 25

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Deborah Ryan
Phone: 202 622-3090
Fax: 202 622-4524

RIN: 1545–AT66

3024. REFORMATION OF CHARITABLE TRANSFERS—DEFINITION OF GUARANTEED ANNUITY AND LEAD UNITRUST INTEREST

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 20

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Esther Woodworth
Phone: 202 622-3090
Fax: 202 622-4524

RIN: 1545–AT65

3025. EXCEPTION FROM SUPPLEMENTAL TAX

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 31

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Linda Marshall
Phone: 202 622-6030

RIN: 1545–AT56

3026. TREATMENT OF REAL ESTATE AGENTS AND DIRECT SELLERS AS NONEMPLOYEES FOR EMPLOYMENT TAX PURPOSES—REPORTING REQUIREMENTS WITH RESPECT TO DIRECT SELLERS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1; 26 CFR 31

Timetable:

Action	Date	FR Cite
NPRM	01/07/86	51 FR 619
NPRM Comment Period End	03/10/86	
Hearing	06/18/86	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alfred Kelley
Phone: 202 622-6040
Fax: 202 622-4631

RIN: 1545–AE62

3027. RETAIL EXCISE TAXES ON CERTAIN LUXURY ITEMS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 48

Timetable:

Action	Date	FR Cite
NPRM	01/02/91	56 FR 36
NPRM Comment Period End	03/04/91	
Hearing	04/29/91	56 FR 11979

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Edward Madden
Phone: 202 622-3130
Fax: 202 622-4524

RIN: 1545–AP24

3028. LUXURY EXCISE TAX CHANGES UNDER OBRA 1993

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 48

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Edward Madden
Phone: 202 622-3130
Fax: 202 622-4524

RIN: 1545–AS34

3029. APPLICATION OF GRANTOR TRUST RULES TO NONEXEMPT EMPLOYEES' TRUST

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	09/27/96	61 FR 50778
NPRM Comment Period End	12/26/96	
Hearing	01/15/97	61 FR 50778

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James A. Quinn
Phone: 202 622-3060
Fax: 202 622-4513

RIN: 1545–AU29

3030. EXCISE TAX ON AVIATION FUEL

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 48

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Agency Contact: Frank Boland
Phone: 202 622-3130
Fax: 202 622-4524

RIN: 1545–AL43

3031. COMMUNICATIONS TAX ISSUES

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

CFR Citation: 26 CFR 49

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bernard H. Weberman
Phone: 202 622-3163
Fax: 202 622-4537

RIN: 1545–AU86

3032. TAX ON PETROLEUM

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 52

Timetable:

Action	Date	FR Cite
NPRM	06/25/93	58 FR 21963
Hearing	03/03/94	59 FR 5161

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ruth Hoffman
Phone: 202 622-3130
Fax: 202 622-4524

RIN: 1545–AJ23

3033. SUBCHAPTER S ITEMS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 301

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Robert Honigman
Phone: 202 622-3050

RIN: 1545–AU78

3034. INFORMATION REPORTING AND RECORD MAINTENANCE UNDER SECTION 6038C

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Richard C. Hoge
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AP10

3035. INFORMATION FROM PASSPORT AND IMMIGRATION APPLICANTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Timetable:

Action	Date	FR Cite
NPRM	12/24/92	57 FR 61373
Final Action	12/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ricardo A. Cadenas
Phone: 202 874-1490
Fax: 202 874-1896

RIN: 1545–AJ93

3036. 6048A—RETURNS AS TO INTERESTS IN FOREIGN PARTNERSHIPS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roger Bracken
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AK75

3037. SECTION 6048 REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Kirsch
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AR25

3038. INTEREST-FREE ADJUSTMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 31

Timetable:

Action	Date	FR Cite
NPRM	12/10/92	57 FR 58423
NPRM Comment Period End	02/08/93	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karin Loverud
Phone: 202 622-6060

RIN: 1545–AQ61

3039. RAILROAD UNEMPLOYMENT REPAYMENT TAX

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 31

Timetable:

Action	Date	FR Cite
NPRM	05/13/93	58 FR 28374
NPRM Comment Period End	07/12/93	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jean Casey
Phone: 202 622-6060

RIN: 1545–AN40

3040. EXPANSION OF FORM 945

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1; 26 CFR 31

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Tribal, Federal

Agency Contact: Vincent Surabian
Phone: 202 622-4940

RIN: 1545–AU51

3041. • REVISION OF TAX REFUND OFFSET PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 6402

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Revise the regulations under section 6402 to reflect the administration of the tax refund offset program by the financial management service.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-104565-97

Drafting attorney: John J. McGreevy (202) 622-4910.

Reviewing attorney: John Coulter (202) 622-4910.

Treasury attorney: Chris Rizek.

CC:DOM:IT&A

Agency Contact: John J. McGreevey, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4910

RIN: 1545–AV50

3042. SPECIAL RULES FOR S CORPS UNDER 301.7701(B)-7

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301; 28 CFR 602

Timetable:

Action	Date	FR Cite
NPRM	04/27/92	57 FR 15272
NPRM Comment Period End	06/26/92	
Final Action	12/00/99	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David A. Juster
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AS88

3043. EXTENSION OF STATUTE OF LIMITATIONS IN JOHN DOE SUMMONS DISPUTES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jerome D. Sekula
Phone: 202 622-3610

RIN: 1545–AM67

3044. SUSPENSION OF RUNNING OF PERIOD OF LIMITATIONS DURING PROCEEDING TO ENFORCE DESIGNATED SUMMONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jerome D. Sekula
Phone: 202 622-3610

RIN: 1545–AQ01

3045. REISSUANCE OF QUALIFIED TENDER BONDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: Timothy Jones
Phone: 202 622-3980
Fax: 202 622-4437

RIN: 1545–AT09

3046. REISSUANCE OF QUALIFIED TENDER BONDS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: Timothy Jones
Phone: 202 622-3980
Fax: 202 622-4437

RIN: 1545–AT10

3047. STRADDLES—MISCELLANEOUS ISSUES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	05/02/95	60 FR 21482
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Williams
Phone: 202 622-3960
Fax: 202 622-4425

RIN: 1545–AT46

3048. EFFECT OF THE FAMILY AND MEDICAL LEAVE ACT ON THE OPERATION OF CAFETERIA PLANS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/21/95	60 FR 66229
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Catherine Fuller
Phone: 202 622-6080
Fax: 202 622-3912

RIN: 1545–AT47

3049. EXCISE TAX ON HEAVY TRUCKS, TRUCK TRAILERS AND SEMITRAILERS, AND TRACTORS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 48

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Edward Madden
Phone: 202 622-3130
Fax: 202 622-4524

RIN: 1545–AT63

3050. AMORTIZATION-GOODWILL INTANGIBLES 197

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	03/15/94	59 FR 11957
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John Huffman
Phone: 202 622-3110

RIN: 1545–AT70

3051. ERISA SEC. 204(H) NOTICE

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/15/95	60 FR 64401
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Betty Clary
Phone: 202 622-6070

RIN: 1545–AT78

3052. TIMING OF NOTICE AND CONSENT REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	09/22/95	60 FR 49236
NPRM Comment Period End	12/30/95	
Hearing	04/24/96	61 FR 9859
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marjorie Hoffman
Phone: 202 622-6030

RIN: 1545–AU05

3053. NONRESIDENT ALIEN SHAREHOLDER; S CORPORATION STOCK

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Laura Howell
Phone: 202 622-3060
Fax: 202 622-4513

RIN: 1545–AU18

3054. RELIEF FROM DISQUALIFICATION FOR PLANS ACCEPTING ROLLOVERS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	09/19/96	61 FR 49279
NPRM Comment Period End	12/18/96	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marjorie Hoffman
Phone: 202 622-6030

RIN: 1545–AU46

3055. RECOMPUTATION OF LIFE INSURANCE RESERVES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/02/97	62 FR 71
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ann Cammack
Phone: 202 622-3970
Fax: 202 622-4451

RIN: 1545–AU49

3056. PAYMENT FROM THE PRESIDENTIAL PRIMARY MATCHING PAYMENT ACCOUNT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 26 CFR 702

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Paul E. Tellier
Phone: 202 622-4930

RIN: 1545–AU57

3057. • REMEDIAL AMENDMENT PERIOD

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 401

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These proposed regulations will amend the existing regulations regarding the remedial amendment period to clarify the scope of the Commissioner's authority to provide relief under section 401(b).

Timetable:

Action	Date	FR Cite
NPRM	08/01/97	62 FR 41322
Final Action	12/00/99	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: REG-106043-97

Drafting attorney: Linda Marshall (202) 622-6030.

Reviewing attorney: Marjorie Hoffman (202) 622-6030.

Treasury attorney: Donald Wellington (202) 622-1332.

CC:EBEO

Agency Contact: Linda S. F. Marshall, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6030

RIN: 1545–AV22

3058. • PERMITTED ELIMINATION OF PRE-RETIREMENT OPTIONAL FORMS OF BENEFIT

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 411

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Amendments to the regulations under section 411(d) of the Code would permit an employer to amend its qualified retirement plan to eliminate the right of plan participants to receive preretirement distributions at age 70 1/2 if certain conditions are satisfied.

Timetable:

Action	Date	FR Cite
NPRM	07/02/97	62 FR 35752
Final Action	12/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: REG-107644-97

Drafting attorney: Cheryl Press (202) 622-6030.

Reviewing attorney: Marjorie Hoffman (202) 622-6030.

Treasury attorney: Donald Wellington (202) 622-1332.

CC:EBEO

Agency Contact: Cheryl Press, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6030

RIN: 1545–AV25

3059. • PERMITTED ELIMINATION OF PRE-RETIREMENT OPTIONAL FORMS OF BENEFIT

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 411

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The required beginning date under section 401(a)(9) was changed by the Small Business Jobs Protection Act for employees other than 5 percent owners from April 1, following the calendar year in which the employee attains age 70 1/2 to the later of that date or April 1, following the calendar year in which the employee retires. The regulation will address the extent to which pre-retirement optional forms of benefit provided to satisfy section 401(a)(9) prior to amendment by SBJPA may be eliminated.

Timetable:

Action	Date	FR Cite
NPRM	07/02/97	62 FR 35752
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: REG-107644-97

Drafting attorney: Cheryl Press (202) 622-6030.

Reviewing attorney: Marjorie Hoffman (202) 622-6030.

Treasury attorney: Donald Wellington (202) 622-1332.

CC:EBEO

Agency Contact: Cheryl Press, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6030

RIN: 1545–AV26

3060. • SECTION 42 MISCELLANEOUS COMPLIANCE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 42

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will address certain compliance issues and amend existing administrative error regulations under 1.42-13.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local

Additional Information: REG-114684-97

Drafting attorney: Chris Wilson (202) 622-3040.

Reviewing attorney: Susan Reaman (202) 622-3040.

Treasury attorney: Linda Schakel (202) 622-1339.

CC:DOM:P&SI

Agency Contact: Chris Wilson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3040

RIN: 1545–AV44

3061. • WITHDRAWAL OF PROPOSED REGULATIONS AND TEMPORARY REGULATIONS THAT PROVIDE RULES FOR SUBSTANTIATING TRAVEL EXPENSE DEDUCTIONS FOR MEMBERS OF CONGRESS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1; 26 CFR 5

Legal Deadline: None

Abstract: This project will remove temporary Income Tax Regulations section 5e.274-6 (published as TD 7802 in 47 FR 2986) and NPRM by cross-reference to the temporary regulations (published as LR-4-82 in 47 FR 3006). The regulations provide rules for the substantiation of Congress members' travel expenses, and they are currently obsolete.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-105513-97

Drafting attorney: Edwin B. Cleverdon (202) 622-4920.

Reviewing attorney: Robert A. Berkovsky (202) 622-4920.

Reviewing attorney: Linda Kroening (202) 622-4800.

CC:DOM:IT&A

Agency Contact: Edwin B. Cleverdon, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4920

RIN: 1545–AV55

3062. REGULATIONS ON INCOME TAX UNDER THE TAX REFORM ACT OF 1984, RELATING TO BELOW-MARKET LOANS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	08/20/85	50 FR 33553
NPRM Comment Period End	10/20/85	
Hearing	01/09/86	50 FR 46460
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David B. Silber
Phone: 202 622-3930
Fax: 202 622-4425

RIN: 1545–AH72

3063. • GROUP HEALTH PLAN PORTABILITY, ACCESS, AND RENEWABILITY REQUIREMENTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 26 USC 7805; 26 USC 4980D; 26 USC 9806

CFR Citation: 26 CFR 54

Legal Deadline: NPRM, Statutory, April 1, 1997.
P.L. 104-191 requires that regulations be issued by April 1, 1997. However, the statute does not specify whether proposed regulations would satisfy this requirement.

Abstract: The regulations provide guidance for group health plans and the employers maintaining them regarding requirements imposed on plans relating to preexisting condition exclusions, discrimination based on health status, and access to coverage.

Timetable:

Action	Date	FR Cite
NPRM	04/08/97	62 FR 16977
NPRM Comment Period End	07/07/97	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-253578-96

Drafting attorney: Russell Weinheimer (202) 622-6060.

Reviewing attorney: Mark Schwimmer (202) 622-6060.

Treasury attorney: Bill Bortz (202) 622-1352.

Treasury attorney: Mark Hamelburg (202) 622-1341.

CC:EBEO

Agency Contact: Russell Weinheimer, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6060

RIN: 1545–AV12

DEPARTMENT OF THE TREASURY (TREAS)
Internal Revenue Service (IRS)

Completed Actions

3064. PERSONAL INJURY DAMAGES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed without regulations	04/03/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sheldon Iskow
Phone: 202 622-4920

RIN: 1545–AT29

3065. METHOD CHANGE RULES FOR THE UNIFORM CAPITALIZATION RULES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8728	08/05/97	62 FR 42051
Final Action Effective	08/05/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cheryl L. Osseley
Phone: 202 622-4970

RIN: 1545–AQ94

3066. RULES FOR TREATMENT OF FOREIGN CORPORATION WHOSE STOCK IS STAPLED TO THE STOCK OF A DOMESTIC CORPORATION

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed without regulations	09/30/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia A. Bray
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AN20

3067. SUBSTANTIATION OF EXPENSES—RECEIPT THRESHOLD

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8715	03/25/97	62 FR 13988

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donna Crisalli
Phone: 202 622-4920
Fax: 202 622-6316

RIN: 1545–AT98

3068. DEEMED PURCHASE PRICE WHEN CERTAIN STOCK PURCHASES ARE TREATED AS ASSET ACQUISITIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed	08/12/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Brendan O'Hara
Phone: 202 622-7530

RIN: 1545–AF29

3069. SECTION 338(H)(10) AND INSURANCE COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed without regulations	07/15/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary Geisler
Phone: 202 622-3970

RIN: 1545–AS56

3070. NONDISCRIMINATION AND OTHER RULES APPLICABLE TO SECTION 403(B) ANNUITIES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed without regulations	07/02/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Marks
Phone: 202 622-6000

RIN: 1545–AI90

3071. REQUIREMENTS FOR TAX EXEMPT LABOR ORGANIZATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8726	07/29/97	62 FR 40447
Final Action Effective	12/21/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robin Ehrenberg
Phone: 202 622-6080

RIN: 1545–AT95

3072. SECTION 708 AND SECTION 704

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8717	05/09/97	62 FR 25498

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven R. Schneider
Phone: 202 622-3060
Fax: 202 622-4513

RIN: 1545–AU14

3073. REMIC REGULATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed without regulations	07/23/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William P. Cejudo
Phone: 202 622-3920

RIN: 1545–AR88

3074. SOURCING RULE APPLICABLE TO CERTAIN INSURANCE INCOME

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed without regulations	09/30/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Gillmarten
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AQ37

3075. TREATMENT OF DEFERRED PAYMENTS AND APPRECIATION ARISING OUT OF BUSINESS CONDUCTED WITHIN THE UNITED STATES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed without regulations	09/30/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carl Cooper
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AM53

3076. TIERED PARTNERSHIP RULES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed without regulations	07/11/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ginny Chung
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AO26

3077. • GUIDANCE REGARDING CLAIMS FOR CERTAIN INCOME TAX CONVENTION BENEFITS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 871; 26 USC 881; 26 USC 894

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Guidance for imposing tax liability on foreign persons deriving US source income through partnerships or other transparent arrangements.

Timetable:

Action	Date	FR Cite
Final Action TD 8722	07/02/97	62 FR 35673
Final Action Effective	07/02/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-104893-97

Drafting attorney: Lilo Hester (202) 622-3880.

Reviewing attorney: Elizabeth Karzon (202) 622-3860.

CC:INTL

Agency Contact: Lilo Hester, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3880

RIN: 1545–AV33

3078. PROPOSED REGULATIONS UNDER SECTION 1.884-3

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed without regulations	09/30/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon Bomgardner
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AQ72

3079. REGULATIONS UNDER SECTION 1.884-2

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed without regulations	09/30/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon Bomgardner
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AQ73

3080. FIRPTA CLEANUP

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed without regulations	09/30/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon Bomgardner
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AJ72

3081. INCOME TAX—PARTNERSHIP RULES REGARDING TAXATION OF FOREIGN INVESTMENT IN UNITED STATES REAL PROPERTY INTERESTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed without regulations	09/30/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Lorence
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AL77

3082. EXCLUSION OF POSSESSION SOURCE INCOME FROM GROSS INCOME OF CERTAIN INDIVIDUALS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed without regulations	09/30/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lilo A. Hester
Phone: 202 874-1490
Fax: 202 874-1896

RIN: 1545–AS42

3083. COORDINATION OF U.S. AND VIRGIN ISLANDS INCOME TAXES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed without regulations	09/30/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lilo A. Hester
Phone: 202 874-1490
Fax: 202 874-1896

RIN: 1545–AS41

3084. SUBPART F—USE OF DEFICITS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed without regulations	09/30/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Valerie A. Mark
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AJ71

3085. SUBPART F SHIPPING AMENDMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed without regulations	09/30/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Valerie A. Mark
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AM46

3086. DEEMED-PAID CREDIT UNDER SECTION 960, DETERMINED ON ACCUMULATED BASIS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed without regulations	09/30/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Caren S. Shein
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AQ34

3087. DETERMINATION OF FOREIGN TAXES AND FOREIGN CORPORATIONS' EARNINGS AND PROFITS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed without regulations	09/30/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jacob Feldman
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AN37

3088. EXTRAORDINARY DIVIDENDS/1059(E)(2)

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8724	07/16/97	62 FR 38027
Final Action Effective	07/16/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard K. Passales
Phone: 202 622-7530

RIN: 1545–AU16

3089. AMENDMENT OF REGULATIONS UNDER IRC SECTION 1059A

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed without regulations	09/30/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: W. Edward Williams
Phone: 202 874-1490
Fax: 202 874-1896

RIN: 1545–AS89

3090. SECTION 1248 - GAIN FROM SALE OR EXCHANGE OF STOCK IN FOREIGN CORPORATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed without regulations	09/30/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Philip Tretiak
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AC31

3091. GAINS FROM CERTAIN SALES OR EXCHANGES IN CERTAIN FOREIGN CORPORATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed without regulations	09/30/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David F. Bergkuist
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AL89

3092. • ANNUITY CONTRACTS ISSUED BY FOREIGN INSURANCE COMPANIES; CERTAIN COMPENSATION ARRANGEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1275

Legal Deadline: None

Abstract: The regulations will interpret section 1275(a)(1)(B)(ii) which determines whether annuity contracts issued by insurance companies are taxed as debt instruments. The regulations will also clarify that certain deferred compensation arrangements are not subject to the OID provisions of the Code.

Timetable:

Action	Date	FR Cite
Closed without regulations	07/15/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-108935-97

Drafting attorney: Jeffrey W. Maddrey (202) 622-4443.

Reviewing attorney: Michael S. Novey (202) 622-3900.

Treasury attorney: Louise Epstein (202) 622-1778.

CC:DOM:FI&P

Agency Contact: Jeffrey W. Maddrey, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4443

RIN: 1545–AV29

3093. REGULATIONS UNDER SECTIONS 1491, 1492, AND 1494

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed without regulations	09/30/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Kirsch
Phone: 202 622-3880
Fax: 202 622-4476

RIN: 1545–AN39

3094. SECTION 1.1502-47 REGULATIONS—SUPPLEMENTAL

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed without regulations	09/30/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Gillmarten
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AR89

3095. INCOME TAX—INCLUDIBILITY IN AN AFFILIATED GROUP OF SUBSIDIARIES FORMED TO COMPLY WITH FOREIGN LAWS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed without regulations	09/30/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth Allison
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AC58

3096. ESTATE TAX—ANNUITY EXCLUSION REPEAL

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 20; 26 CFR 25

Completed:

Reason	Date	FR Cite
Closed without regulations	07/11/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William L. Blodgett
Phone: 202 622-3090

RIN: 1545–AP60

3097. SITUS OF PARTNERSHIP INTERESTS HELD BY A NONRESIDENT ALIEN FOR ESTATE TAX PURPOSES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 20

Completed:

Reason	Date	FR Cite
Closed without regulations	09/30/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Trina Dang
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AP07

3098. GENERATION-SKIPPING TRANSFER TAX

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8720	05/20/97	62 FR 27498
Final Action Effective	05/20/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Hogan
Phone: 202 622-3090
Fax: 202 622-4524

RIN: 1545–AU26

3099. TIN MATCHING

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8721	06/18/97	62 FR 33006

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Renay France
Phone: 202 622-8065

RIN: 1545–AU54

3100. CHEMICAL TAX UNDER SECTION 4461 AND IMPORTED SUBSTANCE TAX UNDER SECTION 4671

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 52

Completed:

Reason	Date	FR Cite
Closed without regulations	01/17/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ruth Hoffman
Phone: 202 622-3130
Fax: 202 622-4524

RIN: 1545–AL73

3101. FEDERAL TAX DEPOSITS BY ELECTRONIC FUNDS TRANSFER

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1; 26 CFR 31; 26 CFR 40

Completed:

Reason	Date	FR Cite
Final Action TD 8723	07/14/97	62 FR 37490
Final Action Effective	07/14/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Vincent G. Surabian
Phone: 202 622-4940

RIN: 1545–AS79

3102. INTERIM FISHING VESSEL CAPITAL CONSTRUCTION FUND PROCEDURES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed without regulations	07/15/97	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: David Selig
Phone: 202 622-3040
Fax: 202 622-4524

RIN: 1545–AS69

3103. ARBITRAGE RESTRICTION ON TAX-EXEMPT BONDS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8718	05/09/97	62 FR 25502
Final Action Effective	05/09/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: Rebecca Harigal
Phone: 202 622-3980
Fax: 202 622-4437

RIN: 1545–AS49

3104. GUIDANCE FOR AIR CARGO CARRIERS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 49

Completed:

Reason	Date	FR Cite
Closed without regulations	01/23/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patrick S. Kirwan
Phone: 202 622-3130

Fax: 202 622-4524

RIN: 1545–AT30

3105. QUALIFIED TRANSPORTATION FRINGE

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed without regulations	07/14/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Janine Cook
Phone: 202 622-6040
Fax: 202 622-4631

RIN: 1545–AT45

3106. TAXPAYER BILL OF RIGHTS 2, MISCELLANEOUS PROVISIONS, PROPOSED REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1; 26 CFR 301

Completed:

Reason	Date	FR Cite
Final Action TD 8725	07/22/97	62 FR 39115
Final Action Effective	07/22/97	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Beverly A. Baughman
Phone: 202 622-4940

RIN: 1545–AU64

3107. • TEMPORARY REGULATIONS RESPECTING THE ADOPTION OF CHANGE OF ACCOUNTING METHOD

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 301; 26 USC 552

CFR Citation: 26 CFR 1; 26 CFR 601

Legal Deadline: None

Abstract: The regulations extend the time taxpayers may file applications to change accounting methods with the Commissioner.

Timetable:

Action	Date	FR Cite
Final Action TD 8719	05/15/97	62 FR 26740
Final Action Effective	05/15/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: REG-105299-97

Drafting attorney: Cheryl Osseikey (202) 622-4970.

Reviewing attorney: Robert Testoff (202) 622-4800.

Treasury attorney: Annette Smith (202) 622-0868.

CC:DOM:IT&A

Agency Contact: Cheryl Lynn Osseikey, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4970
Fax: 202 622-6316

RIN: 1545–AV19

3108. • REMEDIAL AMENDMENT PERIOD

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 401

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These temporary regulations will amend the existing regulations regarding the remedial amendment period to clarify the scope of the Commissioner's authority to provide relief under section 401(b).

Timetable:

Action	Date	FR Cite
Final Action TD 8727	08/01/97	62 FR 41272

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: REG-106043-97

Drafting attorney: Linda Marshall (202) 622-6030.

Reviewing attorney: Marjorie Hoffman (202) 622-6030.

Treasury attorney: Donald Wellington (202) 622-1332.

CC:EBEO

Agency Contact: Linda S. F. Marshall, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6030

RIN: 1545–AV23

3109. GROUP HEALTH PLAN PORTABILITY, ACCESS, AND RENEWABILITY REQUIREMENTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 26 CFR 54

Completed:

Reason	Date	FR Cite
Final Action TD 8716	04/08/97	62 FR 16894

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Russell Weinheimer
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Fax: 202 622-4617

RIN: 1545–AV05

BILLING CODE 4830-01-F

DEPARTMENT OF THE TREASURY (TREAS)
Office of Thrift Supervision (OTS)

Proposed Rule Stage

3110. CAPITAL DISTRIBUTIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1468; 12 USC 1817; 12 USC 1828; 12 USC 3806; 42 USC 4106

CFR Citation: 12 CFR 563

Legal Deadline: None

Abstract: OTS has issued a notice of proposed rulemaking that would amend its capital distributions regulation to incorporate the definition of "capital distributions" used under prompt corrective action. It would allow capital distributions without notice to OTS by certain associations.

OTS intends to issue a second notice of proposed rulemaking in this area prior to issuing a final rule. This proposal will make substantial changes to the previous proposal. These changes are designed to conform OTS's rules to those of the other banking agencies.

Timetable:

Action	Date	FR Cite
NPRM	12/05/94	59 FR 62356
NPRM Comment Period End	02/03/95	
NPRM	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Edward J. O'Connell, Project Manager, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-5694

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RIN: 1550–AA72

3111. DEPOSITS AND ELECTRONIC BANKING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 375b; 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1468; 12 USC 1817; 12 USC 1828; 12 USC 3806; 42 USC 4102a; 42 USC 4104a; 42 USC 4104b; 42 USC 4106; 42 USC 4128

CFR Citation: 12 CFR 545; 12 CFR 563

Legal Deadline: None

Abstract: OTS has issued a notice of proposed rulemaking and advance notice of proposed rulemaking to streamline and revise its deposit-related regulations and to solicit comment on how to revise and update its electronic banking regulations. Each pertinent regulation will undergo a detailed staff review to determine whether it is necessary, imposes the least burden possible consistent with safety and soundness and is written in a clear and straightforward manner.

Timetable:

Action	Date	FR Cite
Deposits		
NPRM	04/02/97	(62 FR 15626)
NPRM Comment Period End	06/02/97	
Final Rule	10/00/97	
Electronic Banking		
ANPRM	04/02/97	(62 FR 15626)
ANPRM Comment Period End	06/02/97	
NPRM	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Additional Agency Contacts: Electronic Banking: Paul Robin, Program Analyst, Compliance Policy, (202) 906-6648; Paul Glenn, Special Counsel, Business Transactions Division, (202) 906-6203, Valerie J. Lithotomos, Counsel (Banking and Finance), Regulations and Legislation Division, (202) 906-6439, or Paul Reymann, listed below. Deposits: Christine Harrington, Counsel (Banking and Finance), Regulations & Legislation Division, (202) 906-7957, or Edward J. O'Connell, listed below.

Agency Contact: Edward J. O'Connell, Project Manager, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
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Phone: 202 906-5645

RIN: 1550–AB00

3112. • MANAGEMENT OFFICIAL INTERLOCKS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 3208 to 3208

CFR Citation: 12 CFR 563f

Legal Deadline: None

Abstract: The Federal banking agencies are planning to issue a notice of proposed rulemaking to revise their rules regarding management interlocks to conform them to recent statutory changes, modernize and clarify them, and reduce unnecessary regulatory burden where feasible.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David Bristol, Senior Attorney, Business Transactions Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-6461

Joseph Casey, Policy Analyst, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-5741

RIN: 1550–AB07

3113. • AGENCY DISAPPROVAL OF DIRECTORS AND SENIOR EXECUTIVE OFFICERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1462a; 12 USC 1467a; 12 USC 1817; 12 USC 1831i

CFR Citation: 12 CFR 574

Legal Deadline: None

Abstract: OTS plans to issue a notice of proposed rulemaking to implement changes to section 32 of the FDIA made by the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA). Section 32 of the FDIA requires that certain savings associations and savings and loan holding companies notify OTS 30 days prior to adding any individual to the board of directors or employing any individual as a senior executive officer. EGRPRA amended section 32 of the FDIA by redesignating the circumstances under which a notice must be filed, and by providing that the notice period may be extended to a total of 90 days.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Frances Augello, Senior Counsel, Business Transactions Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
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RIN: 1550–AB10

3114. • CAPITAL RULES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1835; 12 USC 1848; 12 USC 4808

CFR Citation: 12 CFR 567

Legal Deadline: None

Abstract: OTS currently has underway a number of regulatory amendments to its capital standards for savings associations. These amendments will serve to implement sections 208, 303, and 350 of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRIA), as well as standards such as those of the Financial Accounting Standards Board. CDRIA requires the Federal banking agencies to make their capital rules and other rules more uniform.

These regulatory changes include two recourse rules, which would (i) modify the risk-based capital treatment of small business loans and leases of personal property with recourse, and (ii) vary the risk-based capital requirement for traded and non-traded positions in securitized asset transactions according to relative risk exposure.

Interagency capital projects are also underway to address (i) leverage capital and risk-based capital standards for certain loans involving residential properties and investment in mutual funds, (ii) capital requirements for servicing assets, (iii) risk-based capital standards for collateralized transactions, and (iv) risk-based capital requirements for unrealized gains on equity securities.

Timetable:

Collateralized Transactions		
NPRM	08/16/96	(61 FR 42565)
Final Rule	01/00/98	
CDRIA Section 303 Capital Amendments		
NPRM	10/00/97	
Recourse: Recourse Arrangements and Direct Credit Substitutes		
ANPRM	05/25/94	(59 FR 27116)
NPRM	05/25/94	(59 FR 27116)
Final Rule	10/00/97	
Recourse: Small Business Loan Recourse Obligations		
NPRM	08/31/95	(60 FR 45618)
Final Rule	10/00/97	
Servicing Assets		
NPRM	08/04/97	(62 FR 42006)
NPRM Comment Period End	10/08/97	
Final Rule	12/00/97	
Unrealized Gains on Equity Securities		
NPRM	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: The rules under this RIN were previously reported or published under RIN 1550-AA70, RIN 1550-AA81, RIN 1550-AA84, RIN 1550-AA98, RIN 1550-AB03, and RIN 1550-AB08.

Agency Contact: John F. Connolly, Senior Program Manager for Capital Policy, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-6465

Vern McKinley, Senior Attorney, Regulations & Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-6241

RIN: 1550–AB11

DEPARTMENT OF THE TREASURY (TREAS)
Office of Thrift Supervision (OTS)

Final Rule Stage

3115. LIQUIDITY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1465; 12 USC 1467a; 12 USC 1691; 12 USC 1691a

CFR Citation: 12 CFR 566

Legal Deadline: None

Abstract: OTS has issued a notice of proposed rulemaking that would amend its liquidity regulation to reduce regulatory burden, consistent with statutory requirements and safety and soundness concerns.

Timetable:

Action	Date	FR Cite
NPRM	05/14/97	62 FR 26449
NPRM Comment Period End	07/14/97	
Final Action	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Francis Raue, Policy Analyst, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
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Susan P. Miles, Senior Attorney, Regulations & Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-6798

RIN: 1550–AA77

3116. APPLICATION PROCESSING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552; 5 USC 559; 12 USC 375b; 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1701j-3; 12 USC 1817; 12 USC 1818; 12 USC 1831i; 12 USC 2901; 12 USC 3806; 15 USC 1693 to 1693r; ...

CFR Citation: 12 CFR 543; 12 CFR 545; 12 CFR 552; 12 CFR 556; 12 CFR 563; 12 CFR 574

Legal Deadline: None

Abstract: OTS has issued a notice of proposed rulemaking to revise its regulation setting forth the criteria for submitting comments on certain applications filed by savings associations with the OTS. The revised rule would be significantly shorter and more straightforward, making it more workable and flexible for both the public and OTS.

Timetable:

Action	Date	FR Cite
NPRM	04/09/97	62 FR 17110
NPRM Comment Period End	06/09/97	
Final Action	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Timothy Burniston, Director, Compliance Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
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RIN: 1550–AA83

3117. EXPANDED EXAMINATION CYCLE FOR CERTAIN SMALL INSURED INSTITUTIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 375b; 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1468; 12 USC 1817; 12 USC 1828; 12 USC 3806; 42 USC 4106

CFR Citation: 12 CFR 563

Legal Deadline: None

Abstract: The Federal banking agencies have issued a joint interim rule with request for comment to implement section 306 of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRIA), and section 2221 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA). These provisions authorize the Federal banking agencies to increase the asset size of certain financial institutions that may be examined once in every 18-month period, rather than once in every 12-month period, from the current limit of $100 million to a revised limit of $250 million. The interim rule makes certain institutions that have $250 million or less in assets eligible for the 18-month examination schedule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/12/97	62 FR 6449
Interim Final Rule Comment Period End	04/14/97	
Final Action	01/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Scott Albinson, Special Assistant to the Executive Director, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
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RIN: 1550–AB02

3118. MUTUAL SAVINGS AND LOAN HOLDING COMPANIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1828; 12 USC 2901

CFR Citation: 12 CFR 575

Legal Deadline: None

Abstract: On November 13, 1996, OTS issued an advance notice of proposed rulemaking soliciting comment on whether to amend OTS's regulations regarding Mutual Savings and Loan Holding Companies to permit the establishment of a mutual holding company structure that includes an intermediate stock holding company. On June 5, 1997, a notice of proposed rulemaking was issued that would permit the establishment of intermediate stock holding companies that will be subject to restrictions that are substantially similar to those currently applicable to mutual holding companies.

Timetable:

Action	Date	FR Cite
ANPRM	11/13/96	61 FR 58144
ANPRM Comment Period End	12/13/96	
NPRM	06/05/97	62 FR 30778
NPRM Comment Period End	08/04/97	
Final Action	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: James H. Underwood, Special Counsel, Business Transactions Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
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Phone: 202 906-6729

RIN: 1550–AB04

3119. • FIDUCIARY POWERS OF FEDERAL SAVINGS ASSOCIATIONS; COMMUNITY REINVESTMENT ACT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1814; 12 USC 1816; 12 USC 1828; 12 USC 2901 to 2907

CFR Citation: 12 CFR 545; 12 CFR 550; 12 CFR 563e

Legal Deadline: None

TREAS—OTS

Final Rule Stage

Abstract: OTS has issued a notice of proposed rulemaking that would update, clarify, and streamline OTS regulations to promote the more efficient operation and supervision of Federal savings associations' fiduciary activities. The changes will also incorporate significant interpretive guidance and eliminate unnecessary regulatory burden.

Timetable:

Action	Date	FR Cite
NPRM	07/23/97	62 FR 39477
NPRM Comment Period End	09/22/97	
Final Action	11/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Timothy Leary, Counsel (Banking and Finance), Regulations & Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
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Phone: 202 906-5628

RIN: 1550–AB09

DEPARTMENT OF THE TREASURY (TREAS)
Office of Thrift Supervision (OTS)

Completed Actions

3120. RISK-BASED CAPITAL REQUIREMENTS—RECOURSE AND DIRECT CREDIT SUBSTITUTES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 567

Completed:

Reason	Date	FR Cite
Merged into RIN 1550-AB11	10/01/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John F. Connolly
Phone: 202 906-6465

RIN: 1550–AA70

3121. "DE NOVO" APPLICATIONS FOR A FEDERAL SAVINGS ASSOCIATION CHARTER

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 543; 12 CFR 552; 12 CFR 571

Completed:

Reason	Date	FR Cite
Final Action (Correction - 05/29/97, 62 FR 28982)	05/19/97	62 FR 27177
Final Action Effective	07/01/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Edward J. O'Connell
Phone: 202 906-5694
Valerie J. Lithotomos
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RIN: 1550–AA76

3122. RISK-BASED CAPITAL REQUIREMENTS, SMALL BUSINESS LOAN RECOURSE OBLIGATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 567

Completed:

Reason	Date	FR Cite
Merged into RIN 1550-AB11	10/01/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John F. Connolly
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Valerie J. Lithotomos
Phone: 202 906-6439

RIN: 1550–AA81

3123. RISK-BASED CAPITAL: SERVICING RIGHTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 565; 12 CFR 567

Completed:

Reason	Date	FR Cite
Merged into RIN 1550-AB11	10/01/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John F. Connolly
Phone: 202 906-6465

RIN: 1550–AA84

3124. RISK-BASED CAPITAL STANDARDS; COLLATERALIZED TRANSACTIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 567

Completed:

Reason	Date	FR Cite
Merged into RIN 1550-AB11	10/01/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John F. Connolly
Phone: 202 906-6465

RIN: 1550–AA98

3125. RISK-BASED CAPITAL AND LEVERAGE CAPITAL STANDARDS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 567

Completed:

Reason	Date	FR Cite
Merged into RIN 1550-AB11	10/01/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John F. Connolly
Phone: 202 906-6465

RIN: 1550–AB03

3126. • INCORPORATION, ORGANIZATION, AND CONVERSION OF FEDERAL MUTUAL ASSOCIATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 2901 et seq

CFR Citation: 12 CFR 543

Legal Deadline: None

Abstract: OTS has issued a final rule amending its regulations governing conversions to federal mutual savings associations to permit the direct conversion of all types of mutual depository institutions into federal mutual savings associations.

Timetable:

Action	Date	FR Cite
NPRM	04/09/97	62 FR 17115
NPRM Comment Period End	06/09/97	
Final Action	08/27/97	62 FR 45307
Final Action Effective	08/27/97	

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1550–AB06

[FR Doc. 97-25675 Filed 10-28-97; 8:45 am]
BILLING CODE 6720-01-F

TREAS—OTS

Completed Actions

federal register

Wednesday
October 29, 1997

Part XVI

Department of Veterans Affairs

Semiannual Regulatory Agenda

DEPARTMENT OF VETERANS AFFAIRS (VA)

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Ch. I

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Department of Veterans Affairs.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the regulations that the Department of Veterans Affairs (VA) will have under development or review during the 12-month period beginning October 1997. The purpose in publishing the Department's regulatory agenda is to allow all interested persons the opportunity to participate in VA's regulatory planning.

ADDRESSES: Interested persons are invited to comment on the entries listed in the agenda by contacting the individual agency contact listed for each entry or by writing to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: Christy Fick or Gloria Armstrong, (202) 273-8605.

SUPPLEMENTARY INFORMATION: This document is issued pursuant to Executive Order 12866 "Regulatory Planning and Review" (and implementing guidance) and the Regulatory Flexibility Act, which require that executive agencies semiannually publish in the **Federal Register** an agenda of regulations that VA will have under development or review. For this edition of VA's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

Dated: August 4, 1997.

Thomas O. Gessel,

Director, Office of Regulations Management.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3127	Aid to States for Care of Veterans in State Homes and Grants to States for Construction or Acquisition of State Home Facilities	2900-AE87
3128	Reporting Health Care Professionals to State Licensing Boards	2900-AI78
3129	Schedule for Rating Disabilities—The Orthopedic System	2900-AE91
3130	Schedule for Rating Disabilities—Neurological Conditions and Convulsive Disorders	2900-AF23
3131	Schedule for Rating Disabilities—Digestive System	2900-AF24
3132	Veterans' Education; Suspension and Discontinuance of Payments	2900-AF85
3133	Individual Unemployability	2900-AH21
3134	Evidence in File at Date of Death	2900-AH42
3135	Vision	2900-AH43
3136	Veterans Education: Effective Date for the Award of Educational Assistance	2900-AH76
3137	Medical Evidence That a Disability Has Improved	2900-AH82
3138	Election of Education Benefits	2900-AH88
3139	Computation of Income	2900-AH94
3140	Child Custody	2900-AI10
3141	Veterans Education: Advanced Payments & Lump Sum Payments for Educational Assistance	2900-AI31
3142	Ankylosis and Limitation of Motion of Digits of the Hands	2900-AI44
3143	Veterans Education: Reduction in Required Reports	2900-AI58
3144	New Eligibility Criteria for the Montgomery GI Bill—Active Duty, Other Miscellaneous Issues	2900-AI63
3145	Revision of Decision	2900-AI64
3146	New Criteria for Approval of Courses for Educational Assistance Programs	2900-AI67
3147	Reservist Education: Monthly Verification of Enrollment and Other Reports	2900-AI68
3148	Miscellaneous Educational Revisions	2900-AI69
3149	Amended Criteria for Approval of Flight Training Courses	2900-AI76
3150	Diseases Subject to Presumptive Service Connection	2900-AI81
3151	Veterans Training: Time Limits for Submitting Certifications Under Service Members Occupational Conversion and Training Acts	2900-AI85
3152	Active Military Service Certified Under Section 401 of Public Law 95-202	2900-AI91
3153	Veterans Education: Increased Allowances for the Educational Assistance Test Program	2900-AI94
3154	VAAR: Commercial Items	2900-AI05
3155	Purchase Card/Electronic Data Interchange	2900-AI41
3156	Department Protests	2900-AI51
3157	Transportation: VAAR Part 847	2900-AI56
3158	Department of Veterans Affairs Acquisition Regulation— Simplified Acquisition Procedures for Health Care Resources	2900-AI71
3159	Board of Veterans Appeals—Rules of Practice—Attorney Fee Matters	2900-AI98
3160	Headstone and Marker Inscription Policy	2900-AH45
3161	State Cemetery Grants: Aid to States for Establishment, Expansion and Improvement of Veterans Cemeteries	2900-AH46

VA

Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3162	Eligibility for Burial	2900-AI95
3163	Fee to Trace Vendors' VA-Issued Checks	2900-AI38
3164	Release of Information From Department of Veterans Affairs Records	2900-AH96
3165	Recognition of Organizations and Accreditation of Representatives	2900-AI93
3166	Entities Authorized To Receive and Distribute Department of Defense Surplus Food	2900-AI82

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3167	CHAMPVA Regulations	2900-AE64
3168	Payment for Non-VA Outpatient Office Visits and Payment for Inpatient Non-VA Physician Services	2900-AH66
3169	Treatment of Research-Related Injuries to Human Subjects	2900-AH68
3170	Informed Consent for Patient Care	2900-AH72
3171	Sensori-Neural Aids Eligibility	2900-AI60
3172	Grants to States for Construction or Acquisition of State Home Facilities	2900-AI84
3173	Schedule for Rating Disabilities—The Cardiovascular System (**Reg Plan Seq. No. 106**)	2900-AE40
3174	Schedule for Rating Disabilities—The Skin	2900-AF00
3175	Schedule for Rating Disabilities—Diseases of the Ear and Other Sense Organs	2900-AF22
3176	Amendments to Training and Rehabilitation Programs	2900-AG00
3177	Fibromyalgia	2900-AH05
3178	Loan Guaranty: Authority To Close VA-Guaranteed Loans on an Automatic Basis, Withdrawal of Automatic Processing Authority and Elimination of Late Reporting Waivers	2900-AH23
3179	Service Connection for Dental Conditions for Treatment Purposes	2900-AH41
3180	Loan Guaranty: Electronic Payment of Funding Fee	2900-AH73
3181	Veterans Education: Approval of Correspondence Courses	2900-AH91
3182	Claims Based on Exposure to Ionizing Radiation (Prostate Cancer and Any Other Cancer)	2900-AI00
3183	Loan Guaranty: Credit Standards	2900-AI16
3184	Intervertebral Disc Syndrome	2900-AI22
3185	Veterans Education: Approval of Independent Study	2900-AI34
3186	Claims Based on Aggravation of Nonservice-Connected Disability	2900-AI42
3187	Survivors and Dependents Education: Extension of Eligibility Period	2900-AI45
3188	Cold Injuries	2900-AI46
3189	Servicemen's and Veterans' Group Life Insurance	2900-AI73
3190	Veterans Training: Increase in Rates Payable Under 38 USC Chapter 31	2900-AI74
3191	Compensation for Certain Undiagnosed Illnesses	2900-AI77
3192	Veterans and Reservists Education: Additional Educational Assistance While Serving in the Selected Reserves	2900-AI79
3193	Survivor Benefit Plan Minimum Income Annuity	2900-AI83
3194	Veterans Education: Effective Date for Awards of Educational Assistance to Veterans Who Were Voluntarily Discharged	2900-AI88
3195	Increase in Rates Payable Under the Montgomery GI Bill— Selected Reserve	2900-AI89
3196	Veteran Education: Rate Increase for 1997-1998 School Year in Montgomery GI Bill—Active Duty	2900-AI90
3197	Direct Service Connection (Post-Traumatic Stress Disorder)	2900-AI97
3198	Miscellaneous Changes to VA Acquisition Regulations	2900-AI28
3199	Definitions and Terms for Part 802	2900-AI49
3200	VA Acquisition Regulations: Title Update	2900-AI62
3201	VA Acquisition Regulations Part 801, Legal/Technical Review Requirements	2900-AI96
3202	Disinterments in National Cemeteries	2900-AI21

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3203	Medical	2900-AI80

VA

Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3204	Loan Guaranty: Title Evidence Requirements and Occupancy Requirements for Conveyance of Properties to VA	2900-AE20
3205	Acceptance of Partial Payments; Indemnification of Default	2900-AE60
3206	Revised Definition of Net Value and Revised Criteria for Pre-Foreclosure Debt Waivers	2900-AG20
3207	Delegation of Authority To Provide Relief on Account of Administrative Error	2900-AH19
3208	Fiduciary Activities; Miscellaneous	2900-AI14
3209	Loan Guaranty: Requirements for Interest Rate Reduction Refinancing Loans	2900-AI92
3210	Appeals Regulations; Rules of Practice	2900-AE78
3211	Rules of Practice; Hearings	2900-AG07
3212	Rules of Practice: Medical Opinions; Appeal Processing and Submission of Additional Evidence	2900-AG90
3213	Rules of Practice: Oral Argument in Filing Appellate Briefs	2900-AI18
3214	Appeals Regulations: Remand for Further Development	2900-AI50
3215	Rules of Practice: Death of Appellant During Pendency of Appeal	2900-AI86
3216	Rules of Practice: Continuation of Representation Following Death of a Claimant or Appellant	2900-AI87
3217	Nondiscrimination on the Basis of Sex Under Federally Assisted Education Programs and Activities	2900-AB51
3218	Operation of Child Care Centers at VA Facilities	2900-AD48
3219	Standards for Collection, Compromise, Suspension, or Termination of Collection Effort, in Referral of Civil Claims for Money or Property; Delegations of Authority	2900-AI27

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3220	Miscellaneous Changes to Part 17	2900-AI37
3221	Provision of Health Care to Vietnam Veterans' Children with Spina Bifida	2900-AI65
3222	Schedule for Rating Disabilities—The Muscular System	2900-AE89
3223	Loan Guaranty Flood Insurance Requirements	2900-AH63
3224	Veterans Education: Submission of School Catalog to State Approving Agencies	2900-AH97
3225	Vocational Rehabilitation; Miscellaneous Changes	2900-AI29
3226	Spouse and Surviving Spouse	2900-AI36
3227	Dependency and Income	2900-AI47
3228	Capping of National Service Life Insurance "H" Term Premiums	2900-AI52
3229	Reservists Education: Increase in Rates Payable Under the Montgomery GI Bill—Selected Reserves	2900-AI54
3230	Retroactive Payments Due to a Liberalizing Law or VA Issue	2900-AI57
3231	Veteran's Benefits Improvement Act of 1996	2900-AI66
3232	Monetary Allowance Under 38 USC 1805 for a Child Suffering from Spina Bifida Who Is a Child of a Vietnam Veteran	2900-AI70
3233	Provision of Vocational Training and Rehabilitation to Vietnam Veterans' Children with Spina Bifida	2900-AI72
3234	Rescission of 38 USC 8110(c) Provisions in the VAAR	2900-AI61

DEPARTMENT OF VETERANS AFFAIRS (VA) — Proposed Rule Stage

VETERANS HEALTH ADMINISTRATION

3127. AID TO STATES FOR CARE OF VETERANS IN STATE HOMES AND GRANTS TO STATES FOR CONSTRUCTION OR ACQUISITION OF STATE HOME FACILITIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1741; 38 USC 1742; 38 USC 1743; 38 USC 8131; 38 USC 8132; 38 USC 8133; 38 USC 8134; 38 USC 8135; 38 USC 8136; 38 USC 8137

CFR Citation: 38 CFR 17.190 to 17.222

Legal Deadline: None

Abstract: Several laws have been enacted since the last revision and update of the regulations governing the State Home Per Diem Program. Among them is Public Law 100-322, which provided that the Secretary, Department of Veterans Affairs, is to evaluate per diem rates annually and increase them as appropriate; the rates may not exceed the percentage increase in VA general hospitals. Numerous other changes and updates are needed to: (1) Assist the States in recognition of State homes; (2) provide various options for operating State homes, such as contracting or leasing and clarification of States' responsibilities for providing financial support for the operation; and (3) opening of beds, after completing construction in which VA provided up to 65 percent of the cost. Timeframes for opening beds and clarification of assurance of financial support need to be documented. Current regulations will be updated and revised to accomplish these purposes. Additionally updates are necessary for the State Home Construction Program. Public Law 102-585 amends the time for conditional grant approvals, prohibits obligation of funds for rescinded projects during the same fiscal year, defines the date the recapture period begins, and provides for retroactive per diem payment after completion of recognition inspection. Further, the Life Safety Code requires updating to the 1993 edition and various other technical and editorial changes need to be made.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: L. Nan Stout, Chief, State Per Diem Program (114), Department of Veterans Affairs, Veterans Health Administration (114B), 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8538
Fax: 202 273-9131

RIN: 2900–AE87

3128. • REPORTING HEALTH CARE PROFESSIONALS TO STATE LICENSING BOARDS

Priority: Substantive, Nonsignificant

Legal Authority: PL 99-660; 38 USC 501; PL 99-166, sec 204(b); 38 USC 7401 to 7405

CFR Citation: 38 CFR 47.1; 38 CFR 47.2; 38 CFR 47.3

Legal Deadline: None

Abstract: To amend VA's regulations for reporting within healthcare professionals to State licensing Boards.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ruth-Ann Phelps, Ph.D., Health System Specialist (11B), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8473

RIN: 2900–AI78

VETERANS BENEFITS ADMINISTRATION

3129. SCHEDULE FOR RATING DISABILITIES—THE ORTHOPEDIC SYSTEM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.71(a)

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the orthopedic system. For the purposes of the Regulatory Plan, VA has identified this schedule for rating disabilities under the umbrella of RIN: 2900-AE40 in the "Additional Information" section of this document.

Timetable:

Action	Date	FR Cite
ANPRM	12/28/90	55 FR 53315
ANPRM Comment Period End	02/26/91	
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D., Consultant, Regulations Staff (213A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AE91

3130. SCHEDULE FOR RATING DISABILITIES—NEUROLOGICAL CONDITIONS AND CONVULSIVE DISORDERS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.120; 38 CFR 4.121; 38 CFR 4.122; 38 CFR 4.123; 38 CFR 4.124; 38 CFR 4.124a

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the neurological system. For the purposes of the Regulatory Plan, VA

has identified this schedule for rating disabilities under the umbrella of RIN: 2900-AE40 in the "Additional Information" section of this document.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/91	56 FR 20169
ANPRM Comment Period End	07/01/91	
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Caroll McBrine, MD, Consultant, Regulations Staff (213A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AF23

3131. SCHEDULE FOR RATING DISABILITIES—DIGESTIVE SYSTEM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.114

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the digestive system. For the purposes of the Regulatory Plan, VA has identified this schedule for rating disabilities under the umbrella of RIN: 2900-AE40 in the "Additional Information" section of this document.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/91	56 FR 20168
ANPRM Comment Period End	07/01/91	
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D., Consultant, Regulations Staff (213A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AF24

3132. VETERANS' EDUCATION; SUSPENSION AND DISCONTINUANCE OF PAYMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3690

CFR Citation: 38 CFR 21.4133; 38 CFR 21.4134; 38 CFR 21.4135; 38 CFR 21.4146; 38 CFR 21.4152; 38 CFR 21.4202; 38 CFR 21.4207; 38 CFR 21.4208; 38 CFR 21.4210; 38 CFR 21.4211; 38 CFR 21.4212; 38 CFR 21.4213; 38 CFR 21.4214; 38 CFR 21.4215; 38 CFR 21.4216; ...

Legal Deadline: None

Abstract: Under certain conditions VA can suspend or discontinue payments of educational assistance to individuals even though the course in which they are enrolled is approved for VA training. Current regulations provide for a review of the circumstances at the local VA facility and another de novo review at VA Central Office. The proposal would gather in one place the procedures which VA follows in deciding whether to suspend or discontinue payments; would make a part of the Code of Federal Regulations the rules at the hearing which may be conducted in making this decision; and would eliminate the de novo Central Office review.

Timetable:

Action	Date	FR Cite
NPRM	08/28/97	62 FR 45596
NPRM Comment Period End	10/27/97	
Final Action	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: June Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
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RIN: 2900–AF85

3133. INDIVIDUAL UNEMPLOYABILITY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.16

Legal Deadline: None

Abstract: This action will amend the Schedule for Rating Disabilities as it addressed the issue of individual unemployability, in order to establish a more objective standard for making unemployability determinations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lorna Weston, Consultant, Regulations Staff (213A), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AH21

3134. EVIDENCE IN FILE AT DATE OF DEATH

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.1000

Legal Deadline: None

Abstract: This action will clarify the definition of "medical evidence on file at time of death" (Hayes v. Brown).

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lorna Weston, Consultant, Regulations Staff (213A), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AH42

3135. VISION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.75

Legal Deadline: None

Abstract: This action will amend the vision portion of the rating schedule to provide current medical terminology, clarify ambiguous evaluation criteria, and add medical conditions not presently in the rating schedule. For the purposes of the Regulatory Plan, VA has identified this schedule for rating disabilities under the umbrella of RIN: 2900-AE40 in the "Additional Information" section of this document.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D., Consultant, Regulations Staff (213A), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AH43

3136. VETERANS EDUCATION: EFFECTIVE DATE FOR THE AWARD OF EDUCATIONAL ASSISTANCE

Priority: Info./Admin./Other

Legal Authority: 38 USC 3018B

CFR Citation: 38 CFR 21.7131

Legal Deadline: None

Abstract: The provisions of 38 U.S.C. allow a veteran who was voluntarily separated from active military, naval, or air service under either 10 U.S.C. 1174a or 1175 before October 23, 1992, to elect to receive educational assistance under the Montgomery GI Bill, Active Duty. He or she was given until October 23, 1993, to make the election. The provisions of 38 U.S.C. 3018B also require the veteran to submit $1,200 to the Department of Veterans Affairs (VA) as a condition of receiving the educational assistance. The statute does not contain a deadline for paying the $1,200. This document amends the VA's Vocational Rehabilitation and Education regulations to explain that an individual who made the election before October 23, 1993, must still submit the $1,200 to VA as a condition of receiving educational assistance under the Montgomery GI Bill, Active Duty.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
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Email: vaedusvc@patriot.net

RIN: 2900–AH76

3137. MEDICAL EVIDENCE THAT A DISABILITY HAS IMPROVED

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.344

Legal Deadline: None

Abstract: To remove redundancies and unnecessary material, simplify the language, and clarify basic principles of the regulation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Larry Freiheit, Consultant, Regulations Staff (213A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7252

RIN: 2900–AH82

3138. ELECTION OF EDUCATION BENEFITS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3562; 38 USC 3221; 38 USC 3033; 10 USC 16132

CFR Citation: 38 CFR 21.3023; 38 CFR 21.5041; 38 CFR 21.7040; 38 CFR 21.7540

Legal Deadline: None

Abstract: An individual may be eligible for educational assistance under more than one of the education programs VA administers. Often the individual must elect which benefit she or he wants. Current regulations state that these elections are final once the individual negotiates a check issued under the program he or she has chosen. These regulations must be revised to allow for a different method of determining when an election is final because VA will soon begin converting from paying educational assistance with paper checks to paying these benefits electronically.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
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RIN: 2900–AH88

3139. COMPUTATION OF INCOME

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.260

Legal Deadline: None

Abstract: Proposes to amend VA adjudication regulations concerning income computations to remove obsolete instructions for determining income limitations in section 306 pension cases. Eliminates proportionate

VA

Proposed Rule Stage

computation instructions for section 306 pension.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Trowbridge, Consultant, Regulations Staff (213A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7218

RIN: 2900–AH94

3140. CHILD CUSTODY

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.24(b); 38 CFR 3.24(c); 38 CFR 3.57(d)

Legal Deadline: None

Abstract: To clarify the status of school children between the ages of 18 and 23, and adult helpless children when there is a veteran or surviving spouse entitled to receive improved pension.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Trowbridge, Consultant, Regulations Staff (213A), Veterans Benefits Administration, Department of Veterans Affairs, 801 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AI10

3141. VETERANS EDUCATION: ADVANCED PAYMENTS & LUMP SUM PAYMENTS FOR EDUCATIONAL ASSISTANCE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 16136; 38 USC 3034; 38 USC 3680

CFR Citation: 38 CFR 21.4136; 38 CFR 21.7140

Legal Deadline: None

Abstract: The regulations governing advance payments and lump sum payments of educational assistance have accumulated obsolete provisions over the years. This proposal will remove obsolete provisions and make other clarifying changes.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
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RIN: 2900–AI31

3142. ANKYLOSIS AND LIMITATION OF MOTION OF DIGITS OF THE HANDS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.71a

Legal Deadline: None

Abstract: This document revises the evaluation criteria for ankylosis and limitation of motion of the fingers to ensure that veterans diagnosed with these conditions receive consistent evaluations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D., Consultant, Regulations Staff (213A), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7230

RIN: 2900–AI44

3143. VETERANS EDUCATION: REDUCTION IN REQUIRED REPORTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 3034; 38 USC 3680(g); 38 USC 3684

CFR Citation: 38 CFR 21.7154; 38 CFR 21.7156

Legal Deadline: None

Abstract: VA will propose to revise the nature of the information to be reported by veterans and servicemembers receiving educational assistance under the Montgomery GI Bill - Active Duty, and the number of reports required of educational institutions in which these veterans and servicemembers are enrolled. This should reduce the information collection burden for this program, while maintaining the program's integrity.

Timetable:

Action	Date	FR Cite
NPRM	09/18/97	62 FR 48969
NPRM Comment Period End	11/17/97	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
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RIN: 2900–AI50

3144. NEW ELIGIBILITY CRITERIA FOR THE MONTGOMERY GI BILL—ACTIVE DUTY, OTHER MISCELLANEOUS ISSUES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3002; 38 USC 3011; 38 USC 3012; 38 USC 3018; 38 USC 3018C; 38 USC 3452; 38 USC 3680A; PL 104-275, sec 107

CFR Citation: 38 CFR 21.4135; 38 CFR 21.5021; 38 CFR 21.5050; 38 CFR 21.5130; 38 CFR 21.7020; 38 CFR 21.7042; 38 CFR 21.7045; 38 CFR 21.7050; 38 CFR 21.7520

Legal Deadline: None

Abstract: This final rule will implement various provisions of the National Defense Authorization Act for Fiscal Year 1997, and the Veterans Benefits Improvement Act of 1996. it will set forth new eligibility criteria that will allow additional individuals to establish eligibility for educational assistance under the Montgomery GI Bill - Active Duty; make permanent certain provisions concerning the approval of courses leading to alternative teacher certification; and make other modifications for the purpose of clarification.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
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RIN: 2900–AI63

VA

Proposed Rule Stage

3145. REVISION OF DECISION

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.7; 38 CFR 3.103(a); 38 CFR 3.105(b); 38 CFR 3.321; 38 CFR 3.400; 38 CFR 3.401; 38 CFR 3.800

Legal Deadline: None

Abstract: To amend VA regulations concerning the revision of decisions that are not clearly and unmistakably erroneous. This rulemaking authorizes designated personnel at VA regional offices, rather than VA's Central Office, to review certain adjudicated claims and, if warranted, grant a benefit sought by the claimant.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Bisset, Consultant, Regulations Staff (213A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7230

RIN: 2900–AI64

3146. NEW CRITERIA FOR APPROVAL OF COURSES FOR EDUCATIONAL ASSISTANCE PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3680A

CFR Citation: 38 CFR 21.4251; 38 CFR 21.4252; 38 CFR 21.4253; 38 CFR 21.7122; 38 CFR 21.7622

Legal Deadline: None

Abstract: This rule will bring various regulations into agreement with the Veterans Benefits Improvements Act of 1996. It will include new criteria for use in approving courses for the educational programs VA administers; it will include new criteria for VA to use in approving enrollments in courses. it will make other changes for the purposes of clarification.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: June Schaeffer, Assistant Director for Policy and Program Administration, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
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Email: vaedusvc@patriot.net

RIN: 2900–AI67

3147. RESERVIST EDUCATION: MONTHLY VERIFICATION OF ENROLLMENT AND OTHER REPORTS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 16136(b); 38 USC 3680(g); 38 USC 3684; 38 USC 5113

CFR Citation: 38 CFR 21.7635; 38 CFR 21.7654; 38 CFR 21.7656

Legal Deadline: None

Abstract: This rule will expand the current requirement that some reservists receiving educational assistance under the Montgomery GI Bill - Selected Reserve verify their pursuit of a program of education monthly to include those reservists who are pursuing a standard college degree. At the same time the number of reports VA receives from educational institutions will be reduced. This will be a cost-effective way to reduce overpayments.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: June Schaeffer, Assistant Director for Policy and Program Administration, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
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RIN: 2900–AI68

3148. MISCELLANEOUS EDUCATIONAL REVISIONS

Priority: Info./Admin./Other

Legal Authority: 10 USC 16136(b); 38 USC 3034; 38 USC 3036; 38 USC 3684; 38 USC 3686; 38 USC 3688; 38 USC 3690; 38 USC 3696; 38 USC 5121

CFR Citation: 38 CFR 21.3041; 38 CFR 21.3045; 38 CFR 21.4009; 38 CFR 21.4200; 38 CFR 21.4201; 38 CFR 21.4233; 38 CFR 21.4250; 38 CFR 21.4270; 38 CFR 21.5270; 38 CFR 21.5901; 38 CFR 21.7020; 38 CFR 21.7140; 38 CFR 21.7144; 38 CFR 21.7170

Legal Deadline: None

Abstract: This rule will amend the educational assistance and educational benefit regulations of VA. It will remove a number of provisions that no longer apply or otherwise have no substantive effect, and will make other changes for the purposes of clarification.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and

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RIN: 2900–AI69

3149. AMENDED CRITERIA FOR APPROVAL OF FLIGHT TRAINING COURSES

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 16131(g); 38 USC 101(20); 38 USC 3032; 38 USC 3231; 38 USC 3680(g); 38 USC 3690

CFR Citation: 38 CFR 21.4200; 38 CFR 21.4263

Legal Deadline: None

Abstract: This proposal will amend the regulations governing the approval of flight training courses for VA training. It will bring these regulations into agreement with the current two-year operation requirement that VA is required by statute to apply to approval of enrollments. It will also permit approval of courses offered pursuant to 14 CFR part 142.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
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RIN: 2900–AI76

3150. • DISEASES SUBJECT TO PRESUMPTIVE SERVICE CONNECTION

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1101(3)

CFR Citation: 38 CFR 3.309(a)

Legal Deadline: None

Abstract: To amend VA regulations concerning presumptive service connection for certain chronic diseases in order to clarify the statutory term "other organic diseases of the nervous system." This rulemaking will establish that high frequency sensori-neural hearing loss, glaucoma meniere's disease, narcolepsy, serve entrapment syndromes (carpal tunnel syndrome), and migraine headaches will be considered service connected if they manifest themselves to a compensable degree within one year of the date that the veteran was released from active military service.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bradley Flohr, Consultant, Program Management Staff (213C), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7241

RIN: 2900–AI81

3151. • VETERANS TRAINING: TIME LIMITS FOR SUBMITTING CERTIFICATIONS UNDER SERVICE MEMBERS OCCUPATIONAL CONVERSION AND TRAINING ACTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-484, sec 4487

CFR Citation: 38 CFR 21.4832

Legal Deadline: None

Abstract: This proposal will place deadlines for submitting the certifications needed for both periodic payments and lump sum deferred incentive payments under the Service Members Occupational Conversion and Training Act (SMOCTA). Since the Act has a sunset provision, all work for which payments will be due will be completed by September 30, 1997. This will allow VA to close the administration of SMOCTA.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
Fax: 202 275-2636
Email: vaedusvc@patriot.net

RIN: 2900–AI85

3152. • ACTIVE MILITARY SERVICE CERTIFIED UNDER SECTION 401 OF PUBLIC LAW 95-202

Priority: Substantive, Nonsignificant

Legal Authority: PL 95-202, sec 401

CFR Citation: 38 CFR 3.7

Legal Deadline: None

Abstract: VA is amending its adjudication regulations concerning persons who are included as having served on active duty. This action is necessary because the secretary of the air force has determined that the service of two groups constitutes active military service in the armed forces of the united states. This amendment will confer eligibility for VA benefits on former members of these groups who were discharged under other than dishonorable conditions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Bissett, Consultant, Regulations Staff, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7230

RIN: 2900–AI91

3153. • VETERANS EDUCATION: INCREASED ALLOWANCES FOR THE EDUCATIONAL ASSISTANCE TEST PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 2143

CFR Citation: 38 CFR 21.5820; 38 CFR 21.5822

Legal Deadline: None

Abstract: The law provides that rates of subsistence allowance and educational assistance payable under the Educational Assistance Test Program shall be adjusted annually by the Secretary of Defense based upon the average actual cost of attendance at public institutions of higher education in the twelve-month period since the rates were last adjusted. The Department of Defense has concluded that the rates for the 1997-98 academic year should be increased by 6 percent over the rates payable for the 1996-97 academic year. The regulations dealing with updaterates are amended accordingly.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
Fax: 202 275-2636

RIN: 2900–AI94

OFFICE OF ACQUISITION AND MATERIEL MANAGEMENT

3154. VAAR: COMMERCIAL ITEMS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 810; 48 CFR 811; 48 CFR 812; 48 CFR 836; 48 CFR 852; 48 CFR 870

Legal Deadline: None

Abstract: This document will amend the Department of Veterans Affairs Acquisition Regulations (VAAR) concerning the acquisition of commercial items. It amends provisions to conform to the Federal Acquisition Regulation (FAR), reorganizes material, removes obsolete material, and sets forth internal VA procedures. These amendments are necessary for purposes of clarification and to conform VA regulations with statutory changes made by Public Law 102-355 and with FAR regulations.

Timetable:

Action	Date	FR Cite
NPRM	08/25/97	62 FR 44932
NPRM Comment Period End	10/24/97	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Donald E. Kaliher, Senior Procurement Analyst (95A), Acquisition Policy Team, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8819
Fax: 202 273-9302
Email: kaliher@mail.va.gov

RIN: 2900–AI05

3155. PURCHASE CARD/ELECTRONIC DATA INTERCHANGE

Priority: Routine and Frequent

Legal Authority: 38 USC 501; 40 USC 486(c); 42 USC 7254

CFR Citation: 48 CFR 812; 48 CFR 832; 48 CFR 852

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) is proposing to amend its acquisition regulations to require contractors to accept the Governmentwide commercial purchase card for payment of goods and/or services valued below the simplified acquisition threshold (SAT) and/or to use electronic data interchange (EDI) for both ordering and billing purposes. Requiring the use of purchase cards and/or EDI will be at the option of the contracting officer, if determined to be in the best interest of the Government.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Donald E. Kaliher (95A), Senior Procurement Analyst, Office of Acquisition & Materiel Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8819
Fax: 202 273-9302
Email: kaliher@mail.va.gov

RIN: 2900–AI41

3156. DEPARTMENT PROTESTS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 833; 48 CFR 852

Legal Deadline: None

Abstract: This rulemaking action will amend the Department of Veterans Affairs Acquisition Regulations to delete coverage which duplicates the Federal Acquisition Regulation, update references, and delete internal agency guidance to contracting officers.

Timetable:

Action	Date	FR Cite
NPRM	09/09/97	62 FR 47411
NPRM Comment Period End	11/10/97	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Donald E. Kaliher, Senior Procurement Analyst (95A), Acquisition Policy Team, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8819
Fax: 202 273-9302
Email: kaliher@mail.va.gov

RIN: 2900–AI51

3157. TRANSPORTATION: VAAR PART 847

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 501; 40 USC 486(c)

VA

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CFR Citation: 48 CFR 847

Legal Deadline: None

Abstract: This change will update VA Acquisition Regulation chapters 47 and 52 and remove obsolete material.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Ramona Jones, Procurement Analyst (95A), Acquisition Policy Team, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8818
Fax: 202 273-9302
Email: jones@mail.va.gov

RIN: 2900–AI56

3158. DEPARTMENT OF VETERANS AFFAIRS ACQUISITION REGULATION—SIMPLIFIED ACQUISITION PROCEDURES FOR HEALTH CARE RESOURCES

Priority: Routine and Frequent

Legal Authority: 38 USC 8153

CFR Citation: 48 CFR 801; 48 CFR 806; 48 CFR 812; 48 CFR 837; 48 CFR 852; 48 CFR 873

Legal Deadline: None

Abstract: Section 301 of Pub. L. 104-262, the Veterans' Health Care Eligibility Reform Act of 1996 authorizes the Secretary of Veterans Affairs to establish simplified acquisition procedures for the purchase of commercial health care services, the use of medical equipment or space. These acquisition procedures will help maximize the efficiency of the acquisition process and strengthen the medical programs of the Department of Veterans Affairs.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Don E. Kaliher (95A), Senior Procurement Analyst, Ofc of Acquisition & Materiel Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8819
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RIN: 2900–AI71

BOARD OF VETERANS APPEALS

3159. • BOARD OF VETERANS APPEALS—RULES OF PRACTICE—ATTORNEY FEE MATTERS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 5902; 38 USC 5904; 38 USC 5905

CFR Citation: 38 CFR 20.3; 38 CFR 20.609; 38 CFR 20.610

Legal Deadline: None

Abstract: The Board of Veterans Appeals is proposing to amend its rules of practice to end the practice of paying attorney fees from past-due benefits, establish safeguards in case of "disinterested third-party" payees who are individuals, and simplify certain notice procedures. These changes are necessary to permit VA to focus on activities more directly benefiting veterans and their families, i.e., deciding claims and coordinating benefit payments to veterans and their families, and to clarify the situations in which third parties may pay a claimants' legal fees.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven L. Keller, Chief Counsel, Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 565-5978

RIN: 2900–AI98

NATIONAL CEMETERY SYSTEM

3160. HEADSTONE AND MARKER INSCRIPTION POLICY

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 501; 38 USC 2306

CFR Citation: 38 CFR 1.630; 38 CFR 1.632

Legal Deadline: None

Abstract: The proposed rule revises 38 CFR, section 1.630 to implement Department of Veterans Affairs (VA) regulations on its inscription policy for use on Government-provided headstones or markers. The amendment formalizes and updates previous and current policies to reflect changes in VA's Simplified Inscription Policy based on inscription information authorized at Government expense, such as specific valor awards or other items paid for at private expense. The rule is published as proposed in the Federal Register to provide information to the public on specific changes to VA's inscription policy for Government-furnished headstones and markers. A 60-day public comment period is provided. This action is subject to the requirements of the Administrative Procedures Act and E.O. 12866 as the rule is a statute as approved by the then-Administrator now Secretary of Veterans Affairs in 1974. The proposed rule will not have a significant economic impact on a substantial number of small entities and only individual VA beneficiaries could be directly affected.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sonja McCombs, Program Analyst (402B1), NCS Communications Division, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-5183
Fax: 202 273-6697

RIN: 2900–AH45

VA

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3161. STATE CEMETERY GRANTS: AID TO STATES FOR ESTABLISHMENT, EXPANSION AND IMPROVEMENT OF VETERANS CEMETERIES

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 2408

CFR Citation: 38 CFR 39.1; 38 CFR 39.2; 38 CFR 39.3; 38 CFR 39.7; 38 CFR 39.8; 38 CFR 39.9 (New)

Legal Deadline: None

Abstract: The proposed rule revises 38 CFR, part 39, to amend Department of Veterans Affairs (VA) regulations for the State Cemetery Grants Program to implement and update information on program requirements and the application process for participants. The amendment formalizes new standards and provides guidance on how States may obtain funding for grants to expand, establish, or improve State veterans cemeteries. The rule is published as proposed in the Federal Register to provide information to the public on how to apply for Federal funding for State veterans cemeteries. A 60-day public comment period is provided. It is subject to the requirements of the Administrative Procedures Act and E.O. 12866 because the rule is an interpretation of statute. The proposed rule will have a significant economic impact on a substantial number of small entities; only those States that apply for funding may be direct beneficiaries.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Ken Greenberg, Program Analyst (402B1), NCS Communications Division, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-5179
Fax: 202 273-6697

RIN: 2900–AH46

3162. • ELIGIBILITY FOR BURIAL

Priority: Other Significant

Legal Authority: 38 USC 2402(5)

CFR Citation: 38 CFR 1.620(g)

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) proposes to amend regulations to specify that the eligibility of veterans' adult children for burial in a national cemetery is only for those who have became permanently incapable of self support before attaining the age of 21 years due to a physical or mental disability. Current regulations do not clearly express this requirement.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Vogel, Program Analyst, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-5166
Fax: 202 273-6697

RIN: 2900–AI95

OFFICE OF FINANCIAL MANAGEMENT

3163. FEE TO TRACE VENDORS' VA-ISSUED CHECKS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 38 USC 9701(b)

CFR Citation: 38 CFR 1.585

Legal Deadline: None

Abstract: VA proposes to create a new regulation to charge vendors a fee to trace a VA issue check.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charlene Bah, Office of Financial Management (047GC1), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-6651

RIN: 2900–AI38

OFFICE OF THE GENERAL COUNSEL

3164. RELEASE OF INFORMATION FROM DEPARTMENT OF VETERANS AFFAIRS RECORDS

Priority: Info./Admin./Other

Legal Authority: 5 USC 552; 5 USC 552a; 38 USC 5701

CFR Citation: 38 CFR 1.500 to 1.584

Legal Deadline: None

Abstract: This document amends the Department of Veterans Affairs regulations governing the confidentiality and release of VA records subject to the Privacy Act, 5 USC 552a, the Freedom of Information Act (FOIA), 5 USC 552, and the veterans' records confidentiality statute (section 5701), 38 USC 5701. The amendments will implement court decisions and Executive Branch guidance issued since the regulations were originally published. The amendment is part of the Administration's effort to simplify, clarify, and modernize Federal regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lorraine M. Johnson, Staff Attorney, Office of General Counsel, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-6381

RIN: 2900–AH98

3165. • RECOGNITION OF ORGANIZATIONS AND ACCREDITATION OF REPRESENTATIVES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 38 USC 501(a); 38 USC 5902 to 5905

CFR Citation: 38 CFR 14.626 to 14.635

Legal Deadline: None

Abstract: The Department of Veterans Affairs proposes to revise and clarify

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existing procedures and requirements regarding certification or recognition of service organizations and their representatives, and other individuals, agents and attorneys representing claimants for benefits administered by VA. The revisions are designed to improve VA's ability to assure high quality representation of claimants.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Richard J. Hipolit (022), Deputy Assistant General Counsel, Office of the General Counsel, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-6329

RIN: 2900–AI93

OFFICE OF INTERGOVERNMENTAL AFFAIRS

3166. • ENTITIES AUTHORIZED TO RECEIVE AND DISTRIBUTE DEPARTMENT OF DEFENSE SURPLUS FOOD

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 2485; 38 USC 501

CFR Citation: 38 CFR 17.1900(New)

Legal Deadline: None

Abstract: This document proposes to amend the Department of Veterans Affairs (VA) regulations by setting forth procedures for VA to designate entities as authorized for receipt and distribution of surplus food donated by the Department of Defense (DOD). This is necessary to implement a statutory mandate. This document also proposes to obtain approval of collection of information provisions concerning entities seeking designation by VA as authorized to receive and distribute the surplus food donated by DOD.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter Dougherty, Program Analyst (075), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-5774

RIN: 2900–AI82

DEPARTMENT OF VETERANS AFFAIRS (VA)

Final Rule Stage

VETERANS HEALTH ADMINISTRATION

3167. CHAMPVA REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1713

CFR Citation: 38 CFR 17.84

Legal Deadline: None

Abstract: Title 38 CFR part 17, section 17.84, sets forth the basic policies and procedures governing the administration of the CHAMPVA program. This proposed revision to 38 CFR 17.54 would incorporate revised CHAMPVA claims-processing procedures and define benefits and services for this program. These proposed regulations will not have an effect on the economy, State or local government agencies or geographic regions, and will not increases in costs, because the monetary impact would be insignificant. This regulatory action is important because current regulations describe the CHAMPVA program in terms of the initial agreement between VA and DOD (since modified) and do not address the program changes initiated by VA to centralize all CHAMPVA activities. The proposed regulations address the CHAMPVA Center's new role in program administration, including absorption of the previously contracted-out claims-processing activities.

Timetable:

Action	Date	FR Cite
NPRM	11/01/96	61 FR 56486
NPRM Comment Period End	12/31/96	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Susan K. Schmetzer, Chief, Policy and Strategic Planning, CHAMPVA Center, Department of Veterans Affairs, 300 South Jackson Street, Denver, CO 80209
Phone: 303 331-7552
Fax: 303 331-7830
Email: schmetzer@champva.denver.va.gov

RIN: 2900–AE64

3168. PAYMENT FOR NON-VA OUTPATIENT OFFICE VISITS AND PAYMENT FOR INPATIENT NON-VA PHYSICIAN SERVICES

Priority: Other Significant

Legal Authority: 38 USC 1703

CFR Citation: 38 CFR 17.55; 38 CFR 17.56; 38 CFR 17.128

Legal Deadline: None

Abstract: This proposed rule will amend part 17.50ff(h) to change payment for non-VA outpatient office visits and payment for inpatient non-VA physician services provided to eligible VA beneficiaries. VA basically would adopt the Health Care Financing Administration (HCFA) Department of Health and Human Services Medicare Program Fee Schedule for Physician Services. VA payment would be consistent with payment for similar medical services provided by other Government agencies.

Timetable:

Action	Date	FR Cite
NPRM	07/22/97	62 FR 39197
NPRM Comment Period End	09/22/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Abby O'Donnell, Program Specialist (161A1), Headquarters Health Administration Svc, Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8307

VA

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Fax: 202 273-9809

RIN: 2900–AH66

3169. TREATMENT OF RESEARCH-RELATED INJURIES TO HUMAN SUBJECTS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501

CFR Citation: 38 CFR 17

Legal Deadline: None

Abstract: VA proposes to amend its regulations to provide (or pay for the provision of) necessary medical treatment to human subjects injured as a result of participation in VA research. All participants in research approved by a VA Research and Development Committee would be eligible for such treatment, even if the research was funded from sources other than the VA research appropriation. Experience suggests that the incidence of research-related injury is low, and therefore the additional costs of this policy will be minimal.

Timetable:

Action	Date	FR Cite
NPRM	09/09/96	61 FR 47469
NPRM Comment Period End	11/08/96	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ted Lorei, Staff Assistant - Research and Development, Veterans Health Administration (12C), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8285

RIN: 2900–AH68

3170. INFORMED CONSENT FOR PATIENT CARE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 7331; 38 USC 7332; 38 USC 7333

CFR Citation: 38 CFR 17.32

Legal Deadline: None

Abstract: VA proposes to amend its regulations concerning informed consent for patient care. It is proposed to describe the requirements for obtaining and documenting informed consent. It is also proposed to describe the types of treatments or procedures for which the patient's signature on a VA authorized form would be required and to establish a list and priority of surrogates authorized to act on behalf of patients who lack decisionmaking capacity. Further, it is proposed to establish an internal decisionmaking process for patients who lack decisionmaking capacity and have no authorized surrogate. This action is intended to protect patient rights and to ensure that the patient (or the patient's surrogate or representative) receives sufficient information to make an informed health care decision.

Timetable:

Action	Date	FR Cite
NPRM	08/07/96	61 FR 41108
NPRM Comment Period End	10/07/96	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ruth-Ann Phelps, Ph.D., Health Systems Specialist (10AE), Department of Veterans Affairs, Veterean Health Administration, Department of Veterans Administration, 810 Vermont Ave. NW., Washington, DC 20420
Phone: 202 273-8473

RIN: 2900–AH72

3171. SENSORI-NEURAL AIDS ELIGIBILITY

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-262; 38 USC 501(a); 38 USC 1721; 38 USC 1701

CFR Citation: 38 CFR 17

Legal Deadline: Other, Statutory, November 8, 1996.
PL 104-262, Sec 103, Required VA to establish guidelines for the provision of a sensori-neural aids by 11/8/98, VHA Directive published 11/7/96.

Abstract: This Interim Final Rule provides that VA will furnish needed sensori-neural aids to the following veterans: (1) Those with a compensable service-connected disability; (2) those who are former prisoners of war; (3) those in receipt of benefits under 38 USC 1151; (4) those in receipt of increased pension based on the need for regular aid and attendance or by reason of being permanently housebound; (5) those who have a visual or hearing impairment that resulted from the existence of another medical condition for which the veteran is receiving VA care, or which resulted from treatment of that medical condition; (6) those with a significant functional or cognitive impairment evidenced by deficiencies in the ability to perform activities of daily living, but not including routinely occurring visual or hearing impairments; and (7) those visually or hearing impaired so severely that the provision of sensori-neural aids is necessary to permit active participation in their own medical treatment.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/03/97	62 FR 30240
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: VA will furnish needed hearing aids to those veterans who have service-connected hearing disabilities rated zero percent if there is organic, conductive, mixed or sensory hearing impairment and loss of pure tone hearing sensitivity in the low, mid, or high frequency range or a combination of frequency ranges which contribute to a loss of communication ability; however, hearing aids are to be provided only as needed for the service-connected hearing disability.

Agency Contact: Frederick Downs, Jr., Chief Consultant, Prosthetic and Sensory AIDS Service Strategic Healthcare Group, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8515
Fax: 202 273-9110

RIN: 2900–AI60

3172. • GRANTS TO STATES FOR CONSTRUCTION OR ACQUISITION OF STATE HOME FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 8135(b)(2)(D)

CFR Citation: 38 CFR 17.212

Legal Deadline: None

Abstract: This document proposes to amend the "Medical" regulations in 38 CFR part 17 regarding applications for grants to States for the construction or acquisition of State home facilities. VA awards grants based on a priority ranking system. Usually, the higher priority applications deplete the

VA

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available funding to the extent that the lowest ranking application to be offered funding is offered only a partial grant. It is proposed that if the lowest ranking grant application receives only a partial grant in a fiscal year and if such grant award is partial solely because VA has insufficient funds for a full grant, the application would be placed at the top of the list within its priority group for the next fiscal year. Often applicants are hesitant to accept a partial grant because of the uncertainty of receiving an additional grant the next fiscal year. It appears that the adoption of the proposal would encourage States to accept a partial grant by creating the likelihood that the State would receive an additional grant in the subsequent fiscal year. Accordingly, this would help ensure that VA would be able to award grants to higher priority applicants that might otherwise reject partial funding.

Timetable:

Action	Date	FR Cite
NPRM	07/29/97	62 FR 40492
NPRM Comment Period End	09/29/97	
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kathleen Greve, Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8534

RIN: 2900–AI84

VETERANS BENEFITS ADMINISTRATION

3173. SCHEDULE FOR RATING DISABILITIES—THE CARDIOVASCULAR SYSTEM

Regulatory Plan: This entry is Seq. No. 106 in Part II of this issue of the **Federal Register**.

RIN: 2900–AE40

3174. SCHEDULE FOR RATING DISABILITIES—THE SKIN

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.118

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate skin conditions. For the purposes of the Regulatory Plan, VA has identified this schedule for rating disabilities under the umbrella RIN: 2900-AE40 in the "Additional Information" section of this document.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/91	56 FR 20171
ANPRM Comment Period End	07/01/91	
NPRM	01/19/93	58 FR 4969
NPRM Comment Period End	03/22/93	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carol McBrine, M.D., Consultant, Regulations Staff (213A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AF00

3175. SCHEDULE FOR RATING DISABILITIES—DISEASES OF THE EAR AND OTHER SENSE ORGANS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.75; 38 CFR 4.76; 38 CFR 4.77; 38 CFR 4.78; 38 CFR 4.79; 38 CFR 4.80; 38 CFR 4.83; 38 CFR 4.84; 38 CFR 4.85; 38 CFR 4.86; 38 CFR 4.87

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate impairments of the eye, ear, and other sense organs. For the purposes of the Regulatory Plan, VA has identified this schedule for rating disabilities under the umbrella of RIN: 2900-AE40 in the "Additional Information" section of this document.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/91	56 FR 20170
ANPRM Comment Period End	07/01/91	
NPRM	04/12/94	59 FR 17295
NPRM Comment Period End	06/13/94	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D., Consultant, Regulations Staff (213A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AF22

3176. AMENDMENTS TO TRAINING AND REHABILITATION PROGRAMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 102-568

CFR Citation: 38 CFR 21.40; 38 CFR 21.260; 38 CFR 21.6005; 38 CFR 21.6042; 38 CFR 21.6050; 38 CFR 21.6052; 38 CFR 21.6054; 38 CFR 21.6056; 38 CFR 21.6058; 38 CFR 21.6420; 38 CFR 21.6501; 38 CFR 21.6503; 38 CFR 21.6505; 38 CFR 21.6507; 38 CFR 21.6523; ...

Legal Deadline: None

Abstract: The Veterans' Benefits Act of 1992 extends the termination date for the program of vocational training for certain pensioners through December 31, 1995; makes permanent the programs protecting health care benefits for pensioners who lose their benefits due to income from work or training and the special counseling and employment services program for veterans with total disability ratings because of individual unemployability. In addition the law authorizes a 10 percent increase in subsistence allowance for participants in the vocational rehabilitation program, and extends eligibility for vocational rehabilitation to veterans with service-connected disability of 10 percent under certain conditions. The change also includes revisions to implement regulatory reform.

Timetable:

Action	Date	FR Cite
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Graffam, Veterans Claims Examiner (281), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Ave. NW., Washington, DC 20420
Phone: 202 273-7410

RIN: 2900–AG00

VA

Final Rule Stage

3177. FIBROMYALGIA

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.71(a)

Legal Deadline: None

Abstract: This action will add a diagnostic code and criteria for a rheumatologic condition characterized by pain and tender points. For the purposes of the Regulatory Plan, VA has identified this schedule for rating disabilities under the umbrella of RIN: 2900-AE40 in the "Additional Information" section of this document.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/07/96	61 FR 20438
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Caroll McBrine, Consultant, Regulations Staff (213A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 272-7210

RIN: 2900–AH05

3178. LOAN GUARANTY: AUTHORITY TO CLOSE VA-GUARANTEED LOANS ON AN AUTOMATIC BASIS, WITHDRAWAL OF AUTOMATIC PROCESSING AUTHORITY AND ELIMINATION OF LATE REPORTING WAIVERS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 3702(d)(3); 38 USC 3702(e)

CFR Citation: 38 CFR 36.4348; 38 CFR 36.4349; 38 CFR 36.4303(a); 38 CFR 36.4303(d); 38 CFR 36.4335(a)

Legal Deadline: None

Abstract: VA is proposing to amend its loan guaranty regulations regarding criteria used to approve nonsupervised lenders to process VA-guaranteed loans on the automatic basis. The Department is considering changes in the following requirements for lender participation in the automatic authority program: lender experience, working capital, lines of credit, and VA-approved underwriter eligibility and training. The Department is also considering changes in the regulation regarding annual recertification of lenders and standards for withdrawal of automatic authority. VA is also proposing to amend the requirements pertaining to lenders' reporting of VA-guaranteed loans to the Secretary within 60 days following full disbursement. The revised regulation will provide that if the lender does not report the loan within 60 days, the late report must be accompanied by a statement signed by a corporate officer of the lending institution, certifying that the loan is current and offering an explanation for the late reporting. This change will eliminate the current requirement for VA regional office to go through the formality of making a decision on whether or not to waive the requirement and instead either issue the guaranty or not, as appropriate under the circumstances.

Timetable:

Action	Date	FR Cite
NPRM	07/15/97	62 FR 37824
NPRM Comment Period End	09/15/97	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Judith Caden, Assistant Director, Loan Policy (284), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7368

RIN: 2900–AH23

3179. SERVICE CONNECTION FOR DENTAL CONDITIONS FOR TREATMENT PURPOSES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.381

Legal Deadline: None

Abstract: This action will clarify the term "reasonable period of service" (Manio v. Brown).

Timetable:

Action	Date	FR Cite
NPRM	02/24/97	62 FR 8201
NPRM Comment Period End	04/25/97	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lorna Weston, Consultant, Regulations Staff (213A), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AH41

3180. LOAN GUARANTY: ELECTRONIC PAYMENT OF FUNDING FEE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 36.4312

Legal Deadline: None

Abstract: VA is proposing to require that all funding fee collections be made electronically through the Automated Clearing House (ACH) program. The ACH program provides VA-approved lenders the opportunity to pay the funding fee electronically instead of sending checks and the Loan Guaranty Funding Fee Transmittal by mail.

VA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	05/07/97	62 FR 24872
NPRM Comment Period End	07/07/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Judith Caden, Assistant Director for Loan Policy (264), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7368

RIN: 2900–AH73

3181. VETERANS EDUCATION: APPROVAL OF CORRESPONDENCE COURSES

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-568

CFR Citation: 38 CFR 21.4256; 38 CFR 21.4279

Legal Deadline: None

Abstract: Current regulations provide that in order for a correspondence course to be approved for VA training it must take not less than six hours of preparation a week over any 26-week period and no more than 20 percent of the students should be able to complete the course in less than six months. These substantive rules were based upon authority formerly contained in statute that allowed the Secretary of Veterans Affairs to set correspondence course completion standards by regulation. This discretionary authority has been eliminated, and different standards have been incorporated in the statute. The implementing regulations must be amended to reflect statutory provisions.

Timetable:

Action	Date	FR Cite
NPRM	07/01/97	62 FR 35484
NPRM Comment Period End	09/02/97	
Final Action	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
Fax: 202 275-2636
Email: vaedusvc@patriot.net

RIN: 2900–AH91

3182. CLAIMS BASED ON EXPOSURE TO IONIZING RADIATION (PROSTATE CANCER AND ANY OTHER CANCER)

Priority: Other Significant

Legal Authority: PL 98-542

CFR Citation: 38 CFR 3.311(b)(2)

Legal Deadline: None

Abstract: To implement a decision by the Secretary of Veterans Affairs that, based on all evidence currently available to him, prostate cancer and any other cancers are "radiogenic diseases".

Timetable:

Action	Date	FR Cite
NPRM	09/25/96	61 FR 50264
NPRM Comment Period End	11/25/96	
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Bissett, Consultant, Regulations Staff (213A), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7230

RIN: 2900–AI00

3183. LOAN GUARANTY: CREDIT STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 101; 38 USC 501; 38 USC 3710

CFR Citation: 38 CFR 36.4337

Legal Deadline: None

Abstract: VA proposes to amend its loan guaranty regulations regarding credit standards used by lenders to evaluate the creditworthiness of veteran-borrowers for home loans. VA is committed to regular review and revision of the standards used to determine the creditworthiness of veteran-applicants as issues arise and as the mortgage industry changes. VA recognizes that it is important to keep in step with the rest of the home mortgage industry at least to an extent appropriate for Government benefit-related mortgage program.

Timetable:

Action	Date	FR Cite
NPRM	05/07/97	62 FR 24874
NPRM Comment Period End	07/07/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Judith Caden, Assistant Director for Loan Policy (264), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7368
Fax: 202 275-3523

RIN: 2900–AI16

3184. INTERVERTEBRAL DISC SYNDROME

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.71(a)

Legal Deadline: None

Abstract: To ensure that veterans diagnosed with intervertebral disc syndrome meet uniform criteria and receive consistent evaluations.

Timetable:

Action	Date	FR Cite
NPRM	02/24/97	62 FR 8204
NPRM Comment Period End	04/25/97	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D., Consultant, Regulations Staff (213A), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AI22

VA

Final Rule Stage

3185. VETERANS EDUCATION: APPROVAL OF INDEPENDENT STUDY

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3675; 38 USC 3680A

CFR Citation: 38 CFR 21.4267

Legal Deadline: None

Abstract: This proposal will modernize the definition of independent study to include the modern technologies used to provide interaction between student and faculty. Furthermore, the proposal will explicitly state State Approving Agency responsibilities in approving independent study courses.

Timetable:

Action	Date	FR Cite
Final Action	11/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
Fax: 202 275-2636
Email: vaedusvc@patriot.net

RIN: 2900–AI34

3186. CLAIMS BASED ON AGGRAVATION OF NONSERVICE-CONNECTED DISABILITY

Priority: Other Significant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.310

Legal Deadline: None

Abstract: This document amends VA regulations concerning secondary service connection for certain disabilities. This amendment is necessary because of a recent decision by the U.S. Court of Veterans Appeals, and will establish a new means by which veterans may be compensated for disabilities related to other service-connected conditions.

Timetable:

Action	Date	FR Cite
NPRM	08/04/97	62 FR 30547
NPRM Comment Period End	08/04/97	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Judy Veres, Consultant, Judicial Review Staff (213C), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7240

RIN: 2900–AI42

3187. SURVIVORS AND DEPENDENTS EDUCATION: EXTENSION OF ELIGIBILITY PERIOD

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3512

CFR Citation: 38 CFR 21.3021; 38 CFR 21.3046; 38 CFR 21.3047

Legal Deadline: None

Abstract: Eligible spouses and surviving spouses have 10 years to use their educational assistance under the Survivors' and Dependents' Educational Assistance program. However, if the spouse or surviving spouse was prevented from initiating or completing a program of education within the 10-year period due to a physical or mental disability that is not the result of willful misconduct, the statute permits the extension of that period. This proposed rule will implement this statutory provision.

Timetable:

Action	Date	FR Cite
NPRM	01/09/97	62 FR 1303
NPRM Comment Period End	03/10/97	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
Fax: 202 275-2636

RIN: 2900–AI45

3188. COLD INJURIES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.104

Legal Deadline: None

Abstract: This document is amended to provide evaluation criteria based on current medical knowledge about the long-term effects of cold injury that can be applied to any part of the body affected by cold injury.

Timetable:

Action	Date	FR Cite
NPRM	03/28/97	62 FR 14832
NPRM Comment Period End	05/27/97	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D., Consultant, Regulations Staff (213A), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7230

RIN: 2900–AI46

3189. SERVICEMEN'S AND VETERANS' GROUP LIFE INSURANCE

Priority: Info./Admin./Other

Legal Authority: PL 104-275, sec 402; PL 104-275, sec 403; PL 104-274, sec 405

CFR Citation: 38 CFR 1.506; 38 CFR 3.261; 38 CFR 9.1; 38 CFR 9.4; 38 CFR 9.6; 38 CFR 9.7; 38 CFR 9.11; 38 CFR 9.12

Legal Deadline: None

Abstract: Section 402 merged retired reservist Servicemen's Group Life Insurance and Veterans' Group Life Insurance and extends Veterans Group Life Insurance to members of the Ready Reserves at the time of separation from the Reserves. Section 403 allows for the conversion of Servicemembers' Group Life Insurance and Veterans' Group Life Insurance to commercial insurance at any time. Section 405 changes the name of the "Servicemen's Group Life Insurance" program to the "Servicemembers' Group Life Insurance" program.

Timetable:

Action	Date	FR Cite
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeanne Derrick (290B), Attorney/Advisor, Department of Veterans Affairs, Veterans Benefits

VA

Final Rule Stage

Administration, PO Box 8079, Philadelphia, PA 19101
Phone: 215 842-2000
Fax: 215 381-3504

RIN: 2900–AI73

3190. VETERANS TRAINING: INCREASE IN RATES PAYABLE UNDER 38 USC CHAPTER 31

Priority: Routine and Frequent

Legal Authority: 38 USC 3108; 38 USC 3462(e); PL 101-237

CFR Citation: 38 CFR 21.260(b)

Legal Deadline: None

Abstract: By statute, the monthly rates of basic subsistence allowance payable under 38 U.S.C. chapter 31 must be adjusted each fiscal year. In accordance with the statutory formula, the regulations governing rates of basic subsistence allowance payable under 38 U.S.C. chapter 31 for fiscal year 1996 are changed to show a 2.9 increase in these rates.

Timetable:

Action	Date	FR Cite
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Layton, Veterans Claims Examiner (28), Vocational Rehabilitation & Counseling Svc, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7413
Fax: 202 275-5122

RIN: 2900–AI74

3191. • COMPENSATION FOR CERTAIN UNDIAGNOSED ILLNESSES

Priority: Other Significant

Legal Authority: 38 USC 1117

CFR Citation: 38 CFR 3.317

Legal Deadline: None

Abstract: VA is amending its adjudication regulations regarding compensation for disabilities resulting from undiagnosed illnesses suffered by Persian Gulf veterans. This amendment will expand the period within which such disabilities must become manifest to a compensable degree in order for entitlement for compensation to be established.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/29/97	62 FR 23138
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Bisset, Consultant, Regulations Staff (213A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7230

RIN: 2900–AI77

3192. • VETERANS AND RESERVISTS EDUCATION: ADDITIONAL EDUCATIONAL ASSISTANCE WHILE SERVING IN THE SELECTED RESERVES

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 16131

CFR Citation: 38 CFR 21.7131; 38 CFR 21.7135; 38 CFR 21.7136; 38 CFR 21.7137; 38 CFR 21.7139; 38 CFR 21.7631; 38 CFR 21.7635; 38 CFR 21.7636; 38 CFR 21.7639

Legal Deadline: None

Abstract: The National Defense Authorization Act for Fiscal Year 1996 provides that the monthly rate of educational assistance may be increased by an amount that exceeding $350 per month for certain persons. To be eligible a person must qualify for educational assistance payable under the Montgomery GI Bill - Active Duty through at least three years active duty service and must also agree to serve at least six years in the Selected Reserve, or the person must qualify for educational assistance payable under the Montgomery GI Bill - Selected Reserve. Also, to be eligible the person must have a skill or specialty designated by the Secretary of the appropriate Department of the military as a skill or specialty in which there is a critical shortage of personnel, or for which it is difficult to recruit or, in the case of critical units, to retain personnel. The Act further provides that the actual amounts of the increase shall be determined by the Secretary of Defense. The appropriate regulations will be amended to reflect the statutory revisions.

Timetable:

Action	Date	FR Cite
Final Action	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
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RIN: 2900–AI79

3193. • SURVIVOR BENEFIT PLAN MINIMUM INCOME ANNUITY

Priority: Substantive, Nonsignificant

Legal Authority: PL 92-425; PL 104-201

CFR Citation: 38 CFR 3.811

Legal Deadline: None

Abstract: VA is amending its adjudication regulations to provide for payment of the minimum income annuity, authorized by Pub. L. 92-425 as amended to certain surviving spouses. This amendment is necessary to reflect statutory revisions contained in the National Defense Authorization Act for Fiscal Year 1997 that transfers the responsibility for paying this benefit from DoD to VA.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Bissett, Consultant, Regulations Staff (213A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7230

RIN: 2900–AI83

3194. • VETERANS EDUCATION: EFFECTIVE DATE FOR AWARDS OF EDUCATIONAL ASSISTANCE TO VETERANS WHO WERE VOLUNTARILY DISCHARGED

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3018B

CFR Citation: 38 CFR 21.7131

VA

Final Rule Stage

Legal Deadline: None

Abstract: A provision of the National Defense Authorization Act for Fiscal Year 1993 allowed certain voluntarily discharged individuals to withdraw their election not to participate in the Montgomery GI Bill - Active Duty. Those individuals who were discharged before October 23, 1992, were required to submit $1,200 to VA. While the statute contains a deadline of October 23, 1993, for withdrawing the election not to participate, there is no deadline for submitting the $1,200. This rule will make clear that the submission of $1,200 is a necessary condition for these veterans to establish entitlement to the Montgomery GI Bill - Active Duty. The effective Date of an award of educational assistance will depend on receipt of that $1,200.

Timetable:

Action	Date	FR Cite
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
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RIN: 2900–AI88

3195. • INCREASE IN RATES PAYABLE UNDER THE MONTGOMERY GI BILL—SELECTED RESERVE

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 16136

CFR Citation: 38 CFR 21.7636

Legal Deadline: None

Abstract: By statute, the monthly rates of educational assistance payable to reservists under the Montgomery GI Bill - Selected Reserve must be adjusted each fiscal year for inflation. In accordance with the statutory formula, the regulations governing rates of educational assistance payable under the Montgomery GI Bill - Selected Reserve for fiscal year 1998 will be changed to show the required increase.

Timetable:

Action	Date	FR Cite
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
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RIN: 2900–AI89

3196. • VETERAN EDUCATION: RATE INCREASE FOR 1997-1998 SCHOOL YEAR IN MONTGOMERY GI BILL—ACTIVE DUTY

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3015

CFR Citation: 38 CFR 21.7136; 38 CFR 21.7137

Legal Deadline: None

Abstract: By statute, the monthly rates of basic educational assistance payable to veterans and servicemembers under the Montgomery GI Bill - Active Duty must be adjusted each fiscal year. In accordance with the statutory formula, the regulations governing rates of basic educational assistance payable under the Montgomery GI Bill - Active Duty for fiscal year 1998 (October 1, 1997 through September 30, 1998) will be changed to show the required increase.

Timetable:

Action	Date	FR Cite
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
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RIN: 2900–AI90

3197. • DIRECT SERVICE CONNECTION (POST-TRAUMATIC STRESS DISORDER)

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1154(b)

CFR Citation: 38 CFR 3.304(f)

Legal Deadline: None

Abstract: VA is amending its regulations concerning the extent of evidence required to establish service connection for post-traumatic stress disorder. The intended effect of this amendment is to implement a decision by the United States Court of Veterans Appeals that current regulations do not adequately reflect the governing statute.

Timetable:

Action	Date	FR Cite
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Bisset, Consultant, Regulations Staff (213A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7230

RIN: 2900–AI97

OFFICE OF ACQUISITION AND MATERIEL MANAGEMENT

3198. MISCELLANEOUS CHANGES TO VA ACQUISITION REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR ch 8

Legal Deadline: None

Abstract: This change will provide title updates and eliminates restatements and provisions that are duplicative of FAR or obsolete.

Timetable:

Action	Date	FR Cite
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ramona Jones, Procurement Analyst (95A), Acquisition Policy Team, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420

VA

Final Rule Stage

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RIN: 2900–AI28

3199. DEFINITIONS AND TERMS FOR PART 802

Priority: Routine and Frequent

Legal Authority: 38 USC 501; 38 USC 486(c)

CFR Citation: 48 CFR ch 8

Legal Deadline: None

Abstract: This document will update the definition of a Head of the Contracting Activity in 48 CFR part 802.

Timetable:

Action	Date	FR Cite
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: John A. Corso (95A), Senior Procurement Analyst, Ofc of Acquisition & Materiel Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8754
Fax: 202 273-9302

RIN: 2900–AI49

3200. VA ACQUISITION REGULATIONS: TITLE UPDATE

Priority: Info./Admin./Other

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR ch 8

Legal Deadline: None

Abstract: This change will update titles and mail routing symbols.

Timetable:

Action	Date	FR Cite
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Ramona Jones, Procurement Analyst (95A), Acquisition Policy Team, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
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Fax: 202 273-9302
Email: jones@mail.va.gov

RIN: 2900–AI62

3201. • VA ACQUISITION REGULATIONS PART 801, LEGAL/TECHNICAL REVIEW REQUIREMENTS

Priority: Info./Admin./Other

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 801.602-70; 48 CFR 801.602-71; 48 CFR 801.602-72; 48 CFR 801.602-73; 48 CFR 801.602-74; 48 CFR 801.602-75; 48 CFR 815.805-4; 48 CFR 816.102(a); 48 CFR 817.102-1; 48 CFR 817.402; 48 CFR 819.801; 48 CFR 842.000; 48 CFR 842.102; 48 CFR 842.202; 48 CFR 842.1203; ...

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) is amending the Veterans Affairs Acquisition Regulations (VAAR) to remove requirements from the Code of Federal Regulations that have been determined to be VA internal procedures that do not affect the public.

Timetable:

Action	Date	FR Cite
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Don Kaliher, Acquisition Policy Team (95A), Ofc of Acquisition & Materiel Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8819

RIN: 2900–AI96

NATIONAL CEMETERY SYSTEM

3202. DISINTERMENTS IN NATIONAL CEMETERIES

Priority: Other Significant

Legal Authority: 38 USC 501

CFR Citation: 38 CFR 1.621

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) is issuing a final rule concerning disinterments from national cemeteries. A proposed rule was published in the Federal Register on June 20, 1996 (61 FR 31479). No comments from the public were received. Current regulations permit disinterment of persons buried in a national cemetery with the consent of immediate family members The definition of immediate family members includes a surviving spouse only if unmarried. The regulation change defines immediate family members for purposes of disinterments to include a surviving spouse regardless of whether remarried or not. This is necessary since we believe the emotional ties of the surviving spouse are sufficient to justify his or her consent as a condition of disinterment. This document also makes nonsubstantive changes for purpose of clarification.

Timetable:

Action	Date	FR Cite
NPRM	06/20/96	61 FR 31479
NPRM Comment Period End	08/19/96	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ken Greenberg, Program Analyst (402B1), NCS Communications Division, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-5179
Fax: 202 273-6697

RIN: 2900–AI21

DEPARTMENT OF VETERANS AFFAIRS (VA)

Long-Term Actions

VETERANS HEALTH ADMINISTRATION

3203. • MEDICAL

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 501; 38 USC 1721

CFR Citation: 38 CFR 17.30; 38 CFR 17.35; 38 CFR 17.43; 38 CFR 17.46; 38 CFR 17.47; 38 CFR 17.49; 38 CFR 17.50; 38 CFR 17.52; 38 CFR 17.53; 38 CFR 17.56; 38 CFR 17.65; 38 CFR 17.66; 38 CFR 17.90; 38 CFR 17.91

Legal Deadline: None

Abstract: To amend 38 CFR part 17 to assure rules governing the provisions of medical services, domiciliary and nursing home care in department and non-department facilities are provided consistent with current law.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roscoe G. Butler, Program Specialist, Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-8302

RIN: 2900–AI80

VETERANS BENEFITS ADMINISTRATION

3204. LOAN GUARANTY: TITLE EVIDENCE REQUIREMENTS AND OCCUPANCY REQUIREMENTS FOR CONVEYANCE OF PROPERTIES TO VA

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 36.4320

Timetable:

Action	Date	FR Cite
NPRM	08/08/90	55 FR 31847
NPRM Comment Period Extended	10/05/90	55 FR 35325
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leonard A. Levy
Phone: 202 273-7344

RIN: 2900–AE20

3205. ACCEPTANCE OF PARTIAL PAYMENTS; INDEMNIFICATION OF DEFAULT

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 4202; 38 CFR 4275; 38 CFR 4301; 38 CFR 4315; 38 CFR 4323

Timetable:

Action	Date	FR Cite
NPRM	03/02/94	59 FR 9944
NPRM Comment Period End	05/02/94	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leonard A. Levy
Phone: 202 273-7344

RIN: 2900–AE80

3206. REVISED DEFINITION OF NET VALUE AND REVISED CRITERIA FOR PRE-FORECLOSURE DEBT WAIVERS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 36.4301; 38 CFR 36.4323

Timetable:

Action	Date	FR Cite
NPRM	09/22/93	58 FR 49251
NPRM Comment Period End	10/22/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Len Levy
Phone: 202 273-7344

RIN: 2900–AG20

3207. DELEGATION OF AUTHORITY TO PROVIDE RELIEF ON ACCOUNT OF ADMINISTRATIVE ERROR

Priority: Substantive, Nonsignficant

CFR Citation: 38 CFR 2.7

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Trowbridge
Phone: 202 273-7210

RIN: 2900–AH19

3208. FIDUCIARY ACTIVITIES; MISCELLANEOUS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 38 CFR 13.2; 38 CFR 13.3; 38 CFR 13.55; 38 CFR 13.56; 38 CFR 13.58; 38 CFR 13.59; 38 CFR 13.61; 38 CFR 13.64; 38 CFR 13.69; 38 CFR 13.74; 38 CFR 13.75; 38 CFR 13.76; 38 CFR 13.100; 38 CFR 13.108; 38 CFR 13.109; ...

Timetable:

Action	Date	FR Cite
Final Action	10/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Douglas L. Bragg
Phone: 202 273-6616
Fax: 202 275-5924

RIN: 2900–AI14

3209. • LOAN GUARANTY: REQUIREMENTS FOR INTEREST RATE REDUCTION REFINANCING LOANS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 36.4306a

Legal Deadline: None

Abstract: Interest rate reduction refinancing loans assist veterans by allowing them to refinance an outstanding VA guaranteed loan that bears interest at a high rate with a new loan at a loan rate. The law allows the veteran to do so without having to pay any expenses out-of-pocket. The revised regulations will limit these loans in most cases to instances where the veteran's monthly mortgage payment will decrease. They will also limit the maximum loan amount, and generally require that the loans being refinanced by current in their payments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Judith Caden, Assistant Director for Loan Policy,

Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7368

RIN: 2900–AI92

BOARD OF VETERANS APPEALS

3210. APPEALS REGULATIONS; RULES OF PRACTICE

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 19.3 (Revision); 38 CFR 19.10; 38 CFR 19.15 (Revision; 38 CFR 19.39; 38 CFR 20.3; 38 CFR 20.101 (Revision); 38 CFR 20.102 (Revision); 38 CFR 20.201 (Revision); 38 CFR 20.605 (Revision); 38 CFR 20.609 (Revision); 38 CFR 20.903 (Revision); 38 CFR 20.1000; 38 CFR 20.1001; 38 CFR 20.1002; 38 CFR 20.1100 (Revision); ...

Timetable:

Action	Date	FR Cite
NPRM	02/03/92	57 FR 4131
NPRM Comment Period End	03/04/92	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven L. Keller
Phone: 202 565-5978

RIN: 2900–AE78

3211. RULES OF PRACTICE; HEARINGS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 20.702; 38 CFR 20.703; 38 CFR 20.704; 38 CFR 20.707; 38 CFR 20.711; 38 CFR 20.714; 38 CFR 20.716; 38 CFR 20.717; 38 CFR 20.1003; 38 CFR 2.1; 38 CFR 19.75

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven L. Keller
Phone: 202 565-5978

RIN: 2900–AG07

3212. RULES OF PRACTICE: MEDICAL OPINIONS; APPEAL PROCESSING AND SUBMISSION OF ADDITIONAL EVIDENCE

Priority: Other Significant

CFR Citation: 38 CFR 19.36; 38 CFR 20.600; 38 CFR 20.801; 38 CFR 20.802; 38 CFR 20.901; 38 CFR 20.1304

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven L. Keller
Phone: 202 565-5978

RIN: 2900–AG90

3213. RULES OF PRACTICE: ORAL ARGUMENT IN FILING APPELLATE BRIEFS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 20.700; 38 CFR 20.718

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven L. Keller
Phone: 202 565-5978

RIN: 2900–AI18

3214. APPEALS REGULATIONS: REMAND FOR FURTHER DEVELOPMENT

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 19.9

Timetable:

Action	Date	FR Cite
NPRM	07/03/97	62 FR 36038
NPRM Comment Period End	08/04/97	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven L. Keller
Phone: 202 565-5978

RIN: 2900–AI50

3215. • RULES OF PRACTICE: DEATH OF APPELLANT DURING PENDENCY OF APPEAL

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 5902 to 5904

CFR Citation: 38 CFR 20.611; 38 CFR 20.1302

Legal Deadline: None

Abstract: This regulation amends the Rules of Practice of the Board of Veterans' Appeals relating to circumstances which arise when an appellant dies while an appeal is pending before the Board. These amendments (1) provide that when an appellant dies while an appeal is pending, the appeal will be dismissed, and (2) eliminate a provision which permitted a deceased appellant's representative to continue to act with respect to any appeal pending upon the death of the appellant. These changes are necessary because of a ruling made by the United States Court of Veterans Appeals.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven L. Keller, Chief Counsel, Department of Veterans Affairs, Board of Veterans' Appeals, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 565-5978

RIN: 2900–AI86

3216. • RULES OF PRACTICE: CONTINUATION OF REPRESENTATION FOLLOWING DEATH OF A CLAIMANT OR APPELLANT

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 5902 to 5904

CFR Citation: 38 CFR 20.611

Legal Deadline: None

Abstract: This change proposes to amend to eliminate a rule which automatically assigns a deceased appellant's representative to the appellant's survivor. This change is necessary because of a court ruling which eliminates most of the need for such a provision.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven L. Keller, Chief Counsel, Department of Veterans Affairs, Board of Veterans' Appeals, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 565-5978

RIN: 2900–AI87

OFFICE OF EQUAL EMPLOYMENT OPPORTUNITY

3217. NONDISCRIMINATION ON THE BASIS OF SEX UNDER FEDERALLY ASSISTED EDUCATION PROGRAMS AND ACTIVITIES

Priority: Other Significant

CFR Citation: 38 CFR 18

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ellis Jones Hodges
Phone: 202 482-6711

RIN: 2900–AB51

OFFICE OF THE ASSISTANT SECRETARY FOR ACQUISITION AND FACILITIES

3218. OPERATION OF CHILD CARE CENTERS AT VA FACILITIES

Priority: Info./Admin./Other

CFR Citation: 38 CFR 17

Timetable:

Action	Date	FR Cite
NPRM	12/27/89	54 FR 53078
NPRM Comment Period End	01/26/90	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Renee Bruce
Phone: 410 605-7388
Fax: 410 605-7900

RIN: 2900–AD48

OFFICE OF FINANCIAL MANAGEMENT

3219. STANDARDS FOR COLLECTION, COMPROMISE, SUSPENSION, OR TERMINATION OF COLLECTION EFFORT, IN REFERRAL OF CIVIL CLAIMS FOR MONEY OR PROPERTY; DELEGATIONS OF AUTHORITY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 38 CFR 1.900 to 1.955; 38 CFR 2.6(c); 4 CFR 101 to 105

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter Mulhern
Phone: 202 273-5570

RIN: 2900–AI27

DEPARTMENT OF VETERANS AFFAIRS (VA) — Completed Actions

3220. MISCELLANEOUS CHANGES TO PART 17

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	04/09/97	62 FR 17072
Final Action Effective	04/09/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leroy E. Cossette
Phone: 202 273-8300

RIN: 2900–AI37

3221. PROVISION OF HEALTH CARE TO VIETNAM VETERANS' CHILDREN WITH SPINA BIFIDA

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 17.900

Completed:

Reason	Date	FR Cite
Final Action	09/30/97	62 FR 51281
Final Action Effective	10/01/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Neil Otchin
Phone: 202 273-8578
Fax: 202 273-9080

RIN: 2900–AI65

3222. SCHEDULE FOR RATING DISABILITIES—THE MUSCULAR SYSTEM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 38 CFR 4.73

Completed:

Reason	Date	FR Cite
Final Action	06/03/97	62 FR 30235
Final Action Effective	07/03/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D.
Phone: 202 273-7210

RIN: 2900–AE89

3223. LOAN GUARANTY FLOOD INSURANCE REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 36.4222; 38 CFR 36.4326; 38 CFR 36.4402; 38 CFR 36.4500; 38 CFR 36.4512; 38 CFR 36.4600

Completed:

Reason	Date	FR Cite
Final Action	02/06/97	62 FR 5530
Final Action Effective	02/06/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Judith Caden
Phone: 202 273-7368

RIN: 2900–AH63

VA

Completed Actions

3224. VETERANS EDUCATION: SUBMISSION OF SCHOOL CATALOG TO STATE APPROVING AGENCIES

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 21.4253

Completed:

Reason	Date	FR Cite
Final Action	07/01/97	62 FR 35423
Final Action Effective	07/01/97	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: June C. Schaeffer
Phone: 202 273-7187
Fax: 202 275-2636
Email: vaedusvc@patriot.net

RIN: 2900–AH97

3225. VOCATIONAL REHABILITATION; MISCELLANEOUS CHANGES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 38 CFR 21.74; 38 CFR 21.254; 38 CFR 21.256; 38 CFR 21.260; 38 CFR 21.292; 38 CFR 21.430

Completed:

Reason	Date	FR Cite
Final Action	04/11/97	62 FR 17706
Final Action Effective	04/11/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles A. Graffam
Phone: 202 273-7410
Fax: 202 275-5122

RIN: 2900–AI29

3226. SPOUSE AND SURVIVING SPOUSE

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 3.50; 38 CFR 3.106(e); 38 CFR 3.205(a); 38 CFR 3.214; 38 CFR 3.252(b); 38 CFR 3.252(e); 38 CFR 3.257; 38 CFR 3.262(k); 38 CFR 3.400(e); 38 CFR 3.401(c); 38 CFR 3.450(c); 38 CFR 3.452(c); 38 CFR 3.666(b); 38 CFR 3.702(e); 38 CFR 3.805; ...

Completed:

Reason	Date	FR Cite
Final Action	02/06/97	62 FR 5528
Final Action Effective	02/06/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Trowbridge
Phone: 202 273-7210

RIN: 2900–AI36

3227. DEPENDENCY AND INCOME

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 3.272(c)

Completed:

Reason	Date	FR Cite
Final Action	02/06/97	62 FR 5528
Final Action Effective	11/29/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bradley B. Flohr
Phone: 202 273-7241
Fax: 202 273-1756

RIN: 2900–AI47

3228. CAPPING OF NATIONAL SERVICE LIFE INSURANCE "H" TERM PREMIUMS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 8.30

Completed:

Reason	Date	FR Cite
Withdrawn	08/26/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeanne Derrick (290B)
Phone: 215 842-2000
Fax: 215 381-3504

RIN: 2900–AI52

3229. RESERVISTS EDUCATION: INCREASE IN RATES PAYABLE UNDER THE MONTGOMERY GI BILL—SELECTED RESERVES

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 21.7636

Completed:

Reason	Date	FR Cite
Final Action	05/22/97	62 FR 27963
Final Action Effective	05/22/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer
Phone: 202 273-7187
Fax: 202 275-2636
Email: vaedusvc@patriot.net

RIN: 2900–AI54

3230. RETROACTIVE PAYMENTS DUE TO A LIBERALIZING LAW OR VA ISSUE

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 3.114(a)

Completed:

Reason	Date	FR Cite
Final Action	04/11/97	62 FR 17706
Final Action Effective	06/12/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Larry Frejheit
Phone: 202 273-7252

RIN: 2900–AI57

3231. VETERAN'S BENEFITS IMPROVEMENT ACT OF 1996

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 3.2(f); 38 CFR 3.20(c); 38 CFR 3.307(a); 38 CFR 3.810(a); 38 CFR 3.810(d); 38 CFR 3.1000(a); 38 CFR 3.1600(c)

Completed:

Reason	Date	FR Cite
Final Action	07/01/97	62 FR 35421
Final Action Effective	10/09/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Bisset
Phone: 202 273-7230

RIN: 2900–AI66

3232. MONETARY ALLOWANCE UNDER 38 USC 1805 FOR A CHILD SUFFERING FROM SPINA BIFIDA WHO IS A CHILD OF A VIETNAM VETERAN

Priority: Other Significant

CFR Citation: 38 CFR 3.27; 38 CFR 3.105; 38 CFR 3.158; 38 CFR 3.261; 38 CFR 3.262; 38 CFR 3.263; 38 CFR 3.272; 38 CFR 3.275; 38 CFR 3.403; 38 CFR 3.503; 38 CFR 3.814

Completed:

Reason	Date	FR Cite
Final Action	09/30/97	62 FR 51274
Final Action Effective	10/01/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Bisset
Phone: 202 273-7230

RIN: 2900–AI70

VA

Completed Actions

3233. PROVISION OF VOCATIONAL TRAINING AND REHABILITATION TO VIETNAM VETERANS' CHILDREN WITH SPINA BIFIDA

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 21.8001; 38 CFR 21.8005; 38 CFR 21.8010; 38 CFR 21.8015; 38 CFR 21.8021; 38 CFR 21.8040; 38 CFR 21.8042; 38 CFR 21.8050; 38 CFR 21.8052; 38 CFR 21.8060; 38 CFR 21.8070; 38 CFR 21.8072; 38 CFR 21.8074; 38 CFR 21.8080; 38 CFR 21.8082; ...

Completed:

Reason	Date	FR Cite
Final Action	09/30/97	62 FR 51286
Final Action Effective	10/01/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles A. Graffam
Phone: 202 273-7410
Fax: 202 275-5122

RIN: 2900–AI72

3234. RESCISSION OF 38 USC 8110(C) PROVISIONS IN THE VAAR

Priority: Routine and Frequent

CFR Citation: 48 CFR 807; 48 CFR 852

Completed:

Reason	Date	FR Cite
Final Action	04/15/97	62 FR 18300
Final Action Effective	04/15/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Donald E. Kaliher (95A)
Phone: 202 273-8819
Fax: 202 273-9305
Email: kaliher@mail.va.gov

RIN: 2900–AI61

[FR Doc. 97-22223 Filed 10-28-97; 8:45 am]
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Wednesday
October 29, 1997

Part XVII

Advisory Council on Historic Preservation

Semiannual Regulatory Agenda

ADVISORY COUNCIL ON HISTORIC PRESERVATION (ACHP)

ADVISORY COUNCIL ON HISTORIC PRESERVATION

36 CFR Ch. VIII

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Advisory Council on Historic Preservation.

ACTION: Semiannual regulatory agenda.

SUMMARY: The following Advisory Council on Historic Preservation regulations are scheduled for development. They are submitted herein for publication in the Unified Agenda of Federal Regulatory and Deregulatory Actions.

FOR FURTHER INFORMATION CONTACT: See person listed below for specific agenda information.

Advisory Council on Historic Preservation.

John M. Fowler,

Acting Executive Director.

ADVISORY COUNCIL ON HISTORIC PRESERVATION (ACHP) — Proposed Rule Stage

3235. PROTECTION OF HISTORIC PROPERTIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 470

CFR Citation: 36 CFR 800

Legal Deadline: None

Abstract: The Advisory Council is in the process of revising its regulations in light of its responsibilities under 16 USC 470 and the 1992 amendments to the National Historic Preservation Act, PL 102-575, and in accordance with the National Performance Review's streamlining initiative.

Timetable:

Action	Date	FR Cite
NPRM	10/03/94	59 FR 50396
NPRM Comment Period End	01/03/95	
Second NPRM	09/13/96	61 FR 48580
Second NPRM Comment Period End	11/12/96	
Comments Under Review	10/15/97	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: State, Tribal, Federal

Agency Contact: Adina Kanefield, Assistant General Counsel, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue NW., Suite 809, Washington, DC 20004
Phone: 202 606-8596
Fax: 202 606-8672

RIN: 3010–AA04

[FR Doc. 97-22224 Filed 10-28-97; 8:45 am]
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federal register

Wednesday
October 29, 1997

Part XVIII

Agency for International Development

Semiannual Regulatory Agenda

AGENCY FOR INTERNATIONAL DEVELOPMENT (AID)

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

U.S. Agency for International Development

22 CFR Ch. II

Federal Regulations; USAID Regulatory Agenda Semiannual Summary

AGENCY: United States Agency for International Development, IDCA.

ACTION: Semiannual regulatory agenda.

SUMMARY: The U.S. Agency for International Development (USAID) is publishing this agenda as required by Executive Order 12866 "Regulatory Planning and Review" (58 FR 51735, October 4, 1993) and the Regulatory Flexibility Act. This agenda reports the status of those regulations currently under review and gives USAID's plan for the issuance of proposed regulations during the next 12 months. It is expected that the information provided in this agenda will enable the public to be more aware of and to participate more effectively in USAID's regulatory process.

FOR FURTHER INFORMATION CONTACT:

General: For further information on the agenda or the review list in general, contact: Willette Smith, Acting Chief, Bureau for Management, Office of Administrative Services, Information and Records Division, U.S. Agency for International Development, Washington, DC 20523; telephone (202) 712-5027, e-mail address MBALL@USAID.GOV.

Specific: For further information about any particular item on the agenda, contact the individual listed as the contact for that item.

SUPPLEMENTARY INFORMATION: Executive Order 12866 and the Regulatory Flexibility Act require the semiannual publication in the **Federal Register** of an agenda of regulations. The Regulatory Flexibility Act applies only to regulations for which a notice of proposed rulemaking was issued on or after September 19, 1980. USAID is required to publish an agenda listing all the regulations it expects to propose or promulgate that are likely to have a "significant economic impact on a substantial number of small entities." The Executive order became effective on September 30, 1993, and it is required that USAID publish a listing of all the regulations it expects to have under active consideration for proposal or review during the coming 1-year period.

Dated: August 21, 1997.

Janet Allen,

Deputy Director, Bureau for Management, Office of Administrative Services.

AGENCY FOR INTERNATIONAL DEVELOPMENT (AID) — Final Rule Stage

3236. ADMINISTRATION OF GRANTS AND COOPERATIVE AGREEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2381

CFR Citation: 22 CFR 226

Legal Deadline: None

Abstract: This regulation will implement the Governmentwide uniform administrative requirements for grants and agreements with institutions of higher education, hospitals, and other nonprofit organizations issued by the Office of Management and Budget.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/19/95	60 FR 3743
Final Action	02/00/98	
Final Action Effective	04/00/98	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Kathleen O'Hara, Chief, Policy Division, Office of Procurement, Agency for International Development, Room 1600 I, SA-14, Washington, DC 20523-1435
Phone: 703 875-1534
Fax: 703 875-1243

RIN: 0412–AA21

3237. MISCELLANEOUS AMENDMENTS TO THE AIDAR (AIDAR NOTICE 97-4)

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2381

CFR Citation: 48 CFR 712; 48 CFR 732; 48 CFR 752; 48 CFR ch 7, app I

Legal Deadline: None

Abstract: The USAID Acquisition Regulation will be amended to establish an Agency policy regarding contract clauses to clarify withholding requirements under IQC contracts and update reporting requirements, and to revise the Agency's academic publications policy in appendix I.

Timetable:

Action	Date	FR Cite
Final Action	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Additional Information: The final rule published in the Federal Register on July 29, 1997, at 62 FR 40462 (FR Doc. 97-18603) mistakenly cited this RIN number. It should have used RIN 0412-AA32.

Agency Contact: Diane Howard, Procurement Analyst, Agency for International Development, M/OP/P, Room 1600A, SA-14, Washington, DC 20523-1435
Phone: 703 875-1534
Fax: 703 875-1243

RIN: 0412–AA30

3238. • RULES AND PROCEDURES APPLICABLE TO COMMODITY TRANSACTIONS (AID REGULATION 1): INSPECTION AND PRICE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2381

CFR Citation: 22 CFR 201.01; 22 CFR 201.21; 22 CFR 201.31; 22 CFR 201.48; 22 CFR 201.52; 22 CFR 201.60; 22 CFR 201.63; 22 CFR 201.64

Legal Deadline: None

Abstract: AID Regulation 1 is being amended to implement a requirement for preshipment inspection of commodities and to simplify the rules on maximum prices for commodities. The purpose of preshipment inspection is to complete price review of transactions prior to shipment, rather than after-the-fact, and when determined necessary, to require a physical inspection. The purpose of the amendments to the price rules is to make them easier for suppliers to understand and bring them into line with commercial practices used by preshipment inspection firms that will be contracted with to carry out the preshipment inspection program.

Timetable:

Action	Date	FR Cite
NPRM	08/08/97	62 FR 42712
NPRM Comment Period End	10/07/97	
Final Action	11/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kathleen O'Hara, Chief, Policy Division, Office of Procurement, Agency for International Development, M/OP/P, Room 1600A, SA-14, Washington, DC 20523
Phone: 703 875-1534
Fax: 703 875-1243
Email: kohara@usaid.gov

RIN: 0412–AA34

3239. • ADMINISTRATIVE REQUIREMENTS FOR GRANTEES TO REFLECT SINGLE AUDIT ACT AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2381

CFR Citation: 22 CFR 226

Legal Deadline: None

Abstract: USAID Regulation 26 (22 CFR part 226) is being amended to reflect the enactment of the Single Audit Act by incorporating the revised OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," by reference.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/29/97	62 FR 45937
Interim Final Rule Effective	09/29/97	
Interim Final Rule Comment Period End	10/28/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diana Esposito, Procurement Analyst, Agency for International Development, M/OP/P, Room 1600A, SA-14, Washington, DC 20523-1435
Phone: 703 875-1534
Fax: 703 875-1243

RIN: 0412–AA36

AGENCY FOR INTERNATIONAL DEVELOPMENT (AID) — Completed Actions

3240. APPENDIX D, DIRECT - USAID CONTRACTS WITH A U.S. CITIZEN OR A U.S. RESIDENT ALIEN FOR PERSONAL SERVICES ABROAD (AIDAR NOTICE 97-2)

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2381

CFR Citation: 48 CFR ch 7, app D

Legal Deadline: None

Abstract: Appendix D establishes the policies and procedures for contracting for personal services with U.S. citizens and legal residents. It is being amended to require classification of positions, to provide for an alternative method of amending contracts, and to make editorial revisions.

Timetable:

Action	Date	FR Cite
Final Action	07/23/97	62 FR 39453
Final Action Effective	08/22/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Patricia Bullock, Procurement Analyst, Agency for International Development, M/OP/P, Room 1600A, SA-14, Washington, DC 20523-1435
Phone: 703 875-1534
Fax: 703 875-1243

RIN: 0412–AA31

3241. MISCELLANEOUS AMENDMENTS TO THE AIDAR (AIDAR NOTICE 97-1)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 22 USC 2381

CFR Citation: 48 CFR 701; 48 CFR 705; 48 CFR 706; 48 CFR 708; 48 CFR 709; 48 CFR 711; 48 CFR 715; 48 CFR 725; 48 CFR 726; 48 CFR 728; 48 CFR 750; 48 CFR 752; 48 CFR ch 7, app A; 48 CFR ch 7, app G

Legal Deadline: None

Abstract: The AIDAR is being amended to implement the Agency's new regulation on source, origin, and nationality; to reflect the omission of authority for the Agency's Disadvantaged Enterprises Program in the 1996 and 1997 appropriations acts; to remove certification requirements not approved by the Head of the Agency in accordance with the Clinger-Cohen Act of 1996; to clarify and simplify policies and procedures currently in the AIDAR; to correct mistakes; and to bring the AIDAR into compliance with Agency policies.

Timetable:

Action	Date	FR Cite
Final Action	07/29/97	62 FR 40464
Final Action Effective	08/29/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Additional Information: This action was completed when published as a final rule in the Federal Register on July 29, 1997 (62 FR 40464, FR Doc. 97-18603) but under the wrong RIN. RIN 0412-AA30 was inadvertently used instead of RIN 0412-AA32.

Agency Contact: Diane M. Howard, Procurement Analyst, Agency for International Development, M/OP/P,

Room 1600A, SA-14, Washington, DC 20523-1435
Phone: 703 875-1534
Fax: 703 875-1243
Email: dhoward@usaid.gov

RIN: 0412–AA32

3242. • RULES AND PROCEDURES APPLICABLE TO COMMODITY TRANSACTIONS: SOURCE, ORIGIN, AND NATIONALITY

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2381

CFR Citation: 22 CFR 201; 22 CFR 201.11; 22 CFR 201.12; 22 CFR 201.13; 22 CFR 201.14

Legal Deadline: None

Abstract: USAID is amending its Regulation 1 (covering Commodity Import Programs) to replace the coverage on source, origin, and nationality of commodities, related services, and suppliers with references to Regulation 28 (22 CFR 228), "Rules on Source, Origin, and Nationality for Commodities and Services."

Timetable:

Action	Date	FR Cite
Final Action	07/16/97	62 FR 38026
Final Action Effective	08/15/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kathleen O'Hare, Chief, Policy Division, Office of Procurement, Agency for International Development, M/OP/P, Room 1600A, SA-14, Washington, DC 20523
Phone: 703 875-1534
Fax: 703 875-1243
Email: kohare@usaid.gov

RIN: 0412–AA33

3243. • DIRECT - USAID CONTRACTS WITH COOPERATING COUNTRY NATIONALS AND WITH THIRD COUNTRY NATIONALS FOR PERSONAL SERVICES (AIDAR NOTICE 97-3)

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2381

CFR Citation: 48 CFR ch 7, app J

Legal Deadline: None

Abstract: Appendix J establishes the policies and procedures for contracting for personal services with cooperating country nationals and third country nationals. The appendix is being amended to revise the policy limitations on what personal services contractors can do as far as supervising other employees and performing other inherently governmental functions." Editorial revisions are being made as well.

Timetable:

Action	Date	FR Cite
Final Action	08/11/97	62 FR 42929
Final Action Effective	09/10/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Patricia Bullock, Procurement Analyst, Agency for International Development, M/OP/P, Room 1600A, SA-14, Washington, DC 20523
Phone: 703 875-1534
Fax: 703 875-1243

RIN: 0412–AA35

[FR Doc. 97-24021 Filed 10-28-97; 8:45 am]
BILLING CODE 6116-01-P

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Wednesday
October 29, 1997

Part XIX

Architectural and Transportation Barriers Compliance Board

Semiannual Regulatory Agenda

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB)

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Ch. XI

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Architectural and Transportation Barriers Compliance Board submits the following agenda of proposed regulatory activities which may be conducted by the Agency during the next 12 months. This regulatory agenda may be revised by the Agency during the coming months as a result of action taken by the Board.

ADDRESSES: Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111.

FOR FURTHER INFORMATION CONTACT: For information concerning Board regulations and proposed actions, contact James J. Raggio, General Counsel, (202) 272-5434 (voice) or (202) 272-5449 (TDD).

Lawrence W. Roffee,

Executive Director, Architectural and Transportation Barriers Compliance Board.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB) — Proposed Rule Stage

3244. • AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES: PLAY AREAS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191

Legal Deadline: None

Abstract: This regulation will amend the Americans with Disabilities Act (ADA) Accessibility Guidelines to include requirements for play areas.

Timetable:

Action	Date	FR Cite
Notice of Intent to Conduct Regulatory Negotiation	12/22/95	60 FR 66537
Establishment of Regulatory Negotiation Committee	02/14/96	61 FR 5723
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111
Phone: 202 272-5434
TDD: 202 272-5449
Fax: 202 272-5447

RIN: 3014–AA21

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB) — Final Rule Stage

3245. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES, STATE AND LOCAL GOVERNMENT FACILITIES

Priority: Other Significant

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191

Legal Deadline: None

Abstract: To amend the Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities to include additional requirements for judicial, legislative, and regulatory facilities; and detention and correctional facilities.

Timetable:

Action	Date	FR Cite
NPRM	12/21/92	57 FR 60812
NPRM Comment Period End	03/22/93	
Interim Final Rule	06/20/94	59 FR 31676
Final Action	10/00/97	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Elizabeth A. Stewart, Attorney, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111
Phone: 202 272-5434

RIN: 3014–AA13

3246. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES: CHILDREN'S ENVIRONMENTS

Priority: Other Significant

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191

Legal Deadline: None

Abstract: To amend the Americans with Disabilities Act (ADA) Accessibility Guidelines to include requirements for children's environments.

Timetable:

Action	Date	FR Cite
ANPRM	02/03/93	58 FR 6924
ANPRM Comment Period End	06/01/93	58 FR 17175
NPRM	07/22/96	61 FR 37964

ATBCB — Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	10/21/96	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111
Phone: 202 272-5434

RIN: 3014–AA17

3247. TELECOMMUNICATIONS ACT ACCESSIBILITY GUIDELINES: TELECOMMUNICATIONS EQUIPMENT AND CUSTOMER PREMISES EQUIPMENT

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 47 USC 255, Telecommunications Act of 1996

CFR Citation: 36 CFR 1193

Legal Deadline: Final, Statutory, August 8, 1997.

Abstract: To establish accessibility guidelines for telecommunications equipment and customer premises equipment.

Timetable:

Action	Date	FR Cite
Notice of Intent to Establish Advisory Committee	03/28/96	61 FR 13813
Notice of Appointment of Advisory Committee	05/24/96	61 FR 26155
NPRM	04/18/97	62 FR 19178
NPRM Comment Period End	06/02/97	
Final Action	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111
Phone: 202 272-5434
TDD: 202 272-5449
Fax: 202 272-5447

RIN: 3014–AA19

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB) — Long-Term Actions

3248. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR TRANSPORTATION VEHICLES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1192

Legal Deadline: None

Abstract: To amend the Americans with Disabilities Act (ADA) Accessibility Guidelines for Transportation Vehicles to include additional requirements for ferries, excursion boats, and other vehicles.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111
Phone: 202 272-5434

RIN: 3014–AA11

3249. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191

Legal Deadline: None

Abstract: To amend the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities to include additional requirements for boat and ferry docks.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111
Phone: 202 272-5434

RIN: 3014–AA12

3250. AMERICANS WITH DISABILITIES ACT ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES: RECREATIONAL FACILITIES AND OUTDOOR DEVELOPED AREAS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191

Legal Deadline: None

Abstract: To amend the Americans with Disabilities Act (ADA) Accessibility Guidelines to include requirements for recreational facilities.

Timetable:

Action	Date	FR Cite
Notice of Intent To Form Advisory Committee	02/03/93	58 FR 6949
Notice of Appointment of Advisory Committee Members	06/10/93	58 FR 32511
ANPRM	09/21/94	59 FR 48542
ANPRM Comment Period End	12/20/94	
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111
Phone: 202 272-5434

RIN: 3014–AA16

3251. • AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191

Legal Deadline: None

Abstract: This regulation will revise and update the Americans with Disabilities Act (ADA) Accessibility Guidelines.

Timetable:

Action	Date	FR Cite
Notice of Intent to Establish Advisory Committee	04/06/94	59 FR 16175
Establishment of Advisory Committee	09/14/94	59 FR 47165
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111
Phone: 202 272-5434
TDD: 202 272-5449
Fax: 202 272-5447

RIN: 3014–AA20

3252. • AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES: OUTDOOR DEVELOPED AREAS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191

Legal Deadline: None

Abstract: This regulation will amend the Americans with Disabilities Act (ADA) Accessibility Guidelines to include requirements for outdoor developed areas.

Timetable:

Action	Date	FR Cite
Notice of Intent to Conduct Regulatory Negotiation	04/18/97	62 FR 19084
Establishment of Regulatory Negotiation Committee	06/04/97	62 FR 30546
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111
Phone: 202 272-5434
TDD: 202 272-5449
Fax: 202 272-5447

RIN: 3014–AA22

[FR Doc. 97-22225 Filed 10-28-97; 8:45 am]
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Part XX

Commission on Civil Rights

Semiannual Regulatory Agenda

COMMISSION ON CIVIL RIGHTS (CCR)

COMMISSION ON CIVIL RIGHTS

45 CFR Ch. VII

Semiannual Agenda of Regulations

AGENCY: Commission on Civil Rights.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the regulations the U.S. Commission on Civil Rights will have under development during the 6-month period from October 1, 1997, through March 30, 1998. The purpose for publishing this agenda is to give notice of any regulatory activity by the Commission in order to allow the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: For further information on any items in the agenda, contact Stephanie Y. Moore, General Counsel, U.S. Commission on Civil Rights, Room 620, 624 Ninth Street NW., Washington, DC 20425, (202) 376-8351.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12866 "Regulatory Planning and Review" and the Regulatory Flexibility Act (5 U.S.C. 605), executive agencies are required to publish in the **Federal Register** semiannual regulatory agendas in April and October of each year.

The regulations being considered by the Commission are not "significant" rules within the meaning of E.O. 12866, and no regulatory impact analysis is required. The Commission has determined that the regulations under consideration will not impose compliance costs or reporting burdens on the public nor will the regulations have a significant economic impact on a substantial number of small entities. Accordingly, no regulatory analysis is required.

Stephanie Y. Moore,

General Counsel.

COMMISSION ON CIVIL RIGHTS (CCR) — Long-Term Actions

3253. COMMISSION ON CIVIL RIGHTS—UPDATE AND REVISION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1975 to 1975f; 5 USC 552(a); 5 USC 552(b)

CFR Citation: 45 CFR 701; 45 CFR 702; 45 CFR 703; 45 CFR 705

Legal Deadline: None

Abstract: The regulation updates and revises most of the Commission's current regulations, specifically 45 CFR 701, 702, 703, and 705. 45 CFR 701 identifies the organization and functions of the Commission. 45 CFR 702 specifies the rules on hearings, reports, and meetings of the Commission. 45 CFR 703 identifies the operations and functions of the Commission's State Advisory Committees. 45 CFR 705 states the Commission's obligations under the Privacy Act.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephanie Y. Moore, General Counsel, Commission on Civil Rights, 624 Ninth Street NW., Suite 620, Washington, DC 20425
Phone: 202 376-8351

RIN: 3035–AA02

[FR Doc. 97-24022 Filed 10-28-97; 8:45 am]
BILLING CODE 6335-01-F

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October 29, 1997

Part XXI

Corporation for National and Community Service

Semiannual Regulatory Agenda

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE (CNCS)

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Ch. XXV

Executive Order 12866 "Regulatory Planning and Review"; Semiannual Agenda of Regulations

AGENCY: Corporation for National and Community Service.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the regulations that the Corporation will have under development, revision, or review during the next year. The purpose for publishing this agenda is to give notice of any regulatory activity by the Agency in order to provide the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: The public is encouraged to contact the agency official listed for the particular agenda item. For other information concerning Corporation regulations or this semiannual agenda, contact John S. Gomperts, Acting Chief Operating Officer, Corporation for National and Community Service, 1201 New York Avenue NW., Washington, DC 20525, (202) 606-5000, ext. 121.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12866 "Regulatory Planning and Review" and the Regulatory Flexibility Act (5 U.S.C. 601), executive agencies are required to publish in the **Federal Register** semiannual regulatory agendas in April and October of each year.

The Corporation for National and Community Service has determined that the regulations under consideration will not impose compliance costs or reporting burdens on the public and that the regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, no regulatory analysis is required under 5 U.S.C. 602.

Dated: August 26, 1997.

John S. Gomperts,

Acting Chief Operating Officer.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE (CNCS) — Final Rule Stage

3254. • ADMINISTRATIVE REQUIREMENTS FOR GRANTEES TO REFLECT SINGLE AUDIT ACT AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4950; 42 USC 12501

CFR Citation: 45 CFR 2541; 45 CFR 2543

Legal Deadline: None

Abstract: The Corporation for National and Community Service has joined in a Governmentwide change to the administrative requirements to implement the Single Audit Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/29/97	62 FR 45937
Interim Final Rule Effective	09/29/97	
Interim Final Rule Comment Period End	10/28/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Michael Kenefick, Director, Grants Management Office, Corporation for National and Community Service, 1201 New York Avenue NW., Washington, DC 20525
Phone: 202 606-5000
Fax: 202 565-2796
Email: mkenefick@cns.gov.

RIN: 3045–AA14

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE (CNCS) — Long-Term Actions

3255. NATIONAL SERVICE TRUST

Priority: Info./Admin./Other

CFR Citation: 45 CFR 2525 to 2529

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/15/94	59 FR 30709
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Donna H. Cunninghame
Phone: 202 606-5000

RIN: 3045–AA09

[FR Doc. 97-24023 Filed 10-28-97; 8:45 am]
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Part XXII

Environmental Protection Agency

Semiannual Regulatory Agenda

ENVIRONMENTAL PROTECTION AGENCY (EPA)

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Chapter I

[FRL-5800-6]

Semiannual Agenda of Regulatory and Deregulatory Actions

AGENCY: Environmental Protection Agency.

ACTION: Semiannual Agenda of Regulatory and Deregulatory Actions.

SUMMARY: The Environmental Protection Agency (EPA) publishes the EPA Agenda of Regulatory and Deregulatory Actions twice each year as part of the Unified Agenda of Federal Regulatory and Deregulatory Actions. We do this to let the public know about:

- Regulations currently under development,
- Reviews of existing regulations, and
- Rulemakings completed or stopped since we drafted the last Agenda.

ADDRESSES TO BE PLACED ON THE AGENDA MAILING LIST: Let us know if you would like to receive copies of future Agendas. Send us a note with your mailing address requesting to be on the Agenda mailing list. Send the note by

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- Fax to (513)489-8695, or
- E-mail to ncepi.mail@epamail.epa.gov.

There is no charge for single copies of the Agenda.

FOR FURTHER INFORMATION CONTACT: We welcome your comments and suggestions. If they are general comments or questions about the Agenda or EPA's rulemaking process, please direct them to: Philip Schwartz (2136), EPA, 401 M Street SW., Washington, DC 20460; phone (202) 260-5493, fax (202) 260-5478, e-mail Schwartz.Philip@epamail.epa.gov. If there are questions or comments about a particular rule, please communicate directly with the agency contact listed for that rule. EPA has created an internet site for environmental regulations that we update daily. It is located at http://www.epa.gov/epahome/rules.html.

SUPPLEMENTARY INFORMATION:

Background

Under a number of environmental laws, such as the Clean Air Act, the Clean Water Act, the Food Quality Protection Act, the Safe Drinking Water Act, the Solid Waste Disposal Act, and the Toxic Substances Control Act, the Administrator of EPA is required to issue certain regulations and is authorized to issue others. All of these regulations have the force and effect of law. The procedures by which these regulations are made must follow requirements laid out in a number of laws including the Administrative Procedures Act, the Regulatory Flexibility Act, the Unfunded Mandates Reform Act, and the Small Business Regulatory Enforcement Fairness Act.

EPA's Regulatory Philosophy and Priorities

EPA continues to devote its best efforts toward full protection of human health and the environment by crafting a regulatory system that works better and costs less. We are focusing on four areas: Reducing regulatory and paperwork burdens, improving environmental compliance, regulating for greater results, and increasing community participation and partnerships. We also give priority to initiatives that offer novel solutions to real environmental problems posed by an industry or locality when generally applicable mandates may prove ineffective or inefficient in a specific application. Finally, EPA remains committed to reinventing its regulations to reduce burdens, develop common-sense regulatory actions, and to delete or modify burdensome regulations currently in place.

EPA also follows each of the regulatory principles laid out by President Clinton in "Regulatory Planning and Review" (Executive Order 12866) including:

- Considering alternatives to direct regulation;
- Basing regulations on the best reasonably available scientific, technical, economic, and other information on the need for and the expected consequences of the intended regulation;
- Consistent with obtaining the objectives of the law, tailoring regulations to impose the least burden on society, including, in particular, the least burden on small businesses, communities, and nonprofit organizations; and
- Writing clear regulations with the goal of minimizing the potential for uncertainty and litigation.

How The Agenda Is Organized

Agenda entries are organized by the law that would authorize a particular regulation. There are eight sections dealing with the main environmental laws that EPA administers: FIFRA (Federal Fungicide, Insecticide, and Rodenticide Act); TSCA (Toxic Substances Control Act); CWA (Clean Water Act); AEA (Atomic Energy Act); SDWA (Safe Drinking Water Act); RCRA (Resource Conservation and Recovery Act); CAA (Clean Air Act); and Superfund (Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)). These are followed by a section labeled General, that includes regulations authorized by other statutes.

Entries within each law are divided into five categories: (1) Prerule, (2) Proposed Rule, (3) Final Rule, (4) Long-Term Actions (i.e., actions under development that will not be published within the next 12 months), and (5) Completed Actions (i.e., actions that EPA is deleting from the Agenda because the Agency has completed, withdrawn, or postponed them indefinitely).

1. Prerulemakings—Prerulemaking actions are intended to determine whether to initiate rulemaking. Prerulemakings may include anything that influences or leads to rulemaking such as advance notices of proposed rulemaking, significant studies or analyses of the possible need for regulatory action, requests for public comment on the need for regulatory action, or important preregulatory policy proposals.

2. Proposed and Final Rules—This section includes EPA rulemaking actions that are within a year of proposal or promulgation. The listings, however, exclude (a) certain specialized categories of actions (e.g., EPA approvals of State plans and other actions that do not apply nationally) and (b) routine actions (e.g., pesticide tolerances and minor amendments to existing rules). There is no legal significance to the omission of an item from the Agenda. The Agenda shows dates for actions on each entry; these dates are estimates only and should not be construed as an absolute Agency commitment to act on or by the date shown.

We also seek to enhance public participation in the development of proposed rules by potentially affected stakeholders. We therefore invite expressions of interest to be directed to the contact person listed for each rule.

3. Long-Term Actions—This section includes actions with publication dates beyond the next 12 months. We will continue to work with interested stakeholders to develop relevant information to support these rules.

4. Completed Actions—This section contains actions that appeared in the previous Agenda but which we are deleting because they are completed or are no longer under consideration for rulemaking. If an action appears in the completed section, it will not appear in future Agendas unless we decide to initiate action again, in which case it will appear as a new entry.

For this edition of EPA's Agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

Agenda Entries

Agenda entries include the following types of information, where applicable:

Sequence Number: This indicates where the entry appears in the Unified Agenda of Federal Regulatory and Deregulatory Actions.

Title: The notation "Section 610 Review" follows the title if we are reviewing the rule as part of our periodic review of existing rules under the Regulatory Flexibility Act (5 U.S.C. 610). Titles for new entries, ones that haven't appeared in previous Agendas, are preceded by a bullet (•).

Priority: Entries are placed into one of five categories described below. Also, if we believe that a rule may be "major" under the Small Business Regulatory Enforcement Fairness Act (SBREFA) (5 U.S.C. 801; P.L. 104-121) because it is likely to result in an annual effect on the economy of $100 million or more or meets other criteria specified in this law, we indicate this under the "Priority" heading.

Economically Significant: As defined in Executive Order 12866, a rulemaking action that will have an annual effect on the economy of $100 million or more or will adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

Other Significant: A rulemaking that is not economically significant but is considered significant by the agency. This category includes rules that the agency anticipates will be reviewed by the Office of Management and Budget under E.O. 12866 or rules that are an EPA priority. These rules may or may not be included in The Regulatory Plan.

Substantive, Nonsignificant: A rulemaking that has substantive impacts but is neither Significant, nor Routine and Frequent, nor Informational/Administrative/Other.

Routine and Frequent: A rulemaking that is a specific case of a multiple recurring application of a regulatory program in the Code of Federal Regulations and that does not alter the body of the regulation.

Informational/Administrative/Other: A rulemaking that is primarily informational or pertains to agency matters not central to accomplishing the agency's regulatory mandate but that the agency places in the Agenda to inform the public of the activity.

Legal Authority: The section(s) of the United States Code (U.S.C.), Public Law (P.L.), Executive Order (E.O.), or common name of the law that authorize(s) the regulatory action.

CFR Citation: The section(s) of the Code of Federal Regulations that will be affected by the action.

Legal Deadline: An indication of whether the rule is subject to a statutory or judicial deadline, the date of that deadline, and whether the deadline pertains to an NPRM, a Final Action, or some other action.

Abstract: A brief description of the problem the regulation will address; the need for a Federal solution; to the extent available, the alternatives that the agency is considering to address the problem; and the potential costs and benefits of the action.

Timetable: The dates and citations for all past steps and at least a projected date for the next step for the regulatory action. If a date appears in this section as 00/00/00, the date of the action is currently undetermined. Dates after 1999 are printed in the same form as other dates, using the last two digits of the year.

Small Entities Affected: Indicates whether the rule is expected to have at least minimal effects on "small entities" and, if so, whether the small entities are businesses, governmental jurisdictions, or organizations. Small business is defined according to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and elaborated on by the Small Business Administration. It is made on an industry-by-industry basis. Generally firms employing fewer than 500 people are considered small.

Government Levels Affected: Indicates whether the rule is expected to affect levels of government and, if so, whether the governments are State, local, tribal, or Federal.

Analyses: The kinds of analyses we do for each rule varies with the nature and significance of the rule. Certain laws require specific types of analyses. For example, the Regulatory Flexibility Act requires a special kind of analysis if a rule is likely to have a significant impact on a substantial number of small entities. In this section of the Agenda, we note if we will be preparing a regulatory impact analysis or Regulatory Flexibility Analysis.

Unfunded Mandates: Section 202 of the Unfunded Mandates Reform Act requires an assessment of anticipated costs and benefits if a rule is expected to directly mandate an increase in expenditures of more than $100 million in any one year by State, local, and tribal governments, in the aggregate, or by the private sector. If the section 202 threshold is expected to be exceeded, we note that in this section.

Reinventing Government: If an action is part of the President's Reinventing Government Initiative, we indicate it here.

Agency Contact: The name, address, phone number, and e-mail address of a person who is knowledgeable about the regulation.

SAN Number: A number that EPA uses to identify and track rulemakings.

RIN: A number that OMB uses to identify and track rulemakings.

Actions that are among the most significant rulemakings that we expect to publish within the next year are included in The Regulatory Plan required by Executive Order 12866 "Regulatory Planning and Review."

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These actions include five additional categories of information:

Statement of Need: A description of the need for the regulatory action.

Summary of Legal Basis: A description of the legal basis for the action, including whether any aspect of the action is required by statute or court order.

Alternatives: A description of the alternatives to be considered or that were considered as required by section 4(c)(1)(B) of E.O. 12866.

Anticipated Costs and Benefits: A description of preliminary estimates of the anticipated costs and benefits of the action.

Risks: A description of the magnitude of the risk being addressed by the action, the amount by which this risk is expected to be reduced by the action, and the relation of these risks and risk reduction efforts to other risks and risk reduction efforts within EPA's jurisdiction.

Regulatory Flexibility Act Considerations

The Regulatory Flexibility Act (RFA) requires that an agency prepare a Regulatory Flexibility Analysis for any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a "significant economic impact on a substantial number of small entities" (i.e., small governments, small businesses, and small nonprofit organizations). A regulatory flexibility analysis must identify the extent to which small entities will be subject to the rule's requirements, as well as any significant alternatives to the rule that accomplish the objectives of applicable statutes and that minimize any significant economic impacts on small entities. In the Agenda, we have identified those rules that we believe will, if promulgated, impose at least minimal requirements on any small entities by indicating in the "Small Entities Affected" section the category of small entities that may be subject to the rule requirements. The Agenda also indicates in the "Analysis" section whether we expect to prepare a full Regulatory Flexibility Analysis for a particular rule because current information indicates that the rule will likely have a significant adverse economic impact on a substantial number of small entities. We invite public comment on our assessment of those rules that are likely to warrant a Regulatory Flexibility Analysis because of the extent of their potential adverse impact on small entities. (See "Environmental Protection Agency: Index to Entries That May Affect Small Entities" at the end of this document.)

Section 610 of the RFA requires that an agency review within 10 years of promulgation those regulations that have or will have a significant economic impact on a substantial number of small entities. Rules subject to section 610 review for 1997 were listed in the April 25, 1997, Agenda. We will report on the results of those reviews and list the rules to be reviewed in 1998 in the spring 1998 Agenda.

Dated: September 24, 1997.

Robert Wolcott,

Acting Deputy Assistant Administrator, Office of Policy, Planning, and Evaluation.

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3256	SAN No. 4025. Exemption of Certain Inert Ingredients from the Definition of Pesticide Chemical Residue under FFDCA	2070-AD20
3257	SAN No. 4026. Exemption of Certain Pesticide Substances from FIFRA Requirements	2070-AD21
3258	SAN No. 4027. Tolerance Processing Fees; Tolerances and Exemption From Tolerances for Pesticide Chemicals	2070-AD23
3259	SAN No. 3892. Antimicrobial Pesticide Registration Reform	2070-AD14
3260	SAN No. 2687. Pesticide Data Requirements for Registration (Revision)	2070-AC12
3261	SAN No. 1640. Pesticide Worker Protection Standards; Pesticide Hazard Communication	2070-AC34
3262	SAN No. 3732. Pesticide Worker Protection Standard Exceptions	2070-AC95
3263	SAN No. 3733. Pesticides Worker Protection Standards; Scope and Clarification of the Exceptions Process	2070-AC96

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3264	SAN No. 3932. Pesticides; Self-Certification (Reg Plan Seq. No. 127)	2070-AD00
3265	SAN No. 2684. Regulation of Plant-Produced Pesticides Under FIFRA and FFDCA	2070-AC02
3266	SAN No. 3135. Pesticide Flammability Labeling Requirements for Total Release Foggers	2070-AC80
3267	SAN No. 2371. Restricted Use Criteria for Pesticides in Groundwater	2070-AB60
3268	SAN No. 3222. Pesticides and Ground Water State Management Plan Regulation (Reg Plan Seq. No. 126)	2070-AC46
3269	SAN No. 3731. Modifications to Pesticide Worker Protection Standard—Glove Amendment	2070-AC93
3270	SAN No. 3890. Tolerances for Pesticide Emergency Exemptions	2070-AD15

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

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Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3271	SAN No. 2444. Pesticide Tolerances; Portion of Food Commodities To Be Analyzed for Pesticide Residues	2070-AC45
3272	SAN No. 3113. Endangered Species Protection Program	2070-AC42
3273	SAN No. 3735. The 10-Acre Limitation for Pesticide Small-Scale Field Testing	2070-AC99
3274	SAN No. 3636. Pesticide Labeling Claims	2070-AC85
3275	SAN No. 2659. Pesticide Management and Disposal: Standards for Pesticide Containers and Containment	2070-AB95
3276	SAN No. 2639. Child-Resistant Packaging Regulations (Revision)	2070-AB90
3277	SAN No. 3738. Pesticide Export Policy	2070-AD02

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3278	SAN No. 3739. Cross-Contamination of Pesticide Products	2070-AD03
3279	SAN No. 2338. Reporting Requirements for Risk/Benefit Information (Revision)	2070-AB50

Toxic Substances Control Act (TSCA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3280	SAN No. 3880. Reporting Threshold Amendment; Toxic Chemicals Release Reporting; Community Right-to-Know (Reg Plan Seq. No. 107)	2070-AD09

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Toxic Substances Control Act (TSCA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3281	SAN No. 4015. Toxics Release Inventory (TRI): Review of Chemicals on Original TRI List (Reg Plan Seq. No. 108)	2070-AD18
3282	SAN No. 3007. TRI Chemical Expansion; Finalization of Deferred Chemicals (Reg Plan Seq. No. 109)	2070-AC47
3283	SAN No. 3301. TSCA Inventory Update Rule Amendments (Reg Plan Seq. No. 110)	2070-AC61
3284	SAN No. 3877. Data Expansion Amendments; Toxic Chemical Release Reporting; Community Right-to-Know (Reg Plan Seq. No. 111)	2070-AD08
3285	SAN No. 4023. TRI; Addition of Oil and Gas Exploration and Production to the Toxic Release Inventory (Reg Plan Seq. No. 112)	2070-AD19
3286	SAN No. 2425. TRI: Responses to Petitions Received To Add or Delete Chemicals From the Toxic Release Inventory	2070-AC00
3287	SAN No. 2847. TRI; Pollution Prevention Act Information Requirements (Reg Plan Seq. No. 113)	2070-AC24
3288	SAN No. 3243. Lead Hazard Standards	2070-AC83
3289	SAN No. 3242. Lead-Based Paint Disclosure Requirements at Renovation of Target Housing	2070-AC85
3290	SAN No. 2249. Amendments to the Asbestos Worker Protection Rule (Section 610 Review)	2070-AC86
3291	SAN No. 3506. Lead; TSCA Requirements for the Disposal of Lead-Based Paint Debris	2070-AC72
3292	SAN No. 3243. Selected Rulemakings for Abating Lead Hazards (Reg Plan Seq. No. 114)	2070-AD06
3293	SAN No. 3894. TSCA Biotechnology Follow-up Rules	2070-AD13
3294	SAN No. 3090. OECD SIDS High Production Volume Chemical Screening Test Rule	2070-AD16
3295	SAN No. 3494. Proposed Decisions on Test Rules	2070-AB07
3296	SAN No. 2563. ATSDR Substances Test Rule	2070-AB79
3297	SAN No. 2865. Multichemical Endpoint(s) Test Rule; Developmental and Reproductive Toxicity	2070-AC27
3298	SAN No. 3487. Hazardous Air Pollutants Test Rule	2070-AC76
3299	SAN No. 1923. Follow-Up Rules on Existing Chemicals	2070-AA58
3300	SAN No. 1976. Follow-Up Rules on Non-5(e) New Chemical Substances	2070-AA59
3301	SAN No. 2150. Polychlorinated Biphenyls (PCBs): Exemptions From the Prohibitions Against Manufacturing, Processing, and Distribution in Commerce	2070-AB20

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Toxic Substances Control Act (TSCA)—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3302	SAN No. 2845. Negotiated Consent Order and Test Rule Procedures	2070-AB30
3303	SAN No. 3148. Revised Asbestos Model Accreditation Plan **(Section 610 Review)**	2070-AC51
3304	SAN No. 3047. Amendments to the Asbestos-Containing Materials in Schools Rule **(Section 610 Review)**	2070-AC62
3305	SAN No. 3834. Amendments to TSCA Section 8(d) Health and Safety Data Model Reporting Rule	2070-AD17
3306	SAN No. 3881. Lead Fee Rule for Lead-Based Paint Activities Training and Certification	2070-AD11

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Toxic Substances Control Act (TSCA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3307	SAN No. 3493. Final Decisions on Test Rules	2070-AB94
3308	SAN No. 3495. Chemical-Specific Significant New Use Rules (SNURs) To Extend Provisions of Section 5(e) Orders	2070-AB27
3309	SAN No. 2779. Use of Acrylamide for Grouting	2070-AC17
3310	SAN No. 3021. Polychlorinated Biphenyls (PCBs) Transformer Reclassification Rule	2070-AC39
3311	SAN No. 2878. Polychlorinated Biphenyls (PCBs) Disposal Amendments **(Section 610 Review) (Reg Plan Seq. No. 129)**	2070-AD04
3312	SAN No. 2178. Section 8(a) Preliminary Assessment Information Rules	2070-AB06
3313	SAN No. 1139. Section 8(d) Health and Safety Data Reporting Rules	2070-AB11
3314	SAN No. 3118. TSCA Section 8(e); Notice of Clarification and Solicitation of Public Comment	2070-AC80
3315	SAN No. 3559. Notice of TSCA Section 4 Reimbursement Period and TSCA Section 12(b) Export Notification Period Sunset Dates for TSCA Section 4 Substances	2070-AC84

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Toxic Substances Control Act (TSCA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3316	SAN No. 3630. Facility Identification Initiative	2070-AD01
3317	SAN No. 3244. Lead-Based Paint Activities Rules; Training, Accreditation, and Certification Rule and Model State Plan Rule	2070-AC64
3318	SAN No. 3460. Development of Guidance as Mandated by Executive Order 12873, Section 503 on Environmentally Preferable Products	2070-AC78
3319	SAN No. 3882. Test Rule for Certain Metals	2070-AD10
3320	SAN No. 3252. Regulatory Investigation Under the Toxic Substances Control Act (TSCA) To Reduce Lead (Pb) Consumption and Use	2070-AC21
3321	SAN No. 2146. Regulatory Investigation of Formaldehyde	2070-AB14
3322	SAN No. 2560. Procedures and Criteria for Termination of Polychlorinated Biphenyls (PCBs) Disposal Permits	2070-AB81
3323	SAN No. 2844. Regulatory Investigation of Dioxin in Pulp and Paper Mill Sludge	2070-AC05
3324	SAN No. 3528. Significant New Use Rules on National Program Chemicals; Asbestos, Lead, and Refractory Ceramic Fibers	2070-AC37
3325	SAN No. 3557. Lead-Based Paint Activities, Training, and Certification: Renovation and Remodeling	2070-AC83

Toxic Substances Control Act (TSCA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3326	SAN No. 3034. Facility Coverage Amendment; Toxic Chemical Release Reporting; Community Right-To-Know	2070-AC71
3327	SAN No. 3388. Deletion of Isopropyl Alcohol; Toxic Chemical Release Reporting; Community Right-To-Know	2070-AC77
3328	SAN No. 3755. OPPT Generic Reinvention Evaluations	2070-AC97
3329	SAN No. 2865. Multichemical Endpoint Test Rule; Chemical Fate and Environmental Effects	2070-AC36

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Toxic Substances Control Act (TSCA)—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3330	SAN No. 2326. Rulemaking Concerning Certain Microbial Products (Biotechnology) Under the Toxic Substances Control Act (TSCA)	2070-AB61

Clean Water Act (CWA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3331	SAN No. 3662. Water Quality Standards Regulation—Revision	2040-AC56

Clean Water Act (CWA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3332	SAN No. 3999. Revisions to NPDES Requirements for Compliance Reporting and Collection System Discharges	2040-AD02
3333	SAN No. 4048. Test Procedures for the Analysis of Mercury Under the Clean Water Act	2040-AD07
3334	SAN No. 4049. Test Procedures for the Analysis of Co-Planar and Mono-Ortho-Substituted Polychlorinated Biphenyls (PCBs) Under the Clean Water Act	2040-AD09
3335	SAN No. 3497. Amendments to Round I Final Sewage Sludge Use or Disposal Rule—Phase Two	2040-AC53
3336	SAN No. 2805. Effluent Guidelines and Standards for the Centralized Waste Treatment Industry	2040-AB78
3337	SAN No. 3209. Effluent Guidelines and Standards for the Industrial Laundries Point Source Category	2040-AB97
3338	SAN No. 3204. Effluent Guidelines and Standards for the Transportation Equipment Cleaning Category	2040-AB98
3339	SAN No. 3489. Effluent Guidelines and Standards for Landfills	2040-AC23
3340	SAN No. 3786. NPDES Streamlining Rule—Round III **(Reg Plan Seq. No. 116)**	2040-AC84
3341	SAN No. 3804. Streamlining 301(h) Waiver Renewal Requirements	2040-AC89
3342	SAN No. 4041. Effluent Guidelines and Standards for Industrial Waste Combustors	2040-AD03
3343	SAN No. 4039. Amendment to Effluent Limitations Guidelines and Standards for the Pulp, Paper, and Paperboard Category	2040-AD05
3344	SAN No. 3702. Guidelines Establishing Test Procedures for the Analysis of Trace Metals Under the Clean Water Act	2040-AC75
3345	SAN No. 3701. Guidelines Establishing Test Procedures for the Analysis of Cyanide Under the Clean Water Act	2040-AC76
3346	SAN No. 3767. Reformatting of Effluent Guidelines and Standards in 40 CFR Parts 405 through 471	2040-AC79
3347	SAN No. 3663. Streamlining the General Pretreatment Regulations for Existing and New Sources of Pollution **(Reg Plan Seq. No. 118)**	2040-AC58
3348	SAN No. 3925. Uniform National Discharge Standards for Armed Forces Vessels	2040-AC96
3349	SAN No. 3234. Revision of NPDES Industrial Permit Application Requirements and Form 2C—Wastewater Discharge Information **(Reg Plan Seq. No. 117)**	2040-AC26
3350	SAN No. 3785. Comprehensive NPDES Stormwater Phase II Regulations **(Reg Plan Seq. No. 115)**	2040-AC82

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Clean Water Act (CWA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3351	SAN No. 3995. Amendment to the Pesticide Chemicals Manufacturing Effluent Limitations Guidelines; Pretreatment Standards; New and Existing Sources	2040-AD01
3352	SAN No. 4051. Establishment of Electronic Reporting for NPDES Permittees	2040-AD11
3353	SAN No. 3497. Amendments to Round I Final Sewage Sludge Use or Disposal Rule—Phase One	2040-AC29
3354	SAN No. 3504. Establishment of Numeric Criteria for Priority Toxic Pollutants for the State of California	2040-AC44
3355	SAN No. 3788. Streamlining the State Sewage Sludge Management Regulations **(Reg Plan Seq. No. 130)**	2040-AC87
3356	SAN No. 3713. Streamlined Procedures and Guidance for Approving Test Procedures Under 40 CFR Part 136	2040-AC93
3357	SAN No. 3921. Selenium Criterion Maximum Concentration for Water Quality Guidance for the Great Lakes System	2040-AC97
3358	SAN No. 1427. Effluent Guidelines and Standards for the Pharmaceutical Manufacturing Category	2040-AA13

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Clean Water Act (CWA)—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3359	SAN No. 3782. NPDES Streamlining Rule—Round II **(Reg Plan Seq. No. 131)**	2040-AC70
3360	SAN No. 3661. Water Quality Standards; Establishment of Numeric Criteria for Priority Toxic Pollutants; States' Compliance	2040-AC55
3361	SAN No. 3722. Withdrawal of Proposed Amendment to Effluent Guidelines and Standards for Ore Mining and Dressing Point Source Category, New Source Performance Standards	2040-AC74
3362	SAN No. 3617. Guidelines Establishing Oil and Grease Test Procedures for the Analysis of Pollutants Under the Clean Water Act	2040-AC83
3363	SAN No. 3714. Increased Method Flexibility for Test Procedures Approved for Clean Water Act Compliance Monitoring Under 40 CFR Part 136	2040-AC92
3364	SAN No. 3155. Guidelines Establishing Test Procedures for the Analysis of Miscellaneous Metals, Anions, and Volatile Organics Under the Clean Water Act	2040-AC95
3365	SAN No. 3666. Clarification of the Application Requirements for States Wanting to Designate Drinking Water Intake Zones, Thereby Prohibiting the Discharge of Vessel Sewage Within Those Zones	2040-AC81
3366	SAN No. 2501. NPDES Wastewater Permit Application Forms and Regulatory Revisions for Municipal Discharges and Sewage Sludge Use or Disposal **(Reg Plan Seq. No. 132)**	2040-AB39
3367	SAN No. 2620. Shore Protection Act, Section 4103(b) Regulations	2040-AB85

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Clean Water Act (CWA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3368	SAN No. 4050. Effluent Limitations Guidelines and Standards for the Pulp, Paper, and Paperboard Category, Phase II	2040-AD10
3369	SAN No. 3618. Guidelines Establishing Whole Effluent Toxicity West Coast Test Procedures for the Analysis of Pollutants Under the Clean Water Act	2040-AC54
3370	SAN No. 3448. Standards for the Use or Disposal of Sewage Sludge (Round II)	2040-AC25
3371	SAN No. 2806. Effluent Guidelines and Standards for the Metal Products and Machinery Category, Phases I and 2	2040-AB79
3372	SAN No. 3444. Best Technology Available (BTA) for Cooling Water Intake Structures Under Section 316(b) of the Clean Water Act	2040-AC34
3373	SAN No. 3833. Effluent Guidelines and Standards for Iron and Steel Manufacturing Point Source Category	2040-AC90
3374	SAN No. 3700. Streamlining Revisions to the Water Quality Planning and Management Regulations	2040-AC85
3375	SAN No. 2804. Clean Water Act Section 404 Program Definition of the Waters of the United States—Isolated Waters and Artificial Waters	2040-AB74
3376	SAN No. 3224. Comparison of Dredged Material to Reference Sediment	2040-AC14
3377	SAN No. 2737. Revisions to Ocean Dumping Regulations for Dredged Material	2040-AB62

Clean Water Act (CWA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3378	SAN No. 2712. Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category	2040-AB53
3379	SAN No. 3625. Streamlined Procedures for Developing and Maintaining Approved Publicly Owned Treatment Works Pretreatment Programs	2040-AC57
3380	SAN No. 3679. Guidelines Establishing Test Procedures for the Analysis of 2,3,7,8-Substituted Dibenzo-P-Dioxins and Dibenzo Furans Under the Clean Water Act	2040-AC84

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Atomic Energy Act (AEA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3381	SAN No. 4054. Disposal of Low-Activity Radioactive Wastes	2060-AH83

Atomic Energy Act (AEA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3382	SAN No. 3321. Federal Radiation Protection Guidance for Exposure of the General Public	2060-AE61

Atomic Energy Act (AEA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3383	SAN No. 3602. Protective Action Guidance for Drinking Water	2060-AF39

Atomic Energy Act (AEA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3384	SAN No. 2073. Environmental Protection Agency Radiation Site Cleanup Regulation	2060-AB31

Safe Drinking Water Act (SDWA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3385	SAN No. 4040. Revision of Existing Variances and Exemptions Regulation to Comply with Requirements of the Safe Drinking Water Act	2020-AA37
3386	SAN No. 3947. Drinking Water Consumer Confidence Report Regulations	2040-AC99
3387	SAN No. 4009. Public Water System Public Notification Regulation	2040-AD06
3388	SAN No. 4047. Test Procedures for the Analysis of Cryptosporidium and Giardia Under the Safe Drinking Water and Clean Water Acts	2040-AD08
3389	SAN No. 4044. Analytical Methods for Regulated Drinking Water Contaminants: Total Coliforms, E. coli, and Acid Herbicides	2040-AD04
3390	SAN No. 2778. Management of Class V Injection Wells Under Part C of the Safe Drinking Water Act **(Reg Plan Seq. No. 119)**	2040-AB83
3391	SAN No. 3781. Streamlining Drinking Water Monitoring Requirements	2040-AC73

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Safe Drinking Water Act (SDWA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3392	SAN No. 3440. National Primary Drinking Water Regulations for Lead and Copper	2040-AC27
3393	SAN No. 2772. National Primary Drinking Water Regulations: Stage I Disinfectant/Disinfection Byproducts Rule **(Reg Plan Seq. No. 133)**	2040-AB82
3394	SAN No. 3563. Reformatting of Drinking Water Regulations	2040-AC41
3395	SAN No. 3726. Analytical Methods for Regulated Drinking Water Contaminants: Organic, Inorganic and Microbiological Contaminants	2040-AC77

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Safe Drinking Water Act (SDWA)—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3396	SAN No. 2304. National Primary Drinking Water Regulations: Interim Enhanced Surface Water Treatment Rule (Reg Plan Seq. No. 134)	2040-AC91

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Safe Drinking Water Act (SDWA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3397	SAN No. 3998. Revisions to State Primacy Requirements to Implement Federal Drinking Water Regulations	2040-AD00
3398	SAN No. 2261. National Primary Drinking Water Regulations: Radon	2040-AA94
3399	SAN No. 2340. National Primary Drinking Water Regulations: Groundwater Disinfection	2040-AA97
3400	SAN No. 2807. National Primary Drinking Water Regulations: Arsenic	2040-AB75
3401	SAN No. 3176. National Primary Drinking Water Regulations: Sulfate	2040-AC07
3402	SAN No. 3238. National Primary Drinking Water Standards for Aldicarb	2040-AC13
3403	SAN No. 3992. National Primary Drinking Water Regulations: Radium, Uranium, Alpha, Beta and Photon Emitters	2040-AC98

Safe Drinking Water Act (SDWA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3404	SAN No. 3784. Underground Injection Control Program Streamlining Rule	2040-AC83

Resource Conservation and Recovery Act (RCRA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3405	SAN No. 3201. Regulatory Determination on Remaining Wastes From the Combustion of Fossil Fuels	2050-AD91

Resource Conservation and Recovery Act (RCRA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3406	SAN No. 2634. Revisions to the Oil Pollution Prevention Regulation	2050-AC62
3407	SAN No. 3989. Removal of Requirement to Use SW-846 Methods (Test Methods for Evaluating Solid Waste: Physical/Chemical Methods)	2050-AE41
3408	SAN No. 4028. Standardized Permit for RCRA Hazardous Waste Management Facilities	2050-AE44
3409	SAN No. 2872. Modifications to the Definition of Solid Waste and Regulations of Hazardous Waste Recycling: General (Reg Plan Seq. No. 120)	2050-AD18
3410	SAN No. 3856. Management of Cement Kiln Dust (CKD) (Reg Plan Seq. No. 121)	2050-AE34

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Resource Conservation and Recovery Act (RCRA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3411	SAN No. 3888. Mercury-Containing and Rechargeable Battery Management Act; Codification of Waste Management Provisions	2050-AE39
3412	SAN No. 3042. Hazardous Waste Management System: Post-Closure Requirements	2050-AD55

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Resource Conservation and Recovery Act (RCRA)—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3413	SAN No. 3065. Listing Determination for Hazardous Wastes—Organobromines Chemical Industry	2050-AD79
3414	SAN No. 3179. RCRA Subtitle D Corporate Financial Test and Guarantee	2050-AD77
3415	SAN No. 3066. Listing Determination of Wastes Generated During the Manufacture of Azo, Anthraquinone, and Triarylmethane Dyes and Pigments	2050-AD80
3416	SAN No. 3064. Identification and Listing of Hazardous Waste: Petroleum Refining Process Wastes	2050-AD68
3417	SAN No. 3333. Revised Standards for Hazardous Waste Combustion Facilities (Reg Plan Seq. No. 135)	2050-AE01
3418	SAN No. 3366. Land Disposal Restrictions—Phase IV: Paperwork Reduction; Treatment Standards for Wood Preserving, Mineral Processing and Characteristic Metal Wastes; Related Mineral Processing Issues	2050-AE05
3419	SAN No. 2982. Requirements for Management of Hazardous Contaminated Media Commonly Referred to as Hazardous Waste Identification Rule for Contaminated Media or HWIR-Media (Reg Plan Seq. No. 136)	2050-AE22
3420	SAN No. 2647. RCRA Subtitle C Financial Test Criteria (Revision)	2050-AC71
3421	SAN No. 2751. RCRA Subtitle D Solid Waste Facilities; State Permit Program— Determination of Adequacy (State Implementation Rule)	2050-AD03
3422	SAN No. 3545. Revisions to the Comprehensive Guideline for Procurement of Products Containing Recovered Materials	2050-AE23

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Resource Conservation and Recovery Act (RCRA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3423	SAN No. 4017. Proposed Modifications to Hazardous Waste Storage and Disposal Regulation Related to Low Level Mixed Waste	2050-AE45
3424	SAN No. 3425. Facility Response Planning for Delegated Offshore Facilities	2050-AE18
3425	SAN No. 3428. Standards for the Management and Use of Slag Residues Derived from High Temperature Metals Recovery (HTMR) Treatment of KO61, KO62 and F0006 Wastes	2050-AE15
3426	SAN No. 3668. Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Recycled Used Oil Management Standards	2050-AE28
3427	SAN No. 3805. Paint Manufacturing Wastes Listing: Hazardous Waste Management System: Identification and Listing of Hazardous Waste	2050-AE32
3428	SAN No. 3886. Review of Toxicity Characteristic Level for Silver Under the Resource Conservation Recovery Act (RCRA)	2050-AE37
3429	SAN No. 3328. Identification and Listing of Hazardous Wastes: Hazardous Waste Identification Rule (HWIR); Waste	2050-AE07
3430	SAN No. 3134. Spent Solvents Listing Determination	2050-AD84
3431	SAN No. 3151. Chlorinated Aliphatics Listing Determination	2050-AD85
3432	SAN No. 3189. Final Determination of the Applicability of the Toxicity Characteristic Rule to Underground Storage Tanks, Contaminated Media, and Debris	2050-AD89
3433	SAN No. 3237. Hazardous Waste Management System; Modification of the Hazardous Waste Program; Mercury-Containing Lamps	2050-AD93
3434	SAN No. 3147. Hazardous Waste Manifest Regulation	2050-AE21
3435	SAN No. 2360. Corrective Action for Solid Waste Management Units (SWMUs) at Hazardous Waste Management Facilities	2050-AB80
3436	SAN No. 3433. Underground Storage Tanks Containing Hazardous Substances—Financial Responsibility Requirements	2050-AC15

Resource Conservation and Recovery Act (RCRA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3437	SAN No. 3546. Flexibility in Management Criteria for Small Municipal Solid Waste Landfills	2050-AE24
3438	SAN No. 3547. New and Revised Testing Methods Approved for RCRA Subtitle C, Hazardous Waste Testing Manual, SW-846, Third Edition, Update IV	2050-AE25

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Resource Conservation and Recovery Act (RCRA)—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3439	SAN No. 3427. New and Revised Testing Methods Approved for RCRA Subtitle C, in Test Methods for Evaluating Solid Waste, Physical/Chemical Methods (SW-846), Third Edition, Update III	2050-AE14

Clean Air Act (CAA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3440	SAN No. 3986. Consolidated Emission Reporting Rule	2060-AH25

Clean Air Act (CAA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3441	SAN No. 3945. State Implementation Plan Calls for Certain States in the Ozone Transport Assessment Group (OTAG) for Purposes of Reducing Regional Transport Ozone	2060-AH10
3442	SAN No. 3915. Technical Amendments for Non-Road Compression Ignition Engines	2060-AH33
3443	SAN No. 3918. Streamlined Evaporative Test Procedures	2060-AH34
3444	SAN No. 3944. Review of Definition of Volatile Organic Compounds—Exclusion of Chlorobromomethane	2060-AH39
3445	SAN No. 3916. Amendment to Urban Bus Retrofit/Rebuild Program Regulations	2060-AH45
3446	SAN No. 4046. Revisions to New Source Review (NSR) Regulations to Implement the New National Ambient Air Quality Standards (NAAQS) for Ozone and Particulate Matter	2060-AH53
3447	SAN No. 4035. Protection of Stratospheric Ozone: Interpretation of Methyl Bromide Labeling Requirements	2060-AH54
3448	SAN No. 4042. Clean Fuel Fleet Program; Rule Amendment	2060-AH56
3449	SAN No. 4010. Regulation of Fuels and Fuel Additives: Proposed Minor Revisions to Selected Recordkeeping and Enforcement Provisions Under the Regulation of Deposit Control Gasoline Additives	2060-AH57
3450	SAN No. 4045. Rulemaking To Modify the List of Source Categories From Which Fugitive Emissions Are Considered in Major Source Determinations	2060-AH58
3451	SAN No. 4032. Transportation Conformity for Transitional Ozone Areas	2060-AH59
3452	SAN No. 4052. Revisions to the Permits and Sulfur Dioxide Allowance System Regulations under Title IV of the Clean Air Act	2060-AH60
3453	SAN No. 4034. Minor Amendments to Inspection-Maintenance Program Requirements; Amendments to the Final Rule	2060-AH61
3454	SAN No. 4033. I/M Program Requirement—On-Board Diagnostic Checks; Amendment to the Final Rule	2060-AH62
3455	SAN No. 3873. Waste Isolation Pilot Plant (WIPP) Compliance Certification Rulemaking (Reg Plan Seq. No. 122)	2060-AG85
3456	SAN No. 3263. Performance Warranty and Inspection/Maintenance Test Procedures	2060-AE20
3457	SAN No. 3262. Inspection/Maintenance Recall Requirements	2060-AE22
3458	SAN No. 3549. NESHAP: Petroleum Refineries - FCC Units, Reformers and Sulfur Plants	2060-AF28
3459	SAN No. 3082. NESHAP: Ferroalloy Production	2060-AF29
3460	SAN No. 3553. Implementation of Ozone and Particulate Matter (PM) National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations (Reg Plan Seq. No. 123)	2060-AF34
3461	SAN No. 3569. Federal Implementation Plan To Control Emissions From Two Power Stations Located on Navajo Nation Lands	2060-AF42
3462	SAN No. 3572. Acid Rain Program: Revisions to Applicability, Exemptions, Allocations, and Small Diesel Refineries	2060-AF45
3463	SAN No. 3849. Amendments to Method 24 (Water-Based Coatings)	2060-AF72
3464	SAN No. 3637. Federal Implementation Plan (FIP) To Control Emissions From Sources Located on the Fort Hall Indian Reservation	2060-AF84
3465	SAN No. 3638. Revision of EPA's Radiological Emergency Response Plan	2060-AF85
3466	SAN No. 3596. Amendment of Enhanced Inspection/Maintenance Performance Standard	2060-AG07
3467	SAN No. 3743. Amendments to Part 60, Part 61, and Part 63	2060-AG21
3468	SAN No. 3650. Ambient Air Quality Surveillance, Recension of NAMS Ambient Air Quality Monitoring Requirements for Lead	2060-AG23
3469	SAN No. 3748. Consolidated Federal Air Rule for the Synthetic Organic Chemical Manufacturing Industry (Reg Plan Seq. No. 124)	2060-AG28

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Clean Air Act (CAA)—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3470	SAN No. 3808. Acid Rain Program: Continuous Emission Monitoring Rule Revisions for Technical Issues	2060-AG46
3471	SAN No. 3818. Protection of Stratospheric Ozone: Reconsideration of Petition Criteria/Incorporation of 1995 Protocol Decisions	2060-AG48
3472	SAN No. 3812. Environmental Radiation Protection Standards for Scrap Metal from Nuclear Facilities	2060-AG51
3473	SAN No. 3832. Revision of PSI (Part 58 Appendix G)	2060-AG62
3474	SAN No. 3898. 1998 Revision of Acid Rain Allowance Allocations	2060-AG86
3475	SAN No. 3900. Addition of Method 207 to Appendix M of 40 CFR Part 51—Method for Measuring Isocyanates in Stationary Source Emissions,	2060-AG88
3476	SAN No. 3913. Revision to the Light-Duty Vehicle Emission Compliance Procedure	2060-AH05
3477	SAN No. 3962. Protection of Stratospheric Ozone: Control of Methyl Bromide Emissions Through Use of Tarps	2060-AH26
3478	SAN No. 3943. Review of Definition of Volatile Organic Compounds—Exclusion of Methyl Acetate	2060-AH27
3479	SAN No. 3978. Revisions to Service Information Availability Requirements	2060-AH28
3480	SAN No. 3981. Revisions for Opting Into the Acid Rain Program	2060-AH36
3481	SAN No. 3975. Review of New Sources and Modifications in Indian Country	2060-AH37
3482	SAN No. 3977. Revisions to Clarify the Permit Content Requirements for State Operating Permits	2060-AH46
3483	SAN No. 3568. Environmental Radiation Protection Standards for Yucca Mountain, Nevada (Reg Plan Seq. No. 125)	2060-AG14
3484	SAN No. 3974. Ambient Air Quality Surveillance; Changes to Accommodate Revised Ozone NAAQS & Implementation Strategies	2060-AH30
3485	SAN No. 3470. Next Revision of Appendix W to 40 CFR Part 51	2060-AF01
3486	SAN No. 3105 (Air) and SAN No. 2712 (Water). Integrated NESHAP and Effluent Guidelines: Pulp and Paper (Reg Plan Seq. No. 126)	2060-AD03
3487	SAN No. 3228. NESHAP for Formaldehyde-Based Resins (Polymers and Resins Group III)	2060-AE36
3488	SAN No. 3345. NESHAP: Steel Pickling, HC1 Process	2060-AE41
3489	SAN No. 3340. NESHAP: Primary Copper Smelting	2060-AE46
3490	SAN No. 3078. NESHAP: Secondary Aluminum Industry	2060-AE77
3491	SAN No. 3079. NESHAP: Portland Cement Manufacturing	2060-AE78
3492	SAN No. 3408. NESHAP: Polyether Polyols Production	2060-AE81
3493	SAN No. 3451. NESHAP: Pharmaceuticals Production	2060-AE83
3494	SAN No. 3450. NESHAP: Pesticide Active Ingredient Production (Production of Agricultural Chemicals)	2060-AE84
3495	SAN No. 3467. NESHAP: Primary Lead Smelters	2060-AE87
3496	SAN No. 3469. NESHAP: Manufacture of Tetrahydrobenzaldehyde	2060-AE99
3497	SAN No. 3378. NESHAP: Acrylic/Modacrylic Fibers Manufacturing	2060-AF06
3498	SAN No. 3465. NESHAP: Polycarbonates Production	2060-AF09
3499	SAN No. 3377. NESHAP: Publicly Owned Treatment Works (POTW)	2060-AF26
3500	SAN No. 3550. NESHAP: Baker's Yeast Manufacturing Industry	2060-AF30
3501	SAN No. 3551. Amendments to Subpart A and B for 40 CFR 63	2060-AF31
3502	SAN No. 3829. Revisions to the Regulation for Approval of State Programs and Delegation of Federal Authorities	2060-AG80
3503	SAN No. 3901. Generic MACT for Source Categories with Few Sources	2060-AG91
3504	SAN No. 3654. NESHAP: Hydrogen Fluoride Production	2060-AG94
3505	SAN No. 3906. Offset Lithographic Printing National VOC Rule	2060-AH00
3506	SAN No. 2841. NESHAP: Chromium Electroplating Amendment	2060-AH08
3507	SAN No. 3950. National Strategy for Urban Area Sources of Toxic Air Emissions	2060-AH21
3508	SAN No. 3973. NESHAP: Flexible Polyurethane Foam Fabrication Operations	2060-AH42
3509	SAN No. 3939. NESHAP for Group I Polymers and Resins and Group IV Polymers and Resins and Group IV Polymers and Resins	2060-AH47
3510	SAN No. 3919. Prevention of Significant Deterioration of Air Quality: Permit Application Review Procedures for non-Federal Class I Areas	2060-AH01
3511	SAN No. 3914. Transportation Conformity Pilot Approval; Conformity SIP	2060-AH32
3512	SAN No. 3826. Reduction of Volatile Organic Compound (VOC) Emissions from Coatings Used in the Aerospace, Wood Furniture, and Shipbuilding Industries Under Clean Air Act Section 183(e)	2060-AG59
3513	SAN No. 3139. Amendment Concerning the Location of Selective Enforcement Audits of Foreign Manufactured Vehicles and Engines	2060-AD90
3514	SAN No. 3979. Review of Federal Test Procedures for Emissions from Motor Vehicles; Test Procedure Adjustments to Fuel Economy and Emission Test Results	2060-AH38
3515	SAN No. 3091. Specification of Substantially Similar Definition for Diesel Fuels	2060-AD77
3516	SAN No. 3560. Amendment to the Refrigerant Recycling Rule To Include All Refrigerants	2060-AF37
3517	SAN No. 3673. Protection of Stratospheric Ozone: Reconsideration of Section 608 Sales Restriction	2060-AG20

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Clean Air Act (CAA)—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3518	SAN No. 3983. Servicing of Motor Vehicle Air Conditioners: Standards for Equipment that Recovers and Recycles Refrigerants Other Than CFC-12 and HCF-134a	2060-AH29
3519	SAN No. 3640. Supplemental Rule To Require Certain Products Made With HCFCs To Bear Warning Label	2060-AF93
3520	SAN No. 4038. Federal Implementation Plan for a Fifteen Percent Reduction in Volatile Organic Compounds in the District of Columbia	2060-AH51

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Clean Air Act (CAA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3521	SAN No. 4030. Expanded Engine Family Definitions for Alternative Fueled Vehicles and Engines Meeting Low-Emission (LEV) Exhaust Emission Standards, Fee Exemption, and Related Provisions	2060-AH52
3522	SAN No. 2942. Compliance Assurance Monitoring Rule (Previously Enhanced Monitoring Program) **(Reg Plan Seq. No. 137)**	2060-AD18
3523	SAN No. 2961. Locomotive Emission Standards	2060-AD33
3524	SAN No. 3259. New Source Review (NSR) Reform **(Reg Plan Seq. No. 138)**	2060-AE11
3525	SAN No. 3380. NSPS: Synthetic Organic Chemicals Manufacturing Industry—Wastewater	2060-AE94
3526	SAN No. 3570. Acid Rain Program: Revisions to the Administrative Appeal Regulations Under Title IV of the Clean Air Act	2060-AF43
3527	SAN No. 3573. Acid Rain Program: Deletion of Certain Units	2060-AF46
3528	SAN No. 3574. Acid Rain Program: Revisions to the Permits Regulations Under Title IV of the Clean Air Act To Make Technical Corrections	2060-AF47
3529	SAN No. 3576. Control of Air Pollution From Aircraft and Aircraft Engines; Emission Standards and Test Procedures	2060-AF50
3530	SAN No. 3412. Operating Permits: Revisions (Part 70) **(Reg Plan Seq. No. 139)**	2060-AF70
3531	SAN No. 2915. Methods for Measurement of Visible Emissions—Addition of Methods 203A, 203B, and 203C to Appendix M of Part 51	2060-AF83
3532	SAN No. 3643. Sales Volume Limit Provisions for Small-Volume Manufacture Certification for Clean Fuel and Conventional Vehicle Conversions and Related Provisions	2060-AF87
3533	SAN No. 3744. Amendment to Standards of Performance for New Stationary Sources; Monitoring Requirements (PS-1)	2060-AG22
3534	SAN No. 3750. Regulation Review/Burden Reduction	2060-AG30
3535	SAN No. 3845. Transitional Lock-In Procedures for Phase II Reformulated Gasoline (RFG) Program	2060-AG43
3536	SAN No. 3835. Amendment to the User Fees for Radon Proficiency Programs Rule	2060-AG64
3537	SAN No. 3838. Revision to Definition of Volatile Organic Compounds (VOC)—Exclusion of 16 Compounds	2060-AG70
3538	SAN No. 3868. Federal Operating Permits Program in Indian Country	2060-AG90
3539	SAN No. 3911. Tier II (Phase II) Study to Assess Further Reductions in LOV and LDT Tailpipe Emission Standards	2060-AH04
3540	SAN No. 3912. Emission Regulations for 1978 and Later New Motorcycles— Proposed Changes to the Definition of Weight Limitations for Motorcycles	2060-AH06
3541	SAN No. 3984. Ban the Sale of Halon Blends and the Intentional Release of Halons During Testing and Training	2060-AH44
3542	SAN No. 3087. Indian Tribes: Air Quality Planning and Management	2060-AF79
3543	SAN No. 1002. NAAQS: Sulfur Dioxide (Review and Implementation) **(Reg Plan Seq. No. 140)**	2060-AA61
3544	SAN No. 3461. NESHAP: Mineral Wool Production Industry	2060-AE08
3545	SAN No. 3303. NESHAP: Phosphoric Acid Manufacturing	2060-AE40
3546	SAN No. 3304. NESHAP: Phosphate Fertilizers Production	2060-AE44
3547	SAN No. 3123. NESHAP: Wool Fiberglass Manufacturing Industry	2060-AE75
3548	SAN No. 3072. NESHAP: Primary Aluminum Plants	2060-AE76
3549	SAN No. 3338. NESHAP: Flexible Polyurethane Foam Production	2060-AE86
3550	SAN No. 2547. National Emission Standard for Radon Emissions From Phosphogypsum Stacks	2060-AF04
3551	SAN No. 3791. Revision of Initial List of Categories of Sources and Schedule for Standards Under Section 112(c) and (e) of the Clean Air Act Amendments of 1990	2060-AG42
3552	SAN No. 3836. Technical Amendments to Aerospace NESHAP	2060-AG65
3553	SAN No. 2965. Wood Furniture Manufacturing Operations NESHAP: Technical Corrections and Clarifications	2060-AG95
3554	SAN No. 3193. NESHAP: Secondary Lead Smelter Amendment	2060-AH07
3555	SAN No. 3960. Specific Pollutants: List of Categories Emitting 7 Specified Hazardous Air Pollutants	2060-AH20

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Clean Air Act (CAA)—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3556	SAN No. 3604. Standards for Reformulated and Conventional Gasoline, Individual Baseline Fuel Adjustments	2060-AG80
3557	SAN No. 3948. Fuels and Fuel Additives; Elimination of Oxygenated Program Reformulated Gasoline Category from the Reformulated Gasoline Regulations	2060-AH43
3558	SAN No. 3610. Transportation Conformity Rule Amendment and Solicitation for Participation in the Transportation Conformity Pilot Program	2060-AG79
3559	SAN No. 3281. National Volatile Organic Compound Emission Standards for Automobile Refinish Coatings	2060-AE35
3560	SAN No. 3351. VOC Regulation for Architectural Coatings **(Reg Plan Seq. No. 141)**	2060-AE55
3561	SAN No. 3658. National VOC Emission Standards for Consumer Products **(Reg Plan Seq. No. 142)**	2060-AF62
3562	SAN No. 3660. Open-Market Trading Guidance **(Reg Plan Seq. No. 143)**	2060-AF60
3563	SAN No. 3300. Revised Carbon Monoxide (CO) Standard for Class I and II Nonhandheld New Nonroad Phase I Small Spark-Ignited Engines	2060-AG81
3564	SAN No. 3646. Voluntary Standards for Light-Duty Vehicles (National 49 State Low-Emission Vehicles Program) **(Reg Plan Seq. No. 144)**	2060-AF75
3565	SAN No. 3645, 4014, 4043. Control of Emissions of Air Pollution from Highway Heavy-Duty Engines and Diesel Engines **(Reg Plan Seq. No. 145)**	2060-AF76
3566	SAN No. 3844. Modifications to Standards for Reformulated and Conventional Gasoline	2060-AG76
3567	SAN No. 3843. Revision to the Covered Areas Provision for Reformulated Gasoline	2060-AG77
3568	SAN No. 3842. Amendment Concerning Applicability of On Highway Heavy-Duty Certified Engines for Use In Nonroad Heavy-Duty Vehicles and Equipment	2060-AG78
3569	SAN No. 3789. Outer Continental Shelf Air Regulations Delegation Remand	2060-AG39
3570	SAN No. 3790. Outer Continental Shelf Air Regulations Offset Remand	2060-AG40
3571	SAN No. 3352. NSPS: Nitrogen Oxide Emissions From Fossil-Fuel Fired Steam Generating Units—Revision	2060-AE56
3572	SAN No. 3555. Amendment to the MVAC Rule To Include All Refrigerants	2060-AF35
3573	SAN No. 3556. Protection of Stratospheric Ozone: Supplemental Rule Regarding a Recycling Standard Under Section 608	2060-AF36
3574	SAN No. 3792. Technical Amendments to Hazardous Waste TSDF and Haz. Waste Generators: Organic Air Emission Stnds. for Tanks, Surface Impoundments and Containers	2060-AG44

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Clean Air Act (CAA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3575	SAN No. 3970. NESHAP for Miscellaneous Cellulose Production	2060-AH11
3576	SAN No. 3969. NESHAP for Municipal Solid Waste Landfills	2060-AH13
3577	SAN No. 3917. Transportation Conformity Rule Amendment: Clarification of Trading Provisions	2060-AH31
3578	SAN No. 4022. National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks	2060-AH55
3579	SAN No. 3407. Method 301: Field Validation of Pollution Measurement Methods for Various Media	2060-AF00
3580	SAN No. 3516. Radiation Waste Management Regulations	2060-AF41
3581	SAN No. 3741. Service Information Availability	2060-AG13
3582	SAN No. 3811. Radionuclide Dose Methodology Update	2060-AG49
3583	SAN No. 3819. NSPS for Sewage Sludge Incinerators	2060-AG50
3584	SAN No. 3820. NESHAP for Plywood and Particle Board Manufacturing	2060-AG52
3585	SAN No. 3922. Revised Permit Revision Procedures for the Federal Operating Permits Program	2060-AG92
3586	SAN No. 3986. Storage Tank Rule Revisions	2060-AH15
3587	SAN No. 3958. Addition of Opacity Method to Appendix M of 40 CFR Part 51 (Method 203)	2060-AH23
3588	SAN No. 3656. NESHAP/NSPS: Internal Combustion Engine	2060-AG63
3589	SAN No. 3657. Combustion Turbine NESHAP/NSPS	2060-AG67
3590	SAN No. 3229. NESHAP: Oil and Natural Gas Production	2060-AE34
3591	SAN No. 3343. NESHAP—Iron Foundries and Steel Foundries	2060-AE43
3592	SAN No. 3341. NESHAP—Cyanide Chemical Manufacturing	2060-AE45
3593	SAN No. 3346. NESHAP: Integrated Iron and Steel	2060-AE46
3594	SAN No. 3326. NESHAP: Reinforced Plastic Composites Production	2060-AE79
3595	SAN No. 3452. NESHAP: Miscellaneous Organic Chemical Production and Processes	2060-AE82
3596	SAN No. 3449. NESHAP: Chlorine Production	2060-AE85
3597	SAN No. 3746. National Emission Standard for Hazardous Air Pollutants for Paint Stripper Users	2060-AG26

EPA

Clean Air Act (CAA)—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3598	SAN No. 3747. NESHAP for Boat Manufacturing	2060-AG27
3599	SAN No. 3749. NESHAP for Tire Manufacturing	2060-AG29
3600	SAN No. 3752. NESHAP for Aerosol Can Filling Facilities	2060-AG32
3601	SAN No. 3754. Petroleum Solvent Dry Cleaners MACT Standard	2060-AG34
3602	SAN No. 3821. NESHAP for Ethylene Processes	2060-AG53
3603	SAN No. 3823. Large Appliance Coatings Integrated Regulation	2060-AG54
3604	SAN No. 3855. Asphalt Roofing and Processing NESHAP	2060-AG66
3605	SAN No. 3852. NESHAP Refractories Manufacturing	2060-AG68
3606	SAN No. 3837. NESHAP for Industrial, Commercial and Institutional Boilers and Process Heaters	2060-AG69
3607	SAN No. 3851. NESHAP: Lime Manufacturing	2060-AG72
3608	SAN No. 3872. Industrial Combustion Coordinated Rulemaking—ICCR Project	2060-AG84
3609	SAN No. 3899. NESHAP: Friction Products Manufacturing	2060-AG87
3610	SAN No. 3902. NESHAP: Semiconductor Production	2060-AG93
3611	SAN No. 3906. NESHAP: Metal Can (Surface Coating) Industry	2060-AG96
3612	SAN No. 3905. NESHAP: Metal Coil (Surface Coating) Industry	2060-AG97
3613	SAN No. 3909. NESHAP: Fabric Printing, Coating and Dyeing	2060-AG98
3614	SAN No. 3907. Automobile and Light-Duty Truck Manufacturing Integrated Rule Development	2060-AG99
3615	SAN No. 3924. NESHAP: Primary Magnesium Refining	2060-AH03
3616	SAN No. 3968. NESHAP for Site Remediation	2060-AH12
3617	SAN No. 3967. NESHAP: Spandex Production	2060-AH14
3618	SAN No. 3964. NESHAP for Leather Tanning and Finishing Operations	2060-AH17
3619	SAN No. 3963. NESHAP for Cellulose Production Categories	2060-AH18
3620	SAN No. 3962. NESHAP for the Manufacture of Carbon Black	2060-AH19
3621	SAN No. 3903. NESHAP: Vegetable Oil Production	2060-AH22
3622	SAN No. 3972. Rocket Engine Test Firing/Engine Test Facilities	2060-AH35
3623	SAN No. 3971. NESHAP for Organic Liquid Distribution	2060-AH41
3624	SAN No. 3613. New Source Performance Standards (NSPS) and Emission Guidelines for Industrial and Commercial Waste Incinerators	2060-AF91
3625	SAN No. 3751. New Source Performance Standards and Emission Guidelines for Other Solid Waste Incinerators	2060-AG31
3626	SAN No. 3824. Metal Furniture Coatings Integrated Regulation	2060-AG55
3627	SAN No. 3904. Flatwood Paneling (Surface Coating) Integrated Rule	2060-AH02
3628	SAN No. 3825. Surface Coating of Miscellaneous Metal Parts and Products—Integrated	2060-AG56
3629	SAN No. 3826. Plastic Parts Coating Integrated Rule for Volatile Organic Compounds (VOC) and Hazardous Air Pollutants (HAPs)	2060-AG57
3630	SAN No. 3827. Integrated Rule for Paper, and other Web Coating and Coatings: MACT for NESHAP; and BAC for National VOC Rule	2060-AG58
3631	SAN No. 3361. Nonroad Spark-Ignition Engines at or Below 19 Kilowatts (25 Horsepower) (Phase 2)	2060-AE29
3632	SAN No. 3525. Update of the Acceptability List Under the Significant New Alternatives Policy (SNAP) Program	2060-AG12

Clean Air Act (CAA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3633	SAN No. 3448. Requirements for Designation of Reference and Equivalent Methods for PM 2.5 and Ambient Air Quality Surveillance Particulate Matter	2060-AH09
3634	SAN No. 3524. Individual Foreign Refinery Baseline Requirements for Reformulated Gas	2060-AH48
3635	SAN No. 3448. NAAQS: Particulate Matter (Review)	2060-AE66
3636	SAN No. 3506. Addition of Methods 204, 204A - 204F for Measurement of VOC Emissions From Stationary Sources	2060-AF02
3637	SAN No. 3599. Fourier Transform Infrared Spectroscopy (FTIR) Extractive Test Method—Self-Validating Procedure and CEM Performance Specification	2060-AG08
3638	SAN No. 3740. Transportation Conformity Rule Amendments: Flexibility and Streamlining	2060-AG16
3639	SAN No. 3795. Acid Rain Program: Elimination of Direct Sale Program and IPP Written Guarantee; and ANPRM to Modify Allowance Auction	2060-AG41
3640	SAN No. 3814. Guidance for the Implementation of EPA's Radiation Protection Standards for the Management and Storage of Transuranic Radioactive Waste at the Waste Isolation Pilot Plant (WIPP)	2060-AG74
3641	SAN No. 3279. State Implementation Plans; Milestone Compliance Demonstration	2060-AG89

EPA

Clean Air Act (CAA)—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3642	SAN No. 3987. Addition of Method 14A to 40 CFR Part 60, Appendix A	2060-AH24
3643	SAN No. 3353. NAAQS: Ozone (Review)	2060-AE57
3644	SAN No. 2719. Hospital/Medical/Infectious Waste Incinerators	2060-AC62
3645	SAN No. 3753. Revision to NSPS: Nonmetallic Minerals Processing	2060-AG33
3646	SAN No. 3965. NSPS Revisions for Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities	2060-AH16
3647	SAN No. 3479. Amendments to Parts 51, 52, 63, 70 and 71 Regarding the Provisions for Determining Potential To Emit	2060-AE63

Superfund (CERCLA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3648	SAN No. 3885. Streamlining the Preauthorization Mixed Funding for Application and Implementation of Claims Against Superfund	2050-AE38
3649	SAN No. 3994. Modification of the Extremely Hazardous Substance (EHS) List	2050-AE42
3650	SAN No. 3806. Grants for Technical Assistance Rule Reform—40 CFR Part 35 Subpart M	2050-AE33
3651	SAN No. 3423. Reportable Quantity Adjustments for Carbamates	2050-AE12
3652	SAN No. 3439. National Priorities List for Uncontrolled Hazardous Waste Sites: Proposed and Final Rules	2050-AD75
3653	SAN No. 4029. Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act, Section 112(r)(7): Amendment	2050-AE46
3654	SAN No. 3215. Amendments to the Emergency Planning and Community Right-To-Know Act, Sections 302 Through 312	2050-AE17

Superfund (CERCLA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3655	SAN No. 3993. Modification of Threshold Planning Quantity for Isophorone Diisocyanate	2050-AE43
3656	SAN No. 3787. Amendments to the List of Regulated Substances and Thresholds for Accidental Release Prevention—Modifications	2050-AE35
3657	SAN No. 3884. Revision of the Local Government Reimbursement Regulation	2050-AE30
3658	SAN No. 3054. Administrative Reporting Exemptions for Certain Radionuclide Releases	2050-AD44

Superfund (CERCLA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3659	SAN No. 2394. Reporting Exemptions for Federally Permitted Releases of Hazardous Substances	2050-AB82
3660	SAN No. 3060. Deletion of Saccharin From the List of Hazardous Wastes Under RCRA and the List of Hazardous Substances Under CERCLA	2050-AD45
3661	SAN No. 3424. Reportable Quantity Adjustment for Radon-222	2050-AE20

General—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3662	SAN No. 4021. Nondiscrimination on the Basis of Sex in Educational Programs Receiving Federal Assistance	2020-AA30
3663	SAN No. 3817. Implementation of Changes to 40 CFR Part 32 as a Result of the Federal Acquisition Streamlining Act (FASA)	2030-AA46
3664	SAN No. 3580. Incorporation of Class Deviation Into EPAAR	2030-AA37

EPA

General—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3665	SAN No. 3629. EPA Mentor-Protege Program	2030-AA40
3666	SAN No. 3876. Incrementally Funding Fixed Price Contracts	2030-AA50
3667	SAN No. 3874. Revision of EPA Acquisition Regulations for Quality Systems for Environmental Programs	2030-AA51
3668	SAN No. 3816. Agency Implementation of Federal Acquisition Streamlining Act (FASA) Changes to Truth in Negotiations Act (TINA)	2030-AA47
3669	SAN No. 3854. Value Engineering	2030-AA49
3670	SAN No. 2662. Amendments to Part 22 Consolidated Procedural Rules	2020-AA13
3671	SAN No. 3807. Consolidation of Good Laboratory Practice Standards (GLPS) Regulations Currently Under TSCA and FIFRA Into One Rule	2020-AA26
3672	SAN No. 3936. Safe Drinking Water Public Water Supply System Program: Citizen Collection Action; Notice of Complaint Seeking Review of Penalty Order	2020-AA35

General—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3673	SAN No. 4037. Common Rulemaking on Administrative Requirements for Grantees to Reflect Single Audit Act Amendments	2030-AA54
3674	SAN No. 3670. Proposed Guidelines for Ecological Risk Assessment	2060-AA07
3675	SAN No. 3624. Guidelines for Neurotoxicity Risk Assessment	2060-AA08
3676	SAN No. 2937. Field Citation Program	2020-AA32
3677	SAN No. 3879. Update Procedures for Making Profit/Fee Determinations	2030-AA53
3678	SAN No. 3240. Public Information and Confidentiality Regulations	2020-AA21
3679	SAN No. 3432. Pesticide Management and Disposal	2020-AA33

General—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3680	SAN No. 3671. Guidelines for Carcinogen Risk Assessment	2060-AA06
3681	SAN No. 2939. Regulations Governing Awards Under Section 113(f) of the Clean Air Act	2020-AA31
3682	SAN No. 2940. Regulations Governing Prior Notice of Citizen Suits Brought Under Section 304 of the Clean Air Act	2020-AA30
3683	SAN No. 2720. Policy or Procedures for Notification to the Agency of Stored Pesticides With Cancelled or Suspended Registration	2020-AA29
3684	SAN No. 2725. FIFRA Books and Records of Pesticide Production and Distribution (Revision)	2020-AA28
3685	SAN No. 3933. Environmental Impact Assessment of Nongovernmental Activities in Antarctica	2020-AA34

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Proposed Rule Stage

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

3256. • EXEMPTION OF CERTAIN INERT INGREDIENTS FROM THE DEFINITION OF PESTICIDE CHEMICAL RESIDUE UNDER FFDCA

Priority: Substantive, Nonsignificant

Legal Authority: FFDCA 201(q)(3)

CFR Citation: 40 CFR 180

Legal Deadline: None

Abstract: This proposed rule would amend EPA regulations by adding a provision that would exempt from the definition of pesticide chemical residue certain inert ingredients that may be present in or on food as a result of those use of the ingredients in pesticidal food packaging. The exemption would apply to inert ingredients that are intended primarily to affect the quality, function or appearance of the food packaging itself and not primarily to serve a pesticidal purpose. The effect of this rule is to give the Food and Drug Administration (FDA) sole jurisdiction over the residues of such substances in or on food.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 287 Agricultural Chemicals

Additional Information: SAN No. 4025.

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RIN: 2070–AD20

EPA—FIFRA

Proposed Rule Stage

3257. • EXEMPTION OF CERTAIN PESTICIDE SUBSTANCES FROM FIFRA REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemakfng is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: FIFRA 25(b)

CFR Citation: 40 CFR 152.25(g)(1)

Legal Deadline: None

Abstract: This proposed rule would exempt from regulation under section 25(b)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) certain substances when used, sold or distributed as pesticide active ingredients. EPA believes regulation of these substances is not necessary to prevent unreasonable adverse effects on the environment, and these substances are not of a character necessary to be subject to FIFRA in order to carry out its purposes. Substances exempted are pesticides and would continue to be distributed and sold as pesticides after promulgation of a final rule. If exemptions are established, false claims and advertising would still be subject to jurisdiction of the Federal Trade Commission or could result in civil liabilities for the manufacturer and distributor. This proposal, and any subsequent final rule, would not establish or alter exemptions or tolerances for the listed substance under provisions of the Federal Food, Drug and Cosmetic Act.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 287 Agricultural Chemicals

Additional Information: SAN No. 4026.

Agency Contact: Sheryl K. Reilly, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7501C, Washington, DC 20460
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RIN: 2070–AD21

3258. • TOLERANCE PROCESSING FEES; TOLERANCES AND EXEMPTION FROM TOLERANCES FOR PESTICIDE CHEMICALS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 346a

CFR Citation: 40 CFR 180.33

Legal Deadline: None

Abstract: In 1996, the Food Quality Protection Act amended the Federal Food, Drug, and Cosmetic Act to require EPA to charge tolerance fees that, in the aggregate, will cover all costs associated with processing tolerance actions, including filing a tolerance petition, and establishing, modifying, leaving in effect, or revoking a tolerance or tolerance exemption. Since a 1983 cost analysis, factors such as expanded data requirements, changes in risk assessment methods, improvements in data base management and tracking systems, and the increasing complexity of scientific review of petitions have resulted in costs substantially exceeding the fees currently charged. Accordingly, the regulatory effort is to outline how and to what extent the fee structure and fee amounts will be adjusted so that EPA can comply with the law by collecting, in the aggregate, an amount equivalent to the costs of processing tolerance actions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
Final	06/00/98	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Sectors Affected: 287 Agricultural Chemicals

Additional Information: SAN No. 4027.

Agency Contact: Carol Peterson, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7506C, Wshington, DC 20460
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RIN: 2070–AD23

3259. ANTIMICROBIAL PESTICIDE REGISTRATION REFORM

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 136a(h)

CFR Citation: 40 CFR 152; 40 CFR 156; 40 CFR 158; 40 CFR 177; 40 CFR 180

Legal Deadline:
NPRM, Statutory, May 1, 1997.

Abstract: This regulation will specify antimicrobial registration reforms that will reduce to the extent possible the review time for antimicrobial pesticides. The regulation will clarify criteria for completeness of applications, and will specify or refer to a definition of the various classes of antimicrobial pesticide use patterns and the associated data and labeling requirements that would be consistent with the degree and type of risk presented by each class. EPA will evaluate the feasibility and cost-effectiveness of various registration process reforms, including registrant certification, third-party certification by laboratories and expansion of the current notification procedures.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final	04/00/98	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 3892.

Agency Contact: Jean M. Frane, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 401 M treet, SW (7506C), Washington, DC 20460
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RIN: 2070–AD14

3260. PESTICIDE DATA REQUIREMENTS FOR REGISTRATION (REVISION)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136a; 7 USC 136w

CFR Citation: 40 CFR 158

Legal Deadline: None

Abstract: This amendment will update the existing data requirements (40 CFR 158) for evaluating the register ability of antimicrobial pesticide products. Reasons for the revisions include recent health and environmental concerns advancements in testing technology, and new statutory requirements. The revisions will clarify all data requirements to reflect current practice and new risk assessment approaches mandated by FQPA. Procedural and explanatory sections of 40 CFR 158 will be amended to make them consistent with the revised data requirements and new use indexing implemented pursuant to 1988 FIFRA amendments.

Timetable:

Action	Date	FR Cite
NPRM	05/00/98	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2687.

Agency Contact: Amy Rispin, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7506C, Washington, DC 20460
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RIN: 2070–AC12

3261. PESTICIDE WORKER PROTECTION STANDARDS; PESTICIDE HAZARD COMMUNICATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136w; Federal Insecticide, Fungicide, and Rodenticide Act sec 25

CFR Citation: 40 CFR 170

Legal Deadline: None

Abstract: In 1992, EPA proposed to require the provision of hazard information to agricultural workers covered by the Worker Protection Standard. The requirements as proposed were designed to be substantially equivalent to the Hazard Communication Standard promulgated by the Occupational Safety and Health Administration. Specific hazard information would be made available to agricultural workers and pesticide handlers concerning the pesticides to which they are exposed. EPA is reconsidering the specifics of the proposal to simplify and streamline this requirement. Working with States and interested parties, EPA plans to issue a new proposal by 1998.

Timetable:

Action	Date	FR Cite
NPRM	08/21/92	57 FR 38167
NPRM REVISED	11/00/97	
Final	01/00/99	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 1640.

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RIN: 2070–AC34

3262. PESTICIDE WORKER PROTECTION STANDARD EXCEPTIONS

Priority: Routine and Frequent

Legal Authority: 7 USC 136w

CFR Citation: 40 CFR 170

Legal Deadline: None

Abstract: EPA administers an exceptions process under the Pesticides Worker Protection Standard. Under this process, persons may petition or request the Agency to allow early entry into pesticides-treated areas when restricted entry intervals (REIs) normally prohibit entry. REIs define the time after application of a pesticide before workers are allowed to re-enter treated areas. EPA will issue a notice in the Federal Register announcing the receipt of a petition or request, and may also announce its decision in a subsequent Federal Register notice.

Timetable:

Action	Date	FR Cite
Notice	09/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3732.

Agency Contact: Don Eckerman, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7506C, Washington, DC 20460
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RIN: 2070–AC95

3263. PESTICIDES WORKER PROTECTION STANDARDS; SCOPE AND CLARIFICATION OF THE EXCEPTIONS PROCESS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 136w

CFR Citation: 40 CFR 170

Legal Deadline: None

Abstract: The Scope and Clarification of the WPS Exceptions Process will involve an analysis of the existing scope of the WPS exceptions process, an opportunity for public comment on the analysis, and consideration of whether the scope should be expanded. In addition, guidance will be issued to clarify the types of information needed for each individual exception request in order for the Agency to be able to make a risk/benefit decision.

Timetable:

Action	Date	FR Cite
Notice Scope and Clarification Document	04/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3733.

Agency Contact: Don Eckerman, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7506C, Washington, DC 20460
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RIN: 2070–AC96

ENVIRONMENTAL PROTECTION AGENCY (EPA) Final Rule Stage

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

3264. PESTICIDES; SELF-CERTIFICATION

Regulatory Plan: This entry is Seq. No. 127 in Part II of this issue of the Federal Register.

RIN: 2070–AD00

3265. REGULATION OF PLANT-PRODUCED PESTICIDES UNDER FIFRA AND FFDCA

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136 et seq; 21 USC 346a et seq

CFR Citation: 40 CFR 152.20; 40 CFR 174

Legal Deadline: None

Abstract: Substances that plants produce to protect themselves against pests and disease are pesticides under FIFRA. The Agency designates these substances, along with the genetic material necessary to produce them, "plant-pesticides." This rulemaking will exempt categories of plant-pesticides from FIFRA and FFDCA regulations. For those plant-pesticides that would be subject to Agency requirements, the Agency will outline a streamlined process by which these pesticides will be regulated and the information that would be needed in the Agency's review.

Timetable:

Action	Date	FR Cite
NPRM	11/23/94	59 FR 60496
Supplemental NPRM	05/16/97	62 FR 27132
Final Action	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 2684.

Agency Contact: Janet Andersen, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7501W, Washington, DC 20460
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RIN: 2070–AC02

3266. PESTICIDE FLAMMABILITY LABELING REQUIREMENTS FOR TOTAL RELEASE FOGGERS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 136; Federal Insecticide, Fungicide, and Rodenticide Act sec 2; 7 USC 137; Federal Insecticide, Fungicide, and Rodenticide Act sec 3

CFR Citation: 40 CFR 156.10

Legal Deadline: None

Abstract: This rule would require that pesticide total release foggers be labeled with additional flammability precautionary statements (including a graphic symbol) and more precise use directions. Total release foggers have been implicated in a number of fires and explosions because of their flammable propellants. The labeling of these products has been determined to be inadequate to mitigate this potential hazard.

Timetable:

Action	Date	FR Cite
NPRM	04/15/94	59 FR 18058
Final	11/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3135.

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RIN: 2070–AC60

3267. RESTRICTED USE CRITERIA FOR PESTICIDES IN GROUNDWATER

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 136a; Federal Insecticide, Fungicide, and Rodenticide Act sec 3

CFR Citation: 40 CFR 152.170

Legal Deadline: None

Abstract: This rule amends the existing Restricted Use Classification (RUC) regulations to add criteria pertaining to pesticides' groundwater contamination potential. Restricted pesticides may only be used by trained and certified applicators. Once promulgated, criteria may serve as the basis for subsequent rule-making to classify selected pesticides.

Timetable:

Action	Date	FR Cite
NPRM	05/13/91	56 FR 22076
Final	06/00/98	

Small Entities Affected: None.

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2371.

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RIN: 2070–AB60

3268. PESTICIDES AND GROUND WATER STATE MANAGEMENT PLAN REGULATION

Regulatory Plan: This entry is Seq. No. 128 in Part II of this issue of the Federal Register.

RIN: 2070–AC46

3269. MODIFICATIONS TO PESTICIDE WORKER PROTECTION STANDARD—GLOVE AMENDMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136w

CFR Citation: 40 CFR 170

Legal Deadline: None

Abstract: Since the issuance of the 1992 WPS and the January 1, 1995 implementation, farmworker groups have expressed an interest in enhancing specific protection measures, while grower groups, the National Association of State Departments of Agriculture and others have expressed an interest in addressing practical, operational concerns. The Agency received various requests and comments in the form of letters, petitions, and individual and public meetings to address the concerns with the WPS. As a result, there may be a need to make further changes of a minor nature to the WPS rule. EPA will take such actions as rules, policy statements or other documents as appropriate. Currently planned actions are listed below.

Timetable:

Action	Date	FR Cite
NPRM Glove Requirements	09/09/97	62 FR 47544
Final Rule	06/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3731.

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RIN: 2070–AC93

3270. TOLERANCES FOR PESTICIDE EMERGENCY EXEMPTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 346a

CFR Citation: 40 CFR 176

Legal Deadline:
Final, Statutory, August 3, 1997.

Abstract: This regulation will set out policies and procedures under which EPA will establish food tolerances associated with the use of pesticides under emergency exemptions. Emergency exemptions are issued for temporary use of pesticides in States where emergency conditions exist. Under the Federal Food, Drug and Cosmetic Act, as amended by the Food Quality Protection Act, EPA must begin to establish time-limited tolerances for such pesticides if the use is likely to result in residues in food. EPA expects to describe the procedures to be used, and the criteria for establishing tolerances.

Timetable:

Action	Date	FR Cite
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: State, Tribal, Federal

Sectors Affected: 287 Agricultural Chemicals; 01 Agricultural Production-Crops

Additional Information: SAN No. 3890.

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RIN: 2070–AD15

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

Long-Term Actions

3271. PESTICIDE TOLERANCES; PORTION OF FOOD COMMODITIES TO BE ANALYZED FOR PESTICIDE RESIDUES

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 180

Timetable:

Action	Date	FR Cite
NPRM	09/29/93	58 FR 50888
Final	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jean Frane
Phone: 703 305-5944

RIN: 2070–AC45

3272. ENDANGERED SPECIES PROTECTION PROGRAM

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: Undetermined

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
Proposed Notice	07/03/89	54 FR 27984
Final Notice	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Arthur Jean B. Williams
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RIN: 2070–AC42

3273. THE 10-ACRE LIMITATION FOR PESTICIDE SMALL-SCALE FIELD TESTING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 172

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State, Tribal

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RIN: 2070–AC99

3274. PESTICIDE LABELING CLAIMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 156.10

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Melissa L. Chun
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RIN: 2070–AC85

3275. PESTICIDE MANAGEMENT AND DISPOSAL: STANDARDS FOR PESTICIDE CONTAINERS AND CONTAINMENT

Priority: Other Significant

CFR Citation: 40 CFR 165; 40 CFR 156

Timetable:

Action	Date	FR Cite
NPRM (Container Design & Residue Removal & Bulk Containment)	02/11/94	59 FR 6712
Final	11/00/98	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: Nancy Fitz
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RIN: 2070–AB95

3276. CHILD-RESISTANT PACKAGING REGULATIONS (REVISION)

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 157

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Rosalind L. Gross
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RIN: 2070–AB96

3277. PESTICIDE EXPORT POLICY

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 168; 40 CFR 169

Timetable:

Action	Date	FR Cite
Final	12/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kennan Garvey
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RIN: 2070–AD02

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

Completed Actions

3278. CROSS-CONTAMINATION OF PESTICIDE PRODUCTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 158.167

Completed:

Reason	Date	FR Cite
Policy issued	10/31/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

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RIN: 2070–AD03

3279. REPORTING REQUIREMENTS FOR RISK/BENEFIT INFORMATION (REVISION)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 153; 40 CFR 159

Completed:

Reason	Date	FR Cite
Final Action	09/19/97	62 FR 49370

Small Entities Affected: Businesses

Government Levels Affected: Federal

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RIN: 2070–AB50

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Prerule Stage

Toxic Substances Control Act (TSCA)

3280. REPORTING THRESHOLD AMENDMENT; TOXIC CHEMICALS RELEASE REPORTING; COMMUNITY RIGHT-TO-KNOW

Regulatory Plan: This entry is Seq. No. 107 in Part II of this issue of the Federal Register.

RIN: 2070–AD09

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Proposed Rule Stage

Toxic Substances Control Act (TSCA)

3281. • TOXICS RELEASE INVENTORY (TRI): REVIEW OF CHEMICALS ON ORIGINAL TRI LIST

Regulatory Plan: This entry is Seq. No. 108 in Part II of this issue of the Federal Register.

RIN: 2070–AD18

3282. TRI CHEMICAL EXPANSION; FINALIZATION OF DEFERRED CHEMICALS

Regulatory Plan: This entry is Seq. No. 109 in Part II of this issue of the Federal Register.

RIN: 2070–AC47

3283. TSCA INVENTORY UPDATE RULE AMENDMENTS

Regulatory Plan: This entry is Seq. No. 110 in Part II of this issue of the Federal Register.

RIN: 2070–AC81

3284. DATA EXPANSION AMENDMENTS; TOXIC CHEMICAL RELEASE REPORTING; COMMUNITY RIGHT-TO-KNOW

Regulatory Plan: This entry is Seq. No. 111 in Part II of this issue of the Federal Register.

RIN: 2070–AD08

3285. • TRI; ADDITION OF OIL AND GAS EXPLORATION AND PRODUCTION TO THE TOXIC RELEASE INVENTORY

Regulatory Plan: This entry is Seq. No. 112 in Part II of this issue of the Federal Register.

RIN: 2070–AD19

3286. TRI: RESPONSES TO PETITIONS RECEIVED TO ADD OR DELETE CHEMICALS FROM THE TOXIC RELEASE INVENTORY

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 11013; Emergency Planning and Community Right-To-Know Act sec 313

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: These actions grant or deny petitions received to add or delete chemicals from the list of toxic chemicals under section 313 of the Emergency Planning and Community Right to Know Act, EPCRA. The actions cover individual chemicals or groups of chemicals for which petitions have been received.

Timetable:

Action	Date	FR Cite
Notice DBNPA (delete)	10/27/95	60 FR 54949
NPRM Dioxin and Dioxin-like Compounds	05/07/97	62 FR 24887
Response and Copper Alloys (Modify)	10/00/97	
Response Nickel	10/00/97	
Response DBNPA (delete)	11/00/97	
Final Response Alloys–Chrominum	12/00/97	
Response (Certain Furans and PCBs)(add)	12/00/98	
Final Dioxin and Dioxin-like Compounds	00/00/00	
Final Methyl Ethyl Ketone (MEK) (delete)	00/00/00	
Final Methyl Isobutyl Ketone (MIBK) (delete)	00/00/00	
Final Phosphoric Acid (delete)	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2425.

Other deadline: Within 180 days of receipt the Agency must either initiate rulemaking or explain why not in the Federal Register. Manufacturing industries in SIC codes 20-39 plus the following industries and SIC codes: Metal Mining (SIC code 10 except SIC codes 1011, 1081, and 1094); Coal Mining (SIC code 12 except SIC code 1241); Electric Utilities (SIC codes 4911, 4931, 4939); Commercial Hazardous Waste Treatment (SIC code 4953); Chemicals and Allied Products-Wholesale (SIC code 5169); Petroleum Bulk Terminals and Plants (SIC code 5171); and, Solvent Recovery Services (SIC code 7389).

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RIN: 2070–AC00

3287. TRI; POLLUTION PREVENTION ACT INFORMATION REQUIREMENTS

Regulatory Plan: This entry is Seq. No. 113 in Part II of this issue of the Federal Register.

RIN: 2070–AC24

EPA—TSCA

Proposed Rule Stage

3288. LEAD HAZARD STANDARDS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 15 USC 2683/ TSCA 403

CFR Citation: 40 CFR 745

Legal Deadline:
Final, Statutory, April 28, 1994.
NPRM, Judicial, November 30, 1997.

Abstract: The Residential Lead-Based Paint Hazard Reduction Act of 1992 requires EPA to promulgate regulations which identify lead-based paint hazards, lead-contaminated soil, and lead-contaminated dust. EPA is to identify the paint conditions and lead levels in dust and soil that would result in adverse human health effects. On July 14, 1994, EPA issued guidance on this topic to provide information while a proposal is being developed.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	
Final	11/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: SAN No. 3243.

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RIN: 2070–AC83

3289. LEAD-BASED PAINT DISCLOSURE REQUIREMENTS AT RENOVATION OF TARGET HOUSING

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-550 Sec 406

CFR Citation: 40 CFR 745; 24 CFR 35

Legal Deadline:
Final, Statutory, October 28, 1994.

Abstract: Section 406 of the Residential Lead-based Paint Hazard Reduction Act of 1992 requires EPA to develop two products: (1) a lead hazard information pamphlet, to be developed in consultation with HUD and CDC; and (2) an EPA regulation requiring renovators to provide the information pamphlet to clients before beginning work.

Timetable:

Action	Date	FR Cite
NPRM	03/02/94	59 FR 11108
Supplemental NPRM	11/00/97	
Final Action	06/00/98	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3242.

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RIN: 2070–AC85

3290. AMENDMENTS TO THE ASBESTOS WORKER PROTECTION RULE (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2604; Toxic Substances Control Act sec 5

CFR Citation: 40 CFR 763

Legal Deadline: None

Abstract: EPA is proposing to amend the Asbestos Abatement Projects, Worker Protection Rule (WPR), by incorporating certain revisions to the Occupational Safety and Health Administration (OSHA) asbestos workplace standards issued since EPA's WPR was promulgated in 1987. The proposal would generally extend the coverage provided under the OSHA Asbestos Standard for Construction to State and local government employees who are not covered by OSHA or EPA-approved State plans. It would also extend coverage provided under OSHA's Asbestos Standard for general industry for brake and clutch repair to such employees, and would clarify that they include prisoners and students employed by the State and/or local government. EPA also proposes to delegate authority to grant or deny State exclusions under the WPR to EPA Regional Administrators and to add compliance and enforcement requirements for State exclusions. In addition, EPA is proposing to amend the Asbestos-Containing Materials in Schools Rule by relocating certain worker protection provisions in the WPR. EPA plans to further update this rule to make it consistent with the most recent OSHA rule.

Timetable:

Action	Date	FR Cite
NPRM (1)	11/01/94	59 FR 54746
NPRM (2)	07/00/98	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2249.

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RIN: 2070–AC86

3291. LEAD; TSCA REQUIREMENTS FOR THE DISPOSAL OF LEAD-BASED PAINT DEBRIS

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 15 USC 2601 to 2671; 42 USC 6901 to 6992

CFR Citation: 40 CFR 745

Legal Deadline: None

Abstract: Currently, waste derived from lead-based paint (LBP) abatements is managed under the Resource Conservation and Recovery Act (RCRA) hazardous waste regulations. Other Federal agencies (Department of Housing and Urban Development, Department of Health and Human Services) and several States and advocacy groups have expressed concern that the costs associated with the disposal of large volume architectural components (e.g., doors and windows) may interfere with

abatement activities. EPA's Office of Prevention, Pesticides and Toxic Substances and the Office of Solid Waste have initiated a joint rulemaking to address the disposal of these architectural components. This rulemaking would develop disposal standards for these components under the Toxic Substances Control Act (TSCA) title IV, (the definition of abatement under TSCA title IV, section 401(1)(B), includes disposal). The TSCA regulations would establish appropriate disposal standards for LBP architectural components and identify recycling and incineration activities that would be controlled or prohibited.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	
Final	12/00/98	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3508.

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RIN: 2070–AC72

3292. SELECTED RULEMAKINGS FOR ABATING LEAD HAZARDS

Regulatory Plan: This entry is Seq. No. 114 in Part II of this issue of the **Federal Register**.

RIN: 2070–AD06

3293. TSCA BIOTECHNOLOGY FOLLOW-UP RULES

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2604

CFR Citation: 40 CFR 720; 40 CFR 725

Legal Deadline: None

Abstract: As a follow-up to the final Biotechnology rule under the Toxic Substances Control Act (TSCA), EPA plans to address the following possible revisions: 1) Intergeneric Scope of Oversight: OPPT currently defines new microorganisms which are subject to reporting under TSCA section 5 as those resulting from the deliberate combination of genetic material originally isolated from microorganisms classified in different taxonomic genera. Such microorganisms are referred to as intergeneric microorganisms. EPA recognizes that a regulatory approach based on taxonomy may have some limitations, and indicated in its 1994 proposed biotechnology regulations that it may reconsider its interpretation of —new— microorganism in a later rulemaking. The majority of commenters on the proposed rule expressed some level of support for the intergeneric scope of oversight, albeit while encouraging EPA to make some modifications. 2) Low Risk Alternative: In the 1994 proposed biotechnology rule, EPA solicited comment on an alternative approach to oversight of research and development activities conducted in the environment. Under this alternative, a researcher could certify that a microorganism intended to be used in an environmental field trial met certain low risk criteria. This alternative contained requirements for documentation and recordkeeping by a Technically Qualified Individual and certification by an authorized official. OPPT now plans to provide an opportunity to comment on new information which OPPT believes may support such an exemption. 3) Inventory Delisting Rule: In 1978, when EPA compiled its initial TSCA Inventory, 192 microorganisms were reported and are currently listed on the Inventory. EPA believes that most, if not all, of the 192 microorganisms would not be considered new under the new rule, since the listing appear to describe microorganisms which are not intergeneric. Abstract Continues - see additional information.

Timetable:

Action	Date	FR Cite
NPRM (3) Inventory Delisting Rule	12/00/97	
NPRM (1) Intergeneric Scope of Oversight	06/00/98	
NPRM (2) Low Risk Alternative	12/00/98	
Final (1) Intergeneric Scope of Oversight	06/00/99	
Final (2) Low Risk Alternative	12/00/99	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Sectors Affected: 147 Chemical and Fertilizer Mineral Mining; 282 Plastics Materials and Synthetic Resins, Synthetic Rubber, Cellulosic and Other Manmade Fibers, Except Glass; 285 Paints, Varnishes, Lacquers, Enamels, and Allied Products; 289 Miscellaneous Chemical Products

Additional Information: SAN No. 3894.

(Abstract Continued) In the 1994 proposed rule, EPA provided an opportunity for manufacturers and importers of any of the 192 microorganisms to inform EPA whether any of the microorganisms were intergeneric. EPA received no information during the public comment period concerning any of the 192 microorganisms. Accordingly, as stated in the proposed rule, EPA will publish a rule removing the 192 microorganisms from the TSCA Inventory, on the grounds that the microorganisms are not new and are consequently considered to be implicitly included on the Inventory without the need for an explicit listing.

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RIN: 2070–AD13

3294. OECD SIDS HIGH PRODUCTION VOLUME CHEMICAL SCREENING TEST RULE

Priority: Info./Admin./Other

Legal Authority: 15 USC 2603

CFR Citation: 40 CFR 799

Legal Deadline: None

Abstract: A multi-chemical test rule requires the testing of many chemicals for certain effects. This type of rule is a more efficient alternative to rules that require testing only one chemical. EPA is proposing screening-level testing on a group of chemicals as part of an international program that is also an essential part of EPA's own chemical assessment activities.

Since 1990 member countries of the Organization for Economic Cooperation and Development (OECD) have aimed to collect a standard minimum set of data for chemicals having the highest worldwide production. The basic level of testing and other information devised by the OECD is called the Screening Information Data Set, or SIDS. OECD and EPA use the data to screen these high-production-volume (HPV) chemicals for their potential risks to man and the environment.

The SIDS program benefits EPA because it directs resources toward the chemicals of greatest potential risk; improves environmental protection and human health as existing chemicals are investigated more effectively; reduces overall costs of testing as a result of increased international cooperation; and provides greater flexibility for EPA and the private sector because of the voluntary aspect of the program.

EPA earlier relied on the voluntary efforts of US industry to meet its commitments to the SIDS program. More recently, fewer US parties have come forward to sponsor SIDS chemicals. EPA has decided to use test rules where necessary to acquire the limited toxicity and environmental fate data needed to meet its OECD SIDS obligations. Therefore, for a given round of chemical selection for SIDS, EPA will identify a set of chemicals for US sponsorship. For chemicals having no industry sponsor to perform testing and other voluntary SIDS activities, EPA will obtain testing by rule and use its own resources to carry out related information-gathering and review activities.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 28 Chemicals and Allied Products; 29 Petroleum Refining and Related Industries

Additional Information: SAN No. 3990.

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RIN: 2070–AD16

3295. PROPOSED DECISIONS ON TEST RULES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603/TSCA 4

CFR Citation: 40 CFR 799

Legal Deadline:
Other, Statutory, NPRM must be published within one year of ITC designation.

Abstract: EPA is proposing to require testing, or will obtain testing through negotiated enforceable consent agreements (ECAs) or publish a notice which provides the reasons for not doing so. These chemicals have been designated for priority testing consideration by the ITC, recommended for testing consideration (for which the 12-month statutory requirement does not apply), or they have been identified for testing consideration by other EPA program offices and through EPA review processes.

Timetable:

Action	Date	FR Cite
NPRM IRIS II Chemicals (ITC List 28)	06/00/98	
NPRM OSHA Chemicals with Insuf. Skin Abeorption Data (ITC List 32)	06/00/98	
NPRM OSHA Chemicals with No Skin Abeorption Data (ITC List 31)	06/00/98	
NPRM OSHA Chemicals with No Skin Abeorption Data (ITC List 35)	06/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: SAN No. 3494

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RIN: 2070–AB07

3296. ATSDR SUBSTANCES TEST RULE

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603; TSCA 4; 42 USC 9604(i); CERCLA 104(i); 15 USC 2611

CFR Citation: 40 CFR 795 to 799

Legal Deadline: None

Abstract: EPA is proposing a test rule under section 4(a) of the Toxic Substances Control Act (TSCA) requiring manufacturers and processors of eight chemicals (benzene, chloroethane, methylene chloride, perchloroethylene, hydrogen cyanide, sodium cyanide, toluene, and trichloroethylene) to fulfill data needs identified by the Agency for Toxic Substances and Disease Registry (ATSDR), the National Toxicology Program (NTP) and EPA pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) section 104(i).

Under CERCLA the Agency for Toxic Substances and Disease Registry (ATSDR) is to establish a list of priority hazardous substances found at superfund sites, develop toxicological profiles for the hazardous substances, identify priority data needs, and establish a research program obtaining the necessary data. This action is a component of ATSDR's research program.

Data from this action would provide specific information about the substances for the public and scientific community. The information would be used in conducting comprehensive public health assessments of populations living near hazardous waste sites. Scientific data improves the quality of risk assessments used by EPA, other federal agencies, and state and local governments. The risk assessments affect standards, guidelines, listing/delisting and other decisions affecting public health and the environment.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 2563.

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RIN: 2070–AB79

3297. MULTICHEMICAL ENDPOINT(S) TEST RULE; DEVELOPMENTAL AND REPRODUCTIVE TOXICITY

Priority: Other Significant

Legal Authority: 15 USC 2603/TSCA 4

CFR Citation: 40 CFR 799.5050

Legal Deadline: None

Abstract: A multi-chemical endpoint test rule will require the testing of many chemicals for a specific effect or endpoint, e.g., developmental toxicity. This type of rule is an alternative to single chemical rules which require testing of one chemical for many effects. The multi-chemical endpoint rule approach will obtain a significant amount of testing while conserving Agency resources. The multi-chemical rule for developmental and reproductive toxicity testing will require testing of seven chemicals for developmental and/or reproductive effects. This rule may be amended in the future to require the same testing for other chemicals. Also, future multi-chemical rules will require testing of additional endpoints and chemicals. The testing requirements for each chemical in a multi-chemical rule will be listed in a single table by chemical under section 799.5050. This table will be amended with each publication of a new multi-chemical rule.

Timetable:

Action	Date	FR Cite
NPRM	03/04/91	56 FR 9092
Reproposal	06/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 2865.

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RIN: 2070–AC27

3298. HAZARDOUS AIR POLLUTANTS TEST RULE

Priority: Other Significant

Legal Authority: 15 USC 2603/ TSCA 4; 42 USC 7412/ CAA 112; 42 USC 7403/ CAA 103

CFR Citation: 40 CFR 789 to 795

Legal Deadline: None

Abstract: EPA is proposing health effects testing under TSCA section 4 in support of programs and activities required under section 112 of the Clean Air Act (CAA), governing Hazardous Air Pollutants (HAPs). Section 112 of the CAA directs EPA to determine the risk to health and the environment remaining after application of a technology-based standard to major and area sources. Section 112 also sets forth a mechanism for revising and modifying the statutory list of 189 HAPs under section 112(b), and requirements for an accidental release control program. These data will also be important for the right-to-know program given the large release of these chemicals to the atmosphere. In order to implement these and other programs and requirements under section 112, EPA must identify the health and environment effects of potential concern from exposure to HAPs, ascertain the minimum data needed to adequately characterize those health and environmental effects, and assess the risks posed by HAPs. In addition, under section 103(d), EPA is required to conduct a research program on the short- and long-term effects of air pollutants on human health, ascertain the minimum data needed to adequately characterize those health and environmental effects, and assess the risks posed by HAPs.

Timetable:

Action	Date	FR Cite
NPRM	06/26/96	61 FR 33178
NPRM Supplemental	10/00/97	
Final	09/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3487.

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RIN: 2070–AC76

3299. FOLLOW-UP RULES ON EXISTING CHEMICALS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2604/TSCA 5; 15 USC 2607/TSCA 8

CFR Citation: 40 CFR 704; 40 CFR 721

Legal Deadline: None

Abstract: EPA has established a program to monitor the commercial development of existing chemicals of concern and/or to gather information to support planned or ongoing risk assessments on such chemicals. As these chemicals are identified, EPA will initiate rulemakings under the Toxic Substances Control Act (TSCA) sections 5 and/or 8 to require reporting of appropriate needed information by the manufacturers, importers and/or processors of these chemicals. Individual proposed or final rules will be published on at least the chemicals listed below.

Timetable:

Action	Date	FR Cite
NPRM 2 & 4 Pentanedione	09/27/89	54 FR 39548
NPRM Chloranil	05/12/93	58 FR 27980
NPRM Benzidene-based Chemical Substances	08/30/95	60 FR 45119
Final Benzidene-based Chemical Substances	10/07/96	61 FR 52287
NPRM Heavy Metal-Based Pigments in Aerosol Spray Paints	10/00/97	
NPRM 2-Ethoxyethanol & 2-Methoxyethanol & 2-Methoxyethanol Acetate	10/00/97	
Final Chloranil	02/00/98	
NPRM Amendment to Benzidine-based Chemical Substances SNUR	04/00/98	
NPRM Methylcyclopentane	04/00/98	
Final 2 & 4-Pentanedione	04/00/98	

Action	Date	FR Cite
Final Amendment to Benzidine-based Chemical Substances SNUR	12/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 1923.

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RIN: 2070–AA58

3300. FOLLOW-UP RULES ON NON-5(E) NEW CHEMICAL SUBSTANCES

Priority: Routine and Frequent

Legal Authority: 15 USC 2604; Toxic Substances Control Act sec 5

CFR Citation: 40 CFR 704; 40 CFR 721

Legal Deadline: None

Abstract: EPA regulates the commercial development of new chemicals that have completed premanufacture notice (PMN) review, where activities described in the PMN did not present an unreasonable risk but uncontrolled manufacture, import, processing, distribution, use, or disposal outside the activities described in the PMN may present an unreasonable risk. EPA will issue Significant New Use Rules (SNURs) requiring 90-day notification to EPA from any manufacturer, importer, or processor who would engage in activities that are designated as significant new uses. Under the Expedited Follow-up Rule (EFUR) which became effective on October 12, 1989, EPA will identify such new chemicals and publish them in a batch SNUR 3-4 times per year. Chemicals that were subject to a proposed SNUR before the effective date of the EFUR or do not qualify under the EFUR, may be regulated individually by notice and comment rulemaking and are listed below.

Timetable:

Action	Date	FR Cite
NPRM Alkyl & Sulfonic Acid & Ammonium Salt (84-1056)	06/11/86	51 FR 21199
NPRM 1-Decanimine-N-Decyl-N-Methyl-N-Oxide (86-566)	12/08/87	52 FR 46498
NPRM Diphenyl-2&4&6-Trimethylbenzol Phosphine Oxide (87-586)	02/02/88	53 FR 2857
NPRM Aluminum Cross-linked Sodium Carboxy-methylcellulose	06/11/93	58 FR 32628
NPRM Certain Chemical Substances (95-1584)	10/00/97	
Final Certain Chemical Substances (95-1584, 96-1674/75, and 97-267)	12/00/97	
Final Alkyl & Sulfonic Acid & Ammonium Salt (84-1056)	02/00/98	
Final Aluminum Cross-linked Sodium Carboxy-methylcellulose	02/00/98	
Final Diphenyl-2&4&6-Trimethylbenzol Phosphine Oxide (87-586)	02/00/98	
Final 1-Decanimine-N-Decyl-N-Methyl-N-Oxide (86-566)	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 1976.

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RIN: 2070–AA59

3301. POLYCHLORINATED BIPHENYLS (PCBS): EXEMPTIONS FROM THE PROHIBITIONS AGAINST MANUFACTURING, PROCESSING, AND DISTRIBUTION IN COMMERCE

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2605; Toxic Substances Control Act sec 6(e)(3)(B)

CFR Citation: 40 CFR 761

Legal Deadline: None

Abstract: Section 6(e)(3)(B) of the Toxic Substances Control Act (TSCA) provides that the Administrator may grant, by rule, exemptions from the prohibitions against manufacturing, processing and distribution in commerce of PCBs upon finding that 1) no unreasonable risk to health or the environment will occur, and 2) good faith efforts have been made by the petitioner to develop a substitute for PCB which does not pose an unreasonable risk of injury to health or the environment. In addition, the Interim Procedural Rules were amended to require certain petitioners to reapply for EPA approval to continue PCB activities previously approved by EPA. Rules were amended to require certain petitioners to reapply for EPA approval to continue PCB activities previously approved by EPA.

Timetable:

Action	Date	FR Cite
NPRM (1) Group I	12/06/94	59 FR 62875
NPRM (2) Group II	12/00/97	
Final Group I	06/00/98	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: SAN No. 2150.

Also under SAN 2244

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RIN: 2070–AB20

3302. NEGOTIATED CONSENT ORDER AND TEST RULE PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2603; Toxic Substances Control Act sec 4

CFR Citation: 40 CFR 790

Legal Deadline: None

Abstract: This action will amend the testing consent order and test rule development process to increase efficiency. The consent order process was adopted by the Agency in June 1986. Based on experience to date, the

Agency needs to make changes in the process to reduce the resources required for consent order negotiation. This rule would propose appropriate procedural changes. Obsolete provisions will be eliminated for test rule development activities.

Timetable:

Action	Date	FR Cite
Interim Final	05/17/85	50 FR 20652
Interim Final	08/30/86	51 FR 23706
Interim Final (Technical Modification)	09/01/89	54 FR 36311
NPRM	06/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 2245.

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RIN: 2070–AB30

3303. REVISED ASBESTOS MODEL ACCREDITATION PLAN (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2646; Toxic Substances Control Act sec 6

CFR Citation: 40 CFR 763

Legal Deadline:
Final, Statutory, November 28, 1992.

Abstract: The Asbestos School Hazard Abatement Resuthorization Act (ASHARA) amended TSCA to require that EPA revise its asbestos model accreditation plan to extend training and accreditation requirements to include persons performing certain asbestos-related work in public and commercial buildings, to increase the minimum number of training hours required for accreditation purposes and to effect other changes necessary to implement the amendments. The upcoming Notice of Proposed Rulemaking (NPRM) will improve harmony with the Occupational Safety and Health Administration's regulations and provide clarifications.

Timetable:

Action	Date	FR Cite
NPRM	05/13/92	57 FR 20436
Interim Final	02/03/94	59 FR 5236
Notice	10/00/97	
NPRM	07/00/98	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3148.

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RIN: 2070–AC51

3304. AMENDMENTS TO THE ASBESTOS-CONTAINING MATERIALS IN SCHOOLS RULE (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2605; Toxic Substances Control Act sec 4; 15 USC 2607; Toxic Substances Control Act sec 6; 15 USC 2647; Toxic Substances Control Act sec 7

CFR Citation: 40 CFR 763

Legal Deadline: None

Abstract: EPA is proposing to amend the Asbestos-Containing Materials in Schools Rule in order to improve harmony with the Occupational Safety and Health Administration's regulations and to provide clarifications regarding several definitions, air clearance monitoring techniques, and response actions.

Timetable:

Action	Date	FR Cite
NPRM	07/00/98	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3047.

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RIN: 2070–AC82

3305. AMENDMENTS TO TSCA SECTION 8(D) HEALTH AND SAFETY DATA MODEL REPORTING RULE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2607(d); Toxic Substances Control Act sec 8(d)

CFR Citation: 40 CFR 716

Legal Deadline: None

Abstract: Toxic Substances Control Act (TSCA) Health and Safety Data Reporting burden will be evaluated and amendments proposed to achieve a more appropriate balance between reporting burden and Federal information needs. Specifically, the need for data in assessing risk from exposure to chemicals falling under TSCA purview. Aspects addressed by the NPRM will include: definitions of health and safety studies; scope of data elements to be reported; reporting period length; types of studies not subject to reporting; and electronic submissions of data. Resulting amendments are expected to significantly reduce current reporting burdens and streamline health and safety data reporting requirements for all respondents (including small businesses) and contribute to enhancing access to reported information data.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3834.

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RIN: 2070–AD17

3306. LEAD FEE RULE FOR LEAD-BASED PAINT ACTIVITIES TRAINING AND CERTIFICATION

Priority: Other Significant

Legal Authority: PL 102-550; Toxic Substances Control Act sec 404; Toxic Substances Control Act Title IV

CFR Citation: 40 CFR 745

Legal Deadline: None

Abstract: This rule is mandated by section 402(a) of the Toxic Substances Control Act (TSCA) for the purpose of implementing a fee schedule for lead-based paint activities that were addressed in the TSCA section 402 rule, 40 CFR part 745 Lead; Requirements for Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities, which published on August 28, 1996. The fee schedule will establish a framework for states to process applications for training providers of lead-Based paint training courses and for certification of workers engaged in lead-based paint activities in the five disciplines delineated in the section 402 rule.

The fee rule in concert with the section 402 rule is intended to ensure that individuals conducting lead-based paint inspections, risk assessments and abatement in target housing and child-occupied facilities are properly trained and certified, and that training programs providing instruction in such activities are accredited. This rule is also intended to ensure that these activities are conducted according to reliable, effective and safe work practice standards and to provide the availability of a trained and qualified workforce to identify and address lead-based paint hazards. By promoting the establishment of this workforce the Agency will help to ensure that individuals and firms conducting lead-based paint activities in target housing and child-occupied facilities will do so in a way that safeguards the environment and protects the health of building occupants, especially children aged six years and younger.

Regarding the anticipated impact on small business, section 402(a) does not require or mandate the abatement of lead-based paint, nor require that any particular enterprise participate in the lead-based paint field. However, if firms chooses to participate, compliance costs consist of two components that may impact small businesses: (1) accreditation and training costs for workers and supervisors, as well as certification fees that this rule will establish, and (2) incremental costs of work practice standards for abatement procedures. Abstract continued - see additional information.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Additional Information: SAN No. 3881.

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RIN: 2070–AD11

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Toxic Substances Control Act (TSCA)

Final Rule Stage

3307. FINAL DECISIONS ON TEST RULES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603; Toxic Substances Control Act sec 4

CFR Citation: 40 CFR 799

Legal Deadline: None

Abstract: EPA is requiring testing via rules, or will obtain testing through enforceable consent agreements (ECAs) or publish a notice which provides the reasons for not doing so for chemicals listed herein. These chemicals have been designated for priority testing consideration by the ITC or recommended for testing consideration (for which the 12-month statutory requirement does not apply). The list also includes chemicals or categories of chemicals which have been identified for testing consideration by other EPA offices and through EPA review processes.

Timetable:

Action	Date	FR Cite
ANPRM Aryl Phosphates (ITC List 2)	12/29/83	48 FR 57452
NPRM Hexamethylene Diisocyanate (ITC List 22)	05/17/89	54 FR 21240
NPRM Brominated Flame Retardants	06/25/91	56 FR 29140
NPRM Aryl Phosphates (ITC List 2)	01/17/92	57 FR 2138
Final (ECA) DiBasic Esters (GPSC)	10/00/97	
Final Hexamethylene Diisocyanate (ITC List 22)	10/00/97	
Final (ECA) Aryl Phosphates (ITC List 2)	04/00/98	
Final (ECA) Brominated Flame Retardants	06/00/98	
Final IRIS I Chemicals (ITC List 27)	06/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: None
Additional Information: SAN No. 3493.
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RIN: 2070–AB94

3308. CHEMICAL-SPECIFIC SIGNIFICANT NEW USE RULES (SNURS) TO EXTEND PROVISIONS OF SECTION 5(E) ORDERS

Priority: Routine and Frequent
Legal Authority: 15 USC 2604; Toxic Substances Control Act sec 5
CFR Citation: 40 CFR 721
Legal Deadline: None

Abstract: When the Agency determines that uncontrolled manufacture, import, processing, distribution, use or disposal of a premanufacture notification notice (PMN) substance may present an unreasonable risk, it may issue a section 5(e) consent order to limit these activities. However, such orders apply only to the PMN submitter. Once the new substance is entered on the Toxic Substances Control Act (TSCA) chemical inventory, others can manufacture, import or process the substance without controls. Therefore, EPA extends the controls to apply to others by designating manufacture, import or processing of the substances for uses without the specified controls as significant new uses. Under the Expedited Follow-Up Rule, which became effective on October 10, 1989 (54 FR 31314), EPA routinely publishes batch SNURs containing routine section 5(e) and non-5(e) SNURs. However, certain activities, such as modifications, withdrawals, revocations, and SNURs upon which comments are received in the direct final publication process, are subject to notice and comment rulemaking and are listed below.

Timetable:

Action	Date	FR Cite
NPRM Batch SNUR: 84-660/-704 & 84-105/-108/-107 & 85-433	05/27/93	58 FR 30744
NPRM Aromatic Amino Ether (P90-1840)	06/06/94	59 FR 29255
NPRM Alkenyl Ether of Alkanetriol Polymer	12/19/94	59 FR 65248
NPRM P92-41	12/19/94	59 FR 65289
NPRM Organotin Lithium Compound	06/07/95	60 FR 30050
NPRM Butanamide	06/26/97	62 FR 34424
NPRM Substituted Phenol (89-1125)	06/26/97	62 FR 34427
NPRM Certain Chemical Substances	06/26/97	62 FR 34421
Final Organotin Lithium Compound	12/00/97	
Final Butanamide	12/00/97	
Final Polyalkylene Polyamine (89-963)	12/00/97	
Final Substituted Phenol	12/00/97	
Final Certain Chemical Substances	02/00/98	
Final Aromatic Amino Ether (P90-1840)	02/00/98	
Final Alkenyl Ether of Alkanetriol Polymer	02/00/98	
Final Batch SNUR: 84-660/-704 & 84-105/-108/-107 & 85-433	03/00/98	

Small Entities Affected: None
Government Levels Affected: None
Additional Information: SAN No. 3495.
Agency Contact: James Alwood, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
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RIN: 2070–AB27

3309. USE OF ACRYLAMIDE FOR GROUTING

Priority: Other Significant
Legal Authority: 15 USC 2605; Toxic Substances Control Act sec 6
CFR Citation: 40 CFR 764
Legal Deadline: None

Abstract: On October 2, 1991, EPA proposed a regulation of acrylamide and NMA grouts based on the unreasonable risk associated with their usage. EPA's rule would prohibit the manufacture, distribution in commerce, and use of acrylamide grout. In February 1996, EPA reopened the record for 30 days to take additional comments, specifically to seek data on the durability of acrylamide and NMA grouts. The Agency is currently reviewing responses.

Timetable:

Action	Date	FR Cite
NPRM	10/02/91	56 FR 49863
Final	05/00/98	

Small Entities Affected: Businesses
Government Levels Affected: State, Local
Analysis: Regulatory Flexibility Analysis
Additional Information: SAN No. 2779.
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RIN: 2070–AC17

3310. POLYCHLORINATED BIPHENYLS (PCBS) TRANSFORMER RECLASSIFICATION RULE

Priority: Substantive, Nonsignificant
Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.
Legal Authority: 15 USC 2605; Toxic Substances Control Act sec 6(e)
CFR Citation: 40 CFR 761
Legal Deadline: None

Abstract: This rule would relax the regulatory requirements for reclassifying PCB transformers to a lower regulatory status by modifying the current reclassification requirements of 50 degree centigrade temperature and 90-day testing. Results of a preliminary analysis indicate that many transformers never reach the required temperature, but still reduce PCB concentrations and that safety risks to employees and to the general public occur in mandating the continued adherence to the current regulations.

Timetable:

Action	Date	FR Cite
NPRM	11/18/93	58 FR 60970
Final	12/00/97	

Small Entities Affected: None
Government Levels Affected: None
Additional Information: SAN No. 3021.
Agency Contact: Tony Baney, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7404, Washington, DC 20460
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RIN: 2070–AC39

3311. POLYCHLORINATED BIPHENYLS (PCBS) DISPOSAL AMENDMENTS (SECTION 610 REVIEW)

Regulatory Plan: This entry is Seq. No. 129 in Part II of this issue of the Federal Register.
RIN: 2070–AD04

3312. SECTION 8(A) PRELIMINARY ASSESSMENT INFORMATION RULES

Priority: Routine and Frequent
Legal Authority: 15 USC 2607a; Toxic Substances Control Act sec 8(a)
CFR Citation: 40 CFR 712
Legal Deadline: None

Abstract: These rules add chemicals to the list of chemicals and designated mixtures subject to the requirements of the Toxic Substances Control Act Section 8(a) Preliminary Assessment Information Rule (40 CFR part 712). These chemicals have been identified by the Office of Pollution Prevention and Toxics, other EPA offices, and other Federal agencies, as well as recommended for testing consideration by the Interagency Testing Committee. Manufacturers and importers are required to submit exposure-related data (EPA Form No. 7710-35) on the chemicals. These data will be used to monitor the levels of production, import and/or processing of these substances and the avenues of human and environmental exposure to these substances. These data will also support risk assessment and test rule decisions.

Timetable:

Action	Date	FR Cite
Final 37th ITC List	02/28/96	61 FR 7421
Final 38th ITC List	10/29/96	61 FR 55671
Final 41st ITC List	02/00/98	
Final 39th ITC List	00/00/00	
Final 40th ITC List	00/00/00	

Small Entities Affected: None
Government Levels Affected: Federal
Additional Information: SAN No. 2178.
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RIN: 2070–AB08

3313. SECTION 8(D) HEALTH AND SAFETY DATA REPORTING RULES

Priority: Routine and Frequent
Legal Authority: 15 USC 2607(d); Toxic Substances Control Act sec 8(d)
CFR Citation: 40 CFR 716
Legal Deadline: None

Abstract: These rules require manufacturers, importers and processors to submit unpublished health and safety data on chemicals added to the requirements of the Toxic Substances Control Act Section 8(d) Health and Safety Data Reporting Rule (40 CFR part 716). These chemicals have been identified by the Office of Pollution Prevention and Toxics, other EPA offices, and other Federal agencies, as well as recommended for testing consideration by the Interagency Testing Committee.

Timetable:

Action	Date	FR Cite
Final 35th ITC List	07/05/95	60 FR 34879
Final 37th ITC List	02/28/96	61 FR 7421
Final 38th ITC List	10/29/96	61 FR 55671
Final 41st ITC List	02/00/98	
Final 39th ITC List	00/00/00	
Final 40th ITC List	00/00/00	

Small Entities Affected: None
Government Levels Affected: None
Additional Information: SAN No. 1139.
Agency Contact: David R. Williams, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
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RIN: 2070–AB11

3314. TSCA SECTION 8(E); NOTICE OF CLARIFICATION AND SOLICITATION OF PUBLIC COMMENT

Priority: Substantive, Nonsignificant
Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.
Legal Authority: 15 USC 2607(e); Toxic Substances Control Act sec 8(e)
CFR Citation: Not yet determined
Legal Deadline: None

Abstract: The TSCA section 8(e) Notice of Clarification and Solicitation of Public Comment would amend certain aspects of the 1978 TSCA section 8(e) Statement of Interpretation and Enforcement Policy (1978 Policy Statement). The 1978 Policy Statement describes the types of information that EPA considers reportable under section 8(e), the substantial risk reporting provision of TSCA, and describes the procedures for reporting such information to EPA. This clarification effort derives from a review of the existing section 8(e) guidance done in the context of questions raised by companies considering participating in the section 8(e) Compliance Audit Program (CAP). As a result of this review, EPA determined that parts of the 1978 Policy Statement concerning the reportability of information on widespread and previously unsuspected distribution in environmental media and emergency incidents of environmental contamination needed some refinement. The subject Federal Register action solicited comment on refined reporting guidance concerning widespread and previously unsuspected distribution in environmental media and provides additional circumstances where information is not reportable because it is considered known to the Administrator. Finally, the notice solicited comments on changes to the section 8(e) reporting deadline, and reaffirmed the standards for claims of confidentiality for information contained in a notice of substantial risk under section 8(e).

Timetable:

Action	Date	FR Cite
NPRM	07/13/93	58 FR 37735
Final	12/00/97	

Small Entities Affected: Undetermined
Government Levels Affected: Undetermined
Additional Information: SAN No. 3118.
Agency Contact: Richard Hefter, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7402, Washington, DC 20460
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RIN: 2070–AC80

EPA—TSCA

Final Rule Stage

3315. NOTICE OF TSCA SECTION 4 REIMBURSEMENT PERIOD AND TSCA SECTION 12(B) EXPORT NOTIFICATION PERIOD SUNSET DATES FOR TSCA SECTION 4 SUBSTANCES

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2603; Toxic Substances Control Act sec 2; 15 USC 2611; Toxic Substances Control Act sec 12

CFR Citation: 40 CFR 707; 40 CFR 790; 40 CFR 791; 40 CFR 799

Legal Deadline: None

Abstract: EPA is developing a list of substances that are or have been subject to TSCA section 4 testing actions which required testing under rules or Enforceable Consent Orders. EPA will identify sunset, or termination dates that will identify: (1) The end of section 4 reporting requirements (40 CFR 790) (2) The end of the reimbursement period under which persons subject to test rules are subject to an obligation to reimburse test sponsors (40 CFR 791) (3) The end of the period during which export notification requirements under TSCA section 12(b) are triggered.

Timetable:

Action	Date	FR Cite
Final	06/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3559.

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
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RIN: 2070–AC84

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Long-Term Actions

Toxic Substances Control Act (TSCA)

3316. FACILITY IDENTIFICATION INITIATIVE

Priority: Other Significant

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
Notice	10/07/96	61 FR 52588
Notice	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

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RIN: 2070–AD01

3317. LEAD-BASED PAINT ACTIVITIES RULES; TRAINING, ACCREDITATION, AND CERTIFICATION RULE AND MODEL STATE PLAN RULE

Priority: Economically Significant

CFR Citation: 40 CFR 745

Timetable:

Action	Date	FR Cite
NPRM (1)	09/02/94	59 FR 45872
Final (1)	08/29/96	61 FR 45778
NPRM (2)	12/00/98	
Final (2)	12/00/99	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Doreen Cantor
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RIN: 2070–AC64

3318. DEVELOPMENT OF GUIDANCE AS MANDATED BY EXECUTIVE ORDER 12873, SECTION 503 ON ENVIRONMENTALLY PREFERABLE PRODUCTS

Priority: Other Significant

Timetable:

Action	Date	FR Cite
NPRM	09/29/95	60 FR 50722
Final	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

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RIN: 2070–AC78

3319. TEST RULE FOR CERTAIN METALS

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

CFR Citation: 40 CFR 795 to 799

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: None

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RIN: 2070–AD10

3320. REGULATORY INVESTIGATION UNDER THE TOXIC SUBSTANCES CONTROL ACT (TSCA) TO REDUCE LEAD (PB) CONSUMPTION AND USE

Priority: Other Significant

CFR Citation: 40 CFR 721; 40 CFR 750; 40 CFR 745

Timetable:

Action	Date	FR Cite
ANPRM	05/13/91	56 FR 22096

EPA—TSCA

Long-Term Actions

Action	Date	FR Cite
NPRM Proposed Ban of Fishing Sinkers	03/09/94	59 FR 11122
Final Fishing Sinkers	12/00/98	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Doreen Cantor
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RIN: 2070–AC21

3321. REGULATORY INVESTIGATION OF FORMALDEHYDE

Priority: Info./Admin./Other

Unfunded Mandates: Undetermined

CFR Citation: 40 CFR 765

Timetable:

Action	Date	FR Cite
Section 9(d) Notice Termination for Apparel Workers	03/19/84	49 FR 21870
ANPRM	05/23/84	49 FR 21870
Peer Review Notice Indoor Air Exposure Pilot Study	08/08/96	61 FR 41411
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Semeniuk
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RIN: 2070–AB14

3322. PROCEDURES AND CRITERIA FOR TERMINATION OF POLYCHLORINATED BIPHENYLS (PCBS) DISPOSAL PERMITS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 761

Timetable:

Action	Date	FR Cite
NPRM	11/02/90	55 FR 46470
Final	12/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Tony Baney
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RIN: 2070–AB81

3323. REGULATORY INVESTIGATION OF DIOXIN IN PULP AND PAPER MILL SLUDGE

Priority: Other Significant

CFR Citation: 40 CFR 744

Timetable:

Action	Date	FR Cite
NPRM	05/10/91	56 FR 21802
Response letter to EDF & NWF	12/14/92	
Final	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Leczynski
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RIN: 2070–AC05

3324. SIGNIFICANT NEW USE RULES ON NATIONAL PROGRAM CHEMICALS; ASBESTOS, LEAD, AND REFRACTORY CERAMIC FIBERS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 704; 40 CFR 721

Timetable:

Action	Date	FR Cite
NPRM Refractory Ceramic Fiber	03/21/94	59 FR 13294
ANPRM Lead	09/28/94	59 FR 49484
NPRM Asbestos	12/00/98	
NPRM Lead	12/00/98	
Final Refractory Ceramic Fiber	09/00/99	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

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RIN: 2070–AC37

3325. LEAD-BASED PAINT ACTIVITIES, TRAINING, AND CERTIFICATION: RENOVATION AND REMODELING

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 40 CFR 745

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
Final	12/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

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RIN: 2070–AC83

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Completed Actions

Toxic Substances Control Act (TSCA)

3326. FACILITY COVERAGE AMENDMENT; TOXIC CHEMICAL RELEASE REPORTING; COMMUNITY RIGHT-TO-KNOW

Priority: Other Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect State, local or tribal governments.

CFR Citation: 40 CFR 372

Completed:

Reason	Date	FR Cite
Final	05/01/97	62 FR 23834

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

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RIN: 2070–AC71

EPA—TSCA

Completed Actions

3327. DELETION OF ISOPROPYL ALCOHOL; TOXIC CHEMICAL RELEASE REPORTING; COMMUNITY RIGHT-TO-KNOW

Priority: Routine and Frequent

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 372.65

Completed:

Reason	Date	FR Cite
Withdrawn - The Agency plans no further action	09/12/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Susan B. Hazen
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RIN: 2070–AC77

3328. OPPT GENERIC REINVENTION EVALUATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 150 to 189; 40 CFR 372; 40 CFR 700 to 799

Completed:

Reason	Date	FR Cite
Direct Final Line-by-Line Review	06/19/95	60 FR 32094

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

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RIN: 2070–AC97

3329. MULTICHEMICAL ENDPOINT TEST RULE; CHEMICAL FATE AND ENVIRONMENTAL EFFECTS

Priority: Other Significant

CFR Citation: 40 CFR 799.5055

Completed:

Reason	Date	FR Cite
Withdrawn - The Agency plans no further action.	09/12/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Kover
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RIN: 2070–AC36

3330. RULEMAKING CONCERNING CERTAIN MICROBIAL PRODUCTS (BIOTECHNOLOGY) UNDER THE TOXIC SUBSTANCES CONTROL ACT (TSCA)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 700; 40 CFR 720; 40 CFR 721; 40 CFR 725

Completed:

Reason	Date	FR Cite
Final Action	04/11/97	62 FR 17970

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

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RIN: 2070–AB61

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Clean Water Act (CWA)

Prerule Stage

3331. WATER QUALITY STANDARDS REGULATION—REVISION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1313; Clean Water Act sec 303(c)

CFR Citation: 40 CFR 131

Legal Deadline: None

Abstract: Water quality standards set by States and Indian Tribes establish the water quality goals for surface waters of the U.S. and the means by which attainment of these goals will be measured and assured. They are the foundation for protecting water quality and related public health and welfare and the ecological health of the nation's waters. Water quality standards regulations govern the development, review and revision of water quality standards under section 303 of the Clean Water Act by States and Indian Tribes and the review and approval of these standards by EPA. The ANPRM is a comprehensive review of the water quality standards regulation designed to determine what changes to the regulation should be made to reflect the experience gained in the program by EPA, States, Tribes, and interested parties. All major components of the Water Quality Standards Program will be reviewed for potential regulatory and implementation improvements to provide increased flexibility where appropriate and further strengthen the Standards Program through use of scientific advances as a key element of watershed-based water quality protection and management. Issues to be addressed include: establishing and revising waterbody use designations, development and implementation of water quality criteria including biological and sediment quality criteria, antidegradation policies and procedures, general policies such as mixing zone, variance and compliance schedule policies, and EPA's policy of independent application of criteria methods.

EPA—CWA

Prerule Stage

Timetable:

Action	Date	FR Cite
ANPRM	12/00/97	
NPRM	12/00/98	
Final	12/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3662.

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RIN: 2040–AC56

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Clean Water Act (CWA)

Proposed Rule Stage

3332. REVISIONS TO NPDES REQUIREMENTS FOR COMPLIANCE REPORTING AND COLLECTION SYSTEM DISCHARGES

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 33 USC 1251

CFR Citation: 40 CFR 122.41

Legal Deadline: None

Abstract: USEPA is proposing revisions to the NPDES regulations. The proposed revisions will clarify how standard noncompliance reporting requirements and prohibition/defense provisions in NPDES permits apply to discharges from sanitary sewer and combined sewer collection systems owned and operated by municipal entities. These proposed revisions respond to recommendations made by a FACA Subcommittee (under the Urban Wet Weather Federal Advisory Committee) that was convened by USEPA to provide recommendations for improving NPDES program implementation efforts which address sanitary sewer overflows (SSOs) and sanitary sewer operation, management, and maintenance. The proposed revisions address combined sewers as well as separate sanitary sewers in order to avoid confusion among the regulatory community. Failures in sewer collection systems can result in discharges of wastewater containing raw sewage to surface waters. Pathogens and other pollutants in these discharges can create significant health and environmental risks. The SSO FACA Subcommittee identified inconsistent application of several key NPDES provisions to SSOs as a major implementation problem. There is substantial agreement among the SSO FACA Subcommittee that USEPA modify the NPDES regulations to clarify how noncompliance reporting and prohibition/defense provisions apply to dischargers to waters of the U.S. from a sanitary sewer collection system.

Timetable:

Action	Date	FR Cite
NPRM	08/00/98	
Final	08/00/99	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3999.

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RIN: 2040–AD02

3333. • TEST PROCEDURES FOR THE ANALYSIS OF MERCURY UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1251 et seq; 33 USC 1314(h); 33 USC 1361(a); PL 92-500; PL 95-217; PL 100-4

CFR Citation: 40 CFR 136; 40 CFR 122.21; 40 CFR 122.41; 40 CFR 122.44; 40 CFR 123.25

Legal Deadline: None

Abstract: This regulatory action would amend the "Guidelines Establishing Test Procedures for the Analysis of Pollutants" under 40 CFR Part 136 to approve Method 1631 for the determination of mercury at EPA's water quality criteria levels. This method is necessary for the implementation of water quality-based permits under the National Pollutant Discharge Elimination System (NPDES) of the Clean Water Act. Water quality-based permits are necessary when technology-based controls do not allow a particular water body to meet the state's designated water quality standard. Since the methods currently approved under 40 CFR part 136 were designed to meet technology-based permitting needs, and since these technology-based levels are as much as 280 times higher than water quality-based criteria for metals, approval of new EPA test procedures is necessary.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	
Final	08/00/98	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4046.

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Maria Gomez-Taylor, Environmental Protection Agency, Water, 4303, Washington, DC 20460
Phone: 202 260-1639

RIN: 2040–AD07

3334. • TEST PROCEDURES FOR THE ANALYSIS OF CO-PLANAR AND MONO-ORTHO-SUBSTITUTED POLYCHLORINATED BIPHENYLS (PCBS) UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1251 et seq; 33 USC 1314(h); 33 USC 1361(a); PL 92-500; PL 95-217; PL 100-4.

CFR Citation: 40 CFR 136; 40 CFR 122.21; 40 CFR 122.41; 40 CFR 122.44; 40 CFR 123.25; 40 CFR 503

Legal Deadline: None

Abstract: This regulatory action would propose to amend the "Guidelines Establishing Test Procedures for the Analysis of Pollutants" under 40 CFR part 136 to approve EPA Method 1668 for the congener-specific determination of co-planar and mono-ortho-substituted polychlorinated biphenyls

(PCBs). This method is necessary for the implementation of water quality-based permits under the National Pollutant Discharge Elimination System (NPDES) of the Clean Water Act. Water quality-based effluent limits in NPDES permits are necessary when technology-based controls do not allow a particular water body to meet the state's designated water quality standard. At present there is no EPA analytical method for determination of these PCBs in waste waters at the levels of concern for these water quality standards purposes. Therefore, approval of a new EPA test procedure is necessary.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	
Final	03/00/99	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4049.

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Phone: 202 260-1639

RIN: 2040–AD09

3335. AMENDMENTS TO ROUND I FINAL SEWAGE SLUDGE USE OR DISPOSAL RULE—PHASE TWO

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1251; Clean Water Act sec 101; 33 USC 1345; Clean Water Act sec 405

CFR Citation: 40 CFR 503

Legal Deadline: None

Abstract: EPA is amending the Round I Final Sewage Sludge Use or Disposal Regulation in two phases (i.e., Phase One and Phase Two). Phase Two will address issues presented by judicial remand of specific requirements in the final rule (part 503) and requests for reconsideration and will modify certain technical requirements. The proposed changes will impact Federal, State, local and tribal governments as well as small businesses. EPA expects that these changes will increase flexibility and thus reduce the regulatory burden.

Timetable:

Action	Date	FR Cite
NPRM	05/00/98	
Final	05/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3497.

Agency Contact: Robert M. Southworth, Environmental Protection Agency, Water, 4304, Washington, DC 20460
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RIN: 2040–AC53

3336. EFFLUENT GUIDELINES AND STANDARDS FOR THE CENTRALIZED WASTE TREATMENT INDUSTRY

Priority: Other Significant

Legal Authority: 33 USC 1311; Clean Water Act sec 301; 33 USC 1314; Clean Water Act sec 304; 33 USC 1316; Clean Water Act sec 306; 33 USC 1317; Clean Water Act sec 307; 33 USC 1361; Clean Water Act sec 501

CFR Citation: 40 CFR 437

Legal Deadline:
NPRM, Judicial, December 15, 1994.
Final, Judicial, August 15, 1999.

Abstract: Centralized Waste Treatment (CWT) facilities receive hazardous and non-hazardous waste from off-site for treatment or recovery (excluding solvent recovery). EPA is developing effluent limitations based on Best Available Technology (BAT), Best Practicable Control Technology (BPT), New Source Performance Standards (NSPS), Pretreatment Standards for Existing Sources (PSES), and Pretreatment Standards for New Sources (PSNS). This rule was formerly titled Waste Treatment, Phase I.

Timetable:

Action	Date	FR Cite
NPRM	01/27/95	60 FR 5464
Reproposal	03/00/98	
Final	08/00/99	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2805.

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RIN: 2040–AB78

3337. EFFLUENT GUIDELINES AND STANDARDS FOR THE INDUSTRIAL LAUNDRIES POINT SOURCE CATEGORY

Priority: Other Significant

Legal Authority: 33 USC 1311; Clean Water Act sec 301; 33 USC 1317; Clean Water Act sec 307; 33 USC 1314; Clean Water Act sec 304; 33 USC 1361; Clean Water Act sec 501; 33 USC 1316; Clean Water Act sec 306; 33 USC 1318; Clean Water Act sec 308

CFR Citation: 40 CFR 441

Legal Deadline:
NPRM, Judicial, November 7, 1997.
Final, Judicial, June 30, 1999.

Abstract: EPA is developing effluent limitation guidelines for Industrial Laundries, which supply laundered and dry-cleaned work uniforms, wiping towels, safety equipment (such as gloves and flame-resistant clothing), dust covers and cloths, and similar items to industrial and commercial users. An unopposed motion to extend the NPRM deadline to November 7, 1997 was granted in August 1997.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
Final	06/00/99	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3209.

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RIN: 2040–AB97

3338. EFFLUENT GUIDELINES AND STANDARDS FOR THE TRANSPORTATION EQUIPMENT CLEANING CATEGORY

Priority: Other Significant

Legal Authority: 33 USC 1311; Clean Water Act sec 301; 33 USC 1317; Clean Water Act sec 307; 33 USC 1314; Clean Water Act sec 304; 33 USC 1361; Clean Water Act sec 501; 33 USC 1316; Clean Water Act sec 306

CFR Citation: 40 CFR 442

Legal Deadline:
NPRM, Judicial, January 31, 1998.
Final, Judicial, February 28, 2000.

Abstract: EPA will propose effluent limitation guidelines for transportation equipment cleaning facilities, which clean the interiors of tank trucks, rail tank cars, intermodal tank containers, intermediate bulk containers, ocean/sea tankers, tank barges, closed-top hopper trucks, closed-top hopper rail cars, and closed-top hopper barges.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	
Final	02/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3204.

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RIN: 2040–AB98

3339. EFFLUENT GUIDELINES AND STANDARDS FOR LANDFILLS

Priority: Other Significant

Legal Authority: 33 USC 1311; Clean Water Act sec 301; 33 USC 1314; Clean Water Act sec 304; 33 USC 1316; Clean Water Act sec 306; 33 USC 1317; Clean Water Act sec 307; 33 USC 1361; Clean Water Act sec 501

CFR Citation: 40 CFR 445

Legal Deadline:
NPRM, Judicial, November 30, 1997.
Final, Judicial, November 30, 1999.

Abstract: EPA is developing effluent guidelines and standards for landfills regulated under Subtitle C or Subtitle D of the Resource Conservation and Recovery Act (RCRA) which discharge directly to surface waters, and landfills regulated under Subtitle C of RCRA which discharge indirectly to Publicly Owned Treatment Works (POTW). The proposal would not apply to wastewater discharges of contaminated groundwater. This proposal would not apply to discharges of wastewater associated with landfills operated in conjunction with other industrial or commercial operations which only receive waste from off-site facilities under the same corporate structure (intra-company facility) and/or receive waste generated on-site (captive facility) so long as the landfill wastewater is commingled for treatment with other process wastewaters. This rule was formerly titled Waste Treatment Industry, Phase II and Effluent Guidelines and Standards for Landfills and Incinerators.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
Final	11/00/99	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3489.

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RIN: 2040–AC23

3340. NPDES STREAMLINING RULE—ROUND III

Regulatory Plan: This entry is Seq. No. 115 in Part II of this issue of the Federal Register.

RIN: 2040–AC84

3341. STREAMLINING 301(H) WAIVER RENEWAL REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1311; Clean Water Act sec 301

CFR Citation: 40 CFR 125

Legal Deadline: None

Abstract: EPA is proposing an amendment to the regulations contained in 40 CFR Part 125, Subpart G. These regulations implement Section 301(h) of the Clean Water Act, 33 USC section 1311(h). Section 301(h) provides publicly owned treatment works (POTWs) discharging to marine waters an opportunity to obtain a modification of secondary treatment requirements if they demonstrate to EPA that they comply with a number of criteria aimed at protecting the marine environment. This proposal is designed to streamline the renewal process for POTWs with 301(h) modified permits. The action would eliminate unnecessary paperwork. It specifies that a completed application would not be required for renewals in cases where EPA already has the required information. Additional information would only be required as necessary to determine ongoing compliance with the 301(h) criteria. This regulation should reduce paperwork submissions from municipalities, which should save time and resources.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	
Final	10/00/98	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Undetermined

Additional Information: SAN No. 3804.

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RIN: 2040–AC89

3342. • EFFLUENT GUIDELINES AND STANDARDS FOR INDUSTRIAL WASTE COMBUSTORS

Priority: Other Significant

Legal Authority: 33 USC 1311; Clean Water Act sec 301; 33 USC 1314; Clean Water Act sec 304; 33 USC 1316; Clean Water Act sec 306; 33 USC 1317; Clean Water Act sec 307; 33 USC 1361; Clean Water Act sec 501

CFR Citation: 40 CFR 444

Legal Deadline:
NPRM, Judicial, November 30, 1997.
Final, Judicial, November 30, 1999.

Abstract: EPA is developing effluent guidelines and standards for

commercial industrial waste combustion facilities. Hazardous waste incinerators, boilers, industrial furnaces and non-hazardous waste incinerators are all examples of facilities included in the scope of the project. The proposal would apply only to commercial industrial waste combustors and not to sewage sludge incinerators, medical waste incinerators, municipal waste combustors or other solid waste combustors. Furthermore, EPA is not including within the scope of the proposal industrial waste combustors that burn only wastes received from off-site facilities within the same corporate ownership (intra-company wastes) or industrial waste combustors that only burn wastes generated on-site. This rule has appeared in previous editions of the Regulatory Agenda with other titles: Waste Treatment Industry, Phase II, and Landfills and Incinerators.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
Final	11/00/99	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 4041.

(Formerly part of SAN 3489, RIN 2040-AC23)

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RIN: 2040–AD03

3343. • AMENDMENT TO EFFLUENT LIMITATIONS GUIDELINES AND STANDARDS FOR THE PULP, PAPER, AND PAPERBOARD CATEGORY

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1311; Clean Water Act sec 301 ; 33 USC 1314; Clean Water Act sec 304 ; 33 USC 1316; Clean Water Act sec 306 ; 33 USC 1317; Clean Water Act sec 307 ; 33 USC 1361; Clean Water Act sec 501

CFR Citation: 40 CFR 430; 40 CFR 431

Legal Deadline: None

Abstract: This proposal requires those mills that choose to enroll in the Voluntary Advanced Technology Incentives Program to submit a plan (called a "Milestone Plan") specifying research, construction, and other activities leading to achievement of the advanced technology effluent limits, with accompanying dates for achieving these milestones. This proposed rule also provides for a certification in lieu of monitoring for one pollutant, chloroform, for mills using certain processes, which are specified in this proposal. Basically, this proposal applies to elemental chlorine-free mills, allowing them to submit a certification based on process changes and operational controls to demonstrate compliance with the chloroform limitation.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final Action	01/00/98	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 4039.

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RIN: 2040–AD05

3344. GUIDELINES ESTABLISHING TEST PROCEDURES FOR THE ANALYSIS OF TRACE METALS UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(h); Clean Water Act sec 304(h); 33 USC 1361(a); Clean Water Act sec 501

CFR Citation: 40 CFR 136; 40 CFR 122.21; 40 CFR 122.41; 40 CFR 122.44; 40 CFR 123.25; 40 CFR 403.7; 40 CFR 403.12

Legal Deadline: None

Abstract: This regulatory action would propose to amend the Guidelines Establishing Test Procedures for the Analysis of Pollutants under 40 CFR part 136 to approve new EPA methods for the determination of trace metals at EPA's water quality criteria levels. These methods are necessary for the implementation of water quality-based permits under the National Pollutant Discharge Elimination System (NPDES) of the CWA. Water quality-based permits are necessary when technology-based controls do not allow a particular water body to meet the state's designated water quality standard. Since the methods currently approved under 40 CFR part 136 were designed to meet technology-based permitting needs, and since these technology-based levels are as much as 280 times higher than water quality-based criteria for metals, approval of new EPA test procedures is necessary.

This action will not have a significant economic impact on state, local, or tribal governments or small businesses. This regulation would approve a test procedure to be used in measuring trace metals under the National Pollution Discharge Elimination System unless the Regional Administrator approves an alternative procedure.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	
Final	04/00/99	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3702.

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RIN: 2040–AC75

3345. GUIDELINES ESTABLISHING TEST PROCEDURES FOR THE ANALYSIS OF CYANIDE UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(h); Clean Water Act sec 304(h); 33 USC 1361(a); Clean Water Act sec 501(a)

CFR Citation: 40 CFR 136; 40 CFR 122.21; 40 CFR 122.41; 40 CFR 122.44; 40 CFR 123.25

Legal Deadline: None

Abstract: This regulatory action would amend the Guidelines Establishing Test Procedures for the Analysis of Pollutants under 40 CFR Part 136 to approve new procedures for the analysis of cyanide under the Clean Water Act.

Total cyanide is a toxic (priority) pollutant as defined in the Clean Water Act and listed at 40 CFR 423, appendix A. The term total cyanide refers to all forms of cyanide, including those forms that are readily bioavailable such as free and weakly bound cyanide and those forms that are less bioavailable because the cyanide is strongly bound to a metal ion. Method 335.1, Cyanides Amenable to Chlorination (CATC), is currently approved for the measurement of free and weakly complexed forms of cyanides. Methods 335.2 and 335.3 are currently approved for measurement of total cyanides.

Subsequent to approval of Methods 335.1 and 335.3 under 40 CFR part 136, new data suggests that these methods may not accurately reflect actual cyanide concentrations found in wastewaters. Additionally, the approved analytical methods call for hour-long distillation, chlorination requiring an hour, and two separate aliquots of a given sample distilled and analyzed independently to determine the CATC levels. In order to improve the accuracy and reduce the costs of cyanide measurements, EPA plans to develop and propose new test procedures for the determination of cyanides.

This action will not have a significant economic impact on state, local or tribal governments or small businesses. This regulation approves a test procedure to be used in measuring cyanide under the National Pollution Discharge Elimination System unless the Regional Administrator approves an alternative test procedure.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final	10/00/98	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3701.

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RIN: 2040–AC76

3346. REFORMATTING OF EFFLUENT GUIDELINES AND STANDARDS IN 40 CFR PARTS 405 THROUGH 471

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1251; Clean Water Act sec 303; 33 USC 1311; Clean Water Act sec 301; 33 USC 1314; Clean Water Act sec 304; 33 USC 1316; Clean Water Act sec 306; 33 USC 1317; Clean Water Act sec 307

CFR Citation: 40 CFR 405 to 471 as amended

Legal Deadline: None

Abstract: This regulatory action would re-format the existing Effluent Limitation Guidelines and Standards found in 40 CFR parts 405 through 471 without making any changes to the requirements therein. The purpose of this action is to streamline the CFR and establish a format that is easier for Federal, State, and local regulators and the regulated community to read and understand. This action does not require State, local, or tribal governments or the regulated community to do anything beyond what is currently required. This rule, will, therefore, not impose any economic burden.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	
Final	02/00/99	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3767.

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RIN: 2040–AC79

3347. STREAMLINING THE GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES OF POLLUTION

Regulatory Plan: This entry is Seq. No. 116 in Part II of this issue of the **Federal Register**.

RIN: 2040–AC58

3348. UNIFORM NATIONAL DISCHARGE STANDARDS FOR ARMED FORCES VESSELS

Priority: Substantive, Nonsignificant

Legal Authority: Clean Water Act sec 312(n) as amended

CFR Citation: 40 CFR 140

Legal Deadline:
Final, Statutory, February 10, 1998.

Abstract: The 1996 Defense Authorization Act authorizes EPA and the Navy, in consultation with other Federal agencies and affected States, to develop Uniform National Discharge Standards (UNDS) for discharges from armed forces vessels. These regulations will enable the Navy to design vessels to one protective uniform standard, instead of attempting to conform to diverse State standards. Promulgation of uniform standards may result in innovative waste management technologies that can be transferred to the private sector. The first phase of the legislation requires promulgation of joint regulations that signify which discharges require regulation, which entail the use of marine pollution control devices, as well as those which will not require regulation. Marine pollution control devices may be a piece of equipment designed to control a particular waste stream, or a management practice that would reduce the impacts of a discharge. The Navy and EPA will determine the nature and environmental effects of vessel discharges, as well as the practicability of installing marine pollution control devices for those discharges that require regulation. This regulation only applies to vessels of the armed forces, and therefore will have no impact on small businesses. State governments will be involved in the rulemaking process as this rule may impact State standards, if any exist, by taking precedence over those standards for vessels of the armed forces. The uniform national standards proposed by this action will regulate those liquid vessel discharges that would have adverse impacts on the

marine environment. If there is new information that suggests the standard should be changed, a State may petition for review any standard promulgated under this action.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	
Final Action	08/00/98	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAN No. 3925.

Agency Contact: Deborah Lebow, Environmental Protection Agency, Water, 4504-F, Washington, DC 20460
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RIN: 2040–AC96

3349. REVISION OF NPDES INDUSTRIAL PERMIT APPLICATION REQUIREMENTS AND FORM 2C—WASTEWATER DISCHARGE INFORMATION

Regulatory Plan: This entry is Seq. No. 117 in Part II of this issue of the Federal Register.

RIN: 2040–AC26

3350. COMPREHENSIVE NPDES STORMWATER PHASE II REGULATIONS

Regulatory Plan: This entry is Seq. No. 118 in Part II of this issue of the Federal Register.

RIN: 2040–AC82

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Clean Water Act (CWA)

Final Rule Stage

3351. AMENDMENT TO THE PESTICIDE CHEMICALS MANUFACTURING EFFLUENT LIMITATIONS GUIDELINES; PRETREATMENT STANDARDS; NEW AND EXISTING SOURCES

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1251

CFR Citation: 40 CFR 455

Legal Deadline: None

Abstract: EPA has entered into a Settlement Agreement with American Cyanamid; the sole manufacturer of pendamethalin. Based on additional data, EPA has agreed to revise the numerical limitations for new and existing facilities manufacturing pendamethalin to slightly less stringent limitations.

Timetable:

Action	Date	FR Cite
Direct Final	12/00/97	

Small Entities Affected: None

Government Levels Affected: State

Sectors Affected: 287 Agricultural Chemicals

Additional Information: SAN No. 3995.

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RIN: 2040–AD01

3352. • ESTABLISHMENT OF ELECTRONIC REPORTING FOR NPDES PERMITTEES

Priority: Substantive, Nonsignificant

Legal Authority: CWA 301; CWA 304(i); CWA 308; CWA 402; CWA 501

CFR Citation: 40 CFR 122.22; 40 CFR 122.41(k); 40 CFR 122.41(j); 40 CFR 122.41(l); 40 CFR 122.63.

Legal Deadline: None

Abstract: This action would identify requirements for NPDES permittees that elect to submit NPDES Discharge Monitoring Reports Electronically, including requirements for the use of personal identification numbers (PINs) or other mechanisms as electronic signatures, recordkeeping, Terms and Conditions Agreements, and certifications. The rule will make incorporation of electronic reporting requirements into an NPDES permit a minor permit modification. This rule will enable implementation of Electronic Data Interchange (EDI) for NPDES Discharge Monitoring Reports (DMRs). The Agency has developed and piloted an EDI process for DMRs based on its September 4, 1996 interim final policy for accepting filing of environmental reports via EDI. This action will not require the use of electronic reporting.

Timetable:

Action	Date	FR Cite
Direct Final	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 4051.

Agency Contact: Robin Dansi, Environmental Protection Agency, Water, 4203, Washington, DC 20460
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RIN: 2040–AD11

3353. AMENDMENTS TO ROUND I FINAL SEWAGE SLUDGE USE OR DISPOSAL RULE—PHASE ONE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1251; Clean Water Act sec 101; 33 USC 1345; Clean Water Act sec 405

CFR Citation: 40 CFR 503

Legal Deadline: None

Abstract: EPA is amending the Round I Final Sewage Sludge Use or Disposal Regulation in two phases (i.e., Phase One and Phase Two). Phase I will respond to minor comments received on the Final Sewage Sludge Use or Disposal Round I Rule (part 503), correct some publication errors, and include some technical amendments. This action will modify the existing regulation to make the requirements for sewage sludge incinerators self-implementing and provide the regulated community flexibility in meeting other Part 503 requirements. The changes should not have any

adverse impact on State,local, or tribal government or small businesses because no additional requirements are being imposed.

Timetable:

Action	Date	FR Cite
NPRM	10/25/95	60 FR 54771
Final	12/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3497.

Agency Contact: Robert M. Southworth, Environmental Protection Agency, Water, 4304, Washington, DC 20460
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RIN: 2040–AC29

3354. ESTABLISHMENT OF NUMERIC CRITERIA FOR PRIORITY TOXIC POLLUTANTS FOR THE STATE OF CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1313/CWA 303

CFR Citation: 40 CFR 131

Legal Deadline: None

Abstract: Several municipal entities and one industry in California sued the California State Water Resources Control Board (SWRCB) in State court over whether the SWRCB's water quality control plans for inland surface waters and enclosed bays and estuaries were adopted in compliance with authorizing State law. The court issued its final decision in March 1994; the Court agreed with the plaintiffs and found that the plans could not remain in effect. The SWRCB was ordered to rescind its plans which contain the State's numeric criteria for priority toxic pollutants. In the absence of State criteria, the Clean Water Act requires the Administrator to promulgate water quality criteria for priority toxic pollutants where EPA has issued section 304(a) criteria guidance when the discharge of such pollutants could reasonably be expected to interfere with the State's designated uses.

Timetable:

Action	Date	FR Cite
NPRM	08/05/97	62 FR 42160
Final Action	11/00/97	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3504.

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RIN: 2040–AC44

3355. STREAMLINING THE STATE SEWAGE SLUDGE MANAGEMENT REGULATIONS

Regulatory Plan: This entry is Seq. No. 130 in Part II of this issue of the Federal Register.

RIN: 2040–AC87

3356. STREAMLINED PROCEDURES AND GUIDANCE FOR APPROVING TEST PROCEDURES UNDER 40 CFR PART 136

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1251 et seq; 33 USC 1314(h); 33 USC 1361(a); PL 92-500 76 Stat 816; PL 95-217 91 Stat 1567; PL 100-4 100 Stat 7

CFR Citation: 40 CFR 136; 40 CFR 122.21; 40 CFR 122.41; 40 CFR 122.44; 40 CFR 123.25

Legal Deadline: None

Abstract: This regulatory action would propose the use of new, streamlined procedures and guidance for submitting methods to be approved for use in Clean Water Act compliance monitoring under 40 CFR Part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants. The new procedures would include guidance concerning the format, content, QA/QC, and data validation requirements for methods submitted for consideration. This regulatory action would also describe increased program guidance in the form of a clearinghouse, technical bulletins, and/or guidance documents geared towards clarifying technical and policy issues associated with the use of test methods approved for use in the program.

Timetable:

Action	Date	FR Cite
NPRM	03/28/97	62 FR 14975
Final	03/00/98	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3713.

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RIN: 2040–AC93

3357. SELENIUM CRITERION MAXIMUM CONCENTRATION FOR WATER QUALITY GUIDANCE FOR THE GREAT LAKES SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1268; Clean Water Act sec 118

CFR Citation: 40 CFR 132

Legal Deadline: None

Abstract: This rulemaking proposes to establish a new acute aquatic life criterion for selenium in the final Water Quality Guidance for the Great Lakes System (the Guidance) that was published on March 23, 1995 (60 FR 15366). The proposed new criterion takes into account data showing that selenium's two most prevalent oxidation states, selenite and selenate, present differing potentials for aquatic toxicity, as well as new data indicating that all forms of selenium are additive. The new approach produces a different selenium acute criterion (also called the Criterion Maximum Concentration, or CMC) depending upon the relative proportions of selenite, selenate, and other forms of selenium that are present.

Timetable:

Action	Date	FR Cite
NPRM	12/16/96	61 FR 66007
Final	06/00/98	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: SAN No. 3921.

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RIN: 2040–AC97

3358. EFFLUENT GUIDELINES AND STANDARDS FOR THE PHARMACEUTICAL MANUFACTURING CATEGORY

Priority: Other Significant

Legal Authority: 33 USC 1311; Clean Water Act sec 301; 33 USC 1314; Clean Water Act sec 304; 33 USC 1316; Clean Water Act sec 306; 33 USC 1317; Clean Water Act sec 307; 33 USC 1361; Clean Water Act sec 501

CFR Citation: 40 CFR 439

Legal Deadline:
NPRM, Judicial, February 28, 1995.
Final, Judicial, April 30, 1998.

Abstract: EPA is developing revised effluent limitation guidelines and standards for the pharmaceutical manufacturing industry, including limitations on toxic and non-conventional volatile organic pollutants. EPA intends to promulgate this rule concurrently with air emission standards. See separate entry for "NESHAP: Pharmaceuticals Production" (RIN 2060-AE83).

Timetable:

Action	Date	FR Cite
NPRM (NSPS)	10/27/83	48 FR 49832
NPRM	05/02/95	60 FR 21592
Final	04/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 1427.

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RIN: 2040–AA13

3359. NPDES STREAMLINING RULE—ROUND II

Regulatory Plan: This entry is Seq. No. 131 in Part II of this issue of the Federal Register.

RIN: 2040–AC70

3360. WATER QUALITY STANDARDS; ESTABLISHMENT OF NUMERIC CRITERIA FOR PRIORITY TOXIC POLLUTANTS; STATES' COMPLIANCE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1313; Clean Water Act sec 303

CFR Citation: 40 CFR 131

Legal Deadline: None

Abstract: EPA is revising its rule promulgated on December 22, 1992, (National Toxics Rule or NTR) that established water quality criteria for 14 States that had failed to fully comply with section 303(2)(B) of the Clean Water Act. The NTR promulgated total recoverable metals criteria for 11 of these 14 States. In October 1993, the Office of Water issued a policy memorandum recommending a shift to the use of dissolved metals criteria because they more accurately reflect the bioavailable fraction of waterborne metals for aquatic life. This revision will convert the total recoverable metals criteria to dissolved metals criteria and bring the 11 States into alignment with the current policy on the use of dissolved metals.

This action is de-regulatory in nature, but is not expected to impact the health of aquatic life in the water column. EPA expects this rule to result in less stringent permit limits and therefore a potential cost savings in wastewater treatment for dischargers of metals in the 11 covered States.

Timetable:

Action	Date	FR Cite
Interim Final	05/04/95	60 FR 22229
Final	12/00/97	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: SAN No. 3661.

Agency Contact: Cindy Roberts, Environmental Protection Agency, Water, 4203, Washington, DC 20460
Phone: 202 260-2787

RIN: 2040–AC55

3361. WITHDRAWAL OF PROPOSED AMENDMENT TO EFFLUENT GUIDELINES AND STANDARDS FOR ORE MINING AND DRESSING POINT SOURCE CATEGORY, NEW SOURCE PERFORMANCE STANDARDS

Priority: Info./Admin./Other

Legal Authority: 33 USC 1311; Clean Water Act sec 301; 33 USC 1314; Clean Water Act sec 304; 33 USC 1316; Clean Water Act sec 306

CFR Citation: 40 CFR 440

Legal Deadline: None

Abstract: EPA is withdrawing the previously proposed rule published in the Federal Register on February 12, 1996 (61 FR 5364). The proposed rule would have amended the applicability of certain effluent limitations guidelines and new source performance standards governing mines with froth-flotation mills to the Alaska-Juneau (A-J) gold mine project near Juneau, Alaska. Specifically, EPA proposed to exempt dewatered tailing produced by the proposed A-J mine and mill from effluent guidelines based on best practicable control technology (BPT) and best available control technology economically achievable (BAT), and from new source performance standards (NSPS) that appear at 40 CFR part 440, subpart J. EPA also proposed adding a definition of "dewatered tailings" to 40 CFR part 440, subpart L. On January 14, 1997, Echo Bay Mines announced that the company would end the development of the A-J mine project. EPA has concluded that in light of the closure of the A-J mine project this exemption is not longer necessary and thus EPA plans to withdraw the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	02/12/96	61 FR 5364
Withdrawal	10/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3722.

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RIN: 2040–AC74

3362. GUIDELINES ESTABLISHING OIL AND GREASE TEST PROCEDURES FOR THE ANALYSIS OF POLLUTANTS UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1316(h); Clean Water Act sec 304(h); 33 USC 1361(a); Clean Water Act sec 501(a)

CFR Citation: 40 CFR 136; 40 CFR 122.21; 40 CFR 122.41; 40 CFR 122.44; 40 CFR 123.25; 40 CFR 403.7; 40 CFR 403.12

Legal Deadline: None

Abstract: This regulation will amend the Guidelines establishing Test Procedures for the Analysis of Pollutants under section 304(h) of the Clean Water Act to replace existing gravimetric test procedures for the conventional pollutants, Oil and Grease (40 CFR 401.16) with EPA Method 1664 consistent with the Chlorofluorocarbon (CFC) phaseout requirements of the Clean Air Act Amendments of 1990. Method 1664 uses normal hexane (n-hexane) as the extraction solvent in place of 1,1,2-trichloro-1,2, 2-trifluoroethane (CFC-113; Freon-113), which is used in current 40 CFR 136 approved methods for the determination of oil and grease. Presently approved methods are EPA Method 413.1 in Methods for Chemical Analysis of Water and Wastes (EPA-600/4-79-020) and Method 5520B in Standard Methods for the Examination of Water and Wastewater, 18th edition. This proposal would withdraw approval of Methods 413.1 and 5520B in order to avoid unacceptable inconsistency between results produced by these methods and the proposed Method 1664.

Timetable:

Action	Date	FR Cite
NPRM	01/23/96	61 FR 1730
Final	03/00/98	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3617.

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RIN: 2040–AC83

3363. INCREASED METHOD FLEXIBILITY FOR TEST PROCEDURES APPROVED FOR CLEAN WATER ACT COMPLIANCE MONITORING UNDER 40 CFR PART 136

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1251 et seq; 33 USC 1314(h); 33 USC 1361(a); PL 92-500 76 Stat 816; PL 95-217 91 Stat 1567; PL 100-4 100 Stat 7

CFR Citation: 40 CFR 136; 40 CFR 122.21; 40 CFR 122.41; 40 CFR 122.44; 40 CFR 123.25

Legal Deadline: None

Abstract: This regulatory action would highlight the flexibility already contained in the 600 and 1600 series methods that are currently approved for Clean Water Act compliance monitoring under 40 CFR part 136, "Guidelines Establishing Test Procedures for the Analysis of Pollutants". These methods typically contain a statement that "In recognition of advances that are occurring in analytical technology, and to allow the analyst to overcome sample matrix interferences, the analyst is permitted certain options to improve separations or lower the costs of measurements. These options include alternate extraction, concentration, cleanup procedures, and changes in columns and detectors . . .". The methods further require the analyst to demonstrate that the method modifications will not adversely affect the quality of data by generating quality control results that meet the specifications contained in the method. Despite this stated flexibility, OW has found that many permitting authorities are not aware of this flexibility when issuing or enforcing NPDES and pretreatment permits. Therefore, this regulatory action will highlight the existing method flexibility and clarify OW's position regarding its application. This action will also propose to extend this flexibility to all methods currently approved under 40 CFR part 136. The purpose of extending this flexibility to all methods is to (1) increase consistency between methods, (2) provide for increased recognition of advances in analytical technology, and (3) reduce costs associated with analytical measurements.

Timetable:

Action	Date	FR Cite
Direct Final	01/00/98	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3714.

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RIN: 2040–AC92

3364. GUIDELINES ESTABLISHING TEST PROCEDURES FOR THE ANALYSIS OF MISCELLANEOUS METALS, ANIONS, AND VOLATILE ORGANICS UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(h); Clean Water Act sec 304(h); 33 USC 1361(a); Clean Water Act sec 501(a)

CFR Citation: 40 CFR 136

Legal Deadline: None

Abstract: This regulatory action would amend the Guidelines Establishing Test Procedures for the Analysis of Pollutants under 40 CFR 136 to approve new procedures for the analysis of miscellaneous metals, anions, and volatile organics under the Clean Water Act (CWA). These methods are used for implementing water quality based permits under the National Pollutant Discharge Elimination System (NPDES) of the CWA. This action will not have a significant economic impact on state, local, or tribal governments, or small businesses. This regulation would approve test procedures to be used in measuring this group of compounds under the NPDES unless the Regional Administrator approves an alternative procedure.

Timetable:

Action	Date	FR Cite
NPRM	10/18/95	60 FR 53988
Final	11/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

EPA—CWA

Final Rule Stage

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3155.

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RIN: 2040–AC95

3365. CLARIFICATION OF THE APPLICATION REQUIREMENTS FOR STATES WANTING TO DESIGNATE DRINKING WATER INTAKE ZONES, THEREBY PROHIBITING THE DISCHARGE OF VESSEL SEWAGE WITHIN THOSE ZONES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1322; Clean Water Act sec 312

CFR Citation: 40 CFR 140

Legal Deadline: None

Abstract: Section 312 of the Clean Water Act entitled Marine Sanitation Devices was established in the Federal Water Pollution Control Act of 1972 to regulate discharges of vessel sewage. EPA is developing a technical amendment to clarify the regulations implementing section 312. This proposed regulatory amendment to 40 CFR part 140.4(b) would clarify the information required in a State application requesting EPA to designate State-specified surface water as a drinking water intake zone, thereby making it unlawful for vessels to discharge sewage within that zone. This amendment would provide guidance to EPA Regions and States on the specific information necessary for the designation of a drinking water intake zone. This amendment will have no direct impact on small businesses and would only affect those State's choosing to request designation of no discharge zones. The amendment will not directly impact local and tribal governments. (The Clean Water Act section 518 does not include Tribes under Treatment as States in regards to section 312 of the Clean Water Act). State and local governments and public water water supply systems should benefit from improved water quality near their drinking water intakes.

Timetable:

Action	Date	FR Cite
NPRM	10/16/96	61 FR 54013
Final	12/00/97	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAN No. 3666.

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RIN: 2040–AC81

3366. NPDES WASTEWATER PERMIT APPLICATION FORMS AND REGULATORY REVISIONS FOR MUNICIPAL DISCHARGES AND SEWAGE SLUDGE USE OR DISPOSAL

Regulatory Plan: This entry is Seq. No. 132 in Part II of this issue of the Federal Register.

RIN: 2040–AB39

3367. SHORE PROTECTION ACT, SECTION 4103(B) REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 2601; Shore Protection Act of 1988; PL 100-6-88 4103(b)

CFR Citation: 40 CFR 237

Legal Deadline: None

Abstract: This rule will implement the Shore Protection Act (SPA) and is designed to prevent the deposit of municipal and commercial waste into U.S. Coastal Waters. This rule establishes minimum waste handling practices for vessels and waste handling facilities involved in the transport of municipal or commercial wastes in the coastal waters of the U.S. The rule may require certain vessels and waste handling facilities to develop an operation and maintenance manual that identifies procedures to prevent, report, and clean up deposits of waste into coastal waters. State and local governments and businesses involved with the vessel transportation and shore side handling of these wastes would be affected by this rule.

Currently no Tribes are known to be involved in waste handling of this type, therefore none would be affected by this rule. In regards to small businesses, EPA has provided guidance on development of operation and maintenance manuals and encourages the use and documentation of existing industry practices that meet or exceed the EPA proposed minimum waste handling standards. All indications are that this regulation as proposed would have a minimal economic impact. This regulation will result in reduction of municipal and commercial wastes deposited in coastal waters.

Timetable:

Action	Date	FR Cite
NPRM	08/30/94	59 FR 44798
Final	12/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: SAN No. 2820.

Agency Contact: Deb Lebow, Environmental Protection Agency, Water, 4504F, Washington, DC 20460
Phone: 202 260-6419

RIN: 2040–AB85

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Clean Water Act (CWA)

Long-Term Actions

3368. • EFFLUENT LIMITATIONS GUIDELINES AND STANDARDS FOR THE PULP, PAPER, AND PAPERBOARD CATEGORY, PHASE II

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1311/CWA 301; 33 USC 1314/CWA 304; 33 USC 1316/CWA 306; 33 USC 1317/CWA 307; 33 USC 1361/CWA 501

CFR Citation: 40 CFR 430

Legal Deadline: None

Abstract: In the Pulp and Paper Phase II effort, EPA intends to revise existing Best Practicable Technology (BPT), Best Conventional Pollutant Control Technology (BCT), Best Available Technology (BAT), New Source Performance Standards (NSPS), Pretreatment Standards for Existing and New Sources (PSES) for 8 of the 12 subcategories for this industrial category: Unbleached Kraft; Semi-Chemical; Mechanical Pulp; Non-Wood Chemical Pulp; Secondary Fiber Deink; Secondary Fiber Non-Deink; Fine and Lightweight Papers from Purchased Pulp; and Tissue, Filter, Non-Woven, and Paperboard from Purchased Pulp. Guidelines and standards for these 8 subcategories were proposed as part of the Phase I Pulp and Paper Rule (also known as the "Cluster Rule") in December of 1993 but were withdrawn from the Phase I Rule after Public comment. The Agency intends to develop these revised effluent limitations in close coordination with the Office of Air Quality Planning and Standards, which shortly will promulgate, as part of the "Cluster Rule", maximum achievable control technology (MACT) standards that limit air emissions under the Clean Air Act (CAA).

Timetable:

Action	Date	FR Cite
NPRM	12/17/93	58 FR 66078
Final	02/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 4050.

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RIN: 2040–AD10

3369. GUIDELINES ESTABLISHING WHOLE EFFLUENT TOXICITY WEST COAST TEST PROCEDURES FOR THE ANALYSIS OF POLLUTANTS UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 136

Timetable:

Action	Date	FR Cite
NPRM	04/00/99	
Final	04/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: William Telliard
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RIN: 2040–AC54

3370. STANDARDS FOR THE USE OR DISPOSAL OF SEWAGE SLUDGE (ROUND II)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 40 CFR 503

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final	12/00/01	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Agency Contact: Robert M. Southworth
Phone: 202 260-7157

RIN: 2040–AC25

3371. EFFLUENT GUIDELINES AND STANDARDS FOR THE METAL PRODUCTS AND MACHINERY CATEGORY, PHASES I AND 2

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

CFR Citation: 40 CFR 438

Timetable:

Action	Date	FR Cite
NPRM (phase 1)	05/30/95	60 FR 28210
NPRM (consolidated Phase 1 and 2)	10/00/00	
Final	12/00/02	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Agency Contact: Steven Geil
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RIN: 2040–AB79

3372. BEST TECHNOLOGY AVAILABLE (BTA) FOR COOLING WATER INTAKE STRUCTURES UNDER SECTION 316(B) OF THE CLEAN WATER ACT

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 40 CFR 125; 40 CFR 401

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
Final	08/00/01	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Deborah Nagle
Phone: 202 260-2656

RIN: 2040–AC34

3373. EFFLUENT GUIDELINES AND STANDARDS FOR IRON AND STEEL MANUFACTURING POINT SOURCE CATEGORY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 40 CFR 420

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
Final	12/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Agency Contact: George M. Jett
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RIN: 2040–AC90

3374. STREAMLINING REVISIONS TO THE WATER QUALITY PLANNING AND MANAGEMENT REGULATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 130

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
Final	12/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State, Tribal, Federal

Agency Contact: Amy Sosin
Phone: 202 260-7058

RIN: 2040–AC85

3375. CLEAN WATER ACT SECTION 404 PROGRAM DEFINITION OF THE WATERS OF THE UNITED STATES—ISOLATED WATERS AND ARTIFICIAL WATERS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 232

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Hazel Groman
Phone: 202 260-8798

RIN: 2040–AB74

3376. COMPARISON OF DREDGED MATERIAL TO REFERENCE SEDIMENT

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 230

Timetable:

Action	Date	FR Cite
NPRM	01/04/95	60 FR 419
Final	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: John Goodin
Phone: 202 260-9910

RIN: 2040–AC14

3377. REVISIONS TO OCEAN DUMPING REGULATIONS FOR DREDGED MATERIAL

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 225; 40 CFR 227; 40 CFR 228

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: John Heisler
Phone: 202 260-8448

RIN: 2040–AB62

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Clean Water Act (CWA)

Completed Actions

3378. EFFLUENT GUIDELINES AND STANDARDS FOR THE PULP, PAPER, AND PAPERBOARD CATEGORY

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

CFR Citation: 40 CFR 430; 40 CFR 431

Completed:

Reason	Date	FR Cite
Merged into RIN 2060-AD03	10/14/97	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

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RIN: 2040–AB53

3379. STREAMLINED PROCEDURES FOR DEVELOPING AND MAINTAINING APPROVED PUBLICLY OWNED TREATMENT WORKS PRETREATMENT PROGRAMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 403.18

Completed:

Reason	Date	FR Cite
Final Action	07/17/97	62 FR 38405

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Jeff Smith
Phone: 202 260-5586

RIN: 2040–AC57

3380. GUIDELINES ESTABLISHING TEST PROCEDURES FOR THE ANALYSIS OF 2,3,7,8-SUBSTITUTED DIBENZO-P-DIOXINS AND DIBENZO FURANS UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 136; 40 CFR 122; 40 CFR 122.21; 40 CFR 122.41; 40 CFR 122.44; 40 CFR 123.25; 40 CFR 403.7; 40 CFR 403.12

Completed:

Reason	Date	FR Cite
Final Action	09/15/97	62 FR 48393

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

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RIN: 2040–AC84

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Atomic Energy Act (AEA)

Proposed Rule Stage

3381. • DISPOSAL OF LOW-ACTIVITY RADIOACTIVE WASTES

Priority: Other Significant

Legal Authority: Atomic Energy Act of 1954; Reorganization Plan No. 3 of 1970; Waste Policy Act of 1982

CFR Citation: 40 CFR 193

Legal Deadline: None

Abstract: This action is directed to the disposal of low-activity radioactive wastes in disposal facilities that meet the design requirements for RCRA-C disposal cells. The wastes to be disposed of in these cells are intended to be mixed wastes, consisting of a chemically hazardous component and low levels of radioactivity, and other wastes with low-activity radionuclide contents. These wastes are anticipated to arise in the commercial sector and as a product of operations and clean-up activities in the DOE facilities complex. The rule is intended to increase disposal options for these wastes and offer a streamline regulatory process which melds hazardous chemical protection and radioactivity protection requirements while protecting public health and safety. The rule is "permissive" in the sense that the disposal method proposed is not a mandated disposal method, but rather an alternative to existing disposal methods. The U.S. Nuclear Regulatory Commission is anticipated to be the implementing Agency for the application of this rule.

Timetable:

Action	Date	FR Cite
NPRM	05/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAN No. 4054

Agency Contact: Kenneth Czyscinski, Environmental Protection Agency, Air and Radiation, 6602J, Washington, DC 20460
Phone: 202 233-9227
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RIN: 2060–AH63

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Atomic Energy Act (AEA)

Final Rule Stage

3382. FEDERAL RADIATION PROTECTION GUIDANCE FOR EXPOSURE OF THE GENERAL PUBLIC

Priority: Other Significant

Legal Authority: 42 USC 2021(h); Atomic Energy Act of 1954 sec 274(h); Reorganization Plan No. 3 of 1970

Legal Deadline: None

Abstract: This action will update and replace existing Presidential guidance for all Federal agencies in the formulation of radiation standards for protection of the public from ionizing radiation that was issued in 1960.

Timetable:

Action	Date	FR Cite
ANPRM	06/18/86	51 FR 22264
NPRM	12/23/94	59 FR 66414
Final	12/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAN No. 3321.

(SAN was 2073)

Agency Contact: Allan Richardson, Environmental Protection Agency, Air and Radiation, 6602J, Washington, DC 20460
Phone: 202 254-3826
Fax: 202 233-9213

RIN: 2060–AE61

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Atomic Energy Act (AEA)

Long-Term Actions

3383. PROTECTIVE ACTION GUIDANCE FOR DRINKING WATER

Priority: Other Significant

CFR Citation: 41 CFR 351

Timetable:

Action	Date	FR Cite
Notice - Submission to FRPCC for Endorsement	00/00/00	
Notice of Availability	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Blue
Phone: 202 233-9488

RIN: 2060–AF39

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Completed Actions

Atomic Energy Act (AEA)

3384. ENVIRONMENTAL PROTECTION AGENCY RADIATION SITE CLEANUP REGULATION

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 40 CFR 196

Completed:

Reason	Date	FR Cite
Withdrawn - The Agency plans no further action	09/25/97	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: John M. Karhnak
Phone: 202 233-9237

RIN: 2060–AB31

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Proposed Rule Stage

Safe Drinking Water Act (SDWA)

3385. • REVISION OF EXISTING VARIANCES AND EXEMPTIONS REGULATION TO COMPLY WITH REQUIREMENTS OF THE SAFE DRINKING WATER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1701 et seq; PL 104-182

CFR Citation: 40 CFR 142

Legal Deadline:
Other, Statutory, August 6, 1996.

Abstract: This action will revise the existing regulations which address the issuance and availability of variances and exemptions under the Safe Drinking Water Act. A section specifically addressing variances for small public water systems is included in the revisions. We anticipate that the revisions will be viewed as having beneficial impacts on small systems.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	
Final	08/00/98	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4040.

Agency Contact: Andrew J. Hudock, Environmental Protection Agency, Office of Enforcement and Compliance Assurance, 2243A, Washington, DC 20460
Phone: 202 564-6032
Fax: 202 564-0024

RIN: 2020–AA37

3386. DRINKING WATER CONSUMER CONFIDENCE REPORT REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 300g-3c

Legal Deadline:
Final, Statutory, August 6, 1998.

Abstract: The SDWA amendments of 1996 require EPA to promulgate regulations requiring all community water systems to prepare Consumer Confidence Reports regarding the quality of the drinking water they provide. The regulations must specify the form and content of these reports. The reports must be prepared annually and mailed to customers except that the Governor of a State can exempt systems serving fewer than 10,000 customers from the mailing requirements. The reports must contain (1) information on the source of the drinking water, (2) brief and plainly worded definitions of certain key terms such as MCL and MCLG, (3) information on all detected contaminants and health information for contaminants which exceed an MCL, (4) information on compliance with primary drinking water regulations, (5) information on unregulated contaminants if detected. The reports must refer to an EPA hotline for additional health information. No sampling or monitoring is required by these regulations. The reports are a compilation of information obtained to comply with other requirements under the SDWA.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
Final	08/00/98	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3947.

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RIN: 2040–AC99

3387. • PUBLIC WATER SYSTEM PUBLIC NOTIFICATION REGULATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1701 et seq; PL 104-182

CFR Citation: 40 CFR 141.32; 40 CFR 142.16

Legal Deadline: None

Abstract: This action revises an existing regulation to incorporate the new public notification provisions in section 114 (a) of the Safe Drinking Water Act Amendments of 1996. The basic public notification requirement is not changed by the 1996 amendments. A Public Water System is required under section 1414(c) of the SDWA to provide notification to its customers whenever: (1) a violation of any drinking water regulation occurs (including MCL, treatment technique, and monitoring/reporting requirements); (2) a variance or exemption (V&E) to those regulations is in place or the conditions of the V&E are violated; or (3) results from unregulated contaminant monitoring required under section 1445 of the SDWA are received. The Administrator is required under this statute to prescribe by regulation the manner, frequency, form, and content for giving notice. The existing regulation is in 40 CFR section 141.32 and States are required to adopt this rule to retain primacy under section 142.10, subpart B.

The 1996 amendments significantly revise the public notification requirements. The amendments: (1) alter the timing of the notification for certain violations; (2) establish a specific requirement for EPA

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Proposed Rule Stage

consultation with the States in issuing revised regulations; (3) allow the State to prescribe alternative notification requirements by rule with respect to the form and content of the notice; and (4) add a new requirement for the State to prepare an annual report on violations and for EPA to prepare a follow on report summarizing States' reports and public notices submitted by Indian Tribes. One other new requirement -- for public water systems to prepare an annual consumer confidence report -- is being implemented under a separate regulatory action. (Continued in "Additional Information").

Timetable:

Action	Date	FR Cite
NPRM	09/00/98	
Final	09/00/99	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4009.

(Continued from the "Abstract")The benefits of the revised public notification regulations will be to streamline the existing requirements, provide quicker and more effective notification of violations that have a "serious adverse effect," and better inform the customers of public water systems of the quality of their drinking water and the risk to their health. the risk to their health.

Agency Contact: Carl B. Reeverts, Environmental Protection Agency, Water, 4604, Washington, DC 20460
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RIN: 2040–AD06

3388. • TEST PROCEDURES FOR THE ANALYSIS OF CRYPTOSPORIDIUM AND GIARDIA UNDER THE SAFE DRINKING WATER AND CLEAN WATER ACTS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1251 et seq; 33 USC 1314(h); 33 USC 1361a; PL 92-500; PL 95-217; PL 100-4; 42 USC 300f; 42 USC 300g-1; 42 USC 300g-2; 42 USC 300g-3; 42 USC 300g-4; 42 USC 300g-5; 42 USC 300g-6; 42 USC 300j-4; 42 USC 300j-9

CFR Citation: 40 CFR 136; 40 CFR 122.21; 40 CFR 122.41; 40 CFR 122.44; 40 CFR 123.25; 40 CFR 141

Legal Deadline: None

Abstract: This regulatory action would propose to amend the "Guidelines Establishing Test Procedures for the Analysis of Pollutants" under 40 CFR part 136 and the analytical methods under 40 CFR Part 141 to approve EPA Method 1622 for the detection of Cryptosporidium and Giardia in ambient waters and finished drinking water by filtration of a 10-L sample in laboratory, separation of target organisms from other debris using immunomagnetic separation or flow cytometry, and detection of the organisms using direct immunofluorescence assay and confirmation examination of the organisms using vital dye stains.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	
Final	04/00/99	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4047.

Agency Contact: William A. Telliard, Environmental Protection Agency, Water, 4303, Washington, DC 20460
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Maria Gomez-Taylor, Environmental Protection Agency, Water, 4303, Washington, DC 20460
Phone: 202 260-1639

RIN: 2040–AD08

3389. • ANALYTICAL METHODS FOR REGULATED DRINKING WATER CONTAMINANTS: TOTAL COLIFORMS, E. COLI, AND ACID HERBICIDES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 300f; Safe Drinking Water Act sec 1401; 42 USC 300g-1; Safe Drinking Water Act sec 1412

CFR Citation: 40 CFR 141; 40 CFR 143

Legal Deadline: None

Abstract: In promulgating National Primary Drinking Water Regulations, EPA includes analytical methods for determination of regulated drinking water contaminants. EPA approved methods include EPA methods, Standard Methods (methods evaluated and recommended for use by the America Public Health Association (APHA)), American Society for Testing and Materials (ASTM) Methods, United States Geological Survey (USGS) Methods and others. Periodically, the Agency updates and revises methods to incorporate newer technologies. Standard setting organizations such as APHA, ASTM, and USGS also routinely revise and update methods.

In this regulatory effort, EPA proposes to approve new methods or newer versions of existing methods for total coliforms, E. coli, and acid herbicides. At the same time, the Agency will withdraw approval of selected outdated methods.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
Final	10/00/98	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4044.

This regulation was split from RIN 2040-AC77, SAN 3728.

Agency Contact: Dr. Jitendra Saxena, Environmental Protection Agency, Water, 4603, Washington, DC 20460
Phone: 202 260-9579

RIN: 2040–AD04

3390. MANAGEMENT OF CLASS V INJECTION WELLS UNDER PART C OF THE SAFE DRINKING WATER ACT

Regulatory Plan: This entry is Seq. No. 119 in Part II of this issue of the Federal Register.

RIN: 2040–AB83

3391. STREAMLINING DRINKING WATER MONITORING REQUIREMENTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or

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duplication, or streamline requirements.

Legal Authority: 42 USC 300j-4; Safe Drinking Water Act sec 1445

CFR Citation: 40 CFR 141

Legal Deadline: None

Abstract: The current drinking water monitoring requirements vary by contaminant (e.g., inorganic vs. organic), the source of the supply (i.e., surface water vs. ground water) and by system size. After an initial series of samples, the sampling frequency increases or decreases based on the results of the initial series. Because there are numerous permutations to the possible frequencies at any one sampling point, the requirements are difficult to understand. And because the requirements presume all systems are contaminated, many systems have conducted expensive monitoring without finding any contamination.

EPA intends to simplify and improve the cost effectiveness of the current requirements for chemical contaminants by reducing the number of variables upon which the sampling frequencies turn, by providing greater latitude for state discretion in customizing the sampling frequencies to local circumstances (i.e., vulnerability to contamination) and by consolidating subsections wherever possible.

Timetable:

Action	Date	FR Cite
ANPRM	07/03/97	62 FR 36099
NPRM	12/00/97	
Final	08/00/98	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3761.

Agency Contact: Mike Muse, Environmental Protection Agency, Water, 4604, Washington, DC 20460
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Fax: 202 260-4656

RIN: 2040–AC73

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Safe Drinking Water Act (SDWA)
Final Rule Stage

3392. NATIONAL PRIMARY DRINKING WATER REGULATIONS FOR LEAD AND COPPER

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 300g-1; Safe Drinking Water Act sec 1412

CFR Citation: 40 CFR 141; 40 CFR 142

Legal Deadline: None

Abstract: EPA will promulgate revisions to the National Primary Drinking Water Regulations for Lead and Copper published June 7, 1991. The basic lead and copper regulations will remain intact, however, EPA will promulgate minor revisions to refine specific requirements and improve implementation of the rule. Some of these revisions are deregulatory in nature, in that they will lessen monitoring requirements for public water systems which have consistently shown very low levels of lead and copper at the tap. EPA also plans to promulgate changes that will provide many community water systems more flexibility in the delivery of lead public education requirements, and allow States to invalidate inappropriate samples. Other revisions would promote consistent national implementation by clarifying the monitoring requirements that apply in different circumstances. Finally, EPA plans to respond to a remand in American Water Works Association v. EPA, 40 F.3D 1266 (DC Circuit 1994), on portions of the Lead and Copper regulation by promulgating a revised definition of control as it applies to lead service line replacement and to address the current exemption of transient non-community water systems from coverage under the rule. Nationally, EPA estimates the changes will not affect the cost or benefits of the Lead and Copper Rule significantly. State governments should experience a minor decrease in costs as a result of these revisions. Many local and tribal governments and small businesses that operate public water systems should also experience a decrease in annual costs.

Timetable:

Action	Date	FR Cite
NPRM	04/12/96	61 FR 16348
Final	03/00/98	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3440.

Agency Contact: Judy Lebowich, Environmental Protection Agency, Water, 4607, Washington, DC 20460
Phone: 202 260-7595

RIN: 2040–AC27

3393. NATIONAL PRIMARY DRINKING WATER REGULATIONS: STAGE I DISINFECTANT/DISINFECTION BYPRODUCTS RULE

Regulatory Plan: This entry is Seq. No. 133 in Part II of this issue of the Federal Register.

RIN: 2040–AB82

3394. REFORMATTING OF DRINKING WATER REGULATIONS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 300g-1; Safe Drinking Water Act sec 1412

CFR Citation: 40 CFR 141; 40 CFR 142

Legal Deadline: None

Abstract: This rule reformats the current drinking water regulations to make them easier to understand and follow. This rule is not intended to change any of the regulatory requirements. The rule affects state, local and tribal governments in that it makes the rules easier to implement and thus facilitates their jobs.

Timetable:

Action	Date	FR Cite
Direct Final	12/00/97	

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Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3563.

Agency Contact: Carl Kessler, Environmental Protection Agency, Water, 4603, Washington, DC 20460
Phone: 202 260-3995

RIN: 2040–AC41

3395. ANALYTICAL METHODS FOR REGULATED DRINKING WATER CONTAMINANTS: ORGANIC, INORGANIC AND MICROBIOLOGICAL CONTAMINANTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 300f; Safe Drinking Water Act sec 1401; 42 USC 300g-1; Safe Drinking Water Act sec 1412

CFR Citation: 40 CFR 141; 40 CFR 143

Legal Deadline: None

Abstract: In promulgating National Primary Drinking Water Regulations, EPA includes analytical methods for determination of regulated drinking water contaminants. EPA approved methods include EPA methods, Standard Methods (methods evaluated and recommended for use by the America Public Health Association (APHA)), American Society for Testing and Materials (ASTM) Methods, United States Geological Survey (USGS) Methods and others. Periodically, the Agency updates and revises methods to incorporate newer technologies. Standard setting organizations such as APHA, ASTM, and USGS also routinely revise and update methods.

In this regulatory effort, EPA proposes to approve newer versions of existing methods for organic, inorganic and microbiological contaminants. At the same time, the Agency will withdraw approval of selected outdated methods.

Timetable:

Action	Date	FR Cite
Direct Final	11/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3726.

Agency Contact: Dr. Jitendra Saxena, Environmental Protection Agency, Water, 4603, Washington, DC 20460
Phone: 202 260-9579

RIN: 2040–AC77

3396. NATIONAL PRIMARY DRINKING WATER REGULATIONS: INTERIM ENHANCED SURFACE WATER TREATMENT RULE

Regulatory Plan: This entry is Seq. No. 134 in Part II of this issue of the Federal Register.

RIN: 2040–AC91

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Safe Drinking Water Act (SDWA)
Long-Term Actions

3397. REVISIONS TO STATE PRIMACY REQUIREMENTS TO IMPLEMENT FEDERAL DRINKING WATER REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 142.10; 40 CFR 142.11; 40 CFR 142.12; 40 CFR 142.15

Timetable:

Action	Date	FR Cite
Direct Final	08/00/99	

Small Entities Affected: None

Government Levels Affected: State, Tribal, Federal

Agency Contact: Jennifer Melch
Phone: 202 260-7035
Fax: 202 260-0732

RIN: 2040–AD00

3398. NATIONAL PRIMARY DRINKING WATER REGULATIONS: RADON

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect State, local or tribal governments.

CFR Citation: 40 CFR 141; 40 CFR 142

Timetable:

Action	Date	FR Cite
ANPRM	09/30/86	51 FR 34836
NPRM	07/18/91	56 FR 33050
Notice	02/00/99	
Reproposal	08/00/99	
Final	08/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Sylvia Malm
Phone: 202 260-0417

RIN: 2040–AA94

3399. NATIONAL PRIMARY DRINKING WATER REGULATIONS: GROUNDWATER DISINFECTION

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect State, local or tribal governments.

CFR Citation: 40 CFR 141; 40 CFR 142

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
Final	05/00/02	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Bruce Macler
Phone: 415 744-1884
Erin K. Flanagan
Phone: 202 260-5545

RIN: 2040–AA97

3400. NATIONAL PRIMARY DRINKING WATER REGULATIONS: ARSENIC

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 40 CFR 141; 40 CFR 142

Timetable:

Action	Date	FR Cite
Arsenic Study Plan	12/24/96	61 FR 67800
NPRM	01/00/00	
Final	01/00/01	

EPA—SDWA

Long-Term Actions

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Irene Dooley
Phone: 202 260-9531
Fax: 202 260-3762
Email: dooley.irene@epamail.epa.gov

RIN: 2040–AB75

3401. NATIONAL PRIMARY DRINKING WATER REGULATIONS: SULFATE

Priority: Other Significant

CFR Citation: 40 CFR 141; 40 CFR 142

Timetable:

Action	Date	FR Cite
NPRM	12/20/94	59 FR 65578
Final	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Jim Taft
Phone: 202 260-5519

RIN: 2040–AC07

3402. NATIONAL PRIMARY DRINKING WATER STANDARDS FOR ALDICARB

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 141; 40 CFR 142

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: James Taft
Phone: 202 260-5519

RIN: 2040–AC13

3403. NATIONAL PRIMARY DRINKING WATER REGULATIONS: RADIUM, URANIUM, ALPHA, BETA AND PHOTON EMITTERS

Priority: Other Significant

CFR Citation: 40 CFR 141; 40 CFR 142

Timetable:

Action	Date	FR Cite
ANPRM	09/30/86	51 FR 34836
NPRM	07/18/91	56 FR 33050
Final	11/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Dave Huber
Phone: 202 260-9566

RIN: 2040–AC98

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Completed Actions

Safe Drinking Water Act (SDWA)

3404. UNDERGROUND INJECTION CONTROL PROGRAM STREAMLINING RULE

Priority: Other Significant

CFR Citation: 40 CFR 144; 40 CFR 146

Completed:

Reason	Date	FR Cite
Withdrawn - No Further Action Planned.	08/22/97	

Small Entities Affected: Businesses

Government Levels Affected: State, Tribal, Federal

Agency Contact: Denny Cruz
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Fax: 202 260-0732

RIN: 2040–AC83

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Prerule Stage

Resource Conservation and Recovery Act (RCRA)

3405. REGULATORY DETERMINATION ON REMAINING WASTES FROM THE COMBUSTION OF FOSSIL FUELS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6921(b)(3)(C); Resource Conservation Recovery Act sec 3001(b)(3)(C)

Legal Deadline:
Final, Judicial, April 1, 1998.

Abstract: On December 1, 1992, the Agency determined that additional study of four large-volume wastes -- fly ash, bottom ash, boiler slag and flue gas emission control wastes -- from the combustion of coal by electric utility power plants was not necessary. A Final Regulatory Determination on these wastes was signed on August 2, 1993 and published in the Federal Register on August 9, 1993. The Agency also determined that for the remaining fossil-fuel combustion wastes, additional data collection is necessary to make a Regulatory Determination on these wastes and a final regulatory determination will be made by April 1, 1998. The phrase remaining wastes refers to (1) fly ash, bottom ash, boiler slag, and flue gas emission control wastes from the combustion of coal by electric utility power plants when such wastes are mixed with, co-disposed, co-treated, or otherwise co-managed with other wastes generated in conjunction with the combustion of coal or other fossil fuels, and (2) any other wastes subject to section 8002(n) of RCRA other than those subject to the August 1993 regulatory determination referenced above. The Agency is seeking an extension to the legal deadline for the current regulatory determination.

Timetable:

Action	Date	FR Cite
Notice of Availability	02/12/93	58 FR 8273
Regulatory Determination (Phase I Four Fossil Fuel Wastes)	08/09/93	58 FR 42466
Regulatory Determination (Phase II Remaining Wastes)	04/00/98	

Small Entities Affected: Undetermined

EPA—RCRA

Prerule Stage

Government Levels Affected: Undetermined

Additional Information: SAN No. 3201.

Agency Contact: Dennis Ruddy, Environmental Protection Agency, Solid Waste and Emergency Response, 5302W, Washington, DC 20460
Phone: 703 308-8430

RIN: 2050–AD91

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Proposed Rule Stage

Resource Conservation and Recovery Act (RCRA)

3406. REVISIONS TO THE OIL POLLUTION PREVENTION REGULATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1321; Clean Water Act sec 311(j)(1)(C)

CFR Citation: 40 CFR 112

Legal Deadline: None

Abstract: Following a major inland oil spill with substantial environmental impacts (i.e., Ashland Oil in Floreffe, PA, in January 1988), an interagency task force recommended steps to improve EPA's oil spill prevention program (40 CFR part 112). This program requires oil storage facilities to prevent and contain discharges that could reach waters of the United States. On October 22, 1991, the Agency proposed revisions to implement some of the task force recommendations. This action supplements the 1991 proposed revisions, and proposes to reduce burdens associated with the rule by reducing the recordkeeping provisions or exempting some facilities from some recordkeeping requirements. In proposing these burden reductions, EPA will consider available data on how factors, such as facility type, size, throughput, and location, may affect the threat of discharging oil to waters of the United States.

Timetable:

Action	Date	FR Cite
NPRM	10/22/91	56 FR 54612
Supplemental NPRM	11/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 2634.

Agency Contact: Hugo Fleischman, Environmental Protection Agency, Solid Waste and Emergency Response, (5203G), Washington, DC 20460
Phone: 703 603-8769

RIN: 2050–AC62

3407. REMOVAL OF REQUIREMENT TO USE SW-846 METHODS (TEST METHODS FOR EVALUATING SOLID WASTE: PHYSICAL/CHEMICAL METHODS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921 to 6927; 42 USC 6930; 42 USC 6934 to 6939; 42 USC 6974

CFR Citation: 40 CFR 260.22(d)(1)(i); 40 CFR 261.35(b)(2)(iii)(A); 40 CFR 264.1034(d)(1)(iii); 40 CFR 265.1034(d)(1)(iii); 40 CFR 264.1063(d)(2); 40 CFR 265.1063(d)(2); 40 CFR 266.106(a); 40 CFR 266.112(b)(1) and (2)(I); 40 CFR 270.19(c)(1)(iii) and (iv); 40 CFR 270.62(b)(2)(I)(C) and (D); 40 CFR 270.22(a)(2)(ii)(B); 40 CFR 270.66(c)(2)(I) and (ii)

Legal Deadline: None

Abstract: The EPA Office of Solid Waste (OSW) has been actively working to break down the barriers that the environmental monitoring community faces when trying to use new monitoring techniques. As a first step, OSW has speeded up the process of getting new methods reviewed by EPA and published in SW-846 by chopping 15 months off the proposal to promulgation cycle. This was accomplished by eliminating several unnecessary internal review steps, and by streamlining the internal approval process for each new method.

However, there are currently 14 citations in title 40 of the Code of Federal Regulations (CFR) where the use of SW-846 methods is required. As a second step for speeding up the approval process, OSW plans to remove the requirements to use SW-846 methods for other than method defined parameters (i.e., where the method defines the regulations, such as the Toxicity Characteristic Leaching Procedure) from 40 CFR. This will likely lead to an even more streamlined approval process since SW-846 will then be able to be handled strictly as guidance and not need the regulatory process for approval.

This additional streamlining will permit new, more cost-effective methods to attain public and regulatory authority acceptance in much less time, allowing required monitoring to be done more cheaply, faster and, in some cases, more accurately.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3989.

Agency Contact: Barry Lesnik, Environmental Protection Agency, Solid Waste and Emergency Response, 5307W, Washington, DC 20460
Phone: 703 308-0476
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RIN: 2050–AE41

3408. • STANDARDIZED PERMIT FOR RCRA HAZARDOUS WASTE MANAGEMENT FACILITIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6905; 42 USC 6912; 42 USC 6924; 42 USC 6925; 42 USC 6927; 42 USC 6939; 42 USC 6974

CFR Citation: 40 CFR 124; 40 CFR 264; 40 CFR 270

Legal Deadline: None

Abstract: The Agency, in 1994, convened a special task force to look at permitting activities throughout its different programs and to make specific recommendations to improve these permitting programs. This task force, known as the Permits Improvement Team (PIT), worked with stakeholders from the Agency, state permitting agencies, industry, and the environmental community. The PIT stakeholders mentioned, among other things, that permitting activities should be commensurate with the complexity of the activity. The stakeholders felt that current Agency permitting programs were not flexible enough to allow streamlined procedures for routine permitting activities.

Currently, facilities that store, treat, or dispose of hazardous waste obtain site-specific permits prescribing conditions for each "unit" (e.g. tank, container area, etc.) in which hazardous waste is managed. Experience gained by the Agency and states over the past fifteen years has shown that not all waste management activities are at the same level of complexity. Some activities, such as thermal treatment or land disposal of hazardous waste are more complex than storage of hazardous waste. The Agency feels that thermal treatment and land disposal activities continue to warrant individual permits, prescribing unit-specific conditions. However, the Agency feels that some accommodation can made for hazardous waste management practices in standardized units such as tanks, container storage areas, and containment buildings. These types of units are relatively simple and straightforward when compared to site-specific issues that arise at landfills and operating issues that are common at thermal treatment units. The PIT tentatively recommended, among other things, that regulations be developed to allow "general permits" for on-site storage and treatment of hazardous waste in tanks, containers, and containment buildings. (cont)

Timetable:

Action	Date	FR Cite
NPRM	06/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Sectors Affected: 281 Industrial Inorganic Chemicals; 282 Plastics Materials and Synthetic Resins, Synthetic Rubber, Cellulosic and Other Manmade Fibers, Except Glass; 285 Paints, Varnishes, Lacquers, Enamels, and Allied Products; 286 Industrial Organic Chemicals

Additional Information: SAN No. 4028.

ABSTRACT CONT: This rulemaking will allow a type of general permit, called a "standardized permit", for facilities that generate waste and routinely manage the waste on-site in tanks, containers, and containment buildings. Under the standardized permit, facility owners and operators would certify compliance with generic design and operating conditions set on a national basis. The permitting agency would review the certifications submitted by the facility owners or operators. The permitting agency would also be able to impose additional site-specific terms and conditions for corrective action or other purposes, as called for by RCRA. Ensuring compliance with the standardized permit's terms and conditions would occur during inspection of the facility after the permit has been issued.

Agency Contact: Vernon B. Myers, Environmental Protection Agency, Solid Waste and Emergency Response, 5303W, Washington, DC, 20460
Phone: 703 308-8660
Fax: 703 308-8609

RIN: 2050–AE44

3409. MODIFICATIONS TO THE DEFINITION OF SOLID WASTE AND REGULATIONS OF HAZARDOUS WASTE RECYCLING: GENERAL

Regulatory Plan: This entry is Seq. No. 120 in Part II of this issue of the **Federal Register**.

RIN: 2050–AD18

3410. MANAGEMENT OF CEMENT KILN DUST (CKD)

Regulatory Plan: This entry is Seq. No. 121 in Part II of this issue of the **Federal Register**.

RIN: 2050–AE34

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Final Rule Stage

Resource Conservation and Recovery Act (RCRA)

3411. MERCURY-CONTAINING AND RECHARGEABLE BATTERY MANAGEMENT ACT; CODIFICATION OF WASTE MANAGEMENT PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-142

Legal Deadline: None

Abstract: The purpose of this rule is to codify into the Code of Federal Regulations certain provisions of the Mercury-Containing and Rechargeable Battery Management Act that impact the May 11, 1995 Universal Waste Rule (60 FR 25492). The Act was signed by the President on May 13, 1996 and became immediately effective nationwide on the date of signature. Specifically, one provision of the law requires the collection, storage, and transportation of the following types of batteries be managed according to standards established in the Universal Waste rule: used rechargeable batteries, lead-acid batteries not covered by 40 CFR Part 266, rechargeable alkaline batteries, certain mercury-containing batteries banned from domestic sale, and used consumer products containing rechargeable batteries that are not easily removable. The law prohibits State imposed requirements that are not identical to those found in the final Federal universal waste rule, but allows States to adopt and enforce identical standards for labeling and to implement and enforce collection, storage, and transport requirements identical to those included in the universal waste rule.

The costs of this action should be minimal to the regulated industry since the community regulated by the law -- battery manufacturers, industries that use batteries in their consumer products, and the retail industry -- all support the law. In addition, the regulated community has rechargeable battery recycling programs already in place and such recycling programs are in compliance with the labeling and management provisions of the law. Second, most States have state rechargeable battery recycling statutes in place but their recycling programs vary to some degree with respect to labeling and management requirements. Therefore, modifications to State statutes for rechargeable battery recycling will be necessary, but not costly.

Timetable:

Action	Date	FR Cite
Direct Final	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: SAN No. 3888.

Agency Contact: Bryan Groce, Environmental Protection Agency, Solid Waste and Emergency Response, 5304W, Washington, DC 20460
Phone: 703 308-8750
Fax: 703 308-0522

RIN: 2050–AE39

3412. HAZARDOUS WASTE MANAGEMENT SYSTEM: POST-CLOSURE REQUIREMENTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6926; Resource Conservation Recovery Act sec 3006; 42 USC 6912(a); Resource Conservation Recovery Act sec 2002(a); 42 USC 6924; Resource Conservation Recovery Act sec 3004; 42 USC 6925; Resource Conservation Recovery Act sec 3005

CFR Citation: 40 CFR 264; 40 CFR 265; 40 CFR 270; 40 CFR 124

Legal Deadline: None

Abstract: Under the current RCRA regulations, a facility that needs post-closure care must obtain a permit. In many cases, the post-closure permit is an appropriate mechanism for the regulatory agency to use to address the environmental needs at the facility. In other cases, however, a permit may not be appropriate. And, in some cases, the facility's post-closure care needs may have already been addressed through other legal mechanisms, such as enforcement actions or Superfund actions. In these cases, subsequent issuance of a post-closure permit would not provide any environmental benefit, although, under the current regulations, it is still required. This rule would remove the requirements to issue a permit to address post-closure care in all cases. A permit would remain an option, but EPA Regions and authorized States would be able to use other mechanisms as well, depending on the circumstances at the facility.

Timetable:

Action	Date	FR Cite
NPRM	11/08/94	59 FR 55778
Final	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3042.

Agency Contact: Barbara Foster, Environmental Protection Agency, Solid Waste and Emergency Response, 5303W, Washington, DC 20460
Phone: 703 308-7057

RIN: 2050–AD55

3413. LISTING DETERMINATION FOR HAZARDOUS WASTES—ORGANOBROMINES CHEMICAL INDUSTRY

Priority: Other Significant

Legal Authority: 42 USC 6922; Resource Conservation Recovery Act sec 3001; 42 USC 9602; Superfund (CERCLA) sec 102; 33 USC 1361; Superfund (CERCLA) sec 311

CFR Citation: 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 271; 40 CFR 302

Legal Deadline:
Final, Judicial, April 15, 1998.

Abstract: This action proposes to list as a hazardous waste under RCRA one additional waste stream generated during the production of organobromine compound chemicals used as fire retardants. These wastes would then have to be managed in accordance with the RCRA hazardous waste requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/11/94	59 FR 24530
Final	04/00/98	

Small Entities Affected: None

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 3065.

Agency Contact: Anthony Carroll, Environmental Protection Agency, Solid Waste and Emergency Response, 5304W, Washington, DC 20460
Phone: 703 308-0458

RIN: 2050–AD79

3414. RCRA SUBTITLE D CORPORATE FINANCIAL TEST AND GUARANTEE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6907; Resource Conservation Recovery Act sec 1008; 42 USC 6912(a); Resource Conservation Recovery Act sec 2002(a); 42 USC 6944; Resource Conservation Recovery Act sec 4004; 42 USC 6945(c); Resource Conservation Recovery Act sec 4005(c); 42 USC 6949a; Resource Conservation Recovery Act sec 4010

CFR Citation: 40 CFR 258

Legal Deadline: None

Abstract: On October 9, 1991 the Agency promulgated revised criteria for municipal solid waste landfills (MSWLFs) which included financial assurance requirements to ensure that adequate funds are readily available to cover the costs of closure, post-closure care, and corrective action associated with MSWLFs without incurring government response costs. On October 12, 1994, EPA proposed to add a corporate financial test to the financial assurance mechanisms currently available to owners and operators of RCRA Subtitle D MSWLFs. In the proposal, EPA estimated that the rule would save owners and operators of MSWLFs approximately $45 million annually by allowing the use of a financial test rather than more expensive mechanisms such as surety bonds or letters of credit. The rule would have no impacts on local governments and could be implemented by state governments.

Timetable:

Action	Date	FR Cite
NPRM	10/12/94	59 FR 51523
Final	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3179.

Agency Contact: Dale Ruhter, Environmental Protection Agency, Solid Waste and Emergency Response, 5303W, Washington, DC 20460 Phone: 703 308-8192

RIN: 2050–AD77

3415. LISTING DETERMINATION OF WASTES GENERATED DURING THE MANUFACTURE OF AZO, ANTHRAQUINONE, AND TRIARYLMETHANE DYES AND PIGMENTS

Priority: Other Significant

Legal Authority: 42 USC 6921; Resource Conservation Recovery Act sec 3001; 42 USC 9602; Superfund (CERCLA) sec 102

CFR Citation: 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 271; 40 CFR 302

Legal Deadline:
Other, Judicial, December 15, 1997, Notice of Data Availability.
Final, Judicial, February 15, 1999.

Abstract: This action addresses the potential human health and environmental risks posed by wastes from the manufacture of dyes and pigments, and determines whether these wastes should be listed as hazardous wastes under RCRA to control any unacceptable risks. If listed under RCRA, these wastes would also be added to to the CERCLA list of hazardous substances. This action will be implemented by EPA and States authorized under RCRA. Impacts on local governments are not expected, and small business impacts are undetermined at this time. Two waste streams are subject to later deadlines for proposed and final action. The date for the final rule is based on recent settlement discussions with plaintiffs in EDF v. Browner, Civil Action No. 89-0598 D.D.C.

Timetable:

Action	Date	FR Cite
NPRM	12/22/94	59 FR 66072
NODA (Notice of Data Availability)	12/00/97	
Final	02/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 3066.

Agency Contact: Robert Kayser, Environmental Protection Agency, Solid Waste and Emergency Response, 5304W, Washington, DC 20460 Phone: 703 308-7304

RIN: 2050–AD80

3416. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE: PETROLEUM REFINING PROCESS WASTES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6921; Resource Conservation Recovery Act sec 3001; 42 USC 9602; Superfund (CERCLA) sec 102

CFR Citation: 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 271; 40 CFR 302

Legal Deadline:
Final, Judicial, May 29, 1998.

Abstract: This action addresses the potential human health and environmental risks posed by 14 waste streams from petroleum refining processes, and determines whether these wastes should be listed as hazardous wastes under RCRA. If listed under RCRA, these wastes would also be added to the CERCLA list of hazardous substances. As part of this action, the Agency is considering opportunities for source reduction, recycling, reclamation or reuse in other manufacturing processes. This action will be implemented by EPA and authorized States under RCRA. Impacts on small business are expected but are not significant.

Timetable:

Action	Date	FR Cite
NPRM	11/20/95	60 FR 57747
Interim Notice of Data Availability	04/08/97	62 FR 16747
Final	05/00/98	

Small Entities Affected: Businesses

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 3084.

Agency Contact: Maximo (Max) Diaz, Jr., Environmental Protection Agency, Solid Waste and Emergency Response, 5304W, Washington, DC 20460 Phone: 703 308-0439

RIN: 2050–AD88

3417. REVISED STANDARDS FOR HAZARDOUS WASTE COMBUSTION FACILITIES

Regulatory Plan: This entry is Seq. No. 135 in Part II of this issue of the **Federal Register**.

RIN: 2050–AE01

3418. LAND DISPOSAL RESTRICTIONS—PHASE IV: PAPERWORK REDUCTION; TREATMENT STANDARDS FOR WOOD PRESERVING, MINERAL PROCESSING AND CHARACTERISTIC METAL WASTES; RELATED MINERAL PROCESSING ISSUES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6905; Resource Conservation Recovery Act sec 1006; 42 USC 6912(a); Resource Conservation Recovery Act sec 2002(a); 42 USC 6921; Resource Conservation Recovery Act sec 3001; 42 USC 6924; Resource Conservation Recovery Act sec 3004

CFR Citation: 40 CFR 148; 40 CFR 261; 40 CFR 266; 40 CFR 268; 40 CFR 271

Legal Deadline:
Final, Judicial, April 15, 1998, Mineral Processing and Characteristic Metal Wastes.

Abstract: The Hazardous and Solid Waste Amendments of 1984 require the Environmental Protection Agency (EPA) to promulgate regulations establishing treatment standards that must be met before hazardous waste may be disposed of on land. This rulemaking establishes treatment standards for characteristic mineral processing wastes, wood preserving wastes, and TC metal wastes. It also addresses changes to the definition of solid waste for mineral processing secondary materials which are recycled within the mineral processing industry sector.

Timetable:

Action	Date	FR Cite
ANPRM	10/24/91	56 FR 55160
NPRM	08/22/95	60 FR 43654
Supplemental NPRM	01/25/96	61 FR 2338
Final (Wood Preserving Wastes)	05/12/97	62 FR 25998
Supplemental NPRM (Mineral Processing and Characteristic Metal Wastes)	05/12/97	62 FR 26041
Final (Mineral Processing and Characteristic Metal Wastes)	04/00/98	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 3366.

Agency Contact: Sue Slotnick, Environmental Protection Agency, Solid Waste and Emergency Response, 5302W, Washington, DC 20460 Phone: 703 308-8462

RIN: 2050–AE05

3419. REQUIREMENTS FOR MANAGEMENT OF HAZARDOUS CONTAMINATED MEDIA COMMONLY REFERRED TO AS HAZARDOUS WASTE IDENTIFICATION RULE FOR CONTAMINATED MEDIA OR HWIR-MEDIA

Regulatory Plan: This entry is Seq. No. 136 in Part II of this issue of the **Federal Register**.

RIN: 2050–AE22

3420. RCRA SUBTITLE C FINANCIAL TEST CRITERIA (REVISION)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6905; Resource Conservation Recovery Act sec 1006; 42 USC 6912(a); Resource Conservation Recovery Act sec 2002(a); 42 USC 6924; Resource Conservation Recovery Act sec 3004; 42 USC 6925; Resource Conservation Recovery Act sec 3005; 42 USC 6926; Resource Conservation Recovery Act sec 3006

CFR Citation: 40 CFR 264; 40 CFR 265; 40 CFR 280; 40 CFR 761

Legal Deadline: None

Abstract: The revised financial responsibility test is intended to improve the current test in predicting which firms will enter bankruptcy and not be able to cover their financial obligations for liability and closure costs of hazardous waste treatment, storage and disposal facilities. A bankrupt firm may be unable to afford the proper closure of a facility which would require the government to incur response costs at the facility. The rule would also qualify owners and operators of RCRA Treatment, Storage, and Disposal Facilities which must currently use more expensive ways, such as surety bonds or letters of credit, of demonstrating financial assurance, to use the less expensive corporate financial responsibility test for more of their obligations. The combined savings from screening out riskier firms and making the test more available to viable firms would be approximately $19 million annually in public and private costs. These regulatory amendments would have no effect on local or tribal governments.

Timetable:

Action	Date	FR Cite
NPRM	07/01/91	56 FR 30201
NPRM	10/12/94	59 FR 51523
Final	08/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 2647.

Agency Contact: Dale Ruhter, Environmental Protection Agency, Solid Waste and Emergency Response, 5303W, Washington, DC 20460 Phone: 703 308-8192

RIN: 2050–AC71

3421. RCRA SUBTITLE D SOLID WASTE FACILITIES; STATE PERMIT PROGRAM—DETERMINATION OF ADEQUACY (STATE IMPLEMENTATION RULE)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6945; Resource Conservation Recovery Act sec 4005; 42 USC 6912; Resource Conservation Recovery Act sec 2002

CFR Citation: 40 CFR 239

Legal Deadline: None

Abstract: This rule will establish criteria and procedures for EPA to use to determine whether State municipal solid waste (MSW) landfill permit programs and State permit programs relating to non-municipal, non-hazardous waste disposal units that receive conditionally exempt small quantity generator (CESQG) waste are adequate to ensure compliance with the federal revised criteria in 40 CFR parts 258 and 257, subpart B, respectively. While the federal revised criteria apply to all MSW landfills and non-municipal, non-hazardous waste disposal units receiving CESQG waste, States with permit programs deemed adequate under this rule can provide some flexibility on certain requirements to owners and operators who meet the revised criteria's performance standards. In providing this flexibility, this action offers an opportunity to reduce the regulatory burden on State and local governments and on landfill owners and operators.

Timetable:

Action	Date	FR Cite
NPRM	01/26/96	61 FR 2584
Final	11/00/97	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: SAN No. 2751.

Agency Contact: Karen Rudek, Environmental Protection Agency, Solid Waste and Emergency Response, 5306W, Washington, DC 20460 Phone: 703 308-1682

RIN: 2050–AD03

3422. REVISIONS TO THE COMPREHENSIVE GUIDELINE FOR PROCUREMENT OF PRODUCTS CONTAINING RECOVERED MATERIALS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6912(a); Resource Conservation Recovery Act sec 6002(e)

CFR Citation: 40 CFR 247

Legal Deadline: None

Abstract: RCRA section 6002 requires EPA to issue guidelines which designate items that are or can be made

EPA—RCRA

Final Rule Stage

with recovered materials and to recommend practices for government procurement of these materials. Once designated, procuring agencies are required to purchase these items with the highest percentage of recovered materials practicable. On May 1, 1995, under RCRA and Executive Order 12873, "Federal Acquisition, Recycling, and Waste Prevention," EPA designated 19 items in a Comprehensive Procurement Guideline (CPG) (60 FR 21370). EPA also issued purchasing recommendations in a related Recovered Materials Advisory Notice (RMAN) (60 FR 21386). The Order requires EPA to update the CPG and issue RMANs annually. On November 7, 1996, EPA proposed the first update to the CPG (CPG2), in which 13 additional items would be designated, and additional recommendations would be discussed in a RMAN. The new actions would: (1) finalize the designations proposed on 11/7/96 and, (2) propose the second update to the CPG (CPG3), including recommendations in RMANs.

Timetable:

Action	Date	FR Cite
NPRM (CPG2)	11/07/96	61 FR 57748
Final (CPG2)	11/00/97	
NPRM (CPG3)	12/00/97	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3545.

Agency Contact: Terry Grist, Environmental Protection Agency, Solid Waste and Emergency Response, 5306W, Washington, DC 20460 Phone: 703 308-7257

RIN: 2050–AE23

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Long-Term Actions

Resource Conservation and Recovery Act (RCRA)

3423. • PROPOSED MODIFICATIONS TO HAZARDOUS WASTE STORAGE AND DISPOSAL REGULATION RELATED TO LOW LEVEL MIXED WASTE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6922; 42 USC 6924; 42 USC 6926

CFR Citation: 40 CFR 261.4; 40 CFR 262.34

Legal Deadline:
NPRM, Judicial, October 31, 1999.
Final, Judicial, April 30, 2001.

Abstract: EPA is considering a regulatory exclusion from the hazardous waste disposal requirements for low level mixed waste (LLMW). EPA will determine whether the disposal of LLMW in facilities designed to address radiological hazards under the Atomic Energy Act (AEA) will provide adequate protection of human health and the environment from the chemical hazards of LLMW. If the Agency decides that such disposal is protective, EPA will propose that for the purposes of disposal these wastes be excluded from being identified and regulated as hazardous waste. EPA is formulating the scope and form of the exclusion and will propose the action in the regulatory proposal. Currently LLMW is regulated under multiple authorities: by RCRA, as implemented by EPA or authorized States for chemically hazardous constituents, and the AEA for radiological constituents of mixed waste implemented by either the Department of Energy (DOE) for waste generated by DOE or the Nuclear Regulatory Commission (NRC) or its agreement States for all other mixed waste. Commercial mixed waste generators, particularly nuclear power plants, have raised the concern that AEA and RCRA requirements for mixed waste overlap, are potentially inconsistent, costly, and potentially unnecessary. DOE has similar concerns. Nuclear power plants contend that low level radioactive waste disposal facilities designed and licensed pursuant to the AEA offer human health and environmental protection similar to that required by RCRA for chemical hazards. See Additional Information.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	
Final	04/00/01	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Sectors Affected: 491 Electric Services

Additional Information: SAN No. 4017.

Abstract continued: DOE has made a similar contention for the disposal of certain LLMW that DOE would treat using vitrification and immobilization technologies. Furthermore, there is a serious shortage of disposal capacity for LLMW. The only LLMW disposal facility having both a RCRA permit and an AEA license does not accept much of the LLMW being generated by DOE or the commercial sector.

EPA is also considering alternatives to current EPA regulations applicable to mixed waste storage. NRC regulations also apply to the storage of commercial mixed waste. Current RCRA regulation prohibits indefinite storage of waste containing hazardous constituents, despite the lack of treatment technology or disposal capacity for some mixed waste.

Through this rulemaking action, EPA seeks to explore regulatory alternatives that could provide regulatory relief for LLMW from hazardous waste disposal and storage requirements, while ensuring protection of human health and the environment.

Agency Contact: Rajani Joglekar, Environmental Protection Agency, Solid Waste and Emergency Response, 5304W, Washington, DC, 20460 Phone: 703 308-8806 Fax: 703 308-7903 Email: joglekar.rajani@epamail.epa.gov Adam Klinger, Environmental Protection Agency, Solid Waste and Emergency Response, 5304W, Washington, DC, 20460 Phone: 703 308-3267 Fax: 703 308-0514 Email: klinger.adam@epamail.epa.gov

RIN: 2050–AE45

EPA—RCRA

Long-Term Actions

3424. FACILITY RESPONSE PLANNING FOR DELEGATED OFFSHORE FACILITIES

Priority: Other Significant

CFR Citation: 40 CFR 112

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Bobbie Lively-Diebold Phone: 703 356-8774

RIN: 2050–AE18

3425. STANDARDS FOR THE MANAGEMENT AND USE OF SLAG RESIDUES DERIVED FROM HIGH TEMPERATURE METALS RECOVERY (HTMR) TREATMENT OF KO61, KO62 AND F0006 WASTES

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 261; 40 CFR 266

Timetable:

Action	Date	FR Cite
NPRM	12/29/94	59 FR 67256
Final	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Narendra K. Chaudhari Phone: 703 308-0454

RIN: 2050–AE15

3426. HAZARDOUS WASTE MANAGEMENT SYSTEM: IDENTIFICATION AND LISTING OF HAZARDOUS WASTE; RECYCLED USED OIL MANAGEMENT STANDARDS

Priority: Other Significant

CFR Citation: 40 CFR 279

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Tom Rinehart Phone: 703 308-4309

RIN: 2050–AE28

3427. PAINT MANUFACTURING WASTES LISTING: HAZARDOUS WASTE MANAGEMENT SYSTEM: IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 40 CFR 261; 40 CFR 271; 40 CFR 302

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State, Tribal, Federal

Agency Contact: Dr. Cate Jenkins Phone: 703 308-0453 Fax: 703 308-0514

RIN: 2050–AE32

3428. REVIEW OF TOXICITY CHARACTERISTIC LEVEL FOR SILVER UNDER THE RESOURCE CONSERVATION RECOVERY ACT (RCRA)

Priority: Info./Admin./Other

CFR Citation: 40 CFR 261; 40 CFR 268

Timetable:

Action	Date	FR Cite
Pre-Rule	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Tamara Irvin Phone: 703 308-8807 Fax: 703 308-0522

RIN: 2050–AE37

3429. IDENTIFICATION AND LISTING OF HAZARDOUS WASTES: HAZARDOUS WASTE IDENTIFICATION RULE (HWIR); WASTE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 264; 40 CFR 268

Timetable:

Action	Date	FR Cite
NPRM	05/20/92	57 FR 21450
NPRM Withdrawn	10/30/92	57 FR 49280
NPRM Reproposal	12/21/95	60 FR 66344
NPRM Reproposal	10/00/99	
Final	04/00/01	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: William A. Collins, Jr. Phone: 703 308-8748

RIN: 2050–AE07

3430. SPENT SOLVENTS LISTING DETERMINATION

Priority: Other Significant

CFR Citation: 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 271; 40 CFR 302

Timetable:

Action	Date	FR Cite
NPRM	08/14/96	61 FR 42318
Final	10/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: State, Tribal, Federal

Agency Contact: Ron Josephson Phone: 703 308-0442

RIN: 2050–AD84

3431. CHLORINATED ALIPHATICS LISTING DETERMINATION

Priority: Other Significant

CFR Citation: 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 271; 40 CFR 302

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: State, Tribal, Federal

Agency Contact: Wanda Levine Phone: 703 308-0438

RIN: 2050–AD85

3432. FINAL DETERMINATION OF THE APPLICABILITY OF THE TOXICITY CHARACTERISTIC RULE TO UNDERGROUND STORAGE TANKS, CONTAMINATED MEDIA, AND DEBRIS

Priority: Other Significant

CFR Citation: 40 CFR 261

Timetable:

Action	Date	FR Cite
NPRM	02/12/93	58 FR 8504
Final	12/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Heffelfinger
Phone: 703 603-7157

RIN: 2050–AD69

3433. HAZARDOUS WASTE MANAGEMENT SYSTEM; MODIFICATION OF THE HAZARDOUS WASTE PROGRAM; MERCURY-CONTAINING LAMPS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 261

Timetable:

Action	Date	FR Cite
NPRM	07/27/94	59 FR 38286
Final	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Rita Cestaric
Phone: 703 308-0769

RIN: 2050–AD93

3434. HAZARDOUS WASTE MANIFEST REGULATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 263; 40 CFR 264; 40 CFR 265; 40 CFR 270; 40 CFR 271

Timetable:

Action	Date	FR Cite
NPRM	10/00/98	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Tribal, Federal

Agency Contact: Ann Codrington
Phone: 703 308-8825
Rich Lashier
Phone: 703 308-8796

RIN: 2050–AE21

3435. CORRECTIVE ACTION FOR SOLID WASTE MANAGEMENT UNITS (SWMUS) AT HAZARDOUS WASTE MANAGEMENT FACILITIES

Priority: Economically Significant. Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 264; 40 CFR 270

Timetable:

Action	Date	FR Cite
NPRM	07/27/90	55 FR 30798
Final Rule (Phase I)	02/16/93	58 FR 8658
ANPRM	05/01/96	61 FR 19432
Final	12/00/98	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Hugh Davis
Phone: 703 308-8633

RIN: 2050–AB80

3436. UNDERGROUND STORAGE TANKS CONTAINING HAZARDOUS SUBSTANCES—FINANCIAL RESPONSIBILITY REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 280

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local

Agency Contact: Mark Barolo
Phone: 703 603-7141

RIN: 2050–AC15

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Resource Conservation and Recovery Act (RCRA)

Completed Actions

3437. FLEXIBILITY IN MANAGEMENT CRITERIA FOR SMALL MUNICIPAL SOLID WASTE LANDFILLS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 258

Completed:

Reason	Date	FR Cite
Direct Final - Flexibility for MSWLFs	07/29/97	62 FR 40708

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Agency Contact: Allen Geswein
Phone: 703 308-7261

RIN: 2050–AE24

3438. NEW AND REVISED TESTING METHODS APPROVED FOR RCRA SUBTITLE C, HAZARDOUS WASTE TESTING MANUAL, SW-846, THIRD EDITION, UPDATE IV

Priority: Info./Admin./Other

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 264; 40 CFR 265; 40 CFR 268; 40 CFR 270

Completed:

Reason	Date	FR Cite
Withdrawn - No Further Regulatory Action Planned	10/03/97	

Small Entities Affected: None

Government Levels Affected: State, Tribal, Federal

Agency Contact: Kim Kirkland
Phone: 703 308-0490

RIN: 2050–AE25

3439. NEW AND REVISED TESTING METHODS APPROVED FOR RCRA SUBTITLE C, IN TEST METHODS FOR EVALUATING SOLID WASTE, PHYSICAL/CHEMICAL METHODS (SW-846), THIRD EDITION, UPDATE III

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 264; 40 CFR 265; 40 CFR 268; 40 CFR 270

Completed:

Reason	Date	FR Cite
Final Action	06/13/97	62 FR 32452

Small Entities Affected: None

Government Levels Affected: State, Tribal, Federal

Agency Contact: Kim Kirkland
Phone: 703 308-0490

RIN: 2050–AE14

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Clean Air Act (CAA)

Prerule Stage

3440. CONSOLIDATED EMISSION REPORTING RULE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410(a)(2)

CFR Citation: 12 CFR sec 120.2(d)(4); 40 CFR 51.321 to 323

Legal Deadline: None

Abstract: Three sections of the Clean air Act and its amendments require state agencies to report emission estimates to EPA. Some of these sections contain obsolete wording, inconsistent instructions, and duplicate reporting requirements. This Rule will consolidate the requirements into one area, eliminate obsolete wording, eliminate duplicate reporting requirements, and provide options for collecting and reporting data. There will be no impact on small businesses. State agencies will continue to report the same, or reduced, amounts of data to EPA. The rule will provide for flexibility in collecting and reporting data. There will be no affect on local agencies.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/97	
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: SAN No. 3966.

Agency Contact: Steven Bromberg, Environmental Protection Agency, Air and Radiation, MD-14, Research Triangle Park,NC 27711
Phone: 919 514-1008
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RIN: 2060–AH25

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Clean Air Act (CAA)

Proposed Rule Stage

3441. STATE IMPLEMENTATION PLAN CALLS FOR CERTAIN STATES IN THE OZONE TRANSPORT ASSESSMENT GROUP (OTAG) FOR PURPOSES OF REDUCING REGIONAL TRANSPORT OZONE

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 7410(a)(2)(D); 42 USC 7410(k)(5)

CFR Citation: 40 CFR 51; 40 CFR 52a

Legal Deadline: Other, Judicial, See additional information.

Abstract: Ozone and ozone precursors are transported across the north eastern United States. The Ozone Transport Assessment Group (OTAG) was formed in 1995 to document the amount and extent of this transport and to develop control recommendations. The OTAG is a collaborative process conducted by the affected States. The OTAG also includes representatives from EPA and interested members of the public, including environmental groups and industry, to evaluate the ozone transport problem and the development of solutions. Controls are intended to reduce the ozone and ozone precursors "blowing into" the nonattainment areas and allow the impacted States to design local control programs that they can consider in their strategies. The mandate for reductions is "underpinned" by the EPA action taken to declare existing SIPs inadequate and to require the OTAG reductions to be implemented in all necessary States with both attainment and nonattainment areas.

Timetable:

Action	Date	FR Cite
Notice of Intent	01/10/97	62 FR 1422
NPRM	10/00/97	
Final	09/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3945.

Active litigation on ozone nonattainment plans for serious and severe nonattainment areas. Sect. 126 petitions involved as are dates contained in Mary Nichols' Memorandum entitled "Ozone Attainment Demonstrations" 3/2/95.

Agency Contact: Kimber Scavo, Environmental Protection Agency, Air and Radiation, MD-15, Research Triangle Park, NC 27711
Phone: 919 541-3354
Fax: 919 541-0824
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RIN: 2060–AH10

3442. TECHNICAL AMENDMENTS FOR NON-ROAD COMPRESSION IGNITION ENGINES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7521; 42 USC 7522; 42 USC 7573; 42 USC 7524; 42 USC 7541; 42 USC 7542; 42 USC 7543; 42 USC 7547; 42 USC 7549; 42 USC 7550; 42 USC 7601(a)

CFR Citation: 40 CFR 89

Legal Deadline: None

Abstract: This action will amend the existing regulation. These amendments are need to correct problems discovered during the first year of implementation. Also the rule will be harmonized with California and European Rules.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3915.

Agency Contact: Greg Orehowsky, Environmental Protection Agency, Air and Radiation, 6403J, Washington, DC 20460
Phone: 202 233-9292
Fax: 202 233-9596

RIN: 2060–AH33

3443. STREAMLINED EVAPORATIVE TEST PROCEDURES

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 86 (Revision)

Legal Deadline: None

Abstract: This action will streamline the test procedure used to establish compliance with evaporative emission requirements for light duty vehicles and trucks. The current test procedure requires both tow and three day diurnal emission tests; as well as running lost testing. The revisions will delete the three day requirement and add flexibilities for running loss compliance. This will enable manufacturers to save significant resources without any loss in environmental benefits.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3910.

Agency Contact: Lynn Sohacki, Environmental Protection Agency, Air and Radiation, NFEVL, Ann Arbor, MI 48105
Phone: 313 741-7851

RIN: 2060–AH34

3444. REVIEW OF DEFINITION OF VOLATILE ORGANIC COMPOUNDS—EXCLUSION OF CHLOROBROMOMETHANE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 51.100(s)

Legal Deadline: None

Abstract: EPA has received a petition to add chlorobromomethane to the list of compounds considered negligibly reactive in the definition of VOC in 40 CFR 51.100 (s). This would remove this compound from regulation as a VOC. Some available data suggest classification as "negligibly reactive". However, additional technical review is underway. EPA plans to make a decision after this technical review is completed.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	
Final	09/00/98	

Small Entities Affected: None

Government Levels Affected: State

Sectors Affected: 286 Industrial Organic Chemicals

Additional Information: SAN No. 3944.

Agency Contact: Robert L. Stallings, Environmental Protection Agency, Air and Radiation, MD-15, Research Triangle Park, NC 27711
Phone: 919 541-7649

RIN: 2060–AH39

3445. AMENDMENT TO URBAN BUS RETROFIT/REBUILD PROGRAM REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7521; 42 USC 7522; 42 USC 7524; 42 USC 7525; 42 USC 7541; 42 USC 7542; 42 USC 7546; 42 USC 7554; 42 USC 7601(a)

CFR Citation: 40 CFR 85 Subpart O

Legal Deadline: None

Abstract: This action addresses a shortcoming in one of the two compliance options of the urban bust retrofit/rebuild program. The action provides assurance that the two options remain equivalent in terms of particulate matter reduction and cost. As intended by the original regulation. Also, it will assure that affected urban buses utilize the "best retrofit technology...reasonably achievable" as congress required in the Clean Air Act.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3916.

Agency Contact: Tom Stricker, Environmental Protection Agency, Air and Radiation, 6403J, Washington, DC 20460
Phone: 202 233-9322
Fax: 202 233-9596

RIN: 2060–AH45

3446. • REVISIONS TO NEW SOURCE REVIEW (NSR) REGULATIONS TO IMPLEMENT THE NEW NATIONAL AMBIENT AIR QUALITY STANDARDS (NAAQS) FOR OZONE AND PARTICULATE MATTER

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 51.160 to 165; 40 CFR 52.24

Legal Deadline: None

Abstract: The Clean Air Act requires that construction permit programs for new or modified major stationary sources of air pollution be established for areas not attaining the NAAQS. Regulations setting forth requirements for State and Federal permitting programs are found at 40 CFR 51.160-165 and 52.21, respectively.

The proposed regulations implement preconstruction permit requirements for new or modified major stationary sources locating in areas that do not meet the new NAAQS for ozone or particulate. Likewise, States with these nonattaining areas must revise their state plans and submit the changes to EPA for approval. The rules are intended to implement the major NSR provisions in a flexible, common sense, cost-effective, and non-burdensome manner. The EPA will continue to work with other Federal agencies, State and local governments, small businesses, industry, and environmental and public health groups to develop the requirements.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	
Final	12/00/98	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 4046.

Agency Contact: David Solomon, Environmental Protection Agency, Air and Radiation, MD -12, Research Triangle Park, NC 27711
Phone: 919 541-5375

RIN: 2060–AH53

3447. • PROTECTION OF STRATOSPHERIC OZONE: INTERPRETATION OF METHYL BROMIDE LABELING REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: CAA 602; 604; 611

Legal Deadline:
Final, Judicial, December 15, 1997, Consent decree with Natural Resources Defense Council (NRDC).

Abstract: This action would clarify EPA's interpretation, made by regulation promulgated in 1993, regarding the application of the ozone-depleting substances labeling rule, also promulgated in 1993, to foodstuffs manufactured with methyl bromide, as defined in 40 CFR 82.104(o). The interpretation would clarify that products manufactured with methyl bromide will be subject to labeling requirements on the same basis as all other products, except that raw food commodities grown for the fresh food market will continue to be categorically exempt from any labeling requirement.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 4035.

It is OAR's interpretation that this clarification will not result in practical changes to the existing application of the labeling rule to foodstuffs manufactured with methyl bromide since existing exclusions from the definition of "manufactured with" under the labeling rule apply to most post-harvest uses of methyl bromide on foodstuffs.

Agency Contact: Carol Weisner, Environmental Protection Agency, Air and Radiation, 6205J, Washington, DC 20460
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RIN: 2060–AH54

3448. • CLEAN FUEL FLEET PROGRAM; RULE AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410; 42 USC 7586

CFR Citation: 40 CFR 88'301-93

Legal Deadline: None

Abstract: The Clean Air Act Amendments (CAAA) of 1990 mandated the implementation of a fuel-neutral Clean Fuel Fleet Program (CFFP) beginning in Model Year 98(MY98) for those nonattainment areas designated as serious, severe or extreme or with a design value above 16.0 ppm for carbon monoxide. The act, however, specifically prohibits the Environmental Protection Agency (EPA) from requiring vehicle manufacturers to produce clean fuel fleet vehicles (CFV). We believe that Congress governing vision is establishing the CFF provisions was to encourage the alternative fuel market and provide states an incentive to promote the use of CFV's in centrally-fueled fleets. While EPA believes these congressional goals are both worthwhile and attainable, we realize that there may be a shortage of CFV's to meet the current needs of some fleets in the covered areas and that MY98 may not be an achievable start date for all areas. This action will extend the program implementation deadline from the current MY98 until MY99.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Direct Final	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 351 Engines and Turbines

Additional Information: SAN No. 4042.

Agency Contact: Sally Newstead, Environmental Protection Agency, Air and Radiation, Ann Arbor, MI 48105
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RIN: 2060–AH56

3449. • REGULATION OF FUELS AND FUEL ADDITIVES: PROPOSED MINOR REVISIONS TO SELECTED RECORDKEEPING AND ENFORCEMENT PROVISIONS UNDER THE REGULATION OF DEPOSIT CONTROL GASOLINE ADDITIVES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: Sections 114 of the Clean Air Act as amended; 42 USC 7545 (c) and (k)

CFR Citation: 40 CFR 80.170 (f)(7)

Legal Deadline: None

Abstract: Under the current regulations on the certification of gasoline deposit control additives (detergents), information on the oxygenate content of the gasoline must be included in the required product transfer documents (PTDs). Since publication of the detergent certification final rule, EPA has learned that compliance with this requirement would result in unnecessary disruption to the gasoline distribution system. EPA exercised its enforcement discretion and announced by letter to industry that it would temporarily not enforce the PTD oxygenate identification requirement pending resolution of the issue through a rulemaking or until September 3, 1997, whichever occurrence came first. In this notice, EPA is proposing to

remove this requirement. A party who wants to use a detergent additive that is restricted in use with respect to oxygenates would be responsible for determining the oxygenate content of the gasoline involved. This proposal would continue to ensure that detergents with oxygenate restrictions are used in compliance with such restrictions, and would avoid the unnecessary disruption to the gasoline distribution system which would occur under the current regulations. For certain transfers of base gasoline, EPA is also proposing to allow the use of product codes in lieu of regulatory warning language concerning applicable limitations on the sale and use of such gasolines. These proposals are expected to provide industry additional flexibility resulting in reduced compliance costs, while ensuring the proper use of use-restricted detergents and base gasoline. There are no new information collection requirements accompanying these proposed changes. These proposals will not affect the air quality benefits from EPA's detergent additive program.

Timetable:

Action	Date	FR Cite
Final Rule Detergent Certification Program	07/05/96	61 FR 35309
NPRM Amendments to Detergent Certification Program	10/00/97	
Final Rule Amendments to Detergent Certification Program	06/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 4010.

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RIN: 2060–AH57

3450. • RULEMAKING TO MODIFY THE LIST OF SOURCE CATEGORIES FROM WHICH FUGITIVE EMISSIONS ARE CONSIDERED IN MAJOR SOURCE DETERMINATIONS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 302(j) of the Clean Air Act

CFR Citation: 40 CFR 51; 40 CFR 52; 40 CFR 70; 40 CFR 71

Legal Deadline: None

Abstract: This rulemaking will expand the list of source categories for which fugitive emissions are to be considered in major source determinations under the New Source Review (Prevention of Significant Deterioration and Nonattainment New Source Review) and title V programs. As provided by 302(j) of the Act, EPA adopted rules on August 7, 1980 that require, for specific source categories, the inclusion of fugitive emissions when determining if a stationary source is a major source.

In the preamble to the 1980 rulemaking, the EPA limited the scope of the list category to categories which were being regulated under sections 111 or 112 as of the effective date of the rulemaking, i.e., August 7, 1980. EPA indicated that at the time of any future rulemaking proposing to regulate additional categories of sources under sections 111 or 112, the EPA would conduct a parallel rulemaking under section 302(j) to state that fugitive emissions from sources within these source categories needed to be considered in determining whether the sources were major stationary sources. EPA did not conduct these parallel rulemakings as intended and is now conducting a rulemaking pursuant to section 302(j) to address the source categories which became subject to section 111 and 112 standards after August 7, 1980.

Timetable:

Action	Date	FR Cite
NPRM	06/00/98	
Final	12/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 4045.

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RIN: 2060–AH58

3451. • TRANSPORTATION CONFORMITY FOR TRANSITIONAL OZONE AREAS

Priority: Other Significant

Legal Authority: 42 USC 7401 to 7671q

CFR Citation: 40 CFR part 93

Legal Deadline: None

Abstract: As promised by the White House directive on implementing the revised national ambient air quality standards (NAAQS), this rule will establish a less burdensome conformity process for ozone areas that qualify for the new transitional classification.

Transportation conformity is the Clean Air Act requirement for federally funded or approved transportation plans, programs, and projects to conform to the purpose of the SIP (i.e., not cause or contribute to any new violations; worsen existing violations; or delay timely attainment).

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	
Final	12/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 4032.

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RIN: 2060–AH59

3452. • REVISIONS TO THE PERMITS AND SULFUR DIOXIDE ALLOWANCE SYSTEM REGULATIONS UNDER TITLE IV OF THE CLEAN AIR ACT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7601; 42 USC 7651 et seq

CFR Citation: 40 CFR 72; 40 CFR 73

Legal Deadline: None

Abstract: This rulemaking would amend certain provisions in the Permits and Sulfur Dioxide Allowance Rules under title IV of the Clean Air Act to improve the operation of the Allowance Tracking System and the allowance market. The revisions are proposed in light of the Agency's experience in implementing the acid rain rules (first promulgated in 1993) and would result in a small extension of the allowance transfer deadline, allowing allowances to be held for a unit outside the unit's account, and the deletion of one of the signature requirements on allowance transfer requests.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
Final	10/00/98	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Sectors Affected: 491 Electric Services

Additional Information: SAN No. 4052.

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RIN: 2060–AH60

3453. • MINOR AMENDMENTS TO INSPECTION MAINTENANCE PROGRAM REQUIREMENTS; AMENDMENTS TO THE FINAL RULE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 51

Legal Deadline:
NPRM, Judicial, August 30, 1997, Per settlement with Pennsylvania.
Final, Judicial, December 15, 1997, Per settlement with Pennsylvania.

Abstract: This rulemaking action is required by a court-ordered settlement agreement to resolve an ongoing controversy between EPA and the Commonwealth of Pennsylvania concerning proper evaluation techniques for enhanced inspection maintenance programs. The agreement stipulates that the rulemaking action shall: 1) amend the I/M program evaluation requirements to remove the current requirement to conduct mass-based transient emission testing (METT) on 0.1% of the subject fleet, 2) create a new evaluation requirement that would require states to conduct program evaluation testing on a minimum of 0.1% of subject vehicles using scientifically sound evaluation methodology capable of providing accurate information about the overall program effectiveness of an I/M program, 3) delete the condition on PA's interim I/M approval that requires submission of METT regulations by February 27, 1998, and 4) impose a new condition on PA's interim I/M approval that will require PA to submit program evaluation regulations requiring an approved alternative scientifically sound evaluation methodology as required by the amendment.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 4034.

Levels of government affected: The action simply removes a data collection and evaluation requirement, thereby reducing a programmatic burden on the states. In states which are not using METT as their I/M program test type, the action precludes the state from having to invest in METT equipment for program evaluation purposes.

As a result of the rulemaking action it will be necessary to amend the interim approval notices of a number of individual National Highway Act states, in addition to Pennsylvania's. The METT requirement was raised as a condition in certain notices and must be changed to reflect the new requirements per the amendment described in the abstract. In order to streamline Agency efforts, rather than have each individual region do a separate notice for each applicable state, this rulemaking will amend those notices in toto and will include court-ordered changes to the deadlines by which these new requirements must be met.

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RIN: 2060–AH61

3454. • I/M PROGRAM REQUIREMENT—ON-BOARD DIAGNOSTIC CHECKS; AMENDMENT TO THE FINAL RULE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7511a; 42 USC 7521; 42 USC 7541; 42 USC 7601

CFR Citation: 40 CFR 51; 40 CFR 85

Legal Deadline: None

Abstract: The Clean Air Act requires On-Board Diagnostic (OBD) checks as a regular part of enhanced I/M programs. The OBD system is a series of sensors and monitors throughout the emissions control (and other) systems of 1996 and newer cars and trucks. It alerts the driver if there are any failures which increase emissions beyond acceptable levels. Any reoccurring failures will continually light the malfunction indicator light and compel the owner to take the vehicle in for diagnosis and applicable service. However, there is insufficient data on the effectiveness of this new technology. The Agency must determine how effective OBD is at reducing emissions so that an appropriate level of credit can be accorded towards meeting the performance standard. This action will extend the implementation deadline for OBD test requirements from the current date of January 1, 1998 by 2 to 4 years so that the necessary data can be collected.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Direct Final	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 4033.

OBD is envisioned to eventually replace tailpipe testing all together. As the implementation of tailpipe and evaporative testing continue to be challenged by political forces and some technical problems, an accurate assessment of OBD's effectiveness is essential to the future of I/M. Delaying the implementation of OBD testing will not have an adverse impact on emissions reductions, not only because OBD-equipped vehicles are the newest and by far the cleanest but also because OBD equipped vehicles would still be subject to I/M tailpipe testing in applicable areas.

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RIN: 2060–AH62

3455. WASTE ISOLATION PILOT PLANT (WIPP) COMPLIANCE CERTIFICATION RULEMAKING

Regulatory Plan: This entry is Seq. No. 122 in Part II of this issue of the Federal Register.

RIN: 2060–AG85

3456. PERFORMANCE WARRANTY AND INSPECTION/MAINTENANCE TEST PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7541; 42 USC 7601

CFR Citation: 40 CFR 51; 40 CFR 85

Legal Deadline: None

Abstract: This action establishes a new short test procedure for use in I/M programs required by the Clean Air Act Amendments of 1990. Vehicles that are tested and failed using this procedure and that meet eligibility requirements established by the act would be eligible for free warranty repair from the manufacturers.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final Action	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3283.

Agency Contact: Eugene J. Tierney, Environmental Protection Agency, Air and Radiation, NFEVL, Ann Arbor, MI 48105
Phone: 313 741-7820

RIN: 2060–AE20

3457. INSPECTION/MAINTENANCE RECALL REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7511(A)(2)(b); 42 USC 7511(A)(2)(b)(2)

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: This action specifies requirements for enhanced I/M programs to establish a program to ensure compliance with recall notices. This is pursuant to the Clean Air Act Amendments of 1990.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final Action	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: SAN No. 3262.

Agency Contact: Eugene J. Tierney, Environmental Protection Agency, Air and Radiation, NFEVL, Ann Arbor, MI 48105
Phone: 313 741-7820

RIN: 2060–AE22

3458. NESHAP: PETROLEUM REFINERIES - FCC UNITS, REFORMERS AND SULFUR PLANTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 7401 et seq as amended by PL 101-549 104 Stat. 2399

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: Title III of the Clean Air Act amendments of 1990 requires EPA to develop national emission standards for hazardous air pollutants (NESHAPs). EPA promulgated NESHAP rules for petroleum refineries on August 18, 1995 (RIN 2060-AD94). This action covers three process vents not covered under RIN 2060-AD94. These are the catalyst regeneration vents from fluid catalytic cracking units (FCCU) and catalytic reformers and the tail gas vents from sulfur recovery plants.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	
Final	01/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: 291 Petroleum Refining

Additional Information: SAN No. 3549.

Agency Contact: Bob Lucas, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-0884

RIN: 2060–AF28

3459. NESHAP: FERROALLOY PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1857 et seq; 44 USC 350 et seq; 5 USC 605; EO 12866

CFR Citation: 40 CFR 63

Legal Deadline:
NPRM, Statutory, November 15, 1997.

Abstract: The Clean Air Act, as amended November 1990, requires the EPA to develop emission standards for each major source category of hazardous air pollutants. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator of EPA. The EPA has determined that two plants in the ferroalloy production industry are major sources for one or more hazardous air pollutants. As a consequence, production facilities are among the HAP-emitting source categories selected for regulation.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3082.

Agency Contact: Conrad Chin, Environmental Protection Agency, Air and Radiation, Industrial Studies Branch (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-1512

RIN: 2060–AF29

3460. IMPLEMENTATION OF OZONE AND PARTICULATE MATTER (PM) NATIONAL AMBIENT AIR QUALITY STANDARDS (NAAQS) AND REGIONAL HAZE REGULATIONS

Regulatory Plan: This entry is Seq. No. 123 in Part II of this issue of the Federal Register.

RIN: 2060–AF34

3461. FEDERAL IMPLEMENTATION PLAN TO CONTROL EMISSIONS FROM TWO POWER STATIONS LOCATED ON NAVAJO NATION LANDS

Priority: Other Significant

Legal Authority: 42 USC 1740

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: EPA proposes to federalize standards from the Arizona and New Mexico State Implementation Plans (SIPS) applicable to the Navajo generating station and the Four Corners Plant, respectively. Where necessary, EPA's proposed emission standards modify the standards extracted from the States' regulatory programs to ensure comprehensive emission control and Federal consistency.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: Undetermined

Sectors Affected: 491 Electric Services

Additional Information: SAN No. 3569.

Agency Contact: Kenneth Bigos (A-5), Environmental Protection Agency, Air and Radiation, Region 9 75 Hawthorne Street, San Francisco, CA 94105
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RIN: 2060–AF42

3462. ACID RAIN PROGRAM: REVISIONS TO APPLICABILITY, EXEMPTIONS, ALLOCATIONS, AND SMALL DIESEL REFINERIES

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 7651 et seq

CFR Citation: 40 CFR 72; 40 CFR 73

Legal Deadline:
NPRM, Judicial, September 30, 1997.

Abstract: This regulatory revision would streamline several portions of the Acid Rain Program rules and make minor revisions to the small diesel allowance program. Based on experience implementing the Acid Rain Program, EPA would make the process for exempting new units and retired units easier. EPA would also allow units to be deleted from the tables of affected units if those units could be demonstrated to be unaffected or if the units will not be constructed. The eligibility provision and allowance calculation equation for small diesel refineries will be corrected.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final Action	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 491 Electric Services; 29 Petroleum Refining and Related Industries

Additional Information: SAN No. 3572.

Agency Contact: Kathy Barylski, Environmental Protection Agency, Air and Radiation, 6204J, Washington, DC 20460
Phone: 202 233-9074

RIN: 2060–AF45

3463. AMENDMENTS TO METHOD 24 (WATER-BASED COATINGS)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: The determination of volatile organic compounds (VOCs) content ofa surface coating by reference method 24 involves determination of its water content, and calculation of its VOC content as the difference of the two measurements (volatile content minus water content). Method 24 is inherently less precise for water-based coatings than it is for solvent-based coatings and the imprecision increases as water content increases. This action will amend Method 24 by adding a direct measurement procedure for measuring VOC content of water-based coatings. This amendment will improve the precision of method 24 for water-based coatings.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
Final Action	10/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3649.

Agency Contact: Candace Sorrell, Environmental Protection Agency, Air and Radiation, (MD-19), Research Triangle Park, NC 27711
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RIN: 2060–AF72

3464. FEDERAL IMPLEMENTATION PLAN (FIP) TO CONTROL EMISSIONS FROM SOURCES LOCATED ON THE FORT HALL INDIAN RESERVATION

Priority: Other Significant

Legal Authority: Clean Air Act, title I

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: EPA will propose federal rulemaking for sources located on the Reservation to implement the intent of the Clean Air Act (CAA) Title I program to bring about attainment of the PM-10 NAAQS both on and off the Fort Hall Indian Reservation.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAN No. 3637.

Agency Contact: Steve Body (AT-082), Environmental Protection Agency, Air and Radiation, Region 10 1200 Sixth Avenue, Seattle, WA 98101
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RIN: 2060–AF84

3465. REVISION OF EPA'S RADIOLOGICAL EMERGENCY RESPONSE PLAN

Priority: Other Significant

Legal Authority: PL 96-295 Sec 304; EO 12777

Legal Deadline: None

Abstract: The U.S. Environmental Protection Agency (EPA) Radiological Emergency Response Plan (RERP) establishes a framework for timely, coordinated EPA action to protect public health and safety and the environment in response to a peacetime radiological incident. The original EPA RERP was approved in 1966. This new revision updates authorities, responsibilities, capabilities, and procedures for implementing effective radiological emergency response actions by EPA Offices. The RERP presents the EPA organizational structure and concept of operations for responding to radiological incidents as a participant in a Federal multi-agency response using the Federal Radiological Emergency Response Plan (FRERP) and the Federal Response Plan (FRP), and the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This revision incorporates recent changes to the FRERP and NCP, and many other policy updates. In short, this revision ensures that EPA maintains a comprehensive strategy to provide organized, effective assistance to State and local governments in the event of a radiological emergency.

Timetable:

Action	Date	FR Cite
Revise Radiological Emergency Response Plan	12/00/97	
Notice of Availability	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3638.

Agency Contact: Craig Conklin, Environmental Protection Agency, Air and Radiation, 6602J, Washington, DC 20460
Phone: 202 233-9222

RIN: 2060–AF85

3466. AMENDMENT OF ENHANCED INSPECTION/MAINTENANCE PERFORMANCE STANDARD

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: Clean Air Act

CFR Citation: 40 CFR 51S

Legal Deadline: None

Abstract: This action is a technical amendment to the enhanced inspection/ maintenance (I/M) performance standard included in the November 5, 1992 I/M rule (40 CFR part 51, subpart S). The amendment is in response to a court ruling and will have no net effect on existing requirements for state and local I/M programs.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3598.

Agency Contact: Eugene J. Tierney, Environmental Protection Agency, Air and Radiation, NFEVL, Ann Arbor, MI 48105
Phone: 313 668-4456

RIN: 2060–AG07

3467. AMENDMENTS TO PART 60, PART 61, AND PART 63

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401; 42 USC 7410-12; 42 USC 7414; 42 USC 7416

CFR Citation: 40 CFR 60; 40 CFR 61; 40 CFR 63

Legal Deadline: None

Abstract: This rulemaking will amend the emission test methods and performance specifications in appendices A and B of part 60, appendix B of part 61, and appendix A of part 63 by revising the method format to conform with Environmental Monitoring Management Council (EMMC) guidelines. Conformance to the guidelines will promote consistency among inter-program methods. In addition, minor technical and printing errors in the methods will be corrected. Similar errors in various subparts of part 60 will also be corrected.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final Action	05/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3743.

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RIN: 2060–AG21

3468. AMBIENT AIR QUALITY SURVEILLANCE, RECENSION OF NAMS AMBIENT AIR QUALITY MONITORING REQUIREMENTS FOR LEAD

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7409; 42 USC 7601(a); 42 USC 7410; 42 USC 7613; 42 USC 7619

CFR Citation: 40 CFR 50; 40 CFR 53; 40 CFR 58

Legal Deadline: None

Abstract: Because of the success in the reduction of ambient lead levels due to the elimination of lead in gasoline and the shift towards focusing on point sources, the EPA is revising the part 58 Air Monitoring Regulations for Lead which would allow lead national ambient monitoring stations (NAMS) monitors to be discontinued. At the same time monitoring around point sources will be encouraged, for sources with emissions greater than 5 tons/year. This action is at the direct request of numerous State and local agencies whose NAMS lead monitors are recording values at the minimum detectable (MDL) of the methodology. Since small point sources are so variable in their emissions/impacts, that to prevent over-estimating ambient lead levels, complete sampling coverage is recommended. Complete sampling is defined as continuous or daily sampling. To provide complete everyday sampling at lead point sources at the same relative cost as the current procedure (one sample every 6 days followed by individual filter analysis), the regulation will be modified to allow: 1) use 2 or 3 high-volume samplers at each location; 2) sample for 48 instead of 24 hours; 3)

use a convenient continuous sampling schedule, i.e., noon-to-noon or 9a.m.-9a.m., etc.; (4) follow the AREAL approved procedure for compositing up to 8 filters in a single analysis; and (5) report monthly averages which will be averaged together to produce the quarterly concentration to compare with the standard. This rule serves as both a regulation and as a guideline for State and local agencies in establishing and maintaining their ambient air monitoring networks.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final Action	05/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3650.

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RIN: 2060–AG23

3469. CONSOLIDATED FEDERAL AIR RULE FOR THE SYNTHETIC ORGANIC CHEMICAL MANUFACTURING INDUSTRY

Regulatory Plan: This entry is Seq. No. 124 in Part II of this issue of the **Federal Register**.

RIN: 2060–AG28

3470. ACID RAIN PROGRAM: CONTINUOUS EMISSION MONITORING RULE REVISIONS FOR TECHNICAL ISSUES

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7651 et seq

CFR Citation: 40 CFR 75 (Revision)

Legal Deadline: None

Abstract: On January 11, 1993, EPA promulgated the final core acid rain rules, including the CEM regulation at 40 CFR part 75. Since the rule was promulgated, the 263 Phase I and 783 Phase II utility units have already begun to comply with this regulation by installing and completing certification testing by the January 1, 1995 statutory deadline.

As a result of ongoing internal and external assessment of the Acid Rain Program monitoring and reporting requirements, EPA, State environmental agencies, and affected utilities have identified areas of the part 75 CEM regulations which would benefit from revision or clarification. Many of the suggested revisions will add increased flexibility to the utility industry in implementing and complying with the requirements of part 75. Other revisions will clarify existing provisions in an effort to make the regulation more understandable. Still other revisions will provide increased quality assurance of the Acid Rain Program CEM data. These issues include allowing reduced monitoring and reporting requirements for low emitting units, more effective and economical quality assurance requirements, greater flexibility for fuel sampling and fuel flowmeter testing procedures under appendix D, clarification of span/range equipment specifications, greater flexibility for monitoring controlled emissions, and greater flexibility for using backup monitors during malfunction of the primary monitor. This action is necessary because of the experience and additional information both EPA and industry has gained from 1993 to the present. Industry views this action as positive because it provides industry with more implementation flexibility.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	
Final Action	12/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 491 Electric Services

Additional Information: SAN No. 3808.

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RIN: 2060–AG46

3471. PROTECTION OF STRATOSPHERIC OZONE: RECONSIDERATION OF PETITION CRITERIA/INCORPORATION OF 1995 PROTOCOL DECISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401

CFR Citation: 40 CFR 82

Legal Deadline: None

Abstract: This action would reconsider a certain reporting requirement in the petition process to import previously used ozone-depleting substances in response to a legal stay. In addition, technical changes that reflect international decisions made in Vienna, Austria in 1995 by countries that are signatories of the Montreal Protocol.

Timetable:

Action	Date	FR Cite
Notice of Stay	01/31/96	61 FR 3316
Proposed Extension	01/31/96	61 FR 3361
NPRM	10/00/97	
Direct Final	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3810.

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RIN: 2060–AG48

3472. ENVIRONMENTAL RADIATION PROTECTION STANDARDS FOR SCRAP METAL FROM NUCLEAR FACILITIES

Priority: Other Significant

Legal Authority: 42 USC 2011 et seq

Legal Deadline: None

Abstract: EPA is considering developing standards that apply to the recycling of scrap metal that is salvaged from nuclear facilities which use radioactive materials. One of EPA's goals is setting recycling standards would be to ensure that scrap metal from a nuclear facility can be recycled and used safely regardless of how the metal is handled, processed or is ultimately used in recycled products. The Agency recognizes that, under the existing Federal regulatory framework, scrap metal is currently being recycled

after being salvaged from nuclear facilities such as those within the Department of Energy's nuclear weapons complex. These regulations would replace the existing multi-agency regulatory framework with one health-based set of protective standards; establish a more definite health basis for regulation of metals recycling; and correct the regulatory gaps in the existing framework.

The regulated entities affected by these regulations would be facilities licensed by the Nuclear Regulatory Commission (NRC) to use radioactive materials and federal facilities that use radioactive materials, such as those of the Department of Energy and the Department of Defense, in particular at facilities undergoing environmental clean-up and restoration. These regulations would affect these facilities only with respect to the transfer of scrap metal within their control to possession of 1) parties not licensed by the NRC or an Agreement State; and 2) Federal facilities not authorized to use or possess radioactive materials. These regulations would not restrict the subsequent use of scrap metal once this transfer has occurred. The Agency wishes to emphasize that the need to demonstrate compliance with these regulations would rest entirely on the NRC-licensed facility or Federal facility, and not on the persons receiving scrap metal for the purposes of recycling it.

Timetable:

Action	Date	FR Cite
NPRM	07/00/98	
Final	07/00/99	

Small Entities Affected: None

Government Levels Affected: State, Federal

Sectors Affected: 491 Electric Services; 963 Regulation and Administration of Communications, Electric, Gas, and Other Utilities; 331 Steel Works, Blast Furnaces, and Rolling and Finishing Mills

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3812.

ABSTRACT CONT: (3) potentially reduce mining and processing of virgin ore and the accompanying environmental consequences by making metal scrap available to industry.

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RIN: 2060–AG51

3473. REVISION OF PSI (PART 58 APPENDIX G)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7403; 42 USC 7410; 42 USC 7511a

CFR Citation: 40 CFR 58

Legal Deadline: None

Abstract: Revision of appendix G to part 58 (Pollutant Standards Index or PSI) is needed to reflect changes in the PM and Ozone standards set by the standards review process. The main focus is the revision of the PSI function for both PM and Ozone.

Timetable:

Action	Date	FR Cite
NPRM	07/00/98	
Final	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3832.

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RIN: 2060–AG62

3474. 1998 REVISION OF ACID RAIN ALLOWANCE ALLOCATIONS

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 42 USC 7651 et seq

CFR Citation: 40 CFR 73

Legal Deadline:
Final, Statutory, June 1, 1998.

Abstract: Title IV of the Clean Air Act directs the EPA to establish an acid rain program to reduce adverse effects of acidic deposition. The centerpiece of this control program is allocation of allowances, or authorizations to emit SO2, that are distributed by the Administrator in limited quantities to utility units and must be held by all affected units to cover their SO2 emissions. In 1993, EPA finalized the allowance allocations and provided, in the regulation, the methodology for revising the allocations in 1998 based on several statutory provisions. This rulemaking will implement that methodology, eliminate unaffected units, and eliminate unnecessary sections of regulation. This rulemaking will affect only utility units affected by the acid rain program requirements and does not affect small businesses or government entities.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final Action	06/00/98	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 491 Electric Services

Additional Information: SAN No. 3898.

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RIN: 2060–AG86

3475. ADDITION OF METHOD 207 TO APPENDIX M OF 40 CFR PART 51—METHOD FOR MEASURING ISOCYANATES IN STATIONARY SOURCE EMISSIONS,

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 7410

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: The Clean Air Act Amendments of 1990 listed certain isocyanate compounds as hazardous air pollutants (HAPs). The Agency does not have any published test methods that would measure air emissions of these isocyanate compounds from stationary sources. This action would add a validated test method to measure isocyanate emissions to appendix M of part 51. Test methods in part 51 can be adopted by any State for use in any regulation that requires the measurement of any of the isocyanate compounds on the HAP list. This action would not impose any new regulatory requirements that do not already exist. It should benefit State governments by providing them with a validated test procedure for measuring the emissions of isocyanate compounds.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3900.

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RIN: 2060–AG88

3476. REVISION TO THE LIGHT-DUTY VEHICLE EMISSION COMPLIANCE PROCEDURE

Priority: Other Significant

Legal Authority: Clean Air Act

Legal Deadline: None

Abstract: The purpose of this NPRM is to propose changes to the emissions compliance procedures for light duty vehicles. These proposed changes will streamline the current process beginning with model year 2000. These proposed changes will improve in-use emissions with a potential decrease in the net burden on auto manufacturers.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final	03/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3913.

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RIN: 2060–AH05

3477. PROTECTION OF STRATOSPHERIC OZONE: CONTROL OF METHYL BROMIDE EMISSIONS THROUGH USE OF TARPS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7671g/Clean Air Act section 608

CFR Citation: 40 CFR 82

Legal Deadline:
NPRM, Judicial, December 15, 1997.
Final, Judicial, December 15, 1998.

Abstract: This action would require the use of tarps to control ozone-depleting emissions of methyl bromide where it is used on agricultural fields as a soil fumigant. Reduced emissions of methyl bromide would help prevent human health impacts such as skin cancer caused by increased ultraviolet radiation penetrating a weakened stratospheric ozone layer.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3982.

OAR has proposed that this be considered non-significant under E.O. 12866 because annual compliance costs would be less than $25 million. Although the cost of installing tarps once per growing season on all affected acreage in the U. S. would be significant, the net annual compliance cost would be less than $25 million because of (1) reduced chemical costs attributable to reduced emissions of methyl bromide, and (2) the value of preventing skin cancer fatalities caused by ozone depletion.

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RIN: 2060–AH26

3478. REVIEW OF DEFINITION OF VOLATILE ORGANIC COMPOUNDS—EXCLUSION OF METHYL ACETATE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 to 7641

CFR Citation: 40 CFR 51.100(2)

Legal Deadline: None

Abstract: EPA has received a petition to add methyl acetate to the list of compounds considered negligibly reactive in the definition of VOC in 40 CFR 51.100(s). This would remove this compound from regulation as a VOC. Since available data supports classification as "negligibly reactive", EPA plans to propose the action. This action will be deregulatory since this compound would no longer be required to be controlled as a VOC. There should be no impact on small businesses or State/local/tribal governments since no new requirement will be imposed on them.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: State

Sectors Affected: 286 Industrial Organic Chemicals; 285 Paints, Varnishes, Lacquers, Enamels, and Allied Products

Additional Information: SAN No. 3943.

Agency Contact: William L. Johnson, Environmental Protection Agency, Air and Radiation, MD-15, Research Triangle Park, NC 27711
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RIN: 2060–AH27

3479. REVISIONS TO SERVICE INFORMATION AVAILABILITY REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7521;

CFR Citation: 40 CFR 9; 40 CFR 86

Legal Deadline: None

Abstract: Since publication of the final rule for service information availability in August of 1995, the Agency has gained experience and information that make it necessary to revise some of the requirements set forth by this regulation. This action will mainly impact automobile manufacturers and the automotive aftermarket industry, with minimal impact on small entities.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final	02/00/98	

Small Entities Affected: Businesses

EPA—CAA

Proposed Rule Stage

Government Levels Affected: None

Sectors Affected: 551 Motor Vehicle Dealers (New and Used); 753 Automotive Repair Shops

Additional Information: SAN No. 3978.

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RIN: 2060–AH28

3480. REVISIONS FOR OPTING INTO THE ACID RAIN PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7601 and 7651 et seq

CFR Citation: 40 CFR 74.4

Legal Deadline:
NPRM, Judicial, September 9, 1997, Settlement Agreement.
Final, Judicial, April 9, 1998, Settlement Agreement.

Abstract: In fulfilling the settlement of litigation, the Acid Rain Program is proposing to allow nonutility combustion or process sources located with affected utility units a limited exception to the general requirement that there be only one designated representative for all affected units at a source. We are also proposing language to clarify that a thermal energy plan may become effective quarterly rather than only on January 1. These revisions are intended to promote participation in the opt-in program and clarify the existing regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final	04/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: SAN No. 3981.

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RIN: 2060–AH36

3481. REVIEW OF NEW SOURCES AND MODIFICATIONS IN INDIAN COUNTRY

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410

CFR Citation: 40 CFR 51.165; 40 CFR 51.166; 40 CFR 52.10; 40 CFR 52.21

Legal Deadline: None

Abstract: Consistent with its trust responsibility to Indian Tribes, EPA proposes to develop a permit program that would extend to Indian country some of the same protections that States afford their citizens through minor new source review and non-attainment major new source review programs. The proposed rule would require that stationary air sources located in Indian country obtain a permit prior to construction or undergoing modification, in certain cases. Permits would be required of minor sources that exceed a specified emissions threshold if they propose to construct or make a modification that will increase emissions from the source. Major sources in non-attainment areas would be required to obtain pre-construction permits. The proposed rule would allow existing stationary sources to accept federally enforceable limits in order to be considered as minor sources for the applicability of source requirements.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	
Final	03/00/99	

Small Entities Affected: Businesses

Government Levels Affected: Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3975.

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RIN: 2060–AH37

3482. REVISIONS TO CLARIFY THE PERMIT CONTENT REQUIREMENTS FOR STATE OPERATING PERMITS

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 7661 et seq

CFR Citation: 40 CFR 70.6

Legal Deadline: None

Abstract: The proposed rule will revise the permit content requirements for state operating permits programs to clarify EPA's existing regulations and policy that require all applicable requirements to be included in title V operating permits. This action will also require a few approved State programs that are inconsistent with this policy, and that EPA did not identify as such during program approval actions, to be revised. In addition, this action will take comment on allowing an exemption from permit content requirements for insignificant activities that are subject to certain applicable requirements that are found only in State Implementation Plans and will finalize such provisions if it is convinced by comments that such a policy is appropriate. The benefit of the proposed action is that it will clarify existing permit content requirements. There is no anticipated impact on small businesses as this rulemaking only clarifies existing requirements and takes comment on exemptions that may further streamline permits. Impact on State or local governments is limited to a small number of State programs where certain applicable requirements are exempt from permit content requirements in conflict with existing EPA requirements.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	
Final	09/00/98	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3977.

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RIN: 2060–AH46

3483. ENVIRONMENTAL RADIATION PROTECTION STANDARDS FOR YUCCA MOUNTAIN, NEVADA

Regulatory Plan: This entry is Seq. No. 125 in Part II of this issue of the Federal Register.

RIN: 2060–AG14

EPA—CAA

Proposed Rule Stage

3484. AMBIENT AIR QUALITY SURVEILLANCE: CHANGES TO ACCOMMODATE REVISED OZONE NAAQS & IMPLEMENTATION STRATEGIES

Priority: Other Significant

Legal Authority: 42 USC 7403; 42 USC 7410; 42 USC 7511a; 42 USC 7619

CFR Citation: 40 CFR 58

Legal Deadline: None

Abstract: This regulatory action will revise the ambient air monitoring regulation contained in 40 CFR 58 to accommodate the revised ozone National Ambient Air Quality Standard (NAAQS). The final 8-hour ozone NAAQS was published in the Federal Register on July 18, 1997. It is now necessary to review and to provide minor revisions to the existing ozone monitoring network requirements. These revisions will include ozone monitoring seasons for use with the new ozone NAAQS, and other monitoring program adjustments as appropriate for a revised ozone NAAQS.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Sectors Affected: 951 Administration of Environmental Quality Programs

Additional Information: SAN No. 3974.

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RIN: 2060–AH30

3485. NEXT REVISION OF APPENDIX W TO 40 CFR PART 51

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act Amendments of 1990 sec 110(a)(2); Clean Air Act Amendments of 1990 sec 165(e); Clean Air Act Amendments of 1990 sec 172(a); Clean Air Act Amendments of 1990 sec 172(c); Clean Air Act Amendments of 1990 sec 301(a)(1); Clean Air Act Amendments of 1990 sec 320

CFR Citation: 40 CFR 51.112; 40 CFR 51.160; 40 CFR 51.166; 40 CFR 52.21

Legal Deadline: None

Abstract: This action proposes revisions to the regulatory requirements for air quality models. Such models are used to predict ambient concentrations of pollutants for programs ranging from Prevention of Significant Deterioration (PSD) to State Implementation Plans (SIPs) for controlling air pollution sources. Appendix W to 40 CFR part 51 fulfills a Clean Air Act mandate for EPA to specify models for air management purposes. This proposed rulemaking enhances appendix W with new and/or improved techniques.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
Final	06/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3470.

Agency Contact: Tom Coulter, Environmental Protection Agency, Air and Radiation, MD-14, Research Triangle Park, NC 27711
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RIN: 2060–AF01

3486. INTEGRATED NESHAP AND EFFLUENT GUIDELINES: PULP AND PAPER

Regulatory Plan: This entry is Seq. No. 126 in Part II of this issue of the Federal Register.

RIN: 2060–AD03

3487. NESHAP FOR FORMALDEHYDE-BASED RESINS (POLYMERS AND RESINS GROUP III)

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: Clean Air Act Amendments of 1990 sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: Title III of the amended Clean Air Act requires development of emission standards for all major sources, and selected area sources, emitting any of the 189 hazardous air pollutants identified in section 112(b) of the Act. Amino, acetal, and phenolic resins productions have been listed as categories of major sources based on documented emissions of phenol and/or formaldehyde. The purpose of the Formaldehyde-based Resin (Polymers and Resins Group III) project is to initiate the regulatory process for sources engaged in the production of amino, acetal, and phenolic resins, and to ultimately develop a NESHAP based on candidate Maximum Achievable Control Technology. This standard is a 7-year standard, required to be promulgated by November 1997.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
Final	01/00/99	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 282 Plastics Materials and Synthetic Resins, Synthetic Rubber, Cellulosic and Other Manmade Fibers, Except Glass

Additional Information: SAN No. 3228.

Agency Contact: John Schaefer, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711
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RIN: 2060–AE36

3488. NESHAP: STEEL PICKLING, HC1 PROCESS

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act Amendments of 1990 sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: Hydrochloric acid (HC1) and chlorine are among the pollutants listed as hazardous air pollutants in section 112 of the Clean Air Act, as amended in November of 1990. Steel pickling processes that use HC1 solution and HC1 regeneration processes have been identified by the EPA as potentially significant sources of HC1 and chlorine air emissions and, as such, a source category for which national emission standards may be warranted.

EPA—CAA — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final	04/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3345.

Agency Contact: James H. Maysilles, Environmental Protection Agency, Air and Radiation, OAQPS (MD-13), Research Triangle Park, NC 27711 Phone: 919 541-3265

RIN: 2060–AE41

3489. NESHAP: PRIMARY COPPER SMELTING

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act Amendments of 1990 sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: The primary copper smelting industry is known to emit a number of the hazardous air pollutants listed in section 112 of the Clean Air Act, as amended November 1990. Most smelters have extensive control systems for oxides of sulfur and HAPs. However, fugitive emissions may cause several smelters to exceed major source levels.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final	04/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3340.

Agency Contact: Eugene P. Crumpler, Environmental Protection Agency, Air and Radiation, OAQPS (MD-13), Research Triangle Park, NC 27711 Phone: 919 541-0661

RIN: 2060–AE46

3490. NESHAP: SECONDARY ALUMINUM INDUSTRY

Priority: Other Significant

Legal Authority: 42 USC 1857 et seq; 44 USC 350 et seq; 5 USC 605; EO 12866

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: The Act requires EPA to publish an initial list of all categories of major and area sources of the hazardous air pollutants (HAPs) listed in section 112(b) of the Act, to promulgate a schedule establishing a date for the promulgation of emission standards for each of the listed categories of HAP emission sources, and develop emission standards for each source of HAPs such that the schedule is met. The standards are to be technology based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The Agency has determined that the secondary aluminum industry may reasonably be anticipated to emit several of the 189 HAPs listed in Section 112(b) of the Act. As a consequence, the source category is included on the initial list of HAP emitting categories and is on the list of categories scheduled for standards promulgation within seven years of enactment of the Act. The purpose of this action is to pursue a regulatory development program such that emission standards may be proposed and promulgated according to the mandated schedule.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	
Final	01/00/99	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Sectors Affected: 334 Secondary Smelting and Refining of Nonferrous Metals

Additional Information: SAN No. 3078.

Agency Contact: Juan E. Santiago, Environmental Protection Agency, Air and Radiation, OAQPS (MD-13), Research Triangle Park, NC 27711 Phone: 919 541-1064

RIN: 2060–AE77

3491. NESHAP: PORTLAND CEMENT MANUFACTURING

Priority: Other Significant

Legal Authority: 42 USC 1857 et seq; 44 USC 350 et seq; 5 USC 605; EO 12866

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: Title III of the Clean Air Act Amendments of 1990 requires the EPA to develop emission standards for each major source category of hazardous air pollutants. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator of EPA. The EPA has determined that most plants in the Portland cement manufacturing industry source category are major sources of hazardous air pollutants. A regulation (emission standards) is being developed for the Portland cement manufacturing industry. Cement kilns which burn RCRA hazardous waste are subject to a separate rule that has been proposed by the EPA Office of Solid Waste.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final Action	09/00/98	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Sectors Affected: 324 Cement, Hydraulic

Additional Information: SAN No. 3079.

Agency Contact: Joseph P. Wood, Environmental Protection Agency, Air and Radiation, OAQPS (MD-13), Research Triangle Park, NC 27711 Phone: 919 541-5446

RIN: 2060–AE78

3492. NESHAP: POLYETHER POLYOLS PRODUCTION

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: Clean Air Act Amendments of 1990 sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: Title III of the CAA requires development of emission standards for all major sources emitting any of the 189 hazardous air pollutants (HAPs) identified in section 112(b) of the CAA. Polyether Polyol Production has been listed as a category of major sources based on documented emissions of propylene oxide and ethylene oxide. This action will regulate the release of HAPs from the following process areas located at polyether polyol manufacturing facilities: process vents (e.g. reactors), storage, equipment leaks and other fugitive sources, and wastewater operations.

Timetable:

Action	Date	FR Cite
NPRM	09/04/97	62 FR 46804
Final	08/00/98	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 286 Industrial Organic Chemicals

Additional Information: SAN No. 3408.

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RIN: 2060–AE81

EPA—CAA — Proposed Rule Stage

3493. NESHAP: PHARMACEUTICALS PRODUCTION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: Clean Air Act Amendments of 1990 sec 112

CFR Citation: 40 CFR 63GGG

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: This regulation would control emissions of hazardous air pollutants from production of pharmaceuticals. Pharmaceuticals production was included on the initial list of categories of sources that was published by EPA in July 1992. Emissions from process vents, equipment leaks, storage tanks, and wastewater systems will be addressed by this regulation for both new and existing facilities.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final	04/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: 283 Drugs

Additional Information: SAN No. 3451.

Agency Contact: Randy McDonald, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711 Phone: 919 541-5402

RIN: 2060–AE83

3494. NESHAP: PESTICIDE ACTIVE INGREDIENT PRODUCTION (PRODUCTION OF AGRICULTURAL CHEMICALS)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: Clean Air Act sec 112

CFR Citation: Not yet determined

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: The following ten source categories (which are all pesticide active ingredients) are listed under the Production of Agricultural Chemicals (PAC) industry group: 1) 2,4-D Salts and Esters Production; 2) 4-Chloro-2-Methylphenoxyacetic Acid Production; 3) 4, 6-Dinitro-o-Cresol Production; 4) Captafol Production; 5) Captan Production; 6) Chloroneb Production; 7) Chlorothalonil Production; 8) Decthal (tm) Production; 9) Sodium Pentachlorophenate Production; 10) Tordon (tm) Acid Production.

The EPA will propose to develop standards for all pesticide active ingredient producers including the 10 categories listed above. Any other pesticide active ingredient production plant which produces or uses any of the 189 listed hazardous air pollutants will also be included. A variety of HAPs are emitted including, toluene, formaldehyde, methanol, chlorinated compounds, etc.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final Action	09/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: SAN No. 3450.

Agency Contact: Lalit Banker, Environmental Protection Agency, Air and Radiation, OAQPS (MD-13), Research Triangle Park, NC 27711 Phone: 919 541-5420

RIN: 2060–AE84

3495. NESHAP: PRIMARY LEAD SMELTERS

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: Primary lead smelters are a major source category of hazardous air pollutants. Potential emissions include compounds of lead, and other metallic HAPs as well as organic HAPs. Emission standards would establish maximum achievable control technology requirements for affected process units and fugitive dust sources. This industry is comprised of two companies which operate three smelters in two states.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
Final	03/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Sectors Affected: 333 Primary Smelting and Refining of Nonferrous Metals

Additional Information: SAN No. 3487.

Agency Contact: Kevin Cavender, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711 Phone: 919 541-2364

RIN: 2060–AE97

3496. NESHAP: MANUFACTURE OF TETRAHYDROBENZALDEHYDE

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: Clean Air Act sec 112(d)

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: The purpose of this action is to develop a MACT standard for the production of Tetrahydrobenzaldehyde. (Referred to in the initial Source Category List as Butadiene Dimmers). The emissions sources that will be controlled are process vents (e.g. reactors); storage; equipment leaks and other fugitive sources; transfer operations; and wastewater operations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final	11/00/97	

Small Entities Affected: None

Government Levels Affected: State, Federal

Sectors Affected: 286 Industrial Organic Chemicals

Additional Information: SAN No. 3469.

Agency Contact: John M. Schaefer, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-0296

RIN: 2060–AE99

3497. NESHAP: ACRYLIC/MODACRYLIC FIBERS MANUFACTURING

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act Amendments of 1990 sec 112 (d)

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: This NESHAP will control hazardous air pollutant emissions from existing and new facilities that manufacture or produce as an interim process acrylic or modacrylic fibers. Principal pollutants identified are vinyl acetate and acrylonitrile. The majority of emissions occur during the polymerization reaction and spinning process. There are only three major sources in the United States that will be affected by this regulation.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final	10/00/98	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAN No. 3378.

Agency Contact: Tony Wayne, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-5439

RIN: 2060–AF06

3498. NESHAP: POLYCARBONATES PRODUCTION

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 7401; Clean Air Act sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: This NESHAP will control hazardous air pollutant (HAP) emissions from the production of polycarbonate resins. This source category is being included in the General MACT Standard. The schedule below reflects the schedule of that rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final	10/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3465.

Agency Contact: Mark Morris, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-5416

RIN: 2060–AF09

3499. NESHAP: PUBLICLY OWNED TREATMENT WORKS (POTW)

Priority: Other Significant

Legal Authority: Clean Air Act Amendments of 1990 sec 112(e)(5); Clean Air Act Amendments of 1990 sec 112(n)(3)

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1995.

Abstract: This rule will specify maximum achievable control technology for publicly owned treatment works (POTW)- also known as sewage/wastewater treatment plants, or water reclamation facilities. Hazardous air pollutant emissions from the headworks, primary and secondary treatment, solids handling, and other operations will be considered in developing the rule.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
Final	11/00/98	

Small Entities Affected: None

Government Levels Affected: Local

Additional Information: SAN No. 3377.

Agency Contact: Bob Lucas, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-0884

RIN: 2060–AF26

3500. NESHAP: BAKER'S YEAST MANUFACTURING INDUSTRY

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act sec 112 (d)

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: Section 112 of the Act requires major sources of hazardous air pollutants to achieve a maximum degree of emission reduction based on the maximum achievable control technology (MACT). This regulatory action will establish this level of control for both new and existing sources in the baker's yeast manufacturing industry. This industry is currently comprised of 11 sources of 5 different manufacturers located in 8 different states. The only known HAP emission from this source is acetaldehyde. It is produced as a by-product during the fermentation process. It is likely that regulatory options will be based on improved process control to reduce formation of this by-product.

Timetable:

Action	Date	FR Cite
NPRM	06/00/98	
Final Action	06/00/99	

Small Entities Affected: None

Government Levels Affected: State, Federal

Sectors Affected: 209 Miscellaneous Food Preparations and Kindred Products

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3550.

Agency Contact: Tony Wayne, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-5439

RIN: 2060–AF30

3501. AMENDMENTS TO SUBPART A AND B FOR 40 CFR 63

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-549; Clean Air Act section 112

CFR Citation: 40 CFR 63.1; 40 CFR 63.51

Legal Deadline: None

Abstract: The General Provisions (subpart A) were promulgated on March 16, 1994 (59 FR 12408). The General Provisions create the technical and administrative framework and establish general procedures and criteria for implementing MACT standards. On May 16, 1994, six litigants filed petitions for EPA to review certain provisions of the General Provisions. subpart B, the procedures for implementing section 112(j), were promulgated on May 26, 1994. In June, 1994 litigants filed petitions for EPA to review the promulgated procedures. As a result of the litigation, it is anticipated that a number of technical and administrative amendments to subpart A and B will be proposed.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final Action	03/00/98	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Sectors Affected: Multiple

Additional Information: SAN No. 3551.

Agency Contact: James Szykman, Environmental Protection Agency, Air and Radiation, OAQPS (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-0164

RIN: 2060–AF31

3502. REVISIONS TO THE REGULATION FOR APPROVAL OF STATE PROGRAMS AND DELEGATION OF FEDERAL AUTHORITIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: Clean Air Act sec 112(l)

CFR Citation: 40 CFR 63, subpart E

Legal Deadline: None

Abstract: Guidance in the form of rulemaking is being developed in accordance with the requirements of section 112(l) of the Clean Air Act Amendments of 1990 for the approval of State air toxic programs and the delegation of federal authorities to the States for the implementation and enforcement of section 112 emission standards and other requirements. This regulatory document will provide some flexibility to States in the following areas: minimum requirements for EPA approval of State air toxics regulations that are equivalent to or more stringent than the federal standards; and minimum requirements for EPA approval of State air toxics programs that are equivalent to or more stringent than the federal program. Specific issues that will be addressed include: alternative work practice standards; alternative monitoring, recordkeeping and reporting; alternative test method approval process; equivalency by part 70 permits; and mechanisms and requirements for approval of State air toxics programs.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	
Final Action	12/00/98	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: Multiple

Additional Information: SAN No. 3829.

Agency Contact: Tom Driscoll, Environmental Protection Agency, Air and Radiation, OAQPS (MD-12), Research Triangle Park, NC 27711
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RIN: 2060–AG60

3503. GENERIC MACT FOR SOURCE CATEGORIES WITH FEW SOURCES

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: Clean Air Act sec 112

CFR Citation: Not yet determined

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: Several of the source categories that are subject to MACT (maximum available control technology) standards contain only a few sources (e.g. less than 5). For such source categories, EPA plans to develop the underlying information through its MACT Partnership Program and then allow the affected sources and states to develop the detailed MACT requirements. To do this, EPA needs to develop a generic MACT standard for these source categories. This reinvention to the MACT standards development process will allow for proper participation by all stakeholders. Given the relatively few affected sources caught by the generic standard, the overall cost and environmental effects of this action are expected to be small, nationally.

The MACT program addresses hazardous air pollutants. This action will only affect major sources of these HAPs.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
Final Action	12/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: 282 Plastics Materials and Synthetic Resins, Synthetic Rubber, Cellulosic and Other Manmade Fibers, Except Glass; 286 Industrial Organic Chemicals

Additional Information: SAN No. 3901.

Agency Contact: David Markwordt, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711
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RIN: 2060–AG91

3504. NESHAP: HYDROGEN FLUORIDE PRODUCTION

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000.
Other, Statutory, November 15, 2000, 10 year source category BIN.

Abstract: This rule will establish maximum achievable control technology (MACT) for hydrogen fluoride (HF) production facilities. The rule will affect one HF production

facility, which is currently well-controlled. This action will result in little or no additional emission reduction, but will establish a federal MACT level for this plant.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final Action	10/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3654.

Agency Contact: Rick Colyer, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711
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RIN: 2060–AG94

3505. OFFSET LITHOGRAPHIC PRINTING NATIONAL VOC RULE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 59

Legal Deadline: None

Abstract: This action will result in the reduction of volatile organic compound (VOC) emissions from offset lithographic printing.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	
Final Action	03/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3908.

Agency Contact: Dave Salman, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711
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RIN: 2060–AH00

3506. NESHAP: CHROMIUM ELECTROPLATING AMENDMENT

Priority: Other Significant

Legal Authority: 42 USC 7402/CAA 112

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: Final standards under section 112(d) for chromium emissions from hard and decorative chromium electroplating and chromium anodizing tanks (40 CFR 63, subpart N) were promulgated on January 25, 1995. Since promulgation, the Agency has determined that a class of chromium electroplating operations were inadvertently excluded from regulation. Specifically, the final standards do not apply to sources engaged in continuous chromium electroplating of steel sheet used to make cans and other containers. It is the Agency's intent to regulate all facilities engaged in chromium electroplating. Therefore, the Agency plans to amend the chromium electroplating rule to extend its applicability to continuous chromium electroplating operations.

Timetable:

Action	Date	FR Cite
Final	08/11/97	
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 2841.

Agency Contact: Phil Mulrine, Environmental Protection Agency, Air and Radiation, Washington, DC 20460
Phone: 919 541-5289

RIN: 2060–AH06

3507. NATIONAL STRATEGY FOR URBAN AREA SOURCES OF TOXIC AIR EMISSIONS

Priority: Other Significant

Legal Authority: 42 USC 7412(k); Clean Air Act sec 112(k); 42 USC 7412(c)(3); Clean Air Act sec 112(c)(3)

CFR Citation: Not yet determined

Legal Deadline:
Final, Statutory, November 15, 1995.
NPRM, Judicial, April 30, 1998.
Final, Judicial, December 18, 1998.

Abstract: Congress directed EPA, in the 1990 Amendments to the Clean Air Act to study the nature and magnitude of air toxic emissions, exposures and risks in U.S. cities. This was in response to growing evidence that an "urban soup" existed that was causing cancer and other effects, and which may not adequately be addressed by the MACT program on major sources. The 1990 Amendments call for EPA to appraise the sources and pollutants which contribute most to the "urban soup" phenomenon, and to publish a national strategy by 1995 that summarizes these findings and identifies actions to mitigate the problem. This strategy will contain (1) general and specific recommendations for additional research, (2) an accounting of actions and measures undertaken by the EPA and state and local agencies that reduce emissions of the hazardous substances of particular concern, and (3) a call for additional measures needed to complete sufficient mitigation of the problem. This action is not considered deregulatory. This action has no direct impacts on small businesses; however, as the strategy is subsequently implemented through later actions and specific rules, some small businesses may be regulated as a consequence of carrying out the regulatory recommendations in the strategy.

Timetable:

Action	Date	FR Cite
Announcement of Availability	04/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3959.

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RIN: 2060–AH21

3508. NESHAP: FLEXIBLE POLYURETHANE FOAM FABRICATION OPERATIONS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: Clean Air Act Amendments of 1990, section 112

CFR Citation: 40 CFR 63 (Revision)

Legal Deadline:
Final, Statutory, November 15, 2000.

Abstract: The Clean Air Act (CAA) requires development of emission standards for sources emitting any of the hazardous air pollutants HAP listed in section 112(b) of the CAA. Flexible Polyurethane Foam Fabrication Operations is listed as a category of major sources based on documented emissions of the following HAP: methylene chloride, trichlorethane, hydrogen cyanide, and hydrogen chloride. This source category covers emissions from various polyurethane foam bonding operations, including foam gluing and flame lamination. This action will explore alternative for reducing HAP emissions from the following emission sources located at foam fabrication plants: process vents, raw material storage and transfer operations, and equipment leaks. Ultimately, a NESHAP for this source category will be developed based on Maximum Achievable Control Technology. The NESHAP is required by statute to be promulgated by November 2000.

Timetable:

Action	Date	FR Cite
NPRM	09/00/98	
Final	09/00/99	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 306 Fabricated Rubber Products, Not Elsewhere Classified; 308 Miscellaneous Plastics Products

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3973.

Agency Contact: David Svendsgaard, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711
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RIN: 2060–AH42

3509. NESHAP FOR GROUP I POLYMERS AND RESINS AND GROUP IV POLYMERS AND RESINS AND GROUP IV POLYMERS AND RESINS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63.460 to 506 (Revision); 40 CFR 63.1310 to 1335 (Revision)

Legal Deadline: None

Abstract: During the development of the National Emission Standard for Hazardous Air Pollutants (NESHAP) for elastomers (Group I Polymers and resins) and thermoplastics (Group IV polymers and resins) (RINs 2060-AD56 and 2060-AE37), many of the provisions contained in the Hazardous Organic NESHAP (HON) were referenced directly by these polymers and resins regulations due to similarities in processes, emission characteristics, and control technologies. On January 17, 1997 the EPA promulgated changes to the HON to remove ambiguity, to clearly convey EPA intent, and to make the rule easier to understand and implement in response to industry petitions. It is necessary to make parallel changes to the polymers and resins NESHAP, otherwise inconsistencies will exist for NESHAPs regulating similar source categories. An ANPR, was published in the Federal Register on 11/25/96 (61 FR 59849), to explain the nature of changes planned.

Subsequently, six litigants have petitioned for review of the elastomers and thermoplastics regulations. Four companies have petitioned EPA to reconsider specific provisions in the thermoplastics regulation. Revisions will be proposed to parallel HON changes and to resolve petitioners issues. There are no impacts anticipated for small businesses or State/local/tribal governments.

Timetable:

Action	Date	FR Cite
ANPRM	11/25/96	61 FR 59849
NPRM	01/00/98	
Final	11/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 282 Plastics Materials and Synthetic Resins, Synthetic Rubber, Cellulosic and Other Manmade Fibers, Except Glass

Additional Information: SAN No. 3939.

Agency Contact: Robert E. Rosensteel, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711
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RIN: 2060–AH47

3510. PREVENTION OF SIGNIFICANT DETERIORATION OF AIR QUALITY: PERMIT APPLICATION REVIEW PROCEDURES FOR NON-FEDERAL CLASS I AREAS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7670 to 7479; Clean Air Act sec 160; Clean Air Act sec 161; Clean Air Act sec 162; Clean Air Act sec 163; Clean Air Act sec 164; Clean Air Act sec 165; Clean Air Act sec 166; Clean Air Act sec 167; Clean Air Act sec 168; Clean Air Act sec 169

CFR Citation: 40 CFR sec 51.166; 40 CFR Sec 52.21

Legal Deadline:
Other, Judicial, July 16, 1996.

Abstract: Under the Clean Air Act's prevention of significant deterioration (PSD) program, a State or Tribe may redesignate their lands as class I areas to provide enhanced protection for their air quality resources. This rule will clarify the PSD permit review procedures for new and modified major stationary sources near these non-Federal class I areas. EPA seeks to develop clarifying PSD permit application procedures that are effective, efficient, and equitable.

Timetable:

Action	Date	FR Cite
ANPRM	05/16/97	62 FR 27158
NPRM	10/00/97	
Final Action	10/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 3919.

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RIN: 2060–AH01

3511. TRANSPORTATION CONFORMITY PILOT APPROVAL; CONFORMITY SIP

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401; 42 USC 7871g

CFR Citation: 40 CFR 51 and 93

Legal Deadline: None

Abstract: This action would approve the conformity procedures developed by an area that has been selected to participate in the transportation conformity pilot program. Because EPA may select up to six areas to participate in the pilot program there may be six separate approval actions. These approval actions will be in the form of conformity SIP approvals.

The purpose and anticipated impact of the pilot program itself were discussed in the rulemaking that established the pilot program (see "Transportation Conformity Rule Amendment and Solicitation for Participation in the Conformity Pilot Program").

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3914.

Agency Contact: Meg Patulski, Environmental Protection Agency, Air and Radiation, NFEVL, Ann Arbor, MI 48105
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RIN: 2060–AH32

3512. REDUCTION OF VOLATILE ORGANIC COMPOUND (VOC) EMISSIONS FROM COATINGS USED IN THE AEROSPACE, WOOD FURNITURE, AND SHIPBUILDING INDUSTRIES UNDER CLEAN AIR ACT SECTION 183(E)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 59

Legal Deadline:
Final, Statutory, March 1997.

Abstract: This action would result in the reduction of volatile organic compound (VOC) emissions from the coatings used by the Aerospace, Wood Furniture and Shipbuilding industries. The Agency will study the various VOC pollutants contained in these coatings and will evaluate pollution prevention and control techniques which can reduce these emissions; Control Techniques Guidelines can be issued in lieu of regulations if they are significantly as effective in reducing VOC emissions from the use of these coatings in ozone nonattainment areas. This rulemaking will be conducted in accordance with statutory requirements for VOC emission reduction under section 183(e) of the Clean Air Act. The development of these VOC rules will use data recently gathered for the development of National Emission Standards for Hazardous Air Pollutants (NESHAP) for these industries. This will maximize resources and avoid duplication of data gathering efforts. There are small businesses in these industries, but at this time it is not known how many will be affected by these rules or guidelines.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final Action	08/00/98	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Sectors Affected: 37 Transportation Equipment; 45 Transportation by Air; 243 Millwork, Veneer, Plywood, and Structural Wood Members; 25 Furniture and Fixtures

Additional Information: SAN No. 3828.

Agency Contact: Daniel Brown, Environmental Protection Agency, Air and Radiation, OAQPS (MD-13), Research Triangle Park, NC 27711
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RIN: 2060–AG59

3513. AMENDMENT CONCERNING THE LOCATION OF SELECTIVE ENFORCEMENT AUDITS OF FOREIGN MANUFACTURED VEHICLES AND ENGINES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7525/CAA 206(b)

CFR Citation: 40 CFR 86 subpart G (Revision); 40 CFR 86 subpart K (Revision)

Legal Deadline: None

Abstract: This action would consider an amendment to the existing regulations to include ports of entry as a location for EPA selection of foreign produced vehicles and engines for SEA emissions testing at laboratories in the U.S. While the regulations do not specify EPA authority to conduct such port selections, the increased flexibility provided by port selections warrants amending the regulations. Presently, EPA must travel overseas to conduct SEA audits of foreign manufactured vehicles and engines, even though most manufacturers now have access to laboratory facilities in the U.S. The benefits include a reduction in Agency cost since fewer overseas trips would be necessary. Also, EPA would be able to conduct more audits of foreign manufactured vehicles and engines.

Separate from the provisions proposed in this NPRM for amendments to allow port selection for SEAs, EPA is also proposing to make two other amendments to 40 CFR part 86. The first would amend current Selective Enforcement Auditing regulations to change the minimum annual limit of Selective Enforcement Audits per manufacturer to two (2) per year. Currently, the minimum annual limit is one audit per manufacturer. Under the proposed amendments EPA would be able to perform a second audit on those manufacturers that might otherwise be limited to one audit.

The second additional proposed amendment to part 86 would delete from subparts A and E references to the Agency representation in certain types of administrative hearings. The two provisions state that the Office of General Counsel will represent the Agency in administrative procedures governing hearings on certification for light-duty vehicles, light-duty trucks, heavy-duty engines and motorcycles. The Agency is proposing to delete these two provisions in order to be consistent with other hearing procedures in part 86.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3139.

Agency Contact: Richard Gezelle, Environmental Protection Agency, Air and Radiation, 6403-J), Washington, DC 20460
Phone: 202 233-9267

RIN: 2060–AD90

3514. REVIEW OF FEDERAL TEST PROCEDURES FOR EMISSIONS FROM MOTOR VEHICLES; TEST PROCEDURE ADJUSTMENTS TO FUEL ECONOMY AND EMISSION TEST RESULTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-549

CFR Citation: 40 CFR 86; 40 CFR 600

Legal Deadline: None

Abstract: This action considers potential adjustments to fuel economy and emission test results to compensate for test procedure changes previously adopted; it applies to light duty vehicles and light duty trucks. This aspect of the previous rulemaking (SAN-3323, RIN: 2060-AE27) was deferred.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: SAN No. 3979.

Agency Contact: R. W. Nash, Environmental Protection Agency, Air and Radiation, VPCD, Ann Arbor, MI 48105
Phone: 313 668-4412

RIN: 2060–AH38

3515. SPECIFICATION OF SUBSTANTIALLY SIMILAR DEFINITION FOR DIESEL FUELS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7545; Clean Air Act sec 211(f)

CFR Citation: 40 CFR 80

Legal Deadline: None

Abstract: EPA is proposing a definition of the term substantially similar, as used in section 211(f)(1)(B) of the Clean Air Act (CAA), with respect to diesel fuel and fuel additives. The prohibitions of section 211(f)(1)(A) apply to fuels and fuel additives which are not substantially similar to fuels or additives used to certify vehicles to emissions standards. This definition will enable manufacturers to determine whether their diesel fuels and additives are covered by, or excluded from, the section 211(f)(1)(B) prohibitions. This definition will also reduce potential burdens on manufacturers and EPA for processing waivers for fuels and additives under 211(f)(4).

Timetable:

Action	Date	FR Cite
ANPRM	05/30/91	56 FR 24362
NPRM	10/00/97	
Final	03/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3091.

Agency Contact: David Korotney, Environmental Protection Agency, Air and Radiation, NFEVL, Ann Arbor, MI 48105
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RIN: 2060–AD77

3516. AMENDMENT TO THE REFRIGERANT RECYCLING RULE TO INCLUDE ALL REFRIGERANTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-54; Clean Air Act sec 608; 42 USC 7401 et seq

CFR Citation: 40 CFR 82F

Legal Deadline:
Final, Statutory, November 15, 1995.

Abstract: This action would facilitate fulfillment of the statutory mandate to apply the venting prohibition to substitute refrigerants. The action would provide regulations covering recovery/recycling equipment, recovery/recycling practices, and applicable certifications that would be required to accomplish compliance with the no-venting prohibition. Requirements would parallel those of the current section 608 regulations, expanding applicability, where appropriate, to all refrigerants.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final	04/00/98	

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3560.

Agency Contact: Debbie Ottinger, Environmental Protection Agency, Air and Radiation, 6205J, Washington, DC 20460
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RIN: 2060–AF37

3517. PROTECTION OF STRATOSPHERIC OZONE: RECONSIDERATION OF SECTION 608 SALES RESTRICTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq; Clean Air Act sec 608

CFR Citation: 40 CFR 82F

Legal Deadline: None

Abstract: The rule will include the reconsideration of the sales restriction as it relates to split systems. The Agency was petitioned to reconsider the part of the sales restriction that included the sale of pre-charged split systems. It restricted such sales to certified technicians. Since then, EPA stayed that portion of the sales restriction in response to the petition. This rule will include the determination of the Agency related to the reconsideration. It addresses environmental problems of ozone depletion resulting from emissions of CFCs, HCFCs, and other ozone-depleting substances. Through restricting sales of certain pre-charged items to persons certified as technicians, emissions to the atmosphere are decreased. The impact on small businesses and governments would be negligible, since persons can become certified if the EPA determination is a full restriction. Most businesses and governments will have at least one certified technician on board. Also, this amendment will include corrections and clarifications concerning leak repair requirements. This action has no impact on small business and state, local, tribal and governments.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final	07/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: 358 Refrigeration and Service Industry Machinery; 52 Building Materials, Hardware, Garden Supply, and Mobile Home Dealers

Additional Information: SAN No. 3673.

This action is combined with RIN 2060-AG47, SAN 3809.

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RIN: 2060–AG20

3518. SERVICING OF MOTOR VEHICLE AIR CONDITIONERS: STANDARDS FOR EQUIPMENT THAT RECOVERS AND RECYCLES REFRIGERANTS OTHER THAN CFC-12 AND HCF-134A

Priority: Substantive, Nonsignificant

Legal Authority: 42 USCA 7671

CFR Citation: 40 CFR 82B (Revision)

Legal Deadline: None

Abstract: This rule serves to amend the regulations initially promulgated on July 14, 1992 under section 609 of the CAA. By promoting the recycling and reclamation of ozone-depleting refrigerants from motor vehicle air conditioners, this rule will serve to inhibit venting of there refrigerants into the atmosphere, which is prohibited under the Act.

This rule fulfills the statutory mandate set forth in Section 609 requiring the Administrator to promulgate regulations for the proper recycling in motor vehicle air conditioners (MVACs) of any refrigerants that substitute for CFC-12 Specifically, Section 609 requires EPA to establish standards for refrigerant recycling equipment and for the proper use of such equipment. This rule will provide flexibility for service technicians to meet Section 609 requirements, because in addition to using equipment that recovers and recycles CFC-12 and HFC-134a refrigerants, technicians will now be permitted to use equipment that recovers and recycles other substitute refrigerants listed as acceptable under EPA's SNAP program.

This rule will affect, although not adversely affect, small entities such as independent repair shops, server station, truck fleet shops, collision repair shops, new car and truck dealers, car and truck rental shops, and radiator repair shops. Specifically it will allow them to use equipment to recycle other substitute refrigerants listed as acceptable under the SNAP program.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
Final	05/00/98	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 75 Automotive Repair, Services, and Parking; 55 Automotive Dealers and Gasoline Service Stations

Additional Information: SAN No. 3983.

Agency Contact: Christine Dibble, Environmental Protection Agency, Air and Radiation, 6205J, Washington, DC 20460
Phone: 202 233-9147
Email: dibble.christine@epamail.epa.gov

RIN: 2060–AH29

3519. SUPPLEMENTAL RULE TO REQUIRE CERTAIN PRODUCTS MADE WITH HCFCS TO BEAR WARNING LABEL

Priority: Other Significant

Legal Authority: 42 USC 7491 et seq; Clean Air Act sec 611

CFR Citation: 40 CFR 82F

Legal Deadline: None

Abstract: Friends of the Earth submitted and withdrew a petition to expand EPA's labeling requirements to include products containing or manufactured with HCFCs. EPA anticipates that for Friends of the Earth will submit a revised petition later this year. We are bound by statute to respond by 180 days. If EPA grants the petition, the proposed rulemaking will be the response.

Timetable:

Action	Date	FR Cite
NPRM	06/00/98	
Final	06/00/99	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAN No. 3949.

Agency Contact: Sue Stendebach, Environmental Protection Agency, Air and Radiation, 6205J, Washington, DC 20460
Phone: 202 233-9117
Fax: 202 233-9665

RIN: 2060–AF93

3520. • FEDERAL IMPLEMENTATION PLAN FOR A FIFTEEN PERCENT REDUCTION IN VOLATILE ORGANIC COMPOUNDS IN THE DISTRICT OF COLUMBIA

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 52

Legal Deadline:
Final, Statutory, January 18, 1996, See Additional Information.
Other, Statutory, May 31, 1996, Consent decree requires signature of NPRM by 5/31/96.
Other, Judicial, December 31, 1996, Consent decree requires signature of final by 12/31/98.

Abstract: EPA will propose federal rulemaking for sources within the District of Columbia to correct any shortfall in volatile organic compound (VOC) control measures needed to achieve a fifteen percent reduction in VOC emissions. Title I of the Clean Air Act (CAA) requires moderate and worse ozone nonattainment areas to have an implementation plan to achieve a fifteen percent reduction in VOC emissions. Clean Air Act specifies that federal implementation plans are to be promulgated two year s after a EPA makes a finding that a State failed to submit a required element. On January 18, 1994, EPA made a finding that the District of Columbia failed to submit the required plan to achieve a fifteen percent reduction of volatile organic compounds. VOC reduction measures may affect mobile sources, stationary sources and area sources within the District of Columbia.

Timetable:

Action	Date	FR Cite
NPRM	06/00/98	
Final	01/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 4038.

Clean Air Act specifies that federal implementation plans are to be promulgated two year s after a EPA makes a finding that a State failed to submit a required element. On January 18, 1994, EPA made a finding that the District of Columbia failed to submit the required plan to achieve a fifteen percent reduction of volatile organic compounds. EPA did not promulgate the required federal implementation plan by the statutory deadline. On June 18, 1996 suit was filed to require EPA to promulgate the required federal implementation plan. A consent decree was entered with the Court on December 21, 1996 that requires signature of the NPRM by May 30, 1998 and signature of the final rulemaking by December 31, 1998.

Agency Contact: Sally Brooks, Environmental Protection Agency, Air and Radiation, 3AT00, Philadelphia, PA 19107
Phone: 215 566-2056

RIN: 2060–AH51

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Clean Air Act (CAA)

Final Rule Stage

3521. • EXPANDED ENGINE FAMILY DEFINITIONS FOR ALTERNATIVE FUELED VEHICLES AND ENGINES MEETING LOW-EMISSION (LEV) EXHAUST EMISSION STANDARDS, FEE EXEMPTION, AND RELATED PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2001; 15 USC 2002; 15 USC 2003; 15 USC 2005; 15 USC 2006; 15 USC 213; 42 USC 7521; 42 USC 7522; 42 USC 7524; 42 USC 7525; 42 USC 7541; 42 USC 7542; 42 USC 7549; 42 USC 7550; 42 USC 7552

CFR Citation: 40 CFR 86; 40 CFR 88

Legal Deadline: None

Abstract: This action will ease the burden of certification for both Original Equipment Manufacturers (OEMs) and aftermarket conversion entities. This action will, for vehicles and engines meeting LEV emission standards, broaden the definition of the term "dedicated fuel system," broaden the criteria for engine families, and provide an examption from certification fees. This action is not a deregulatory action. This action will provide another means for small business to remain active entities in supplying alternatively fueled vehicles to the market place. The above three changes are intended to reduce the cost of complying with the requirements of certification and, small business will benefit from these changes. This action will enhance the ability for the regulated industry to provide alternatively fueled vehicles to the consumer in support the Executive Order 13031.

Timetable:

Action	Date	FR Cite
Direct Final	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 4030.

Agency Contact: Clifford Tyree, Environmental Protection Agency, Air and Radiation, Ann Arbor, MI 48105
Phone: 313 668-4310
Fax: 313 741-7869
Email: tyree.clifford@epa.gov

RIN: 2060–AH52

3522. COMPLIANCE ASSURANCE MONITORING RULE (PREVIOUSLY ENHANCED MONITORING PROGRAM)

Regulatory Plan: This entry is Seq. No. 137 in Part II of this issue of the **Federal Register.**

RIN: 2060–AD18

3523. LOCOMOTIVE EMISSION STANDARDS

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 7547

CFR Citation: 40 CFR 92

Legal Deadline:
Final, Statutory, November 15, 1995.
NPRM, Judicial, January 31, 1997.

Abstract: The Clean Air Act Amendments of 1990 require EPA to promulgate emission standards for railroad locomotives. It is likely that railroad locomotives are significant contributors of pollution in some areas of the country for some pollutants. This rulemaking may allow for uniform control of locomotive emissions on the national level.

Timetable:

Action	Date	FR Cite
NPRM	02/11/97	62 FR 6366
Final Action	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2961.

Agency Contact: Charles Maulis, Environmental Protection Agency, Air and Radiation, NFEVL, Ann Arbor, MI 48105
Phone: 313 741-7826

RIN: 2060–AD33

3524. NEW SOURCE REVIEW (NSR) REFORM

Regulatory Plan: This entry is Seq. No. 138 in Part II of this issue of the **Federal Register.**

RIN: 2060–AE11

3525. NSPS: SYNTHETIC ORGANIC CHEMICALS MANUFACTURING INDUSTRY—WASTEWATER

Priority: Other Significant

Legal Authority: Clean Air Act Amendments of 1990

CFR Citation: 40 CFR 60

Legal Deadline:
NPRM, Judicial, August 31, 1994.

Abstract: This rule will develop a new source performance standard to control air emissions of volatile organic compounds from wastewater treatment operations at the synthetic chemical manufacturing industry.

Timetable:

Action	Date	FR Cite
NPRM	09/12/94	59 FR 46780
Supplemental NPRM	10/11/95	60 FR 52889
Final	11/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Sectors Affected: 28 Chemicals and Allied Products

Additional Information: SAN No. 3380.

Agency Contact: Mary Tom Kissell, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711

Phone: 919 541-4516

RIN: 2060–AE94

3526. ACID RAIN PROGRAM: REVISIONS TO THE ADMINISTRATIVE APPEAL REGULATIONS UNDER TITLE IV OF THE CLEAN AIR ACT

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 7601

CFR Citation: 40 CFR 78.1

Legal Deadline:
Final, Judicial, September 30, 1997.

Abstract: Revisions to clarify whether administrative appeals are prerequisite for judicial review of final actions by the administrator under the Acid Rain Program.

Timetable:

Action	Date	FR Cite
NPRM	12/27/96	61 FR 68340
Final Action	10/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local

Sectors Affected: 491 Electric Services

Additional Information: SAN No. 3570.

Agency Contact: Dwight C. Alpern, Environmental Protection Agency, Air and Radiation, 6204J, Washington, DC 20460
Phone: 202 233-9151

RIN: 2060–AF43

3527. ACID RAIN PROGRAM: DELETION OF CERTAIN UNITS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 7651 et seq

CFR Citation: 40 CFR 73.10

Legal Deadline: None

Abstract: The Acid Rain Program requires affected utility units to hold allowances sufficient to cover emissions of SO2, have an Acid Rain Permit under part 72, and meet appropriate monitoring requirements under part 75. Many affected units are listed in 40 CFR 73.10 tables 2 and 3. In the process of implementing the Acid Rain Program, EPA has learned that several units listed in the tables should not be affected by the Acid Rain Program requirements. This action would delete specific named units from the tables.

Timetable:

Action	Date	FR Cite
NPRM	12/27/96	61 FR 68340
Final	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 491 Electric Services

Additional Information: SAN No. 3573.

Agency Contact: Kathy Barylski, Environmental Protection Agency, Air and Radiation, 6204J, Washington, DC 20460
Phone: 202 233-9074

RIN: 2060–AF46

3528. ACID RAIN PROGRAM: REVISIONS TO THE PERMITS REGULATIONS UNDER TITLE IV OF THE CLEAN AIR ACT TO MAKE TECHNICAL CORRECTIONS

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 7601; 42 USC 7651g

CFR Citation: 40 CFR 72

Legal Deadline:
Final, Judicial, September 30, 1997.

Abstract: This action would make technical corrections in order to improve issuance of Phase I acid rain permits and facilitate approval of State or local permitting authorities' Phase II acid rain permitting programs.

Timetable:

Action	Date	FR Cite
NPRM	12/27/96	61 FR 68340
Final Action	10/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local

Sectors Affected: 491 Electric Services

Additional Information: SAN No. 3574.

Agency Contact: Dwight C. Alpern, Environmental Protection Agency, Air and Radiation, 6204J, Washington, DC 20460
Phone: 202 233-9151

RIN: 2060–AF47

3529. CONTROL OF AIR POLLUTION FROM AIRCRAFT AND AIRCRAFT ENGINES; EMISSION STANDARDS AND TEST PROCEDURES

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: Clean Air Act sec 231

CFR Citation: 40 CFR 87

Legal Deadline: None

Abstract: This action proposes to establish CO and NOx standards for aircraft gas turbine engines with equal to or greater than 26.7 kilonewtons rated thrust. These standards, which most of the affected engines are already achieving, will be added to current federal aircraft engine standards for HC emission so as to align federal standards with the standards established by the international community.

Timetable:

Action	Date	FR Cite
NPRM	05/08/97	62 FR 25368
Direct Final	05/08/97	62 FR 25356
Final Action	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3576.

Agency Contact: Bryan Manning, Environmental Protection Agency, Air and Radiation, NFEVL, Ann Arbor, MI 48105
Phone: 313 741-7832

RIN: 2060–AF50

3530. OPERATING PERMITS: REVISIONS (PART 70)

Regulatory Plan: This entry is Seq. No. 139 in Part II of this issue of the Federal Register.

RIN: 2060–AF70

3531. METHODS FOR MEASUREMENT OF VISIBLE EMISSIONS—ADDITION OF METHODS 203A, 203B, AND 203C TO APPENDIX M OF PART 51

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401(b)(1); 42 USC 7410; 42 USC 7470 to 7479; 42 USC 7501 to 7508; 42 USC 7601(a)

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: This rulemaking adds Test Methods 203A, 203B, and 203C to 40 CFR Part 51, Appendix M (entitled Example Test Methods for State Implementation Plans). These methods describe procedures for estimating the opacity of visible emissions. States have requested that EPA promulgate these methods so that they can use them in State Implementation Plans in enforcing visible emissions regulations from Stationary Sources.

Timetable:

Action	Date	FR Cite
NPRM	11/22/93	51 FR 61639
Final Action	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 2915.

Agency Contact: Frederick J. Thompson, Environmental Protection Agency, Air and Radiation, MD-19, Research Triangle Park, NC 27711
Phone: 919 541-2707

RIN: 2060–AF83

3532. SALES VOLUME LIMIT PROVISIONS FOR SMALL-VOLUME MANUFACTURE CERTIFICATION FOR CLEAN FUEL AND CONVENTIONAL VEHICLE CONVERSIONS AND RELATED PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act sec 202; Clean Air Act sec 203; Clean Air Act sec 247; Clean Air Act sec 301(a)

CFR Citation: 40 CFR 85; 40 CFR 86; 40 CFR 88

Legal Deadline: None

Abstract: This action will temporarily raise the 10,000 vehicle sales volume limit for vehicle converters seeking certification under the small volume manufacturers provisions. In addition this action will adopt provisions to provide flexibility in assigned deterioration factors for alternative fuel vehicles. fuel vehicles.

Timetable:

Action	Date	FR Cite
NPRM	01/03/96	61 FR 140
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3643.

Agency Contact: Cliff Tyree, Environmental Protection Agency, Air and Radiation, NFEVL, Ann Arbor, MI 48105
Phone: 313 668-4310

RIN: 2060–AF87

3533. AMENDMENT TO STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES; MONITORING REQUIREMENTS (PS-1)

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act, section 407

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: This action proposes to clarify and update requirements for source owners and operators who must install and use continuous stack or duct opacity monitoring equipment. This action also proposes amendments regarding design and performance validation requirements for continuous opacity monitoring system (COMS) equipment in appendix B, PS-1. These amendments to subpart A and PS-1 will not change the affected facilities' applicable emission standards or requirement to monitor. The amendments will: (1) clarify owner and operator and monitor vender obligations, (2) reaffirm and update COMS design and performance requirements, and (3) provide EPA and affected facilities with equipment assurances for carrying out effective monitoring. The specifications shall apply to all COMS's installed or replaced after the date of promulgation. Following promulgation, a source owner, operator, or manufacturer will be subject to these performance specifications if installing a new COMS, relocating a COMS, replacing a COMS, recertifying a COMS that has undergone substantial refurbishing, or has been specifically required to recertify the COMS with these revisions.

Timetable:

Action	Date	FR Cite
NPRM	11/24/94	59 FR 60585
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3744.

Agency Contact: Solomon Ricks, Environmental Protection Agency, Air and Radiation, MD-19, Research Triangle Park, NC 27711
Phone: 919 541-5242
Fax: 919 541-1039

RIN: 2060–AG22

3534. REGULATION REVIEW/BURDEN REDUCTION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: Clean Air Act sec 407

Legal Deadline: None

Abstract: On March 16, 1995, President Clinton issued a report entitled, Reinventing Environmental Regulation, that identified 25 initiatives to improve the current regulatory system. This action is part of the regulatory review process to reduce unnecessary recordkeeping and reporting requirements. Existing rules are being reviewed for excess and/or duplicative requirements. The Agency will publish a list of those regulations that will be revised or amended to reduce unnecessary recordkeeping and reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/11/96	61 FR 47840
Final	10/00/97	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAN No. 3750.

Agency Contact: Dave Markwordt, Environmental Protection Agency, Air and Radiation, OAQPS (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-0837
Fax: 919 541-0942

RIN: 2060–AG30

3535. TRANSITIONAL LOCK-IN PROCEDURES FOR PHASE II REFORMULATED GASOLINE (RFG) PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7545

CFR Citation: 40 CFR 80.2; 40 CFR 80.70; 40 CFR 80.72

Legal Deadline: None

Abstract: This action will provide proposed procedures for states to opt-out of the Reformulated Gasoline (RFG) Program before implementation of Phase II RFG. States will be required to announce by July 1997 whether their

voluntary opt-in area(s) will remain in the RFG program. If a state decides to keep an opt-in area in the program, the area will be required to remain in the program for a specified period of time (i.e., lock-in to the program) to enable refiners to recover a portion of the capital investments associated with complying with Phase II gasoline requirements. This action provides the states the flexibility to opt-out of the program before implementation of Phase II while providing incentives to industry to supply Phase II RFG which provides environmental and health benefits (e.g., Phase II RFG reduces NOx, a precursor to ozone).

Timetable:

Action	Date	FR Cite
NPRM	03/28/97	62 FR 15077
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3845.

Agency Contact: Christine Hawk, Environmental Protection Agency, Air and Radiation, (6406J), Washington, DC 20460
Phone: 202 233-9672
Fax: 202 233-9557

RIN: 2060–AG43

3536. AMENDMENT TO THE USER FEES FOR RADON PROFICIENCY PROGRAMS RULE

Priority: Other Significant

Legal Authority: 15 USC 2661 to 2665

CFR Citation: 40 CFR 195 and 700 (revision)

Legal Deadline: None

Abstract: The User Fees for Radon Proficiency Programs Final Rule established fees in 1994 that EPA will collect annually to support its voluntary Radon Proficiency Programs. The rule requires individuals and organizations applying to or participating in the Radon Proficiency Program (RPP) to pay annual fees. The final rule states that EPA shall adjust the fees over the next two years to a level that will ultimately be sufficient to recover the full annual costs of the program. Through this technical amendment, EPA will revise its fee schedule to collect a larger percentage of its annual (FY 96) operating costs. The annual fees will also reflect changes in the proficiency programs, participation, inflation, etc. In the calculation of the annual fees, the Agency will take into consideration the impact of the third year of fee collection on the radon industry.

Timetable:

Action	Date	FR Cite
Final Action	06/00/98	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Sectors Affected: 152 General Building Contractors-Residential Buildings; 171 Plumbing, Heating and Air-Conditioning; 382 Laboratory Apparatus and Analytical, Optical, Measuring, and Controlling Instruments; 873 Research, Development, and Testing Services

Additional Information: SAN No. 3835.

Agency Contact: James W. Long, Environmental Protection Agency, Air and Radiation, 6604J, Washington, DC 20460
Phone: 202 233-9433
Fax: 202 233-9652
Email: long.james@epamail.epa.gov

RIN: 2060–AG64

3537. REVISION TO DEFINITION OF VOLATILE ORGANIC COMPOUNDS (VOC)—EXCLUSION OF 18 COMPOUNDS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 7401 to 7671q

Legal Deadline: None

Abstract: This action is deregulatory in nature as it removes compounds from control as volatile organic compounds for purposes of preparing State Implementation Plans (SIPs) to attain the national ambient air quality standards for ozone under title 1 of the Clean Air Act. These compounds are being deregulated because of scientific evidence of their low photochemical reactivity. States will no longer include control provisions for these compounds in their SIPs. Small businesses will not be affected, except that they may more freely use these compounds.

Timetable:

Action	Date	FR Cite
NPRM	03/17/97	62 FR 12583
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: State

Sectors Affected: 367 Electronic Components and Accessories; 372 Aircraft and Parts

Additional Information: SAN No. 3838.

Agency Contact: William L. Johnson, Environmental Protection Agency, Air and Radiation, OAQPS (MD-15), Research Triangle Park, NC 27711
Phone: 919 541-5245
Fax: 919 541-0824
Email: johnson.williaml@epamail.epa.gov

RIN: 2060–AG70

3538. FEDERAL OPERATING PERMITS PROGRAM IN INDIAN COUNTRY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7661a(d)(3)

CFR Citation: 40 CFR 71.4

Legal Deadline: Other, Statutory, November 15, 1997, See additional information.

Abstract: Recognizing its trust responsibilities to Indian Tribes, EPA plans to exercise its regulatory authority to issue permits to sources of air pollution in Indian country where sources are not regulated by Indian Tribes. The Federal operating permits program for stationary air sources should extend to all of Indian country, but the regulation that created the program inadvertently created a regulatory gap. A change in regulations is needed to assure that each major source in Indian country is subject to either a State, Tribal, or Federal permit program.

The regulatory change would create a level playing field for industry. Also, the regulatory change would assure that EPA can regulate sources that create air pollution problems in Indian country or that are located in Indian country and generate air pollution problems for other areas.

There are no anticipated impacts on small businesses or State or local governments. The regulatory change would eliminate a burden on Tribal governments. They would not need to demonstrate their jurisdiction over an area in order for EPA to administer a permit program for the area.

Timetable:

Action	Date	FR Cite
NPRM	03/21/97	62 FR 13748
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3866.

Change needed prior to default effective date of programs in the Indian country set by 40 CFR 71.

Agency Contact: Candace Carraway, Environmental Protection Agency, Air and Radiation, MD-12, Research Triangle Park, NC 27711
Phone: 919 541-3189
Fax: 919 541-5509

RIN: 2060–AG90

3539. TIER II (PHASE II) STUDY TO ASSESS FURTHER REDUCTIONS IN LOV AND LDT TAILPIPE EMISSION STANDARDS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: PL 91-190; Clean Air Act sec 203(i)

CFR Citation: 40 CFR 86

Legal Deadline: Other, Statutory, June 1, 1997, Report to Congress.

Abstract: EPA is mandated by the Clean Air Act Amendments of 1990 to study whether or not further reductions in emissions from light-duty vehicles and light-duty trucks should be required through lowering tailpipe emissions standards. EPA is required to submit a report to Congress not later than June 1, 1997. The report will consider whether there is a need for further reductions in emissions, whether the technology is available to meet the more stringent standards, and whether further reductions in emissions will be needed and cost effective taking into consideration alternative means of attaining or maintaining national ambient air quality standards.

Timetable:

Action	Date	FR Cite
Final	11/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3911.

Agency Contact: John German, Environmental Protection Agency, Air and Radiation, NFEVL, Ann Arbor, MI 48105
Phone: 313 668-4214
Fax: 313 741-7869

RIN: 2060–AH04

3540. EMISSION REGULATIONS FOR 1978 AND LATER NEW MOTORCYCLES—PROPOSED CHANGES TO THE DEFINITION OF WEIGHT LIMITATIONS FOR MOTORCYCLES

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This rule will propose changes to the present regulatory definition of a motorcycle to allow two- or three-wheeled vehicles weighing up to 1749 pounds to be considered motorcycles. The proposed changes could reduce administrative burden on the motor cycle industry.

Timetable:

Action	Date	FR Cite
NPRM	08/02/97	62 FR 30291
Final Action	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: SAN No. 3912.

Agency Contact: Frank Lamitola, Environmental Protection Agency, Air and Radiation, NFEVL, Ann Arbor, MI 48105
Phone: 313 668-4479
Fax: 313 741-7869
Email: lamitola.frank@epamail.epa.gov

RIN: 2060–AH06

3541. BAN THE SALE OF HALON BLENDS AND THE INTENTIONAL RELEASE OF HALONS DURING TESTING AND TRAINING

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act Amendments of 1990

CFR Citation: 40 CFR 82

Legal Deadline: NPRM, Judicial, June 30, 1997.

Abstract: This rule is in response to a lawsuit filed by the Sierra Club. EPA and the Sierra Club have reached a consent decree that contains provisions for the agency to propose rules banning the sale of halon blend and relative to the release of halons during testing and training as well as the disposal of halon containing equipment at the end of its useful life. These rules must be promulgated by June 30, 1997.

Timetable:

Action	Date	FR Cite
NPRM	07/07/97	62 FR 36428
Final	07/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3984.

Agency Contact: Sue Stendebach, Environmental Protection Agency, Air and Radiation, 6205J, Washington, DC 20460
Phone: 202 233-9117

RIN: 2060–AH44

3542. INDIAN TRIBES: AIR QUALITY PLANNING AND MANAGEMENT

Priority: Other Significant

Legal Authority: 42 USC 7405; Clean Air Act sec 105

CFR Citation: 40 CFR 35

Legal Deadline: Final, Statutory, April 15, 1992.

Abstract: The Clean Air Act of 1990 requires EPA to promulgate regulations identifying those provisions of the CAA for which it is appropriate to treat tribes in the same manner as States. For the provisions specified, a Tribe may develop and implement one or more of its own air quality programs. In addition to specifying the CAA provisions for which it is appropriate to treat Tribes in the same manner as States, the rule also establishes the requirements that Indian Tribes must meet if they choose to seek such treatment, and provides for awards of Federal financial assistance to the Tribes.

Timetable:

Action	Date	FR Cite
NPRM	08/25/94	59 FR 43956
Final	12/00/97	

Small Entities Affected: None

Government Levels Affected: Tribal

Additional Information: SAN No. 3087.

Agency Contact: David R. LaRoche, Environmental Protection Agency, Air and Radiation, 6102, Washington, DC 20460
Phone: 202 260-7652

RIN: 2060–AF79

EPA—CAA — Final Rule Stage

3543. NAAQS: SULFUR DIOXIDE (REVIEW AND IMPLEMENTATION)

Regulatory Plan: This entry is Seq. No. 140 in Part II of this issue of the Federal Register.

RIN: 2060–AA61

3544. NESHAP: MINERAL WOOL PRODUCTION INDUSTRY

Priority: Other Significant

Legal Authority: 42 USC 1857 et seq; 44 USC 350 et seq; 4 USC 605; EO 12866

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: The Clean Air Act, as amended in 1990, requires the EPA to (1) publish an initial list of all categories of major and area sources of the hazardous air pollutants (HAPs) listed in Section 112(b) of the CAA, (2) promulgate a schedule establishing a date for the promulgation of emissions standards for each of the listed categories of HAPs emission sources, and (3) develop emission standards for each source of HAPs. These standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The Agency has determined that the mineral wool production industry emits several of the 188 HAPs listed in Section 112(b) of the CAA. As a consequence, a regulatory development program is being pursued for the mineral wool production industry to promulgate emission standards within 7 years of enactment of the Clean Air Act Amendments.

Timetable:

Action	Date	FR Cite
NPRM	05/08/97	62 FR 25370
Final Action	04/00/98	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3461.

Agency Contact: Mary K. Johnson, Environmental Protection Agency, Air and Radiation, OAQPS (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-5025

RIN: 2060–AE08

3545. NESHAP: PHOSPHORIC ACID MANUFACTURING

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act Amendments of 1990 sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000, Clean Air Act Amendments of 1990.

Abstract: The CAAA required EPA to publish an initial list of all categories of major and area sources of the hazardous air pollutants (HAPs) listed in section 112(b) of the CAAA and, to establish dates for the promulgation of emission standards for each of the listed categories of HAP emission sources and develop emission standards for each source of HAPs such that the schedule is met. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The Agency has determined that the phosphoric acid manufacturing industry emits several of the 189 HAPs listed in section 112(b) of the CAAA. The purpose of this action is to pursue a regulatory development program such that emission standards may be proposed and promulgated according to the mandated schedule.

Timetable:

Action	Date	FR Cite
NPRM	12/27/96	61 FR 68430
Final	02/00/98	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAN No. 3303.

Agency Contact: David F. Painter, Environmental Protection Agency, Air and Radiation, OAQPS (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-5515

RIN: 2060–AE40

3546. NESHAP: PHOSPHATE FERTILIZERS PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act Amendments of 1990 sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 2000, Clean Air Act Amendments of 1990.

Abstract: EPA is required to publish an initial list of all categories of major and area sources of the hazardous air pollutants (HAPs) listed in section 112(b) of the CAAA and, to establish dates for the promulgation of emission standards for each of the listed categories of HAP emission sources and develop emission standards for each source of HAPs such that the schedule is met. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The Agency has determined that the phosphate fertilizer production industry emits several of the 189 HAPs listed in section 112(b) of the CAAA. The purpose of this action is to pursue a regulatory development program such that emission standards may be proposed and promulgated according to the mandated schedule.

Timetable:

Action	Date	FR Cite
NPRM	12/27/96	61 FR 68430
Final	02/00/98	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 3304.

Agency Contact: David F. Painter, Environmental Protection Agency, Air and Radiation, OAQPS (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-5515

RIN: 2060–AE44

3547. NESHAP: WOOL FIBERGLASS MANUFACTURING INDUSTRY

Priority: Other Significant

Legal Authority: 42 USC 1857 et seq; 44 USC 350 et seq; 4 USC 605; EO 12866

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: The Clean Air Act (CAA), as amended in 1990, requires the EPA to (1) publish an initial list of all categories of major and area sources of the hazardous air pollutants (HAPs) listed in Section 112(b) of the CAA, (2) promulgate a schedule establishing a date for the promulgation of emissions standards for each of the listed categories of HAPs emission sources, and (3) develop emission standards for each source of HAPs. These standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The Agency has determined that the wool fiberglass manufacturing industry may reasonably be anticipated to emit several of the 189 HAPs listed in section 112(b) of the CAA. As a consequence, a regulatory development program is being pursued for the wool fiberglass manufacturing industry to promulgate emission standards within 7 years of enactment of the CAA amendments.

Timetable:

Action	Date	FR Cite
NPRM	03/31/97	62 FR 15226
Final	03/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Sectors Affected: 327 Concrete, Gypsum, and Plaster Products

Additional Information: SAN No. 3123.

Agency Contact: William J. Neuffer, Environmental Protection Agency, Air and Radiation, OAQPS (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-5435

RIN: 2060–AE75

3548. NESHAP: PRIMARY ALUMINUM PLANTS

Priority: Other Significant

Legal Authority: 42 USC 1857 et seq

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: Title III of the Clean Air Act Amendments of 1990 requires the EPA to develop emission standards for each major source category of hazardous air pollutants. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator of EPA. The EPA has determined that plants in the Primary Aluminum industry are major sources for one or more hazardous air pollutants. As a consequence, a regulatory development program is being conducted such that emission standards will be proposed and promulgated by November 15, 1997.

Timetable:

Action	Date	FR Cite
NPRM	09/26/96	61 FR 50585
Final	10/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 333 Primary Smelting and Refining of Nonferrous Metals

Additional Information: SAN No. 3072.

Agency Contact: Steve Fruh, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-2837

RIN: 2060–AE76

3549. NESHAP: FLEXIBLE POLYURETHANE FOAM PRODUCTION

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: Clean Air Act Amendments of 1990 sec 112

CFR Citation: 40 CFR 63

Legal Deadline:
Final, Statutory, November 15, 1997.

Abstract: Title III of the amended Clean Air Act (CAA) requires development of emission standards for all major sources, and selected area sources, emitting any of the 189 hazardous air pollutants (HAP) identified in section 112(b) of the CAA. Flexible Polyurethane Foam Production has been listed as a category of major sources based on documented emissions of methylene chloride and 2,4-toluene diisocyanate. This action will regulate the release of HAP from the following emission sources located at slabstock, rebond, and molded polyurethane foam production facilities: process vents, storage, equipment leaks and other fugitive sources, and transfer operations. This action, however, will not cover emissions from foam fabrication (i.e., gluing and flame lamination). In June 1996 the Agency added a separate source category to address HAP from fabrication operations.

Ultimately, a NESHAP for foam production will be developed based on candidate Maximum Achievable Control Technology. This is a 7-year standard, required to be promulgated by November 1997.

Timetable:

Action	Date	FR Cite
NPRM	12/27/96	61 FR 68406
Correction Notice	02/03/97	62 FR 05074
Final	11/00/97	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Sectors Affected: 308 Miscellaneous Plastics Products

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3338.

Agency Contact: David Svendsgaard, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-2380
Fax: 919 541-3470

RIN: 2060–AE86

3550. NATIONAL EMISSION STANDARD FOR RADON EMISSIONS FROM PHOSPHOGYPSUM STACKS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401; Clean Air Act sec 112

CFR Citation: 40 CFR 61

Legal Deadline: None

Abstract: EPA has granted a petition for reconsideration for the portion of the rule which regulates phosphogypsum for research and development uses. This regulatory proceeding would result in a final rule which may increase the limit and reduce the certification requirements for that use.

Timetable:

Action	Date	FR Cite
NPRM Notice of Reconsideration	05/08/96	61 FR 20775
Final	10/00/97	

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2547.

Agency Contact: Martin Offit, Environmental Protection Agency, Air and Radiation, 6602J, Washington, DC 20460
Phone: 202 233-9768

RIN: 2060–AF04

EPA—CAA

Final Rule Stage

3551. REVISION OF INITIAL LIST OF CATEGORIES OF SOURCES AND SCHEDULE FOR STANDARDS UNDER SECTION 112(C) AND (E) OF THE CLEAN AIR ACT AMENDMENTS OF 1990

Priority: Info./Admin./Other

Unfunded Mandates: Undetermined

Legal Authority: Clean Air Act sec 112

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: Section 112 of the Clean Air Act requires the EPA to publish a list of major and area source categories which emit one or more of the 189 hazardous air pollutants identified in Section 112. The list of source categories was finalized in July 1992, and contained 174 categories. Section 112 further requires the Agency to prioritize the listed categories such that standards are promulgated for 40 source categories within 2 years of enactment, 25% of all initially listed categories within 4 years, 50% within 7 years, and 100% within 10 years. The schedule for the promulgation of emissions standards was published in December 1993.

This action revises the initial list of source categories and the corresponding schedule for emission standards. This is in accordance with the statute, which requires the Agency to periodically amend the list in response to public comment or new information, and no less often than every eight years. As a result of several additions and deletions of source categories, the list now contains 175 categories. Categories may be added at any time contingent upon showing that the category is a category of major sources or that a category of area sources poses a threat of adverse effect and warrants regulation under Section 112. Actions to add or remove area source categories are handled through separate Federal Register notices in order to provide the opportunity for public comment on them. Actions included within this action are: 1) adding categories of major sources, where major sources have been identified; 2) deleting categories of major sources which, upon further study, have been found to not contain major sources; 3) moving categories to different, more appropriate industry groups for purposes of clarity; 4) modifying titles and definitions of listed source categories to clarify applicability; and 5) reporting other relevant source category actions that were published independently of this action.

Timetable:

Action	Date	FR Cite
Notice of Revision	06/04/96	61 FR 28197
Correction Notice	07/18/96	61 FR 37542
ANPRM Listing Research and Development Facilities	05/12/97	62 FR 25877
Notice of Revision	11/00/97	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3791.

Agency Contact: David J. Svendsgaard, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-2380
Fax: 919 541-3470

RIN: 2060–AG42

3552. TECHNICAL AMENDMENTS TO AEROSPACE NESHAP

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act sec 112

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: The NESHAP for Aerospace Manufacturing and Rework Facilities was promulgated in August of 1995. Afterwards, we discovered a few problems with the rule and still need to publish the CTG for this industry. This action would correct these problems and announce the CTG. An additional set of amendments will be proposed at the same time which will address issues with General Aviation.

Timetable:

Action	Date	FR Cite
NPRM	10/29/96	61 FR 55842
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 372 Aircraft and Parts

Additional Information: SAN No. 3836.

Agency Contact: Barbara Driscoll, Environmental Protection Agency, Air and Radiation, OAQPS (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-0164
Fax: 919 541-0942

RIN: 2060–AG65

3553. WOOD FURNITURE MANUFACTURING OPERATIONS NESHAP: TECHNICAL CORRECTIONS AND CLARIFICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63 subpart JJ

Legal Deadline: None

Abstract: This action will amend and make technical corrections and clarifications to the final Wood Furniture Manufacturing Operations NESHAP, which was promulgated on December 7, 1996 (60 FR 62930). This action will address litigation issues brought up after promulgation of the standards, as well as, the resolution of these issues. In addition, this action will clarify aspects for the final rule such as applicability, emission limits, and will make editorial corrections to the final rule as was published in the Federal Register.

This action revises the definition of wood furniture in the NESHAP to exclude foam seat cushions not made at wood furniture manufacturing facilities. The revisions clarify the applicability of the final rule to eliminate potential overlapping requirements with other NESHAPs (direct final/proposal).

Timetable:

Action	Date	FR Cite
NPRM	06/09/97	62 FR 31405
Interim Final	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 2965.

Agency Contact: Paul Almodovar, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711
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RIN: 2060–AG95

3554. NESHAP: SECONDARY LEAD SMELTER AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7402 et seq; Clean Air Act sec 112

CFR Citation: 40 CFR 63 subpart X

Legal Deadline: None

EPA—CAA

Final Rule Stage

Abstract: Final standards under section 112(d) for hazardous air pollutants emissions from new and existing lead smelters (40 CFR 63, Subpart X) were promulgated on June 23, 1995 and revised on June 13, 1997.

This action amends these national emission standards for hazardous air pollutants (NESHAP) for new and existing secondary lead smelters. Changes to the NESHAP are being made to address comments received in petitions to reconsider sent to the EPA following promulgation of the final rule. Though minor, these changes affect several aspects of the final rule including applicability of the THC limit for collocated blast and reverberatory furnaces, minimum baghouse standard operating procedures (SOP) requirements, and bag leak detection systems specifications and requirements. Several minor changes are also being made to clarify the intent of the rule.

The action will not result in increased burden on industry, nor will it result in decreased environmental benefits.

Timetable:

Action	Date	FR Cite
NPRM	06/13/97	62 FR 32266
Direct Final	06/13/97	62 FR 32266
Final Action	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: State

Sectors Affected: 334 Secondary Smelting and Refining of Nonferrous Metals

Additional Information: SAN No. 3193.

Agency Contact: Kevin Cavender, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711
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RIN: 2060–AH07

3555. SPECIFIC POLLUTANTS: LIST OF CATEGORIES EMITTING 7 SPECIFIED HAZARDOUS AIR POLLUTANTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412(c)(6); Clean Air Act sec 112(c)(6)

Legal Deadline:
NPRM, Judicial, June 11, 1997.
Final, Judicial, December 19, 1997.

Abstract: Under CAA section 112(c)(6), special studies are required to identify, for potential standards development, sources and national emissions of seven specific air toxics. These seven are alkylated lead compounds, polycyclic organic matter (POM), hexachlorobenzene, mercury, polychlorinated biphenyls (PCBs), 2,3,7,8-tetrachlorodibenzofurans (2,3,7,8-TCDF), and 2,3,7,8-tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD). EPA is required to identify the sources accounting for 90% of the emissions of these pollutants and assure that those sources are subject to standards.

Timetable:

Action	Date	FR Cite
Announcement of Availability	06/11/97	62 FR 33625
Final	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3960.

Agency Contact: Laurel Driver, Environmental Protection Agency, Air and Radiation, MD-15, Research Triangle Park, NC 27711
Phone: 919 541-2859
Fax: 919 541-7690

RIN: 2060–AH20

3556. STANDARDS FOR REFORMULATED AND CONVENTIONAL GASOLINE, INDIVIDUAL BASELINE FUEL ADJUSTMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7414; Clean Air Act sec 114; 42 USC 7545(c); Clean Air Act sec 211(c); 42 USC 7601; Clean Air Act sec 301

CFR Citation: 40 CFR 80

Legal Deadline: None

Abstract: This rule would establish criteria by which a refiner could receive an adjustment to its baseline under certain circumstances. Baseline adjustments reduce the cost of compliance (primarily with the anti-dumping requirements of the reformulated gasoline program) for those refiners which would otherwise be extremely burdened.

Baseline adjustments under certain circumstances were provided for in the December 1993 final Reformulated Gasoline and Anti-Dumping rule. However, baseline adjustments are only allowed under certain narrowly defined circumstances; broad adjustments are beyond EPA's discretion. The circumstances for which baseline adjustments would be allowed under this rule are as follows: 1) production of JP-4 in 1990; 2) use of an extremely low-sulfur crude in 1990; 3) having extremely low baseline values for sulfur and solefins. Refiners must meet specific criteria in order to qualify for one or more of these adjustments.

Timetable:

Action	Date	FR Cite
NPRM	08/04/95	60 FR 40009
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3804.

Agency Contact: Christine M. Brunner, Environmental Protection Agency, Air and Radiation, NFEVL, Ann Arbor, MI 48105
Phone: 313 668-4287
Fax: 313 741-7869

RIN: 2060–AG80

3557. FUELS AND FUEL ADDITIVES; ELIMINATION OF OXYGENATED PROGRAM REFORMULATED GASOLINE CATEGORY FROM THE REFORMULATED GASOLINE REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: Clean Air Act sec 114; Clean Air Act sec 211; Clean Air Act sec 301(a)

CFR Citation: 40 CFR 80

Legal Deadline: None

Abstract: EPA is proposing to amend the RFG regulations to eliminate separate treatment for a category of gasoline used in averaging. EPA does not believe the category is necessary

any more. This proposed action would increase flexibility and reduce compliance costs. No negative environmental impact is expected.

Timetable:

Action	Date	FR Cite
NPRM	03/17/97	62 FR 12566
Final	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3948.

Agency Contact: Anne-Marie Cooney Pastorkovich, Environmental Protection Agency, Air and Radiation, 6406J, Washington, DC 20460
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RIN: 2060–AH43

3558. TRANSPORTATION CONFORMITY RULE AMENDMENT AND SOLICITATION FOR PARTICIPATION IN THE TRANSPORTATION CONFORMITY PILOT PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7401 to 7671; Clean Air Act sec 176

CFR Citation: 40 CFR 51; 40 CFR 93

Legal Deadline: None

Abstract: The Transportation Conformity rule promulgated in November 1993 ensures that transportation and air quality planning are consistent with Clean Air Act air quality standards. This action is part of an Agency effort to streamline the existing conformity regulation and offer flexibility in the conformity process. This action would amend the conformity regulation to allow EPA to create and implement a conformity pilot program.

The rule amendment would allow EPA to exempt up to six areas from certain requirements of the conformity rule. The main objective of the pilot program is to offer State and local air and transportation agencies the flexibility to identify the conformity procedures that work best for their area. This action will enable EPA to test out innovative methods of streamlining the conformity regulation's requirements while ensuring that Clean Air Act objectives are met. In addition to the rule amendment, this action also includes the pilot program's proposed eligibility and application requirements, selection criteria, and implementation procedures.

Timetable:

Action	Date	FR Cite
NPRM	07/09/96	61 FR 35984
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3610.

Agency Contact: Meg Patulski, Environmental Protection Agency, Air and Radiation, NFEVL, Ann Arbor, MI 48105
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RIN: 2060–AG79

3559. NATIONAL VOLATILE ORGANIC COMPOUND EMISSION STANDARDS FOR AUTOMOBILE REFINISH COATINGS

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: Clean Air Act Amendments of 1990 sec 183(e)

CFR Citation: 40 CFR 59

Legal Deadline:
Final, Statutory, March 1997.

Abstract: Section 183(e) requires EPA to study the emissions of volatile organic compounds (VOC) from consumer and commercial products, list those categories of products that account for at least 80 percent of the total VOC emissions from consumer and commercial products in areas classified as nonattainment for ozone, divide the list into four groups, and regulate one group every 2 years using best available controls (BAC). Based on the criteria described in the consumer and commercial product study (March 1995), and category listing (March 1995), EPA has determined that VOC emissions from automobile refinish coatings should be regulated. Automobile refinish coatings can be generally classified as primers and topcoats, each consisting of several different types. The proposed rule divides automobile refinish coatings into 6 categories, and contains VOC content limits for each category. Automobile refinish coatings are used by body shops and by do-it-yourselfers. However, the proposed rule does not directly affect these small businesses. Rather, the rule would apply to coating manufacturers and importers, and would limit the VOC content of coatings that are produced for sale in the United States.

Timetable:

Action	Date	FR Cite
NPRM	04/30/96	61 FR 19005
Final	01/00/98	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 3281.

Agency Contact: Mark Morris, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-5416

RIN: 2060–AE35

3560. VOC REGULATION FOR ARCHITECTURAL COATINGS

Regulatory Plan: This entry is Seq. No. 141 in Part II of this issue of the **Federal Register**.

RIN: 2060–AE55

3561. NATIONAL VOC EMISSION STANDARDS FOR CONSUMER PRODUCTS

Regulatory Plan: This entry is Seq. No. 142 in Part II of this issue of the **Federal Register**.

RIN: 2060–AF62

3562. OPEN-MARKET TRADING GUIDANCE

Regulatory Plan: This entry is Seq. No. 143 in Part II of this issue of the **Federal Register**.

RIN: 2060–AF60

3563. REVISED CARBON MONOXIDE (CO) STANDARD FOR CLASS I AND II NONHANDHELD NEW NONROAD PHASE I SMALL SPARK-IGNITED ENGINES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7521; Clean Air Act sec 201

CFR Citation: 40 CFR 90

Legal Deadline: None

Abstract: This direct final rule revises the existing new nonroad Phase I small spark-ignited (SI) engine regulations. Briggs and Stratton Corporation submitted a petition to the Administrator on March 4, 1996, asking the Agency to reconsider the existing regulation and to either allow the use of oxygenated certification fuels with the current CO standard or revise the existing carbon monoxide (CO) emission standard for class I and II nonhandheld engines. Briggs and Stratton argues that the majority of nonhandheld engines sold in the United States can not meet the current CO standard when tested on the monoxygenated certification test fuel specified in the regulations. EPA has finalized the CO standard on the basis of data provided to the Agency by Briggs and Stratton. The Agency had assumed that the data was collected using Indolene (a monoxygenated, nonreformulated gasoline) as the test fuel. In fact, Briggs and Stratton had used California's Phase II Reformulated Gasoline (RFG) in the testing, but had not informed EPA of this before the rule was finalized. The use of an oxygenated fuel has an effect on the emissions from these engines, particularly CO, and Briggs and Stratton had used California's Phase II Reformulated Gasoline (RFG) in the testing, but had not informed EPA of this before the rule was finalized. The use of an oxygenated fuel has an effect on the emissions from these engines, particularly CO, and Briggs and Stratton had used California's Phase II Reformulated Gasoline (RFG) in the testing, but had not informed EPA of this before the rule was finalized. The use of an oxygenated fuel has an effect on the emissions from these engines, particularly CO, and Briggs and Stratton had used California's Phase II Reformulated Gasoline (RFG) in the testing, but had not informed EPA of this before the rule was finalized. The use of an oxygenated fuel has an effect on the emissions from these engines, particularly CO, and Briggs and Stratton had used California's Phase II Reformulated Gasoline

Timetable:

Action	Date	FR Cite
NPRM	07/03/96	61 FR 34778
Final	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3300.

EPA staff are analyzing new data provided by Briggs and Stratton concerning the amount of the CO emission offset between Indolene and RFG for nonhandheld engines. Based on data analysis and documentation provided by Briggs and Stratton in support of their petition, EPA intends to determine the amount of the emission offset and consider raising the Phase I CO emission standard for nonhandheld engines accordingly. In their petition to EPA, Briggs and Stratton assert that raising the CO standard should result in reduced emissions of hydrocarbons and oxides of nitrogen, which are the primary pollutants of concern under the Phase I small SI rule.

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Phone: 313 741-7803
Fax: 313 741-7816

RIN: 2060–AG81

3564. VOLUNTARY STANDARDS FOR LIGHT-DUTY VEHICLES (NATIONAL 49 STATE LOW-EMISSION VEHICLES PROGRAM)

Regulatory Plan: This entry is Seq. No. 144 in Part II of this issue of the **Federal Register**.

RIN: 2060–AF75

3565. CONTROL OF EMISSIONS OF AIR POLLUTION FROM HIGHWAY HEAVY-DUTY ENGINES AND DIESEL ENGINES

Regulatory Plan: This entry is Seq. No. 145 in Part II of this issue of the **Federal Register**.

RIN: 2060–AF76

3566. MODIFICATIONS TO STANDARDS FOR REFORMULATED AND CONVENTIONAL GASOLINE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7545; Clean Air Act sec 211

CFR Citation: 40 CFR 80

Legal Deadline: None

Abstract: Under authority of the Clean Air Act, as amended in 1990, EPA promulgated regulations to require a cleaner burning reformulated gasoline (RFG) in nine mandated areas of the country with the worst ozone air pollution problems. These areas are designated as covered areas, (e.g., areas in which non-RFG (conventional gasoline) is prohibited from being sold or dispensed to the ultimate consumers of the gasoline. Other ozone nonattainment areas may opt-in to the RFG program upon petition by the Governor of the state in which the area is located.

Since the RFG program became effective in January 1995, many enforcement related issues have been raised concerning the implementation of the program. Some of these issues have required the exercise of enforcement discretion through the use of informal question and answer guidance documents. This action will codify those guidances which are appropriate for incorporation into the RFG regulations. This action will also streamline, the regulations where appropriate, and include certain typographical and other minor corrections.

Timetable:

Action	Date	FR Cite
NPRM	07/11/97	62 FR 37338
Final	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3844.

Agency Contact: Karen Smith, Environmental Protection Agency, Air and Radiation, 6406J, Washington, DC 20460
Phone: 202 233-9006
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RIN: 2060–AG76

3567. REVISION TO THE COVERED AREAS PROVISION FOR REFORMULATED GASOLINE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 7545/CAA 211

CFR Citation: 40 CFR 80

Legal Deadline: None

Abstract: Under authority of the Clean Air Act as amended in 1990, EPA promulgated regulations to require a cleaner burning reformulated gasoline (RFG) in nine mandated areas of the country with the worst ozone air pollution problems. These areas are designated as covered areas, (e.g., areas in which non-RFG (conventional gasoline) is prohibited from being sold or dispensed to the ultimate consumers of the gasoline.

The RFG regulations also include a provision which allows a State, upon petition by the Governor, to have other areas designated as nonattainment for ozone included as covered areas under the Federal RFG program (the opt-in provision).

This action will expand the opt-in provision to include areas that that formerly were in nonattainment for ozone as well as areas presently in nonattainment for ozone. This action will give States the flexibility to use the RFG program in their maintenance plans and as contingency measures for those areas that have been redesignated to attainment status, but are in need of ozone controls to maintain that status.

Timetable:

Action	Date	FR Cite
Direct Final Action	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3843.

Agency Contact: Marylin Bennett, Environmental Protection Agency, Air and Radiation, (6406J), Washington, DC 20460
Phone: 202 233-9006
Fax: 202 233-9557

RIN: 2060–AG77

3568. AMENDMENT CONCERNING APPLICABILITY OF ON HIGHWAY HEAVY-DUTY CERTIFIED ENGINES FOR USE IN NONROAD HEAVY-DUTY VEHICLES AND EQUIPMENT

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7521; 42 USC 7522; 42 USC 7523; 42 USC 7524; 42 USC 7525; 42 USC 7541; 42 USC 7542; 42 USC 7543; 42 USC 7547

CFR Citation: 40 CFR 9; 40 CFR 89

Legal Deadline: None

Abstract: This action would consider an amendment to the existing regulations to allow the use of on-highway heavy-duty certified engines in nonroad heavy-duty vehicles and equipment. This will eliminate hardships caused by the imposition of nonroad heavy-duty rules of specialty vehicles and equipment that have historically elected to use cleaner on-highway heavy-duty engines.

Timetable:

Action	Date	FR Cite
NPRM	11/12/96	61 FR 58102
Final Action	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3842.

Agency Contact: John Guy, Environmental Protection Agency, Air and Radiation, (6403J), Washington, DC 20460
Phone: 202 233-9276
Fax: 202 233-9596

RIN: 2060–AG78

3569. OUTER CONTINENTAL SHELF AIR REGULATIONS DELEGATION REMAND

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: Clean Air Act sec 328

CFR Citation: 40 CFR 55

Legal Deadline: None

Abstract: The EPA promulgated the Outer Continental Shelf (OCS) Air Regulations on September 4, 1992. The regulations allowed States to request delegation of the authority to implement and enforce the regulations for sources located within 25 miles of the State's seaward boundary, but prohibited such delegation of the authority for sources locating beyond that limit. Since section 328(a)(3) of the Clean Air Act requires EPA to allow delegation for both types of sources, EPA requested and received a remand on this issue. The notice revises the OCS Air Regulations to allow delegation of the implementation and enforcement authority to State and local air pollution control agencies for sources locating beyond 25 mile of the States' seaward boundaries.

Timetable:

Action	Date	FR Cite
NPRM	05/20/96	61 FR 25173
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3789.

Agency Contact: David H. Stonefield, Environmental Protection Agency, Air and Radiation, MD-15, Research Triangle Park, NC 27711
Phone: 919 541-5350

RIN: 2060–AG39

3570. OUTER CONTINENTAL SHELF AIR REGULATIONS OFFSET REMAND

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: Clean Air Act sec 328

CFR Citation: 40 CFR 55

Legal Deadline: None

Abstract: The EPA promulgated the Outer Continental Shelf (OCS) Air Regulations on September 4, 1992. As a result of a challenge, the court vacated the special offset provision which EPA had included in the OCS regulations and remanded that issue to EPA for reconsideration. The interim final rule revised the OCS regulations to require that new or modified OCS sources meet the same offset requirements as imposed in the corresponding onshore area. The final action is to respond to public comment on the interim final rule. As a result some OCS sources may be required to obtain additional offset credits.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/20/96	61 FR 25149
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3790.

Agency Contact: David H. Stonefield, Environmental Protection Agency, Air and Radiation, MD-15, Research Triangle Park, NC 27711
Phone: 919 541-5350

RIN: 2060–AG40

3571. NSPS: NITROGEN OXIDE EMISSIONS FROM FOSSIL-FUEL FIRED STEAM GENERATING UNITS—REVISION

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: Clean Air Act Amendments of 1990 sec 407(c)

CFR Citation: 40 CFR 60.40

Legal Deadline:
NPRM, Judicial, July 1, 1997.
Final, Judicial, September 3, 1998, Deadlines may be revised.

Abstract: The current NSPS for electric utility and nonutility steam generating units were promulgated in 1979 and 1986, respectively. A major feature of the NSPS is NOx control through the use of low NOx burners or overfired air. Section 407 of the Clean Air Act requires the EPA to revise existing NSPS for NOx emissions from fossil-fuel fired steam generating units, including both electric utility and nonutility units. These revised standards are to reflect improvements in methods for the reduction of NOx emissions.

Timetable:

Action	Date	FR Cite
NPRM	07/09/97	62 FR 36948
Final Action	09/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: 491 Electric Services; 20 Food and Kindred Products

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3352.

Agency Contact: James A. Eddinger, Environmental Protection Agency, Air and Radiation, OAQPS (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-5426
Fax: 919 541-5450

RIN: 2060–AE56

3572. AMENDMENT TO THE MVAC RULE TO INCLUDE ALL REFRIGERANTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq; Clean Air Act sec 609, title VI

CFR Citation: 42 CFR 82 subpart B

Legal Deadline:
Final, Statutory, November 15, 1994.

Abstract: This action would facilitate fulfillment of two statutory requirements; the extension of the no-venting prohibition to all refrigerants under section 608 and the section 609 requirement that the term refrigerant, after November 15, 1995, include substitute refrigerants. The action would extend the applicable current requirements of the motor vehicle air-conditioning rule to the substitute refrigerants. This would require recovery and recycling of these refrigerants, in addition to the class I and class II refrigerants already covered under the MVAC rule. It would also require approved recycling equipment and specific certifications of equipment and technicians. The MVAC refrigerant definition was expanded to cover all refrigerants, beginning November 15, 1995, according to sections 608 and 609 of the Clean Air Act.

Timetable:

Action	Date	FR Cite
NPRM	03/08/96	61 FR 9014
Final	10/00/97	

Small Entities Affected: None

Government Levels Affected: State, Federal

Sectors Affected: 75 Automotive Repair, Services, and Parking

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3555.

Agency Contact: Christine Dibble, Environmental Protection Agency, Air and Radiation, 6205J, Washington, DC 20460
Phone: 202 233-9147
Fax: 202 233-9577

RIN: 2060–AF35

3573. PROTECTION OF STRATOSPHERIC OZONE: SUPPLEMENTAL RULE REGARDING A RECYCLING STANDARD UNDER SECTION 608

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq; Clean Air Act sec 608

CFR Citation: 40 CFR 82F

Legal Deadline:
Other, Statutory, May 15, 1995, See Additional Information.

Abstract: The current rule sunsets the requirement that a reclamation standard be met, as of May 1, 1995. Several members of the regulated community have approached EPA requesting that the requirement not be sunsetted or that it be replaced with a somewhat less stringent standard. This amendment will incorporate a level of continued required reclamation and/or recycling standard that the majority of the affected industry agrees is beneficial in order to encourage compliance.

Timetable:

Action	Date	FR Cite
NPRM	02/29/96	61 FR 7858
Final	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3556.

Additional SANs 3895, 3896

The current rule sunsets the reclamation standard after May 15, 1995. Industry is requesting a change to that sunset, which would require a final rule by that 5/15/95 date.

Agency Contact: Michael Forlini, Environmental Protection Agency, Air

EPA—CAA — Final Rule Stage

and Radiation, 6205J, Washington, DC 20460
Phone: 202 233-9475
Fax: 202 233-9665
RIN: 2060–AF36

3574. TECHNICAL AMENDMENTS TO HAZARDOUS WASTE TSDF AND HAZ. WASTE GENERATORS: ORGANIC AIR EMISSION STNDS. FOR TANKS, SURFACE IMPOUNDMENTS AND CONTAINERS

Priority: Substantive, Nonsignificant
Legal Authority: Resource Conservation Recovery Act sec 3002; Resource Conservation Recovery Act sec 3004
CFR Citation: 40 CFR 264; 40 CFR 265
Legal Deadline: None
Abstract: These standards were promulgated on December 6, 1994 and were effective on December 6, 1996. The final standards control organic air emissions from hazardous waste TSDF and generator sites. These emissions have been shown to contribute greatly to ground-level ozone formation and to cancer incidence among exposed populations.

Following promulgation, the EPA identified certain provisions for which the intended emission reductions can be achieved with less burdensome standards. The EPA has amended the final rule to include several revised provisions, including the following: certain fixed-roof tanks may be equipped with pressure relief devices that vent to the atmosphere; containers may be vented during loading and emptying operations; a facility may comply with the final rule using an implementation schedule in several different circumstances; and the frequency of monitoring for certain equipment shall be semi-annual rather than annual. A technical correction notice is planned that will clarify the intent and effect of a few amendment provisions which were not clear in the 11/25/96 amendment notice.

Timetable:

Action	Date	FR Cite
NPRM	09/14/95	60 FR 41870
Technical Amendments	02/09/96	61 FR 4903
Final Action	11/25/96	61 FR 59931
Technical Correction Notice	11/00/97	

Small Entities Affected: None
Government Levels Affected: None
Additional Information: SAN No. 3792.
Agency Contact: Michele Aston, Environmental Protection Agency, Air and Radiation, OAQPS (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-2363
RIN: 2060–AG44

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Clean Air Act (CAA) — Long-Term Actions

3575. NESHAP FOR MISCELLANEOUS CELLULOSE PRODUCTION

Priority: Substantive, Nonsignificant
CFR Citation: 40 CFR 63
Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined
Government Levels Affected: State, Local, Tribal, Federal
Agency Contact: Bill Schrock
Phone: 919 541-5032
Fax: 919 541-3470
RIN: 2060–AH11

3576. NESHAP FOR MUNICIPAL SOLID WASTE LANDFILLS

Priority: Substantive, Nonsignificant
CFR Citation: 40 CFR 63
Timetable:

Action	Date	FR Cite
NPRM	09/00/00	

Small Entities Affected: Undetermined
Government Levels Affected: State, Local, Tribal, Federal
Agency Contact: Martha Smith
Phone: 919 541-2421
RIN: 2060–AH13

3577. TRANSPORTATION CONFORMITY RULE AMENDMENT: CLARIFICATION OF TRADING PROVISIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.
CFR Citation: 40 CFR 51; 40 CFR 93
Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Laura Voss
Phone: 313 741-7858
Fax: 313 668-4531
Email: voss.laura@epamail.epa.gov
RIN: 2060–AH31

3578. • NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR COKE OVENS: PUSHING, QUENCHING, AND BATTERY STACKS

Priority: Other Significant
Unfunded Mandates: Undetermined
Legal Authority: 42 USC 7412
CFR Citation: 40 CFR 63
Legal Deadline: Final, Statutory, November 15, 2020.
Abstract: There are currently 27 active domestic coke plants, 22 of which are furnace coke plants and 5 of which are foundry coke plants. Coke oven batteries used to produce metallurgical coke at these plants emit hazardous air pollutants (HAPs), such as, coke oven emissions and polycylic organic matter listed in section 112 of the Clean Air Act (CAA).

This action will establish a National Emission Standard for Hazardous Air Pollutants (NESHAP) for three specific operations associated with coke ovens, namely pushing, quenching, and battery stacks. This NESHAP is scheduled for promulgation by November 15, 2000.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
Final	05/00/00	

Small Entities Affected: None
Government Levels Affected: State, Federal
Sectors Affected: 331 Steel Works, Blast Furnaces, and Rolling and Finishing Mills
Additional Information: SAN No. 4022.
Agency Contact: Alfred (Al) Vervaert, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-5802
Fax: 919 541-5600
RIN: 2060–AH55

EPA—CAA — Long-Term Actions

3579. METHOD 301: FIELD VALIDATION OF POLLUTION MEASUREMENT METHODS FOR VARIOUS MEDIA

Priority: Substantive, Nonsignificant
CFR Citation: 40 CFR 60; 40 CFR 63
Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
Final	01/00/99	

Small Entities Affected: None
Government Levels Affected: State, Local, Federal
Agency Contact: Gary McAlister
Phone: 919 541-1062
RIN: 2060–AF00

3580. RADIATION WASTE MANAGEMENT REGULATIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.
CFR Citation: Not yet determined
Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Action	10/00/99	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Al Colli
Phone: 202 233-9445
RIN: 2060–AF41

3581. SERVICE INFORMATION AVAILABILITY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.
Unfunded Mandates: Undetermined
CFR Citation: 40 CFR 86
Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Businesses
Government Levels Affected: None
Agency Contact: David Dickinson
Phone: 202 233-9256
Fax: 202 233-9596
Email: dickinson.david@epa.gov.com
RIN: 2060–AG13

3582. RADIONUCLIDE DOSE METHODOLOGY UPDATE

Priority: Substantive, Nonsignificant
CFR Citation: 40 CFR 141
Timetable:

Action	Date	FR Cite
Final Action	10/00/98	

Small Entities Affected: Governmental Jurisdictions
Government Levels Affected: State, Local, Federal
Agency Contact: John Karhnak
Phone: 202 233-9761
Fax: 202 233-9650
Email: karhnak.jogn@epamail.epa.gov
RIN: 2060–AG49

3583. NSPS FOR SEWAGE SLUDGE INCINERATORS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.
Unfunded Mandates: Undetermined
Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.
CFR Citation: 40 CFR 63
Timetable:

Action	Date	FR Cite
ANPRM	01/14/97	61 FR 1868
NPRM	05/00/99	
Final	05/00/00	

Small Entities Affected: Governmental Jurisdictions
Government Levels Affected: State, Local, Federal
Agency Contact: Eugene P. Crumpler
Phone: 919 541-0881
Fax: 919 541-5600
RIN: 2060–AG50

3584. NESHAP FOR PLYWOOD AND PARTICLE BOARD MANUFACTURING

Priority: Substantive, Nonsignificant
CFR Citation: 40 CFR 63
Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final	11/00/00	

Small Entities Affected: Undetermined
Government Levels Affected: State, Local, Federal
Agency Contact: Penny E. Lassiter
Phone: 919 541-5396
Fax: 919 541-0246
RIN: 2060–AG52

3585. REVISED PERMIT REVISION PROCEDURES FOR THE FEDERAL OPERATING PERMITS PROGRAM

Priority: Other Significant
Unfunded Mandates: Undetermined
Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.
CFR Citation: 40 CFR 71.1
Timetable:

Action	Date	FR Cite
NPRM	10/00/98	
Final Action	05/00/99	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Scott Voorhees
Phone: 919 541-5348
Fax: 919 541-5509
RIN: 2060–AG92

3586. STORAGE TANK RULE REVISIONS

Priority: Substantive, Nonsignificant
CFR Citation: 40 CFR 60 (Revision); 40 CFR 61 (Revision); 40 CFR 63 (Revision); 40 CFR 264 (Revision); 40 CFR 265 (Revision)
Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined
Government Levels Affected: State, Local, Tribal, Federal
Agency Contact: Mark Morris

Phone: 919 541-5416
RIN: 2060–AH15

3587. ADDITION OF OPACITY METHOD TO APPENDIX M OF 40 CFR PART 51 (METHOD 203)

Priority: Substantive, Nonsignificant
CFR Citation: 40 CFR 51
Timetable:

Action	Date	FR Cite
NPRM	10/07/92	57 FR 46114
Final	10/00/98	

Small Entities Affected: None
Government Levels Affected: State, Local, Tribal, Federal
Agency Contact: Solomon O. Ricks
Phone: 919 541-5242
Fax: 919 541-1039
RIN: 2060–AH23

3588. NESHAP/NSPS: INTERNAL COMBUSTION ENGINE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.
Unfunded Mandates: Undetermined
CFR Citation: 40 CFR 60; 40 CFR 63
Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final	11/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions
Government Levels Affected: Local, Tribal
Agency Contact: Amanda Agnew
Phone: 919 541-5268
Fax: 919 541-5450
RIN: 2060–AG63

3589. COMBUSTION TURBINE NESHAP/NSPS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.
Unfunded Mandates: Undetermined
CFR Citation: 44 CFR 60
Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
Final Action	11/00/00	

Small Entities Affected: Undetermined
Government Levels Affected: Undetermined
Agency Contact: Sims Roy
Phone: 919 541-5263
Fax: 919-541-5450
RIN: 2060–AG67

3590. NESHAP: OIL AND NATURAL GAS PRODUCTION

Priority: Other Significant
CFR Citation: 40 CFR 63
Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
Final Action	05/00/00	

Small Entities Affected: Businesses
Government Levels Affected: Undetermined
Agency Contact: Martha Smith
Phone: 919 541-2421
RIN: 2060–AE34

3591. NESHAP—IRON FOUNDRIES AND STEEL FOUNDRIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.
CFR Citation: 40 CFR 63
Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final	11/00/00	

Small Entities Affected: Undetermined
Government Levels Affected: State, Local, Federal
Agency Contact: James H. Maysilles
Phone: 919 541-3265
RIN: 2060–AE43

3592. NESHAP—CYANIDE CHEMICAL MANUFACTURING

Priority: Other Significant
CFR Citation: 40 CFR 63
Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final	11/00/00	

Small Entities Affected: None
Government Levels Affected: State, Local, Federal
Agency Contact: Philip B. Mulrine
Phone: 919 541-5289
RIN: 2060–AE45

3593. NESHAP: INTEGRATED IRON AND STEEL

Priority: Economically Significant
CFR Citation: 40 CFR 63
Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
Final Action	11/00/99	

Small Entities Affected: None
Government Levels Affected: State, Local, Federal
Agency Contact: Phil Mulrine
Phone: 919 541-5289
RIN: 2060–AE48

3594. NESHAP: REINFORCED PLASTIC COMPOSITES PRODUCTION

Priority: Other Significant
CFR Citation: 40 CFR 63
Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
Final	02/00/00	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Madeleine Strum
Phone: 919 541-2383
Fax: 919 541-5689
Email:
strum.madeleine@epamail.epa.gov
RIN: 2060–AE79

3595. NESHAP: MISCELLANEOUS ORGANIC CHEMICAL PRODUCTION AND PROCESSES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.
Unfunded Mandates: Undetermined
CFR Citation: 40 CFR 63
Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final	11/00/00	

Small Entities Affected: Undetermined
Government Levels Affected: None
Agency Contact: Randy McDonald
Phone: 919 541-5402
RIN: 2060–AE82

3596. NESHAP: CHLORINE PRODUCTION

Priority: Substantive, Nonsignificant
CFR Citation: 40 CFR 63
Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final	11/00/00	

Small Entities Affected: None
Government Levels Affected: State, Local, Federal
Agency Contact: Iliam D. Rosario
Phone: 919 541-5308
RIN: 2060–AE85

3597. NATIONAL EMISSION STANDARD FOR HAZARDOUS AIR POLLUTANTS FOR PAINT STRIPPER USERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.
Unfunded Mandates: Undetermined
CFR Citation: 40 CFR 63
Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final	11/00/00	

Small Entities Affected: Undetermined
Government Levels Affected: Undetermined
Agency Contact: Steve Fruh
Phone: 919 541-2837
Fax: 919 541-0942
RIN: 2060–AG26

3598. NESHAP FOR BOAT MANUFACTURING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.
Unfunded Mandates: Undetermined
CFR Citation: 40 CFR 63
Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final	12/00/00	

Small Entities Affected: Undetermined
Government Levels Affected: None
Agency Contact: Madeleine Strum
Phone: 919 541-2383
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Email:
strum.madeleine@epamail.epa.gov
RIN: 2060–AG27

3599. NESHAP FOR TIRE MANUFACTURING

Priority: Other Significant. Major status under 5 USC 801 is undetermined.
CFR Citation: 40 CFR 63
Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
Final Action	11/00/99	

Small Entities Affected: None
Government Levels Affected: State, Federal
Agency Contact: Tony Wayne
Phone: 919 541-5439
Fax: 919 541-0942
RIN: 2060–AG29

3600. NESHAP FOR AEROSOL CAN FILLING FACILITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.
CFR Citation: 40 CFR 63
Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
Final	11/00/99	

Small Entities Affected: Undetermined
Government Levels Affected: None
Agency Contact: Conran Chin
Phone: 919 541-1512
Fax: 919 541-5600
RIN: 2060–AG32

3601. PETROLEUM SOLVENT DRY CLEANERS MACT STANDARD

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.
CFR Citation: 40 CFR 63
Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Small Entities Affected: Undetermined
Government Levels Affected: Undetermined
Agency Contact: Jim Szykman
Phone: 919 541-2452
Fax: 919 541-0942
RIN: 2060–AG34

3602. NESHAP FOR ETHYLENE PROCESSES

Priority: Substantive, Nonsignificant
Unfunded Mandates: Undetermined
Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
Final Action	11/00/99	

Small Entities Affected: None
Government Levels Affected: Undetermined
Agency Contact: Warren R. Johnson, Jr.
Phone: 919 541-5124
Fax: 919 541-0072
Email: johnson.warren@epamail.epa.gov
RIN: 2060–AG53

3603. LARGE APPLIANCE COATINGS INTEGRATED REGULATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.
Unfunded Mandates: Undetermined
CFR Citation: 40 CFR 63; 40 CFR 59
Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final	11/00/00	

Small Entities Affected: Businesses
Government Levels Affected: State, Local, Tribal
Agency Contact: Mohamed Serageldin
Phone: 919 541-2379
Fax: 919 541-5689
Email:
serageldin.mohamed@epamail.epa.gov
RIN: 2060–AG54

3604. ASPHALT ROOFING AND PROCESSING NESHAP

Priority: Other Significant
CFR Citation: 40 CFR 63
Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Interim Final Rule	00/00/00	

Small Entities Affected: Undetermined
Government Levels Affected: State, Local

Agency Contact: Juan E. Santiago
Phone: 919 541-1084

RIN: 2060–AG66

3605. NESHAP REFRACTORIES MANUFACTURING

Priority: Other Significant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
Final	11/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Susan Zapata
Phone: 919 541-5167

RIN: 2060–AG68

3606. NESHAP FOR INDUSTRIAL, COMMERCIAL AND INSTITUTIONAL BOILERS AND PROCESS HEATERS

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
Final	11/00/00	
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James Eddinger
Phone: 919 541-5426
Fax: 919 541-5450

RIN: 2060–AG69

3607. NESHAP: LIME MANUFACTURING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Agency Contact: Joseph Wood
Phone: 919 541-5446

RIN: 2060–AG72

3608. INDUSTRIAL COMBUSTION COORDINATED RULEMAKING—ICCR PROJECT

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final	11/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal

Agency Contact: Fred Porter
Phone: 919 541-5251
Fax: 919 541-5450
Email: porter.fred@epamail.epa.gov

RIN: 2060–AG84

3609. NESHAP: FRICTION PRODUCTS MANUFACTURING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
Final	11/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Susan Zapata
Phone: 919 541-5167
Fax: 919 541-5600
Email: zapata.susan@epamail.epa.gov

RIN: 2060–AG87

3610. NESHAP: SEMICONDUCTOR PRODUCTION

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
Final Action	12/00/99	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Tony Wayne
Phone: 919 541-5439
Fax: 919 541-0942

RIN: 2060–AG93

3611. NESHAP: METAL CAN (SURFACE COATING) INDUSTRY

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final	11/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Gail Lacy
Phone: 919 541-5261
Fax: 919 541-5689
Email: lacy.gail@epamail.epa.gov

RIN: 2060–AG96

3612. NESHAP: METAL COIL (SURFACE COATING) INDUSTRY

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final	11/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Agency Contact: Gail Lacy
Phone: 919 541-5261
Fax: 919 541-5689
Email: lacy.gail@epamail.epa.gov

RIN: 2060–AG97

3613. NESHAP: FABRIC PRINTING, COATING AND DYEING

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Agency Contact: Paul Almodovar
Phone: 919 541-0283
Fax: 919 541-5689
Email: almodovar.paul@epamail.epa.gov

RIN: 2060–AG98

3614. AUTOMOBILE AND LIGHT-DUTY TRUCK MANUFACTURING INTEGRATED RULE DEVELOPMENT

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 40 CFR 63; 40 CFR 59

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: Dave Salman
Phone: 919 541-0859
Fax: 919 541-5689
Email: salman.dave@epamail.epa.gov

RIN: 2060–AG99

3615. NESHAP: PRIMARY MAGNESIUM REFINING

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 40 CFR 60

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
Final	05/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Iliam D. Rosario
Phone: 919 541-5308
Fax: 919 541-5600
Email: rosario.iliam@epamail.epa.gov

RIN: 2060–AH03

3616. NESHAP FOR SITE REMEDIATION

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final	11/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bob Lucas
Phone: 919 541-0884
Fax: 919 541-0246

RIN: 2060–AH12

3617. NESHAP: SPANDEX PRODUCTION

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Mary Tom Kissell
Phone: 919 541-4516
Fax: 919 541-0246

RIN: 2060–AH14

3618. NESHAP FOR LEATHER TANNING AND FINISHING OPERATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: William Schrock
Phone: 919 541-5032
Fax: 919 541-3076

RIN: 2060–AH17

3619. NESHAP FOR CELLULOSE PRODUCTION CATEGORIES

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: William Schrock
Phone: 919 541-5032
Fax: 919 541-3076

RIN: 2060–AH18

3620. NESHAP FOR THE MANUFACTURE OF CARBON BLACK

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final	11/00/00	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: John Schaefer
Phone: 919 541-0296
Fax: 919 541-3470

RIN: 2060–AH19

3621. NESHAP: VEGETABLE OIL PRODUCTION

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final	11/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Agency Contact: James F. Durham
Phone: 919 541-5672
Fax: 919 541-0246

RIN: 2060–AH22

3622. ROCKET ENGINE TEST FIRING/ENGINE TEST FACILITIES

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: George F. Smith

Phone: 919 541-1549
Fax: 919 541-5450
RIN: 2060–AH35

3623. NESHAP FOR ORGANIC LIQUID DISTRIBUTION

Priority: Substantive, Nonsignificant
CFR Citation: 40 CFR 63
Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
Final	11/00/00	

Small Entities Affected: Undetermined
Government Levels Affected: State, Local, Tribal, Federal
Agency Contact: Stephen A. Shedd
Phone: 919 541-5397
Fax: 919 541-0246
RIN: 2060–AH41

3624. NEW SOURCE PERFORMANCE STANDARDS (NSPS) AND EMISSION GUIDELINES FOR INDUSTRIAL AND COMMERCIAL WASTE INCINERATORS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.
Unfunded Mandates: Undetermined
CFR Citation: 40 CFR 60
Timetable:

Action	Date	FR Cite
ANPRM Comment Period End	12/28/94	59 FR 66850
NPRM	11/00/99	
Final Action	11/00/00	

Small Entities Affected: Undetermined
Government Levels Affected: None
Agency Contact: Richard Crume
Phone: 919 541-5294
Fax: 919 541-5450
RIN: 2060–AF91

3625. NEW SOURCE PERFORMANCE STANDARDS AND EMISSION GUIDELINES FOR OTHER SOLID WASTE INCINERATORS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.
Unfunded Mandates: Undetermined
CFR Citation: 40 CFR 60
Timetable:

Action	Date	FR Cite
ANPRM	12/28/94	59 FR 66850
NPRM	12/00/99	
Final	12/00/00	

Small Entities Affected: Undetermined
Government Levels Affected: State, Local, Tribal
Agency Contact: Dr. Mohamed Serageldin
Phone: 919 541-2379
Fax: 919 541-5689
Email: serageldin.mohamed@epamail.epa.gov
RIN: 2060–AC55

3627. FLATWOOD PANELING (SURFACE COATING) INTEGRATED RULE

Priority: Substantive, Nonsignificant
Unfunded Mandates: Undetermined
Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Small Entities Affected: Businesses
Government Levels Affected: None
Agency Contact: Paul Almodovar
Phone: 919 541-0283
Fax: 919 541-5689
RIN: 2060–AH02

3628. SURFACE COATING OF MISCELLANEOUS METAL PARTS AND PRODUCTS—INTEGRATED

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.
Unfunded Mandates: Undetermined
CFR Citation: 40 CFR 63; 40 CFR 59
Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final	11/00/00	

Small Entities Affected: Businesses
Government Levels Affected: State, Local
Agency Contact: Bruce Moore
Phone: 919 541-5460
Fax: 919 541-5689
Email: moore.bruce@epamail.epa.gov
RIN: 2060–AG56

3629. PLASTIC PARTS COATING INTEGRATED RULE FOR VOLATILE ORGANIC COMPOUNDS (VOC) AND HAZARDOUS AIR POLLUTANTS (HAPS)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.
Unfunded Mandates: Undetermined
CFR Citation: 40 CFR 59; 40 CFR 63
Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final	11/00/00	

Small Entities Affected: Businesses
Government Levels Affected: State, Local
Agency Contact: Ellen Ducey
Phone: 919 541-5408
Fax: 919 541-5689
Email: ducey.ellen@epamail.epa.gov
RIN: 2060–AG57

3630. INTEGRATED RULE FOR PAPER, AND OTHER WEB COATING AND COATINGS: MACT FOR NESHAP; AND BAC FOR NATIONAL VOC RULE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.
Unfunded Mandates: Undetermined
CFR Citation: 40 CFR 63; 40 CFR 59
Timetable:

Action	Date	FR Cite
NPRM Hand-held engines	12/00/98	
NPRM Non-hand-held engines	12/00/98	
Final Hand-held engines	12/00/99	

Small Entities Affected: Businesses
Government Levels Affected: Federal
Agency Contact: Betsy McCabe
Phone: 313 668-4344
RIN: 2060–AE29

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final	11/00/00	

Small Entities Affected: Businesses
Government Levels Affected: State, Federal
Agency Contact: Daniel Brown
Phone: 919 541-5303
Fax: 919 541-5689
Email: brown.dan@epamail.epa.gov
RIN: 2060–AG58

3631. NONROAD SPARK-IGNITION ENGINES AT OR BELOW 19 KILOWATTS (25 HORSEPOWER) (PHASE 2)

Priority: Other Significant. Major under 5 USC 801.
CFR Citation: 40 CFR 90
Timetable:

Action	Date	FR Cite
ANPRM	03/27/97	62 FR 14740
Final Rule	03/18/94	59 FR 13044
Notice-1	08/26/94	59 FR 44240
NPRM-1	08/26/94	59 FR 46108
Notice-2	01/13/95	60 FR 3316
Final Rule	06/13/95	60 FR 31892
Notice-3	07/28/95	60 FR 38729
NPRM-2	10/02/95	60 FR 51383
Notice-4	02/08/96	61 FR 4736
NPRM-3	05/22/96	61 FR 25604
Final Rule	05/22/96	61 FR 25585
Notice-5	09/05/96	61 FR 47012
Final 3	10/16/96	61 FR 54030
Notice-6	03/10/97	62 FR 10700
NPRM-4	05/21/97	62 FR 27874
Next Action Undetermined		

Small Entities Affected: None
Government Levels Affected: State, Federal
Agency Contact: Carol Weisner
Phone: 202 233-9193
Fax: 202 233-9665
RIN: 2060–AG12

3632. UPDATE OF THE ACCEPTABILITY LIST UNDER THE SIGNIFICANT NEW ALTERNATIVES POLICY (SNAP) PROGRAM

Priority: Other Significant
CFR Citation: 40 CFR 9; 40 CFR 82
Timetable:

Action	Date	FR Cite
ANPRM	01/16/92	57 FR 1984
NPRM	05/12/93	58 FR 28094

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Clean Air Act (CAA)

Completed Actions

3633. REQUIREMENTS FOR DESIGNATION OF REFERENCE AND EQUIVALENT METHODS FOR PM 2.5 AND AMBIENT AIR QUALITY SURVEILLANCE PARTICULATE MATTER

Priority: Other Significant
Unfunded Mandates: Undetermined
Completed:

Reason	Date	FR Cite
NPRM	12/13/96	61 FR 65780
Incorporated into RIN 2060-AE66	03/26/97	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: John Haines
Phone: 919 541-5533
RIN: 2060–AH09

3634. • INDIVIDUAL FOREIGN REFINERY BASELINE REQUIREMENTS FOR REFORMULATED GAS

Priority: Other Significant
Legal Authority: Clean Air Act sec 211
CFR Citation: 40 CFR 80
Legal Deadline: None

Abstract: This rule revises the requirements for imported conventional gasoline. The Agency has revised the rules for conventional gasoline (59 FR 7716, February 16, 1994) to allow a foreign refiner to choose to petition EPA to establish an individual baseline reflecting the quality and quantity of gasoline produced at a foreign refinery in 1990 that was shipped to the United States. The foreign refiner is required to meet the same requirements relating to the establishement and use of individual refinery baslines as are met by domestic refiners. This final action also includes additional requirements that address issues that are unique to refiners.

Timetable:

Action	Date	FR Cite
NPRM	05/08/97	62 FR 24776
Final Action	08/28/97	62 FR 45533

Small Entities Affected: None
Government Levels Affected: None
Additional Information: SAN No. 3524.
Agency Contact: Karen Smith, Environmental Protection Agency, Air and Radiation, 5404D
Phone: 202 233-9674
RIN: 2060–AH48

3635. NAAQS: PARTICULATE MATTER (REVIEW)

Priority: Economically Significant
CFR Citation: 40 CFR 50.6
Completed:

Reason	Date	FR Cite
Final Action	07/18/97	62 FR 38652

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: John Haines
Phone: 919 541-5533
RIN: 2060–AE66

3636. ADDITION OF METHODS 204, 204A - 204F FOR MEASUREMENT OF VOC EMISSIONS FROM STATIONARY SOURCES

Priority: Substantive, Nonsignificant
CFR Citation: 40 CFR 51

Completed:

Reason	Date	FR Cite
Final Action	08/16/97	62 FR 32500

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: Candace Sorrell
Phone: 919 541-1064

RIN: 2060–AF02

3637. FOURIER TRANSFORM INFRARED SPECTROSCOPY (FTIR) EXTRACTIVE TEST METHOD—SELF-VALIDATING PROCEDURE AND CEM PERFORMANCE SPECIFICATION

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63 app A; 40 CFR 60 app F

Completed:

Reason	Date	FR Cite
Withdrawn - The Agency plans no further action	08/26/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rima Dishakjian
Phone: 919 541-0443

RIN: 2060–AG08

3638. TRANSPORTATION CONFORMITY RULE AMENDMENTS: FLEXIBILITY AND STREAMLINING

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 51; 40 CFR 93

Completed:

Reason	Date	FR Cite
Final Action	08/15/97	62 FR 43780

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Kathryn Sargeant
Phone: 313 668-4441

RIN: 2060–AG16

3639. ACID RAIN PROGRAM: ELIMINATION OF DIRECT SALE PROGRAM AND IPP WRITTEN GUARANTEE; AND ANPRM TO MODIFY ALLOWANCE AUCTION

Priority: Other Significant

Unfunded Mandates: Undetermined

CFR Citation: 40 CFR 73

Completed:

Reason	Date	FR Cite
Withdrawn - The Agency plans no further action on this rule	08/26/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Eugene Casey
Phone: 202 233-9194

RIN: 2060–AG41

3640. GUIDANCE FOR THE IMPLEMENTATION OF EPA'S RADIATION PROTECTION STANDARDS FOR THE MANAGEMENT AND STORAGE OF TRANSURANIC RADIOACTIVE WASTE AT THE WASTE ISOLATION PILOT PLANT (WIPP)

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 191

Completed:

Reason	Date	FR Cite
Publication of Guidance	02/28/97	62 FR 09188

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Betsy Forinash
Phone: 202 233-9233
Fax: 202 233-9626
Email: forinash.betsy@epamail.epa.gov

RIN: 2060–AG74

3641. STATE IMPLEMENTATION PLANS; MILESTONE COMPLIANCE DEMONSTRATION

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect State, local or tribal governments.

CFR Citation: 40 CFR 51

Completed:

Reason	Date	FR Cite
Withdrawn- No further action will be taken on this regulation.	08/25/97	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Ted Creekmore
Phone: 919 541-5699
Fax: 919 541-0824

RIN: 2060–AG89

3642. ADDITION OF METHOD 14A TO 40 CFR PART 60, APPENDIX A

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 120.2(d)(4); 40 CFR 63

Completed:

Reason	Date	FR Cite
Withdrawn- The Agency plans no further action. Combined into 2060-AE76.	08/26/97	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Terry Harrison
Phone: 919 541-5233
Fax: 919 541-1039
Email: harrison.terry@epamail.epa.gov

RIN: 2060–AH24

3643. NAAQS: OZONE (REVIEW)

Priority: Economically Significant

CFR Citation: 40 CFR 50.9

Completed:

Reason	Date	FR Cite
Final Action	07/18/97	62 FR 38856

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: John Haines
Phone: 919 541-5533

RIN: 2060–AE57

3644. HOSPITAL/MEDICAL/INFECTIOUS WASTE INCINERATORS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

CFR Citation: 40 CFR 60

Completed:

Reason	Date	FR Cite
Final Action	09/15/97	62 FR 48348

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Rick Copland
Phone: 919 541-5265
Fax: 919 541-5450

RIN: 2060–AC82

3645. REVISION TO NSPS: NONMETALLIC MINERALS PROCESSING

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 60

Completed:

Reason	Date	FR Cite
Final Action	06/09/97	62 FR 31351

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: Bill Neuffer
Phone: 919 541-5435
Fax: 919 541-5600

RIN: 2060–AG33

3646. NSPS REVISIONS FOR PHOSPHATE FERTILIZER INDUSTRY: GRANULAR TRIPLE SUPERPHOSPHATE STORAGE FACILITIES

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 60 subpart X

Completed:

Reason	Date	FR Cite
Direct Final	04/15/97	61 FR 18277

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: David Painter
Phone: 919 541-5515
Fax: 919 541-5600

RIN: 2060–AH16

3647. AMENDMENTS TO PARTS 51, 52, 63, 70 AND 71 REGARDING THE PROVISIONS FOR DETERMINING POTENTIAL TO EMIT

Priority: Other Significant

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
Withdrawn- EPA is withdrawing this rule and will instead issue guidance.	08/25/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tim Smith
Phone: 919 541-4718

RIN: 2060–AE63

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Proposed Rule Stage

Superfund (CERCLA)

3648. STREAMLINING THE PREAUTHORIZATION MIXED FUNDING FOR APPLICATION AND IMPLEMENTATION OF CLAIMS AGAINST SUPERFUND

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 9601

CFR Citation: 40 CFR 307

Legal Deadline: None

Abstract: Current regulations at 40 CFR part 307 provide for the preauthorization of claims against the Superfund in instances where the Agency makes a determination that mixed funding is appropriate. This process has been labeled by many stakeholders as overly burdensome. The Agency has reviewed the current process in order to identify areas in which burdens may be lessened and requirements may be streamlined. As a result, the Agency proposes to amend the current regulation to: streamline the application process by eliminating duplicative information requirements; minimize the requirements related to management, oversight, and reporting of the cleanup, by removing the requirement to be guided by the Federal Acquisition Requirements, and replacing the requirement of maximum free and open competition with a bright-line standard; allow claimants to provide independent certification of claims and supporting documentation; streamline the actual payment process by taking advantage of the electronic funds transfer process; ensure that cost recovery concerns are addressed by requiring claimants, within a settlement document, to reimburse the Fund for costs not recovered (only in the event cost recovery is initiated), due to claimants' failure to provide adequate documentary support or upon a determination that response costs expended (and claimed) were not reasonable or not incurred consistent with the NCP; and ensure proper accounting by requiring offsets for funds owed to the Agency by claimants.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3885.

Agency Contact: Seth Bruckner, Environmental Protection Agency, Solid Waste and Emergency Response, (5204G), Washington, DC 20460
Phone: 703 603-8766
Fax: 703 603-9100
Email: bruckner.seth@epamail.epa.gov

RIN: 2050–AE38

3649. MODIFICATION OF THE EXTREMELY HAZARDOUS SUBSTANCE (EHS) LIST

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 11002; 42 USC 11004; 42 USC 11048

CFR Citation: 40 CFR 355 app A; 40 CFR 355 app B

Legal Deadline: None

Abstract: EPA has received a petition to remove Phoamet from the extremely hazardous substance (EHS) list under the Emergency Planning and Community Right-to-Know Act (EPCRA). This rulemaking will address the petitioner's claims.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: SAN No. 3994.

Agency Contact: John Ferris, Environmental Protection Agency, Solid Waste and Emergency Response, 5104, Washington, DC 20460
Phone: 202 260-4043
Fax: 202 260-0927

RIN: 2050–AE42

3650. GRANTS FOR TECHNICAL ASSISTANCE RULE REFORM—40 CFR PART 35 SUBPART M

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 9617(e); Superfund (CERCLA) sec 117

CFR Citation: 40 CFR 35

Legal Deadline: None

Abstract: The proposed revisions to the Technical Assistance Grants (TAG) Rule contain three main components that will simplify the application and administrative processes. The first component to the TAG Rule would eliminate the requirement that budget periods may not exceed 3 years. Budget periods would be negotiated with TAG applicants so that they have flexibility to synchronize the period of time during which the recipient anticipates having a technical advisor involved with the schedule of work at a site. A second component would eliminate the 20 percent ceiling for administrative costs of a grant so that recipients do not need to differentiate between programmatic and administrative cost. This will reduce information collection burden. A third component to the TAG Rule is the elimination of the distinction between sole and multiple applicants, since both must meet identical criteria. The requirement that the applicant demonstrate that there is an actual or potential health threat posed to group members by the site would also be deleted since EPA believes that there is a potential health threat at all Superfund sites. EPA also believes that all Superfund sites pose potential economic and recreational threats to adjacent communities, and that there is no need for the applicant to provide evidence of those threats. Furthermore, EPA may already have sufficient information from various sources concerning the potential health, ecofiomic, and recreational threats posed by Superfund sites. This proposed rule also includes two new provisions that allow for communities to receive cash advances of up to $5,000 and that permit communities to use up to $1,000 for site-related training.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3806.

Agency Contact: Lois Gartner, Environmental Protection Agency, Solid Waste and Emergency Response, 5204G, Washington, DC 20460
Phone: 703 603-8889

RIN: 2050–AE33

3651. REPORTABLE QUANTITY ADJUSTMENTS FOR CARBAMATES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 96-510 Sec 102(a); PL 99-499

CFR Citation: 40 CFR 302

Legal Deadline: None

Abstract: EPA has listed carbamate waste streams as hazardous wastes under the Resource Conservation and Recovery Act (RCRA). RCRA listed wastes, by statute, automatically become hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and are assigned a one pound statutory reportable quantity (RQ) unless EPA adjusts them. These substances also become subject to reporting requirements under the Emergency Planning and Community Right to Know Act (EPCRA) with a one pound threshold. EPA, in this action, will propose RQ adjustments for the carbamates. Most RQ adjustments are expected to be greater than one pound. Raising the RQs for these substances would decrease the burden on 1) the regulated community for complying with the reporting requirements under CERCLA and EPCRA; 2) Federal, State, and local authorities for program implementation; and 3) Federal, State, or local authorities, if they release hazardous substances at the RQ level or greater.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3423.

Agency Contact: Frank Avvisato, Environmental Protection Agency, Solid Waste and Emergency Response, (5202G), Washington, DC 20460
Phone: 703 603-8949

RIN: 2050–AE12

3652. NATIONAL PRIORITIES LIST FOR UNCONTROLLED HAZARDOUS WASTE SITES: PROPOSED AND FINAL RULES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 9605; Superfund (CERCLA) sec 105

CFR Citation: 40 CFR 300.425

Legal Deadline: None

Abstract: This action proposes to revise the sites included on the National Priorities List (NPL) of uncontrolled waste sites in the National Contingency Plan (NCP). CERCLA requires that the Agency revise the NPL at least annually. Periodic revisions will allow EPA to include sites on the NPL with known or threatened hazardous substance releases and to delete sites that have been cleaned up.

Timetable:

Action	Date	FR Cite
NPRM Proposal 17	09/23/94	59 FR 43314
Final 13	12/16/94	59 FR 65206
NPRM Proposal 18	02/13/95	60 FR 8212
Final 14	04/25/95	60 FR 20330
Final (Southern Shipbuilding)	05/26/95	60 FR 27896
Final 15	09/29/95	60 FR 50436
NPRM Proposal 19	10/02/95	60 FR 51390
NPRM Proposal 20	06/17/96	61 FR 30575
Final 16	06/17/96	61 FR 30510
NPRM Proposal 21	12/23/96	61 FR 67878
Final 17	12/23/96	61 FR 67656
NPRM Proposal 22	04/01/97	62 FR 15594
Final 18	04/01/97	62 FR 15572
NPRM Proposal 23	09/25/97	62 FR 50450
Final 19	09/25/97	62 FR 50442
NPRM 24	01/00/98	
Final 20	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3439.

Agency Contact: Terry Keidan, Environmental Protection Agency, Solid Waste and Emergency Response, 5204G, Washington, DC 20460
Phone: 703 603-8852

RIN: 2050–AD75

3653. ACCIDENTAL RELEASE PREVENTION REQUIREMENTS: RISK MANAGEMENT PROGRAMS UNDER THE CLEAN AIR ACT, SECTION 112(R)(7): AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412(r); 42 USC 7601(a)(1); 42 USC 7661 to 7661f

CFR Citation: 40 CFR 68

Legal Deadline: None

Abstract: The Clean Air Act section 112(r) required EPA to publish regulations focusing on the prevention of chemical accidents, building on the chemical safety work begun under the Emergency Planning and Community Right-to-Know Act (EPCRA). On June 20, 1996, EPA published the final rule for Risk Management Programs. An estimated 66,000 facilities are subject to this regulation based on the quantity of regulated substances they have on-site. These facilities will be required to implement a Risk Management facilities will be required to implement a Risk Management Program and submit a summary of the program (the risk management plan, or RMP) to a central location specified by EPA. The RMP data will assist State and local government entities responsible for chemical emergency preparedness and prevention. It will also be useful to environmental and community organizations and the public in understanding the chemical risks in their communities. EPA will use the RMP data to set priorities, target resources, and measure the success of the Risk Management Program in accordance with the Government Performance and Results Act (GPRA). In addition, EPA hopes the availability of this information will stimulate a dialogue between industry and the practices at the local level.

We expect to propose the following modifications to the RMP final rule: (1) Clarify how Confidential Business Information (CBI) should be submitted to EPA; (2) Add 2 required and 4 voluntary data elements to the previous requirements; and (3) Replace Standard Industrial Classification (SIC) codes with the North American Industry Classification System (NAICS).

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
Final	05/00/98	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 261 Pulp Mills; 281 Industrial Inorganic Chemicals; 282 Plastics Materials and Synthetic Resins, Synthetic Rubber, Cellulosic and Other Manmade Fibers, Except Glass

Additional Information: SAN No. 4029.

Agency Contact: Sicy Jacob, Environmental Protection Agency, Solid Waste and Emergency Response, 5104, Washington, DC 20460
Phone: 202 260-7249
Fax: 202 260-0927
Email: jacob.sicey@epamail.epa.gov

RIN: 2050–AE46

3654. AMENDMENTS TO THE EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT, SECTIONS 302 THROUGH 312

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 99-499

CFR Citation: 40 CFR 355; 40 CFR 370

Legal Deadline: None

Abstract: This proposal is intended to modify the regulations addressing the chemical inventory reporting forms under section 312 of the Emergency Planning and Community Right-to-Know Act, as well as other regulatory modifications under the law.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3215.

Agency Contact: John Ferris, Environmental Protection Agency, Solid Waste and Emergency Response, (5104), Washington, DC 20460
Phone: 202 260-4043

RIN: 2050–AE17

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Superfund (CERCLA)

Final Rule Stage

3655. MODIFICATION OF THRESHOLD PLANNING QUANTITY FOR ISOPHORONE DIISOCYANATE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 11002; 42 USC 11004; 42 USC 11048

CFR Citation: 40 CFR 355 app A and B

Legal Deadline: None

Abstract: On October 12, 1994 (59 FR 51816), EPA proposed to modify the listing of several chemicals on the extremely hazardous substances (EHS) list under the Emergency Planning and Community Right-to-Know Act. One petitioner requested the removal of isophorone diisocyanate (IPDI). EPA rejected the petitioner's request. However, in the review of the petition, EPA noticed that there was an error in the setting of the threshold planning quantity (TPQ) for IPDI, and proposed to correct the error in the October 12, 1994 notice of proposed rulemaking. The other modifications to the EHS list were made final on May 7, 1996; however, the TPQ for IPDI was not included in that final rule. This rule will finalize the TPQ for IPDI.

Timetable:

Action	Date	FR Cite
Final	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3993.

Agency Contact: John Ferris, Environmental Protection Agency, Solid Waste and Emergency Response, SE., Washington, DC 20460
Phone: 202 260-4043
Fax: 202 260-0927

RIN: 2050–AE43

3656. AMENDMENTS TO THE LIST OF REGULATED SUBSTANCES AND THRESHOLDS FOR ACCIDENTAL RELEASE PREVENTION—MODIFICATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7412(r); 42 USC 7601

CFR Citation: 40 CFR 68

Legal Deadline: None

Abstract: On April 15, 1996 (61 FR 16598), the Environmental Protection Agency (EPA) proposed several modifications to provisions of the rule listing regulated substances and threshold quantities under section 112(r) of the Clean Air act as Amended. EPA proposed to delete the category of explosives listed by DOT as Division 1.1 from the list of regulated substances. Flammable substances in gasoline used as fuel and in naturally occurring hydrocarbon mixtures prior to initial processing were proposed for exemption under the threshold quantity determinations. Modifications to the definition of stationary source were proposed to clarify the exemption of transportation and storage incident to transportation and to clarify that naturally occurring hydrocarbon reservoirs are not stationary sources or parts of stationary sources. EPA proposed to clarify that 40 CFR part 68 does not apply to facilities located on the Outer Continental Shelf. This rule will finalize the proposed changes. EPA believes these changes will better focus on the high hazard/high risk substances and operations covered under the Risk Management Program rule for accidental release prevention. In addition, in August 1997, EPA took final action in vacating the listing and related thresholds for hydrochloric acid solutions with less than 37% concentrations of hydrogen chloride. Together, these changes will reduce the number of stationary sources subject to the requirements of the risk management program rule and decrease the burden on the regulated community.

Timetable:

Action	Date	FR Cite
NPRM	04/15/96	61 FR 16598
Final HCl solutions	08/25/97	62 FR 45130
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3787.

Agency Contact: Vanessa Rodriguez, Environmental Protection Agency, Solid Waste and Emergency Response, (5104), Washington, DC 20460
Phone: 202 260-7913
Fax: 202 260-0927

RIN: 2050–AE35

3657. REVISION OF THE LOCAL GOVERNMENT REIMBURSEMENT REGULATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 9600

CFR Citation: 40 CFR 310

Legal Deadline: None

Abstract: Local governments play an important role in protecting human health and the environment. Local governments are usually the first government representatives on the scene of an environmental emergency response action. They play a critical role in carrying out temporary emergency measures to prevent or mitigate releases or threatened releases of hazardous substances. Conducting such measures has placed a significant financial burden on local governments. EPA is charged with alleviating that burden by reimbursing governments for certain emergency response activities. The rules for reimbursement were originally set forth by the Agency in January of 1993. This rulemaking will revise those rules by: 1) eliminating several requirements that may broaden the number of eligible local governments and Indian Tribes; 2) streamlining the application process; and 3) reducing the burden on eligible local governments and Indian Tribes. There are a number of requirements that may change with this rulemaking; for example, EPA intends to eliminate the requirement that the local government contact the Agency within 24 hours. EPA will reduce the reporting burden on applicants by requesting that they certify in many cases rather than provide detailed documentation of compliance with the program requirements. The anticipated impact of this action is to provide a greater number of local governments and Indian Tribes with easier access to Federal funding, thereby improving their ability to protect human health and the environment.

Timetable:

Action	Date	FR Cite
Interim Final	10/00/97	

Small Entities Affected: Governmental Jurisdictions

EPA—CERCLA

Final Rule Stage

Government Levels Affected: Local, Tribal, Federal

Additional Information: SAN No. 3884.

Agency Contact: Lisa Boynton, Environmental Protection Agency, Solid Waste and Emergency Response, (5204G), Washington, DC 20460
Phone: 703 603-9052
Fax: 703 603-9012

RIN: 2050–AE36

3658. ADMINISTRATIVE REPORTING EXEMPTIONS FOR CERTAIN RADIONUCLIDE RELEASES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 9602 to 9604; 42 USC 9615; 33 USC 1321; 33 USC 1361

CFR Citation: 40 CFR 302.6(c); 40 CFR 355.40(a)(2)(vi)

Legal Deadline: None

Abstract: This rule affects the requirement in Superfund and the Emergency Planning and Community Right-to-Know Act that facilities immediately report to State, local and federal authorities the release of a hazardous substances in an amount that equals or exceeds a reportable quantity. In 1989, the Environmental Protection Agency (EPA) set reportable quantities for radionuclides (a category of hazardous substances) by regulation. In that same rule, EPA also established four exemptions to the general reporting requirement, to exclude from it certain releases of naturally occurring radionuclides for which the government does not need reports. These exemptions are for releases from: (1) large land holdings; (2) disturbances of land for purposes other than mining; (3) the dumping of coal and coal ash at utility and industrial facilities with coal-fired boilers; and (4) coal and ash piles at those facilities.

Later, a court ruled that the Agency had promulgated the four exemptions without giving the public adequate notice and opportunity to comment. The Agency subsequently provided the opportunity for public notice and comment on these exemptions. Based on those comments, the Agency sought further comments on the possibility of broadening the exemptions. Depending upon the Agency's analysis of comments received, it could in a final rule reaffirm and/or modify the exemptions. Modification of the exemptions would further reduce the burden on facilities which must report, and on the State and local authorities which must receive and evaluate reports to determine whether reported releases pose a threat to human health and the environment.

Timetable:

Action	Date	FR Cite
NPRM	11/30/92	57 FR 56726
Supplemental Notice	08/04/95	60 FR 40042
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Sectors Affected: 49 Electric, Gas, and Sanitary Services; 16 Heavy Construction Other Than Building Construction-Contractors; 01 Agricultural Production-Crops; 10 Metal Mining

Additional Information: SAN No. 3054.

Agency Contact: Lynn Beasley, Environmental Protection Agency, Solid Waste and Emergency Response, (5204G), Washington, DC 20460
Phone: 703 603-9086

RIN: 2050–AD46

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Superfund (CERCLA)

Long-Term Actions

3659. REPORTING EXEMPTIONS FOR FEDERALLY PERMITTED RELEASES OF HAZARDOUS SUBSTANCES

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 117; 40 CFR 302; 40 CFR 355

Timetable:

Action	Date	FR Cite
NPRM	07/19/88	53 FR 27268
Supplemental Notice	07/11/89	54 FR 29306
Final	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lynn Beasley
Phone: 703 603-9086

RIN: 2050–AB82

3660. DELETION OF SACCHARIN FROM THE LIST OF HAZARDOUS WASTES UNDER RCRA AND THE LIST OF HAZARDOUS SUBSTANCES UNDER CERCLA

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 40 CFR 261.33(f); 40 CFR 261; 40 CFR 302.4

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Wanda L. Levine
Phone: 703 308-0458

RIN: 2050–AD45

3661. REPORTABLE QUANTITY ADJUSTMENT FOR RADON-222

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 302

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lynn Beasley
Phone: 703 603-9086

RIN: 2050–AE20

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Proposed Rule Stage

General

3662. • NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATIONAL PROGRAMS RECEIVING FEDERAL ASSISTANCE

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 7 subpart F

Legal Deadline: None

Abstract: The President Plans to invigorate enforcement of title IX of the Education Amendments to the 1972 Civil Rights Act in federally assisted educational programs, and to issue an Executive Order that will expand prohibition of discrimination on the basis of sex, race, color, and national origin in federally conducted education programs. This is part of a common rule being developed by the Department of Justice.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4021.

Agency Contact: Rosezella Canty-Letsome, Environmental Protection Agency, Office of Enforcement and Compliance Assurance, 1205, Washington DC 20460
Phone: 202 260-4567

RIN: 2020–AA36

3663. IMPLEMENTATION OF CHANGES TO 40 CFR PART 32 AS A RESULT OF THE FEDERAL ACQUISITION STREAMLINING ACT (FASA)

Priority: Info./Admin./Other

Legal Authority: EO 12549; EO 12689 and FASA

CFR Citation: 40 CFR 32

Legal Deadline: None

Abstract: Periodically OMB amends the Government-wide Common Rule for suspension and debarment of contractors and assistance participants who threaten the integrity of Federal programs because of criminal misconduct or poor performance. All agencies must issue changes to their individual codified versions to conform to the Common Rule. Recently, the Interagency Suspension and Debarment Coordinating Committee prepared recommendations for comprehensive changes to the Common Rule to conform to changes made in the Federal Acquisition Regulation (FAR) as a result of the Federal Acquisition Streamlining Act (FASA). In addition, several other proposals to improve or change the rule were recommended by various agencies. In December, 1996, OMB declined to implement the changes at this time due to differences with some agencies about some changes unrelated to those occasioned by FASA.

Among other things, FASA replaced the small purchase threshold ($25,000) with the simplified acquisition amount ($100,000). That change unintentionally exposed certain EPA programs to participation by contractors who may have been debarred for serious misconduct already. OMB has agreed to permit agencies to amend the coverage section of their individual agency rules to reduce or eliminate exposure to suspended or debarred persons.

EPA intends to issue a notice of proposed rulemaking to amend 40 CFR 32.110 to reduce EPA exposure to such consequences.

Timetable:

Action	Date	FR Cite
NPRM	05/00/98	
Final Action	09/00/98	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 3817.

Agency Contact: Robert F. Meunier, Environmental Protection Agency, Administration and Resource Management, (3901F), Washington, DC 20460
Phone: 202 260-8030
Fax: 202 260-9575

RIN: 2030–AA48

3664. INCORPORATION OF CLASS DEVIATION INTO EPAAR

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 1506; 48 CFR 1537; 48 CFR 1552

Legal Deadline: None

Abstract: The Agency has approved a number of class deviations (e.g. changes to reporting requirements and monthly progress reports) to the EPAAR since its promulgation in April 1984. This proposed rule would incorporate most of the class deviations to the EPAAR.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final Action	02/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Additional Information: SAN No. 3580.

Agency Contact: Frances Smith, Environmental Protection Agency, Administration and Resource Management, 3802F, Washington, DC 20460
Phone: 202 564-4368
Fax: 202 260-1203

RIN: 2030–AA37

3665. EPA MENTOR-PROTEGE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 1544; 48 CFR 1552

Legal Deadline: None

Abstract: This proposed rule will amend EPA's Acquisition Regulation (EPAAR) to establish a Mentor-Protege Program. Participating prime contractors serving as Mentors will provide technical and managerial support to Protege small disadvantaged business subcontractors.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	
Final Action	08/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 3629.

EPA—GENERAL

Proposed Rule Stage

Agency Contact: Frances Smith, Environmental Protection Agency, Administration and Resource Management, 3802F, Washington, DC 20460
Phone: 202 564-4368
Fax: 202 260-1203

RIN: 2030–AA40

3666. INCREMENTALLY FUNDING FIXED PRICE CONTRACTS

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 40 USC 486 (c)

CFR Citation: 48 CFR 1532

Legal Deadline: None

Abstract: This proposed rule will add subpart 1532.7, Contract Funding, to the Environmental Protection Agency's Acquisition Regulation (EPAAR). It also will revise part 1552 of the EPAAR to include a clause for incrementally funding fixed price contracts.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final Action	02/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 3876.

Agency Contact: Frances Smith, Environmental Protection Agency, Administration and Resource Management, 3802F, Washington, DC 20460
Phone: 260 564-4368
Fax: 202 260-1203

RIN: 2030–AA50

3667. REVISION OF EPA ACQUISITION REGULATIONS FOR QUALITY SYSTEMS FOR ENVIRONMENTAL PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 1546.2

Legal Deadline: None

Abstract: EPA is updating the quality assurance requirements in its Acquisition Regulation (EPAAR). The Agency relies on environmental measurement data in many of its activities, including regulatory development, the application of regulations (e.g., permitting, enforcement actions), and research programs. The Agency must be ensured that the data are of appropriate type and quality to support the proposed use (that data meet the needs for rule-making, enforcement action, etc.) The extramural community has been using the existing EPAAR QA requirements since 1984 and recognizes the need to update these requirements to reflect the current understanding of quality systems.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final Action	03/00/98	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Additional Information: SAN No. 3874.

Agency Contact: Linda Avellar, Environmental Protection Agency, Administration and Resource Management, 3802F, Washington, DC 20460
Phone: 202 564-4356
Fax: 202 260-1203

RIN: 2030–AA51

3668. AGENCY IMPLEMENTATION OF FEDERAL ACQUISITION STREAMLINING ACT (FASA) CHANGES TO TRUTH IN NEGOTIATIONS ACT (TINA)

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 390; EPA Acquisition Regulation sec 205

CFR Citation: 48 CFR 1523

Legal Deadline: None

Abstract: The Federal Acquisition Streamlining Act (FASA), P.L. 103-355, changed the nature of contract pricing information that contractors must submit in their proposals. Specifically, the term cost or pricing information is being introduced and differentiated from the current requirements for cost or pricing data. This action will amend EPA's acquisition rules and provide guidance for contractors.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
Final	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 3816.

Agency Contact: Larry Wyborski, Environmental Protection Agency, Administration and Resource Management, 3802F, Washington, DC 20460
Phone: 202 564-4369
Fax: 202 260-1203

RIN: 2030–AA47

3669. VALUE ENGINEERING

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); EPA Acquisition Regulation sec 205(c), 63 Stat.390 as amended

CFR Citation: 48 CFR 1548; 48 CFR 1552

Legal Deadline:
NPRM, Statutory, February 10, 1997.
Final, Statutory, March 10, 1997.

Abstract: This rulemaking will add coverage in the EPA Acquisition Regulation on policy for using value engineering technique in Agency contracts, as required by the Federal Acquisition Streamlining Act.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final	02/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 3854.

Agency Contact: Paul Schaffer, Environmental Protection Agency,

Administration and Resource Management, 3802F, Washington, DC 20460
Phone: 202 564-4366
Fax: 202 260-1203

RIN: 2030–AA49

3670. AMENDMENTS TO PART 22 CONSOLIDATED PROCEDURAL RULES

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136l; 15 USC 2615(a); 15 USC 2647; 33 USC 1319(g); 33 USC 1415(a); 33 USC 1416; 42 USC 6912; 42 USC 7413(d)(1); 42 USC 7601; 42 USC 7607(a); 42 USC 9609; 42 USC 11045; 42 USC 300g-3(b)

CFR Citation: 40 CFR 22

Legal Deadline: None

Abstract: The Agency is proposing amendments to the Consolidated Rules of Practice under 40 CFR part 22 which are the procedural rules used in administrative hearings and practice. These amendments will include technical corrections as well as substantive amendments. The proposed substantive amendments pertain to the handling and use of Confidential Business Information, burdens of proof, motion practice, cross appeals, and more.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAN No. 2662.

Agency Contact: Scott Garrison, Environmental Protection Agency, Office of Enforcement and Compliance Assurance, (2201A), Washington, DC 20460
Phone: 202 564-4047

RIN: 2020–AA13

3671. CONSOLIDATION OF GOOD LABORATORY PRACTICE STANDARDS (GLPS) REGULATIONS CURRENTLY UNDER TSCA AND FIFRA INTO ONE RULE

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136 et seq; 15 USC 2601 et seq

CFR Citation: 40 CFR 160; 40 CFR 792

Legal Deadline: None

Abstract: On November 29, 1983, EPA published Good Laboratory Practice Standards (GLPS) regulations intended to help ensure data integrity for studies required to support marketing and research permits under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Toxic Substances Control Act (TSCA). These rules were last amended on August 17, 1989. GLPS data integrity measures can be applied to a wide variety of scientific studies. Although the TSCA and FIFRA GLPS contain identical provisions they were published as separate rules to account for statutory and program differences between TSCA and FIFRA, such as differences in records retention requirements. EPA believes it will be able to address the differences between TSCA and FIFRA, such as differences in records retention requirements without duplicating the entire GLP standard in two places.

This action is intended to consolidate EPA's GLPS into one rule. Program-specific requirements will be addressed in either separate sections of the consolidated rule, or in separate rules as is determined appropriate. This action is not intended to change the requirements, applicability, or enforceability of GLPS with respect to any statute.

EPA has received comments from stakeholders regarding the understandability of many aspects of the GLPS, and over the years has issued numerous clarifications. EPA believes that some clarifications, if included directly in the rule, would make the rule easier to understand and enhance compliance. Therefore, EPA intends to include such clarifications where appropriate in this rulemaking. Finally, in the interest of maintaining consistency between EPA's and Food and Drug Administration's regulations, EPA will determine any modifications that have occurred to the FDA GLP rule and consider incorporation of such changes into the EPA rule. This action will serve to reduce the total regulatory text in the Code of Federal Regulations by an estimated ten pages, by consolidating 23 pages of text to approximately 13. In the process it will provide a generic GLP rule that may be used by other programs in the Agency.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final Action	06/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3807.

Agency Contact: David Stangel, Environmental Protection Agency, Office of Enforcement and Compliance Assurance, (2225A), Washington, DC 20460
Phone: 202 564-4162
Fax: 202 564-0028

RIN: 2020–AA26

3672. SAFE DRINKING WATER PUBLIC WATER SUPPLY SYSTEM PROGRAM: CITIZEN COLLECTION ACTION; NOTICE OF COMPLAINT SEEKING REVIEW OF PENALTY ORDER

Priority: Substantive, Nonsignificant

Legal Authority: Safe Drinking Water Act sec 1447; Safe Drinking Water Act sec 1449

CFR Citation: 40 CFR 135

Legal Deadline: None

Abstract: The 1996 SDWA modified section 1449 by authorizing how and when persons may sue federal agencies to collect outstanding penalties assessed by EPA. In addition, section 1447 was modified to authorize interested persons to obtain review of administrative penalty orders by filing complaints with a U.S. District Court within the thirty day period beginning on the date the penalty order becomes final. The proposed rule will govern the manner in which both amendments are implemented.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3936.

Agency Contact: David Drelich, Environmental Protection Agency, Office of Enforcement and Compliance Assurance, 2243-A, Washington, DC 20460
Phone: 202 564-2949

RIN: 2020–AA35

ENVIRONMENTAL PROTECTION AGENCY (EPA)

General

Final Rule Stage

3673. • COMMON RULEMAKING ON ADMINISTRATIVE REQUIREMENTS FOR GRANTEES TO REFLECT SINGLE AUDIT ACT AMENDMENTS

Priority: Other Significant

Legal Authority: 7 USC 135 et seq; 15 USC 2601 et seq; 33 USC 1251 et seq; 42 USC 241; 42 USC 242(b); 42 USC 243; 42 USC 246; 42 USC 300f; 42 USC 300j-1; 42 USC 300j-2; 42 USC 300j-3; 42 USC 1857 et seq; 42 USC 7401 et seq; 42 USC 6901 et seq; 42 USC 9601 et seq

CFR Citation: 40 CFR 30.26; 40 CFR 31.26

Legal Deadline: None

Abstract: EPA is participating in the Grants Management Common Rulemaking along with the Office of Management and Budget and other Federal Agencies. This rulemaking codifies for EPA the requirements of the Single Audit Act Amendments of 1996 and the revised and re-titled OMB Circular A-133, "Audits of State, Local Governments, and Non-Profit Organizations."

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/29/97	62 FR 45937
Interim Final Rule Effective	09/29/97	
Interim Final Rule Comment Period End	10/28/97	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4037.

The interim final rule would result in some savings to organizations administering grants and subgrants primarily due to the increase in the threshold that triggers an audit requirement.

Agency Contact: Peggy Anthony, Environmental Protection Agency, Administration and Resource Management, 3903R, Washington, DC 20460
Phone: 202 564-5364

RIN: 2030–AA54

3674. PROPOSED GUIDELINES FOR ECOLOGICAL RISK ASSESSMENT

Priority: Info./Admin./Other

Legal Deadline: None

Abstract: The Guidelines for Ecological Risk Assessment are intended to guide Agency evaluations of ecological risks in line with the policies and procedures established in the statutes administered by EPA. These Guidelines set forth principles and procedures to guide EPA scientists in the conduct of Agency risk assessments and to inform Agency decision makers and the public about these procedures. In particular, the Guidelines expand on the general ecological risk assessment process described in the Agency report Framework for Ecological Risk Assessment, (EPA/630/R-92/001) and covers a broad range of ecological concerns. The Guideline stresses the need for sound initial planning of the ecological risk assessment as well as appropriate characterization of the risks, including identification of the major assumptions, uncertainties, and limitations of the assessment.

These guidelines will have minimal to no impact on small businesses or state, local and tribal governments.

Timetable:

Action	Date	FR Cite
Proposed Guidelines	09/09/96	61 FR 47552
Final Guidelines	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3670.

Agency Contact: William P. Wood, Environmental Protection Agency, Office of Research and Development, Risk Assessment Forum (8101), Washington, DC 20460
Phone: 202 260-6743

RIN: 2080–AA07

3675. GUIDELINES FOR NEUROTOXICITY RISK ASSESSMENT

Priority: Other Significant

Legal Deadline: None

Abstract: These proposed Guidelines for Neurotoxicity Risk Assessment (hereafter Guidelines) are intended to guide Agency evaluation of suspect neurotoxicants in line with the policies and procedures established in the statutes administered by the EPA. These Guidelines set forth principles and procedures to guide EPA scientists in the conduct of Agency risk assessments and to inform Agency decision makers and the public about these procedures. In particular, the Guidelines emphasize that risk assessments will be conducted on a case-by-case basis, giving full consideration to all relevant scientific information. This case-by-case approach means that Agency experts study scientific information on each chemical under review and use the most scientifically appropriate interpretation to assess risk. The Guidelines also stress that this information will be fully presented in Agency risk assessment documents, and that Agency scientists will identify the strengths and weaknesses of each assessment by describing uncertainties, assumptions, and limitations, as well as the scientific basis and rationale for each assessment.

Timetable:

Action	Date	FR Cite
NPRM Guidelines	10/04/96	61 FR 52032
Final Guidelines	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3624.

Agency Contact: William P. Wood, Environmental Protection Agency, Office of Research and Development, 8103, Washington, DC 20460
Phone: 202 260-6743

RIN: 2080–AA08

3676. FIELD CITATION PROGRAM

Priority: Other Significant

Legal Authority: 42 USC 7413(d); Clean Air Act sec 113(d)

CFR Citation: 40 CFR 59

Legal Deadline: None

Abstract: The Clean Air Act Amendments gives EPA the authority to issue on-the-spot field citations for minor violations of the Clean Air Act, with penalties of up to $5,000 per day of violation. Section 113(d) of the Act requires the field citation program to be implemented through regulations which provide the informal hearing procedures. These hearing procedures are not required to be as rigorous as those imposed by the Administrative Procedure Act (APA), but nevertheless must provide due process. Agency guidance providing appropriate penalties for specific minor violations will be prepared for EPA employees and made available to the regulated community. Training on the issuance of field citations will also be developed.

Timetable:

Action	Date	FR Cite
NPRM	05/03/94	59 FR 22776
Final	02/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAN No. 2937.

Agency Contact: Cary Secrest, Environmental Protection Agency, Office of Enforcement and Compliance Assurance, 2242A, Washington, DC 20460
Phone: 202 260-8661

RIN: 2020–AA32

3677. UPDATE PROCEDURES FOR MAKING PROFIT/FEE DETERMINATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 390; EPA Acquisition Regulation sec 205(c)

CFR Citation: 48 CFR 1558

Legal Deadline: None

Abstract: This rule will revise elements of EPA's structured approach for contracting officer profit/fee determinations. Such determinations apply to certain EPA contracting actions.

Timetable:

Action	Date	FR Cite
NPRM	05/21/97	62 FR 27712
Final	10/00/97	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 3679.

Agency Contact: Larry Wyborski, Environmental Protection Agency, Administration and Resource Management, 3802F, Washington, DC 20460
Phone: 202 564-4369
Fax: 202 260-1203

RIN: 2030–AA53

3678. PUBLIC INFORMATION AND CONFIDENTIALITY REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 7 USC 136 et seq; 33 USC 1251 et seq; 42 USC 300f et seq; 42 USC 6901 et seq; 42 USC 7401 et seq; 42 USC 9601 et seq; 42 USC 11001 et seq; 15 USC 2601 et seq; 42 USC 4912; 33 USC 1414; 21 USC 346; 15 USC 2005

CFR Citation: 40 CFR 2; 40 CFR 57; 40 CFR 122; 40 CFR 123; 40 CFR 145; 40 CFR 233; 40 CFR 260; 40 CFR 270; 40 CFR 271; 40 CFR 281; 40 CFR 350; 40 CFR 403; 40 CFR 85; 40 CFR 86

Legal Deadline: None

Abstract: EPA regulations at 40 CFR part 2, subpart B, provide procedures for handling and disclosing information claimed as CBI. Although these regulations have succeeded in protecting business information, changes in Agency workload, practice, and statutory authority have outstripped the ability of these regulations to cut down on unnecessary procedures, expedite activities involving confidential business information, and simplify the regulations. In addition, EPA would consolidate confidentiality provisions from other parts of 40 CFR.

Timetable:

Action	Date	FR Cite
NPRM	11/23/94	59 FR 60446
Final	11/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: SAN No. 3240.

Agency Contact: Donald A. Sadowsky, Environmental Protection Agency, Office of Enforcement and Compliance Assurance, 2370, Washington, DC 20460
Phone: 202 260-5469

RIN: 2020–AA21

3679. PESTICIDE MANAGEMENT AND DISPOSAL

Priority: Other Significant

Legal Authority: 7 USC 136 et seq

CFR Citation: 40 CFR 165

Legal Deadline: None

Abstract: This action develops procedures for mandatory and voluntary recall actions under section 19(b) of FIFRA and would establish criteria for acceptable storage and disposal plans which registrants may submit to this Agency to become eligible for reimbursement of storage costs. This action establishes procedures for indemnification of owners of suspended and cancelled pesticides for disposal.

Timetable:

Action	Date	FR Cite
NPRM	05/05/93	58 FR 26858
Final	06/00/98	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 3432.

Agency Contact: David Stangel, Environmental Protection Agency, Office of Enforcement and Compliance Assurance, 2225A, Washington, DC 20460
Phone: 202 564-4162

RIN: 2020–AA33

3680. GUIDELINES FOR CARCINOGEN RISK ASSESSMENT

Priority: Info./Admin./Other

Timetable:

Action	Date	FR Cite
Reproposed Guidelines	04/23/96	61 FR 17960
Implementation Policy	06/25/96	61 FR 32799
Final Guidelines	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William P. Wood
Phone: 202 260-6743

RIN: 2080–AA06

3681. REGULATIONS GOVERNING AWARDS UNDER SECTION 113(F) OF THE CLEAN AIR ACT

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

CFR Citation: 40 CFR 65

Timetable:

Action	Date	FR Cite
NPRM	05/03/94	59 FR 22795
Final	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Cary Secrest
Phone: 202 564-8661

RIN: 2020–AA31

3682. REGULATIONS GOVERNING PRIOR NOTICE OF CITIZEN SUITS BROUGHT UNDER SECTION 304 OF THE CLEAN AIR ACT

Priority: Info./Admin./Other

CFR Citation: 40 CFR 54

Timetable:

Action	Date	FR Cite
NPRM	02/10/93	58 FR 7870
Final	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Rhonda Maddox
Phone: 202 564-7026
Jerry MacLaughlin
Phone: 202 564-6947

RIN: 2020–AA30

3683. POLICY OR PROCEDURES FOR NOTIFICATION TO THE AGENCY OF STORED PESTICIDES WITH CANCELLED OR SUSPENDED REGISTRATION

Priority: Other Significant

CFR Citation: 40 CFR 168

Timetable:

Action	Date	FR Cite
NPRM	03/28/91	56 FR 13042
Final	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David Stangel
Phone: 202 569-4162

RIN: 2020–AA29

3684. FIFRA BOOKS AND RECORDS OF PESTICIDE PRODUCTION AND DISTRIBUTION (REVISION)

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 169

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Steve Howie
Phone: 703 308-8383
Email: howie.steven@epamail.epa.gov

RIN: 2020–AA28

3685. ENVIRONMENTAL IMPACT ASSESSMENT OF NONGOVERNMENTAL ACTIVITIES IN ANTARCTICA

Priority: Other Significant

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/30/97	62 FR 25537
Final	10/00/98	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Joe Montgomery
Phone: 202 564-7157
Fax: 202 564-0072
Email: montgomery.joseph@epamail.epa.gov
Katherine Biggs
Phone: 202 564-7144
Fax: 202 564-0072
Email: biggs.katherine@epamail.epa.gov

RIN: 2020–AA34

[FR Doc. 97-28087 Filed 10-28-97; 8:45 am]
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Wednesday
October 29, 1997

Part XXIII

Equal Employment Opportunity Commission

Semiannual Regulatory Agenda

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Ch. XIV

Semiannual Regulatory Agenda

AGENCY: Equal Employment Opportunity Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Equal Employment Opportunity Commission (EEOC or Commission) is publishing its semiannual regulatory agenda pursuant to Executive Order 12866, 58 FR 51735, and the Regulatory Flexibility Act, 5 U.S.C. chapter 6. The agenda lists all regulations that are scheduled for review or development during the next 12 months or that have been finalized since the publication of the last agenda.

FOR FURTHER INFORMATION CONTACT: Ellen J. Vargyas, Legal Counsel, Office of the Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507; telephone (202) 663-7197.

SUPPLEMENTARY INFORMATION: The Commission has identified ten current and projected regulations for inclusion in this regulatory agenda. Two of these items are completed and eight are currently under development or review by Commission staff.

For this edition of EEOC's regulatory agenda, the most important significant regulatory action is included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entry is listed in the Table of Contents and is denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

Signed in Washington, DC, this 12th day of August 1997.
For the Commission.
Gilbert F. Casellas,
Chairman.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3686	Federal Sector Equal Employment Opportunity Procedures	3046-AA66

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3687	Procedures for Complaints of Employment Discrimination by Previously Exempt State and Local Government Employees	3046-AA56
3688	Regulations Interpreting Title II of the Older Workers Benefit Protection Act of 1990 (OWBPA) **(Reg Plan Seq. No. 146)**	3046-AA58
3689	Procedures for Collection of Debts by Administrative Offset	3046-AA65

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3690	Procedures—The Age Discrimination in Employment Act	3046-AA54
3691	Procedures on Interagency Coordination of Equal Employment Opportunity Issuances	3046-AA55
3692	Federal Sector Equal Employment Opportunity	3046-AA57
3693	Disparate Impact Under the Age Discrimination in Employment Act (ADEA)	3046-AA64

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3694	Guidelines on the Application of the Americans With Disabilities Act of 1990 to Employer Provided Health Insurance	3046-AA53
3695	Supplemental Standards of Ethical Conduct for Employees of the Equal Employment Opportunity Commission	3046-AA61

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) — Prerule Stage

3686. • FEDERAL SECTOR EQUAL EMPLOYMENT OPPORTUNITY PROCEDURES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2000e-16; 29 USC 206(d); 29 USC 633a; 29 USC 791; 29 USC 794a

CFR Citation: 29 CFR 1614

Legal Deadline: None

Abstract: Commission staff have reviewed part 1614 to assess its effectiveness and conformity with National Performance Review principles. As a result, several changes are being proposed to streamline the process and eliminate unnecessary layers of review.

Timetable:

Action	Date	FR Cite
Interagency Coordination	10/00/97	
NPRM	11/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Thomas J. Schlageter, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
Phone: 202 663-4669
TDD: 202 663-7026

RIN: 3046–AA66

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) — Final Rule Stage

3687. PROCEDURES FOR COMPLAINTS OF EMPLOYMENT DISCRIMINATION BY PREVIOUSLY EXEMPT STATE AND LOCAL GOVERNMENT EMPLOYEES

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: 2 USC 1220, sec 321 of Government Employee Rights Act of 1991; 42 USC 2000e et seq, title VII of the Civil Rights Act; 29 USC 621 et seq, Age Discrimination in Employment Act; 42 USC 12101 et seq, Americans with Disabilities Act

CFR Citation: 29 CFR 1603

Legal Deadline: None

Abstract: Under title VII of the Civil Rights Act of 1964, the ADEA and the ADA, certain staff members of State and local elected officials were exempt from protection against employment discrimination. Section 321 of the Government Employee Rights Act of 1991 extends employment discrimination protections to the employment of persons who have been chosen or appointed by a State or local elected public official to serve on his or her personal staff, to serve the elected official on the policymaking level, or to serve as an immediate advisor with respect to the exercise of the constitutional or legal powers of the official's office.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/10/97	62 FR 17542
Interim Final Rule Comment Period End	06/09/97	
Final Action	10/00/97	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Thomas J. Schlageter, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
Phone: 202 663-4669
TDD: 202 663-7026

RIN: 3046–AA56

3688. REGULATIONS INTERPRETING TITLE II OF THE OLDER WORKERS BENEFIT PROTECTION ACT OF 1990 (OWBPA)

Regulatory Plan: This entry is Seq. No. 146 in Part II of this issue of the **Federal Register**.

RIN: 3046–AA58

3689. • PROCEDURES FOR COLLECTION OF DEBTS BY ADMINISTRATIVE OFFSET

Priority: Info./Admin./Other

Legal Authority: 5 USC 5514; 31 USC 3716; 31 USC 3720A; 5 CFR 550.1101

CFR Citation: 29 CFR 1650

Legal Deadline: None

Abstract: As required by the Debt Collection Improvement Act of 1996, the Commission is issuing regulations for the collection of debts by administrative offset.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/17/97	62 FR 32685
Interim Final Rule Comment Period End	08/18/97	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas J. Schlageter, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
Phone: 202 663-4669
TDD: 202 663-7026

RIN: 3046–AA65

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) — Long-Term Actions

3690. PROCEDURES—THE AGE DISCRIMINATION IN EMPLOYMENT ACT

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 29 USC 628, sec 115, Civil Rights Act of 1991

CFR Citation: 29 CFR 1626

Legal Deadline: None

Abstract: Section 115 of the Civil Rights Act of 1991 deleted references to the Portal to Portal Act from the private suit provisions of the Age Discrimination in Employment Act (ADEA) and replaced them with a requirement that suit be filed no later than 90 days after termination of proceedings or dismissal of a charge by EEOC. Accordingly, section 1626.7(a) is being deleted and section 1626.15(b) is being revised because they were both based upon the Portal to Portal Act. New sections are being added concerning termination of EEOC proceedings and the issuance of notices of the new 90-day limitation period.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Thomas J. Schlageter, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
Phone: 202 663-4669
TDD: 202 663-7026

RIN: 3046–AA54

3691. PROCEDURES ON INTERAGENCY COORDINATION OF EQUAL EMPLOYMENT OPPORTUNITY ISSUANCES

Priority: Substantive, Nonsignificant

Legal Authority: EO 12067

CFR Citation: 29 CFR 1690

Legal Deadline: None

Abstract: Executive Order 12067 requires the Equal Employment Opportunity Commission and other Federal agencies to informally and formally coordinate with each other when they develop rules, policies, procedures, and other issuances affecting equal employment opportunity. 29 CFR part 1690 sets forth specific procedures for this interagency coordination. These amendments to 29 CFR part 1690 will update the coordination process to suit the broad range of materials now being presented to EEOC for review, and also to formalize existing practices as to the sequence of review between the EEOC under Executive Order 12067; the Department of Justice under Executive Order 12250; and the Office of Management and Budget under Executive Order 12866 and the Paperwork Reduction Act.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Carol R. Miaskoff, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
Phone: 202 663-4679
TDD: 202 663-7026

RIN: 3046–AA55

3692. FEDERAL SECTOR EQUAL EMPLOYMENT OPPORTUNITY

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-569, The Rehabilitation Act Amendments of 1992; 42 USC 2000e-16; 29 USC 633a; 29 USC 794a

CFR Citation: 29 CFR 1614

Legal Deadline: None

Abstract: The proposed amendments to this regulation implement the Rehabilitation Act Amendments of 1992. Those amendments provide that the standards used to determine if title I of the Americans With Disabilities Act has been violated will apply to complaints of nonaffirmative action employment discrimination under the Rehabilitation Act. The Commission may also make other changes to the Federal Sector complaint processing regulations as appropriate.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas J. Schlageter, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
Phone: 202 663-4669
TDD: 202 663-7026

RIN: 3046–AA57

3693. • DISPARATE IMPACT UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT (ADEA)

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 628

CFR Citation: 29 CFR 1625.7 (Revision); 29 CFR 1625.23 (New)

Legal Deadline: None

Abstract: The Commission proposes to issue legislative regulations to reaffirm and clarify its long-standing interpretive rule regarding the availability of the disparate impact theory under the ADEA. The proposed rule also would set forth the nature and order of proof in such disparate impact cases.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph N. Cleary, Assistant Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
Phone: 202 663-4679
TDD: 202 663-7026
Fax: 202 663-4639

RIN: 3046–AA64

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) — Completed Actions

3694. GUIDELINES ON THE APPLICATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990 TO EMPLOYER PROVIDED HEALTH INSURANCE

Priority: Other Significant

CFR Citation: 29 CFR 1631

Completed:

Reason	Date	FR Cite
Withdrawn	08/12/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Christopher Kuczynski
Phone: 202 663-4503
TDD: 202 663-7026

RIN: 3046–AA53

3695. SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 29 CFR 1600; 5 CFR 7201; 29 CFR 1650

Completed:

Reason	Date	FR Cite
Final Action	07/08/97	62 FR 36447
Final Action Effective	07/08/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas J. Schlageter
Phone: 202 663-4669
TDD: 202 663-7026

RIN: 3046–AA61

[FR Doc. 97-22226 Filed 10-28-97; 8:45 am]
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Wednesday
October 29, 1997

Part XXIV

Federal Emergency Management Agency

Semiannual Regulatory Agenda

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Semiannual regulatory agenda.

SUMMARY: The Federal Emergency Management Agency publishes its semiannual regulatory agenda in April and October to inform interested parties of progress on FEMA regulations. The agenda lists regulations that will be under development or review during the period October 1, 1997, to April 30, 1998.

ADDRESSES: For information about specific regulations, please contact the person listed as the agency contact in the agenda.

FOR FURTHER INFORMATION CONTACT: For general information on FEMA's regulatory agenda, contact H. Crane Miller, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646-3340, FAX (202) 646-4536, e-mail Crane.Miller@fema.gov.

SUPPLEMENTARY INFORMATION: Executive Order 12866 "Regulatory Planning and Review" directs each executive agency to publish only such regulations as are required by law, are necessary to interpret the law, or are made necessary by compelling public need. Publication of an agenda of regulations is called for semiannually in order to give the public adequate notice of agency rulemaking activities; also, publication of a regulatory agenda concerning rules likely to be significant regulatory actions must be published.

In fulfillment of the requirements of Executive Order 12866, this agenda describes current and projected regulatory actions and rules that will be under review or development during the period October 1, 1997, to April 30, 1998. This agenda also contains information of regulations on which action was completed since the last FEMA semiannual agenda was published Friday, April 25, 1997, at 62 FR 22430 to 22434.

We invite public comment on the agenda, including comments by State and local governments. Comments should be submitted to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472; FAX (202) 646-4536. Please refer to the title of the rule about which you are inquiring or commenting and the rule's Regulation Identifier Number (RIN) found at the end of each agenda entry.

The agenda is not limited to significant regulatory actions and contains information concerning FEMA regulations to be developed, reviewed, or published in the next 12 months except for routine flood elevation determinations, listings of eligible communities under the National Flood Insurance Program, listings of suspended communities and similar designations under the National Flood Insurance Program, and FEMA organizational and management matters.

Dated: September 2, 1997.

Ernest B. Abbott,

General Counsel.

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3696	Administrative Requirements for Grantees To Reflect Single Audit Act Amendments	3067-AC70

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3697	Establish Flood Insurance Rate Zone AR	3067-AC17
3698	Group Flood Insurance Policy for Individual and Family Grant Program	3067-AC35
3699	Flood Mitigation Assistance Program	3067-AC45
3700	Disaster Assistance; Hazard Mitigation	3067-AC46
3701	National Flood Insurance Program; Allocated Loss Adjustment Expense	3067-AC47
3702	Disaster Assistance; Individual Assistance Programs	3067-AC51
3703	Disaster Housing Resources Program	3067-AC52
3704	Disaster Assistance; Appeals Procedures	3067-AC56
3705	Disaster Assistance; Snow Removal Assistance	3067-AC58
3706	Disaster Assistance; Allowable Cost	3067-AC59
3707	Disaster Assistance; Restoration of Damaged Facilities	3067-AC60
3708	Criminal and Civil Penalties Under the Robert T. Stafford Disaster Relief and Emergency Assistance Act	3067-AC61
3709	National Flood Insurance Program: Assistance to Private Sector Property Insurers	3067-AC62
3710	National Flood Insurance Program; Standard Flood Insurance Coverage and Rates	3067-AC63
3711	National Dam Safety Program; Assistance for State Programs	3067-AC64
3712	Organization, Functions and Delegation of Authorities	3067-AC66
3713	Disaster Assistance; Public Assistance Program Administration; Hazard Mitigation Grant Program	3067-AC67
3714	Disaster Assistance; Fire Suppression Assistance	3067-AC68
3715	Disaster Assistance; Hazard Mitigation Grant Program	3067-AC69

FEMA

Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3716	Enforcement under Title IX of the Education Amendments of 1972	3067-AC71

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3717	Disaster Assistance; Federal Grant Assistance	3067-AC55

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — Final Rule Stage

3696. • ADMINISTRATIVE REQUIREMENTS FOR GRANTEES TO REFLECT SINGLE AUDIT ACT AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-156

CFR Citation: 44 CFR 13

Legal Deadline: None

Abstract: This interim final common rule revises FEMA's and other agencies' grants management common rule, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," to provide uniform fiscal and administrative requirements to all types of grants and cooperative agreements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/29/97	62 FR 45937
Interim Final Rule Effective	09/29/97	
Interim Final Rule Comment Period End	10/28/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Charles F. McNulty, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
Phone: 202 646-2976

RIN: 3067–AC70

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — Long-Term Actions

3697. ESTABLISH FLOOD INSURANCE RATE ZONE AR

Priority: Other Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 42 USC 4002; EO 12127

CFR Citation: 44 CFR 59; 44 CFR 60; 44 CFR 61; 44 CFR 65

Legal Deadline: NPRM, Statutory, October 28, 1994.

Abstract: This rule would establish criteria for determining a community's eligibility for Zone AR designation (areas of special flood hazard resulting from the disaccreditation of a flood protection system that was previously credited with providing 100-year flood protection) and for mapping special flood hazard areas as Zone AR. The rule would also establish flood insurance rates and floodplain management requirements to be applied in areas designated as Zone AR.

Timetable:

Action	Date	FR Cite
NPRM	04/01/94	59 FR 15351
NPRM Comment Period End	05/16/94	
Interim Final Rule	10/25/94	59 FR 53582
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: Michael K. Buckley, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-2756

RIN: 3067–AC17

3698. GROUP FLOOD INSURANCE POLICY FOR INDIVIDUAL AND FAMILY GRANT PROGRAM

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 5174; 42 USC 5178

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This rule establishes a Group Flood Insurance Policy to be issued by the National Flood Insurance Program when Federal disaster assistance for flood damage to real or personal property, or both, is provided under the Individual and Family Grant Program following a major disaster declaration by the President.

Timetable:

Action	Date	FR Cite
NPRM	03/15/95	60 FR 13945
Interim Final Rule	05/01/96	61 FR 19197
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Laurence W. Zensinger, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-4262

RIN: 3067–AC35

3699. FLOOD MITIGATION ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4104c; 42 USC 4104d

CFR Citation: 44 CFR 78

Legal Deadline: None

Abstract: This interim final rule implements secs. 553 and 554 of the National Flood Insurance Reform Act of 1994 to provide grants under the National Flood Mitigation Fund to States and communities for planning assistance and for mitigation projects that reduce the risk of flood damages to structures covered under contracts for flood insurance.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/20/97	62 FR 13346
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: Donna M. Dannels, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
Phone: 202 646-3662
Fax: 202 646-3104

RIN: 3067–AC45

3700. DISASTER ASSISTANCE; HAZARD MITIGATION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5170c

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This proposed rule would streamline and improve implementation of the Hazard Mitigation Grant Program under section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act. It would clarify program eligibility, simplify program administration, and allow States the maximum flexibility under current law.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: Donna M. Dannels, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-3662
Fax: 202 646-3104

RIN: 3067–AC46

3701. NATIONAL FLOOD INSURANCE PROGRAM; ALLOCATED LOSS ADJUSTMENT EXPENSE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4001 et seq; EO 12127

CFR Citation: 44 CFR 62

Legal Deadline: None

Abstract: This rule modifies the existing allocated loss adjustment expense fee schedule of the National Flood Insurance Program 1994 Write Your Own Program under the Financial Assistance/Subsidy Arrangement. The rule changes the fee schedule to add new, refined loss ranges and to revise the fees for adjusting higher ranges of covered losses under the National Flood Insurance Program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/15/96	61 FR 24462
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles M. Plaxico, Jr., Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-3422

RIN: 3067–AC47

3702. DISASTER ASSISTANCE; INDIVIDUAL ASSISTANCE PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5121 et seq; 42 USC 5179; 42 USC 5180

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This proposed rule would revise certain individual assistance programs under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), namely disaster legal services, crisis counseling assistance and training, the Cora Brown Fund, duplication of benefits, and food commodities.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karen J. Keefer, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-3658
Fax: 202 646-2723

RIN: 3067–AC51

3703. DISASTER HOUSING RESOURCES PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5174

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This advanced notice of proposed rulemaking gives notice of FEMA's intent to divest itself of its inventory of mobile homes and travel trailers which serve as disaster temporary housing and to devolve this portion of the housing program to the States.

Timetable:

Action	Date	FR Cite
ANPRM	08/21/96	61 FR 43208
ANPRM Comment Period End	09/20/96	
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Agnes C. Mravcak, Federal Emergency Management Agency, 500 C Street NW., Washington, DC 20472
Phone: 202 646-2730

RIN: 3067–AC52

3704. DISASTER ASSISTANCE; APPEALS PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5121 et seq

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This proposed rule would change the procedures for the review and disposition of appeals related to Public Assistance grants. The rule simplifies the administrative appeals process by reducing from three to one the number of appeal requests an applicant may submit, and reduces the amount of time and cost associated with appeals.

Timetable:

Action	Date	FR Cite
NPRM	10/24/96	61 FR 55122
NPRM Comment Period End	12/23/96	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Melissa M. Howard, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-3053

RIN: 3067–AC56

3705. DISASTER ASSISTANCE; SNOW REMOVAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5121 et seq; 42 USC 5192

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This proposed rule describes the facilities that are eligible for snow removal assistance as a result of an emergency or major disaster declaration based on snow or blizzard conditions.

Timetable:

Action	Date	FR Cite
NPRM	10/24/96	61 FR 55123
NPRM Comment Period End	11/25/96	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Melissa M. Howard, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-3053

RIN: 3067–AC58

3706. DISASTER ASSISTANCE; ALLOWABLE COST

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5121 et seq

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This proposed rule would require grantees under the Public Assistance program to account for and report actual statutory administrative costs. The proposed rule would require grantees to document how the grant funds were spent and to return excess funds if actual eligible expenditures are less than the statutory allowances.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Melissa M. Howard, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-3053

RIN: 3067–AC59

3707. DISASTER ASSISTANCE; RESTORATION OF DAMAGED FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5121 et seq

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This proposed rule would require that eligible costs associated with State and local repair or replacement standards (building codes), which change the predisaster construction of a facility, be limited to the standards that are in place at the time of the declared disaster date. The standards must be in writing and formally adopted by the applicant or State on or before the disaster date. The proposed rule would become effective for disasters declared one (1) year or more after the publication of the final rule.

Timetable:

Action	Date	FR Cite
NPRM	10/25/96	61 FR 55262
NPRM Comment Period End	12/24/96	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Melissa M. Howard, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-3053

RIN: 3067–AC60

3708. CRIMINAL AND CIVIL PENALTIES UNDER THE ROBERT T. STAFFORD DISASTER RELIEF AND EMERGENCY ASSISTANCE ACT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5157(d); 26 USC 2461

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This proposed rule would increase the maximum civil penalty under the Robert T. Stafford Disaster Relief & Emergency Assistance Act from $5,000 to $5,500.

Timetable:

Action	Date	FR Cite
NPRM	02/10/97	62 FR 5957
NPRM Comment Period End	04/11/97	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard S. Buck, IV, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-4091

RIN: 3067–AC61

3709. • NATIONAL FLOOD INSURANCE PROGRAM: ASSISTANCE TO PRIVATE SECTOR PROPERTY INSURERS

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 42 USC 4001 et seq

CFR Citation: 44 CFR 62

Legal Deadline: None

Abstract: This proposed amendment would (1) reduce the range between the minimum and maximum amount of premium income a Write Your Own (WYO) company may retain as a servicing fee as a result of its marketing performance; (2) restructure the Financial Assistance/ Subsidy Arrangement (Arrangement) so that under no circumstance would a company have to return any portion of the expense allowance; (3) reformat the Arrangement to make it easier to read; (4) standardize references throughout the document, and (5) add details to clarify responsibilities of private sector insurers under the Arrangement regarding reporting requirements, litigation, and "errors and omissions".

Timetable:

Action	Date	FR Cite
NPRM	05/01/97	63 FR 23736
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Edward T. Pasterick, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
Phone: 202 646-3443

RIN: 3067–AC62

3710. • NATIONAL FLOOD INSURANCE PROGRAM; STANDARD FLOOD INSURANCE COVERAGE AND RATES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4013(c)

CFR Citation: 44 CFR 61

Legal Deadline: None

Abstract: This interim final rule amends the National Flood Insurance Program regulations to reduce the waiting period from 30 days to 15 days before flood insurance coverage becomes effective under the Standard Flood Insurance Policy for flood insurance policies with application dates between January 1, 1997 and June 30, 1997.

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles M. Plaxico, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
Phone: 202 646-3422

RIN: 3067–AC63

3711. • NATIONAL DAM SAFETY PROGRAM; ASSISTANCE FOR STATE PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-303

CFR Citation: 44 CFR 145

Legal Deadline: None

Abstract: This proposed rule would provide direction and guidance for financial assistance to State dam safety programs to improve and enhance the safety of dams throughout the United States.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold Andress, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
Phone: 202 646-2801

RIN: 3067–AC64

3712. • ORGANIZATION, FUNCTIONS AND DELEGATION OF AUTHORITIES

Priority: Info./Admin./Other

Legal Authority: 5 USC 552

CFR Citation: 44 CFR 2

Legal Deadline: None

Abstract: This final rule revises FEMA regulations on Organization, Functions and Delegations of Authority to reflect the creation of a new Directorate, the Information Technology Services Directorate, and to reflect reassignment of certain responsibilities within existing directorates.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: H. Joseph Flynn, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
Phone: 202 646-4102
Fax: 202 646-4536

RIN: 3067–AC66

3713. • DISASTER ASSISTANCE; PUBLIC ASSISTANCE PROGRAM ADMINISTRATION; HAZARD MITIGATION GRANT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5121 et seq

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This proposed rule would change the procedure for the review and disposition of appeals related to Public Assistance grants and the Hazard Mitigation Grant Program (HMGP). The rule would simplify the administrative process and reduce delays in reaching final resolution of appeals.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Melissa M. Howard, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
Phone: 202 646-3053
Fax: 202 646-3304

RIN: 3067–AC67

3714. • DISASTER ASSISTANCE; FIRE SUPPRESSION ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5121 et seq; 42 USC 5187

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This proposed rule would simplify the fire eligibility process from three thresholds to one threshold and would change the Federal cost share to 75 percent for fire suppression grants.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Curtis Carleton, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
Phone: 202 646-4535

RIN: 3067–AC68

3715. • DISASTER ASSISTANCE; HAZARD MITIGATION GRANT PROGRAM

Priority: Substantive; Nonsignificant

Legal Authority: 42 USC 5121 et seq

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This proposed rule would revise the categories of projects eligible for funding under the Hazard Mitigation Grant Program. It emphasizes nonstructural flood mitigation measures to reduce the number of floodprone structures and clarifies that major structural flood control projects will not be considered for funding under the grant program.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert F. Shea, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
Phone: 202 646-3619
Fax: 202 646-3104

RIN: 3067–AC69

3716. • ENFORCEMENT UNDER TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 900 et seq

CFR Citation: 44 CFR 19

Legal Deadline: None

Abstract: This proposed common rule would enforce title IX of the Education Amendments of 1972 applicable to training programs of FEMA.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Pauline C. Campbell, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
Phone: 202 646-4122

RIN: 3067–AC71

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — Completed Actions

3717. DISASTER ASSISTANCE; FEDERAL GRANT ASSISTANCE

Completed:

Reason	Date	FR Cite
Withdrawn - Duplicate of RIN 3067-AC59	05/01/97	

RIN: 3067–AC55

[FR Doc. 97-24024 Filed 10-28-97; 8:45 am]

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Wednesday
October 29, 1997

Part XXV

Federal Mediation and Conciliation Service

Semiannual Regulatory Agenda

FEDERAL MEDIATION AND CONCILIATION SERVICE (FMCS)

FEDERAL MEDIATION AND CONCILIATION SERVICE

29 CFR Ch. XII

Semiannual Regulatory Agenda

AGENCY: Federal Mediation and Conciliation Service (FMCS).

ACTION: Semiannual regulatory agenda.

SUMMARY: This document sets forth the Federal Mediation and Conciliation Service's (FMCS) regulatory agenda issued under Executive Order 12866 and the Regulatory Flexibility Act. The agenda lists regulations that are currently under development or review or that FMCS expects to have under development or review during the next 12 months. The effect of this agenda is to advise the public of FMCS' current and future regulatory activities.

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact Eileen B. Hoffman, General Counsel, Office of the General Counsel, Federal Mediation and Conciliation Service at (202) 606-5444. For information about a specific regulation project listed on the agenda, contact the person designated in the agenda for that regulation.

SUPPLEMENTARY INFORMATION: Under the President's order on Regulatory Planning and Review, Executive Order 12866 (58 FR 51735, October 4, 1993), each agency is required to prepare an agenda of all regulations under development or review. The Regulatory Flexibility Act, Public Law 96-354, has a similar agenda requirement (5 U.S.C. 602). Under the law, the agenda must list any regulation that is likely to have a significant economic impact on a substantial number of small entities.

The Office of Management and Budget has issued guidelines prescribing the form and content of the regulatory agenda. Under those guidelines, the agenda must list all regulatory activities being conducted or reviewed in the next 12 months and provide certain specified information on each regulation. All of the items on this agenda are current or projected rulemakings.

Wilma B. Liebman,

Deputy Director, Federal Mediation and Conciliation Service.

FEDERAL MEDIATION AND CONCILIATION SERVICE (FMCS) — Final Rule Stage

3718. EXPEDITED ARBITRATION

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 172; 29 USC 173 et seq

CFR Citation: 29 CFR 1404

Legal Deadline: None

Abstract: The proposed addition of a subpart D to the arbitration regulations is intended to create a new service known as "expedited arbitration." This service will provide a streamlined arbitration process for non-precedential and non-complex grievance arbitration cases while encouraging the parties to select new arbitrators to enhance their career development. This new service is the result of specific recommendations of the Arbitration Focus Group convened by the Federal Mediation and Conciliation Service on March 27, 1997.

Timetable:

Action	Date	FR Cite
NPRM	06/30/97	62 FR 35112
NPRM Comment Period End	08/04/97	
Final Action	11/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Peter L. Regner, Director of Program Services, Federal Mediation and Conciliation Service, 2100 K Street NW., Washington, DC 20427
Phone: 202 606-8181
Fax: 202 606-4216

RIN: 3076-AA05

[FR Doc. 97-22227 Filed 10-28-97; 8:45 am]
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federal register

Wednesday
October 29, 1997

Part XXVI

General Services Administration

Semiannual Regulatory Agenda

GENERAL SERVICES ADMINISTRATION (GSA)

GENERAL SERVICES ADMINISTRATION

41 CFR Chs. 1, 101, 105, 301, 302, 303, and 304

48 CFR Chs. 5, 6101, 6102, 6103, and 6104

October 1997 Regulatory Plan and Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: General Services Administration (GSA).

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the proposed regulatory actions that GSA plans for the next 12 months and those that were completed since April 1997. This agenda was developed under the guidelines in an Office of Management and Budget memorandum dated June 10, 1997. GSA's purpose in publishing this agenda is to allow interested persons an opportunity to participate in the rulemaking process. GSA also invites interested persons to recommend existing significant regulations for review to determine whether they should be modified or eliminated.

FOR FURTHER INFORMATION CONTACT: Sharon A. Kiser, Federal Acquisition Policy Division, (202) 501-4755.

SUPPLEMENTARY INFORMATION:

GSA's Regulatory Plan

For this edition of GSA's regulatory agenda, the most important significant regulatory action is included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entry is listed in the Table of Contents below and is denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

Dated: August 5, 1997.

David L. Bibb,

Acting Associate Administrator for Governmentwide Policy.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3719	Nondiscrimination on the Basis of Sex and Education for Individuals Receiving or Benefitting from Federal Financial Assistance	3090-AG58
3720	Federal Supply Schedule Contracts—Cooperative Purchasing	3090-AF68
3721	General Services Administration Acquisition Regulation; Revision of GSAR Clauses	3090-AG08
3722	10-Day Payment Clause for Federal Supply Service Contracts Under the FSS-19 Procurement System	3090-AG47
3723	Federal Advisory Committee Management	3090-AG49
3724	Annual Real Property Inventories	3090-AG55
3725	GSA Agency Protest Procedures	3090-AG57

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3726	FTR Amendment (Unassigned); Acceptance of Payment From a Non-Federal Source for Travel Expenses	3090-AE19
3727	FTR Amendment (Unassigned); Use of Government Aircraft and Government-Negotiated Rental Agreement Automobiles	3090-AE82
3728	Reissuance of the General Services Administration Acquisition Regulation (GSAR)	3090-AE90
3729	Federal Property Management Regulations, Part 101-16, Governmentwide Real Property Policy	3090-AF95
3730	Relocation of FIRMR Provisions Relating to GSA's Role in the Disposal of Excess and Exchange/Sale Information Technology Equipment	3090-AG01
3731	Relocation of FIRMR Provisions Relating to GSA's Role in Records Management	3090-AG02
3732	Relocation of FIRMR Provisions Relating To Use of Government Telephone Systems and GSA Services and Assistance	3090-AG03
3733	Federal Travel Regulations (Reg Plan Seq. No. 147)	3090-AG11
3734	Motor Vehicle Management	3090-AG12
3735	Transportation and Traffic Management Regulations	3090-AG34
3736	FTR Amendment (Unassigned), Privately Owned Vehicle Reimbursement	3090-AG40
3737	FTR Amendment (Unassigned); Maximum Per Diem Rates	3090-AG43
3738	FTR Amendment (Unassigned); Relocation Income Tax (RIT) Allowance Tax Tables	3090-AG48
3739	Public Availability of Agency Records	3090-AG16
3740	Federal Property Management Regulations, Part 101-17, Assignment and Utilization of Space	3090-AG31
3741	Federal Property Management Regulations, Part 101-20, Management of Buildings and Grounds	3090-AG32
3742	Federal Property Management Regulations, Part 101-21, Federal Buildings Fund	3090-AG33
3743	Utilization and Disposal of Real Property	3090-AG39
3744	Utilization and Disposal of Real Property	3090-AG53
3745	Administrative Requirements for Grantees To Reflect Single Audit Act Amendments	3090-AG59

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

GSA

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3746	Enforcement of Nondiscrimination on the Basis of Handicap in Federally Assisted Programs	3090-AE32
3747	Office Copying Machines	3090-AF08
3748	Update of Transportation Documentation and Audit Regulations	3090-AE77
3749	FTR Interim Rule 6, Last Move Home Benefits for Certain Individuals; Payment of Environmental Testing/Property Inspection Fees	3090-AF83
3750	Accident and Incident Reporting and Investigation	3090-AG13
3751	FTR Amendment (Unassigned); Plain English Format, Chapters 300-301	3090-AG25
3752	Utilization and Disposal of Personal Property Pursuant to Exchange/Sale Authority	3090-AG50
3753	Management, Use, and Disposal of Aircraft	3090-AG56
3754	Location of Federal Facilities in Urban Areas	3090-AF94
3755	Federal Building Fund, Billing Procedures for Reimburseable Charges	3090-AG35

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3756	GSBCA Rules of Procedure for Transportation Rate Cases	3090-AG05
3757	GSBCA Rules of Procedure for Travel and Relocation Expenses Cases	3090-AG06
3758	GSBCA Rules of Procedure for Decisions Authorized Under 31 USC 3529	3090-AG29
3759	Nondiscrimination on the Basis of Race, Color, National Origin, and, Where Applicable, Sex	3090-AC49
3760	Acquisition of Commercial Items, CHGE 70 (GSAR 5-408)	3090-AF86
3761	General Services Administration Acquisition Regulation; Certification Requirements	3090-AG10
3762	Acquisition of Leasehold Interests in Real Property, Part 570	3090-AG27
3763	Remittance of Industrial Funding Fee in U.S. Dollars Under Multiple Award Schedules (GSAR 5-412), CHGE 75	3090-AG30
3764	FTR Amendment 66, Reimbursement of Higher Actual Subsistence Expenses in Special or Unusual Circumstances	3090-AG41
3765	FTR Amendment 64; Temporary Change of Station	3090-AG44
3766	Reporting Requirements for Foreign Gifts and Decorations	3090-AG45
3767	Discontinuation of Interagency Reporting Requirements	3090-AG46
3768	FTR Amendment 67; Maximum Per Diem Rates (Cuyahoga County)	3090-AG51
3769	Utilization and Disposal of Personal Property Pursuant to Exchange/Sale Authority	3090-AG52
3770	Management, Use and Disposal of Government Aircraft Parts	3090-AG54

GENERAL SERVICES ADMINISTRATION (GSA)

Proposed Rule Stage

OFFICE OF GENERAL COUNSEL

3719. • NONDISCRIMINATION ON THE BASIS OF SEX AND EDUCATION FOR INDIVIDUALS RECEIVING OR BENEFITTING FROM FEDERAL FINANCIAL ASSISTANCE

Priority: Other Significant

Legal Authority: 40 USC 476; 42 USC 2000d-1; 20 USC 1681

CFR Citation: 41 CFR 101-6

Legal Deadline: None

Abstract: This rule enforces title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of the sex of an individual receiving or benefitting from Federal financial assistance.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James M. Taylor, Acting Associate Administrator, Office of Equal Employment Opportunity, General Services Administration, Washington, DC 20405
Phone: 202 501-3852

RIN: 3090–AG58

OFFICE OF GOVERNMENTWIDE POLICY

3720. FEDERAL SUPPLY SCHEDULE CONTRACTS—COOPERATIVE PURCHASING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 510; 48 CFR 532; 48 CFR 538; 48 CFR 552

Legal Deadline: None

Abstract: The General Services Administration (GSA) proposes to make changes to the General Services Administration Acquisition Regulation (GSAR) that would implement section 1555 of the Federal Acquisition Streamlining Act of 1994 (PL 103-355) which deals with cooperative purchasing.

Timetable:

Action	Date	FR Cite
ANPRM	04/07/95	60 FR 17764
ANPRM Comment Period End	06/06/95	
NPRM	10/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (MVP), General Services Administration, Washington, DC 20405
Phone: 202 501-3822
Fax: 202 501-3341

RIN: 3090–AF68

3721. GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION; REVISION OF GSAR CLAUSES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 552

Legal Deadline: None

Abstract: This proposed revision to the GSAR will revise clause 552.246-70, Source Inspection by Quality Approved Manufacturer, to reflect changes in part 12 of the Federal Acquisition Regulation involving the acquisition of commercial items.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (MVP), General Services Administration, Washington, DC 20405
Phone: 202 501-3822
Fax: 202 501-3341

RIN: 3090–AG08

3722. • 10-DAY PAYMENT CLAUSE FOR FEDERAL SUPPLY SERVICE CONTRACTS UNDER THE FSS-19 PROCUREMENT SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 532; 48 CFR 552

Legal Deadline: None

Abstract: This rule amends secs. 532.905 and 532.908 and adds a new contract clause at 552.32-25 to authorize payment of invoices in 10 days after receipt for contracts under the FSS-19 procurement system when the contractor agrees to full cycle electronic commerce. Sec. 552-232-28 is removed because the clause is outdated.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (MVP), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-3822
Fax: 202 501-3341

RIN: 3090–AG47

3723. • FEDERAL ADVISORY COMMITTEE MANAGEMENT

Priority: Other Significant

Legal Authority: 5 USC app; EO 12024

CFR Citation: 41 CFR 101-6

Legal Deadline: None

Abstract: GSA is revising its regulations which implement its responsibilities under the Federal Advisory Committee Act. These regulations have not been revised since 1989 and have become outdated as a result of significant decisions issued by the Supreme Court and other Federal Courts. In addition, the revised issuance is expected to provide more comprehensive and effective guidance for agency personnel in their attempts to involve the public in Federal decisionmaking consistent with the principles contained in the Act.

Timetable:

Action	Date	FR Cite
ANPRM	06/10/97	62 FR 31550
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James L. Dean, Director, Committee Mgt. Secretariat (MC), Office of Governmentwide Policy, General Services Administration, Washington, DC 20405
Phone: 202 273-3565
Fax: 202 273-3559
Email: james.dean@gsa.gov

RIN: 3090–AG49

3724. • ANNUAL REAL PROPERTY INVENTORIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 486(c)

CFR Citation: 41 CFR 101-3

Legal Deadline: None

Abstract: FPMR part 101-3 will be rewritten into the Plain English format. In addition, during the rewriting process, changes will be made to the content (such as dollar thresholds) to reflect the most efficient way of managing Federal real property assets.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stanley C. Langfeld, Director, Real Property Policy Div. (MPR), Office of Governmentwide Policy, General Services Administration, Washington, DC 20405
Phone: 202 501-1737

RIN: 3090–AG55

3725. • GSA AGENCY PROTEST PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 533

Legal Deadline: None

Abstract: This proposed change to the GSAR would establish procedures for GSA to meet the goals of EO 12979, Agency Procurement Protests, which requires agencies to establish administrative procedures for resolving procurement protests as an alternative to protests in a forum outside the procuring agency. The procedures are flexible and provide for quick resolution of protests.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (MVP), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-3822
Fax: 202 501-3341

RIN: 3090–AG57

GENERAL SERVICES ADMINISTRATION (GSA)

Final Rule Stage

OFFICE OF GOVERNMENTWIDE POLICY

3726. FTR AMENDMENT (UNASSIGNED); ACCEPTANCE OF PAYMENT FROM A NON-FEDERAL SOURCE FOR TRAVEL EXPENSES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5701 to 5709; 31 USC 1353; 40 USC 486(c)

CFR Citation: 41 CFR 301-1; 41 CFR 304-1

Legal Deadline: None

Abstract: This amendment finalizes the interim rule governing the acceptance of payment for travel, subsistence and related expenses from a non-Federal source. This rule supersedes Interim Rule 4, published at 57 FR 53283, November 9, 1992, with request for comments. The economic impact of this amendment is favorable on all Federal agencies.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/09/92	57 FR 53283
Final Action	10/00/97	
Final Action Effective	10/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry A. Tucker, Director, Regulatory Policy Staff (MTT), Travel and Transportation Mgt. Pol. Div., General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-0299
Fax: 202 208-4448
Email: larry.tucker@gsa.gov

RIN: 3090–AE19

3727. FTR AMENDMENT (UNASSIGNED); USE OF GOVERNMENT AIRCRAFT AND GOVERNMENT-NEGOTIATED RENTAL AGREEMENT AUTOMOBILES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5701 to 5709; 31 USC 1353; 40 USC 486(c)

CFR Citation: 41 CFR 301-1; 41 CFR 301-2; 41 CFR 301-3

Legal Deadline: None

Abstract: This amendment finalizes the interim rule implementing OMB Circular A-126, revised May 26, 1992, 57 FR 22150, to allow authorization of Federal civilian employee travel by Government aircraft in the conduct of official business. The amendment also modifies the FTR to reflect that the Government car rental program is governed by a negotiated car rental agreement instead of contract. The estimated economic impact of this amendment has not been determined to date.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/18/92	57 FR 54305
Final Action	10/00/97	
Final Action Effective	10/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry A. Tucker, Director, Regulatory Policy Staff (MTT), Travel and Transportation Mgt. Pol. Div., General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-0299
Fax: 202 208-4448
Email: larry.tucker@gsa.gov.

RIN: 3090–AE82

3728. REISSUANCE OF THE GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION (GSAR)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 501; 48 CFR 502; 48 CFR 503; 48 CFR 504; 48 CFR 505; 48 CFR 506; 48 CFR 507; 48 CFR 508; 48 CFR 509; 48 CFR 510; 48 CFR 511; 48 CFR 512; 48 CFR 513; 48 CFR 514; 48 CFR 515; ...

Legal Deadline: None

Abstract: GSA plans to publish those aspects of the GSAR for public comment that have a significant cost or administrative impact on contractors or offerors, or significant effect beyond the internal operating procedures of the agency. After consideration of public comments, the entire regulation will be reissued in final form. The regulation will redefine the objectives of the

procurement system and its regulatory base, establish very narrow standards for the scope and nature of the regulation and reduce the overall volume of the regulation by at least 50 percent. The General Services Administration (GSA) plans to revise and reissue chapter 5, 48 CFR, in its entirety. The reissuance will represent the culmination of the Total Quality Management project to review GSA's acquisition regulation/directive system.

Timetable:

Action	Date	FR Cite
Final Action	11/00/97	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Sectors Affected: All

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (MVP), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-3822
Fax: 202 501-3341

RIN: 3090–AE90

3729. FEDERAL PROPERTY MANAGEMENT REGULATIONS, PART 101-16, GOVERNMENTWIDE REAL PROPERTY POLICY

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-16

Legal Deadline: None

Abstract: This proposed rule describes the current real property policies applicable to GSA and Federal agencies to whom GSA real property operations have been delegated. The policies contained in this proposed rule have been separated from their procedural components and reflect the way that real property operations are currently conducted.

Timetable:

Action	Date	FR Cite
NPRM	08/07/97	62 FR 42444
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stanley C. Langfeld, Director, Real Property Policy Div. (MPR), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-1737
Fax: 202 219-0104

RIN: 3090–AF95

3730. RELOCATION OF FIRMR PROVISIONS RELATING TO GSA'S ROLE IN THE DISPOSAL OF EXCESS AND EXCHANGE/SALE OF INFORMATION TECHNOLOGY EQUIPMENT

Priority: Other Significant

Legal Authority: 40 USC 486(c); 40 USC 1412

CFR Citation: 41 CFR 101-43

Legal Deadline: None

Abstract: This temporary regulation moves certain provisions in 41 CFR 201-25 of the FIRMR to 41 CFR 101-43 of the FPMR relating to GSA's role in the disposal of excess and exchange/sale of information technology equipment.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/08/96	61 FR 41352
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Martha Caswell, Director, Personal Property Mgt. Policy Division (MTP), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-3828
TDD: 202 501-0657
Fax: 202 501-2149
Email: martha.caswell@gsa.gov

RIN: 3090–AG01

3731. RELOCATION OF FIRMR PROVISIONS RELATING TO GSA'S ROLE IN RECORDS MANAGEMENT

Priority: Other Significant

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-11

Legal Deadline: None

Abstract: This interim rule reestablishes certain FIRMR provisions regarding records management and GSA's role in records management in the FPMR.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/07/96	61 FR 41000
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stewart Randall, Program Analyst, IT Management Practices Division (MKM), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-4469
Fax: 202 501-8467
Email: stewart.randall@gsa.gov

RIN: 3090–AG02

3732. RELOCATION OF FIRMR PROVISIONS RELATING TO USE OF GOVERNMENT TELEPHONE SYSTEMS AND GSA SERVICES AND ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 40 USC 1424(b)

CFR Citation: 41 CFR 101-35

Legal Deadline: None

Abstract: This interim rule reestablishes in the FPMR certain telecommunications provisions of the FIRMR. These FIRMR provisions will be maintained in the FPMR after 8/7/96. This action was caused by the passage of the Information Technology Management Reform Act of 1996 which effectively disestablished the FIRMR on 8/8/96.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/07/96	61 FR 41003
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: James Gademartori, Configuration Manager, Federal Telecommunications Service, General Services Administration, 7980 Boeing Court, Third Floor, Vienna, VA 22182-3988
Phone: 703 760-7545
Fax: 703 760-7583
Email: james.cademartori@gsa.gov

RIN: 3090–AG03

3733. FEDERAL TRAVEL REGULATIONS

Regulatory Plan: This entry is Seq. No. 147 in Part II of this issue of the Federal Register.

RIN: 3090–AG11

3734. MOTOR VEHICLE MANAGEMENT

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c), sec 205(c), 63 Stat 390

CFR Citation: 41 CFR 101-38

Legal Deadline: None

Abstract: This regulation changes 41 CFR 101-38 to remove the obsolete passenger vehicle classification "IA-Small," changes the requirement to acquire compact or smaller sedans to midsize or smaller sedans and removes the certification requirement to GSA when sedans larger than compact are acquired by Federal agencies. FPMR 101-38 will further be changed to address the new fleet credit card, remove references to the obsolete fleet credit cards (SFs 149 and 149A), and reference the Home-to-Work vehicle use provisions in 41 CFR 101-6.4. The regulation will also address the seat belt use provisions in EO 13043 and revised light truck fuel economy standards issued by the Secretary of Transportation.

Timetable:

Action	Date	FR Cite
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: William T. Rivers, Director, Federal Vehicle Policy Div. (MTV), Office of Governmentwide Policy, General Services Administration, Washington, DC 20405
Phone: 202 501-2569
Fax: 202 501-2149
Email: bill.rivers@gsa.gov

RIN: 3090–AG12

3735. TRANSPORTATION AND TRAFFIC MANAGEMENT REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c), sec 205(c), 63 Stat 390

CFR Citation: 41 CFR 101-40

Legal Deadline: None

Abstract: This regulation will revise and/or remove text in the first three subparts of 41 CFR 101-40 to reflect procedural and policy changes.

Timetable:

Action	Date	FR Cite
NPRM	04/23/97	62 FR 19720
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Sharon Green, Director, Travel and Transportation Management Policy Div. (MTT), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 273-3471
Fax: 202 219-2149
Email: sharon.green@gsa.gov

RIN: 3090–AG34

3736. FTR AMENDMENT (UNASSIGNED), PRIVATELY OWNED VEHICLE REIMBURSEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5701 to 5709

CFR Citation: 41 CFR 301-4

Legal Deadline: None

Abstract: This amendment establishes a mileage reimbursement rate for use of a privately owned automobile, a privately owned airplane, and a privately owned motorcycle. The economic impact of this amendment on Federal agencies has not been determined to date.

Timetable:

Action	Date	FR Cite
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Sharon Green, Director, Travel and Transportation Management Policy Division (MTT), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 273-3471
Fax: 202 219-2149
Email: sharon.green@gsa.gov

RIN: 3090–AG40

3737. • FTR AMENDMENT (UNASSIGNED); MAXIMUM PER DIEM RATES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5701 to 5709

CFR Citation: 41 CFR 301

Legal Deadline: None

Abstract: This amendment provides the annual update to the listing of maximum per diem rates for locations within the continental United States (CONUS) to provide for the reimbursement of Federal employees' expenses covered by per diem.

Timetable:

Action	Date	FR Cite
Final Action	12/00/97	
Final Action Effective	01/01/98	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: William T. Rivers, Acting Director, Travel and Trans. Mgt. Policy Division (MTT), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-1538
Fax: 202 501-8742
Email: bill.rivers@gsa.gov

RIN: 3090–AG43

3738. • FTR AMENDMENT (UNASSIGNED); RELOCATION INCOME TAX (RIT) ALLOWANCE TAX TABLES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5701 to 5709

CFR Citation: 41 CFR 302-11

Legal Deadline: None

GSA

Final Rule Stage

Abstract: This amendment provides the annual update to the Federal, State, and Puerto Rico tax tables used in computing relocation income tax allowance payments for Federal employees. The estimated economic impact of this amendment has not been determined to date.

Timetable:

Action	Date	FR Cite
Final Action	12/00/97	
Final Action Effective	01/01/98	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Sharon S. Green, Director, Travel and Trans. Mgt. Pol. Div. (MTT), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 273-3471
Fax: 202 219-2149
Email: sharon.green@gsa.gov

RIN: 3090–AG48

OFFICE OF MANAGEMENT SERVICES AND HUMAN RESOURCES

3739. PUBLIC AVAILABILITY OF AGENCY RECORDS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 105

Legal Deadline: None

Abstract: This rule revises GSA regulations which implement the Freedom of Information Act (FOIA) (5 USC 552) (PL 90-23). The rule also issues instructions to current and former GSA employees concerning the response to subpoenas and other demands in litigation before judicial and administrative tribunals.

Timetable:

Action	Date	FR Cite
NPRM	03/25/97	62 FR 14081
NPRM Comment Period End	04/24/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Sharon Lighton, Office of Information Management (CAI), Office of Mgt. Services and Human Resources, General Services Administration, Washington, DC 20405
Phone: 202 501-2262
Email: sharon.lighton@gsa.gov

RIN: 3090–AG16

PUBLIC BUILDINGS SERVICE

3740. FEDERAL PROPERTY MANAGEMENT REGULATIONS, PART 101-17, ASSIGNMENT AND UTILIZATION OF SPACE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c), sec 205(c), 63 Stat 390

CFR Citation: 41 CFR 101-17

Legal Deadline: None

Abstract: This interim rule revises the methods by which GSA-controlled space is identified and measured, and eliminates the specific physical description of the components of standard level alterations, and substitutes budget guidelines for alterations, thereby providing tenant agencies flexibility in designing space to meet their mission needs. It also introduces new guidelines for establishing the funding responsibilities of both GSA and tenant agencies associated with moves. The regulation also revises coverage related to location of Federal facilities.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Kevin Kampschroer, Deputy Assistant Commissioner, Office of Portfolio Management (PT), General Services Administration, Public Buildings Service, Washington, DC 20405
Phone: 202 501-0638
Fax: 202 501-3421
Email: kevin.kampschroer@gsa.gov

RIN: 3090–AG31

3741. FEDERAL PROPERTY MANAGEMENT REGULATIONS, PART 101-20, MANAGEMENT OF BUILDINGS AND GROUNDS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c), sec 205(c), 63 Stat 390

CFR Citation: 41 CFR 101-20

Legal Deadline: None

Abstract: New procedures for establishing rent charges were recently developed as part of GSA's reinvention efforts. This interim rule revises 101-20 to support the implementation of GSA's new space and related services pricing practices, included in 101-21.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Jeffrey Neely, Director, Portfolio Support Div. (PMX), Office of Property Management, General Services Administration, Public Buildings Service, Washington, DC 20405
Phone: 202 501-0971
Fax: 202 501-3296
Email: jeffrey.neely@gsa.gov

RIN: 3090–AG32

3742. FEDERAL PROPERTY MANAGEMENT REGULATIONS, PART 101-21, FEDERAL BUILDINGS FUND

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c), sec 205(c), 63 Stat 390

CFR Citation: 41 CFR 101-21

Legal Deadline: None

Abstract: Part 101-21 of the FPMR prescribes policies and procedures applicable to the furnishing of, and charges for, space and services by GSA in Government-owned and leased buildings. New procedures for establishing these charges were recently developed as part of GSA's reinvention efforts. The purpose of this interim rule is to implement these new procedures.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Kevin Kampschroer, Deputy Assistant Commissioner, Office of Portfolio Management (PT), General Services Administration, Public Buildings Service, Washington, DC 20405
Phone: 202 501-0638
Fax: 202 501-3421
Email: kevin.kampschroer@gsa.gov

RIN: 3090–AG33

3743. UTILIZATION AND DISPOSAL OF REAL PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-47

Legal Deadline: None

Abstract: This proposed rule amends the FPMR regarding responsibilities of disposal agencies with respect to appraisals. This action is necessary because it clarifies and strengthens the intended effect of this rule which is to ensure the reliability, integrity, and confidentiality of appraisals of real property.

Timetable:

Action	Date	FR Cite
NPRM	05/05/97	62 FR 24383
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Q. Martin, Director, Redeployment Services Div. (PRD), Public Buildings Service, General Services Administration, Washington, DC 20405
Phone: 202 501-0078
Fax: 202 501-0627

RIN: 3090–AG39

3744. • UTILIZATION AND DISPOSAL OF REAL PROPERTY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-47

Legal Deadline: None

Abstract: This proposed rule amends the FPMR pertaining to the disposal of Government-owned improvements and related personal property on surplus land. This action is being undertaken to establish $15,000 as the maximum value of surplus property and improvements that agencies may dispose of through abandonment, destruction, or donation without prior GSA concurrence.

Timetable:

Action	Date	FR Cite
NPRM	06/20/97	62 FR 33580
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: John Q. Martin, Director, Redeployment Services Div. (PRD), General Services Administration, Public Buildings Service, Washington, DC 20405
Phone: 202 501-0078

RIN: 3090–AG53

3745. • ADMINISTRATIVE REQUIREMENTS FOR GRANTEES TO REFLECT SINGLE AUDIT ACT AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-156; 110 Stat 1356; 63 Stat 390 sec 205(c); 40 USC 486(c)

CFR Citation: 41 CFR 105-72

Legal Deadline: Final, Statutory, August 29, 1997.

Abstract: This interim final rule implements the Single Audit Act Amendments of 1996 (Pub. L. 104-156, 110 Stat. 1396) and the June 24, 1997, revision of OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/29/97	62 FR 45937
Interim Final Rule Effective	09/29/97	
Interim Final Rule Comment Period End	10/28/97	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Susan Dobrow, General Services Administration, Public Buildings Service, Washington, DC 20405
Phone: 202 501-1542

RIN: 3090–AG59

GENERAL SERVICES ADMINISTRATION (GSA)

Long-Term Actions

OFFICE OF EQUAL EMPLOYMENT OPPORTUNITY

3746. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY ASSISTED PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 794

CFR Citation: 41 CFR 101-8.3

Legal Deadline: None

Abstract: The General Services Administration (GSA) proposes this regulation to implement the above-cited law. This regulation would amend GSA's regulation for enforcement of section 504 of the Rehabilitation Act of 1973, as amended, in federally assisted programs or activities to include a cross-reference to the Uniform Federal Accessibility – Standards.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Agency Contact: James M. Taylor, Program Manager, Office of Equal

Employment Opportunity, General Services Administration, 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-0767

RIN: 3090–AE32

FEDERAL SUPPLY SERVICE

3747. OFFICE COPYING MACHINES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-25

Legal Deadline: None

Abstract: Amend the Federal Property Management Regulations to direct all prospective customers to select the most appropriate and economical procurement method through the use of life-cycle-cost techniques.

Timetable:

Action	Date	FR Cite
NPRM	07/26/93	58 FR 39720
NPRM Comment Period End	08/25/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Nicholas Economou, Director, FSS Acquisition Management Center (FCO), General Services Administration, Federal Supply Service, Washington, DC 20406
Phone: 703 305-6936

RIN: 3090–AF06

OFFICE OF GOVERNMENTWIDE POLICY

3748. UPDATE OF TRANSPORTATION DOCUMENTATION AND AUDIT REGULATIONS

Priority: Info./Admin./Other

Legal Authority: 31 USC 3726; 40 USC 486(c)

CFR Citation: 41 CFR 101-41

Legal Deadline: None

Abstract: This regulation will update the policy and procedures governing the procurement, payment, documentation, and audit of payments for freight transportation services for the account of the United States.

Timetable:

Action	Date	FR Cite
NPRM	02/18/94	59 FR 8151
NPRM Comment Period End	04/19/94	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon Green, Director, Travel and Transportation Management Policy Div. (MTT), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 273-3471
Fax: 202 219-2149

RIN: 3090–AE77

3749. FTR INTERIM RULE 6, LAST MOVE HOME BENEFITS FOR CERTAIN INDIVIDUALS; PAYMENT OF ENVIRONMENTAL TESTING/PROPERTY INSPECTION FEES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5701 to 5709; 5 USC 5721 to 5734; 5 USC 5741 to 5742; 20 USC 905(a); 31 USC 1353; 40 USC 486(c); EO 11609, 36 FR 13747, 3 CFR, 1971 to 1975 Comp, p 586; EO 12466, 49 FR 7349, 3 CFR, 1984 Comp, p 185; EO 12522, 50 FR 26337, 3 CFR, 1985 Comp, p 375

CFR Citation: 41 CFR 301-1; 41 CFR 301-3; 41 CFR 302-1; 41 CFR 302-6; 41 CFR 303

Legal Deadline: None

Abstract: This amendment implements provisions of the Jerry Litton Post Office Building Act (PL 103-338), October 6, 1994, which provides "last move home" benefits to members of the immediate family of a Senior Executive Service (SES) career appointee who dies while in service and would otherwise have been eligible for "last move home" benefits. The Act also provides "last move home" benefits for Veterans Affairs medical center directors who are now SES career appointees, but who transferred prior to November 18, 1988, when medical center directors were not in the SES. This amendment also revises FTR provisions to clarify that personal funds and personal frequent flyer mileage may be used to upgrade to first-class transportation accommodations. The estimated annual economic impact of this amendment on all Federal agencies has not been determined to date.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/13/97	62 FR 26374
Interim Final Rule Effective	05/13/97	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry A. Tucker, Director, Regulatory Policy Staff (MTT), Travel and Transportation Mgt. Pol. Div., General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-0299
Fax: 202 208-4448
Email: larry.tucker@gsa.gov.

RIN: 3090–AF63

3750. ACCIDENT AND INCIDENT REPORTING AND INVESTIGATION

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c), sec 205(c), 63 Stat 390

CFR Citation: 41 CFR 101-37

Legal Deadline: None

Abstract: This regulation will implement the policy enacted by the Independent Safety Board Act Amendments of 1994 (PL 103-411), as it pertains to Federal aircraft accident and incident reporting and investigation.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Pete Zuidema, Director, Aircraft Management Policy Division (MTA), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 219-1377
Fax: 202 501-2149

RIN: 3090–AG13

3751. FTR AMENDMENT (UNASSIGNED); PLAIN ENGLISH FORMAT, CHAPTERS 300-301

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 5707; 31 USC 1353; 40 USC 486(c)

CFR Citation: 41 CFR 300; 41 CFR 301

Legal Deadline: None

Abstract: This amendment revises the FTR into a "Plain English" style of regulation writing and adds chapter 300. Questions are in the first person, and answers are in the second person. GSA uses a "we" question when referring to an agency, and an "I" question when referring to the employee. Both the employee and the agency must follow the language contained in the answers to the questions. The questions merely are for use in determining the subject matter of answer text and may not be used in any way to alter application of the rule contained in the answer text.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Sharon Green, Director, Travel and Transportation Management Policy Div. (MTT), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 273-3471
Fax: 202 501-6742
Email: sharon.green@gsa.gov

RIN: 3090–AG25

3752. • UTILIZATION AND DISPOSAL OF PERSONAL PROPERTY PURSUANT TO EXCHANGE/SALE AUTHORITY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-46

Legal Deadline: None

Abstract: This rule amends the FPMR pertaining to utilization and disposal of personal property pursuant to the exchange/sale authority. The exchange/sale authority permits Federal agencies, when acquiring replacement personal property, to exchange or sell similar items and apply the exchange allowance or sales proceeds in total or partial payment for the replacement property acquired. The rule incorporates plain English principles, streamlines the narrative, defines key terms, updates organizational references, reduces restrictions and limitations of use of the authority, removes outdated regulatory references, and eliminates an annual reporting requirement.

Timetable:

Action	Date	FR Cite
NPRM	09/08/97	62 FR 47179
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Martha Caswell, Director, Pers. Prop. Mgt. Pol. Div. (MTP), Office of Governmentwide Policy, General Services Administration, Washington, DC 20405
Phone: 202 501-3828

RIN: 3090–AG50

3753. • MANAGEMENT, USE, AND DISPOSAL OF AIRCRAFT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c), sec 205(c), 63 Stat 390

CFR Citation: 41 CFR 101-37.7

Legal Deadline: None

Abstract: This regulation establishes policy and procedures for the management, use, and disposal of aircraft.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: Larry Godwin, Deputy Director, Aircraft Mgt. Policy Div., General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-4608
Fax: 202 501-2149
Email: larry.godwin@gsa.gov

RIN: 3090–AG56

PUBLIC BUILDINGS SERVICE

3754. LOCATION OF FEDERAL FACILITIES IN URBAN AREAS

Priority: Other Significant

Legal Authority: 40 USC 481; 40 USC 6017; 7 USC 1924; 40 USC 490; 40 USC 531; 42 USC 3601; 42 USC 4321; 42 USC 4201; EO 12072; EO 12411; EO 12512; PL 100-678; EO 13005; EO 13006

CFR Citation: 41 CFR 101-17

Legal Deadline: None

Abstract: This interim rule begins the process of replacing 101-17 of the Federal Property Management Regulations (FPMR). Policy and procedures regarding the assignment and utilization of space have been provided by a series of temporary regulations since 1982, the most current being FPMR Temporary Regulation D-76 which went into effect on August 28, 1991. This interim rule repeals the outdated and superseded permanent FPMR 101-17 and provides new guidance concerning the location of Federal facilities in urban areas.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/07/96	61 FR 9110
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Alan Waldron, Program Advocate for Leasing (PXO), Public Buildings Service, General Services Administration, Washington, DC 20405
Phone: 202 501-1025

RIN: 3090–AF94

3755. FEDERAL BUILDING FUND, BILLING PROCEDURES FOR REIMBURSABLE CHARGES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-21

Legal Deadline: None

GSA — Long-Term Actions

Abstract: This interim rule modifies the Public Buildings Service (PBS) pricing practices for Reimbursable Work Authorizations (RWA). Currently, customer agencies are billed the actual costs for supplies, materials, labor, contract costs, and overhead related to the RWA. This interim rule will result in establishing a fixed price for an RWA

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/22/97	62 FR 27972
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Jeffrey Neely, Director, Portfolio Support Division, Public Buildings Service, General Services Administration, Washington, DC 20405
Phone: 202 501-1464

RIN: 3090–AG35

GENERAL SERVICES ADMINISTRATION (GSA) — Completed Actions

3756. GSBCA RULES OF PROCEDURE FOR TRANSPORTATION RATE CASES

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 6103

Completed:

Reason	Date	FR Cite
Final Action	05/12/97	62 FR 25865

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Margaret S. Pfunder
Phone: 202 501-0272
Fax: 202 501-3510
Email: margaret.pfunder@gsa.gov

RIN: 3090–AG05

3757. GSBCA RULES OF PROCEDURE FOR TRAVEL AND RELOCATION EXPENSES CASES

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 6104

Completed:

Reason	Date	FR Cite
Final Action	05/12/97	62 FR 25868

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Margaret S. Pfunder
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Fax: 202 501-3510
Email: margaret.pfunder@gsa.gov

RIN: 3090–AG06

3758. GSBCA RULES OF PROCEDURE FOR DECISIONS AUTHORIZED UNDER 31 USC 3529

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 6105

Completed:

Reason	Date	FR Cite
Final Action	05/12/97	62 FR 32241

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Margaret S. Pfunder
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Fax: 202 501-3510
Email: margaret.pfunder@gsa.gov

RIN: 3090–AG29

3759. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, AND, WHERE APPLICABLE, SEX

Priority: Substantive, Nonsignificant

CFR Citation: 41 CFR 101-6.2

Completed:

Reason	Date	FR Cite
Withdrawn	08/05/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: James M. Taylor
Phone: 202 501-0767

RIN: 3090–AC49

3760. ACQUISITION OF COMMERCIAL ITEMS, CHGE 70 (GSAR 5-406)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 501; 48 CFR 504; 48 CFR 507; 48 CFR 510; 48 CFR 511; 48 CFR 512; 48 CFR 514; 48 CFR 515; 48 CFR 538; 48 CFR 539; 48 CFR 543; 48 CFR 546; 48 CFR 552; 48 CFR 570

Completed:

Reason	Date	FR Cite
Final Action	08/21/97	62 FR 44518
Final Action Effective	08/21/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Marjorie Ashby
Phone: 202 501-3822
Fax: 202 501-3341

RIN: 3090–AF86

3761. GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION; CERTIFICATION REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 501; 48 CFR 503; 48 CFR 505; 48 CFR 509; 48 CFR 514; 48 CFR 515

Completed:

Reason	Date	FR Cite
Withdrawn - Incorporated into RIN 3090-AE90	07/30/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby
Phone: 202 501-3822
Fax: 202 501-3341

RIN: 3090–AG10

3762. ACQUISITION OF LEASEHOLD INTERESTS IN REAL PROPERTY; PART 570

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 570

Completed:

Reason	Date	FR Cite
Withdrawn - Incorporated into RIN 3090-AE90	07/30/97	

Small Entities Affected: None

Government Levels Affected: None

GSA — Completed Actions

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby
Phone: 202 501-3822
Fax: 202 501-3341

RIN: 3090–AG27

3763. REMITTANCE OF INDUSTRIAL FUNDING FEE IN U.S. DOLLARS UNDER MULTIPLE AWARD SCHEDULES (GSAR 5-412), CHGE 75

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 552

Completed:

Reason	Date	FR Cite
Final Action	07/18/97	62 FR 38475

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby
Phone: 202 501-3822
Fax: 202 501-3341

RIN: 3090–AG30

3764. FTR AMENDMENT 66, REIMBURSEMENT OF HIGHER ACTUAL SUBSISTENCE EXPENSES IN SPECIAL OR UNUSUAL CIRCUMSTANCES

Priority: Substantive, Nonsignificant

CFR Citation: 41 CFR 301-8

Completed:

Reason	Date	FR Cite
Final Action	06/03/97	62 FR 30279
Final Action Effective	05/01/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Sharon Green
Phone: 202 273-3471
Fax: 202 501-6742
Email: sharon.green@gsa.gov

RIN: 3090–AG41

3765. • FTR AMENDMENT 64; TEMPORARY CHANGE OF STATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5738; 20 USC 905(a); EO 11609, 36 FR 13747, 3 CFR, 1971 to 1975 Comp., p 586

CFR Citation: 41 CFR 302-1

Legal Deadline: None

Abstract: This amendment allows an agency to pay a limited set of relocation allowances in connection with a temporary change of station for a period of not less than 6, nor more than 30, months.

Timetable:

Action	Date	FR Cite
Final Action	03/21/97	62 FR 13770

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Sharon S. Green, Director, Travel and Trans. Mgt. Pol. Div. (MTT), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 273-3471
Fax: 202 219-2149
Email: sharon.green@gsa.gov

RIN: 3090–AG44

3766. • REPORTING REQUIREMENTS FOR FOREIGN GIFTS AND DECORATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c), sec 205(c), 63 Stat 390; 5 USC 7342, sec 515, 91 Stat 862

CFR Citation: 41 CFR 101-49

Legal Deadline: None

Abstract: This regulation revised the criteria for reporting foreign gifts and decorations to GSA for disposal and provides for gifts below the minimal value set by GSA to be handled in accordance with employing agency regulations. This regulation also changed the period of time foreign gifts are made available for Federal agency transfer to 21 days.

Timetable:

Action	Date	FR Cite
Final Action	05/23/97	62 FR 28368

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Martha Caswell, Director, Personal Prop. Mgt. Pol. Div., Office of Governmentwide Policy, General Services Administration, Washington, DC 20405
Phone: 202 501-3828

RIN: 3090–AG45

3767. • DISCONTINUATION OF INTERAGENCY REPORTING REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c), sec 205(c), 63 Stat 390

CFR Citation: 41 CFR 101-43; 41 CFR 101-44; 41 CFR 101-45; 41 CFR 101-46

Legal Deadline: None

Abstract: This amendment eliminates the requirements that agencies submit to GSA annual reports on the utilization and disposal of excess and personal property (interagency report control (IRC) number 0015-GSA-AN), exchange/sale transactions (IRC number 1528-GSA-AN), and the recovery of precious metals (IRC number 1528-GSA-A).

Timetable:

Action	Date	FR Cite
Final Action	08/24/97	62 FR 34012

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Martha Caswell, Director, Personal Prop. Mgt. Pol. Div., Office of Governmentwide Policy, General Services Administration, Washington, DC 20405
Phone: 202 501-3846

RIN: 3090–AG46

3768. • FTR AMENDMENT 67; MAXIMUM PER DIEM RATES (CUYAHOGA COUNTY)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5701 to 5709

CFR Citation: 41 CFR 301

Legal Deadline: None

Abstract: This FTR amendment changed the maximum per diem rate for Cleveland, Ohio, as prescribed by FTR amendment 52 (61 FR 59185).

Timetable:

Action	Date	FR Cite
Final Action	06/23/97	62 FR 33752

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Sharon S. Green, Director, Travel and Trans. Mgt. Pol. Div. (MTT), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 273-3471
Fax: 202 501-6742
Email: sharon.green@gsa.gov

RIN: 3090–AG51

3769. • UTILIZATION AND DISPOSAL OF PERSONAL PROPERTY PURSUANT TO EXCHANGE/SALE AUTHORITY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c), sec 205(c), 63 Stat 390

CFR Citation: 41 CFR 101-46

Legal Deadline: None

Abstract: This amendment removes FSC Groups 16 and 17 and FSC Class 1560 from Group 15,from the list of property not eligible for handling under the exchange/sale authority of sec 201(c) of the Federal Property and Administrative Services Act of 1949, as amended. In addition, it adds a cross-reference to part 101-37 on additional requirements for the exchange/sale of aircraft parts and components.

Timetable:

Action	Date	FR Cite
Final Action	06/23/97	62 FR 33751

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Martha Caswell, Director, Pers. Prop. Mgt. Pol. Div., Office of Governmentwide Policy, General Services Administration, Washington, DC 20405
Phone: 202 501-3828

RIN: 3090–AG52

3770. • MANAGEMENT, USE AND DISPOSAL OF GOVERNMENT AIRCRAFT PARTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c), sec 205(c), 63 Stat 390

CFR Citation: 41 CFR 101-37.6

Legal Deadline: None

Abstract: This regulation establishes policy and procedures for the management, use, and disposal of Government owned aircraft parts.

Timetable:

Action	Date	FR Cite
Final Action	08/14/97	62 FR 43472

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: Larry Godwin, Deputy Director, Aircraft Mgt. Policy Div., General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-4606
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Email: larry.godwin@gsa.gov

RIN: 3090–AG54

[FR Doc. 97-22228 Filed 10-28-97; 8:45 am]
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federal register

Wednesday
October 29, 1997

Part XXVII

National Aeronautics and Space Administration

Semiannual Regulatory Agenda

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Ch. V

Regulatory Agenda

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Semiannual regulatory agenda.

SUMMARY: NASA's regulatory agenda describes those regulations being considered for development or amendment by NASA, the need and legal basis for the actions being considered, the name and telephone number of a knowledgeable official, whether a regulatory analysis is required, and the status of regulations previously reported.

ADDRESSES: Director, Management Assessment Division (Code JM), Office of Management Systems and Facilities, NASA Headquarters, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: June Flickinger, (202) 358-2876.

SUPPLEMENTARY INFORMATION: OMB guidelines dated June 10, 1997, "October 1997 Unified Agenda of Federal Regulatory and Deregulatory Actions," and Executive Order 12866 "Regulatory Planning and Review" require a regulatory agenda of those regulations under development and review be published in the **Federal Register** each April and October.

This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions includes The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. NASA's Statement of Regulatory Priorities is included in Part II.

Dated: August 21, 1997.

Danalee Green,

Director, Management Assessment Division.

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3771	Cross-Waiver of Liability	2700-AB51

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3772	Tracking and Data Relay Satellite System (TDRSS); Use and Reimbursement Policy for Non-U.S. Government Users	2700-AA29
3773	Uniform Administrative Requirements for Grants and Cooperative Agreements	2700-AA95
3774	New Restrictions on Lobbying	2700-AB06
3775	Minor Clarifying Changes to Existing Award Fee Coverage	2700-AB92
3776	Contracting and Subcontracting Policies and Procedures To Achieve Goals for Small Disadvantaged Businesses	2700-AB94
3777	Contract Financing	2700-AC20
3778	Equitable Adjustments	2700-AC32

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3779	Increasing Contractor Liability	2700-AB41
3780	Restrictions on Printing and Duplication by Contractors	2700-AB58
3781	NASA FAR Supplement Rewrite	2700-AB66
3782	Allowability of Facilities Capital Cost of Money (FCCM) for Educationals and Nonprofits	2700-AB69
3783	Increased Signature Levels for Approvals	2700-AB91
3784	Revisions to Existing Coverage on Contract Audit Followup Procedures	2700-AB93
3785	Quality Assurance	2700-AB97
3786	Modification of Test of Midrange Procurement Procedures	2700-AC18
3787	Revision to NASA FAR Supplement Coverage on Government Property	2700-AC25

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA) — Final Rule Stage

3771. CROSS-WAIVER OF LIABILITY

Priority: Info./Admin./Other

Unfunded Mandates: Undetermined

Major: Undetermined

Legal Authority: 42 USC 2473(c)(1); 42 USC 2473(c)(5)

CFR Citation: 14 CFR 1266

Legal Deadline: None

Abstract: Technical amendments to refine and clarify the contractual cross-waiver of liability in NASA agreements involving launch services.

Timetable:

Action	Date	FR Cite
Final Action	08/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jay Steptoe, Deputy Assoc. General Counsel, National Aeronautics and Space Administration, Office of General Counsel, Code G, Washington, DC 20546
Phone: 202 358-2432

RIN: 2700–AB51

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA) — Long-Term Actions

3772. TRACKING AND DATA RELAY SATELLITE SYSTEM (TDRSS); USE AND REIMBURSEMENT POLICY FOR NON-U.S. GOVERNMENT USERS

Priority: Info./Admin./Other

Unfunded Mandates: Undetermined

Major: Undetermined

CFR Citation: 14 CFR 1215

Timetable:

Action	Date	FR Cite
Final Action for CY 1993 Rate Change	05/15/92	57 FR 20746
Final Action for CY 1994 Rate Change	09/28/93	58 FR 50515
Final Action for CY 1995 Rate Change	10/31/94	59 FR 54385
Final Action for CY 1996 Rate Change	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Eugene Ferrick
Phone: 202 358-2030

RIN: 2700–AA29

3773. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Priority: Info./Admin./Other

Unfunded Mandates: Undetermined

Major: Undetermined

CFR Citation: 14 CFR 1270

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 214
Begin Review	04/01/91	
Second NPRM	07/23/96	61 FR 38058
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Richard Kall
Phone: 202 358-0459

RIN: 2700–AA95

3774. NEW RESTRICTIONS ON LOBBYING

Priority: Info./Admin./Other

Unfunded Mandates: Undetermined

Major: Undetermined

CFR Citation: 14 CFR 1271

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6748
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State, Local

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: David K. Beck
Phone: 202 358-0482

RIN: 2700–AB06

3775. MINOR CLARIFYING CHANGES TO EXISTING AWARD FEE COVERAGE

Priority: Info./Admin./Other

Unfunded Mandates: Undetermined

Major: Undetermined

CFR Citation: 48 CFR 1816

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/07/96	61 FR 52325
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Anne Guenther
Phone: 202 358-0447

RIN: 2700–AB92

3776. CONTRACTING AND SUBCONTRACTING POLICIES AND PROCEDURES TO ACHIEVE GOALS FOR SMALL DISADVANTAGED BUSINESSES

Priority: Info./Admin./Other

Unfunded Mandates: Undetermined

Major: Undetermined

CFR Citation: 48 CFR 1815; 48 CFR 1819; 48 CFR 1852; 48 CFR 1870

Timetable:

Action	Date	FR Cite
NPRM	10/07/94	59 FR 51154
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Carol Saric
Phone: 202 358-0476

RIN: 2700–AB94

3777. CONTRACT FINANCING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 48 CFR 1832; 48 CFR 1852

Timetable: Next Action Undetermined

Small Entities Affected: None

NASA — Long-Term Actions

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Joseph Le Cren
Phone: 202 358-0444

RIN: 2700–AC20

3778. • EQUITABLE ADJUSTMENTS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 2473 (c)(5) Space Act

CFR Citation: 48 CFR 1843.205-70; 48 CFR 1852.243-72

Legal Deadline: None

Abstract: Add Agencywide rule supplementing FAR clauses 52.243-4, changes, and 52.236-2, differing site conditions, for pricing Equitable Adjustments under construction contracts.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Joseph LeCren, Procurement Analyst, National Aeronautics and Space Administration, NASA Headquarters, Code HK, Washington, DC 20546
Phone: 202 358-0444
Fax: 202 358-3220

RIN: 2700–AC32

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA) — Completed Actions

3779. INCREASING CONTRACTOR LIABILITY

Priority: Info./Admin./Other

Unfunded Mandates: Undetermined

Major: Undetermined

CFR Citation: 48 CFR 18

Completed:

Reason	Date	FR Cite
Withdrawn - No Action Expected in the Next 12 Months	08/12/97	59 FR 7996

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Thomas L. Deback
Phone: 202 358-0431

RIN: 2700–AB41

3780. RESTRICTIONS ON PRINTING AND DUPLICATION BY CONTRACTORS

Priority: Info./Admin./Other

Unfunded Mandates: Undetermined

Major: Undetermined

CFR Citation: 48 CFR 1808; 48 CFR 1852

Completed:

Reason	Date	FR Cite
Withdrawn - No Action Expected in the Next 12 Months	08/12/97	58 FR 47219

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Thomas L. Deback
Phone: 202 358-0431

RIN: 2700–AB58

3781. NASA FAR SUPPLEMENT REWRITE

Priority: Info./Admin./Other

Unfunded Mandates: Undetermined

Major: Undetermined

CFR Citation: 48 CFR 18

Completed:

Reason	Date	FR Cite
Final Action	07/19/97	62 FR 38704
Final Action Effective	07/19/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Bruce King
Phone: 202 358-0461

RIN: 2700–AB86

3782. ALLOWABILITY OF FACILITIES CAPITAL COST OF MONEY (FCCM) FOR EDUCATIONALS AND NONPROFITS

Priority: Info./Admin./Other

Unfunded Mandates: Undetermined

Major: Undetermined

CFR Citation: 48 CFR 1815; 48 CFR 1831

Completed:

Reason	Date	FR Cite
Withdrawn - No Action Expected in the Next 12 Months	08/12/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: William T. Childs
Phone: 202 358-0454

RIN: 2700–AB89

3783. INCREASED SIGNATURE LEVELS FOR APPROVALS

Priority: Info./Admin./Other

Unfunded Mandates: Undetermined

Major: Undetermined

CFR Citation: 48 CFR 1816; 48 CFR 1881; 48 CFR 1832; 48 CFR 1837

NASA — Completed Actions

Completed:

Reason	Date	FR Cite
Withdrawn - No Action Expected in the Next 12 Months	08/12/91	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: William T. Childs
Phone: 202 358-0454

RIN: 2700–AB91

3784. REVISIONS TO EXISTING COVERAGE ON CONTRACT AUDIT FOLLOWUP PROCEDURES

Priority: Info./Admin./Other

Unfunded Mandates: Undetermined

Major: Undetermined

CFR Citation: 48 CFR 1842

Completed:

Reason	Date	FR Cite
Final Action	03/25/97	62 FR 14016
Final Action Effective	03/25/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Jack Horvath
Phone: 202 358-0456

RIN: 2700–AB93

3785. QUALITY ASSURANCE

Priority: Info./Admin./Other

Unfunded Mandates: Undetermined

Major: Undetermined

CFR Citation: 48 CFR 1846; 48 CFR 1870

Completed:

Reason	Date	FR Cite
Withdrawn - No Action Expected in the Next 12 Months	08/12/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: William T. Childs
Phone: 202 358-0454

RIN: 2700–AB97

3786. MODIFICATION OF TEST OF MIDRANGE PROCUREMENT PROCEDURES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 1871

Completed:

Reason	Date	FR Cite
Expiration of Final Rule	10/29/96	61 FR 55753

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Thomas L. Deback
Phone: 202 358-0431

RIN: 2700–AC18

3787. REVISION TO NASA FAR SUPPLEMENT COVERAGE ON GOVERNMENT PROPERTY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 1845; 48 CFR 1852

Completed:

Reason	Date	FR Cite
Final Action	03/25/97	62 FR 14035
Final Action Effective	03/25/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Jim Pesnell
Phone: 202 358-0484

RIN: 2700–AC25

[FR Doc. 97-24025 Filed 10-28-97; 8:45 am]
BILLING CODE 7510-01-F

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Wednesday
October 29, 1997

Part XXVIII

National Archives and Records Administration

Semiannual Regulatory Agenda

federal register

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Ch. XII

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: National Archives and Records Administration.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the proposed regulatory actions that the National Archives and Records Administration (NARA) plans for the next 12 months and those actions that have been completed since April 1997. This agenda was developed under the guidelines in OMB's Memorandum for Regulatory Policy Officers at Executive Departments and Agencies and Managing and Executive Directors of Certain Agencies and Commissions, dated June 10, 1997. NARA's purpose in publishing this agenda is to allow interested persons an opportunity to have more comprehensive documentation of NARA's regulatory plans and to provide a systematic means of monitoring regulatory activity in NARA. Some of the regulations listed in the agenda are considered significant under Executive Order 12866 "Regulatory Planning and Review."

FOR FURTHER INFORMATION CONTACT: Nancy Allard, Regulatory Contact, Policy and Communications Staff, (301) 713-7360 ext. 226.

SUPPLEMENTARY INFORMATION: For this edition of NARA's regulatory agenda, the most important significant regulatory action is included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entry is listed in the Table of Contents below and is denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

Dated: August 13, 1997.

John W. Carlin,

Archivist of the United States.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3788	NARA Facilities	3095-AA06
3789	Records Services Centers	3095-AA27
3790	Maintenance of Magnetic Computer Tape	3095-AA57
3791	Standards for Agency Recordkeeping Requirements—Records, Nonrecord Materials, and Personal Papers (Reg Plan Seq. No. 148)	3095-AA61
3792	NARA Privacy Act	3095-AA66
3793	Records Declassification	3095-AA67
3794	Researcher Registration and Research Room Procedures	3095-AA69
3795	NARA Freedom of Information Act Regulations	3095-AA72
3796	Limitations on Testimony by NARA Employees	3095-AA75
3797	Collection of Debts Owed to the United States by NARA Employees	3095-AA76
3798	NARA Evaluation Program	3095-AA79
3799	Storage of Nonpaper Records and Artifacts	3095-AA80
3800	Agency Records Centers	3095-AA81

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3801	Transfer of Electronic Records	3095-AA70
3802	Debt Collection	3095-AA77
3803	Administrative Requirements for Grantees To Reflect Single Audit Act Amendments	3095-AA78

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3804	Domestic Distribution of United States Information Agency Materials in the Custody of the National Archives	3095-AA55
3805	NARA Fee Schedule	3095-AA71

3788. NARA FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2104(a); 44 USC 2110

CFR Citation: 36 CFR 1280

Legal Deadline: None

Abstract: NARA is updating its regulations on the use of NARA facilities and property to remove obsolete material and to clarify existing provisions, and to add provisions for the new facility in College Park, Maryland (Archives II).

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	
NPRM Comment Period End	06/00/98	
Final Action	07/00/98	
Final Action Effective	08/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Stephen E. Hannestad, Director, Space and Security Management Division, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-6750
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Email: stephen.hannestad@arch2.nara.gov

RIN: 3095–AA06

3789. RECORDS SERVICES CENTERS

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2907; 44 USC 3103

CFR Citation: 36 CFR 1228

Legal Deadline: None

Abstract: NARA is updating regulations in subpart I of part 1228 relating to transfer of records to records services centers to clarify provisions, update addresses, and remove outdated material. NARA is adding a new procedure under 36 CFR 1228.152 (e) stipulating that new accessions of Top Secret records will only be accepted at the Washington National Records Center.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	
NPRM Comment Period End	03/00/98	
Final Action	04/00/98	
Final Action Effective	05/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gregory A. Pomicter, Deputy Director, Office of Regional Records Services, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7210
Fax: 301 713-7205
Email: gregory.pomicter@arch2.nara.gov

RIN: 3095–AA27

3790. MAINTENANCE OF MAGNETIC COMPUTER TAPE

Priority: Other Significant

Legal Authority: 44 USC 2904; 44 USC 3101; 44 USC 3102; 44 USC 3105

CFR Citation: 36 CFR 1234.30

Legal Deadline: None

Abstract: NARA will revise 36 CFR 1234.30 to address the increasing diversity of digital storage media used to store electronic records. The current regulation contains several specifications that are applicable only to open reel magnetic tape. NARA will replace these specifics with general guidelines applicable to a variety of media. This regulation applies to Federal agencies which maintain Federal records on digital media.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	
NPRM Comment Period End	05/00/98	
Final Action	06/00/98	
Final Action Effective	07/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Michael Miller, Director, Records Management Program, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001
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Fax: 301 713-6850
Email: michael.miller@arch2.nara.gov

RIN: 3095–AA57

3791. STANDARDS FOR AGENCY RECORDKEEPING REQUIREMENTS—RECORDS, NONRECORD MATERIALS, AND PERSONAL PAPERS

Regulatory Plan: This entry is Seq. No. 148 in Part II of this issue of the **Federal Register**.

RIN: 3095–AA61

3792. NARA PRIVACY ACT

Priority: Info./Admin./Other

Legal Authority: 44 USC 2104(a); 5 USC 552(a)

CFR Citation: 36 CFR 1202

Legal Deadline: None

Abstract: NARA is updating its Privacy Act regulations governing NARA-created (administrative) records to reflect organizational and procedural changes,

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	
Final Action	01/00/98	
Final Action Effective	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Christopher Runkel, Deputy General Counsel, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-6937
Fax: 301 713-7270
Email: christopher.runkel@arch1.nara.gov

RIN: 3095–AA66

3793. RECORDS DECLASSIFICATION

Priority: Other Significant

Legal Authority: 44 USC 2101 to 2118; 5 USC 552; EO 12600; EO 12958; EO 12356

CFR Citation: 36 CFR 1254; 36 CFR 1260

Legal Deadline: None

Abstract: NARA plans to revise its regulations on mandatory review and declassification of its archival holdings to reflect the provision of EO 12958, Classified National Security Information. The revised regulations will affect Federal agencies as well as the public.

NARA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	
NPRM Comment Period End	06/00/98	
Final Action	07/00/98	
Final Action Effective	08/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Nancy Allard, Regulatory Contact, Policy and Communications Staff, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001
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RIN: 3095–AA67

3794. RESEARCHER REGISTRATION AND RESEARCH ROOM PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2111

CFR Citation: 36 CFR 1254

Legal Deadline: None

Abstract: NARA is updating its regulations to lower the age at which a student may be granted full research privileges from 16 years old to 14 years old; to extend the valid period of researcher cards issued by the automated application system from 2 years to 3 years; and to revise the list of equipment permitted in research rooms.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	
Final Action	01/00/98	
Final Action Effective	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael J. McReynolds, Director, Textual Reference Division, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7250
Fax: 391 713-6907
Email: michael.mcreynolds@arch2.nara.gov

RIN: 3095–AA69

3795. NARA FREEDOM OF INFORMATION ACT REGULATIONS

Priority: Info./Admin./Other

Legal Authority: 5 USC 552; 44 USC 2101 to 2118; EO 12600

CFR Citation: 36 CFR 1250; 36 CFR 1254

Legal Deadline: None

Abstract: NARA is updating its FOIA regulations governing NARA-created (administrative) records and records accessioned into the National Archives of the United States to reflect organizational and procedural changes.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	
Final Action	01/00/98	
Final Action Effective	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: NARA has decided to issue revised Privacy Act and FOIA regulations in separate rulemakings.

Agency Contact: Christopher Runkel, Deputy General Counsel, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001
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RIN: 3095–AA72

3796. LIMITATIONS ON TESTIMONY BY NARA EMPLOYEES

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 44 USC 2104; 44 USC 2108 to 2109; 44 USC 2112; 44 USC 2201 to 2207

CFR Citation: 36 CFR 1201; 36 CFR 1250; 36 CFR 1254

Legal Deadline: None

Abstract: This regulation will establish NARA's policies and procedures with respect to testimony by NARA staff and/or production of information and records in legal proceedings not involving the United States or NARA as a named party.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	
NPRM Comment Period End	03/00/98	
Final Action	05/00/98	
Final Action Effective	06/00/98	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: Christopher M. Runkel, Deputy General Counsel, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001
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RIN: 3095–AA75

3797. COLLECTION OF DEBTS OWED TO THE UNITED STATES BY NARA EMPLOYEES

Priority: Info./Admin./Other

Legal Authority: 5 USC 5514; 31 USC 3701 to 3719; PL 104-134, sec 31001 Debt Collection Improvement Act of 1996

CFR Citation: 36 CFR 1201

Legal Deadline: None

Abstract: This regulation will establish NARA's policies and procedures for handling collection, compromise, and terminations of debts owed to the United States by NARA employees, including by salary and administrative offset. The regulation implements the Federal Claims Collection Act as amended by the Debt Collection Improvement Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	
Final Action	01/00/98	
Final Action Effective	02/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Christopher M. Runkel, Deputy General Counsel, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-6937
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RIN: 3095–AA76

NARA

Proposed Rule Stage

3798. • NARA EVALUATION PROGRAM

Priority: Other Significant

Legal Authority: 44 USC 2104 (a)

CFR Citation: 36 CFR 1220

Legal Deadline: None

Abstract: NARA is revising its records management regulation to describe new approaches to evaluating the records management programs in other Federal agencies, as authorized by 44 U.S.C. 2904 and 2906. The current regulation provides requirements and procedures that are based on a traditional approach: a review of the records management authorities, policies, procedures, and practices of an entire Federal agency or major components of an agency. NARA plans to add more cross-cutting evaluations of several agencies focusing on creation, maintenance, and/or disposition of such records as records in the offices of high level officials, permanent records in certain physical formats, records documenting specific functions, and the like. The revised regulation will prescribe procedures agencies are to follow and the types of information agencies will be required to provide to NARA in conjunction with these types of evaluations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/98	
NPRM Comment Period End	08/00/98	
Final Action	09/00/98	
Final Action Effective	10/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Michael Miller, Director, Records Management Programs, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001
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RIN: 3095–AA79

3799. • STORAGE OF NONPAPER RECORDS AND ARTIFACTS

Priority: Other Significant

Legal Authority: 44 USC 2104 (a)

CFR Citation: 36 CFR 1228; 36 CFR 1230; 36 CFR 1232; 36 CFR 1234

Legal Deadline: None

Abstract: NARA is revising records management regulations and policies concerning storage of non-paper records and non-documentary materials (e.g., three-dimensional artifacts and exhibits that are related to a case file) at the Washington National Records Center and regional NARA facilities that provide temporary storage for Federal records. Agencies are responsible for ensuring that all of their records are maintained properly so that they are accessible throughout their scheduled retention period. NARA is concerned about the storage of non-paper records in facilities that do not provide appropriate environmental conditions. Such storage may contribute to deterioration of the records. Past practice has been inconsistent, and current regulations do not adequately address the issue.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	02/00/98	
Final Action	03/00/98	
Final Action Effective	04/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, 8601 Adelphi Road (NPOL), College Park, MD 20740-6001
Phone: 301 713-7360
Fax: 301 713-7270
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RIN: 3095–AA80

3800. • AGENCY RECORDS CENTERS

Priority: Other Significant

Legal Authority: 44 USC 2104 (a); 44 USC 3103

CFR Citation: 36 CFR 1228.222

Legal Deadline: None

Abstract: NARA is revising the regulations on facility standards for records centers in 36 CFR part 1228, subpart I. The current regulation cites obsolete industry standards and has not been revised since the early 1980's. This rulemaking action revises standards for environmental conditions, with particular emphasis on storage areas for archival material, incorporates standards for the storage of nontextual records; prescribe new physical security and fire detection and suppression standards; and established environmental and security requirements for new agency records centers.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	
NPRM Comment Period End	06/00/98	
Final Action	07/00/98	
Final Action Effective	08/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, 8601 Adelphi Road (NPOL), College Park, MD 20740-6001
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RIN: 3095–AA81

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)

Final Rule Stage

3801. TRANSFER OF ELECTRONIC RECORDS

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2104(a); 44 USC 2107

CFR Citation: 36 CFR 1228.188

Legal Deadline: None

Abstract: NARA is updating its regulations relating to transfer of electronic records to the National Archives. The revision will clarify timing of transfers of electronic records and provide updated requirements for transfer media and data formats.

NARA — Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	07/29/96	61 FR 39373
NPRM Comment Period End	09/27/96	
Final Action	10/00/97	
Final Action Effective	11/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Kenneth Thibodeau, Director, Center for Electronic Records, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-6630
Fax: 301 713-6911

RIN: 3095–AA70

3902. DEBT COLLECTION

Priority: Info./Admin./Other

Legal Authority: 5 USC 5514; 31 USC 3701 to 3719; PL 104-134, sec 31001

CFR Citation: 36 CFR 1201

Legal Deadline: None

Abstract: This regulation will establish NARA's policies and procedures for implementing the Debt Collection Improvement Act of 1996. It provides for the collection, compromise, or termination of debts owed to the United States and NARA by adopting the Federal Claims Collection Standards promulgated by the General Accounting Office and Department of Justice.

Timetable:

Action	Date	FR Cite
Final Action	10/00/97	
Final Action Effective	11/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Christopher M. Runkel, Deputy General Counsel, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001
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RIN: 3095–AA77

3903. • ADMINISTRATIVE REQUIREMENTS FOR GRANTEES TO REFLECT SINGLE AUDIT ACT AMENDMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 44 USC 2104 (a)

CFR Citation: 36 CFR 1207; 36 CFR 1210

Legal Deadline: None

Abstract: This interim final revision to the agencies' grants management common rule, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," and the agencies' codification of Office of Management and Budget (OMB) Circular A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," is issued to implement the Single Audit Act Amendments of 1996 and the June 24, 1997, revision of OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations." The agencies' rules provide uniform fiscal and administrative requirements applicable to all types of grants and cooperative agreements to State and local governments, institutions of higher education, hospitals, and other non-profit organizations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/29/97	62 FR 45837
Interim Final Rule Effective	09/29/97	
Interim Final Rule Comment Period End	10/28/97	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, Policy and Communications Staff (NPOL), 8601 Adelphi Road, College Park, MD 20740-6001
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RIN: 3095–AA78

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA) — Completed Actions

3904. DOMESTIC DISTRIBUTION OF UNITED STATES INFORMATION AGENCY MATERIALS IN THE CUSTODY OF THE NATIONAL ARCHIVES

Priority: Other Significant

CFR Citation: 36 CFR 1256

Completed:

Reason	Date	FR Cite
Final Action	06/11/97	62 FR 31724
Final Action Effective	07/11/97	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Michael J. Kurtz
Phone: 301 713-7000
Fax: 301 713-6915
Email: michael.kurtz@arch2.nara.gov

RIN: 3095–AA55

3905. NARA FEE SCHEDULE

Priority: Info./Admin./Other

CFR Citation: 36 CFR 1258

Completed:

Reason	Date	FR Cite
Final Action	06/13/97	62 FR 32203
Final Action Effective	07/14/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sonia J. Rudo
Phone: 301 713-6405
Fax: 301 713-7311
Email: sonia.rudo@arch2.nara.gov

RIN: 3095–AA71

[FR Doc. 97-24026 Filed 10-28-97; 8:45 am]
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Part XXIX

National Foundation on the Arts and the Humanities

Institute of Museum and Library Services

Semiannual Regulatory Agenda

INSTITUTE OF MUSEUM AND LIBRARY SERVICES (IMLS)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

45 CFR Ch. XI

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Institute of Museum and Library Services, NFAH.

ACTION: Semiannual regulatory agenda.

SUMMARY: Pursuant to Executive Order 12866 and the Regulatory Flexibility Act, the Institute of Museum and Library Services publishes this regulatory agenda describing agency regulations under development or review.

FOR FURTHER INFORMATION CONTACT: Ms. Mamie Bittner, Director, Public and Legislative Affairs, Institute of Museum and Library Services, 1100 Pennsylvania Avenue NW., Washington, DC 20506, or call (202) 606-4648.

Diane B. Frankel,

Director, Institute of Museum and Library Services.

INSTITUTE OF MUSEUM AND LIBRARY SERVICES (IMLS) — Final Rule Stage

3806. • ADMINISTRATIVE REQUIREMENTS FOR GRANTEES TO REFLECT SINGLE AUDIT ACT AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-208, Museum and Library Services Act of 1996

CFR Citation: 45 CFR 1180

Legal Deadline: None

Abstract: This regulation is to comply with Governmentwide Audit Requirements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/29/97	62 FR 45937
Interim Final Rule Effective	09/29/97	
Interim Final Rule Comment Period End	10/28/97	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Mamie Bittner, Director of Legislative and Public Affairs, Institute of Museum and Library Services, 1100 Pennsylvania Ave., NW., Room 510, Washington, DC 20506
Phone: 202 606-4648
TDD: 202 606-8636
Fax: 202 606-8591
Email: mbittner@imls.fed.us

RIN: 3137–AA09

INSTITUTE OF MUSEUM AND LIBRARY SERVICES (IMLS) — Long-Term Actions

3807. NATIONAL LEADERSHIP DEMONSTRATION GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-208, sec 262, Museum and Library Services Act

CFR Citation: 45 CFR 1180

Legal Deadline: None

Abstract: Regulations will be published to provide guidelines on IMLS National Demonstration Leadership Grants to enhance quality of library services nationwide and to provide coordination between museums and libraries.

Timetable: Next Action Undetermined

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Tania Said, Public Information Officer, Institute of Museum and Library Services, 1100 Pennsylvania Ave. NW., Room 510, Washington, DC 20506
Phone: 202 606-4648
TDD: 202 606-8636
Fax: 202 606-8591
Email: tsaid@ims.fed.us

RIN: 3137–AA08

[FR Doc. 97-25396 Filed 10-28-97; 8:45 am]
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Part XXX

National Foundation on the Arts and the Humanities

National Endowment for the Arts

Semiannual Regulatory Agenda

NATIONAL ENDOWMENT FOR THE ARTS (NEA)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

45 CFR Ch. XI

Semiannual Regulatory Agenda

AGENCY: National Endowment for the Arts, NFAH.

ACTION: Semiannual regulatory agenda.

SUMMARY: Pursuant to the Regulatory Flexibility Act (5 U.S.C. 605) and Executive Order 12866, the National Endowment for the Arts publishes this regulatory agenda describing agency regulations under development or review.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Christensen, General Counsel, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, or call (202) 682-5418.

L. Hope O'Keeffe,

Deputy General Counsel.

NATIONAL ENDOWMENT FOR THE ARTS (NEA) — Final Rule Stage

3808. • INTERIM FINAL RULE AMENDING THE AGENCY'S ADMINISTRATIVE REQUIREMENTS FOR GRANTEES TO REFLECT THE SINGLE AUDIT ACT AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 959

CFR Citation: 45 CFR 1157

Legal Deadline: None

Abstract: The regulation amends the Endowment's Administrative Requirements for grantees to reflect the Single Audit Act Amendments, as part of a common rule with other agencies.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/29/97	62 FR 45937
Interim Final Rule Effective	09/29/97	
Interim Final Rule Comment Period End	10/28/97	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Donna DiRicco, Grants and Contracts Officer, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506
Phone: 202 682-5403
TDD: 202 682-5496
Fax: 202 682-5610
Email: webmgr@arts.endow.gov

RIN: 3135–AA14

NATIONAL ENDOWMENT FOR THE ARTS (NEA) — Long-Term Actions

3809. COLLECTION OF CLAIMS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 45 CFR 1150

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Karen K. Christensen
Phone: 202 682-5418

RIN: 3135–AA01

3810. NONDISCRIMINATION ON THE BASIS OF AGE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 45 CFR 1156

Timetable:

Action	Date	FR Cite
NPRM	10/02/79	44 FR 56725
NPRM Comment Period End	11/15/79	
Interim Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Karen K. Christensen
Phone: 202 682-5418

RIN: 3135–AA03

3811. COMPLIANCE WITH NATIONAL ENVIRONMENTAL POLICY ACT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karen K. Christensen
Phone: 202 682-5418

RIN: 3135–AA08

3812. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES; EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 45 CFR 1140

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	
ANPRM Comment Period End	60/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Karen K. Christensen

NEA — Long-Term Actions

Phone: 202 682-5418

RIN: 3135–AA10

3813. STANDARDS OF CONDUCT OF EMPLOYEES

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1105

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	
ANPRM Comment Period End	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael S. Shapiro
Phone: 202 606-8322
TDD: 202 606-8282
Fax: 202 606-8600
Email: mshapiro@neh.fed.us

RIN: 3135–AA13

3814. • NONDISCRIMINATION ON THE BASIS OF SEX IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES—IMPLEMENTATION OF TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

Priority: Other Significant

Legal Authority: 20 USC 1682 et seq

CFR Citation: 45 CFR 1155

Legal Deadline: None

Abstract: This regulation, to be published as a common rule with other agencies, would implement the requirements of title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of an individual's sex in federally assisted educational programs.

Timetable: Next Action Undetermined

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Agency Contact: Hope O'Keeffe, Deputy General Counsel, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506
Phone: 202 682-5418
TDD: 202 682-5496
Fax: 202 682-5572
Email: hok@tmn.com

RIN: 3135–AA15

[FR Doc. 97-22229 Filed 10-28-97; 8:45 am]
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Part XXXI

National Foundation on the Arts and the Humanities

National Endowment for the Humanities

Semiannual Regulatory Agenda

NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

45 CFR Ch. XI

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Semiannual regulatory agenda.

SUMMARY: Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601-612, and Executive Order 12866 "Regulatory Planning and Review," dated September 30, 1993, the National Endowment for the Humanities is required to publish, in April and October of each year, an agenda of proposed regulations that the Endowment has issued or expects to issue and current rules that are under agency review.

FOR FURTHER INFORMATION CONTACT: Michael S. Shapiro, General Counsel, National Endowment for the Humanities, 1100 Pennsylvania Avenue NW., Washington, DC 20506, (202) 606-8322.

Joan E. Mestas,

Deputy Chairman, National Endowment for the Humanities.

NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH) — Final Rule Stage

3815. POST-EMPLOYMENT RESTRICTIONS FOR EMPLOYEES OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 207; 5 USC 301; EO 12674

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This regulation will cross-reference ethics rules at 5 CFR 2634, 5 CFR 2635, 5 CFR 2636, 5 CFR 2641 and 5 CFR 8501 and codify 1-year post-employment restrictions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael S. Shapiro, General Counsel, National Endowment for the Humanities, 1100 Pennsylvania Avenue NW., Room 530, Washington, DC 20506
Phone: 202 606-8322
Fax: 202 606-8600
Email: mshapiro@neh.fed.us

RIN: 3136–AA16

3816. SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 7301; 20 USC 959(a)(1); EO 12674; 5 CFR 2635; Ethics Reform Act of 1989

CFR Citation: 5 CFR 8501

Legal Deadline: None

Abstract: This regulation will supplement the Governmentwide OGE Standards of ethical conduct at 5 USC 2635.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael S. Shapiro, General Counsel, National Endowment for the Humanities, 1100 Pennsylvania Avenue NW., Room 530, Washington, DC 20506
Phone: 202 606-8322
TDD: 202 606-8282
Fax: 202 606-8600
Email: mshapiro@neh.fed.us

RIN: 3136–AA22

3817. STANDARDS OF CONDUCT OF EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: Not yet determined

CFR Citation: 45 CFR 1105

Legal Deadline: None

Abstract: Repeal of NFAH regulation superseded by Governmentwide OGE standards of ethical conduct and subagency regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael S. Shapiro, General Counsel, National Endowment for the Humanities, 1100 Pennsylvania Avenue NW., Room 530, Washington, DC 20506
Phone: 202 606-8322
TDD: 202 606-8282
Fax: 202 606-8600
Email: mshapiro@neh.fed.us

RIN: 3136–AA21

3818. • ADMINISTRATIVE REQUIREMENTS FOR GRANTEES TO REFLECT SINGLE AUDIT ACT AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 959(a)(1)

CFR Citation: 45 CFR 1174.26

Legal Deadline: None

Abstract: This interim final revision to the agencies' grants management common rule, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," is issued to implement the Single Audit Act Amendments of 1996 and the June 24, 1997, revision of OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/29/97	62 FR 45937
Interim Final Rule Effective	09/29/97	
Interim Final Rule Comment Period End	10/28/97	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State

Agency Contact: David J. Wallace, Director, Grants Office, National Endowment for the Humanities, 1100 Pennsylvania Avenue NW., Room 311, Washington, DC 20506
Phone: 202 606-8494
Fax: 202 606-8633
Email: dwallace@neh.fed.us

RIN: 3136–AA23

NEH — Final Rule Stage

NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH) — Long-Term Actions

3819. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1110; 45 CFR 1173

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Willie McGhee
Phone: 202 606-8233
TDD: 202 606-8282
Fax: 202 606-8243
Email: wmcghee@neh.fed.us

RIN: 3136–AA11

3820. IMPLEMENTATION OF TITLE IX OF THE EDUCATION ACT AMENDMENTS OF 1972

Priority: Substantive, Nonsignificant

CFR Citation: 41 CFR 1171

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Willie McGhee
Phone: 202 606-8233
TDD: 202 606-8282
Fax: 202 606-8243
Email: wmcghee@neh.fed.us

RIN: 3136–AA14

3821. PRIVACY ACT REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1115

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Michael S. Shapiro
Phone: 202 606-8322
Fax: 202 606-8600
Email: mshapiro@neh.fed.us

RIN: 3136–AA18

[FR Doc. 97-22230 Filed 10-28-97; 8:45 am]
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Part XXXII

National Science Foundation

Semiannual Regulatory Agenda

NATIONAL SCIENCE FOUNDATION (NSF)

NATIONAL SCIENCE FOUNDATION

45 CFR Ch. VI

Regulatory Agenda

AGENCY: National Science Foundation.

ACTION: Semiannual regulatory agenda.

SUMMARY: The National Science Foundation is publishing its October 1997 regulatory agenda pursuant to Executive Order 12866 "Regulatory Planning and Review" (3 CFR 1993 Comp., p. 638), the Regulatory Flexibility Act (5 U.S.C. 601-612), and the Office of Management and Budget Memorandum for Regulatory Policy Officers at Executive Departments and Agencies and Managing and Executive Directors of Certain Agencies and Commissions (June 10, 1997).

FOR FURTHER INFORMATION CONTACT: For further information on a particular item, call or write the individual identified as agency contact. General comments or inquiries about this agenda may be directed to Leslie Crawford, Office of the General Counsel, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306-1060.

Dated: August 7, 1997.

Leslie Crawford,

Legal Analyst.

NATIONAL SCIENCE FOUNDATION (NSF) — Final Rule Stage

3822. • ADMINISTRATIVE REQUIREMENTS FOR GRANTEES TO REFLECT SINGLE AUDIT ACT AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1870(a)

CFR Citation: 45 CFR 602

Legal Deadline: None

Abstract: This rule implements OMB Circular A-133 and the subsequent rescission of OMB Circular A-128.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/29/97	62 FR 45937
Interim Final Rule Effective	09/29/97	
Interim Final Rule Comment Period End	10/28/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: Jean Feldman, Head, Policy Office, Division of Contracts, Policy & Oversight, National Science Foundation, 4201 Wilson Boulevard, Room 485, Arlington, VA 22230
Phone: 703 306-1243
Fax: 703 306-0280
Email: jfeldman@nsf.gov

RIN: 3145–AA35

NATIONAL SCIENCE FOUNDATION (NSF) — Long-Term Actions

3823. REVISED RESTRICTIONS ON LOBBYING

Priority: Info./Admin./Other

CFR Citation: 45 CFR 604

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jean Feldman
Phone: 703 306-1243

RIN: 3145–AA30

3824. AVAILABILITY OF RECORDS AND INFORMATION

Priority: Info./Admin./Other

CFR Citation: 45 CFR 612

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: D. Matthew Powell
Phone: 703 306-1060
Fax: 703 306-0149

RIN: 3145–AA31

3825. PRIVACY ACT REGULATIONS

Priority: Info./Admin./Other

CFR Citation: 45 CFR 613

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Herman Fleming
Phone: 703 306-1243

RIN: 3145–AA32

3826. ENVIRONMENTAL ASSESSMENT PROCEDURES FOR PROPOSED NATIONAL SCIENCE FOUNDATION ACTIONS IN ANTARCTICA

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 641

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anita Eisenstadt
Phone: 703 306-1060
Fax: 703 306-0149

RIN: 3145–AA33

3827. CONSERVATION OF ANTARCTIC ANIMALS AND PLANTS

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 670

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anita Eisenstadt
Phone: 703 306-1060
Fax: 703 306-0149

RIN: 3145–AA34

3828. • ENFORCEMENT AND HEARING PROCEDURES; TOURISM GUIDELINES

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-227, Antarctic Science, Tourism and Conserv. Act of 1996

NSF — Long-Term Actions

CFR Citation: 45 CFR 672

Legal Deadline: Final, Statutory, October 2, 1996.

Abstract: This regulation implements Antarctic Science, Tourism and Conservation Act of 1996 requirements for U.S. tour operators organizing expeditions to Antarctica on non-U.S. flag vessels.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anita Eisenstadt, Assistant General Counsel, National Science Foundation, Office of the General Counsel, 4201 Wilson Boulevard, Room 1265, Arlington, VA 22230
Phone: 703 306-1060
Fax: 703 306-0149
Email: aeisenst@nsf.gov

RIN: 3145–AA36

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Part XXXIII

Office of Federal Housing Enterprise Oversight

Semiannual Regulatory Agenda

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT (OFHEO)

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

12 CFR Ch. XVII

Semiannual Agenda

AGENCY: Office of Federal Housing Enterprise Oversight.

ACTION: Semiannual regulatory agenda.

SUMMARY: This notice is given pursuant to the requirements of the "Regulatory Flexibility Act" (Pub. L. 96-354, September 19, 1980) and Executive Order 12866 ("Regulatory Planning and Review," September 30, 1993), which require the publication of a semiannual agenda of regulations.

FOR FURTHER INFORMATION CONTACT: Gary L. Norton, Deputy General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW., Washington, DC 20552, (202) 414-3800.

Dated: August 4, 1997.

Mark A. Kinsey,

Acting Director, Office of Federal Housing Enterprise Oversight.

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT (OFHEO) — Proposed Rule Stage

3829. RULES OF PRACTICE AND PROCEDURE

Priority: Info./Admin./Other

Legal Authority: 12 USC 4513(b)(1); 12 USC 4631 to 4641

CFR Citation: 12 CFR ch XVII

Legal Deadline: None

Abstract: The Office of Federal Housing Enterprise Oversight (OFHEO) intends to issue a proposed regulation setting forth rules of practice and procedure related to OFHEO's statutory enforcement provisions found in subtitle C of title XIII of the Housing and Community Development Act of 1992, known as the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, 12 U.S.C. 4501 et seq. The proposed regulation will describe procedures for answering notices of charges, filing and service of papers, the designation of a presiding officer, the conduct of formal hearings; access to agency process of parties afforded a hearing, and various time requirements. In addition, the proposed regulation will set rules and procedures for assessment and collection of civil money penalties. OFHEO intends to issue the proposed regulation in late 1997.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anne E. Dewey, General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW., Washington, DC 20552 Phone: 202 414-3800

RIN: 2550–AA04

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT (OFHEO) — Final Rule Stage

3830. RELEASING INFORMATION

Priority: Other Significant

Legal Authority: 5 USC 552; 12 USC 4513; 12 USC 4526; 12 USC 4639; EO 12600

CFR Citation: 12 CFR 1710

Legal Deadline: None

Abstract: The Office of Federal Housing Enterprise Oversight (OFHEO) issued a proposed rule to set forth the basic policies of OFHEO regarding information it maintains and the procedures for obtaining access to such information. The rule contains regulations of OFHEO implementing the Freedom of Information Act (FOIA) and establishes a schedule of fees that will be charged for the processing of document requests under the FOIA. In addition, the proposed rule sets forth procedures to be followed with respect to testimony and the production of documents in legal proceedings in which OFHEO is not a named party as well as procedures for service of process upon OFHEO in any legal proceeding. After reviewing and considering public comments, OFHEO intends to issue a final rule in December 1997.

Timetable:

Action	Date	FR Cite
NPRM	05/11/95	60 FR 25162
NPRM Comment Period End	07/10/95	
Final Action	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anne E. Dewey, General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW., Washington, DC 20552 Phone: 202 414-3800

RIN: 2550–AA01

3831. IMPLEMENTATION OF THE PRIVACY ACT OF 1974

Priority: Other Significant

Legal Authority: 5 USC 552a

CFR Citation: 12 CFR 1720

Legal Deadline: None

Abstract: The interim final regulation implements the Privacy Act of 1974 (5 U.S.C. 552a). The Privacy Act is a records management statute designed to balance the Government's need to maintain information about individuals with the rights of individuals to be protected against unwarranted invasions of their privacy. The interim final regulation applies to all records that are contained in systems of records maintained by the Office of Federal Housing Enterprise Oversight. The interim final regulation informs individuals how to obtain and amend non-exempt records indexed under their names. The regulation also places restrictions on the release of covered information.

OFHEO — Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anne E. Dewey, General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW., Washington, DC 20552 Phone: 202 414-3800

RIN: 2550–AA05

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT (OFHEO) — Long-Term Action

3832. RISK-BASED CAPITAL

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4611; 12 USC 4513(b)(1)

CFR Citation: 12 CFR 1750

Legal Deadline: Final, Statutory, December 1, 1994.

Abstract: Title XIII of the Housing and Community Development Act of 1992, Pub. L. No. 102-550, known as the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, 12 U.S.C. 4501 et seq., gives the Office of Federal Housing Enterprise Oversight (OFHEO) the responsibility for developing a risk-based capital regulation for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (collectively, the Enterprises). To discharge this responsibility, OFHEO must develop and implement a risk-based capital "stress test" that determines the amount of capital that an Enterprise must hold initially to maintain positive capital throughout a 10-year period of economic stress (stress period).

A notice of proposed rulemaking was published on June 11, 1996, with a 90-day comment period. The comment period was later extended to October 24, 1996. The proposed regulation includes a discussion of the basis for identifying the benchmark loss experience which will provide the basis for calculating credit losses during the stress period. The proposed regulation also discusses OFHEO's housing price index which is proposed to be used to calculate the seasoning of mortgages. A subsequent second proposed regulation will include the details of all other aspects of the risk-based capital stress test.

Timetable:

Action	Date	FR Cite
ANPRM	02/08/95	60 FR 7468
ANPRM Comment Period End	05/09/95	
NPRM	06/11/96	61 FR 29592
NPRM Comment Period Extended	08/19/96	61 FR 42824
NPRM Comment Period Extended to	10/24/96	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anne E. Dewey, General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW., Washington, DC 20552 Phone: 202 414-3800

RIN: 2550–AA02

[FR Doc. 97-22231 Filed 10-28-97; 8:45 am]

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Part XXXIV

Office of Government Ethics

Semiannual Regulatory Agenda

OFFICE OF GOVERNMENT ETHICS (OGE)

OFFICE OF GOVERNMENT ETHICS

5 CFR Ch. XVI

Semiannual Regulatory Agenda, October 1997

AGENCY: Office of Government Ethics.

ACTION: Semiannual regulatory agenda.

SUMMARY: The following Office of Government Ethics (OGE) substantive and procedural regulations are scheduled for development or review during the period from October 1, 1997, through September 30, 1998. This agenda fulfills OGE's responsibility to publish a semiannual regulatory agenda under Executive Order 12866 "Regulatory Planning and Review" and has been prepared in accordance with guidance received from the Office of Management and Budget. None of the OGE regulations in this October 1997 agenda will have a significant economic impact on a substantial number of small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. chapter 6. In addition, none of the listed OGE regulatory actions is procurement-related. Furthermore, the Office of Government Ethics rulemakings are not included in The Regulatory Plan.

This publication in the **Federal Register** does not impose a binding obligation on the Office of Government Ethics with respect to any particular item on its agenda. The dates shown for the future steps of each action are estimates and not commitments to act by the date shown. Moreover, other OGE regulatory actions, in addition to the entries listed, are not precluded.

FOR FURTHER INFORMATION CONTACT: William E. Gressman, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917; telephone: 202-208-8000, extension 1110; TDD: 202-208-8025; FAX: 202-208-8037.

Approved: August 28, 1997.

Stephen D. Potts,

Director, Office of Government Ethics.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3833	Interpretation, Exemptions, and Waiver Guidance Concerning 18 USC 208 (Acts Affecting a Personal Financial Interest)	3209-AA09

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3834	Office of Government Ethics Gift Acceptance Authority and Organizational Update	3209-AA21
3835	Office of Government Ethics Electronic Freedom of Information Act Updating Amendments	3209-AA22
3836	Privacy Act Rules of the Office of Government Ethics	3209-AA18
3837	Office of Government Ethics Procedures on Requests for Testimony by OGE Employees and Documentary Production Relating to Official Information and Records	3209-AA23
3838	Financial Disclosure, Qualified Trusts, and Certificates of Divestiture for Executive Branch Employees	3209-AA00
3839	Standards of Ethical Conduct for Employees of the Executive Branch	3209-AA04
3840	Post-Employment Conflict of Interest Restrictions	3209-AA14

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3841	Revisions to the Office of Government Ethics' Rules on Implementation of the Equal Access to Justice Act	3209-AA20
3842	Executive Agency Supplemental Standards of Ethical Conduct Regulations Issued Jointly With the Concurrence of the Office of Government Ethics	3209-AA15
3843	Executive Agency Ethics Training Programs	3209-AA07

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3844	Limitations on Outside Employment; Confidential Reporting of Payments to Charities in Lieu of Honoraria	3209-AA13
3845	Interpretation of 18 USC 209, the Constraint Against Private Supplementation of Salaries of Executive Branch Officials and Employees	3209-AA12

OFFICE OF GOVERNMENT ETHICS (OGE)

Prerule Stag

3833. INTERPRETATION, EXEMPTIONS, AND WAIVER GUIDANCE CONCERNING 18 USC 208 (ACTS AFFECTING A PERSONAL FINANCIAL INTEREST)

Priority: Other Significant

Legal Authority: 18 USC 208; 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731

CFR Citation: 5 CFR 2640 (New)

Legal Deadline: None

Abstract: This final regulation (a proposed rule was published in 1995) interprets section 208(a) of title 18, USC, which prohibits officers and employees of the executive branch from officially participating personally and substantially in a particular matter in which there is a personal financial interest or a financial interest of a related person or organization (absent a waiver under 18 USC 208(b)). It also lists and describes interests considered too remote or too inconsequential to affect the integrity of the services of executive branch officers or employees, in accordance with 18 USC 208(b)(2). Such interests are exempt from the restrictions of 18 USC 208(a), generally requiring disqualification. The regulation also provides guidance to executive branch agencies as to the kinds of interests that are not so substantial as to be deemed likely to affect the integrity of the services the Government may expect from an employee and which, therefore, may be waived from the general rule of disqualification under 18 USC 208(a) pursuant to 18 USC 208(b)(1). In addition, guidance is provided concerning the issuance of waivers to special Government employee advisory committee members pursuant to 18 USC 208(b)(3). A separate interim final rule, published in 1995 exempting certain financial interests arising from Federal Government executive branch employment as well as from Social Security or veterans' benefits, from the general prohibition in section 208(a), has been incorporated in the overall final rule.

Timetable:

Action	Date	FR Cite
Govt. Interests and Social Security or Veterans' Benefits Exemptions	08/28/95	60 FR 44706
NPRM	09/11/95	60 FR 47208
NPRM Comment Period End	11/13/95	
Final Rule	12/18/96	61 FR 66830
Correction	01/09/97	62 FR 1361
Final Rule Effective	01/17/97	
Correction	04/29/97	62 FR 23127
ANPRM Agency-Specific Exemptions	06/00/98	
Additional Interim Agency-Specific Exemptions	06/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Robert W. Cobb, Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
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RIN: 3209–AA09

OFFICE OF GOVERNMENT ETHICS (OGE)

Proposed Rule Stage

3834. OFFICE OF GOVERNMENT ETHICS GIFT ACCEPTANCE AUTHORITY AND ORGANIZATIONAL UPDATE

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978)

CFR Citation: 5 CFR 2600

Legal Deadline: None

Abstract: This regulation will implement the new agency gift acceptance authority of the Office of Government Ethics as set forth in the 1996 OGE Authorization Act. In addition, various provisions of OGE's part 2600 organization and functions regulations will be updated to reflect recent changes in OGE's organizational structure.

Timetable:

Action	Date	FR Cite
NPRM	07/00/98	
NPRM Comment Period End	09/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: James P. O'Sullivan, Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
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RIN: 3209–AA21

3835. • OFFICE OF GOVERNMENT ETHICS ELECTRONIC FREEDOM OF INFORMATION ACT UPDATING AMENDMENTS

Priority: Other Significant

Legal Authority: 5 USC 552; 5 USC app (Ethics in Government Act of 1978)

CFR Citation: 5 CFR 2604

Legal Deadline: None

Abstract: This proposed amendatory rule would implement for OGE the changes made to the Freedom of Information Act (FOIA) by the 1996 Electronic FOIA Amendments as well as propose certain other updating revisions to the OGE FOIA regulation.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: William E. Gressman, Associate General Counsel, Office of Government Ethics, 1201 New York Avenue NW., Suite 500, Washington, DC 20005-3917
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RIN: 3209–AA22

OGE

Proposed Rule Stage

3836. PRIVACY ACT RULES OF THE OFFICE OF GOVERNMENT ETHICS

Priority: Other Significant

Legal Authority: 5 USC 552a; 5 USC app (Ethics in Government Act of 1978)

CFR Citation: 5 CFR 2606 (New)

Legal Deadline: None

Abstract: This proposed rule would establish for the Office of Government Ethics (OGE) regulatory procedures to implement the Privacy Act of 1974, including requests for access and amendment and appeals, and would reference certain OGE systems of records (which will also be updated and revised).

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	
NPRM Comment Period End	04/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: William E. Gressman, Associate General Counsel, Office of Government Ethics, 1201 New York Avenue NW., Washington, DC 20005-3917
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RIN: 3209–AA18

3837. • OFFICE OF GOVERNMENT ETHICS PROCEDURES ON REQUESTS FOR TESTIMONY BY OGE EMPLOYEES AND DOCUMENTARY PRODUCTION RELATING TO OFFICIAL INFORMATION AND RECORDS

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978)

CFR Citation: 5 CFR 2608 (New)

Legal Deadline: None

Abstract: This proposed rule would set forth proposed OGE procedures for responding to subpoenas and other requests and demands for testimony by OGE employees and documentary production relating to official Agency information and records.

Timetable:

Action	Date	FR Cite
NPRM	05/00/98	
NPRM Comment Period End	07/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Vincent J. Salamone, Attorney Advisor, Office of Government Ethics, 1201 New York Avenue NW., Suite 500, Washington, DC 20005-3917
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RIN: 3209–AA23

3838. FINANCIAL DISCLOSURE, QUALIFIED TRUSTS, AND CERTIFICATES OF DIVESTITURE FOR EXECUTIVE BRANCH EMPLOYEES

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); 26 USC 1043; EO 12674; EO 12731

CFR Citation: 5 CFR 2634

Legal Deadline: None

Abstract: Regulation revising the executive branch public and confidential financial disclosure report systems for high-level officials and certain mid-level employees, respectively, in light of the changes to the Ethics in Government Act effected by the Ethics Reform Act of 1989 (Pub. L. 101-194), as amended. These disclosure provisions apply to public reports filed since January 1, 1991. Subpart I of the regulation, effective October 5, 1992, superseded prior executive branchwide and agency-specific regulations and established a revised system of confidential reporting, modeled generally on the public reporting system, for executive branch agency mid-level employees with sensitive duties and special Government employees.

Timetable:

Action	Date	FR Cite
NPRM	12/02/86	51 FR 43359
Interim Final Rule	04/07/92	57 FR 11800
Correction	05/22/92	57 FR 21854
Correction	12/31/92	57 FR 62605
Revised Interim Final Rule	07/21/93	58 FR 38911
Proposed Amendment to Interim Final Rule	09/01/93	58 FR 46096
Technical Amendments to Interim Final Rule	11/30/93	58 FR 63023
Technical (Paperwork) Amendments to Interim Final Rule	07/07/94	59 FR 34755
Proposed Amendments – Certificates of No New Interests for Confidential Filers	01/15/97	62 FR 2048
Final Amendment – Certificates of No New Interests for Confidential Filers	06/24/97	62 FR 33972
Updating Amendment to Part 2634	09/17/97	62 FR 48746
Inflation Adjustments to Civil Monetary Penalties in Part 2634	01/00/98	
Final Action	12/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

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RIN: 3209–AA00

3839. STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE EXECUTIVE BRANCH

Priority: Other Significant

Legal Authority: 5 USC 7301; 5 USC 7351; 5 USC 7353; 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731

CFR Citation: 5 CFR 2635

Legal Deadline: None

Abstract: Regulation implementing certain provisions of Executive Order 12674 on Principles of Ethical Conduct, as modified by EO 12731, and the Ethics Reform Act of 1989 (Pub. L. 101-194), as amended. Effective February 3, 1993, this ethical conduct standards regulation generally superseded executive branch employee conduct and gifts rules, as well as pertinent portions of agency-specific conduct regulations issued thereunder. For certain existing agency regulatory standards setting forth financial interest prohibitions and prior approval for outside employment/activities, an extended grace period was in effect until November 1, 1996, or until individual concerned agencies issued supplemental regulations, with Office of Government Ethics concurrence.

OGE

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	07/23/91	56 FR 33778
NPRM Comment Period End	09/20/91	
Final Overall Regulation on Standards of Ethical Conduct	08/07/92	57 FR 35006
Correction	10/27/92	57 FR 48557
Correction	11/04/92	57 FR 52583
5 CFR 2635.403(a) and 2635.803 Grace Period Extension	02/02/94	59 FR 4779
Additional 5 CFR 2635.403(a) and 2635.803 Grace Period Extension	02/02/95	60 FR 6390
NPRM on Widely Attended Gatherings	06/15/95	60 FR 31415
Minor Correction to One Citation	10/03/95	60 FR 51667
Further 5 CFR 2635.403(a) and 2635.803 Grace Period Extension	12/27/95	60 FR 66857
Further Additional 5 CFR 2635.403(a) and 2635.803 Grace Period Extension	08/07/96	61 FR 40950
Final Rule on Widely Attended Gatherings	08/20/96	61 FR 42965
Correction to Final Rule on Widely Attended Gatherings	09/16/96	61 FR 48733
Interim Rule on Gifts From Political Organizations	09/27/96	61 FR 50689
Final Rule on Gifts From Political Organizations	03/17/97	62 FR 12531
Updating Amendments to Part 2635	09/17/97	62 FR 48746
Proposed Amendments Re: Gifts and Impartiality	12/00/97	
Interim Rule on Travel Expenses for Certain Unofficial Teaching, Speaking, and Writing	10/00/98	
NPRM on Participation in Professional Associations	12/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

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RIN: 3209–AA04

3840. POST-EMPLOYMENT CONFLICT OF INTEREST RESTRICTIONS

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); 18 USC 207; EO 12674; EO 12731

CFR Citation: 5 CFR 2641; 5 CFR 2637 (Continuation)

Legal Deadline: None

Abstract: Interpretive regulation giving guidance for the executive branch on the various substantive restrictions of the current version of the post-Government employment conflict of interest statute 18 U.S.C. 207, which became effective January 1, 1991, pursuant to title I of the Ethics Reform Act of 1989 (Pub. L. 101-194), as amended. Parts of the regulation, dealing with procedures for waivers by the Office of Government Ethics of certain senior official constraints (based on executive agency hardship), designated senior employees, and separate agency designations, have already been published in the Federal Register; such designations are periodically updated by the Office of Government Ethics. The Office of Government Ethics also has continued to publish in the CFR the interpretive regulation, 5 CFR part 2637 (but now without the no-longer-effective former Senior Employee and old agency component designation listings), under the lifetime bar of the prior version of the post-employment law which still applies to executive branch employees who left the Government before January 1, 1991. Once a complete current post-employment law regulation is published, the old part 2637 regulation will be removed from the CFR.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/01/91	56 FR 3951
Designation of Senior Employees and Separate Agency Components	01/28/92	57 FR 3115
Designation of Additional Separate Agency Component	04/07/92	57 FR 11673
Amendment to Prior Post-employment Regulation (Part 2637)	12/31/92	57 FR 62467
Amendment to Interim Final Rule (Part 2641)	06/21/93	58 FR 33755
Technical Amendment to Authority Citation of 5 CFR Part 2637	12/30/93	58 FR 69176
Technical Amendments to Interim Final Rule	07/07/94	59 FR 34755
Exempted Senior Employee & Agency Separate Component Designation Update	05/16/97	62 FR 26915
NPRM	08/00/98	
NPRM Comment Period End	10/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

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RIN: 3209–AA14

OFFICE OF GOVERNMENT ETHICS (OGE)

Final Rule Stage

3841. REVISIONS TO THE OFFICE OF GOVERNMENT ETHICS' RULES ON IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 504(c)(1); 5 USC app (Ethics in Government Act of 1978)

CFR Citation: 5 CFR 2610

Legal Deadline: None

Abstract: This amendatory rulemaking will implement for OGE the changes made to the Equal Access to Justice Act by subtitle C of the 1996 Small Business Regulatory Enforcement Fairness Act under the Contract with America Advancement Act of 1996.

Timetable:

Action	Date	FR Cite
Final Action	11/00/97	
Final Action Effective	11/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

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RIN: 3209–AA20

3842. EXECUTIVE AGENCY SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT REGULATIONS ISSUED JOINTLY WITH THE CONCURRENCE OF THE OFFICE OF GOVERNMENT ETHICS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 7301; 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731; 5 CFR 2635.105

CFR Citation: 5 CFR 2635; 5 CFR ch XXI et seq

Legal Deadline: None

Abstract: The supplemental executive agency standards of ethical conduct regulations, once issued jointly with the concurrence of the Office of Government Ethics (OGE) at agency expense in new chapters at the end of 5 CFR, after OGE approval, supplement for each individual agency concerned the new OGE executive branch standards of ethical conduct, as codified at 5 CFR part 2635. The supplemental regulations, as they are issued in accordance with section 201(a) and 301(a) of EO 12674, as modified by EO 12731, set forth those agency-specific provisions under applicable law and regulation, such as regulatory restrictions on holding certain financial interests and designation of departmental submits, which are needed for certain agencies to round out the executive branchwide ethical standards for employees of particular departments and agencies.

Timetable:

Action	Date	FR Cite
FTC Employees (5 CFR Ch. XLVII) Interim Final Rule	05/27/93	58 FR 30695
OPIC Employees (5 CFR Ch. XXXIII) Interim Final Rule	06/17/93	58 FR 33319
Treasury Employees (5 CFR Ch. XXI) NPRM	08/03/93	58 FR 41193
ICC Employees (5 CFR Ch. XL) Final Rule	08/06/93	58 FR 41989
PRC Employees (5 CFR Ch. XLVI) Final Rule	08/12/93	58 FR 42839
DoD Employees (5 CFR Ch. XXVI) Interim Final Rule	09/10/93	58 FR 47619
CFTC Employees (5 CFR Ch. XLI) Final Rule	10/12/93	58 FR 52637
IAF Employees (5 CFR Ch. LXIII) Final Rule	01/27/94	59 FR 3771
5 CFR 2635.403(a) and 2635.803 Grace Period Extension (by OGE)	02/02/94	59 FR 4779
NRC Employees (5 CFR Ch. XLVIII) Final Rule	04/13/94	59 FR 17457
FDIC Employees (5 CFR Ch. XXII) NPRM	07/12/94	59 FR 35480
NASA Employees (5 CFR Ch. LIX)	08/28/94	59 FR 49335
FRTIB Employees (5 CFR Ch. LXXXIV)	10/06/94	59 FR 50816
Education Employees (5 CFR Ch. LIII)	01/30/95	60 FR 5816
Additional 5 CFR 2635.403(a) and 2635.803 Grace Period Extension (by OGE)	02/02/95	60 FR 6390
OMB Employees (5 CFR Ch. LXXVII) Final Rule	03/07/95	60 FR 12396
USPS Employees (5 CFR Ch. LX)	03/27/95	60 FR 15700
Eximbank Employees (5 CFR Ch. LII)	04/07/95	60 FR 17825
FDIC Employees (5 CFR Ch. XXII)	04/25/95	60 FR 20171
Treasury Employees (5 CFR Ch. XXI) Final Rule	05/05/95	60 FR 22249
FCA Employees (5 CFR Ch. XXXI)	05/12/95	60 FR 30778
FCSIC Employees (5 CFR Ch. XXX)	05/12/95	60 FR 30773
HUD Employees (5 CFR Ch. LXV)	06/30/95	60 FR 34420
OPIC Employees (5 CFR Ch. XXXIII) Final Rule	07/21/95	60 FR 37555
USPS Employees (5 CFR Ch. LX) Final Rule	09/11/95	60 FR 47240
FCA Employees (5 CFR Ch. XXXI) Final Rule	09/13/95	60 FR 47453
OGE Concurrence in FCA Employees (5 CFR Ch. XXXI) Final Rule	12/06/95	60 FR 62319
BGFRS Employees (5 CFR Ch. LVIII)	12/19/95	60 FR 65249
Further 5 CFR 2635.403(a) and 2635.803 Grace Period Extension (by OGE)	12/27/95	60 FR 66857
FCSIC Employees (5 CFR Ch. XXX) Final Rule	02/06/96	61 FR 4349
EEOC Employees (5 CFR Ch. LXII)	02/26/96	61 FR 7065
TVA Employees (15 CFR Ch. LXIX)	05/06/96	61 FR 20117
DOE Employees (5 CFR Ch. XXIII)	07/05/96	61 FR 35085
FDIC Employees (5 CFR Ch. XXII) Amendment	07/09/96	61 FR 35915
HUD Employees (5 CFR Ch. LXV)	07/09/96	61 FR 36246
OPM Employees (5 CFR Ch. XXXV)	07/16/96	61 FR 36993
HHS Employees (5 CFR Ch. XLV)	07/30/96	61 FR 39756
DOT Employees (5 CFR Ch. L)	07/31/96	61 FR 39901
FMSHRC Employees (5 CFR Ch. LXXIV)	07/31/96	61 FR 39869
EPA Employees (5 CFR Ch. LIV)	08/02/96	61 FR 40500
NARA Employees (5 CFR Ch. LXVI)	08/05/96	61 FR 40505
Further Additional (5 CFR 2635.403(a) and 2635.803) Grace Period Extension (by OGE)	08/07/96	61 FR 40950
FERC Employees (5 CFR Ch. XXIV)	08/23/96	61 FR 43411

OGE

Final Rule Stage

Action	Date	FR Cite
BGFRS Employees (5 CFR Ch. LVIII) Final Rule	10/16/96	61 FR 53827
FCC Employees (5 CFR Ch. XXIX)	10/31/96	61 FR 56109
GSA Employees (5 CFR Ch. LVII)	11/01/96	61 FR 56399
DOL Employees (5 CFR Ch. XLII)	11/08/96	61 FR 57261
DOJ Employees (5 CFR Ch. XXVIII)	11/25/96	61 FR 59811
NSF Employees (5 CFR Ch. XLIII)	11/25/96	61 FR 59815
CPSC Employees (5 CFR Ch. LXXI)	12/13/96	61 FR 65457
FDIC Employees (5 CFR Ch. XXII) Amendment	01/27/97	62 FR 3771
NLRB Employees (5 CFR Ch. LXI)	02/12/97	62 FR 6445
DOJ Employees (5 CFR Ch. XXVIII) Final Rule	05/02/97	62 FR 23941
DOJ Employees (5 CFR Ch. XXVIII) Final Rule Correction	06/11/97	62 FR 31865
OPM Employees (5 CFR Ch. XXXV) Interim Rule Correction	06/17/97	62 FR 32859
EEOC Employees (5 CFR Ch. LXII) Final Rule	07/08/97	62 FR 36447
OPM Employees (5 CFR Ch. XXXV) Final Rule	08/11/97	62 FR 42897
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

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RIN: 3209–AA15

3843. EXECUTIVE AGENCY ETHICS TRAINING PROGRAMS

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731

CFR Citation: 5 CFR 2638.701 to 2638.704

Legal Deadline: None

Abstract: Regulation specifying the responsibilities of executive branch agencies and their designated agency ethics officials to develop and implement orientation and annual ethics training courses and to distribute appropriate guidance materials to their employees under sections 301(b) and (c) of E.O. 12674, as modified by E.O. 12731.

Timetable:

Action	Date	FR Cite
NPRM	09/18/90	55 FR 38335
NPRM Comment Period End	11/17/90	
Final Rule on Executive Agency Ethics Training Programs	04/07/92	57 FR 11886
Correction	04/27/92	57 FR 15219
Amendment	12/10/92	57 FR 58399
Correction	12/28/92	57 FR 61812
Interim Amendments to Liberalize Certain Training Requirements	03/18/94	59 FR 12145
Interim Final Rule Comment Period End	05/16/94	59 FR 12145
Interim Amendments To Refine Certain Training Requirements	03/12/97	62 FR 11307
Correction to Interim Training Reg. Amendments	03/19/97	62 FR 13213
Correction to Interim Training Reg. Amendments	03/27/97	62 FR 14737
Interim Amendments To Refine Certain Training Requirements Comment Period End	04/11/97	62 FR 11307
Most Interim Amendments To Refine Certain Training Requirements Effective	06/10/97	
Final Amendment to Refine Certain Training Requirements	06/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

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RIN: 3209–AA07

OFFICE OF GOVERNMENT ETHICS (OGE)

Long-Term Actions

3844. LIMITATIONS ON OUTSIDE EMPLOYMENT; CONFIDENTIAL REPORTING OF PAYMENTS TO CHARITIES IN LIEU OF HONORARIA

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731

CFR Citation: 5 CFR 2636

Legal Deadline: None

Abstract: The regulation had, in pertinent part, implemented, effective January 1, 1991, the prohibition on honoraria (now declared unconstitutional by the courts as to most rank and file executive branch employees and hence determined to be eviscerated as to all other Federal employees by the Office of Legal Counsel of the Justice Department). In addition, the regulation continues to implement the limitation on outside employment as provided in the 1989 Ethics Reform Act revisions to the Ethics in Government Act, as amended. A separate provision (not yet effective) of the regulation will govern reports by certain executive branch officials of payments, in lieu of honoraria, donated on their behalf to charities. The regulation will be amended in light of the above-noted litigation and any other pertinent developments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/17/91	56 FR 1721
Deferral of Effective Date of 5 CFR 2636.205	05/10/91	56 FR 21589

OGE

Long-Term Actions

Action	Date	FR Cite
Deferral of Effective Date of 5 CFR 2636.205	10/11/91	56 FR 51319
Revision of Honorarium Definition in 5 CFR 2636.203(a)	01/08/92	57 FR 601
Deferral of Effective Date of 5 CFR 2636.205	02/14/92	57 FR 5369
Technical Correction to Interim Final Rule	12/30/93	58 FR 69176
Technical (Paperwork) Amendments to Interim Final Rule	07/07/94	59 FR 34755
Final Action	10/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

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RIN: 3209–AA13

3845. INTERPRETATION OF 18 USC 209, THE CONSTRAINT AGAINST PRIVATE SUPPLEMENTATION OF SALARIES OF EXECUTIVE BRANCH OFFICIALS AND EMPLOYEES

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731

CFR Citation: 5 CFR 2639 (New)

Legal Deadline: None

Abstract: Proposed regulation to interpret section 209 of title 18, U.S.C., prohibiting the private supplementation of the Government salary of executive branch officers and employees.

Timetable:

Action	Date	FR Cite
NPRM	01/00/99	
NPRM Comment Period End	03/00/99	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stephen J. McCleary, Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
Phone: 202 208-8000
TDD: 202 208-8025
Fax: 202 208-8037

RIN: 3209–AA12

[FR Doc. 97-24028 Filed 10-28-97; 8:45 am]
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federal register

Wednesday
October 29, 1997

Part XXXV

Office of Management and Budget

Semiannual Regulatory Agenda

OFFICE OF MANAGEMENT AND BUDGET (OMB)

OFFICE OF MANAGEMENT AND BUDGET

5 CFR Ch. III and 48 CFR Ch. 99

Federal Regulations; OMB Circulars, OFPP Policy Letters, and CASB Cost Accounting Standards Included in the Semiannual Agenda of Federal Activities

AGENCY: Office of Management and Budget.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Office of Management and Budget (OMB) is publishing its semiannual agenda of upcoming activities for OMB Circulars, Office of Federal Procurement Policy (OFPP) Policy Letters, and Cost Accounting Standards Board (CASB) Cost Accounting Standards.

OMB Circulars and OFPP Policy Letters are published in accordance with OMB's internal procedures for implementing Executive Order No. 12866 (October 4, 1993; 58 FR 51735). OMB policy guidelines are issued under authority derived from several sources including: Subtitles I, II, and V of title 31, United States Code; Executive Order No. 11541; and other specific authority as cited. OMB Circulars and OFPP Policy Letters communicate guidance, instructions, and information of a continuing nature to executive branch agencies. As such, most OMB Circulars and OFPP Policy Letters are not regulations. Nonetheless, because these issuances are typically of public interest, they are generally published in the **Federal Register** in both proposed (for public comment) and final stages. For this reason, they are presented below in the standard format of "prerule," "proposed rule," and "final rule" stages.

CASB Cost Accounting Standards are issued under authority derived from 41 U.S.C. 422. Cost Accounting Standards are rules governing the measurement, assignment, and allocation of costs to contracts with the United States Government.

For purposes of this agenda, we have excluded directives that outline procedures to be followed in connection with the President's budget and legislative programs and directives that affect only the internal functions, management, or personnel of Federal agencies.

FOR FURTHER INFORMATION CONTACT: See agency person listed for each entry in the agenda, c/o Office of Management and Budget, Washington, DC 20503. On the overall agenda, contact Clarence C. Crawford, (202) 395-3060, at the above address.

Dated: September 12, 1997.
Clarence C. Crawford,
Associate Director for Administration.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3846	Revision of OMB Circular A-127 to Implement the Federal Financial Management Improvement Act (FFMIA) and To Reflect Updated Financial Management Policies	0348-AB46
3847	Policies on Management of Federal Information Resources (Circular No. A-130)	0348-AB36
3848	Freedom of Information Act	0348-AB42
3849	Subcontracting Plans	0348-AB31

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3850	Cost Principles for Educational Institutions (OMB Circular A-21)	0348-AB39
3851	Federal Participation in the Development and Use of Voluntary Standards (Circular A-119)	0348-AB37
3852	Cost Principles for Nonprofit Organizations (Circular No. A-122)	0348-AB01
3853	Revision of OMB Circular A-110 To Implement the Single Audit Act Amendments of 1996 and the Revised OMB Circular A-133	0348-AB44
3854	Extending the Coverage of Energy Statistical Programs Under the Federal Statistical Confidentiality Order	0348-AB45

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3855	Cost Accounting Standards Administration	0348-AB25

OMB

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3856	Classification, Downgrading, Declassification, and Safeguarding of National Security Information	0348-AB34
3857	Release of Official Information in Litigation and Testimony by OMB Personnel as Witnesses	0348-AB35
3858	Order Providing for the Confidentiality of Statistical Information	0348-AB38
3859	Audits of State and Local Governments (Circular A-128)	0348-AB40
3860	Audits of States, Local Governments, and Nonprofit Organizations (Circular A-133)	0348-AB41
3861	Revision of OMB Circulars A-21, A-87, A-102, A-110, and A-122 to Provide a Conditionll Exemption for Certain Federal Grant Programs	0348-AB43

OFFICE OF MANAGEMENT AND BUDGET (OMB)

Proposed Rule Stage

3846. • REVISION OF OMB CIRCULAR A-127 TO IMPLEMENT THE FEDERAL FINANCIAL MANAGEMENT IMPROVEMENT ACT (FFMIA) AND TO REFLECT UPDATED FINANCIAL MANAGEMENT POLICIES

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 503 et seq, CFOs Act; PL 104-208, Federal Financial Mgmt. Improvement Act of 1996; 31 USC 3111

CFR Citation: None

Legal Deadline: None

Abstract: The Federal Financial Management Improvement Act (FFMIA) of 1996 requires that financial management systems at each Federal agency covered by the CFOs Act, substantially comply with Federal financial management systems requirements, applicable Federal accounting standards, and the U.S. Government Standard General Ledger at the transaction level. The revisions are to incorporate this and other policy updates since the 1993 issuance of the last revision to A-127.

Timetable:

Action	Date	FR Cite
Proposed Revision	02/00/98	
Final Revision	05/00/98	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Jean Holcombe, Office of Federal Financial Management, Office of Management and Budget, 725 17th Street NW., Room 6025, NEOB, Washington, DC 20503
Phone: 202 395-5048
Fax: 202 395-3952
Email: holcombe_j@a1.eop.gov

RIN: 0348–AB46

3847. POLICIES ON MANAGEMENT OF FEDERAL INFORMATION RESOURCES (CIRCULAR NO. A-130)

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-106

CFR Citation: None

Legal Deadline: None

Abstract: OMB Circular A-130, Management of Federal Information Resources, establishes policies for the management of federal information resources and provides certain procedures and analytical guidelines for implementing specific aspects of these policies. OMB is reviewing the Circular for consistency with the Information Technology Management Reform Act (ITMRA) of 1996, P.L. 104-106. This proposed revision is consistent with the National Performance Reviews reinventing government efforts.

Timetable:

Action	Date	FR Cite
Proposed Revision	06/00/98	
Final Revision	10/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jasmeet Seehra, Senior Policy Analyst, Office of Management and Budget, Room 10236, NEOB, 725 17th St. NW., Washington, DC 20503
Phone: 202 395-3785
Fax: 202 395-5167

RIN: 0348–AB36

3848. FREEDOM OF INFORMATION ACT

Priority: Info./Admin./Other

Legal Authority: 5 USC 552 Electronic FOIA Amendments of 1996

CFR Citation: 5 CFR 1303

Legal Deadline: None

Abstract: OMB will review its regulations under the Freedom of Information Act and revise them to reflect changes brought about by the Electronic Freedom of Information Act Amendments of 1996.

Timetable:

Action	Date	FR Cite
Proposed Revision	10/00/97	
Final Revision	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Darrell A. Johnson, Deputy Assistant Director for Administration, Office of Management and Budget, 725 17th Street NW., Room 9026, NEOB, Washington, DC 20503
Phone: 202 395-5715
Fax: 202 395-3504

RIN: 0348–AB42

3849. SUBCONTRACTING PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 637(d); PL 103-355, sec 1091; 41 USC 405

CFR Citation: 48 CFR 19.7

Legal Deadline: None

Abstract: OFPP proposes to issue a Policy Letter that covers subcontracting plans. This Policy Letter supersedes and cancels OFPP Policy Letter 80-1,

OMB — Proposed Rule Stage

80-2, Supplement No. 1 to 80-2, and 80-4.

Timetable:

Action	Date	FR Cite
Proposed Policy Letter	09/26/95	60 FR 49644
Second Proposed Policy Letter	10/00/97	
Final Policy Letter	12/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Linda Mesaros, Deputy Associate Administrator, Office of Management and Budget, Office of Federal Procurement Policy, Washington, DC 20503
Phone: 202 395-4821
Fax: 202 395-5105

RIN: 0348–AB31

OFFICE OF MANAGEMENT AND BUDGET (OMB) — Final Rule Stage

3850. COST PRINCIPLES FOR EDUCATIONAL INSTITUTIONS (OMB CIRCULAR A-21)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 503 et seq, CFOs Act; 31 USC 1111

CFR Citation: None

Legal Deadline: None

Abstract: OMB's proposal addresses benchmarks for facility costs and an alternate methodology for the recovery of utility costs.

Timetable:

Action	Date	FR Cite
Proposed Revision	09/10/97	62 FR 47722
Final Revision	06/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gilbert Tran, Office of Management and Budget, Office of Federal Financial Management, Washington, DC 20503
Phone: 202 395-3993
Fax: 202 395-4915
Email: tran_h@a1.eop.gov

RIN: 0348–AB39

3851. FEDERAL PARTICIPATION IN THE DEVELOPMENT AND USE OF VOLUNTARY STANDARDS (CIRCULAR A-119)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 1111; 44 USC 35; PL 104-113, sec 12

CFR Citation: None

Legal Deadline: None

Abstract: This Circular describes the policy to be followed by agencies in using voluntary consensus standards and in participating in voluntary consensus standards bodies. This Circular is being revised to reflect new reporting requirements of P.L. 104-113 section 12(a), to address the role of NIST in coordinating conformity assessment activities in accordance with section 12(c) of P.L. 104-113, and to strengthen Federal policy with respect to reliance on voluntary, consensus standards.

Timetable:

Action	Date	FR Cite
Proposed Revision	12/27/96	61 FR 68312
Final Revision	10/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Virginia Huth, Policy Analyst, Office of Management and Budget, 725 17th St. NW., Room 10236, Washington, DC 20503
Phone: 202 395-3785
Fax: 202 395-5167
Email: huth_v@a1.eop.gov

RIN: 0348–AB37

3852. COST PRINCIPLES FOR NONPROFIT ORGANIZATIONS (CIRCULAR NO. A-122)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 503 et seq, CFOs Act; 31 USC 1111

CFR Citation: None

Legal Deadline: None

Abstract: This circular establishes cost principles for non-profit organizations. The 1995 proposed revisions will be finalized.

Timetable:

Action	Date	FR Cite
Proposed Revision	09/26/94	59 FR 49090
Final Revision	10/06/95	60 FR 52516
Second Proposed Revision	10/06/95	60 FR 52522
Final Revision of 2nd Proposal	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gilbert Tran, Office of Management and Budget, Office of Federal Financial Management, Washington, DC 20503
Phone: 202 395-3993
Fax: 202 395-4915
Email: tran_h@a1.eop.gov

RIN: 0348–AB01

3853. • REVISION OF OMB CIRCULAR A-110 TO IMPLEMENT THE SINGLE AUDIT ACT AMENDMENTS OF 1996 AND THE REVISED OMB CIRCULAR A-133

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 503,et seq, CFOs Act; PL 104-156, The Single Audit Act Amendments of 1996; 31 USC 1111

CFR Citation: None

Legal Deadline: None

Abstract: The Single Audit Act Amendments of 1996 and the June 24, 1997 revision of OMB Circular A-133 apply to audits of fiscal years beginning after June 30, 1996. The revisions are to implement this Act and the revised Circular A-133.

Timetable:

Action	Date	FR Cite
Interim Final Revision of A-110	08/29/97	62 FR 45934
Final Revision of A-110	12/00/97	

Small Entities Affected: None

OMB — Final Rule Stage

Government Levels Affected: State, Local, Tribal

Agency Contact: Barbara F. Kahlow, Office of Federal Financial Management, Office of Management and Budget, 6025 New Executive Office Building, 725 17th Street NW., Washington, DC 20503
Phone: 202 395-3053
Fax: 202 395-3952
Email: kahlow_b@a1.eop.gov

RIN: 0348–AB44

3854. • EXTENDING THE COVERAGE OF ENERGY STATISTICAL PROGRAMS UNDER THE FEDERAL STATISTICAL CONFIDENTIALITY ORDER

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 1104(d); EO 10253; 44 USC ch 35

CFR Citation: None

Legal Deadline: None

Abstract: This proposal will extend the coverage of energy statistical programs under the Federal Statistical Confidentiality Order.

Timetable:

Action	Date	FR Cite
Proposed Revision	06/27/97	62 FR 35049
Final	12/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Katherine Wallman, Chief, Statistical Policy Branch, Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Room 10201 NEOB, Washington, DC 20503
Phone: 202 395-3093
Fax: 202 395-7245

RIN: 0348–AB45

OFFICE OF MANAGEMENT AND BUDGET (OMB) — Long-Term Actions

3855. COST ACCOUNTING STANDARDS ADMINISTRATION

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 422

CFR Citation: 48 CFR 99

Legal Deadline: None

Abstract: The Cost Accounting Standards Board is proposing to revise its rules concerning cost accounting practice changes.

Timetable:

Action	Date	FR Cite
ANPRM	04/25/95	60 FR 20252
ANPRM Comment Period End	07/10/95	
NPRM	09/18/96	61 FR 49196
NPRM Comment Period End	12/02/96	
NPRM Comment Period Extended to 09/12/97	07/14/97	62 FR 37654
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Rudolph Schuhbauer, Project Director, Cost Accounting Standards Board, Office of Management and Budget, Office of Federal Procurement Policy, Washington, DC 20503
Phone: 202 395-3254

RIN: 0348–AB25

OFFICE OF MANAGEMENT AND BUDGET (OMB) — Completed Actions

3856. CLASSIFICATION, DOWNGRADING, DECLASSIFICATION, AND SAFEGUARDING OF NATIONAL SECURITY INFORMATION

Priority: Info./Admin./Other

Legal Authority: EO 12958

CFR Citation: 5 CFR 1312

Legal Deadline: None

Abstract: OMB has revised its regulations on the classification, downgrading, declassification and safeguarding of National Security Information. This was done pursuant to Executive Order 12958, "Classified National Security Information".

Timetable:

Action	Date	FR Cite
Proposed Revision	09/17/96	61 FR 48855
Final Action	05/09/97	62 FR 25426
Final Action Effective	06/09/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Darrell A. Johnson, Deputy Assistant Director for Administration, Office of Management and Budget
Phone: 202 395-5715

RIN: 0348–AB34

3857. RELEASE OF OFFICIAL INFORMATION IN LITIGATION AND TESTIMONY BY OMB PERSONNEL AS WITNESSES

Priority: Info./Admin./Other

Legal Authority: 31 USC 502

CFR Citation: 5 CFR 1305 (New)

Legal Deadline: None

Abstract: This directive establishes policy, assigns responsibilities, and prescribes procedures for the release of official OMB information in litigation and for testimony by OMB personnel as witnesses during litigation.

Timetable:

Action	Date	FR Cite
Proposed Directive	12/17/96	61 FR 66232

OMB — Completed Actions

Action	Date	FR Cite
Final Action	05/30/97	62 FR 29285
Final Action Effective	06/30/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steve Aitken, Assistant General Counsel, Office of Management and Budget, Room 464 OEOB, 17th and Pennsylvania Ave. NW., Washington, DC 20503
Phone: 202 395-4728
Fax: 202 395-7294

RIN: 0348–AB35

3858. ORDER PROVIDING FOR THE CONFIDENTIALITY OF STATISTICAL INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 1104(d); EO 10253; 44 USC ch 35

CFR Citation: None

Legal Deadline: None

Abstract: This order clarifies and makes consistent, government policy protecting the privacy and confidentiality interests of individuals or organizations who furnish data for Federal statistical programs.

Timetable:

Action	Date	FR Cite
Proposed Order	01/29/96	61 FR 2876
Final Action	08/27/97	62 FR 35043
Final Action Effective	07/28/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Katherine Wallman, Chief, Statistical Policy Branch, Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St. NW., Rm. 10201 NEOB, Washington, DC 20503
Phone: 202 395-3093
Fax: 202 395-7245

RIN: 0348–AB38

3859. AUDITS OF STATE AND LOCAL GOVERNMENTS (CIRCULAR A-128)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 503 et seq, CFOs Act; 31 USC 1111; 31 USC 7501 et seq, Single Audit Act of 1984

CFR Citation: None

Legal Deadline: None

Abstract: This Circular is rescinded. The Single Audit Act Amendments of 1996 call for uniform requirements for audits of all types of organizations. As a consequence, OMB co-located audit requirements for States and local governments in Circular A-133, and rescinded Circular A-128.

Timetable:

Action	Date	FR Cite
Proposed Rescission	11/05/96	61 FR 57232
Final Action	06/30/97	62 FR 35278

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheila Conley, Office of Management and Budget, Office of Federal Financial Management, Washington, DC 20503
Phone: 202 395-3993

RIN: 0348–AB40

3860. AUDITS OF STATES, LOCAL GOVERNMENTS, AND NONPROFIT ORGANIZATIONS (CIRCULAR A-133)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 503 et seq, CFOs Act; 31 USC 1111; PL 104-156, 110 Stat. 1396, The Single Audit Act Amdts of 1996

CFR Citation: None

Legal Deadline: None

Abstract: This Circular establishes requirements for audits of States, local governments and non-profit organizations, consistent with the Single Audit Act Amendments of 1996. Agencies will implement the revision by codifying it in their own regulations.

Timetable:

Action	Date	FR Cite
Proposed Revision	11/05/96	61 FR 57232
Final Action	06/30/97	62 FR 35278

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheila Conley, Office of Management and Budget, Office of Federal Financial Mangement, Washington, DC 20503
Phone: 202 395-3993

RIN: 0348–AB41

3861. • REVISION OF OMB CIRCULARS A-21, A-87, A-102, A-110, AND A-122 TO PROVIDE A CONDITIONAL EXEMPTION FOR CERTAIN FEDERAL GRANT PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 503 et seq, CFOs Act; 31 USC 1111

CFR Citation: None

Legal Deadline: None

Abstract: Revision of five OMB grants management circulars to provide a conditional exemption for certain Federal grant programs with statutorily-authorized consolidated planning and consolidated administrative funding, that are identified by a Federal agency and approved by the agency head.

Timetable:

Action	Date	FR Cite
Proposed Revision of 5 Circulars	05/14/97	62 FR 26577
Final Action	08/29/97	62 FR 45834
Final Action Effective	09/29/97	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Barbara F. Kahlow, Office of Federal Financial Management, Office of Management and Budget, 6025 New Executive Office Building, 725 17th Street NW., Washington, DC 20503
Phone: 202 395-3053

RIN: 0348–AB43

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Wednesday
October 29, 1997

Part XXXVI

Office of Personnel Management

Semiannual Regulatory Agenda

OFFICE OF PERSONNEL MANAGEMENT (OPM)

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Ch. I

Regulatory Agenda

AGENCY: Office of Personnel Management.

ACTION: Semiannual regulatory agenda.

SUMMARY: The following Office of Personnel Management (OPM) regulations are scheduled for development or review from October 1, 1997, through September 30, 1998. This agenda carries out OPM's responsibilities to publish a semiannual agenda under E.O. 12866 "Regulatory Planning and Review" and the Regulatory Flexibility Act (5 U.S.C. chapter 6). This publication in the **Federal Register** does not impose a binding obligation on the Office of Personnel Management with regard to any specific item on the agenda. Regulatory action in addition to the items listed is not precluded.

FOR FURTHER INFORMATION CONTACT: Jacquline D. Carter, (202) 606-1973.

SUPPLEMENTARY INFORMATION: For this edition of OPM's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

Office of Personnel Management.

James B. King,

Director.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3862	Availability of Official Information	3206-AG92

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3863	Procedures for Settling Claims	3206-AH89
3864	Appointment of Noncitizens in the Excepted Service	3206-AH52
3865	Student Educational Employment Program	3206-AH82
3866	Personnel Records	3206-AH24
3867	Employment in the Excepted Service	3206-AH83
3868	Career and Career-Conditional Appointment Under Special Authorities	3206-AG90
3869	Clarification of Various Staffing Provisions	3206-AH49
3870	Training	3206-AH94
3871	Classification Appeals	3206-AH38
3872	Superior Qualifications Appointments	3206-AI00
3873	Miscellaneous Changes in Compensation Regulations	3206-AH11
3874	Prevailing Rate Systems; Survey Order Month Change for Jefferson, New York, Nonappropriated Fund Wage Area	3206-AH80
3875	Prevailing Rate Systems; Changing the Helper (Trades) WG-5 Survey Job from Required to Optional	3206-AH81
3876	Severance Pay: Miscellaneous	3206-AH12
3877	Pay Administration (General); Collection by Offset From Indebted Government Employees	3206-AH83
3878	Pay Administration Under the FLSA	3206-AG70
3879	Agency Determinations on Payment of Relocation Costs	3206-AH50
3880	Federal Equal Opportunity Recruitment Program (FEORP)	3206-AH96
3881	Federal Employees' Health and Counseling Programs	3206-AH93
3882	Retirement; CSRS and FERS Amendments Relating to Health Care Professionals	3206-AG57
3883	Retirement; Credit for Military Service	3206-AG58
3884	Retirement; Determinations of Marital Status for Survivor Annuities	3206-AG60
3885	Retirement; Service Credit	3206-AH37
3886	Retirement; Waiver of Military Retired Pay to Enhance Civil Service Retirement Annuity	3206-AH74
3887	Retirement; Elimination of the Hearing Requirement During Enforcement of Statutory Bar to Annuity After Conviction of Certain Offenses	3206-AH76
3888	Retirement; State Income Tax Withholding Instrumentalities	3206-AH62
3889	Retirement; Debt Collection	3206-AE72
3890	Retirement; Court Orders Awarding Survivor Annuities; Correcting or Supplementing the First Order Dividing Marital Property	3206-AG28
3891	Retirement; FERS Elections of Coverage	3206-AG96
3892	Federal Employee's Group Life Insurance Program: Miscellaneous Changes and Clarifications	3206-AG63

OPM

Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3893	Federal Employees Health Benefits Program: Disenrollment	3206-AH61

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3894	Fellowship and Similar Appointments in the Excepted Service	3206-AH91
3895	Agency Relationships with Organizations Representing Federal Employees and Other Organizations	3206-AH72
3896	Time-In-Grade Restrictions	3206-AG08
3897	Amendment to Selective Service Registration Requirements	3206-AD68
3898	Temporary and Term Employment	3206-AH47
3899	Promotion and Internal Placement; Accelerated Qualifications	3206-AG19
3900	Moratorium on Involuntary SES Reassignments	3206-AH92
3901	Job Listings; Full Consideration of Displaced Defense Employees	3206-AF36
3902	Reduction in Force; Retreat Rights	3206-AG77
3903	RIF and Performance Management	3206-AH32
3904	Reduction in Force and Mandatory Temporary Exceptions	3206-AH64
3905	Reduction in Force and Vacant Positions	3206-AH95
3906	Restoration to Duty From Military Service or Compensable Injury	3206-AG02
3907	Performance Ratings	3206-AH77
3908	Official Duty Station Determinations for Pay Purposes	3206-AH84
3909	Pay Under the General Schedule; Locality Pay Areas for 1998	3206-AH85
3910	Prevailing Rate Systems; Redefinition of the Norfolk, MA, Nonappropriated Fund Wage Area	3206-AH58
3911	Prevailing Rate Systems; Redefinition of the Marion, IN, Nonappropriated Fund Wage Area	3206-AH60
3912	Holiday and Premium Pay	3206-AH86
3913	Prevailing Rate Systems; Abolishment of Lubbock Nonappropriated Fund Wage Area	3206-AH88
3914	Voluntary Separation Incentive Repayment Waivers	3206-AG20
3915	Pay Administration; Availability Pay for Criminal Investigators	3206-AG47
3916	Lump-Sum Payments for Annual Leave	3206-AF36
3917	Processing Garnishment Orders for Child Support and/or Alimony and Commercial Garnishment of Federal Employees' Pay	3206-AH43
3918	Cost-of-Living Allowance in Nonforeign Areas: Survey Results	3206-AH07
3919	Cost-of-Living Allowances and Post Differentials (Nonforeign Areas); Miscellaneous Changes	3206-AH51
3920	Political Activity—Federal Employees Residing in Designated Localities (Reg Plan Seq. No. 148)	3206-AF78
3921	Retirement; Coverage - Non-Appropriated Fund Instrumentalities	3206-AH57
3922	Revised Application Procedures for Disability Retirement Under CSRS and FERS	3206-AH66
3923	Retirement and Insurance Benefits During Periods of Unexplained Absence	3206-AH75
3924	Retirement Coverage for DC Financial Control Board Employees	3206-AG78
3925	Retirement; FERS Basic Annuity	3206-AE73
3926	Federal Employees Health Benefits Program: Payment of Premiums for Periods of Leave Without Pay or Insufficient Pay	3206-AG66

References in boldface appear in the Regulatory Plan in Part II of this issue of the Federal Register.

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3927	Claims Collections Standards; Debt Collection Act of 1982; Salary Offset	3206-AG64
3928	Noncompetitive Appointments of Corporation for National Service Employees	3206-AH48
3929	Performance Management Reform	3206-AF57
3930	Disabled Veterans Affirmative Action Program (DVAAP)	3206-AH09
3931	Suitability—Suitability Disqualification/Rating Actions	3206-AC19
3932	Personnel Security and Related Programs	3206-AC21
3933	Investigations	3206-AB92

OPM

Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3934	Debarments, Civil Monetary Penalties, and Assessments Imposed Against Providers	3206-AD76

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3935	Program Fraud Civil Remedies	3206-AH73
3936	Summer Employment	3206-AG21
3937	Excepted Service—Schedule A Authority for Temporary Organizations	3206-AH67
3938	Notification Requirements Relating to the Statutory Prohibitions on Political Recommendations	3206-AH71
3939	Career Transition Assistance for Surplus and Displaced Federal Employees	3206-AH26
3940	Temporary Assignments of Employees Between Federal Agencies, State, Local, and Indian Tribal Governments; Institutions of Higher Learning, and Other Eligible Organizations	3206-AG61
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3949	Federal Employees' Group Life Insurance Program: Merger of Life Insurance Regulations; Living Benefits; Assignment of Life Insurance	3206-AF32
3950	Federal Employees Health Benefits Program (FEHBP): Opportunities to Enroll and Change Enrollment	3206-AH46
3951	Establishing a Merit Requirement	3206-AH70
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3953	Federal Employees Health Benefits Program Acquisition Regulation: Truth in Negotiations Act and Related Changes	3206-AH45

OFFICE OF PERSONNEL MANAGEMENT (OPM)

Prerule Stage

3862. AVAILABILITY OF OFFICIAL INFORMATION

Priority: Info./Admin./Other

Legal Authority: 5 USC 552 Freedom of Information Act

CFR Citation: 5 CFR 294

Legal Deadline: None

Abstract: The proposed rulemaking will make minor changes to subpart A of 5 CFR 294, Availability of Official Information Act. The rulemaking will provide additional information on the definition of terms used in the search and review process, update office addressees, and clarify that any written request that meets the specified marking and content requirements will be recognized as an official FOIA request. These changes are designed to benefit the public by providing updated information on where to direct FOIA requests, and improve the wording of the regulation to fully and accurately meet the provisions of the FOIA. There will be no significant change to the existing operational procedures in place at OPM.

Timetable:

Action	Date	FR Cite
ANPRM	01/00/98	
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

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RIN: 3206–AG92

OFFICE OF PERSONNEL MANAGEMENT (OPM)

Proposed Rule Stage

3863. • PROCEDURES FOR SETTLING CLAIMS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3702; 5 USC 5583; 38 USC 5122; PL 104-53

CFR Citation: 5 CFR 178

Legal Deadline: None

Abstract: The Office of Personnel Management is proposing rules of procedure for the settlement of claims submitted to OPM for Federal civilian employees' compensation and leave, for proceeds of canceled checks for veterans' benefits payable to deceased beneficiaries, and for the settlement of deceased employees' compensation.

Timetable:

Action	Date	FR Cite
NPRM	08/25/97	62 FR 45080
NPRM Comment Period End	10/24/97	
Final Action	10/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Britner, Senior Attorney, Office of the General Counsel, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-2233

RIN: 3206–AH89

3864. APPOINTMENT OF NONCITIZENS IN THE EXCEPTED SERVICE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 3301; 5 USC 3302

CFR Citation: 5 CFR 213.3102(bb)

Legal Deadline: None

Abstract: Revises existing government-wide excepted service appointment authority for the appointment of noncitizens in the absence of qualified citizens. Individual agency authorities for this purpose will no longer be needed.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sylvia Cole, Staffing Reinvention Office, Employment Service, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-1386

RIN: 3206–AH52

3865. STUDENT EDUCATIONAL EMPLOYMENT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: EO 13024; 5 USC 3301; 5 USC 3302

CFR Citation: 5 CFR 213; 5 CFR 315; 5 CFR 316

Legal Deadline: None

Abstract: OPM is issuing interim regulations permitting students participating in the Student Career Experience Program to be noncompetitively converted to term appointments and subsequent career/career-conditional appointments to implement E.O. 13024. These regulations will also reorganize the current information on the student programs and clarify a few related issues.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tina Vay, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-2329

RIN: 3206–AH82

3866. PERSONNEL RECORDS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552; 5 USC 4315; EO 12107; 5 USC 1103; 5 USC 1104; 5 USC 1302; EO 9830; 5 USC 2951; 5 USC 3301; EO 12107

CFR Citation: 5 CFR 293

Legal Deadline: None

Abstract: The regulatory changes will: (1) simplify the requirements for maintaining employee personnel records, (2) clarify agency responsibility for personnel recordkeeping as delegated by the regulation, and (3) give greater latitude to agencies in establishing and maintaining employee medical and performance records.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Brick, Human Resources Systems Service, Personnel Records and Systems, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
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Fax: 202 606-1719
Email: lmbrick@opm.gov

RIN: 3206–AH24

3867. EMPLOYMENT IN THE EXCEPTED SERVICE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 1302; 5 USC 3301; 5 USC 3302; 5 USC 8151; EO 10577

CFR Citation: 5 CFR 302

Legal Deadline: None

Abstract: The revised regulations will make it easier for agencies to understand how to run the excepted service employment system, and thus create better and more efficient employment procedures.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tina Vay, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
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TDD: 202 606-0023
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RIN: 3206–AH83

3868. CAREER AND CAREER-CONDITIONAL APPOINTMENT UNDER SPECIAL AUTHORITIES

Priority: Info./Admin./Other

Legal Authority: 5 USC 1302; 5 USC 3301; 5 USC 3302; 5 USC 3304(d); 5 USC 8151; 5 USC 11219; EO 10577; EO 12034; EO 12721; 22 USC 2506; 22 USC 3651; 22 USC 3652

CFR Citation: 5 CFR 315

Legal Deadline: None

Abstract: Revises a group of special appointment authorities to clarify requirements and to eliminate obsolete provisions. Also adds authorities for specific noncompetitive appointments authorities by law.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karen Jacobs, Employment Service, Office of Personnel Management, Staffing Reinvention Office, 1900 E St. NW., Washington, DC 20415
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RIN: 3206–AG90

3869. CLARIFICATION OF VARIOUS STAFFING PROVISIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 1202; 5 USC 3301; 5 USC 3302

CFR Citation: 5 CFR 330.403; 5 CFR 213.103(a); 5 CFR 300.501; 5 CFR 315.603(a); 5 CFR 315.608; 5 CFR 332.301; 5 CFR 338.202(3)

Legal Deadline: None

Abstract: Revises several appointing authorities to make them clearer and to delete references to the former Federal Personnel Manual and other obsolete provisions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karen Jacobs, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
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Fax: 202 606-2329

RIN: 3206–AH49

3870. • TRAINING

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 4118

CFR Citation: 5 CFR 410

Legal Deadline: None

Abstract: Since the December 1996 publication of the final rules on training, agencies have asked that language contained in the previous regulation, 5 CFR 410:302(b) (1996), be reinstated. That section addresses assigning employees to training outside the United States. The proposed change will contain provisions for such training and make any necessary technical corrections.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final Action	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

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RIN: 3206–AH94

3871. CLASSIFICATION APPEALS

Priority: Info./Admin./Other

Legal Authority: 5 USC 5112

CFR Citation: 5 CFR 511

Legal Deadline: None

Abstract: The position classification appeals regulations require updating to reflect current organization nomenclature following a reorganization within OPM.

Timetable:

Action	Date	FR Cite
NPRM	11/01/97	
NPRM Comment Period End	12/01/97	
Final Action	01/01/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeffrey D. Miller, Office of Merit Systems Oversight and Effectiveness, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
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RIN: 3206–AH38

3872. • SUPERIOR QUALIFICATIONS APPOINTMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5333

CFR Citation: 5 CFR 531

Legal Deadline: None

Abstract: Revises regulations concerning the appointment of superior candidates above the minimum rate of pay for General Schedule positions. Clarifies and modifies what agencies should consider when making these superior qualifications appointments.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tina Vay, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
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Fax: 202 606-2329

RIN: 3206–AI00

3873. MISCELLANEOUS CHANGES IN COMPENSATION REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5304; 5 USC 5305; 5 USC 5753; 5 USC 5527; 5 USC 5596; 5 USC 5941; 5 USC 5754; 5 USC 5307; 5 USC 5338; 5 USC 5548; 5 USC 5595; 5 USC 6101; Fair Labor Standards Act of 1938 (as amended), section 4(f); 5 USC 5941

CFR Citation: 5 CFR 530; 5 CFR 531; 5 CFR 536; 5 CFR 550; 5 CFR 551; 5 CFR 575; 5 CFR 610; 5 CFR 591

Legal Deadline: None

Abstract: This proposed regulation would correct or clarify various regulatory provisions dealing with the compensation of Federal employees.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: D. Bryce Baker, Office of Compensation Policy, Human Resources Systems Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
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RIN: 3206–AH11

3874. PREVAILING RATE SYSTEMS; SURVEY ORDER MONTH CHANGE FOR JEFFERSON, NEW YORK, NONAPPROPRIATED FUND WAGE AREA

Priority: Info./Admin./Other

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: OPM plans regulatory actions to change the survey order month for the Jefferson, NY, nonappropriated fund Federal Wage System wage area from March to April beginning with the next full-scale wage survey in the wage area in 1998. This change was recommended by the Federal Prevailing Rate Advisory Committee.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final Action	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

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RIN: 3206–AH80

3875. PREVAILING RATE SYSTEMS; CHANGING THE HELPER (TRADES) WG-5 SURVEY JOB FROM REQUIRED TO OPTIONAL

Priority: Info./Admin./Other

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: OPM plans regulatory actions to remove the Helper (Trades) WG-5 Federal Wage System (FWS) appropriated fund survey job from the list of required FWS survey jobs and add it to the list of optional FWS survey jobs. This change was recommended by the Federal Prevailing Rate Advisory Committee.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Derby, Human Resources Systems Service, Office of Compensation Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
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Email: payleave@opm.gov

RIN: 3206–AH81

3876. SEVERANCE PAY: MISCELLANEOUS

Priority: Other Significant

Legal Authority: 5 USC 5595

CFR Citation: 5 CFR 550, subpart G

Legal Deadline: None

Abstract: The proposed regulation would clarify or revise the severance pay rules relating to such issues as the creditability of service and the definition of "involuntary separation."

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	
NPRM Comment Period End	06/00/98	
Final Action	09/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: D. Bryce Baker, Human Resources Systems Service, Office of Compensation Policy, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
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Email: payleave@opm.gov

RIN: 3206–AH12

3877. PAY ADMINISTRATION (GENERAL); COLLECTION BY OFFSET FROM INDEBTED GOVERNMENT EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5514

CFR Citation: 5 CFR 550, subpart K

Legal Deadline: None

Abstract: OPM plans regulatory changes to salary offset regulations which are needed to comply with changes required by or resulting from Public Law 103-134

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	12/00/97	
Final Action	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Shields, Human Resources Systems Service, Office of Compensation Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
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Fax: 202 606-0824
Email: payleave@opm.gov

RIN: 3206–AH63

3878. PAY ADMINISTRATION UNDER THE FLSA

Priority: Routine and Frequent

Legal Authority: 29 USC 204(f)

CFR Citation: 5 CFR 551

Legal Deadline: None

Abstract: Proposed revisions to regulations would delete nonexistent

sections under subpart B, update antiquated references, simplify regulatory language, add special exemption categories stemming from court decisions, such as computer specialists under professional exemption criteria, and regulate, as necessary, to accommodate GAO's transfer of the FLSA claims function to OPM.

Timetable:

Action	Date	FR Cite
NPRM	08/25/97	62 FR 45064
NPRM Comment Period End	10/24/97	
Final Action	01/01/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeffrey D. Miller, Office of Merit Systems Oversight and Effectiveness, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
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RIN: 3206–AG70

3879. AGENCY DETERMINATIONS ON PAYMENT OF RELOCATION COSTS

Priority: Other Significant

Legal Authority: 5 USC 1103(9)(7)

CFR Citation: 5 CFR 572

Legal Deadline: None

Abstract: Provides criteria under which agencies may determine that relocation expenses will not be paid. Encourages as broad a competition for hiring as possible and expands employment opportunities for displaced Federal employees.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mike Carmichael, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
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RIN: 3206–AH50

3880. • FEDERAL EQUAL OPPORTUNITY RECRUITMENT PROGRAM (FEORP)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 4214

CFR Citation: 5 CFR 720

Legal Deadline: None

Abstract: Updates and simplifies reporting requirements to conform to court interpretations of law and to policy changes. Also takes advantage of improved technology.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Armando Rodriguez, Employment Service, Diversity Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830

RIN: 3206–AH98

3881. • FEDERAL EMPLOYEES' HEALTH AND COUNSELING PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 7361; 5 USC 7362

CFR Citation: 5 CFR 792

Legal Deadline: None

Abstract: OPM is proposing to remove the following sentence which appears in this part, "If an employee fails to participate in any rehabilitative program or, having participated, the employee fails to bring conduct or performance up to a satisfactory level, the agency shall evaluate the employee accordingly and initiate the appropriate performance-based or adverse action." This sentence confuses or misleads agency management in dealing with employees who have an alcohol or drug abuse problem and whose job performance or conduct is affected as a result of their problem. Some agency officials believe that this sentence guarantees Federal employees, with these problems, two chances to avoid disciplinary and/or corrective action. We also propose to add a new section to this part which provides for the confidentiality of Employee Assistance Program (EAP) records and conversations between the counselor and the client. There are regulations which provide confidentiality of alcohol and drug abuse patient records; however, there is no such regulation for other personal problems which affect Federal employees such as family, financial, marital, etc. Without this regulation, agency EAP administrators and counselors are not protected when they refuse to disclose information without the signed written consent of the EAP client.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank T. Cavanaugh, Human Resources Systems Service, Employee Health Services Policy Center, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
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RIN: 3206–AH93

3882. RETIREMENT; CSRS AND FERS AMENDMENTS RELATING TO HEALTH CARE PROFESSIONALS

Priority: Info./Admin./Other

Legal Authority: 5 USC 8347(a); 5 USC 8461(g)

CFR Citation: 5 CFR 831; 5 CFR 841; 5 CFR 842

Legal Deadline: None

Abstract: These regulations implement the special retirement provisions applicable to certain health care professionals employed by the Veterans Health Service and other designated agencies.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	
Final Action	09/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cynthia Reinhold, Retirement and Insurance Service, Office of Retirement Policy Development, Office of Personnel Management, 1900 E St. NW., Washington DC 20415
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RIN: 3206–AG57

3883. RETIREMENT; CREDIT FOR MILITARY SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347(a); 5 USC 8461(g); 38 USC 4331

CFR Citation: 5 CFR 8347(a); 5 CFR 8461(g); 5 CFR 842.306; 5 CFR 842.307

Legal Deadline: None

Abstract: These regulations implement changes in the treatment of certain military service under CSRS and FERS required under the Uniformed Services Employment and Reemployment Act of 1994 (USERA).

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	
Final Action	09/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Christopher H. Ziebarth, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
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RIN: 3206–AG58

3884. RETIREMENT; DETERMINATIONS OF MARITAL STATUS FOR SURVIVOR ANNUITIES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 831; 5 CFR 842; 5 CFR 843

Legal Deadline: None

Abstract: These regulations would establish the standards of evidence that OPM will require to prove entitlement to a survivor annuity as the surviving spouse of a deceased employee or retiree.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	
Final Action	09/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold L. Siegelman, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
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RIN: 3206–AG60

3885. RETIREMENT; SERVICE CREDIT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831, subpart C

Legal Deadline: None

Abstract: These regulations would provide that no retirement credit could be granted for periods of service for which retirement deductions were refunded and not repaid even when the refund was paid based on an erroneous separation.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	
Final Action	09/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia A. Rochester, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
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RIN: 3206–AH37

3886. RETIREMENT; WAIVER OF MILITARY RETIRED PAY TO ENHANCE CIVIL SERVICE RETIREMENT ANNUITY

Priority: Info./Admin./Other

Legal Authority: 5 USC 8332(c)(4); 5 USC 8347(a); 5 USC 8411(c)(5)

CFR Citation: 5 CFR 831, subpart C; 5 CFR 842, subpart C

Legal Deadline: None

Abstract: These regulations implement provisions of the National Defense Authorization Act for Fiscal Year 1997 which changed the statutory requirements for allowing credit under the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS) for military service in certain situations in which a waiver of military retired pay after January 1, 1997, to receive CSRS or FERS credit adversely affects a former spouse with a court order on file affecting the military retired pay.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold Siegelman, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
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RIN: 3206–AH74

3887. RETIREMENT; ELIMINATION OF THE HEARING REQUIREMENT DURING ENFORCEMENT OF STATUTORY BAR TO ANNUITY AFTER CONVICTION OF CERTAIN OFFENSES

Priority: Info./Admin./Other

Legal Authority: 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 831, subpart K

Legal Deadline: None

Abstract: These regulations will eliminate the requirement that OPM conduct a hearing before applying the statutory bar to annuity when an individual has been convicted of certain offenses.

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	
Final Action	09/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patrick Jennings, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E St. NW., Washington, DC20415
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RIN: 3206–AH76

3888. RETIREMENT; STATE INCOME TAX WITHHOLDING INSTRUMENTALITIES

Priority: Info./Admin./Other

Legal Authority: 5 USC 8345; 5 USC 8347; 5 USC 8461; 5 USC 8469

OPM

Proposed Rule Stage

CFR Citation: 5 CFR 831, subpart S; 5 CFR 841, subpart J

Legal Deadline: None

Abstract: These regulations modify existing regulations to reflect changes designed to expand and streamline the process of withholding state income tax from CSRS and FERS annuities.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold Siegelman, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
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Email: combox@opm.gov

RIN: 3206–AH62

3889. RETIREMENT; DEBT COLLECTION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 835(e)

Legal Deadline: None

Abstract: These regulations will amend the Civil Service Retirement System (CSRS) and Federal Employees Retirement System (FERS) regulations by consolidating existing regulations in three different subparts of the CSRS regulations and 5 CFR 845 in the FERS regulations to eliminate duplication of the provisions governing debt collection. This item is for subpart E of the new part 835, which will address collections of Government claims from payments made by OPM.

Timetable:

Action	Date	FR Cite
NPRM	10/05/92	57 FR 45753
NPRM	10/00/97	
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia A. Rochester, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
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Email: combox@opm.gov

RIN: 3206–AE72

3890. RETIREMENT; COURT ORDERS AWARDING SURVIVOR ANNUITIES; CORRECTING OR SUPPLEMENTING THE FIRST ORDER DIVIDING MARITAL PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 838

Legal Deadline: None

Abstract: These regulations would establish standards for determining which supplemental or correcting court orders are not "modifications" and the procedures applicable to such orders. They also provide for the continuation of the former spouse's survivor coverage and the reduction in the retiree's annuity until the State court decides the extent of the former spouse's rights to retirement benefits.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	
Final Action	06/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold L. Siegelman, Retirement and Insurance Group, Retirement Policy Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0299
Email: combox@opm.gov

RIN: 3206–AG28

3891. RETIREMENT; FERS ELECTIONS OF COVERAGE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347(a); 5 USC 8461(g); PL 99-335, sec 301(d)(3)

CFR Citation: 5 CFR 848

Legal Deadline: None

Abstract: These regulations implement title III of the Federal Employees Retirement System Act of 1986, as amended, dealing with the election of FERS coverage by employees under the Civil Service Retirement System and certain other employees. The regulations contain regulatory and interpretative rules concerning employees' eligibility to elect FERS coverage, procedures for electing FERS coverage, and basic benefits based on the service for employees who elect FERS coverage.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/21/87	52 FR 19235
Interim Final Rule	09/13/93	58 FR 47821
NPRM	03/00/98	
Final Action	09/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold L. Siegelman, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415-0001
Phone: 202 606-0299
Email: combox@opm.gov

RIN: 3206–AG96

3892. FEDERAL EMPLOYEE'S GROUP LIFE INSURANCE PROGRAM: MISCELLANEOUS CHANGES AND CLARIFICATIONS

Priority: Info./Admin./Other

Legal Authority: 5 USC 8716

CFR Citation: 5 CFR 870

Legal Deadline: None

Abstract: These regulations include a group of changes to FEGLI regulations that will clarify procedures for signing and witnessing designations of beneficiary, accepting designations of beneficiary by facsimile, accepting DNA evidence to establish paternity, etc.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
Final Action	06/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karen Leibach, Retirement and Insurance Service, Insurance Policy and Information Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0004
Fax: 202 606-0633

RIN: 3206–AG63

OPM

Proposed Rule Stage

3893. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM: DISENROLLMENT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: Regulations authorizing FEHB carriers to disenroll an enrollee when the enrollment reconciliation process results in an unresolved discrepancy between the carrier and the employing office records, and in other circumstances. Enrollees would have the right to request reconsideration of the carrier action from the employing office.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret Sears, Retirement and Insurance Service, Insurance Policy and Information Division, Office of Personnel Management, Office of Insurance Programs, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0004
Fax: 202 606-0633

RIN: 3206–AH61

OFFICE OF PERSONNEL MANAGEMENT (OPM)

Final Rule Stage

3894. • FELLOWSHIP AND SIMILAR APPOINTMENTS IN THE EXCEPTED SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3301; 5 USC 3302

CFR Citation: 5 CFR 213

Legal Deadline: None

Abstract: Consolidates single-agency excepted service authorities for filling fellowship, student-stipend and similar Federal positions into two umbrella authorities that can be used by all agencies.

Timetable:

Action	Date	FR Cite
NPRM	06/11/97	62 FR 42943
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sylvia Cole, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0024
Fax: 202 606-2329

RIN: 3206–AH91

3895. AGENCY RELATIONSHIPS WITH ORGANIZATIONS REPRESENTING FEDERAL EMPLOYEES AND OTHER ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-177 110 Stat. 1583, 8/6/96; Federal Employee Representation Improvement Act of 1996

CFR Citation: 5 CFR 251

Legal Deadline: None

Abstract: OPM is preparing to issue a proposed change to OPM's regulation at 5 CFR part 251 to reflect a new law which permits greater employee representation of employee organizations under certain circumstances. The Federal Employee Representation Improvement Act of 1996, August 6, 1996, as reflected in the proposed regulation, allows a Federal employee, if not inconsistent with the performance of his or her duties, to represent without compensation a non-profit cooperative, voluntary, professional, recreational or similar organization if, among other things, a majority of the organization's members are Government employees or their spouses or dependent children.

Timetable:

Action	Date	FR Cite
NPRM	04/22/97	62 FR 19525
Interim Final Rule	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Wade Plunkett, Office of the General Counsel, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-1700

RIN: 3206–AH72

3896. TIME-IN-GRADE RESTRICTIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 5 USC 3301; 5 USC 3302; EO 10577

CFR Citation: 5 CFR 300

Legal Deadline: None

Abstract: Eliminates requirement that employees serve 1 year in grade to be eligible for promotion above the GS-5 level. This is separate from the qualifications requirement for 1 year experience at the next lowest grade or equivalent for promotion.

Timetable:

Action	Date	FR Cite
NPRM	06/16/94	59 FR 30717
NPRM Comment Period End	01/10/95	60 FR 2548
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tina Vay, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-2329

RIN: 3206–AG06

3897. AMENDMENT TO SELECTIVE SERVICE REGISTRATION REQUIREMENTS

Priority: Info./Admin./Other

Legal Authority: 5 USC 3328

CFR Citation: 5 CFR 300(g)

Legal Deadline: None

Abstract: Delegates to agencies determination whether a Federal job applicant's failure to register with the Selective Service was knowing and willful. This change is authorized by an amendment to 5 U.S.C. 3328.

OPM

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	04/29/88	53 FR 15400
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Larry Lorenz, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830

RIN: 3206–AD68

3898. TEMPORARY AND TERM EMPLOYMENT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3301; 5 USC 3302; EO 10577

CFR Citation: 5 CFR 316

Legal Deadline: None

Abstract: Changes non-permanent appointment types and procedures to be consistent with newly expanded delegation of examining authority to agencies.

Timetable:

Action	Date	FR Cite
NPRM	09/09/96	61 FR 47450
NPRM Comment Period End	12/31/96	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diane Tyrrell or Mike Carmichael, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-2329

RIN: 3206–AH47

3899. PROMOTION AND INTERNAL PLACEMENT; ACCELERATED QUALIFICATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 3301; 5 USC 3302; 5 USC 3329; EO 10577

CFR Citation: 5 CFR 316; 5 CFR 335; 5 CFR 338

Legal Deadline: None

Abstract: Gives agencies greater flexibility to design internal selection systems consistent with merit principles and other applicable status. NPR recommendation.

Timetable:

Action	Date	FR Cite
NPRM	02/20/96	61 FR 6324
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Supersedes RIN 3206-AG54.

Agency Contact: Karen Jacobs, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-2329

RIN: 3206–AG19

3900. • MORATORIUM ON INVOLUNTARY SES REASSIGNMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3395

CFR Citation: 5 CFR 317

Legal Deadline: None

Abstract: The interim regulations will clarify the existing regulatory provision at 5 CFR 317.901 covering the statutory 120-day moratorium on involuntary reassignments of SES career appointees following the appointment of a new agency head or noncareer supervisor. As agency transitions began to get underway after January 20, 1997, agency questions revealed that the moratorium regulations could be subject to an interpretation not intended by the statute. The interim regulations will make it clear that an agency may effect an involuntary reassignment, based on an unsatisfactory rating issued before the appointment that initiates the moratorium, as an exception to the moratorium.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bede Bender, Office of Executive Resources, Office of Personnel Management, 1900 E St. NW., Room 6484, Washington, DC 20415
Phone: 202 606-1784

RIN: 3206–AH92

3901. JOB LISTINGS; FULL CONSIDERATION OF DISPLACED DEFENSE EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3329; PL 102-484, sec 4432

CFR Citation: 5 CFR 330; 5 CFR 335

Legal Deadline: None

Abstract: Requires agencies to report to OPM announcements of vacancies for which they will accept applications from outside their own work forces. Requires agencies to give full consideration to displaced DOD employees, Pub. L. 102-484, 5 U.S.C. 3329.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/08/93	58 FR 18139
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ed McHughs, Employment Service, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-2329

RIN: 3206–AF36

3902. REDUCTION IN FORCE; RETREAT RIGHTS

Priority: Info./Admin./Other

Legal Authority: 5 USC 3502(a)

CFR Citation: 5 CFR 351

Legal Deadline: None

Abstract: The Office of Personnel Management is issuing interim retention regulations that clarify existing policy on employees' "Retreat" rights. These interim regulations also clarify existing policy concerning the content of specific written reduction in force notices, and issuance of a Certification of Expected Separation.

OPM

Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/25/95	60 FR 44253
Final Action	11/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Thomas A. Glennon or Ed McHugh, Employment Service, Workforce Restructuring Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415-0001
Phone: 202 606-0960
Fax: 202 606-2329

RIN: 3206–AG77

3903. RIF AND PERFORMANCE MANAGEMENT

Priority: Other Significant

Legal Authority: 5 USC 552; 5 USC 4315; 5 USC 1103; 5 USC 1104; 5 USC 1302; 5 USC 2951(2); 5 USC 3301; 5 USC 1302; 5 USC 3503; 5 USC ch 43; 5 USC 5115; 5 USC 5307; 5 USC 5338

CFR Citation: 5 CFR 293; 5 CFR 351; 5 CFR 430; 5 CFR 531

Legal Deadline: None

Abstract: The Office of Personnel Management is proposing regulations that enhance the opportunity for Federal employees to receive retention service credit in reduction in force based on their actual job performance. The proposal also gives agencies with employees who have been rated under different patterns of summary rating levels a mechanism to take this into account when awarding employees additional retention service credit for reduction in force. These proposed regulation also make other conforming technical and editorial changes in parts 351 and 430.

Timetable:

Action	Date	FR Cite
NPRM	02/04/97	62 FR 5174
NPRM Comment Period End	04/07/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ed McHugh, Employment Service, Workforce Restructuring Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0960
Fax: 202 606-2329

RIN: 3206–AH32

3904. REDUCTION IN FORCE AND MANDATORY TEMPORARY EXCEPTIONS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-208, sec 624

CFR Citation: 5 CFR 351

Legal Deadline: None

Abstract: Implements sec. 624 of Pub. L. 104-208. Gives employees the right to use annual leave to establish eligibility for retirement and continue health insurance in reductions in force.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/10/97	62 FR 10681
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Glennon, Employment Service, Workforce Restructuring Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0960
TDD: 202 606-2329
Fax: 202 606-0023

RIN: 3206–AH64

3905. • REDUCTION IN FORCE AND VACANT POSITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 1302

CFR Citation: 5 CFR 351

Legal Deadline: None

Abstract: Clarifies agency policy on reduction in force offers of assignment to vacant positions to satisfy an employee's assignment right under section 5 CFR 351.701 or in lieu of separation by reduction in force.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas A. Glennon, Employment Service, Workforce Restructuring Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0960
Fax: 202 606-2329

RIN: 3206–AH95

3906. RESTORATION TO DUTY FROM MILITARY SERVICE OR COMPENSABLE INJURY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8151; 38 USC 4301

CFR Citation: 5 CFR 353

Legal Deadline: None

Abstract: Restoration rights of Federal employees who leave employment to perform duty with the uniformed services, implementing USERRA Act of 1994, 48 USC chapter 43.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/01/95	60 FR 45650
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Raleigh Neville, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830

RIN: 3206–AG02

3907. PERFORMANCE RATINGS

Priority: Info./Admin./Other

Legal Authority: 5 USC 4305

CFR Citation: 5 CFR 430

Legal Deadline: None

Abstract: To avoid confusion regarding OPM's longstanding policy regarding retroactive, assumed, and carryover ratings of record, we propose to amend the current performance management regulations to explicitly specify that ratings of record are final upon issuance unless challenged by the employee, pertain only to the appraisal period for which originally issued, and that assumed ratings of records are prohibited. The prohibition of assumed ratings of record does not alter the specific provision contained in 5 CFR 351 for assigning additional service credit in a reduction in force when an employee has no rating of record.

Timetable:

Action	Date	FR Cite
NPRM	02/04/97	62 FR 5174
NPRM Comment Period End	04/07/97	
Final Action	11/00/97	

Small Entities Affected: None

OPM

Final Rule Stage

Government Levels Affected: None

Agency Contact: Barbara Colchao, Human Resources Systems Service, Office of Employee Relations and Workforce Performance, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-2720
Fax: 202 606-2395
Email: bwcolcha@opm.gov

RIN: 3206–AH77

3908. • OFFICIAL DUTY STATION DETERMINATIONS FOR PAY PURPOSES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5305; 5 USC 5304; 5 USC 5941; EO 10000; PL 101-509, sec 404

CFR Citation: 5 CFR 530; 5 CFR 531; 5 CFR 591

Legal Deadline: None

Abstract: These regulations clarify the location-based pay entitlements of Federal employees who are detailed or temporarily assigned to work at a new location. In particular, the regulations provide that, for employees receiving limited relocation allowances under 5 U.S.C. 5737 during temporary assignments, the new location is the official duty station for pay purposes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/09/97	62 FR 25423
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jean Jacobson, Human Resources Systems Service, Office of Compensation Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-2858
Fax: 202 606-0824
Email: payleave@opm.gov

RIN: 3206–AH84

3909. PAY UNDER THE GENERAL SCHEDULE; LOCALITY PAY AREAS FOR 1998

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5304; EO 12883

CFR Citation: 5 CFR 531, subpart F

Legal Deadline: None

Abstract: Consistent with the President's Pay Agent's determination. Two new locality pay areas would be established, Hartford, CT, and Orlando, FL, effective in January 1998.

Timetable:

Action	Date	FR Cite
NPRM	10/25/96	61 FR 55227
Final Action	10/00/97	
Final Action Effective	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeanne D. Jacobson, Human Resources Systems Service, Office of Compensation Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
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Email: payleave@opm.gov

RIN: 3206–AH65

3910. PREVAILING RATE SYSTEMS; REDEFINITION OF THE NORFOLK, MA, NONAPPROPRIATED FUND WAGE AREA

Priority: Info./Admin./Other

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: OPM plans regulatory actions to abolish the Norfolk, MA, nonappropriated fund (NAF) wage area and to redefine (1) Norfolk, Plymouth and Suffolk Counties in MA to the Middlesex, MA, NAF wage area and (2) Barnstable and Nantucket Counties in MA to the Newport, RI, wage area. This change is necessary because the closing of the wage area host activity, Naval Air Station, South Weymouth, MA, left Norfolk County without an activity having the capability to conduct a wage survey.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/23/96	61 FR 49649
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Derby, Human Resources Systems Services, Office of Compensation Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-2848
Fax: 202 606-4264
Email: payleave@opm.gov

RIN: 3206–AH58

3911. PREVAILING RATE SYSTEMS; REDEFINITION OF THE MARION, IN, NONAPPROPRIATED FUND WAGE AREA

Priority: Info./Admin./Other

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: OPM plan regulatory actions to abolish the Marion, IN, nonappropriated fund (NAF) wage area and to redefine (1) Grant, Miami, Allen and Marion Counties, IN, to the Greenville-Montgomery, OH, NAF wage area (2) Martin County, IL, to the Hardin-Jefferson, KY, NAF wage area and (3) Vermilion County, IL, to the Lake County, IL, NAF wage area. This change is necessary because the closing of the wage area host activity, Ft. Benjamin Harrison, left Marion County without an activity having the capability to conduct a wage survey.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/10/96	61 FR 47661
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Derby, Human Resources Systems Services, Office of Compensation Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-2848
Fax: 202 606-4264
Email: payleave@opm.gov

RIN: 3206–AH60

3912. • HOLIDAY AND PREMIUM PAY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5548; 5 USC 6133; 29 USC 204(f)

CFR Citation: 5 CFR 523; 5 CFR 550; 5 CFR 551; 5 CFR 610

Legal Deadline: None

Abstract: The regulations implement recent changes in law which provide authority for compensatory time off for prevailing rate (wage) employees in lieu of overtime pay and agency flexibility in determining the "in lieu of" holiday for employees on compressed work schedules when the actual holiday for the employee is on a nonworkday. A current regulation is also corrected to comply with a provision of law authorizing use of alternative work schedules for civilian nonappropriated fund employees of the Armed Services

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/23/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James R. Weddel, Human Resources Systems Service, Office of Compensation Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-2858
Fax: 202 606-0824
Email: payleave@opm.gov

RIN: 3206–AH86

3913. • PREVAILING RATE SYSTEMS; ABOLISHMENT OF LUBBOCK NONAPPROPRIATED FUND WAGE AREA

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5343; 5 USC 5346

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: The Office of Personnel Management is issuing an interim rule to abolish the Lubbock, Texas, nonappropriated Fund (NAF) Federal Wage System (FWS) wage area and to establish a new Curry, New Mexico, NAF wage area.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/27/97	62 FR 28978
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Derby, Human Resources Systems Service, Office of Compensation Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-2848
Fax: 202 606-4264
Email: payleave@opm.gov

RIN: 3206–AH88

3914. VOLUNTARY SEPARATION INCENTIVE REPAYMENT WAIVERS

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-226

CFR Citation: 5 CFR 550

Legal Deadline: None

Abstract: Public Law 103-226 authorizes OPM to waive repayment of a voluntary separation incentive payment if a former employee who accepted the incentive payment is reemployed by an executive agency of the U.S. within 5 years of separation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/09/94	59 FR 55807
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Greg Keller, Employment Service, Federal Workforce Restructuring Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0960
Fax: 202 606-2329

RIN: 3206–AG29

3915. PAY ADMINISTRATION; AVAILABILITY PAY FOR CRIMINAL INVESTIGATORS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5545a(h); 5 USC 5548

CFR Citation: 5 CFR 550

Legal Deadline: None

Abstract: Regulations on implementation of availability pay, a new form of premium pay for criminal investigators who are required to work, or be available to work substantial amounts of unscheduled overtime duty based on the needs of the employing agency.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/23/94	59 FR 66149
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kevin Kitchelt, Human Resources Systems Service, Office of Compensation Policy, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2858
Fax: 202 606-0824
Email: payleave@opm.gov

RIN: 3206–AG47

3916. LUMP-SUM PAYMENTS FOR ANNUAL LEAVE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5553

CFR Citation: 5 CFR 550, subpart L

Legal Deadline: None

Abstract: The Technical and Miscellaneous Civil Service Amendments Act of 1992 (Pub. L. 102-378, October 2, 1992) created a new provision, 5 U.S.C. 5553, to provide OPM with regulatory authority for administering lump-sum payments for annual leave.

Timetable:

Action	Date	FR Cite
NPRM	07/29/97	62 FR 40475
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: JoAnn Perrini, Human Resources Systems Service, Office of Compensation Policy, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2858
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Email: payleave@opm.gov

RIN: 3206–AF38

3917. PROCESSING GARNISHMENT ORDERS FOR CHILD SUPPORT AND/OR ALIMONY AND COMMERCIAL GARNISHMENT OF FEDERAL EMPLOYEES' PAY

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 659; 15 USC 1673; EO 12105; 5 USC 5520a; PL 104-106, sec 643; EO 12897

CFR Citation: 5 CFR 581; 5 CFR 582

Legal Deadline: Final, Statutory, February 10, 1996.
Pub.L. 104-106 requires agencies to deduct for the garnishment orders.

Abstract: In accordance with Pub. L. 104-193, amends 5 CFR part 581. Amends the definition of child support. Expands the Federal payments subject to garnishment. Amends 5 CFR part 582 as required by Pub. L. 104-106 to require deduction for the cost of processing a garnishment order. Clarifies the order of precedence for tax levies and the applicability of the Consumer Credit Protection Act where the debtor receives two or more types of remuneration. Clarifies OPM's intent

OPM

Final Rule Stage

regarding the statutory waiver of sovereign immunity.

Timetable:

Action	Date	FR Cite
NPRM	08/11/97	62 FR 31763
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Murray M. Meeker, Office of the General Counsel, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-1700
Fax: 202 606-0082

RIN: 3206–AH43

3918. COST-OF-LIVING ALLOWANCE IN NONFOREIGN AREAS: SURVEY RESULTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5941

CFR Citation: 5 CFR 591

Legal Deadline: None

Abstract: The Office of Personnel Management will issue regulations implementing any increases in nonforeign area cost-of-living allowance (COLA) rates indicated by COLA survey results. Section 5941 of title 5, United States Code, provides for the payment of nonforeign area cost-of-living allowances (COLA's) in Alaska, Hawaii, and other nonforeign overseas areas. The Office of Personnel Management conducts living-cost surveys to set COLA rates. Reductions in nonforeign area COLA rates are prohibited by the Treasury, Postal Service, and General Government Appropriations Act, 1992, as amended, through December 31, 1998, and will not be proposed during the restricted period.

Timetable:

Action	Date	FR Cite
Notice Winter 1995 Report	02/02/96	61 FR 4070
Interim Final Rule	03/25/97	62 FR 14168
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kurt M. Springmann, Human Resources and Systems Service, Office of Compensation Policy, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2838
Fax: 202 606-4264
Email: cola@opm.gov

RIN: 3206–AH07

3919. COST-OF-LIVING ALLOWANCES AND POST DIFFERENTIALS (NONFOREIGN AREAS; MISCELLANEOUS CHANGES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5941; EO 10000

CFR Citation: 5 CFR 591

Legal Deadline: None

Abstract: Section 5941 of title 5 United States Code, provides for the payment of nonforeign area cost-of-living allowances (COLA's) and post differentials in Alaska, Hawaii, and other nonforeign overseas areas. OPM is planning to issue regulations that would (1) Remove obsolete references that refer to hiring authorities no longer in use, (2) Clarify application of COLA regulations to two pay systems linked to or equivalent to the Senior Executive Service, (3) Clarify application of COLA regulations to employees under other pay systems, (4) Extend nonforeign area post differentials to employees on long-term temporary assignments in the same manner as is provided by the State Department for employees in foreign areas.

Timetable:

Action	Date	FR Cite
NPRM	03/20/97	62 FR 13354
NPRM Comment Period End	05/19/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul B. Malerba, Human Resources Systems Service, Office of Compensation Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-2838
Fax: 202 606-4264
Email: cola@opm.gov

RIN: 3206–AH51

3920. POLITICAL ACTIVITY—FEDERAL EMPLOYEES RESIDING IN DESIGNATED LOCALITIES

Regulatory Plan: This entry is Seq. No. 149 in Part II of this issue of the Federal Register.

RIN: 3206–AF78

3921. RETIREMENT; COVERAGE - NON-APPROPRIATED FUND INSTRUMENTALITIES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831; 5 CFR 837; 5 CFR 841; 5 CFR 842; 5 CFR 843; 5 CFR 844; 5 CFR 847

Legal Deadline: Final, Statutory, August 9, 1996.

Abstract: These regulations implement the provisions of Pub.L. 104-106 which allow certain employees who have been employed by Non-appropriated Fund Instrumentalities under the jurisdiction of the armed forces to obtain retirement credit under limited circumstances.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/08/96	61 FR 41714
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cynthia Reinhold, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 204415
Phone: 202 606-0299
Email: combox@opm.gov

RIN: 3206–AH57

3922. REVISED APPLICATION PROCEDURES FOR DISABILITY RETIREMENT UNDER CSRS AND FERS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8104; 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 831; 5 CFR 844

Legal Deadline: None

Abstract: These regulations will establish uniformity in application procedures for disability retirement under the Civil Service Retirement System and the Federal Employees Retirement System. The regulation would allow employees to meet the filing deadline for disability retirement by submitting applications directly to their former employing agency or to OPM within 1 year after separation.

Timetable:

Action	Date	FR Cite
NPRM	01/16/97	62 FR 2323

OPM

Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	03/17/97	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Girouard, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0299
Email: combox@opm.gov

RIN: 3206–AH68

3923. RETIREMENT AND INSURANCE BENEFITS DURING PERIODS OF UNEXPLAINED ABSENCE

Priority: Info./Admin./Other

Legal Authority: 5 USC 8347(a); 5 USC 8461(g); 5 USC 8716; 5 USC 8913

CFR Citation: 5 CFR 831; 5 CFR 841; 5 CFR 880

Legal Deadline: None

Abstract: These regulations establish a uniform standard that OPM will use in its administration of retirement and insurance benefits in cases in which a retired employee disappears. These regulations would establish procedures to determine the status of the missing annuitant and to allow the missing annuitant's dependents to obtain benefits until the missing annuitant's status is resolved.

Timetable:

Action	Date	FR Cite
NPRM	07/02/97	62 FR 35693
NPRM Comment Period End	09/02/97	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold Siegelman, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0299
Email: combox@opm.gov

RIN: 3206–AH75

3924. RETIREMENT COVERAGE FOR DC FINANCIAL CONTROL BOARD EMPLOYEES

Priority: Info./Admin./Other

Legal Authority: PL 104-8

CFR Citation: 5 CFR 831; 5 CFR 842

Legal Deadline: None

Abstract: These regulations implement the District of Columbia Financial Responsibility and Management Assistance Act of 1995. They establish standards by which some former Federal employees may carry civil service retirement coverage to employment with the DC Financial Control Board.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/15/96	61 FR 58457
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patrick Jennings, Retirement and Insurance Service, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415-0001
Phone: 202 606-0299
Email: combox@opm.gov

RIN: 3206–AG78

3925. RETIREMENT; FERS BASIC ANNUITY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8461

CFR Citation: 5 CFR 842(b) to (g)

Legal Deadline: None

Abstract: These final regulations will amend FERS Basic Annuity regulations governing Eligibility (subpart B), Credit for Service (subpart C), Computations (subpart F), and Alternative Forms of Annuity (subpart G). These regulations have been published at various times in interim final form, and have been affected by statutory changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/16/87	52 FR 2061
Interim Final Rule	01/16/87	52 FR 2067
Interim Final Rule	02/11/87	52 FR 4473
Interim Final Rule	02/11/87	52 FR 4479
Interim Final Rule	05/14/87	52 FR 18193
Interim Final Rule	04/08/88	53 FR 11635
Interim Final Rule	02/09/90	55 FR 4598
Final Rule	12/27/90	55 FR 53136
Interim Final Rule	02/19/91	56 FR 6549
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold L. Siegelman, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0299
Email: combox@opm.gov

RIN: 3206–AE73

3926. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM: PAYMENT OF PREMIUMS FOR PERIODS OF LEAVE WITHOUT PAY OR INSUFFICIENT PAY

Priority: Info./Admin./Other

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: Regulations that establish a requirement that Federal agencies counsel employees entering nonpay status, or whose pay is insufficient to cover their FEHB premium payments, of the options of continuing or terminating their FEHB coverage, and if continuing, of paying premiums directly on a current basis or incurring a debt to be withheld from future salary. These regulations are intended to ensure employees are fully aware of these alternatives.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/22/96	61 FR 37807
Final Action	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret Sears, Retirement and Insurance Service, Insurance Policy and Information Division, Office of Personnel Management, Office of Insurance Programs, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0004
Fax: 202 606-0633

RIN: 3206–AG66

OFFICE OF PERSONNEL MANAGEMENT (OPM) — Long-Term Actions

3927. CLAIMS COLLECTIONS STANDARDS; DEBT COLLECTION ACT OF 1982; SALARY OFFSET

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 952; PL 95-454; 5 USC 5514

CFR Citation: 5 CFR 178

Legal Deadline: None

Abstract: The Office of Personnel Management (OPM) is revising the regulations it issued on July 11, 1994, that govern the collection of debts owed to OPM by Federal employees. These regulations implement the debt collection procedures provided under section 5 of the Debt Collection Act of 1982.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bob Loring, Office of the Chief Financial Officer, Office of Financial Management, Office of Personnel Management, 1900 E St. NW., Washington, DC
Phone: 202 606-5028

RIN: 3206–AG64

3928. NONCOMPETITIVE APPOINTMENTS OF CORPORATION FOR NATIONAL SERVICE EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 12651f

CFR Citation: 5 CFR 315; 5 CFR 316

Legal Deadline: None

Abstract: Permits permanent and indefinite employees of the Corporation for National Service to receive noncompetitive appointments in the competitive service. Implements National and Community Service Trust Act of 1993.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karen Jacobs, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-2329

RIN: 3206–AH48

3929. PERFORMANCE MANAGEMENT REFORM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 43; 5 USC 45

CFR Citation: 5 CFR 430; 5 CFR 451

Legal Deadline: None

Abstract: Regulatory changes to comply with legislative reforms in support of the National Performance Review (NPR) recommendations that decentralize performance management and incentive awards programs to the agencies.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Doris Hausser, Chief, Performance Management and Incentive Awards Division, OLRWP, Office of Personnel Management, Human Resource Systems Service, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2720
Fax: 202 606-2395
Email: dlhausse@opm.gov

RIN: 3206–AF57

3930. • DISABLED VETERANS AFFIRMATIVE ACTION PROGRAM (DVAAP)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 4214

CFR Citation: 5 CFR 720

Legal Deadline: None

Abstract: Adjusts regulations to conform to latest revision in law and clarifies technical issues.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Armando Rodriguez, Employment Service, Diversity Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830

RIN: 3206–AH99

3931. SUITABILITY—SUITABILITY DISQUALIFICATION/RATING ACTIONS

Priority: Other Significant

Legal Authority: 5 USC 3301; 5 USC 3302; 5 USC 7301; EO 10577; EO 11222

CFR Citation: 5 CFR 731(b) to (c)

Legal Deadline: None

Abstract: With the abolishment in December 1993 of the Federal Personnel Manual (FPM), certain policies and procedures enunciated in the FPM must be considered for publication in another format. Since all of these policies and procedures are important to continued program operations, some of them will be published in pamphlets for users and other more significant items will be incorporated in the Code of Federal Regulations. The Office of Management and Budget (OMB) has determined that these regulations are significant and require OMB review prior to publication. However, we foresee no significant issues arising from implementation of these changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/23/91	56 FR 18650
Interim Final Rule	09/16/94	59 FR 47527
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard A. Ferris, Associate Director, Investigations Service, Office of Personnel Management, P.O. Box 886, Washington, DC 20044-0886
Phone: 202 606-1042

RIN: 3206–AC19

3932. PERSONNEL SECURITY AND RELATED PROGRAMS

Priority: Other Significant

Legal Authority: 5 USC 3301; 8 USC 3302; 5 USC 7312; 50 USC 403; EO 10450; EO 10577

CFR Citation: 5 CFR 732

Legal Deadline: None

Abstract: With the abolishment in December 1993 of the Federal Personnel Manual (FPM), certain policies and procedures enunciated in the FPM must be considered for publication in another format. Since all of these policies and procedures are important to continued program operations, some of them will be published in pamphlets for users and other more significant items will be incorporated in the Code of Federal Regulations. The Office of Management and Budget (OMB) has determined that these regulations are significant and require OMB review prior to publication. However, we see no significant issues arising from implementation of these changes:

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/23/91	56 FR 18650
Interim Final Rule	09/16/94	59 FR 47527
Interim Final Rule Effective Date	10/17/94	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard A. Ferris, Associate Director, Investigations Service, Office of Personnel Management, P.O. Box 886, Washington, DC 20415
Phone: 202 606-1042

RIN: 3206–AC21

OPM — Long-Term Actions

3933. INVESTIGATIONS

Priority: Other Significant

Legal Authority: PL 93-579; 5 USC 552a

CFR Citation: 5 CFR 736

Legal Deadline: None

Abstract: With the abolishment in December 1993 of the Federal Personnel Manual (FPM), certain policies and procedures enunciated in the FPM must be considered for publication in another format. Since all of these policies and procedures are important to continued program operations, some of them will be published in pamphlets for users and other more significant items will be incorporated in the Code of Federal Regulations. The Office of Management and Budget (OMB) has determined that these regulations are significant and require OMB review prior to publication. However, we foresee no significant issues arising from implementation of these changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/23/91	56 FR 18650
Begin Review	10/01/93	
Interim Final Rule	09/16/94	59 FR 47527
Interim Final Rule Effective Date	10/17/94	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard A. Ferris, Associate Director, Investigations Service, Office of Personnel Management, P.O. Box 886, Washington, DC 20044-0886
Phone: 202 606-1042

RIN: 3206–AB92

3934. DEBARMENTS, CIVIL MONETARY PENALTIES, AND ASSESSMENTS IMPOSED AGAINST PROVIDERS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8902a

CFR Citation: 5 CFR 890(j)

Legal Deadline: None

Abstract: These regulations will implement title I of Pub. L. 100-654, the "Federal Employees Health Benefits Amendments Act of 1988," which authorizes OPM to debar health care providers who are culpable of certain offenses from participation in the FEHBP, and to levy monetary penalties and assessments against individuals who have committed offenses against FEHBP. Passage of the proposed amendments of 5 U.S.C. section 8902a would remove unnecessary administrative constraints on the agency, provide more flexible and less-time consuming procedures, and improve OPM's administration of sanctions against unfit health care providers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/30/89	54 FR 43930
NPRM	02/04/93	58 FR 7052
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: J. David Cope, Asst. Inspector General for Policy, Office of the Inspector General, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2851
Fax: 202 606-2153
Email: jdcope@opm.gov

RIN: 3206–AD76

OFFICE OF PERSONNEL MANAGEMENT (OPM) — Completed Actions

3935. PROGRAM FRAUD CIVIL REMEDIES

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 185

Completed:

Reason	Date	FR Cite
Withdrawn	07/15/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Murray M. Meeker
Phone: 202 606-1700

RIN: 3206–AH73

3936. SUMMER EMPLOYMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 5 CFR 338.202(b)(2); 5 CFR 213.3101(c); 5 CFR 213.3101(e); 5 CFR 213.3101(f); 5 CFR 338.202(e); 5 CFR 338.202(a); 5 CFR 338.202(b); 5 CFR 338.202(b)(1); 5 CFR 338.202(b)(3); 5 CFR 338.202(b)(4); 5 CFR 338.202(c); 5 CFR 338.202(c)(1); 5 CFR 338.202(c)(2); 5 CFR 338.202(c)(3); 5 CFR 338.202(d); ...

Completed:

Reason	Date	FR Cite
Final Action	04/24/97	62 FR 19899
Final Action Effective	04/24/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karen Jacobs
Phone: 202 606-0830
TDD: 202 606-0023

Fax: 202 606-2329

RIN: 3206–AG21

3937. EXCEPTED SERVICE—SCHEDULE A AUTHORITY FOR TEMPORARY ORGANIZATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 213.3199

Completed:

Reason	Date	FR Cite
Final Action	04/16/97	62 FR 18505
Final Action Effective	05/16/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sylvia Cole
Phone: 202 606-0830

RIN: 3206–AH67

3938. NOTIFICATION REQUIREMENTS RELATING TO THE STATUTORY PROHIBITIONS ON POLITICAL RECOMMENDATIONS

Priority: Other Significant

CFR Citation: 5 CFR 300, subpart H

Completed:

Reason	Date	FR Cite
Final Action	04/29/97	62 FR 23125
Final Action Effective	05/29/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jo-Ann Chabot
Phone: 202 606-0092

RIN: 3206–AH71

3939. CAREER TRANSITION ASSISTANCE FOR SURPLUS AND DISPLACED FEDERAL EMPLOYEES

Priority: Other Significant

CFR Citation: 5 CFR 330; 5 CFR 332; 5 CFR 351

Completed:

Reason	Date	FR Cite
Final Action	06/09/97	62 FR 31315
Final Action Effective	07/09/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Susan Shelton
Phone: 202 606-0960

RIN: 3206–AH26

3940. TEMPORARY ASSIGNMENTS OF EMPLOYEES BETWEEN FEDERAL AGENCIES, STATE, LOCAL, AND INDIAN TRIBAL GOVERNMENTS, INSTITUTIONS OF HIGHER LEARNING, AND OTHER ELIGIBLE ORGANIZATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 334

Completed:

Reason	Date	FR Cite
Final Action	04/29/97	62 FR 23126
Final Action Effective	05/29/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anthony Ryan
Phone: 202 606-1161
Fax: 202 606-3577

RIN: 3206–AG61

3941. • QUALIFICATION REQUIREMENTS (GENERAL)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3301; PL 104-65; 5 USC 3304; EO 10577

CFR Citation: 5 CFR 338

Legal Deadline: None

Abstract: Implements section 17 of Pub.L. 104-65 to consider experience of applicants for competitive service positions. being considered for competitive service positions.

Timetable:

Action	Date	FR Cite
NPRM	06/06/97	62 FR 30778
Final Action	08/22/97	62 FR 44535
Final Action Effective	09/22/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tina Vay, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-2329

RIN: 3206–AH85

3942. PRESIDENTIAL MANAGEMENT INTERN PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 362; 5 CFR 315

Completed:

Reason	Date	FR Cite
Final Action	08/20/97	62 FR 44199
Final Action Effective	08/20/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tina Vay
Phone: 202 606-0830
Fax: 202 606-2329

RIN: 3206–AH53

3943. PERFORMANCE APPRAISAL IN THE SENIOR EXECUTIVE SERVICE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 5 CFR 430, subpart C

Completed:

Reason	Date	FR Cite
Withdrawn	07/14/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William C. Collins
Phone: 202 606-2246
Fax: 202 606-3126

RIN: 3206–AG91

3944. EMPLOYEE RESPONSIBILITIES AND CONDUCT; SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE OFFICE OF PERSONNEL MANAGEMENT

Priority: Routine and Frequent

CFR Citation: 5 CFR 4501; 5 CFR 1001

Completed:

Reason	Date	FR Cite
Final Action	08/11/97	62 FR 42897
Final Action Effective	08/11/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lorraine Lewis
Phone: 202 606-1700
Fax: 202 606-2609

RIN: 3206–AG87

3945. HOLIDAYS AND PREMIUM PAY

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 532; 5 CFR 550; 5 CFR 551; 5 CFR 610

Completed:

Reason	Date	FR Cite
Withdrawn	08/06/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James R. Weddel
Phone: 202 606-2858
Fax: 202 606-0824

RIN: 3206–AH78

3946. SEVERANCE PAY; PANAMA CANAL COMMISSION EMPLOYEES

Priority: Other Significant

CFR Citation: 5 CFR 550, subpart G

Completed:

Reason	Date	FR Cite
Final Action	09/19/97	62 FR 49125
Final Action Effective	10/20/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: D. Bryce Baker
Phone: 202 606-2858
Fax: 202 606-0824
Email: payleave@opm.gov

RIN: 3206–AF89

3947. COST-OF-LIVING ALLOWANCES (NONFOREIGN AREAS); TEMPORARY ASSIGNMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 591

Completed:

Reason	Date	FR Cite
Withdrawn	08/06/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kurt M. Springmann
Phone: 202 606-2838
Fax: 202 606-4264

RIN: 3206–AH79

3948. ADMINISTRATION AND GENERAL PROVISIONS—ADMINISTRATION

Priority: Info./Admin./Other

CFR Citation: 5 CFR 831

Completed:

Reason	Date	FR Cite
Final Action	04/28/97	62 FR 22873
Final Action Effective	05/28/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth Brown
Phone: 202 606-0299
Email: combox@opm.gov

RIN: 3206–AH66

3949. FEDERAL EMPLOYEES' GROUP LIFE INSURANCE PROGRAM: MERGER OF LIFE INSURANCE REGULATIONS; LIVING BENEFITS; ASSIGNMENT OF LIFE INSURANCE

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 870; 5 CFR 871; 5 CFR 872; 5 CFR 873; 5 CFR 874

Completed:

Reason	Date	FR Cite
Final Action	09/17/97	62 FR 48731
Final Action Effective	10/17/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karen Leibach
Phone: 202 606-0004
Fax: 202 606-0633

RIN: 3206–AF32

3950. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM (FEHBP): OPPORTUNITIES TO ENROLL AND CHANGE ENROLLMENT

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 5 CFR 890

Completed:

Reason	Date	FR Cite
Final Action	07/18/97	62 FR 38433
Final Action Effective	08/18/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Myers
Phone: 202 606-0004
Fax: 202 606-0633

RIN: 3206–AH46

3951. ESTABLISHING A MERIT REQUIREMENT

Priority: Other Significant

CFR Citation: 5 CFR 900, subpart F

Completed:

Reason	Date	FR Cite
Withdrawn	06/24/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary L. Smith
Phone: 202 606-2762

RIN: 3206–AH70

3952. • INTERGOVERNMENTAL PERSONNEL ACT PROGRAMS; STANDARDS FOR A MERIT SYSTEM OF PERSONNEL ADMINISTRATION

Priority: Substantive, Nonsignificant

Legal Authority: PL 91-648

CFR Citation: 5 CFR 900, subpart F

Legal Deadline: None

Abstract: The Intergovernmental Personnel Act, Pub. L. 91-648, vests OPM with the authority to determine compliance with the Law and with resolving allegations of non-compliance through advice and assistance to Chief executives of the jurisdictions and Heads of grantor agencies. Revisions to the regulation would establish a mechanism to resolve complaints regarding merit system standards required of State and local governments that receive grants-in-aid from Federal agencies. Currently, there are no means for complaints to resolve issues excepted to make allegations to OPM.

Timetable:

Action	Date	FR Cite
NPRM	02/03/97	62 FR 4940
Final Action	06/24/97	62 FR 33971
Final Action Effective	07/24/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Propose regulation published on 2/03/97 as RIN: 3206-AH70.

Agency Contact: Gary L. Smith, Office of Merit Systems Oversight and, Effectiveness, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-2762

RIN: 3206–AH90

3953. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM ACQUISITION REGULATION: TRUTH IN NEGOTIATIONS ACT AND RELATED CHANGES

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 1602; 48 CFR 1603; 48 CFR 1604; 48 CFR 1615; 48 CFR 1616; 48 CFR 1631; 48 CFR 1644; 48 CFR 1652; 48 CFR 1653; 48 CFR 1629; 48 CFR 1643; 48 CFR 1645; 48 CFR 1649

Completed:

Reason	Date	FR Cite
Final Action	09/10/97	62 FR 47589
Final Action Effective	10/10/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Mary Ann Mercer
Phone: 202 606-0004
Fax: 202 606-0633

RIN: 3206–AH45

[FR Doc. 97-24029 Filed 10-28-97; 8:45 am]
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federal register

Wednesday
October 29, 1997

Part XXXVII

Panama Canal Commission

Semiannual Regulatory Agenda

PANAMA CANAL COMMISSION (PANAMA)

PANAMA CANAL COMMISSION

35 CFR Ch. I

Semiannual Regulatory Agenda, October 1997

AGENCY: Panama Canal Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The purpose of this agenda is to report the proposed rulemaking activities of the Panama Canal Commission. This information will allow the public to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: For information about a particular regulatory project, contact the person listed in the subheading "Agency Contact" for that project. For general information, contact John A. Mills, Secretary, Panama Canal Commission, International Square, 1825 I Street NW., Suite 1050, Washington, DC 20006-5402, (202) 634-6441 TDD or e-mail PanCanalWO@AOL.COM; or John L. Haines, Jr., Esquire, General Counsel, Panama Canal Commission, Unit 2300, APO AA 34011-2300, 011/507-272-7511.

SUPPLEMENTARY INFORMATION: Executive Order 12866 "Regulatory Planning and Review" and the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, require that executive agencies publish in the **Federal Register** a semiannual notice of regulations which are under development or review or for which action has been completed. The Panama Canal Commission agenda contains certain regulations which are limited in public impact, but they are included to increase public awareness of Commission activities and to allow for increased public participation in the Agency's regulatory review and development process. This agenda was prepared pursuant to guidelines established by the Office of Management and Budget.

Dated: September 5, 1997.

John A. Mills,

Secretary, Panama Canal Commission.

PANAMA CANAL COMMISSION (PANAMA) — Proposed Rule Stage

3954. • PANAMA CANAL COMMISSION ACQUISITION REGULATION

Priority: Other Significant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 35

Legal Deadline: Final, Statutory, January 1, 1999.

Abstract: Publication of a revised Panama Canal Commission Acquisition Regulation to become the sole, comprehensive and autonomous procurement regulation applicable to the Panama Canal Commission suitable for adoption and uninterrupted use by the Government of Panama after Canal transfer on December 31, 1999.

Timetable:

Action	Date	FR Cite
NPRM	06/00/98	
Final Action	09/00/98	
Final Action Effective	01/00/99	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Theodore G. Lucas, Procurement Executive, Office of General Counsel, Panama Canal Commission, Unit 2300, APO AA 34011-2300
Phone: 507 272-2755
Fax: 507 272-3748

RIN: 3207–AA44

PANAMA CANAL COMMISSION (PANAMA) — Final Rule Stage

3955. DANGEROUS CARGOES; RADIO COMMUNICATION

Priority: Other Significant

Legal Authority: 22 USC 3811; EO 12215

CFR Citation: 35 CFR 113.49(b) (Revision)

Legal Deadline: None

Abstract: The Panama Canal Commission is proposing to make the following change and clarification:

35 CFR 113.49(b): Explosive cargo to be used for other than official U.S. Government purposes may not be loaded or offloaded at facilities of the Panama Canal Commission. Explosive anchorages prescribed in sections 101.8(a)(2)(3) and 101.8(c)(2), respectively, may be used upon approval of the Marine Safety Advisor, or his designee and concurrence of Canal Ops Captain.

Timetable:

Action	Date	FR Cite
Final Action	12/00/97	
Final Action Effective	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Capt. George T. Hull, Marine Director, Panama Canal Commission, Marine Bureau, Unit 2300, APO AA 34011-2300
Phone: 202 634-6441
Fax: 202 634-6439
Email: pancanalwo@aol.com

RIN: 3207–AA26

3956. VESSEL TRANSIT RESERVATION SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 3811

CFR Citation: 35 CFR 103 (Revision); 35 CFR 104

Legal Deadline: None

Abstract: This final rule constitutes the Panama Canal Vessel Transit Reservation System, which allows vessels to reserve transit slots in advance of arrival at the Panama Canal and be moved through the canal on pre-assigned dates.

PANAMA — Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	03/05/97	62 FR 9997
NPRM Comment Period End	04/04/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John A. Mills, Secretary, Panama Canal Commission, 1825 I Street NW., Suite 1050, Washington, DC 20006-5402
Phone: 202 634-6441
Fax: 202 634-6439
Email: pancanalwo@aol.com

RIN: 3207–AA40

PANAMA CANAL COMMISSION (PANAMA) — Long-Term Actions

3957. • BOARD OF LOCAL INSPECTORS; MARINE ACCIDENTS; LICENSING OF OFFICERS

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 3777; 22 USC 3778; 22 USC 3811

CFR Citation: 35 CFR 115; 35 CFR 117; 35 CFR 119

Legal Deadline: None

Abstract: Under an agencywide reorganization plan, the Marine Director (previously an active duty retired U.S. Naval Officer) is no longer required to have ship handling experience. That change eliminates the need for, and utility of, that official's oversight of the investigative, examination, and licensing functions of the BLI and, in keeping with the goal of streamlining the agency, the administrative position of supervising inspector is being eliminated. Henceforth, the BLI will forward its investigative reports directly to the Administrator for approval. Other duties previously performed by the Supervising Inspector are either being eliminated or assumed by the Administrator or his designee.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Haines, General Counsel, Panama Canal Commission, Unit 2300, APO, AA 34011
Phone: 507 272-7511
Fax: 507 272-3748
Email: pancanalwo@aol.com

RIN: 3207–AA42

3958. • TOLLS FOR USE OF CANAL; RULES FOR MEASUREMENT OF VESSELS

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 3791; 22 USC 3792

CFR Citation: 35 CFR 133.1; 35 CFR 135.1; 35 CFR 135.32

Legal Deadline: None

Abstract: The Panama Canal Commission proposes to set a fixed, minimum toll rate for certain small vessels, the definition of which is still under consideration, which transit the Canal.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Chan, Chief, Office of Financial Planning, Panama Canal Commission, Unit 2300, APO, AA 34011
Phone: 507 272-3137
Fax: 507 272-3433

RIN: 3207–AA43

PANAMA CANAL COMMISSION (PANAMA) — Completed Actions

3959. • HEALTH, SANITATION, AND COMMUNICABLE DISEASE SURVEILLANCE

Priority: Info./Admin./Other

Legal Authority: 22 USC 1102b

CFR Citation: 35 CFR 61

Legal Deadline: None

Abstract: The Panama Canal is amending its rules to delete references to activities assumed by the Republic of Panama in accordance with the Panama Canal Treaty of 1977, to correct titles of Commission Officers, and to state correctly the sanitation and communicable disease surveillance activities performed by the Commission. The amendments are technical changes only which do not change the procedural rights or responsibilities of the users of the canal.

Timetable:

Action	Date	FR Cite
Final Action	06/23/97	62 FR 33747

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John A. Mills, Secretary, Panama Canal Commission, 1825 I Street NW., Washington, DC 20006-5402
Phone: 202 634-6441
Fax: 202 634-6439
Email: pancanalwo@aol.com

RIN: 3207–AA41

[FR Doc. 97-24746 Filed 10-28-97; 8:45 am]

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October 29, 1997

Part XXXVIII

Peace Corps

Semiannual Regulatory Agenda

PEACE CORPS (PEACE)

PEACE CORPS

22 CFR Ch. III

Regulatory Agenda

AGENCY: Peace Corps.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the regulations the Peace Corps will have under development during the 12-month period from October 1, 1997, through September 30, 1998. The purpose for publishing this agenda is to give notice of any regulatory activity by the Agency in order to allow the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: The public is encouraged to contact the agency official listed for the particular agenda item. For other information concerning Peace Corps' regulations or this semiannual agenda, contact Nancy H. Hendry, General Counsel, Peace Corps, 1990 K Street NW., Washington, DC 20526, (202) 606-3114.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12866 entitled "Regulatory Planning and Review" and the Regulatory Flexibility Act, 5 U.S.C. 601-612, executive agencies are required to publish in the **Federal Register** semiannual regulatory agendas in April and October of each year. The regulations being considered by the Peace Corps are not "significant" rules within the meaning of Executive Order 12866, and no regulatory impact analysis is required. In addition, the Peace Corps has determined, under the Regulatory Flexibility Act, that the regulations under consideration will not have a significant economic impact on a substantial number of small entities. Accordingly, no Regulatory Flexibility Analysis is required. The Agency has also determined that the regulations will not impose compliance costs or reporting burdens on the public.

Dated: August 15, 1997.

Nancy H. Hendry,

General Counsel.

PEACE CORPS (PEACE) — Long-Term Actions

3960. IMPLEMENTATION OF REHABILITATION ACT OF 1973, PART 504—HANDICAPPED DISCRIMINATION PROHIBITION

Priority: Info./Admin./Other

Legal Authority: 29 USC 794

CFR Citation: 22 CFR 312

Legal Deadline: None

Abstract: The regulation implements section 504 of the Rehabilitation Act of 1973 (29 USC 794), which prohibits discrimination on the basis of handicap in programs or activities conducted by executive agencies or the Postal Service.

Timetable:

Action	Date	FR Cite
NPRM	10/08/91	56 FR 50684
NPRM Comment Period End	12/09/91	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Nancy H. Hendry, General Counsel, Peace Corps, Office of General Counsel, Suite 8300, 1990 K Street NW., Washington, DC 20526
Phone: 202 606-3114
Fax: 202 606-3729

RIN: 0420–AA03

3961. SUPPLEMENTAL STANDARDS OF CONDUCT FOR PEACE CORPS EMPLOYEES

Priority: Info./Admin./Other

Legal Authority: EO 12674; 5 CFR 2635.105

CFR Citation: 22 CFR 307; 5 CFR 67 (New)

Legal Deadline: None

Abstract: The Office of Government Ethics has issued Governmentwide standards of conduct which pertain to all Executive branch employees, including Peace Corps employees. The Peace Corps, pursuant to section 2635.105, plans to issue its own Supplemental Agency Regulations.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Nancy H. Hendry, General Counsel, Peace Corps, Office of General Counsel, Suite 8300, 1990 K Street NW., Washington, DC 20526
Phone: 202 606-3114
Fax: 202 606-3729

RIN: 0420–AA09

3962. ELIGIBILITY AND STANDARDS FOR PEACE CORPS VOLUNTEER SERVICE RE: PROCEDURES—APPEALS

Priority: Substantive, Nonsignificant

Legal Authority: 75 Stat 612, secs 4(b), 5(a), and 22; 22 USC 2504; EO 12137, May 16, 1979; International Security & Development Coop. Act of 1981, sec 601; 95 Stat 1519 and 1540; 42 USC 5057(c)(1) Domestic Volunteer Service Act, sec 417(c)(1)

CFR Citation: 22 CFR 305

Legal Deadline: None

Abstract: The Peace Corps is reviewing its Eligibility and Standards for Peace Corps Service, specifically with regard to establishing and publishing an appeals procedure for administrative and medical deselection.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Nancy H. Hendry, General Counsel, Peace Corps, Office of General Counsel, Suite 8300, 1990 K Street NW., Washington, DC 20526
Phone: 202 606-3114
Fax: 202 606-3729

RIN: 0420–AA10

3963. VOLUNTEER DISCRIMINATION COMPLAINT PROCEDURE

Priority: Info./Admin./Other

Legal Authority: 22 USC 2503; 5 USC 553 and 554

CFR Citation: 22 CFR 306; 45 CFR 1225

Legal Deadline: None

Abstract: The Peace Corps is promulgating its own regulations regarding the Volunteer Discrimination Complaint Procedure to replace the current cross-reference to ACTION's regulations applicable to Peace Corps Volunteers, which appear in 45 CFR part 1225.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Nancy H. Hendry, General Counsel, Peace Corps, Office of General Counsel, Suite 8300, 1990 K Street NW., Washington, DC 20526
Phone: 202 606-3114
Fax: 202 606-3729

RIN: 0420–AA11

3964. RESPONSIBILITIES AND ETHICAL STANDARDS FOR PEACE CORPS EMPLOYEES

Priority: Info./Admin./Other

Legal Authority: 5 USC 7301; 5 USC app, Ethics in Government Act of 1978; EO 12674; 5 CFR 2635.105; 5 CFR 2635.403; 5 CFR 2635.803

CFR Citation: 22 CFR 307

Legal Deadline: None

Abstract: The Peace Corps, in compliance with the Office of Government Ethics, is issuing its own agency-specific regulations for employees of the Peace Corps. These regulations are in addition to the Supplemental Standards of Ethical Conduct for Peace Corps Employees, which supplement the Standards of Ethical Conduct for Employees of the Executive Branch issued by the Office of Government Ethics.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Nancy H. Hendry, General Counsel, Peace Corps, Office of General Counsel, Suite 8300, 1990 K Street NW., Washington, DC 20526
Phone: 202 606-3114
Fax: 202 606-3729

RIN: 0420–AA12

[FR Doc. 97-22232 Filed 10-28-97; 8:45 am]
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October 29, 1997

Part XXXIX

Pension Benefit Guaranty Corporation

Semiannual Regulatory Agenda

179-005 (Bk 4) 97 - 8

PENSION BENEFIT GUARANTY CORPORATION (PBGC)

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Ch. XXVI

Agenda of Regulations Under Development

AGENCY: Pension Benefit Guaranty Corporation (PBGC).

ACTION: Semiannual regulatory agenda.

SUMMARY: This document sets forth the Pension Benefit Guaranty Corporation's regulatory agenda issued under Executive Order 12866 and the Regulatory Flexibility Act. The agenda lists regulations that are currently under development or review or that PBGC expects to have under development or review during the next 12 months. The effect of this agenda is to advise the public of PBGC's current and future regulatory activities.

ADDRESSES: Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005-4026.

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, (202) 326-4024. For information about a specific regulation project listed on the agenda, contact the person designated in the agenda for that regulation.

SUPPLEMENTARY INFORMATION: Under the President's order on Regulatory Planning and Review, Executive Order 12866 (58 FR 51735, October 4, 1993), each agency is required to prepare an agenda of all regulations under development or review. The Regulatory Flexibility Act, Public Law 98-354, 5 U.S.C. 601, has a similar agenda requirement. Under that law, the agenda must list any regulation that is likely to have a significant economic impact on a substantial number of small entities.

The Office of Management and Budget has issued guidelines prescribing the form and content of the regulatory agenda. Under those guidelines, the agenda must list all regulatory activities being conducted or reviewed in the next 12 months and provide certain specified information on each regulation. All of the items on this agenda are current or projected rulemakings. This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions includes The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Pension Benefit Guaranty Corporation's Statement of Regulatory Priorities is included in Part II.

David M. Strauss,

Executive Director, Pension Benefit Guaranty Corporation.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3965	Treatment of Substantial Cessation of Operations	1212-AA84
3966	Payment of Benefits in PBGC-Trusteed Plans	1212-AA35
3967	Calculation and Payment of Unfunded Nonguaranteed Benefits (Reg Plan Seq. No. 150)	1212-AA54
3968	Allocation of Assets in Single-Employer Plans; Valuation of Benefits and Assets	1212-AA55

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3969	Mergers and Transfers Between Multiemployer Plans	1212-AA69
3970	Payment of Premiums	1212-AA58
3971	Termination of Single Employer Plans	1212-AA82

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3972	Miscellaneous Statutory Amendments	1212-AA79

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3973	Disclosure of Premium-Related Information	1212-AA66
3974	Adjustment of Civil Monetary Penalties for Inflation	1212-AA86

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — Proposed Rule Stage

3965. TREATMENT OF SUBSTANTIAL CESSATION OF OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1302(b)(3); 29 USC 1362; 29 USC 1363; 29 USC 1364; 29 USC 1365

CFR Citation: 29 CFR 4062

Legal Deadline: None

Abstract: Section 4062(e) of ERISA imposes a contingent liability upon an employer in the case of certain cessations of operations at a facility. This rulemaking will address various issues that may arise under this section.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	
NPRM Comment Period End	06/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James L. Beller, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW., Washington, DC 20005-4026
Phone: 202 326-4024
TDD: 202 326-4179

RIN: 1212–AA84

3966. PAYMENT OF BENEFITS IN PBGC-TRUSTEED PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1302(b)(3); 29 USC 1322; 29 USC 1342

CFR Citation: 29 CFR 4022

Legal Deadline: None

Abstract: When the PBGC assumes trusteeship of a terminated pension plan pursuant to sections 4041 and 4042 of ERISA, it pays benefits to participants pursuant to plan provisions and section 4022 of ERISA. Many of the rules and procedures for benefit payments, while of interest to participants, are inappropriate for inclusion in a regulation. The PBGC already provides much of this information to participants in other appropriate forms, such as letters and pamphlets, and will continue to do so. However, rules governing certain aspects of benefit payments are more appropriately established by regulation (or otherwise addressed through a Federal Register issuance). This regulation will enable the PBGC to process and administer PBGC-trusteed plans more efficiently with resultant cost savings by filling gaps in the rules and otherwise clarifying matters that had been handled on a case-by-case basis in the past.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	
NPRM Comment Period End	06/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter H. Gould, Senior Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K St. NW., Washington, DC 20005-4026
Phone: 202 326-4116
TDD: 202 326-4179

RIN: 1212–AA35

3967. CALCULATION AND PAYMENT OF UNFUNDED NONGUARANTEED BENEFITS

Regulatory Plan: This entry is Seq. No. 150 in Part II of this issue of the **Federal Register**.

RIN: 1212–AA54

3968. ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS; VALUATION OF BENEFITS AND ASSETS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 1302(b)(3); 29 USC 1341

CFR Citation: 29 CFR 4044 subpart B

Legal Deadline: None

Abstract: Statutory changes necessitate several amendments to the PBGC's allocation and valuation regulation (29 CFR part 4044). The PBGC also plans to update its mortality tables.

Timetable:

Action	Date	FR Cite
Notice of Intent to Propose Rulemaking	03/19/97	62 FR 12982
NPRM	04/00/98	
NPRM Comment Period End	06/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James L. Beller, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K St. NW., Washington, DC 20005-4026
Phone: 202 326-4024
TDD: 202 326-4179

RIN: 1212–AA55

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — Final Rule Stage

3969. MERGERS AND TRANSFERS BETWEEN MULTIEMPLOYER PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1302(b)(3); 29 USC 1411

CFR Citation: 29 CFR 4231

Legal Deadline: None

Abstract: ERISA section 4231 sets basic guidelines for mergers and transfers between multiemployer plans, including a provision for a 120-day notice to the PBGC. The PBGC's regulation on Mergers and Transfers Between Multiemployer Plans contains implementing rules. Neither the statute nor the regulation makes clear whether or how the merger and transfer rules apply where one or more of the plans involved is terminated. This rule amends 29 CFR part 4231 to clarify its application to mergers and transfers involving one or more terminated multiemployer plans and to specify the criteria that a merger or transfer involving terminated plans must satisfy

PBGC — Final Rule Stage

in order to protect participants and beneficiaries in the affected plans, as well as the PBGC, from risk of loss as a result of the merger or transfer. The rule also liberalizes the 120-day notice requirement for all multiemployer mergers and transfers so that such transactions can proceed more expeditiously.

Timetable:

Action	Date	FR Cite
NPRM	05/01/97	62 FR 23700
NPRM Comment Period End	06/30/97	
Final Action	11/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Deborah C. Murphy, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K St. NW., Washington, DC 20005-4026
Phone: 202 326-4024
TDD: 202 326-4179

RIN: 1212–AA69

3970. PAYMENT OF PREMIUMS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 1302(b)(3); 29 USC 1306; 29 USC 1307

CFR Citation: 29 CFR 4006; 29 CFR 4007

Legal Deadline: None

Abstract: Under sections 4006 and 4007 of ERISA, the PBGC has issued its regulation governing the payment of premiums for pension plans subject to title IV of ERISA (29 CFR parts 4006 and 4007). The PBGC issued a proposed regulation to implement certain changes, relating mainly to filing due dates, treatment of short plan years, simplification of the alternative calculation method, and premium payment requirements for large plans (including what plans are considered large plans for this purpose). The purpose of the changes would be primarily to simplify the premium payment system for plans and the PBGC.

Timetable:

Action	Date	FR Cite
NPRM	04/10/92	57 FR 12666
NPRM Comment Period End	05/26/92	
NPRM Comment Period Extended to 11/16/92	09/17/92	57 FR 42910
Final Action	06/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Deborah Murphy, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K St. NW., Washington, DC 20005-4026
Phone: 202 326-4024
TDD: 202 326-4179

RIN: 1212–AA58

3971. TERMINATION OF SINGLE EMPLOYER PLANS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 1302(b)(3); 29 USC 1341

CFR Citation: 29 CFR 4041

Legal Deadline: None

Abstract: The PBGC's termination regulation (29 CFR part 4041) provides rules and procedures plan administrators must follow to voluntarily terminate a defined benefit pension plan. The PBGC is amending its termination regulation to extend standard termination deadlines and otherwise to simplify the standard termination process, to require that plan administrators provide participants with information on State guaranty association coverage of annuities, and to make conforming changes to the distress termination process. The amendments also make conforming and simplifying changes to the missing participants regulation.

Timetable:

Action	Date	FR Cite
NPRM	03/14/97	62 FR 12507
NPRM Comment Period End	05/13/97	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Catherine B. Klion, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW., Washington, DC 20005-4026
Phone: 202 326-4024
TDD: 202 326-4179

RIN: 1212–AA82

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — Long-Term Actions

3972. MISCELLANEOUS STATUTORY AMENDMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 29 CFR 4000 et seq

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marc L. Jordan
Phone: 202 326-4024
TDD: 202 326-4179

RIN: 1212–AA79

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — Completed Actions

3973. DISCLOSURE OF PREMIUM-RELATED INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1302(b)(3); 29 USC 1306; 29 USC 1307

CFR Citation: 29 CFR 4007

Legal Deadline: None

Abstract: The PBGC's regulation on Payment of Premiums (29 CFR part 4007) requires plan administrators to retain, for six years, all records necessary to support or validate premium payments and to make those records available to the PBGC, upon request, for inspection and photocopying. The amendments in this regulation provide for the submission to the PBGC of information in those records. The PBGC expects these changes to increase the agency's efficiency and effectiveness in conducting premium audits.

Timetable:

Action	Date	FR Cite
NPRM	12/17/96	61 FR 66247
NPRM Comment Period End	02/18/97	
Final Action	07/09/97	62 FR 36663
Final Action Effective	08/08/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James L. Beller, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K St. NW., Washington, DC 20005-4026
Phone: 202 326-4024
TDD: 202 326-4179

RIN: 1212–AA66

3974. • ADJUSTMENT OF CIVIL MONETARY PENALTIES FOR INFLATION

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1302(b)(3); 29 USC 1310; 29 USC 1311; 29 USC 1343; 29 USC 1082(f); 29 USC 1371; 29 USC 1452

CFR Citation: 29 CFR 4000; 29 CFR 4010; 29 CFR 4011; 29 CFR 4043; 29 CFR 4071; 29 CFR 4302

Legal Deadline: None

Abstract: The Debt Collection Improvement Act of 1996 requires Federal agencies to regularly adjust certain civil monetary penalties for inflation. Agencies must increase the maximum amount of civil monetary penalties by an initial cost-of-living adjustment (limited to 10%) and make further adjustments (not limited to 10%) at least once every four years thereafter. This final rule increases the maximum daily penalty under section 4071 of ERISA from $1,000 to $1,100, and under section 4302 of ERISA from $100 to $110.

Timetable:

Action	Date	FR Cite
Final Action	07/10/97	62 FR 36993
Final Action Effective	08/11/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marc L. Jordan, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K St. NW., Washington, DC 20005-4026
Phone: 202 326-4024
TDD: 202 326-4179
Fax: 202 326-4112

RIN: 1212–AA86

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Wednesday
October 29, 1997

Part XL

Railroad Retirement Board

Semiannual Regulatory Agenda

RAILROAD RETIREMENT BOARD (RRB)

RAILROAD RETIREMENT BOARD

20 CFR Ch. II

Semiannual Agenda of Regulations Under Development or Review

AGENCY: Railroad Retirement Board.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda contains lists of regulations that the Board is developing or proposes to develop in the next 12 months and regulations that are scheduled to be reviewed in that period.

ADDRESSES: 844 North Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, (312) 751-4513, FAX (312) 751-4701, TDD (312) 751-7102.

SUPPLEMENTARY INFORMATION: For this edition of the Railroad Retirement Board's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

Regulations that are routine in nature or pertain solely to internal agency management have not been included in the agenda. Current regulations that are proposed to be modified based on a completed review of the regulations are listed in the agenda.

Dated: August 15, 1997.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3975	Requests for Reconsideration and Appeals Within the Board	3220-AB03
3976	Railroad Employers' Reports and Responsibilities	3220-AB21
3977	Finality of Decisions Regarding Unemployment and Sickness Insurance Benefits	3220-AB25
3978	Eligibility for An Annuity	3220-AB27

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3979	Recovery of Overpayments (Reg Plan Seq. No. 151)	3220-AA44
3980	Determining Disability	3220-AA99
3981	Determining Disability (Reg Plan Seq. No. 152)	3220-AB18
3982	Payments Pursuant to Court Decree or Court Approved Property Settlement	3220-AB29
3983	General Administration; Disclosure	3220-AB31
3984	Recovery of Benefits	3220-AB32

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3985	Employers Under the Railroad Retirement Act; Employers Under the Railroad Unemployment Insurance Act	3220-AA51
3986	Employees Under the Railroad Retirement Act	3220-AA52
3987	Reduction and Non-Payment of Annuities by Reason of Work	3220-AA61
3988	Voluntary Quit	3220-AA75
3989	Creditable Railroad Compensation	3220-AB23

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3990	Finality of Decisions Regarding Railroad Retirement Annuities	3220-AB15
3991	Evidence Required for Payment	3220-AB17
3992	Recovery of Debts Owed to the United States Government by Administrative Offset	3220-AB26
3993	Family Relationships; Social Security Overall Minimum Guarantee	3220-AB28

RRB

Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3994	Sickness Benefits	3220-AB30

RAILROAD RETIREMENT BOARD (RRB)

Proposed Rule Stage

3975. REQUESTS FOR RECONSIDERATION AND APPEALS WITHIN THE BOARD

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 45 USC 231f(b)(5); 45 USC 231g; 45 USC 355

CFR Citation: 20 CFR 260

Legal Deadline: None

Abstract: The RRB is amending its regulations to provide for its field offices to make timeliness determinations on requests for reconsideration of decisions of the RRB's various adjudicating units.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB03

3976. RAILROAD EMPLOYERS' REPORTS AND RESPONSIBILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 231f

CFR Citation: 20 CFR 209

Legal Deadline: None

Abstract: The Board's regulations are amended to modernize reporting requirements and to require certain Canadian citizens to obtain a social security number so that their creditable railroad service can be properly reported to the Board.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB21

3977. FINALITY OF DECISIONS REGARDING UNEMPLOYMENT AND SICKNESS INSURANCE BENEFITS

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 355; 45 USC 361(l)

CFR Citation: 20 CFR 349

Legal Deadline: None

Abstract: This new part would explain when the RRB will reopen a final determination on a claim for benefits under the Railroad Unemployment Insurance Act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB25

3978. ELIGIBILITY FOR AN ANNUITY

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 231f

CFR Citation: 20 CFR 216

Legal Deadline: None

Abstract: Amends part 216 of the RRB's regulations to include students enrolled in home schooling or independent study programs within the definition of full-time student for purposes of eligibility for a child's annuity.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB27

3979. RECOVERY OF OVERPAYMENTS

Regulatory Plan: This entry is Seq. No. 151 in Part II of this issue of the Federal Register.

RIN: 3220–AA44

3980. DETERMINING DISABILITY

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 231a; 45 USC 231f

CFR Citation: 20 CFR 220.114

Legal Deadline: None

Abstract: Section 114 of part 220 is being amended to expand the Board's description of the manner in which symptoms, including pain, are evaluated for purposes of determining disability.

Timetable:

Action	Date	FR Cite
NPRM	09/11/95	60 FR 47122
NPRM Comment Period End	11/13/95	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AA99

3981. DETERMINING DISABILITY

Regulatory Plan: This entry is Seq. No. 152 in Part II of this issue of the Federal Register.

RIN: 3220–AB18

3982. PAYMENTS PURSUANT TO COURT DECREE OR COURT APPROVED PROPERTY SETTLEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 231f; 45 USC 231m

CFR Citation: 20 CFR 295

Legal Deadline: None

Abstract: Under section 14(b) of the RRA, non-tier I benefits are subject to property division in a divorce action. The present regulation requires that the part B Medicare premium be deducted from the non-tier I benefits to determine the net amount available for partition. The Board is amending its regulation to eliminate the Part B Medicare premium as a deduction in computing the divisible portion of the annuity.

Timetable:

Action	Date	FR Cite
NPRM	07/31/97	62 FR 40995
NPRM Comment Period End	09/29/97	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB29

3983. • GENERAL ADMINISTRATION; DISCLOSURE

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 231f(b)(5); 45 USC 362

CFR Citation: 20 CFR 200.8

Legal Deadline: None

Abstract: Section 200.8 of the Railroad Retirement Board's regulations provides for disclosure of information obtained in the administration of the Railroad Retirement Act and the Railroad Unemployment Insurance Act. This amendment would permit disclosure of pertinent information to a consular official acting on behalf of a compatriot who has claimed benefits under these Acts.

Timetable:

Action	Date	FR Cite
NPRM	08/13/97	62 FR 43295
NPRM Comment Period End	10/14/97	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

Michael C. Litt, General Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611
Phone: 312 751-4929
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB31

3984. • RECOVERY OF BENEFITS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 45 USC 362(l); PL 101-552, sec 8(b)

CFR Citation: 20 CFR 340.13

Legal Deadline: None

Abstract: This amendment to 20 CFR 340.13 conforms the Railroad Retirement Board's regulations to section 8(b) of Public Law 101-552 which authorizes the Board to compromise debts where the amount recoverable, excluding interest, does not exceed $100,000.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/01/97	62 FR 41270
Interim Final Rule Effective	08/01/97	
Interim Final Rule Comment Period End	09/30/97	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB32

3985. EMPLOYERS UNDER THE RAILROAD RETIREMENT ACT; EMPLOYERS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT

Priority: Other Significant

Legal Authority: 45 USC 231f(b)(5); 45 USC 362(l)

CFR Citation: 20 CFR 202; 20 CFR 301

Legal Deadline: None

Abstract: The Board is considering revisions to existing parts 202 and 301 of the RRB's regulations defining entities covered as employers under the Railroad Retirement and Railroad Unemployment Insurance Acts to reflect case-by-case adjudications that have occurred since the regulations were originally adopted. The Board will seek input from rail employers and rail labor on the need to revise the regulations as well as on the revisions to be made. In addition, any revisions will be referred for review and comment to the Internal Revenue Service, which administers a companion statute, the Railroad Retirement Tax Act.

Timetable:

Action	Date	FR Cite
NPRM	01/05/89	54 FR 318
NPRM Comment Period End	02/06/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Federal

Sectors Affected: 40 Railroad Transportation

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AA52

3986. EMPLOYEES UNDER THE RAILROAD RETIREMENT ACT

Priority: Other Significant

Legal Authority: 45 USC 231f(b)(5); 45 USC 362(l)

CFR Citation: 20 CFR 203

Legal Deadline: None

Abstract: The Board is considering revising existing part 203 of the RRB's regulations defining individuals covered as employees under the Railroad Retirement Act to reflect case-by-case adjudications that have occurred since the regulations were originally adopted. The Board will seek input from rail employers and rail labor on the need to revise the regulations as well as on the revisions to be made. In addition, any revisions will be referred for review and comment to the Internal Revenue Service, which administers a companion statute, the Railroad Retirement Tax Act.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 40 Railroad Transportation

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AA51

3987. REDUCTION AND NON-PAYMENT OF ANNUITIES BY REASON OF WORK

Priority: Other Significant

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 230

Legal Deadline: None

Abstract: The Railroad Retirement Board (Board) amends 20 CFR part 230 to explain how annuity deductions on account of work are assessed in accordance with current law.

Timetable:

Action	Date	FR Cite
NPRM	08/16/95	60 FR 42482
NPRM Comment Period End	09/25/95	60 FR 43999
Final Action	09/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AA61

3988. VOLUNTARY QUIT

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 328

Legal Deadline: None

Abstract: A new part 328 is added to explain when unemployment insurance benefits are not payable because the employee voluntarily left employment.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AA75

3989. CREDITABLE RAILROAD COMPENSATION

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 231f

CFR Citation: 20 CFR 211.3

Legal Deadline: None

Abstract: The RRB amends its regulations regarding the creditability of pay for time lost to prohibit the crediting of pay for time lost beyond the date of a judgment or settlement, or in the absence of a judgment or settlement, beyond the date of payment. The Labor Member of the RRB dissents from this proposal and recommends allowing the crediting of pay for time lost in these circumstances when the accompanying railroad retirement taxes are paid on the compensation.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102
Michael C. Litt, General Attorney, Bureau of Law, Railroad Retirement

RRB

Long-Term Actions

Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4929
TDD: 312 751-4701
Fax: 312 751-7102
RIN: 3220–AB23

RAILROAD RETIREMENT BOARD (RRB)

Completed Actions

3990. FINALITY OF DECISIONS REGARDING RAILROAD RETIREMENT ANNUITIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 20 CFR 261

Completed:

Reason	Date	FR Cite
Final Action	08/29/97	62 FR 45712
Final Action Effective	09/29/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB15

3991. EVIDENCE REQUIRED FOR PAYMENT

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 20 CFR 219

Completed:

Reason	Date	FR Cite
Withdrawn - No Action Expected in the Next 12 Months	07/28/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB17

3992. RECOVERY OF DEBTS OWED TO THE UNITED STATES GOVERNMENT BY ADMINISTRATIVE OFFSET

Priority: Substantive, Nonsignificant

CFR Citation: 20 CFR 367

Completed:

Reason	Date	FR Cite
Final Action (Correction published 09/18/97)	08/21/97	62 FR 44409
Final Action Effective	08/21/97	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler
Phone: 312 751-4513
TDD: 312 751-7102
Fax: 312 751-4701

RIN: 3220–AB26

3993. FAMILY RELATIONSHIPS; SOCIAL SECURITY OVERALL MINIMUM GUARANTEE

Priority: Substantive, Nonsignificant

CFR Citation: 20 CFR 222; 20 CFR 229

Completed:

Reason	Date	FR Cite
Final Action	09/08/97	62 FR 47137
Final Action Effective	10/08/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB28

3994. • SICKNESS BENEFITS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 45 USC 362(i); 45 USC 362(l)

CFR Citation: 20 CFR 335.3(a)

Legal Deadline: None

Abstract: The Railroad Retirement Board amends 20 CFR part 335.3(a) of its regulations to permit a substance-abuse professional to execute a statement of sickness in support of sickness benefit claims under the Railroad Unemployment Insurance Act.

Timetable:

Action	Date	FR Cite
NPRM	04/18/97	62 FR 19072
Interim Final Rule	04/18/97	62 FR 19072
NPRM Comment Period End	06/17/97	62 FR 19072
Final Action	08/21/97	62 FR 44408
Final Action Effective	09/22/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB30

[FR Doc. 97-24030 Filed 10-28-97; 8:45 am]
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federal register

Wednesday
October 29, 1997

Part XLI

Selective Service System

Semiannual Regulatory Agenda

SELECTIVE SERVICE SYSTEM (SSS)

SELECTIVE SERVICE SYSTEM

32 CFR Ch. XVI

Regulatory Agenda

AGENCY: Selective Service System.

ACTION: Semiannual regulatory agenda.

SUMMARY: The purpose of this agenda is to report the proposed rulemaking activities of the Selective Service System that might affect the processing of registrants under the Military Selective Service Act (50 U.S.C. app. 451 *et seq.*). This information will allow the public to participate in the System's decisionmaking at an early stage.

FOR FURTHER INFORMATION CONTACT: Henry N. Williams, General Counsel, Selective Service System, 1515 Wilson Boulevard, Arlington, Virginia 22209-2425; telephone (703) 605-4012.

SUPPLEMENTARY INFORMATION: The agenda is published in accord with the requirements of E.O. 12866. Selective Service regulations appear in 32 CFR chapter XVI.

Dated: August 13, 1997.

Gil Coronado,

Director of Selective Service.

SELECTIVE SERVICE SYSTEM (SSS)

Long-Term Actions

3995. SELECTIVE SERVICE REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC app 451 et seq, Military Selective Service Act

CFR Citation: 32 CFR ch XVI

Legal Deadline: None

Abstract: Various sections of 32 CFR chapter XVI will be revised to increase clarity of expression or change procedures for registrant processing.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Henry N. Williams, General Counsel, Selective Service System, 1515 Wilson Boulevard, Arlington, VA 22209-2425
Phone: 703 235-2050

RIN: 3240–AA01

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federal register

Wednesday
October 29, 1997

Part XLII

Small Business Administration

Semiannual Regulatory Agenda

SMALL BUSINESS ADMINISTRATION (SBA)

SMALL BUSINESS ADMINISTRATION

13 CFR Ch. I

Improving Government Regulations; Semiannual Agenda

AGENCY: Small Business Administration.

ACTION: Semiannual regulatory agenda.

SUMMARY: The entries below represent the Small Business Administration's (SBA) 37th semiannual regulatory agenda. Although not a regulatory agency, the SBA drafted the agenda to meet both the criteria and the spirit of the regulatory review process. The SBA publishes this agenda pursuant to Executive Order 12866 and the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and Public Law 96-354, effective January 1, 1981.

FOR FURTHER INFORMATION CONTACT: For further information on agenda items, the SBA encourages the public to contact the individual agency official referenced in the applicable regulation.

For information concerning the SBA's overall Regulatory Review and Development Program or general semiannual agenda questions, contact Mark K. Stephens, Deputy General Counsel, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416, (202) 205-6642.

SUPPLEMENTARY INFORMATION: The SBA agenda contains references to regulations of limited public impact, which are included to increase public knowledge of all anticipated SBA regulatory activities. Publication may encourage increased public participation in the review and development process.

The SBA's agenda is divided into four parts. Part I, Prerule Stage, includes those rules which SBA anticipates publishing advance notices of proposed rulemaking. Part II, Proposed Rules, includes those rules which likely will be proposed during the 12-month period covered by the agenda. Part III, Final Rules, includes proposed rules which probably will be finalized during the agenda period. Part IV, Completed Actions, includes regulations completed or withdrawn and reviews completed since the preceding agenda.

Publication of the agenda does not impose any binding obligation on the SBA with regard to any specific item in the agenda. Further, regulatory action not listed on the agenda is not precluded.

This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions includes The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. SBA's Statement of Regulatory Priorities is included in Part II.

Finally, the SBA regulations are developed in a manner that promotes economic growth without imposing unnecessary regulatory burdens on the public. The SBA continues its vigorous program of streamlining all its present and prospective regulatory activity so that only absolutely necessary regulations are promulgated.

Antonella Pianalto,
Acting Administrator.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3996	Small Business Investment Companies Amendment To Allow Licensee Structure	3245-AD96
3997	Disaster Loan Program (Loan Increases)	3245-AD97

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3998	Minority Small Business and Capital Ownership Development/Small Disadvantaged Business Status Protest and Appeal Procedure (Section 610 Review)	3245-AD83
3999	Revision of Small Business Investment Company Regulations	3245-AD87
4000	Revisions to the Disaster Loan Program	3245-AD88
4001	Small Business Size Standards; Construction, Architectural and Engineering, and Refuse Systems Industries	3245-AD89
4002	Amendment to SBA's Regulations Regarding Administrative Offset	3245-AD90
4003	Revising Eligible Project Costs for 504 Loans	3245-AD91

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4004	Small Business Size Standards for Natural Gas Distribution	3245-AB94
4005	Supplemental Standards of Ethical Conduct for Employees of the Small Business Administration	3245-AC96
4006	Business Loans Financing Non-Depository Institutions (Section 610 Review)	3245-AD84
4007	Disaster Loan Program (Assistance to Non-Agricultural Portions of Businesses)	3245-AD98

SBA

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4008	Small Business Size Regulations Affiliation (Section 610 Review)	3245-AD82
4009	Revision of Small Business Investment Company Regulations	3245-AD85
4010	Revisions Concerning the Administration and Operation of the Small Business Development Center (SBDC) Program	3245-AD92

SMALL BUSINESS ADMINISTRATION (SBA)

Prerule Stage

3996. • SMALL BUSINESS INVESTMENT COMPANIES AMENDMENT TO ALLOW LICENSEE STRUCTURE

Priority: Other Significant

Legal Authority: 15 USC 634(b)(6); 15 USC 661 et seq; 15 USC 681(a); PL 104-208

CFR Citation: 13 CFR 107

Legal Deadline: None

Abstract: This proposed rule implements the language contained in PL 104-208 that provides that SBICs may be licensed as Limited Liability Companies.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Saunders Miller, Senior Policy Advisor, Small Business Administration
Phone: 202 205-3646

RIN: 3245–AD96

3997. • DISASTER LOAN PROGRAM (LOAN INCREASES)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 636(b)

CFR Citation: 13 CFR 123

Legal Deadline: None

Abstract: This proposed rule would implement the provision of PL 104-208 that would allow a borrower of a disaster loan to request an increase in the loan amount.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Bernard Kulik, Associate Administrator for Disaster Assistance, Small Business Administration
Phone: 202 205-6734

RIN: 3245–AD97

SMALL BUSINESS ADMINISTRATION (SBA)

Proposed Rule Stage

3998. MINORITY SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT/SMALL DISADVANTAGED BUSINESS STATUS PROTEST AND APPEAL PROCEDURE (SECTION 610 REVIEW)

Priority: Economically Significant. Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 634(b)(6); 15 USC 637(a); 15 USC 636(j)

CFR Citation: 13 CFR 124

Legal Deadline: None

Abstract: This proposal will represent a complete revision and streamlining of the regulations pertinent to the provision of contractual and managerial assistance to small businesses owned and operated by socially and economically disadvantaged individuals.

Timetable:

Action	Date	FR Cite
NPRM	08/14/97	62 FR 43584
NPRM Comment Period End	10/13/97	
Final Action	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: State, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: John W. Klein, Chief Counsel for Special Programs, Small Business Administration, 409 Third Street SW., 7th Floor, Washington, DC 20416
Phone: 202 205-6645

RIN: 3245–AD83

3999. REVISION OF SMALL BUSINESS INVESTMENT COMPANY REGULATIONS

Priority: Economically Significant

Legal Authority: 15 USC 634(b)(6); 15 USC 661 et seq; 15 USC 683; 15 USC 687

CFR Citation: 13 CFR 107

Legal Deadline: None

Abstract: This rule would increase minimum capital requirements for SBICs licensed after October 1, 1996, increase fees associated with the

issuance of leverage, impose certain conditions on the issuance of leverage by existing SBICs that do not meet the new capital requirements, eliminate regulations that allow for the licensing of new Specialized SBICs and the issuance of subsidized leverage by existing Specialized SBICs, and other technical changes.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Saunders Miller, Senior Policy Advisor, Small Business Investment Company, Small Business Administration, 409 Third Street SW., Suite 6300, Washington, DC 20416
Phone: 202 205-3646

RIN: 3245–AD87

4006. REVISIONS TO THE DISASTER LOAN PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 634(b)(6); 15 USC 636(b); 15 USC 636(c); 15 USC 636(f); PL 102-395, 106 Stat 1828 and 1864; PL 103-75, 107 Stat 739

CFR Citation: 13 CFR 123.301(a); 13 CFR 123.101; 13 CFR 123.202(a)

Legal Deadline: None

Abstract: The Disaster Loan Program is being revised to make Economic Injury ineligible criteria consistent with that found in 13 CFR 120.110.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Bernard Kulik, Associate Administrator for Disaster Assistance, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6734

RIN: 3245–AD88

4001. SMALL BUSINESS SIZE STANDARDS; CONSTRUCTION, ARCHITECTURAL AND ENGINEERING, AND REFUSE SYSTEMS INDUSTRIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); 15 USC 644(c); PL 104-486, sec 108

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Proposal to increase small business size standards in the Construction, Architectural and Engineering and Refuse Systems industries. The Small Business Competitiveness Demonstration Program (Program) prohibited SBA from adjusting numerical size standards for the designated industry groups participating in the Program. In 1994, SBA applied an increase for inflation to size standards that were based on annual receipts, with the exception of those industries participating in the Program. The Small Business Improvement Act of 1996, section 108, repealed that prohibition.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gary M. Jackson, Assistant Administrator on Size Standards, Small Business Administration, 409 3rd Street SW., Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AD89

4002. AMENDMENT TO SBA'S REGULATIONS REGARDING ADMINISTRATIVE OFFSET

Priority: Info./Admin./Other

Legal Authority: 31 USC 3711; 31 USC 3720; 5 USC 5574; 31 USC 3716; 15 USC 634(b)(6)

CFR Citation: 13 CFR 140

Legal Deadline: None

Abstract: SBA intends to amend its regulations to include references to administrative offset and other remedies that the Treasury Department may use on behalf of SBA to collect debt pursuant to the Debt Collection Improvement Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Arnold Rosenthal, Assistant Administrator for Borrowers and Lender Servicing, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6481

RIN: 3245–AD90

4003. REVISING ELIGIBLE PROJECT COSTS FOR 504 LOANS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a); 15 USC 636(h)

CFR Citation: 13 CFR 120.882

Legal Deadline: None

Abstract: This proposal will amend the eligible project costs for 504 loans to include up to $2500.00 in legal closing costs, thereby allowing them to be included in the amount financed.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jane Palagrove Butler, Associate Administrator for Financial Assistance (A), Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6490

RIN: 3245–AD91

4004. SMALL BUSINESS SIZE STANDARDS FOR NATURAL GAS DISTRIBUTION

Priority: Routine and Frequent

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); PL 99-591; PL 99-661

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: In 1988, SBA imposed a size standard of 500 employees for the recently deregulated natural gas distribution industry firms which now compete for Federal natural gas contracts. This action confirms that the interim rule has been finalized.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/25/88	53 FR 47663
Final Action	02/00/98	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Gary M. Jackson, Assistant Administrator for Size Standards, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AB94

4005. SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE SMALL BUSINESS ADMINISTRATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 684; 15 USC 637(a)(18); 15 USC 637(a)(19); EO 12674

CFR Citation: 5 CFR 5400

Legal Deadline: None

Abstract: This rule is part of SBA's regulatory streamlining effort. The SBA and the Office of Government Ethics are jointly issuing this rule which is designed to establish uniform standards of ethical conduct for the officers and employees of the SBA. The rule will be published at 5 CFR ch XLIV and will supplement the Standards of Ethical Conduct for Employees of the Executive Branch issued by the Office of Government Ethics (57 FR 35006; Aug. 7, 1992). The rule is necessary to supplement the standards issued by OGE because it addresses ethical issues which are unique to SBA.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Robinson S. Nunn, Chief Counsel for Ethics, Small Business Administration, 409 Third Street SW., 7th Floor, Washington, DC 20416
Phone: 202 205-6645

RIN: 3245–AC96

4006. BUSINESS LOANS FINANCING NON-DEPOSITORY INSTITUTIONS (SECTION 610 REVIEW)

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a)

CFR Citation: 13 CFR 120.420

Legal Deadline: Final, Statutory, March 31, 1997.
PL 104-208.

Abstract: This rule modifies present regulations to permit depository as well as nondepository lenders to borrow against and securitize the unguaranteed portions of SBA guaranteed loans.

Timetable:

Action	Date	FR Cite
ANPRM	11/29/96	61 FR 60649
ANPRM Comment Period End	12/29/96	
NPRM	02/26/97	62 FR 8640
NPRM Comment Period End	03/28/97	
Interim Final Rule	04/02/97	62 FR 15601
Interim Final Rule Effective	04/02/97	
Interim Final Rule Comment Period End	05/02/97	
Public Hearing (05/28/97)	05/12/97	62 FR 25874
Final Action	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Agency Contact: James Hammersley, Deputy Assistant Administrator for Portfolio Management, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6490

RIN: 3245–AD84

4007. • DISASTER LOAN PROGRAM (ASSISTANCE TO NON-AGRICULTURAL PORTIONS OF BUSINESSES)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 631(e)

CFR Citation: 13 CFR 123

Legal Deadline: None

Abstract: This regulation allows SBA to provide disaster assistance to the non-agricultural portion of a business entity engaged in both agricultural and non-agricultural operations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/01/97	62 FR 35337
Final Action	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Bernard Kulik, Associate Administrator for Disaster Assistance, Small Business Administration
Phone: 202 205-6734

RIN: 3245–AD98

SMALL BUSINESS ADMINISTRATION (SBA) — Completed Actions

4006. SMALL BUSINESS SIZE REGULATIONS AFFILIATION (SECTION 610 REVIEW)

Priority: Economically Significant. Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 634(b)(6); 15 USC 632(a)

CFR Citation: 13 CFR 121.103(b)(5)

Legal Deadline: None

Abstract: This proposal will revise the definition of affiliation to permit small business investment companies and institutional investors to coinvest in small businesses without being presumed to control impermissibly the investee.

Timetable:

Action	Date	FR Cite
Final Action	05/12/97	62 FR 26381

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Donald Christensen, Associate Administrator for Investment, Small Business Administration, 409 Third Street SW., Suite 6300, Washington, DC 20416
Phone: 202 205-6510
Fax: 202 205-6959

RIN: 3245–AD82

4009. REVISION OF SMALL BUSINESS INVESTMENT COMPANY REGULATIONS

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 634(b)(6); 15 USC 661 et seq; 15 USC 683; 15 USC 687(e); 15 USC 687b; 15 USC 687d; 15 USC 687g; 15 USC 687m

CFR Citation: 13 CFR 107.720(b)(2); 13 CFR 107.720; 13 CFR 107.720(e); 13 CFR 107.692; 13 CFR 107.1500 to 1580

Legal Deadline: None

Abstract: This rule modifies examination fees charged to SBICs.

Timetable:

Action	Date	FR Cite
NPRM	02/11/97	62 FR 6147
NPRM Comment Period End	03/13/97	
Final Action	04/30/97	62 FR 23337

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Saunders Miller, Senior Policy Advisor, Small Business Administration, 409 Third Street SW., Suite 6300, Washington, DC 20416
Phone: 202 205-3646

RIN: 3245–AD85

4010. REVISIONS CONCERNING THE ADMINISTRATION AND OPERATION OF THE SMALL BUSINESS DEVELOPMENT CENTER (SBDC) PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: Small Business Act, sec 5(b)(6) and 21 as amended; 15 USC 684(b)(6) and 648; PL 101-515, 101 stat 2101; PL 101-574, 104 stat 2814; PL 102-366, 106 stat 966; PL 102-395, 106 stat 1828; PL 104-208

CFR Citation: 13 CFR 130

Legal Deadline: None

Abstract: Proposal to revise the Federal regulations to reflect changes in section 21 of the Small Business Act as amended. This proposal will permit SBDCs to charge clients a fee for counseling and prohibit SBA from reviewing or extending any cooperative agreement unless an SBDC has been approved under the certification program as of September 30, 2000.

Timetable:

Action	Date	FR Cite
Withdrawn	07/01/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Johnnie Albertson, Associate Administrator for Small Business Development Centers, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6766

RIN: 3245–AD92

[FR Doc. 97-24747 Filed 10-28-97; 8:45 am]
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federal register

Wednesday
October 29, 1997

Part XLIII

Social Security Administration

Semiannual Regulatory Agenda

SOCIAL SECURITY ADMINISTRATION (SSA)

SOCIAL SECURITY ADMINISTRATION

Office of the Commissioner

20 CFR Ch. III

Semiannual Unified Regulatory Agenda

AGENCY: Social Security Administration.

ACTION: Semiannual regulatory agenda.

SUMMARY: Executive Order 12866 entitled "Regulatory Planning and Review," issued September 30, 1993, and the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) require each Federal agency to publish semiannually a brief description of all regulatory actions then under development or review, expected to be under development or review for the next 12 months, or completed since the previous publication of the agenda. Our last agenda of regulations was published on April 25, 1997.

FOR FURTHER INFORMATION CONTACT: For further information about a specific regulatory action, contact the person identified as the agency contact for that action. Comments or inquiries of a general nature should be directed to Martin J. Sussman, Acting Regulations Officer, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235; telephone (410) 965-1767.

SUPPLEMENTARY INFORMATION: For this edition of the Social Security Administration's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

The Social Security Administration (SSA) has responsibility for the old-age, survivors, and disability insurance programs under title II of the Social Security Act (the Act) and the supplemental security income program under title XVI of the Act. We are not a regulatory agency. For the most part, SSA's regulations do not impose burdens on the private sector or on State, local, or tribal governments. Our regulations document the rules under which we make eligibility determinations and set forth both the responsibilities of the Agency towards the public and beneficiary's rights and responsibilities under the programs we administer.

Our regulatory efforts can be placed into one of the following three categories: 1) Legislative implementation; 2) program improvements to provide better service to SSA customers; and 3) improvements or clarifications to fulfill commitments made as part of the President's Regulatory Reinvention Initiative.

We continue to seek legislative improvements for the programs we administer. However, because of the complexity of our programs, statutory language is rarely detailed enough to govern the actions of agency adjudicative decisionmakers. Supporting regulations are often required. In some instances, the Congress directs SSA to issue implementing regulations. For other legislative provisions, SSA regulations provide program information to applicants for benefits, current beneficiaries, and their legal counsels.

Providing world-class service to our customers remains a principal objective of the Social Security Administration. Our regulatory program supports this overarching Agency goal. One of the areas in which we are working hard to deliver high quality service is our disability determination process. Several of our agenda items support improvements to-disability program administration. Also, several of the regulatory items support SSA's Disability Redesign Plan. The Disability Redesign aims to streamline our disability determination process and provide better service to applicants for disability benefits.

One of our agenda items—Permit Department of State and the Immigration and Naturalization Service to Collect Information Needed to Assign Social Security Numbers to Aliens—supports the President's Reiventing Government (REGO II) initiative to create a Federal Government that works better and costs less.

Another of our agenda items provides for redeterminations of entitlement when there is reason to believe fraud was involved in the application for benefits. This is the most significant regulatory action we will take in the upcoming 12 months, in support of the Agency's goal of "zero tolerance for fraud."

Also in this agenda, and being given priority attention, are regulations to revise our rules on Plans to Achieve Self-Support and regulations that will make changes to the Representative Payment provisions of the title II and title XVI regulations.

Consistent with the President's Regulatory Reinvention Initiative, we are working diligently to improve our program benefit regulations and to develop partnerships with large segments of the community of stakeholders interested in Social Security programs. Our aim is to clarify or improve over 50 percent of the Code of Federal Regulations pages for which we are responsible. The remainder of our Unified Agenda items are such improvements and clarifications.

The October 1997 regulatory agenda for the Social Security Administration follows.

Dated: August 15, 1997.

Martin J. Sussman,

Acting SSA Regulations Officer.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4011	Old-Age, Survivors, and Disability Insurance; Overpayment Debt Collection Procedures (523F)	0960-AE09
4012	Misuse of Symbols, Emblems, or Names in Reference to the Social Security Administration (530P)	0960-AE15
4013	Reduction of Disability Benefits—Workers' Compensation/Public Disability Benefits (567F)	0960-AE35
4014	Permit Department of State and the Immigration and Naturalization Service To Collect Information Needed To Assign Social Security Numbers to Aliens (569P) **(Reg Plan Seq. No. 153)**	0960-AE36

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Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
4015	Assessment of Residual Functional Capacity (599P) **(Reg Plan Seq. No. 154)**	0960-AE42
4016	Supplemental Standards for Ethical Conduct for Employees of the Social Security Administration (601P)	0960-AE48
4017	Identification and Referral of Cases for Quality Review Under the Appeals Council's Authority To Review Cases on Its Own Motion (623F) **(Reg Plan Seq. No. 155)**	0960-AE53
4018	Implementing Modifications to Prehearing Procedures and Decisions by Adjudication Officers (616P) **(Reg Plan Seq. No. 156)**	0960-AE55
4019	Weight of Disability Determination Services' Medical and Psychological Consultants' Opinions (624F) **(Reg Plan Seq. No. 157)**	0960-AE56
4020	Listening-In to or Recording Telephone Conversations (626P)	0960-AE66
4021	Effective Date of Application for Benefits (642P)	0960-AE71
4022	Determining Disability and Blindness; Providing For Use of a Single Decisionmaker To Make Determinations of Disability Under Titles II and XVI of the Social Security Act **(Reg Plan Seq. No. 158)**	0960-AE73
4023	Application of Circuit Court Law—Strengthening the Acquiescence Process and Furthering National Uniformity in Program Administration **(Reg Plan Seq. No. 159)**	0960-AE74
4024	Reflect a Requirement of the Social Security Act that the Commissioner Disregard Evidence in Certain Situations Involving Fraud or Similar Fault Under Titles II or XVI of the Act **(Reg Plan Seq. No. 160)**	0960-AE75
4025	Denial of SSI Benefits for Fugitive Felons and Probation and Parole Violators (660P)	0960-AE77
4026	Nondiscrimination on the Basis of Disability (661P)	0960-AE78

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4027	Old-Age, Survivors, and Disability Insurance Program; Revised Medical Criteria for Determination of Disability; Musculoskeletal System (143F)	0960-AB01
4028	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs, Determining Disability and Blindness; Substantial Gainful Activity Guides (147F)	0960-AB73
4029	Standards of Conduct for Claimant Representatives (431F)	0960-AD73
4030	Benefits for Spouses, Divorced Spouses, and Children (455F)	0960-AD83
4031	Definition of United States Resident; Religious Record of Birth or Baptism as Evidence of Citizenship; Plan To Help Blind and Disabled Individuals Achieve Self-Support (515F)	0960-AE05
4032	Requirements for Awards and Subawards to Institutions of Higher Education; Certain Grants and Agreements With States, Local, and Indian Tribal Governments (547F)	0960-AE25
4033	Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants) (554F)	0960-AE27
4034	Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments and Indian Tribal Governments (555F)	0960-AE28
4035	Restrictions on Lobbying in Connection With the Award of Grants, Contracts, and Cooperative Agreements (556F)	0960-AE29
4036	Application of State Law in Determining Child Relationship (557F)	0960-AE30
4037	Supplemental Security Income; Determining Disability for a Child Under Age 18 (625F) **(Reg Plan Seq. No. 161)**	0960-AE57
4038	Electronic Freedom of Information Act Amendments (640F)	0960-AE68

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4039	Old-Age, Survivors, and Disability Insurance Program; Medical Criteria for Evaluating Mental Disorders for Adults (222F)	0960-AC74
4040	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Representative Payment Under Title II & XVI of the Social Security Act (295F)	0960-AD22
4041	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Fees for Representation of Claimants (296P)	0960-AD23
4042	Procedure To Review Complaints of Alleged Misconduct on the Part of Administrative Law Judges (341P)	0960-AD54

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Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4043	Election of Benefits Based on Age by Disabled Widow, Widower, and Surviving Divorced Spouse Beneficiaries (343P)	0960-AD56
4044	Old-Age, Survivors, and Disability Insurance Program; Revised Medical Criteria for Determination of Disability; Hemic and Lymphatic System, and Malignant Neoplastic Diseases (399P)	0960-AD67
4045	Revised Medical Criteria for Determination of Disability, Endocrine System and Obesity and Related Criteria (436P)	0960-AD78
4046	Valuation of Certain In-Kind Support and Maintenance (ISM) Where There Is a Cost-of-Living Adjustment in SSI Benefits (454F)	0960-AD82
4047	Federal Old-Age, Survivors, and Disability Insurance and Supplemental Security Income, Acceptable Medical Sources (469P)	0960-AD91
4048	Old-Age, Survivors, and Disability Insurance Program; Contributions for Support (475P)	0960-AD92
4049	Computation of SSI Benefits for the First Three Months of Payment (476P)	0960-AD93
4050	Definition of "Largest Benefit Amount" for Simultaneous Entitlement to Child's Benefits (481P)	0960-AD95
4051	Federal OASDI and SSI for the Aged, Blind, and Disabled; Benefit Reforms for Individuals Disabled Based on Drug Addiction or Alcoholism (496F)	0960-AD96
4052	Federal OASDI and SSI for the Aged, Blind, and Disabled; Representative Payment Provisions for Individuals Disabled Based on Drug Addiction or Alcoholism (507P)	0960-AD98
4053	SSI Eligibility for Students Temporarily Abroad (505P)	0960-AE01
4054	Repeal of Facility of Payment Provision (508F)	0960-AE02
4055	Guaranteed Family Maximums (510F)	0960-AE03
4056	Supplemental Security Income for the Aged, Blind, and Disabled; Income and Resources, Deeming of Parental Income and Resources When Children Are Hospitalized (522P)	0960-AE06
4057	Administrative Review Process; Administrative Res Judicata and Related Rules (526P)	0960-AE11
4058	OASDI; Nonpayment of Benefits to Incarcerated Individuals and Individuals Confined in Criminal Cases, Pursuant to Conviction or by Court Order Based on Findings of Insanity (531P)	0960-AE16
• 4059	Supplemental Security Income; Plans for Achieving Self-Support (506P)	0960-AE17
4060	Old-Age, Survivors, and Disability Insurance Benefits; Replacing Social Security Number Cards (543F)	0960-AE18
4061	Elimination of Rounding Distortion in the Calculation of the Contribution and Benefit Base and Earnings Test Exempt Amounts (512F)	0960-AE40
4062	Determining Disability and Blindness; Eliminating the Lower Substantial Gainful Activity Earnings Guideline Amounts (603P)	0960-AE49
4063	Deeming of Income From an Ineligible Spouse to an Eligible Individual and an Eligible Child (606F)	0960-AE50
4064	Payments for Vocational Rehabilitation Services (615P)	0960-AE54
4065	Dedicated Accounts and Installment Payments for Certain Past Due SSI Benefits (622F)	0960-AE59
4066	Effectuation of Title VI of the Civil Rights Act of 1964, the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, in Programs Receiving Financial Assistance by SSA (617F)	0960-AE63
4067	Availability of Information and Records to the Public—Charging Fees for Providing Personal Information (618P)	0960-AE64
4068	Revised Medical Criteria for Determination of Disability, Deletion of Obesity Listing (620P)	0960-AE65
4069	Coverage of Employees of State and Local Governments; Office of Management and Budget (OMB) Control Number (280F)	0960-AE69
4070	Adding New SSI Income and Resource Exclusion (VA Payments to Certain Vietnam Veterans' Children with Spina Bifida) to Lists of Exclusions Provided by Other Federal Statutes (664F)	0960-AE79

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4071	Reliable Information Which Is Currently Available for Determining Benefit Amounts in the Supplemental Security Income Program (382F)	0960-AD65
4072	Reliable Information Which Is Currently Available for Determining Benefit Amounts in the Supplemental Security Income Program (NEWMAN) (434P)	0960-AD77
4073	Deeming in the Supplemental Security Income (SSI) Program When an Ineligible Spouse or Parent Is Absent From Household Due Solely to Active Military Service (462F)	0960-AD86
4074	Technical Changes to Title XVI (466F)	0960-AD89
4075	Amended 20 CFR, Parts 400-499; Employees' Benefits (595F)	0960-AE45
4076	Administrative (613F)	0960-AE51
4077	Indemnification of SSA Employees (614F)	0960-AE52

SSA

Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4078	Testing Elimination of the Fourth Step in the Disability Claim Process (Request for Appeals Council Review) (621F)	0960-AE58
4079	Reduction in SSI Payable to Institutionalized Children Whose Medical Costs Are Covered by Private Insurance (630F)	0960-AE61
4080	SSI Overpayment Recovery by Offset of Federal Income Tax Refund (632F)	0960-AE67
4081	Federal Old-Age, Survivors and Disability Insurance; Determining Disability and Blindness; Extension of Expiration Dates for Several Body System Listings	0960-AE70
4082	OASDI; Administrative Review Process, Final Rules To Extend the Effective Date of the Authority for Prehearing Proceedings and Decisions by Attorney Advisory (650F)	0960-AE72

SOCIAL SECURITY ADMINISTRATION (SSA)

Proposed Rule Stage

4011. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE; OVERPAYMENT DEBT COLLECTION PROCEDURES (523F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-387

CFR Citation: 20 CFR 404.520 to 523; 20 CFR 404.525 to 527; 20 CFR 404.903; 20 CFR 422.301 to 317 (New)

Legal Deadline: None

Abstract: This regulation would modify the regulation dealing with recovery of title II benefit overpayments to reflect statutory authority for SSA to selectively refer information to consumer reporting agencies and to recover title II overpayments through administrative offset by the Department of the Treasury against other Federal payments to which the overpaid individual may be entitled. The procedures may be applied only if the overpayment was paid to a person after he or she attained age 18, the debt is not recoverable by other means provided by the Social Security Act, and the debtor is no longer a beneficiary. We also propose to establish a new subpart D in 20 CFR 422 which will explain our rules on debt collection procedures for both administrative debts and for title II program overpayments determined to be otherwise unrecoverable under section 204 of the Social Security Act.

Timetable:

Action	Date	FR Cite
NPRM	08/07/97	62 FR 42439
NPRM Comment Period End	10/06/97	
Final Action	08/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert J. Augustine, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 966-5121

RIN: 0960–AE09

4012. MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO THE SOCIAL SECURITY ADMINISTRATION (530P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-296, sec 312

CFR Citation: 20 CFR 422.527

Legal Deadline: None

Abstract: This regulation will implement section 312 of P.L. 103-296 which expands prohibitions on the use of certain letters and symbols and also the reproduction for a fee of forms and publications of SSA and HHS.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Suzanne DiMarino, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1769

RIN: 0960–AE15

4013. REDUCTION OF DISABILITY BENEFITS—WORKERS' COMPENSATION/PUBLIC DISABILITY BENEFITS (567F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 402 to 405; 42 USC 424a; 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.408

Legal Deadline: None

Abstract: We propose to revise our rules on reduction of Social Security benefits based on disability on account of receipt of workers' compensation and/or public disability benefits and payments provided under Federal (other than Social Security), State, or local laws or plans to clarify our existing policies. We also propose to adopt a uniform method for proration of workers' compensation and public

disability benefit/payment settlements. In addition, we propose to incorporate into our rules certain policy interpretations established previously in relevant Social Security Rulings (SSRs). Finally, we propose to update provisions that have not been changed since 1964.

Timetable:

Action	Date	FR Cite
NPRM	09/04/97	62 FR 46682
NPRM Comment Period End	11/03/97	
Final Action	09/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel T. Bridgewater, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-3296

RIN: 0960–AE35

4014. PERMIT DEPARTMENT OF STATE AND THE IMMIGRATION AND NATURALIZATION SERVICE TO COLLECT INFORMATION NEEDED TO ASSIGN SOCIAL SECURITY NUMBERS TO ALIENS (569P)

Regulatory Plan: This entry is Seq. No. 153 in Part II of this issue of the Federal Register.

RIN: 0960–AE36

4015. ASSESSMENT OF RESIDUAL FUNCTIONAL CAPACITY (599P)

Regulatory Plan: This entry is Seq. No. 154 in Part II of this issue of the Federal Register.

RIN: 0960–AE42

4016. SUPPLEMENTAL STANDARDS FOR ETHICAL CONDUCT FOR EMPLOYEES OF THE SOCIAL SECURITY ADMINISTRATION (601P)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC app (Ethics in Government Act of 1978)

CFR Citation: 5 CFR ch LXXXI (New)

Legal Deadline: None

Abstract: The Social Security Administration (SSA), with the concurrence of the Office of Government Ethics (OGE), proposes to issue regulations for officers and employees of SSA that supplement the OGE Standards of Ethical Conduct for Employees of the Executive Branch, which became effective February 3, 1993. The proposed rule specifies procedural and substantive requirements that are necessary to address ethical issues unique to SSA. There were no alternatives considered for these proposed rules. The proposed changes addressed have already been implemented. Any costs or savings will be insignificant.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Henry D. Lerner, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1762

RIN: 0960–AE48

4017. IDENTIFICATION AND REFERRAL OF CASES FOR QUALITY REVIEW UNDER THE APPEALS COUNCIL'S AUTHORITY TO REVIEW CASES ON ITS OWN MOTION (623F)

Regulatory Plan: This entry is Seq. No. 155 in Part II of this issue of the Federal Register.

RIN: 0960–AE53

4018. IMPLEMENTING MODIFICATIONS TO PREHEARING PROCEDURES AND DECISIONS BY ADJUDICATION OFFICERS (616P)

Regulatory Plan: This entry is Seq. No. 156 in Part II of this issue of the Federal Register.

RIN: 0960–AE55

4019. WEIGHT OF DISABILITY DETERMINATION SERVICES' MEDICAL AND PSYCHOLOGICAL CONSULTANTS' OPINIONS (624F)

Regulatory Plan: This entry is Seq. No. 157 in Part II of this issue of the Federal Register.

RIN: 0960–AE56

4020. LISTENING-IN TO OR RECORDING TELEPHONE CONVERSATIONS (626P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405; 42 USC 902(a)(5)

CFR Citation: 20 CFR 422

Legal Deadline: None

Abstract: We are proposing to add a new subpart H to part 422 of our rules which will contain regulations relating to the use of SSA's telephone lines. In the new subpart H, we propose to describe the limited circumstances under which SSA employees may listen-in to or record telephone conversations and the procedures we will follow in connection with this activity.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lois A. Berg, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AE66

4021. • EFFECTIVE DATE OF APPLICATION FOR BENEFITS (642P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 902(a)(5); 42 USC 1310(b); 42 USC 1381; 42 USC 1381a; 42 USC 1382; 42 USC 1382c; 42 USC 1382d(c); 42 USC 1382h(a); 42 USC 1383; 42 USC 1383c; PL 93-66; PL 94-241; PL 99-643

CFR Citation: 20 CFR 416.211; 20 CFR 416.305; 20 CFR 416.315; 20 CFR 416.330; 20 CFR 416.335; 20 CFR 416.420; 20 CFR 416.421; 20 CFR 416.501; 20 CFR 416.502; 20 CFR 416.520; 20 CFR 416.1801; 20 CFR 416.200; 20 CFR 416.203; 20 CFR 416.1335; 20 CFR 416.1902

Legal Deadline: None

Abstract: These proposed regulations would reflect and implement section 204 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, which was effective August 22, 1996, and which changed the date a Supplemental Security Income (SSI)

application is effective for payment, when a cash advance can be made and how it can be repaid, and made related changes concerning the SSI definition of "eligible spouse."

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lois A. Berg, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AE71

4022. • DETERMINING DISABILITY AND BLINDNESS; PROVIDING FOR USE OF A SINGLE DECISIONMAKER TO MAKE DETERMINATIONS OF DISABILITY UNDER TITLES II AND XVI OF THE SOCIAL SECURITY ACT

Regulatory Plan: This entry is Seq. No. 158 in Part II of this issue of the Federal Register.

RIN: 0960–AE73

4023. • APPLICATION OF CIRCUIT COURT LAW—STRENGTHENING THE ACQUIESCENCE PROCESS AND FURTHERING NATIONAL UNIFORMITY IN PROGRAM ADMINISTRATION

Regulatory Plan: This entry is Seq. No. 159 in Part II of this issue of the Federal Register.

RIN: 0960–AE74

4024. • REFLECT A REQUIREMENT OF THE SOCIAL SECURITY ACT THAT THE COMMISSIONER DISREGARD EVIDENCE IN CERTAIN SITUATIONS INVOLVING FRAUD OR SIMILAR FAULT UNDER TITLES II OR XVI OF THE ACT

Regulatory Plan: This entry is Seq. No. 160 in Part II of this issue of the Federal Register.

RIN: 0960–AE75

4025. • DENIAL OF SSI BENEFITS FOR FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS (660P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 902(a)(5); 42 USC 1382; 42 USC 1383

CFR Citation: 20 CFR 416.202; 20 CFR 416.708; 20 CFR 416.1331

Legal Deadline: None

Abstract: These proposed regulations, carry out section 202(a) of P.L. 104-193 which prohibits payment of SSI benefits to individuals who are fleeing to avoid prosecution for a crime which is a felony; or fleeing to avoid custody or confinement after conviction for a crime which is a felony; or violating a condition of probation or parole imposed under Federal or State law.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harry J. Short, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 212334
Phone: 410 965-6243

RIN: 0960–AE77

4026. • NONDISCRIMINATION ON THE BASIS OF DISABILITY (661P)

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 42 USC 902(a)(5); 42 USC 1302; PL 103-296

CFR Citation: 20 CFR 431.100; 20 CFR 431.105; 20 CFR 431.110; 20 CFR 431.115; 20 CFR 431.120; 20 CFR 431.125; 20 CFR 431.200; 20 CFR 431.205; 20 CFR 431.210; 20 CFR 431.215; 20 CFR 431.220; 20 CFR 431.225; 20 CFR 431.230; 20 CFR 431.235; 20 CFR 431.240; ...

Legal Deadline: None

Abstract: These proposed regulations are intended to ensure that individuals are not subjected to discrimination on the basis of disability, race, color, national origin, sex, age, or religion in any program or activity conducted by SSA.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harry J. Short, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AE78

SOCIAL SECURITY ADMINISTRATION (SSA)

Final Rule Stage

4027. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY; MUSCULOSKELETAL SYSTEM (143F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 902(a)(5); 42 USC 405; 42 USC 1383

CFR Citation: 20 CFR 404.1500, app 1

Legal Deadline: None

Abstract: Sections 1.00 and 101.00 of appendix 1 to the disability regulations at 20 CFR 404.1501 through 404.1599 describe those musculoskeletal impairments which are considered severe enough to prevent a person from doing any gainful activity or age-appropriate activities. Comprehensive revisions to these sections are being made to ensure that the medical evaluation criteria are up to date and consistent with the latest advances in medicine. The SSI program incorporates by reference and uses the same medical criteria as the old-age, survivors, and disability insurance program.

Timetable:

Action	Date	FR Cite
NPRM	12/21/93	58 FR 67574

Action	Date	FR Cite
NPRM Comment Period End	02/22/94	
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard M. Bresnick, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1758

RIN: 0960–AB01

4028. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS, DETERMINING DISABILITY AND BLINDNESS; SUBSTANTIAL GAINFUL ACTIVITY GUIDES (147F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 98-460, sec 10; PL 99-643; PL 100-203; PL 101-508; 42 USC 902(a)(5)

CFR Citation: 20 CFR 404; 20 CFR 416

Legal Deadline: None

Abstract: These final regulations will clarify how the Social Security Administration evaluates a person's work activity to determine whether work is substantial gainful activity and whether an individual is entitled to a trial work period. These regulations also reflect statutory changes with respect to the trial work period and the re-entitlement period.

Timetable:

Action	Date	FR Cite
NPRM	03/08/95	60 FR 12166
NPRM Comment Period End	05/15/95	
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard M. Bresnick, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1758

RIN: 0960–AB73

4029. STANDARDS OF CONDUCT FOR CLAIMANT REPRESENTATIVES (431F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 405(a); 42 USC 406; 42 USC 902(a)(5); 42 USC 1383(d)(1); 42 USC 1383(d)(2)

CFR Citation: 20 CFR 404.1700ff; 20 CFR 416.1500ff

Legal Deadline: None

Abstract: We are amending our regulations to establish standards of conduct and responsibility for persons serving as representatives of claimants seeking a right or benefit under titles II or XVI of the Social Security Act. These regulations are part of SSA's Disability Redesign.

Timetable:

Action	Date	FR Cite
NPRM	01/03/97	62 FR 352
NPRM Comment Period End	03/04/97	
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard M. Bresnick, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1758

RIN: 0960–AD73

4030. BENEFITS FOR SPOUSES, DIVORCED SPOUSES, AND CHILDREN (455F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 402; 42 USC 403(a); 42 USC 403(b); 42 USC 405(a); 42 USC 416; 42 USC 423; 42 USC 425; 42 USC 428(a) to 428(e); 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.332; 20 CFR 404.341; 20 CFR 404.357; 20 CFR 404.361; 20 CFR 404.366

Legal Deadline: None

Abstract: These final regulations make several clarifying technical changes to correct language incorporated into the regulations when they were recodified on June 15, 1979, which could potentially result in the regulations being interpreted incorrectly. They also make a technical change to one section of the regulations to conform to a change in the statute, and to another section to reflect a longstanding SSA policy.

Timetable:

Action	Date	FR Cite
Final Action	02/00/98	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Lois Berg, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AD83

4031. DEFINITION OF UNITED STATES RESIDENT; RELIGIOUS RECORD OF BIRTH OR BAPTISM AS EVIDENCE OF CITIZENSHIP; PLAN TO HELP BLIND AND DISABLED INDIVIDUALS ACHIEVE SELF-SUPPORT (515F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 902(a)(5); 42 USC 1381a; 42 USC 1382; 42 USC 1382a; 42 USC 1382b; 42 USC 1382 note; 42 USC 1382c(a)(1)(B); 42 USC 1382c(f); 42 USC 1382(e); 42 USC 1382j; 42 USC 1383; 8 USC 1254a; 48 USC 1681 note

CFR Citation: 20 CFR 416.1180; 20 CFR 416.1603; 20 CFR 416.1610

Legal Deadline: None

Abstract: These final regulations clarify SSA's policies on the definition of a U.S. resident. They also clarify the requirements for a religious record of birth or baptism in the United States to be acceptable evidence to establish status as a U.S. citizen or national. We are also correcting a typographical error in the wording of one section of the regulation concerning income that is used or set aside to be used under a plan to become self-supporting.

Timetable:

Action	Date	FR Cite
NPRM	04/22/96	61 FR 17609
NPRM Comment Period End	06/21/96	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lois Berg, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AE05

4032. REQUIREMENTS FOR AWARDS AND SUBAWARDS TO INSTITUTIONS OF HIGHER EDUCATION; CERTAIN GRANTS AND AGREEMENTS WITH STATES, LOCAL, AND INDIAN TRIBAL GOVERNMENTS (547F)

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 31 USC 7505; 41 USC 403(11)

CFR Citation: 20 CFR 435.000

Legal Deadline: None

Abstract: This final regulation migrates the HHS grants regulation at 45 CFR part 74 into a new SSA regulation at 20 CFR 435 now that SSA is an independent agency.

Timetable:

Action	Date	FR Cite
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harry J. Short, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AE25

4033. GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS) (554F)

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 41 USC 403(11); 41 USC 701 et seq

CFR Citation: 20 CFR 436.000

Legal Deadline: None

Abstract: This final regulation migrates the HHS grants regulation at 45 CFR part 76 into a new SSA regulation at 20 CFR part 436 now that SSA is an independent agency.

Timetable:

Action	Date	FR Cite
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harry J. Short, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AE27

4034. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS AND INDIAN TRIBAL GOVERNMENTS (555F)

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 41 USC 403(ti)

CFR Citation: 20 CFR 437.000

Legal Deadline: None

Abstract: This final regulation migrates the HHS grants regulation at 45 CFR part 92 into a new SSA regulation at 20 CFR part 437 now that SSA is an independent agency.

Timetable:

Action	Date	FR Cite
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harry J. Short, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AE28

4035. RESTRICTIONS ON LOBBYING IN CONNECTION WITH THE AWARD OF GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS (556F)

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 31 USC 1352

CFR Citation: 20 CFR 438.000

Legal Deadline: None

Abstract: This final regulation migrates the HHS grants regulation at 45 CFR part 93 into a new SSA regulation at 20 CFR part 438 now that SSA is an independent agency.

Timetable:

Action	Date	FR Cite
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harry J. Short, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AE29

4036. APPLICATION OF STATE LAW IN DETERMINING CHILD RELATIONSHIP (557F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 402; 42 USC 403(a); 42 USC 403(b); 42 USC 405(a); 42 USC 416; 42 USC 423; 42 USC 428(a) to 428(e); 42 USC 902(a)(5); 42 USC 425

CFR Citation: 20 CFR 404.354; 20 CFR 404.355; 20 CFR 404.365

Legal Deadline: None

Abstract: These final regulations revise our rules on determining whether a natural child has inheritance rights under appropriate State law and therefore may be entitled to Social Security benefits as the child of an insured worker. Specifically, they revise our rules to explain which version of State law we will apply, depending on whether the insured is living or deceased, how we will apply State law requirements on time limits for determining inheritance rights, and how we will apply State law requirements for a court determination of paternity. They also clarify our current rule on determining an applicant's status as a legally adopted child of an insured individual.

Timetable:

Action	Date	FR Cite
NPRM	01/30/97	62 FR 4494
NPRM Comment Period End	03/31/97	
Final Action	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lois A. Berg, Legal Assistant, Social Security Administration, Division of Regulations

and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AE30

4037. SUPPLEMENTAL SECURITY INCOME; DETERMINING DISABILITY FOR A CHILD UNDER AGE 18 (625F)

Regulatory Plan: This entry is Seq. No. 161 in Part II of this issue of the Federal Register.

RIN: 0960–AE57

4038. ELECTRONIC FREEDOM OF INFORMATION ACT AMENDMENTS (640F)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 42 USC 902(a)(5)

CFR Citation: 20 CFR 402.30; 20 CFR 402.35; 20 CFR 402.40; 20 CFR 402.45; 20 CFR 402.100; 20 CFR 402.130; 20 CFR 402.140; 20 CFR 402.145; 20 CFR 402.150; 20 CFR 402.160

Legal Deadline: None

Abstract: P.L. 104-231, enacted 10/02/96, amended the Freedom of Information Act (FOIA) (5 USC 552). It has a two-fold purpose: to improve public access to Government information and records maintained in an electronic format by Federal agencies and to reduce delays in agency responses to FOIA requests.

Timetable:

Action	Date	FR Cite
NPRM	08/14/97	62 FR 43489
NPRM Comment Period End	09/15/97	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry D. Lerner, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1762

RIN: 0960–AE68

SOCIAL SECURITY ADMINISTRATION (SSA) — Long-Term Actions

4039. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; MEDICAL CRITERIA FOR EVALUATING MENTAL DISORDERS FOR ADULTS (222F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 405; 42 USC 1382c; 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.1500, app 1; 20 CFR 404.1520a; 20 CFR 404.1528; 20 CFR 416.920a; 20 CFR 416.928

Legal Deadline: None

Abstract: These amendments revise the medical evaluation criteria for mental disorders for the Social Security and Supplemental Security Income disability programs. The revisions will reflect advances in medical treatment and in methods of evaluating certain mental impairments and will provide up-to-date medical criteria for use in the evaluation of disability claims based on mental disorders.

Timetable:

Action	Date	FR Cite
NPRM	07/18/91	56 FR 33130
NPRM Comment Period End	09/16/91	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard M. Bresnick, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1758

RIN: 0960–AC74

4040. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED; REPRESENTATIVE PAYMENT UNDER TITLE II & XVI OF THE SOCIAL SECURITY ACT (295F)

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-508, sec 5105

CFR Citation: 20 CFR 404.902; 20 CFR 404.2011; 20 CFR 404.2022; 20 CFR 404.2024; 20 CFR 404.2025; 20 CFR 404.2030; 20 CFR 404.2041; 20 CFR 404.2050; 20 CFR 416.611; 20 CFR 416.622; 20 CFR 416.624; 20 CFR 416.625; 20 CFR 416.630

Legal Deadline: None

Abstract: Effective stewardship at SSA programs requires mechanisms to assure that benefits are used to meet the needs of beneficiaries who are not able to manage their own benefits due to legal incompetence or medical infirmity. Congress determined that improvements to the representative payment procedures were needed to assure program integrity as part of P.L. 101-508. Any costs associated with these regulations are reflected in the President's budget as part of legislative implementation. They are required to further our program integrity efforts.

Timetable:

Action	Date	FR Cite
NPRM	03/15/94	59 FR 11949
NPRM Comment Period End	05/16/94	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lois Berg, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AD22

4041. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED; FEES FOR REPRESENTATION OF CLAIMANTS (296P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 101-508, Sec 5106

CFR Citation: 20 CFR 404.1703; 20 CFR 404.1713; 20 CFR 404.1720; 20 CFR 404.1715 to 404.1717; 20 CFR 404.1725; 20 CFR 416.1503; 20 CFR 416.1513; 20 CFR 416.1520; 20 CFR 416.1515 to 416.1517; 20 CFR 416.1525

Legal Deadline: None

Abstract: We propose to amend the regulations to reflect section 5106(a) of Pub. L. 101-508 which modifies the manner in which past-due benefits are calculated and the process by which SSA approves fees charged by persons representing claimants before the Agency.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry D. Lerner, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1762

RIN: 0960–AD23

4042. PROCEDURE TO REVIEW COMPLAINTS OF ALLEGED MISCONDUCT ON THE PART OF ADMINISTRATIVE LAW JUDGES (341P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: EO 12674 as modified by EO 12731; 42 USC 405

CFR Citation: 20 CFR 422.700 to 713 (New)

Legal Deadline: None

Abstract: These proposed regulations would establish a procedure to review complaints of alleged misconduct on the part of Administrative Law Judges.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert J. Augustine, Legal Assistant, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 966-5121

RIN: 0960–AD54

4043. ELECTION OF BENEFITS BASED ON AGE BY DISABLED WIDOW, WIDOWER, AND SURVIVING DIVORCED SPOUSE BENEFICIARIES (343P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 405

CFR Citation: 20 CFR 404.335; 20 CFR 404.336; 20 CFR 404.337

Legal Deadline: None

Abstract: We propose to amend our regulations to permit the election of benefits based on age by widows, widowers and surviving divorced spouses (hereinafter, collectively widows) who are at least age 60 and who are already entitled to widow's benefits based on disability. This proposal would allow the widow to choose which of the two types of widow's benefits is more advantageous. The estimated increase in benefit payments is less than $500,000 per year for fiscal years 1992-1995.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cassandra A. Bond, Legal Assistant, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1794

RIN: 0960–AD56

4044. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY; HEMIC AND LYMPHATIC SYSTEM, AND MALIGNANT NEOPLASTIC DISEASES (399P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1383; 42 USC 405

CFR Citation: 20 CFR 404.1500, app 1

Legal Deadline: None

Abstract: Sections 7.00 and 107.00 (hemic and lymphatic system), and 13.00 and 113.00 (malignant neoplastic diseases) of appendix 1 to subpart P of part 404 of the Disability Regulations (404.1501 through 404.1599) describe those impairments which are considered severe enough to prevent a person from engaging in any gainful activity, or in the case of a child under age 18, age-appropriate activities. We are proposing revisions to these sections to ensure that the medical evaluation criteria are up-to-date and consistent with the latest advances in medical knowledge and treatment. The Supplemental Security Income program incorporates and uses the same medical criteria as the Old-Age, Survivors, and Disability Insurance program.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harry J. Short, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AD67

4045. REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY, ENDOCRINE SYSTEM AND OBESITY AND RELATED CRITERIA (436P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing

Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 404.1500, app 1

Legal Deadline: None

Abstract: Sections 9.00 and 109.00 of appendix 1 to subpart P of part 404 of the Disability Regulations (404.1501 through 404.1599) describe those impairments which are considered severe enough to prevent a person from engaging in any gainful activity, or in the case of a child under age 18, age-appropriate activities. We are proposing to revise the criteria in these sections to reflect advances in medical knowledge, treatment, and methods of evaluating endocrine impairments. The Supplemental Security Income program incorporates and uses the same medical criteria as the Old-Age, Survivors and Disability Insurance program.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert J. Augustine, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 966-5121

RIN: 0960–AD78

4046. VALUATION OF CERTAIN IN-KIND SUPPORT AND MAINTENANCE (ISM) WHERE THERE IS A COST-OF-LIVING ADJUSTMENT IN SSI BENEFITS (454F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-66, sec 13735

CFR Citation: 20 CFR 416.420; 20 CFR 416.1130(a)

Legal Deadline: None

Abstract: This final regulation will reflect the amendment to section 1611(c) of the Act, effective January 1, 1995, that the current Federal benefit rate be used in determining the value of certain in-kind support and maintenance for the first 2 months in which a cost-of-living adjustment in SSI benefits applies.

Timetable:

Action	Date	FR Cite
NPRM	08/09/95	60 FR 40542
NPRM Comment Period End	10/10/95	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1759

RIN: 0960–AD82

4047. FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME, ACCEPTABLE MEDICAL SOURCES (469P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 902(a)(5); 42 USC 1383; 42 USC 405

CFR Citation: 20 CFR 404.1513; 20 CFR 416.913

Legal Deadline: None

Abstract: We propose to add speech and language pathologists to the list of acceptable medical sources in our current regulations. These sources will assist us in establishing the existence of speech and language impairments. We also propose to make other changes in our regulations to clarify what we mean by an acceptable medical source.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard M. Resnick, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1758

RIN: 0960–AD91

4048. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; CONTRIBUTIONS FOR SUPPORT (475P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 402; 42 USC 403(a); 42 USC 403(b); 42 USC 405(a); 42 USC 416; 42 USC 423; 42 USC 428(a) to 428(e); 42 USC 1302

CFR Citation: 20 CFR 404.366

Legal Deadline: None

Abstract: To provide more uniformity in our decision making, we are proposing to amend our rules on the contributions for support that must be provided by the insured to certain categories of claimants for child's benefits.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lois Berg, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AD92

4049. COMPUTATION OF SSI BENEFITS FOR THE FIRST THREE MONTHS OF PAYMENT (476P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 416.320

Legal Deadline: None

Abstract: SSI eligibility and payment are calculated by taking into account income received by the applicant/recipient. Two calculations must be made for each month. The first is the eligibility computation and is based on the current (payment) month's income. The second is the payment computation, which, under retrospective monthly accounting, is based (usually) on the income of a prior month called the budget month. Generally the budget month is 2 months prior to the payment month. The transitional computation for the first 3 months of SSI payment is an exception to the general rule described above. While the eligibility computation continues to apply to the current month's income, the budget month on which each of the first 3 months' payments are based is the first month of eligibility. This policy was intended to facilitate the transition into 2 month retrospective accounting cycle and to avoid penalizing the recipient for income received prior to initial SSI eligibility. However, the policy also has the effect of counting income which is only received in one month more than one time. In Jones v. Shalala the Ninth Circuit Court of Appeals ruled that SSA's transitional computation for the first 3 months of eligibility is not permissible because it will result in the triple counting of nonrecurring income received only in the first month of eligibility. The proposed policy addresses the triple counting of nonrecurring income.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry D. Lerner, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1762

RIN: 0960–AD93

4050. DEFINITION OF "LARGEST BENEFIT AMOUNT" FOR SIMULTANEOUS ENTITLEMENT TO CHILD'S BENEFITS (481P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 402(d); 42 USC 403; 42 USC 404(a); 42 USC 404(e); 42 USC 405(a); 42 USC 405(c); 42 USC 416; 42 USC 422(b); 42 USC 423; 42 USC 424a; 42 USC 425; 42 USC 428(a) to 428(e); 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.304; 20 CFR 404.353b; 20 CFR 404.407d

Legal Deadline: None

Abstract: Section 202(k)(2)(A) of the Act (42 U.S.C. 402(k)(2)(A)) contains the statutory requirements for determining the earnings record on which SSA will pay a person, who is simultaneously entitled to child's insurance benefits on the earnings records of more than one worker. Generally, the child's benefits will be paid on the earnings record that yields the highest primary insurance amount (PIA). However, under certain circumstances, the child's benefits will be paid on the earnings record that yields a lower PIA if that record produces the "largest benefit" to which the child could be entitled under section 202(d) without the application of the reduction under the "family maximum" provisions. In implementing section 202(k)(2)(A), SSA has determined the "largest benefit" under section 202(k)(2)(A) by comparing the original benefit amount (i.e., 50 percent of the PIA of a living worker and 75 percent of the PIA of a deceased worker) calculated on the dependent and/or survivor claim of the child on the earnings record of each worker without applying any reductions or deductions. The United States District Court for the Northern District of Alabama in Agee v. Sullivan rejected this interpretation and held that SSA must compare the amounts payable to the child under each earnings record after considering all applicable deductions and reductions other than the reduction under the family maximum provisions. Legal support for both interpretations can be found in the statutory language and legislative history of section 202(k)(2)(A). We have found current regulations implementing section 202(k)(2)(A) to be ambiguous. We propose to amend these regulations to reflect the longstanding SSA interpretation, rather than the interpretation adopted by the district court in the Agee decision.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lois Berg, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AD95

4051. FEDERAL OASDI AND SSI FOR THE AGED, BLIND, AND DISABLED; BENEFIT REFORMS FOR INDIVIDUALS DISABLED BASED ON DRUG ADDICTION OR ALCOHOLISM (496F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 902(a)(5); 42 USC 1383; 42 USC 405

CFR Citation: 20 CFR 404.315; 20 CFR 404.316; 20 CFR 404.321; 20 CFR 404.332; 20 CFR 404.335; 20 CFR 404.337; 20 CFR 404.350; 20 CFR 404.352; 20 CFR 404.402; 20 CFR 404.470; 20 CFR 404.480; 20 CFR 404.902; 20 CFR 404.1535; 20 CFR 404.1536; 20 CFR 404.1537; ...

Legal Deadline: Final, Statutory, February 11, 1995.
Section 201 of Public Law 103-296.

Abstract: The Social Security Independence and Program Improvements Act of 1994 (Public Law 103-296) contains provisions affecting the payment of benefits under titles II and XVI of the Social Security Act to individuals whose drug addiction or alcoholism is a contributing factor material to the determination of disability. These final rules implement certain provisions related to limitations on benefit payments and the nonpayment and termination of benefits to these individuals.

Timetable:

Action	Date	FR Cite
Notice of Intent With Request for Comments	10/17/94	59 FR 52380
Interim Final Rule	02/10/95	60 FR 8140
Interim Final Rule Comment Period End	04/11/95	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard M. Bresnick, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1758

RIN: 0960–AD96

4052. FEDERAL OASDI AND SSI FOR THE AGED, BLIND, AND DISABLED; REPRESENTATIVE PAYMENT PROVISIONS FOR INDIVIDUALS DISABLED BASED ON DRUG ADDICTION OR ALCOHOLISM (507P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-296, sec 201; 42 USC 405; 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 404.2001; 20 CFR 404.2010; 20 CFR 404.2021; 20 CFR 404.2040; 20 CFR 404.2040a; 20 CFR 404.2053; 20 CFR 416.621; 20 CFR 416.640; 20 CFR 416.640a; 20 CFR 416.655

Legal Deadline: None

Abstract: We propose to revise our regulations to extend the representative payee requirement, which now applies only to recipients of supplemental security income (SSI) benefit payments, to Social Security disability insurance (DI) beneficiaries whose drug addiction or alcoholism is material to a finding of disability.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State

Agency Contact: Harry J. Short, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AD98

4053. SSI ELIGIBILITY FOR STUDENTS TEMPORARILY ABROAD (505P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 416.202; 20 CFR 416.270 (New)

Legal Deadline: None

Abstract: These regulatory changes are required by section 204 of P.L. 103-296, the Social Security Independence and Program Improvements Act of 1994. This provision allows individuals who leave the United States temporarily as part of an educational program that is not available in the United States, that is designed for gainful employment, and that is sponsored by a school, college, or university in the United States, to continue receiving SSI benefits for up to 1 year if they were eligible for SSI benefits for the month they left the country.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry D. Lerner, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1762

RIN: 0960–AE01

4054. REPEAL OF FACILITY OF PAYMENT PROVISION (508F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 403

CFR Citation: 20 CFR 404.402(b); 20 CFR 404.458

Legal Deadline: None

Abstract: This regulation will reflect section 309 of P.L. 103-296 which repeals the facility of payment provision under which Social Security benefits subject to the family maximum would not be redistributed in certain cases and provides that the reduction for the family maximum will be made prior to a temporary suspension for work when the non-working auxiliary resides in a separate household from the working auxiliary.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cassandra A. Bond, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1794

RIN: 0960–AE02

4055. GUARANTEED FAMILY MAXIMUMS (510F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 403(a)

CFR Citation: 20 CFR 404.403

Legal Deadline: None

Abstract: This regulation will reflect effect section 310 of P.L. 103-296 which provides that the guaranteed primary insurance amount is to be used in establishing the maximum family benefit for workers who had previously been entitled to disability insurance benefits and became reentitled to retirement or disability benefits on or after December 1995.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cassandra A. Bond, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1794

RIN: 0960–AE03

4056. SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED; INCOME AND RESOURCES, DEEMING OF PARENTAL INCOME AND RESOURCES WHEN CHILDREN ARE HOSPITALIZED (522P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1382c(f)(2); 42 USC 1383(d)

CFR Citation: 20 CFR 416.1165; 20 CFR 416.1167; 20 CFR 416.1202

Legal Deadline: None

Abstract: Current SSI regulations reflect the concept that deeming (the process of considering another person's income to be your own) applies only in household situations. Currently, children in medical care facilities are not subject to parental deeming because they are not considered to be in the same household as their parents. While maintaining the concept of "household" for deeming purposes, these proposed rules will expand upon current policy from the household and, as a result, subject to parental deeming. This extends the current policy that is applicable to children away at school to children in medical care facilities. That is, a child who is born in or enters a medical care facility and who is subject to the control of a parent will be considered temporarily absent from the parental household. During this absence, deeming will apply.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1759

RIN: 0960–AE08

4057. ADMINISTRATIVE REVIEW PROCESS; ADMINISTRATIVE RES JUDICATA AND RELATED RULES (528P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405(a); 42 USC 405(b); 42 USC 405(d) to 405(h); 42 USC 405(j); 42 USC 421; 42 USC 401(j); 42 USC 425; 42 USC 405 note; 42 USC 421 note; 42 USC 1383; 42 USC 1383b; 31 USC 3720A; 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.903a (New); 20 CFR 404.903b (New); 20 CFR 404.950; 20 CFR 404.957; 20 CFR 404.967; 20 CFR 416.1403a (New); 20 CFR 416.1403b (New); 20 CFR 416.1450; 20 CFR 416.1457; 20 CFR 416.1467

Legal Deadline: None

Abstract: We propose to amend our regulations which govern the administrative review process for the Social Security and Supplemental Security Income (SSI) programs under titles II and XVI of the Social Security Act (the Act) to reflect and implement sections 205(b)(3)(A) and 1631(c)(1)(B)(i) of the Act. These sections of the Act were added by section 5107 of the Omnibus Budget Reconciliation Act of 1990 (OBRA 1990), Pub. L. 101-508, to specify certain cases in which our policy on administrative res judicata may not be applied to deny a claimant's subsequent application for benefits under the Social Security or SSI program. In general, those sections of the Act provide that a claimant's failure to timely request review of an adverse initial or reconsidered determination which we make on an application for benefits under the Social Security or SSI program shall not serve as a basis for a denial by us of the claimant's subsequent application for benefits under the same program if the failure to so request review was due to certain circumstances specified in the statute.

In connection with making changes to our regulations to reflect this statutory exception to administrative res judicata, we are also proposing to amend our regulations to expand and clarify our rules concerning our policy on administrative res judicata. We are also proposing to amend our regulations to clarify our rules concerning a distinct but related Agency policy which we refer to in our existing regulations as "collateral estoppel," but which we propose to rename "adoption of findings" in these proposed regulations.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lois Berg, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AE11

4058. OASDI; NONPAYMENT OF BENEFITS TO INCARCERATED INDIVIDUALS AND INDIVIDUALS CONFINED IN CRIMINAL CASES, PURSUANT TO CONVICTION OR BY COURT ORDER BASED ON FINDINGS OF INSANITY (531P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 402(x); 42 USC 405; 42 USC 902

CFR Citation: 20 CFR 404.468

Legal Deadline: None

Abstract: The regulation will implement section 4 of P.L. 103-387 which modifies and expands the current prisoner nonpayment provisions.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cassandra A. Bond, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1794

RIN: 0960–AE16

4059. SUPPLEMENTAL SECURITY INCOME; PLANS FOR ACHIEVING SELF-SUPPORT (506P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-296, sec 203; 42 USC 1383b(d)

CFR Citation: 20 CFR 416.1180; 20 CFR 416.1181; 20 CFR 416.1182; 20 CFR 416.1224; 20 CFR 416.1225; 20 CFR 416.1226

Legal Deadline: None

Abstract: These regulations revise our rules on plans to achieve self-support (PASS) to take into account the time period an individual will need for completion of his or her PASS and other factors determined to be appropriate.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harry J. Short, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Secuarity Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AE17

4060. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS; REPLACING SOCIAL SECURITY NUMBER CARDS (543F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 405

CFR Citation: 20 CFR 422.103

Legal Deadline: None

Abstract: These final rules will support our pilot test for replacing social security number cards when we receive a request by telephone. We will test replacing the card based on information furnished by telephone, without requiring additional documentation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/22/95	60 FR 32444
Interim Final Rule Comment Period End	08/21/95	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel T. Bridgewater, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-3298

RIN: 0960–AE18

4061. ELIMINATION OF ROUNDING DISTORTION IN THE CALCULATION OF THE CONTRIBUTION AND BENEFIT BASE AND EARNINGS TEST EXEMPT AMOUNTS (512F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 404.211(c); 20 CFR 404.430(c); 20 CFR 404.1047 to 1048; 20 CFR 404, subpart C, app 1; 20 CFR 404.403(d); 20 CFR 404.408ff; 20 CFR 404.1048(c); 20 CFR 404.1918(b)

Legal Deadline: None

Abstract: Section 321(g) of Pub. L. 103-296 designates 1994 as the base year to be used in calculating increases in the OASDI contribution and benefit base and earnings test exempt amounts for all years after 1994. (Increases in these amounts will no longer be based on the rounded amounts applicable in the previous year, which can distort the base and exempt amounts over time.) The provision is effective for the contribution and benefit base beginning in 1995 and for earnings test exempt amounts for taxable years ending after 1994.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1759

RIN: 0960–AE40

4062. DETERMINING DISABILITY AND BLINDNESS; ELIMINATING THE LOWER SUBSTANTIAL GAINFUL ACTIVITY EARNINGS GUIDELINE AMOUNTS (603P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 423(d)(4); 42 USC 1382c (a)(3)(D); 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.1574; 20 CFR 416.974

Legal Deadline: None

Abstract: These proposed rules would eliminate the lower substantial gainful activity earnings guideline amounts to simplify the evaluation of work activity in claims for disability benefits under titles II and XVI of the Social Security Act. This reflects a recommendation of the Disability Reengineering Project Proposal published in the Federal Register on April 15, 1994 (59 FR 18188).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard M. Bresnick, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1758

RIN: 0960–AE49

4063. DEEMING OF INCOME FROM AN INELIGIBLE SPOUSE TO AN ELIGIBLE INDIVIDUAL AND AN ELIGIBLE CHILD (606P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 902(a)(5); 42 USC 1381a; 42 USC 1382; 42 USC 1382a; 42 USC 1382c(f); 42 USC 1383; 42 USC 1382b; 42 USC 1382j

CFR Citation: 20 CFR 416.1160 (c)(3)(iii); 20 CFR 416.1165 (g)(1); 20 CFR 416.1166

Legal Deadline: None

Abstract: This rule would revise the method used under the SSI program to determine income for a child who lives with both parents where one parent is ineligible for SSI because of income deemed from an ineligible spouse. Instead of deeming any excess income from the ineligible spouse to the child, referred to as "pass-through deeming," we would deem income to the child using the method we use where neither parent files for SSI. Under current rules, "pass-through" deeming has had the unintended effect of deeming more income than would have been deemed if the regular rules for deeming from ineligible parents who do not file for SSI are used.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Robert J. Augustine, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 966-5121

RIN: 0960–AE50

4064. PAYMENTS FOR VOCATIONAL REHABILITATION SERVICES (615P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 405(a); 42 USC 422; 42 USC 902(a)(5); 42 USC 1382d; 42 USC 1383(d)(1); 42 USC 1383(e); 42 USC 1683b(a)

CFR Citation: 20 CFR 404.2111; 20 CFR 404.2117; 20 CFR 404.2121; 20 CFR 416.2211; 20 CFR 416.2217; 20 CFR 416.2221

Legal Deadline: None

Abstract: We are proposing to amend our regulations to minimize the reporting burden on providers of vocational rehabilitation (VR) services who serve Social Security beneficiaries and Supplemental Security Income recipients who are disabled or blind under our VR payment programs. These proposed changes to our regulations will: simplify the criteria for determining when VR services will be considered to have contributed to a continuous period of 9-months of substantial gainful activity (SGA) and make other changes to reduce burdens on State agencies.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert J. Augustine, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 966-5121

RIN: 0960–AE54

4065. DEDICATED ACCOUNTS AND INSTALLMENT PAYMENTS FOR CERTAIN PAST DUE SSI BENEFITS (622F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 902(a)(5); 42 USC 1381; 42 USC 1381a; 42 USC 1382; 42 USC 1382a; 42 USC 1382b; 42 USC 1382c(f); 42 USC 1382j; 42 USC 1383

CFR Citation: 20 CFR 416.535; 20 CFR 416.538; 20 CFR 416.542; 20 CFR 416.545; 20 CFR 416.548; 20 CFR 416.570; 20 CFR 416.640; 20 CFR 416.1124; 20 CFR 416.1210; 20 CFR 416.1247

Legal Deadline: Final, Statutory, November 22, 1996.

Abstract: These regulations reflect amendments to the Social Security Act made by sections 213 and 221 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Section 213 requires the establishment of accounts in financial institutions for the payment of past-due SSI benefits after reimbursement to a State for Interim Assistance Reimbursement exceeding 6 months' benefits to representative payees on behalf of children under age 18. These accounts will be dedicated for certain purposes by restrictions on the use of such past-due benefits. Section 221 requires past-due SSI benefits after reimbursement to a State for Interim Assistance Reimbursement which equals or exceeds 12 months' benefits to be paid in installments, with certain exceptions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/20/96	61 FR 67203
Interim Final Rule Comment Period End	02/18/97	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard M. Bresnick, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1758

RIN: 0960–AE59

4066. EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, THE REHABILITATION ACT OF 1973, AND THE AGE DISCRIMINATION ACT OF 1975, IN PROGRAMS RECEIVING FINANCIAL ASSISTANCE BY SSA (617F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 902(a)(5); 5 USC 301; 20 USC 1405; 21 USC 1174; 29 USC 794; 42 USC 290dd-2; 42 USC 2000d-1; 42 USC 6101

CFR Citation: 20 CFR 431

Legal Deadline: None

Abstract: Prior to March 31, 1995, SSA was an operating component of HHS and the general regulatory authority for SSA programs and administration was vested in the Secretary of Health and Human Services (the Secretary) based on section 1102 of the Social Security Act (the Act) (42 U.S.C. 1302). The SSIPIA established SSA as an independent agency in the Executive Branch of the Federal Government effective March 31, 1995, and vested general regulatory authority in the Commissioner of Social Security (the Commissioner). Under section 106(b) of SSIPIA, HHS regulations in effect immediately prior to March 31, 1995, which relate to functions now vested in the Commissioner by reason of SSA's independence, continue to apply to SSA until such time as they are modified, suspended, terminated or

repealed by the Commissioner, SSA is promulgating regulations at 20 CFR part 431 which are based in large measure upon the HHS regulations at 45 CFR parts 80, 81, 84, 85, 99, and 91. These SSA regulations reflect changes necessary to adapt the HHS regulations to SSA procedures.

Upon SSA's rules becoming final regulations, the HHS regulations will cease to have application to SSA in accordance with section 106(b) of SSIPIA.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Suzanne DiMarino, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1769

RIN: 0960–AE63

4067. AVAILABILITY OF INFORMATION AND RECORDS TO THE PUBLIC—CHARGING FEES FOR PROVIDING PERSONAL INFORMATION (618P)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 5 USC 552a; 8 USC 1360; 18 USC 1905; 26 USC 6103; 30 USC 923(b); 31 USC 9701; 42 USC 405; 42 USG 902(a)(5); 42 USC 1306

CFR Citation: 20 CFR 402

Legal Deadline: None

Abstract: These proposed rules will, in general, provide that SSA will not charge fees for personal information if it is to be used for a publicly administered program whose purpose is compatible with a Social Security Act program.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harry J. Short, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AE64

4068. REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY, DELETION OF OBESITY LISTING (620P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405; 42 USC 1383

CFR Citation: 20 CFR 404.1500

Legal Deadline: None

Abstract: This proposed rule would eliminate "Obesity" from the Listing of Impairments in appendix 1 of subpart P of 20 CFR part 404. Current medical and vocational research demonstrates that obesity, viewed alone, is not determinative of an individual's inability to engage in any gainful activity. Instead, individuals with obesity would have their cases reviewed under the listing for (an) affected body system(s) or, on a case-by-case basis, at the remaining steps of the sequential evaluation process.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert J. Augustine, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 966-5121

RIN: 0960–AE65

4069. COVERAGE OF EMPLOYEES OF STATE AND LOCAL GOVERNMENTS; OFFICE OF MANAGEMENT AND BUDGET (OMB) CONTROL NUMBER (280F)

Priority: Info./Admin./Other

Legal Authority: 42 USC 405; 42 USC 410; 42 USC 418; 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.1215; 20 CFR 404.1203; 20 CFR 404.1204; 20 CFR 404.1214; 20 CFR 404.1216; 20 CFR 404.1220; 20 CFR 404.1225; 20 CFR 404.1237; 20 CFR 404.1239; 20 CFR 404.1242; 20 CFR 404.1243; 20 CFR 404.1247; 20 CFR 404.1249; 20 CFR 404.1251; 20 CFR 404.1285; ...

Legal Deadline: None

Abstract: These final regulations supply the OMB control number for the information collection requirements in section 404.1215 of subpart M of our final regulations on coverage of employees of State and local governments. They also remove the Effective Date Note from 16 other sections in subpart M.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lois A. Berg, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AE69

4070. • ADDING NEW SSI INCOME AND RESOURCE EXCLUSION (VA PAYMENTS TO CERTAIN VIETNAM VETERANS' CHILDREN WITH SPINA BIFIDA) TO LISTS OF EXCLUSIONS PROVIDED BY OTHER FEDERAL STATUTES (664F)

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1805(d)

CFR Citation: 20 CFR 416.1182, app; 20 CFR 416.1236

Legal Deadline: None

Abstract: P.L. 104-204 provides a that Department of Veterans Affairs monthly allowance paid to children of Vietnam veterans for disabilities resulting from spina bifida will not be considered income or resources in determining eligibility for or the amount of benefits under any Federal or federally assisted program. These regulations update the lists of exclusions from income and resources under the SSI program that are in statutes other than the Social Security Act.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert J. Augustine, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 212335

Phone: 410 966-5121

RIN: 0960–AE79

SOCIAL SECURITY ADMINISTRATION (SSA) — Completed Actions

4071. RELIABLE INFORMATION WHICH IS CURRENTLY AVAILABLE FOR DETERMINING BENEFIT AMOUNTS IN THE SUPPLEMENTAL SECURITY INCOME PROGRAM (382F)

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 20 CFR 416.420

Completed:

Reason	Date	FR Cite
Final Action - This regulation should be cross referred to RIN 0960-AD77	06/05/97	62 FR 30747

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry D. Lerner
Phone: 410 965-1762

RIN: 0960–AD65

4072. RELIABLE INFORMATION WHICH IS CURRENTLY AVAILABLE FOR DETERMINING BENEFIT AMOUNTS IN THE SUPPLEMENTAL SECURITY INCOME PROGRAM (NEWMAN) (434P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 20 CFR 416.420

Completed:

Reason	Date	FR Cite
Withdrawn - This regulation should be cross referred to RIN 0960-AD65	06/05/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry D. Lerner
Phone: 410 965-1762

RIN: 0960–AD77

4073. DEEMING IN THE SUPPLEMENTAL SECURITY INCOME (SSI) PROGRAM WHEN AN INELIGIBLE SPOUSE OR PARENT IS ABSENT FROM HOUSEHOLD DUE SOLELY TO ACTIVE MILITARY SERVICE (462F)

Priority: Substantive, Nonsignificant

CFR Citation: 20 CFR 416.1167

Completed:

Reason	Date	FR Cite
Final Action	08/07/97	62 FR 42410
Final Action Effective	09/08/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel T. Bridgewater
Phone: 410 965-3298

RIN: 0960–AD86

4074. TECHNICAL CHANGES TO TITLE XVI (466F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 20 CFR 416.1236; 20 CFR 416 app

Completed:

Reason	Date	FR Cite
Final Action	08/06/97	62 FR 30980
Final Action Effective	07/07/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Suzanne DiMarino
Phone: 410 965-1769

RIN: 0960–AD89

4075. AMENDED 20 CFR, PARTS 400-499; EMPLOYEES' BENEFITS (595F)

Priority: Info./Admin./Other

CFR Citation: 20 CFR 400 to 499

Completed:

Reason	Date	FR Cite
Final Action	07/18/97	62 FR 38448
Final Action Effective	07/18/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Suzanne DiMarino
Phone: 410 965-1769

RIN: 0960–AE45

4076. ADMINISTRATIVE (613F)

Priority: Info./Admin./Other

CFR Citation: 20 CFR 429.100ff

Completed:

Reason	Date	FR Cite
Final Action	05/05/97	62 FR 24328
Final Action Effective	05/05/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Suzanne DiMarino
Phone: 410 965-1769

RIN: 0960–AE51

4077. INDEMNIFICATION OF SSA EMPLOYEES (614F)

Priority: Info./Admin./Other

CFR Citation: 20 CFR 436.101

Completed:

Reason	Date	FR Cite
Final Action	07/25/97	62 FR 39933

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Suzanne DiMarino
Phone: 410 965-1769

RIN: 0960–AE52

4078. TESTING ELIMINATION OF THE FOURTH STEP IN THE DISABILITY CLAIM PROCESS (REQUEST FOR APPEALS COUNCIL REVIEW) (621F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or

duplication, or streamline requirements.

CFR Citation: 20 CFR 404.967; 20 CFR 416.1467

Completed:

Reason	Date	FR Cite
Final Action	09/23/97	62 FR 49698
Final Action Effective	09/23/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Harry J. Short
Phone: 410 965-6243

RIN: 0960–AE58

4079. REDUCTION IN SSI PAYABLE TO INSTITUTIONALIZED CHILDREN WHOSE MEDICAL COSTS ARE COVERED BY PRIVATE INSURANCE (630F)

Priority: Substantive, Nonsignificant

CFR Citation: 20 CFR 416.1149; 20 CFR 416.1165; 20 CFR 416.1202; 20 CFR 416.211; 20 CFR 416.212; 20 CFR 416.414

Completed:

Reason	Date	FR Cite
Final Action	08/07/97	62 FR 42411
Final Action Effective	01/08/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel T. Bridgewater
Phone: 410 965-3298

RIN: 0960–AE61

4080. SSI OVERPAYMENT RECOVERY BY OFFSET OF FEDERAL INCOME TAX REFUND (632F)

Priority: Substantive, Nonsignificant

CFR Citation: 20 CFR 416.580 to 416.586; 20 CFR 416.1403

Completed:

Reason	Date	FR Cite
Final Action	09/22/97	62 FR 49437
Final Action Effective	09/22/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert J. Augustine
Phone: 410 966-5121

RIN: 0960–AE67

4081. • FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE; DETERMINING DISABILITY AND BLINDNESS; EXTENSION OF EXPIRATION DATES FOR SEVERAL BODY SYSTEM LISTINGS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405; 42 USC 902(a)(5); 42 USC 1383

CFR Citation: 20 CFR 404.1500, app 1

Legal Deadline: None

Abstract: The Social Security Administration (SSA) adjudicates claims at the third step of its sequential process for evaluating disability using the Listing of Impairments (the listings) under the Social Security and supplemental security income (SSI) programs. This rule extends the dates on which several body system listings will no longer be effective and makes two related nonsubstantive technical changes. We have made no revisions to the medical criteria in these listings; they remain the same as they now appear in the Code of Federal Regulations. These extensions will ensure that we continue to have medical evaluation criteria in the listings to adjudicate claims for disability based on impairments in these body systems at step three of our sequential evaluation process.

Timetable:

Action	Date	FR Cite
Final Action	06/05/97	62 FR 30746

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard M. Bresnick, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1758

RIN: 0960–AE70

4082. • OASDI; ADMINISTRATIVE REVIEW PROCESS, FINAL RULES TO EXTEND THE EFFECTIVE DATE OF THE AUTHORITY FOR PREHEARING PROCEEDINGS AND DECISIONS BY ATTORNEY ADVISORY (650F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 401(j); 42 USC 405(a); 42 USC 405(b); 42 USC 405(d) to 405(h); 42 USC 405(j); 42 USC 421; 42 USC 425; 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.942; 20 CFR 404.943; 20 CFR 416.1442; 20 CFR 416.1443

Legal Deadline: None

Abstract: These rules extend the time during which attorney advisors in our Office of Hearings and Appeals shall have the authority to conduct certain prehearing proceedings and, where the documentary record developed as a result of these proceedings warrants, to issue decisions that are wholly favorable to the parties to the hearing. We are extending the effectiveness of the provisions that authorize attorney advisors to conduct these proceedings and issue such decisions for a period of six months.

Timetable:

Action	Date	FR Cite
Final Action	06/30/97	62 FR 35076

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harry J. Short, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AE72

[FR Doc. 97-24032 Filed 10-28-97; 8:45 am]
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federal register

Wednesday
October 29, 1997

Part XLIV

United States Information Agency

Semiannual Regulatory Agenda

UNITED STATES INFORMATION AGENCY (USIA)

UNITED STATES INFORMATION AGENCY

22 CFR Ch. V

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: United States Information Agency.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the proposed regulatory actions that the United States Information Agency (USIA) plans for the next 12 months. USIA's purpose in publishing this agenda is to allow interested persons an opportunity to have more comprehensive documentation of USIA's regulatory plans and to provide a systematic means of monitoring regulatory activity in USIA. None of the regulations listed in the agenda are considered major under Executive Order 12866 "Regulatory Planning and Review."

FOR FURTHER INFORMATION CONTACT: Stanley S. Colvin, Assistant General Counsel, Office of General Counsel, (202) 619-6531.

Stanley S. Colvin,

Assistant General Counsel.

UNITED STATES INFORMATION AGENCY (USIA) — Final Rule Stage

4083. AU PAIRS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 8 USC 1101(a)(15)(J); 8 USC 1182; 8 USC 1258; 22 USC 1431 to 1442; 22 USC 2451 to 2460; Reorganization Plan No. 2 of 1977; EO 12048, March 27, 1978; USIA Delegation Order No. 85.5

CFR Citation: 22 CFR 514.31

Legal Deadline: None

Abstract: The agency intends to amend existing regulations governing its au pair program to enhance and further define selection, screening, and placement procedures.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/27/97	62 FR 34632
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stanley S. Colvin, Assistant General Counsel, United States Information Agency, Office of General Counsel, 301 4th Street SW., Washington, DC 20547
Phone: 202 619-6531
Fax: 202 619-4573

RIN: 3116–AA12

UNITED STATES INFORMATION AGENCY (USIA) — Long-Term Actions

4084. INSURANCE REQUIREMENTS; THE EXCHANGE VISITOR PROGRAM

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 8 USC 1101(a)(15)(J); 8 USC 1182; 8 USC 1258; 22 USC 1431 to 1442; 22 USC 2451 to 2460; Reorganization Plan No. 2 of 1977; EO 12048 of March 27, 1978; USIA Delegation Order No. 85.5 (50 FR 27393)

CFR Citation: 22 CFR 514.14(c)

Legal Deadline: None

Abstract: The Agency issued a final rule on March 19, 1993, which included a requirement that all exchange visitors and their spouses and dependents on J visas have insurance to cover themselves for sickness and accidents, effective September 1, 1994. In response to concerns raised by the public, the Agency is amending the types of insurance allowed under the Exchange Visitor Program regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/07/94	59 FR 34760
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: Stanley S. Colvin, Assistant General Counsel, United States Information Agency, Office of the General Counsel, 301 4th Street SW., Room 700, Washington, DC 20547
Phone: 202 619-6531

RIN: 3116–AA05

4085. PRIVACY ACT POLICIES AND PROCEDURES

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552

CFR Citation: 22 CFR 505

Legal Deadline: None

Abstract: This document updates and replaces the Agency's prior regulation implementing the Privacy Act of 1974, as amended. The update and replacement were made necessary by changes during USIA's reorganization and realignment of functions and responsibilities when the Agency changed names and again when the Agency began to reinvent itself in response to government downsizing.

The Agency's regulation had not been updated since 1975 and changes in nomenclature and differences in processing Privacy Act requests necessitated these changes. The changes primarily update the definitions, the processes for receiving and handling requests, and to whom to send requests for Privacy Act records. It also better explains the exemptions that the U.S. Information Agency is allowed to use and routine uses.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

USIA — Long-Term Actions

Government Levels Affected: Undetermined

Agency Contact: Lola Secora, FOI/PA Officer, United States Information Agency, 301 4th Street SW., Washington, DC 20547
Phone: 202 619-5499
Fax: 202 205-0374

RIN: 3116–AA10

UNITED STATES INFORMATION AGENCY (USIA) — Completed Actions

4086. REQUESTS FOR WAIVER OF THE TWO-YEAR HOME-COUNTRY PHYSICAL PRESENCE REQUIREMENT

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101(a)(15)(J); 8 USC 1182; 8 USC 1258; 22 USC 1431 to 1442; 22 USC 2451 to 2460; Reorganization Plan No. 2 of 1977; EO 12048, March 27, 1978; USIA Delegation Order No. 85.5

CFR Citation: 22 CFR 514.44

Legal Deadline: None

Abstract: The agency is promulgating a proposed rule that would amend existing regulations set forth at 22 CFR 514.44. These amendments would reduce the number of waiver requests mandatorily referred to the agency's internal waiver review board. Further, these proposed amendments would standardize the supporting documentations and procedures relating to waiver requests made by interested U.S. Government agencies and departments on behalf of foreign medical graduates subject to the return to the home-country requirement (section 212(e)).

Timetable:

Action	Date	FR Cite
NPRM	09/05/96	61 FR 46745
NPRM Comment Period End	11/05/96	
Final Action	05/28/97	62 FR 28801

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: Stanley S. Colvin, Assistant General Counsel, United States Information Agency, Office of General Counsel, 301 4th Street SW., Washington, DC 20547
Phone: 202 619-6531
Fax: 202 619-4573

RIN: 3116–AA11

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Wednesday
October 29, 1997

Part XLV

Department of Defense
General Services Administration
National Aeronautics and Space Administration

Federal Acquisition Regulation; Semiannual Regulatory Agenda

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Ch. 1

Semiannual Agenda

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda provides summary descriptions of regulations being developed by the Civilian Agency Acquisition Council, the Defense Acquisition Regulations Council, and the Federal Acquisition Streamlining Act Implementation Teams in compliance with Executive Order 12866 "Regulatory Planning and Review." This agenda is being published to allow interested persons an opportunity to participate in the rulemaking process. The Federal Acquisition Regulation (FAR) Secretariat has attempted to list all regulations pending at the time of publication, except for minor and routine or repetitive actions; however, unanticipated requirements may result in the issuance of regulations that are not included in this agenda. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the dates shown.

FOR FURTHER INFORMATION CONTACT: Ms. Beverly Fayson, FAR Secretariat, Room 4037, GS Building, Washington, DC 20405, (202) 501-4755.

SUPPLEMENTARY INFORMATION: DoD, GSA, and NASA, under their several statutory authorities, jointly issue and maintain the FAR and prescribe the FAR system. Revisions to the FAR are made through periodic issuance of Federal Acquisition Circulars (FACs).

Dated: August 6, 1997.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4087	FAR Case 89-12, Pay-As-You-Go Pension Costs	9000-AC90
4088	FAR Case 96-023, Clause Flowdown-Commercial Items	9000-AH89

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4089	FAR Case 89-42, Liquidated Damages	9000-AD20
4090	FAR Case 89-93, Implementation of the Anti-Lobbying Statute	9000-AD78
4091	FAR Case 91-078, Small Business Subcontracting Reporting	9000-AG04
4092	FAR Case 94-753, Travel Costs	9000-AG27
4093	FAR Case 91-118, Payment by Electronic Fund Transfer	9000-AG49
4094	FAR Case 95-17, Final Overhead Settlement	9000-AG87
4095	FAR Case 95-020, Costs Related to Legal/Other Proceedings	9000-AH05
4096	FAR Case 95-034, Novation and Related Agreements	9000-AH18
4097	FAR Case 95-029, Part 15 Rewrite - Phase I	9000-AH21
4098	FAR Case 94-772, Reorganization of FAR Part 13, Simplified Acquisition Procedures	9000-AH24
4099	FAR Case 96-308, Implementation of Commercially Available Off-the-Shelf Item Acquisition Provisions of the Federal Acquisition Reform Act	9000-AH25
4100	FAR Case 95-032, Independent Research and Development/Bid and Proposal Costs for Fiscal Year 1996 and Beyond	9000-AH26
4101	FAR Case 95-022, Changes in Contract Administration and Audit Cognizance	9000-AH27
4102	FAR Case 92-013, Foreign Acquisition	9000-AH30
4103	FAR Case 95-307, Use of Data Universal Numbering System as Primary Contractor Identification	9000-AH33
4104	FAR Case 96-011, No-Cost Value Engineering Change Proposals	9000-AH37
4105	FAR Case 92-054B, Federal Compliance with Right-To-Know Laws and Pollution Prevention Requirements	9000-AH39
4106	FAR Case 96-325, Compensation of Certain Contractor Personnel	9000-AH50
4107	FAR Case 97-300, Liquidated Damages	9000-AH53
4108	FAR Case 96-605, Modular Contracting	9000-AH55
4109	FAR Case 96-008, Transfer of Assets Following Business Combination	9000-AH56
4110	FAR Case 95-011, Subcontract Consent	9000-AH57
4111	FAR Case 97-603, Empowerment Contracting	9000-AH58
4112	FAR Case 97-004, Reform of Affirmative Action in Federal Procurement	9000-AH59
4113	FAR Case 95-013, Government Property	9000-AH60
4114	FAR Case 96-009, Contract Quality Requirements	9000-AH61

FAR

Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4115	FAR Case 94-610, EO 12933, Nondisplacement of Qualified Workers Under Certain Contracts	9000-AH62
4116	FAR Case 96-002, Certificate of Competency (COC)	9000-AH66
4117	Federal Acquisition Regulation; Progress Payments	9000-AH70

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4118	FAR Case 92-054, Environmentally Sound Products	9000-AG40
4119	FAR Case 94-723, Modification of Existing Contracts	9000-AG90
4120	FAR Case 95-301, Irrevocable Letters of Credit (ILCs) and Alternatives to Miller Act Bonds	9000-AG99
4121	FAR Case 95-311, Service Contracting	9000-AH14
4122	FAR Case 96-303, Competitive Range Determinations	9000-AH15
4123	FAR Case 96-602, Federal Supply Schedules	9000-AH29
4124	FAR Case 96-601, FASA and the Walsh-Healy Public Contracts Act	9000-AH31
4125	FAR Case 95-028, Minority Small Business and Capital Ownership Regulations Changes	9000-AH34
4126	FAR Case 96-003, Local Government Lobbying Costs	9000-AH35
4127	FAR Case 96-010, Automatic Data Processing Equipment Leasing Cost	9000-AH41
4128	FAR Case 96-012, Foreign Differential Pay	9000-AH43
4129	FAR Case 96-606, Federal Acquisition Reform Act of 1996 Modification of Existing Contracts	9000-AH44
4130	FAR Case 96-607, Year 2000 Compliance	9000-AH51
4131	FAR Case 97-005, Independent Government Estimates-Construction	9000-AH63
4132	FAR Case 97-006, Business Process Innovation	9000-AH64
4133	FAR Case 97-008, Economically Disadvantaged Individuals	9000-AH65
4134	FAR Case 96-329, New FAR Certifications	9000-AH67
4135	FAR Case 97-019, Designation of Hong Kong	9000-AH68

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Proposed Rule Stage

4087. FAR CASE 89-12, PAY-AS-YOU-GO PENSION COSTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 30; 48 CFR 31

Legal Deadline: None

Abstract: To amend the FAR to revise the cost allowability criteria for pension costs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/29/89	54 FR 13022
NPRM	09/23/97	62 FR 49900
NPRM Comment Period End	11/24/97	
Interim Final Rule - 2nd Publication	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AC90

4088. • FAR CASE 96-023, CLAUSE FLOWDOWN-COMMERCIAL ITEMS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 52

Legal Deadline: None

Abstract: This rule proposes amendments to the clause at FAR 52.244-6, Subcontracts for Commercial Items and Commercial Comments, to clarify that contractors are required to include, in subcontracts at any tier for commercial items or commercial components, the FAR clauses and provisions listed in the clause at FAR 52.244-6 and such other clauses and provisions as may be required by addenda, to the extent they are applicable or necessary to establish the reasonableness of prices under FAR part 15.

Timetable:

Action	Date	FR Cite
NPRM	09/23/97	62 FR 49903
NPRM Comment Period End	11/24/97	

Small Entities Affected: None

Government Levels Affected: Federal

FAR

Proposed Rule Stage

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AH69

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Long-Term Actions

4089. FAR CASE 89-42, LIQUIDATED DAMAGES

Priority: Substantive, Nonsignificant

Legal Authority: PL 100-656, Sec 304

CFR Citation: 48 CFR 19; 48 CFR 52; 48 CFR 11.501

Legal Deadline: None

Abstract: Amends the FAR to require a prime contractor to pay liquidated damages upon a lack of good faith effort to meet its small business subcontracting goals.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/21/89	54 FR 30703
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

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RIN: 9000–AD20

4090. FAR CASE 89-93, IMPLEMENTATION OF THE ANTI-LOBBYING STATUTE

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-121, Sec 319

CFR Citation: 48 CFR 3; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to implement section 319 of PL 101-121, which added a new section 1352 to title 31 USC entitled "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions." Section 319 generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the executive or legislative branches of the Federal Government in connection with a specific contract, grant, or loan. Section 319 also requires that each person who requests or receives a Federal contract, grant, or cooperative agreement, in excess of $100,000, or a loan or Federal commitment to insure or guarantee a loan, in excess of $150,000, must disclose lobbying with other than appropriated funds.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/30/90	55 FR 3190
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

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RIN: 9000–AD76

4091. FAR CASE 91-078, SMALL BUSINESS SUBCONTRACTING REPORTING

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 53.219

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing to amend FAR 53.219 to authorize the addition of a column to the Standard Form 295, Summary Subcontract Report, to report the number of subcontracts awarded to small business concerns, small disadvantaged business concerns, and women-owned small business enterprises.

Timetable:

Action	Date	FR Cite
NPRM	09/26/94	59 FR 49037
NPRM Comment Period End	11/25/94	
Final Action	00/00/00	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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RIN: 9000–AG04

4092. FAR CASE 94-753, TRAVEL COSTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-355

CFR Citation: 48 CFR 31.205-46

Legal Deadline: Final, Statutory, October 1, 1995.

Abstract: The Federal Acquisition Streamlining Act eliminated the statutory requirement to the travel cost principle concerning the Federal Travel Regulations. No regulatory implementation was required.

FAR

Long-Term Actions

Abstract: This rule is issued pursuant to the Federal Acquisition Streamlining Act of 1994, Public Law 103-355 (the Act). The Federal Acquisition Regulatory Council is considering amending the Federal Acquisition Regulation (FAR) as a result of changes to 41 USC 22 by section 2191 of the Act. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. However, the proposed rule would permit contractors to propose alternative rates to those prescribed in the FTR/JTR.

Timetable:

Action	Date	FR Cite
NPRM	12/14/94	59 FR 64542
NPRM Comment Period End	02/13/95	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AG27

4093. FAR CASE 91-118, PAYMENT BY ELECTRONIC FUND TRANSFER

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 32.9; 48 CFR 52.232

Legal Deadline: None

Abstract: To amend subpart 32.9 and to add solicitation provisions and contract clauses at 52.232 to implement guidance to address the use of electronic fund transfers for Federal contract payments. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
NPRM	10/03/95	60 FR 51766
NPRM Comment Period End	12/04/95	
Interim Final Rule	08/29/96	61 FR 45770
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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RIN: 9000–AG49

4094. FAR CASE 95-17, FINAL OVERHEAD SETTLEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 4.703; 48 CFR 42.705-1; 42 CFR 42.705-2; 48 CFR 52.216-7; 48 CFR 52.216-13; 48 CFR 52.216-15

Legal Deadline: None

Abstract: This proposed rule amends the FAR to improve the process of final settlement of contractor overhead rates. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
NPRM	07/29/96	61 FR 39518
NPRM Comment Period End	09/27/96	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AG87

4095. FAR CASE 95-020, COSTS RELATED TO LEGAL/OTHER PROCEEDINGS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 31.205-47(b); 48 CFR 31.205-47(c); 48 CFR 31.205-47(e)(3)

Legal Deadline: None

Abstract: To award the cost principle governing the allowability of costs related to litigation. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
NPRM	06/20/96	61 FR 31790
NPRM Comment Period End	08/19/96	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AH05

4096. FAR CASE 95-034, NOVATION AND RELATED AGREEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 42.1203; 48 CFR 42.1204; 42 CFR 53.242-1

Legal Deadline: None

Abstract: To facilitate the processing of novation and change-of-name agreements. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
NPRM	08/21/96	61 FR 43294

Action	Date	FR Cite
NPRM Comment Period End	10/21/96	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AH18

4097. FAR CASE 95-029, PART 15 REWRITE - PHASE I

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 1.102; 48 CFR 2.101; 48 CFR 14.404-1(f); 48 CFR 15; 48 CFR 36.524; 48 CFR 52.215; 48 CFR 52.236; 48 CFR 53.2; 48 CFR 53.302

Legal Deadline: None

Abstract: This rule makes substantive and substantial revisions both to the fundamental concepts and processes used in Federal negotiated acquisitions. Major policy shifts in this proposed rule include (1) a narrower definition of "discussions" limited to communications after establishment of the competitive range; (2) a shift in competitive range policy to encourage retaining only the offerors with the greatest likelihood of award and allowing the contracting officer to further limit the competitive range in the interest of efficiency; (3) encouragement of communication with industry throughout the solicitation process to ensure competitive range determinations are informed decisions; (4) release of the Government estimate to all offerors; (5) amendment of the solicitation, at any time prior to award, including amendment of the evaluation factors and subfactors; and (6) authorization to use techniques such as multi-phase proposals or oral presentations. In addition, a streamlined solicitation/contract format and simplified contract forms were developed for use in negotiated acquisitions.

Timetable:

Action	Date	FR Cite
NPRM	05/14/97	62 FR 26640
NPRM Comment Period End	07/14/97	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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RIN: 9000–AH21

4098. FAR CASE 94-772, REORGANIZATION OF FAR PART 13, SIMPLIFIED ACQUISITION PROCEDURES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 4.800; 48 CFR 12.102; 48 CFR 13; 48 CFR 16.7; 48 CFR 41.202; 48 CFR 43.301; 48 CFR 49.002; 48 CFR 49.501; 48 CFR 52.101; 48 CFR 52.102; 48 CFR 52.103; 48 CFR 52.107; 48 CFR 52.213; 48 CFR 52.252; 48 CFR 53.213

Legal Deadline: None

Abstract: To reorganize part 13 for clarity and make other changes to facilitate the use of electronic commerce in contracting. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
NPRM	09/13/96	61 FR 48532
NPRM Comment Period End	11/12/96	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AH24

4099. FAR CASE 96-308, IMPLEMENTATION OF COMMERCIALLY AVAILABLE OFF-THE-SHELF ITEM ACQUISITION PROVISIONS OF THE FEDERAL ACQUISITION REFORM ACT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 104-106, sec 4203

CFR Citation: 48 CFR 2.101; 48 CFR 3.104-10(c); 48 CFR 3.503; 48 CFR 12.301; 48 CFR 12.7; 48 CFR 15.106-1; 48 CFR 19.508; 48 CFR 25.605; 48 CFR 27.409; 48 CFR 52.212-4; 48 CFR 52.212-00

Legal Deadline: NPRM, Statutory, September 7, 1996.

Abstract: The Federal Acquisition Regulatory Council solicited comments regarding the implementation of section 4203 of the Federal Acquisition Reform Act (Pub. L. 104-106)(the Act) with respect to Commercially Available Off-the-Shelf Item Acquisitions. The Act requires the FAR to list provisions of law that are inapplicable to contracts for the acquisition of commercially available off-the-shelf items. Certain laws have already been determined to be inapplicable to all commercial items as a result of the implementation of the Federal Acquisition Streamlining Act of 1994 (see FAR 12.503).

Timetable:

Action	Date	FR Cite
ANPRM	05/13/96	61 FR 22010
ANPRM Comment Period End	06/28/96	
NPRM	00/00/00	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

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RIN: 9000–AH25

4100. FAR CASE 95-032, INDEPENDENT RESEARCH AND DEVELOPMENT/BID AND PROPOSAL COSTS FOR FISCAL YEAR 1996 AND BEYOND

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 31.205-18

Legal Deadline: None

Abstract: To amend cost allowability criteria for independent research and development and bid and proposal cost. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
NPRM	11/14/96	61 FR 55452
NPRM Comment Period End	01/13/97	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AH26

4101. FAR CASE 95-022, CHANGES IN CONTRACT ADMINISTRATION AND AUDIT COGNIZANCE

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 15.809; 48 CFR 42; 48 CFR 52.216-7; 48 CFR 52.216-13

Legal Deadline: None

Abstract: To add policies and procedures for assigning and performing contract audit services and to clarify the policy for assigning or delegating responsibility for establishing forward pricing and billing rates, and final indirect cost rates. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
NPRM	12/11/96	61 FR 65306
NPRM Comment Period End	02/10/97	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AH27

4102. FAR CASE 92-013, FOREIGN ACQUISITION

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 15.106-1; 48 CFR 25; 48 CFR 52.225-1 to 52.225-18

Legal Deadline: None

Abstract: To amend the Federal Acquisition Regulation to rewrite guidance and clauses on foreign acquisition. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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RIN: 9000–AH30

4103. FAR CASE 95-307, USE OF DATA UNIVERSAL NUMBERING SYSTEM AS PRIMARY CONTRACTOR IDENTIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 4.602; 48 CFR 4.603; 48 CFR 52.204-6

Legal Deadline: None

Abstract: The rule implements a determination made by OFPP to use the DUNS number for FPDS reporting purposes in place of the CEC and to identify vendors in the FACNET vendor registration database.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/20/96	61 FR 67412
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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RIN: 9000–AH33

4104. FAR CASE 96-011, NO-COST VALUE ENGINEERING CHANGE PROPOSALS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 48.104-3

Legal Deadline: None

Abstract: This rule amends the FAR to clarify that the existing no-cost VECP guidance at 48.104-3 provides a way to process VECPs when the expired savings on the instant contract are relatively small and not likely to offset the administrative cost of negotiating a settlement.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AH37

4105. FAR CASE 92-054B, FEDERAL COMPLIANCE WITH RIGHT-TO-KNOW LAWS AND POLLUTION PREVENTION REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: EO 12856

CFR Citation: 48 CFR 23.10; 48 CFR 52.223-5

Legal Deadline: Other, Statutory, August 3, 1995.
RIN pertains to interim rulemaking.

Abstract: This rule implements EO 12856, Federal Compliance with Right-to-Know Laws and Pollution Prevention Requirements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/17/97	62 FR 12696
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

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RIN: 9000–AH39

4106. FAR CASE 96-325, COMPENSATION OF CERTAIN CONTRACTOR PERSONNEL

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-201

CFR Citation: 48 CFR 31.205-6

Legal Deadline: None

Abstract: This rule adds a new FAR subsection 31.205-6(p) to implement Section 809 of the Fiscal Year (FY) 1997 National Defense Authorization Act (PL 104-201). Section 809 places a Governmentwide ceiling of $250,000 per year on allowable compensation costs for an officer in a senior management position under contracts awarded during FY 1997.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/02/97	61 FR 269
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AH50

4107. • FAR CASE 97-300, LIQUIDATED DAMAGES

Priority: Substantive, Nonsignificant

Legal Authority: PL 100-656, sec 304

CFR Citation: 48 CFR 11.501; 48 CFR 19; 48 CFR 52; 48 CFR 53

Legal Deadline: None

Abstract: The CAAC and the DARC are proposing to amend FAR 19.7 to clarify policy on liquidated damages and commercial subcontracting plans and to implement OFPP Policy Letter 95-1, Subcontracting Plans for Companies Supplying Commercial Items.

Timetable:

Action	Date	FR Cite
NPRM	04/11/97	62 FR 17960
NPRM Comment Period End	06/10/97	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

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RIN: 9000–AH53

4108. • FAR CASE 96-605, MODULAR CONTRACTING

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-106, sec 5202

CFR Citation: 48 CFR 39.103(d)

Legal Deadline: None

Abstract: Division E of PL 104-106 ITMRA of 1996 enacted new policies and procedures for the acquisition of IT; specifically that modular contracting be included in the FAR.

Timetable:

Action	Date	FR Cite
NPRM	03/27/97	62 FR 14756
NPRM Comment Period End	06/27/97	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

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RIN: 9000–AH55

4109. • FAR CASE 96-006; TRANSFER OF ASSETS FOLLOWING BUSINESS COMBINATION

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 31.205-6

Legal Deadline: None

Abstract: This rule amends the FAR to add allowable cost criteria to the FAR cost principles covering the allowability of costs for the transfer of assets following a business combination.

Timetable:

Action	Date	FR Cite
NPRM	07/02/97	62 FR 35890
NPRM Comment Period End	09/02/97	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA(MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH56

4110. • FAR CASE 95-011, SUBCONTRACT CONSENT

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 4.705-3; 48 CFR 22.810; 48 CFR 35.009; 48 CFR 36.606; 48 CFR 44; 48 CFR 52.244-1 to 52.244-5

Legal Deadline: None

Abstract: This rule will reduce the consent to subcontract requirements. The rule to subcontract when there is an approved purchasing system, unless specifically required by the contracting officer. The rule also eliminates the consent requirement for fixed-price incentive contracts, and increases the threshold for the requirement on time and material contracts to the same level as other covered subcontracts.

Timetable:

Action	Date	FR Cite
NPRM	04/21/97	62 FR 19485
NPRM Comment Period End	06/20/97	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA(MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
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Fax: 202 501-4067

RIN: 9000–AH57

4111. • FAR CASE 97-603, EMPOWERMENT CONTRACTING

Priority: Economically Significant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 12.301; 48 CFR 14.206; 48 CFR 15.605; 48 CFR 26.3; 48 CFR 36.602; 48 CFR 52.226

Legal Deadline: None

Abstract: The Federal Acquisition Regulatory Council is proposing amendments to the Federal Acquisition Regulation (FAR) to establish phase one of an Empowerment Contracting Program that provides procurement incentives to both large and small business to encourage their activity in areas of general and severe economic distress. This action is being taken to implement Presidential Executive Order 13005 of May 21, 1996, entitled "Empowerment Contracting." On September 13, 1996, the Department of Commerce (DOC) published in the Federal Register proposed guidelines for implementing Executive Order 13005 in the FAR. The proposed amendments to the FAR that are being published here are largely based on those guidelines.

Timetable:

Action	Date	FR Cite
NPRM	04/18/97	62 FR 19200
NPRM Comment Period End	06/17/97	
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA(MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
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Fax: 202 501-4067

RIN: 9000–AH58

4112. • FAR CASE 97-004, REFORM OF AFFIRMATIVE ACTION IN FEDERAL PROCUREMENT

Priority: Economically Significant

Legal Authority: PL 103-355, sec 7102

CFR Citation: 48 CFR 5.207; 48 CFR 6.203; 48 CFR 12.303; 48 CFR 14.206; 48 CFR 15.605; 48 CFR 15.608; 48 CFR 15.1002; 48 CFR 19; 48 CFR 52.219; 48 CFR 53

Legal Deadline: None

Abstract: The Federal Acquisition Regulatory Council is proposing amendments to the Federal Acquisition Regulation (FAR) concerning programs for small disadvantaged business (SDB) concerns. These amendments conform to a Department of Justice (DOJ) proposal to reform affirmative action in Federal procurement. DOJ's proposal is designed to ensure compliance with the constitutional standards established by the Supreme Court in Adarand Constructors, Inc. v. Pena. 115 S.Ct. 2097 (1995). The FAR proposed rule would establish three procurement mechanisms benefiting small disadvantaged businesses (SDBs): (a) The first mechanism is a price evaluation adjustment of up to ten percent in certain two-digit Standard Industrial Classification (SIC) Major Groups authorized by the Administrator of the Office of Federal Procurement Policy (OFPP); (b) The second mechanism is a source selection evaluation factor or subfactor for planned SDB participation, primarily at the subcontract level, in the

performance of a contract in the SIC Major Groups; (c) The third mechanism provides for a monetary incentive for subcontracting with SDBs.

Timetable:

Action	Date	FR Cite
NPRM	05/09/97	62 FR 25786
NPRM Comment Period End	07/08/97	
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA(MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH59

4113. • FAR CASE 95-013, GOVERNMENT PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 45; 48 CFR 52

Legal Deadline: None

Abstract: The rule will simplify procedures and eliminate requirements related to the management and disposition of Government property in the possession of contractors.

Timetable:

Action	Date	FR Cite
NPRM	08/02/97	62 FR 30186
NPRM Comment Period End	09/15/97	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA(MVRS-FAR Secretariat), 18th & Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH60

4114. • FAR CASE 96-009; CONTRACT QUALITY REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 46; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the FAR to reflect a preference for commercial contract quality requirements rather than Federal or military specifications.

Timetable:

Action	Date	FR Cite
NPRM	07/02/97	62 FR 35891
NPRM Comment Period End	09/02/97	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA(MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH61

4115. • FAR CASE 94-610, EO 12933, NONDISPLACEMENT OF QUALIFIED WORKERS UNDER CERTAIN CONTRACTS

Priority: Substantive, Nonsignificant

Legal Authority: EO 12933

CFR Citation: 48 CFR 22; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the FAR to implement EO 12933 regarding right of refusal for certain service employees.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/22/97	62 FR 44823
Interim Final Rule Effective Date	08/22/97	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA(MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
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Fax: 202 501-4067

RIN: 9000–AH62

4116. • FAR CASE 96-002, CERTIFICATE OF COMPETENCY (COC)

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 9; 48 CFR 19; 48 CFR 52

Legal Deadline: None

Abstract: The rule amends the FAR to implement revisions made to the Small Business Administration's regulations covering the Procurement Assistance Programs (part 125, chapter I title 13 of the CFR).

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/22/97	62 FR 44819
Interim Final Rule Effective Date	08/22/97	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA(MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH66

4117. • FEDERAL ACQUISITION REGULATION; PROGRESS PAYMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC ch 137

CFR Citation: 48 CFR 32; 48 CFR 52

Legal Deadline: None

Abstract: The Director of Defense Procurement, Department of Defense, has established a special interagency team with participants from the OUSD (Comptroller), the Military Departments, the DLA, the DCAA, the DFAS, the DOE, and the NASA, that will review and rewrite FAR Part 32 and Part 52 provisions regarding Progress Payments to make them easier to understand and to minimize the burdens imposed on contractors and contracting officers. The Director of Defense Procurement will provide a forum for an exchange of ideas and information with government and industry personnel by holding at least one public meeting, soliciting public comments, and publishing notices of public meetings in the Federal Register. Discussion will focus on draft revisions of FAR Part 32, Subpart 32.5, Progress Payments Based on Costs, and associated contract clauses and forms.

Timetable:

Action	Date	FR Cite
ANPRM	05/01/97	62 FR 23740
ANPRM Comment Period End	05/30/97	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Michele P. Peterson, Executive Editor, Defense Acquisition Regulations Council, DOD/GSA/NASA (FAR), DOD(PDUSD(A&T)DP/CPF, Room 3C800, Defense Pentagon, Washington, DC 20301-3060
Phone: 703 695-7197
Fax: 703 693-9616

RIN: 9000–AH70

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Completed Actions

4118. FAR CASE 92-054, ENVIRONMENTALLY SOUND PRODUCTS

Priority: Other Significant

CFR Citation: 48 CFR 7.1; 48 CFR 10.0; 48 CFR 11.004; 48 CFR 15.605; 48 CFR 23.201; 48 CFR 23.203; 48 CFR 23.4; 48 CFR 23.7; 48 CFR 36.6; 48 CFR 42.302; 48 CFR 52.210-5 to 52.210-7; 48 CFR 52.223-4; 48 CFR 52.223-8 to 52.223-10

Completed:

Reason	Date	FR Cite
Final Action	08/22/97	62 FR 44809
Final Action Effective	10/21/97	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG40

4119. FAR CASE 94-723, MODIFICATION OF EXISTING CONTRACTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 1.103; 48 CFR 43.102

Completed:

Reason	Date	FR Cite
Final Action	08/22/97	62 FR 44830
Final Action Effective	10/21/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG99

4120. FAR CASE 95-301, IRREVOCABLE LETTERS OF CREDIT (ILCS) AND ALTERNATIVES TO MILLER ACT BONDS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 28.001; 48 CFR 28.1; 48 CFR 28.2; 48 CFR 52.228

Completed:

Reason	Date	FR Cite
Final Action	08/22/97	62 FR 44805
Final Action Effective	10/21/97	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG90

4121. FAR CASE 95-311, SERVICE CONTRACTING

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 7.103; 48 CFR 7.105; 48 CFR 15.611; 48 CFR 16.104; 48 CFR 16.402-2; 48 CFR 16.404-1; 48 CFR 37.000; 48 CFR 37.1; 48 CFR 37.5; 48 CFR 46.103; 48 CFR 46.401; 48 CFR 46.407; 48 CFR 52.237-00

Completed:

Reason	Date	FR Cite
Final Action	08/22/97	62 FR 44813
Final Action Effective	10/21/97	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH14

4122. FAR CASE 96-303, COMPETITIVE RANGE DETERMINATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 6.101; 48 CFR 12.301; 48 CFR 15.407; 48 CFR 52.212-1

Completed:

Reason	Date	FR Cite
Withdrawn	05/14/97	62 FR 26640

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH15

4123. FAR CASE 96-602, FEDERAL SUPPLY SCHEDULES

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 8.401; 48 CFR 8.402; 48 CFR 8.404; 48 CFR 38.000; 48 CFR 51.203

Completed:

Reason	Date	FR Cite
Final Action	08/22/97	62 FR 44817
Final Action Effective	10/21/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH29

4124. FAR CASE 96-601, FASA AND THE WALSH-HEALY PUBLIC CONTRACTS ACT

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 22.6

Completed:

Reason	Date	FR Cite
Final Action	08/22/97	62 FR 44804
Final Action Effective	10/21/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH31

4125. FAR CASE 95-028, MINORITY SMALL BUSINESS AND CAPITAL OWNERSHIP REGULATIONS CHANGES

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 19.8; 48 CFR 52.219-1; 48 CFR 52.219-11; 48 CFR 52.219-12; 48 CFR 52.219-17; 48 CFR 52.219-18

Completed:

Reason	Date	FR Cite
Final Action	08/22/97	62 FR 44822
Final Action Effective	10/21/97	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH34

4126. FAR CASE 96-003, LOCAL GOVERNMENT LOBBYING COSTS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 31.205-22

Completed:

Reason	Date	FR Cite
Final Action	08/22/97	62 FR 44828
Final Action Effective	10/21/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH35

4127. FAR CASE 96-010, AUTOMATIC DATA PROCESSING EQUIPMENT LEASING COST

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 1.106; 48 CFR 31.001; 48 CFR 31.109; 48 CFR 31.205-2; 48 CFR 31.205-36

Completed:

Reason	Date	FR Cite
Final Action	08/22/97	62 FR 44808
Final Action Effective	10/21/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH41

4128. FAR CASE 96-012, FOREIGN DIFFERENTIAL PAY

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 31.205-6

Completed:

Reason	Date	FR Cite
Final Action	08/22/97	62 FR 44828
Final Action Effective	10/21/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH43

4129. FAR CASE 96-606, FEDERAL ACQUISITION REFORM ACT OF 1996 MODIFICATION OF EXISTING CONTRACTS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 43.102

Completed:

Reason	Date	FR Cite
Final Action	08/22/97	62 FR 44830
Final Action Effective	10/21/97	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH44

4130. FAR CASE 96-607, YEAR 2000 COMPLIANCE

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 39; 48 CFR 52

Completed:

Reason	Date	FR Cite
Final Action	08/22/97	62 FR 44830
Final Action Effective	10/21/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
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Fax: 202 501-4067

RIN: 9000–AH51

4131. • FAR CASE 97-005, INDEPENDENT GOVERNMENT ESTIMATES-CONSTRUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 36

Legal Deadline: None

Abstract: This rule amends the FAR part 36 to increase the threshold for a mandatory independent Government estimate of construction costs from $25,000 to $100,000.

Timetable:

Action	Date	FR Cite
Final Action	08/22/97	62 FR 44829
Final Action Effective	10/21/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA(MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
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Fax: 202 501-4067

RIN: 9000–AH63

4132. • FAR CASE 97-006, BUSINESS PROCESS INNOVATION

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 1.102-4(e)

Legal Deadline: None

Abstract: This rule amends the FAR to state that Contracting Officers in their role as members of the Government acquisition team should take the lead in encouraging business process innovations and ensuring that business decisions are sound.

Timetable:

Action	Date	FR Cite
Final Action	08/22/97	62 FR 44804
Final Action Effective	10/21/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA(MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
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RIN: 9000–AH64

4133. • FAR CASE 97-008, ECONOMICALLY DISADVANTAGED INDIVIDUALS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 19

Legal Deadline: None

Abstract: This rule amends the FAR to update the definition of "Small Disadvantaged Business Concern" for conformance with small business administration regulations.

Timetable:

Action	Date	FR Cite
Final Action	08/22/97	62 FR 44821
Final Action Effective	10/21/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA(MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH65

4134. • FAR CASE 96-329, NEW FAR CERTIFICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-106

CFR Citation: 48 CFR 1.103

Legal Deadline: None

Abstract: This rule amends the FAR to implement statutory prohibition of contractor certifications in the FAR unless approved in writing by the Administrator OFPP.

Timetable:

Action	Date	FR Cite
Final Action	08/22/97	62 FR 44813
Final Action Effective	10/21/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA(MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH67

4135. • FAR CASE 97-019, DESIGNATION OF HONG KONG

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 25.401

Legal Deadline: None

Abstract: This rule amends FAR 25.401 to add Hong Kong as a designated country under the Trade Agreements Act of 1979, as directed by the United States Trade Representative.

Timetable:

Action	Date	FR Cite
Final Action	08/22/97	62 FR 44827
Final Action Effective	08/22/97	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA(MVRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH68

[FR Doc. 97-22235 Filed 10-28-97; 8:45 am]
BILLING CODE 6820-34-F

federal register

Wednesday
October 29, 1997

Part XLVI

Commodity Futures Trading Commission

Semiannual Regulatory Agenda

COMMODITY FUTURES TRADING COMMISSION (CFTC)

COMMODITY FUTURES TRADING COMMISSION

17 CFR Ch. I

Regulatory Flexibility Agenda

AGENCY: Commodity Futures Trading Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Commodity Futures Trading Commission, in accordance with the requirements of the Regulatory Flexibility Act, is publishing a semiannual agenda of significant rules which the Commission expects to propose or promulgate over the next year. The Commission welcomes comments from small entities and others on the agenda.

ADDRESSES: Comments should be sent to: Gerald P. Smith, Special Assistant to the Executive Director, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581, (202) 418-5160.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA), sets forth a number of requirements for agency rulemaking. Among other things, the RFA requires that:

(a) During the months of October and April of each year, each agency shall publish in the **Federal Register** a regulatory flexibility agenda which shall contain:

(1) A brief description of the subject area of any rule which the agency expects to propose or promulgate which is likely to have a significant economic impact on a substantial number of small entities;

(2) A summary of the nature of any such rule under consideration for each subject area listed in the agenda pursuant to paragraph (1), the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and

(3) The name and telephone number of an agency official knowledgeable concerning the items listed in paragraph (1). 5 U.S.C. 602(a).

The Commission has prepared an agenda of significant rules which it presently expects may be considered during the course of the next year, irrespective of their potential impact on small entities.[1] In this regard, section 602(d) of the RFA, 5 U.S.C. 602(d), provides: "Nothing in [section 602] precludes an agency from considering or acting on any matter not included in a regulatory flexibility agenda or requires an agency to consider or act on any matter listed in such agenda."

For this edition of the Commodity Futures Trading Commission's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

The Commission's October 1997 regulatory flexibility agenda is set forth below.

Issued in Washington, DC, on August 14, 1997, by the Commission.

Jean A. Webb,

Secretary to the Commission.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4136	Procedures for Involuntary Bulk Transfers or Liquidations of Customer Accounts	3038-AA77
4137	Trade Options on the Agricultural Commodities Enumerated in the Commodity Exchange Act (Reg Plan Seq. No. 162)	3038-AB23
4138	Distribution of Risk Disclosure Statements By Futures Commission Merchants and Introducing Brokers	3038-AB24

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4139	Risk Assessment for Holding Company Systems	3038-AB01
4140	Prohibition on Voting by Interested Members (Reg Plan Seq. No. 163)	3038-AB03

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

[1] The Commission has published its definition of small entity to be used by the Commission in connection with rulemaking proceedings. 47 FR 18618 (April 30, 1982). Pursuant to those definitions, the Commission is not required to list many of the agenda items contained in this regulatory flexibility agenda. *See* 5 U.S.C. 602(a)(1). Moreover, the Commission has previously certified, pursuant to section 605 of the RFA, 5 U.S.C. 605, that certain items contained in this agenda will not have a significant economic impact on a substantial number of small entities. Accordingly, listing of a rule in this regulatory flexibility agenda should not in any event be taken as a determination that a rule, when proposed or promulgated, will in fact require a regulatory flexibility analysis. However, the Commission hopes that the publication of an agenda, which includes significant rules, regardless of their potential impact on small entities, may serve the public generally by providing an early and meaningful opportunity to participate in and comment on the formulation of new or revised regulations. In addition to publishing the regulatory flexibility agenda, the Commission also makes available to the public, on a monthly basis, a calendar and, on a weekly basis, an advisory, which list rules that the Commission is considering or will consider in the near future.

CFTC

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4141	Account Identification for Orders Submitted on Behalf of Multiple Customer Accounts	3038-AB08

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4142	Use of Electronic Media by Commodity Pool Operators and Commodity Trading Advisors	3038-AB17
4143	Recordkeeping: Option Large Trader Reports by Futures Commission Merchants, Clearing Members, Foreign Brokers and Large Traders	3038-AB19
4144	Securities Representing Investment of Customer Funds	3038-AB22

COMMODITY FUTURES TRADING COMMISSION (CFTC) — Proposed Rule Stage

4136. PROCEDURES FOR INVOLUNTARY BULK TRANSFERS OR LIQUIDATIONS OF CUSTOMER ACCOUNTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 6d; 7 USC 6f; 7 USC 6g; 7 USC 6k; 7 USC 12a

CFR Citation: 17 CFR 1.68

Legal Deadline: None

Abstract: The CFTC will undertake a rulemaking proceeding to establish requirements concerning procedures to be followed by futures commission merchants and introducing brokers when bulk transfers or liquidations of customer accounts are made due to cessation or suspension of business or other special circumstances affecting the registrant.

Timetable:

Action	Date	FR Cite
NPRM	05/00/98	
NPRM Comment Period End	07/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Lawrence B. Patent, Associate Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581
Phone: 202 418-5439

RIN: 3038–AA77

4137. • TRADE OPTIONS ON THE AGRICULTURAL COMMODITIES ENUMERATED IN THE COMMODITY EXCHANGE ACT

Regulatory Plan: This entry is Seq. No. 162 in Part II of this issue of the **Federal Register**.

RIN: 3038–AB23

4138. • DISTRIBUTION OF RISK DISCLOSURE STATEMENTS BY FUTURES COMMISSION MERCHANTS AND INTRODUCING BROKERS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 2; 7 USC 6b; 7 USC 6c; 7 USC 6g; 7 USC 12a

CFR Citation: 17 CFR 1.55; 17 CFR 1.65; 17 CFR 30.6; 17 CFR 33.7; 17 CFR 190.10

Legal Deadline: None

Abstract: Under the proposed amendments, futures commission merchants and introducing brokers would no longer be required to furnish risk disclosure statements to certain categories of financially sophisticated customers or obtain from these customers written acknowledgement of receipt of these risk disclosure statements before opening or upon transfer of a futures or option account for such customers. In addition, futures commission merchants would no longer be required to provide these financially sophisticated customers with a statement pertaining to the treatment in bankruptcy of any non-cash property held as margin.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
NPRM Comment Period End	11/00/97	
Final Action	01/00/98	
Final Action Effective	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas E. Joseph, Staff Attorney, Commodity Futures Trading Commission, Three LaFayette Centre, 1155 21st Street, Washington, DC 20581
Phone: 202 418-5448
Fax: 202 418-5536

RIN: 3038–AB24

COMMODITY FUTURES TRADING COMMISSION (CFTC) — Final Rule Stage

4139. RISK ASSESSMENT FOR HOLDING COMPANY SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 6f(c)

CFR Citation: 17 CFR 1.14; 17 CFR 1.15

Legal Deadline: None

Abstract: On December 21, 1994, the Commission adopted, as phase 1 of the risk assessment rulemaking, final rules with respect to maintenance and filing of organizational charts, risk management policies, procedures and systems, and consolidated and consolidating financial statements. It also proposed "trigger" event reporting in the event of a 20 percent decline in a futures commission merchant's (FCM's) adjusted net capital. The Commission deferred action on the balance of the proposed rules, which related to reporting of position data and other data concerning FCM affiliates. With respect to the second phase of the rulemaking process, the Commission's staff will continue to work with other financial regulators, particularly the Securities and Exchange Commission, to design a reporting framework that is harmonized across regulatory structures and, to the extent possible, reflective of a consensus as to which data are most meaningful to regulators and can be provided without undue burden.

Timetable:

Action	Date	FR Cite
NPRM	03/01/94	59 FR 9689
NPRM Comment Period End	07/01/94	
Phase I Risk Assessment for Holding Company Systems	12/28/94	59 FR 66674
Final Action	09/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence T. Eckert, Attorney Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581
Phone: 202 418-5449

RIN: 3038–AB01

4140. PROHIBITION ON VOTING BY INTERESTED MEMBERS

Regulatory Plan: This entry is Seq. No. 163 in Part II of this issue of the Federal Register.

RIN: 3038–AB03

COMMODITY FUTURES TRADING COMMISSION (CFTC) — Long-Term Actions

4141. ACCOUNT IDENTIFICATION FOR ORDERS SUBMITTED ON BEHALF OF MULTIPLE CUSTOMER ACCOUNTS

Priority: Substantive, Nonsignificant

CFR Citation: 17 CFR 1.35

Timetable:

Action	Date	FR Cite
NPRM	05/03/93	58 FR 26270
NPRM Comment Period End	08/17/93	
Final Action	11/00/98	
Final Action Effective	12/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Duane C. Andresen
Phone: 202 418-5492

RIN: 3038–AB08

COMMODITY FUTURES TRADING COMMISSION (CFTC) — Completed Actions

4142. USE OF ELECTRONIC MEDIA BY COMMODITY POOL OPERATORS AND COMMODITY TRADING ADVISORS

Priority: Other Significant

CFR Citation: 17 CFR 4.1; 17 CFR 4.2; 17 CFR 4.21; 17 CFR 4.26; 17 CFR 4.31; 17 CFR 4.36

Completed:

Reason	Date	FR Cite
Final Action	07/22/97	62 FR 39104
Final Action Effective	08/21/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Christopher W. Cummings
Phone: 202 418-5445

RIN: 3038–AB17

4143. RECORDKEEPING: OPTION LARGE TRADER REPORTS BY FUTURES COMMISSION MERCHANTS, CLEARING MEMBERS, FOREIGN BROKERS AND LARGE TRADERS

Priority: Substantive, Nonsignificant

CFR Citation: 17 CFR 1; 17 CFR 16; 17 CFR 17; 17 CFR 18; 17 CFR 19

Completed:

Reason	Date	FR Cite
Final Action	05/02/97	62 FR 24082
Final Action Effective	10/01/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lamont L. Reese
Phone: 202 418-5310

RIN: 3038–AB19

4144. SECURITIES REPRESENTING INVESTMENT OF CUSTOMER FUNDS

Priority: Substantive, Nonsignificant

CFR Citation: 17 CFR 1.23; 17 CFR 1.25; 17 CFR 1.27

Completed:

Reason	Date	FR Cite
Final Action	08/07/97	62 FR 42398
Final Action Effective	09/08/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence B. Patent
Phone: 202 418-5439

RIN: 3038–AB22

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federal register

Wednesday
October 29, 1997

Part XLVII

Consumer Product Safety Commission

Semiannual Regulatory Agenda

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Ch. II

Regulatory Flexibility Act; Semiannual Regulatory Flexibility and Unified Agendas

AGENCY: Consumer Product Safety Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Regulatory Flexibility Act (RFA) requires each Federal agency to publish, twice each year, a regulatory flexibility agenda listing the rules that the agency expects to propose or issue and that are likely to have a significant economic impact on a substantial number of small entities, including small businesses, small organizations, and small governmental units. In this document, the Commission publishes its semiannual regulatory flexibility agenda.

Additionally, Executive Order 12866 requires each agency to publish an agenda of regulatory actions that the agency expects to develop or review during the next year and provides that the agency may combine its agenda of expected regulatory actions with the agency's regulatory flexibility agenda published in accordance with the RFA.

DATES: The Commission welcomes comments on each subject area of the regulatory flexibility agenda, particularly from small entities. Written comments concerning the agenda should be received in the Office of the Secretary by December 31, 1997.

ADDRESSES: Comments on the regulatory flexibility agenda should be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, telephone (301) 504-0800, or delivered to the Office of the Secretary, Room 502, 4330 East-West Highway, Bethesda, Maryland 20814. Alternatively, comments may be filed by telefacsimile to (301) 504-0127 or by e-mail to cpsc-os@cpsc.gov. Comments should be captioned "Regulatory Flexibility Agenda."

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact: Allen F. Brauninger, Office of the General Counsel, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504-0980. For further information regarding a particular item on the agenda, consult the individual listed in the column headed "Contact" for that particular item.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601-612) contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small businesses, small governmental organizations, and other small entities. Section 602 of the RFA (5 U.S.C. 602) requires each agency to publish, twice each year, a regulatory flexibility agenda containing a brief description of the subject area of any rule that the agency expects to propose or issue and that is likely to have a "significant economic impact" on a "substantial number" of small entities. The agency must also provide a summary of the nature of the rule and a schedule for acting on each rule for which the agency has issued a notice of proposed rulemaking.

The regulatory flexibility agenda shall also contain the name and address of the agency official knowledgeable about the items listed. Further, agencies are required to provide notice of their agendas to small entities and to solicit their comments by direct notification or by inclusion in publications likely to be obtained by such entities. Additionally, Executive Order 12866 requires each agency to publish, twice each year, a regulatory agenda of all regulations the agency expects to develop or review during the next year and states that the agency may combine the agenda required by the Executive Order with the agenda published in accordance with the RFA.

The regulatory flexibility agenda published below lists the regulatory activities that the Commission expects to develop or review during the next 12 months. It includes all such activities, whether or not they may have a significant economic impact on a substantial number of small entities.

The agenda contains a brief description and summary of each regulatory activity, including the objectives and legal basis for each; an approximate schedule of target dates, subject to revision, for the development or completion of each activity; and the name and telephone number of a knowledgeable agency official concerning particular items on the agenda. All agency contacts identified have the same address: Consumer Product Safety Commission, Washington, DC 20207.

Consumer Product Safety Commission Regulatory Plan

For this edition of the Commission's regulatory agenda, the regulatory actions selected by the Commission for inclusion in The Regulatory Plan appear in Part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference that directs the reader to the appropriate Sequence Number in Part II.

Dated: August 19, 1997.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4145	Petition HP 93-1 Requesting Development of a Rule To Ban Certain Backyard Playsets	3041-AB47
4146	Amendment of the Standard for the Flammability of Clothing Textiles	3041-AB68
4147	Amendment of Laundering Procedures in Flammability Standards for Children's Sleepwear, Carpets and Rugs, and Mattress Pads	3041-AB69
4148	Petition CP 97-1 Requesting Development of a Safety Standard for Escalators	3041-AB70
4149	Petition CP 97-2 Requesting Development of a Safety Standard for Shopping Carts	3041-AB71

CPSC

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4150	Flammability Standard for Upholstered Furniture (Reg Plan Seq. No. 164)	3041-AB35
4151	Requirements for Child-Resistance of Multi-Purpose Lighters (Reg Plan Seq. No. 165)	3041-AB66
4152	Requirements for Child-Resistant Packaging of Minoxidil	3041-AB72

References in boldface appear in the Regulatory Plan in Part II of this issue of the Federal Register.

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4153	Safety Standard for Bicycle Helmets (Reg Plan Seq. No. 166)	3041-AB42

References in boldface appear in the Regulatory Plan in Part II of this issue of the Federal Register.

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4154	Baby Walkers	3041-AB40
4155	Requirements for Child-Resistant Packaging of Household Products Containing Ammonia	3041-AB56
4156	Requirements for Child-Resistant Packaging of Household Products Containing Petroleum Distillates	3041-AB57
4157	Amendment of Safety Regulations for Cribs	3041-AB67

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4158	Requirements for Child-Resistant Packaging of Ketoprofen	3041-AB55

CONSUMER PRODUCT SAFETY COMMISSION (CPSC) — Prerule Stage

4145. PETITION HP 93-1 REQUESTING DEVELOPMENT OF A RULE TO BAN CERTAIN BACKYARD PLAYSETS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 1261 Federal Hazardous Substances Act

CFR Citation: None

Legal Deadline: None

Abstract: A petition from the New York City Department of Consumer Affairs requests the Commission to develop a rule to ban certain backyard playsets. The petition asserts that backyard playsets present unreasonable risks of injury to children if they do not meet the requirements of a voluntary standard for home playground equipment published by ASTM (formerly the American Society for Testing and Materials); are not accompanied with adequate information about ground surfacing; or lack specific features described in the petition. On May 21, 1996, the Commission denied those parts of the petition requesting issuance of a rule to ban any backyard playset that does not conform to all requirements of the ASTM voluntary standard; that has an accessible height that exceeds six feet above protective surfacing; that does not have adequate fall zones under climbing structures; or that does not provide adequate space between any item of swinging equipment and any other item of swinging or stationary equipment. The Commission deferred a decision on those parts of the petition requesting a rule to ban backyard playsets that are not accompanied with instructions to use and maintain specified ground surfacing; that do not have handrails on all platforms that are 30 inches or higher above protective surfacing; that have swing seats made of wood, metal, plastic, or other hard material capable of inflicting serious injury to the head; that have free-swinging ropes; and that are unanchored playsets with swings. In November 1997, the staff is scheduled to transmit additional information to the Commission concerning revisions of the voluntary standard now being considered by ASTM. The Commission will then decide whether to grant,

CPSC — Prerule Stage

deny, or continue to defer the remaining requests in the petition.

Timetable:

Action	Date	FR Cite
Partial Denial of Petition	05/21/96	
Staff Sends Additional Information to Commission	11/00/97	
Commission Decision	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Preston, Project Manager, Consumer Product Safety Commission, Directorate for Engineering Sciences, Washington, DC 20207
Phone: 301 504-0494

RIN: 3041–AB47

4146. AMENDMENT OF THE STANDARD FOR THE FLAMMABILITY OF CLOTHING TEXTILES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 1191 Flammable Fabrics Act

CFR Citation: 16 CFR 1610

Legal Deadline: None

Abstract: The Standard for the Flammability of Clothing Textiles prohibits the manufacture, importation, or sale of clothing, and fabrics and related materials intended for use in clothing, which are dangerously flammable because of rapid and intense burning. The standard prescribes the apparatus, procedure, and criteria to be used for testing to determine compliance with that standard. The standard was made mandatory by the Flammable Fabrics Act of 1953 (Pub. L. 83-88, 67 Stat. 111; June 30, 1953). Some of the equipment and procedures specified by the standard, particularly those for laundering and dry cleaning of test specimens, have become obsolete, unavailable, or unrepresentative of current practices. The staff is preparing a briefing package describing modifications of the standard that may be needed to assure that the test in the standard is conducted with equipment and procedures representative of conditions to which garments currently are exposed. After consideration of the briefing package, the Commission will decide whether to begin a proceeding for amendment of the standard.

Timetable:

Action	Date	FR Cite
Staff Sends Briefing Package To Commission	02/00/98	
Commission Decision	03/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Margaret Neily, Project Manager, Consumer Product Safety Commission, Dir. for Engineering Sciences, Washington, DC 20207
Phone: 301 504-0550

RIN: 3041–AB68

4147. AMENDMENT OF LAUNDERING PROCEDURES IN FLAMMABILITY STANDARDS FOR CHILDREN'S SLEEPWEAR, CARPETS AND RUGS, AND MATTRESS PADS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 1191 Flammable Fabrics Act

CFR Citation: 16 CFR 1615; 16 CFR 1616; 16 CFR 1630; 16 CFR 1631; 16 CFR 1632

Legal Deadline: None

Abstract: Flammability standards for children's sleepwear, carpets and rugs, and mattress pads contain procedures for washing and drying specimens before testing to assure that flame retardants used in these products will not be removed by repeated laundering or dry cleaning. The laundering procedures in all of these standards currently require use of a detergent and washing methods that are no longer representative of those used for home laundering. The staff is preparing a briefing package concerning the laundering procedures in these standards and modifications that may be needed to assure that the effect of laundering on the flammability of the products covered by these standards is assessed with equipment and methods currently used by consumers. After consideration of the briefing package, the Commission will decide whether to begin proceedings for amendment of the standards to revise their laundering procedures.

Timetable:

Action	Date	FR Cite
Staff Sends Briefing Package to Commission	12/00/97	
Commission Decision	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Margaret Neily, Project Manager, Consumer Product Safety Commission, Directorate for Engineering Sciences, Washington, DC 20207
Phone: 301 504-0550

RIN: 3041–AB69

4148. • PETITION CP 97-1 REQUESTING DEVELOPMENT OF A SAFETY STANDARD FOR ESCALATORS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 2051 Consumer Product Safety Act

CFR Citation: 00 CFR 0000

Legal Deadline: None

Abstract: A petition from Scott and Diana Anderson requests development of a safety standard for escalators. The petition asserts that escalators are associated with unreasonable risks of serious injuries resulting from entrapment of feet, toes, and other body parts in openings between the moving stairs and the sides of the escalators. On May 22, 1997, the Commission published a notice in the Federal Register to solicit comments on the petition from all interested persons. The staff is preparing a briefing package for consideration by the Commission.

Timetable:

Action	Date	FR Cite
Notice to Solicit Comments on Petition	05/22/97	62 FR 28005
Comment Period End	07/21/97	
Staff Sends Briefing Package to Commission	02/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Deborah Tinsworth, Project Manager, Consumer Product Safety Commission, Dir. for Epidemiology & Health Sciences
Phone: 301 504-0470

RIN: 3041–AB70

CPSC — Prerule Stage

4149. • PETITION CP 97-2 REQUESTING DEVELOPMENT OF A SAFETY STANDARD FOR SHOPPING CARTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 2051 Consumer Product Safety Act

CFR Citation: 00 CFR 0000

Legal Deadline: None

Abstract: The Commission has docketed correspondence from John S. Morse, Ph.D., PE, requesting development of a safety standard for shopping carts as petition CP97-2. The petition asserts that shopping carts that tip over present risks of injury to children and requests development of a standard with performance tests to prevent shopping carts from tipping over to the side or rear. On June 2, 1997, the Commission published a notice in the Federal Register to solicit comments on the petition from all interested persons. The staff is preparing a briefing package for consideration by the Commission.

Timetable:

Action	Date	FR Cite
Notice to Solicit Comments on Petition	06/02/97	62 FR 29717
Comment Period End	08/01/97	
Staff Sends Briefing Package to Commission	11/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Roy W. Deppa, Project Manager, Consumer Product Safety Commission, Directorate for Engineering Sciences
Phone: 301 504-0494

RIN: 3041–AB71

CONSUMER PRODUCT SAFETY COMMISSION (CPSC) — Proposed Rule Stage

4150. FLAMMABILITY STANDARD FOR UPHOLSTERED FURNITURE

Regulatory Plan: This entry is Seq. No. 164 in Part II of this issue of the **Federal Register**.

RIN: 3041–AB35

4151. REQUIREMENTS FOR CHILD-RESISTANCE OF MULTI-PURPOSE LIGHTERS

Regulatory Plan: This entry is Seq. No. 165 in Part II of this issue of the **Federal Register**.

RIN: 3041–AB66

4152. • REQUIREMENTS FOR CHILD-RESISTANT PACKAGING OF MINOXIDIL

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 1471, Poison Prevention Packaging Act

CFR Citation: 16 CFR 1700.14

Legal Deadline: None

Abstract: Regulations implementing the Poison Prevention Packaging Act (PPPA) require all prescription drugs in oral dosage form that are intended for human use to be in child-resistant packaging. Topical minoxidil is a liquid medication that can be applied to the scalp to stimulate regrowth of hair. However, if ingested, minoxidil is a potent vasodilator capable of producing serious cardiovascular effects. In 1996, the Food and Drug Administration acted to permit the sale of topical minoxidil as an over-the-counter drug, thereby expanding its potential availability to consumers. The staff is preparing a briefing package on the issue of whether the Commission should amend the PPPA regulations to require topical minoxidil to be in child-resistant packaging. The staff is scheduled to transmit that briefing package to the Commission in December 1997.

Timetable:

Action	Date	FR Cite
Staff Sends Briefing Package to Commission	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Val H. Schaeffer, Ph.D, Project Manager, Consumer Product Safety Commission, Dir. for Health Sciences and Epidemiology, Washington, DC 20207
Phone: 301 504-0994

RIN: 3041–AB72

CONSUMER PRODUCT SAFETY COMMISSION (CPSC) — Final Rule Stage

4153. SAFETY STANDARD FOR BICYCLE HELMETS

Regulatory Plan: This entry is Seq. No. 166 in Part II of this issue of the **Federal Register**.

RIN: 3041–AB42

CONSUMER PRODUCT SAFETY COMMISSION (CPSC) — Long-Term Actions

4154. BABY WALKERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 1261 Federal Hazardous Substances Act; 15 USC 1262 Federal Hazardous Substances Act

CFR Citation: 16 CFR 1500

Legal Deadline: None

Abstract: On August 2, 1994, the Commission published an advance notice of proposed rulemaking (ANPRM) to begin a proceeding that may result in the issuance of mandatory design or performance requirements for baby walkers. A baby walker is a device that supports a child so that the child can use his or her feet to move about before or while learning to walk. Typically, a baby walker consists of a fabric seat that has leg openings and is mounted to a rigid plastic deck. The deck is attached to a base that is mounted on wheels to allow mobility. In 1994, an estimated 25,500 children younger than 15 months of age were treated in hospital emergency rooms for injuries associated with baby walkers. Among the options under consideration by the Commission are mandatory performance or design requirements to reduce risks of injury associated with baby walkers, particularly those resulting to children from falls down stairs. The majority of these injuries resulted from falls down stairs. In response to the Commission's work in this area, the industry approved revisions to the voluntary standard for baby walkers in 1996 to address the hazard of falling down stairs. The staff is developing information concerning the extent of industry conformance with that voluntary standard, designated "Standard Consumer Safety Specification for Infant Walkers," SF 977-96, published by ASTM (formerly, the American Society for Testing and Materials). The ASTM standard contains performance requirements to address risks of injury to children from falls down stairs associated with baby walkers. The staff will send that information to the Commission together with options for Commission action, including withdrawal of the ANPRM or further regulatory proceedings.

Timetable:

Action	Date	FR Cite
ANPRM	08/02/94	59 FR 39309
ANPRM Comment Period End	10/03/94	
Staff Sends Briefing Package to the Commission	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Barbara Jacobson, Project Manager, Consumer Product Safety Commission, Dir. for Epidemiology & Health Sciences, Washington, DC 20207
Phone: 301 504-0477

RIN: 3041–AB40

4155. REQUIREMENTS FOR CHILD-RESISTANT PACKAGING OF HOUSEHOLD PRODUCTS CONTAINING AMMONIA

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1471 Poison Prevention Packaging Act

CFR Citation: 16 CFR 1700.14

Legal Deadline: None

Abstract: Ammonia has both irritant and corrosive properties. Some household products containing ammonia are subject to requirements for cautionary labeling by the Federal Hazardous Substances Act. The staff is reviewing information to determine whether some of these products containing ammonia should also be subject to requirements for child-resistant packaging under the Poison Prevention Packaging Act. The staff is preparing a briefing package for consideration by the Commission.

Timetable:

Action	Date	FR Cite
Staff Sends Briefing Package to Commission	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jacqueline Ferrante, Project Manager, Consumer Product Safety Commission, Dir. for Epidemiology & Health Sciences, Washington, DC
Phone: 301 504-0477

RIN: 3041–AB56

4156. REQUIREMENTS FOR CHILD-RESISTANT PACKAGING OF HOUSEHOLD PRODUCTS CONTAINING PETROLEUM DISTILLATES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 1471 Poison Prevention Packaging Act

CFR Citation: 16 CFR 1700.14(a)

Legal Deadline: None

Abstract: Some household products containing ten percent or more by weight of petroleum distillates are subject to requirements for child-resistant packaging by regulations issued under the Poison Prevention Packaging Act and codified at 16 CFR 1700.14(a). These products include liquid furniture polish (section 1700.14(a)(2)), lighter fluid (section 1700.14(a)(7)), and prepackaged solvents for paint (section 1700.14(a)(15)). However, many other household products containing petroleum distillates are not required to be in child-resistant packaging. On February 26, 1997, the Commission published an advance notice of proposed rulemaking (ANPRM) to initiate a proceeding which may result in mandatory requirements for child-resistant packaging of other household products containing petroleum distillates or other hydrocarbons. On April 28, 1997, the Commission extended the period for receipt of written comments on the ANPRM until July 11, 1997. In the Federal Register of July 21, 1997, the Commission reopened the comment period through September 1, 1997. The Commission will consider comments received in response to the ANPRM before deciding whether to propose requirements for child-resistant packaging of additional household products containing petroleum distillates or other hydrocarbons.

Timetable:

Action	Date	FR Cite
ANPRM	02/26/97	62 FR 8659
Extension of ANPRM Comment Period	04/28/97	62 FR 22897
ANPRM Comment Period End	05/12/97	62 FR 8659
Comment Period End	08/27/97	62 FR 22897
Reopening of ANPRM Comment Period	07/21/97	62 FR 38948
Comment Period End	09/01/97	

CPSC — Long-Term Actions

Action	Date	FR Cite
Staff Sends Briefing Package to Commission	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Suzanne Barone, Project Manager, Consumer Product Safety Commission, Dir. for Epidemiology & Health Sciences, Washington, DC
Phone: 301 504-0477

RIN: 3041–AB57

4157. AMENDMENT OF SAFETY REGULATIONS FOR CRIBS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 553 Administrative Procedure Act; 15 USC 1261 Federal Hazardous Substances Act

CFR Citation: 16 CFR 1508; 16 CFR 1509

Legal Deadline: None

Abstract: On December 16, 1996, the Commission published an advance notice of proposed rulemaking (ANPRM) to begin a proceeding that may result in amendment of the safety regulations for full-size and non-full-size cribs, 16 CFR parts 1508 and 1509. Among the regulatory alternatives under consideration is amendment of the regulations to add tests to assure that slats will not disengage from the side panels of cribs. The Commission began this proceeding after considering information about incidents in which crib slats disengaged from the side panels of cribs, creating a risk that children may become entrapped between the remaining slats or fall out of the crib. The Commission will consider written comments received in response to the ANPRM and assess progress toward amending the voluntary standard before deciding whether to continue the proceeding by publication of a notice of proposed rulemaking (NPRM) or terminate further proceedings in reliance on the voluntary standard.

Timetable:

Action	Date	FR Cite
ANPRM	12/16/96	61 FR 65996
ANPRM Comment Period End	02/14/97	
Staff Briefing Package on NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Deborah Tinsworth, Project Manager, Consumer Product Safety Commission, Dir. for Epidemiology & Health Sciences, Washington, DC 20207
Phone: 301 504-0470

RIN: 3041–AB67

CONSUMER PRODUCT SAFETY COMMISSION (CPSC) — Completed Actions

4158. REQUIREMENTS FOR CHILD-RESISTANT PACKAGING OF KETOPROFEN

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 16 CFR 1700.14(a)(26)

Completed:

Reason	Date	FR Cite
Final Action	05/28/97	62 FR 28798
Final Action Effective	11/24/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Bogumill
Phone: 301 504-0400

RIN: 3041–AB55

[FR Doc. 97-24033 Filed 10-28-97; 8:45 am]
BILLING CODE 6355-01-F

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Wednesday
October 29, 1997

Part XLVIII

Farm Credit Administration

Semiannual Regulatory Agenda

FARM CREDIT ADMINISTRATION (FCA)

FARM CREDIT ADMINISTRATION

12 CFR Ch. VI

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Farm Credit Administration.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Farm Credit Administration (FCA), as an independent regulatory agency in compliance with Executive Order 12866, sets forth the following agenda of regulations which it will have under development and review during the period of October 1997 through April 1998.

FOR FURTHER INFORMATION CONTACT: Cindy R. Nicholson, Paralegal Specialist, Regulation Development Division, Office of Policy Development and Risk Control, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, (703) 883-4498, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small entities. FCA regulations, which apply to Farm Credit banks and associations and certain other federally chartered entities, generally do not and will not have a substantial impact on "small entities" as that term is defined in the Regulatory Flexibility Act.

The FCA, as an independent regulatory agency, is exempt from certain provisions of Executive Order 12866. It participates in this joint publication to further the public interest by including the FCA in a single source of information concerning current and projected rulemaking and reviews of existing regulations, pursuant to section 4 of the Executive Order 12866.

Dated: August 12, 1997.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4159	Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations (Capital—Phase III)	3052-AB58
4160	Leasing Authorities	3052-AB63
4161	Balloting and Merger Reconsideration Issues	3052-AB71
4162	Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations (Investment Management)	3052-AB76

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4163	Loan Policies and Operations (General Financing Agreement)	3052-AB09
4164	Loan Policies and Operations (Other Financing Institutions)	3052-AB67
4165	Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations (Book-entry Farm Credit Securities)	3052-AB73
4166	Loan Policies and Operations (FCS Loan Sales)	3052-AB78

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4167	Federal Agricultural Mortgage Corporation Risk-Based Capital Regulation	3052-AB56
4168	Loan Policies and Operations; Lending Authorities (Secondary Market Participations)	3052-AB59
4169	Loan Policies and Operations (Comprehensive Borrower Rights)	3052-AB69

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4170	Referral of Crimes and Suspected Crimes (Criminal Referral)	3052-AB33
4171	Regulation Review and Deletions	3052-AB61
4172	Loan Policies and Operations (Loan Underwriting Standards)	3052-AB64
4173	Federal Agricultural Mortgage Corporation; Receivers and Conservators	3052-AB72

FCA

Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4174	Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Cumulative Voting for Bank Directors	3052-AB75
4175	Releasing Information	3052-AB77

FARM CREDIT ADMINISTRATION (FCA) — Proposed Rule Stage

4159. FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS (CAPITAL—PHASE III)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 12 USC 2154; 12 USC 2154a; 12 USC 2252; 12 USC 2154 note; PL 100-233, sec 301

CFR Citation: 12 CFR 615

Legal Deadline: None

Abstract: Would revise the current capital regulations taking into consideration safety and soundness concerns and similar regulations of other commercial bank regulators.

Timetable:

Action	Date	FR Cite
NPRM	09/23/97	62 FR 49623
NPRM Comment Period End	11/24/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Policy Development and Risk Control, 703-883-4498.

Agency Contact: Dennis K. Carpenter, Senior Policy Analyst, Office of Policy Development & Risk Control, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 708 883-4498
TDD: 703 883-4444
Fax: 703 734-5784

RIN: 3052–AB58

4160. LEASING AUTHORITIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 2011; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2019; 12 USC 2071; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2091; 12 USC 2093; 12 USC 2094; 12 USC 2097; ...

CFR Citation: 12 CFR 616

Legal Deadline: None

Abstract: Would develop comprehensive leasing regulations for all Farm Credit System institutions.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Policy Development and Risk Control, 703-883-4498.

Agency Contact: Robert G. Magnuson, Policy Analyst, Office of Policy Development & Risk Control, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD: 703 883-4444
Fax: 703 734-5784

RIN: 3052–AB63

4161. BALLOTING AND MERGER RECONSIDERATION ISSUES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 2011; 12 USC 2021; 12 USC 2071; 12 USC 2091; 12 USC 2121; 12 USC 2142; 12 USC 2183; 12 USC 2203; 12 USC 2209; 12 USC 2243; 12 USC 2244; 12 USC 2252; 12 USC 2279a to 2279f-1; 12 USC 2279aa-5(e)

CFR Citation: 12 CFR 611

Legal Deadline: None

Abstract: Would address regulatory burden issues concerning balloting and voter reconsideration when FCS institutions engage in corporate restructuring activities (i.e., mergers).

Timetable:

Action	Date	FR Cite
NPRM	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Policy Development and Risk Control, 703-883-4498.

Agency Contact: Eric Howard, Policy Analyst, Office of Policy Development & Risk Control, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD: 703 883-4444
Fax: 703 734-5784

RIN: 3052–AB71

4162. FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS (INVESTMENT MANAGEMENT)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 2013; 12 USC 2015; 12 USC 2018; 12 USC 2019; 12 USC 2020; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2076; 12 USC 2093; 12 USC 2122; 12 USC 2128; 12 USC 2132; 12 USC 2146; 12 USC 2154; ...

FCA — Proposed Rule Stage

CFR Citation: 12 CFR 615

Legal Deadline: None

Abstract: Would clarify and revise the current investment management regulations taking into consideration petitions received to amend the regulations, safety and soundness and similar regulations established by other financial institution regulators.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Policy Development and Risk Control, 703-883-4498.

Agency Contact: Laurie A. Rea, Senior Policy Analyst, Office of Policy Development & Risk Control, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD: 703 883-4444
Fax: 703 734-5784

RIN: 3052–AB76

FARM CREDIT ADMINISTRATION (FCA) — Final Rule Stage

4163. LOAN POLICIES AND OPERATIONS (GENERAL FINANCING AGREEMENT)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 2011; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2071; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2091; 12 USC 2093; 12 USC 2094; 12 USC 2096; 12 USC 2121; ...

CFR Citation: 12 CFR 614; 12 CFR 627

Legal Deadline: None

Abstract: Would eliminate existing FCA prior approval requirements and clarify existing policies and procedures for establishing a funding relationship between Farm Credit Banks and their affiliated lending institutions. Would also authorize the voluntary liquidation of Farm Credit institutions by an FCA-approved liquidation plan.

Timetable:

Action	Date	FR Cite
NPRM	03/24/97	62 FR 13842
NPRM Comment Period End	05/23/97	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Policy Development and Risk Control, 703-883-4498.

Agency Contact: Robert Coleman, Policy Analyst, Office of Policy Development & Risk Control, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD: 703 883-4444
Fax: 703 734-5784

RIN: 3052–AB09

4164. LOAN POLICIES AND OPERATIONS (OTHER FINANCING INSTITUTIONS)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 2011; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2071; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2091; 12 USC 2093; 12 USC 2094; 12 USC 2096; 12 USC 2121

CFR Citation: 12 CFR 614

Legal Deadline: None

Abstract: Would revise existing policies and procedures for the establishment of a funding relationship between Farm Credit System banks and other financing institutions.

Timetable:

Action	Date	FR Cite
ANPRM	05/17/96	61 FR 24907
ANPRM Comment Period End	07/16/96	
ANPRM Comment Period Extended to 08/30/96	07/17/96	61 FR 37230
NPRM	07/17/97	62 FR 38223
NPRM Comment Period End	09/15/97	
Final Action	05/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Policy Development and Risk Control, 703-883-4498.

Agency Contact: Eric Howard, Policy Analyst, Office of Policy Development & Risk Control, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD: 703 883-4444
Fax: 703 734-5784

RIN: 3052–AB67

4165. FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS (BOOK-ENTRY FARM CREDIT SECURITIES)

Priority: Other Significant

Legal Authority: 12 USC 2013; 12 USC 2122; 12 USC 2153; 12 USC 2154; 12 USC 2160; 12 USC 2252

CFR Citation: 12 CFR 615

Legal Deadline: None

Abstract: Would revise sections of the Farm Credit securities book-entry regulations to reflect changes to the Treasury book-entry regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/20/96	61 FR 67188
Interim Final Rule Effective Date	01/01/97	
Interim Final Rule Comment Period End	02/18/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Policy Development and Risk Control, 703-883-4498.

Agency Contact: Laurie A. Rea, Senior Policy Analyst, Office of Policy Development & Risk Control, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD: 703 883-4444
Fax: 703 734-5784

RIN: 3052–AB73

FCA — Final Rule Stage

4166. • LOAN POLICIES AND OPERATIONS (FCS LOAN SALES)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 2011; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2071; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2091; 12 USC 2093; 12 USC 2094; 12 USC 2096

CFR Citation: 12 CFR 614

Legal Deadline: None

Abstract: Would conform regulations on Farm Credit System loan sales to recent amendments made by the Farm Credit System Reform Act of 1996.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Policy Development and Risk Control, 703-883-4498.

Agency Contact: John J. Hays, Policy Analyst, Office of Policy Development & Risk Control, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD: 703 883-4444
Fax: 703 734-5784

RIN: 3052–AB78

FARM CREDIT ADMINISTRATION (FCA) — Long-Term Actions

4167. FEDERAL AGRICULTURAL MORTGAGE CORPORATION RISK-BASED CAPITAL REGULATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: Not yet determined

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Larry W. Edwards
Phone: 703 883-4280
TDD: 703 883-4444

RIN: 3052–AB56

4168. LOAN POLICIES AND OPERATIONS; LENDING AUTHORITIES (SECONDARY MARKET PARTICIPATIONS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 614.4000; 12 CFR 614.4010; 12 CFR 614.4030; 12 CFR 614.4040; 12 CFR 614.4050

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Eric Howard
Phone: 703 883-4498
TDD: 703 883-4444
Fax: 703 734-5784

RIN: 3052–AB59

4169. LOAN POLICIES AND OPERATIONS (COMPREHENSIVE BORROWER RIGHTS)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 12 CFR 614

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gaylon Dykstra
Phone: 703 883-4498
TDD: 703 883-4444
Fax: 703 734-5784

RIN: 3052–AB69

FARM CREDIT ADMINISTRATION (FCA) — Completed Actions

4170. REFERRAL OF CRIMES AND SUSPECTED CRIMES (CRIMINAL REFERRAL)

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 617

Completed:

Reason	Date	FR Cite
Final Action	05/06/97	62 FR 24562
Final Action Effective	06/13/97	62 FR 32478

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Eric Howard
Phone: 703 883-4498
TDD: 703 883-4444

Fax: 703 734-5784

RIN: 3052–AB33

4171. REGULATION REVIEW AND DELETIONS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 600; 12 CFR 603; 12 CFR 611; 12 CFR 614; 12 CFR 615; 12 CFR 618; 12 CFR 619

Completed:

Reason	Date	FR Cite
Final Action	04/14/97	62 FR 18037
Final Action Effective	03/04/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda C. Sherman
Phone: 703 883-4498
TDD: 703 883-4444
Fax: 703 734-5784

RIN: 3052–AB61

4172. LOAN POLICIES AND OPERATIONS (LOAN UNDERWRITING STANDARDS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 614

Completed:

Reason	Date	FR Cite
Final Action	09/30/97	62 FR 51007

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Hays
Phone: 703 883-4498
TDD: 703 883-4444
Fax: 703 734-5784

RIN: 3052–AB64

4173. FEDERAL AGRICULTURAL MORTGAGE CORPORATION; RECEIVERS AND CONSERVATORS

Priority: Other Significant

CFR Citation: 12 CFR 600 to 650

Completed:

Reason	Date	FR Cite
Final Action	08/15/97	62 FR 43633
Final Action Effective	10/01/97	62 FR 51369

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gaylon Dykstra
Phone: 703 883-4498
TDD: 703 883-4444
Fax: 703 734-5784

RIN: 3052–AB72

4174. FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS; CUMULATIVE VOTING FOR BANK DIRECTORS

Priority: Info./Admin./Other

CFR Citation: 12 CFR 615

Completed:

Reason	Date	FR Cite
Final Action	09/24/97	62 FR 49907

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gaylon Dykstra
Phone: 703 883-4498
TDD: 703 883-4444
Fax: 703 734-5784

RIN: 3052–AB75

4175. RELEASING INFORMATION

Priority: Info./Admin./Other

CFR Citation: 12 CFR 602

Completed:

Reason	Date	FR Cite
Final Action	08/01/97	62 FR 41253
Final Action Effective	10/02/97	62 FR 51583

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Hays
Phone: 703 883-4498
TDD: 703 883-4444
Fax: 703 734-5784

RIN: 3052–AB77

[FR Doc. 97-22237 Filed 10-28-97; 8:45 am]
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October 29, 1997

Part XLIX

Farm Credit System Insurance Corporation

Semiannual Regulatory Agenda

FARM CREDIT SYSTEM INSURANCE CORPORATION (FCSIC)

FARM CREDIT SYSTEM INSURANCE CORPORATION

12 CFR Ch. XIV

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Farm Credit System Insurance Corporation.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Farm Credit System Insurance Corporation (Corporation), in compliance with Executive Order 12866, sets forth the following agenda of regulations which it will have under development and review during the period of October 1997 through April 1998.

FOR FURTHER INFORMATION CONTACT: Cindy R. Nicholson, Paralegal Specialist, Farm Credit System Insurance Corporation, 1501 Farm Credit Drive, McLean, Virginia 22102, (703) 883-4498, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small entities. Corporation regulations, which apply to Farm Credit banks and associations, generally do not and will not have a substantial impact on "small entities" as that term is defined in the Regulatory Flexibility Act.

The Corporation, as an independent regulatory agency, is exempt from certain provisions of Executive Order 12866. It participates in this joint publication to further the public interest by including the Corporation in a single source of information concerning current and projected rulemaking and reviews of existing regulations, pursuant to section 4 of the Executive Order 12866.

Dated: August 12, 1997.

Floyd Fithian,

Secretary, Farm Credit System Insurance Corporation Board.

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4176	Enforcement of Nondiscrimination on the Basis of Handicap	3055-AA01
4177	Referral of Known and Suspected Criminal Violations	3055-AA02
4178	Farm Credit System Reform Act of 1996	3055-AA04

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4179	Releasing Information	3055-AA06

FARM CREDIT SYSTEM INSURANCE CORPORATION (FCSIC) — Long-Term Actions

4176. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP

Priority: Info./Admin./Other

CFR Citation: 12 CFR 1406

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dorothy L. Nichols
Phone: 703 883-4380
TDD: 703 883-4444

RIN: 3055–AA01

4177. REFERRAL OF KNOWN AND SUSPECTED CRIMINAL VIOLATIONS

Priority: Info./Admin./Other

CFR Citation: 12 CFR 1417

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dorothy L. Nichols
Phone: 703 883-4380
TDD: 703 883-4444

RIN: 3055–AA02

4178. FARM CREDIT SYSTEM REFORM ACT OF 1996

Priority: Other Significant. Major status under 5 USC 601 is undetermined.

CFR Citation: 12 CFR 1400 to 1410

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dorothy L. Nichols
Phone: 703 883-4380
Fax: 703 790-9088

RIN: 3055–AA04

FARM CREDIT SYSTEM INSURANCE CORPORATION (FCSIC) — Completed Actions

4179. RELEASING INFORMATION

Priority: Info./Admin./Other

CFR Citation: 12 CFR 1402

Completed:

Reason	Date	FR Cite
Final Action	09/23/97	62 FR 49593
Final Action Effective	10/02/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dorothy L. Nichols
Phone: 703 883-4380
TDD: 703 883-4444

RIN: 3055–AA06

[FR Doc. 97-22238 Filed 10-28-97; 8:45 am]
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Part L

Federal Communications Commission

Semiannual Regulatory Agenda

FEDERAL COMMUNICATIONS COMMISSION (FCC)

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

Unified Agenda of Federal Regulatory and Deregulatory Actions; October 1997

AGENCY: Federal Communications Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: Twice a year, the Commission publishes a list in the Unified Agenda of those major items and other significant proceedings under development or review that pertain to the Regulatory Flexibility Act. See 5 U.S.C. 602. The Agenda also provides the CFR citations and legal authorities which govern these proceedings. The Agenda will be published in the **Federal Register** in April and October of each year.

ADDRESSES: FEDERAL COMMUNICATIONS COMMISSION, 1919 M STREET NW., WASHINGTON, DC 20554.

FOR FURTHER INFORMATION CONTACT: Eric Malinen, Senior Legal Advisor, Office of Communications Business Opportunities, FCC, Room 644, 1919 M Street NW., Washington, DC 20554, (202) 418-0995.

SUPPLEMENTARY INFORMATION:

Unified Agenda of Major and Other Significant Proceedings

The Commission encourages public participation in the FCC rulemaking process. To help keep the public informed of significant rulemaking proceedings, the Commission has prepared an agenda of important proceedings now in progress. OMB will publish the Unified Agenda in the **Federal Register** in April and October of each year.

The following terms may be helpful in understanding the status of the proceedings included in this report:

Docket Number—assigned to a proceeding if the Commission has issued either a Notice of Proposed Rulemaking or a Notice of Inquiry concerning the matter under consideration. The Commission has used docket numbers since January 1, 1978. Docket numbers consist of the last two digits of the calendar year in which the docket was established, plus a sequential number, which begins at 1 with the first docket initiated during a calendar year (e.g., Docket No. 60-1 or Docket No. 83-1). The abbreviation for the responsible Bureau usually precedes the docket number, as in "MM Docket No. 79-164," which indicates that the responsible Bureau is the Mass Media Bureau. A docket number consisting of only five digits (e.g., Docket 29622) indicates that the docket was established before January 1, 1978.

Notice of Inquiry (NOI)—issued by the Commission when it is seeking information on a broad subject or trying to generate ideas on a given topic. A comment period is specified during which all interested parties may submit comments.

Notice of Proposed Rulemaking (NPRM)—issued by the Commission when it is proposing a specific change to the FCC Rules and Regulations. Before any changes are actually made, interested parties may submit written comments on the proposals.

Further Notice of Proposed Rulemaking (FNPRM)

Memorandum Opinion and Order (MO&O)—issued by the Commission to deny a petition for rulemaking, conclude an inquiry, modify a decision, or deny a petition for reconsideration of a decision.

Rulemaking (RM) Number—assigned to a proceeding after the appropriate Bureau/Office has reviewed a petition for rulemaking but before the Commission has taken action on the petition.

Report and Order (R&O)—issued by the Commission to state a new or amended rule or state that the FCC Rules will not be changed.

William F. Caton,

Acting Secretary,

Federal Communications Commission.

CABLE SERVICES BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4180	Cable Television Rate Regulation	3060-AF41
4181	Cable Television Rate Regulation: Cost of Service	3060-AF48
4182	Customer Service Standards	3060-AF69
4183	Small Systems	3060-AF71
4184	Cable Home Wiring	3060-AG02
4185	Over the Air Reception Devices	3060-AG24
4186	Closed Captioning	3060-AG26
4187	Cable Act Reform	3060-AG27
4188	Competitive Availability of Navigation Devices	3060-AG28
4189	Implementation of Section 551 of the Telecommunications Act of 1996, Parental Choice in Television Programming	3060-AG59
4190	Telecommunications Act of 1996, Pole Attachment Provisions	3060-AG71

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COMMON CARRIER BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4191	Expanded Interconnection With Local Telephone Company Facilities	3060-AF04
4192	Rules and Policies Regarding Calling Number Identification Services (CC Docket 91-281)	3060-AF07
4193	In the Matter of Intelligent Networks	3060-AF08
4194	Administration of the North American Numbering Plan	3060-AF50
4195	The Use of N11 Codes and Other Abbreviated Dialing Arrangements	3060-AF51
4196	In the Matter of Billed Party Preference for 0+ InterLATA Calls	3060-AF60
4197	Implementation of the Universal Service Portions of the 1996 Telecommunications Act	3060-AF85
4198	Integrated Services Digital Network (ISDN)	3060-AG08
4199	Toll Free Service Access Codes, Third Report and Order	3060-AG11
4200	Implementation of Section 273 of the Telecommunications Act of 1996; Notice of Proposed Rulemaking	3060-AG36
4201	Implementation of Non-Accounting Safeguards, Sec. 271 & 272 of Communications Act of 1996 & Regulatory Treatment of LEC Provisions of Interexchange Svcs. Orig. in LEC Local Exch. Area	3060-AG37
4202	Policies and Rules Governing Interstate Pay-Per-Call and Other Information Services Pursuant to the Telecommunications Act of 1996	3060-AG42
4203	Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information	3060-AG43
4204	Telemessaging, Electronic Publishing, and Alarm Monitoring Services	3060-AG44
4205	Policy and Rules Concerning the Interstate, Interexchange Marketplace; Implementation of Section 254(g) of the Communications Act of 1934, As Amended	3060-AG45
4206	Implementation of the Subscriber Selection Changes Provision of the Telecommunications Act of of 1996	3060-AG46
4207	Implementation of Section 402(b)(1)(a) of the Telecommunications Act of 1996 (LEC Tariff Streamlining Provisions)	3060-AG47
4208	Regulatory Treatment of LEC Provision on Interexchange Service Originating in the LEC's Local Exchange Area	3060-AG48
4209	Access Charge Reform	3060-AG49
4210	Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Second Report and Order and Memorandum Opinion and Order	3060-AG50
4211	Enhanced 911 Services for Wireline	3060-AG60
4212	Administration of the North American Numbering Plan, Carrier Identification Codes (CICs)	3060-AG61
4213	Implementation of Section 402(b)(2)(A) of the Telecommunications Act of 1996	3060-AG62
4214	In the Matter of Inside Wire, Third Report and Order	3060-AG63
4215	Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996 (Second Report and Order)	3060-AG64
4216	Amendment of Rules Governing Procedures To Be Followed When Formal Complaints Are Filed Against Common Carriers	3060-AG65

COMMON CARRIER BUREAU—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4217	Telephone Company/Cable Television Cross-Ownership Rules Sections 63.54-63.56	3060-AE40
4218	Price Cap Performance Review for Local Exchange Carriers, Fourth Further Notice of Proposed Rulemaking (CC Docket No. 94-1)	3060-AG10

COMPLIANCE AND INFORMATION BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4219	In the Matter of Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Alert System	3060-AF21
4220	In the Matter of the Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules To Incorporate the Forfeiture Guidelines	3060-AF65
4221	In the Matter of Amendment of the Commission's Rules Concerning the Inspection of Radio Installations on Large Cargo and Small Passenger Ships	3060-AG13

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OFFICE OF ENGINEERING AND TECHNOLOGY—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4222	Digital Audio Broadcasting	3060-AE81
4223	Standards for ISM Equipment	3060-AE97
4224	Revision of Marketing and Authorization Process	3060-AF29
4225	RF Exposure Standard	3060-AF32
4226	Cable System Compatibility With TV Receivers and VCRs	3060-AF38
4227	Wind Profiler Radar Systems	3060-AF45
4228	Millimeter Wave Spectrum Allocation	3060-AF61
4229	Digital Equipment Deregulation	3060-AF73
4230	MSS Spectrum Allocation	3060-AF75
4231	Arecibo Coordination Zone	3060-AG15
4232	Spread Spectrum Rules	3060-AG17
4233	Medical Care Telemetry Devices	3060-AG18
4234	Unlicensed NII at 5 GHz	3060-AG19
4235	Revision of the Experimental Radio Service Regulations	3060-AG55
4236	Reallocation of TV Channels 60-69	3060-AG69
4237	Streamline the Equipment Authorization Process	3060-AG70

OFFICE OF ENGINEERING AND TECHNOLOGY—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4238	Pioneer's Preference Rules	3060-AF53
4239	Microwave Antenna Flexibility	3060-AG14
4240	Hughes FSS 13.75-14.0 GHz	3060-AG57

INTERNATIONAL BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4241	Streamlining the Commission's Rules and Regulations for Satellite Application and Licensing Procedures	3060-AD70
4242	Satellite Communications—MSS	3060-AF42
4243	Establishing Rules and Policies for the Use of Spectrum for Mobile Satellite Service in the L-Band	3060-AF89
4244	Preemption of Local Zoning Regulation of Satellite Earth Stations	3060-AF92
4245	Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310-2360 MHz Frequency Band	3060-AF93
4246	Redesignation of the 27.5-29.5 GHz Frequency Band	3060-AF94
4247	Amendment of Policy to Allow Non-U.S. Licensed Space Stations to Provide Service in the United States	3060-AG31
4248	Rules and Policies on Foreign Participation in the U.S. Telecommunications Market	3060-AG67

INTERNATIONAL BUREAU—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4249	Deregulation of International Receive-Only Earth Stations	3060-AF33
4250	In the Matter of International Settlement Rates, IB Docket No. 96-261	3060-AG52

MASS MEDIA BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4251	Broadcast EEO: Reconsideration	3060-AD73

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MASS MEDIA BUREAU—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4252	Advanced Television Service (MM Docket 87-268)	3060-AE24
4253	Transfer of Control of Non-Stock Entities MM Docket 89-77	3060-AE31
4254	Local Television Ownership Rule MM Docket No. 91-221	3060-AF79
4255	Filing of Television Network Affiliation Contracts MM Docket 95-40	3060-AF80
4256	Rules Governing Broadcast Television Advertising MM Docket 95-90	3060-AF81
4257	Attribution of Broadcast Interests MM Docket Nos. 94-150, 92-51, 87-154	3060-AF82
4258	EEO Streamlining Proposals	3060-AG29
4259	Minor Modifications of Broadcast Licenses Without Prior Construction Permit	3060-AG30
4260	Newspaper/Broadcast Cross-Ownership	3060-AG53
4261	National Television Ownership Rules MM Docket Nos. 96-222, 91-221, 87-8	3060-AG54
4262	Main Studio/Public File Requirements for Broadcasters	3060-AG68

OFFICE OF MANAGING DIRECTOR—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4263	Assessment and Collection of Regulatory Fees for FY 1997	3060-AG51
4264	Assessment and Collection of Regulatory Fees for FY 1998	3060-AG66

WIRELESS TELECOMMUNICATIONS BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4265	Amendment of Part 80 of the Commission's Rules Concerning VHF Maritime Operations	3060-AF14
4266	Rulemaking to Amend Part 1 and Part 21 to Redesignate the 27.5-29.5 GHz Band and To Establish Rules and Policies for Local Multi-Point Distribution Service	3060-AF26
4267	Refarming	3060-AF35
4268	Future Development of 800 MHz SMR; Competitive Bidding Wide Area	3060-AF47
4269	Interconnection Obligations Pertaining to Commercial Mobile Radio Services	3060-AF58
4270	Implementation of Section 309(j) of the Communications Act, Competitive Bidding; Narrowband PCS Competitive Bidding Rules	3060-AF99
4271	Implementation of Section 309(j) of the Communications Act, Competitive Bidding; IVDS Competitive Bidding Rules	3060-AG00
4272	38 GHz Channel Plan	3060-AG16
4273	Implementation of Section 309(j) of the Communications Act, Competitive Bidding Broadband PCS F Block Rules	3060-AG21
4274	Report and Order (Second) to Allow 220 MHz Licensee to Relocate Their Base Stations	3060-AG23
4275	Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems	3060-AG34
4276	Wireless Communications Services	3060-AG56
4277	Implementation of Section 225 of the Telecommunications Act of 1996; Access to Telecommunication Services and Equipment and Customer Premise Equipment by Persons With Disabilities	3060-AG58

FEDERAL COMMUNICATIONS COMMISSION (FCC)

CABLE SERVICES BUREAU

Long-Term Actions

4180. CABLE TELEVISION RATE REGULATION

Priority: Other Significant

CFR Citation: 47 CFR 76

Timetable:

Action	Date	FR Cite
NPRM	01/04/93	58 FR 48
R&O and FNPRM	05/21/93	58 FR 29736
MO&O and FNPRM	08/18/93	58 FR 43816
3rd R&O	11/30/93	58 FR 63067
end Order on Recon, 4th R&O, and 5th NPRM	04/15/94	59 FR 17943
3rd Order on Recon	04/15/94	59 FR 17961
5th Order on Recon and Further NPRM	10/13/94	59 FR 51889
4th Order on Recon	10/21/94	59 FR 53113

6th Order on Recon, 5th R&O, and 7th NPRM	12/06/94	59 FR 62614
7th Order on Recon	01/25/95	60 FR 4863
9th Order on Recon	02/27/95	60 FR 10512
8th Order on Recon	03/17/95	60 FR 14373
6th R&O and 11th Order on Recon	07/12/95	60 FR 35854
13th Order on Recon	10/05/95	60 FR 52106
12th Order on Recon	10/26/95	60 FR 54815
10th Order on Recon	04/08/96	61 FR 15388
Order on Recon of the 1st R&O and Further NPRM	04/15/96	61 FR 16447
MO&O	02/12/97	62 FR 6491
Report on Cable Industry Prices	02/24/97	62 FR 8245
R&O	03/31/97	62 FR 15118

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Nancy Stevenson
Phone: 202 418-7039

RIN: 3060–AF41

4181. CABLE TELEVISION RATE REGULATION: COST OF SERVICE

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 76

Timetable:

Action	Date	FR Cite
NPRM	07/30/93	58 FR 40762
R&O	04/15/94	59 FR 17975
2nd NPRM	04/15/94	59 FR 18066
MO&O	10/14/94	59 FR 52087
2nd R&O/1st Order on Recon/FNPRM	03/08/96	61 FR 9361

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: JoAnn Lucanik
Phone: 202 418-7037

RIN: 3060–AF48

4182. CUSTOMER SERVICE STANDARDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 47 CFR 76

Timetable:

Action	Date	FR Cite
NPRM	12/23/92	57 FR 61038
R&O	04/19/93	53 FR 21107

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Rick Chessen
Phone: 202 418-7042

RIN: 3060–AF69

4183. SMALL SYSTEMS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 47 CFR 76

Timetable:

Action	Date	FR Cite
R&O	05/21/93	58 FR 29736
FNPRM	08/18/93	58 FR 43853
MO&O	08/18/93	58 FR 43853
2nd Order on Recon/4th R&O	04/15/94	59 FR 17943
5th Order on Recon/FNPRM	10/13/94	59 FR 59519
4th Order on Reconsideration	10/21/94	59 FR 53113
5th R&O/6th Order on Recon/7th NPRM	12/06/94	59 FR 62614
7th Order on Reconsideration	01/25/95	60 FR 4863
9th Order on Reconsideration	02/27/95	60 FR 10512
8th Order on Reconsideration	03/17/95	60 FR 14373
6th R&O/11th Order on Recon	07/12/95	60 FR 35854
Order & NPRM	04/30/96	61 FR 19013

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Claire Blue
Phone: 202 418-7043

RIN: 3060–AF71

4184. CABLE HOME WIRING

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 47 CFR 76

Timetable:

Action	Date	FR Cite
NPRM	11/17/92	57 FR 54209
R&O	03/02/93	58 FR 11970
NPRM	02/01/96	61 FR 3657
1st Order on Recon & FNPRM	02/16/96	61 FR 6210

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Rick Chessen
Phone: 202 418-7042

RIN: 3060–AG02

4185. OVER THE AIR RECEPTION DEVICES

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 25; 47 CFR 1

Timetable:

Action	Date	FR Cite
R&O & FNPRM	03/15/96	61 FR 10710
NPRM	04/18/96	61 FR 16890
R&O, MO&O, FNPRM	09/04/96	61 FR 46557

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Rick Chessen
Phone: 202 418-7042

RIN: 3060–AG24

4186. CLOSED CAPTIONING

Priority: Other Significant

CFR Citation: 47 CFR 79

Timetable:

Action	Date	FR Cite
NOI	12/15/95	60 FR 65052
Order	01/29/96	61 FR 2781
Order	03/12/96	61 FR 9963
Report	08/14/96	61 FR 42249
NPRM	02/03/97	62 FR 4959
Order	03/24/97	62 FR 13853
R&O	08/12/97	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Marcia Glauberman
Phone: 202 418-7046

RIN: 3060–AG26

4187. CABLE ACT REFORM

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 76

Timetable:

Action	Date	FR Cite
Order & NPRM	04/30/96	61 FR 19013

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Nancy Stevenson
Phone: 202 418-7039

RIN: 3060–AG27

4188. COMPETITIVE AVAILABILITY OF NAVIGATION DEVICES

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 76

Timetable:

Action	Date	FR Cite
NPRM	03/05/97	62 FR 10011

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Nancy Markowitz
Phone: 202 418-1027

RIN: 3060–AG28

4189. IMPLEMENTATION OF SECTION 551 OF THE TELECOMMUNICATIONS ACT OF 1996, PARENTAL CHOICE IN TELEVISION PROGRAMMING

Priority: Substantive, Nonsignificant

CFR Citation: None

Timetable:

Action	Date	FR Cite
Public Notice	04/23/97	62 FR 24854
Public Notice	05/27/97	62 FR 28703
Public Notice	07/16/97	62 FR 38090

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Rick Chessen
Phone: 202 418-7042

RIN: 3060–AG59

4190. • TELECOMMUNICATIONS ACT OF 1996, POLE ATTACHMENT PROVISIONS

Priority: Other Significant

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 154(j); 47 USC 224; 47 USC 303; 47 USC 403

Legal Deadline: Final, Statutory, February 8, 1998.

Abstract: In this proceeding, the Commission continues its implementation of section 703 of the Telecommunications Act of 1996 (1996 Act), by proposing amendments to the Commission's rules relating to pole attachments. The Commission is required to prescribe regulations, no later than two years after the date of enactment of the 1996 Act, to govern the charges for pole attachments used by cable operators and telecommunications carriers to provide telecommunications services, when the parties fail to resolve a dispute over such charges.

Timetable:

Action	Date	FR Cite
Order	08/20/96	61 FR 43023

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Larry Walke, Attorney, Federal Communications Commission
Phone: 202 418-7048

RIN: 3060–AG71

FEDERAL COMMUNICATIONS COMMISSION (FCC) COMMON CARRIER BUREAU

Long-Term Actions

4191. EXPANDED INTERCONNECTION WITH LOCAL TELEPHONE COMPANY FACILITIES

Priority: Other Significant

CFR Citation: 47 CFR 69; 47 CFR 61; 47 CFR 64

Timetable:

Action	Date	FR Cite
NPRM & NOI	07/26/91	56 FR 34159
ANPRM	09/20/91	56 FR 44053
ANPRM Comment Period End	11/06/91	56 FR 34159
R&O and NPRM	11/18/92	57 FR 54323
2nd NPRM	12/01/92	57 FR 56886
MO&O	12/31/92	57 FR 62481
NPRM Comment Period End	03/09/93	57 FR 58767
2nd MO&O	09/17/93	58 FR 48752
2nd MO&O and 3rd NPRM	09/17/93	58 FR 48756
3rd R&O	06/27/94	59 FR 32925
MO&O	08/01/94	59 FR 38922
Carriers required to file collocation tariffs on	09/01/94	
Effective Date	12/15/94	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Claudia Pabo
Phone: 202 418-1580

RIN: 3060–AF04

4192. RULES AND POLICIES REGARDING CALLING NUMBER IDENTIFICATION SERVICES (CC DOCKET 91-281)

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 64.1600 to 64.1604

Timetable:

Action	Date	FR Cite
NPRM	09/26/91	56 FR 57300
FNPRM	04/18/94	59 FR 18349
R&O	04/18/94	59 FR 18318
Second R&O and Third NPRM	08/02/95	60 FR 28775
Order	10/30/95	
Order	11/30/95	
Order & Fourth NPRM	11/30/95	60 FR 63491

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Alan Thomas
Phone: 202 418-2338
Fax: 202 418-2345
Email: aathomas@fcc.gov

RIN: 3060–AF07

4193. IN THE MATTER OF INTELLIGENT NETWORKS

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 64

Timetable:

Action	Date	FR Cite
NOI	11/21/91	56 FR 65721
NPRM	08/03/93	58 FR 46623

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert S. Tanner
Phone: 202 418-1580
Fax: 202 418-1413

RIN: 3060–AF08

4194. ADMINISTRATION OF THE NORTH AMERICAN NUMBERING PLAN

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

CFR Citation: 47 CFR 151; 47 CFR 154; 47 CFR 201 to 205; 47 CFR 403; 47 CFR 52.1 to 52.99

Timetable:

Action	Date	FR Cite
NOI	11/10/92	57 FR 53462
NPRM	05/10/94	59 FR 24103
R&O	07/28/95	60 FR 58737

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian Gordon
Phone: 202 418-2337
Email: mgordon@fcc.gov

RIN: 3060–AF50

4195. THE USE OF N11 CODES AND OTHER ABBREVIATED DIALING ARRANGEMENTS

Priority: Substantive, Nonsignificant

Timetable:

Action	Date	FR Cite
NPRM	05/29/92	57 FR 22681
First R&O	02/26/97	62 FR 8633
Further NPRM	02/26/97	62 FR 8671

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Elizabeth Nightingale
Phone: 202 418-2352
Fax: 202 418-2345
Email: enighting@fcc.gov

RIN: 3060–AF51

4196. IN THE MATTER OF BILLED PARTY PREFERENCE FOR 0+ INTERLATA CALLS

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 64.703(c)(Revision)

Timetable:

Action	Date	FR Cite
NPRM	05/08/92	57 FR 24574
NPRM Comment Period End	08/27/92	
Further NPRM	06/06/94	59 FR 30754
Further NPRM Comment Period End	09/14/94	
2nd FNPRM	06/06/96	
FNPRM Comment Period End	08/16/96	

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Adrien Auger
Phone: 202 418-0960
Fax: 202 418-0236

RIN: 3060–AF60

4197. IMPLEMENTATION OF THE UNIVERSAL SERVICE PORTIONS OF THE 1996 TELECOMMUNICATIONS ACT

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 36; 47 CFR 69

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	03/08/96	61 FR 10499
Recommended Decision Fed-State Joint Bd on Univ Svc	11/08/96	61 FR 63778
First Report and Order Implement of Schools, Libraries, Admin Prov of 8254 of 1996 Act	05/08/97	62 FR 32862
Second Report and Order Implement of Universal Service Provisions of 1996 Telecom Act	05/08/97	62 FR 32862
Final Order Changes to the Board of Directors of NECA	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Undetermined

Agency Contact: Lisa Gelb
Phone: 202 418-7400
Fax: 202 418-7361
Email: lgelb@fcc.gov

RIN: 3060–AF85

4198. INTEGRATED SERVICES DIGITAL NETWORK (ISDN)

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 69

Timetable:

Action	Date	FR Cite
NPRM	05/30/95	60 FR 21274

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact:
Phone: 202 418-1530

RIN: 3060–AG08

4199. TOLL FREE SERVICE ACCESS CODES, THIRD REPORT AND ORDER

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
NPRM	10/05/95	60 FR 57157
NPRM Comment Period End	11/15/95	
Interim Final Rule	01/25/96	
Second R&O	04/25/97	62 FR 20126

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Robin Smolen
Phone: 202 418-2353
Fax: 202 418-2345
Email: rsmolen@fcc.gov

RIN: 3060–AG11

4200. IMPLEMENTATION OF SECTION 273 OF THE TELECOMMUNICATIONS ACT OF 1996; NOTICE OF PROPOSED RULEMAKING

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
NPRM	12/11/96	62 FR 3636
NPRM Comment Period End	01/24/97	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Greg Cooke
Phone: 202 418-2351
Fax: 202 418-2345
Email: gcooke@fcc.gov

RIN: 3060–AG36

4201. IMPLEMENTATION OF NON-ACCOUNTING SAFEGUARDS, SEC. 271 & 272 OF COMMUNICATIONS ACT OF 1996 & REGULATORY TREATMENT OF LEC PROVISIONS OF INTEREXCHANGE SVCS. ORIG. IN LEC LOCAL EXCH. AREA

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 61.41; 47 CFR 61.58; 47 CFR 63.71; 47 CFR 64.702; 47 CFR 1.720; 47 CFR 1.721; 47 CFR 1.735

Timetable:

Action	Date	FR Cite
NPRM	07/29/96	61 FR 39392
FNPRM	01/21/97	62 FR 2991
1st R&O	01/21/97	62 FR 2927
2nd Order on Recon.	07/07/97	62 FR 36216

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Radhika Karmarkar
Phone: 202 418-1580

RIN: 3060–AG37

4202. POLICIES AND RULES GOVERNING INTERSTATE PAY-PER-CALL AND OTHER INFORMATION SERVICES PURSUANT TO THE TELECOMMUNICATIONS ACT OF 1996

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 64.1501; 47 CFR 64.1504; 47 CFR 64.1510

Timetable:

Action	Date	FR Cite
NPRM	08/20/96	61 FR 31481
NPRM Comment Period End	09/16/96	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mary Romano
Phone: 202 418-0960
Fax: 202 418-0236
Email: mromano@fcc.gov

RIN: 3060–AG42

4203. TELECOMMUNICATIONS CARRIERS' USE OF CUSTOMER PROPRIETARY NETWORK INFORMATION AND OTHER CUSTOMER INFORMATION

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
NPRM	05/28/96	61 FR 26483
Public Notice	02/25/97	62 FR 8414

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dorothy Attwood
Phone: 202 418-1580
Fax: 202 418-1413

RIN: 3060–AG43

4204. TELEMESSAGING, ELECTRONIC PUBLISHING, AND ALARM MONITORING SERVICES

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 64; 47 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	07/29/96	61 FR 39385
FNPRM	02/20/97	62 FR 7744
1st R&O	02/20/97	62 FR 7690
2nd R&O	04/04/97	62 FR 16093

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Susan Launer
Phone: 202 418-1580
Fax: 202 418-1413

RIN: 3060–AG44

4205. POLICY AND RULES CONCERNING THE INTERSTATE, INTEREXCHANGE MARKETPLACE; IMPLEMENTATION OF SECTION 254(G) OF THE COMMUNICATIONS ACT OF 1934, AS AMENDED

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 64.702(e); 47 CFR 61

Timetable:

Action	Date	FR Cite
NPRM	04/03/96	61 FR 14717
R&O, Sec. 254(g) requirements of Communications Act	08/16/96	61 FR 42558
2nd R&O	11/22/96	61 FR 59340

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Susan Launer
Phone: 202 418-1580
Fax: 202 418-1413

RIN: 3060–AG45

4206. IMPLEMENTATION OF THE SUBSCRIBER SELECTION CHANGES PROVISION OF THE TELECOMMUNICATIONS ACT OF OF 1996

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 64.1150; 47 CFR 64.1100

Timetable:

Action	Date	FR Cite
NPRM		62 FR 43493
Further NPRM	08/14/97	62 FR 43493
MO&O on recon.	08/14/97	62 FR 43493
FNPRM Comment Period End	09/30/97	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Catherine Seidel
Phone: 202 418-0960
Fax: 202 418-0236

RIN: 3060–AG46

4207. IMPLEMENTATION OF SECTION 402(B)(1)(A) OF THE TELECOMMUNICATIONS ACT OF 1996 (LEC TARIFF STREAMLINING PROVISIONS)

Priority: Other Significant

CFR Citation: 47 CFR 1.773(a)(b); 47 CFR 61.58

Timetable:

Action	Date	FR Cite
NPRM	09/24/96	61 FR 49987
NPRM Comment Period End	10/24/96	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dan Abeyta
Phone: 202 418-1538
Fax: 202 418-1567

RIN: 3060–AG47

4208. REGULATORY TREATMENT OF LEC PROVISION ON INTEREXCHANGE SERVICE ORIGINATING IN THE LEC'S LOCAL EXCHANGE AREA

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 61.3(o); 47 CFR 61.3(t)

Timetable:

Action	Date	FR Cite
NPRM	07/29/96	61 FR 39379
Order on Recon.	07/03/97	62 FR 35974
2nd R&O	07/03/97	62 FR 35974

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Craig Brown
Phone: 202 418-1580

RIN: 3060–AG48

4209. ACCESS CHARGE REFORM

Priority: Economically Significant

CFR Citation: 47 CFR 61.41 to 61.49; 47 CFR 69(a)(b)

Timetable:

Action	Date	FR Cite
NPRM	01/31/97	62 FR 04670
NPRM Comment Period End	02/13/97	
FNPRM	06/06/97	62 FR 31040
R&O	06/11/97	62 FR 31868

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Richard Lerner
Phone: 202 418-1530
Fax: 202 418-1567

RIN: 3060–AG49

4210. IMPLEMENTATION OF THE LOCAL COMPETITION PROVISIONS OF THE TELECOMMUNICATIONS ACT OF 1996, SECOND REPORT AND ORDER AND MEMORANDUM OPINION AND ORDER

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 51; 47 CFR 52

Timetable:

Action	Date	FR Cite
NPRM	04/25/96	61 FR 18311
NPRM Comment Period End	06/03/96	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Gregory Cooke
Phone: 202 418-2320
Fax: 202 418-2345
Email: gcooke@fcc.gov

RIN: 3060–AG50

4211. • ENHANCED 911 SERVICES FOR WIRELINE

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 201; 47 USC 222; 47 USC 251

CFR Citation: 47 CFR 64.706; 47 CFR 64.708; 47 CFR 68.228; 47 CFR 68.2; 47 CFR 68.3; 47 CFR 68.3(a) Diagram; 47 CFR 68.308; 47 CFR 68.310

Legal Deadline: None

Abstract: The rules generally will ensure: that there are standards for multi-line telephone system interconnection to the public switched network; that MLTSs of a certain size have attendant notification capability; that callers' emergency service identification numbers not be North American Numbering Plan numbers; and that incumbent local exchange carriers connect customers to the enhanced 911 network.

Timetable:

Action	Date	FR Cite
NPRM	10/11/94	59 FR 54878

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Analysis: Regulatory Flexibility Analysis

Agency Contact: Alan Thomas, Attorney, Federal Communications Commission, 2000 M Street NW., Room 210B, Washington, DC 20554
Phone: 202 418-2338
Fax: 202 418-2345
Email: asthomas@fcc.gov

RIN: 3060–AG60

4212. • ADMINISTRATION OF THE NORTH AMERICAN NUMBERING PLAN, CARRIER IDENTIFICATION CODES (CICS)

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 201 to 205; 47 USC 251(e)(i)

Legal Deadline: None

Abstract: In 1994, the Commission released a Notice of Proposed Rulemaking (NPRM) in CC Docket No. 92-237 addressing various issues relating to NANP administration, including carrier identification codes (CICs). The NPRM tentatively concluded that the industry's plan to expand Feature Group D (FGD) CICs from three to four digits, in anticipation of all the three digit codes' being assigned, was a reasonable way to assure that future demand for CICs could be met. The NPRM also tentatively concluded that a six-year transition period was reasonable and necessary to move the industry from three- to four-digit CICs. During the transition period, both three- and four-digit CICs may be used by end users and carriers.

On April 30, 1996, the Commission issued a Public Notice to refresh the record in this docket.

On April 11, 1997, the Commission released a Second Report and Order affirming its tentative conclusion in the NPRM of the industry's plan to convert three-digit FGD CICs to four digits. The Commission also decided that the transition period to four-digit CICs and seven-digit CICs will end on January 1, 1998, and modified the conservation plan to allow each entity two CICs and to remove the intraLATA presubscription requirement for second CICs. Petitions for reconsideration of the Second Report and Order were filed, and comment and reply comment deadlines were set at June 19 and June 30, 1997, respectively.

Timetable:

Action	Date	FR Cite
2nd R&O	04/18/97	62 FR 19056

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Elizabeth Nightingale, Attorney, Federal Communications Commission, 2000 M Street NW., Washington, DC 20554
Phone: 202 418-2352
Fax: 202 418-2345
Email: enighting@fcc.gov

RIN: 3060–AG61

4213. • IMPLEMENTATION OF SECTION 402(B)(2)(A) OF THE TELECOMMUNICATIONS ACT OF 1996

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 154(j); 47 USC 160; 47 USC 201 to 205; 47 USC 214; 47 USC 218; 47 USC 403; 47 USC 571

CFR Citation: 47 CFR 63

Legal Deadline: None

Abstract: Defines line "extensions" and codifies their statutory exemption from section 214. Also codifies the exemption for video programming services. Forebears from enforcing section 214 for "new" lines of price-capped and average schedule LECs and non-dominant carriers. For rate-of-return LECs, confers a blanket section 214 authority for their small new-line projects and streamlines the approval process for all of their remaining new lines requiring applications. For all carriers, streamlines the process for approving discontinuance applications.

Timetable:

Action	Date	FR Cite
NPRM	01/13/97	62 FR 4965
NPRM Comment Period End	03/17/97	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Yearly Recurring Cost: $133,300

Agency Contact: Martin Schwimmer, Attorney, Federal Communications Commission
Phone: 202 418-2334
Fax: 202 418-2345
Email: mschwimm@fcc.gov

RIN: 3060–AG62

4214. • IN THE MATTER OF INSIDE WIRE, THIRD REPORT AND ORDER

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 155

CFR Citation: 47 CFR 68.3; 47 CFR 68.213(c)

Legal Deadline: None

Abstract: This action addresses a proposal for enhanced wire quality standards for simple inside telephone wiring. The action will also address whether the demarcation point rule should apply to complex wiring and whether the demarcation point may be located away from a building.

Timetable:

Action	Date	FR Cite
NPRM	06/17/97	62 FR 36478
NPRM Comment Period End	08/01/97	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Network Services Division, Federal Communications Commission, 2000 M Street NW., Washington, DC 20554
Phone: 202 418-2320

RIN: 3060–AG63

4215. • IMPLEMENTATION OF THE PAY TELEPHONE RECLASSIFICATION AND COMPENSATION PROVISIONS OF THE TELECOMMUNICATIONS ACT OF 1996 (SECOND REPORT AND ORDER)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 276

CFR Citation: 47 CFR 64.1301

Legal Deadline: None

Abstract: Pursuant to a remand from the U.S. Court of Appeals for the D.C. Circuit, the Commission will determine the per-call amount paid by interexchange carriers (IXCs) to payphone service providers (PSPs) for each compensated call originated by a payphone. The Commission will also examine whether it should adjust its interim compensation mechanism to account for additional IXC-payors and categories of compensable calls.

Timetable:

Action	Date	FR Cite
NPRM	06/05/97	
NPRM Comment Period End	09/09/97	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Michael Carowitz, Legal Advisor, CCB Enforcement, Federal Communications Commission, 2025 M Street NW., Room 6008, Washington, DC 20054
Phone: 202 418-0960
Fax: 202 418-0236
Email: mcarowit@fcc.gov

RIN: 3060–AG64

4216. • AMENDMENT OF RULES GOVERNING PROCEDURES TO BE FOLLOWED WHEN FORMAL COMPLAINTS ARE FILED AGAINST COMMON CARRIERS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 201 to 205; 47 USC 208; 47 USC 260; 47 USC 271; 47 USC 274; 47 USC 275

CFR Citation: 47 CFR 0.291; 47 CFR 0.331; 47 CFR 1.47; 47 CFR 1.720 to 1.735

Legal Deadline: None

Abstract: In this proceeding the Commission will act on its proposals to modify the procedural rules governing the filing and prosecution of formal complaints with the Commission. The NPRM in this matter sought comment on proposed rules that would: (1)require complainants and defendants to engage in pre-filing activities designed to resolve or narrow issues, including the good faith discussion of settlement possibilities and the compilation and/or exchange of factual information before the parties resort to the formal complaint process; (2) eliminate delays in the service of formal complaints on defendant carriers; (3) improve the format and content of complaints, answers, and other pleadings filed by parties; (4) eliminate those pleading opportunities that are not useful or necessary to the timely resolution of formal complaints; and (5) streamline the discovery procedures to allow discovery which is necessary to the resolution of the case to take place while simultaneously eliminating or limiting protracted discover disputes.

Timetable:

Action	Date	FR Cite
NPRM	12/26/96	61 FR 67978

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Agency Contact: Anita Cheng, Attorney, Federal Communications Commission, 2025 M Street NW., Room 6334, Washington, DC 20554
Phone: 202 418-0960

RIN: 3060–AG65

FEDERAL COMMUNICATIONS COMMISSION (FCC)
COMMON CARRIER BUREAU

Completed Actions

4217. TELEPHONE COMPANY/CABLE TELEVISION CROSS-OWNERSHIP RULES SECTIONS 63.54-63.58

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 47 CFR 63.54; 47 CFR 63.55; 47 CFR 63.56; 47 CFR 63.57; 47 CFR 63.58

Completed:

Reason	Date	FR Cite
Final Action R&O and NPRM, CC Docket No. 87-266. Proceeding terminated.	03/14/97	10 FR 496

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Linda Senecal
Phone: 202 418-7044

RIN: 3060–AE40

4218. PRICE CAP PERFORMANCE REVIEW FOR LOCAL EXCHANGE CARRIERS, FOURTH FURTHER NOTICE OF PROPOSED RULEMAKING (CC DOCKET NO. 94-1)

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 47 CFR 61.41 to 61.49; 47 CFR 69(a)(b)

Completed:

Reason	Date	FR Cite
Final Action	05/21/97	62 FR 31939
Final Action Effective	06/18/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven Spaeth
Phone: 202 418-1530
Fax: 202 418-1567

RIN: 3060–AG10

FEDERAL COMMUNICATIONS COMMISSION (FCC)
COMPLIANCE AND INFORMATION BUREAU

Long-Term Actions

4219. IN THE MATTER OF AMENDMENT OF PART 73, SUBPART G, OF THE COMMISSION'S RULES REGARDING THE EMERGENCY ALERT SYSTEM

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 11; 47 CFR 73; 47 CFR 76

Timetable:

Action	Date	FR Cite
NPRM	10/09/91	
NPRM/FNPRM	09/17/92	57 FR 53874
FNPRM	12/28/94	59 FR 67104
R&O	12/28/94	59 FR 67090
MO&O	11/06/95	60 FR 55996

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: Frank Lucia
Phone: 202 418-1220

RIN: 3060–AF21

4220. IN THE MATTER OF THE COMMISSION'S FORFEITURE POLICY STATEMENT AND AMENDMENT OF SECTION 1.80 OF THE RULES TO INCORPORATE THE FORFEITURE GUIDELINES

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	02/23/95	60 FR 10056
NPRM Comment Period End	03/17/95	
R&O adopted, recon. pending	06/09/97	

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Magalie Salas
Phone: 202 418-1150

RIN: 3060–AF85

4221. IN THE MATTER OF AMENDMENT OF THE COMMISSION'S RULES CONCERNING THE INSPECTION OF RADIO INSTALLATIONS ON LARGE CARGO AND SMALL PASSENGER SHIPS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 47 CFR 80; 47 CFR 0

Timetable:

Action	Date	FR Cite
Order Comment Period Extended to 7/1/96	06/04/95	61 FR 28122
Notice of Inquiry	06/20/95	
NPRM	05/09/96	61 FR 21151
NPRM Comment Period End	06/09/96	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George R. Dillon
Phone: 202 418-1113

RIN: 3060–AG13

FEDERAL COMMUNICATIONS COMMISSION (FCC)
OFFICE OF ENGINEERING AND TECHNOLOGY

Long-Term Actions

4222. DIGITAL AUDIO BROADCASTING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 47 CFR 2

Timetable:

Action	Date	FR Cite
NOI	08/21/90	55 FR 34940
FNOI/NPRM	11/06/92	57 FR 57049
FNPRM/R&O	01/18/95	60 FR 8309

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Sean White
Phone: 202 418-2453

RIN: 3060–AE81

4223. STANDARDS FOR ISM EQUIPMENT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 47 CFR 18

Timetable:

Action	Date	FR Cite
NOI	11/06/91	56 FR 58863
Item Postponed	07/15/92	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Rick Engelman
Phone: 202 418-2445

RIN: 3060–AE97

4224. REVISION OF MARKETING AND AUTHORIZATION PROCESS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 47 CFR 2

Timetable:

Action	Date	FR Cite
NPRM	06/09/94	59 FR 31966
R&O	03/07/97	62 FR 10466

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: John Reed
Phone: 202 418-2455
Email: jreed@fcc.gov

RIN: 3060–AF29

4225. RF EXPOSURE STANDARD

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	04/08/93	58 FR 19393
R&O	08/06/96	61 FR 41006
First MO&O	01/22/97	62 FR 03232

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Local

Agency Contact: Robert Cleveland
Phone: 202 418-2422

RIN: 3060–AF32

4226. CABLE SYSTEM COMPATIBILITY WITH TV RECEIVERS AND VCRS

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 76

Timetable:

Action	Date	FR Cite
NOI	01/29/93	58 FR 7205
Technical Report	10/31/93	
NPRM	12/01/93	58 FR 65153
R&O	05/04/94	59 FR 25339

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Alan Stillwell
Phone: 202 418-2925

RIN: 3060–AF38

4227. WIND PROFILER RADAR SYSTEMS

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 2

Timetable:

Action	Date	FR Cite
NPRM	04/01/93	58 FR 19644

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Sean White
Phone: 202 418-2453

RIN: 3060–AF45

4228. MILLIMETER WAVE SPECTRUM ALLOCATION.

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 47 CFR 2; 47 CFR 15; 47 CFR 21

Timetable:

Action	Date	FR Cite
NPRM	11/08/94	59 FR 61304
Public Notice	08/23/95	60 FR 35186
2nd NPRM	03/29/96	61 FR 14041
1st R&O	04/02/96	61 FR 14500
Comment Period End	05/28/96	
Reply Comments	06/27/96	
2nd R&O	08/02/97	62 FR 43116

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: John Reed
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RIN: 3060–AF61

4229. DIGITAL EQUIPMENT DEREGULATION

Priority: Economically Significant. Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 47 CFR 15

Timetable:

Action	Date	FR Cite
NPRM	02/07/95	60 FR 15116
R&O	05/14/96	61 FR 31044
Order	08/19/97	62 FR 33368
MO&O	08/04/97	62 FR 41879

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Anthony Serafini
Phone: 202 418-2456
Email: tserafini@fcc.gov

RIN: 3060–AF73

4230. MSS SPECTRUM ALLOCATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 47 CFR 2

Timetable:

Action	Date	FR Cite
NPRM	01/31/95	60 FR 11644
Order	03/08/95	60 FR 13687
R&O and Further NPRM	04/22/97	62 FR 19538
1st R&O	04/22/97	62 FR 19609

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Sean White
Phone: 202 418-2453

RIN: 3060–AF75

4231. ARECIBO COORDINATION ZONE

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 5; 47 CFR 21 to 23; 47 CFR 25; 47 CFR 73 to 74; 47 CFR 80; 47 CFR 87; 47 CFR 90; 47 CFR 94 to 95; 47 CFR 97

Timetable:

Action	Date	FR Cite
NPRM	02/08/96	61 FR 10709
NPRM Comment Period End	04/01/96	
Reply Comments	04/16/96	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Tom Derenge
Phone: 202 418-2451
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RIN: 3060–AG15

4232. SPREAD SPECTRUM RULES

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 15

Timetable:

Action	Date	FR Cite
NPRM	02/05/96	61 FR 15206
NPRM Comment Period End	06/19/96	
Reply Comments	07/19/96	
R&O	05/13/97	62 FR 26239

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John Reed
Phone: 202 418-2455
Email: jreed@fcc.gov

RIN: 3060–AG17

4233. MEDICAL CARE TELEMETRY DEVICES

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 15

Timetable:

Action	Date	FR Cite
NPRM	01/25/96	61 FR 3367
NPRM Comment Period End	04/16/96	
Reply Comments	05/16/96	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Anthony Serafini
Phone: 202 418-2456
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RIN: 3060–AG18

4234. UNLICENSED NII AT 5 GHZ

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 47 CFR 2; 47 CFR 15

Timetable:

Action	Date	FR Cite
NPRM	05/06/96	61 FR 24749
R&O	01/31/97	62 FR 4649
Public Notice	03/17/97	62 FR 12641

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Tom Derenge
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Email: tderenge@fcc.gov

RIN: 3060–AG19

4235. REVISION OF THE EXPERIMENTAL RADIO SERVICE REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 5; 47 CFR 90

Timetable:

Action	Date	FR Cite
NPRM	12/30/96	61 FR 68698
NPRM Comment Period End	02/28/97	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Rodney Small
Phone: 202 418-2452
Email: rsmall@fcc.gov

RIN: 3060–AG55

4236. • REALLOCATION OF TV CHANNELS 60-69

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 303; 47 USC 154(i)

CFR Citation: 47 CFR 2

Legal Deadline: None

Abstract: The Commission proposes to reallocate the 746-806 MHz band currently comprising television channels 60-69. We propose to allocate 24 megahertz to the fixed and mobile services for public safety use, and 36 megahertz to the fixed and mobile broadcasting services; and anticipate that licenses in this portion of the band may be assigned through competitive bidding.

Timetable:

Action	Date	FR Cite
NPRM	07/31/97	62 FR 41012
NPRM Comment Period End	10/14/97	

Next Action Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: This proceeding is in ET Docket No. 97-157.

Agency Contact: Sean White, Federal Communications Commission
Phone: 202 418-2453
Email: swhite@fcc.gov

RIN: 3060–AG69

4237. • STREAMLINE THE EQUIPMENT AUTHORIZATION PROCESS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 302; 47 USC 303; 47 USC 304; 47 USC 307

CFR Citation: 47 CFR 2; 47 CFR 15

Legal Deadline: None

Abstract: The Commission proposes to amend the rules to simplify the existing equipment authorization processes; deregulate the equipment authorization requirements for certain types of equipment; and provide for electronic filing of applications for equipment authorization.

Timetable:

Action	Date	FR Cite
NPRM	05/05/97	62 FR 24383
NPRM Comment Period End	08/18/97	

Next Action Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: This proceeding is in ET Docket No. 97-94.

Agency Contact: Julius P. Knapp, Federal Communications Commission
Phone: 202 418-2468

RIN: 3060–AG70

FEDERAL COMMUNICATIONS COMMISSION (FCC) OFFICE OF ENGINEERING AND TECHNOLOGY

Completed Actions

4238. PIONEER'S PREFERENCE RULES

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 1

Completed:

Reason	Date	FR Cite
Final Action MO&O. No further action will be taken.	02/09/96	61 FR 4916

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Rodney Small
Phone: 202 418-2452

RIN: 3060–AF53

4239. MICROWAVE ANTENNA FLEXIBILITY

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 74; 47 CFR 78; 47 CFR 101

Completed:

Reason	Date	FR Cite
Final Action R&O. No further action will be taken.	02/03/97	62 FR 4920

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Michael Marcus
Phone: 202 418-2418
Email: mmarcus@fcc.gov

RIN: 3060–AG14

4240. HUGHES FSS 13.75-14.0 GHZ

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 2; 47 CFR 25; 47 CFR 90

Completed:

Reason	Date	FR Cite
Final Action Report and Order. No further action in this proceeding.	10/07/96	61 FR 52301

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Mooring
Phone: 202 418-2450
Email: tmooring@fcc.gov

RIN: 3060–AG57

FEDERAL COMMUNICATIONS COMMISSION (FCC) INTERNATIONAL BUREAU

Long-Term Actions

4241. STREAMLINING THE COMMISSION'S RULES AND REGULATIONS FOR SATELLITE APPLICATION AND LICENSING PROCEDURES

Priority: Routine and Frequent

Major: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 47 CFR 25

Timetable:

Action	Date	FR Cite
NPRM	09/09/95	60 FR 46252
R&O, recon. pending	02/10/97	62 FR 5924

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Frank Peace
Phone: 202 418-0730
Fax: 202 418-0748
Email: fpeace@fcc.gov

RIN: 3060–AD70

4242. SATELLITE COMMUNICATIONS—MSS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 47 CFR 25; 47 CFR 93; 47 CFR 2

Timetable:

Action	Date	FR Cite
NPRM	01/19/94	
NPRM Comment Period End	06/06/94	
R&O	10/14/94	59 FR 53294
Begin Review	12/01/94	
First Recon Order	02/15/96	61 FR 9944

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Bell
Phone: 202 418-0741
Fax: 202 418-7270
Email: bbell@fcc.gov

RIN: 3060–AF42

4243. ESTABLISHING RULES AND POLICIES FOR THE USE OF SPECTRUM FOR MOBILE SATELLITE SERVICE IN THE L-BAND

Priority: Routine and Frequent

Major: Undetermined

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
ANPRM Comment Period End	06/18/96	61 FR 40772
NPRM	09/13/96	61 FR 40772
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Fern Jarmulnek
Phone: 202 418-0751
Fax: 202 418-0765
Email: fjarmuln@fcc.gov

RIN: 3060–AF89

4244. PREEMPTION OF LOCAL ZONING REGULATION OF SATELLITE EARTH STATIONS

Priority: Routine and Frequent

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Major: Undetermined

CFR Citation: 47 CFR 25.104; 47 CFR 1.4000

Timetable:

Action	Date	FR Cite
ANPRM	05/15/95	60 FR 28077
ANPRM Comment Period End	08/15/95	
Further NPRM	03/05/96	61 FR 70710
R&O, recon. pending	03/08/96	61 FR 10896
R&O, recon. pending	09/04/96	61 FR 46559
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Selena Khan
Phone: 202 418-7282
Fax: 202 418-0765
Email: skhan@fcc.gov

RIN: 3060–AF92

4245. ESTABLISHMENT OF RULES AND POLICIES FOR THE DIGITAL AUDIO RADIO SATELLITE SERVICE IN THE 2310-2360 MHZ FREQUENCY BAND

Priority: Routine and Frequent

Major: Undetermined

CFR Citation: 47 CFR 25; 47 CFR 87

Timetable:

Action	Date	FR Cite
ANPRM	06/15/95	60 FR 35166
R&O, recon. pending	03/11/97	62 FR 11083
Further NPRM Terrestrial Repeater Licensing	04/18/97	62 FR 19095
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Alex Roytblat
Phone: 202 418-7501
Fax: 202 418-0765
Email: aroybla@fcc.gov

RIN: 3060–AF93

4246. REDESIGNATION OF THE 27.5-29.5 GHZ FREQUENCY BAND

Priority: Routine and Frequent

Major: Undetermined

CFR Citation: 47 CFR 25; 47 CFR 21; 47 CFR 1; 47 CFR 2

Timetable:

Action	Date	FR Cite
ANPRM	07/13/95	60 FR 43740
ANPRM Comment Period End	09/07/95	
R&O Band Plan	08/28/96	61 FR 44177
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jennifer M. Gilsenan
Phone: 202 418-0757
Fax: 202 418-0765
Email: jgilsena@fcc.gov

RIN: 3060–AF94

4247. AMENDMENT OF POLICY TO ALLOW NON-U.S. LICENSED SPACE STATIONS TO PROVIDE SERVICE IN THE UNITED STATES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

CFR Citation: 47 CFR 25.113; 47 CFR 25.115; 47 CFR 25.130; 47 CFR 25.131; 47 CFR 25.137

Timetable:

Action	Date	FR Cite
NPRM	05/14/96	61 FR 32398
NPRM Comment Period End	08/16/96	
Further NPRM	07/29/97	62 FR 40494
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Linda Haller
Phone: 202 418-0760
Fax: 202 418-7270

RIN: 3060–AG31

4248. • RULES AND POLICIES ON FOREIGN PARTICIPATION IN THE U.S. TELECOMMUNICATIONS MARKET

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 154(j); 47 USC 214; 47 USC 303(r); 47 USC 307; 47 USC 309(a); 47 USC 310

Legal Deadline: None

Abstract: The Notice of Proposed rulemaking initiates a proceeding to review the rules and policies governing foreign participation in the U.S. market for basic telecommunications services. The Notice proposes a policy that would liberalize entry for most foreign-affiliated carriers. The Commission tentatively concluded that such a policy would be more appropriate in the liberalized competitive environment that will exist when the recent World Trade Organization (WTO) agreement on basic telecommunications services takes effect on January 1, 1998. The Commission stated in 1995 that it would revisit these rules if a WTO agreement were reached, and on February 15, 1997, the U.S. and 68 other countries negotiated an agreement. The Commission now proposes to amend its rules because the commitments made by the countries party to the WTO basic telecommunications agreement substantially achieve the goals of the "effective competitive opportunities test." The Commission also proposes several modifications to its safeguards that apply to foreign-affiliated carriers regulated as dominant on the affiliated route. The proposed revisions are designed to prevent foreign-affiliated carriers with market power from leveraging their foreign market power into the U.S. market, while being no more burdensome than necessary.

Timetable:

Action	Date	FR Cite
NPRM	08/04/97	62 FR 32966
NPRM Comment Period End	09/09/97	
Reply comment period ends	08/12/97	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Doug Klein, Attorney, Federal Communications Commission, 2000 M Street NW., Washington, DC 20554
Phone: 202 418-0424
Fax: 202 418-2824
Email: daklein@fcc.gov

RIN: 3060–AG67

FEDERAL COMMUNICATIONS COMMISSION (FCC) INTERNATIONAL BUREAU

Completed Actions

4249. DEREGULATION OF INTERNATIONAL RECEIVE-ONLY EARTH STATIONS

Priority: Routine and Frequent

Major: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 47 CFR 25

Completed:

Reason	Date	FR Cite
Further NPRM Proceeding has been placed under RIN 3060-AG31.	07/29/97	62 FR 40494

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Kirsch
Phone: 202 418-0764
Fax: 202 418-7270

RIN: 3060–AF33

4250. IN THE MATTER OF INTERNATIONAL SETTLEMENT RATES, IB DOCKET NO. 96-261

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: Undetermined

CFR Citation: 47 CFR 43.61; 47 CFR 63.18; 47 CFR 63.21

Completed:

Reason	Date	FR Cite
Final Action Report and Order	08/29/97	62 FR 45758
Final Action Effective	01/01/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kathy O'Brien
Phone: 202 418-0439
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Email: kobrien@fcc.gov

RIN: 3060–AG52

FEDERAL COMMUNICATIONS COMMISSION (FCC) MASS MEDIA BUREAU

Long-Term Actions

4251. BROADCAST EEO: RECONSIDERATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 47 CFR 73.2080

Timetable:

Action	Date	FR Cite
NPRM	10/31/86	51 FR 43854
R&O	04/16/87	52 FR 26683
Next Action Undetermined		

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Judy Herman
Phone: 202 418-2170

RIN: 3060–AD73

4252. ADVANCED TELEVISION SERVICE (MM DOCKET 87-268)

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 47 CFR 73

Timetable:

Action	Date	FR Cite
Tent. Decision/Further NOI	09/01/88	53 FR 38747
R&O	08/24/90	55 FR 39275
Further NPRM	10/24/91	56 FR 56207
Second R&O & Further NPRM	04/09/92	57 FR 21744
Third R&O & Further NPRM	09/17/92	57 FR 53568
Fourth Further NPRM and Third NOI	07/28/95	60 FR 42130
Fifth Further NPRM	05/29/96	61 FR 26864
Sixth Further NPRM	08/21/96	61 FR 43209
Fourth R&O	03/25/97	62 FR 14006
Sixth R&O	05/14/97	62 FR 26684
Fifth R&O	05/16/97	62 FR 26996
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Roger Holberg
Phone: 202 418-2130

RIN: 3060–AE24

4253. TRANSFER OF CONTROL OF NON-STOCK ENTITIES MM DOCKET 89-77

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 47 CFR 73

Timetable:

Action	Date	FR Cite
NOI	03/16/89	54 FR 15957
Next Action Undetermined		

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Charles Logan
Phone: 202 418-2130

RIN: 3060–AE31

4254. LOCAL TELEVISION OWNERSHIP RULE MM DOCKET NO. 91-221

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 47 CFR 73.3555

Timetable:

Action	Date	FR Cite
NOI	07/11/91	56 FR 40847
NPPM	06/24/92	57 FR 28163
FNPRM	02/02/95	60 FR 6490
R&O	03/27/95	60 FR 15688
2nd FNPRM	12/19/96	61 FR 66978
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Alan Baughcum
Phone: 202 418-2170

RIN: 3060–AF79

4255. FILING OF TELEVISION NETWORK AFFILIATION CONTRACTS MM DOCKET 95-40

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 47 CFR 73.3613(a)

Timetable:

Action	Date	FR Cite
NPRM	04/19/95	60 FR 19584
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Robert Keischnick
Phone: 202 418-2170

RIN: 3060–AF80

4256. RULES GOVERNING BROADCAST TELEVISION ADVERTISING MM DOCKET 95-90

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 47 CFR 73.658(h); 47 CFR 73.658(i)

Timetable:

Action	Date	FR Cite
NPRM	07/05/95	60 FR 34959
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Paul Gordon
Phone: 202 418-2130

RIN: 3060–AF81

4257. ATTRIBUTION OF BROADCAST INTERESTS MM DOCKET NOS. 94-150, 92-51, 87-154

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 47 CFR 73.3555

Timetable:

Action	Date	FR Cite
NPRM	02/02/95	60 FR 6483
FNPRM	12/20/96	61 FR 67275
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mania Baghdadi
Phone: 202 418-2130

RIN: 3060–AF82

4258. EEO STREAMLINING PROPOSALS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 47 CFR 73

Timetable:

Action	Date	FR Cite
NPRM	03/12/96	61 FR 9964
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Hope Cooper
Phone: 202 418-1450

RIN: 3060–AG29

4259. MINOR MODIFICATIONS OF BROADCAST LICENSES WITHOUT PRIOR CONSTRUCTION PERMIT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 47 CFR 73

Timetable:

Action	Date	FR Cite
NPRM	04/08/96	61 FR 15439
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dale Bickel
Phone: 202 418-2720

RIN: 3060–AG30

4260. NEWSPAPER/BROADCAST CROSS-OWNERSHIP

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 47 CFR 73

Timetable:

Action	Date	FR Cite
NOI	10/15/96	61 FR 53894
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Roger Holberg
Phone: 202 418-2130

RIN: 3060–AG53

4261. NATIONAL TELEVISION OWNERSHIP RULES MM DOCKET NOS. 96-222, 91-221, 87-8

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

CFR Citation: 41 CFR 73

Timetable:

Action	Date	FR Cite
NPRM	12/19/96	61 FR 66987
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Paul Gordon
Phone: 202 418-2130

RIN: 3060–AG34

4262. • MAIN STUDIO/PUBLIC FILE REQUIREMENTS FOR BROADCASTERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 47 USC 154; 47 USC 303; 47 USC 307

CFR Citation: 47 CFR 73.1125; 47 CFR 73.3526; 47 CFR 73.3527

Legal Deadline: None

Abstract: The Commission is considering relaxing the main studio and public file rules to allow more licensees to consolidate operations. This action also proposes to streamline the public file contents.

Timetable:

Action	Date	FR Cite
NPRM	06/12/97	62 FR 32061
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Victoria McCauley, Federal Communications Commission
Phone: 202 418-2130

RIN: 3060–AG68

FEDERAL COMMUNICATIONS COMMISSION (FCC) OFFICE OF MANAGING DIRECTOR

Long-Term Actions

4263. ASSESSMENT AND COLLECTION OF REGULATORY FEES FOR FY 1997

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 47 CFR 1.1151 et seq

Timetable:

Action	Date	FR Cite
NPRM	03/10/97	62 FR 10793
Report and Order	07/11/97	62 FR 37408
Further NPRM	07/25/97	62 FR 40036
Comment period ends	08/14/97	
Next Action Undetermined		

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Peter W. Herrick
Phone: 202 418-0443
Fax: 202 418-2826
Email: pherrick@fcc.gov

RIN: 3060–AG51

4264. • ASSESSMENT AND COLLECTION OF REGULATORY FEES FOR FY 1998

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 47 USC 159

CFR Citation: 47 CFR 1.1151 et seq

Legal Deadline: None

Abstract: Section 9 of the Communications Act of 1934, as amended, 47 U.S.C. 159, requires the Commission to recover the costs of certain of its activities by assessing and collecting annual regulatory fees from the beneficiaries of those activities. The Commission will develop a Notice of Proposed Rulemaking to address how the FCC plans to implement the fee requirements for FY 1998. This item, when released, will provide the public with the opportunity to file comments in response to the Commission's proposed fee implementation schedule for FY 1998.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Terry Johnson, Federal Communications Commission, Office of Managing Director
Phone: 202 418-0445
Fax: 202 418-2826
Email: tjohnson@fcc.gov

RIN: 3060–AG66

FEDERAL COMMUNICATIONS COMMISSION (FCC) WIRELESS TELECOMMUNICATIONS BUREAU

Long-Term Actions

4265. AMENDMENT OF PART 80 OF THE COMMISSION'S RULES CONCERNING VHF MARITIME OPERATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 80

Timetable:

Action	Date	FR Cite
NOI/NPRM	11/05/92	57 FR 57717
First R&O	04/26/95	60 FR 34198
FNPRM	04/26/95	60 FR 35507
Second Further NPRM	06/17/97	62 FR 37533
Second R&O	06/17/97	62 FR 40281
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Scot Stone
Phone: 202 418-0680

RIN: 3060–AF14

4266. RULEMAKING TO AMEND PART 1 AND PART 21 TO REDESIGNATE THE 27.5-29.5 GHZ BAND AND TO ESTABLISH RULES AND POLICIES FOR LOCAL MULTI-POINT DISTRIBUTION SERVICE

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 25; 47 CFR 21

Timetable:

Action	Date	FR Cite
NPRM	12/10/92	58 FR 6400
NPRM Comment Period End	04/15/93	
Third NPRM	07/13/95	60 FR 43740
1st R&O - 4th NPRM	07/29/96	61 FR 39425
Fifth NPRM	03/11/97	62 FR 16514
Second R&O	03/11/97	62 FR 23148

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Barbara Reideler
Phone: 202 418-0660

RIN: 3060–AF26

4267. REFARMING

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 90

Timetable:

Action	Date	FR Cite
NPRM	01/08/92	57 FR 54034
R&O	08/15/95	60 FR 37152
MO&O	12/23/96	62 FR 2027
Second R&O	02/20/97	62 FR 18834

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Ira Keltz
Phone: 202 418-0660

RIN: 3060–AF35

4268. FUTURE DEVELOPMENT OF 800 MHZ SMR; COMPETITIVE BIDDING WIDE AREA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 47 CFR 90

Timetable:

Action	Date	FR Cite
NPRM	05/13/93	58 FR 33062
FNPRM	10/20/94	59 FR 6011
Eighth R&O	12/15/95	
First R&O	12/15/95	
FNPRM	12/15/95	
Second FNPRM	12/15/95	
MO&O	06/23/97	62 FR 41225
Second R&O	06/23/97	62 FR 41190

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Shawn Maher
Phone: 202 418-7240

RIN: 3060–AF47

4269. INTERCONNECTION OBLIGATIONS PERTAINING TO COMMERCIAL MOBILE RADIO SERVICES

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

CFR Citation: 47 CFR 20; 47 CFR 22

Timetable:

Action	Date	FR Cite
NPRM	06/08/94	59 FR 35664
NOI	07/01/94	
NPRM Comment Period End	09/29/94	
ANPRM	04/04/95	60 FR 20949
ANPRM Comment Period End	07/14/95	
First R&O	07/12/96	61 FR 36399
Second R&O and Third NPRM	08/15/96	61 FR 44026

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Jeff Steinberg
Phone: 202 418-1310

RIN: 3060–AF58

4270. IMPLEMENTATION OF SECTION 309(J) OF THE COMMUNICATIONS ACT, COMPETITIVE BIDDING; NARROWBAND PCS COMPETITIVE BIDDING RULES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 47 CFR 24

Timetable:

Action	Date	FR Cite
3rd MO&O	08/16/94	59 FR 44058
Further NPRM	04/23/97	62 FR 27589
R&O	04/23/97	62 FR 27507

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Rhonda Lien
Phone: 202 418-7240

RIN: 3060–AF99

4271. IMPLEMENTATION OF SECTION 309(J) OF THE COMMUNICATIONS ACT, COMPETITIVE BIDDING; IVDS COMPETITIVE BIDDING RULES

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 95

Timetable:

Action	Date	FR Cite
R&O	04/25/94	59 FR 24947
Further NPRM	08/06/96	61 FR 49103
R&O	11/15/96	61 FR 60196

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kathleen Ham
Phone: 202 418-0660
Fax: 202 418-0890
Amy Zoslov
Phone: 202 418-0660
Fax: 202 418-0890

RIN: 3060–AG00

4272. 38 GHZ CHANNEL PLAN

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 2

Timetable:

Action	Date	FR Cite
NPRM	01/26/96	61 FR 2465
NPRM Comment Period End	02/12/96	
Order	02/22/96	61 FR 6809
Reply Comments	02/27/96	
Order	05/01/96	61 FR 19236

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Fred Thomas
Phone: 202 418-2449
Email: fthomas@fcc.gov

RIN: 3060–AG16

4273. IMPLEMENTATION OF SECTION 309(J) OF THE COMMUNICATIONS ACT, COMPETITIVE BIDDING BROADBAND PCS F BLOCK RULES

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 24

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mark Bollinger
Phone: 202 418-0660
Fax: 202 418-7651

RIN: 3060–AG21

4274. REPORT AND ORDER (SECOND) TO ALLOW 220 MHZ LICENSES TO RELOCATE THEIR BASE STATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 90

Timetable:

Action	Date	FR Cite
ANPRM	11/28/89	55 FR 00328
ANPRM Comment Period End	03/15/90	
Report and Order	03/14/91	56 FR 19598
NPRM	01/12/92	57 FR 04160
NPRM Comment Period End	03/02/92	
FNPRM	08/28/95	60 FR 46566
Fifth NPRM	04/03/97	62 FR 16004
Third R&O	04/03/97	62 FR 15978

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Marty Liebman
Phone: 202 418-1310

RIN: 3060–AG23

4275. REVISION OF THE COMMISSION'S RULES TO ENSURE COMPATIBILITY WITH ENHANCED 911 EMERGENCY CALLING SYSTEMS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

CFR Citation: 47 CFR 20

Timetable:

Action	Date	FR Cite
Further NPRM	07/26/96	61 FR 40374
Report and Order	07/26/96	61 FR 40348

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Dan Grosh
Phone: 202 418-1310

RIN: 3060–AG34

4276. WIRELESS COMMUNICATIONS SERVICES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 47 CFR 1; 47 CFR 2; 47 CFR 27; 47 CFR 97

Timetable:

Action	Date	FR Cite
NPRM	11/20/96	61 FR 59048
NPRM Comment Period End	12/16/96	
R&O	03/03/97	62 FR 9636
Public Notice	03/13/97	62 FR 12959

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Tom Mooring
Phone: 202 418-2450

RIN: 3060–AG56

4277. IMPLEMENTATION OF SECTION 225 OF THE TELECOMMUNICATIONS ACT OF 1996; ACCESS TO TELECOMMUNICATION SERVICES AND EQUIPMENT AND CUSTOMER PREMISE EQUIPMENT BY PERSONS WITH DISABILITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
ANPRM	09/17/96	61 FR 50465

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: Stan Wiggins
Phone: 202 418-1310
Fax: 202 418-7247
Email: swiggins@fcc.gov

RIN: 3060–AG58

[FR Doc. 97-28068 Filed 10-28-97; 8:45 am]
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Wednesday
October 29, 1997

Part LI

Federal Deposit Insurance Corporation

Semiannual Regulatory Agenda

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC)

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Ch. III

Semiannual Agenda of Regulations

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is hereby publishing items for the October 1997 regulatory agenda. The agenda contains information about FDIC's current and projected rulemakings, existing regulations under review, and completed rulemakings.

FOR FURTHER INFORMATION CONTACT: Persons identified under regulations listed in the agenda. Unless otherwise noted, the address for all FDIC staff identified in the agenda is Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: Twice each year, the FDIC publishes an agenda of regulations to inform the public of its regulatory actions and to enhance public participation in the rulemaking process. Publication of the agenda is in accordance with both the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and the FDIC statement of policy entitled "Development and Review of FDIC Rules and Regulations" (44 FR 31007, May 30, 1979; 44 FR 32353, June 6, 1979; 44 FR 76858, December 28, 1979; 49 FR 7288, February 28, 1984).

The FDIC amends its regulations under the general rulemaking authority prescribed in section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) and under specific authority granted by the Act and other statutes.

The Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI) contains reforms that significantly restructure the regulation of financial institutions. As a consequence, many of the regulations included in this agenda are in response to CDRI. The FDIC is continuing to develop regulations implementing the most recent legislative requirements. These include the requirement in section 303 of CDRI that the Federal banking regulators conduct a review of all their regulations and written policies to streamline them, remove inconsistencies, improve efficiency, reduce unnecessary costs, and make uniform all regulations and guidelines implementing common statutory or supervisory policies. Changes to the FDIC's regulations as a result of CDRI will be noted in this and future semiannual agendas as they emerge from these reviews. The Federal banking regulators are the FDIC, the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (FRS), and the Office of Thrift Supervision (OTS). In some cases, the FDIC also coordinates with the National Credit Union Administration (NCUA).

Interested persons may petition the FDIC for the issuance, amendment, or repeal of any regulation by submitting a written petition to the Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429. Petitioners should include complete and concise statements of their interest in the subject matter and reasons why the petitions should be granted.

Dated: August 13, 1997.

Federal Deposit Insurance Corporation.

Steven F. Hanft,

Assistant Executive Secretary.

Proposed Rule Stage

Sequence Number	Title		Regulation Identifier Number
4278	12 CFR 325	Capital Maintenance—Recourse Arrangements and Direct Credit Substitutes	3064-AB31
4279	12 CFR 340	Restrictions on Sale of Assets by the FDIC	3064-AB37
4280	12 CFR 308	Program Fraud Civil Remedies	3064-AB41
4281	12 CFR 360	Receivership Rules	3064-AB92
4282	12 CFR 325	Capital Maintenance—Elimination of Interagency Differences	3064-AB96
4283	12 CFR 303	Applications, Requests, Submittals, Delegations of Authority, and Notices Required to be Filed by Statute or Regulation	3064-AC02
4284	12 CFR 325	Capital Maintenance—Treatment of Servicing Assets	3064-AC07
4285	12 CFR 348	Management Interlocks Act	3064-AC08
4286	12 CFR 309	Disclosure of Information	3064-AC10
4287	12 CFR 325	Risk-Based Capital Standards; Unrealized Revaluation Gains on Certain Equity Securities	3064-AC11
4288	12 CFR 362	Activities of Insured State Banks and Insured Savings Associations	3064-AC12

Final Rule Stage

Sequence Number	Title		Regulation Identifier Number
4289	12 CFR 357	Determination of Economically Depressed Regions	3064-AB08
4290	12 CFR 330	Simplification of Deposit Insurance Rules	3064-AB73
4291	12 CFR 325	Capital Maintenance—Collateralized Transactions	3064-AB78
4292	12 CFR 342	Qualification Requirements for the Recommendation or Sale of Certain Securities	3064-AB85
4293	12 CFR 307	Notification of Changes of Insured Status	3064-AB88
4294	12 CFR 361	Formal Minority- and Women-Owned Business and Law Firm Certification Program	3064-AB95
4295	12 CFR 328	Advertisement of Membership	3064-AB99

FDIC

Final Rule Stage (Continued)

Sequence Number	Title		Regulation Identifier Number
4296	12 CFR 360	Receivership Rules—Security Interests of Federal Home Loan Banks	3064-AC00
4297	12 CFR 343	Insured State Nonmember Banks Which Are Municipal Securities Dealers	3064-AC04
4298	12 CFR 347	International Banking	3064-AC05
4299	12 CFR 363	Annual Independent Audits and Reporting Requirements	3064-AC06

Long-Term Actions

Sequence Number	Title		Regulation Identifier Number
4300	12 CFR 308	Censure, Suspension, and Debarment of Independent Public Accountants	3064-AA84
4301	12 CFR 327	Assessments—Assessment Base	3064-AB46

Completed Actions

Sequence Number	Title		Regulation Identifier Number
4302	12 CFR 338	Fair Housing	3064-AB72
4303	12 CFR 362	Activities and Investments of Insured State Banks	3064-AB75
4304	12 CFR 337	Expanded Examination Cycle for Certain Small Financial Institutions	3064-AB90
4305	12 CFR 369	Prohibition Against Deposit Production Offices	3064-AB97
4306	12 CFR 312	Prevention of Deposit Shifting	3064-AC01
4307	12 CFR 303	Applications, Requests, Submittals, Delegations of Authority, and Notices Required To Be Filed by Statute or Regulation	3064-AC03
4308	12 CFR 329	Prohibition Against Payment of Interest on Demand Deposits	3064-AC09

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Proposed Rule Stage

4278. CAPITAL MAINTENANCE—RECOURSE ARRANGEMENTS AND DIRECT CREDIT SUBSTITUTES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815; 12 USC 1816; 12 USC 1818; 12 USC 1819; 12 USC 1828; 12 USC 1831; 12 USC 3907; 12 USC 3909

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: The FDIC, the FRS, the OCC, and the OTS ("Agencies") are revising their risk-based capital standards to address the regulatory capital treatment of recourse arrangements and direct credit substitutes that expose banks, bank holding companies, and thrifts to credit risk. One portion of the NPRM addressing the risk-based capital treatment of low-level recourse transactions is required to be published as a separate final rule by CDRI. In addition, the Agencies published, in an ANPRM, a preliminary proposal to use credit ratings to match the risk-based capital assessment more closely to an institution's relative risk of loss in certain asset securitizations. The Agencies are also seeking comment on the need for a similar system for unrated asset securitizations and on how such a system would be designed. The Agencies intend that any final rules adopted in connection with these regulatory actions that result in increased risk-based capital requirements would apply only to transactions that are consummated after the effective dates of such final rules.(cont)

Timetable:

Credit Ratings	
ANPRM	05/25/94 (59 FR 27116)
ANPRM Comment Period End	07/25/94
Recourse/Direct Credit Substitutes	
NPRM	05/25/94 (59 FR 27116)
NPRM Comment Period End	07/25/94
Synthesis of Credit Ratings/Recourse/Direct Credit Substitutes	
NPRM	12/00/97

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ABSTRACT CONT: A second NPRM combining the issues raised in the ANPRM on credit ratings, and the NPRM on recourse and direct credit substitutes, is anticipated in August 1997.

Agency Contact: Robert F. Storch, Chief, Accounting Section, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429 Phone: 202 898-8906

RIN: 3064–AB31

FDIC

Proposed Rule Stage

4279. RESTRICTIONS ON SALE OF ASSETS BY THE FDIC

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1819; PL 103-204

CFR Citation: 12 CFR 340

Legal Deadline: None

Abstract: This regulatory action implements provisions in the Resolution Trust Corporation Completion Act of 1993 that require assets held by the FDIC in the course of liquidating federally insured depository institutions not to be sold to persons who, in ways specified in the Act, contributed to the demise of the institution.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph Fellerman, Senior Liquidation Specialist (Credit), Division of Depositor and Asset Services, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-6879

RIN: 3064–AB37

4280. PROGRAM FRAUD CIVIL REMEDIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1819; PL 103-204

CFR Citation: 12 CFR 308

Legal Deadline: None

Abstract: The Program Fraud Civil Remedies Act ("PFCRA") requires specified Federal agencies to follow certain procedures to recover penalties and assessments against persons who file false claims and statements. The Resolution Trust Corporation Completion Act (PL 103-204) subjects the FDIC to the requirements of the PFCRA. An interagency task force was established by the President's Council on Integrity and Efficiency to develop model regulations for implementing the PFCRA. This regulatory action adopts, with minor variations, the model regulations set forth by the Council's task force.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark A. Mellon, Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-3854

RIN: 3064–AB41

4281. RECEIVERSHIP RULES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1819 to 1821

CFR Citation: 12 CFR 360

Legal Deadline: None

Abstract: This rulemaking establishes uniform rules governing the payment and priority of post-insolvency interest payments from all receiverships administered by the FDIC and makes other technical and clarifying changes to part 360.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mitchell Glassman, Deputy Director, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-6525

RIN: 3064–AB92

4282. CAPITAL MAINTENANCE—ELIMINATION OF INTERAGENCY DIFFERENCES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815; 12 USC 1816; 12 USC 1818; 12 USC 1819; 12 USC 1828; 12 USC 1831; 12 USC 1835; 12 USC 3907; 12 USC 3909; 12 USC 4808; PL 102-242

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: This rulemaking, jointly sponsored by the FDIC, the FRS, the OCC, and the OTS, resolves differences among the agencies with regard to the capital treatment of construction loans on presold residential properties, real estate loans secured by junior liens on 1-4 family residential properties, investments in mutual funds, and the minimum Tier 1 leverage capital standard. This rule is the result of a CDRI section 303(a) review.

Timetable:

Action	Date	FR Cite
NPRM	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen G. Pfeifer, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-8904

RIN: 3064–AB96

4283. APPLICATIONS, REQUESTS, SUBMITTALS, DELEGATIONS OF AUTHORITY, AND NOTICES REQUIRED TO BE FILED BY STATUTE OR REGULATION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 378; 12 USC 1813; 12 USC 1815; 12 USC 1816; 12 USC 1817(j); 12 USC 1818; 12 USC 1819; 12 USC 1828; 12 USC 1831(e); 12 USC 1831(o); 12 USC 1831(p-1); 15 USC 1607

CFR Citation: 12 CFR 303

Legal Deadline: None

Abstract: This rulemaking streamlines and updates the FDIC's regulations governing application procedures and delegations of authority. It implements the results of a CDRI section 303(a) review.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marion Thickson, Assistant Regional Director, Division of Supervision, Federal Deposit Insurance Corporation
Phone: 202 942-3108

RIN: 3064–AC02

4284. • CAPITAL MAINTENANCE—TREATMENT OF SERVICING ASSETS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815(a); 12 USC 1815(b); 12 USC 1816; 12 USC 1818(a); 12 USC 1818(b); 12 USC 1818(c); 12 USC 1818(t); 12 USC 1819 (Tenth); 12 USC 1828(c); 12 USC 1828(d); 12 USC 1828(i); 12 USC 1828(o); 12 USC 1828(n); 12 USC 1831o; 12 USC 3907

FDIC

Proposed Rule Stage

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: This rulemaking is sponsored jointly by the OCC, the FRS, OTS and the FDIC. The agencies propose to amend their capital adequacy standards for banks, bank holding companies, and savings associations (banking organizations) to address the treatment of servicing assets on both mortgage assets and financial assets other than mortgages (non-mortgages).

Timetable:

Action	Date	FR Cite
NPRM	08/04/97	62 FR 42005
NPRM Comment Period End	10/03/97	
Final Action	05/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen G. Pfeifer, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-8904

RIN: 3064–AC07

4285. • MANAGEMENT INTERLOCKS ACT

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 3201 to 3208

CFR Citation: 12 CFR 348

Legal Deadline: None

Abstract: This rulemaking is sponsored jointly by the OCC, the FRS, the OTS, the NCUA, and the FDIC. It conforms the management interlocks rules to recent statutory changes, modernizes and clarifies the rules, and reduces unnecessary regulatory burdens where feasible, consistent with statutory requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Curtis Vaughn, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-6759

RIN: 3064–AC08

4286. • DISCLOSURE OF INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1819 (Seventh and Tenth); 5 USC 552

CFR Citation: 12 CFR 309

Legal Deadline: Final, Statutory, October 2, 1997.

Abstract: This rulemaking proposes to amend the regulation governing the public disclosure of information to reflect recent changes in the Freedom of Information Act (FOIA) as a result of the enactment of the Electronic Freedom of Information Act Amendments of 1996 (E-FOIA). Among other things, the proposed rule implements expedited and "multi-track" FOIA processing procedures; implements the processing deadlines and appeal rights created by E-FOIA; and describes the expended range of records available to the public through the FDIC's Public Reading Room and the FDIC's Internet world Wide Web page.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Valerie J. Best, Assistant Executive Secretary, Office of the Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-3812

RIN: 3064–AC10

4287. • RISK-BASED CAPITAL STANDARDS; UNREALIZED REVALUATION GAINS ON CERTAIN EQUITY SECURITIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815(a); 12 USC 1815(b); 12 USC 1816; 12 USC 1818(a); 12 USC 1818(b); 12 USC 1818(c); 12 USC 1818(t); 12 USC 1819 (Tenth); 12 USC 1828(c); 12 USC 1828(d); 12 USC 1828(i); 12 USC 1828(n); 12 USC 1828(o); 12 USC 1835

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: This rulemaking establishes uniform interagency rules enabling institutions to include in supplementary (Tier 2) capital up to 45 percent of unrealized gains on certain available-for-sale equity securities.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen G. Pfeifer, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-8904

RIN: 3064–AC11

4288. • ACTIVITIES OF INSURED STATE BANKS AND INSURED SAVINGS ASSOCIATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 378; 12 USC 1813; 12 USC 1815; 12 USC 1816; 12 USC 1817(j); 12 USC 1818; 12 USC 1819 (Seventh and Tenth); 12 USC 1828; 12 USC 1831e; 12 USC 1831o; 12 USC 1831p-1; 15 USC 1607

CFR Citation: 12 CFR 362; 12 CFR 337; 12 CFR 303

Legal Deadline: None

Abstract: This rulemaking withdraws a proposed rule published August 23, 1996, in the Federal Register at 61 FR 43486 (RIN 3064-AB75) to amend the FDIC's regulations governing the activities and investments of insured State banks, and replaces it with a more comprehensive rule.

The more comprehensive rulemaking combines the FDIC's regulations governing the activities and investments of insured State banks (presently found in 12 CFR part 362) with those governing insured savings associations (presently found at 12 CFR 303.12) into a revised part 362. In addition, the rule moves the FDIC's regulations governing safety and soundness of securities activities of subsidiaries and affiliates of insured State nonmember banks (currently at 12 CFR 337.4) into part 362. The intention is to modernize this group of regulations and harmonize the provisions of part 362 governing activities that are not permissible for national banks with those governing the securities activities of State nonmember banks.

FDIC — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	09/12/97	62 FR 47969
NPRM Comment Period End	12/11/97	
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Curtis Vaughn, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-6759

RIN: 3064–AC12

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Final Rule Stage

4289. DETERMINATION OF ECONOMICALLY DEPRESSED REGIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1819; 12 USC 1823

CFR Citation: 12 CFR 357

Legal Deadline: None

Abstract: The FDIC is required by statute to consider proposals for direct financial assistance by SAIF members having offices located in economically depressed regions and meeting certain other specified criteria, before grounds exist for the appointment of a conservator or receiver. In fulfilling this mandate, the FDIC established a list of ten such regions in 1990 with 12 CFR 357 (55 FR 11161). In 1992, the FDIC published a proposal that would have updated the list of 10 regions, but that proposal was never finalized. This rulemaking withdraws the 1992 proposal, and revises the regulation by providing the methodology that the FDIC will use to determine which regions are economically depressed, rather than identifying and periodically updating a list of regions.

This action is the result of a CDRI section 303(a) review.

Timetable:

Action	Date	FR Cite
NPRM	12/18/92	57 FR 60140
NPRM Comment Period End	02/16/93	
Second NPRM	08/06/96	61 FR 40756
Second NPRM Comment Period End	10/07/96	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John O'Keefe, Chief, Economic Analysis Section, Division of Research and Statistics, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-3945

RIN: 3064–AB08

4290. SIMPLIFICATION OF DEPOSIT INSURANCE RULES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1813; 12 USC 1817 to 1822

CFR Citation: 12 CFR 330

Legal Deadline: None

Abstract: One of the FDIC's projects in its Strategic Plan is to simplify the deposit insurance rules to promote public understanding of deposit insurance. This rulemaking furthers that goal. It is also intended to reduce regulatory burden and improve efficiency pursuant to the provisions of section 303(a) of CDRI.

Timetable:

Action	Date	FR Cite
ANPRM	05/22/96	61 FR 25596
ANPRM Comment Period End	08/20/96	
NPRM	05/14/97	62 FR 26435
NPRM Comment Period End	08/12/97	
Final Action	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph A. DiNuzzo, Senior Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-7349

RIN: 3064–AB73

4291. CAPITAL MAINTENANCE—COLLATERALIZED TRANSACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815; 12 USC 1816; 12 USC 1818; 12 USC 1819; 12 USC 1828; 12 USC 1831; 12 USC 3907; 12 USC 3909; 12 USC 4808; PL 102-233; PL 102-242

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: This rule was developed in consultation with the OCC, the FRS, and the OTS (Agencies). It amends FDIC's risk-based capital standards to make the standards uniform with the Agencies' treatments for transactions supported by collateral. The effect of the proposal is to allow banks to hold less capital for certain transactions collateralized by cash or qualifying securities.

This action is the result of a CDRI section 303(a) review.

Timetable:

Action	Date	FR Cite
NPRM	08/16/96	61 FR 42565
NPRM Comment Period End	10/15/96	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen G. Pfeifer, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-8904

RIN: 3064–AB78

4292. QUALIFICATION REQUIREMENTS FOR THE RECOMMENDATION OR SALE OF CERTAIN SECURITIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1818; 12 USC 1831

CFR Citation: 12 CFR 342

Legal Deadline: None

Abstract: This rulemaking is sponsored jointly by the OCC, the FRS, and the FDIC. It establishes qualifications for those banks that sell certain securities directly to retail customers through their employees without having to register as a broker under the Securities Exchange Act. More particularly, this action establishes filing requirements for banks, and registration, testing, and continuing education requirements for bank securities representatives consistent with the professional qualification requirements for broker-dealers and registered representatives under the Securities Exchange Act and rules thereunder, and the rules of the securities self-regulatory organizations.

FDIC — Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	12/30/96	61 FR 68824
NPRM Comment Period End	02/28/97	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William A. Stark, Assistant Director, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-6972

RIN: 3064–AB85

4293. NOTIFICATION OF CHANGES OF INSURED STATUS

Priority: Info./Admin./Other

Legal Authority: 12 USC 1818; 12 USC 1819

CFR Citation: 12 CFR 307

Legal Deadline: None

Abstract: This rulemaking clarifies reporting and disclosure requirements already applicable to insured depository institutions. It implements the results of a CDRI section 303(a) review.

Timetable:

Action	Date	FR Cite
NPRM	05/14/97	62 FR 26431
NPRM Comment Period End	07/14/97	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rodney D. Ray, Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-3556

RIN: 3064–AB88

4294. FORMAL MINORITY- AND WOMEN-OWNED BUSINESS AND LAW FIRM CERTIFICATION PROGRAM

Priority: Info./Admin./Other

Legal Authority: 12 USC 1819; 12 USC 1822

CFR Citation: 12 CFR 361

Legal Deadline: None

Abstract: This rulemaking replaces the self-certification program for minority- and women-owned businesses wishing to do business with the FDIC, with a more formal program for certification. The rulemaking is the result of a CDRI section 303(a) review.

Timetable:

Action	Date	FR Cite
NPRM	04/14/97	62 FR 18059
NPRM Comment Period End	06/13/97	
Final Action	02/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary A. Terrell, Associate Director, Office of Diversity and Economic Opportunity, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 416-4322

RIN: 3064–AB95

4295. ADVERTISEMENT OF MEMBERSHIP

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1818; 12 USC 1819; 12 USC 1828

CFR Citation: 12 CFR 328

Legal Deadline: None

Abstract: This regulatory action consolidates provisions relating to display of official signs; extends the official advertising statement that is currently required for insured banks to all insured depository institutions; streamlines exceptions to the use of the statement; prohibits use of the statement in advertisements concerning nondeposit investment products; and delegates authority to approve translations of the statement to certain FDIC officials. In addition, this action solicits comment on issues relating to advertisement of membership in the FDIC over a computer network such as the Internet. This action is the result of a CDRI section 303(a) review.

Timetable:

Action	Date	FR Cite
NPRM	02/11/97	62 FR 06142
NPRM Comment Period End	04/14/97	
Final Action	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marc J. Goldstrom, Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-8807

RIN: 3064–AB99

4296. RECEIVERSHIP RULES—SECURITY INTERESTS OF FEDERAL HOME LOAN BANKS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1821(d)(1); 12 USC 1819; 12 USC 1823(c)(4)

CFR Citation: 12 CFR 360

Legal Deadline: None

Abstract: This regulatory action removes provisions relating to the security interests of Federal Home Loan Banks because federal statutory protections make the regulatory provisions unnecessary. This action is the result of a CDRI section 303(a) review.

Timetable:

Action	Date	FR Cite
NPRM	02/20/97	62 FR 07725
NPRM Comment Period End	04/21/97	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mitchell Glassman, Deputy Director, Division of Resolutions and Receiverships, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-6525

RIN: 3064–AC00

4297. • INSURED STATE NONMEMBER BANKS WHICH ARE MUNICIPAL SECURITIES DEALERS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4803(a)

CFR Citation: 12 CFR 343

Legal Deadline: None

Abstract: This rulemaking proposes to rescind the regulation that requires

FDIC — Final Rule Stage

insured state nonmember banks which are municipal securities dealers to file with the FDIC certain information about those persons who are or seek to be associated with these dealers as municipal securities principals or municipal securities representatives. This action is the result of a CDRI section 303(a) review.

Timetable:

Action	Date	FR Cite
NPRM	05/16/97	62 FR 26994
NPRM Comment Period End	07/15/97	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carol A. Mesheske, Chief, Special Activities Section, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-6750

RIN: 3064–AC04

4296. • INTERNATIONAL BANKING

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 378; 12 USC 1813; 12 USC 1815; 12 USC 1816; 12 USC 1817(j); 12 USC 1818; 12 USC 1819 (Seventh and Tenth); 12 USC 1828; 12 USC 1831e; 12 USC 1831o; 12 USC 1831p-1; 15 USC 1607

CFR Citation: 12 CFR 347; 12 CFR 325; 12 CFR 326; 12 CFR 327; 12 CFR 346; 12 CFR 303; 12 CFR 351; 12 CFR 362

Legal Deadline: None

Abstract: This regulatory action revises and consolidates the FDIC's three different groups of rules and regulations governing international banking. The first group governs insured branches of foreign banks and specifies what deposit-taking activities are permissible for uninsured state-licensed branches of foreign banks. The second group governs the foreign branches of insured state nonmember banks, and also governs such banks' investment in foreign banks or other financial entities. The third group governs the international lending of insured state nonmember banks and specifies when reserves are required for particular international assets. This action is the result of a CDRI section 303(a) review.

Timetable:

Action	Date	FR Cite
NPRM	07/15/97	62 FR 37748
NPRM Comment Period End	09/15/97	
Final Action	05/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Christie A. Sciacca, Assistant Director, Division of Supervision, Federal Deposit Insurance Corporation
Phone: 202 898-3671

RIN: 3064–AC05

4299. • ANNUAL INDEPENDENT AUDITS AND REPORTING REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1831m

CFR Citation: 12 CFR 363

Legal Deadline: None

Abstract: This regulation eliminates Schedule A to appendix A, "Agreed Upon Procedures for Determining Compliance with Designated Laws." The regulation also amends the Guidelines and Interpretations published as an appendix to the annual independent audit rule. The changes delete certain filing requirements that have been determined to be unnecessary, and clarify ambiguities identified by the Corporation, financial institutions, and accountants since the audit rule was promulgated.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Doris L. Marsh, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-8905

RIN: 3064–AC06

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Long-Term Actions

4300. CENSURE, SUSPENSION, AND DEBARMENT OF INDEPENDENT PUBLIC ACCOUNTANTS

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 308

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Doris L. Marsh
Phone: 202 898-8905

RIN: 3064–AA84

4301. ASSESSMENTS—ASSESSMENT BASE

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 327

Timetable:

Action	Date	FR Cite
ANPRM	10/05/94	59 FR 50710
ANPRM Comment Period End	02/02/95	
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen Ledbetter
Phone: 202 898-8658

RIN: 3064–AB46

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Completed Actions

4302. FAIR HOUSING

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1817 to 1820; 12 USC 2801; 15 USC 1691; 42 USC 3605; 42 USC 3608

CFR Citation: 12 CFR 338

Legal Deadline: None

Abstract: This regulatory action removes the substitute fair housing recordkeeping and monitoring requirements that the FDIC had imposed in place of those contained in the FRS's Regulation B, and replaces them with a cross-reference to Regulation B. Similarly, the action removes a requirement that insured state nonmember banks maintain a home application register in accordance with the FRS's Regulation C, and replaces it with a cross-reference to Regulation C. Regulations B and C implement the Equal Credit Opportunity Act and the Home Mortgage Disclosure Act, respectively. This action also clarifies certain nondiscriminatory advertising requirements with regard to placement and display of the Equal Housing Lending poster. The intended effect of these amendments is to reduce burden and to conform the FDIC's fair housing regulations with those of the other Federal bank and thrift regulatory agencies.

This action is the result of a CDRI section 303(a) review.

Timetable:

Action	Date	FR Cite
NPRM	08/23/96	61 FR 43486
NPRM Comment Period End	10/22/96	
Merged With RIN 3064-AC12	09/12/97	62 FR 48025

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Shirley K. Basse, Review Examiner, Division of Supervision, Federal Deposit Insurance Corporation
Phone: 202 898-6815

RIN: 3064–AB75

4303. ACTIVITIES AND INVESTMENTS OF INSURED STATE BANKS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1816; 12 USC 1818; 12 USC 1819; 12 USC 1831

CFR Citation: 12 CFR 362

Legal Deadline: None

Abstract: In general, part 362 prohibits insured state banks from undertaking activities that are not permitted for national banks, with some exceptions that are granted through an application process. This rulemaking would have eliminated certain application requirements and substituted notice requirements for them, for banks meeting specified criteria.

This action, the result of a CDRI section 303(a) review, has been combined with a more comprehensive revision to 12 CFR 362 (see 3064-AC12).

Timetable:

Action	Date	FR Cite
NPRM	09/20/96	61 FR 49420
NPRM Comment Period End	11/19/96	
Final Action	07/07/97	62 FR 36201

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael R. Evans, Fair Lending Analyst, Division of Compliance and Consumer Affairs, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 942-3091

RIN: 3064–AB72

4304. EXPANDED EXAMINATION CYCLE FOR CERTAIN SMALL FINANCIAL INSTITUTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1820

CFR Citation: 12 CFR 337

Legal Deadline: None

Abstract: This regulatory action, which is jointly sponsored by the FRS, the OTS, the OCC, and the FDIC, increases the size limitation of 2-rated institutions eligible to be examined on an expanded, 18-month cycle. The purpose of this action is to permit the banking agencies to focus their resources on the segment of the banking and thrift industry that pose the greater immediate supervisory risk, while reducing the regulatory burden on smaller, well-run institutions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/12/97	62 FR 6449
Interim Final Rule Effective	02/12/97	
Comment Period End	04/14/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert W. Walsh, Manager, Policy and Program Development, Division of Supervision, Federal Deposit Insurance Corporation
Phone: 202 898-6911

RIN: 3064–AB90

4305. PROHIBITION AGAINST DEPOSIT PRODUCTION OFFICES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1835(a); PL 103-328, sec 109

CFR Citation: 12 CFR 369

Legal Deadline: None

Abstract: This rulemaking implements section 109 of Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, which requires federal banking agencies to prescribe uniform regulations which prohibit a bank from using any authority under the Act to engage in interstate branching primarily for the purpose of deposit production.

Timetable:

Action	Date	FR Cite
NPRM	03/17/97	62 FR 12730
NPRM Comment Period End	05/02/97	
Final Action	09/10/97	62 FR 47728

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gladys Gallagher, Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-3833

RIN: 3064–AB97

4306. PREVENTION OF DEPOSIT SHIFTING

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815; 12 USC 1819

CFR Citation: 12 CFR 312

Legal Deadline: None
The deposit shifting statute terminates on the earlier of Dec. 31, 1999, or the date on which the last savings association ceases to exist.

Abstract: This notice of proposed rulemaking sought comment on how to implement a new statute to prevent the shifting of deposits insured under the Savings Association Insurance Fund

FDIC

Completed Actions

(SAIF) to deposits insured under the Bank Insurance Fund (BIF) to avoid assessment rates applicable to SAIF deposits. After considering the comments received, the FDIC decided that the statute's provisions could be implemented without a regulation. On July 22, 1997, the FDIC's Board of Directors voted to withdraw the proposal.

Timetable:

Action	Date	FR Cite
NPRM	02/11/97	62 FR 06139
NPRM Comment Period End	04/14/97	
Withdrawn	07/29/97	62 FR 40487

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph A. DiNuzzo, Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-7349

RIN: 3064–AC01

4307. APPLICATIONS, REQUESTS, SUBMITTALS, DELEGATIONS OF AUTHORITY, AND NOTICES REQUIRED TO BE FILED BY STATUTE OR REGULATION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 378; 12 USC 1813; 12 USC 1815; 12 USC 1816; 12 USC 1817(j); 12 USC 1818; 12 USC 1819; 12 USC 1828; 12 USC 1831(e); 12 USC 1831(o); 12 USC 1831(p-1); 15 USC 1607

CFR Citation: 12 CFR 303

Legal Deadline: None

Abstract: This rulemaking amends the definition of "appropriate FDIC regional office" and other related terms contained in its applications regulation to change the way the FDIC designates the appropriate regional office for purposes of filing applications, requests, submittals, and notices.

Timetable:

Action	Date	FR Cite
Final Action	04/08/97	62 FR 16662

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Christopher J. Spoth, Examination Specialist, Federal Deposit Insurance Corporation
Phone: 202 898-6611

RIN: 3064–AC03

4308. • PROHIBITION AGAINST PAYMENT OF INTEREST ON DEMAND DEPOSITS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1819; 12 USC 1828(g); 12 USC 1832(a)

CFR Citation: 12 CFR 329

Legal Deadline: None

Abstract: This regulatory action amends an interpretive rule to provide an additional exception to the limitations on premiums that may be given in connection with demand deposits.

Timetable:

Action	Date	FR Cite
Final Action	07/30/97	62 FR 40731
Final Action Effective	07/30/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marc Goldstrom, Counsel, Regulation and Legislation Section, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-8807

RIN: 3064–AC09

[FR Doc. 97-22239 Filed 10-28-97; 8:45 am]
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federal register

Wednesday
October 29, 1997

Part LII

Federal Energy Regulatory Commission

Semiannual Regulatory Agenda

FEDERAL ENERGY REGULATORY COMMISSION (FERC)

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Semiannual regulatory agenda.

SUMMARY: In accordance with guidance issued by the Office of Management and Budget (OMB), the Federal Energy Regulatory Commission voluntarily submits information about rulemakings under development. The 10 rulemakings listed are current or projected rulemakings.

DATES: The dates provided represent goals, not commitments, and may be revised due to shifts in workload, changes in priorities, or extensive public comments. See the various dates listed for each specific rulemaking.

ADDRESSES: Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Person listed for each specific rulemaking.

Linwood A. Watson, Jr.,
Acting Secretary.

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4309	Administrative Determination of Full Avoided Costs, Sales of Power to Qualifying Facilities and Interconnection Facilities	1902-AB00
4310	Elimination of Unneeded Pages in the FERC Form No. 1	1902-AB33
4311	Elimination of Unnecessary Filing Requirements From the Commission's Uniform System of Accounts Prescribed for Public Utilities and Licensees	1902-AB35
4312	Treatment of Responses to FERC Form No. 580 Interrogatories	1902-AB57
4313	Revision of Fuel Cost-Adjustment Clause Regulation Relating to Fuel Purchases From Company-Owned or Controlled Source	1902-AB58
4314	Alternative Power Pooling Institutions Under the Federal Power Act	1902-AB59
4315	Secondary Market Transactions on Interstate Natural Gas Pipelines	1902-AB68
4316	Capacity Reservation Open Access Transmission Tariffs	1902-AB69
4317	Regulations for the Relicensing of Hydroelectric Projects	1902-AB71
4318	Information and Requests	1902-AB72

FEDERAL ENERGY REGULATORY COMMISSION (FERC) — Long-Term Actions

4309. ADMINISTRATIVE DETERMINATION OF FULL AVOIDED COSTS, SALES OF POWER TO QUALIFYING FACILITIES AND INTERCONNECTION FACILITIES

Priority: Substantive, Nonsignificant

CFR Citation: 18 CFR 292

Timetable:

Action	Date	FR Cite
NPRM	03/22/88	53 FR 9331
NPRM Comment Period End	06/14/88	
Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Daniel L. Larcamp
Phone: 202 208-2088

RIN: 1902–AB00

4310. ELIMINATION OF UNNEEDED PAGES IN THE FERC FORM NO. 1

Priority: Substantive, Nonsignificant

CFR Citation: 18 CFR 141

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Audrey C. Wong
Phone: 202 219-3017

RIN: 1902–AB33

4311. ELIMINATION OF UNNECESSARY FILING REQUIREMENTS FROM THE COMMISSION'S UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR PUBLIC UTILITIES AND LICENSEES.

Priority: Substantive, Nonsignificant

CFR Citation: 18 CFR 101

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James G. Baird
Phone: 202 219-2813

RIN: 1902–AB35

4312. TREATMENT OF RESPONSES TO FERC FORM NO. 580 INTERROGATORIES

Priority: Info./Admin./Other

CFR Citation: 18 CFR 141; 18 CFR 388

Timetable:

Action	Date	FR Cite
NPRM	12/01/93	58 FR 63312
NPRM Comment Period End	03/04/94	59 FR 1690
Final Rule	00/00/00	

Small Entities Affected: None

FERC — Long-Term Actions

Government Levels Affected: None

Agency Contact: Gary Cohen
Phone: 202 208-2046

RIN: 1902–AB57

4313. REVISION OF FUEL COST-ADJUSTMENT CLAUSE REGULATION RELATING TO FUEL PURCHASES FROM COMPANY-OWNED OR CONTROLLED SOURCE

Priority: Substantive, Nonsignificant

CFR Citation: 18 CFR 35

Timetable:

Action	Date	FR Cite
NPRM	10/01/93	58 FR 51259
NPRM Comment Period End	11/01/93	
Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Wayne W. Miller
Phone: 202 208-0466

RIN: 1902–AB58

4314. ALTERNATIVE POWER POOLING INSTITUTIONS UNDER THE FEDERAL POWER ACT

Priority: Info./Admin./Other

CFR Citation: 18 CFR ch 1

Timetable:

Action	Date	FR Cite
Notice of Inquiry (NOI)	11/02/94	59 FR 54851
NOI Comment Period End	03/02/95	59 FR 54851
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Janice MacPherson
Phone: 202 208-0921

RIN: 1902–AB59

4315. SECONDARY MARKET TRANSACTIONS ON INTERSTATE NATURAL GAS PIPELINES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 18 CFR 284

Timetable:

Action	Date	FR Cite
NPRM	08/07/96	61 FR 41046
NPRM Comment Period End	10/07/96	
Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Goldenberg
Phone: 202 208-2294

RIN: 1902–AB68

4316. CAPACITY RESERVATION OPEN ACCESS TRANSMISSION TARIFFS

Priority: Info./Admin./Other

Unfunded Mandates: Undetermined

Major: Undetermined

CFR Citation: 18 CFR 35

Timetable:

Action	Date	FR Cite
NPRM	05/10/96	61 FR 21847
NPRM Comment Period Extended	07/25/96	61 FR 38663
NPRM Comment Period End	08/01/96	
Comment Period Extended to	10/21/96	
Final Rule	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dave Withnell
Phone: 202 208-2063

RIN: 1902–AB69

4317. REGULATIONS FOR THE RELICENSING OF HYDROELECTRIC PROJECTS

Priority: Info./Admin./Other

CFR Citation: 18 CFR 4; 18 CFR 375

Timetable:

Action	Date	FR Cite
ANPRM	11/08/95	60 FR 56278
NPRM	12/03/96	61 FR 64031
NPRM Comment Period End	03/03/97	
NPRM Comment Period Extended to	05/05/97	62 FR 4494
NPRM Comment Period Extended to	08/04/97	62 FR 25874
Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Merrill Hathaway
Phone: 202 208-0825

RIN: 1902–AB71

4318. • INFORMATION AND REQUESTS

Priority: Info./Admin./Other

Legal Authority: 5 USC 552, as amended

CFR Citation: 18 CFR 388

Legal Deadline: Other, Statutory, October 2, 1997.
The agency plans to promulgate regulations, pursuant to notice and comment, to implement the provisions of the EFOIA. Sections 7 & 8 of the EFOIA become effective on 10/2/97.

Abstract: The Commission proposes to amend its regulations regarding public information to reflect the requirements and specifications of the Electronic Freedom of Information Act (EFOIA) Amendments of 1996. (Docket No. RM97-8-000.)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Beamon, General Attorney, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426
Phone: 202 208-0457

RIN: 1902–AB72

[FR Doc. 97-22240 Filed 10-28-97; 8:45 am]
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federal register

Wednesday
October 29, 1997

Part LIII

Federal Housing Finance Board

Semiannual Regulatory Agenda

FEDERAL HOUSING FINANCE BOARD (FHFB)

FEDERAL HOUSING FINANCE BOARD

12 CFR Ch. IX

Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Federal Housing Finance Board.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Federal Housing Finance Board (Finance Board) hereby publishes items for the Unified Agenda of Federal Regulatory and Deregulatory Actions, as required by section 4 of Executive Order 12866. These items reflect the status of the regulatory agenda of the Finance Board as of October 6, 1997. The Finance Board is an independent agency in the executive branch of the Government that is charged by statute with supervising and regulating the Nation's Federal Home Loan Bank (FHLBank) System and the Financing Corporation (FICO). The FHLBank System consists of: Twelve regional FHLBanks that are each owned by their member financial institutions and that provide wholesale credit to members and certain nonmembers to be used for mortgage lending and related activities and the Office of Finance (OF), which issues FHLBank System consolidated obligations. FICO is a corporate entity separate from the FHLBank System that oversees outstanding debt issued to assist in resolving the savings and loan crisis of the 1980s. The Finance Board has an ongoing need to adopt various regulations dealing with the Agency's internal administration and with FHLBank System and FICO issues.

ADDRESSES: Executive Secretariat, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006, (202) 408-2837.

FOR FURTHER INFORMATION CONTACT: Eric M. Raudenbush, Attorney-Advisor, Office of General Counsel, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006, (202) 408-2932.

SUPPLEMENTARY INFORMATION: For this edition of the Finance Board's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

By the Federal Housing Finance Board.

Elaine L. Baker,

Executive Secretary.

FEDERAL HOUSING FINANCE BOARD (FHFB) — Proposed Rule Stage

4319. FEDERAL HOME LOAN BANK FINANCIAL MANAGEMENT

Regulatory Plan: This entry is Seq. No. 167 in Part II of this issue of the **Federal Register**.

RIN: 3069–AA50

4320. ELECTION OF FEDERAL HOME LOAN BANK DIRECTORS

Regulatory Plan: This entry is Seq. No. 168 in Part II of this issue of the **Federal Register**.

RIN: 3069–AA55

4321. FHLBANK LETTER OF CREDIT ISSUANCE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 12 USC 1430(a); 12 USC 1431(a)

CFR Citation: 12 CFR Not yet determined

Legal Deadline: None

Abstract: The Finance Board intends to publish a proposed rule to codify regulations governing issuance of standby letters of credit by FHLBanks.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	
NPRM Comment Period End	03/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Eric M. Raudenbush, Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2932
Fax: 202 408-2580

RIN: 3069–AA61

4322. COMPENSATION OF FHLBANK AND OFFICE OF FINANCE OFFICERS AND EMPLOYEES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1422a; 12 USC 1422b; 12 USC 1432(a)

CFR Citation: 12 CFR 932; 12 CFR 941

Legal Deadline: None

Abstract: The Finance Board intends to publish a proposed rule to amend its regulations to establish guidelines for compensation of OF employees and for provision of benefits to FHLBank employees.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	
NPRM Comment Period End	06/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David A. Guy, Associate General Counsel, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2536
Fax: 202 408-2580

RIN: 3069–AA62

4323. DEVOLUTION OF GOVERNANCE AUTHORITIES TO THE FHLBANKS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1422b; 12 USC 1432(a)

CFR Citation: 12 CFR Not yet determined

Legal Deadline: None

Abstract: The Finance Board intends to publish one or more proposed rules to amend its regulations to devolve corporate governance authority with respect to certain matters from the Finance Board to the FHLBanks and to set forth guidelines regarding the exercise of these authorities.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
NPRM Comment Period End	02/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Deborah F. Silberman, Acting General Counsel, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2570
Fax: 202 408-2580

RIN: 3069–AA64

4324. FHLBANK SYSTEM MISSION REGULATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 12 USC 1422a

CFR Citation: 12 CFR 937

Legal Deadline: None

Abstract: The Finance Board intends to publish a proposed rule to add to its regulations a requirement that each FHLBank's board of directors prepare annually a report on that FHLBank's fulfillment of its housing finance mission.

Timetable:

Action	Date	FR Cite
ANPRM	04/09/97	62 FR 17108
ANPRM Comment Period End	06/09/97	62 FR 25563
NPRM	04/00/98	
NPRM Comment Period End	06/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Brandon B. Straus, Senior Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2589
Fax: 202 408-2580

RIN: 3069–AA65

4325. • AMENDMENT OF DEFINITION OF "STATE" IN MEMBERSHIP REGULATION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1422a; 12 USC 1424

CFR Citation: 12 CFR 933.1(cc)

Legal Deadline: None

Abstract: The Finance Board intends to issue a final rule amending the definition of the term "state" in its Membership Regulation to include American Samoa, thereby making financial institutions located in American Samoa and the Commonwealth of the Northern Mariana Islands eligible for FHLBank membership.

Timetable:

Action	Date	FR Cite
NPRM	09/24/97	62 FR 49943
NPRM Comment Period End	10/24/97	
Final Action	12/00/97	
Final Action Effective	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon B. Like, Senior Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2930
Fax: 202 408-2580

RIN: 3069–AA66

4326. • TECHNICAL AMENDMENTS TO MEMBERSHIP REGULATION

Priority: Routine and Frequent

Legal Authority: 12 USC 1422a; 12 USC 1424

CFR Citation: 12 CFR 933

Legal Deadline: None

Abstract: The Finance Board intends to publish a proposed rule to amend its Membership Regulation to resolve several minor issues that have arisen since the promulgation of the Membership Regulation in 1996.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	
NPRM Comment Period End	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon B. Like, Senior Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2930
Fax: 202 408-2580

RIN: 3069–AA67

FEDERAL HOUSING FINANCE BOARD (FHFB) — Final Rule Stage

4327. BOOK ENTRY PROCEDURE FOR FEDERAL HOME LOAN BANK SECURITIES

Priority: Info./Admin./Other

Legal Authority: 12 USC 1422a; 12 USC 1422b; 12 USC 1431

CFR Citation: 12 CFR 912

Legal Deadline: None

Abstract: The Finance Board promulgated a final rule amending its regulation governing FHLBank book-entry securities to incorporate recent and significant changes in commercial law addressing the holding of securities in book-entry form through financial intermediaries.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/03/96	61 FR 64021
Final Action	12/00/97	
Final Action Effective	01/00/98	

FHFB — Final Rule Stage

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Eric M. Raudenbush, Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2932
Fax: 202 408-2580

RIN: 3069–AA54

FEDERAL HOUSING FINANCE BOARD (FHFB) — Completed Actions

4328. COMMUNITY INVESTMENT CASH ADVANCES

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 12 USC 1422a; 12 USC 1422b; 12 USC 1430(i); 12 USC 1430(j)(10)

CFR Citation: 12 CFR 970

Legal Deadline: None

Abstract: The Finance Board intended to propose a regulation to establish guidelines governing all community investment cash advance programs, including the community investment program, established by a FHLBank.

Timetable:

Action	Date	FR Cite
Withdrawn	07/29/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diane Dorius, Associate Director, Program Development Division, Office of Policy, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2576
Fax: 202 408-2580

RIN: 3069–AA05

4329. AFFORDABLE HOUSING PROGRAM

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1422b(a)(1); 12 USC 1430(j)

CFR Citation: 12 CFR 960

Legal Deadline: None

Abstract: The Finance Board issued a final rule to revise its regulation governing the Affordable Housing Program (AHP) in order to simplify and clarify the AHP's requirements for the FHLBanks and their members.

Timetable:

Action	Date	FR Cite
NPRM	01/10/94	59 FR 1323
NPRM Comment Period End	03/11/94	
Second NPRM	11/08/96	61 FR 57799
Second NPRM Comment Period End	02/06/97	
Final Action	08/04/97	62 FR 41812
Final Action Effective	01/01/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles McLean, Deputy Director, Market Research Division, Office of Policy, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2537

RIN: 3069–AA28

4330. MODIFICATION OF COMMUNITY SUPPORT REGULATION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1422b; 12 USC 1430(g)

CFR Citation: 12 CFR 936

Legal Deadline: None

Abstract: The Finance Board published a final rule amending its Community Support regulations to provide standards for the community support requirements for all members of the FHLBank System and to establish review criteria that the Finance Board must apply in determining members' compliance.

Timetable:

Action	Date	FR Cite
ANPRM	09/02/93	58 FR 46469
ANPRM Comment Period End	12/31/93	58 FR 68305
NPRM	11/27/96	61 FR 20229
NPRM Comment Period End	01/27/97	
Final Action	05/29/97	62 FR 28963
Final Action Effective	06/30/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Janice A. Kaye, Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2505

RIN: 3069–AA35

4331. FEDERAL HOME LOAN BANK ASSESSMENTS

Priority: Info./Admin./Other

Legal Authority: 12 USC 1422b; 12 USC 1438(b)

CFR Citation: 12 CFR 902.2

Legal Deadline: None

Abstract: The Finance Board published a final rule amending its regulation on assessments on the FHLBanks to tie such assessments to the fiscal year of the U.S. government, as opposed to the calendar year.

Timetable:

Action	Date	FR Cite
Final Action	07/03/97	62 FR 35948
Final Action Effective	08/04/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David A. Guy, Associate General Counsel, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2536
Fax: 202 408-2580

RIN: 3069–AA51

4332. AMENDMENT OF FINANCING CORPORATION REGULATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1441

CFR Citation: 12 CFR 950

FHFB — Completed Actions

Legal Deadline: None

Abstract: The Finance Board issued a final rule amending its regulation on Financing Corporation operations to comply with new statutory requirements and to eliminate provisions that have been rendered obsolete by statutory changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/22/96	61 FR 59311
Final Action	09/25/97	62 FR 50247
Final Action Effective	10/27/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Janice A. Kaye, Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2505
Fax: 202 408-2580

RIN: 3069–AA57

4333. QUALIFIED THRIFT LENDER TEST

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1422a; 12 USC 1422b; 12 USC 1430

CFR Citation: 12 CFR 935

Legal Deadline: None

Abstract: In conjunction with statutory changes in thrifts' Qualified Thrift Lender (QTL) formula, the Finance Board adopted a final rule amending its Advances Regulation to broaden the universe of assets that non-savings association FHLBank members may use to satisfy their QTL requirements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/27/97	62 FR 8868
Final Action Effective	10/03/97	
Final Action	10/06/97	62 FR 52011

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Neil R. Crowley, Associate General Counsel, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2990
Fax: 202 408-2580

RIN: 3069–AA60

4334. TECHNICAL AMENDMENT OF DEFINITION OF DEPOSITS IN BANKS AND TRUST COMPANIES

Priority: Economically Significant

Legal Authority: 12 USC 1422a; 12 USC 1422b

CFR Citation: 12 CFR 931.5

Legal Deadline: None

Abstract: The Finance Board published a final rule amending its regulations to include within the definition of "deposits in banks and trust companies" deposits in a branch or agency of a foreign bank located in the U.S. and supervised by the Federal Reserve Board.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/14/97	62 FR 6860
Final Action	05/16/97	62 FR 26921
Final Action Effective	05/16/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Janice A. Kaye, Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2505
Fax: 202 408-2580

RIN: 3069–AA63

4335. • TECHNICAL AMENDMENT TO COMMUNITY SUPPORT REGULATION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1422a; 12 USC 1422b; 12 USC 1430

CFR Citation: 12 CFR 936

Legal Deadline: None

Abstract: The Finance Board published a direct final rule amending its Community Support Regulation to allow regulators of State-regulated financial institutions and federally insured credit unions to provide statements on behalf of their regulatees that restricting the regulatee's access to long-term advances will endanger its safety and soundness.

Timetable:

Action	Date	FR Cite
NPRM		62 FR 46872
Final Action	09/05/97	62 FR 46872
Final Action Effective	10/06/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Janice A. Kaye, Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2505
Fax: 202 408-2580

RIN: 3069–AA68

[FR Doc. 97-22241 Filed 10-28-97; 8:45 am]
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Wednesday
October 29, 1997

Part LIV

Federal Maritime Commission

Semiannual Regulatory Agenda

FEDERAL MARITIME COMMISSION (FMC)

FEDERAL MARITIME COMMISSION

46 CFR Ch. IV

Regulatory Plan and Unified Agenda

AGENCY: Federal Maritime Commission.

ACTION: Regulatory plan and semiannual regulatory agenda.

SUMMARY: Pursuant to section 4(b) of E.O. 12866 and the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Commission anticipates having under consideration, during the period from October 1, 1997, to September 30, 1998, actions in the areas listed below.

FOR FURTHER INFORMATION CONTACT: For further information concerning Commission rulemaking proceedings or the status of any matter listed below, contact: Joseph C. Polking, Secretary, 800 North Capitol Street NW., Washington, DC 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: Section 602 of the Regulatory Flexibility Act (5 U.S.C. 602) requires the publication of an agenda of items for which regulatory agencies may propose or promulgate a rule which is likely to have a significant economic impact on a substantial number of small entities. Section 4(b) of Executive Order 12866 also requires agencies to publish a regulatory agenda. The agendas include information on regulatory activities being conducted or reviewed during the succeeding 12 months by the Commission.

The following is the Commission's unified regulatory agenda. The agenda does not necessarily include all petitions for rulemakings which are under staff review.

In addition, the Commission maintains a compilation of the status of pending rulemaking proceedings and a listing of rules that have become final since the publication of the most recent regulatory agenda. This will be made available to the public, including the press and interested persons.

The Commission currently has no actions under consideration that constitute "significant regulatory actions" under the definition in Executive Order 12866. This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions includes The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Federal Maritime Commission's Statement of Regulatory Priorities is included in Part II.

Joseph C. Polking,
Secretary.

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4336	Coloading Practices and Possible Section 16 Exemption for Coloading (Docket Nos. 93-22 and 94-26)	3072-AB75
4337	Financial Responsibility Requirements for Nonperformance of Transportation and Inquiry Into Alternative Forms (Docket No. 94-06; Further Notice of Proposed Rulemaking)	3072-AB80

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4338	Port Restrictions and Requirements in the United States/Japan Trade (Docket No. 96-20)	3072-AB97

FEDERAL MARITIME COMMISSION (FMC) — Final Rule Stage

4336. COLOADING PRACTICES AND POSSIBLE SECTION 16 EXEMPTION FOR COLOADING (DOCKET NOS. 93-22 AND 94-26)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552 and 553; 46 USC app 1707; 46 USC app 1716; PL 102-582, 106 Stat 4910

CFR Citation: 46 CFR 514.15; 46 CFR 580.5; 46 CFR 581.1; 46 CFR 581.3

Legal Deadline: None

Abstract: Action redefines "coloading" to limit the term to the combining of cargo under an agreement between non-vessel-operating common carriers (NVOCCs) and makes other changes involving coloading, including prohibiting coloaded cargo from being carried under a service contract. This action has been held in abeyance pending a Notice of Inquiry which is exploring whether current coloading practices are consistent with statutory requirements, and if not, whether an exemption should be initiated.

Timetable:

Action	Date	FR Cite
NPRM	11/24/93	58 FR 62077
NPRM Comment Period End	03/11/94	59 FR 5974
Notice of Inquiry (Docket No. 94-26)	11/09/94	59 FR 55826
Comment Period End for NOI (Docket No. 94-26)	12/27/94	
NOI Comment Period Extended to 01/23/95	12/28/94	59 FR 66860
Final Action	02/00/98	
Final Action Effective	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Panebianco, General Counsel, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573
Phone: 202 523-5740
Fax: 202 523-5738

RIN: 3072–AB75

FMC — Final Rule Stage

4337. FINANCIAL RESPONSIBILITY REQUIREMENTS FOR NONPERFORMANCE OF TRANSPORTATION AND INQUIRY INTO ALTERNATIVE FORMS (DOCKET NO. 94-06; FURTHER NOTICE OF PROPOSED RULEMAKING)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552 to 553; 46 USC app 817d to 817e; 46 USC app 841a; 46 USC app 1716

CFR Citation: 46 CFR 540.5; 46 CFR 540.9

Legal Deadline: None

Abstract: This further proposed rule would amend financial responsibility requirements regarding nonperformance by passenger vessel operators by eliminating the $15 million unearned passenger revenue ceiling. It would be replaced by sliding scale coverage requirements keyed to operators' financial rating, length of operations in U.S. trades, and satisfactory explanation of any claims of nonperformance. For self-insurers, the rule proposes to reestablish a working capital requirement and require third-party coverage for 25 percent of unearned passenger revenue. The action also proposes to require applications for Certificates (Performance) to be filed at least 90 days prior to advertising, arranging, or providing transportation. Suggestions for alternative approaches also are solicited.

Timetable:

Action	Date	FR Cite
NPRM	03/31/94	59 FR 15149
NPRM Comment Period End	05/02/94	
Comment Period Extended to	06/10/94	59 FR 23182
Comment Period Extended to	06/24/94	59 FR 30567
Notice of Inquiry (Docket No. 94-21)	10/14/94	59 FR 52133
Clarification of Notice of Inquiry	11/02/94	59 FR 54878
Comment Period End for Notice of Inquiry	11/28/94	59 FR 52133
Further NPRM (Docket No. 94-06)	08/26/96	61 FR 33059
Discontinuance of Proceeding for Docket No. 94-21	07/03/96	61 FR 39940
Further NPRM Comment Period End	08/26/96	61 FR 33059
Comment Period Extended to	09/25/96	61 FR 43209
Comment Period Extended to	10/15/96	61 FR 50265
Final Action	03/00/98	
Final Action Effective	07/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bryant L. VanBrakle, Director, Bureau of Tariffs, Certification and Licensing, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573
Phone: 202 523-5796
Fax: 202 523-5830

RIN: 3072–AB80

FEDERAL MARITIME COMMISSION (FMC) — Long-Term Actions

4338. PORT RESTRICTIONS AND REQUIREMENTS IN THE UNITED STATES/JAPAN TRADE (DOCKET NO. 96-20)

Priority: Other Significant

CFR Citation: 46 CFR 586

Timetable:

Action	Date	FR Cite
NPRM	11/13/96	61 FR 58160
Comment Period Extended to 01/20/97	12/27/96	61 FR 68200
NPRM Comment Period End	01/13/97	
Final Rule	03/04/97	62 FR 9696
Final Rule Effective	04/14/97	
Amendment to Final Rule	04/16/97	62 FR 18532
Final Rule Effectiveness Extended to 09/04/97	04/16/97	62 FR 18533
Status Reports and Comments Due 07/01/97	04/16/97	62 FR 18533
Status Reports and Comments Due 09/05/97	04/16/97	62 FR 18433
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Panebianco
Phone: 202 523-5740
Fax: 202 523-5738

RIN: 3072–AB97

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federal register

Wednesday
October 29, 1997

Part LV

Federal Reserve System

Semiannual Regulatory Agenda

FEDERAL RESERVE SYSTEM (FRS)

FEDERAL RESERVE SYSTEM

12 CFR Ch. II

Notice of Semiannual Regulatory Flexibility Agenda

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Board is issuing this agenda under the Regulatory Flexibility Act and the Board's Statement of Policy Regarding Expanded Rulemaking Procedures. The Board anticipates having under consideration regulatory matters as indicated below during the period October 1, 1997, through April 1, 1998. The next semiannual agenda will be published in April 1998.

DATES: Comments about the form or content of the agenda may be submitted any time during the next 6 months.

ADDRESSES: Comments should be addressed to William W. Wiles, Secretary of the Board, Board of Governors of the Federal Reserve System, Washington, DC 20551.

FOR FURTHER INFORMATION CONTACT: A staff contact for each item is indicated with the regulatory description below.

SUPPLEMENTARY INFORMATION: The Board is publishing its October 1997 agenda as part of the October 1997 Unified Agenda of Federal Regulatory and Deregulatory Actions, which is coordinated by the Office of Management and Budget under Executive Order 12866. Participation by the Board in the Unified Agenda is on a voluntary basis.

The Board's agenda is divided into three sections. The first, Proposed Rule Stage, reports on matters the Board may consider for public comment during the next 6 months. The second section, Final Rule Stage, reports on matters that have been proposed and are under Board consideration. A third section, Completed Actions, reports on regulatory matters the Board has completed or is not expected to consider further. Matters begun and completed between issues of the agenda have not been included.

A dot (•) preceding an entry indicates a new matter that was not a part of the Board's previous agenda and which the Board has not completed.

Barbara R. Lowrey,

Associate Secretary of the Board.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4339	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y—Bank Holding Companies and Change in Bank Control	7100-AB39
4340	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y—Bank Holding Companies and Change in Bank Control	7100-AB41
4341	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y—Bank Holding Companies and Change in Bank Control (Docket Number: R-0835)	7100-AB77
4342	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y—Bank Holding Companies and Change in Bank Control	7100-AC29
4343	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y—Bank Holding Companies and Change in Bank Control	7100-AC39
4344	Regulation: DD—Truth in Savings	7100-AC34
4345	Section 303 Regulatory Review	7100-AC09

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4346	Regulation: B—Equal Credit Opportunity (Docket Number: R-0955)	7100-AC23
4347	Regulation: B—Equal Credit Opportunity (Docket Number: R-0978)	7100-AC35
4348	Regulation: D—Reserve Requirements of Depository Institutions (Docket Numbers: R-0929 and R-0956)	7100-AC11
4349	Regulation: D—Reserve Requirements of Depository Institutions (Docket Number: R-0960)	7100-AC36
4350	Regulation: E—Electronic Fund Transfers (Docket Number: R-0919)	7100-AC06
4351	Regulation: G—Securities Credit by Persons Other than Banks, Brokers, or Dealers; Regulation: T—Credit by Brokers and Dealers; Regulation: U—Credit by Banks (Docket Number: R-0923)	7100-AC12
4352	Regulation: G—Securities Credit by Persons Other Than Banks, Brokers, or Dealers; Regulation: T—Credit by Brokers and Dealers; Regulation: U—Credit by Banks (Docket Number R-0944)	7100-AC27
4353	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System (Docket Number: R-0950)	7100-AC14
4354	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System (Docket Number: R-0964)	7100-AC37
4355	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System; and Regulation: K—International Banking Operations (Docket Number: R-0962)	7100-AC28
4356	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System; Regulation: Y—Bank Holding Companies and Change in Bank Control (Docket Number: R-0930)	7100-AC13

FRS

Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
4357	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y—Bank Holding Companies and Change in Bank Control (Docket Number: R-0976)	7100-AC38
4358	Regulation: I—Issue and Cancellation of Capital Stock of Federal Reserve Banks (Docket Number: R-0966)	7100-AC40
4359	Regulation: J—Collection of Checks and Other Items by Federal Reserve Banks and Funds Transfers Through Fedwire (Docket Number: R-0972)	7100-AC41
4360	Regulation: U—Credit by Banks for the Purpose of Purchasing or Carrying Margin Stocks (Docket Number: R-0905)	7100-AB65
4361	Regulation: Y—Bank Holding Companies and Change in Bank Control; Review of Restrictions in the Board's Section 20 Orders (Docket Number: R-0958)	7100-AC31
4362	Regulation: Z—Truth in Lending (Docket Number: R-0960)	7100-AC33
4363	Regulation: DD—Truth in Savings (Docket Numbers: R-0836 and R-0869)	7100-AB80
4364	Applicability of Sections 23A and 23B of the Federal Reserve Act to Transactions Between a Member Bank and its Subsidiaries (Docket Number: R-0977)	7100-AC42
4365	Rules Regarding Availability of Information (Docket Number: R-0917)	7100-AC22
4366	Rules Regarding Availability of Information (Docket Number: R-0975)	7100-AC43

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4367	Regulation: C—Home Mortgage Disclosure (Docket Number: R-0951)	7100-AC24
4368	Regulation: D—Reserve Requirements of Depository Institutions; and Regulation: I—Issue and Cancellation of Capital Stock of Federal Reserve Banks (Docket Number: R-0963)	7100-AC25
4369	Regulation: E—Electronic Fund Transfers (Docket Number: R-0959)	7100-AC26
4370	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System (Docket Number: R-0909)	7100-AC07
4371	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System; and Regulation: K—International Banking Operations (Docket Number: R-0921)	7100-AC15
4372	Regulation: M—Consumer Leasing (Docket Number: R-0952)	7100-AC30
4373	Regulation: O—Loans to Executive Officers, Directors, and Principal Shareholders of Member Banks (Docket Numbers: R-0924, R-0939, and R-0940)	7100-AC16
4374	Regulation: Z—Truth in Lending (Docket Number: R-0954)	7100-AC32

FEDERAL RESERVE SYSTEM (FRS)

Proposed Rule Stage

4339. REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1831m

CFR Citation: 12 CFR 208; 12 CFR 225

Legal Deadline: Final, Statutory, January 3, 1993.

Abstract: During 1992, the Board's staff consulted with the other Federal banking agencies regarding the implementation of section 112, the bank auditing requirements, of the Federal Deposit Insurance Corporation Improvement Act of 1991. The section includes requirements for insured commercial banks to receive audits of their annual reports by independent public accountants, requirements for banks and their auditors to report certain information to the Board, and requirements for independent audit committees for banks. In some cases, these requirements can be satisfied by comparable arrangements at the bank holding company level. The Act generally exempts insured depository institutions from these requirements when their total assets are less than $150 million, unless a higher threshold is chosen by the Federal Deposit Insurance Corporation (FDIC).

The FDIC, the agency with primary responsibility for implementing this mandate through regulations, finalized its regulation in May 1993, which applied to all FDIC-insured banks and thrifts. The FDIC's regulation applied these requirements to depository institutions with total assets of $500 million or more. Subsequently in February 1996, the FDIC approved amendments to its rules implementing section 112 that were largely required by the Riegle Community Development and Regulatory Improvement Act of 1994. These amendments expand opportunities for holding companies to

file a single report covering multiple subsidiary banking organizations, conform the rule's references to the Federal Reserve's Regulation O, and make other technical revisions.

The Board has joint rulemaking authority with the other banking agencies regarding the enforcement provisions of section 112. The Board and the other agencies will issue a notice of proposed rulemaking for public comment when interagency agreement is reached.

Timetable:

Action	Date	FR Cite
Board may consider amendments to Regulations H and Y by	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Starr, Senior Attorney, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-5874

RIN: 7100–AB39

4340. REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1831n; 12 USC 1833d

CFR Citation: 12 CFR 208; 12 CFR 225

Legal Deadline: Final, Statutory, December 19, 1992.

Abstract: During 1992 and 1993, the Board's staff consulted with the other Federal banking agencies regarding the implementation of section 121, the bank accounting requirements, of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA). These requirements include the implementation of disclosures of the fair-market value of assets, liabilities, and certain projects, which may result in the revision of reporting requirements for banks and bank holding companies. The accounting provisions of the Act do not include exemptions for small institutions. Thus, any changes to regulations and reporting requirements would likely affect smaller State member banks.

The Federal Financial Institutions Examination Council (FFIEC) requested public comment on proposed reporting requirements, and the comment period expired on June 14, 1993. Furthermore, the FFIEC proposed on March 9, 1994, new Call Report items for derivative instruments, including new information on their market values. The comment period for this proposal expired on May 9, 1994, and the FFIEC included new information about market values of derivative instruments in its Call Report requirements for March 1995. Market value information about on- and off-balance-sheet financial instruments is also reported in the banks' annual financial statements filed with the Board and the other Federal banking agencies pursuant to FDICIA section 112. Following final action by the FFIEC, the Board may consider requesting public comment by year-end on changes to its regulations in order to implement certain aspects of section 121.

Timetable:

Action	Date	FR Cite
Board may consider amendments to Regulations H and Y by	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gerald A. Edwards, Jr., Deputy Associate Director, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-2741

RIN: 7100–AB41

4341. REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0835)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 36; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338; 12 USC 371d; 12 USC 461; 12 USC 481 to 486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1817(j)(13); 12 USC 1818; 12 USC 1823(j); 12 USC 1828(o); 12 USC 1831i

CFR Citation: 12 CFR 208, app A; 12 CFR 225, app A

Legal Deadline: None

Abstract: In May 1994, the Board issued for public comment two proposals on the capital treatment of recourse arrangements and direct credit substitutes. The first proposal: (1) formally defines recourse and direct credit substitutes; (2) reduces the risk-based capital charge for low-level recourse arrangements to the maximum amount of possible loss under the recourse obligation up to the effective capital charge; and (3) requires the same risk-based capital charge for first-loss direct credit substitutes as is currently applied to recourse transactions (59 FR 27115, May 25, 1994).

Subsequent to the issuance of this proposal, the Congress mandated, under section 350 of the Riegle Community Development and Regulatory Improvement Act of 1994, that the Board issue regulations limiting, as of March 22, 1995, the amount of risk-based capital an insured depository institution is required to hold for assets transferred with recourse to the maximum amount of recourse for which the institution is contractually liable. The portion of the Board's proposal dealing with low-level recourse transactions satisfies the minimum requirements of section 350, and, accordingly, in February 1995, the Board adopted that portion of the proposal (60 FR 8177, February 13, 1995).

The second proposal, an advance notice of proposed rulemaking, sought public comment on an approach to assessing risk-based capital on banking organizations' risk exposures associated with certain asset securitizations. Under this approach, the capital charge would be based upon the relative risk of loss. The Board will continue to consider the advance notice of proposed rulemaking, as well as the outstanding issues addressed in the first proposal, and is expected to take further action within the next two months. Small entities would be affected by the final rule and the two proposals only to the extent that they engage in extending recourse arrangements and direct credit substitutes or purchasing asset-backed securities. It is not expected that the proposals will have a significant economic impact.

Timetable:

Action	Date	FR Cite
Board requested comment	05/25/94	59 FR 27415
Board adopted one aspect of the proposal	02/13/95	60 FR 8177
Further Board action by	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas R. Boemio, Supervisory Financial Analyst, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-2982

RIN: 7100–AB77

4342. REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 36; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338a; 12 USC 371d; 12 USC 461; 12 USC 481 to 486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1816; 12 USC 1818; 12 USC 1823(j); 12 USC 1828(o); 12 USC 1831o; ...

CFR Citation: 12 CFR 208 app A; 12 CFR 208 app B; 12 CFR 225 app A; 12 CFR 225 app D

Legal Deadline: None

Abstract: Within the next two months, it is expected that the Board will issue for public comment proposals to revise the Federal Reserve's risk-based capital treatment for junior liens on 1- to 4-family residential properties and for investments in mutual funds. The proposals also simplify the Federal Reserve's leverage capital guidelines for banks and make the leverage capital guidelines for bank holding companies consistent with a recently approved definition of a well-capitalized bank holding company.

The proposals are being developed on an interagency basis as part of the efforts under section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 to make interagency guidelines uniform. After the other agencies have completed their approval processes, the proposals will be issued for public comment. It is not anticipated that the proposals will have a significant economic impact on a substantial number of small entities subject to the Board's regulation.

Timetable:

Action	Date	FR Cite
Board is expected to request comment by	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Bouchard, Supervisory Financial Analyst, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-3072

RIN: 7100–AC29

4343. • REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 36; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338a; 12 USC 371d; 12 USC 461; 12 USC 481 to 486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1816; 12 USC 1818; 12 USC 1823(j); 12 USC 1828(o); 12 USC 1831o; ...

CFR Citation: 12 CFR 208 app A; 12 CFR 225 app A

Legal Deadline: None

Abstract: Within the next two months, the Board is expected to issue for public comment a proposal to revise the Federal Reserve's risk-based capital guidelines to permit certain revaluation gains on equity securities in Tier 2 capital. Under the proposal an institution would be permitted to include in Tier 2 capital up to 45 percent of its unrealized revaluation gains on prudently valued equity securities. This treatment is consistent with the Basle Accord.

It is not expected that the proposal will have a significant economic impact on a substantial number of small entities subject to the Board's regulation.

Timetable:

Action	Date	FR Cite
Board is expected to request comment by	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Bouchard, Supervisory Financial Analyst, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-3072

RIN: 7100–AC39

4344. REGULATION: DD—TRUTH IN SAVINGS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4301 et seq

CFR Citation: 12 CFR 230

Legal Deadline: None

Abstract: Sections 261 to 275 of the Federal Deposit Insurance Corporation Improvement Act of 1991 require depository institutions to provide a schedule of terms, rates, and fees for deposit accounts offered by the institution. The law also sets forth rules for advertisements for deposit accounts.

In September 1996, the Congress amended the Truth in Savings Act as a part of the Economic Growth and Regulatory Paperwork Reduction Act of 1996. The amendments repeal the definition of "indoor lobby sign," eliminate any disclosure requirements for nonrenewing time accounts with terms less than 30 days, and exempt certain credit unions from coverage. Within the next two months, the Board is expected to consider proposing for public comment amendments to implement the statutory changes. It is not expected that there will be a significant economic impact on small institutions.

Timetable:

Action	Date	FR Cite
Board is expected to request comment by	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jane Ahrens, Senior Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-3667

RIN: 7100–AC34

4345. SECTION 303 REGULATORY REVIEW

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4803(a)(1)

CFR Citation: 12 CFR ch II

FRS — Proposed Rule Stage

Legal Deadline: Other, Statutory, September 23, 1996.
Progress Report due to Congress.

Abstract: In response to the requirements of section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994, the Board is reviewing its regulations for purposes of streamlining, improving efficiency, reducing unnecessary costs, and removing inconsistencies and outmoded/duplicative requirements. The Board is also working jointly with the other banking agencies to make uniform regulations and guidelines implementing common statutory and supervisory policies. A regulatory review timetable was published in the Federal Register in October 1995 (60 FR 53546, October 16, 1995). A progress report was sent to the Congress in September 1996.

Within the next six months, it is expected that the Board will seek public comment during the course of the reviews of the following regulations/policy statement/other regulatory guidance. Reviews already proposed for public comment appear elsewhere in the Agenda.

Regulation B, Equal Credit Opportunity.

Regulation C, Home Mortgage Disclosure.

Regulation H and Y, Appendices, Capital Adequacy Guidelines.

Regulation K, International Banking Operations (Overall Comprehensive Review).

Timetable:

Action	Date	FR Cite
Board action expected during the next six months	04/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Thomas A. Durkin, Regulatory Planning and Review Director, Federal Reserve System, Office of the Secretary
Phone: 202 452-3236

RIN: 7100–AC09

FEDERAL RESERVE SYSTEM (FRS) — Final Rule Stage

4346. REGULATION: B—EQUAL CREDIT OPPORTUNITY (DOCKET NUMBER: R-0955)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1691 to 1691f

CFR Citation: 12 CFR 202

Legal Deadline: Final, Statutory, March 31, 1997.

Abstract: On September 30, 1996, the President signed into law amendments to the Equal Credit Opportunity Act (ECOA) as part of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (1996 Act). Section 2302 of the 1996 Act creates a legal privilege for information developed by creditors through "self-tests" conducted to determine the level or effectiveness of creditor compliance with the ECOA, provided that appropriate corrective action is taken to address any possible violations that may be discovered. Privileged information may not be obtained by a government agency for use in an examination or investigation relating to fair lending compliance or by a government agency or credit applicant in any civil proceeding in which a violation of the ECOA is alleged. The 1996 Act also provides that a challenge to a creditor's claim of privilege may be filed in any court or administrative law proceeding with appropriate jurisdiction. In January 1997, the Board issued for public comment regulations, including a definition of what constitutes a "self-test" (62 FR 56, January 2, 1997). The proposed regulations would define a "self-test" as any program, practice, or study that creates data or factual information about the creditor's compliance with the ECOA that is not available or derived from loan files or other records related to credit transactions. This includes but is not limited to the practice of using fictitious loan applicants (testers).

Following review of the public comments, the Board is expected to take action within the next two months. The proposal is not expected to have a significant economic impact on small institutions.

Timetable:

Action	Date	FR Cite
Board requested comment	01/02/97	62 FR 56
Further Board action by	10/00/97	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: James A. Michaels, Senior Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-3667

RIN: 7100–AC23

4347. • REGULATION: B—EQUAL CREDIT OPPORTUNITY (DOCKET NUMBER: R-0978)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1691

CFR Citation: 12 CFR 202

Legal Deadline: None

Abstract: Regulation B requires creditors to provide a consumer with a notice of action taken if an application for credit is denied, an account is terminated, or the terms of an account are unfavorably changed. The Fair Credit Reporting Act (FCRA) requires creditors that take adverse action against a consumer, such as denying an application for credit, to provide the consumer with certain disclosures if the action is based on a credit report provided by a consumer reporting agency or information obtained from a third party. Creditors have the option of including the FCRA disclosures with the notice of action taken required under Regulation B; appendix C to Regulation B provides model forms that combine the current FCRA and Equal Credit Opportunity Act disclosures.

The Economic Growth and Regulatory Paperwork Reduction Act of 1996 made extensive changes to the FCRA, including requiring that additional disclosures be given to consumers who are denied credit. In July 1997, the Board requested public comment on proposed changes to the FCRA portion of Regulation B's model forms C-1 through C-5 and to the general instructions for these forms (62 FR 37166, July 11, 1997). Following review of the public comments, the Board is expected to adopt final amended model forms prior to the effective date of the FCRA amendments (September 30, 1997) to ease compliance for creditors that choose to use the forms. The proposals are not expected to have a significant economic impact on small entities.

Timetable:

Action	Date	FR Cite
Board requested comment	07/11/97	62 FR 37166
Further Board action by	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sheilah Goodman, Staff Attorney, Federal Reserve System, Divison of Consumer and Community Affairs
Phone: 202 452-3667

RIN: 7100–AC35

4348. REGULATION: D—RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS (DOCKET NUMBERS: R-0929 AND R-0956)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 248(a); 12 USC 248(c); 12 USC 371a; 12 USC 461; 12 USC 601; 12 USC 611; 12 USC 3105

CFR Citation: 12 CFR 208

Legal Deadline: None

Abstract: In June 1996, as part of its regulatory review process mandated by section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994, the Board approved issuing for public comment a proposal to amend Regulation D in order to reduce burden and simplify and update regulatory requirements (61 FR 30545, June 17, 1996). In general, the proposal would delete transitional rules relating to the expansion of reserve requirements to nonmember depository institutions, the authorization of NOW accounts nationwide, and other matters that no longer have a significant effect.

In December 1996, following review of the public comments, the Board adopted the revisions substantially as proposed (61 FR 69020, December 31, 1996).

At the same time, the Board issued for public comment a proposed rule that would revise and clarify the definition of "savings deposit" consistent with comments received in connection with the Board's June proposal and would make conforming changes to the definition of "transaction account" (61 FR 96054, December 31, 1996). It is not expected that the proposal will have a significant adverse impact upon a substantial number of small entities. Following review of the public comments, the Board is expected to take further action by year-end.

Timetable:

Action	Date	FR Cite
Board requested comment	08/17/96	61 FR 30545
Board adopted June 1996 proposal	12/31/96	61 FR 69020
Board requested comment on additional proposal	12/31/96	61 FR 69054
Further Board action by	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rick Heyke, Staff Attorney, Federal Reserve System, Legal Division
Phone: 202 452-3688

RIN: 7100–AC11

4349. • REGULATION: D—RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS (DOCKET NUMBER: R-0980)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 248(a); 12 USC 248(c); 12 USC 371a; 12 USC 461; 12 USC.601; 12 USC 611; 12 USC 3105

CFR Citation: 12 CFR 204

Legal Deadline: None

Abstract: In August 1997, the Board approved issuing for public comment proposed amendments to Regulation D to allow U.S. branches and agencies of foreign banks and Edge and Agreement corporations to choose whether to aggregate reserves on a nationwide basis in a single account at one Reserve Bank or to continue the current practice of having separate accounts on a same-State/same-District basis (62 FR 42708, August 8, 1997). The amendments would also update and clarify the pass-through account rules in Regulation D for all institutions. These amendments would facilitate interstate banking and eliminate certain restrictions applicable to pass-through accounts.

Following review of the public comments, the Board is expected to take further action within the next three months. The amendments would not have a significant economic impact on a substantial number of small entities.

Timetable:

Action	Date	FR Cite
Board requested comment	08/08/97	62 FR 42708
Further Board action by	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephanie Martin, Senior Attorney, Federal Reserve System, Legal Division
Phone: 202 452-3198

RIN: 7100–AC36

4350. REGULATION: E—ELECTRONIC FUND TRANSFERS (DOCKET NUMBER: R-0919)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1693 et seq

CFR Citation: 12 CFR 205

Legal Deadline: None

Abstract: In May 1996, the Board issued for public comment proposed amendments to Regulation E imposing modified requirements on stored-value products in systems that track individual transactions, cards, or consumers and providing an exemption for cards on which a maximum value of $100 can be stored (61 FR 19696, May 2, 1996).

The Board also proposed extending the error-resolution time limits for new accounts and permitting electronic communications to substitute generally for oral or written disclosures, documentation, and notices required under Regulation E.

The proposals are part of the Board's overall review of its regulations as required by section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994. It is not expected that the proposals would have a significant economic impact on small institutions. Following review of the public comments, the Board is expected to take further action on the proposed amendments within the next six months.

FRS — Final Rule Stage

FRS — Final Rule Stage

Timetable:

Action	Date	FR Cite
Board requested comment	05/02/96	61 FR 19696
Further Board action by	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John C. Wood, Senior Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-2412

RIN: 7100–AC06

4351. REGULATION: G—SECURITIES CREDIT BY PERSONS OTHER THAN BANKS, BROKERS, OR DEALERS; REGULATION: T—CREDIT BY BROKERS AND DEALERS; REGULATION: U—CREDIT BY BANKS (DOCKET NUMBER: R-0923)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78g Securities Exchange Act of 1934, as amended; 15 USC 78w Securities Exchange Act of 1934, as amended

CFR Citation: 12 CFR 207; 12 CFR 220; 12 CFR 221

Legal Deadline: None

Abstract: The Board is conducting a periodic review of its margin regulations. The first regulation to be reviewed was Regulation T, which regulates extensions of credit by and to brokers and dealers (see Docket Numbers R-0772, RIN 7100-AB28 and R-0840, RIN 7100-AB78). In May 1996, at the same time the Board adopted a revised Regulation T, it requested public comment on additional amendments to Regulations G, T, and U (61 FR 20399, May 6, 1996). The proposed amendments would allow broker-dealers to extend good-faith credit on any non-equity security; allow transactions involving non-equity securities to be effected in an account not subject to the restrictions of Regulation T's margin account; remove restrictions on the ability of broker-dealers to calculate required margin for non-equity securities on a "portfolio" basis; relax the Board's collateral requirements for the borrowing and lending of securities; and exempt from Regulation T any credit extended abroad by a U.S. broker-dealer on foreign securities to foreign persons. The proposal also seeks comment on whether the Board should expand the number of equity securities eligible for loan value under Regulation T and whether the Board should amend Regulations G and U to modify their method for determining which equity securities qualify as margin stock.

It is not anticipated that the revisions would have a significant economic impact on the overall lending activities of a substantial number of small lenders. Following review of the public comments, the Board is expected to take further action within the next three months. The proposals are a part of the Board's overall review of its regulations as required by section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994.

Timetable:

Action	Date	FR Cite
Board requested comment	05/06/96	61 FR 20399
Further Board action by	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Scott Holz, Senior Attorney, Federal Reserve System, Legal Division
Phone: 202 452-2966

RIN: 7100–AC12

4352. REGULATION: G—SECURITIES CREDIT BY PERSONS OTHER THAN BANKS, BROKERS, OR DEALERS; REGULATION: T—CREDIT BY BROKERS AND DEALERS; REGULATION: U—CREDIT BY BANKS (DOCKET NUMBER R-0944)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78g Securities Exchange Act of 1934, as amended; 15 USC 78w Securities Exchange Act of 1934, as amended

CFR Citation: 12 CFR 207; 12 CFR 220; 12 CFR 221

Legal Deadline: None

Abstract: On October 11, 1996, the President signed the National Securities Markets Improvement Act of 1996 (the Markets Improvement Act). Under the Markets Improvement Act, the Board no longer has the authority to regulate certain loans to registered broker-dealers unless it finds that such rules are necessary or appropriate in the public interest or for the protection of investors. The Markets Improvement Act also repeals section 8(a) of the Securities Exchange Act of 1934, which limited the sources of credit for broker-dealers who pledge exchange-traded equity securities to certain banks and other broker-dealers. In November 1996, the Board solicited comment on amendments to its margin regulations (Regulations G, T, and U) to implement the statutory amendments in the Markets Improvement Act and further the policies behind their adoption (61 FR 60168, November 26, 1996).

It is not anticipated that the proposal will have a significant economic impact on a substantial number of small banks. Following review of the public comments, the Board is expected to take further action within the next two months.

Timetable:

Action	Date	FR Cite
Board requested comment	11/26/96	61 FR 60168
Further Board action by	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Scott Holz, Senior Attorney, Federal Reserve System, Legal Division
Phone: 202 452-2966

RIN: 7100–AC27

4353. REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (DOCKET NUMBER: R-0950)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 36; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338a; 12 USC 371d; 12 USC 461; 12 USC 481 to 486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1816; 12 USC 1818; 12 USC 1820(d)(9); 12 USC 1823(j); 12 USC 1828(o); 12 USC 1831o; 12 USC 1831p-1; ...

CFR Citation: 12 CFR 208

Legal Deadline: None

Abstract: In December 1996, the Board, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency jointly published for comment a proposed regulation establishing a professional qualification program for banks that engage in retail recommendations and sales of certain securities using their own employees (61 FR 68824, December 30, 1996). The proposed regulation will establish qualification testing, registration, and continuing education requirements for bank employees that act in the capacity of bank securities representatives. The proposed requirements will be based on the professional qualification rules of the securities self-regulatory organizations. It is not anticipated that the proposal will have a significant economic impact on a substantial number of small banks.

Following review of the public comments, the Board is expected to take further action within the next two months.

Timetable:

Action	Date	FR Cite
Board requested comment	12/30/96	61 FR 68824
Further Board action by	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Angela Desmond, Senior Counsel, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-2781

RIN: 7100–AC14

4354. • REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (DOCKET NUMBER: R-0964)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 24; 12 USC 36; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338a; 12 USC 481 to 486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1816; 12 USC 1818; 12 USC 1820(d)(9); 12 USC 1823(j); 12 USC 1828(o); 12 USC 1831(o); ...

CFR Citation: 12 CFR 208

Legal Deadline: None

Abstract: In March 1997, the Board issued for public comment proposed amendments to subpart A of Regulation H regarding the general provisions for membership in the Federal Reserve System and subpart E, Interpretations of Regulation H (62 FR 15272, March 31, 1997). The proposed amendments reduce regulatory burden and simplify and update requirements of Regulation H. The amended subpart A of Regulation H will, when fully effective, replace the existing subpart A in its entirety; it will also eliminate several obsolete interpretations. Also, as part of the revisions, the Board is rescinding Regulation P, Security Procedures, and incorporating its provisions into Regulation H (Docket Number R-0965). The proposal to modernize subpart A of Regulation H is in accordance with the Board's policy of reviewing its regulations as well as the Board's review of regulations under section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994. It is expected that the proposed changes will reduce the time and costs associated with complying with Regulation H, thereby improving the ability of small organizations to conduct business on a more cost-efficient basis.

Following review of the public comments, the Board is expected to take further action within the next two months.

Timetable:

Action	Date	FR Cite
Board requested comment on Regulations H and P	03/31/97	62 FR 15272
Further Board action by	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jean Anderson, Staff Attorney, Federal Reserve System, Legal Division
Phone: 202 452-3707

RIN: 7100–AC37

4355. REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: K—INTERNATIONAL BANKING OPERATIONS (DOCKET NUMBER: R-0962)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1835a

CFR Citation: 12 CFR 208; 12 CFR 211

Legal Deadline: Final, Statutory, June 1, 1997.

Abstract: Section 109 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 requires the Federal banking agencies to prescribe uniform regulations to prohibit an out-of-state bank from using the authority provided by the act to engage in interstate branching primarily for the purpose of deposit production. In March 1997, the Board issued for public comment a proposed rule to implement section 109 jointly with the Federal Deposit Insurance Corporation and the Office of the Comptroller of the Currency (62 FR 12730, March 17, 1997). The proposed rules would prohibit the use of interstate branches for deposit production and provide guidelines for determining whether a bank is reasonably helping to meet the needs of the communities served by interstate branches.

It is not anticipated that regulations adopted under section 109 would have a significant economic impact on a substantial number of small entities subject to regulation by the Board, as any rules adopted pursuant to section 109 would apply only to banks with interstate branches. Following review of the public comments, the Board is expected to take further action within the next two months.

Timetable:

Action	Date	FR Cite
Board requested comment	03/17/97	62 FR 12730
Further Board action by	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawranne Stewart, Senior Attorney, Federal Reserve System, Legal Division
Phone: 202 452-3513

RIN: 7100–AC28

4356. REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; REGULATION: Y—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0930)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 36; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338a; 12 USC 371d; 12 USC 461; 12 USC 481 to 486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1823(j); 12 USC 1828(o); 12 USC 1831(o); 12 USC 1831p-1; 12 USC 3105; ...

CFR Citation: 12 CFR 208 app A

Legal Deadline: None

FRS

Final Rule Stage

Abstract: In August 1996, the Board issued for public comment a proposal to revise the risk-based capital treatment for certain collateralized transactions (61 FR 42565, August 16, 1996). Under the Board's existing risk-based capital treatment, the portion of a transaction that is supported by qualifying collateral (that is, cash or OECD government securities) is risk-weighted at 20 percent. Transactions that are fully supported by collateral with a positive margin may be eligible for a zero percent risk weight. Generally, the proposal would permit a portion of a transaction that is fully supported with a positive margin of collateral to be eligible for a zero percent risk weight. The portion that is to be continuously collateralized must be specified by the parties.

This proposal was developed on an interagency basis and, if adopted, would eliminate one of the substantive differences among the agencies with regard to the risk-based capital treatment for collateralized transactions. It would implement part of the Riegle Community Development and Regulatory Improvement Act of 1994, which requires the agencies to make uniform regulations and guidelines implementing common supervisory policies. The effect of the proposal would be to allow institutions to hold less capital for certain collateralized transactions. It is not expected to have a significant economic impact on a substantial number of small entities.

Following review of the public comments, the Board is expected to take further action by year-end.

Timetable:

Action	Date	FR Cite
Board requested comment	08/16/96	61 FR 42565
Further Board action by	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Bouchard, Supervisory Financial Analyst, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-3072

RIN: 7100–AC13

4357. • REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0976)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 24; 12 USC 36; 12 USC 92(a); 12 USC 93(a); 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338a; 12 USC 371d; 12 USC 461; 12 USC 481 to 486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1816; 12 USC 1818; ...

CFR Citation: 12 CFR 208; 12 CFR 225

Legal Deadline: None

Abstract: In July 1997, the Board approved issuing for public comment a proposal to revise the risk-based and Tier 1 leverage capital adequacy guidelines for State member banks and bank holding companies to address the treatment of servicing assets on both mortgage assets and financial assets other than mortgages (non-mortgages) (62 FR 42006, August 4, 1997). The proposed rule was developed in response to a recent Financial Accounting Standards Board accounting standard that affects servicing assets; that is, Statement of Financial Accounting Standards No. 125, "Accounting For Transfers and Servicing of Financial Assets and Extinguishments of Liabilities" issued in June 1996. Under this proposed rule, the limitation on the amount of mortgage servicing assets (and purchased credit card relationships) that can be recognized as a percent of Tier 1 capital would be increased from 50 to 100 percent. Also, all non-mortgage servicing assets would be fully deducted from Tier 1 capital. This proposal is a joint proposal of the Board, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision.

It is not anticipated that the proposal will have a significant economic impact on a substantial number of small entities subject to the Board's regulation. Following review of the public comments, the Board and the other banking agencies are expected to take further action by year-end.

Timetable:

Action	Date	FR Cite
Board requested comment	08/04/97	62 FR 42006
Further Board action by	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Arleen Lustig, Supervisory Financial Analyst, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-2987

RIN: 7100–AC38

4358. • REGULATION: I—ISSUE AND CANCELLATION OF CAPITAL STOCK OF FEDERAL RESERVE BANKS (DOCKET NUMBER: R-0966)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 222; 12 USC 282; 12 USC 286 to 288; 12 USC 321; 12 USC 323; 12 USC 327 to 328; 12 USC 333

CFR Citation: 12 CFR 209

Legal Deadline: None

Abstract: In March 1997, the Board issued for public comment proposed amendments to Regulation I to reduce regulatory burden and simplify and update the regulation (62 FR 15297, March 31, 1997). The proposals are a part of the Board's regular review of its regulations as well as the overall review of its regulations under section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994. In general, the amendments condense the regulation and reflect the replacement of share certificates by a book-entry system. The proposal also codifies Board and staff interpretations. Finally, the amendments delete references to specific obsolete forms or forms which no longer have the same identification numbers.

The proposal would apply to all Federal Reserve Banks and member banks regardless of size and would be burden-reducing. Therefore, the proposal would not have a significant adverse economic impact on a substantial number of small entities. Following review of the public comments, the Board is expected to take further action by year-end.

FRS

Final Rule Stage

Timetable:

Action	Date	FR Cite
Board requested comment	03/31/97	62 FR 15297
Further Board action by	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rick Heyke, Staff Attorney, Federal Reserve System, Legal Division
Phone: 202 452-3688

RIN: 7100–AC40

4359. • REGULATION: J—COLLECTION OF CHECKS AND OTHER ITEMS BY FEDERAL RESERVE BANKS AND FUNDS TRANSFERS THROUGH FEDWIRE (DOCKET NUMBER: R-0972)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 248(i); 12 USC 248(j); 12 USC 248(o); 12 USC 342; 12 USC 360; 12 USC 464; 12 USC 4001 to 4010

CFR Citation: 12 CFR 210

Legal Deadline: None

Abstract: Effective January 2, 1998, the Federal Reserve Banks will begin to implement a policy under which each chartered depository institution may maintain only a single funds account with the Federal Reserve. A single account will establish a single debtor-creditor relationship between each institution and a Federal Reserve Bank and will make account management more efficient for banks with interstate branches. In May 1997, the Board issued for public comment proposed amendments to subpart A of Regulation J to conform the Federal Reserve check collection rules to the single account structure (62 FR 27547, May 20, 1997). Under the proposed Regulation J amendments, all of an institution's check collection transactions through the Federal Reserve Banks would be reflected in a single account held at the institution's Administrative Reserve Bank. The proposed Regulation J amendments would generally permit an institution to send an item to any Reserve Bank for collection.

The proposal will apply to all institutions, regardless of size, that send checks, returned checks, or other items to a Reserve Bank or receive items from a Reserve Bank. The proposed rule sets out the terms under which the Reserve Banks handle items and should not have a significant economic impact on a substantial number of small institutions. Following review of the public comments, the Board is expected to take further action within the next two months.

Timetable:

Action	Date	FR Cite
Board requested comment	05/20/97	62 FR 27547
Further Board action by	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephanie Martin, Senior Attorney, Federal Reserve System, Legal Division
Phone: 202 452-3198

RIN: 7100–AC41

4360. REGULATION: U—CREDIT BY BANKS FOR THE PURPOSE OF PURCHASING OR CARRYING MARGIN STOCKS (DOCKET NUMBER: R-0905)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78g Securities Exchange Act of 1934, as amended; 15 USC 78h Securities Exchange Act of 1934, as amended; 15 USC 78w Securities Exchange Act of 1934, as amended

CFR Citation: 12 CFR 221

Legal Deadline: None

Abstract: The Board is conducting a periodic review of Regulation U, which generally regulates bank extensions of credit that are secured by publicly traded stock. In December 1995, the Board proposed amendments for public comment that would (1) reduce the regulatory burden associated with loans secured by margin stock and other collateral and (2) clarify the circumstances under which a bank may finance the purchase of customer securities bought on a cash basis at a broker-dealer (60 FR 63660, December 12, 1995). Comment was also invited on all other areas of the regulation. The proposals satisfy requirements under section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994.

In May 1996, the Board requested comment on Regulations G, T, and U (Docket Number R-0923, 61 FR 20399, May 6, 1996). The proposal includes a request for comment on the appropriate scope of Regulation U by soliciting views on the definition of "margin stock."

In October 1996, the Board requested comment on Regulations G, T, and U (Docket Number R-0944, 61 FR 60168, November 26, 1996). The proposal seeks comment on amendments to implement the National Securities Markets Improvement Act of 1996, which limits the Board's authority to regulate extensions of credit to certain broker-dealers. Responses to both the May and the October 1996 requests are also being considered as part of the Regulation U review.

It is not anticipated that the revisions will have a significant economic impact on the overall lending activities of a substantial number of small banks. Following review of the public comments, the Board is expected to take further action within the next two months.

Timetable:

Action	Date	FR Cite
Board requested comment	12/12/95	60 FR 63660
Further Board action by	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Scott Holz, Senior Attorney, Federal Reserve System, Legal Division
Phone: 202 452-2966

RIN: 7100–AB65

4361. REGULATION: Y—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL; REVIEW OF RESTRICTIONS IN THE BOARD'S SECTION 20 ORDERS (DOCKET NUMBER: R-0958)

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 12 USC 1843(c)(8)

CFR Citation: 12 CFR 225

Legal Deadline: None

Abstract: Section 20 of the Glass-Steagall Act prohibits a member bank from being affiliated with a company that is "engaged principally" in underwriting and dealing in securities that the member bank may not underwrite and deal in directly ("ineligible securities"). Beginning in 1987, the Board has issued a series of

orders authorizing bank holding companies to establish "section 20 subsidiaries" to engage in underwriting and dealing in ineligible securities. In those orders, the Board established a series of prudential restrictions as conditions for approval under the Bank Holding Company Act. The restrictions are designed to prevent securities underwriting and dealing risk from being passed from a section 20 subsidiary to an affiliated insured depository institution, and thus to the Federal safety net, and to mitigate the potential for conflicts of interest, unfair competition, and other adverse effects that may arise from the conduct of ineligible securities activities.

In January 1997, the Board issued for public comment a proposal to remove most of the prudential restrictions that apply to section 20 subsidiaries (62 FR 2622, January 17, 1997). The Board noted that the prudential restrictions were adopted when the Board had little experience supervising investment banks in the United States and before the existence of a number of significant protections currently in place. In view of these factors and the fact that the prudential restrictions prevent bank holding companies from reaping possible synergy gains from the operation of an investment bank, the Board proposed removing most of the prudential restrictions and retaining only those that address bank safety and soundness, significant conflicts of interest, or other concerns that are not addressed by other statutes or regulations.

It is not anticipated that the proposal will have a significant economic impact on a substantial number of small entities subject to the Board's regulation. Following review of the public comments, the Board is expected to take further action within the next two months.

Timetable:

Action	Date	FR Cite
Board requested comment	01/17/97	62 FR 2622
Further Board action by	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Greg Baer, Managing Senior Counsel, Federal Reserve System, Legal Division
Phone: 202 452-3236

RIN: 7100–AC31

4362. REGULATION: Z—TRUTH IN LENDING (DOCKET NUMBER: R-0960)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1601 et seq

CFR Citation: 12 CFR 226

Legal Deadline: None

Abstract: In January 1997, the Board approved issuing for public comment a proposal to revise the variable-rate disclosure provisions in Regulation Z (62 FR 5183, February 4, 1997). The revisions implement an amendment to the Truth in Lending Act (TILA) contained in the Economic Growth and Regulatory Paperwork Reduction Act of 1996. The TILA requires creditors to provide consumers with uniform cost and other disclosures about consumer credit transactions. The amendment applies to variable-rate loans with a term exceeding one year and secured by the consumer's principal dwelling. The amendment allows creditors either (1) to disclose an historical example of how rates tied to a particular index or formula moved over a fifteen-year period and how rate changes affected loan payments based on a $10,000 loan or (2) to give a statement that the periodic payment may substantially increase or decrease together with a maximum interest rate and payment based on a $10,000 loan.

It is not anticipated that the proposal will have a significant economic impact on a substantial number of small entities subject to the Board's regulation. Following review of the public comments, the Board is expected to take further action within the next two months.

Timetable:

Action	Date	FR Cite
Board requested comment	02/04/97	62 FR 5183
Further Board action by	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kyung Cho-Miller, Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-2412

RIN: 7100–AC33

4363. REGULATION: DD—TRUTH IN SAVINGS (DOCKET NUMBERS: R-0836 AND R-0869)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4301 et seq

CFR Citation: 12 CFR 230

Legal Deadline: None

Abstract: Sections 261 to 275 of the Federal Deposit Insurance Corporation Improvement Act of 1991 require depository institutions to provide a schedule of terms, rates, and fees for deposit accounts offered by the institution. The law also sets forth rules for advertisements for deposit accounts.

In January 1995, the Board issued for public comment proposed amendments to Regulation DD that would produce an annual percentage yield (APY) that reflects the timing of interest payments as well as the timing of compounding. The proposal also solicits comment on an alternative method of calculating the APY (an internal rate of return formula) (60 FR 5142, January 26, 1995). The January 1995 proposal is an outgrowth of a May 1994 proposal that would have affected institutions' compounding and crediting practices in addition to changing the APY (59 FR 24378, May 11, 1994). The Board also adopted in January 1995 an interim rule that permits institutions and deposit brokers advertising noncompounding multiyear time accounts that require interest payouts at least annually to disclose an APY equal to the interest rate (60 FR 5128, January 26, 1995; Docket Number R-0836). Public comment on the approach was solicited in a July 1994 notice extending the comment period for the May 1994 proposal (59 FR 35271, July 11, 1994). The economic impact on small institutions will depend upon the variety of deposit products offered, the extent of the disclosures, and the options for compliance offered by the final rule.

Staff has reviewed the public comments and is expected to forward the matter to the Board within the next two months.

Timetable:

Action	Date	FR Cite
Board requested comment	05/11/94	59 FR 24378
Board extended comment period	07/11/94	59 FR 35271
Board adopted an interim rule	01/26/95	60 FR 5128
Board requested further comment	01/26/95	60 FR 5142
Further Board action by	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jane Ahrens, Senior Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-3667

RIN: 7100–AB80

4364. • APPLICABILITY OF SECTIONS 23A AND 23B OF THE FEDERAL RESERVE ACT TO TRANSACTIONS BETWEEN A MEMBER BANK AND ITS SUBSIDIARIES (DOCKET NUMBER: R-0977)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 371c(b)(1)(E)

CFR Citation: 12 CFR 250.243

Legal Deadline: None

Abstract: Sections 23A and 23B of the Federal Reserve Act restrict the ability of a member bank to fund an affiliate through direct investment, loans, or other transactions. In July 1997, the Board issued for public comment a proposal to apply sections 23A and 23B to transactions between a member bank and any subsidiary that engages in activities that are impermissible for the bank itself and that Congress has not previously exempted from coverage by section 23A (62 FR 37744, July 15, 1997). The proposed treatment is largely consistent with the existing treatment of these subsidiaries by the other banking agencies, which have applied sections 23A and 23B in some form to transactions between a bank and such subsidiaries. The issuance of the regulations will avoid the application of sections 23A and 23B on an ad hoc basis by different agencies, which could result in confusion and inconsistencies.

The proposal is not expected to have a significant economic impact on a substantial number of small businesses. Following review of the public comments, the Board is expected to take further action by year-end.

Timetable:

Action	Date	FR Cite
Board requested comment	07/15/97	62 FR 37744
Further Board action by	12/00/97	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Pamela G. Nardolilli, Senior Attorney, Federal Reserve System, Legal Division
Phone: 202 452-3289

RIN: 7100–AC42

4365. RULES REGARDING AVAILABILITY OF INFORMATION (DOCKET NUMBER: R-0917)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 12 USC 248(i); 12 USC 248(k); 12 USC 321 et seq; 12 USC 611 et seq; 12 USC 1442; 12 USC 1817(a)(2)(A); 12 USC 1817(a)(8); 12 USC 1818(u); 12 USC 1818(v); 12 USC 1821(o); 12 USC 1821(t); 12 USC 1830; 12 USC 1844; 12 USC 1951 et seq; ...

CFR Citation: 12 CFR 261

Legal Deadline: None

Abstract: In February 1996, the Board issued for public comment proposed amendments to its Rules Regarding Availability of Information (61 FR 7438, February 28, 1996). The proposed amendments, although primarily technical in nature, are intended to improve the Board's efficiency in processing requests for the disclosure of publicly available information as well as confidential supervisory information. It is not anticipated that the proposed amendments will have a significant economic impact on a substantial number of small entities subject to the regulation.

In light of the passage of time since the Board's February 1996 proposal was issued for public comment, the Board will make changes in that proposal based on the comments received and will reissue revised proposed amendments for further comment. The February 1996 proposal deals primarily with the discretionary authority of the Board's General Counsel to produce information. These amendments are part of the Board's overall review of its regulations as required by section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994. Further Board action on the remainder of the regulation is expected by year-end.

In a separate action, the Board recently published for public comment further proposed amendments to those subparts of the Board's Rules Regarding Availability of Information that implement the Freedom of Information Act and the Electronic Freedom of Information Act Amendments of 1996 (62 FR 31526, June 10, 1997; Docket Number R-0975). It is expected that these amendments will be implemented by October 2, 1997.

Timetable:

Action	Date	FR Cite
Board requested comment	02/28/96	61 FR 7436
Further Board action by	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karen Appelbaum, Attorney, Federal Reserve System, Legal Division
Phone: 202 452-3389

RIN: 7100–AC22

4366. • RULES REGARDING AVAILABILITY OF INFORMATION (DOCKET NUMBER: R-0975)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552

CFR Citation: 12 CFR 261

Legal Deadline: Final, Statutory, October 2, 1997.

Abstract: In June 1997, as a result of amendments to the Freedom of Information Act (FOIA), the Board issued for public comment proposed changes to its Rules Regarding Availability of Information (Rules) (62 FR 31526, June 10, 1997). In addition, the Rules were reviewed under section 303 of the Riegle Community Development and Regulatory Improvement Act, and some of the proposed changes are intended to streamline the Rules in accordance with that Act.

The proposed amendments establish multi-track processing of FOIA requests and provide for expedited processing of FOIA requests in certain circumstances. In addition, the proposed changes extend the time for processing FOIA requests from 10 days to 20 days and reflect the new requirements that certain information be made available over the Internet, beginning on November 1, 1997.

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It is not anticipated that the proposal will have a significant economic impact on a substantial number of small entities subject to the Board's regulation. Following review of the public comments, the Board is expected to take further action within the next two months.

The Board also has pending proposed changes to subpart C of the Rules, which were published for comment in 1996 (61 FR 7436, February 28, 1996; Docket Number R-0917). These proposed changes primarily concern the discretionary authority of the Board's General Counsel to disclose information in certain circumstances. The comments received on this earlier proposal are still under consideration.

Timetable:

Action	Date	FR Cite
Board requested comment	06/10/97	62 FR 31526
Further Board action by	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Elaine Boutilier, Senior Counsel, Federal Reserve System, Legal Division
Phone: 202 452-2418

RIN: 7100–AC43

FEDERAL RESERVE SYSTEM (FRS) — Completed Actions

4367. REGULATION: C—HOME MORTGAGE DISCLOSURE (DOCKET NUMBER: R-0951)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 2801 to 2810

CFR Citation: 12 CFR 203

Legal Deadline: None

Abstract: In December 1996, the Board approved issuing for public comment a proposal to amend Regulation C to implement statutory changes to the Home Mortgage Disclosure Act (61 FR 68168, December 27, 1996). The proposal ties the asset-size exemption threshold for depository institutions to changes in the consumer price index, modifies the disclosure requirements, and makes certain other technical changes. In January 1997, the Board issued an interim rule increasing the asset-size exemption threshold for depository institutions based on the increases in the consumer price index since 1975 (62 FR 3603, January 24, 1997). Institutions with asset sizes below the threshold, which has been raised from $10 million to 28 million, are now exempt from 1997 data collection. The rule also provides for future increases in that exemption threshold if the consumer price index increases. Both the proposal and the interim rule are the result of recent statutory changes.

In May 1997, following review of the public comments, the Board adopted the interim rule substantially as proposed (62 FR 28620, May 27, 1997). The final rule is expected to reduce burden on small depository institutions.

Timetable:

Action	Date	FR Cite
Board requested comment	12/27/96	61 FR 68168
Board adopted proposal	05/27/97	62 FR 28620

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jane Gell, Senior Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-3667

RIN: 7100–AC24

4368. REGULATION: D—RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS; AND REGULATION: I—ISSUE AND CANCELLATION OF CAPITAL STOCK OF FEDERAL RESERVE BANKS (DOCKET NUMBER: R-0963)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 222; 12 USC 248(i); 12 USC 321; 12 USC 461(c)

CFR Citation: 12 CFR 204; 12 CFR 209

Legal Deadline: None

Abstract:

In March 1997, the Board proposed amendments to define where a depository institution is located for purposes of Federal Reserve membership (Regulation I) and reserve account maintenance (Regulation D) (62 FR 11117, March 11, 1997). The proposed amendments are intended to facilitate centralization of Federal Reserve accounts by banks with interstate branches and banks that are part of a multistate holding company family. In June 1997, following review of the public comments, the Board adopted the amendments substantially as proposed (62 FR 34613, June 27, 1997). The amendments will not have a significant economic impact on a substantial number of small entities.

Timetable:

Action	Date	FR Cite
Board requested comment	03/11/97	62 FR 11117
Board adopted proposal	06/27/97	62 FR 34613

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephanie Martin, Senior Attorney, Federal Reserve System, Legal Division
Phone: 202 452-3198

RIN: 7100–AC25

4369. REGULATION: E—ELECTRONIC FUND TRANSFERS (DOCKET NUMBER: R-0959)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1693

CFR Citation: 12 CFR 205

Legal Deadline: None

Abstract: In January 1997, the Board issued for public comment proposed amendments to Regulation E, which implement the Electronic Fund Transfer Act (EFTA) (62 FR 3242, January 22, 1997). The proposed revisions implement an amendment to the EFTA, contained in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, that exempts certain electronic benefit transfer (EBT) programs from the EFTA. Generally, EBT programs involve the issuance of access cards and personal identification numbers to recipients of government benefits so that they can obtain their benefits through automated teller machines and point-of-sale terminals. The Board's proposal exempts from Regulation E needs-tested EBT programs established or administered by State or local government agencies. Federally administered EBT programs and State and local employment-related EBT programs (such as State pension programs) would continue to be subject to modified requirements that recognize the special characteristics of EBT programs. Regulation E applies to all types of institutions that offer EFT services, not just State member banks. The proposed amendments are not expected to have a significant economic impact on State member banks or other institutions.

Following review of the public comments, the Board adopted the proposed amendments in substantially the form proposed (62 FR 43467, August 14, 1997).

Timetable:

Action	Date	FR Cite
Board requested comment	01/22/97	62 FR 3242
Board adopted proposal	08/14/97	62 FR 43467

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: Jane Jensen Gell, Staff Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-3667

RIN: 7100–AC26

4370. REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (DOCKET NUMBER: R-0909)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 36; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338a; 12 USC 371d; 12 USC 461; 12 USC 481 to 486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1823(j); 12 USC 1828(o); 12 USC 1831o; 12 USC 1831p-1; 12 USC 3105

CFR Citation: 12 CFR 208

Legal Deadline: None

Abstract: In December 1995, the Board issued for public comment proposed amendments to Regulation H pertaining to the recordkeeping and confirmation disclosures for certain securities transactions effected by State member banks (60 FR 66759, December 26, 1995). These disclosures cover transactions effected for customers involving debt and asset-backed securities and generally require three-day settlement for these transactions. It is not expected that the revisions will have a significant economic impact on a substantial number of small institutions.

In March 1997, following review of the public comments, the Board adopted the amendments substantially as proposed (62 FR 9909, March 5, 1997). The proposal is part of the Board's overall review of its regulations as required by section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994.

Timetable:

Action	Date	FR Cite
Board requested comment	12/26/95	60 FR 66759
Board adopted proposal	03/05/97	62 FR 9909

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Susan S. Meyers, Senior Securities Regulation Analyst, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-2781

RIN: 7100–AC07

4371. REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: K—INTERNATIONAL BANKING OPERATIONS (DOCKET NUMBER: R-0921)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78o-5

CFR Citation: 12 CFR 208; 12 CFR 211

Legal Deadline: None

Abstract: In April 1996, the Board, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation jointly published for comment a proposed rule regarding the responsibilities of banks that are Government securities brokers or dealers with respect to sales practices concerning Government securities (61 FR 18470, April 25, 1996). The proposed rule would establish standards concerning the recommendations to customers and the conduct of business by a bank that is a Government securities broker or dealer. The agencies also proposed adopting an interpretation concerning recommendations to institutional customers with respect to Government securities transactions. The agencies requested comment generally on the need for and desirability of the proposed rule and interpretation.

In March 1997, following review of the public comments, the agencies adopted the proposals in substantially the form proposed (62 FR 13276, March 17, 1997). The final rule is not expected to have a significant economic impact on a substantial number of small banks.

Timetable:

Action	Date	FR Cite
Board requested comment	04/25/96	61 FR 18470
Board adopted proposal	03/17/97	62 FR 13276

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Oliver Ireland, Associate General Counsel, Federal Reserve System, Legal Division
Phone: 202 452-3625

RIN: 7100–AC15

4372. REGULATION: M—CONSUMER LEASING (DOCKET NUMBER: R-0952)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1667 et seq

CFR Citation: 12 CFR 213

Legal Deadline: None

Abstract: In December 1996, the Board approved issuing for public comment a proposal to implement amendments made to the Consumer Leasing Act (CLA) by the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (62 FR 62, January 2, 1997). The CLA required lessors to provide consumers with uniform cost and other disclosures about consumer lease transactions. The proposed revisions streamline the advertising disclosures for lease transactions. In addition, the proposal contains several technical amendments that would be made to the regulation.

It is not anticipated that the proposal will have a significant economic impact on a substantial number of small entities subject to the Board's regulation. In March 1997, following

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review of the public comments, the Board adopted the revisions substantially as proposed (62 FR 15364, April 1, 1997).

Timetable:

Action	Date	FR Cite
Board requested comment	01/02/97	62 FR 62
Board adopted proposal	04/01/97	62 FR 15364

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kyung Cho-Miller, Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-2341

RIN: 7100–AC30

4373. REGULATION: O—LOANS TO EXECUTIVE OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS OF MEMBER BANKS (DOCKET NUMBERS: R-0924, R-0939, AND R-0940)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 375b; PL 102-242

CFR Citation: 12 CFR 215

Legal Deadline: None

Abstract:

The Economic Growth and Regulatory Paperwork Reduction Act of 1996 (the "Regulatory Relief Act") generally expanded the authority of the Board to allow banks to exempt directors and executive officers of affiliates from the general insider lending restrictions in section 22(h) of the Federal Reserve Act and Regulation O. The Regulatory Relief Act also narrowed the authority of the Board by prohibiting exemptions for insiders of certain larger affiliates. These statutory changes required the Board to supplement the proposed rule (Docket Number R-0924) published in May 1996 with a revised proposal published in November 1996 (Docket Number R-0940, 61 FR 57797, November 8, 1996).

Under the revised proposal, a bank may exempt the directors and executive officers of affiliates (other than the bank's top-tier holding company and any intermediate holding company for the bank) from all insider lending restrictions. As required by the Regulatory Relief Act, directors and executive officers of affiliates that constitute more than 10 percent of the consolidated assets of the top-tier holding company may not be exempted.

The Regulatory Relief Act also permitted directors and executive officers to participate in employee benefit programs that extend credit at below-market terms, if the plans are widely available and do not give preference to directors and executive officers. A final rule implementing this change was adopted and became effective November 8, 1996 (Docket Number R-0939, 61 FR 57769, November 8, 1996). The final rule also implemented the provision in the proposed rule of May 1996 to simplify the actions the board of directors of a bank must take in order to exempt eligible insiders of affiliates.

Under the Regulatory Relief Act, executive officers of the larger affiliates of a bank, who previously could be exempted from the insider lending restrictions, no longer may be. The proposed rule does not increase the possible adverse economic impact of this prohibition on any class of financial institutions. In April 1997, following review of the public comments, the Board adopted the proposal substantially as proposed (62 FR 13294, March 20, 1997).

Timetable:

Action	Date	FR Cite
Board requested comment	05/03/96	61 FR 19863
Board requested comment on supplemental proposal	11/08/96	61 FR 57797
Board adopted proposal	03/20/97	62 FR 13294

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gordon Miller, Attorney, Federal Reserve System, Legal Division
Phone: 202 452-2534

RIN: 7100–AC16

4374. REGULATION: Z—TRUTH IN LENDING (DOCKET NUMBER: R-0954)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1601

CFR Citation: 12 CFR 226

Legal Deadline: NPRM, Statutory, March 31, 1997.

Abstract:

The Economic Growth and Regulatory Paperwork Reduction Act of 1996 requires the Board and the Department of Housing and Urban Development (HUD) to simplify and improve the disclosures given in a mortgage transaction subject to the Truth in Lending Act and the Real Estate Settlement Procedures Act. In December 1996, the Board issued jointly with HUD an Advanced Notice of Proposed Rulemaking soliciting comment on how to simplify these disclosures (61 FR 69055, December 31, 1996). The notice requested comment on both regulatory and statutory changes to improve the current disclosure scheme. Nearly all of the recommendations for reconciling the two regulations require legislative action (e.g., changes to the timing of disclosures under the two statutes). The remainder of the recommendations generally involved small changes that could produce only minor improvements that likely would not be worth the corresponding compliance costs for creditors associated with reprinting forms or retraining personnel.

In April 1997, the Board published a second notice summarizing the comments and stating that no regulatory amendments would be proposed (62 FR 15624, April 2, 1997). The notice also reopened the comment period to allow interested parties more time to comment on potential legislative action. This comment period closed on June 30, 1997, and the Board anticipates making legislative recommendations to the Congress by year-end.

Timetable:

Action	Date	FR Cite
Board requested comment	12/31/96	61 FR 69055
Board requested additional comment on potential legislation	04/02/97	62 FR 15624
No regulatory amendments to be proposed at this time	04/02/97	62 FR 15624

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sheilah Goodman, Staff Attorney, Federal Reserve System, Division of Consumer and Community Affairs

Phone: 202 452-3667

RIN: 7100–AC32

[FR Doc. 97-22243 Filed 10-28-97; 8:45 am]
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Wednesday
October 29, 1997

Part LVI

Federal Trade Commission

Semiannual Regulatory Agenda

FEDERAL TRADE COMMISSION (FTC)

FEDERAL TRADE COMMISSION

16 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Federal Trade Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The following agenda of Commission proceedings is published in accordance with section 22(d)(1) of the Federal Trade Commission Act, 15 U.S.C. 57b-3(d)(1), and the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, title II of Public Law 104-121, 110 Stat. 847. Except for notice of completed actions, the information in this agenda represents the judgment of Commission staff based upon information now available, and each projected date of action reflects an assessment by the FTC staff of the likelihood that the specified event will occur during the coming year. No final determination by the staff or the Commission respecting the need for or the substance of a trade regulation rule or any other procedural option should be inferred from the notation of projected events in this agenda.

In most instances, the dates of future events are listed by month, not by a specific day. Acquisition of new information, change of circumstances, or changes in the law may alter the information set forth in this agenda. Several agenda items concern rulemaking proceedings that may affect a substantial number of small businesses as that term is used in the Regulatory Flexibility Act. Whether the likely economic impact on such entities is significant will depend upon the outcome of the particular proceeding.

FOR FURTHER INFORMATION CONTACT: Further details may be obtained from the agency contact person listed for each particular proceeding.

SUPPLEMENTARY INFORMATION: This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions includes The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Federal Trade Commission's Statement of Regulatory Priorities is included in Part II.

By direction of the Commission.

Donald S. Clark,

Secretary.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4375	Rules and Regulations Under the Fur Products Labeling Act	3084-AA51
4376	Trade Regulation Rule on Franchising and Business Opportunity Ventures	3084-AA63
4377	Rule Governing Informal Dispute Settlement Procedures	3084-AA75
4378	Trade Regulation Rule on Ophthalmic Practice Rules	3084-AA80

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4379	Premerger Notification Rules and Report Form	3084-AA23
4380	Regulations Under the Comprehensive Smokeless Tobacco Health Education Act of 1986	3084-AA48
4381	Rules and Regulations Under the Wool Products Labeling Act of 1939	3084-AA50
4382	Rules and Regulations Under the Textile Fiber Products Identification Act	3084-AA52
4383	The Care Labeling Rule	3084-AA54
4384	Trade Regulation Rule Concerning the Labeling and Advertising of Home Insulation	3084-AA60
4385	Rule Governing Disclosure of Written Consumer Product Warranty Terms and Conditions	3084-AA72
4386	Rule Governing the Pre-Sale Availability of Written Warranty Terms	3084-AA73
4387	Deceptive Use of "Leakproof," "Guaranteed Leakproof," Etc., as Descriptive of Dry Cell Batteries	3084-AA77
4388	Trade Regulation Rule Pursuant to the Telephone Disclosure and Dispute Resolution Act of 1992	3084-AA78
4389	Rules and Regulations Under the Hobby Protection Act **(Section 610 Review)**	3084-AA79
4390	Trade Regulation Rule Concerning Power Output Claims for Amplifiers Utilized in Home Entertainment Products	3084-AA81

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4391	Trade Regulation Rule Concerning the Use of Negative Option Plans by Sellers in Commerce	3084-AA76

FTC

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4392	Amended Federal Deposit Insurance Corporation Improvement Act	3084-AA44
4393	Regulatory Review	3084-AA47

FEDERAL TRADE COMMISSION (FTC)

Prerule Stage

4375. RULES AND REGULATIONS UNDER THE FUR PRODUCTS LABELING ACT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 69 Fur Products Labeling Act

CFR Citation: 16 CFR 301

Legal Deadline: None

Abstract: The Fur Products Labeling Act (Fur Act) requires covered furs and fur products to be labeled, invoiced, and advertised to show (1) the name(s) of the animal that produced the fur(s); (2) where such is the case, that the fur is used fur or contains used fur; (3) where such is the case, that the fur is bleached, dyed, or otherwise artificially colored; and (4) the name of the country of origin of any imported furs used in the fur product. Pursuant to section 8(b) of the Fur Act, "The Commission is authorized and directed to prescribe rules and regulations governing the manner and form of disclosing information required by this Act and such further rules and regulations as may be necessary and proper for purposes of administration and enforcement of this Act." These implementing rules are set forth at 16 CFR 301. As part of its systematic review of all current Commission regulations and guides, the Commission requested comments on, among other things, the economic impact of, and the continuing need for, these rules, possible conflict between the rules and state, local and other federal laws, and the effect on the rules of any technological, economic, or other industry changes. The Commission also sought comments on issues relating to the goal of harmonizing labeling requirements among North American Free Trade Agreement (NAFTA) countries.

Timetable:

Action	Date	FR Cite
Begin Reg Review	05/06/94	59 FR 23645
Extension of Comment Period	09/12/94	59 FR 46778
Comment Period End	10/15/94	
NPRM	12/24/96	61 FR 67748
Comment Period End	01/22/97	
Recommendations to Commission	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Carol J. Jennings, Staff Attorney, Federal Trade Commission, Division of Enforcement, Washington, DC 20580
Phone: 202 326-3010

RIN: 3084–AA51

4376. TRADE REGULATION RULE ON FRANCHISING AND BUSINESS OPPORTUNITY VENTURES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 to 58

CFR Citation: 16 CFR 436

Legal Deadline: None

Abstract: The Federal Trade Commission's Trade Regulation Rule on Franchising and Business Opportunity Ventures (Franchise Rule) became effective on October 21, 1979. The Rule is designed to reduce deceptive and unfair practices in the sale of franchises and business opportunities by requiring the pre-sale disclosure of material information about the franchise. For example, the Rule requires franchisors to disclose their business background and litigation history, as well as the number of failed and terminated franchise units. The Rule also requires the disclosure of material terms of the franchise relationship, such as recurring fees and termination and renewal rights. The Rule further requires the franchisor to provide an audited financial statement for the past three fiscal years. Finally, the Rule requires any franchisor who makes earnings representations to provide the prospective franchisee with an earnings claims document that substantiates those claims. As part of its systematic review of all current Commission rules and guides, the Commission requested comments about the overall costs and benefits of the Rule and what effects, if any, have changes in relevant technology, economic conditions, and industry practices had on the Rule. Two public workshops have been held, one on September 12, 1995, and the other on March 11, 1996. On February 28, 1997, the Commission published an Advance Notice of Proposed Rulemaking (ANPR) contemplating amendments to the Rule. The Commission is interested in ensuring that the Rule addresses new technologies and market practices and at the same time reduces any unnecessary regulatory burden. Specifically, the Commission has requested comments on whether to revise the Rule to more closely align federal and state disclosure requirements governing franchise sales, and to address changes in the marketing of franchises, such as the sale of franchises internationally and through the Internet. In the same ANPR, the Commission announced that it would hold six public workshops in five cities during 1997 to: promote discussions about the issues; allow the public to make statements on the record; and assist Commission staff in drafting a proposed amended Rule. The Commission has extended the comment period to December 31, 1997.

FTC

Prerule Stage

Timetable:

Action	Date	FR Cite
Request for Comments	04/17/95	60 FR 17656
Comment Period End	08/11/95	
Public Workshop	09/12/95	60 FR 34485
Public Workshop	03/11/96	61 FR 5969
ANPRM	02/28/97	62 FR 9115
Comment Period End	12/31/97	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Steven Toporoff, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580
Phone: 202 326-3135

RIN: 3084–AA63

4377. RULE GOVERNING INFORMAL DISPUTE SETTLEMENT PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 703

Legal Deadline: None

Abstract: The Rule Governing Informal Dispute Settlement Procedures (Rule 703) establishes minimum requirements for those informal settlement mechanisms ("IDSM") that are incorporated by the warrantor into its consumer product warranty. By incorporating the IDSM into the warranty, the warrantor requires the consumer to use the IDSM before pursuing any legal remedies in court. Among other things, the Rule sets out the member qualifications, general operating procedures, and recordkeeping requirements of such IDSMs. The Rule also prescribes the duties of the warrantor in making consumers aware of the IDSM and how to use it, as well as the warrantor's duties to comply with the IDSM's requests and decisions. The Rule also requires IDSMs that operate under Rule 703 to submit annual audits to the Federal Trade Commission to determine their compliance with the Rule. As part of its systematic review of all current Commission regulations and guides, the Commission has requested comments on, among other things, the economic impact of, and the continuing need for, the Rule; whether there are changes that might be made to the Rule that would increase consumer benefits or which might minimize cost to firms subject to its requirements; the degree to which it may conflict with other State, local, and other Federal laws; and the effect on the rules of any technological, economic, or other industry changes.

Timetable:

Action	Date	FR Cite
Begin Review	01/01/97	
Request for Comments	04/02/97	62 FR 15636
Comment Period End	08/02/97	
Recommendation to Commission	12/00/97	
Final Commission Action	03/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Carole I. Danielson, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580
Phone: 202 326-3115

RIN: 3084–AA75

4378. TRADE REGULATION RULE ON OPHTHALMIC PRACTICE RULES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 456

Legal Deadline: None

Abstract: The Trade Regulation Rule on Ophthalmic Practice Rules, also known as the "Prescription Release Rule," provides that an optometrist or ophthalmologist must give to the patient a copy of the patient's eyeglass prescription immediately after the eye examination is completed at no extra cost. The Prescription Release Rule prohibits optometrists and ophthalmologists from conditioning the availability of an eye examination, as defined by the Rule, on a requirement that the patient agrees to purchase ophthalmic goods from the optometrist or ophthalmologist, and from placing on the prescription, or delivering to the patient, certain disclaimers or waivers of liability. An optometrist or ophthalmologist, however, may withhold the eyeglass prescription if the patient has not paid for the eye examination in full if the optometrist or ophthalmologist would have required immediate payment if the examination revealed that no ophthalmic goods, such as eyeglasses, were required. In addition, the Rule does not require an optometrist or ophthalmologist to release a contact lens prescription to a patient after an eye exam. As part of its systematic review of all current Commission rules and guides, the Commission requested comments on the economic impact of, and the continuing need for, this Rule, possible conflict between the Rule and state, local, or other federal laws, and the effect on the Rule of any technological, economic, or other industry changes. In response to a request from the National Association of Optometrists and Opticians, the Commission has extended the comment period to September 2, 1997.

Timetable:

Action	Date	FR Cite
Request for Comments	04/03/97	62 FR 15865
Notice of Comment Period Extension	05/29/97	62 FR 29068
Comment Period End	08/02/97	
Comment Period End	09/02/97	
Staff Consideration of Comments	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Renee Kirschack, Division of Service Industry Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580
Phone: 202 326-3283

RIN: 3084–AA80

FEDERAL TRADE COMMISSION (FTC)

Proposed Rule Stage

4379. PREMERGER NOTIFICATION RULES AND REPORT FORM

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 18a Clayton Act

CFR Citation: 16 CFR 801 to 803

Legal Deadline: None

Abstract: The Premerger Notification Rules and the Antitrust Improvements Act Notification and Report Form were adopted pursuant to Section 7A of the Clayton Act. Section 7A requires firms of a certain size contemplating mergers or acquisitions of a specified size to file notification with the Federal Trade Commission (FTC) and the Department of Justice (DOJ) and to wait a designated period before consummating the transaction. It also requires the FTC, with the concurrence of the Assistant Attorney General for Antitrust, to promulgate rules requiring that notification be in a form and contain information necessary to enable the FTC and DOJ to determine whether the proposed acquisition may, if consummated, violate the antitrust laws. These rules are continually reviewed in order to improve the program's effectiveness and reduce the paperwork burden on the business community. The Commission proposed modifications to the Premerger Notification and Report form during fiscal year 1994. In March 1996, the Commission promulgated rules amending the Rule's treatment of acquisitions of goods or realty made in the ordinary course of business and adding new exemptions for acquisitions of realty and carbon-based mineral reserves. In addition, on August 9, 1995, the Commission published a final rule that removed 16 CFR part 800, the transitional rule addressing the treatment of acquisitions consummated before, and notification filed on or before September 5, 1976.

Timetable:

Action	Date	FR Cite
Begin Review	09/30/91	
NPRM - Ordinary Course	09/24/85	50 FR 38742
NPRM - HSR Form Changes	08/14/94	59 FR 30545
NPRM - Ordinary Course	07/28/95	60 FR 38930
Part 800 Repealed	08/09/95	60 FR 40704
Final Rule - Ordinary Course	03/28/96	61 FR 13666
Final Rule Effective - Ordinary Course	04/29/96	
NPRM - HSR - Form Changes	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard B. Smith, Staff Attorney, Pre-Merger Notification Office, Federal Trade Commission, Bureau of Competition, Washington, DC 20580
Phone: 202 326-2850

RIN: 3084–AA23

4380. REGULATIONS UNDER THE COMPREHENSIVE SMOKELESS TOBACCO HEALTH EDUCATION ACT OF 1986

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 4401

CFR Citation: 16 CFR 307

Legal Deadline: None

Abstract: The Comprehensive Smokeless Tobacco Health Education Act of 1986 requires health warnings on all packages and advertising for smokeless tobacco. The Commission published an NPR on February 14, 1995 seeking public comment on whether the regulations governing the rotation schedule for utilitarian objects should be amended. The comment period expired on April 14, 1995. The Commission amended the smokeless tobacco regulations to permit rotation of the mandated health warnings on utilitarian items and promotional materials based on either the date the item or material is ordered from a supplier or the date it is disseminated to the public, provided the production of such items is carried out in a manner consistent with ordinary business practices. On a separate point, the Coalition on Smoking or Health petitioned the Commission to enforce the Smokeless Tobacco Act by requiring smokeless tobacco health warnings on sponsored racing cars, banners, flags, and other related objects bearing smokeless tobacco product brand names, logos, or selling messages. On October 26, 1993, the Commission issued an NPR and proposed a requirement that sponsored auto racing vehicles and all other event-related objects that bear the brand name or selling message of smokeless tobacco products display health warning labels. Staff is preparing its recommendations to the Commission.

Timetable:

Action	Date	FR Cite
NPRM (Promotional Items)	01/15/93	54 FR 4875
NPRM (Racing Cars)	11/04/93	58 FR 58810
Comment Period End (Racing Cars)	02/01/94	
NPRM (Utilitarian Items)	02/14/95	60 FR 8312
Comment Period End (Utilitarian Items)	04/14/95	
Final Staff Recommendation (Promotional Items)	05/17/96	
Final Staff Recommendations (Utilitarian Items)	05/17/96	
Final Action (Promotional Items)	08/30/96	61 FR 45683
Final Action (Utilitarian Items)	08/30/96	61 FR 45683
Final Staff Recommendation (Racing Cars)	12/00/97	
Commission Action (Racing Cars)	03/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Phillip Priesman, Division of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580
Phone: 202 326-2484

RIN: 3084–AA48

4381. RULES AND REGULATIONS UNDER THE WOOL PRODUCTS LABELING ACT OF 1939

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 68 Wool Products Labeling Act of 1939

CFR Citation: 16 CFR 300

Legal Deadline: None

Abstract: The Wool Products Labeling Act of 1939 (Wool Act) requires covered wool products to be marked with (1) the generic names and percentages by weight of the constituent fibers present in the wool product; (2) the name under which the manufacturer or another responsible USA company does business, or in lieu thereof, the registered identification number (RN) of such a company; and

(3) the name of the country where the wool product was processed or manufactured. Pursuant to section 6(a) of the Wool Act, "the Commission is authorized and directed to make rules and regulations for the manner and form of disclosing information required by this Act ... and to make such further rules and regulations under and in pursuance of the terms of this Act as may be necessary and proper for administration and enforcement." These implementing rules and regulations are set forth at 16 CFR 300. As part of its systematic review of all current Commission regulations and guides, the Commission requested comments on, among other things, the economic impact of and the continuing need for these rules, possible conflict between the rules and State, local and other federal laws, and the effect on the rules of any technological, economic, or other industry changes. Comments were also solicited on issues relating to the goal of harmonizing labeling requirements among North American Free Trade Agreement (NAFTA) countries.

Timetable:

Action	Date	FR Cite
Begin Reg Review	05/06/94	59 FR 23645
Extension of Comment Period	09/12/94	59 FR 46778
Comment Period End	10/15/94	
NPRM	12/24/96	61 FR 67739
Comment Period End	01/22/97	
Recommendation to Commission	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carol J. Jennings, Staff Attorney, Federal Trade Commission, Division of Enforcement, Washington, DC 20850
Phone: 202 326-3010

RIN: 3084–AA50

4382. RULES AND REGULATIONS UNDER THE TEXTILE FIBER PRODUCTS IDENTIFICATION ACT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 70 Textile Fiber Products Identification Act

CFR Citation: 16 CFR 303

Legal Deadline: None

Abstract: The Textile Fiber Products Identification Act (Textile Act) requires wearing apparel and other covered household textile articles to be marked with (1) the generic names and percentages by weight of the constituent fibers present in the textile fiber product; (2) the name under which the manufacturer or another responsible USA company does business, or in lieu thereof, the registered identification number (RN) of such a company; and (3) the name of the country where the textile product was processed or manufactured. Pursuant to section 7(c) of the Textile Act, "the Commission is authorized and directed to make such rules and regulations, including the establishment of generic names of manufactured fibers, under and in pursuance of the terms of this Act as may be necessary and proper for administration and enforcement." These implementing rules are set forth at 16 CFR 303. As part of its systematic review of all current Commission regulations and guides, the Commission requested comments on, among other things, the economic impact of, and the continuing need for, these rules, possible conflict between the rules and State, local and other Federal laws, and the effect on the rules of any technological, economic, or other industry changes. The Commission also sought comments on issues aimed at streamlining existing regulations and promoting harmonization of textile labeling requirements among the North American Free Trade Agreement (NAFTA) countries.

Timetable:

Action	Date	FR Cite
Begin Reg Review	05/06/94	59 FR 23646
Extension of Comment Period	09/12/94	59 FR 46779
Comment Period End	10/15/94	
Recommendations to Commission	12/15/95	
NPRM	02/12/96	61 FR 5340
NPRM Comment Period End	05/13/96	
Recommendation to Commission	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Carol J. Jennings, Staff Attorney, Federal Trade Commission, Division of Enforcement, Washington, DC 20580
Phone: 202 326-3010

RIN: 3084–AA52

4383. THE CARE LABELING RULE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 423

Legal Deadline: None

Abstract: The Care Labeling Rule requires manufacturers and importers of textile wearing apparel to attach cleaning instructions stating what regular care is needed for the ordinary use of the product. If dry cleaning is recommended, the label must state at least one type of solvent that may be used (unless all commercially available types of solvent can be used), and must contain a warning against the use of any part of the normal dry cleaning procedure that would harm the product. The Rule also requires that the manufacturer or importer possess, prior to sale, a reasonable basis for the care instructions. The Rule currently requires that care instructions be stated in "appropriate terms." It also states that "any appropriate symbols may be used on care labels or care instructions, in addition to the required appropriate terms so long as the terms fulfill the requirements of this regulation." Although the Rule does not specifically state that the instructions must be in English, they usually are. On February 6, 1997, the Commission granted a Conditional Exemption with request for public comments. The Conditional Exemption, which became effective on July 1, 1997, allows the use of the symbol system developed by the American Society for Testing and Materials on care labels. The symbols, which show consumers how to safely launder or clean their clothing, will be permitted on care labels so long as the manufacturers include with the garments a written explanation of what the symbols mean for the first 18 months they are in use. In granting the industry permission to use symbols on care labels instead of written words, the FTC pledged to coordinate a national campaign to help consumers in the transition to symbols by making sure they have easy access to additional descriptive information regarding how to care for their clothing.

Timetable:

Action	Date	FR Cite
Begin Reg Review	06/15/94	59 FR 30733
Comment Period End	10/15/94	
Recommendation to Commission	10/17/95	
Request for Comment/ Exemption	11/16/95	60 FR 57552
ANPRM	12/26/95	60 FR 67102
Comment Period End/ Exemption	01/31/96	
ANPRM Comment Period End	03/13/96	
Recommendation to Commission/ Exemption	11/15/96	
Interim Conditional Exemption	02/06/97	62 FR 5724
Comment Period End	03/10/97	
Final Conditional Exemption	05/29/97	62 FR 29006
Recommendation to Commission/ NPRM	10/00/97	
NPRM	11/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Constance Vecellio, Care Labeling Rule Coordinator, Division of Enforcement, Federal Trade Commission, Washington, DC 20580
Phone: 202 326-2966

RIN: 3084–AA54

4384. TRADE REGULATION RULE CONCERNING THE LABELING AND ADVERTISING OF HOME INSULATION

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 460

Legal Deadline: None

Abstract: The Federal Trade Commission's Trade Regulation Rule Concerning the Labeling and Advertising of Home Insulation ("R-Value Rule") became effective on September 29, 1980. The Rule is designed to assist consumers in evaluating and comparing the thermal performance characteristics of competing home insulation products. Specifically, the Rule requires manufacturers of home insulation products to provide information about the product's degree of resistance to the flow of heat (R-Value). The Rule also establishes uniform standards for testing, information disclosure and substantiation of product performance claims. As part of its systematic review of all current Commission rules and guides, the Commission requested comments on, among other things, the economic impact of, and the continuing need for, this Rule, possible conflicts between the Rule and state, local and other federal laws, and the effect on the Rule of any technological, economic, or other industry changes. At the same time, in response to a petition, the Commission proposed adopting a non-substantive amendment to the Rule that would allow, but not require, the use of an additional (fifth) test procedure for measuring R-value, and solicited comments on the proposed amendment. The Commission is considering the comments in two parts. In part I, on March 28, 1996, the Commission reviewed the comments that addressed the current benefits, burdens and need for the Rule and determined to retain the Rule. The Commission also adopted non-substantive amendments that: (1) allow the optional use of the additional R-value test procedure; and (2) require use in the future of revised, current versions of other test procedures cited in the Rule. In part II, the Commission will consider the comments recommending that the Commission adopt substantive revisions to the Rule.

Timetable:

Action	Date	FR Cite
Request for Comments	04/06/95	60 FR 17492
Comment Period End	06/06/95	
Commission Action/Part I	03/28/96	61 FR 13659
Recommendation to Commission/Part II	10/00/97	
Commission Action/Part II	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kent C. Howerton, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580
Phone: 202 326-3013

RIN: 3084–AA60

4385. RULE GOVERNING DISCLOSURE OF WRITTEN CONSUMER PRODUCT WARRANTY TERMS AND CONDITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 701

Legal Deadline: None

Abstract: The Rule Governing the Disclosure of Written Consumer Product Warranty Terms and Conditions (Rule 701) establishes requirements for warrantors for disclosing the terms and conditions of written warranties on consumer products actually costing the consumer more than $15.00. Rule 701 specifies the information that must appear in the written warranty, as well as the exact language that must be used for certain items. Under Rule 701, the information must be disclosed in simple, easily understood, and concise language in a single document. In addition to specifying the information that must appear in a written warranty, Rule 701 also requires that, in instances where the warrantor uses a warranty registration or owner registration card, the warranty must disclose whether that registration card is a condition precedent to warranty coverage. Finally, it provides that, in connection with "seal of approval" programs, the disclosures do not have to be given in the actual seal itself, if they are made in a general circulation publication. As part of its systematic review of all current Commission regulations and guides, the Commission requested comments on, among other things, the economic impact of, and the continuing need for, the Rule, and State, local, and other Federal laws, and the effect on the rules of any technological, economic, or other industry changes.

Timetable:

Action	Date	FR Cite
Begin Review	04/03/96	61 FR 14688
Comment Period End	06/03/96	
Recommendation to Commission	01/00/98	
Final Commission Action	02/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Carole L. Danielson, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580

Phone: 202 326-3115

RIN: 3084–AA72

4386. RULE GOVERNING THE PRE-SALE AVAILABILITY OF WRITTEN WARRANTY TERMS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 702

Legal Deadline: None

Abstract: The Rule Governing the Pre-Sale Availability of Written Warranty Terms (Rule 702) establishes requirements for sellers and warrantors for making the terms of a written warranty available to the consumer prior to sale. Among other things, the Rule requires sellers to make warranty information readily available either by (1) displaying it in close proximity to the product or (2) furnishing it on request and posting signs in prominent locations advising consumers that warranty information is available. The Rule requires warrantors to provide materials to enable sellers to comply with the rule's requirements, and also sets out the methods by which warranty information can be made available prior to the sale of the product in instances where the product is sold through catalogs, through mail order or through door-to-door sales. The Commission is reviewing this Rule as part of its systematic review of all current Commission regulations and guides. The Commission has sought comments on, among other things, the economic impact of, and the continuing need for, this Rule.

Timetable:

Action	Date	FR Cite
Begin Review	04/03/96	61 FR 14668
Comment Period End	06/03/96	
Recommendation to Commission	10/00/97	
Final Commission Action	11/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Carole I. Danielson, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580
Phone: 202 326-3115

RIN: 3084–AA73

4387. DECEPTIVE USE OF "LEAKPROOF," "GUARANTEED LEAKPROOF," ETC., AS DESCRIPTIVE OF DRY CELL BATTERIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 403

Legal Deadline: None

Abstract: On May 20, 1964, the Commission promulgated as a trade regulation rule its determination that in connection with the sale of dry cell batteries in commerce, the use of the word "leakproof," the term "guaranteed leakproof," or any other word or term of similar import, or any abbreviation thereof, in advertising, labeling, marking or otherwise, as descriptive of dry cell batteries, constitutes an unfair method of competition and an unfair or deceptive act or practice in violation of section 5 of the FTC Act. The Dry Cell Battery Rule does not prohibit manufacturers or marketers from offering or furnishing guarantees that provide for restitution in the event of damage from battery leakage, provided no representation is made, directly or indirectly, that dry cell batteries will not leak. The Rule further provides that in the event any person develops a new dry cell battery that he believes is in fact leakproof, he may apply to the Commission for an amendment to the Rule, or other appropriate relief. As part of its systematic review of all current Commission rules and guides, the Commission requested comments on, among other things, the economic impact of, and the continuing need for, this Rule, possible conflict between the Rule and state, local and other federal laws, and the effect on the Rule of any technological, economic, or other industry changes. The ons comment received supported repeal of the Rule, indicating that it effectively has been superseded in the marketplace by the American National Standards Institute Standard C18.1M-1992 Dry Cells and Batteries - Specifications. Based on the foregoing, the Commission has decided to initiate a rulemaking proceeding to repeal the Dry Cell Battery Rule, and will request further comments on the proposed repeal of the Rule.

Timetable:

Action	Date	FR Cite
Request for Comments	03/25/97	62 FR 14050
Comment Period End	04/24/97	
NPRM	06/27/97	
Recommendation to Commission		
Commission Action	07/09/97	
NPRM	08/19/97	62 FR 44099
NPRM Comment Period End	09/18/97	
Staff Consideration of Comments	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nail Blickman, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580
Phone: 202 326-3038

RIN: 3084–AA77

4388. TRADE REGULATION RULE PURSUANT TO THE TELEPHONE DISCLOSURE AND DISPUTE RESOLUTION ACT OF 1992

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 5701 et seq

CFR Citation: 16 CFR 308

Legal Deadline: None

Abstract: Congress enacted the Telephone Disclosure and Dispute Resolution Act of 1992 ("TDDRA") to curtail certain unfair and deceptive practices perpetrated by some pay-per-call businesses, and to encourage the growth of the legitimate pay-per-call industry. TDDRA granted the Commission limited jurisdiction over common carriers for purposes of the 900-Number Rule, which became effective November 1, 1993. The Rule requires that advertisements for 900-Numbers contain certain disclosures; that anyone who calls a 900-Number service be given the opportunity to hang up at the conclusion of the preamble without incurring any charge for the call; and establishes procedures for resolving billing disputes for 900-Number calls. Under the terms of the Rule itself, a review of the Rule is required to be initiated by the Commission prior to November 1997. As part of this review, the Commission published a notice in the Federal Register on March 12, 1997, requesting comments on, among other things, the economic impact of, and the continuing need for, the 900-Number Rule and the effect on the Rule of any technological or industry changes. The Commission also sought comments, pursuant to authority granted under the Telecommunications Act of 1996, on whether to expand the Rule to govern other similar audio information and entertainment services. Staff held a workshop-conference on June 19-20, 1997, during which members of the industry discussed issues raised in the comments, including billing and collection issues and possible ways to expand the definition of "pay-per-call services."

Timetable:

Action	Date	FR Cite
Request for Comments	03/12/97	62 FR 11750
Comment Period End	05/12/97	
Public Workshop	06/19/97	
Public Workshop	06/20/97	
Staff Recommendation to Commission	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Marianne K. Schwanke, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580
Phone: 202 326-3165

RIN: 3084–AA78

4389. RULES AND REGULATIONS UNDER THE HOBBY PROTECTION ACT (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 304

Legal Deadline: None

Abstract: The Rules and Regulations under the Hobby Protection Act require that all imitation numismatic items sold in, or imported into, the United States be marked with the word "Copy." An amendment to the Rule in 1988 permits manufacturers of miniature numismatic items to mark the word "Copy" in smaller dimensions than those required under the previous Rule. The Commission determined, at that time, that the amendment would facilitate compliance with the Rule and eliminate potential costs, in both time and resources, to industry and the Commission from individual variance applications for miniature numismatic items. The Commission is conducting a review of this Rule under the Regulatory Flexibility Act, 5 USC 601 et seq., as amended by the Small Business Regulatory Enforcement Fairness Act of 1996. At the same time, and as part of its systematic review of all current Commission rules and guides, the Commission requested comments on, among other things, the economic impact of, and the continuing need for, this Rule, possible conflict between the Rule and state, local and other federal laws, and the effect on the Rule of any technological, economic, or other industry changes, with particular emphasis on the effect on small businesses.

Timetable:

Action	Date	FR Cite
Request for Comments	03/25/97	62 FR 14049
Comment Period End	05/27/97	
Recommendation to Commission	11/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert Easton, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580
Phone: 202 326-3029

RIN: 3084–AA79

4390. TRADE REGULATION RULE CONCERNING POWER OUTPUT CLAIMS FOR AMPLIFIERS UTILIZED IN HOME ENTERTAINMENT PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 432

Legal Deadline: None

Abstract: The Trade Regulation Rule Concerning Power Output Claims for Amplifiers Utilized in Home Entertainment Products ("Amplifier Rule" or "Rule") was promulgated in 1974 to assist consumers in purchasing power amplification equipment for home entertainment purposes by standardizing the measurement and disclosure of various performance characteristics of the equipment. The Amplifier Rule establishes uniform test standards and disclosures so that consumers can make more meaningful comparisons of performance attributes. The Rule makes it an unfair method of competition and an unfair or deceptive act or practice for manufacturers and sellers of sound power amplification equipment for home entertainment purposes to fail to disclose certain performance information in connection with direct or indirect representations of power output, power band, frequency or distortion characteristics. The Rule also sets out standard test conditions for performing the measurements that support the required performance disclosures. Further, the Rule prohibits representations of performance characteristics if they are not obtainable when the equipment is operated by the consumer in the usual and ordinary manner without the use of extraneous aids. As part of its systematic review of all current Commission rules and guides, the Commission requested comments on, among other things, the economic impact of, and the continuing need for, this Rule possible conflict between the Rule and state, local and other federal laws, and the effect on the Rule of any technological, economic, or other industry changes. In reviewing the Rule, the Commission also noted a tentative determination that the Rule applies to self-powered speakers for use with home computers and home sound systems, as well as other amplification equipment for home computers, but asked for comments on whether such products should be outside the Rule's scope. The Commission also requested comments on whether the Rule's provision should be extended to automobile sound systems and whether existing testing and disclosure requirements need to be modified for use with automotive sound amplification.

Timetable:

Action	Date	FR Cite
Request for Comments	04/07/97	62 FR 16500
Comment Period End	06/06/97	
Recommendation to Commission	11/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert Easton, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580
Phone: 202 326-3029

RIN: 3084–AA81

FEDERAL TRADE COMMISSION (FTC)

Final Rule Stage

4391. TRADE REGULATION RULE CONCERNING THE USE OF NEGATIVE OPTION PLANS BY SELLERS IN COMMERCE

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 425

Legal Deadline: None

Abstract: The Trade Regulation Rule Concerning the use of Negative Option Plans by Sellers in Commerce ("Negative Option Rule") governs a type of selling technique known as a negative option plan. Under such a plan, a seller and a subscriber enter into a contractual agreement whereby the seller will periodically sell merchandise to the subscriber by shipping merchandise to the subscriber even though the subscriber has not affirmatively ordered the merchandise. The Negative Option Rule requires sellers who use negative option plans to disclose the material terms of the plans clearly and conspicuously in their promotional materials. The Rule requires, in part, that the seller send to the subscriber an announcement, which identifies the merchandise the seller intends to send to the subscriber. The seller will then send the merchandise and bill the subscriber for it, unless the subscriber instructs the seller by a certain date not to send the merchandise. A negative option plan will often require a subscriber to purchase a minimum quantity of merchandise, after which the subscriber may cancel his membership. As part of its systematic review of all current Commission rules and guides, the Commission requested comments on, among other things, the economic impact of, and the continuing need for, this Rule, possible conflict between the Rule and state, local and other federal laws, and the effect on the Rule of any technological, economic, or other industry changes.

Timetable:

Action	Date	FR Cite
Request for Comments	03/31/97	62 FR 15135
Comment Period End	06/02/97	
Recommendation to Commission	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Edwin Rodriguez, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580 Phone: 202 326-3147

RIN: 3084–AA76

FEDERAL TRADE COMMISSION (FTC)

Long-Term Actions

4392. AMENDED FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Carole Reynolds Phone: 202 326-3230

RIN: 3084–AA44

4393. REGULATORY REVIEW

Priority: Other Significant

CFR Citation: 16 CFR 1 et seq

Timetable:

Action	Date	FR Cite
Rule Review Continuing	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kent Howerton Phone: 202 326-3013

RIN: 3084–AA47

[FR Doc. 97-24034 Filed 10-28-97; 8:45 am]

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federal register

Wednesday
October 29, 1997

Part LVII

National Credit Union Administration

Semiannual Regulatory Agenda

NATIONAL CREDIT UNION ADMINISTRATION (NCUA)

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Ch. VII

Semiannual Regulatory Agenda

AGENCY: National Credit Union Administration (NCUA).

ACTION: Semiannual regulatory agenda.

SUMMARY: Pursuant to its ongoing policy of reviewing regulations, NCUA is publishing a list of current and projected rulemakings, reviews of existing regulations, and completed actions as of July 31, 1997. NCUA will also include this agenda in the Unified Agenda of Federal Regulatory and Deregulatory Actions.

DATES: This information is current as of July 31, 1997.

ADDRESSES: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428.

FOR FURTHER INFORMATION CONTACT: For each regulation listed, the person(s) named in the listing at the above address, unless otherwise noted, or listed telephone number.

SUPPLEMENTARY INFORMATION: The purpose of this agenda is to enable credit unions and the public to follow regulatory development and review at NCUA and to enable interested parties to more effectively participate in that process. The agenda is divided into three parts: (1) Actions completed since the last agenda; (2) actions proposed but not completed; and (3) actions planned but not yet proposed by the NCUA Board.

The agenda is published pursuant to NCUA Interpretive Ruling and Policy Statement Number 87-2 ("Developing and Reviewing Government Regulations," 54 FR 35231; September 18, 1987). Executive Order 12866, signed by President Clinton on September 30, 1993, now requires independent executive agencies such as NCUA to publish a regulatory agenda. This agenda will be included in the Office of Management and Budget's next publication of its Unified Agenda of Federal Regulatory and Deregulatory Actions.

Approved by the NCUA Board on August 22, 1997.

Becky Baker,

Secretary of the Board.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4394	FCU Ownership of Fixed Assets	3133-AB90
4395	Interpretive Rulings and Policy Statements (IRPS)	3133-AB92
4396	Management Official Interlocks	3133-AB93
4397	Federal Credit Union Bylaws	3133-AB94

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4398	Credit Union Service Contracts/Correspondent Services/Credit Union Service Organizations	3133-AA95
4399	Production of NCUA Records and Testimony of NCUA Employees in Legal Proceedings	3133-AB87
4400	Member Business Loans	3133-AB91

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4401	Golden Parachute and Indemnification Payments	3133-AB28

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4402	Corporate Credit Unions—Wholesale Corporate Credit Unions	3133-AB67
4403	Investment and Deposit Activities	3133-AB73
4404	Corporate Credit Unions	3133-AB88
4405	Employee Benefits, Trust and Custodial Services, and Medical Savings Accounts	3133-AB89
4406	Loan Interest Rates	3133-AB95

4394. FCU OWNERSHIP OF FIXED ASSETS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1754(4)

CFR Citation: 12 CFR 701.36

Legal Deadline: None

Abstract: The current rule establishes specific limitations on an FCU's investment in fixed assets at five percent of shares and retained earnings when an FCU's assets exceed $1 million. The proposal anticipates using a new fixed asset threshold based on FCU net capital. In addition fixed asset waiver requests would need to be more fully documented than at present.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Martin Conrey, Staff Attorney, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Fax: 703 518-6569

RIN: 3133–AB90

4395. • INTERPRETIVE RULINGS AND POLICY STATEMENTS (IRPS)

Priority: Info./Admin./Other

Legal Authority: 12 USC 1751 et seq

CFR Citation: 12 CFR 700 et seq

Legal Deadline: None

Abstract: The NCUA solicited comments on a proposal to revise its existing Interpretive Rulings and Policy Statements (IRPS). This proposal, which is one part of NCUA's Regulatory Review Program, is intended to ease the compliance burden on federally chartered and federally insured credit unions and provide more valuable guidance by updating and simplifying ineffective or outmoded IRPS. Proposed options include the withdrawal of all outdated and nonessential IRPS, the redesignation of IRPS into the NCUA rules, the transference of guidance now provided in the IRPS into NCUA instructional manuals or directives, and the preservation of beneficial IRPS.

Timetable:

Action	Date	FR Cite
ANPRM	03/13/97	62 FR 11773
ANPRM Comment Period End	05/12/97	
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nicole Sippial Williams, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314
Phone: 703 518-6540
Fax: 703 518-6569

RIN: 3133–AB92

4396. • MANAGEMENT OFFICIAL INTERLOCKS

Priority: Info./Admin./Other

Legal Authority: 12 USC 3201 et seq; 12 USC 1757

CFR Citation: 12 CFR 711

Legal Deadline: None

Abstract: The rulemaking will amend the current regulation to conform the regulation to recent changes made to the Depository Institutions Management Interlocks Act (DIMIA). DIMIA was amended to raise the asset threshold for the prohibition against interlocks involving an institution with at least $1 billion in total assets and an institution with at least $500 million in total assets. DIMIA also was amended to expand the exemptive authority of the OCC and other Federal banking agencies.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Martin S. Conrey, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Fax: 703 518-6569

RIN: 3133–AB93

4397. • FEDERAL CREDIT UNION BYLAWS

Priority: Info./Admin./Other

Legal Authority: 12 USC 1758

CFR Citation: None

Legal Deadline: None

Abstract: The request for comment is being issued to help guide the preparation of a proposed rule which would clarify, revise and reorganize existing FCU bylaws, and eliminate bylaws that are obsolete.

Timetable:

Action	Date	FR Cite
ANPRM	03/13/97	62 FR 11778
ANPRM Comment Period End	06/12/97	62 FR 19702
NPRM	11/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Mary F. Rupp, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Fax: 703 518-6569

RIN: 3133–AB94

NATIONAL CREDIT UNION ADMINISTRATION (NCUA) — Final Rule Stage

4396. CREDIT UNION SERVICE CONTRACTS/CORRESPONDENT SERVICES/CREDIT UNION SERVICE ORGANIZATIONS

Priority: Info./Admin./Other

Legal Authority: 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 701.26; 12 CFR 701.27

Legal Deadline: None

Abstract: The proposed rule would update, clarify and streamline existing rules concerning credit union service organizations (CUSOs), a common means of outside provision of services to Federal credit unions (FCUs) and to credit union members. The intended effect of the proposal is to reduce regulatory burden, maintain safety and soundness, and ensure the continuity and growth of services to FCUs and their members conducted through CUSOs. Related conforming changes are also proposed to amend NCUA's rules on credit union service contract and credit union advertising requirements.

Timetable:

Action	Date	FR Cite
ANPRM	11/15/89	54 FR 48110
ANPRM Comment Period End	02/20/90	
NPRM	03/13/97	62 FR 11779
NPRM Comment Period End	06/12/97	62 FR 19702
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Martin S. Conrey, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Fax: 703 518-6569

RIN: 3133–AA95

4399. PRODUCTION OF NCUA RECORDS AND TESTIMONY OF NCUA EMPLOYEES IN LEGAL PROCEEDINGS

Priority: Info./Admin./Other

Legal Authority: 12 USC 1766; 12 USC 1787; 12 USC 1789; 12 USC 1795(f)

CFR Citation: 12 CFR 792

Legal Deadline: None

Abstract: The proposed regulation provides procedures and information concerning requests for agency records and the testimony of agency employees in legal proceedings. The proposed regulation prohibits release of agency records or the testimony of agency employees except as provided by the regulation.

Timetable:

Action	Date	FR Cite
NPRM	04/24/97	62 FR 19941
NPRM Comment Period End	06/23/97	
Interim Final Rule	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Allan Meltzer, Associate General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Fax: 703 518-6569

RIN: 3133–AB91

4400. MEMBER BUSINESS LOANS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1752(5); 12 USC 1755; 12 USC 1756; 12 USC 1757; 12 USC 1759; 12 USC 1761a; 12 USC 1761b; 12 USC 1766; 12 USC 1767; 12 USC 1782; 12 USC 1787; 12 USC 1789

CFR Citation: 12 CFR 701.21(h)

Legal Deadline: None

Abstract: NCUA proposes to update, clarify, and streamline its existing rules concerning member business loans and appraisals for federally insured credit unions. The intended effect of the proposal is to reduce regulatory burden, maintain safety and soundness, and expand the number and type of business loans a Federal credit union may grant its members.

Timetable:

Action	Date	FR Cite
NPRM	08/01/97	62 FR 41313
NPRM Comment Period End	09/30/97	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael J. McKenna, Staff Attorney, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314
Phone: 703 518-6540
Fax: 703 518-6569

RIN: 3133–AB87

NATIONAL CREDIT UNION ADMINISTRATION (NCUA) — Long-Term Actions

4401. GOLDEN PARACHUTE AND INDEMNIFICATION PAYMENTS

Priority: Info./Admin./Other

CFR Citation: 12 CFR 701.34

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Allan Meltzer
Phone: 703 518-6540

RIN: 3133–AB28

NATIONAL CREDIT UNION ADMINISTRATION (NCUA) — Completed Actions

4402. CORPORATE CREDIT UNIONS—WHOLESALE CORPORATE CREDIT UNIONS

Priority: Info./Admin./Other

Legal Authority: 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 704.19

Legal Deadline: None

Abstract: The final rule amends the regulations on corporate credit unions by adding a new section governing wholesale corporate credit unions.

Timetable:

Action	Date	FR Cite
NPRM	07/23/96	61 FR 38117
NPRM Comment Period End	09/03/96	
Final Action	03/19/97	62 FR 12929
Final Action Effective	01/01/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Schafer, Director, Office of Corporate Credit Unions, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6640
Fax: 703 518-6439

RIN: 3133–AB67

4403. INVESTMENT AND DEPOSIT ACTIVITIES

Priority: Info./Admin./Other

Legal Authority: 12 USC 1757(7); 12 USC 1757(8); 12 USC 1757(15); 12 USC 1757(17); 12 USC 1766(a); 12 USC 1789(ii)

CFR Citation: 12 CFR 703

Legal Deadline: None

Abstract: The final regulation clarifies a number of areas, adds restrictions on some securities which have been determined to be too risky for credit unions, broadens authority in certain areas, and requires that a credit union's staff and board of directors fully understand the potential risk characteristics of its investment options.

Timetable:

Action	Date	FR Cite
NPRM	11/29/95	60 FR 61219
NPRM Comment Period End	03/28/96	
NPRM Comment Period Extended	06/12/96	61 FR 41750
NPRM Comment Period Extended to	11/18/96	
Final Action	08/18/97	62 FR 32980
Final Action Effective	01/01/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kimberly Iverson, Program Officer, Office of Examination and Insurance, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6360
Fax: 703 518-6499

RIN: 3133–AB73

4404. CORPORATE CREDIT UNIONS

Priority: Info./Admin./Other

Legal Authority: 12 USC 1762; 12 USC 1766(a); 12 USC 1781; 12 USC 1789

CFR Citation: 12 CFR 704

Legal Deadline: None

Abstract: The final rule strengthens corporate credit union capital and ensures that the risk on corporate credit union balance sheets is adequately controlled.

Timetable:

Action	Date	FR Cite
NPRM	06/04/96	61 FR 28085
NPRM Comment Period End	10/18/96	61 FR 41750
Final Action	03/19/97	62 FR 12929

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert F. Schafer, Director, Office of Corporate Credit Unions, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6640
Fax: 703 518-6439

RIN: 3133–AB88

4405. EMPLOYEE BENEFITS, TRUST AND CUSTODIAL SERVICES, AND MEDICAL SAVINGS ACCOUNTS

Priority: Info./Admin./Other

Legal Authority: 12 USC 1752(5); 12 USC 1756; 12 USC 1757; 12 USC 1759; 12 USC 1766; 12 USC 1781; 12 USC 1782; 12 USC 1784; 12 USC 1787; 12 USC 1789; 26 USC 220; 26 USC 401(a) and (k); 26 USC 408; 26 USC 457

CFR Citation: 12 CFR 701.19; 12 CFR 724.1; 12 CFR 745.9-4

Legal Deadline: None

Abstract: The proposal would implement changes made by The Small Business Job Protection Act of 1996 and the Health Insurance Portability and Accountability Act of 1996. The proposal would clarify the ability of FCUs to offer 401(k), Savings Incentive Match Plan for Employees (SIMPLE), and other retirement plan benefits to employees. In addition, the proposal will clarify that Federally insured credit unions may accept medical savings accounts on behalf of members. An interim final rule is anticipated since the 1996 acts are already in effect. No proposal has been issued. The NCUA Board has no current plans to issue a proposed rule in this area. This item should be removed from the next update.

Timetable:

Action	Date	FR Cite
Withdrawn	07/31/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Martin Conrey, Staff Attorney, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314
Phone: 703 518-6540
Fax: 703 518-6569

RIN: 3133–AB89

4406. • LOAN INTEREST RATES

Priority: Info./Admin./Other

Legal Authority: 12 USC 1752(5); 12 USC 1755; 12 USC 1756; 12 USC 1757; 12 USC 1759; 12 USC 1761a; 12 USC 1761b; 12 USC 1766; 12 USC 1767; 12 USC 1782; 12 USC 1784; 12 USC 1787; 12 USC 1789

CFR Citation: 12 CFR 701

Legal Deadline: None

Abstract: The NCUA Board continues an 18 percent Federal credit union loan rate ceiling for the period from September 9, 1997 through March 8, 1999. Loans and lines of credit balances existing prior to May 18, 1997, may continue to bear their contractual rate of interest, not to exceed 21 percent. The Board is prepared to reconsider the 18 percent ceiling at any time should changes in economic conditions warrant.

NCUA — Completed Actions

Timetable:

Action	Date	FR Cite
Final Action	07/31/97	62 FR 40928
Final Action Effective	09/09/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Evan Gillette, Investment Officer, Office of Investment Services, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6620
Fax: 703 518-6429

RIN: 3133–AB95

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federal register

Wednesday
October 29, 1997

Part LVIII

National Indian Gaming Commission

Semiannual Regulatory Agenda

NATIONAL INDIAN GAMING COMMISSION (NIGC)

NATIONAL INDIAN GAMING COMMISSION

25 CFR Ch. III

Semiannual Regulatory Agenda

AGENCY: National Indian Gaming Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The National Indian Gaming Commission today is publishing an agenda of its open and anticipated rulemaking actions. The agenda is a general announcement to the public intended to provide notice of rulemaking actions in which the public may wish to participate. In the near future, the Commission intends to issue Notices of Proposed Rulemaking or Advanced Notices of Proposed Rulemaking for rules concerning definitions and practice before the Commission; rules concerning hearings and appeals procedures; rules concerning enforcement; rules revising tribal background investigation submission requirements and timing; rules revising the scope and review of management contracts; rules concerning minimum internal control standards for tribal gaming operations; rules concerning net gaming revenue; rules concerning public health and safety compliance; rules concerning game classification; rules concerning administrative fees; rules revising Freedom of Information Act Procedures; and rules concerning compulsory process and testimony of employees. The Commission invites questions and public comment on individual agenda items.

FOR FURTHER INFORMATION CONTACT: Penny J. Coleman, National Indian Gaming Commission, 1441 L Street NW., 9th Floor, Washington, DC 20005, (202) 632-7003 (not a toll-free number).

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12866 "Regulatory Planning and Review" and the Regulatory Flexibility Act, 5 U.S.C. 605, executive agencies are required to publish semiannual regulatory agendas in the **Federal Register** in April and October of each year.

The regulations being considered by the Commission are not "significant" rules within the meaning of E.O. 12866, and no regulatory impact analysis is required. The Commission also has determined, under the Regulatory Flexibility Act, that the regulations under consideration will not have a significant economic impact on a substantial number of small entities. Accordingly, no Regulatory Flexibility Analysis is required. The proposed rules are not covered under section 202 of the Unfunded Mandates Reform Act (Pub. L. 104-4), as they are not Federal mandates that may result in an expenditure of $100 million or more in any 1 year by State, local, and tribal governments, in the aggregate, or the private sector. Further, these proposed rules are not considered major under 5 U.S.C. 801 enacted by Public Law 104-121 and, therefore, are not subject to section 801's 60-day deferral requirement.

For this edition of National Indian Gaming Commission's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

Penny Coleman,

Acting General Counsel, National Indian Gaming Commission.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4407	Definitions of Electronic Aid and Electronic Facsimile **(Reg Plan Seq. No. 169)**	3141-AA19

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4408	Game Classification **(Reg Plan Seq. No. 170)**	3141-AA12
4409	Annual Fees **(Reg Plan Seq. No. 171)**	3141-AA18

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4410	Review of Petitions for Certificate of Self-Regulation Under the Indian Gaming Regulatory Act	3141-AA04
4411	Practice Before the Commission	3141-AA07
4412	Hearings and Appeals Procedure	3141-AA08
4413	Enforcement	3141-AA09
4414	Definitions	3141-AA10
4415	Minimum Internal Control Standards for Tribal Gaming Operations	3141-AA11

NIGC

Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4416	Management Contracts	3141-AA13
4417	Net Gaming Revenue	3141-AA14
4418	Tribal Background Investigation Submission Requirements and Timing	3141-AA15
4419	Administrative Fees	3141-AA16
4420	Public Health and Safety Compliance	3141-AA17
4421	Compulsory Process and Testimony of Employees	3141-AA20
4422	Freedom of Information Act Procedures (Amendments)	3141-AA21

NATIONAL INDIAN GAMING COMMISSION (NIGC) — Prerule Stage

4407. • DEFINITIONS OF ELECTRONIC AID AND ELECTRONIC FACSIMILE

Regulatory Plan: This entry is Seq. No. 169 in Part II of this issue of the **Federal Register**.

RIN: 3141–AA19

NATIONAL INDIAN GAMING COMMISSION (NIGC) — Proposed Rule Stage

4408. GAME CLASSIFICATION

Regulatory Plan: This entry is Seq. No. 170 in Part II of this issue of the **Federal Register**.

RIN: 3141–AA12

4409. • ANNUAL FEES

Regulatory Plan: This entry is Seq. No. 171 in Part II of this issue of the **Federal Register**.

RIN: 3141–AA18

NATIONAL INDIAN GAMING COMMISSION (NIGC) — Long-Term Actions

4410. REVIEW OF PETITIONS FOR CERTIFICATE OF SELF-REGULATION UNDER THE INDIAN GAMING REGULATORY ACT

Priority: Other Significant

CFR Citation: 25 CFR 581

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA04

4411. PRACTICE BEFORE THE COMMISSION

Priority: Substantive, Nonsignificant

CFR Citation: None

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA07

4412. HEARINGS AND APPEALS PROCEDURE

Priority: Other Significant

CFR Citation: 25 CFR 522; 25 CFR 523; 25 CFR 524; 25 CFR 533; 25 CFR 535; 25 CFR 539; 25 CFR 573; 25 CFR 575; 25 CFR 577

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA08

4413. ENFORCEMENT

Priority: Other Significant

CFR Citation: 25 CFR 573

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA09

4414. DEFINITIONS

Priority: Substantive, Nonsignificant

CFR Citation: 25 CFR 502 (Revision)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA10

4415. MINIMUM INTERNAL CONTROL STANDARDS FOR TRIBAL GAMING OPERATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 25 CFR 571; 25 CFR 573

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA11

4416. MANAGEMENT CONTRACTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 25 CFR 531; 25 CFR 533; 25 CFR 536

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA13

4417. NET GAMING REVENUE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 25 CFR 571; 25 CFR 573

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA14

4418. TRIBAL BACKGROUND INVESTIGATION SUBMISSION REQUIREMENTS AND TIMING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 25 CFR 556; 25 CFR 558

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA15

4419. ADMINISTRATIVE FEES

Priority: Substantive, Nonsignificant

CFR Citation: 25 CFR 514

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA16

4420. PUBLIC HEALTH AND SAFETY COMPLIANCE

Priority: Substantive, Nonsignificant

CFR Citation: 25 CFR 573

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA17

4421. • COMPULSORY PROCESS AND TESTIMONY OF EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 2706; 5 USC 552; 5 USC 552a

CFR Citation: None

Legal Deadline: None

Abstract: The purpose of these rules is to establish a procedure for the testimony of employees of the National Indian Gaming Commission in any judicial or administrative proceeding.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Penny J. Coleman, Acting General Counsel, National Indian Gaming Commission, 1441 L Street NW., 9th Floor, Washington, DC 20005
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA20

4422. • FREEDOM OF INFORMATION ACT PROCEDURES (AMENDMENTS)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552

CFR Citation: 25 CFR 517.3 (Revision); 25 CFR 517.6 (Revision); 25 CFR 517.8 (Revision)

Legal Deadline: None

Abstract: These rules will revise the current regulations to make them consistent with the amended statute. The rules will also update information such as addresses and copying fees.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Penny J. Coleman, Acting General Counsel, National Indian Gaming Commission, 1441 L Street NW., 9th Floor, Washington, DC 20005
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA21

[FR Doc. 97-22244 Filed 10-28-97; 8:45 am]
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federal register

Wednesday
October 29, 1997

Part LIX

National Labor Relations Board

Semiannual Regulatory Agenda

NATIONAL LABOR RELATIONS BOARD (NLRB)

NATIONAL LABOR RELATIONS BOARD

29 CFR Ch. I

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: National Labor Relations Board.

ACTION: Semiannual regulatory agenda.

SUMMARY: The National Labor Relations Board is publishing its semiannual regulatory agenda pursuant to section 4(b) of Executive Order 12866. The agenda contains all rulemakings which have been completed since the last agenda was published or which are still pending or scheduled for consideration during the next 12 months.

FOR FURTHER INFORMATION CONTACT: John J. Toner, Executive Secretary, National Labor Relations Board, 1099 14th Street NW., Suite 11600, Washington, DC 20570; telephone (202) 273-1940.

SUPPLEMENTARY INFORMATION: The Board identified three rulemakings for inclusion in the agenda. Of these, one has been published as an NPRM, one has been published as an ANPRM and an NPRM, and one is under consideration and has not yet been published.

Dated, Washington, DC, July 29, 1997.
By direction of the Board.
John J. Toner,
Executive Secretary.

NATIONAL LABOR RELATIONS BOARD (NLRB) — Long-Term Actions

4423. REPRESENTATION CASE PROCEDURES

Priority: Other Significant

Legal Authority: 29 USC 156

CFR Citation: 29 CFR 102.60 et seq

Legal Deadline: None

Abstract: The Board is undergoing a review of its current representation case rules in order to eliminate any that are antiquated and to streamline its procedures so as to minimize litigation and enhance the possibility of stipulated election agreements.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Toner, Executive Secretary, National Labor Relations Board, 1099 14th Street NW., Suite 11600, Washington, DC 20570 Phone: 202 273-1940

RIN: 3142–AA01

4424. CODIFICATION OF STANDARDIZED REMEDIAL PROVISIONS IN BOARD DECISIONS REGARDING OFFERS OF REINSTATEMENT, MAKE-WHOLE REMEDIES, COMPUTATION OF INTEREST, AND POSTING OF NOTICES

Priority: Other Significant

Legal Authority: 29 USC 156

CFR Citation: 29 CFR 103.101; 29 CFR 103.102; 29 CFR 103.103; 29 CFR 103.104

Legal Deadline: None

Abstract: The Board issued a notice of proposed rulemaking to require that interest on backpay and other monetary awards in unfair labor practice proceedings be compounded daily in order to compensate discriminatees for the delay in receiving their wages, and to promote prompt payment of legal obligations. The notice also proposed to amend the Board's rules to incorporate certain remedial provisions frequently appearing in Board decisions.

Timetable:

Action	Date	FR Cite
NPRM	03/05/92	57 FR 7897
NPRM Comment Period End	04/30/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Toner, Executive Secretary, National Labor Relations Board, 1099 14th Street NW., Suite 11600, Washington, DC 20570 Phone: 202 273-1940

RIN: 3142–AA03

4425. APPROPRIATENESS OF REQUESTED SINGLE LOCATION BARGAINING UNITS IN REPRESENTATION CASES

Priority: Other Significant

Legal Authority: 29 USC 156

CFR Citation: 29 CFR 103

Legal Deadline: None

Abstract: The Board published an advance notice of proposed rulemaking and a notice of proposed rulemaking on the issue of the appropriateness of requested single location bargaining units in representation cases. The Board is seeking to promulgate a rule or rules to limit to the extent possible the necessity to adjudicate the appropriateness of petitioned-for single facility units in each case. However, a rider attached to the 1996 and 1997 appropriations bills prohibits the Agency from expending any funds to promulgate a final rule.

Timetable:

Action	Date	FR Cite
ANPRM	08/02/94	59 FR 28501
ANPRM Comment Period End	07/29/94	
NPRM	09/28/95	60 FR 50146
NPRM Comment Period End	11/27/95	
NPRM Comment Period Extended	03/15/96	61 FR 10709
NPRM Comment Period Extended to	04/12/96	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Toner, Executive Secretary, National Labor Relations Board, 1099 14th Street NW., Suite 11600, Washington, DC 20570 Phone: 202 273-1940

RIN: 3142–AA05

[FR Doc. 97-22245 Filed 10-28-97; 8:45 am]
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October 29, 1997

Part LX

Nuclear Regulatory Commission

Semiannual Regulatory Agenda

NUCLEAR REGULATORY COMMISSION (NRC)

NUCLEAR REGULATORY COMMISSION

10 CFR Ch. I

Regulatory Agenda

AGENCY: Nuclear Regulatory Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Nuclear Regulatory Commission (NRC) is publishing its semiannual regulatory agenda in accordance with Public Law 96-354 "The Regulatory Flexibility Act" and Executive Order 12866 "Regulatory Planning and Review." The agenda is a compilation of all rules on which the NRC has recently completed action or has proposed or is considering action. This issuance updates any action occurring on rules since publication of the last semiannual agenda on April 25, 1997 (62 FR 22720).

ADDRESSES: Comments on any rule in the agenda may be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff. Comments may also be hand delivered to the One White Flint North Building, 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m., Federal workdays. Comments received on rules for which the comment period has closed will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closure dates specified in the agenda.

The agenda and any comments received on any rule listed in the agenda are available for public inspection and copying for a fee at the Nuclear Regulatory Commission's Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC 20555-0001. Single copies of the NRC agenda can be purchased from the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013-7082. Customers may call (202) 512-2249.

FOR FURTHER INFORMATION CONTACT: For further information concerning NRC rulemaking procedures or the status of any rule listed in this agenda, contact David L. Meyer, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone (301) 415-7162. Persons outside the Washington, DC, metropolitan area may call, toll-free: (800) 368-5642. For further information on the substantive content of any rule listed in the agenda, contact the individual listed under the heading "Agency Contact" for that rule.

SUPPLEMENTARY INFORMATION: The information contained in this semiannual publication is updated to reflect any action which has occurred on rules since publication of the last NRC semiannual agenda on April 25, 1997 (62 FR 22720). Within each group, the rules are ordered according to the Regulation Identifier Number (RIN).

The information in this agenda has been updated through August 15, 1997. The date for the next scheduled action under the heading "Timetable" is the date the rule is scheduled to be published in the **Federal Register**. The date is considered tentative and is not binding on the Commission or its staff. The regulatory agenda is intended to provide the public early notice and opportunity to participate in the NRC rulemaking process. However, the NRC may consider or act on any rulemaking even though it is not included in the regulatory agenda.

Rulemakings Approved by the Executive Director for Operations (EDO)

The EDO initiated a procedure for review of the regulations being prepared by staff offices that report to him to ensure that staff resources are allocated most effectively to achieve NRC's regulatory priorities. This procedure requires EDO approval before staff resources may be expended on the development of any new rulemaking. Furthermore, all existing rules must receive EDO approval prior to the commitment of additional resources.

For this edition of NRC's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entry is listed in the Table of Contents below and is denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

The NRC agenda lists rulemaking actions. Of these, one rulemaking item is considered to be priority or major as defined in section 3(f) of Executive Order 12866.

Six rules potentially will have a "significant economic impact on a substantial number of small entities" as defined in the Regulatory Flexibility Act.

Dated at Rockville, Maryland, this 14th day of August 1997.

For the Nuclear Regulatory Commission.

Alzonia W. Shepard,

Rules and Directives Branch, Division of Administrative Services, Office of Administration.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4426	Medical Uses of Isotopes; Issues and Request for Comment	3150-AF74

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4427	Codes and Standards for Nuclear Power Plants	3150-AE26

NRC

Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
4428	Shutdown and Fuel Storage Pool Operation at Nuclear Power Plants	3150-AE97
4429	Power Reactor Facilities Under a Possession Only License	3150-AF16
4430	Revision to Nuclear Power Reactor Decommissioning Financial Assurance Implementation Requirements	3150-AF41
4431	Nuclear Regulatory Commission Acquisition Regulation	3150-AF52
4432	Submittal Procedures for Documents	3150-AF61
4433	Initial Licensed Operator Examination Requirements	3150-AF62
4434	Audit Frequency for Emergency Planning and Security	3150-AF63
4435	Revision of Prototype Testing Requirements for Dials, Hands, and Pointers Containing Tritium	3150-AF76
4436	License Term for Medical Licenses	3150-AF77
4437	Electronic Freedom of Information Act, Implementation	3150-AF78
4438	Financial Protection Requirements for Permanently Shutdown Nuclear Power Reactors	3150-AF79
4439	Miscellaneous Changes Related to Part 72 and Exempt Natural or Depleted Uranium Metal Used in Storage Cask Shielding From Part 40	3150-AF80
4440	Respiratory Protection and Controls to Restrict Internal Exposure, Subpart H and Appendix A	3150-AF81
4441	Access to Secret Restricted Data	3150-AF82
4442	Revision of Fee Schedules; 100% Fee Recovery, FY 1998 (Reg Plan Seq. No. 172)	3150-AF83

References in boldface appear in the Regulatory Plan in Part II of this issue of the Federal Register.

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4443	Addition of Radon-222 and Technetium-99 Values to Table S-3 and Revisions Resulting From Consideration of Higher-Burnup Fuel	3150-AA31
4444	Fitness for Duty	3150-AF12
4445	Safeguards for Spent Nuclear Fuel or High-Level Radioactive Waste	3150-AF32
4446	Deliberate Misconduct by Unlicensed Persons Regarding Applications	3150-AF35
4447	Minor Corrections and Clarifying Changes and a Minor Policy Change	3150-AF46
4448	Changes to Nuclear Power Plant Security Requirements	3150-AF53
4449	Requirements for Shipping Packages Used to Transport Vitrified Wastes Containing Plutonium	3150-AF59
4450	Information Collection Requirements: Statutory and Technical Amendments	3150-AF69
4451	Exempt Distribution and Use of a Radioactive Drug Containing One Microcurie of Carbon 14 Urea	3150-AF70
4452	Codes and Standards; IEEE National Consensus Standard	3150-AF73

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4453	Criteria for an Extraordinary Nuclear Occurrence	3150-AB01
4454	Elimination of Inconsistencies Between NRC Regulations and EPA HLW Standards	3150-AC03
4455	Availability of Official Records	3150-AC97
4456	Comprehensive Quality Assurance in Medical Use and a Standard of Care	3150-AC42
4457	Requirements for Possession of Industrial Devices Containing Byproduct Material	3150-AD34
4458	Requirements Concerning the Accessible Air Gap for Generally Licensed Devices	3150-AD82
4459	Standardized Plant Designs, Early Review of Site Suitability Issues; Clarifying Amendments	3150-AE25
4460	Distribution of Source and Byproduct Material: Licensing and Reporting Requirements	3150-AE33
4461	Acceptability of Plant Performance for Severe Accidents; Scope of Consideration in Safety Regulations	3150-AE36
4462	Clarification of Assessment Requirements for Siting Criteria and Performance Objectives	3150-AE40
4463	Administration of Byproduct Material or Radiation to Patients Who May Be Pregnant	3150-AE44
4464	Disposal by Release Into Sanitary Sewerage	3150-AE90
4465	Steam Generator Tube Integrity for Operating Nuclear Power Plants	3150-AF04
4466	Fitness for Duty (Scope Change)	3150-AF13
4467	Domestic Licensing of Special Nuclear Material—Revision	3150-AF22
4468	Performance-Oriented Requirements for Fire Protection of Nuclear Power Facilities	3150-AF29
4469	Reporting Reliability and Availability Information for Risk-Significant Systems and Equipment	3150-AF33

NRC

Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4470	Revision to Nuclear Power Reactor Decommissioning Cost Requirements	3150-AF40
4471	Criteria and Procedures for Determining Eligibility for Access to Restricted Data or National Security Information or an Employment Clearance	3150-AF48
4472	Specific Domestic Licenses of Broad Scope for Byproduct Material	3150-AF54
4473	Self-Guarantee of Decommissioning Funding by Non-Bond Issuing Licensees	3150-AF64

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4474	Radiological Criteria for License Termination	3150-AD65
4475	Radiography and Radiation Safety Requirements for Radiographic Operations	3150-AE07
4476	Design Certification for Advanced Boiling Water Reactor (ABWR)	3150-AE87
4477	Design Certification for System 80+	3150-AF15
4478	Access to and Protection of Classified Information	3150-AF37
4479	Reporting Requirements for Unauthorized Use of Licensed Radioactive Material	3150-AF44
4480	Revision of Fee Schedules; 100 Percent Fee Recovery, FY 1997	3150-AF55
4481	Environmental Report—Materials Licensees	3150-AF65
4482	Notice to Employees; Minor Amendment	3150-AF66
4483	Conduct of Employees	3150-AF67
4484	Informal Small Entity Guidance	3150-AF68
4485	NRC Region II Telephone Number and Address Change	3150-AF71
4486	Facsimile Telephone Number and Address Change for the NRC's Office of the Secretary	3150-AF72
4487	Definition of Safety Related Structures, Systems, and Components	3150-AF75

NUCLEAR REGULATORY COMMISSION (NRC)

Prerule Stage

4426. • MEDICAL USES OF ISOTOPES; ISSUES AND REQUEST FOR COMMENT

Priority: Other Significant

Legal Authority: 42 USC 2111; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 5841

CFR Citation: 10 CFR 035

Legal Deadline: None

Abstract: This advance notice of proposed rulemaking (ANPRM) was published in the Federal Register requesting comments on a program that would amend the Commission's regulations regarding medical use of byproduct material. The decision to revise these regulations resulted from the NRC Strategic Assessment and Rebaselining Initiative (SA), a process involving identification of the direction-setting issues and associated options for future NRC activities. Specifically, the SA effort included medical use regulation. The current effort to develop a program for revising these regulations would be enhanced by comments on the issues identified by, but not limited to, the questions presented in this ANPRM.

Timetable:

Action	Date	FR Cite
ANPRM	08/06/97	62 FR 42219
ANPRM Comment Period End	03/01/98	
NPRM	07/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald A. Cool, Nuclear Regulatory Commission, Office of Nuclear Material Safety and, Safeguards, Washington, DC 20555-0001
Phone: 301 415-7197

RIN: 3150–AF74

NUCLEAR REGULATORY COMMISSION (NRC)

Proposed Rule Stage

4427. CODES AND STANDARDS FOR NUCLEAR POWER PLANTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations that mandates use of section III of the ASME Boiler and Pressure Vessel Code (ASME BPV Code) for construction of Class 1, 2, and 3 components in nuclear power plants, and use of section XI of the ASME BPV Code for inservice inspection (ISI) and inservice testing (IST) of those components. Section 50.55a requires that each license update its ISI and IST programs every 120 months to the latest edition of the ASME BPV Code endorsed by the NRC in that section of the regulations. The rulemaking would also include expedited implementation of section XI appendix VIII, Performance Demonstration for Ultrasonic Examination Systems. In addition, the proposed rule incorporate by reference the ASME Operation and Maintenance (OM) Code to replace the section XI requirements for IST. The latter action is made necessary by the ASME Code changes that transferred all responsibility for IST from section XI to the ASME Operation and Maintenance Committee.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Cherny, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555-0001
Phone: 301 415-6786

Wan Cheng (Winston) Liu, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 304 415-5887

RIN: 3150–AE26

4428. SHUTDOWN AND FUEL STORAGE POOL OPERATION AT NUCLEAR POWER PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations by adding regulatory requirements for shutdown and fuel storage pool operations at commercial nuclear power plants. Fuel storage pool operation was recently incorporated into the proposed rule. Due to the nature of the comments received on the original proposed rule (October 19, 1994; 59 FR 52707), the proposed rule, the regulatory analysis, and the regulatory guide were rewritten. The approach for the rule was revised to be more performance based (for shutdown operations), to reflect risk-informed decisions, and to address public comments for shutdown and spent fuel storage pool operations. The resulting proposed rule would provide licensees flexibility while establishing operational limits to protect public health and safety. The staff has briefed the Office of Nuclear Reactor Regulation, the Office of the General Counsel, the Office of Nuclear Regulatory Research, the Office for Analysis and Evaluation of Operational Data, and the Committee to Review Generic Requirements on the revised rulemaking approach.

Timetable:

Action	Date	FR Cite
NPRM	10/19/94	59 FR 52707
NPRM Comment Period End	02/03/95	
Revised NPRM	10/00/97	
Final Action	08/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tim Collins, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-2897

RIN: 3150–AE97

4429. POWER REACTOR FACILITIES UNDER A POSSESSION ONLY LICENSE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations regarding possession only licensee applications for case specific exemptions that no longer have relevance. Currently, when a power reactor licensee obtains a possession only license amendment (POL), the licensee must apply for case specific exemptions from provisions of 10 CFR that no longer have relevance. This is a time consuming process for both the licensee and the NRC and can result in a non-coherent and non-uniform process. To remedy this situation, proposed rulemaking is currently being considered. An information base is being developed by Brookhaven National Laboratory on which of the applicable parts of the 10 CFR apply to power reactors which have a POL. There are two categories of applicability, parts of the 10 CFR which no longer apply, and parts which partially apply. Once this information base is complete it will be incorporated through rulemaking. This rule will also address a petition for rulemaking from North Carolina Public Utility Commission (PRM-50-57).

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carl Feldman, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555-0001
Phone: 301 415-6194

RIN: 3150–AF16

4430. REVISION TO NUCLEAR POWER REACTOR DECOMMISSIONING FINANCIAL ASSURANCE IMPLEMENTATION REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The proposed rulemaking would change the Commission's regulations to modify the financial assurance requirements for the decommissioning of nuclear power plants. The impact of deregulation of the power generating industry has created uncertainty with respect to the availability of decommissioning funds and would likely require a modification of the financial mechanism required by the NRC to provide decommissioning funds when needed. The amendment would also require power reactor licensees to report periodically on the status of their decommissioning trust funds during an extended safe storage period.

Timetable:

Action	Date	FR Cite
ANPRM	04/08/96	61 FR 15427
ANPRM Comment Period End	09/24/96	
NPRM	09/10/97	62 FR 47588
NPRM Comment Period End	11/24/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Brian J. Richter, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555-0001
Phone: 301 415-6221

RIN: 3150–AF41

4431. NUCLEAR REGULATORY COMMISSION ACQUISITION REGULATION

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 41 USC 251 note; 42 USC 251 note; 40 USC 1401 note

CFR Citation: 48 CFR 020

Legal Deadline: None

Abstract: The proposed rule would amend the Nuclear Regulatory Commission Acquisition Regulation (NRCAR) for the procurement of goods and services within the NRC to satisfy the particular needs of the agency. The proposed rule would incorporate streamlining and simplification methods identified under the NRC's Procurement Reinvention Laboratory (PRL) and legislated under the Federal Acquisition Streamlining Act of 1994 (FASA), the Federal Acquisition Reform Act of 1996 (FARA), and the Information Technology Management Reform Act (ITMRA) of 1996. The intent of the FASA, FARA, and ITMRA is to streamline procurement processes within the Federal Government. Implementing instructions are needed for some of these processes. In addition, the NRC's PRL will require the NRC to streamline and simplify procedures in the NRCAR wherever possible.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	
Final Action	06/00/98	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Mary Lynn Scott, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555-0001
Phone: 301 415-6179

RIN: 3150–AF52

4432. SUBMITTAL PROCEDURES FOR DOCUMENTS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 019; 10 CFR 020; 10 CFR 030; 10 CFR 031; 10 CFR 032; 10 CFR 034; 10 CFR 035; 10 CFR 036; 10 CFR 039; 10 CFR 040; 10 CFR 050; 10 CFR 051; 10 CFR 052; 10 CFR 055; 10 CFR 060; ...

Legal Deadline: None

Abstract: The proposed rule would ensure that applications and reports captured at a central receipt point (the Document Control Desk (DCD)), are included in the Nuclear Documents System (NUDOCS), and are distributed on a more timely basis to the appropriate NRC staff, public document rooms, and official file centers. Part 50 requires licensee and applicant submittals to be addressed to a central receipt point, and copies to be sent to the Regional Administrator and Resident Inspector, when appropriate. Extending these requirements to submittals made under other parts in 10 CFR Chapter I, would simplify and, to a great extent, standardize submittal procedures for NRC licensees and improve the effectiveness of NRC's document control and distribution activities. The proposed rule would also codify provisions for the electronic submittal of documents, facilitate agency compliance with the Paperwork Reduction Act of 1995 and OMB Circular A-30 (Revised February 9, 1996).

Improving the communications process and disseminating and storing complete and accurate records is mutually beneficial to the NRC, licensees, and members of the public. The proposed revisions would require some NRC licensees and applicants to revise the mailing address for applications, reports, and other written communications transmitted to the NRC. However, because the rule is expected to simplify submittal procedures, licensees and applicants should experience an overall reduction in administrative burden. In some cases, the proposed rule would reduce the number of copies that are required to be sent to the NRC under the current regulations, resulting in a reduction in photocopying and postage costs. The rule would benefit NRC and members of the public because better control of the documents entering the NRC would ensure that they are distributed to NRC staff, entered into NUDOCS, provided to the NRC Public Document Room and local public document rooms, and dispatched to the appropriate official file stations for retention and retrieval.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final Action	06/00/98	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Michael D. Collins, Nuclear Regulatory Commission, Office of Information Resources Management, Washington, DC 20555
Phone: 301 415-2488

RIN: 3150–AF61

4433. INITIAL LICENSED OPERATOR EXAMINATION REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 055

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to require that licensees prepare, conduct, and grade the licensing examinations that are given to reactor operators and Senior reactor operators. Although the regulations do not specify who will be responsible for these examinations, the current practice has been for the NRC or its contractors to prepare and conduct these examinations. The NRC conducted a pilot program in which it has had licensees prepare these examinations. The results of the pilot program have indicated that licensees can prepare and administer these examinations satisfactorily.

Timetable:

Action	Date	FR Cite
NPRM	08/07/97	62 FR 42426
NPRM Comment Period End	10/21/97	
Final Action	06/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harry Tovmassian, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555-0001
Phone: 301 415-6231

RIN: 3150–AF62

4434. AUDIT FREQUENCY FOR EMERGENCY PLANNING AND SECURITY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050; 10 CFR 073

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations by changing the frequency with which licensees conduct independent reviews, and audits of their safeguards contingency plans, security programs and emergency preparedness programs. The regulations would be revised to require that licensees conduct program reviews and audits at least every 24 months. The proposed rule would also clarify that the necessity for more frequent, focused audits be based on an assessment by the licensee against performance indicators or a significant change in personnel, procedures, equipment, or facilities. The proposed changes would promote performance-based, rather than compliance-based review and audit activities. Also, the proposed changes would clarify that programs must be reviewed and audited following a significant change in personnel, procedures, or equipment as soon as reasonably practicable, but no later than 12 months after the changes. The purpose of these focused audits would be to ensure that changes have not adversely affected the operation of the particular program element or function in question. This proposed rule also addresses PRM-50-59 and PRM-50-60 submitted by Virginia Electric and Power Company.

Timetable:

Action	Date	FR Cite
NPRM	07/31/97	62 FR 40978
NPRM Comment Period End	10/14/97	
Final Action	06/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sandra D. Frattali, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555-0001
Phone: 301 415-6281

RIN: 3150–AF63

4435. • REVISION OF PROTOTYPE TESTING REQUIREMENTS FOR DIALS, HANDS, AND POINTERS CONTAINING TRITIUM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 032

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to permit timepieces containing gaseous tritium light sources to be treated on the same regulatory basis as those containing tritium paint with regard to their distribution. The proposed rule would remove from the regulations the specific requirements for prototype testing of these products containing tritium, while the specifics for prototype testing would be provided in a separate document. The proposed rule would simplify the licensing process and allow the use of a new technology in self-illuminated timepieces. This action is being taken in response to a petition for rulemaking (PRM-32-4) submitted by mb-microtec, Inc.

Timetable:

Action	Date	FR Cite
NPRM	09/19/97	62 FR 49173
NPRM Comment Period End	12/03/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Thomas, Nuclear Regulatory Commission, Office

of Nuclear Regulatory Research, Washington, DC 20555-0001
Phone: 301 415-6230

RIN: 3150–AF76

4436. • LICENSE TERM FOR MEDICAL LICENSES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2111; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 5841

CFR Citation: 10 CFR 035

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations regarding license term limits for medical use licenses. Medical use license terms would be set by policy up to ten years, the same as license terms for other materials licenses. The NRC would issue some licenses for shorter terms if warranted by the circumstances of license applicants. The revision would reduce the administrative burden of license renewals for both NRC and licensees, and would support NRC's goal of streamlining the licensing process.

Timetable:

Action	Date	FR Cite
NPRM	07/31/97	62 FR 40975
NPRM Comment Period End	10/14/97	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William B. McCarthy, Nuclear Regulatory Commission, Office of Nuclear Material Safety and, Safeguards, Washington, DC 20555-0001
Phone: 301 415-7894

RIN: 3150–AF77

4437. • ELECTRONIC FREEDOM OF INFORMATION ACT, IMPLEMENTATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 009

Legal Deadline: Other, Statutory, November 1, 1997.
Electronic Freedom of Information Act of 1996

Abstract: The proposed rule would implement the Electronic Freedom of Information Act amendments of 1996 by conforming the Commission's regulations to the requirements of the new statute. The proposed rule would clarify that FOIA applies equally to records maintained in electronic format, broaden public access to government information by placing more records online, and expand the role of the agency public reading room. Also, the proposed rule would implement statutory provisions for establishing multi-track processing of requests, permitting expedited processing of FOIA requests for compelling reasons, extending the former 10-day requirement for processing requests to 20 days, and for establishing the conditions and procedures for negotiating with requesters to tailor requests to improve responsiveness.

Timetable:

Action	Date	FR Cite
NPRM	09/05/97	62 FR 46822
NPRM Comment Period End	10/06/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Russell A. Powell, Nuclear Regulatory Commission, Office of Information Resources Management, Washington, DC 20555-0001
Phone: 301 415-7169

RIN: 3150–AF78

4438. • FINANCIAL PROTECTION REQUIREMENTS FOR PERMANENTLY SHUTDOWN NUCLEAR POWER REACTORS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050; 10 CFR 140

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to allow nuclear reactor licensees to reduce onsite and offsite liability coverage during permanent shutdown of the reactors if they meet specified reactor configurations. This proposed amendment would reduce the level of insurance coverage commensurate with the risk reduction after the appropriate spent fuel cooling period following permanent shutdown of the reactor.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Mencinsky, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555-0001
Phone: 301 415-6206

RIN: 3150–AF79

4439. • MISCELLANEOUS CHANGES RELATED TO PART 72 AND EXEMPT NATURAL OR DEPLETED URANIUM METAL USED IN STORAGE CASK SHIELDING FROM PART 40

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 040; 10 CFR 072

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to correct a number of inconsistencies and clarify the applicability of several sections of part 72. Also, the proposed rule would exempt natural or depleted uranium metal used in storage cask shielding from the part 40 general license. Currently, this use of natural or depleted uranium would be submitted to the general license provisions under part 40 for possession of uranium. The NRC currently exempts the use of these materials in shipping containers, subject to certain conditions. This proposed rule would eliminate the need for requests for exemptions from the general license requirement for storage cask shielding.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark L. Au, Nuclear Regulatory Commission, Office of Nucler Regulatory Research, Washington, DC 20555-0001
Phone: 301 415-6181

RIN: 3150–AF80

4440. • RESPIRATORY PROTECTION AND CONTROLS TO RESTRICT INTERNAL EXPOSURE, SUBPART H AND APPENDIX A

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2073; 42 USC 2093; 42 USC 2095; 42 USC 2111; 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 2232; 42 USC 2236

CFR Citation: 10 CFR 20

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to incorporate into part 20 an industry standard developed by the American National Standards Institute (ANSI) standard Z88.2-1992, "American National Standard Practice for Respiratory Protection." The proposed changes would eliminate the unnecessary and detrimental use of respirators by applying ALARA principles to the sum of the Deep Dose Equivalent and the Committed Effective Dose Equivalent, or the Total Effective Dose Equivalent. The use of process or engineering controls, decontamination of work areas, access control, and other procedures are stressed instead of the automatic use of respiratory protection devices, which tend to increase external dose and stress. The proposed rulemaking would also allow the use of new respiratory protection devices that have been proven effective, discourage the use of other devices that are now considered less effective, adopt new Assigned Protection Factors based on ANSI determinations and revise respiratory protection procedures such as fit testing to reflect current industry good practice.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
Final Action	07/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan K. Roecklein, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555-0001
Phone: 301 415-6223

RIN: 3150–AF81

4441. • ACCESS TO SECRET RESTRICTED DATA

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 220; 42 USC 2165; 42 USC 2273; 42 USC 5841; EO 12829; EO 12958; EO 10865

CFR Citation: 10 CFR 025; 10 CFR 095

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations conforming NRC policy for access to Secret Restricted Data to new national policies for access to this type of information. This change was originally proposed, along with numerous other changes to parts 25 and 95, in the proposed rulemaking, "Access to and Protection of Classified Information" (August 5, 1996; 61 FR 40555). While most of the changes were generally accepted by commenters, DOE's comments concerning the level of background investigation required for access to Secret Restricted Data were significant and posed a dilemma for NRC. Because of DOE's statutory responsibilities for the protection of Restricted Data, NRC did not want to ignore their comments without further evaluation. The NRC could not simply adopt them because, if adopted the comments would subject licensees and/or certificate holders to additional expenses. The DOE position also appears to exceed the requirements of the current national policy (the NISPOM) for the protection of such information. It was decided that this issue could not be resolved without giving affected parties additional oppotunity to comment. Therefore, a proposed rule resubmitting sections 21.15 and 95.35 of the original August 5, 1996, proposed rule for public comment is being developed.

Timetable:

Action	Date	FR Cite
NPRM	01/00/98	
Final Action	06/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Duane G. Kidd, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555-0001
Phone: 301 415-7403

RIN: 3150–AF82

4442. • REVISION OF FEE SCHEDULES; 100% FEE RECOVERY, FY 1998

Regulatory Plan: This entry is Seq. No. 172 in Part II of this issue of the Federal Register.

RIN: 3150–AF83

4443. ADDITION OF RADON-222 AND TECHNETIUM-99 VALUES TO TABLE S-3 AND REVISIONS RESULTING FROM CONSIDERATION OF HIGHER-BURNUP FUEL

Priority: Info./Admin./Other

Legal Authority: 42 USC 2011; 42 USC 2201; 42 USC 4321; 42 USC 5841; 42 USC 5842

CFR Citation: 10 CFR 51

Legal Deadline: None

Abstract: The direct final rule would amend the Commission's regulations by adding estimates of releases of Radon-222 and Technetium-99 from activities in the nuclear fuel cycle to its Table of Uranium Fuel Cycle Environmental Data (Table S-3) in 10 CFR part 51. This amendment is necessary so that Tables S-3 and S-4 will conform to the final rule of 10 CFR part 51, "Environmental Review for Renewal of Nuclear Power Plant Operating Licenses," (December 18, 1996; 61 FR 66537), which will assure that Table S-3, which is used to address environmental impacts in light-water-cooled nuclear power reactor (LWR) licensing and relicensing proceedings, is sufficiently comprehensive to obviate the need for case-by-case consideration of either technetium and radon emissions or environmental effects of higher enrichment fuel and higher fuel burnup in licensing actions. This amendment will also clarify the meaning and intent of the term "zircaloy" as used in section 51.52(a)(2) pertaining to cladding. The term "zircaloy" has been changed to "zirconium alloy." Although the changes are administrative in nature, a direct final rule will be used to allow the opportunity for public comment. The direct final rule will be placed on the FedWorld Bulletin Board at the time it is published in the Federal Register to enhance the ability for public input.

Timetable:

Action	Date	FR Cite
NPRM	03/04/81	46 FR 15154
NPRM Comment Period End	05/04/81	
Final Action	12/00/97	
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stanley Turel, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555-0001
Phone: 301 415-6234

RIN: 3150–AA31

4444. FITNESS FOR DUTY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 26

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's fitness-for-duty regulations. This proposed rule would also address the petition for rulemaking submitted by Virginia Electric and Power Company (VEPCO) (PRM-26-1), and address the Regulatory Review Group items on audit frequency and annual submittal of data. VEPCO requested that the Commission amend its fitness-for-duty regulations to change the frequency that licensees are required to audit their fitness-for-duty programs from annually to biennially. The Commission and the EDO approved the staff proposals in SECY-92-308, but asked that the staff resubmit the proposed rule to address a backfit analysis. The staff proposals were submitted to the Commission in SECY-95-262 in October 1995, and were published in the Federal Register on May 9, 1996 (61 FR 21105). Thirty-seven individuals provided approximately 1,000 comments. The staff has analyzed the comments and revised the proposed rule appropriately. The staff plans to meet with the Committee to Review Generic Requirements before submitting the rulemaking package to the EDO in September 1997.

Timetable:

Action	Date	FR Cite
NPRM	05/09/96	61 FR 21105
NPRM Comment Period End	08/07/96	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Loren Bush, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-2944

RIN: 3150–AF12

4445. SAFEGUARDS FOR SPENT NUCLEAR FUEL OR HIGH-LEVEL RADIOACTIVE WASTE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 060; 10 CFR 072; 10 CFR 073; 10 CFR 075

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to clarify safeguards requirements for spent nuclear fuel or high-level radioactive waste stored at independent spent fuel storage installations, power reactors that have permanently ceased reactor operations, monitored retrievable storage installations, and geologic repository operations areas. This rule would allow general licensees the option of implementing the proposed safeguards requirements for spent nuclear fuel stored in approved casks at operating power reactor sites. This action is necessary to reduce the regulatory uncertainty regarding the safeguards requirements for the storage of spent nuclear fuel and high-level radioactive waste without reducing the level of protection for public health and safety.

Because the proposed requirements would clarify and codify the existing regulatory practice, there would not be any additional burden placed on current licensees. However, the NRC would derive a cost savings through a more efficient licensing process. Licensees may also derive a cost savings, e.g., if their current license conditions require guard patrols every 4 hours; under the proposed rule these patrols would be required every 8 hours. The industry would benefit from a reduction of current regulatory uncertainties. The public would benefit from a greater level of assurance that appropriate safeguards requirements are being imposed on spent nuclear fuel and HLW storage licensees through

public review and comment on the proposed rule. The NRC would benefit as a result of a more efficient licensing process. The DOE would benefit from a clear statement of the safeguards measures the Commission plans to require for the geologic repository.

Timetable:

Action	Date	FR Cite
NPRM	08/15/95	60 FR 42079
NPRM Comment Period End	11/13/95	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Telford, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555-0001
Phone: 301 415-6229

RIN: 3150–AF32

4446. DELIBERATE MISCONDUCT BY UNLICENSED PERSONS REGARDING APPLICATIONS

Priority: Info./Admin./Other

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 030; 10 CFR 040; 10 CFR 050; 10 CFR 060; 10 CFR 061; 10 CFR 070; 10 CFR 072; 10 CFR 150

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to put applicants for NRC licenses and other unlicensed persons doing work for applicants on notice that they may be subject to enforcement action under the Commission's existing regulations regarding deliberate misconduct. The current regulations require that all information submitted to the Commission be complete and accurate. This proposed rulemaking would correct an apparent oversight from when the Deliberate Misconduct rule was adopted in 1991 and make that rule apply to applicants and to their employees, contractors, and subcontractors, including consultants.

Timetable:

Action	Date	FR Cite
NPRM	10/04/96	61 FR 51835
NPRM Comment Period End	12/18/96	
Final Action	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Tony DiPalo, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555-0001
Phone: 301 415-6191

RIN: 3150–AF35

4447. MINOR CORRECTIONS AND CLARIFYING CHANGES AND A MINOR POLICY CHANGE

Priority: Info./Admin./Other

Legal Authority: 42 USC 2201; 42 USC 2231; 42 USC 2241; 42 USC 2282

CFR Citation: 10 CFR 020; 10 CFR 032; 10 CFR 035; 10 CFR 036; 10 CFR 039

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to incorporate minor corrections and clarifying changes to 10 CFR part 20 and also make conforming changes to 10 CFR parts 32, 35, 36, and 39. In addition, a minor policy change is proposed that would revise the monitoring criterion for minors and for declared pregnant women.

Timetable:

Action	Date	FR Cite
NPRM	10/07/96	61 FR 52388
NPRM Comment Period End	12/23/96	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jayne M. McCausland, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555-0001
Phone: 301 415-6219

RIN: 3150–AF46

4448. CHANGES TO NUCLEAR POWER PLANT SECURITY REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 073

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations by updating the requirements for the physical security of nuclear power reactors. The proposed rule would update the regulations for security at operating nuclear power plants based upon staff review experience gained in security program implementation, input from the public and industry, and technical changes in security system technology and equipment. Most of the proposed changes involve reduction or elimination of requirements that are of marginal significance relative to their contribution to the overall effectiveness of security programs.

Timetable:

Action	Date	FR Cite
NPRM	02/20/97	62 FR 7721
NPRM Comment Period End	05/08/97	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sandra Frattali, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555-0001
Phone: 301 415-6261

RIN: 3150–AF53

4449. REQUIREMENTS FOR SHIPPING PACKAGES USED TO TRANSPORT VITRIFIED WASTES CONTAINING PLUTONIUM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 071

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations by exempting canisters containing vitrified waste containing plutonium from the package requirement for double containment. This amendment is being proposed in response to a petition for rulemaking (PRM-71-11) submitted by the Department of Energy (DOE). This proposed rule would reduce the regulatory requirements for certain DOE

plutonium shipments, and therefore cost less, while having no significant reduction in health and safety. The primary purpose for double containment is to ensure that any respirable plutonium will not leak into the atmosphere. The NRC staff believes that vitrified waste containing plutonium is essentially nonrespirable. Therefore, the packaging requirement for double containment is unnecessary. This proposed rule would also make minor corrections to the usage of units to be consistent with existing NRC policy.

Timetable:

Action	Date	FR Cite
NPRM	05/08/97	62 FR 25146
NPRM Comment Period End	07/22/97	
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Haisfield, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555-0001
Phone: 301 415-6196

RIN: 3150–AF59

4450. • INFORMATION COLLECTION REQUIREMENTS: STATUTORY AND TECHNICAL AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841; 42 USC 3501

CFR Citation: 10 CFR ch 1

Legal Deadline: None

Abstract: The final rule would amend the Commission's regulations implementing the Paperwork Reduction Act to make changes required by statute and to make technical correcting amendments.

Timetable:

Action	Date	FR Cite
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Pamela Urban, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555-0001
Phone: 301 415-1619

RIN: 3150–AF69

4451. • EXEMPT DISTRIBUTION AND USE OF A RADIOACTIVE DRUG CONTAINING ONE MICROCURIE OF CARBON 14 UREA

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 4332; 42 USC 4334; 42 USC 4335; 42 USC 5841; 42 USC 5842

CFR Citation: 10 CFR 030; 10 CFR 032

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to provide for the distribution and use of a radioactive drug containing one microcurie of Carbon 14 Urea. The proposed rule would also respond to a petition for rulemaking received from Tri-Med Specialties, Inc. (PRM-35-12).

Timetable:

Action	Date	FR Cite
NPRM	06/16/97	62 FR 32552
NPRM Comment Period End	07/16/97	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Satish K. Aggarwal, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555-0001
Phone: 301 415-6005

RIN: 3150–AF73

4452. • CODES AND STANDARDS; IEEE NATIONAL CONSENSUS STANDARD

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The direct final rule will amend the regulations to incorporate by reference a national consensus standard for power, instrumentation, and control portions of safety systems in nuclear power plants issued by the Institute of Electrical and Electronics Engineers (IEEE std. 603-1991). This action is necessary to endorse the latest version of this national consensus standard in NRC's regulations and replace a currently endorsed standard that has been withdrawn by IEEE.

Timetable:

Action	Date	FR Cite
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Samuel Z. Jones, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555-0001
Phone: 301 415-6198

RIN: 3150–AF70

NUCLEAR REGULATORY COMMISSION (NRC) — Long-Term Actions

4453. CRITERIA FOR AN EXTRAORDINARY NUCLEAR OCCURRENCE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 140

Timetable:

Action	Date	FR Cite
NPRM	04/09/85	50 FR 13978
NPRM Comment Period End	09/06/85	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harry Tovmassian
Phone: 301 415-6231

RIN: 3150–AB01

4454. ELIMINATION OF INCONSISTENCIES BETWEEN NRC REGULATIONS AND EPA HLW STANDARDS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 60

Timetable:

Action	Date	FR Cite
NPRM	08/19/86	51 FR 22288
NPRM Comment Period End	08/18/86	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sher Bahadur
Phone: 301 415-6237

RIN: 3150–AC03

4455. AVAILABILITY OF OFFICIAL RECORDS

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 2

Timetable:

Action	Date	FR Cite
NPRM	12/23/92	57 FR 61013
NPRM Comment Period End	03/08/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Catherine M. Holzle
Phone: 301 415-1560

RIN: 3150–AC07

4456. COMPREHENSIVE QUALITY ASSURANCE IN MEDICAL USE AND A STANDARD OF CARE

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 35

Timetable:

Action	Date	FR Cite
ANPRM	10/02/87	52 FR 36949
ANPRM Comment Period End	12/31/87	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anthony Tse
Phone: 301 415-6233

RIN: 3150–AC42

4457. REQUIREMENTS FOR POSSESSION OF INDUSTRIAL DEVICES CONTAINING BYPRODUCT MATERIAL

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 031; 10 CFR 032

Timetable:

Action	Date	FR Cite
NPRM	12/27/91	56 FR 67011
NPRM Comment Period End	03/12/92	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Joseph J. Mate
Phone: 301 415-6202

RIN: 3150–AD34

4458. REQUIREMENTS CONCERNING THE ACCESSIBLE AIR GAP FOR GENERALLY LICENSED DEVICES

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 031; 10 CFR 032

Timetable:

Action	Date	FR Cite
NPRM	11/27/92	57 FR 56287
NPRM Comment Period End	03/29/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen McGuire
Phone: 301 415-6204

RIN: 3150–AD82

4459. STANDARDIZED PLANT DESIGNS, EARLY REVIEW OF SITE SUITABILITY ISSUES; CLARIFYING AMENDMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 050; 10 CFR 052; 10 CFR 140

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Geary S. Mizuno
Phone: 301 415-1639

RIN: 3150–AE25

4460. DISTRIBUTION OF SOURCE AND BYPRODUCT MATERIAL: LICENSING AND REPORTING REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 032; 10 CFR 040

Timetable:

Action	Date	FR Cite
ANPRM	10/26/92	57 FR 48749
ANPRM Comment Period End	01/26/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Catherine R. Mattsen
Phone: 301 415-6264

RIN: 3150–AE33

4461. ACCEPTABILITY OF PLANT PERFORMANCE FOR SEVERE ACCIDENTS; SCOPE OF CONSIDERATION IN SAFETY REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 050

Timetable:

Action	Date	FR Cite
ANPRM	09/28/92	57 FR 44513
ANPRM Comment Period End	12/28/92	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leonard Soffer
Phone: 301 415-6574

RIN: 3150–AE38

4462. CLARIFICATION OF ASSESSMENT REQUIREMENTS FOR SITING CRITERIA AND PERFORMANCE OBJECTIVES

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 060

Timetable:

Action	Date	FR Cite
NPRM	07/09/93	58 FR 36902
NPRM Comment Period End	10/07/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sandra Wastler
Phone: 301 415-6724

RIN: 3150–AE40

4463. ADMINISTRATION OF BYPRODUCT MATERIAL OR RADIATION TO PATIENTS WHO MAY BE PREGNANT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 035

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Samuel Z. Jones
Phone: 301 415-6198

RIN: 3150–AE44

4464. DISPOSAL BY RELEASE INTO SANITARY SEWERAGE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 020

Timetable:

Action	Date	FR Cite
ANPRM	02/25/94	59 FR 9146
ANPRM Comment Period End	05/26/94	
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Powers
Phone: 301 415-6212

RIN: 3150–AE90

4465. STEAM GENERATOR TUBE INTEGRITY FOR OPERATING NUCLEAR POWER PLANTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 50

Timetable:

Action	Date	FR Cite
ANPRM	09/19/94	59 FR 47817
ANPRM Comment Period End	12/05/94	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tim Reed
Phone: 301 415-1462

RIN: 3150–AF04

4466. FITNESS FOR DUTY (SCOPE CHANGE)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 26

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Hendren
Phone: 301.415-3209

RIN: 3150–AF13

4467. DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL—REVISION

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 070

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles Nilsen
Phone: 301 415-6209

RIN: 3150–AF22

4468. PERFORMANCE-ORIENTED REQUIREMENTS FOR FIRE PROTECTION OF NUCLEAR POWER FACILITIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 050

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Moni Dey
Phone: 301 415-6443

RIN: 3150–AF29

4469. REPORTING RELIABILITY AND AVAILABILITY INFORMATION FOR RISK-SIGNIFICANT SYSTEMS AND EQUIPMENT

Priority: Other Significant

CFR Citation: 10 CFR 050

Timetable:

Action	Date	FR Cite
NPRM	02/12/96	61 FR 5318
NPRM Comment Period End	06/11/96	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis Allison
Phone: 301 415-6835

RIN: 3150–AF33

4470. REVISION TO NUCLEAR POWER REACTOR DECOMMISSIONING COST REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 050

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Brian J. Richter
Phone: 301 415-6221

RIN: 3150–AF40

4471. CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO RESTRICTED DATA OR NATIONAL SECURITY INFORMATION OR AN EMPLOYMENT CLEARANCE

Priority: Info./Admin./Other

CFR Citation: 10 CFR 010

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James J. Dunleavy
Phone: 301 415-7403

RIN: 3150–AF48

4472. SPECIFIC DOMESTIC LICENSES OF BROAD SCOPE FOR BYPRODUCT MATERIAL

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 033

Timetable:

Action	Date	FR Cite
ANPRM	11/14/96	61 FR 58346
ANPRM Comment Period End	02/12/97	
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Torre Taylor
Phone: 301 415-7900

RIN: 3150–AF54

4473. SELF-GUARANTEE OF DECOMMISSIONING FUNDING BY NON-BOND ISSUING LICENSEES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 030; 10 CFR 040; 10 CFR 050; 10 CFR 070; 10 CFR 072

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Clark Prichard
Phone: 301 415-6203

RIN: 3150–AF84

NUCLEAR REGULATORY COMMISSION (NRC) Completed Actions

4474. RADIOLOGICAL CRITERIA FOR LICENSE TERMINATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 020; 10 CFR 030; 10 CFR 040; 10 CFR 050; 10 CFR 051; 10 CFR 070; 10 CFR 072

Legal Deadline: None

Abstract: The final rule amended the Commission's regulations to codify the basic principles and radiological criteria that would allow decommissioned lands and structures to be released for unrestricted public use.

Timetable:

Action	Date	FR Cite
Final Action	07/21/97	62 FR 39058
Final Action Effective	08/20/97	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: Frank Cardile, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555-0001
Phone: 301 415-6185

RIN: 3150–AD65

4475. RADIOGRAPHY AND RADIATION SAFETY REQUIREMENTS FOR RADIOGRAPHIC OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 034

Legal Deadline: None

Abstract: The final rule amended the Commission's regulations on licenses for radiography and radiation safety requirements for radiographic operations. The final rule revised 10 CFR part 34 to clarify the requirements in section 34.27 and conform part 34 with the approach developed by the Conference of Radiation Control Program Directors, Inc. (part E of the "Suggested State Regulations for Control of Radiation"), and the State of Texas in part 31 of the Texas Regulations for Control of Radiation.

Timetable:

Action	Date	FR Cite
Final Action	05/28/97	62 FR 28948
Final Action Effective	06/27/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Donald Nellis, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555-0001
Phone: 301 415-6257

RIN: 3150–AE07

4476. DESIGN CERTIFICATION FOR ADVANCED BOILING WATER REACTOR (ABWR)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 052

Legal Deadline: None

Abstract: The final rule amended the Commission's regulations by certifying the U.S. Advanced Boiling Water Reactor (ABWR) standard design in accordance with the requirements of part 52. An applicant for a combined license that references the certified design is now assured of receiving an approval for the portion of the plant that was approved in the certification rulemaking. This amendment references the design control document (DCD) and sets forth the process for changing information in the DCD.

Timetable:

Action	Date	FR Cite
Final Action	05/12/97	62 FR 25800
Final Action Effective	06/11/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jerry N. Wilson, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-3145

RIN: 3150–AE87

4477. DESIGN CERTIFICATION FOR SYSTEM 80+

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 052

Legal Deadline: None

Abstract: The final rule amended the Commission's regulations by certifying the System 80+ standard design in accordance with the requirements of part 52. An applicant for a combined license that references the certified design is now assured of receiving an approval for the portion of the design that was approved in the certification rulemaking. This amendment references the design control document (DCD) and sets forth the process for changing information in the DCD.

Timetable:

Action	Date	FR Cite
Final Action	05/21/97	62 FR 27840
Final Action Effective	06/20/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jerry N. Wilson, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-3145

RIN: 3150–AF15

4478. ACCESS TO AND PROTECTION OF CLASSIFIED INFORMATION

Priority: Info./Admin./Other

Legal Authority: 42 USC 2165; 42 USC 2201; 42 USC 2273; 42 USC 5841; EO 12829; EO 12958; EO 10865

CFR Citation: 10 CFR 025; 10 CFR 050; 10 CFR 054; 10 CFR 095

Legal Deadline: None

Abstract: The final rule amended the Commission's regulations conforming NRC policy for access to and protection of National Security Information and Restricted Data to new national policies for the protection of this type of information.

Timetable:

Action	Date	FR Cite
Final Action	04/11/97	62 FR 17683
Final Action Effective	05/12/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Duane G. Kidd, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555-0001
Phone: 301 415-7403

RIN: 3150–AF37

4479. REPORTING REQUIREMENTS FOR UNAUTHORIZED USE OF LICENSED RADIOACTIVE MATERIAL

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 020

Legal Deadline: None

Abstract: The proposed rule would add a new requirement for licensees to notify the NRC Operations Center of any diversion of licensed radioactive material from its intended or authorized use. The majority of commenters of this proposed rule stated that the costs of implementing the proposed rule would outweigh the benefits that might result from the rule. After reviewing these comments, the Commission has reconsidered the need for this proposed rule and is withdrawing it.

Timetable:

Action	Date	FR Cite
Withdrawn	08/11/97	62 FR 42948

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Thomas, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555-0001
Phone: 301 415-6230

RIN: 3150–AF44

4480. REVISION OF FEE SCHEDULES; 100 PERCENT FEE RECOVERY, FY 1997

Priority: Economically Significant. Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 170; 10 CFR 171

Legal Deadline: Other, Statutory, September 30, 1997.
Omnibus Budget Reconciliation Act of 1990

Abstract: The final rule amended the licensing, inspection and annual fees charged to NRC licensees and applicants for an NRC license. The Omnibus Budget Reconciliation Act of 1990 requires that the NRC recover approximately 100 percent of its budget authority, less the amount appropriated from the Nuclear Waste Fund, for fiscal years 1991 through 1998. The dollar amount to be recovered for FY 1997 is $462.3 million. Because this action is mandated by statute and the fees must be assessed through rulemaking, the NRC did not consider alternatives to this action.

Timetable:

Action	Date	FR Cite
Final Action	05/29/97	62 FR 29194
Final Action Effective	07/28/97	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: C. James Holloway, Jr., Nuclear Regulatory Commission, Office of the Controller, Washington, DC 20555-0001
Phone: 301 415-6213

RIN: 3150–AF55

4481. ENVIRONMENTAL REPORT—MATERIALS LICENSEES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 051

Legal Deadline: None

Abstract: The direct final rule amended the regulations to eliminate that an environmental report be submitted by uranium mill licensees at the time of license termination. This action is necessary to remove an outdated and unnecessary reporting requirement.

Timetable:

Action	Date	FR Cite
Final Action	05/14/97	62 FR 26730
Final Action Effective	07/14/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joe Mate, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555-0001
Phone: 301 415-6202

RIN: 3150–AF65

4482. NOTICE TO EMPLOYEES; MINOR AMENDMENT

Priority: Info./Admin./Other

Legal Authority: 42 USC 2201; 42 USC 2231; 42 USC 2241; 42 USC 2282

CFR Citation: 10 CFR 019

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to refer to the April 1997 NRC Form 3, "Notice to Employees" or the latest version of this form provided by the Commission. This action is necessary because the version referenced in the Code of Federal Regulations has been updated. This action also eliminates the need to update the Federal Register every time the form is changed.

Timetable:

Action	Date	FR Cite
Final Action	09/15/97	62 FR 48165
Final Action Effective	09/15/97	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Mark Haisfield, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555-0001
Phone: 301 415-6196

RIN: 3150–AF66

4483. CONDUCT OF EMPLOYEES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 000

Legal Deadline: None

Abstract: The final rule amended the Commission's regulations to remove the provisions in 10 CFR part 0 in their entirety. This part of the Commission's regulations is no longer applicable because the Office of Government Ethics issued executive branch-wide regulations, exemptions and waivers for financial interests that supersedes the only remaining substantive provision in this section of the NRC's regulations.

Timetable:

Action	Date	FR Cite
Final Action	04/04/97	62 FR 16053
Final Action Effective	04/04/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Pamela Urban, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555-0001
Phone: 301 415-1619

RIN: 3150–AF67

4484. INFORMAL SMALL ENTITY GUIDANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 002

Legal Deadline: Other, Statutory, March 29, 1996.
Small Business Regulatory Enforcement Fairness Act of 1996

Abstract: The final rule amended the Commission's regulations by adding a provision that provides a method for small entities to contact the NRC for assistance in interpreting or complying with regulatory requirements. The final rule is necessary to comply with the Small Business Regulatory Enforcement Fairness Act. The final rule is intended to describe how the NRC will assist small entities that are licensed by the NRC.

Timetable:

Action	Date	FR Cite
Final Action	05/13/97	62 FR 26219
Final Action Effective	05/13/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael T. Lesar, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555-0001
Phone: 301 415-7163

RIN: 3150–AF68

4485. ● NRC REGION II TELEPHONE NUMBER AND ADDRESS CHANGE

Priority: Info./Admin./Other

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 001; 10 CFR 020; 10 CFR 030; 10 CFR 040; 10 CFR 070; 10 CFR 073

Legal Deadline: None

Abstract: The final rule amended the Commission's regulations by changing the address and telephone number of the NRC Region II office.

Timetable:

Action	Date	FR Cite
Final Action	04/28/97	62 FR 22879
Final Action Effective	04/28/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeffrey Lankford, Nuclear Regulatory Commission, Region II, Atlanta, GA 30303-3415
Phone: 404 331-4503

RIN: 3150–AF71

NRC

Completed Actions

4486. • FACSIMILE TELEPHONE NUMBER AND ADDRESS CHANGE FOR THE NRC'S OFFICE OF THE SECRETARY

Priority: Info./Admin./Other

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 002; 10 CFR 110

Legal Deadline: None

Abstract: The final rule amended the Commission's regulations by changing the name, address, and facsimile telephone numbers of the Docketing and Service Branch, Office of the Secretary. These amendments reflect the reorganization of the Office of the Secretary.

Timetable:

Action	Date	FR Cite
Final Action	05/20/97	62 FR 27494
Final Action Effective	05/20/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Emile L. Julian, Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555-0001
Phone: 301 415-1966

RIN: 3150–AF72

4487. • DEFINITION OF SAFETY RELATED STRUCTURES, SYSTEMS, AND COMPONENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 2232

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations by correcting an error in the language of several sections in the regulations governing nuclear power plant licensing that define the term, "safety-related structures, systems, and components." These definitions are inconsistent with the definition in regulations applicable to the siting of nuclear power plants and the Commission's longstanding practice and interpretation of that term.

Timetable:

Action	Date	FR Cite
Final Action	09/08/97	62 FR 47268
Final Action Effective	11/07/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Clark Prichard, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555-0001
Phone: 301 415-6203

RIN: 3150–AF75

[FR Doc. 97-22246 Filed 10-28-97; 8:45 am]
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federal register

Wednesday
October 29, 1997

Part LXI

Securities and Exchange Commission

Semiannual Regulatory Agenda

SECURITIES AND EXCHANGE COMMISSION (SEC)

SECURITIES AND EXCHANGE COMMISSION

17 CFR Ch. II

[Release Nos. 33-7433, 34-38838, 35-26755, 39-2357, IC-22787, IA-1649; File No. S7-21-97]

Regulatory Flexibility Agenda

AGENCY: Securities and Exchange Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Securities and Exchange Commission is publishing an agenda of its rulemaking actions pursuant to the Regulatory Flexibility Act. Information in the agenda is believed to be accurate as of August 15, 1997, the date on which the Commission's staff completed compilation of the data. To the extent possible, however, rulemaking actions by the Commission since that date have been reflected in the agenda. The Commission invites questions and public comment on the agenda and on the individual agenda entries.

DATES: Public comments are due by November 30, 1997.

ADDRESSES: Persons wishing to submit written comments should file three copies of their comments with Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street NW., Room 6184, Stop 6-9, Washington, DC 20549. All submissions should refer to File No. S7-21-97 and will be available for public inspection and copying at the Commission's Public Reference Room, Room 1026, at the same address.

FOR FURTHER INFORMATION CONTACT: Anne H. Sullivan, Office of the General Counsel, 202-942-0954.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (RFA) (Pub. L. No. 96-354, 94 Stat. 1164 (September 19, 1980)) requires each Federal agency, during April and October of each year, to publish in the **Federal Register** an agenda identifying rules which the agency expects to propose or adopt that are likely to have a significant economic impact on a substantial number of small entities (5 U.S.C. 602(a)). The RFA specifically provides that publication of the agenda does not preclude an agency from considering or acting on any matter not included in the agenda and that an agency is not required to consider or act on any matter which is included in the agenda (5 U.S.C. 602(d)). The agenda includes new entries, entries carried over from previous publications, and rulemaking actions which have been completed (or withdrawn) since publication of the last agenda.

The following abbreviations for the acts administered by the Commission are used throughout the agenda:

"Securities Act" - Securities Act of 1933

"Exchange Act" - Securities Exchange Act of 1934

"PUHCA" - Public Utility Holding Company Act of 1935

"Investment Company Act" - Investment Company Act of 1940

"Investment Advisers Act" - Investment Advisers Act of 1940

The Commission's regulatory flexibility agenda is set forth below. The Commission invites public comment on the agenda and on the individual agenda entries.

Dated: August 15, 1997.

By the Commission.

Jonathan G. Katz,

Secretary.

DIVISION OF CORPORATION FINANCE—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4488	Asset-Backed Securities Disclosure	3235-AF74
4489	Company Registration and Regulation of Capital Formation	3235-AG83
4490	Amendments to the Shareholder Proposal Rule	3235-AH20
4491	Regulation of Extraordinary Corporate Transactions	3235-AG84
4492	Definitions for Purposes of the Private Litigation Reform Act of 1995	3235-AG89
4493	Addressing Abuses of Form S-8 by Companies Using Consultants to Raise Capital	3235-AG94
4494	Definition of "Qualified Purchaser"	3235-AH15
4495	Increase in Dollar Amounts in Rule 701, the Exemption for Offers and Sales by Certain Compensatory Benefit Plans	3235-AH21
4496	Exemptions for International Tender and Exchange Offers	3235-AD97
4497	Plain Vanilla Treatment of Election Contest Proxies/Shareholder Communications	3235-AG91

DIVISION OF CORPORATION FINANCE—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4498	Offshore Press Conferences	3235-AG85
4499	Streamlining Rule 144	3235-AH13
4500	Plain English	3235-AG86
4501	Regulation S	3235-AG34
4502	Delayed Pricing for Companies not Eligible for Form S-3	3235-AG96
4503	Amendments to Beneficial Ownership Reporting Requirements	3235-AG81

SEC

DIVISION OF CORPORATION FINANCE—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4504	Phase II Recommendations of Task Force on Disclosure Simplification	3235-AG80
4505	Rulemaking for the EDGAR System	3235-AG96
4506	Expansion of Short-Form Registration To Include Companies With Non-Voting Equity	3235-AG82
4507	Rules Governing the Options Disclosure Document	3235-AG93
4508	Definition of "Prepared by or on behalf of the Issuer" for Purposes of Determining if an Offering Document is Subject to State Regulation	3235-AH14
4509	Offshore Internet Offerings	3235-AG87

DIVISION OF INVESTMENT MANAGEMENT—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4510	Investment Advisers: Registration and Annual Supplement Forms	3235-AD21
4511	Temporary Exemption for Certain Investment Advisers	3235-AH02
4512	Multi-State Investment Advisers Exemption; Accommodation Clients	3235-AH22
4513	Exemption from the Compensation Prohibition of Section 205(a)(1) for Investment Advisers	3235-AH25
4514	Custody or Possession of Funds or Securities of Clients	3235-AH26
4515	Form ADV-W Notice of Withdrawal From Registration as Investment Adviser	3235-AH27
4516	Unit Investment Trusts: Simplification of Registration Statements	3235-AA47
4517	Shareholder Report and Financial Statement Revisions	3235-AG84
4518	Exemption for Subsidiaries Organized To Finance Operations of Domestic or Foreign Companies	3235-AE95
4519	Mergers of Certain Affiliated Investment Companies	3235-AG31
4520	Exemption of Certain Purchase or Sale Transactions Between an Investment Company and Certain Affiliated Persons	3235-AG57
4521	Bonding of Officers and Employees of Registered Management Investment Companies	3235-AG58
4522	Delivery of Prospectuses and Annual Reports to Multiple Shareholders at the Same Address	3235-AG98
4523	Proposed Amendments in Investment Company Advertising Rules	3235-AH19
4524	Amendments to Form N-SAR, Semiannual Report of Registered Investment Companies	3235-AF93
4525	Insurance Products: New Form N-6 for Registration of Separate Accounts Offering Variable Life Insurance Contracts	3235-AG37
4526	PUHCA: Exemption for Certain Acquisitions of Foreign Utility Companies	3235-AF78

DIVISION OF INVESTMENT MANAGEMENT—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4527	Electronic Filing of Institutional Investment Manager Reports on Form 13F	3235-AG97
4528	Registration Form Used by Open-End Management Investment Companies	3235-AE46
4529	Small Entities for Purposes of the Regulatory Flexibility Act as Applied to the Investment Company Act	3235-AG62
4530	Performance Advertising by Unit Investment Trusts	3235-AG63
4531	Investment Company Names	3235-AH11
4532	Technical Revisions to the Rules and Forms Regulating Money Market Funds	3235-AH12
4533	Requirements Relating to Codes of Ethics With Respect to Registered Investment Companies; Records To Be Maintained by Investment Advisers	3235-AG27
4534	Proposed New Disclosure Option for Open-End Management Investment Companies	3235-AH03
4535	Status of Subsidiary Companies Formed To Hold Interests in Foreign Utility Companies	3235-AF79
4536	Exemption of Issuance and Sale of Securities by Public Utility and Nonutility Subsidiary Companies of Registered Public Utility Holding Companies	3235-AG45

SEC

DIVISION OF INVESTMENT MANAGEMENT—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4537	Books and Records to be Maintained by Investment Advisers	3235-AH24
4538	Deposits of Securities in Securities Depositories	3235-AG71
4539	Deregistration Form Amendments	3235-AG29
4540	Insurance Products: Equity Index Insurance Products Concept Release	3235-AH23

DIVISION OF INVESTMENT MANAGEMENT—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4541	Registration Fees for Certain Investment Companies	3235-AG73
4542	Rules Implementing Amendments to the Investment Advisers Act of 1940	3235-AH07
4543	Elimination of Form ADV-S	3235-AH08
4544	Money Market Fund Prospectus	3235-AG55
4545	Custody of Investment Company Assets Outside the United States	3235-AE98
4546	Exemption of Acquisition of Securities During the Existence of Underwriting Syndicates	3235-AG61
4547	Multiple Class Companies	3235-AG72
4548	Privately Offered Investment Companies	3235-AH09
4549	Status of Investment Advisory Programs Under the Investment Company Act of 1940	3235-AG07

DIVISION OF MARKET REGULATION—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4550	Use of Statistical Models for Regulatory Capital Purposes; Market Risk Haircuts for Instruments Subject to Interest Rate Risk	3235-AG18
4551	Net Capital Rule: Customer Protection Rule	3235-AH05
4552	Risk Assessment Recordkeeping and Reporting Requirement	3235-AH06
4553	Limited Purpose Broker-Dealers	3235-AH16
4554	Exemption of Certain Foreign Brokers and Dealers	3235-AH17
4555	Nationally Recognized Statistical Rating Organizations	3235-AG41

DIVISION OF MARKET REGULATION—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4556	Net Capital Requirements for Brokers or Dealers	3235-AD79
4557	Amendment to Form BDW and Amendment to Exchange Act Rule 15b6-1 and Amendments to Rules 15b1-1, 15b3-1, 15Ba2-2, 15Ca1-1, and 15Ca2-1	3235-AG69
4558	Amendment to Rule 11Ac1-1	3235-AH00
4559	Amendments to Rules 17a-3 and 17a-4 Under the Securities Exchange Act of 1934	3235-AH04
4560	Proposed Amendments to Transfer Agent Rules	3235-AG24
4561	Proposed Changes to Definitions of "Small Business" or "Small Organization" Under the Securities Exchange Act of 1934	3235-AH01

DIVISION OF MARKET REGULATION—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4562	Large Trader Reporting System	3235-AE42

SEC

DIVISION OF MARKET REGULATION—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4563	Customer Protection Reserves and Custody of Securities	3235-AD60
4564	Definitions Principally Relating to International Transactions	3235-AE15
4565	Lost Securityholders	3235-AG99
4566	Covered Securities Pursuant to Section 18 of the Securities Act of 1933	3235-AH18

SECURITIES AND EXCHANGE COMMISSION (SEC)
DIVISION OF CORPORATION FINANCE

Proposed Rule Stage

4488. ASSET-BACKED SECURITIES DISCLOSURE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77e; 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78w

CFR Citation: 17 CFR 229; 17 CFR 230; 17 CFR 239; 17 CFR 240; 17 CFR 249

Legal Deadline: None

Abstract: The Division of Corporation Finance is considering whether to recommend to the Commission amendments to revise rules and forms which would specify disclosure requirements for asset-backed securities transactions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Paula Dubberly, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-1960
Fax: 202 942-9635

RIN: 3235–AF74

4489. COMPANY REGISTRATION AND REGULATION OF CAPITAL FORMATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq

CFR Citation: 17 CFR 230; 17 CFR 239; 17 CFR 240; 17 CFR 249

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission propose rules that would reform the registration of the capital formation process while maintaining or enhancing investor protection. The Division is considering a number of approaches to reform, including: the implementation of a "company registration" approach; modifications to the shelf registration system; liberalization of the treatment of unregistered securities; and the deregulation of offers.

Timetable:

Action	Date	FR Cite
Notice With Request for Comments	07/31/96	61 FR 40044
Notice Comment Period End	09/30/96	
NPRM	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Anita T. Klein, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2900
Fax: 202 942-9525

RIN: 3235–AG83

4490. • AMENDMENTS TO THE SHAREHOLDER PROPOSAL RULE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78n; 15 USC 78w

CFR Citation: 17 CFR 240.14a-4(c); 17 CFR 240.15a-8

Legal Deadline: None

Abstract: The Commission proposed amendments to Rule 14a-8, the shareholder proposal rule, and Rule 14a-4(c), the rule that governs the availability of discretionary voting authority. The revisions would streamline the current rules and address concerns that have been raised by participants.

Timetable:

Action	Date	FR Cite
NPRM	09/18/97	62 FR 50682
NPRM Comment Period End	11/25/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Frank G. Zarb, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2900
Fax: 202 942-9525

RIN: 3235–AH20

4491. REGULATION OF EXTRAORDINARY CORPORATE TRANSACTIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78n

CFR Citation: 17 CFR 240

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission propose rules designed to adapt the regulatory scheme applicable to extraordinary corporate transactions such as mergers, tender offers and going private transactions to the realities of today's securities marketplace, as well as promote uniform disclosure in connection with such transactions.

SEC—DIVISION OF CORPORATION FINANCE

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: P.J. Himelfarb, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2900
Fax: 202 942-9525

RIN: 3235–AG84

4492. DEFINITIONS FOR PURPOSES OF THE PRIVATE LITIGATION REFORM ACT OF 1995

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq

CFR Citation: 17 CFR 230.177(New); 17 CFR 230.178(New); 17 CFR 230.17a(New); 17 CFR 240.3b-12(New); 17 CFR 240.3b-13(New)

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission issue proposed rules that will define the terms "outside director," "limited liability company," "partnership," and "direct participation investment program." These definitions are deemed necessary in view of recent changes to the Securities Act and Exchange Act made in the Private Securities Litigation Reform Act of 1995.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Elliot B. Staffin, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-1800
Fax: 202 942-9525

RIN: 3235–AG89

4493. ADDRESSING ABUSES OF FORM S-8 BY COMPANIES USING CONSULTANTS TO RAISE CAPITAL

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq

CFR Citation: 17 CFR 230.428; 17 CFR 239.16b

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission propose rules to address abuses of Form S-8 by companies using consultants to raise capital.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Anne Krauskopf, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2900
Fax: 202 942-9525

RIN: 3235–AG94

4494. DEFINITION OF "QUALIFIED PURCHASER"

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq

CFR Citation: 17 CFR 230

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission propose a definition of the term "qualified purchaser" as used in section 18 of the Securities Act of 1933. Under that section, securities offered or sold to "qualified purchasers" are "covered securities," and thus, exempt from state regulation.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John Reynolds, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2960
Fax: 202 942-9516

RIN: 3235–AH15

4495. • INCREASE IN DOLLAR AMOUNTS IN RULE 701, THE EXEMPTION FOR OFFERS AND SALES BY CERTAIN COMPENSATORY BENEFIT PLANS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77c(b); 15 USC 77s

CFR Citation: 17 CFR 230.701

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission propose amendments to increase the available exemptive amounts provided by Rule 701 in connection with certain offers and sales by compensatory benefit plans.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard K. Wulff, Office of Small Business, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2950
Fax: 202 942-9516

RIN: 3235–AH21

4496. EXEMPTIONS FOR INTERNATIONAL TENDER AND EXCHANGE OFFERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77b; 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s; 15 USC 77sss; 15 USC 78c; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78w; 15 USC 79t; 15 USC 80a-37

CFR Citation: 17 CFR 200; 17 CFR 230; 17 CFR 239; 17 CFR 240; 17 CFR 260

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission repropose amendments to facilitate the extension of international tender offers to U.S. holders. The proposed rules would provide exemptions from the tender offer rules, securities registration and reporting requirements, and trust indenture provisions.

SEC—DIVISION OF CORPORATION FINANCE

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
ANPRM	06/12/90	55 FR 23751
ANPRM Comment Period End	09/21/90	
NPRM	06/14/91	56 FR 27582
NPRM Comment Period End	09/09/91	
Reproposal	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Laurie Green, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2920
Fax: 202 942-9638

RIN: 3235–AD97

4497. PLAIN VANILLA TREATMENT OF ELECTION CONTEST PROXIES/SHAREHOLDER COMMUNICATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78n

CFR Citation: 17 CFR 240.14a-6

Legal Deadline: None

Abstract: The Division is considering recommending to the Commission that it propose amendments that would eliminate filing of preliminary proxy statements in election contests.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Marija A. Willes, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-1805
Fax: 202 942-2925

RIN: 3235–AG91

SECURITIES AND EXCHANGE COMMISSION (SEC) DIVISION OF CORPORATION FINANCE

Final Rule Stage

4498. OFFSHORE PRESS CONFERENCES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq

CFR Citation: 17 CFR 230.135e (New); 17 CFR 230.502; 17 CFR 230.902; 17 CFR 240.14d-1

Legal Deadline: None

Abstract: The Commission proposed new safe harbors to clarify the conditions under which journalists may be provided with access to offshore press conferences, offshore meetings and press materials released offshore, where a present or proposed offering of securities or tender offer is discussed, without violating the provisions of section 5 of the Securities Act or the procedural requirements of the tender offer rules.

Timetable:

Action	Date	FR Cite
NPRM	10/18/96	61 FR 54518
NPRM Comment Period End	12/17/96	
Final Action	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Felicia Kung, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2990
Fax: 202 942-9624

RIN: 3235–AG85

4499. STREAMLINING RULE 144

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq

CFR Citation: 17 CFR 230.144

Legal Deadline: None

Abstract: The Commission has proposed revisions to Rule 144, Rule 145 and Form 144 to make the rules and form easier to understand and apply. The proposed amendments would, among other things, add a bright line test to the Rule 144 definition of affiliate, eliminate the Rule 144 manner of sale requirements, increase the Form 144 filing thresholds, and codify certain interpretive positions. The proposals also would eliminate the presumptive underwriter provisions of Rule 145.

Timetable:

Action	Date	FR Cite
NPRM	02/20/97	62 FR 9246
NPRM Comment Period End	04/29/97	
Final Action	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Elizabeth Murphy, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2900
Fax: 202 942-9525

RIN: 3235–AH13

4500. PLAIN ENGLISH

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq

CFR Citation: 17 CFR 228; 17 CFR 229; 17 CFR 230.421; 17 CFR 230.460

Legal Deadline: None

Abstract: The Commission proposed rules that would require plain English to be used for the cover page, prospectus summary and risk factors section of registration statements filed pursuant to the Securities Act. Other proposed amendments would eliminate unnecessary technical disclosure from the cover page and forepart of the prospectus to encourage the preparation of a more investor-friendly document.

Timetable:

Action	Date	FR Cite
NPRM	01/21/97	62 FR 3152
NPRM Comment Period End	03/24/97	
Final Action	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Ann D. Wallace, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2980
Fax: 202 942-9525

RIN: 3235–AG88

SEC—DIVISION OF CORPORATION FINANCE

Final Rule Stage

4501. REGULATION S

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq

CFR Citation: 17 CFR 230.901 et seq

Legal Deadline: None

Abstract: The Commission proposed amending Regulation S safe harbor procedures for sales of equity securities by U.S. reporting companies. These proposals would implement additional restrictive procedures in order to decrease the likelihood that such securities will be sold offshore in transactions that are in substance unregistered distributions of the securities in the United States.

Timetable:

Action	Date	FR Cite
ANPRM	07/10/95	60 FR 35563
ANPRM Comment Period End	09/08/95	
NPRM	02/20/97	62 FR 9258
NPRM Comment Period End	04/29/97	
Final Action	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Paul M. Dudak, Office of International Corporate Finance, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2990
Fax: 202 942-9624

RIN: 3235–AG34

4502. DELAYED PRICING FOR COMPANIES NOT ELIGIBLE FOR FORM S-3

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq

CFR Citation: 17 CFR 230.415; 17 CFR 230.424; 17 CFR 230.430A

Legal Deadline: None

Abstract: The Commission proposed amendments to Rule 430A, which would permit small or less seasoned companies to price primary offerings of securities on a delayed basis, provided certain conditions are satisfied.

Timetable:

Action	Date	FR Cite
NPRM	02/20/97	62 FR 9276
NPRM Comment Period End	04/29/97	
Final Action	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Barbara C. Jacobs, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2950
Fax: 202 942-9516

RIN: 3235–AG86

4503. AMENDMENTS TO BENEFICIAL OWNERSHIP REPORTING REQUIREMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78a et seq

CFR Citation: 17 CFR 240.13d-1; 17 CFR 240.13d-2; 17 CFR 240.13d-7; 17 CFR 240.13d-101; 17 CFR 240.13d-102; 17 CFR 240.16a-1

Legal Deadline: None

Abstract: The Commission has proposed amendments to the beneficial ownership rules to allow all investors beneficially owning less than 20 percent of the class that have not acquired or held the securities for the purpose of changing or influencing the control of the issuer to use Schedule 13G, in lieu of Schedule 13D.

Timetable:

Action	Date	FR Cite
NPRM	07/03/95	61 FR 36521
NPRM Comment Period End	09/09/96	
Final Action	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dennis O. Garris, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2920
Fax: 202 942-9639

RIN: 3235–AG81

SECURITIES AND EXCHANGE COMMISSION (SEC) DIVISION OF CORPORATION FINANCE

Completed Actions

4504. PHASE II RECOMMENDATIONS OF TASK FORCE ON DISCLOSURE SIMPLIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq; 15 USC 80a-1 et seq

CFR Citation: 17 CFR 239.25; 17 CFR 239.31; 17 CFR 239.34; 17 CFR 240.12a-8; 17 CFR 240.12g-3; 17 CFR 240.15d-5; 17 CFR 249.208a; 17 CFR 249.208b; 17 CFR 249.220f; 17 CFR 249.308a; 17 CFR 249.310; 17 CFR 249.310b; 17 CFR 230.401; 17 CFR 230.424; 17 CFR 230.462; ...

Legal Deadline: None

Abstract: The Commission has adopted form and rule changes that will implement recommendations made in the March 5, 1996 Report of the Task Force on Disclosure Simplification. The Commission has rescinded Form SR under the Securities Act and Form 8-B and Rule 13a-2 under the Securities Exchange Act of 1934 because they are no longer necessary or appropriate for the protection of investors. The Commission also amended several other forms and regulations to eliminate unnecessary disclosure requirements and to streamline the registration process.

Timetable:

Action	Date	FR Cite
NPRM	06/31/96	61 FR 30405
NPRM Comment Period End	07/29/96	61 FR 40405
Final Action	07/18/97	62 FR 39755
Final Action Effective	09/02/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: CFR Citation cont: 17 CFR 230.463; 17 CFR 230.497; 17 CFR 239.9; 17 CFR 239.10; 17 CFR 239.11; 17 CFR 239.13; 17 CFR 239.18

Agency Contact: Felicia H. Kung, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2990

SEC—DIVISION OF CORPORATION FINANCE

Completed Actions

Fax: 202 942-9624

RIN: 3235–AG80

4506. RULEMAKING FOR THE EDGAR SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq

CFR Citation: 17 CFR 228; 17 CFR 229; 17 CFR 230; 17 CFR 232; 17 CFR 239; 17 CFR 240; 17 CFR 249

Legal Deadline: None

Abstract: The Commission adopted minor and technical amendments to the rules governing electronic filing on the Electronic Data Gathering Analysis and Retrieval ("EDGAR") System.

Timetable:

Action	Date	FR Cite
NPRM	12/12/96	61 FR 65440
Final Action	07/01/97	62 FR 36467
Final Action Effective	08/07/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: James R. Budge, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2950
Fax: 202 942-9516

RIN: 3235–AG96

4506. EXPANSION OF SHORT-FORM REGISTRATION TO INCLUDE COMPANIES WITH NON-VOTING EQUITY

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq

CFR Citation: 17 CFR 239.13; 17 CFR 239.32; 17 CFR 239.33; 17 CFR 230.405; 17 CFR 228.10; 17 CFR 240.12b-2

Legal Deadline: None

Abstract: The Commission has adopted amendments to Form S-3, Form F-2 and Form F-3 and to the definition of "small business issuer" in Rule 405 and in Item 10 of Regulation S-B under Securities Act and in Rule 12b-2 under the Exchange Act to allow issuers to use shares of non-voting common equity when calculating the public float requirement.

Timetable:

Action	Date	FR Cite
NPRM	08/30/96	61 FR 47706
NPRM Comment Period End	10/10/96	
Final Action	05/08/97	62 FR 26386
Final Action Effective	06/13/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mary J. Kosterlitz, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2900
Fax: 202 942-9525

RIN: 3235–AG82

4507. RULES GOVERNING THE OPTIONS DISCLOSURE DOCUMENT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq

CFR Citation: 17 CFR 230.135b

Legal Deadline: None

Abstract: The Commission is withdrawing this item from the Unified Agenda because the Commission does not expect to consider the item within the next 12 months, but the Commission may consider the item further at some subsequent point.

Timetable:

Action	Date	FR Cite
Withdrawn	10/01/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James R. Budge, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2950
Fax: 202 942-9516

RIN: 3235–AG93

4508. DEFINITION OF "PREPARED BY OR ON BEHALF OF THE ISSUER" FOR PURPOSES OF DETERMINING IF AN OFFERING DOCUMENT IS SUBJECT TO STATE REGULATION

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77a et seq

CFR Citation: 17 CFR 230.146 (New)

Legal Deadline: Final, Statutory, April 11, 1997.

Final Action is requested by statute within six months of enactment.

Abstract: The Commission adopted a definition of the term "prepared by or on behalf of the issuer" for purposes of newly revised section 18 of the Securities Act, which governs when offering documents are subject to state regulation.

Timetable:

Action	Date	FR Cite
NPRM	02/11/97	62 FR 7186
NPRM Comment Period End	03/20/97	
Final Action	04/30/97	62 FR 24572
Final Action Effective	05/09/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: James R. Budge, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2950
Fax: 202 942-9516

RIN: 3235–AH14

4509. OFFSHORE INTERNET OFFERINGS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq

CFR Citation: 17 CFR 230

Legal Deadline: None

Abstract: The Commission is withdrawing this item from the Unified Agenda because the Commission does not expect to consider the item within the next 12 months, but the Commission may consider the item further at some subsequent point.

Timetable:

Action	Date	FR Cite
Withdrawn	10/01/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: James R. Budge, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2950
Fax: 202 942-9516

RIN: 3235–AG87

SECURITIES AND EXCHANGE COMMISSION (SEC)
DIVISION OF INVESTMENT MANAGEMENT

Proposed Rule Stage

4510. INVESTMENT ADVISERS: REGISTRATION AND ANNUAL SUPPLEMENT FORMS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78o(b)(1); 15 USC 78w(a); 15 USC 80b-3; 15 USC 80b-4; 15 USC 80b-6A; 15 USC 80b-11

CFR Citation: 17 CFR 275; 17 CFR 279

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to recommend that the Commission revise Form ADV, the investment adviser registration form, and related rules to: (1) improve disclosure of information regarding an adviser's disciplinary history, (2) enhance disclosure of information about the advisory relationship provided to clients and prospective clients, and (3) require annual amendment of the form.

Timetable:

Action	Date	FR Cite
NPRM	04/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Catherine M. Saadeh, Task Force on Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0650

RIN: 3235–AD21

4511. TEMPORARY EXEMPTION FOR CERTAIN INVESTMENT ADVISERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-37; 15 USC 80a-6(c)

CFR Citation: 17 CFR 270.15a-4

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is evaluating whether to recommend that the Commission propose amendments to Rule 15a-4 under the Investment Company Act to broaden the scope of the rule. Rule 15a-4 permits a person, under certain circumstances, to serve temporarily as an investment adviser to an investment company pursuant to a contract that has not been approved by the investment company's shareholders.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Marilyn Mann, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0582

RIN: 3235–AH02

4512. • MULTI-STATE INVESTMENT ADVISERS EXEMPTION; ACCOMMODATION CLIENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-2(a)(17); 15 USC 80b-3(c)(1); 15 USC 80b-3A(c); 15 USC 80b-4; 15 USC 80b-11(a)

CFR Citation: 17 CFR 275; 17 CFR 279

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to recommend a new exemption from the prohibition of Commission registration and a revision to the definition of investment adviser representative.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jennifer S. Choi, Task Force on Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0725

RIN: 3235–AH22

4513. • EXEMPTION FROM THE COMPENSATION PROHIBITION OF SECTION 205(A)(1) FOR INVESTMENT ADVISERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-5(e)

CFR Citation: 17 CFR 275

Legal Deadline: None

Abstract: The Division of Investment Management is considering revising Rule 205(a)(1) under the Investment Advisers Act of 1940 to permit investment advisers to charge performance fees to certain persons who own at least $5 million in assets under the management of the adviser.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kathy D. Ireland, Task Force on Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0530

RIN: 3235–AH25

4514. • CUSTODY OR POSSESSION OF FUNDS OR SECURITIES OF CLIENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-6; 15 USC 80b-4; 15 USC 80b-11

CFR Citation: 17 CFR 275

Legal Deadline: None

Abstract: The Division of Investment Management is considering recommending a proposal to the Commission to revise the custody rule.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Leonard, Task Force on Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0646

RIN: 3235–AH26

4515. • FORM ADV-W NOTICE OF WITHDRAWAL FROM REGISTRATION AS INVESTMENT ADVISER

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80b-3; 15 USC 80b-11

CFR Citation: 17 CFR 279.2

Abstract: The Division of Investment Management is considering recommending that the Commission simplify and update the exemption from Section 205(a)(1) for Investment Advisers.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kathy D. Ireland, Task Force on Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0530

RIN: 3235–AH25

SEC—DIVISION OF INVESTMENT MANAGEMENT

Proposed Rule Stage

Legal Deadline: None

Abstract: The Division of Investment Management is considering revising Form ADV-W to reflect amendments to the Investment Advisers Act of 1940 enacted as part of the Investment Advisers Supervision Coordination Act.

Timetable:

Action	Date	FR Cite
NPRM	09/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Avery, Securities and Exchange Commission, Task Force on Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0645

RIN: 3235–AH27

4516. UNIT INVESTMENT TRUSTS: SIMPLIFICATION OF REGISTRATION STATEMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-8; 15 USC 77g; 15 USC 77j

CFR Citation: 17 CFR 239.16; 17 CFR 274.12

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission repropose for public comment Form N-7, a new form for registering unit investment trusts (UITs) and their securities under the Investment Company Act and the Securities Act. Adoption of Form N-7 would: (1) codify the disclosure requirements for UITs into one form; (2) codify the disclosure standards that have been developed for UITs; and (3) shorten and simplify the prospectus used in connection with the sale of units in both the initial offering and in the secondary market maintained by the sponsor. The requirement for audited financial statements would be eliminated under certain circumstances. Under the reproposal, the requirement that registrants include certain third-party financial statements in the registration statement would be extended to insurers as well as guarantors of portfolio securities of the trust.

Timetable:

Action	Date	FR Cite
NPRM	03/17/87	52 FR 82682
NPRM Comment Period End	05/15/87	
Reproposal	01/00/98	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Markian Melynyk, Office of Disclosure Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0721

RIN: 3235–AA47

4517. SHAREHOLDER REPORT AND FINANCIAL STATEMENT REVISIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77f; 15 USC 77j; 15 USC 80a-29

CFR Citation: 17 CFR 210; 17 CFR 270.30d-1

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is considering whether to recommend that the Commission propose revisions to the shareholder report and financial statement requirements for investment companies to improve the quality of updates and simplify investment company financial statement presentation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Markian Melnyk, Office of Disclosure Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0721

RIN: 3235–AG64

4518. EXEMPTION FOR SUBSIDIARIES ORGANIZED TO FINANCE OPERATIONS OF DOMESTIC OR FOREIGN COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.3a-5

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to recommend that the Commission propose amendments to expand rule 3a-5 to permit, among other things, finance subsidiaries of U.S. banks and insurance companies to rely on the rule.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Cynthia G. Pugh, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0673

RIN: 3235–AE95

4519. MERGERS OF CERTAIN AFFILIATED INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-17(a); 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.17a-8

Legal Deadline: None

Abstract: Rule 17a-8 presently allows a merger, consolidation, or purchase or sale of substantially all of the assets involving registered investment companies which may be affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers. The Division of Investment Management is considering whether to recommend to the Commission that it expand the applicability of the rule to other affiliate relationships.

SEC—DIVISION OF INVESTMENT MANAGEMENT

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas M. J. Kerwin, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0692

RIN: 3235–AG31

4520. EXEMPTION OF CERTAIN PURCHASE OR SALE TRANSACTIONS BETWEEN AN INVESTMENT COMPANY AND CERTAIN AFFILIATED PERSONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-37; 15 USC 80a-6(c)

CFR Citation: 17 CFR 270.17a-7

Legal Deadline: None

Abstract: Rule 17a-7 permits purchase and sale transactions of portfolio securities among affiliated funds. The staff of the Division of Investment Management is evaluating whether to recommend that the Commission propose amendments to refine the conditions under which exchanges can be made under the rule.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Marilyn Mann, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0582

RIN: 3235–AG57

4521. BONDING OF OFFICERS AND EMPLOYEES OF REGISTERED MANAGEMENT INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-17(g); 15 USC 80a-6(c); 15 USC 80a-37

CFR Citation: 17 CFR 270.17g-1

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is considering whether to recommend that the Commission propose amendments to modernize and clarify the provisions of Rule 17g-1, which governs the bonding of officers and employees of registered management investment companies.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Nadya B. Roytblat, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0693

RIN: 3235–AG58

4522. DELIVERY OF PROSPECTUSES AND ANNUAL REPORTS TO MULTIPLE SHAREHOLDERS AT THE SAME ADDRESS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-37; 15 USC 80a-6(c); 15 USC 77s(a)

CFR Citation: 17 CFR 270.30d-1; 17 CFR 270.30d-2; 17 CFR Not yet determined

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is evaluating whether to recommend that the Commission propose a new rule under the Securities Act that would permit companies to satisfy the prospectus delivery requirements of section 5(b)(2) of the Securities Act for more than one shareholder residing at an address by delivering a prospectus to one of the shareholders at the address, if certain conditions are met. The staff is also evaluating whether to recommend similar amendments to rules 30d-1 and 30d-2 under the Investment Company Act, which require delivery of annual and semi-annual reports of management investment companies.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marilyn Mann, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0582

RIN: 3235–AG98

4523. • PROPOSED AMENDMENTS IN INVESTMENT COMPANY ADVERTISING RULES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77e; 15 USC 77h; 15 USC 77j; 15 USC 77s(a); 15 USC 80a-8; 15 USC 80a-22; 15 USC 80a-24(g); 15 USC 80a-29; 15 USC 80a-37

CFR Citation: 17 CFR 230.482

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to recommend that the Commission propose to amend Rule 482, to permit advertisements that are not subject to restrictions limiting the content to information "the substance of which" is in a fund's prospectus. This authority was recently granted to the Commission by the National Securities Markets Improvement of 1996.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Laura Riegel, Senior Counsel, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0687

RIN: 3235–AH19

4524. AMENDMENTS TO FORM N-SAR, SEMIANNUAL REPORT OF REGISTERED INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78n; 15 USC 78o(d); 15 USC 78w(a); 15 USC 80a-8; 15 USC 80a-29; 15 USC 80a-37

SEC—DIVISION OF INVESTMENT MANAGEMENT

Proposed Rule Stage

CFR Citation: 17 CFR 249.330; 17 CFR 274.101

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to recommend that the Commission amend Form N-SAR, the semi-annual report for registered investment companies, to update the items of the form.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carolyn Miller, Office of Financial Analysis, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0510

RIN: 3235–AF93

4525. INSURANCE PRODUCTS: NEW FORM N-6 FOR REGISTRATION OF SEPARATE ACCOUNTS OFFERING VARIABLE LIFE INSURANCE CONTRACTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 80a-1 et seq; 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 80a-8; 15 USC 80a-29; 15 USC 80a-37

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is planning to recommend that the Commission propose a new Form N-6 to be used for separate accounts offering variable life insurance contracts to register under both the Investment Company Act and the Securities Act. Currently, most insurance company separate accounts are organized as unit investment trusts (UITs) and register their interests on Form S-6. Form S-6 was developed for UITs generally, and not specifically for insurance company separate accounts that offer interests in variable life insurance contracts.

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kevin M. Kirchoff, Office of Insurance Products, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0672

RIN: 3235–AG37

4526. PUHCA: EXEMPTION FOR CERTAIN ACQUISITIONS OF FOREIGN UTILITY COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 79c; 15 USC 79c(b); 15 USC 79(c)(3); 15 USC 79(t); 15 USC 79(n); 15 USC 79z-5b(b)

CFR Citation: 17 CFR 250.55; 17 CFR 259.5so (Revision)

Legal Deadline: None

Abstract: The proposed rule is intended to provide a safe harbor for the acquisition of one or more foreign utility companies by a registered holding company.

Timetable:

Action	Date	FR Cite
NPRM	03/08/93	58 FR 13719
NPRM Comment Period End	04/14/93	
Reproposal	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David LaRoche, Office of Public Utility Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0559

RIN: 3235–AF78

SECURITIES AND EXCHANGE COMMISSION (SEC)
DIVISION OF INVESTMENT MANAGEMENT

Final Rule Stage

4527. ELECTRONIC FILING OF INSTITUTIONAL INVESTMENT MANAGER REPORTS ON FORM 13F

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78c; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o(d); 15 USC 78w(a); 15 USC 78ll

CFR Citation: 17 CFR 232.101; 17 CFR 240.13f-1; 17 CFR 240.13f-2; 17 CFR 249.325; 17 CFR 249.326

Legal Deadline: None

Abstract: The Commission has proposed a rule which would make electronic filing of Form 13F reports mandatory instead of optional. It would also eliminate special formatting requirements for the electronic version of those reports and the related requirement that they be submitted on magnetic tape. Form 13F reports are filed quarterly by institutional investment managers having more than $100,000,000 worth of equity securities in accounts under management to report the equity securities holdings of those accounts.

Timetable:

Action	Date	FR Cite
NPRM	07/01/97	62 FR 36467
NPRM Comment Period End	08/07/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ruth Armfield Sanders, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0633

RIN: 3235–AG97

4528. REGISTRATION FORM USED BY OPEN-END MANAGEMENT INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 80a-1 et seq

CFR Citation: 17 CFR 239.15; 17 CFR 274.11; 17 CFR 239.23; 17 CFR 239.15A; 17 CFR 274.11A; 17 CFR 239.17a; 17 CFR 274.11b; 17 CFR 239.17b; 17 CFR 274.11c

Legal Deadline: None

SEC—DIVISION OF INVESTMENT MANAGEMENT

Final Rule Stage

Abstract: The Commission has proposed for comment amendments to Form N-1A, the form used by open-end management investment companies ("funds") to register under the Investment Company Act and the Securities Act. The proposed amendments would revise the disclosure requirements for fund prospectuses, minimize prospectus disclosure about technical, legal and operational matters generally common to all funds, and focus prospectus disclosure on essential information about a particular fund that would assist an investor in deciding whether to invest in that fund. In a related action, 3235-AH03, the Commission has proposed for comment a new rule to permit funds to provide investors with a "fund profile." The profile is a summary of key information about a fund in a concise, standardized format.

Timetable:

Action	Date	FR Cite
NPRM	02/27/97	62 FR 10896
NPRM Comment Period End	06/09/97	
Final Action	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jonathan F. Cayne, Office of Disclosure Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0721

RIN: 3235–AE46

4529. SMALL ENTITIES FOR PURPOSES OF THE REGULATORY FLEXIBILITY ACT AS APPLIED TO THE INVESTMENT COMPANY ACT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 601 et seq

CFR Citation: 17 CFR 270.0-10

Legal Deadline: None

Abstract: On January 27, 1997 the Commission issued a release requesting public comment on a proposed amendment to Rule 0-10 under the Investment Company Act and a proposed amendment to Rule 0-7 under the Investment Advisers Act. The proposal would amend the definition of the terms "small business" and "small organization."

Timetable:

Action	Date	FR Cite
NPRM	01/27/97	62 FR 4106
NPRM Comment Period End	02/28/97	
Final Action	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Thomas M. J. Kerwin, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0692

RIN: 3235–AG62

4530. PERFORMANCE ADVERTISING BY UNIT INVESTMENT TRUSTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 80a-1 et seq

CFR Citation: 17 CFR 230.482; 17 CFR 239.16; 17 CFR 270.34b-1

Legal Deadline: None

Abstract: On November 22, 1995 the Commission published a request for public comment on a proposal that would standardize yields advertised by certain unit investment trusts (UITs). The proposal would amend Form S-6, the form used by UITs to register under the Securities Act Rule 482 under the 1933 Act, which governs investment company sales materials not accompanied or preceded by a prospectus (advertisements), and Rule 34b-1 under the Investment Company Act which governs sales materials that accompany or follow the delivery of a statutory prospectus (sales literature). The proposal would require UITs to use a standardized formula for calculating yield in their prospectuses, advertisements, and sales literature.

Timetable:

Action	Date	FR Cite
NPRM	11/22/95	60 FR 61454
Extension of Comment Period	01/11/96	61 FR 1312
NPRM Comment Period End	01/29/96	
Extended Comment Period End	03/29/96	
Final Action	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: This item was previously part of item 3235-AA47, Unit Investment Trusts: Simplification of Registration Statements.

Agency Contact: Markian Melnyk, Office of Disclosure Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0721

RIN: 3235–AG63

4531. INVESTMENT COMPANY NAMES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 104-290, sec 208

CFR Citation: 17 CFR 270.35d-1 (New)

Legal Deadline: None

Abstract: The Commission has proposed for comment a rule that would require a registered investment company with a name that suggests certain investments to invest at least 80 percent of its assets in the types of investments suggested by its name.

Timetable:

Action	Date	FR Cite
NPRM	02/27/97	62 FR 10955
NPRM Comment Period End	06/09/97	
Final Action	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: George Zornada, Office of Disclosure Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0528

RIN: 3235–AH11

4532. TECHNICAL REVISIONS TO THE RULES AND FORMS REGULATING MONEY MARKET FUNDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77b; 15 USC 77f; 15 USC 77h; 15 USC 77j; 15 USC 77s; 15 USC 77sss; 15 USC 78c; 15 USC 78d; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78w; 15 USC 79ll(d); 15 USC 79t

CFR Citation: 17 CFR 230.482; 17 CFR 270.2a-7; 17 CFR 270.12a3-1; 17 CFR 270.17e-9; 17 CFR 270.31a-1; 17 CFR 239.15A; 17 CFR 274.11A; 17 CFR 239.17a; 17 CFR 274.11b

SEC—DIVISION OF INVESTMENT MANAGEMENT

Final Rule Stage

Legal Deadline: None

Abstract: The Commission published for comment proposed amendments to the rules and forms under the Securities Act and the Investment Company Act that govern money market funds. Proposed technical amendments to rule 2a-7 under the Investment Company Act would, among other things, revise terminology used in the rule to reflect common market usage and codify a number of positions taken by the staff of the Division of Investment Management.

Timetable:

Action	Date	FR Cite
NPRM	12/10/96	61 FR 65621
NPRM Comment Period End	01/24/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: LEGAL AUTHORITY CONT: 15 USC 80a-8; 15 USC 80a-29; 15 USC 80a-30; 15 USC 80a-37; 15 USC 80a-1 et seq; 15 USC 80a-34(b); 15 USC 80a-39; 15 USC 77g; 15 USC 80a-24

Agency Contact: David P. Mathews, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0978

RIN: 3235–AH12

4533. REQUIREMENTS RELATING TO CODES OF ETHICS WITH RESPECT TO REGISTERED INVESTMENT COMPANIES; RECORDS TO BE MAINTAINED BY INVESTMENT ADVISERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-17(j); 15 USC 80a-37; 15 USC 80b-4; 15 USC 80b-6(4); 15 USC 80b-11(a); 15 USC 80a-6(c)

CFR Citation: 17 CFR 270.17j-1; 17 CFR 275.204-2

Legal Deadline: None

Abstract: The Commission has proposed amendments to Rule 17j-1 under the Investment Company Act, Rule 204-2 under the Investment Advisers Act, and investment company registration forms under the Investment Company Act and the Securities Act. The amendments to Rule 17j-1 would enhance oversight of personal investment activities of investment company personnel by boards of directors and would require access persons to report to their employers all securities owned by them at the time they become access persons. Additional amendments would make the scope of the rule more consistent with its purpose. Amendments to Rule 204-2 under the Investment Advisers Act would expand the list of securities exempt from the recordkeeping requirements of that rule. The amendments to fund registration forms would require investment companies to provide disclosure in their registration statements relating to codes of ethics and to file copies of their codes of ethics with the Commission as exhibits to their registration statements.

Timetable:

Action	Date	FR Cite
NPRM	09/14/95	60 FR 47844
NPRM Comment Period End	11/13/95	
Final Action	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: C. Hunter Jones, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0694

RIN: 3235–AG27

4534. PROPOSED NEW DISCLOSURE OPTION FOR OPEN-END MANAGEMENT INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 80a-1 et seq

CFR Citation: 17 CFR 230.497; 17 CFR 230.482; 17 CFR 274.11A

Legal Deadline: None

Abstract: The Commission has proposed for comment a new rule to permit open-end management investment companies ("funds") to provide investors with a "fund profile." The profile would present a summary of key information about a fund in a concise, standardized format.

Timetable:

Action	Date	FR Cite
NPRM	02/27/97	62 FR 10943
NPRM Comment Period End	06/09/97	
Final Action	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: George Zornada, Office of Disclosure Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0528

RIN: 3235–AH03

4535. STATUS OF SUBSIDIARY COMPANIES FORMED TO HOLD INTERESTS IN FOREIGN UTILITY COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 79(t)

CFR Citation: 17 CFR 250.56

Legal Deadline: None

Abstract: The proposed rule clarifies that a subsidiary of a registered holding company which is engaged exclusively in the business of owning an interest in one or more foreign utility companies shall be deemed to be a foreign utility company.

Timetable:

Action	Date	FR Cite
NPRM	03/06/93	58 FR 13719
NPRM Comment Period End	04/14/93	
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David LaRoche, Office of Public Utility Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0559

RIN: 3235–AF79

4536. EXEMPTION OF ISSUANCE AND SALE OF SECURITIES BY PUBLIC UTILITY AND NONUTILITY SUBSIDIARY COMPANIES OF REGISTERED PUBLIC UTILITY HOLDING COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 79c; 15 USC 79f(b); 15 USC 79i(c)(3); 15 USC 79t; 15 USC 79l

SEC—DIVISION OF INVESTMENT MANAGEMENT

Final Rule Stage

CFR Citation: 17 CFR 250.45; 17 CFR 250.52

Legal Deadline: None

Abstract: The proposed amendment to Rule 52 would broaden the scope of the rule to exempt all types of securities issued and sold by any subsidiary company of a registered holding company, subject to satisfying the other conditions of the rule. A conforming change to Rule 45 is also proposed to conditionally exempt from the requirement of prior Commission approval any guarantee by a subsidiary company of debt securities issued by any other subsidiary company.

Timetable:

Action	Date	FR Cite
NPRM	06/28/95	60 FR 33640
NPRM Comment Period End	09/26/95	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Catherine A. Fisher, Office of Public Utility Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0560

RIN: 3235–AG45

SECURITIES AND EXCHANGE COMMISSION (SEC)
DIVISION OF INVESTMENT MANAGEMENT

Long-Term Actions

4537. • BOOKS AND RECORDS TO BE MAINTAINED BY INVESTMENT ADVISERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-4; 15 USC 80b-11

CFR Citation: 17 CFR 275

Legal Deadline: None

Abstract: The Division of Investment Management is considering recommending that the Commission update the books and records requirements.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jennifer Choi, Task Force on Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0725

RIN: 3235–AH24

4538. DEPOSITS OF SECURITIES IN SECURITIES DEPOSITORIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-17(f); 15 USC 80a-06(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.17f-4

Legal Deadline: None

Abstract: Rule 17f-4 governs the use of securities depositories as custodians of the assets of management investment companies. The staff is considering whether to recommend that the Commission propose amendments that would, among other things, expand the types of entities that may be used as securities depositories and permit investment company officers to authorize depository arrangements.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas M. J. Kerwin, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0692

RIN: 3235–AG71

4539. DEREGISTRATION FORM AMENDMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-37(a)

CFR Citation: 17 CFR 274.218; 17 CFR 270.8F-1

Legal Deadline: None

Abstract: The Division of Investment Management is considering recommending to the Commission amendments for Form N-8F, the deregistration form used by those registered investment companies defined in rule 8f-1 under the Investment Company Act. The proposed amendments to Form N-8F would seek to simplify and expedite the deregistration process for investment companies by (1) reorganizing the information reported on the Form, (2) deleting any questions that are unnecessary and adding questions that are frequently asked by the Division, and (3) clarifying the meaning and scope of items.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: C. Hunter Jones, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0694

RIN: 3235–AG29

4540. • INSURANCE PRODUCTS: EQUITY INDEX INSURANCE PRODUCTS CONCEPT RELEASE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq

CFR Citation: 17 CFR 230.151

Legal Deadline: None

Abstract: The Commission issued a release requesting public comment on the structure of equity index insurance products, the manner in which they are marketed, and any other matters the Commission should consider in addressing federal securities law issues raised by equity index insurance products.

Timetable:

Action	Date	FR Cite
ANPRM	08/20/97	62 FR 45359
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Megan L. Dunphy, Office of Insurance Products, Division of Investment Management, Securities and Exchange Commission

SEC—DIVISION OF INVESTMENT MANAGEMENT

Long-Term Actions

Phone: 202 942-0670

RIN: 3235–AH23

SECURITIES AND EXCHANGE COMMISSION (SEC)
DIVISION OF INVESTMENT MANAGEMENT

Completed Actions

4541. REGISTRATION FEES FOR CERTAIN INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-37; 15 USC 80a-39; 15 USC 80a-24

CFR Citation: 17 CFR 270.24f-2

Legal Deadline: None

Abstract: The Commission adopted amendments to rule 24f-2 under the Investment Company Act of 1940 and to Form 24f-2 to implement provisions of the National Securities Markets Improvement Act of 1996 that relate to the registration of investment company securities under the Securities Act of 1933.

Timetable:

Action	Date	FR Cite
NPRM	07/14/97	62 FR 38495
NPRM Comment Period End	08/18/97	
Final Action	09/10/97	62 FR 47934
Final Action Effective	10/11/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robin Gross, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0640

RIN: 3235–AG73

4542. RULES IMPLEMENTING AMENDMENTS TO THE INVESTMENT ADVISERS ACT OF 1940

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: 15 USC 80b-2(a)(17); 15 USC 80b-3(c)(1); 15 USC 80b-3A(a)(1)(A); 15 USC 80b-3A(c); 15 USC 80b-4; 15 USC 80b-6; 15 USC 80b-6(4); 15 USC 80b-6A; 15 USC 80b-11; 15 USC 80b-11(a)

CFR Citation: 17 CFR 275.203(b)(3)-1; 17 CFR 275.203A-1; 17 CFR 275.203A-2; 17 CFR 275.203A-3; 17 CFR 275.203A-4; 17 CFR 275.203A-5; 17 CFR 275.204-1; 17 CFR 275.204-2; 17 CFR 275.205-3; 17 CFR 275.206(3)-2; 17 CFR 275.206(4)-1; 17 CFR 275.206(4)-2; 17 CFR 275.206(4)-3; 17 CFR 275.206(4)-4; 17 CFR 275.222-1; ...

Legal Deadline: None

Abstract: The Commission has adopted new rules and rule amendments under the Investment Advisers Act to implement provisions of the Investment Advisers Supervision Coordination Act that reallocate regulatory responsibility for investment advisers between the Commission and the states. The rules establish the process by which certain advisers will withdraw from Commission registration, exempt certain advisers from the prohibition on Commission registration, and define certain terms. The Commission also has amended several rules under the Advisers Act to reflect the changes made by the Coordination Act. The rules and rule amendments are intended to clarify provisions of the Coordination Act and assist investment advisers in ascertaining their regulatory status. The Commission also has rescinded Form ADV-S.

Timetable:

Action	Date	FR Cite
NPRM	12/20/96	61 FR 68480
NPRM Comment Period End	02/10/97	
Final Action	05/15/97	62 FR 28112
Final Action Effective	07/08/97	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: CFR CITATION CONT..... 17 CFR 275.222-2; 17 CFR 279.1; 17 CFR 279.3

Agency Contact: Catherine M. Saadeh, Task Force on Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0650

RIN: 3235–AH07

4543. ELIMINATION OF FORM ADV-S

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80b-4; 15 USC 80b-11(a)

CFR Citation: 17 CFR 275.204-1(c); 17 CFR 279.3

Legal Deadline: None

Abstract: The Commission rescinded Form ADV-S. The Commission amended paragraph (c) of Rule 204-1 and section 279.3 of part 279 under the Investment Advisers Act to reflect the fact that investment advisers registered with the Commission are no longer required to annually file Form ADV-S.

Timetable:

Action	Date	FR Cite
Suspended	12/20/96	61 FR 68503
Rescinded (Effective 07/08/97)	05/22/97	62 FR 28112

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Catherine M. Saadeh, Task Force on Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0650

RIN: 3235–AH08

4544. MONEY MARKET FUND PROSPECTUS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 80a-1 et seq

CFR Citation: 17 CFR 239.15A; 17 CFR 239.17a; 17 CFR 274.11a; 17 CFR 239.14; 17 CFR 274.11a-1

Legal Deadline: None

Abstract: The Commission proposed amendments to Forms N-1A and N-3 applicable to money market funds. The amendments would have permitted money market funds to use prospectuses adapted for their operations. The proposed amendments were intended to reduce the cost of

preparing, printing, and distributing prospectuses of money market funds. These proposed amendments have been superseded by amendments proposed under 3235-AE46, so the Commission will not consider them as a separate item.

Timetable:

Action	Date	FR Cite
NPRM	07/26/95	60 FR 38454
NPRM Comment Period End	09/27/95	
Withdrawn	10/01/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Previously reported as RIN 3235-AF95.

Agency Contact: John Ganley, Office of Disclosure Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0721

RIN: 3235–AG55

4545. CUSTODY OF INVESTMENT COMPANY ASSETS OUTSIDE THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.17f-5

Legal Deadline: None

Abstract: The Commission adopted amendments to rule 17f-5 that revise the findings that currently must be made in establishing foreign custody arrangements to focus exclusively on the safekeeping of investment company assets, permit a company's board of directors to delegate its responsibilities under the rule to evaluate these arrangements, and expand the class of foreign banks and securities depositories that could serve as investment company custodians.

Timetable:

Action	Date	FR Cite
NPRM	08/02/95	60 FR 39592
NPRM Comment Period End	11/06/95	
Final Action	05/16/97	62 FR 2692
Final Action Effective	08/16/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robin S. Gross, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0640

RIN: 3235–AE98

4546. EXEMPTION OF ACQUISITION OF SECURITIES DURING THE EXISTENCE OF UNDERWRITING SYNDICATES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-10(f); 15 USC 80a-30(a); 15 USC 80a-37; 15 USC 80a-6(c)

CFR Citation: 17 CFR 270.10f-3

Legal Deadline: None

Abstract: The Commission adopted amendments to Rule 10f-3, which permits an investment company, during the existence of an underwriting or selling syndicate, to purchase securities underwritten by certain fund affiliates that are members of the underwriting syndicate. The amendments increase the percentage of an underwriting that an investment company may purchase in reliance on the rule, and expand the scope of the rule to include certain foreign securities offerings and offerings of unregistered securities.

Timetable:

Action	Date	FR Cite
NPRM	03/27/96	61 FR 13630
NPRM Comment Period End	06/30/96	
Final Action	08/07/97	62 FR 42406
Final Action Effective	10/06/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: C. Hunter Jones, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0694

RIN: 3235–AG81

4547. MULTIPLE CLASS COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-37; 15 USC 80a-6(c)

CFR Citation: 17 CFR 270.18f-3

Legal Deadline: None

Abstract: The Commission adopted amendments to rule 18f-3, which permits registered open-end investment companies to issue multiple classes of shares. The amendments would clarify and expand the methods a fund may use to allocate income, capital items, and expenses other than class expenses and clarify when a shareholder vote is required for classes with a conversion feature. The Commission also adopted a technical amendment to Rule 12b-1 to clarify how the various provisions of the rule apply to a "series" fund.

Timetable:

Action	Date	FR Cite
NPRM	09/09/96	61 FR 49022
NPRM Comment Period End	11/18/96	
Final Action	09/26/97	62 FR 57762
Final Action Effective	11/10/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas M. J. Kerwin, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0692

RIN: 3235–AG72

4548. PRIVATELY OFFERED INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-2(a)(51); 15 USC 80a-3(c)(1); 15 USC 80a-3(c)(7); 15 USC 80a-2 note; 15 USC 80a-3 note

CFR Citation: 17 CFR 270.2a51-1; 17 CFR 270.2a51-2; 17 CFR 270.2a51-3; 17 CFR 270.3c-1; 17 CFR 270.3c-5; 17 CFR 270.3c-6; 17 CFR 270.3c-7

Legal Deadline:
Final, Statutory, April 9, 1997, Deadline for Rule 2a51-1 in 15 USC 80a-2 note.
Final, Statutory, April 9, 1997, Deadline for Rule 2a51-2 in 15 USC 80a-3 note.
Final, Statutory, October 11, 1997, Deadline for Rule 3c-6 in 15 USC 80a-3 note.
Final, Statutory, October 11, 1997, Deadline for Rule 3c-5 in 15 USC 80a-3 note.

Abstract: The Commission adopted rules under the Investment Company Act to implement provisions of the National Securities Markets Improvement Act of 1996 that apply to privately offered investment companies. The rules define certain terms for purposes of the new exclusion from regulation under the Investment Company Act for privately offered investment companies whose investors are all highly sophisticated investors, termed "qualified purchasers." The rules also address issues related to existing private investment companies that have no more than 100 investors and certain other matters related to matters related to privately offered investment companies.

Timetable:

Action	Date	FR Cite
NPRM	12/18/96	61 FR 68100
NPRM Comment Period End	02/10/97	
Final Action	04/09/97	62 FR 17512
Final Action Effective	06/09/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Nadya B. Roytblat, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0693

RIN: 3235–AH09

4549. STATUS OF INVESTMENT ADVISORY PROGRAMS UNDER THE INVESTMENT COMPANY ACT OF 1940

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270; 17 CFR 274

Legal Deadline: None

Abstract: The Commission adopted Rule 3a-4 under the Investment Company Act which provides a nonexclusive safe harbor from the definition of investment company for certain programs under which investment advisory services are provided to clients.

Timetable:

Action	Date	FR Cite
NPRM	07/27/95	60 FR 39574
NPRM Comment Period End	10/02/95	
Final Action	03/24/97	62 FR 15098
Final Action Effective	03/31/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Rochelle Kauffman Plesset, Office of the Chief Counsel, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0660

RIN: 3235–AG07

SECURITIES AND EXCHANGE COMMISSION (SEC) DIVISION OF MARKET REGULATION

Proposed Rule Stage

4550. USE OF STATISTICAL MODELS FOR REGULATORY CAPITAL PURPOSES; MARKET RISK HAIRCUTS FOR INSTRUMENTS SUBJECT TO INTEREST RATE RISK

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78o(c)(3); 15 USC 78q; 15 USC 78w

CFR Citation: 17 CFR 240.15c3-1

Legal Deadline: None

Abstract: As part of its comprehensive review of Exchange Act Rule 15c3-1, the net capital rule, the Commission will publish a concept release soliciting comments on how the net capital rule may incorporate statistical models as a basis for calculating market risk capital requirements for interest rate instruments. The Commission also is proposing for comment an amendment to the net capital rule revising the percentage deductions from net worth, or haircuts, applicable to interest rate products when calculating net capital. Under the proposal, haircuts on government securities, investment grade corporate securities, certain mortgage-backed securities, interest rate swaps, and other interest rate-related derivative instruments would be determined by treating these instruments as part of a single portfolio.

Timetable:

Action	Date	FR Cite
ANPRM	05/04/93	58 FR 27486
ANPRM Comment Period End	12/12/93	
NPRM	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Peter Geraghty, Office of Risk Management and Control, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0177
Fax: 202 942-9553
Email: geraghty@sec.gov

RIN: 3235–AG18

4551. NET CAPITAL RULE: CUSTOMER PROTECTION RULE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78h; 15 USC 78g

CFR Citation: 12 CFR 220; 17 CFR 240.3a12-11; 17 CFR 240.15c2-5; 17 CFR 240.15c3-1; 17 CFR 240.15c3-3

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission propose amendments to rules 3a12-11, 15c2-5, 15c3-1 and 15c3-3 under the Securities Exchange Act reflecting changes to section 8 of the Act and to Regulation T under the Act.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Peter Geraghty, Office of Risk Management and Control, Division of Market Regulation, Securities and Exchange Commission
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RIN: 3235–AH05

4552. RISK ASSESSMENT RECORDKEEPING AND REPORTING REQUIREMENT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78a(h)

CFR Citation: 17 CFR 240.17h-1T; 17 CFR 240.17h-2T

Legal Deadline: None

Abstract: The Risk Assessment Recordkeeping and Reporting

Requirements, which became effective September 30, 1992 following notice and comments, were adopted as temporary rules pursuant to the Market Reform Act of 1990. These rules contain recordkeeping and reporting requirements with regard to material associated persons of broker-dealers. The Commission plans to propose final rules replacing the Temporary rules during 1997.

Timetable:

Action	Date	FR Cite
NPRM	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lester Shapiro, Office of Risk Management and Control, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0757
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Email: shapirol@sec.gov

RIN: 3235–AH06

4553. LIMITED PURPOSE BROKER-DEALERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77c; 15 USC 77d; 15 USC 77j; 15 USC 77g; 15 USC 77s; 15 USC 77eee; 15 USC 77ggg; 15 USC 77nnn; 15 USC 77sss; 15 USC 77ttt; 15 USC 78c; 15 USC 78d; 15 USC 78i; 15 USC 78j; 15 USC 78i; ...

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Commission is considering the establishment of a new class of limited purpose broker-dealers. It is anticipated that the limited purpose regulatory structure would allow a U.S. securities firm to establish a single affiliate capable of acting as a counterparty with respect to certain types of securities and non-securities OTC derivatives products, and that the limited purpose entity would be subject to modified capital, margin, and other regulatory requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Glenn Jessee, Office of Chief Counsel, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0073
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RIN: 3235–AH16

4554. EXEMPTION OF CERTAIN FOREIGN BROKERS AND DEALERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78c; 15 USC 78j; 15 USC 78o; 15 USC 78q; 15 USC 78u

CFR Citation: 17 CFR 240.15a-6

Legal Deadline: None

Abstract: Exchange Act Rule 15a-6, which was adopted to exempt conditionally foreign broker-dealers from registration in response to the internationalization of the securities markets, is premised in large part on the willingness of U.S. broker-dealers to take responsibility for resulting trades. The Commission is considering revising the rule to focus instead on the types of securities that are sold by foreign broker-dealers, to allow institutional customers to take advantage of the efficiencies of foreign markets.

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Strasser, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0073
Fax: 202 942-9645
Email: strasserr@sec.gov

RIN: 3235–AH17

4555. NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78o

CFR Citation: 17 CFR 240.15c3-1

Legal Deadline: None

Abstract: The Commission has solicited recommendations on its role in using the ratings of nationally recognized statistical rating organizations (NRSROs). Because of the expanded use of credit ratings in the Commission's rules, it believes that it is appropriate to examine the process it employs to designate rating agencies as NRSROs and the nature of the Commission's oversight role with respect to NRSROs.

Timetable:

Action	Date	FR Cite
ANPRM	08/31/94	59 FR 46314
ANPRM Comment Period End	12/06/94	
NPRM	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Peter Geraghty, Office of Risk Management and Control, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0177
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RIN: 3235–AG41

4556. NET CAPITAL REQUIREMENTS FOR BROKERS OR DEALERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78o(c)(3); 15 USC 78q; 15 USC 78w

CFR Citation: 17 CFR 240.15c3-1

Legal Deadline: None

Abstract: The Commission has proposed amendments to Exchange Act Rule 15c3-1, the net capital rule, that could raise the minimum net capital requirement for certain introducing broker-dealers, for other classes of broker-dealers that never receive customer securities, and for broker-dealers that make markets in securities.

Timetable:

Action	Date	FR Cite
NPRM	12/02/92	57 FR 57027
Interim Final Rule	12/02/92	57 FR 56973
NPRM Comment Period End	02/05/93	
Final Action	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Peter Geraghty, Office of Risk Management and Control, Division of Market Regulation, Securities and Exchange Commission
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RIN: 3235–AD79

4557. AMENDMENT TO FORM BDW AND AMENDMENT TO EXCHANGE ACT RULE 15B6-1 AND AMENDMENTS TO RULES 15B1-1, 15B3-1, 15BA2-2, 15CA1-1, AND 15CA2-1

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77c; 15 USC 77d; 15 USC 77g; 15 USC 77j; 15 USC 77S; 15 USC 77eee; 15 USC 77ggg; 15 USC 77nnn; 15 USC 77sss; 15 USC 77ttt; 15 USC 78c; 15 USC 78d; 15 USC 78i; 15 USC 78j; 15 USC 78l; ...

CFR Citation: 17 CFR 240; 17 CFR 249; 17 CFR 249.501a

Legal Deadline: None

Abstract: The Commission proposed amendments to Form BDW, the uniform request for withdrawal from broker-dealer registration under the Securities Exchange Act. The proposed amendments are designed to implement recommended changes to the Central Registration Depository System, a computer system operated by the National Association of Securities Dealers, Inc. that maintains registration information regarding registered broker-dealers and their registered personnel for use by the Commission, the self-regulatory organizations, and state securities regulators. The amendments include certain clarifying amendments to Form BDW, including new instructions for filing Form BDW electronically with the Central Registration Depository. The Commission also has proposed revisions to rules governing the withdrawal of broker-dealer registration under the Securities Exchange Act. Specifically, the revisions would permit broker-dealers that are withdrawing from registration to consent to an extension of the effective date of their withdrawal. The proposed revisions also would permit the Commission to extend the effective date for such periods as the Commission may determine. In addition, the Division has recommended revisions to the rules governing the filing of Form BD and Form BDW to provide for electronic filing of these forms.

Timetable:

Action	Date	FR Cite
NPRM	07/09/96	61 FR 37701
NPRM Comment Period End	08/19/96	
Final Action	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Legal Authority Continue..... 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78p; 15 USC 78q; 15 USC 78s; 15 USC 78w; 15 USC 78x; 15 USC 78ll(d); 15 USC 79g; 15 USC 79t; 15 USC 80a-20; 15 USC 80a-23; 15 USC 80a-29; 15 USC 80a-37; 15 USC 80b-3; 15 USC 80b-4; 15 USC 80b-11;

Agency Contact: Paul P. Andrews, Office of Chief Counsel, Division of Market Regulation, Securities and Exchange Commission
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RIN: 3235–AG69

4558. AMENDMENT TO RULE 11AC1-1

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77c; 15 USC 77d; 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 77ggg; 15 USC 77nnn; 15 USC 77sss; 15 USC 77ttt; 15 USC 78c; 15 USC 78d; 15 USC 78f; 15 USC 78i; 15 USC 78j; 15 USC 78k; ...

CFR Citation: 17 CFR 240.11Ac1-1(a)(25)

Legal Deadline: None

Abstract: The Commission proposed amendments to Rule 11Ac1-1 under the Exchange Act to require both exchange and over-the-counter market makers to provide continuous two-sided quotations when they account for more than 1 percent of the aggregate trading volume of a security included on the NASDAQ Stock Market.

Timetable:

Action	Date	FR Cite
NPRM	08/29/96	61 FR 48333
NPRM Comment Period End	10/29/96	
Final Action	11/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gail Marshall-Smith, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-7129
Fax: 202 942-9695
Email: marshallg@sec.gov

RIN: 3235–AH00

4559. AMENDMENTS TO RULES 17A-3 AND 17A-4 UNDER THE SECURITIES EXCHANGE ACT OF 1934

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77c; 15 USC 77d; 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 77eee; 15 USC 77ggg; 15 USC 77nnn; 15 USC 77sss; 15 USC 77ttt; 15 USC 78c; 15 USC 78d; 15 USC 78f; 15 USC 78i; 15 USC 78j; ...

CFR Citation: 17 CFR 240 (Revision)

Legal Deadline: None

Abstract: The Commission proposed for comment amendments to the broker-dealer books and records rules intended to clarify, modify, and expand

SEC—DIVISION OF MARKET REGULATION

Final Rule Stage

recordkeeping requirements with respect to purchase and sale documents, customer complaints, associated person records, customer records, and certain other matters. In addition, the proposed amendments specify certain types of books and records that broker-dealers must make available in their local offices.

Timetable:

Action	Date	FR Cite
NPRM	10/28/96	61 FR 55593
NPRM Comment Period End	03/31/97	
Final Action	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Peter Geraghty, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0177
Fax: 202 942-9553
Email: geraghtyp@sec.gov

RIN: 3235–AH04

4560. PROPOSED AMENDMENTS TO TRANSFER AGENT RULES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78q-1

CFR Citation: 17 CFR 240.17Ad-2(a); 17 CFR 240.17Ad-2(c); 17 CFR 240.17Ad-2(e)(1); 17 CFR 240.17Ad-2(e)(2); 17 CFR 240.17Ad-10; 17 CFR 240.17Ad-12

Legal Deadline: None

Abstract: The Commission has proposed amendments to certain transfer agent rules regarding turnaround time, recordkeeping, and safekeeping of funds. The proposed amendments to the transfer agent rules are designed to minimize disruptions, particularly in the National Clearance and Settlement System for securities, that may be caused by poor turnaround performance, substandard or inaccurate recordkeeping practices, and inadequate safekeeping procedures.

Timetable:

Action	Date	FR Cite
NPRM	12/01/94	59 FR 63662
NPRM Comment Period End	02/04/95	
Final Action	11/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas Etter, Office of Risk Management and Control, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-4187
Fax: 202 942-9695
Email: ettert@sec.gov

RIN: 3235–AG24

4561. PROPOSED CHANGES TO DEFINITIONS OF "SMALL BUSINESS" OR "SMALL ORGANIZATION" UNDER THE SECURITIES EXCHANGE ACT OF 1934

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77c; 15 USC 77d; 15 USC 77g; 15 USC 77j; 15 USC 75s; 15 USG 77eee; 15 USC 77ggg; 15 USC 77nnn; 15 USC 77sss; 15 USC 77ttt; 15 USC 78c; 15 USC 78d; 15 USC 78i; 15 USC 78j; 15 USC 78l

CFR Citation: 17 CFR 240.0-10

Legal Deadline: None

Abstract: The Commission proposed to amend the definitions of the terms "small business" and "small organization" contained in Rule 0-10 under the Securities Exchange Act of 1934.

Timetable:

Action	Date	FR Cite
NPRM	01/28/97	62 FR 4106
NPRM Comment Period End	04/30/97	
Final Action	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Glenn J. Jessee, Office of Chief Counsel, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0073
Fax: 202 942-9645
Email: jesseeg@sec.gov

RIN: 3235–AH01

SECURITIES AND EXCHANGE COMMISSION (SEC) DIVISION OF MARKET REGULATION

Long-Term Actions

4562. LARGE TRADER REPORTING SYSTEM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77c to 77d; 15 USC 77s; 15 USC 77ttt; 15 USC 78c to 78d; 15 USC 78i to 78j; 15 USC 78l to 78p; 15 USC 78s; 15 USC 78w; 15 USC 78x; 15 USC 79q; 15 USC 79t; 15 USC 80a-29; 15 USC 80a-37

CFR Citation: 17 CFR 240.13h-1

Legal Deadline: None

Abstract: The Commission has published for comment reproposed Exchange Act Rule 13h-1, which would require large traders to disclose accounts to the Commission, and would require broker-dealers to maintain and report large trader transaction records to the Commission.

Timetable:

Action	Date	FR Cite
NPRM	02/17/94	59 FR 7917
NPRM Comment Period End	04/18/94	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Alton Harvey, Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-4167
Fax: 202 942-9697
Email: harveya@sec.gov

RIN: 3235–AE42

SECURITIES AND EXCHANGE COMMISSION (SEC) DIVISION OF MARKET REGULATION

Completed Actions

4563. CUSTOMER PROTECTION RESERVES AND CUSTODY OF SECURITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78o(c)(3); 15 USC 78w

CFR Citation: 17 CFR 240.15c3-3; 17 CFR 200.30-3

Legal Deadline: None

Abstract: The Commission is withdrawing this item from the Unified Agenda. The Commission may, however, consider some of the issues raised in this matter in a new rulemaking proceeding at some subsequent point.

Timetable:

Action	Date	FR Cite
NPRM	03/15/89	54 FR 10680
NPRM Comment Period End	05/01/89	
Withdrawn	10/01/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter Geraghty, Office of Risk Management and Control, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0177
Fax: 202 942-9553
Email: geraghtyp@sec.gov

RIN: 3235–AD60

4564. DEFINITIONS PRINCIPALLY RELATING TO INTERNATIONAL TRANSACTIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78b; 15 USC 78c(b); 15 USC 78w(a)

CFR Citation: 17 CFR 240.3b-10

Legal Deadline: None

Abstract: The Commission intended to withdraw proposed Exchange Act Rule 3b-10 when it adopted Regulation M. The proposal is withdrawn.

Timetable:

Action	Date	FR Cite
ANPRM	01/09/91	56 FR 820
ANPRM Comment Period End	02/25/91	
NPRM	04/18/96	61 FR 17106
NPRM Comment Period End	06/17/96	
Withdrawn	10/01/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy J. Sanow, Office of Risk Management and Control, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0772
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RIN: 3235–AE15

4565. LOST SECURITYHOLDERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78q; 15 USC 78q-1

CFR Citation: 17 CFR 232.101 (Revision); 17 CFR 240.17a-24; 17 CFR 240.17Ad-7 (Revision); 17 CFR 240.17Ad-17

Legal Deadline: None

Abstract: The Commission proposed rules 17Ad-17 and rule 17a-24, which are designed to address the problem of lost securityholders. Rule 17Ad-17 would require transfer agents to conduct searches in an effort to locate lost securityholders. Rule 17a-24 would allow the Commission to gather data related to lost securityholders and to provide it to information distributors or others.

Timetable:

Action	Date	FR Cite
NPRM	08/28/96	61 FR 44249
NPRM Comment Period End	10/28/96	
Final Action	10/07/97	62 FR 52229

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Theodore Lazo, Office of Risk Management and Control, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0745
Fax: 202 942-9695
Email: lazot@sec.gov

RIN: 3235–AG99

4566. • COVERED SECURITIES PURSUANT TO SECTION 18 OF THE SECURITIES ACT OF 1933

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77b; 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s; 15 USC 77ss; 15 USC 78c; 15 USC 78d; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78w; 15 USC 78ll(d); ...

CFR Citation: 17 CFR 320

Legal Deadline: None

Abstract: The Commission proposed for comment Rule 146(b) under section 18 of the Securities Act, as amended. The rule would designate securities listed on certain national securities exchanges or tiers or segments thereof, as covered securities. Covered securities under section 18 of the Securities Act are exempt from state law registration requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/17/97	62 FR 32705
NPRM Comment Period End	07/17/97	
Final Action	10/07/97	62 FR 52229

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David Sieradzki, Division of Market Regulation, Securities and Exchange Commission
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RIN: 3235–AH18

[FR Doc. 97-22247 Filed 10-28-97; 8:45 am]
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Wednesday
October 29, 1997

Part LXII

Surface Transportation Board

Semiannual Regulatory Agenda

SURFACE TRANSPORTATION BOARD (STB)

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Ch. X

[STB Ex Parte No. 866; Sub-No. 3]

Semiannual Regulatory Agenda

AGENCY: Surface Transportation Board, DOT.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Surface Transportation Board, in accordance with the requirements of the Regulatory Flexibility Act, is publishing a semiannual agenda of: (1) Current and projected rulemakings and (2) existing regulations being reviewed to determine whether to propose modifications through rulemaking. Listed below are the regulatory actions to be developed or reviewed during the next 12 months. Following each rule identified is a brief description of the rule including its purpose and legal basis.

FOR FURTHER INFORMATION CONTACT: A contact person is identified for each of the rules listed below.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA), sets forth a number of requirements for agency rulemaking. Among other things, the RFA requires that, during the months of April and October of each year, each agency shall publish in the **Federal Register** a regulatory flexibility agenda which shall contain:

(1) A brief description of the subject area of any rule which the agency expects to propose or promulgate which is likely to have a significant economic impact on a substantial number of small entities;

(2) A summary of the nature of any such rule under consideration for each subject area listed in the agenda pursuant to paragraph (1), the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and

(3) The name and telephone number of an agency official knowledgeable concerning the items listed in paragraph (1).

Accordingly, a list of proceedings appears below containing information about subject areas in which the Board is currently conducting rulemaking proceedings or may institute such proceedings in the near future. It also contains information about existing regulations being reviewed to determine whether to propose modifications through rulemaking.

The agenda represents the Board's best estimate of rules which will be considered over the next 12 months. However, section 602(d) of the RFA, 5 U.S.C. 602(d), provides: "Nothing in [section 602] precludes an agency from considering or acting on any matter not included in a regulatory flexibility agenda or requires an agency to consider or act on any matter listed in such agenda."

The Board is publishing its October 1997 regulatory flexibility agenda as part of the Unified Agenda of Federal Regulatory and Deregulatory Actions. The Unified Agenda of Federal Regulatory and Deregulatory Actions is coordinated by the Office of Management and Budget pursuant to Executive Order 12866. The Board is participating in the program voluntarily to assist OMB.

Decided: July 25, 1997.
By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,
Secretary.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4567	Expedited Procedures for Processing Simplified Rail Rate Reasonableness Proceedings, STB Ex Parte No. 527 (Sub-No. 1)	2140-AA24

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4568	Railroad Consolidation Procedures: Class Exemption for Transactions Subject to the Statutory Consolidation Provision, Ex Parte No. 282 (Sub-No. 15)	2140-AA03
4569	Rail General Exemption Authority—Exemption of Paints, Enamels, Lacquers, Shellacs, Etc., Ex Parte No. 346 (Sub-No. 33)	2140-AA05
4570	Revisions to Regulations Governing Finance Applications Involving Motor Passenger Carriers, STB Ex Parte No. 559	2140-AA37
4571	Rail General Exemption Authority—Nonferrous Recyclables, STB Ex Parte No. 561	2140-AA39
4572	Service Obligations Over Excepted Track, STB Ex Parte No. 564	2140-AA41

STB

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4573	Rail General Exemption Authority—Exemption of Non-Ferrous Recyclables and Railroad Rates on Recyclable Commodities, Ex Parte No. 346 (Sub-No. 36)	2140-AA06
4574	Petition for Rulemaking—Invoiceless Billing Transactions, Ex Parte No. 55 (Sub-No. 95)	2140-AA07
4575	Removal of Obsolete Regulations Concerning Rail Passenger Fare Increases, STB Ex Parte No. 624	2140-AA23
4576	Regulations for the Publication, Posting and Filing of Tariffs for the Transportation of Property by or With a Water Carrier in the Noncontiguous Domestic Trade, STB Ex Parte No. 618	2140-AA34
4577	Arbitration of Certain Disputes Subject to the Statutory Jurisdiction of the Surface Transportation Board, STB Ex Parte No. 560	2140-AA38
4578	Commuter Rail Service Continuation Subsidies and Discontinuance Notices, STB Ex Parte No. 563	2140-AA40
4579	Acquisition of Rail Lines Under 49 USC 10901 and 10902—Advance Notice of Proposed Transactions, STB Ex Parte No. 562	2140-AA42

SURFACE TRANSPORTATION BOARD (STB)

Proposed Rule Stage

4567. EXPEDITED PROCEDURES FOR PROCESSING SIMPLIFIED RAIL RATE REASONABLENESS PROCEEDINGS, STB EX PARTE NO. 527 (SUB-NO. 1)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 49 USC 10704(c)(2); 49 USC 10704(d)

CFR Citation: 49 CFR 1111

Legal Deadline: None

Abstract: The Surface Transportation Board is soliciting comments on establishing a general procedural schedule to be used in cases processed under the simplified rate evaluation procedures adopted in Rate Guidelines - Non-Coal Proceedings, Ex Parte No. 347 (Sub-No. 2), served December 31, 1996.

Timetable:

Action	Date	FR Cite
ANPRM	02/12/97	62 FR 6508
ANPRM Comment Period End	03/14/97	
NPRM	09/24/97	62 FR 50550
NPRM Comment Period End	11/10/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas J. Stilling, Attorney, Surface Transportation Board, 1925 K Street NW., Washington, DC 20423-0001
Phone: 202 565-1567
TDD: 202 565-1695
Fax: 202 565-9002

RIN: 2140–AA24

SURFACE TRANSPORTATION BOARD (STB)

Long-Term Actions

4568. RAILROAD CONSOLIDATION PROCEDURES: CLASS EXEMPTION FOR TRANSACTIONS SUBJECT TO THE STATUTORY CONSOLIDATION PROVISION, EX PARTE NO. 282 (SUB-NO. 15)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 10321; 49 USC 10505; 49 USC 11341; 49 USC 11343 to 11346; 11 USC 1172; 45 USC 904; 45 USC 915; 5 USC 553; 5 USC 559

CFR Citation: 49 CFR 1180

Legal Deadline: None

Abstract: The Board is considering whether to expand the "nonconnecting carrier" class exemption to embrace all transactions subject to the statutory consolidation provision, except (1) transactions involving the merger or control of at least two class I railroads; (2) transactions involving a reduction in the number of noncommonly controlled railroads serving any two points; (3) transactions involving a reduction from three to two in the number of noncommonly controlled railroads serving any interchange points.

Timetable:

Action	Date	FR Cite
NPRM	07/14/92	57 FR 31165
NPRM Comment Period End	08/30/92	
Internal Review of Comments	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Statutory references to title 49 of the United States Code are prior to their amendment by the ICC Termination Act of 1995, Pub. L. 104-88, 109 Stat. 803, which became effective on January 1, 1996.

Agency Contact: Joseph H. Dettmar, Deputy Director, Office of Proceedings, Surface Transportation Board, 1925 K Street NW., Washington, DC 20423-0001
Phone: 202 565-1609
TDD: 202 565-1695
Fax: 202 565-9002

RIN: 2140–AA03

STB

Long-Term Actions

4569. RAIL GENERAL EXEMPTION AUTHORITY—EXEMPTION OF PAINTS, ENAMELS, LACQUERS, SHELLACS, ETC., EX PARTE NO. 346 (SUB-NO. 33)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 10321; 49 USC 10505; 49 USC 10706; 49 USC 10762; 49 USC 11105; 5 USC 553

CFR Citation: 49 CFR 1039

Legal Deadline: None

Abstract: The Board is investigating whether to exempt from regulation the rail transportation of paints, enamels, lacquers, shellacs, and other commodities included within Standard Transportation Commodity Code (STCC) No. 285.

Timetable:

Action	Date	FR Cite
NPRM	10/21/93	58 FR 54318
NPRM Comment Period End	11/22/93	
Internal Review of Comments	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Statutory references to title 49 of the United States Code are prior to their amendment by the ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803, which became effective on January 1, 1996.

Agency Contact: Joseph H. Dettmar, Deputy Director, Office of Proceedings, Surface Transportation Board, 1925 K Street NW., Washington, DC 20423-0001
Phone: 202 565-1609
TDD: 202 565-1695
Fax: 202 565-9002

RIN: 2140–AA05

4570. • REVISIONS TO REGULATIONS GOVERNING FINANCE APPLICATIONS INVOLVING MOTOR PASSENGER CARRIERS, STB EX PARTE NO. 559

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552(a)(4)(A); 5 USC 553; 31 USC 9701; 49 USC 721(a); 49 USC 14303

CFR Citation: 49 CFR 1002.2(f)(2); 49 CFR 1002.2(f)(5); 49 CFR 1182; 49 CFR 1187; 49 CFR 1188

Legal Deadline: None

Abstract: The Surface Transportation Board has proposed to revise the procedures governing finance applications involving motor passenger carriers filed under 49 USC 14303. The proposed procedures adopt, with modifications, the existing procedures promulgated by the Interstate Commerce Commission. The regulations at 49 CFR parts 1187 and 1188 are proposed to be removed and replaced by new provisions incorporated at 49 CFR part 1182.

Timetable:

Action	Date	FR Cite
NPRM	07/08/97	62 FR 36477
NPRM Comment Period End	08/07/97	
Internal Review of Comments	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Beryl Gordon, Deputy Director, Office of Proceedings, Surface Transportation Board, 1925 K Street NW., Washington, DC 20423-0001
Phone: 202 565-1600
TDD: 202 565-1695
Fax: 202 565-9002

RIN: 2140–AA37

4571. • RAIL GENERAL EXEMPTION AUTHORITY—NONFERROUS RECYCLABLES, STB EX PARTE NO. 561

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 553; 49 USC 10502; 49 USC 13301

CFR Citation: 49 CFR 1039

Legal Deadline: None

Abstract: The Surface Transportation Board is considering whether to exempt from regulation 29 nonferrous recyclables.

Timetable:

Action	Date	FR Cite
NPRM	05/16/97	62 FR 27003
NPRM Comment Period End	07/15/97	
Internal Review of Comments	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This rulemaking embraces and expands the proposed rulemaking in Ex Parte No. 346 (Sub-No. 36), which was issued by the former Interstate Commerce Commission. That proceeding was discontinued on May 5, 1997.

Agency Contact: Beryl Gordon, Deputy Director, Office of Proceedings, Surface Transportation Board, 1925 K Street NW., Washington, DC 20423-0001
Phone: 202 565-1600
TDD: 202 565-1695
Fax: 202 565-9002

RIN: 2140–AA39

4572. • SERVICE OBLIGATIONS OVER EXCEPTED TRACK, STB EX PARTE NO. 564

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553

CFR Citation: None

Legal Deadline: None

Abstract: The Surface Transportation Board requested comments from all interested persons on the circumstances under which it should require a railroad to operate over excepted track that does not meet Federal Railroad Administration class 1 track safety standards, and that the operating railroad deems to be unsafe.

Timetable:

Action	Date	FR Cite
NPRM	05/07/97	62 FR 24896
NPRM Comment Period End	08/05/97	
Internal Review of Comments	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph H. Dettmar, Deputy Director, Office of Proceedings, Surface Transportation Board, 1925 K Street NW., Washington, DC 20423-0001
Phone: 202 565-1600
TDD: 202 565-1695
Fax: 202 565-9002

RIN: 2140–AA41

SURFACE TRANSPORTATION BOARD (STB)

Completed Actions

4573. RAIL GENERAL EXEMPTION AUTHORITY—EXEMPTION OF NONFERROUS RECYCLABLES AND RAILROAD RATES ON RECYCLABLE COMMODITIES, EX PARTE NO. 346 (SUB-NO. 36)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 10321; 49 USC 10505; 49 USC 10731; 49 USC 10707a; 5 USC 553

CFR Citation: 49 CFR 1039; 49 CFR 1145

Legal Deadline: None

Abstract: The Board is considering whether to exempt from regulation the rail transportation of nonferrous recyclables subject to exemptions.

Timetable:

Action	Date	FR Cite
NPRM	08/24/94	59 FR 43529
Comment Period Extended to 10/24/94	09/15/94	59 FR 47292
NPRM Comment Period End	09/23/94	59 FR 43529
Comment Period Extended to 11/07/94	10/26/94	59 FR 53775
Withdrawn	05/16/97	62 FR 27002

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Because the ICC Termination Act of 1995 significantly changed the basis for the notice of proposed rulemaking in this proceeding, this proceeding was discontinued and a new notice of proposed rulemaking was issued in STB Ex Parte No. 561.

Agency Contact: Beryl Gordon, Deputy Director, Office of Proceedings, Surface Transportation Board, 1925 K Street NW., Washington, DC 20423-0001
Phone: 202 565-1616
TDD: 202 565-1695
Fax: 202 565-9002

RIN: 2140–AA06

4574. PETITION FOR RULEMAKING—INVOICELESS BILLING TRANSACTIONS, EX PARTE NO. 55 (SUB-NO. 95)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 10321; 49 USC 11144; 5 USC 553

CFR Citation: 49 CFR 1051; 49 CFR 1220

Legal Deadline: None

Abstract: The portion of this proposed rulemaking pertaining to modes other than motor carriers has been discontinued. The remainder of this proceeding has been transferred to the Federal Highway Administration.

Timetable:

Action	Date	FR Cite
ANPRM	08/09/95	60 FR 40548
ANPRM Comment Period End	10/10/95	
Withdrawn	04/15/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Statutory references to title 49 of the United States Code are prior to their amendment by the ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803, which became effective on January 1, 1996.

Agency Contact: Beryl Gordon, Deputy Director, Office of Proceedings, Surface Transportation Board, 1925 K Street NW., Washington, DC 20423-0001
Phone: 202 565-1616
TDD: 202 565-1695
Fax: 202 565-9002

RIN: 2140–AA07

4575. REMOVAL OF OBSOLETE REGULATIONS CONCERNING RAIL PASSENGER FARE INCREASES, STB EX PARTE NO. 624

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: PL 104-88, sec 204

CFR Citation: 49 CFR 1136

Legal Deadline: None

Abstract: The Surface Transportation Board has removed obsolete regulations concerning rail passenger carrier or suburban fare increases.

Timetable:

Action	Date	FR Cite
NPRM	02/24/97	62 FR 8209
NPRM Comment Period End	03/06/97	
Final Action	06/18/97	62 FR 33026
Final Action Effective	07/18/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Beryl Gordon, Deputy Director, Office of Proceedings, Surface Transportation Board, 1925 K Street NW., Washington, DC 20423-0001
Phone: 202 565-1616
TDD: 202 565-1695
Fax: 202 565-9002

RIN: 2140–AA23

4576. REGULATIONS FOR THE PUBLICATION, POSTING AND FILING OF TARIFFS FOR THE TRANSPORTATION OF PROPERTY BY OR WITH A WATER CARRIER IN THE NONCONTIGUOUS DOMESTIC TRADE, STB EX PARTE NO. 616

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 721(a); 49 USC 13702(a); 49 USC 13702(b); 49 USC 13702(d)

CFR Citation: 49 CFR 1312

Legal Deadline: None

Abstract: The Surface Transportation Board has revised its tariff filing regulations to remove obsolete provisions, to provide carriers with additional flexibility to establish appropriate formats for the filed tariffs that continue to be required, and to reflect changes introduced by the ICC Termination Act of 1995.

Timetable:

Action	Date	FR Cite
NPRM	12/20/96	61 FR 67291
NPRM Comment Period End	01/19/97	
Final Action	04/18/97	62 FR 19058
Final Action Effective	05/18/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James W. Green, Chief, Section of Tariffs, Surface Transportation Board, 1925 K Street NW., Washington, DC 20423-0001
Phone: 202 565-1578
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Fax: 202 565-9012

RIN: 2140–AA34

STB — Completed Actions

4577. • ARBITRATION OF CERTAIN DISPUTES SUBJECT TO THE STATUTORY JURISDICTION OF THE SURFACE TRANSPORTATION BOARD, STB EX PARTE NO. 560

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552(a)(4)(A); 5 USC 553; 31 USC 9701; 49 USC 721(a)

CFR Citation: 49 CFR 1002.2(f)(87); 49 CFR 1108

Legal Deadline: None

Abstract: The Surface Transportation Board adopted rules providing a means for the binding, voluntary arbitration of certain disputes subject to the statutory jurisdiction of the Surface Transportation Board.

Timetable:

Action	Date	FR Cite
NPRM	04/26/97	62 FR 14385
NPRM Comment Period End	05/25/97	
Final Action	09/02/97	62 FR 48497
Final Action Effective	10/01/97	

Small Entities Affected: None

Government Levels Affected: None

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RIN: 2140–AA38

4578. • COMMUTER RAIL SERVICE CONTINUATION SUBSIDIES AND DISCONTINUANCE NOTICES, STB EX PARTE NO. 563

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: PL 104-88, sec 204(a)

CFR Citation: 49 CFR 1157

Legal Deadline: None

Abstract: The Surface Transportation Board removed from the Code of Federal Regulations regulations concerning subsidies for the continuation of commuter rail service and notices of the discontinuance of commuter rail service.

Timetable:

Action	Date	FR Cite
NPRM	06/12/97	62 FR 32068
NPRM Comment Period End	07/14/97	
Final Action	08/27/97	62 FR 45334
Final Action Effective	09/26/97	

Small Entities Affected: None

Government Levels Affected: None

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RIN: 2140–AA40

4579. • ACQUISITION OF RAIL LINES UNDER 49 USC 10901 AND 10902—ADVANCE NOTICE OF PROPOSED TRANSACTIONS, STB EX PARTE NO. 562

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553; 49 USC 10502; 49 USC 10704

CFR Citation: 49 CFR 1121.4; 49 CFR 1150.32; 49 CFR 1150.42; 49 CFR 1150.45

Legal Deadline: None

Abstract: The Board adopted an amendment to its exemption procedures to provide rail employees who work on certain lines proposed to be transferred to a new owner or operator with 60 days' notice and information about the types and number of jobs expected to be available with the new operator.

Timetable:

Action	Date	FR Cite
NPRM	05/01/97	62 FR 23742
NPRM Comment Period End	06/02/97	
Final Action	09/09/97	62 FR 47583
Final Action Effective	10/10/97	

Small Entities Affected: None

Government Levels Affected: None

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RIN: 2140–AA42

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INDEX TO ENTRIES THAT MAY AFFECT SMALL ENTITIES

The Regulatory Flexibility Act (5 U.S.C. 601) requires that agencies publish regulatory agendas identifying those rules that may have a significant economic impact on a substantial number of small entities. Agencies meet that requirement by including the information in their submissions for The Regulatory Plan and the Unified Agenda.

The following index lists the regulatory actions in this joint publication that agencies believe may have such effects on small businesses, small governmental jurisdictions, or small organizations. The Sequence Number (Seq. No.) of the entry identifies the location of the entry in this edition. For further information, see the Regulatory Information Service Center's Introduction to The Regulatory Plan and the Unified Agenda in Part II of this issue.

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Executive Order 12866 entitled "Regulatory Planning and Review" (October 4, 1993; 58 FR 51735) and the Unfunded Mandates Reform Act of 1995 (P.L. 104-4) direct agencies to assess the effects of Federal regulations on State, local, and tribal governments. In addition, Executive Order 12875 entitled "Enhancing the Intergovernmental Partnership" (October 26, 1993; 58 FR 58093) directs agencies to reduce the imposition of unfunded mandates upon State, local, and tribal governments. In keeping with these efforts, agencies include in their submissions for The Regulatory Plan and the Unified Agenda information on whether their regulatory actions have an effect on various levels of government.

The following index lists the regulatory actions in this joint publication that agencies believe may have effects on State, local, tribal, or Federal levels of government. The Sequence Number (Seq. No.) of the entry identifies the location of the entry in this edition. For further information, see the Regulatory Information Service Center's Introduction to The Regulatory Plan and the Unified Agenda in Part II of this issue.

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Federal Register
Vol. 62, No. 210
Thursday, October 30, 1997

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 401 and 457

General Crop Insurance Regulations, Canning and Processing Bean Endorsement; and Common Crop Insurance Regulations, Processing Bean Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) finalizes specific crop provisions for the insurance of processing beans. The provisions will be used in conjunction with the Common Crop Insurance Policy Basic Provisions, which contain standard terms and conditions common to most crops. The intended effect of this action is to provide policy changes to better meet the needs of the insured, include the current canning and processing bean crop insurance endorsement with the Common Crop Insurance Policy for ease of use and consistency of terms, and to restrict the effect of the current canning and processing bean crop insurance endorsement to the 1997 and prior crop years.

EFFECTIVE DATE: December 1, 1997.

FOR FURTHER INFORMATION CONTACT: Ron Nesheim, Insurance Management Specialist, Research and Development, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order No. 12866

The Office of Management and Budget (OMB) has determined this rule to be exempt for the purposes of Executive Order No. 12866, and, therefore, this rule has not been reviewed by OMB.

Paperwork Reduction Act of 1995

Following publication of the proposed rule, the public was afforded 60 days to submit written comments and opinions on information collection requirements currently being reviewed by OMB pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) under OMB control number 0563–0053. No public comments were received.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order No. 12612

It has been determined under section 6(a) of Executive Order No. 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

This regulation will not have a significant economic impact on a substantial number of small entities. The amount of work required of insurance companies will not increase because the information used to determine eligibility is already maintained at their office and the other information required is already being gathered as a result of the present policy. No additional actions are required as a result of this action on the part of either the producer or the reinsured company. Additionally, the regulation does not require any action on the part of the small entities than is required on the part of the large entities. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605), and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order No. 12372

This program is not subject to the provisions of Executive Order No. 12372, which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order No. 12988

This final rule has been reviewed in accordance with Executive Order No. 12988 on Civil Justice Reforms. The provisions of this rule will not have a retroactive effect prior to the effective date. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

National Performance Review

This regulatory action is being taken as part of the National Performance Review Initiative to eliminate unnecessary or duplicative regulations and improve those that remain in force.

Background

On Thursday, May 1, 1997, FCIC published a proposed rule in the **Federal Register** at 62 FR 23675 to add to the Common Crop Insurance Regulations (7 CFR part 457), a new section, 7 CFR 457.155, Processing Bean Crop Insurance Provisions. The new provisions will be effective for the 1998 and succeeding crop years. These provisions will replace and supersede the current provisions for insuring processing beans found at 7 CFR 401.118 (Canning and Processing Bean Endorsement). FCIC also amends 7 CFR

401.118 to limit its effect to the 1997 and prior crop years.

Following publication of the proposed rule, the public was afforded 30 days to submit written comments and opinions. A total of 27 comments were received from a reinsured company and an insurance service organization. The comments received, and FCIC's responses, are as follows:

Comment: An insurance service organization recommended that several definitions common to most crops be put into the Basic Provisions.

Response: The Basic Provisions, which are currently in the regulatory review process, will include definitions of commonly used terms, and this rule will be revised to delete these definitions when the Basic Provisions are published as a final rule.

Comment: An insurance service organization recommended that the sentence in the definition of "bypassed acreage" that states "Bypassed acreage upon which an indemnity is payable will be considered to have a zero yield for Actual Production History (APH) purposes" be deleted since it is addressed elsewhere and does not belong in the definition.

Response: FCIC has deleted the second sentence from, and revised, the definition of bypassed acreage. Provisions have been added in section 3 to explain bypassed acreage when determining approved yield.

Comment: An insurance service organization and a reinsured company expressed concern with the definition of "good farming practices" which makes reference to "cultural practices generally in use in the county * * * recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the county." The commenters questioned whether cultural practices that are not explicitly recognized (or possibly known) by the Cooperative State Research, Education, and Extension Service might exist. The commenters indicated that the term "county" in the definition of "good farming practice" should be changed to "area." The insurance service organization also recommended adding the word "generally" before "recognized by the Cooperative State Research, Education, and Extension Service * * *."

Response: The Cooperative State Research, Education, and Extension Service (CSREES) recognizes farming practices that are considered acceptable for producing processing beans. If a producer is following practices currently not recognized as acceptable by the CSREES, such recognition can be sought by interested parties. Use of the term "generally" will only create an ambiguity and make the definition more difficult to administer. Although the cultural practices recognized by the CSREES may only pertain to specific areas within a county, the actuarial documents are on a county basis. Therefore, no change has been made.

Comment: An insurance service organization recommended that the definition of "replanting" be clarified by inserting "processing beans" between the last two words ("successful" and "crop") of the sentence.

Response: To be consistent with language contained in the proposed rule of the Basic Provisions, FCIC has revised the definition to clarify that "replanting" is performing the cultural practices necessary to prepare the land to replace the seed of the damaged or destroyed crop and then replacing the seed in the insured acreage.

Comment: An insurance service organization recommended that section 2(c) clarify whether optional units are available if the processor contract stipulates the number of contracted acres, or only if the contract does not specify an amount of production.

Response: FCIC agrees and has amended section 2(a) to clarify that for processor contracts that stipulate a specific amount of production to be delivered, the basic unit will consist of all acreage planted to the insured crop in the county that will be used to fulfill the processor contract, and optional units will not be established. The language in section 2 has also been revised and reformatted to clearly state the requirements for both the acreage based and production based processor contracts.

Comment: A reinsured company and an insurance service organization asked if, in section 2(f)(3) of the proposed rule, measurement of stored production is applicable to processing beans.

Response: Processing beans are not put into storage before processing. Therefore, FCIC has removed this provision.

Comment: An insurance service organization recommended removal of the opening phrase in section 2(f)(4)(ii) of the proposed rule that states "In addition to, or instead of, establishing optional units by section, section equivalent, or FSA Farm Serial Number, * * *" since section 2(f)(4) of the proposed rule specifies that "Each optional unit must meet one or more of the following criteria, * * *."

Response: FCIC agrees and has revised section 2(b)(5) of the final rule accordingly.

Comment: An insurance service organization suggested that section 3 should be part of the Basic Provisions since it appears to be standard language in most crop provisions.

Response: The requirement that the price election (for each type, varietal group, etc.) have the same percentage relationship to the maximum price does not apply to all crop policies. FCIC considered this suggestion when it revised the Basic Provisions. Section 3(a) is revised to clarify that the percentage of the maximum price election the insured chooses for one type will be applicable to all other types insured under this policy.

Comment: An insurance service organization stated that section 6, which requires the insured to provide a copy of the processor contract no later than the acreage reporting date, could provide a loophole by allowing producers to wait until acreage reporting time to decide if they want to have coverage.

Response: There is no evidence that allowing the producer to provide a copy of the processor contract as late as the acreage reporting date has resulted in producers waiting to decide until the acreage reporting date if they want coverage. Processing bean producers usually have a processor contract in-force by the final planting date. The requirement to provide a copy of the processor contract with the acreage report is convenient for the producer. Therefore, no change has been made.

Comment: An insurance service organization suggested that any processor contract would allow interplanted processing beans or processing beans planted into an established grass or legume. The commenter further indicated that consideration should be given to inserting the language in section 7(a)(4) of the proposed rule into the Basic Provisions.

Response: FCIC agrees that processing beans have seldom, if ever, been interplanted with another crop or planted into an established grass or legume. However, production practices are constantly evolving. FCIC chooses to retain the provisions of section 7(a)(3) of the final rule to accommodate such developments if they should occur. In addition, the interplanted language is not consistent among the crop policies and, therefore, will be retained in the crop provisions.

Comment: An insurance service organization indicated that language in section 7(b) that states "You will be considered to have a share in the insured crop if, under the processor contract, you retain possession of the

acreage on which the processing beans are grown, * * *" suggests that only a landlord would have a share in the insured crop. The commenter questioned whether the provision in section 7(b) is already covered in sections 7(a)(1) and (3).

Response: The language in section 7(b) was intended to cover producers who have a crop share agreement, rent, or own acreage. The word "possession" has been changed to "control" for clarification. Section 7(a) specifies requirements for insurance, while section 7(b) specifies requirements for a share in the crop. Therefore, both provisions are necessary.

Comment: A reinsured company and an insurance service organization questioned whether section 9(b), which states that the insurance period ceases on the date you harvested sufficient production to fulfill your processor contract, conflicts with section 12(a) that states, "We will determine your loss on a unit basis." The commenters questioned whether production to count from an appraisal prior to harvest would be included when determining fulfillment of the processor contract. The insurance service organization also questioned if the insured would know when enough production is harvested to fulfill the processor contract. This commenter asked if production in excess of the contracted amount is considered production to count for APH or loss adjustment or whether the processor settlement sheet is an acceptable record. The insurance service organization noted that the provisions in section 9(b) state "* * * the insurance period ends when the production delivered to the processor equals the amount of production stated in the processor contract." However, the commenter questioned whether "delivered to" is the same as "accepted by" the processor.

Response: Section 9(b) does not conflict with section 12(a). For processor contracts based on a stated amount of production, FCIC is only insuring the contract amount and the producer can only obtain basic units by processor contract. Therefore, once the contract is fulfilled, insurance ceases on the unit and there is no payable loss. If the contract is not fulfilled and there is still unharvested production, any insurable cause of loss is covered. With respect to the issue of production from appraised acreage, such production will not count toward fulfillment of the processor contract, although it may be used to determine production to count for the unit or the producer's approved yield if the acreage is not bypassed due to an insurable cause of loss that renders such production unacceptable to the processor. With respect to when the producer would know when the processor contract was fulfilled, records are kept as production is delivered to the processor. Therefore, the producer can determine when the contract was fulfilled. All production from the unit, including any excess of the amount stated in the contract, will be considered as production to count when determining the producer's approved yield. For the purposes of loss adjustment, the amount shown on the settlement sheet, plus any appraised production that was not bypassed due to an insurable cause that rendered the production unacceptable to the processor, will be included as production to count. FCIC has revised section 9(b) to clarify that insurance ceases when the contract is fulfilled if the processor contract stipulates a specific amount of production.

Comment: An insurance service organization questioned the provision in section 10(a)(4), which states that insurance is provided against "Plant disease on acreage not planted to the processing beans the previous crop year, * * *." The commenter assumed this would apply even if a rotation requirement was not specified in the Special Provisions.

Response: This provision has been revised to specify that insurance coverage will be provided against plant disease on acreage not planted to processing beans the previous crop year, unless provided for in the Special Provisions or by written agreement, but not damage due to insufficient or improper application of disease control measures.

Comment: An insurance service organization suggested changing the wording in section 10(a)(8) to eliminate reference to 10(a)(1) through (7) because the causes of loss have been identified.

Response: Referencing 10(a)(1) through (7) makes it clear that failure of the irrigation water supply must be due to these specific causes of loss. Therefore, no change has been made.

Comment: An insurance service organization questioned how to determine or enforce the provision in section 10(b) which states that insurance coverage is not provided if acreage is bypassed based on "* * * the availability of a crop insurance payment."

Response: The adjuster should be able to make this determination based on factors such as a harvest pattern exists that clearly indicates the processor is bypassing producers with crop insurance coverage in favor of producers without crop insurance, even though the quality of the crop is similar. Language has been added to state that an indemnity will be denied or have to be repaid if it is determined that the bypassed acreage was due to the availability of a crop insurance payment.

Comment: An insurance service organization questioned a need for section 9(b) of the proposed rule, which states that the insurance period ends on "The date you harvested sufficient production to fulfill your processor contract," because section 10(b)(5) of the proposed rule states that loss of production will not be insured if it is "Due to damage that occurs to unharvested production after you deliver the production required by the processor contract." The commenter indicated that this provision is not necessary since any damage occurring after delivery would be outside the insurance period, as indicated in section 9(b).

Response: FCIC agrees and section 10(b)(5) has been deleted.

Comment: An insurance service organization stated that the language in section 11(c) does not address timely notice if damage is discovered less than 15 days prior to harvest.

Response: FCIC agrees and has revised section 11(c) to clarify that an immediate notice of loss is required if damage is discovered within 15 days prior to harvest or during harvest.

Comment: An insurance service organization stated that section 12(b), which explains how a claim is settled, is too wordy and difficult to follow.

Response: This section has been revised to clarify the settlement of claims calculation, including the addition of an example.

Comment: An insurance service organization suggested that bypassed acreage payments by the processor be considered to have some value to count as with salvage grains.

Response: There is nothing in this policy which precludes a producer from obtaining any other form of insurance against losses as long as such insurance is not under the Federal Crop Insurance Act. Since the producer contributes to the unharvested acreage pool, such payment will not be considered when determining production to count.

Comment: An insurance service organization asked if section 12(c)(1)(i)(E) of the proposed rule permits bypassed acreage to be appraised as production to count.

Response: FCIC has removed section 12(c)(1)(i)(E) of the proposed rule and added section 12(c)(1)(iii) of the final rule to clarify that production to count includes appraised production on

acreage that is bypassed unless the acreage was bypassed due to a cause of loss which would not be acceptable under the terms of the processor contract.

Comment: An insurance service organization stated that section 12(c)(1)(iii) of the proposed rule should not allow the insured to defer settlement and wait for a later, generally lower, appraisal, especially on crops that have a short "shelf life."

Response: A later appraisal will be necessary only if the insurance provider agrees that such an appraisal would result in a more accurate determination and if the producer continues to care for the crop. If the producer does not continue to care for the crop, the original appraisal will be used. Therefore, no change has been made.

Comment: A reinsured company and an insurance service organization asked if there will be any provisions for late or prevented planting.

Response: FCIC agrees that a late planting period for processing beans may be appropriate for some growing areas. Therefore, section 13 is revised to provide a late planting period if allowed by the Special Provisions and the insured provides written approval from the processor by the acreage reporting date that it will accept the production from the late planted acreage. Prevented planting provision has also been added if available in the Basic Provisions.

Comment: A reinsured company and an insurance service organization suggested that written agreements should not be limited to one year. If no substantive changes occur from one year to the next, allow the written agreement to be continuous.

Response: Written agreements are intended to supplement policy terms or permit insurance in unusual situations that require modification of the otherwise standard insurance provisions. If such practices continue year to year, they should be incorporated into the policy or Special Provisions. It is important to minimize written agreement exceptions to assure that the insured is well aware of the specific terms of the policy. Therefore, no change has been made to the requirement that written agreements be renewed each year. FCIC has proposed that the Written Agreement provisions be included in the Basic Provisions.

In addition to the changes described above, FCIC has made the following minor editorial changes and has amended the following Processing Bean Crop Insurance Provisions:

1. Amended and clarified the paragraph preceding section 1 to include the Catastrophic Risk Protection Endorsement.

2. Amended the definitions of "base contract price," "bypassed acreage," "processor," and "processor contract" for clarification. The definition of "practical to replant" is amended to clarify that it will not be considered practical to replant unless the acreage can produce at least 75 percent of the approved yield and the processor agrees in writing that it will accept the production from the replanted acreage. The definition of "processor contract" is amended to clarify that multiple contracts with the same processor that specify amounts of production will be considered as a single processor contract unless the contracts are for different types of processing beans. Added the definitions of "approved yield," "processing beans," and "type." A definition of "broker" is added and pertinent sections of the policy have been revised to accommodate those producers who have a broker as an intermediary with a processor.

3. Section 2—Removed the provision in section 2(a) of the proposed rule that allowed for establishment of a basic unit by snap type beans or lima type beans, if provided for in the Special Provisions. Section 2(b)(5)(C) of the final rule is added to provide optional units by processing bean type. This change makes the provision consistent with other crop provisions offering optional units by type. In addition, the reference to "written agreement" was removed from section 2(b) of the proposed rule and was added to section 2(b)(5) of the final rule to clarify which provision may be revised by written agreement.

4. Section 7—Removed section 7(a)(2) of the proposed rule. This provision is not necessary since section 7(a)(3) of the proposed rule stated that the processing beans must be grown under, and in accordance with, the requirements of a processor contract. If grown under a processor contract, the processing beans will be canned or frozen. Section 7(c) is amended for clarity.

5. Section 9—Changed the end of insurance to October 5 for all processing beans in the states of Idaho, Oregon, and Washington. Section 9(a)(2) is amended to clarify that the insurance period ends when the crop should have been harvested but was not harvested. Also, the word "fresh" has been removed from sections 9(d)(3), (4) and (5) because these Crop Provisions are not applicable to fresh market crops.

6. Section 10—Amended section 10(a) for clarity. Section 10(b) is reformatted and amended for clarity. Also, removed section 10(b)(3) of the proposed rule which stated "Due to processing beans not being timely harvested unless such delay in harvesting is solely and directly due to an insured cause of loss;" because it is unnecessary.

7. Section 11—Clarified that the insured must give notice of loss within 3 days after the date harvest should have started if the acreage will not be harvested. The insured must also provide documentation stating why the acreage is bypassed.

8. Section 12—A new section 12(c)(3) of the final rule is added to clarify that appraised production will include all harvested production from any other insurable units that have been used to fill the processor contract for a unit. Section 12(d) of the proposed rule is deleted because of duplication with section 12(c)(2).

9. Section 14—Clarified that only terms of this policy that are specifically designated for the use of written agreements may be altered by written agreement if the listed conditions are met.

List of Subjects in 7 CFR Parts 401 and 457

Crop insurance, Canning and processing beans, Canning and processing bean endorsement.

Final Rule

Accordingly, for reasons set forth in the preamble, the Federal Crop Insurance Corporation hereby amends 7 CFR parts 401 and 457 as follows:

PART 401—GENERAL CROP INSURANCE REGULATIONS—REGULATIONS FOR THE 1988 AND SUBSEQUENT CONTRACT YEARS

1. The authority citation for 7 CFR part 401 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

2. The introductory text of § 401.118 is revised to read as follows:

§ 401.118 Canning and processing bean endorsement.

The provisions of the Canning and Processing Bean Endorsement for the 1988 through 1997 crop years are as follows:

* * * * *

PART 457—COMMON CROP INSURANCE REGULATIONS; REGULATIONS FOR THE 1994 AND SUBSEQUENT CONTRACT YEARS

3. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

4. Section 457.155 is added to read as follows:

§ 457.155 Processing bean crop insurance provisions.

The Processing Bean Crop Insurance Provisions for the 1998 and succeeding crop years are as follows:

FCIC policies:

UNITED STATES DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Reinsured policies:

(Appropriate title for insurance provider)

Both FCIC and reinsured policies:

Processing Bean Crop Provisions

If a conflict exists among the policy provisions the order of priority is as follows: (1) the Catastrophic Risk Endorsement, if applicable; (2) the Special Provisions; (3) these Crop Provisions; and (4) the Basic Provisions (§ 457.8) with (1) controlling (2), etc.

1. Definitions

Approved yield. Your yield determined in accordance with 7 CFR part 400 subpart G.

Base contract price. The price stipulated in the processor contract for the grade factor or sieve size that is designated in the Special Provisions, if applicable, without regard to discounts or incentives that may apply.

Broker. A business enterprise that has all the licenses and permits required by the state in which it operates, and has a long term agreement in writing with a processor to purchase and deliver processing beans.

Bypassed acreage. Land on which production is ready for harvest but the processor elects not to accept such production so it is not harvested.

Days. Calendar days.

FSA. The Farm Service Agency, an agency of the United States Department of Agriculture, or a successor agency.

Final planting date. The date contained in the Special Provisions for the insured crop by which the crop must initially be planted in order to be insured for the full production guarantee.

Good farming practices. The cultural practices generally in use in the county for the crop to make normal progress toward maturity and produce at least the yield used to determine the production guarantee and are those required by the bean processor contract with the processing company, and recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the county.

Harvest. The mechanical picking of bean pods from the vines.

Interplanted. Acreage on which two or more crops are planted in a manner that does not permit separate agronomic maintenance or harvest of the insured crop.

Irrigated practice. A method of producing a crop by which water is artificially applied during the growing season by appropriate systems and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated production guarantee on the irrigated acreage planted to the insured crop.

Planted acreage. Land in which seed has been placed by a machine appropriate for the insured crop and planting method, at the correct depth, into a seedbed that has been properly prepared for the planting method and production practice. Processing beans must initially be placed in rows far enough apart to permit mechanical cultivation. Acreage planted in any other manner will not be insurable unless otherwise provided by the Special Provisions or by written agreement.

Practical to replant. In lieu of the definition of "Practical to replant" contained in section 1 of the Basic Provisions, practical to replant is defined as our determination, after loss or damage to the insured crop, based on factors including, but not limited to, moisture availability, condition of the field, time to crop maturity, and marketing window, that replanting the insured crop will allow the crop to attain maturity prior to the calendar date for the end of the insurance period. It will not be considered practical to replant unless the replanted acreage can produce at least 75 percent of the approved yield, and the processor agrees in writing that it will accept the production from the replanted acreage.

Processing beans. Lima, snap, or other bean types identified in the Special Provisions that are grown under a processor contract to be canned or frozen and sold for human consumption.

Processor. Any business enterprise regularly engaged in canning or freezing processing beans for human consumption, that possesses all licenses and permits for processing beans required by the state in which it operates, and that possesses facilities, or has contractual access to such facilities, with enough equipment to accept and process the contracted beans within a reasonable amount of time after harvest.

Processor contract. A written agreement between the producer and a processor, or between the producer and a broker, containing at a minimum:

(a) The producer's commitment to plant and grow processing beans, and to deliver the bean production to the processor or broker;

(b) The processor's, or broker's, commitment to purchase all the production stated in the processor contract; and

(c) A base contract price.

Multiple contracts with the same processor that specify amounts of production will be considered as a single processor contract unless the contracts are for different types of processing beans.

Production guarantee (per acre). The number of tons determined by multiplying the approved actual production history yield per acre by the coverage level percentage you elect.

Replanting. Performing the cultural practices necessary to prepare the land to replace the seed of the damaged or destroyed crop and then replacing the seed in the insured acreage.

Timely planted. Planted on or before the final planting date designated in the Special Provisions for the insured crop in the county.

Ton. Two thousand (2,000) pounds avoirdupois.

Type. A category of processing beans identified as a type in the Special Provisions.

Written agreement. A written document that alters designated terms of this policy in accordance with section 14.

2. Unit Division

For processor contracts that stipulate:

(a) The amount of production to be delivered:

(1) In lieu of the definition of unit in section 1 of the Basic Provisions, a basic unit will consist of all acreage planted to the insured crop in the county that will be used to fulfill the processor contract;

(2) There will be no more than one basic unit for each processor contract;

(3) In accordance with section 12, all production from any basic unit in excess of the amount under contract will be included as production to count if such production is applied to any other basic unit for which the contracted amount has not been fulfilled; and

(4) Optional units will not be established.

(b) The number of acres to be planted:

(1) Unless limited by the Special Provisions, a unit as defined in section 1 of the Basic Provisions (basic unit) may be divided into optional units if, for each optional unit, you meet all the conditions of this section. Basic units may not be divided into optional units on any basis other than as described in this section;

(2) If you do not comply fully with these provisions, we will combine all optional units that are not in compliance with these provisions into the basic unit from which they were formed. We will combine the optional units at any time we discover that you have failed to comply with these provisions. If failure to comply with these provisions is determined to be inadvertent, and the optional units are combined into a basic unit, that portion of the additional premium paid for the optional units that have been combined will be refunded to you;

(3) All optional units you selected for the crop year must be identified on the acreage report for that crop year;

(4) The following requirements must be met for each optional unit:

(i) You must have records, which can be independently verified, of planted acreage and production for each optional unit for at least the last crop year used to determine your production guarantee;

(ii) You must plant the crop in a manner that results in a clear and discernable break in the planting pattern at the boundaries of each optional unit; and

(iii) You must maintain records of marketed production from each optional unit maintained in such a manner that permits us to verify the production from each optional unit, or the production from each unit must be kept separate until loss adjustment is completed by us; and

(5) Each optional unit must meet one or more of the following criteria, as applicable, unless otherwise specified by written agreement:

(i) *Optional Units by Section, Section Equivalent, or FSA Farm Serial Number:* Optional units may be established if each optional unit is located in a separate legally identified section. In the absence of sections, we may consider parcels of land legally identified by other methods of measure, such

as Spanish grants, as the equivalent of sections for unit purposes. In areas that have not been surveyed using sections or their equivalent systems or in areas where such systems exist but boundaries are not readily discernable, each optional unit must be located in a separate farm identified by a single FSA Farm Serial Number.

(ii) *Optional Units on Acreage Including Both Irrigated and Non-irrigated Practices:* Optional units may be based on irrigated acreage and non-irrigated acreage if both are located in the same section, section equivalent, or FSA Farm Serial Number. To qualify as separate irrigated and non-irrigated optional units, the non-irrigated acreage may not continue into the irrigated acreage in the same rows or planting pattern. The irrigated acreage may not extend beyond the point at which the irrigation system can deliver the quantity of water needed to produce the yield on which the guarantee is based, except the corners of a field in which a center pivot irrigation system is used will be considered as irrigated acreage if separate acceptable records of production from the corners are not provided. If the corners of a field in which a center-pivot irrigation system is used do not qualify as a separate non-irrigated optional unit, they will be a part of the unit containing the irrigated acreage. Non-irrigated acreage that is not a part of a field in which a center-pivot irrigation system is used may qualify as a separate optional unit provided that all other requirements of this section are met.

(iii) *Optional Units by Types:* Optional units may be established by type. To qualify as separate optional units, the acreage of one type may not continue into the acreage of another type in the same rows or planting pattern.

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities

In addition to the requirements of section 3 of the Basic Provisions:

(a) You may select only one price election for all the processing beans in the county insured under this policy unless the Special Provisions provide different price elections by type. The percentage of the maximum price elections you choose for one type will be applicable to all other types insured under this policy.

(b) The appraised production from bypassed acreage that could have been accepted by the processor will be included when determining your approved yield.

(c) Acreage that is bypassed because it was damaged by an insurable cause of loss will be considered to have a zero yield when determining your approved yield.

4. Contract Changes

In accordance with section 4 of the Basic Provisions, the contract change date is November 30 preceding the cancellation date.

5. Cancellation and Termination Dates

In accordance with section 2 of the Basic Provisions, the cancellation and termination dates are March 15.

6. Report of Acreage

In addition to the provisions of section 6 of the Basic Provisions, you must provide a copy of all processor contracts to us on or before the acreage reporting date.

7. Insured Crop

(a) In accordance with section 8 of the Basic Provisions, the crop insured will be all the processing beans in the county for which a premium rate is provided by the actuarial table:

(1) In which you have a share;

(2) That are grown under, and in accordance with, the requirements of a processor contract executed on or before the acreage reporting date and are not excluded from the processor contract at any time during the crop year; and

(3) That are not (unless allowed by the Special Provisions or by written agreement):

(i) Interplanted with another crop; or

(ii) Planted into an established grass or legume.

(b) You will be considered to have a share in the insured crop if, under the processor contract, you retain control of the acreage on which the processing beans are grown, you are at risk of loss, and the processor contract provides for delivery of the processing beans under specified conditions and at a stipulated base contract price.

(c) A commercial processing bean producer who is also a processor or broker may establish an insurable interest if the following requirements are met:

(1) The producer must comply with these Crop Provisions;

(2) Prior to the sales closing date, the Board of Directors or officers of the processor or the broker must execute and adopt a resolution that contains the same terms as an acceptable processor contract. Such resolution will be considered a processor contract under this policy; and

(3) Our inspection reveals that the processing facilities comply with the definition of a processor contained in these Crop Provisions.

8. Insurable Acreage

In addition to the provisions of section 9 of the Basic Provisions:

(a) Any acreage of the insured crop that is damaged before the final planting date, to the extent that the majority of producers in the area would normally not further care for the crop, must be replanted unless we agree that it is not practical to replant; and

(b) We will not insure acreage that does not meet any rotation requirements, if applicable, contained in the Special Provisions.

9. Insurance Period

In lieu of the provisions contained in section 11 of the Basic Provisions, regarding the end of the insurance period, insurance ceases at the earlier of:

(a) The date the processing beans:

(1) Were destroyed;

(2) Should have been harvested but were not harvested;

(3) Were abandoned; or

(4) Were harvested;

(b) The date you harvest sufficient production to fulfill your processor contract if the processor contract stipulates a specific amount of production to be delivered;

(c) Final adjustment of a loss; or

(d) The date shown below for the end of the insurance period in the calendar year in which the processing beans would normally be harvested, unless otherwise agreed to in writing, as follows:

(1) October 30 for all processing beans in the state of Arkansas;

(2) October 15 for all processing beans in the states of Delaware, Maryland, and New Jersey;

(3) October 5 for all processing beans in the states of Idaho, Oregon, and Washington;

(4) September 30 for snap beans in the state of New York;

(5) September 20 for snap beans in all other states; or

(6) October 5 for lima beans in all other states.

10. Causes of Loss

In accordance with the provisions of section 12 of the Basic Provisions:

(a) Insurance is provided only against the following causes of loss that occur during the insurance period:

(1) Adverse weather conditions, including:

(i) Excessive moisture that prevents the harvesting equipment from entering the field or that prevents the timely operation of harvesting equipment; and

(ii) Abnormally hot or cold temperatures that cause an unexpected number of acres over a large producing area to be ready for harvest at the same time, affecting the timely harvest of a large number of such acres or the processing of such production is beyond the capacity of the processor, either of which causes the acreage to be bypassed.

(2) Fire;

(3) Insects, but not damage due to insufficient or improper application of pest control measures;

(4) Plant disease on acreage not planted to processing beans the previous crop year. (In certain instances, contained in the Special Provisions or in a written agreement, acreage planted to processing beans the previous year may be covered. Damage due to insufficient or improper application of disease control measures is not covered);

(5) Wildlife;

(6) Earthquake;

(7) Volcanic eruption; or

(8) Failure of the irrigation water supply, if due to a cause of loss contained in section 10 (a)(1) through (7) that occurs during the insurance period.

(b) In addition to the causes of loss excluded in section 12 of the Basic Provisions, we will not insure any loss of production due to:

(1) Bypassed acreage because of:

(i) The breakdown or non-operation of equipment or facilities; or

(ii) The availability of a crop insurance payment. We may deny any indemnity immediately in such circumstance or, if an indemnity has been paid, require you to repay it to us with interest at any time acreage was bypassed due to the availability of a crop insurance payment; or

(2) Your failure to follow the requirements contained in the processor contract.

11. Duties In The Event of Damage or Loss

In addition to the notice required by section 14 of the Basic Provisions, you must give us notice:

(a) Not later than 48 hours after:

(1) Total destruction of the processing beans on the unit; or

(2) Discontinuance of harvest on a unit on which unharvested production remains.

(b) Within 3 days after the date harvest should have started on any acreage that will not be harvested unless we have previously released the acreage. You must also provide acceptable documentation of the reason the acreage was bypassed. Failure to provide such documentation will result in our determination that the acreage was bypassed due to an uninsured cause of loss. If the crop will not be harvested and you wish to destroy the crop, you must leave representative samples of the unharvested crop for our inspection. The samples must be at least 10 feet wide and extend the entire length of each field in each unit. The samples must not be destroyed until the earlier of our inspection or 15 days after notice is given to us; and

(c) At least 15 days prior to the beginning of harvest if you intend to claim an indemnity on any unit, or immediately if damage is discovered during the 15 day period or during harvest. If you fail to notify us and such failure results in our inability to inspect the damaged production, we will consider all such production to be undamaged and include it as production to count. You are not required to delay harvest.

12. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide separate, acceptable production records:

(1) For any optional units, we will combine all optional units for which such production records were not provided; or

(2) For any basic units, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for the units.

(b) In the event of loss or damage covered by this policy, we will settle your claim by:

(1) Multiplying the insured acreage by its respective production guarantee, by type if applicable;

(2) Multiplying each result of section 12(b)(1) by the respective price election, by type if applicable;

(3) Totaling the results of section 12(b)(2) if there are more than one type;

(4) Multiplying the total production to count (see section 12(c)), for each type if applicable, by its respective price election;

(5) Totaling the results of section 12(b)(4) if there are more than one type;

(6) Subtracting the results of section 12(b)(4) from the results of section 12(b)(2) if there is only one type or subtracting the results of section 12(b)(5) from the result of section 12(b)(3) if there are more than one type; and

(7) Multiplying the result of section 12(b)(6) by your share.

For example:

You have a 100 percent share in 100 acres of snap type processing beans in the unit, with a guarantee of 3.0 tons per acre and a price election of $110.00 per ton. You are only able to harvest 200 tons. Your indemnity would be calculated as follows:

(1) 100 acres × 3.0 tons = 300 tons guarantee;
(2) 300 tons × $110.00 price election = $33,000.00 value of guarantee;
(3) 200 tons × $110.00 price election = $22,000.00 value of production to count;
(4) $33,000.00 − $22,000.00 = $11,000.00 loss; and
(5) $11,000.00 × 100 percent = $11,000.00 indemnity payment.

You also have a 100 percent share in 100 acres of lima type processing beans in the same unit, with a guarantee of 1.0 ton per acre and a price election of $225.00 per ton. You are only able to harvest 75 tons. Your total indemnity for both snap and lima types processing beans would be calculated as follows:

(1) 100 acres × 3.0 tons = 300 tons guarantee for the snap type, and 100 acres × 1.0 ton = 100 tons guarantee for the lima type;
(2) 300 tons × $110.00 price election = $33,000.00 value of guarantee for the snap type, and 100 tons × $225.00 price election = $22,500.00 value of guarantee for the lima type;
(3) $33,000.00 + $22,500.00 = $55,500.00 total value of guarantee;
(4) 200 tons × $110.00 price election = $22,000.00 value of production to count for the snap type, and 75 tons × $225.00 price election = $16,875.00 value of production to count for the lima type;
(5) $22,000.00 + $16,875.00 = $38,875.00 total value of production to count;
(6) $55,500.00 − $38,875.00 = $16,625.00 loss; and
(7) $16,625.00 loss × 100 percent = $16,625.00 indemnity payment.

(c) The total production to count, specified in tons, from all insurable acreage on the unit will include:

(1) All appraised production as follows:

(i) Not less than the production guarantee for acreage:

(A) That is abandoned;

(B) That is put to another use without our consent;

(C) That is damaged solely by uninsured causes; or

(D) For which you fail to provide production records that are acceptable to us.

(ii) Production lost due to uninsured causes.

(iii) Production on acreage that is bypassed unless the acreage was bypassed due to an insured cause of loss which resulted in production which would not be acceptable under the terms of the processor contract.

(iv) Potential production on insured acreage that you intend to put to another use or abandon, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end when you put the acreage to another use or abandon the crop. If agreement on the appraised amount of production is not reached:

(A) If you do not elect to continue to care for the crop, we may give you consent to put the acreage to another use if you agree to leave intact, and provide sufficient care for, representative samples of the crop in locations acceptable to us (The amount of production to count for such acreage will be based on the harvested production or appraisals from the samples at the time harvest should have occurred. If you do not leave the required samples intact, or fail to provide sufficient care for the samples, our appraisal made prior to giving you consent to put the acreage to another use will be used to determine the amount of production to count); or

(B) If you elect to continue to care for the crop, the amount of production to count for the acreage will be the harvested production, or our reappraisal if additional damage occurs and the crop is not harvested.

(2) All harvested processing bean production from the insurable acreage. The amount of such production will be:

(i) The usable tons of processing beans shown on the processor settlement sheet, if available; or

(ii) Determined by dividing the dollar amount paid, payable, or which should have been paid under the terms of the processor contract for the quality and quantity of beans to be delivered to the processor by the base contract price per ton; and

(3) All harvested processing bean production from any other insurable units that have been used to fulfill your processor contract for this unit.

13. Late and Prevented Planting

Late planting provisions are not applicable to processing beans unless allowed by the Special Provisions and you provide written approval from the processor by the acreage reporting date that it will accept the production from the late planted acres when it is expected to be ready for harvest. Prevented planting insurance will be available if contained in the Basic Provisions.

14. Written Agreement

Terms of this policy that are specifically designated for the use of written agreements may be altered by written agreement in accordance with the following:

(a) You must apply in writing for each written agreement no later than the sales closing date, except as provided in section 14(e);

(b) The application for a written agreement must contain all variable terms of the contract between you and us that will be in effect if the written agreement is not approved;

(c) If approved, the written agreement will include all variable terms of the contract, including, but not limited to, crop type or variety, the guarantee, premium rate, and price election;

(d) Each written agreement will only be valid for one year (if the written agreement is not specifically renewed the following year, insurance coverage for subsequent crop years will be in accordance with the printed policy.); and

(e) An application for a written agreement submitted after the sales closing date may be approved if, after a physical inspection of the acreage, it is determined that no loss has occurred and the crop is insurable in accordance with the policy and written agreement provisions.

Signed in Washington, D.C., on October 27, 1997.

Suzette M. Dittrich,

Deputy Manager, Federal Crop Insurance Corporation.

[FR Doc. 97–28771 Filed 10–29–97; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 450 and 457

Prune Crop Insurance Regulations; and Common Crop Insurance Regulations, Prune Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) finalizes specific crop provisions for the insurance of prunes. The provisions will be used in conjunction with the Common Crop Insurance Policy, Basic Provisions, which contain standard terms and conditions common to most crops. The intended effect of this action is to provide policy changes to better meet the needs of the insured, include the current prune crop insurance regulations with the Common Crop Insurance Policy for ease of use and consistency of terms, and to restrict the effect of the current prune crop insurance regulations to the 1997 and prior crop years.

EFFECTIVE DATE: October 30, 1997.

FOR FURTHER INFORMATION CONTACT: Linda Williams, Insurance Management Specialist, Research and Development, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64313, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order No. 12866

The Office of Management and Budget (OMB) has determined this rule to be exempt for the purposes of Executive Order No. 12866, and therefore, this rule has not been reviewed by OMB.

Paperwork Reduction Act of 1995

Following publication of the proposed rule, the public was afforded 60 days to submit written comments and opinions on information collection requirements currently being reviewed by OMB pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) under OMB control number 0563–0053. No public comments were received.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order No. 12612

It has been determined under section 6(a) of Executive Order No. 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

This regulation will not have a significant economic impact on a substantial number of small entities. The amount of work required of insurance companies will not increase because the information used to determine eligibility is already maintained at their office. The other information required is already being gathered as a result of the present policy. No additional requirements are imposed on the producer or reinsured company as a result of this regulation. Additionally, the regulation does not impose any burden on small entities than it does on large entities. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605), and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order No. 12372

This program is not subject to the provisions of Executive Order No. 12372, which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order No. 12988

This rule has been reviewed in accordance with Executive Order No. 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect prior to the effective date. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

National Performance Review

This regulatory action is being taken as part of the National Performance Review Initiative to eliminate unnecessary or duplicative regulations and improve those that remain in force.

Background

On Thursday, July 10, 1997, FCIC published a proposed rule in the **Federal Register** at 62 FR 37000 to add to the Common Crop Insurance Regulations (7 CFR part 457) a new section, 7 CFR 457.133, Prune Crop Insurance Provisions. The new provisions will be effective for the 1998 and succeeding crop years. These provisions will replace and supersede the current provisions for insuring prunes found at 7 CFR part 450 (Prune Crop Insurance Regulations). FCIC also amends 7 CFR part 450 to limit its effect to the 1997 and prior crop years.

Following publication of the proposed rule, the public was afforded 30 days to submit written comments and opinions. A total of 13 comments were received from the reinsured companies and an insurance service organization. The comments received and FCIC's responses are as follows:

Comment: An insurance service organization recommended that several definitions common to most crops be put into the Basic Provisions.

Response: The Basic Provisions, which are currently in the regulatory review process, will include definition of commonly used terms and this rule will be revised to delete those definitions when the Basic Provisions are published as a final rule.

Comment: A reinsured company and an insurance service organization expressed concern with the definition of "good farming practice," which states

"* * * recognized by the Cooperative State Research, Education, and Extension Service as compatible * * *" since there may be accepted practices not so recognized. The commenters suggested revising the language to state "generally recognized * * *" and changing the term "county" to "area."

Response: The Cooperative State Research, Education, and Extension Service (CSREES) recognizes farming practices that are considered acceptable for producing prunes. If a producer is following practices currently not recognized as acceptable by the CSREES, such recognition can be sought by interested parties. Use of the term "generally recognized" will only make the policy more difficult to administer. Although the cultural practices recognized by CSREES may only pertain to specific areas within a county, actuarial documents are on a county basis. Therefore, no change has been made.

Comment: A reinsured company recommended that in the definition of "irrigated practice," the words "and quality" should be added after the words "* * * providing the quantity."

Response: There are no established criteria regarding the quality of water necessary to produce a crop. The highly variable factors involved would make such criteria difficult to develop and administer. The provisions regarding good farming practices can be applied in situations in which the insured person failed to exercise due care and diligence. Therefore, no change has been made to the definition.

Comment: An insurance service organization and a reinsured company questioned whether the references in section 2(e)(2) to "measurement of stored production" is applicable to prunes. The commenter stated it was not a common practice to store prunes.

Response: FCIC agrees measurement of stored production does not apply to prunes. The provisions have been amended accordingly.

Comment: An insurance service organization expressed concern in discrepancies regarding the provisions contained in section 2(e)(3). The commenter indicated that the proposed rule summary of changes stated section 2(e) contained changes in the provisions to allow optional units on non-contiguous land and for land located in separate sections. The commenter stated 2(e)(3) refers to "one or more of the following criteria," but 2(e)(3)(ii) states that optional units by non-contiguous land are in lieu of establishing optional units by section, section equivalent or FSA Farm Serial Number. The commenter also stated policyholders will need to understand they must qualify for separate optional units and could lose optional units if production was commingled.

Response: FCIC agrees that the provisions in section 2(e)(3) were confusing and that the proposed rule summary of changes did not accurately describe the changes in section 2(e)(3). FCIC has amended the wording contained in section 2(e)(3) to clarify that each optional unit "must also meet one of the following criteria as applicable * * *" In addition, section 2(e)(3)(ii) has been amended to remove language which stated "In lieu of establishing optional units by section, section equivalent or FSA Farm Serial Number." These changes will clarify that optional unit may be established if each optional unit meets one of the following criteria: (1) by section, FSA Farm Serial Number, or their equivalent; or (2) by non-contiguous land.

Comment: An insurance service organization stated that the language in section 10(c) does not address timely notice if damage is discovered less than 15 days prior to harvest.

Response: Section 10(c) provides the notice requirements in the event the insured intends to file a claim for indemnity. Section 10(c) states that notice must be given 15 days prior to the beginning of harvest or immediately if damage is discovered during harvest. In addition, Section 10 states that the requirements contained in section 14 of the Basic Provisions, which requires notice of loss within 72 hours of initial discovery of damage, are applicable. Therefore, no change has been made.

Comment: An insurance service organization stated that it seems unnecessary to refer to previous items by number in section 11. All references make it difficult to follow the calculation sequence.

Response: This section has been explicitly worded to eliminate any misunderstanding or confusion. However, to provide clarification in the calculations, an example of the indemnity calculation has been included.

Comment: An insurance service organization stated that section 11(c)(1)(iv) should not allow the insured to defer settlement and wait for a later, generally lower, appraisal.

Response: A later appraisal will only be necessary if the insurance provider agrees that such an appraisal would result in a more accurate determination and if the producer continues to care for the crop. If the producer does not continue to care for the crop, the original appraisal will be used. Therefore, no change has been made.

Comment: An insurance service organization and two reinsured companies recommended removal of the requirement that written agreements be renewed each year if there are no significant changes to the farming operation. One reinsured company suggested that the written agreement should contain the effective period for each specific agreement because limiting the effective period to one year only increases administrative cost, complexity and the opportunity for misunderstanding.

Response: Written agreements are intended to supplement policy terms or permit insurance in unusual situations that require modification of the otherwise standard insurance provisions. If such practices continue year to year, they should be incorporated into the policy or Special Provisions. It is important to minimize written agreement exceptions to assure that the insured is well aware of the specific terms of the policy. Therefore, no change will be made.

In addition to the changes described above, FCIC has made minor editorial changes and has amended the following provisions:

1. Amended the paragraph preceding section 1 to include the Catastrophic Risk Protection Endorsement for the purpose of clarification.
2. Section 2(e)(3)(i)—Revised the language for clarification.
3. Section 9(a)(3)—Clarified wildlife as a cause of loss by deleting the language "unless proper measures to control wildlife have not been taken."
4. Section 9(a)(6)—To be consistent with causes of loss in other Crop Provisions, clarified that failure of the irrigation water supply must be "due to a cause specified in section 9(a)(1) through (5)."
5. Section 11(d)—Clarify any prune production harvested for fresh fruit will be converted to a dried prune weight basis by dividing the total amount (in tons) of fresh fruit production by 3.0. Evidence compiled by FCIC after publication of the proposed rule indicated that 3.0 is a more accurate conversion factor than the value 3.1 contained in the proposed rule.

Good cause is shown to make this rule effective upon publication in the **Federal Register**. This rule improves the prune crop insurance coverage and brings it under the Common Crop Insurance Policy Basic Provisions for consistency among policies. The earliest contract change date that can be met for the 1998 crop year is October 31, 1997, and the final rule must be published as soon as possible. It is therefore, imperative that these provisions be

made final so that the reinsured companies may have sufficient time to implement these changes. Therefore, public interest requires the agency to make the rules effective upon publication.

List of Subjects in 7 CFR Parts 450 and 457

Crop insurance, Prunes.

Final Rule

Accordingly, for the reasons set forth in the preamble, the Federal Crop Insurance Corporation, hereby amends 7 CFR parts 450 and 457, as follows:

PART 450—PRUNE CROP INSURANCE REGULATIONS FOR THE 1996 AND SUCCEEDING CROP YEARS

1. The authority citation for 7 CFR part 450 is revised to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

2. The part heading is revised to read as set forth above.

3. The Subpart Heading "Subpart-Regulations for the 1986 and Succeeding Crop Years" is removed.

4. Section 450.7 is amended by revising the introductory text of paragraph (d) to read as follows:

§ 450.7 The application and policy.

* * * * *

(d) The application for the 1986 and succeeding crop years is found at subpart D of part 400, General Administrative Regulations (7 CFR 400.37, 400.38). The provisions of the Prune Insurance Policy for the 1986 through 1997 crop years are as follows:

* * * * *

PART 457—COMMON CROP INSURANCE REGULATIONS; REGULATIONS FOR THE 1994 AND SUBSEQUENT CONTRACT YEARS

5. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

6. Section 457.133 is added to read as follows:

§ 457.133 Prune crop insurance provisions.

The Prune Crop Insurance Provisions for the 1998 and succeeding crop years are as follows:

FCIC policies:

UNITED STATES DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Reinsured policies:

(Appropriate title for insurance provider)

Both FCIC and reinsured policies:

Prune Crop Provisions

If a conflict exists among the policy provisions, the order of priority is as follows: (1) the Catastrophic Risk Endorsement, if applicable; (2) the Special Provisions; (3) these Crop Provisions; and (4) the Basic Provisions (§ 457.8); with (1) controlling (2) etc.

1. Definitions

Days. Calendar days.

Direct marketing. Sale of the insured crop directly to consumers without the intervention of an intermediary such as a wholesaler, retailer, packer, processor, shipper or buyer. Examples of direct marketing include: selling through an on-farm or roadside stand, farmer's market, and permitting the general public to enter the field for the purpose of picking all or a portion of the crop.

FSA. The Farm Service Agency, an agency of the United States Department of Agriculture, or a successor agency.

Good farming practices. The cultural practices generally in use in the county for the crop to make normal progress toward maturity and produce at least the yield used to determine the production guarantee, and recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the county.

Harvest. Picking of mature prunes from the trees or ground either by hand or machine.

Interplanted. Acreage on which two or more crops are planted in any form of alternating or mixed pattern.

Irrigated practice. A method of producing a crop by which water is artificially applied during the growing season by appropriate systems and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated production guarantee on the irrigated acreage planted to the insured crop.

Market price for standard prunes. The price per ton shown on the processor's settlement sheet for each size count of standard prunes.

Natural condition prunes. The condition of prunes in which they are normally delivered from a dehydrator or dry yard.

Non-contiguous land. Any two or more tracts of land whose boundaries do not touch at any point, except that land separated only by a public or private right-of-way, waterway, or an irrigation canal will be considered as contiguous.

Production guarantee (per acre). The number of tons determined by multiplying the approved APH yield per acre by the coverage level percentage you elect.

Prunes. Any type or variety of plums that is grown in the area for the production of prunes and that meets the requirements defined in the applicable Federal Marketing Agreement Dried Prune Order.

Standard prunes. Any natural condition prunes:

(a) That grade "C" or better in accordance with the United States Standards for Grades of Fresh Plums and Prunes; or

(b) That meet or exceed the grading standards in effect for the crop year if a Federal Marketing Agreement Dried Prune Order has been established for the area in which the insured crop is grown.

Substandard prunes. Any natural condition prunes failing to meet the applicable grading specifications for standard prunes.

Ton. Two thousand (2,000) pounds avoirdupois.

Written agreement. A written document that alters designated terms of this policy in accordance with section 12.

2. Unit Division

(a) Unless limited by the Special Provisions, a unit as defined in section 1 of the Basic Provisions, (basic unit) may be divided into optional units if, for each optional unit, you meet all the conditions of this section.

(b) Basic units may not be divided into optional units on any basis other than as described in this section.

(c) If you do not comply fully with these provisions, we will combine all optional units that are not in compliance with these provisions into the basic unit from which they were formed. We will combine the optional units at any time we discover that you have failed to comply with these provisions. If failure to comply with these provisions is determined to be inadvertent, and the optional units are combined into a basic unit, that portion of the premium paid for the purpose of electing optional units will be refunded to you for the units combined.

(d) All optional units established for a crop year must be identified on the acreage report for that crop year.

(e) The following requirements must be met for each optional unit:

(1) You must have provided records by the production reporting date, that can be independently verified, of acreage and production for each optional unit for at least the last crop year used to determine your production guarantee;

(2) For each crop year, you must have records of marketed production from each optional unit maintained in such a manner that permits us to verify the production from each optional unit, or the production from each unit must be kept separate until loss adjustment is completed by us;

(3) Each optional unit must also meet one of the following criteria as applicable, unless otherwise allowed by a written agreement:

(i) *Optional units by Section, Section Equivalent, or FSA Farm Serial Number:* Optional units may be established if each optional unit is located in a separate legally identified section. In the absence of sections, we may consider parcels of land legally identified by other methods of measure such as Spanish grants, as the equivalent of sections for unit purposes. In areas that have not been surveyed using sections or their equivalent, or in areas where such systems exist but boundaries are not readily discernable, each optional unit must be located in a separate farm identified by a single FSA Farm Serial Number; or

(ii) *Optional Units on Acreage Located on Non-Contiguous Land:* Optional units may be established if each optional unit is located on non-contiguous land.

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities

In addition to the requirements of section 3 of the Basic Provisions:

(a) You may select only one price election for all the prunes in the county insured under this policy unless the Special Provisions provide different price elections by varietal group, in which case you may select one price election for each prune varietal group designated in the Special Provisions. The price elections you choose for each varietal group must have the same percentage relationship to the maximum price offered by us for each varietal group. For example, if you choose 100 percent of the maximum price election for one varietal group, you must also choose 100 percent of the maximum price election for all other varietal groups.

(b) You must report, by the production reporting date designated in section 3 of the Basic Provisions, by varietal group if applicable:

(1) Any damage, removal of trees, change in practices, or any other circumstance that may reduce the expected yields below the yield upon which the insurance guarantee is based, and the number of affected acres;

(2) The number of bearing trees on insurable and uninsurable acreage;

(3) The age of the trees and the planting pattern; and

(4) For the first year of insurance for acreage interplanted with another perennial crop, and any time the planting pattern of such acreage is changed:

(i) The age of the interplanted crop, and varietal group if applicable;

(ii) The planting pattern; and

(iii) Any other information that we request in order to establish your approved yield.

We will reduce the yield used to establish your production guarantee as necessary, based on our estimate of the effect of interplanting the perennial crop; removal of trees; damage; a change in practices, and any other circumstance that may affect the yield potential of the insured crop. If you fail to notify us of any circumstance that may reduce your yields from previous levels, we will reduce your production guarantee at any time we become aware of the circumstance.

4. Contract Changes

In accordance with section 4 of the Basic Provisions, the contract change date is October 31 preceding the cancellation date.

5. Cancellation and Termination Dates

In accordance with section 2 of the Basic Provisions, the cancellation and termination dates are January 31.

6. Insured Crop

In accordance with section 8 of the Basic Provisions, the crop insured will be all the prunes in the county for which a premium rate is provided by the actuarial table:

(a) In which you have a share;

(b) That are grown for the production of natural condition prunes;

(c) That are grown on tree varieties that:

(1) Were commercially available when the trees were set out;

(2) Are adapted to the area;

(3) Are grown on rootstock that is adapted to the area; and

(4) Are irrigated (except where otherwise provided in the Special Provisions);

(d) That are grown in an orchard that, if inspected, is considered acceptable by us; and

(e) That are grown on trees that have reached at least the seventh growing season after being set out.

7. Insurable Acreage

In lieu of the provisions in section 9 of the Basic Provisions that prohibit insurance attaching to a crop planted with another crop, prunes interplanted with another perennial crop are insurable unless we inspect the acreage and determine that it does not meet the insurability requirements contained in your policy.

8. Insurance Period

(a) In accordance with the provisions of section 11 of the Basic Provisions:

(1) Coverage begins for each crop year on March 1.

(2) The calendar date for the end of the insurance period for each crop year is:

(i) October 1 for California; or

(ii) October 15 for Oregon.

(b) In addition to the provisions of section 11 of the Basic Provisions:

(1) If you acquire an insurable share in any insurable acreage after coverage begins but on or before the acreage reporting date for the crop year, and after an inspection we consider the acreage acceptable, insurance will be considered to have attached to such acreage on the calendar date for the beginning of the insurance period.

(2) If you relinquish your insurable share on any insurable acreage of prunes on or before the acreage reporting date for the crop year and if the acreage was insured by you the previous crop year, insurance will not be considered to have attached to, and no premium or indemnity will be due for such acreage for that crop year unless:

(i) A transfer of coverage and right to an indemnity, or a similar form approved by us, is completed by all affected parties;

(ii) We are notified by you or the transferee in writing of such transfer on or before the acreage reporting date; and

(iii) The transferee is eligible for crop insurance.

9. Causes of Loss

(a) In accordance with the provisions of section 12 of the Basic Provisions, insurance is provided only against the following causes of loss that occur during the insurance period:

(1) Adverse weather conditions;

(2) Fire, unless weeds and undergrowth have not been controlled or pruning debris has not been removed from the orchard;

(3) Wildlife;

(4) Earthquake;

(5) Volcanic eruption; or

(6) Failure of the irrigation water supply, if due to a cause specified in section 9(a)(1) through (5) that occurs during the insurance period.

(b) In addition to the causes of loss excluded in section 12 of the Basic Provisions, we will not insure against damage or loss of production due to:

(1) Disease or insect infestation, unless adverse weather:

(i) Prevents the proper application of control measures or causes properly applied control measures to be ineffective; or

(ii) Causes disease or insect infestation for which no effective control mechanism is available; or

(2) Inability to market the prunes for any reason other than actual physical damage from an insurable cause specified in this section. For example, we will not pay you an indemnity if you are unable to market due to quarantine, boycott, or refusal of any person to accept production.

10. Duties in the Event of Damage or Loss

In addition to the requirements of section 14 of the Basic Provisions, the following will apply:

(a) You must notify us within 3 days of the date harvest should have started if the crop will not be harvested.

(b) You must notify us at least 15 days before any production from any unit will be sold by direct marketing or sold as fresh fruit. We will conduct an appraisal that will be used to determine your production to count for production that is sold by direct marketing or is sold as fresh fruit production. If damage occurs after this appraisal, we will conduct an additional appraisal. These appraisals, and any acceptable records provided by you, will be used to determine your production to count. Failure to give timely notice that production will be sold by direct marketing or sold as fresh fruit will result in an appraised amount of production to count of not less than the production guarantee per acre if such failure results in our inability to make the required appraisal.

(c) If you intend to claim an indemnity on any unit, you must notify us at least 15 days prior to the beginning of harvest, or immediately if damage is discovered during harvest, so that we may inspect the damaged production.

(d) You must not destroy the damaged crop until after we have given you written consent to do so. If you fail to meet the requirements of this section and such failure results in our inability to inspect the damaged production, all such production will be considered undamaged and included as production to count.

11. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide separate acceptable production records:

(1) For any optional units, we will combine all optional units for which such production records were not provided; or

(2) For any basic units, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for each unit.

(b) In the event of loss or damage covered by this policy, we will settle your claim by:

(1) Multiplying the insured acreage for each varietal group, if applicable, by its respective production guarantee;

(2) Multiplying the result of 11(b)(1) by the respective price election for each varietal group, if applicable;

(3) Totaling the results of section 11(b)(2) if there is more than one varietal group;

(4) Multiplying the total production to count (see section 11(c)), of each varietal group if applicable, by its respective price election;

(5) Totaling the results of section 11(b)(4) if there is more than one varietal group;

(6) Subtracting the result of section 11(b)(4) from the result of section 11(b)(2) if there is only one varietal group or subtracting the result of section 11(b)(5) from the result of section 11(b)(3) if there is more than one varietal group; and

(7) Multiplying the result of section 11(b)(6) by your share.

For Example

You have a 100 percent share in 50 acres of varietal group A prunes in the unit, with a guarantee of 2.5 tons per acre and a price election of $630.00 per ton. You are only able to harvest 10.0 tons. Your indemnity would be calculated as follows:

(1) 50 acres × 2.5 tons = 125.0 ton guarantee;
(2) 125.0 tons × $ 630.00 price election = $78,750.00 value of guarantee;
(4) 10.0 tons × $630.00 price election = $6,300.00 value of production to count;
(6) $78,750.00 − $6,300.00 = $72,450.00 loss; and
(7) $72,450.00 × 100 percent = $72,450 indemnity payment.

You also have a 100 percent share in 50 acres of varietal group B prunes in the same unit, with a guarantee of 2.0 ton per acre and a price election of $550.00 per ton. You are only able to harvest 5.0 tons. Your total indemnity for both varietal groups A and B would be calculated as follows:

(1) 50 acres × 2.5 tons = 125.0 ton guarantee for varietal group A and 50.0 acres × 2.0 tons = 100.0 ton guarantee for varietal group B;
(2) 125.0 ton guarantee × $630.00 price election = $78,750.00 value of guarantee for varietal group A and 100.0 ton guarantee × $550.00 price election = $55,000.00 value guarantee for varietal group B;
(3) $78,750.00 + $55,000.00 = $133,750.00 total value guarantee;
(4) 10.0 tons × $630.00 price election = $6,300.00 value of production to count for varietal group A and 5.0 tons × $550.00 price election = $2,750.00 value of production to count for varietal group B;
(5) $6,300.00 + $2,750.00 = $9,050.00 total value of production to count;
(6) $133,750.00 − $9,050.00 = $124,700.00 loss; and
(7) $124,700.00 loss × 100 percent = $124,700 indemnity payment.

(c) The total production to count (in tons) from all insurable acreage on the unit will include all harvested and appraised production of natural condition prunes that grade substandard or better and any production that is harvested and intended for use as fresh fruit. The total production to count will include:

(1) All appraised production as follows:

(i) Not less than the production guarantee per acre for acreage:

(A) That is abandoned;

(B) That is sold by direct marketing or sold as fresh fruit if you fail to meet the requirements contained in section 10;

(C) That is damaged solely by uninsured causes; or

(D) For which you fail to provide acceptable production records;

(ii) Production lost due to uninsured causes;

(iii) Unharvested production; and

(iv) Potential production on insured acreage you intend to abandon or no longer care for, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end. If you do not agree with our appraisal, we may defer the claim only if you agree to continue to care for the crop. We will then make another appraisal when you notify us of further damage or that harvest is general in the area unless you harvested the crop, in which case we will use the harvested production. If you do not continue to care for the crop, our appraisal made prior to deferring the claim will be used to determine the production to count; and

(2) All harvested production from the insurable acreage.

(d) Any prune production harvested for fresh fruit will be converted to a dried prune weight basis by dividing the total amount (in tons) of fresh fruit production by 3.0.

(e) Any production of substandard prunes resulting from damage by insurable causes will be adjusted based on the average size count as indicated on the applicable Dried Fruit Association (DFA) Inspection Report and Certification Form. Any insurable damage will be adjusted by:

(1) Dividing the value per ton of such substandard prunes by the market price per ton for standard prunes (of the same size count); and

(2) Multiplying the result by the number of tons of such prunes.

12. Written Agreements

Terms of this policy which are specifically designated for the use of written agreements may be altered by written agreement in accordance with the following:

(a) You must apply in writing for each written agreement no later than the sales closing date, except as provided in section 12(e);

(b) The application for a written agreement must contain all variable terms of the contract between you and us that will be in effect if the written agreement is not approved;

(c) If approved, the written agreement will include all variable terms of the contract, including, but not limited to, crop type or varietal group, the guarantee, premium rate, and price election;

(d) Each written agreement will only be valid for one year (If the written agreement is not specifically renewed the following year, insurance coverage for subsequent crop years will be in accordance with the printed policy); and

(e) An application for a written agreement submitted after the sales closing date may be approved if, after a physical inspection of the acreage, it is determined that no loss has occurred and the crop is insurable in accordance with the policy and written agreement provisions.

Signed in Washington, D.C., on October 27, 1997.

Suzette M. Dittrich,

Deputy Manager, Federal Crop Insurance Corporation.

[FR Doc. 97–28772 Filed 10–29–97; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

7 CFR Part 500

National Arboretum

AGENCY: Agricultural Research Service; USDA.

ACTION: Final rule; announcement of effective date.

SUMMARY: The Department of Agriculture (USDA) established a schedule of fees to be charged for certain uses of the facilities, grounds, and services at the United States National Arboretum (USNA).

DATES: Sections 500.22 and 500.23 are effective October 30, 1997.

FOR FURTHER INFORMATION CONTACT: Director, National Arboretum, Beltsville Area, ARS, 3501 New York Avenue, NE., Washington, D.C. 20002; (202) 245–4539.

SUPPLEMENTARY INFORMATION: On September 3, 1997, the USNA published a final rule adopting a schedule of fees to be charged for certain uses of the facilities, grounds and services of the USNA. See 62 FR 46431, September 3, 1997. The final rulemaking document specified that sections 500.22 and 500.23 of that rule would not become effective until approval by the Office of Management and Budget (OMB) of new information collection requirements contained in those sections. The new information collection requirements were approved by OMB on October 6, 1997. See OMB No. 0518–0024. This publication satisfies the statement in the final rule that the USDA would publish a document notifying the public of the effective date of sections 500.22 and 500.23.

Done at Washington, D.C., this 24th day of October, 1997.

Edward B. Knipling,

Acting Administrator, Agricultural Research Service.

[FR Doc. 97–28776 Filed 10–29–97; 8:45 am]

BILLING CODE 3410–03–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Docket No. FV97–905–1 IFR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Limiting the Volume of Small Florida Red Seedless Grapefruit

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amended interim final rule with request for comments.

SUMMARY: This interim final rule amends a prior interim final rule that limited the volume of small red seedless grapefruit entering the fresh market under the Florida citrus marketing order. The marketing order regulates the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida and is administered locally by the Citrus Administrative Committee (committee). The prior interim final rule limited the volume of size 48 and/or size 56 red seedless grapefruit handlers could ship during the first 11 weeks of the 1997–1998 season that began in September. This rule changes the weekly percentages for the last five weeks of the regulatory period from 30 percent to 35 percent. These revisions will provide a sufficient supply of small sized red seedless grapefruit to meet market demand, without saturating all markets with these small sizes. This rule is necessary to help stabilize the market and improve grower returns.

DATES: Effective October 31, 1997 through November 30, 1997. Comments received by November 10, 1997 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 720–5698. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Christian D. Nissen, Southeast Marketing Field Office, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883; telephone: (941) 299–4770, Fax: (941) 299–5169; or Anne Dec, Marketing Order Administration Branch, F&V, AMS, USDA, room 2522–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–5053, Fax: (202) 720–5698. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, F&V, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone (202) 720–2491, Fax: (202) 720–5698.

SUPPLEMENTARY INFORMATION: This amended interim final rule is issued under Marketing Agreement No. 84 and Marketing Order No. 905, both as amended (7 CFR part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, hereinafter referred to as the "order." The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This interim final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to apply to weekly shipments of red seedless grapefruit beginning October 27 through November 30, 1997. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after date of the entry of the ruling.

The order provides for the establishment of grade and size requirements for Florida citrus, with the concurrence of the Secretary. These grade and size requirements are designed to provide fresh markets with citrus fruit of acceptable quality and size. This helps create buyer confidence and contributes to stable marketing conditions. This is in the interest of growers, handlers, and consumers, and is designed to increase returns to Florida citrus growers. The current minimum grade standard for red seedless grapefruit is U.S. No. 1, and the minimum size requirement is size 56 (at least 3 5/16 inches in diameter).

Section 905.52 of the citrus marketing order provides authority to limit shipments of any grade or size, or both, of any variety of Florida citrus. Such limitations may restrict the shipment of a portion of a specified grade or size of a variety. Under such a limitation, the quantity of such grade or size that may be shipped by a handler during a particular week is established as a percentage of the total shipments of such variety by such handler in a prior period, established by the committee and approved by the Secretary, in which the handler shipped such variety.

Section 905.153 of the order provides procedures for limiting the volume of small red seedless grapefruit entering the fresh market. The procedures specify that the committee may recommend that only a certain percentage of sizes 48 and/or 56 red seedless grapefruit be made available for shipment into fresh market channels for any week or weeks during the regulatory period. The 11 week period begins the third Monday in September. Under such a limitation, the quantity of sizes 48 and/or 56 red seedless grapefruit that may be shipped by a handler during a regulated week is calculated using the recommended percentage. By taking the recommended weekly percentage times the average weekly volume of red grapefruit handled by such handler in the previous five seasons, handlers can calculate the volume of sizes 48 and/or 56 they may ship in a regulated week.

This rule amends an interim final rule published September 12, 1997, in the **Federal Register** (62 FR 47913). That rule limited the volume of small red seedless grapefruit entering the fresh market for each week of an 11 week period beginning the week of September 15. That rule limited the volume of sizes 48 and/or 56 red seedless grapefruit by establishing a weekly percentage for each of the 11 weeks. This amended interim final rule changes the weekly percentage for the last five weeks of the regulatory period from 30 percent to 35 percent.

This is a change in the percentages originally recommended by the committee. The committee had voted at its May 28, 1997, meeting to establish a weekly percentage of 25 percent for

each of the 11 weeks in a vote of 10 in favor to 7 opposed at its meeting on May 28, 1997. The committee recommended adjusting the percentages at its meeting August 26, 1997, in a vote of 14 in favor to 3 opposed, recommending weekly percentages of 50 percent for the first three weeks (September 15 through October 5), 35 percent for the next three weeks (October 6 through October 26), and at 30 percent for the remainder of the 11 weeks. The committee met again, October 14, 1997, and in a unanimous vote recommended changing the weekly percentage for the last five weeks from 30 percent to 35 percent.

For the past few seasons, returns on red seedless grapefruit have been at all time lows, often not returning the cost of production. On tree prices for red seedless grapefruit have declined steadily from $9.60 per box (1⅗ bushel) during the 1989–90 season, to $3.11 per box during the 1992–93 season, to $1.82 per box during the 1994–95 season, to $1.55 per box during the 1996–97 season. The committee believes that to stabilize the market and improve returns to growers, demand for fresh red seedless grapefruit must be stabilized and increased.

One problem contributing to the current state of the market is the excessive number of small sized grapefruit shipped early in the marketing season. During the past three seasons, sizes 48 and 56 accounted for 34 percent of total shipments during the 11 week regulatory period, with the average weekly percentage exceeding 40 percent of shipments. This contrasts with sizes 48 and 56 representing only 26 percent of total shipments for the remainder of the season. While there is a market for early grapefruit, the shipment of large quantities of small red seedless grapefruit in a short period oversupplies the fresh market for these sizes and negatively impacts the market for all sizes.

For the majority of the season, larger sizes return better prices than smaller sizes. However, there is a push early in the season to get fruit into the market to take advantage of the higher prices available at the beginning of the season. The early season crop tends to have a greater percentage of small sizes. This creates a glut of smaller, lower priced fruit on the market that drives down the price for all sizes. Early in the season, larger sized fruit commands a premium price. In some cases, the f.o.b. is $4 to $6 a carton (⅘ bushel) more than for the smaller sizes. In early October, the f.o.b. for a size 27 averages around $10.00 per carton. This compares to an average f.o.b. of $5.50 per carton for size 56. By the end of the 11 week period outlined in this rule, the f.o.b. for large sizes has dropped to within two dollars of the f.o.b. for small sizes.

In the past three seasons, during the period covered by this rule, prices of red seedless grapefruit have fallen from a weighted average f.o.b. of $7.80 per carton to an average f.o.b. of $5.50 per carton. Even though later in the season the crop has sized to naturally limit the amount of smaller sizes available for shipment, the price structure in the market has already been negatively affected. In the past three years, the market has not recovered, and the f.o.b. for all sizes fell to around $5.00 to $6.00 per carton for most of the rest of the season.

The committee discussed this issue at length at several meetings. The committee believes that the over shipment of smaller sized red seedless grapefruit early in the season has contributed to below production cost returns for growers and lower on tree values. An economic study done by the University of Florida—Institute of Food and Agricultural Sciences (UF–IFAS) in May 1997, found that on tree prices have fallen from a high near $7.00 in 1991–92 to around $1.50 for this past season. The study projects that if the industry elects to make no changes, the on tree price will remain around $1.50. The study also indicates that increasing minimum size restrictions could help to raise returns.

The committee examined shipment data covering the 11 week regulatory period for the last four seasons. The information contained the amounts and percentages of sizes 48 and 56 shipped during each week. They compared this information with tables outlining weekly f.o.b. figures for each size. Based on this statistical information from past seasons, the committee members believe there is an indication that once shipments of sizes 48 and 56 reach levels above 250,000 cartons a week, prices decline on those and most other sizes of red seedless grapefruit. Without volume regulation, the industry has been unable to limit the shipments of small sizes. The committee believes that if shipments of small sizes can be maintained at around 250,000 cartons a week, prices should stabilize and demand for larger, more profitable sizes should increase.

The committee has had considerable discussion regarding at what level to establish the weekly percentages. They wanted to recommend weekly percentages that would provide a sufficient volume of small sizes without adversely impacting the markets for larger sizes. At its May 28, 1997, meeting, the committee recommended that the percentage for each of the 11 weeks be established at the 25 percent level. Their reasoning was that this percentage, when combined with the average weekly shipments for the total industry, provided a total industry allotment of 244,195 cartons of sizes 48 and/or 56 red seedless grapefruit per regulated week. This percentage would have allowed total shipments of small red seedless grapefruit to approach the 250,000 carton mark during regulated weeks without exceeding it.

During committee deliberations at the May 28, 1997, meeting, several concerns were raised regarding the regulation. One area of concern was the possible impact the regulation may have on exports. Several members stated that there was a strong demand in some export markets for small sizes. Other members responded that the percentages set allow handlers enough volume of small sizes to meet the demand in these markets. It was also stated that any shortfall an individual handler might have can be filled by loan or transfer. There was also some discussion that markets that normally demand small sizes have shown a willingness to purchase larger sizes. In addition, committee data indicate that the majority of export shipments occur after the 11 week period when there are no restrictions on small sizes.

Another concern raised was the effect the action would have on packouts. It was stated that the rule could reduce the volume packed, resulting in higher packinghouse costs. The purpose of the recommended rule was to limit the volume of small sizes marketed early in the season. Larger sizes can be substituted for smaller sizes with a minimum effect on overall shipments. The rule might require more selective picking of only the sizes desired, something that many growers are doing already. The UF–IFAS study presented indicated that it would increase returns if growers would harvest selectively and return to repick groves as the grapefruit sized. This also would allow growers to maximize returns on fresh grapefruit by not picking unprofitable grades and sizes of red grapefruit that will be sent to the less profitable processing market. The study also indicated that selective harvesting can reduce the f.o.b. cost per carton, and therefore, have a positive impact on grower returns.

Several members were concerned about what would happen if market conditions were to change. Other committee members responded that if industry conditions were to change (for example, if there was a freeze, or if the grapefruit was not sizing), the committee could meet and recommend

that the percentage be raised to allow for more small sizes, or that the limits be removed all together.

Another concern raised at the May 28, 1997, meeting was that market share could be lost to Texas. According to the Economic Analysis Branch (EAB), of the Fruit and Vegetable Division, of the Agricultural Marketing Service (AMS), limiting shipments of small Florida grapefruit will probably not result in a major shift to Texas grapefruit because the Texas industry is much smaller and has higher freight costs to some markets supplied by Florida. The UF–IFAS study made similar findings. Texas production is much smaller and has been susceptible to freezes that take it out of the market.

This has lessened its impact on the overall grapefruit market.

At the May 28, 1997, meeting, one handler expressed that they ship early in the season and this action could be very restrictive. Members responded that the availability of loans and transfers address these concerns. There was also discussion of how restrictive this rule actually is. Based on shipments from the past four seasons, available allotment would have exceeded actual shipments for each of the first three weeks that are regulated under this rule even if the weekly percentage was set at 25 percent. In the three seasons prior to last season, if a 25 percent restriction on small sizes had been applied during the 11 week period, only an average of 4.2 percent of overall shipments during that period would have been affected. The rule published on September 12, 1997, affected even fewer shipments by establishing less restrictive weekly percentages. In addition, a large percentage of this volume most likely could have been replaced by larger sizes. A sufficient volume of small sized red grapefruit was still allowed into all channels of trade, and allowances were in place to help handlers address any market shortfall.

The committee met again August 26, 1997, and revisited the weekly percentage issue. At the meeting, the committee recommended that the weekly percentages be changed from 25 percent for each of the 11 regulated weeks to 50 percent for the first three weeks (September 15 through October 5), 35 percent for the next three weeks (October 6 through October 26), and 30 percent for the remainder of the 11 weeks.

In its discussion of this change, the committee reviewed the initial percentages recommended and the current state of the crop. The committee also reexamined shipping information from past seasons, looking particularly at volume across the 11 weeks. Based on shipments from the past four seasons, available allotment under a 25 percent restriction would have exceeded actual shipments for each of the first three weeks that are regulated under this rule.

The committee recognized that in terms of available allotment, establishing a weekly percentage of 25 percent for the first three regulated weeks would not be restrictive. However, they said that this was based on total available allotment, not on data for each individual handler. The committee determined that if available allotment would exceed shipments for the first three weeks even when establishing a percentage of 25 percent, it would give individual handlers greater flexibility during these three weeks to establish the percentage at 50 percent. They argued that this would provide each handler with additional allotment during these three weeks, reducing the number of loans and transfers needed to utilize the available allotment, yet having little or no affect on the volume of small sizes. The committee also agreed that setting the percentage at 50 percent rather than 100 percent would still provide some restriction should shipments for September 15 through October 5 for this season exceed past quantities.

For the remainder of the 11 weeks, the committee believed that the weekly percentage needed to be less than 50 percent (which would have resulted in virtually no limitation on shipments of small sizes) but greater than 25 percent. The committee held that it is important to control small sizes, but it is also important to be able to service the markets that demand small sizes. The issue was raised regarding the possible market impact when small sizes exceed 250,000 cartons in a week. The committee recognized that ideally, 244,195 cartons of red seedless grapefruit would be available to the industry for each of the 11 weeks if the percentage was set at 25 percent. However, the committee was concerned that the true amount available would be lower. Several members stated that setting a weekly percentage at 25 percent to approximate the 250,000 cartons was based on total utilization of allotment, and that assumption was unreasonable. The committee agreed that loans and transfers are beneficial, but that even with their availability a percentage of allotment would most likely not be used.

Several other members raised concerns about focusing too much on total allotment available, rather than on allotment available to individual handlers. The committee stated that the way a handler's base is calculated using an average week is probably the most equitable way to do so. However, they acknowledged that it did present some problems. Members concurred that the season for red seedless grapefruit is approximately 33 weeks. However, the members agreed that this did not mean that every handler was shipping during all 33 weeks. They discussed how a handler's average weekly shipments are calculated by averaging their shipments from the past five seasons, and then dividing this number by the 33 weeks to establish an average week. Members stated that the calculated average week was often lower than their actual weekly shipments during the periods they were shipping because they were not shipping during all 33 weeks. They also stated that applying a weekly percentage of 25 percent to their average week would have resulted in limiting their shipments to a level closer to 15 percent of their actual shipments during this period.

Based on this discussion, the committee thought a weekly percentage of 25 percent would be overly restrictive. The committee believed that since total available allotment most probably will not be fully utilized, and how individual handlers are affected, establishing a weekly percentage of 35 percent for the regulation weeks October 6 through October 26 would be more appropriate. They believed this level would provide a sufficient supply of small sizes without exceeding amounts that would negatively affect other markets.

The committee further recommended that the weekly percentage for the remainder of the 11 weeks be established at 30 percent. The committee resolved that a lower percentage was desirable moving into the last five weeks of regulation. The committee believed that as the industry moves into the season and shipments increase, a weekly percentage of 30 percent would provide the best balance between supply and demand for small sized red seedless grapefruit.

At the August 26, 1997, meeting, the concern was raised that the weekly percentages recommended were not restrictive enough. Committee members responded that not all available allotment would be utilized, and that the recommended percentages would still restrict shipments of small sizes, while providing handlers with flexibility to supply those markets that demand small sizes.

After considering the concerns expressed, and the available information, the committee determined that the September 12, 1997, interim

final rule was needed to regulate shipments of small sized red seedless grapefruit.

However, the committee met again October 14, 1997, and revisited the weekly percentage issue. The committee recommended another revision in the weekly percentages. The committee recommended that the weekly percentage for the final five weeks of the regulated period (October 27 through November 30, 1997) be changed from 30 percent to 35 percent.

In its discussion of this change, the committee reviewed the percentages previously recommended and the current state of the crop. In addition, the committee had some new information regarding this season that was not available during its earlier meetings. On October 10, 1997, the Department released its crop estimate for Florida grapefruit. The estimate for total Florida grapefruit was 54 million boxes, a 3.2 percent reduction from last season. In addition, the committee was provided information regarding size distribution developed from a September size survey. The size survey was conducted by the Department as part of the crop estimate and showed that more small sizes were available than anticipated. The committee also had the benefit of having operated several weeks under a weekly percentage regulation.

During the committee's discussion, there were many comments that the use of the weekly percentage rule was being effective. They believed that this rule was having a positive effect on the market and on returns. The weekly percentages, combined with a very limited processing market, has forced the industry to do more spot picking for the available markets.

Several persons attending the committee meeting encouraged the committee to stay the course, and leave the weekly percentages as they were established. However, others thought that the 30 percent weekly percentage rate for the last five weeks of the regulation period might be too restrictive. Concerns were again voiced that the method for calculating allotment base was not always a good approximation of a handler's historical shipments during this 11-week period. Based on the shipment data available for the current season, and shipments from past seasons, total weekly shipments of red seedless grapefruit during the rest of the regulatory period are expected to exceed the average week calculated for the industry of 976,782 cartons. There is also some indication that shipments during the remainder of the regulation period may be greater than in past seasons. With shipments running higher, the committee concluded that establishing a 30 percent weekly percentage rate in combination with the calculated average week would result in available allotment of less than 30 percent of overall shipments.

The committee discussed the merits of changing the established weekly percentage rate for the last five weeks from 30 percent to 35 percent. Such a change represents an additional industry allotment of less than 50,000 cartons. The effect on an individual handler's allotment would be minimal. However, there was discussion that such a change would provide some additional flexibility for handlers.

In addition, having been operating under a weekly percentage for several weeks, members stated that the regulation was being effective and moving to a more restrictive level was unnecessary. Members agreed that one of the most important goals of this regulation was to create some discipline in the way fruit was picked and marketed. Several individuals stated that there are indications from the current and past regulatory weeks that maintaining the weekly percentage at 35 percent for the remainder of the 11 weeks would continue to accomplish this goal.

The committee examined the information on past shipments and on the size distribution information available for the current season. Based on the size survey, 37.6 percent of the crop is size 48 or 56. This amount was somewhat larger than originally expected, indicating that there was a greater volume of smaller sizes than the committee had anticipated. Considering this, and the other information discussed, the committee agreed that establishing a weekly percentage of 35 percent for the remainder of the regulated period would address the goals of this regulation, while providing handlers with some additional flexibility.

The committee again included in its deliberations that if crop and market conditions should change, the committee could recommend that the percentages be increased or eliminated to provide for the shipment of more small sizes. The committee considered the official crop estimate and the information in the UF–IFAS study. Committee members also discussed how the crop was sizing. Using this information on the 1997–98 crop, the committee members believe that establishing the weekly percentages as recommended will provide enough small sizes to supply those markets without disrupting the markets for larger sizes.

Under the procedures in section 905.153, the quantity of sizes 48 and/or 56 red seedless grapefruit that may be shipped by a handler during a regulated week is calculated using the recommended percentage for that week. By taking the established weekly percentage times the average weekly volume of red grapefruit handled by such handler in the previous five seasons, handlers can calculate the volume of sizes 48 and/or 56 they may ship in a regulated week.

An average week was calculated by the committee for each handler using the following formula. The total red seedless grapefruit shipments by a handler during the 33 week period beginning the third Monday in September and ending the first Sunday in May during the previous five seasons were added and divided by five to establish an average season. This average season was then divided by the 33 weeks in a season to derive the average week. This average week is the base for each handler for each of the 11 weeks contained in the regulation period. The applicable weekly percentage is then multiplied by a handler's average week. The total is that handler's allotment of sizes 48 and/or 56 red seedless grapefruit for the given week.

Under this amended interim final rule, the calculated allotment is the amount of small sized red seedless grapefruit a handler can ship. If the minimum size established under section 905.52 remains at size 56, handlers can fill their allotment with size 56, size 48, or a combination of the two sizes such that the total of these shipments are within the established limits. If the minimum size under the order is 48, handlers can fill their allotment with size 48 fruit such that the total of these shipments are within the established limits. The committee staff will perform the specified calculations and provide them to each handler.

To illustrate, suppose Handler A shipped a total of 50,000 cartons, 64,600 cartons, 45,000 cartons, 79,500 cartons, and 24,900 cartons of red seedless grapefruit in the last five seasons, respectively. Adding these season totals and dividing by five yields an average season of 52,800 cartons. The average season is then divided by 33 weeks to yield an average week, in this case, 1,600 cartons. This is handler A's base. Assuming the weekly percentage is 50 percent, this percentage is then applied to the handler's base. This provides this handler with a weekly allotment of 800 cartons (1,600 × .50) of size 48 and/or 56.

The average week for handlers with less than five previous seasons of shipments is calculated by the committee by averaging the total shipments for the seasons they did ship red seedless grapefruit during the immediately preceding five years and dividing that average by 33. New handlers with no record of shipments have no prior period on which to base their average week. Therefore, a new handler can ship small sizes up to the established weekly percentage as a percentage of their total volume of shipments during their first shipping week. Once a new handler has established shipments, their average week is calculated as an average of the weeks they have shipped during the current season.

This amended interim final rule establishes a weekly percentage of 35 percent for the last five weeks of the regulatory period (October 5 through November 30). Each regulation week begins Monday at 12:00 a.m. and ends at 11:59 p.m. the following Sunday, since most handlers keep records based on Monday being the beginning of the work week. If necessary, the committee can meet and recommend changes in the percentages to the Secretary at any time during the regulatory period.

The rules and regulations contain a variety of provisions designed to provide handlers with some marketing flexibility. When regulation is established by the Secretary for a given week, the committee calculates the quantity of small red seedless grapefruit which may be handled by each handler. Section 905.153(d) provides allowances for overshipments, loans, and transfers of allotment. These allowances should allow handlers the opportunity to supply their markets while limiting the impact of small sizes on a weekly basis.

During any week for which the Secretary has fixed the percentage of sizes 48 and/or 56 red seedless grapefruit, any handler can handle an amount of sizes 48 and/or 56 red seedless grapefruit not to exceed 110 percent of their allotment for that week. The quantity of overshipments (the amount shipped in excess of a handler's weekly allotment) will be deducted from the handler's allotment for the following week. Overshipments are not allowed during week 11 because there are no allotments the following week from which to deduct the overshipments.

If handlers fail to use their entire allotments in a given week, the amounts undershipped will not be carried forward to the following week. However, a handler to whom an allotment has been issued can lend or transfer all or part of such allotment (excluding the overshipment allowance) to another handler. In the event of a loan, each party will, prior to the completion of the loan agreement, notify the committee of the proposed loan and date of repayment. If a transfer of allotment is desired, each party will promptly notify the committee so that proper adjustments of the records can be made. In each case, the committee will confirm in writing all such transactions prior to the following week. The committee can also act on behalf of handlers wanting to arrange allotment loans or participate in the transfer of allotment. Repayment of an allotment loan is at the discretion of the handlers party to the loan.

The committee computes each handler's allotment by multiplying the handler's average week by the percentage established by regulation for that week. The committee will notify each handler prior to that particular week of the quantity of sizes 48 and 56 red seedless grapefruit such handler can handle during a particular week, making the necessary adjustments for overshipments and loan repayments.

This rule does not affect the provision that handlers may ship up to 15 standard packed cartons (12 bushels) of fruit per day exempt from regulatory requirements. Fruit shipped in gift packages that are individually addressed and not for resale, and fruit shipped for animal feed are also exempt from handling requirements under specific conditions. Also, fruit shipped to commercial processors for conversion into canned or frozen products or into a beverage base are not subject to the handling requirements under the order.

Section 8(e) of the Act requires that whenever grade, size, quality or maturity requirements are in effect for certain commodities under a domestic marketing order, including grapefruit, imports of that commodity must meet the same or comparable requirements. This rule does not change the minimum grade and size requirements under the order, only the percentages of sizes 48 and/or 56 red grapefruit that may be handled. Therefore, no change is necessary in the grapefruit import regulations as a result of this action.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 80 handlers subject to regulation under the order and approximately 11,000 growers of citrus in the regulated area. Small agricultural service firms, which includes handlers, have been defined by the Small Business Administration (SBA) (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000.

Based on the Florida Agricultural Statistics Service and committee data for the 1995–96 season, the average annual f.o.b. price for fresh Florida red grapefruit during the 1995–96 season was $5.00 per ⅘ bushel cartons for all grapefruit shipments, and the total shipments for the 1995–96 season were 23 million cartons of grapefruit.

Approximately 20 percent of all handlers handled 60 percent of Florida grapefruit shipments. In addition, many of these handlers ship other citrus fruit and products which are not included in committee data but would contribute further to handler receipts. Using the average f.o.b. price, about 80 percent of grapefruit handlers could be considered small businesses under SBA's definition and about 20 percent of the handlers could be considered large businesses. The majority of Florida grapefruit handlers, and growers may be classified as small entities.

The committee believes that the over shipment of smaller sized red seedless grapefruit early in the season has contributed to below production cost returns for growers and lower on tree values. For the past few seasons, returns on red seedless grapefruit have been at all time lows, often not returning the cost of production. On tree prices for red seedless grapefruit have declined steadily from $9.60 per box during the 1989–90 season, to $3.11 per box during the 1992–93 season, to $1.82 per box during the 1994–95 season, to $1.55 per box during the 1996–97 season. The committee believes that to stabilize the market and improve returns to growers, demand for fresh red seedless grapefruit must be stabilized and increased.

Under the authority of section 905.52 of the order, this amended interim final rule limits the volume of small red seedless grapefruit entering the fresh market for each week of the 5 week period beginning the week of October

27. The rule limits the volume of sizes 48 and/or 56 red seedless grapefruit by establishing the weekly percentages at 35 percent for the last five weeks of the regulatory period (October 27 through November 30). Under such a limitation, the quantity of sizes 48 and/or 56 red seedless grapefruit that may be shipped by a handler during a particular week is calculated using the recommended percentage. By taking the recommended percentage times the average weekly volume of red grapefruit handled by such handler in the previous five seasons, the committee calculates a handler's weekly allotment of small sizes. This rule provides a supply of small sized red seedless grapefruit sufficient to meet market demand, without saturating all markets with these small sizes. This rule is necessary to help stabilize the market and improve grower returns.

At the May 28, 1997, meeting, the committee recommended that the percentage for each of the 11 weeks be established at the 25 percent level. They reasoned that this percentage, when combined with the average weekly shipments for the total industry, would provide a total industry allotment of 244,195 cartons of sizes 48 and/or 56 red seedless grapefruit per regulated week. This percentage would have allowed total shipments of small red seedless grapefruit to approach the 250,000 carton mark during regulated weeks without exceeding it.

At the May 28, 1997, meeting, there was discussion regarding the expected impact of this change on handlers and growers in terms of cost. Discussion focused on the possibility that market share could be lost to Texas and that this rule could increase packinghouse costs. According to EAB, limiting shipments of small Florida grapefruit probably will not result in a major shift to Texas grapefruit because the Texas industry is much smaller and has higher freight costs to some markets supplied by Florida. The UF–IFAS study made similar findings. Texas production is much smaller and has been susceptible to freezes that take it out of the market. This has lessened its impact on the overall grapefruit market.

The concern about packinghouse costs was that volume regulation could mean lower packouts which may increase cost. However, the availability of loans and transfers provides some flexibility. Also, this rule only affects small sizes and only during the 11 week period. By substituting larger sizes and using loans and transfers, packouts should approach the weekly volume of seasons prior to this rule.

A weekly percentage of 25 percent, when combined with the average weekly shipments for the total industry, would provide a total industry allotment of 244,195 cartons of sizes 48 and/or 56 red seedless grapefruit. Based on shipments from the past four seasons, a total available allotment of 244,195 cartons would exceed actual shipments for each of the first three weeks regulated under this rule.

In addition, if a 25 percent restriction on small sizes had been applied during the 11 week period in the three seasons prior to last season, an average of 4.2 percent of overall shipments during that period would have been affected. The September 12, 1997, interim final rule affected even fewer shipments by establishing less restrictive weekly percentages. In addition, a large percentage of this volume most likely could have been replaced by larger sizes. Under that action a sufficient volume of small sized red grapefruit is still allowed into all channels of trade, and allowances are in place to help handlers address any market shortfall. Therefore, the overall impact on total seasonal shipments and on industry cost should be minimal.

The committee also discussed the state of the market and the cost of doing nothing. During the past three seasons, sizes 48 and 56 accounted for 34 percent of total shipments during the 11 week regulatory period, with the average weekly percentage exceeding 40 percent of shipments. For the remainder of the season, sizes 48 and 56 represent only 26 percent of total shipments. While there is a market for early grapefruit, the shipment of large quantities of small red seedless grapefruit in a short period oversupplies the fresh market for these sizes and negatively impacts the market for all sizes.

The early season crop tends to have a greater percentage of small sizes. The large volume of smaller, lower priced fruit drives down the price for all sizes. Early in the season, larger sized fruit commands a premium price. In some cases, the f.o.b. is $4 to $6 a carton more than for the smaller sizes. In early October, the f.o.b. for a size 27 averages around $10.00 per carton. This compares to an average f.o.b. of $5.50 per carton for size 56. By the end of the 11 week period outlined in this rule, the f.o.b. for large sizes has dropped to within two dollars of the price for small sizes.

In the past three seasons, during the period covered by this rule, prices of red seedless grapefruit have fallen from a weighted average f.o.b. of $7.80 per carton to an average f.o.b. of $5.50 per carton. Even though later in the season the crop has sized to naturally limit the amount of smaller sizes available for shipment, the price structure in the market has already been negatively affected. This leaves the f.o.b. for all sizes around $5.00 to $6.00 per carton for the rest of the season.

As previously stated, the on tree price of red seedless grapefruit has also been falling. On tree prices for fresh red seedless grapefruit have declined steadily from $9.60 per box during the 1989–90 season, to $3.11 per box during the 1992–93 season, to $1.82 per box during the 1994–95 season, to $1.55 per box during the 1996–97 season. In many cases, prices during the past two seasons have provided returns less than production costs. This price reduction could force many small growers out of business. If no action is taken, the UF–IFAS study indicates that on tree returns will remain at levels around $1.50.

The September 12, 1997, interim final rule provided a supply of small sized red seedless grapefruit to meet market demand, without saturating all markets with these small sizes. The committee believes that if the supply of small sizes were limited early in the season, prices can be stabilized at a higher level. This provides increased returns for growers. In addition, if more small grapefruit were allowed to remain on the tree to increase in size and maturity, it could provide greater returns to growers.

The committee surveyed shipment data covering the 11 week regulatory period for the last four seasons and examined tables outlining weekly f.o.b. figures for each size. The committee believed that if shipments of small sizes can be maintained at around 250,000 cartons a week, prices should stabilize and demand for larger, more profitable sizes should increase. The established weekly percentages, when combined with the average weekly shipments for the total industry, should help maintain industry shipments of sizes 48 and/or 56 red seedless grapefruit at quantities close to the 250,000 carton level per regulated week. A stabilized price that returns a fair market value benefits both small and large growers and handlers.

The 11-week volume regulation may require more selective picking of only the sizes desired, something that many growers are doing already. The UF–IFAS study indicated that returns could increase if growers harvest selectively and return to repick groves as the grapefruit sized. This also allows growers to maximize returns on fresh grapefruit by not picking unprofitable grades and sizes of red grapefruit that are sent to the less profitable processing market. The study indicated that selective harvesting can reduce the f.o.b.

cost per carton. The study also indicates that increasing minimum size restrictions could help to raise returns.

Fifty-nine percent of red seedless grapefruit is shipped to fresh market channels. There is a processing outlet for grapefruit not sold into the fresh market. However, the vast majority of processing is squeezing the grapefruit for juice. Because of the properties of the juice of red seedless grapefruit, including problems with color, the processing outlet is limited, and not currently profitable. Therefore, it is essential that the market for fresh red grapefruit be fostered and maintained. Any costs associated with this action are only for the 11 week regulatory period. However, benefits from this action could stretch throughout the entire 33 week season. Even if this action was successful only in raising returns a few pennies a carton, when applied to 34 million cartons of red seedless grapefruit shipped to the fresh market, the benefits should more than outweigh the costs.

The limits established in the weekly volume regulation are based on percentages applied to a handler's average week. This process was established by the committee because it was the most equitable. All handlers have access to loans and transfers. Handlers and growers both will benefit from increased returns. The costs or benefits of this rule are not expected to be disproportionately more or less for small handlers or growers than for larger entities.

The committee discussed alternatives to the recommended volume regulation. The committee discussed eliminating shipments of size 56 grapefruit all together. Several members expressed that there is a market for size 56 grapefruit. Members favored the percentage rule recommended because it supplies a sufficient quantity of small sizes should there be a demand for size 56. Therefore, the motion to eliminate size 56 was rejected. Another alternative discussed was to do nothing. However, the committee rejected this option, taking in account that returns would remain stagnant without action. Thus, the majority of committee members agreed that weekly percentages should be established as recommended for the shipment of small sized red seedless grapefruit for the 11 week period beginning September 15, 1997.

The committee met again August 26, 1997, and revisited the weekly percentage issue. The committee recommended that the weekly percentages be set to 50 percent for the first three weeks (September 15 through October 5), 35 percent for the next three weeks (October 6 through October 26), and 30 percent for the remainder of the 11 weeks.

In the discussion of that change, the committee reviewed the initial and the revised percentages recommended, the current state of the crop, and shipping information from past seasons. The committee recognized that in terms of available allotment, even establishing a weekly percentage of 25 percent for the first three regulated weeks would not be restrictive. Shipment data from the past four seasons indicate that available allotment under a 25 percent restriction would have exceeded actual shipments for each of the first three weeks that were regulated under the September 12, 1997, rule.

The committee determined that if available allotment would have exceeded shipments for the first three weeks even when establishing a percentage of 25 percent, it would give individual handlers greater flexibility during these three weeks to establish the percentage at 50 percent. They argued that this would provide each handler with additional allotment during these three weeks, reducing the number of loans and transfers needed to utilize the available allotment, yet having little or no affect on the volume of small sizes. The committee also agreed that setting the percentage at 50 percent would still provide some restriction should shipments for this period this season exceed past quantities.

For the remainder of the 11 weeks, the committee believed that the weekly percentage needed to be tighter than 50 percent which would impose nearly no restriction but greater than 25 percent. The issue was raised regarding the possible market impact when small sizes exceed 250,000 cartons in a week. The committee recognized that ideally, 244,195 cartons of red seedless grapefruit would be available to the industry for each of the 11 weeks if the percentage was set at 25 percent. However, the committee was concerned that the true amount available would be lower. Several members stated that setting a weekly percentage at 25 percent to approximate the 250,000 cartons was based on total utilization of allotment, and that assumption was unreasonable. The committee agreed that loans and transfers are beneficial, but that even with their availability a percentage of allotment would most likely not be used.

At the August 27, 1997, meeting, several other members raised concerns about focusing too much on total allotment available, rather than on allotment per handler. Members concurred that the season for red seedless grapefruit is approximately 33 weeks. However, this did not mean that every handler was shipping during all 33 weeks. Using 33 weeks to divide an average season to calculate an average week often resulted in amounts lower than their actual weekly shipments because they were not shipping during all 33 weeks. They stated that applying a 25 percent restriction regulated them at a level closer to 15 percent of their actual shipments during the regulation period.

Based on this discussion, the committee thought a weekly percentage of 35 percent for the regulation weeks October 6 through October 26 would be a more appropriate level. They believe that because total allotment will not be fully utilized and the way individual handlers are affected, this level would provide a sufficient supply of small sizes without overly exceeding amounts that would negatively affect other markets.

The committee further recommended at the August 27, 1997, meeting, that the weekly percentage for the remainder of the 11 weeks be established at 30 percent. The committee resolved that moving into the last five weeks of regulation, a tighter percentage was desirable. The committee believed that as the industry moves into the season and shipments increase, a weekly percentage of 30 percent would provide the best balance between supply and demand for small sized red seedless grapefruit.

However, on October 14, 1997, the committee met again and recommended a further revision to the weekly percentages. The committee recommended that the weekly percentages for the last five weeks of the regulatory period be changed from 30 percent to 35 percent. In its discussion of this change, the committee reviewed the initial percentages recommended and the current state of the crop.

The committee also reviewed some new information regarding this season that was not available during its earlier meetings. On October 10, 1997, the Department released its crop estimate for Florida grapefruit. The estimate for total Florida grapefruit was 54 million boxes, a 3.2 percent reduction from last season. In addition, the committee was provided information regarding size distribution developed from a September size survey. This survey was conducted by the Department and showed a larger percentage of small sizes than anticipated. The committee also had the benefit of having operated several weeks under a weekly percentage regulation.

There were many comments by those attending the meeting that the use of the weekly percentage rule was being effective. Members stated that the rule was having a positive effect on the market and on returns. Overall committee support for the regulation had increased.

The committee considered that the 30 percent weekly percentage rate for the last five weeks of the regulation period may be too restrictive. Reviewing shipment data for the beginning weeks of this season and shipments from past seasons, the committee determined that total weekly shipments during the rest of the regulatory period would exceed the average week calculated for the industry of 976,782 cartons. There was also some discussion that shipments during the remainder of the regulation period may be greater than in past seasons. The committee considered that with shipments running higher, establishing a 30 percent weekly percentage rate in combination with the calculated average week would actually be establishing a rate more restrictive than 30 percent of overall shipments.

The committee discussed the merits of changing the established weekly percentage rate for the last five weeks from 30 percent to 35 percent. Such a change represents an additional industry allotment of less than 50,000 cartons, and should have a minimal impact when distributed to individual handlers. However, members thought that an increase would provide some additional flexibility for handlers.

In addition, having been operating under a weekly percentage for several weeks, members stated that the regulation was being effective and moving to a more restrictive level was unnecessary. Members agreed that one of the most important goals of this regulation was to create some discipline in the way fruit was picked and marketed. Committee members believed that maintaining the weekly percentage at 35 percent for the remainder of the 11 weeks would continue to accomplish this goal.

The committee examined the information on past shipments and on the size distribution information available for the current season. Based on the size survey, 37.6 percent of the crop is size 48 or 56. This amount was somewhat larger than anticipated, indicating that there were more smaller sized red grapefruit than the committee had originally thought. Considering this, and the other information discussed, the committee agreed that establishing a weekly percentage of 35 percent for the remainder of the regulated period would address the goals of this regulation, while providing handlers with some additional flexibility.

This rule changes the requirements under the Florida citrus marketing order. Handlers utilizing the flexibility of the loan and transfer aspects of this action are required to submit a form to the committee. The rule increases the reporting burden on approximately 80 handlers of red seedless grapefruit who will be taking about 0.03 hour to complete each report regarding allotment loans or transfers. The information collection requirements contained in this section have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) and assigned OMB number 0581–0094. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

However, red seedless grapefruit must meet the requirements as specified in the U.S. Standards for Grades of Florida Grapefruit (7 CFR 51.760 through 51.784) issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 through 1627). Further, the public comments received concerning the proposed rule and previous interim final rule relative to this action did not address the initial regulatory flexibility analysis.

In addition, the committee meetings were widely publicized throughout the citrus industry and all interested persons were invited to attend the meeting and participate in committee deliberations on all issues. Like all committee meetings, the May 28, 1997, meeting, the August 26, 1997, meeting, and the October 14, 1997, meeting were public meetings and all entities, both large and small, were able to express views on this issue.

A proposed rule concerning this action was published in the **Federal Register** on Tuesday, July 29, 1997 (62 FR 40482). A 15-day comment period was provided to allow interested persons to respond to the proposal. Thirty five comments were received. An interim final rule concerning this action was published in the **Federal Register** on Friday, September 12, 1997 (62 FR 47913). Copies of both rules were mailed or sent via facsimile to all committee members and to grapefruit growers and handlers. The rules were also made available through the Internet by the Office of the **Federal Register**.

The 35 comments to the proposed rule were addressed in the interim final rule published in the **Federal Register** on Friday, September 12, 1997 (62 FR 47913).

In the September 12, 1997, interim final rule, a 10-day comment period was provided to allow interested persons to respond to the rule. A 10-day period was deemed appropriate because the rule needed to be in place as soon as possible since handlers began shipping grapefruit in September. The comment period ended September 22, 1997. One comment was received.

As previously stated, subsequent to the end of the comment period, the committee met and recommended modifying its recommendation. The committee recommended that the weekly percentages be changed from 50 percent for the first three weeks (September 15 through October 5), 35 percent for the next three weeks (October 6 through October 26), and 30 percent for the remainder of the 11 weeks as specified in the interim final rule published in September, to 50 percent for the first three weeks (September 15 through October 5), and 35 percent for the remainder of the 11 weeks.

Because of this recommendation, the Department has determined that interested parties should be provided the opportunity to comment on the changes to the interim final rule currently in effect. The Department further believes that extending the comment period with no changes in the percentages in effect limiting the shipments of small red seedless grapefruit during the period of regulation would be detrimental to the industry. Therefore, the Department is amending the current regulations on small red seedless grapefruit through this interim final rule which will allow 10 additional days to comment. The discussion of the comment received in response to the previous interim final rule follows.

One comment was received in opposition to the interim final rule. The comment opposed the rule because in past seasons their house packed only white grapefruit. However, this season, they were able to identify a market for red grapefruit. The comment further stated that because they have no shipments of record for red seedless grapefruit for previous seasons, they have no allotment base.

In establishing procedures by which to limit the percentage of small sized red seedless grapefruit entering the fresh market, the committee envisioned just such a situation, and included provisions to address it. The committee recognized that new handlers with no record of shipments have no prior period on which to base their average week. Therefore, under the procedures established in section 905.153, a new handler can ship small sizes up to the established weekly percentage as a percentage of their total volume of shipments during their first shipping week. Once a new handler has established shipments, their average week is calculated as an average of the weeks they have shipped during the current season.

In addition, the weekly percentage regulation only applies to sizes 48 and/or 56 red seedless grapefruit. There are no volume restrictions on shipments of larger sized red seedless grapefruit that meet the minimum grade and size requirements under the order.

The commenter further stated that he did not believe that they would have access to transfers or loans. The transfer and loan procedures do not exclude any handler. It is the handler's responsibility to contact other handlers to locate available allotment. The committee staff is available to provide some assistance with locating available allotment. At its October meeting, the committee discussed the transfer and loan procedure. The procedures are being utilized, and based on comments, those seeking additional allotment have, in most cases, been able to acquire it through loans or transfers.

After analyzing the comment received and other available information, including the additional recommendation by the committee, the Department has concluded that this interim final rule is appropriate.

A 10-day comment period is provided to allow interested persons to respond to this proposal. A 10-day period is deemed appropriate because this action amends the weekly regulation period beginning on October 27, through November 30, 1997. Adequate time will be necessary so that any changes, if necessary, can be made to the regulations before the end of the five week period. All written comments timely received will be considered before a final determination is made on this matter.

After consideration of all relevant matter presented, including the information and recommendations submitted by the committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public intent to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because this rule needs to be in place since handlers have already begun shipping grapefruit. This rule is necessary to help stabilize the market and to improve grower returns. Further, handlers are aware of this rule, which was recommended at public meetings. This action amends the weekly regulation beginning October 27, 1997. Also, a 15-day comment period was provided for in the proposed rule, an additional 10-day comment period was provided for in the interim final rule, and an addition 10-day comment period is provided for in this amended interim final rule.

List of Subjects in 7 CFR Part 905

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements, Tangelos, Tangerines.

For the reasons set forth in the preamble, 7 CFR part 905 is amended as follows:

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

1. The authority citation for 7 CFR part 905 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 905.601 is revised to read as follows:

§ 905.601 Red seedless grapefruit regulation 101.

The schedule below establishes the weekly percentages to be used to calculate each handler's weekly allotment of small sizes. If the minimum size in effect under section 905.306 for red seedless grapefruit is size 56, handlers can fill their allotment with size 56, size 48, or a combination of the two sizes such that the total of these shipments are within the established weekly limits. If the minimum size in effect under section 905.306 for red seedless grapefruit is 48, handlers can fill their allotment with size 48 red seedless grapefruit such that the total of these shipments are within the established weekly limits. The weekly percentages for sizes 48 and/or 56 red seedless grapefruit grown in Florida, which may be handled during the specified weeks are as follows:

Week	Weekly percentage
(a) 9/15/97 through 9/21/97	50
(b) 9/22/97 through 9/28/97	50
(c) 9/29/97 through 10/5/97	50
(d) 10/6/97 through 10/12/97	35
(e) 10/13/97 through 10/19/97	35
(f) 10/20/97 through 10/26/97	35
(g) 10/27/97 through 11/2/97	35
(h) 11/3/97 through 11/9/97	35
(i) 11/10/97 through 11/16/97	35
(j) 11/17/97 through 11/23/97	35
(k) 11/24/97 through 11/30/97	35

Dated: October 23, 1997.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 97–28823 Filed 10–27–97; 3:42 pm]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 984

[Docket No. FV97–984–1 IFR]

Walnuts Grown in California; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule decreases the assessment rate established for the Walnut Marketing Board (Board) under Marketing Order No. 984 for the 1997–98 and subsequent marketing years. The Board is responsible for local administration of the marketing order which regulates the handling of walnuts grown in California. Authorization to assess walnut handlers enables the Board to incur expenses that are reasonable and necessary to administer the program. The 1997–98 marketing year covers the period August 1 through July 31. The assessment rate will continue in effect indefinitely unless modified, suspended, or terminated.

DATES: Effective October 31, 1997. Comments received by December 29, 1997, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 720–5698. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public

inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Diane Purvis, Marketing Assistant, or Mary Kate Nelson, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone: (209) 487–5901, Fax: (209) 487–5906; or George Kelhart, Marketing Order Administrative Branch, Fruit and Vegetable Programs, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491; Fax: (202) 720–5698. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491; Fax: (202) 720–5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 984, both as amended (7 CFR part 984), regulating the handling of walnuts grown in California, hereinafter referred to as the "order." The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California walnut handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable walnuts beginning August 1, 1997, and continuing until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file a petition with the Secretary stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule decreases the assessment rate established for the Board for the 1997–98 and subsequent marketing years from $0.0117 to $0.0116 per kernelweight pound of certified merchantable walnuts.

The California walnut marketing order provides authority for the Board, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Board are producers and handlers of California walnuts. They are familiar with the Board's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 1996–97 and subsequent marketing years, the Board recommended, and the Department approved, an assessment rate that would continue in effect from marketing year to marketing year indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Board or other information available to the Secretary.

The Board met on September 12, 1997, and unanimously recommended 1997–98 expenditures of $2,391,289 and an assessment rate of $0.0116 per kernelweight pound of merchantable walnuts certified. In comparison, last year's budgeted expenditures were $2,301,869. The assessment rate of $0.0116 is $0.0001 less than the rate currently in effect. The lower assessment rate is needed to bring expected assessment income closer to the amount necessary to administer the program for the 1997–98 marketing year. The quantity of assessable walnuts for 1997–98 is estimated at 207,000,000 kernelweight pounds, or 9,000,000 kernelweight pounds higher than 1996–97. With more assessable walnuts, the current rate of assessment would have generated substantially more funds than needed to meet the Board's financial obligations. Income would have exceeded anticipated expenses by about $31,000. The decrease in the assessment rate in conjunction with the anticipated increase in assessable walnuts should provide adequate assessment income to meet this year's expenses.

The major expenditures recommended by the Board for the 1997–98 marketing year include $240,326 for general expenses, $147,126 for office expenses, $1,928,837 for research expenses, $50,000 for a production research director, and $25,000 for the reserve. Budgeted expenses for these items in 1996–97 were $232,684, $150,508, $1,840,677, $48,000, and $30,000, respectively.

The assessment rate recommended by the Board was derived by dividing anticipated expenses by expected merchantable certifications of California walnuts for 1997–98. As mentioned earlier, merchantable certifications for the year are estimated at 207,000,000 kernelweight pounds, which should provide $2,401,200 in assessment income (about $10,000 more than estimated expenses). Unexpended funds may be used temporarily to defray expenses of the subsequent marketing year, but must be made available to the handlers from whom collected within five months after the end of the year.

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Board or other available information.

Although this assessment rate is effective for an indefinite period, the Board will continue to meet prior to or during each marketing year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Board meetings are available from the Board or the Department. Board meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Board recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Board's 1997–98 budget and those for subsequent marketing years will be reviewed and, as appropriate, approved by the Department.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 5,000 producers of California walnuts in the production area and approximately 50 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The majority of California walnut producers and handlers may be classified as small entities.

This rule decreases the assessment rate established for the Board and collected from handlers for the 1997–98 and subsequent marketing years from $0.0117 to $0.0116 per kernelweight pound of merchantable walnuts certified. The Board unanimously recommended 1997–98 expenditures of $2,391,289 and an assessment rate of $0.0116 per kernelweight pound of merchantable walnuts certified. The assessment rate of $0.0116 is $0.0001 less than the 1996–97 rate. The quantity of assessable walnuts for the 1997–98 marketing year is estimated at 207,000,000 kernelweight pounds. Thus, the $0.0116 rate should provide $2,401,900 in assessment income and be adequate to meet this year's expenses.

The Board's increase in budgeted expenses from $2,301,869 to $2,391,289 is due primarily to increases in the following line item categories—administrative and office salaries, research programs, and the production research director. Expenses for these items for 1997–98, with last year's budgeted expenses in parentheses, are: administrative and office salaries—$148,080 ($142,000), research programs—$1,928,837 ($1,840,677), and production research director—$50,000 ($48,000).

The primary reason for the reduced assessment rate is an anticipated increase in merchantable walnuts expected to be certified during the 1997–98 marketing year. As mentioned earlier, the quantity of assessable walnuts for 1997–98 is estimated at 207,000,000 kernelweight pounds, or 9,000,000 kernelweight pounds higher than in 1996–97. The decrease in the assessment rate in conjunction with the increase in shipments should provide adequate assessment income to meet this year's expenses. Assessment income is expected to total $2,401,900. This is about $10,000 more than 1997–98 budgeted expenses. At the current rate, assessment income would have exceeded expenses by about $31,000, which was unacceptable to the Board.

Unexpended funds may be used temporarily to defray expenses of the subsequent marketing year, but must be made available to the handlers from whom collected within five months after the end of the year.

The Board reviewed and unanimously recommended 1997–98 expenditures of $2,391,289, which included increases in administrative and office salaries, and research programs. Prior to arriving at this budget, the Board considered information from various sources, such as the Board's Budget and Personnel Committee, the Research Committee, and the Market Development Committee. Alternative expenditure levels were discussed by these groups, based upon the relative value of various research projects to the walnut industry. The assessment rate of $0.0116 per kernelweight pound of merchantable walnuts certified was then determined by dividing the total recommended budget by the quantity of assessable walnuts, estimated at 207,000,000 kernelweight pounds for the 1997–98 marketing year. This would produce assessment income of about $2,401,900. This is approximately $10,000 above the anticipated expenses, which the Board determined to be acceptable.

Data for recent seasons and projections for the upcoming season indicate that anticipated 1997–98 assessment revenue as a percentage of total grower revenue could range between 2 and 2.5 percent.

This action reduces the assessment obligation imposed on handlers. While this rule imposes some additional costs on handlers, the costs are minimal and in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing order. In addition, the Board's meeting was widely publicized throughout the California walnut industry and all interested persons were invited to attend the meeting and participate in Board deliberations on all issues. Like all Board meetings, the September 12, 1997, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This action imposes no additional reporting or recordkeeping requirements on either small or large California walnut handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

After consideration of all relevant matter presented, including the information and recommendation submitted by the Board and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The Board needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1997–98 marketing year began on August 1, 1997, and the marketing order requires that the rate of assessment for each marketing year apply to all assessable walnuts handled during such marketing year; (3) handlers are aware of this action which was unanimously recommended by the Board at a public meeting and is similar to other assessment rate actions issued in past years; and (4) this interim final rule provides a 60-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 984

Marketing agreements, Nuts, Reporting and recordkeeping requirements, Walnuts.

For the reasons set forth in the preamble, 7 CFR part 984 is amended as follows:

PART 984—WALNUTS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 984 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 984.347 is revised to read as follows:

§ 994.347 Assessment rate.

On and after August 1, 1997, an assessment rate of $0.0116 per kernelweight pound is established for California merchantable walnuts.

Dated: October 24, 1997.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 97–28824 Filed 10–29–97; 8:45 am]

BILLING CODE 3410–02–P

FARM CREDIT ADMINISTRATION

12 CFR Part 615

RIN 3052–AB75

Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Cumulative Voting; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration (FCA) published a final rule under part 615 on September 24, 1997 (62 FR 49907). The final rule amends the regulations to provide that a Farm Credit Bank (FCB or bank) may eliminate cumulative voting in director elections with the consent of 75 percent of the bank's association shareholders. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is October 30, 1997.

EFFECTIVE DATE: The regulation amending 12 CFR part 615 published on September 24, 1997 (62 FR 49907) is effective October 30, 1997.

FOR FURTHER INFORMATION CONTACT:

Gaylon J. Dykstra, Policy Analyst, Policy Development and Risk Control, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498;

or

Rebecca S. Orlich, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

(12 U.S.C. 2252(a) (9) and (10))

Dated: October 27, 1997.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 97–28808 Filed 10–29–97; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. 97–ACE–16]

Amendment to Class E Airspace; Keokuk, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends the Class E airspace area at Keokuk Municipal Airport, Keokuk, IA. The FAA has developed a Localizer/Distance Measuring Equipment (LOC/DME) Runway (RWY) 26 Standard Instrument Approach Procedure (SIAP) utilizing the LOC and DME of the Instrument Landing System (ILS). Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate this SIAP, and for Instrument Flight Rules (IFR) operations at this airport. The enlarged area will contain the new LOC/DME RWY 26 SIAP in controlled airspace. The intended effect of this rule is to provided additional controlled airspace for aircraft arriving at the Keokuk Municipal Airport.

DATES: Effective date: 0901 UTC April 23, 1998. Comment date: Comments must be received on or before January 15, 1998.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, Federal Aviation Administration, Docket Number 97–ACE–16, 601 East 12th Street, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: The FAA has developed a LOC/DME RWY 26 SIAP utilizing the LOC and DME of the ILS at Keokuk Municipal Airport, Keokuk, IA. The amendment to Class E airspace at Keokuk, IA, will provide additional controlled airspace at and above 700 feet AGL in order to contain the new SIAP in controlled airspace and thereby facilitate separation of aircraft operating under IFR. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register** and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 97–ACE–16." The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATIONS OF CLASS A, CLASS B, CLASS C, CLASS D AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE IA E5 Keokuk, IA [Revised]

Keokuk Municipal Airport, IA
(Lat. 40°27'38"N., long. 91°25'43"W.)
Keokuk NDB
(Lat. 40°27'45"N., long. 91°26'01"W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of the Keokuk Municipal Airport and within 2.6 miles each side of the 310° bearing from the Keokuk NDB extending from the 6.6 miles radius to 7 miles northwest of the airport.

* * * * *

Issued in Kansas City, MO, on August 28, 1997.

Christopher R. Blum,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 97–28750 Filed 10–29–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. 97–ACE–25]

Amendment to Class E Airspace; Pella, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends the Class E airspace area at Pella Municipal Airport, Pella, IA. The FAA has developed a Global Positioning System (GPS) Runway (RWY) 16 Standard Instrument Approach Procedure (SIAP) to serve the Pella Municipal Airport. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate this SIAP. The enlarged area will contain the new GPS RWY 16 SIAP in controlled airspace. The intended effect of this rule is to provide controlled Class E airspace for aircraft executing the GPS RWY 16 SIAP.

DATES: Effective date: 0901 UTC, April 23, 1998. Comment date: Comments must be received on or before January 15, 1998.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, Federal Aviation Administration, Docket Number 97–ACE–25, 601 East 12th St., Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: The FAA has developed a GPS RWY 16 SIAP to serve the Pella Municipal Airport, Pella, IA. The amendment to Class E airspace at Pella, IA, will provide additional controlled airspace at and above 700 feet AGL in order to contain a new SIAP within controlled airspace and thereby facilitate separation of aircraft operating under Instrument Flight Rules. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was to preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 97–ACE–25." The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE IA E5 Pella, IA [Revised]

Pella Municipal Airport, IA
(Lat. 41°24′02″N., long. 92°56′45″W.)
Pella NDB
(Lat. 41°24′19″N., long. 92°56′36″W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Pella Municipal Airport and within 2.6 miles each side of the 175° bearing from the Pella NDB extending from the 6.4-mile radius to 9 miles south of the airport.

* * * * *

Issued in Kansas City, MO, on September 12, 1997.

Christopher R. Blum,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 97–28749 Filed 10–29–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ASO–10]

Amendment to Class E Airspace; Anniston, AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment modifies the Class E airspace area at Anniston, AL. Global Positioning System (GPS) Runway (RWY) 3 and RWY 21 Standard Instrument Approach Procedures (SIAP) have been developed for Talladega Municipal Airport, and a GPS RWY 20 SIAP has been developed for St. Clair County Airport. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAPs.

EFFECTIVE DATE: 0901 UTC, January 1, 1998.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5576.

SUPPLEMENTARY INFORMATION:

History

On July 29, 1997, the FAA proposed to amend 14 CFR part 71 by modifying Class E airspace at Anniston, AL (62 FR 40488). This action would provide adequate Class E airpsace for Instrument Flight Rules (IFR) operations at Talladega Municipal and St. Clair County Airports.

Designations for Class E airspace extending upward from 700 feet or more above the surface of the Earth are published in Paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Interested parties were invited to participate in this rulemaking proceeding by submitting when comments on the proposal to the FAA. No comments objecting to the proposal were received.

The Rule

This amendment to 14 CFR Part 71 modifies Class E airspace at Anniston, AL. Global Positioning RWY 3 and RWY 21 SIAPs have been developed for Talladega Municipal Airport, and a GPS RWY 20 SIAP has been developed for St. Clair County Airport. Additional controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAPs.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR Part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ASO FL E5 Anniston, AL [Revised]

Anniston Metropolitan Airport, AL
(Lat. 33°35′17″ N, long. 85°51′29″ W)
Talladega Municipal Airport
(Lat. 33°34′12″ N, long. 86°03′04″ W)
St. Clair County Airport
(Lat. 33°33′32″ N, long. 86°14′57″ W)

That airspace extending upward from 700 feet above the surface within a 12-mile radius of Anniston Metropolitan Airport and within a 9.5-mile radius of Talladega Municipal Airport and within a 11.5-mile radius of St. Clair County Airport, excluding that airspace within Restricted Area R–2101 when the restricted area is active.

* * * * *

Issued in College Park, Georgia, on October 8, 1997.

Wade T. Carpenter,

Acting Manager, Air Traffic Division Southern Region.

[FR Doc. 97–28748 Filed 10–29–97; 8:45 am]

BILLING CODE 4910–13–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 232

[Release No. 33–7472; 34–39269]

Rule to Provide That the Commission Will Not Accept Paper Filings That are Required To Be Filed Electronically

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission is adding a rule to the series of rules governing the submission of filings and other documents through the Electronic Data Gathering, Analysis, and Retrieval system. The new rule provides that the Commission will not accept any paper filing that is required to be filed electronically, unless it satisfies the requirements for a temporary or continuing hardship exemption.

EFFECTIVE DATE: The rule is effective on January 1, 1998.

FOR FURTHER INFORMATION CONTACT: Margaret R. Black, Division of Corporation Finance, (202) 942–2933, or Ruth Armfield Sanders, Division of Investment Management, (202) 942–0633, U.S. Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The U.S. Securities and Exchange Commission (the "Commission") is adding new Rule 14 to Regulation S–T[1] under the Securities Act of 1933 ("Securities Act").[2]

[1] 17 CFR Part 232.

[2] 15 U.S.C. 77a *et seq.*

I. Discussion

The Commission's filing rules mandate electronic filing by registrants and certain others via the Commission's Electronic Data Gathering and Retrieval ("EDGAR") system.[3] Most companies were phased into the electronic system in groups between 1993 and 1996; by May, 1997, when small business filers were completely phased into the electronic filing system, all domestic issuers were required to file most documents electronically.[4] EDGAR filings are available on the Commission's internet web site within 24 to 48 hours of filing, and commercial databases provide the information even sooner. The electronic filing system has made filings more easily and more quickly available to the investing public.

Most filers either regularly and promptly submit filings via the EDGAR system or apply for an exemption before the required filing data. The high level of compliance with the rules requiring electronic filing draws attention to the fact that some filers have continued to make their filings in paper without requesting a hardship exemption. In May 1997, for example, when approximately 23,750 filings were submitted electronically, the Commission received approximately 8,850 paper filings, of which approximately 500 should have been filed electronically.[5] These paper filings create a gap in the EDGAR database because all paper filings, whether or not filed pursuant to an exemption, are currently accepted and treated as valid filings.[6] The gap in the electronic database is detrimental to an investing public that relies on the prompt availability and dissemination of filed information. Those who rely primarily on the EDGAR database may not even be aware that the information is on file with the Commission.

The Commission's rules take into account the possibility that under certain circumstances electronic filing may be difficult or impossible by allowing filers relief from electronic filing through hardship exemptions. Filers may claim or request, as appropriate, hardship exemptions based on certain criteria, including, for example, technical difficulties in filing, and undue burden and expense of conversion to electronic format.[7] A temporary hardship exemption, generally for unanticipated technical difficulties, is available automatically but must be followed, within six business days, by a confirming electronic copy so that the electronic database is complete.[8] A continuing hardship exemption is also available, but must be granted by the staff. It may be granted for a specific period (after which a confirming electronic copy must be filed) or for an indefinite period.[9]

While the rules acknowledge the possible impediments to electronic filing, they also impose sanctions on issuers that do not comply with the electronic filing rules (and that fail to request an exemption, or fully comply with the requirements of the exemption). The sanctions include the inability to use certain short form registration statements,[10] the inability to incorporate the paper filing by reference into other filings,[11] and the tolling of certain tender offer periods.[12]

Neither the availability of the hardship exemptions nor the sanctions provided by the rules have completely eliminated paper filings that are filed inappropriately without a hardship exemption. The Commission believes that there is a strong public interest in decreasing the number of non-compliant filings. First, electronic filing makes information available more quickly than paper filing. The electronic filing system is the most efficient and effective way of disseminating filed information to the public. Each filing in paper format that is not the subject of an exemption creates an information gap for a marketplace that has come to rely on EDGAR for immediate and complete access. Second, it appears unfair to those filers who comply with the filing rules to accept the filings of those who do not. Finally, paper filings are more costly to the Commission because they require more staff time to process, maintain, track and retrieve. Paper filings prevent the Commission's staff from taking full advantage of the efficiencies of electronic filing for processing, tracking and staff review of filings. Paper filings also disrupt the continuity of preserving records permanently in an electronic format.

The Commission has determined, therefore, that the EDGAR filing rules should be revised to provide that documents that are required to be filed electronically will not be accepted for filing in paper format in the absence of an available exemption. In reaching this decision, the Commission also considered that the phase-in period for electronic filing has been complete for over a year, giving filers ample time to become familiar with and to comply with the electronic filing requirements. The Commission believes that a specific rule providing for the rejection of non-compliant filings will help to decrease the number of paper filings. The Office of Filings and Information Services will be instructed not to accept paper submissions that should have been filed electronically.[13] Those brought by courier will be given back to the courier, and those sent by mail or other delivery service will be returned by mail. If a filing is required to be filed within a certain period (e.g., ninety days from the end of the fiscal year for annual reports on Form 10–K), the rejection of an improper paper filing would result in a filer failing to meet its disclosure obligations unless the document is submitted electronically by the due date.[14]

The Commission is aware that the immediate result of returning a paper submission will be that access to the information will be delayed until the sender re-submits it in electronic format, because the filing will not be available even in paper format through the Commission's public reference facilities. In order to minimize this delay, the staff will use its best efforts to notify senders of the problem promptly so they can take immediate steps to re-submit the documents. As filers become accustomed to this policy, improved compliance with the EDGAR rules can be expected. The result will be an improvement in the timeliness of information available to the public.

The Commission also considered whether to revise the rules providing for sanctions. It has been argued that the current rules create an inference that the Commission will accept paper filings because the penalty is imposed in the event a filing is improperly submitted in paper format. The Commission believes that the creation of a general rule providing for the rejection of paper filings where the filing does not satisfy the requirements of a hardship exemption will clear up any possible misinterpretation of the rules. As with its other rules, the Commission will use any appropriate means, including its authority to bring legal actions, to enforce the electronic filing rules. In addition, keeping the current sanctions will provide a backup system of penalties that would apply to a paper filing that is accepted in error. The Commission therefore believes that a change to the rules imposing sanctions is not necessary or appropriate at this time.

II. Effective Date

The new rule is effective on January 1, 1998, and applies to filings made after that date, including amendments to filings made earlier.

III. Certain Findings

Since the new rule relates solely to agency organization, procedure, or practice, publication for notice and comment is not required under the Administrative Procedure Act.[15] It follows that the requirements of the Regulatory Flexibility Act [16] do not apply.

The new rule does not come within the scope of the Paperwork Reduction Act of 1995 [17] because the new rule is not a substantive or material change to a collection of information.[18]

Under 5 U.S.C. 804, this rule is exempt from the definition of the term "rule" for purposes of Chapter 8, entitled "Congressional Review of Agency Rulemaking," since the rule is a rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties.

Section 23(a)(2) [19] of the Securities Exchange Act of 1934 (the "Exchange Act") [20] requires the Commission to consider the anti-competitive effects of any rules it adopts thereunder, if any, and the reasons for its determination that any burden on competition imposed by such rules is necessary or appropriate to further the purposes of the Exchange Act. Because the new rule does not effect any substantive change, it will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act.

IV. Cost-Benefit Analysis

The benefits of this new procedural rule clearly exceed the costs. The amendment should benefit the investing public by increasing the number of documents filed electronically and therefore the public's knowledge of and timely access to the information in the documents. Based on filings made in May of 1997, the rule could result in an additional 500 filings per month being made electronically rather than on paper. This assumes that all paper filings made without a hardship exemption would have been filed electronically if the new rules had been in effect. Of course, it is possible that one result of the rule will be that more filers will request and receive hardship exemptions. However, any burden resulting from an increase in applications for hardship exemptions is likely to be minimal and only constitutes the costs of complying with an existing standard.

Furthermore, Section 2 of the Securities Act [21] and Section 3 of the Exchange Act,[22] as amended by the recently enacted National Securities Markets Improvement Act of 1996,[23] provide that whenever the Commission is engaged in rulemaking and is required to consider or determine whether an action is necessary or appropriate in the public interest, the Commission also shall consider, in addition to the protection of investors, whether the act will promote efficiency, competition, and capital formation. Because the amendments will increase the amount of information available on a timely basis to the investing public, the new rule is in the public interest and will promote the efficient dissemination of such information. The new rule will not affect efficiency, competition or capital formation because it does not result in a material change in capital raising or regulatory compliance costs.

V. Statutory Basis

The rule is proposed pursuant to Sections 6, 7, 8, 10 and 19(a) of the Securities Act, Sections 3, 12, 13, 14, 15(a), 23(a) and 35A of the Exchange Act, Sections 3, 5, 6, 7, 10, 12, 13, 14, 17 and 20 of the Public Utility Holding Company Act of 1935,[24] Section 319 of the Trust Indenture Act of 1939,[25] and Sections 8, 30, 31 and 38 of the Investment Company Act of 1940.[26]

List of Subjects in 17 CFR Parts 232

Administrative practice and procedure, Reporting and recordkeeping requirements, Securities.

Text of the Amendments

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 232—REGULATION S–T—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

The authority citation for Part 232 continues to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 77sss(a), 78c(b), 78*l*, 78m, 78n, 78o(d), 78w(a), 78*ll*(d), 79t(a), 80a–8, 80a–29, 80a–30 and 80a–37.

2. By adding § 232.14 to read as follows:

§ 232.14 Paper filings not accepted without exemption.

The Commission will not accept in paper format any filing required to be submitted electronically under Rules 100 and 101 of Regulation S–T (§§ 232.100 and 232.101 respectively), unless the filing satisfies the requirements for a temporary or continuing hardship exemption under

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[3] Rules 101 and 102 of Regulation S–T [17 CFR 232.101 and 17 CFR 232.102].

[4] Rule 101(a) of Regulation S–T [17 CFR 232.101(a)] specifically excepts "foreign private issuers and foreign governments" from the persons and entities subject to mandated electronic filing. In the future, the Commission will consider whether such filings should be required to be made electronically.

[5] The other paper filings were filings from foreign private issuers or foreign governments, filings submitted in paper pursuant to a hardship exemption, and filings on forms not yet required to be filed electronically.

[6] The Commission staff screens all paper filings to determine if they should have been filed on EDGAR. If the submission should have been filed electronically, the staff calls or writes to the filer, and asks the filer to file an electronic copy of the document, or to apply for a hardship exemption if appropriate.

[7] Rule 201 of Regulation S–T (temporary hardship exemption) [17 CFR 232.201] and Rule 202 of Regulation S–T (continuing hardship exemption) [17 CFR 232.202].

[8] Rule 201 requires paper filings relying on the temporary hardship exemption to be accompanied by a Form TH, Notification of Reliance on Temporary Hardship Exemption, and in the case of exhibits, Form SE, Form for Submission of Paper Format Exhibits by Electronic Filers.

[9] Rule 202(a) states that requests for a continuing hardship exemption must be submitted at least two days in advance of filing. Requests must be submitted by either filers or their counsel, and the request may be submitted by fax to the Office of EDGAR Policy in the Division of Corporation Finance at (202) 942–9642. Questions about hardship exemptions should be directed to that Office at (202) 942–2940. Investment company filers should direct their requests and inquiries to the Investment Management EDGAR Branch at (202) 942–0561.

[10] See, e.g., Instruction I.H to Form S–2 [17 CFR 239.12]. Forms S–3 [17 CFR 239.13], S–6 [17 CFR 239.16b], F–2 [17 CFR 239.32] and F–3 [17 CFR 239.33] contain similar provisions. See also the note to Rule 101(a) of Regulation S–T [17 CFR 232.101(a)], Note 1 to Rule 201(b) of Regulation S–T [17 CFR 232.101(b)] and Note 3 to Rule 202(d) of Regulation S–T [17 CFR 232.101(d)].

[11] Rule 303 of Regulation S–T [17 CFR 232.303].

[12] Rule 13e–4(f)(12) [17 CFR 240.13e–4(f)(12)] and Rule 14e–1(e) [17 CFR 240.14e–1(e)].

[13] Filers submitting paper filings in reliance on a hardship exemption must include on the first page of the filing the legend stating that the filer is relying on a hardship exemption. See Rule 201(a)(2) of Regulation S–T [17 CFR 232.201(a)(2)] and Rule 202(c) of Regulation S–T [17 CFR 232.202(c)].

[14] The only date the Commission will consider in determining compliance with the disclosure requirements will be the filing date of the electronically transmitted document.

[15] 5 U.S.C. 553(b).

[16] 5 U.S.C. 601–612.

[17] 44 U.S.C. 3501 *et seq.*

[18] 5 CFR 1320.5(g).

[19] 15 U.S.C. 78w(a)(2).

[20] 15 U.S.C. 78a *et seq.*

[21] 15 U.S.C. 77b.

[22] 15 U.S.C. 78c.

[23] Pub. L. No. 104–290, § 106, 110 Stat. 3418 (1996).

[24] 15 U.S.C. 79a *et seq.*

[25] 15 U.S.C. 77aaa *et seq.*

[26] 15 U.S.C. 80a–1 *et seq.*

Rule 201 or 202 of Regulation S–T (§§ 232.201 or 232.202 respectively).

By the Commission.

Dated: October 24, 1997.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–28704 Filed 10–29–97; 8:45 am]

BILLING CODE 8010–01–P

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Part 2200

Rules of Procedure; E–Z Trial

CFR Correction

In title 29 of the Code of Federal Regulations, part 1927 to end, revised as of July 1, 1997, on page 261, in § 2200.203, paragraph (a) should be removed and reserved.

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CCGD08–97–020]

RIN 2115–AE84

Regulated Navigation Area Regulations; Mississippi River, LA-Regulated Navigation Area

ACTION: Interim rule with request for comments.

SUMMARY: The Coast Guard is revising the Regulated Navigation Area (RNA) for vessels operating in the Mississippi River below Baton Rouge, Louisiana including South Pass and Southwest Pass by adding additional requirements for vessels of 1,600 gross tons or greater operating in the RNA. This revision requires enhanced safety procedures for vessels of 1,600 gross tons or greater operating on the Mississippi River. The Coast Guard is also requiring moored or anchored passenger vessels with embarked passengers to maintain a manned pilothouse watch for the safety of the vessel, crew and passengers.

DATES: This interim rule is effective October 30, 1997. Comments must reach the Coast Guard on or before December 29, 1997.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at the office of the Eighth Coast Guard District Marine Safety Division, 501 Magazine Street, Room 1341, New Orleans, LA during normal office hours between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (504) 589–4686.

FOR FURTHER INFORMATION CONTACT: Mr. M. M. Ledet, Vessel Traffic Management Specialist, at the Eighth Coast Guard District Marine Safety Division, New Orleans, LA or by telephone at (504) 589–4686.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments specifically pertaining to 33 CFR § 165.810(f)(3)(iii) of this rule. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD08–97–020) and the specific section of this document to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this rule in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Council at the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Regulatory Information

On August 29, 1997 (62 FR 45775), the Coast Guard published a notice of proposed rulemaking entitled "Regulated Navigation Area Regulations; Mississippi River, LA-Regulated Navigation Area" in the **Federal Register**. No public hearing was requested and none was held. The Coast Guard received 2 letters commenting on the proposed rulemaking. Based on information presented in one of the comments, concerning proposed 33 CFR 165.810(f)(3)(iii), the Coast Guard is reconsidering this provision. This rule is being published as an interim rule and the Coast Guard requests all interested parties to comment on 33 CFR 165.810(f)(3)(iii).

On December 14, 1996, the 36,000 gross ton M/V BRIGHT FIELD, while transiting the Lower Mississippi River, allided with the Riverwalk store complex in New Orleans, Louisiana causing extensive damage and numerous injuries. This marine casualty prompted the Captain of the Port New Orleans to issue Captain of the Port Orders to moored or anchored high capacity passenger vessels operating on the Mississippi River. These orders required those vessels to maintain a manned pilothouse watch in order to monitor river activity and to be immediately available to activate emergency procedures to protect the vessel, crew and passengers in the event of an emergency radio broadcast, danger signal or other visual indication of a problem. The initial intent of this order was to establish an interim measure to prevent future allisions and collisions.

On March 18, 1997 (62 FR 14637, March 27, 1997), the Coast Guard established a temporary regulated navigation area affecting the operation of downbound tows in the Lower Mississippi River from mile 437 at Vicksburg, MS to mile 88 above Head of Passes. These regulations were subsequently amended on March 21 (62 FR 15398, April 1, 1997), March 29 (62 FR 16081, April 4, 1997), April 4 (62 FR 17704, April 11, 1997) and April 20 (62 FR 23358, April 30, 1997). The amendments added additional operating requirements for vessels of 1,600 gross tons or greater; increased the operating limitations on tank barges and ships carrying hazardous chemicals and gasses; and extended the RNA to the boundary of the territorial sea at the approaches to Southwest Pass and South Pass of the Mississippi River.

This RNA and its subsequent amendments was also prompted by unprecedented high waters on the Mississippi River. Conditions on the Lower Mississippi River became so sever that it necessitated the opening of the Bonnet Carre Spillway by the Army Corps of Engineers in order to ease high-water conditions and partially combat very strong river currents. The high-water conditions contributed to numerous barge breakaways and a marked increase in vessel accidents. The additional operating requirements were designed to provide a greater margin of safety for vessels of 1,600 gross tons or greater operating on this waterway.

On April 20 (62 FR 23358, April 30, 1997), the towboat and barge limitations and the chemical and gas ship operating restrictions expired. The regulations affecting self-propelled vessels of 1,600 gross tons or greater were extended until

July 1, 1997. On June 24, 1997 (62 FR 35097, June 30, 1997), the regulations affecting self-propelled vessels of 1,600 gross tons or greater were again extended until October 31, 1997. The purpose of this extension was to maintain the enhanced margin of safety that had been facilitated by these regulations. Although the Lower Mississippi River was receding, dangerous and unpredictable currents remained.

This rule makes permanent the requirements of the temporary RNA, 33 CFR 165.T08–001, and adds those requirements to the permanent RNA established in 33 CFR 165.810. There was no adverse feedback from the public on the extensions or the concomitant operating requirements. Moreover, the additional operating requirements imposed by the temporary RNA increased the level of safety in the RNA. The interim rule is effective immediately upon expiration of the temporary RNA so that there will be no lapse either in watch requirements for anchored or manned passenger vessels and in operating requirements for vessels 1,600 gross tons or greater. A lapse would have a detrimental impact on vessel safety in the RNA. Because of safety considerations, and given the fact that the temporary RNA has been in effect for over six months, good cause exists for making this rule effective upon publication in the **Federal Register**.

Background and Purpose

In the interest of navigation safety in the narrow confines of the Lower Mississippi River, the Coast Guard is making permanent the temporary regulations in 33 CFR 165.T08–001 affecting self-propelled vessels of 1,600 gross tons or greater. The Coast Guard is incorporating the temporary regulations into the permanent regulations at 33 CFR 165.810. The regulated navigation area described in this rule is required to protect vessels, bridges, shoreside facilities, commercial businesses and the public from a safety hazard created by deep-draft vessel operations along the Lower Mississippi River. During 1995 and 1996 over 300 self-propelled vessels of 1,600 gross tons or greater operating on the Mississippi River experienced casualties involving loss of power, loss of steering or engine irregularities. The regulations will enhance the safety of navigation on the river and protect shoreside facilities, including commercial businesses, by causing masters and engineers to take measures that will minimize the risk of steering casualties, engine failures and engine irregularities. They also place the ship in a manning status and operating condition that will allow the vessel to take prompt and appropriate emergency action should a casualty occur, thereby reducing the likelihood of a cascading series of allisions and collisions following a casualty.

As an enhanced safety precaution for passenger vessels anchored or moored within the regulated navigation area, the Coast Guard is requiring certain passenger vessels to maintain a manned pilothouse watch to monitor river and/or waterway activity and to be immediately available to activate emergency procedures to protect the vessel, crew and passengers in the event of an emergency radio broadcast, danger signal or other visual indication of a problem. This measure will significantly enhance the safety of passenger vessels moored or anchored within the regulated navigation area. Each ferryboat, and each small passenger vessel that operates with 49 or less passengers, will be required to monitor and respond, but may conduct monitoring form a vantage point other than the pilothouse using a portable radio. These vessels were give consideration because of their relatively small size and associated reduced risk while passengers are aboard.

Discussion of Interim Rule

The existing regulation in 33 CFR § 165.810 establishes a Regulated Navigation Area for the waters of the Mississippi River below Baton Rouge, LA, including South Pass and Southwest Pass. By this rule the Coast Guard adds specific operational requirements to certain vessels when transiting, moored or anchored in the Regulated Navigation Area. These requirements are designed to assist in the prevention of allision, collision and grounding, ensure port safety, enhance the safety of moored or anchored passenger vessels and protect the navigable waters of the Mississippi River from environmental harm.

Subsection (e) of this rule addresses additional operating requirements for passenger vessels with embarked passengers. Passenger vessels shall continuously man the pilothouse and remain apprised of river activities in their vicinity by monitoring VHF emergency and working frequencies. This allows an individual operating a passenger vessel to be immediately available to take necessary action to protect the vessel, crew and passengers in the event that an emergency broadcast, danger signal or visual indication of a problem is received or detected. An exception to this rule is made for any ferryboat or small passenger vessel that operates with 49 or fewer passengers. These vessels are not required to continuously man the pilothouse since personnel may monitor VHF frequencies via a portable radio from a vantage point other than the pilothouse.

Subsection (f) of this rule pertains to all self-propelled vessels of 1,600 or more gross tons covered by 33 CFR Part 164. The rule requires that the master shall ensure the vessel is in compliance with 33 CFR Part 164 and that the engine room is manned at all times while the vessel is underway in the RNA. Additionally, this subsection requires the master to ensure the chief engineer has certified that: the main propulsion plant is ready in all aspects for operations including the main propulsion air start systems, fuel systems, lube oil systems, cooling systems and automation systems; automatic or load limiting throttle systems are operating in the manual mode with engines available to immediately answer maneuvering commands; cooling, lubricating and fuel oil systems are within proper temperature parameters; and standby systems are ready to be placed immediately in service. These additional operating conditions are required so long as the vessel is underway in the RNA.

Discussion of Comments and Changes

The Coast Guard received two comments regarding the proposed rulemaking. One comment stated that the proposed rule as written will detrimentally affect the safety of a particular company's operation. It stated that the proposed requirement in 33 CFR Part 165.810(f)(3)(iii), that requires "[a]utomatic or load limiting main propulsion plant throttle systems [to be] operated in the manual mode with engines available to immediately answer maneuvering commands," will reduce the level of safety presently maintained by the company's vessels. The comment explained that the company's vessels presently utilize engine control systems designed to be operated from the bridge. The comment also indicated the control systems can override any of the automatic stop or load limiting functions from the bridge, the engine control room or the emergency maneuvering platform on the engine side. The comment also indicated the company's vessels have the full range of engine speed from all stations. The comment further indicated that requiring operation of the engine control system in the manual mode from the engine control room removed one engineer from emergency response

capabilities and that maneuvering in the manual mode put one more human element into the engine control system. The comment also noted that the company has safety management practices in place that address the concerns expressed in 33 CFR Part 165.810(f)(3)(iii). The comment further recommended that the proposed rule in 33 CFR Part 165.810(f)(3)(iii) be replaced with 33 CFR Part 164.13(b) and that the rule apply to all vessels. The latter regulation requires that "[e]ach tanker must have an engineering watch capable of monitoring the propulsion system, communicating with the bridge, and implementing manual control measures immediately when necessary. The watch must be physically present in the machinery spaces or in the main control space and must consist of at least a licensed engineer."

The Coast Guard agrees in part with that portion of the comment asserting that 33 CFR Part 165.810(f)(3)(iii) could adversely impact the safety of vessels. It is possible that different engine room configurations could cause confusion at to what precisely "manual mode" entails. For example, one master could interpret manual mode as requiring operation of the main engine from the engine-side throttle control while another could read this regulation as allowing engine room watch personnal to operate the main engine from the control booth. This confusion, and the possibility of automatic control systems being placed in jeopardy if main propulsion throttle system computer programs are deactivated or placed in a manual override mode in order to achieve a "manual mode" state, warrants further study by the Coast Guard. The Coast Guard is also reopening to the public a 60 day comment period to specifically address 33 CFR Part 165.810(f)(3)(iii). This will allow the Coast Guard to better ascertain the impact of this subsection upon the public.

Replacing 33 CFR 165.810(f)(3)(iii) with 33 CFR 164.13(b) as recommended in the comments does not address operation of the engines in the manual mode and therefore does not provide the margin of safety the Coast Guard may ultimately find necessary. The proposed regulation does tie at least one engineering watchstander to the engine room for watch responsibilities, limiting that engineer's availability for response to casualties elsewhere. However, the Coast Guard believes the presence of a licensed engineer in the engine room, capable of immediate communications with the bridge, is essential to the safety of the vessel and the port. No changes to the proposed rule were made.

The second comment noted that the proposed rule, as written, would force towboats and tugboats to comply with the same operational requirements that apply to deep-draft vessels even though the requirements are ill-suited for towing operations. The comments noted that the language in the proposed rule does not take into account a recent change to 33 CFR Part 164. In the past, 33 CFR Part 164 only applied to self-propelled vessels of 1,600 or more gross tons. However, the Final Rule on Navigation Safety Equipment for Towing Vessels, published in the July 3, 1996, **Federal Register** (61 FR 35064), amended 33 CFR Part 164 to include "towing vessels of 12 meters or more in length." As a result of this change, the proposed rule would have the unintended result of requiring towboats and tugboats to comply with requirements that do not apply to their mode of operation. The Coast Guard agrees with this comment. The intent of the proposed rule was that it apply only to vessels of 1,600 gross tons or greater, not to towboats or tugboats. The rule has been amended to eliminate this unintended result.

For purposes of clarity and to be more consistent with other sections of this part, the upper boundary of this RNA is no longer defined by the words, "* * * below Baton Rouge." Lower Mississippi River mile 233.9 above Head of Passes will now define the upper limit of this RNA by replacing the words "* * * below Baton Rouge" as found in 33 CFR § 165.810 (a) and (b). This language will more precisely delineate the upper boundary of the RNA thereby avoiding potential confusion as to the exact location of "* * * below Baton Rouge."

Regulatory Evaluation

This interim rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential cost and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1997). The Coast Guard expects the economic impact of this interim rule to be so minimal that full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The regulation does not require that additional personnel are required aboard each vessel, rather it requires that existing watchstanding personnel to be immediately available to take necessary action to respond to vessel emergencies. This interim rule establishes additional requirements in order to enhance vessel safety and better protect property within the RNA. In the event this rule imposes additional costs the Coast Guard believes this burden is far outweighed by the safety benefits accrued from the rule. The prevention of another M/V BRIGHT FIELD-type allision would save shoreside businesses, maritime users and the public in general, tens of millions of dollars in potential property damage and personal injury.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considers the economic impact on small entities of each rule for which a general notice of proposed rulemaking is required. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields and governmental jurisdictions with populations of less than 50,000. Because the rule affects deep-draft vessels underway and passenger vessels when passengers are onboard, and because a ferryboat or small passenger vessel carrying 49 people or less may monitor river activities using a portable radio from a vantage point other than the pilot house, the Coast Guard's position is that this rule will not have a significant economic impact on a substantial number of small entities.

Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this rule will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this rule will have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this rule will economically affect it.

Assistance for Small Entities

In accordance with section 214(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard wants to assist small entities in understanding this interim rule so that they can better evaluate its effects on them and participate in the rulemaking process. If your small business or organization is affected by this rule and you have questions concerning its provisions or options for compliance, please contact Mr. M.M. Ledet, Vessel Traffic Management Specialist, at the Eighth Coast Guard District Marine Safety Division, New Orleans, LA or by telephone at (504) 589–4686 for assistance.

Collection of Information

This interim rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this interim rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient implications for federalism to warrant the preparation of a Federalism

Environment

The Coast Guard considered the environmental impact of this interim rule and concluded that under paragraph 2.B.2(e)(34)(g) of Commandant Instruction M16475.1B (as revised by 61 FR 13563; March 27, 1996), this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (waters), Reporting and recordkeeping requirements, Safety measures, and Waterways.

In consideration of the foregoing, the Coast Guard amends Part 165 of Title 33, Code of Federal Regulations to read as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 46 CFR 1.46.

2. In section 165.810, paragraph (a) and (b) introductory text are revised, and new paragraphs (e) and (f) are added to read as follows:

§ 165.810 Mississippi River, LA-regulated navigation area.

(a) *Purpose and applicability.* This section prescribes rules for all vessels operating in the Lower Mississippi River below mile 233.9 above Head of Passes including South Pass and Southwest Pass, to assist in the prevention of allisions; collisions and groundings so as to ensure port safety and protect the navigable waters of the Mississippi River from environmental harm resulting from those incidents, and to enhance the safety of passenger vessels moored or anchored in the Mississippi River.

(b) Lower Mississippi River below mile 233.9 above Head of Passes including South and Southwest Passes:

* * * * *

(e) Watch requirements for anchored and moored passenger vessels.

(1) Passenger Vessels. Except as provided in paragraph (e)(2) of this section, each passenger vessel with one or more passengers on board, shall:

(i) Keep a continuously manned pilothouse and;

(ii) Monitor river activities and marine VHF emergency and working frequencies of the port so as to be immediately available to take necessary action to protect the vessel, crew and passengers in the event that an emergency radio broadcast, danger signal or visual indication of a problem is received or detected.

(2) Each ferryboat, and each small passenger vessel that operates with 49 or less passengers, may monitor river activities using a portable radio from a vantage point other than the pilothouse.

(f) All self-propelled vessels of 1,600 or more gross tons subject to the regulations at 33 CFR Part 164 shall also comply with the following:

(1) The engine room shall be manned at all times while underway in the RNA.

(2) Prior to embarking a pilot when entering or getting underway in the RNA, the master of each vessel shall ensure that the vessel is in compliance with 33 CFR Part 164.

(3) The master shall ensure that the chief engineer has certified that the following additional operating conditions will be satisfied so long as the vessel is underway within the RNA:

(i) The main propulsion plant is in all respects ready for operations including the main propulsion air start systems, fuel systems, lubricating systems, cooling systems and automation systems;

(ii) Cooling, lubricating and fuel oil systems are at proper operating temperatures;

(iii) Automatic or load limiting main propulsion plant throttle systems are operating in manual mode with engines available to immediately answer maneuvering commands; and

(iv) Main propulsion standby systems are ready to be immediately placed in service.

Dated: October 24, 1997.

T.W. Josiah,

Rear Admiral, U.S. Coast Guard Commander, Eighth Coast Guard District.

[FR Doc. 97–28745 Filed 10–29–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 212

Administration of the Forest Development Transportation System

AGENCY: Forest Service, USDA.

ACTION: Final rule; technical amendment.

SUMMARY: This technical amendment streamlines Forest Service rules for administration of the forest transportation system. This amendment was initiated by agency review under the President's Regulatory Reinvention Initiative and is intended to provide clearer, more precise direction for the administration of the forest development transportation system.

DATES: This rule is effective October 30, 1997.

FOR FURTHER INFORMATION CONTACT: Richard W. Sowa, Engineering Staff, Forest Service, USDA, P.O. 96090, Washington, D.C. 20090–6090, (202) 205–1437.

SUPPLEMENTARY INFORMATION: The purpose of this technical amendment is to consolidate direction for the administration of the forest development transportation system. The rules formerly under the separate sections, headed "Allocation, Forest development transportation plan, and Program of work" are now consolidated under one section, "Forest development transportation program."

Following a review of Forest Service regulations under the President's Regulatory Reinvention Initiative, the agency concluded that these sections were so closely related that they should be combined into one streamlined regulation. Also in keeping with National Performance Review objectives of using "plain English" in regulations, the text of sections 212.3 and 212.4 (now section 212.1 (b) and (c) has been edited to remove extraneous words. However, no substantive changes have been made to the rule. Accordingly, by this amendment, the agency is setting out the revised rule in the Code of Federal Regulations. Because of the narrow scope and limited effect of this action, the agency has determined that this amendment is a technical amendment for which notice and comment pursuant to the Administrative Procedures Act (5 U.S.C. 553) is not necessary.

Regulatory Impact

This rule is a technical amendment to consolidate three small sections of an

existing rule. As such, it has no substantive effect nor is it subject to review under USDA procedures or Executive Order 12866 on Regulatory Planning and Review. This rule also does not meet the definition of a rule subject to Congressional notice and review pursuant to 5 U.S.C. 801–804.

Moreover, because good cause exists to exempt this rule from notice and comment pursuant to 5 U.S.C. 553, this rule is exempt from further analysis under the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538); Executive Order 12778, Civil Justice Reform; Executive Order 12630, Takings Implications; and the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 36 CFR Part 212

Highways and roads, National forests, Rights-of-way, and Transportation.

Therefore, for the reasons set forth in the preamble, Part 212 of Title 36 of the Code of Federal Regulations is hereby amended as follows:

PART 212—[AMENDED]

1. Revise the authority citation for Part 212 to read as follows:

Authority: 16 U.S.C. 551, 23 U.S.C. 205.

2. Revise § 212.2 to read as follows:

§ 212.2 Forest development transportation program.

(a) A forest development transportation plan must be prepared for each National Forest and experimental forest and other areas under Forest Service administration. The plan must be prepared, maintained, revised, and reported on in accordance with procedures prescribed by the Chief.

(b) A program of work for the forest development transportation system shall be developed each fiscal year in accordance with procedures prescribed by the Chief.

(c) Forest development transportation system funds shall be allocated based on consideration of relative needs of the various National Forests and other lands administered by the Forest Service, the existing transportation facilities, the value of timber or other resources served, relative fire danger, and comparative difficulties of construction.

§§ 212.7 and 212.9 [Amended]

3. In §§ 212.7(c) and 212.9(d), remove the reference to "§ 212.11" and, in its place, add a reference to "§ 212.9".

§ 212.10 [Amended]

4. In § 212.10(a)(2), make the following changes:

a. Remove the reference to "§ 212.9 (b) and (c)" and, in its place, add a reference to "§ 212.7 (b) and (c)".

b. Remove the reference to "§ 212.7(c)" and, in its place, add the reference to "§ 212.5(c)".

c. Remove the reference to "§ 212.11" and, in its place, add a reference to "§ 212.9".

§ 212.11 [Amended]

5. In section 212.11(f), remove the reference to "§ 212.7(d)" and, in its place, add the reference to "§ 212.5(d)".

§§ 212.3 and 212.4 [Removed]

§§ 212.5 through 212.12 [Redesignated]

6. Remove §§ 212.3 and 212.4 and redesignate §§ 212.5 through 212.12 as §§ 212.3 through 212.10 respectively.

§§ 212.11 and 212.12 [Reserved]

7. Reserve §§ 212.11 and 212.12.

Dated: October 21, 1997.

Ronald E. Stewart,

Acting Associate Chief.

[FR Doc. 97–28812 Filed 10–29–97; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AI90

Veterans Education: Increase in Rates Payable Under the Montgomery GI Bill—Active Duty

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: By statute, the monthly rates of basic educational assistance payable to veterans and servicemembers under the Montgomery GI Bill—Active Duty must be adjusted each fiscal year. In accordance with the statutory formula, the regulations governing rates of basic educational assistance payable under the Montgomery GI Bill—Active Duty for fiscal year 1998 (October 1, 1997, through September 30, 1998) are changed to show a 2.8% increase in these rates.

DATES: This final rule is effective October 30, 1997. However, the changes in rates are applied retroactively to conform to statutory requirements. For more information concerning the dates of application, see the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration (202) 273–7187.

SUPPLEMENTARY INFORMATION: Under the formula mandated by 38 U.S.C. 3015(g) for fiscal year 1998, the rates of basic educational assistance under the Montgomery GI Bill—Active Duty payable to students pursuing a program of education full time must be increased by the percentage that the total of the monthly Consumer Price Index-W for July 1, 1996, through June 30, 1997, exceeds the total of the monthly Consumer Price Index-W for July 1, 1995, through June 30, 1996. This is 2.8%.

It should be noted that some veterans will receive an increase in monthly payments that will be less than 2.8%. The increase does not apply to additional amounts payable by the Secretary of Defense to individuals with skills or a specialty in which there is a critical shortage of personnel (so-called "kickers"). It does not apply to amounts payable for dependents. Veterans who previously had eligibility under the Vietnam Era GI Bill receive monthly payments that are in part based upon basic educational assistance and in part based upon the rates payable under the Vietnam Era GI Bill. Only that portion attributable to basic educational assistance is increased by 2.8%.

Although 38 U.S.C. 3015(g) requires only that the full-time rates be increased, these revisions include increases for other training also. Monthly rates payable to veterans in apprenticeship or other on-job training are set by statute at a given percentage of the full-time rate. Hence, any rise in the full-time rate automatically requires an increase in the rates for such training.

38 U.S.C. 3015 (a) and (b) require that the Department of Veterans Affairs (VA) pay part-time students at appropriately reduced rates. Since the first student became eligible for assistance under the Montgomery GI Bill—Active Duty in 1985, VA has paid three-quarter-time students and one-half-time students at 75% and 50% of the full-time rate, respectively. Students pursuing a program of education at less than one-half but more than one-quarter-time have had their payments limited to 50% or less of the full-time rate. Similarly, students pursuing a program of education at one-quarter-time or less have had their payments limited to 25% or less of the full-time rate. Changes are made consistent with the authority and formula described in this paragraph.

Nonsubstantive changes also are made for the purpose of clarity.

The changes set forth in this final rule are effective from the date of publication, but the changes in rates are applied retroactively from October 1, 1997, in accordance with the applicable statutory provisions discussed above.

Substantive changes made by this final rule merely reflect statutory requirements and adjustments made based on previously established formulas. Accordingly, there is a basis for dispensing with prior notice and comment and delayed effective date provisions of 5 U.S.C. 552 and 553.

The Acting Secretary of Veterans Affairs hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612 and does not directly affect small entities. This final rule directly affects only individuals. Pursuant to 5 U.S.C. 605(b), this final rule, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance number for the program affected by this final rule is 64.124.

List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Defense Department, Education, Employment, Grant programs—education, Grant programs—veterans, Health programs, Loan programs—education, Loan programs—veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: October 17, 1997.

Hershel W. Gober,

Acting Secretary of Veterans Affairs.

For the reasons set out above, 38 CFR part 21, subpart K, is amended as set forth below.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart K—All Volunteer Force Educational Assistance Program (Montgomery GI Bill—Active Duty)

1. The authority citation for part 21, subpart K, continues to read as follows:

Authority: 38 U.S.C. 501(a), chs. 30, 36, unless otherwise noted.

2. In § 21.7136, paragraphs (b), (c)(1), (c)(2), and (c)(3) are revised, to read as follows:

§ 21.7136 Rates of payment of basic educational assistance.

* * * * *

(b) *Rates.* (1) Except as elsewhere provided in this section or in § 21.7139, the monthly rate of basic educational assistance payable for training that occurs after September 30, 1997, and before October 1, 1998, to a veteran whose service is described in paragraph (a) of this section is the rate stated in the following table:

Training	Monthly rate
Full time	$439.85
¾ time	329.89
½ time	219.93
Less than ½ but more than ¼ time	219.93
¼ time or less	109.96

(Authority: 38 U.S.C. 3015)

(2) If a veteran's service is described in paragraph (a) of this section, the monthly rate payable to the veteran for pursuit of apprenticeship or other on-job training that occurs after September 30, 1997, and before October 1, 1998, is the rate stated in the following table:

Training period	Monthly rate
First six months of pursuit of training	$329.89
Second six months of pursuit of training	241.92
Remaining pursuit of training	153.95

(Authority: 38 U.S.C. 3015, 3032(c))

(3) If a veteran's service is described in paragraph (a) of this section, the monthly rate of basic educational assistance payable to the veteran for pursuit of a cooperative course is:

(i) $427.87 for training that occurs after October 8, 1996, and before October 1, 1997; and

(ii) $439.85 for training that occurs on or after October 1, 1997.

(Authority: 38 U.S.C. 3015)

(c) * * *

(1) Except as elsewhere provided in this section or in § 21.7139, the monthly rate of basic educational assistance payable to a veteran for training that occurs after September 30, 1997, and before October 1, 1998, is the rate stated in the following table:

Training	Monthly rate
Full time	$357.38
¾ time	268.04
½ time	178.69
Less than ½ but more than ¼ time	178.69
¼ time or less	89.35

(Authority: 38 U.S.C. 3015, 3032(c))

(2) The monthly rate of educational assistance payable to a veteran for pursuit of apprenticeship or other on-job training that occurs after September 30, 1997, and before October 1, 1998, is the rate stated in the following table:

Training period	Monthly rate
First six months of pursuit of training	$268.04
Second six months of pursuit of training	196.56
Remaining pursuit of training	125.08

(Authority: 38 U.S.C. 3015, 3032(c))

(3) The monthly rate of basic educational assistance payable to a veteran for pursuit of a cooperative course is:

(i) $347.65 for training that occurs after October 8, 1996, and before October 1, 1997; and

(ii) $357.38 for training that occurs on or after October 1, 1997.

(Authority: 38 U.S.C. 3015)

* * * * *

3. In § 21.7137, paragraph (c)(2) introductory text is amended by removing "1996, and before October 1, 1997" and adding, in its place, "1997, and before October 1, 1998"; paragraph (c)(2)(i) is amended by removing "$815.87" and adding, in its place, "$827.85"; paragraph (c)(2)(ii) is amended by removing "$462.40" and adding, in its place, "$471.39"; paragraph (c)(2)(iii) is amended by removing "$309.94" and adding, in its place, "$313.93"; paragraph (c)(2)(iv) is amended by removing "$153.97" and adding, in its place, "$156.96"; and paragraph (a) is revised to read as follows:

§ 21.7137 Rates of payment of basic educational assistance for individuals with remaining entitlement under 38 U.S.C. ch. 34.

(a) *Minimum rates.* (1) Except as elsewhere provided in this section, the monthly rate of basic educational assistance for training that occurs after September 30, 1997, and before October 1, 1998, is the rate stated in the following table:

Training	Monthly rate			
	No dependents	One dependent	Two dependents	Additional for each additional dependent
Full time	$627.85	$663.85	$694.85	$16.00
¾ time	471.39	497.89	521.39	12.00
½ time	313.93	331.93	347.43	8.50
Less than ½ but more than ¼ time	313.93	313.93	313.93	0.00
¼ time or less	156.96	156.96	156.96	0.00

(Authority: 38 U.S.C. 3015(e), (f), and (g))

(2) For veterans pursuing apprenticeship or other on-job training, the monthly rate of basic educational assistance for training that occurs after September 30, 1997, and before October 1, 1998, is the rate stated in the following table:

Training	Monthly rate			
	No dependents	One dependent	Two dependents	Additional for each additional dependent
1st six months of pursuit of program	$432.64	$445.01	$455.89	$5.25
2nd six months of pursuit of program	298.29	307.64	315.34	3.85
3rd six months of pursuit of program	177.75	183.87	188.60	2.45
Remaining pursuit of program	165.85	171.62	176.87	2.45

(Authority: 38 U.S.C. 3015(e), (f), (g))

(3) The monthly rate payable to a veteran who is pursuing a cooperative course is the rate stated in the following table:

Training period	Monthly rate			
	No dependents	One dependent	Two dependents	Additional for each additional dependent
Oct. 9, 1996–Sept. 30, 1997	$579.87	$606.37	$629.87	$11.50
On or after Oct. 1, 1997	591.85	617.35	641.85	11.50

(Authority: 38 U.S.C. 3015)

* * * * *

[FR Doc. 97–28723 Filed 10–29–97; 8:45 am]
BILLING CODE 6560–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[ET Docket No. 95–177; FCC 97–379]

Biomedical Telemetry Transmitters

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: By this *Report and Order*, the Commission amends its regulations regarding the unlicensed operation of biomedical telemetry transmitters in the 174–216 MHz (TV channels 7–13) and 470–668 MHz (TV channels 14–46) bands, as proposed in the *Notice of Proposed Rule Making* (*"Notice"*) in this proceeding, 61 FR 3367, January 31, 1996. These amendments will provide patients in health care facilities the ability to move about in a limited area while being continually monitored, speeding patient recovery times, shortening lengths of stay, and reducing health care costs. The standards being adopted for these devices should protect the licensed services operating in the TV bands. Further, a coordination procedure has been implemented to protect radio astronomy observatories from potential interference from biomedical telemetry systems operating on 608–614 MHz (TV channel 37).

DATES: Effective December 1, 1997.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: John A. Reed, Office of Engineering and Technology, (202) 418–2455.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order* in ET Docket No. 95–177, FCC 97–379, adopted October 9, 1997, and released October 20, 1997. The complete text of this *Report and Order* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, D.C. 20036.

Summary of the Report and Order

1. In the *Report and Order* (*"Order"*), the Commission amended Part 15 of its regulations to permit unlicensed biomedical telemetry transmission systems operating on TV channels 7–46 in the 174–216 MHz and 470–668 MHz frequency bands to be used in health care facilities. Biomedical telemetry transmitters are used in hospitals to transmit patient measurement data to a nearby receiver, permitting patient mobility and improved comfort. Typical devices include heart, blood pressure and respiration monitors.

2. While the Commission proposed in the *Notice* to permit the operation of biomedical telemetry devices over TV channels 7–69, it noted that it was now proposing to reallocate TV channels 52–69 to other services. Further, it is undecided at this time whether the Commission will reallocate TV channels 2–6 or 47–51. Thus, the Commission amended its rules to permit unlicensed biomedical telemetry devices only on TV channels 7–46. The Commission believes that these products can share the spectrum with licensed services. Biomedical telemetry devices are expensive, complex products that are generally installed by the manufacturer or by a third party working with the manufacturer. In most cases, individual systems must be specifically engineered for each location. Further, biomedical telemetry devices are sensitive to interference. Because interference to these products could endanger the health and safety of patients using this equipment, it is expected that health care facilities, in combination with the manufacturers and installers, would expend considerable effort to avoid operating on occupied broadcast channels. Operators of unlicensed biomedical telemetry devices are reminded that they must accept whatever level of interference is received from other radio operations and are responsible for resolving any interference problems caused by the operation of their equipment, even if resolving that interference requires that the biomedical telemetry device cease operations.

3. Protection from potential harmful interference from biomedical telemetry devices must be provided to all authorized operations within the TV bands, including TV broadcast stations operating under Part 73 of the rules, Low Power TV, TV Translator and TV Booster Stations operation under Subpart G of Part 74 of the rules, Low Power Auxiliary Stations operating under Subpart H of Part 74 of the rules, and Private Land Mobile Radio Services operating under Part 90 of the rules. The minimum separation distances employed to avoid inference need to be established based on the protection criteria for the individual radio services. The interference analysis should not generally rely on assumptions about the attenuation of intervening walls and other objects since biomedical telemetry devices are designed to be used on ambulatory patients who could be near windows or immediately outside of the hospital walls, such as on an attached patio. Also, the interference analyses should not rely on assumptions about body shielding as manufacturers often request that measurement of body-worn transmitters be made while the transmitter is worn on a person. Based on these criteria, the Commission recalculated minimum co-channel separation distances that must be observed by the operators and installers of biomedical telemetry transmitters, as shown in the attached regulations. Parties wishing to operate biomedical telemetry transmitters on TV channel 37 should note that they first must obtain written concurrence from the director of the affected radio astronomy observatory if they are located closer than the specified minimum distance. The Commission declined to establish separation distances for adjacent channel operations, noting that the limits on unwanted emissions should prevent this type of interference problem.

4. In the *Order*, the Commission established a maximum field strength limit of 200 mV/m, as measured at a distance of three meters. Further, the fundamental signal may not be wider than the 6 MHz bandwidth of a single TV channel, and the signal must be contained within a single TV channel. Emissions outside of the TV channel within which the fundamental emission from the biomedical telemetry transmitter is located must be attenuated to the general emission limits in 47 CFR § 15.209.

5. Accordingly, It is ordered that Part 15 of the Commission's Rules and Regulations is amended. This action is taken pursuant to Sections 4(i), 301, 302, 303(e), 303(f), 303(r), 304, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 301, 302, 303(e), 303(f), 303(r), 304 and 307.

Final Regulatory Flexibility Analysis

6. As required by Section 603 of the Regulatory Flexibility Act, 5 U.S.C. § 603 (RFA), Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the *Notice of Proposed Rule Making* (*"Notice"*) in ET Docket No. 95–177.[1] The Commission sought written public comments on the proposals in the *Notice* including the IRFA. The Commission's Regulatory Flexibility Analysis (FRFA) in this Report and Order conforms to the RFA, as amended by the Contract with America Advancement Act of 1996 (CWAAA), Public Law 104–121, 110 Stat. 847 (1996).

7. *Need for and Objective of the Rule.* In this *Order*, the Commission amends Part 15 of its rules to expand the availability of frequencies and to increase the permitted power for unlicensed biomedical telemetry devices operating on VHF and UHF television channels 7–46 within health care facilities. These devices will provide patients the freedom to move about in a limited area while being continually monitored, speeding patient recovery times, shortening lengths of stay, and reducing health care costs. The changes to the regulations support spectrum efficiency by facilitating the sharing of scarce radio spectrum between two services and providing cost-efficient and needed medical technologies to health care communities.

8. *Summary of Significant Issues Raised by the Public Comments in Response to the Initial Regulatory Flexibility Analysis.* No comments were received in direct response to the Initial Regulatory Flexibility Analysis. However, commenters expressed considerable concern regarding the potential impact of biomedical telemetry devices sharing spectrum with the TV broadcast frequencies, especially in light of the forthcoming introduction of DTV. Many of the commenters requested that dedicated spectrum, outside of the TV bands, should be set aside for biomedical telemetry devices. For example, the Society of Broadcast Engineers (SBE) states that potentially life-critical biomedical telemetry has no place as a "bottom-of-the-food-chain" Part 15 device; if CCTG needs more spectrum, it should explore bands where such use can occur on a licensed, and therefore protected, basis. The Public Broadcasting Service and the Association of America's Public Television Stations (PBS/APTS) add that it would be a mistake for the Commission to establish a new system in the TV broadcasting spectrum where substantial changes are planned. The Community Broadcasters Association (CBA) states that TV spectrum is a poor environment into which to launch more intensive and higher powered use of critical medical devices on which health and lives will depend. Even CCTG states that the Commission should consider dedicating spectrum to the exclusive use of medical telemetry after the DTV

[1] Amendment of Part 15 of the Commission's Rules to permit operation of biomedical telemetry devices on VHF TV channels 7–13 and on UHF TV channels, 11 FCC Rcd 1083 (1996).

transition. Other commenters, such as the Leesburg Regional Medical Center and Texas Children's Hospital, are concerned that interference will be caused to biomedical devices from TV signals rather than interference from biomedical devices to TV signals.

9. The Critical Care Telemetry Group that petitioned the Commission to implement these rule changes and filed comments in this proceeding consists of Hewlett-Packard Company Medical Products Group, Marquette Electronics, Inc., Pacific Communications, Siemens Medical Systems, Inc., and SpaceLabs Medical, Inc.

10. *Description and Estimate of the Number of Small Entities Subject to Which the Rules Apply.* For purposes of the Report and Order, the RFA generally defines the term "small business" as having the same meaning as the term "small business concern" under the Small Business Act, 15 U.S.C. § 632, unless the Commission has developed one or more definitions that are appropriate to its activities.[2] Under the Small Business Act, a small business concern is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA). Since the Regulatory Flexibility Act amendments were not in effect until the record in this proceeding was closed, the Commission was unable to request information regarding the number of small businesses that would be affected by this action. The rules adopted in this Report and Order apply to the operation of unlicensed biomedical telemetry transmitter devices for medical care facilities. These devices are used to transmit data, including heart, blood pressure and respiration monitors, to a nearby receiver.

11. The Commission has not developed a definition of small entities applicable to biomedical telemetry transmitter devices. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules applicable to Communications Services "Not Elsewhere Classified." This definition provides that a small entity is one with $11.0 million or less in annual receipts.[3] According to Census Bureau data, there are 848 firms that fall under the category of Communications Services, Not Elsewhere Classified. Of those approximately 775 reported annual receipts of $11 million or less and qualify as small entities.[4] This category is very broad, and we are unable to determine how many operators of unlicensed biomedical telemetry devices will qualify as small entities.

12. *Description of Projected Reporting, Recordkeeping and Other Compliance Requirements.* The rule change will not alter current reporting, recordkeeping or other requirements. To receive equipment authorization to operate on the television channels, applicants would have to demonstrate that their biomedical telemetry devices comply with the equipment standards and obtain an authorization from the Commission.

13. *Significant Alternatives and Steps Taken by Agency to Minimize Significant Economic Impact on a Substantial Number of Small Entities Consistent with Stated Objectives.* While the *Notice* proposed to permit biomedical telemetry operation over the frequency ranges of 174–216 MHz and 470–806 MHz (TV channels 7–69), we no longer believe that this entire frequency range can be made available. In the DTV *Sixth Report and Order* in MM Docket No. 87–268 the Commission indicated that it plans to reallocate TV channels 52–69 (698 MHz to 806 MHz) to other services and will reallocate either TV channels 2–6 (54–88 MHz) or 47–51 (668–698 MHz).[5] Thus, this spectrum no longer appears suitable for assignment to unlicensed biomedical telemetry operation. Accordingly, we are amending the rules to permit the operation of biomedical telemetry devices only over the frequency bands of 174–216 MHz and 470–668 MHz (TV channels 7–46).

14. *Report to Congress.* The Commission shall send a copy of this Final Regulatory Flexibility Analysis, along with this *Report and Order*, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. § 801(a)(1)(A).

[2] See 5 U.S.C. § 601(3).

[3] 13 CFR 121.201, Standard Industrial Classification (SIC) Code 4899.

[4] U.S. Bureau of the Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications, and Utilities, UC92–S–1, Subject Series, Establishment and Firm Size, Table 2D, Employment Size of Firms: 1992, SIC Code 4899 (issued May 1995).

[5] See the *Sixth Report and Order* in MM Docket No. 87–268, 62 FR 26684, May 14, 1997. See also the *Notice of Proposed Rule Making* in ET Docket No. 97–157, 62 FR 41012, July 31, 1997, proposing to reallocate TV channels 60–69 for public safety use and for other services. In addition, see Balanced Budget Act of 1997, Public Law 105–33, 111 Stat. 251 (1997), requiring the Commission to reallocate TV channels 52–59 for other services.

List of Subjects

47 CFR Part 15

Communications equipment, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

Title 47 of the Code of Federal Regulations, Part 15, is amended as follows:

PART 15—RADIO FREQUENCY DEVICES

1. The authority citation for part 15 continues to read as follows:

Authority: Secs. 4, 302, 303, 304, 307 and 624A of the Communications Act of 1934, as amended, 47 U.S.C. 154, 302, 303, 304, 307 and 544A.

2. Section 15.205 is amended by adding a new paragraph (d)(5), to read as follows:

§ 15.205 Restricted bands of operation.

* * * * *

(d) * * *

(5) Biomedical telemetry devices operating under the provisions of § 15.242 of this part are not subject to the restricted band 608–614 MHz but are subject to compliance within the other restricted bands.

* * * * *

3. Section 15.209 is amended by revising paragraph (g) to read as follows:

§ 15.209 Radiated emission limits; general requirements.

* * * * *

(g) Perimeter protection systems may operate in the 54–72 MHz and 76–88 MHz bands under the provisions of this section. The use of such perimeter protection systems is limited to industrial, business and commercial applications.

4. A new § 15.242 is added to read as follows:

§ 15.242 Operation in the bands 174–216 MHz and 470–668 MHz.

(a) The marketing and operation of intentional radiators under the provisions of this section is restricted to biomedical telemetry devices employed solely on the premises of health care facilities.

(1) A health care facility includes hospitals and other establishments that offer services, facilities, and beds for use beyond 24 hours in rendering medical treatment and institutions and organizations regularly engaged in providing medical services through clinics, public health facilities, and similar establishments, including governmental entities and agencies for their own medical activities.

(2) This authority to operate does not extend to mobile vehicles, such as ambulances, even if those vehicles are associated with a health care facility.

(b) The fundamental emissions from a biomedical telemetry device operating under the provisions of this section shall be contained within a single television broadcast channel, as defined in part 73 of this chapter, under all conditions of operation and shall lie wholly within the frequency ranges of 174–216 MHz and 470–668 MHz.

(c) The field strength of the fundamental emissions shall not exceed 200 mV/m, as measured at a distance of 3 meters using a quasi-peak detector. Manufacturers should note that a quasi-peak detector function indicates field strength per 120 kHz of bandwidth ±20 kHz. Accordingly, the total signal level over the band of operation may be higher than 200 mV/m. The field strength of emissions radiated on any frequency outside of the television broadcast channel within which the fundamental is contained shall not exceed the general limits in § 15.209.

(d) The user and the installer of a biomedical telemetry device operating within the frequency range 174–216 MHz, 470–608 MHz or 614–668 MHz shall ensure that the following minimum separation distances are maintained between the biomedical telemetry device and the authorized radio services operating on the same frequencies:

(1) At least 10.3 km outside of the Grade B field strength contour (56 dBuV/m) of a TV broadcast station or an associated TV booster station operating within the band 174–216 MHz.

(2) At least 5.5 km outside of the Grade B field strength contour (64 dBuV/m) of a TV broadcast station or an associated TV booster station operating within the bands 470–608 MHz or 614–668 MHz.

(3) At least 5.1 km outside of the 68 dBuV/m field strength contour of a low power TV or a TV translator station operating within the band 174–216 MHz.

(4) At least 3.1 km outside of the 74 dBuV/m field strength contour of a low power TV or a TV translator station operating within the bands 470–608 MHz or 614–668 MHz.

(5) Whatever distance is necessary to protect other authorized users within these bands.

(e) The user and the installer of a biomedical telemetry device operating within the frequency range 608–614 MHz and that will be located within 32 km of the very long baseline array (VLBA) stations or within 80 km of any of the other radio astronomy observatories noted in footnote US 311 of Section 2.106 of this chapter must coordinate with, and obtain the written concurrence of, the director of the affected radio astronomy observatory before the equipment can be installed or operated. The National Science Foundation point of contact for coordination is: Spectrum Manager, Division of Astronomical Sciences, NSF Rm 1045, 4201 Wilson Blvd., Arlington, VA 22230; tel: (703) 306–1823.

(f) Biomedical telemetry devices must not cause harmful interference to licensed TV broadcast stations or to other authorized radio services, such as operations on the broadcast frequencies under subparts G and H of part 74 of this chapter, land mobile stations operating under part 90 of this chapter in the 470–512 MHz band, and radio astronomy operation in the 608–614 MHz band. (See § 15.5.) If harmful interference occurs, the interference must either be corrected or the device must immediately cease operation on the occupied frequency. Further, the operator of the biomedical telemetry device must accept whatever level of interference is received from other radio operations. The operator, *i.e.*, the health care facility, is responsible for resolving any interference that occurs subsequent to the installation of these devices.

(g) The manufacturers, installers, and users of biomedical telemetry devices are reminded that they must ensure that biomedical telemetry transmitters operating under the provisions of this section avoid operating in close proximity to authorized services using this spectrum. Sufficient separation distance, necessary to avoid causing or receiving harmful interference, must be maintained from co-channel operations. These parties are reminded that the frequencies of the authorized services are subject to change, especially during the implementation of the digital television services. The operating frequencies of the part 15 devices may need to be changed, as necessary and in accordance with the permissive change requirements of this chapter, to accommodate changes in the operating frequencies of the authorized services.

(h) The manufacturers, installers and users of biomedical telemetry devices are cautioned that the operation of this equipment could result in harmful interference to other nearby medical devices.

[FR Doc. 97–28761 Filed 10–29–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket 96–128; FCC 97–371]

Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On October 9, 1997, the Commission adopted a *Second Report and Order* in CC Docket 96–128, FCC 97–371, in which it concluded that interexchange carriers must compensate payphone service providers for all coinless payphone calls not otherwise compensated pursuant to contract, including subscriber 800 and access code calls, 0+ and inmate calls, at the rate of $.284 per call. The Commission based this decision on the conclusion that the default rate for per-call compensation for these calls is the deregulated local coin rate adjusted for cost differences. This rate will continue to be the default rate for coinless payphone calls for the first two years of per-call compensation. After the first two years, the market-based local coin rate adjusted for certain costs is the surrogate for the default per-call rate.

EFFECTIVE DATE: October 30, 1997.

FOR FURTHER INFORMATION CONTACT: Rose Crellin or Greg Lipscomb, Formal Complaints and Information Branch, Enforcement Division, Common Carrier Bureau (202) 418–0960.

SUPPLEMENTARY INFORMATION:

Adopted: October 9, 1997.

Released: October 9, 1997.

By the Commission: Commissioners Quello and Ness issuing separate statements.

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Rule Changes

Attachment B—List of Parties Filing Comments

Attachment C—List of Parties Filing Replies

(Note: In the FCC Record version of this order, Attachments are listed as Appendices, and their order is different from that stated above.)

I. Introduction

1. In this order, we address the default per-call compensation rate [1] for subscriber 800 and access code calls [2] originated from payphones in light of the decision of the United States Court of Appeals for the District of Columbia Circuit (the court) *in Illinois Public Telecommunications Ass'n* versus *FCC*, [3] which vacated and remanded portions of the *Payphone Orders*. [4] In that decision, the court concluded that the Commission did not justify adequately setting the per-call compensation rate for subscriber 800 and access code calls at the deregulated local coin rate of $0.35, [5] because it did not justify its conclusion that the costs of local coin calls are similar to those of subscriber 800 calls and access code calls. [6] After seeking additional comment on this issue, we conclude in this order that the default rate for per-call compensation of subscriber 800 and access code calls from payphones is the deregulated local coin rate adjusted for cost differences. As discussed herein, based on our analysis of the record and the statutory policy goals of Section 276 of the Communications Act, [7] we establish a rate of $0.284 per call as the default per-call compensation rate for subscriber 800 and access code calls for the first two years of per-call compensation. [8] This rate will continue to be the default rate for coinless payphones absent a negotiated rate. Interexchange carriers (IXCs) must pay this per-call amount to payphone service providers (PSPs) for access code and subscriber 800 calls beginning October 7, 1997, as required by the *Payphone Orders*. [9] After the first two years of per-call compensation, the market-based local coin rate adjusted for certain costs is the surrogate for the default per-call rate for subscriber 800 and access code calls. [10]

2. The compensation amount we adopt in this *Second Report and Order* is applicable, as Section 276(d) provides, to "[t]he provision of public or semi-public pay telephones, the provision of inmate telephone service in correctional institutions, and any ancillary services." [11] We previously have declined to treat 0+ and calls from inmate payphones differently from other payphone calls, [12] and we reaffirm that decision here. As of October 7, 1997, PSPs must be compensated for all payphone calls not otherwise compensated pursuant to contract, including 0+ and inmate calls.

3. The immediate implementation of the rule provisions adopted herein is crucial to the Commission's efforts to ensure fair compensation for PSPs, encourage the deployment of payphones, and enhance competition among payphone providers, as mandated by Section 276 of the Act. [13] The Commission's *Payphone Orders* require that per-call compensation for certain payphone calls begin by October 7, 1997. To meet this obligation, we must revise those rules vacated by the court in *Illinois Public Telecomm.* that relate to the implementation of a per-call compensation scheme and commence on October 7, 1997. *The Report and Order*, released September 20, 1996 (61 FR 52307 (October 7, 1996)), informed parties that per-call compensation would commence on October 7, 1997. [14] Therefore, parties affected by this rule change have had notice since the release of that order that they would be subject to certain obligations beginning October 7, 1997. Making this order effective immediately minimizes disruption within the payphone industry by eliminating disputes about payment obligations and enhances the general availability of payphone services to the public.

4. This order does not address other issues vacated and remanded by the court or otherwise alter the requirements of the *Payphone Orders*. Other requirements remanded in *Illinois Public Telecomm.*, including the compensation obligations applicable during the period from November 1996, through October 6, 1997, will be addressed in a subsequent order in this proceeding. We tentatively conclude in this regard that the $0.284 per-call rate we are adopting as a default rate on a going forward basis should also govern compensation obligations during the period ending October 6, 1997. We also tentatively conclude that PSPs are entitled to compensation for all of their access code and subscriber 800 calls during this period. We plan to address the manner in which the total payment obligation for that period will be calculated and allocated among IXCs in a subsequent order.

5. We note that the Common Carrier Bureau (Bureau) has granted a limited waiver, until March 9, 1998, for those payphones that cannot provide payphone-specific digits as required by the *Payphone Orders*. [15] This limited waiver applies to the requirement that local exchange carriers (LECs) provide payphone-specific coding digits to PSPs, and that PSPs provide coding digits from their payphones before they can receive per-call compensation from IXCs for subscriber 800 and access code calls. This limited waiver was granted by the Bureau to afford LECs, IXCs, and PSPs an extended transition period for the provision of payphone-specific coding digits without further delaying the payment of per-call compensation as required by Section 276 of the Act and this order. The Bureau made this limited waiver effective immediately in order to ensure that PSPs receive per-call compensation beginning October 7, 1997.

II. Background

6. In the *Payphone Orders*, [16] the Commission adopted new rules and policies governing the payphone industry to implement Section 276 of the Act. Those rules and policies: (1) establish a plan to ensure fair compensation for "each and every completed intrastate and interstate call using [a] payphone[;]" [17] (2) discontinue intrastate and interstate carrier access charge service elements and payments in effect on such date of enactment, and all intrastate and interstate payphone subsidies from basic exchange services; [18] (3) prescribe nonstructural safeguards for Bell Operating Company ("BOC") payphones; [19] (4) permit the BOCs to negotiate with payphone location providers on the interLATA carrier presubscribed to their payphones; [20] (5) permit all payphone service providers to negotiate with location providers on the intraLATA carriers that presubscribed to their payphones; [21] and (6) adopt guidelines for use by the states in establishing public interest payphones to be located "where there would otherwise not be a payphone[.]" [22]

7. In the *Report and Order*, the Commission noted that the 1996 Act erects a "procompetitive deregulatory national framework designed to accelerate rapid private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition." [23] Thus, we sought to advance the twin goals of Section 276 of the Act of "promot[ing] competition among payphone service providers and promot[ing] the widespread deployment of payphone services to the benefit of the general public * * *," [24] by eliminating the effects of some long-standing barriers to full competition in the payphone market. To effectuate this objective, we concluded that we would continue to regulate certain aspects of the payphone market, but only until such time as the market evolves to erase these sources of market distortions. [25]

8. Section 276(b)(1)(A) of the Act directs the Commission to establish a plan to ensure that all PSPs are fairly compensated for every completed call. [26] We defined "fair compensation" as the amount to which a willing seller (*i.e.* PSP) and a willing buyer (*i.e.* customer, or IXC) would agree for the completion of a payphone call. For certain calls, the PSP received no revenue for originating certain calls (*i.e.*, for subscriber 800 and other toll-free number calls) and could not block callers from making such calls (access code calls). Based on evidence in the record, we noted in the *Report and Order* that the number of these types of calls completed from payphones had proliferated in the past several years, [27] and we concluded that PSPs must be compensated for access code, subscriber 800, and other toll-free number calls, whether they are jurisdictionally intrastate or interstate. [28]

9. In the *Report and Order*, we concluded that the payphone marketplace has low entry and exit barriers and likely will become increasingly competitive, [29] and that the market generally is best able to set the appropriate price for payphone calls, including local coin calls, in the long term. [30] Therefore, because we have an obligation under Section 276 to ensure that the compensation for all local coin calls is fair, we concluded that the local market should be allowed to set the price for all compensable calls unless a state demonstrated that competition would not constrain prices; for example, payphones at certain locations would be priced at monopoly rates. This approach is appropriate, because once PSPs are free to enter the market, and once callers are free to choose payphones for their calls, the market ultimately will determine whether a particular payphone is economically viable. Therefore, in the *Payphone Orders*, we concluded that the appropriate per-call compensation amount, in the absence of a negotiated agreement, ultimately is the amount the particular payphone charges for a local coin call, because the market will determine the fair compensation

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[1] The default per-call rate is the rate that shall apply in the absence of a negotiated agreement between parties during the first two years of per-call compensation (October 7, 1997, through October 6, 1999). Thereafter, the default rate, in the absence of a negotiated agreement, is the market-based local coin rate less $0.066. For coinless payphones, $0.284 will continue to be the default rate, absent a negotiated agreement.

[2] An "access code" is a sequence of numbers that, when dialed, connect the caller to the operator service provider ("OSP") associated with that sequence, as opposed to the OSP presubscribed to the originating line. Access codes include 800 numbers, 10XXX in equal access areas and "950" Feature Group B dialing (950–0XXX or 950–1XXX) anywhere, where the three-digit XXX denotes a particular interexchange carrier. See Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation, 57 FR 21038 (May 18, 1992); 7 FCC Rcd 3251, 3251 n.1 (1992) ("OSP Second Report and Order"). "Subscriber 800 calls" consist of calls to an 800 number assigned to a particular subscriber. See Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, Notice of Proposed Rulemaking, 61 FR 31481 (June 20, 1996); 11 FCC Rcd 6716 (1996) ("NPRM"). In this order, subscriber 800 encompasses toll-free subscriber calls, including 888 numbers. See Toll Free Service Access Codes, 61 FR 7736 (February 29, 1996); 11 FCC Rcd 2496 (1996).

[3] 117 F.3d 555 (D.C. Cir. 1997) ("Illinois Public Telecomm.").

[4] Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96–128, Report and Order, 61 FR 52307 (October 7, 1996), 11 FCC Rcd 20,541 (1996) ("Report and Order"); Order on Reconsideration, 61 FR 65341 (December 12, 1996), 11 FCC Rcd 21,233 (1996) ("Order on Reconsideration") (collectively the "Payphone Orders").

[5] Illinois Public Telecomm., 117 F.3d at 564.

[6] *Id.*

[7] 47 U.S.C. § 276 Communications Act of 1934, Section 276 was added by the Telecommunications Act of 1996 ("1996 Act").

[8] In the Payphone Orders, we established a two-part compensation scheme for subscriber 800 and access code calls, as well as for local coin calls, to facilitate the transition from a highly regulated industry to a deregulated one. As noted above, the court vacated the interim compensation plan regarding compensation for subscriber 800 and access code calls; the court, however, upheld the interim compensation plan for local coin calls. Phase one, or the first year of interim compensation for access code and subscriber 800 calls, required that IXCs with a certain annual toll revenue pay PSPs a flat-rate compensation of $45.85 per payphone per month in shares proportionate to their share of total market long distance revenues. During the second year of interim compensation (also, the first year of per-call compensation) we required the IXCs to pay the PSP for each completed subscriber 800 and access code call. See Report and Order, 61 FR 52307 (October 7, 1996); 11 FCC Rcd at 20,568 at para. 51. This order addresses specifically the first two years of per-call compensation, and as noted above, establishes a default rate for per-call compensation at $0.284. See infra paras. 117–22.

[9] The Payphone Orders state that LEC PSPs are entitled to be paid per-call compensation by IXCs for access code and subscriber 800 calls when they have complied with the requirements of the Payphone Orders and will certify to that effect. Order on Reconsideration, 61 FR 65341 (December 12, 1996); 11 FCC Rcd at 21,293–94, paras. 130–32. We note that the Commission did not establish a requirement that LEC PSPs obtain a formal certification of compliance from the Commission or the states to receive per-call compensation pursuant to the Payphone Orders.

[10] As determined in this order, the difference between the per-call rate for subscriber 800 and access code calls and the local coin rate is $0.066.

[11] 47 U.S.C. § 276(d).

[12] See Report and Order, 61 FR 52307 (October 7, 1996); 11 FCC Rcd at 20,579, para. 74; Order on Reconsideration, 61 FR 65341 (December 12, 1996); 11 FCC Rcd at 21,259, para. 52. A 0+ call occurs when the caller dials "0" plus the called telephone number. 0+ calls include credit card, collect, and third number billing calls. See OSP Second Report and Order, 7 FCC Rcd at 3251 n.4. 0–calls are calls in which the caller dials only the digit "0" and then waits for operator intervention. 0–transfer service is a service offered by LECs to OSPs under which LECs transfer a 0-call to the OSP requested by the calling party. See OSP Second Report and Order, 57 FR 21038 (May 18, 1992); 7 FCC Rcd at 3253 n.44.

[13] The normal period until effectiveness in a rulemaking is thirty days after publication of the changed rules in the **Federal Register**, but we accelerate that period here for good cause, pursuant to Section 553(d) of the Administrative Procedure Act. *See* 5 U.S.C. § 553(d).

[14] This requirement established in the *Report and Order* becomes effective October 7, 1997, one year after publication in the **Federal Register**, 61 FR 52,307 (1996).

[15] *Order on Reconsideration*, 61 FR 65341 (December 12, 1996); 11 FCC Rcd at 21,276–79, paras. 93–95. *See Bureau Waiver Order*, DA 97–2162 (rel. Oct. 7, 1997).

[16] *Report and Order*, 61 FR 52307 (October 7, 1996); 11 FCC Rcd at 20,541; *Order on Reconsideration*, 61 FR 65341 (December 12, 1996); 11 FCC Rcd at 21,233.

[17] 47 U.S.C. § 276(b)(1)(A).

[18] 47 U.S.C. § 276(b)(1)(B).

[19] 47 U.S.C. § 276(b)(1)(C).

[20] 47 U.S.C. § 276(b)(1)(D).

[21] 47 U.S.C. § 276(b)(1)(E).

[22] 47 U.S.C. § 276(b)(2).

[23] S. Conf. Rep. No. 104–230, 104th Cong. 1 (1996).

[24] 47 U.S.C. § 276(b)(1).

[25] A number of parties subsequently filed petitions requesting that the Commission reconsider or clarify the rules the Commission adopted in the *Report and Order*. In the *Order on Reconsideration*, we substantially affirmed the rules adopted in the *Report and Order*. We denied all but two of the requested reconsiderations; those exceptions are not at issue here. In the *Order on Reconsideration*, the Commission modified: (1) the requirements for LEC tariffing of payphone services and unbundled network facilities; and (2) the requirements for LECs to remove unregulated payphone costs from the carrier common line charge and to reflect the application of multiline subscriber line charges to payphone lines. *See Order on Reconsideration*, 61 FR 65341 (December 12, 1996); 11 FCC Rcd at 21,234, para. 3.

[26] *See* 47 CFR § 276(b)(1)(A) (directing the Commission to establish a plan "to ensure that all payphone service providers are fairly compensated for each and every completed intrastate and interstate call using their payphone"). *See also Report and Order*, 61 FR 52307 (October 7, 1996); 11 FCC Rcd at 20,566, para. 46.

[27] *See Report and Order*, 61 FR 52307 (October 7, 1996); 11 FCC Rcd at 20,568, para. 52 n.187.

[28] *See id.* at 20,566, para. 52.

[29] *See id.* at 20,547, para. 11.

[30] *See id.* at 20,567, 20,577, paras. 49, 70.

rate for those calls. We further concluded that if a rate is compensatory for local coin calls, then it is an appropriate compensation amount for other calls as well, because we found the costs of originating various types of payphone calls such as access code and subscriber 800 calls to be similar to the costs incurred when initiating a local coin call.[31]

10. Before we moved to a local coin call default rate, however, we found that it was necessary to observe over time how the payphone marketplace would function in the absence of regulation. In particular, we concluded that consumers facing time constraints may not be able to find, in certain locations, a reasonable substitute for a payphone located on the premises. We stated that in these cases where the location provider has an exclusive contract with a PSP, the PSP may be able to charge supra-competitive prices. The location provider would share in the resulting "locational rents" through commissions paid by PSPs. We concluded that to the extent that market forces cannot ensure competitive prices at such locations, we may want to continue regulating, along with the states, the provision of payphone services generally or in particular types of locations where the size of the location or the caller's lack of time to identify potential substitute payphones could lead to locational monopolies. To allow us to ascertain the status of competition in the payphone marketplace, we concluded that we should establish the default per-call rate before leaving it to the market to set the rate, absent any changes in our rules.

11. We recognized that competitive conditions, which are a prerequisite to a deregulatory market-based approach, did not exist yet, and would not be achieved instantaneously. Therefore, we established an interim compensation plan to ease the transition to market-based local coin rates and ensure fair compensation for coin and noncoin calls. In particular, we established a two phase interim plan to address coin calls. During the first year (phase) the states would be responsible for ensuring that PSPs were fairly compensated for local coin calls as well as for protecting consumers from excessive rates. We concluded that states could continue to set the local coin rate during the year prior to market-based per-call compensation. During the second phase, beginning October 7, 1997, we stated that the market would set the price for the local coin call, absent particular state concerns, and the need for modification.[32]

12. Additionally, in the *Payphone Orders*, the Commission established a two-year interim plan for payphone compensation for subscriber 800 and access code calls based on a rate of $0.35 per call that began November 7, 1996. For the first year after the effective date of the rules adopted in this proceeding, we required that IXCs pay flat-rate compensation to PSPs. More specifically, under the first year of the interim plan, IXCs with annual toll revenues in excess of $100 million were required to pay, collectively, a flat-rate compensation of $45.85 per payphone per month in shares proportionate to their share of total market long distance revenues. During the second year of the interim plan, which is the first year of per-call compensation, all IXCs were required to pay $0.35 per subscriber 800 call or access code call unless they contracted with the PSP to pay a different amount.[33]

13. Numerous parties filed petitions in federal court seeking review of the *Payphone Orders*. In *Illinois Public Telecomm*, the court affirmed important parts of the Commission's rules implementing Section 276, but also vacated and remanded certain other aspects of those rules. The court overturned our determination in the *Payphone Orders* regarding: (1) the interim and permanent compensation rates established for access code and subscriber 800 calls; (2) the requirement that only those IXCs with annual toll revenues over $100 million pay PSPs for these calls during the first year of the interim period; (3) the failure to provide any interim compensation to BOC PSPs for "0+" calls and calls made from inmate payphones; and (4) the use of fair market value for payphone assets transferred from a BOC to a separate affiliate.[34]

14. By Public Notice released August 5, 1997, we sought comment on the issues remanded by the court.[35] We sought comment on the differences in costs to the PSP of originating subscriber 800 and access code calls as compared to local coin calls.[36] We sought comment on whether these potential differences in costs should affect a market based compensation amount, and if so, how.[37] We sought comment on whether the local coin rate—subject to an offset for expenses unique to those calls—is an appropriate per-call compensation rate for calls that are not compensated pursuant to a contract or other arrangement, such as subscriber 800 calls and access code calls.[38] We stated that parties should respond specifically to concerns raised by the court in setting forth their views on the appropriate per-call compensation amount.[39]

15. This order addresses only the amount of default per-call compensation. We decline to address in this order other issues related to the implementation of the per-call compensation structure.[40] Because the court vacated and remanded the per-call compensation rate for access code and subscriber 800 calls, we have sought to act expeditiously to reevaluate the default per-call rate. We conclude, because of the exigency of the situation wherein PSPs are not receiving per-call compensation as required by Congress in Section 276, that we must address quickly and efficiently the most urgent issue—the per call compensation amount to be paid by IXCs to PSPs beginning on October 7, 1997, the beginning of per-call compensation.

[31] *Id.* at 20,577–78, para. 70; *Order on Reconsideration*, 61 FR 65341 (December 12, 1996); 11 FCC Rcd at 21,268–69, para. 71.

[32] *See Report and Order*, 61 FR 52307 (October 7, 1996); 11 FCC Rcd at 20,572, para. 60 (further stating that states are empowered to act where concerns exist about market failures, and that the Commission could address such market concerns if necessary).

[33] We noted that $0.35 was the local coin rate in four of the five states where the local coin rate had been deregulated and concluded that the market-based rate in those states was the best evidence of the per-call compensation amount for PSPs for the first two years of interim compensation. *See* Letter to William Caton, Acting Secretary, FCC from Michael Kellogg, Counsel, Coalition (Aug. 30, 1996) (noting that the local coin rate is $0.35 in four of the five states that have deregulated the local coin rate). The Coalition is comprised of the Bell Operating Companies ("BOCs")—Ameritech, the Bell Atlantic Telephone Companies, BellSouth Corporation, Pacific Bell, Nevada Bell, Southwestern Bell Telephone Company, and US West—together with GTE Service Corporation ("GTE") and Southern New England Telephone Company ("SNET"). *See also Report and Order*, 61 FR 52307 (October 7, 1996); 11 FCC Rcd at 20,578, para. 72. As we noted above, we believed the costs to originate access code and subscriber 800 calls were similar to those incurred when initiating a local coin call, and thus established a default rate based on the deregulated local coin rate. We note that of seven states that now have deregulated local coin rates, in five states (Michigan, Iowa, Nebraska, North Dakota and Wyoming) the rate is $0.35, and in two states (Montana and South Dakota) the rate is $0.25. *See Ex Parte Presentation* to FCC from Michael Kellogg, Counsel, Coalition (Sept. 26, 1997). In this order, the one year per-call compensation period subject to the $0.284 default rate is extended to two years.

[34] Illinois Public Telecomm., 117 F.3d at 558.

[35] *See* Pleading Cycle Established for Comment on Remand Issues in the Payphone Proceeding, CC Docket No. 96–128, 62 FR 43686 (August 15, 1997); DA 97–1673, rel. Aug. 5, 1997 (*Notice*). In the *Notice* we indicated that we placed the industry on notice that payphone compensation obligations, or the absence of such obligations, incurred by providers of interexchange services, and compensation levels paid or received under our existing rules pending action on remand, may be subject to retroactive adjustment. *Id.* at 1. With regard to the interim compensation plan, we specifically sought comment on compensation for subscriber 800, access code, and 0+ calls, and on retroactive adjustments to interim compensation levels and obligations. *See id.*

[36] *See id.* at 2.

[37] *Id.*

[38] *Id.*

[39] *Id.* at 3.

[40] *See infra* paras. 122–33.

III. Per-Call Compensation

A. The Standard for Determining Per-Call Compensation

16. In the *Notice*, we sought comment on whether the market-based local coin rate—subject to an offset for expenses unique to those calls—is an appropriate per-call compensation rate for calls that are not compensated pursuant to a contract or other arrangement, such as subscriber 800 and access code calls.[41] In *Illinois Public Telecomm.*, the court in particular concluded that the Commission did not adequately justify "tying the default rate [for per-call compensation] to local coin rates."[42] The court found evidence in the record that the costs of coin calls are higher than those for coinless calls because: (1) additional costs are incurred for equipment and coin collection; and (2) the PSP pays for originating and terminating local calls, while for coinless calls the PSP only pays for originating the calls.[43] Therefore, the court stated that setting the per-call compensation for subscriber 800 calls and access code calls at the deregulated local coin rate of $0.35 was not justified, and vacated and remanded the issue to the Commission for further consideration.[44]

1. *Comments*[45]

17. APCC asserts that *Illinois Public Telecomm.* affirms the Commission's market-based approach to determine compensation and does not mandate an analysis of costs.[46] According to APCC, the court also affirmed the Commission's finding that the payphone marketplace is competitive, even if market forces do not yet operate freely for dial-around calling.[47] APCC further argues that the court did not preclude the Commission from relying on market-based surrogates, such as the local coin rate, or require the Commission to calculate an exact cost differential to be reflected in the per-call compensation figure.[48] The Commission, APCC asserts, could exclude consideration of cost evidence altogether and focus solely on market price indicators.[49] APCC contends that the court objected only to the Commission's attempt to compare the costs of dial-around calls and local coin calls.[50] Only if the Commission continues to rely on cost comparisons as a factor in the application of a market-based approach, must the Commission adhere to the reasoning issues raised by the court, states APCC.[51] Parties further contend that a market-based approach will fulfill the requirements of the statute, *i.e.*, provide rates that "fairly compensate" PSPs and "promote competition among payphone service providers and the widespread deployment of payphone services."[52] APCC alleges that the IXCs do not provide any arguments for rejecting a market-based approach, and challenges the arguments that there are local payphone provider monopolies that prevent the payphone market from being competitive.[53] Peoples adds that PSPs are not monopoly providers because Commission rules require PSPs to unblock access code calls, giving every caller the option to dial around a PSP's presubscribed service provider or to use a debit card to reach a carrier of their choice.[54]

18. The Coalition argues that the court did not question the Commission's decision to rely on market-determined prices rather than regulatory accounting procedures.[55] The Coalition asserts that the court did not require the Commission to abandon its market-based proxies, but instead required the Commission to consider appropriate differences, such as originating costs, between coin and coinless calls.[56]

19. AT&T asserts that the court found that the Commission acted unlawfully in establishing an assumed market rate for coinless calls, because the Commission ignored record evidence on the cost differences between coin and coinless calls.[57] Because of this error, AT&T states, the court found that there was no rational basis for the Commission's conclusion that per-call compensation should be set at the assumed deregulated market price, and therefore, that the Commission's compensation rate could not stand.[58]

20. Frontier similarly argues that the court did not endorse the Commission's market-based approach,[59] and further, that the court found the Commission's conclusion that the local coin rate represents the best surrogate of the costs of completing local calls unjustified.[60]

21. Sprint asserts that although the Commission used a market-based approach to determine local coin rates, the Commission never purported to use a market-based approach for per-call compensation for access code and subscriber 800 calls.[61] Instead, Sprint contends that the Commission has viewed costs as the appropriate approach from the outset, and has sought surrogates for originating costs while rejecting non cost-based market surrogates.[62]

22. PageMart and CPI argue that the great disparity in the record between the market rates and costs demonstrates that the payphone market is not yet competitive,[63] because price in a truly competitive market would have been driven closer to cost.[64] PageNet argues that market rates are misleading, because, as consumers, IXCs cannot decline a sale, *i.e.*, block incoming payphone calls, and thus have a weakened market power.[65] WorldCom asserts that market-based rate would be more arbitrary and artificial than rates based on objective and verifiable costs.[66]

2. *Discussion*

23. Despite a careful review, we find no statement in the court's decision that precludes us from relying on market-based surrogates, or requires us to determine a rate based on cost data

[41] *See Notice* at 2–3.

[42] *Illinois Public Telecomm.*, 117 F. 3d at 564.

[43] *Id.* at 563–64.

[44] *See id.*; *Illinois Public Telecomm., Supplemental Opinion*, slip op. at 2.

[45] Abbreviations for parties are listed in Attachments B and C. The following section includes the analyses of the comments and reply comments submitted in this proceeding. Although for presentation the comments are summarized generally by subject area, we consider these comments and replies in reaching our decisions wherever the comment and reply comments are appropriate.

[46] *See* APCC Comments at 2–3; *see also* CCI Comments at 5.

[47] APCC Comments at 2–3.

[48] *Id.* at 3–4.

[49] *Id.*

[50] APCC Reply at 5.

[51] *Id.* at 6.

[52] APCC Comments at 2 (citing 47 U.S.C. §§ 276(b)(1), (1)(A)). *See* Coalition Reply at iv, 2, 5.

[53] APCC Reply at 7.

[54] Peoples Reply at 4.

[55] Coalition Reply at 6; Coalition Comments at 11–13.

[56] *Id.*

[57] AT&T Reply at 2; *see also* ACTA Comments at 3, CWI Comments at 11.

[58] AT&T Comments at 3–4.

[59] Frontier Reply at 3–4.

[60] *Id.* (stating that the "court plainly tied its assessment of what constitutes reasonable compensation to the costs of completing coinless calls").

[61] Sprint Reply at 14.

[62] *Id.* at 14–15.

[63] CPI Comments at 3 (arguing that a market-based rate is inappropriate because the payphone industry is not competitive, and because PSPs are monopolies or near monopolies).

[64] PageMart Reply at 7.

[65] *See* PageNet Comments at 9–11; PageNet Reply at 5, 7. *See also* Section D *infra* (discussing reconsideration of caller pays and the paging carriers arguments that only a calling party pays system would result in a true market rate); *see also* WorldCom Comments at 3–4 (arguing that the rates being proposed by the LECs and PSPs—between $0.42 and $0.63 per call—would not be accepted if the consumer paid them directly).

[66] WorldCom Reply at 3.

submitted by incumbent LECs, independent PSPs, and other parties to determine the new per-call rate. The court did not reject the concept of linking the market-based local coin rate to the per-call rate for access code and subscriber 800 calls based on the similarity in costs, nor conclude that our approach was irrational. Rather, the court concluded that the Commission had not responded to information on the record regarding the cost disparities between the cost of providing coin calls and subscriber 800 and access code calls. Therefore, the court concluded that adoption of the default rate without further explanation was arbitrary and capricious.[67]

24. The 1996 Act does not prescribe a particular course to ensure that all PSPs are fairly compensated for each and every call.[68] Nothing on the record in response to the *Notice* persuades us to change the deregulatory scheme established in the *Payphone Orders*. Based on the record in this proceeding, we affirm our decision in the *Payphone Orders* to use a market-based default rate for per-call compensation for subscriber 800 and access code calls. We conclude for the reasons stated there that a market-based rate best responds to the competitive marketplace for payphones consistent with the deregulatory scheme we adopted in the *Payphone Orders* for the provision of payphone services pursuant to Section 276, and also will effectively advance the statutory goals of encouraging competition and promoting the deployment of payphones.

25. As discussed above, because of market imperfections such as the inability of PSPs to block access code and subscriber 800 calls, we concluded in the *Payphone Orders* that a default rate was necessary to ensure that PSPs received fair compensation during the transition to a deregulated market. We also concluded in those orders, as we conclude here, that the default rate should be market-based. The method we use in this order to estimate a reasonable default per-call compensation rate addresses the court's concerns as well as those raised on the record in response to the *Notice* by LECs, IXCs, and PSPs. Specifically, our approach continues to rely on a market-based rate (the local coin rate).

26. We, however, adjust the market-based local coin rate for differences in the costs of coin and coinless operation, reducing the market-based local coin rate for coin-related costs and increasing the market-based local coin rate to reflect costs that are related to access code and subscriber 800 calls. In addition, in response to the arguments of parties in this proceeding that a market-based rate would be unreasonable and that we must establish a rate based on cost data submitted by the parties, we also have performed an analysis of those cost data to test the reasonableness of the selected per-call market-based rate. As discussed below, we find based on this analysis that the adjusted market-based rate is reasonable. Accordingly, we conclude that the deregulated local coin rate, adjusted for cost considerations, is a reasonable market-based surrogate for determining the default per-call compensation rate and specifically responds to the court's concerns that cost differences between coin calls and coinless access and subscriber 800 calls be explained. Furthermore, we conclude that the per-call rate established in this order will further the goals of Section 276 and is in the public interest.

27. The record on remand supports our prior conclusion that per-call compensation should be set by the marketplace and that full and unfettered competition is the best mechanism to achieve Congress' dual policy objectives.[69] Competition over time will lead to the more efficient placement of payphones, improved payphone service, and lower prices for consumers. To encourage competition in the payphone marketplace, we ensure in this *Second Report and Order* that PSPs are fairly compensated for "each and every completed intrastate and interstate call."

28. We conclude that because we make the per-call amount subject to negotiations, the marketplace will make the appropriate adjustments in the per-call rate. We established the per-call default rate to be applied only if the PSP and the IXC are unable to negotiate some other rate of compensation for compensable calls. Negotiations may lead to rates other than the default rate for several reasons. First, because virtually all of the costs are fixed costs and are not incurred on a per-call basis, an IXC and a PSP might agree to a flat-rated charge rather than a usage-based compensation rate. Second, there may be locations where a payphone would not be viable financially if compensated at only the default rate per compensable call, but would be viable at a higher compensation rate. If an IXC found it profitable to carry calls at this higher rate, it would be in the mutual interest of the two parties to agree on a higher rate. Third, IXCs may choose to pass on the per-call compensation rate to their customers. In the case of 800 subscriber calls, the IXC could pass on the cost to the called party. If the called party refused to accept calls for which it was charged the default rate, but was willing to accept calls with a lower charge, the IXC and the PSP may find it in their mutual interest to negotiate a per-call rate lower than the default rate. Fourth, in locations where a competing payphone could be placed without the permission of the location provider, a PSP may be willing to negotiate a lower rate than the default rate, rather than give an IXC the incentive to place a competing payphone.

B. Market-Based Compensation Analysis

29. As discussed above, we conclude that the appropriate rate of per-call compensation for access code and subscriber 800 calls is the market-based local coin rate adjusted for costs. In setting the per-call compensation rate for the first two years of per-call compensation, we begin with the $0.35 market-based local coin rate established in the *Payphone Orders* and adjust that rate to remove coin-related costs and add costs specific to subscriber 800 and access code calls.

1. *Comments*

30. *Market Rate.* APCC, the Coalition, Peoples, and CCI request that the Commission adopt a market-based per-call compensation rate, and furthermore, assert that the underlying costs attributable to both coin and noncoin calls are similar.[70] APCC contends that any market-based rate-setting mistakes are self-corrective, because the market will demonstrate the mistake.[71] APCC further contends that contrary to the IXCs position, the market will prevent PSPs from gaining any long term windfall, and would force any such "windfall," to be passed on to consumers.[72] APCC contends that market-based rates are more objective than the subjective components of cost-based rates.[73]

31. The Coalition further maintains that the market will reflect variations from region to region and payphone to payphone.[74] The Coalition urges that the market rate be the local coin rate adjusted to reflect the relative elasticities of demand of the various types of calls.[75] The Coalition contends that under market conditions sellers will tend to load costs onto services for which prices are less likely to fluctuate, *i.e.*, that have a lower elasticity of demand, than onto services that have a higher price sensitivity. The Coalition further argues that the elasticity of demand for local coin calls is higher than for long distance calls. In other words, the Coalition argues, customers of local calls will respond more quickly to price changes than customers of 0+, subscriber 800 and dial-around calls.[76] Thus, the Coalition contends, the price of long distance calls should be the local call rate adjusted upward to reflect the lower elasticity of demand and the greater proportion of costs, relative to local calls, that such calls will carry under true market conditions.[77]

32. CCI, an independent payphone provider, argues that the Commission should adopt a market-based surrogate, and contends that there are few differences between the costs of a local coin call and a subscriber 800 or access code call.[78] CCI argues, however, that even under a cost-based approach, the cost of a local coin call and a dial around call is approximately $0.35.[79]

33. Several of the IXCs assert that the retail price for local coin calls is not an appropriate surrogate for the costs of a noncoin call, because there are substantial cost differences between these two types of calls.[80] AT&T and MCI assert that if the Commission develops a rate based on an offset from the local coin rate, the offset should be at least fifty percent,[81] or based on the rate negotiated between AT&T and APCC in 1994 for dial-around access code calls.[82] MCI asserts that a market-based rate, being higher than a cost-based rate, would lead to increased blocking by 800 subscribers, as those subscribers try to avoid having to pay IXCs for unduly high payphone charges.[83] MCI also asserts that market-based rates are artificially driven up by location owners holding out for the highest bidding PSP.[84] These higher, market-based rates will lead to an unwarranted income transfer from consumers to payphone providers, MCI contends, because excessively high rates will encourage PSPs to place payphones in increasingly marginal locations.[85] The Coalition disputes MCI's assertion that a market-based rate would lead to increased blocking arguing that PSPs have an interest in seeing calls completed, which call blocking would defeat, and an acceptable market rate would result in more completed calls.[86]

34. *Local Coin Rate as Surrogate.* Several of the PSPs argue that if the local coin calling rate is used, no significant adjustment for cost differences between the coin rate and dial-around calls is required, because any cost differences are minimal.[87]

35. Peoples argues that a single, flat default rate would simplify procedures, much as a first-class postage stamp covers mail that goes various distances.[88] Peoples further argues that the local coin rate is such a flat rate, because it is used to originate all types of calls from a payphone.[89] Moreover, Peoples argues, coinless calls alone do not justify installing a payphone; payphones are installed for coin calls, thus, the local coin rate is a good market measure for all of the calls that originate from it.[90]

36. Several of the IXCs oppose the use of the local coin rate as a surrogate, but state that if the Commission uses the local coin rate, then the Commission should reduce the local coin rate so that it reflect only expenses unique to access code and subscriber 800 calls.[91] CPI objects to the use of the local coin rate as a starting point because the coin rate does not represent the result of a competitive market.[92] TRA says that using the local coin rate will lead to a grossly inflated default rate.[93] Frontier states that the coin rate bears little relationship to the costs of completing a coin call, much less a coinless call.[94]

37. *Other Surrogates.* APCC requests that the Commission consider other surrogates for the market rate, such as 0+ commissions, 0− transfer rates and sent-paid toll call surcharges.[95] According to APCC, the 0+ call commissions are the only known instance where carriers and PSPs meet in the marketplace to negotiate a price for routing a call from the payphone to the carrier, and therefore, the Commission should reconsider 0+ commissions.[96] APCC further contends that sent-paid tolls are another reasonable indicator of the market price.[97] Additionally, APCC contends that the 0− transfer rates are a reasonable surrogate, because these rates indicate the minimum price IXCs are willing to pay to obtain telephone traffic.[98] APCC concludes that the most appropriate market-based surrogates are local coin calls, operator-assisted call commissions and sent-paid toll surcharges, because these three surrogates are based on prices actually charged in the marketplace for origination of payphone calls. APCC states that a weighted average price for these three charges is $0.45 per call.[99]

38. Several of the IXCs argue that 0+ commissions cannot be used as a market guide because these commissions include factors unrelated to the use of payphones for the use of access code and subscribers 800 calls.[100]

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[67] *See* supra para. 13.

[68] 47 U.S.C. § 276(b)(1).

[69] 47 U.S.C. § 276(b)(1).

[70] *See* APCC Comments at 4; APCC Reply at 10 (stating that the Commission adopted a market-based approach in the *Payphone Orders*, and that the Commission should apply that approach in the instant proceeding); Peoples Comments at 8 (stating that the cost of a dial around call is similar to the deregulated market rate). *See also* Coalition Reply at 2–3 (stating that once the cost analyses provided by the IXCs are corrected for costs that should be included, the cost of a call reaches, and in some cases exceeds, the market rate).

[71] APCC Comments at 5.

[72] APCC Reply at 14.

[73] APCC Comments at 6.

[74] Coalition Reply at 6 (citing *Order on Reconsideration*, 61 FR 65341 (December 12, 1996); 11 FCC Rcd at 21,266–66, para. 71).

[75] Coalition Comments at 22.

[76] *Id.* at 23.

[77] *Id.* at 12–14; Coalition Reply at 4, 14–15.

[78] CCI Comments at 2.

[79] *See id.*

[80] *See, e.g.*, AT&T Comments at 4, 6; AT&T Reply at 4 (stating that market-based compensation is unrelated to and in excess of costs to originate coinless calls); Excel Reply at 1; MIDCOM Comments at 4–6 (stating that any alleged market rate would be distorted by the binding contracts to which the majority of payphone locations already are subject).

[81] *See* AT&T Comments at 13; MCI Reply at 3.

[82] *See* AT&T Reply at 12–13 (explaining that since AT&T negotiated the 25 cent rate, the average price of a dial around call has declined).

[83] MCI Comments at 4.

[84] MCI Reply at 10.

[85] *Id.*

[86] Coalition Reply at 8–9.

[87] *See* APCC Comments at 11–15 (arguing that fixed payphone costs do not change with the presence of dial-around calls, and further that there are no major differences in the variable costs); *see also* TEI Comments at 2; CCI Comments at 6–8 (arguing that the deregulated coin rate of $.35 per call is an appropriate surrogate).

[88] Peoples Comments at 7.

[89] *Id.*

[90] *Id.* at 6–7.

[91] CWI Comments at 9 n.7; CompTel Comments at 14 n.7; LCI Comments at 6; RCN Reply at 1.

[92] CPI Comments at 7.

[93] TRA Comments at 20.

[94] Frontier Reply at 5.

[95] APCC Comments at 8–10.

[96] *Id.* at 7–8 (arguing that the Commission erroneously rejected 0+ commissions in its *Report and Order* in this proceeding, but accepted them as a benchmark in CC Docket No. 91–35). The mid-range level of these commissions, according to APCC's 1996 data, is $0.62 per call. *See id.*

[97] *Id.* at 9–10 (explaining that the sent-paid toll call surcharge is the amount, above the standard transmission charge, that a PSP charges for the convenience of making a toll call from a payphone). The middle-range price of such a call is $1.40 per call. *See id.*

[98] *Id.* at 9 (stating that the average price of a completed 0− transfer call is $0.41).

[99] *Id.* at 10.

[100] *See, e.g.*, AT&T Reply at 35; CWI Reply at 2–4; CompTel Reply at i, 3–3; RCN Reply at 7–8, Sprint Reply at 17; WorldCom Comments at 4; Excel Reply at 7 (arguing that these surrogates do not overcome the uncompetitive characteristic of the current payphone market by virtue of the fact that payphone callers are a captive audience); Frontier Comments at 3 (arguing that commissions paid on 0+ calls include monopoly rents and locational monopolies); ITA Comment at 6–7 (arguing that compensation for 0+ calls includes other compensation factors, such as the PSP's promotion of the operator service provider through payphone placards, and that market surrogates in

Continued

Furthermore, carriers argue, sent-paid calls are not a reliable surrogate, because these charges cover such services as a payphone's capability to track time and amount, and recognize types of coins, services not needed for 800 subscriber calls.[101] MCI argues that these surrogates are not representative because they are narrowly tailored to specific types of calls.[102] Moreover, MCI contends, some of so-called surrogates apply to calls from telephones that are not even payphones.[103] Sprint argues that the only truly reliable indicator of the market for subscriber 800 and access code calls is what the market provided to PSPs for such calls prior to the imposition of the Commission's orders in CC Docket No. 91–35.[104] At that time there was no compensation to PSPs for these calls, and therefore, Sprint contends, the market price was zero.[105]

39. Excel argues that the Commission should start with a local coin rate at $0.25,[106] then subtract those costs unique to the local coin service—coin equipment and collection, coin rating, originating and terminating access from the local coin rate.[107] AT&T, CompTel, and CWI argue that the Commission should not rely on avoided costs in establishing the default compensation rate, because this method inappropriately compares the price of coin calls with the costs of coinless calls and may overcompensate PSPs. Nonetheless, if the Commission adopts this method, AT&T argues, the Commission must set the local coin rate at $0.25 and determine the actual avoided costs related to coinless calls,[108] and CompTel and CWI argue that the Commission should subtract the costs of tracking and billing compensation.[109] MCI argues that if the Commission adopts a top-down approach, it should calculate the default rate by subtracting the coin specific costs from the cost of a coin call, not from the market rate.[110] RCN argues that the Commission should determine a nationwide default rate and then subtract those costs that are unique to coin calls.[111]

40. The Coalition argues that the avoided cost methodology will not produce a per-call compensation rate lower than the deregulated coin rate, and in fact, will increase the amount of compensation owed to the PSPs.[112] Furthermore, the Coalition argues, avoided cost methodology will not produce competitive outcomes, because joint and common costs are a significant portion of the total costs, and the market does not price goods or services on costs alone.[113]

2. Discussion

41. In the *Payphone Orders*, we found that the market rate for a local coin call is $0.35 and we stated that this is also the rate for access code and subscriber 800 calls for the first year of per-call compensation. In response to the court's concern that there may be differences in cost between providing local coin calls and subscriber 800 and access code calls, we have evaluated the evidence on the record to develop a default rate for access code and subscriber 800 calls that reflect those cost differences. On the record, parties discuss several cost factors suggesting that compensation for access code and subscriber 800 calls should be either above or below the market price for coin calls.[114] In section (a) we conclude that based on differences in costs, a market rate for access code and subscriber 800 calls likely would be between 5.9 and 7.3 cents lower than the market rate for a local coin call, resulting in a rate of $0.284. In section (b) we conclude that the parties failed to provide sufficient information to adjust the default dial access and subscriber 800 rate to reflect differences in the elasticities of access code and subscriber 800 calls compared with local coin service. Thus, we do not make any adjustment for elasticity differences.

a. Adjustments to the Local Coin Market Rate Based on Cost Differences

1. General Approach

42. Our general approach is to start with the market rate for local coin service ($0.35), and subtract costs directly attributable to coin calls and add costs specific to access code and subscriber 800 calls. The majority of the costs associated with a payphone are joint and common costs that are shared by the different types of calls made by means of the payphone. These costs do not increase or decrease as the number or composition of calls changes at a particular location. By making no adjustment to the coin rate for these costs, we conclude that each call placed at a payphone should bear an equal share of joint and common costs.

43. The long distance and paging companies argue that we should limit the costs attributed to access code and subscriber 800 calls to the costs that would be incurred from providing access at a coinless payphone; coin-related costs should not be included. Under this theory, all other costs that are incurred to support a payphone coin call would be attributed to coin calls and either removed from any market-based rate or excluded from any other type of cost estimate.[115] PSPs, however, maintain that few locations could support a coinless instrument.[116] Instead, they explain that most payphones are installed to handle both coin and coinless calls.[117]

44. We agree with the IXCs, and paging companies, that costs directly associated with the coin mechanism should be borne by coin calls. Under their general approach, however, compensation for subscriber 800 and access code calls would not fairly contribute to the recovery of joint and common costs of payphone service that would occur, even if the payphone is used solely to place such calls. In our view, such joint and common costs are not "additional" costs occurred to provide local coin calls. Hence, compensation for subscriber 800 and access code calls should contribute to the recovery of such costs. Our calculation assumes that each call will contribute to a multi-use payphone's joint and common costs.

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general include costs not incurred in PSP origination of dial-around calls, such as LEC line costs, premise owner commissions, and billing and collection charges); PageNet Reply at 11 (arguing that 0-transfer rates include compensation for operator assistance services that subscriber 800 calls do not use). *See infra para.* 62 for a more thorough discussion regarding commissions.

[101] PageNet Reply at 11–12.

[102] MCI Reply at 6 (arguing that the 0+ commission represents the value to the IXC of being a payphone's presubscribed carrier).

[103] *Id.*

[104] Sprint Reply at 18.

[105] *Id.*

[106] Excel Reply at 3, 9 (arguing that setting the default rate at the highest deregulated rate in the country is contrary to competition, and further that the proceeding before the Massachusetts DPUC regarding NYNEX's payphone rates demonstrates that the market rate for local coin calls should not be higher than $0.25 per call).

[107] Excel Comments at 4.

[108] AT&T Reply at 24 (stating that no charges should be added to this rate such as ANI or completion costs for local coin calls).

[109] CompTel Comments at 14 n.7.

[110] MCI Comments at 3.

[111] RCN Comments at 4 (stating that the per-call rate should not exceed the market-based local coin rate).

[112] Coalition Reply at 13–15 (arguing that an avoided cost methodology not only requires the deduction of certain costs, but also the addition of costs that PSPs must incur for a noncoin call).

[113] *Id.* at 14. *See infra* paras. 64–67 regarding demand elasticity.

[114] *See, e.g.*, AT&T Comments at 11 (per-call compensation should be lower than the default rate); Sprint Comments at 9; APCC Comments at 8; Coalition Comments at 30–33 (stating that per-call compensation should be above the local coin rate to account for implementing ANI and other costs).

[115] AT&T Comments, Analysis of Economist David Robinson at 6 (hereinafter AT&T Comments, Robinson); MCI Comments at 3.

[116] *See* Peoples Comments at 7.

[117] Coalition Comments, Analysis of Economist Jerry A. Hausman, Ph.D. at 9 (hereinafter Coalition Comments, Hausman).

45. We reject AT&T's contention that using a coinless payphone results in a per-call compensation rate of 11 cents per call and that this rate should be the basis for selecting a per-call compensation rate. We note that AT&T divided its monthly costs to install, operate, and maintain a coinless payphone ($76.85) by the number of calls at a coin payphone estimated by APCC.[118] The APCC study showed that the average payphone carried 713 calls per month, and that 511 of these calls were coin calls and 202 of these calls were coin-less calls.[119] It is more reasonable to assume that you would divide AT&T's estimated monthly costs for a coinless payphone ($76.85) by 202, the number of coinless calls. This calculation results in a cost of 38 cents per call, rather than the 11 cents estimated by AT&T. If the number of calls at coinless payphone were adjusted for a marginal location as we do in our analysis below, the per-call cost would be even greater. Thus, we conclude that the 11 cent rate obtained by AT&T in its analysis would not be an appropriate per-call compensation rate for subscriber 800 and access code calls.[120]

46. *Selecting the number of calls to represent a low traffic location.* Any analysis of the costs incurred for a call from a payphone must be based on a particular number of calls. Most of the parties presented cost information based on coin payphones serving locations with an average amount of calling. We believe, however, that it is appropriate to analyze cost for a location with less than average calling. Prices in competitive markets tend to be set at the marginal cost of production. For payphone service, the marginal unit of production is the installation of a payphone at a low traffic location. If prices for payphone calls increased, providers would be willing to install more payphones; however, customers would likely place fewer calls. At the equilibrium price for payphone calls, newly installed payphones would be expected to generate just sufficient calls to earn only a normal return on investment. Thus, we believe that setting a default compensation rate to achieve fair and reasonable compensation requires that a payphone operator be able to cover costs at a low traffic location. A single instrument would be required to provide both coin and coinless calls at such a location, with neither class of calls, by itself, sufficient to justify installation of a payphone.

47. We select the number of calls to represent a low traffic location by estimating the number of calls that could cover all of the costs of operating a payphone with the exception of commissions paid to location owners. This number represents the lowest number of calls at which a payphone could be operated without requiring a subsidy. Most of the costs associated with a payphone do not vary with the number of calls made at an individual payphone. Thus an individual call must cover its own marginal costs as well as a share of the non-varying costs. The contribution made by an individual call is the price of the call less the marginal costs of the call. If the price of calls remains constant, each additional call adds a fixed amount of contribution. If the number of calls is high enough, the total of this contribution will exceed the total of non-varying costs, including a normal return on investment. The amount by which total revenue exceeds total cost is referred to as economic rent. In the long run, premises owners will be able to extract any economic rent from payphone owners through commissions.[121] If a location generates only enough traffic to support the installation and upkeep of a payphone, however, there will not be any commission payments. Some PSPs may choose to pay standardized commission amounts.[122] These companies will not serve as wide a mix of locations. All things being equal, the owner of a high traffic location would seek out the potential profits by choosing the PSP that is willing to pay the highest commissions. On the other hand, if the owner of a low traffic location insisted on a commission, no PSP would be willing to install a new payphone at that location because no PSP could pay the commission and generate a sufficient return on its new investment.[123] Accordingly, a marginal location is a location where traffic just covers costs other than premises owner commissions.

48. Based on the data provided by the commenters, it is necessary to complete several steps to determine the appropriate number of calls needed to sustain a payphone at a marginal location. As explained more thoroughly below, we rely on APCC cost data, because these data are representative of the payphone industry as a whole. However, APCC did not provide a breakdown of the 689 calls that it reported as the average per payphone when it collected the cost data. Therefore, we first used APCC data from the call type study—which provided data based on an average of 713 calls—to determine the proportion of access code and subscriber 800, coin and other calls for the 689 calls reported in the cost study. Second, using these derived call numbers, we estimated the amount of coin and other calls necessary to generate commission payments, and subtract those calls to yield the number of calls needed to sustain the marginal payphone.

49. We use APCC data to estimate the number of calls per month that an average PSP would need at a location to cover costs other than commissions.[124] APCC reported $242 monthly cost per payphone, including $45 in commissions, based on an average of 689 calls of all types.[125] Until October 1996, $6 of the monthly cost per payphone was met from dial around compensation and the balance of the monthly cost per payphone had to be met with coin revenues and revenues from 0+, 0−, and 00− calls.[126] To determine the amount of revenue that the average coin, 0+, 0−, and 00− call had to produce so that the average number of calls would cover total costs, we had to determine the total number of each such call type. Therefore, we used the data in the APCC call distribution study, which produced a total of 713 calls of all call types—152 access code and subscriber 800 calls and 561 coin and other calls—and applied this breakdown to the 689 calls in the cost study to develop a call distribution.

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[118] AT&T Comments, Robinson at 12.

[119] APCC Comments, Attachment 4 at 2.

[120] Other parties believe that AT&T's estimated monthly cost of a coinless telephone is too low. Coalition Reply at 29.

[121] Several PSPs suggested that commissions should be included in the cost of providing access code and subscriber 800 calls. *See infra* para. 62.

[122] *See* TEI Comments at 8.

[123] Existing LECs require premises owners to pay for placement of payphones, rather than receive a commission, if there is a sufficiently low volume of coin traffic at a location.

[124] APCC submitted data from two different studies; one pertaining to cost, and one pertaining to call type volumes. See APCC Comments, Attachment 3 ("Weighted Average of Cost and Call Volume Data from 45 Payphone Companies"), Attachment 4 ("Results of APCC's 1996 Survey of Payphone Call Volumes"). For this analysis we needed the following information: average cost per payphone; average commissions paid to premises owners per payphone; average number of calls per payphone; the marginal cost per coin call; and breakdown of average call types per payphone. APCC and CCI provided a breakdown by call type; in relying on APCCs data, we note that other commenters supplied APCC's call type data in their comments as representative of the payphone industry, and further, that CCI's call data is similar to that of APCC. *See, e.g.*, CWI Comments, LCI Comments, CompTel Comments. APCC and several other commenters, such as Peoples and CCI, provided cost data; however, we selected the APCC data because it is the most thorough and representative of the payphone industry averages.

[125] *See* APCC Comments, Attachment 3.

[126] *See OSP Second Report and Order*, 57 FR 21036 (May 18, 1992); 7 FCC Rcd at 3251.

Applying the representative percentages of the call types resulted in the following distribution: 147 access code and subscriber 800 calls, 494 coin calls, and 48 other calls.[127] Thus, to recover the $242 in monthly costs at an average location, the PSPs surveyed by APCC had to collect an average of 43.5 cents per call in revenue from coin and other calls.[128]

50. The APCC data illustrate that PSPs pay an average of $45 per month in commissions. For the purposes of this analysis, we impute the number of calls at a low traffic location by taking the number of calls at an average location, and subtract the number of coin and other calls that would produce marginal revenue of $45. As explained above, to break even at an average location, PSPs must have generated 43.5 cents per call from an average number of coin and other calls. This revenue per call, however, is offset by about 4.8 cents of marginal cost per call,[129] meaning that payphone providers must realize about 38.7 cents in average net revenue per call. Dividing $45, the average compensation to premises owners, by 38.7 cents, which is the marginal revenue per call, results in 116 coin and other calls. In other words, if the number of coin and other calls is decreased by 116, all other things being equal, the PSP's net revenue would be reduced by $45 (116 calls times 38.7 cents per call). Assuming a proportionate reduction in all calls, a break even or low traffic location would have 116 fewer coin and other calls and 31 fewer access code and subscriber 800 calls.[130] Using the total number of all calls from the cost study (689), we subtracted 116—the number of coin and other calls that would generate $45 in commissions. This resulted in 573 calls. We also expect that the number of access code and subscriber 800 calls at a marginal payphone location would be less. As noted above, we determined that 147 of the 689 calls at an average location would be subscriber 800 and access code calls. To reduce that amount (147) by the decrease in access code and subscriber 800 calls that would be originated at a marginal location, we then determined how many of the remaining calls were subscriber 800 and access code calls. Comparing the numbers from the APCC call volume study, we determined that the number of coin and other calls (excluding subscriber 800 and access code calls) was approximately 21.4% less in the cost study.[131] Assuming that the subscriber 800 and access code calls also would decrease proportionately, we determined that there would be 31 fewer subscriber 800 and access code calls.[132] Thus, we subtracted 31 from 573, which results in 542 calls. Accordingly, we use this number, 542, as the total number of calls that would be made from a low traffic location.[133]

ii. Estimate of avoided and added costs.

51. The parties submitted data on avoided and added costs of dial access and subscriber 800 calls compared with local coin calls. Different parties have different costs by category due to differences in the type of location served and differences in accounting treatments. Line charges, for example, vary from state to state. One party may treat a specific cost as overhead while another party might include the same sort of cost a direct cost of maintenance. It is not possible to fully reconcile differences in cost estimates by analyzing the data filed on the record. Accordingly, we have used the information submitted by the parties along with information from Securities and Exchange Commission 10K filings to develop ranges within which cost for an average PSP might reasonably be expected to fall.[134]

52. *Coin Mechanism Capital Costs.* While a single payphone may be installed to handle both coin and coinless traffic, the direct costs of the coin mechanism should be recovered by coin calls. After installation, the capital costs of a payphone become fixed. Because we are looking at the long run, where all costs are avoidable, we consider the decision made by the PSP at the time the phone is installed. When a payphone provider considers installing a telephone at a new location, it must consider whether the additional coin traffic at that location would justify the additional cost of installing a coin telephone. The PSP would not install a coin payphone instead of a coinless payphone unless the additional coin traffic would at least cover the additional costs of a coin mechanism. Therefore we conclude that costs directly associated with the coin mechanism should be attributed to coin traffic. We assume that the market rate for local coin calls recovers these costs and therefore conclude these costs should be removed from the adjusted market rate.

53. David Robinson, in a study submitted by AT&T, provided the most detailed information on the costs of purchasing and installing different types of telephones. Independent PSPs typically use smart payphones. Robinson estimated that new smart coin payphones cost about $900 to $1200 per unit compared with $200 to $250 per unit for coinless units.[135] The differences in cost are primarily due to equipment used to accept, count, and hold coins.[136] Some cost differences,

[127] *See* APCC Comments, Exhibit 4 (providing specific amount of numbers of each call type). The APCC survey found $242 per month total cost based on an average of 689 calls per month. The APCC call distribution study (APCC Comments, Exhibit 4) showed 713 total calls, comprised of 152 access code and subscriber 800 calls (21%), and 561 coin and other calls (79%)). We applied this breakdown to 689 calls to estimate 147 access code and subscriber 800 calls and 542 coin and other calls. The 542 coin and other calls includes 411 and 555 calls that we treated as coin calls for our analyses.

[128] The quantity ($242 less $6 dial around compensation) divided by (542 calls) results in 43.5 cents per call. The $6 in dial around compensation is based on historic data. We have used historic data rather than the default compensation rate times projected access code and subscriber 800 calls in order both to meet the concern that the compensation rate be fair to existing payphone providers and also because it is difficult to forecast the future number of access code and subscriber 800 calls.

[129] We find below that the marginal collection, maintenance, and lines costs of a coin call are between 4.8 and 6.0 cents per call. The APCC usage study shows that if access code and subscriber 800 calls are omitted, about 91% of the remaining calls are strictly coin (i.e., excluding 411 and 555 calls). To determine an average cost for coin and other call types, we used an average marginal cost for a coin call multiplied by the percentage of coin calls. This translated to 5.3 cents of marginal cost for a coin call [(4.8+6.0)/2] multiplied by the percentage of coin calls (91%), which results in 4.8 cents per average coin and other call.

[130] Since our default compensation rate will cover more joint and common costs than the $6 per month compensation rate in effect through October 6, 1998, payphones will become economically viable at more locations, satisfying one of the goals of the 1996 Act.

[131] Using the number 116 calls, we divided 116 coin and other calls (excluding subscriber 800 and access code calls) by 542 total coin and other calls (again excluding subscriber 800 and access code calls). This resulted in a reduction of 21.4%. This percentage does not indicate that the type of calls declined, but rather, is a percentage used to develop the relative proportions of the various call types from the call volume study to the cost study.

[132] This assumes that access code and subscriber 800 calls also would decline by the same percentage as would coin and other calls. 116 coin and other calls times (152 average access code and subscriber 800 calls / 561 coin and other) equals 31 fewer access code and subscriber 800 calls.

[133] We use the 542 number of calls at a low traffic payphone location in the following sections of the market based analysis: coin mechanism capital costs; line savings (in part); and ANI II.

[134] *Bell Atlantic Telephone Companies* v. *FCC*, 79 F.3d 1195, 1202–04 (stating that the Commission is not required to include all data when determining a rate, and that the Commission has the authority to exclude suspicious data or statistical outliers).

[135] AT&T Comments, Robinson at 3.

[136] *See* Coalition Comments, Report of Arthur Andersen on per-call compensation and cost calculations, Carl Geppert at 8 (Aug. 26, 1997). Local exchange carriers, in contrast, have an installed base that typically consists of "dumb" payphones that must rely on telephone company central offices for functionality. The Coalition submitted a study by Carl Geppert for Arthur Andersen citing New England Telephone data for New Hampshire to show that the average costs of coin and coinless telephones were similar. Other parties have presented information to the effect that

however, may be due to quality features that allow the payphone to be used in harsher environments. We selected the $900 figure for smart coin telephones as an amount that would be suitable for general locations instead of the $1200 figure, because the latter figure likely included additional features that go beyond the standard smart coin telephone that would not be necessary at the general location. We determine that $250 is an appropriate amount for the coinless phone operated in a general location, to reflect some quality features, and further, because there is not a significant difference in the capabilities among the coinless phones and the difference between the estimates ($200 to $250) is not significant. The difference in price, from $900 to $250, $650 per telephone, would be due to added costs associated with coin traffic. Robinson also estimates that a smart coin telephone requires $60 more for installation than does a coinless telephone due to additional testing and programming for the coin rating and collection functions.[137] Thus, we estimate a total investment cost of $710 per payphone that is related to coin functions.[138] This equates to $12.36 in investment costs per month for a coin telephone.[139] Thus, we impute that the market rate for local coin service includes 3.1 cents per coin call at a low usage location and that this amount represents an avoided cost for dial around and subscriber 800 calls.[140]

54. *Line Savings.* In some areas, all payphones are charged per-message or per minute charges for all local calls. In other areas, all payphones use unmeasured lines. In still other areas, payphone providers can choose between using some form of measured service and unlimited calling. PSPs taking measured service pay message charges for local coin calls, but not for access code or 800 subscriber calls. This represents a marginal cost difference of coin versus coinless service. Based on the record, we conclude that the average cost savings for line charges is about 2.5 to 3.0 cents per call.[141]

55. Collection and Maintenance Savings. The parties concur that coin collection costs are related to coin calls, that coin telephones have higher maintenance costs than coinless telephones and that maintenance costs increase as the number of coin calls increases.[142] It is difficult to separate maintenance from coin collection costs, however, because some coin collection and routine maintenance may occur at the same time.[143] Not all maintenance is related to coin calls.[144] For example, key pads and handsets are used for both coin and non-coin calls and vandalism may be directed against the phone or the enclosure as well as targeted against the coin box. Based on the record, we conclude that the average savings from coin collection and maintenance is 2.1 to 3.0 cents per call.[145]

56. *Bad Debt / Collection Charges.* Peoples identifies some collection and bad debt expenses that it attributes solely to compensation for access code and subscriber 800 calls. Under the interim compensation plan, Peoples was unable to collect from IXCs approximately $4.02 per payphone per month, which translates to $0.03 per access code and subscriber 800 call.[146] Conversely, CompTel alleges that Peoples' bad debt expenses arose primarily from operator service operations.[147] CWI opposes including any allowance for increased collection costs of access calls, arguing this is not a cost of access and that the IXCs also bear such costs.[148] Furthermore, AT&T notes that collection costs should decrease steadily with the implementation of ANI and other Commission requirements.[149] CWI and CompTel contend that per-call compensation should not include billing or bad debt costs.[150] Neither the Coalition nor the other PSPs included specific estimates of increased

a coin mechanism by itself would cost less than $100. Stronger, theftproof housing, however, also is required if a coin mechanism is to be included. We conclude that the best information is the current prices of comparable telephones with and without coin mechanisms and that the Robinson data is most suitable for this comparison.

[137] AT&T Comments, Robinson at 3.

[138] In reviewing costs *infra*, we use data from Peoples and CCI's 10K reports to estimate that the total new investment for a payphone would be about $3000, including support facilities. Thus, the $710 in coin related costs represents about a quarter of the total new investment.

[139] Equal monthly payments of $12.36 would depreciate $710 over a 10 year life and earn a return of 11.25% on net plant, allowing for the statutory federal income tax rate of 34%. We selected a 10 year life consistent with AT&T and Peoples. See AT&T Comments, Robinson at 5; Peoples 1996 10K at 31 (using a 10 year straight line depreciation rate for public payphones. Cf. CCI Comments at 10 (using a 7 year life). *See also infra* para. 59 for further explanation of interest rates.

[140] This is not a marginal cost per coin call. Rather, it represents the amount included in the market rate of local coin calls to recover the costs of equipment attributed to coin service. For this purpose, the market rate was assumed to be based on a low traffic location, meaning 542 total calls, including a total of 300 coin, 411, and 555 calls.

[141] *See* Coalition Comments, Andersen at 4 ($0.02); CCI Comments at 9 ($0.03); Peoples Comments at 11 ($0.04). We note, however, that six of the eight Coalition members reported no measured service lines, and further, that the line savings per call was $0.07 and $0.09 for the other two. In a deregulated environment, LECs will have incentives to select measured service lines for payphones when such lines would be the low cost alternative. Accordingly, the LEC data is not representative of costs for the PSPs. The Peoples estimate contains some avoided toll costs in addition to avoided coin collection costs. Peoples did not provide sufficient information to separate this part of the costs. Accordingly, that amount is too high to serve as a high range for estimates. *See also* AT&T Comments at 4 ($0.029) (deriving this figure as total billing cost, $15.03 local usage for a smart phone divided by 511 coin calls as represented in the APCC study, Attachment 4 at 2). Telaleasing data was excluded because its estimates are radically different from the estimates filed by any other party and because its data could not be verified by parent company 10K filing. *See* Telaleasing Comments at 7; Davel 10K at 18. Also, all of Sprint's payphones appeared to be in non-measured service areas, which is not representative of the industry average, so we did not use Sprint's line cost data when determining line savings. Sprint Reply, Exhibit 1 at 2. Line costs are dependent on local exchange carrier rates which vary by community. We do not believe that the industry average would be much higher than the figure derived from AT&T data. Accordingly, we select 3.0 cents per call for the high call estimate (slightly higher figure than that derived from AT&T data). We select 2.5 cents per call as the low estimate, based on an average of the AT&T and CCI data.

[142] *See, e.g.*, AT&T Comments, Robinson at 7.

[143] This would more likely be the case at a low traffic location than a high traffic location, since more coin pickups are scheduled for high traffic locations.

[144] Peoples Comments at 13.

[145] Coalition Comments, Andersen at 4 ($0.02 attributed to collection and maintenance); CCI Comments at 9 ($0.01 based on comparing the collection and maintenance cost of a coin call of $0.06 and maintenance cost of an access code call of $0.05) This probably considers most, if not all, maintenance costs as joint and common. *See also* Peoples Comments at 13 ($0.03 attributed to collection and some avoided maintenance); AT&T Comments, Robinson at 7 (maintenance: $.013 = $7 difference in coin vs. coinless monthly maintenance divided by 398). Note that the coinless phones Robinson studied might have had lower maintenance expense than the coin phones in his study not because of coin induced wear, but rather because the coinless phones were in sheltered locations. AT&T Comments at 9 (collection: $0.047 based on $13.50 collection costs per $100 of coins times 35 cents per call). Robinson's collection costs represent the cost of collections if performed on a stand alone basis. PSPs often perform maintenance and collections at the same time and much of the combined cost should be considered joint and common to all calls, rather than solely attributable to coin calls. Accordingly, we selected 2.1 cents as the low estimate (the Coalition estimate allowing for slightly higher cost per call at a low traffic location) and 3.0 cents as the high estimate (the Peoples estimate with no adjustment).

[146] Peoples' 1996 Form 10K indicates that Peoples financial books for 1996 included approximately one million dollars in additional bad debt reserves related to both the inmate and payphone operations. Peoples 1996 10K at 29 (filed with the Securities and Exchange Commission Mar. 31, 1997). This translates to about $2 per payphone per month. Since there was no change in the FCC's payphone compensation plan in 1995, this increase is not attributable to access code and subscriber 800 calls. Thus, some, if not most, of the $4.02 per payphone per month cited by Peoples should not be viewed as an increased cost attributable solely to access code and subscriber 800 calls. Peoples Comments at 13.

[147] CompTel Reply at 13.

[148] CWI Reply at 11.

[149] AT&T Reply, Robinson at 11–12.

[150] CWI Reply at 11; CompTel Reply at 11.

collection and bad debts. As such, we do not have sufficient information to attribute an amount to bad debt and/or collection charges.

57. *ANI ii.* The Commission's rules require that LECs provide certain automatic number identification information (ANI ii) to the IXC with each call. These digits provide IXC's with automated information that enables them to bill, block, and track calls. On the record, the parties disagree about the costs associated with the provision of ANI ii digits, and further, who should bear those costs.[151] USTA estimated the cost of providing ANI ii digits through hardcoding and through FLEX ANI. The estimated total capital cost for hard coding the digits was about $1.035 billion of which $558 million was for upgrading all non-equal access switches and $477 million was for hard coding switches.[152] Sprint notes that the USTA figure assumes equipment upgrades for every non-equal access switch, while many of these switches do not support any payphones.[153] Given that not all non-equal access switches would be upgraded, and that the upgrade would benefit all users of the switches, it seems unlikely that all the upgrade expense would be attributed to payphone service. For the purpose of translating the USTA cost estimates into additional pay telephone costs, we assume that $600 million of additional LEC investment would be recovered from increased payphone line rates. $600 million in increased investment recovered over 10 years would require increased monthly line charges of $5.65.[154] Divided by the low traffic location number of calls, 542, would equal approximately $0.01 per call.

58. AT&T notes that less expensive alternatives to the plan advanced by USTA exist.[155] The Coalition indicates that if LECs are allowed to use a combination of FLEX ANI or original line screening technology, payphone digit identification costs may be as low as $0.01 per call.[156] As discussed above, we have evaluated the data supplied by the USTA, the Coalition, AT&T, and Sprint, and we estimate a cost of $0.01 per call.

59. *Interest.* Several payphone providers note that they have the use of coin receipts almost immediately while they must wait to collect compensation on access calls.[157] Peoples, for example, collected payphone compensation for access calls completed between October 8 and December 31, 1996 in April 1997.[158] Accordingly, we conclude that the delay in receipt of compensation for access calls represents an additional cost of providing access code and subscriber 800 service calls that would not be included in the market rate for local coin calls.

60. AT&T uses 11.25% as the interest rate and the return requirement for payphone investment.[159] APCC claims that the appropriate interest rate for many payphone providers would exceed that rate significantly.[160] Peoples used a 10% interest rate in its calculations.[161] Most payphones, however, are owned by large local exchange carriers, whose authorized interstate rate of return has been 11.25% representing a weighted average of debt and equity costs.[162] Accordingly, we conclude that 11.25% is the appropriate cost of capital for payphone providers in this context. Thus, the delayed receipt of compensation for access code and subscriber 800 calls justifies an upward adjustment of .8 cents (11.25% for 3 months times the market rate adjusted for other costs).

61. *Opportunity Costs.* Teleport contends that the Commission should recognize the opportunity costs associated with use of a payphone for non-coin calls.[163] This cost theoretically arises because the payphone provider does not have the opportunity to realize coin or 0+ commission revenue whenever its payphone is being utilized for an access code or subscriber 800 call. Sprint, however, notes that the payphone will be available for 0+ and coin calls 98.2% of the time based on average amounts of access code and subscriber 800 calling. Sprint also states that when a given phone is not available, another phone from the same company may be available, so the call is not necessarily lost.[164] Therefore, we make no adjustments to the local coin rate based on opportunity costs.

62. *Commissions.* Several IXCs argue that commissions paid to location owners on 0+ and 1+ calls should not be attributed to per-call compensation rate.[165] CompTel argues that these commissions have been paid on 0+, 1+, and local calls, and recovered through these revenues. CompTel and RCN argue that there is no assurance that these commissions are just and reasonable.[166] WorldCom argues that 0+ commissions should not be included as a cost in computing per-call compensation because these commissions reflect the value of being selected as the default 0+ provider and as such are unrelated to the costs of providing subscriber 800 and access code calls. The Coalition and the independent PSPs propose that per-call compensation default be set on the basis of the average commission received by independent payphone providers on 0+ calls to set the rate for access code and subscriber 800 calls.[167] CompTel and RCN argue that there is no assurance that these commissions are just and reasonable.[168] Accordingly, we do not need to make any adjustments to reflect commission costs.

63. *Total Adjustments to Market-Based Rate.* The preceding analysis suggests that costs associated with coin equipment, line, coin collection and maintenance are not directly attributable to provision of access code or subscriber 800 call. We estimate that in total, between 7.7 cents and 9.1 cents per call are directly attributable to local coin calls, and thus should be subtracted from the market rate. There are uncertainties with the estimates but we found no evidence to suggest a preponderance of either high or low biases. On the other hand, we adjust the local coin market rate upward by 1.0 cent to account for additional costs to PSPs resulting from ANI ii implementation to identify payphone originated calls for the benefit of IXCs, and 0.8 cents for interest attributable to the delay in compensation for access code and subscriber 800 calls. These additions and subtractions produce an adjusted market-based range of $0.277 to $0.291. The midpoint of that range is $0.284. Thus, we conclude that the surrogate or adjusted market default price is $0.284 per access code and subscriber 800 call.

b. *Adjustments to the Local Coin Market-Rate Based on Demand Differences*

64. The Coalition filed a study by Dr. Hausman that adjusts the local coin market rate for differences in demand. Dr. Hausman explains that in an industry with a significant amount of joint and common costs, competitive firms take into account demand conditions and competitive conditions as well as costs when setting price.[169] A competitive firm recovers joint and common costs through markups over marginal costs. Dr. Hausman states that the markups are set so that the firms recover total costs. Dr. Hausman then asserts that services, where the demand is relatively price elastic, compared to other services provided over the joint facility, would receive lower markups.[170] Dr. Hausman uses several methods to translate relative elasticities into relative prices for coin calls versus access code and subscriber 800 calls.[171] Dr. Hausman uses derived elasticities to show that access code and subscriber 800 services are less elastic than local coin calling.[172] His analysis concludes that the Commission should set the default compensation rate at the local coin rate plus approximately $0.07 to $0.08 per call.[173]

65. AT&T replies with a study by Dr. Warren-Boulton, who contends that the derived elasticities presented by Dr. Hausman significantly underestimate true elasticities. Dr. Warren-Boulton notes that customers faced with a $0.35 increase in toll rates at payphones likely would substitute toll services that did not increase in price, rather than simply deciding not to make the calls.[174] This view is supported by MCI's comment that many 800 customers are interested in blocking subscriber 800 calls from payphones to avoid paying the compensation charge.[175] MCI, however, suggests that the demand for coin calls is significantly less elastic than Dr. Hausman suggests.[176] These customers may anticipate that at least some potential callers subsequently would make a subscriber 800 call from another location.

66. Dr. Hausman's derived elasticities are sensitive to several of his underlying assumptions. He based the average price of an access code call on historic AT&T data. These data probably overstate the current average price for an access code call because many firms exclusively operate by providing prepaid calling cards, which do not include a surcharge,[177] and because there have been significant decreases in some interstate and international toll rates. Furthermore, Dr. Hausman uses the overall toll elasticity as the elasticity for dial around access calls. Customers placing access code calls, as opposed to 0+, 0-, and 00-calls, have already made choices based on perceived price differences.[178] These customers therefore may be much more price sensitive than average toll customers, and may be far more willing to forego or delay calls than indicated by Hausman's derived elasticity. We conclude that the demand for access code and subscriber 800 calls are significantly more responsive to price than Dr. Hausman suggests.

67. We conclude that while differences in demand elasticities for access may prove useful to some firms in setting prices, the information presented in the current record evidences wide variations in assumed elasticities and the results are inadequate to determine whether access code and subscriber 800 service or local coin service is the more price elastic service. Because we do not have confidence in the elasticity analyses in the record given the variation in results, we decline to adjust the market-based default per-call compensation rate for differences in demand.

C. Alternatives to a Market-Based Compensation Rate

68. As noted above, some commenters request that we establish the default per-call compensation rate based on cost information filed by the parties in this proceeding. We decline to adopt this approach, but we have assessed the record evidence on this matter and have calculated a cost-based default rate below to validate that our market-based adjusted per-call rate is reasonable.[179]

1. *Comments*

a. *Costing Methodologies*

69. Several of the commenters argue that the Commission should derive a compensation rate based on the costs that are incurred to originate coinless calls.[180] Several of the IXCs request that

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[151] *See, e.g.*, Coalition Comments at 19 (stating that the implementation of the Commission's ANI requirements for the provision of payphone specific coding digits might ultimately add $0.05 to $0.06 to the cost of a access code and subscriber 800 call); AT&T Reply at 27–28 (arguing that less expensive alternatives exist to the plan promoted by USTA); Excel Reply at 9; RCN Reply at 6. The Coalition based its figure on USTA estimates that LEC investments would increase by about $1.035 billion dollars to implement ANI, that all of the cost would be borne by PSPs, and that such costs should be attributed entirely to access code and 800 subscriber calls. *See* Coalition Comments at 17. Sprint points out that most of the cost cited by USTA would arise from modifying all switches in non equal access areas. However, Sprint points out that many switches would not need to be modified because there are only 10,000 payphones in non-equal access areas compared with 3400 exchanges that lack equal access. *See* Sprint Reply at 8.

[152] Letter to Michael Carowitz, Common Carrier Bureau, from Keith Townsend, USTA, CC Docket 96–128, at 5 (July 28, 1997); USTA Petition for Waiver, CC Docket No. 96–128, Exhibit 1, 5 (Sept. 30, 1997).

[153] Sprint Reply at 8.

[154] $5.65 is the levelized monthly amount per payphone that would depreciate $600 million over 10 years and earn an 11.25% return on net investment, allowing for income taxes at the statutory rate of 34%.

[155] *See* AT&T Reply at 27–28. *See also* Excel Reply at 9; RCN Reply at 6.

[156] Coalition *Ex parte*, Sept. 26, 1997.

[157] APCC Comments at 15; CCI Comments at 9–10; TEI Reply at 5.

[158] Peoples Comments at 13.

[159] AT&T Comments, Robinson at 3.

[160] APCC Reply at 14.

[161] Peoples Comments at 10.

[162] *Representing the Authorized Rate of Return for Interstate Services of Local Exchange Carriers*, 55 FR 51423 (December 14, 1990); 5 FCC Rcd 7507 (1990).

[163] Teleport Reply at 6. Teleport Comments at 3, 6 (arguing that whatever cost differences may exist are eliminated by the opportunity costs associated with noncoin calls because coin paying customers cannot use a payphone if it is being used by a noncoin customer).

[164] Sprint Reply at 4.

[165] *See, e.g.*, CWI Comments at 9, n.7; CWI Reply at 9; CompTel Comments at 14; CompTel Reply at 11; Excel Reply at 4; LCI Comments at 6. *See* ITA Reply at 2, 4 (requesting that the Commission adopt an incremental cost approach, and that such a rate should not include premise owner commissions); Sprint Reply at 7 (stating that pre-existing commission payments are recovered from local coin and 0+ calls); Frontier Comments at 3 (arguing that commissions cannot be included in computing the per-call compensation amount because compensation based on commissions paid on 0+ calls would allow monopoly rents for locational monopolies).

[166] CompTel Reply at 12; RCN Reply at 8 (arguing that without safeguards, PSPs have no incentive to keep rates low).

[167] APCC Comments at 13 (stating that commissions are unlikely to vary except in relation to the price of calls and that location owners demand and receive commissions on every form of revenue derived from a payphone including subscriber 800 and access code calls); CCI Comments at 9 (stating that commissions must be paid to location owners so that payphones can be placed for public use). CCI treated the costs as equal for coin calls and subscriber 800 and access code calls while noting that some marginal differences exist in the commission levels paid to coin as compared with noncoin calls. *See also* Peoples Reply at 11 (stating that commissions will not result in increased costs for the consumer).

[168] CompTel Reply at 12; RCN Reply at 8 (arguing that without safeguards, PSPs have no incentive to keep rates low).

[169] Coalition Comments, Hausman at 4–6.

[170] *Id.* at 11.

[171] Given the relative elasticities presented in the paper, these methods generally would produce market rates below $0.35 for local coin telephone calls.

[172] Hausman estimates that the local coin rate elasticity is about -.083. (Coalition Comments, Hausman at 11) Hausman estimates a derived elasticity for dial around calls by multiplying an elasticity for interstate calls (-.723) times the percentage that a $0.35 access cost would add to a dial around toll call, reported to have an average price of $2.16. Hausman makes a similar calculation using an elasticity of -.77 and an average call price of $0.50 for subscriber 800 calls. He calculates that the weighted average of these two derived elasticities is -.396, significantly less elastic than his estimated local coin call elasticity.

[173] Coalition Comments, Hausman at 28.

[174] AT&T Reply, Warren-Boulton at 4.

[175] MCI Comments at 4.

[176] MCI *ex parte* at 15 (Oct. 2, 1997).

[177] *See* ITA Comments at 8.

[178] For example, 0+ calls incorporate commission of $0.62 per call and toll calls that customers pay for by depositing coins incorporate commissions of about $1.40 per call. APCC Comments at 8–10.

[179] *See supra* paras. 30–40 for specific cost components discussed in the comments. These costs were discussed previously in determining for what costs the market-based rate should be adjusted, and are incorporated herein.

[180] *See, e.g.*, ACTA Reply at 6 (arguing that any compensation scheme should focus the recovery on the PSPs forward looking direct costs associated with the origination of coinless calls). AT&T Comments at 2; AT&T Reply at 2 (including the following costs: maintaining the payphone instrument, excluding coin-related functions and coin collection costs; basic line costs, excluding coin rating functionalities but including the monthly subscriber line charge and tariffed screening and blocking service from the LEC; and other reasonable expenses such as touch tone and 911 charges). AT&T and MCI argue that the Commission should adopt a cost-based compensation scheme based on a PSP's actual efficient costs to originate access code and

Continued

the Commission adopt a bottom-up methodology to calculate per-call compensation.[181] AT&T argues that a rate computed in this manner will be sufficient to provide for the widespread deployment of payphones, and would not require the Commission to engage in lengthy cost proceedings.[182] AT&T argues that its analysis is based on TELRIC, which, AT&T argues, is the most appropriate methodology in the circumstances. Borden, Champion, and Sitel [183] argue that the fair compensation rate must be based on a PSP's actual costs for handling 800 calling card calls. SDN supports a national rate based on verifiable long range incremental costs for all PSPs. Excel argues that the Commission should adopt a rate that reflects the actual costs incurred by an efficient PSP for delivering subscriber 800 and access code calls.[184]

70. CompTel and ITA argue that the Commission should base compensation for subscriber 800 and access code calls on the PSPs' incremental cost of originating these calls.[185] ITA contends that the Commission should use the cost of a payphone call as determined by Massachusetts Department of Public Utilities (Massachusetts DPU) and adjust that number downward.[186] Sprint and AT&T also argue that the Commission should use the coin rate filed by New England Telephone (NET) with the Massachusetts DPU indicating a per-call local coin rate of $0.167 as the point at which we should begin our analysis of a rate adjusted for costs related to coin calls.[187] The Coalition argues, however, that this cost study is not an appropriate basis for establishing per-call rate in this proceeding.[188] CWI, LCI, CompTel, and Sprint argue that the incremental costs to be included are the additional or marginal costs created by access code and subscriber 800 calls—additional maintenance and wear and tear for increased usage, and the per minute usage charges, if any, imposed by a LEC for originating access code or subscriber 800 calls.[189]

71. Alternatively, Sprint argues that if the Commission takes a fully allocated approach to costs, then the rate should be based on the most efficient "bellwether" PSP's costs minus costs related to coin functionality, local call completion and premises owner commissions from a local coin call.[190] Sprint rejects Dr. Hausman's view that costs of the least efficient (or marginal) provider should be used as the default rate to prevent the removal of payphones, arguing that this approach overlooks the Commission's policy that inefficiency should not be rewarded in a multiprovider market and that rates should be based on the costs of an efficient provider to promote competition.[191] The Coalition and APCC contend that Sprint's "bellwether" approach is flawed, because large, fixed joint and common costs that should be included as costs, were omitted; [192] relying on incremental costs only is inappropriate because the PSP cannot recover the total costs of providing the service; [193] and cost estimates for a single state are not representative.[194]

72. TRA and WorldCom argue that the Commission should apply total service long term incremental costs (TSLRIC) principles to determine forward looking costs on efficient provider would incur to provide access to noncoin calls.[195] CompTel, CWI, and LCI argue in the alternative that if the Commission wants access code and subscriber 800 calls to bear some of the costs to ensure that PSPs are fairly compensated, then the Commission should set the compensation rate based on forward looking direct costs for access code and subscriber 800 calls.[196] Frontier and RCN argue that the Commission should adopt a cost-based rate based on the costs of completing subscriber 800 and access code calls.[197] GCI argues that PSPs should be compensated solely for the costs of subscriber 800 and access code calls.[198]

73. PageMart and PageNet argue that the Commission should adopt a caller-pays rate. Alternatively, PageMart argues that it should remove the avoided costs of a coinless call from the compensation rate.[199] Alternatively, PageNet requests that the Commission adopt a cost-based approach that apportions only the additional costs that are incurred through the origination or subscriber 800 calls on a per-call increment, not per-call basis.[200]

74. CCI argues that the Commission should not adopt a cost-based methodology because a marginal cost rate does not fairly compensate all calls as required by Section 276 of the Act and does not address fair compensation for other types of calls from payphones or whether additional costs could be recovered through compensation available to PSPs.[201] CCI contends that if the Commission adopts a marginal cost standard, then the rates would need to be sufficient such that revenues would recover the total marginal costs of installing and operating payphones, which in the long run could increase long distance rates and force some PSPs out of business.[202]

75. Peoples and the Coalition argue that the Commission should not adopt a cost-based rate because the costs for local coin calls and dial around calls are similar, and further that access code and subscriber 800 calls may be more costly than coin calls. Several of the PSPs and the Coalition further argue that a cost-based rate would lead to the removal of payphones with low call volumes or above average costs.[203] TEI argues that cost plus a fair rate of return is not appropriate, because the underlying costs are similar and there is seldom agreement regarding costs or a fair rate of return.[204] APCC argues that the Court did not require the Commission to adopt a cost-based methodology.

b. *Cost Components*[205]

76. *Equipment.* CWI contends that only forward-looking direct costs should be considered, including the amortized cost of installing a coinless payphone and the cost of maintaining the equipment, excluding the cost for coin equipment.[206] Several of the IXCs argue that coin equipment costs should be excluded when determining per-call compensation.[207] PageNet argues that coin related costs such as maintenance, repair and replacement for coin functions should not be included in determining per-call compensation.[208]

77. The Coalition contends that equipment costs are attributable to both coin and noncoin calls. Teleport contends that the fixed costs associated with installing a coin operated payphone, such as the cost of the payphone, the enclosure, the cable plant, and supporting network infrastructure, are attributable to both coin and noncoin calls.[209] APCC states that most payphone costs, including purchasing, installing, and maintaining equipment, are fixed and should be attributed to both coin and noncoin calls.[210]

78. CCI contends that monthly direct costs such as the telephone bill (6 cents per call), location owner commissions ($0.05 per call), maintenance and collection ($0.05 per call), parts and supply are properly attributable to both coin and noncoin calls. CCI, however, discounts the telephone bill costs ($0.02 per call) and maintenance and collection costs ($0.01 per call) to deduct local measured usage charge and the costs associated with dial around collection.[211]

79. *Payphone Lines.* APCC states that local exchange line charges represent a small differential between coin and noncoin calls—on average, about 3 cents per call.[212] AT&T argues that tariffed screening and blocking service from the LECs as well as other reasonable expenses such as touch tone and 911 charges should be included in the cost of a call when computing the appropriate amount of per-call compensation.[213] CompTel argues that the line charge should be no more than $0.046 per call.[214] CWI contends that basic phone line plus usage charges, if any, for subscriber 800 and access code calls should be included in computing per-call compensation.[215]

80. Several of the IXCs contend that the costs associated with terminating local calls should not be used to compute per-call compensation.[216] CompTel argues that per-minute usage charges, if any, imposed by a LEC for originating access code or subscriber 800 calls are appropriate.[217] PageNet argues that line charges should not be included because non-PSP carriers already pay the LEC for the use of the payphone line through originating access charges.[218]

81. Peoples argues that line charges are attributable to coin and noncoin calls. Peoples argues that there is a minimum fixed line charge, and that in some states, there is an additional usage charge.[224] Peoples further argues, however, that as more states require fixed charges, there will be no difference between line charges for coin and noncoin calls.[225]

82. The Coalition contends that the Commission should not impose an offset for the local usage charge because in many cases payphone lines are flat-rated and PSPs do not recover termination or local usage charges. The Coalition contends, however, that if there is an offset, it should not be greater than $0.02 per call, which reflects the average local termination cost across all Coalition members.[226] CCI does not include local usage charges in calculating per call compensation amount.[227]

83. *Coin/Noncoin Collections.* The Coalition contends that the cost of coin collection, counting, and related equipment accounts for approximately $0.02 of the total cost of a local coin, but argues that this rate may be inflated because it allocates coin collection costs among coin calls based on coin volumes, not the number of coins deposited.[228] APCC argues that the differences between coin and noncoin calls in the area of coin collection are limited because coin collection is generally combined with general maintenance visits to the payphone, about $0.03. APCC further argues that coinless collection costs are likely to increase and may actually be $0.05–$0.06, thus higher than coin calls.[229] Peoples contends that coinless collection costs are greater than coin call collection costs, and further that in the past six months, coin related maintenance accounted for only 38% of all maintenance visits.[230] Peoples estimates that coin collection related costs are approximately $0.03 per call, and that coin collection costs are slightly lower than the cost involved in collecting for noncoin compensation.[231] Peoples contends that dial around collection costs are approximately $0.05–$0.06 per call.[232] CCI argues that it does not include coin collection costs of dial around calls in computing the appropriate amount of per-call

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subscriber 800 calls. *See* AT&T Comments at 2; MCI Comments at 1.

[181] CPI Reply at 6. WorldCom Reply at 4. WorldCom cites the rates set forth in AT&T's comments ($0.11 per call), MCI's comments ($0.083 cents per call), and Sprint's Comments ($0.057 cents per call), and states that the Commission should adopt one of these approaches or a blended approach using several methods. *See* WorldCom Reply at 4–5.

[182] AT&T Reply at 10, 17–18.

[183] Sitel Reply (stating that $0.35 cents per call is too high and that such a rate could adversely effect small business due to increased telecommunications costs).

[184] Excel Comments at 3–4.

[185] CompTel Reply at 6–7 (stating that the rate should be based on the costs of an efficient provider to originate subscriber 800 and access code calls and noting that other call types would be compensated by market pricing); ITA Comments at 2 (stating that the rate should be based on economic costs including a reasonable profit for the PSPs).

[186] ITA Reply at 2, 5.

[187] Sprint Comments at 8–11; AT&T Comments at 15 n.12.

[188] Coalition Reply at 2.

[189] CWI Comments at 9; LCI Comments at 8 (stating that the only costs that are relevant are additional maintenance and wear and tear for usage attributed to access code and subscriber 800 calls); Sprint Reply at 3 n.5 (stating that although CWI, LCI, and CompTel raise the possibility that local usage charges should be included in marginal costs, Sprint is not aware that any LEC imposes such usage related costs for subscriber 800 and access code calls. Instead, Sprint states, the IXC carrying the call pays the LEC's access charges for the use of the LEC's network for call origination.). Sprint and CompTel also state that this method is appropriate because access code and subscriber 800 calls are by-products of payphone installation, not its primary purpose. Thus, the decision to install a payphone, Sprint and CompTel argue, is driven by the revenues the PSP anticipates from other types of calls such as 0+ and coin calls. Sprint Reply at 5; Comptel Comments at 10–13.

[190] Sprint Reply at 6.

[191] Sprint Reply at 5 (also arguing that the public is protected through the mandate for public interest payphones in the Act).

[192] Peoples Comments at 6–7; APCC Reply at 9.

[193] Coalition Comments at 21–23 (citing Reconsideration Order, 61 FR 65341 (December 12, 1996); 11 FCC Rcd at 21,268, para. 60).

[194] *Id.*

[195] TRA Comments at 19 (stating that a reasonable profit for PSPs could be included); WorldCom Comments at 4 (further stating that this rate should be based on the forward looking costs that an efficient PSP would incur).

[196] CWI Comments at 9; CompTel Comments at 13–14; LCI Comments at 7. CWI, CompTel, and LCI argue that costs to be included are the following: the amortized cost of installing a coinless payphone; costs of maintaining the equipment; and the cost of a basic phone line plus usage charges, if any, for subscriber 800 and access code calls. Costs for coin equipment and coin collections, terminating local calls, bad debt, depreciation, interest, commissions, and administrative or overhead charges not attributed to coinless calls should be excluded.

[197] Frontier Reply at 2; RCN Comments at 1.

[198] GCI Reply at 3.

[199] PageMart Reply at 6; PageNet Comments at 12.

[200] PageNet Reply at 27–28.

[201] CCI Comments at 15–16.

[202] *Id.* at 17.

[203] APCC Reply at 11.

[204] TEI Comments at 10.

[205] The comments on commissions and billing/bad debt cost components are discussed *supra* at para. 62 and 56, respectively.

[206] CWI Comments at 8.

[207] MCI Comments at 3; RCN Comments at 4 (arguing that this cost is unique to the local coin rate and should be subtracted from a true rate that PSPs would provide as a deregulated local coin service on a nationwide basis). CompTel Comments at 13; CompTel Reply at 8 (CompTel argues that data is not available specifically for maintenance costs, but the cost for maintenance less coin capability is about $0.029 per call, thus the maximum incremental costs would be approximately between $0.01 to $0.02 per call); LCI Comments at 5–6 (requesting that the Commission adopt a default rate based on marginal costs and stating that costs associated with installing and maintaining a payphone should not be considered when determining per-call compensation).

[208] PageNet Comments at 14.

[209] Teleport Comments at 4.

[210] APCC Comments at 11(further stating that payphone equipment costs which include coin and coinless calling capabilities must be incurred by coin and noncoin calls); APCC Reply at 12.

[211] CCI Comments at 9.

[212] APCC Comments at 13.

[213] AT&T Comments at 9; CompTel Reply at 11, 14 (stating that some PSPs' basic payphone line charges include line cost categories such as network costs, which should not be included).

[214] CompTel Reply at 11, 14.

[215] CWI Comments at 8 (arguing that these costs should be considered proportionately based on relative usage for access code and subscriber 800 calls).

[216] *See, e.g.*, CWI Comments at 9; LCI Comments at 7; MCI Comments at 3; Sprint Reply at 6; Excel Comments at 3 (also arguing that originating access should not be included in the per-call compensation amount). *See* AT&T Comments at 9 (stating that local usage charges should not be included in the cost of a noncoin call).

[217] CompTel Comments at 13; CompTel Reply at 8 (stating that it does not object to applying the average per-call usage charge in areas where usage is employed, about $0.02–$0.03 per call, citing APCC Comments at 13 and Coalition Comments at 18).

[218] PageNet Reply at 20.

[224] Peoples Comments at 11–12 (arguing that at a minimum 50% of the line charge is fixed and that the variable portion that would be related to coin calls only is less than $0.04 per call).

[225] *Id.* at 12.

[226] Coalition Comments at 14–17.

[227] CCI Comments at 9.

[228] Coalition Comments at 16.

[229] APCC Comments at 14–15 (estimating the costs of dial-around compensation to be about 5–6 cents per call).

[230] Peoples Comments at 12–13.

[231] *Id.* at 12.

[232] Peoples Reply at 8.

compensation,G5233 but argues, however, that the costs associated with noncoin calls may increase due to additional expenses for collecting and auditing such compensation.[234]

84. CPI and CompTel contend that PSPs experience lower costs for subscriber 800 and access code calls than for coin calls because it is more costly to maintain a coin phone than a coinless phone.[235] AT&T, CWI, Excel, Frontier, MCI, PageNet, RCN, and ITA state that coin collection costs should not be included in the rate of per-call compensation.[236] TEI states that some service costs can be deducted when determining the rate for a noncoin call.

85. Teleport contends that costs associated with coin calls—collection, maintenance, and cost of transporting a call—on a per call basis are de minimis, and further that the opportunity costs associated with noncoin calls offset the de minimis difference in cost. TEI argues that the Commission should include a cost for the time value of money used in collecting the compensation should the Commission not prescribe collection tools for the PSP, and further, suggests that the Commission impose a stated interest rate on late payers of per-call compensation.[237]

86. *ANI ii.* APCC contends that the Commission should not explicitly rule that such charges incurred in restructuring the LEC networks to provide a unique screening digit for dumb payphone lines may be assessed on PSPs. However, APCC contends, if LECs are allowed to assess such charges on PSPs, then PSPs are entitled to recover those charges from IXCs dial-around compensation as part of the cost of originating dial-around calls.[238] The Coalition contends that requiring PSPs to pay LEC tariffs for ANI ii digits would add $0.05 to $0.08 to the per call rate, and Peoples supports attributing this cost to subscriber 800 and access code calls.[239] AT&T, Excel, Sprint, and GCI argue that the PSPs are not entitled to recover any costs for Flex ANI.[240] Excel and RCN state that IXCs should not be required to pay for ANI information provided by the PSPs, because the PSPs are the beneficiary of the information.[241]

87. *Depreciation/ Overhead.* CWI, PageNet, and CompTel contend that per-call compensation should not include depreciation costs or interest.[242] LCI, CompTel, and CWI argue that administrative and overhead costs are not attributable to noncoin calls.[243]

88. CCI and TEI argue that overhead, depreciation, amortization, and interest are attributable to coin and noncoin calls.[244] Peoples contends that overhead costs are attributable to all calls made from payphones, and argues that the IXCs do not justify why such costs should not be included.[245]

89. *Other.* In its estimate, AT&T included an 11.25 percent interest on capital factor, maintenance/warehouse/part costs and added averaged costs for the basic line and other related charges.[246] AT&T admits that some costs such as overhead, general and administrative expenses and taxes are appropriate in the computation of the cost of a noncoin call. According to AT&T, these costs are approximately $0.012 per call.[247] CCI includes taxes and the return on invested capital in the calculation of the costs of the per-call rate.[248]

90. CPI contends that subscriber 800 and access code calls are generally shorter in duration than coin calls. Therefore, the longer duration of local calls could allow for opportunity costs since few local calls displace shorter long distance calls.[249] TRA contends that per-call rates should not include embedded or opportunity costs.[250] Excel argues that coin rating costs should not be included in determining per-call compensation.

2. *Discussion*

91. As discussed above, we conclude in this order that an adjusted market-based local coin rate is the appropriate surrogate for the default per-call rate for subscriber 800 and access code calls. In this section, we explain our reasons for rejecting the proposals of various parties that we derive a default per-call rate for such calls based on cost estimates submitted in the record of this proceeding.

a. *Problems with the Proposed Methodologies for Deriving Payphone Compensation.*

92. A number of commenters, notably the IXCs, argue that the Commission should use the marginal cost of originating a payphone call as the basis for compensating PSPs.[251] Most of the parties, however, estimate marginal costs based on the incremental cost of an individual coinless call. Thus, as the Coalition explains, setting the rate at marginal or incremental costs means that joint and common costs could not be recovered.[252] We conclude that the use of a purely incremental cost standard for each type of call could leave PSPs without fair compensation for payphone calls, because such a standard would not permit the PSP to recover a reasonable share of the joint and common costs associated with those calls.[253] We also reject, for similar reasons, suggestions by commenters that we use local coin rates currently in place as a surrogate for per-call compensation. As we stated in the *NPRM*, "local coin rates in some jurisdictions may not cover the marginal [incremental] cost of the service."[254] Therefore, basing the per-call compensation amount on current local coin rates, which are frequently

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[233] CCI Comments at 6–8.

[234] *Id.* at 2, 10.

[235] CPI Comments at 5 (arguing that only a keypad capable of originating dialing codes and electronics to identify the phone is needed and that PSPs do not incur costs of visiting a payphone and collecting and handling coins for subscriber 800 and access code calls); CompTel Reply at 11, 13. CompTel notes that Peoples argues a coin phone costs $41.66 per month to operate, but a coinless phone (as reported by AT&T) costs only $25.10 per month, and argues that coin phones are more costly, because a coin phone requires more frequent service and coin collection visits, and additional equipment that can be broken or vandalized. CompTel further argues that Peoples' cost figures for maintenance should be reduced by at least 50%. Comptel Reply, *supra.*

[236] *See* AT&T Comments at 9; CWI Comments at 9; MCI Comments at 3; PageNet Comments at 14 (arguing that the majority of features and functions as well as maintenance and repairs provisions of payphones are related to the acceptance and handling of coins, and that such costs are not properly attributable to subscriber 800 and access code calls); PageNet Reply at 19. *See also* Frontier Comments at 7–8 (stating that $0.043 is attributable to coin collection costs); ITA Comments at 6–7 (stating that in the *Report and Order*, at para. 44, the Commission estimated the cost of coin collection to be $0.02 per call); RCN Comments at 3 (stating that the PSP does not incur coin collection costs when originating a subscriber 800 or access code call, and therefore, the default rate of $0.35 must be reduced).

[237] TEI Reply at 6.

[238] APCC Reply at 23.

[239] Coalition Comments at 16; Peoples Reply at 8.

[240] AT&T Reply at 27–28; Excel Reply at 3; GCI Reply at 3; Sprint Reply at 8–10.

[241] Excel Reply at 5; RCN Reply at 5.

[242] CWI Reply at 11; CompTel Reply at 11, 14 (stating, however, that if these costs are included, then the cost per call should be only $0.011).

[243] LCI Comments at 8; CWI Comments at 9, n.7; CWI Reply at 9; CompTel Comments at 14.

[244] CCI Comments at 10. CCI attributes $0.04 to overhead, $0.03 to depreciation, $0.02 to amortization, and $0.02 to interest. CCI notes that these costs relate only to their payphones, but reflect the payphone industry. *See id.*

[245] Peoples Reply at 10.

[246] AT&T Comments at 10.

[247] AT&T Reply at 14.

[248] CCI Comments at 10.

[249] CPI Comments at 6.

[250] TRA Comments at 19.

[251] *See* CWI Comments at 5; Comptel Comments at 10; LCI Comments at 5; Sprint Comments at 3–4.

[252] Coalition Comments at 20 n.16.

[253] *Cf.* Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, *First Report and Order*, 61 FR 45476 (August 29, 1996); 11 FCC Rcd 15,499,15844–15856 (1996) ("*Local Competition Order*") (describing total element long-run incremental cost methodology for pricing interconnection and unbundled network elements).

[254] *NPRM* at para. 22 n.64.

subsidized by state regulators, would not fairly compensate the PSPs. In the *Payphone Orders*, we rejected the use of the $0.12 per-call compensation amount the Commission first discussed in its 1991 *Notice of Proposed Rulemaking* in the access code call compensation proceeding. We noted that we never adopted the $0.12 per-call amount, and that rate was effectively rejected when the Commission adopted a $6 flat rate per payphone per month based on a per-call rate for access code calls of $0.40.[255]

93. We determined in the *Order on Reconsideration* that reliance on cost studies, *in general*, could reduce the revenue recovered by the PSPs, and therefore, might reduce the number of payphones deployed.[256] We reaffirm that decision here. Adopting a per-call compensation scheme that did not "promote the widespread deployment of payphone services" would be inconsistent with Congressional intent.[257]

94. We also affirm our conclusion in the *Report and Order* that the cost-based TELRIC standard that the Commission relied upon in the local competition proceeding is inapplicable here, because the payphone industry is not a bottleneck facility that is subject to regulation at virtually all levels.[258] The TELRIC pricing principles adopted in the local competition proceeding were designed to reflect the long run cost of an element or physical facility. Since there are relatively few common costs between separate facilities, TELRIC compensation will compensate a carrier for virtually all costs associated with providing (the services of) that facility. With the addition of a share of the relatively small common costs, the firm will be able to cover its total costs.[259]

95. Additionally, we conclude that Congress' use of the phrase "* * * payphone service providers are fairly compensated for each and every completed interstate and intrastate call * * *"[260] is a different standard than the cost-based standard articulated for the compensation for interconnection and unbundled elements. We conclude that the PSP will be providing a competitive service (payphone use) and should therefore receive compensation equal to the market-determined rate for providing this service. In the *Local Competition Order*, we concluded that the cost-based interconnection standard, on the other hand, compensates a carrier for the long run incremental cost of providing interconnection or the long run incremental cost of providing an unbundled element plus a reasonable share of the common costs. Because the local exchange is not yet competitive, we could not rely on the market to set competitive rates for unbundled elements. In the case of payphones, the presence of multiple PSPs already operating in many markets, and the structure of the industry that allows relatively easy entry and exit, leads us to conclude that we can rely on market forces to provide for efficient pricing of these services in the near future.

96. In this proceeding commenters also argue that we should apply a TSLRIC cost standard to only a subset of services (*i.e.*, subscriber 800 and access code calls) provided by a facility (payphone). In general, when several services are provided by the same facility, the incremental cost of providing any one service is very small and the common cost among these services is very large. Thus, a TSLRIC standard under which a carrier is compensated only for the incremental cost of each service individually without a reasonable allocation of common costs, as suggested by commenters, would not allow the carrier to recover the total costs of providing all of the services. A TSLRIC standard that yields prices that recover a reasonable share of joint and common costs would require the difficult allocation of those (large) costs among the different types of calls made from payphones.

97. We also reject suggestions that use of a market-based compensation standard, in lieu of one that is cost-based, will overcompensate PSPs. The marketplace will ensure, over time, that PSPs are not overcompensated. Carriers have significant leverage within the marketplace to negotiate for lower per-call compensation amounts, regardless of the local coin rate at particular payphones, and to block subscriber 800 calls from payphones when the associated compensation amounts are not agreeable to the carrier.

98. Previously, in the access code call compensation proceeding, we relied upon AT&T 0+ commissions as a measure of the fair value of the service provided by independent payphone providers when they originate an interstate call. Data presented above, however, suggest that the 0+ commission rate exceeds the market rate for local coin calls while the costs of access code and subscriber 800 calls are less than the costs of local coin calls. Furthermore, commissions may include compensation for factors other than the use of the payphone, such as a PSP's promotion of the Operator Service Provider (OSP) through placards on the payphone. Accordingly, we conclude that a market rate based on 0+ commissions would result in a default rate that overcompensates payphone providers for access code and subscriber 800 calls. Moreover, our approach is based on the costs of a low traffic location that does not support commission payments.

b. *Analysis of Record Evidence of Payphone Costs*

99. Although we reject suggestions that we set the default rate based on the long run costs of providing service, our analysis of the record evidence indicates that an estimate of the long run costs of providing access code and subscriber 800 service, including an equal per call share of joint and common costs,[261] is not significantly less than the market-based rate determined above. Over time, the marginal cost associated with new entry (adding a payphone) may be an important determinant of the market rate for access compensation. For comparison, we estimated costs of the installation and operation of a payphone at a low traffic location; that is, at a location that would be expected to generate sufficient calls so that the payphone provider could earn only a normal return on investment and could not pay commissions to the premises owner.

100. We calculated a rate for access code and subscriber 800 calls by estimating the cost of a typical multi-use payphone that is capable of being

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[255] *OSP Second Report and Order*, 57 FR 21038 (August 29, 1992); 7 FCC Rcd at 3257.

[256] *Order on Reconsideration*, 61 FR 65341 (December 12, 1996); 11 FCC Rcd at 21,266, para. 66.

[257] *See infra* para. 119.

[258] *See Order on Reconsideration*, 61 FR 65341 (December 12, 1996); 11 FCC Rcd at 21,240–43, 21,268, paras. 11–19, 70 (noting that the payphone industry is likely to become increasingly competitive). *See also* Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, *First Report and Order*, 61 FR 45476 (August 29, 1996); 11 FCC Rcd 15,499 (1996), *Order on Reconsideration*, 61 FR 52706 (October 8, 1996); 11 FCC Rcd 13,042 (1996), *Second Order on Reconsideration*, 61 FR 66931 (December 19, 1996); 11 FCC Rcd 19,738 (1996), *further recon pending; aff'd in part and vacated in part sub nom., CompTel v. FCC*, 11 F.3d 1068 (8th Cir. 1997), *aff'd in part and vacated in part sub nom. Iowa Utilities Bd. v. FCC* and consolidated cases, 120 F.3d 753 (8th Cir. 1997).

[259] We also note that it would be particularly burdensome to impose a TELRIC-like costing standard on independent payphone providers, who have not had previous experience with any costing systems.

[260] 47 U.S.C. § 276(b)(1)(A).

[261] As explained above, market forces in a competitive market (including both marginal cost and demand differences) determine how joint and common costs are recovered from different services. We determined, however, that we lacked adequate elasticity information to determine whether access code and subscriber 800 calls would recoup more or less joint and common costs per call than would local coin service.

placed outdoors. We then subtracted all costs directly attributable to coin and access code calls to determine the amount of joint and common costs associated with a multi-use phone. We then determined the amount of joint and common costs attributable to each call by dividing these costs by an estimate of the number of calls placed at a location where a payphone will earn a normal return on investment. Three parties, Peoples, CCI and AT&T provided relatively consistent cost data that could be used to estimate joint and common costs. The following subsections summarize our category-by-category estimation of costs.

101. *Maintenance.* Data presented by Peoples indicates maintenance cost of 4.8 cents per call.[262] Sprint suggests 3.6 cents per call.[263] CCI data suggest 6.6 cents per call [264] and Robinson's data for AT&T suggest a total of between 2.5 and 4.0 cents per call.[265] Based on the information presented by the parties, [266] we estimate that joint and common maintenance costs at a low traffic location would amount to between 4.0 and 5.0 cents per call.[267]

102. *Line costs.* Data fer Peoples suggests line costs of 5.9 cents per call.[268] Data for CCI suggests line costs of 7.9 cents per call.[269] Sprint suggest 8.0 cents per call.[270] Robinson's study suggests line costs of 6.5 cents per call.[271] We estimate that joint and common line costs at a low traffic location would amount to between 6.5 and 7.5 cents per call.[272]

103. *Sales, General & Administrative.* Data for Peoples suggests SG&A of 5.4 cents per call.[273] Data for CCI indicates SG&A costs of 5.3 cents per call.[274] Sprint suggests 1.57 for SG&A.[275] Sprint, as a LEC and an IXC, has a significantly different organizational structure and payphone base from that of independent payphone providers. Accordingly, little weight was given to Sprint data for SG&A. Robinson did not develop an independent estimate of SG&A.[276] Accordingly, we use the estimates based on data for Peoples and CCI as the high and low estimates, respectively. We conclude that joint and common SG&A at a low traffic location would amount to between 5.3 and 5.4 cents per call.

104. *Capital and Equipments Costs.* Most parties recognize that payphone providers should have an opportunity to recover depreciation costs and earn a return on investment. Joint and common investments for a new payphone should include not only the costs of purchasing and installing a payphone, but also a normal increase in leasehold improvements, spare parts and inventory, and cash working capital.[277]

105. Robinson estimated the average outlay associated with adding a new smart coin telephone as $1,050 for the instrument,[278] $300 for a pedestal and enclosure, $395 for installation of the telephone, pedestal and enclosure, and $150 in local exchange carrier connection charges, for a total investment of $1,895.[279] Some PSPs claim that Robinson underestimated pedestal and enclosure and related installation charges.[280] The Robinson estimates do not include other investments, such as maintenance vehicles and office equipment, needed to support a payphone business. Several PSPs estimated average capital costs per call, but did not provide sufficient detail to allow these estimates to be used to estimate the direct capital costs of adding a payphone.

106. We estimate joint and common equipment costs by: (a) estimating the amount of assets that are likely to be added when a payphone is added; (b) subtracting the amount attributable to the coin mechanism; (c) calculating a monthly cost for the balance; and (d) dividing the monthly cost per payphone by the low traffic location number of calls. Peoples 10K data indicate that Peoples depreciable net investment per payphone amounted to $1,617 as of December 1996.[281] CCI's 10K data indicate that CCI's depreciable net assets per payphone amounted to $1,704 as of December 1996.[282] Firms, however, add new assets rather than depreciated assets. Adjusting for depreciation, we estimate new depreciable investment per payphone of $3,234 for Peoples [283] and $2,799 for CCI.[284] As explained above, we impute $710 of new investment per payphone directly to coin calls. Accordingly, we calculate new joint and common investment per payphone of $2,524 and $2,089, respectively. These amounts of new investment would result in monthly investment costs of $43.94 and $37.07, respectively.[285] The carriers would also expect to earn a return on some other assets on the books—pre-paid expenses and inventory. These items add $1.79 [286] and $2.01 [287] in investment costs per month, respectively. Summing the investment costs and dividing the low traffic location number of calls results in estimates of total investment costs of 7.2 cents per call and 8.4 cents per call, which we use as the likely range.

107. *Other Costs.* We concluded above that it was reasonable to include $0.01 in adjusting the market rate for a local coin call to account for the cost of ANI ii deployment by the LECs, passed through to PSPs in the form of higher access line charges, and include that figure in our analysis here. We also concluded that carriers would receive access code and consumer 800 access compensation approximately 3 months later than they would receive coin revenues, and thus included interest, based on an 11.25% annual cost of capital the long run cost estimate. We use that same figure in our analysis here. In addition, we explained earlier the positions regarding including commissions as a cost-factor, and thus conclude that those costs are excluded properly from a cost-based analysis.[288–289]

108. *Total Long Run Cost.* The preceding analysis suggests that total long run cost of access code and consumer 800 calls would range from 24.7 cents per call (based on a sum of the low estimates) to 28.1 cents per call (based on the sum of the high estimates).

	Low estimate	High estimate
Maintenance	4.0	5.0
Line costs	6.5	7.5
SG&A	5.3	5.4
Capital costs	7.2	8.4
ANI ii	1.0	1.0
Interest	.7	.8
Total	24.7	28.1

109. *Sprint's Motion.* On September 18, 1997, Sprint filed a Motion asking that the Commission require Bell Atlantic to submit a copy of the NET cost study filed before the Massachusetts DPU and supporting papers to the Commission and to all parties of record in this proceeding. On September 26, 1997, Bell Atlantic filed an opposition to Sprint's motion to require production of a confidential cost study and conditional cross-motion for production of payphone cost data from Sprint and AT&T. Bell Atlantic argues that Sprint's motion should be rejected because: (1) The study was prepared for the Massachusetts DPU and Sprint should seek relief from that agency; (2) there is no justification for requiring the production of the study because the study examines incremental costs, which, Bell Atlantic argues, the Commission has rejected; and (3) the information is confidential.

110. We deny Sprint's motion and decline to require Bell Atlantic to submit a copy of NET's cost analysis. We are not persuaded that the NET cost study, which Sprint indicates was submitted to the Massachusetts DPU on a confidential basis, is necessary for us to reach a decision in this proceeding. Furthermore, we note that there are differences of opinion regarding the NET methodology. The NET study as well as other confidential studies filed in other states are not before us. We further note that as Bell Atlantic states, the information is confidential, and therefore, should we require Bell Atlantic to make such a filing, Bell Atlantic likely would require that we treat the study as confidential. Were we to agree, the information would not be available to the parties. We note, moreover, information on the record provides deregulated coin rates for several states. Because we are denying Sprint's motion, we need not address Bell Atlantic's conditional motion for production of documents.

D. Per-Call Compensation Rate

111. In this section, we conclude that the default market-based per-call rate for subscriber 800 and access code calls is $0.284, which reasonably accounts for the payphone costs that are incurred solely in connection with local coin calls and costs that are specific to access code and subscriber 800 calls.

1. *Comments*

112. Parties filed comments that varied considerably, primarily depending on whether they relied on a market-based or derived rate methodology. AT&T and ARCH argue that the compensation rate should be $0.11 per-call, based on the costs of providing a subscriber 800 or access code call.[290] AT&T arrives at this rate by estimating a cost of $76.85 per month for a payphone divided by an average of 700 calls per phone per month.[291] AT&T contends that this rate is consistent with NYNEX's local coin rate of $0.167. Alternatively, AT&T and MCI argue that if the Commission adopts a rate based on an offset from the local rate, then the offset should be at least 50%.[292] AT&T further argues that even using a adjusted market approach as suggested by the Coalition results in payphone compensation in the amount of $0.1067 cents per call, which is in line with the rate that AT&T has calculated for coinless calls based on its estimated monthly costs of a payphone.[293] AT&T further states that even if adjustments have to be made for depreciation, overhead, general and administrative expenses and taxes, the per-call cost for coinless calls would only increase to 12.2 cents per call.[294] AT&T maintains that $0.35 is not the appropriate

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[262] Peoples estimated total maintenance and coin collection costs per month of $41.66, 36% of which was for coin collection costs. Peoples Comments at 10–12. Dividing the maintenance portion by the low traffic number of calls (542) gives the estimate of 4.8 cents per call. This estimate probably includes some incremental maintenance caused by coins being deposited in Peoples payphones.

[263] $19.82 for maintenance divided by 542 calls. Sprint Reply, Exhibit 1 at 2.

[264] Based on an average call volume of 720 calls, CCI estimated that it spent $0.05 per call for maintenance, exclusive of any costs solely due to coin collection and maintenance. CCI Comments at 9. We concluded above, however that this figure was probably biased high. Multiplying by 720 calls and dividing by the low traffic number of calls (542) gives an estimate of 6.6 cents per call.

[265] Robinson estimates that the monthly cost of maintenance plus repair parts for a coinless telephone is $13.35 and for a smart coin telephone is $21.70. AT&T Comments, Robinson at 13. Divided by 542, the low traffic location number of calls, yields estimated costs of 2.5 and 4.0 cents per call. Some of the increased cost of a coin telephone would be attributable to the coin mechanism.

[266] Teleport filed a return on investment analysis partially based on hypothetical information from a study by John S. Bain (Teleport Ex. Parte). This analysis is not sufficient to support a direct estimation of either the costs directly attributable to coin calls or total joint and common costs.

[267] The Sprint data may not be representative of costs that would be incurred by independent pay telephone providers. We select 4.0 cents as the low estimate of maintenance costs per call by selecting the highest value based on AT&T data. We select a figure between the Peoples and the CCI based estimates, 5.0 cents, as the high estimate. This amount is below the average of the estimates in recognition of possible biases in the Peoples and CCI estimates.

[268] Peoples filed $59.54 of total line charges including message charges per month of $27.08. Peoples Comments at 10–12. The difference, $31.85, represents joint and common line costs. This amount, divided by the low traffic number of calls (542) equals 5.9 cents per call.

[269] CCI estimates joint and common line costs of $0.06 per call, compared with $0.08 per call for coin calls, based on 720 calls per payphone per month. CCI Comments at 9. Multiplying $0.06 times 720 calls and dividing by the low traffic number of calls (542) equals 7.9 cents per call.

[270] $43.22 for line charges divided by 542 calls. Sprint Reply, Exhibit 1 at 2.

[271] AT&T estimated a monthly line charge for a smart coin telephone of $27.73, a subscriber line charge of $3.83, and other line costs of $1.84 for a total cost of $35.40. *See* AT&T Comments, Robinson at 12. This amount, divided by the number of low traffic number of calls (542) equals 6.5 cents per call.

[272] As explained above, different line costs for different PSPs may simply reflect the fact that they have payphones located in different areas. Sprint, for example, may have higher joint and common line costs than others that filed data because Sprint cannot take advantage of potentially lower cost measured service options. We estimated a likely range for average PSPs by adjusting the high and low estimates of the carriers by approximately half a cent.

[273] Peoples estimated sales and general administrative expenses of $25.27 per line as well as billing costs and bad debts of $4.02 per line per month. *See* Peoples Comments at 10. We do not have sufficient information to estimate a higher or lower billing and bad debt cost for access code and consumer 800 calls compared with other payphone calls. The total, $29.29, divided by the low traffic number of calls (542) equals 5.4 cents per call.

[274] CCI estimated expenses of $0.04 per minute based on 720 calls per telephone. See CCI Comments at 10. Multiplying by 720 calls and dividing by the low traffic number of calls (542) equals 5.3 cents per call.

[275] ($2.78 sales salaries ÷ $4.31 sales commissions ÷ $1.42 G&A) divided by 542 calls. Sprint Reply, Exhibit 1 at 2.

[276] Robinson accepts CCI and Peoples estimate of a total of $0.04 per call for SG&A. See AT&T Comments, Robinson at 6. He considers $0.02 of this to be attributable to coinless calls, implying that the total would be higher than $0.04 per call for coin calls. Robinson, however, does not adequately explain why so much of SG&A should be solely attributable to coin operations and not treated as joint and common.

[277] Some capital items, such as intangible assets and good will, would not need to be increased if the company added a payphone at a low traffic location.

[278] The Coalition notes that some coinless telephones cost significantly more than the basic coinless sets used in the Robinson study. See Coalition Reply at 27. The Coalition filed a study by Carl R. Geppert estimating that the AT&T Public Phone 2000, which incorporates a nine-inch color monitor, a dataport for laptop or fax communications, built in keyboards for access to e-mail and on-line weather services, cost between $2000 and $4000. See Coalition Ex. Parte, Oct. 1, 1997 at 3. This information, however, does not bear on how much of the costs of a new smart coin telephone are due to the coin mechanism. The typical new smart coin telephone does not incorporate these features.

[279] AT&T Comments, Robinson at 8.

[280] APCC Reply at 14; Coalition Reply at 29.

[281] $65.087 million of net plant and property divided by 40,239 payphones.

[282] $73.269 million of gross property, plant and equipment plus $1.595 of gross leasehold improvements, less $29.922 of accumulated depreciation and amortization, divided by 26,577 payphones.

[283] Based on an assumed ratio of depreciation reserve to net plant of 50% ($1,615 net plant and equipment per phone divided by .5).

[284] CCI's 10K depreciation reserve is 49% of gross depreciable net investment. The new investment per added payphone is $1,649 average net plant and equipment per payphone, divided by 60%, plus $60 average leasehold improvements per payphone. (Leasehold improvements are a joint and common cost for all payphone. The addition of one payphone would not necessarily cause any specific investment but rather, would result in a general increase in the size of the business. Thus, CCI would add an average amount of net leasehold improvements as opposed to the specific amount of investment for the instrument, the pedestal, etc.).

[285] Calculated as equal monthly payments to depreciate the investment over 10 years and earn a return of 11.25% on net investment, allowing for federal income taxes a the 34% statutory rate.

[286] Peoples reports $2.695 million of pre-paid expenses and $2.412 million of inventory. Peoples 10K at 39.

[287] CCI's 10K shows prepaid expenses of $0.708 million and inventory and uninstalled equipment of $1.438 million. See CCI 10K at 44.

[288] *See supra* paras. 59, 62.

[289–299] AT&T Comments at 2; AT&T Reply at 2; Arch Reply at 9. AT&T and ARCH state that this rate is based on the actual costs of an efficient PSP to originate access code and subscriber 800 calls. Note, however, that the Coalition challenges this estimate, arguing that AT&T's cost study merely reflects a hypothetical, not real, PSP, and links the costs to a coinless, not coin phone. The Coalition argues that adjusting AT&T's rate to reflect proper data would yield a rate of approximately $0.41 per-call. Thus, if the Commission relies on costs, it should rely on the costs of an actual payphone. Coalition Reply at 31.

[291] AT&T Comments at 10–11; AT&T Reply at 14.

[292] AT&T Comments at 12; MCI Reply at 3.

[293] AT&T Reply at 13.

[294] *Id.* at 14.

unregulated coin rate because it was based on a small and unrepresentative sample of rural states, and the cost in those states could be higher than in other areas.[295] The Commission ignored the deregulated rate in other rural states, where the rate is $0.25, which, AT&T asserts, also is the dominant rate where the majority of payphones are located.[296] Borden suggests a rate of approximately $0.133 per call, and Champion suggests a rate between $0.08 and $0.11.

113. CompTel argues that a fair compensation amount based on incremental costs is between $0.03 to $0.05 per call,[297] and that even under a direct cost approach, compensation should not exceed $0.10 per call.[298] Frontier argues that a cost-based rate should be approximately $0.10 per call,[299] but no higher than $0.11 per call.[300] ITA argues that the rate should be between $0.08 and $0.15 per call.[301] MCI argues that the per-call rate for access code calls is $0.083 per call, and that the number for subscriber 800 calls should be even lower.[302]

114. MIDCOM states that the rate should be $0.057.[303] Sprint argues that on a fully allocated approach to costs, using an efficient bellwether provider, the default rate per call should be $0.06.[304] TRA argues that the 35 cent rate is too high.[305] Excel argues that the Court decision demonstrates that we cannot set the rate for subscriber 800 and access code calls at the same level as the local coin rate, and thus the Commission must reduce the $0.35 rate.[306]

115. The Coalition states that, to truly reflect the market, the local coin rate needs to be adjusted from $0.35 upward to $0.42 or $0.43 per call.[307] In a fully realized market, the Coalition states, noncoin calls would be carrying a greater portion of the payphone costs than coin calls, and therefore should be priced at a higher rate.[308] APCC alleges that the average per-call local coin rate is $0.41, not $0.35.[309] IPTA and TEI state that the record supports a compensation level of no less than $0.35 per call.[310] CCI requests that the Commission set the per-call compensation rate at $0.35.[311]

116. The majority of the IXCs argue that there should be one national rate,[312] because a varying rate would be nearly impossible to administer, and could increase the costs to carrier-payers of administering per-call compensation.[313] Furthermore, CWI argues that because not all carriers can block calls, the Commission should not create a situation where carriers must block calls because they are unaware of the rate to be charged.[314] MCI argues that if the Commission does not adopt one uniform rate, then it should set parameters such as notifying carriers of the coin rate in advance and changing the coin rate not more than once per year.[315] APCC argues that the Commission should not adopt a uniform compensation rate, and although the costs associated with a non-uniform rate may be higher, the benefits of directly market-based compensation are worth the extra costs.[316]

2. *Discussion*

117. We conclude from our analysis in Section B, that the market-based rate for access code and subscriber 800 calls, adjusted for cost differences is $0.284.[317] We further conclude that the market-based rate we establish herein as a default rate for per-call compensation promotes the goals of Section 276 of the Act, fair compensation, the deployment of payphones, and competition, and is a rate that is reasonably related to the market-based local coin rate. As discussed below, we conclude that the $0.284 default rate for per-call compensation rate, absent negotiations, should be in effect for two years to enable LECs, PSPs and IXCs additional time to transition efficiently and without disruptions to the deregulated payphone market structure created in the *Payphone Orders*.[318] Furthermore, we conclude that after the two year per-call compensation rate period, "fair compensation" for access code and subscriber 800 calls pursuant to Section 276 and an analysis of the record is the deregulated market rate for the local coin call adjusted for costs as discussed herein. Accordingly, the default rate for the first two years of per-call compensation is $0.284; after the first two years, the default rate is the market-based local coin rate minus $0.066 per call. We conclude that the default per-call rate falls within a zone of reasonableness that will provide fair compensation for subscriber 800 and access code calls as required by Section 276, while allowing the market to develop, and PSPs who desire, to negotiate a different rate.[319]

118. In adopting an adjusted market-based rate approach, we note that the Commission has the authority to rely on market forces, and further, that "market predictions are within the institutional competence of the Commission."[320] In adopting this approach, we are confident that market forces will keep payphone prices at competitive levels, and that our default rate is in accordance with prevailing market conditions adjusted for costs. Courts have upheld rates established by regulatory agencies that lie within a "zone of reasonableness,"[321] particularly, in the context of ratemaking. While we do not consider the development of the default rate established herein to be ratemaking, because market imperfections currently exist within the evolving competitive payphone market, we have set a default rate to ensure competition.[322]

119. As discussed above, in response to the claims of parties on the record that only a rate derived from cost data submitted in the record will provide a valid per-call rate, we have also performed an analysis of those data for purposes of comparison with the market-based per-call rate we establish in this order. In setting the default rate for per-call compensation at $0.284 based on our market-based analysis, we have also considered the results of our analysis of the record information concerning the long run costs of payphone service. We have calculated the long run costs per-call for a provider to install a payphone to be in the range of $0.247 per call to $0.281 cents per call.[323] An estimate compiled under this long run costs approach must be considered a lower bound when establishing a default rate. The rate derived in this manner, by definition, just covers the cost of installing and operating a payphone at a marginal location. As such, it will not encourage either the deployment of additional payphones or an incentive for IXCs to negotiate with PSPs. Such minimal incentives are contrary to the goals of promoting competition among payphone service providers and promoting the widespread deployment of payphone services. Accomplishing these goals requires that we ensure that the default rate, in addition to covering cost, provide sufficient incentives for PSPs to deploy additional payphones and tangible incentives for IXC and PSPs to negotiate. Thus, the default rate we adopt for subscriber 800 and access code calls based on the market-based local coin rate adjusted for costs differences is appropriately and reasonably at the high end of the range compiled from the long run cost analysis.

120. We deny requests that we should mandate a uniform and fixed per-call compensation rate for each compensable call. A fixed rate would not promote the statutory goals of Section 276, because it would not encourage negotiations between IXCs and PSPs. It is our expectation that IXCs and PSPs will build business relationships and create operating procedures to provide compensation in an efficient manner. Given that we have adopted a deregulatory approach in this order, we conclude that we should not establish those procedures. Under the approach we established in the *Report and Order*, (61 FR 52307 (October 7, 1996)) the market is allowed to set the compensation amount for calls originated by each payphone. The court did not vacate that part of the *Report and Order*. For market-based pricing to function effectively, it is not unreasonable that there be some variation in compensation amounts from location to location. We also decline to delay the effective date of this order as requested by CWI. As we discussed previously, we conclude that it is in the public interest to make this order effective immediately.[324]

121. In this order, we extend the per-call interim compensation period subject to a default rate established in the Payphone Orders for an additional year. Thus, the per-call compensation period during which the default rate is $0.284 begins on October 7, 1997, and ends on October 6, 1999. We established the interim compensation plan in the *Payphone Orders* in order to ease the transition to market-based rates. We stated that it was necessary to observe over time how the payphone marketplace would function in the absence of regulation. We noted that market imperfections had led us to establish a default rate. On this record, we conclude that additional time is required to ease the transition to market-based rates and that continuing the applicability of the default rate for an additional year is in the public interest. As we have summarized in this order, we have received comments from LECs, PSPs, and IXCs regarding the problems and issues they face in transitioning to the payphone market compensation structure we established in the *Payphone Orders*. For example, IXCs and their customers allege that after the first year of per-call compensation established in the *Payphone Orders*, when the default rate will be the deregulated coin rate adjusted for cost differences, PSPs will raise the coin rate in a manner that will raise substantially the per-call rate for access code and subscriber 800 calls. They indicate that their systems are not adequately prepared to respond to such situations. In addition, LECs have indicated problems in providing the payphone-specific coding digits required to respond to calls from payphones on a real-time basis for some payphones in their serving areas.

122. Although we conclude in this order that the marketplace, based on negotiations between IXCs and PSPs, is where compensation decisions should be determined and that the default rate after the per-call transition period should be the market-based local coin rate adjusted for cost difference, we believe that this two year per-call compensation period subject to the default rate is necessary to afford IXCs, PSPs and LECs the opportunity to adjust to and adequately prepare for the

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[295] *See id.* at 22–23; *see also* CFA Reply at 7; MIDCOM Comments at 5; RCN Comments at 4; TRA Comments at 21; Excel Reply at 9 (stating that the four states that have deregulated rates account for only two percent of the nation's payphones).

[296] *See, e.g.*, Excel Reply at 10 (stating that a Massachusetts proceeding determined that the rate there is $.25).

[297] CompTel Reply at i, 8.

[298] *Id.* at 14.

[299] Frontier Comments at 9.

[300] Frontier Reply at ii, 2 (arguing that a rate higher than $0.11 per call would harm consumers).

[301] ITA Comments at 7 (basing the upper number on the $0.17 rate identified for a local coin call by the Massachusetts DPU for NYNEX minus the cost of coin collection ($0.02) and further stating that the $0.35 rate results in increased cost of a typical prepaid phone card call by over fifty percent per call).

[302] MCI Comments at 3.

[303] MIDCOM Reply at 6. In its comments, MIDCOM argued that the rate should be between $0.067 to $0.25 per call. *Seest* MIDCOM Comments at 7.

[304] Sprint Reply at 4.

[305] TRA Comments at 21 (arguing that the costs associated with making a coinless call are significantly less than those associated with a coin call).

[306] Excel Comments at 2.

[307] Coalition Comments at 13–14.

[308] *Id.*

[309] APCC Comments at 15 (explaining that coinless calls generate additional costs such as ANI).

[310] *See IPTA* Reply at 5, 11; *see also* TEI Comments at 10; TEI Reply at 2 (arguing that a lower figure could result in the removal of payphones).

[311] CCI Comments at 2, 10 (arguing that total cost plus return on invested capital is $0.37 per call for a coin call, and $0.34 per call for a coinless call).

[312] *See, e.g.*, CWI Comments at 10–11; CWI Reply at i, 1, 12 (stating that the Commission should not start per-call compensation until thirty days after the release of an order on remand so that carriers will have ample time to recover per-call amount in their tariffed charges); LCI Comments at 8, n.14; MCI Comments at 5; RCN Comments at 4; Sprint Reply at 21; WorldCom Comments at 4 (stating that a national rate would enable IXCs to fulfill tracking and payment obligations and that this rate could be eligible for periodic adjustment based on changes in TSLRIC costs).

[313] CWI Reply at 12 (stating that it could cost carriers-payers perhaps up to 300 percent above the cost of administering a uniform compensation rate); AT&T Comments at ii, 16–17 (stating that a "floating" rate could cost carriers "hundreds of millions of dollars to track and block calls from excessively-priced payphones and would be virtually impossible, and extremely costly to administer."); MCI Comments at 5 (stating that it would be costly due to administrative costs, switch software upgrades, and call processing systems development); LCI Comments at 8–9 (stating that the Commission should establish a uniform, national compensation rate for access code and subscriber 800 calls and that a uniform rate will allow the necessary business certainty and will reduce call blocking due to a carrier's lack of information concerning the rate to be charged); Sprint Reply at 21 (arguing that there is no basis for a mechanism to periodically adjust the rate upward because if the Commission bases the rate on costs that include fixed costs of the PSPs, then as traffic volumes grow, unit costs should decline).

[314] CWI Comments at 10–11; CWI Reply at 12.

[315] MCI Comments at 5; MCI Reply at 12.

[316] APCC Reply at 32.

[317] The Commission has the authority to employ different methodologies and/or regulatory models to arrive at a particular rate. *See Permian Basin Area Rate Cases*, 390 U.S. 747, 767 (1968). We note that as discussed above, parties have argued for a range of from $0.03 to $0.63. While determining an appropriate rate, we have kept in mind that Congress specifically stated that "[c]arriers and customers that benefit from the availability of a payphone should pay for the service they receive when a payphone is used to place a call." House Report at 88. *See supra* paras. 23–28, 63.

[318] *See infra* para. 121.

[319] We note that the Illinois Commerce Commission adopted a rate of $0.30 for retail 1–800 calls (which are synonymous with access code calls) when it deregulated payphones. The Illinois proceeding raised many of the same concerns as those raised in this proceeding. *See* IPTA Comments, July 1, 1996, Appendix B, Order of the Illinois Commerce Commission, 93–0490 at 18–19, 24. We also note that the rate that AT&T negotiated with PSPs for access code calls was $0.25. The rate we adopt herein falls within the range of these rates. *See* AT&T Reply at 12–13.

[320] *FCC* v. *WNCN Listeners Guild*, 450 U.S. 582, 593, 596 (1981).

[321] *See, e.g., Nader* v. *FCC*, 520 F.2d 182 (D.C. Cir. 1975) (stating that there is a zone of reasonableness within which a rate will be upheld and that the Commission must identify the boundaries of such a zone); *National Cable Television* v. *Copyright Royalty Tribunal*, 724 F.2d 176 (D.C. Cir. 1983) (stating that rulings need not rest on precise mathematical calculations and that a ruling will be upheld if it lies within the zone of reasonableness); *Bell Atlantic Tel. Co.* v. *FCC*, 79 F.3d 1195, 1202 (D.C. Cir. 1996) (stating that the Commission is not required to include all data when determining a rate, and that the Commission has the authority to exclude suspicious data or statistical outliers).

[322] In *Illinois Public Telecomm.*, the court stated that "a market-based approach is as much a compensation scheme as a rate-setting approach. 117 F.3d at 663.

[323] In deriving a default per-call compensation rate based on the long run costs indicated in the record data, we do not adopt this approach on a going-forward basis but continue to rely instead on the market-based approach adjusted for cost differences. To do otherwise would lead to our continuing review of the costs associated with providing per-call compensation for subscriber 800 and access code calls and provide disincentives to PSPs and IXCs to negotiate market based rates for these services. Moreover, market-based rates lead to efficient allocation of resources and avoid the pitfalls of regulating rates for firms that use common facilities to produce both non-regulated and regulated services.

[324] *See supra* para. 3.

deregulatory market-based structure we adopted pursuant to Section 276.[325]

E. Other

1. *Comments*

123. *AirTouch Plan.* AirTouch suggests that the Commission explore a new method to resolve the compensation issue due to the wide divergence of views expressed in the replies, and its concern that call blocking options do not exist. AirTouch argues that the Commission should adopt a method that does not rely on call tracking or call blocking to place checks on the imposition of excessive charges by payphone service providers.[326] AirTouch proposes that the Commission adopt a unique 8XX approach that would be toll-free for long distance charges, but could be accessed from a payphone only if the caller deposits coins (presumably at a fraction of the local coin rate). PageNet and PCIA support AirTouch's unique 8XX approach and state that it merits further investigation.[327] PageMart argues that if the Commission does not adopt a caller-pays approach, then it should consider AirTouch's modified approach.[328] Several of the paging companies argue that they should pay less than other carriers due to the short duration of the calls used to initiate pages.[329]

124. *Reconsider Use of Caller Pays.* AirTouch, PageNet, PageMart, Arch, and PCIA argue that the Commission should adopt a caller-pays system, because such a system, they argue, is the only true surrogate for market-based compensation.[330] PCIA argues that the Commission should reconsider the caller-pays system because IXCs have a limited ability to block calls and thus have a check on excessive payphone rates.[331]

125. APCC contends that the paging industry's recommendation that the Commission should adopt a caller pays approach is without merit.[332] APCC contends that the information needed to block calls from PSPs that charge "too much" is located within a database, not the screening digits.[333] APCC contends that it is not necessary to implement this database until per-call compensation is tied to individual providers' prices in October 1998.[334]

126. *Call Blocking.* AirTouch reiterates its concern that call blocking options do not exist, and therefore suggests the proposal enumerated above, because the proposal does not rely on call tracking or call blocking to place checks on the imposition of excessive charges by payphone service providers.[335] AirTouch further states that paging companies should not have to pass through the $0.35 charge until targeted call blocking is available for payphone calls,[336] and PageMart contends that call blocking technology is an integral part of the development of a competitive PSP market.[337] MCI argues that Congress did not intend for carriers to have to block calls, and furthermore, carriers will not be able to selectively block calls until the third quarter of 1998.[338]

127. PageNet, PageMart, and PCIA contend that without call blocking capability, the 800 subscriber does not have any leverage to negotiate for lower rates for calls placed from payphones, therefore, these carriers argue, a market-based compensation scheme cannot work.[339] GCI contends that as a small carrier operating primarily in Alaska, it is not in a position to negotiate with payphone providers around the country to get a better rate and furthermore, it does not want to block calls from payphone locations.[340]

128. Arch requests that if the Commission maintains a carrier-pays approach, it should either order all 800 carriers to deploy blocking capability so that each 800 customer has the option to block, or apply notions of cost-causation so payphone costs are instead paid by the cost-causer, the payphone user.[341] Champion argues that a call blocking option must be provided, because it does not want to be liable for calls from places such as prisons or other non-business related locations. CPI contends that the cost of tracking individual payphones and blocking calls may be cost prohibitive such that blocking does not necessarily give IXCs any leverage to negotiate with PSPs to constrain the compensation rate. Furthermore, CPI contends that customers do not benefit when calls are blocked, and call blocking will not result in a price that is market based.[342] Several of the IXCs argue that call blocking technology is extremely costly, and that they do not currently have this technology in place.[343]

129. The Coalition contends that the argument that market-based prices may lead to call blocking is without merit, because PSPs have an interest in seeing calls completed— a blocked call does not generate compensation.[344]

130. *Other.* CWI argues that the Commission should clarify that payphones that do not transmit payphone specific coding digits are not eligible for compensation, and requests that the Commission clarify that the "07" coding digit does not identify a call from a payphone.[345]

131. ACTA argues that pass-through billing of an IXCs reseller customer should not be permitted until a new compensation scheme is in place.[346]

[325] We establish a default rate because certain call blocking capabilities are not yet available to participants in the provision of access code and subscriber 800 calls from a payphone, and thus the market is not yet free of impediments that interfere with the competitive negotiated process. In the *Payphone Orders* we concluded that, once competitive market conditions exist, the most appropriate way to ensure that PSPs receive fair compensation for each call is to let the market set the price for individual calls originated on payphones. It is only in cases where the market does not or cannot function properly that the Commission needs to take affirmative steps to ensure fair compensation. For example, because TOCSIA requires all payphones to unblock access to alternative OSPs through the use of access codes (including 800 access numbers), PSPs cannot block access to 800 numbers generally. However, TOCSIA does not prohibit an IXC from blocking subscriber 800 numbers from payphones, particularly if the IXC wants to avoid paying the per-call compensation charge on these calls. We concluded in the *Payphone Orders* that this uneven bargaining between parties necessitates the Commission's involvement.

[326] AirTouch Reply at 5.

[327] PageNet Reply at 10; PCIA Reply at 7.

[328] PageMart Reply 8.

[329] *See, e.g.,* AirTouch Reply at 8–9 (arguing that the average paging call lasts approximately 20 seconds, as compared to the Coalition data stating that the typical duration of a call from a payphone lasts 3.22 to 3.42 minutes); PageNet Reply at ii, 14–15 (stating that it should be charged rates that reflect its individual called party characteristics, because subscriber 800 calls are shorter in duration and generate less revenue than access code calls).

[330] AirTouch Reply at 5; PageNet Reply at i, 7 (arguing that a calling-party pays mechanism allows the calling party to seek out a lower priced payphone and thus exerts pressure on the PSPs to charge competitive rates and further, that the mechanism upon which the market scheme was established, call blocking, is not in place). PageNet further argues that a calling party pays system avoids FCC determination of payphone costs and the extent to which commissions paid to location owners should be included in these payphone costs. *See PageNet* Reply, supra. See also PageMart Reply at 3; PCIA Reply at 7; Arch Reply at 9.

[331] PCIA Reply at 2.

[332] APCC Reply at 23–32.

[333] Id. at 30.

[334] Id.

[335] AirTouch Reply at 5.

[336] AirTouch Comments at 8; AirTouch Reply at 4.

[337] PageMart Comments at 2.

[338] MCI Comments at 4. See PageMart Reply at 4 (stating that a system that encourages call blocking does not further the Commission's goal of providing telecommunications services to the greatest possible number of consumers).

[339] PageNet Reply at i, 3, 6 (arguing that the mechanism under which the Commission adopted a carrier party pays scheme-rates determined on real time basis is not available); PageMart Reply at 3; PCIA Reply at 3.

[340] GCI Comments at 3.

[341] Arch Reply at 5.

[342] CPI Reply at 4.

[343] Sprint Comments at 6; AT&T Comments at 17; CWI Comments at 10–11.

[344] Coalition Reply at 8–9.

[345] CWI Reply at 14–15.

[346] ACTA Comments at 4 (stating that if pass through billing is permitted, then requirements need to be established to ensure fair and accurate billing).

[347] *Bureau Waiver Order,* DA 97–2162 (rel. Oct. 7, 1997).

2. *Discussion*

132. We decline to address in this proceeding issues related to the implementation of the per-call compensation structure beyond the per-call compensation rate. The above issues were raised by parties in response to the *Notice,* despite its limited scope. In this order, we do not revisit the issue of who is responsible for paying compensation and whether carriers can block, issues already addressed in the *Payphone Orders,* and upheld by the court. We also decline to evaluate at this time, a new proposal relating to the tracking of calls, or that we establish a compensation scheme on a per-minute rather than per-call basis, which could substantially delay the beginning of the per-call compensation scheme. To the extent that we decide to revisit any of these issues, such review will be addressed in a subsequent proceeding.

133. We decline to grant CWI's request that we clarify the payphone-specific coding digit requirements set forth in the *Payphone Orders,* because the purpose of this order is to establish a default per-call compensation rate. We plan to address payphone-specific coding digit issues in a subsequent order. As discussed above, we note that the Bureau has granted a waiver until March 9, 1998, for PSPs to comply with payphone-specific coding digit requirements. Pursuant to that waiver, IXCs must pay compensation to PSPs including those with payphones that cannot transmit payphone-specific coding digits.[347]

IV. Procedural Matters

A. Final Paperwork Reduction Act Analysis

134. The decision herein has been analyzed with respect to the Paperwork Reduction Act of 1995, Pub. L. 104–13, and does not contain new and/or modified information collections subject to Office of Management and Budget review. The information and collection requirements in this item are contingent upon approval by the Office of Management and Budget.

B. Final Regulatory Flexibility Act Analysis

135. As required by the Regulatory Flexibility Act (RFA),[348] an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Notice of Proposed Rulemaking.*[349] The Commission sought written public comment on the proposals in the NPRM, including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.[350]

1. *Need for, and Objectives of, the Second Report and Order*

136. The objective of the rules adopted in this order is "to promote competition among payphone service providers and promote the widespread deployment of payphone services to the benefit of the general public."[351] In doing so, the Commission is mindful of the balance that Congress struck between this goal of bringing the benefits of competition to consumers and its concern for the impact of the 1996 Telecommunications Act on small businesses.

2. *Summary of Significant Issues Raised by Public Comments in Response to the IRFA*

137. *Summary of the Initial Regulatory Flexibility Analysis (IRFA).* In the IRFA, the Commission solicited comment on alternatives to our proposed rules that would minimize the potential impact on small entities consistent with the objectives of this proceeding. The Commission received one comment on the potential impact on small business entities, which the Commission considered in promulgating the rules in this Order. Frontier commented generally that the compensation scheme advanced in the NPRM was "unnecessarily onerous and inefficient" and "in conflict with the goals of the * * * Regulatory Flexibility Act."[352] Frontier did not comment specifically on what aspect of the compensation scheme would have economic impact on small business entities. We disagree with Frontier's general assertion that the compensation scheme is in conflict with the Regulatory Flexibility Act. Our rules are designed to facilitate the development of competition, which benefits many small business entities. The rules will ensure that payphone services providers, many of whom may be small business entities, receive fair compensation. Our rules provide significant flexibility to permit the affected parties, including small business entities, to structure procedures that would minimize their burdens. For example, the rules require IXCs and intraLATA carriers, as primary economic beneficiaries of payphone calls, to track the calls they receive from payphones. These carriers have the option of performing these functions themselves or contracting out these functions to another party, such a LEC or clearinghouse. We also provide a transition period. We believe that our rules are designed to effectively optimize the efficiency and minimize the burdens of the compensation scheme on all parties, including small entities.

3. *Description and Estimate of the Number of Small Entities to Which Rules Will Apply*

138. For the purposes of this order, the RFA defines a "small business" to be the same as a "small business concern" under the Small Business Act, 15 U.S.C. § 632, unless the Commission has developed one or more definitions that are appropriate to its activities.[353] Under the Small Business Act, a "small business concern" is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA).[354] SBA has defined a small business for Standard Industrial Classification (SIC) category 4813 (Telephone Communications, Except Radiotelephone) to be a small entity when it has no more than 1,500 employees.[355]

139. We have found incumbent LECs to be "dominant in their field of operation" since the early 1980s, and we consistently have certified under the RFA[356] that incumbent LECs are not subject to regulatory flexibility analyses because they are not small businesses.[357] We have made similar

[348] *See* 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. § 601 *et. seq.,* has been amended by the Contract With America Advancement Act of 1996, Pub. L. No. 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

[349] Implementation of Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96–128, *Notice of Proposed Rulemaking,* 61 FR 31481 (June 6, 1996); 11 FCC Rcd 6716 (1996) ("*NPRM*").

[350] *See* 5 U.S.C. § 604.

[351] 47 U.S.C. § 276(b)(1).

[352] Frontier Comments in response to the IRFA at 2.

[353] *See* 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in 5 U.S.C. § 632).

[354] 15 U.S.C. § 632. See, e.g., Brown Transport Truckload, Inc. v. Southern Wipers, Inc., 176 B.R. 82 (N.D. Ga. 1994).

[355] 13 CFR § 121.201.

[356] *See* 5 U.S.C. § 605(b).

[357] *See, e.g.,* Expanded Interconnection with Local Telephone Company Facilities, *Supplemental Notice of Proposed Rulemaking,* 56 FR 52496 (October 21, 1991); 6 FCC Rcd 5809 (1991); MTS and WATS Market Structure, *Report and Order,* 52 FR 21536 (June 8, 1987); 2 FCC Rcd 2953, 2959 (1987) (citing MTS and WATS Market Structure, *Third Report and Order,* 46 FR 10319 (March 11, 1983); 93 F.C.C.2d 241, 330–39 (1983)).

determinations in other areas.[358] However, in the *Local Competition* proceeding, several parties, including the SBA, commented that we should have included small incumbent LECs in the IRFA pertaining to that order.[359] We recognize SBA's special role and expertise with regard to the RFA, and intend to continue to consult with SBA outside the context of this proceeding to ensure that the Commission is fully implementing the RFA. Although we are not fully persuaded that our prior practice has been incorrect, we will, include small incumbent LECs in this FRFA, while continuing to hold that the terms "small entities" and "small businesses" does not encompass "small incumbent LECs." We use the term "small incumbent LECs" to refer to any incumbent LECs that arguably might be defined by SBA as "small business concerns."[360]

140. *Total Number of Telephone Companies Affected.* The United States Bureau of the Census (the Census Bureau) reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year.[361] This number encompasses a broad category which contains a variety of different subsets of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, PCS providers, covered SMR providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not "independently owned and operated."[362] For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It seems reasonable to conclude, therefore, that fewer than 3,497 telephone service firms are small entity telephone service firms or small incumbent LECs that may be affected by this Order. We estimate below the potential small entity telephone service firms or small incumbent LECs that may be affected by this Order by service category.

141. *Wireline Carriers and Service Providers.* The SBA's definition of small entities for telephone communications companies, other than radiotelephone (wireless) companies, is one employing no more than 1,500 persons.[363] The Census Bureau reports that, there were 2,321 such telephone companies in operation for at least one year at the end of 1992.[364] All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small incumbent LECs. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 2,295 small entity telephone communications companies other than radiotelephone companies that may be affected by the decisions and rules adopted in this Order.

142. *Local Exchange Carriers.* Neither the Commission nor SBA has developed a definition of small providers of local exchange services (LECs). The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies (SIC 4813). The most reliable source of information regarding the number of LECs nationwide of which we are aware appears to be the data that we collect annually in connection with the Telecommunications Relay Service (TRS).[365] According to our most recent data, 1,347 companies reported that they were engaged in the provision of local exchange services.[366] Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,347 small incumbent LECs that may be affected by the decisions and rules adopted in this Order.

143. *Interexchange Carriers.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to providers of interexchange services (IXCs). The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies (SIC 4813). The most reliable source of information regarding the number of IXCs nationwide of which we are aware appears to be the data that we collect annually in connection with TRS. According to our most recent data, 97 companies reported that they were engaged in the provision of interexchange services.[367] Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of IXCs that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 97 small entity IXCs that may be affected by the decisions and rules adopted in this Order.

144. *Competitive Access Providers.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to providers of competitive access services (CAPs). The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies (SIC 4813). The most reliable source of information regarding the number of CAPs nationwide of which we are aware appears to be the data that we collect annually in connection with the TRS. According to our most recent data, 30 companies reported that they were engaged in the provision of competitive access services.[368] Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of CAPs that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 30 small entity CAPs that may be affected by the decisions and rules adopted in this Order.

145. *Operator Service Providers.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to providers of operator services (OSPs). The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies (SIC 4813). The most reliable source of information regarding the number of operator service providers nationwide of which we are aware appears to be the data that we collect annually in connection with the TRS. According to our most recent data, 29 companies reported that they were engaged in the provision of operator services.[369] Although it seems certain that some of these companies are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of operator service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 29 small entity operator service providers that may be affected by the decisions and rules adopted in this Order.

146. *Payphone Operators.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to pay telephone operators. The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of payphone operators nationwide of which we are aware appears to be the data that we collect annually in connection with the TRS. According to our most recent data, 197 companies reported that they were engaged in the provision of payphone services.[370] Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of payphone operators that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 197 small entity payphone operators that may be affected by the decisions and rules adopted in this Order.

147. *Resellers (including debit card providers).* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to resellers. The closest applicable definition under SBA rules is for all telephone communications companies (SIC 4812 and 4813). The most reliable source of information regarding the number of resellers nationwide of which we are aware appears to be the data that we collect annually in connection with the TRS. According to our most recent data, 206 companies reported that they were engaged in the resale of telephone services.[371] Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of resellers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 206 small entity resellers that may be affected by the decisions and rules adopted in this Order.

148. *800-Subscribers.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to 800-subscribers. The most reliable source of information regarding the number of 800-subscribers of which we are aware appears to be the data we collect on the number of 800-numbers in use.[372] According to our most recent data, at the end of 1995, the number of 800-numbers in use was 6,987,063. Although it seems certain that some of these subscribers are not independently owned and operated businesses, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of 800-subscribers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 6,987,063 small entity 800-subscribers that may be affected by the decisions and rules adopted in this Order.

149. *Location Providers.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to location providers. A location provider is the entity that is responsible for maintaining the premises upon which the payphone is physically located. Due to the fact that location providers do not fall into any specific category of business entity, it is impossible to estimate with any accuracy the number of location providers. Using several sources, however, we have derived a figure of 1,850,000 payphones in existence.[373] Although it seems certain that some of these payphones are not located on property owned by location providers that are small business entities, nor does the figure take into account the possibility of multiple payphones at a single location, we are unable at this time to estimate with greater precision the number of location providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,850,000 small entity location providers that may be affected by the decisions and rules adopted in this Order.

150. *Wireless (Radiotelephone) Carriers (including paging services).* The SBA's definition of a small business radiotelephone company is one employing fewer than 1,500 persons.[374] The Census Bureau reports that there were 1,176 such companies in operation for at least one year at the end of 1992.[375] The Census Bureau also reported that 1,164 of those radiotelephone companies had no more than 1,000 employees. Thus, even if all of the remaining 12 companies had more than 1,500 employees, there would still be 1,164 radiotelephone companies that might qualify as small entities if they are independently owned and operated. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of radiotelephone carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,164 small entity radiotelephone companies that may be affected by the decisions and rules adopted in this Order.

151. *Cellular Service Carriers (including paging services).* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to providers of cellular services. The closest applicable definition under SBA rules is for

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[358] *See, e.g.*, Implementation of Sections of the Cable Television Consumer Protection Act of 1992: Rate Regulation, *Sixth Report and Order and Eleventh Order on Reconsideration*, 60 FR 10534 (February 27, 1995); 10 FCC Rcd 7393, 7418 (1995).

[359] The Small Business Administration (SBA), the Rural Telephone Coalition (Rural Tel. Coalition), and CompTel maintain that the Commission violated the RFA when it failed to include small incumbent LECs in its IRFA without first consulting SBA to establish a definition of "small business." *See Local Competition Order* at paras. 1328–30.

[360] *See* 13 CFR § 121.210 (SIC 4813).

[361] United States Department of Commerce, Bureau of the Census, *1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size*, at Firm Size 1–123 (1995) ("*1992 Census*").

[362] 15 U.S.C. § 632(a)(1).

[363] 13 CFR § 121.201, Standard Industrial Classification (SIC) Code 4812.

[364] 1992 Census, *supra*, at Firm Size 1–123.

[365] All carriers that provide interstate service are required to pay into the TRS Fund, which provides access to Telecommunications Device for the Deaf (TDD). *See generally* 47 CFR §§ 64.601 *et seq.*

[366] Federal Communications Commission, CCB, Industry Analysis Division, Telecommunications Industry Revenue: TRS Fund Worksheet Data, Tbl. 21 (Average Total Telecommunications Revenue Reported by Class of Carrier) (Feb. 1996) ("*TRS Worksheet*").

[367] *Id.*

[368] *Id.*

[369] *Id.*

[370] *Id.*

[371] *Id.*

[372] Federal Communications Commission, CCB, Industry Analysis Division, *FCC Releases, Study on Telephone Trends*, Tbl. 20 (May 16, 1996).

[373] There are approximately 1.5 million LEC payphones. Statistics of Communications Common Carriers, 1994/1995 edition, Common Carrier Bureau, FCC at 159, Table 2.10 (1996). There are approximately 350,000 competitively provided payphones. *See Ex Parte* Letter to Michael Carowitz, Attorney, Common Carrier Bureau, FCC from Michael Benson, Senior Product Manager, PPO Compensation Clearinghouse, Cincinnati Bell (Apr. 24, 1996). Cincinnati Bell, as the payphone compensation paying agent for three interexchange carriers, states that it receives quarterly bills from PPOs for more than 350,000 competitively provided payphones. *Id.*

[374] 13 CFR 121.201, Standard Industrial Classification (SIC) Code 4812.

[375] United States Department of Commerce, Bureau of the Census, *1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size*, at Firm Size 1–123 (1995) ("*1992 Census*").

telephone communications companies other than radiotelephone (wireless) companies (SIC 4813). The most reliable source of information regarding the number of cellular service carriers nationwide of which we are aware appears to be the data that we collect annually in connection with the TRS. According to our most recent data, 789 companies reported that they were engaged in the provision of cellular services.[376] Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of cellular service carriers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 789 small entity cellular service carriers that may be affected by the decisions and rules adopted in this Order.

152. *Mobile Service Carriers (including paging services).* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to mobile service carriers, such as paging companies. The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of mobile service carriers nationwide of which we are aware appears to be the data that we collect annually in connection with the TRS. According to our most recent data, 117 companies reported that they were engaged in the provision of mobile services.[377] Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of mobile service carriers that would qualify under SBA's definition. Consequently, we estimate that there are fewer than 117 small entity mobile service carriers that may be affected by the decisions and rules adopted in this Order.

153. *Broadband PCS Licensees (including paging services).* The broadband PCS spectrum is divided into six frequency blocks designated A through F. As set forth in 47 CFR § 24.720(b), the Commission has defined "small entity" in the auctions for Blocks C and F as a firm that had average gross revenues of less than $40 million in the three previous calendar years. Our definition of a "small entity" in the context of broadband PCS auctions has been approved by SBA.[378] The Commission has auctioned broadband PCS licenses in Blocks A, B, and C. We do not have sufficient data to determine how many small businesses bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions.[379] Based on this information, we conclude that the number of broadband PCS licensees affected by the decisions in this Order includes, at a minimum, the 90 winning bidders that qualified as small entities in the Block C broadband PCS auction.

154. At present, no licenses have been awarded for Blocks D, E, and F of broadband PCS spectrum. Therefore, there are no small businesses currently providing these services. However, a total of 1,479 licenses will be awarded in the D, E, and F Block broadband PCS auctions, which are scheduled to begin on August 26, 1996. Of the 153 qualified bidders for the D, E, and F Block PCS auctions, 105 were small businesses.[380] Eligibility for the 493 F Block licenses is limited to entrepreneurs with average gross revenues of less than $125 million.[381] There are 114 eligible bidders for the F Block.[382] We cannot estimate, however, the number of these licenses that will be won by small entities under our definition, nor how many small entities will win D or E Block licenses. Given that nearly all radiotelephone companies have fewer than 1,000 employees [383] and that no reliable estimate of the number of prospective D, E, and F Block licensees can be made, we assume for purposes of this FRFA, that all of the licenses in the D, E, and F Block Broadband PCS auctions may be awarded to small entities under our rules, which may be affected by the decisions and rules adopted in this Order.

155. *SMR Licensees (including paging services).* Pursuant to 47 CFR § 90.814(b)(1), the Commission has defined "small entity" in auctions for geographic area 800 MHz and 900 MHz SMR licenses as a firm that had average annual gross revenues of less than $15 million in the three previous calendar years. This definition of a "small entity" in the context of 800 MHz and 900 MHz SMR has been approved by the SBA.[384] The rules adopted in this Order may apply to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of less than $15 million. We assume, for purposes of this FRFA, that all of the extended implementation authorizations may be held by small entities, which may be affected by the decisions and rules adopted in this Order.

156. The Commission recently held auctions for geographic area licenses in the 900 MHz SMR band. There were 60 winning bidders who qualified as small entities in the 900 MHz auction. Based on this information, we conclude that the number of geographic area SMR licensees affected by the rule adopted in this Order includes these 60 small entities. No auctions have been held for 800 MHz geographic area SMR licenses. Therefore, no small entities currently hold these licenses. A total of 525 licenses will be awarded for the upper 200 channels in the 800 MHz geographic area SMR auction. However, the Commission has not yet determined how many licenses will be awarded for the lower 230 channels in the 800 MHz geographic area SMR auction. There is no basis, moreover, on which to estimate how many small entities will win these licenses. Given that nearly all radiotelephone companies have fewer than 1,000 employees and that no reliable estimate of the number of prospective 800 MHz licensees can be made, we assume, for purposes of this FRFA, that all of the licenses may be awarded to small entities who, thus, may be affected by the decisions in this Order.

4. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements.*

157. This order results in no additional filing requirements.

5. *Steps Taken to Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered.*

158. Section 276(b)(1)(A) directs the Commission to "establish a per call compensation plan to ensure that all payphone service providers are fairly compensated for each and every completed intrastate and interstate call using their payphone. * * *"[385] To implement Section 276(b)(1)(A), this *Second Report and Order* establishes a market-based per-call compensation rate of $0.284 to be paid to the independent payphone service providers (PSPs) for services rendered in connection with originating noncoin calls from payphones. The payphone industry appears to have the potential of being a very competitive industry once the significant subsidies and entry/exit restrictions which are presently distorting the competition are removed. However, we perceive two potential areas that could have an economic impact on small businesses and small incumbent LECs: (1) the amount of compensation paid to PSPs, and (2) the administration of per-call compensation.

159. *Amount of compensation:* By adopting a market-based local coin rate adjusted for coin differences, we ensure that PSPs, many of whom may be small business entities, receive fair compensation for subscriber 800 and access code calls. By tying the per-call compensation to the market-based local coin rate, adjusted for cost differences, we further ensure that PSPs receive fair compensation for each and every completed call made from a payphone.[386]

160. Many commentators, notably the IXCs, contend that marginal cost of originating a payphone call should be used as the basis for compensating PSPs. We conclude that use of a marginal cost standard or any closely related TSLRIC standard would leave PSPs under compensated, because such cost standards do not permit the recovery of any of a PSPs' fixed costs, which make up the bulk of a PSP's costs. We also reject, for similar reasons, suggestions that current local coin rates be used as a surrogate for per-call compensation. Local coin rates are not necessarily fairly compensatory. Local coin rates in some jurisdictions may not cover the marginal cost of service and therefore, would not fairly compensate the PSPs.

161. We reject the proposal of the BOCs and some independent payphone providers to use AT&T O+ commissions as a measure of fair value of the service provided by independent payphone providers when they originate an interstate call. These commissions may include compensation for factors other than the use of the payphone, such as a PSP's promotion of the OSP through placards on the payphone. In the absence of reliable data, the appropriate per-call compensation amount is whatever amount the particular payphone charges for a local coin call. PSPs, IXCs, subscriber 800 carriers, and intraLATA carriers, many of whom may be small business entities, may find it advantageous to agree on an amount for some or all compensable calls that is either higher or lower than the local coin rate at a given payphone because it will grant parties in the payphone industry some flexibility and allow them to take advantage of technological advances.

162. *Payment of compensation:* Various commenters, including small IXCs and paging services, proposed that the Commission reconsider the use of a "caller-pays" system.[387] We decline to revisit a caller-pays approach on remand, because the caller-pays system adopted in the *Report and Order* was upheld by the court in *Illinois Public Telecomm.* and reiterate that those approaches would involve greater transaction costs that can pose particular burdens for small businesses.

163. However, in the interests of administrative efficiency and lower costs, we require that facilities based carriers should pay the per-call compensation for calls received by their reseller customers. This would permit competitive facilities based carriers to negotiate contract provisions that would require the reseller to reimburse the carrier. We believe our actions will expedite and simplify negotiations, minimize regulatory burdens and the impact of our decisions for all parties, including small entities.

164. *Report to Congress.* The Commission will send a copy of the *Second Report and Order*, including this FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, *see* 5 U.S.C. § 801(a)(1)(A). A copy of the *Second Report and Order* and this FRFA (or summary thereof) will also be published in the **Federal Register**, *see* 5 U.S.C. § 604(b), and will be sent to the Chief Counsel for Advocacy of the Small Business Administration.

V. Conclusion

165. We conclude in this order that as of October 7, 1997, IXCs must compensate PSPs for all coinless payphone calls not otherwise compensated pursuant to contract, including subscriber 800 and access code calls, 0+ and inmate calls, at the rate of $0.284 per call. We base this decision on the conclusion that the default rate for per-call compensation for these calls is the deregulated local coin rate adjusted for cost differences. The rate of $0.284 will serve as the default per-call compensation rate for coinless payphone calls for the first two years of per-call compensation. After the first two years of per-call compensation, the market-based local coin rate adjusted for net avoided costs is the surrogate for the default per-call rate for coinless calls.

VI. Ordering Clauses

166. Accordingly, pursuant to authority contained in Sections 1, 4, 201–205, 226, and 276 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154, 201–205, 215, 218, 219, 220, 226, and 276, *It is ordered* that the policies, rules, and requirements set forth herein *are adopted.*

167. *It is further ordered* that this order is effective upon publication in the **Federal Register**.

168. *It is further ordered* that the September 10, 1997 Motion of the American Public Communications Council For Leave To File Reply Comments One Day Late, and the September 10, 1997 Motion of MCI For Leave To File An Erratum *Are Granted.*

169. *It is further ordered* that the September 16, 1997 Motion of Sprint Corporation to Require Production of A Cost Study *Is Denied.*

170. *It is further ordered*, that 47 CFR Part 64 *Is amended* as set forth below, effective upon publication in the **Federal Register**.[388]

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[376] *Id.*

[377] *Id.*

[378] *See* Implementation of Section 309(j) of the Communications Act—Competitive Bidding, PP Docket No. 93–253, *Fifth Report and Order*, 59 FR 37566 (July 22, 1994); 9 FCC Rcd 5532, 5581–84 (1994).

[379] The FCC's Personal Communications Services (PCS) Entrepreneurs' Block (C Block) auction began on December 18, 1995 and closed on May 6, 1996. The reauction for 18 defaulted PCS C Block licenses commenced on July 3, 1996 and was completed on July 16, 1996.

[380] *See* Auction of Broadband Personal Communications Service (D, E, and F Blocks), *Public Notice*, DA 96–1400 (rel. Aug. 28, 1996).

[381] Amendment of Parts 20 and 24 of the Commission's Rules—Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap, WT Docket No. 96–59, Amendment of the Commission's Cellular/PCS Cross-Ownership Rule, Report and Order, GN Docket No. 90–314, 61 FR 33859 (July 1, 1996); 11 FCC Rcd 7824 (1996).

[382] *See* Auction of Broadband Personal Communications Service (D, E, and F Blocks), *Public Notice*, DA 96–1400 (rel. Aug. 28, 1996).

[383] *1992 Census*, Table 5, Employment Size of Firms: 1992, SIC Code 4812.

[384] See Amendment of Parts 2 and 90 of the Commission's Rules to Provide for the Use of 200 Channels Outside the Designated Filing Areas in the 896–901 MHz and the 935–940 MHz Bands Allotted to the Specialized Mobile Radio Pool, PR Docket No. 89–583, *Second Order on Reconsideration and Seventh Report and Order*, 60 FR 48913 (September 21, 1995); 11 FCC Rcd 2639, 2693–702 (1995); Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band, PR Docket No. 93–144, *First Report and Order, Eighth Report and Order, and Second Further Notice of Proposed Rulemaking*, 61 FR 6212 (February 16, 1996); 11 FCC Rcd 1463 (1995).

[385] 47 U.S.C. § 276(b)(1)(A).

[386] Additionally, by adopting a rate that is less than the $0.35 initially proposed, we are mindful of the concerns of small businesses that the $0.35 rate is too high.

[387] *See supra* paras. 126, 132.

[388] The Commission finds, for the reasons set forth in para .3, *supra*, that good cause exists for

Continued

171. It is further ordered that the Commission's Office of Managing Director SHALL SEND a copy of this *Second Report and Order*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

List of Subjects in 47 CFR Part 64

Communications common carriers, Operator service access, Payphone compensation, Telephone.

Rule Changes

Part 64 of Title 47 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 64 continues to read as follows:

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 201, 218, 226, 228, 276, 48 Stat. 1070, as amended; 47 U.S.C. 201, 218, 226, 228, 276 unless otherwise noted.

2. Section 64.1300 (c) and (d) are revised to read as follows:

§ 64.1300 Payphone compensation obligation.

* * * * *

(c) In the absence of an agreement as required by paragraph (a) of this section, the carrier is obligated to compensate the payphone service provider at a per-call rate equal to its local coin rate less $0.066 at the payphone in question.

(d) For the initial two-year period during which carriers are required to pay per-call compensation, in the absence of an agreement as required by paragraph (a) of this section, the carrier is obligated to compensate the payphone service provider at a per-call rate of $0.284. After this initial two-year period of per-call compensation, paragraph (c) of this section will apply.

Note: This attachment will not be published in the Code of Federal Regulations.

Attachment B—Parties Filing Comments in Response to Payphone Remand Public Notice

1. Air Touch Paging ("AirTouch")
2. American Public Communications Council ("APCC")
3. America's Carriers Telecommunications Association ("ACTA")
4. AT&T Corp. ("AT&T")
5. Cable and Wireless, Inc. ("CWI")
6. Communications Central, Inc. ("CCI")
7. Competition Policy Institute ("CPI")
8. Competitive Telecommunications Association ("CompTel")
9. Excel Telecommunications, Inc. ("Excel")
10. Frontier Corporation ("Frontier")
11. General Communication, Inc. ("GCI")
12. Inmate Calling Services Providers Coalition ("Inmate")
13. International Telecard Association ("ITA")
14. LCI International Telecom Corp. ("LCI")
15. MCI Telecommunications Corporation ("MCI")
16. MIDCOM Communication, Inc. ("MIDCOM")
17. NATSO, Inc. ("NATSO")
18. PageMart Wireless, Inc. ("PageMart")
19. Paging Network, Inc. ("PageNet")
20. Peoples Telephone Company, Inc. ("Peoples")
21. Personal Communications Industry Association ("PCIA")
22. RBOC/GTE/SNET Payphone Coalition ("RBOC")
23. RCN Telecom Services, Inc. ("RCN")
24. Software Defined Network Users Association ("SDN")
25. Sprint Corporation ("Sprint")
26. Telaleasing Enterprises, Inc. ("TEI")
27. Telecommunications Resellers Association ("TRA")
28. Teleport Communications Group Inc. ("Teleport")
29. United States Telephone Association ("USTA")
30. WorldCom, Inc. d/b/a LDDS WorldCom ("WorldCom")

Note: This attachment will not be published in the Code of Federal Regulations.

Attachment C—Parties Filing Reply Comments to Payphone Remand Public Notice [309]

1. Air Touch Paging ("AirTouch")
2. American Public Communications Council ("APCC")
3. America's Carriers Telecommunications Association ("ACTA")
4. Arch Communications Group ("Arch")
5. AT&T Corp. ("AT&T")
6. Cable and Wireless, Inc. ("CWI")
7. Competition Policy Institute ("CPI")
8. Competitive Telecommunications Association ("CompTel")
9. Consumer Federation of American and Consumer Action ("CFA")
10. Excel Telecommunications, Inc. and Telco Communications Group, Inc. ("Excel")
11. Frontier Corporation ("Frontier")
12. GE Capital Communications Services Corporation ("GECCS")
13. General Communication, Inc. ("GCI")
14. Illinois Public Telecommunications Association ("IPTA")
15. Inmate Calling Services Providers Coalition ("Inmate")
16. International Telecard Association ("ITA")
17. IPSP Ad Hoc Committee for Consumer Choice ("IPSP")
18. MCI Telecommunications Corporation ("MCI")
19. MIDCOM Communication, Inc. (MIDCOM)
20. Oncor Communications ("Oncor")
21. PageMart Wireless, Inc. ("PageMart")
22. Paging Network, Inc. ("PageNet")
23. Peoples Telephone Company, Inc. and Communications Central, Inc. ("Peoples")
24. Personal Communications Industry Association ("PCIA")
25. RBOC/GTE/SNET Payphone Coalition ("Coalition")
26. RCN Telecom Services, Inc. ("RCN")
27. Sprint Corporation ("Sprint")
28. Telaleasing Enterprises, Inc. ("TEI")
29. United States Telephone Association ("USTA")
30. WorldCom, Inc. d/b/a LDDS WorldCom ("WorldCom")

[FR Doc. 97–28614 Filed 10–29 97; 8:45 am]

BILLING CODE 6712–01–P

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the effective date to be less than 30 days after publication in the Federal Register.

[309] The following parties have submitted letters to the Commission, which are treated as informal comments and considered part of the record in this proceeding: Borden, Champion, and Sitel.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket 96–128; DA 97–2214]

Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996

AGENCY: Federal Communications Commission.

ACTION: Notice of partial waiver of regulations.

SUMMARY: On October 7, 1997, the Common Carrier Bureau granted, on its own motion, a limited waiver of five months, until March 9, 1998, to those local exchange carriers and payphone service providers that cannot provide payphone-specific digits as required by orders in this proceeding. This limited waiver applied to the requirement that local exchange carriers provide payphone-specific coding digits to payphone service providers, and that payphone service providers provide coding digits from their payphones before they can receive per-call compensation from interexchange carriers for subscriber 800 and access code calls, and 0+ and inmate calls (47 CFR 64.1300–64.1340). The limited waiver recognized that three parties had filed petitions for waiver of the payphone-specific coding digit requirements. This document seeks comment on those waiver requests.

DATES: The partial waiver of 47 CFR 64.1300–64.1340 is effective October 7, 1997 until March 9, 1998. Comments are due on or before October 30, 1997, and reply comments are due on or before November 6, 1997.

ADDRESSES: Federal Communications Commission, Room 222, 1919 M St., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rose Crellin or Greg Lipscomb, Formal Complaints and Information Branch, Enforcement Division, Common Carrier Bureau. (202) 418–0960.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–28750 Filed 10–29–97; 8:45 am]

BILLING CODE 6712–01–P–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1807, 1816, 1817, 1827, 1832, 1837, 1842, 1845, and 1852

Miscellaneous Revisions to the NASA FAR Supplement

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This is a final rule amending the NASA FAR Supplement (NFS) to specify sources of the NASA Acquisition Forecast; amend regulations on types of contracts and special contracting methods; correct errors in regulations on patents, data, and copyrights; add new language on contract financing; remove unnecessary language relating to service contracting; implement direct submission of vouchers to NASA paying offices; and clarify contractor property reporting requirements.

EFFECTIVE DATE: October 30, 1997.

FOR FURTHER INFORMATION CONTACT: Tom O'Toole, NASA, Office of Procurement, Contract Management Division (Code HK), (202) 358–0478.

SUPPLEMENTARY INFORMATION:

Background

NFS 1807.7205(a) specifies the Internet URL to obtain the annual NASA Acquisition Forecast and its semiannual update. This URL is outdated and is corrected. Paragraph (b) of this section specifies that a hard copy of the forecast may be obtained from the Headquarters Office of Procurement (HS) and the Office of Small and Disadvantaged Business Utilization (Code K). NASA believes electronic access is the most efficient method to disseminate information in an expedient manner, and the hard copy availability is deleted. Changes are made in Part 1816 to revise existing language and add a new section 1816.404. Changes are made to Part 1817 to remove paragraph (a)(2) from section 1817.7001 and transferring it to a new subpart 1817.72. Changes are made to Part 1827 to reinsert language inadvertently deleted in the NFS Rewrite (1827.301) and correct a typographical error (1827.303–70). The change in Part 1837 is to delete paragraph (c) of section 1837.110–70. Changes are made to Parts 1842 and 1852 to implement a Defense Contract Audit Agency (DCAA) program for contractor direct submission of interim vouchers to NASA paying offices without prior DCAA review. Finally, NFS Part 1845 is clarified to specify that fee associated with fabrication of Government property shall be included in Contractor Government property reports.

Impact

NASA certifies that this regulation will not have a significant economic impact on a substantial number of small business entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This final rule does not impose any reporting or recordkeeping requirements subject to the Paperwork Reduction Act.

List of Subjects in 48 CFR Parts 1807, 1816, 1817, 1827, 1832, 1837, 1842, 1845, and 1852

Government procurement.

Tom Luedtke,

Deputy Associate Administrator for Procurement.

Accordingly, 48 CFR Parts 1807, 1816, 1817, 1827, 1832, 1837, 1842, 1845, and 1852 are amended as follows:

1. The authority citation for 48 CFR Parts 1807, 1816, 1817, 1827, 1832, 1837, 1842, 1845, and 1852 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1807—ACQUISITION PLANNING

1807.105 [Amended]

2. In section 1807.105, the designated paragraph (b)(19) is redesignated as paragraph (b)(20).

1807.7205 [Amended]

3. Section 1807.7205 is revised to read as follows:

1807.7205 Public availability.

The annual forecast and semiannual update are available on the NASA Acquisition Internet Service (http://www.hq.nasa.gov/office/procurement/).

PART 1816—TYPES OF CONTRACTS

1816.402–270 [Amended]

4. In paragraph (a) to section 1816.402–270, the phase "total estimated cost and fee" is revised to read "total value (including options)".

1816.404 [Added]

5. Section 1816.404 is added to read as follows:

1816.404 Fixed-price contracts with award fees.

Section 1816.405–2 applies to the use of FPAF contracts as if they were CPAF contracts. However, neither base fee (see 1816.405–271) nor evaluation of cost control (see 1816.405–274) apply to FPAF contracts.

1816.406–70 [Amended]

6. In paragraph (a) to section 1816.406–70, the phrase "a cost-plus-award-fee" is revised to read "an award-fee".

7. In paragraph (b) to section 1816.406–70, the phrase "a cost-plus-award-fee" is revised to read "an award-fee", and the following sentence is added to the end of the paragraph:

"When the clause is used in a fixed-price award fee contract, it shall be modified by deleting references to base fee in paragraphs (a), and by deleting paragraph (c)(1), the last sentence of (c)(4), and the first sentence of (c)(5)."

8. In paragraph (e) to section 1816.406–70, the phrase "cost-plus-award-fee" is revised to read "an award-fee", and the following sentence is added to the end of the paragraph:

"When the clause is used in a fixed-price award fee contract, it shall be modified to delete references to base fee and to reflect the contract type."

PART 1817—SPECIAL CONTRACTING METHODS

1817.503 [Amended]

9. In section 1817.503, the existing paragraph is redesignated as "(2)" and a new paragraph (a) is added to read as follows:

1817.503 Determinations and findings requirements.

(a) See 1817.72 for additional information on interagency transaction requirements.

* * * * *

1817.7001 [Amended]

10. In section 1817.7001, paragraph (a)(1) is redesignated as paragraph (a), and paragraph (a)(2) is removed.

Subpart 1817.72—[Added]

11. Subpart 1817.72 is added to read as follows:

Subpart 1817.72—Interagency Transactions

1817.7201 Policy.

(a) Although the Space Act provides interagency transaction authority nearly equivalent to the Economy Act, NASA has elected to conform its implementation of the Space Act to the requirements of the Economy Act.

Therefore, unless exempt from the Economy Act for reasons other than the general authority of the Space Act, interagency acquisitions shall be supported by a Determination and Findings equivalent to that required for Economy Act transactions (see FAR 17.503 and 1817.503). This requirement applies to all purchases of goods or services under contracts entered into or administered by the Military Departments or other agencies. The Space Act may be cited as authority for a transaction where appropriate, but that does not provide relief from this D&F requirement.

(b) The determination described in paragraph (a) of this section is not required for contracts awarded under the Space Act to Government agencies pursuant to a Broad Agency Announcement when a review of the acquisition records would make it obvious that the award is nor being used as a method of circumventing regulatory or statutory requirements, particularly FAR part 6, Competition Requirements (e.g., when a significant number and value of awards made under the BAA are made to entities other than Government agencies).

PART 1827—PATENTS, DATA, AND COPYRIGHTS

1827.301 [Amended]

12. In section 1827.301, the definition of "Reportable item" is amended by inserting the phrase "in the performance of any work under any NASA contract or" after the word "made".

1827.303–70 [Amended]

13. In 1827.303–70(b)(6), the reference "subparagraphs (a) through (e) of this paragraph" is revised to read "paragraphs (b)(1) through (5) of this section".

PART 1832—CONTRACT FINANCING

1832.412 [Amended]

14. In section 1832.412, paragraph (f) is redesignated as paragraph (f)(1), and a new paragraph (f)(2) is added to read as follows:

1832.412 Contract clause. [NASA supplements paragraphs (a), (e) and (f)].

* * * * *

(f)(1) * * *

(f) *Requirements for payment.* * * *

(2) When FAR clause 52.232–12, Advance Payments, is used with its Alternate V, the contracting officer shall modify Alternate V of the clause at FAR 52.232–12 by substituting the following for paragraph (b). Annotate the clause title by adding "as modified by NASA (Oct 1997)."

"(b) *Use of funds.* The Contractor may use advance payment funds only to pay for properly allocable, allowable, and reasonable costs for direct materials, direct labor, indirect costs, or such other costs approved in writing by the administering contracting office. Payments are subject to any restrictions in other clauses of this contract. Determinations of whether costs are properly allocable, allowable, and reasonable shall be in accordance with generally accepted accounting principles, subject to any applicable subparts of part 31 of the Federal Acquisition Regulation or other applicable regulations referenced in part 31."

PART 1837—SERVICE CONTRACTING

1837.110–70 [Amended]

15. In section 1837.110–70, paragraph (c) is removed.

PART 1842—CONTRACT ADMINISTRATION

1842.803 [Amended]

16. In section 1842.803, a new paragraph (b)(1)(D) is added to read as follows:

1842.803 Disallowing costs after incurrence. (NASA supplements paragraph (b))

(b) * * *

(1) * * *

(D) Authorizing direct submission of interim vouchers for provisional payment to disbursing offices for contractors with approved billing systems.

* * * * *

PART 1845—GOVERNMENT PROPERTY

1845.7101–3 [Amended]

17. In section 1845.7101–3, a sentence is added to the end of paragraph (b) to read as follows:

1845.7101–3 Computing costs of fabricated special tooling, special test equipment, agency-peculiar property, and contract work in process.

(a) * * *

(b) * * * In addition, fees paid by the Government to the contractor associated with the fabrication of Government property shall be included in the values reported on NF 1018 to enable NASA to properly reflect the total cost of property on its financial statements.

* * * * *

1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1852.216–87 [Amended]

18. Section 1852.216–87 is amended by adding new paragraph (b)(4) and revising the clause date to read as follows:

1852.216–87 Submission of Vouchers for Payment.

As prescribed in 1816.307–70(e), insert the following clause:

SUBMISSION OF VOUCHERS FOR PAYMENT OCTOBER 1997

* * * * *

(b) * * *

(4) For any period that the Defense Contract Audit Agency has authorized the Contractor to submit interim vouchers directly to the Government paying office, interim vouchers are not required to be sent to the Auditor, and are considered to be provisionally approved for payment, subject to final audit.

* * * * *

1852.237–72 [Removed]

19. Section 1852.237–72 is removed.

[FR Doc. 97–28636 Filed 10–29–97; 8:45 am]
BILLING CODE 7510–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 961126334–7026–02; I.D. 102497C]

Fisheries of the Exclusive Economic Zone Off Alaska, Pacific Cod in the Central Regulatory Area of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing directed fishing for Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the allocation of Pacific cod total allowable catch (TAC) for processing by the inshore component in the Central Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), October 27, 1997, until 2400 hrs, A.l.t., December 31, 1997.

FOR FURTHER INFORMATION CONTACT: Thomas Pearson, 907–486–6919.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and 50 CFR part 679.

The Pacific cod TAC allocated to vessels catching Pacific cod for processing by the inshore component in the Central Regulatory Area of the GOA was established as 39,321 metric tons (mt) by the Final 1997 Harvest Specifications of Groundfish (62 FR 8179, February 24, 1997), determined in accordance with § 679.20(a)(6)(iii) and subsequent reserve apportionment (62 FR 19082, April 18, 1997).

In accordance with § 679.20(a)(6)(iv)(C), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the Pacific cod TAC for processing by the inshore component in the Central Regulatory Area has been reached.

Therefore, the Regional Administrator is establishing a directed fishing allowance of 38,321 mt, and is setting aside the remaining 1,000 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Central Regulatory Area of the GOA.

Maximum retainable bycatch amounts for applicable gear types may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent overharvesting the 1997 TAC for Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Central Regulatory Area of the GOA. A delay in the effective date is impracticable and contrary to public interest. The fleet will soon take the 1997 TAC for Pacific cod by vessels catching Pacific cod for processing by the inshore component in this area. Further delay would only result in overharvest, which would disrupt the FMP objective of providing sufficient Pacific cod as bycatch to support other anticipated groundfish fisheries. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by 50 CFR 679.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 27, 1997.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–28622 Filed 10–27–97; 2:31 pm]
BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 62, No. 210
Thursday, October 30, 1997

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50 and 140

RIN 3150–AF78

Financial Protection Requirements for Permanently Shutdown Nuclear Power Reactors

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to allow nuclear reactor licensees to reduce onsite and offsite liability coverage during permanent shutdown of the reactors if they meet specified reactor configurations. This proposed amendment would reduce the level of insurance coverage commensurate with the risk reduction after the appropriate spent fuel cooling period following permanent shutdown of the reactor.

DATES: The comment period expires January 13, 1998. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Send comments by mail or addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Attention: Rulemakings and Adjudications Staff.

Hand-deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:30 am and 4:15 pm on Federal workdays.

You may also provide comments via the NRC's interactive rulemaking web site through the NRC home page (http://www.nrc.gov). This site provides the availability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking site, contact Ms. Carol Gallagher, (301) 415–6215; e-mail CAG@nrc.gov.

Certain documents related to this rulemaking, including comments received and the environmental assessment and finding of no significant impact, may be examined at the NRC Public Document Room, 2120 L Street NW., (Lower Level), Washington, DC. These same documents also may be viewed and downloaded electronically via the interactive rulemaking website established by NRC for this rulemaking.

FOR FURTHER INFORMATION CONTACT: George Mencinsky, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: (301) 415–6206, e-mail GJM@nrc.gov.; Stephen Lewis, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: (301) 415–1684, e-mail SHL@nrc.gov.; Ira Dinitz, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: (301) 415–1289, e-mail IPD1@nrc.gov.

SUPPLEMENTARY INFORMATION:

Background

The current regulations governing insurance coverage for nuclear power reactors are contained in 10 CFR 50.54(w) and 10 CFR 140.11. These regulations do not take into consideration the reduced risk associated with permanently shutdown plants. The exemption process allows reduced insurance coverage for these plants.

Consideration of whether financial protection coverage should be reduced for permanently shutdown plants must take into account the preservation of the solvency of the organization responsible for maintaining and decommissioning these facilities in the unlikely event of a nuclear incident. In addition, consideration would be given to timely payment for valid damage claims by members of the public and minimization of the likelihood that Federal Government indemnity would be exercised for satisfaction of claims for damages.

The regulations in 10 CFR 140.11 require that the licensees of facilities designed to produce substantial amounts of electricity, a rated capacity of 100,000 kWe or more, must have and maintain a primary insurance coverage of $200 million from private sources to protect against offsite liability. In addition, licensees must maintain secondary financial protection in the form of private liability insurance available under an industry retrospective rating plan. The current maximum obligation for secondary financial protection for a licensee in this plan is $75.5 million with respect to any nuclear incident. Thus, the total financial protection for offsite liability for any incident would be the primary layer of $200 million, plus the secondary layer of $75.5 million multiplied by the number of licensed power reactors with a rated capacity of 100,000 kWe or higher.

Under 10 CFR 50.54(w), power reactor licensees must obtain insurance coverage from private sources to provide protection against onsite damage in the event of an accident. These monies would allow the licensee to stabilize and decontaminate the reactor and reactor station site in the event of an accident. The minimum amount of insurance coverage is the lesser of $1.06 billion or the maximum amount of insurance generally available from private sources.

This proposed rule is part of the NRC effort to eliminate unnecessary regulatory burdens for power reactor facilities that are permanently shutdown and in the process of decommissioning. This would complement other amendments for decommissioning, such as the final rule that was published in the **Federal Register** (61 FR 39278) on July 29, 1996, which clarified the procedures leading to permanent shutdown and, eventually, to the termination of an operating license for nuclear power reactors.

This proposed rule would also address a petition for rulemaking (PRM–50–57) submitted by the North Caroline Public Staff Utilities Commission. The petition requested reduction or, preferably, elimination of the $1.06 billion of insurance for onsite reactor stabilization and accident decontamination that is required by 10 CFR 50.54(w) when all nuclear fuel has been removed from the site. The petitioner also requested that the offsite primary and secondary liability coverages required under 10 CFR 140.11(a)(4) be reduced or, preferably, eliminated for shutdown reactors when no nuclear fuel is on the reactor site.

The proposed rule does not address the financial protection requirements for

Independent Spent Fuel Storage Installations (ISFSIs). This subject will be addressed after efforts dealing with technical and licensing issues for ISFSIs are resolved in areas of safeguards requirements, emergency planning, and potential fuel storage handling activities.

Discussion

Several different configurations for permanently shutdown reactors are being established that encompass anticipated spent fuel characteristics and storage modes during the period between permanent shutdown and termination of the license. They are as follows:

Reactor Configuration 1: the reactor is defueled, permanently shutdown, and spent fuel in the spent fuel pool is susceptible to a zircaloy cladding fire if the spent fuel pool is drained accidentally. This configuration encompasses the period from immediately after the core is offloaded to just before the decay heat of the hottest assemblies is low enough that no rapid zircaloy oxidation will take place, and the fuel cladding will remain intact with no gap release if water in the spent fuel pool is lost.

Reactor Configuration 2: The reactor is defueled, permanently shutdown, and spent fuel is in the spent fuel pool but is not susceptible to a zircaloy cladding fire or gap release caused by an incipient fuel cladding failure in the event the spent fuel pool is drained accidentally. In this configuration, the spent fuel can be stored long-term in the spent fuel pool without the possibility of initiating a zircaloy fire or significant fuel cladding failure. In addition, the site may contain a radioactive inventory of liquid radwaste, activated reactor components, and contaminated structural materials. The radioactive inventory during this configuration may change depending on the licensee's proposed shutdown activities and schedule.

Reactor Configuration 3: The reactor is permanently shutdown and no spent fuel is in the reactor or the spent fuel pool. All spent fuel has been removed to an offsite or onsite dry storage independent spent fuel storage installation (ISFSI) or to a DOE high-level repository. The remaining radioactive inventory depends on the decommissioning status and may include liquid radwaste, activated reactor components, and contaminated structural materials.

Reactor Configuration 4: Same as reactor configuration 3, except the reactor site has no significant mobile sources of radioactivity such as contaminated liquids (less than 1000 gallons).

There are potential onsite and offsite radiological consequences that could be associated with the onsite storage of the spent fuel in the spent fuel pool for some time after permanent shutdown. In Reactor Configuration 1, in the event of a complete loss of spent fuel pool coolant inventory such as from a beyond-design-basis earthquake scenario, there is a potential for overheating the fuel by decay heat. This sequence could result in a zircaloy cladding fire that may have significant onsite and offsite consequences.

To prevent fuel rod cladding failure leading to a zircaloy-cladding fire if all spent fuel pool water is lost, the rod cladding temperature must not exceed 565°C. The rod cladding temperature is an important factor that must be considered in modifying the financial protection requirements for permanently shutdown reactors.

In Reactor Configuration 2, the spent fuel has decay heat sufficiently low that the cladding will remain intact even if all spent fuel pool water is lost. However, if there are significant sources of radioactive material stored onsite, it would be appropriate to maintain an adequate level of onsite insurance coverage. Although the offsite consequences are negligible in the Reactor Configuration 2 , because the spent fuel pool is operational and an inventory of radioactive materials exists onsite, an appropriate level of offsite financial protection is required to account for the potential for significant judgments or settlements from litigation that might be instituted and to protect the Federal government from indemnity claims.

In Reactor Configuration 3, when spent fuel is no longer stored in the spent fuel pool, the potential for a radiological incident is primarily in mobile sources of radioactivity onsite at permanently shutdown nuclear reactors. The offsite cleanup costs were found to be negligible for Reactor Configuration 3, but as was noted in Reactor Configuration 2, an appropriate level of offsite financial protection is still required to account for the potential for significant judgments or settlements from litigation that might be instituted and also to protect the Federal government from indemnity claims. Because the level of risk has decreased vis-a-vis the Reactor Configuration 2 by having no spent fuel in the spent fuel pool, the level of offsite financial protection required is being reduced by taking into account only the mobile radioactive inventory onsite.

In the Reactor Configuration 4, with no significant amount of mobile sources of radioactivity such as contaminated liquids onsite, there is no need to maintain the same level of insurance coverage for onsite or offsite financial protection as in Reactor Configuration 3. The basis for the transition from Reactor Configuration 3 to Reactor Configuration 4 is the point at which there is less than 1000 gallons of liquid radwaste stored onsite. A limiting value of 1000 gallons has been considered because it constitutes approximately a factor of 500 reduction in volume from the large volume tank used as the basis for the Reactor Configuration 3 limiting event.

In Reactor Configuration 4, if the licensee has cleaned the site to unrestricted release levels and is awaiting a confirmatory survey for terminating the license, the necessary level of onsite insurance coverage at this stage would be less than when 1000 gallons of liquid radwaste were stored onsite. Under these circumstances, the onsite coverage could be further reduced or eliminated to account for negligible onsite consequences. However, for offsite financial protection requirements, although the offsite consequences are negligible, some level of public liability financial protection must be maintained as long as there remains in effect a nuclear reactor license issued pursuant to 10 CFR part 50 under the authority of Section 103 or 104 of the Atomic Energy Act (42 U.S.C. 2133, 2134). See Section 170a of that Act (42 U.S.C. 2210a). Section 170 is commonly referred to as the "Price-Anderson Act."

Proposed Regulatory Action

The proposed amendments would adjust the onsite insurance coverage requirements and the offsite financial protection requirements for permanently shutdown reactors based on limiting the spent fuel cladding temperatures for accidents involving loss of spent fuel pool water and the amount of onsite radioactive inventory such as liquid radwaste in post shutdown modes. The insurance amounts are based on the estimated cost of recovery from limiting hypothetical events for specific reactor configurations.

The proposed amendments would also address "rated capacity" in 10 CFR 140.11 as used in Section 170a of the Atomic Energy Act to indicate that a permanently shutdown nuclear reactor has a "rated capacity" of zero.

The proposed financial protection requirements are as follows.

Reactor Configuration 1—Fuel in spent fuel pool not sufficiently cool.

—The requirements for onsite insurance coverage and offsite financial protection remain as presently specified in 10 CFR 50.54(w) and 10 CFR 140.11, respectively.

Reactor Configuration 2—Fuel could tolerate a complete loss of water in the spent fuel pool.

—The onsite insurance coverage requirements is $50 million. The amount of $50 million is to recover from a postulated accident in the spent fuel pool.

—The offsite financial protection requirement is $100 million, based on the potential for significant judgments or settlements resulting from litigation despite negligible offsite consequences.

Reactor Configuration 3—No fuel in spent fuel pool, risk dependent on radioactive inventory at plant site in decommissioning status.

—The onsite insurance coverage requirement is $50 million. The amount of $50 million is the estimated amount needed to recover from a postulated onsite event of a rupture of a large slightly contaminated liquid storage tank.

—The offsite financial protection requirement is $50 million, based on the potential for significant judgments or settlements resulting from litigation that might still be instituted despite negligible offsite consequences; however the liability risk is considered less than in Reactor Configuration 2.

Reactor Configuration 4—No fuel in the spent fuel pool and no significant source of mobile radioactive material.

—The onsite insurance coverage requirements is either $25 million or is eliminated. The amount of $25 million is based on the possibility of having to clean up onsite contamination from an accidental rupture of a less-than-1000-gallon contaminated liquid storage tank during shutdown activities. Elimination of onsite insurance coverage would be warranted when a licensee is awaiting a confirmatory survey for license termination.

—The offsite financial protection requirement is $25 million, based on the potential for claims arising from asserted offsite consequences. This would minimize the possibility that Federal Government indemnification would be required. As noted above, the Atomic Energy Act does not allow a 10 CFR part 50 licensee to drop this coverage entirely, only to reduce it.

Discussion

This proposed rule would allow power reactor licensees to reduce their onsite insurance coverage and offsite financial protection requirements during permanent shutdown without resorting to the exemption process. The level of financial protection would be determined for permanently shutdown reactors at a level that coincides with their actual configuration stage.

During Reactor Configuration 1, licensees would be required to maintain onsite insurance coverage and offsite financial protection at the levels currently required by 10 CFR 50.54(w) and 10 CFR 140.11, respectively. This is because the radiological consequences during this stage of permanent shutdown approximate the magnitude of a severe core damage accident.

After allowing the spent fuel to cool down to the point that the maximum spent fuel cladding temperature will not exceed 565°C in the event of a loss of water in the spent fuel pool (Reactor Configuration 2), power reactor licensees would be allowed under 10 CFR 50.54(w) to reduce their onsite insurance coverage from $1.06 billion to $50 million. The reason for this reduction in insurance coverage is that the rapid clad oxidation event of Reactor Configuration 1 is not possible. Insurance coverage requirements for Reactor Configuration 2 are based on the fact that there is a possibility for a fuel handling accident in the spent fuel pool, and significant amounts of mobile radioactive sources remain onsite that have a potential for release during this period. The $50 million coverage would be adequate to clean up the site in the event of a fuel handling accident, an accidental release of cooling water from the spent fuel pool, or a rupture of a large slightly contaminated liquid storage tank.

The proposed insurance coverage requirement for Reactor Configuration 2 does not take into account the reduction in radioactive decay of the spent fuel assemblies with the passage of time during that period. The insurance coverage requirements are based on the conservative assumption of a fuel handling accident shortly after the transition to Reactor Configuration 2. Adjusting insurance requirements during Reactor Configuration 2 based on the decay level of the spent fuel would be burdensome from a regulatory standpoint, as opposed to selecting a bounding figure to encompass any unexpected events concerning the spent fuel pool.

In Reactor Configuration 2, the offsite financial protection requirements set forth in 10 CFR 140.11 would be reduced from $200 million to $100 million for the primary liability coverage, and the licensee would be allowed to withdraw from the secondary liability coverage under Price-Anderson.

In Reactor Configuration 3, when all the spent fuel has been removed to an onsite or offsite dry storage ISFSI or to a DOE high-level repository and the onsite radioactive inventory is greater than 1000 gallons, the onsite insurance coverage requirements would be $50 million under the proposed 10 CFR 50.54(w). This amount is based on the fact that there are still mobile radioactive sources onsite that have the potential to contaminate the site. The maximum cleanup costs associated with Reactor Configuration 3 are estimated at approximately $50 million. The conservative limiting event is the rupture of a large contaminated liquid storage tank that causes soil contamination and the potential to contaminate groundwater. The offsite financial protection requirements under the proposed Section 140.11 would be reduced from $100 million to $50 million, and the licensee would not be required to maintain secondary liability coverage under the Price-Anderson Act for Reactor Configuration 3. With no spent fuel in the spent fuel pool, the risks of offsite contamination have been reduced considerably for this configuration.

In Reactor Configuration 4, there are no significant mobile sources of radioactivity, such as liquid contaminants, onsite. Thus, the potential for onsite and offsite radiological impacts is limited. In this situation, onsite insurance coverage requirements either would be $25 million or would be completely eliminated under the proposed 10 CFR 50.54(w). The amount in each case would be based on information provided by the licensee and evaluated by the staff for the particular circumstances of the shutdown reactor. The $25 million onsite insurance coverage would be required if liquid radwaste remained stored onsite, usually 1,000 gallons or less of radwaste, that may be susceptible to an accidental spill and the consequent need for cleanup of the contaminated site. Elimination of required onsite insurance coverage would be based on the licensee's submittal of its terminal radiation survey to the NRC stating that the site has been cleaned to unrestricted release levels and is awaiting a confirmatory survey for termination of the license. In either case, the onsite and offsite consequences would be negligible.

In Reactor Configuration 4, the required offsite financial protection would be reduced to $25 million to account for the continuing potential for claims based on asserted offsite consequences. A minimum of $25 million in coverage would minimize the possibility that Federal Government indemnification would be required and would be consistent with the requirements of Section 170 of the Atomic Energy Act that power reactor licensees maintain some level of public liability financial protection. The licensee would not be required to maintain secondary liability coverage under Price-Anderson for Reactor Configuration 4.

In addition, "rated capacity" would be addressed in 10 CFR part 140 to indicate that permanently shutdown nuclear power plants have "zero" rated capacity. The effect of this amendment would be to allow the NRC to permit reduction of the primary liability coverage and elimination of the requirement for participation in the secondary liability coverage for nuclear power plants that had made the certifications under 10 CFR 50.82(a)(1)(i) and (ii). However, for reasons stated above, the NRC does not propose to permit this reduction and withdrawal until a reactor has entered the Reactor Configuration 2. At that point the NRC proposes that the reactor no longer be subject to the requirements to maintain primary financial protection in the "maximum amount available at reasonable cost and on reasonable terms from private sources" or to participate in the secondary financial protection public liability system under Section 170 of the Atomic Energy Act. The Commission has already approved, in response to site-specific requests, these adjustments in the primary and secondary public liability insurance regime, and this clarification in part 140, as requested by the Commission, places into the Commission's regulations a statement that a permanently shutdown nuclear power plant is no longer considered to have any "rated capacity."

The petition for rulemaking submitted by the North Carolina Public Staff Utilities Commission would be substantially granted in that the insurance requirements would be significantly reduced, as requested. However, the petition could not be fully granted because of the Price-Anderson statutory provisions that do not allow licensees who continue to hold 10 CFR part 50 licenses to drop the offsite public liability coverage entirely.

Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in subpart A of 10 CFR part 51, that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment, and therefore, an environmental impact statement is not required. The proposed rule change would allow licensees to seek reductions in onsite and offsite insurance coverage following permanent shutdown if they meet specified reactor configurations because of the reduced risk associated with permanently shutdown reactors. The proposed rule change would require no changes in hardware, procedures, organization, or operation of nuclear power reactors. It would not affect the safety requirements for nuclear power reactors because of the significantly reduced risks to the public health and safety in Reactor Configurations 2, 3, and 4 and it would not affect the likelihood, magnitude, or consequences of accidents at the permanently shutdown nuclear power reactors. Although the proposed rule change would reduce the level of financial protection available to pay for environmental or other consequences that may result from accidents at permanently shutdown nuclear power reactors, the Commission considers the reduced required insurance and financial protection coverage to be fully adequate and commensurate with the reduced consequences of potential accidents at permanently shutdown nuclear reactors and that the environment will not be negatively affected. Accordingly, the Commission has determined that the proposed rulemaking would have no significant impacts on the quality of the environment.

The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the environmental assessment and the finding of no significant impact are available from George Mencinsky, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6206.

Paperwork Reduction Act Statement

This proposed rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, approval numbers 3150–0011 and 3150–0039.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, an information collection unless it displays a currently valid OMB control number.

Regulatory Analysis

The Commission has prepared a draft regulatory analysis on this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The draft analysis is available for inspection in the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the draft analysis may be obtained from George Mencinsky, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6206. The Commission requests public comment on the draft regulatory analysis. Comments on the draft analysis may be submitted to the NRC as indicated under the ADDRESSES heading.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this rule, if adopted, will not have a significant economic impact upon a substantial number of small entities. The proposed rule only affects NRC power reactor licensees, which are not "small entities."

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this proposed rule because the backfit rule is limited in scope to construction and operation of nuclear reactors. This rule would only apply to reactors that have permanently ceased operations. Therefore, a backfit analysis is not required because these amendments do not involve any provisions that would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects

10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria,

Reporting and recordkeeping requirements.

10 CFR Part 140

Criminal penalties, Extraordinary nuclear occurrence, Insurance, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR parts 50 and 140.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 continues to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended 1244, 1246, (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Sections 50.10 also issued under secs. 101, 185, 68 Stat. 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

2. In § 50.54(w), paragraph (5) is added to read as follows:

§ 50.54 Conditions of licenses.

* * * * *

(w) * * *

(5) For the specified reactor configurations during permanent shutdown, licensees shall maintain the following insurance requirements notwithstanding paragraph (w)(1):

(i) For Reactor Configuration 1: when the reactor is defueled, permanently shutdown, and the spent fuel cladding temperature in the spent fuel pool is 565°C or greater for a postulated loss of spent fuel pool cooling event, the insurance coverage must be as specified in paragraph (w)(1).

(ii) For Reactor Configuration 2: when the reactor is defueled and permanently shutdown, no operating reactors are on the site, and the spent fuel cladding temperature in the spent fuel pool does not exceed 565°C for a postulated loss-of-spent-fuel-pool-cooling event, the minimum insurance coverage limit for each reactor must be $50 million.

(iii) For Reactor Configuration 3: when the reactor is defueled and permanently shutdown, no operating reactors are on the site, no fuel is in the spent fuel pool, and the radioactive liquid inventory onsite is 1,000 gallons or greater, the minimum insurance coverage for each reactor must be $50 million.

(iv) For Reactor Configuration 4: when the reactor is defueled and permanently shutdown, no operating reactors are on the site, no fuel is in the spent fuel pool, and the radioactive liquid inventory onsite is less than 1,000 gallons, the minimum insurance coverage for each reactor must be $25 million. For sites awaiting license termination, no insurance coverage is required if the licensee has completed its terminal radiation survey and the site is ready for the confirmatory survey for license termination.

* * * * *

PART 140—FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

1. The authority citation for Part 140 continues to read as follows:

Authority: Secs. 161, 170, 68 Stat. 948, 71 Stat. 576, as amended (42 U.S.C. 2201, 2210); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842).

2. In § 140.11(a), remove "and" at the end of paragraph (3), change "." at end of paragraph (4) to "; and" and add paragraph (5) to read as follows:

§ 140.11 Amounts of financial protection for certain reactors.

(a) * * *

(5) For the specified reactor configurations during permanent shutdown of nuclear power reactors (such reactors being classified as having zero electric power level rated capacity) that were covered during their operation by paragraph (a)(4):

(i) For Reactor Configuration 1: when the reactor is defueled, permanently shutdown, and the spent fuel cladding temperature in the spent fuel pool is 565°C or greater for a postulated loss of spent fuel pool cooling event, in the amount as specified in paragraph (a)(4).

(ii) For Reactor Configuration 2: when the reactor is defueled and permanently shutdown, no operating reactors are on the site, and the spent fuel cladding temperature in the spent fuel pool does not exceed 565°C for a postulated loss-of-spent-fuel-pool-cooling event, in the amount of $100 million for each reactor.

(iii) For Reactor Configuration 3: when the reactor is defueled and permanently shutdown, no operating reactors are on the site, no fuel is in the spent fuel pool, and the radioactive liquid inventory onsite is 1,000 gallons or greater, in the amount of $50 million for each reactor.

(iv) For Reactor Configuration 4: when the reactor is defueled and permanently shutdown, no operating reactors are on the site, no fuel is in the spent fuel pool, and the radioactive liquid inventory onsite is less than 1,000 gallons, in the amount of $25 million for each reactor.

Dated at Rockville, Maryland, this 23rd day of October, 1997.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 97–28679 Filed 10–29–97; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 95–AWA–1]

RIN 2120–AA66

Proposed Modification of the Houston Class B Airspace Area; Texas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to modify the Houston, TX, (IAH) Class B airspace area. Specifically, this action proposes to reconfigure two existing subarea boundaries and create an additional subarea within the Houston Class B airspace area. The FAA is proposing this action to enhance safety, reduce the potential for midair collision, and to better manage air traffic operations into, out of, and through the Houston Class B airspace area while accommodating the concerns of airspace users.

DATES: Comments must be received on or before December 1, 1997.

ADDRESSES: Send comments on the proposal in triplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC–200, Airspace Docket No. 95–AWA–1, 800 Independence Avenue, SW., Washington, DC 20591. The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. An informal docket may also be examined during normal business hours at the Office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Ms. Sheri A. Edgett Baron, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 95–AWA–1." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will also be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should call the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, that describes the application procedure.

Background

On December 17, 1991, the FAA published the Airspace Reclassification Final Rule (56 FR 65655). This rule discontinued the use of the term "Terminal Control Area" (TCA) and replaced it with the designation "Class B airspace area." This change in terminology is reflected in this NPRM.

The Class B airspace area program was developed to reduce the potential for midair collision in the congested airspace surrounding airports with high density air traffic by providing an area wherein all aircraft are subject to certain operating rules and equipment requirements.

The density of traffic and the type of operations being conducted in the airspace surrounding major terminals increase the probability of midair collisions. In 1970, an extensive study found that the majority of midair collisions occurred between a general aviation (GA) aircraft and an air carrier or military aircraft, or another GA aircraft. The basic causal factor common to these conflicts was the mix of aircraft operating under visual flight rules (VFR) and aircraft operating under instrument flight rules (IFR). Class B airspace areas provide a method to accommodate the increasing number of IFR and VFR operations. The regulatory requirements of Class B airspace areas afford the greatest protection for the greatest number of people by giving air traffic control (ATC) increased capability to provide aircraft separation service, thereby minimizing the mix of controlled and uncontrolled aircraft.

On May 21, 1970, the FAA published the Designation of Federal Airways, Controlled Airspace, and Reporting Points Final Rule (35 FR 7782). This rule provided for the establishment of TCAs. To date, the FAA has established a total of 29 Class B airspace areas. The FAA is proposing to take action to modify or implement the application of these proven control areas to provide greater protection for air traffic in the airspace areas most commonly used by passenger-carrying aircraft.

The standard configuration of a Class B airspace area contains three concentric circles centered on the primary airport extending to 10, 20, and 30 nautical miles (NM), respectively. The standard vertical limits of the Class B airspace area normally should not exceed 10,000 feet mean sea level (MSL), with the floor established at the surface in the inner area and at levels appropriate for the containment of operations in the outer areas. Variations of these criteria may be utilized contingent on the terrain, adjacent regulatory airspace, and factors unique to the terminal area.

The coordinates for this airspace docket are based on North American Datum 83. Class B airspace areas are published in paragraph 3000 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR section 71.1. The Class B airspace area listed in this document would be published subsequently in the Order.

Related Rulemaking Actions

On June 21, 1988, the FAA published the Transponder with Automatic Altitude Reporting Capability Requirement Final Rule (53 FR 23356). This rule requires all aircraft to have an altitude encoding transponder when operating within 30 NM of any designated TCA primary airport from the surface up to 10,000 feet MSL. This rule excluded those aircraft that were not originally certificated with an engine driven electrical system, (as those that have not subsequently been certified with such a system), balloons, or gliders.

On October 14, 1988, the FAA published the TCA Classification and TCA Pilot and Navigation Equipment Requirements Final Rule (53 FR 40318). This rule, in part, removed the different classifications of TCAs, and requires the pilot-in-command of a civil aircraft operating within a TCA to hold at least a private pilot certificate, except for a student pilot who has received certain documented training.

Pre-NPRM Public Input

In June 1992, an ad hoc committee was formed, representing airspace users, to analyze the Houston Class B airspace area and develop recommendations for modifying the existing airspace design. The ad hoc committee met on several occasions and submitted written

recommendations for modifying the Houston Class B airspace area.

As announced in the Federal Register on January 28, 1994 (59 FR 4134), a pre-NPRM informal airspace meeting was held on April 19, 1994, in Pasadena, TX, to provide local airspace users an opportunity to present input on the design of the planned modifications of the Houston Class B airspace area.

All comments received during the informal airspace meetings and the subsequent comment period were considered and incorporated, in part, in this NPRM. Verbal and written comments were received, and the FAA's findings are summarized below.

Analysis of Comments

One commenter recommended realigning the existing 30 NM arc boundary east-southeast of the George Bush Intercontinental Airport (formerly Houston Intercontinental Airport), in the vicinity of the Baytown Airport, and R.W.J. Airpark.

The FAA supports this recommendation and proposes to realign a portion of the east-southeast boundary of the Houston Class B airspace area defined as (a portion of) the Humble Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC) 30 NM arc, at the point where it intercepts Interstate 10 (I–10). From this point, the boundary would continue along the Humble VORTAC 30 NM arc until it intercepts the 20 NM arc of the Hobby Very High Frequency Omnidirectional Range/Distance Measuring Equipment (VOR/DME). In this area the FAA proposes to establish the floor at 4,000 feet MSL, to allow nonparticipating aircraft ingress and egress out of Bayton Airport and R.W.J. Airpark.

Several commenters suggested that a portion of the surface area around William P. Hobby Airport and Ellington Airport be raised to support ingress and egress at Ellington Airport.

The FAA does not agree with this suggestion because airspace down to the surface is necessary to protect for aircraft operations into and out of William P. Hobby Airport (the secondary airport of the Houston Class B airspace area). However, the FAA proposes to modify a portion of Area A around William P. Hobby Airport, by reconfiguring its eastern boundary and providing Ellington Airport approximately 1½–NM of additional airspace to its west. This would provide aircraft operators utilizing Ellington Airport additional airspace for operations into and out of Ellington Airport.

In addition, the FAA proposes to create an additional subarea within the Houston Class B airspace area, southwest of William P. Hobby Airport, in the vicinity of Southwest Airport, and raise the subarea floor to 2,500 feet MSL. This proposed subarea would allow sufficient airspace for aircraft operations at Southwest Airport without entering the Class B airspace area.

The Proposal

The FAA proposes to amend 14 CFR part 71 by modifying the Houston Class B airspace area. Specifically, this action proposes to reconfigure two existing subarea boundaries, and create an additional subarea within the existing Houston Class B airspace area in the vicinity southwest of the William P. Hobby Airport. The FAA is proposing this action to enhance safety, reduce the potential for midair collision, and to better manage air traffic operations into, out of, and through the Houston Class B airspace area while accommodating the concerns of airspace users. This proposal would realign a portion of the eastern boundary defined as the Humble VORTAC 30 NM arc, located east-southeast of Houston, in the vicinity of Bayton Airport and R.W.J. Airpark, where it intercepts I–10. The FAA proposes to continue the boundary along the Humble VORTAC 30 NM arc until it intercepts the 20 NM arc of the Hobby VOR/DME. In addition to this realignment, the FAA proposes to expand the existing floor to 4,000 feet MSL in this area. The floor at 4,000 feet MSL would allow nonparticipating aircraft ingress and egress out of the Bayton Airport and R.W.J. Airpark.

Additionally, the FAA proposes to reconfigure a portion of Area A around William P. Hobby Airport by reconfiguring its eastern boundary. This modification would provide aircraft operators utilizing Ellington Airport approximately 1 1/2-miles of additional airspace for aircraft operations west of Ellington Airport. Further, the FAA proposes to create a new subarea in the vicinity of Southwest Airport with a floor of 2,500 feet MSL. This modification would provide additional airspace for nonparticipating aircraft operating below the floor of the Houston Class B airspace area.

Area A is unchanged except for the eastern boundary around William P. Hobby Airport and the change to the legal description of Area A. Area B remains unchanged except where the proposed modification aligns with Area A (around William P. Hobby Airport), and where it is proposed to create the additional subarea to the southwest of William P. Hobby Airport. Area C remains unchanged. Area D remains unchanged except in that area along the 30 NM arc east-southeast of Houston, in the vicinity of Bayton Airport and R.W.J. Airpark.

Regulatory Evaluation Summary

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this NPRM: (1) would generate benefits that justify its costs and is not "a significant regulatory action" as defined in the Executive Order; (2) is not significant as defined in Department of Transportation's Regulatory Policies and Procedures; (3) would not have a significant impact on a substantial number of small entities; (4) would not constitute a barrier to international trade; and (5) would not contain any Federal intergovernmental or private sector mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply. These analyses are summarized here in the preamble and the full Regulatory Evaluation is in the docket.

This draft Regulatory Evaluation analyzes the potential costs and benefits of the NPRM to amend 14 CFR part 71. The proposed rule would reconfigure two subareas and create an additional subarea within the Houston, TX, Class B airspace area. The proposal would reconfigure subarea A, expand subarea D, and establish a subarea E with a floor of 2,500 feet MSL.

The FAA has determined that aircraft operators would not incur any additional navigational or equipment costs as a result of the reconfiguration of subareas A and D or the establishment of the new subarea E. The proposed rule would establish lateral boundaries for subareas D and E. The FAA concludes that the reconfigured subarea D and the newly created subarea E are small in area, and would not impose any additional avionics equipment or circumnavigation cost onto operators. The reconfiguration of subarea A would move the lateral boundary inward (west), subsequently reducing the overall size of the subarea. The FAA contends that the reduction of the subarea A lateral boundary may reduce circumnavigation cost for GA operations.

This NPRM would not impose any additional administrative costs onto the FAA for personnel, facilities, or equipment. The modification of subareas A, D and E would only slightly expand the overall size of the Class B airspace area. This proposed action would provide additional ATC participation in subareas D and E with higher operations complexity, but would not expand the Class B airspace area lateral boundaries beyond the 30-NM arc.

In view of the potential benefits of enhanced aviation safety and increased operational efficiency and the negligible cost of compliance, the FAA has determined that this proposed rule would be cost-beneficial.

Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by Federal regulations. The RFA requires regulatory agencies to review rules which may have "a significant economic impact on a substantial number of small entities." FAA Order 2100.14A outlines the FAA's procedures and criteria for implementing the RFA.

The FAA's criteria for a "substantial number" is a number that is not less than 11 and that is more than one third of the small entities subject to the NPRM. The small entities that could be potentially affected by implementation of this proposed rule are unscheduled operators of aircraft for hire owning nine or fewer aircraft.

The FAA has determined that this NPRM would not have an adverse effect on a substantial number of small entities. This assessment is based on the premise that potentially impacted operators regularly fly into airports where radar approach control services have already been established. In addition, increasing the overall size of the Class B airspace area by such a small area would not impose any additional cost on circumnavigating operators for time and fuel. The FAA contends that the proposed rule would not have a significant economic impact on a substantial number of small entities, in view of the zero cost of compliance.

The FAA has determined that this NPRM would not result in a significant economic impact on a substantial number of small entities; therefore, a regulatory flexibility analysis is not required under the terms of the RFA.

International Trade Impact Assessment

The NPRM would neither constitute a barrier to international trade for the export of American goods and services to foreign countries, nor for the import of foreign goods and services into the United States. The NPRM would not impose costs on aircraft operators or aircraft manufacturers in the U.S. or foreign countries. The proposed modifications of the Houston Class B airspace area would only affect GA aircraft utilizing U.S. VFR procedures.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure of $100 million or more adjusted annually for inflation in any one year by State, local, and tribal governments, in the aggregate, or by the private sector. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local and tribal governments on a proposed "significant intergovernmental mandate." A "significant intergovernmental mandate" under the Act is any provision in a Federal agency regulation that would impose an enforceable duty upon State, local, and tribal governments, in the aggregate, (of $100 million adjusted annually for inflation) in any one year. Section 203 of the Act, 203 U.S.C 1533, which supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that among other things provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

This proposed rule does not contain any Federal intergovernmental mandates, but does contain a private sector mandate. However, because expenditures by the private sector will not exceed $100 million annually, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 3000 Subpart B—Class B Airspace

* * * * *

ASW TX B Houston, TX [Revised]

George Bush Intercontinental Airport (IAH)
(Primary Airport)
(Lat. 29°58'59" N., long. 95°20'23" W.)
William P. Hobby Airport (Secondary Airport)
(Lat. 29°38'44" N., long. 95°16'44" W.)
Ellington Field
(Lat. 29°36'27" N., long. 95°09'52" W.)
Humble VORTAC (IAH)
(Lat. 29°57'25" N., long. 95°20'45" W.)
Hobby VOR/DME (HUB)
(Lat. 29°39'01" N., long. 95°16'49" W.)

Boundaries

Area A. That airspace extending upward from the surface to and including 10,000 feet MSL bounded by a line beginning at the intersection of the Humble VORTAC 8-mile arc and the 060° radial; thence clockwise along the Humble VORTAC 8-mile arc to the Humble VORTAC 069° radial; thence east along the Humble VORTAC 069° radial to the 10-mile arc of Humble VORTAC; thence clockwise along the 10-mile arc to the Humble VORTAC 080° radial; thence west to the point of beginning; and that airspace bounded by a line beginning at lat. 29°45'37" N., long. 95°21'58" W.; to lat. 29°45'49" N., long. 95°11'47" W.; thence clockwise along the Hobby VOR/DME 8-mile DME arc to intercept the Hobby VOR/DME 058° radial; thence southwest along the Hobby VOR/DME 058° radial to the 5.1-NM fix; thence direct to the Hobby VOR/DME 131°/009.8 NM fix; thence southeast along the Hobby VOR/DME 131° radial to intercept the Hobby VOR/DME 7 NM arc; thence clockwise on the 7 NM arc to the Hobby VOR/DME 156° radial; thence north along the Hobby VOR/DME 156° radial to the Hobby VOR/DME 8-mile fix; thence clockwise along the Hobby VOR/DME 8 NM arc to the Hobby VOR/DME 211° radial;

thence south along the Hobby VOR/DME 211° radial to the Hobby VOR/DME 8-mile arc clockwise to the point of beginning.

Area B. That airspace extending upward from 2,000 feet MSL to and including 10,000 feet MSL bounded by a line beginning at the intersection of State Highway 59 (SH 59) and the Hobby VOR/DME 15-mile arc; thence counterclockwise along the Hobby VOR/DME 15-mile arc to the intersection of the Hobby VOR/DME 15-mile arc and the Humble VORTAC 15-mile arc; thence counterclockwise along the Humble VORTAC 15-mile arc to the intersection of the Humble VORTAC 15-mile arc and Westheimer Road lat. 29°44'07" N., long. 95°28'47" W.; thence southwest to and along SH 59 to the point of beginning, excluding Areas A, C and E.

Area C. That airspace extending upward from 3,000 feet MSL to and including 10,000 feet MSL bounded by a line beginning at the intersection of SH 59 and the Humble VORTAC 20-mile DME arc; thence clockwise along the Humble VORTAC 20-mile DME arc to the intersection of the Humble VORTAC 20-mile DME arc and Interstate 10 (I–10), west on I–10 to the Hobby VOR/DME 15-mile arc; thence counterclockwise along the Hobby VOR/DME 15-mile arc to the Humble VORTAC 15-mile DME arc; thence counterclockwise along the Humble VORTAC 15-mile DME arc to the intersection of the Humble VORTAC 15 NM DME arc and Westheimer Road; thence southwest to and along SH 59 to the point of beginning; and that airspace beginning at the intersection of the Hobby VOR/DME 15-mile arc and 156° radial; thence north along the Hobby VOR/DME 156° radial to the Hobby VOR/DME 10-mile arc clockwise along the Hobby VOR/DME 10-mile arc to the Hobby VOR/DME 211° radial; thence south along the Hobby VOR/DME 211° radial to intersect the 15-mile arc to the point of beginning.

Area D. That airspace extending upward from 4,000 feet MSL to and including 10,000 feet MSL bounded by a line beginning at the intersection of SH 59 and the Humble VORTAC 30-mile DME arc; thence clockwise along the Humble VORTAC 30-mile DME arc to the intersection of the Humble VORTAC 30 NM arc and the Hobby VOR/DME 20 NM arc; thence clockwise along the Hobby VOR/DME 20-mile arc to SH 59; thence southwest on SH 59 to the point of beginning, excluding Areas B, C, and E.

Area E. That airspace extending upward from 2,500 feet MSL to and including 10,000 feet MSL bounded by a line beginning at the intersection of the Hobby VOR/DME 15 NM arc and State Road 6 (SR 6); thence southeast along SR 6 to the intersection of Farm Road 521 (FR 521); thence south along FR 521 to the intersection of the Hobby VOR/DME 15 NM arc; thence counterclockwise along the Hobby VOR/DME 15 NM arc to the point of the beginning.

* * * * *

Issued in Washington, DC, on October 22, 1997.

Reginald C. Matthews,

Acting Program Director for Air Traffic Airspace Management.

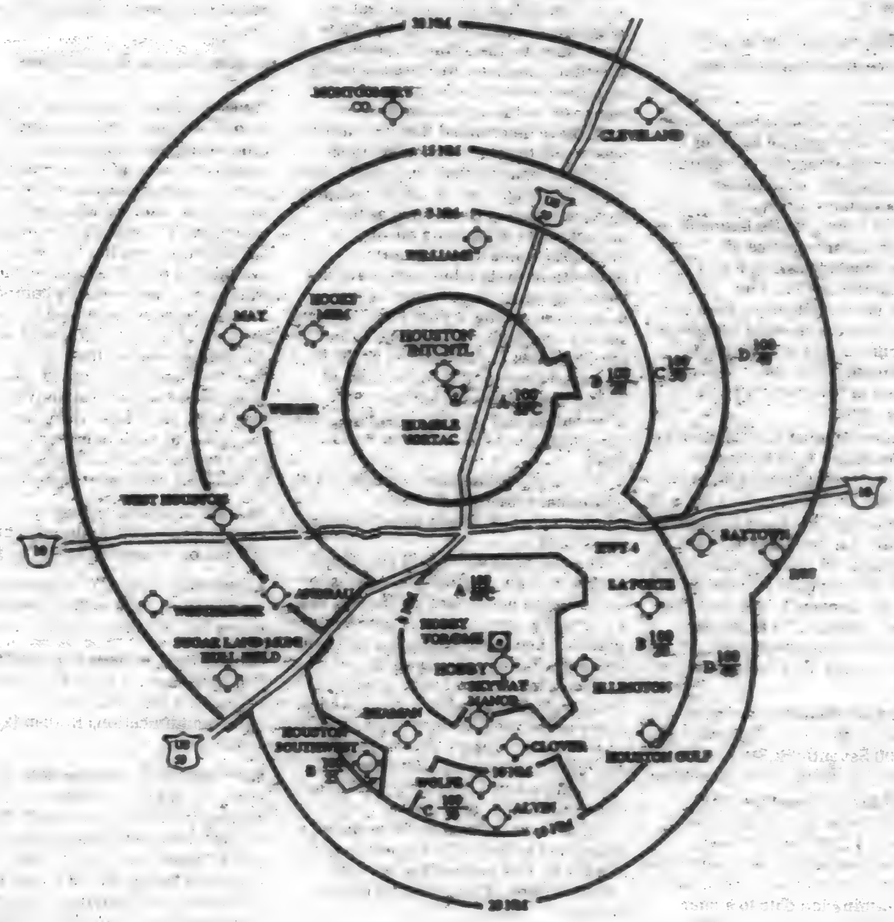
Note: This Appendix will not appear in the Code of Federal Regulations.

Appendix—Houston, TX, Class B Airspace Area

BILLING CODE 4910-13-P

HOUSTON, TEXAS
CLASS B AIRSPACE AREA

(Not to be used for navigation)



[FR Doc. 97–28753 Filed 10–29–97; 8:45 am]

BILLING CODE 4910-13-C

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 255

[Docket No. OST–97–2881]

RIN 2105–AC55

Computer Reservations System (CRS) Regulations

AGENCY: Office of the Secretary, (DOT).

ACTION: Notice extending comment period.

SUMMARY: The Department has initiated a rulemaking to determine whether it should continue or modify its existing rules governing airline computer reservations systems (CRSs). On September 10, 1997, the Department published an advance notice of proposed rulemaking asking for comments on that matter. The Department is now extending the due date for comments and reply comments on the advance notice to December 9, 1997, and January 23, 1998, from the original dates of November 10 and December 9, 1997.

DATES: Comments must be submitted on or before December 9, 1997. Reply comments must be submitted on or before January 23, 1998.

ADDRESSES: Comments must be filed in Room PL–401, Docket OST–97–2881, U.S. Department of Transportation, 400 7th St. SW., Washington , DC 20590. Late filed comments will be considered to the extent possible. To facilitate consideration of comments, each commenter should file six copies of its comments.

FOR FURTHER INFORMATION CONTACT: Thomas Ray, Office of the General Counsel, 400 Seventh St. SW., Washington, DC 20590, (202) 366–4731.

SUPPLEMENTARY INFORMATION: The Department's rules governing CRS operations—14 CFR Part 255—will expire on December 31, 1997, unless the Department readopts them or changes the rules' termination date to a later date. The Department published an advance notice of proposed rulemaking to begin a proceeding for reexamining the rules and determining whether they should be readopted and, if so, whether they should be changed. 62 FR 47606, September 10, 1997. The advance notice made comments and reply comments due on November 10 and December 9, respectively. Sabre and Worldspan, two of the computer reservations systems, asked us to allow the parties to have an additional thirty to sixty days for preparing both their comments and reply comments. Sabre and Worldspan allege that the preparation of adequate comments on the complex issues presented in this rulemaking requires more time than the comment periods established by the advance notice. In addition, American Airlines has orally requested more time for preparing its responses to the advance notice.

We have determined that it would be reasonable to give commenters more time for preparing their responses to the advance notice. The issues are complex, and some major issues, such as the impact of the Internet on airline distribution and the computer reservations system business, have not been addressed by us before in any formal proceeding. At the same time, we should complete our reexamination of the CRS rules as promptly as possible, given the need to update the rules in light of the changes in airline distribution and the CRS business since our adoption of the current rules in 1992.

We will therefore give commenters an additional thirty days for the commments and fifteen days for reply comments.

These extensions should give them ample time for preparing responses to our advance notice and the issues raised there and to the comments filed by other parties. The longer extensions requested by Sabre and Worldspan seem unnecessary—we did not set such lengthy comment periods when we last reexamined the CRS rules, and all major industry participants have been aware for some time that we would be conducting a proceeding to reexamine the need for the rules.

Since neither Sabre nor Worldspan submitted a copy of its request to the docket for this proceeding, we have placed a copy of each request in the docket.

Issued in Washington, D.C. on October 17, 1997.

Nancy E. McFadden,

General Counsel.

[FR Doc. 97–28947 Filed 10–29–97; 8:45 am]

BILLING CODE 4910–62–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 20, 22, 24, and 90

[WT Docket No. 97–207; FCC 97–341]

Calling Party Pays Service Option in the Commercial Mobile Radio Services

AGENCY: Federal Communications Commission.

ACTION: Request for comments.

SUMMARY: The Commission adopts a *Notice of Inquiry* (NOI) in this proceeding, seeking comment to establish a record Calling Party Pays (CPP), a service currently offered by some Commercial Radio Service (CMRS) providers. The goal of this proceeding is to determine whether the wider availability of CPP would enable CMRS providers to more readily compete with wireline services provided by Local Exchange Carriers (LECs) and to determine whether there are any actions that the Commission could take to promote the wider availability of CPP for CMRS providers. The purpose of this inquiry is to explore means of encouraging and facilitating competition in the local exchange telephone market.

DATES: Comments are due on or before December 1, 1997, and reply comments are due on or before December 16, 1997.

ADDRESSES: Federal Communications Commission, Office of the Secretary, Room 222, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Dr. Pamela Megna or Dr. Joseph Levin, Policy Division, Wireless Telecommunications Bureau (202) 418–1310.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Inquiry* in WB Docket No. 97–207, FCC 97–341, adopted September 25, 1997, and released October 23, 1997. The complete text of this NOI is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Services, (202) 857–3800, 1231 20th Street, Washington, DC 20036.

Synopsis of Notice of Inquiry

1. The Commission initiates this *Notice of Inquiry* (NOI) to seek information regarding Calling Party Pays (CPP), a service option currently offered by some Commercial Mobile Radio Service (CMRS) providers. The purpose of this inquiry is to explore means of encouraging and facilitating competition in the local exchange telephone market. The NOI is intended to explore the subject of CPP to develop a record for determining whether the wider availability of CPP would enable CMRS providers to more readily compete with wireline services provided by Local Exchange Carriers (LECs) and to determine whether there are actions that the Commission could take to promote the wider availability of CPP for CMRS providers.

2. CPP is a service option that some CMRS providers offer whereby the party placing the call or page pays the airtime charge, and any applicable charges for calls transported within the LECs' Local Access and Transport Areas. In order for a CMRS provider to offer this service option, the LEC must be willing and able to provide the CMRS carrier with this billing service or sufficient information for the CMRS carrier to bill the calling party directly.

3. In this proceeding, the Commission seeks information regarding, among other issues, the current availability of the CPP service option, how the calling party is informed of charges that will be incurred, the magnitude of these charges, what technical and contractual requirements are needed to implement this service option, whether there are technical, regulatory, or other barriers impeding the availability of this service option, and whether there are pro-competitive reasons for the Commission to initiate any actions to encourage the availability of this service option.

Current Availability of CPP

4. Although some LECs currently offer a CPP service option to CMRS carriers, it is unclear how many mobile carriers offer the CPP service option to their subscribers. Moreover, outside the United States, CPP seems to be the prevalent billing system for mobile telephony. Thus, the Commission seeks information on which carriers offer the CPP service option, in which geographic markets consumers have the service option, details of the arrangements between LECs and CMRS carriers and between CMRS carriers and subscribers, any regulatory requirements imposed by the various States and consumer reaction to the service option. The Commission seeks comments addressing any additional issues that may be associated with applying CPP to a calling party originating a call to a wireless phone from a wireless phone. The Commission also seeks comment as to the reasons CPP is not offered more broadly.

5. The Commission seeks comment on the level of consumer demand for CPP. Commenters are requested to address whether the market has failed to accommodate consumer demand for this or other service options and is likely to in the future. Commenters should provide detailed information on the specific technical, regulatory, or economic barriers that exist, and what actions, if any, the Commission should take to remove these barriers, in the event that the Commission decides that enhancing access to CPP is an appropriate pro-competitive goal.

6. Parties should also comment as to whether recent developments, including increased competition in the CMRS market, the related decrease in CMRS rates, and the implementation of reciprocal compensation for LEC–CMRS interconnection arrangements, will create sufficient market incentives for CMRS carriers to refrain from charging their own subscribers for incoming calls. To the extent that CPP is offered in a manner that requires the incumbent LEC to pay carrier to carrier airtime charges to complete a call, CPP and reciprocal compensation may address a similar issue (*i.e.* how the CMRS provider recovers the cost of completing a call that did not originate on the CMRS network). Parties are asked to comment on whether reciprocal compensation may obviate or reduce the need for CMRS providers to implement CPP.

Demand Stimulating Effects

7. The Commission seeks comment on current traffic patterns in the United States, and in countries in which CPP is the norm, and on whether CPP promotes more balanced traffic flows and increased demand for CMRS services.

8. It is uncertain, however, whether the balance in incoming and outgoing traffic reported in other countries is due to CPP service or due to other factors. Wireless service may be more desirable in these countries because the wireline network may be inferior in quality or less accessible. Alternatively, the increase in traffic terminating on a wireless network in these countries could be the result of an increase in subscribers' willingness to keep their wireless phones turned on due to the wider use of digital phones with their longer battery lives. The Commission seeks comment on these issues and requests any empirical studies that attempt to isolate the effect of CPP from other variables. In particular, the Commission seeks information on the pricing of wireless and wireline service in those countries in which CPP is the norm, and requests parties to submit any empirical studies or information addressing these issues.

9. In addition some industry sources believe CPP can increase the demand for CMRS services by increasing the minutes of usage or by increasing the number of subscribers. The Commission requests any empirical studies that have documented the effects of CPP on subscribership, traffic patterns (including traffic between wireless and wireline networks), and minutes of use in the markets in which CPP has been implemented. The Commission also seeks information regarding the possibility that CPP could in some way alter the peak usage periods of the wireline telephone network, thus requiring network modifications.

10. The Commission also seeks comment on the availability of the service option whereby Wireless subscribers do not pay for the first minute of calls they receive. The Commission seeks any empirical studies and information on whether this service option encourages consumers to subscribe to mobile telephony services, to subscribe to a digital system, to disclose their mobile telephone number, and to keep their mobile telephone in an active operational mode. Further, the Commission seeks comment regarding whether use of the "first incoming minute free" option more evenly balances traffic to and from wireless networks and whether it would have an effect on the demand for CPP.

Pricing Issues

11. The Commission also seeks information on the pricing structure of CMRS and wireline services across the United States and in other countries. The pricing structure implicit in a CPP service is significantly different than the typical pricing structure for CMRS and local wireline service in the United States. The differences in pricing between local telephone service and the CPP service option could deter some calls from wireline to mobile subscribers and may hinder efforts to minimize distinctions between telephony service provided on wireline and wireless networks. Widespread use of CPP could decrease the extent to which some consumers view CMRS and wireline telephony as close substitutes because the wireline customer's incremental cost to place a local call to a CMRS phone could significantly

increase while there would be no similar change in the consumer's incremental cost to place a local wireline call. The Commission also seeks information on the proportion of wireline subscribers electing measured local service, and estimates of the potential demand for this option among wireline subscribers, as well as price information for measured local calls and CPP calls, and whether they vary based on time of day or some other factors. In addition, the Commission seeks comments concerning the extent to which differences in prevailing rate levels between wireline and wireless service offerings may affect the relative demand for these services, as well as traffic balances between wireline and wireless networks.

12. Finally, the Commission seeks comment on whether there are fees associated with reprogramming CMRS phones and whether there are monthly charges for CPP. The Commission also requests information regarding the amount of these fees or monthly charges, and whether the rate the calling party is charged varies across markets and the time of day.

Consumer Protection Issues

13. Many State regulatory agencies and consumer groups have raised consumer protection issues related to informing callers that they will be charged a fee for placing a call to a CMRS phone, and informing callers of the magnitude of the charge. Therefore, the Commission seeks information regarding how the calling party can best be informed of charges for calls to CMRS phones, including the magnitude of these charges. The Commission also seeks comment on what technical and contractual capabilities are needed to inform the caller regarding his or her responsibility to pay for the call and regarding the amount of the charge for the call.

14. Finally, the Commission seeks comment on whether it would be in the public interest for the Commission to assist the telecommunications industry and the States to develop a uniform national method to inform the calling party of the magnitude of the charge, and of the calling party's responsibility to pay for the call. Commenters are also requested to suggest any alternatives to a uniform national approach that would be in the public interest.

Technical Issues

15. It appears that the CPP service option requires various infrastructure, contractual, and billing collection modifications that may limit its implementation in the United States. While the mobile carrier must have access to billing collection information for the calling party to be able to charge incoming calls to the calling party, this information may be unavailable in some circumstances and may result in uncollectible revenues for the CMRS carrier. The Commission seeks comment on these assumptions and issues, and on any steps that could be taken to address these concerns and impediments to the operation of CPP.

16. In addition, not all LEC networks currently appear to have the technical capability to exchange the billing information required for CPP. Moreover, the use of call branding [1] as part of a CPP service option may not always be possible. The Commission seeks comment on these technical issues, and on what the Commission, the States, or the industry could do to resolve them.

17. Finally, there are means available to give the called CMRS subscriber using CPP the option to pay for incoming calls in some circumstances. The Commission seeks comment on the technical requirements for this option to be deployed, where this option is currently available, and how the calling party and called party are informed of this additional option.

Legal Issues

18. The Commission also seeks comment regarding any legal issues that may be posed by any actions the Commission may take regarding imposition or implementation of CPP.

19. As a threshold matter, the Commission recognizes that we have stated in the *Arizona Decision*, in the context of ruling on whether a State had made a sufficient showing within the meaning of section 332(c)(3)(B) of the Communications Act [2] that it should be permitted to regulate the rates of CMRS providers, that regulation of CPP was a billing practice that may be regulated by a State as a term or condition under which service is provided. [3]

20. In the wake of the *Arizona Decision*, the Commission has made clear, in the *Local Competition First Report and Order*,[4] that incumbent LECs have an obligation to provide access to unbundled network elements, and that such network elements include information sufficient to enable recipients of the unbundled network elements to provide billing services. In addition, the Eighth Circuit Court of Appeals, in its *Iowa Utilities Board* decision, concluded that the Commission has authority to order LECs to interconnect with CMRS carriers and has the authority to issue rules of special concern to CMRS providers.[5]

21. In light of the *Local Competition First Report and Order* and the *Iowa Utilities Board* decision, the Commission seeks comment regarding the scope of our authority to require LECs to provide billing information and services which will enable CMRS providers to offer CPP services. Specifically, the Commission seeks comment on whether we have authority under section 332 to establish requirements regarding CPP arrangements between LECs and CMRS carriers. The Commission requests any commenters suggesting that the Commission lacks authority under section 332 to identify any other provision of the Communications Act that gives the Commission authority over CPP arrangements. Commenters should also address whether that provision would give us the authority to preempt State regulation in order to establish nationwide rules for CPP.

Procedural Matters

22. The Commission adopts this Notice of Inquiry under the authority contained in sections 4(i), 4(j), and 403 of the Communications Act of 1934, 47 U.S.C. 154(i), 154(j), 403. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before December 1, 1997, and may file reply comments on or before December 16, 1997.

23. To file formally in this proceeding, you must file an original and five copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you should file an original and ten copies. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239) of the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

24. There are no *ex parte* or disclosure requirements applicable to this proceeding pursuant to § 1.1204(a)(4) of the Commission's Rules, 47 CFR 1.1204(a)(4).

List of Subjects 47 CFR Parts 20, 22, 24, and 90

Radio.

Federal Communications Commission.
William F. Caton,
Acting Secretary.

[FR Doc. 97–28762 Filed 10–29–97; 8:45 am]
BILLING CODE 6712–01–P

[1] Branding, in this context, is the ability to inform the caller to a CMRS phone (by use of a recorded intercept message) of additional charges applicable to the call.

[2] 47 U.S.C. 332(c)(3)(B).

[3] Petition of Arizona Corporation Commission To Extend State Authority Over Rate and Entry Regulation of All Commercial Mobile Radio Services and Implementation of Sections 3(n) and 332 of the Communications Act, PR Docket No. 94–104 and GN Docket No. 93–252, Report and Order and Order on Reconsideration, 10 FCC Rcd 7824, 7837 (1996) (*Arizona Decision*).

[4] 61 FR 45476, August 29, 1996.

[5] *Iowa Utilities Board*, 1997 WL 403401 (8th Cir., July 18, 1997), at n.21.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 102197D]

RIN 0648–AG27

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery off the Southern Atlantic States; Amendment 8

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of an amendment to a fishery management plan; request for comments.

SUMMARY: NMFS announces that the South Atlantic Fishery Management Council (Council) has submitted Amendment 8 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region for review, approval, and implementation by NMFS. Written comments are requested from the public.

DATES: Written comments must be received on or before December 29, 1997.

ADDRESSES: Comments must be mailed to the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Requests for copies of Amendment 8, which includes a final supplemental environmental impact statement, an initial regulatory flexibility analysis, a regulatory impact review, and a social impact assessment, should be sent to the South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407–4699; phone: 803–571–4366; fax: 803–769–4520.

FOR FURTHER INFORMATION CONTACT: Peter J. Eldridge, 813–570–5305.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each regional fishery management council to submit any fishery management plan or amendment to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an amendment, immediately publish a document in the Federal Register stating that the amendment is available for public review and comment.

Amendment 8 would: Limit access to the commercial snapper-grouper fishery; allow the retention of snapper-grouper in excess of the bag limits on a permitted vessel that has a single bait net or cast nets on board; subject to specific conditions, exempt snapper-grouper lawfully harvested in Bahamian waters from the requirement that they be maintained with head and fins intact in the exclusive economic zone of the South Atlantic; redefine "optimum yield," "overfished," and "overfishing" for snapper-grouper; and establish a "threshold level" for snapper-grouper, i.e., the level of spawning potential ratio at which the Council will take appropriate action including, but not limited to, eliminating directed fishing mortality and evaluating measures to eliminate any bycatch mortality.

A proposed rule to implement Amendment 8 has been received from the Council. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with Amendment 8, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish it in the Federal Register for public review and comment.

Comments received by December 29, 1997, whether specifically directed to the amendment or the proposed rule, will be considered by NMFS in its decision to approve, disapprove, or partially approve Amendment 8. Comments received after that date will not be considered by NMFS in this decision. All comments on Amendment 8 or on the proposed rule during their respective comment periods will be addressed in the final rule.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 23, 1997.

Bruce C. Morehead,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–28713 Filed 10–29–97; 8:45 am]
BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 62, No. 210
Thursday, October 30, 1997

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Colorado Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Colorado Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 3:30 p.m. on Friday, December 5, 1997, at the Mile High Center, 1700 Broadway, Suite 490, Denver, Colorado 80290. The purpose of the meeting is to discuss followup activities to the Fort Collins community forum and plan future forums in Colorado.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Joseph Arcese, 303–556–3139, or John Dulles, Director of the Rocky Mountain Regional Office, 303–866–1400 (TDD 303–866–1049). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, October 21, 1997.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 97–28734 Filed 10–29–97; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Illinois Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Illinois Advisory Committee to the Commission will convene at 11:00 a.m and adjourn at 3:00 p.m. on Friday, November 21, 1997, at the Xerox Center, 55 West Monroe Street, Suite 1660, Chicago, Illinois 60603. The purpose of the meeting is to discuss civil rights issues and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Joseph Matheweon, 312–360–1110, or Constance M. Davis, Director of the Midwestern Regional Office, 312–353–8311 (TDD 312–353–8362). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, October 21, 1997.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 97–28736 Filed 10–29–97; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Indiana Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Indiana Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 5:00 p.m. on Wednesday, November 19, 1997, at the Indiana Department of Workforce Development, Indiana Government Center South, 10 North Senate Avenue, Conference Room SE 301, 3rd Floor, Indianapolis, Indiana 46204. The purpose of the meeting is to discuss civil rights issues and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Paul Chase, 317–920–3190, or Constance M. Davis, Director of the Midwestern Regional Office, 312–353–8311 (TDD 312–353–8362). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, October 21, 1997.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 97–28735 Filed 10–29–97; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Michigan Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Michigan Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 5:00 p.m. on Monday, November 17, 1997, at 100 Renaissance Center, Tower 100, Suite 1602, Detroit, Michigan 48243. The purpose of the meeting is to discuss civil rights issues and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Roland Hwang, 517–373–1478, or Constance M. Davis, Director of the Midwestern Regional Office, 312–353–8311 (TDD 312–353–8362). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, October 21, 1997.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 97–28733 Filed 10–29–97; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews, Requests for Revocation in Part, and Deferral of Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews, request for revocation in part, and deferral of administrative review.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with September anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews. The Department also received requests to revoke two antidumping duty orders in part and to defer the initiation of an administrative review for one antidumping duty order.

EFFECTIVE DATE: October 30, 1997.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 C.F.R. 351.213(b)(1997), for administrative reviews of various antidumping and countervailing duty orders and findings with September anniversary dates. The Department also received timely requests to revoke in part the antidumping duty orders on certain cold-rolled carbon steel flat products from South Korea and certain corrosion-resistant carbon steel flat products from South Korea. The requests for revocation in part with respect to certain cold-rolled carbon steel flat products and certain corrosion-resistant carbon steel flat products from South Korea were inadvertently omitted from the previous initiation notice (62 FR 50292, September 25, 1997). In addition, the Department received a request to defer for one year the initiation of the March 1, 1996 through August 31, 1997 administrative review of the antidumping duty order on large newspaper printing presses and components thereof, whether assembled or unassembled, from Japan in accordance with 19 C.F.R. 351.213(c). The Department received no objections to this request from any party cited in 19 C.F.R. 351.213(c)(1)(ii).

Initiation of Reviews

In accordance with section 19 C.F.R. 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than September 30, 1998. Also, in accordance with 19 C.F.R. 351.213(c), we are deferring for one year the initiation of the March 1, 1996 through August 31, 1997 administrative review of the antidumping duty order on large large newspaper printing presses and components thereof, whether assembled or unassembled, from Japan.

Antidumping duty proceedings	Period to be reviewed
FRANCE: Industrial Nitrocellulose*	
A–427–009	9/1/96–7/31/97
Societe Nationale des Poudres et Explosifs	
*The incorrect period of review was listed in the previous initiation notice (62 FR 50292, September 25, 1997).	
GERMANY: Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled	
A–428–821	3/1/96–8/31/97
MAN-Roland Druckmaschinen AG	
TAIWAN: Chrome-Plated Lug Nuts	
A–583–819	9/1/96–8/31/97
Annex Industrial Co., Ltd.	
Buston International	
Chu Fong Metallic Electric Co., Ltd.	
Everspring Plastic Corp.	
Gingen Metal Corp.	
Goldwinate Associates, Inc.	
Gourmet Equipment (Taiwan) Corp.	
Hsien Hsin Enterprises Co., Ltd.	
Kuan How Enterprises Co., Ltd.	
Kwan Ta Enterprises Co., Ltd.	
Kwang Hsing Industries, Ltd.	
Multigrand Industries, Inc.	
San Chien Electric Industrial Works, Ltd.	
San Shing Hardware Works Co., Ltd.	
Transcend International Co.	
Trade Union International Inc./Top Line	
Unisuto, Inc.	
Wing Tang Electric Manufacturing Company, Inc.	
Countervailing Duty Proceedings	
None.	
Deferred Initiation of Administrative Review	**Period to be Deferred**
JAPAN: Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled	
A–588–837	3/1/96–8/31/97
Mitsubishi Heavy Industries, Ltd.	

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under section 351.211 or a determination under section 351.218(d) (sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer which is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

For transition orders defined in section 751(c)(6) of the Act, the Secretary will apply paragraph (j)(1) of this section to any administrative review initiated in 1998 or 1998 (19 C.F.R. 351.213(j)(1–2)).

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 C.F.R. 353.34(b) and 355.34(b).

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)), and 19 CFR 351.221(c)(1)(i).

Dated: October 24, 1997.

Holly A. Kuga,

Acting Deputy Assistant Secretary, Group II, Import Administration.

[FR Doc. 97–28820 Filed 10–29–97; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

Application for Duty-Free Entry of Scientific Instrument

Pursuant to Section 9(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether an instrument of equivalent scientific value, for the purposes for which the instrument shown below is intended to be used, is being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Application may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 97–046R. *Applicant:* Purdue University, Accounts Payable, 1064 Frehafer Hall, West Lafayette, IN 47907–1064. *Instrument:* Stopped-Flow Spectrophotometer/Fluorimeter System, Model SF–61DX2/X. *Manufacturer:* Hi-Tech Scientific, United Kingdom. *Intended Use:* Original notice of this resubmitted application was published in the Federal Register of June 27, 1997.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 97–28821 Filed 10–29–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Administrative Record Closure; Coastal Zone Management: Federal Consistency Appeal by Jessie W. Taylor From an Objection by the South Carolina Office of Ocean and Coastal Resource Management

AGENCY: National Oceanic and Atmospheric Administration; Commerce.

ACTION: Notice of administrative record closure.

SUMMARY: Jessie W. Taylor (Appellant) proposes to fill in approximately 0.6 acres of wetlands for the purpose of commercial development, and to mitigate the adverse wetland impacts through his purchase of mitigation credits in a wetland mitigation bank. The site of his proposed activity consists of two undeveloped lots, which are located in a commercial area adjacent to Highway 17, in Surfside Beach, Horry County, South Carolina. The South Carolina Office of Ocean and Coastal Resource Management (State) has objected to the Appellant's activity. The Appellant requested that the Secretary of Commerce (Secretary), override the State's objection based on the ground that the proposed activity is consistent with the objectives of the Coastal Zone Management Act of 1972, as amended.

In its review of the administrative record for this appeal, the National Oceanic and Atmospheric Administration (NOAA) determined that additional information on the Appellant's mitigation proposal would assist the Secretary in deciding whether to override the State's objection. NOAA reopened the record and allowed the Appellant, the State and the Corps an opportunity to file additional comments on the Appellant's mitigation proposal. The Appellant, the State and the Corps each responded to NOAA's request for additional comments. Accordingly, the administrative record for this appeal closed on September 4, 1997, and the Secretary will issue a decision in the matter.

FOR FURTHER INFORMATION CONTACT: Roger B. Eckert, Attorney-Adviser, Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1305 East-West Highway, Room 6111, Silver Spring, MD 20910, (301) 713–2967.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance)

Dated: October 21, 1997.

Monica P. Medina,

General Counsel.

[FR Doc. 97–28709 Filed 10–29–97; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 081697D]

Continental Shelf Fishery Resources

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of determinations.

SUMMARY: The Secretary of Commerce, in consultation with the Secretary of State, finds that Arctic surfclams (*Mactromeris polynyma*), Icelandic scallops (*Chlamys islandica*), Greenland cockles (*Serripes groenlandicus*), Propellor clams (*Cyrtodaria siliqua*), and Sea cucumbers (*Cucumbaria frondosa*) are continental shelf fishery resources. This finding extends coastal State authority for conservation and management of said species to areas of the continental shelf beyond its exclusive economic zone.

FOR FURTHER INFORMATION CONTACT: Jonathon Krieger, (301) 713–2276.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act)(16 U.S.C. 1802 Section 3 (7)) states "If the Secretary determines, after consultation with the Secretary of State, that living organisms of any other sedentary species are, at the harvestable stage, either—

(A) immobile on or under the seabed, or

(B) unable to move except in constant physical contact with the seabed or subsoil, of the Continental Shelf which appertains to the United States, and publishes notices of such determination in the Federal Register, such sedentary species shall be considered to be added to the foregoing list and included in such term for purposes of this Act."

The Government of Canada notified the Government of the United States through the Northwest Atlantic Fisheries Organization that it had identified 12 sedentary species. Five of those species are already listed in section 3 (7) of the Magnuson-Stevens Act (i.e., Snow crabs (*Chionoecetes opilio*), Spiny Crabs (*Lithodes maja*), Red crabs (*Chaceon quinquedens*), American Lobster (*Homarus americanus*), and Ocean quahaug (*Arctica islandica*). Two are deemed not sedentary (i.e., Spiny crabs (*Neolithodes grimaldii*), and Razor clams (*Ensis directus*).

The other five are considered sedentary, and they are: Arctic surfclams (*Mactromeris polynyma*), Icelandic scallops (*Chlamys islandica*), Greenland cockles (*Serripes groenlandicus*), Propellor clams (*Cyrtadaria siliqua*), and Sea cucumbers (*Cucumbaria frondosa*).

Dated: October 23, 1997.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–28714 Filed 10–29–97; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Restraint Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Hong Kong

October 27, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: October 30, 1997.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The current limits for certain categories are being adjusted, variously, for swing and special shift.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 61 FR 66263, published on December 17, 1996). Also see 61 FR 65196, published on December 11, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 27, 1997.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 5, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Hong Kong and exported during the twelve-month period which began on January 1, 1997 and extends through December 31, 1997.

Effective on October 30, 1997, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month restraint limit[1]
Group II 237, 239, 330–359, 431–459 and 630–659, as a group.	969,497,171 square meters equivalent.
Sublevels in Group II 659(1)[2] (coveralls, overalls and jumpsuits).	624,594 kilograms.
659(1)[3] (coveralls, overalls and jumpsuits). Within Group II subgroup	671,258 kilograms.
351	1,213,363 dozen.
651	309,578 dozen.
Group III 631–644 and 847–859, as a group.	30,374,149 square meters equivalent.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1996.

[2] Category 359(1): only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010.

[3] Category 659(1): only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 97–28784 Filed 10–29–97; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in the United Arab Emirates

October 27, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: October 30, 1997.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on

embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The current limits for certain categories are being adjusted for swing.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 61 FR 66283, published on December 17, 1996). Also see 61 FR 66248, published on December 27, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 27, 1997.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 20, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textile products, produced or manufactured in the United Arab Emirates and exported during the twelve-month period which began on January 1, 1997 and extends through December 31, 1997.

Effective on October 30, 1997, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
334/634	271,408 dozen.
336/636	225,169 dozen.
338/339	671,264 dozen of which not more than 407,048 dozen shall be in Categories 338–S/339–S [2].
340/640	378,523 dozen.
347/348	477,358 dozen of which not more than 238,678 dozen shall be in Categories 347–T/348–T [3].
351/651	208,080 dozen.
352	232,501 dozen.
847	150,596 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1996.

[2] Category 338–S: only HTS numbers 6103.22.0050, 6105.10.0010, 6105.10.0030, 6105.90.8010, 6109.10.0027, 6110.20.1025, 6110.20.2040, 6110.20.2065, 6110.90.9068, 6112.11.0030 and 6114.20.0005; Category 339–S: only HTS numbers 6104.22.0060, 6104.29.2049, 6106.10.0010, 6106.10.0030, 6106.90.2510, 6106.90.3010, 6109.10.0070, 6110.20.1030, 6110.20.2045, 6110.20.2075, 6110.90.9070, 6112.11.0040, 6114.20.0010 and 6117.90.9020.

[3] Category 347–T: only HTS numbers 6103.19.2015, 6103.19.9020, 6103.22.0030, 6103.42.1020, 6103.42.1040, 6103.49.8010, 6112.11.0050, 6113.00.9038, 6203.19.1020, 6203.19.9020, 6203.22.3020, 6203.42.4005, 6203.42.4010, 6203.42.4015, 6203.42.4025, 6203.42.4035, 6203.42.4045, 6203.49.8020, 6210.40.9033, 6211.20.1520, 6211.20.3810 and 6211.32.0040; Category 348–T: only HTS numbers 6104.12.0030, 6104.19.8030, 6104.22.0040, 6104.29.2034, 6104.62.2008, 6104.62.2011, 6104.62.2026, 6104.62.2028, 6104.69.8022, 6112.11.0060, 6113.00.9042, 6117.90.9068, 6204.12.0030, 6204.19.8030, 6204.22.3040, 6204.29.4034, 6204.62.3000, 6204.62.4005, 6204.62.4010, 6204.62.4020, 6204.62.4030, 6204.62.4040, 6204.62.4050, 6204.69.8010, 6304.69.9010, 6210.50.9060, 6211.20.1550, 6211.20.6810, 6211.42.0030 and 6217.90.9050.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 97–28783 Filed 10–29–97; 8:45 am]

BILLING CODE 3510–DR–F

COMMODITY FUTURES TRADING COMMISSION

Financial Products Advisory Committee; November 13, 1997; 1:00 p.m.–4:00 p.m.

This is to give notice, pursuant to section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, section 10(a) and 41 CFR 101–6.1015(b), that the Commodity Futures Trading Commission's Financial Products Advisory Committee will conduct a public meeting in the Ground Level Hearing Room at the Commission's Washington, DC headquarters located at 1155 21st Street, NW., Washington, DC 20581, on November 13, 1997, beginning at 1:00 p.m. and lasting until 4:00 p.m.

The agenda will consist of:

Agenda

FPAC 2000

1. Introductory Remarks by Commissioner David D. Spears.
2. A discussion on streamlining and modernizing futures regulations.
3. Briefing by CFTC staff on current regulatory issues being proposed to the CFTC—including:
   - A. Special execution procedures established by a contract market and approved by the Commission.
   - B. Margining of option premiums.
   - C. Post trade allocation of orders with the consent of the eligible person.
   - D. Customer funds to be invested by a futures commission merchant or US clearing organization in liquid and readily marketable investments, in addition to the obligations specified in section 4d(2).
4. Other items for Committee consideration; timing of next meeting; other Committee business.

The purpose of this meeting is to solicit the views of the Committee on these agenda matters. The Advisory Committee was created by the Commodity Futures Trading Commission for the purpose of advising the Commission on issues concerning individuals and industries interested in or affected by financial markets regulated by the Commission. The purposes and objectives of the Advisory Committee are more fully set forth in the April 15, 1997 Charter of the Advisory Committee.

The meeting is open to the public. The Chairman of the Advisory Committee, CFTC Commissioner David D. Spears, is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Advisory Committee should mail a copy of the statement to the attention of: the Commodity Futures Trading Commission Financial Products Advisory Committee, c/o Ms. Jennifer Roe, 1155 21st Street, NW., Washington, DC 20581, before the meeting. Members of the public who wish to make oral statements should also inform Ms. Roe in writing at the foregoing address at least three business days before the meeting. Reasonable provisions will be made, if time permits, for an oral presentation of no more than five minutes each in duration.

Issued by the Commission in Washington, DC., on October 23, 1997.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 97–28685 Filed 10–29–97; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 97–29]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Assistance Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of P.L. 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSAA/COMPT/CPD, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 97–29, with attached transmittal, policy justification, and sensitivity of technology.

Dated: October 24, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Defense Security Assistance Agency

Washington, DC 20301–2800

July 24, 1997.

In reply refer to: I–50619/97

Honorable Newt Gingrich,
Speaker of the House of Representatives, Washington, D.C. 20515–6501

Dear Mr. Speaker: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 97–29, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance (LOA) to the United Arab Emirates for defense articles and services estimated to cost $27 million. Soon after this letter is delivered to your office, we plan to notify the new media.

Sincerely,

Thomas G. Rhame,

Lieutenant General, USA, Director.

Attachments

Same ltr to:
House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 97–29

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

(i) *Prospective Purchaser:* United Arab Emirates.

(ii) *Total Estimated Value:*

Major Defense Equipment *	$20 million.
Other	7 million.
Total	27 million.

*As defined in Section 47(6) of the Arms Export Control Act.

(iii) *Description of Articles or Services Offered:* Seventy-two RIM–7M (F1 Build) SEASPARROW missiles with one training missile, containers, spare and repair parts, supply support, training, shipboard equipment, support and test equipment, publications, U.S. Government and contractor technical assistance and other related elements of logistics support.

(iv) *Military Department:* Navy (AAK).

(v) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* none.

(vi) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Annex attached.

(vii) *Date Report Delivered to Congress:* July 24, 1997.

Policy Justification

United Arab Emirates—RIM–7M (F1 Build) SEASPARROW Missiles

The Government of the United Arab Emirates has requested the purchase of 72 RIM–7M (F1 Build) SEASPARROW missile with one training missile, containers, spare and repair parts, supply support, training, shipboard equipment, support and test equipment, publications, U.S. Government and contractor technical assistance and other related elements of logistics support. The estimated cost is $27 million.

This sale is consistent with the stated U.S. policy of assisting friendly nations to provide for their own defense by allowing the transfer of reasonable amounts of defense articles and services. The platform for these surfaced-launched, anti-aircraft missiles will be the two Kortenaer class frigates being obtained by the UAE from the Netherlands.

The United Arab Emirates will have no difficulty absorbing these missiles into its inventory for use in the defense of its coastline and surrounding islands.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be Raytheon Company, Lowell, Massachusetts and Hughes Missile System Company, Tucson, Arizona. There are no offset agreements proposed to be entered into in connection with this potential sale.

Implementation of this sale may require the assignment of three to five contractor representatives to support this program for two years.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

Transmittal No. 97–29

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex—Item No. vi

(vi) *Sensitivity of Technology:*

1. The external view of the RIM–7M (F1 Build) SEASPARROW missile is Unclassified and not sensitive. The SEASPARROW missile does have the following classified components, including applicable technical equipment, documentation, and manuals:

a. Guidance and Control Section.	Confidential.
b. Rocket Motor	Confidential.
c. Safety and Arming Device.	Confidential.
d. Fuzing hardware	Confidential.
e. Fuzing frequency/characteristics.	Secret.
f. Exportable parametric threat data programmed into ECM/ECCM software packet.	Secret.
g. Documentation*	Confidential.

*Manuals and technical documents are those necessary for Organizational and Intermediate level maintenance.

2. If a technologically advanced were to obtain knowledge of the specific hardware in this sale, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

3. A determination has been made that the recipient country can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

[FR Doc. 97–28687 Filed 10–29–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 97–28]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Assistance Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of P.L. 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSAA/COMPT/CPD, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 97–28, with attached transmittal, policy justification, and sensitivity of technology.

Dated: October 24, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Defense Security Assistance Agency

July 24, 1997

In reply refer to: I–80320/97

Honorable Newt Gingrich,

Speaker of the House of Representatives, Washington, D.C. 20515–6501

Dear Mr. Speaker: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 97–28, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance (LOA) to the United Arab Emirates for defense articles and services estimated to cost $90 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Thomas G. Rhame,

Lieutenant General, USA, Director.

Attachments, Same ltr to:

House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 97–28

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

(i) *Prospective Purchaser:* United Arab Emirates.

(ii) *Total Estimated Value:*

Major Defense Equipment*	$30 million.
Other	54 million.
Total	90 million.

*As defined in Section 47(6) of the Arms Export Control Act.

(iii) *Description of Articles or Services Offered:* Twenty-four RGM–84G–4 HARPOON missiles with containers, maintenance training and equipment, spare and repair parts, training, shipboard equipment, support and test equipment, publications, U.S. Government and contractor technical assistance and other related elements of logistics support.

(iv) *Military Department:* Navy (AAH)

(v) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* none

(vi) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Annex attached.

(vii) *Date Report Delivered to Congress:* July 24, 1997.

Policy Justification

United Arab Emirates—HARPOON Missiles

The Government of the United Arab Emirates (UAE) has requested the purchase of 24 RGM–84G–4 HARPOON missiles with containers, maintenance training and equipment, spare and repair parts, training, shipboard equipment, support and test equipment, publications, U.S. Government and contractor technical assistance and other related elements of logistics support. The estimated cost is $90 million.

This sale is consistent with the stated U.S. policy of assisting friendly nations to provide for their own defense by allowing the transfer of reasonable amounts of defense articles and services. The platform for these anti-ship missiles will be the two Kortenaer class frigates being obtained by the UAE from the Netherlands.

The United Arab Emirates will have no difficulty absorbing these missiles into its inventory for use in the defense of its coastline and surrounding islands.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be McDonnell Douglas Aerospace, Saint Louis, Missouri. There are no offset agreements proposed to be entered into in connection with this potential sale.

Implementation of this sale may require the assignment of three to five contractor representatives to support this program for two years.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

Transmittal No. 97–28

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex—Item No. vi

(v) *Sensitivity of Technology:*

1. The RGM–84G–4 HARPOON missile contains sensitive technology and has the following classified components, including applicable technical and equipment documentation and manuals:

a. Radar seeker.

b. Missile characteristics and performance data.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware in this sale, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

3. A determination has been made that the recipient country can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

[FR Doc. 97–28688 Filed 10–29–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 97–29]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Assistance Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of P.L. 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSAA/COMPT/CPD, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 97–29, with attached transmittal, policy justification, and sensitivity of technology.

Dated: October 24, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Defense Security Assistance Agency

July 24, 1997

In reply refer to: I–96410/97

Honorable Newt Gingrich,

Speaker of the House of Representatives, Washington, DC 20515–6501.

Dear Mr. Speaker: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 97–29, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance (LOA) to the Taipei Economic and Cultural Representative Office in the United States for defense articles and services estimated to cost $479 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Thomas G. Rhame,

Lieutenant General, USA, Director.

Attachments

Same ltr to:

House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 97–29

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

(i) *Prospective Purchaser:* Taipei Economic and Cultural Representative Office in the United States (TECRO).

(ii) *Total Estimated Value:*

Major Defense Equipment*	$341 million.
Other	138 million.
Total	479 million.

* As defined in Section 47(6) of the Arms Export Control Act.

(iii) *Description of Articles or Services Offered:* Twenty-one AH–1W Super Cobra helicopters, spare and repair parts, engineering technical assistance, support and test equipment, training, publications, contractor engineering technical and logistics support services, and other related elements of logistics support.

(iv) *Military Department:* Navy (SCP, Amendment 6).

(v) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None.

(vi) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Annex attached.

(vii) *Date Report Delivered to Congress:* July 24, 1997.

Policy Justification

Taipei Economic and Cultural Representative Office (TECRO) in the United States—AH–1W Super Cobra Helicopters

The Taipei Economic and Cultural Representative Office (TECRO) in the United States has requested the purchase of 21 AH–1W Super Cobra helicopters, spare and repair parts, engineering technical assistance, support and test equipment, training, publications, contractor engineering technical and logistics support services, and other related elements of logistics support. The estimated cost is $479 million.

This sale is consistent with United States law and policy, as expressed in Public Law 96–8.

The recipient will use these helicopters primarily to conduct military exercises for purpose of self-defense and military preparedness. The recipient will have no difficulty absorbing these additional helicopters into its armed forces.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the Bell Helicopter, Fort Worth, Texas. There are no offset agreements proposed to be entered into in connection with this potential sale.

Implementation of this sale will not require the assignment of any additional U.S. Government personnel or contractor representatives in-country.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

Transmittal No. 97–29

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex—Item No. vi

(vi) *Sensitivity of Technology:*

1. The AH–1W Super Cobra Helicopter and associated systems, including operations manuals and maintenance publications, are unclassified. The following components are classified:

a. The AN/APR–44(V)1 radar warning system hardware is unclassified. After software (parametric threat data) is incorporated into the system, it is then classified Secret. Publications and personnel training related to this equipment are classified Confidential.

b. The AN/APR–39 Radar Signal Detecting Set is Confidential when it is loaded and classified threat warning parameters.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware in this sale, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

3. A determination has been made that the recipient country can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

[FR Doc. 97–28689 Filed 10–29–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

TRICARE/CHAMPUS; FY98 DRG Updates

AGENCY: Office of the Secretary, DoD.

ACTION: Notice of DRG revised rates.

SUMMARY: This notice provides the updated adjusted standardized amounts, DRG relative weights, outlier thresholds, and beneficiary cost-share per diem rates to be used for FY98 under the TRICARE/CHAMPUS DRG-based payment system. It also describes the changes made to the TRICARE/CHAMPUS DRG-based payment system in order to conform to changes made to the Medicare Prospective Payment System (PPS).

EFFECTIVE DATES: The rates and weights and Medicare PPS changes which affect the TRICARE/CHAMPUS DRG-based payment system contained in this notice are effective for admissions occurring on or after October 1, 1997.

ADDRESSES: TRICARE Support Office (TSO), Program Development Branch, Aurora, CO 80045–6900.

FOR FURTHER INFORMATION CONTACT: Marty Maxey, Program Development Branch, TSO, telephone (303) 361–1227.

To obtain copies of this document, see the **ADDRESSES** section above. Questions regarding payment of specific claims under the TRICARE/CHAMPUS DRG-Based payment system should be addressed to the appropriate TRICARE/CHAMPUS contractor.

SUPPLEMENTARY INFORMATION: The final rule published on September 1, 1987 (52 FR 32992) set forth the basic procedures used under the TRICARE/CHAMPUS DRG-based payment system. This was subsequently amended by final rules published August 31, 1988 (53 FR 33481), October 21, 1988 (53 FR 41331), December 16, 1988 (53 FR 50515), May 30, 1990 (55 FR 21983), and October 22, 1990 (55 FR 42560).

An explicit tenet of these final rules, and one based on the statute authorizing the use of DRGs by TRICARE/CHAMPUS, is that the TRICARE/CHAMPUS DRG-based payment system is modeled on the Medicare PPS, and that, whenever practicable, the TRICARE/CHAMPUS system will follow the same rules that apply to the Medicare PPS. The Health Care Financing Administration (HCFA) publishes these changes annually in the Federal Register and discusses in detail the impact of the changes.

In addition, this notice updates the rates and weights in accordance with our previous final rules. The actual changes we are making, along with a description of their relationship to the Medicare PPS, are detailed below.

I. Medicare PPS Changes Which Affect the TRICARE/CHAMPUS DRG-Based Payment System

Following is a discussion of the changes HCFA has made to the Medicare PPS which affect the TRICARE/CHAMPUS DRG-based payment system.

A. DRG Classifications

Under both the Medicare PPS and the TRICARE/CHAMPUS DRG-based payment system, cases are classified into the appropriate DRG by a Grouper program. The Grouper classifies each case into a DRG on the basis of the diagnosis and procedure codes and demographic information (that is, sex, age, and discharge status). The Grouper used for the TRICARE/CHAMPUS DRG-based payment system is the same as the current Medicare Grouper with two modifications. The TRICARE/CHAMPUS system has replaced Medicare DRG 435 with two age-based DRGs (900 and 901), and we have implemented thirty-four (34) neonatal DRGs in place of Medicare DRGs 385 through 390. Grouping for all other DRGs under the TRICARE/CHAMPUS system is identical to the Medicare PPS.

For FY98, HCFA will implement a number of classification changes, including surgical hierarchy changes, revisions to the Major Problem Diagnosis List, and refinements to the Complications and Comorbidities (CC) List. In addition, DRGs 214 and 215 (Back and Neck Procedures) will be replaced with five new DRGs (DRGs 499–503) and DRGs 221 and 222 will be replaced with three new DRGs (DRGs 501–503). The TRICARE/CHAMPUS Grouper will incorporate all changes made to the Medicare Grouper.

B. Wage Index and Medicare Geographic Classification Review Board Guidelines

TRICARE/CHAMPUS will continue to use the same wage index amounts used for the Medicare PPS, including the floor on area wage index. Beginning with FY98, the wage index for an urban hospital may not be lower than the Statewide area rural wage index. In addition, TRICARE/CHAMPUS will duplicate all changes with regard to the wage index for specific hospitals which are redesignated by the Medicare Geographic Classification Review Board.

C. Hospital Market Basket

As outlined in HCFA's August 29, 1997, final rule, the applicable percentage change in the standardized amounts have been frozen at the FY97 levels resulting in a 0 percent increase for FY98.

In connection with the revisions to the hospital market basket, HCFA reestimated the labor-related share of the standardized amounts. Accordingly, effective with TRICARE/CHAMPUS discharges occurring on or after October 1, 1997, the labor-related share of the standardized amount will be 71.1 percent and the nonlabor-related portion will be 28.9 percent.

D. Changes to Outlier Payments

In accordance with HCFA's August 29, 1997, final rule, we will eliminate payment for day outliers, referred to as long stay outliers under TRICARE/CHAMPUS, for all cases except neonates and children's hospitals.

Since TRICARE/CHAMPUS does not include capital payments in our DRG-based payments, we will use the thresholds calculated by HCFA for paying cost outliers in the absence of capital prospective payments.

In addition, effective with discharges occurring on or after October 1, 1997, in determining the additional payment for IDME, the IDME adjustment factor will only be applied to the base DRG payment, not the sum of the base DRG payment and any cost outlier payments. The fixed loss cost outlier threshold will be based on the sum of DRG payments and IDME payments for purposes of comparing costs to payment. In determining whether a case meets the cost outlier threshold, we will not standardize the costs of the case to account for IDME.

For FY98, the fixed loss cost outlier threshold is based on the sum of the applicable DRG-based payment rate plus any amounts payable for IDME plus a fixed dollar amount. Thus, for FY98, in order for a case to qualify for cost outlier payments, the costs must exceed the TRICARE/CHAMPUS DRG base payment rate for the DRG plus the IDME payment plus $10,180. The marginal cost factor for cost outliers continues to be 80 percent. The above changes to the cost outlier payments will not be adopted for children's hospitals or neonates at this time.

E. Changes to Indirect Medical Education (IDME) Adjustment

We will adopt Medicare's PPS changes to revise the IDME formula to gradually reduce the current level of IDME adjustment over the next several years. Since the IDME formula used by TRICARE/CHAMPUS does not include disproportionate share hospitals (DSHs), the variables in the formula are different than Medicare's, however, the percentage reductions that will be applied to Medicare's formula will also be applied to the TRICARE/CHAMPUS IDME formula. We will also adopt Medicare's PPS changes as they pertain to the counting and reporting of residents and beds on the Medicare cost reports for purposes of reimbursing hospitals for the TRICARE/CHAMPUS share of IDME costs.

F. Graduate Medical Education

We will adopt Medicare's PPS changes as they pertain to the counting and reporting of residents on the Medicare cost reports for purposes of reimbursing hospitals for the TRICARE/CHAMPUS share of graduate medical education costs.

G. Capital-Related Costs

TRICARE/CHAMPUS reimburses hospitals for our share of hospitals' capital costs on a pass through basis. As provided for in our previous final rules, these annual payments are subject to any reductions which are required for the Medicare PPS. Accordingly, for days of care occurring on or after October 1, 1997, through September 30, 2003, a reduction of 27.68 percent will be applied to all capital payments.

H. Blood Clotting Factor

We will reinstate the add-on payment for the costs of administering blood clotting factor provided to beneficiaries who have hemophilia and who are hospital inpatients for discharges occurring on or after October 1, 1997.

The new payment levels which TRICARE/CHAMPUS will use are:

Factor VIII (antihemophilic factor-human).	$0.76 per unit.
Factor VIII (antihemophilic factor-recombinant).	1.00 per unit.
Factor IX (complex)	0.32 per unit
Other hemophilia clotting factors (e.g., anti-inhibitors).	1.10 per unit.

I. Hospitals Excluded From the Prospective Payment System

TRICARE/CHAMPUS will adopt the changes outlined in HCFA's August 29, 1997, final rule as they apply to hospitals and units excluded from the Medicare PPS.

II. Cost-to-Charge Ratio

For FY98, the cost-to-charge ratio used for the TRICARE/CHAMPUS DRG-based payment system will be 0.5436 which is increased to 0.5536 to account for bad debts. This shall be used to calculate the adjusted standardized amounts and to calculate cost outlier payments, except for children's hospitals. For children's hospital cost outliers, the cost-to-charge ratio used is 0.6027.

III. Updated Rates and Weights

Tables 1 and 2 provide the rates and weights to be used under the TRICARE/CHAMPUS DRG-based payment system during FY98 and which are a result of the change described above. The implementing regulations for the TRICARE/CHAMPUS DRG-based payment system are in 32 CFR Part 199. The rates and weights are also available on the Internet at http://www.ochampus.mil under the heading of Reports.

As a courtesy, we will provide a separate list of the updated DRG weights that includes the long-stay thresholds for use by MTFs and other non-DoD users of the TRICARE/CHAMPUS DRG weights and rates through TSO's home page. The list will also be found under the Heading of Reports but will specifically indicate the list is for MTFs and non-DoD users. Beginning next year, the updated rates and weights will no longer be published in the Federal Register and will only be available on-line.

Dated: October 23, 1997.

L.M. Bynum,

Alternate Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5000-04-M

Table 1
Revised Fiscal Year 1998 CHAMPUS Adjusted Standardized Amounts

Hospital Type	Labor Portion	Non-Labor Portion	Total
Large Urban	2,290.94	931.20	3,222.13
Other Areas	2136.96	868.61	3,005.57

TABLE 2

CHAMPUS WEIGHT AND THRESHOLD SUMMARY

DRG NUMBER	DESCRIPTION	CHAMPUS WEIGHT	ARITHMETIC MEAN LOS	GEOMETRIC MEAN LOS	SHORT STAY THRESHOLD	CHILDRENS/NEONATAL LONG STAY THRESHOLD
1	CRANIOTOMY AGE >17 EXCEPT FOR TRAUMA	3.8597	8.8	6.1	1	23
2	CRANIOTOMY FOR TRAUMA AGE >17	4.2285	8.2	6.4	1	23
3	CRANIOTOMY AGE 0-17	2.5739	7.3	4.6	1	21
4	SPINAL PROCEDURES	2.6812	8.0	5.1	1	22
5	EXTRACRANIAL VASCULAR PROCEDURES	1.6451	2.9	2.4	1	7
6	CARPAL TUNNEL RELEASE	0.7582*	3.3	2.2	1	26
7	PERIPH & CRANIAL NERVE & OTHER NERV SYST PROC W CC	2.3795	8.0	4.8	1	21
8	PERIPH & CRANIAL NERVE & OTHER NERV SYST PROC W/O CC	1.3175	2.7	2.0	1	8
9	SPINAL DISORDERS & INJURIES	1.5545	9.1	5.7	1	22
10	NERVOUS SYSTEM NEOPLASMS W CC	1.3176	6.5	4.1	1	21
11	NERVOUS SYSTEM NEOPLASMS W/O CC	1.1123	4.4	2.9	1	15
12	DEGENERATIVE NERVOUS SYSTEM DISORDERS	1.5353	8.6	5.1	1	22
13	MULTIPLE SCLEROSIS & CEREBELLAR ATAXIA	0.7503	4.8	4.1	1	12
14	SPECIFIC CEREBROVASCULAR DISORDERS EXCEPT TIA	1.3798	5.7	4.2	1	18
15	TRANSIENT ISCHEMIC ATTACK & PRECEREBRAL OCCLUSIONS	0.7769	3.0	2.5	1	8
16	NONSPECIFIC CEREBROVASCULAR DISORDERS W CC	1.1956	5.6	3.8	1	20
17	NONSPECIFIC CEREBROVASCULAR DISORDERS W/O CC	0.5735	1.7	1.5	1	4
18	CRANIAL & PERIPHERAL NERVE DISORDERS W CC	0.9526	5.0	3.8	1	16
19	CRANIAL & PERIPHERAL NERVE DISORDERS W/O CC	0.6831	3.3	2.5	1	10
20	NERVOUS SYSTEM INFECTION EXCEPT VIRAL MENINGITIS	2.2631	8.3	6.0	1	22
21	VIRAL MENINGITIS	0.7022	3.3	2.7	1	10
22	HYPERTENSIVE ENCEPHALOPATHY	1.2941	4.6	3.8	1	13
23	NONTRAUMATIC STUPOR & COMA	0.6763	2.9	2.2	1	9
24	SEIZURE & HEADACHE AGE >17 W CC	0.9028	3.9	2.9	1	12
25	SEIZURE & HEADACHE AGE >17 W/O CC	0.6095	2.8	2.3	1	7
26	SEIZURE & HEADACHE AGE 0-17	0.5174	2.5	1.9	1	6
27	TRAUMATIC STUPOR & COMA, COMA >1 HR	1.3964	4.6	2.8	1	17
28	TRAUMATIC STUPOR & COMA, COMA <1 HR AGE >17 W CC	1.3001	5.7	3.8	1	20
29	TRAUMATIC STUPOR & COMA, COMA <1 HR AGE >17 W/O CC	0.7788	3.4	2.6	1	10
30	TRAUMATIC STUPOR & COMA, COMA <1 HR AGE 0-17	0.6828	3.0	2.0	1	9
31	CONCUSSION AGE >17 W CC	1.0425	3.6	2.6	1	12
32	CONCUSSION AGE >17 W/O CC	0.4817	1.8	1.4	1	4
33	CONCUSSION AGE 0-17	0.3340	1.4	1.2	1	2
34	OTHER DISORDERS OF NERVOUS SYSTEM W CC	1.3723	5.7	3.5	1	20
35	OTHER DISORDERS OF NERVOUS SYSTEM W/O CC	0.7037	3.3	2.4	1	10
36	RETINAL PROCEDURES	0.8898	1.7	1.4	1	4
37	ORBITAL PROCEDURES	1.6424	3.5	2.1	1	13
38	PRIMARY IRIS PROCEDURES	0.6826*	2.7	1.9	1	17
39	LENS PROCEDURES WITH OR WITHOUT VITRECTOMY	0.5406*	2.0	1.5	1	10
40	EXTRAOCULAR PROCEDURES EXCEPT ORBIT AGE >17	0.8696	2.0	1.6	1	5
41	EXTRAOCULAR PROCEDURES EXCEPT ORBIT AGE 0-17	0.3354*	1.6	1.6	1	6
42	INTRAOCULAR PROCEDURES EXCEPT RETINA, IRIS & LENS	0.6838	2.6	2.3	1	6
43	HYPHEMA	0.4119*	4.0	2.9	1	19
44	ACUTE MAJOR EYE INFECTIONS	0.5346	3.3	2.8	1	8
45	NEUROLOGICAL EYE DISORDERS	0.5952	3.2	2.6	1	9
46	OTHER DISORDERS OF THE EYE AGE >17 W CC	1.2151	6.0	3.6	1	20
47	OTHER DISORDERS OF THE EYE AGE >17 W/O CC	0.6658	2.5	1.9	1	8
48	OTHER DISORDERS OF THE EYE AGE 0-17	0.4655	2.3	2.1	1	5
49	MAJOR HEAD & NECK PROCEDURES	1.7502	3.6	2.9	1	11
50	SIALOADENECTOMY	0.7900	1.4	1.3	1	2

TABLE 2 (CONTINUED)

CHAMPUS WEIGHT AND THRESHOLD SUMMARY

DRG NUMBER	DESCRIPTION	CHAMPUS WEIGHT	ARITHMETIC MEAN LOS	GEOMETRIC MEAN LOS	SHORT STAY THRESHOLD	CHILDRENS/NEONATAL LONG STAY THRESHOLD
51	SALIVARY GLAND PROCEDURES EXCEPT SIALOADENECTOMY	0.8367*	2.9	1.9	1	20
52	CLEFT LIP & PALATE REPAIR	0.7839	1.7	1.5	1	4
53	SINUS & MASTOID PROCEDURES AGE >17	1.1468	3.2	2.4	1	10
54	SINUS & MASTOID PROCEDURES AGE 0-17	0.9395	2.0	1.7	1	5
55	MISCELLANEOUS EAR, NOSE, MOUTH & THROAT PROCEDURES	1.3818	2.8	1.8	1	9
56	RHINOPLASTY	1.2133	2.7	2.1	1	8
57	T&A PROC, EXCEPT TONSILLECTOMY &/OR ADENOIDECTOMY ONLY, AGE >17	0.9639	2.9	2.5	1	7
58	T&A PROC, EXCEPT TONSILLECTOMY &/OR ADENOIDECTOMY ONLY, AGE 0-17	0.9489	3.8	3.1	1	11
59	TONSILLECTOMY &/OR ADENOIDECTOMY ONLY, AGE >17	0.5998	2.6	1.8	1	6
60	TONSILLECTOMY &/OR ADENOIDECTOMY ONLY, AGE 0-17	0.5181	1.7	1.4	1	4
61	MYRINGOTOMY W TUBE INSERTION AGE >17	1.1181*	4.5	2.8	1	27
62	MYRINGOTOMY W TUBE INSERTION AGE 0-17	0.7404	1.9	1.5	1	5
63	OTHER EAR, NOSE, MOUTH & THROAT O.R. PROCEDURES	1.2552	2.3	1.8	1	5
64	EAR, NOSE, MOUTH & THROAT MALIGNANCY	1.1501	4.7	3.2	1	17
65	DYSEQUILIBRIUM	0.4621	2.1	1.8	1	5
66	EPISTAXIS	0.5391	3.3	2.8	1	8
67	EPIGLOTTITIS	0.8150	2.3	2.0	1	5
68	OTITIS MEDIA & URI AGE >17 W CC	0.5342	2.9	2.4	1	7
69	OTITIS MEDIA & URI AGE >17 W/O CC	0.5028	2.7	2.3	1	6
70	OTITIS MEDIA & URI AGE 0-17	0.4328	2.7	2.2	1	7
71	LARYNGOTRACHEITIS	0.3001	1.7	1.8	1	3
72	NASAL TRAUMA & DEFORMITY	0.6364*	3.5	2.7	1	27
73	OTHER EAR, NOSE, MOUTH & THROAT DIAGNOSES AGE >17	0.6371	3.1	2.5	1	8
74	OTHER EAR, NOSE, MOUTH & THROAT DIAGNOSES AGE 0-17	0.4751	2.7	2.0	1	7
75	MAJOR CHEST PROCEDURES	3.0874	8.4	6.5	1	23
76	OTHER RESP SYSTEM O.R. PROCEDURES W CC	2.8451	8.9	6.5	1	23
77	OTHER RESP SYSTEM O.R. PROCEDURES W/O CC	1.3940	4.6	3.4	1	16
78	PULMONARY EMBOLISM	1.5505	6.5	5.7	1	16
79	RESPIRATORY INFECTIONS & INFLAMMATIONS AGE >17 W CC	1.8236	7.9	6.3	1	23
80	RESPIRATORY INFECTIONS & INFLAMMATIONS AGE >17 W/O CC	0.9702	5.0	4.2	1	13
81	RESPIRATORY INFECTIONS & INFLAMMATIONS AGE 0-17	1.1558	5.3	3.6	1	19
82	RESPIRATORY NEOPLASMS	1.4395	6.1	4.2	1	21
83	MAJOR CHEST TRAUMA W CC	1.0866	4.5	3.6	1	14
84	MAJOR CHEST TRAUMA W/O CC	0.5123	2.3	2.0	1	6
85	PLEURAL EFFUSION W CC	1.4574	6.1	5.2	1	17
86	PLEURAL EFFUSION W/O CC	0.7716	3.3	2.7	1	10
87	PULMONARY EDEMA & RESPIRATORY FAILURE	1.4613	6.1	4.6	1	20
88	CHRONIC OBSTRUCTIVE PULMONARY DISEASE	1.0181	4.8	4.0	1	13
89	SIMPLE PNEUMONIA & PLEURISY AGE >17 W CC	1.1147	5.1	4.3	1	13
90	SIMPLE PNEUMONIA & PLEURISY AGE >17 W/O CC	0.6718	3.7	3.1	1	9
91	SIMPLE PNEUMONIA & PLEURISY AGE 0-17	0.5754	3.2	2.7	1	8
92	INTERSTITIAL LUNG DISEASE W CC	1.3077	5.1	4.2	1	15
93	INTERSTITIAL LUNG DISEASE W/O CC	0.5836	3.8	3.3	1	8
94	PNEUMOTHORAX W CC	1.4460	6.1	4.5	1	20
95	PNEUMOTHORAX W/O CC	0.4535	3.2	2.7	1	8
96	BRONCHITIS & ASTHMA AGE >17 W CC	0.8875	4.1	3.4	1	11
97	BRONCHITIS & ASTHMA AGE >17 W/O CC	0.6038	3.1	2.5	1	8
98	BRONCHITIS & ASTHMA AGE 0-17	0.5006	2.6	2.3	1	6
99	RESPIRATORY SIGNS & SYMPTOMS W CC	0.7217	2.6	2.0	1	7
100	RESPIRATORY SIGNS & SYMPTOMS W/O CC	0.5386	1.9	1.6	1	4

TABLE 2 (CONTINUED)

CHAMPUS WEIGHT AND THRESHOLD SUMMARY

DRG NUMBER	DESCRIPTION	CHAMPUS WEIGHT	ARITHMETIC MEAN LOS	GEOMETRIC MEAN LOS	SHORT STAY THRESHOLD	CHILDRENS/NEONATAL LONG STAY THRESHOLD
101	OTHER RESPIRATORY SYSTEM DIAGNOSES W CC	0.8832	3.6	2.6	1	11
102	OTHER RESPIRATORY SYSTEM DIAGNOSES W/O CC	0.5212	1.9	1.7	1	4
103	HEART TRANSPLANT	-	-	-	-	-
104	CARDIAC VALVE PROCEDURES W CARDIAC CATH	8.4494	10.8	8.4	1	25
105	CARDIAC VALVE PROCEDURES W/O CARDIAC CATH	5.9139	7.4	6.3	1	19
106	CORONARY BYPASS W CARDIAC CATH	5.9878	8.4	7.7	2	17
107	CORONARY BYPASS W/O CARDIAC CATH	4.3544	6.4	5.9	1	12
108	OTHER CARDIOTHORACIC PROCEDURES	5.2652	9.0	6.3	1	23
109	NO LONGER VALID	-	-	-	-	-
110	MAJOR CARDIOVASCULAR PROCEDURES W CC	4.4829	8.0	6.4	1	23
111	MAJOR CARDIOVASCULAR PROCEDURES W/O CC	2.3633	4.8	4.1	1	13
112	PERCUTANEOUS CARDIOVASCULAR PROCEDURES	2.2210	3.2	2.5	1	9
113	AMPUTATION FOR CIRC SYSTEM DISORDERS EXCEPT UPPER LIMB & TOE	4.0669	14.1	10.3	1	27
114	UPPER LIMB & TOE AMPUTATION FOR CIRC SYSTEM DISORDERS	2.6068	13.3	6.5	1	23
115	PRM CARD PACEM IMPL W AMI,HRT FAIL OR SHK,OR AICD LEAD OR GNRTR	4.9350	9.5	5.1	1	22
116	OTH PERM CARD PACEMAK IMPL OR PTCA W CORONARY ARTERY STENT IMPLN	3.0086	3.3	2.6	1	9
117	CARDIAC PACEMAKER REVISION EXCEPT DEVICE REPLACEMENT	1.3887	3.0	2.0	1	10
118	CARDIAC PACEMAKER DEVICE REPLACEMENT	1.8352	3.0	1.9	1	9
119	VEIN LIGATION & STRIPPING	0.9767	2.6	2.2	1	7
120	OTHER CIRCULATORY SYSTEM O.R. PROCEDURES	2.9517	8.0	5.1	1	22
121	CIRCULATORY DISORDERS W AMI & MAJOR COMP, DISCHARGED ALIVE	1.7896	5.0	4.0	1	15
122	CIRCULATORY DISORDERS W AMI W/O MAJOR COMP, DISCHARGED ALIVE	1.3343	3.4	2.8	1	9
123	CIRCULATORY DISORDERS W AMI, EXPIRED	2.2576	4.0	2.4	1	15
124	CIRCULATORY DISORDERS EXCEPT AMI, W CARD CATH & COMPLEX DIAG	1.3802	3.4	2.6	1	10
125	CIRCULATORY DISORDERS EXCEPT AMI, W CARD CATH W/O COMPLEX DIAG	1.0490	2.2	1.9	1	5
126	ACUTE & SUBACUTE ENDOCARDITIS	3.3492	10.2	7.7	1	24
127	HEART FAILURE & SHOCK	1.1572	4.9	3.8	1	14
128	DEEP VEIN THROMBOPHLEBITIS	0.8194	5.4	4.8	1	12
129	CARDIAC ARREST, UNEXPLAINED	2.0354	2.8	1.8	1	8
130	PERIPHERAL VASCULAR DISORDERS W CC	1.1246	6.1	4.9	1	17
131	PERIPHERAL VASCULAR DISORDERS W/O CC	0.7243	4.3	3.6	1	13
132	ATHEROSCLEROSIS W CC	0.6660	2.4	2.0	1	6
133	ATHEROSCLEROSIS W/O CC	0.6086	2.4	1.9	1	6
134	HYPERTENSION	0.5398	2.5	2.1	1	6
135	CARDIAC CONGENITAL & VALVULAR DISORDERS AGE >17 W CC	0.6206	2.3	1.8	1	6
136	CARDIAC CONGENITAL & VALVULAR DISORDERS AGE >17 W/O CC	0.7074	2.5	2.0	1	7
137	CARDIAC CONGENITAL & VALVULAR DISORDERS AGE 0-17	0.4027	1.8	1.6	1	4
138	CARDIAC ARRHYTHMIA & CONDUCTION DISORDERS W CC	0.7297	3.0	2.4	1	8
139	CARDIAC ARRHYTHMIA & CONDUCTION DISORDERS W/O CC	0.4733	2.1	1.7	1	5
140	ANGINA PECTORIS	0.5683	2.1	1.8	1	5
141	SYNCOPE & COLLAPSE W CC	0.6440	2.8	2.2	1	7
142	SYNCOPE & COLLAPSE W/O CC	0.5325	2.0	1.7	1	5
143	CHEST PAIN	0.5129	1.7	1.5	1	3
144	OTHER CIRCULATORY SYSTEM DIAGNOSES W CC	1.2947	5.2	3.8	1	17
145	OTHER CIRCULATORY SYSTEM DIAGNOSES W/O CC	0.6499	2.4	2.0	1	6
146	RECTAL RESECTION W CC	2.7656	8.2	7.5	2	16
147	RECTAL RESECTION W/O CC	2.1219	6.7	6.3	2	12
148	MAJOR SMALL & LARGE BOWEL PROCEDURES W CC	3.3843	10.2	8.6	1	25
149	MAJOR SMALL & LARGE BOWEL PROCEDURES W/O CC	1.6973	5.9	5.2	1	14
150	PERITONEAL ADHESIOLYSIS W CC	2.3126	8.5	7.1	1	23

TABLE 2 (CONTINUED)

CHAMPUS WEIGHT AND THRESHOLD SUMMARY

DRG NUMBER	DESCRIPTION	CHAMPUS WEIGHT	ARITHMETIC MEAN LOS	GEOMETRIC MEAN LOS	SHORT STAY THRESHOLD	CHILDRENS/NEONATAL LONG STAY THRESHOLD
151	PERITONEAL ADHESIOLYSIS W/O CC	1.4736	5.0	4.0	1	15
152	MINOR SMALL & LARGE BOWEL PROCEDURES W CC	1.8466	7.6	6.8	1	17
153	MINOR SMALL & LARGE BOWEL PROCEDURES W/O CC	1.1616	4.8	4.1	1	13
154	STOMACH, ESOPHAGEAL & DUODENAL PROCEDURES AGE >17 W CC	3.9139	10.6	7.8	1	24
155	STOMACH, ESOPHAGEAL & DUODENAL PROCEDURES AGE >17 W/O CC	1.5240	3.4	2.7	1	9
156	STOMACH, ESOPHAGEAL & DUODENAL PROCEDURES AGE 0-17	1.2375	5.2	3.8	1	16
157	ANAL & STOMAL PROCEDURES W CC	1.1156	4.4	3.3	1	14
158	ANAL & STOMAL PROCEDURES W/O CC	0.6791	2.4	2.0	1	6
159	HERNIA PROCEDURES EXCEPT INGUINAL & FEMORAL AGE >17 W CC	1.3927	4.4	3.2	1	13
160	HERNIA PROCEDURES EXCEPT INGUINAL & FEMORAL AGE >17 W/O CC	0.9049	2.7	2.2	1	7
161	INGUINAL & FEMORAL HERNIA PROCEDURES AGE >17 W CC	0.9979	2.2	1.8	1	5
162	INGUINAL & FEMORAL HERNIA PROCEDURES AGE >17 W/O CC	0.6872	1.8	1.5	1	4
163	HERNIA PROCEDURES AGE 0-17	0.6196	1.8	1.5	1	4
164	APPENDECTOMY W COMPLICATED PRINCIPAL DIAG W CC	2.0290	6.8	5.9	1	16
165	APPENDECTOMY W COMPLICATED PRINCIPAL DIAG W/O CC	1.1989	4.4	3.9	1	11
166	APPENDECTOMY W/O COMPLICATED PRINCIPAL DIAG W CC	1.0446	3.3	2.8	1	8
167	APPENDECTOMY W/O COMPLICATED PRINCIPAL DIAG W/O CC	0.7793	2.1	1.9	1	4
168	MOUTH PROCEDURES W CC	1.4189	4.2	3.4	1	12
169	MOUTH PROCEDURES W/O CC	0.9697	2.0	1.7	1	5
170	OTHER DIGESTIVE SYSTEM O.R. PROCEDURES W CC	3.0532	9.8	7.8	1	24
171	OTHER DIGESTIVE SYSTEM O.R. PROCEDURES W/O CC	1.2173	3.8	3.0	1	11
172	DIGESTIVE MALIGNANCY W CC	1.5793	6.0	4.2	1	21
173	DIGESTIVE MALIGNANCY W/O CC	1.0077	6.0	2.8	1	19
174	G.I. HEMORRHAGE W CC	0.9958	3.7	3.0	1	10
175	G.I. HEMORRHAGE W/O CC	0.4911	2.3	1.9	1	6
176	COMPLICATED PEPTIC ULCER	1.0561	4.6	3.3	1	15
177	UNCOMPLICATED PEPTIC ULCER W CC	0.8522	3.1	2.6	1	8
178	UNCOMPLICATED PEPTIC ULCER W/O CC	0.6791	2.7	2.3	1	7
179	INFLAMMATORY BOWEL DISEASE	1.0090	5.2	4.4	1	16
180	G.I. OBSTRUCTION W CC	1.0000	5.1	3.7	1	17
181	G.I. OBSTRUCTION W/O CC	0.5597	3.1	2.6	1	8
182	ESOPHAGITIS, GASTROENT & MISC DIGEST DISORDERS AGE >17 W CC	0.7248	3.5	2.7	1	10
183	ESOPHAGITIS, GASTROENT & MISC DIGEST DISORDERS AGE >17 W/O CC	0.5825	2.6	2.1	1	8
184	ESOPHAGITIS, GASTROENT & MISC DIGEST DISORDERS AGE 0-17	0.3355	2.3	1.9	1	5
185	DENTAL & ORAL DIS EXCEPT EXTRACTIONS & RESTORATIONS, AGE >17	0.7587	3.1	2.3	1	9
186	DENTAL & ORAL DIS EXCEPT EXTRACTIONS & RESTORATIONS, AGE 0-17	0.5041	2.1	1.8	1	4
187	DENTAL EXTRACTIONS & RESTORATIONS	0.8551	2.1	2.3	1	9
188	OTHER DIGESTIVE SYSTEM DIAGNOSES AGE >17 W CC	1.1028	4.7	3.7	1	14
189	OTHER DIGESTIVE SYSTEM DIAGNOSES AGE >17 W/O CC	0.7416	3.4	2.3	1	9
190	OTHER DIGESTIVE SYSTEM DIAGNOSES AGE 0-17	0.8020	3.4	2.2	1	10
191	PANCREAS, LIVER & SHUNT PROCEDURES W CC	4.4163	12.6	8.8	1	25
192	PANCREAS, LIVER & SHUNT PROCEDURES W/O CC	1.8488	6.7	5.5	1	15
193	BILIARY TRACT PROC EXCEPT ONLY CHOLECYST W OR W/O C.D.E. W CC	2.9408	9.7	7.9	1	24
194	BILIARY TRACT PROC EXCEPT ONLY CHOLECYST W OR W/O C.D.E. W/O CC	2.2152	5.5	4.5	1	18
195	CHOLECYSTECTOMY W C.D.E. W CC	2.1195	6.3	5.6	1	16
196	CHOLECYSTECTOMY W C.D.E. W/O CC	1.8104	4.5	3.9	1	11
197	CHOLECYSTECTOMY EXCEPT BY LAPAROSCOPE W/O C.D.E. W CC	2.1195	6.6	5.5	1	16
198	CHOLECYSTECTOMY EXCEPT BY LAPAROSCOPE W/O C.D.E. W/O CC	1.2851	3.7	3.3	1	9
199	HEPATOBILIARY DIAGNOSTIC PROCEDURE FOR MALIGNANCY	2.1628	7.6	5.7	1	22
200	HEPATOBILIARY DIAGNOSTIC PROCEDURE FOR NON-MALIGNANCY	3.0793	7.6	4.8	1	21

TABLE 2 (CONTINUED)

CHAMPUS WEIGHT AND THRESHOLD SUMMARY

DRG NUMBER	DESCRIPTION	CHAMPUS WEIGHT	ARITHMETIC MEAN LOS	GEOMETRIC MEAN LOS	SHORT STAY THRESHOLD	CHILDRENS/NEONATAL LONG STAY THRESHOLD
201	OTHER HEPATOBILIARY OR PANCREAS O.R. PROCEDURES	2.9631	11.2	8.2	1	25
202	CIRRHOSIS & ALCOHOLIC HEPATITIS	1.6142	6.2	4.6	1	21
203	MALIGNANCY OF HEPATOBILIARY SYSTEM OR PANCREAS	1.6145	6.9	4.8	1	21
204	DISORDERS OF PANCREAS EXCEPT MALIGNANCY	1.2565	5.6	4.2	1	17
205	DISORDERS OF LIVER EXCEPT MALIG,CIRR,ALC HEPA W CC	1.4178	5.8	4.3	1	18
206	DISORDERS OF LIVER EXCEPT MALIG,CIRR,ALC HEPA W/O CC	0.6454	3.1	2.4	1	9
207	DISORDERS OF THE BILIARY TRACT W CC	0.9668	3.8	2.9	1	12
208	DISORDERS OF THE BILIARY TRACT W/O CC	0.5621	2.6	1.7	1	4
209	MAJOR JOINT & LIMB REATTACHMENT PROCEDURES OF LOWER EXTREMITY	1.6545	5.8	4.5	1	8
210	HIP & FEMUR PROCEDURES EXCEPT MAJOR JOINT AGE >17 W CC	2.4137	7.8	6.5	1	20
211	HIP & FEMUR PROCEDURES EXCEPT MAJOR JOINT AGE >17 W/O CC	1.3957	4.3	3.8	1	10
212	HIP & FEMUR PROCEDURES EXCEPT MAJOR JOINT AGE 0-17	1.4297	4.7	3.3	1	15
213	AMPUTATION FOR MUSCULOSKELETAL SYSTEM & CONN TISSUE DISORDERS	2.0665	6.3	4.9	1	20
214	NO LONGER VALID	-	-	-	-	-
215	NO LONGER VALID	-	-	-	-	-
216	BIOPSIES OF MUSCULOSKELETAL SYSTEM & CONNECTIVE TISSUE	2.0800	6.0	4.2	1	21
217	WND DEBRID & SKN GRFT EXCEPT HAND,FOR MUSCSKELET & CONN TISS DIS	2.9807	10.3	6.5	1	23
218	LOWER EXTREM & NUMER PROC EXCEPT HIP,FOOT,FEMUR AGE >17 W CC	1.7413	4.9	3.8	1	14
219	LOWER EXTREM & NUMER PROC EXCEPT HIP,FOOT,FEMUR AGE >17 W/O CC	1.1170	2.8	2.4	1	6
220	LOWER EXTREM & NUMER PROC EXCEPT HIP,FOOT,FEMUR AGE 0-17	0.8085	2.0	1.6	1	5
221	NO LONGER VALID	-	-	-	-	-
222	NO LONGER VALID	-	-	-	-	-
223	MAJOR SHOULDER/ELBOW PROC, OR OTHER UPPER EXTREMITY PROC W CC	0.8913	1.9	1.6	1	4
224	SHOULDER,ELBOW OR FOREARM PROC,EXC MAJOR JOINT PROC, W/O CC	0.9550	1.9	1.6	1	4
225	FOOT PROCEDURES	1.0723	3.0	2.1	1	8
226	SOFT TISSUE PROCEDURES W CC	1.3113	4.3	2.9	1	15
227	SOFT TISSUE PROCEDURES W/O CC	0.6896	2.2	1.7	1	5
228	MAJOR THUMB OR JOINT PROC,OR OTH HAND OR WRIST PROC W CC	1.1211	3.0	1.7	1	5
229	HAND OR WRIST PROC, EXCEPT MAJOR JOINT PROC, W/O CC	0.8076	1.6	1.4	1	3
230	LOCAL EXCISION & REMOVAL OF INT FIX DEVICES OF HIP & FEMUR	0.8896	2.8	1.8	1	9
231	LOCAL EXCISION & REMOVAL OF INT FIX DEVICES EXCEPT HIP & FEMUR	1.2683	2.9	2.1	1	8
232	ARTHROSCOPY	0.9881	2.8	1.7	1	5
233	OTHER MUSCULOSKELET SYS & CONN TISS O.R. PROC W CC	2.4428	7.6	5.0	1	21
234	OTHER MUSCULOSKELET SYS & CONN TISS O.R. PROC W/O CC	1.3113	3.6	2.5	1	10
235	FRACTURES OF FEMUR	0.9670	5.6	3.8	1	20
236	FRACTURES OF HIP & PELVIS	0.9165	7.3	5.0	1	22
237	SPRAINS, STRAINS, & DISLOCATIONS OF HIP, PELVIS & THIGH	0.5666	3.4	2.7	1	11
238	OSTEOMYELITIS	1.5107	8.6	5.9	1	22
239	PATHOLOGICAL FRACTURES & MUSCULOSKELETAL & CONN TISS MALIGNANCY	1.6166	7.7	5.2	1	22
240	CONNECTIVE TISSUE DISORDERS W CC	1.4422	6.3	4.3	1	21
241	CONNECTIVE TISSUE DISORDERS W/O CC	0.7665	4.0	2.1	1	12
242	SEPTIC ARTHRITIS	0.5613	3.8	2.9	1	10
243	MEDICAL BACK PROBLEMS	0.6702	3.8	2.9	1	11
244	BONE DISEASES & SPECIFIC ARTHROPATHIES W CC	0.9348	5.5	4.5	1	17
245	BONE DISEASES & SPECIFIC ARTHROPATHIES W/O CC	0.8438	5.2	3.8	1	18
246	NON-SPECIFIC ARTHROPATHIES	0.5713*	4.2	3.3	1	26
247	SIGNS & SYMPTOMS OF MUSCULOSKELETAL SYSTEM & CONN TISSUE	0.5883	2.8	2.2	1	8
248	TENDONITIS, MYOSITIS & BURSITIS	0.6136	3.3	2.5	1	10
249	AFTERCARE, MUSCULOSKELETAL SYSTEM & CONNECTIVE TISSUE	0.8934	5.6	3.2	1	20
250	FX, SPRN, STRN & DISL OF FOREARM, HAND, FOOT AGE >17 W CC	0.7287	2.5	2.1	1	6

TABLE 2 (CONTINUED)

CHAMPUS WEIGHT AND THRESHOLD SUMMARY

DRG NUMBER	DESCRIPTION	CHAMPUS WEIGHT	ARITHMETIC MEAN LOS	GEOMETRIC MEAN LOS	SHORT STAY THRESHOLD	CHILDRENS/NEONATAL LONG STAY THRESHOLD
251	FX, SPRN, STRN & DISL OF FOREARM, HAND, FOOT AGE >17 W/O CC	0.6448	2.2	1.7	1	6
252	FX, SPRN, STRN & DISL OF FOREARM, HAND, FOOT AGE 0-17	0.5972	1.5	1.3	1	3
253	FX, SPRN, STRN & DISL OF UPARM,LOWLEG EX FOOT AGE >17 W CC	0.9960	5.6	2.8	1	19
254	FX, SPRN, STRN & DISL OF UPARM,LOWLEG EX FOOT AGE >17 W/O CC	0.4360	2.6	2.0	1	7
255	FX, SPRN, STRN & DISL OF UPARM,LOWLEG EX FOOT AGE 0-17	0.4859	2.4	1.5	1	6
256	OTHER MUSCULOSKELETAL SYSTEM & CONNECTIVE TISSUE DIAGNOSES	0.6166	2.9	2.1	1	8
257	TOTAL MASTECTOMY FOR MALIGNANCY W CC	1.2922	2.9	2.4	1	7
258	TOTAL MASTECTOMY FOR MALIGNANCY W/O CC	0.9790	2.1	1.9	1	4
259	SUBTOTAL MASTECTOMY FOR MALIGNANCY W CC	0.8660	1.8	1.5	1	4
260	SUBTOTAL MASTECTOMY FOR MALIGNANCY W/O CC	0.8647	1.4	1.3	1	2
261	BREAST PROC FOR NON-MALIGNANCY EXCEPT BIOPSY & LOCAL EXCISION	1.2264	1.7	1.4	1	4
262	BREAST BIOPSY & LOCAL EXCISION FOR NON-MALIGNANCY	0.8751	2.6	1.9	1	8
263	SKIN GRAFT &/OR DEBRID FOR SKN ULCER OR CELLULITIS W CC	2.3040	11.9	8.6	1	25
264	SKIN GRAFT &/OR DEBRID FOR SKN ULCER OR CELLULITIS W/O CC	1.5918	8.0	5.1	1	22
265	SKIN GRAFT &/OR DEBRID EXCEPT FOR SKIN ULCER OR CELLULITIS W CC	1.9714	7.9	4.9	1	21
266	SKIN GRAFT &/OR DEBRID EXCEPT FOR SKIN ULCER OR CELLULITIS W/O C	0.9821	3.1	2.1	1	9
267	PERIANAL & PILONIDAL PROCEDURES	1.0774	2.8	1.8	1	8
268	SKIN, SUBCUTANEOUS TISSUE & BREAST PLASTIC PROCEDURES	1.1885	3.3	2.3	1	11
269	OTHER SKIN, SUBCUT TISS & BREAST PROC W CC	1.5198	5.9	3.7	1	20
270	OTHER SKIN, SUBCUT TISS & BREAST PROC W/O CC	0.8474	3.0	2.1	1	9
271	SKIN ULCERS	1.2729	9.7	6.6	1	23
272	MAJOR SKIN DISORDERS W CC	1.2708	5.8	3.7	1	17
273	MAJOR SKIN DISORDERS W/O CC	0.6251	4.8	3.4	1	16
274	MALIGNANT BREAST DISORDERS W CC	1.0393	5.4	3.4	1	20
275	MALIGNANT BREAST DISORDERS W/O CC	0.5882*	3.9	2.5	1	27
276	NON-MALIGANT BREAST DISORDERS	0.5955	4.4	3.3	1	13
277	CELLULITIS AGE >17 W CC	0.8794	5.0	4.2	1	13
278	CELLULITIS AGE >17 W/O CC	0.5596	3.7	3.1	1	9
279	CELLULITIS AGE 0-17	0.3986	2.8	2.3	1	7
280	TRAUMA TO THE SKIN, SUBCUT TISS & BREAST AGE >17 W CC	0.5601	2.4	2.1	1	6
281	TRAUMA TO THE SKIN, SUBCUT TISS & BREAST AGE >17 W/O CC	0.5534	2.3	1.8	1	6
282	TRAUMA TO THE SKIN, SUBCUT TISS & BREAST AGE 0-17	0.4558	2.0	1.7	1	4
283	MINOR SKIN DISORDERS W CC	0.7451	4.4	3.4	1	13
284	MINOR SKIN DISORDERS W/O CC	0.4390	2.8	2.1	1	8
285	AMPUTAT OF LOWER LIMB FOR ENDOCRINE,NUTRIT,& METABOL DISORDERS	1.9686	8.9	7.5	1	23
286	ADRENAL & PITUITARY PROCEDURES	2.5322	6.1	5.2	1	14
287	SKIN GRAFTS & WOUND DEBRID FOR ENDOC, NUTRIT & METAB DISORDERS	1.9598	10.3	7.5	1	24
288	O.R. PROCEDURES FOR OBESITY	1.9143	4.2	3.9	1	8
289	PARATHYROID PROCEDURES	0.9234	2.7	2.0	1	7
290	THYROID PROCEDURES	0.9311	1.7	1.4	1	3
291	THYROGLOBSAL PROCEDURES	0.7372*	2.2	1.7	1	8
292	OTHER ENDOCRINE, NUTRIT & METAB O.R. PROC W CC	2.9581	9.2	6.5	1	23
293	OTHER ENDOCRINE, NUTRIT & METAB O.R. PROC W/O CC	1.2297*	5.6	3.8	1	29
294	DIABETES AGE >35	0.8024	4.6	3.4	1	13
295	DIABETES AGE 0-35	0.5648	3.0	2.6	1	7
296	NUTRITIONAL & MISC METABOLIC DISORDERS AGE >17 W CC	1.0176	4.8	3.5	1	15
297	NUTRITIONAL & MISC METABOLIC DISORDERS AGE >17 W/O CC	0.5596	3.4	2.4	1	10
298	NUTRITIONAL & MISC METABOLIC DISORDERS AGE 0-17	0.3245	3.3	2.0	1	5
299	INBORN ERRORS OF METABOLISM	1.1724	5.0	3.3	1	17
300	ENDOCRINE DISORDERS W CC	0.9008	4.2	3.1	1	13

TABLE 2 (CONTINUED)

CHAMPUS WEIGHT AND THRESHOLD SUMMARY

DRG NUMBER	DESCRIPTION	CHAMPUS WEIGHT	ARITHMETIC MEAN LOS	GEOMETRIC MEAN LOS	SHORT STAY THRESHOLD	CHILDRENS/NEONATAL LONG STAY THRESHOLD
301	ENDOCRINE DISORDERS W/O CC	0.5222	2.5	2.1	1	6
302	KIDNEY TRANSPLANT	3.4181	8.4	7.7	2	17
303	KIDNEY,URETER & MAJOR BLADDER PROCEDURES FOR NEOPLASM	2.7103	7.5	6.6	1	16
304	KIDNEY,URETER & MAJOR BLADDER PROC FOR NON-NEOPL W CC	2.0031	6.5	5.0	1	19
305	KIDNEY,URETER & MAJOR BLADDER PROC FOR NON-NEOPL W/O CC	1.2175	3.7	3.1	1	10
306	PROSTATECTOMY W CC	0.9327	2.6	2.1	1	7
307	PROSTATECTOMY W/O CC	0.6455*	2.5	2.1	1	15
308	MINOR BLADDER PROCEDURES W CC	1.6637	4.5	3.6	1	16
309	MINOR BLADDER PROCEDURES W/O CC	1.0405	2.4	2.0	1	6
310	TRANSURETHRAL PROCEDURES W CC	1.0057	2.6	2.2	1	6
311	TRANSURETHRAL PROCEDURES W/O CC	0.7893	1.9	1.7	1	4
312	URETHRAL PROCEDURES, AGE >17 W CC	0.9732*	4.7	3.1	1	27
313	URETHRAL PROCEDURES, AGE >17 W/O CC	0.5783*	2.3	1.8	1	13
314	URETHRAL PROCEDURES, AGE 0-17	0.4916*	2.3	2.3	1	26
315	OTHER KIDNEY & URINARY TRACT O.R. PROCEDURES	2.1689	6.4	4.2	1	21
316	RENAL FAILURE	1.2789	5.8	4.6	1	19
317	ADMIT FOR RENAL DIALYSIS	0.5489*	2.9	2.0	1	20
318	KIDNEY & URINARY TRACT NEOPLASMS W CC	2.3064	7.3	4.8	1	21
319	KIDNEY & URINARY TRACT NEOPLASMS W/O CC	0.5808*	2.8	2.0	1	24
320	KIDNEY & URINARY TRACT INFECTIONS AGE >17 W CC	0.8409	4.5	3.5	1	12
321	KIDNEY & URINARY TRACT INFECTIONS AGE >17 W/O CC	0.5479	3.1	2.6	1	8
322	KIDNEY & URINARY TRACT INFECTIONS AGE 0-17	0.4958	3.3	2.8	1	8
323	URINARY STONES W CC, &/OR ESW LITHOTRIPSY	0.7071	2.9	1.9	1	6
324	URINARY STONES W/O CC	0.3971	1.6	1.4	1	3
325	KIDNEY & URINARY TRACT SIGNS & SYMPTOMS AGE >17 W CC	0.6842	2.8	2.0	1	8
326	KIDNEY & URINARY TRACT SIGNS & SYMPTOMS AGE >17 W/O CC	0.6429	2.6	1.8	1	7
327	KIDNEY & URINARY TRACT SIGNS & SYMPTOMS AGE 0-17	0.3624	1.3	1.2	1	2
328	URETHRAL STRICTURE AGE >17 W CC	0.6878*	3.0	2.9	1	27
329	URETHRAL STRICTURE AGE >17 W/O CC	0.5080*	2.3	1.9	1	17
330	URETHRAL STRICTURE AGE 0-17	0.3167*	1.6	1.6	1	9
331	OTHER KIDNEY & URINARY TRACT DIAGNOSES AGE >17 W CC	1.0420	5.6	3.7	1	18
332	OTHER KIDNEY & URINARY TRACT DIAGNOSES AGE >17 W/O CC	0.6431	3.0	2.2	1	9
333	OTHER KIDNEY & URINARY TRACT DIAGNOSES AGE 0-17	0.5826	3.2	2.2	1	9
334	MAJOR MALE PELVIC PROCEDURES W CC	1.8695	4.5	4.1	1	8
335	MAJOR MALE PELVIC PROCEDURES W/O CC	1.4631	3.6	3.6	1	6
336	TRANSURETHRAL PROSTATECTOMY W CC	0.9218	2.3	2.0	1	5
337	TRANSURETHRAL PROSTATECTOMY W/O CC	0.7465	2.1	1.8	1	4
338	TESTES PROCEDURES, FOR MALIGNANCY	1.0950*	5.1	3.3	1	27
339	TESTES PROCEDURES, NON-MALIGNANCY AGE >17	0.8267	1.9	1.6	1	4
340	TESTES PROCEDURES, NON-MALIGNANCY AGE 0-17	0.5642	1.2	1.1	1	1
341	PENIS PROCEDURES	1.3804	1.9	1.6	1	4
342	CIRCUMCISION AGE >17	0.8511*	3.6	2.9	1	27
343	CIRCUMCISION AGE 0-17	0.1529*	1.7	1.7	1	6
344	OTHER MALE REPRODUCTIVE SYSTEM O.R. PROCEDURES FOR MALIGNANCY	1.4437	3.6	2.5	1	10
345	OTHER MALE REPRODUCTIVE SYSTEM O.R. PROC EXCEPT FOR MALIGNANCY	0.8552*	3.8	2.7	1	6
346	MALIGNANCY, MALE REPRODUCTIVE SYSTEM, W CC	0.8105	4.4	3.8	1	11
347	MALIGNANCY, MALE REPRODUCTIVE SYSTEM, W/O CC	0.4603*	3.0	2.2	1	25
348	BENIGN PROSTATIC HYPERTROPHY W CC	0.6958*	4.5	3.3	1	17
349	BENIGN PROSTATIC HYPERTROPHY W/O CC	0.4154*	2.7	2.1	1	7
350	INFLAMMATION OF THE MALE REPRODUCTIVE SYSTEM	0.6370	3.6	2.9	1	10

TABLE 2 (CONTINUED)

CHAMPUS WEIGHT AND THRESHOLD SUMMARY

DRG NUMBER	DESCRIPTION	CHAMPUS WEIGHT	ARITHMETIC MEAN LOS	GEOMETRIC MEAN LOS	SHORT STAY THRESHOLD	CHILDRENS/NEONATAL LONG STAY THRESHOLD
351	STERILIZATION, MALE	0.2347*	1.3	1.3	1	5
352	OTHER MALE REPRODUCTIVE SYSTEM DIAGNOSES	0.6263*	4.0	2.9	1	27
353	PELVIC EVISCERATION, RADICAL HYSTERECTOMY & RADICAL VULVECTOMY	1.8025	4.9	4.2	1	12
354	UTERINE,ADNEXA PROC FOR NON-OVARIAN/ADNEXAL MALIG W CC	1.4145	4.4	4.0	1	9
355	UTERINE,ADNEXA PROC FOR NON-OVARIAN/ADNEXAL MALIG W/O CC	0.9540	2.8	2.6	1	5
356	FEMALE REPRODUCTIVE SYSTEM RECONSTRUCTIVE PROCEDURES	0.9346	2.4	2.1	1	5
357	UTERINE & ADNEXA PROC FOR OVARIAN OR ADNEXAL MALIGNANCY	2.0098	6.5	5.4	1	17
358	UTERINE & ADNEXA PROC FOR NON-MALIGNANCY W CC	1.2026	3.3	3.0	1	7
359	UTERINE & ADNEXA PROC FOR NON-MALIGNANCY W/O CC	0.9889	2.6	2.4	1	5
360	VAGINA, CERVIX & VULVA PROCEDURES	0.9536	2.5	2.2	1	5
361	LAPAROSCOPY & INCISIONAL TUBAL INTERRUPTION	1.1061	2.7	2.2	1	7
362	ENDOSCOPIC TUBAL INTERRUPTION	0.3000*	1.4	1.4	1	5
363	D&C, CONIZATION & RADIO-IMPLANT, FOR MALIGNANCY	0.7701	2.3	2.1	1	5
364	D&C, CONIZATION EXCEPT FOR MALIGNANCY	0.6670	2.4	2.0	1	6
365	OTHER FEMALE REPRODUCTIVE SYSTEM O.R. PROCEDURES	1.3098	4.1	3.2	1	12
366	MALIGNANCY, FEMALE REPRODUCTIVE SYSTEM W CC	0.9638	4.1	3.2	1	13
367	MALIGNANCY, FEMALE REPRODUCTIVE SYSTEM W/O CC	0.5742	1.5	1.3	1	3
368	INFECTIONS, FEMALE REPRODUCTIVE SYSTEM	0.5733	2.9	2.5	1	6
369	MENSTRUAL & OTHER FEMALE REPRODUCTIVE SYSTEM DISORDERS	0.5827	2.1	1.8	1	5
370	CESAREAN SECTION W CC	1.0359	4.2	3.6	1	8
371	CESAREAN SECTION W/O CC	0.8160	3.1	3.0	1	5
372	VAGINAL DELIVERY W COMPLICATING DIAGNOSES	0.5504	2.4	2.1	1	5
373	VAGINAL DELIVERY W/O COMPLICATING DIAGNOSES	0.4183	1.8	1.8	1	3
374	VAGINAL DELIVERY W STERILIZATION &/OR D&C	0.7287	2.1	1.9	1	4
375	VAGINAL DELIVERY W O.R. PROC EXCEPT STERIL &/OR D&C	0.8419	2.1	1.8	1	4
376	POSTPARTUM & POST ABORTION DIAGNOSES W/O O.R. PROCEDURE	0.5588	3.0	2.5	1	8
377	POSTPARTUM & POST ABORTION DIAGNOSES W O.R. PROCEDURE	1.8709	5.0	2.6	1	19
378	ECTOPIC PREGNANCY	0.8840	2.2	1.9	1	5
379	THREATENED ABORTION	0.5348	3.4	2.4	1	10
380	ABORTION W/O D&C	0.4078	1.6	1.4	1	3
381	ABORTION W D&C, ASPIRATION CURETTAGE OR HYSTEROTOMY	0.5002	1.8	1.3	1	2
382	FALSE LABOR	0.2383	1.6	1.3	1	3
383	OTHER ANTEPARTUM DIAGNOSES W MEDICAL COMPLICATIONS	0.4155	2.8	2.2	1	7
384	OTHER ANTEPARTUM DIAGNOSES W/O MEDICAL COMPLICATIONS	0.4220	2.6	1.9	1	7
385	NO LONGER VALID	-	-	-	-	-
386	NO LONGER VALID	-	-	-	-	-
387	NO LONGER VALID	-	-	-	-	-
388	NO LONGER VALID	-	-	-	-	-
389	NO LONGER VALID	-	-	-	-	-
390	NO LONGER VALID	-	-	-	-	-
391	NORMAL NEWBORN	0.1104	1.7	1.6	1	3
392	SPLENECTOMY AGE >17	3.2656	8.7	6.6	1	23
393	SPLENECTOMY AGE 0-17	1.2323	4.6	3.7	1	12
394	OTHER O.R. PROCEDURES OF THE BLOOD AND BLOOD FORMING ORGANS	1.2134	4.1	3.2	1	13
395	RED BLOOD CELL DISORDERS AGE >17	1.0042	5.0	3.5	1	17
396	RED BLOOD CELL DISORDERS AGE 0-17	0.5919	3.5	2.7	1	10
397	COAGULATION DISORDERS	1.3894	4.9	3.2	1	16
398	RETICULOENDOTHELIAL & IMMUNITY DISORDERS W CC	1.5253	6.0	4.4	1	18
399	RETICULOENDOTHELIAL & IMMUNITY DISORDERS W/O CC	0.5948	3.7	3.0	1	11
400	LYMPHOMA & LEUKEMIA W MAJOR O.R. PROCEDURE	3.0607	8.3	5.3	1	22

TABLE 2 (CONTINUED)

CHAMPUS WEIGHT AND THRESHOLD SUMMARY

DRG NUMBER	DESCRIPTION	CHAMPUS WEIGHT	ARITHMETIC MEAN LOS	GEOMETRIC MEAN LOS	SHORT STAY THRESHOLD	CHILDRENS/NEONATAL LONG STAY THRESHOLD
401	LYMPHOMA & NON-ACUTE LEUKEMIA W OTHER O.R. PROC W CC	3.4392	12.2	8.7	1	25
402	LYMPHOMA & NON-ACUTE LEUKEMIA W OTHER O.R. PROC W/O CC	1.0548	4.3	2.7	1	15
403	LYMPHOMA & NON-ACUTE LEUKEMIA W CC	2.4326	8.2	5.7	1	22
404	LYMPHOMA & NON-ACUTE LEUKEMIA W/O CC	0.9807	4.1	3.0	1	14
405	ACUTE LEUKEMIA W/O MAJOR O.R. PROCEDURE AGE 0-17	3.6244	13.1	7.6	1	24
406	MYELOPROLIF DISORD OR POORLY DIFF NEOPL W MAJ O.R.PROC W CC	2.6012	7.6	5.3	1	22
407	MYELOPROLIF DISORD OR POORLY DIFF NEOPL W MAJ O.R.PROC W/O CC	1.1654	3.1	2.7	1	8
408	MYELOPROLIF DISORD OR POORLY DIFF NEOPL W OTHER O.R.PROC	2.1894	6.0	3.9	1	20
409	RADIOTHERAPY	1.0210	3.9	3.2	1	10
410	CHEMOTHERAPY W/O ACUTE LEUKEMIA AS SECONDARY DIAGNOSIS	0.9978	3.2	2.6	1	9
411	HISTORY OF MALIGNANCY W/O ENDOSCOPY	0.4214*	2.3	1.8	1	16
412	HISTORY OF MALIGNANCY W ENDOSCOPY	0.5175*	3.4	2.4	1	23
413	OTHER MYELOPROLIF DIS OR POORLY DIFF NEOPL DIAG W CC	2.2412	8.6	5.2	1	22
414	OTHER MYELOPROLIF DIS OR POORLY DIFF NEOPL DIAG W/O CC	0.6761	3.3	2.5	1	11
415	O.R. PROCEDURE FOR INFECTIOUS & PARASITIC DISEASES	4.1354	12.6	8.6	1	25
416	SEPTICEMIA AGE >17	1.8852	6.8	5.2	1	22
417	SEPTICEMIA AGE 0-17	0.7033	4.0	3.2	1	11
418	POSTOPERATIVE & POST-TRAUMATIC INFECTIONS	1.0466	5.3	4.1	1	16
419	FEVER OF UNKNOWN ORIGIN AGE >17 W CC	0.9118	4.6	3.6	1	14
420	FEVER OF UNKNOWN ORIGIN AGE >17 W/O CC	0.4341	2.4	2.2	1	5
421	VIRAL ILLNESS AGE >17	0.5924	3.0	2.6	1	7
422	VIRAL ILLNESS & FEVER OF UNKNOWN ORIGIN AGE 0-17	0.3837	2.5	2.2	1	5
423	OTHER INFECTIOUS & PARASITIC DISEASES DIAGNOSES	1.3656	6.0	4.1	1	19
424	O.R. PROCEDURE W PRINCIPAL DIAGNOSES OF MENTAL ILLNESS	2.4581*	16.8	9.9	1	35
425	ACUTE ADJUST REACT & DISTURBANCES OF PSYCHOSOCIAL DYSFUNCTION	0.6195	3.9	2.6	1	13
426	DEPRESSIVE NEUROSES	0.6185	6.0	3.8	1	20
427	NEUROSES EXCEPT DEPRESSIVE	0.5953	5.3	3.6	1	20
428	DISORDERS OF PERSONALITY & IMPULSE CONTROL	0.8971	7.0	5.7	1	22
429	ORGANIC DISTURBANCES & MENTAL RETARDATION	1.4172	14.1	7.7	1	24
430	PSYCHOSES	0.8903	7.8	5.9	1	22
431	CHILDHOOD MENTAL DISORDERS	1.0260	9.1	6.7	1	23
432	OTHER MENTAL DISORDER DIAGNOSES	0.7647*	5.9	3.7	1	28
433	ALCOHOL/DRUG ABUSE OR DEPENDENCE, LEFT AMA	0.5280	5.5	3.7	1	20
434	ALC/DRUG ABUSE OR DEPEND, DETOX OR OTH SYMPT TREAT W CC	0.7126	4.4	3.5	1	13
435	NO LONGER VALID	-	-	-	-	-
436	ALC/DRUG DEPENDENCE W REHABILITATION THERAPY	0.8399	12.4	8.1	1	25
437	ALC/DRUG DEPENDENCE, COMBINED REHAB & DETOX THERAPY	0.8594	10.9	9.0	1	26
438	NO LONGER VALID	-	-	-	-	-
439	SKIN GRAFTS FOR INJURIES	1.7210	5.6	4.1	1	21
440	WOUND DEBRIDEMENTS FOR INJURIES	1.7822	6.3	4.2	1	21
441	HAND PROCEDURES FOR INJURIES	0.8679	2.2	1.8	1	5
442	OTHER O.R. PROCEDURES FOR INJURIES W CC	2.4381	7.6	4.5	1	21
443	OTHER O.R. PROCEDURES FOR INJURIES W/O CC	1.1022	2.9	2.1	1	9
444	TRAUMATIC INJURY AGE >17 W CC	0.6623	3.2	2.4	1	10
445	TRAUMATIC INJURY AGE >17 W/O CC	0.7389	2.9	2.1	1	9
446	TRAUMATIC INJURY AGE 0-17	0.3789	2.0	1.8	1	4
447	ALLERGIC REACTIONS AGE >17	0.5748	2.7	1.9	1	7
448	ALLERGIC REACTIONS AGE 0-17	0.3964	2.4	2.2	1	5
449	POISONING & TOXIC EFFECTS OF DRUGS AGE >17 W CC	0.7246	3.7	3.0	1	7
450	POISONING & TOXIC EFFECTS OF DRUGS AGE >17 W/O CC	0.4301	1.9	1.5	1	4

TABLE 2 (CONTINUED)

CHAMPUS WEIGHT AND THRESHOLD SUMMARY

DRG NUMBER	DESCRIPTION	CHAMPUS WEIGHT	ARITHMETIC MEAN LOS	GEOMETRIC MEAN LOS	SHORT STAY THRESHOLD	CHILDRENS/NEONATAL LONG STAY THRESHOLD
451	POISONING & TOXIC EFFECTS OF DRUGS AGE 0-17	0.4745	2.1	1.7	1	5
452	COMPLICATIONS OF TREATMENT W CC	0.8790	4.0	2.9	1	13
453	COMPLICATIONS OF TREATMENT W/O CC	0.4693	2.8	2.0	1	8
454	OTHER INJURY, POISONING & TOXIC EFFECT DIAG W CC	0.8477	2.7	1.8	1	7
455	OTHER INJURY, POISONING & TOXIC EFFECT DIAG W/O CC	0.3886	1.6	1.2	1	2
456	BURNS, TRANSFERRED TO ANOTHER ACUTE CARE FACILITY	1.7396*	7.3	3.7	1	28
457	EXTENSIVE BURNS W/O O.R. PROCEDURE	1.5860*	4.9	2.5	1	26
458	NON-EXTENSIVE BURNS W SKIN GRAFT	3.1197	15.1	10.3	1	27
459	NON-EXTENSIVE BURNS W WOUND DEBRIDEMENT OR OTHER O.R. PROC	1.5588*	9.3	6.5	1	30
460	NON-EXTENSIVE BURNS W/O O.R. PROCEDURE	0.6511	3.8	2.6	1	13
461	O.R. PROC W DIAGNOSES OF OTHER CONTACT W HEALTH SERVICES	1.7482	9.4	4.0	1	21
462	REHABILITATION	1.7007	13.6	9.2	1	26
463	SIGNS & SYMPTOMS W CC	1.0541	5.7	3.3	1	20
464	SIGNS & SYMPTOMS W/O CC	0.7491	5.5	2.6	1	19
465	AFTERCARE W HISTORY OF MALIGNANCY AS SECONDARY DIAGNOSIS	0.5858*	3.8	2.2	1	26
466	AFTERCARE W/O HISTORY OF MALIGNANCY AS SECONDARY DIAGNOSIS	1.2589	10.0	4.4	1	21
467	OTHER FACTORS INFLUENCING HEALTH STATUS	0.4238	2.6	1.7	1	7
468	EXTENSIVE O.R. PROCEDURE UNRELATED TO PRINCIPAL DIAGNOSIS	3.0453	9.0	4.9	1	21
469	PRINCIPAL DIAGNOSIS INVALID AS DISCHARGE DIAGNOSIS	-	-	-	-	-
470	UNGROUPABLE	-	-	-	-	-
471	BILATERAL OR MULTIPLE MAJOR JOINT PROCS OF LOWER EXTREMITY	3.8905	7.1	6.4	1	14
472	EXTENSIVE BURNS W O.R. PROCEDURE	10.2429*	24.2	11.8	1	51
473	ACUTE LEUKEMIA W/O MAJOR O.R. PROCEDURE AGE >17	7.2776	19.2	11.9	1	28
474	NO LONGER VALID	-	-	-	-	-
475	RESPIRATORY SYSTEM DIAGNOSIS WITH VENTILATOR SUPPORT	4.4175	10.1	7.0	1	24
476	PROSTATIC O.R. PROCEDURE UNRELATED TO PRINCIPAL DIAGNOSIS	2.2234*	12.7	9.5	1	34
477	NON-EXTENSIVE O.R. PROCEDURE UNRELATED TO PRINCIPAL DIAGNOSIS	1.5772	5.5	3.6	1	20
478	OTHER VASCULAR PROCEDURES W CC	2.7774	6.0	4.4	1	21
479	OTHER VASCULAR PROCEDURES W/O CC	1.7948	3.3	2.6	1	9
480	LIVER TRANSPLANT	-	-	-	-	-
481	BONE MARROW TRANSPLANT	14.5958	32.5	24.6	1	41
482	TRACHEOSTOMY FOR FACE,MOUTH & NECK DIAGNOSES	4.4378	9.8	8.2	1	24
483	TRACHEOSTOMY EXCEPT FOR FACE,MOUTH & NECK DIAGNOSES	20.4634	37.3	30.8	1	47
484	CRANIOTOMY FOR MULTIPLE SIGNIFICANT TRAUMA	5.7762*	15.4	10.6	1	33
485	LIMB REATTACHMENT, HIP AND FEMUR PROC FOR MULTIPLE SIGNIFICANT T	5.2469	10.8	9.2	1	26
486	OTHER O.R. PROCEDURES FOR MULTIPLE SIGNIFICANT TRAUMA	4.8904	11.5	9.2	1	26
487	OTHER MULTIPLE SIGNIFICANT TRAUMA	2.1519	6.6	4.3	1	21
488	HIV W EXTENSIVE O.R. PROCEDURE	4.5078*	18.0	12.1	1	38
489	HIV W MAJOR RELATED CONDITION	3.8757	12.3	8.5	1	25
490	HIV W OR W/O OTHER RELATED CONDITION	1.0029	4.1	3.5	1	10
491	MAJOR JOINT & LIMB REATTACHMENT PROCEDURES OF UPPER EXTREMITY	2.0894	2.9	2.4	1	7
492	CHEMOTHERAPY W ACUTE LEUKEMIA AS SECONDARY DIAGNOSIS	3.4048	10.9	6.4	1	23
493	LAPAROSCOPIC CHOLECYSTECTOMY W/O C.D.E. W CC	1.8798	4.3	3.3	1	14
494	LAPAROSCOPIC CHOLECYSTECTOMY W/O C.D.E. W/O CC	1.1533	2.1	1.8	1	5
495	LUNG TRANSPLANT	9.5171*	17.9	14.8	1	42
496	COMBINED ANTERIOR/POSTERIOR SPINAL FUSION	5.4776	7.6	6.9	1	16
497	SPINAL FUSION W CC	2.9036	4.4	3.6	1	12
498	SPINAL FUSION W/O CC	2.0052	2.7	2.3	1	6
499	BACK & NECK PROCEDURES EXCEPT SPINAL FUSION W CC	1.4456	3.5	2.8	1	9
500	BACK & NECK PROCEDURES EXCEPT SPINAL FUSION W/O CC	1.1183	2.2	1.8	1	5

TABLE 3 (CONTINUED)

DRG NUMBER	CHAMPUS WEIGHT AND THRESHOLD SUMMARY DESCRIPTION	CHAMPUS WEIGHT	ARITHMETIC MEAN LOS	GEOMETRIC MEAN LOS	SHORT STAY THRESHOLD	CHILDRENS/NEONATAL LONG STAY THRESHOLD
501	LNEE PROCEDURES W PDX OF INFECTION W CC	2.5660*	11.3	8.7	1	23
502	LNEE PROCEDURES W PDX OF INFECTION W/O CC	1.6004*	7.1	5.9	1	9
503	LNEE PROCEDURES W/O PDX OF INFECTION	1.1599	2.5	2.0	1	3
600	NEONATE, DIED W/IN ONE DAY OF BIRTH	0.5269	1.0	1.0	1	1
601	NEONATE, TRANSFERRED <5 DAYS OLD	0.4814	1.4	1.4	1	3
602	NEONATE, BIRTHWT <750G, DISCHARGED ALIVE	29.3011	97.5	58.6	1	75
603	NEONATE, BIRTHWT <750G, DIED	9.2366	16.0	7.5	1	24
604	NEONATE, BIRTHWT 750-999G, DISCHARGED ALIVE	20.0068	66.3	56.6	2	73
605	NEONATE, BIRTHWT 750-999G, DIED	11.42908	30.2	20.1	2	36
606	NEONATE, BIRTHWT 1000-1499G, W SIGNIF OR PROC, DISCHARGED ALIV	19.89028	69.1	60.5	13	77
607	NEONATE, BIRTHWT 1000-1499G, W/O SIGNIF OR PROC, DISCHARGED ALIV	9.3239	36.7	31.3	2	48
608	NEONATE, BIRTHWT 1000-1499G, DIED	5.76958	9.2	8.1	13	22
609	NEONATE, BIRTHWT 1500-1999G, W SIGNIF OR PROC, W MULT MAJOR PROB	10.56800	34.6	32.1	2	67
610	NEONATE, BIRTHWT 1500-1999G, W SIGNIF OR PROC, W/O MULT MAJOR PR	5.42738	27.6	24.3	2	60
611	NEONATE, BIRTHWT 1500-1999G, W/O SIGNIF OR PROC, W MULT MAJOR PR	6.3835	26.4	23.1	2	60
612	NEONATE, BIRTHWT 1500-1999G, W/O SIGNIF OR PROC, W MAJOR PROB	3.8705	19.5	16.2	2	33
613	NEONATE, BIRTHWT 1500-1999G, W/O SIGNIF OR PROC, W MINOR PROB	3.7966	19.2	16.4	2	33
614	NEONATE, BIRTHWT 1500-1999G, W/O SIGNIF OR PROC, W OTHER PROB	1.9413	10.3	8.4	2	25
615	NEONATE, BIRTHWT 2000-2499G, W SIGNIF OR PROC, W MULT MAJOR PROB	6.20248	21.0	18.5	2	38
616	NEONATE, BIRTHWT 2000-2499G, W SIGNIF OR PROC, W/O MULT MAJOR PR	5.62998	24.2	18.5	3	34
617	NEONATE, BIRTHWT 2000-2499G, W/O SIGNIF OR PROC, W MULT MAJOR PR	5.1759	15.8	13.4	3	30
618	NEONATE, BIRTHWT 2000-2499G, W/O SIGNIF OR PROC, W MAJOR PROB	2.4646	10.1	7.9	1	24
619	NEONATE, BIRTHWT 2000-2499G, W/O SIGNIF OR PROC, W MINOR PROB	1.6533	7.2	5.8	1	22
620	NO LOWER VALID					
621	NEONATE, BIRTHWT 3000-2499G, W/O SIGNIF OR PROC, W OTHER PROB	0.1916	3.4	2.6	1	10
622	NEONATE, BIRTHWT >2499G, W SIGNIF OR PROC, W MULT MAJOR PROB	9.0396	27.8	18.3	1	35
623	NEONATE, BIRTHWT >2499G, W SIGNIF OR PROC, W/O MULT MAJOR PROB	1.5611	5.9	3.7	1	20
624	NEONATE, BIRTHWT >2499G, W MINOR ABDOM PROCEDURE	0.7865	3.0	2.0	1	6
625	NO LOWER VALID					
626	NEONATE, BIRTHWT >2499G, W/O SIGNIF OR PROC, W OTHER PROB	0.1941	2.1	1.9	1	9
630	NEONATE, BIRTHWT >2499G, W/O SIGNIF OR PROC, W MULT MAJOR PROB	3.95758	18.2	11.8	2	27
631	NEONATE, BIRTHWT >2499G, W/O SIGNIF OR PROC, W MAJOR PROB	0.46008	4.9	2.5	1	15
632	NEONATE, BIRTHWT >2499G, W/O SIGNIF OR PROC, W MINOR PROB	0.78918	6.0	5.2	2	22
633	NEONATE, BIRTHWT >2499G, W/O SIGNIF OR PROC, W OTHER PROB	0.59708	2.5	2.2	1	14
634	PREMATURITY W MAJOR PROBLEM(S)	2.5974	8.0	6.0	2	22
635	NEONATAL DEATH, AGE <= 21 W/O TREAT AGE <= 21 W/O	2.5494	13.1	6.2	2	22
636	NEONATAL DEATH, AGE > 21 DAYS TREAT AGE > 21 W/O	0.8460	10.3	6.2	2	23
640	MISC NEONATAL DIAGNOSES	0.5782	4.7	3.5	1	14
641	ALC/DRUG ABUSE OR DEPEND, DETOX OR OTH SYMPT TREAT AGE <= 21 W/O					
642	ALC/DRUG ABUSE OR DEPEND, DETOX OR OTH SYMPT TREAT AGE > 21 W/O					

[FR Doc. 97–28686 Filed 10–29–97; 8:45 am]

BILLING CODE 3510–04–C

DEPARTMENT OF EDUCATION

[CFDA No.: 84.234N]

Projects With Industry; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1998

Purpose of program: The Projects With Industry (PWI) program creates and expands job and career opportunities in the competitive labor market for individuals with disabilities by engaging the talent and leadership of private industry as partners in the rehabilitation process. PWI projects identify competitive job and career opportunities and the skills needed to perform those jobs, create practical settings for job readiness and training programs, and provide job placement and career advancement services.

Eligible Applicants: Employers, profitmaking and nonprofit organizations, designated State units, labor unions, community rehabilitation program providers, trade associations, Indian tribes or tribal organizations, and other agencies or organizations with the capacity to create and expand job and career opportunities for individuals with disabilities.

Only eligible applicants that propose to serve a geographic area that is currently unserved or underserved by the PWI program can receive new awards under this program.

Deadline For Transmittal Of Applications: January 13, 1998.

Deadline For Intergovernmental Review: March 14, 1998.

Applications Available: October 31, 1997.

Available Funds: $731,846.

Estimated Range of Awards: $158,000–$298,000.

Estimated Average Size of Awards: $198,000.

Estimated Number of Awards: 4.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR Parts 369 and 379.

Priorities

Competitive Priority: The competitive preference priority concerning Empowerment Zones and Enterprise Communities in the notice of final priorities for this program, published in the **Federal Register** on December 9, 1994 (59 FR 63860), applies to this competition.

Background

The Empowerment Zone and Enterprise Community program is a critical element of the Administration's community revitalization strategy. The program is a first step in rebuilding communities in America's poverty-stricken inner cities and rural heartlands. It is designed to empower people and communities by inspiring Americans to work together to create jobs and opportunity.

The Federal Government has designated nine Empowerment Zones (Atlanta, Georgia; Baltimore, Maryland; Chicago, Illinois; Detroit, Michigan; New York, New York; Philadelphia, Pennsylvania/Camden, New Jersey; Kentucky Highlands, Kentucky; Mid-Delta, Mississippi; and Rio Grande Valley, Texas). Two Supplemental Empowerment Zones have been designated—Los Angeles, California and Cleveland, Ohio. Ninety-five Enterprise Communities have been designated. A full list of Enterprise Communities and additional information are available upon request from the Department of Housing and Urban Development (HUD) at 1–800–998–9999.

Under 34 CFR 75.105(c)(2)(i), the Secretary gives preference to applications that meet the following competitive priority. Ten bonus points will be assigned to applications determined to be approvable on the basis of their evaluation under the applicable program selection criteria. These bonus points are in addition to any points the application earns under the selection criteria for this program.

Competitive Preference Priority—Providing Program Services in an Empowerment Zone or Enterprise Community

Under the Projects With Industry program, competitive preference will be given to applications that—(1) Propose the provision of substantial services in Empowerment Zones or Enterprise Communities; and (2) Propose projects that contribute to the strategic plan of the Empowerment Zone or Enterprise Community and that are made an integral component of the Empowerment Zone or Enterprise Community activities.

A PWI project may provide services at one or more sites. A PWI project is considered to be providing substantial services in a zone or community if a minimum of 51 percent of the total number of persons served by the project, irrespective of the number of sites, reside in a zone or community and at least 1 of the project sites is located within the boundaries of a zone or community. If there is only one project site, it must be located within the boundaries of a zone or community.

Invitational Priority: Under 34 CFR 75.105 (c)(1), the Secretary is particularly interested in applications that meet the following invitational priority. However, an application that meets this invitational priority does not receive competitive or absolute preference over other applications:

Projects that establish collaborative consortia with designated State vocational rehabilitation units, the business community, and other appropriate organizations to create and expand job and career opportunities for individuals with disabilities including career advancement services that prepare these individuals for leadership and professional job positions in a variety of industries.

For Further Information Contact: Martha Muskie, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3320 Switzer Building, Washington, D.C. 20202. Telephone (202) 205–3293.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

For Applications Contact: The Grants and Contracts Service Team (GCST), U.S. Department of Education, 600 Independence Avenue, S.W., Room 3317, Switzer Building, Washington, D.C. 20202–2649. Telephone: (202) 205–8351. The preferred method for requesting applications is to FAX your request to (202) 205–8717. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain a copy of the application package in an alternate format by contacting the GCST. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

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Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of a document is the document published in the Federal Register.

Program Authority: 29 U.S.C. 795g.

Dated: October 27, 1997.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 97–28827 Filed 10–29–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[Docket Nos. EA–159 and EA–161]

Applications to Export Electric Energy; Cincinnati Gas & Electric Company and PSI Energy, Inc.

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of Applications.

SUMMARY: Cincinnati Gas & Electric Company and PSI Energy Inc., both FERC regulated public utility companies, have submitted applications to export electric energy to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests or requests to intervene must be submitted on or before December 1, 1997.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Im/Ex (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585–0350 (FAX 202–287–5736).

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202–586–5883 or Michael Skinker (Program Attorney) 202–586–6667.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. § 824a(e)).

On October 9, 1997, the Office of Fossil Energy (FE) of the Department of Energy (DOE) received a joint application for authorization to export electric energy to Canada, pursuant to section 202(e) of the FPA, from Cincinnati Gas & Electric Company (CG&E) and PSI Energy, Inc. (PSI). A single application for these two entities was submitted because the two companies collectively are the "Cinergy Operating Companies." However, each company will require a separate export authorization. By letter, on October 14, 1997, the applicants clarified their request and ask that each be issued an export authorization.

Each company is a regulated public utility. CG&E, an Ohio corporation, and PSI, an Indiana corporation, each propose to sell electric energy to Canada that is either excess to its system or purchased from electric utilities or other suppliers within the U.S.

The applicants would arrange for the exported energy to be transmitted to Canada over the international facilities owned by Basin Electric, Bonneville Power Administration, Citizens Utilities, Detroit Edison Company, Eastern Maine Electric Cooperative, Joint Owners of the Highgate Project, Maine Electric Power Company, Maine Public Service Company, Minnesota Power and Light Company, Minnkota Power Cooperative, New York Power Authority, Niagara Mohawk Power Corporation, Northern States Power, and Vermont Electric Transmission Company. Each of the transmission facilities, as more fully described in the joint application, has previously been authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended.

Procedural Matters

Any persons desiring to become a party to these proceedings or to be heard by filing comments or protests to these applications should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of such petitions and protests should be filed with the DOE on or before the date listed above. Comments on Cincinnati Gas & Electric Company's request to export to Canada should be clearly marked with Docket EA–159. Comments of PSI's request to export to Canada should be clearly marked with Docket EA–161. Additional copies are to be filed directly with Michael R. Martin, VP, Power Marketing & Trading, Cinergy Services, Inc., 139 East Fourth Street, Cincinnati, OH 45202; Stephen G. Kozey, Senior Counsel, Cinergy Services, Inc., 1000 East Main Street, Plainfield, IN 46168; AND John S. Moot, Nancy D. Baird, Skadden, Arps, Slate, Meagher & Flom, 1440 New York Avenue, NW, Washington, DC 20005.

A final decision will be made on these applications after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969 (NEPA), and a determination is made by the DOE that the proposed actions will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of these applications will be made available, upon request, for public inspection and copying at the address provided above.

Issued in Washington, DC on October 24, 1997.

Anthony J. Como,

Manager, Electric Power Regulation, Office of Coal and Power Im/Ex, Office of Coal and Power Systems, Office of Fossil Energy.

[FR Doc. 97–28790 Filed 10–29–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP98–613–000, et al.]

Columbia Gas Transmission Corporation; Notice of Site Visits

October 24, 1997.

The Office of Pipeline Regulation (OPR) will conduct site visits, with representatives of Columbia Gas Transmission Corporation, of the following portions of the Market Expansion Project on the dates indicated:

November 3–4, 1997—Glady Storage Field facilities in Randolph and Pocahontas Counties, West Virginia and the Terra Alta and Terra Alta South Storage Field facilities in Preston County, West Virginia.

November 4–5, 1997—Line V–50 Replacement in Mahoning County, Ohio and the Crawford and Laurel Storage Field facilities in Hocking County, Ohio.

All interested parties may attend. Those planning to attend must provide their own transportation.

For further information, please contact Paul McKee at (202) 208–1088.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–28694 Filed 10–29–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3614–000]

Commonwealth Electric Company; Notice of Filing

October 24, 1997.

Take notice that on September 30, 1997, Commonwealth Electric Company tendered for filing a Notice of Withdrawal of in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before November 6, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–28703 Filed 10–29–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–35–000]

El Paso Natural Gas Company; Notice of Application

October 24, 1997.

Take notice that on October 17, 1997, El Paso Natural Gas Company (El Paso) P.O. Box 1492, El Paso, Texas, 79978, filed in Docket No. CP98–35–000 an abbreviated application pursuant to Section 7(b) of the Natural Gas Act, as amended, and Sections 157.7 and 157.18 of the Federal Energy Regulatory Commission's (Commission) regulations thereunder, for permission and approval to abandon from interstate service two compressor with appurtenances, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

El Paso states that it has converted the twenty-inch O. D. Schafer Plant Line, on which the Panoma No. 1, from an east-west directional flow line to one with bi-directional flow capability. El Paso further states that it is seeking abandonment authorization for Units No. 6 and 7 at the Panoma Plant No. 1 because these compressors are not configured to handle bi-directional flow. El Paso indicates that it proposes to abandon these facilities by removal. El Paso asserts that the abandonment will have no impact on El Paso's rates.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 14, 1997, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, and if the Commission on its own review of the matter finds that the abandonment is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for El Paso to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–28695 Filed 10–29–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–372–000]

Enova Energy, Inc.; Notice of Filing

October 24, 1997.

Take notice that on August 26, 1997, Enova Energy Inc. (Enova Energy), tendered for filing a revised code of conduct and notification of the change in status in the above-referenced docket.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions should be filed on or before November 3, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–28702 Filed 10–29–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–373–000]

Koch Gateway Pipeline Company; Notice of Informal Settlement Conference

October 24, 1997.

Take notice that an informal settlement conference will be convened in this proceeding on November 4, 1997, at 10:00 a.m., at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Edith A. Gilmore at (202) 208–2158 or Sandra J. Delude at (202) 208–0583.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–28699 Filed 10–29–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–37–000]

Northern Natural Gas Company; Notice of Request Under Blanket Authorization

October 24, 1997.

Take notice that on October 20, 1997, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed a request with the Commission in Docket No. CP98–37–000, pursuant to Sections 157.205, and 157.212 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to install and operate a new delivery point, to be located in Stevens County, Kansas authorized in blanket certificate issued in Docket No. CP82–401–000, all as more fully set forth in the request on file with the Commission and open to public inspection.

Northern proposes to install and operate a new delivery point to accommodate natural gas deliveries to UtiliCorp United Inc. (UCU). UCU has requested the proposed delivery point to serve a local residential customer. The proposed volumes to be delivered for UCU would be 4 MMBtu on a peak day and 529 MMBtu on an annual basis. Northern estimates a cost of constructing the proposed delivery point of $6,500.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–28698 Filed 10–29–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–4251–000]

Orange and Rockland Utilities, Inc.; Notice of Filing

October 24, 1997.

Take notice that on September 11, 1997, Orange and Rockland Utilities, Inc., tendered for filing a Notice of Withdrawal of in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before November 6, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–28700 Filed 10–29–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP97–71–000; and RP97–312–000]

Transcontinental Gas Pipe Line Corporation; Notice of Informal Settlement Conference

October 24, 1997.

Take notice that an informal settlement conference will be convened in this proceeding on Thursday, October 30, 1997, at 10:00 a.m., at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC, for the purpose of exploring the possible settlement of the above-referenced dockets. If necessary, the conference will continue to Friday, October 31, 1997.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact David R. Cain at (202) 208–0917, Donald A. Heydt at (202) 208–0740 or Paul B. Mohler at (202) 208–1240.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–28696 Filed 10–29–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER95–1685–000]

Vastar Power Marketing, Inc., Notice of Filing

October 24, 1997.

Take notice that on September 23, 1997, Vastar Power Marketing, Inc., Tendered for filing an amendment to its Notification of Change in Status filed August 27, 1997.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before November 6, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–28701 Filed 10–29–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–44–000]

Williston Basin Interstate Pipeline Company; Notice of Request Under Blanket Authorization

October 24, 1997.

Take notice that on October 22, 1997, Williston Basin Interstate Pipeline Company (Williston Basin), 200 North Third Street, Suite 300, Bismarck, North Dakota, filed in Docket No. CP98–44–000, a request pursuant to Section 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to construct and operate new metering and associated appurtenant facilities to provide delivery of natural gas to Interenergy Corporation, under Williston Basin's blanket certificate issued in Docket No. CP82–487–000, pursuant to 18 CFR Part 157, Subpart F of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Williston Basin proposes to construct and operate metering and associated facilities within an existing meter station located in Big Horn County, Wyoming. Williston Basin further states that the proposed facility would consist of a meter, regulator and miscellaneous piping, gauges and valves, all of which would be enclosed within an existing steel link fence. Williston Basin also states that the proposed metering facility would be constructed on existing pipeline right-of-way at the Manderson meter station in Big Horn County, Wyoming. It is further stated that Interenergy would reimburse Williston Basin for the cost of this project which is approximately $6,200.

Williston Basin states that Interenergy requested the installation of these metering facilities to allow Williston Basin to deliver up to 200 Mcf of natural gas per day Interenergy to use as fuel for compression and processing equipment in the area. Williston states that it would provide natural gas transportation deliveries to Interenergy under Rate Schedules FT–1 and/or IT–1. Williston further states that (i) the volumes delivered to Interenergy are within the contractual entitlements to; (ii) that establishing the addition of the proposed new delivery point is not prohibited by Williston Basin's existing tariff; and, (iii) that the addition of the proposed facilities would have no significant effect on Williston Basin's peak day or annual requirements and capacity has been determined to exist on the Williston Basin system to serve this natural gas market.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–28697 Filed 10–29–97; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30442; FRL–5751–4]

Engelhard Corp.; Applications to Register Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing a new active ingredient not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by December 1, 1997.

ADDRESSES: By mail, submit written comments identified by the document control number [OPP–30442] and the file symbols to: Public Information and Records Integrity Branch (7502C), Information Resources and Services Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460. In person, bring comments to: Environmental Protection Agency, Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under "SUPPLEMENTARY INFORMATION." No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docket is available for public inspection in Rm. 1132 at the Virginia address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Driss Benmhend, Regulatory Action Leader, Biopesticides and Pollution Prevention Division (7511W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460. Office location and telephone number: Rm. CS51B6, Westfield Building North Tower, 2800 Crystal Drive, Arlington, VA 22202, (703) 308–8525; e-mail: benmhend.driss@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register pesticide products containing an active ingredient not included in any previously registered products pursuant to the provision of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

Products Containing New Active Ingredients Not Previously Registered

1. File Symbol: 70060–E. Applicant: Engelhard Corporation, 101 Wood Avenue, Iselin, NJ 08830. Product Name: M-97-002. Active ingredient: Kaolin at 99.4 percent. Proposed classification/Use: None. Controls damage to plants from insects, mites, fungi, and bacteria.

2. File Symbol: 70060–R. Applicant: Engelhard Corporation. Product Name: M-97-009. Active ingredient: Kaolin at 100 percent. Proposed classification/Use: None. Aids in control of damage to plants from insects and mites.

3. File Symbol: 70060–G. Applicant: Engelhard Corporation. Product Name: M-96-018. Active ingredient: Kaolin at 96.8 percent. Proposed classification/Use: None. Aids in control of damage to plants from insects, mites, fungi, and bacteria.

Notice of approval or denial of an application to register a pesticide

product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

The official record for this notice, as well as the public version, has been established for this notice under docket number [OPP–30442] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official notice record is located at the address in "ADDRESSES" at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number [OPP–30442]. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

Written comments filed pursuant to this notice, will be available in the Public Information and Records Integrity Branch, Information Resources and Services Division at the address provided, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding holidays. It is suggested that persons interested in reviewing the application file, telephone this office at (703–305–5805) to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pest, Product registration.

Dated: October 15, 1997.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 97–28818 Filed 10–29–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5815–6]

Proposed Administrative Order on Consent Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as Amended by the Superfund Amendments and Reauthorization Act—Butterfield Canyon Site, Salt Lake County, UT

AGENCY: Environmental Protection Agency.

ACTION: Notice and request for public comment.

SUMMARY: Notice is hereby given of a proposed settlement under Section 106 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, (CERCLA) concerning the Butterfield Canyon Site, Salt Lake County, Utah. The Administrative Order on Consent (Order) requires Kennecott Utah Copper Corporation to perform a removal action at the site.

DATES: Comments must be submitted on or before December 1, 1997.

ADDRESSES: The Order is available for public inspection at the EPA Superfund Records Center, 999 18th Street, 5th Floor, North Tower, Denver, Colorado. Comments should be addressed to Paul J. Rogers, Enforcement Specialist, (8ENF–T), U.S. Environmental Protection Agency, 999 18th Street, Suite 500, Denver, Colorado, 80202–2405, and should reference the Butterfield Canyon Site Order, EPA Docket No. CERCLA–VIII–97–09.

FOR FURTHER INFORMATION CONTACT: Paul J. Rogers, Enforcement Specialist, at 303/312–6356.

SUPPLEMENTARY INFORMATION: Pursuant to section 106 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, (CERCLA), EPA and Kennecott Utah Copper Corporation (Kennecott) have entered into an Administrative Order on Consent (Order) concerning a removal action at the Butterfield Canyon Site in Salt Lake County. Under the Order, Kennecott will conduct response actions to address lead contaminated soils in Butterfield Canyon to minimize potential human and ecological exposure and prevent mine waste from being transported down Butterfield Creek. Upon completion of the action, EPA will covenant not to sue Kennecott for any failure to perform the work agreed to in the Order. EPA also proposes to provide Kennecott will contribution protection for matters addressed in this Order to the extent provided by section 113(f)(2) of CERCLA, 42 U.S.C. 9613(f)(2). Matters addressed are defined in the Order as the work as defined in the Order and all response costs incurred and to be incurred by the EPA in connection with the work to be performed under the Order.

For a period of thirty (30) days from the date of this publication, the public may submit comments to EPA relating to the contribution protection proposed to be conferred in the Order. Copies of the Order may be obtained from Paul J. Rogers, Enforcement Specialist, (8ENF–T), U.S. Environmental Protection Agency, 999 18th Street, Suite 500, Denver, Colorado, 80202–2405. Additional background information relating to the Order and the Site is available for review at the Superfund Records Center at the address listed above.

Dated: October 2, 1997.

Carol Rushin,

Assistant Regional Administrator, Office of Enforcement, Compliance and Environmental Justice, Region VIII.

[FR Doc. 97–28816 Filed 10–29–97; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5815–6]

Proposed Administrative Order on Consent Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as Amended by the Superfund Amendments and Reauthorization Act—Herriman, UT

AGENCY: Environmental Protection Agency.

ACTION: Notice and request for public comment.

SUMMARY: Notice is hereby given of a proposed settlement under sections 104(a) and 122(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, (CERCLA) concerning the Herriman Residential Soils Removal Action Site in Herriman, Utah (Site). The Administrative Order on Consent (Order) requires Kennecott Utah Copper Corporation to perform certain response actions related to a removal action to be performed at the Site.

DATES: Comments must be submitted on or before December 1, 1997.

ADDRESSES: The Order is available for public inspection at the EPA Superfund Records Center, 999 18th Street, 5th Floor, North Tower, Denver, Colorado.

Comments should be addressed to Paul J. Rogers, Enforcement Specialist, (8ENF–T), U.S. Environmental Protection Agency, 999 18th Street, Suite 500, Denver, Colorado, 80202–2405, and should reference the Herriman Residential Soils Removal Action Order, EPA Docket No. CERCLA–VIII–97–08.

FOR FURTHER INFORMATION CONTACT: Paul J. Rogers, Enforcement Specialist, at 303/312–6356.

SUPPLEMENTARY INFORMATION: Pursuant to sections 104(a) and 122(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, (CERCLA), EPA and Kennecott Utah Copper Corporation (Kennecott) have entered into an Administrative Order on Consent (Order) concerning the Herriman Residential Soils Removal Action Site in Herriman, Utah (Site). Under Phase I of the Removal Action at the Site, EPA will remove lead and arsenic contaminated soils from approximately 30 residences in Herriman, Utah. The Order requires Kennecott Utah Copper Corporation to provide transportation and disposal of no more than 60,000 cubic yards of lead and arsenic contaminated soils removed by EPA and for Kennecott to provide no more than 60,000 cubic yards of clean backfill as part of the Phase I response action. Upon completion of the action, EPA will covenant not to sue Kennecott for any failure to perform the work agreed to in the Order. EPA also proposes to provide Kennecott with contribution protection for matters addressed in this Order to the extent provided by section 113(f)(2) of CERCLA, 42 U.S.C. 9613(f)(2). Matters addressed are defined in the Order as response actions taken or to be taken by the EPA or any other person (as that term is defined by section 101(21) of CERCLA, 42 U.S.C. 9601(21)) and all response costs incurred and to be incurred by the EPA or any other person (as that term is defined by section 101(21) of CERCLA, 42 U.S.C. 9601(21)) at or in connection with Phase I Herriman Residential Soils Removal. For a period of thirty (30) days from the date of this publication, the public may submit comments to EPA relating to the contribution protection proposed to be conferred in this Order. A copy of the Order may be obtained from Paul J. Rogers, Enforcement Specialist, (8ENF–T), U.S. Environmental Protection Agency, 999 18th Street, Suite 500, Denver, Colorado, 80202–2405. Additional background information relating to the Order and the Site is available for review at the Superfund Records Center at the address listed above.

Dated: October 2, 1997.

Carol Rushin,

Assistant Regional Administrator, Office of Enforcement, Compliance and Environmental Justice, Region VIII.

[FR Doc. 97–28815 Filed 10–29–97; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5815–7]

Notice of Tentative Decision To Deny Fundamentally Different Factors Variance Requests

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of tentative decision to deny Fundamentally Different Factors Variance requests.

SUMMARY: EPA Region 6 intends to deny the Fundamentally Different Factors Variance requests submitted by a group of Oil and Gas Industry companies that own and operate oil production platforms and developed and undeveloped lease blocks in the Gulf of Mexico. These facilities are subject to limitations for the Offshore Subcategory of the Oil and Gas Extraction Point Source Category. The requests seek alternate best available technology economically achievable (BAT) oil and grease limits for produced water discharges.

DATES: Comments on this tentative decision to deny these Fundamentally Different Variance requests must be submitted by December 29, 1997.

ADDRESSES: Comments on this tentative decision should be sent to the Regional Administrator, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Ms. Wilma Turner, Customer Service Branch (6WQ–CA), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, Telephone: (214) 665–7516, Fax: 214–665–6490, E-mail: TURNER.WILMA@EPAMAIL.EPA.GOV

Copies of the tentative decision may be obtained from Ms. Turner.

The administrative record for this tentative decision will be available for viewing at the EPA Headquarters Water Docket, room M2616, 401 M Street, SW, Washington, D.C. 20460, Monday through Friday from 9 a.m. until 4 p.m. The phone number is 202–260–3027. Please ask for the public record for the Offshore Oil and Gas FDF Tentative Denial.

SUPPLEMENTARY INFORMATION: Sixteen Oil and Gas Industry companies that own and operate oil production platforms and developed and undeveloped lease blocks in the Gulf of Mexico have submitted Clean Water Act section 301(b)(1)(A), 301(b)(2)(A) and 301(b)(2)(E) fundamentally Different Factors (FDF) variance requests. These requests seek alternate best available technology economically achievable (BAT) oil and grease limits for produced water discharges. These facilities are subject to limitations for the Oil and Gas Extraction Point Source Category, Subpart A—Offshore Subcategory specified in 40 CFR 435. The companies seeking variances are: Anadarko Petroleum Corporation, ARCO Oil and Gas Company, Chevron USA Production Company, Conoco, Inc., CanadianOxy Offshore Production Company, Freeport-McMoRan, Kerr-McGee Corporation, Marathon Oil Company, Pennzoil Petroleum Company, Pennzoil Exploration and Production Company, Shell Offshore, Inc., Shell Western Exploration and Production, Inc., Texaco Exploration and Production, Inc., Texaco, Inc., Four Star Oil and Gas Company and Union Oil Company of California.

This is to give notice that the Regional Administrator intents to deny the FDF Variance requests because they do not satisfy the criteria specified in section 301(n) of the Clean Water Act or 40 CFR 125.31. This decision is tentative and open to comment from the public.

EPA's comments and public hearing procedures may be found at 40 CFR 124.10 and 124.12 (48 FR 14264, April 1, 1983, as amended at 49 FR 38051, September 26, 1984). During the comment period, any interested person may request a Public Hearing by filing a written request which must state the issues to be raised. A public hearing will be held when EPA finds a significant degree of public interest. EPA will notify each person who has submitted written comments or requested notice of the final decision. A final decision means a final decision to grant or deny the Fundamentally Different Factors Variance request.

Dated: October 7, 1997.

Jerry Clifford,

Acting Regional Administrator, EPA Region 6.

[FR Doc. 97–28814 Filed 10–29–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Determination of Insufficiency of Assets To Satisfy All Claims of Certain Financial Institution in Receivership

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC), as receiver for the financial institution specified in **SUPPLEMENTARY INFORMATION**, has determined that the proceeds which can be realized from the liquidation of the assets of the below listed receivership estate are insufficient to wholly satisfy the priority claims of depositors against the receivership estate. Therefore, upon satisfaction of secured claims, depositor claims and claims which have priority over depositors under applicable law, no amount will remain or will be recovered sufficient to allow a dividend, distribution or payment to any creditor of lesser priority, including but not limited to, claims of general creditors. Any such claims are hereby determined to be worthless.

FOR FURTHER INFORMATION CONTACT: Thomas Bolt, Counsel, Legal Division, FDIC, 550 17th Street, N.W., Room H–11048, Washington, D.C. 20429. Telephone: (202) 736–0168.

SUPPLEMENTARY INFORMATION:

Financial Institution in Receivership Determined to Have Insufficient Assets to Satisfy All Claims

Eastland Savings Bank, #4558, Woonsocket, Rhode Island.

Dated: October 28, 1997.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 97–28706 Filed 10–29–97; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

FEDERAL REGISTER NUMBER: .97–28299.

PREVIOUSLY ANNOUNCED DATE & TIME: Tuesday, October 28, 1997, 10:00 a.m. Meeting closed to the public.

This meeting was cancelled.

PREVIOUSLY ANNOUNCED DATE & TIME: Thursday, October 30, 1997, 10:00 a.m. Meeting open to the public.

This meeting was cancelled.

DATE & TIME: Tuesday, November 4, 1997 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE & TIME: Wednesday, November 5, 1997 at 10:00 a.m.

The Public Hearing on Recordkeeping and Reporting Notice of Proposed Rulemaking has been cancelled.

DATE & TIME: Thursday, November 6, 1997 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C. (ninth floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Create the Position of Legal Information System Manager, GS–14.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 219–4155.

Marjorie E. Emmons,

Secretary of the Commission.

[FR Doc. 97–28967 Filed 10–28–97; 3:31 pm]

BILLING CODE 6715–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Interagency Committee on Dam Safety (ICODS); Charter and Operating Rules

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of the revised Charter and Operating Rules of the Interagency Committee on Dam Safety.

SUMMARY: The Federal Emergency Management Agency (FEMA) gives notice of the revised Charter and Operating Rules of the Interagency Committee on Dam Safety (ICODS). The purpose of ICODS is to coordinate policies for and provide guidance to all participants of the National Dam Safety Program.

DATES: This notice is effective as of October 30, 1997.

FOR FURTHER INFORMATION CONTACT: Harold W. Andrews Jr., National Dam Safety Program, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2801, (facsimile) (202) 646–4596 (not toll free calls).

SUPPLEMENTARY INFORMATION: FEMA's National Dam Safety Program was established October 4, 1979, when President Carter instructed the heads of each Federal agency responsible for any aspect of dam safety to adopt the Federal Guidelines for Dam Safety. This coincided with the formation of FEMA under Reorganization Plan No. 3 of 1978 and the subsequent assignment of responsibility for the coordination of efforts to promote dam safety to the Director of FEMA under § 2–103 of Executive Order 12148. Federal departments and agencies were directed to report their progress in implementing the dam safety guidelines to the Director of FEMA. Subsequently, the national dam safety program was codified when the President signed into law the Water Resources Development Act of 1996 (Public Law 104–303) on October 12, 1996. Section 215 of the Public Law 104–303, which amended Public Law 92–367, named the latter Act the *National Dam Safety Program Act* (the Act), and formally established ICODS. Public Law 104–303 directs the Director of FEMA to lead a coordinated national dam safety program. Under section 7 of the Act ICODS comprises representatives of 10 Federal departments and agencies: the Department of Agriculture, the Department of Defense, the Department of Energy, the Department of the Interior, the Department of Labor, FEMA, the Federal Energy Regulatory Commission, the Nuclear Regulatory Commission, the Tennessee Valley Authority, and the United States Section of the International Boundary and Water Commission. The Director of FEMA chairs ICODS.

ICODS provides a permanent forum for member agencies to coordinate interagency activities and to identify, discuss, and recommend solutions to institutional, managerial, technical, legislative, and policy issues that affect national dam safety. ICODS has been active on several fronts since its formation, April 24, 1980. It is now appropriate to announce formally its revised Charter and Operating Rules, and its objectives, mission, duties and oversight role for the National Dam Safety Program, originally published in the **Federal Register**, August 28, 1985, 50 FR 34912.

Interagency Committee on Dam Safety (ICODS) Charter and Operating Rules

I. Preamble

The need for positive action and leadership to assure safe dams has long been established by the President; Acts of Congress, actions of Federal agencies, State Governments, professional societies, engineers, public concerns, and now statutorily by the Congress through passage of Public Law 104–303. A dam is as defined in section 2 of that Act.

It is necessary that Federal agencies having an involvement with dams coordinate their activities to assure optimum use of agency resources in establishment of principles and guidance that will lead to safer dams. These agencies also have the responsibility to provide leadership so others may benefit from the skills, experience, and programs of the Federal establishment. ICODS provides the framework for meeting these objectives. ICODS members will individually carry decisions and recommendations that impact on policy and legislative matters to their respective agencies for appropriate actions.

II. Mission

The mission of ICODS is to encourage the establishment and maintenance of effective Federal and State programs, policies, and guidelines to enhance dam safety for the protection of human life and property. This is achieved through coordination and information exchange among Federal agencies and State dam safety agencies sharing common problems and having responsibilities for any aspect of dam safety (e.g., planning, design, construction, operation, emergency actions, inspections, maintenance, regulation or licensing, technical or financial assistance, research, data collection and ultimate disposition). Such coordination is not limited to Federal dam safety matters as State and local issues and may provide a need for technology exchange.

ICODS will provide a permanent forum for these organizations to advise FEMA in its role of establishing and maintaining a coordinated national dam safety program by making recommendations on institutional, managerial, technical, legislative, and policy issues that affect national dam safety.

III. Objectives

ICODS objectives are aligned with the objectives of the National Dam Safety Program. These objectives are to:

(1) ensure that new and existing dams are safe through the development of technologically economically feasible programs and procedures for national dam safety hazards reduction;

(2) encourage acceptable engineering policies and procedures to be used for dam site investigation, design, construction, operations, maintenance, inspections and modifications, and emergency preparedness;

(3) encourage the establishment and implementation of effective dam safety programs in each State based on State standards;

(4) develop and encourage public awareness projects to increase public acceptance and support of State dam safety programs;

(5) develop technical assistance materials for Federal and non-Federal dam safety programs; and

(6) develop mechanisms with which to provide Federal technical assistance for dam safety to the non-Federal sector.

IV. Duties

ICODS shall encourage the establishment and maintenance of effective Federal and State programs, policies, and guidelines intended to enhance dam safety for the protection of human life and property through:

(1) coordination and information exchange among Federal agencies and State dam safety agencies;

(2) coordination and information exchange among Federal agencies concerning implementation of the Federal Guidelines for Dam Safety;

(3) federal activities that foster State efforts to develop and implement effective programs for the safety of dams;

(4) improved techniques, historical experience, and equipment for rapid and effective dam construction, rehabilitation, and inspection; and

(5) devices for the continued monitoring of the safety of dams.

V. Oversight

The ICODS oversight role includes providing consultation to the FEMA Director in the establishment and maintenance of a coordinated national dam safety program. Also included is the preparation of a biennial report, not later than 90 days after the end of each odd-numbered fiscal year, that describes the status of the Program and describes the progress achieved by Federal agencies in implementing the Federal Guidelines for Dam Safety during the two preceding fiscal years.

VI. Organization

A. Membership

The members are one representative designated from each of the following Federal Departments/Agencies: Agriculture, Defense, Energy, Interior, Labor, FEMA, Federal Energy Regulatory Commission, Nuclear Regulatory Commission, Tennessee Valley Authority, and the United States Section of the International Boundary and Water Commission.

B. Chair

The Director of FEMA is the Chair of ICODS. In the absence of the Director, the FEMA member will serve as designated Chair. In the absence of the FEMA member a representative of a member Federal Department will be named by the Director to act as Chair. At the discretion of the Chair, others may participate in ICODS meetings and subcommittees activities.

C. Subcommittees

ICODS will establish necessary subcommittees to fulfill its purpose. A member of ICODS will be named by the Chair as contact person for each subcommittee. Subcommittees, their membership, chairs, and assignments will be approved by ICODS. It shall be the responsibility of the subcommittee chair to report to ICODS. Standing subcommittees of ICODS shall include, but are not limited to, *Operations, Research, Training, Guidelines Development, National Dam Safety Coordinations, and National Inventory of Dams.*

D. Meetings

The Chair will call meetings as needed. A minimum of one meeting per calendar quarter will be scheduled.

E. Voting and Rules

Each member of ICODS will have one vote. Each subcommittee member shall have one vote on their subcommittee. A member may designate an alternate to vote in his or her absence. Every effort will be made to arrive at a consensus. Robert's Rules of Order will be followed.

F. Funding

Each agency will be responsible for supporting its representatives. Any cost for consultants, printing, etc., will be funded through the National Dam Safety Program.

G. Reporting

Each member of ICODS will be responsible for reporting biennially to the Congress on their activities as set forth in Section 10 of the National Dam Safety Program Act.

VII. Amending Charter and Operating Rules

Amendments may be made to the Charter and Operating Rules, the members desiring, by a two-thirds majority vote of the membership.

Dated: October 23, 1997.

Michael J. Armstrong,

Associate Director, Mitigation Directorate.

[FR Doc. 97–28795 Filed 10–29–97; 8:45 am]

BILLING CODE 6718–04–M

FEDERAL HOUSING FINANCE BOARD

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 62 FR 55644, October 27, 1997.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 A.M. Wednesday, October 29, 1997.

CANCELLATION OF THE MEETING: Notice is hereby given of the cancellation of the Board of Directors meeting scheduled for October 29, 1997.

CONTACT PERSON FOR MORE INFORMATION: Elaine L. Baker, Secretary to the Board, (202) 408–2837.

William W. Ginsberg,

Managing Director.

[FR Doc. 97–28934 Filed 10–28–97; 1:00 pm]

BILLING CODE 6725–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, on or before November 10, 1997.

Agreement No.: 203–011075–041.

Title: Central America Discussion Agreement.

Parties:

Concorde Shipping, Inc.
Global Reefer Carriers Ltd.
Dole Fresh Fruit
King Ocean Central America, S.A.
Crowley American Transport, Inc.
Seaboard Marine, Ltd.
A.P. Moller-Maersk Line
Sea-Land Service, Inc.
NPR, Inc.

Synopsis: The proposed modification renames the existing geographic scope as the Central American Section, adds a Panama Section (between the United States and Panama) and a Puerto Rico Section (between Puerto Rico and both Central America and the Caribbean). The modification also adds NPR, Inc. as a party to the Puerto Rico Section, makes administrative changes, and restates the Agreement.

Agreement No.: 203–011367–013.

Title: Colombia Discussion Agreement.

Parties:

Frontier Liner Service
Crowley American Transport, Inc.
A.P. Moller-Maersk Line
Seaboard Marine Ltd.
Sea-Land Service Inc.

Synopsis: The proposed modification revises Article 5.2 of the Agreement to provide authority for the parties to discuss the terms and conditions of service contracts with the members of the Colombia Independent Carrier Agreement (FMC No. 202–011572) ("the Conference") and to agree with the members of the Conference to aggregate the volume of cargo for purposes of service contracts separately published in the independent line parties of the Discussion Agreement essential terms publications and the essential terms publication of the Conference. The modification also deletes several parties from the Agreement, including the West Coast of South America Agreement; adds A.P. Moller-Maersk Line as a party to the Agreement; revises Article 7—Membership—in its entirety; deletes former Article 10; and restates the Agreement.

Agreement No.: 202–011572–001.

Title: Colombia Independent Carrier Agreement.

Parties:

Frontier Liner Service
Seaboard Marine Ltd.

Synopsis: The proposed modification adds a new Article 14(c) to the Conference Agreement that authorizes the parties to discuss the terms and conditions of service contracts with the members of the Colombia Discussion Agreement (FMC No. 203–011367) and to agree with the members of the Discussion Agreement to aggregate the volume of cargo for purposes of service contracts separately published in the Conference's essential terms publication and the essential terms publications of the independent line parties to the Discussion Agreement.

Agreement No.: 271–011591.

Title: HMM/Wilhelmsen Space Charter Agreement.

Parties:

Hyundai Merchant Marine Co., Ltd.
Wilhelmsen Lines A/S

Synopsis: The proposed Agreement would permit the parties to charter space aboard one another's ro-ro vessels in the trade between United States Atlantic, Gulf, and Pacific ports, and inland U.S. points via such ports, and ports and points in Japan and Korea. It would also permit the parties to engage in related cooperative activity with respect to terminals and equipment.

Agreement No.: 217–011592.

Title: Slot Charter Agreement Between P&O Nedlloyd B.V. and Columbus Line.

Parties:

P&O Nedlloyd B.V. ("Nedlloyd")
Columbus Line ("Columbus")

Synopsis: The proposed Agreement authorizes Columbus to charter, on an as-needed/space-available basis, container slots from Nedlloyd on vessels on which Nedlloyd has chartered space in the trade between United States ports and ports in Australia and New Zealand.

By Order of the Federal Maritime Commission.

Dated: October 24, 1997.

Joseph C. Polking,

Secretary.

[FR Doc. 97–28738 Filed 10–29–97; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Strong Forwarding, 8311 Pat Boulevard, Tampa, FL 33615, Cindy Ellen Strong, Sole Proprietor

Quick Help Services, Inc., 7455 N.E. 2nd Avenue, Miami, FL 33138–5311, Officers: Antonio Teijeiro, President; Jose A. Teijeiro, Vice President;

Wells International Corp., 180 15th Street, Jersey City, NJ 07310, Officers: Chun-Chien Lin, President; Chang Lin-ju Lin, Vice President.

Dated: October 24, 1997.

Joseph C. Polking,

Secretary.

[FR Doc. 97–28706 Filed 10–29–97; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Federal Maritime Commission.

TIME AND DATE: 9:00 a.m.—October 27, 1997.

PLACE: 800 North Capitol Street NW.—Room 1000, Washington, DC.

STATUS: Closed.

MATTER(S) TO BE CONSIDERED: 1. Docket No. 96–20—Port Restrictions and Requirements in the United States/Japan Trade.

CONTACT PERSON FOR MORE INFORMATION: Joseph C. Polking, Secretary, (202) 523–5725.

Joseph C. Polking,

Secretary.

[FR Doc. 97–28883 Filed 10–28–97; 10:47 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Federal Maritime Commission.

TIME AND DATE: 3:30 p.m.–October 24, 1997.

PLACE: 800 North Capitol Street, N.W.—Room 1000, Washington, D.C.

STATUS: Closed.

MATTER(S) TO BE CONSIDERED: 1. Docket No. 96–20—Port Restrictions and Requirements in the United States/Japan Trade.

CONTACT PERSON FOR MORE INFORMATION: Joseph C. Polking, Secretary, (202) 523–5725.

Joseph C. Polking,

Secretary.

[FR Doc. 97–28884 Filed 10–28–97; 10:58 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 13, 1997.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Billy Matthews, Abbeville, Louisiana; to retain voting shares of Vermilion Bancshares Corporation, Kaplan, Louisiana, and thereby indirectly acquire Vermillion Bank & Trust Company, Kaplan, Louisiana.

B. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Margaret Mary Kerndt, Fair Oakes, California; to acquire voting shares of Kerndt Bank Services, Inc., Lansing, Iowa, and thereby indirectly acquire Kerndt Brothers Savings Bank, Lansing, Iowa.

Board of Governors of the Federal Reserve System, October 24, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–28684 Filed 10–29–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 24, 1997.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Community National Bank Corporation, ESOP, Venice, Florida; to become a bank holding company by acquiring 30 percent of the voting shares of Community National Bank Corporation, Venice, Florida, and thereby indirectly acquire Community National Bank of Sarasota County, Venice, Florida.

2. State of Franklin Bancshares, Inc., Johnson City, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of State of Franklin Savings Bank, Johnson City, Tennessee.

Board of Governors of the Federal Reserve System, October 24, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–28683 Filed 10–29–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in Permissible Activities or To Acquire Companies That are Engaged in Permissible Nonbanking Activities; Correction

This notice corrects a notice (FR Doc. 97-27898) published on pages 54850 and 54851 of the issue for Wednesday, October 22, 1997.

Under the Federal Reserve Bank of St. Louis heading, the entry for Area Bancshares Corporation, Owensboro, Kentucky, is revised to read as follows:

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Area Bancshares Corporation, Owensboro, Kentucky; to acquire a company and thereby engage in developing and providing data processing and data transmission services to financial institutions for use in providing products and services over the Internet, pursuant to § 225.28(b)(14) of the Board's Regulation Y.

Comments on this application must be received by November 5, 1997.

Board of Governors of the Federal Reserve System, October 27, 1997.
Jennifer J. Johnson,
Deputy Secretary of the Board.
[FR Doc. 97–28629 Filed 10–29–97; 8:45 am]
BILLING CODE 6210–01–F

GENERAL ACCOUNTING OFFICE

Federal Accounting Standards Advisory Board

AGENCY: General Accounting Office.
ACTION: Notice of November meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. No. 92–463), as amended, notice is hereby given that the Federal Accounting Standards Advisory Board will meet on Friday, November 7, 1997, from 9:00 a.m. to 4:00 p.m. in Room 7C13 of the General Accounting Office building, 441 G St., N.W., Washington, D.C.

The purpose of the meeting is to discuss the following issues: (1) Property, Plant, and Equipment (PP&E); (2) Software; and (3) Social Insurance.

Any interested person may attend the meeting as an observer. Board discussions and reviews are open to the public.

FOR FURTHER INFORMATION CONTACT: Wendy Comes, Executive Director, 441 G St., N.W., Room 3B18, Washington D.C. 20548, or call (202) 512–7350.

Authority: Federal Advisory Committee Act. Pub. L. No. 92–463, Section 10(a)(2), 86 Stat. 770, 774 (1972) (current version at 5 U.S.C. app. section 10(a)(2) (1988); 41 CFR 101–6.1015 (1990).

Dated: October 24, 1997.
Wendy M. Comes,
Executive Director.
[FR Doc. 97–28722 Filed 10–29–97; 8:45 am]
BILLING CODE 1610–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Workshop on "Autism: Emerging Issues in Prevalence and Etiology"

The National Center for Environmental Health (NCEH) of the Centers for Disease Control and Prevention (CDC) announces the following meeting.

Name: A workshop entitled "Autism: Emerging Issues in Prevalence and Etiology," jointly sponsored by the Developmental Disabilities Branch, BDDD, NCEH, CDC and the National Alliance for Autism Research (NAAR).

Times and Dates: 8:30 a.m.–6 p.m., November 6, 1997; 8:30 a.m.–12:30 p.m., November 7, 1997.

Place: Centers for Disease Control and Prevention, Auditorium A, Building 2, 1600 Clifton Road, NE, Atlanta, Georgia 30333.

Status: Open for participation by anyone with an interest in the epidemiology of Autism and performing epidemiologic research in Autism. Invitees include scientific researchers working with NAAR, CDC scientists, and independent researchers with expertise in the epidemiology of Autism. Attendance is limited by the space available.

Matters To Be Discussed: Topics to be discussed include the Operational Definition of Autism for Epidemiologic Surveillance Purposes; Prevalence and Epidemiology: Trends and Risk Factors; and Etiology: Emerging Issues.

Contact Persons for More Information: Media inquiries should be directed to Gail Hayes at 404/639–3286. Persons wishing to participate should e-mail or fax their request to Kimberly Caldwell, M.D., Division of Birth Defects and Developmental Disabilities, Developmental Disabilities Branch, NCEH, CDC, 4770 Buford Highway, NE, M/S F–15, Atlanta, Georgia 30341–3724. The e-mail address is kaho@cdc.gov; the fax number is 770/488–7361. Telephone 770/488–7400.

Dated: October 8, 1997.
Carolyn J. Russell,
Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).
[FR Doc. 97–27570 Filed 10–29–97; 8:45 am]
BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–37]

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Reinstatement, without change, of previously approved collection for which approval has expired; *Title of Information Collection:* Medicaid Program Budget Report and Supporting Regulations 42 CFR 400.00–430.00; *Form No.:* HCFA–37 OMB # 0938–0101; *Use:* The Medicaid Program Budget report is prepared by the State Medicaid Agencies and is used by HCFA for; (1) developing National Medicaid Budget estimates, (2) quantification of Budget Assumptions, (3) the issuance of quarterly Medicaid Grant Awards, and (4) collection of projected State receipts of donations and taxes. *Frequency:* Quarterly; *Affected Public:* State, Local or Tribal Government; *Number of Respondents:* 56; *Total Annual Responses:* 224; *Total Annual Hours:* 7,840.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, or to obtain the supporting statement and any related forms, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards, Attention: John Rudolph, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: October 22, 1997.
John P. Burke III,
HCFA Reports Clearance Officer, Division of HCFA Enterprise Standards, Health Care Financing Administration.
[FR Doc. 97–28708 Filed 10–29–97; 8:45 am]
BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–R5408]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration, HHS. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Revision of a currently approved collection; *Title of Information Collection: Title of Information Collection:* Skilled Nursing Facility (SNF) Prospective Payment System Cost Report and Supporting Regulations in 42 CFR 413.20 and 413.24; *Form No.:* HCFA–2540S (OMB 0938–0511); *Use:* This cost report is used by free standing SNFs to achieve a final accounting adjustment of costs for health care services rendered to Medicare beneficiaries. *Frequency:* Annually; *Affected Public:* Business or other for-profit, Not-for-profit institutions and State, Local or Tribal Government; *Number of Respondents:* 1,441; *Total Annual Responses:* 1,441; *Total Annual Hours:* 139,410.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: October 22, 1997.
John P. Burke III,
HCFA Reports Clearance Officer, HCFA Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards.
[FR Doc. 97–28781 Filed 10–29–97; 8:45 am]
BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Environmental Health Sciences Special Emphasis Panel (SEP) meetings:

Name of SEP: SBIR Phase II Topic 48—Automated System for Aneuploidy Detection in Sperm (Telephone Conference Call).
Date: November 17, 1997.
Time: 1:30 p.m.
Place: National Institute of Environmental Health Sciences, East Campus, Building 4401, Conference Room 3446, Research Triangle Park, NC 27709.
Contact Person: Dr. Carol Shreffler, National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, NC 27709, (919) 541–1445.
Purpose/Agenda: To review and evaluate contract proposals.

Name of SEP: Risk Factors for Uterine Fibroids: A Case Control Study (Telephone Conference Call).
Date: November 25, 1997.
Time: 2:30 p.m.
Place: National Institute of Environmental Health Sciences, East Campus, Building 4401, Conference Room 3446, Research Triangle, NC 27709.
Contact Person: Dr. Carol Shreffler, National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle, NC 27709, (919) 541–1445.
Purpose/Agenda: To review and evaluate contract proposals.

These meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. Grant applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.113, Biological Response to Environmental Agents; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation; 93.894, Resource and Manpower Development, National Institutes of Health)

Dated: October 23, 1997.
LaVerne Y. Stringfield,
Committee Management Officer, NIH.
[FR Doc. 97–28690 Filed 10–29–97; 8:45 am]
BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Allergy and Infectious Diseases Special Emphasis Panel (SEP) meeting:

Name of SEP: Integrated Preclinical/Clinical AIDS Vaccine Development.
Date: November 19–21, 1997.
Time: 8:30 a.m. to Adjournment.
Place: Holiday Inn Chevy Chase, Chase Room, 5520 Wisconsin Avenue, Chevy Chase, MD 20815, (301) 656–1500
Contact Person: Dr. Vassil Georgiev, Scientific Review Adm., 6003 Executive Boulevard, Solar Bldg., Room 4C04, Bethesda, MD 20892, (301) 496–3550.
Purpose/Agenda: To evaluate grant applications.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs No. 93.855, Immunology, Allergic and Immunologic Disease Research; 93.856, Microbiology and Infectious Disease Research, National Institutes of Health)

Dated: October 23, 1997.
LaVerne Y. Stringfield,
Committee Management Officer, NIH.
[FR Doc. 97–28691 Filed 10–29–97; 8:45 am]
BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings of the National Institute of Mental Health Special Emphasis Panel:

Agenda Purpose: To review and evaluate grant applications.
Committee Name: National Institute of Mental Health Special Emphasis Panel.
Date: November 21, 1997.
Time: 1:30 p.m.

Place: Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Richard Johnson, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–1367.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: November 24, 1997.

Time: 2:30 p.m.

Place: Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Richard Johnson, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–1367.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: October 23, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–28692 Filed 10–29–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4293–N–45]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: December 29, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing & Urban Development, 451 7th Street, SW, Room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Vance Morris, Director, Single Family Home Mortgage Insurance Division, telephone number (202) 708–2700 (this is not a toll free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: 203(k) Rehabilitation Mortgage Insurance

OMB Control Number: 2502–

Description of the need for the information and proposed use: The request for OMB review involves an expanded information collection requirement for lenders that originate and service Section 203(k) mortgages. The purpose of the collection requirement is to help mitigate program abuses cited in a recent Audit Report of HUD's Office of Inspector General. The expanded information collection focuses on the loan origination process and requires increased documentation and strengthened internal control procedures.

Agency forms, if applicable: HUD–92700.

Members of affected public: Lending institutions with FHA approval to originate or service mortgages financed with 203(k) Rehabilitation Insurance.

Status of the proposed information collection: Not applicable.

Estimate of public burden: In aggregate the reporting burden is estimated at 161,850 hours annually which reflects historical loan volumes for the 203(k) loan portfolio.

Authority: Section 230 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: October 24, 1997.

Nicolas P. Retsinas,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 97–28740 Filed 10–29–97; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Sport Fishing and Boating Partnership Advisory Council Charter

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of renewal of the public advisory council charter—Sport Fishing and Boating Partnership Council.

SUMMARY: This notice is published in accordance with section 9a(2) of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. (1988). Following consultation with the General Services Administration, the Secretary of the Interior hereby renews the Sport Fishing and Boating Partnership Council charter to continue for two years.

DATES: The charter will be filed under the Act November 14, 1997.

FOR FURTHER INFORMATION CONTACT: Doug Alcorn, Council Coordinator, U.S. Fish and Wildlife Service, (703) 836–1392.

SUPPLEMENTARY INFORMATION: The purpose of the Council is to provide advice to the Secretary of the Interior through the Director of the Fish and Wildlife Service (Service) to help the Department of the Interior (Department) and the Service achieve their goal of increasing public awareness of the importance of aquatic resources and the social and economic benefits of recreational fishing and boating.

The Council will represent the interests of the sport fishing and boating constituencies and industries and will consist of no more than 18 voting members appointed by the Secretary to assure a balanced cross-sectional representation of public and private sector organizations. The Council will consist of two ex-officio members: Director, U.S. Fish and Wildlife Service, and the President, International Association of Fish and Wildlife Agencies (IAFWA). The 16 remaining members will be appointed at the Secretary's discretion to achieve balanced representation for recreational fishing and boating interests. The membership will be comprised of senior-level representatives for recreational fishing, boating, and aquatic resource conservation. These appointees must have demonstrated expertise and experience in one or more of the following areas of national interest: the director of a state agency responsible for the management of recreational fish and wildlife resources, selected from a coastal state if the President of IAFWA is from an inland state, or selected from an inland state if the President of IAFWA is from a coastal state. Saltwater and freshwater recreational fishing; recreational boating; recreational fishing and boating industries; conservation of recreational fishery resources; aquatic resource outreach and education; and tourism.

The Council will function solely as an advisory body, and in compliance with provisions of the Federal Advisory Committee Act (Act).

The Certification of renewal is published below.

Certification

I hereby certify that the renewal of the Sport Fishing and Boating Partnership Council is necessary and in the public interest in connection with the performance of duties imposed on the Department of the Interior by those statutory authorities as defined in Federal laws including, but not restricted to, the Federal Aid Sport Fish Restoration Act, Fish and Wildlife Coordination Act, and the Fish and Wildlife Act of 1956 in furtherance of the Secretary of the Interior's statutory responsibilities for administration of the U.S. Fish and Wildlife Service's mission to conserve, protect, and enhance fish, wildlife, and habitats for the continuing benefit of the American people. The Council will assist the Secretary and the Department of the Interior by providing advice on activities to enhance fishery and aquatic resources.

Dated: October 16, 1997.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 97–28800 Filed 10–29–97; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection To Be Submitted to the Office of Management and Budget (OMB) for Reinstatement

ACTION: Notice.

SUMMARY: The collection of information listed below is submitted to the OMB for reinstatement under the provisions of the Paperwork Reduction Act of 1995. Copies of specific information collection requirements, related forms and explanatory material may be obtained by contacting the Service Information Collection Clearance Officer at the address and/or phone numbers listed below.

DATES: Comments must be submitted on or before December 1, 1997.

ADDRESSES: Comments and suggestions on specific requirements should be sent directly to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Department of the Interior, Washington, DC 20503; and a copy of the comments should be sent to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 224–ARLSQ, 1849 C Street, NW, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Phyllis H. Cook, Service Information Collection Clearance Officer, 703/358–1943; 703/358–2269 (fax).

SUPPLEMENTARY INFORMATION: The Service has submitted the following information collection clearance requirements to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Comments are invited on (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including the information will have practical utility; (2) the accuracy of the agency's estimate of burden, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

The information collection requirements in this submission implement the regulatory requirements of the Endangered Species Act (16 U.S.C. 1539), the Migratory Bird Treaty Act (15 U.S.C. 704), the Bald Eagle Protection Act (16 U.S.C. 668), and the Convention on International Trade in Endangered Species of Wild Fauna and Flora, (CITES) (27 UST 108), and are contained in Service regulations in Chapter I, Subchapter B of Title 50 of the Code of Federal Regulations (CFR). Common permit application and record keeping requirements have been consolidated in 50 CFR 13, and unique requirements of various statutes as identified below.

The Service has redesigned the standard license/permit application form 3–200 to assist persons in applying for Service permits issued under Subchapter B. Previously, the Service consolidated all requirements in one submission, and they were assigned OMB Approval Number 1018–0022; the Federal Fish and Wildlife License/Permit Application and related reports, Service form number 3–200. In an attempt to facilitate the comment process, and to make the application process more "user friendly," and to aid the public in commenting on specific license/permit requirements without having to comment on the entire package, similar types of permits have been grouped together and numbered. The applications have been divided into four groups: migratory bird permits, law enforcement permits, endangered species permits and management authority permits. This notice deals with migratory bird permits. The application to apply for Service permits issued under subchapter B of Title 50 of the Code of Federal Regulations (CFR), will still require completion of the 3–200 form. In addition to the permit application, attachments are often necessary to provide additional information required for each specific type of permit and these attachments have been assigned numbers, e.g., 3–200–2.

The information on the application form will be used by the Service to review permit applications and to make decisions, according to criteria established in various Federal wildlife conservation statutes and regulations, on the issuance, suspension, revocation, or denial of permits. The frequency of response for the following types of permit applications/licenses is on occasion or annually.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB approval number and the agency informs the potential persons who are to respond to such collections that they are not required to respond to the collection of information unless it displays a currently valid OMB approval number. The following requirements are included in this submission:

1. Title: Permits to Import/Export Migratory Birds (Service form number 3–200–6).

Description and use: Used by the Service to determine whether an applicant can import/export migratory birds, their parts, nests, or eggs; implements regulations in 50 CFR 21.21. The information is also used as an enforcement and management aid in regulating the possession, transportation, and sale of lawfully acquired migratory birds and their parts, nests, or eggs.

Description of respondents: Individuals and households; business or other for-profit; not-for-profit institutions; and local or State government.

2. Title: Scientific Collecting permits (Service form number 3–200–7).

Description and use: Information will be used by the Service to determine if a permit to allow scientific collecting by an individual can be used; implements regulations in 50 CFR 21.23. Additional information is required beyond completion of the standard application form to determine whether there is a scientific or educational need for the issuance of a scientific collecting permit. An annual report is also required (Service form 430d).

Description of respondents: Individuals acting on behalf of an educational or sciaptific institution and/or agency.

3. Title: Taxidermist Permits (Service form number 3–200–8).

Description and use: Used to determine whether a permit can be issued to allow taxidermy on any migratory birds; implements regulations in 50 CFR 21.24. The information is also used as an enforcement and management aid in regulating the possession, transportation, and sale of lawfully acquired and mounted migratory birds and their parts, nests, or eggs.

Description of respondents: Individuals or households.

4. Waterfowl Sale and Disposal Permits (Service form number: 3–200–9)

Description and use: Used by the Service to determine whether a permit can be issued to allow the sale, trade, donation, or other disposal to another person of any species of captive-reared, properly marked waterfowl except mallards; implements regulations in 50 CFR 21.25. The information collected from persons wishing to sell captive-reared, properly marked migratory waterfowl is the minimum necessary that still allows the Service to fulfill the mandate of protecting waterfowl populations from illegal commercial exploitation. This information also enables the Service to ensure that an applicant is in compliance with any State laws requiring a person to obtain a game breeders license prior to conducting commercial sale activities. Once the permit is issued, the permittee is required to keep accurate records of activities conducted within the authority of the permit. This information is also used as an enforcement and management aid in regulating the sale, trade, or other transfer of captive-reared, properly marked waterfowl.

Note: An annual report is required for this activity.

Description of respondents: Individuals and households.

5. Title: Special Purpose Permits (Service form number 3–200–10a through f).

Description and use: Used by the Service to determine whether a permit can be issued for salvage; rehabilitation; possession of live birds, dead specimens, or preparation of artwork for education; or migratory game bird propagation; implements requirements in 50 CFR 21.27. This information is also used as an enforcement and management aid in regulating the taking, transportation, and possession of migratory birds.

Note: Annual reports are required for these activities.

Description of respondents: Individuals and households; business or other for-profit; not-for-profit institutions; and local and state government.

6. Title: Falconry Permits (Service form number 3–200–11).

Description and use: This information is used by the Service to determine if a falconry permit should be issued to an individual; implements requirements in 50 CFR 21.28. This information is also used by the Service as an enforcement and management aid in regulating the taking, transportation, and possession of wild migratory birds, and the sale, trade, or transfer of certain captive-bred migratory birds. Applicants that want a Federal falconry permit must apply through their State of residence. The applicant applies to their State, which must be included in the list of states that meet federal falconry standards [50 CFR 21.29(k)]. The applicant needs to complete the 3–200–11 and their State application. Once the State gives approval, the entire application is forwarded to the Service for joint issuance of the Federal/State permit. Officials from both the Service and State must sign the permit for it to be valid.

In addition, permittee is required to prepare and submit a Service form 3–186A documenting the acquisition and disposition of each bird. This information is needed by the Service to monitor the take, possession, purchase, sale, and other acquisition or disposition of raptors to prevent the illegal possession by unauthorized persons and the illegal taking of birds from the wild. One copy of the form is retained by the seller and another copy is kept by the purchaser to document the legal transaction. The use of this form precludes the need for an annual report that was previously required.

Description of respondents: Individuals and households.

7. Title: Raptor Propagation Permits (Service form number 3–200–13).

Description and use: Used by the Service to determine whether an applicant is qualified to propagate raptors; implements regulations in 50 CFR 21.30. The information is also used as an enforcement and management aid in regulating the possession, transportation, and sale of lawfully acquired migratory birds and their parts, nests, or eggs. In addition, the permittee is required to complete a form 3–186A as described above.

Description of respondents: Individuals and households; not-for-profit institutions.

8. Title: Depredation Permits (Service form number 3–200–13).

Description and use: Used by the Service to evaluate whether a permit can be issued to allow control of depredating migratory birds; implements regulations in 50 CFR 21.41.

Description of respondents: Individuals and households; business or other for-profit; not-for-profit institutions; farms; State, local or tribal government.

9. Title(s): Eagle Permits.

(1) Eagle Permits for Exhibition or Scientific Collecting/Research (Service form numbers 3–200–14a and 3–200–14b); (2) Eagle Permits for Native American Religious Purposes (Service form number 3–200–15); (3) Eagle Permits for Depredating Golden or Bald Eagles (Service form number 3–200–16); (4) Eagle Permits for the use of Depredating Golden Eagles for Falconry (Service form number 3–200–17); (5) Permits to Take Golden Eagle Nests (Service form number 3–200–18)

Description and use: Used by the Service to determine whether an applicant qualifies for a permit to take, possess, or transport bald or golden eagles or their parts, nests, or eggs, for exhibition, scientific collecting/research, Native American religious use, take of depredating bald or golden eagles, golden falconry, and take of golden eagle nests. This requirement implements regulations found in 50 CFR 22.21, 22.22, 22.23, 22.24 and 22.25.

Description of respondents: Individuals and households; businesses or other for-profit; not-for-profit institutions, farms; State, local or Tribal government.

The following chart lists the estimated reporting burden requested by the Service for each of the above requirements:

BURDEN ESTIMATE FOR FEDERAL FISH AND WILDLIFE LICENSE/PERMIT—MIGRATORY BIRDS

Permit/Report/No.	Number of respondents	Completion time	Annual bu den
Import/Export 3–200–6	93	1.0	
Scientific collecting 3–200–7	309	4.0	1,2
Annual report, 3–430d	850	1.0	8
Taxidermist, 3–200–8	2,286	1.0	2,2
Waterfowl sale & disposal, 3–200–9	704	1.0	7
Notice of transfer, 3–186	1,800	0.2	3
Annual report, 3–2020	1,500	0.5	7
Special purpose	2,753	2.5	6,8
Salvage, 3–200–10a			
Rehabilitation, –10b			
Ed/possession:			
(live) –10c			
(dead) –10d			
(prep for artwk) –10f			
Mig game bird propagation –10e			
Annual reports (3–202c, d) (3–430–b, d)	165,180	0.5	82,5
Falconry, 3–200–11	1,964	1.0	1,9
Disposition report, 3–186A	20,000	0.5	10,0
Raptor propagation, 3–200–12	143	1.0	1
Disposition report, 3–186A	10,000	0.5	5,0
Depredation, 3–200–13	1,406	1.0	1,4
Eagle Permits:			
Exhibition & scientific collecting/research, 3–200–14	156	1.0	1
Annual report (3–430d)	30	1.0	
Native American religious purposes, 3–200–15	756	1.0	7
Take of depredating eagles, 3–200–16	11	1.0	
Eagle falconry, 3–200–17	10	1.0	
Take of golden eagle nests, 3–200–18	1	4.0	
Totals	209,952		115,1

Dated: October 22, 1997.

Carolyn A. Bohan,

Deputy Assistant Director—Refuges and Wildlife.

[FR Doc. 97–28774 Filed 10–29–97; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Coastal Barrier Improvement Act of 1990 (Pub. L. 101–591); Administrative Boundary Modification to the Coastal Barrier Resources System

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Department of the Interior, through the Fish and Wildlife Service, has completed modifications to the boundary of North Key Largo Unit FL–35 of the Coastal Barrier Resources System (System). This modification corrects an error that occurred in 1992 when the Department of the Interior revised the unit boundary in response to a State request under Section 4(c) of the Coastal Barrier Improvement Act to add property to the System. The purpose of this notice is to inform the public about the filing, distribution, and availability of maps reflecting the new boundary for Unit FL–35.

DATES: The boundary revision for this unit becomes effective immediately upon publication of this notice on October 30, 1997.

ADDRESSES: Copies of the revised map for this System unit are available for purchase from the U.S. Geological Survey, Earth Science Information Center, P.O. Box 25286, Denver, Colorado 80225. Official maps can be viewed at the Fish and Wildlife Service offices listed in the Supplementary Information section below.

FOR FURTHER INFORMATION CONTACT: Mr. Steve Glomb, Department of the Interior, U.S. Fish and Wildlife Service, Division of Habitat Conservation, (703) 358–2201.

SUPPLEMENTARY INFORMATION: Section 4(a) of the Coastal Barrier Resources Act CBRA), 16 U.S.C. 3503(a), as amended by Section 3 of the Coastal Barrier Improvement Act of 1990 (CBIA), Pub. L. 101–591, 104 Stat. 2931, established the Coastal Barrier Resources System as consisting of coastal barriers and other areas located on the coasts of the Atlantic Ocean, Gulf of Mexico, and the Great Lakes that are identified and depicted on certain maps entitled "Coastal Barrier Resources System" and dated October 24, 1990. These areas constitute the Coastal Barrier Resources System and are subject to the limitations outlined in the CBRA. These maps are in the official custody of the U.S. Fish and Wildlife Service.

Section 4 of the CBIA defined the Department's responsibilities regarding the System maps for the period immediately following the 1990 enactment of the CBIA. Under Section 4(a), these responsibilities included preparing and distributing copies of the maps. Using the original maps submitted to the Department by the Congress, the Department reproduced these maps for distribution. Notification of the filing, distribution, and availability of the maps entitled "Coastal Barrier Resources System," dated October 24, 1990, was published in the Federal Register on June 6, 1991 (56 FR 26304–26312). Under Section 4(b), State and local governments could recommend minor and technical modifications to clarify boundaries of units of the System.

Under Section 4(c) of the CBIA, States were provided the authority to elect to add to the System lands owned or held by the State. This option was available for 18 months after enactment of the CBIA. Under Section 4(e)(1)(B)(ii), the Service was required to revise the maps of the System to reflect each election of

a State to add land to the System pursuant to Section 4(c).

On November 26, 1991, the State of Florida contacted the Service regarding the addition of several properties to the System, including a portion of Ocean Reef community that the State planned to purchase under its Conservation and Recreational Lands Program. The boundary for North Key Largo Unit FL–35, as originally established under the CBIA, excluded all of the Ocean Reef community from the System. Based on the State's representation that it intended to purchase the property, the Service added the Ocean Reef parcel to Unit FL–35 of the System, as described in the Service response to the State dated April 24, 1992 and the Federal Register notice published November 15, 1993 (58 FR 60288–60291).

The State subsequently decided against the purchase of the Ocean Reef parcel. If the State had not based its request for a boundary change for this unit on its plan to purchase the property, the Service would not have revised the boundary, and the original CBIA boundary for Unit FL–35 as approved by Congress would still be in effect. As a result of the State's decision not to purchase the property, the Service mistakenly added private property to the System, which is beyond the scope of its authority under Section 4(c) of the CBIA.

The Service stresses that it is not re-opening the process under Section 4(c) of the CBIA that allowed States to elect, within 18 months of enactment of the CBIA, to add State-owned property to the System. This boundary modification of Unit FL–35 instead corrects an error made earlier in the administrative process. This modification will return the boundary for North Key Largo Unit FL–35 to its original October 24, 1990, location for that portion of the unit in the vicinity of the Ocean Reef Harbor Course South development.

Copies of the revised System map for this unit are currently being printed. Upon completion of printing, copies of the map will be filed with the House of Representatives Committee on Resources and the Committee on Banking and Financial Services, and the Senate Committee on Environment and Public Works. Copies will also be distributed to the Chief Executive Officer (or representative) of each appropriate Federal, State, or local agency having jurisdiction over the area in which the modified unit is located. Copies of the map are also available for inspection at the following Service headquarters, regional, and field offices:

Washington Office

U.S. Fish and Wildlife Service, Division of Habitat Conservation, 4401 N. Fairfax Drive Room 400, Arlington, Virginia 22203, (703) 358–2201.

Regional Office

Region 4, U.S. Fish and Wildlife Service, 1875 Century Blvd., Atlanta, Georgia 30345, (404) 679–7125.

Field Office

Field Supervisor, U.S. Fish and Wildlife Service, 1360 U.S. Highway 1, #5, Vero Beach, FL 32961, (561) 562–3909.

Dated: October 14, 1997.

John G. Rogers,

U.S. Fish and Wildlife Service, U.S. Department of the Interior.

[FR Doc. 97–28766 Filed 10–29–97; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Application for Endangered Species Permit

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*):

PRT–835659

Applicant: Annette Y. Taylor, Dial Cordy, Wetland and Environmental Services, Inc., Wilmington, North Carolina

The applicant requests authorization to take (salvage dead shells, and harass during surveys) the dwarf wedge mussel, *Alasmidonta heterodon*, and the Tar River spinymussel, *Elliptio steinstansana*, throughout their ranges in North Carolina, for the purpose of enhancement of survival of the species.

PRT–801582

Applicant: Kent S. Karriker, CZR Incorporated, Wilmington, North Carolina.

The applicant requests authorization to take (salvage dead shells, and harass during surveys) the dwarf wedge mussel, *Alasmidonta heterodon*, and the Tar River spinymussel, *Elliptio steinstansana*, throughout their ranges in North Carolina, for the purpose of enhancement of survival of the species. This is a renewal and modification of previously authorized activities.

Written data or comments on these applications should be submitted to: Regional Permit Biologist, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345. All data and comments must be received by December 1, 1997.

Documents and other information submitted with this application are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: David Dell, Permit Biologist). Telephone: 404/679–7313; Fax: 404/679–7081.

Dated: October 22, 1997.

H. Dale Hall,

Acting Regional Director.

[FR Doc. 97–28741 Filed 10–29–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Geological Survey

Request for Public Comments on Information Collection to be Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

A request extending the collection of information listed below will be submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made within 60 days directly to the Bureau Clearance Officer, U.S. Geological Survey, 807 National Center, Reston, VA 20192.

As required by OMB regulations at 5 CFR 1320.8(d)(1), the U.S. Geological Survey solicits specific public comments regarding the proposed information collection as to:

1. Whether the collection of information is necessary for the proper performance of the functions of the bureau, including whether the information will have practical utility;

2. The accuracy of the bureau's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

3. The utility, quality, and clarity of the information to be collected; and,

4. How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology.

Title: Production Estimate, Quarterly Construction Sand and Gravel and Crushed and Broken Stone.

OMB approval number: 1028–NEW (Current number 1032–0090).

Abstract: The collection is needed to provide data on mineral production for annual reports published by commodity for use by Government agencies, industry, education programs, and the general public. One publication is the "Mineral Commodity Summaries," the first preliminary publication to furnish estimates covering the previous year's nonfuel mineral industry.

Bureau form numbers: 6–1209–A and 6–1209–A–A.

Frequency: Quarterly and Annually.

Description of respondents: Producers of industrial minerals and metals.

Annual Responses: 3,418.

Annual burden hours: 855.

Bureau clearance officer: John E. Cordyack, Jr., 703–648–7313.

John H. DeYoung, Jr.,

Chief Scientist, Minerals Information Team.

[FR Doc. 97–28777 Filed 10–29–97; 8:45 am]

BILLING CODE 4310–31–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Request for Public Comments on Information Collection To Be Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

A request extending the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Desk Officer for the Interior Department, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington DC 20503.

As required by OMB regulations at 5 CFR 1320.8(d)(1), the U.S. Geological Survey solicits specific public comments regarding the proposed information collection as to:

1. whether the collection of information is necessary for the proper performance of the functions of the bureau, including whether the information will have practical utility;

2. the accuracy of the bureau's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

3. the utility, quality, and clarity of the information to be collected; and,

4. how to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology.

Title: Mine, Development, and Mineral Exploration Supplement.

Current OMB approval number: 1032–0081.

Abstract: Respondents supply the U.S. Geological Survey with domestic production, exploration, and mine development data on nonfuel mineral commodities. This information will be published as an Annual Report for use by Government agencies, industry, and the general public.

Bureau form number: 9–3075.

Frequency: Annual.

Description of respondents: Nonfuel Mineral Producers, Exploration and Development Operations.

Annual Responses: 874.

Annual burden hours: 437

Bureau clearance officer: John E. Cordyack, Jr., 703–648–7313.

John H. DeYoung, Jr.,

Chief Scientist, Minerals Information Team.

[FR Doc. 97–28793 Filed 10–29–97; 8:45 am]

BILLING CODE 4310–31–M

DEPARTMENT OF THE INTERIOR

Roll Submitted by the Little River Band of Ottawa Indians

AGENCY: Bureau of Indian Affairs, Interior

ACTION: Notice.

SUMMARY: Pursuant to section 9(b)(2) of Pub. L. 103–324 (108 Stat. 2156), as amended, notice is given of receipt of the membership list of the Little River Band of Ottawa Indians, containing 1,214 names of tribal members.

DATE: December 1, 1997.

FOR FURTHER INFORMATION CONTACT: Anne E. Bolton, Superintendent, Michigan Agency, 2901.5 I–75 Business Spur, Sault Ste. Marie, Michigan 49783.

SUPPLEMENTARY INFORMATION: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.1.

The membership roll was received at the Bureau of Indian Affairs, Michigan Agency on May 2, 1996. After review, corrections to the roll were made: two names were listed twice and the second reference was removed and one name was removed because the person is enrolled with another band. The corrected list containing the names of 1,214 tribal members was approved by Tribal Council Resolution #97–0412–02 and submitted to the Michigan Agency on April 16, 1997.

Dated: October 23, 1997.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 97–28796 Filed 10–29–97; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–310–1310–01–24–1A]

OMB Approval Number 1004–0137; Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The Bureau of Land Management (BLM) has submitted the proposed collection of information listed below to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 3501 *et seq.*). On April 8, 1996, the BLM published a notice in the Federal Register (61 FR 15511) requesting comments on the collection. The comment period ended June 7, 1996. No comments were received. Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the BLM Clearance Officer at the telephone number listed below.

OMB is required to respond to this request within 60 days but may respond after 30 days.

For maximum consideration, your comments and suggestions on the requirement should be made within 30 days directly to the Office of Management and Budget, Interior Department Desk Officer (1004–0137), Office of Information and Regulatory Affairs, Washington, D.C., 20503, telephone (202) 395–7340. Please provide a copy of your comments to the Bureau Clearance Officer (WO–630), 1849 C St., N.W., Mail Stop 401 LS, Washington, D.C. 20240.

Nature of Comments

We specifically request your comments on the following:

1. Whether the collection of information is necessary for the proper functioning of the Bureau of Land Management, including whether the information will have practical utility;

2. The accuracy of BLM's estimate of the burden of collecting the information, including the validity of the methodology and assumptions used;

3. The quality, utility and clarity of the information to be collected; and

4. How to minimize the burden of collecting the information on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology.

Title: Well Completion or Recompletion Report and Log, 43 CFR 3160.

OMB Approval Number: 1004–0137.

Abstract: Data submitted by oil and gas operators is used for agency approval of specific additional operations on a well and to report the completion of such additional work.

Bureau Form Number: 3160–4.

Frequency: Non-recurring.

Description of Respondents: Oil and gas operators.

Estimated Completion time: 1 hour.

Annual responses: 2,200.

Annual Burden Hours: 2,290.

Bureau Clearance Officer: Carole Smith, (202) 452–0367.

Dated: October 16, 1997.

Carole Smith,

Bureau of Land Management, Information Clearance Officer.

[FR Doc. 97–28732 Filed 10–29–97; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–931–1430–01; COC–57596]

Public Land Order No. 7293; Withdrawal of National Forest System Land for the Protection of the Nederland Work Center; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 52.31 acres of National Forest System land from mining for 20 years to protect existing and planned facilities at the Nederland Work Center. The land has been and remains open to such forms of disposition as may by law be made of National Forest System land and to mineral leasing.

EFFECTIVE DATE: October 30, 1997.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215–7076, 303–239–3706.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Subject to valid existing rights, the following described National Forest System land is hereby withdrawn from location and entry under the United States mining laws (30 U.S.C. Ch. 2 (1994)), for the Forest Service to protect planned and existing facilities at the Nederland Work Center:

Sixth Principal Meridian

Roosevelt National Forest

T. 1 S., R. 72 W.,
Sec. 7, lots 30 to 33, inclusive.

The area described contains 52.31 acres in Boulder County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of National Forest System lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1994), the Secretary determines that the withdrawal shall be extended.

Dated: October 21, 1997.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 97–28737 Filed 10–29–97; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–933–1430–01; IDI–15468]

Public Land Order No. 7294; Revocation of Secretarial Order Dated February 18, 1909; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes in its entirety a Secretarial order which withdrew 74.38 acres of National Forest System land for the Forest Service's Gorge Ranger Station. The land is no longer needed for the purpose for which it was withdrawn. This revocation is needed to transfer a portion of the land by sale under the Small Tract Act. This action will open the land to surface entry and mining. All of the land has been and will remain open to mineral leasing.

EFFECTIVE DATE: December 1, 1997.

FOR FURTHER INFORMATION CONTACT: Larry R. Lievsay, BLM Idaho State Office, 1387 S. Vinnell Way, Boise, Idaho 83709, 208–373–3864.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. The Secretarial Order dated February 18, 1909, which withdrew National Forest System land for administrative site purposes, is hereby revoked in its entirety:

Boise Meridian

T. 54 N., R. 3 E.,
Sec. 4, lots 3 and 4.

The area described contains 74.38 acres in Bonner County.

2. At 9:00 a.m. on December 1, 1997, the land shall be opened to such forms of disposition as may by law be made of National Forest System land, including location and entry under the United States mining laws, subject to valid rights, the provisions of existing withdrawals, other segregations or record, and the requirements of applicable law. Appropriation of land described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1994), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: October 21, 1997.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 97–28710 Filed 10–29–97; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–921–1430–01; WYW 126227]

Public Land Order No. 7295; Withdrawal of Public Land for the Protection of Paleontological Resource Values; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 270 acres of public land from surface entry and mining for a period of 50 years to protect important paleontological resource values that were recently discovered on Big Cedar Ridge near Ten Sleep. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: October 30, 1997.

FOR FURTHER INFORMATION CONTACT: Janet Booth, BLM Wyoming State Office, P.O. Box 1828, Cheyenne, Wyoming 82003, 307–775–6124.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Subject to valid existing rights, the following described public land is hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2 (1994)), but not from leasing under the mineral leasing laws, for the Bureau of Land Management to protect important paleontological resource values:

Sixth Principal Meridian

T. 45 N., R. 89 W.,
sec. 16, NW¼SW¼ and N½SW¼SW¼;
sec. 21, W½SE¼NW¼, SE¼SE¼NW¼, and E½SW¼;
sec. 28, E½NE¼NW¼, SE¼SE¼NW¼, SE¼SW¼SW¼, and SE¼SW¼;
sec. 33, NW¼NE¼NW¼ and NE¼NW¼NW¼.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 50 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1994), the Secretary determines that the withdrawal shall be extended.

Dated: October 21, 1997.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 97–28780 Filed 10–29–97; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–960–1420–00] ES–48991, Group 29, Illinois

Notice of Filing of Plat of Survey; Illinois

The plat, in four sheets, of the dependent resurvey of a portion of U.S. Survey No. 578, and the survey of the Locks and Dam No. 27 acquisition boundary, Township 3 North, Ranges 9 and 10 West, Third Principal Meridian, Illinois, will be officially filed in Eastern States, Springfield, Virginia at 7:30 a.m., on December 1, 1997.

The survey was requested by the U.S. Army Corps of Engineers.

All inquiries or protests concerning the technical aspects of the survey must be sent to the Chief Cadastral Surveyor, Eastern States, Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153, prior to 7:30 a.m., December 1, 1997.

Copies of the plat will be made available upon request and prepayment of the reproduction fee of $2.75 per copy.

Dated: October 21, 1997.

Stephen G. Kopach,

Chief Cadastral Surveyor.

[FR Doc. 97–28778 Filed 10–29–97; 8:45 am]

BILLING CODE 4310–GJ–M

INTERNATIONAL TRADE COMMISSION

[Investigation 332–386]

Macadamia Nuts: Economic and Competitive Conditions Affecting the U.S. Industry

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of hearing.

EFFECTIVE DATE: October 23, 1997.

SUMMARY: Following receipt on September 15, 1997, of a request from the Senate Committee on Finance (Committee), the Commission instituted investigation No. 332–386, Macadamia Nuts: Economic and Competitive Conditions Affecting the U.S. Industry, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), for the purpose of providing a report on factors affecting trade between the United States and major world markets for macadamia nuts. As requested by the Committee, the Commission's report on the investigation will include the following information:

(1) A description of the competitive factors affecting the domestic macadamia nut industry, including competition from imports of macadamia nuts;

(2) To the extent data are available, a description of the prices U.S. consumers pay for macadamia nuts compared with the prices paid for macadamia nuts by consumers in other major markets for macadamia nuts, and a description of the degree to which quotas, tariffs, or other trade barriers affect such prices;

(3) A description of the extent to which trade practices and barriers to trade by other competing countries are impeding the marketing of domestically produced macadamia nuts; and

(4) An analysis of current conditions of trade in macadamia nuts between the United States and macadamia nut exporting countries (in particular, Australia, Brazil, South Africa, and the Central American countries) and between the exporting countries and the rest of the world, as well as any recent changes in such conditions, including information on prices, cost of production, marketing practices, and market shares of foreign suppliers in the U.S. market.

As requested by the Committee, the Commission will submit the results of its investigation by September 30, 1998.

FOR FURTHER INFORMATION CONTACT: Information on industry aspects may be obtained from Stephen Burket, Office of Industries (202–205–3318) or John Reeder, Office of Industries (202–205–3319); and legal aspects, from William Gearhart, Office of the General Counsel (202–205–3091). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1820). Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on (202–205–1810).

Public Hearings

Public hearings in connection with the investigation will be held in Kailua-Kona, Hawaii, and in Washington, DC.

Hawaii hearing.—The hearing will be held at King Kamehameha's Kona Beach Hotel, 75–5660 Palani Road, beginning at 8:30 a.m. on Wednesday, March 25, 1998. Requests to appear at the public hearing in Kailua-Kona should be filed with the Secretary, United States International Trade Commission, 500 E Street SW, Washington, DC 20436, no later than 5:15 p.m. (Eastern Standard Time) March 11, 1998. Persons testifying at the hearing are encouraged to file prehearing briefs or statements; the deadline for filing such briefs or statements (a signed original and 14 copies) is March 13, 1998. The deadline

for filing posthearing briefs or statements is 5:15 p.m. (Eastern Daylight Time) May 15, 1998. In the event that, as of the close of business March 11, 1998, no witnesses are scheduled to appear, the hearing will be canceled. Any person interested in attending the hearings as an observer or non-participant may call the Secretary to the Commission (202–205–1816) after March 11, 1998 to determine whether the hearing will be held.

Washington, DC hearing:—The hearing will be held in Washington, DC at the International Trade Commission building, 500 E Street, SW, Washington, DC 20436, beginning at 9:30 am on Thursday, April 30, 1998. Requests to appear at the public hearing in Washington, DC should be filed with the Secretary, United States International Trade Commission, 500 E Street SW, Washington, DC 20436 no later than 5:15 p.m. (Eastern Standard Time) April 14, 1998. Persons testifying at the hearing are encouraged to file prehearing briefs or statements; the deadline for filing such briefs or statements (a signed original and 14 copies) is April 21, 1998. The deadline for filing posthearing briefs or statements is 5:15 p.m. (Eastern Daylight Time) May 15, 1998. In the event that, as of the close of business on April 14, 1998, no witnesses are scheduled to appear, the hearing will be canceled. Any person interested in attending the hearing as an observer or non-participant may call the Secretary of the Commission (202–205–1816) to determine whether the hearing will be held.

Written Submissions

In lieu of or in addition to participating in the public hearings, interested persons are invited to submit written statements concerning the matters to be addressed in the report. Commercial or financial information that a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons in the Office of the Secretary to the Commission. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted at the earliest practical date and should be received no later than May 15, 1998. All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW, Washington, DC 20436.

Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

Issued: October 24, 1997.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 97–28810 Filed 10–29–97; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–370]

In the Matter of Certain Salinomycin Biomass and Preparations Containing Same; Notice of Commission Hearing

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to hold a public hearing in the above-captioned investigation to allow parties to present oral argument on the recommendation of the presiding administrative law judge (ALJ) that the Commission order monetary sanctions.

FOR FURTHER INFORMATION CONTACT: Jean H. Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202–205–3104.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on February 6, 1995, based on a complaint filed by Kaken Pharmaceutical Co. Inc. (Kaken). On November 6, 1995, the ALJ issued his final initial determination (ID) in this investigation, finding no violation of section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337, by respondents Hoechst Aktiengesellschaft, Hoechst Veterinar GmbH, and Hoechst-Roussel Agri-Vet Co. (collectively, Hoechst). His determination was based on his findings that the patent at issue was invalid for failure to disclose the best mode of operation and unenforceable due to inequitable conduct during prosecution of the patent. The ALJ's ID was not reviewed by the Commission and was ultimately upheld on appeal, *Kaken Pharmaceutical Co.* v. *USITC*, Appeal Nos. 96–1300–1302, nonprecedential opinion dated March 31, 1997.

On January 19, 1996, Hoechst filed a motion for sanctions against Kaken, which the Commission referred to the presiding ALJ for issuance of a recommended determination (RD). Hoechst's motion alleged, *inter alia*, that Kaken committed sanctionable conduct by filing a complaint totally lacking in merit. On May 14, 1997, the ALJ issued his RD in which he recommended that the Commission impose on Kaken and its attorneys joint and several liability for an amount of money equal to double the entire attorneys' fees and costs of the Hoechst respondents incurred in both the section 337 investigation on the merits and in the proceedings on sanctions. All parties filed comments on the RD. On August 8, 1997, Kaken and its attorneys requested leave to file a reply to Hoechst's comments and an opportunity for oral argument before the Commission. Hoechst and the Commission investigative attorney (IA) opposed the motion to file a reply brief, but agreed to the request for oral argument if the Commission believed oral argument would be useful in determining whether a sanction should issue, and if so, what the sanction should be. On August 20, 1997, Hoechst filed a motion to file a surreply in the event that the Commission granted Kaken's motion to file a reply. On September 11, 1997, Kaken and its attorneys responded that they had no objection to Hoechst's motion to file a surreply if the Commission also granted leave for Kaken and its attorneys to file their reply.

Commission Hearing

The Commission will hold a public hearing on Wednesday, December 10, 1997, in its main hearing room, 500 E Street, S.W., Washington, D.C., beginning at 9:30 a.m. The hearing will be limited to the issues raised by the presiding ALJ's recommendation on sanctions, dated May 14, 1997. The order and time limits for presentations shall be as follows:

Kaken and its attorneys—30 minutes.
The Office of Unfair Import Investigations—30 minutes.
Hoechst—30 minutes.

These time limits shall be exclusive of questioning by the Commission. Kaken and its attorneys and the IA may set aside part of their times for rebuttal. The hearing will be open to the public.

Notices of Appearance

Written requests to appear at the Commission hearing must be filed with the Office of the Secretary by December 2, 1997.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337 and Commission rule 210.25, 19 C.F.R. § 210.25.

Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

By order of the Commission.

Issued: October 24, 1997.

Donna R. Koehnke,

Secretary.

[FR Doc. 97–28811 Filed 10–29–97; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Remedial Design and Remedial Action Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") of 1980

In accordance with Department policy, 28 CFR 50.7, and 42 U.S.C. 9622(d), notice is hereby given that on October 9, 1997, a proposed CERCLA Remedial Design and Remedial Action Consent Decree ("RD/RA Consent Decree") in *United States* v. *Alaska Railroad Corporation, et al.*, Civil Action No. A91–589 CIV, was lodged with the United States District Court for the District of Alaska.

In this action, the United States seeks injunctive relief under Section 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), from the Alaska Railroad Corporation ("ARRC"), Bridgestone/Firestone, Inc., Chugach Electric Association, Inc., J.C. Penney and Co., Inc., Montgomery Ward and Co. ("Montgomery Ward"), Sears, Roebuck and Co., and Westinghouse Electric Corporation ("the Defendants") to abate the releases and threatened releases of hazardous substances into the environment at the Standard Steel Metals & Salvage Yard Superfund Site in Anchorage, Alaska ("the Site"). The United States also seeks reimbursement from the Defendants other than ARRC under Section 107(a) of CERCLA of response costs it has incurred and will continue to incur in connection with the Site and a declaration under Section 113(g) of CERCLA of the liability of those Defendants for further such response costs. (ARRC is responsible under an earlier Partial Consent Decree in this case to pay 2.5% of such costs.)

Under the RD/RA Consent Decree, the Defendants other than Montgomery Ward ("the Settling Defendant") will implement the remedy chosen by the Environmental Protection Agency for the Site in its July 16, 1996 Record of Decision. ARRC's responsibility for work to be performed at the Site is limited, however, to implementation of requirements of the Record of Decision that only it, as party in possession and control of the Site, can accomplish. The RD/RA Consent Decree also requires the Settling Defendants to reimburse the Hazardous Substances Superfund for 38.5% of the costs incurred by the United States in overseeing implementation of the remedy over and above $53,665.18. (This percentage includes that owned by ARRC. The remaining 61.5% of these costs are to be paid by the federal government pursuant to the aforementioned Partial Consent Decree.)

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed RD/RA Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to United States v. Alaska Railroad Corporation, *et al.* D.J. No. 90–11–3–810.

The proposed RD/RA Consent Decree may be examined at the Office of the United States Attorney for the District of Alaska, Room 253, Federal Building and U.S. Courthouse, 222 West Seventh Avenue, Anchorage, Alaska 99513–7567; at the Region 10 Office of the Environmental Protection Agency, Hazardous Waste Records Center, 1200 Sixth Avenue, Seventh Floor, Seattle, Washington, 98101; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005 (Tel: 202–624–0892). A copy of the proposed RD/RA Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W. 4th Floor, Washington, D.C. 20005. In requesting a copy exclusive of exhibits, please enclose a check in the amount of $28.75 (25 cents per page reproduction cost) payable to Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment & Natural Resources Division.

[FR Doc. 97–28731 Filed 10–29–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—CommerceNet Consortium

Notice is hereby given that, on August 6, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), CommerceNet Consortium, ("CommerceNet") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing certain changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, the following organizations have joined CommerceNet as Sponsor Members: MicroSystems Software, Inc., Framingham, MA; NeoMedia Technologies, Inc., Fort Meyers, FL; SOFTBANK Net Solutions, Buffalo, NY; Release Software Corporation, Menlo Park, CA. The following organization has upgraded to an executive member: INTERSHOP Communications, Inc. The following organizations changed their names: News Datacom to NDS America; and DBM Group to Strategic Response.

No other changes have been made in either the membership or planned activities of CommerceNet. Membership remains open and CommerceNet intends to file additional written notifications disclosing all changes in membership.

On June 13, 1994, CommerceNet filed its original notification pursuant to § 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to § 6(b) of the Act on August 31, 1994 (59 FR 45012). The last notification was filed with the Department on May 15, 1997, and a notice was published in the Federal Register on June 13, 1997 (62 FR 32370).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–28728 Filed 10–29–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The Frame Relay Forum

Notice is hereby given that, on August 1, 1997, pursuant to § 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the Frame Relay Forum ("Forum") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, the following have joined the Forum as Worldwide members: Spider Software Limited, Edinburgh, UK; and Datacraft Asia Ltd., Taikoo Shingh, Hong Kong. The following organization has joined as an Auditing member: State of Louisiana/ OTM, Baton Rouge, LA. The following organization has withdrawn its membership from the forum: AT&T Canada. Changes in membership are as follows; UUNET Technologies changed its membership from Worldwide to Affiliate, and Farallon Communications moved from Auditing to Worldwide Membership.

No other changes have been made in either membership or planned activities of the Forum. Membership remains open and the Forum intends to file additional written notifications disclosing all membership changes.

On April 10, 1992, the Forum filed its original notification pursuant to § 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to § 6(b) of the Act on July 2, 1992 (57 FR 29537). The last notification was filed on June 10, 1997. A notice was published in the **Federal Register** on July 25, 1997 (62 FR 40107).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–28725 Filed 10–29–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Gas Utilization Research Forum

Notice is hereby given that, on August 11, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Gas Utilization Research Forum ("GURF") has filed written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, University of Bath, Bath, UNITED KINGDOM, is no longer participating in the Gas Utilization Research Forum.

No other changes have been made in either the membership or planned activity of the group. Membership in this group remains open, and GURF intends to file additional written notification disclosing all changes in membership. Information regarding membership in GURF may be obtained from the Secretary, Dennis Winegar, Manager, Technical Service & Project Development, Texaco Natural Gas International, P.O. Box 4700, Houston, TX 77210–4700, Telephone (713) 752–7654, Facsimile: (713) 752–4681.

On December 19, 1990, GURF filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on January 16, 1991, (56 FR 1655).

The last notification was filed with the Department on June 24, 1997. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on September 16, 1997 (62 FR 47890).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–28727 Filed 10–29–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—MD Consult, LLC

Notice is hereby given that, on June 30, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), MD Consult, LC has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to § 6(b) of the Act, the identities of the parties are: Mosby-Year Book, Inc., St. Louis, MI; W.B. Saunders, Philadelphia, PA; and WK Medical, Inc., Chicago, IL. MD Consult will consider applications for new membership as they are submitted.

The nature and objective of the joint venture is to produce the most advanced and comprehensive on-line information and communications service for physicians and others in the medical-scientific community and to increase the availability and distribution of leading medical references and daily medical news via the World Wide Web. To accomplish its objective, MD Consult intends to engage in the collection, exchange, and where appropriate, licensing and dissemination of research and intellectual property information, and to work closely with educational, governmental, and private agencies to enhance the accessibility of medical research information.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–28730 Filed 10–29–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Quinta Corporation

Notice is hereby given that, on July 29, 1997, pursuant to § 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the QUINTA Corporation ("Consortium") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to § 6(b) of the Act, the identities of the parties are: QUINTA Corporation, San Jose CA; and SDL Inc., San Jose, CA.

The purpose of this Joint Venture is to develop and demonstrate a novel flying optical recording head. The activities of this venture will be partially funded by an award from the Advanced Technology Program, National Institute of Standards and Technology, Department of Commerce.

Membership in the Consortium will remain open and the Consortium will file additional written notifications disclosing all changes in membership.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–28729 Filed 10–29–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Rotorcraft Industry Technology Association, Inc.

Notice is hereby given that, on August 12, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the Rotorcraft Industry Technology Association, Inc. ("RITA") filed notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing a change in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Smiths Industries Aerospace and Defense Systems, Inc., Grand Rapids, MI has become a Supporting Member of RITA.

No other changes have been made in either the membership or planned activity of the Joint Venture.

On September 28, 1995, RITA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on April 3, 1996 (61 FR 14817).

The last notification was filed on May 2,1997. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on September 30, 1997, (62 FR 51146).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–28726 Filed 10–29–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Foreign Claims Settlement Commission

Sunshine Act Meeting

[F.C.S.C. Meeting Notice No. 22–97]

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date and Time: Wednesday, November 5, 1997, 9:30 a.m. to 5:00 p.m.

Subject Matter: (1) Oral Hearings and Hearings on the Record on Objections to Individual Proposed Decisions on Claims of Holocaust Survivors Against Germany; (2) Issuance of Individual Amended Proposed Decisions and Final Decisions on Claims of Holocaust Survivors Against Germany

Status: Closed

All meetings are held at the Foreign claims Settlement Commission, 600 E Street, N.W., Washington, DC. Requests for information, or advance notices of intention to observe an open meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 600 E Street, NW., Room 6002, Washington, DC 20579. Telephone: (202) 616–6988.

Dated at Washington, DC October 27, 1997.

Judith H. Lock,

Administrative Officer.

[FR Doc. 97–28851 Filed 10–29–97; 10:41 am]

BILLING CODE 4410–01–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 97–88, Exemption Application No. D–10393]

AEW Capital Management, L.P. (AEW) Located in Boston, MA

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemption to replace Prohibited Transaction Exemption (PTE) 93–40 involving Aldrich, Eastman & Waltch, L.P. and Aldrich, Eastman & Waltch, Inc. (collectively, Old AEW).

SUMMARY: This document contains an individual exemption which supersedes PTE 93–40 (58 FR 34821, June 29, 1993).[1] This exemption permits the replacement of Old AEW with an entity known as "AEW Capital Management, L.P."[2] The exemption provides conditional relief that is identical to that provided by PTE 93–40, and it will affect participants and beneficiaries of, and fiduciaries with respect to, plans utilizing real estate investment management services provided by AEW.

EFFECTIVE DATE: This exemption is effective as of December 10, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Karin Weng of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On September 5, 1997, the Department of Labor (the Department) published a notice of proposed exemption in the **Federal Register** (62 FR 47056) that would replace PTE 93–40. PTE 93–40 provided an exemption from certain prohibited transaction restrictions of section 406 of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) of the Code. The proposed exemption was requested in an application filed by AEW pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Accordingly, this replacement exemption is being issued solely by the Department.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility

[1] PTE 93–40 provided exemptive relief from section 406(b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1986 (the Code), by reason of section 4975(c)(1)(E) of the Code, with respect to the payment by employment benefit plans of certain initial investment fees and disposition fees to Old AEW. In addition, PTE 93–40 provided exemptive relief from the restrictions of section 406(a)(1)(A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, with respect to the investment by the plans in a multiple client commingled account managed by Old AEW.

[2] Effective December 10, 1996, old AEW was renamed "AEW Capital Management, L.P.", which is hereinafter referred to in this grant notice as AEW.

provisions of section 404 of the Act, which require, among other things, a fiduciary to discharge his or her duties respecting a plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirements of section 401(a) of the Code that the plan operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code, the Department has found that the exemption is administratively feasible, in the interests of the plans and their participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plans; and

(3) The exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The exemption is applicable to the transactions previously described in PTE 93–40 only if the conditions specified herein are satisfied.

Exemption

Under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, subpart B, the Department hereby replaces PTE 93–40 as follows:

Part I. Exemption for Payment of Certain Fees to AEW

The restrictions of section 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(E) of the Code, shall not apply to the payment of certain initial investment fees (the Investment Fee) and disposition fees (the Disposition Fee) to AEW by employee benefit plans for which AEW provides investment management services (the Client Plans), pursuant to an investment management agreement (the Agreement) entered into between AEW and the Client Plans either individually, through the establishment of a single client separate account (Single Client Account), or collectively, as participants in a multiple client commingled account (Multiple Client Account), provided that the conditions set forth below in Part III are satisfied. (Single Client Accounts and Multiple Client Accounts are collectively referred to herein as Accounts).

Part II. Exemption for Investments in a Multiple Client Account

The restrictions of section 406(a)(1)(A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to any investment by a Client Plan in a Multiple Client Account managed by AEW, provided that the conditions set forth below in Part III are satisfied.

Part III. General Conditions

(a) The investment of plan assets in a Single or Multiple Client Account, including the terms and payment of any Investment Fee and Disposition Fee, shall be approved in writing by a fiduciary of a Client Plan which is independent of AEW and its affiliates and, in the case of a Multiple Client Account for which ultimate investment discretion is exercised by a bank trustee, a fiduciary which is independent of the bank trustee and AEW and its affiliates (the Independent Fiduciary). Notwithstanding the foregoing, AEW may authorize the transfer of cash from a Single Client Account to a Multiple Client Account, provided that: (1) the Multiple Client Account has similar investment objectives and the identical fee structure as the Single Client Account; (2) the Agreement governing the Single Client Account authorizes AEW to invest in a Multiple Client Account; (3) AEW receives no additional fees from the Single Client Account for cash invested in the Multiple Client Account and no additional Investment Fee is paid with respect to cash transferred to the Multiple Client Account; (4) a binding commitment to make the transfer to the Multiple Client Account is made by AEW within six months of the Independent Fiduciary's decision to allocate assets to the Single Client Account or, in the event that AEW's binding commitment to make the transfer occurs more than six months after such Fiduciary's decision, AEW obtains an additional authorization from the Independent Fiduciary; and (5) each transfer of assets from the Single Client Account to the Multiple Client Account occurs within 60 days of the actual transfer of such assets to the Single Client Account.

(b) The terms of any investment in an Account and of any investment Fee or Disposition Fee shall be at least as favorable to the Client Plans as those obtainable in arm's length transactions between unrelated parties.

(c) At the time any Account is established and at the time of any subsequent investment of assets (including the reinvestment of assets) in such Account:

(1) Each Client Plan shall have total net assets with a value in excess of $50 million; and

(2) No Client Plan shall invest, in the aggregate, more than five percent of its total assets in any Account or more than 10 percent of its total assets in all Accounts established by AEW.

(d) Prior to making an investment in any Account, the Independent Fiduciary of each Client Plan investing in an Account shall receive offering materials from AEW which disclose all material facts concerning the purpose, structure, and operation of the Account, including any fee arrangements.

(e) With respect to its ongoing participation in an Account, each Client Plan shall receive the following written information from AEW:

(1) Audited financial statements of the Account prepared by independent public accountants selected by AEW no later than 90 days after the end of the fiscal year of the Account;

(2) Quarterly and annual reports prepared by AEW relating to the overall financial position and operating results of the Account and, in the case of a Multiple Client Account, the value of each Client Plan's interest in the Account. Each such report shall include a statement regarding the amount of fees paid to AEW during the period covered by such report;

(3) Annual appraisals indicating the fair market value of the Account's assets as established by an M.A.I. licensed real estate appraiser independent of AEW and its affiliates which has been approved by the Client Plan prior to investing in the Account, provided that if a new appraiser for a property is chosen by AEW, the appraiser shall be approved by the Independent Fiduciary of the Client Plan or the responsible independent fiduciaries of Client Plans and other authorized persons acting for investors in a Multiple Client Account (the Responsible Independent Fiduciaries, as defined in Part IV(e) below), prior to any valuation of such property; and

(4) In the case of any Multiple Client Account, a list of all other investors in the Account.

(f) The total fees paid to AEW shall constitute no more than reasonable compensation.

(g) The Investment Fee shall be equal to a specified percentage of the net value of the Client Plan assets allocated to the Account, which shall be payable either:

(1) At the time assets are deposited (or deemed deposited in the case of reinvestment of assets) in the Account; or

(2) In periodic installments, the amount (as a percentage of the aggregate Investment Fee) and timing of which have been specified in advance based on the percentage of the Client Plan's assets invested in real property as of the payment date, provided that (i) the installment period is no less than three months, and (ii) if the percentage of the Client Plan assets which have actually been invested by a payment date is less than the percentage required for the aggregate Investment Fee to be paid in full through that date (both determined on a cumulative basis), the Investment Fee paid on such date shall be reduced by the amount necessary to cause the percentage of the aggregate Investment Fee paid to equal only the percentage of the Client Plan assets actually invested by that date. The unpaid portion of such Investment Fee shall be deferred to and payable on a cumulative basis on the next scheduled payment date (subject to the percentage limitation described in the preceding sentence).

(h) The Disposition Fee shall be payable after the Client Plan has received distributions from the Account in excess of an amount equal to 100 percent of its invested capital plus a pre-specified annual compounded cumulative rate of return (the Threshold Amount), except that in the case of AEW's removal or resignation, AEW shall be entitled to receive a Disposition Fee payable either at the time of removal or, in the event of AEW's resignation, upon sale of the assets to which the fee is allocable or upon termination of the Account as the case may be, subject to the requirements of paragraph (k) below, as determined by a deemed distribution of the assets of the Account based on an assumed sale of such assets at their fair market value (in accordance with independent appraisals), only to the extent that the Client Plan would receive distributions from the Account in excess of an amount equal to the Threshold Amount at the time of AEW's removal or resignation. Both the Threshold Amount and the amount of the Disposition Fee, expressed as a percentage of the amount distributed (or deemed distributed) from the Account in excess of the Threshold Amount, shall be established by the Agreement and agreed to by the Independent Fiduciary of the Client Plan.

(i) The Threshold Amount for any Disposition Fee shall include at least a minimum rate of return to the Client Plan, as defined below in Part IV(f).

(j) For any sale of property in an Account which shall give rise to the payment of a Disposition Fee to AEW prior to the termination of the Account, the sales price of the property shall be at least equal to a target amount (the Target Amount), as defined in Part IV(g), in order for AEW to sell the property and receive its Disposition Fee. If the proposed sales price of the property is less than the Target Amount, the proposed sale shall be disclosed to and approved by the Independent Fiduciary for a Single Client Account or the Responsible Independent Fiduciaries for a Multiple Client Account, in which event AEW shall be entitled to sell the property and receive its Disposition Fee. If the proposed sales price is less than the Target Amount and the Independent Fiduciary's or Responsible Independent Fiduciaries' approval is not obtained, AEW shall still have the authority to sell the property, if the Agreement provides AEW with complete investment discretion for the Account, provided that the Disposition Fee which would have been payable to AEW is paid only at the termination of the Account.

(k) In the event AEW resigns as investment manager for an Account, the Disposition Fee shall be calculated at the time of resignation as described above in paragraph (h) and allocated to each property based upon the relationship that the appraised value of such property bears to the total appraised value of the Account. Each amount arrived at through this calculation shall be multiplied by a fraction, the numerator of which shall be the actual sales price received by the Account on disposition of the property (or in the case of a property which has not been sold prior to the termination of the Account, the appraised value of the property as of the termination date) and to the denominator of which shall be the appraised value of the property which was used in connection with determining the Disposition Fee at the time of resignation, provided that this fraction shall never exceed 1.0. The resulting amount for each property shall be the Disposition Fee payable to AEW upon sale of such property or termination of the Account, as the case may be.

(l) AEW or its affiliates shall maintain, for a period of six years, the records necessary to enable the persons described in paragraph (m) of this Part III to determine whether the conditions of this exemption have been met, except that: (1) A prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of AEW or its affiliates, the records are lost or destroyed prior to the end of the six year period; and (2) no party in interest, other than AEW, shall be subject to the civil penalty that may be assessed under section 502(i) of the Act or to the taxes imposed by section 4975(a) and (b) of the Code if the records are not maintained or are not available for examination as required by paragraph (m) below.

(m)(1) Except as provided in paragraph (m)(2) and notwithstanding any provisions of section 504(a)(2) and (b) of the Act, the records referred to in paragraph (l) of this Part III shall be unconditionally available at their customary location for examination during normal business hours by:

(i) Any duly authorized employee or representative of the Department or the Internal Revenue Service;

(ii) Any fiduciary of a Client Plan or any duly authorized employee or representative of such fiduciary;

(iii) Any contributing employer to a Client Plan or any duly authorized employee or representative of such employer; and

(iv) Any participant or beneficiary of a Client Plan or any duly authorized employee or representative of such participant or beneficiary.

(2) None of the persons described above in paragraph (m)(1)(ii)–(iv) shall be authorized to examine the trade secrets of AEW and its affiliates or any commercial or financial information which is privileged or confidential.

Part IV. Definitions

For purposes of this exemption:

(a) An "affiliate" of a person includes:

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the person;

(2) Any officer, director, employee, relative, or partner of such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

(b) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(c) The term "management services" means:

(1) Development of an investment strategy for the Account and identification of suitable real estate-related investments;

(2) Directing the investments of the assets of the Account, including the determination of the structure of each investment, the negotiation of its terms and conditions and the performance of all requisite due diligence;

(3) Timing and directing the disposition of any assets of the Account

and directing the liquidation of the Account;

(4) Administration of the overall operation of the investments of the Account, including all applicable leasing, management, financing, and capital improvement decisions;

(5) Establishing and maintaining accounting records of the Accounts and distributing reports to Client Plans as described in Part III; and

(6) Selecting and directing all service providers of ancillary services as defined in this Part IV.

(d) The term "ancillary services" means:

(1) Legal services;

(2) Services of architects, designers, engineers, hazardous materials consultants, contractors, leasing agents, real estate brokers, and others in connection with the acquisition, construction, improvement, management and disposition of investments in real property;

(3) Insurance brokerage and consultation services;

(4) Services of independent auditors and accountants in connection with auditing the books and records of the Accounts and preparing tax returns;

(5) Appraisal and mortgage brokerage services; and

(6) Services for the development of income-producing real property.

(e) The term "Responsible Independent Fiduciaries" means with respect to a Multiple Client Account the Independent Fiduciary of each Client Plan invested in the Account and other authorized persons acting for investors in the Account which are not employee benefit plans as defined under section 3(3) of the Act (such as governmental plans, university endowment funds, etc.) that are independent of AEW and its affiliates and are persons other than the bank trustee for the Account, and that collectively hold at least 50% of the interests in the Account.

(f) The term "Threshold Amount" means with respect to any Disposition Fee an amount which equals all of a Client Plan's capital invested in an Account plus a pre-specified annual compounded cumulative rate of return that is at least a minimum rate of return determined as follows:

(1) A non-fixed rate which is at least equal to the rate of change in the consumer price index (CPI) during the period from the deposit of the Client Plan's assets into the Account until distributions of the Client Plan's assets from the Account equal or exceed the Threshold Amount; or

(2) A fixed rate which is at least equal to the rate of change in the CPI over some period of time specified in the Agreement, which shall not exceed 10 years.

(g) The term "Target Amount" means a value assigned to each property in the Account established by AEW either (1) at the time the property is acquired, by mutual agreement between AEW and the Independent Fiduciary for a Single Client Account or the Responsible Independent Fiduciaries for a Multiple Client Account, or (2) pursuant to an objective formula approved by such Fiduciaries at the time the Account is established. However, in no event will such value be less than the acquisition price of the property.

For a more complete statement of the facts and representations supporting the Department's decision to grant PTE 98–40, refer to the notice of proposed exemption and grant notice which are cited above.

Signed at Washington, D.C., this 23rd day of October 1997.

Ivan L. Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 97–28592 Filed 10–29–97; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (97–156)]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that Corken, Inc., a subsidiary of IDEX Corporation, having its principal place of business at 3805 N.W. 36th Street, Oklahoma City, OK 73112, has applied for a partially exclusive license to practice the invention described and claimed in U.S. Patent No. 5,171,822, entitled "LOW TOXICITY HIGH TEMPERATURE PMR POLYIMIDE," which is assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Langley Research Center.

DATE: Responses to this notice must be received by December 29, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. George F. Helfrich, Patent Counsel, Langley Research Center, Mail Stop 212, Hampton, VA 23681–0002, telephone (757) 864–9260; fax (757) 864–9190.

Dated: October 23, 1997.

Edward A. Frankle,

General Counsel.

[FR Doc. 97–28560 Filed 10–29–97; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (97–156)]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Prospective Patent License.

SUMMARY: NASA hereby gives notice that Grand Illusion/Living Window, Inc., of Dover, New Hampshire 03820, has applied for an exclusive license to practice the invention described and claimed in U.S. Patent No. 5,559,923, entitled "VAPOR GENERATOR WAND," for which a United States Patent was issued on September 24, 1996, to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Langley Research Center.

DATES: Responses to this notice must be received by December 29, 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Kimberly A. Chasteen, Patent Attorney, NASA Langley Research Center, Mail Stop 212, Hampton, VA 23681–0001. Telephone (757) 864–3227; fax (757) 864–9190.

Dated: October 23, 1997.

Edward A. Frankle,

General Counsel.

[FR Doc. 97–28618 Filed 10–29–97; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978 (Pub. L. 95–541)

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978, Pub. L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to these permit applications by November 28, 1997. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to the Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy at the above address or (703) 306–1033.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest.

The application received is as follows:

Permit Application: 98–017

1. *Applicant*

Charles R. Stearns, Department of Atmosphere and Oceanic Sciences, University of Wisconsin, 122 West Dayton Street, Madison, WI 53706

Activity for Which Permit Is Requested

Enter Specially Protected Area and Site of Special Scientific Interest

The applicant proposes to install an Automatic Weather Station (AWS) at Cape Bird, Ross Island. Studies of weather in the vicinity of McMurdo indicate and AWS located at Cape Bird will be of great value in studying the local climate and in providing valuable data for forecasting weather in the Ross Island Area. Installation of the AWS requires a uniform area about 100x100m. Although the applicant intends to install the AWS outside the SPA and SSSI, however, due to unfamiliarity with the terrain, may require placement of the AWS in either the New College Valley Specially Protected Area No. 20, or in the Caughley Beach Site of Special Scientific Interest.

Location

New College Valley (SPA #20) and Caughley Beach (SSSI #10), Cape Bird, Ross Island, Antarctica.

Dates

January 1, 1998 to January 31, 1998.

Nadene G. Kennedy,

Permit Officer.

[FR Doc. 97–28706 Filed 10–29–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Astronomical Sciences (1186); Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Astronomical Sciences.

Date and Time: November 20 and 21, 1997 8:30 AM–5:00 PM.

Place: Room 390, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: James P. Wright, Program Director, Division of Astronomical Sciences, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: 703/306–1819.

Purpose of Meeting: To provide advice and recommendations on proposals submitted to the National Science Foundation for financial support.

Agenda: To review and evaluate proposals in the Career Program in the area of Astronomical Sciences.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: October 27, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–28805 Filed 10–29–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Bioengineering & Environmental Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended) the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Bioengineering & Environmental Systems (#1189).

Date & Time: November 17, 1997; 8:00 a.m. to 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 370, Arlington, VA 22230.

Contact Person: David J. Boron, Acting Program Director, Environmental Technology Program, Division of Bioengineering & Environmental Systems, Room 565, NSF, 4201 Wilson Blvd., Arlington, VA 22230 703–306–1318.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate CAREER proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government Sunshine Act.

Dated: October 27, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–28802 Filed 10–29–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Chemical and Transport Systems; Notice of Meetings

This notice is being published in accord with the Federal Advisory Committee Act (Pub. L. 92–463, as amended). During November 1997, the Special Emphasis Panel will be holding panel meetings to review and evaluate Faculty Early Career Development proposals. Specifics are as follows:

Special Emphasis Panel in Chemical and Transport Systems (1190).

1. *Date:* November 22, 1997.

Place: Windham-Anatole Hotel, Dallas, Texas.

Contact: Dr. Ashley Emery, Program Director, Division of Chemical and Transport Systems, Room 525, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1371.

Type of Proposal: Thermal Transport & Thermal Processing.

2. *Date:* November 24, 1997.

Place: Rooms 530, National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Contact: Dr. Farley Fisher, Program Director, Division of Chemical and Transport Systems, Room 525, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1371.

Type of Proposal: Combustion and Plasma Systems.

Times: 8:30 to 5:00 p.m each day.

Type of meetings: Closed:
Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.
Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 USC 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: October 27, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–28807 Filed 10–29–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Civil and Mechanical Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Civil and Mechanical Systems (1205).
Date & Time: November 19–20, 1997; 8:30 a.m. to 5:00 p.m.
Place: National Science Foundation, 4201 Wilson Boulevard, Room 530, Arlington, VA.
Contact Person: Dr. Ken Chong, Program Director, Structural Systems Program, Division of Civil and Mechanical Systems, Room 545, NSF, 4201 Wilson Blvd., Arlington, VA 22230 703/306–1316.
Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.
Agenda: To review and evaluate Structural Systems CAREER proposals as part of the selection process for awards.
Reason For Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government Sunshine Act.

Dated: October 27, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–28804 Filed 10–29–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Education and Human Resources; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Committee for Education and Human Resources (#1119).
Date & Time: November 17, 1997—10:15 a.m.–4:00 p.m.; November 18, 1997—8:30 a.m.–3:00 p.m.
Place: Arlington Hilton Hotel, 950 N. Stafford Street, Arlington, VA 22230.
Type of Meeting: Open.
Contact Persons: Lucretia Dawson, Administrative Officers, Directorate of Education and Human Resources, Room 805, Foundation, 4201 Wilson Blvd., Arlington, VA 22230, (703) 306–1601.
Summary Minutes: May be obtained from contact person listed above.
Purpose of Meeting: To provide advice and recommendations concerning NSF support for Education and Human Resources.
Agenda: Review of FY 1997 Programs and Initiative Strategic Planning for FY 1998 and Beyond.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–28801 Filed 10–29–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in the Geosciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in the Geosciences (1569).
Date & Time: November 17-19, 1997; 8:30 am–6:00 pm.
Place: NSF-Arizona AMS Facility, Physics Bldg., University of Arizona, Tucson, AZ.
Type of Meeting: Closed.
Contact Persons: Russell Kelz, Division of Earth Sciences, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1555 x7043.
Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.
Agenda: To review and evaluate proposals submitted to the Instrumentation and Facilities Program as part of the selection process for awards.
Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 27, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–28800 Filed 10–29–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Geosciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meetings:

Name: Special Emphasis Panel in Geosciences (1756).
Date and Time: November 18–20, 1997; 8:30 am to 5:30 pm each day.
Place: National Center for Atmospheric Research (NCAR), Mesa Laboratory, Damon Room, Boulder, CO 80307–3000.
Type of Meeting: Closed.
Contact Person: Mrs. Jewel C. Prandeville, Program Coordinator for the UCAR and Lower Atmosphere Facilities Oversight Section, Division of Atmospheric Sciences, Room 775, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone (703) 306–1521.
Purpose of Meeting: To provide and make recommendations concerning the renewal proposal of the five year Cooperative Agreement from the University Corporation for Atmospheric Research (UCAR) for the management and operation of the National Center for Atmospheric Research (NCAR).
Agenda: To review and evaluate the renewal proposal for the five year Cooperative Agreement from the University Corporation for Atmospheric Research (UCAR) for the management and operation of the National Center for Atmospheric Research (NCAR).
Reason for Closing: The proposal being reviewed includes information of a proprietary or confidential nature, including technical information; financial data; such as salaries, and personal information concerning individuals associated with the proposal. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: October 27, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–28803 Filed 10–29–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Geosciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Geosciences (1756).
Date & Time: Friday, November 21; 8:30 AM—5:00 PM.
Place: Room 360, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.
Type of Meeting: Closed.
Contact Person: Dr. Michael R. Reeve, Section Head, Division of Ocean Sciences, National Science Foundation, 4201 Wilson Blvd., Room 725, Arlington, VA 22230. Telephone: (703) 306–1582.
Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.
Agenda: To review and evaluate OCE's Career proposals as part of the selection process for awards.
Reason For Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in The Sunshine Act.

Dated: October 27, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–28806 Filed 10–29–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Networking & Communications Research & Infrastructure; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Networking and Communications (#1207).
Date and Time: November 17 & 18, 1997; 8:30 a.m. to 5:00 p.m.
Place: Room 1150 and Room 1120, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.
Type of Meeting: Closed.
Contact Person(s): Tatsuya Suda, Program Director, CISE/NCRI, Room 1175, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306–1950.
Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.
Agenda: To review and evaluate proposals submitted for the Career Program.
Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b.(c) (4) and (6) of the Government in the Sunshine Act.

Dated: October 27, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–28798 Filed 10–29–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

President's Committee on the National Medal of Science; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Date and Time: Monday, November 17, 1997, 8:30 a.m.–3:00 p.m.
Place: Room 1235, National Science Foundation, 4201 Wilson Blvd, Arlington, VA.
Type of Meeting: Closed.
Contact Person: Mrs. Susan E. Fannoney, Program Manager, Room 1220, National Science Foundation, 4201 Wilson Blvd, Arlington, VA 22230 Telephone: 703/306–1060.
Purpose of Meeting: To provide advice and recommendations to the President in the selection of the National Medal of Science recipients.
Agenda: To review and evaluate nominations for the medal of science award as part of the selection process for awards.
Reason for Closing: The nominations being reviewed include information of a personal nature where disclosure would constitute unwarranted invasions of personal privacy. These matters are exempt under 5 U.S.C. 552b(c)(6) of the Government in the Sunshine Act.

Dated: October 27, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–28797 Filed 10–29–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Social, Behavioral, and Economic Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Committee for Social, Behavioral, and Economic Sciences (1171).
Date & Time: November 17, 1997; 9:00 a.m.–5:00 p.m.; November 18, 1997; 9:00 a.m.–5:00 p.m.
Place: NSF, Room 375, NSF, 4201 Wilson Blvd., Arlington, Va. 22230.
Type of Meeting: Open.
Contact Person: Ms. Catherine J. Hines, Executive Secretary; Directorate for Social, Behavioral, and Economic Sciences, NSF, Suite 905; 4201 Wilson Blvd., Arlington, Va. 22230. Telephone: (703) 306–1741.
Minutes: May be obtained from the contact person listed above.
Purpose of Meeting: To provide advice and recommendations to the National Science Foundation on major goals and policies pertaining to SBE programs and activities.
Agenda: Discussions on issues, role and future direction of the NSF Directorate for Social, Behavioral and Economic Sciences.

Dated: October 27, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–28799 Filed 10–29–97; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–261]

Carolina Power & Light Company; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 176 to Facility Operating License No. DPR–23 issued to Carolina Power & Light Company (the licensee), which revised the operating license and Appendices A and B to the operating license for the H.B. Robinson Steam Electric Plant, Unit 2 (HBR), located in Darlington County, South Carolina. The amendment is effective as of the date of issuance.

The amendment implements a full conversion of the HBR Technical Specifications (TS) to a set of TS based upon NUREG–1431, "Standard Technical Specifications Westinghouse Plants," Revision 0, dated September 1992 (including travellers used in the issuance of Revision 1, dated April 1995).

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing in connection with this action was published in the Federal Register on October 29, 1996 (61 FR 55830). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the

environmental assessment, the Commission has concluded that the issuance of the amendment will not have a significant effect on the quality of the human environment (62 FR 50409).

For further details with respect to the action see (1) the application for amendment dated August 27, 1996, as supplemented by letters dated December 18, 1996, January 17, February 18, March 27, April 4, April 25, April 29, May 30, June 2, June 13, June 18, August 4, August 8, September 10, October 2 (RNP RA/97–0216), October 2 (RNP RA/97–0207), October 13, and October 21, 1997, (2) Amendment No. 176 to License No. DPR–23, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, and at the local public document room located at the Hartsville Memorial Library, 147 West College Avenue, Hartsville, South Carolina 29550.

Dated at Rockville, Maryland, this 24th day of October 1997.

For the Nuclear Regulatory Commission.

David C. Trimble,

Project Manager, Project Directorate II–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 97–28784 Filed 10–29–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–423]

Northeast Nuclear Energy Company; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Northeast Nuclear Energy Company (the licensee) to withdraw its April 28, 1997, application for proposed amendment to Facility Operating License No. NPF–49 for the Millstone Nuclear Power Station, Unit 3, located in New London County, Connecticut.

Technical Specification Surveillances 4.1.2.3.1, 4.1.2.4.1, 4.5.2.f, and 4.5.2.h require the charging and safety injection pumps to be tested on a periodic basis and after modifications that alter subsystem flow characteristics. The proposed amendment would have made changes to these surveillance requirements.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on June 4, 1997 (62 FR 30635). However, by letter dated October 15, 1997, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated April 28, 1997, and the licensee's letter dated October 15, 1997, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Dated at Rockville, Maryland, this 23rd day of October 1997.

For the Nuclear Regulatory Commission.

James W. Andersen,

Project Manager, Special Projects Office—Licensing Office of Nuclear Reactor Regulation.

[FR Doc. 97–28787 Filed 10–29–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–423]

Northeast Nuclear Energy Company Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Northeast Nuclear Energy Company (the licensee) to withdraw its May 30, 1997, application for proposed amendment to Facility Operating License No. NPF–49 for the Millstone Nuclear Power Station, Unit 3, located in New London County, Connecticut.

Technical Specification (TS) Surveillances 4.5.2.f and 4.6.2.2.b require the periodic flow testing of the recirculation spray system pumps. The proposed amendment would have changed the surveillances by replacing the pump differential acceptance criteria with a pump acceptance curve.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on July 2, 1997 (62 FR 35849). However, by letter dated October 15, 1997, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated May 30, 1997, and the licensee's letter dated October 15, 1997, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Learning Resources Center, Three 2-Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Dated at Rockville, Maryland, this 23rd day of October 1997.

For the Nuclear Regulatory Commission.

James W. Andersen,

Project Manager, Special Projects Office—Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 97–28758 Filed 10–29–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–7002]

Notice of Amendment to Certificate of Compliance GDP–2 for the U.S. Enrichment Corporation, Portsmouth Gaseous Diffusion Plant, Portsmouth, Ohio

The Director, Office of Nuclear Material Safety and Safeguards, has made a determination that the following amendment request is not significant in accordance with 10 CFR 76.45. In making that determination, the staff concluded that: (1) there is no change in the types or significant increase in the amounts of any effluents that may be released offsite; (2) there is no significant increase in individual or cumulative occupational radiation exposure; (3) there is no significant construction impact; (4) there is no significant increase in the potential for, or radiological or chemical consequences from, previously analyzed accidents; (5) the proposed changes do not result in the possibility of a new or different kind of accident; (6) there is no significant reduction in any margin of safety; and (7) the proposed changes will not result in an overall decrease in the effectiveness of the plant's safety, safeguards, or security programs. The

basis for this determination for the amendment request is described below.

The NRC staff has reviewed the certificate amendment application and concluded that it provides reasonable assurance of adequate safety, safeguards, and security and compliance with NRC requirements. Therefore, the Director, Office of Nuclear Material Safety and Safeguards, is prepared to issue an amendment to the Certificate of Compliance for the Portsmouth Gaseous Diffusion Plant (PORTS). The staff has prepared a Compliance Evaluation Report which provides details of the staff's evaluation.

The NRC staff has determined that this amendment satisfies the criteria for a categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for this amendment.

USEC or any person whose interest may be affected may file a petition, not exceeding 30 pages, requesting review of the Director's Decision. The petition must be filed with the Commission not later than 15 days after publication of this **Federal Register** Notice. A petition for review of the Director's Decision shall set forth with particularity the interest of the petitioner and how that interest may be affected by the results of the decision. The petition should specifically explain the reasons why review of the Decision should be permitted with particular reference to the following factors: (1) the interest of the petitioner; (2) how that interest may be affected by the Decision, including the reasons why the petitioner should be permitted a review of the Decision; and (3) the petitioner's areas of concern about the activity that is the subject matter of the Decision. Any person described in this paragraph (USEC or any person who filed a petition) may file a response to any petition for review, not to exceed 30 pages, within 10 days after filing of the petition. If no petition is received within the designated 15-day period, the Director will issue the final amendment to the Certificate of Compliance without further delay. If a petition for review is received, the decision on the amendment application will become final in 60 days, unless the Commission grants the petition for review or otherwise acts within 60 days after publication of this **Federal Register** Notice.

A petition for review must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC, by the above date.

For further details with respect to the action see: (1) the application for amendment and (2) the Commission's Compliance Evaluation Report. These items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC, and at the Local Public Document Room.

Date of amendment request: June 9, 1997.

Brief description of amendment: The proposed amendment, in accordance with a commitment made in the USEC certificate application, revises Technical Safety Requirement (TSR) 2.1.3.5 entitled "Autoclave Shell High Pressure Containment Shutdown," to account for the added capability to separately test inner and outer loop containment valves on autoclaves in buildings X–342, X–343, and X–344.

The Portsmouth Gaseous Diffusion Plant uses thirteen autoclaves in buildings X–342, X–343 and X–344 to feed, transfer and sample UF_6. These autoclaves were designed and constructed in accordance with ASME Section VIII and are utilized to confine UF_6 and any reaction products in the event of a major UF_6 release inside an autoclave. Steam used to heat a UF_6 cylinder within an autoclave is typically controlled at approximately 5 psig. However, if a large UF_6 release occurs inside an autoclave, its internal pressure could rise to as high as 90 psig very rapidly. To ensure that the contents of a release are confined inside the autoclave, except for that which is released due to the proper operation of the autoclave pressure relief system (rupture disc rated at near 150 psig and relief valve), each line which penetrates the autoclave boundary is equipped with at least two valves that can serve as isolation valves. These close automatically to isolate the autoclave in the event of high internal pressure; the actuation pressure being less than or equal to 15 psig.

As noted in the Description of Noncompliance for Issue 3 of the "Plan for Achieving Compliance with NRC Regulations at the Portsmouth Gaseous Diffusion Plant" Revision 3 (Compliance Plan) dated July 9, 1996, the capability to pressure decay test the autoclave containment valves (i.e., inner and outer loop valves) separately did not exist. According to item 1 of the Plan of Action and Schedule (POA) for Issue 3 of the Compliance Plan, USEC was committed to providing this capability before July 1, 1997, and submitting to the NRC, a revised TSR to reflect the new autoclave containment valve configuration. In addition, the POA stated that until the capability to separately test the inner and outer loop containment valve is provided, the applicable TSR requirement will be to declare an autoclave inoperable and taken out of service when, in any mode of operation, either containment valve is determined to be inoperable or, in the heating mode, either pressure instrument channel is determined to be inoperable. According to USEC's certificate amendment request, since this capability has been provided, the Action conditions of TSR 2.1.3.5 should allow completion of the current operating cycle if only one instrument channel, or one containment isolation valve on one or more autoclave penetrations, is operable. However, if both instrument channels or all containment isolation valves on any one autoclave penetration are inoperable, then TSR 2.1.3.5 requires USEC to shut down the autoclave within one hour.

Basis for Finding of No Significance

1. The proposed amendment will not result in a change in the types or significant increase in the amounts of any effluents that may be released offsite.

Each line penetration for the thirteen autoclaves at PORTS, has at least two valves, that when actuated, would isolate the autoclaves. In addition, each autoclave has, as part of the autoclave shell high pressure containment shutdown system, two independent high pressure containment actuation channels. The proposed change to TSR 2.1.3.5 allows completion of the current autoclave operating cycle if one instrument channel, or one containment isolation valve on one or more autoclave penetrations, is inoperable. It is noted that the proposed TSR 2.1.3.5 still requires at least two channels and two isolation valves on each autoclave penetration to be operable prior to initiating a new operating cycle. Allowing an autoclave cycle to be completed, with one instrument channel and one containment valve operable, instead of requiring it to be shut down within one hour, will not result in a change in the types or significant increase in the amounts of any effluents that may be released offsite for the reasons given in the following paragraph.

The UF_6 containment boundaries provided by the cylinder, pigtail and valves inside an autoclave, and steam and UF_6 reaction product confinement boundaries provided by the autoclave shell and piping and valves out to and

including the second containment valve, are designated as "Q" systems. As such, USEC is required to apply the highest level of quality control (ASME NQA–1) to ensure that the pressure boundaries within these systems are maintained. Taking into consideration the applicable safety features (administrative and installed hardware) for preventing and mitigating UF_6 releases associated with autoclaves, and past operational history at PORTS, the staff concludes that a major accidental release of UF_6 inside an autoclave is highly unlikely. The probability of inoperability of a containment valve or an instrument channel during an operating cycle is also low (none have been reported since March 3, 1997). According to the surveillance requirements of TSR 2.1.3.5, these containment valves are required to be calibrated semiannually at or below 15 psig, and to be quarterly functionally tested and separately pressure decay tested at 90 psig with an acceptable leak rate of 10 psig/hour or 12 standard cubic feet per minute. It should be noted that requiring an autoclave to prematurely shut down prior to completing an operating cycle could introduce added risk by necessitating additional handling of cylinders containing liquid UF_6 for feed, sampling and transfer autoclaves, or by introducing cascade process upsets for feed autoclaves.

The staff has concluded that since completing the current operating cycle following inoperability of one instrument channel or one containment valve on an autoclave penetration will not significantly increase the risk of a UF_6 release, this amendment will not result in a significant change in the types or significant increase in the amounts of any effluents that may be released offsite.

2. The proposed amendment will not result in a significant increase in individual or cumulative occupational radiation exposure.

For the reasons provided in the assessment of criterion 1, the proposed amendment will not significantly increase the risk of a UF_6 release. Therefore, allowing an autoclave cycle to be completed, instead of requiring it to be shut down within one hour after discovery of one inoperable instrument channel or containment valve, will not result in a significant increase in individual or cumulative occupational radiation exposures.

3. The proposed amendment will not result in a significant construction impact.

The proposed amendment does not involve any construction, therefore, there will be no construction impacts.

4. The proposed amendment will not result in a significant increase in the potential for, or radiological or chemical consequences from, previously analyzed accidents.

For the reasons provided in the assessment of criterion 1, the proposed amendment will not significantly increase the risk of a UF_6 release. Therefore, allowing an autoclave cycle to be completed, instead of requiring it to be shut down within one hour after discovering one inoperable instrument channel or containment valve, will not significantly increase the potential for, or radiological or chemical consequences from, previously analyzed accidents.

5. The proposed amendment will not result in the possibility of a new or different kind of accident.

Based on the staff's review of the proposed amendment, no new or different accidents were identified.

6. The proposed amendment will not result in a significant reduction in any margin of safety.

For the reasons provided in the assessment of criterion 1, the proposed amendment will not significantly increase the risk of a UF_6 release. Based on the staff's review of the proposed amendment, the staff concludes that there will be no significant reduction of any margin of safety.

7. The proposed amendment will not result in an overall decrease in the effectiveness of the plant's safety, safeguards, or security programs.

For similar reasons provided in the assessment of criterion 1, the proposed amendment will not significantly increase the risk of a UF_6 release. In addition, the staff has not identified any criticality related implications from the proposed amendment. Based on the staff's review of the proposed amendment, the staff concludes that there will be no decrease in the effectiveness of the overall plant's safety program.

The staff has not identified any safeguards or security related implications from the proposed amendment. Therefore, the proposed amendment will not result in an overall decrease in the effectiveness of the plant's safeguards, or security programs.

Effective date: The amendment to GDP–2 will become effective 60 days after issuance by NRC.

Certificate of Compliance No. GDP–2: Amendment will revise the Technical Safety Requirements.

Local Public Document Room location: Portsmouth Public Library, 1220 Gallia Street, Portsmouth, Ohio 45662.

Dated at Rockville, Maryland, this 23d day of October 1997.

For the Nuclear Regulatory Commission.

Carl J. Paperiello,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 97–28756 Filed 10–29–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Privacy Act of 1974, As Amended; Minor Revisions to Existing System of Records

AGENCY: Nuclear Regulatory Commission.

ACTION: Minor revisions to an existing system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (Privacy Act), the Nuclear Regulatory Commission (NRC) is revising and republishing in its entirety the system of records (system) notice for NRC–22, "Personnel Performance Appraisals—NRC," to reflect minor corrective and administrative changes that will more accurately and clearly describe the following sections of the system notice: System Location, Categories of Individuals Covered by the System, Authority for Maintenance of the System, Routine Uses of Records Maintained in the System, Storage, Retrieval, Safeguards, Retention and Disposal, System Manager(s) and Address, Notification Procedure, Record Access Procedures, and Contesting Record Procedures.

EFFECTIVE DATE: October 30, 1997.

FOR FURTHER INFORMATION CONTACT: Jona L. Souder, Freedom of Information/Local Public Document Room Branch, Office of Information Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–7170.

SUPPLEMENTARY INFORMATION: The NRC's system of records notice for NRC–22, "Personnel Performance Appraisals—NRC," is being revised in its entirety to more accurately and clearly describe the system. The revisions reflect organizational and address changes within the agency since the notice was last published in the **Federal Register** on July 7, 1993 (58 FR 36469), as well as the current General Records Schedule (GRS) authorized disposition for performance appraisal records. The revisions to the system notice consist of minor corrective and administrative changes that do not require the submission of an altered system of records report pursuant to subsection (r) of the Privacy Act and Office of Management and Budget Circular No. A–130, Appendix I, "Federal Agency Responsibilities for Maintaining Records About Individuals."

Accordingly, the NRC is revising the system notice for NRC–22 in its entirety to read as follows:

NRC–22

SYSTEM NAME:

Personnel Performance Appraisals—NRC.

SYSTEM LOCATION:

Primary system—Part A: For Headquarters personnel, Office of Human Resources, NRC, 11545 and 11555 Rockville Pike, Rockville, Maryland. For Regional personnel, at Regional Offices I–IV listed in Addendum I, Part 2.

Part B: Office of Human Resources, NRC, 11545 and 11555 Rockville Pike, Rockville, Maryland.

Duplicate systems: Duplicate systems exist in whole or in part at the locations listed in Addendum I, except for Part B which is stored only at Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees other than contractor employees, Commissioners, or temporary personnel employed for less than 1 year.

Part A: Senior Level System employees, GG–1 through GG–15 employees, hourly wage employees, scientific and technical schedule employees, and administratively determined rate employees.

Part B: Senior Executive Service and equivalent employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains performance appraisals, including elements and standards, and other related records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C 4301, *et seq.*; 5 U.S.C 4311 *et seq.* (1994); 42 U.S.C. 2201(d), 5841 (1994); and 5 CFR 293.404(a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. By agency management and the Office of Human Resources for personnel functions; and

b. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is maintained in computerized form and in paper copy in locking file cabinets. Computerized form includes information stored in memory, on disk and magnetic tape, and on computer printouts. Summary ratings are stored in a computer system protected by password and user identification codes.

RETRIEVABILITY:

Records are accessed by name. Some computer records are accessed by name and social security number.

SAFEGUARDS:

Records are maintained in areas where access is controlled by keycard and is limited to NRC and contractor personnel and to others who need the information to perform their official duties. Access to the two Headquarters buildings in Rockville, Maryland, is controlled by a security guard force. Paper records are maintained in folders in locking file cabinets. Access to computerized records requires use of proper passwords and user identification codes.

RETENTION AND DISPOSAL:

a. Part A: Records are normally retained for 4 years, then destroyed by incineration in accordance with General Records Schedule (GRS) 1–23.a(4). If an employee separates, the records are forwarded to the next Government Agency employer or to the National Personnel Records Center in accordance with GRS 1–23.a(3)(a).

b. Part B: Retained for 5 years, or until the fifth annual appraisal is completed, whichever is later, then destroyed by incineration in accordance with GRS 1–23.b(3). If the employee separates, the records are forwarded to the next Government Agency employer or to the National Personnel Records Center in accordance with GRS 1–23.b(2)(a).

c. Electronic records: Deleted after the expiration of the retention period authorized for the disposable hard copy file or when no longer needed, whichever is later in accordance with GRS 20–3.a.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Human Resources Policy and Programs, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. For Regional personnel, at Regional Offices I–IV listed in Addendum I, part 2.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act/Privacy Act Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with NRC's Privacy Act regulations regarding verification of identity contained in 10 CFR part 9.

RECORD ACCESS PROCEDURES:

Same as "Notification Procedure" and comply with NRC's Privacy Act regulations regarding verification of identity and record access procedures contained in 10 CFR part 9.

CONTESTING RECORD PROCEDURES:

Same as "Notification Procedure" and comply with NRC's Privacy Act regulations regarding verification of identity and contesting record procedures contained in 10 CFR part 9.

RECORD SOURCE CATEGORIES:

Part A: Individual to whom record pertains and employee's supervisors.

Part B: Individual to whom record pertains and employee's supervisors and any documents and sources used to develop critical elements and performance standards for that Senior Executive Service position.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(1) and (5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

Dated at Rockville, MD, this 24th day of October, 1997.

For the Nuclear Regulatory Commission.

A. J. Galante,

Chief Information Officer.

[FR Doc. 97–28755 Filed 10–29–97; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of

Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Public Service Pension Questionnaires.

(2) *Form(s) submitted:* G–208, G–212.

(3) *OMB Number:* 3220–0136.

(4) *Expiration date of current OMB clearance:* 12/31/97.

(5) *Type of request:* Revision of a currently approved collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated annual number of respondents:* 7,700.

(8) *Total annual responses:* 7,700.

(9) *Total annual reporting hours:* 1,200.

(10) *Collection description:* A spouse or survivor annuity under the Railroad Retirement Act may be subjected to a reduction for a public service pension. The questionnaires obtain information needed to determine if the reduction applies and the amount of such reduction.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the forms and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Laura Oliven (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, D.C. 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 97–28707 Filed 10–29–97; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Great Northern Finance Corporation; Order of Suspension of Trading

[File No. 500–1]

October 27, 1997.

It appears to the Securities and Exchange Commission that there is a lack of adequate and accurate current information concerning the securities of Great Northern Finance Corporation ("GNFL"), of Denver, Colorado. Questions have been raised about publicly-disseminated information concerning, among other things: (1) arrangements, understandings or agreements to artificially control the market for GNFL's securities; (2) the ownership of GNFL's securities; (3) the status of a proposed acquisition of Lazer-Tek Designs, Inc. by GNFL; (4) the business prospects of Lazer-Tek; and (5) the business prospects of GNFL.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the above listed company is suspended for the period from 9:00 a.m. EST, October 27, 1997 through 11:59 p.m. EST, on November 7, 1997.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–28836 Filed 10–27–97; 4:36 pm]

BILLING CODE 8010–01–M

SOCIAL SECURITY ADMINISTRATION

Information Collection Activities: Proposed Collection Requests and Comment Requests

This notice lists information collection packages that will require submission to the Office of Management and Budget (OMB), as well as information collection packages submitted to OMB for clearance, in compliance with P.L. 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995.

I. The information collection(s) listed below require(s) extension(s) of the current OMB approval(s) or are proposed new collection(s):

1. *Request to be Selected as Payee—0960–0014.* The information collected on Form SSA–11–BK is used to determine the proper payee for a Social Security beneficiary, and it is designed to aid in the investigation of a payee applicant. The form will establish the applicant's relationship to the beneficiary, the justification, the concern for the beneficiary and the manner in which the benefits will be used. The respondents are applicants for selection as representative payee for Old-Age, Survivors and Disability Insurance (OASDI), Supplemental Security Income (SSI) and Black Lung benefits.

Number of Respondents: 1,709,657.

Frequency of Response: 1.

Average Burden Per Response: 10.5 minutes.

Estimated Annual Burden: 229,190 hours.

2. *Application for Benefits Under the Federal Mine Safety and Health Act of 1977, as Amended; (Widow's Claim, Child's Claim and Dependent's Claim)—0960–0118.* Sections 402(g) and 412(a) of the Federal Mine Safety and Health Act provide that those widows, surviving children, and dependent parents, brothers or sisters who are not currently receiving benefits on the deceased miner's account must file the appropriate application within 6 months of the deceased miner's death, using Forms SSA–47, 48 and 49. This information is used to determine eligibility for benefits.

Number of Respondents: 1,800.

Frequency of Response: 1.

Average Burden Per Response: 11 minutes.

Estimated Annual Burden: 330 hours.

3. *Work History Report—0960–0552.* Form SSA–3369–BK is used by the State Disability Determination Services (DDSs) to determine disability and to record information about the claimant's work history during the past 15 years. The respondents are claimants who live in Virginia and are applying for OASDI and SSI benefits.

Number of Respondents: 32,000.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 16,000 hours.

4. *Disability Report-Child—0960–0504.* Form SSA–3820–BK is used by the State DDSs to record claimants' allegations and sources of evidence in determining eligibility for children filing for SSI disability benefits. The respondents are SSI claimants who live in Virginia and are applying for disabled child's benefits.

Number of Respondents: 10,900.

Frequency of Response: 1.

Average Burden Per Response: 40 minutes.

Estimated Annual Burden: 7,267 hours.

Written comments and recommendations regarding the information collection(s) should be sent within 60 days from the date of this publication, directly to the SSA Reports Clearance Officer at the following address: Social Security Administration, DCFAM, Attn: Nicholas E. Tagliareni, 6401 Security Blvd., 1–A–21 Operations Bldg., Baltimore, MD 21235.

In addition to your comments on the accuracy of the agency's burden estimate, we are soliciting comments on the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

II. The information collection(s) listed below have been submitted to OMB:

1. *Disability Report—0960–0573.* The information collected on Form SSA–3368–F6 is needed for the determination of disability by the State DDSs. The information will be used to develop medical evidence and to assess the alleged disability. The respondents are applicants for disability benefits.

Number of Respondents: 2,438,496.

Frequency of Response: 1.

Average Burden Per Response: 45 minutes.

Estimated annual Burden: 1,828,872 hours.

2. *Work History Report–0960–0572.* The information collected on Form SSA–3369–F6 is needed for the determination of disability by the State DDSs. The information will be used to document an individual's past work history. The respondents are applicants for OASDI and SSI benefits.

Number of Respondents: 1,000,000.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated annual Burden: 500,000 hours.

3. *Medical History and Disability Report, Disabled Child—0960–0574.* The information collected on Form SSA–3820–F4 is needed for the determination of disability by the State DDSs to obtain various types of information about a child's condition, his/her treating sources and/or other medical sources of evidence. The respondents are SSI claimants who are applying for disabled child's benefits.

Number of Respondents: 523,000.

Frequency of Response: 1.

Average Burden Per Response: 20 minutes.

Estimated annual Burden: 174,333 hours.

Written comments and recommendations regarding the information collection(s) should be directed within 30 days to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses:

(OMB) Office of Management and Budget, OIRA, Attn: Laura Oliven, New Executive Office Building, Room 10230, 725 17th St., NW., Washington, DC 20503

(SSA) Social Security Administration, DCFAM, Attn: Nicholas E. Tagliareni, 1–A–21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235

To receive a copy of any of the forms or clearance packages, call the SSA Reports Clearance Officer on (410) 965–4125 or write to him at the address listed above.

Dated: October 24, 1997.

Nicholas E. Tagliareni,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 97–28831 Filed 10–29–97; 8:45 am]

BILLING CODE 4190–29–M

SOCIAL SECURITY ADMINISTRATION

Finding Regarding the Social Insurance System of The Czech Republic

AGENCY: Social Security Administration.

ACTION: Notice of Finding Regarding the Social Insurance System of The Czech Republic.

FINDING: Section 202(t)(1) of the Social Security Act (42 U.S.C. 402(t)(1)) prohibits payment of monthly benefits to any individual who is not a United States citizen or national for any month after he or she has been outside the United States for 6 consecutive months, and prior to the first month thereafter for all of which, the individual has been in the United States. This prohibition does not apply to such an individual where one of the exceptions described in sections 202(t)(2) through 202(t)(5) of the Social Security Act (42 U.S.C. 402(t)(2)–(5)) affects his or her case.

Section 202(t)(2) of the Social Security Act provides that, subject to certain residency requirements of section 202(t)(11), the prohibition against payment shall not apply to any individual who is a citizen of a country which the Commissioner of Social Security finds has in effect a social insurance system which is of general application in such country and which:

(a) pays periodic benefits, or the actuarial equivalent thereof, on account of old age, retirement, or death; and

(b) permits individuals who are United States citizens but not citizens of that country and who qualify for such benefits to receive those benefits, or the actuarial equivalent thereof, while outside the foreign country regardless of the duration of the absence.

The Commissioner of Social Security has delegated the authority to make such a finding to the Associate Commissioner for International Policy. Under that authority, the Associate Commissioner for International Policy has approved a finding that the Czech Republic, as of January 1, 1993, has a social insurance system of general application which:

(a) pays periodic benefits, or the actuarial equivalent thereof, on account of old age, retirement, or death; and

(b) permits United States citizens who are not citizens of the Czech Republic and who qualify for the relevant benefits to receive those benefits, or their actuarial equivalent, while outside of the Czech Republic, regardless of the duration of the absence of these individuals from the Czech Republic.

Accordingly, it is hereby determined and found that the Czech Republic has in effect, as of January 1, 1993, a social insurance system which meets the requirements of section 202(t)(2) of the Social Security Act (42 U.S.C. 402(t)(2)).

This is our first finding under section 202(t) of the Social Security Act for the Czech Republic. Before January 1993, the United States did not recognize the Czech Republic as an independent nation. Czechoslovakia divided into two separate states, the Czech Republic and the Slovak Republic, on January 1, 1993. At that time, and until January 1996, the Czech Republic continued to use the old Czechoslovak social insurance system which was determined to meet the provisions of Section 202(t)(2) of the Social Security Act on July 1, 1968. The Czech Republic also considered itself bound by the Diplomatic Notes on reciprocity of payments that were exchanged between the United States and Czechoslovakia in 1968 and the addendum in 1969.

The new social insurance law, the Pension Insurance Act, entered into force in the Czech Republic on January 1, 1996. Prior to that date, Czech citizens met an exception under the provisions of section 202(t)(2) based on the old Czechoslovak law that was still in effect.

FOR FURTHER INFORMATION CONTACT: Donna Powers, Room 1104, West High Rise Building, P.O. Box 17741, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–3568.

(Catalog of Federal Domestic Assistance: Program Nos. 96.001 Social Security—Disability Insurance; 96.002 Social Security—Retirement Insurance; 96.004 Social Security—Survivors Insurance)

Dated: October 24, 1997.

James A. Kissko,

Associate Commissioner for International Policy.

[FR Doc. 97–28770 Filed 10–29–97; 8:45 am]

BILLING CODE 4190–29–P

SOCIAL SECURITY ADMINISTRATION

Senior Executive Service; Performance Review Board Membership

AGENCY: Social Security Administration.

ACTION: Notice of Senior Executive Service Performance Review Board Membership.

Title 5, U.S. Code, Section 4314(c)(4) of the Civil Service Reform Act of 1978, Pub. L. 95–454, requires that the appointment of Performance Review Board members be published in the Federal Register.

The following persons will serve on the Performance Review Board which oversees the evaluation of performance appraisals of Senior Executive Service members of the Social Security Administration:

Kathleen M. Adams
Eli N. Donkar
Glennalee K. Donnelly
Armando A. Gonzalez
Charlotte A. J. Hardnett
W. Burnell Hurt
Carolyn J. Shearin-Jones
Gordon M. Sherman
Barbara S. Sledge
Miguel A. Torrado

Dated: October 21, 1997.

Paul D. Barnes,

Deputy Commissioner for Human Resources.

[FR Doc. 97–28769 Filed 10–29–97; 8:45 am]

BILLING CODE 4190–29–P

SOCIAL SECURITY ADMINISTRATION

Office of the Commissioner; 1998 Cost-of-Living Increase and Other Determinations

AGENCY: Social Security Administration.

ACTION: Notice.

SUMMARY: The Commissioner has determined—

(1) A 2.1 percent cost-of-living increase in Social Security benefits under title II of the Social Security Act (the Act), effective for December 1997;

(2) An increase in the Federal Supplemental Security Income (SSI) monthly benefit amounts under title XVI of the Act for 1998 to $494 for an eligible individual, $741 for an eligible individual with an eligible spouse, and $247 for an essential person;

(3) The national average wage index for 1996 to be $25,913.90;

(4) The Old-Age, Survivors, and Disability Insurance (OASDI) contribution and benefit base to be $68,400 for remuneration paid in 1998 and self-employment income earned in taxable years beginning in 1998;

(5) For beneficiaries under age 65, the monthly exempt amount under the Social Security retirement earnings test for taxable years ending in calendar year 1998 to be $760;

(6) The dollar amounts ("bend points") used in the benefit formula for workers who become eligible for benefits in 1998 and in the formula for computing maximum family benefits;

(7) The amount of earnings a person must have to be credited with a quarter of coverage in 1998 to be $700;

(8) The "old-law" contribution and benefit base to be $50,700 for 1998;

(9) The monthly amount of substantial gainful activity applicable to statutorily blind individuals in 1998 to be $1,050;

(10) The domestic worker coverage threshold to be $1,100 for 1998; and

(11) The OASDI fund ratio to be 152.9 percent for 1997.

FOR FURTHER INFORMATION CONTACT: Jeffrey L. Kunkel, Office of the Chief Actuary, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–3013. For information on eligibility or claiming benefits, call 1–800–772–1213. A summary of the information in this announcement is available in a recorded message by telephoning (410) 965–3053. Information relating to this announcement is also available on the Internet. The address is http://www.ssa.gov/OACT/COLA/Intro.html.

SUPPLEMENTARY INFORMATION: The Commissioner is required by the Act to publish within 45 days after the close of the third calendar quarter of 1997 the benefit increase percentage and the revised table of "special minimum" benefits (section 215(i)(2)(D)). Also, the Commissioner is required to publish on or before November 1 the national average wage index for 1996 (section 215(a)(1)(D)), the OASDI fund ratio for 1997 (section 215(i)(2)(C)(ii)), the OASDI contribution and benefit base for 1998 (section 230(a)), the amount of earnings required to be credited with a quarter of coverage in 1998 (section 213(d)(2)), the monthly exempt amounts under the Social Security retirement earnings test for 1998 (section 203(f)(8)(A)), the formula for computing a primary insurance amount for workers who first become eligible for benefits or die in 1998 (section 215(a)(1)(D)), and the formula for computing the maximum amount of benefits payable to the family of a worker who first becomes eligible for old-age benefits or dies in 1998 (section 203(a)(2)(C)).

Cost-of-Living Increases

General. The cost-of-living increase is 2.1 percent for benefits under titles II and XVI of the Act.

Under title II, OASDI benefits will increase by 2.1 percent beginning with the December 1997 benefits, which are payable in January 1998. This increase is based on the authority contained in section 215(i) of the Act (42 U.S.C. 415(i)).

Under title XVI, Federal SSI payment levels will also increase by 2.1 percent effective for payments made for the month of January 1998 but paid on December 31, 1997. This is based on the authority contained in section 1617 of the Act (42 U.S.C. 1382f). The percentage increase effective January 1998 is the same as the title II percentage increase and the annual payment amount is rounded, when not a multiple of $12, to the next lower multiple of $12.

Automatic Benefit Increase Computation. Under section 215(i) of the Act, the third calendar quarter of 1997 is a cost-of-living computation quarter for all the purposes of the Act. The Commissioner is, therefore, required to increase benefits, effective with December 1997, for individuals entitled under section 227 or 228 of the Act, to increase primary insurance amounts of all other individuals entitled under title II of the Act, and to increase maximum benefits payable to a family. For December 1997, the benefit increase is the percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers from the third quarter of 1996 through the third quarter of 1997.

Section 215(i)(1) of the Act provides that the Consumer Price Index for a cost-of-living computation quarter shall be the arithmetic mean of this index for the 3 months in that quarter. The arithmetic mean is rounded, if necessary, to the nearest 0.1. The Department of Labor's Consumer Price Index for Urban Wage Earners and Clerical Workers for each month in the quarter ending September 30, 1996, is: for July 1996, 154.3; for August 1996, 154.5; and for September 1996, 155.1. The arithmetic mean for this calendar quarter is 154.6. The corresponding Consumer Price Index for each month in the quarter ending September 30, 1997, is: for July 1997, 157.5; for August 1997, 157.8; and for September 1997, 158.3. The arithmetic mean for this calendar quarter is 157.9. Thus, because the Consumer Price Index for the calendar quarter ending September 30, 1997, exceeds that for the calendar quarter ending September 30, 1996 by 2.1 percent, a cost-of-living benefit increase of 2.1 percent is effective for benefits under title II of the Act beginning December 1997.

Title II Benefit Amounts. In accordance with section 215(i) of the Act, in the case of insured workers and family members for whom eligibility for benefits (i.e., the worker's attainment of age 62, or disability or death before age 62) occurred before 1998, benefits will increase by 2.1 percent beginning with benefits for December 1997 which are payable in January 1998. In the case of first eligibility after 1997, the 2.1 percent increase will not apply.

For eligibility after 1978, benefits are generally determined by a benefit formula provided by the Social Security Amendments of 1977 (Pub. L. 95–216), as described later in this notice.

For eligibility before 1979, benefits are determined by means of a benefit table. A copy of this table may be obtained by writing to: Social Security Administration, Office of Public Inquiries, 4100 Annex, Baltimore, MD 21235. The table is also available on the Internet at address http://www.ssa.gov/OACT/ProgData/tableForm.html.

Section 215(i)(2)(D) of the Act requires that, when the Commissioner determines an automatic increase in Social Security benefits, the Commissioner shall publish in the Federal Register a revision of the range of the primary insurance amounts and corresponding maximum family benefits based on the dollar amount and other provisions described in section 215(a)(1)(C)(i). These benefits are referred to as "special minimum" benefits and are payable to certain individuals with long periods of relatively low earnings. To qualify for such benefits, an individual must have at least 11 "years of coverage." To earn a year of coverage for purposes of the special minimum, a person must earn at least a certain proportion (25 percent for years before 1991, and 15 percent for years after 1990) of the "old-law" contribution and benefit base. In accordance with section 215(a)(1)(C)(i), the table below shows the revised range of primary insurance amounts and corresponding maximum family benefit amounts after the 2.1 percent benefit increase.

SPECIAL MINIMUM PRIMARY INSURANCE AMOUNTS AND MAXIMUM FAMILY BENEFITS PAYABLE FOR DEC. 1997

No. of years of coverage	Primary insurance amount	Maximum family benefit
11	$27.60	$41.70
12	55.40	83.80
13	83.70	125.80
14	111.40	167.70
15	139.40	209.30
16	167.50	251.80
17	195.50	293.90
18	223.50	335.80
19	251.50	377.80
20	279.40	419.70
21	307.70	462.00
22	335.50	503.90
23	363.70	546.50
24	391.80	588.30
25	419.70	629.90
26	448.00	672.70

SPECIAL MINIMUM PRIMARY INSURANCE AMOUNTS AND MAXIMUM FAMILY BENEFITS PAYABLE FOR DEC. 1997—Continued

No. of years of coverage	Primary insurance amount	Maximum family benefit
27	475.90	714.50
28	503.80	756.30
29	531.70	798.50
30	559.80	840.20

Section 227 of the Act provides flat-rate benefits to a worker who became age 72 before 1969 and was not insured under the usual requirements, and to his or her spouse or surviving spouse. Section 228 of the Act provides similar benefits at age 72 for certain uninsured persons. The current monthly benefit amount of $199.00 for an individual under sections 227 and 228 of the Act is increased by 2.1 percent to obtain the new amount of $203.10. The current monthly benefit amount of $99.50 for a spouse under section 227 is increased by 2.1 percent to $101.50.

Title XVI Benefit Amounts. In accordance with section 1617 of the Act, Federal SSI benefit amounts for the aged, blind, and disabled are increased by 2.1 percent effective January 1998. Therefore, the yearly Federal SSI benefit amounts of $5,808 for an eligible individual, $8,712 for an eligible individual with an eligible spouse, and $2,904 for an essential person, which became effective January 1997, are increased, effective January 1998, to $5,928, $8,892, and $2,964, respectively, after rounding. The corresponding monthly amounts for 1998 are determined by dividing the yearly amounts by 12, giving $494, $741, and $247, respectively. The monthly amount is reduced by subtracting monthly countable income. In the case of an eligible individual with an eligible spouse, the amount payable is further divided equally between the two spouses.

Fee for Services Performed as a Representative Payee. Sections 205(j)(4)(A)(i) and 1631(a)(2)(D)(i) of the Act permit a qualified organization to collect from an individual a monthly fee for expenses incurred in providing services performed as such individual's representative payee. Currently the fee is limited to the lesser of (1) 10 percent of the monthly benefit involved, or (2) $26 per month ($51 per month in any case in which the individual is entitled to disability benefits and the Commissioner has determined that payment to the representative payee would serve the interest of the individual because the individual has an alcoholism or drug addiction condition and is incapable of managing such benefits). The dollar fee limits are subject to increase by the automatic cost-of-living increase, with the resulting amounts rounded to the nearest whole dollar amount. The current amounts are thus increased by 2.1 percent to $27 and $52 for 1998.

National Average Wage Index for 1996

General. Under various provisions of the Act, several amounts are scheduled to increase automatically for 1998 based on the annual increase in the national average wage index. The amounts are (1) the OASDI contribution and benefit base, (2) the retirement test exempt amount for beneficiaries under age 65, (3) the dollar amounts, or "bend points," in the primary insurance amount and maximum family benefit formulas, (4) the amount of earnings required for a worker to be credited with a quarter of coverage, (5) the "old law" contribution and benefit base (as determined under section 230 of the Act as in effect before the 1977 amendments), and (6) the substantial gainful activity amount applicable to statutorily blind individuals. Also, section 3121(x) of the Internal Revenue Code requires that the domestic employee coverage threshold be based on changes in the national average wage index.

Computation. The determination of the national average wage index for calendar year 1996 is based on the 1995 national average wage index of $24,705.66 announced in the Federal Register on October 25, 1996 (61 FR 55346), along with the percentage increase in average wages from 1995 to 1996 measured by annual wage data tabulated by the Social Security Administration (SSA). The wage data tabulated by SSA include contributions to deferred-compensation plans, as required by section 209(k) of the Act. The average amounts of wages calculated directly from these data were $23,700.11 and $24,859.17 for 1995 and 1996, respectively. To determine the national average wage index for 1996 at a level that is consistent with the national average wage indexing series for 1951 through 1977 (published December 29, 1978, at 43 FR 61016), the 1995 national average wage index of $24,705.66 is multiplied by the percentage increase in average wages from 1995 to 1996 (based on SSA-tabulated wage data) as follows (with the result rounded to the nearest cent):

Amount. The national average wage index for 1996 is $24,705.66 times $24,859.17 divided by $23,700.11,

which equals $25,913.90. Therefore, the national average wage index for calendar year 1996 is determined to be $25,913.90.

OASDI Contribution and Benefit Base

General. The OASDI contribution and benefit base is $68,400 for remuneration paid in 1998 and self-employment income earned in taxable years beginning in 1998.

The OASDI contribution and benefit base serves two purposes:

(a) It is the maximum annual amount of earnings on which OASDI taxes are paid. The OASDI tax rate for remuneration paid in 1998 is set by statute at 6.2 percent for employees and employers, each. The OASDI tax rate for self-employment income earned in taxable years beginning in 1998 is 12.4 percent. (The Hospital Insurance tax is due on remuneration, without limitation, paid in 1998, at the rate of 1.45 percent for employees and employers, each, and on self-employment income earned in taxable years beginning in 1998, at the rate of 2.9 percent.)

(b) It is the maximum annual amount used in determining a person's OASDI benefits.

Computation. Section 230(b) of the Act provides the formula used to determine the OASDI contribution and benefit base. Under the formula, the base for 1998 shall be equal to the larger of (1) the 1994 base of $60,600 multiplied by the ratio of the national average wage index for 1996 to that for 1992, or (2) the current base ($65,400). If the amount so determined is not a multiple of $300, it shall be rounded to the nearest multiple of $300.

Amount. The ratio of the national average wage index for 1996, $25,913.90 as determined above, compared to that for 1992, $22,935.42, is 1.1298638. Multiplying the 1994 OASDI contribution and benefit base amount of $60,600 by the ratio of 1.1298638 produces the amount of $68,469.75 which must then be rounded to $68,400. Because $68,400 exceeds the current base amount of $65,400, the OASDI contribution and benefit base is determined to be $68,400 for 1998.

Retirement Earnings Test Exempt Amounts

General. Social Security benefits are withheld when a beneficiary under age 70 has earnings in excess of the retirement earnings test exempt amount. Since 1978, higher exempt amounts have applied to beneficiaries aged 65 through 69 compared to those under age 65. Formulas for determining the monthly exempt amounts are provided in section 203(f)(8)(B) of the Act, as amended by section 102 of the "Senior Citizens" Right to Work Act of 1996," title I of Pub. L. 104–121. This amendment set the annual exempt amount for beneficiaries aged 65 through 69 to $12,500 for 1996, $13,500 for 1997, $14,500 for 1998, $15,500 for 1999, $17,000 for 2000, $25,000 for 2001, and $30,000 for 2002. The corresponding monthly exempt amounts are exactly one-twelfth of the annual amounts. After 2002, the monthly exempt amount for this group of beneficiaries will increase under the applicable formula.

For beneficiaries aged 65 through 69, $1 in benefits is withheld for every $3 of earnings in excess of the annual exempt amount. For beneficiaries under age 65, $1 in benefits is withheld for every $2 of earnings in excess of the annual exempt amount.

Computation. Under the formula applicable to beneficiaries under age 65, the monthly exempt amount for 1998 shall be the larger of (1) the 1994 monthly exempt amount multiplied by the ratio of the national average wage index for 1996 to that for 1992, or (2) the 1997 monthly exempt amount ($720). If the amount so determined is not a multiple of $10, it shall be rounded to the nearest multiple of $10.

Exempt Amount for Beneficiaries Under Age 65. The ratio of the national average wage index for 1996, $25,913.90, compared to that for 1992, $22,935.42, is 1.1298638. Multiplying the 1994 retirement earnings test monthly exempt amount of $670 by the ratio 1.1298638 produces the amount of $757.01. This must then be rounded to $760. Because $760 is larger than the corresponding current exempt amount of $720, the retirement earnings test monthly exempt amount for beneficiaries under age 65 is thus determined to be $760 for 1998. The corresponding retirement earnings test annual exempt amount for these beneficiaries is $9,120.

Computing Benefits After 1978

General. The Social Security Amendments of 1977 provided a method for computing benefits which generally applies when a worker first becomes eligible for benefits after 1978. This method uses the worker's "average indexed monthly earnings" to compute the primary insurance amount. The computation formula is adjusted automatically each year to reflect changes in general wage levels, as measured by the national average wage index.

A worker's earnings are adjusted, or "indexed," to reflect the change in general wage levels that occurred during the worker's years of employment. Such indexation ensures that a worker's future benefits reflect the general rise in the standard of living that occurs during his or her working lifetime. A certain number of years of earnings are needed to compute the average indexed monthly earnings. After the number of years is determined, those years with the highest indexed earnings are chosen, the indexed earnings are summed, and the total amount is divided by the total number of months in those years. The resulting average amount is then rounded down to the next lower dollar amount. The result is the average indexed monthly earnings.

For example, to compute the average indexed monthly earnings for a worker attaining age 62, becoming disabled before age 62, or dying before attaining age 62, in 1998, the national average wage index for 1996, $25,913.90, is divided by the national average wage index for each year prior to 1996 in which the worker had earnings. The actual wages and self-employment income, as defined in section 211(b) of the Act and credited for each year, is multiplied by the corresponding ratio to obtain the worker's indexed earnings for each year before 1996. Any earnings in 1996 or later are considered at face value, without indexing. The average indexed monthly earnings is then computed and used to determine the worker's primary insurance amount for 1998.

Computing the Primary Insurance Amount. The primary insurance amount is the sum of three separate percentages of portions of the average indexed monthly earnings. In 1979 (the first year the formula was in effect), these portions were the first $180, the amount between $180 and $1,085, and the amount over $1,085. The dollar amounts in the formula which govern the portions of the average indexed monthly earnings are frequently referred to as the "bend points" of the formula. Thus, the bend points for 1979 were $180 and $1,085.

The bend points for 1998 are obtained by multiplying the corresponding 1979 bend-point amounts by the ratio between the national average wage index for 1996, $25,913.90, and for 1977, $9,779.44. These results are then rounded to the nearest dollar. For 1998, the ratio is 2.6498348. Multiplying the 1979 amounts of $180 and $1,085 by 2.6498348 produces the amounts of $476.97 and $2,875.07. These must then be rounded to $477 and $2,875. Accordingly, the portions of the average indexed monthly earnings to be used in 1998 are determined to be the first $477,

the amount between $477 and $2,875, and the amount over $2,875.

Consequently, for individuals who first become eligible for old-age insurance benefits or disability insurance benefits in 1998, or who die in 1998 before becoming eligible for benefits, their primary insurance amount will be the sum of:

(a) 90 percent of the first $477 of their average indexed monthly earnings, plus

(b) 32 percent of their average indexed monthly earnings over $477 and through $2,875, plus

(c) 15 percent of their average indexed monthly earnings over $2,875.

This amount is then rounded to the next lower multiple of $.10 if it is not already a multiple of $.10. This formula and the rounding adjustment described above are contained in section 215(a) of the Act (42 U.S.C. 415(a)).

Maximum Benefits Payable to a Family

General. The 1977 amendments continued the long established policy of limiting the total monthly benefits that a worker's family may receive based on his or her primary insurance amount. Those amendments also continued the then existing relationship between maximum family benefits and primary insurance amounts but did change the method of computing the maximum amount of benefits that may be paid to a worker's family. The Social Security Disability Amendments of 1980 (Pub. L. 96–265) established a formula for computing the maximum benefits payable to the family of a disabled worker. This formula is applied to the family benefits of workers who first become entitled to disability insurance benefits after June 30, 1980, and who first become eligible for these benefits after 1978. For disabled workers initially entitled to disability benefits before July 1980, or whose disability began before 1979, the family maximum payable is computed the same as the old-age and survivor family maximum.

Computing the Old-Age and Survivor Family Maximum. The formula used to compute the family maximum is similar to that used to compute the primary insurance amount. It involves computing the sum of four separate percentages of portions of the worker's primary insurance amount. In 1979, these portions were the first $230, the amount between $230 and $332, the amount between $332 and $433, and the amount over $433. The dollar amounts in the formula which govern the portions of the primary insurance amount are frequently referred to as the "bend points" of the family-maximum formula. Thus, the bend points for 1979 were $230, $332, and $433.

The bend points for 1998 are obtained by multiplying the corresponding 1979 bend-point amounts by the ratio between the national average wage index for 1996, $25,913.90, and the average for 1977, $9,779.44. This amount is then rounded to the nearest dollar. For 1998, the ratio is 2.6498348. Multiplying the amounts of $230, $332, and $433 by 2.6498348 produces the amounts of $609.46, $879.75, and $1,147.38. These amounts are then rounded to $609, $880, and $1,147. Accordingly, the portions of the primary insurance amounts to be used in 1998 are determined to be the first $609, the amount between $609 and $880, the amount between $880 and $1,147, and the amount over $1,147.

Consequently, for the family of a worker who becomes age 62 or dies in 1998 before age 62, the total amount of benefits payable to them will be computed so that it does not exceed:

(a) 150 percent of the first $609 of the worker's primary insurance amount, plus

(b) 272 percent of the worker's primary insurance amount over $609 through $880, plus

(c) 134 percent of the worker's primary insurance amount over $880 through $1,147, plus

(d) 175 percent of the worker's primary insurance amount over $1,147.

This amount is then rounded to the next lower multiple of $.10 if it is not already a multiple of $.10. This formula and the rounding adjustment described above are contained in section 203(a) of the Act (42 U.S.C. 403(a)).

Quarter of Coverage Amount

General. The 1998 amount of earnings required for a quarter of coverage is $700. A quarter of coverage is the basic unit for determining whether a worker is insured under the Social Security program. For years before 1978, an individual generally was credited with a quarter of coverage for each quarter in which wages of $50 or more were paid, or an individual was credited with 4 quarters of coverage for every taxable year in which $400 or more of self-employment income was earned. Beginning in 1978, wages generally are no longer reported on a quarterly basis; instead, annual reports are made. With the change to annual reporting, section 352(b) of the Social Security Amendments of 1977 amended section 213(d) of the Act to provide that a quarter of coverage would be credited for each $250 of an individual's total wages and self-employment income for calendar year 1978 (up to a maximum of 4 quarters of coverage for the year).

Computation. Under the prescribed formula, the quarter of coverage amount for 1998 shall be equal to the larger of (1) the 1978 amount of $250 multiplied by the ratio of the national average wage index for 1996 to that for 1976, or (2) the current amount of $670. Section 213(d) further provides that if the amount so determined is not a multiple of $10, it shall be rounded to the nearest multiple of $10.

Quarter of Coverage Amount. The ratio of the national average wage index for 1996, $25,913.90, compared to that for 1976, $9,226.48, is 2.8086443. Multiplying the 1976 quarter of coverage amount of $250 by the ratio of 2.8086443 produces the amount of $702.16, which must then be rounded to $700. Because $700 exceeds the current amount of $670, the quarter of coverage amount is determined to be $700 for 1998.

"Old-Law" Contribution and Benefit Base

General. The 1998 "old-law" contribution and benefit base is $50,700. This is the base that would have been effective under the Act without the enactment of the 1977 amendments. The base is computed under section 230(b) of the Act as it read prior to the 1977 amendments.

The "old-law" contribution and benefit base is used by:

(a) the Railroad Retirement program to determine certain tax liabilities and tier II benefits payable under that program to supplement the tier I payments which correspond to basic Social Security benefits,

(b) the Pension Benefit Guaranty Corporation to determine the maximum amount of pension guaranteed under the Employee Retirement Income Security Act (as stated in section 230(d) of the Social Security Act),

(c) Social Security to determine a year of coverage in computing the special minimum benefit, as described earlier, and

(d) Social Security to determine a year of coverage (acquired whenever earnings equal or exceed 25 percent of the "old-law" base for this purpose only) in computing benefits for persons who are also eligible to receive pensions based on employment not covered under section 210 of the Act.

Computation. The base is computed using the automatic adjustment formula in section 230(b) of the Act as it read prior to the enactment of the 1977 amendments, but with the revised indexing formula introduced by section 321(g) of the "Social Security Independence and Program Improvements Act of 1994." Under the

formula, the "old-law" contribution and benefit base shall be the larger of (1) the 1994 "old-law" base ($45,000) multiplied by the ratio of the national average wage index for 1996 to that for 1992, or (2) the current "old-law" base ($48,600). If the amount so determined is not a multiple of $300, it shall be rounded to the nearest multiple of $300.

Amount. The ratio of the national average wage index for 1996, $25,913.90, compared to that for 1992, $22,935.42, is 1.1298638. Multiplying the 1994 "old-law" contribution and benefit base amount of $45,000 by the ratio of 1.1298638 produces the amount of $50,843.87 which must then be rounded to $50,700. Because $50,700 exceeds the current amount of $48,600, the "old-law" contribution and benefit base is determined to be $50,700 for 1998.

Substantial Gainful Activity Amount for Blind Individuals

General. A finding of disability under titles II and XVI of the Act requires that a person be unable to engage in substantial gainful activity (SGA). Under current regulations, a person who is not statutorily blind and who is earning more than $500 a month (net of impairment-related work expenses) is ordinarily considered to be engaging in SGA. The Social Security Amendments of 1977 established a higher SGA amount for statutorily blind individuals by setting their monthly SGA amount to the monthly exempt amount for persons aged 65 through 69 under the retirement earnings test provisions of the Act. Section 102 of Pub. L. 104–121 increased the earnings test exempt amount for persons aged 65 through 69 to specific levels for 1996–2002. Section 102 further provided that the SGA amount for blind individuals be the same as it would have been if section 102 had not been enacted.

Computation. Under the formula in section 203(f)(8)(B) in effect prior to the enactment of Pub. L. 104–121, the monthly SGA amount for statutorily blind individuals for 1998 shall be the larger of (1) such amount for 1994 multiplied by the ratio of the national average wage index for 1996 to that for 1992, or (2) such amount for 1997. Section 203(f)(8)(B) further provides that if the amount so determined is not a multiple of $10, it shall be rounded to the nearest multiple of $10.

SGA Amount for Statutorily Blind Individuals. The ratio of the national average wage index for 1996, $25,913.90, compared to that for 1992, $22,935.42, is 1.1298638. Multiplying the 1994 monthly SGA amount for statutorily blind individuals of $930 by the ratio of 1.1298638 produces the amount of $1,050.77. This must then be rounded to $1,050. Because $1,050 is larger than the current amount of $1,000, the monthly SGA amount for statutorily blind individuals is determined to be $1,050 for 1998.

Domestic Employee Coverage Threshold

General. Section 2 of the "Social Security Domestic Employment Reform Act of 1994" (Pub. L. 103–387) increased the threshold for coverage of a domestic employee's wages paid per employer from $50 per calendar quarter to $1,000 in calendar year 1994. The statute holds the coverage threshold at the $1,000 level for 1995 and then increases the threshold in $100 increments for years after 1995. The formula for increasing the threshold is provided in section 3121(x) of the Internal Revenue Code.

Computation. Under the formula, the domestic employee coverage threshold amount for 1998 shall be equal to the 1995 amount of $1,000 multiplied by the ratio of the national average wage index for 1996 to that for 1993. If the amount so determined is not a multiple of $100, it shall be rounded to the next lower multiple of $100.

Domestic Employee Coverage Threshold Amount. The ratio of the national average wage index for 1996, $25,913.90, compared to that for 1993, $23,132.67, is 1.1202295. Multiplying the 1995 domestic employee coverage threshold amount of $1,000 by the ratio of 1.1202295 produces the amount of $1,120.23, which must then be rounded to $1,100. Accordingly, the domestic employee coverage threshold amount is determined to be $1,100 for 1998.

OASDI Fund Ratio

General. Section 215(i) of the Act provides for automatic cost-of-living increases in OASDI benefit amounts. This section also includes a "stabilizer" provision that can limit the automatic OASDI benefit increase under certain circumstances. If the combined assets of the OASI and DI Trust Funds, as a percentage of annual expenditures, are below a specified threshold, the automatic benefit increase is equal to the lesser of (1) the increase in the national average wage index or (2) the increase in prices. The threshold specified for the OASDI fund ratio is 20.0 percent for benefit increases for December of 1989 and later. The law also provides for subsequent "catch-up" benefit increases for beneficiaries whose previous benefit increases were affected by this provision. "Catch-up" benefit increases can occur only when trust fund assets exceed 32.0 percent of annual expenditures.

Computation. Section 215(i) specifies the computation and application of the OASDI fund ratio. The OASDI fund ratio for 1997 is the ratio of (1) the combined assets of the OASI and DI Trust Funds at the beginning of 1997 to (2) the estimated expenditures of the OASI and DI Trust Funds during 1997, excluding transfer payments between the OASI and DI Trust Funds, and reducing any transfers to the Railroad Retirement Account by any transfers from that account into either trust fund.

Ratio. The combined assets of the OASI and DI Trust Funds at the beginning of 1997 equaled $566,950 million, and the expenditures are estimated to be $370,842 million. Thus, the OASDI fund ratio for 1997 is 152.9 percent, which exceeds the applicable threshold of 20.0 percent. Therefore, the stabilizer provision does not affect the benefit increase for December 1997. Although the OASDI fund ratio exceeds the 32.0-percent threshold for potential "catch-up" benefit increases, no past benefit increase has been reduced under the stabilizer provision. Thus, no "catch-up" benefit increase is required.

(Catalog of Federal Domestic Assistance: Program Nos. 96.001 Social Security-Disability Insurance; 96.002 Social Security-Retirement Insurance; 96.003 Social Security-Special Benefits for Persons Aged 72 and Over; 96.004 Social Security-Survivors Insurance; 96.006 Supplemental Security Income)

Dated: October 22, 1997.

Kenneth S. Apfel,

Commissioner, Social Security Administration.

[FR Doc. 97–28496 Filed 10–29–97; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–97–54]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before November 21, 1997.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. 24041, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address: 9–NPRM–CMSTS@faa.dot.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Heather Thorson, (202) 267–7470, or Angela Anderson, (202) 267–9681, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, D.C., on October 23, 1997.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No: 24041.

Petitioner: Bulter Aircraft Co.

Sections of the FAR Affected: 14 CFR 91.529(a)(1).

Description of Relief Sought/Disposition: To permit the petitioner to operate McDonnell Douglas DC–6 and DC–7 aircraft without a flight engineer during flightcrew training, ferry operations, and test flights that are conducted to prepare for firefighting operations conducted under 14 CFR part 137.

Grant, October 9, 1997, Exemption No. 29891.

[FR Doc. 97–28752 Filed 10–29–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. 2983]

Notice of Request for Reinstatement of Expired Information Collection

AGENCY: Federal Highway Administration (FHWA), USDOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, this notice announces the intention of the FHWA to request the Office of Management and Budget (OMB) to reinstate the information collection entitled Highway Safety and Improvement Program and Priorities.

DATES: Comments must be submitted on or before December 29, 1997.

ADDRESSES: All signed, written comments should refer to the docket number that appears in the heading of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address from 10:00 a.m. to 5:00 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard/envelope.

Interested parties are invited to send comments regarding any aspect of this information collection, including, but not limited to: (1) The necessity and utility of the information collection for the proper performance of the functions of the FHWA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Epstein, Office of Highway Safety, (202) 366–2157, 400 7th Street, SW, Washington, DC 20590. Office hours are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Highway Safety and Improvement Program and Priorities.

OMB No: 2125–0025.

Background: Each year all States and Territories are required to report to the Secretary of Transportation on the progress being made in implementing the Highway Safety Improvement Programs (Rail-Highway Crossings and Hazard Elimination) and the effectiveness of these programs. The Secretary is required to report annually to the Congress on the progress of the safety programs based upon the information reported by the States. The FHWA receives the program information from the States. Numerical data are processed and stored in the computerized Highway Safety Evaluation System. A report is then prepared for Congress providing the required information on the effectiveness of highway safety improvement projects. Congress uses the contents of this report when determining the level of funding for the Highway Safety Improvement Programs and when modifying these programs.

The information collected by the States in the survey of all public roads includes motor vehicle accident data, traffic volume data, and highway inventory data. This information is used by the States to identify hazards and to determine what safety improvements would be cost-effective when mitigating those hazards. Without this process fewer lives would be saved and fewer injuries averted by the Highway Safety Improvement Programs administered by the FHWA.

Respondents: The overall annual reporting burden is shared by the 50 States and the District of Columbia.

Estimated Total Annual Burden: The annual reporting burden is estimated to be 11,220 hours.

Frequency: The respondents are required to report on an annual basis.

Authority: Title 23, U.S. Code, Section 130; 23 U.S.C. 152, 23 CFR 924.

Issued on: October 17, 1997.

Diane Zeidel,

Deputy Associate Administrator for Administration.

[FR Doc. 97–28764 Filed 10–29–97; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. 97–2934]

Notice of Request for Renewal of an Existing Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the requirement of section 3506(c)(2)(A) of

the Paperwork Reduction Act of 1995, this notice announces the intention of the FHWA to request the Office of Management and Budget (OMB) to renew the information collection identified below under supplementary information.

DATES: Comments must be submitted on or before December 29, 1997.

ADDRESSES: All signed, written comments should refer to the docket number that appears in the heading of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address between 10:00 a.m. and 5:00 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard/envelope.

Interested parties are invited to send comments regarding any aspect of this information collection, including, but not limited to: (1) The necessity and utility of the information collection for the proper performance of the functions of the FHWA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB renewal of this information collection.

FOR FURTHER INFORMATION CONTACT: Mr. Tony Solury, Office of Environment and Planning, 202–366–5003, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Planning and Research Program Administration

OMB number: 2125–0039.

Background: Under the provisions of section 307(c) of title 23, United States Code, two percent of certain categories of Federal-aid highway funds apportioned to the States are set-a-side for use only for State planning and research (SPR funds). At least 25% of the SPR funds apportioned annually must be used for the research, development, and technology transfer activities. In accordance with government-wide grant management procedures, a grant application must be submitted for these funds. In addition, recipients must submit periodic progress and financial reports. In lieu of Standard Form 424, Application for Federal Assistance, the FHWA uses a "work program" that includes a scope of work and budget for activities to be undertaken with FHWA planning and research funds during the next one-or two-year period as the grant application. The information contained in the work program includes task descriptions, assignments of responsibility for conducting the work effort, and estimated costs for the tasks. This information is necessary to determine how FHWA planning and research funds will be utilized by the State highway agencies and if the proposed work is eligible for Federal participation.

The content and frequency of submission of progress and financial reports specified in 23 CFR part 420 are as specified in OMB Circular A–102 and the companion common grant management regulations.

Respondents: State highway agencies.

Estimated Annual Burden on Respondents: 400 hours per respondent.

Estimated Total Annual Burden: 28,080 hours.

Authority: 23 U.S.C. 307(c); 23 CFR 420, subpart A.

Issued on: October 17, 1997.

Diana Zeidel,

Deputy Associate Administrator for Administration

[FR Doc. 97–28787 Filed 10–29–97; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Department of the Army

Corps of Engineers

Environmental Impact Statement for Antelope Valley Improvements in Lincoln, Lancaster County, Nebraska

AGENCIES: Federal Highway Administration (FHWA), DOT; U.S. Army Corps of Engineers (COE).

ACTION: Notice of intent to Prepare an Environmental Impact Statement.

SUMMARY: The FHWA; COE; the City of Lincoln, Nebraska; the Lower Platte South Natural Resources District (LPSNRD); and the University of Nebraska-Lincoln (UNL) are issuing this notice to advise the public and all other interested parties that are in accordance with the National Environmental Policy Act (NEPA), an Environmental Impact Statement (EIS) will be prepared for proposed stormwater management, transportation, and community revitalization improvements in the Antelope Valley study area of Lincoln, Nebraska.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Kosola, Realty Officer, FHWA, Room 220, 100 Centennial Mall North, Lincoln, NE 68508, Telephone: (402) 437–5521. Ms. Patsy Freeman, EIS Manager, COE, 215 N. 17th Street, Omaha, NE 68102–4976, Telephone: (402) 221–3803. Mr. Roger A. Figard, City Engineer, City of Lincoln, 555 So. 10th Street, Lincoln, NE 68508–3994, Telephone: (402) 441–7567.

SUPPLEMENTARY INFORMATION:

Description of Study Area and Needs

The Antelope Valley Major Investment Study has been exploring improvements for the core area of Lincoln to seek out a community vision on the best courses of action. The study has been concentrating on the three major issues of stormwater management, transportation, and community revitalization. The purposes and needs identified by the community and study participants during the last two years include: stormwater management, land use patterns, traffic operations, youth recreation, trail continuity, safety, neighborhood cohesiveness, and downtown vitality.

Description of Proposed Improvements

Improvements proposed for the Antelope Valley study area include stormwater conveyance, roadway improvements, and elimination of four at-grade railroad/roadway crossings, and community revitalization initiatives. The stormwater management improvements include a new channel and channel improvements for stormwater conveyance from "N" Street to Salt Creek in Lincoln, Nebraska. Transportation improvements include a new north-south road in the 19th Street corridor from "K" Street along the east side of the University of Nebraska-Lincoln City Campus, continuing north over the Burlington Northern Santa Fe (BNSF) mainline railroad and connecting to 14th Street near Military Avenue. The new north-south road intersects on structure with a new east-west road connecting Avery Avenue to a new roadway on the north side on the BNSF mainline railroad and continuing north to Superior Street where it aligns with the proposed 33rd Street north of Superior Street. Community revitalization initiatives include "wrap around" centers (places to encourage combining several community-oriented services) and new development opportunities. The proposed improvements also include a bike path "loop" which utilizes, among other corridors, the new stormwater conveyance channel, and a new community park. Taking no action is also under consideration.

Scoping Meetings

Public scoping meetings include a two-day Town Hall meeting and three public information meetings. The Town Hall Meeting will be held on Friday, November 7, 1997 from 5:30 to 8:30 p.m. and Saturday, November 8, 1997 from 8:30 a.m. to 1 p.m. at Lincoln High School, 2229 "J" Street, Lincoln, NE 68510. This two day event includes a presentation of planning and analysis and screening conducted to date, questions and answers, small group sessions, and a tour of the study area. In addition, three public scoping meetings will be held in greater Lincoln as follows:

Lincoln East High School, 1000 South 70th Street, Lincoln, NE 68510, Tuesday, November 18, 1997 at 7 p.m.

Southeast High School, 2930 South 37th Street, Lincoln, NE 68506, Wednesday, November 19, 1997 at 7 p.m.

Lincoln Northeast High School, 2635 North 63rd Street, Lincoln, NE 68507, Thursday, November 20, 1997 at 7 p.m.

Comment Due Date

To ensure that the full range of issues related to the proposed actions are addressed and all significant issues identified, comments and suggestions are invited from all interested individuals, organizations, and federal, state and local agencies. Comments and questions concerning this proposed action and the EIS should be directed to the COE, FHWA or the City of Lincoln at the address provided.

(Catalog of Federal Domestic Assistance Project Number 20.205 Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of federal programs and activities apply to this program)

Issued on October 23, 1997.

Edward Kosola,

Realty Officer, Nebraska Division, Federal Highway Administration, Lincoln, Nebraska.

[FR Doc. 97–28794 Filed 10–29–97; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33486]

Adventure Trail d/b/a Sea Lion Railroad—Acquisition and Operation Exemption—The Burlington Northern and Santa Fe Railway Company

Adventure Trail d/b/a Sea Lion Railroad (SLR),[1] a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire and operate[2] a total of approximately 2.7 miles of rail line owned by The Burlington Northern and Santa Fe Railway Company, known as the Ballard Branch, from MP 0.09 (1000 feet from clearpoint to mainline) to terminus at MP 2.7 (near Northwest 40th Street) in the Ballard region in the City of Seattle, King County, WA. The transaction was expected to be consummated on October 15, 1997.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33486, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001 and served on: Charles H. Montange, 426 NW 162d Street, Seattle, WA 98177.

Decided: October 21, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–28785 Filed 10–29–97; 8:45 am]

BILLING CODE 4915–00–P

[1] SLR is a nonprofit corporation located in the State of Washington.

[2] SLR states that it intends to apply for a rehabilitation grant from the State of Washington and that it has entered into a contract with an operator, Ballard Terminal Railroad Company, for operational services.

DEPARTMENT OF THE TREASURY

Customs Service

Public Meeting on Reconciliation

AGENCY: Customs Service, Department of the Treasury.

ACTION: Notice of meeting.

SUMMARY: This notice announces that a public meeting regarding reconciliation will be held in Hearing Room A of the Interstate Commerce Commission Building in Washington, DC., commencing at 9:30 a.m. on Wednesday, November 12, 1997. The purpose of this meeting is to (1) discuss transfer pricing issues and (2) analyze a proposal for a menu-approach to reconciliation. Customs has received various comments from members of the importing community that a flexible approach should be developed for reconciliation, under which companies can choose an option which will best suit their business needs.

DATES: The meeting will be held November 12, 1997, from 9:30 a.m. to 4 p.m.

ADDRESSES: The meeting will be held at the Interstate Commerce Commission Building, Hearing Room A, 12th Street & Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: To attend the meeting, please contact the Office of Regulations and Rulings at (202) 927–0760.

For additional information on the meeting, please contact either John Durant, Office of Regulations and Rulings, at (202)927–1964 or Shari McCann, Office of Field Operations at (202)927–1106.

SUPPLEMENTARY INFORMATION: On December 8, 1993, the President signed the North American Free Trade Agreement Implementation Act (Pub. L. 103–182). Title VI of the Act contained provisions relating to Customs modernization and is popularly known as the Customs Modernization Act or Mod Act. In Title VI, section 637 amends section 484 of the Tariff Act of 1930 (19 U.S.C. 1484) to create a new subsection (b) entitled "Reconciliation."

Reconciliation allows a party to provide information, other than admissibility information, which is undeterminable at time of entry summary, to Customs at a later date. A reconciliation is treated as an entry for purposes of liquidation, reliquidation and protest.

Customs has published several notices in the **Federal Register** regarding prototype tests of reconciliation. On May 10, 1996, Customs published a notice in the **Federal Register** (61 FR 21534) regarding a reconciliation test covering entries to which antidumping and countervailing duties applied. This test has been completed.

Customs also published two notices regarding plans to test reconciliation for related party importers who had reason to believe upward adjustments may have been made to the price of imported merchandise for tax purposes pursuant

to 26 U.S.C. 482 (60 FR 64470 and 60 FR 46141).

The Account-based Declaration Prototype (62 FR 14731, published 3/27/97), which includes a reconciliation component, is currently being designed under the Automated Commercial Environment.

Customs is also currently designing the ACS Reconciliation Prototype and published a notice in the Federal Register (62 FR 51181) on September 30, 1997, announcing plans to conduct a test of this prototype. The testing period of this prototype is scheduled to be implemented in October, 1998.

The importing community has raised concerns to Customs that reconciliation, as is currently envisioned, is overly burdensome in the data required. Customs and the trade are working together in an attempt to provide a series of options for reconciliation, which will provide the controls and information needed by the government and a practical mechanism which accommodates various business situations.

This document announces that a public meeting will be held to discuss issues related to the development of reconciliaton by Customs. At this meeting, Customs and the trade participants will address reconciliation under the current legal structure, and analyze a menu-approach to reconciliation. The goal will be to secure a definition of the various business problems for which reconciliation does not fit, analyze a series of options under which to design reconciliation, and finalize a joint Customs/Industry proposal. Customs will discuss with the trade participants whether any statutory, regulatory or policy changes are required before reconciliation can be best implemented.

The meeting will be held in Hearing Room A of the Interstate Commerce Commission Building in Washington, DC., commencing at 9:30 a.m. on Wednesday, November 12, 1997. Because seating is limited, reservations are required.

The morning session of this meeting will be devoted to a discussion of transfer pricing, including the issues companies face in working under both the Customs and IRS statutes and transfer pricing situations in need of a reconciliation reporting mechanism. The afternoon session will be devoted to government/industry analysis of a menu-approach to reconciliation. The menu-approach is intended to provide a series of options which address various business needs, including the entire range of value issues (e.g., assists, indirect payments, transfer pricing, etc.)

Dated: October 27, 1997.

John Durant,

Director, Mod Act Task Force.

[FR Doc. 97-28779 Filed 10-29-97; 8:45 am]

BILLING CODE 4820-02-P

UNITED STATES INFORMATION AGENCY

Multi-Regional and Regional Projects for International Visitors

ACTION: Notice; request for proposals.

SUMMARY: The Office of International Visitors (E/V) of the United States Information Agency's (USIA) Bureau of Educational and Cultural Affairs announces an open competition for assistance awards. Public and private non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501(c)(3)–1 may apply to develop projects for Multi-Regional and Regional Groups of International Visitors nominated by U.S. embassies abroad.

The objective of the International Visitor Program is to increase mutual understanding through communication and collaboration with professional counterparts in the U.S. Participants are current or potential foreign leaders in government, politics, media, education, science, labor relations, and other key fields. They are selected by American embassies abroad and approved by USIA in Washington, DC. Since the program's earliest inception in 1941, more than 120,000 distinguished visitors have participated in the program, and over 155 program alumni have subsequently become heads of state or government in their home countries.

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Pub. L. 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world."

Programs and projects must conform with Agency requirements and guidelines outlined in the Solicitation Package. USIA projects and assistance awards are subject to the availability of funds.

ANNOUNCEMENT TITLE AND NUMBER: All communications with USIA concerning this RFP should refer to the announcement's title and reference number E/V–98–02.

DEADLINE FOR PROPOSALS: All copies must be received at the U.S. Information Agency by 5 p.m. Washington, DC, time on the due date indicated for submission of proposals for each project described below. Faxed or e-mailed documents will not be accepted at any time. Documents postmarked by the due date but received at a later date will not be accepted.

TO REQUEST A SOLICITATION PACKAGE, CONTACT:

For Multi-Regional Projects (MRPs): The Office of International Visitors, Group Projects Division (E/VP), Room 255, U.S. Information Agency, 301 4th Street SW., Washington, DC 20547; Tel: (202) 205–3058; Fax: (202) 205–0792.

For Regional Projects (RPs): The Office of International Visitors, Grants Division (E/VG), Room 255, U.S. Information Agency, 301 4th Street SW., Washington, DC 20547, Tel: (202) 205–9598; Fax: (202) 205–7974.

Please request required application forms, and standard guidelines for preparing proposals, including specific criteria for preparation of the proposal budget.

TO DOWNLOAD A SOLICITATION PACKAGE VIA INTERNET: Information about USIA's IV Program is available via Internet at website: http://www.usia.gov. The entire Solicitation Package may be downloaded from USIA's website at http://www.usia.gov/education/rfps.

TO RECEIVE A SOLICITATION PACKAGE VIA FAX ON DEMAND: The entire Solicitation Package may be received via the Bureau's "Grants Information Fax on Demand System", which is accessed by calling 202/401–7616. Please request a "Catalog" of available documents and order numbers when first entering the system.

SUBMISSIONS: Applications must follow all instructions given in the Solicitation Package. The original and 10 copies of the application should be sent to: U.S. Information Agency, Ref.: *E/V–98–02*, Project Title: Contact Officer: Office of Grants Management, E/XE, Room 326, 301 4th Street SW., Washington, DC 20547. Applicants must also submit the proposal on a 3.5" diskette, formatted for WordPerfect.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including, but not limited to, ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the "Support for Diversity" section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that "in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy," USIA "shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries." Proposals should account for advancement of this goal in their program contents, to the full extent deemed feasible.

Title: U.S.-European Security Issues.
Type: European Regional (English-Speaking).
Proposal Due Date: January 13, 1998.
Project Dates: April 13–May 2, 1998.
Contact: Tim Moore.
Telephone: (202) 205–9598 FAX: (202) 205–2983. The security challenges facing the U.S. and Europe today are in many ways more complex than those that existed during the Cold War. With the breakup of the Soviet Union and the fall of the Berlin Wall, regional conflicts have arisen with no effective means of response. No clear consensus has emerged on how countries and multilateral organizations will confront and resolve turmoil in different parts of the world. De-nuclearization agreements, non-proliferation treaties and the role of NATO are being hotly debated.

This three-week project is designed for European government officials, politicians and academics in the security and defense field, and is intended to provide the participants with American perspectives on mutual security issues. The group should meet with a range of key experts and players in the defense and security policymaking process, including government officials, Congressional staff, military personnel, academics and journalists. Topics should include: NATO enlargement; nuclear-proliferation and arms-control policies; regional and ethnic conflicts; the effect of budget reductions on American-defense and security policymaking; UN peacekeeping efforts; and international terrorism.

The project will begin in Washington, DC, where the meetings should provide the groundwork for subsequent discussions throughout the country. The national itinerary will include the Norfolk (Va.) Naval Air Station and meetings with the U.S. Atlantic Command, a visit to a military base specializing in rapid deployment, and meetings in local communities with significant resources in the security/defense field. The program should also include a seminar at a major university with a prominent foreign-policy/security department.

Title: Privatization and Economic Reform.
Type: African Regional (French-Speaking).
Proposal Due Date: January 13, 1998.
Projects Dates: April 20–May 8, 1998.
Contact: Mary Jeffers.
Telephone: (202) 205–9598 FAX: (202) 205–7974. Privatization in the U.S. context generally involves increasing the efficiency and lowering the cost of government by contracting certain services to the private sector. This concept differs in important respects from the idea of simply selling off state-owned enterprises, which is often understood to define privatization in many of the African countries now tackling the difficult task of basic structural adjustment. Furthermore, privatization may often be viewed in Africa as imposed from outside (by the IMF, World Bank, or USAID) rather than as most Americans see it, i.e. as a real, necessary condition for economic growth.

Visitors on this project will have the chance to look at multiple aspects of privatization in the U.S., focusing on the central themes of government responsiveness, efficiency, and accountability. The project will review government privatization at the city/county, state, and federal levels, including private-sector contracting to provide basic services such as transportation, garbage collection, or prison management. Other aspects of privatization will include government and NGO efforts to promote private sector development, as well as links between business and academia designed to harness private-sector support for academic research and development.

Finally, meetings with key policymakers in both the U.S. government and multi-lateral institutions will enable the visitors to make comparisons between U.S. privatization practices and the changes and developments taking place in their home countries, and perhaps to establish models for application in the future.

Title: Women in Political and Social Activism.
Type: American Republics Regional (Spanish-Speaking).
Proposal Due Date: February 3, 1998.
Project Dates: May 4–22, 1998.
Contact: Essie Wilkes-Scott.
Telephone: (202) 205–9598 FAX: (202) 205–7974.

In the past few decades the role of women in the United States has expanded more rapidly and dramatically than ever before in our history. From many points on the political and social spectrum, women are more visible, powerful, and vocal. These changes have taken place at every level of American life: in politics and government, in the workplace, in popular culture, in academia, in the home, and in the social service and community leadership roles that women play in rural and urban areas throughout the United States. This project will introduce Latin American women leaders to the United States' women's campaign for equal rights and the societal changes that this campaign has effected. It will examine the social, economic and educational inequities and issues women have championed at the grassroots levels. The program will provide a better understanding of U.S. values and experiences in social and political change by observing the contributions of women to citizen advocacy at the grassroots level; political leadership and the national level; equal employment access and workplace equity; available affordable quality child care; full access to education and training programs; comprehensive health care; and equal access to business opportunities. A variety of meetings and seminars with national, state and local elected and appointed officials and staff, political activists, public and private-sector health and social service program operators, women in the military, employment specialists and business persons, homemakers, educators, and women in voluntary advocacy and aid organizations, will highlight the societal challenges that spur women's increased activism. Political diversity will also be emphasized in this program to ensure that the wide range of perspectives that women bring to their activism are heard.

Title: Independent Judiciary and the Rule of Law.
Type: Near East and South Asian Regional (Arabic-Speaking).
Proposal Due Date: February 3, 1998.
Project Dates: May 11–29, 1998.
Contact: Alice Shifflett.
Telephone: (202) 205–9596 FAX: (202) 205–7974.

By focussing on the independent judiciary and the rule of law, this 21-day project will familiarize Arab jurists with U.S. concepts of judicial independence and the federal, state and municipal court systems, underlining the judiciary's role in preserving and strengthening democratic concepts such as government accountability and individual rights.

It will also illustrate the judiciary's importance for political stability, individual rights and harmony between ethnic and other communities as well as for business confidence and economic growth. The project will provide concrete ideas about improving court management and other administrative aspects of the civil and criminal legal systems of the participants' countries. It would examine potentially useful approaches to legal education and develop linkages between the visitors and U.S. judicial scholars and practitioners.

Title: Immigration, Citizenship and Assimilation in a Democratic Society.
Type: Multi-Regional (English-Speaking).
Proposal Due Date: February 3, 1998.
Project Dates: May 14–June 4, 1998.
Contact: Susan Lockwood.
Telephone: (202) 205–3058 FAX: (202) 205–0792.
E-MAIL Address: slockwoo@usia.gov.

The project will examine the fundamental nature of the immigrant experience to American political culture. U.S. government officials (Congress, State, AID, INS), representatives from non-governmental organizations and experts from academia and think-tanks will discuss U.S. immigration policies—from historical perspectives to current issues. Participants will observe problems which confront long-established citizens and new immigrants alike, as well as examples of assimilation, cultural preservation, and cross-cultural education.

Title: International Crime Issues.
Type: Multi-Regional (English-Speaking).
Proposal Due Date: March 31, 1998.
Project Dates: July 23–August 13, 1998.
Contact: Lesley Marcus.
Telephone: (202) 205–3058 FAX: (202) 205–0792.
E-Mail Address: lmarcus@usia.gov

This project will look at international terrorism, drug trafficking and other transnational crimes and will examine the structure of the U.S. criminal justice system and how it applies to international issues. As international cooperation is required to prevent and control transnational crime, the participants in this project will have numerous occasions to address the most pressing international crime issues and the United States' unilateral, bilateral, and multi-lateral approaches to dealing with them.

Title: Accountability and Transparency in Government: Improving Results and Increasing Public Access.
Type: African Regional (English-Speaking).
Proposal Due Date: June 2, 1998.
Project Dates: August 31–September 19, 1998.
Contact: Maggie McFarland.
Telephone: (202) 205–9596 FAX: (202) 205–7974.

In an environment of downsizing and streamlining much attention has been directed towards making government in the U.S. more responsive, more productive and more accessible.

This project will introduce African visitors to the U.S. experience of holding public officials accountable. The project will review the complexities of U.S. government at the federal, state, and local levels. It will acquaint the visitors with techniques designed by the founding fathers to hold government accountable as well as those systems and mechanisms in place today. The role of private citizens and the media in reporting abuses which undermine public trust will be emphasized throughout this project. The project will give visitors an idea of the challenges facing state and local governments in improving performance and responsiveness. It will review formal and informal efforts to educate citizens about their civil rights and civic responsibilities. Participants will meet with representatives of local government, business, and community institutions to discuss current cooperative efforts. Enforcement of laws and the independence of the judiciary will be examined in this project. Corruption in American public service and measures of redress will also be reviewed. Lastly, foreign visitors will have an opportunity to consider which mechanisms observed in the U.S. might be applicable in the visitors' countries.

Title: U.S. Financial System.
Type: Multi-Regional (English-Speaking).
Proposal Due Date: June 2, 1998.
Project Dates: September 18–October 1, 1998.
Contacts: Janet Beard.
Telephone: (202) 205–3058 FAX: (202) 205–0792.
E-Mail Address: jbeard@usia.gov.

This project reviews the U.S. banking and financial system, including industry regulation, trends in domestic and foreign investment, and the roles and differences between different players in the financial marketplace. Domestic and international finance issues studied will include changing global finance flows, small community banking, project finance, stock exchanges, and economic trends analysis.

SUPPLEMENTARY INFORMATION:

Overview

Programs must maintain a non-partisan character. Programs and awards must conform to all Agency requirements and guidelines.

Guidelines

USIA seeks proposals from non-profit organizations for development and implementation of professional programs for USIA-sponsored International Visitors to the U.S. who will participate in three Multi-Regional Group Projects (MRPs) and five Regional projects (RPs). A separate proposal is required for each project. Each project will be focussed on a substantive theme. More detailed descriptions of the MPRs and RPs will be included in the Solicitation Package under "Preliminary Project Summaries".

Most projects will be 21 to 30 days in length. Most projects begin in Washington, DC, with an orientation and overview of the issues and a central examination of federal policies regarding these issues. Well-paced project itineraries include programs in four or five communities. Project itineraries will ideally include urban and rural small communities in diverse geographical and cultural regions of the U.S., as appropriate to the project theme. Projects should provide opportunities for participants to experience the diversity of American society and culture. Depending on the size and theme of the project, the participants in Multi-Regional or Regional group projects can be divided into smaller sub-groups for simultaneous visits to different communities, with subsequent opportunities for the visitors to share their experiences with the full group once it is reunited. Project may provide opportunities for the visitors to share a meal or similar experience (home hospitality) in the home of Americans of diverse occupational, age, gender, and ethnic groups. Some projects might include an opportunity for an overnight stay (home stay) in an American home. The visitors may be provided opportunities to address student, civic, and professional groups on relaxed and informal settings. For some projects, "shadowing" experiences with American professional colleagues may be proposed. As appropriate, opportunities for site visits and hands-on experiences that are relevant to project themes may be included. Projects should also allow time for participants to reflect on their experiences and to share observations with project colleagues. Visitors should have opportunities to visit cultural and tourist sites. Arrangements for community visits must be made through affiliates of the National Council for International Visitors (NCIV). (The NCIV is a national network of private citizen organizations located in more than one hundred U.S. communities, which arrange local programs for International Visitors). In cities where there is no such council, the applicant organization will arrange for coordination of local programs.

The applicant should demonstrate the potential to develop projects, as described above, on a variety of program themes. The applicant is expected to have e-mail capability to consult with USIA Program Officers, and access to internet resources. USIA will provide close coordination and guidance through the duration of the award.

Visa Requirements

Participants in group projects will travel on J–1 visas arranged by USIA. Projects must comply with J–1 visa regulations. Please refer to program specific guidelines in the Solicitation Package for further details.

Tax Requirements

Administration of the projects must be in compliance with reporting and withholding regulations for federal, state, and local taxes as applicable. Applicant organizations should demonstrate tax regulation adherence in the proposal narrative and budget.

Budget

Applicant organizations are required to submit a comprehensive line-item administrative budget in accordance with the instructions in the Solicitation Package. A summary budget as well as a detailed budget showing all administrative costs is required. Proposed staffing and costs associated with staffing must be appropriate to the requirements outline in the RFP and the remaining portion of the Solicitation Package.

The selected applicant will enter into close consultation on budgetary matters with the responsible USIA Program Officer throughout the implementation of projects, each one of which will have a separate budget. Combined administrative and indirect costs proposed should be reasonable. Cost sharing is encouraged.

The Agency Welcomes Proposals From Organizations That Have Not Received USIA Grants or Assistance Awards in the Past

Agency requirements stipulate that "Grants awarded to eligible organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000." It is not expected that any of the projects in this announcement will cost $60,000 or less. It is, therefore, incumbent on organizations to demonstrate four years of successful experience to be eligible for an assistance award.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. Eligible proposals will be forwarded to panels of USIA officers for advisory review. All eligible proposals will be reviewed by the E/V Program Officer, as well as one or more of USIA's geographic area offices. Proposals may be reviewed by the Office of the General Counsel or by other Agency elements. Funding decisions are at the discretion of the USIA Associate Director for Educational and Cultural Affairs. Final technical authority for assistance awards (grants or cooperative agreements) resides with the USIA grants officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation.

1. *Quality of program design:* Proposals should exhibit originality, substance, precision, and be responsive to requirements stated in the Request for Proposals (RFP) and the 1998 Solicitation Package.

2. *Program planning:* A detailed and relevant work plan should demonstrate substantive intent and logistical capacity. Agenda and plan should adhere to the program overview and guidelines.

3. *Ability to achieve program objectives:* Proposals should clearly demonstrate how the institution will meet the goals of the International Visitor Program.

4. *Multiplier effect/impact:* Proposed projects should strengthen long-term mutual understanding, including maximum sharing of information and establishment of long-term institutional and individual linkages.

5. *Support of Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of resources, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials, and follow-up activities).

6. *Institutional Capacity:* Proposed personnel and institutional resources should be adequate and appropriate to achieve the project's goals.

7. *Institution's Record/Ability:* Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for any past Agency grants as determined by USIA's Office of Contracts. The Agency will consider the past performance of prior recipients and the potential of new applicants for effective program administration. All applicants must demonstrate a minimum of four years in existence, with proven project management ability and demonstrated fiscal soundness and accountability and a potential for programming visitors from all geographic regions of the world.

8. *Cost-effectiveness:* The administrative and indirect cost components of the proposal, including salaries, should be kept as low as possible.

9. *Cost-sharing:* Consideration will be given to proposed cost-sharing through other private sector support as well as institutional direct funding contributions.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The Agency reserves the right to reduce, revise, or increase budgets in accordance with the needs of

the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated, and committed through internal USIA procedures.

Dated: October 22, 1997.

Robert Earle,

Deputy Associate Director for Educational and Cultural Affairs.

[FR Doc. 97–28583 Filed 10–29–97; 8:45 am]

BILLING CODE 8230–01–M

UNITED STATES INFORMATION AGENCY

Summer Institute for Foreign Policy Officials: The United States Today

ACTION: Notice—Request for Proposals (RFP).

SUMMARY: The U.S. Information Agency's Branch for the Study of the United States announces an open competition for an assistance award program entitled: "Summer Institute for Foreign Policy Officials: The United States Today." Public and private non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501(c) may apply to develop and implement a three-week post-graduate level program designed for a multinational group of 18 experienced mid-level foreign affairs professionals. *The program is intended to provide participants with a deeper understanding of American life and institutions through an examination of contemporary political, economic, social and cultural issues, with special reference to domestic trends and issues in American life and their relationship to U.S. policies and actions in the international arena. Tentative program dates are any three week period between May 15 and July 31, 1998.*

USIA is seeking detailed proposals from colleges, universities, consortia of colleges and universities, and other not-for-profit academic organizations that have an established reputation in a scholarly discipline related to the subject of the institute and that can demonstrate expertise in conducting post-graduate programs for foreign educators. *Applicant institutions must have a minimum of four years experience in conducting international exchange programs.* The project director or one of the key program staff responsible for the academic program must have an advanced degree in a relevant discipline. Staff escorts traveling under the USIA cooperative agreement must be U.S. citizens with demonstrated qualifications for this service.

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Pub. L. 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world."

Programs and projects must conform with Agency requirements and guidelines outlined in the Solicitation Package. USIA projects and programs are subject to the availability of funds.

Announcement Name and Number: All communications with USIA concerning this announcement should refer to the above title and reference number E/AAS–98–04.

Deadline for Proposals: All copies must be received at the U.S. Information Agency by 5:00 p.m. Washington D.C. time on Friday, January 16, 1998. Faxed documents will not be accepted, nor will documents postmarked by the due date but received at a later date. It is the responsibility of each applicant to ensure that proposal submissions arrive by the deadline.

FOR FURTHER INFORMATION CONTACT: U.S. Information Agency, Office of Academic Programs, Branch of the Study of the United States, E/AAS—Room 252, 301 4th Street, S.W., Washington, D.C. 20547, Attention: William Bate, Telephone number: (202) 619–4557, Fax number: (202) 619–6790, Internet address: wbate@usia.gov.

Please use the above information to request a Solicitation Package containing more detailed award criteria, required application forms, and standard guidelines for preparing proposals (including specific information on budget preparation).

Please specify USIA Program Officer William Bate on all inquiries and correspondence. Interested applicants should read the complete **Federal Register** announcement before addressing inquiries to the office listed above or submitting proposals. Once the RFP deadline has passed, USIA staff may not discuss this competition in any way with applicants until after the Bureau proposal review process has been completed.

To Download a Solicitation Package Via Internet

The entire Solicitation Package may be downloaded from USIA's website at http://www.usia.gov/education/rfps. Please read all information before downloading.

To Receive a Solicitation Package Via Fax on Demand

The entire Solicitation Package may be received via the Bureau's "Grants Information Fax on Demand System", which is accessed by calling 202/401–7616. Please request a "Catalog" of available documents and order numbers when first entering the system.

Submissions

Applicants must follow all instructions given in the Solicitation Package. The original and 13 copies of the complete application should be sent to: U.S. Information Agency, Ref.: E/AAS–98–04, Office of Grants Management, E/XE, Room 326, 301 4th Street, S.W., Washington, D.C. 20547.

Applicants must also submit the "Executive Summary" and "Proposal Narrative" sections of the proposal on a 3.5" diskette, formatted for DOS. This material must be provided in ASCII text (DOS) format with a maximum line length of 65 characters.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity" section for specific suggestions on incorporating diversity into the total proposal. Pub. L. 104–319 that "in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy", USIA "shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries." Proposals should account for advancement of this goal in their program contents, to the full extent deemed feasible.

SUPPLEMENTARY INFORMATION:

Overview and Objectives

"The Summer Institute for Foreign Policy Officials: The United States Today," is intended to provide mid-career foreign affairs professionals with the opportunity to increase their understanding of the politics, society, economy, and culture of the United States at the end of the 20th century. Our working assumption is that the foreign policy decisions of the United States and its actions in the international arena are to a significant degree a reflection of fundamental, albeit shifting, cultural values, embedded in U.S. institutions, public and private, and that a fuller understanding of those institutions will lead in turn to a better understanding of U.S. policies and actions abroad. Accordingly, the Institute should provide participants with both a broad-gauged historical overview of major U.S. institutional and cultural trends—political, economic, social, cultural, religious—and the opportunity for a more intensive treatment and discussion of particular issues and themes that might be subsumed under each of the major "institutional clusters" above, e.g., the role of the Presidency and the Congress in the making of foreign policy; immigration and labor in the United States; church, state and American politics; ethnicity, race and the American identity; and the social impact of technology and the media, to mention only a few of the possible areas for study and discussion. Throughout the seminar, the program should seek to explore how certain aspects of the national debate on political, social and cultural issues bear on the formation and development of American policies in the international arena. At the program's end, participants should have a fuller and more nuanced understanding of the diversity and complexity of contemporary American life, as well as a greater appreciation of the manifold ways in which contemporary American institutional arrangements and cultural values influence U.S. actions abroad.

Accordingly, the Institute should be designed as a coherent, thoughtfully integrated and academically stimulating program that presents a multi-dimensional view of the United States through a series of lectures, readings, panel presentations, and round table discussions. While the program is intended to be an intensive academic seminar designed for a nonacademic audience, the program organizers are encouraged to include a mix of presenters, including university scholars as well as other professionals from government, the private sector, and the media.

The program should be three weeks in length, including at least two weeks of residency at a U.S. college or university, and, depending on the program's design, an integrated study tour segment not to exceed one week in length. Part of that study tour should include a trip to Washington, D.C., where the program content should extend and complement the residency portion of the program. With the exception of the Washington segment, alternately, organizers might choose to spend the entire three-week period in campus residence, with occasional week-end or single-day trips to relevant institutions, sites and cities near the host institution.

Program Dates

Tentative program dates are any three-week period between May 15 and July 31, 1998. The institute must be a total of 21 program days in length. USIA will make every effort to award the approved cooperative agreement by March 1, 1998.

Participants

The program should be designed for 18 highly-motivated and experienced mid-level professionals whose day-to-day work focuses on some aspect of their country's bi-lateral relationship with the United States. Many will come from their country's Ministry of Foreign Affairs; others will be professionals employed by universities of other non-governmental organizations concerned with international and foreign affairs issues. While participants will not be required to possess either a formal or in-depth knowledge of American life and institutions, most are likely to have a working understanding of the United States by virtue of their professional work. Some may have had substantial prior study or work experience in U.S. Participants will be drawn from all regions of the world and will be fluent in English.

Participants will be nominated by U.S. Information Service posts abroad, and selected by the staff of USIA's Branch of the Study of the United States in Washington, D.C. USIA will cover all international travel costs directly.

Guidelines

The conception, design, structure and, ultimately, the content of the institute program is entirely the responsibility of the organizers. However, given the many possible approaches to the development of such a program, organizers are expected to submit proposals that articulate in concrete detail how they intend to organize and implement the institute.

Please refer to the Solicitation Package for further details on program design and implementation, as well as additional information on all other requirements.

Proposed Budget

Unless special circumstances warrant, based on a group of 18 participants, the total USIA-funded budget (program and administrative) should not exceed $145,000, and USIA-funded administrative costs as defined in the budget details section of the solicitation package should not exceed $38,500. Justifications for any costs above these amounts must be clearly indicated in the proposal submission. Any grants awarded to eligible organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000. Applicant proposals should try to maximize cost-sharing in all facets of the program and to stimulate U.S. private sector, including foundation and corporate, support. Applicants must submit a comprehensive line item budget for the entire program, based on the specific guidance provided in the Solicitation Package. The Agency reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program, and availability of U.S. government funding.

Please refer to the "POGI" in the Solicitation Package for complete budget guidelines and formatting instructions for the institute program.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. Eligible proposals will be forwarded to panels of USIA officers for advisory review. All eligible proposals will be reviewed by the program office, as well as the USIA Geographic Area Offices. Proposals may be reviewed by the Office of the General Counsel or by other Agency elements. Funding decisions are at the discretion of the USIA Associate Director for Educational and Cultural Affairs. Final technical authority for assistance

awards (grants or cooperative agreements) resides with the USIA grants officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered, and all carry equal weight in the proposal evaluation:

1. Overall Quality: Proposals should exhibit substance and originality, consonant with the highest standards of American teaching and scholarship. Program should reflect an overall design whose various elements are coherently and thoughtfully integrated. Lectures and panels, taken as a whole, should offer a balanced presentation of issues, reflecting both the continuity of the American experience as well as the diversity and dynamism inherent in it.

2. Program Planning: Proposals should demonstrate careful planning. The organization and structure of the institute should be clearly delineated and be fully responsive to all program objectives. The travel component should be an integral and substantive part of the program, reinforcing and complementing its academic segment.

3. Institutional Capacity: Proposed personnel, including faculty and administrative staff as well as outside presenters, should be fully qualified to achieve the project's goals. Library and media resources should be accessible to participants; housing, transportation and other logistical arrangements should be fully adequate to the needs of participants and should be conducive to a collegial atmosphere.

4. Diversity: Proposals should demonstrate the recipient's commitment to promoting the awareness and understanding of diversity throughout the program. This can be accomplished through documentation, such as a written statement, summarizing past and/or on-going activities and efforts that further the principle of diversity within the organization and its activities. Program activities that address this issue should be highlighted.

5. Experience: The proposal should demonstrate an institutional record of successful exchange program activity, indicating the experience that the organization and its professional staff have had in working with foreign educators.

6. Evaluation and Follow-up: The proposal should include a plan for evaluating activities during the Institute and at its conclusion. Proposals should comment on provisions made for follow-up with returned grantees as a means of establishing longer-term individual and institutional linkages.

7. Administration and Management: The proposals should indicate evidence of continuous on-site administrative and managerial capacity as well as the means by which program activities will be implemented.

8. Cost Effectiveness: The proposals should maximize cost-sharing through direct institutional contributions, in-kind support, and other private sector support. Overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The Agency reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, and allocated and committed through internal USIA procedures.

Dated: October 24, 1997.

Robert L. Earle,

Deputy Associate Director for Educational and Cultural Affairs.

[FR Doc. 97–28721 Filed 10–29–97; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0582]

Proposed Information Collection Activity: Proposed Collection; Comment Request; Reinstatement

AGENCY: Office Financial Management, Office of Management, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Office of Financial Management (OFM), Office of Management, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement, without change, of a previously approved collection for which approval has expired, and allow 60 days for public comment in response to the notice. This notice solicits comments on requirements relating to Federal agencies collecting Internal Revenue Service (IRS) 1099 tax reporting and Federal 1057 socio-economic information on Federal I.M.P.A.C. (International Merchant Purchase Authorization Card) credit card transactions.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before December 29, 1997.

ADDRESSES: Submit written comments on the collection of information to Martha Orr, Office of Financial Management (047F), Office of Management, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to "OMB Control No. 2900–0582" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Martha Orr at (202) 273–8447.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of functions, including whether the information will have practical utility; (2) the accuracy of the burden estimate of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title Form Numbers: Request for IRS 1099-MISC Tax Collection and Federal 1057 Socio-Economic Status, VA Form Letter 4–555.

OMB Control Number: 2900–0582.

Type of Review: Extension of a currently approved collection.

Abstract: Federal agencies are required to collect Internal Revenue Service (IRS) 1099 tax reporting and Federal 1057 socio-economic information on Federal I.M.P.A.C. (International Merchant Purchase Authorization Card) credit card transactions. The VA, with the assistance of an outside entity, sends VA Form Letter 4–555 to collect the necessary information from merchants the Federal government has done business with using the I.M.P.A.C. credit card. The form letter supports the validity and urgency for the collection of information and provides a standardized format for reporting. The General Services Administration (GSA) could not issue this type of collection of information at this time, due to the current re-procurement status for the purchase credit card.

It is essential to the VA's reporting requirements that this type of information be collected for our I.M.P.A.C. card transactions. By law, VA as well as all Federal agencies, must report 1099 status and also have requirements to report the socio-economic status of the merchants with whom we do business.

Affected Public: Business or other for-profit.

Estimated Annual Burden: 62,500 hours.

Estimated Average Burden Per Respondent: 5 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 750,000.

Dated: October 7, 1997.

By direction of the Secretary.

Barbara Epps,

Management Analyst, Information Management Service.

[FR Doc. 97–28717 Filed 10–29–97; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0012]

Proposed Information Collection Activity: Proposed Collection; Comment Request; Extension

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the application for cash surrender or policy loan on Government Life Insurance.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before December 29, 1997.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to "OMB Control No. 2900–0012" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–8310 or FAX (202) 273–5981.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title and Form Numbers: Application for Cash Surrender or Policy Loan, VA Form 29–1546.

OMB Control Number: 2900–0012.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: The form is used by the insured to apply for cash surrender value or policy loan on his/her Government Life Insurance. The information is used by the VBA to process the insured's request for a loan or cash surrender.

Affected Public: Individuals or households.

Estimated Annual Burden: 4,939 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 29,636.

Dated: October 7, 1997.

By direction of the Secretary.

Barbara Epps,

Management Analyst, Information Management Service.

[FR Doc. 97–28718 Filed 10–29–97; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0377]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before December 1, 1997.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to "OMB Control No. 2900–0377."

SUPPLEMENTARY INFORMATION:

Title: Claim for Repurchase of Loan, VA Form 26–8084.

OMB Control Number: 2900–0377.

Type of Review: Extension of a currently approved collection.

Abstract: Under 38 CFR 36.4600(d), the holder of a delinquent vendee account is legally entitled to repurchase of the loan by VA when the loan has been continuously in default for 3 months and the amount of the delinquency equals or exceeds the sum of 2 monthly installments. When

requesting repurchase of a loan, the holder uses VA Form 26–6084. Upon receipt of a holder's VA Form 26–6084, the supporting documents are examined to see that all of the documents required have been submitted and that they are sufficient to complete the repurchase. VA Form 26–6084 is compared with the settlement sheet prepared when the loan was sold and examined closely to establish that there are no errors in the holder's methods of computation. Following repurchase by VA, the obligor(s) are notified in writing that VA has repurchased the loan, and the vendee account is serviced and maintained by VA thereafter.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on July 18, 1997 at pages 38606–38607.

Affected Public: Business or other for-profit.

Estimated Annual Burden: 421 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 842.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to "OMB Control No. 2900–0377" in any correspondence.

Dated: October 7, 1997.

By direction of the Secretary.

Barbara Epps,

Management Analyst, Information Management Service.

[FR Doc. 97–28715 Filed 10–29–97; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0222]

Agency Information Collection Activities Under OMB Review

AGENCY: National Cemetery System, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the National Cemetery System (NCS), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before December 1, 1997.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to "OMB Control No. 2900–0222."

SUPPLEMENTARY INFORMATION:

Title and Form Number: Application for Standard Government Headstone or Marker for Installation in a Private or State Veterans' Cemetery, VA Form 40–1330.

OMB Control Number: 2900–0222.

Type of Review: Extension of a currently approved collection.

Abstract: The form is used by the public to apply for the benefit of Government-provided headstones or markers for unmarked graves of eligible veterans in accordance with Title 38, U.S.C., Section 906. It is the source of information used to evaluate the applicant's claim for the benefit.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on August 7, 1997 at pages 42626–42627.

Affected Public: Individuals or households; State, Local or Tribal Government.

Estimated Annual Burden: 85,000 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 340,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to "OMB Control No. 2900–0222" in any correspondence.

Dated: October 7, 1997.

By direction of the Secretary.

Barbara Epps,

Management Analyst, Information Management Service.

[FR Doc. 97–28716 Filed 10–29–97; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0432]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before December 1, 1997.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to "OMB Control No. 2900–0432."

SUPPLEMENTARY INFORMATION:

Titles and Form Numbers: Invitation, Bid, and/or Acceptance or Authorization, VA Form 26–6724.

OMB Control Number: 2900–0432.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: The form is used to solicit competitive bids or serves as a work order for the repair of properties acquired by the VA. In addition, the form serves as a record of a contractor's bid, the VA's acceptance of a bid, inspection of completed work, and a contractor's invoice and payment authorization. Without the use of VA Form 26–6724, the VA would have to rely on contractors to submit bids on separate documents and would not have the advantage of a single record of each repair program's specification, bid, acceptance, inspection, and payment authorization.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on October 31, 1996 at page 56267.

Affected Public: Business or other for-profit.

Estimated Total Annual Burden: The annual burden is estimated at 25,000 hours. However, VA is requesting one (1) hour inventory purposes only. The solicitation of bids is a common practice in the real estate management industry and the submission of bids is routine with repair contractors.

Estimated Total Average Burden Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Total Number of Respondents: 50,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to "OMB Control No. 2900–0432" in any correspondence.

Dated: October 8, 1997.

By direction of the Secretary.

Barbara Epps,

Management Analyst, Information Management Service.

[FR Doc. 97–28719 Filed 10–29–97; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0438]

Agency Information Collection Activities Under OMB Review

AGENCY: Office of Management, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Office of Management, Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before December 1, 1997.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8030 or FAX (202) 273–5981. Please refer to "OMB Control No. 2900–0438."

SUPPLEMENTARY INFORMATION:

Title: 38 CFR 1.519(a) Lists of Names and Addresses.

OMB Control Number: 2900–0438.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: Title 38, U.S.C., 5701(f)(1) authorizes the VA to disclose mailing lists of veterans and their dependents to nonprofit organizations, but only for certain specific and narrow purposes. Criminal penalties are provided for improper use of the list by the organization in violation of subsection (f) limitations. The information collection in this regulation ensures that any disclosure of a list under this subsection is authorized by law. The VA must ascertain that the applicant is a nonprofit organization and intends to use the list for a proper purpose; if not, Title 38, U.S.C., 5701(a) prohibits disclosure. The additional information collection (specific geographic locations, point of contact, type of output and signature of organization head) is necessary to ensure timely and accurate processing of each application. Failure to obtain this information will prevent the Department from fulfilling its statutory obligations.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on July 16, 1997 at pages 38194–38195.

Affected Public: Not-for-profit institutions, and State, Local or Tribal Government.

Estimated Annual Burden: 103 hours.

Estimated Average Burden Per Respondent: 60 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 103.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–4650. Please refer to "OMB Control No. 2900–0438" in any correspondence.

Dated: October 8, 1997.

By direction of the Secretary:

Barbara Epps,

Management Analyst, Information Management Service.

[FR Doc. 97–28720 Filed 10–29–97; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Notice of Matching Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice of matching program.

SUMMARY: Notice is hereby given that the Department of Veterans Affairs (VA) intends to conduct a recurring computer matching program. This will match personnel records of the Department of Defense (DOD) with VA records of benefit recipients under the Montgomery GI Bill.

The goal of these matches is to identify the eligibility status of veterans, servicemembers, and reservists who have applied for or who are receiving education benefit payments under the Montgomery GI Bill. The purpose of the match is to enable VA to verify that individuals meet the conditions of military service and eligibility criteria for payment of benefits determined by VA under the Montgomery GI Bill—Active Duty (MGIB) and the Montgomery GI Bill—Selected Reserve (MGIB–SR).

DATES: This match will commence on December 1, 1997. At the expiration of 18 months after the commencing date the departments may renew the agreement for another 12 months.

FOR FURTHER INFORMATION CONTACT: John L. Fox (224), Assistant Director for Procedures and Systems, Education Service, Veterans Benefit Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 273–7182.

SUPPLEMENTARY INFORMATION: Further Information regarding the matching program is provided below. This information is required by paragraph 6c of the "Guidelines on the Conduct of Matching Programs" issued by the Office of Management and Budget (OMB) (54 FR 25818), as amended by OMB Circular A–130, 61 FR 6435 (1996). A copy of this has been provided to both Houses of Congress and the Office of Management and Budget. The matching program is subject to their review.

a. *Names of participating agencies:* Department of Defense and Department of Veterans Affairs.

b. *Purpose of the match:* The purpose of the match is to enable VA to determine whether an applicant is eligible for payment of benefits under the MGIB or the MGIB–SR and to verify continued compliance with the requirements of both programs.

c. *Authority:* The authority to conduct this match is found in 38 U.S.C. 3684A(a)(1).

d. *Categories of records and individuals covered:* The records covered include eligibility records extracted from DOD personnel files and benefit records that VA establishes for all individuals who have applied for and/or are receiving, or have received education benefit payments under the Montgomery GI Bill. These benefit records are contained in a VA system of records identified as 58VA21/22 entitled: Compensation, Pension, Education and Rehabilitation Records—VA, last published in the **Federal Register** at 60 FR 20156.

e. *Inclusive dates of the matching program:* The match will begin on December 1, 1997 or 40 days after the OMB review period, whichever is later and continue in effect for 18 months.

f. *Address for receipt of public inquiries or comments:* Interested individuals may submit written comments to the Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW., Room 1154, Washington, DC 20420. Comments will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between 8:00 a.m. and 4:30 p.m.

Approved: October 23, 1997.

Hershel W. Gober,

Acting Secretary of Veterans Affairs.

[FR Doc. 97–28712 Filed 10–29–97; 8:45 am]

BILLING CODE 8320–01–M

federal register

Thursday
October 30, 1997

Part II

Office of Management and Budget

Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity; Notices

OFFICE OF MANAGEMENT AND BUDGET

Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity

AGENCY: Executive Office of the President, Office of Management and Budget (OMB), Office of Information and Regulatory Affairs.

ACTION: Notice of decision.

SUMMARY: By this Notice, OMB is announcing its decision concerning the revision of Statistical Policy Directive No. 15, Race and Ethnic Standards for Federal Statistics and Administrative Reporting. OMB is accepting the recommendations of the Interagency Committee for the Review of the Racial and Ethnic Standards with the following two modifications: (1) the Asian or Pacific Islander category will be separated into two categories—"Asian" and "Native Hawaiian or Other Pacific Islander," and (2) the term "Hispanic" will be changed to "Hispanic or Latino."

The revised standards will have five minimum categories for data on race: American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or Other Pacific Islander, and White. There will be two categories for data on ethnicity: "Hispanic or Latino" and "Not Hispanic or Latino."

The Supplementary Information in this Notice provides background information on the standards (Section A); a summary of the comprehensive review process that began in July 1993 (Section B); a brief synopsis of the public comments OMB received on the recommendations for changes to the standards in response to the July 9, 1997, **Federal Register** Notice (Section C); OMB's decisions on the specific recommendations of the Interagency Committee (Section D); and information on the work that is underway on tabulation issues associated with the reporting of multiple race responses (Section E).

The revised standards for the classification of Federal data on race and ethnicity are presented at the end of this notice; they replace and supersede Statistical Policy Directive No. 15.

EFFECTIVE DATE: The new standards will be used by the Bureau of the Census in the 2000 decennial census. Other Federal programs should adopt the standards as soon as possible, but not later than January 1, 2003, for use in household surveys, administrative forms and records, and other data collections. In addition, OMB has approved the use of the new standards by the Bureau of the Census in the "Dress Rehearsal" for Census 2000 scheduled to be conducted in March 1998.

ADDRESSES: Please send correspondence about OMB's decision to: Katherine K. Wallman, Chief Statistician, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10201 New Executive Office Building, 725 17th Street, N.W., Washington, D.C. 20503; fax: (202) 395–7245.

ELECTRONIC AVAILABILITY AND ADDRESSES: This **Federal Register** Notice and the related OMB Notices of June 9, 1994, August 28, 1995, and July 9, 1997, are available electronically from the OMB Homepage on the World Wide Web: <<http://www.whitehouse.gov/WH/EOP/OMB/html/fedreg.html>>.

Federal Register Notices are also available electronically from the U.S. Government Printing Office web site: <<http:/www.access.gpo.gov/su_docs/aces/aces140.html>>. Questions about accessing the **Federal Register** online via *GPO Access* may be directed to telephone (202) 512-1530 or toll free at (888) 293–6498; to fax (202) 512–1262; or to E-mail <<gpoaccess@gpo.gov>>.

This Notice is available in paper copy from the OMB Publications Office, 725 17th Street, NW, NEOB, Room 2200, Washington, D.C. 20503; telephone (202) 395-7332; fax (202) 395–6137.

FOR FURTHER INFORMATION CONTACT: Suzann Evinger, Statistical Policy Office, Office of Information and Regulatory Affairs, Office of Management and Budget, NEOB, Room 10201, 725 17th Street, N.W., Washington, D.C. 20503; telephone: (202) 395–3093; fax (202) 395–7245.

SUPPLEMENTARY INFORMATION:

A. Background

For more than 20 years, the current standards in OMB's Statistical Policy Directive No. 15 have provided a common language to promote uniformity and comparability for data on race and ethnicity for the population groups specified in the Directive. They were developed in cooperation with Federal agencies to provide consistent data on race and ethnicity throughout the Federal Government. Development of the data standards stemmed in large measure from new responsibilities to enforce civil rights laws. Data were needed to monitor equal access in housing, education, employment, and other areas, for populations that historically had experienced discrimination and differential treatment because of their race or ethnicity. The standards are used not only in the decennial census (which provides the data for the "denominator" for many measures), but also in household surveys, on administrative forms (e.g., school registration and mortgage lending applications), and in medical and other research. The categories represent a social-political construct designed for collecting data on the race and ethnicity of broad population groups in this country, and are not anthropologically or scientifically based.

B. Comprehensive Review Process

Particularly since the 1990 census, the standards have come under increasing criticism from those who believe that the minimum categories set forth in Directive No. 15 do not reflect the increasing diversity of our Nation's population that has resulted primarily from growth in immigration and in interracial marriages. In response to the criticisms, OMB announced in July 1993 that it would undertake a comprehensive review of the current categories for data on race and ethnicity.

This review has been conducted over the last four years in collaboration with the Interagency Committee for the Review of the Racial and Ethnic Standards, which OMB established in March 1994 to facilitate the participation of Federal agencies in the review. The members of the Interagency Committee, from more than 30 agencies, represent the many and diverse Federal needs for data on race and ethnicity, including statutory requirements for such data. The Interagency Committee developed the following principles to govern the review process:

1. The racial and ethnic categories set forth in the standards should not be interpreted as being primarily biological or genetic in reference. Race and ethnicity may be thought of in terms of social and cultural characteristics as well as ancestry.

2. Respect for individual dignity should guide the processes and methods for collecting data on race and ethnicity; ideally, respondent self-identification should be facilitated to the greatest extent possible, recognizing that in some data collection systems observer identification is more practical.

3. To the extent practicable, the concepts and terminology should reflect clear and generally understood definitions that can achieve broad public acceptance. To assure they are reliable, meaningful, and understood by respondents and observers, the racial and ethnic categories set forth in the standard should be developed using appropriate scientific methodologies, including the social sciences.

4. The racial and ethnic categories should be comprehensive in coverage and produce compatible, nonduplicative, exchangeable data across Federal agencies.

5. Foremost consideration should be given to data aggregations by race and ethnicity that are useful for statistical analysis and program administration and assessment, bearing in mind that the standards are not intended to be used to establish eligibility for participation in any federal program.

6. The standards should be developed to meet, at a minimum, Federal legislative and programmatic requirements. Consideration should also be given to needs at the State and local government levels, including American Indian tribal and Alaska Native village governments, as well as to general societal needs for these data.

7. The categories should set forth a minimum standard; additional categories should be permitted provided they can be aggregated to the standard categories. The number of standard categories should be kept to a manageable size, determined by statistical concerns and data needs.

8. A revised set of categories should be operationally feasible in terms of burden placed upon respondents; public and private costs to implement the revisions should be a factor in the decision.

9. Any changes in the categories should be based on sound methodological research and should include evaluations of the impact of any changes not only on the usefulness of the resulting data but also on the comparability of any new categories with the existing ones.

10. Any revision to the categories should provide for a crosswalk at the time of adoption between the old and the new categories so that historical data series can be statistically adjusted and comparisons can be made.

11. Because of the many and varied needs and strong interdependence of Federal agencies for racial and ethnic data, any changes to the existing categories should be the product of an interagency collaborative effort.

12. Time will be allowed to phase in any new categories. Agencies will not be required to update historical records.

13. The new directive should be applicable throughout the U.S. Federal statistical system. The standard or standards must be usable for the decennial census, current surveys, and administrative records, including those using observer identification.

The principal objective of the review has been to enhance the accuracy of the demographic information collected by the Federal Government. The starting point for the review was the minimum set of categories for data on race and ethnicity that have provided information for more than 20 years for a variety of purposes, and the recognition of the importance of being able to maintain this historical continuity. The review process has had two major elements: (1) public comment on the present standards, which helped to identify concerns and provided numerous suggestions for changing the standards; and (2) research and testing related to assessing the possible effects of suggested changes on the quality and usefulness of the resulting data.

Public input, the first element of the review process, was sought through a variety of means: (1) During 1993, Congressman Thomas C. Sawyer, then Chairman of the House Subcommittee on Census, Statistics, and Postal Personnel, held four hearings that included 27 witnesses, focusing particularly on the use of the categories in the 2000 census. (2) At the request of OMB, the National Academy of Sciences' Committee on National Statistics (CNSTAT) conducted a workshop in February 1994 to articulate issues surrounding a review of the categories. The workshop included representatives of Federal agencies, academia, social science research institutions, interest groups, private industry, and a local school district. (A summary of the workshop, *Spotlight on Heterogeneity: The Federal Standards for Racial and Ethnic Classification*, is available from CNSTAT, 2101 Constitution Avenue, N.W., Washington, D.C. 20418.) (3) On June 9, 1994, OMB published a **Federal Register** (59 FR 29831–29835) Notice that contained background information on the development of the current standards and requested public comment on: the adequacy of current racial and ethnic categories; the principles that should govern any proposed revisions to the standards; and specific suggestions for change that had been offered by individuals and interested groups over a period of several years. In response, OMB received nearly 800 letters. As part of this comment period and to bring the review closer to the public, OMB also heard testimony from 94 witnesses at hearings held during July 1994 in Boston, Denver, San Francisco, and Honolulu. (4) In an August 28, 1995, **Federal Register** (60 FR 44674–44693) Notice, OMB provided an interim report on the review process, including a summary of the comments on the June 1994 **Federal Register** Notice, and offered a final opportunity for comment on the research to be conducted during 1996. (5) OMB staff have also discussed the review process with various interested groups and have made presentations at numerous meetings.

The second element of the review process involved research and testing of various proposed changes. The categories in OMB's Directive No. 15 are used not only to produce data on the demographic characteristics of the population, but also to monitor civil rights enforcement and program implementation. Research was undertaken to provide an objective assessment of the data quality issues associated with various approaches to collecting data on race and ethnicity. To that end, the Interagency Committee's Research Working Group, co-chaired by the Bureau of the Census and the Bureau of Labor Statistics, reviewed the various criticisms and suggestions for changing the current categories, and developed a research agenda for some of the more significant issues that had been identified. These issues included how to collect data on persons who identify themselves as "multiracial"; whether to combine race and Hispanic origin in one question or have separate questions on race and Hispanic origin; whether to combine the concepts of race, ethnicity, and ancestry; whether to change the terminology used for particular categories; and whether to add new categories to the current minimum set.

Because the mode of data collection can have an effect on how a person responds, the research agenda proposed studies both in surveys using in-person or telephone interviews and in self-administered questionnaires, such as the decennial census, which are filled out by the respondent and mailed back. Cognitive interviews were conducted with various groups to provide guidance on the wording of the questions and the instructions for the tests and studies.

The research agenda included several major national tests, the results of which are discussed throughout the Interagency Committee's *Report to the Office of Management and Budget on the Review of Statistical Policy Directive No. 15*: (1) In May 1995, the Bureau of Labor Statistics (BLS) sponsored a Supplement on Race and Ethnicity to the Current Population Survey (CPS). The findings were made available in a 1996 report, *Testing Methods of Collecting Racial and Ethnic Information: Results of the Current Population Survey Supplement on Race*

and Ethnicity, available from BLS, 2 Massachusetts Avenue, N.E., Room 4915, Postal Square Building, Washington, D.C. 20212, or by calling 202–606–7375. The results were also summarized in an October 26, 1995, news release, which is available electronically at <<http://stats.bls.gov/news.release/ethnic.toc.htm>>. (2) The Bureau of the Census, as part of its research for the 2000 census, tested alternative approaches to collecting data on race and ethnicity in the March 1996 National Content Survey (NCS). The Census Bureau published the results in a December 1996 report, *Findings on Questions on Race and Hispanic Origin Tested in the 1996 National Content Survey;* highlights of the report are available at <<http://www.census.gov/population/www/socdemo/96natcontentsurvey.html>>. (3) In June 1996, the Census Bureau conducted the Race and Ethnic Targeted Test (RAETT), which was designed to permit assessments of the effects of possible changes on smaller populations not reliably measured in national samples, including American Indians, Alaska Natives, detailed Asian and Pacific Islander groups (such as Chinese and Hawaiians), and detailed Hispanic groups (such as Puerto Ricans and Cubans). The Census Bureau released the results in a May 1997 report, *Results of the 1996 Race and Ethnic Targeted Test;* highlights of the report are available at <<http://www/census.gov/population/www/documentation/twps-0018.html>>. Single copies (paper) of the NCS and RAETT reports may be obtained from the Population Division, U.S. Bureau of the Census, Washington, D.C. 20233; telephone 301–457–2402.

In addition to these three major tests, the National Center for Education Statistics (NCES) and the Office for Civil Rights in the Department of Education jointly conducted a survey of 1,000 public schools to determine how schools collect data on the race and ethnicity of their students and how the administrative records containing these data are maintained to meet statutory requirements for reporting aggregate information to the Federal Government. NCES published the results in a March 1996 report, *Racial and Ethnic Classifications Used by Public Schools* (NCES 96–092). The report is available electronically at <<http://nces.ed.gov/pubs/96092.html>>. Single paper copies may be obtained from NCES, 555 New Jersey, NW, Washington, D.C. 20208–5574, or by calling 202–219–1442.

The research agenda also included studies conducted by the National Center for Health Statistics, the Office of the Assistant Secretary for Health, and the Centers for Disease Control and Prevention to evaluate the procedures used and the quality of the information on race and ethnicity in administrative records such as that reported on birth certificates and recorded on death certificates.

On July 9, 1997, OMB published a **Federal Register** Notice (62 FR 36874–36946) containing the Interagency Committee's *Report to the Office of Management and Budget on the Review of Statistical Policy Directive No. 15.* The Notice made available for comment the Interagency Committee's recommendations for how OMB should revise Directive No. 15. The report consists of six chapters. Chapter 1 provides a brief history of Directive No. 15, a summary of the issues considered by the Interagency Committee, a review of the research activities, and a discussion of the criteria used in conducting the evaluation. Chapter 2 discusses a number of general concerns that need to be addressed when considering any changes to the current standards. Chapters 3 through 5 report the results of the research as they bear on the more significant suggestions OMB received for changes to Directive No. 15. Chapter 6 gives the Interagency's Committee's recommendations concerning the various suggested changes based on a review of public comments and testimony and the research results.

C. Summary of Comments Received on the Interagency Committee's Recommendations

In response to the July 9, 1997, **Federal Register** Notice, OMB received approximately 300 letters (many of them hand written) on a variety of issues, plus approximately 7000 individually signed and mailed, preprinted postcards on the issue of classifying data on Native Hawaiians, and about 500 individually signed form letters from members of the Hapa Issues Forum in support of adopting the recommendation for multiple race reporting. Some of the 300 letters focused on a single recommendation of particular interest to the writer, while other letters addressed a number of the recommendations. The preponderance of the comments were from individuals. Each comment was considered in preparing OMB's decision.

1. Comments on Recommendations Concerning Reporting More Than One Race

The Interagency Committee recommended that, when self-identification is used, respondents who wish to identify their mixed racial heritage should be able to mark or select more than one of the racial categories originally specified in Directive No. 15, but that there should not be a "multiracial" category. This recommendation to report multiple races was favorably received by most of those commenting on it, including associations and organizations such as the American Medical Association, the National Education Association, the National Council of La Raza, and the National Committee on Vital and Health Statistics, as well as all Federal agencies that responded. Comments from some organizations, such as the NAACP Legal Defense and Educational Fund, the Lawyers' Committee for Civil Rights Under Law, and the Equal Employment Advisory Council, were receptive to the recommendation on multiple race responses, but expressed reservations pending development of tabulation methods to ensure the utility of these data. The recommendation was also supported by many of the advocacy groups that had earlier supported a "multiracial" (box) category, such as the Association of MultiEthnic Americans and its affiliates nationwide. Several individuals wrote in support of "multiple race" reporting, basing their comments on a September 1997 article, "What Race Am I?" in *Mademoiselle* magazine, which urged its readers "to express an opinion on whether or not a 'Multiracial' category should be included in all federal recordkeeping, including the 2000 census." A few comments specifically favoring multiple race responses suggested that respondents should also be asked to indicate their primary racial affiliation in order to facilitate the tabulation of responses. A handful of comments on multiple race reporting suggested that individuals with both Hispanic and non-Hispanic heritages be permitted to mark or select both categories (see discussion below).

A few comments, in particular some from state agencies and legislatures, opposed any multiple race reporting because of possible increased costs to collect the information and implementation problems. Comments from the American Indian tribal governments also were opposed to the recommendation concerning reporting more than one race. A number of the comments that supported multiple race responses also expressed concern about the cost and burden of collecting the information to meet Federal reporting requirements, the schedule for implementation, and how the data would be tabulated to meet the requirements of legislative redistricting and enforcement of the Voting Rights Act. A few comments expressed support for categories called "human," or "American"; several proposed that there be no collection of data on race.

2. Comments on Recommendation for Classification of Data on Native Hawaiians

The Interagency Committee recommended that data on Native Hawaiians continue to be classified in the Asian or Pacific Islander category. This recommendation was opposed by the Hawaiian congressional delegation, the 7,000 individuals who signed and sent preprinted yellow postcards, the State of Hawaii departments and legislature, Hawaiian organizations, and other individuals who commented on this recommendation. Instead, the comments from these individuals supported reclassifying Native Hawaiians in the American Indian or Alaska Native category, which they view as an "indigenous peoples" category (although this category has not been considered or portrayed in this manner in the standards). Native Hawaiians, as the descendants of the original inhabitants of what is now the State of Hawaii, believe that as indigenous people they should be classified in the same category as American Indians and Alaska Natives. On the other hand, the American Indian tribal governments have opposed such a reclassification, primarily because they view the data obtained from that category as being essential for administering Federal programs for American Indians. Comments from the Native Hawaiians also noted the Asian or Pacific Islander category provides inadequate data for monitoring the social and economic conditions of Native Hawaiians and other Pacific Islander groups. Because the Interagency Committee had recommended against adding categories to the minimum set of categories, requesting a separate category for Native Hawaiians was not viewed as an option by those who commented.

3. Comments on Recommendation Concerning Classification of Data on Central and South American Indians

The Interagency Committee recommended that data for Central and South American Indians be included in the American Indian or Alaska Native category. Several comments from the American Indian community opposed this recommendation. Moreover, comments from some Native Hawaiians pointed out what they believed to be an inconsistency in the Interagency Committee's recommendation to include in the American Indian or Alaska Native category descendants of Central and South American Indians—persons who are not original peoples of the United States—if Native Hawaiians were not to be included.

4. Comments on Recommendation Not to Add an Arab or Middle Eastern Ethnic Category

The Interagency Committee recommended that an Arab or Middle Eastern ethnic category should not be added to the minimum standards for all reporting of Federal data on race and ethnicity. Several comments were received in support of having a separate category in order to have data viewed as necessary to monitor discrimination against this population.

5. Comments on Recommendations for Terminology

Comments on terminology largely supported the Interagency Committee's recommendations to retain the term "American Indian," to change "Hawaiian" to "Native Hawaiian," and to change "Black" to "Black or African American." There were a few requests to include "Latino" in the category name for the Hispanic population.

D. OMB's Decisions

This section of the Notice provides information on the decisions taken by OMB on the recommendations that were proposed by the Interagency Committee. The Committee's recommendations addressed options for reporting by respondents, formats of questions, and several aspects of specific categories, including possible additions, revised terminology, and changes in definitions. In reviewing OMB's decisions on the recommendations for collecting data on race and ethnicity, it is useful to remember that these decisions:

- retain the concept that the standards provide a *minimum* set of categories for data on race and ethnicity;
- permit the collection of more detailed information on population groups provided that any additional categories can be aggregated into the minimum standard set of categories;
- underscore that self-identification is the preferred means of obtaining information about an individual's race and ethnicity, except in instances where observer identification is more practical (e.g., completing a death certificate);
- do *not* identify or designate certain population groups as "minority groups";
- continue the policy that the categories are *not* to be used for determining the eligibility of population groups for participation in any Federal programs;
- do *not* establish criteria or qualifications (such as blood quantum levels) that are to be used in determining a particular individual's racial or ethnic classification; and
- do *not* tell an individual who he or she is, or specify how an individual should classify himself or herself.

In arriving at its decisions, OMB took into account not only the public comment on the recommendations published in the **Federal Register** on July 9, 1997, but also the considerable amount of information provided during the four years of this review process, including public comments gathered from hearings and responses to two earlier OMB Notices (on June 9, 1994, and August 28, 1995). The OMB decisions benefited greatly from the participation of the public that served as a constant reminder that there are real people represented by the data on race and ethnicity and that this is for many a deeply personal issue. In addition, the OMB decisions benefited from the results of the research and testing on how individuals identify themselves that was undertaken as part of this review process. This research, including several national tests of alternative approaches to collecting data on race and ethnicity, was developed and conducted by the professional statisticians and analysts at several Federal agencies. They are to be commended for their perseverance, dedication, and professional commitment to this challenging project.

OMB also considered in reaching its decisions the extent to which the recommendations were consistent with the set of principles (see Section B of the Supplementary Information) developed by the Interagency Committee to guide the review of this sensitive and substantively complex issue. OMB believes that the Interagency Committee's recommendations took into account the principles and achieved a reasonable balance with respect to statistical issues, data needs, social concerns, and the personal dimensions of racial and ethnic identification. OMB also finds that the Committee's recommendations are consistent with the principal objective of the review, which is to enhance the accuracy of the demographic information collected by the Federal Government by having categories for data on race and ethnicity that will enable the capture of information about the increasing diversity of our Nation's population while at the same time respecting each individual's dignity.

As indicated in detail below, OMB accepts the Interagency Committee's recommendations concerning reporting more than one race, including the recommendation that there be no category called "multiracial," the formats and sequencing of the questions on race and Hispanic origin, and most of the changes to terminology.

OMB does not accept the Interagency Committee's recommendations concerning the classification of data on the Native Hawaiian population and the terminology for Hispanics, and it has instead decided to make the changes that follow.

Native Hawaiian classification.—OMB does not accept the recommendation concerning the continued classification of Hawaiians in the Asian or Pacific Islander category. *Instead, OMB has decided to break apart the Asian or Pacific Islander category into two categories—one called "Asian" and the other called "Native Hawaiian or Other Pacific Islander."* As a result, there will be five categories in the minimum set for data on race.

The "Native Hawaiian or Other Pacific Islander" category will be defined as "A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands." (The term "Native Hawaiian" does not include individuals who are native to the State of Hawaii by virtue of being born there.) In addition to Native Hawaiians, Guamanians, and Samoans, this category would include the following Pacific Islander groups reported in the 1990 census: Carolinian, Fijian, Kosraean, Melanesian, Micronesian, Northern Mariana Islander, Palauan, Papua New Guinean, Ponapean (Pohnpelan), Polynesian, Solomon Islander, Tahitian, Tarawa Islander, Tokelauan, Tongan, Trukese (Chuukese), and Yapese.

The "Asian" category will be defined as "A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam."

The Native Hawaiians presented compelling arguments that the standards must facilitate the production of data to describe their social and economic situation and to monitor discrimination against Native Hawaiians in housing, education, employment, and other areas. Under the current standards for data on race and ethnicity, Native Hawaiians comprise about three percent of the Asian and Pacific Islander population. By creating separate categories, the data on the Native Hawaiians and other Pacific Islander groups will no longer be overwhelmed by the aggregate data of the much larger Asian groups. Native Hawaiians will comprise about 60 percent of the new category.

The Asian, Native Hawaiian, and Pacific Islander population groups are well defined; moreover, there has been experience with reporting in separate categories for the Native Hawaiian and Pacific Islander population groups. The 1990 census included "Hawaiian," "Samoan," and "Guamanian" as response categories to the race question. In addition, two of the major tests conducted as part of the current review (the NCS and the RAETT) used "Hawaiian" and/or "Native Hawaiian," "Samoan," "Guamanian," and "Guamanian or Chamorro" as response options to the race question. These factors facilitate breaking apart the current category.

Terminology for Hispanics.—OMB does not accept the recommendation to retain the single term "Hispanic." *Instead, OMB has decided that the term should be "Hispanic or Latino."* Because regional usage of the terms differs—Hispanic is commonly used in the eastern portion of the United States, whereas Latino is commonly used in the western portion—this change may contribute to improved response rates.

The OMB decisions on the Interagency Committee's specific recommendations are presented below:

(1) OMB accepts the following recommendations concerning reporting more than one race:

- *When self-identification is used, a method for reporting more than one race should be adopted.*
- *The method for respondents to report more than one race should take the form of multiple responses to a single question and not a "multiracial" category.*
- *When a list of races is provided to respondents, the list should not contain a "multiracial" category.*
- *Based on research conducted so far, two recommended forms for the instruction accompanying the multiple response question are "Mark one or more * * *" and "Select one or more * * *"*
- *If the criteria for data quality and confidentiality are met, provision should be made to report, at a minimum, the number of individuals identifying with more than one race. Data producers are encouraged to provide greater detail about the distribution of multiple responses.*
- *The new standards will be used in the decennial census, and other data producers should conform as soon as possible, but not later than January 1, 2003.*

(2) OMB accepts the following recommendations concerning a combined race and Hispanic ethnicity question:

- *When self-identification is used, the two question format should be used, with the race question allowing the reporting of more than one race.*
- *When self-identification is not feasible or appropriate, a combined question can be used and should include a separate Hispanic category co-equal with the other categories.*
- *When the combined question is used, an attempt should be made, when appropriate, to record ethnicity and race or multiple races, but the option to indicate only one category is acceptable.*

(3) OMB accepts the following recommendations concerning the retention of both reporting formats:

- *The two question format should be used in all cases involving self-identification.*
- *The current combined question format should be changed and replaced with a new format which includes a co-equal Hispanic category for use, if necessary, in observer identification.*

(4) OMB accepts the following recommendation concerning the ordering of the Hispanic origin and race questions:

- *When the two question format is used, the Hispanic origin question should precede the race question.*

(5) OMB accepts the following recommendation concerning adding Cape Verdean as an ethnic category:

- *A Cape Verdean ethnic category should not be added to the minimum data collection standards.*

(6) OMB accepts the following recommendation concerning the addition of an Arab or Middle Eastern ethnic category:

- *An Arab or Middle Eastern ethnic category should not be added to the minimum data standards.*

(7) OMB interprets the recommendation not to add any other categories to mean the expansion of the minimum set to include new population groups. The OMB decision to break apart the "Asian or Pacific Islander" category does not create a category for a new population group.

(8) OMB accepts the following recommendation concerning changing the term "American Indian" to "Native American":

- *The term American Indian should not be changed to Native American.*

(9) OMB accepts the following recommendation concerning changing the term "Hawaiian" to "Native Hawaiian":

- *The term "Hawaiian" should be changed to "Native Hawaiian."*

(10) OMB does not accept the recommendation concerning the continued classification of Native Hawaiians in the Asian or Pacific Islander category.

- *OMB has decided to break apart the Asian or Pacific Islander category into two categories—one called "Asian" and the other called "Native Hawaiian or Other Pacific Islander." As a result, there are five categories in the minimum set for data on race.*
- *The "Native Hawaiian or Other Pacific Islander" category is defined as "A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands."*
- *The "Asian" category is defined as "A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam."*

(11) OMB accepts the following recommendations concerning the use of "Alaska Native" instead of "Eskimo" and "Aleut": "Alaska Native" should replace the term "Alaskan Native."

- *Alaska Native should be used instead of Eskimo and Aleut.*
- The Alaska Native response option should be accompanied by a request for tribal affiliation when possible.

(12) OMB accepts the following recommendations concerning the classification of Central and South American Indians:

- *Central and South American Indians should be classified as American Indian.*
- *The definition of the "American Indian or Alaska Native" category should be modified to include the original peoples from Central and South America.*
- *In addition, OMB has decided to make the definition for the American Indian or Alaska Native category more consistent with the definitions of the other categories.*

(13) OMB accepts the following recommendations concerning the term or terms to be used for the name of the Black category:

- *The name of the Black category should be changed to "Black or African American."*
- *The category definition should remain unchanged.*
- *Additional terms, such as Haitian or Negro, can be used if desired.*

(14) OMB decided to modify the recommendations concerning the term or terms to be used for Hispanic:

- *The term used should be "Hispanic or Latino."*
- *The definition of the category should remain unchanged.*
- *In addition, the term "Spanish Origin," can be used if desired.*

Accordingly, the Office of Management and Budget adopts and issues the revised minimum standards for Federal data on race and ethnicity for major population groups in the United States which are set forth at the end of this Notice.

Topics for Further Research

There are two areas where OMB accepts the Interagency Committee's recommendations but believes that further research is needed: (1) multiple responses to the Hispanic origin question and (2) an ethnic category for Arabs/Middle Easterners.

Multiple Responses to the Hispanic Origin Question.—The Interagency Committee recommended that respondents to Federal data collections should be permitted to report more than one race. During the most recent public comment process, a few comments suggested that the concept of "marking more than one box" should be extended to the Hispanic origin question. Respondents are now asked to indicate if they are "of Hispanic origin" *or* "not of Hispanic origin." Allowing individuals to select more than one response to the ethnicity question would provide the opportunity to indicate ethnic heritage that is both Hispanic and non-Hispanic.

The term "Hispanic" refers to persons who trace their origin or descent to Mexico, Puerto Rico, Cuba, Central and South America, and other Spanish cultures. While there has been considerable public concern about the need to review Directive No. 15 with respect to classifying individuals of mixed racial heritage, there has been little comment on reporting both an Hispanic and a non-Hispanic origin. On many Federal forms, Hispanics can also express a racial identity on a separate race question. In the decennial census, individuals who consider themselves part Hispanic can also indicate additional heritages in the ancestry question.

On one hand, it can be argued that allowing individuals to mark both categories in the Hispanic origin question would parallel the instruction "to mark (or select) one or more" racial categories. Individuals would not have to choose between their parents' ethnic heritages, and movement toward an increasingly diverse society would be recognized.

On the other hand, because the matter of multiple responses to the Hispanic ethnicity question was not raised in the early phases of the public comment process, no explicit provisions were made for testing this approach in the research conducted to inform the review of Directive No. 15. While a considerable amount of research was focused on how to improve the response rate to the Hispanic origin question, it is unclear whether and to what extent explicitly permitting multiple responses to the Hispanic origin question would affect nonresponse to the race question or hamper obtaining more detailed data on Hispanic population groups.

Information on the possible impact of any changes on the quality of the data has been an essential element of the review. While the effects of changes in the Hispanic origin question are unknown, they could conceivably be substantial. Thus, OMB has decided *not* to include a provision in the standards that would explicitly permit respondents to select both "Hispanic origin" and "Not of Hispanic Origin" options. OMB believes that this is an item for future research. In the meantime, the ancestry question on the decennial census long form does provide respondents who consider themselves part Hispanic to write in additional heritages.

Research on an Arab/Middle Easterner category.—During the public comment process, OMB received a number of requests to add an ethnic category for Arabs/Middle Easterners so that data could be obtained that could be useful in monitoring discrimination. The public comment process indicated, however, that there was no agreement on a definition for this category. The combined race, Hispanic origin, and ancestry question in the RAETT, which was designed to address requests that were received from groups for establishing separate categories, did not provide a solution.

While OMB accepted the Interagency's Committee recommendation not to create a new category for this population group, OMB believes that further research should be done to determine the best way to improve data on this population group. Meanwhile, the write-ins to the ancestry question on the decennial census long form will continue to provide information on the number of individuals who identify their heritage as Arab or Middle Easterner.

E. Tabulation Issues

The revised standards retain the concept of a minimum set of categories for Federal data on race and ethnicity and make possible at the same time the collection of data to reflect the diversity of our Nation's population. Since the

Interagency Committee's recommendation concerning the reporting of more than one race was made available for public comment, the focus of attention has been largely on how the data would be tabulated. Because of the concerns expressed about tabulation methods and our own view of the importance of this issue, OMB committed to accelerate the work on tabulation issues when it testified in July 1997 on the Interagency Committee's recommendations.

A group of statistical and policy analysts drawn from the Federal agencies that generate or use these data has spent the past few months considering the tabulation issues. Although this work is still in its early stages, some preliminary guidance can be shared at this time. In general, OMB believes that, consistent with criteria for confidentiality and data quality, the tabulation procedures used by the agencies should result in the production of as much detailed information on race and ethnicity as possible.

Guidelines for tabulation ultimately must meet the needs of at least two groups within the Federal Government, with the overriding objective of providing the most accurate and informative body of data. The first group is composed of those government officials charged with carrying out constitutional and legislative mandates, such as redistricting legislatures, enforcing civil rights laws, and monitoring progress in anti-discrimination programs. (The legislative redistricting file produced by the Bureau of the Census, also known as the Public Law 94–171 file, is an example of a file meeting such legislative needs.) The second group consists of the staff of statistical agencies producing and analyzing data that are used to monitor economic and social conditions and trends.

Many of the needs of the first group can be met with an initial tabulation that provides, consistent with standards for data quality and confidentiality, the full detail of racial reporting; that is, the number of people reporting in each single race category and the number reporting each of the possible combinations of races, which would add to the total population. Depending on the judgment of users, the combinations of multiple responses could be collapsed. One method would be to provide separate totals for those reporting in the most common multiple race combinations and to collapse the data for other less frequently reported combinations. The specifics of the collapsed distributions must await the results of particular data collections. A second method would be to report the total selecting each particular race, whether alone or in combination with other races. These totals would represent upper bounds on the size of the populations who identified with each of the racial categories. In some cases, this latter method could be used for comparing data collected under the old standards with data collected under the new standards. It is important that users with the same or closely related responsibilities adopt the same tabulation method. Regardless of the method chosen for collapsing multiple race responses, the total number reporting more than one race must be made available, if confidentiality and data quality requirements can be met, in order to ensure that any changes in response patterns resulting from the new standards can be monitored over time.

Meeting the needs of the second group (those producing and analyzing statistical data to monitor economic and social conditions and trends), as well as some additional needs of the first group, may require different tabulation procedures. More research must be completed before guidelines that will meet the requirements of these users can be developed. A group of statistical and policy experts will review a number of alternative procedures and provide recommendations to OMB concerning these tabulation requirements by Spring 1998. Four of the areas in which further exploration is needed are outlined below.

- Equal employment opportunity and other anti-discrimination programs have traditionally provided the numbers of people in the population by selected characteristics, including racial categories, for business, academic, and government organizations to use in evaluating conformance with program objectives. Because of the potentially large number of categories that may result from application of the new standards, many with very small numbers, it is not clear how this need for data will be best satisfied in the future.
- The numbers of people in distinct groups based on decennial census results are used in developing sample designs and survey controls for major demographic surveys. For example, the National Health Interview Survey uses census data to increase samples for certain population groups, adjust for survey non-response, and provide weights for estimating health outcomes at the national level. The impact of having data for many small population groups with multiple racial heritages must be explored.
- Vital statistics data include birth and death rates for various population groups. Typically the numerator (number of births or deaths) is derived from administrative records, while the denominator comes from intercensal population estimates. Birth certificate data on race are likely to have been self reported by the mother. Over time, these data may become comparable to data collected under the new standards. Death certificate data, however, frequently are filled out by an observer, such as a mortician, physician, or funeral director. These data, particularly for the population with multiple racial heritages, are likely to be quite different from the information obtained when respondents report about themselves. Research to define comparable categories to be used in both numerators and denominators is needed to assure that vital statistics are as accurate and useful as possible.
- More generally, statistical indicators are often used to measure change over time. Procedures that will permit meaningful comparisons of data collected under the previous standards with those that will be collected under the new standards need to be developed.

The methodology for tabulating data on race and ethnicity must be carefully developed and coordinated among the statistical agencies and other Federal data users. Moreover, just as OMB's review and decision processes have benefited during the past four years from extensive public participation, we expect to discuss tabulation methods with data users within and outside the Federal Government. OMB expects to issue additional guidance with respect to tabulating data on race and ethnicity by Fall 1998.

Sally Katzen,

Administrator, Office of Information and Regulatory Affairs.

Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity

This classification provides a minimum standard for maintaining, collecting, and presenting data on race and ethnicity for all Federal reporting purposes. The categories in this classification are social-political constructs and should not be interpreted as being scientific or anthropological in nature. They are not to be used as determinants of eligibility for participation in any Federal program. The standards have been developed to provide a common language for uniformity and comparability in the collection and use of data on race and ethnicity by Federal agencies.

The standards have five categories for data on race: American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or Other Pacific Islander, and White. There are two categories for data on ethnicity: "Hispanic or Latino," and "Not Hispanic or Latino."

1. Categories and Definitions

The minimum categories for data on race and ethnicity for Federal statistics, program administrative reporting, and civil rights compliance reporting are defined as follows:

American Indian or Alaska Native. A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.

Asian. A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

Black or African American. A person having origins in any of the black racial groups of Africa. Terms such as "Haitian" or "Negro" can be used in addition to "Black or African American."

Hispanic or Latino. A person of Cuban, Mexican, Puerto Rican, Cuban, South or Central American, or other Spanish culture or origin, regardless of race. The term, "Spanish origin," can be used in addition to "Hispanic or Latino."

Native Hawaiian or Other Pacific Islander. A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

White. A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

Respondents shall be offered the option of selecting one or more racial designations. Recommended forms for the instruction accompanying the multiple response question are "Mark one or more" and "Select one or more."

2. Data Formats

The standards provide two formats that may be used for data on race and ethnicity. Self-reporting or self-identification using two separate questions is the preferred method for collecting data on race and ethnicity. In situations where self-reporting is not practicable or feasible, the combined format may be used.

In no case shall the provisions of the standards be construed to limit the collection of data to the categories described above. The collection of greater detail is encouraged; however, any collection that uses more detail shall be organized in such a way that the additional categories can be aggregated into these minimum categories for data on race and ethnicity.

With respect to tabulation, the procedures used by Federal agencies shall result in the production of as much detailed information on race and ethnicity as possible. However, Federal agencies shall not present data on detailed categories if doing so would compromise data quality or confidentiality standards.

a. Two-Question Format

To provide flexibility and ensure data quality, separate questions shall be used wherever feasible for reporting race and ethnicity. When race and ethnicity are collected separately, ethnicity shall be collected first. If race and ethnicity are collected separately, the minimum designations are:

Race:

—American Indian or Alaska Native
—Asian
—Black or African American
—Native Hawaiian or Other Pacific Islander
—White

Ethnicity:

—Hispanic or Latino
—Not Hispanic or Latino

When data on race and ethnicity are collected separately, provision shall be made to report the number of respondents in each racial category who are Hispanic or Latino.

When aggregate data are presented, data producers shall provide the number of respondents who marked (or selected) only one category, separately for each of the five racial categories. In addition to these numbers, data producers are strongly encouraged to provide the detailed distributions, including all possible combinations, of multiple responses to the race question. If data on multiple responses are collapsed, at a minimum the total number of respondents reporting "more than one race" shall be made available.

b. Combined Format

The combined format may be used, if necessary, for observer-collected data on race and ethnicity. Both race (including multiple responses) and ethnicity shall be collected when appropriate and feasible, although the selection of one category in the combined format is acceptable. If a combined format is used, there are six minimum categories:

—American Indian or Alaska Native
—Asian
—Black or African American
—Hispanic or Latino
—Native Hawaiian or Other Pacific Islander
—White

When aggregate data are presented, data producers shall provide the number of respondents who marked (or selected) only one category, separately for each of the six categories. In addition to these numbers, data producers are strongly encouraged to provide the detailed distributions, including all possible combinations, of multiple responses. In cases where data on multiple responses are collapsed, the total number of respondents reporting "Hispanic or Latino and one or more races" and the total number of respondents reporting "more than one race" (regardless of ethnicity) shall be provided.

3. Use of the Standards for Record Keeping and Reporting

The minimum standard categories shall be used for reporting as follows:

a. Statistical Reporting

These standards shall be used at a minimum for all federally sponsored statistical data collections that include data on race and/or ethnicity, except when the collection involves a sample of such size that the data on the smaller categories would be unreliable, or when the collection effort focuses on a specific racial or ethnic group. Any other variation will have to be specifically authorized by the Office of Management and Budget (OMB) through the information collection clearance process. In those cases where the data collection is not subject to the information collection clearance process, a direct request for a variance shall be made to OMB.

b. General Program Administrative and Grant Reporting

These standards shall be used for all Federal administrative reporting or record keeping requirements that include data on race and ethnicity. Agencies that cannot follow these standards must request a variance from OMB. Variances will be considered if the agency can demonstrate that it is not reasonable for the primary reporter to determine racial or ethnic background in terms of the specified categories, that determination of racial or ethnic background is not critical to the administration of the program in question, or that the specific program is directed to only one or a limited number of racial or ethnic groups.

c. Civil Rights and Other Compliance Reporting

These standards shall be used by all Federal agencies in either the separate or combined format for civil rights and

other compliance reporting from the public and private sectors and all levels of government. Any variation requiring less detailed data or data which cannot be aggregated into the basic categories must be specifically approved by OMB for executive agencies. More detailed reporting which can be aggregated to the basic categories may be used at the agencies' discretion.

4. Presentation of Data on Race and Ethnicity

Displays of statistical, administrative, and compliance data on race and ethnicity shall use the categories listed above. The term "nonwhite" is not acceptable for use in the presentation of Federal Government data. It shall not be used in any publication or in the text of any report.

In cases where the standard categories are considered inappropriate for presentation of data on particular programs or for particular regional areas, the sponsoring agency may use:

a. The designations "Black or African American and Other Races" or "All Other Races" as collective descriptions of minority races when the most summary distinction between the majority and minority races is appropriate;

b. The designations "White," "Black or African American," and "All Other Races" when the distinction among the majority race, the principal minority race, and other races is appropriate; or

c. The designation of a particular minority race or races, and the inclusion of "Whites" with "All Other Races" when such a collective description is appropriate.

In displaying detailed information that represents a combination of race and ethnicity, the description of the data being displayed shall clearly indicate that both bases of classification are being used.

When the primary focus of a report is on two or more specific identifiable groups in the population, one or more of which is racial or ethnic, it is acceptable to display data for each of the particular groups separately and to describe data relating to the remainder of the population by an appropriate collective description.

5. Effective Date

The provisions of these standards are effective immediately for all *new* and *revised* record keeping or reporting requirements that include racial and/or ethnic information. All *existing* record keeping or reporting requirements shall be made consistent with these standards at the time they are submitted for extension, or not later than January 1, 2003.

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Thursday
October 30, 1997

Part III

Environmental Protection Agency

40 CFR Part 194
Criteria for the Certification and Recertification of the Waste Isolation Pilot Plant's Compliance With the 40 CFR Part 191 Disposal Regulations: Certification Decision; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 194

[FRL–5915–1]

RIN 2060–AG85

Criteria for the Certification and Re-Certification of the Waste Isolation Pilot Plant's Compliance With the 40 CFR Part 191 Disposal Regulations: Certification Decision

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; opening of public comment period.

SUMMARY: The Environmental Protection Agency ("EPA") is proposing to certify that the Department of Energy's ("DOE") Waste Isolation Pilot Plant ("WIPP") will comply with the radioactive waste disposal regulations set forth at 40 CFR Part 191 (Environmental Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Waste). EPA is required to evaluate whether the WIPP will comply with EPA's standards for the disposal of radioactive waste by the WIPP Land Withdrawal Act ("LWA") of 1992, as amended. EPA's certification of compliance, if finalized, would allow the emplacement of radioactive waste in the WIPP to begin, provided that all other applicable health and safety standards have been met. The proposed certification would allow Los Alamos National Laboratory to ship TRU waste from specific waste streams for disposal at the WIPP. However, the proposed certification is subject to several conditions, notably that EPA must approve site-specific waste characterization measures and quality assurance plans before allowing other waste generator sites to ship waste for disposal at the WIPP. The Agency proposes to amend 40 CFR Part 194 by adding an appendix describing EPA's certification, and by adding a definition. Finally, EPA is proposing its decision, also pursuant to the LWA, that DOE does not need to acquire existing oil and gas leases near the WIPP in order to meet the disposal regulations. Today's notice marks the beginning of a 120-day public comment period on EPA's proposed certification decision, and on the other proposed actions described above.

DATES: Comments on today's proposal must be received by February 27, 1998. Public hearings on today's proposal will be held in New Mexico. A separate announcement will be published in the Federal Register to provide public hearing information.

ADDRESSES: Comments should be submitted, in duplicate, to: Docket No. A–93–02, Air Docket, Room M–1500 (LE–131), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. See additional docket information in the SUPPLEMENTARY INFORMATION.

FOR FURTHER INFORMATION CONTACT: Betsy Forinash or Scott Monroe; telephone number (202) 233–9310; address: Radiation Protection Division, Center for the Waste Isolation Pilot Plant, Mail Code 6602-J, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. For copies of the Compliance Application Review Documents supporting today's proposal, contact Scott Monroe at the above phone number and address.

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I. Background

Congress authorized development and construction of the Waste Isolation Pilot Plant ("WIPP") in 1980 "for the express purpose of providing a research and development facility to demonstrate the safe disposal of radioactive wastes resulting from the defense activities and programs of the United States." [1] The U.S. Department of Energy ("DOE" or "the Department") is developing the WIPP near Carlsbad in southeastern New Mexico as a potential deep geologic repository for the disposal of defense transuranic ("TRU") radioactive waste. TRU waste consists of materials containing alpha-emitting radioisotopes, with half-lives greater than twenty years and atomic numbers greater than 92, in concentrations greater than 100 nano-curies per gram of waste.[2] Most TRU waste proposed for disposal at the WIPP consists of items that have become contaminated as a result of activities associated with the production of nuclear weapons, e.g., rags, equipment, tools, protective gear, and organic or inorganic sludges. Some TRU waste is mixed with hazardous chemicals. Some of the waste proposed for disposal at the WIPP is currently stored on Federal lands across the United States, including locations in Colorado, Idaho, New Mexico, Nevada, Ohio, South Carolina, Tennessee, and Washington. Much of the waste proposed for disposal at the WIPP will be generated in the future as weapons are disassembled and additional facilities are decontaminated and decommissioned.

Before disposal of radioactive waste can begin at the WIPP, the U.S. Environmental Protection Agency ("EPA" or "the Agency") must certify that the WIPP facility will comply with EPA's radioactive waste disposal regulations.[3] The purpose of today's action is to propose EPA's certification decision.

II. Statutory Authority

EPA's oversight of the WIPP facility is governed by the WIPP Land Withdrawal Act ("LWA"), passed initially by Congress in 1992 and amended in 1996. The LWA delegates to EPA three main tasks, to be completed sequentially, for reaching a compliance certification decision. First, EPA must finalize general regulations which apply to all sites—except Yucca mountain—for the disposal of highly radioactive waste.[4] The regulations, located at Subparts B and C of 40 CFR Part 191 ("disposal regulations"), limit the amount of radioactive material which may escape from a disposal facility, and protect individuals and ground water resources from dangerous levels of radioactive contamination. The disposal regulations were published in the Federal Register in 1985 and 1993.[5]

Second, EPA must develop, by rulemaking, criteria to implement and interpret the generic radioactive waste disposal regulations specifically for the WIPP. EPA issued these "WIPP Compliance Criteria," which are found at 40 CFR Part 194, in 1996.[6] The criteria describe in detail what information DOE must submit for EPA's review, and clarify the basis on which EPA's compliance determination will be made.

Third, EPA must review information submitted by DOE and publish a certification decision.[7] Today's action constitutes EPA's proposed certification decision as required by section 8 of the LWA. On October 29, 1996, DOE submitted a compliance certification application ("CCA") containing information intended to demonstrate that WIPP will comply with the disposal regulations. Since then, DOE has submitted additional information. On May 22, 1997, EPA announced that DOE's application was deemed to be complete. (62 FR 27996–27998) EPA's evaluation of whether the WIPP will comply with the disposal regulations is made by comparing the CCA and other relevant information—including supplementary information requested by EPA from DOE, and the results of EPA's confirmatory audits and inspections—to the WIPP Compliance Criteria. The Administrator's certification of compliance depends on DOE demonstrating that it has satisfied the specific requirements of the WIPP Compliance Criteria.

III. Purpose and Scope of Today's Action

Today's action is limited primarily to the certification decision required under section 8(d) of the LWA. In addition, the proposal addresses the provision of section 4(b)(5)(B) of the LWA which requires EPA to determine whether existing oil and gas leases in the vicinity of the WIPP must be acquired by DOE. EPA has decided that it is appropriate to include this determination in this rulemaking because Congress explicitly conditioned emplacement of wastes in the repository on DOE's acquisition of the specified leaseholds, unless EPA determines that such acquisition is not required. (LWA, section 7(b)(2)) While Congress' mandate that EPA make this determination is separate and apart from the section 8(d) mandate to conduct the WIPP certification proceeding pursuant to notice-and-comment rulemaking procedures, EPA nonetheless believes it appropriate to address the leases in this rulemaking. The determination of whether potential drilling on the specified leases could possibly affect the integrity of the repository is closely related to the similar determinations that must be made under §§ 194.32(c) and 194.54(b) of the Compliance Criteria. Moreover, EPA is committed to the intent of Congress, clearly expressed in the LWA, that the public be involved in these important regulatory determinations. Therefore, by including this decision in this proposal, EPA is providing the public with the opportunity for input on this matter.

The Agency is proposing to add to the Compliance Criteria an appendix describing EPA's certification decision and to define the term "Administrator's authorized representative." Except for these additions, EPA's proposed decision regarding WIPP's compliance does not otherwise amend or affect the final disposal regulations (at Subparts B and C of 40 CFR Part 191), or the final WIPP Compliance Criteria (at Subparts A through D of 40 CFR Part 194).

Today's proposal does not address all the actions required of EPA by the LWA. For example, the proposal does not address compliance with EPA's radioactive waste management regulations—found in Subpart A of 40 CFR Part 191—which are referenced in section 9(a)(1)(A) of the LWA. Instead, the Agency has issued, in a separate action, guidance describing how EPA intends to implement Subpart A at the WIPP.[8] For copies of the WIPP Subpart

[1] Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1980, Pub. L. 96–164, section 213.

[2] WIPP Land Withdrawal Act, Pub. L. 102–579, section 2(18), as amended by the 1996 WIPP LWA Amendments, Pub. L. 104–201.

[3] WIPP LWA, section 8(d).

[4] WIPP LWA, section 8(b).

[5] 50 FR 38066–38089 (September 19, 1985) and 58 FR 66398–66416 (December 20, 1993).

[6] 61 FR 5224–5245 (February 9, 1996), "Criteria for the Certification and Re-certification of the Waste Isolation Pilot Plant's Compliance with the 40 CFR Part 191 Disposal Regulations." (Certain aspects of the Compliance Criteria were challenged in the Court of Appeals for the D.C. Circuit. The Court upheld the Compliance Criteria in their entirety. *State of New Mexico v. Env'l Protection Agency*, No. 96–1107 (D.C. Cir. June 6, 1997)).

[7] WIPP LWA, section 8(d).

[8] 62 FR 9188 (February 28, 1997), Notice of Availability for "Guidance for the Implementation of EPA's Radiation Protection Standards for

Continued

A Guidance (Document Number EPA 402–R–97–001), call the EPA WIPP Information Line at 1–800–331–WIPP, or write to Betsy Forinash, Center for the Waste Isolation Pilot Plant, Mail Code 6602–J, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Finally, today's proposal does not address requirements of the LWA which must be fulfilled by other regulatory agencies. Enforcement of some parts of the hazardous waste regulations, for example, has been delegated to the State of New Mexico. The State's authority for such actions as issuing a hazardous waste operating permit for the WIPP is in no way constrained by EPA's proposed certification decision.

IV. Limits of EPA's Regulatory Authority at the WIPP

As discussed above, the LWA conveys specific responsibilities on EPA to ensure the safety of the WIPP as a permanent disposal facility. The Agency's primary responsibility, described in section 8 of the LWA, is to determine whether the WIPP facility will comply with EPA's disposal regulations. Members of the public have expressed, in written comments and in oral testimony on the Advanced Notice of Proposed Rulemaking for today's proposal, a desire for the Agency to oversee other aspects of WIPP's operation. In response to such concerns, EPA must clarify that its authority to regulate DOE and the WIPP is limited by the LWA and other statutes which delineate EPA's authority to regulate radioactive materials in general. The limitations on EPA's authority necessarily limit the scope of the current rulemaking.

Several commenters suggested that EPA should explore alternative methods of waste disposal—such as neutralizing radioactive elements—before proceeding with a certification decision. Others stated that the WIPP should be opened immediately because underground burial of radioactive waste is less hazardous than the current strategy of above-ground storage. EPA must conduct its WIPP activities in accordance with the intent of Congress as expressed in the LWA. Congress did not delegate to EPA the authority to abandon or delay the WIPP because future technologies might evolve and eliminate the need for the WIPP. Also, Congress did not delegate to EPA the authority to weigh the competing risks of leaving radioactive waste stored above ground compared to disposal of waste in an underground repository. These considerations are outside the authority of the EPA as established in the LWA and, thus, necessarily outside the scope of this rulemaking.

Some commenters requested that EPA consider certain factors in making its certification decision. These factors include: reviews by organizations other than EPA, safety at other DOE facilities, and the political or economic motivations of interested parties. Pursuant to the LWA, EPA's certification decision must be made based on the WIPP Compliance Criteria at 40 CFR Part 194, and in accordance with requirements governing informal rulemaking proceedings. EPA is tasked only with examining the scope and quality of relevant information, and comparing such information to the objective criteria of 40 CFR Part 194. Where relevant, the Agency has considered public comments and outside reviews which support or refute technical positions taken by DOE. Emotional pleas, comments on the motives of interested parties, and the safety of sites or disposal methods other than the WIPP are factors that are not relevant to a determination of whether DOE has demonstrated compliance with the WIPP Compliance Criteria, and are therefore outside the scope of this rulemaking.

In addition, the hazards of transporting radioactive waste from storage sites to the WIPP have been of great concern to the public. EPA has received numerous public comments, oral and written, concerning the possible transport of TRU waste to the WIPP. Transportation is entirely outside EPA's general authority for regulating radioactive waste. Moreover, in the LWA, Congress did not authorize any role for EPA with respect to transportation. Congress addressed transportation issues by requiring DOE to (1) use only shipping containers approved by the Nuclear Regulatory Commission; (2) notify in advance States and Indian Tribes of the transport of TRU waste through their jurisdictions; (3) provide technical assistance and funding to ensure that jurisdictions along WIPP transportation routes receive appropriate training for accident prevention and emergency preparedness; (4) provide transportation safety assistance to States or Indian tribes through whose jurisdictions TRU waste will be transported; and (5) study transportation alternatives. (LWA, section 16) Transportation of radioactive waste is regulated by the Nuclear Regulatory Commission and the U.S. Department of Transportation. Because all transportation requirements for the WIPP are established and enforced by other regulators, EPA does not address the issue further in this proposal.

V. Public Participation

Section 8(d)(2) of the LWA requires that the Administrator's certification decision be conducted by informal (or "notice-and-comment") rulemaking pursuant to Section 553 of the Administrative Procedure Act ("APA"). Notice-and-comment rulemaking under the APA requires that an agency provide notice of a proposed rulemaking, an opportunity for the public to comment on the proposed rule, and a general statement of the basis and purpose of the final rule adopted.[9]

The WIPP is a first-of-a-kind project, and New Mexico citizens have expressed a great deal of interest in the safety of the site. The WIPP Compliance Criteria, at Subpart D of 40 CFR Part 194, established a process of public participation that exceeds the APA's basic requirements, and provides the public with the opportunity to participate in the regulatory process at the earliest opportunity. The WIPP Compliance Criteria contain provisions that require EPA to: publish an advance notice of proposed rulemaking ("ANPR") in the **Federal Register**; allow public comment on DOE's compliance certification application ("CCA") for at least 120 days, prior to proposing a certification decision; hold public hearings in New Mexico, if requested, on the CCA; provide a minimum of 120 days for public comment on EPA's proposed certification decision; hold public hearings in New Mexico on EPA's proposal; produce a document summarizing the Agency's consideration of public comments on the proposal, and maintain informational dockets in the State of New Mexico to facilitate public access to the voluminous technical record, including the CCA. EPA either has or will comply with each of these requirements.

In addition, EPA has taken other measures to assure that the public is involved in the present rulemaking. EPA allowed the New Mexico Environment Department, the New Mexico Environmental Evaluation Group, and more recently, the New Mexico Attorney General's Office as well, to observe meetings between EPA and DOE staff to discuss technical issues during the pre-proposal period. EPA also committed to summarize all meetings between EPA and DOE (including management level meetings and meetings between EPA and DOE legal staff) and to place such summaries in the public docket. While these commitments are not required by the APA, EPA believes that they are useful given the importance of this rulemaking to the nation as a whole, and New Mexico in particular.

A. Advance Notice of Proposed Rulemaking (ANPR)

EPA received DOE's CCA on October 29, 1996. Copies of the CCA and all the accompanying references submitted to EPA were placed in EPA's dockets in New Mexico and Washington, DC. Upon receipt of the CCA, EPA immediately began its review of the application in accordance with 40 CFR 194.11, "Completeness and accuracy of compliance applications." On November 15, 1996, the Agency published in the **Federal Register** (61 FR 58499) an ANPR announcing that the CCA had been received, and announcing the Agency's intent to conduct a rulemaking to certify whether the WIPP facility will comply with the disposal regulations. The notice also announced a 120-day public comment period, requested public comment "on all aspects of the CCA," and stated EPA's intent to hold public hearings in New Mexico.

B. Public Hearings on ANPR

The EPA published a separate notice in the **Federal Register** announcing hearings to allow the public to address all aspects of DOE's certification application. (62 FR 2988) Public hearings were held on February 19, 20 and 21, 1997, in Carlsbad, Albuquerque and Santa Fe, New Mexico, respectively. All individuals who requested an opportunity to address the EPA panel during the hearings were afforded five minutes if they were representing themselves, or ten minutes if they were representing a group. In Albuquerque and Santa Fe, EPA extended the hours of the hearings in order to accommodate all individuals who requested that they be allowed to address the panel.

C. Additional Public Input

In addition to the public hearings, EPA held three days of meetings in New Mexico, on January 21, 22 and 23, 1997, with the principal New Mexico Stakeholders, including the New Mexico Attorney General's Office, the New Mexico Environmental Evaluation Group, Concerned Citizens for Nuclear Safety, Citizens for Alternatives to Radioactive Dumping, and Southwest Research and Information Center. Detailed summaries of these meetings were placed in Docket A–93–02, Category II–E.

D. Public Comments on ANPR

The Agency received over 220 sets of written and oral public comments in response to the ANPR. All comments received on the ANPR were made available to members of the public through the public docket. (Docket A–93–02, Category II–H) In accordance with 40 CFR 194.61(f), DOE submitted to the Agency additional information specifically addressing many of the comments received; these submittals were treated by EPA as public comments.

The Agency reviewed all public comments submitted during the ANPR 120-day comment period or presented at the preliminary meetings with stakeholders. Public comments received in response to the ANPR generally focused on the completeness of the CCA, specific technical issues relating to compliance with the disposal regulations, and EPA's approach to public participation in accordance with the provisions of the WIPP Compliance Criteria, and pursuant to the LWA and the APA.

The EPA is providing responses to these comments in this preamble as well as in the compliance application review documents ("CARDs") which are part of today's proposed certification decision. The CARDs also address late comments—and comments on completeness (see below)—received after the close of the public comment period (on March 17, 1997) but before August 8, 1997. All relevant public comments, whether received in writing, or orally during the public hearings, were considered by the Agency as the proposed certification decision was developed. Comments received after August 8 were considered by EPA, to the extent possible, in its development of the proposed rule, but were not addressed in CARDs because of time constraints. Such comments will be addressed in the Response to Comments document for EPA's final certification decision.

E. Completeness Determination

Section 8(d)(1)(B) of the LWA establishes a one-year time frame for the Administrator to reach a certification decision regarding WIPP's compliance with the disposal regulations. Section 8(d)(4) of the LWA requires that EPA make its certification determination only after DOE has submitted the "full application" to EPA. The Compliance Criteria, at § 194.11, interpret these requirements to mean one year from receipt of a "complete" certification application from DOE. This assures that the one-year review period is devoted exclusively to substantive, meaningful review of the CCA.

Upon receipt of the CCA in October 1996, EPA began reviewing the CCA for both completeness and, to the extent possible, technical adequacy. Pursuant to section 8(d)(1) of the LWA, EPA provided requests to DOE for specific information needed for completeness on December 19, 1996. (Docket A–93–02, Item II–I–1, Attachment 1) DOE submitted the requested information with letters dated January 17, January 24, February 7, February 14, and February 26, 1997. (This correspondence is available in Docket A–93–02, Category II–L) On May 16, 1997, the Administrator informed the Secretary, in writing, that the CCA was complete. The completeness determination was announced in the **Federal Register** on May 22, 1997. (62 FR 27996–27998)

The determination of completeness meant only that all sections of the disposal regulations and Compliance Criteria had been addressed in the CCA. The completeness determination did not state or imply that compliance with the disposal regulations or WIPP Compliance Criteria had been achieved. In short, the completeness determination was an interim administrative step to announce that the CCA contained the information necessary for the Agency to proceed with its technical evaluation of compliance.

Moreover, section 8(d)(1) of the LWA specifically allows EPA to request additional information "as needed to certify" at any time. EPA made such additional requests in letters to DOE dated December 19, 1996, and February 18, March 19, April 17, April 25, June 6, and July 2, 1997. (Docket A–93–02, Items II–I–1, II–I–9, II–I–17, II–I–25, II–I–27, II–I–32, and II–I–37, respectively)

F. Public Comments on Completeness

The Agency received numerous public comments regarding the timing of the Administrator's completeness determination. While some comments stated that the CCA was administratively complete upon submission, others argued that the CCA was incomplete and simply should be returned to DOE. The latter set of commenters expressed that it was not appropriate for the Agency to close the public comment period on the ANPR prior to the Administrator's determination of completeness, and that the public hearings should be delayed until after the completeness determination. Other commenters

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Management and Storage of Transuranic Waste at the Waste Isolation Pilot Plant ('WIPP Subpart A Guidance')."

[9] 5 U.S.C. 553.

requested an additional 120-day comment period after the completeness determination was issued, as well as an additional set of public hearings during such a comment period.

In making its completeness determination, EPA considered public comments which explicitly addressed the issue of completeness and were submitted to the docket or to EPA's Office of Radiation and Indoor Air. In response to concerns expressed by commenters, the Agency notified the public in the **Federal Register** announcement regarding the completeness determination that EPA would continue to accept public comments on the CCA subsequent to the completeness determination. (62 FR 27997) (Comments on completeness received before August 8, 1997, are addressed in more detail in the CARDs supporting this proposal. Comments received after August 8 will be addressed in the Response to Comments document for EPA's final certification rule.) In accordance with § 194.62, the public is being afforded a 120-day period in which to comment on today's proposal. This comment period will provide the public with another opportunity to comment on DOE's CCA, as well as an opportunity to address EPA's proposed certification decision.

Public comments received during and after the ANPR comment period also requested that EPA clarify what specific material constitutes the "complete" CCA. This concern was raised because, at EPA's request, DOE supplemented the docket with substantial additional materials beyond what was initially submitted on October 29, 1996. Many of the issues raised by public comments were addressed in a December 19, 1996 letter to DOE in which EPA identified additional information necessary for the CCA to constitute a complete application. (Docket A–93–02, Item II–I–1, Attachment 1) To address completeness concerns, EPA requested additional information on (among other topics) site conditions, documentation of computer codes, and the effects of explosions—issues all identified in public comments. DOE submitted the requested information with letters dated January 17, January 24, February 7, February 14, and February 26, 1997. The complete CCA consists of the application that was submitted to EPA on October 29, 1996, and supplementary materials provided by DOE that were identified by EPA, in the December 19 letter, as necessary for completeness. A list of the specific items that comprise the complete application is located in Docket A–93–02, Item II–C–29. All correspondence between DOE and EPA regarding completeness of the CCA is available in the Agency's public dockets. (Docket A–93–02, Category II–I)

Other issues raised by commenters, such as fluid injection scenarios, were not considered relevant to the completeness determination and instead were addressed by EPA in its technical comments to DOE.

G. Proposed Certification Decision

Today's Notice of Proposed Rulemaking for certification fulfills the requirements of the WIPP Compliance Criteria at § 194.62. Today's notice announces the Administrator's proposed decision, pursuant to section 8(d)(1) of the LWA, as amended, to issue a certification that the WIPP facility will comply with the disposal regulations, and solicits comment on the proposal. Today's notice also marks the beginning of a 120-day public comment period on EPA's proposed certification decision. Finally, today's notice announces that public hearings will be held in New Mexico during the public comment period. Further information on the hearings will be provided in a subsequent **Federal Register** notice. Any comments received on today's notice will be made available for inspection in Docket A–93–02, Category IV–D.

H. Final Certification Decision

The Agency will publish a final rule in the **Federal Register** announcing the Administrator's final decision, pursuant to section 8(d)(1) of the LWA and in accordance with the Compliance Criteria at 40 CFR 194.63, whether to issue a certification that the WIPP facility will comply with the disposal regulations. EPA will review comments submitted on EPA's proposed decision. (Comments regarding the ANPR and completeness that are addressed in the CARDs for the proposed rule have already been considered and will not be addressed again in the Response to Comments document for the final rule.) A document summarizing significant comments and issues arising from comments received on today's Notice of Proposed Rulemaking, as well as the Administrator's response to such significant comments and issues, will be prepared and will be made available for inspection in Docket A–93–02.

I. Dockets

In accordance with 40 CFR 194.67, EPA maintains a public docket (Docket A–93–02) that will contain all information used to support the Administrator's proposed and final decisions on certification. The Agency established and maintains the formal rulemaking docket in Washington, D.C., as well as informational dockets in three locations in the State of New Mexico (Carlsbad, Albuquerque, and Santa Fe). The docket consists of all relevant, significant information received to date from outside parties and all significant information considered by the Administrator in reaching a proposed certification decision regarding whether the WIPP facility will comply with the disposal regulations. Copies of the CCA were placed in Category II–G of the docket. Supplementary information received from DOE in response to EPA requests was placed in Categories II–I and II–G.

The hours and locations of EPA's public information dockets are as follows: Docket No. A–93–02, located in room 1500 (first floor in Waterside Mall near the Washington Information Center), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C., 20460 (open from 8:00 a.m. to 4:00 p.m. on weekdays); (2) EPA's docket in the Government Publications Department of the Zimmerman Library of the University of New Mexico located in Albuquerque, New Mexico, (open from 8:00 a.m. to 9:00 p.m. on Monday through Thursday, 8:00 a.m. to 5:00 p.m. on Friday, 9:00 a.m. to 5:00 p.m. on Saturday, and 1:00 p.m. to 9:00 p.m. on Sunday); (3) EPA's docket in the Fogelson Library of the College of Santa Fe in Santa Fe, New Mexico, located at 1600 St. Michaels Drive (open from 8:00 a.m. to 12:00 midnight on Monday through Thursday, 8:00 a.m. to 5:00 p.m. on Friday, 9:00 a.m. to 5:00 p.m. on Saturday, 1:00 p.m. to 9:00 p.m. on Sunday); and (4) EPA's docket in the Municipal Library of Carlsbad, New Mexico, located at 101 S. Halagueno (open from 10:00 a.m. to 9:00 p.m. on Monday through Thursday, 10:00 a.m. to 6:00 p.m. on Friday and Saturday, and 1:00 p.m. to 5:00 p.m. on Sunday). As provided in 40 CFR Part 2, a reasonable fee may be charged for photocopying docket materials.

VI. National Academy of Sciences Report on the WIPP

The National Academy of Sciences ("NAS") has long considered the issue of proper disposal of radioactive wastes. The NAS first discussed the likely suitability of salt formations as a medium for geologic disposal of high-level radioactive wastes in 1957.[10] A later study recommended the use of bedded salt formations for geologic disposal.[11]

The NAS has provided specific scientific and technical guidance to DOE regarding the WIPP since the inception of the NAS WIPP Committee in 1978. In October 1996, the NAS released a report assessing the long-term safety and performance of the WIPP disposal system. The report is available in Docket A–93–02, Item II-A–38. The WIPP committee's schedule did not allow for review of the CCA submitted to EPA in October 1996; instead, the committee examined a preliminary performance assessment ("PA") conducted in 1992, and draft versions of DOE's CCA. For this reason and others, the NAS noted that the report was "a review of ongoing activities and should be viewed as a progress report rather than a final evaluation."[12]

The report reiterates NAS belief that salt is an attractive medium for geologic isolation of radioactive waste. Based on its review of the 1992 PA, the committee found no credible or probable scenario for release of radionuclides from the WIPP if it is undisturbed by human intrusion. The report concluded that disturbed scenarios—i.e., those involving deliberate or unintentional human intrusion—could compromise the integrity of the disposal system. Finally, the committee recommended several changes intended to produce a more technically defensible and more easily understood PA.

EPA considered the NAS report in developing its proposed certification decision. Specific recommendations on alternative modeling approaches or other improvements to the 1992 PA were considered by EPA in evaluating whether the CCA is adequate. The Agency treated such recommendations as public comments on the ANPR, and responds in detail to particular issues in the CARDs supporting today's proposal. EPA did not give substantial consideration to the committee's general conclusions on the PA because, subsequent to the NAS review, EPA required numerous changes to the preliminary PA considered by the committee. The committee recommended that human intrusion scenarios could be made less speculative by refining probability estimates for the occurrence of future human activities, but suggested neither a methodology for doing so, nor an alternative approach to human intrusion which could be implemented within the framework of the Compliance Criteria.[13]

VII. Codification of EPA's Certification Decision

The requirements which apply to the rulemaking process used to develop EPA's certification decision (including measures for soliciting and considering public input) do not prescribe what form the final decision must take. In analogous situations where EPA issues or denies hazardous waste no-migration petitions for landfills or other sites, public notice of the decision is provided by publication in the **Federal Register**, and such notice serves as the record of EPA's action.[14] Because of the one-of-a-kind nature of the WIPP facility, EPA has determined that it is appropriate to provide a more permanent record of the Agency's decision. To that end, EPA's decision is being published in the **Federal Register** and also will be codified as an appendix to the WIPP Compliance Criteria at 40 CFR Part 194. A lasting record of EPA's certification decision will be established since the appendix will be included each time in the future that the Code of Federal Regulations is compiled and published.

VIII. Determination of Whether the WIPP Complies With the Disposal Regulations

The proposed rule states the Agency's determination that the WIPP will comply with the disposal standards and Compliance Criteria, taken as a whole. In addition, the proposal specifies all conditions which apply to the certification. As noted previously, EPA's certification of compliance depends on DOE satisfying the specific requirements of the WIPP Compliance Criteria: The ensuing sections of the **SUPPLEMENTARY INFORMATION** address each of the technical WIPP Compliance Criteria in turn; the Agency describes the basis for evaluating compliance with each criterion, and discusses briefly how the CCA submitted by DOE, and other relevant information, demonstrated compliance with EPA's requirements. CARDs provide more detailed support for EPA's proposed decisions regarding compliance with individual criteria. The CARDs are available for public review in Docket A-93–02, Category III-B. See "additional docket information" in the **SUPPLEMENTARY INFORMATION**.

Not all sections of the WIPP Compliance Criteria are discussed below because not all the provisions of 40 CFR Part 194 are directly relevant to an evaluation of compliance with the disposal regulations. Some sections of 40 CFR Part 194—such as § 194.1, "Purpose, scope and applicability"—are entirely administrative in nature. Other sections, including those related to public participation, address procedural aspects of the certification rulemaking. Still others refer to future actions which may occur, such as inspections or the need to suspend an existing certification. Such criteria are not relevant to EPA's analysis of whether information in the CCA and elsewhere demonstrates that the WIPP site will comply with EPA's disposal regulations. Some of these criteria are addressed elsewhere in the **SUPPLEMENTARY INFORMATION**. For example, EPA's adherence to the public participation requirements of the LWA and 40 CFR Part 194 is documented under "public participation."

A. Basis for EPA's Compliance Determination

EPA's proposed certification decision is based on the entire record available to the agency, which is contained in Docket A-93–02. The record consists of the complete DOE CCA, supplementary information submitted by DOE in response to EPA requests for additional information for technical sufficiency, technical reports generated by EPA and EPA contractors, EPA audit reports, and public comments submitted on EPA's ANPR for the certification decision.

Thus, as contemplated by Congress, EPA's compliance determination is based on more than the "complete" application. (LWA, section 8(d)(1)) EPA also relied on materials prepared by the Agency or submitted by DOE in response to EPA requests for specific additional information necessary to address technical sufficiency concerns. Examples of such documents include EPA technical and audit reports and letters submitted by DOE (i.e., those contained in Docket A–93–02, Category II–I).

In response to public comments regarding the precise materials EPA considered in reaching today's proposed decision, the CARDs reference the

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[10] National Research Council (NRC), "The Disposal of Radioactive Wastes on Land" (National Academy Press 1957).

[11] NRC, "Disposal of Solid Radioactive Wastes in Bedded Salt Deposits" (National Academy Press 1970).

[12] NRC, "The Waste Isolation Pilot Plant: A Potential Solution for the Disposal of Radioactive Waste" (National Academy Press 1996), p. 12.

[13] NAS never submitted official comments on proposed 40 CFR Part 194. In contexts other than the WIPP report, however, NAS has acknowledged the impossibility of making decisions regarding nuclear waste disposal based solely on scientific information: "[I]t became clear in the course of our work that designing the standards requires making decisions based as much or more on policy considerations than on science. It is equally clear that there is no sharp dividing line between science and policy." [NRC, *Technical Bases for Yucca Mountain Standards* (National Academy Press, 1995), p. viii] The rulemaking process used to develop the WIPP compliance criteria provided a forum for EPA to gather and weigh scientific evidence, public concerns, and other policy issues regarding the treatment of human intrusion in PA.

[14] *See, e.g.*, the RCRA Conditional No-Migration Petition, 55 FR 47700.

relevant portion(s) of the October 29, 1996, CCA and any supplementary information that was relied on in reaching a particular proposed compliance decision. All materials which informed EPA's proposed decision have been placed in the WIPP dockets or are otherwise publicly available. EPA has specified in the docket the location of all reference materials to aid the public in its evaluation of such information. A full description of the supporting documentation for EPA's proposed decision and a full list of the DOE compliance documentation considered by the Agency are located at Docket A–93–02, Item III–B–1. Through these means, the Agency believes the public will have a clear indication of what materials constitute the complete CCA, and what materials constitute the record basis for EPA's proposed certification decision.

B. Compliance Application Review Documents (CARDs)

The preamble for today's proposed rule describes the basis for the Agency's compliance determination for each of the relevant WIPP Compliance Criteria. The detailed technical rationale for EPA's proposed decision is contained in the Compliance Application Review Documents (CARDs) supporting today's action. Taken as a whole, the CARDs are analogous to the Background Information Document usually provided for EPA rulemakings. These documents are found at Docket A–93–02, Item III–B–2.

The CARDs discuss DOE's compliance with the individual requirements of the WIPP Compliance Criteria. Each CARD is a section in the document which is numbered according to the section of 40 CFR Part 194 to which it pertains. For example, CARD 23 addresses § 194.23, "Models and Computer Codes." In the section of each CARD called "Compliance Review Criteria," EPA restates the specific requirement and identifies the relevant information expected in the CCA, as described in the "Compliance Application Guidance for the WIPP: A Companion Guide to 40 CFR Part 194" ("CAG," EPA 402–B–95–014, March 1996). EPA also clarifies the Agency's rationale for evaluating the CCA's completeness and technical adequacy.

After explaining the Agency's compliance review criteria, each CARD summarizes DOE's approach to compliance and describes EPA's compliance review. CARDs also list additional EPA technical support documents and any other references used by EPA in rendering a proposed decision on compliance. All technical support documents and references are found in Docket A–93–02 with the exception of generally available references and those documents already maintained by DOE or its contractors in locations accessible to the public. DOE has committed to make such documents readily available to the public. Instructions for obtaining access to DOE documents can be found at Docket A–93–02, Item III–B–1.

Finally, CARDs contain EPA's response to comments received on the Agency's ANPR of November 15, 1996 (61 FR 58499) and on other comments received prior to August 8, 1997. For more discussion of EPA's response to these comments, see "Public Participation" in the **SUPPLEMENTARY INFORMATION**.

For technical information or more detailed discussion on EPA's evaluation of compliance with any individual provision of 40 CFR Part 194, readers should refer to the corresponding CARD in Docket A–93–02, Item III–B–2.

IX. Section 194.14, Content of Compliance Certification Application

40 CFR Part 194 sets out those elements which the Agency requires to be in a complete compliance application. In general, compliance applications must include information relevant to demonstrating compliance with each of the individual sections of 40 CFR Part 194 to determine if the WIPP will comply with the Agency's radioactive waste disposal regulations at 40 CFR Part 191, Subparts B and C. The Agency published the "Compliance Application Guidance for the Waste Isolation Pilot Plant: A Companion Guide to 40 CFR Part 194" ("CAG") which provided detailed guidance on the submission of a complete compliance application.

Any compliance application must include, at a minimum, basic information about the WIPP site and disposal system design, and must also address all the provisions of the Compliance Criteria; these requirements are embodied in § 194.14. The documentation required in the Compliance Criteria is important to enable a rigorous, thorough assessment of whether the WIPP facility will comply with the disposal regulations.

Much of the information referenced by DOE as demonstrating compliance with § 194.14, and EPA's review of the information, was principally used to demonstrate compliance with other sections of the Compliance Criteria. Thus, this section of the preamble discusses many of the requirements of § 194.14 only briefly because they are fully discussed in other sections of the preamble. EPA thoroughly reviewed DOE's compliance certification application ("CCA") submitted on October 29, 1996, and additional information submitted by DOE.

A. Site Characterization

40 CFR 194.14(a) requires DOE to describe the characteristics of the WIPP site, including the natural and engineered features that may affect the performance of the disposal system. The characteristics of the site and identification of potential pathways are crucial to the conceptual models and computer modeling that is done to determine compliance with the containment requirements at 40 CFR 191.13 and the individual and ground-water protection requirements. In addition to a general understanding of the site, EPA required specific information on hydrologic characteristics with emphasis on brine pockets, anhydrite interbeds, and potential pathways for transport of waste. EPA also required DOE to project how geophysical, hydrogeologic and geochemical conditions of the disposal system would change due to the presence of waste.

EPA examined the CCA and determined that it and the supplemental information provided by DOE contained an adequate description of the WIPP geology, geophysics, hydrogeology, hydrology and geochemistry of the WIPP disposal system and its vicinity, and how these conditions change over time. The CCA discussed that very few potential pathways exist for radionuclide transport. DOE projected future geophysical, hydrogeologic and geochemical conditions due to the presence of waste. A brief overview of the site is provided below.

The WIPP is located in the Delaware Basin of New Mexico and Texas and is approximately 26 miles southeast of Carlsbad, New Mexico. This area of New Mexico is currently arid, but precipitation increases were accounted for in the performance assessment ("PA"). The Delaware Basin contains thick sedimentary deposits (over 15,000 feet (4572 meters) thick) that overlay metamorphic and igneous rock (1.1 to 1.5 billion years old). The WIPP repository is a mine constructed approximately 2,150 feet (655 meters) below ground surface in the Permian age (~200–250 million years old) Salado Formation, which is composed primarily of salt (halite).

DOE considered the primary geologic units of concern to be (from below the repository to the surface): (1) Castile Formation ("Castile"), consisting of

anhydrite and halite with pressurized brine pockets found locally throughout the vicinity of the WIPP site; (2) Salado Formation ("Salado"), consisting primarily of halite with some anhydrite interbeds and accessory minerals and approximately 2,000 feet (600 meters) thick; (3) Rustler Formation ("Rustler"), containing salt, anhydrite, clastics, and carbonates (primarily dolomite), with the Culebra dolomite member of the Rustler as the unit of most interest; and, (4) Dewey Lake Red Beds Formation ("Dewey Lake"), consisting of sandstone, siltstone and silty claystone. The geologic formations below these were included in the screening of features, events, and processes, but were not included in PA calculations because they did not affect the performance of the disposal system. See § 194.32 for a detailed discussion of screening of features, events, and processes.

DOE indicated that the major geologic process in the vicinity of the WIPP is dissolution. To the west, the slight (one degree) dip in the Salado has exposed the formation to dissolution processes, and commenters argued that lateral dissolution processes will affect the WIPP's ability to contain radionuclides. However, DOE estimated that the dissolution front will not reach the WIPP site for at least hundreds of thousands of years—well past the regulatory time frame. EPA agrees with DOE's conclusion that while deep dissolution has occurred elsewhere in the Delaware Basin, the process of deep dissolution, if it occurs under the WIPP site, would occur at such a slow rate that it would not affect the containment capabilities of the WIPP during the regulatory time period.

Many commenters suggested that WIPP can not contain radionuclides because WIPP is in a region of karst (topography created by the dissolution of rock). EPA reviewed information submitted by DOE and stakeholders regarding the occurrence and development of karst at the WIPP (e.g., Docket A–93–02, Items II–H–46 and II–D–102). EPA concluded that while the WIPP site is in a karst region and karst features are found to the west of the site in Nash Draw, only limited evidence exists that dissolution-related features occur near the WIPP boundary (e.g., well WIPP–33). These features are neither pervasive nor associated with any identified preferential groundwater flow paths or anomalies. WIPP field mapping and site-specific hydrologic information (e.g., well tracer tests) do not indicate that any cavernous or other karst-related flow is present at the WIPP site. As stated in a technical document submitted by one commenter, "the karst phenomena do not appear to warrant a rejection of the WIPP site." (Docket A–93–02, Item II–D–102) EPA agrees and concludes that karst is not a problem at WIPP and that geologic evidence of the last approximately 500,000 years and results from DOE's groundwater modeling indicate that future development of karst at the WIPP is not likely.

DOE conducted geologic studies and field measurements as part of its evaluation of the hydrology of the WIPP site and identified two potential pathways for radionuclides in the disposal system: the Culebra dolomite and Salado anhydrite markerbeds 138 and 139. However, only the Culebra dolomite has the capability to transmit significant amounts of radionuclides. The Salado markerbeds have very low permeability and are the primary pathways in the undisturbed case. The results of the CCA PA indicated that radionuclide transport through the anhydrites does not contribute significantly to total releases. The Culebra dolomite is a potential pathway only in intrusion scenarios. Commenters stated that the Dewey Lake should be considered a potential pathway and thus needed better characterization; however, the CCA PA results indicated that no contaminated brine traveled up an intrusion borehole past the Culebra to the Dewey Lake or other units. While DOE did identify the Dewey Lake as a potential underground source of drinking water, the CCA PA results indicated that the Dewey Lake did not play an active role in radionuclide release scenarios. EPA concludes that the Culebra dolomite and the Salado anhydrite markerbeds 138 and 139 are the only ground-water radionuclide transport pathways in the disposal system.

As the primary radionuclide pathway during an intrusion, the Culebra was the subject of many public comments, especially related to karst (discussed above), K_d values (distribution coefficients used in calculating the retardation factor) and geochemistry and flow directions. In DOE's conceptual model the Culebra is characterized as a fractured dolomite that has dual-porosity and acts to physically retard movement of contaminants. In a dual-porosity rock unit, ground-water is believed to flow through the fractures, but water and contaminants can access the pore space within the rock matrix away from the fractures. Movement of water and contaminants into the pore space slows (retards) their respective forward movement. This physical retardation is necessary in order to have chemical retardation. In the process of chemical retardation, contaminants diffuse from the fractures into the pore space where they can adsorb onto the rock mass.

The CCA indicated that there were no contributions to total releases from the ground-water pathway. This was due, in large part, to the fact that radionuclides adsorbed into the Culebra dolomite did not move with the ground-water flow. That is, the movement of the radionuclides were retarded with respect to the ground-water flow. The estimate of the extent of the retardation was based on laboratory tests using crushed rocks and small columns of rock. EPA concluded that the laboratory tests were conducted appropriately and that the K_d values DOE derived from this testing are reasonable given the experimental evidence. However, EPA believes that a lognormal distribution is a more appropriate representation of the data distribution, and required the use of a lognormal distribution in the Performance Assessment Verification Test (PAVT). For further discussion of the PAVT, refer to the preamble for § 194.34.

DOE indicated in the CCA that there is considerable variation in the groundwater chemistry of the Culebra member of the Rustler Formation. In addition, DOE provided supplemental information pertaining to Culebra groundwater flow and geochemistry which contended that the observed geochemistry and flow directions can be explained with the ground-water basin modeling. (Docket A–93–02, Item II–I–17) The ground-water basin model addressed near surface hydrologic conditions (including the water table and potential recharge areas) and reconciled inconsistencies between the geochemistry data and the current ground-water flow direction.

The probability of intercepting a Castile brine reservoir (i.e., brine pocket) and the characteristics of a brine reservoir once it has been hit were the subject of many public comments as well as a source of EPA concern. Because of the low permeability of the Salado Formation, there is no natural connection between a Castile brine pocket and the waste panel area. However, in the case of a deep drilling intrusion that goes through a waste panel and into the Castile, it is possible that the drilling will intercept brine in the Castile and create a pathway for Castile brine to flow into the repository and interact with the waste.

In the 1992 PA, Sandia National Laboratory ("SNL") considered the probability of hitting a brine pocket under the waste area an uncertain parameter that required sampling over a

range of 0.25 to 0.62. This range of probabilities was based on geophysical work that suggested brine may be present. For the CCA PA, SNL conducted a new analysis based on a geostatistical analysis of oil and gas wells in the vicinity of WIPP. From this study, SNL identified the probability of hitting brine as 0.08, partly because the brine is expected to be in fractures that are oriented vertically or slightly less than vertical. EPA reviewed the CCA and public comments and concluded that, while the probability of hitting a brine pocket may be low, there was no justification for assuming a fixed value for such an uncertain parameter. EPA therefore directed DOE, for the PAVT, to change the probability of hitting a brine pocket to a range that incorporated low to moderate probabilities (0.01 to 0.6).

The potential volume of brine reservoirs was also the subject of numerous comments claiming that, in the PA, DOE underestimated the brine volume. DOE assumed that passive institutional controls ("PICs") will limit the available brine pocket volume to that within the area covered by the surface berm used to mark the subsurface location of the waste panels. EPA reviewed information in the CCA, public comments, and the SNL Records Center. EPA concluded that the approach of excluding Castile brine pocket volumes based on the waste panel "foot print" is inappropriate because the efficacy of drilling in the area outside the berm cannot be reasonably defined. EPA directed DOE, for the PAVT, to change the brine pocket volume to a volume that is more representative of data from site characterization activities (i.e., the WIPP–12 exploratory well). The PAVT also omits the credit for PICs.

The results of the PAVT indicated that changing the probability of hitting a brine pocket has a negligible effect on releases, but changing the brine volume from 160,000 cubic meters to 17 million cubic meters does have a noticeable effect on releases for the scenarios in which a brine pocket is hit. Nevertheless, the PAVT results indicated that, even with these changes combined with other parameter changes, the PAVT results are similar to those in the CCA and still meet the containment requirements by more than one order of magnitude. EPA believes that the PAVT verifies that the original CCA Castile brine reservoir parameters were adequate for use in PA and comparison against the radioactive waste containment requirements. See the preamble for § 194.34(f) for additional information on the results of the PAVT.

EPA agrees with DOE's conclusion in the CCA that the most important extractable resources near the WIPP are hydrocarbons, potassium salts (potash), and water. DOE indicated that some of the geologic formations below the repository area contain oil and gas resources that are currently being exploited in the Delaware Basin. According to DOE's analysis, most of the water in the vicinity of the WIPP is highly saline, with the closest dependable potable aquifer associated with the Capitan Reef at the edge of the Basin. With respect to potash, the CCA indicated that only the 4th and 10th potash zones qualify as economic reserves. Commenters noted that the extent of potash identified by DOE is different than that identified by the Bureau of Land Management in its map of resources. EPA concludes that DOE's presentation is reasonable, given the 40 CFR Part 194 requirements that DOE assess resources relative to those currently being mined.

The projected effect of waste on the disposal system are primarily limited to gas generation that increases repository pressure and actinide solubility. Gas will be generated: (1) By corrosion of metals and (2) as a byproduct of microbial degradation of cellulosics, plastics and rubbers. Gas generation primarily affects spallings (due to high pressures) and direct brine releases (due to high pressures and increasing solubility). DOE indicated that magnesium oxide ("MgO") backfill emplaced with transuranic waste would mitigate the solubility-enhancing effects of carbon dioxide from waste degradation. EPA concurs with DOE's assessment. Refer to § 194.44 for further discussion of the effects of MgO.

Although commenters questioned DOE's characterization of the WIPP site, especially the hydrology, EPA concluded after extensive review that DOE identified, characterized, and used in the calculations the major components of the geologic and hydrologic system around the WIPP. DOE provided a detailed discussion of the geology and identified the few geologic units that are important to PA. DOE also identified that very few geologic units could transmit fluids and transport radionuclides; after an intrusion, only the Culebra dolomite is a significant pathway above the Salado with other overlying units not receiving any contaminated brine. EPA reviewed DOE's discussion on dissolution and karst and concludes that these processes are not currently significant and will not affect WIPP over the regulatory time period. EPA disagreed with DOE's characterizations of the Castile brine pocket and required changes for the PAVT; however, PAVT results verified that the original parameters were acceptable for use in the PA.

B. Disposal System Design

Section 194.14(b) requires DOE to describe the design of the disposal system, including natural and man-made materials, and architectural and structural aspects of the disposal system. DOE also must describe the computer codes and standards that have been applied to the design and construction of WIPP.

The CCA contained a general description of the WIPP facility and a detailed description of the underground disposal system (including the engineered barriers in the repository and shaft system as well as the geologic units). The WIPP repository is an underground mine that will eventually have eight panels (each of which will include seven football-field long rooms) connected by drifts. Waste will be emplaced in the WIPP through the waste shaft. An exhaust shaft, salt handling shaft, and air intake shaft also penetrate the WIPP repository. The underground mine is attended by surface equipment and buildings that will handle waste prior to its emplacement in the WIPP. DOE intends to pack bags of magnesium oxide ("MgO") around the waste containers, and will seal each panel after it is filled with waste. The Salado salt will eventually "creep" and close WIPP rooms and panels. The WIPP was designed to take advantage of this encapsulation so that transuranic waste emplaced in the WIPP will be completely enveloped by salt, thus minimizing the potential for waste migration.

The major disposal system engineered features related to long-term performance are the general design, shaft seals, panel closures, borehole plugs, and the additional engineered barrier of backfill around the waste. The purpose of the shaft seal system is to limit fluid flow within the shafts after the WIPP is decommissioned and to ensure that the disposal system shafts will not become pathways for radionuclide release. The shaft seal system has 13 elements that fill the shaft with engineered materials possessing high density and low permeability, including concrete, clay, compacted salt, cementitious grout, and earthen fill. DOE identified the compacted salt column as the most critical element in the long-term performance of the shaft seal. The compacted salt column component of the system within the Salado is intended to serve as the primary long-term barrier by limiting fluid transport along the shaft during the 10,000-year regulatory period. The other components of the shaft seal within the Salado are intended to prevent migration of radionuclides in the short term and protect the compacted salt column until it is sufficiently consolidated to act as an effective long-term barrier. Components of the seal system within the Rustler are intended to limit the commingling of groundwater between the water bearing members. The seal system overlying the Rustler will consist of compacted earthen fill. The shaft seal design in the CCA received extensive technical review by DOE, and was also subjected to an independent design review. EPA concludes that the shaft seal design is adequate because the system can be built and is expected to function as intended.

The purpose of borehole plugs is to mitigate the potential for migration of contaminants toward the accessible environment. DOE indicated that it will abide by the applicable State oil and gas well plugging requirements. While there are four deep research wells drilled in the disposal system, DOE stated that "the ERDA–9 exploratory hole was the only hole within the underground development area which was permitted to penetrate the Salado formation to the underground facility horizon." ERDA–9 did not penetrate an area that will become a waste panel and DOE has indicated that abandoned boreholes more than a meter away from the waste can be screened out of PA due to low consequence. EPA agrees with DOE's assessment that these boreholes are not significant to performance of the disposal system and can be screened out of PA.

The primary long-term effect of the panel closure will be to block the flow of brine between panels. DOE provided four design options for panel closures but did not specify in the CCA which panel closure option would be used at WIPP, an omission that was pointed out in public comments. (Docket A–93–02, Item II–H–10) In reviewing the four panel closure design options, EPA identified Option D in the CCA as the most robust design, and reviewed that design as the basis for an evaluation of compliance. EPA found that the design for Option D would be expected to perform as described, but that the use of a Salado mass concrete (consistent with the type specified for the shaft seal system) rather than fresh water concrete would be more consistent with the permeability assumptions used in PA. EPA determined that such a design is adequate to achieve the long-term performance modeled in PA, and therefore proposes to find that DOE complies with § 194.14(b). However, because EPA is basing its proposed compliance determination on the Option D panel seal design, the EPA is also proposing to establish a certification condition requiring DOE to implement the Option D design, with Salado mass concrete replacing fresh water concrete. (See Condition 1 in the proposed Appendix A to 40 CFR Part 194.) Although EPA's sensitivity analysis indicates that the panel closure permeability is not a sensitive parameter, especially with the disturbed rock zone at the same or higher permeability, the Agency believes it is important to ensure that the proposed design on which compliance was based is actually implemented at the site. Because of the presence of the disturbed rock zone, EPA expects that gas flow between panels for long-term performance purposes would be relatively unaffected by the design choice.

C. Results of Assessments

Section 194.14(c) requires the CCA to present the results of assessments of the WIPP's performance, given human intrusion into the disposal system (performance assessment) and undisturbed conditions (compliance assessment). EPA determined that DOE's results showed compliance with the containment (§ 191.13), individual (§ 191.15), and ground water (40 CFR Part 191, Subpart C) requirements of the disposal regulations. Refer to discussions of § 194.34 and § 194.55 for EPA's full evaluation of results of assessments. Based on EPA's finding that information submitted by DOE was sufficient for compliance with §§ 194.34 and 194.55, the Agency proposes to find that DOE also complies with § 194.14(c).

D. Input Parameters to Performance Assessments

40 CFR 194.14(d) requires DOE to describe the input parameters to the PA and discuss the basis for their selection. DOE provided descriptions of input parameters to the PA. EPA's evaluation of this information is addressed in the discussion of § 194.23 of this preamble. Based on EPA's finding that information was sufficient for compliance with § 194.23, the Agency proposes to find that DOE also complies with § 194.14(d).

E. Assurance Requirements

Section 194.14(e) requires documentation of measures taken to meet the assurance requirements. EPA considers DOE to have complied with § 194.14(e) if it provided the information required for §§ 194.41 through 194.46. Based on EPA's determination of compliance for all six assurance requirements (active institutional controls, monitoring, passive institutional control, engineered barriers, consideration of the presence of resources, and removal of waste), EPA proposes to find that DOE also complies with § 194.14(e).

F. Waste Acceptance Criteria

Section 194.14(f) requires DOE to describe waste acceptance criteria and the measures taken to assure adherence to such criteria. EPA reviewed documentation provided by DOE and observed DOE audits and other activities, and concluded that DOE provided satisfactory descriptions of actions that will be followed to ensure adherence to the waste acceptance criteria. EPA therefore proposes to find DOE in compliance with § 194.14(f). Refer the preamble discussion of § 194.24 for a complete discussion of EPA's review of waste acceptance criteria and other waste characterization information.

G. Background Radiation

40 CFR 194.14(g) requires DOE to describe the background radiation in air, soil and water in the vicinity of the disposal system and the procedures employed to determine such radiation. DOE provided information regarding the levels of background radiation in air, soil, surface water, sediments, groundwater, and biota. DOE also provided a description of the procedures used to determine the background radiation. DOE indicated that background radiation in the vicinity of the WIPP site is influenced by natural sources of radiation, fallout from nuclear tests, and one local research project (Project Gnome, which involved the underground detonation of a nuclear device on December 10, 1961, at a site approximately 8 miles (13 kilometers) southwest of the WIPP site).

EPA found that DOE provided sufficient discussion of background radiation levels and associated procedures to monitor these media for radiation. EPA, therefore, proposes to find that DOE complies with § 194.14(g).

H. Topographic Maps

40 CFR 194.14(h) requires DOE to provide one or more topographic maps of the vicinity of the disposal system. At least one map must show boundaries of the controlled area and the location of active, inactive and abandoned injection and withdrawal wells in the controlled area and in the vicinity of the disposal

system. The CCA must include topographic maps with a contour interval sufficient to show clearly the pattern of surface water flow in the vicinity of the disposal system.

DOE provided four topographic maps that show the pattern of surface water flow in the vicinity of the WIPP. The CCA included three figures showing the locations of the controlled area within the U.S. Public Land Survey coordinate system, as well as a map showing the location of active, inactive, and abandoned injection and withdrawal wells in the controlled area and in the vicinity of the disposal system. EPA reviewed the topographic maps provided in the CCA to determine their sufficiency. EPA determined that DOE met the requirements of § 194.14(h) because it provided multiple, appropriately scaled, topographic maps of the vicinity of the disposal system.

I. Past and Current Meteorological Conditions

40 CFR 194.14(i) requires DOE to describe past and current climatologic and meteorological conditions in the vicinity of the disposal system. DOE is also required to project how these conditions are expected to change over the regulatory time frame.

DOE described past glaciation events, climatic changes, and precipitation and temperature averages. DOE also discussed how historical climatic conditions were used to anticipate climatic conditions 10,000 years in the future. DOE described current climatic conditions in the WIPP area, including summaries of recent rainfall, temperature, and wind data. DOE discussed how climate changes were incorporated in conceptual models.

Based on public comments and EPA's review of the CCA, EPA requested additional information on dissolution. Supplemental information submitted by DOE addressed EPA's concerns. EPA concluded that the description of past and present climatic changes and associated impacts on the WIPP disposal system were adequately addressed, and therefore proposes to find DOE in compliance with § 194.14(i).

J. Other Information Needed for Demonstration of Compliance

40 CFR 194.14(j) requires DOE to provide additional information, analyses, tests, or records determined by the Administrator or the Administrator's authorized representative to be necessary for determining compliance with 40 CFR Part 194. After receipt of the CCA dated October 29, 1996, EPA formally requested additional information from DOE in seven letters dated December 19, 1996, and February 18, March 19, April 17, April 25, June 6, and July 2, 1997. (Docket A–93–02, Items II–I–1, II–I–9, II–I–17, II–I–25, II–I–27, II–I–33, and II–I–37, respectively). The information requested in these letters was necessary for EPA's completeness determination and technical review. EPA staff and contractors also reviewed records maintained by DOE or DOE's contractors (e.g., records kept at the Sandia National Laboratories Records Center in Albuquerque, New Mexico). No additional laboratory or field tests were conducted by DOE at EPA's specific direction; however, DOE did conduct and document laboratory tests after October 29, 1996, in order to present additional data to the Conceptual Model Peer Review Panel.

The preamble for other sections of the Compliance Criteria discuss in greater detail DOE's responses to EPA's formal requests for additional information and any other supplementary information reviewed by EPA after October 29, 1996. All documents sent to EPA are available in the EPA docket. Additional documentation that was not sent to EPA but was reviewed by the Agency (e.g., calculations of actinide solubility for americium, plutonium, thorium and uranium) is also publicly available. Documentation of peer review panel meetings conducted after receipt of the CCA has been placed in the EPA docket. See Docket A–93–02, Item III–B–1 for further information on the location of all documentation reviewed by EPA.

EPA determined that DOE responded adequately to EPA's formal requests for additional information, analyses, and records; and therefore proposes to find that DOE complies with § 194.14(j).

K. Conclusion

Based on the information provided in the CCA and additional information submitted by DOE, EPA proposes that DOE demonstrates compliance with all subsections of § 194.14. For additional information on EPA's evaluation of compliance for § 194.14, see CARD 14.

X. General Requirements

The general requirements of 40 CFR Part 194, Subpart C, are intended to ensure that any compliance certification application ("CCA") is based on dependable and verifiable information and that EPA has the right to confirm the accuracy of such information. Although they have no direct corollary in the disposal regulations, EPA issued these requirements in implementing the disposal regulations because the Agency believes that a reasonable expectation of compliance with the containment requirements (discussed in subsequent portions of this preamble) can be achieved only if the information and methods used to conduct performance assessments are valid and reliable. To that end, the general requirements at §§ 194.22 through 194.27 establish requirements for quality assurance programs, models and computer codes, waste characterization, future state assumptions, expert judgment, and peer review.

A. Section 194.22, Quality Assurance

Section 194.22 establishes quality assurance ("QA") requirements for the WIPP. QA is a process for enhancing the reliability of technical data and analyses underlying DOE's CCA. Section 194.22 requires DOE to (a) establish and execute a QA program for all items and activities important to the containment of waste in the disposal system (including waste characterization activities, environmental monitoring, field measurements, computer codes, procedures for expert elicitation, disposal system designs, and data), (b) qualify data that were collected prior to implementation of the required QA program, (c) assess data for their quality characteristics, to the extent practicable, (d) demonstrate how data are qualified for their use in the CCA, and (e) allow verification of the above measures through EPA inspections. The DOE's QA program must adhere to specific Nuclear Quality Assurance ("NQA") standards and requirements issued by the American Society of Mechanical Engineers ("ASME").

The EPA assessed compliance with the QA requirements in two ways. First, EPA reviewed QA information in the CCA and associated reference documents. EPA's second level of review consisted of visits to the WIPP site, as well as WIPP-related facilities, to perform audits and inspections to verify DOE's compliance with the QA requirements. For example, EPA conducted audits to verify the proper execution of the QA program at DOE's Carlsbad Area Office ("CAO"), Sandia National Laboratories ("SNL"), and Westinghouse's Waste Isolation Division ("WID") at the WIPP facility. In this way, EPA was able to review voluminous records required by the NQA standards, but not required to be submitted as part of the CCA.

Section 194.22(a)(1) requires DOE to adhere to a QA program that implements the requirements of the following: (1) ASME NQA-1–1989 edition; (2) ASME NQA–2a-1990 addenda, part 2.7, to ASME NQA–2–1989 edition; and (3) ASME NQA–3–

1989 edition (excluding Section 2.1 (b) and (c), and Section 17.1). DOE incorporated these requirements in the Quality Assurance Program Document ("QAPD") contained in the CCA. The QAPD is the documented plan for the WIPP project, as a whole, to comply with the NQA requirements; it applies to all activities and items important to containment of waste in the WIPP. The QAPD addresses the 18 basic requirements of NQA–1, including supplemental requirements as established by NQA–1; the computer software requirements as established by NQA–2a, part 2.7; and the collection of scientific and technical information requirements for site characterization of high level nuclear waste repositories as established by NQA–3. The QAPD is implemented by DOE's CAO, which provides overall coordination of WIPP activities and has authority to audit all other organizations associated with waste disposal at the WIPP (such as WID, SNL and waste generator sites) to ensure that their lower-tier QA programs conform to the QAPD. EPA audited DOE's QA program at CAO and determined that DOE properly adhered to a QA program that implements the NQA standards and requirements. Therefore, EPA proposes to find DOE in compliance with § 194.22(a)(1). (For information on the incorporation of NQA requirements into lower tier program plans, refer to the subsequent discussion of § 194.22(a)(2), which addresses specific activities under the direct control of organizations other than DOE's CAO.)

Section 194.22(a)(2)(i) requires DOE to include information which demonstrates that the QA program has been established and executed for waste characterization activities and assumptions. In the CCA, DOE provided the QAPD and referenced criteria for the review and approval of a site-specific Quality Assurance Project Plan ("QAPjP") to address technical criteria and implementation procedures. The CCA listed five waste generator site QAPjPs that have been approved by DOE. DOE proposed that sites also will prepare site certification Quality Assurance Plans ("QAPs") that, together with the QAPjPs, are intended to establish all the NQA requirements applicable to waste characterization.[15]

EPA finds that the QAPD, as it applies to waste characterization, is in conformance with the NQA requirements. As discussed below, the Agency intends to verify the adequacy of site-specific QA programs in the future.

Another important activity related to waste characterization is the ability to track waste shipped to and emplaced in the WIPP. The WIPP Waste Information System ("WWIS") is a computer database and reporting program that will track and tally the waste that comes to the WIPP. The WWIS is covered by QA programs both at the WID and at waste generator sites. At Westinghouse, the WID QAPD, which addresses the specific requirements of the NQA standards, governs operation of the system. In September 1997, EPA performed an inspection of the WID QA program applicable to the WWIS. At that time, the WWIS was demonstrated to be operational, and EPA determined that a QA program had been properly executed for the WWIS in accordance with the applicable NQA requirements.

The Compliance Criteria require that QA programs be established and executed specifically with respect to the use of process knowledge and a system of controls for waste characterization. (§§ 194.22(a)(2)(i) and 194.24(c)(3) through (5)) To accomplish this, waste generator site-specific QA programs and plans must be individually examined and approved by EPA to ensure adequate waste characterization programs are in place before EPA allows individual waste generator sites to transport waste for disposal at the WIPP. Since waste characterization activities have not begun for most TRU waste generator sites and storage facilities, EPA has not yet evaluated the compliance of many site-specific QA plans (QAPs and, where applicable, QAPjPs) and programs.

To date, one WIPP waste generator site, Los Alamos National Laboratory ("LANL"), has been approved by EPA to have established adequate QA programs (encompassed in a QAP and QAPjP) and to have properly executed QA procedures in accordance with the applicable NQA requirements. Prior to approval of LANL's site-specific QA program, EPA conducted an audit of DOE's overall WIPP QA program and approved its capability to perform audits in accordance with the requirements of NQA–1. EPA then inspected three DOE audits of LANL's QA program. Based on the results of the inspections, the EPA inspectors determined that the QA program had been properly executed at LANL. Therefore, EPA proposes to find that the requirements of § 194.22(a)(2)(i) have been met for the WID QAPD, the WWIS, and waste characterization activities at LANL.

With respect to other waste generator sites, EPA proposes to certify compliance with § 194.22(a)(2)(i) conditioned on separate, subsequent approvals from EPA that site-specific QA programs for waste characterization activities and assumptions have been established and executed in accordance with applicable NQA requirements at each waste generator site.

As waste generator facilities subsequent to LANL establish QA programs, EPA will assess their compliance with NQA requirements. In making any determination to approve a site-specific QA program for a waste generator, EPA will conduct an audit or an inspection of a DOE audit of a waste generator site. EPA will publish a notice in the **Federal Register** announcing its scheduled audit or inspection of a DOE audit and will provide at least a 30-day comment period during which interested parties may submit written comments. EPA will place in the docket copies of the site-specific QA program documents and other documentation relevant to the audit or audit inspection. Thus, the Agency's decision whether to approve the establishment and execution of a QA program at a specific waste generator site will be informed by both public comments and the results of the Agency's own independent evaluation of the site's compliance with the applicable NQA requirements.

EPA believes that approval of site specific QA programs is required by, and that this proposed procedure is consistent with the provisions of § 194.22(a)(2)(i) because it requires DOE to demonstrate "establishment and execution" of quality assurance programs for waste characterization assumptions and activities at the individual waste generator sites prior to shipment of wastes from such sites. EPA requests comment on whether the Agency should place a condition on its certification of compliance at WIPP consisting of future demonstrations by DOE that QA programs have been established and executed at individual waste generator sites, prior to shipment of TRU waste to WIPP from such sites. In particular, EPA requests comment on

[15] NQA–1 (Element II–2) requires that organizations responsible for activities affecting quality (in the case of the WIPP, affecting the containment of waste in the disposal system) must have documented QA programs in accordance with the applicable NQA requirements. The documentation for such programs is commonly referred to as a "quality assurance program plan," or "QAPP." For WIPP waste generator sites, the role of the QAPP is fulfilled by documents with other titles, such as the QAP or the QAPjP. The "TRU QAPP" referenced by DOE in the CCA is not a QAPP as described by the NQA standards; rather, it is a technical document that describes the quality control requirements and performance standards for characterization of TRU waste coming to the WIPP facility. The TRU QAPP is addressed more specifically in the preamble discussion of § 194.24, "Waste Characterization."

its preliminary conclusion that the proposed procedures for determining whether adequate quality assurance programs have been established and executed by DOE are consistent with Part 194. However, if, based upon public comment on today's proposed action, EPA concludes that it would be appropriate to make clarifying changes to Part 194 that specifically set forth these procedures, EPA may do so as part of its final action on today's proposal.

EPA will indicate its approval of site-specific QA programs by a letter from the Administrator's authorized representative to the Department; a copy of the *letter* will be placed in EPA's public docket. (As part of the certification rulemaking, EPA is proposing to define the Administrator's authorized representative as the "director in charge of radiation programs at the Agency," in order to clarify the delegation of responsibilities for 40 CFR Part 194, including activities such as requesting additional information from DOE, and inspecting and approving quality assurance programs.) After approval of site-specific QA programs, EPA will exercise its authority under §§ 194.21 and 194.22(e) to conduct unfettered inspections of approved waste generator sites to confirm that the approved plans are being properly maintained for waste characterization activities. For specific language on the quality assurance conditions of compliance, see Condition 2 of the proposed Appendix A to 40 CFR Part 194. For further discussion of waste characterization programs and certification of individual waste streams from generator sites, see the discussion of § 194.24 in this preamble.

Section 194.22(a)(2)(ii) requires DOE to include information which demonstrates that the QA program has been established and executed for environmental monitoring, monitoring of performance of the disposal system and sampling and analysis activities. Westinghouse's WID was responsible for implementing this requirement under the WID QAPD described in the CCA. The WID developed a WIPP Environmental Monitoring Plan ("EMP"), which applies to current site characterization and also to proposed pre-closure monitoring in accordance with § 194.42. The EMP included QA procedures for radiological and non-radiological environmental monitoring. Also included in the EMP were sample handling, laboratory procedures, required records and reports, and data analyses guidelines. DOE stated that the EMP is consistent with applicable elements of ASME NQA–1.

The EPA determined during its audit of WID that the requisite QA program had been established and executed for environmental monitoring, sampling and analysis activities. Therefore, EPA proposes to certify compliance with § 194.22(a)(2)(ii). Continued adherence to the executed QA program as it applies to disposal system monitoring will be confirmed by EPA in future inspections under its authority at §§ 194.21 and 194.22(e).

Section 194.22(a)(2)(iii) requires DOE to include information which demonstrates that the QA program has been established and executed for field measurements of geologic factors, groundwater, meteorologic, and topographic characteristics. EPA conducted an audit of the WID QA program and found the QAPD to be adequate and to be implemented in accordance with the applicable NQA requirements. Therefore, EPA proposes to find DOE in compliance with § 194.22(a)(2)(iii).

Section 194.22(a)(2)(iv) requires DOE to include information to demonstrate that the QA program has been established and executed for computations, computer codes, models and methods used to demonstrate compliance with the disposal regulations. In the CCA, DOE provided the CAO QAPD, which incorporates the application NQA requirements for computation and computer code information. Software development and management are controlled in accordance with criteria established by SNL software QA procedures and the WID QAPD. EPA reviewed information in the CCA and conducted audits of both SNL and WID QA programs. The Agency found that DOE's computer codes were documented in a manner that complies with the applicable NQA requirements, and that DOE's software QA procedures were implemented in accordance with ASME NQA–2a, part 2.7. EPA therefore proposes to determine that DOE complies with § 194.22(a)(2)(iv).

Section 194.22(a)(2)(v) requires DOE to include information which demonstrates that the QA program has been established and executed for procedures for implementation of expert judgment elicitation. EPA found that the requirements of this regulation were met with the implementation of CAO Team Procedure ("TP") 10.6 (Revision 0), CAO Team Plan for Expert Panel Elicitation (Revision 2), and CAO Technical Assistance Contractor ("CTAC") Experimental Programs Desktop Instruction No.1 (Revision 1). EPA proposes to find DOE in compliance with § 194.22(a)(2)(v). The process of expert judgment elicitation is discussed in further detail in the preamble for § 194.26 of the Compliance Criteria.

Section 194.22(a)(2)(vi) requires DOE to include information which demonstrates that the QA program has been established and executed for design of the disposal system and actions taken to ensure compliance with the design specifications. Design work for the repository sealing system was conducted under the SNL QA program. The repository seal system design was extensively reviewed by DOE, SNL, WID, and CAO Technical Assistance Contractor personnel, as well as independent design reviewers. The QA procedures established and implemented by SNL and WID address the requirements of the NQA standards; design verification was accomplished by a combination of NQA–1 Supplement 3S–1 methods. EPA audits of SNL and WID showed that the QA programs are adequate and properly executed. Therefore, EPA proposes to find DOE in compliance with § 194.22(a)(2)(vi).

Section 194.22(a)(2)(vii) requires DOE to include information which demonstrates that the QA program has been established and executed for the collection of data and information used to support compliance applications. SNL adequately addressed these requirements by implementing numerous QA procedures to ensure the quality of data and information collected in support of the WIPP. EPA's audit of SNL concluded that the QA program was adequate and appropriately implemented. Therefore, EPA proposes to find DOE in compliance with § 194.22(a)(2)(vii).

Section 194.22(a)(2)(viii) requires DOE to include information which demonstrates that the QA program has been established for any other item or activity not listed above that is important to the containment of waste in the disposal system. DOE has not identified any other item or activity important to waste isolation in the disposal system that require QA controls to be applied as described in the CAO QAPD. EPA has also not identified to date any other items or activities which require controls. However, EPA has reviewed the CAO QAPD and conducted audits of the CAO, SNL, and WID QA programs. The EPA audits determined that the QA organizations of CAO, WID. and SNL have sufficient authority, access to work areas, and organizational freedom to identify other items and activities affecting the quality of waste isolation. Therefore, EPA proposes to find DOE in compliance with § 194.22(a)(2)(viii).

Section 194.22(b) requires DOE to include information which demonstrates that data and information collected prior to the implementation of the QA program required by § 194.22(a)(1) have been qualified in accordance with an alternate methodology, approved by the Administrator or the Administrator's authorized representative, that employs one or more of the following methods: peer review; corroborating data; confirmatory testing; or a QA program that is equivalent in effect to § 194.22(a)(1) ASME documents. The CCA listed existing data that were reviewed by an Independent Review Team and that DOE determined to have been collected under a QA program equivalent to the NQA standards. DOE also provided information on NUREG–1297 peer reviews that were conducted to qualify existing data for engineered systems, natural barriers, waste form, and disposal room data. Finally, DOE identified data from literature sources.

EPA conducted two audits that traced new and existing data to their qualifying sources. The two audits found that equivalent QA programs and peer review had been properly applied to qualify existing data used in the PA. EPA also concluded that the use of existing data from peer-reviewed technical journals was appropriate, since the level of such reviews was likely to provide QA equivalent to NUREG–1297 peer reviews conducted by DOE. Therefore, EPA proposes to find DOE in compliance with § 194.22(b). Furthermore, the Agency is proposing to approve the use of any one of the following three methods for qualification of existing data: (1) peer review, conducted in a manner that is compatible with NUREG–1297; (2) a QA program that is equivalent in effect to ASME NQA–1–1989 edition, ASME NQA–2a–1990 addenda, part 2.7, to ASME NQA–2–1989 edition, and ASME NQA–3–1989 edition (excluding Section 2.1(b) and (c) and Section 17.1); or (3) use of data from a peer-reviewed technical journal.

Sections 194.22(c)(1) through (5) require DOE to provide information which describes how all data used to support the compliance application have been assessed, to the extent practicable, for specific data quality characteristics ("DQCs"). In the CCA, DOE stated that in most cases it was not practicable to document DQCs for parameters, but asserted that the intent of DQCs was fulfilled by other QA programs and quality control measures. In response to EPA's request for additional information, DOE clarified but did not substantially alter its approach. (Docket A–93–02, Items II–I–17 and II–I–24)

The Agency agrees that it is not appropriate to apply DQCs to parameters in the PA (e.g., anhydrite permeability parameter), but believes that they can be applied to measured data (i.e., field monitoring and laboratory experiments) on which parameter values are based. Because DOE misinterpreted EPA's requirements as applying to parameters, EPA found that the CCA and supplementary information did not systematically or adequately address DOE's consideration of DQCs for measured data. Therefore, the Agency reviewed additional materials—primarily data record packages at the SNL records center—to independently determine whether DQCs had been assessed for data used in PA. Data record packages document measured data considered by DOE in developing parameter values. EPA found that for recent data (five to ten years old), DOE's experimental program plans in the data record packages generally addressed data quality in measured data, including accuracy, precision, representativeness, completeness, and comparability during measurement and collection.

For older existing data, EPA found less documentation of assessment of DQCs. However, laboratory notebooks—which provide first-hand documentation of measurement procedures and results—supporting data record packages provided some information related to the quality of measurements (e.g., how well DOE's measured values compared with values found in peer-reviewed publications). Many existing data were also subject to peer review in order to qualify them for use in the compliance application; EPA concluded that the peer review panels considered the use of DQCs in determining that such data were adequate. EPA also agreed with DOE's argument in supplementary information that for most of the existing data, collection under a program equivalent to the NQA standards in § 194.22(a)(1) provided adequate evidence that the quality of data had been evaluated and controlled. Finally, EPA concurred with DOE's conclusion that the uncertainties in measured data reflected in DQCs have a small effect on compliance certainty, compared to other uncertainties in the PA (such as extrapolation of processes over 10,000 years).

Based on its review of data record packages, the Agency finds that DOE has assessed DQCs, to the extent practicable, for data used in the compliance application. EPA thus proposes to find that DOE complies with § 194.22(c). The Agency expects that DOE will assess DQCs for future waste characterization and monitoring activities; EPA will confirm assessment of DQCs for such measured data through inspections and evaluation of any compliance re-certification applications.

Section 194.22(d) requires DOE to provide information which describes how all data are qualified for use. SNL generated a table providing information of how all data in the PA were qualified. EPA audited the existing QA programs and determined that the data were qualified for use by independent and qualified personnel in accordance with NQA requirements. On this basis, EPA proposes to find DOE in compliance with § 194.22(d).

Section 194.22(e) allows EPA to verify execution of QA programs through inspections, record reviews, and other measures. As discussed above, EPA has conducted numerous audits of DOE facilities, and intends to conduct future inspections of waste generator site-specific QA plans under its authority. The Agency plans to conduct additional inspections, including audits, of CAO, SNL, and WID prior to publishing a final certification decision. The purpose of these inspections will be to verify that the QA programs for these organizations—which have already been found to be properly executed in accordance with the applicable NQA requirements—are being appropriately maintained. EPA will docket the results of these inspections, but will not consider them for the purpose of the proposed or final rule unless the inspections result in new information that indicates that the programs are no longer in conformance with the applicable NQA requirements.

In summary, EPA proposes to find DOE in compliance with the requirements of § 194.22 subject to the condition that EPA separately approve the establishment and execution of site-specific QA programs for waste characterization activities at waste generator sites. (See Condition 2 of the proposed Appendix A to 40 CFR Part 194.) For further information on EPA's evaluation of compliance for § 194.22, refer to CARD 22.

B. Section 194.23, Models and Computer Codes

Section 194.23 sets forth specific requirements for the models and computer codes used to calculate the results of performance assessments ("PA") and compliance assessments. In order for these calculations to be reliable, DOE must properly design and implement the computer codes used in

the PA. Design of computer codes begins with the development of conceptual models. Conceptual models consider the design of the repository and the features, events, processes, and scenarios that may occur at the WIPP which could affect the containment or release of radionuclides. In order for the final computer codes to obtain realistic solutions, the underlying conceptual models must be sound. DOE must next develop mathematical models from the conceptual models. Mathematical models set up a mathematical expression to describe the conditions in the repository and its surroundings. Numerical models are then created to describe how to solve the equations in the mathematical models. Since most of the mathematical models are sufficiently complex that analytical solutions are not possible, numerical models are used to provide iterative, approximate solutions to the mathematical models. Finally, DOE must program the numerical solutions from the numerical models into computer codes that perform calculations to estimate the cumulative releases of radionuclides caused by all significant processes and events.

In examining models and computer codes, EPA evaluated the development of the underlying conceptual models, evaluated the derivation of mathematical models and implementation of numerical models and computer codes, verified the quality assurance of computer codes, and performed its own independent computer calculations. In order to allow EPA to evaluate the underlying conceptual models, § 194.23 of the compliance criteria requires descriptions of conceptual models and scenario construction (§ 194.23(a)(1)), consideration of alternative conceptual models (§ 194.23(a)(2)), and documentation of peer review of the conceptual models (§ 194.23(a)(3)(v)). To ensure proper implementation of these conceptual models, § 194.23 also requires documentation that: future states of the disposal system are reasonably represented by conceptual models (§ 194.23(a)(3)(i)); mathematical models (or algorithms) reasonably represent the conceptual models (§ 194.23(a)(3)(ii)); numerical models (or solution methods) provide stable solutions to the mathematical models (§ 194.23(a)(3)(iii)); and computer codes accurately implement the numerical models and are free from coding errors and produce stable solutions (§ 194.23(a)(3)(iv)). In addition, DOE must describe the theoretical background of models and their method of analysis; how the computer codes operate and were developed; methods of data collection, data reduction and analysis; parameters developed from source data; the structure of the computer codes and a complete listing of source codes; and the effects of parameter correlation (§§ 194.23(c)(1) through (6)). Section 194.23(b) requires DOE to document that models and computer codes were developed in accordance with the specified QA requirements contained in the ASME NQA standards. Finally, § 194.23(d) requires DOE to provide all necessary data, information, software, and any other material to enable EPA to conduct its own independent computer simulations.

1. Conceptual Models

a. *Description of Conceptual Models.* Section 194.23(a)(1) requires the CCA to describe the conceptual models and the scenarios used in the CCA PA calculations. DOE developed 24 conceptual models to describe the WIPP disposal system. DOE also undertook an extensive screening process to determine which features, events, and processes (FEPs) were applicable to the disposal system. From the list of applicable FEPs, DOE developed scenarios to describe both undisturbed performance (natural processes and events) and disturbed performance (human intrusion, including mining and deep drilling) of the repository. The CCA included scenarios that satisfy the specific requirements of §§ 194.32 and 194.33 concerning the scope of PA and consideration of drilling events in PA. (See preamble discussions of §§ 194.32 and 194.33 for further details.)

EPA reviewed the descriptions of the 24 conceptual models and the scenario construction methods in the CCA and supplementary information and found them to be presented with sufficient clarity to permit full understanding of the descriptions and methods. However, both EPA and public commenters did not believe that DOE had performed sufficient analyses to rule out the potential effects of fluid injection related to oil production on the disposal system. Therefore, EPA required DOE to perform additional analyses of fluid injection. Based on supplementary information provided by DOE, EPA concluded that fluid injection can be screened out from the PA based upon low consequences to disposal system performance. EPA and commenters also had concerns about DOE's conceptual model for spallings.[10] The results of the spallings model were eventually determined to be reasonable and adequate for use in PA. For further discussion of the spallings model, refer to the discussion of models and computer codes later in this section.

The CCA and supporting documents contain a complete and accurate description of each of the conceptual models used and the scenario construction methods used. The conceptual models include those characteristics and attributes of the WIPP disposal system and its surroundings that adequately describe the possible future performance of the disposal system. The conceptual models contain appropriate simplifications of the characteristics, attributes, and processes of the disposal system. The scenario construction descriptions include sufficient detail to understand the basis for selecting some scenarios and rejecting others and are adequate for use in the CCA PA calculations. Based on its review of DOE's descriptions of the conceptual models and the scenario construction procedures presented in the CCA and supporting documents, the Agency proposes to determine that the DOE has demonstrated compliance with the requirements of § 194.23(a)(1).

b. *Alternative Conceptual Models.* Section 194.23(a)(2) requires the CCA to describe plausible, alternative conceptual models that DOE seriously considered but did not use to support compliance, and to explain why DOE decided the alternative conceptual model does not accurately portray performance of the disposal system. This requirement allows EPA to evaluate whether the conceptual models underlying the PA and compliance assessment are appropriate and adequate.

DOE provided information on alternative conceptual models in the CCA, both in its discussion of FEPs and in its documentation of the conceptual models peer review panel. The peer review panel identified no major issues concerning alternative models.

EPA reviewed information on alternative conceptual models in the CCA and in documentation from the peer review panel. EPA requested, and DOE provided, supplementary information containing a focused, detailed description of plausible alternative conceptual models considered but not used in the PA. DOE also explained the reasons why these alternative models were not used to

[10] "Spallings" refers to releases of solids forced up and out of an intrusion borehole by gas pressure in the repository.

describe the performance of the repository. EPA determined that DOE sufficiently documented the rationale and approach used to select the conceptual models employed in the CCA PA and to reject other models.

As discussed elsewhere in this section, the conceptual models peer review panel and EPA had concerns specifically with the spallings conceptual model. Because the conceptual models peer review panel initially judged the spallings model used in the CCA to be inadequate, DOE developed an alternative mechanistically-based computational approach to estimate the volume of spallings released to the accessible environment. The volumes of radioactive waste to be released that were calculated by the alternative mechanistically-based model were less than one tenth those predicted in the model used in the CCA. Because the original spallings model results used in the CCA were conservative, the conceptual models peer review panel and EPA found the predicted results from the original model to be acceptable for use in the PA.

Based on information provided in the CCA together with supplementary information provided by DOE in response to specific EPA requests, EPA concluded that DOE provided an adequate and complete description of alternative conceptual models seriously considered but not used in the CCA. DOE provided adequate discussion of why these alternative models were not deemed to adequately portray the performance of the disposal system. Therefore, EPA proposes to find DOE in compliance with § 194.23(a)(2).

c. *Future States of the Disposal System and Peer Review.* Section 194.23(a)(3)(i) requires the CCA conceptual models and scenarios to reasonably represent future states of the disposal system. Section 194.23(a)(3)(v) requires the CCA to document that conceptual models have undergone peer review in accordance with § 194.27, which requires that the peer review meets the guidance of NUREG–1297. Under this guidance, the peer review must include the following: A listing of the reviewers; requirements for the acceptability of each reviewer; individual statements by peer reviewers reflecting dissenting views, if any; a discussion of the conceptual models peer reviewed; an evaluation of data and information used to develop conceptual models; an evaluation of the validity of conceptual model assumptions; an evaluation of alternative conceptual models; an evaluation of the uncertainty in the conceptual models and a discussion of consequences if the conceptual model chosen is inappropriate for the site; a statement indicating the adequacy of the conceptual models used for the disposal system; a statement of the accuracy of the results based on the conceptual models employed; and a discussion of the validity of the conclusions drawn based on the conceptual models. As part of the review of adequacy of the conceptual models, peer reviewers considered whether conceptual models reasonably represented future states of the disposal system. The NUREG–1297 requirements and the process of peer review are discussed in greater detail in the preamble for § 194.27.

DOE convened a conceptual models peer review panel to review the 24 conceptual models used in the CCA PA. During the initial review, the panel found that 11 models were not adequate and 13 models were adequate for use in PA. The panel initially found the 11 conceptual models to be inadequate for a variety of reasons, mostly related to the adequacy of assumptions incorporated in the conceptual models and the amount of supporting data or analyses for certain features of the conceptual models. Based on additional information provided by DOE and three subsequent review sessions, the panel found all the models to be adequate for use in PA except the spallings model. They found that the original CCA PA spallings model did not reasonably represent possible future states of the disposal system because it did not fully model all potential mechanisms that may cause pressure-driven solid releases. The panel ultimately concluded, based on substantial analytical and experimental work provided by DOE, that the spallings values used in the CCA are reasonable for use in PA. The panel found that, while the spallings model does not accurately represent the future state of the disposal system, its inaccuracies are of an overly conservative nature, and in fact, may overestimate the actual waste volumes that would be expected to be released by the spallings process.

EPA concurs with the conceptual model peer review panel's findings, based upon the results of DOE's analysis and development of an alternative model for spallings, which showed that the CCA PA spallings model overestimates spallings releases by up to ten times or more. The peer review panel's findings considered whether conceptual models reasonably represented future states of the disposal system. EPA does not propose to determine that the spallings model "reasonably represents possible future states of the repository." The additional modeling conducted by DOE, and the additional data developed by DOE, however, provide a substantial basis for EPA to conclude that the results of the spallings model are adequate and useful for the purpose for which conceptual models are intended, i.e., to aid in the determination of whether the WIPP will comply with the disposal regulations during the regulatory time period. Because the spallings model produces reasonable and conservative results, EPA proposes to accept it for purposes of demonstrating compliance with § 194.23(a)(3)(i).

The information on peer review in the CCA and in supplementary information demonstrates that all conceptual models have undergone peer review consistent with the requirements of § 194.27. Therefore, the Agency proposes to find that DOE has demonstrated compliance with the requirements of § 194.23(a)(3)(v).

d. Public Comments. During the public comment period on the Advance Notice of Proposed Rulemaking ("ANPR"), EPA received numerous comments challenging various aspects of the spallings model. EPA and the conceptual models peer review panel, among others, shared concerns about the adequacy of the spallings model and on numerous occasions informed DOE of their concerns. In response to these concerns, DOE did substantial additional work, developed a mechanistically-based model and supported this model with experimental data. The peer review panel concluded that the spallings model used in the CCA PA calculated release volumes that were reasonable and probably conservative. On this basis, and as discussed above, EPA proposes that it is appropriate to accept the results from the spallings model for purposes of demonstrating compliance with § 194.23(a)(3)(i).

EPA also received public comments on the ANPR concerning modeling of fluid injection. Commenters expressed concern that the CCA PA calculations did not model possible effects of pressurized brine injection that may fracture the anhydrite beds near WIPP, enter the repository, become contaminated and flow to various release points. EPA required DOE to perform extensive supplementary analyses to evaluate the effects that brine injection could have on the repository. EPA also performed independent analyses to address concerns related to brine injection. EPA has determined that brine injection does not pose an unacceptable risk and that associated scenarios can be reliably screened from further consideration.

2. Progression From Conceptual Models to Computer Codes

Most of the requirements of § 194.23(a)(3) concern the Agency's evaluation of the progression from conceptual models to computer codes used in the CCA PA and compliance assessment. Each requirement in §§ 194.23(a)(3)(i) through (iv) is intended to ensure that DOE has correctly implemented the steps between development of the underlying conceptual models and encoding the computer software that implements the PA and compliance assessment calculations. The initial step of evaluating the fundamental conceptual models is discussed above.

a. Mathematical Models. Section 194.23(a)(3)(ii) requires the CCA to document that mathematical models incorporate equations and boundary conditions which reasonably represent the mathematical formulation of the conceptual models. This requirement is intended to ensure that PA calculations are based upon mathematical equations that truly implement the conditions in the fundamental conceptual models. Many of the mathematical equations are partial differential equations, which consider rates of change; thus, codes incorporating these mathematical models need initial and boundary conditions between which the rates of change in the equations will operate.

DOE documented the development of each computer code used in PA and compliance assessment, including the associated mathematical models and numerical models. This information was contained primarily in Users Manuals, Validation Documents, Implementation Documents, and Requirements Document & Verification and Validation Plans for each CCA PA computer code. EPA reviewed information supplemental to the CCA for each CCA PA computer code and evaluated whether the mathematical models incorporate equations and boundary conditions which reasonably represent the mathematical formulation of the conceptual models.

EPA reviewed the mathematical model equations and boundary conditions for the following codes: PANEL, BRAGFLO, NUTS, FMT, SANTOS, BRAGFLO_DBR, GRASP–INV, SECOFL2D, SECOTP2D, CCDFGF, and CUTTINGS_S. These are the codes DOE used to model the behavior of the repository and its surroundings and to compute results of the PA calculations. The codes PANEL, BRAGFLO, NUTS, FMT, and SANTOS incorporate mathematical model equations that implement the conceptual models for predicting future characteristics of the waste repository. These five codes simulate the following effects, respectively: concentrations of radioactive waste in brine within the waste-containing panels in the repository; flow of brine and gas in the repository; solubility and transport of radionuclides released from the repository; solubility of radionuclides in the repository; and collapse of the repository through salt creep closure of the Salado. The computer code BRAGFLO_DBR describes waste dissolution in brine and transport of the contaminated brine through direct brine releases. The three computer codes GRASP–INV, SECOFL2D, and SECOTP2D mathematically describe flow and transport of waste-laden brine in the Culebra dolomite. The computer code CUTTINGS_S incorporates mathematical model equations modeling releases of radioactive waste upon intrusion of a drill bit into the repository. The computer code CCDFGF computes complementary cumulative distribution functions ("CCDFs") for the results of PA.

In general, EPA found that the descriptions of mathematical formulations were adequately explained and were reasonable. The Agency found that DOE adequately documented and described simplifications of conceptual models in the CCA. EPA also concluded that DOE provided an adequate technical basis to support the mathematical formulations. EPA tested each of the codes with functional tests to verify that each computer code would perform according to its functional requirements.[17] This analysis and testing indicated that equations and boundary conditions were properly incorporated into the mathematical models and that boundary conditions were reasonable representations of how the conceptual models should be implemented.

EPA encountered problems with the governing equations of the mathematical models and the representation of the boundary conditions in the codes CUTTINGS_S, SECOFL2D, SECOTP2D, NUTS and BRAGFLO. EPA specified that the equations in the codes be corrected and that the changes to the codes be documented. The Agency later required DOE to perform additional calculations in a Performance Assessment Verification Test ("PAVT") in order to verify that the cumulative impact of all necessary corrections to input parameters, conceptual models, and computer codes used in PA was not significant enough to necessitate a new PA. For the PAVT, DOE used corrected versions of the BRAGFLO, NUTS and SECOTP2D computer codes. The results of the PAVT demonstrate that the cumulative impact of all these necessary corrections did not require new PA runs. DOE resolved all of EPA's questions related to the equations that make up the mathematical models and the incorporation of the boundary conditions of the various codes by correcting the codes and performing the PAVT.

Based on information contained in the CCA and supporting documentation for each code, EPA concludes that the mathematical models used to describe the conceptual models incorporate equations and boundary conditions which reasonably represent the mathematical formulation of the conceptual models. DOE resolved all issues raised by the Agency. DOE has provided an adequate technical basis to support the mathematical formulations used in the PA. Therefore, the Agency proposes to find DOE in compliance with § 194.23(a)(3)(ii).

b. Public Comments on Mathematical Models. During the public comment period on the ANPR, EPA received comments on aspects of the mathematical models. Several commenters felt that the mathematical models in the CCA PA, particularly those related to ground-water flow in the Culebra dolomite, did not account sufficiently for three-dimensional processes and boundary conditions. A DOE report provided a detailed sensitivity analysis of ground-water flow characteristics in the Culebra. This report concluded that the majority of ground-water flow through the Culebra is horizontal. (Docket A–93–02, Item II–G–1, Reference #147) From the perspective of calculating the potential consequences to repository performance, neglecting vertical leakage into and out of the Culebra is conservative. EPA believes that the two-dimensional modeling approach used in the PA for ground-water flow in the Culebra dolomite is conservative and adequate. EPA also reviewed the FEP screening analysis related to flow of brine and gas in the repository and concluded that there are only minor differences between the two-dimensional and three-dimensional computations. Therefore, EPA believes that the two-dimensional geometry used in the BRAGFLO computer code is reasonable and appropriate for the CCA PA.

EPA also received public comments on the ANPR concerning the modeling of ground-water flow and radionuclide transport processes in the Culebra. Commenters stressed that scientific understanding of ground-water flow in fractured rock systems is still developing and that DOE requires greater documentation of processes and parameters embodied in the CCA PA. EPA notes in response to public comments that DOE conducted an extensive investigative program to improve its theories of ground-water flow and radionuclide transport through the Culebra. Although these activities have greatly improved the understanding of the geohydrologic system, EPA recognizes that a degree of uncertainty will always exist when attempting to make predictions about the performance of WIPP 10,000 years into the future. EPA required DOE to address this uncertainty in its PA by assigning ranges and distributions to uncertain variables, such as fracture spacings, distribution coefficients, porosities and transmissivity. EPA also required DOE to perform further analysis using different parameter values and distributions in the PAVT. EPA believes that this approach to handling uncertainty is appropriate because the uncertainty will be captured by the ranges and distributions assigned to parameters.

c. Numerical Models. Section 194.23(a)(3)(iii) requires documentation that numerical models provide numerical schemes which enable the mathematical models to obtain stable solutions. Although some mathematical models can be solved directly, many of the mathematical equations used in PA for the WIPP are so complex that they require the use of numerical solution methods to provide an approximate solution. It is important that solutions to the mathematical models be stable because unstable solutions may make it impossible to proceed to the next step in obtaining PA results or may call into question the results of the model.

The relevant information was contained in supplemental information from DOE, including Analysis Packages for each code and the documents described in the previous section. This documentation includes testing results for problems that are very similar to those solved by the code(s) in the CCA PA, in order to evaluate the stability of solutions from the numerical schemes used to solve the mathematical model equations. DOE also maintained a computational record of whether any of the codes experienced stability problems during the CCA PA calculations. The codes that use numerical solvers include: SANTOS, CUTTINGS_S, SECOFL2D, SECOTP2D, PANEL, BRAGFLO, BRAGFLO_DBR, NUTS, and GRASP–INV.

EPA reviewed all the relevant documentation on numerical solution schemes contained in the CCA and supplementary information about each code. EPA also executed DOE code verification tests to search for possible stability problems. EPA's review identified stability concerns related to the following codes: CUTTINGS_S, SECOFL2D, SECOTP2D, and NUTS. In the case of the NUTS and SECOTP2D codes, DOE was able to make minor changes to the codes to correct their stability problems. EPA's concerns regarding potential stability problems with CUTTINGS_S and SECOFL2D were alleviated after DOE provided results from further stability and code verification testing that showed these problems had been corrected. DOE satisfactorily resolved all EPA concerns regarding code stability issues.

Based on the CCA and supplementary information provided by DOE, the Agency determines that DOE provided sufficient technical information to document the numerical models used in the CCA. Based on verification testing, EPA determined that the numerical models produced stable solutions. DOE resolved stability problems with the BRAGFLO, NUTS, SECOFL2D and SECOTP2D computer codes by completing code revisions and supplementary testing requested by the Agency. Therefore, EPA proposes to find DOE in compliance with § 194.23(a)(3)(iii).

d. Computer Codes. Section 194.23(a)(3)(iv) requires documentation that computer models accurately implement the numerical models, such that computer codes are free of coding errors and produce stable solutions. This is the final step to ensure that the underlying conceptual models are implemented correctly in the PA calculations and to ensure that the PA calculations will yield valid results.

To ensure that PA computer codes accurately implement the numerical models and are free of coding errors, DOE adopted a number of Quality Assurance Procedures for each step in the software development process. (See also the preamble discussions of §§ 194.22 and 194.23(b).) DOE documented information on the software development process in Users Manuals, Validation Documents, Implementation Documents and Requirements Document & Verification and Validation Plans for each computer code.

EPA performed an independent review of the CCA PA computer codes used to support the PA. As part of this review, EPA executed functional tests established by DOE for each of the codes to verify that each computer code performed according to its functional requirements, and to verify that the computer codes accurately implemented the numerical models, were free of coding errors, and produced stable solutions. The codes that EPA reviewed and tested include: SANTOS, CUTTINGS_S, SECOFL2D, SECOTP2D, CCDFGF, LHS, PANEL, BRAGFLO, BRAGFLO_DBR, FMT, NUTS, GRASP-INV and ALGEBRA. EPA also reviewed all of the relevant documentation pertaining to each of the major codes described above.

EPA identified issues related to coding errors for the following codes: SECOFL2D, SECOTP2D, and NUTS. To address these concerns, EPA requested that DOE perform a number of additional analyses. In the process of responding to EPA's concerns, DOE discovered, rectified and documented several minor coding errors. Results from an impact analysis by DOE indicated that the coding errors would have very little impact on the WIPP's compliance with the disposal regulations. These issues were resolved to EPA's satisfaction.

Based on the CCA and supplementary information, the Agency determined that DOE provided sufficient technical information to document the numerical models used in the CCA. Based on verification testing, EPA determined that the computer codes accurately implement the numerical models and that the computer codes are free of coding errors and produce stable solutions. DOE resolved coding error problems that EPA initially encountered by performing code revisions and supplementary testing requested by the Agency. Therefore, the Agency proposes to conclude that DOE has demonstrated compliance with § 194.23(a)(3)(iv).

3. Quality Assurance

Section 194.23(b) requires that computer codes used in the CCA must be documented in a manner that complies with the quality assurance requirements of ASME NQA–2a–1990 addenda, part 2.7, to ASME NQA–2–1989 edition. This requirement is intended to ensure proper development and documentation of software and to identify any potential problems. Based on EPA audits and CCA review, EPA found that code documentation meets the NQA requirements, and thus proposes to find that DOE complies with § 194.23(b). See the preamble discussion of § 194.22(a)(2)(iv), Quality assurance, for further discussion of EPA's evaluation of compliance.

[17] A functional requirement specifies how the code is intended to operate, including inputs and outputs.

4. Documentation of Models and Codes

Sections 194.23(c)(1) through (6) contains a number of requirements related to documentation of models and computer codes. These requirements allow EPA to evaluate the design of the models, to evaluate the numerical values selected to describe the repository and its surroundings, and to operate the software used to perform the PA calculations.

DOE documented the development of computer software in a series of documents that supplement the CCA. The information that EPA reviewed was contained primarily in Analysis Packages, User's Manuals, Validation Documents, Implementation Documents and Requirements Document & Verification and Validation Plans for each code. DOE used these documents to track development of software codes beginning from the conceptual model stage, and continuing through derivation of the mathematical equations and their solutions, setting computational requirements for computer codes, designing the computer software, programming the software, and testing the codes after they are programmed. Among the types of information found in these documents are general descriptions of the models, descriptions of the theoretical background of models, discussions of the limits of the models, instructions for executing computer codes, information on the required input and output formats with examples, reports on testing of the computer codes, structure of the computer codes, source codes,[18] and sources of data used to support parameter values used in the models and codes.

a. Theoretical Background. Section 194.23(c)(1) requires the CCA to describe the theoretical backgrounds of each model and the method of analysis or assessment used by each model. EPA evaluated whether DOE's descriptions of the computer codes provided sufficient detail to determine if the codes are formulated on a sound theoretical foundation, and whether DOE provided clear documentation describing exactly how each of the codes was used to support the PA. The codes that EPA reviewed include: CUTTINGS_S, SECOFL2D, SECOTP2D, CCDFGF, LHS,[19] PANEL, BRAGFLO, BRAGFLO_DBR, NUTS, FMT, GRASP–INV, SANTOS and ALGEBRA.[20] These codes describe the repository, the movement of radionuclides in contaminated brine through the overlying Culebra dolomite, releases of radionuclides when a drill penetrates the repository, and calculations of releases for final results of the PA. EPA located the majority of the information in the Users Manuals and Analysis Packages for each code, found in the Sandia National Laboratories WIPP Record Center.

In a few cases, EPA initially found the theoretical description of the computer codes to be inadequate. Most notably, the mathematical description of the solution precipitation model contained in the NUTS code, which predicts radionuclide transport in the repository and in units underlying the Culebra, was absent from the documentation. DOE addressed EPA's concerns by providing supplementary reports that describe in detail those theoretical discussions that were originally deficient. With respect to the documentation pertaining to the method of analysis, EPA found the descriptions in the Analysis Packages for each code to be sufficiently complete. In several instances, EPA requested that DOE clarify the written documentation, which DOE did.

Based on information contained in the Users Manual and Analysis Packages for each code and supplementary information requested by EPA to address specific problems uncovered in the course of the compliance review, EPA found that DOE has provided sufficient documentation so that individuals knowledgeable in the subject matter have sufficient information to judge whether the codes are formulated on a sound theoretical foundation, and whether the code has been used properly in the PA. EPA also found that the level of documentation is consistent with the ASME requirements for quality assurance as well as consistent with recent standards on ground-water modeling published by the American Society for Testing and Materials (ASTM). Therefore, EPA proposes to determine that DOE has complied with the requirements of § 194.23(c)(1).

b. Descriptions of Models. Section 194.23(c)(2) requires the CCA to document the following kinds of information: general descriptions of the models; discussions of the limits of applicability of each model; detailed instructions for executing the computer codes, including hardware and software requirements; input and output formats with explanations of each input and output variable and parameter; listings of input and output files from a sample computer run; and reports on code verification, bench marking, validation,[21] and quality assurance ("QA") procedures. Section 194.23(c)(3) requires documentation of the structure of the computer codes in detail and complete listings of the source codes.

The codes that EPA reviewed include: CUTTINGS_S, SECOFL2D, SECOTP2D, CCDFGF, LHS, PANEL, BRAGFLO, BRAGFLO_DBR, NUTS, FMT, GRASP–INV, SANTOS and ALGEBRA. The supplemental information from DOE that documented code development was described above in this section. DOE also set forth a number of objectives regarding issues that must be covered in code documentation to meet the QA criteria outlined in Sections 4 and 6 of the ASME NQA–2a–1990 addenda, part 2.7, to ASME NQA–2–1989.

EPA reviewed the supplemental documents, executed the computer codes, and evaluated the code verification, bench marking, and validation documentation. During its review, EPA identified a number of areas where the Agency initially judged the documentation to be inadequate. EPA required the Department to perform an analysis on the NUTS computer code, to develop a code requirement and test the statistical validity of certain aspects of the GRASP–INV code, to provide evidence that the GRASP–INV code was tested in a manner consistent with its implementation in the PA, and to document a sample computer run that corresponds to calculation of the CCA PA results. DOE provided this additional supporting analysis and documentation and satisfied EPA's concerns.

DOE submitted all of the source code listings and a detailed description of the structure of computer codes in the Implementation Documents for each code. With this information, a user can compile the source code and install it on a computer system identical to that used in the CCA PA calculation. EPA found that DOE submitted all of the source code listings. EPA identified no problems with the detailed descriptions of the structure of the computer codes.

EPA found that the CCA and supplementary information included an adequate description of each model used in the calculations, a description of limits of applicability of each model, detailed instructions for executing the computer codes, hardware and software requirements to run these codes, input and output formats with explanations of each input and output variable and parameter, listings of input and output files from sample computer runs, and reports of code verification, bench marking, validation, and QA procedures that are adequate for use in the CCA PA. EPA also found that DOE adequately provided a detailed description of the structure of the computer codes and supplied a complete listing of the computer source code in supplementary documentation to the CCA. The documentation of computer codes describes the structure of computer codes with sufficient detail to allow EPA to understand how software subroutines are linked. The code structure documentation shows how the codes operate to provide accurate solutions of the conceptual models. Therefore, EPA proposes to determine that DOE has demonstrated compliance with §§ 194.23(c) (2) and (3).

c. Parameters. Section 194.23(c)(4) requires detailed descriptions of data collection procedures, data reduction and analysis, and code input parameter development. Parameters are numerical values or ranges of numerical values used to describe different physical and chemical aspects of the repository, the geology and geometry of the area surrounding the WIPP, and possible scenarios for human intrusion. Some parameter values are well-established physical constants, such as the Universal Gas Constant or atomic masses of radionuclides. Parameters also can be physical, chemical or geologic characteristics that DOE established by experimentation. DOE has also assigned parameters to aspects of human intrusion scenarios, such as the diameter of a drill bit used to drill a borehole that might penetrate the repository.

DOE discussed information supporting parameter development in the CCA and in parameter records located in the SNL WIPP Record Center. The records at SNL Record Center include WIPP parameter entry forms, Parameter Records Packages, Principal Investigator Records Packages, Data Records Packages, and Analysis Packages. DOE uses all of these documents to explain the full development of parameter values used as inputs to the CCA PA calculations.

The Agency reviewed the CCA, parameter documentation and record packages for approximately 1,600 parameters used as input values to the CCA PA calculations. EPA further reviewed parameters record packages and documentation in detail for 465 parameters important to performance of the disposal system. The Agency selected parameters to review in depth based on the following criteria: parameters that were likely to contribute significantly to releases or seemed to be poorly justified; parameters that control various functions of the CCA PA computer codes that were likely to be important to calculations of releases and important to compliance with the containment requirements of § 191.13; and other parameters the Agency used to evaluate the overall quality of SNL's documentation traceability. The Agency examined DOE's parameter documentation to see if the following elements were present: detailed listings of code input parameters and the parameters that were sampled; codes in which the parameters were used and the computer code names of the sampled parameters; descriptions of the sources of data; descriptions of the parameters, data collection procedures, data reduction and analysis, and code input parameter development; discussions of the linkage between input parameter information and data used to develop the input information; discussions of the importance of the sampled parameters relative to final calculations of releases, correlations among sampled parameters, and how these are addressed in PA; a listing of the sources of data used to establish parameters; and data reduction methodologies used for CCA PA parameters, including an explanation of QA activities.

After its initial review, the Agency found that DOE had a great deal of documentation available in the SNL Records Center supporting most of the parameters used in the CCA PA. However, EPA had some concerns about the completeness of the list of CCA PA parameters, the description and justification to support the development of some code input parameters, and the traceability of data reduction and analysis of parameter-related records. The Agency did not agree with the technical justification of some parameter values and probability distributions. The Agency did not find adequate documentation to support one of DOE's professional judgement parameters, the waste particle size value (expressed as a particle diameter). Other parameters such as professional judgment parameters and some parameters that were used in DOE's 1992 PA calculations were found to have adequate documentation to support the value used in the CCA PA calculations.

During its review, EPA found that the following types of documentation were necessary to improve DOE's records: a comprehensive database of all parameters used in the CCA PA, a database of all parameters based on experimental data, "roadmaps" that document and link CCA PA parameters to their sources, complete record packages in the SNL Record Center, background documentation on the development of those parameters that were originally used in DOE's 1992 PA calculations and again were used in the CCA PA calculation, and adequate explanations of why the 149 professional judgment parameters in the comprehensive parameter database did not need expert elicitation. DOE provided all of these pieces of documentation, primarily by improving the quality of the records stored in the SNL WIPP Records Center. The Agency did not accept the use of professional judgement to derive the waste particle size parameter, and thus required DOE to use the process of expert elicitation to develop the value for this parameter. (See also the preamble discussion for § 194.26 regarding expert elicitation for the waste particle size.) After subsequent review and evaluation of the SNL WIPP Record Center records and after completion of expert elicitation, EPA was satisfied with the additional documentation provided by DOE for these areas of concern.

The Agency requested further documentation from DOE, expressing concern about information supporting 58 parameters. EPA divided these parameters into those parameters lacking supporting evidence, those parameters that have records supporting values other than those selected by DOE, and those parameters that are not explicitly supported by the relevant data or information. DOE provided additional information supporting some of the parameters of concern to EPA. The Agency also performed its own sensitivity analyses for the parameters to determine if changes to some parameters have a significant impact on the final computer calculations. The Agency's concerns were resolved for thirty-four of these parameters, either by DOE's submission of additional documentation or by the results of sensitivity analyses conducted by EPA that indicated that changes to certain parameter values would not

[18] "Source code" means the written description of each step the computer code will follow when it is executed.

[19] LHS, or Latin Hypercube Sampling, is a code that selects or "samples" a numerical value from a distribution of probable values for a parameter. For more information on LHS, see the preamble discussion of the requirements of § 194.34.

[20] The ALGEBRA computer code manipulates input data and initial conditions that allow other codes to perform their calculations.

[21] Verification, bench marking and validation are steps in testing computer codes to ensure they operate as intended. Verification means that the aspect of the code being tested matches known solutions. Bench marking means that solutions from the code are compared to results from an outside reference or "bench mark" calculation, for more complicated situations where the solutions to a problem may not be known exactly. Validation means all aspects of the code work together properly.

significantly impact results of computer calculations.

The Agency later required DOE to perform additional calculations in a Performance Assessment Verification Test ("PAVT") in order to verify that the cumulative impact of all required and other corrections to input parameters, conceptual models, and computer codes used in PA was not significant enough to necessitate a new PA. EPA directed DOE to incorporate modified values or distributions for twenty-four parameters in the PAVT. The PAVT showed that the calculated releases may increase by up to three times from those in the original CCA PA, but that the WIPP is still an order of magnitude below the containment requirements in § 191.13. For further information about results of the PAVT, see the preamble for § 194.34, "Results of PA." DOE satisfied EPA's concerns about the parameters by incorporating EPA's changes to the parameter values and parameter distributions in the PAVT.

Upon subsequent review and evaluation, EPA determined that DOE, after additional work and improvement of records in the SNL Record Center, adequately provided a detailed listing of the code input parameters; listed sampled input parameters; provided a description of parameters and the codes in which they are used; discussed parameters important to releases; described data collection procedures, sources of data, data reduction and analysis; and described code input parameter development, including an explanation of QA activities. Therefore, the Agency proposes to determine that the CCA complies with § 194.23(c)(4).

d. Public Comments on Parameter Values. During the public comment period for the ANPR, EPA received comments on specific parameter values. After the end of the ANPR public comment period, EPA also received comments on parameter distribution values that the Agency mandated DOE include in the PAVT.

The Agency performed a thorough review of the parameters and the parameter development process, as discussed in the previous section. In its initial review, the Agency found that DOE had a great deal of documentation supporting most of the parameters used in the CCA PA available in the SNL Records Center. EPA specifically requested DOE to perform the PAVT in order to determine the effects of different parameter distributions for those parameters that concerned EPA and that appeared to have a significant impact on the results of PA.

e. Software Licenses. Section 194.23(c)(5) requires the CCA to document any licenses necessary for software used in the PA. DOE stated that it did not use any software requiring licenses, since software was developed by DOE or its contractors. EPA concurs with DOE's statement, and thus proposes to find that the CCA complies with § 194.23(c)(5).

f. Parameter Correlation. Section 194.23(c)(6) requires the CCA to provide an explanation of the manner in which models and computer codes incorporate the effects of parameter correlation. Parameters are correlated if they are not completely independent of each other. For example, if two parameters are programmed into computer codes so that both increase or decrease under the same conditions, the two parameters are correlated. Such a correlation can be directly programmed as an explicit correlation specified by the computer user. A parameter correlation also can be programmed into computer codes indirectly through an induced correlation when one parameter is used to derive a second parameter in the code. EPA evaluated parameter correlation in the CCA because an improper parameter correlation may call into question some parameter values and may even call into question the validity of the results from PA, depending on how significant the correlated parameters are.

User-specified (explicit) parameter correlations are introduced into the CCA PA calculations using a correlation matrix or table in the Latin Hypercube Sampling (LHS) computer program. Of all the parameters, only rock compressibility and permeability are explicitly correlated in the LHS computer code input file. When values that are sampled using the LHS computer code are used to calculate other values in the CCA PA calculations, an induced correlation parameter relationship is created through mathematical formulas used in subsequent computer codes. This is the prevalent method of correlation used in DOE's PA.

EPA reviewed the documentation in the LHS Users Manual that explains how parameter correlation is included in the parameter sample process. EPA also reviewed information in the CCA which discussed the mathematical methods used to incorporate parameter correlation into the CCA PA calculations. EPA also reviewed DOE's sensitivity analysis of the parameters sampled in the CCA PA, which includes a discussion of the impacts of parameter correlations.

Based on its review of CCA documentation and supplementary information, EPA determined that DOE has adequately demonstrated the manner in which the models and computer codes incorporate the effects of parameter correlation. Specifically, the CCA contains adequate: (1) Discussions that explain how the effects of parameter correlation are incorporated; (2) explanations of the mathematical functions that describe these relationships; and (3) descriptions of the potential impacts on the sampling of uncertain parameters. The CCA also adequately documented the effects of parameter correlation for both conceptual models and the formulation of computer codes, and appropriately incorporated these correlations in the PA. Thus, the Agency proposes to find that DOE has demonstrated compliance with the requirements of § 194.23(c)(6).

5. EPA's Independent Testing

Section 194.23(d) allows EPA to verify the results of computer simulations used in the CCA by performing independent simulations. This requirement also requires DOE to provide EPA with data files, source codes, executable versions of computer software for each model, other material or information needed to permit EPA to perform independent simulations, and to access necessary hardware to perform such simulations within 30 days of a request from EPA. This requirement ensures that EPA can verify calculations in the CCA and analyze the potential impact of changes to the PA calculations if changes are made to computer codes or parameters.

DOE provided EPA with unrestricted access to computer hardware required to perform simulations related to the CCA. DOE also provided EPA with access to data files, source codes, and executable computer codes for each model used in the CCA. DOE provided staff to assist EPA in executing various verification tests and sensitivity analyses with DOE hardware and software. EPA performed code verification tests on all CCA PA computer codes using CCA hardware and software. In some cases, EPA required DOE to perform additional verification tests. EPA conducted extensive parameter sensitivity tests using the same system of CCA PA computer codes. The PAVT was an independent computer simulation of the WIPP's performance conducted under EPA's authority to require independent verification computer simulations under § 194.23(d). DOE provided assistance in all of this work on a timely basis. Because DOE provided EPA with ready access to the necessary tools to permit EPA to perform independent simulations using computer software and hardware employed in the CCA, EPA proposes to find DOE in compliance with § 194.23(d). For further information on EPA's evaluation of compliance for § 194.23, see CARD 23.

C. Section 194.24, Waste Characterization

Section 194.24, waste characterization, generally requires DOE to identify and describe quantitative information on the chemical, radiological and physical characteristics of the waste proposed for disposal at the WIPP that can influence disposal system performance. The DOE has not demonstrated compliance with all the requirements of § 194.24 as they pertain to waste characterization activities at generator sites. Therefore, EPA is proposing certification of compliance with these requirements, with the condition that DOE must submit additional information to demonstrate full compliance for waste generator sites. The proposed conditions of certification are addressed under EPA's discussion of the requirements at §§ 194.24(c)(3) through (5).

Section 194.24(a) requires DOE to describe the chemical, radiological and physical composition of all existing and to-be-generated waste, including a list of waste components and their approximate quantities in the waste. DOE described the existing waste by combining like waste streams into eleven final waste forms and waste stream profiles. A waste stream is defined by DOE as waste material generated from a single process or activity that is similar in material, physical form, isotopic make-up, and hazardous constituents. The waste stream profiles contained information on the waste material parameters, or components, that could affect repository performance. DOE extrapolated information from the existing waste streams to determine the amount of to-be-generated waste. DOE's waste profiles contained appropriate specific information on the components and their approximate quantities in the waste. Therefore, EPA proposes to find DOE in compliance with § 194.24(a).

Sections 194.24(b)(1) through (3) require DOE to analyze waste characteristics and waste components for their impact on disposal system performance. Waste components affect waste characteristics and are integral to disposal system performance. For example, the waste characteristic gas generation is controlled, in part, by the type and amount of waste components such as metal waste containers and plastic material. DOE identified waste-related elements pertinent to the WIPP as part of its screening for features, events, and processes ("FEPs"). The FEPs used in the performance assessment ("PA") served as the basis from which characteristics and associated components were identified and further analyzed. (Refer to the preamble discussion of § 194.32, "Scope of PA," for additional information pertaining to FEPs.)

DOE concluded that six characteristics were expected to have a significant effect on disposal system performance and were used in PA (i.e., parameters were identified for each): solubility, formation of colloidal suspensions containing radionuclides, gas generation, shear strength of waste, radioactivity of specific isotopes, and TRU activity at disposal. DOE identified eight waste components influencing the six significant waste characteristics: Ferrous metals, cellulose, radionuclide identification, radioactivity of isotopes, TRU activity of waste, solid waste components, sulfates, and nitrates. Finally, DOE provided a list of waste characteristics and components assessed, but determined not to be significant for various reasons such as negligible impact on PA. EPA found that DOE used a reasonable methodology to identify and assess waste characteristics and components. The analysis appropriately accounted for uncertainty and the quality of available information. Therefore, EPA proposes to find DOE in compliance with requirements in §§ 194.24(b)(1) through (3).

Section 194.24(c)(1) requires DOE to specify numeric limits on significant waste components and demonstrate that, for those limits, the WIPP complies with the numeric requirements of §§ 194.34 and 194.55. Either upper or lower limits were established for components that must be controlled to ensure that the PA results comply with the containment requirements. DOE explicitly included numeric limits, identified as fixed values with no associated uncertainty, for four waste components. Lower limits were established for ferrous and non-ferrous metals; upper limits were established for cellulosics and free water. The three components related to radioactivity and radionuclides were effectively limited by the inventory estimates used in the PA. The fixed-value limits and radionuclide inventory estimates were included in the PA calculations through parameters closely related to these components, and the results demonstrated compliance with EPA's standards. EPA concurred with DOE that it was not necessary to provide estimates of uncertainty for waste limits, so long as the PA demonstrated compliance at the fixed limits.

Explicit limits were not identified for solid waste, sulfates, and nitrates, even though DOE identified these as components significant to performance. For solid waste, EPA determined that in the PA, DOE took no credit for the potential gas-reducing effects of solid waste (i.e., assumed a lower limit of zero) and demonstrated that the WIPP would still comply. For nitrates and sulfates, EPA determined that these components would not significantly affect the behavior of the disposal system as long as cellulosics were limited. Thus, EPA concurred that it is unnecessary to specify limits for nitrates, sulfates, and solid waste. Therefore, EPA proposes to find DOE in compliance with § 194.24(c)(1).

Section 194.24(c)(2) requires DOE to identify and describe the methods used to quantify the limits of important waste components identified in § 194.24(b)(2). DOE proposed to use non-destructive assay ("NDA") (e.g., passive active neutron assay), non-destructive examination ("NDE") (e.g., radiography), and visual examination ("VE") as the methods used to quantify various waste components. The CCA described numerous NDA instrument systems and described the equipment and instrumentation found in NDE and VE facilities. DOE also provided information about performance demonstration programs intended to show that data obtained by each method could meet data quality objectives established by DOE. EPA found that these methods, when implemented appropriately, would be adequate to characterize the important waste components. Therefore, EPA proposes to find that DOE has demonstrated compliance with § 194.24(c)(2). (Implementation of measurement programs at waste generator sites is addressed below for the requirements at §§ 194.24(c)(4) and (5).)

Section 194.24(c)(3) requires DOE to demonstrate that the use of process knowledge to quantify components in waste for disposal conforms with the quality assurance ("QA") requirements found in § 194.22. EPA expected DOE to submit specific information on the process knowledge to be used at waste generator sites as part of DOE's certification application. EPA requires such information to conduct proper regulatory review of whether use of the process knowledge is appropriate and reliable. DOE provided some information on its overall plans for using process knowledge in the CCA. DOE did not, however, provide specific information on the use of process knowledge at any waste generator site in the CCA, nor did it provide information

demonstrating establishment of the required QA programs.

After submission of the CCA, EPA subsequently received information regarding process knowledge to be used at the Los Alamos National Laboratory ("LANL"). EPA determines DOE to have adequately described the use of process knowledge for retrievably stored (legacy) debris waste streams at LANL. EPA has confirmed establishment and execution of the required QA programs at that waste generator site through inspections. (See the preamble discussion of § 194.22, "Quality Assurance," for further information on inspections.) Therefore, the Agency determines that DOE has demonstrated compliance with the § 194.24(c)(3) QA requirement for LANL. EPA does not find, however, that DOE has adequately described the use of process knowledge for any other waste streams at LANL (other than the retrievably-stored (legacy) debris waste streams discussed above). Furthermore, DOE has not demonstrated compliance with § 194.24(c)(3) for any other waste generator site.

Sections 194.24(c)(4) and (5) require DOE to demonstrate that a system of controls has been and will continue to be implemented to confirm that the waste components emplaced in the WIPP will not exceed the upper limit or fall below the lower limit calculated in accordance with § 194.24(c)(1). The system of controls must conform to the QA requirements specified in § 194.22 DOE described a system of controls over waste characterization activities, such as the requirements of the TRU QA Program Plan ("TRU QAPP") and the Waste Acceptance Criteria ("WAC"). EPA found that the TRU QAPP established appropriate technical quality control and performance standards for sites to use in developing site-specific sampling plans. Further, DOE outlined two phases in waste characterization controls: waste stream screening/verification (pre-shipment) and waste shipment screening/verification (pre-receipt of waste at the WIPP). The tracking system for waste components against their upper and/or lower limits is found in the WIPP Waste Information System ("WWIS"). If implemented as proposed, EPA believes that the TRU QAPP, WAC, and WWIS are adequate to control important components of waste emplaced in the WIPP. EPA audited DOE's QA programs at CAO, SNL and WID and determined that DOE properly adhered to QA programs that implement the applicable NQA standards and requirements. (See the preamble discussion of § 194.22 for further information.) However, in the CCA, DOE did not demonstrate that the WWIS is fully functional and did not provide information regarding the specific system of controls to be used at individual waste generator sites.

After submission of the CCA, EPA subsequently received information regarding the system of controls to be used at LANL. The Agency confirmed through inspections that the system of controls is adequate to characterize waste and ensure compliance with the limits on waste components, and also confirmed that a QA program had been established and executed at LANL in conformance with NQA requirements. Moreover, DOE demonstrated that the WWIS is functional with respect to LANL—i.e., that procedures are in place at LANL for adding information to the WWIS system, that information can be transmitted from LANL and incorporated into the central database, and that data in the WWIS database can be compiled to produce the types of reports described in the CCA for tracking compliance with the waste limits. Therefore, EPA determines DOE to have demonstrated compliance with §§ 194.24(c)(4) and (5) for several waste streams in the category of retrievably stored (legacy) debris waste at LANL. EPA's proposed determination of compliance is limited to those retrievably stored (legacy) debris waste streams that can be characterized using the systems and processes audited by DOE, inspected by EPA, and found to be adequately implemented at LANL.[22] EPA does not find, however, that DOE has demonstrated compliance with § 194.24(c)(4) for any other waste stream at LANL, or with §§ 194.24(c)(4) and (5) at any other waste generator site.

In order to ship transuranic waste from other waste generator sites for emplacement at the WIPP, DOE will have to demonstrate compliance with the § 194.24(c)(3) through (5) requirements. Compliance with the requirements as they relate to QA programs will be evaluated and approved for each generator site in accordance with the language in Condition 2 ("Quality Assurance") of the proposed Appendix A to 40 CFR Part 194. To fully comply with these requirements, DOE must also submit—and EPA must approve—for each waste stream or group of waste streams, information on how process knowledge will be incorporated into waste characterization activities, and on the system of controls proposed for (a) given waste stream(s). A waste stream is defined by DOE as waste material generated from a single process or activity that is similar in material, physical form, isotopic make-up, and hazardous constituents. EPA expects that this information will be contained in site-specific documents including, for example, site certification quality assurance plans ("QAPs") and quality assurance project plans ("QAPjPs"). All such documentation submitted by DOE regarding plans for waste characterization of specific waste streams will be placed in EPA's dockets for public inspection.

As waste generator sites establish waste characterization programs for new waste streams (or groups of waste streams), EPA will assess their compliance with the §§ 194.24(c)(3) and (4) requirements. EPA will conduct an audit or inspection of a DOE audit at each site to evaluate the use of process knowledge and the establishment of a system of controls for each waste stream or group of waste streams. In order for a site to demonstrate the implementation of a system of controls, the WWIS must be demonstrated to be functional at any waste generator site before any waste stream(s) may be shipped from that site for disposal at the WIPP. By this, EPA means that a waste generator site must demonstrate that it has procedures in place for entering data into the WWIS tracking system, and that such data can be transmitted to the WWIS database so that it is available for compilation and reporting. In order for EPA to confirm that a system of controls has been adequately executed in accordance with § 194.24(c)(4), DOE must demonstrate that measurement techniques and control methods can be implemented for each waste stream or streams which DOE plans to emplace in the WIPP.

As described in the proposed certification condition, EPA's decision to approve site-specific plans for the use of process knowledge and the system of controls—and thus to approve a site to transport a waste stream for disposal at the WIPP—would be made only after public comment has been solicited and after EPA has conducted an audit or an inspection of a DOE audit of the waste generator site. Therefore, before making any determination to approve the use of process knowledge or the system of controls, EPA would publish a notice in the **Federal Register** announcing its intent to evaluate waste characterization programs for a given waste stream (or waste streams) at one or more sites. There would be allowed at least a 30-day comment period on DOE's proposed programs for process knowledge and a system of controls for one or more specific waste streams.

[22] See Docket A–93–02, Item II–I–70 for a list of these systems and processes. They include characterization methodologies and relevant procedures, such as that used for entering data into the WWIS database.

EPA believes that approval of site specific QA programs is required by, and that this proposed procedure is consistent with the provisions of Section 194.24(c)(3)–(5) because it requires DOE to (1) demonstrate application of established and executed quality assurance programs to use of process knowledge; (2) demonstrate implementation of the required system of controls; and (3) demonstrate application of established and executed quality assurance programs to the system of controls, at the individual waste generator sites prior to shipment of wastes from such sites. EPA requests comment on whether the Agency should place a condition on its certification of compliance at WIPP consisting of future demonstrations by DOE that the §§ 194.24(c)(3)–(5) requirements have been met, prior to shipment of TRU waste to WIPP from such sites. In particular, EPA requests comment on its preliminary conclusion that the proposed procedures for determining whether adequate quality assurance programs have been established and executed by DOE are consistent with 40 CFR Part 194. However, if, based upon public comment on today's proposed action, EPA concludes that it would be appropriate to make clarifying changes to 40 CFR Part 194 that specifically set forth these procedures, EPA may do so as part of its final action on today's proposal.

EPA's written determination that DOE has demonstrated compliance with these requirements, as well as the results of any audits or inspections, would be placed in the public dockets. EPA will confirm ongoing compliance with these requirements through unfettered access to waste generator sites for the purpose of conducting inspections under its authority at §§ 194.21 and 194.24(h).

Section 194.24(d) requires DOE either to include a waste loading scheme which conforms to the waste loading conditions used in the PA and in compliance assessments, or to assume random placement of waste in the disposal system. DOE elected to assume that radioactive waste would be emplaced in the WIPP in a random fashion. DOE examined the possible effects of waste loading configurations on repository performance (specifically, releases from human intrusion scenarios) and concluded that the waste loading scheme would not affect releases. DOE incorporated the assumption of random waste loading in its performance and compliance assessments (pursuant to §§ 194.32 and 194.54, respectively).

The EPA determined that, because DOE had assumed random waste loading and also had found that potential non-random loading of waste would not affect releases, a final waste loading plan was unnecessary. EPA determined that DOE cross-referenced the resultant waste distribution assumptions from the waste loading plan with the waste distribution assumptions used in PA, and accurately modeled random placement of waste in the disposal system. Since EPA concurred with DOE that a final waste loading plan was unnecessary, DOE does not have to further comply with § 194.24(f), requiring DOE to conform with the waste loading conditions, if any, used in the PA and compliance assessment. EPA proposes to find that DOE complies with §§ 194.24(d) and (f).

Section 194.24(e) prohibits DOE from emplacing waste in the WIPP if its disposal would cause the waste component limits to be exceeded. Section 194.24(g) requires DOE to demonstrate that the total inventory emplaced in the WIPP will not exceed limitations on TRU waste described in the LWA. Specifically, the LWA defines limits for: surface dose rate for remote-handled ("RH") TRU waste, total amount (in curies) of RH–TRU waste, and total capacity (by volume) of TRU waste to be disposed. (LWA, Section (7)(a)) In order to meet the §§ 194.24(e) and (g) limits, DOE intends to rely on the TRU QAPP, WAC, and two-phase waste characterization (pre-shipment at generator sites, and pre-receipt at the WIPP). The CCA stated that the WWIS will be used to track specific data related to each of the LWA limits; by generating routine WWIS reports, DOE will be able to determine compliance with the imposed limits. The WWIS will also be used to track information on each of the important waste components for which limits were established. EPA finds that the WWIS is adequate to track adherence to the limits, and that the WWIS has been demonstrated to be fully functional at the WIPP facility; as discussed above, waste generator sites will demonstrate WWIS procedures before they can ship waste for disposal at the WIPP. Therefore, EPA proposes to find DOE in compliance with §§ 194.24(e) and (g).

Section 194.24(h) allows EPA to conduct inspections and record reviews to verify compliance with the waste characterization requirements. As discussed above, EPA intends to monitor execution of waste characterization and QA programs at waste generator sites through inspections and record reviews.

In summary, EPA proposes to find that DOE is in compliance with § 194.24, and that LANL has demonstrated compliance with §§ 194.24(c)(3) through (5) for certain retrievably stored (legacy) debris waste streams and may therefore ship TRU waste for disposal at the WIPP (as such shipments relate solely to compliance with EPA's disposal regulations; other applicable requirements or regulations still may need to be fulfilled before disposal may commence). EPA's proposed determination of compliance is limited to those retrievably stored (legacy) debris waste streams that can be characterized using the systems and processes audited by DOE, inspected by EPA, and found to be adequately implemented at LANL.

The Agency also proposes to certify compliance subject to the condition that DOE may not ship other waste streams for emplacement at the WIPP until EPA determines that (1) DOE has provided adequate information on how process knowledge will be incorporated into waste characterization activities for a particular waste stream at a generator site, and (2) DOE has demonstrated that the system of controls described in § 194.24(c)(4) has been established for the site. In particular, DOE must demonstrate that the WWIS system is functional for any waste generator site before waste may be shipped, and that the system of controls can be implemented for each waste stream which DOE plans to dispose in the WIPP. As discussed in the preamble for § 194.22 (and in Condition 2 of the proposed Appendix A to 40 CFR Part 194), DOE must also demonstrate that sites have established and executed the requisite QA programs described in §§ 194.22(a)(2)(i) and 194.24(c)(3) and (5).

The Agency proposes that the decision to allow a waste generator site to dispose of a waste stream at the WIPP will be made only after public comments have been solicited on DOE's proposed site-specific programs and after EPA has conducted an audit or an inspection of a DOE audit of the waste generator site. EPA will make available, in its public docket, the site-specific program documents being considered by the Agency, and will publish a notice in the **Federal Register** announcing its intent to evaluate such plans. There will be allowed at least a 30-day public comment period for interested parties to comment on DOE's proposed programs for process knowledge and a system of controls for one or more specific waste streams. EPA also plans to conduct an

audit or an inspection of a DOE audit at each site to evaluate the execution of such plans for pertinent waste streams.

EPA's approval of the plans relevant to compliance with §§ 194.24(c)(3) and (4) will be indicated in a letter from the Administrator's authorized representative to the Department. EPA is proposing to define the Administrator's authorized representative as "the director in charge of radiation programs at the Agency" to clarify the delegation of responsibilities described in the Compliance Criteria and in the proposed conditions of certification. A copy of the approval letter, as well as the results of any inspections, will be placed in the public dockets. After approval of the site-specific plans for characterization of (a) waste stream(s), EPA will confirm the execution of the programs at each waste generator site and continued compliance with the requirements of §§ 194.24(c)(3) through (5) through inspections and audits under its authority at §§ 194.21, 194.22(e) and 194.24(h). Results of such inspections will be made available to the public through the Agency's public dockets, as described in § 194.67.

For specific language on the waste characterization conditions of certification, see Condition 3 of the proposed Appendix A to 40 CFR Part 194; for specific language on the quality assurance requirements that relate to waste characterization, see Condition 2 of the proposed appendix. For further information on EPA's evaluation of compliance for § 194.24, refer to CARD 24.

D. Section 194.25, Future State Assumptions

Section 194.25 stipulates that performance assessments ("PA") and compliance assessments ("CA") "shall assume that characteristics of the future remain what they are at the time the compliance application is prepared, provided that such characteristics are not related to hydrogeologic, geologic or climatic conditions." The purpose of the future state assumptions is to avoid unverifiable and unbounded speculation about possible future states of society, science, languages, or other characteristics of mankind. The Agency has found no acceptable methodology that could make predictions of the future state of society, science, languages, or other characteristics of mankind. However, the Agency does believe that established scientific methods can make plausible predictions regarding the future state of geologic, hydrogeologic, and climatic conditions. Therefore, § 194.25 focuses PA and CA on the more predictable significant features of disposal system performance, instead of allowing unbounded speculation on all developments over the 10,000-year regulatory time frame.

EPA required DOE to identify and document all future state characteristics and conditions that are used in the PA and CA. For all elements of the PA and CA that do not relate to hydrogeologic, geologic or climatic conditions, DOE was required to assume that characteristics of the future remain what they are at the time the compliance application was prepared. DOE was required to document the effects of potential changes to hydrogeologic, geologic and climatic conditions on the disposal system. For geologic conditions, EPA required DOE to address dissolution, near surface geomorphic features and processes, and subsidence in the geologic units of the disposal system. For climatic conditions, EPA required DOE use current climatic conditions for comparison and to consider cycles of increased precipitation.

In accordance with § 194.25(a), DOE provided a description of the future state assumptions for the features, events and processes ("FEPs") used in the PA and CA. Except where specified otherwise (i.e., §§ 194.32 and 194.33), DOE assumed that current characteristics for the FEPS not related to hydrogeology, geology and climatic conditions will remain constant throughout the 10,000-year regulatory time frame. EPA reviewed the information in the CCA and agrees with the future state assumptions that DOE has made. EPA found this information to be inclusive of all relevant elements of the PA and CA.

To fulfill the requirements of § 194.25(b)(1), DOE predicted the potential future hydrogeologic conditions at the WIPP. DOE developed several future state assumptions about the hydrogeological conditions of the WIPP, such as increased precipitation impacts on recharge location and capacity, hydraulic gradient, and transmissivity in the Culebra member of the Rustler and Dewey Lake formations. In a few cases, DOE found that hydrogeologic conditions can change with time and can possibly affect the PA. DOE addressed these potential changes in the PA. EPA reviewed the adequacy of the uncertainty of key parameter assumptions, such as the impacts of mining subsidence on Culebra transmissivity. EPA found that DOE adequately addressed the effects of mining-induced subsidence on Culebra hydrogeologic conditions. EPA reviewed the future state assumptions DOE made about hydrogeologic conditions and concludes that DOE has accurately characterized and modeled the potential changes from current conditions. EPA found that DOE's incorporation of these changes into the PA was adequate. Other potential changes to hydrogeologic conditions, notably those associated with climate change, are addressed in the discussion of § 194.25(b)(3).

Section 194.25(b)(2) requires DOE to consider the effects of potential changes to geologic conditions on the disposal system. DOE predicted potential future geologic conditions at the WIPP. DOE analyzed the stratigraphy and physiography of undistributed geologic conditions, salt creep and excavation-induced stress changes, geochemistry, seismic activity, disturbed rock zone, dissolution, and mining in the McNutt potash zone above the repository. DOE also analyzed the geologic effects of existing boreholes, brine reservoirs, and drilling intrusions. EPA found DOE's assumptions of the future geologic conditions to cover the significant geologic units and conditions that affect PA and determined that the screening arguments adequately justify the exclusion of the majority of the geological FEPs from the PA and CA. For additional information on the FEPs included in the PA and CA, see § 194.32. EPA evaluated the CCA and additional information provided by DOE at EPA's request regarding the uncertainty associated with deep dissolution and considers DOE's analysis adequate. For additional information on both geologic and hydrogeologic conditions of the WIPP, see § 194.14(a).

Section 194.25(b)(3) requires DOE to consider the effects of potential changes to climatic conditions on the disposal system. At the WIPP, availability of water for recharge is the primary concern related to global climate change. Future global warming would be expected to continue the trend to less precipitation in the vicinity of the WIPP (which would be beneficial to disposal system performance). DOE concluded that global cooling—and increased precipitation—is the worst case scenario for the WIPP. In accordance with § 194.25(b)(3), DOE identified and described the effects of increased precipitation in future cooler climate cycles on the repository. DOE considered potential increased participation over the next 10,000 years and incorporated the uncertainty of the effects of this climate change in the PA through modeling of dissolution, groundwater flow, and potential radionuclide transport in groundwater. DOE described climate change due to potential natural causes and the resulting changes in recharge rates, groundwater flow velocity, and flow direction. DOE included models of the impact of potential climate changes on groundwater flow in the Culebra over the regulatory time period.

EPA found that the CCA included adequate discussions of the current and previous climate at the WIPP site and found that DOE addressed the impacts of potential climate change over the regulatory time frame. EPA concludes that DOE appropriately considered climate-related factors such as precipitation, temperature, and evapotranspiration that might affect groundwater flow in the regional three-dimensional groundwater basin model. EPA also examined DOE's descriptions of recharge associated with potential climate change effects and found that DOE adequately described the uncertainties associated with potential change to the future climate cycles. For additional information on climate change ground water flow, see §§ 194.14(a) and (i).

In addition, EPA evaluated potential hydrogeologic changes related to climate change, including: groundwater recharge, Culebra flow rate variations, and water table elevation. EPA evaluated the additional information DOE provided at EPA's request regarding vertical inflow to the Dewey Lake Formation and three-dimensional groundwater flow modeling, and concluded that DOE provided adequate documentation to sufficiently address the issues. EPA verified that the CCA acknowledges and quantifies uncertainties in hydrogeologic conditions found in the site characterization data descriptions and modeling assumptions. EPA also found that DOE modeled the effects of climate changes during the next 10,000 years on the groundwater flow in the Culebra. After reviewing the CCA and the additional information provided by DOE at EPA's request, EPA concluded that DOE's explanation of uncertainty associated with the potential wetter climate impacts on Culebra transmissivities resulting from potential dissolution of fracture infillings is acceptable.

EPA determined that the overall CCA approach to dealing with uncertainty, and the examples of conservative assumptions used to compensate for uncertainty, is consistent with the FEPs list, screening arguments, and model descriptions. EPA proposes to find DOE in compliance with § 194.25. For further information on EPA's evaluation of compliance with § 194.35, refer to CARD 25.

E. Section 194.26, Expert Judgment

The requirements of § 194.26 apply to expert judgment elicitation. Expert judgment is typically used to elicit two types of information: numerical values for parameters (variables) that are measurable only by experiments that cannot be conducted due to limitations of time, money, and physical situation; and essentially unknowable information, such as which features should be incorporated into passive institutional controls to deter human intrusion into the repository. (61 FR 5228) Quality assurance ("QA") requirements in accordance with § 194.22(a)(2)(v) must be applied to any expert judgment to verify that the procedures for conducting and documenting the expert elicitation have been followed.

The requirements of § 194.26(a) prohibit expert judgment from being used in place of experimental data, unless DOE can justify that the necessary experiments cannot be conducted. Expert judgment may substitute for experimental data only in those instances in which limitations of time, resources, or physical setting preclude the successful and timely collection of data.

The CCA submitted on October 29, 1996, did not identify any expert elicitation activities. During the Agency's review of PA parameters, EPA found that inadequate explanation and information was provided on the derivation of 149 parameters identified in the CCA as resulting from professional judgment (e.g., code control parameters, physical constants). The Compliance Criteria do not provide for utilization of "professional judgment." Input parameters are to be derived from data collection, experimentation, or expert elicitation. EPA requested in letters to DOE dated March 19, April 17, and April 25, 1997, that DOE provide additional information on the derivation of the 149 parameters. (Docket A–93–02, Items II–I–17, II–I–25, and II–I–27) In the absence of data collection or experimentation, EPA expected DOE to derive these input parameters through expert elicitation.

DOE responded to EPA's requests by adding information to and improving the quality of the records stored in the Sandia National Laboratory ("SNL") Records Center to enhance the traceability of parameter values. EPA deemed the documentation provided by DOE adequate to demonstrate proper derivation of all but one of the so-called professional judgment parameters—the waste particle size distribution parameter. The remaining parameters questioned by EPA were found to have adequate documentation to support the values used in the CCA PA calculations. For further discussion of the technical review of PA parameters, see the preamble for § 194.23. EPA required DOE to use the process of expert elicitation to develop the value distribution for the waste particle size parameter. (Docket A–93–02, Item II–I–27)

The waste particle size parameter is important in the PA because it affects the quantity of radioactive materials released in spallings from inadvertent human intrusion. Because particle diameters are uncertain and cannot be estimated either directly from available data or from data collection or experimentation, the waste particle size parameter had to be based on an elicitation of expert judgment.

DOE conducted the expert judgment elicitation on May 5 through May 9, 1997. The process included: definition of technical issues; public notification; selection of experts; general orientation and elicitation training; presentation and review of issues; preparation of expert analysis by elicitor; discussion of analysis by panel members; elicitation; recomposition; review and approval of dissenting opinions provided by experts; and documentation of the process and results. The results of the expert elicitation consisted of a model for predicting waste particle size distribution as a function of the processes occurring within the repository, as predicted by the PA. This particle size distribution was incorporated in the PAVT calculations; for a detailed discussion on the sampling of uncertain parameter distributions, refer to the preamble discussion of § 194.34, "Results of PA." DOE completed a final report entitled, "Expert Elicitation on WIPP Waste Particle Size Distributions(s) During the 10,000-Year Regulatory Post-closure Period." (Docket A–93–02, Item II–I–34) EPA proposes to find that DOE complies with § 194.26(a) because the Agency found adequate support for the derivation of all parameter values with the exception of the waste particle size parameter, for which DOE undertook an expert elicitation.

EPA's review of DOE's compliance with the requirements of § 194.26 principally focused on the conduct of the elicitation process. Sections 194.26 (b) and (c) set specific criteria for the performance of an expert judgment elicitation. DOE must: identify the expert judgments used to support the compliance application; identify the experts involved in the process; describe the process of eliciting expert

judgment; document the results; document that the experts have the necessary independence and qualifications for addressing the questions and issues presented; explain the connection between the questions posed to the expert panel and the manner in which the final report of the panel is used in the compliance application; adhere to requirements on the composition of the expert panel, including the fraction of the panel members who are employed by DOE; assure the public be given the opportunity to present their views in the expert judgment process; and document the elicitation process so as to demonstrate a logical progression from the first statement of issue given to the panel to the combination and presentation in the final report.

EPA observed DOE's elicitation process and conducted an audit of the documentation prepared in support of DOE's compliance with § 194.26. The scope of the audit covered all aspects of the expert judgment elicitation process, including: panel meetings, management and team procedures, curriculum vitae of panel members, background documents, and presentation materials. EPA also assessed compliance with the QA requirements of § 194.22. EPA found that the documentation provided by DOE addressed the requirements of § 194.26(b)(2).

In accordance with § 194.26(b)(1), DOE identified the individual experts on the panel. EPA found that the expert panel was composed of six experts, including four from consulting firms and two associated with universities. Two of the six panel members were DOE contractors at the time of the elicitation.

Therefore, in accordance with § 194.26(b)(7), the panel included at least five individuals, two-thirds of whom were not employed by DOE or DOE contractors. In accordance with § 194.26(b)(3), the panel did not include individuals who will use the judgments or who maintain, at any organizational level, a supervisory role or who are supervised by those who will utilize the judgment. EPA found DOE's documentation to demonstrate compliance with these requirements.

Based on its review of curriculum vitaes and completed organizational conflict of interest forms, EPA determined that the experts on the panel demonstrated the required independence and level of knowledge required by the questions or issues presented. (§ 194.26(b)(4)) EPA found the background and orientation materials addressed the relationship among information and issues as well as the purpose and intent of the judgment, in accordance with § 194.26(b)(5). The Agency determined that the expert elicitation met the requirement at § 194.26(b)(6) since the result of the process was a parameter distribution that could be implemented directly in the PA. EPA also found that DOE afforded the public an opportunity to present scientific and technical views to the expert panel. (§ 194.26(c))

Based on the review of expert elicitation supporting documentation developed by DOE and its contractors, as well as the results of the EPA audit to verify compliance, EPA proposes to determine that DOE complies with the requirements of § 194.26 in conducting the required expert elicitation.

Numerous public comments were received on DOE's statement that it did not conduct any expert judgement activities in developing the CCA. As many commenters correctly pointed out, the CCA did not contain adequate information to allow a reviewer to ascertain whether a large number of the input parameters were properly derived in accordance with the explicit requirements of the Compliance Criteria. DOE subsequently provided additional information, and substantially improved the quality of the records at the SNL Records Center to make it possible to confirm that all but one of the suspect input parameters were adequately supported. For further discussion of EPA's evaluation of compliance with § 194.26 and related public comments, see CARD 26.

F. Section 194.27, Peer Review

Section 194.27(a) requires DOE to conduct peer review evaluations related to conceptual models, waste characterization analyses, and the evaluation of engineered barriers. This section, at §§ 194.27(b) and (c)(1), also requires DOE to submit documentation showing that the required peer reviews were conducted in a manner compatible with NUREG–1297, "Peer Review for High-Level Nuclear Waste Repositories." (Docket A–92–56, Item III–B–1h) NUREG–1297 is incorporated by reference in the Compliance Criteria. As stated in NUREG–1297, the purpose of peer review is to provide confidence in the validity of technical and programmatic judgments involving scientific uncertainty or ambiguity by subjecting those judgments to the evaluation of qualified, independent specialists. (NUREG–1297, p. 2)

DOE completed the required peer reviews and included a description of the peer review process in the CCA. EPA's CAG indicates the types of documentation necessary for § 194.27(b) to demonstrate that peer reviews were conducted in accordance with the NUREG–1297 guidance. For example, the CCA should show the process by which peer review panels deliberated, should present the conclusions they reached, and should show that panel members were qualified and free of conflicts of interest. EPA reviewed the CCA to determine whether DOE's procedures and plans for the required peer reviews were consistent with the CAG and whether the required peer reviews had actually been conducted in accordance with those procedures and plans.

Many of the documents detailing DOE's implementation of NUREG–1297 are kept by DOE as quality assurance ("QA") records and were not included in the CCA but were made available to EPA. EPA first reviewed the CCA and supplementary reports and confirmed that the required peer reviews had been conducted. To evaluate the peer review process further, EPA conducted an audit of DOE's QA records for peer review in February 1997. The audit consisted of an extensive review of DOE's records and interviews with DOE staff and contractors who managed the required peer reviews. The audit raised several isolated findings, but none of these was sufficient to lead EPA to conclude that any of the peer reviews had been conducted in a manner incompatible with NUREG–1297.

EPA proposes to find DOE in compliance with §§ 194.27(a) and (b). DOE submitted documentation in the CCA showing that the required peer reviews had been conducted. DOE's procedures for the conduct of peer review satisfactorily incorporated the essential elements of NUREG–1297, as identified in the CAG. The audit conducted by EPA verified that DOE properly followed its procedures for peer review.

Section 194.27(c)(1) requires DOE to show that the three required peer reviews, if conducted prior to promulgation of 40 CFR Part 194, were conducted in accordance with an alternative process substantially equivalent to NUREG–1297. Because DOE conducted the required peer reviews after the promulgation of 40 CFR Part 194, this requirement is not applicable.

Section 194.27(c)(2) requires DOE to document any peer reviews conducted by DOE other than those required by § 194.27(a). The additional peer reviews were not required to be compatible with the guidance in NUREG–1297, but EPA recommended in the CAG that they be documented in a manner similar to the required peer reviews. EPA expected that documentation would be sufficient to identify the purpose, scope, membership, and findings of a given peer review.

DOE developed a list of criteria, based principally on guidance in NUREG–1297, to determine whether a review activity conducted prior to promulgation of the Compliance Criteria constituted a peer review. DOE then identified past activities that met the criteria and incorporated relevant documentation in the CCA. EPA reviewed the materials provided and found that sixteen peer reviews were properly included in the CCA. EPA also found that the CCA contained sufficient documentation to allow EPA to identify the purpose, scope, membership, and findings of those sixteen peer review activities. Therefore, EPA proposes to find DOE in compliance with § 194.27(c)(2).

Comments received in regard to peer review expressed mainly two concerns. First, commenters considered the CCA incomplete because some peer reviews were reopened after the CCA was sent to EPA in October 1996. EPA requested, received, and docketed pertinent documentation resulting from the reopened peer reviews prior to determining that the CCA was complete.

Second, commenters questioned the findings of some peer reviews. EPA's compliance review for § 194.27(b) focused on the extent to which the required peer reviews were conducted in a manner compatible with NUREG–1297. The Agency believes that the critical evaluation of peer review findings is necessary but not directly relevant to DOE's compliance with § 194.27. EPA carefully examined the findings of all peer reviews conducted after the promulgation of 40 CFR Part 194 and discusses them under the relevant technical sections: quality assurance (§ 194.22), conceptual models (§ 194.23), waste characterization (§ 194.24), passive institutional controls (§ 194.43), and engineered barriers (§ 194.44). For further information of EPA's evaluation of compliance for § 194.27, see CARD 27.

XI. Containment Requirements

The disposal regulations include requirements for containment of radionuclides. The containment requirements at 40 CFR 191.13 specify that release of radionuclides to the accessible environment shall not exceed specific limits, which are based on the amount of waste in the WIPP at the time of disposal. (§ 194.31) Assessment of the likelihood that the WIPP will meet these release limits is conducted through use of a process known as performance assessment ("PA"). The WIPP PA essentially consists of a series of computer simulations that attempt to describe the physical attributes of the disposal system (site, geology, waste forms and quantities, engineered features) in a manner that captures the behaviors and interactions among its various components. The computer simulations require the use of conceptual models that represent physical attributes of the repository. The conceptual models are then expressed as mathematical relationships, which are then translated into computer code. The results of the simulations show the potential releases of radioactive materials from the disposal system to the accessible environment over the 10,000-year regulatory time frame. (Models and computer codes are addressed in more detail in the preamble for § 194.23 of the general requirements.)

The PA must include both natural and man-made processes and events which have an effect on the disposal system. It must consider all reasonable potential release mechanisms from the disposal system and must be structured and conducted in a way that demonstrates an adequate understanding of the physical conditions in the disposal system. The PA must evaluate both human-initiated releases (e.g., via drilling intrusions) and releases by natural processes that would occur independently of human activities. The requirements at §§ 194.32 and 194.33 address the scope of PA and the types of human intrusion which must be considered in PA.

The results of PA are used to demonstrate compliance with the containment requirements in 40 CFR 191.13. The containment requirements are expressed in terms of "normalized releases" (discussed in more depth in subsequent sections of this preamble). The results of PA are assembled into complementary cumulative distribution functions ("CCDFs") which indicate the probability of exceeding various levels of normalized releases. Section 194.34 of the WIPP Compliance Criteria imposes specific statistical requirements on the results of PA and on the single curve used to judge compliance with the containment requirements.

A. Section 194.31, Application of Release Limits

Section 194.31 indicates that DOE is to quantify releases of radionuclides from the WIPP in terms of "cumulative releases," which are calculated from "release limits." Release limits for radionuclides at a radioactive waste disposal facility must be calculated in accordance with 40 CFR Part 191, Appendix A. There, a "release limit" for a radionuclide is introduced as a measure of the cumulative amount of radioactivity, measured in curies, that is allowed to reach the accessible environment (that is, land surface, the atmosphere, surface waters, oceans, and all the land beyond the boundary of the WIPP land withdrawal area) over the 10,000 years after the disposal [23] of radioactive waste. Release limits are to be calculated using the activity from radioactive waste, in curies, that will exist in the WIPP at the time of disposal.

To calculate normalized releases and release limits, DOE must first identify all the radionuclides that are present in the waste that it plans to put in the WIPP (e.g., plutonium-238). Next, the Department projects which radionuclides will be present in the waste at the time of disposal, including those isotopes created by radioactive decay between the time of the waste inventory (approximately 1995) and the time of disposal (estimated to be the year 2033). DOE then determines which of these radionuclides emit alpha-particles, have an atomic number greater than that of uranium (transuranic), and have half-lives greater than twenty years. These radionuclides comprise the "TRU component" of the waste. The total activity of the TRU component of the waste, in curies, divided by one million curies, is called the "waste unit factor." For the WIPP, Table 1 of Appendix A of 40 CFR Part 191 presents values of release limits (in curies) per unit of this "waste unit factor."

To obtain the release limit for a radionuclide, DOE must multiply each release limit value in Table 1 by the numerical value of the waste unit factor. Finally, to obtain the normalized release for a scenario, DOE must divide the projected estimated release (obtained from PA modeling), in curies, for every radionuclide (whether TRU or non-TRU) by its respective release limit, and sum these quotients.

In the CCA, the Department provided an inventory of the various radionuclides in the waste expected at the time of disposal, including those radionuclides in the waste inventory that are currently stored at different DOE sites, those radionuclides that are projected to be generated at different DOE sites between 1995 and the time of

[23] "Disposal" is defined as "[P]ermanent isolation of . . . radioactive waste from the accessible environment with no intent of recovery whether or not such isolation permits the recovery of such fuel or waste. For example, disposal of waste in a mined geologic repository occurs when all of the shafts to the repository are backfilled and sealed." 40 CFR 191.02(l)

disposal, and those radionuclides that would be created by radioactive decay between the time of the waste inventory in 1995 and the time of disposal, approximately in the year 2033. The waste inventory showed that plutonium and americium produce almost all of the radioactivity from waste that would be in the WIPP at the time of disposal. Based on the fifteen radionuclides in the inventory that were transuranic, alpha-emitting, and had half-lives greater than twenty years, DOE calculated that the relevant total activity at the time of disposal would be 3.44 million curies and that the waste unit factor would be 3.44.

DOE used the waste unit factor to obtain the release limit for each radionuclide found in Table 1 in Appendix A of 40 CFR Part 191. These release limits were then used in the calculation of cumulative releases. The Department designated six transuranic radionuclides that contributed more than 99.9 percent of the activity as "major radionuclides." The Department calculated the release limits and relative contributions to releases for the six major radionuclides using a computer program called EPAUNI. The Department verified the computer calculations with sample hand calculations.

EPA reviewed DOE's description of the procedure used to estimate the activity of waste proposed for disposal, examined DOE's hand calculations, and verified the computer code and output to determine whether DOE correctly calculated the waste unit factor, including radioactive decay up to the year 2033. EPA also evaluated whether DOE appropriately calculated release limits for each major radionuclide and identified the relative contribution of each major radionuclide.

EPA found DOE's simplification of using the six transuranic radionuclides that contribute the greatest activity in computer calculations to be appropriate. Because these six radionuclides would make up more than 99.9 percent of the activity from the transuranic waste, DOE's simplification could contribute at most an error of 0.1 percent to its calculations of the contribution to releases from individual radionuclides, which would not have a significant impact upon the calculation of release limits or the contribution to releases from individual radionuclides.

EPA found that the TRU waste component used to calculate the waste unit factor of 3.44 omitted some waste stored at an off-site facility at Savannah River. DOE corrected this error by recalculating the waste unit factor based on a TRU inventory that included the Savannah River waste; the revised waste unit factor was 3.59. EPA did not require DOE to recalculate the release limits based on the new value for the waste unit factor, because using the larger revised factor would have resulted in higher release limits (and thus, lower normalized releases). That is, the use of the incorrect value in the CCA is more conservative than using the correct value of 3.59. The correction of the error would only show that the WIPP will comply with the disposal regulations by a wider margin than had been previously demonstrated.

The Agency confirmed that the Department calculated the waste unit factor of 3.44 and the release limits at the time of disposal in accordance with the requirements of Appendix A of 40 CFR Part 191. In addition, the Agency found that the Department correctly identified the relative contribution of each major radionuclide to releases. Finally, the Agency confirmed that the computer codes, model results, and hand calculations were consistent and thus supported the use of the computer codes. Because the Agency's review concluded that the Department calculated release limits for the WIPP using an appropriate methodology and conservative waste inventory estimates, the Agency proposes that the requirements of § 194.31 have been met. For further information on EPA's evaluation of compliance for § 194.31, see CARD 31.

B. Section 194.32, Scope of Performance Assessments (PA)

Section 194.32 requires DOE to consider, in the performance assessment ("PA"), both natural and man-made processes and events which can have an effect on the disposal system. EPA expected DOE to consider all features, events and processes ("FEPs") that may have an effect on the disposal system. In particular, EPA expected DOE to consider mining effects on hydraulic conductivity, fluid injection, future development of leases and existing boreholes in the scope of the PA. The CCA was also expected to document which FEPs (or sequences or combinations of FEPs) are included in the PA. DOE is required to document the decision not to include any feature, event, or process in the PA. Deep and shallow drilling, over the regulatory time frame, are addressed in more detail in the preamble discussion of § 194.33.

To fulfill the requirements of §§ 194.32(a), (d) and (e), DOE developed and followed a process for considering FEPs in the PA. DOE initially identified 1,200 FEPs from a list of FEPs developed by the Swedish Nuclear Power Inspectorate ("SKI"). This list was compiled and categorized based on location of occurrence and cause by nine organizations world wide. DOE modified this list to make it relevant to WIPP. DOE's final list of FEPs was then classified and screened for consideration in the PA. DOE screened FEPs from consideration in the PA based on regulatory exemption, low probability and low consequence. FEPs were then combined to form scenarios. Scenarios were also screened based on regulations, probability or consequence. The remaining scenarios were retained for implementation in the PA. The CCA documents DOE's decision not to include specific FEPs in the PA.

Approximately 237 FEPs were retained for screening. DOE concluded that 17 of 72 initial natural FEPs should be retained for the PA, including stratigraphy, shallow dissolution, saturated groundwater, infiltration, precipitation, and climate change. Of 108 waste and repository-induced FEPs, DOE concluded that 51 of these should be retained for the PA, including disposal geometry, waste inventory, salt creep, backfill chemical composition, actinide solubility, spallings, and cavings. DOE concluded that 15 of the 57 human-initiated events and processes should be retained for the PA, including oil and gas exploration. Examples of FEPs screened from use in the PA include: lateral dissolution, regional tectonics, salt deformation, mechanical effects of backfill, liquid waste disposal and groundwater extraction.

EPA concluded that the initial FEP list assembled by DOE was sufficiently comprehensive, in accordance with §§ 194.32(a) and (e)(1). In compiling this list, DOE appropriately screened out events and processes on the basis of probability, consequence or regulatory requirements. DOE considered and incorporated into the PA numerous natural processes and events, mining, and deep drilling. DOE considered shallow drilling and appropriately screened it out on the basis of low consequence. (See preamble for § 194.33.)

Based on quantitative and qualitative assessments provided in the CCA and supporting documents, EPA concluded that DOE appropriately rejected those FEPs that exhibit low probability of occurrence during the regulatory period, in accordance with § 194.32(d).

Review of the CCA and the submitted supporting documents confirms that DOE used a thorough process to identify all the appropriate FEPs as well as the related combinations and sequences that can potentially occur within the regulatory time frame and affect disposal system performance. EPA determined that the process is sufficiently documented and that DOE justified the retention and elimination of FEPs. In addition, EPA found DOE's inclusion of various scenarios in the PA to be reasonable and justified, and meets the requirement of § 194.32(e)(2). DOE provided documentation and justification for eliminating those FEPs that were not included in the PA. In some cases (e.g., fluid injection and dissolution), the CCA did not provide adequate justification or convincing arguments to eliminate FEPs from consideration in PA. (Fluid injection is discussed in more detail below, relative to compliance with § 194.32(c).) However, DOE provided supplemental information and analyses to demonstrate compliance with § 194.32(e)(3). EPA found this supplementary information to be adequate in fulfilling the requirements to justify FEP exclusion from the PA.

For disturbed scenarios (i.e., human activities), DOE discussed how mining was incorporated into the PA. DOE identified potash as the only natural resource currently being mined near the WIPP. DOE, in accordance with § 194.32(b), used the EPA-specified mining probability and considered changes in hydraulic conductivity up to 1000 times the base hydraulic conductivity of the Culebra. In its calculation of the potash area to be mined, DOE considered minable reserves inside and outside of the controlled area. The Compliance Criteria require DOE to examine only currently extractable resources, not to speculate on what other resources may become economically viable.

EPA verified, through review of the CCA and supporting documents, that DOE included, in the PA, appropriate changes in the hydraulic conductivity values for the areas affected by mining. These values for hydraulic conductivity considered the impact of institutional controls on mining, mining practices and mineral resources. The area considered to be mined for potash in the controlled area is consistent with the requirement of § 194.32(b), that the mined area be based on mineral deposits of those resources currently extracted from the Delaware Basin. EPA proposes to find that DOE complies with § 194.32(b).

EPA's review of the CCA raised questions regarding DOE's analysis, in accordance with § 194.32(c), of human-initiated activities, including fluid injection. The fluid injection scenario has been of particular concern to the public because of events that occurred in the Rhodes-Yates oil field, about 40 miles east of WIPP but outside the Delaware Basin. An oil well operator, Mr. Hartman, drilling in the Salado Formation in the Rhodes-Yates Field, encountered a salt water blowout in an oil development well. In subsequent litigation, the court found that the source of the water flow was injection water from a long-term waterflood borehole located more than a mile away.

DOE addressed the fluid injection scenario in the CCA with an analysis of waterflooding (for enhanced oil recovery) and brine disposal activities. (Docket A–93–02, Item II–G–1, Reference #611) In accordance with § 194.32(c), DOE determined that these two activities were the only fluid injection scenarios that were currently occurring or could be initiated in the near future in the vicinity of the WIPP. DOE identified the Bell Canyon Formation under the Salado and Castile Formations as the primary target for fluid injection for brine disposal. DOE stated that this scenario had the potential to produce more brine inflow to the WIPP. DOE modeled the fluid injection scenario using WIPP geology, and again using the geology identified in the Rhodes-Yates Field. The two sites differ significantly because the Castile Formation, which underlies the Salado at the WIPP, is absent in the Rhodes-Yates Field. DOE assumed that fluid injection activities would occur continuously for 50 years, and evaluated the subsequent effects of such injection activities over the entire 10,000-year regulatory time frame. The modeling results indicated that some brine could potentially get into the WIPP from fluid injection activities. However, the amount of brine from the worst case scenario (the "Rhodes-Yates" scenario) was low compared to the amount of brine expected to enter the waste area naturally. DOE thus screened out the fluid injection scenario on the basis of low consequence.

EPA's review of the CCA raised additional questions regarding DOE's screening analysis of fluid injection. EPA believes that 50 years is an accurate estimate for the life of a single oil field, but that it does not account for the possibility of multiple fields. Because drilling restrictions currently applicable to potash areas in the Delaware Basin could be lifted, it is possible that multiple oil fields could be developed in the foreseeable future near the WIPP. Based on the current resources and leases in the vicinity of the WIPP, EPA estimated that oil could still be drilled up to 150 years from now. EPA thus required DOE to extend the 50-year time frame in its models to 150 years. EPA also required DOE to use modified values for some input parameters, and to model the behavior of the disturbed rock zone consistent with assumptions used in the PA. (Docket A–93–02, Item II–I–17) Finally, EPA required DOE to provide additional information on the frequency of fluid injection well failures.

In supplemental work on fluid injection, DOE addressed all the issues identified by EPA. DOE modified the computer model grid configuration and added a new model to address concerns raised by both EPA and stakeholders. DOE researched injection well operating practices and construction in the Delaware and identified significant differences between those in the vicinity of the WIPP and the Rhodes-Yates Field. For example, wells near the WIPP are typically less than ten years old and are constructed to much higher mechanical standards than the older, less robust wells found in the Rhodes-Yates Field. DOE identified a range of well failure scenarios, from undetectable brine flow to catastrophic well failure. DOE's data indicated that the probability of a catastrophic well failure in the vicinity of the WIPP is extremely low. DOE confirmed that the presence of the Castile at the WIPP also substantially inhibits injected brine movement into the Salado anhydrite markerbeds.

Public comments on this issue included a detailed report that contradicted the DOE fluid injection modeling and indicated that fluid injection activities could overwhelm the WIPP with brine. (Docket A–93–02, Item II–H–28) EPA has reviewed the report and considers it to model conditions that are highly unrealistic for the WIPP. For example, all modeled scenarios assumed that the entire volume of brine was injected directly into the anhydrite marker beds in the Salado Formation. In addition, the report modeled the occurrence of fluid injection well beyond the time frame contemplated by § 194.32(c). The report also ignored current well construction and fluid injection operating practices, which are more robust than that used in the 45-year-old Rhodes-Yates Field.

EPA agreed with commenters that the original fluid injection screening was not adequate. Thus EPA required DOE to provide additional information and to do additional modeling. The additional modeling showed rates of brine inflow (and thus effects on the disposal system) even smaller than those estimated by the original CCA screening analysis. DOE provided documented evidence that the well construction and operating practices near the WIPP are much more robust than that in the Rhodes-Yates

well. Both DOE's research and EPA's own review of fluid injection, indicated that the probability of a long-term fluid injection well failure is below the regulatory cutoff of 1 in 10,000 over 10,000 years. Based on DOE's modeling and examination of fluid injection practices, EPA believes that a salt water blowout situation in the Rhodes-Yates Field is extremely unlikely to occur and affect WIPP's ability to contain radionuclides. Thus, EPA concurs with DOE that fluid injection is a low-probability scenario that can be screened out of the PA based on low consequence.

DOE, in accordance with § 194.32(c), also identified oil and gas exploration and exploitation, and water and potash exploration as the only near future human-initiated activities that need to be considered in the PA. DOE included and assessed the potential effects of existing boreholes as part of its FEPs screening analysis. DOE concluded that natural borehole fluid flow through abandoned boreholes would be of little consequence during current and operational phase activities. In addition, DOE screened out the occurrence of flow through undetected boreholes based on low probability.

To further address § 194.32(c), DOE assessed scenarios ranging from the effects of deep and shallow drilling and mining to undisturbed disposal system performance. DOE retained the FEPs describing both undisturbed and disturbed system performance. DOE identified the specific locations in the CCA that related to modeling of the individual FEPs. These discussions focused on conceptual model development, but often linked the conceptualizations with associated computational (computer) models.

EPA's review of the CCA and supporting documents referenced in the CCA with respect to § 194.32(c), indicated that DOE adequately analyzed the possible effects of current and future potential activities on the disposal system. However, DOE inadequately analyzed in the application some future activities in the vicinity of the disposal system, including injection of drilling fluids for brine disposal and enhanced oil recovery, solution mining, and full extraction potential of the leaseholds (in the vicinity of WIPP). In response to the concerns expressed by EPA and stakeholders, DOE conducted additional analyses and submitted follow-up information. This information was adequate and EPA concurred with the conclusions, concluding that DOE's analysis met the requirements of § 194.32(c).

In summary, EPA proposes to find DOE in compliance with § 194.32. For further information on EPA's evaluation of compliance for § 194.32, refer to CARD 32.

C. Section 194.33, Consideration of Drilling Events in PA

Section 194.33 requires DOE to make specific assumptions about future deep and shallow drilling in the Delaware Basin. Section 194.33 requires that the following assumptions be incorporated into the PA: drilling will occur randomly in space and time; the drilling rate may vary with the resources; drilling practices will remain constant for a single resource but may be different for others; and plugging practices will remain constant, but the permeability of a borehole may change with time. Deep and shallow drilling practices and related activities can directly impact the cumulative potential for contaminant release to ground, surface or geologic units.

For this requirement, EPA required DOE to discuss the resources for which deep and shallow drilling occur in the Delaware Basin. DOE was also required to describe the techniques and rates for deep and shallow drilling for each resource. In these analyses, DOE was required to document assumptions and sources of information. EPA also required DOE to document assumptions that DOE made in analyzing the consequences of drilling events in PA. Finally, DOE was required to evaluate the effects of boreholes on the properties of the disposal system.

To fulfill the requirements of § 194.33(a), DOE identified several deep and shallow drilling activities as being present in the Delaware Basin. DOE identified oil and gas exploration and exploitation, and water and potash exploration, as the principal drilling activities to be considered in the PA. The shallow drilling components of these activities were screened from inclusion in the PA because DOE considered these activities to be of low consequence to PA calculations. DOE considered three scenarios in PA for deep drilling: (1) One or more boreholes penetrate(s) the Castile brine reservoir and also intersect(s) a repository panel, (2) one or more boreholes intersect(s) a repository panel, and (3) multiple penetrations of waste panels, by boreholes of the first or second type, at many possible combinations of intrusion times, locations and combinations of borehole types. EPA found that the PA incorporated deep and shallow drilling events, in accordance with § 194.33(a).

To comply with the requirements of § 194.33(b), DOE incorporated assumptions into the PA about the severity, frequency and randomness of human intrusion. DOE considered intermittent and inadvertent drilling, including exploratory and developmental drilling, as the most severe human intrusion scenarios and used them to calculate cumulative radionuclide releases. The drilling rate is one of the most important parameters affecting compliance with the containment requirements. Using a publicly available petroleum database, DOE established the rate of future deep drilling to be 46.8 boreholes per square kilometer per 10,000 years. EPA found that DOE identified the number of deep drilling events for each resource, and that sources of information used to do so were thorough and appropriate. (The rate of shallow drilling in the Delaware Basin was not needed because, as noted above, shallow drilling was screened from inclusion in the PA based on low consequence.) DOE applied the deep drilling rate in the PA by randomly sampling with respect to: (1) The location of a borehole in the repository footprint, and (2) the time of occurrence during the regulatory time frame. EPA therefore proposes to find DOE in compliance with § 194.33(b).

DOE evaluated, in accordance with § 194.33(c), the consequences of drilling events assuming that drilling practices and technology remain consistent with practices in the Delaware Basin at the time the certification application was prepared. DOE evaluated borehole drilling and borehole seal degradation for their effects on properties of the disposal system and their impact on radionuclide migration and transport. DOE determined that boreholes can impact radionuclide migration and transport through cuttings, cavings, spallings and direct brine releases. In addition, DOE considered the effects of borehole degradation and its impact on the permeability of borehole plugs.

EPA and public commenters disagreed with the constant value DOE used in the PA for the short-term (up to 200 years after disposal) borehole plug permeability. EPA therefore directed DOE to use a range of borehole plug permeabilities when conducting the EPA-mandated Performance Assessment Verification Test ("PAVT"). While EPA's sensitivity analysis indicated that the short-term plug permeability affected some performance measures, the results of the PAVT demonstrated that the range of short-term plug permeability values, compared to the long-term borehole permeability, had little impact on the results of modeling.

EPA and public commenters also disagreed with DOE's use of a small range of values for the long-term borehole plug permeability. (Docket A–93–02, Item II–I–17) For example, one commenter asserted that DOE should evaluate both "perfect plugs" (i.e., low permeability) and plugs that "fail" (i.e, very high permeability). (Docket A–93–02, Item II–E–34, comment #113) In the PAVT, the long-term borehole plug permeability was changed so that the sampled parameter range included both low and high permeability values to simulate perfect plugs and borehole plug failure, respectively. Low permeability plugs did increase releases by increasing repository pressure and allowing more spallings and direct brine releases. However, the PAVT results indicated that changing the long-term borehole permeability, in combination with several other changes requested in public comments (notably those related to pressurized brine pockets), still would not cause predicted releases to violate the containment requirements; this indicates that the original CCA parameter values were acceptable for comparison to the containment requirements. (See preamble discussion of § 194.34 for further information on the PAVT.)

EPA reviewed the information contained in the CCA and concluded that DOE demonstrated that the effects of drilling events have been adequately considered. EPA found that the documentation in the CCA demonstrated that DOE thoroughly considered deep and shallow drilling activities and rates within the Delaware Basin. EPA found that DOE appropriately screened out shallow drilling from consideration in the PA. EPA also found that DOE appropriately incorporated the assumptions and calculations for drilling into the PA as stipulated in §§ 194.33(b) and (c). EPA determined that the PA models did not incorporate the effects of techniques used for resource recovery, in accordance with § 194.33(d). EPA further concludes that the information in the CCA is consistent with available data. EPA proposes to find DOE in compliance with the requirements of § 194.33. For further information on EPA's evaluation of compliance for § 194.33, see CARD 33.

D. Section 194.34, Results of PA

The containment requirements at § 191.13 indicate that a disposal system is to be tested through a PA that predicts the likelihood of occurrence of all significant processes and events that may disturb the disposal system and affect its performance, and that predicts the ability of the disposal system to contain radionuclides. Section 194.34 of the Compliance Criteria provides specific requirements for presenting the results of the PA for the WIPP.

The restriction on releases of radioactive material is expressed in terms of "normalized releases" or "cumulative releases." Normalized releases refer to amounts of radioactivity projected (by means of the mathematical models of the PA) to be released from the repository over 10,000 years under various physical conditions and intrusion scenarios. To calculate the normalized release for a given intrusion scenario, one first obtains the normalized release separately for each individual radionuclide; this involves dividing the amount projected to be released, in curies, by its radionuclide-specific release limit, as calculated in accordance with Appendix A of 40 CFR Part 191. (See the discussion of release limits for § 194.31 in today's preamble.) One then adds together the normalized releases for all radionuclides to determine the overall normalized release for the scenario. Section 191.13 requires that a disposal system be designed so that there is reasonable assurance that cumulative releases (1) have a probability of less than one in ten (0.1) of exceeding the calculated release limits, and (2) have no more than a one in one thousand (0.001) chance of exceeding ten times the calculated release limits.

Section 194.34 requires DOE to use complementary cumulative distribution functions ("CCDFs") to express the results of the PA. The Department also must document the development of probability distributions, and the computational techniques used for drawing random samples from these probability distributions, for any uncertain parameters used in PA. The PA must include a statistically sufficient number of CCDFs; in particular, the number of CCDFs must be large enough to ensure that the maximum CCDF curve exceeds the 99th percentile of the population of CCDFs, with at least a 95 percent probability, at the specific values of 1 and 10 for normalized releases. The CCA must display the full range of CCDFs generated. Finally, the CCA must demonstrate that the mean of the population of CCDFs meets the containment requirements of § 191.13 with at least a 95 percent level of statistical confidence.

EPA found that the CCA PA demonstrated that the WIPP meets the containment requirements of § 191.13 by more than an order of magnitude in probability. The largest release at any point on the mean CCDF curve was a normalized release of only 0.3. The PA calculations indicated no cases where cumulative releases would be ten times greater than the release limits.

In the process of reviewing the CCA, the Agency and public commenters raised concerns about certain assumptions and specific parameter values incorporated into the PA. Also, DOE found some coding problems in the PA computer software. The Agency therefore directed the Department to conduct additional modeling that included corrections to computer coding problems and modifications to parameter values and distributions. The PAVT also excluded the assumption of credit for passive institutional controls. EPA required this additional modeling in the PAVT in order to determine whether the cumulative impact of the changes in the PA codes and parameters would be small enough that the WIPP would still meet the containment requirements of § 191.13. (For further discussion of parameter values, see the discussion of parameters in the preamble for § 194.23.) The results of the PAVT showed somewhat higher cumulative release values than the original CCA PA. However, even these higher cumulative release values were more than an order of magnitude lower than the containment requirements, at the probability levels prescribed by § 191.13. Based upon the results of the CCA PA and the PAVT, EPA proposes to find that the WIPP meets the containment requirements of § 191.13.

Further discussion of the specific compliance criteria of § 194.34 follows.

1. Complementary Cumulative Distribution Functions (CCDFs)

Section 194.34(a) requires DOE to report the results of the PA in the form of "complementary, cumulative distribution functions" ("CCDFs"), which may be presented graphically as a set of curves. A CCDF curve presents the probability that releases from the repository, caused by all significant processes and events, might exceed any particular level of cumulative (normalized) release. That is, a point on a CCDF curve displays, on the vertical axis, the relative number of release scenarios or "futures" that could result in calculated releases larger than the corresponding normalized release value found on the horizontal axis. Each CCDF curve starts with a maximum probability of one on the left side of the graph (i.e., there is a 100% probability that cumulative releases from the disposal system will be either zero or greater, and will not take on negative values); and then decreases toward the right as the normalized release becomes

larger, and as relatively fewer simulations yield releases that exceed the corresponding normalized release value.

Each CCDF curve in the CCA is calculated using 10,000 simulations or "futures," each of which models a ten-thousand year period in which a series of human intrusion events may occur. (For further information about how the possible effects of human intrusion are included in the PA, see the preamble discussions of §§ 194.32 and 194.33.) A single CCDF curve uses a fixed set of uncertain physical, chemical and geologic characteristics at the WIPP and its surroundings, but uses 10,000 different, randomly-determined sequences of intrusion events. Different CCDF curves are developed by using different information about the uncertain physical, chemical and geologic characteristics of the WIPP and its surroundings. The CCA PA included 300 different CCDF curves so that, in all, it calculated normalized releases for three million different possible futures.

EPA reviewed features, events and processes, scenarios, conceptual models and computer codes that support CCDF generation. EPA found that all significant features, events and processes and scenarios were included in the generation of CCDFs. (See preamble discussions of §§ 194.32 and 194.33 for more detailed information on EPA's evaluation of PA scenarios.) DOE used the same approach in calculating and presenting results of the Performance Assessment Verification Test ("PAVT").

The Agency found that DOE assembled the results of the CCA PA and the PAVT into CCDFs incorporating all significant processes and events. Therefore, the Agency proposes to find DOE in compliance with the requirements of § 194.34(a).

2. Generation of the Full Range of CCDFs

Section 194.34(e) requires the CCA to display the full range of CCDFs generated. The CCA included all three hundred CCDFs. These were presented in three graphs, one for each replicate of one hundred CCDF curves. In addition, DOE provided summary CCDF curves for descriptive statistics. DOE generated a mean CCDF curve, 95th-percentile confidence bound curves for the mean, a 10th percentile curve, a median curve, and a 90th percentile curve for each replicate, and generated a mean curve and 95th-percentile confidence bound curves for the mean of all three replicates. The Department also provided the same information for the PAVT.

EPA determined that the CCA displayed the full range of CCDF curves over the full range of CCDF values and displays normalized releases relevant to the determination of DOE's compliance with § 194.34(e). EPA also concluded that DOE applied the same methodology to the PAVT for displaying the full range CCDF curves over the full range of probabilities and normalized releases. Therefore, EPA proposes to find that DOE has demonstrated compliance with § 194.34(e).

3. Probability Distributions and Random Sampling of Uncertain Parameters

Section 194.34(b) requires DOE to develop and document probability distributions for uncertain disposal system parameter values used in PA. Section 194.34(c) requires DOE to use and to document computational techniques which draw random samples from across the entire range of these probability distributions to generate CCDFs.

Parameters are numerical values or ranges of numerical values used to describe different physical and chemical aspects of the repository, the geology and geometry of the area surrounding the WIPP, and possible scenarios for human intrusion. Some parameters are well-established chemical and physical constants, such as Avogadro's Number or the Universal Gas Constant. Other parameters describe characteristics unique to the WIPP, such as the solubility and mobility of specific actinides in brines in the WIPP. It is not possible to determine a single, constant value to describe particular characteristics of the WIPP, in which case one must consider a range of values. The relative probabilities of occurrence of different uncertain parameter values within that range can be presented as a mathematical expression known as a probability distribution. A probability distribution may be described in terms of statistical parameters such as the average (mean), median, maximum and minimum values of the parameter, or standard deviation. Section 194.34(b) requires development and documentation of these probability distributions.

DOE selected 57 uncertain parameters whose values were to be obtained through random sampling in the PA. DOE also performed a sensitivity analysis to show if changes to some parameter values would affect the results of PA.

The uncertainty in the value of a parameter is built into PA computer codes by programs that "sample," or select, numeric values from within the probability distribution for that parameter. Section 194.34(c) requires these sampling techniques to draw random samples from across the entire range of each probability distribution. This requirement ensures that PA calculations fully consider the possible extremes of calculated releases of radioactivity without systematically underestimating or overestimating releases.

The Department used the Latin Hypercube Sampling ("LHS") code to sample the parameter distributions related to physical, chemical and geologic conditions of the repository and its surroundings. DOE used Monte Carlo-type random sampling to determine the effects of human intrusion through drilling or mining. Both codes select values from across the entire range of the probability distributions. The LHS code requires fewer samples to cover the entire range of the distribution because it samples randomly within divisions spread across the entire probability distribution.

EPA reviewed the parameters used in the modeling, the probability distributions for the sampled parameters and DOE's sensitivity analysis. As a result of its review, the Agency found that 58 parameter values and distributions were not well supported by the data available. (See the preamble discussion of § 194.23 for further details on EPA's review of parameters.) EPA performed its own sensitivity analysis on some parameters to determine if uncertainties in the parameter values of concern would have a significant impact on the PA. The Agency concluded that many of the parameters of concern had little impact, but twenty-four parameters could significantly affect the PA results, either individually or in combination with other parameters.

As a result of the parameter review, EPA requested that DOE perform additional modeling. This additional modeling, the PAVT, included, among other things, parameter value and distribution modifications to twenty-four parameters that the Agency believed might have a significant impact on the results of PA. DOE conducted the PAVT using the same computer codes and the same sampling methodologies as for the CCA PA, but changed the 24 parameters in accordance with EPA's direction and modified some of the computer codes in response to EPA's questions about the codes. DOE conducted 300 simulations for the PAVT, resulting in 300 CCDF curves, just as for the CCA PA. The results of the PAVT showed higher normalized releases than those in the CCA PA, but were still more than an order of magnitude below the containment requirements at § 191.13. Thus, the PAVT incorporated changes that addressed EPA's concerns about PA, and showed that the resulting releases were still within the containment requirements. Because the PAVT used identical technical methods to the CCA PA, EPA concludes that the PAVT results are numerically equivalent to those that would be obtained by performing a new PA incorporating the changes required in the PAVT. EPA believes that the PAVT verifies that the original CCA PA was adequate for comparison against the radioactive waste containment requirements.

Because DOE has developed and documented the probability distributions for uncertain disposal system parameter values used in the PA, EPA proposes to find the DOE to be in compliance with § 194.34(b). After reviewing the results of sensitivity analyses and of the PAVT, the Agency concludes that the probability distributions are adequate. The Agency found that the LHS and Monte Carlo sampling techniques draw random samples from across the entire ranges of the probability distributions used for the uncertain disposal system parameters in the PA. The use of these computational techniques are documented in the CCA. Therefore, EPA proposes to find that DOE has demonstrated compliance with § 194.34(c).

4. Sufficient Number of CCDFs Generated

Section 194.34(d) requires DOE to generate a sufficiently large number of CCDF curves to ensure that, at cumulative releases of 1 and 10, the maximum CCDF exceeds the 99th percentile of the population of CCDFs with at least a 95-percent probability. Section 194.34(d) also requires DOE to calculate cumulative release values according to Note 6 of Table 1 in Appendix A of 40 CFR Part 191.

The PA process uses techniques based upon probability theory to calculate the potential for releases. Because of the many sources of uncertainty, a computer model could calculate results of billions of situations without exhausting every possibility. However, running billions of simulations is not feasible given the cost and time involved. Furthermore, this is not necessary in order to provide a reasonable expectation that a disposal system will contain waste and protect human health and the environment. So long as the PA includes a large enough number of randomly-produced simulations covering the full range of possible calculated release values, the results of PA will yield a valid result that shows whether or not a disposal system meets the containment requirements of § 191.13. (61 FR 5230) Section 194.34(d) provides a statistical test to determine if the CCA contains enough CCDF curves: there must be at least a 95 percent probability that the CCDF curve generated in PA with the highest cumulative release exceeds the 99th percentile of the entire population of CCDFs (that is, the full range of possible calculated release values).

As was mentioned above in this section, each CCDF is generated using a specific set of sampled values from distributions of uncertain parameters related to the physical, chemical and geologic conditions of the repository and its surroundings. In the case of the WIPP, the CCA PA included three sets or replicates of one hundred CCDF curves, for a total of 300 CCDF curves. Each of the CCDF curves is based upon a sample of 57 uncertain parameters.

DOE used the LHS code to take samples of the parameter values. The Department also presented a probabilistic analysis, based on the definition of the 99th percentile, and determined that there would be a 0.95 probability that at least one CCDF curve will exceed the 99th percentile so long as the PA includes at least 298 CCDF curves. Since the CCA PA included 300 CCDF curves, DOE concluded that this was enough CCDF curves to meet the requirements of § 194.34(d).

EPA agreed with DOE's argument based upon probability and the definition of the 99th percentile, and concluded that the CCA PA generated a sufficient number of CCDFs. As another approach to evaluating compliance with § 194.34(d), EPA also examined the statistical characteristics of the 300 CCDF curves in the CCA PA. EPA compared the CCDF curves in the CCA PA to a statistical distribution that the Agency believes is a plausible description of what the entire population of all possible CCDFs would produce. EPA found that the maximum CCDF curve in the CCA PA had a higher cumulative release than the 99th percentile predicted using the probability distribution which represents the entire population of CCDFs. Based upon this statistical analysis, the Agency concluded that there was at least a 95 percent probability that the maximum CCDF curve would exceed the 99th percentile of the population of CCDFs.

Section 194.34(d) also requires PA to calculate cumulative release values according to Note 6 of Table 1 in Appendix A of 40 CFR Part 191. DOE's approach to calculating cumulative release (or "normalized release") values is described in the introduction to this section of the preamble. EPA found DOE's approach to be consistent with Note 6 of Table 1 in Appendix A of 40 CFR Part 191.

EPA found that DOE generated 300 CCDF curves in the PA, using the appropriate method to calculate cumulative releases, as specified in Note 6 of Table 1 in Appendix A of 40 CFR Part 191. Because of the statistical arguments described above, EPA is satisfied that the number of CCDFs is large enough such that, at cumulative releases of 1 and 10, the maximum CCDF generated exceeds the 99th percentile of the population of CCDFs with at least a 0.95 probability. Therefore, EPA proposes to find that DOE has demonstrated compliance with § 194.34(d).

5. Compliance of the Mean CCDF

Section 194.34(f) requires the CCA to demonstrate that the mean of the population of CCDFs meets the containment requirements of § 191.13 with at least a 95 percent level of statistical confidence. This statistical demonstration allows DOE to demonstrate compliance using a finite number of CCDFs, rather than having to generate the entire (infinitely large) population of CCDFs.

In order to meet the requirements of § 194.34(f), DOE must calculate the mean CCDF curve from all 300 CCDF curves generated in the CCA PA, must compute the 95 percent confidence limits for that overall mean curve, and must compare the 95 percent upper confidence limit CCDF curve to the containment requirements of § 191.13. The DOE must show that the mean of its 300 CCDF curves, and the 95th percentile upper confidence limit on the mean, both lie below a probability of 0.1 at a cumulative release value of 1, and lie below a probability of 0.001 at a cumulative release value of 10.

In the CCA, DOE presented the steps used in its PA to generate the 300 CCDF curves. DOE also showed how it then calculated the mean of all CCDFs, by first computing the mean CCDF for each of the three replicates of 100 curves, and then averaging those three mean CCDF curves. Using the three mean CCDF curves, DOE calculated the 95 percent confidence limits for the overall mean CCDF curve. DOE identified the mean of all CCDFs generated and the 95 percent confidence limits and showed that both the mean CCDF and the CCDF for the upper confidence limit satisfy the containment requirements by more than an order of magnitude.

EPA examined DOE's calculations of the mean CCDF curve and the CCDF curve for the 95 percent confidence limit on the mean, and found that they were appropriate and were correctly executed. EPA concurred with DOE's conclusion that both the mean CCDF and the CCDF for the upper confidence limit satisfy the containment requirements by more than an order of magnitude.

As discussed above, EPA was dissatisfied with many of the parameter ranges and values used in PA and had concerns about some codes and the assumption of credit for passive institutional controls. EPA required DOE to perform the PAVT to determine whether the cumulative impact of the changes in PA codes and parameters would require additional PA runs. DOE applied the same methodology in the CCA PA and in the PAVT for calculating the mean CCDF curve and the 95 percent upper confidence limit. The PAVT results demonstrate that the level of statistical confidence is significantly greater than 95% that the mean of the CCDFs meets the § 191.13 containment requirements. Therefore, EPA concludes that the final results of the PAVT are also in compliance with the containment requirements of § 191.13 and that the results are presented in accordance with § 194.34(f).

A public comment received on EPA's Advance Notice of Proposed Rulemaking (ANPR) expressed concern about the fact that at least some of the CCDF curves in the CCA PA indicated that there would be releases into the accessible environment. EPA's containment requirements limit the likelihood of releases at specific levels, but do not require DOE to demonstrate that no releases of any magnitude will occur. EPA recognized that some parameters used in CCA PA were questionable, and required DOE to perform a PAVT that included revised parameters in order to alleviate concerns such as those raised by the commenter. Less than one percent of CCDF curves in the CCA PA exceeded normalized releases of one. EPA concludes that the probabilities of such releases are still well below the EPA release limits.

The CCA demonstrates that there is at least a 95 percent level of statistical confidence that the mean of the population of CCDFs meets the containment requirements of § 191.13. (The PAVT results indicate that PA would still demonstrate that the WIPP is in compliance with the containment requirements of § 191.13, even including substantial modifications to some of the significant uncertain parameters used in PA.) Therefore, EPA proposes that the WIPP complies with the containment requirements of § 191.13 and with § 194.34(f). EPA believes that the WIPP will safely contain radioactive waste for up to 10,000 years after disposal and will protect public health and the environment. For further information on the EPA's evaluation of compliance for § 194.34, or on the results of the PA or the PAVT, see CARD 34.

XH. Assurance Requirements

In 40 CFR 191.14, EPA included six qualitative assurance requirements to assure that the desired level of protection is achieved at disposal facilities. (60 FR 5777) The assurance requirements address active institutional controls, monitoring, passive institutional controls, engineered barriers, consideration of the presence of resources, and removal of waste. These measures are designed to compensate for the inherent uncertainty in projecting the behavior of natural and engineered components of the repository for many thousands of years. (50 FR 38072) The assurance requirements are implemented at the WIPP by §§ 194.41 through 194.46 of the WIPP Compliance Criteria.

A. Section 194.41, Active Institutional Controls

Section 194.41 implements the active institutional controls ("AICs") assurance requirement. The disposal regulations define AICs as "controlling access to a disposal site by any means other than passive institutional controls, performing maintenance operations or remedial actions at a site, controlling or cleaning up releases from a site, or monitoring parameters related to disposal system performance." (40 CFR 191.12) Section 194.41 requires AICs to be maintained for as long a period of time as is practicable after disposal; however, contributions from AICs may not be considered in the PA for more than 100 years after disposal.

In evaluating DOE's compliance with § 194.41, EPA sought a detailed description of DOE's proposed AICs and how those controls would be implemented. EPA reviewed this description for thoroughness, feasibility, and likely effectiveness. DOE proposed to: construct a fence and roadway around the surface footprint of the repository; post warning signs; conduct routine patrols and surveillance; and repair and/or replace physical barriers as needed. DOE also identified other measures that function as AICs, such as DOE's prevention of resource exploration at the WIPP and DOE's construction of long-term site markers. DOE stated that it would maintain the proposed AICs for at least 100 years after closure of the WIPP, and that the WIPP PA assumed that AICs would prevent human intrusion for that period.

EPA reviewed the proposed AICs in connection with the types of activities that may be expected to occur in the vicinity of the WIPP site during the first 100 years after disposal (i.e., ranching, farming, hunting, scientific activities, utilities and transportation, groundwater pumping, surface excavation, potash exploration, hydrocarbon exploration, construction, and hostile or illegal activities). EPA also examined the assumptions made by DOE to justify the assertion that AICs will be completely effective for 100 years. The assumptions were that: (1) The fence and signs will convey the message that the WIPP site is hazardous and protected; (2) legal prohibitions on resource recovery activities will be enforced; and (3) the time required to initiate a resource extraction operation will allow routine site patrols to discover and halt such activities.

EPA found the assumptions regarding longevity and efficacy of the proposed AICs to be acceptable. This finding was based on the fact that the types of inadvertent intrusion which AICs are designed to obviate are not casual activities, but require extensive resources, lengthy procedures for obtaining legal permission, and substantial time to set up at the site before beginning.

Section 194.41 prohibits the consideration of contributions from AICs in the PA for more than 100 years after disposal. Contributions from AICs in the PA are considered as a reduction in the rate of human intrusion. EPA reviewed the CCA and the parameter inputs to the PA and determined that DOE did not assume credit for the effectiveness of active institutional controls for more than 100 years after disposal.

EPA found the description of each active control measure (fence, signs, roadways, site maintenance, and security patrols) and its location to be adequate to support its intended function. Also, EPA found DOE's assumptions to be sufficient to justify DOE's assertion that AICs will completely prevent human intrusion for 100 years after closure. Because DOE adequately described the proposed AICs and the basis for their assumed effectiveness and did not assume in the PA that AICs would be effective for more than 100 years, EPA proposes to find DOE in compliance with § 194.41. For further information on EPA's evaluation of compliance for § 194.41, refer to CARD 41.

B. Section 194.42, Monitoring

Section 194.42 implements the assurance requirement that DOE monitor the disposal system to detect deviations from expected performance. The monitoring requirement distinguishes between pre- and post-closure monitoring because of the differences in the monitoring techniques that may be used during operations (pre-closure) and once the repository has been backfilled and sealed (post-closure). Monitoring is intended to provide information about the repository that may affect the results of the PA or containment of waste.

To meet the criteria of § 194.42, EPA required DOE to conduct an analysis of the effects of disposal system parameters on the containment of waste. At a minimum, this analysis must include the seven specific parameters listed in § 194.42(a). DOE was required to present the analysis methodology, assumptions and results. DOE also was required to justify the decision not to monitor any of the parameters analyzed. (§ 194.42(b))

Section 194.42 requires that the screening of parameters be conducted to develop plans for pre- and post-closure monitoring described in §§ 194.42(c) and (d). In accordance with § 194.42(e), these monitoring plans must: (1) identify the parameters to be monitored and how the baseline data will be determined, (2) indicate how the parameters will be used to evaluate deviations from the expected performance of the disposal system, and (3) discuss the length of time over which each parameter will be monitored.

DOE conducted an analysis of disposal system parameters that included the parameters specified in § 194.42(a), along with other parameters. The analysis assigned high, medium or low significance to each parameter for its importance to the containment of waste and to the verification of predictions about disposal system performance. DOE then screened parameters out of consideration for monitoring based on the ability of the parameter to produce meaningful data during the monitoring period and on whether parameters can be monitored without violating disposal system integrity.

EPA evaluated the analysis and screening of parameters, including the methodology, assumptions, and results. EPA found that the analysis included the required parameters and adequately justified both the selection and rejection of parameters for inclusion in monitoring plans. Therefore, EPA proposes to find DOE in compliance with §§ 194.42(a) and (b).

Based on the results of its analysis, DOE submitted plans that identified ten parameters that will be monitored for pre-closure monitoring, five of which will also be monitored for post-closure monitoring. The pre-closure monitoring parameters are: (1) Culebra groundwater composition, (2) change in Culebra groundwater flow, (3) probability of encountering a Castile brine reservoir, (4) drilling rate, (5) subsidence measurements, (6) waste activity, (7) creep closure and stresses, (8) extent of deformation, (9) initiation of brittle deformation and (10) displacement of deformation features. Parameters one through five are also post-closure monitoring parameters. The parameters selected for monitoring included several of those listed in § 194.42(a), such as creep closure and stresses, extent of deformation, initiation of brittle deformation, displacement of deformation features, Culebra ground water composition and flow and Castile brine reservoir location.

The CCA described how DOE intends to implement monitoring programs for both pre-and post-closure parameters. The monitoring plans included information on establishing baseline data, how monitoring data will be used to evaluate deviations from expected performance and on the length of time each parameter will be monitored. EPA finds that DOE submitted monitoring plans in accordance with §§ 194.42(c), (d), and (e). The monitoring plans in the CCA addressed both pre-closure monitoring (planned to begin before emplacement of waste) and post-closure monitoring (using methods that would not jeopardize containment of waste in the disposal system), and included information required by the Compliance Criteria.

EPA proposes to find DOE in compliance with the requirements of § 194.42. In accordance with its authority under § 194.21, EPA intends to conduct an inspection of the pre-closure monitoring activities prior to emplacement of waste to confirm implementation of the plans detailed in the CCA. The results of this inspection will be placed in the public dockets described under § 194.67. For further information on EPA's evaluation of compliance for § 194.42, see CARD 42.

C. Section 194.43, Passive Institutional Controls

The Compliance Criteria at § 194.43 require a description of passive institutional controls (PICs) that will be implemented at the WIPP. PICs are measures that do not require human intervention in order to warn away potential intruders from disposal sites. EPA defined PICs in the disposal regulations as markers, public records and archives, government ownership of a site and restrictions on land use at the site, and any other means of preserving knowledge of a site. (50 FR 38085) PICs are intended to deter unintentional intrusions by people who otherwise might not be aware of the presence of radioactive waste at the site.

Sections 194.43(a)(1) through (3) of the Compliance Criteria implement the disposal regulations by requiring DOE to: (1) identify the controlled area by markers designed, fabricated, and emplaced to be as permanent as practicable; (2) place records in local, State, Federal, and international archives and land record systems likely to be consulted by individuals in search of resources; and (3) employ other PICs intended to indicate the location and dangers of the waste. In accordance with § 194.43(b), DOE also must indicate the period of time that PICs are expected to endure and be understood by potential intruders. Finally, DOE is permitted to propose a credit for PICs in the PA, as explained in § 194.43(c). Such credit must be based on the proposed effectiveness of PICs over time, and would take the form of reduced likelihood in the PA of human intrusion over several hundred years. The Compliance Criteria prohibit DOE from assuming that PICs could entirely eliminate the likelihood of future human intrusion.

The PICs design proposed by DOE in the CCA calls for the construction at the WIPP site of a large earthen berm, dozens of granite monuments, and three granite information rooms, two of which will be buried for their protection. DOE also proposed to bury thousands of small markers at shallow depths around the site. All markers except the berm will be engraved with warning messages in several languages and of varying complexity.

DOE plans to distribute WIPP records and other information to over one hundred archives, record centers, professional organizations, and commercial enterprises in the United States and abroad. Finally, DOE points to its ownership of the WIPP site as a measure that will identify the site as Federal property and off limits to resource exploration.

EPA evaluated whether the proposed markers are "as permanent as practicable" by considering the manner in which DOE accounted for potential marker failures and by confirming that

the proposed markers could be fabricated. EPA's analysis of the proposed markers suggests that they are practicable, although DOE may decide to revise the design as implementation proceeds. Any such revisions would constitute a modification of the design and would therefore require EPA approval in accordance with §§ 194.65 and 194.66. Also, the CCA showed that the proposed design incorporates features intended to promote the endurance of markers. Examples of these features are: redundant markers, highly durable materials with low intrinsic value, large dimensions, and location both above and below the surface. EPA proposes to find that the proposed markers are designed to be as permanent as practicable, in accordance with § 194.43(a)(1).

With regard to placement of records, DOE has prioritized archives and record centers in order to target those closest to the WIPP and most likely to be consulted by resource exploration industries nationally and abroad. The additional PICs proposed by DOE, which involve placement of WIPP information on maps and in various reference materials, also appear to be practicable. Therefore, EPA proposes to find that DOE complies with §§ 194.43(a)(2) and (3).

DOE estimated the amount of time that most of the proposed PICs are expected to endure by comparing them to analogues with similar properties that have survived to the present. The estimates of endurance, the lowest of which is at least 2,400 years and the greatest of which is at least 5,000 years, vary according to the age of analogues. DOE estimated the length of time that messages and records are expected to be understood (at least 1,000 years) by making assumptions about the future and then stating why those assumptions are reasonable. Because DOE based its design on sound principles, took into account likely failures of PICs, based estimates of endurance on relevant analogues, and based estimates of comprehensibility on a reasonable framework of assumptions, EPA believes that the proposed design for markers meets the criterion of "as permanent as practicable" and that DOE's estimates for that purpose are acceptable for compliance with § 194.43(b).

DOE proposed to take most of the steps necessary for implementing the proposed PICs, such as making arrangements with archives and record centers and refining marker messages, during the WIPP's operational period. However, DOE also plans to extend some activities, particularly testing of markers, over nearly 100 years after closure (i.e., during the proposed active institutional control period) before finalizing important aspects of the design, in the belief that future technology may improve the design. EPA cannot base a regulatory determination that DOE has demonstrated compliance with the requirements at § 194.43 on a speculative plan to finalize the required design during the active institutional control period. It would be inconsistent with Congress' intent in the LWA for EPA to allow DOE to alter the approved PICs design after EPA's regulatory function comes to an end.

Rather, EPA's determination must be based on the design proposed in the CCA. EPA acknowledges that future technological developments might improve the design of certain PICs components. Should DOE develop evidence that aspects of the proposed design can be improved during the operational period, DOE could then request modification of the approved plan in a recertification application. DOE also will not be precluded in the future from implementing other measures in addition to those comprising the final design. During the period that EPA exercises regulatory oversight over the WIPP, DOE may not alter or delete aspects of the approved plan in the CCA without notifying EPA and subjecting the certification to modification, if EPA deems it necessary.

Given that EPA considered the design proposed in the CCA to be final for the purposes of its compliance review, EPA finds that DOE has not justified sufficiently the need for additional testing of markers after closure of the repository or the need to delay implementation for many years after closure. EPA believes that PICs should be implemented as soon as possible after the WIPP facility is sealed, and that measures necessary to prepare for such implementation should be accomplished during the operational period for the WIPP, unless doing so would compromise the effectiveness of the CCA design. For example, EPA believes that it is appropriate and practicable during the operational period for DOE to establish agreements with national archives to accept and maintain records related to the WIPP. EPA therefore proposes to find DOE in compliance with the PICs requirements at §§ 194.43(a) and (b), on the condition that DOE submit additional information to EPA for approval. No later than the final re-certification application submitted prior to closure of the disposal system, DOE must provide a schedule for implementing PICs that has been revised to show that markers will be fabricated and emplaced, and other measures will be implemented, as soon as possible following closure of the disposal system. DOE also must describe how testing of any aspect of the conceptual design will be completed prior to or soon after closure, and what changes to the design may be expected to result from such testing. (See Condition 4 of the proposed Appendix A to 40 CFR Part 194.)

DOE proposed to take a credit of 99 percent over 700 years in the PA. In other words, DOE requested that the likelihood of human intrusion into the WIPP during the first 700 years after closure be reduced to one percent of the drilling rates calculated in accordance with the requirements of §§ 194.33(b)(3) and (4). The proposed credit was based largely on DOE's approach to compliance with § 194.43(b), which led DOE to conclude that all PICs are "virtually certain" to endure and be understood for at least 700 years. DOE identified drilling in the wrong location on a properly issued lease as the only plausible scenario whereby the proposed PICs could fail to deter an inadvertent intrusion. DOE then surveyed the Delaware Basin and other areas for such failures and determined that wells were drilled in the wrong location in 5 out of 429,000 instances, a rate of 0.001 percent. Finally, DOE bounded the failure rate (of 0.001) at 1.0 percent for the sake of conservatism.

EPA agrees with DOE that the proposed PICs appear likely to endure and be understood for hundreds of years. However, EPA proposes to deny DOE's request for PICs credit. The reasons for EPA's denial of PICs credit are discussed briefly below.

First, in promulgating its PICs credit criterion, EPA explicitly stated that "the degree to which PICs might reduce the future drilling rate can be reliably determined only through informed judgment." (61 FR 5232) EPA clearly expected the proposed PICs credit to be derived through an expert elicitation conducted in accordance with the requirements at 40 CFR 194.26. DOE instead prepared a justification and submitted it to peer review. EPA regards peer review as qualitatively different from expert judgment, in which the independent panel itself prepares the justification.

Second, § 194.43(c) states, "In no case . . . shall passive institutional controls be assumed to eliminate the likelihood of human intrusion entirely." DOE's rationale for the proposed credit repeatedly states that PICs are "virtually certain" to eliminate the likelihood of human intrusion. EPA believes that the assertion that PICs are virtually certain (i.e, 99.0 percent) to endure and be understood is equivalent in effect to assuming that they eliminate the likelihood of human intrusion entirely. Furthermore, DOE's estimate of the effectiveness of PICs does not adequately account for the considerable uncertainty associated with quantifying the effectiveness of PICs for use in the PA. Specifically, there are potential failure scenarios that DOE did not account for in developing the proposed credit. For example, within the next 700 years, someone could drill based on an incorrect permit, permits may be mistakenly granted, records of the WIPP could be lost, or a system of permits to control drilling may be abandoned. While DOE's proposal does not account conservatively for uncertainty, EPA recognizes that any level of credit EPA would propose in place of DOE's estimate would be arbitrary. Finally, EPA found that the issue of quantitative credit for PICs is of little consequence for the purpose of evaluating the WIPP's performance, since the removal of PICs credit from computer models (in the Performance Assessment Verification Test) produced no signification effect on the WIPP's compliance with EPA's numerical standards.

EPA proposes to determine that DOE complies with § 194.43, on the condition that additional information on the final PICs design be submitted for EPA's review no later than the final re-certification application. For additional information on EPA's evaluation of compliance for § 194.43, see CARD 43.

D. Section 194.44, Engineered Barriers

Section 194.44 requires that DOE conduct a study of available options for engineered barriers at the WIPP and submit this study and evidence of its use with the compliance application. Consistent with the assurance requirement found at 40 CFR 191.14, which requires the use of one or more engineered barriers, DOE must analyze the performance of the complete disposal system, and any engineered barrier(s) that DOE ultimately implements at the WIPP must be considered in the PA and EPA's subsequent evaluation.

To comply with this requirement, EPA expected DOE to describe the engineered barrier(s) selected for implementation at the WIPP. EPA also expected the CCA to document how the engineered barrier(s) prevents or substantially delays the movement of water or radionuclides to the accessible environment, and how it reduces uncertainties in modeling performance of the disposal system. EPA expected DOE to conduct a comprehensive evaluation of engineered barrier alternatives in order to compare the benefits and detriments of various barriers and then use the results of such a comparison to justify selecting or rejecting a barrier(s).

In accordance with § 194.44(b), EPA observed DOE's scoping study and screening process during March and April 1995. The scoping effort produced a list of 111 potential barriers and combinations of barriers (including the barriers described in § 194.44(b)), of which 16 were evaluated against the factors described in § 194.44(c). Although DOE did not specifically address the waste categories in § 194.44(d), the study effectively accounted for the categories by analyzing three waste types (sludges, solid organics, and solid inorganics) and considering multiple waste processing schemes. DOE's evaluation of engineered barriers was peer reviewed in accordance with § 194.27(a)(3). See § 194.27, "Peer Review," for details of EPA's evaluation of the general peer review process. On the basis of its evaluation of the benefits and detriments of eighteen engineered barrier types, DOE concluded that a chemically-buffering backfill was a high-benefit, low-cost, and practicable engineered alternative. DOE selected magnesium oxide (MgO) backfill as an engineered barrier, and proposed to emplace bags of MgO between and around waste containers in the repository. DOE stated that the backfill will serve to: (1) substantially delay movement of radionuclides by controlling chemical conditions in the underground waste panels so that the solubility of radionuclides in water is reduced, (2) delay movement of water by reacting with brine to reduce free water in the disposal system, and (3) fix pH levels within a narrow range, thereby bounding an important modeling parameter whose value might otherwise be highly uncertain.

EPA found that DOE conducted the requisite analysis of engineered barriers and selected an engineered barrier designed to prevent or substantially delay the movement of water or radionuclides toward the accessible environment. DOE provided substantial documentation in the CCA and supplementary information that MgO can effectively reduce actinide solubility in the disposal system. EPA agrees that the chemical reactions that DOE associated with MgO can occur under predicted repository conditions. DOE proposed to emplace a large amount of MgO in and around waste drums in order to provide an additional factor of safety and thus account for uncertainties in the geochemical conditions that would affect CO_2 generation and MgO reactions. (For details regarding chemical reactions of MgO, see CARD 24, "Waste Characterization." For further information regarding the PA modeling of solubility and chemical conditions in the repository, see CARD 23, "Models and Computer Codes.")

Public comments received on EPA's Advance Notice of Proposed Rulemaking ("ANPR") questioned two aspects of DOE's treatment of engineered barriers in the CCA. First, commenters disagreed that borehole plugs, shaft seals, and panel seals should be treated by DOE as engineered barriers for the purpose of complying with § 194.44. EPA found that DOE had treated plugs and seals as part of the baseline design of the disposal system, not as additional barriers for the purpose of assurance. The effectiveness of plugs and seals is discussed as part of EPA's evaluation of the disposal system design under § 194.14, "Content of Compliance Certification Applications." Second, commenters expressed concern that the CCA did not support conclusions about the effectiveness of MgO with experimental data or other documentation. EPA shared this concern and so requested that DOE provide additional documentation showing that backfill could be emplaced in the required manner and would function in the disposal system as proposed. EPA believes that supplementary information sent by DOE adequately addressed insufficiencies in the CCA.

EPA proposes to find DOE in compliance with § 194.44. For further information on EPA's evaluation of compliance for § 194.44, see CARD 44.

E. Section 194.45, Consideration of the Presence of Resources

Section 194.45 implements the assurance requirement that the disposal system be sited such that the benefits of the natural barriers of the disposal system compensate for the increased probability of disruptions to the disposal system resulting from exploration and development of existing resources. (61 FR 5232) In promulgating this requirement, EPA determined that the performance assessment ("PA") is the appropriate tool to weigh the advantages and disadvantages of the WIPP site because PA demonstrates whether potential human intrusion will cause unacceptably high releases of radioactive material from the disposal facility.

In accordance with the Compliance Criteria, DOE must demonstrate that PA has incorporated the potential effects of human activities near the WIPP prior to disposal, and of drilling and excavation mining over the regulatory time frame. DOE also must document that the results of the PA demonstrate compliance with the containment requirements at 40 CFR 191.13. No further demonstration of compliance is needed for § 194.45.

The Agency confirmed that PA incorporated human intrusion scenarios and met EPA's release limits in accordance with the WIPP Compliance Criteria. Based on EPA's findings that DOE complied with requirements related to scope of PA, conduct of PA, mining and drilling activities over the regulatory time frame, results of PA, and pertinent assurance requirements, EPA proposes to determine that DOE has demonstrated compliance with § 194.45. For further explanation of EPA's proposed compliance decisions for these related compliance criteria, see preceding preamble discussions for § 194.14, § 194.23, § 194.32, § 194.33, § 194.34, § 194.41, and § 194.43. For further information on EPA's evaluation of compliance for § 194.45, refer to CARD 45.

F. Section 194.46, Removal of Waste

Section 194.46 requires documentation that the removal of waste from the disposal system is feasible for a reasonable period of time after disposal. (61 FR 5244) The intent of this provision is to implement the assurance requirement at 40 CFR 191.14(f) that "disposal systems be selected so that removal of most of the waste is not precluded for a reasonable period of time after disposal." To meet the criteria of § 194.46, EPA expected the CCA to provide a comprehensive strategy that showed the manner in which waste could be removed from the repository for a reasonable period of time after closure and an estimate of how long after disposal removal of waste would remain technologically feasible. Although the eventual disposition of the waste is an important environmental concern, 40 CFR Part 194 does not require DOE to speculate on the possible location or hazards of the waste once it is removed from the repository.

In the CCA, DOE presented a five-phase approach to removing waste from the WIPP repository, including: planning and permitting; initial above-ground set-up and shaft sinking; underground excavation and facility set-up; waste location and removal operations; and decontamination and decommission of the facility. The CCA included a discussion of techniques that could be used to remove the waste given the repository conditions at the time of removal, and also discussed several existing mining techniques that could be used to remove waste from the WIPP repository.

EPA reviewed the CCA to assess the completeness of the strategy for removing the waste and the justification of the proposed technology for removing the waste. EPA believes that the five phases described for waste removal provide an orderly sequence of planning and implementation procedures that could be implemented. EPA agrees that the proposed activities, techniques, and equipment that would be necessary to remove the waste are all presently feasible.

EPA reviewed the CCA for an estimate of how long after disposal it would remain technologically feasible to remove the waste. DOE stated that, using the system and equipment proposed in the CCA, it would be feasible to remove the waste any time after emplacement. Thus, DOE appeared to conclude that no features of the disposal system (such as salt creep) will prevent the removal of waste from the repository as long as the technology described in the CCA remains available. The CCA did not address how long the technology might remain available.

EPA agrees that waste removal would be feasible as long as current technology remains available, but does not believe it is reasonable to assume that the technology will remain available over the entire regulatory time frame. To estimate the length of time for which waste removal would be feasible, EPA considered how long the technology described in the CCA might remain available. The Agency concluded that, as long as our present society remains stable, it is reasonable to conclude that there will likely be a continuity or advancement of technology which would allow waste removal to occur. In the disposal regulations, EPA identified 100 years after disposal as a realistic but conservative limit on how long active controls could be assumed to be effective—i.e., how long present institutions would remain in place continuously to enforce such controls. (50 FR 38080) Based on this same rationale, EPA believes it is reasonable to assume that current technology will remain available for the 100-year period after disposal, and therefore that waste removal will remain feasible for that time. EPA believes that 100 years constitutes a reasonable period of time after disposal, in accordance with § 194.46. Therefore, EPA concludes that DOE has met the regulatory requirements for the removal of waste, and proposes to find DOE in compliance with § 194.46. For further information on EPA's evaluation of compliance for § 194.46, see CARD 46.

XIII. Individual and Ground-water Protection Requirements

Sections 194.51 through 194.55 of the Compliance Criteria implement the individual protection requirements of 40 CFR 191.15 and the ground-water protection requirements of Subpart C of 40 CFR Part 191. Assessment of the likelihood that the WIPP will meet the individual radiation dose limits and radionuclide concentration limits for ground water is conducted through use of a process known as compliance assessment ("CA"). Compliance assessments use methods similar to those of PA (for the containment requirements) but are required to address only undisturbed performance of the disposal system. Sections 194.51 and 194.52 specify the requirements which must be incorporated into CA in the analyses of individual radiation doses to protected individuals. Section 194.53 addresses underground sources of drinking water. Finally, the criteria specify the scope of CA and establish statistical requirements on the results of CA in demonstrating compliance with the individual and ground-water protection requirements (§§ 194.54 and 194.55).

A. Section 194.51, Consideration of Protected Individual

Section 194.51 requires DOE to assume in compliance assessments ("CA") that an individual resides at the point on the surface where the dose from radionuclide releases from the WIPP would be greatest. EPA required that the CCA identify the maximum annual committed effective dose and the location where it occurs, and explain how DOE arrived at those results.

DOE's analysis of the WIPP's compliance with § 194.51 and related sections of the Compliance Criteria was contained in the CCA and in supplementary information. DOE described its analysis as a "bounding analysis" because it assumed that the maximum concentration of radionuclides was available in underground sources of drinking water ("USDWs") and that humans using that water would therefore receive the maximum dose possible from that pathway.

The bounding analysis was derived from the performance assessment for the undisturbed scenario. DOE analyzed all potential routes of release of radioactive waste from the repository that could lead to exposure of an individual and determined that the only release to the accessible environment would be passage of contaminated water through the interbeds in the Salado Formation, where the WIPP is situated. In the analysis, DOE demonstrated that radionuclides migrated horizontally to the accessible environment in only nine out of 300 realizations.

DOE then assumed that the highest concentration of radionuclides from the nine realizations was present at the subsurface boundary of the accessible environment, and that individuals would take water for consumption or agricultural use directly from this location in the Salado. DOE stated that it was not necessary to identify a single point of maximum dose because the analysis assumed that the maximum radionuclide concentration was available to individuals in brine taken from the Salado Formation; therefore, the dose from various pathways would be maximized regardless of an individual's location on the surface of the accessible environment. For more discussion of DOE's consideration of pathways in the bounding analysis, see § 194.52, "Consideration of Exposure Pathways."

EPA agrees that it was conservative for DOE to base its calculations of individual dose on the maximum predicted radionuclide concentrations. EPA also accepts as technically sound DOE's rationale for not identifying a single geographic point at which individual committed effective dose is greatest, since under DOE's assumptions, all points on the surface would result in the same maximum dose. Therefore, EPA proposes to find DOE in compliance with § 194.51. EPA discusses whether the results of DOE's dose calculations comply with the individual protection requirements at 40 CFR 191.15 under the evaluation for § 194.55, "Results of CA." Due to the relatedness of the requirements, EPA combined the discussion of DOE's compliance for §§ 194.51 and 194.52 ("Consideration of Exposure Pathways") in a single Compliance Application Review Document (CARD 51/52).

B. Section 194.52, Consideration of Exposure Pathways

The individual protection requirements focus on the annual radiation dose of a hypothetical maximally-exposed person living on the surface just outside the boundary to the accessible environment. Section 194.52 requires DOE's compliance assessments for the individual protection requirements to consider all potential exposure pathways for radioactive contaminants from the WIPP. DOE must assume that an individual consumes 2 liters per day of drinking water from any underground source of drinking water in the accessible environment. EPA expected that DOE would postulate several release pathways and calculate the dose resulting from each pathway. In the CAG, EPA stated that DOE could employ simplified exposure models provided that DOE showed them to be more conservative than more detailed models. (CAG, pp. 67–68)

DOE's modeling identified only one possible release of radionuclides to the accessible environment for the undisturbed performance scenario, resulting from contaminated brine flowing through the Salado Formation interbeds. DOE's modeling indicated that this release could occur if there were a significant buildup of gas and fluid pressure within the WIPP's waste panels.

To assess this potential exposure pathway, DOE conservatively assumed that Salado brine would be available for human use once it reached the subsurface boundary of the accessible environment. Water in the Salado interbeds is actually a highly concentrated brine unsuitable for drinking; DOE has measured the average concentration of total dissolved (non-radioactive) solids ("TDS") in Salado brine as 324,000 milligrams per liter (mg/L). DOE therefore assumed that brine would have to be diluted with pure water in order to bring the concentration of TDS down to the highest allowable amount under the standard for potable water (10,000 mg/L TDS). DOE assumed that this diluted Salado brine would be consumed at the rate of two liters per day and then calculated the dose resulting from this single pathway of water ingestion.

EPA required DOE to expand its analysis to include additional pathways. This expanded analysis is described in supplementary information sent by DOE. (Docket A–93–02, Item II–I–10) DOE examined pathways whereby humans either inhale dust from soil irrigated with contaminated water or consume agricultural products irrigated with contaminated water. In the latter case, pathways included plants eaten directly by humans and milk or beef from cattle whose stock pond contained contaminated water.

Based on the CCA and the supplementary information described above, EPA found that DOE assumed in its analysis of pathways that individuals consume 2 liters per day of water from underground sources. EPA also conducted independent calculations and concluded that DOE had reliably reported the doses expected to result from all pathways considered. EPA discusses whether the results of DOE's dose calculations comply with the specific requirements of 40 CFR 191.15 under 194.55, "Results of Compliance Assessments."

EPA found that the simplified "bounding analysis" employed by DOE (described under § 194.51 above) was sufficiently conservative not to require the use of more detailed models. The bounding analysis was conservative because it assumed unrealistically that brine in the Salado Formation would be used as a source of water for drinking and irrigation. In fact, brine in the Salado is not likely to be used as an underground source of drinking water because it has an extremely high concentration of TDS. Salado brine would require considerable dilution in order to meet the criteria for potable water, and dilution would serve to reduce radionuclide concentrations. There are other, more likely sources of water than the Salado in the vicinity of the WIPP (see § 194.53 below), but DOE's modeling demonstrated that radionuclides from the WIPP would not reach these sources in the undisturbed scenario.

EPA therefore proposes to find the WIPP in compliance with § 194.52. Due to the relatedness of the requirements, EPA combined the discussion of DOE's compliance with §§ 194.51 ("Consideration of the Protected Individual") and 194.52 in a single Compliance Application Review Document (CARD 51/52).

C. Section 194.53, Consideration of Underground Sources of Drinking Water

Section 194.53 requires that compliance assessments of the undisturbed performance scenario consider underground sources of drinking water ("USDWs") near the WIPP and their interconnections. The undisturbed scenario assumes that the disposal system will not be disturbed by human activities such as drilling or mining. A USDW is defined at 40 CFR 191.22 as "an aquifer or its portion that supplies a public water system, or contains a sufficient quantity of ground water to do so and (i) supplies drinking water for human consumption or (ii) contains fewer than 10,000 mg per liter of total dissolved solids."

DOE identified three potential USDWs near the WIPP—the Culebra Member of the Rustler Formation, the Dewey Lake Red Beds, and the Santa Rosa Sandstone of the Dockum Group—despite incomplete data showing that

they in fact meet the regulatory definition of a USDW. However, DOE did not identify a plausible release scenario in undisturbed conditions in which radionuclides from the WIPP reached these potential USDWs. DOE found instead that the only plausible release scenario in undisturbed conditions involved transport of radionuclides by brine laterally through the Salado Formation (where the WIPP is situated) to the subsurface boundary of the accessible environment. The concentration of radionuclides at the subsurface boundary in this scenario represents the maximum level possible in the accessible environment.

DOE assumed that brine at the subsurface boundary would be directly available to a hypothetical individual on the surface for use as drinking water. In other words, DOE assumed that people would draw water directly from the Salado, thereby bypassing other potential USDWs, and would thus be exposed to the maximum concentration of radionuclides. Because DOE assumed the worst-case scenario and did not attempt to demonstrate in the analysis that transport of radionuclides through geological formations in the accessible environment would lower their concentrations, DOE concluded that it was not necessary to analyze underground interconnections among water bodies.

EPA agrees that the Culebra, Santa Rosa, and Dewey Lake Formations are the most likely potential USDWs. Also, EPA agrees that it was not necessary to identify USDW interconnections because of DOE's conservative assumption that individuals, regardless of their location on the surface of the accessible environment, would be exposed to the maximum available concentration of radionuclides in drinking water.

Based on information provided in the CCA, EPA concluded that DOE adequately considered USDWs in compliance assessments. EPA therefore proposes to find that DOE complies with § 194.53. EPA discusses whether the results of DOE's calculations comply with the requirements of § 191.15 and Subpart C of 40 CFR Part 191 in § 194.55, "Results of CA." For further discussion of EPA's evaluation of compliance for § 194.53, see CARD 53.

D. Section 194.54, Scope of Compliance Assessments (CA)

Section 194.54 addresses the scope of compliance assessments ("CA") conducted to determine compliance with the individual dose and ground-water protection requirements of the disposal regulations. The CA must account for the undisturbed performance of the disposal system; that is, the predicted behavior of the disposal system if it is not disrupted by human intrusion or the occurrence of unlikely natural events (§ 191.12). As with performance assessment, the CA must consider features, events, and processes ("FEPs") and associated uncertainties. The CA can be considered a "subset" of performance assessment, as CA considers only natural/undisturbed conditions and past/near-future human induced activities, but does not include long-term future human-induced activities that are included in performance assessment.

EPA required DOE to consider FEPs that relate to undisturbed performance of the disposal system. EPA required DOE to identify how these FEPs were screened, combined, and used in the CA. DOE was required to document why any undisturbed scenario FEPs were not included in the CA. EPA also required the CA to consider activities that occur in the vicinity of the WIPP and their effect on radionuclide migration from the site. Specifically, DOE was required to consider existing boreholes and near future lease development.

To fulfill the requirements of § 194.54(a), DOE developed and followed a process for considering FEPs in the CA. Out of the initial list of approximately 72 natural FEPs, DOE eventually included 17 in the CA. This is the same process that was used in identifying FEPs for PA; EPA's evaluation of the process is addressed in the preamble discussion of § 194.32. EPA concluded that the initial FEP list assembled by DOE was sufficiently comprehensive, in accordance with the requirements of § 194.54(a). This list appropriately screened out events and processes on the basis of probability, consequence or regulatory requirements. DOE considered and incorporated into CA numerous natural processes and events. DOE adequately documented the decision not to include FEPs in the CA. (See preamble discussion for § 194.32.)

DOE, in accordance with the requirements of § 194.54(b), conducted an analysis of the activities that are expected to occur in the vicinity of the WIPP in the near future. DOE's assessment of existing boreholes indicated that natural fluid flow through abandoned boreholes would be of very little consequence in the near future and was therefore not included in the CA. In addition to existing boreholes, DOE addressed a number of activities that could occur in the vicinity of the WIPP in the near future. These activities were: oil and gas exploration, exploitation and extraction; potash exploration and exploitation; fluid injection related to oil and gas production; sulfur coreholes; hydrocarbon/gas storage; brine wells for solution mining; and water supply wells. DOE determined that none of these activities will have an impact on the disposal system in the near future and therefore did not include them in the CA. DOE examined fluid injection for inclusion in the CA, but screened it out based on low consequences to the disposal system if it happened. DOE also provided information on leases in the WIPP area.

EPA reviewed the CCA analysis of existing boreholes in the vicinity of the WIPP and their potential impact on radionuclide migration and agrees with DOE's conclusion that existing boreholes will not affect the disposal system. EPA and public commenters disagreed with DOE's initial analysis of the effects of fluid injection and salt water mining. Upon reviewing supplemental modeling of these scenarios, conducted by DOE and also independently by EPA, EPA agrees that these activities were correctly omitted from the CA. (See the preamble for § 194.32 for further discussion of this additional modeling.) DOE satisfactorily identified leases near the WIPP and appropriately estimated the life of the leases for consideration in the CA.

EPA proposes to find DOE in compliance with the requirements of § 194.54. For further information on EPA's evaluation of compliance for § 194.54, see CARD 54.

E. Section 194.55, Results of CA

Section 194.55 establishes requirements for analyzing the WIPP's compliance with the individual and the ground-water protection requirements of the disposal regulations. These requirements: (1) limit the possible radiation dose from the WIPP to individuals in the accessible environment, and (2) limit the degree of radioactive contamination of groundwater for which the WIPP might be responsible. Both limitations are required to be analyzed for undisturbed performance of the disposal system for 10,000 years. (See the discussion for § 194.54 in today's preamble.)

40 CFR 191.15, the individual protection requirements, requires that there must be a reasonable expectation that undisturbed performance of the WIPP disposal system will not cause the annual committed effective dose equivalent to exceed 15 millirems (150 microsieverts) to any member of the public in the accessible environment. Subpart C of 40 CFR Part 191, the ground-water protection requirements, sets requirements on the radiation levels

in underground sources of drinking water ("USDWs") by referencing the standards of the Safe Drinking Water Act at 40 CFR Part 141. In order to determine compliance with these requirements, DOE must calculate the maximum individual radiation dose from all pathways, the maximum concentrations of specific radionuclides in any USDW, and the maximum annual dose equivalents from radioactivity in any USDW.

Section 194.55 establishes six requirements for computing, presenting, and evaluating the results of compliance assessments ("CA"). The requirements of §§ 194.55(b) through (f) are analogous to the requirements of §§ 194.34(b) through (f) for the results of performance assessment ("PA"). As a result, DOE has been able to use the same computational techniques and the same computer codes to perform both PA and CA. The major differences between the analyses for PA and CA are that: (1) CA considers only undisturbed performance of the WIPP, and thus does not consider scenarios of human intrusion; (2) CA requires calculations of doses and radioactivity concentrations in USDWs, as well as cumulative releases; and (3) CA results are expressed as a set of dose and concentration values, while PA results are expressed as a series of complementary cumulative distribution function ("CCDF") curves.

1. Uncertainty of CA

Section 194.55(a) requires the CA to consider and to document uncertainty in the performance of the disposal system. There are two general sources of such uncertainty. The first is the uncertainty associated with physical, chemical and geologic conditions within and around the repository. The CA deals with this by running 300 different undisturbed-site scenarios, with 300 independent sets of sampled values for the most important uncertain parameters (i.e., parameters either that vary from place to place or that simply are not known with precision, but which have been determined to have a significant effect on the WIPP's ability to contain radionuclides). The second source of uncertainty is the lack of detailed knowledge of the ways in which contaminated ground water might be pumped out and utilized by persons living near the site in the future. DOE handles this uncertainty through a conservative bounding calculation on individual doses, which is intended to demonstrate compliance regardless of any uncertainties. The bounding calculation is discussed in further detail in the discussions of §§ 194.51 and 194.52 in this preamble.

DOE evaluated uncertainty in the amount of contaminants transported underground using the same method as in the PA, except that uncertainty from human intrusion scenarios was not considered. For further information on the treatment of uncertainty in PA, see the discussion of § 194.34 in today's preamble. EPA found that the conservative bounding calculation is appropriate, in lieu of further uncertainty analysis, and that DOE's treatment of uncertainty in CA is sufficient. Therefore, the Agency proposes to find that WIPP complies with § 194.55(a).

2. Probability Distributions for Uncertain Parameters

Section 194.55(b) requires DOE to develop and document probability distributions for uncertain disposal system parameter values used in CA. This is similar to the requirement for parameter values used in the PA. DOE uses the same probability distributions for uncertain disposal system parameter values in both PA and CA calculations. This involves performing calculations with 300 independent sets of sampled parameter values for each of the 57 important parameters associated with uncertain physical, chemical and geological conditions in the repository and its surroundings. EPA conducted the same evaluation of probability distributions for CA as for PA.

Upon reviewing DOE's models and computer codes, the Agency questioned a number of important input parameter values and distributions used in the PA and in CA. EPA determined that corrections were necessary for certain input parameters and conceptual models. Because of concerns that the necessary corrections to these parameters and conceptual models could have significant effects on the actual results of modeling, EPA required DOE to demonstrate that the combined effect of all the parameter and computer code changes required by EPA was not significant enough to necessitate a new PA. EPA required DOE to perform 300 simulations in additional PA and CA calculations as a Performance Assessment Verification Test ("PAVT"). The PAVT implemented DOE's PA modeling, using the same sampling methods as the CCA PA, but incorporating parameter values that were selected by EPA. CA results of the PAVT are discussed below for requirement § 194.55(f) and PA results of the PAVT are discussed above in § 194.34 of this preamble. The PAVT results confirmed that the original PA is sufficiently conservative and indicated that further PA and CA analysis is not required.

After considerable analyses, including the PAVT, EPA was satisfied that the parameter values and distributions were adequate for determining compliance. See the discussion of the requirements of § 194.34 of this preamble. For the reasons discussed in that section, EPA also proposes to find the CCA in compliance with § 194.55(b).

3. Sampling of Uncertain Parameters

Section 194.55(c) requires CA to use computational techniques which draw random samples from across the entire range of probability distributions of uncertain parameters. These computational techniques then must be used to calculate the ranges of estimated radiation doses to individuals received from all pathways; radionuclide concentrations in USDWs; and radiation doses received from USDWs. This requirement is parallel to § 194.34(c), which requires techniques for random sampling from parameter distributions in the computation of CCDF curves for the results of PA.

The statistical technique that DOE used in selecting parameter values in PA, Latin Hypercube Sampling ("LHS"), is also employed in the calculations of radionuclide concentrations in ground water (which are then used to calculate individual doses) for the CA. The CA generated 300 values of contaminant concentrations in ground water (at the boundary to the accessible environment) and individual annual radiation doses to assess compliance with § 194.55.

EPA found the LHS technique for drawing samples randomly from probability distributions of uncertain parameters to be sufficient, as discussed in this preamble for § 194.34. In addition, EPA determined that DOE's conceptual model for determining maximum individual exposure and the GENII-A computer code used to calculate radiation doses were adequate. The Agency found that DOE has used an appropriate computational technique, LHS, for sampling widely from the parameter distributions described in § 194.55(b), and has used it to generate ranges of radionuclide concentrations in USDWs, doses from the ingestion of water from USDWs, and all-pathways doses. Therefore, EPA proposes to find that DOE has demonstrated compliance with § 194.55(c).

4. Sufficient Number of Estimates Generated

Section 194.55(d) requires that the number of estimates of radionuclide concentrations in USDWs, doses from

the ingestion of water from USDWs, and all-pathways doses must be large enough such that the maximum estimates of doses and concentrations generated exceed the 99th percentile of the population of estimates with at least 0.95 probability. This requirement is similar to the requirement of § 194.34(d) for determining if there is a sufficient number of CCDF curves in PA analysis. Both requirements have the purpose of ensuring that enough simulations are generated so that conclusions drawn from their analyses are statistically justified.

DOE produced 300 CA calculations and used the same statistical arguments to justify both the number of calculations for CA and the number of CCDF curves. See the discussion for § 194.34 in this preamble for a further explanation of DOE's justification and EPA's review. EPA found that, for random sampling, 300 individual estimates will provide 0.95 probability that at least one of them will exceed the population 99th percentile value. Thus, EPA proposes to determine that the CCA satisfies the requirement of § 194.55(d).

5. Display full range of CA results

Section 194.55(e) requires the CCA to display the full range of estimated radiation doses and radionuclide concentrations. Section 194.34(e) has a parallel requirement for displaying the full range of CCDFs generated.

DOE's CA analysis of individual doses started with the findings of the PA of contamination that has migrated to the accessible environment in the anhydrite interbeds immediately surrounding the repository in the case of an undisturbed repository. This analysis generated a full range of radionuclide concentrations in the ground water. DOE found that only nine of the three hundred estimates were not negligibly small (that is, less than 10^{-18} curies/liter)[24]. Starting with the concentrations in the interbeds, DOE conducted bounding calculations on individual dose, both from the ingestion of drinking water and from all exposure pathways combined. These calculations adopted assumptions that resulted in upper-bound estimates of dose that are much greater than what any individual might reasonably be expected to receive. DOE performed this bounding calculation in lieu of providing descriptive statistics for the estimates such as mean, median and standard deviation, as stated in EPA's "Compliance Application Guidance for the WIPP" ("CAG"). The criteria and the CAG allow the use of a bounding calculation as long as the simplified model is more conservative than more detailed and more complex modes. (CAG, p. 68)

EPA reviewed the CCA and found that DOE performed a full range of the necessary calculations to demonstrate compliance with § 191.15 and Subpart C of 40 CFR Part 191. EPA independently estimated and tabulated the all-pathway and USDW doses in a dose verification analysis. EPA's results generally agreed with those of the DOE analysis, although EPA found DOE's calculations to be conservative. EPA calculated descriptive statistics such as the mean and the 95 percent confidence interval for doses and concentrations to provide added assurance of the adequacy of DOE's methodology. Because the CCA presents specific estimates for each of the non-zero simulations or the upper bound estimate for those simulations and presents the full ranges of radionuclide concentrations and radiation doses, EPA proposes to find that DOE has demonstrated compliance with § 194.55(e).

6. Compliance With Radiation Dose and Radionuclide Concentration Limits

Section 194.55(f) requires the CCA to document that there is at least a 95 percent level of statistical confidence that the mean and the median of the range of estimated radiation doses and the range of estimated radionuclide concentrations meet the requirements of § 191.15 and Subpart C of 40 CFR Part 191. This requirement is analogous to § 194.34(f), which requires at least a 95 percent level of statistical confidence that the mean of the population of CCDFs meets the containment requirements of § 191.13. In order to meet this requirement, it is necessary to calculate the lower and upper limits of the range, the mean, and the median of the estimated doses and of the radionuclide concentrations.

The limit for individual doses in § 191.15 is an annual committed effective dose, from all pathways, of 15 mrem/year. The limits for doses and radionuclide concentrations in USDWs under Subpart C of 40 CFR Part 191 are a total radioactivity concentration for radium-226 and radium-228 in any USDW of 5 picocuries per liter of water (pCi/L); a gross alpha particle radioactivity (including radium-226 but excluding radon and uranium) in any USDW of 15 pCi/L; and an annual dose equivalent to the total body or any internal organ from beta particle and photon radioactivity in any USDW of 4 mrem/year. DOE calculated a maximum annual committed effective dose equivalent from exposure through all pathways of 0.93 mrem/year. The CCA reported that the maximum estimated radium concentration in ground water is 2.0 pCi/L. The CCA contained the 300 estimated concentrations for the five radionuclides ^{241}Am, ^{239}Pu, ^{238}Pu, ^{234}U, and ^{230}Th, and only nine of these were not negligibly small. The CCA reported the maximum gross alpha particle concentration as 7.81 pCi/L from ^{241}Am, ^{239}Pu, ^{238}Pu, ^{230}Th and all isotopes of Ra. DOE used its bounding calculation for dose due to all radionuclides from drinking USDWs to show that the annual dose equivalent to the whole body from beta particle and photon radioactivity would be no more than 0.47 mrem/year. Supplemental analyses conducted by DOE also showed that the maximum beta particle and photon dose equivalent to any internal organ was well below the 4 mrem/year regulatory limit; bone surface was identified as the critical organ for that calculation. The maximum estimate concentration or dose for each of these is less than the standard. Because the maximum value for each of these values was less than the applicable standard, and because the bounding analysis accounted for sources of uncertainty, DOE concluded that the mean, median and 95 percent confidence interval values also met the standards of § 191.15 and Subpart C of 40 CFR Part 191.

EPA commissioned an independent analysis to verify DOE's dose calculations. In general, EPA's analysis calculated values similar to those calculated by DOE. EPA also calculated the mean, median and 95 percent confidence intervals of concentrations and doses. EPA's analysis confirmed that the mean and median values are in compliance with the requirements of § 191.15 and Subpart C of Part 191.

The PAVT computed thirteen simulations with non-negligible concentrations of radionuclides in ground water, compared with nine in the CCA CA. All of these thirteen simulations computed doses of less than 1 mrem/year, compared to the standard of 15 mrem/year for individuals. PAVT calculations also demonstrated that the doses to internal organs and from beta particle and photon radiation in ground water were several orders of magnitude less than the standard. Thus, PAVT results indicated that the mean and median dose values and ground-water concentrations will meet the requirements of § 191.15 and Subpart C of Part 191.

[24] The Agency agrees with DOE that concentrations of less than 10^{-18} curies per liter are negligibly small. Such small concentrations found in the analysis could be due to calculational error rather than true indicators of radioactive contamination of USDWs.

Based on the CCA, supplementary documentation provided by DOE, and the Agency's independent studies, EPA has determined that there is at least a 95 percent level of statistical confidence that the mean and the median of the range of estimated radiation doses and the range of estimated radionuclide concentrations meet the requirements of § 191.15 and Subpart C of 40 CFR Part 191. Therefore, EPA proposes to find that DOE has demonstrated compliance with § 194.55(f). For further information on EPA's evaluation of compliance for § 194.55, see CARD 55.

XIV. Land Withdrawal Act Section 4(b)(5)(B) Leases

The 1992 WIPP Land Withdrawal Act ("LWA") (Public Law 102–579) withdrew the geographical area containing the WIPP facility from all forms of entry, appropriation, and disposal under public land laws. The LWA transferred jurisdiction of the land to the Secretary of Energy explicitly for the use of constructing, operating, and conducting other authorized activities related to the WIPP. Further, the LWA established responsibilities for DOE to manage the land withdrawal area and required submittal of a management plan for that purpose. Under DOE's management plan, all surface or subsurface mining or oil or gas production is prohibited at all times on lands on or under the withdrawal area. (LWA, section 4(b)(5)(A)) However, the LWA exempted, from the prohibition on oil and gas production, two leases already in existence. Section 4(b)(5)(B) states that the existing rights under the two oil and gas leases (Nos. NMNM 02953 and 02953C) (hereafter, "the section 4(b)(5)(B) leases") shall not be affected unless the Administrator determines, after consultation with DOE and the Department of Interior, that the acquisition of such leases by DOE is required to comply with EPA's final disposal regulations at 40 CFR Part 191, Subparts B and C. Before DOE can emplace waste in the WIPP, DOE must either acquire the leases or the EPA must determine that such acquisition is not required. (LWA, section 7(b)(2))

In 1977, DOE purchased the leases in the land withdrawal area between the surface and 6,000 feet (1829 meters) below the surface. Since DOE owns all land rights down to 6,000 feet, no drilling is permitted from the surface of the LWA leases. Any drilling that takes place on the LWA section 4(b)(5)(B) leases must therefore be slant drilling that is initiated from outside the land withdrawal area. Oil and gas resources in the southwest area of the site, where the section 4(b)(5)(B) leases are located, are expected to occur below 6000 feet down to approximately 16,000 feet.

The EPA's determination of whether the section 4(b)(5)(B) leases must be acquired by DOE depends on an evaluation of drilling activities very similar to that conducted by DOE for performance assessment ("PA") related to the containment requirements at 40 CFR 191.13. In fact, § 194.32(c) of the WIPP Compliance Criteria requires DOE to analyze the effects of any activities that occur in the vicinity of the disposal system prior to or soon after disposal, including the "development of any existing leases." Therefore, in its examination of the effects of the section 4(b)(5)(B) leases, EPA relied on the closely related PA analyses conducted by DOE for the purpose of compliance with § 194.32(c).

For an oil or gas well, the potential life cycle may consist of: drilling; resource recovery (production); fluid injection for enhanced secondary production (either by waterflooding techniques or injection to maintain oil reservoir pressure); reinjection of waste fluids for disposal; and abandonment. In the PA for the compliance certification application ("CCA"), DOE conducted several analyses to identify the potential effects of these activities on the disposal system, with the exception of production, which is exempted from consideration by regulation (§ 194.33(d)). EPA examined each of DOE's analyses in its evaluation for the section 4(b)(5)(B) leases.

In its analyses for the PA, DOE concluded that the drilling of a deep well would adversely affect the disposal system only if the borehole intersected a waste panel in the underground portion of the WIPP. Drilling is of concern if the borehole penetrates the waste, and forces it to the surface, or allows a pathway for long-term transport of radionuclides. EPA agrees that the effects of drilling a borehole—and similarly, the effects of resource recovery (oil or gas production)—would be highly localized, for several reasons. Current oil and gas production drilling in the area near the WIPP site includes well casing procedures and borehole plugging practices that would mitigate the potential impact of future drilling activities. Wells drilled in the Delaware Basin (which encompasses the entire land withdrawal area) include at least two sets of steel casing lining the borehole (deeper wells use three sets of steel casing). Also, production and injection wells contain an additional set of tubing used to produce the oil or gas, or to inject fluid into the well. Present day practice would require multiple failures in these steel casings and tubings to cause any flow from the oil- or gas-producing zone towards the disposal system.

Borehole plugging practices near the WIPP site also employ multiple levels of protection that mitigate the potential impact of oil and gas operations in the immediate area. The State of New Mexico regulates borehole plugging practices with a robust series of requirements that control the flow of fluid in the subsurface (New Mexico Oil Conservation Division, Order R–III–P). The use of these measures reduce the chance of any fluid flow toward or into the repository using current methods and technology.

Fluid injection for brine disposal, waterflood, or pressure maintenance could affect the disposal system if the injected brine were to reach the waste area by way of migration through Salado anhydrites (calcium sulfate rock) (markerbeds 138 or 139). DOE analyzed this scenario in two different modeling studies (Docket A–93–02, Item II–G–1, Reference #611, and Item II–I–38) as well as in a study that identified well construction and operating practices in the vicinity of WIPP. The results of the modeling studies showed that little or no brine would be expected to reach the WIPP waste area through the anhydrite interbeds. The amount of brine that is modeled to reach the repository in the initial study (Docket A–93–02, Item II–G–1, Reference #611) is within the amount that is already accounted for in PA, and does not cause the WIPP to violate the disposal regulations.

An examination of current practice for fluid injection techniques confirms that the effects of fluid injection can also be expected to be highly localized. All injection operations in the vicinity of the WIPP site are controlled by the underground injection control requirements of the EPA. (40 CFR Parts 144 and 146) The requirements limit the flow rates of injection fluids and the maximum pressures that can be used in all injection wells. In addition, the injection well operator is required to evaluate the area of influence of any injection well before injection operations can be approved, and the State of New Mexico monitors the performance of injection operations periodically by requiring stringent reporting procedures.

Regarding abandonment, DOE indicated (Appendix SCR.3.3.1.4.2 of the CCA) that abandoned deep boreholes that do not intersect waste panels have been eliminated from the PA calculations on the basis of low consequence to the performance of the disposal system. This is because the rate of fluid flow through a borehole located

more than a meter away from the waste panels is so small that it would have an insignificant impact on releases.

EPA's review of DOE's modeling studies and analyses of well construction and operating practices found that the parameterization (e.g., injection rate and volumes) and model representation (e.g., incorporation of stratigraphy) used in DOE's modeling are consistent with those characteristics identified independently by EPA for the region in the southwest part of the land withdrawal area (the location of the section 4(b)(5)(B) leases). (Docket A–93–02, Item III–B–27) DOE's analysis of drilling for the PA indicated that deep wells drilled into the controlled area, but away from the waste disposal rooms and panels, will not adversely affect the disposal system's capability to contain radionuclides. A slant-drilled borehole from outside the land withdrawal area, into the section 4(b)(5)(B) lease area, at least 6000 feet below the surface, would be at least 2400 meters (8000 feet) away from the WIPP disposal rooms, and would thus have an insignificant effect on releases from the disposal system (and in turn, on compliance with the disposal regulations). Based on EPA's findings that DOE adequately modeled human intrusion scenarios in PA, and on the additional analyses described above, EPA concludes that potential activities at the section 4(b)(5)(B) leases do not cause the WIPP to violate the disposal regulations. Therefore, EPA determines that it is not necessary for the Secretary of Energy to acquire the Federal Oil and Gas Leases No. NMNM 02953 and No. NMNM 02953C.

XV. Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866, (58 FR 51,735; October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is a "significant regulatory action" because it raises novel policy issues which arise from legal mandates. As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

B. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This proposed rule would not have a significant impact on a substantial number of small entities because it sets forth requirements which apply only to Federal agencies. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

The EPA has determined that this proposed rule contains no information collection requirements as defined by the Paperwork Reduction Act (44 U.S.C. 3501 *et seq*).

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and tribal governments and the private sector. Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4), EPA has determined that this regulatory action is not subject to the requirements of sections 202 and 205, because this action does not contain any "federal mandates" for State, local, or tribal governments or for the private sector. The rule implements requirements specifically set forth by the Congress in the Waste Isolation Pilot Plant Land Withdrawal Act (Pub. L. 102–579).

E. Executive Order 12898

Pursuant to Executive Order 12898 (59 FR 7629, February 16, 1994), entitled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," the Agency has considered environmental justice related issues with regard to the potential impacts of this action on the environmental and health conditions in low-income and minority communities. EPA has complied with this mandate. EPA involved minority and low-income populations early in the rulemaking process. In 1993 EPA representatives met with New Mexico residents and government officials to identify the key issues that concern them, the types of information they wanted from EPA, and the best ways to communicate with different sectors of the New Mexico public. The feedback provided by this group of citizens formed the basis for EPA's WIPP communications and consultation plan.

To assist citizens, including a significant Hispanic population in Carlsbad and the nearby Mescalero Indian Reservation, stay abreast of EPA's WIPP-related activities, the Agency developed many informational products and services. EPA translated into Spanish many documents regarding WIPP including educational materials and fact sheets describing EPA's WIPP oversight role and the radioactive waste disposal standards. EPA also established a toll-free WIPP Information Line, recorded in both English and Spanish, providing the latest information on upcoming public meetings, publications, and other WIPP-related activities. EPA also developed a vast mailing list, which includes many low-income and minority groups, to systematically provide interested parties with copies of EPA's public information documents and other materials. EPA will continue its efforts toward open communication and outreach during the development of the final rule.

List of Subjects in 40 CFR Part 194

Environmental protection, Administrative practice and procedure, Nuclear materials, Radionuclides, Plutonium, Radiation protection, Uranium, Transuranics, Waste treatment and disposal.

Dated: October 23, 1997.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, 40 CFR Part 194 is proposed to be amended as follows.

PART 194—CRITERIA FOR THE CERTIFICATION AND RE-CERTIFICATION OF THE WASTE ISOLATION PILOT PLANT'S COMPLIANCE WITH THE 40 CFR PART 191 DISPOSAL REGULATIONS

1. The authority citation for part 194 is revised to read as follows:

Authority: The Waste Isolation Pilot Plant Land Withdrawal Act of 1992, Pub. L. 102–579, 106 Stat. 4777, as amended by the 1996 LWA Amendments, Pub. L. 104–201; Reorganization Plan No. 3 of 1970, 5 U.S.C. app. 1; Atomic Energy Act of 1954, as amended, and Nuclear Waste Policy Act of 1982, as amended, 42 U.S.C. 2011–2296 and 10101–10270.

2. In § 194.2, a definition is added in alphabetical order to read as follows:

§ 194.2 Definitions.

* * * * *

Administrator's authorized representative means the director in charge of radiation programs at the Agency.

* * * * *

3. Appendix A to Part 194 is added to read as follows:

Appendix A to Part 194—Certification of the Waste Isolation Pilot Plant's Compliance with the 40 CFR Part 191 Disposal Regulations and the 40 CFR Part 194 Compliance Criteria

In accordance with the provisions of the WIPP Compliance Criteria of this part, the Agency finds that the Waste Isolation Pilot Plant ("WIPP") will comply with the radioactive waste disposal regulations at part 191, subparts B and C, of this chapter. Therefore, pursuant to Section 8(d)(2) of the WIPP Land Withdrawal Act ("WIPP LWA"), as amended, the Administrator certifies that the WIPP facility will comply with the disposal regulations. In accordance with the Agency's authority under § 194.4(a), the certification of compliance is subject to the following conditions:

Condition 1: § 194.14(b), Disposal System Design, Panel Seal System. The Department shall implement the panel seal design designated as Option D in Docket A–93–02, Item II–G–1 (October 29, 1996, Compliance Certification Application submitted to the Agency). The Option D design shall be implemented as described in Appendix PCS of Docket Item II–G–1, with the exception that the Department shall use Salado mass concrete (consistent with that proposed for the shaft seal system, and as described in Appendix SEAL of Docket Item II–G–1) instead of fresh water concrete.

Condition 2: § 194.22, Quality Assurance. (a) The Secretary shall not allow any waste generator site other than the Los Alamos National Laboratory to ship waste for disposal at the WIPP until the Agency determines that the site has established and executed a quality assurance program, in accordance with §§ 194.22(a)(2)(i), 194.24(c)(3) and 194.24(c)(5) for waste characterization activities and assumptions.

(b) Upon submission by DOE of site-specific quality assurance program plans, EPA will evaluate the relevant quality assurance program at the relevant waste generator site by conducting a quality assurance audit or an inspection of a DOE quality assurance audit. EPA will publish a notice in the **Federal Register** announcing its intent to evaluate the relevant quality assurance program, and soliciting public comment on the quality assurance program plans and appropriate audit documentation. A public comment period of at least 30 days will be allowed.

(c) EPA's written approval that the requisite quality assurance requirements have been met at a waste generator site will be conveyed in a letter from the Administrator's authorized representative to the Department. No such approval shall be granted until after the end of the public comment period described in paragraph (b) of this condition. A copy of EPA's approval letter will be placed in the public dockets in accordance with § 194.67. The results of any audits or inspections conducted by the Agency to evaluate the quality assurance programs described in paragraph (a) of this condition will also be placed in the dockets described in § 194.67.

(d) EPA will conduct inspections, in accordance with §§ 194.21 and 194.22(e), to confirm the continued compliance of the programs approved under paragraphs (2)(b) and (c) of this condition. The results of such inspections will be made available to the public through the Agency's public dockets, as described in § 194.67.

Condition 3: § 194.24, Waste Characterization. (a) The Secretary may allow shipment for disposal at the WIPP of retrievably stored (legacy) debris waste streams, at the Los Alamos National Laboratory ("LANL"), that can be characterized using the systems and processes documented in Docket A–93–02, Item II–I–70. The Secretary shall not allow shipment of any waste from any other LANL waste streams or from any other waste generator site for disposal at the WIPP until the Agency determines that the site has:

(1) provided information on how process knowledge will be used for waste characterization of the waste stream(s) proposed for disposal at the WIPP,

(2) implemented a system of controls at the site, in accordance with § 194.24(c)(4), to confirm that the total amount of each waste component that will be emplaced in the disposal system will not exceed the upper limiting value or fall below the lower limiting value described in the introductory text of paragraph (c) of § 194.24. The implementation of such a system of controls shall include a demonstration that the site has procedures in place for adding data to the WIPP Waste Information System ("WWIS"), and that such information can be transmitted from that site to the WWIS database; and a demonstration that measurement techniques and control methods can be implemented in accordance with § 194.24(c)(4) for the waste stream(s) proposed for disposal at the WIPP.

(b) The Agency will conduct an audit or an inspection of a DOE audit for the purpose of evaluating the use of process knowledge and the implementation of a system of controls for each waste stream or group of waste streams at a waste generator site. The Agency will announce a scheduled audit or inspection in the **Federal Register**. In that notice, the Agency will also solicit public comment on all appropriate audit documentation, which will be placed in the dockets described in § 194.67. A public comment period of at least 30 days will be allowed.

(c) EPA's written approval of the waste characterization programs described in paragraph (a) of this condition for one or more waste streams from a waste generator site will be conveyed in a letter from the Administrator's authorized representative to the Department. No such approval shall be granted until after the end of the public comment period described in paragraph (b) of this condition. A copy of EPA's approval letter will be placed in the public dockets in accordance with § 194.67. The results of any inspections or audits conducted by the Agency to evaluate the plans described in paragraph (a)(1) and (2) of this condition will also be placed in the dockets described in § 194.67.

(d) The Administrator's authorized representative(s) will conduct inspections, in accordance with §§ 194.21 and 194.24(h), to confirm the continued compliance of the plans approved under paragraphs (b) and (c) of this condition. The results of such inspections will be made available to

the public through the Agency's public dockets, as described in § 194.67.

Condition 4: § 194.43, Passive Institutional Controls. (a) Not later than the final re-certification application submitted prior to closure of the disposal system, the Department shall provide, to the Administrator or the Administrator's authorized representative:

(1) a schedule for implementing passive institutional controls that has been revised to show that markers will be fabricated and emplaced, and other measures will be implemented, as soon as possible following closure of the WIPP. Such a schedule should describe how testing of any aspect of the conceptual design will be completed prior to or soon after closure, and what changes to the design of passive institutional controls may be expected to result from such testing.

(2) documentation showing that the granite pieces for the proposed monuments and information rooms described in Docket A–93–02, Item II–G–1, and supplementary information may be: quarried (cut and removed from the ground) without cracking due to tensile stresses from handling or isostatic rebound; engraved on the scale required by the design; transported to the site, given the weight and dimensions of the granite pieces and the capacity of existing rail cars and rail lines; loaded, unloaded, and erected without cracking based on the capacity of available equipment; and successfully joined.

(3) documentation showing that archives and record centers will accept the documents identified and will maintain them in the manner identified in Docket A–93–02, Item II–G–1.

(4) documentation showing that proposed recipients of WIPP information other than archives and record centers will accept the information and make use of it in the manner indicated by DOE in Docket A–93–02, Item II–G–1 and supplementary information.

(b) Upon receipt of the information required under paragraph (a) of this condition, EPA will place such documentation in the public dockets identified in § 194.67. The Agency will determine if a modification to the compliance certification in effect is necessary. Any such modification will be conducted in accordance with the requirements at §§ 194.65 and 194.66.

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October 30, 1997

Part IV

Environmental Protection Agency

National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances; Notices

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–00218; FRL–5737–5]

National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances (NAC/AEGL Committee) is developing Acute Exposure Guideline Levels (AEGLs) on an on going basis to assist Federal and State agencies and private sector organizations with their needs for short-term hazardous chemical exposure information (one time only exposures during chemical emergency situations). The NAC/AEGL Committee has completed work on "Proposed AEGLs" for 12 chemicals. The purpose of today's notice is to solicit comments on proposed values and the accompanying scientific rationale for their development. More specifically, this notice solicits comments on the proposed AEGL values, the methodologies used to determine no-observed-adverse-effect-levels (NOAELs) or lowest-observed-adverse-effect-levels (LOAELs) for specific effects, the uncertainty factors selected for intraspecies and interspecies extrapolation, the uncertainty factors used to accommodate for sensitive or susceptible individuals in the human population, the use of modifying factors and the values applied, and other aspects related to the development of the AEGL values.

DATES: Submit written comments on or before December 1, 1997.

ADDRESSES: Submit three copies of written comments on the Proposed AEGLs, identified by docket control number (OPPTS–00218; FRL– 5737–3) to: Environmental Protection Agency, Office of Pollution Prevention and Toxics (OPPT), Document Control Office (7407), Rm. G–009, 401 M St., SW., Washington, DC 20460.

Comments and data may also be submitted electronically to: oppt.ncic@epamail.epa.gov. Follow the instructions under Unit V. of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

All comments which contain information claimed as CBI must be clearly marked as such. Three sanitized copies of any comments containing information claimed as CBI must also be submitted and will be placed in the public record for this notice. Persons submitting information on any portion of which they believe is entitled to treatment as CBI by EPA must assert a business confidentiality claim in accordance with 40 CFR 2.203(b) for each such portion. This claim must be made at the time that the information is submitted to EPA. If a submitter does not assert a confidentiality claim at the time of submission, EPA will consider this as a waiver of any confidentiality claim and the information may be made available to the public by EPA without further notice to the submitter.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Rm. ET–543B, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone: (202) 554–1404; TDD: (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Availability

Internet

Electronic copies of this notice and various support documents are available from the EPA Home Page at the **Federal Register**—Environmental Documents entry for this document under "Laws and Regulations" (http://www.epa.gov/fedrgstr/).

Fax-On-Demand

Using a faxphone call (202) 401–0527 and select item 3800 for an index of items in this category. For a more specific item number, see the table in Unit IV. of this document.

I. Introduction

EPA's Office of Prevention, Pesticides and Toxic Substances (OPPTS) provided notice on October 31, 1995 (60 FR 55376 (FRL–4987–3)) of the establishment of the NAC/AEGL Committee with the objective stated in the charter as "the efficient and effective development of Acute Exposure Guideline Levels (AEGLs) and the preparation of supplementary qualitative information on the hazardous substances for federal, state, and local agencies and organizations in the private sector concerned with (chemical) emergency planning, prevention, and response." The NAC/AEGL Committee is a discretionary Federal advisory committee formed with the intent to develop AEGLs for chemicals through the combined efforts of stakeholder members from both the public and private sectors using a cost-effective approach that avoids duplication of efforts and provides uniform values, while employing the most scientifically sound methods available. An initial priority list of 85 chemicals for AEGL development was published May 21, 1997 (62 FR 27734 (FRL–5718–9)). This list is intended to be expanded and also may be modified as priorities of the stakeholder member organizations are further developed.

While the development of AEGLs for chemicals is not statutorily based; at least one EPA rulemaking references their planned adoption. In the final Clean Air Act and Amendment section 112 Risk Management rulemaking (June 20, 1996, 61 FR 31685, (FRL–5516–5)), "EPA recognizes potential limitations associated with the Emergency Response Planning Guidelines and Level of Concern and is working with other agencies to develop AEGLs. When these values have been developed and peer-reviewed, EPA intends to adopt them, through rulemaking, as the toxicity reference for substances under this rule." Federal and State agencies and private organizations may also adopt AEGLs for chemical emergency programs in the future.

The NAC/AEGL Committee meets four times per year and plans to develop AEGL values for 30–40 chemicals per year during the next 8 to 10 years. Since its first meeting on June 19–21, 1996, the NAC/AEGL Committee has completed work on "Proposed AEGLs" for 12 chemicals. The basic approach and guidance used to derive AEGLs has been the National Academy of Sciences (NAS) publication, "Guidelines for Developing Community Emergency Exposure Levels for Hazardous Substances" (National Academy Press, Washington, DC, 1993; copies are available in the Docket). The NAC/AEGL Committee meetings have been public and numerous public comments and presentations have been made. At this time, the NAC/AEGL Committee is providing further opportunity for public input through this notice. Comments are welcome on both the AEGL values and their related Technical Support Documents (filed in the public Docket).

The NAC/AEGL Committee will review comments received and revise the Proposed AEGLs as deemed appropriate. The resulting values will be established as "Interim AEGLs" and will be available for use in various public and private sector programs on human health effects related to short-term exposures to hazardous chemicals. It is planned that Interim AEGLs will be forwarded to the National Research Council, National Academy of Sciences (NRC/NAS) for further review, collaboration with the NAC/AEGL Committee, and possible revision of the

AEGL values and the methodologies used to derive them. It is anticipated that "Final AEGLs" will be published under the auspices of the NAS following concurrence on the values and the scientific rationale used for their development. Until Final AEGLs are published by the NAS, the Interim AEGLs are intended for use as needed by individuals or organizations in both the public and private sectors.

II. Characterization of the AEGLs

The AEGLs represent short-term threshold or ceiling exposure values intended for the protection of the general public, including susceptible or sensitive individuals, but not hypersusceptible or hypersensitive individuals. The AEGLs represent biological reference values for this defined human population and consist of three biological endpoints for each of four different exposure periods of 30 minutes (mins), 1 hour (hr), 4 hours (hrs), and 8 hrs. In certain instances, AEGL values have been and will be developed for additional exposure periods of 5 or 10 mins. The biological endpoints include AEGL–1, AEGL–2, and AEGL–3 and are defined as follows:

AEGL–1 is the airborne concentration (expressed as parts per millions (ppm) or milligrams (mg)/meters (m)^3) of a substance at or above which it is predicted that the general population, including "susceptible" but excluding "hypersusceptible" individuals, could experience notable discomfort. Airborne concentrations below AEGL–1 represent exposure levels that could produce mild odor, taste, or other sensory irritations.

AEGL–2 is the airborne concentration (expressed as ppm or mg/m^3) of a substance at or above which it is predicted that the general population, including "susceptible" but excluding "hypersusceptible" individuals, could experience irreversible or other serious, long-lasting effects or impaired ability to escape. Airborne concentrations below the AEGL–2 but at or above AEGL–1 represent exposure levels that may cause notable discomfort.

AEGL–3 is the airborne concentration (expressed as ppm or mg/m^3) of a substance at or above which it is predicted that the general population, including "susceptible" but excluding "hypersusceptible" individuals, could experience life-threatening effects or death. Airborne concentrations below AEGL–3 but at or above AEGL–2 represent exposure levels that may cause irreversible or other serious, long-lasting effects or impaired ability to escape.

III. Development of the AEGLs

The NAC/AEGL Committee develops the AEGL values on a chemical-by-chemical basis. Relevant data and information are gathered from all known sources including published scientific literature, State and Federal agency publications, private industry, public data bases, and individual experts in both the public and private sectors. All key data and information are summarized for the NAC/AEGL Committee in draft form by Oak Ridge National Laboratories and "Draft AEGL" values are prepared in conjunction with designated NAC/AEGL Committee members. Both the Draft AEGLs and draft technical support documents are reviewed and revised as necessary by the NAC/AEGL Committee members prior to formal NAC/AEGL Committee meetings. Following deliberations on the Draft AEGL values and the relevant data and information for each chemical presented at the meeting, the NAC/AEGL Committee attempts to reach a consensus on acceptable values. Once the NAC/AEGL Committee reaches a consensus, the values are considered "Proposed AEGLs." The Proposed AEGL values and the accompanying scientific rationale for their development are the subject of this notice.

In this notice the NAC/AEGL Committee publishes Proposed AEGL values and the accompanying scientific rationale for their development for 12 hazardous substances. These values represent the first exposure levels proposed and published by the NAC/AEGL Committee. In developing the proposed AEGL values, the NAC/AEGL Committee has followed the methodology guidance "Guidelines for Developing Community Emergency Exposure Levels for Hazardous Substances," published by the National Research Council of the National Academy of Sciences (NAS) in 1993 (copies of this guidance document are available for review in the Docket). The term Community Emergency Exposure Levels (CEELs) used by the NAS is synonymous with AEGLs in every way. The NAC/AEGL Committee has adopted the term Acute Exposure Guideline Levels or AEGLs to better connote the broad application of the values to the population defined by the NAS in its guidance document and addressed by the NAC/AEGL Committee in its development of the AEGLs. The NAC/AEGL Committee invites public comment on the Proposed AEGL values and the scientific rationale used as the basis for their development.

Following public review and comment, the NAC/AEGL Committee will reconvene to consider relevant comments, data and information that may have an impact on the NAC/AEGL Committee's proposed values and will again seek consensus for the establishment of "Interim AEGL" values. Although the Interim AEGL values will be available to Federal, State, and local agencies and to organizations in the private sector as biological reference values, it is intended to have them reviewed by a subcommittee of the NAS. It has been planned to have the NAS subcommittee participate in the peer review of the Interim AEGLs and in the resolution of issues regarding the AEGL values and the data and basic methodology used for setting AEGLs. It is anticipated that "Final AEGL" values will be published under the auspices of the NAS.

IV. List of Twelve Chemicals With Proposed AEGL Values

CAS No.	Chemical name	Fax-On-Demand item no.
57–14–7 ...	1,1–Dimethylhydrazine	3852
60–34–4 ...	Methylhydrazine	3853
62–53–3 ...	Aniline	3854
75–21–8 ...	Ethylene oxide	3861
302–01–2	Hydrazine	3891
540–59–0	1,2–Dichloroethene	3895
540–73–8	1,2–Dimethylhydrazine	3852
7697–37–2	Nitric acid	3912
7782–41–4	Fluorine	3915
7782–50–5	Chlorine	3916
7784–42–1	Arsine	3921
7803–51–2	Phosphine	3923

Chemicals With Proposed AEGLs (Alphabetical Order)

Aniline

Aniline is an aromatic amine used chiefly in the chemical industry in the manufacture of dyes, dye intermediates, rubber accelerators, antioxidants, drugs, photographic chemicals, isocyanates, herbicides, and fungicides. The primary effect of an acute exposure to aniline is on the hemoglobin of the red blood cell, resulting in the formation of methemoglobin. The effect may occur following inhalation, ingestion, or cutaneous absorption. In addition to methemoglobinemia, chronic exposures or exposures to high concentrations may produce signs and symptoms of headache, paresthesia, tremor, pain,

narcosis/coma, cardiac arrhythmia, and possibly death.

All AEGL values are based on a study in which rats were exposed to concentrations of 0, 10, 30, 50, 100, or 150 ppm for 8 hrs (Kim and Carlson, 1986). The only reported effect was formation of methemoglobin. At a constant concentration (100 ppm), the formation of methemoglobin over time was basically linear, reaching an asymptote at 8 hrs.

The AEGL–1 was based on a concentration of 100 ppm for 8 hrs which resulted in elevation of methemoglobin from a control value of 1.1% (range, 0.4–2.1%) to 22%. This level of methemoglobin results in clinical cyanosis but no hypoxic symptoms. Additional studies on oral ingestion showed that humans are much more sensitive than rats to aniline exposure as indicated by formation of methemoglobin. Thus, an uncertainty factor of 10 was used for interspecies extrapolation. Several sources also indicate that newborns are more sensitive to methemoglobin-forming chemicals than adults; thus, an intraspecies uncertainty factor of 10 was applied. The data were scaled across time using $C^1 \times t = k$ (the relationship between concentration of aniline and methemoglobin formation at a fixed time [8 hrs] is linear as is the relationship between time and severity of effect when concentration is held constant; in addition, data from several lethality [LC_{50}] studies show that the relationship between C and t is linear).

The AEGL–2 was based on the same study with rats in which a concentration of 150 ppm for 8 hrs resulted in elevation of methemoglobin from a control value of 1.1% to 41%. This level of methemoglobin is associated with fatigue, lethargy, exertional dyspnea, and headache in humans and was considered the threshold for disabling effects. The 150 ppm concentration was divided by a combined uncertainty factor of 100 and scaled across time using the same reasons and relationships as for the AEGL–1 above. Because of the small data base and the lack of recent, reliable human inhalation studies, uncertainty factors of 10 were applied for each of the interspecies and intraspecies variabilities.

Data on concentrations of aniline inducing methemoglobin levels at the threshold for lethality were not available. Based on the fact that the relationship between concentration of aniline and methemoglobin formation is linear, the dose-response curve from the study on which the AEGL–1 and AEGL–2 were based was extrapolated to a concentration resulting in >70% formation of methemoglobin, the threshold for lethality. The concentration of 250 ppm for 8 hrs was chosen as the threshold for lethality. The AEGL–3 was based on dividing the 250 ppm value by a combined uncertainty factor of 100 and scaled across time using the same reasons and relationships as for the AEGL–1 above. The uncertainty factors of 10 for each of the interspecies and intraspecies variabilities are supported by the small data base of information and the lack of recent, reliable human inhalation studies.

Studies with repeated exposures at approximately the same concentrations in the rat resulted in additional effects on the blood and spleen, but concentrations up to 87 ppm, 6 hrs/day, 5 days/week, for 2 weeks were not disabling or life-threatening. The calculated values are listed in the table below. Because aniline is absorbed through the skin, a skin notation was added to the summary table.

SUMMARY TABLE OF PROPOSED AEGL VALUES FOR ANILINE [a]

Classification	30-minute	1-hour	4-hour	8-hour	Endpoint (Reference)
AEGL–1	16 ppm (61 mg/m³)	8.0 ppm (30 mg/m³)	2.0 ppm (7.6 mg/m³)	1.0 ppm (3.8 mg/m³)	22% methemoglobin—cyanosis (Kim and Carlson, 1986)
AEGL–2	24 ppm (91 mg/m³)	12 ppm (46 mg/m³)	3.0 ppm (11 mg/m³)	1.5 ppm (5.7 mg/m³)	41% methemoglobin—lethargy (Kim and Carlson, 1986)
AEGL–3	40 ppm (152 mg/m³)	20 ppm (76 mg/m³)	5.0 ppm (19 mg/m³)	2.5 ppm (9.5 mg/m³)	>70% methemoglobin—lethality (extrapolated from data of Kim and Carlson, 1986)

[a] Cutaneous absorption may occur; direct skin contact with the vapor or liquid should be avoided.

References

1. Kim, Y.C. and G.P. Carlson. 1986. The effect of an unusual workshift on chemical toxicity. Part II. Studies on the exposure of rats to aniline. *Fundamental and Applied Toxicology* 7:144–152.

Arsine

Arsine is an extremely toxic, colorless gas used in the semiconductor industry. Exposure to arsine may also result from mining and manufacturing processes involving arsenicals, and from paints and herbicides containing arsenicals.

Arsine is a potent hemolytic agent, ultimately causing death via renal failure. Numerous human case reports are available documenting the extreme toxicity of arsine exposure but these reports lack definitive quantitative exposure data.

Exposure-response data from animal studies were used to derive AEGL values for arsine. AEGL values derived with animal data were more conservative than AEGLs estimated from limited anecdotal human data. The greater conservatism afforded by the animal data may be justified by the incomplete and often equivocal data for human exposures, the documented extreme toxicity of arsine, and the known latency involved in arsine-induced lethality. The AEGL values for the various exposure periods of concern (0.5, 1, 4, and 8 hrs) were scaled from the experimental exposure duration using exponential scaling ($C^2 \times t = k$), where n = 2 represented an estimate of the concentration-time relationship. The concentration exposure time relationship for many irritant and systemically acting vapors and gases may be described by $c^n \times t = k$, where the exponent, n, ranges from 1 to 3.5 (ten Berge et al 1986). The mid-point value of 2 was used as the exponent n for scaling the AEGL values for arsine across time, because no exposure versus time data were available.

Based upon the available data, derivation of AEGL–1 values was considered to be inappropriate. The available human and animal data affirm that there is little margin between exposures that result in little or no signs of toxicity and those that result in lethality. The mechanism of arsine toxicity (induction of hemolysis that may rapidly result in renal failure and death), and the fact that toxicity in animals and humans has been demonstrated at concentrations at or below the odor threshold also support such a conclusion by the NAC/AEGL Committee.

The AEGL–2 values were based upon exposure levels that did not result in significant alterations in hematologic parameters in mice exposed to arsine for 1 hr (Peterson and Bhattacharyya, 1985). AEGL–2 derivations based upon several data sets were similar, thereby providing validation to the proposed AEGLs. Derivation of AEGLs based upon limited data for humans resulted in values indicative of potentially hazardous exposures. Uncertainty factor application included a factor of 10 for interspecies variability because of uncertainties regarding species-specific sensitivity to arsine-induced hemolysis. Uncertainty regarding intraspecies variability was limited to 3 because the hemolytic response to arsine is not expected to vary greatly among individuals.

The AEGL–3 values were based upon data assessing the lethality in mice exposed to arsine for 1 hr (Peterson and Bhattacharyya, 1985). A total uncertainty factor application of 30 was applied as for AEGL–2 values and for the same reasons. Derivation of AEGL–3 values using limited data in monkeys affirmed the values derived based upon the mouse data. AEGL–3 values derived from limited human exposure data resulted in levels considered potentially hazardous.

The three AEGL exposure levels reflect the narrow range between exposures resulting in minor effects and those producing lethality. A conservative approach in the development of AEGLs for arsine was justified by the known steep dose-response curve, the induction of hemolysis by arsine at extremely low concentrations, and the potential of hemolysis to progress to life-threatening renal failure.

SUMMARY OF PROPOSED AEGL VALUES FOR ARSINE

Classification	30-minute	1-hour	4-hour	8-hour	Endpoint (Reference)
AEGL–1	NA[a]	NA[a]	NA[a]	NA[a]	Inappropriate based upon steep dose-response relationship, mechanism of toxicity, and because toxicity occurs at or below the odor threshold
AEGL–2	0.24 ppm (0.8 mg/m³).	0.17 ppm (0.5 mg/m³).	0.08 ppm (0.3 mg/m³).	0.08 ppm (0.3 mg/m³).	Absence of significant hematological alterations in mice consistent with the known continuum of arsine toxicity (Peterson and Bhattacharyya, 1985)
AEGL–3	0.7 ppm (2.2 mg/m³).	0.5 ppm (1.6 mg/m³).	0.25 ppm (0.8 mg/m³).	0.18 ppm (0.6 mg/m³).	Estimated threshold for nonlethality in mice (Peterson and Bhattacharyya, 1985)

[a] NA Not appropriate

References

1. Peterson, D.P. and Bhattacharyya, M.H. 1985. Hematological responses to arsine exposure: quantitation of exposure response in mice. *Fundamental and Applied Toxicology* 5:499–505.

Chlorine

Chlorine is a greenish-yellow, highly reactive halogen gas with a pungent, suffocating odor. Like other halogens, chlorine does not occur in the elemental state in nature; it rapidly combines with both inorganic and organic substances. Chlorine is used in the manufacture of a wide variety of chemicals, as a bleaching agent in industry and household products, and as a biocide in water and waste treatment plants.

Chlorine is an irritant to the eyes and respiratory tract; reaction with moist surfaces produces hydrochloric and hypochlorous acids. Its irritant properties have been studied in human volunteers and its acute inhalation toxicity has been studied in several laboratory animal species. The data from the human and laboratory animal studies were sufficient for development of three AEGLs for four time periods (i.e., 30 mins and 1, 4, and 8 hrs). Probit and regression analyses of the animal exposure time-concentration-mortality data determined that the relationship between concentration and time is approximately $C^2 \times t = k$.

The AEGL–1 was based on the observation that exposure to human volunteers, including a sensitive individual, of 0.5 ppm for 4 hrs produced no sensory irritation but did result in transient changes in some pulmonary function parameters for the sensitive individual (Rotman et al., 1983). Because both sexes were tested and all subjects were undergoing light exercise, making them more vulnerable to sensory irritation, and because a sensitive individual was included in the test, no uncertainty factor to account for differences in human sensitivity was applied. The 0.5 ppm exposure for 4 hrs was scaled to the other time periods using the relationship $C^2 \times t = k$. The scaling factor n = 2 was based on probit and regression analyses of animal lethality data.

The AEGL–2 values were derived based on the same study (Rotman et al., 1983) in which healthy human subjects experienced transient changes in pulmonary function measurements and a sensitive individual experienced an asthmatic attack (shortness of breath and wheezing) at a concentration of 1 ppm for 4 hrs. The sensitive individual remained in the exposure chamber for the full 4 hrs. Because both sexes were tested and all subjects were undergoing light exercise, making them more vulnerable to sensory irritation, and because a sensitive individual was included in the test, no uncertainty factor to account for differences in human sensitivity was applied. The 4-hr 1 ppm concentration was scaled to the other time periods using the $C^2 \times t = k$ relationship. The scaling factor or exponent of n = 2 is based on probit and regression analyses of animal lethality data.

In the absence of human data, the AEGL–3 values were based on animal lethality data. Because the mouse was shown to be more sensitive than other mammals to irritant gases including chlorine and does not provide an appropriate basis for quantitatively predicting mortality in humans, a value below that resulting in no deaths in the rat, 213 and 322 ppm in two studies (MacEwen and Vernot, 1972; Zwart and Woutersen, 1988) and above that resulting in no deaths in the mouse (150 ppm) for exposure periods of 1 hr was chosen. Mice exposed to chlorine experienced delayed deaths attributable to bronchopneumonia. The AEGL–3 values were derived from a 1-hr concentration of 200 ppm. This value was divided by a combined uncertainty factor of 10. An uncertainty factor of 3

was used to extrapolate from rats to humans, since interspecies values for the same endpoint differed by a factor of approximately 2 within each of several studies. An uncertainty factor of 3 was used to account for differences in human sensitivity, since the toxic effect is due to a chemical reaction with biological tissue of the respiratory tract which is unlikely to be different among individuals. The AEGL–3 values were scaled to the other exposure periods based on the $C^2 \times t = k$ relationship. The scaling factor or exponent of n = 2 is based on probit and regression analyses of animal lethality data.

Based on the large data base and the extensive, well-conducted studies, confidence in the AEGL values is high. The calculated values are listed in the table below.

SUMMARY OF PROPOSED AEGL VALUES FOR CHLORINE

Classification	30-minute	1-hour	4-hour	8-hour	Endpoint (Reference)
AEGL–1	1.4 ppm (4.1 mg/m³).	1.0 ppm (2.9 mg/m³).	0.5 ppm (1.5 mg/m³).	0.5 ppm (1.5 mg/m³).	Pulmonary function—human (Rotman et al., 1983)
AEGL–2	2.8 ppm (8.1 mg/m³).	2.0 ppm (5.8 mg/m³).	1.0 ppm (2.9 mg/m³).	0.7 ppm (2.0 mg/m³).	Asthmatic attack—human (Rotman et al., 1983)
AEGL–3	28 ppm (81 mg/m³).	20 ppm (58 mg/m³).	10 ppm (29 mg/m³).	7.1 ppm (21 mg/m³).	Lethality—rat (MacEwen and Vernot, 1972; Zwart and Woutersen, 1988)

References

1. MacEwen, J.D. and E.H. Vernot. 1972. Toxic Hazards Research Unit Annual Technical Report: 1972. AMRL-TR-72–62, Aerospace Medical Research Laboratory, Wright-Patterson Air Force Base, OH; National Technical Information Service, Springfield, VA.
2. Rotman, H.H., M.J. Fliegelman, T. Moore, R.G. Smith, D.M. Anglen, C.J. Kowalski, and J.G. Weg. 1983. Effects of low concentration of chlorine on pulmonary function in humans. *Journal of Applied Physiology* 54:1120–1124.
3. Zwart, A. and R.A. Woutersen. 1988. Acute inhalation toxicity of chlorine in rats and mice: time-concentration-mortality relationships and effects on respiration. *Journal of Hazardous Material* 19:195–208.

1,2-Dichloroethene

1,2-dichloroethene is a flammable, colorless liquid existing in both *cis-* and *trans-* forms and as a mixture of these two isomers. It has been used as an intermediate in the production of chlorinated solvents and as a low-temperature extraction solvent for decaffeinated coffee, dyes, perfumes, lacquers, and thermoplastics. The compound is a narcotic. Data on narcosis in humans, cats, rats, and mice, and systemic effects in cats, rats, and mice were available for development of AEGLs. The data were considered adequate for derivation of the three AEGL classifications for four time periods.

The AEGL–1 was based on a human exposure concentration of 1,100 ppm *trans*-1,2-dichloroethene for 5 mins (Lehmann and Schmidt-Kehl 1936). Although this is a no-effect-level for narcotic effects it represents a concentration that is above the odor threshold. Because of the mode of action and similarity in response to this chemical as an irritant, this value was divided by an uncertainty factor of 3 to protect sensitive individuals and by a modifying factor of 2 to account for the probable difference in toxicity between the *cis-* and *trans-* isomers. It was then scaled to the 30-min, 1-, 4-, and 8-hr exposures using the $c^n \times t = k$ relationship, where n = 2. The concentration: exposure time relationship for many irritant and systemically acting vapors and gases may be described by $c^n \times t = k$, where the exponent, n, ranges from 1 to 3.5 (ten Berge et al 1986). Because no exposure versus time data were available, the mid-point value of 2 was used as the exponent n for scaling the AEGL values for dichloroethene across time.

The AEGL–2 was based on slight dizziness in humans exposed to 3300 ppm *trans*-1,2-dichloroethene for 5 mins (Lehmann and Schmidt-Kehl 1936). Because of the mode of action and similarity in response to this chemical, this value was divided by an uncertainty factor of 3 to protect sensitive individuals and by a modifying factor of 2 to account for the probable difference in toxicity between the *cis-* and *trans-* isomers. It was then scaled up to the 30-minute (min), 1-, 4-, and 8-hr exposure periods using the $c^n \times t = k$ relationship, where the mid-point of the exponential range n = 2 was used.

The AEGL–3 was based on fibrous swelling and hyperemia of cardiac muscle with little striation in rats exposed to 3000 ppm *trans*-1,2-dichloroethene for 8 hrs. Because the lethality data are limited and quite variable across species for the data that do exist this value was divided by an uncertainty factor of 10 to account for interspecies variation. An additional uncertainty factor of 3 was applied to protect sensitive individuals and a modifying factor of 2 was also applied to account for the probable difference in toxicity between the *cis-* and *trans-* isomers. The 8-hr AEGL value was then scaled to the 30-min, 1-, and 4-hr exposures using the $c^n \times t = k$ relationship, where the midpoint of the experimental range n = 2 was used. The calculated values are listed in the table below.

SUMMARY OF PROPOSED AEGL VALUES FOR 1,2-DICHLOROETHENE

Classification	30-minute	1-hour	4-hour	8-hour	Endpoint (Reference)
AEGL–1 (Nondisabling)	19 ppm (75 mg/m³)	13 ppm (53 mg/m³)	6.6 ppm (26 mg/m³)	4.7 ppm (19 mg/m³)	No effect in humans (Lehmann and Schmidt-Kehl, 1936)
AEGL–2 (Disabling)	56 ppm (224 mg/m³)	40 ppm (160 mg/m³)	20 ppm (80 mg/m³)	14 ppm (56 mg/m³)	Slight dizziness in humans (Lehmann and Schmidt-Kehl, 1936)

SUMMARY OF PROPOSED AEGL VALUES FOR 1,2-DICHLOROETHENE—Continued

Classification	30-minute	1-hour	4-hour	8-hour	Endpoint (Reference)
AEGL–3 (Lethality)	200 ppm (800 mg/m³)	141 ppm (564 mg/m³)	71 ppm (284 mg/m³)	50 ppm (200 mg/m³)	Fibrous swelling and hyperemia of cardiac muscle with poorly maintained striation in rats (Freundt et al., 1977)

References

1. Freundt, K.J., Liebalt, G.P., and Lieberwirth, E. 1977. Toxicity studies on trans-1,2-dichloroethylene. *Toxicology* 7:141–153.
2. Lehmann, K.B. and Schmidt-Kehl, L. 1936. The thirteen most important chlorinated aliphatic hydrocarbons from the standpoint of industrial hygiene. *Archive Fur Hygiene* 116:9–268.
3. ten Berge, W.F., Zwart. A, and Appelman, L.M. 1986. Concentration-time mortality response relationship of irritant and systemically acting vapours and gases. *Journal of Hazardous Materials* 13:301–309.

1,1- and 1,2-Dimethylhydrazine

Dimethylhydrazine occurs as a symmetrical (1,2-dimethylhydrazine) and asymmetrical (1,1-dimethylhydrazine) isomer. Both compounds are clear, colorless liquids. Asymmetrical dimethylhydrazine (1,1-dimethylhydrazine) is a component of jet and rocket fuels and is also used as an absorbent for acid gas, as a plant growth control agent, and in chemical synthesis. Although it has been evaluated as a high-energy rocket fuel, commercial use of the symmetrical isomer (1,2-dimethylhydrazine) is limited to small quantities and it is usually considered to be a research chemical. Because data are limited for 1,2-dimethylhydrazine (symmetrical dimethylhydrazine), the AEGL values are based upon 1,1-dimethylhydrazine (asymmetrical). Limited data suggest that1,1-dimethylhydrazine may be somewhat more toxic than 1,2-dimethylhydrazine.

Data on acute exposures of humans to both isomers of dimethylhydrazine are limited to case reports of accidental exposures. Signs and symptoms of exposure include respiratory irritation, pulmonary edema, nausea, vomiting, and neurological effects. However, definitive exposure data (concentration and duration) were unavailable for these exposures.

Toxicity data of varying degrees of completeness are available for several laboratory species, including, rhesus monkeys, dogs, rats, mice, and hamsters (Weeks et al., 1963). Most of the animal studies were conducted using 1,1-dimethylhydrazine, although limited data suggest that 1,2-dimethylhydrazine exerts similar toxic effects. Minor nonlethal effects such as respiratory tract irritation appear to occur at cumulative exposures of <100 (ppm)(hrs). At cumulative exposures at or only slightly greater than 100 (ppm)(hrs), more notable effects have been reported, including, muscle fasciculation, behavioral changes, tremors, and convulsions. At only slightly higher exposure levels, lethality has been demonstrated. The available data suggest that there is very little margin between exposure levels resulting in no significant toxicity and those causing substantial lethality (LC_{50} ~900–2,000 ppm hrs).

Developmental toxicity of dimethylhydrazines has been demonstrated in rats following parenteral administration of maternally toxic doses. Both isomers of dimethylhydrazine have been shown to be carcinogenic in rodents following oral exposure and 6-month inhalation to 1,1-dimethylhydrazine resulted in an increased tumor response in mice, although these findings are compromised by the contaminant dimethylnitrosamine. Inhalation slope factors are currently unavailable. It was the consensus of the NAC/AEGL Committee that AEGL–1 values for dimethylhydrazine are inappropriate. This conclusion was based upon the onset of toxic effects at or below the odor threshold, and a concentration-response relationship for dimethylhydrazine that indicated little margin between exposures producing no toxic response and those resulting in significant toxicity.

Behavioral changes and muscle fasciculations in dogs exposed for 15 mins to 360 ppm 1,1-dimethylhydrazine (Weeks et al., 1963) served as the basis for deriving AEGL–2 values. Following temporal scaling ($C^1 \times t = k$) to AEGL-specific exposure durations, the values were adjusted by an uncertainty factor of 30. An uncertainty factor of 3 for interspecies variability was applied because the toxic response to dimethylhydrazine was similar across the species tested. An uncertainty factor of 10 for intraspecies variability was applied because of the uncertainties regarding the mechanism of action of dimethylhydrazine toxicity and its impact on susceptible individuals.

The AEGL–3 was derived from the 1-hr LC_{50} (981 ppm) for 1,1-dimethylhydrazine in dogs (Weeks et al., 1963). Because of the steep slope of the dose-response curve of 1,1-dimethyl hydrazine, a modifying factor of 3 was applied to the 1-hr LC_{50} of 981 ppm. Hence, the modified lethality threshold used to determine the AEGL–3 was 327 ppm. The downward adjustment of the LC_{50} using a modification factor of 3 was considered a conservative approach and, in part, justified the total uncertainty factor of 30 (3 for interspecies variability and 10 for intraspecies variability). An uncertainty factor of 3 for interspecies variability was applied because the toxic response to dimethylhydrazine was similar across the species tested. An uncertainty factor of 10 for intraspecies variability was applied because of the uncertainties regarding the mechanism of action of dimethylhydrazine toxicity and its potential impact on susceptible individuals. Temporal scaling as previously described was applied to obtain exposure values for AEGL-specific exposure periods.

An estimation of AEGLs based upon carcinogenic potential resulting from a one time, short term exposure was conducted and the assessment revealed that AEGLs derived from carcinogenic toxicity for a 10^{-4} carcinogenic risk exceeded AEGL–3 values based on non cancer endpoints. The relationship of the various AEGL values reflects the exposure-response relationship shown by available animal data.

SUMMARY OF PROPOSED AEGL VALUES FOR 1,1- AND 1,2-DIMETHYLHYDRAZINES

Classification	30-minute	1-hour	4-hour	8-hour	Endpoint (Reference)
AEGL–1	NA[b]	NA[b]	NA[b]	NA[b]	Inappropriate because notable toxicity may occur at concentrations below the odor threshold; concentration-response relationships suggest little margin between exposures causing minor effects and those resulting in serious toxicity.[a]
AEGL–2	6 ppm (14.7 mg/m³)	3 ppm (7.4 mg/m³)	0.8 ppm (2 mg/m³)	0.4 ppm (1 mg/m³)	Behavioral changes and muscle fasciculations in dogs exposed to 360 ppm for 15 mins (Weeks et al., 1963)
AEGL–3	22 ppm (54 mg/m³)	11 ppm (27 mg/m³)	3 ppm (7.4 mg/m³)	1.5 ppm (3.7 mg/m³).	Lethality threshold of 327 ppm for 1-hr estimated from 1-hr LC_{50} in dogs (Weeks et al., 1963)

[a]Refer to AEGL–1 for hydrazine if hydrazine is also present.
[b]NA Not appropriate

References

1. Weeks, M.H., Maxey, G.C., Sicks, and Greene, E.A. 1963. Vapor toxicity of UDMH in rats and dogs from short exposures. *American Industrial Hygiene Association Journal* 24:137–143.

Ethylene Oxide

Ethylene oxide is a highly flammable gas produced in very large quantities in the United States (5.3–6.3 billion pounds). It is very reactive with nucleophiles, such as water, alcohols, halides, amines, and sulfhydryl compounds. Ethylene oxide is used as an intermediate in the production of ethylene glycol and nonionic surfactants; a small amount is used as a fumigant for sterilizing foods and heat-sensitive medical equipment. The odor detection level for ethylene oxide is 260 ppm (468 mg/m³) to 700 ppm (1,260 mg/m³).

The database of toxicity to ethylene oxide vapor in humans and experimental animals is very extensive including data on all aspects of toxicity except lethality in humans. Pharmacokinetics data show that ethylene oxide is readily absorbed from the respiratory tract of both humans and animals. It alkylates proteins and DNA, and it is metabolized by hydrolysis and glutathione conjugation.

In humans, inhaled ethylene oxide vapor affects the eyes, respiratory tract, central and peripheral nervous systems, gastrointestinal tract (probably secondary effects to nervous system toxicity), hematopoietic system, and possibly the reproductive system, and fetus. Acute exposure to ethylene oxide at the odor detection level (≥260 ppm) causes eye and upper respiratory tract irritation and signs and symptoms of effects on the central and peripheral nervous system. Acute exposure to a calculated concentration of 500 ppm for 2 to 3 minutes caused hematologic effects and more severe effects on the central nervous system than those noted at the odor detection level. Effects observed after acute exposure are reversible, including severe nervous system effects. Peripheral nervous damage is exacerbated by repeated exposures. Human studies have provided suggestive evidence of reproductive toxicity, some evidence of an association between exposure to ethylene oxide and genetic damage to somatic cells and limited evidence of carcinogenicity.

Acute lethality studies in experimental animals showed that mice are the most sensitive species (4-hrs LC^{50} = 660–835 ppm) (Jacobson et al., 1956), followed by the dog (4-hrs LC^{50} = 960 ppm) (Jacobson et al., 1956) and rat (4-hrs LC^{50} = 1537–1972 ppm; 1-hr LC^{50} = 4439–5748 ppm) (Jacobson et al., 1956). Immediate deaths were due to respiratory failure and delayed deaths were due to secondary respiratory infections. Experimental animals exposed to lethal and nonlethal concentrations of ethylene oxide showed evidence of eye and respiratory irritation and effects on the central and peripheral nervous system (Embree et al., 1977). Additional studies in animals exposed to ethylene oxide for various durations up to 6 hrs/day provided evidence of reproductive toxicity at ≥50 ppm, developmental toxicity at ≥50 ppm, genetic toxicity in germ cells at ≥75 ppm, and carcinogenicity at 100 ppm.

Data were available for deriving AEGL–2 and –3 values. Values for AEGL–1 were not derived because the odor threshold and concentrations causing mild sensory irritation would be above the AEGL–2 levels.

The AEGL–2 values were based on a rat study showing central nervous system depression, diarrhea, and eye and respiratory tract irritation after exposure to 1,000 ppm of ethylene oxide for 4 hrs (Embree et al., 1977); genetic toxicity (dominant lethality) was also seen at this concentration in this same study. An uncertainty factor of 10 was applied for intraspecies variability, because of the steep slope of the dose response relationship from severe irritation and central nervous system depression to the lethality threshold. An uncertainty factor of 3 was applied for interspecies sensitivity, because modes of action are likely to be similar between rodents and humans and systemic uptake of ethylene oxide is similar across species. The time-scaling approach used ten Berge's equation in which $C^n t = k$, and $n = 1.2$ based on analysis of rat lethality data.

AEGL–3 values were derived from lethality data in the rat. An LC^{01} value (628 ppm), which is considered an approximation of the lethality threshold, was estimated from data in a 4-hr acute inhalation study with rats reported by Jacobson et al. (1956). An uncertainty factor of 10 for intraspecies sensitivity was applied to the LC_{01} estimated value and this was followed by scaling to the different AEGL exposure periods based on ten Berge's equation ($C^n t = k$, where $n = 1.2$ was used based on reported lethality data for 1- and 4-hr exposures). An interspecies uncertainty factor of 3 was applied because systemic uptake, distribution, and modes of action are likely to be similar between rodents and humans. There are differences in metabolism kinetics, but they are unlikely to affect responses to high acute exposures. Assessment of carcinogenicity data (lung adenomas/carcinomas in female mouse) (NTP, 1987) showed that extrapolating the total cumulative exposure over a 2-year period to single exposures and estimating a 10^{-4} risk resulted in AEGL–3 values of 2,764, 1,382, 346, and 173 ppm for 0.5-, 1-, 4-, and 8-hr exposures. These values exceed those derived from lethality data.

AEGL values derived for ethylene oxide are summarized below:

SUMMARY OF PROPOSED AEGL VALUES FOR ETHYLENE OXIDE

Classification	Exposure Periods				Endpoint (Reference)
	30-minute	1-hour	4-hour	8-hour	
AEGL–1	No values derived	No values derived	No values derived	No values derived	
AEGL–2	190 ppm (342 mg/m³)	110 ppm (198 mg/m³)	33 ppm (59 mg/m³)	19 ppm (34 mg/m³)	Central nervous system effects Embree et al., 1977
AEGL–3	360 ppm (648 mg/m³)	200 ppm (360 mg/m³)	63 ppm (113 mg/m³)	35 ppm (63 mg/m³)	Lethality threshold Jacobson et al., 1956

References

1. Embree, J.W., Lyon, J.P., and Hine, C.H. 1977. The mutagenic potential of ethylene oxide using the dominant-lethal assay in rats. *Toxicology and Applied Pharmacology* 40:261–267.

2. Jacobson, K.H., Hackley, E.B., and Feinsilver, L. 1956. The toxicity of inhaled ethylene oxide and propylene oxide vapors. *Archive for Industrial Health* 13:237–244.

Fluorine

Fluorine is a reactive, highly irritant gas used in the nuclear energy industry, as an oxidizer of liquid rocket fuels, and in the manufacture of various fluorides and fluorocarbons. Fluorine is a severe irritant to the eyes, mucous membranes, lungs, and skin; the eyes and the respiratory tract are the target organ/tissues of an acute exposure. Data on irritant effects in humans and lethal and sublethal effects in five species of mammals (dog, rat, mouse, guinea pig, and rabbit) were available for development of AEGLs (Keplinger and Suissa, 1968). Regression analyses of the concentration-exposure durations (for the fixed endpoint of mortality) for all of the animal species reported determined that the relationship between concentration and time is $C^n x t = k$, where n = approximately 2 (actual value for n for the most sensitive species, the mouse = 1.77). The data were considered adequate for derivation of the three AEGL classifications for four time periods.

The AEGL–1 was based on the observation that human volunteers could tolerate exposure to 10 ppm for 15 mins without irritant effects (Keplinger and Suissa, 1968). An uncertainty factor of 3 was applied to this NOAEL value to protect sensitive individuals, since fluorine reacts corrosively with the tissues of the respiratory tract and effects are not likely to differ greatly among individuals, including sensitive individuals. The value was then scaled to the 30-min and 1-, 4-, and 8-hr exposure durations using the $C^{1.77} x t = k$ concentration-exposure duration relationship. It was the consensus of the NAC/AEGL Committee that at mildly irritating concentrations there is a tolerance to irritating gases. Therefore, the calculated 30-min and 1-hr values of 2.3 and 1.5 ppm, respectively, were rounded to 2 ppm and the calculated 4- and 8-hr values of 0.7 and 0.5 ppm, respectively, were rounded to 1 ppm.

The AEGL–2 was based on an animal study in which mild lung congestion was observed in mice at 67 ppm for 30 mins and 30 ppm for 60 mins (Keplinger and Suissa, 1968). Although concentrations causing irritant effects for each species for the same time periods suggested similar species sensitivity, the mouse data, because of slightly lower values, were chosen as the basis for developing the AEGL–2 and AEGL–3. Because the action of irritant and corrosive gases is directly on the tissues, with no pharmacokinetic component involved in the toxicity, there is likely to be little difference among species in response to fluorine exposure. Because similar sensitivity was observed among all species in the key study, no uncertainty factor for interspecies variability was applied. The values were divided by an intraspecies uncertainty factor of 3 to protect sensitive individuals, since effects are not likely to differ greatly among individuals. The values also were adjusted by a modifying factor of 2, based on a limited data base. AEGL–2 values for the other exposure periods were scaled based on the $C^{1.77} x t = k$ relationship.

The AEGL–3 values were derived from exposure concentrations equal to one half of the LC_{50} values reported (Keplinger and Suissa, 1968). The experimental ½ LC_{50} concentrations tested resulted in no deaths in any species for up to 45 days post exposure, but did produce severe lung congestion in the mouse (Keplinger and Suissa, 1968). For the mouse, the 60-min value was 75 ppm. Because of the similar species sensitivity in the key study, no uncertainty factor for interspecies variability was applied. The values were divided by an uncertainty factor of 3 to protect sensitive individuals and by a modifying factor of 2, based on a limited data base. AEGL–3 values for the other exposure times were calculated based on the $C^{1.77} x t = k$ relationship.

The calculated values are listed in the table below.

SUMMARY OF PROPOSED AEGL VALUES FOR FLUORINE[a]

Classification	30-minute	1-hour	4-hour	8-hour	Endpoint (Reference)
AEGL–1	2ppm (3.1 mg/m³)	2 ppm (3.1 mg/m³)	1 ppm (1.6 mg/m³)	1 ppm (1.6 mg/m³)	No irritant effect-humans (Keplinger and Suissa, 1968)
AEGL–2[b]	11 ppm (17 mg/m³).	5.0 ppm (7.8 mg/m³).	2.3 ppm (3.6 mg/m³).	1.5 ppm (2.3 mg/m³).	Mild lung congestion—mice (Keplinger and Suissa, 1968)
AEGL–3	19 ppm (29 mg/m³).	13 ppm (20 mg/m³).	5.7 ppm (8.8 mg/m³).	3.9 ppm (6.0 mg/m³).	Severe lung congestion—mice (Keplinger and Suissa, 1968)

[a] AEGL–1 values were rounded off because of tolerance to low concentrations of irritant gases. AEGL–2 and AEGL–3 values were rounded to two significant figures.
[b]30-min and 1-hr AEGL–2 values are based on separate data points.

References

1. Keplinger, M.L. and L.W. Suissa. 1968. Toxicity of fluorine short-term inhalation. *American Industrial Hygiene Association Journal 29:10–18.*

Hydrazine

Hydrazine is a highly reactive reducing agent used in various chemical manufacturing processes. Hydrazine is used by the military as a missile and rocket propellant, and in power sources.

Human data on the toxicity of hydrazine following acute inhalation exposure are limited to anecdotal accounts that lack definitive exposure data. The utility of this information is compromised by concurrent exposure to other chemicals and involvement of simultaneous multiple exposure routes.

Studies have shown that the toxicity of methylated derivatives of hydrazine is qualitatively similar to that of hydrazine except in dogs wherein methylhydrazine has been observed to cause intravascular hemolysis. Based upon limited acute toxicity data, methylhydrazine and symmetrical dimethylhydrazine appear to be somewhat more toxic in rats and mice than is hydrazine while asymmetrical hydrazine appears to be slightly less toxic.

Data from animal studies indicate that hydrazine may be metabolized to acetylhydrazine, diacetylhydrazine, ammonia, and urea, and may form hydrazones with pyruvate and 2-oxoglutarate. The biotransformation of hydrazine is mediated, at least in part, by hepatic monooxygenases. The role of metabolism and absorption/excretion kinetics is uncertain regarding immediate port-of-entry toxic effects from acute inhalation exposures. The highly reactive nature of hydrazine per se is a plausible determinant of acute port-of-entry toxic effects.

AEGLs were based upon data sets defining toxicity endpoints that were specific for the AEGL level. Values for the specific exposure durations were derived based upon exponential scaling ($C^n \times t = k$, where $n = 2$) from the experimental exposure period. This method was more appropriate for concentration-dependent effects than linear (Haber's Law) scaling. The concentration exposure time relationship for many irritant and systemically acting vapors and gases may be described by $c^n \times t = k$, where the exponent, n, ranges from 1 to 3.5 (ten Berge et al 1986). Because no exposure versus time data were available, the mid-point value of 2 was used as the exponent n for scaling the AEGL values for hydrazine across time.

AEGL–1 values were based upon a study by House (1964) in which male monkeys exhibited skin flushing and eye irritation after a 24-hr continuous exposure to 0.4 ppm hydrazine. A total uncertainty factor of 10 was applied to derive the AEGL–1 values.[1] An uncertainty factor of 3 was applied for interspecies variability because the contact irritation response to the highly reactive hydrazine is not likely to vary greatly among species, and because a nonhuman primate was the test species. An uncertainty factor of 3 was applied for intraspecies variability because the contact irritation from the highly reactive hydrazine is not expected to vary greatly among individuals. The 24-hr experimental value was scaled to 8 hrs using $C^n \times t = k$, where $n = 2$ as described above. Because hydrazine is extremely reactive and the effects are considered to be concentration dependent rather than time dependent, the 0.1 ppm AEGL–1 value derived for the 8-hr duration was also applied to the 30-min, 1-hr, and 4-hr durations.

The AEGL–2 was derived based upon data from a study by Latendresse et al. (1995) in which rats exposed to hydrazine (750 ppm) for 1 hr exhibited nasal lesions. Following a dosimetric adjustment based upon regional gas dose (U.S. EPA 1994), the values were scaled to AEGL-specific durations as for AEGL–1 and a total uncertainty factor of 30 applied. An uncertainty factor of 10 for interspecies variability was applied to account for a deficiency in data pertaining to species variability and also variability in the data that are available. An uncertainty factor of 3 was applied for intraspecies variability because the toxic response to hydrazine is not likely to vary considerably among individuals of the same species, including susceptible individuals.

The AEGL–3 values were derived based upon a rat inhalation study (HRC, 1993) that provided data to estimate a lethality threshold (LC^{01} = 337 ppm). Temporal scaling was again applied using the exponential expression $C^2 \times t = k$. Dosimetric conversion using a regional gas dose methodology (U.S. EPA 1994) was applied and resulting exposure values adjusted by a total uncertainty factor of 30. An uncertainty factor of 10 for interspecies variability was applied to account for a deficiency in data pertaining to species variability and also variability in the data that are available. An uncertainty factor of 3 was applied for intraspecies variability because the toxic response to hydrazine is not likely to vary considerably among individuals of the same species.

An estimation of AEGLs based upon carcinogenic potential resulting from a one-time, short term exposure was conducted using the inhalation cancer slope factor for hydrazine. The assessment revealed that AEGLs derived from noncarcinogenic toxicity endpoints were lower values and so the AEGL–3 values were based on the noncarcinogenic endpoint.

The proposed AEGLs, their respective toxicity endpoints and references are summarized below.

SUMMARY OF PROPOSED AEGL VALUES FOR HYDRAZINE

Classification	30-minute	1-hour	4-hour	8-hour	Endpoint (Reference)
AEGL–1	0.1 ppm (0.1 mg/m³)	0.1 ppm (0.1 mg/m³)	0.1 ppm (0.1 mg/m³)	0.1 ppm (0.1 mg/m³)	Eye and facial irritation inmonkeys (House, 1964)[a]
AEGL–2	8 ppm (10 mg/m³) ..	6 ppm (8 mg/m³)	3 ppm (4 mg/m³)	2 ppm (3 mg/m³)	Nasal lesions (Latendresse et al., 1995)
AEGL–3	47 ppm (61 mg/m³)	33 ppm (43 mg/m³)	17 ppm (22 mg/m³)	12 ppm (16 mg/m³)	Lethality in rats (HRC, 1993)

[a] Because the contact irritation response to the extremely reactive hydrazine is concentration dependent rather than time-dependent, the AEGL–1 is the same of all time periods.

[1] Each uncertainty factor of 3 is actually the geometric mean of 10 which is 3.16, hence 3.16 x 3.16 = 10.

References

1. House, W.B. 1964. Tolerance criteria for continuous exposure inhalation exposure to toxic materials. Part III. Effects on animals of 90-day exposure to hydrazine, unsymmetrical dimethylhydrazine (UMDH), decaborane, and nitrogen dioxide. ASD–TR–61–519 (iii). Wright-Patterson AFB, OH. 84 pp.

2. HRC (Huntington Research Centre, Ltd.). 1993. Hydrazine 64% aqueous solution: acute inhalation toxicity in rats 1-hr exposure. Huntington Research Centre, Cambridge, England. CMA 8/930523.

3. Latendresse, J.R., Marit, G.B., Vernot, E.H., Haun, C.C., and Flemming, C.D. 1995. Oncogenic potential of hydrazine in the nose of rats and hamsters after 1 or 10 1-hr exposures. *Fundamental and Applied Toxicology* 27:33–48.

4. ten Berge, W.F., Zwart. A, and Appelman, L.M. 1986. Concentration-time mortality response relationship of irritant and systemically acting vapours and gases. *Journal of Hazardous Materials* 13:301–309.

5. U.S. EPA 1994. EPA/600/8–90/066F, Methods for Derivation of Inhalation Reference Concentrations and Application of Inhalation Dosimetry.

Methylhydrazine

Methylhydrazine is a clear, colorless liquid used extensively in military applications as a missile and rocket propellant, in chemical power sources, and as a solvent and chemical intermediate. Upon contact with strong oxidizers (e.g., hydrogen peroxide, nitrogen tetroxide, chlorine, and fluorine) spontaneous ignition may occur.

Human volunteers exposed to 90 ppm methylhydrazine for 10 mins reported minor irritation as the only effect of exposure (MacEwen et al., 1970).

Toxicity data are available for multiple laboratory species including, rhesus monkeys, squirrel monkeys, beagle dogs, rats, mice, and hamsters. Nonlethal toxic effects include irritation of the respiratory tract, hemolytic responses, and some evidence of renal and hepatic toxicity. Lethal exposures are usually preceded by convulsions. Lethal toxicity varies somewhat among species. One-hour LC_{50} values of 162, 82, 96, 244, 122, and 991 ppm have been determined for rhesus monkeys, squirrel monkeys, beagle dogs, rats, mice, and hamsters, respectively. Concentration-time relationships appear to follow Haber's Law although there appears to be a critical threshold for lethality with little margin between exposures causing only minor, reversible effects, and those resulting in lethality.

In a 1-year inhalation bioassay using dogs, rats, mice, and hamsters, methylhydrazine concentrations of 2 ppm and 5 ppm, there was no evidence of treatment-related carcinogenicity in dogs or rats even after a 1-year post exposure observation period. However, mice exposed to 2 ppm for the same duration exhibited an increased incidence of lung tumors, nasal adenomas, nasal polyps, nasal osteomas, hemangioma, and liver adenomas and carcinomas. In hamsters exposed to 2 or 5 ppm, there was an increase in nasal polyps and nasal adenomas (5 ppm only), interstitial fibrosis of the kidney, and benign adrenal adenomas.

It was the consensus of the NAC/AEGL Committee that the setting of AEGL–1 values for methylhydrazine would be inappropriate. This conclusion was based on the occurrence of toxic effects at or below the odor threshold, and a concentration-response relationship for methylhydrazine that indicated little margin between exposures producing no toxic response and those resulting in significant toxicity.

The AEGL–2 values were derived by applying a modifying factor of 3 to each of the AEGL–3 values. This estimate of a threshold for irreversible effects was justified because of the absence of exposure-response data related to irreversible or other serious, long-lasting effects and the steep dose-response relationship indicated by the data that was available on methylhydrazine. For AEGL–3, lethality data (1-hr LC_{50} of 82 ppm) for squirrel monkeys (Haun et al., 1970) was adjusted using a modifying factor of 3 to estimate a lethality threshold (27 ppm). The lethality data for the species tested indicated a linear relationship between concentration and time. Therefore, temporal scaling to obtain time-specific AEGL values was described as $C^1 \times t = k$ where the exponent $n = 1$. The derived exposure values were adjusted by a total uncertainty factor of 10. An uncertainty factor of 3 was applied for interspecies variability because a sensitive nonhuman primate was used to estimate the lethality threshold, and an uncertainty factor of 3 was used for intraspecies variability due to the steep exposure-response relationship.[2]

The AEGL values reflect the steep exposure-response relationship exhibited by the toxicity data. Additional information regarding the mechanism(s) of action and metabolism of methylhydrazine may provide insight into understanding and defining the threshold between nonlethal and lethal exposures.

An estimation of AEGLs based upon carcinogenic potential resulting from a one-time, short-term exposure was conducted and the assessment revealed that AEGLs derived from carcinogenic toxicity for a 10^{-4} carcinogenic risk exceeded AEGL–3 values based on non cancer endpoints.

SUMMARY OF PROPOSED AEGL VALUES FOR METHYLHYDRAZINE

Classification	30-minute	1-hour	4-hour	8-hour	Endpoint (Reference)
AEGL–1	NA	NA	NA	NA	Inappropriate because notable toxicity may occur at concentrations below the odor threshold; concentration-response relationships suggest little margin between exposures causing minor effects and those resulting in serious toxicity.[a]
AEGL–2	2 ppm (3.8 mg/m³)	1 ppm (1.9 mg/m³)	0.2 ppm (0.4 mg/m³)	0.1 ppm (0.2 mg/m³)	Three-fold reduction in AEGL–3.
AEGL–3	6 ppm (11.3 mg/m³)	3 ppm (5.6 mg/m³)	0.7 ppm (1.1 mg/m³)	0.3 ppm (0.6 mg/m³)	1-hr LC_{50} of 82 ppm reduced 3-fold to estimate a lethality threshold; UF–10

[a] Refer to AEGL–1 for hydrazine if hydrazine is also present.

[2] Each uncertainty factor of 3 is the geometric mean of 10 which is 3.16; hence, 3.16. x 3.16 = 10.

References

1. Haun, C.C., MacEwen, J.D., Vernot, E.H., and Egan, G.F. 1970. Acute inhalation toxicity of monomethylhydrazine vapor. *American Industrial Hygiene Association Journal* 31:667–677.

2. MacEwen, J.D., Theodore, J., and Vernot, E.H. 1970. Human exposure to EEL concentrations of monomethylhydrazine. Proceedings. First Annual Conference on Environmental Toxicology. AMRL–TR–70–102, Aerospace Medical Research Laboratory, Wright-Patterson Air Force Base, OH.

Nitric Acid

Nitric acid is a highly corrosive, strongly oxidizing acid. The course of toxicity following inhalation exposure to nitric acid is consistent between humans and animals. Nitric acid fumes may cause immediate irritation of the respiratory tract, pain, and dyspnea which are followed by a period of recovery that may last several weeks. After this time, a relapse may occur with death caused by bronchopneumonia and/or pulmonary fibrosis. For exposure to nonlethal concentrations, allergic or asthmatic individuals appear to be a sensitive subpopulation.

For derivation of the AEGL values, both human and animal data were utilized. For AEGL–1, humans exposed to 1.6 ppm (4.13 mg/m^3) for 10 mins showed no changes in pulmonary function (Seckner and Ford, 1981). An uncertainty factor of 3 was applied to account for sensitive populations, since the mechanism of action of an irritant gas is not expected to vary greatly among individuals. Scaling to the 30-min, 1-, 4-, and 8-hr exposure periods was not performed because this was a no effect level and irritation is generally concentration dependent but not time dependent. The derived AEGL–1 value is above the odor threshold which provides a warning of exposure before an individual would experience notable discomfort.

AEGL–2 values were derived from data on human studies (Diem, 1907). Individuals exposed to 12 ppm (31 mg/m^3) nitric acid for 1 hour experienced respiratory irritation, pressure in the chest, slight stabbing pains in the trachea and larynx, coughing, marked secretion from the nose and salivary glands, burning of the eyes and lacrimation, and burning and itching of facial skin. An uncertainty factor of 3 was applied to the 1-hr exposure level reported in this study and scaling of the value to 30 mins, 4 hrs, and 8 hrs was accomplished as described below.

Very little data were available for determining AEGL–3 levels. Human case reports of severe injury or death did not contain exposure concentrations and in most animal studies, nitric acid was administered by intratracheal instillation. Extrapolation from a mortality versus concentration curve in the published literature indicated that the LC_0 was approximately one-third the LC_{50} value of 138 ppm (356 mg/m^3) for the rat. This concentration was reported as nitrogen dioxide (NO_2) instead of total nitric acid. From the estimated LC_0 an uncertainty factor of 3 was applied to account for sensitive individuals. Due to the steepness of the dose-response curve for nitric acid, application of additional uncertainty factors would lower the AEGL–3 values below the values derived for AEGL–2 which were based on human data and, since the mechanism of action appears to be the same in both humans and animals with the production of both pulmonary edema and bronchiolitis obliterans, additional uncertainty factors were not used.

The concentration-exposure time relationship is described by the equation $c^n t = k$. Although insufficient data on nitric acid were available to calculate the exponent n, structure-activity relationships indicated that nitric acid and NO_2 have parallel dose-response curves for a 30-min exposure. Therefore, for extrapolation to the various time points for the AEGL–2 and –3 levels, a previously published n of 3.5 derived from NO_2 data was used.

The calculated values for the three AEGL classifications for the four time periods are listed in the table below.

SUMMARY TABLE OF PROPOSED AEGL VALUES FOR NITRIC ACID

Classification	30-minute	1-hour	4-hour	8-hour	Endpoint (Reference)
AEGL–1	0.5 ppm (1.3mg/m^3).	0.5 ppm (1.3mg/m^3).	0.5 ppm (1.3mg/m^3).	0.5 ppm (1.3mg/m^3).	No observed effect level (NOEL) for changes in pulmonary function in humans (Seckner and Ford, 1981); UF=3
AEGL–2	5 ppm (13mg/m^3)	4 ppm (10mg/m^3)	3 ppm (8mg/m^3)	2 ppm (5mg/m^3)	Irritation with cough; burning of eyes and skin; lacrimationand salivation (Diem, 1907); UF=3
AEGL–3	15 ppm (39mg/m^3)	13 ppm (34mg/m^3)	8 ppm (21mg/m^3)	7 ppm (18mg/m^3)	LC_0 estimated from a 30-min LC_{50} in the rat (Gray et al., 1954); UF=3

References

1. Diem, L.1907. [Experimentelle Untersuchungen über die Einatmung von Saltpetersäure-Dämpfen].Thesis, D-8700, Würzburg. (as cited in Henschler, 1991).

2. Gray, E.Le B., Patton, F.M., Goldberg, S.B., and Kaplan, E.1954. Toxicity of the oxides of nitrogen. Part II. Acute inhalation toxicity of nitrogen dioxide, red fuming nitric acid, and white fuming nitric acid. *Archive for Industrial Hygiene and Occupational Medicine* 10:418–422.

3. Henschler, D.1991. Occupational Toxicants Critical Data Evaluation for MAK Values and Classification of Carcinogens, Vol. 3. VCH Publishers, New York (USA) and Weinheim (FRG).

4. Seckner, M.A. and Ford, D. 1981. Effects of breathing nitrate aerosols in high concentrations for 10 mins on pulmonary function of normal and asthmatic adults, and preliminary results in normals exposed to nitric acid fumes. *American Review of Respiratory Diseases* 123:151.

Phosphine

Phosphine is a colorless gas used as a fumigant against insects and rodents in stored grain. The pesticide is usually applied as a metal phosphide and reacts with moisture to liberate phosphine gas. Phosphine is also used in the semiconductor industry. Information concerning human exposure to phosphine is of limited use in derivation of AEGL values since exposure duration and concentration are not precisely reported. Appropriate animal data are more abundant; however, data consistent with the definition of AEGL–1 values are not available. Therefore, due to insufficient data, AEGL–1 values were not derived.

The AEGL–2 was based on a NOEL for renal and pulmonary pathology in Fischer 344 rats exposed to 3.1 ppm phosphine 6 hrs/day, 5 days/week for 13 weeks (Newton et al, 1993). Scaling to the 30-min, 1-, 4-, and 8-hr exposures was accomplished using the $c^n x t = k$ relationship, where n = 2. The concentration exposure time relationship for many irritant and systemically acting vapors and gases may be described by $c^n x t = k$, where the exponent, n, ranges from 1 to 3.5 (ten Berge et al 1986). For scaling the AEGL values for phosphine across time, the mid-point value of 2 was used as the exponent n because no exposure versus time data were available. An uncertainty factor of 3 was used for interspecies extrapolation since the rat is the most sensitive species. An uncertainty factor of 10 was used for intraspecies extrapolation since the data indicate that children are more sensitive than adults when exposed to phosphine.

The AEGL–3 was based on a NOEL for lethality (18 ppm phosphine) in Sprague Dawley rats exposed to phosphine for 6 hrs. Scaling to the 30-min, 1-, 4-, and 8-hr exposures was accomplished using the $c^n x t = k$ relationship, where n = 2. An uncertainty factor of 3 was used for interspecies extrapolation since the rat is the most sensitive species and an uncertainty factor of 10 was used for intraspecies extrapolation since data indicate that children are more sensitive than adults when exposed to phosphine.

The calculated values are listed in the table below.

SUMMARY TABLE OF PROPOSED AEGL VALUES PHOSPHINE

Classification	30-minute	1-hour	4-hour	8-hour	Endpoint (Reference)
AEGL–1 (Nondisabling)	.....	.....	.....	.....	Appropriate data not available
AEGL–2 (Disabling)	0.36 ppm (0.52 mg/m^3).	0.25 ppm (0.35 mg/m^3).	0.13 ppm (0.18mg/m^3).	0.09 ppm (0.13 mg/m^3).	NOEL for renal and pulmonary pathology in rats exposed to 3.1 ppm phosphine, 6 hr/day, 5 days/week for 13 weeks (Newton et al., 1993)
AEGL–3 (Lethality) ..	2.1 ppm (2.9 mg/m^3)	1.5 ppm (2.1 mg/m^3)	0.74 ppm (1.0 mg/m^3).	0.52 ppm (0.73 mg/m^3).	NOEL for lethality in rats exposed to 18 ppm phosphine for 6 hr.(Newton, 1991)

References

1. Newton, P.E. 1991. Acute Inhalation exposures of rats to phosphine. Biology Dynamics, Inc. East Millstone, NJ. Project No. 90–8271.

2. Newton, P.E., Schroeder, R.E., Sullivan, J.B., Busey, W.M., and Banas, D.A. 1993. Inhalation toxicity of phosphine in the rat: acute, subchronic, and developmental. *Inhalation Toxicology* 5:223–239.

V. Public Record and Electronic Submission

The official record for this notice, as well as the public version, has been established for this notice under docket control number (OPPTS–00218; FRL–5737–3) (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located in the TSCA Nonconfidential Information Center, Rm: NE–B607, 401 M St., SW., Washington, DC.

Electronic comments can be sent directly to EPA at:
oppt.ncic@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1/6.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket control number (OPPTS–00218; FRL–5737–3). Electronic comments on this notice may be filed online at many Federal Depository Libraries.

All comments which contain information claimed as CBI must be clearly marked as such. Three sanitized copies of any comments containing information claimed as CBI must also be submitted and will be placed in the public record for this notice. Persons submitting information on any portion of which they believe is entitled to treatment as CBI by EPA must assert a business confidentiality claim in accordance with 40 CFR 2.203(b) for each such portion. This claim must be made at the time that the information is submitted to EPA. If a submitter does not assert a confidentiality claim at the time of submission, EPA will consider this as a waiver of any confidentiality claim and the information may be made available to the public by EPA without further notice to the submitter.

List of Subjects

Environmental protection, Hazardous substances.

Dated: October 20, 1997.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 97–28642 Filed 10–29–97; 8:45 am]
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Thursday,
October 30, 1997

Part V

Department of Transportation

Federal Aviation Administration

14 CFR Parts 91 and 135
Air Tour Operators in the State of Hawaii; Interim Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91 and 135

[Docket No. 27919; Special Federal Aviation Regulation (SFAR) No. 71–1]

RIN 2120–AG44

Air Tour Operators in the State of Hawaii

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Interim rule; disposition of comments; and request for comments on a draft Environmental Assessment.

SUMMARY: On September 26, 1994, the FAA issued an emergency final rule as SFAR 71, which established certain procedural, operational, and equipment requirements for air tour operators in the State of Hawaii. The final rule was effective October 26, 1994; the FAA invited public comments on the rule until December 27, 1994. This document responds to public comments and extends the expiration date for SFAR 71 until October 26, 2000. This action will ensure that regulatory requirements for the safe operation of air tours in the airspace over the State of Hawaii remain in effect.

DATES: Comments must be received on or before December 29, 1997. This interim rule is effective October 26, 1997.

ADDRESSES: Comments on this interim rule should be mailed in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC–200), Docket No. 27919, 800 Independence Ave., SW, Washington, DC 20591. Comments may also be sent electronically to the Rules Docket by using the following Internet address: 9–NPRM–CMTS@mail.faa.dot.gov. Comments must be marked as Docket No. 27919. Comments may be examined in Room 915G on weekdays between 9:00 a.m. and 5:00 p.m., except on federal holidays.

FOR FURTHER INFORMATION CONTACT: For a copy of this rule, contact the Office of Rulemaking at (202) 267–9677. For technical questions, contact David Metzbower, Air Transportation Division, AFS–200, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591; Telephone (202) 267–3724.

SUPPLEMENTARY INFORMATION:

Availability of Interim Rule

Any person may obtain a copy of this interim rule by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW, Washington, DC 20591, or by calling (202) 267–9677. Requests should be identified by the docket number of this proposal.

An electronic copy of this interim rule may be downloaded using a modem and suitable communications software from the FAA regulations section of the Fedworld electronic bulletin board service (703–321–3339), or the Federal Register's electronic bulletin board service (telephone 202–512–1661). Internet users may reach the FAA's web page at http://www.faa.gov, or the Federal Register's page at http://www.access.gpo.gov/su_docs, for access to recently published rulemaking documents.

Small Entity Inquiries

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) requires the FAA to report inquiries from small entities concerning information on, and advice about, compliance with statutes and regulations within the FAA's jurisdiction, including interpretation and application of the law to specific sets of facts supplied by a small entity.

The FAA's definitions of small entities may be accessed through the FAA's web page (http://www/faa.gov/avr/arm/sbrefa.htm), by contacting a local FAA official, or by contacting the FAA's Small Entity Contact listed below.

If you are a small entity and have a question, contact your local FAA official. If you do not know how to contact your local FAA official, you may contact Charlene Brown, Program Analyst Staff, Office of Rulemaking, ARM–27, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 1–888–551–1594. Internet users can find additional information on SBREFA in the "Quick Jump" section of the FAA's web page at http://www.faa.gov and may send electronic inquiries to the following Internet address: 9-AWA-SBREFA@faa.dot.gov

Background

The Air Tour Industry

Since 1980, the air tour industry in the State of Hawaii has grown rapidly, particularly on the islands of Oahu, Kauai, Maui, and Hawaii. The growth of the tourist industry, the beauty of the islands, and the inaccessibility of some areas of the islands has generated tremendous growth in the number of air tour flights. In 1982, there were approximately 63,000 helicopter and 11,000 airplane tour flights. By 1991, these numbers had increased to approximately 101,000 for helicopters and 18,000 for airplanes. Currently in Hawaii, the air tour industry carries about 500,000 passengers annually. The Honolulu Flight Standards District Office reports that currently twenty-six operators conduct air tours under Part 135, using 77 aircraft of which 18 are airplanes and 59 are helicopters. Approximately 9 operators conduct air tours under Part 91 using approximately 16 aircraft, of which 9 are airplanes and 7 are helicopters.

History and Escalation of Accidents

The growth of the air tour sightseeing industry in Hawaii has been associated with an escalation of accidents. During the 9-year period between 1982 and 1991, there were 11 air tour accidents with 24 fatalities. The accident data shows an escalation of accidents in the 3-year period between 1991 and 1994, during which time there were 20 air tour accidents with 24 fatalities. The apparent causes of the accidents ranged from engine power loss to encounters with adverse weather. Contributing factors to the causes and seriousness of accidents were: operation beyond the demonstrated performance envelope of the aircraft, inadequate preflight planning for weather and routes, lack of survival equipment, and flying at low altitudes (which does not allow time for recovery or forced landing preparation in the event of a power failure). Despite voluntary measures taken by some Hawaii air tour operators and an increase in FAA's inspections, the escalation of accidents occurred, indicating a need for additional measures to ensure safe air tour operations in Hawaii.

On September 26, 1994, the FAA published an emergency final rule as Special Federal Aviation Regulation (SFAR) No. 71 (59 FR 49138). This action was taken because of the increase in the number of fatal accidents involving air tour aircraft during the period 1991–1994 and the causes of those accidents. The emergency regulatory action established additional operating procedures, including minimum safe altitudes (and associated increases in visual flight rules (VFR) weather minimums), minimum equipment requirements, and operational limitations for air tour aircraft in the state of Hawaii.

The comment period for the emergency rule closed on December 27, 1994.

Discussion of Comments

General

The FAA received more than 200 comments on the SFAR. Commenters included the National Transportation Safety Board (NTSB), state and local governments, air tour operators, helicopters associations, tourism-related organizations, citizen and environmental groups, and individuals. The most controversial provision of the SFAR was the minimum altitude requirement.

The following discussion contains a summary of comments according to the specific subject areas defined in the SFAR. It should be noted that comments which were not relevant to these subject areas or were considered to be speculative are not included in this discussion.

Because of the time that has expired since the publication of SFAR 71, some of these comments may not have the same relevance because of subsequent events. In addition, air tour operators and the FAA have worked together to mitigate concerns that the rule is overly burdensome. The FAA's response to these comments is summarized at the end of the comment discussion.

Safety Record

Several commenters, including the Hawaii Helicopter Operators Association (HHOA) and the Helicopter Association International (HAI), state that Hawaii's air tour operators have a good safety record that exceeds that of helicopter operations in other parts of the United States, and a safety record that exceeds the national average of general aviation aircraft. Other commenters say that the accident rate is low considering the number of flight hours and the number of passengers flown. HHOA and others state that recent accidents were caused by pilot error and mechanical failure, and not the altitude at which the aircraft were operated.

Two comments were received from persons who were personally involved in air tour accidents in Hawaii. In addition to asking that all of the safety tools, such as flotation devices for aircraft and passengers, be used, they also comment on the lack of rescue support, which cost several lives in one accident. One of these individuals suggests that the SFAR should apply everywhere, commenting that "Water, helicopters, floats, and life jackets do not perform differently from one state to another."

Need for Emergency Rulemaking

Several commenters state that there is little supporting data to justify the FAA's issuance of the SFAR under emergency rulemaking provisions.

In a petition to the FAA to withdraw or stay the SFAR (which was also submitted as a comment), HHOA states that, because there was no true emergency, the FAA should not have used the "good cause" exception of the Administrative Procedures Act (APA) to avoid rule issuance without notice and public comment. Some commenters believe that the real reason for SFAR 71 is noise, not safety.

Applicability and Definitions

Some commenters, including HHOA, contend that states such as Alaska, California, and Oregon have rugged coastlines and terrain that pose the same hazards to air tours as Hawaii's terrain. These commenters posit that the SFAR, which is being imposed only on Hawaii, is discriminatory and puts the air tour industry in Hawaii at a competitive disadvantage.

Flotation Devices

HHOA states that limiting the flotation requirement to helicopters is arbitrary and capricious because the SFAR assumes that only helicopters sink rapidly after forced landings on water.

Other commenters favor requiring both flotation equipment and the wearing of personal flotation gear. The NTSB; the Department of Transportation Airports Division for the State of Hawaii; and the Sierra Club Legal Defense Fund point out that because helicopters sink more quickly in water, the use of external flotation equipment would provide the necessary time for passengers to exit the helicopter.

The NTSB states that at its public hearing on air tour safety, air tour operators and helicopter manufacturers expressed concern about the capabilities of airframe-mounted helicopter flotation systems. They point out that a helicopter's emergency water entry may easily exceed the certificated vertical speed values of current systems and result in failure of this equipment to perform as expected. In its comment, the NTSB recommends that SFAR No. 71 be modified to provide for two redundant means of occupant survival: airframe-mounted flotation equipment and the wearing of a life preserver by each person while on board.

Helicopter Performance Plan

One operator contends that this requirement is not necessary because § 91.9 requires compliance with the operating limitations specified in the approved rotorcraft flight manual (RFM). Also, § 135.345(b)(2) requires aircraft performance characteristics to be part of an operator's required training program.

HHOA states that this requirement would, in effect, result in a one-state certification program because the information requested in the operators' certification performance plans would not be required elsewhere in the United States.

Helicopter Operating Limitations

HAI states that the operating limitations could adversely affect operations that are routinely performed in or near the curve, such as external load lifting, and that operating within the height-velocity curve should be left to the discretion of the operator.

Several commenters, including HHOA, contend that this requirement already exists in 14 CFR section 91.9, which states that the shaded areas or dead-man's curve area is to be avoided except under specific circumstances.

The NTSB states that comments from operators and manufacturers at its public hearing on air tour safety question whether helicopter operating limitations should be placed solely on air tour operators in Hawaii, while non-tour operations in Hawaii and operators in other states remain unregulated in this area. The NTSB recommends that the FAA conduct discussions with interested parties to resolve the issue of helicopter height-velocity diagram performance.

Standoff Distance

HHOA states that under the 1,500 foot lateral clearance (standoff) requirement, pilots would be forced to fly farther offshore than now permitted, increasing the power-off glide distance to shore in the event of an engine failure. HHOA adds that this requirement will cause two-way air traffic congestion in and over scenic canyons by forcing pilots to follow the midline of the canyon, thereby further decreasing the pilot's ability to keep a close visual surface reference sufficient to safely control the helicopter.

Minimum Flight Altitudes

A number of commenters point out that the 1,500 foot above ground level (AGL) requirement does not take into account cloud cover and weather conditions in Hawaii. Commenters say that the requirement will increase the probability of flying into bad weather, and prevent helicopters from flying below the clouds where they can maintain visual reference to the ground.

The NTSB believes that the requirement may lead to increased operating time over water, difficulties in regulatory enforcement, and possible disregard of the FAA regulation.

Some commenters state that the SFAR's minimum altitude and standoff requirements should not apply to fixed-wing aircraft. One operator says that accidents cited in the SFAR were due to pilot error and disregard for existing regulations which already prevent fixed-wing VFR flights into IMC conditions. HHOA adds that requiring helicopters to fly at 1,500 feet forces pilots to operate helicopters as fixed-wing aircraft which is contrary to the certification requirements of helicopters.

Many commenters, including the NTSB, HHOA, ALPA, and the Chamber of Commerce of Hawaii, state that the minimum altitude requirement will cause air tour traffic to be concentrated at the same altitude, increasing the likelihood of midair collisions.

Several commenters, including HHOA, state that the minimum altitude requirement will create additional hazards for emergency landings. At low altitudes, pilots are better able to spot a suitable landing site; at higher altitudes it takes longer to land and shut off the engine, thereby increasing the risk of a fire and further mechanical failure. One operator states that the minimum altitude requirement is not needed because § 91.119 says that no person may operate an aircraft below an altitude that does not allow for an emergency landing without undue hazard to persons or property on the surface.

Visibility and Cloud Clearance

Several commenters point out that the minimum altitude requirements in the SFAR do not take into account changing cloud cover and weather conditions in Hawaii which affect pilots' visibility and ability to maintain required distances from clouds. NTSB notes that the 1,500 foot altitude may cause encounters with cloud layers not found at lower altitudes. Some commenters say that pilots would best avoid unforeseen weather conditions and maintain sufficient visibility by flying below the clouds and maintaining visual reference to the ground.

Briefing Passengers

Commenters on this issue express support for the requirement. HAI states that although passenger briefing is already standard practice for most operators, the requirement will ensure that passenger briefing takes place.

Costs

Many commenters state that the SFAR will devastate Hawaii's helicopter tourist industry and related businesses, many of which are small businesses. Commenters say that over 650,000 visitors take helicopter tours annually, and that the helicopter tour industry contributes $100 million per year to Hawaii's economy. Several tourism organizations say that since the SFAR took effect, bookings dropped 40 to 50 percent which is equivalent to an annual revenue loss of $35 million. Some of these commenters add that the SFAR will impact 1,000–2,000 people employed by the helicopter tour industry and related businesses. A pilot commented that the air tour industry raises $100 million annually, and noted that this represents a considerable tax contribution to the State of Hawaii. Commenters on this issue included hotel associations, a trade association, a visitors' bureau, a publishing company, and a resort association. A number of form letters were received expressing that Hawaii has an unemployment problem and that this rule will be tantamount to taking away jobs. A different form letter stated that the rule is excessive, that most tour operators are "eco-friendly", and that air tour operators perform valuable community assistance in supporting disaster assistance.

Several operators cite revenue losses since the SFAR took effect due to the necessity of grounding flight operations when cloud ceilings were below 1,500 feet AGL. Several commenters, including HAI, contend that the SFAR underestimates the number of no-fly days tour operators experience because of low cloud ceilings.

HAI quotes from the SFAR, which states ". . . although the 1,500 foot minimum altitude requirement has a significant economic impact on a substantial number of small entities, it provides superior operational safety." HAI says that this equates to the notion of "overly burdening" these same small entities.

Monitoring, Enforcement, and Voluntary Efforts

Some commenters, including HAI, point out that better enforcement of existing regulations would help prevent air tour accidents and that Hawaii's FSDO staff should be increased for this purpose. HHOA adds that air safety would be improved if expanded weather operations were provided by more than the one Flight Service Station in Honolulu.

Some commenters state that the helicopter air tour industry is already using voluntary measures to ensure safety and reduce noise. An operator, the Kauai County Council, and the Maui Air Traffic Association say that HHOA's "Fly Neighborly" program, which recommends a 1,500 foot minimum altitude, is a good means to ensure voluntary compliance with existing regulations.

Environmental Impacts

A number of commenters state that the minimum altitude should be 2 miles, not 1,500 feet. These commenters cite the value of the wilderness experience and the protection of wildlife as justification for banning flights over national parks in Hawaii. They urge the FAA to make the SFAR permanent.

One commenter who lives 14 miles from Kahului Airport expresses concern that in an emergency, a helicopter with little altitude would be forced to land near her house and urges enforcement of the 1,500 foot restriction. A major environmental association states that deviations from the rule should only be allowed for reasons of safety.

Other commenters state that the air tour industry is growing so rapidly in Hawaii that private heliports are springing up, allowing even more uncontrolled growth. Therefore, more controls than are provided by SFAR 71 may be needed.

The docket contains comments from several neighborhood associations who comment that the SFAR is forcing tours to be rerouted over their property, that the FAA is not enforcing the 1,500 foot restriction for all operators, that all pilots conducting air tour operations should be required to have Part 135 certificates, and that the FAA should implement a system for tracking violators. One association suggests a $2,000 fine, per violation, per day, for each offender.

FAA's Response

The FAA finds that the issuance of SFAR 71 is justified by the accidents that occurred from 1982–1991. The Court of Appeals for the Ninth Circuit supported the FAA's finding by holding that the FAA had good cause for emergency rulemaking because of the increase in recent fatal accidents (U.S. Court of Appeals for the Ninth Circuit, No. 94–70703, March 29, 1995; *Hawaii Helicopter Operators* v. *Federal Aviation Administration*, 51 F. 3d 212 (9th Cir. 1995). Moreover, the FAA finds that the rule has been successful in accident prevention. Since its issuance, there have been only three incidents—

all engine failures that landed safely with no injuries.

One of the most contentious aspects of the SFAR for operators was the minimum operating altitude. The FAA, after working closely with air tour operators, believes that this problem has been somewhat mitigated. Since 1994, the FAA has allowed deviations from SFAR 71 for the majority of air tour operators. Air tour operators of fixed-wing aircraft have been granted deviations to conduct air tours at a minimum altitude of 1,000 feet; air tour operators of single-engine helicopters have been granted deviations to conduct air tours at a minimum of 500 feet. The use of deviations has provided separation between the fixed-wing aircraft and helicopters around the scenic areas where the traffic is the most dense. The FAA has provided an equivalent level of safety to that of the higher altitude by additional safety measures for those air tour operators. Each air tour operator that is granted a deviation from the higher altitude is evaluated on a case by case basis. Each deviation is site-specific and allows operation only over areas of raw terrain (areas devoid of any persons, vessels, vehicles or structure). The altitude over populated areas and other than raw terrain remains at 1500 feet. The pilots for each respective operator must demonstrate knowledge of the specific sites during FAA flight checks at each specific site. Also during those flight checks, the pilots must demonstrate the ability to successfully autorotate to an alternate emergency landing area at each specific site.

In response to the comments on costs, the FAA believes that that the SFAR has not had a direct impact on the viability of the air tour industry in Hawaii. Because of the willingness of the air tour operators to work with FAA, viable air tours have been created without an adverse impact on safety. It is important to remember that these comments on costs were made immediately following the issuance of the SFAR and before the deviations were in place.

In response to comments suggesting that the purpose of SFAR 71 was to mitigate noise, the FAA reiterates its strong statement made in the emergency final rule that the purpose of that rulemaking was for reasons of safety.

In response to comments on flotation devices and performance flotation gear, the FAA has by operations specifications required each helicopter operator to require passengers to wear personal flotation gear when operating over water whether or not the helicopter is equipped with exterior flotation devices.

The FAA has prepared a draft Environmental Assessment (EA) which addresses the environmental comments previously submitted during the emergency rulemaking and analyzes the environmental impacts of this rule, the extension of SFAR 71.

With the rulemaking, the FAA will extend SFAR 71 for an additional 3 years. During this time the FAA intends to issue a notice of proposed rulemaking which will apply to all air tour operators. This national rule will be responsive to NTSB comments and those operators who commented that the SFAR was discriminatory against operators in Hawaii. The proposed rulemaking will consider some of the same issues that commenters have noted in responding to SFAR 71; in this context, the comments on SFAR 71 have been helpful to the FAA. Since the national air tour rulemaking is not yet ripe, the FAA cannot divulge details of the proposed rule, but does encourage those persons who commented on SFAR 71 to submit comments to the proposed national rule when it is published. The FAA anticipates that the national rule, when finalized, will replace SFAR 71–1, which would then be rescinded.

Environmental Review

Because there were a considerable number of comments on the environmental effects of the emergency final rule issued as SFAR 71, the FAA has prepared a draft Environmental Assessment to assure compliance with the National Environmental Policy Act of 1969 (NEPA) and other applicable environmental laws, regulations and orders.

A copy of the draft EA may be obtained by calling Linda Williams, Office of Rulemaking, FAA, 800 Independence Ave., SW, Washington, DC 20591, at (202) 267–9685. An electronic copy is available at http://www.faa.gov. Comments on the draft EA should be mailed to the address given or sent electronically to 9–NPRM–CMTS@faa.dot.gov and clearly marked as "Comments to the draft EA for Extension of SFAR 71." The comment period for the draft EA is the same as for the interim rule, on or before December 29, 1997.

Based upon the draft EA and comments received on the draft EA, the FAA will determine whether to issue a final EA and a Finding of No Significant Impact (FONSI) or to prepare an environmental impact statement. If a final EA and FONSI are determined appropriate for the final rule, these documents will be available in Docket No. 27919 and on the Internet at http://www.faa.gov.

Regulatory Evaluation Summary

In accordance with SFAR 71, certain procedural, operational, and equipment requirements were established for air tour operators currently operating in the State of Hawaii. Compliance with SFAR 71 was estimated to increase costs approximately $2.1 million, in current dollars, over the three year period, 1994 to 1997. Most of the increase in costs was associated with lost revenue that resulted from tour cancellations when the new minimum flight altitudes could not be achieved. Based on data identified during the promulgation of SFAR 71, the FAA estimated that the cost associated with revenue loss totaled approximately $1.9 million. Additional costs associated with SFAR 71 included $201,000 to provide lifevests on subject helicopters and $10,000 for the development of a helicopter performance plan. The estimated potential safety benefits associated with SFAR 71 totaled approximately $33.7 million over three years. All these dollar estimates have been updated to current dollars from 1994 dollars. A copy of the Final Regulatory Evaluation, Final Regulatory Flexibility Determination, and Trade Impact Assessment completed for the original SFAR have been placed in the docket.

The FAA has worked with the air tour operators to lessen the burden of lost revenue from canceled tours. This has been accomplished by allowing deviations from SFAR 71 for specific air tour operations evaluated on a case by case basis. When deviations of 1,000 feet for fixed-wing aircraft and 500 feet for single-engine helicopters are granted, the estimated revenue loss may be overstated, because the deviations allow a tour operation to take place that otherwise would have been canceled under the minimum flight altitudes of SFAR 71. Therefore, because of the FAA allowing deviations from SFAR 71 for the majority of air tour operators in Hawaii, much of the estimated $1.9 million revenue loss did not occur. However, due to other safety measures for air tour operators, such as separation between fixed-wing and helicopter operations around scenic areas, deviations from flight altitudes have not compromised safety. Since the issuance of SFAR 71, there have been no fatalities or injuries as a result of the new procedural, operational or equipment requirements. In view of the foregoing, the FAA has determined that the extension to SFAR 71 is cost beneficial.

This regulation is considered significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) because it was

issued originally as an emergency final rule. A final regulatory evaluation of the regulation, including a Regulatory Flexibility Determination and Trade Impact Analysis, has been placed in the docket. A copy may be obtained by contacting the person identified under FOR FURTHER INFORMATION CONTACT. The FAA has determined that this action is a significant regulatory action under Executive Order 12866.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by Federal regulations. The RFA requires a Regulatory Flexibility Analysis if a proposed rule would have "significant economic impact on a substantial number of small entities." FAA Order No. 2100.14A outlines the FAA's procedures and criteria for implementing the RFA. The FAA's criteria for "a significant impact" is an annualized cost threshold of at least $4,900.

The FAA's original regulatory flexibility analysis indicated that the SFAR would impose a "Significant economic impact on a substantial number of small entities." (See copy of original Regulatory Flexibility Determination included in the docket for this rulemaking.) The FAA estimated the total annualized cost of the final rule was approximately $712,000, in current dollars. The annualized cost of the 1,500 foot minimum altitude requirement for the air tour industry (fixed-wing and helicopter) was approximately $635,700. After assessing the annualized cost for individual operators on a per seat basis, the FAA determined that the SFAR would impose costs greater than the annualized cost threshold of $4,900 for 31 of 37 of the affected air tour operators, most of whom are small entities. The FAA calculated the annualized cost regarding alternative minimum altitude requirements of 500 feet, 800 feet, and 1,000 feet. Based on this figure, the FAA determined that a minimum altitude requirement of 500 feet would be necessary to lower the annualized cost below the $4,900 threshold for all but four of the air tour operators. However, after analyzing the safety implications of lowering the minimum altitude to 500 feet, the FAA determined that to do so would result in a decline in safety benefits.

Since the issuance of the SFAR, the FAA received requests from several operators to fly at lower altitudes. Air tour operators requested "deviations" from the rule to obviate the economic burden imposed upon them by the SFAR. The FAA worked with the operators to create individual exceptions under which air tours could occur at lower altitudes but with other conditions imposed. The resulting exception, referred to as a deviation, was designed to minimize the potential adverse economic effects on the air tour operators while maintaining the same level of safety as that afforded at 1,500 feet.

A deviation allows an operator to fly at lower altitudes with the imposition of certain additional safety requirements. Operators must individually request a deviation from the FAA. The FAA considers each request on a case by case basis and, after close scrutiny of each air tour operation, determines whether the issuance of a deviation from the SFAR will achieve the desired goals. The imposition of additional safety requirements varies from operator to operator. Requirements can include safety equipment modifications and/or special operation procedures, such as separation between fixed-wing and helicopter operations around scenic areas. Currently, 16 of the 26 air tours operating under part 135, and 2 of the 9 air tours operating under part 91, have sought and have received deviations from the SFAR. Those operators who have not sought a deviation are operating under air traffic control (ATC) positive control and are not, therefore, required to comply with the provisions of the rule, or were already operating at higher altitudes. The practical impact of FAA issued deviations, considered along with ATC positive control, is that the majority of small entities are currently operating at lower altitudes. The FAA anticipates that it will continue to grant deviations as it has up to this point, which will in effect work to mitigate the economic impact of the SFAR on small entities.

The FAA is compelled to stand by the results of its original regulatory flexibility analysis despite the reasonable conclusion that can be drawn from these facts, namely, that those operators who requested deviations did so because they believed it would be less costly than complying with the SFAR. Although the agency believes that costs of compliance are now lower than originally estimated, the agency has no data to show the extent of any change in the economic impact on small businesses as reported in the original regulatory flexibility analysis. Accordingly, the FAA certifies that this extension has a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

When the FAA promulgated SFAR 71, it found that SFAR would not have an adverse impact on the international trade because the affected operators do not compete with foreign operators. The FAA certifies that this SFAR will not constitute a barrier to international trade, including the export of U.S. goods and services to foreign countries and the import of foreign goods and services to the United States.

Paperwork Reduction Act

SFAR 71 contains information collection requirements, specifically in Section 6. Minimum flight altitudes and Section 7. Passenger briefing. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the FAA submitted these requirements to OMB. As a result, an emergency clearance of the information collection requirement (No. 2120–0620) has been approved through February 28, 1998.

SFAR 71, which became effective on October 26, 1994, applies to air tour operators in the state of Hawaii. Under the SFAR, both Part 91 and Part 135 operators are required to provide a passenger safety briefing on water ditching procedures, use of required flotation equipment, and emergency egress from the aircraft in event of a water landing. The FAA estimates that 100,000 air tour operations are conducted annually by 35 operators, that each safety briefing takes 3–4 minutes, and that the cost of the briefing is $10.00. Using these numbers, 400,000 minutes = 6,667 hours × $10.00 equals approximately $.70 per flight.

For the deviations collection, two calculations must be done since operators first requested deviations to 1,000 feet, and then to 500 feet. 1,000 ft. deviations were granted to approximately 35 operators, and it is estimated that the preparation took each operator 2 hours at $15.00 an hour for a total of approximately $1,050.00. The cost for the government to review the deviations is estimated to be 1 hour of review and operations preparation using 35 hours of inspector time or approximately $1,750.00 in costs. The deviation requests to 500 feet cost the operators 35 × 1 hour at $15.00 per hour or $525.00. Cost of an inspector's review is estimated at 35 × ½ hour or $875.00. In addition, it is necessary to include the costs for FAA inspectors checking pilots on specific sites for the 500 feet deviation, and the cost for operators' check pilots to check line pilots. The former is estimated to be 35 × 3 hours at an operator/aircraft cost of $250.00 or $26,250.00. The cost to check line pilots is estimated to be 100 × 1 hour × $250.00 or $25,000.00. The cost to the government (inspectors' time) for all deviations is estimated to be 35 × 3 hours × $50.00 or $5,250.00.

Organizations and individuals desiring to submit comments on the information collection requirements of SFAR 71 should send them to the FAA's Rules Docket, the address for which is given in the ADDRESSES section of this interim rule.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by state, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a proposed "significant intergovernmental mandate." A "significant intergovernmental mandate" under the Act is any provision in a Federal agency regulation that would impose an enforceable duty upon State, local, and tribal governments, in the aggregate, of $100 million (adjusted annually for inflation) in any one year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

The FAA has determined that this rule does not contain any Federal intergovernmental mandates, but does contain a private sector mandate. However, because expenditures by the private sector will not exceed $100 million annually, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

Federalism Implications

The regulations herein will not have substantial direct effects on the States, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, the FAA certifies that this regulation will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects

14 CFR Part 91

Aircraft, Airmen, Aviation safety.

14 CFR Part 135

Air taxi, Aircraft, Airmen, Aviation safety.

The Amendment

The Federal Aviation Administration amends 14 CFR parts 91 and 135 as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46502, 46504, 46506–46507, 47122, 47508, 47528–47531.

PART 135—OPERATING REQUIREMENTS: COMMUTER AND ON-DEMAND OPERATIONS

2. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 106(G), 40113, 44701–44702, 44705, 44709, 44711–44713, 44715–44713, 44715–44717, 44722.

3. In SFAR NO. 71—Special Operating Rules For Air Tour Operators In The State Of Hawaii, section 8 is revised to read as follows:

SFAR NO. 71–1—Special Operating Rules for Air Tour Operators in the State of Hawaii

* * * * *

Section 8. Termination date. This Special Federal Aviation Regulation expires on October 26, 2000.

Issued in Washington, DC, on October 23, 1997.

Jane F. Garvey,

Administrator.

[FR Doc. 97–28724 Filed 10–24–97; 5:03 pm]

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Part VI

Department of Education

National Institute on Disability and Rehabilitation Research; Rehabilitation Engineering Research Centers; Proposed Funding Priorities for Fiscal Years 98–99; Notices

DEPARTMENT OF EDUCATION

National Institute on Disability and Rehabilitation Research; Rehabilitation Engineering Research Centers; Proposed Funding Priorities for Fiscal Years 1998–99

AGENCY: Department of Education.

ACTION: Notice of Proposed Funding Priorities for Fiscal Years 1998–1999 for Rehabilitation Engineering Research Centers.

SUMMARY: The Secretary proposes funding priorities for four Rehabilitation Engineering Research Centers (RERCs) under the National Institute on Disability and Rehabilitation Research (NIDRR) for fiscal years 1998–1999. The Secretary takes this action to focus research attention on areas of national need. These priorities are intended to improve rehabilitation services and outcomes for individuals with disabilities.

DATES: Comments must be received on or before December 1, 1997.

ADDRESSES: All comments concerning these proposed priorities should be addressed to Donna Nangle, U.S. Department of Education, 600 Maryland Avenue, S.W., room 3418, Switzer Building, Washington, D.C. 20202–2645. Comments may also be sent through the Internet: comment@ed.gov

You must include the term "Engineering Research Centers" in the electronic message.

FOR FURTHER INFORMATION CONTACT: Donna Nangle. Telephone: (202) 205–5880. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–2742. Internet: Donna_Nangle@ed.gov

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION: This notice contains proposed priorities under the Disability and Rehabilitation Research Projects and Centers program for RERCs related to information technology access, communication enhancement, ergonomic solutions for employment, and hearing enhancement.

The authority for RERCs is contained in section 204(b)(3) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 762(b)(3)). Under this program the Secretary makes awards to public and private agencies and organizations, including institutions of higher education, Indian tribes, and tribal organizations, to conduct research, demonstration, and training activities regarding rehabilitation technology in order to enhance opportunities for meeting the needs of, and addressing the barriers confronted by, individuals with disabilities in all aspects of their lives. An RERC must be operated by or in collaboration with an institution of higher education or a nonprofit organization.

These proposed priorities support the National Education Goal that calls for every adult American to possess the skills necessary to compete in a global economy.

The authority for the Secretary to establish research priorities by reserving funds to support particular research activities is contained in sections 202(g) and 204 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 761a(g) and 762).

The Secretary will announce the final priorities in a notice in the **Federal Register**. The final priorities will be determined by responses to this notice, available funds, and other considerations of the Department. Funding of a particular project depends on the final priority, the availability of funds, and the quality of the applications received. The publication of these proposed priorities does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only these priorities, subject to meeting applicable rulemaking requirements.

Note: This notice of proposed priorities does *not* solicit applications. A notice inviting applications under this competition will be published in the **Federal Register** concurrent with or following the notice of final priorities.

Description of the Rehabilitation Engineering Research Center Program

RERCs carry out research or demonstration activities by:

(a) Developing and disseminating innovative methods of applying advanced technology, scientific achievement, and psychological and social knowledge to (1) solve rehabilitation problems and remove environmental barriers, and (2) study new or emerging technologies, products, or environments;

(b) Demonstrating and disseminating (1) innovative models for the delivery of cost-effective rehabilitation technology services to rural and urban areas, and (2) other scientific research to assist in meeting the employment and independent living needs of individuals with severe disabilities; or

(c) Facilitating service delivery systems change through (1) the development, evaluation, and dissemination of consumer-responsive and individual and family centered innovative models for the delivery to both rural and urban areas of innovative cost-effective rehabilitation technology services, and (2) other scientific research to assist in meeting the employment and independent needs of individuals with severe disabilities.

Each RERC must provide training opportunities to individuals, including individuals with disabilities, to become researchers of rehabilitation technology and practitioners of rehabilitation technology in conjunction with institutions of higher education and nonprofit organizations.

General

The Secretary proposes that the following requirements apply to these RERCs pursuant to these absolute priorities unless noted otherwise:

The RERC must have the capability to design, build, and test prototype devices and assist in the transfer of successful solutions to the marketplace. The RERC must evaluate the efficacy and safety of its new products, instrumentation, or assistive devices.

The RERC must provide graduate-level research training to build capacity for engineering research in the rehabilitation field and to provide training in the applications of new technology to service providers and to individuals with disabilities and their families.

The RERC must involve individuals with disabilities and, if appropriate, their family members in planning and implementing the research, development, and training programs, in interpreting and disseminating the research findings, and in evaluating the Center.

The RERC must share information and data, and, as appropriate, collaborate on research and training with other NIDRR-supported grantees including, but not limited to, the Americans with Disabilities Act (ADA) Disability and Business Technical Assistance Centers, other related RERCs and RRTCs, and grantees under the Technology-Related Assistance for Individuals with Disabilities Act.

The RERC must conduct a state-of-the-science conference in the third year of the grant and publish a comprehensive report on the final outcomes of the conference in the fourth year of the grant.

The RERC must develop and implement a utilization plan for ensuring that all new and improved technologies developed by the RERC are successfully transferred to the marketplace.

The RERC must develop and implement in consultation with the NIDRR-supported National Center for the Dissemination of Disability Research a plan to disseminate the RERC's research results to disability organizations, persons with disabilities, businesses, manufacturers, professional journals, and other appropriate parties.

Priorities

Under 34 CFR 75.105(c)(3) the Secretary proposes to give an absolute preference to applications that meet the following priorities. The Secretary proposes to fund under this competition only applications that meet one of these absolute priorities.

Proposed Priority 1: Information Technology Access

Background

High speed computers, high speed modems, sophisticated telecommunication networks, cable networks, intranets, the Internet, the World Wide Web (www), and satellites constitute an unparalled global information network. However, the proliferation of information technology has also created problems of accessibility for persons with disabilities (Paciello, M., *People with Disabilities Can't Access the Web*, Yuri Rubinsky Insight Foundation, 1997). Persons with disabilities will be significantly disadvantaged if this new generation of information technology is inaccessible. Promoting accessibility to this dynamic field is a highly technical and complicated task that will place unique demands on an RERC to serve as a resource to a wide range of industry and government officials, as well as persons with disabilities.

The Internet is expanding at a phenomenal rate. There were 1,000 Internet host computers worldwide in 1980. That number increased to 200,000 in 1996 and is expected to reach 12 million by the year 2000. The number of Internet users has virtually doubled every year over the past three years from an estimated 16 million in 1995 to 68 million in 1997 (*Computer Industry Forecasts*, Third Quarter, 1997). Emerging nomadic technologies will enable individuals to access information systems from virtually anywhere, at anytime, and in entirely visual, audio, or mixed modes.

The Internet and World Wide Web are also undergoing dramatic structural changes. Internet 2 is a consortium of academic institutions planning to interconnect its members with a new high-bandwidth Internet that will support advanced applications that are not possible or practical on the current Internet (Kennedy, K., Testimony Before the Senate Commerce, Science, and Transportation Committee; Subcommittee on Communications, June 3, 1997). Once developed, the Next Generation Internet will interconnect 100 Federal research institutions and their research partners with a network capable of operating at speeds 100 to 1000 times faster than today's Internet (Lane, N., Testimony Before the Senate Commerce, Science, and Transportation Committee; Subcommittee on Communications, June 3, 1997). In spring of 1997, the International World Wide Web Consortium held special workshops at their Sixth International World Wide Web Conference that focused on developing strategies for designing accessibility into the Web core environment.

New generations of computer and information technologies become available long before anyone has fully grasped the implications of the previous generation (Kelly, H., Testimony Before the Senate Commerce, Science, and Transportation Committee; Subcommittee on Communications, June 3, 1997). Product cycles and lifetimes are measured in months, not years. There are many small high technology firms that remain virtually unknown until they announce their product. These firms may have little, or no experience with design accessibility. In addition, the industry is highly competitive, and companies may not be willing to incorporate accessible design features into their products if they believe it involves additional development time and expense.

Designing accessible features into new information technologies early in the design process provides persons with disabilities with immediate access and is more cost effective than retrofitting. Increasingly, functions are integrated onto single chips and motherboards, obviating the need for third party accessories such as sound cards or voice input devices, and making changes or modifications to these built-in features difficult or impossible. The earlier accessibility occurs in the design process for new products, the easier it is to incorporate accessibility features.

Universal design is a process whereby environments and products are designed with built-in flexibility so they are usable by all people, regardless of age and ability, at no additional cost to the user. While advances in computers and information technologies create new opportunities for some individuals, they create barriers for others. Information presented in graphical modes (i.e., images, photographs, icons) pose problems for people who are blind unless there are built-in "hooks" that can be identified by the user's screen reader. Conversely, audio cues (beeps) do not convey information to individuals who are deaf or hard of hearing. The proliferation of public access terminals creates unique accessibility challenges. Access to these terminals requires the use of keyboards, touch screens, telephone handsets, and smart cards and will require the development of flexible, multi-modal interface techniques that can work across all disabilities.

The ability to access computer-based information technologies is quickly becoming a prerequisite for successful employment. Companies are increasingly using internal networks, commonly referred to as intranets, to share information within the company. This presents unique problems for individuals with disabilities if the company uses proprietary software and databases that are specifically designed for their company and do not follow standard protocols. In those cases, the information may be inaccessible to individuals who use assistive devices (e.g., screen readers) to access their computers.

There are emerging information and communications policy issues that will have an enormous impact on technology development. Section 508 of the Rehabilitation Act of 1973, as amended, and the Telecommunications Act of 1996 require the development of accessibility standards and guidelines that direct government agencies, Federal customers and contractors, manufacturers, and developers to address accessibility for new and existing products.

Although computer and information technologies are expanding at phenomenal rates, it is also important to recognize that there are many individuals with disabilities who have problems accessing the current generation of technologies (e.g., integrating assistive devices with existing computer workstations). Continued support and guidance for these individuals are necessary to promote access to the computers and information systems they currently use.

Proposed Priority 1

The Secretary proposes to establish an RERC on information technology access for the purposes of developing technological solutions and promoting access for individuals with disabilities to current and emerging information technologies and technology interfaces.

including hardware, software, networks, nomadic technologies, the Internet and the World Wide Web. The RERC must:

(a) Develop and evaluate technological solutions in collaboration with industry to promote accessibility and universal design at the outset of the development of information technologies including software, hardware, intranets, and nomadic technologies;

(b) Develop through research and in collaboration with industry flexible, multi-modal interface techniques for computer and information technologies that provide universal access for all individuals with disabilities;

(c) Develop and disseminate strategies for integrating current accessibility features into newer generations of computer and information systems;

(d) Develop through research and in collaboration with Federal agencies, universities and industry the technologies necessary to promote access to current and emerging generations of the Internet and the World Wide Web for persons with disabilities;

(e) Develop and evaluate technologies and strategies to promote universal access to intranet systems;

(f) Provide technical assistance to public and private organizations responsible for developing policies, guidelines and standards that affect the accessibility of information technology products and systems that are developed, manufactured, and implemented; and

(g) Provide technical assistance and guidance to individuals with disabilities and employers on accessibility problems affecting current computer and information systems.

In carrying out the purposes of the priority, the RERC shall coordinate on research projects of mutual interest with the NIDRR-funded RERC on Telecommunications.

Proposed Priority 2: Communication Enhancement

Background

Speech and language disorders affect the way people talk and understand language, range from mild to significant, and may be developmental or acquired. According to the American Speech-Language and Hearing Association (ASHA), approximately 14 million individuals may be described as having a speech/language disorder (Bello, J., *Communication Facts*, ASHA Research Division, 1994). Two million of those individuals experience significant communication disorders and need access to augmentative and alternative communication (AAC) (Beukelman, D., *Augmentative and Alternative Communication*, Vol. 11, June, 1995). For the purpose of this priority, augmentative and alternative communication refers to all forms of communication that enhance or supplement comprehension, speech, and writing, including electronic devices and communication boards.

NIDRR is proposing to define the target population for this RERC as those persons with significant communication disorders and is particularly interested in receiving public comments on how the field defines significant communication disorders.

Historically, augmentative and alternative communication has been associated with specific technologies that provide individuals who have significant communication disorders with some type of alternative output. Research documenting successful AAC use has been confined primarily to adolescents and adults with reasonably intact cognitive capabilities and moderate to significant motor impairment (Shane, H., Presentation at ASHA Annual Convention, Seattle, 1995). This limited approach does not address the needs of all persons with significant communication disorders such as persons with mental retardation, aphasia, traumatic brain injury, and autism. A more holistic approach to communication enhancement strategies for persons with significant communication disorders must take into account the complexities of human language and incorporate those factors as unique physical, cognitive, and sensory manifestations and individualized learning styles.

There is a need for new and improved AAC technologies that take the more holistic approach to AAC intervention by addressing input technologies, language processing, and output strategies for a wide range of disabilities. These new or improved technologies could address an array of issues, including, but not limited to: speed enhancement and rate of communication that enable the user to operate in or close to real-time; cosmesis and aesthetics of devices; ergonomic and human factors relationships to interventions and technologies for significant communication disorders; quality, diversity, and naturalness of speech output as it relates to a user's actual voice; human and machine interface and multiple control options; using technology to reduce the burden on users with physical disabilities; reliability, portability, and cost; and developing and disseminating measurable outcomes of research.

Studies of the brain and language acquisition emphasize the importance of addressing the language needs of toddlers and school aged children who use or could use AAC (Blackstone, S., *Augmentative Communication News*, Vol. 10, No. 1, 1997). Often children and others with significant communication disorders encounter difficulty in processing and comprehending spoken language. In order to address the needs of these children and adults with significant communication disorders, systems to enhance communication must support comprehension as well as expression.

Reading and writing are interrelated skills that emerge as part of an interactive language and communication process that begins early in life and continues for approximately 6 years. This process is referred to as emergent literacy. Users of AAC in contrast to those who do not use AAC are often found to be in a phase of emergent literacy for many more years (Koppenhaver, D., et. al., *Technology and Disability*, Vol 2., No. 3, 1993). Emergent literacy and AAC use are interrelated processes. This relationship has an impact on the way in that the next generation of technology for communication enhancement should be studied and developed. Research issues related to emergent literacy of AAC users include, but are not limited to: the effects of AAC use on reading and writing development; differences in written language development between AAC users and non-users; the effects of early AAC use on emergent literacy; and the impact of different types of technologies on better understanding and use of written language in AAC users.

Aging presents a unique challenge to AAC researchers because technologies must address linguistic, speech, and sensory deterioration as well as tolerance for technology. As persons age, the need for communication enhancement technology increases, yet, according to data reported by the National Health Interview Survey in 1990 only six-tenths of one percent of individuals aged 65 or older were using AAC technology. Elderly persons with acquired communication disorders encounter a lack of awareness on the part of service providers and an absence of communication services in general.

To date there has been only minimal attention to the job options available for persons with disabilities who use AAC. Anecdotal reports suggest that individuals with severe communication disorders are frequently considered unemployable. The high rate of unemployment results from a number of factors including, but not limited to: lack of skills, inadequate job preparation; attitudinal barriers; transportation barriers; architectural and accommodation barriers; and limitations in the AAC technology (Light, J., et. al., *AAC*, Vol. 12, 1996). Issues related to unemployment for users of AAC devices include, but are not limited to, compatibility with other technology on the worksite and the ability of the AAC user to transition easily from one task to another.

There are over 40 companies in the United States developing, manufacturing and distributing AAC devices. The next generation of development must challenge conventional AAC approaches and improve the way in that new technologies incorporate and blend principles of communication theories and engineering. Communicative competence ensures that individuals are able to attain communication goals that include expressing needs and wants, developing social skills and routines, and exchanging information (Light, J., *AAC*, Vol. 13, 1997). Communication competence is built over time through improved science, engineering, and the modification of environments, parameters, opportunities and instruction as well as improving communication tools.

Proposed Priority 2

The Secretary proposes to establish an RERC on communication enhancement to improve AAC technologies that can further the development of communication, language, natural speech, discourse skills, and literacy of persons with significant communication disorders. The RERC must:

(a) Develop and evaluate in collaboration with industry improved AAC technologies for individuals with significant communication disorders;

(b) Develop and evaluate strategies that promote literacy proficiency for AAC users;

(c) Develop and evaluate communication enhancement strategies and AAC technologies that factor in the speech, linguistic and multiple sensory needs of the elderly;

(d) Investigate and disseminate strategies to build the capacity of service providers and increase their involvement with elderly persons with significant communication disorders who use or could use AAC; and

(e) Identify barriers that negatively affect the employment status of individuals with significant communication disorders who use, or could use, AAC and develop and evaluate approaches to improve their employment status.

In carrying out the purposes of the priority, the RERC must:

- Coordinate on research projects of mutual interest with the NIDRR-funded RERC on Hearing Enhancement;
- Address the needs of individuals of all ages with significant communication disorders including, but not limited to, toddlers and the elderly; and
- Address the needs of persons with developmental disabilities and acquired disabilities including but not limited to mental retardation, aphasia, traumatic brain injury, and autism.

Proposed Priority 3: Ergonomic Solutions for Employment

Background

The familiar components of the work environment (i.e., tools, machines, and equipment) often are designed without adequate consideration for the people who must use them. Similarly, work tasks may require capabilities that individuals do not have or cannot sustain over long periods of time without injury. Improperly designed workplaces can lead to fatigue, discomfort, and injury that result in reduced productivity and increased costs for employers. These same work environment components may present additional physical barriers to persons with disabilities and negatively impact their employment status.

The Bureau of Labor Statistics estimates that 62 percent of all workplace injuries in 1995 resulted from trauma caused by repetitive stress injuries (RSI) (commonly referred to as cumulative trauma disorders or CTDs)—up from 15 percent in the early 1980s. The National Institute for Occupational Safety and Health (NIOSH) estimates that annual U.S. medical costs from repetitive stress injuries total $13 billion (NIOSH, "Musculoskeletal Disorders and Workplace Factors," July, 1997), and the Labor Department's Occupational Safety and Health Administration (OSHA) has estimated overall costs at nearly $100 billion a year when one considers lost work time, lost productivity, and retraining costs.

Ergonomics is an interdisciplinary field concerned with the performance and safety of individuals at work and how they cope with the work environment, interact with machines, and, in general, negotiate their work surroundings (Scheer, S. and Mital, A., "Ergonomics," *Archives of Physical Medicine & Rehabilitation*, Volume 78, pg. 36, March, 1997). Ergonomic principles are based on a combination of science, engineering, and biomechanics (the study of the body as a system operating under two sets of laws: Newtonian mechanics and the biological laws of life) and are used to promote the proper design of products, workplaces, and equipment (Kroemer, K.H.E., et. al., *Ergonomics: How to Design for Ease & Efficiency*, Prentice Hall, N.J., pgs. 6–7, 1994). When these principles are applied correctly, the incidence and severity of musculoskeletal disorders decrease (Stobbe, T.J., "Occupational Ergonomics and Injury Prevention," *Occupational Medicine*, pgs. 531–543, July, 1996) thereby reducing the likelihood of work related injuries and employer costs.

Cumulative trauma disorders (CTDs) are a class of musculoskeletal disorders involving nerves, tendons, muscles and supporting bony structures (i.e., back, neck, shoulders, and hands). They represent a wide range of disorders that can differ in severity from mild periodic conditions to those that are severe, chronic and debilitating. Since the early 1980s, there has been a dramatic increase in CTDs. OSHA attributes much of this increase to changes in production processes and technologies, resulting in more specialized tasks with increased repetitions and higher assembly line speeds. Two of the most frequently occurring, occupationally induced CTDs are carpal tunnel syndrome and low back pain.

Carpal tunnel syndrome is a condition caused by pressure on the median nerve as it passes through the carpal tunnel of the wrist; it results in the gradual onset of numbness and tingling in one's thumb and the first two and a half fingers of the hand.

If allowed to continue, carpal tunnel syndrome may cause pain, muscle atrophy at the base of the thumb, and clumsiness (Phalen, G.S., "The Carpal-Tunnel Syndrome: Seventeen Year's Experience in diagnosis and Treatment of Six-Hundred Fifty-Four Hands," *The Journal of Bone and Joint Surgery*, pgs. 211–228, 1966). Carpal tunnel syndrome is recognized as a disabling condition of the hand caused by excessive or repetitive movements, undesirable hand positions, or exertions that impose prolonged loads on the affected tissues (Huenting, H., et. al., "Constrained Postures in Accounting Machine Operations," *Applied Ergonomic*, Volume 11, pgs.145–149, 1980).

Improper working posture is a major factor in the development of lower back pain. The strain on one's body may be caused by external loads (e.g., when one lifts, lowers, pulls, pushes, carries, holds onto heavy objects or any combination of these factors) or by simply moving one's own body or by

maintaining postural support using muscle tension alone. In addition to the loss in function and pain, the direct and indirect costs associated with lower back injuries are significant. There is a need for reliable and validated measurement tools to measure mechanical strains within the body and to incorporate the various findings into models of strains and capabilities (Kroemer, K.H.E., op. cit., pgs. 473–475).

The ability to perform physical work depends greatly upon a number of variables including an individual's age, size, strength, overall health and fitness, training, motivation, and one's physical dexterity. A common approach to matching an individual's work capacity with specific job tasks is to assess the individual's overall energy capacity by measuring heart rate and oxygen consumption while on a treadmill or bicycle ergometer and then comparing that information with the amount of energy it takes for a "normal" person to do the specific job tasks (Kroemer, K.H.E, op. cit., pgs. 118–131). Improper matches can lead to early fatigue, and impact a person's ability to do the job tasks safely and efficiently.

Individuals with disabilities present unique ergonomic challenges particularly if they use assistive devices to overcome deficits and function independently. The use of ergonomic knowledge in rehabilitation engineering is widespread, ranging from wrist splints to environmental control systems. Technology for people with significant disabilities depends increasingly on the development and implementation of sophisticated devices including voice input systems, screen readers, and eye tracking systems. However, development alone of those types of devices does not ensure success. It is sometimes necessary to quantitatively measure one's residual capabilities and energy capacity and compare these results with specific job tasks. After selecting the appropriate ergonomic solutions, it is necessary to have the individual demonstrate the usability of those solutions within the worksite environment and make the necessary changes or adaptations to ensure proper use and fit. There are testing devices and procedures that have been developed to quantitatively measure the residual capabilities of impaired persons, such as the Basic Elements of Performance Test and the Available Motions Inventory Test (Smith, R.V. and Leslie, J.H., *Rehabilitation Engineering*, CRC Press, pgs. 127–143, 1990). These tests measure an individual's ability for specific tasks (i.e., reach, grasp, manipulation), but do not measure one's ability to incorporate complex assistive devices into the workplace of people with significant disabilities.

Elderly individuals are working longer than ever before and the proportion of people with work disability (defined as a limitation in work due to chronic illness or impairment) increases with age (Disability Statistics Program, "People with Work Disability in the U.S.," *Disability Statistics Abstract*, U.S. Department of Education, Volume 4, May, 1992). Older workers face unique ergonomic challenges due to other changes that occur naturally as part of the aging process (i.e., changes in biomechanical features, respiratory capabilities, visual functions, hearing, reaction times, etc). Without proper ergonomic design and strategies, older workers could well find themselves at an unnecessary disadvantage due to compromised productivity and health.

Proposed Priority 3

The Secretary proposes to establish an RERC on ergonomic solutions for employment to develop ergonomic strategies and devices to reduce and prevent the outset of cumulative trauma disorders and to assist persons with disabilities in obtaining and maintaining appropriate employment. The RERC must:

(a) Investigate the biomechanical factors that lead to cumulative trauma disorders including, but not necessarily limited to, carpal tunnel syndrome and low back injuries;

(b) Develop and evaluate worksite ergonomic analysis tools to determine the causes of ergonomic stress associated with repetitive motions, awkward postures, and excessive energy expenditure;

(c) Investigate and improve existing ergonomic strategies and devices used to prevent cumulative trauma disorders and develop new strategies when appropriate;

(d) Design and develop ergonomic strategies and devices for integration of ergonomic solutions for workers with disabilities; and

(e) Design and develop ergonomic strategies and devices to reduce and prevent cumulative trauma disorders among elderly workers.

In carrying out the purposes of the priority, the RERC shall coordinate on research projects of mutual interest with the RRTC on Workplace Supports to Improve Employment Outcomes.

Proposed Priority 4: Hearing Enhancement

Background

Individuals whose hearing is impaired, but who can understand conversational speech with, or without, amplification are hard-of-hearing (HoH). Individuals classified as HoH range in age from infants to the elderly. The National Center for Health Statistics (NCHS), using the "Gallaudet Hearing Scale" that is self-reporting and quantifies the amount of interference with hearing in ordinary day-to-day situations, estimates that the number of persons who are HoH and who might benefit from using a hearing aid ranges from 20 million to 22 million ("National Health Survey," Series 10, No. 188, 1994).

Developments over the past five years have resulted in significant growth in digital hearing aid technology, improved evaluation of hearing loss, especially in very young children, improved computer assisted fitting of hearing aids, and more cosmetically acceptable hearing aids that do not sacrifice important functions for the sake of appearance. Modern science and technology continue to offer even greater opportunity for improvements in the simplification and automation of hearing loss evaluation and in the proper fitting of appropriate hearing aids to individual users. Concurrently there have been important developments in related areas, such as assistive listening devices (ALDs) and in automatic speech recognition (ASR), a technology that enables a person to dictate words into a microphone and have those words converted into computer-language text. The 1996 National Strategic Plan of the National Institute on Deafness and Other Communication Disorders (NIDCD) reflects a growing realization that new technology offers potential relief from the symptoms of tinnitus. New developments in ultra-thin circuit boards and chips, flash ROM, better power management, and other forms of emerging technology offer increasing opportunities to expand features available in the next generation of hearing enhancing devices.

While improving, consistent and early identification of hearing loss in small children remains problematic. The diagnostic technology needs to be simplified and made available to pediatric and child care personnel with minimal training in audiology.

The proper fitting of hearing aids ensures that tonal quality, amplification levels, and environmental noise are controlled to the maximum extent possible. New developments in sophisticated digital hearing technology must be accompanied by new training and fitting procedures to ensure that new multi-channel aids deliver maximum performance.

Tinnitus affects about 17 percent of the general population and about 33 percent of the elderly (Jastreboff, P. and Hazell, J., "Neurophysiological Approaches to Tinnitus" *British Journal of Audiology*, 1993). Tinnitus is described as an incessant ringing in the ears or other head noise that is heard when there is no external cause for that noise. Currently, there is no cure for tinnitus (Goldstein, B. & Shulman, A., "Tinnitus Masking—A Longitudinal Study of Efficacy/Diagnosis 1977–1994." Proceedings of the Fifth International Tinnitus Seminar, 1995). Often, tinnitus accompanies hearing loss. However, there are cases of severe hearing loss without tinnitus. Tinnitus also occurs without evidence of other auditory system diseases or disorders.

This variation drives the need for better dual channel hearing aid/tinnitus maskers and single channel tinnitus maskers. Although there are currently some devices on the market that combine amplification and masking, those efforts have not been widely accepted, possibly because recent technical developments in miniaturizing have not been fully exploited (Gold, S., et. al., "Selection and Fitting of Noise Generators and Hearing Aids for Tinnitus Patients." Proceedings of the Fifth International Tinnitus Seminar, 1995).

In recent years there have been significant advances in assistive devices that enhance the ability of individuals to integrate more successfully in personal and business arenas. In a survey by one of the largest organizations for the HoH, Self-Help for the Hard of Hearing (SHHH), it was found that nearly half of its membership used assistive listening devices, both personal devices and large room systems (Sorkin, D., "Understanding Our Needs: The SHHH Member Survey Looks at Hearing Aids." *SHHH Journal*, Vol. 16, No. 4, 1995). Perhaps the most promising new technology for broadening the application of assistive devices is ASR. The potential for using speech-to-print mechanisms based on ASR offers promising benefits including real-time transcription in meetings and automated telephone relay services to HoH persons. However, the mechanisms to realize the full potential of those benefits for this population remain to be developed.

There is a need for improvements in the shielding of hearing aid components from the emission of extraneous electronic signals. The Federal government is working to establish standards to reduce those signals from a multitude of devices regulated by the Federal Communications Commission (FCC). However, the probability of blanket suppression of all sources is low.

Proposed Priority 4

The Secretary proposes to establish an RERC on hearing enhancement to develop new and improve existing technologies for persons who are HoH. The RERC must:

(a) Evaluate current technology available for hearing aids, ALDs, tinnitus maskers, and ASR systems and develop improvements for these technologies including, but not limited to, improved shielding for extraneous electronic signals and new training and fitting procedures for new multi-channel aids;

(b) Develop and evaluate new, emerging technology for integration into more advanced versions of next generation hearing aids and ALDs;

(c) Automate and simplify methods for conducting hearing loss evaluation in infants, children, and adults;

(d) Develop training and technical assistance materials and provide training and technical assistance to hearing aid developers, technicians, and appropriate organizations representing persons who are HoH to enable them to effectively address the hearing enhancement needs of individuals who are HoH;

(e) Develop and evaluate protocols for incorporating improved tinnitus masking technology into next generation hearing aid models;

(f) Develop and evaluate protocols for efficient integration of ASR with interfacing needs of persons with hearing loss including, but not limited to, "real-time captioning," automated relay telephone systems, and personal hand-held communicators; and

(g) Develop training and technical assistance materials and provide training and technical assistance to hearing aid fitters, pediatric and audiology personnel, appropriate counseling organizations, and organizations representing people who are HoH to enable them to address effectively the hearing aid needs and adjustment to hearing loss problems experienced by persons who are HoH and also to provide appropriate counseling and guidance to individuals who experience tinnitus;

In carrying out the purposes of the priority, the RERC shall coordinate on research projects of mutual interest with the NIDRR-funded RERCs on Universal Telecommunications Access and Communication Enhancement and the NIDRR-funded RRTC on HoH/Late Deafened.

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Note: The official version of this document is the document published in the **Federal Register**.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed priorities. All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in Room 3424, Switzer Building, 330 C Street S.W., Washington, D.C., between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday of each week except Federal holidays.

Applicable Program Regulations: 34 CFR Parts 350 and 353.

Program Authority: 29 U.S.C. 760–762. (Catalog of Federal Domestic Assistance Number 84.133E, Rehabilitation Engineering Research Centers)

Dated: October 23, 1997.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

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Part VII

Department of Education

National Awards Program for Model Professional Development Inviting Applications for New Awards for Fiscal Year (FY) 1998; Notices

DEPARTMENT OF EDUCATION

RIN 1890–ZA02

National Awards Program for Model Professional Development

AGENCY: Department of Education.

ACTION: Notice of final eligibility and selection criteria.

SUMMARY: The Secretary announces eligibility and selection criteria to govern the National Awards Program for Model Professional Development for Fiscal Year 1998. Under these criteria, the National Awards Program will recognize a variety of schools (public and private) and school districts with model professional development activities in the pre-kindergarten through twelfth grade levels that have led to increases in student achievement.

EFFECTIVE DATE: These criteria take effect December 1, 1997.

FOR FURTHER INFORMATION CONTACT: Sharon Horn, Office of Educational Research and Improvement, U.S. Department of Education, 555 New Jersey Avenue, NW, Room 506e, Washington, DC 20208–5644. Telephone: 202–219–2203 or 202–219–2187. Inquiries also may be sent by e-mail to sharon__horn@ed.gov or by FAX at 202–219–2198. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION: Through this notice the Secretary announces definitions and criteria to govern applications for recognition submitted under the second National Awards Program for Model Professional Development. This program began in 1996, in coordination with a wide range of national education organizations, to highlight and recognize schools and school districts whose professional development activities are aligned with the statement of Mission and Principles of Professional Development that the Department developed in 1994. See Appendix A. This second National Awards Program, to be conducted during Fiscal Year (FY) 1998, will be implemented in ways similar to last year's program (see, for example, the Notice Inviting Applications for Awards published in the **Federal Register** on June 14, 1996 at 61 FR 30450) but with criteria designed to better inform applicants of the kind of information that successful applicants will need to provide. Again this year, the Secretary intends to recognize successful applicants at a ceremony in Washington, DC, and present each successful applicant with an award of not less than $5,000 that the recipient could use to expand, promote, or publicize its professional development activities.

The reasons for wanting to continue the National Awards Program are clear. Schools and school districts throughout the Nation are undertaking efforts to raise academic standards and to improve the academic achievement of all students. For these efforts to be successful they must include strategies for permitting teachers (and other school and local educational agency (LEA) staff) to obtain the skills and knowledge they need to enable all students to achieve. Indeed, whatever the school reform initiative, teachers are the core. However, teachers need access to new knowledge and skills to enable them to continue to teach to higher standards and to respond to the challenges facing education today.

Realizing that high-quality professional development must be at the core of any effort to achieve educational excellence, the Secretary in 1994 directed a broadly representative team within the U.S. Department of Education to examine the best available research and exemplary practices related to professional development and work with the field to develop a set of basic principles of high-quality professional development. Out of this national effort came the Department's Statement of Mission and Principles of Professional Development. This statement reflected both extensive collaboration with a wide range of education constituents and review of public comment received on a draft Statement of Mission and Principles of Professional Development published in the **Federal Register** on December 9, 1994 (59 FR 63773). The Department issued the final Statement of Mission and Principles (Appendix A) in 1995 after review of public comment and re-examination of the best available research on exemplary practices. This Statement—grounded in the practical wisdom of leading educators across the country—describes the kind of professional development that, if implemented, maintained, and supported, will have a positive and lasting effect on teaching and learning in America.

The Statement of Mission and Principles of Professional Development represents a framework for guiding school and school district staff as they design and implement their professional development activities. Many of the same national education organizations that worked with the Department to develop the Mission and Principles of Professional Development sought the Department's help last year in identifying and recognizing those professional development efforts across the pre-kindergarten through twelfth grade spectrum that reflect the Mission and Principles. Given the efforts of schools and school districts throughout the Nation to pursue school reform initiatives, the Secretary agreed with these organizations about the urgent need to identify sites whose professional development activities can be models for other schools and districts that are working to enhance their own professional development activities.

Therefore, the Secretary last year announced the first National Awards Program for Model Professional Development. The public expressed great interest in the program, and the Department received over 100 applications. In February of this year, the Department recognized five schools and school districts in Massachusetts, Connecticut, Kansas, and California for the high quality of their professional development activities and the link between those activities and improved student learning. But the importance of high-quality professional development to successful strategies to increase student achievement demands that this awards program be continued and that more schools and school districts have the opportunity for national recognition. Therefore, the Secretary is pleased to announce definitions and criteria to govern the second National Awards Program.

On August 19, 1997, the Acting Assistant Secretary for Educational Research and Improvement published a notice of proposed eligibility and selection criteria for this program in the **Federal Register** (62 FR 44194–98). In response to public comment, the final eligibility criteria invite applicants to identify and describe any important partnering with institutions of higher education and other entities that have contributed to the high quality of their professional development activities. Otherwise, except for minor editorial revisions made to enhance clarity, there are no differences between the eligibility and selection criteria proposed in that notice and the final eligibility and selection criteria announced in this notice.

Note: This notice does not solicit applications. A notice inviting applications under this competition is published elsewhere in this edition of the **Federal Register**.

Summary of Comments and Changes

In response to the invitation in the notice of proposed eligibility and selection criteria, the Department received two comments.

Comment: One commenter noted that his State requires professional development to be aligned with State education standards, and requested that the "Supplementary Information" section of the notice state that successful applicants must demonstrate a link between their professional development activities and improved student achievement and teacher effectiveness "toward attaining State standards."

Discussion: The notice of proposed eligibility and selection criteria would have required applicants to demonstrate a link between their professional development activities and "high" standards. These high standards are the content and student performance standards that states and school districts have adopted or are adopting as key parts of their strategies to increase student achievement. Upon review of the commenter's suggestion, no change in the background discussion contained in the "Supplementary Information" section of the notice seems necessary. However, the language of Selection Criterion B, "Goals and Outcomes," has been clarified to require applicants to address "how professional development goals and outcomes promote teaching and learning to State or local standards, or both." Moreover, while alignment with challenging State content and student performance standards is crucial to successful education reform, the language of the criterion is not limited to "State standards" so as not to penalize schools and districts with local standards that now are more rigorous than their States' standards.

Changes: Selection Criterion B, "Goals and Outcomes," has been changed accordingly.

Comment: One commenter noted the importance that institutions of higher education (IHEs) play in promoting high-quality professional development at the school and school district level, and urged that eligibility for the National Awards Program be extended to IHEs.

Discussion: Individual IHEs do play an increasingly important role in helping many schools and school districts improve the quality of their professional development activities. However, the Secretary has determined that eligibility for the program should continue to be limited to schools and school districts—the places where K–12 teaching and learning actually occurs—both to maintain focus on the quality professional development within schools and school districts, and because of the difficulty of using common criteria to evaluate the relative merit of applications that otherwise would come from such very different kinds of institutions.

Changes: In view of the comment, the "Eligibility Criteria" section of this notice now specifically invites applicants to describe their partnerships with IHEs and other entities in their applications.

Comment: None.

Discussion: The discussion of "Proposed Selection Procedures" contained in the Notice of Proposed Eligibility and Selection Criteria failed to advise the public that, like last year, the Secretary expects to give recognition under this National Awards Program to no more than ten schools and school districts. In addition, the proposed notice stated that the Secretary anticipated the size of a recipient's monetary award to be between $5,000 and $10,000. While the Secretary still hopes that this is the case, this notice clarifies that the Department anticipates that each successful applicant will receive a monetary award of no less than $5,000.

Changes: The "Selection Procedures" portion of this notice has been changed accordingly.

Eligibility Criteria

As with last year's program, eligible applicants are schools and school districts in the States (including schools located on Indian reservations, and in the District of Columbia, Puerto Rico, and the outlying areas) serving students in the pre-kindergarten through twelfth grade range. While only schools and school districts may apply, the Secretary recognizes that the high quality of a school or district's professional development activities may be the result of its successful partnering with institutions of higher education and other entities such as public and private nonprofit organizations, businesses, and community organizations. The Secretary invites applicants to describe these partnerships in their National Award Program applications.

In addition, this year's program retains application selection criteria that are built on two key elements: (1) A demonstration that the professional development activities are fully aligned with the Mission and Principles of Professional Development, and (2) a demonstration of how, consistent with the Mission and Principles, the professional development activities benefit all affected students and have led to improved student achievement and improved teacher effectiveness. As noted above, the Statement of Mission and Principles of Professional Development reflects broad agreement on what is "best practice." It was prepared in collaboration with a great many national educational associations and upon review of public comment. The Secretary believes that professional development activities can only be considered exemplary if they, in fact, are linked to increased student achievement.

Again this year, the format of applications remains fairly simple. However, the application material has been revised to better identify topics applicants will need to consider in order to demonstrate alignment with the Mission and Principles of Professional Development and a link to increased student achievement. In addition, to promote fairness among those seeking recognition under the National Awards Program, all applications must be prepared in accordance with formatting instructions included in the application packet.

Selection Criteria

Applicants are free to respond to these selection criteria in any way they choose as long as they comply with the formatting requirements set out in the application packet. The degree to which applicants demonstrate alignment with the Mission and Principles of Professional Development and a link to increased student achievement will be evaluated using the following criteria:

Guiding Principles

In evaluating applications for the National Awards Program, reviewers will look to see whether the application, taken as a whole, demonstrates that the school's or school district's professional development activities are comprehensive and lead to improved teacher effectiveness and increased student achievement. In doing so, reviewers will be guided by the extent to which and how well applicants respond to the following criteria, the most important of which would concern objective evidence of success. Each criterion includes one or more questions that are designed to help applicants formulate their responses. It is not necessary for applicants to answer each question individually. But, taken as a whole, the description of their professional development activities must address each criterion and provide enough information so that reviewers

can determine whether the school's or district's professional development is comprehensive and leads to improved teacher effectiveness and increased student achievement. In this regard, this description must provide evidence of improved student achievement and show how the improvement is linked to the professional development activities that have been implemented.

A. Background and Overview of Professional Development

In this section applicants must provide a brief explanation of why they consider professional development in their schools or districts exemplary by describing its key components and relating those to the U.S. Department of Education's Mission and Principles of Professional Development. This description must provide evidence that the professional development activities are not narrowly focused on one subgroup of students or staff within the school or district.

In responding to this criterion, applicants should consider the following questions:

1. What are the infrastructure, content, and process components of professional development in the school or district?

2. How does professional development in the school or district reflect the U.S. Department of Education's Mission and Principles of Professional Development?

3. Why is professional development in the school or district exemplary?

B. Goals and Outcomes

In this section, applicants must describe their professional development goals, how they were developed, how they relate to school improvement, and how they are based on needs assessment and address the achievement of all students (regardless of gender; socio-economic level; disadvantaged status; racial, ethic or cultural background; exceptional abilities or disabilities; or limited English proficiency). Applicants also must address the changes in teaching and student learning that are expected to result from professional development. In doing so, they must include how professional development goals and outcomes promote teaching and learning to State or local standards, or both.

In responding to this criterion, applicants should consider the following questions:

1. What are the broad goals of professional development in its school or district?

2. What are the goals for ALL students' achievement through professional development?

3. What are the ways that the professional development goals are connected to long-term school improvement plans?

4. What process was used to create the professional development goals and plan, and who was involved in the development?

5. What are the ways in which teachers' professional development needs are assessed and incorporated in the plan for professional development?

6. How do the professional development goals and outcomes focus on increasing teachers' expertise in teaching to high standards?

7. What changes in teaching and student learning result from participation in professional development in the school or district? What is the rationale for believing these changes would result in improved teaching and learning?

C. Professional Development Design and Implementation

Overall, the applicant's response to this section must show how the context, content, and processes of its professional development activities are consistent with the Department's Mission and Principles of Professional Development. The description must provide evidence that professional development reflects research and best practice; includes comprehensive evaluation; includes organizational structures (e.g., administrative policy and support) and resources (e.g., use of time, expertise, funds) that support it; promotes continuous inquiry and improvement; and ensures that the larger school community understands its importance to school improvement.

The applicant must describe the data-based processes that are used for ensuring that professional development is connected to the school or district improvement plan and that the professional development design supports the attainment of expected changes in teaching practice and student learning. The description must include any formal and informal processes used to routinely collect information for monitoring how the school or district is progressing toward its goals; for assessing the links between the plan, professional development activities, and teacher and student outcomes; and for adjusting what isn't working.

Applicants already integrating technology into classroom instruction also must include a discussion of how professional development has contributed to ensuring that technology is an effective teaching tool or, if applicable, how technology has been used to support effective professional development.

In responding to this criterion, applicants should consider the following questions:

1. How is professional development a part of what ALL teachers do? What role do administrators and other members of the school community play in professional development?

2. How do the applicant's professional development design and activities reflect research and best practice?

3. How does the applicant's professional development design and activities reflect comprehensive evaluation? What data are routinely collected to assess the alignment of program activities and outcomes? How are collected data used to refine professional development?

4. Why were the specific content, instructional strategies, and learning activities selected for professional development?

5. What are the processes for ensuring and documenting that the improvement plans, professional development activities, and teacher and student outcomes are in alignment?

6. What structures support the implementation of professional development at individual, collegial and organizational levels?

7. What resources and types of sustained support (financial and other) are available for professional development for individuals, groups, and the whole school or district? How are current resources obtained?

8. How does the applicant ensure that the school community understands how the professional development components fit together and connect to the overall school plan?

D. Objective Evidence of Success

This portion of the application is fundamental to the characterization of the applicant's professional development and is the *most important selection criterion* that reviewers will use. Applicants must demonstrate clearly that teacher effectiveness and student learning have improved as a direct result of the implemented professional development. Data that indicate this connection must be provided and discussed; the focus is objective evidence. In doing so, applicants are expected to make a compelling argument for how professional development positively affects outcomes for all teachers and all students, emphasizing areas where any achievement gaps between groups (e.g., gender, socio-economic status, ethnicity) have been closed.

In responding to this criterion, applicants should consider the following questions:

1. What evidence is there that demonstrate that professional development in the school or district has improved the effectiveness of all teachers?

2. What evidence is there that professional development in the school or district has improved student achievement across all grade levels and all subject areas?

3. What evidence is there that professional development in the school or district leads to a narrowing of existing achievement gaps between groups of students?

E. Implications for the Field

In this section of the application, applicants must describe the lessons learned as their professional development activities have matured.

In responding to this criterion, applicants should consider the following questions:

1. What knowledge and documentation (e.g., training materials, strategies, or processes) are available that can benefit others?

2. What lessons and practical advice about providing quality professional development has the applicant learned that other schools and districts could use?

Selection Procedures

The Secretary will evaluate applications using unweighted selection criteria. The Secretary believes that the use of unweighted criteria is most appropriate because they will allow the reviewers maximum flexibility to apply their professional judgments in identifying the particular strengths and weaknesses in individual applications. However, to receive recognition under the National Awards Program, reviewers will need to find that the applicant's professional development activities reflect model practices as evidenced by exemplary responses to *each* of the criteria identified under the "Selection Criteria" section of this notice. A key element in review of any application will be the extent to which the applicant demonstrates clear links between professional development activities and increases in student achievement. See Selection Criteria D, *Objective Evidence of Success*. In analyzing the response to Selection Criterion E, *Implications for the Field*, reviewers will not expect the same level of specificity from applications as will be expected in response to the other selection criteria.

In examining the response to Selection Criterion E, reviewers will be primarily interested in seeing that applicants have considered the lessons they have learned and can pass on to others.

After an initial screening, the Department will use outside panels of experts to evaluate the quality of the applications against these basic criteria. This stage in the process may include telephone interviews with project contacts to discuss and clarify information, and will lead to the selection of up to twenty semifinalists. The Department then will use outside experts to conduct site visits, which may involve the examination of documentation to confirm the effectiveness of the semifinalists' professional development activities, and the collection of additional supporting information from them. Based on the recommendations of the site reviewers (and possibly through a final panel of outside experts), the Secretary will select those schools or school districts that merit national recognition. Again this year, the Secretary intends to recognize up to ten schools and school districts with the very best professional development practices at a national ceremony in Washington, DC. Successful applicants also will receive other forms of recognition including a monetary award that the Department anticipates will be no less than $5,000 per recipient. Recipients will be able to use these funds to support their professional development activities and make them known to others.

Paperwork Reduction Act of 1995

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Program Authority: 20 U.S.C. 8001.

Dated: October 24, 1997.

Ricky T. Takai,

Acting Assistant Secretary for Educational Research and Improvement.

Appendix A—Mission and Principles of Professional Development, U.S. Department of Education—Professional Development Team

July 5, 1995

Professional development plays an essential role in successful education reform. Professional development serves as the bridge between where prospective and experienced educators are now and where they will need to be to meet the new challenges of guiding *all* students in achieving to higher standards of learning and development.

High-quality professional development as envisioned here refers to rigorous and relevant content, strategies, and organizational supports that ensure the preparation and career-long development of teachers and others whose competence, expectations and actions influence the teaching and learning environment. Both pre- and in-service professional development require partnerships among schools, higher education institutions and other appropriate entities to promote inclusive learning communities of everyone who impacts students and their learning. Those within and outside schools need to work together to bring to bear the ideas, commitment and other resources that will be necessary to address important and complex educational issues in a variety of settings and for a diverse student body.

Equitable access for all educators to such professional development opportunities is imperative. Moreover, professional development works best when it is part of a systemwide effort to improve and integrate the recruitment, selection, preparation, initial licensing, induction, ongoing development and support, and advanced certification of educators.

High-quality professional development should incorporate *all* of the principles stated below. Adequately addressing each of these principles is necessary for a full realization of the potential of individuals, school communities and institutions to improve and excel.

The mission of professional development is to prepare and support educators to help all students achieve to high standards of learning and development.—Professional Development

- Focuses on teachers as central to student learning, yet includes all other members of the school community;
- Focuses on individual, collegial, and organizational improvement;
- Respects and nurtures the intellectual and leadership capacity of teachers, principals, and others in the school community;
- Reflects best available research and practice in teaching, learning, and leadership;
- Enables teachers to develop further expertise in subject content, teaching strategies, uses of technologies, and other essential elements in teaching to high standards;
- Promotes continuous inquiry and improvement embedded in the daily life of schools;
- Is planned collaboratively by those who will participate in and facilitate that development;
- Requires substantial time and other resources;
- Is driven by a coherent long-term plan;
- Is evaluated ultimately on the basis of its impact on teacher effectiveness and student learning; and this assessment guides subsequent professional development efforts.

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DEPARTMENT OF EDUCATION

National Awards Program for Model Professional Development; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1998

Purpose of the Program: To recognize a variety of schools and school districts with model professional development activities in the pre-kindergarten through twelfth grade levels that have led to increases in student achievement. The FY 1998 competition focuses on schools and school districts that meet the eligibility and selection criteria for this program, as published elsewhere in this issue of the **Federal Register**.

Eligible Applicants: Schools (public and private) and school districts in the States (including schools located on Indian reservations, and in the District of Columbia, Puerto Rico, and the outlying areas).

Deadline for the Transmittal of Applications: January 15, 1998.

Applications Available: November 3, 1997.

Estimated Range of Awards: Not less than $5,000.

Estimated Number of Awards: 10.

Note: The Department is not bound by any estimates in this notice.

Eligibility and Selection Criteria: The eligibility and selection criteria and selection procedures in the notice of final eligibility and selection criteria for this program, as published elsewhere in this issue of the **Federal Register**, apply to this competition.

For Application Information Contact: To obtain a copy of the application or to obtain information on the program, call or write Sharon Horn, Office of Educational Research and Improvement, U.S. Department of Education, 555 New Jersey Avenue, NW—Room 506e, Washington, DC 20208–5644. Telephone: 202–219–2203 or 202–219–2187. Inquiries also may be sent by e-mail to sharon__horn@ed.gov or by FAX at 202–219–2198. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Individuals with disabilities may obtain a copy of the application package in an alternate format, also, by contacting that person. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

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Dated: October 24, 1997.

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Ricky T. Takai,

Acting Assistant Secretary for Educational Research and Improvement.

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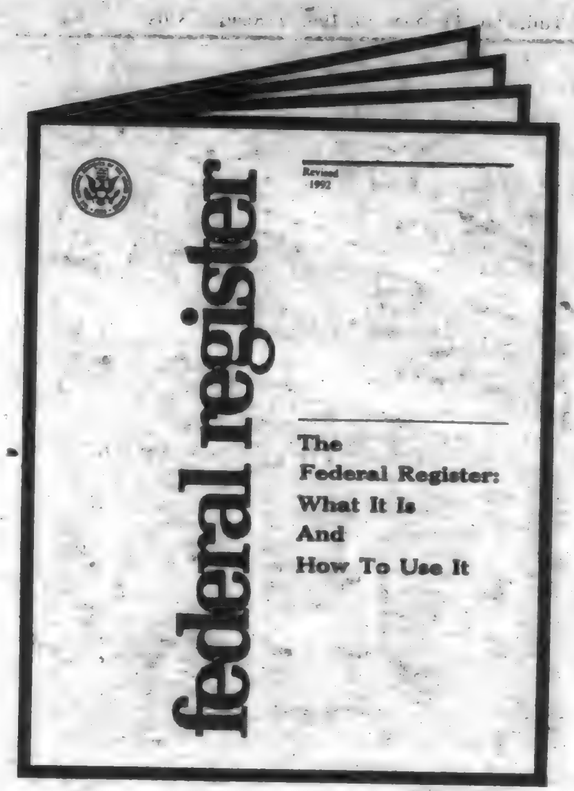

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. 136CE, Special Conditions 23–ACE–67]

Special Conditions; Sino Swearingen Model SJ30–2 Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are being issued to become part of the type certification basis for the Sino Swearingen Aircraft Company Model SJ30–2 airplane. This new airplane will have novel and unusual design features not addressed in the airworthiness standards for normal, utility, acrobatic, and commuter category airplanes. These design features include a high operating altitude (49,000 feet), swept wings and stabilizer, performance characteristics, large fuel capacity, and protection for the electronic engine control and flight and navigation systems from high intensity radiated fields, for which the applicable regulations do not contain adequate or appropriate airworthiness standards. These special conditions contain the additional airworthiness standards that the Administrator considers necessary to establish a level of safety equivalent to that existing in the current business jet fleet and expected by the user of this class of aircraft.

EFFECTIVE DATE: December 1, 1997.

FOR FURTHER INFORMATION CONTACT: Lowell Foster, Aerospace Engineer, Standards Office (ACE–110), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, Room 1544, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 426–5688.

SUPPLEMENTARY INFORMATION:

Background

On October 9, 1995, Sino Swearingen Aircraft Company, 1770 Sky Place Boulevard, San Antonio, Texas 78216, made application for normal category type certification of its Model SJ30–2 airplane, a six-to-eight place, all metal, low-wing, T-tail, twin turbofan engine powered airplane with fully enclosed retractable landing gear. The SJ30–2 will have a V_{MO}/M_{MO} of 320 kts/M=.83, and will have engines mounted aft on the fuselage.

Type Certification Basis

Type certification basis of the Model SJ30–2 airplane is: 14 CFR Part 23, effective February 1, 1965, through Amendment 23–52, effective July 25, 1996; 14 CFR Part 36, effective December 1, 1969, through the amendment effective on the date of type certification; 14 CFR Part 34; exemptions, if any; and the special conditions adopted by this rulemaking action.

Discussion

Special conditions may be issued and amended, as necessary, as part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with 14 CFR Part 21, § 21.17(a)(1), do not contain adequate or appropriate safety standards because of novel or unusual design features of an airplane. Special conditions, as appropriate, are issued in accordance with 14 CFR Part 11, § 11.49, after public notice, as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and become part of the type certification basis as provided by part 21, § 21.17(a)(2).

Protection of Systems From High Intensity Radiated Fields (HIRF)

Recent advances in technology have led to the application in aircraft designs of advanced electrical and electronic systems that perform functions required for continued safe flight and landing. Due to the use of sensitive solid state advanced components in analog and digital electronics circuits, these advanced systems are readily responsive to the transient effects of induced electrical current and voltage caused by the HIRF. The HIRF can degrade electronic systems performance by damaging components or upsetting system functions.

Furthermore, the HIRF environment has undergone a transformation that was not foreseen when the current requirements were developed. Higher energy levels are radiated from transmitters that are used for radar, radio, and television. Also, the number of transmitters has increased significantly. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling to cockpit-installed equipment through the cockpit window apertures is undefined.

The combined effect of the technological advances in airplane design and the changing environment has resulted in an increased level of vulnerability of electrical and electronic systems required for the continued safe flight and landing of the airplane. Effective measures against the effects of exposure to HIRF must be provided by the design and installation of these systems. The accepted maximum energy levels in which civilian airplane system installations must be capable of operating safely are based on surveys and analysis of existing radio frequency emitters. These special conditions require that the airplane be evaluated under these energy levels for the protection of the electronic system and its associated wiring harness. These external threat levels, which are lower than previous required values, are believed to represent the worst case to which an airplane would be exposed in the operating environment.

These special conditions require qualification of systems that perform critical functions, as installed in aircraft, to the defined HIRF environment in paragraph 1 or, as an option to a fixed value using laboratory tests, in paragraph 2, as follows:

(1) The applicant may demonstrate that the operation and operational capability of the installed electrical and electronic systems that perform critical functions are not adversely affected when the aircraft is exposed to the HIRF environment defined below:

FIELD STRENGTH VOLTS/METER

Frequency	Peak	Average
10–100 KHz	50	50
100–500	60	60

FIELD STRENGTH VOLTS/METER—Continued

Frequency	Peak	Average
500–2000	70	70
2–30 MHz	200	200
30–70	30	30
70–100	30	30
100–200	150	30
200–400	70	70
400–700	700	80
700–1000	1700	240
1–2 GHz	5000	360
2–4	4500	360
4–6	7200	300
6–8	2000	330
8–12	3500	270
12–18	3500	330
18–40	780	20

or,

(2) The applicant may demonstrate by a system test and analysis that the electrical and electronic systems that perform critical functions can withstand a minimum threat of 100 volts per meter, peak electrical field strength, from 10 KHz to 18 GHz. When using this test to show compliance with the HIRF requirements, no credit is given for signal attenuation due to installation.

A preliminary hazard analysis must be performed by the applicant, for approval by the FAA, to identify electrical and/or electronic systems that perform critical functions. The term "critical" means those functions whose failure would contribute to, or cause, a failure condition that would prevent the continued safe flight and landing of the airplane. The systems identified by the hazard analysis that perform critical functions are candidates for the application of HIRF requirements. A system may perform both critical and non-critical functions. Primary electronic flight display systems, and their associated components, perform critical functions such as attitude, altitude, and airspeed indication. The HIRF requirements apply only to critical functions.

Compliance with HIRF requirements may be demonstrated by tests, analysis, models, similarity with existing systems, or any combination of these. Service experience alone is not acceptable since normal flight operations may not include an exposure to the HIRF environment. Reliance on a system with similar design features for redundancy as a means of protection against the effects of external HIRF is generally insufficient since all elements of a redundant system are likely to be exposed to the fields concurrently.

Performance

The Sino Swearingen Model SJ30–2 has a main wing with 30 degrees of leading-edge sweepback that employs leading-edge slats and Fowler-flaps. The airplane has a T-tail with trimmable horizontal stabilizer and 30 degrees of leading-edge sweepback. There are two medium bypass ratio turbofan engines mounted on the aft fuselage.

Previous certification and operational experience with airplanes of like design in the transport category reveal certain unique characteristics compared to conventional aircraft certificated under part 23. These characteristics have caused safety problems in the past when pilots attempted takeoffs and landings, particularly with a large variation in temperature and altitude, using procedures and instincts developed with conventional airplanes.

One of the major distinguishing features of a swept-wing design not considered in current part 23 is a characteristically flatter lift curve without a "stall" break near the maximum coefficient of lift, as in a conventional wing. The "stall" separation point may occur at a much higher angle of attack than the point of maximum lift and the angle of attack for maximum lift can be only recognized by precise test measurements or specific detection systems. This phenomenon is not apparent to a pilot accustomed to operating a conventional airplane where increasing angle of attack produces increased lift to the point where the wing stalls. In a swept-wing design, if the pilot does not operate in accordance with established standards developed through a dedicated test program, increasing angle of attack may produce very little lift yet increase drag markedly to the point where flight is impossible. These adverse conditions may be further compounded by the characteristics of turbofan engines, including specified N_1/N_2 rotational speeds, temperature, and pressure limits that make its variation in thrust output with changes in temperature and altitude more complex and difficult to predict. In recognition of these characteristics, Special Civil Air Regulations No. SR–422, and follow-on regulations, established weight-altitude-temperature (WAT) limitations and procedures for scheduling takeoff and landing for turbine powered transport category airplanes, so the pilot could achieve reliable and repeatable results under all expected conditions of operation. This entails specific tests such as minimum unstick speed, V_{MU}, to ensure that rotation and fly-out speeds are correct and that the airplane speed schedule will not allow the airplane to lift off in ground effect and then be unable to accelerate and continue to climb out. In conjunction with the development of takeoff and landing procedures, it was also necessary to establish required climb gradients and data for flight path determination under all approved weights, altitudes, and temperatures. This enables the pilot to determine, before takeoff, that a safe takeoff, departure, and landing at destination can be achieved.

Takeoff

Based upon the knowledge and experience gained with similar high speed, high efficiency, turbojet airplanes with complex high lift devices for takeoff and landing, special conditions require performance standards for takeoff, takeoff speeds, accelerate-stop distance, takeoff path, takeoff distance, takeoff run, and takeoff flight path.

Additionally, procedures for takeoff, accelerate-stop distance, and landing are proposed as those established for operation in service and must be executable by pilots of average skill and include reasonably expected time delays.

Climb

To maintain a level of safety that is equivalent to the current business jet fleet for takeoff, takeoff speeds, takeoff path, takeoff distance, and takeoff run, it is appropriate to require specific climb gradients, airplane configurations, and consideration of atmospheric conditions that will be encountered. These special conditions include climb with one engine inoperative, balked landing climb, and general climb conditions.

Landing

Landing distance determined for the same parameters is consistent with takeoff information for the range of weights, altitudes, and temperatures approved for operation. Further, it is necessary to consider time delays to provide for in-service variation in the activation of deceleration devices, such as spoilers and brakes.

Trim

Special conditions are issued to maintain a level of safety that is consistent with the use of V_{MO}/M_{MO} and the requirements established for previous part 23 jet airplanes. Current standards in part 23 did not envision this type of airplane and the associated trim considerations.

Demonstration of Static Longitudinal Stability

To maintain a level of safety consistent with existing business jet airplanes, it is appropriate to define applicable requirements for static longitudinal stability. Current standards in part 23 did not envision this type of airplane and the associated stability considerations. Special conditions will establish static longitudinal stability requirements that include a stick force versus speed specification and stability requirements applicable to high speed jet airplanes.

Consistent with the concept of V_{MO}/M_{MO} being a maximum operational speed limit, rather than a limiting speed for the demonstration of satisfactory flight characteristics, it is appropriate to extend the speed for demonstration of longitudinal stability characteristics from the V_{MO}/M_{MO} of 14 CFR Part 23 to the maximum speed for stability characteristics, V_{FC}/M_{FC}, for this airplane.

Static Directional and Lateral Stability

Consistent with the concept of V_{MO}/M_{MO} being a maximum operational speed limit, rather than a limiting speed for the demonstration of satisfactory flight characteristics, it is appropriate to extend the speed for demonstration of lateral/directional stability characteristics from the V_{MO}/M_{MO} of part 23 to the maximum speed for stability characteristics, V_{FC}/M_{FC} for this airplane.

Current transport category regulations have eliminated the independent lateral stability demonstration requirement (picking up the low wing with rudder application). This requirement was originally intended to provide adequate controllability in the event of lateral control system failure. Because the SJ30–2 flight control system reliability requirement is not to current transport category levels, it is appropriate to retain the prior transport category requirements to retain the independent dihedral effect and skid recovery demonstration requirements.

Stall Characteristics

The stall characteristics requirements are relaxed from part 23 to be equivalent to that acceptable in current business jets. These special conditions reflect a higher expected pilot proficiency level, the remote chance that a stall will be encountered in normal operation, and are relaxed as compensation for meeting higher performance requirements in these special conditions.

Vibration and Buffeting

The Sino Swearingen Model SJ30–2 will be operated at high altitudes where stall-Mach buffet encounters (small speed margin between stall and transonic flow buffet) are likely to occur, which is not presently addressed in part 23. The special condition will require buffet onset tests and the inclusion of information in the Airplane Flight Manual (AFM) to provide guidance to the flightcrew. This information will enable the flightcrew to plan flight operations that will maximize the maneuvering capability during high altitude cruise flight and preclude intentional operations exceeding the boundary of perceptible buffet. Buffeting is considered to be a warning to the pilot that the airplane is approaching an undesirable and eventually dangerous flight regime, that is, stall buffeting, high speed buffeting or maneuvering (load factor) buffeting. In straight flight, therefore, such buffet warning should not occur at any normal operating speed up to the maximum operating limit speed, V_{MO}/M_{MO}.

High Speed Characteristics and Maximum Operating Limit Speed

The Sino Swearingen Model SJ30–2 will be operated at high altitude and high speeds. The proposed operating envelope includes areas in which Mach effects, which have not been considered in part 23, may be significant. The anticipated low drag of the airplane and the proposed operating envelope are representative of the conditions not envisioned by the existing part 23 regulations. These conditions may degrade the ability of the flightcrew to promptly recover from inadvertent excursions beyond maximum operating speeds. The ability to pull a positive load factor is needed to ensure, during recovery from upset, that the airplane speed does not continue to increase to a value where recovery may not be achievable by the average pilot or flightcrew.

Additionally, to allow the aircraft designer to conservatively design to higher speeds than may be operationally required for the airplane, the concept of V_{DF}/M_{DF}, the highest demonstrated flight speed for the type design, is appropriate for this airplane. This permits V_D/M_D, the design dive speed, to be higher than the speed actually required to be demonstrated in flight. Accordingly, the special conditions allow determination of a maximum demonstrated flight speed and to relate the determination of V_{MO}/M_{MO} to the speed V_{DF}/M_{DF}.

Flight Flutter Tests

Flight flutter test special conditions are proposed to V_{DF}/M_{DF} rather than to V_D, in keeping with the V_{DF}/M_{DF} concept.

Out-of-Trim Characteristics

High speed airplanes have experienced a number of upset incidents involving out-of-trim conditions. This is particularly true for swept-wing airplanes and airplanes with a trimmable stabilizer. Service experience has shown that out-of-trim conditions can occur in flight for various reasons and that the control and maneuvering characteristics of the airplane may be critical in recovering from upsets. The existing part 23 regulations do not address high speed out-of-trim conditions. These special conditions test the out-of-trim flight characteristics by requiring the longitudinal trim control be displaced from the trimmed position by the amount resulting from the three-second movement of the trim system at this normal rate with no aerodynamic load, or the maximum mis-trim that the autopilot can sustain in level flight in the high speed cruise condition, whichever is greater. Special conditions require the maneuvering characteristics, including stick force per g, be explored throughout a specified maneuver load factor speed envelope. The dive recovery characteristics of the aircraft in the out-of-trim condition specified would be investigated to determine that safe recovery can be made from the demonstrated flight dive speed V_{DF}/M_{DF}.

Pressure Vessel Integrity

Special conditions will be used to ensure pressure vessel integrity for operation at altitudes above 41,000 feet. The FAA uses 41,000 feet as the altitude where additional requirements for high altitude operations are necessary. Crack growth data are used to prescribe an inspection program that should detect cracks before an opening in the pressure vessel would allow rapid depressurization.

Fuel System Protection During Collapse of Landing Gear

The SJ30–2 maximum fuel weight is 39 percent of the maximum weight. This percentage is typical of the turbofan powered business jet class of airplanes. Part 23 did not envision that the applicable airplane designs would have such a large fraction of maximum weight as fuel. Part 23 does not contain fuel system protection requirements during landing gear collapse, except for § 23.721, which pertains to commuter

category airplanes that have a passenger seating configuration of 10 seats or more. In the SJ30–2 design, there is a large fuselage fuel tank and the placement of the engines on the aft fuselage requires that the fuel lines be routed through the fuselage, making the fuel lines more vulnerable to damage, or rupture, if the landing gear collapses. The special condition is based on 14 CFR Part 25, § 25.721(a)(1), which is applicable to airplanes having a passenger seating configuration of nine seats or fewer.

Oxygen System Equipment and Supply

Continuous flow passenger oxygen equipment is certified for use up to 40,000 feet; however, for rapid decompressions above 34,000 feet, reverse diffusion leads to low oxygen partial pressures in the lungs to the extent that a small percentage of passengers may lose useful consciousness at 35,000 feet even with the use of the continuous flow system. To prevent permanent physiological damage, the cabin altitude must not exceed 25,000 feet for more than 2 minutes. The maximum peak cabin altitude of 40,000 feet is consistent with the standards established for previous certification programs. In addition, at high altitudes the other aspects of decompression sickness have a significant detrimental effect on pilot performance (for example, a pilot can be incapacitated by internal expanding gases).

Decompression above the 37,000 foot limit depicted in Figure 4 approaches the physiological limits of the average person; therefore, every effort must be made to provide the pilots with adequate oxygen equipment to withstand these severe decompressions. Reducing the time interval between pressurization failure and the time the pilots receive oxygen will provide a safety margin against being incapacitated and can be accomplished by the use of mask-mounted regulators. The proposed special condition, therefore, would require pressure demand masks with mask-mounted regulators for the flightcrew. This combination of equipment will provide the best practical protection for the failures covered by this special condition and for improbable failures not covered by the special conditions, provided the cabin altitude is limited.

Airspeed Indicating System

To maintain a level of safety consistent with that existing in the current business jet fleet, and to be consistent with the establishment of speed schedule performance requirements, it is appropriate to establish applicable requirements for determining and providing airspeed indicating system calibration information. Additionally, it is appropriate to establish special conditions requiring protection of the pitot tube from malfunctions associated with icing conditions. Special conditions will establish airspeed indicating system calibration and pitot tube ice protection requirements applicable to transport category jet airplanes.

Static Pressure System

Special conditions are appropriate to establish applicable requirements for providing static pressure system calibration information in the AFM. Since aircraft of this type are frequently equipped with devices to correct the altimeter indication, it is also appropriate to establish requirements to ensure the continued availability of altitude information where such a device malfunctions. Current standards in part 23 did not envision this type of airplane and the associated static pressure requirements.

Minimum Flightcrew

The Sino Swearingen Model SJ30–2 operates at high altitudes and speeds not envisioned in part 23 and must be flown in a precise speed schedule to achieve flight manual takeoff and landing distances. Therefore, it is appropriate to specify workload considerations. Special conditions will specify the items to be considered in workload determination.

Airplane Flight Manual (AFM) Information

To be consistent with the performance special conditions, it is also necessary to require that the maximum takeoff and landing weights, takeoff distances, and associated atmospheric conditions be made available to the pilot in the AFM and that the airplane be operated within its performance capabilities. Special conditions will add maximum takeoff weights, maximum landing weights, and minimum takeoff distances as limitations in the AFM. Additionally, special conditions are included to add takeoff flight path and procedures necessary to achieve the performance in the limitations section as information in the AFM.

Discussion of Comments

Notice of Proposed Special Conditions, Notice No. 23–ACE–87, Docket No. 135CE, was published in the **Federal Register** on February 21, 1997, and the comment period closed March 24, 1997. Following is a summary of the comments received and a response to each comment.

Only one commenter responded to the notice of proposed special conditions and that was the Sino Swearingen Aircraft Company. They offered 15 comments, of which 7 were either editorial in nature or the incorrect special condition numbers were referenced. These errors were corrected. The remainder of comments are addressed individually.

1. *Comment:* The certification basis should be changed to part 23 through Amendment 23–52.

FAA Response: The FAA agrees and the type certification basis for the special condition has been changed accordingly.

2. *Comment:* In the discussion material section, remove the words "double slotted" from the first sentence of the "Performance" discussion on page 7951, third column, first paragraph.

FAA Response: The FAA agrees and has removed the words.

3. *Comment:* Add the following statement to the "Discussion" material:

Demonstration of Static Longitudinal Stability

To maintain a level of safety consistent with that applied to previous part 23 jet airplanes, it is appropriate to define applicable requirements for static longitudinal stability. Current standards in part 23 did not envision this type of airplane with the associated stability considerations. Special conditions are proposed to establish static longitudinal stability requirements that include a stick force versus speed specification and stability requirements applicable to high speed jet airplanes.

FAA Response: The FAA concurs and has incorporated this comment into the section.

4. *Comment:* Special Condition No. 1 lacks specificity. The discussion material includes the two options that we may use to show compliance, but the proposed special condition is silent. Suggest that these options be included in the body of the special condition and not left in the discussion material.

FAA Response: This is the format used for HIRF special conditions. The FAA's goal is rules that contain minimum standards and not means of showing compliance. While this is hard to accomplish in certain instances, it is not the FAA's intention to dictate designs to manufacturers, but to offer compliance options through advisory circular. In this case, the HIRF minimum standards are the special conditions, which constitute a rule, and one acceptable means of showing compliance is discussed in the preamble.

5. *Comment:* Special Condition No. 24, Out-of-Trim Characteristics. The opening statement should be changed to "the following applies" instead of "the Sino Swearingen model SJ30–2 must comply with the following."

FAA: The FAA agrees and the statement has been changed.

6. *Comment:* Special Condition No. 26. Should be deleted and replaced with § 23.607, Amendment 23–48.

FAA Response: The FAA agrees and Special Condition No. 26 has been deleted. Later amendment levels are adequate for this airplane.

7. *Comment:* Special Condition No. 30—Pressurization. Special Condition No. 30 addresses the altitude-time histories of the cabin altitude following system and/or structural failures. The language and requirements defined in Special Condition No. 30, paragraphs (a)(2), (b)(1), and (b)(2), are a carry-over of early part 25 executive transport airplane special conditions developed for high altitude operation (above 40,000 feet). As discussed in the **Federal Register**, Volume 61, No. 109, dated June 5, 1996, part 25 special conditions were developed to address the consequences of decompression of executive transport airplanes operation at high altitudes. These early special conditions revised the requirements of § 25.365, *Pressurized Cabin Loads*, § 25.841, *Pressurized Cabins*, and § 25.1447, *Equipment Standards for Oxygen Dispensing Equipment* and were intended to provide an evaluation of the consequences of cabin depressurization due to system and/or structural failures.

However, the wording provided in Special Condition No. 30 is based on an earlier amendment (before Amendment 25–45) of § 25.571, which allowed a choice between safe-life and fail-safe substantiation for airplane primary structure. The airplane inspections defined for § 25.571 before Amendment 25–45 were not specifically based on crack growth for spectrum loading. Therefore, the executive transport airplane special conditions for operation at high altitudes specified a somewhat arbitrary criteria of structural failure considerations for a decompression event. Subsequent to the initial development of these executive transport high altitude special conditions, § 25.571 was amended by Amendments 25–45 (1978) and 25–52 (1980) to require a damage tolerance evaluation of the airplane primary structure. The damage tolerance evaluation requires the development of inspection intervals and procedures for the detection of crack lengths associated with the decompression of critical vent areas. Since the structural failures to be considered for the decompression event are defined by the damage tolerance evaluation, the language shown in Special Condition No. 30, paragraphs (a)(2), (b)(1), and (b)(2), is not part of the current part 25 regulatory requirements for High Altitude Operation of Subsonic Transport Airplanes.

The commenter believes that the structural failures to be considered of a decompression event should be defined by the damage tolerance evaluation of the SJ30–2 airplane pressure vessel required by Special Condition No. 25, Pressure Vessel Integrity, and not by the predefined conditions outlined in Special Condition No. 30, paragraphs (a)(2), (b)(1), and (b)(2). Therefore, the commenter suggests their words, which reflect the more recent structural approach.

FAA Response: The FAA agrees with the commenter and Special Condition No. 30 will be replaced.

8. *Comment:* Special Condition No. 37, Operating Limitations. Paragraph (a)(3) change read "V_O" to "V_A".

FAA Response: The FAA does not agree. V_A was correctly changed to V_O in an earlier part 23 amendment so it will remain unchanged in these special conditions.

Conclusion

In view of the design features discussed for the SJ30–2 Model airplane, the following special conditions are issued to provide a level of safety equivalent to current business jets certificated to transport standards and expected by the user of this class of aircraft. This action is not a rule of general applicability and affects only the model/series of airplane identified in these final special conditions.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

Citation

The authority citation for these Special Conditions is as follows:

Authority: 49 U.S.C. 106(g); 40113, and 44701; 14 CFR 21.16 and 101; and 14 CFR 11.28 and 11.49.

Adoption of Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration issues the following special conditions as part of the type certification basis for the Sino Swearingen Model SJ30–2 airplane:

1. Protection of Electrical and Electronic Systems From High Intensity Radiated Field

Each system that performs critical functions must be designed and installed to ensure that the operations, and operational capabilities of these systems to perform critical functions, are not adversely affected when the airplane is exposed to high intensity radiated electromagnetic fields external to the airplane.

For the purpose of these special conditions, the following definition applies:

Critical Functions: Functions whose failure would contribute to, or cause, a failure condition that would prevent the continued safe flight and landing of the airplane.

2. Performance: General

In addition to the requirements of § 23.45, the following apply:

(a) Unless otherwise prescribed, the applicant must select the takeoff, enroute, approach, and landing configurations for the airplane.

(b) The airplane configurations may vary with weight, altitude, and temperature, to the extent that they are compatible with the operating procedures required by paragraph (c) of this special condition.

(c) Unless otherwise prescribed, in determining the accelerate-stop distances, takeoff flight paths, takeoff distances, and landing distances, changes in the airplane's configuration, speed, power, and thrust, must be made in accordance with procedures established by the applicant for operation in service.

(d) Procedures for the execution of balked landings and discontinued approaches associated with the conditions prescribed in special condition 10, paragraph (d), and special condition 12 must be established.

(e) The procedures established under paragraphs (c) and (d) of this special condition must:

(1) Be able to be consistently executed in service by crews of average skill;

(2) Use methods or devices that are safe and reliable; and

(3) Include allowance for any time delays, in the execution of the procedures, that may reasonably be expected in service.

3. Takeoff

Instead of complying with § 23.53, the following apply:

(a) In special conditions 4, 5, 6, and 7, the takeoff speeds, the accelerate-stop distance, the takeoff path, the takeoff distance, and takeoff run described must be determined:

(1) At each weight, altitude, and ambient temperature within the operation limits selected by the applicant; and

(2) In the selected configuration for takeoff.

(b) No takeoff made to determine the data required by this section may require exceptional piloting skill or alertness.

(c) The takeoff data must be based on a smooth, dry, hard-surfaced runway.

(d) The takeoff data must include, within the established operational limits of the airplane, the following operational correction factors:

(1) Not more than 50 percent of nominal wind components along the takeoff path opposite to the direction of takeoff, and not less than 150 percent of nominal wind components along the takeoff path in the direction of takeoff.

(2) Effective runway gradients.

4. Takeoff Speeds

Instead of compliance with § 23.51, the following apply:

(a) V_1 must be established in relation to V_{EF}, as follows:

(1) V_{EF} is the calibrated airspeed at which the critical engine is assumed to fail. V_{EF} must be selected by the applicant, but may not be less than V_{MCG} determined under § 23.149(f).

(2) V_1, in terms of calibrated airspeed, is the takeoff decision speed selected by the applicant; however, V_1 may not be less than V_{EF} plus the speed gained with the critical engine inoperative during the time interval between the instant at which the critical engine failed and the instant at which the pilot recognizes and reacts to the engine failure, as indicated by the pilot's application of the first retarding means during the accelerate-stop test.

(b) $V_{2\,min}$, in terms of calibrated airspeed, may not be less than the following:

(1) 1.2 V_{S1}

(2) 1.10 times V_{MC} established under § 23.149.

(c) V_2, in terms of calibrated airspeed, must be selected by the applicant to provide at least the gradient of climb required by special condition 10, paragraph (b), but may not be less than the following:

(1) $V_{2\,min}$, and

(2) V_R plus the speed increment attained (in accordance with special condition 6, paragraph (c)(2)) before reaching a height of 35 feet above the takeoff surface.

(d) V_{MU} is the calibrated airspeed at and above which the airplane can safely lift off the ground and continue the takeoff. V_{MU} speeds must be selected by the applicant throughout the range of thrust-to-weight ratios to be certified. These speeds may be established from free-air data if these data are verified by ground takeoff tests.

(e) V_R, in terms of calibrated airspeed, must be selected in accordance with the following conditions of paragraphs (e)(1) through (e)(4) of this special condition:

(1) V_R may not be less than the following:

(i) V_1;

(ii) 105 percent of V_{MC};

(iii) The speed (determined in accordance with special condition 6, paragraph (c)(2)) that allows reaching V_2 before reaching a height of 35 feet above the takeoff surface; or

(iv) A speed that, if the airplane is rotated at its maximum practicable rate, will result in a V_{LOF} of not less than 110 percent of V_{MU} in the all-engines-operating condition and not less than 105 percent of V_{MU} determined at the thrust-to-weight ratio corresponding to the one-engine-inoperative condition.

(2) For any given set of conditions (such as weight, configuration, and temperature), a single value of V_R, obtained in accordance with this special condition, must be used to show compliance with both the one-engine-inoperative and the all-engines-operating takeoff provisions.

(3) It must be shown that the one-engine-inoperative takeoff distance, using a rotation speed of 5 knots less than V_R, established in accordance with paragraphs (e)(1) and (e)(2) of this special condition, does not exceed the corresponding one-engine-inoperative takeoff distance using the established V_R. The takeoff distances must be determined in accordance with special condition 7, paragraph (a)(1).

(4) Reasonably expected variations in service from the established takeoff procedures for the operation of the airplane (such as over-rotation of the airplane and out-of-trim conditions) may not result in unsafe flight characteristics or in marked increases in the scheduled takeoff distances established in accordance with special condition 7.

(f) V_{LOF} is the calibrated airspeed at which the airplane first becomes airborne.

5. Accelerate-Stop Distance

In the absence of specific accelerate-stop distance requirements, the following apply:

(a) The accelerate-stop distance is the sum of the distances necessary to—

(1) Accelerate the airplane from a standing start to V_{EF} with all engines operating;

(2) Accelerate the airplane from V_{EF} to V_1, assuming that the critical engine fails at V_{EF}; and

(3) Come to a full stop from the point at which V_1 is reached assuming that, in the case of engine failure, the pilot has decided to stop as indicated by application of the first retarding means at the speed V_1.

(b) Means other than wheel brakes may be used to determine the accelerate-stop distance if that means—

(1) Is safe and reliable;

(2) Is used so that consistent results can be expected under normal operating conditions; and

(3) Is such that exceptional skill is not required to control the airplane.

(c) The landing gear must remain extended throughout the accelerate-stop distance.

6. Takeoff Path

In the absence of specific takeoff path requirements, the following apply:

(a) The takeoff path extends from a standing start to a point in the takeoff at which the airplane is 1,500 feet above the takeoff surface, or at which the transition from the takeoff to the enroute configuration is completed and a speed is reached at which compliance with special condition 10, paragraph (c), is shown, whichever point is higher. In addition, the following apply:

(1) The takeoff path must be based on procedures prescribed in special condition 2.

(2) The airplane must be accelerated on the ground to V_{EF}, at which point the critical engine must be made inoperative and remain inoperative for the rest of the takeoff; and

(3) After reaching V_{EF}, the airplane must be accelerated to V_2.

(b) During the acceleration to speed V_2, the nose gear may be raised off the ground at a speed not less than V_R. However, landing gear retraction may not begin until the airplane is airborne.

(c) During the takeoff path determination, in accordance with paragraphs (a) and (b) of this special condition, the following apply:

(1) The slope of the airborne part of the takeoff path must be positive at each point;

(2) The airplane must reach V_2 before it is 35 feet above the takeoff surface and must continue at a speed as close as practical to, but not less than, V_2 until it is 400 feet above the takeoff surface;

(3) At each point along the takeoff path, starting at the point at which the airplane reaches 400 feet above the takeoff surface, the available gradient of climb may not be less than 1.2 percent;

(4) Except for gear retraction, the airplane configuration may not be changed, and no change in power or thrust that requires action by the pilot may be made, until the airplane is 400 feet above the takeoff surface.

(d) The takeoff path must be determined by a continuous demonstrated takeoff or by synthesis from segments. If the takeoff path is determined by the segmental method, the following apply:

(1) The segments must be clearly defined and must be related to the distinct changes in the configuration, speed, and power or thrust;

(2) The weight of the airplane, the configuration, and the power or thrust must be constant throughout each segment and must correspond to the most critical condition prevailing in the segment;

(3) The flight path must be based on the airplane's performance without ground effect; and

(4) The takeoff path data must be checked by continuous demonstrated takeoffs, up to the point at which the airplane is out of ground effect and its speed is stabilized, to ensure that the path is conservative relative to the continuous path.

Note: The airplane is considered to be out of the ground effect when it reaches a height equal to its wing span.

7. Takeoff Distance and Takeoff Run

In the absence of specific takeoff distance and takeoff run requirements, the following apply:

(a) Takeoff distance is the greater of the following:

(1) The horizontal distance along the takeoff path from the start of the takeoff to the point at which the airplane is 35 feet above the takeoff surface, determined under special condition 6; or

(2) 115 percent of the horizontal distance along the takeoff path, with all engines operating, from the start of the takeoff to the point at which the airplane is 35 feet above the takeoff surface, as determined by a procedure consistent with special condition 6.

(b) If the takeoff distance includes a clear way, the takeoff run is the greater of:

(1) The horizontal distance along the takeoff path from the start of the takeoff to a point equidistant between the point at which V_{LOF} is reached and the point at which the airplane is 35 feet above the takeoff surface, as determined under special condition 6; or

(2) 115 percent of the horizontal distance along the takeoff path, with all engines operating, from the start of the takeoff to a point equidistant between the point at which V_{LOF} is reached and the point at which the airplane is 35 feet above the takeoff surface, determined by a procedure consistent with special condition 6.

8. Takeoff Flight Path

In the absence of specific takeoff flight path requirements, the following apply:

(a) The takeoff flight path begins 35 feet above the takeoff surface at the end of the takeoff distance determined in accordance with special condition 7.

(b) The net takeoff flight path data must be determined so that they represent the actual takeoff flight paths (determined in accordance with special condition 6 and with paragraph (a) of this special condition) reduced at each point by a gradient of climb equal to 0.8 percent.

(c) The prescribed reduction in climb gradient may be applied as an equivalent reduction in acceleration along that part of the takeoff flight path at which the airplane is accelerated in level flight.

9. Climb: General

Instead of compliance with § 23.63, the following applies: Compliance with the requirements of special conditions 10 and 12 must be shown at each weight, altitude, and ambient temperature within the operational limits established for the airplane and with the most unfavorable center of gravity for each configuration.

10. Climb: One Engine Inoperative

Instead of compliance with § 23.67, the following apply:

(a) *Takeoff; landing gear extended.* In the critical takeoff configuration existing along the flight path (between the points at which the airplane reaches V_{LOF} and at which the landing gear is fully retracted) and in the configuration used in special condition 6 without ground effect, unless there is a more critical power operating condition existing later along the flight path before the point at which the landing gear is fully retracted, the steady gradient of climb must be positive at V_{LOF} and with the following:

(1) The critical engine inoperative and the remaining engines at the power or thrust available when retraction of the landing gear begins in accordance with special condition 6, and

(2) The weight equal to the weight existing when retraction of the landing gear begins, determined under special condition 6.

(b) *Takeoff; landing gear retracted.* In the takeoff configuration existing at the point of the flight path at which the landing gear is fully retracted and in the configuration used in special condition 6, without ground effect, the steady gradient of climb may not be less than 2.4 percent at V_2 and with the following:

(1) The critical engine inoperative, the remaining engines at the takeoff power or thrust available at the time the landing gear is fully retracted, determined under special condition 6 unless there is a more critical power operating condition existing later along the flight path but before the point where the airplane reaches a height of 400 feet above the takeoff surface; and

(2) The weight equal to the weight existing when the airplane's landing gear is fully retracted, determined under special condition 6.

(c) *Final takeoff.* In the enroute configuration at the end of the takeoff path, determined in accordance with special condition 6, the steady gradient of climb may not be less than 1.2 percent at not less than 1.25 V_S and with the following:

(1) The critical engine inoperative and the remaining engines at the available maximum continuous power or thrust; and

(2) The weight equal to the weight existing at the end of the takeoff path, determined under special condition 6.

(d) *Approach.* In the approach configuration corresponding to the normal all-engines-operating procedure in which V_S for this configuration does not exceed 110 percent of the V_S for the related landing configuration, the steady gradient of climb may not be less than 2.1 percent with the following:

(1) The critical engine inoperative, the remaining engine at the available in-flight takeoff power or thrust;

(2) The maximum landing weight; and

(3) A climb speed established in connection with normal landing procedures, but not exceeding 1.5 V_S.

11. Landing

Instead of compliance with § 23.75, the following apply:

(a) The horizontal distance necessary to land and to come to a complete stop from a point 50 feet above the landing surface must be determined (for each weight, altitude, temperature, and wind within the operational limits established by the applicant for the airplane), as follows:

(1) The airplane must be in the landing configuration.

(2) A steady approach at a gradient of descent not greater than 5.2 percent (3 degrees), with an airspeed of not less than V_{REF}, determined in accordance with § 23.73(b), must be maintained down to the 50-foot height.

(3) Changes in configuration, power or thrust, and speed, must be made in accordance with the established procedures for service operation.

(4) The landing must be made without excessive vertical acceleration, tendency to bounce, nose over, ground loop, or porpoise.

(5) The landings may not require exceptional piloting skill or alertness.

(6) It must be shown that a safe transition to the balked landing conditions of special condition 12 can be made from the conditions that exist at the 50-foot height.

(b) The landing distance must be determined on a level, smooth, dry, hard-surfaced runway. In addition, the following apply:

(1) The brakes may not be used so as to cause excessive wear of brakes or tires; and

(2) Means other than wheel brakes may be used if that means is as follows:

(i) Is safe and reliable;

(ii) Is used so that consistent results can be expected in service; and

(iii) Is such that exceptional skill is not required to control the airplane.

(c) The landing distance data must include correction factors for not more than 50 percent of the nominal wind components along the landing path opposite to the direction of landing and not less than 150 percent of the nominal wind components along the landing path in the direction of landing.

(d) If any device is used that depends on the operation of any engine, and if the landing distance would be noticeably increased when a landing is made with that engine inoperative, the landing distance must be determined with that engine inoperative unless the use of compensating means will result in a landing distance not more than that with each engine operating.

12. Balked Landing

Instead of compliance with § 23.77, the following apply:

In the landing configuration, the steady gradient of climb may not be less than 3.2 percent with the following:

(a) The engines at the power or thrust that is available eight seconds after initiation of movement of the power or thrust controls from the minimum flight idle to the inflight takeoff position; and

(b) A climb speed of not more than V_{REF}, as defined in § 23.73(a).

13. Stall Speed

Instead of compliance with § 23.49, the following apply:

(a) V_S is the calibrated stalling speed, or the minimum steady flight speed, in knots, at which the airplane is controllable with—

(1) Zero thrust at the stalling speed, or, if the resultant thrust has no appreciable effect on the stalling speed, with engines idling and throttles closed;

(2) The weight used when V_S is being used as a factor to determine compliance with a required performance standard; and

(3) The most unfavorable center of gravity allowable.

(b) The stalling speed V_S is the minimum speed obtained as follows:

(1) Trim the airplane for straight flight at any speed not less than 1.2 V_S or more than 1.4 V_S. At a speed sufficiently above the stall speed to ensure steady conditions, apply the elevator control at a rate so that the airplane speed reduction does not exceed one knot per second.

(2) Meet the flight characteristics provisions of special condition 19.

14. Trim

Instead of compliance with § 23.161, the following apply:

(a) *General.* Each airplane must meet the trim requirements of this special condition after being trimmed, and without further pressure upon or movement of the primary controls or their corresponding trim controls by the pilot or the automatic pilot.

(b) *Lateral and directional trim.* The airplane must maintain lateral and directional trim with the most adverse lateral displacement of the center of gravity within the relevant operating limitations during normally expected conditions of operation (including operation at any speed from 1.4 V_{S1} to V_{MO}/M_{MO}.)

(c) *Longitudinal trim.* The airplane must maintain longitudinal trim during the following:

(1) A climb with maximum continuous power at a speed not more than 1.4 V_{S1}, with the landing gear retracted, and the flaps in the following positions:

(i) Retracted, and

(ii) In the takeoff position.

(2) A power approach with a 3 degree angle of descent, the landing gear extended, and with the following:

(i) The wing flaps retracted and at a speed of 1.4 V_{S1}; and

(ii) The applicable airspeed and flap position used in showing compliance with special condition 11.

(3) Level flight at any speed from 1.4 V_{S1} to V_{MO}/M_{MO} with the landing gear and flaps retracted, and from 1.4 V_{S1} to V_{LE} with the landing gear extended.

(d) *Longitudinal, directional, and lateral trim.* The airplane must maintain longitudinal, directional, and lateral trim (for the lateral trim, the angle of bank may not exceed five degrees) at 1.4 V_{S1} during climbing flight with the following:

(1) The critical engine inoperative;

(2) The remaining engine at maximum continuous power or thrust; and

(3) The landing gear and flaps retracted.

15. Static Longitudinal Stability

Instead of compliance with § 23.173, the following apply:

Under the conditions specified in special condition 16, the characteristics of the elevator control forces (including friction) must be as follows:

(a) A pull must be required to obtain and maintain speeds below the specified trim speed, and a push must be required to obtain and maintain speeds above the specified trim speed. This must be shown at any speed that can be obtained except speeds higher than the landing gear or wing flap operating limit speeds or V_{FC}/M_{FC}, whichever is appropriate, or lower than the minimum speed for steady unstalled flight.

(b) The airspeed must return to within 10 percent of the original trim speed for the climb, approach, and landing conditions specified in special condition 16, paragraphs (a), (c), and (d), and must return to within 7.5 percent of the original trim speed for the cruising condition specified in special condition 16, paragraph (b), when the control force is slowly released from any speed within the range specified in paragraph (a) of this special condition.

(c) The average gradient of the stable slope of the stick force versus speed curve may not be less than 1 pound for each 6 knots.

(d) Within the free return speed range specified in paragraph (b) of this special condition, it is permissible for the airplane, without control forces, to stabilize on speeds above or below the desired trim speeds if exceptional attention on the part of the pilot is not required to return to and maintain the desired trim speed and altitude.

16. Demonstration of Static Longitudinal Stability

Instead of compliance with § 23.175, static longitudinal stability must be shown as follows:

(a) *Climb.* The stick force curve must have a stable slope at speeds between 85 and 115 percent of the speed at which the airplane—

(1) Is trimmed, with—

(i) Wing flaps retracted;

(ii) Landing gear retracted;

(iii) Maximum takeoff weight; and

(iv) The maximum power or thrust selected by the applicant as an operating limitation for use during climb; and

(2) Is trimmed at the speed for best rate of climb except that the speed need not be less than 1.4 V_{S1}.

(b) *Cruise.* Static longitudinal stability must be shown in the cruise condition as follows:

(1) With the landing gear retracted at high speed, the stick force curve must have a stable slope at all speeds within a range which is the greater of 15 percent of the trim speed plus the resulting free return speed range, or 50 knots plus the resulting free return speed range, above and below the trim speed (except that the speed range need not include speeds less than 1.4 V_{S1}, nor speeds greater than V_{FC}/M_{FC}, nor speeds that require a stick force of more than 50 pounds), with—

(i) The wing flaps retracted;

(ii) The center of gravity in the most adverse position;

(iii) The most critical weight between the maximum takeoff and maximum landing weights;

(iv) The maximum cruising power selected by the applicant as an operating limitation, except that the power need not exceed that required at V_{MO}/M_{MO}; and

(v) The airplane trimmed for level flight with the power required in paragraph (b)(1)(iv) of this special condition.

(2) With the landing gear retracted at low speed, the stick force curve must have a stable slope at all speeds within a range which is the greater of 15 percent of the trim speed plus the resulting free return speed range, or 50 knots plus the resulting free return speed range, above and below the trim speed (except that the speed range need not include speeds less than 1.4 V_{S1}, nor speeds greater than the minimum speed of the applicable speed range prescribed in paragraph (b)(1), nor speeds that require a stick force of more than 50 pounds), with—

(i) Wing flaps, center of gravity position, and weight as specified in paragraph (b)(1) of this special condition;

(ii) Power required for level flight at a speed equal to $(V_{MO} + 1.4\ V_{S1})/2$; and

(iii) The airplane trimmed for level flight with the power required in paragraph (b)(2)(ii) of this special condition.

(3) With the landing gear extended, the stick force curve must have a stable slope at all speeds within a range which is the greater of 15 percent of the trim speed plus the resulting free return speed range, or 50 knots plus the resulting free return speed range, above and below the trim speed (except that the speed range need not include speeds less than 1.4 V_{S1}, nor speeds greater than V_{LE}, nor speeds that require a stick force of more than 50 pounds), with—

(i) Wing flap, center of gravity position, and weight as specified in paragraph (b)(1) of this section;

(ii) The maximum cruising power selected by the applicant as an operating limitation, except that the power need not exceed that required for level flight at V_{LE}; and

(iii) The aircraft trimmed for level flight with the power required in paragraph (b)(3)(ii) of this section.

(c) *Approach.* The stick force curve must have a stable slope at speeds between 1.1 V_{S1} and 1.8 V_{S1}, with—

(1) Wing flaps in the approach position;

(2) Landing gear retracted;

(3) Maximum landing weight; and

(4) The airplane trimmed at 1.4 V_{S1} with enough power to maintain level flight at this speed.

(d) *Landing.* The stick force curve must have a stable slope, and the stick force may not exceed 80 pounds, at speeds between 1.1 V_{S0} and 1.3 V_{S0} with—

(1) Wing flaps in the landing position;

(2) Landing gear extended;

(3) Maximum landing weight;

(4) Power or thrust off on the engines; and

(5) The airplane trimmed at 1.4 V_{S0} with power or thrust off.

17. Static Directional and Lateral Stability

Instead of compliance with § 23.177, the following apply:

(a) The static directional stability (as shown by the tendency to recover from a skid with the rudder free) must be positive for any landing gear and flap position, and it must be positive for any symmetrical power condition to speeds from 1.2 V_{S1} up to V_{FE}, V_{LE}, or V_{FC}/M_{FC} (as appropriate).

(b) The static lateral stability (as shown by the tendency to raise the low wing in a sideslip with the aileron controls free and for any landing gear position and flap position, and for any symmetrical power conditions) may not be negative at any airspeed (except speeds higher than V_{FE} or V_{LE}, when appropriate) in the following airspeed ranges:

(1) From 1.2 V_{S1} to V_{MO}/M_{MO}.

(2) From V_{MO}/M_{MO} to V_{FC}/M_{FC}, unless the Administrator finds that the divergence is—

(i) Gradual;

(ii) Easily recognizable by the pilot; and

(iii) Easily controllable by the pilot.

(c) In straight, steady, sideslips (unaccelerated forward slips) the aileron and rudder control movement and forces must be substantially proportional to the angle of the sideslip. The factor of proportionality must lie between limits found necessary for safe operation throughout the range of sideslip angles appropriate to the operation of the airplane. At greater angles, up to the angle at which full rudder control is used or when a rudder pedal force of 180 pounds is obtained, the rudder pedal forces may not reverse and increased rudder deflection must produce increased angles of sideslip. Unless the airplane has a yaw indicator, there must be enough bank accompanying sideslipping to clearly indicate any departure from steady unyawed flight.

18. Stall Demonstration

Instead of compliance with § 23.201, the following apply:

(a) Stalls must be shown in straight flight and in 30 degree banked turns with—

(1) Power off; and

(2) The power necessary to maintain level flight at 1.6 V_{S1} (where V_{S1} corresponds to the stalling speed with flaps in the approach position, the landing gear retracted, and maximum landing weight).

(b) In each condition required by paragraph (a) of this section, it must be possible to meet the applicable requirements of special condition 19 with—

(1) Flaps, landing gear, and deceleration devices in any likely combination of positions approved for operation;

(2) Representative weights within the range for which certification is requested;

(3) The most adverse center of gravity for recovery; and

(4) The airplane trimmed for straight flight at the speed prescribed in special condition 13.

(c) The following procedures must be used to show compliance with special condition 19:

(1) Starting at a speed sufficiently above the stalling speed to ensure that a steady rate of speed reduction can be established, apply the longitudinal control so that the speed reduction does not exceed one knot per second until the airplane is stalled.

(2) In addition, for turning flight stalls, apply the longitudinal control to achieve airspeed deceleration rates up to 3 knots per second.

(3) As soon as the airplane is stalled, recover by normal recovery techniques.

(d) The airplane is considered stalled when the behavior of the airplane gives the pilot a clear and distinctive indication of an acceptable nature that the airplane is stalled. Acceptable indications of a stall, occurring either individually or in combination, are—

(1) A nose-down pitch that cannot be readily arrested;

(2) Buffeting, of a magnitude and severity that is a strong and effective deterrent to further speed reduction; or

(3) The pitch control reaches the aft stop and no further increase in pitch attitude occurs when the control is held full aft for a short time before recovery is initiated.

19. Stall Characteristics

Instead of compliance with § 23.203, the following applies:

(a) It must be possible to produce and to correct roll and yaw by unreversed use of the aileron and rudder controls, up to the time the airplane is stalled. No abnormal nose up pitching may occur. The longitudinal control force must be positive up to and throughout the stall. In addition, it must be possible to promptly prevent stalling and to recover from a stall by normal use of the controls.

(b) For level wing stalls, the roll occurring between the stall and the completion of the recovery may not exceed approximately 20 degrees.

(c) For turning flight stalls, the action of the airplane after the stall may not be so violent or extreme as to make it difficult, with normal piloting skill, to effect a prompt recovery and to regain control of the airplane. The maximum bank angle that occurs during the recovery may not exceed—

(1) Approximately 60 degrees in the original direction of the turn, or 30 degrees in the opposite direction, for deceleration rates up to 1 knot per second; and

(2) Approximately 90 degrees in the original direction of the turn, or 60 degrees in the opposite direction, for deceleration rates in excess of 1 knot per second.

20. Stall Warning

Instead of compliance with § 23.207, the following applies:

(a) Stall warning with sufficient margin to prevent inadvertent stalling with the flaps and landing gear in any normal position must be clear and distinctive to the pilot in straight and turning flight.

(b) The warning may be furnished either through the inherent aerodynamic qualities of the airplane or by a device that will give clearly distinguishable indications under expected conditions of flight. However, a visual stall warning device that requires the attention of the crew within the cockpit is not acceptable by itself. If a warning device is used, it must provide a warning in each of the airplane configurations prescribed in paragraph (a) of this special condition at the speed prescribed in paragraph (c) of this special condition.

(c) The stall warning must begin at a speed exceeding the stalling speed (i.e., the speed at which the airplane stalls or the minimum speed demonstrated, whichever is applicable under the provisions of special condition 18, paragraph (d)) by seven percent or at any lesser margin if the stall warning has enough clarity, duration, distinctiveness, or similar properties.

21. Vibration and Buffeting

Instead of compliance with § 23.251, the following apply:

(a) The airplane must be designed to withstand any vibration and buffeting that might occur in any likely operating condition. This must be shown by calculations, resonance tests, or other tests found necessary by the Administrator.

(b) Each part of the airplane must be shown in flight to be free from excessive vibration, under any appropriate speed and power conditions up to V_{DF}/M_{DF}. The maximum speeds shown must be used in establishing the operating limitations of the airplane in accordance with special condition 34.

(c) Except as provided in paragraph (d) of this special condition, there may be no buffeting condition in normal flight, including configuration changes during cruise, severe enough to interfere with the control of the airplane, to cause excessive fatigue to the flightcrew, or to cause structural damage. Stall warning buffeting within these limits is allowable.

(d) There may be no perceptible buffeting condition in the cruise configuration in straight flight at any speed up to V_{MO}/M_{MO}, except that stall warning buffeting is allowable.

(e) With the airplane in the cruise configuration, the positive maneuvering load factors at which the onset of perceptible buffeting occurs must be determined for the ranges of airspeed or Mach Number, weight, and altitude for which the airplane is to be certified. The envelopes of load factor, speed, altitude, and weight must provide a sufficient range of speeds and load factors for normal operations. Probable inadvertent excursions beyond the boundaries of the buffet onset envelopes may not result in unsafe conditions.

22. High Speed Characteristics

Instead of compliance with § 23.253, the following apply:

(a) *Speed increase and recovery characteristics.* The following speed increase and recovery characteristics must be met:

(1) Operating conditions and characteristics likely to cause inadvertent speed increases (including upsets in pitch and roll) must be simulated with the airplane trimmed at any likely cruise speed up to V_{MO}/M_{MO}. These conditions and characteristics include gust upsets, inadvertent control movements, low stick force gradient in relation to control friction, passenger movement, leveling off from climb, and descent from Mach to airspeed limit altitudes.

(2) Allowing for pilot reaction time after effective inherent or artificial speed warning occurs, it must be shown that the airplane can be recovered to a normal attitude and its speed reduced to V_{MO}/M_{MO} without the following:

(i) Exceptional piloting strength or skill;

(ii) Exceeding V_D/M_D, or V_{DF}/M_{DF}, or the structural limitations; and

(iii) Buffeting that would impair the pilot's ability to read the instruments or control the airplane for recovery.

(3) There may be no control reversal about any axis at any speed up to V_{DF}/M_{DF} with the airplane trimmed at V_{MO}/M_{MO}. Any tendency of the airplane to pitch, roll, or yaw must be mild and readily controllable, using normal piloting techniques. When the airplane is trimmed at V_{MO}/M_{MO}, the slope of the elevator control force versus speed curve need not be stable at speeds greater than V_{FC}/M_{FC}, but there must be a push force at all speeds up to V_{DF}/M_{DF} and there must be no sudden or excessive reduction of elevator control force as V_{DF}/M_{DF} is reached.

(b) *Maximum speed for stability characteristics, V_{FC}/M_{FC}.* V_{FC}/M_{FC} is the maximum speed at which the requirements of special conditions 15, 16, 17, and § 23.181 must be met with the flaps and landing gear retracted. It may not be less than a speed midway between V_{MO}/M_{MO} and V_{DF}/M_{DF} except that, for altitudes where Mach number is the limiting factor, M_{FC} need not exceed the Mach number at which effective speed warning occurs.

23. Flight Flutter Testing

Instead of the term/speed V_D in § 23.629(b), use V_{DF}/M_{DF}.

24. Out-of-Trim Characteristics

In the absence of specific requirements for out-of-trim characteristics, the following are applied:

(a) From an initial condition with the airplane trimmed at cruise speeds up to V_{MO}/M_{MO}, the airplane must have satisfactory maneuvering stability and controllability with the degree of out-of-trim in both the airplane nose-up and nose-down directions, which results from the greater of the following:

(1) A three-second movement of the longitudinal trim system at its normal rate for the particular flight condition with no aerodynamic load (or an equivalent degree of trim for airplanes that do not have a power-operated trim system), except as limited by stops in the trim system including those required by § 23.655(b) for adjustable stabilizers; or

(2) The maximum mis-trim that can be sustained by the autopilot while maintaining level flight in the high speed cruising condition.

(b) In the out-of-trim condition specified in paragraph (a) of this special condition, when the normal acceleration is varied from +1 g to the positive and negative values specified in paragraph (c) of this special condition, the following apply:

(1) The stick force versus g curve must have a positive slope at any speed up to and including V_{FC}/M_{FC}; and

(2) At speeds between V_{FC}/M_{FC} and V_{DF}/M_{DF}, the direction of the primary longitudinal control force may not reverse.

(c) Except as provided in paragraphs (d) and (e) of this special condition, compliance with the provisions of paragraph (a) of this special condition must be demonstrated in flight over the acceleration range as follows:

(1) −1 g to +2.5 g; or

(2) 0 g to 2.0 g, and extrapolating by an acceptable method to −1 g and +2.5 g.

(d) If the procedure set forth in paragraph (c)(2) of this special condition is used to demonstrate compliance and marginal conditions exist during flight test with regard to reversal of primary longitudinal control force, flight tests must be accomplished from the normal acceleration at which a marginal condition is found to exist to the applicable limit specified in paragraph (b)(1) of this special condition.

(e) During flight tests required by paragraph (a) of this special condition, the limit maneuvering load factors, prescribed in §§ 23.333(b) and 23.337, need not be exceeded. Also, the maneuvering load factors associated with probable inadvertent excursions beyond the boundaries of the buffet onset envelopes determined under special condition 21, paragraph (e), need not be exceeded. In addition, the entry speeds for flight test demonstrations at normal acceleration values less than 1 g must be limited to the extent necessary to accomplish a recovery without exceeding V_{DF}/M_{DF}.

(f) In the out-of-trim condition specified in paragraph (a) of this special condition, it must be possible from an overspeed condition at V_{DF}/M_{DF} to produce at least 1.5 g for recovery by applying not more than 125 pounds of longitudinal control force using either the primary longitudinal control alone or the primary longitudinal control and the longitudinal trim system. If the longitudinal trim is used to assist in producing the required load factor, it must be shown at V_{DF}/M_{DF} that the longitudinal trim can be actuated in the airplane nose-up direction with the primary surface loaded to correspond to the least of the following airplane nose-up control forces:

(1) The maximum control forces expected in service, as specified in §§ 23.301 and 23.397.

(2) The control force required to produce 1.5 g.

(3) The control force corresponding to buffeting or other phenomena of such intensity that is a strong deterrent to further application of primary longitudinal control force.

25. Pressure Vessel Integrity

(a) The maximum extent of failure and pressure vessel opening that can be demonstrated to comply with special condition 30 (Pressurization) of these special conditions must be determined. It must be demonstrated by crack propagation and damage tolerance analysis supported by testing that a larger opening or a more severe failure than demonstrated will not occur in normal operations.

(b) Inspection schedules and procedures must be established to ensure that cracks and normal fuselage leak rates will not deteriorate to the extent that an unsafe condition could exist during normal operation.

(c) With regard to the fuselage structure design for cabin pressure capability above 45,000 feet, the pressure vessel structure, including doors and windows, must comply with § 23.365(d), using a factor of 1.67 instead of the 1.33 factor prescribed.

26. Fasteners

This section has been deleted, current § 23.607 is adequate.

27. Landing Gear

The main landing gear system must be designed so that if it fails due to overloads during takeoff or landing (assuming the overloads to act in the upward and aft directions), the failure mode is not likely to cause the spillage of enough fuel from any fuel system in the fuselage to constitute a fire hazard.

28. Ventilation

In addition to the requirements of § 23.831(b), the ventilation system must be designed to provide a sufficient amount of uncontaminated air to enable the crewmembers to perform their duties without undue discomfort or fatigue and to provide reasonable passenger comfort during normal operating conditions and in the event of any probable failure of any system on the airplane that would adversely affect the cabin ventilating air. For normal operations, crewmembers and passengers must be provided with at least 10 cubic feet of fresh air per minute per person, or the equivalent in filtered recirculated air, based on the volume and composition at the corresponding cabin pressure altitude of no more than 8,000 feet.

29. Air Conditioning

In addition to the requirements of § 23.831, cabin cooling systems must be designed to meet the following conditions during flight above 15,000 feet MSL:

(a) After any probable failure, the cabin temperature/time history may not exceed the values shown in Figure 1. During this time, the humidity shall never exceed a level that corresponds to a water vapor pressure of 20mm Hg. Time = 0 minutes when the flightcrew recognizes the failure.

(b) After any improbable failure, the cabin temperature/time history may not exceed the values shown in Figure 2. During this time, the humidity shall never exceed a level that corresponds to a water vapor pressure of 20mm Hg. Time = 0 minutes when the flightcrew recognizes the failure.

30. Pressurization

Instead of compliance with § 23.841, the following apply:

(a) Pressurized cabins must be equipped to provide a cabin pressure altitude of not more than 8,000 feet at the maximum operating altitude of the airplane under normal operating conditions.

(1) If certification for operation above 25,000 feet is requested, the airplane must be designed so that occupants will not be exposed to cabin pressure altitudes in excess of 15,000 feet after any probable failure condition in the pressurization system.

(2) The airplane must be designed so that occupants will not be exposed to a cabin pressure altitude that exceeds that following after decompression from any failure conditions not shown to be extremely improbable:

(i) Twenty-five thousand (25,000) feet for more than 2 minutes; or

(ii) Forty thousand (40,000) feet for any duration.

(3) Fuselage structure, engine and system failures are to be considered in evaluating the cabin decompression.

(b) Pressurized cabins must have at least the following valves, controls, and indicators for controlling cabin pressure:

(1) Two pressure relief valves to automatically limit the positive pressure differential to a predetermined value at the maximum rate of flow delivered by the pressure source. The combined capacity of the relief valves must be large enough so that the failure of any one valve would not cause an appreciable rise in the pressure differential. The pressure differential is positive when the internal pressure is greater than the external.

(2) Two reverse pressure differential relief valves (or their equivalents) to automatically prevent a negative pressure differential that would damage the structure. One valve is enough, however, if it is of a design that reasonably precludes its malfunctioning.

(3) A means by which the pressure differential can be rapidly equalized.

(4) An automatic or manual regulator for controlling the intake or exhaust airflow, or both, for maintaining the required internal pressure and airflow rates.

(5) Instruments at the pilot station to show the pressure differential, the cabin pressure altitude, and the rate of change of the cabin pressure altitude.

(6) Warning indication at the pilot station to indicate when the safe or preset pressure differential and cabin pressure altitude limits are exceeded. Appropriate warning marking on the cabin pressure differential indicator meets the warning requirement for pressure differential limits and an aural or visual signal (in addition to cabin altitude indicating means) meets the warning requirement for cabin pressure altitude limits if it warns the flight crew when the cabin pressure altitude exceeds 10,000 feet.

(7) A warning placard at the pilot station, if the structure is not designed for pressure differentials up to the maximum relief valve setting in combination with landing loads.

(8) The pressure sensors necessary to meet the requirements of paragraphs (b)(5) and (b)(6) of this section and § 23.1447, paragraphs (e) and (f), must be located and the sensing system must be designed so that, in the event of low of cabin pressure, the warning and automatic presentation devices, required by those provisions, will be actuated without any delay that would significantly increase the hazards resulting from decompression.

31. Airspeed Indicating System

In addition to the requirements of § 23.1323, the following apply:

(a) The airspeed indicating system must be calibrated to determine the system error in flight and during the accelerate-takeoff ground run. The ground run calibration must be determined as follows:

(1) From 0.8 of the minimum value of V_1 to the maximum value of V_2, considering the approved ranges of altitude and weight; and

(2) With the flaps and power settings corresponding to the values determined in the establishment of the takeoff path under special condition 6, assuming that the critical engine fails at the minimum value of V_1.

(b) The information showing the relationship between IAS and CAS, determined in accordance with paragraph (a) of this special condition, must be shown in the Airplane Flight Manual.

32. Static Pressure System

In addition to the requirements of § 23.1325, the following apply:

(a) The altimeter system calibration required by § 23.1325(e) must be shown in the Airplane Flight Manual.

(b) If an altimeter system is fitted with a device that provides corrections to the altimeter indication, the device must be designed and installed in such manner that it can be by-passed when it malfunctions, unless an alternate altimeter system is provided. Each correction device must be fitted with a means for indicating the occurrence of reasonably probable malfunctions, including power failure, to the flightcrew. The indicating means must be effective for any cockpit lighting condition likely to occur.

33. Oxygen Equipment and Supply

(a) In addition to the requirements of § 23.1441(d), the following applies: A quick-donning oxygen mask system with a pressure-demand, mask mounted regulator must be provided for the flightcrew. It must be shown that each quick-donning mask can, with one hand and within 5 seconds, be placed on the face from its ready position, properly secured, sealed, and supplying oxygen upon demand.

(b) In addition to the requirements of § 23.1443, the following applies: A continuous flow oxygen system must be provided for the passengers.

(c) In addition to the requirements of § 23.1445, the following applies: If the flightcrew and passengers share a common source of oxygen, a means to separately reserve the minimum supply required by the flightcrew must be provided.

34. Maximum Operating Limit Speed

Instead of compliance with § 23.1505(c), the following applies: The maximum operating limit speed (V_{MO}/M_{MO} airspeed or Mach number, whichever is critical at a particular altitude) is a speed that may not be deliberately exceeded in any regime of flight (climb, cruise, or descent), unless a higher speed is authorized for flight test or pilot training operations. V_{MO}/M_{MO} must be established so that it is not greater than the design cruising speed, V_C, and so that it is sufficiently below V_D/M_D, or V_{DF}/M_{DF}, to make it highly improbable that the latter speeds will be inadvertently exceeded in operations. The speed margin between V_{MO}/M_{MO} and V_D/M_D, or V_{DF}/M_{DF}, may not be less than that determined under § 23.335(b) or found necessary during the flight tests conducted under special condition 22.

35. Minimum Flightcrew

Instead of compliance with § 23.1523, the following apply:

The minimum flightcrew must be established so that it is sufficient for safe operation considering:

(a) The workload on individual flightcrew members and each flightcrew member workload determination must consider the following:

(1) Flight path control,

(2) Collision avoidance,

(3) Navigation,

(4) Communications,

(5) Operation and monitoring of all essential airplane systems,

(6) Command decisions, and

(7) The accessibility and ease of operation of necessary controls by the appropriate flightcrew member during all normal and emergency operations when at the flightcrew member station.

(b) The accessibility and ease of operation of necessary controls by the appropriate flightcrew member; and

(c) The kinds of operation authorized under § 23.1525.

36. Airplane Flight Manual

Instead of compliance with § 23.1581, the following applies:

(a) *Furnishing information.* An Airplane Flight Manual must be furnished with each airplane, and it must contain the following:

(1) Information required by special conditions 37, 38, and 39.

(2) Other information that is necessary for safe operation because of design, operating, or handling characteristics.

(3) Any limitation, procedure, or other information established as a condition of compliance with the applicable noise standards of part 36 of this chapter.

(b) *Approved Information.* Each part of the manual listed in special conditions 37, 38, and 39, that is appropriate to the airplane, must be furnished, verified, and approved, and must be segregated, identified, and clearly distinguished from each unapproved part of that manual.

(c) *Airplane Flight Manual.* Each Airplane Flight Manual must include a table of contents if the complexity of the manual indicates a need for it.

(d) *Airplane Flight Manual.* Each page of the Airplane Flight Manual containing information prescribed in this section must be of a type that is not easily erased, disfigured, or misplaced, and is capable of being inserted in a manual provided by the applicant, or in a folder, or in any other permanent binder.

(e) *Airplane Flight Manual.* Provision must be made for stowing the Airplane Flight Manual in a suitable fixed container that is readily accessible to the pilot.

(f) *Revisions and amendments.* Each Airplane Flight Manual (AFM) must contain a means for recording the incorporation of revisions and amendments.

37. Operating Limitations

Instead of the requirements of § 23.1583, the following apply:

(a) *Airspeed limitations.* The following airspeed limitations and any other airspeed limitations necessary for safe operation must be furnished:

(1) The maximum operating limit speed, V_{MO}/M_{MO}, and a statement that this speed limit may not be deliberately exceeded in any regime of flight (climb, cruise, or descent) unless a higher speed is authorized for flight test or pilot training.

(2) If an airspeed limitation is based upon compressibility effects, a statement to this effect and information as to any symptoms, the probable behavior of the airplane, and the recommended recovery procedures.

(3) The maneuvering speed, V_O, and a statement that full application of rudder and aileron controls, as well as maneuvers that involve angles of attack near the stall, should be confined to speeds below this value.

(4) The maximum speed for flap extension, V_{FE}, for the takeoff, approach, and landing positions.

(5) The landing gear operating speed or speeds, V_{LO}.

(6) The landing gear extended speed, V_{LE} if greater than V_{LO}, and a statement that this is the maximum speed at which the airplane can be safely flown with the landing gear extended.

(b) *Powerplant limitations.* The following information must be furnished:

(1) Limitations required by § 23.1521.

(2) Explanation of the limitations, when appropriate.

(3) Information necessary for marking the instruments, required by § 23.1549 through § 23.1553.

(c) *Weight and loading distribution.* The weight and extreme forward and aft center of gravity limits required by §§ 23.23 and 23.25 must be furnished in the Airplane Flight Manual. In addition, all of the following information and the information required by § 23.1589 must be presented either in the Airplane Flight Manual or in a separate weight and balance control and loading document, which is incorporated by reference in the Airplane Flight Manual:

(1) The condition of the airplane and the items included in the empty weight, as defined in accordance with § 23.29.

(2) Loading instructions necessary to ensure loading of the airplane within the weight and center of gravity limits, and to maintain the loading within these limits in flight.

(d) *Maneuvers.* A statement that acrobatic maneuvers, including spins, are not authorized.

(e) *Maneuvering flight load factors.* The positive maneuvering limit load factors for which the structure is proven, described in terms of accelerations, and a statement that these accelerations limit the angle of bank in turns and limit the severity of pull-up maneuvers must be furnished.

(f) *Flightcrew.* The number and functions of the minimum flightcrew determined under special condition 35 must be furnished.

(g) *Kinds of operation.* The kinds of operation (such as VFR, IFR, day, or night) and the meteorological conditions in which the airplane may or may not be used must be furnished. Any installed equipment that affects any operating limitation must be listed and identified as to operational function.

(h) *Additional operating limitations must be established as follows:* (1) The maximum takeoff weights must be established as the weights at which compliance is shown with the applicable provisions of part 23 (including the takeoff climb provisions of special condition 10, paragraphs (a) through (c), for altitudes and ambient temperatures).

(2) The maximum landing weights must be established as the weights at which compliance is shown with the applicable provisions of part 23 (including the approach climb and balked landing climb provisions of special conditions 10, paragraph (d), and 12 for altitudes and ambient temperatures).

(3) The minimum takeoff distances must be established as the distances at which compliance is shown with the applicable provisions of part 23 (including the provisions of special conditions 5 and 7 for weights, altitudes, temperatures, wind components, and runway gradients).

(4) The extremes for variable factors (such as altitude, temperature, wind, and runway gradients) are those at which compliance with the applicable provision of part 23 and these special conditions is shown.

(i) *Maximum operating altitude.* The maximum altitude established under § 23.1527 must be furnished.

(j) *Maximum passenger seating configuration.* The maximum passenger seating configuration must be furnished.

38. Operating Procedures

Instead of the requirements of § 23.1585, the following applies:

(a) Information and instruction regarding the peculiarities of normal operations (including starting and warming the engines, taxiing, operation of wing flaps, slats, landing gear, speed brake, and the automatic pilot) must be furnished, together with recommended procedures for the following:

(1) Engine failure (including minimum speeds, trim, operation of the remaining engine, and operation of flaps);

(2) Restarting turbine engines in flight (including the effects of altitude);

(3) Fire, decompression, and similar emergencies;

(4) Use of ice protection equipment;

(5) Operation in turbulence (including recommended turbulence penetration airspeeds, flight peculiarities, and special control instructions);

(6) The demonstrated crosswind velocity and procedures and information pertinent to operation of the airplane in crosswinds.

(b) Information identifying each operating condition in which the fuel system independence prescribed in § 23.953 is necessary for safety must be furnished, together with instructions for placing the fuel system in a configuration used to show compliance with that section.

(c) For each airplane showing compliance with § 23.1353(g)(2) or (g)(3), the operating procedures for disconnecting the battery from its charging source must be furnished.

(d) If the unusable fuel supply in any tank exceeds 5 percent of the tank

capacity, or 1 gallon, whichever is greater, information must be furnished indicating that, when the fuel quantity indicator reads "zero" in level flight, any fuel remaining in the fuel tank cannot be used safely in flight.

(e) Information on the total quantity of usable fuel for each fuel tank must be furnished.

(f) The buffet onset envelopes determined under special condition 21 must be furnished. The buffet onset envelopes presented may reflect the center of gravity at which the airplane is normally loaded during cruise if corrections for the effect of different center of gravity locations are furnished.

38. Performance Information

Instead of the requirements of § 23.1587, the following applies:

(a) Each Airplane Flight Manual must contain information to permit conversion of the indicated temperature to free air temperature if other than a free air temperature indicator is used to comply with the requirements of § 23.1303(d).

(b) Each Airplane Flight Manual must contain the performance information computed under the applicable provisions of this part for the weights, altitudes, temperatures, wind components, and runway gradients, as applicable, within the operational limits of the airplane, and must contain the following:

(1) The conditions under which the performance information was obtained, including the speeds associated with the performance information.

(2) V_3 determined in accordance with special condition 13.

(3) The following performance information (determined by extrapolation and computed for the range of weights between the maximum landing and maximum takeoff weights):

(i) Climb in the landing configuration.

(ii) Climb in the approach configuration.

(iii) Landing distance.

(4) Procedures established under special condition 2, paragraphs (c), (d), and (e), that are related to the limitations and information required by paragraph (h) of special condition 37 and by this paragraph. These procedures must be in the form of guidance material, including any relevant limitations or information.

(5) An explanation of significant or unusual flight or ground handling characteristics of the airplane.

Issued in Kansas City, Missouri on October 15, 1997.

Mary Ellen A. Schutt,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

BILLING CODE 4910-13-P

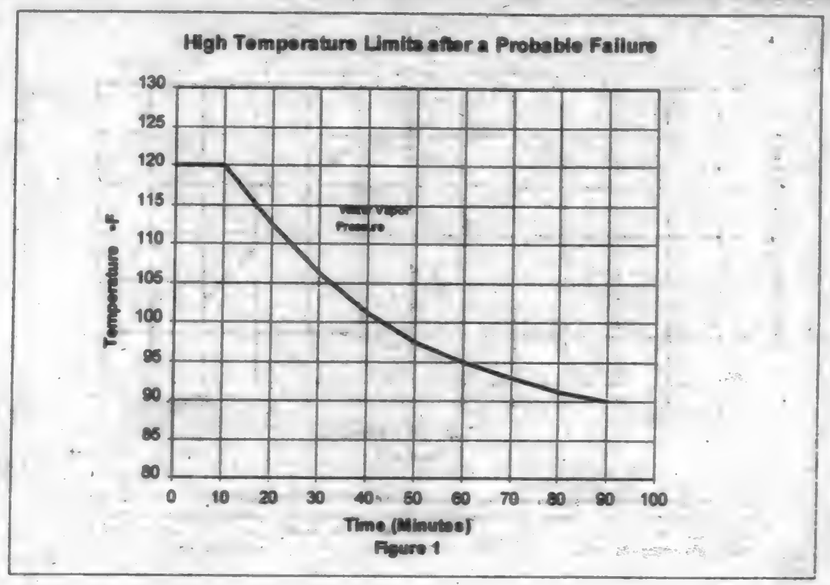

Figure 1

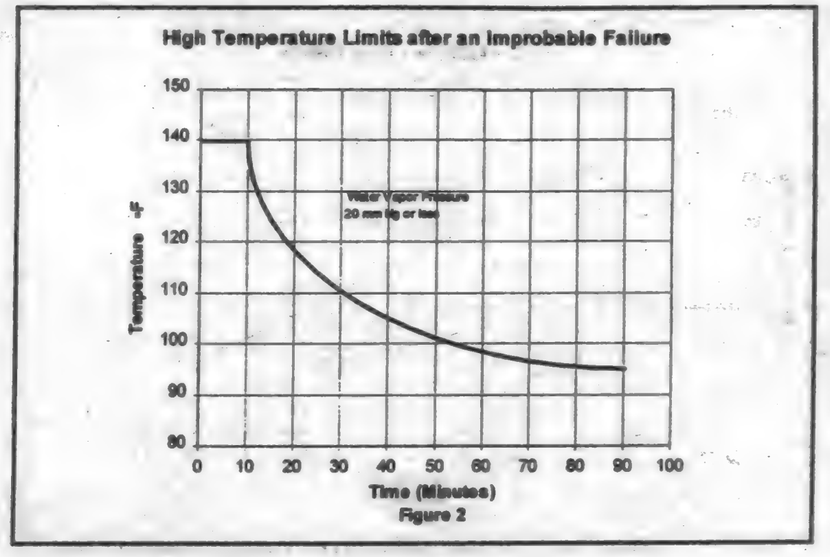

Figure 2

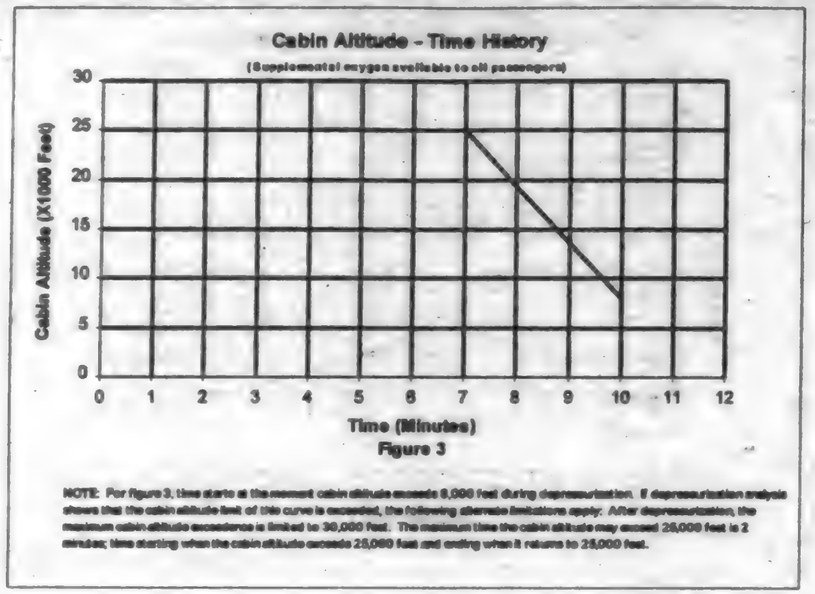

Figure 3

NOTE: For figure 3, time starts at the moment cabin altitude exceeds 8,000 feet during depressurization. If depressurization analysis shows that the cabin altitude limit of this curve is exceeded, the following alternate limitations apply: After depressurization, the maximum cabin altitude exceedance is limited to 30,000 feet. The maximum time the cabin altitude may exceed 25,000 feet is 2 minutes; time starting when the cabin altitude exceeds 25,000 feet and ending when it returns to 25,000 feet.

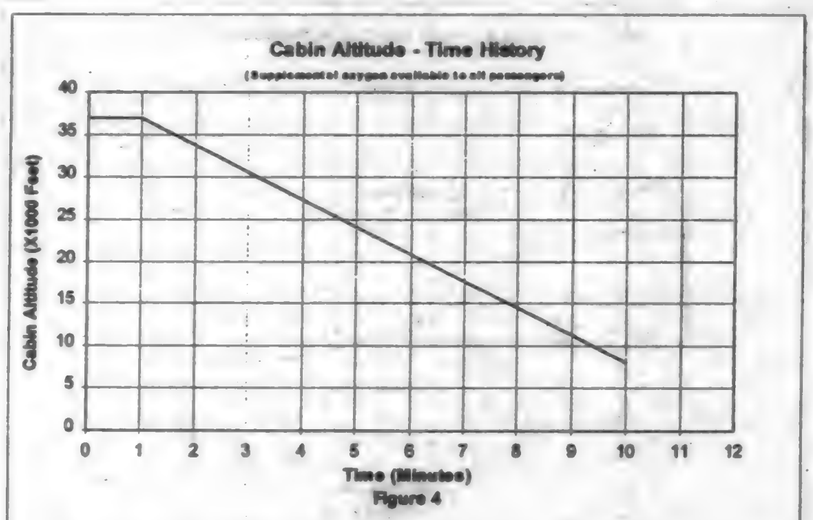

Figure 4

NOTE: For figure 4, time starts at the moment cabin altitude exceeds 8,000 feet during depressurization. If depressurization analysis shows that the cabin altitude limit of this curve is exceeded, the following alternate limitations apply: After depressurization, the maximum cabin altitude exceedance is limited to 40,000 feet. The maximum time the cabin altitude may exceed 25,000 feet is 2 minutes; time starting when the cabin altitude exceeds 25,000 feet and ending when it returns to 25,000 feet.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–252–AD; Amendment 39–10185; AD 97–22–13]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A320 and A321 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to all Airbus Model A320 series airplanes, that currently requires revising the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to instruct the flight crew to maintain a flap setting of "Configuration Full" (CONF FULL) during landing. That AD was prompted by a report of severe control difficulties which occurred on approach with the flaps locked in CONF FULL and the landing gear down. This amendment adds a requirement for installation of a new, improved flight warning computer (FWC), which, when accomplished, constitutes terminating action for the AFM limitation. This action also revises the applicability of the existing AD to include additional airplanes that are subject to the addressed unsafe condition. The actions specified by this AD are intended to prevent reduced controllability of the airplane during approach when the flaps are locked in CONF FULL.

DATES: Effective December 5, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 5, 1997.

The incorporation by reference of Airbus A320/A321 Flight Manual Temporary Revision 9.99.99/20, dated June 14, 1997, was approved previously by the Director of the Federal Register as of October 7, 1994 (59 FR 48563, September 22, 1994).

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Charles Huber, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2589; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 94–20–02, amendment 39–9030 (59 FR 48563, September 22, 1994), which is applicable to all Airbus Model A320 series airplanes was published in the Federal Register on February 12, 1997 (62 FR 6502). That action proposed to continue to require revising the airplane flight manual (AFM) of Model A320 series airplanes to instruct the flight crew to maintain CONF FULL during landing approaches for Airbus Model A320 series airplanes. That action also proposed to require the same AFM revision for Airbus Model A321 series airplanes.

Additionally, that action proposed to require installation of a new, improved flight warning computer (FWC) on all airplanes as terminating action for the AFM limitations.

Since the Issuance of the NPRM

Airbus has issued Airbus Service Bulletin A320–31–1080, Revision 02, dated October 24, 1996. This revised service bulletin is essentially identical to Revision 1 of the service bulletin (which was referenced in the NPRM as the appropriate source of service information), but contains certain editorial changes. The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, classified Revision 2 of the service bulletin as mandatory, in order to assure the continued airworthiness of these airplanes in France.

The FAA has revised the final rule to include Airbus Service Bulletin A320–31–1080, Revision 02, dated October 24, 1996, as a source of service information.

Consideration of Comments Received

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the two comments received.

Both commenters support the proposed rule.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 109 Airbus Model A320 series airplanes of U.S. registry will be affected by this AD.

The actions that are currently required by AD 94–20–02 (revision of the AFM), and retained in this AD, take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the AFM revision required by this AD on U.S. operators is estimated to be $6,540, or $60 per airplane.

The new actions that are required by this new AD (installation of new improved FWC) will take approximately 3 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will be provided to operators by the manufacturer at no cost. Based on these figures, the cost impact of the new requirements of this AD on U.S. operators is estimated to be $19,620, or $180 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

None of the Model A321 series airplanes affected by this action are on the U.S. Register. All of those airplanes that are included in the applicability of this AD currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that inclusion of those airplanes in the applicability of this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these airplanes are imported and placed on the U.S. Register in the future.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3)

will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9030 (59 FR 48563, eptember 22, 1994), and by adding a new airworthiness directive (AD), amendment 39–10185 to read as follows:

97–22–13 Airbus Industrie: Amendment 39–10185. Docket 96–NM–252–AD. Supersedes AD 94–20–02, Amendment 39–9030.

Applicability: Model A320 and A321 series airplanes, on which Airbus Modification 24612 or Airbus Service Bulletin A320–31–1080 has not been accomplished; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent severely reduced controllability of the airplane during approach, accomplish the following:

(a) At the applicable time specified in either paragraph (a)(1) or (a)(2) of this AD, revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the information specified in Airbus A320/A321 Flight Manual Temporary Revision 9.99.99/20, dated June 14, 1994.

Note 2: This may be accomplished by inserting a copy of Airbus A320/A321 Flight Manual Temporary Revision 9.99.99/20, dated June 14, 1994, in the AFM. When this temporary revision has been incorporated in the general revisions of the AFM, the general revisions may be inserted in the AFM, provided the information contained in the general revisions is identical to that specified in Temporary Revision 9.99.99/20.

(1) For Model A320 series airplanes: Revise the AFM within 10 days after October 7, 1994 (the effective date of AD 94–20–02, amendment 39–9030).

(2) For Model A321 series airplanes: Revise the AFM within 10 days after the effective date of this AD.

(b) Within 6 months after the effective date of this AD, install a new, improved flight warning computer (FWC) in accordance with Airbus Service Bulletin A320–31–1060, Revision 01, dated July 12, 1996 or Revision 2, dated October 24, 1996. Prior to further flight after accomplishing this installation, remove the AFM revision required by paragraphs (a) of this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Operations Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The installation shall be done in accordance with Airbus Service Bulletin A320–31–1060, Revision 01, dated July 12, 1996, or Airbus Service Bulletin A320–31–1060, Revision 02, dated October 24, 1996. Airbus Service Bulletin A320–31–1060, Revision 01, dated July 12, 1996, contains the following list of effective pages:

Page number	Revision level shown on page	Date shown on page
1, 3, 4, 6–8 ...	1	July 12, 1996.
2, 5, 9–13	Original	Jan. 4, 1995.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

The revision to the AFM shall be done in accordance with Airbus A320/A321 Flight Manual Temporary Revision 9.99.99/20, dated June 14, 1994. The incorporation by reference of this document was approved previously by the Director of the Federal Register as of October 7, 1994 (59 FR 48563, September 22, 1994).

Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in French airworthiness directive 96–079–079(B), dated April 10, 1996.

(f) This amendment becomes effective on December 5, 1997.

Issued in Renton, Washington, on October 23, 1997.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–28615 Filed 10–30–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–ANE–52–AD; Amendment 39–10186; AD 97–22–14]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CF6–50 and –80C2 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to General Electric Company (GE) CF6–50 and –80C2 series turbofan engines. This action requires removal from service of defective high pressure compressor rotor (HPCR) stage 3–9 spools, and replacement with serviceable parts. This amendment is prompted by a report of an uncontained failure of an HPCR stage 3–9 spool installed on a GE model CF6–80C2 turbofan engine. The actions specified in this AD are intended to prevent failure of the HPCR stage 3–9 spool, which can result in an uncontained engine failure and damage to the aircraft.

DATES: Effective November 17, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 17, 1997.

Comments for inclusion in the Rules Docket must be received on or before December 30, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 97–ANE–52–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: "9-ad-engineprop@faa.dot.gov". Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from General Electric Company Technical Services, Attention: Leader for distribution/microfilm, 10525 Chester Road, Cincinnati, OH 45215; telephone (513) 672–8400 Ext. 114, fax (513) 672–8422. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: William Ricci, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7142, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) has received a report of an uncontained failure of a high pressure compressor rotor (HPCR) stage 3–9 spool installed on a GE model CF6–80C2 turbofan engine. The investigation revealed that a crack initiated in the HPCR stage 3–9 spool and propagated in low cycle fatigue to rapid fracture and disk rupture. The crack initiated from an oxygen stabilized alpha region located in the area of the stage 3 dovetail blade slot and propagated radially inward to the disk bore. The FAA has determined that HPCR stage 3–9 spools produced from the same melt of material may also be affected. The investigation is continuing and pending the results of the investigation the requirements of this AD may be changed. This condition, if not corrected, could result in failure of the HPCR stage 3–9 spool, which can result in an uncontained engine failure and damage to the aircraft.

The FAA has reviewed and approved the technical contents of GE CF6–50 Service Bulletin (SB) 72–A1139, dated October 17, 1997, and GE CF6–80C2 SB 72–A908, dated October 17, 1997, that describe procedures for removal from service of defective HPCR 3–9 spools, and replacement with serviceable parts.

Since an unsafe condition has been identified that is likely to exist or develop on other engines of the same type design, this AD is being issued to prevent failure of the HPCR 3–9 spool. This AD requires, within 30 days after the effective date of this AD, removal from service of defective HPCR 3–9 spools, and replacement with serviceable parts. This calender end-date was determined based upon risk analysis. The actions are required to be accomplished in accordance with the SBs described previously.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97–ANE–52–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

97–22–14 General Electric Company: Amendment 39–10186. Docket 97–ANE–52–AD.

Applicability: General Electric Company (GE) CF6–50 and –80C2 series turbofan engine, installed on but not limited to Boeing 767 and 747 series, McDonnell Douglas DC–10 and MD–11, and Airbus Industries A300 and A310 series aircraft.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless

of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the high pressure compressor rotor (HPCR) 3–9 spool, which can result in an uncontained engine failure and damage to the aircraft, accomplish the following:

(a) Within 30 days after the effective date of this AD, remove from service HPCR 3–9 spools identified by serial number in the applicable service bulletin (SB), and replace with serviceable parts, as follows:

(1) For GE CF6–50 series turbofan engines, remove and replace in accordance with GE CF6–50 SB 72–A1139, dated October 17, 1997.

(2) For GE CF6–80C series turbofan engines, remove and replace in accordance with GE CF6–80C2 SB 72–A908, dated October 17, 1997.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

(d) The actions required by this AD shall be done in accordance with the following GE SBs:

Document No.	Pages	Date
CF6–50 SB 72–A1139. Total pages: 7.	1–7	Oct. 17, 1997.
CF6–80C2 SB 72–A908. Total pages: 7.	1–7	Oct. 17, 1997.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from General Electric Company Technical Services, Attention: Leader for distribution/microfilm, 10525 Chester Road, Cincinnati, OH 45215; telephone (513) 672–8400 Ext. 114, fax (513) 672–8422. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on November 17, 1997.

Issued in Burlington, Massachusetts, on October 22, 1997.

James C. Jones,

Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 97–28742 Filed 10–30–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–11–AD; Amendment 39–10187; AD 97–22–16]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company Models 1900, 1900C, and 1900D Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Raytheon Aircraft Company (Raytheon) Models 1900, 1900C, and 1900D airplanes (formerly referred to as Beech Models 1900, 1900C, and 1900D airplanes). This AD requires fabricating and installing a placard that restricts the use of the forward and aft vent blower assemblies to only the "OFF" or "HIGH" position. This AD also requires incorporating a modification that would replace the bearings on the vent blower assemblies with improved design bearings, and provide thermal protection for the vent blowers, as applicable. Incorporating the modification will eliminate the need for the placard. The AD results from reports of vent blower assembly bearings seizing and locking the blower motor on several of the affected airplanes. The actions specified by this AD are intended to prevent the vent blower assembly bearings from seizing, which could result in smoke emanating from the insulating material covering the electrical wiring and entering the airplane cabin.

DATES: Effective December 5, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 5, 1997.

ADDRESSES: Service information that applies to this AD may be obtained from the Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–11–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Harvey Nero, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4137; facsimile (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Raytheon Models 1900, 1900C, and 1900D airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on May 29, 1997 (62 FR 29086). The NPRM proposed to require (1) fabricating and installing a placard that restricts the use of the vent blower assemblies; and (2) incorporating a modification that would replace the bearings in the vent blower assemblies with improved design bearings, and provide thermal protection for the vent blowers, as applicable. Incorporating the modification would eliminate the need for the placard. Accomplishment of the proposed modification as specified in the NPRM would be in accordance with the Update Procedures for the Electromech Technologies EM630 Blower (Raytheon P/N 114–380028–1 for Installation of Kit P/N's 630–201–1 and 630–201–2), dated December 9, 1996; and Advanced Industries, Inc. Installation Procedure for the Resistor Wiring Harness Kit on the BC80A–1 Blower, dated October 9, 1996. Both of these documents are referenced in Raytheon Service Bulletin No. 2721, Issued: January 1997.

The NPRM resulted from vent blower assembly bearings seizing and locking the blower motor on several of the affected airplanes.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed AD or on the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Cost Impact

The FAA estimates that 500 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 7 workhours per airplane to accomplish the required modification, and that the average labor rate is approximately $60 an hour. Parts cost approximately $500 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $460,000. These figures are based on the presumption that no owner/operator of the affected airplanes has incorporated the modification.

Raytheon has informed the FAA that approximately 700 kits have been shipped from the Raytheon Aircraft - Authorized Service Center. This is enough to equip 350 of the affected airplanes (two vent blower assemblies per airplane). Presuming that each of the 350 sets of kits is incorporated on an affected airplane, the cost impact of this AD is reduced by $322,000 from $460,000 to $138,000.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

97–22–16 Raytheon Aircraft Company: Amendment 39–10187; Docket No. 97–CE–11–AD.

Applicability: The following model and serial number airplanes, certificated in any category, that are equipped with either part number (P/N) 114–380028–1 vent blower assemblies or P/N 114–380028–3 vent blower assemblies:

Model	Serial numbers
1900	UA–2 and UA–3.
1900C	UB–1 through UB–74, and UC–1 through UC–174.
1900C (C–12J)	UD–1 through UD–6.
1900D	UE–1 through UE–244.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent the vent blower assembly bearings from seizing, which could result in smoke emanating from the insulating material covering the electrical wiring and entering the airplane cabin, accomplish the following:

(a) Within the next 100 hours time-in-service (TIS) after the effective date of this AD, accomplish the following:

(1) Fabricate a placard, using letters at least 1/8-inch in height, with the words: "Operate vent blowers in HIGH or OFF position only".

(2) Install this placard near the vent blower control switch within the pilot's clear view.

(3) This placard requirement may be terminated when the modifications required by paragraph (b) of this AD are incorporated.

(b) Upon accumulating 2,000 total hours TIS or within the next 1,000 hours TIS after the effective date of this AD, whichever occurs later, incorporate one of the following kits, as applicable, in accordance with the referenced kit instructions, as specified in Raytheon Service Bulletin No. 2721, Issued: January, 1997:

(1) For P/N 114–380028–1 vent blower assemblies: Electromech Technologies Kit No. EM630–201–1 or EM630–201–2 (as appropriate for the blower serial number), in accordance with the Update Procedures for the Electromech Technologies EM630 Blower (Raytheon P/N 114–380028–1 for Installation of Kit P/N's 630–201–1 and 630–201–2), dated December 9, 1996. These kits, when incorporated, replace the bearings on the vent blower assemblies with improved design bearings, and provide thermal protection for the vent blowers; or

(2) For P/N 114–380028–3: Advanced Industries Kit No. BC80A905 in accordance with Advanced Industries, Inc. installation Procedure for the Resistor Wiring Harness Kit on the BC80A–1 Blower, dated October 9, 1996. This kit, when incorporated, provides thermal protection for the vent blowers.

(c) As of the effective date of this AD, no person may install P/N 114–380028–1 or P/N 114–380028–3 vent blower assemblies without first incorporating the appropriate kit(s), as referenced in paragraphs (b)(1) and (b)(2) of this AD.

(d) Fabricating and installing the placard as required by paragraphs (a)(1) and (a)(2) of this AD may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with section 43.11 of the Federal Aviation Regulations (14 CFR 43.11).

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

(g) The modification required by this AD shall be done in accordance with the Update Procedures for the Electromech Technologies EM630 Blower (Raytheon P/N 114–380026–1 for installation of Kit P/N's 630–201–1 and 630–201–2), dated December 9, 1996; and Advanced Industries, Inc. Installation Procedure for the Resistor Wiring Harness Kit on the BC80A–1 Blower, dated October 9, 1996. Both of these documents are referenced in Raytheon Service Bulletin No. 2721, Issued: January, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment (39–10187) becomes effective on December 5, 1997.

Issued in Kansas City, Missouri, on October 23, 1997.

Mary Ellen A. Schutt,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–28872 Filed 10–30–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ANM–08]

Establishment of Class E Airspace; Twin Falls, ID

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes the Twin Falls, ID, Class E airspace. The recent commissioning of the Twin Falls Automated Surface Observation System (ASOS) qualifies the Joslin Field-Magic Valley Regional Airport for a Class E surface area. The intended effect of this action is to provide the controlled airspace necessary, when the control tower is closed and Class D airspace is not active, to enable the FAA to provide Instrument Flight Rules (IFR) air traffic control services and separation to IFR aircraft.

EFFECTIVE DATE: 0901 UTC, January 1, 1998.

FOR FURTHER INFORMATION CONTACT: Dennis Ripley, ANM–520.6, Federal Aviation Administration, Docket No. 97–ANM–08, 1601 Lind Avenue S.W., Renton, Washington, 98055–4056; telephone number: (425) 227–2527.

SUPPLEMENTARY INFORMATION:

History

On June 17, 1997, the FAA proposed to amend Title 14, Code of Federal Regulations part 71 (14 CFR part 71) by establishing the Class E airspace area at Twin Falls, ID, (62 FR 32704). The recent commissioning of the Twin Falls ASOS qualifies the Joslin Field-Magic Valley Regional Airport for a Class E surface area. In the notice of proposed rulemaking action, the airport name was inadvertently listed as Twin Falls-Sun Valley Regional, Joslin Field. The correct name is Joslin Field-Magic Valley Regional Airport. Additionally, an error was discovered in the airport coordinates. These errors are corrected herein.

Interested parties were invited to participate in the rulemaking proceeding by submitting written comments on the proposal. No comments were received. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designated as a surface area for an airport are published in Paragraph 6002 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 establishes Class E airspace within a 4.3 nautical mile radius of the Joslin Field-Magic Valley Regional Airport, Twin Falls, ID. Where communications and weather reporting criteria are met, the FAA establishes Class E airspace extending upward from the surface to the base of the overlying controlled airspace to contain terminal instrument operations if such action is justified and/or in the public interest. The recent installation and commissioning of the Twin Falls ASOS qualifies the Joslin Field-Magic Valley Regional Airport for a Class E surface area. The intended effect of this action is to provide the controlled airspace necessary, when the control tower is closed and Class D airspace is not active, to enable the FAA to provide IFR air traffic control services and separation to IFR aircraft at the Joslin Field-Magic Valley Regional Airport. The area would be depicted on aeronautical charts for pilot reference.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6002 Class E airspace designated as a surface area for an airport.

* * * * *

ANM ID E2 Twin Falls, ID [New]

Joslin Field-Magic Valley Regional Airport, ID

(Lat. 42°28'55"N, long. 114°29'16"W)

Within a 4.3-mile radius of the Joslin Field-Magic Valley Regional Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Seattle, Washington, on October 20, 1997.

Glenn A. Adams III,

Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 97–28946 Filed 10–30–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ANM–07]

Establishment of Class E Airspace; Lewiston, ID

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes the Lewiston, ID, Class E airspace. The recent commissioning of the Lewiston-Nez Perce Automated Surface Observation System (ASOS) qualifies the Lewiston-Nez Perce County Airport for a Class E surface area. The intended effect of this action is to provide the controlled airspace necessary, when the control tower is closed and Class D airspace is not active, to enable the FAA to provide Instrument Flight Rules (IFR) air traffic control services and separation to IFR aircraft.

EFFECTIVE DATE: 0901 UTC, January 1, 1998.

FOR FURTHER INFORMATION CONTACT: Dennis Ripley, ANM–520.6, Federal Aviation Administration, Docket No. 97–ANM–7, 1601 Lind Avenue S.W., Renton, Washington 98055–4056; telephone number: (425) 227–2527.

SUPPLEMENTARY INFORMATION:

History

On June 17, 1997, the FAA proposed to amend Title 14, Code of Federal Regulations, part 71 (14 CFR part 71) by establishing the Class E airspace area at Lewiston, ID (62 FR 32703). The recent commissioning of the Lewiston-Nez Perce ASOS qualifies the Lewiston-Nez Perce County Airport for a Class E surface area. Interested parties were invited to participate in the rulemaking proceeding by submitting written comments on the proposal. No comments were received.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designated as a surface area for an airport are published in Paragraph 6002 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 establishes Class E airspace within a 4.1 nautical mile radius of the Lewiston-Nez Perce County Airport, Lewiston, ID. Where communication and weather reporting criteria are met, the FAA establishes Class E airspace extending upward from the surface to the base of the overlying controlled airspace to contain terminal instrument operations, if such action is justified and/or in the public interest. The recent installation and commissioning of the Lewiston-Nez Perce ASOS qualifies the Lewiston-Nez Perce County Airport for a Class E surface area. The intended effect of this action is to provide the controlled airspace necessary, when the control tower is closed and Class D airspace is not active, to enable the FAA to provide IFR air traffic control services and separation to IFR aircraft at the Lewiston-Nez Perce County Airport. The area would be depicted on aeronautical charts for pilot reference.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6002 Class E airspace designated as a surface area for an airport.

* * * * *

ANM ID E2 Lewiston, ID [New]

Lewiston-Nez Perce County Airport, ID

(Lat. 46°22'47" N, long. 117°00'02" W)

Within a 4.1-mile radius of the Lewiston-Nez Perce County Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Seattle, Washington, on October 20, 1997.

Glenn A. Adams III,

Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 97–28957 Filed 10–30–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ANM–11]

Amendment of Class E Airspace; Gillette, WY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the Gillette, WY, Class E airspace. This amendment provides additional airspace to fully encompass the procedures for a revised Standard Instrument Approach Procedure (SIAP) at Gillette-Campbell County Airport, Gillette, WY.

EFFECTIVE DATE: 0901 UTC, January 1, 1998.

FOR FURTHER INFORMATION CONTACT: Dennis Ripley, ANM–520.6, Federal Aviation Administration, Docket No. 97–ANM–11, 1601 Lind Avenue S.W., Renton, Washington 98055–4056; telephone number: (425) 227–2527.

SUPPLEMENTARY INFORMATION:

History

On July 25, 1997, the FAA proposed to amend Title 14, Code of Federal Regulations, part 71 (14 CFR part 71) by amending the Class E airspace area at Gillette, WY (62 FR 39977). This action would provide additional airspace to fully encompass a revised SIAP at Gillette-Campbell County Airport, WY.

Interested parties were invited to participate in the rulemaking proceeding by submitting written comments on the proposal. No comments were received.

This action is the same as the proposal except for a typographical error discovered (and corrected herein) in the coordinates for the Gillette-Campbell County Airport, WY. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 revises Class E airspace at Gillette, WY. This amendment provides approximately 6 nautical miles of additional airspace to the north, in order to fully encompass a slightly revised Localizer/Distance Measuring Equipment (LOC/DME) SIAP at Gillette-Campbell County Airport. Additional controlled airspace is necessary to accommodate the procedure turn portion of this revised SIAP and to provide for Instrument Flight Rules (IFR) operations at the airport. The area would be depicted on aeronautical charts for pilot reference.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANM WY E5 Gillette, WY [Revised]

Gillette-Campbell County Airport, WY
(Lat. 44°20'83" N, long. 105°32'36" W)
Gillette VOR/DME
(Lat. 44°20'52" N, long. 105°32'37" W)

That airspace extending upward from 700 feet above the surface within 6.1 miles east and 6.3 miles west of the Gillette VOR/DME 176° and 356° radials extending from 15.3 miles south to 16.1 miles north of the VOR/DME; that airspace extending upward from 1200 feet above the surface bounded by a line beginning at lat. 44°47'00" N, long. 106°22'32" W; to lat. 44°23'00" N, long. 106°22'32" W; to lat. 44°16'00" N, long. 105°58'02" W; to lat. 44°06'00" N, long. 106°00'02" W; to lat. 43°48'15" N, long. 106°09'32" W; to lat. 43°38'00" N, long. 106°00'02" W; to lat. 43°39'00" N, long. 105°09'02" W; to lat. 44°08'00" N, long. 105°09'02" W; to lat. 44°01'00" N, long. 104°51'02" W; to lat. 44°30'00" N, long. 104°41'02" W; to lat. 44°42'19" N, long. 105°33'58" W; to lat. 44°46'11" N, long. 105°40'18" W; thence to point of beginning.

* * * * *

Issued in Seattle, Washington, on October 20, 1997.

Glenn A. Adams III,

Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 97–28856 Filed 10–30–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91, 93, 121, and 135

[Docket No. 28537; Amendment Nos. 91–253, 93–73, 121–262]

Special Flight Rules in the Vicinity of Grand Canyon National Park

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of clarification; request for comments.

SUMMARY: This action sets forth the FAA's reevaluation of the economic and environmental impacts associated with the Special Flight Rules in the Vicinity of Grand Canyon National Park (GCNP) Final Rule, published on December 31, 1996. The Final Rule codifies the provisions of Special Federal Aviation Regulation (SFAR) No. 50–2; modifies the dimension of the GCNP Special Flight Rules Area; establishes new and modifies existing flight corridors and flight free zones; establishes reporting requirements and a curfew over certain areas for commercial sightseeing companies operating in the GCNP; and limits the number of aircraft that can be used for commercial sightseeing operations in the GCNP. After implementation of certain provisions of the Final Rule, the FAA discovered that it had significantly underestimated the number of commercial air tour aircraft operating in GCNP in 1995. The FAA has reevaluated the economic and environmental analyses completed for the Final Rule in light of this new information. The FAA has determined that the changes are not of such magnitude as to affect the Agency's position on the implementation of the Final Rule.

DATES: Comments must be received on or before December 30, 1997.

ADDRESSES: Comments on this notice should be mailed in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC–200), Docket No. 28537, 800 Independence Avenue, SW., Washington, DC 20591. Comments may also be sent electronically to the Rules Docket by using the following Internet address: nprmcmts@mail.hq.faa.gov. Comments must be marked Docket No. 28537. Comments may be examined in the Rules Docket in Room 915G on weekdays between 8:30 a.m. and 5:00 p.m., except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Patricia R. Lane, Manager, Airspace and Air Traffic Law Branch, Regulations Division, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Notice

Although this action is intended to clarify the Agency's position and evaluation of the new data, comments are invited on the new information presented and the corresponding reevaluation of the economic and environmental analysis. Once the comment period has closed, the FAA will review the comments and determine whether any changes to the Final Rule are warranted based on the submitted comments.

Background

On December 31, 1996, the FAA published a Final Rule amending part 93 of the Federal Aviation Regulations by adding a new subpart to codify the provisions of Special Federal Aviation Regulation (SFAR) No. 50–2, Special Flight Rules in the Vicinity of GCNP; modifying the dimension of the GCNP Special Flight Rules Area; establishing new and modifying existing flight corridors and flight free zones; establishing reporting requirements for commercial sightseeing companies operating in the Special Flight Rules Area; restricting flights in Zuni and Dragon Corridors during certain time periods (curfews); and limiting the number of aircraft that can be used for commercial sightseeing operations in the GCNP Special Flight Rules Area (cap) (69 FR 69302). The provisions contained in the Final Rule were to become effective on May 1, 1997.

Published concurrently with the Final Rule on December 31, 1996, was a Notice of Proposed Rulemaking (NPRM) on noise limitations for aircraft operations in the vicinity of GCNP (Quiet Technology NPRM) and a Notice of Availability of Proposed Routes. All three of the above referenced actions comprise an overall strategy to further reduce the impact of aircraft noise on the park environment and to assist the National Park Service (NPS) in achieving its statutory mandate, imposed by Pub. L. 100–91, to provide for the substantial restoration of natural quiet and visitor experience in GCNP.

On February 21, 1997, the FAA delayed the effective date for the expansion of the flight free zones, the air tour routes, and the other related airspace provisions of the Final Rule until January 31, 1998 (62 FR 8881; February 26, 1997). However, this action did not affect or delay implementation of the curfew, aircraft cap, or the reporting requirements of the Final Rule, which became effective on May 1, 1997.

In analyzing the economic impact of the Final Rule, the FAA used data derived from the SFAR 50–2 Air Tour Usage Report (1995 Survey), a survey designed to assist the NPS in obtaining information to assess noise impacts of air tour overflights at GCNP. The 1995 Survey, completed by the FAA's Las Vegas Flight Standards District Office, requested that air tour operators report the number of operations conducted along GCNP air tour routes by type of aircraft used. The FAA believed that the information presented in the survey provided the best data available to determine the number and type of commercial air tour aircraft operating in the GCNP. This survey information assisted the Agency in completing the Regulatory Evaluation.

Specifically, the Regulatory Evaluation matched the number of aircraft determined from each operator's operations specifications contained in the FAA's Vital Information System (VIS) data base with the type of aircraft reported by the operators in the 1995 Survey to attribute the estimated cost of the proposed and Final Rule actions to each of the air tour operators conducting air tours in the Park. Utilizing data from the 1995 Survey, the FAA estimated that in 1995 the 31 GCNP commercial air tour sightseeing operators flew just over 70,000 commercial sightseeing air tours utilizing 136 aircraft. No comments were received throughout the rulemaking process that directly questioned the number of aircraft or the number of air tours. Since this number of aircraft had been derived from official information contained in the VIS as well as information reported by the air tour operators, the FAA was confident in those numbers.

In conducting the analysis for the Final Environmental Assessment (EA) for the Final Rule, the FAA used modeling input that was based on information prepared by the NPS in October 1995 to model noise impacts in the vicinity of the GCNP. The October 1995 modeling input was prepared using a combination of the 1995 Survey and air traffic counts prepared by air traffic controllers at the Grand Canyon National Park Airport traffic control tower. Each of these data sources provided slightly different perspective on operational levels. The tower count provides a complete record of air taxi and commuter operations to and from Grand Canyon National Park Airport. The tower count does not, however, specifically identify any of the operations other than those that take off or land at Grand Canyon National Park Airport.

Subsequent to the issuance of the Final Rule, the FAA obtained additional information suggesting that the number of air tour aircraft conducting tours in the GCNP identified in the 1995 Survey had not accounted for the full GCNP air tour fleet that likely operated in 1995. During May 1997, the FAA conducted a voluntary air tour operator survey and site visitation that detailed identification of the number and type of aircraft engaged in GCNP air tours during that time period.

As a result of this discovery, on July 9, 1997, the FAA filed a Motion for Voluntary Remand of the Record and Stay of the Litigation challenging the Final Rule. The purpose of the request was to permit the Agency to review the apparent discrepancy in the number of commercial sightseeing aircraft being operated in the GCNP under the December 31, 1996, Final Rule, and to determine if further regulatory action was necessary or appropriate in light of the information developed as a result of that review.

Although the FAA's motion was denied, the Agency continued its efforts to verify or correct the number of aircraft operating in the GCNP between July 31, 1996, and December 31, 1996. Agency personnel met on-site with each air tour operator in July 1997 to reconcile the May 1997 survey data with the information contained in the 1995 Survey. The FAA finished the collection of that data in July 1997.

The FAA has reevaluated the economic analysis computed for the Final Rule and has completed a Written Reevaluation of the Environmental Assessment for the Final Rule in light of the new information. A copy of this Written Reevaluation has been included in the docket.

Summary of Decision

As a result of this reevaluation, the FAA has determined that the increase in the number of aircraft and air tour operations requires additional analysis of the Final Rule. In promulgating the Final Rule, the FAA used the best available data and explicitly stated that the Final Rule was a single part of an overall strategy to address the effect of aircraft noise in GCNP. The Final Rule continues to be the first step in achieving the goal of the substantial restoration of natural quiet in GCNP. While the benefits of the Final Rule are less than originally predicted by the FAA, the rule continues to provide benefits in comparison to withdrawing portions of the rule or the rule in its

entirety. Moreover, the result of the FAA's analysis of the additional information does not affect the Federal government's commitment to further the above stated policy.

As discussed in the Analysis section below, there is a change in the economic and environmental analyses due to the additional aircraft. However, the changes are not of such magnitude as to affect the FAA's decision concerning the implementation of the Final Rule or the Federal government's overall policy to address the effects of air tour operations in GCNP.

Based on the new data, the Final Rule's total costs are now estimated at $47 million (discounted), originally estimated at $42 million, over the period 1997–2008, while total benefits are now estimated at $144 million (discounted), originally estimated at $172 million, over the same period.

The FAA believes that the goal of substantially restoring natural quiet in GCNP will be accomplished after implementation of the revised air tour routes and completion of the Quite Technology rulemaking. Therefore, the FAA does not find that these revised conclusions, as set forth below, warrant any change to the Final Rule as implemented. However, the FAA is seeking comments on the new information concerning the number of aircraft operation in GCNP in 1995 and the reevaluation of the economic and environmental analyses. The FAA will review comments on these matters and determine whether any changes to the Final Rule are warranted.

Nothing in this reevaluation has led the FAA to reconsider the provisions established in the Final Rule. However, following discussions with the NPS, the FAA and NPS have agreed to delay the final route selection until the fall of 1998 so that further review and discussions may be undertaken on the routes through the proposed National Canyon Corridor. Further, this comment period will provide all interested parties an opportunity to review this analysis and to assess the impact of the new information concerning the number of commercial air tour aircraft being operated in the GCNP, and to provide their views to the FAA.

Economic Analysis

Written Supplemental Reevaluation of the Regulatory Evaluation and Regulatory Flexibility Analysis

The FAA has partially revised its regulatory evaluation and regulatory flexibility analysis of the Final Rule, Special Flight Rules in the Vicinity of Grand Canyon National Park (61 FR 69302; Dec. 31, 1996). The Agency's decision to review and supplement both analyses stems from the development of more accurate data than those that formed the basis for the original analyses. Subsequent to issuance of the Final Rule, the FAA obtained additional information suggesting that the number of air tour aircraft conducting tours in the GCNP identified in the 1995 field survey had not accounted for the full GCNP air tour fleet that likely operated in 1995. During May 1997, the FAA therefore conducted a voluntary air tour operator survey and site visitation that detailed identification of the number and type of aircraft engaged in GCNP air tours during that time period. To confirm the May survey aircraft count, reconcile the May survey results with the 1995 survey, and obtain more comprehensive data regarding numbers of air tours conducted in 1995, the FAA decided to conduct follow-up site visits with each GCNP air tour operator in July 1997.

During this process, the Agency discovered other data elements or assumptions that required revision; accordingly, several methodological changes have been made, however, the FAA has not reprinted the full regulatory evaluation and regulatory flexibility analysis. The original documents, as they appear in the docket, combined with this summary of revisions, constitute the complete economic analysis.

The results of the original analysis have changed somewhat on the basis of the new data. (See summary table below.) Total costs are now estimated at $50 million, originally estimated at $42 million (discounted), over the period 1997–2008, while total benefits are now estimated at $144 million, originally estimated at $172 million (discounted), over the same period. Although costs have increased and benefits have decreased, the FAA concludes that the rule is still cost-beneficial. The rationale for these changes is described below.

ESTIMATED BENEFITS AND COSTS OF FINAL RULE, ORIGINAL AND REVISED TOTALS OVER PERIOD 1997–2008

[In millions of 1995 dollars, discounted]

	Original	Revised
Total Benefits	$172	$144
Total Costs	42	47
Modify SFRA	0	0
Modify FFZs	19	11
Modify Corridors	10	2
Curfew	11	34
Reporting	0.4	0.4
Cap	3	0

Note: Totals may not sum accurately due to rounding.

Methodological Revisions

Based on information collected directly from air tour operators after publication of the Final Rule, the FAA has revised several aspects of its methodology. The following sections describe changes to data and assumptions.

Revisions to Baseline Data Elements

Several baseline data elements have been revised on the basis of a recent survey and follow-up interviews with tour operators. The reasons for each change and the impact on the analysis are described below.

Number of aircraft: The estimated total number of aircraft providing air tours of the Park in 1995 has increased from 136 to 260. The earlier number was derived from the 1995 Survey, a survey designed to assist the NPS in obtaining information on the noise impacts of air tour overflights of GCNP. The 1995 Survey, completed by the FAA's Las Vegas Flight Standards District Office, requested that air tour operators report the number of operations conducted along GCNP air tour routes by type of aircraft used. At the time of the original analysis, the FAA believed that the survey results, accurately accounted for all air tour aircraft operated by GCNP tour providers.

After issuing the Final Rule and prior to implementing the aircraft cap, however, the FAA acquired evidence that the total number of aircraft appearing on the operator's operations specifications and available to provide air tours in 1995 was substantially more than originally estimated. Accordingly, the FAA conducted extensive site visits with air tour operators and, based on the more complete information obtained, has determined that the actual number of aircraft was 260. The impact of this revision is most apparent with respect to the aircraft cap, the estimated costs of which has decreased substantially for the reasons discussed in the cost section below.

Number of air tours: The total estimated number of air tours provided in GCNP in 1995 has been revised upward from 70,076 to 102,794. The original number was derived from operations reported on the 1995 Survey. Several months after issuance of the Final Rule, the FAA discovered that not all operations had been reported in the 1995 Survey. In particular, one large operator had provided the FAA with data for only one of two operating bases. In addition, the number of air tours reported by one operator in the 1995 survey was grossly understated. The increase in air tours is primarily responsible for an upward adjustment in the estimated cost of the curfew (see cost section below).

Price of air tours: The method of estimating the price of air tours has been refined from one average estimate of all operators for each air tour route to actual prices charged by individual operators based on 1995 tour brochures. In most cases, the updated prices are lower than the average estimated in the original analysis.

Aircraft load factor: The original analysis assumed a load factor of 95 percent for all operators. During recent field interviews, several operators provided actual load factors. Where provided, the FAA has incorporated them into the revised analysis. Where load factors were not explicitly provided, the FAA has assumed a load factor of 90 percent, based on an average of those actually provided to the Agency.

Number of routes analyzed: The original analysis incorporated data from 8 primary air tour routes. The revised analysis is more comprehensive, including data from 11 primary routes, based on data provided by operators. This revision allows for a more comprehensive, accurate accounting of the cost of the Final Rule.

Revisions to Calculated Data Elements

Based on revisions to baseline data, several data elements have been recalculated. The reasons for each change are described below.

Number of passengers: The total number of air tour passengers—a function of the number of air tours, the load factor, and the seating capacity per aircraft for each route—has been revised from 655,640 to 820,980. Due to the decrease in load factor, the number of passengers has not increased proportionally as much as the number of air tours.

Total operating revenue: Total operating revenue, defined as the price of each tour multiplied by the number of passengers on all tour routes, has been adjusted upward from $113.1 million to $120.6 million. The relatively small change in total operating revenue is due to the downward revision in tour prices, the modest increase in passengers relative to the increase in air tours, and the upward revision in the number of air tours occurring mainly on one of the lower priced air tours.

Total variable operating costs: Although hourly variable operating costs are slightly lower than originally estimated, total variable operating costs are $27.4 million rather than $36.8 million, because the number of air tours is greater than originally estimated.

Net operating revenue: Net operating revenue, defined as total operating revenue less total variable operating costs, has decreased from $85.7 million to $83.7 million. The decrease results when the relatively larger increase in total variable operating costs (as a result of the increase in air tours) is subtracted from the less than proportionate increase in total operating revenue resulting from lower load factors.

Peak summer traffic as percent of total: Based on data available at the time, the FAA estimated that air tours during the peak summer season accounted for two-thirds of total annual air tours from each base of operation. Based on revised data from Tusayan operators, however, the FAA now estimates that air tours provided during the summer account for 75 percent of annual air tours out of Tusayan. Revised data from other operators confirm that summer air tours from other locations account for 67 percent of annual totals. This revision affects the estimates of curfew-related costs(see cost section below).

Revised Assumptions

Based on new information, the following basic assumption has also been revised.

Reporting requirements: The original analysis based the cost estimates associated with reporting requirements on the number of aircraft. The FAA now believes that the number of air tours is the more appropriate basis for estimating the cost of reporting requirements for operators and has made the appropriate changes in the analysis. The costs of the reporting requirements to the FAA have been revised upwards but remain a minor part of total costs. The FAA has found that analyzing and using the operators' reports requires more staff time than originally estimated.

Revised Cost Estimates

As described below, cost estimates for five of the six provisions of the Final Rule have been revised based on new data and assumptions. In total, the discounted costs of the Final Rule have been revised upward from $42 million to $50 million over the period 1997–2008.

Modification of the Special Flight Rules Area (SFRA): There is no change in this estimate. As in the analysis of the Final Rule, the FAA believes that charting costs associated with a change in the Special Flight Rules Area over the flight-free zones will have no measurable impact on air tour operators.

Establish/Modify FFZs and Corridors: The FAA has revised its cost estimates for the changes in flight-free zones and flight corridors. For the reasons stated in the original analysis, the FAA continues to predict no costs for four of the alterations in the SFRA. Estimates for the remaining two have decreased, bringing the average annual costs of these provisions down from $3.6 million to $2.2 million over the period 1999–2008. The annual costs of the Toroweap FFZ extension and closure of the National Canyon Corridor have decreased from $2.4 million to $1.8 million, largely because prices and load factors were adjusted down by a greater proportion than air tours were increased. For the same reasons, the annual cost of creating a one-way traffic pattern in the Zuni Corridor decreased from $1.2 million to $0.4 million. The total costs of these provisions have decreased somewhat because the FAA has delayed their implementation until 1999; therefore, they were analyzed over the period 1999–2008 instead of the standard 1997–2008 used for other cost items in this analysis.

Curfew: The FAA now calculates that the curfew will be the highest cost provision of the rule. Based on the new data, the calculated average annual cost of the curfew has increased from $1.4 million to $4.4 million. The primary reason for this is the large upward revision in estimated air tours in the east end of the park, the only area where the curfew applies. The affected operators are unified in the view that prohibiting early morning and late afternoon air tours will reduce their business by about 20 percent. They strongly believe that they cannot accommodate this restriction by activating underutilized aircraft to increase the number of tours during authorizing times. They state that their arrangements with tour companies call for the air tour to be part of a larger tour package to take place at specific times of the day and that the time cannot be rearranged. The FAA accepts the operators' strong position on this issue and has recalculated costs based on the assumption that tours now being carried out during the curfew periods cannot be rescheduled.

It may be possible for these operators to reschedule the air tours affected by the curfew when the tour packages are renegotiated in the future. If this can be done, then the curfew's impact on operator revenue would be less in the future. However, since the FAA does not know the extent to which air tours affected by the curfew can be rescheduled in the future, the FAA has not adjusted downward the costs of the curfew to take into account any future rescheduling of air tours affected by the curfew.

Reporting Requirements: The estimated average annual cost of the reporting requirements has increased slightly to $77,000 over the five years that the provision will be in effect (1997–2001). The revised costs are borne differently than those in the original estimate, however. The calculated annual cost to operators has been revised downward from $73,000 to $53,000, due to a change in the basis for the estimate from aircraft to air tours. The cost to the FAA has been revised upward from $3,200 to $24,000 because the Agency has found that additional staff time is necessary to analyze operators' reports.

Aircraft Cap: The calculated cost of the freeze on aircraft has been revised down from $2.9 million for the first year to zero for all years. Based on an analysis of the higher aircraft count (260) and corresponding air tours (102,794), the FAA concludes that there is enough excess capacity in terms of aircraft numbers for air tours to increase by 3.3 percent annually for the next twelve years if the demand exists. In the aggregate, and for most individual operators, the number of air tours provided can continue to increase while the number of aircraft remains the same. While the cap could affect a few individual operators who fully utilize their aircraft, the FAA predicts that the cap will have no impact on aggregate growth and will impose no cost in the aggregate over the period of the analysis.

Revised Benefits Estimates

The original benefits analysis was based on an estimate of noise reduction that would be produced from the provisions of the Final Rule. The noise reduction estimate, as described in the Written Reevaluation of the Environmental Assessment of the Final Rule, has changed somewhat on the basis of the new aircraft numbers. Largely due to the reduced effectiveness of the aircraft cap, there will be a lesser reduction in aircraft noise than originally estimated. Accordingly, the estimate of economic benefits has been reduced from $172 million over 12 years to $144 million (discounted).

Supplemental Regulatory Flexibility Analysis

All new data and assumptions, as described above, have been incorporated into the Regulatory Flexibility Analysis. The FAA certifies that the Final Rule will have a significant economic impact on a substantial number of small commercial tour operators conducting flights within GCNP.

The FAA determined that there would be a significant economic impact on small entities at the time it issued the Final Rule; for that reason, it prepared a Regulatory Flexibility Analysis. However, the certification statement accompanying the Final Rule incorrectly stated that there was no significant impact on a substantial number of small entities. The FAA is now clarifying that the certification was erroneous. The new data, however, requires additional analysis. The impact of each provision on small entities is described below.

Description and Estimated Number of Small Entities Affected: The Final Rule will affect commercial operators conducting air tours over GCNP under 14 CFR part 135. Revised FAA data show that there were 22 potentially affected tour operators with 9 or fewer aircraft in 1995. These operators owned a total of 75 aircraft, and the average fleet included about 3 aircraft. They conducted about 34,700 air tours, or about 34 percent of all air tours over the Canyon.

Cost of Compliance to Small Entities

Establish/Modify Flight-Free Zones and Corridors

Merge Toroweap/Shinumo Flight-Free Zones: The merging of the Toroweap-Thunder River and Shinumo Flight-free Zones and the resulting closure of the Fossil Canyon Corridor will eliminate tour routes Blue1A, Brown1A, and Green3A. Newly acquired information from the FAA's fieldwork in May and July of 1997 shows that this provision would have affected four small operators providing tours in 1995. Collectively, these four small operators generated total air tour operating revenues of approximately $565,000 in 1995 by providing 1,150 air tours that carried 4,700 passengers. The FAA has also learned, however, that two of the four operators are no longer in the tour business. Jointly, these two small operators accounted for $91,000 in air tour revenues in 1995, the loss of which the FAA continues to assume will be absorbed by other operators. The FAA believes that the two remaining small operators using the Fossil Canyon Corridor can modify their current tour packages with minimal cost outlay because they already offer established air tours along other similar routes. Thus, the FAA maintains, as in the original analysis, that this modification of the flight-free zones and corridors will have no cost impact.

Extend Toroweap Flight-Free Zone Southward: The southward extension of the Toroweap-Thunder River Flight-free Zone and elimination of the National Canyon corridor will affect small operators who use the Blue 1 route. Based on the FAA's new data, small operators carried 41,600 passengers along the Blue 1 route and generated annual net operating revenues of $154,800 in 1995. The FAA estimates that any operator carrying more than 1,300 passengers along the Blue 1 route would incur significant costs from this provision. Of the small operators affected, the FAA concludes that four operators (as opposed to zero in the original analysis) carry more than 1,300 passengers each year on Blue 1 air tours and, therefore, would be significantly affected by the extension.

Bright Angel Flight-Free Zone: There are 10 small operators with total revenues of approximately $8.13 million who conducted air tours along the Black1/1A route (7 fixed wing aircraft operators) and the Green 1/1A/2 tour route (3 helicopter operators). The three small helicopter operators also conducted air tours in the Dragon Corridor along the Green 2 tour route, accounting for an additional $1.45 million in total revenue. The total 1995 revenue potentially affected by this part of the rule, therefore, is estimated to be about $9.6 million.

The FAA estimates that due to the extension of the Bright Angel Flight-free Zone and the dog-legging of the southern portion of the Dragon Corridor there will be modest cost increases as discussed in the regulatory evaluation. As in the original analysis, the FAA believes that these modest cost increases can be offset by increased ticket prices and, therefore, that no net operating losses will be incurred as a result of the northern extension of the Bright-Angel Flight-free Zone or the dog-legging of the Dragon Corridor.

Create One-Way Traffic Pattern in Zuni Point Corridor: Reconfiguring the Zuni Point Corridor and limiting it to one-way traffic will affect those air tours approaching Grand Canyon Airport in Tusayan from the north along the Black 1 tour route and all air tours that depend on the current two-way VFR routes to offer a simple fly around type tour of the Zuni Point Corridor. While there are not small operators with tours approaching Grand Canyon Airport in Tusayan from the north, two small fixed wing operators and three small helicopter operators fly a tour loop of the Zuni Point Corridor.

The two small fixed wing aircraft operators flying a tour loop of the Zuni Point Corridor generated air tour revenue of approximately $84,209 from this particular tour in 1995. The alternatives for these operators will be the Black 1/1A tour route or flying east over the Painted Desert. These tour route options are expected to increase the tour price by about $10 per passenger, or about $13,060 total annual added cost to the air tour consumers based on 1,306 passengers opting for this tour in 1995. The three small helicopter operators generated 1995 air tour revenue of $370,506 flying 790 tours and 3,100 passengers over the Green 1 route. Options available to the helicopter operators include the Green 1/1A/2 tour route or the Painted Desert tour route. Each of these could increase the tour price by about $35 per passenger or $108,045 total annual added cost to the commercial air tour sightseeing consumers based on 3,100 passengers opting for this tour in 1995. For the customers of these small operators, therefore, the total potential increase in 1995 annual costs of this particular alteration in the GCNP Special Flight Rules Area will be about $121,105 ($13,060 + $108,045) because of the elimination of less costly air tour sightseeing options.

In addition to the consumer costs above, operators will incur increases in variable operating costs that exceed the additional revenue. The ticket price increases do not fully cover the increase in variable operating costs to the tour operators adopting the new Zuni-Alpha-Dragon Corridors loop. The new operators of this type of tour are limited to raising tour prices to what is currently charged by established operators of this type of tour (the incremental $10 and $35 cited above). The difference between what these operators could receive in additional revenue through price increases ($121,000) and the added operator costs imposed by this rule (estimated at $199,400) in increased operating costs) will result in about $78,400 that the small operators must absorb as losses. Thus, the total 1995 cost to small operators of making the Zuni Point Corridor one-way with the north expansion of the Bright Angel Flight-free Zone is $121,100 in increased consumer costs and $78,400 in operator losses.

The $78,400 in operator losses will be borne by two small fixed wing aircraft operators ($10,536) and three small helicopter operators ($67,787). Based on the number of air tours conducted, the cost impact for the two small fixed wing aircraft operators is $34.10 per air tour ($10,536/309 fixed wing air tours), and the cost impact for the three small helicopter operators is $85.81 per air tour ($67,787/790 helicopter air tours). One of the fixed wing operators conducted 240 air tours and the other conducted 69 air tours. The annual increase to these two fixed wing tour operators is $8,184 and $2,353, respectively. For helicopters, the operator conducting 521 helicopter air tours will incur an annual cost increase of $44,707 and the operator conducting 256 air tours will incur an annual cost increase of $22,053. The third helicopter operator with 12 air tours will incur an annual cost increase of $1,036. Based on these numbers, the FAA concludes that one fixed wing and two helicopter operators will incur significant cost increases.

Sanup Flight-Free Zone: The creation of the Sanup Flight-free Zone in the southwest portion of GCNP restricts air traffic to one side of the Colorado River beyond Separation Canyon. This change will affect six small fixed wing operators offering tours on the Blue 2 VFR route and three small helicopter operators offering tours on the Green 4 VFR route. Combined, these nine small GCNP air tour operators accounted for approximately $11.8 million total air tour revenue in 1995, flying nearly 11,000 air tours and approximately 53,900 passengers. Based on information provided to the FAA by air tour operators and pilots, more than 95 percent of fixed wing air tours conducted on the Blue 2 route turn back at either Horse Flat Canyon or Spencer Canyon; the former is located west of Separation Canyon and the latter is located on the south side of the Colorado River across from Separation Canyon. Air-ground helicopter tours conducted along the Green 4 route turn back at or just beyond Quartermaster Canyon. Air-only helicopter tours along the "Green 4" turn back at or before Spencer Canyon. With the exception of a limited number of fixed-wing training flights or air tours along the Blue 2 that are precluded from turning back because of weather, no flights extend beyond Separation Canyon as far as Diamond Creek. The FAA therefore concludes, as in the regulatory evaluation, that there will be no measurable impact associated with the creation of the Sanup Flight-free Zone.

Desert View Flight-Free Zone: A limited number of air tours are currently conducted in the vicinity of the Desert View Flight-free Zone, and these take place along the Black 2 or Black 3 entry routes linking to the Black 1 and Black 1A routes. As in the regulatory evaluation, the FAA concludes that the expansion of the Desert View Flight-free Zone in and of itself will have no known cost impact on small GCNP commercial sightseeing operators or their tour passengers.

Curfew: The introduction of the new curfew (basic flight-free periods) for operators conducting air tours at the east end of GCNP will result in lost revenue for small operators conducting air tours in the Zuni Point and Dragon Corridors. In 1995, 16.7 percent of daily tours were offered during the flight-free periods and will no longer be able to operate during these periods. Based on the reduction in time available for air tour flights in the Zuni Point and Dragon Corridors, small entities are expected to lose about $1.07 million annually. This impact will be spread among a maximum of ten operators who have recently conducted air tours on the east end of CGNP. Eight of these operators (as opposed to six in the original analysis) will incur annual costs exceeding $5,000.

Reporting Requirements: 14 CFR Section 93.317 will establish operator reporting requirements. All certificate holders operating within the GCNP Special Flight Rules Area will incur costs from these reporting requirements during the five years that they will be in effect (1997 through 2001).

Based on information contained in the regulatory evaluation, it will cost each operation about $340 ($8.51/hour*40 hours) to establish and set up the reporting system. The one-time cost for 22 small operators is expected to be $7,480. To update records regularly, the FAA estimates that the 22 small operators will incur costs of $14,770 annually (34,711 air tours*3 min./air tour*$8.51/hr). The average annual cost for each small operator is about $670. The small operator conducting the fewest tours (36, based on revised 1995 baseline) will incur recordkeeping costs of about $15 annually. The small operator conducting the greatest number of air tours (5,600) will incur recordkeeping costs of $2,380.

Operators will also be required to provide the data to the Las Vegas FSDO three times in each of the years 1997 through 2001. The FAA assumes that this will take about one-half of an hour for each operator to compile the

information, 15 minutes for each operator to fill out the generic information on the report and an additional 15 minutes for the specific information needed in the report. The FAA estimates that this part of the recordkeeping requirement will cost operators $562 annually, or about $26 per operator.

The FAA estimates that the total annualized cost of this requirement to the 22 small operators will be about $18,170. The FAA has determined that no (zero in the RFA for the Final Rule) operator will incur costs exceeding $5,000 per year.

Aircraft Cap: The FAA stated in the regulatory evaluation that most operators can increase the number of air tours they provide without increasing the number of aircraft in their tour fleets. However, FAA estimates that the aircraft cap will immediately restrict the growth of one small fixed-wing operator operating out of Tusayan. The cap is also predicted to affect one small helicopter operator within four years and another small helicopter operator with six years. While the aircraft cap will have no immediate impact on aggregate growth in the number of air tours over the GCNP, the aircraft cap will impose a significant loss of future revenues (expected to exceed $5,000 annually) on these three operators. (The original analysis assumed that the cap would be in effect for no more than one year and, as a result, no small operator would be significantly affected. The revised analysis assumed no particular end date and estimates impacts over the period 1997–2008.)

Description of Alternative Actions

As stated in the original analysis completed for the Final Rule, this rule is somewhat unique in that most of the economic impact of the rule falls upon small businesses. The two primary goals of the Final Rule continue to be: (1) substantially restore natural quiet, and (2) preserve the opportunity for the public to enjoy air tours at GCNP. Consequently, all alternatives considered during the formulation of the Final Rule to achieve these goals and in this reevaluation focus on alternatives related to small entities.

In view of the new information and the foregoing analysis, the FAA has identified the provisions of the Final Rule in which the analysis of the impacts on air tour operators differs from the original assessment. As a result of the new analysis, the number of air tour operators significantly affected has increased. The FAA evaluated new alternatives, as well as reevaluated a combination of alternatives suggested to the Agency during its original analysis. These alternatives included suggestions from the NPS Report to Congress, Congressional and public meetings, and comments submitted during the comment period for the NPRM and the Draft EA. As more fully discussed below, the FAA has concluded that implementing any of the alternatives to the requirements of the Final Rule for small business entities would prevent the FAA from achieving its goals for the Final Rule. For that reason, the FAA determined that there were no feasible alternatives to the requirements listed in the Final Rule.

Alternatives to the Expansion the Flight-Free Zones

As was mentioned above, the expansion of the Flight-free Zones will affect certain small entity air tour operators in varying degrees. The Agency considered several different ways to minimize the impact on the small entities. One of those ways was to permit the small operators to navigate within or through the Flight-free Zones. Similar waivers to the Flight-free Zones based on time of day or area were also considered. However, the Agency determined that since the vast majority of the operators are small business entities, the relaxation of the Flight-free Zones for the operators would defeat the main purpose of the rule to restore substantially the natural quit within the Park. As the NPS study mentioned above concluded that compliance with SFAR 50–2 had not achieved an adequate level of natural quiet in GCNP, the alternative of no action for the small entities cannot be justified. Therefore, operations within or through the Flight-free Zones by small business operators by a relaxation of the restrictions or a blanket approval cannot be considered in light of the goals of the Final Rule.

The FAA also considered corridors or routes through the Flight-free Zones for the small entities. Those issues dealing with the route structure and the corridors through the Flight-free Zones are considered in a separate rulemaking action and were not part of the analysis of the Final Rule.

Alternatives to the Curfew

The introduction of the curfew at the east end of GVNP is making significant first steps in achieving the goal of the substantial restoration of natural quiet in the GCNP. Once again, the FAA considered ways to minimize the impact on small business operators. And once again, the alternatives relaxing the restriction for small entities is not feasible as it would defeat the purpose of the Final Rule to substantially restore the natural quiet in the Park. The FAA will consider the use of more quiet aircraft and the use of performance standards, as suggested by the Small Business Administration, in future rulemaking. For this Final Rule, however, the use of performance standards is outside the scope of what was proposed and envisioned by the current rulemaking.

Alternative to the Cap

The cap on the number of aircraft permitted to conduct air tours within GCNP has generally been determined not to affect adversely the industry as a whole. As mentioned above, however, the cap does have an impact on at least one small operator. The FAA has concluded that it will need to reevaluate the impact of the cap on the goal of substantially restoring the natural quiet and its impact on the small business entities in future rulemaking action. However, for the purpose of the reevaluation, the FAA reanalyzed its alternatives discussed in the Final Rule and determined that no alternative discussed or any new alternative would serve to minimize the impact on the small business entities and still promote the goals of the Final Rule.

Environmental

Pursuant to Federal Aviation Administration Order 1050.1D, a written reevaluation is appropriated to evaluate the continued validity of any environmental document when new information becomes available. The FAA has completed a Written Reevaluation of the findings in the Final EA and accompanying Finding of No Significant Impact (FONSI) issued December 31, 1996, to determine whether additional operations in Marble Canyon, growth in operations under the Proposed Action, and possible additional operations on the helicopter loop in Dragon Corridor that were indicated by the 1997 surveys or the minor adjustments to the proposed air tour routes are so substantial as to warrant preparation of additional environmental documents.

As discussed in detail in the Economic Analysis section of this Notice, after the Final EA was published on December 31, 1996, the FAA obtained additional information suggesting that the number of air tour aircraft conducting tours in the GCNP identified in the 1995 Survey had not accounted for the full GCNP air tour fleet that likely operated in 1995. Accordingly, the FAA conducted voluntary air tour operator surveys in May and July 1997.

The 1997 surveys suggest that 260 air tour aircraft operated in the GCNP in 1995, not 136 as premised in the Regulatory Evaluation of the Final Rule. This new information about the number of aircraft led FAA to change its assumptions about the effectiveness of the cap on aircraft to limit growth in operations, but did not otherwise affect the validity of the noise and air quality analyses in the Final EA, which depends on the number of flights, not aircraft. In preparing the Regulatory Evaluation, the FAA derived the 136 aircraft baseline by comparing data in the 1995 Survey with operations specifications. In contract, the Final EA used modeling input that was prepared by the NPS in October 1995 to model noise impacts in the vicinity of the GCNP (October 1995 NPS modeling input).

The October 1995 NPS modeling input was prepared using a combination of the 1995 Survey and traffic counts prepared by air traffic controllers for Grand Canyon National Park Airport. The FAA selected the October 1995 modeling input to provide the best possible picture of flights in the vicinity of the GCNP because the GCNP does not provide the typical data sources used to predict aircraft noise exposure in an airport environment.

In reevaluating the Final EA, the FAA continued to base its analysis on the following data and modeling assumptions: (1) the use of operations in the October 1995 NPS modeling data, incorporating refinements from the May 1997 Written Reevaluation and the 1997 surveys; (2) the assumption that the curfew would somewhat reduce operations; and (3) the use of a 3.3 percent compound annual rate of growth. The 3.3 percent compound annual rate of growth was retained and used to analyze the Proposed Action because the 1997 surveys show that caps on numbers of aircraft would only immediately restrict the growth of a few air tour operators. The 1997 surveys indicate that many operators use their aircraft in revenue producing endeavors other than the GCNP air tours and that neither aircraft nor seating capacities are fully utilized. The baseline defined in the cap on number of aircraft in the Final Rule allows air tour operators to use aircraft that were only flown occasionally for CGNP tours in 1995. This means that most operators can increase their flights to meet demand without increasing their fleets. For these reasons, the cap does not appear likely to immediately reduce growth in the number of flights over the CCNP.

The FAA decided to revise its noise analysis to address potential increases in operations over those modeled in the Final EA and the May 1997 Written Reevaluation. The increase operations are in the Marble Canyon area (along the Black4 and Black5 routes). The changes in operational levels modeled were: (1) the addition of 5 daily operations to the Black4 route and the addition of 6 daily operations to the Black5 route for the 1997 No Action; (2) the addition of 5 daily operations to Black4 and 6 daily operations to Black 5 for the 1997 Proposed Action with the curfew applied; and (3) the application of a 3.3 percent annual growth rate to the new 1997 annual No Action condition for analysis of the 2008 No Action condition.

The Written Reevaluation also included sensitivity analysis modeling as follows: (1) the addition of 29 daily operations to the Green 2 route along the Dragon Corridor through the Bright Angel Flight Free Zone (FFZ) for the 1997 Proposed Action; (2) the addition of 29 daily operations to the Green2 and the placement on the modern most loop of all Dragon corridor loop traffic for the 1997 Proposed Action; and (3) the assumption of an earlier turn around location at Separation Canyon for helicopter traffic on the Green4 route and fixed wing traffic on the Blue2 route for the return trip to Las Vegas (south of the Sanup Flight Free Zone) for the 1997 No Action and the 1997 Proposed Action.

As to proposed routes, in addition to the turn around at Separation Canyon, this Written Reevaluation evaluates minor adjustments in the National Canyon Corridor route. These adjustments are proposed to further mitigate Native American concerns. Otherwise, the routes considered are those evaluated in the May 1997 Written Reevaluation. The route changes evaluated in the May 1997 Reevaluation are comparable to the routes modeled in the Final EA.

The noise modeling analysis reveals that the increase in operations, and the minor air tour route adjustment will not significantly impact the human and natural environment in the vicinity of Grand Canyon National Park. More specifically, noise levels associated with the Final Rule are well below any established residential or other established threshold of significance in the Special Flight Rules Area. The new information on number of aircraft and air tour operations, and the minor air tour route adjustments does not alter the previous analysis that indicted the Proposed Action (Final Rule) in the Final EA reduces aircraft noise effects in the GCNP. The analyses in the Written Reevaluation supports the conclusion that the Final Rule, even with the new information, does not lead to significant environmental impacts on historic, archaeological, and cultural resources, wild and scenic rivers, visual resources, endangered species, DOT Section 4(f) properties, environmental justice, and air quality. Nor will it result in other significant environmental impacts such as cumulative, social, or induced socio-economic impacts.

With respect to the achievement of progress toward the substantial restoration of natural quiet, the impact of increased air tour operations as analyzed in the Written Reevaluation, serves to reduce the percentage of the GCNP that will achieve substantial restoration of natural quiet for more than 25 percent of the time when compared to what was originally assumed in the Final EA. However, although the GCNP with the implementation of the Final Rule, will not reach the same percentage of substantial restoration of natural quiet as had been originally projected in the Final EA, progress will still be made toward the goal with the implementation of the Final Rule.

Accordingly, the conclusions of the December 31, 1996, Final EA FONSI are still substantially valid as indicated in the Written Reevaluation. No supplemental EA, or further environmental documentation is required based upon this new information.

Issued in Washington, DC, on October 27, 1997.

John S. Walker,

Program Director for Air Traffic Airspace Management.

[FR Doc. 97–28656 Filed 10–28–97; 9:15 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 954

[Docket No. FR–3587–F–02]

RIN 2577–AB36

Indian HOME Program

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Final rule.

SUMMARY: This rule adopts as final the interim rule for the Indian HOME Program at 24 CFR part 954, published on June 21, 1996.

EFFECTIVE DATE: December 1, 1997.

FOR FURTHER INFORMATION CONTACT: Bruce Knott, Office of Native American

Programs, Department of Housing and Urban Development, 1999 Broadway, Suite 3390, Denver, CO; telephone (303) 675–1600 (voice) or 1–800–877–8339 (TTY for speech or hearing impaired individuals). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

I. Paperwork Burden

The information collection requirements contained in §§ 954.106, 954.505, 954.506, 954.507 of this rule have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), and assigned OMB control number 2577–0191. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

II. Background

On June 21, 1996, at 61 FR 32292, HUD published an interim rule to move the Indian HOME Program from 24 CFR part 92 to part 954. The interim rule also included clarifications and simplifications intended to facilitate the use of the rule by interested parties, increase similarity with the Indian Community Development Block Grant (ICDBG) program, and simplify administration of Native American Tribal Programs.

Comments were solicited on the interim rule for a period of 60 days. No public comments were received, and HUD has determined to promulgate the June 21, 1996 interim rule without any changes as a final rule. Although section 505 of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) (Pub. L. 104–330, approved October 26, 1996) ends the Indian HOME Program in Fiscal Year (FY) 1998, which begins on October 1, 1997, this final rule is being issued to provide for the administration of any Indian HOME funds and Indian HOME-assisted projects that will continue beyond the date when new funding under the program will no longer be made available.

III. Findings and Certifications

Regulatory Flexibility Act—Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule promulgates as final the interim rule revisions to the existing Indian HOME program under which Indian tribes receive grant assistance from HUD to increase the number of housing opportunities for low-income and very low-income people. HUD does not anticipate a significant economic impact on small entities since Indian tribes will continue to carry out their Indian HOME program activities as they now do.

Environmental Review

At the time of publication of the interim rule, a Finding of No Significant Impact with respect to the environment was made in accordance with HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The interim rule is adopted by this final rule without significant change. Accordingly, the initial Finding of No Significant Impact remains applicable, and is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the office of the Rules Docket Clerk at the above address.

Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

This rule will not pose an environmental health risk or safety risk on children.

Unfunded Mandates Reform Act

The Secretary has reviewed this rule before publication and by approving it certifies, in accordance with the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532), that this rule does not impose a Federal mandate that will result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year.

The Catalog of Federal Domestic Assistance Number for the HOME Program is 14.239.

List of Subjects in 24 CFR Part 954

Grant programs—housing and community development, Manufactured homes, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the preamble, title 24 of the Code of Federal Regulations is amended by adopting the interim rule published in the **Federal Register** on June 21, 1996 (61 FR 32292) as final without change.

Dated: October 22, 1997.

Kevin Emanuel Marchman,

Acting Assistant Secretary for Public and Indian Housing.

[FR Doc. 97–28855 Filed 10–30–97; 8:45 am]

BILLING CODE 4210–33–P

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 102

Post-employment Restrictions on Agency Employees

AGENCY: National Labor Relations Board.

ACTION: Final rule.

SUMMARY: The National Labor Relations Board (NLRB) is repealing its current Agency-specific regulations which restrict practice before the Agency by former NLRB employees and substituting therefor a new rule which references the executive branch-wide post-employment restrictions imposed by 18 U.S.C. 207.

EFFECTIVE DATE: October 31, 1997.

FOR FURTHER INFORMATION CONTACT: John J. Toner, Executive Secretary, National Labor Relations Board, 1099 14th Street, NW, Room 11600, Washington, DC 20570. Telephone: (202) 273–1940.

SUPPLEMENTARY INFORMATION: Executive Order 12674 (April 12, 1989), as modified by Executive Order 12731 (October 17, 1990), authorizes the Office of Government Ethics (OGE), in consultation with the Attorney General and the Office of Personnel Management, to issue regulations that "establish a single, comprehensive, and clear set of executive-branch standards of conduct that shall be objective, reasonable, and enforceable." The Executive Order further authorizes OGE, with the concurrence of the Attorney General, to issue regulations interpreting 18 U.S.C. 207–209.

Pursuant to this authority and similar authority granted OGE by the Ethics Reform Act 1989, on August 7, 1992, OGE published new Standards of Ethical Conduct for Employees of the Executive Branch (Standards). See 57 FR 35008–35067, as corrected at 57 FR 48557, 57 FR 52583, and 60 FR 51667, and amended at 61 FR 42965–42970 (as corrected at 61 FR 48733) and 61 FR 50689–50691, with additional grace period extensions at 59 FR 4779–4780, 60 FR 6390–6391, 60 FR 66857–66858, and 61 FR 40950–40952. The Standards, codified at 5 CFR part 2635, became effective February 3, 1993, and established uniform standards of ethical conduct that apply to all executive branch personnel, superseding most agency-specific standards of conduct. Accordingly, on July 21, 1994, the NLRB issued a final rule repealing certain provisions of its own regulations governing employee responsibilities and conduct codified at 29 CFR part 100 which had been superseded by the new Standards. See 59 FR 37157.

OGE has not yet issued new regulations implementing 18 U.S.C. 207, as amended by the Ethics Reform of 1989, pursuant to its authority under that Act and the Executive Orders 12674 and 12731. However, OGE indicated in its notice of the new Standards that it expects to do so. Further, OGE has since advised the Agency that to the extent the NLRB's current post-employment regulations set forth in sections 102.119 and 102.120 if the Board's rules are more restrictive than 18 U.S.C. 207, as amended by the Ethics Reform Act of 1989, they are unenforceable as to any employees leaving the Agency on or after January 1, 1991, the effective date of the 1989 amendments to that statute. Accordingly, the Board is repealing those regulations, and substituting therefor a reference to 18 U.S.C. 207.

Regulatory Requirements

This rule merely conforms current regulations to statutory requirements, affects only former Agency employees, relates solely to agency organization, procedure and practice, and will not have a significant impact on a substantial number of small businesses or impose any information collecting requirements. Accordingly, the Agency finds that prior notice and comment is not required for these rules and that good cause exists for waiving the general requirement of delaying the effective date under the Administrative Procedure Act (5 U.S.C. 553), and that the rules are not subject to the Regulatory Flexibility Act (5 U.S.C. 601), Small Business Regulatory Enforcement Act (5 U.S.C. 801), Paperwork Reduction Act (44 U.S.C. 3501), or Executive Order 12866.

List of Subjects in 29 CFR Part 102

Administrative practice and procedure, Labor management relations.

For reasons set forth above, 29 CFR part 102 is amended as follows:

PART 102—RULES AND REGULATIONS

1. The authority citation for 29 CFR part 102 continues to read as follows:

Authority: Section 6, National Labor Relations Act, as amended (29 U.S.C. 151, 156). Section 103.117(c) also issued under Section 552(a)(4)(A) of the Freedom of Information Act, as amended (5 U.S.C. 552(a)(4)(A)). Sections 102.143 and 102.155 also issued under Section 504(c)(1) of the Equal Access to Justice Act, as amended (5 U.S.C. 504(c)(1)).

2. Subpart L is revised to read as follows:

Subpart L—Post-employment Restrictions on Activities by Former Officers and Employees

§ 102.119 Post-employee restrictions on activities by former Officers and employees.

Former officers and employees of the Agency who were attached to any of its Regional Offices or the Washington staff are subject to the applicable post-employment restrictions imposed by 18 U.S.C. 207. Guidance concerning those restrictions may be obtained from the Designated Agency Ethics Officer and any applicable regulations issued by the Office of Government Ethics.

Dated, Washington, D.C., October 28, 1997.

By direction of the Board.

John J. Toner,

Executive Secretary.

[FR Doc. 97–28928 Filed 10–30–97; 8:45 am]

BILLING CODE 7545–01–M

DEPARTMENT OF THE TREASURY

Departmental Offices

31 CFR Part 1

Privacy Act of 1974; Implementation

AGENCY: Departmental Offices, Treasury.

ACTION: Final Rule.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Department of the Treasury gives notice of an amendment to 31 CFR 1.36 to exempt a new system of records, the Suspicious Activity Reporting System (the SAR System), Treasury/DO.212, from certain provisions of the Privacy Act.

EFFECTIVE DATE: October 31, 1997.

FOR FURTHER INFORMATION CONTACT: Stephen R. Kroll, Legal Counsel, Financial Crimes Enforcement Network, 2070 Chain Bridge Road, Suite 200, Vienna, VA 22182, (703) 905–3590.

SUPPLEMENTARY INFORMATION: The Department of the Treasury published in the **Federal Register**, at 62 FR 14376, March 26, 1997, a proposed rule exempting the Suspicious Activity Reporting System (the SAR System), Treasury/DO.212, from certain provisions of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(2). A notice of this proposed new system of records was also published in the **Federal Register**, at 62 FR 14532, March 26, 1997.

Under 5 U.S.C. 552a(j)(2), the head of an agency may promulgate rules to exempt a system of records from certain provisions of 5 U.S.C. 552a if the system of records is "maintained by an agency or component thereof which performs as its principal function any activity pertaining to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals, and the activities of prosecutors, courts, correctional, probation, pardon or parole authorities, and which consists of (A) information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (B) information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or (C) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision."

Under 5 U.S.C. 552a(k)(2), the head of an agency may promulgate rules to exempt a system of records from certain provisions of 5 U.S.C. 552a if the system of records is "investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of this section."

The notice, proposing that the SAR System of records be exempted from sections (c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f) and (g) of the Privacy Act, requested that public comments be sent to FinCEN no later than April 25, 1997. FinCEN received one comment. The commenter, a banking trade association, noted that the proposed exemption "is appropriate." Accordingly, the Department of the Treasury is hereby giving notice that its proposed rule, exempting the SAR System from the above referenced provisions of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(2) and the authority of 31 CFR 1.23(c), is being adopted as a final rule without change, except for minor corrections in paragraphs (k)(3) and (k)(4), pertaining to cross references within paragraph (k) of the rule. The reasons for exempting the system of records from the above referenced provisions of the Privacy Act are set forth in the rule.

The Department of the Treasury has determined that this proposed rule is not a "significant regulatory action" under Executive Order 12866.

Pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, for the reasons set forth in the

preamble to the notice of proposed rulemaking, it is hereby certified that this final rule will not have a significant economic impact on a substantial number of small entities.

In accordance with the provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d), the Department of the Treasury has determined that this rule will not impose new recordkeeping, application, reporting, or other types of information collection requirements.

List of Subjects in 31 CFR Part 1

Privacy.

Part 1 of Title 31 of the Code of Federal Regulations is amended as follows:

PART 1—[AMENDED]

1. The authority citation for Part 1 continues to read as follows:

Authority: 5 U.S.C. 301 and 31 U.S.C. 321. Subpart A also issued under 5 U.S.C. 552 as amended. Subpart C also issued under 5 U.S.C. 552a.

2. Section 1.36 of subpart C is amended by revising the heading "Office of the Assistant Secretary for Law Enforcement" to read "Assistant Secretary (Enforcement)" and under Financial Crimes Enforcement Network by redesignating paragraph (g) as (l) and by adding paragraphs (g) through (k) to read as follows:

§ 1.36 Systems exempt in whole or in part from the provisions of 5 U.S.C. 552a and this part.

* * * * *

ASSISTANT SECRETARY (ENFORCEMENT)

Financial Crimes Enforcement Network

* * * * *

(g) *In general.* The Assistant Secretary (Enforcement) exempts the system of records entitled "Suspicious Activity Reporting System" (Treasury/DO .212) from certain provisions of the Privacy Act of 1974, as amended, 5 U.S.C. 552a.

(h) *Authority.* 5 U.S.C. 552a(j) and (k); 31 CFR 1.23(c).

(i) *General exemptions under 5 U.S.C. 552a(j)(2).* Pursuant to 5 U.S.C. 552a(j)(2), the Assistant Secretary (Enforcement) hereby exempts the Suspicious Activity Reporting System (SAR System) of records, maintained by FinCEN, an office reporting to the Assistant Secretary (Enforcement), from the following provisions of the Privacy Act of 1974:

5 U.S.C. 552a(c)(3) and (4);
5 U.S.C. 552a(d)(1), (2), (3), and (4);
5 U.S.C. 552a(e)(1), (2), and (3);
5 U.S.C. 552a(e)(4)(G), (H), and (I);
5 U.S.C. 552a(e)(5) and (8);
5 U.S.C. 552a(f); and
5 U.S.C. 552a(g).

(j) *Specific exemptions under 5 U.S.C. 552a(k)(2).* To the extent that the exemption under 5 U.S.C. 552a(j)(2) does not apply to the SAR System of records, the Assistant Secretary (Enforcement) hereby exempts the SAR System of records from the following provisions of 5 U.S.C. 552a pursuant to 5 U.S.C. 552a(k)(2):

5 U.S.C. 552a(c)(3);
5 U.S.C. 552a(d)(1), (2), (3), and (4)
5 U.S.C. 552a(e)(1)
5 U.S.C. 552a(e)(4)(G), (H), and (I); and
5 U.S.C. 552a(f).

(k) *Reasons for exemptions under 5 U.S.C. 552a(j)(2) and (k)(2).* (1) 5 U.S.C. 552a(e)(4)(G) and (f)(1) enable individuals to inquire whether a system of records contains records pertaining to them. Application of these provisions to the SAR System would allow individuals to learn whether they have been identified as suspects or possible subjects of investigation. Access by individuals to such knowledge would seriously hinder the law enforcement purposes that the SAR System is created to serve, because individuals involved in activities that are violations of law could:

(i) Take steps to avoid detection;

(ii) Inform associates that an investigation is in progress;

(iii) Learn the nature of the investigation;

(iv) Learn whether they are only suspects or identified as violators of law;

(v) Begin, continue, or resume illegal conduct upon learning that they are not identified in the system of records, or

(vi) Destroy evidence needed to prove the violation.

(2) 5 U.S.C. 552a(d)(1), (e)(4)(H) and (f)(2), (f)(3) and (f)(5) grant individuals access to records containing information about them. The application of these provisions to the SAR System would compromise the ability of the component agencies of the SAR System to use the information effectively for purposes of law enforcement.

(i) Permitting access to records contained in the SAR System would provide individuals with information concerning the nature of any current investigations and would enable them to avoid detection or apprehension, because they could;

(A) Discover the facts that would form the basis of an arrest;

(B) Destroy or alter evidence of criminal conduct that would form the basis of their arrest, and

(C) Delay or change the commission of a crime that was about to be discovered by investigators.

(ii) Permitting access to either on-going or closed investigative files would also reveal investigative techniques and procedures, the knowledge of which could enable individuals planning crimes to structure their operations so as to avoid detection or apprehension.

(3) 5 U.S.C. 552a(d)(2), (d)(3) and (d)(4), (e)(4)(H) and (f)(4) permit an individual to request amendment of a record pertaining to him or her and require the agency either to amend the record or note the disputed portion of the record and, if the agency refuses to amend the record, to provide a copy of the individual's statement of disagreement with the agency's refusal, to persons or other agencies to whom the record is thereafter disclosed. Because these provisions depend on the individual's having access to his or her records, and since these rules exempt the SAR System from the provisions of 5 U.S.C. 552a relating to access to records, for the reasons set out in paragraph (k)(2), these provisions do not apply to the SAR System.

(4) 5 U.S.C. 552a(c)(4) requires an agency to inform any person or other agency about any correction or notation of dispute that the agency made in accordance with 5 U.S.C. 552a(d) to any record that the agency disclosed to the person or agency, if an accounting of the disclosure was made. Because this provision depends on an individual's having access to and an opportunity to request amendment of records pertaining to him or her, and because these rules exempt the SAR System from the provisions of 5 U.S.C. 552a relating to access to and amendment of records, for the reasons set forth in paragraphs (k)(2) and (3), this provision does not apply to the SAR System.

(5) 5 U.S.C. 552a(c)(3) requires an agency to make the accounting of any disclosures of records required by 5 U.S.C. 552a(c)(1) available to the individual named in the record upon his or her request. The accounting must state the date, nature, and purpose of each disclosure of the record and the name and address of the recipient.

(i) The application of this provision would impair the effective use of information collected in the SAR System. Making an accounting of disclosures available to the subjects of an investigation would alert them to the fact that another agency is conducting an investigation into their criminal activities and could reveal the geographic location of the other agency's investigation, the nature and purpose of that investigation, and the dates on which that investigation was active. Violators possessing such knowledge would be able to take measures to avoid detection or apprehension by altering their operations, by transferring their criminal activities to other geographical areas, or by destroying or concealing evidence that would form the basis for arrest.

(ii) Moreover, providing an accounting to the subjects of investigations would alert them to the fact that FinCEN has information regarding possible criminal activities and could inform them of the general nature of that information. Access to such information could reveal the operation of the information-gathering and analysis systems of FinCEN, the Federal Supervisory Agencies and other SAR System Users and permit violators to take steps to avoid detection or apprehension.

(6) 5 U.S. C. 552a(e)(4)(I) requires an agency to publish a general notice listing the categories of sources for information contained in a system of records. The application of this provision to the SAR System could compromise FinCEN's and the Federal Supervisory Agencies' ability to provide useful information to law enforcement agencies, because revealing sources for the information could:

(i) Disclose investigative techniques and procedures,

(ii) Result in threats or reprisals against informers by the subjects of investigations, and

(iii) Cause informers to refuse to give full information to criminal investigators for fear of having their identities as sources disclosed.

(7) 5 U.S.C. 552a(e)(1) requires an agency to maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order. The application of this provision to the SAR System could impair the effectiveness of law enforcement because in many cases, especially in the early stages of investigation, it may be impossible immediately to determine whether information collected is relevant and necessary, and information that initially appears irrelevant and unnecessary, upon further evaluation or upon collation with information developed subsequently, often may prove helpful to an investigation.

(8) 5 U.S.C. 552a(e)(2) requires an agency to collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs. The application of this provision to the SAR System would impair FinCEN's ability to collect, analyze and disseminate to System Users investigative or enforcement information. The SAR System is designed to house information about known or suspected criminal activities or suspicious transactions that has been collected and reported by financial institutions, or their examiners or other enforcement or supervisory officials. It is not feasible to rely upon the subject of an investigation to supply information. An attempt to obtain information from the subject of any investigation would alert that individual to the existence of an investigation, providing an opportunity to conceal criminal activity and avoid apprehension. Further, with respect to the initial SAR, 31 U.S.C. § 5318(g)(2) specifically prohibits financial institutions making such reports from notifying any participant in the transaction that a report has been made.

(9) 5 U.S.C. 552a(e)(3) requires an agency to inform each individual whom it asks to supply information, on the form that it uses to collect the information or on a separate form that the individual can retain, the agency's authority for soliciting the information; whether disclosure of information is voluntary or mandatory; the principal purposes for which the agency will use the information; the routine uses that may be made of the information; and the effects on the individual of not providing all or part of the information. The application of these provisions to the SAR System would compromise the ability of the component agencies of the SAR System to use the information effectively for purposes of law enforcement.

(10) 5 U.S.C. 552a(e)(5) requires an agency to maintain all records it uses in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination. Application of this provision to the SAR System would hinder the collection and dissemination of information. Because Suspicious Activity Reports are filed by financial institutions with respect to known or suspected violations of law or suspicious activities, it is not possible at the time of collection for the agencies that use the SAR System to determine that the information in such records is accurate, relevant, timely and complete.

(11) 5 U.S.C. 552a(e)(8) requires an agency to make reasonable efforts to serve notice on an individual when the agency makes any record on the individual available to any person under compulsory legal process, when such process becomes a matter of public record. Application of these requirements to the SAR System would prematurely reveal the existence of an ongoing investigation to the subject of investigation where there is need to keep the existence of the investigation secret. It would render ineffective 31 U.S.C. § 5318(g)(2), which prohibits financial institutions and their officers, employees and agents from disclosing to any person involved in a transaction that a SAR has been filed.

(12) 5 U.S.C. 552a(g) provides an individual with civil remedies when an agency wrongfully refuses to amend a record or to review a request for amendment, when an agency wrongfully refuses to grant access to a record, when any determination relating to an individual is based on records that are not accurate, relevant, timely and complete, and when an agency fails to comply with any other provision of 5 U.S.C. 552a so as to adversely affect the individual. Because the SAR System is exempt from these provisions it follows that civil remedies for failure to comply with these provisions are not appropriate.

* * * * *

Dated: September 26, 1997.

Alex Rodriguez,

Deputy Assistant Secretary (Administration)

[FR Doc. 97–28835 Filed 10–30–97; 8:45 am]

Billing Code: 4820–02–P

DEPARTMENT OF THE TREASURY

31 CFR Part 103

RIN 1506–AA12

Financial Crimes Enforcement Network; Bank Secrecy Act Regulations; Exemption From the Requirement to Report Transactions in Currency—Phase II; Open Working Meeting

AGENCY: Financial Crimes Enforcement Network, Treasury.

ACTION: Meeting on proposed regulations.

SUMMARY: The Financial Crimes Enforcement Network ("FinCEN") will hold a working meeting to give interested persons the opportunity to discuss with Treasury officials issues regarding proposed Bank Secrecy Act regulations relating to exemptions from the requirement to report transactions in currency in excess of $10,000.

DATES: November 7, 1997, 9:00 a.m. to 12 noon.

ADDRESSES: Renaissance Washington D.C. Hotel, Renaissance West Salon, 999 9th Street, NW, Washington, D.C. 20001.

FOR FURTHER INFORMATION CONTACT: Charles Klingman, Financial Institutions

Policy Specialist, FinCEN, at (703) 905–3602, or Albert R. Zarate, Attorney-Advisor, Office of Legal Counsel, FinCEN, (703) 905–3807.

SUPPLEMENTARY INFORMATION: On September 8, 1997, FinCEN issued proposed regulations (62 FR 47156) relating to exemptions from the requirement in 31 CFR 103.22 to report transactions in currency in excess of $10,000.[1] The proposed regulations introduce two new classes of exempt persons: "non-listed businesses" and "payroll customers." The proposed regulations also provide operating rules for determining whether a customer is an exempt person and restructure 31 CFR 103.22 to reflect changes to the exemption system.

FinCEN is announcing today that it will hold a meeting on November 7, 1997 to discuss issues relating to the proposed exemption regulations. Although persons attending the meeting are encouraged to discuss any of their concerns about the proposed regulations, FinCEN hopes that the meeting will include discussion of the following matters:

1. Concerns, including specific estimates of costs, regarding the proposed requirement to file annual reports of the aggregate currency deposits and withdrawals by non-listed businesses and payroll customers,

2. Information banks currently possess about the ranges of cash transactions by customers exempted under the administrative exemption system (for example, the percentage and type of exempt customers with total cash transactions of around $25,000, $50,000, $100,000, etc.), and the potential uses of that information to assist law enforcement,

3. Concerns regarding the prohibition against commingling personal and business funds in the accounts of sole proprietors,

4. suggestions on ways to shorten the list of businesses ineligible for exemption, and

5. Suggestions for dealing with businesses with multiple activities one of which is not eligible for exemption, (for example, a grocery store with both a money services business activity such as the sale of money orders and non-money services business activities).

The meeting is not intended as a substitute for FinCEN's request for written comments in the notice of proposed rulemaking published September 8, 1997. Rather, the meeting is intended to help make the comment process as productive as possible by providing a forum between the industry and FinCEN concerning issues relating to the proposed regulations. The meeting will be open to the public and will be recorded; prepared statements will be accepted for inclusion in the record. A transcript of the meeting will be available for public inspection and copying. Accordingly, oral or written material not intended to be disclosed to the public should not be raised at the meeting.

Dated: October 27, 1997.

Stephen R. Kroll,

Federal Register Liaison Officer, Financial Crimes Enforcement Network.

[FR Doc. 97–28685 Filed 10–30–97; 8:45 am]

BILLING CODE 4820–03–P

[1] On September 8, 1997, FinCEN also issued final regulations (62 FR 47141) exempting from the requirement to report transactions in currency in excess of $10,000 transactions occurring between banks and certain exempt persons. The final regulations treat the following classes of persons as exempt if the specific requirements of the regulations are met: (1) Banks, (2) federal, state, and local government departments and agencies, (3) certain entities that exercise governmental authority, (4) entities (other than banks) listed on applicable national security exchanges, and (5) certain subsidiaries of those listed entities. These exemptions are a step to a simpler exemption system and implement the Money Laundering Suppression Act of 1994.

POSTAL SERVICE

39 CFR Part 20

Interim Rule for Global Package Link (GPL) to Canada

AGENCY: Postal Service.

ACTION: Interim rule with request for comments.

SUMMARY: The Postal Service is amending the regulations on Global Package Link (GPL) to Canada. For the Ground Courier service (henceforth to be referred to as GPL Standard), new pricing and a change in some of the features are being announced, effective publication date. At that same date, the Ground Gateway service will be eliminated. The new pricing for GPL Standard is based on origin and destination, and is, in most cases, a reduction in the rates previously established.

DATES: These regulations take effect as of October 31, 1997. Comments must be received on or before December 1, 1997.

ADDRESSES: Written comments should be mailed or delivered to International Business Unit, U.S. Postal Service, 475 L'Enfant Plaza SW, 370–IBU, Washington, DC 20260–6500. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, at the above address.

FOR FURTHER INFORMATION CONTACT: Robert E. Michelson, (202) 268–5731.

SUPPLEMENTARY INFORMATION:

I. Introduction

General Description

GPL is a service that provides fast, economical international delivery of packages containing merchandise. GPL makes it easier and less costly for mail-order companies to export goods. The Postal Service provides GPL a destination country-specific basis pursuant to the terms and conditions stipulated in section 620 of the International Mail Manual and the Individual Country Listings.

II. GPL to Canada

Description

GPL to Canada currently offers an Air Courier, a Ground Courier, and a Ground Gateway service. The Air Courier Service will be renamed GPL Premium. There will be no other changes to the Air Courier service. The Ground Courier service will be renamed GPL Standard. The Ground Gateway Service will be discontinued, since the new GPL Standard rates will be lower than the Ground Gateway rates. GPL Standard will differ from the existing Ground Courier service in the following ways:

1. Pricing will be based on four originating zones in the United States and local, regional, and national destinating zones in Canada.

2. Insurance coverage will be increased. Insurance will be included in the price for up to $100 (U.S.), and optional coverage of $100–$1000 (U.S.) will be available for a fee of $.90 per $100 of insurance over the first $100 based on the value of the item declared.

3. For mail entering Canada through Vancouver (generally, mail originating in Zone C (Seattle) or Zone D (San Francisco)) there will be no changes other than those mentioned in items #1 and #2 above; that is, a new pricing structure and an increase in insurance availability.

4. For mail entering Canada through Toronto (generally, mail originating in Zone A (Buffalo, Chicago, New York City) or in Zone B (Dallas, Miami)), the following additional changes will take place:

- The service standard is anticipated to be from three to five days after receipt by the U.S. Postal Service.
- Preparation requirements will include that the customer place a Canada Post Xpresspost label on the package.

III. Rates

For GPL Standard, rates will differ based on origin processing site and destination, and will in most cases be substantially below current rates. There are four origin zones:

Zone A. Includes entry Chicago, New York, Buffalo;
Zone B. Miami, Dallas;
Zone C. Seattle;
Zone D. San Francisco.

Mail originating in Zones A and B will generally be dispatched to Toronto; mail originating in Zones C and D will be generally dispatched to Vancouver. mail entered in Dallas may be dispatched to either Toronto or Vancouver. There are three destination zones for each Canadian entry point: local, regional, and national, based on distance from Toronto or Vancouver. Effective October 31, 1997, rates for packages mailed to Canada via GPL are as follows:

ZONE A

[Canadian Entry: Toronto; U.S. Origins: Buffalo, Chicago, New York]

Weight not to exceed (pounds)	Standard		
	Local (1)	Regional (1)	National (1)
1	$5.16	$6.61	$6.89
2	5.58	7.64	8.07
3	5.97	8.41	9.22
4	6.36	9.18	10.38
5	6.83	9.95	11.54
6	7.30	10.73	12.69
7	7.77	11.49	13.85
8	8.24	12.27	15.01
9	8.72	13.04	16.16
10	9.19	13.81	17.32
11	9.58	14.20	17.70
12	10.05	14.97	18.86
13	10.52	15.74	20.02
14	10.99	16.51	21.17
15	11.46	17.28	22.33
16	11.93	18.05	23.49
17	12.40	18.82	24.64
18	12.87	19.59	25.80
19	13.34	20.36	26.96
20	13.82	21.13	28.11
21	14.29	21.90	29.26
22	14.67	22.29	29.65
23	15.15	23.07	30.81
24	15.62	23.83	31.96
25	16.09	24.61	33.12
26	16.56	25.38	34.27
27	17.03	26.15	35.43
28	17.50	26.92	36.58
29	17.97	27.69	37.74
30	18.44	28.46	38.90
31	18.91	29.23	40.05
32	19.38	30.00	41.21
33	19.77	30.39	41.60
34	20.24	31.16	42.75
35	20.71	31.93	43.91
36	21.18	32.70	45.06
37	21.66	33.47	46.22
38	22.13	34.24	47.38
39	22.60	35.02	48.53
40	23.07	35.78	49.69
41	23.54	36.56	50.84
42	24.01	37.33	52.00
43	24.48	38.10	53.15
44	24.87	38.49	53.54
45	25.34	39.26	54.70
46	25.81	40.03	55.85
47	26.28	40.80	57.01
48	26.75	41.57	58.17
49	27.22	42.34	59.32
50	27.70	43.11	6048
51	28.17	43.88	61.63
52	28.64	44.65	62.79
53	29.11	45.42	63.95
54	29.50	45.81	64.34
55	29.97	46.58	65.49
56	30.44	47.36	66.64
57	30.91	48.12	67.80
58	31.38	48.90	68.95

ZONE A—Continued

[Canadian Entry: Toronto; U.S. Origins: Buffalo, Chicago, New York]

Weight not to exceed (pounds)	Standard		
	Local (T)	Regional (T)	National (T)
59	31.85	49.67	70.11
60	32.32	50.44	71.27
61	32.79	51.21	72.42
62	33.26	51.98	73.58
63	33.73	52.75	74.73
64	34.21	53.52	75.89
65	34.60	53.91	76.28
66	35.07	54.68	77.43

ZONE B

[Canadian Entry: Toronto; U.S. Origins: Dallas,[1] Miami]

Weight not to exceed (pounds)	Standard		
	Local (T)	Regional (T)	National (T)
1	$5.69	$7.14	$7.42
2	6.64	8.70	9.12
3	7.56	10.00	10.81
4	8.48	11.30	12.50
5	9.47	12.60	14.18
6	10.47	13.90	15.86
7	11.47	15.19	17.55
8	12.47	16.49	19.23
9	13.47	17.79	20.92
10	14.47	19.09	22.60
11	15.39	20.01	23.52
12	16.39	21.31	25.20
13	17.39	22.60	26.89
14	18.39	23.91	28.57
15	19.39	25.21	30.25
16	20.38	26.50	31.94
17	21.38	27.81	33.62
18	22.38	29.10	35.31
19	23.38	30.40	36.99
20	24.38	31.70	38.68
21	25.38	33.00	40.36
22	26.30	33.92	41.28
23	27.30	35.22	42.96
24	28.30	36.51	44.64
25	29.30	37.82	46.33
26	30.30	39.11	48.01
27	31.29	40.41	49.70
28	32.30	41.72	51.38
29	33.29	43.01	53.07
30	34.29	44.31	54.75
31	35.29	45.61	56.43
32	36.29	46.91	58.12
33	37.21	47.83	59.03
34	38.21	49.13	60.72
35	39.21	50.42	62.40
36	40.21	51.72	64.08
37	41.21	53.02	65.77
38	42.20	54.32	67.46
39	43.21	55.62	69.14
40	44.20	56.92	70.82
41	45.20	58.22	72.51
42	46.20	59.52	74.19
43	47.20	60.82	75.87
44	48.12	61.74	76.79
45	49.12	63.04	78.47
46	50.12	64.33	80.16
47	51.12	65.63	81.84
48	52.12	66.93	83.53
49	53.11	68.23	85.21
50	54.12	69.53	86.90

ZONE B—Continued

[Canadian Entry: Toronto; U.S. Origins: Dallas,[1] Miami]

Weight not to exceed (pounds)	Standard		
	Local (T)	Regional (T)	National (T)
51	55.11	70.83	88.58
52	56.11	72.13	90.27
53	57.11	73.43	91.95
54	58.03	74.35	92.87
55	59.03	75.64	94.55
56	60.03	76.95	96.23
57	61.03	78.24	97.92
58	62.03	79.54	99.60
59	63.03	80.84	101.29
60	64.03	82.14	102.97
61	65.03	83.44	104.65
62	66.02	84.74	106.34
63	67.02	86.04	108.02
64	68.02	87.34	109.71
65	68.94	88.25	110.63
66	69.94	89.55	112.31

[1] Mail entered in Dallas may, subject to a signed agreement with the Postal Service, be entered through Vancouver rather than Toronto. In that case, the mail would receive the rates for U.S. origin Seattle.

ZONE C

[Canadian Entry: Vancouver; U.S. Origin: Seattle]

Weight not to exceed (pounds)	Standard		
	Local (V)	Regional (V)	National (V)
1	$6.89	$8.17	$10.47
2	7.27	8.55	10.84
3	7.64	8.92	11.21
4	8.01	9.29	11.59
5	8.39	9.67	11.96
6	8.76	10.04	12.33
7	9.13	10.42	12.71
8	9.51	10.79	13.08
9	9.88	11.16	13.45
10	10.26	11.54	13.83
11	10.70	12.04	14.33
12	11.15	12.55	14.84
13	11.59	13.05	15.34
14	12.04	13.56	15.85
15	12.49	14.08	16.35
16	12.93	14.56	16.86
17	13.38	15.07	17.36
18	13.83	15.57	17.87
19	14.27	16.08	18.37
20	14.72	16.58	18.88
21	15.17	17.09	19.38
22	15.61	17.59	19.89
23	16.06	18.10	20.39
24	16.51	18.60	20.90
25	16.95	19.11	21.40
26	17.40	19.61	21.91
27	17.85	20.12	22.41
28	18.29	20.62	22.92
29	18.74	21.13	23.42
30	19.18	21.63	23.93
31	19.63	22.14	24.43
32	20.08	22.64	24.94
33	20.52	23.15	25.44
34	20.97	23.65	25.94
35	21.42	24.16	26.45
36	21.86	24.66	26.95
37	22.31	25.17	27.46
38	22.76	25.67	27.96
39	23.20	26.18	28.47
40	23.65	26.68	28.97
41	24.10	27.19	29.48

ZONE C—Continued

[Canadian Entry: Vancouver; U.S. Origin: Seattle]

Weight not to exceed (pounds)	Standard		
	Local (V)	Regional (V)	National (V)
42	24.54	27.89	29.96
43	24.99	28.20	30.49
44	25.44	28.70	30.99
45	25.88	29.21	31.50
46	26.33	29.71	32.00
47	26.77	30.22	32.51
48	27.22	30.72	33.01
49	27.67	31.23	33.52
50	28.11	31.73	34.02
51	28.56	32.24	34.53
52	29.01	32.74	35.03
53	29.45	33.24	35.54
54	29.90	33.75	36.04
55	30.35	34.25	36.55
56	30.79	34.76	37.05
57	31.24	35.26	37.56
58	31.69	35.77	38.06
59	32.13	36.27	38.57
60	32.58	36.78	39.07
61	33.03	37.28	39.58
62	33.47	37.79	40.08
63	33.92	38.29	40.59
64	34.36	38.80	41.09
65	34.81	39.30	41.60
66	35.26	39.81	42.10

ZONE D

[Canadian Entry: Vancouver; U.S. Origins: San Francisco]

Weight not to exceed (pounds)	Standard		
	Local (V)	Regional (V)	National (V)
1	$7.42	$8.70	$11.06
2	8.33	9.61	11.90
3	9.23	10.51	12.80
4	10.13	11.41	13.71
5	11.04	12.32	14.61
6	11.94	13.22	15.51
7	12.84	14.12	16.42
8	13.75	15.03	17.32
9	14.65	15.93	18.22
10	15.56	16.83	19.13
11	16.53	17.87	20.16
12	17.51	18.90	21.20
13	18.48	19.94	22.23
14	19.46	20.97	23.27
15	20.44	22.01	24.30
16	21.41	23.04	25.33
17	22.39	24.08	26.37
18	23.36	25.11	27.40
19	24.34	26.15	28.44
20	25.32	27.18	29.47
21	26.29	28.22	30.51
22	27.27	29.25	31.54
23	28.25	30.29	32.58
24	29.22	31.32	33.61
25	30.20	32.35	34.65
26	31.17	33.39	35.68
27	32.15	34.42	36.72
28	33.13	35.46	37.75
29	34.10	36.49	38.79
30	35.08	37.53	39.82
31	36.06	38.56	40.86
32	37.03	39.60	41.89
33	38.01	40.63	42.92
34	38.98	41.67	43.96

ZONE D—Continued

[Canadian Entry: Vancouver; U.S. Origins: San Francisco]

Weight not to exceed (pounds)	Standard		
	Local (V)	Regional (V)	National (V)
35	39.96	42.70	44.99
36	40.94	43.74	46.03
37	41.91	44.77	47.06
38	42.89	45.81	48.10
39	43.87	46.84	49.13
40	44.84	47.87	50.17
41	45.82	48.91	51.20
42	46.80	49.94	52.24
43	47.77	50.98	53.27
44	48.75	52.01	54.31
45	49.72	53.05	55.34
46	50.70	54.08	56.38
47	51.68	55.12	57.41
48	52.65	56.15	58.44
49	53.63	57.19	59.48
50	54.61	58.22	60.51
51	55.58	59.26	61.55
52	56.56	60.29	62.58
53	57.53	61.33	63.62
54	58.51	62.36	64.65
55	59.49	63.40	65.69
56	60.46	64.43	66.72
57	61.44	65.46	67.76
58	62.42	66.50	68.79
59	63.39	67.53	69.83
60	64.37	68.57	70.86
61	65.35	69.60	71.90
62	66.32	70.64	72.93
63	67.30	71.67	73.97
64	68.27	72.71	75.00
65	69.25	73.74	76.03
66	70.23	74.78	77.07

The Postal Service adopts the following amendments to the International Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 20.1.

List of Subjects in 39 CFR Part 20

International Post Service, Foreign Relation.

PART 20—[AMENDED]

1. The authority for 39 CFR Part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 401, 404, 407, 408.

2. Effective October 31, 1997 subchapter 620 of International Mail Manual Issue 19 is amended to read as follows:

Global Package Link (620)

622 QUALIFYING MAILERS

* * * * *

622.2 Linking Information Systems

[Renumber current 622.2 as 622.21, General. Add new 622.21 as follows:]

622.21 Additional Data Required for GPL Standard to Canada

For GPL Standard Service to Canada, the data file must include for each package, in addition to those items specified in 622.2, the Canadian postal code and the insured value of the parcel.

* * * * *

623.3 Size and Weight Limits

[Add the following information at the end of the section:]

In addition, for Canada Standard mail originating in GPL facilities located in New York City, Buffalo, Chicago, Dallas, and Miami, and dispatched through Toronto, the following restrictions apply:

- Minimum length is 4 in, minimum width is 3 in, minimum thickness is .007 in.
- Maximum length, width, or depth is 78 in.
- Maximum length plus girth is 108 in.
- An oversize surcharge of $4.00 US applies to each parcel if:
- length, width, or depth exceeds 43 in or
- length, plus girth exceed 78 in.
- Minimum Density requirements also apply to any parcel weighing less than 15 lbs. that is over 84 inches length/width/girth will be rated as weighing 15 lbs. and charged at the 15 lb. rate.

* * * * *

624 PREPARATION REQUIREMENTS

[Add new 624.16, Canada, as follows:]

624.16 Canada

In addition, customers using standard service to Canada whose mail originates in GPL processing facilities located in New York City, Buffalo, Chicago, Miami, or Dallas must apply a Canada Post Xpresspost production identification label.

* * * * *

626 SERVICE AVAILABLE

626.1 Delivery Options

626.11 Premium Service

Premium service is available to all countries except France. Packages sent through premium service are transported to the destination country

by air where they receive special handling and expedited delivery. The mailer can track premium service packages through delivery. Reports of delivery performance are furnished to the mailer in the formats and at the frequencies agreed upon by the Postal Service and the mailer.

626.12 Standard Service

Standard service is available to France, Japan, Canada, Singapore, and the United Kingdom. Packages sent through standard service are transported to the destination country by air (or a combination of air/ground to Canada) for delivery. The mailer can track standard service packages through dispatch from the GPL processing facility for Japan and through delivery for the United Kingdom and Canada. In Mexico, standard service provides for customer pickup of parcels at selected, secured, customer service centers with tracking to pickup.

* * * * *

626.14 Canada Ground Service

[Delete the entire section and renumber current 626.15 as 626.14.]

* * * * *

626.3 Insurance and Indemnity

[Replace section 626.321 as follows:]

626.321 Canada

Packages sent through standard Service to Canada are insured for the declared value for up to $100 (U.S.). Optional coverage $100.00 to $1000 U.S. will be available for a fee of $.90 per $100 of insurance over the first $100.

INSURANCE FOR GPL STANDARD SERVICE TO CANADA

Insured amount not over (dollars)	Fee
100	No fee.
200	$.90
300	1.70
400	2.60
500	3.50
600	4.40
700	5.30
800	6.20
900	7.10
1000	8.00

* * * * *

Individual Country Listing—Canada

[Delete description of Ground Gateway Service and Processing and Acceptance information for Ground Gateway Service. Replace with the following:]

Standard Service

For Standard Service, pricing will be based on four originating zones in the United States and local, regional, and national destinating zones in Canada.

The four origin zones are:

Zone A. includes entry Chicago, New York, Buffalo;
Zone B. Miami, Dallas;
Zone C. Seattle;
Zone D. San Francisco.

Mail originating in Zones A and B will generally be dispatched to Toronto; mail originating in Zones C and D will be generally dispatched to Vancouver. Mail entered in Dallas may be dispatched to either Toronto or Vancouver. The destination zones in Canada, local, regional, and national, are based on distance from Toronto or Vancouver.

[Replace the current rate table with the following rate tables:]

GLOBAL PACKAGE LINK TO CANADA RATE CHART—PREMIUM SERVICE

Weight not over (pounds)	Price per item: Premium	Price per item: Returns (see 626.23)
1	$9.15	$6.49
2	10.01	7.16
3	11.53	7.82
4	13.04	8.49
5	14.56	9.16
6	15.96	9.83
7	17.46	10.49
8	18.97	11.16
9	20.47	11.83
10	21.96	12.50
11	23.32	13.16
12	24.81	13.83
13	26.32	14.50
14	$27.81	$15.17
15	29.31	15.83
16	30.80	16.50
17	32.31	17.17
18	33.80	17.84
19	35.29	18.50
20	36.79	19.17
21	38.02	19.84
22	39.50	20.50
23	40.99	21.17
24	42.47	21.84
25	43.97	22.51
26	45.45	23.17
27	46.59	23.84
28	48.42	24.51
29	49.91	25.18
30	51.40	25.84
31	52.50	26.51
32	53.97	27.18
33	55.46	27.85
34	56.93	28.51
35	58.40	29.18
36	59.87	29.85
37	61.36	30.52
38	62.83	31.18
39	64.31	31.85
40	65.78	32.52
41	66.78	33.19
42	68.24	33.85
43	69.70	34.52
44	71.16	35.19
45	72.64	35.86
46	73.56	36.52
47	75.01	37.19
48	76.46	37.86
49	77.81	38.52
50	79.37	39.19
51	80.83	39.86
52	82.29	40.53
53	83.74	41.19
54	85.20	41.86
55	86.66	42.53
56	87.47	43.20
57	88.91	43.86
58	90.36	44.53
59	91.80	45.20
60	93.26	45.87
61	94.70	46.53
62	96.15	47.20
63	96.88	47.87
64	98.31	48.54
65	99.75	49.50
66	101.18	49.87

Discounts: Postage is reduced by the following additional discounts once the applicable volume thresholds are reached during a 12-month period: Over 100,000 annually 3.00%. No discounts are available for returns.

GPL STANDARD—ORIGIN ZONE A

[Canadian Entry: Toronto; U.S. Origins: Buffalo, Chicago, New York]

Weight not to exceed (pounds)	Standard: Destination: Local (T)	Regional (T)	National (T)
1	$5.16	$6.61	$6.89
2	5.58	7.84	8.07
3	5.97	8.41	9.22
4	6.36	9.18	10.38
5	6.83	9.95	11.54
6	7.30	10.73	12.69
7	7.77	11.49	13.85
8	8.24	12.27	15.01
9	8.72	13.04	16.16
10	9.19	13.81	17.32
11	9.58	14.20	17.76
12	10.05	14.97	18.86
13	10.52	15.74	20.02
14	10.99	16.51	21.17
15	11.46	17.28	22.33
16	11.93	18.05	23.49
17	12.40	18.82	24.64
18	12.87	19.59	25.80
19	13.34	20.36	26.95
20	13.82	21.13	28.11
21	14.29	21.90	29.26
22	14.67	22.29	29.65
23	15.15	23.07	30.81
24	15.62	23.83	31.96
25	16.09	24.61	33.12
26	16.56	25.38	34.27
27	17.03	26.15	35.43
28	17.50	26.92	36.58
29	17.97	27.69	37.74
30	18.44	28.46	38.90
31	18.91	29.23	40.05
32	19.38	30.00	41.21
33	19.77	30.39	41.60
34	20.24	31.16	42.75
35	20.71	31.93	43.91
36	21.18	32.70	45.06
37	21.66	33.47	46.22
38	22.13	34.24	47.38
39	22.60	35.02	48.53
40	23.07	35.78	49.69
41	23.54	36.56	50.84
42	24.01	37.33	52.00
43	24.48	38.10	53.15
44	24.87	38.49	53.54
45	25.34	39.26	54.70
46	25.81	40.03	55.86
47	26.28	40.80	57.01
48	26.75	41.57	58.17
49	27.22	42.34	59.32
50	27.70	43.11	60.48
51	28.17	43.88	61.63
52	28.64	44.65	62.79
53	29.11	45.42	63.95
54	29.50	45.81	64.34
55	29.97	46.58	65.49
56	30.44	47.36	66.64
57	30.91	48.12	67.80
58	31.38	48.90	68.95
59	31.85	49.67	70.11
60	32.32	50.44	71.27
61	32.79	51.21	72.42
62	33.26	51.98	73.58
63	33.73	52.75	74.73
64	34.21	53.52	75.89
65	34.60	53.91	76.28
66	35.07	54.68	77.43

Discounts: Postage is reduced by the following additional discounts once the applicable volume thresholds are reached during a 12-month period: Over 100,000 annually 3.00%. No discounts are available for returns.

ORIGIN ZONE B

[Canadian Entry: Toronto; U.S. Origins: Dallas [1] and Miami]

Weight not to exceed (pounds)	Standard		
	Destination		
	Local (T)	Regional (T)	National (T)
1	$5.89	$7.14	$7.42
2	6.64	8.70	9.12
3	7.56	10.00	10.81
4	8.48	11.30	12.50
5	9.47	12.60	14.18
6	10.47	13.90	15.86
7	11.47	15.19	17.55
8	12.47	16.49	19.23
9	13.47	17.79	20.92
10	14.47	19.09	22.60
11	15.39	20.01	23.52
12	16.39	21.31	25.20
13	17.39	22.60	26.89
14	18.39	23.91	28.57
15	19.39	25.21	30.25
16	20.38	26.50	31.94
17	21.38	27.81	33.62
18	22.38	29.10	35.31
19	23.38	30.40	36.99
20	24.38	31.70	38.68
21	25.38	33.00	40.36
22	26.30	33.92	41.28
23	27.30	35.22	42.96
24	28.30	36.51	44.64
25	29.30	37.82	46.33
26	30.30	39.11	48.01
27	31.29	40.41	49.70
28	32.30	41.72	51.38
29	33.29	43.01	53.07
30	34.29	44.31	54.75
31	35.29	45.61	56.43
32	36.29	46.92	58.12
33	37.21	47.83	59.09
34	38.21	49.13	60.72
35	39.21	50.42	62.40
36	40.21	51.72	64.06
37	41.21	53.02	65.77
38	42.20	54.32	67.46
39	43.21	55.62	69.14
40	44.20	56.92	70.82
41	45.20	58.22	72.51
42	46.20	59.52	74.19
43	47.20	60.82	75.87
44	48.12	61.74	76.79
45	49.12	63.04	78.47
46	50.12	64.33	80.16
47	51.12	65.63	81.84
48	52.12	66.93	83.53
49	53.11	68.23	85.21
50	54.12	69.53	86.90
51	55.11	70.83	88.58
52	56.11	72.13	90.27
53	57.11	73.43	91.95
54	58.03	74.35	92.87
55	59.03	75.64	94.55
56	60.03	76.95	96.23
57	61.03	78.24	97.92
58	62.03	79.54	99.60
59	63.03	80.84	101.29
60	64.03	82.14	102.97
61	65.03	83.44	104.65
62	66.02	84.74	106.34
63	67.02	86.04	108.02
64	68.02	87.34	109.71

ORIGIN ZONE B—Continued

[Canadian Entry: Toronto; U.S. Origins: Dallas [1] and Miami]

Weight not to exceed (pounds)	Standard		
	Destination		
	Local (T)	Regional (T)	National (T)
65	68.94	88.25	110.63
66	69.94	89.55	112.31

[1] By special agreement Dallas origin mail may be entered in Vancouver. This mail will be charged Origin Lone C rates.

Discounts: Postage is reduced by the following additional discounts once the applicable volume thresholds are reached during a 12-month period: Over 100,000 annually 3.00%. No discounts are available for returns.

ORIGIN ZONE C

[Canadian Entry: Vancouver; U.S. Origin: Seattle]

Weight not to exceed (pounds)	Standard			
	Destination			Returns (see 628.23)
	Local (V)	Regional (V)	National (V)	
1	$6.89	$8.17	$10.47	$6.49
2	7.27	8.55	10.84	7.16
3	7.64	8.92	11.21	7.82
4	8.01	9.29	11.59	8.49
5	8.39	9.67	11.96	9.16
6	8.76	10.04	12.33	9.83
7	9.13	10.42	12.71	10.49
8	9.51	10.79	13.08	11.16
9	9.88	11.16	13.45	11.83
10	10.26	11.54	13.83	12.50
11	10.70	12.04	14.33	13.16
12	11.15	12.55	14.84	13.83
13	11.59	13.05	15.34	14.50
14	12.04	13.56	15.85	15.17
15	12.49	14.06	16.35	15.83
16	12.93	14.56	16.86	16.50
17	13.38	15.07	17.36	17.17
18	13.83	15.57	17.87	17.84
19	14.27	16.08	18.37	18.50
20	14.72	16.58	18.88	19.17
21	15.17	17.09	19.38	19.84
22	15.61	17.59	19.89	20.50
23	16.06	18.10	20.39	21.17
24	16.51	18.60	20.90	21.84
25	16.95	19.11	21.40	22.51
26	17.40	19.61	21.91	23.17
27	17.85	20.12	22.41	23.84
28	18.29	20.62	22.92	24.51
29	18.74	21.13	23.42	25.18
30	19.18	21.63	23.93	25.84
31	19.63	22.14	24.43	26.51
32	20.08	22.64	24.94	27.18
33	20.52	23.15	25.44	27.85
34	20.97	23.65	25.94	28.51
35	21.42	24.16	26.45	29.18
36	21.86	24.66	26.95	29.85
37	22.31	25.17	27.46	30.52
38	22.76	25.67	27.96	31.18
39	23.20	26.18	28.47	31.85
40	23.65	26.68	28.97	32.52
41	24.10	27.19	29.48	33.19
42	24.54	27.69	29.98	33.85
43	24.99	28.20	30.49	34.52
44	25.44	28.70	30.99	35.19
45	25.88	29.21	31.50	35.86
46	26.33	29.71	32.00	36.52
47	26.77	30.22	32.51	37.19
48	27.22	30.72	33.01	37.86
49	27.67	31.23	33.52	38.52
50	28.11	31.73	34.02	39.19
51	28.56	32.24	34.53	39.86

ORIGIN ZONE C—Continued

[Canadian Entry: Vancouver; U.S. Origin: Seattle]

Weight not to exceed (pounds)	Standard			
	Destination			Returns (see 626.23)
	Local (V)	Regional (V)	National (V)	
52	29.01	32.74	35.03	40.53
53	29.45	33.24	35.54	41.19
54	29.90	33.75	36.04	41.86
55	30.35	34.25	36.55	42.53
56	30.79	34.78	37.05	43.20
57	31.24	35.26	37.56	43.86
58	31.69	35.77	38.06	44.53
59	32.13	36.27	38.57	45.20
60	32.58	36.78	39.07	45.87
61	33.03	37.28	39.58	46.53
62	33.47	37.79	40.08	47.20
63	33.92	38.29	40.59	47.87
64	34.36	38.80	41.09	48.54
65	34.81	39.30	41.60	49.20
66	35.26	39.81	42.10	49.87

Discounts: Postage is reduced by the following additional discounts once the applicable volume thresholds are reached during a 12-month period: Over 100,000 annually 3.00%. No discounts are available for returns.

ORIGIN ZONE D

[Canadian Entry: Vancouver; U.S. Origins: San Francisco]

Weight not to exceed (pounds)	Standard			
	Destination			Returns (see 626.23)
	Local (V)	Regional (V)	National (V)	
1	$7.42	$8.70	$11.00	$8.49
2	8.33	9.61	11.90	7.16
3	6.23	10.51	12.80	7.82
4	10.13	11.41	13.71	8.49
5	11.04	12.32	14.61	9.16
6	11.94	13.22	15.51	9.83
7	12.84	14.12	16.42	10.49
8	13.75	15.03	17.32	11.16
9	14.65	15.93	18.22	11.83
10	15.55	16.83	19.13	12.50
11	16.53	17.87	20.16	13.16
12	17.51	18.90	21.20	13.83
13	18.48	19.94	22.23	14.50
14	19.46	20.97	23.27	15.17
15	20.44	22.01	24.30	15.83
16	21.41	23.04	25.33	16.50
17	22.39	24.08	26.37	17.17
18	23.36	25.11	27.40	17.84
19	24.34	26.15	28.44	18.50
20	25.32	27.18	29.47	19.17
21	26.29	28.22	30.51	19.84
22	27.27	29.25	31.54	20.50
23	28.25	30.29	32.58	21.17
24	29.22	31.32	33.61	21.84
25	30.20	32.35	34.65	22.51
26	31.17	33.39	35.68	23.17
27	32.15	34.42	36.72	23.84
28	33.13	35.46	37.75	24.51
29	34.10	36.49	38.79	25.18
30	35.08	37.53	39.82	25.84
31	36.06	38.56	40.86	26.51
32	37.03	39.60	41.89	27.18
33	38.01	40.63	42.92	27.85
34	38.98	41.67	43.96	28.51
35	39.96	42.70	44.99	29.18
36	40.94	43.74	46.03	29.85
37	41.91	44.77	47.06	30.52
38	42.89	45.81	48.10	31.18
39	43.87	46.84	49.13	31.85

ORIGIN ZONE D—Continued

[Canadian Entry: Vancouver; U.S. Origins: San Francisco]

Weight not to exceed (pounds)	Standard			
	Destination			Returns (see 626.23)
	Local (V)	Regional (V)	National (V)	
40	44.84	47.87	50.17	32.52
41	45.82	48.91	51.20	33.19
42	46.80	49.94	52.24	33.85
43	47.77	50.98	53.27	34.52
44	48.75	52.01	54.31	35.19
45	49.72	53.05	55.34	35.86
46	50.70	54.08	56.38	36.52
47	51.68	55.12	57.41	37.19
48	52.65	56.15	58.44	37.86
49	53.63	57.19	59.48	38.52
50	54.61	58.22	60.51	39.19
51	55.58	59.26	61.55	39.86
52	56.56	60.29	62.58	40.53
53	57.53	61.33	63.62	41.19
54	58.51	62.36	64.65	41.86
55	59.49	63.40	65.69	42.53
56	60.46	64.43	66.72	43.20
57	61.44	65.46	67.76	43.86
58	62.42	66.50	68.79	44.53
59	63.39	67.53	69.83	45.20
60	64.37	68.57	70.86	45.87
61	65.35	69.60	71.90	46.53
62	66.32	70.64	72.93	47.20
63	67.30	71.67	73.97	47.87
64	68.27	72.71	75.00	48.54
65	69.25	73.74	76.03	49.20
66	70.23	74.78	77.07	49.87

Postage is reduced by the following additional discounts once the applicable volume thresholds are reached during a 12-month period: Over 100,000 annually 3.00%. No discounts are available for returns.

ZIP CODES FOR CANADIAN GPL STANDARD ORIGINATING ZONES

Facility	ZIP Codes served
ZONE A:	
Buffalo	130–149
Chicago	270–282, 286–326, 344, 350, –397, 399, 430–516, 520–528, 530–567, 570–578, 600–631, 633–641, 644–658, 660–662, 664–681, 683–693, 739, 800–816, 822–831, 840–847, 870–884, 893, 896
New York	004–005, 010–098, 100–129, 150–199, 200–268, 283–285, 400–418, 420–427, 476–477
ZONE B:	
Dallas	700–706, 710–738, 740–799, 885
Miami	006–009, 327–339, 340–342, 346–347, 349
ZONE C:	
Seattle	590–599, 821, 832–838, 970–986, 988–999
ZONE D:	
San Francisco	850, 852–853, 855–857, 859–860, 863–865, 889–891, 894–897, 900–908, 910–928, 930–966

GPL STANDARD TO CANADA—POSTAL CODES FOR DESTINATING ZONES

TORONTO ENTRY: POSTAL CODES IN LOCAL DESTINATION ZONE	
Quebec QC	G0A, G0K–G0V, G0X–G0Z, G1A–G2N, G3A–G4A, G5A, G5L–G6T, G6V–G6X, G6Z–G7B, G7G–G7K, G7P, G7S–G8A, G8J, G8N, G8T–G8W, G8Y–G9C, G9N–G9X, H0A, H0M, H1A–H9X, J0A–J0Z, J1A, J1E–J3Z, J4B, J4G–J4T, J4V–J6A, J6E–J6H, J6L–J9A, J9E, J9H–J9J, J9L–J9Z
Ontario ON	K0A–K0M, K1A–K7H, K7K–K7P, K7R–K8H, K8N–K8R, K8V, K8X, K9A, K9H–K9L, K9V, L0A–L3M, L3P–L3T, L3V–L4E, L4G–L6M, L6R–L9Y, M1B–M9W, N0A–N0R, N1A, N1C–N1M, N1P–N2V, N2Z–N3H, N3L, N3P–N5R, N5V–N6P, N7A–N9K, N9V–N9Y, P0A–P0S, P1A–P1C, P1H, P1L–P2N, P3A–P3G, P3L–P3Y, P4N–P4R, P5A–P5N, P6A–P6C
TORONTO ENTRY: POSTAL CODES IN REGIONAL DESTINATION ZONE	
Nova Scotia NS	B0A–B0W, B1A–B1S, B1V–B2T, B2V–B3B, B3E–B5A
Prince Edward PE	C0A–C0B, C1A–C1E, C1N
New Brunswick NB	E0A–E0L, E1A–E1J, E1N–E2A, E2E–E2s, E2V, E3A–E3E, E3L–E3Z, E5H–E9E
Quebec QC	G0C–G0J, G0W, G4R–G4Z, G5B–G5H, G8B–G8H, G8K–G8M, G8P

GPL STANDARD TO CANADA—POSTAL CODES FOR DESTINATING ZONES—Continued

Ontario ON	N0R, 1MO, P0T, P0V–P0Y, P7A–P7K, P8N–P9N
Manitoba MB	R0A–R0M, R1A–R1N, R2C–R4L, R5A–R6W, 57A–R7C, 57N–R9A
Saskatchewan SK	S0A–S0P, S3N–S4H, S4L–S7V, S9A–S9X

TORONTO ENTRY: ALL OTHER CANADIAN POSTAL CODES NOT LISTED ABOVE ARE IN THE NATIONAL DESTINATION ZONE

VANCOUVER ENTRY: PROVINCE/POSTAL CODES FOR LOCAL DESTINATION ZONE

British Columbia BC	All postal codes beginning with the Letter V

VANCOUVER ENTRY: PROVINCE/POSTAL CODES FOR REGIONAL DESTINATION ZONE

Alberta AB	All postal codes beginning with the Letter T
Manitoba MB	All postal codes beginning with the Letter R
Saskatchewan SK	All postal codes beginning with the Letter S

VANCOUVER ENTRY: ALL OTHER CANADIAN PROVINCE AND POSTAL CODES NOT LISTED ABOVE ARE IN THE NATIONAL DESTINATION ZONE

Stanley F. Mires,
Chief Counsel, Legislative.
[FR Doc. 97–28525 Filed 10–30–97; 8:45 am]
BILLING CODE 7710–12–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–11

RIN 3090–AG02

Relocation of FIRMR Provisions Relating to GSA's Role in the Records Management Program

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Interim rule.

SUMMARY: The General Services Administration (GSA) is extending Federal Property Management Regulations provisions regarding records management.

DATES: Effective date: The interim rule published August 7, 1996 was effective from August 8, 1996 through December 31, 1997. The period of effectiveness is extended through December 31, 1998.

FOR FURTHER INFORMATION CONTACT: R. Stewart Randall, Jr., Office of Governmentwide Policy, telephone 202–501–4469.

SUPPLEMENTARY INFORMATION: FPMR interim rule B1 was published in the **Federal Register** on August 7, 1996, 61 FR 41001. The expiration date of the interim rule is December 31, 1997. This supplement extends the expiration date through December 31, 1998.

List of Subjects in 41 CFR Part 101–11

Archives and records, Computer technology, Telecommunications, Government procurement, Property management, Records management, and Federal information processing resources activities.

Therefore the effective date for interim rule B–1 published at 61 CFR 41001, August 7, 1996, is extended until December 31, 1998.

Dated: October 10, 1997.

Thurman M. Davis, Sr.,
Acting Administrator of General Services.
[FR Doc. 97–28929 Filed 10–30–97; 8:45 am]
BILLING CODE 6820–34–M

Proposed Rules

Federal Register
Vol. 62, No. 211
Friday, October 31, 1997

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 430

[Docket No. EE–RM–94–230]

RIN 1904–AA–52

Energy Conservation Program for Consumer Products: Test Procedure for Water Heaters

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Proposed rule; limited reopening of the comment period.

SUMMARY: The Department of Energy (DOE or the Department) is amending its test procedure for water heaters. The purpose of this notice is to solicit comments on three amendments to the proposed test for rating of instantaneous water heaters, the installation requirement for heat pump water heaters supplied without tanks, and the definition of heat pump water heater.

DATES: Written comments in response to this notice must be received by December 1, 1997.

ADDRESSES: Ten copies of written comments may be submitted to: U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, EE–43, Room 1J–018, MS EE–43, "Test Procedure for Water Heaters," Docket No. EE–RM–94–230, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–7574.

Copies of the comments and transcripts from the public hearing and workshop may be viewed at the Department of Energy, Freedom of Information Public Reading Room, U.S. Department of Energy, Room 1E–190, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–3142, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Terry Logee, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE–43, 1000 Independence Avenue, SW, Washington, DC 20585–0121, (202) 586–1689, FAX (202) 586–4617, terry.logee@hq.doe.gov

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–72, 1000 Independence Avenue, SW, Washington, DC 20585–0103, (202) 586–9507, FAX (202) 586–4116, eugene.margolis@hq.doe.gov

SUPPLEMENTARY INFORMATION:

I. Introduction

On March 23, 1995, the Department published a notice of proposed rulemaking (NOPR) to make several revisions to its test procedure for water heaters. 60 FR 15330. On July 12, 1995, a hearing was held on the NOPR, and on February 12, 1997, a workshop was held. The proposed amendments to the water heater test procedure included, among other things, revisions to make the water heater test procedure applicable to electric and oil-fired instantaneous water heaters, and definitions for a heat pump water heater storage tank, an integral heat pump water heater, and an add-on heat pump water heater. In response to the NOPR, several commenters submitted proposals for alternatives to these amendments. DOE is reopening the comment period to provide an opportunity for public review and comment.

II. Discussion

A. Rating Instantaneous Water Heaters

In the NOPR, DOE proposed to extend coverage to include electric and oil-fired instantaneous water heaters in addition to the gas-fired instantaneous water heaters by amending the definitions and test procedures. DOE proposed to use the first hour rating test (already used for testing storage-type water heaters) for these instantaneous water heaters.

The Department received comments from Bock, Edison Electrical Institute (EEI), the Gas Appliance Manufacturers Association (GAMA), and the Oregon State Energy Office stating that no oil-fired instantaneous water heaters are manufactured for residential use. Furthermore, the Federal Trade Commission does not receive labeling data on oil fired instantaneous water heaters. (GAMA, No. 1 at 2; Testimony from February 12, 1997, GAMA at 119, EEI at 119, Bock at 120, FTC at 120; Oregon, No. 51 at 3.) DOE agrees and will withdraw coverage for oil-fired instantaneous water heaters.

GAMA, the Electric Power Research Institute (EPRI), the Oregon State Energy Office, and several utilities suggested that DOE's proposed test for rating instantaneous water heaters be changed from a first hour rating to a maximum flow rate in gallons per minute. These commenters claimed the maximum gpm rating better represents the capabilities of an instantaneous water heaters. Such a test would involve measuring the inlet water temperature, establishing a required outlet temperature based on a prescribed temperature rise, and determining the amount of water per minute the water heater could dispense at the required temperature. (Testimony from February 12, 1997, GAMA at 127–8; EPRI, No. 56 at 8; Oregon, No. 51 at 3; Hawaiian Electric Co., No. 23 at 2; East Kentucky Power Cooperative, No. 34 at 1.) Nevada Power Company claimed that applying the first hour rating to instantaneous water heaters "is inappropriate because consumers may mistakenly compare instantaneous and storage type water heaters as being equivalent * * *" (Nevada Power Co., No. 45 at 4.)

Although all these commenters supported testing for maximum flow rate, there was some disagreement about temperature rise. GAMA proposed that the temperature rise should be 77 °F, because, assuming an average inlet water temperature of 58 °F, this is consistent with testing for storage-type water heaters, which are tested at 135 °F. EPRI and the Hawaiian Electric Co. preferred a temperature rise of 50 °F for instantaneous water heaters because, they claimed, it reflects the water temperature that people use. (GAMA, No. 35 at 2, Testimony from July 21, 1995, GAMA at 11; Testimony from July 21, 1995, GAMA at 127, 138; Hawaiian Electric Co., No. 23 at 2; EPRI, No. 56 at 8.)

Based on the comments, DOE believes that the current first-hour rating for instantaneous water heaters may mislead consumers because those instantaneous water heaters with larger heat input rates can only provide about

one gallon per minute at a 77 °F temperature rise versus the three gallons per minute DOE requires from storage-type water heaters in its first hour rating. DOE agrees with GAMA, EEI, EPRI, and other commenters that a test for a maximum flow rate (gal/min.) over a specific temperature rise (77 °F or 50 °F) is a better way to compare instantaneous water heaters than a test that determines the total volume flow over one hour. The heat input rate in BTU per hour or kilowatts and a specific temperature rise will determine the maximum flow rate in gallons per minute. The maximum flow rate measures the ability of instantaneous water heaters to deliver the largest possible amount of hot water to the user at a specific temperature rise occurring at any single moment.

DOE agrees with GAMA that the temperature rise should be 77 °F. DOE believes this temperature rise is required to ensure that the instantaneous water heater can deliver water at 135 °F for dishwashers and laundry or can provide hot water at a minimum acceptable temperature in places like Maine or Michigan, where the source water temperature may be much lower than the 58 °F used in the test procedure.

Based on the above reasons, the Department proposes to revise the test for rating of instantaneous water heaters from the first hour rating to the maximum flow rate in gallons per minute (gpm) at a 77 °F temperature rise. This temperature rise will ensure consumers that instantaneous water heaters can provide hot water for laundry and dishwasher use and can dispense water at an acceptable temperature in cold regions of the country. DOE proposes to call this rating criterion the maximum gpm rating.

The Department proposes to insert the following text at the appropriate sections in the proposed test procedure:

1.9 Maximum GPM (LPM) Rating means the maximum gallons per minute (liters per minute) of hot water that can be supplied by an instantaneous water heater while maintaining a nominal temperature rise of 77 °F (42.8 °C) during steady state operation at its maximum rate of input energy.

5.2.3 Maximum GPM (LPM) Rating Test for Instantaneous Water Heaters. Establish normal water heater operation at the maximum input rate with the discharge water temperature set in accordance with Section 5.2.1 (procedure for setting the outlet discharge temperature). During the 10-minute test, with no interruption to the electricity or fossil fuel supplied to the water heater, either collect the withdrawn water for later measurement of the total mass removed or, alternatively, use a water meter to directly measure the volume of water removed.

Begin with the water flow temporarily discontinued. Record the scale or water meter reading as appropriate. Turn on the hot water and record the corresponding time. Record the inlet and outlet water temperatures beginning 15 seconds after the hot water is turned on and at every subsequent 5-second interval throughout the duration of the test. At the end of 10 minutes, turn off the hot water. Determine the mass of water collected, M_{10m}, in pounds (kilograms), or the volume of water, V_{10m}, in gallons (liters), with an error no greater than 2 percent.

6.2.1 Maximum GPM (LPM) Rating Computation. Compute the maximum gpm (lpm) rating as:

$$F_{max} = \frac{M_{10m}\left(\bar{T}_{del} - \bar{T}_{in}\right)}{10(\rho)(77°F)}$$

$$or\ F_{max} = \frac{M_{10m}\left(\bar{T}_{del} - \bar{T}_{in}\right)}{10(\rho)(42.8°C)}$$

Where:

M_{10m} = the mass of water collected during the 10-minute test, lb (kg).

$\bar{T}_{del}$ = the average delivery temperature, °F (°C).

$\bar{T}_{in}$ = the average inlet temperature, °F (°C).

ρ = the density of water at the average delivery temperature, lb/gal (kg/L).

If a water meter is used in lieu of a scale, the maximum gpm (liter/min) rating is computed as:

$$F_{max} = \frac{V_{10m}\left(\bar{T}_{del} - \bar{T}_{in}\right)}{10(77°F)}$$

$$or\ F_{max} = \frac{V_{10m}\left(\bar{T}_{del} - \bar{T}_{in}\right)}{10(42.8°C)}$$

Where:

V_{10m} = the volume of water measured during the 10-minute test, gal (L).

$\bar{T}_{del}$ = the average delivery temperature, °F (°C).

$\bar{T}_{in}$ = the average inlet temperature, °F (°C).

B. Heat Pump Water Heater Storage Tanks

In the NOPR, DOE proposed a definition for a heat pump water heater storage tank: "Heat Pump Water Heater Storage Tank" is an insulated tank designed, wired, and labeled for use exclusively with an add-on heat pump water heater or solar water heater and being unable to operate without an add-on heat pump water heater or solar water heater. The heat pump water heater storage tank may contain one or two thermostats and up to two electric resistance heating elements, and has a manufacturer's rated capacity of 120 gallons (450 liters) or less. When tested with the add-on heat pump water heater or solar water heater inoperative, the heat pump water heater storage tank shall have an energy factor that is determined in accordance with the test procedure for water heaters.

GAMA objected to the Department's proposed definition for a heat pump water heater storage tank. GAMA also proposed that a 50-gallon tank that meets the minimum DOE energy factor is adequate for testing any add-on heat pump water heater sold without a tank by the manufacturer. (Section 4.9.3 of the existing DOE test procedure specifies a 47±1 gallon tank with an Energy Factor of 0.87±.01.) Supporters for GAMA's proposal included EPRI, the Oregon Energy Office, and Virginia Power. The Oregon Energy Office suggested that DOE review the definition in the current test procedure. (Testimony from February 12, 1997, GAMA at 229, EPRI at 227; Oregon, No. 51 at 6; Virginia Power, No. 50 at 4.)

Based on the above comments, the Department is proposing to delete its proposed definition for a heat pump water heater storage tank. The Department is revising the current installation requirement in Section 4.9.3 for a heat pump water heater storage tank. The Department proposes to insert the following text at the appropriate section in the proposed test procedure:

4.10 Heat Pump Water Heater Storage Tank. The heat pump water heater storage tank to be used for testing a heat pump water heater without a tank supplied by the manufacturer shall be an electric storage-type water heater. The electric water heater shall have the following specifications: a volume of 47.0 gallons ±1.0 gallon (178.0 liters ±3.8 liters); two 4.5 kW heating elements controlled in such a manner as to prevent both elements from operating simultaneously; and an Energy Factor greater than or equal to the minimum energy conservation standard (as determined in accordance with Section 6.1.7) and less than or equal to the sum of the minimum energy conservation standard and 0.02.

C. Heat Pump Water Heater

In the NOPR, DOE proposed to amend the definition of Heat Pump Water Heater with the following definitions of internal heat pump water heater and add-on heat pump water heater.

1.11.3.a. Integral heat pump water heater An air-to-water heat pump integral with an insulated storage tank.

1.11.3.b. Add-on heat pump water heater An air-to-water heat pump designed for use with a heat pump water heater storage tank.

EEI and EPRI claimed the definition for add-on heat pump water heater is inappropriate and should not be adopted. They stated that add-on heat pump water heaters are designed to work with any electric water heater tank and that some are designed to work with any tank. EPRI further stated that there are no storage tanks labeled and designed for use exclusively with heat pump water heaters. Therefore, EPRI believed the new definition would not allow testing of add-on heat pump water heaters because no heat pump water heater tanks are labeled for use exclusively with heat pump water heater storage tanks. EPRI claimed this new definition would increase costs of tanks used with heat pump water heaters because these tanks must be specialty tanks. Further, EEI claimed that this definition "is ill-advised; at best, it is likely to create confusion and increase the cost of heat pump water heaters:" (Testimony from July 12, 1995, EEI at 29; EEI, No. 2 at 7; EEI, No. 27 at 7; EPRI, No. 17 at 5.) Vaughn Manufacturing Corp. stated, "Now DOE is proposing to add more than one category of heat pump water heaters and a solar water heater. These new units will add to the confusion unless care is taken to see that the criteria are applied to comparative models on a valid basis." (Vaughn, No. 31 at 4.)

GAMA objected to the definition of "integral heat pump water heater" because the definition implies that the heat pump is structurally integrated with a tank, whereas, in reality, the heat pump and the tank can be physically separated, but are usually sold by the manufacturer as a packaged unit. GAMA suggested that instead of the 1995 DOE proposed definitions of "integral heat pump water heaters" and "add-on heat pump water heaters," the respective definitions should be "heat pump water heaters with tanks" and "heat pump water heaters without tanks." (Testimony from February 12, 1997, GAMA at 229–31.)

The Department finds that the definition of "integral heat pump water heaters" should be withdrawn as commenters GAMA, EPRI, Oregon Energy Office, and Virginia Power suggested. In place of the definition of "integral heat pump water heaters," the Department proposes the following definition: Heat pump water heater with storage tank means an air-to-water heat pump sold by the manufacturer with an insulated storage tank as a packaged unit. The tank and heat pump can be an integral unit or they can be separated.

The Department is also withdrawing the definition for an add-on heat pump water heater and proposes the following definition.

Heat pump water heater without storage tank (also called add-on heat pump water heater) means an air-to-water heat pump designed for use with a storage-type water heater or a storage tank that is not specified or supplied by the manufacturer.

The Department welcomes comments on these three topics.

Issued in Washington, DC, on October 24, 1997.

Joseph J. Romm,

Acting Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 97–28908 Filed 10–30–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–69–AD]

RIN 2120–AA64

Airworthiness Directives; Twin Commander Aircraft Corporation 500, 520, 560, 680, 681, 685, 690, 695, and 720 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to supersede Airworthiness Directive (AD) 94–04–17, which currently requires the following on Twin Commander Aircraft Corporation (Twin Commander) 500, 520, 560, 680, 681, 685, 690, 695, and 720 series airplanes: inspecting (one-time) the flap system for cables with broken wires or pulleys with worn cable clips, replacing any damaged parts, and replacing the master pulley and cable with new parts of improved design. The proposed AD would require inspecting all flap system cable grooves for the correct width, inspecting all flap system pulleys for rubbing on the support brackets, inspecting all flap pulley cable assemblies for frayed wires, and reworking or replacing any parts with discrepancies. The proposed AD results from several reports of worn and frayed flap system cables attributed to flap pulley grooves that are too narrow. The actions specified by the proposed AD are intended to prevent failure of a flap system cable caused by fatigue, which could result in loss of control of the airplane.

DATES: Comments must be received on or before January 6, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–69–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from the Twin Commander Aircraft Corporation, 19003 59th Drive, NE, Arlington, Washington 98223–7832; telephone (360) 435–9797. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Jeffrey Morfitt, Aerospace Engineer, FAA, Northwest Mountain Region, 1601 Lind Avenue S.W., Renton, Washington 98055–4056; telephone (425) 227–2595; facsimile (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following

statement is made: "Comments to Docket No. 97-CE-69-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97-CE-69-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

AD 94-04-17, Amendment 39-8837 (59 FR 8845, February 24, 1995), currently requires the following on Twin Commander Aircraft Corporation (Twin Commander) 500, 520, 560, 680, 681, 685, 690, 695, and 720 series airplanes: inspecting (one-time) the flap system for certain cables with broken wires or pulleys with worn cable clips, replacing any damaged parts, and replacing the master pulley and cable with new parts of improved design. Accomplishment of the actions specified in AD 94-04-17 is in accordance with Twin Commander Service Bulletin 210, dated February 1, 1981.

Actions Since Issuance of Previous Rule

Since issuing AD 94-04-17, the FAA has received two reports of flap pulley assemblies with cable grooves that were too narrow. The two pulleys were the right inboard (slave pulley) and the right outboard assemblies. In addition, the FAA has received reports of discrepancies on flap system cables and pulleys.

A number of pulleys were incorrectly manufactured with cable groove radii that are too narrow. These incorrect pulleys were produced from several manufacturers because the type certificate of the affected airplanes has been sold and transferred several times. These incorrectly manufactured parts include all six flap system pulleys. The incidents referenced in the reports affect airplanes covered by AD 94-04-17 and airplanes not covered by AD 94-04-17. Previous compliance with AD 94-04-17 does not address the unsafe condition proposed in this NPRM because incorrectly manufactured pulleys may have been installed on the affected airplanes at any time before and after the issuance of AD 94-04-17.

Relevant Service Information

Twin Commander has issued Service Bulletin No. 226, dated April 14, 1997 (Revision No. 1 Release Date: July 15, 1997), which applies to all models of Twin Commander 500, 520, 560, 680, 681, 685, 690, 695, and 720 series airplanes. This service bulletin specifies procedures for the following:

-Inspecting all flap system pulleys and cable assemblies;
-Replacing or reworking any pulley assemblies with discrepancies found during the inspection;
-Replacing cables, support brackets, or clips with discrepancies found during the inspection; and
-Identifying pulleys where the actions specified in the service bulletin have been accomplished

Revision No. 1 Release Date: July 15, 1997, of Twin Commander Mandatory Service Bulletin No. 226, specifies changes in the workhours necessary to accomplish this action and makes reference to a gauge that is available from the manufacturer for use in accomplishing the inspection.

The FAA's Determination

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that AD action should be taken to prevent failure of a flap system cable caused by fatigue, which could result in loss of control of the airplane.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other 500, 520, 560, 680, 681, 685, 690, 695, and 720 series airplanes of the same type design, the FAA is proposing an AD to supersede AD 94-04-17. The proposed AD would require inspecting all flap system cable grooves for the correct width, inspecting all flap system pulleys for rubbing on the support brackets, inspecting all flap pulley cable assemblies for frayed wires, and reworking or replacing any parts with discrepancies. Accomplishment of the proposed actions would be in accordance with Twin Commander Mandatory Service Bulletin No. 226, dated April 14, 1997, (Revision No. 1 Release Date: July 15, 1997).

Cost Impact

The FAA estimates that 1,230 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 22 workhours per airplane to accomplish the proposed inspection, and that the average labor rate is approximately $60 an hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $1,623,600, or $1,320 per airplane. These figures only take into account the inspection costs of the proposed AD and do not reflect the costs of any repairs or replacements that may be required if discrepancies are found during the proposed inspection. The FAA has no way of determining how many parts would need to be repaired or replaced after accomplishing the inspection proposed in this action.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Airworthiness Directive (AD) 94-04-17, Amendment 39-8837 (59 FR 8845, February 24, 1995), and by adding a new AD to read as follows:

Twin Commander Aircraft Corporation: Docket No. 97-CE-69-AD; Supersedes AD 94-04-17, Amendment 39-8837.

Applicability: The following airplane models (all serial numbers), certificated in any category: 500, 500-A, 500-B, 500-S, 500-U, 520, 560, 560-A, 560-E, 560-F, 680, 680-E, 680-F, 680FL, 680FL(P), 680FP, 680T, 680V, 680W, 681, 685, 690, 690A, 690B, 690C, 690D, 695, 695A, 695B, 720.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent failure of a flap system cable caused by fatigue, which could result in loss of control of the airplane, accomplish the following:

(a) Within the next 100 hours time-in-service (TIS) after the effective date of this AD, accomplish the following in accordance with the accomplishment instructions section of Twin Commander Aircraft Corporation (Twin Commander) Mandatory Service Bulletin No. 226, dated April 14, 1997 (Revision No. 1 Release Date: July 15, 1997):

(1) Inspect all flap system cable grooves for the correct width;

(2) Inspect all flap system pulleys for rubbing on the support brackets;

(3) Inspect all flap pulley cable assemblies for frayed wires; and

(4) Mark pulleys that have been inspected and have the correct groove radius with two parallel lines as specified in the service bulletin.

Note 2: Revision No. 1 Release Date: July 15, 1997, of Twin Commander Mandatory Service Bulletin No. 226, specifies changes in the workhours necessary to accomplish this action and makes reference to a gauge that is available from the manufacturer for use in accomplishing the inspection.

(b) If any of the above discrepancies are found, prior to further flight, rework or replace the affected part in accordance with Twin Commander Mandatory Service Bulletin No. 226, dated April 14, 1997 (Revision No. 1 Release Date: July 15, 1997).

(c) As of the effective date of this AD, no person may install a pulley that does not have the criteria presented in either paragraph (c)(1), (c)(2), or (c)(3) of this AD:

(1) A pulley that has been inspected, found acceptable, and marked with two parallel lines in accordance with paragraph (a), including all subparagraphs, of this AD;

(2) A pulley that has been reworked in accordance with an FAA-approved procedure and is marked "SB 226"; or

(3) A new pulley that is marked "SB 226-NEW".

(d) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Seattle Aircraft Certification Office (ACO), Northwest Mountain Region, FAA, 1601 Lind Avenue S.W., Renton, Washington 98055-4056.

(1) The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

(2) Alternative methods of compliance approved in accordance with AD 94-04-17 (superseded by this AD) are not considered approved as alternative methods of compliance for this AD.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(f) All persons affected by this directive may obtain copies of the document referred to herein upon request to the Twin Commander Aircraft Corporation, 19003 59th Drive, NE., Arlington, Washington 98223-7832; or may examine this document at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(g) This amendment supersedes AD 94-04-17, Amendment 39-8837.

Issued in Kansas City, Missouri, on October 24, 1997.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97-28674 Filed 10-30-97; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97-AGL-56]

Proposed Modification of Class E Airspace; Ashtabula, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify Class E airspace at Ashtabula, OH. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway 06 has been developed for Ashtabula County Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action proposes to increase the radius of the existing controlled airspace for the airport.

DATES: Comments must be received on or before December 7, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL-7, Rules Docket No. 97-AGL-56, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Operations Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL-520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294-7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 97-AGL-56." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for

examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2a, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to modify Class E airspace at Ashtabula, OH, to accommodate aircraft executing the GPS Runway 06 SIAP at Ashtabula County Airport by increasing the radius of the existing controlled airspace for the airport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this proposed regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL OH E5 Ashtabula, OH [Revised]

Ashtabula County Airport, OH
(lat. 41°48'41" N, long. 80°41'44" W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Ashtabula County Airport.

* * * * *

Issued in Des Plaines, Illinois on October 1, 1997.

David B. Johnson,

Assistant Manager, Air Traffic Division.

[FR Doc. 97–28935 Filed 10–30–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AGL–18]

Proposed Establishment of Class E Airspace; Cooperstown, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: This action withdraws the Notice of Proposed Rulemaking (NPRM) which proposed to establish Class E airspace at Cooperstown, ND. The NPRM is being withdrawn because it failed to accurately describe the full scope of the intended airspace action. A new NPRM will be issued at a subsequent date.

DATES: The withdrawal is made October 31, 1997.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

The Proposed Rule

On May 21, 1997, a Notice of Proposed Rulemaking was published in the **Federal Register** to establish Class E airspace at Cooperstown, ND, to accommodate a GPS Runway 13 SIAP and a GPS Runway 31 SIAP for Cooperstown Municipal Airport (62 FR 27705). The NPRM did not accurately describe the full scope of the intended airspace action; therefore it is being withdrawn. A new NPRM will be issued at a subsequent date.

Summary of Comments

No comments were received.

Conclusion

In consideration of the inaccurate description of the intended airspace action for Cooperstown Municipal Airport, action is being taken to withdraw the proposed establishment of Class E airspace at Cooperstown, ND. A new NPRM will be issued at a subsequent date.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Withdrawal of Proposed Rule

Accordingly, pursuant to the authority delegated to me, Airspace Docket No. 97–AGL–18, as published in the **Federal Register** on May 21, 1997 (62 FR 27705), is hereby withdrawn.

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR 1959–1963 Comp., p. 389.

Issued in Des Plaines, Illinois, on October 1, 1997.

David B. Johnson,

Assistant Manager, Air Traffic Division.

[FR Doc. 97–28945 Filed 10–30–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AGL–55]

Proposed Modification of Class E Airspace; Akron, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify Class E airspace at Akron, OH. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway 19 has been developed for Kent State University Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action proposes to increase the radius of the existing controlled airspace for the airport.

DATES: Comments must be received on or before December 7, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 97–AGL–55, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Operations Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 97–AGL–55." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to modify Class E airspace at Akron, OH, to accommodate aircraft executing the GPS Runway 19 SIAP at Kent State University Airport by increasing the radius of the existing controlled airspace for the airport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, proposed regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 The Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL OH E5 Akron, OH [Revised]

Akron-Canton Regional Airport, OH
(lat. 40°54'59" N, long. 81°26'32" W)
Akron-Canton Regional ILS Localizer
(lat. 40°55'58" N, long. 81°26'24" W)
Akron-Fulton International Airport, OH
(lat. 41°02'14" N, long. 81°28'02" W)
Ravenna, Portage County Airport, OH
(lat. 41°12'37" N, long. 81°15'06" W)
Kent State University Airport, OH
(lat. 41°09'07" N, long. 81°24'59" W)

That airspace extending upward from 700 feet above the surface within a 6.7-mile

radius of the Akron-Canton Regional Airport and within 4.4 miles each side of the Akron-Canton Regional Airport south localizer course extending south from the airport, 6.7-mile radius to 13.7 miles south of the airport, and within a 7-mile radius area of the Akron Fulton International Airport, within a 6.3-mile radius of the Portage County Airport and within a 6.4-mile radius of the Kent State University Airport.

* * * * *

Issued in Des Plaines, Illinois on October 1, 1997.

David B. Johnson,

Assistand Manager, Air Traffic Division.

[FR Doc. 97–28943 Filed 10–30–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ASO–23]

Proposed Establishment of Class E Airspace; St. Elmo, AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E airspace at St. Elmo, AL. A Global Positioning System (GPS) Runway (RWY) 6 Standard Instrument Approach Procedure (SIAP) has been developed for St. Elmo Airport. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAP and for Instrument Flight Rules (IFR) operations at St. Elmo Airport. The operation status of the airport will change from Visual Flight Rules (VFR) to include IFR operations concurrent with the publication of the SIAP.

DATES: Comments must be received on or before December 1, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 97–ASO–23, Manager, Airspace Branch, ASO–520, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Assistant Chief Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337; telephone (404) 305–5586.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5491.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 97–ASO–23." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, P.O. 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to establish Class E airspace at St. Elmo, AL. A GPS RWY 6 SIAP has been developed for St. Elmo Airport. Controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAP and for IFR operations at St. Elmo Airport. The operating status of the airport will change from VFR to include IFR operations concurrent with the publication of the SIAP. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ASO AL E5 St. Elm, AL [New]

St. Elmo Airport, AL

(lat. 30°30'07" N, long. 88°16'30" W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of St. Elmo Airport

* * * * *

Issued in College Park, Georgia, on September 17, 1997.

Nancy B. Shelton,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 97–28942 Filed 10–30–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ANM–12]

Proposed Amendment to Class E Airspace; Powell, WY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would amend the Powell, WY, Class E airspace. If amended, the proposal would provide airspace necessary to fully encompass a new Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) at Yellowstone Regional Airport, Cody, WY.

DATES: Comments must be received on or before December 15, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, ANM–520, Federal Aviation Administration, Docket No. 97–ANM–12, 1601 Lind Avenue S.W., Renton, Washington 98055–4056.

The official docket may be examined in the Office of the Assistant Chief Counsel for the Northwest Mountain Region at the same address.

An informal docket may also be examined during normal business hours in the office of the Manager, Air Traffic Division, Airspace Branch at the address listed above.

FOR FURTHER INFORMATION CONTACT: Dennis Ripley, ANM–520.6, Federal Aviation Administration, Docket No. 97–ANM–12, 1601 Lind Avenue S.W., Renton, Washington 98055–4056; telephone number; (425) 227–2527.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 97–ANM–12." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace Branch, ANM–520, 1601 Lind Avenue S.W., Renton, Washington 98055–4056. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations, part 71 (14 CFR 71) to amend Class E airspace at Powell, WY. This amendment is necessary in order to fully contain a new GPS SIAP within controlled airspace located at Yellowstone Regional Airport. The existing 1200-foot Class E airspace, overlying the Yellowstone Regional Airport, is part of the Powell, WY, airspace description and requires modification to fully encompass the holding procedures for the new SIAP. The revision to the existing 1200-foot Class E airspace will be an extension to the south from approximately 6 to 26 nautical miles, thus fully encompassing the new SIAP.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federation Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS, ROUTES, AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANM WY E5 Powell, WY [Revised]

Powell Municipal Airport, WY
(Lat. 44°52'12" N, long. 108°47'59" W)
Powell NDB
(Lat.44°52'01" N, long. 108°47'16" W)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Powell Municipal Airport, and within 2.7 miles each side of the Powell NDB 164° bearing extending from the 7-mile radius to 7.9 miles southeast of the Powell NDB; that airspace extending upward from 1,200 feet above the surface beginning at lat. 45°22'00" N, long. 108°55'03" W; to lat. 45°22'00" N, long. 108°11'02" W; to lat. 44°15'15" N, long. 108°11'02" W, thence southwestward along the edge of the Worland, WY, 1,200-foot Class E airspace area to lat. 44°00'00" N, long. 108°24'43" W; west to lat. 44°00'00" N, long. 109°00'00" W; north to lat. 44°20'00" N, long. 109°00'00" W; thence west along lat. 44°20'00" N, to the east side of V–465, thence northeast along the east side of V–465 to the point of beginning.

* * * * *

Issued in Seattle, Washington, on October 20, 1997.

Glenn A. Adams III,

Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 97–28941 Filed 10–30–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 13

Glacier Bay National Park; Notice of Public Workshop on Commercial Fishing Proposed Rule and Environmental Assessment Alternatives

AGENCY: National Park Service, Interior.

ACTION: Notice of Public Workshop on Commercial Fishing Proposed Rule and Environmental Assessment Alternatives for Glacier Bay National Park.

SUMMARY: The National Park Service will conduct a public workshop on Glacier Bay National Park commercial fishing issues in Juneau, Alaska on November 6, 1997. The workshop will include public review and discussion of the NPS Proposed Rule published on April 16, 1997 (62 FR 18547) and other alternatives under consideration in an Environmental Assessment addressing commercial fishing in the Park. The workshop will be held in the Egan Room at Centennial Hall from 9:00 am to 5:00 pm, and may continue on November 7 if there is sufficient public interest. Additional public workshops and hearings on the NPS Proposed Rule and Environmental Assessment are planned in Alaskan communities and Seattle, Washington during the winter and spring; notice of these public workshops and hearings will be published in the **Federal Register**.

DATES: The workshop will be held on November 6, 1997 from 9:00 am to 5:00 pm, and may continue on November 7 if there is sufficient public interest.

ADDRESSES: The workshop will be held in Juneau in the Egan Room at Centennial Hall.

FOR FURTHER INFORMATION CONTACT: J. M. Brady, Superintendent, Glacier Bay National Park and Preserve, P.O. Box 140, Gustavus, Alaska 99826, Telephone: (907) 697–2230.

Dated: October 23, 1997.

Ralph Tingey,

Regional Director, Alaska Region.

[FR Doc. 97–28925 Filed 10–30–97; 8:45 am]

BILLING CODE 4310–70–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 25

[ET Docket No. 97–214; FCC 97–363]

Allocation of 455–456 MHz and 459–460 MHz Bands to MSS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The *Notice of Proposed Rule Making* ("NPRM") proposes to amend the Commission's Rules to allocate the 455–456 MHz and 459–460 MHz bands to the Mobile Satellite Service (Earth-to-space) ("MSS uplinks") on a primary basis for non voice, non-geostationary mobile satellite services ("NVNG MSS"). When implemented, this service, also referred to as the "Little LEO" satellite service, will use constellations of low-Earth orbiting ("LEO") satellites to provide commercial radiolocation and two-way data messaging services to potential customers anywhere in the world. This action proposes to implement domestically the NVNG MSS allocations adopted at the 1995 World Radiocommunication Conference ("WRC–95"). This proposal would also address the growing demand for NVNG MSS and could provide satellite operators with increased flexibility in the design of their systems. Additionally, we propose to update Section 2.106 of our Rules to indicate the international allocations and international footnotes adopted at WRC–95 in the domestically allocated NVNG MSS frequency bands.

DATES: Comments must be filed on or before December 1, 1997, and reply comments must be filed on or before December 15, 1997.

ADDRESSES: Comments and reply comments should be sent to the Office of Secretary, Federal Communications Commission, Washington, D.C. 20554. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed.

FOR FURTHER INFORMATION CONTACT: Tom Derenge, Office of Engineering and Technology, (202) 418–2451.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making*, ET Docket 97–214, FCC 97–363, adopted October 7, 1997, and released October 14, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857–3800, 1231 20th Street, N.W. Washington, D.C. 20036.

Summary of the Notice of Proposed Rule Making

1. In the *NPRM*, the Commission proposes to amend its Rules to allocate the 455–456 MHz and 459–460 MHz bands to the Mobile Satellite Service (Earth-to-space) ("MSS uplinks") on a primary basis for non-voice, non-geostationary mobile satellite services ("NVNG MSS"). When implemented, this service, also referred to as the "Little LEO" satellite service, will use constellations of low-Earth orbiting ("LEO") satellites to provide commercial radiolocation and two-way data messaging services to potential customers anywhere in the world. This action proposes to implement domestically the NVNG MSS allocations adopted at the 1995 World Radiocommunication Conference ("WRC–95").

2. Little LEO satellite systems will allow customers to use small, inexpensive transceivers to communicate with satellites operating at altitudes much lower than those in geostationary satellite orbits. The lower altitudes improve signal quality and reduce the time delay of transmission. Further, the orbital mechanics of LEO satellites cause them to appear on the horizon and move across the sky and then to disappear over the horizon as they orbit the Earth. In order to achieve continuous coverage, LEO systems plan to employ a constellation of satellites, so that as one satellite moves out of view, another satellite will come over the horizon to maintain coverage. The potential applications for this service include emergency location service, environmental data collection, vehicle tracking, and time-sensitive business and personal data communications, anywhere in the world.

3. The Commission believes that additional spectrum for NVNG MSS is needed to facilitate the competitive development of the Little LEO service. Although NVNG MSS has been allocated 4.05 megahertz of spectrum below 1 GHz (2.2 megahertz for uplinks and 1.85 megahertz for downlinks), we note that this spectrum is often shared with a number of incumbent operations, a factor which limits the capacity of Little LEO systems to meet service demands. We conclude that an allocation of additional spectrum will enable Little LEO licensees to develop cost effective systems with sufficient capacity to compete with other service providers in the telecommunications marketplace. Further, we note that the United States delegation for WRC–97 will seek an international allocation of additional spectrum below 1 GHz for Little LEO operations. Accordingly, we propose to allocate additional spectrum for Little LEO service and request comment on this proposal.

4. We propose to allocate the 455–456 MHz and 459–460 MHz bands for Little LEOs on a co-primary basis subject to the provisions of international footnotes S5.286A, B, and C which would not permit Little LEO operations to interfere with or inhibit the development of incumbent terrestrial operations. Notwithstanding that the WRC–95 Preparatory Docket concluded that these bands may have potential capacity for sharing with Little LEO uplinks without creating an unacceptable impact on incumbent operations, we request additional comment on whether there is sufficient spectrum sharing capacity in these bands to support the proposed allocation for Little LEOs and on whether there are techniques available that would permit Little LEOs to share this spectrum without causing harmful interference to or constraining the development of incumbent operations. If so, we also request comment on whether a primary allocation with technical sharing requirements would be sufficient to protect incumbent operations.

5. Commission staff analysis indicates that there are more than 25,000 Part 74 auxiliary broadcast transmitters authorized to use the 455–456 MHz band throughout the United States. Since many auxiliary broadcast remote pickup channels in the 455–456 MHz band tend to be used only intermittently and Little LEO transmissions in the 148–149.9 MHz band are currently limited to a short duration of only 450 milliseconds, Little LEO systems may be able to search the spectrum for unused channels and accomplish their communications without hindering incumbent use. Further, as indicated in the Commission's WRC–95 preparatory Report, Little LEO channel assignment and low power techniques combined with brief message duration and geographic separation may be able to protect broadcast auxiliary use. We note, however, that the signal integrity of broadcast programming material must be maintained and that Little LEO operations will not be permitted to cause harmful interference to such auxiliary broadcast signals. We invite comment on the feasibility of spectrum sharing between Little LEO transmissions and the terrestrial broadcast remote pickup operations.

6. Also, Little LEO uplinks in the 459–460 MHz band would have to be compatible with a wide variety of fixed and mobile services authorized under Parts 22, 80 and 90 of the Rules. We note that certain operations in this frequency range, such as petroleum radio service operations at 459.0 MHz and BETRS operations, may be used only intermittently but require a high degree of reliability. Additionally, we note plans to auction channels in the 459.025–459.65 MHz segment to Part 22 licensees for such operations as common carrier paging, two-way mobile telephony, and rural radiotelephony. We seek comment on whether using the 459–460 MHz band for Little LEO operations would be compatible with current and future fixed and mobile operations. Specifically, we seek comment on whether certain portions of this band should not be allocated for Little LEO operations and on the feasibility of auctioning the 459.025–459.65 MHz segment to Part 22 licensees and also using this spectrum for Little LEO operations.

7. With respect to spectrum sharing between Little LEO operations and incumbent fixed and mobile operations in the 455–456 MHz and 459–460 MHz bands, we note that this was initially addressed in preparation for WRC–95. While the sharing studies in IC Docket No. 94–31 were sufficient to justify seeking NVNG MSS uplink allocations in these bands, WRC–95 concluded that additional analysis was necessary. Specifically, WRC–95 acknowledged the demand for additional NVNG MSS spectrum, but it noted that spectrum below 1 GHz is extensively used by many services and that new technologies of some radio services, especially within the terrestrial mobile and broadcasting services, may have an impact on the sharing possibilities. Accordingly, WRC–95 adopted Resolution 214 to invite the study and development of recommendations on technical and operational issues related to sharing between Little LEO operations and other services having allocations in the bands proposed at that conference, and in other bands as necessary.

8. The issues of spectrum sharing between Little LEO operations and incumbent operations in the 455–456 MHz and 459–460 MHz bands are complex and will be thoroughly explored in a future, separate proceeding that will focus on developing appropriate service and licensing rules. We are seeking comment in the instant proceeding on whether there is sufficient sharing capacity in these bands to support the proposed allocation for Little LEOs and on whether there are techniques available that would permit Little LEOs to share this spectrum without causing harmful interference to or constraining the development of incumbent operations.

9. Finally, we propose to update the International Table of Allocations in Part 2 of our Rules to reflect the Final Acts of WRC–95 for the 137–138 MHz, 148–150.05 MHz, 399.9–400.05 MHz, 400.15–401 MHz, 455–456 MHz and 459–460 MHz bands. Specifically, we propose to update the 137–138 MHz and 148–150.05 MHz bands to reflect changes in international footnotes in this segment. We also propose to correct the domestic allocation segments of the Allocation Table for the 137.025–137.175 MHz and 137.825–138 MHz bands to indicate that the Mobile-Satellite allocations are on a secondary basis. We also propose to update the 399.9–400.05 MHz segment of the International Table of Allocations to reflect a primary allocation in all Regions to Land Mobile-Satellite (Earth-to-space) operations and the associated international footnotes for this segment.

Further, we propose to update the 400.15–401 MHz segment of the International Table of Allocations to reflect changes in the international footnotes in this segment. Additionally, we propose to update the 455–456 MHz and 459–460 MHz segments of the International Table of Allocations to reflect a Region 2 allocation to Mobile-Satellite (Earth-to-space) operations and the associated international footnotes in this segment.

10. We also propose to replace international footnote numbers 596, 597, 598, 599A, 599B, 608, 608A, 608B, 608C, 609, 609A, 609B, 645B, 647A, and 647B with new international footnotes which meet the new Radio Regulation numbering scheme and which reflect all modifications to these footnotes adopted at WRC–95. Specifically, we propose to replace the removed footnotes with new international footnote numbers S5.204, S5.205, S5.206, S5.207, S5.208, S5.208A, S5.209, S5.218, S5.219, S5.220, S5.221, S5.222, S5.223, S5.224, S5.260, S5.262, S5.263, S5.264, S5.271, S5.286A, S5.286B, and S5.286C in the list of international footnotes in Section 2.106. Further, we propose to update the Table of Frequency Allocations by removing United States footnote number US326 which expired on January 1, 1997. We also propose to revise Section 25.202(a)(3) by removing certain provisions that expired on January 1, 1997. Parties may comment on these proposed updates. This action is taken in pursuant to Sections (4)(i), 7(a), 303(c), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 157(a), 303(c), 303(f), 303(g), and 303(r).

Final Regulatory Flexibility Analysis

11. As required by the Regulatory Flexibility Act,[1] the Commission has prepared an Initial Regulatory Flexibility Analysis of the expected significant economic impact on small entities by the policies and rules proposed in this *Notice of Proposed Rule Making* ("Notice"). Written public comments are requested on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Notice provided above. The Secretary shall send a copy of this Notice, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.[2]

[1] 5 U.S.C. 603.

[2] See id. section 603(a).

A. Need for and Objectives of the Proposed Rules

12. The Notice proposes to allocate the 455–456 MHz and 459–460 MHz bands to the Mobile Satellite Service (Earth-to-space) ("MSS uplinks") on a primary basis for non-voice, non-geostationary mobile satellite services ("NVNG MSS"). This service, also referred to as the "Little LEO" satellite service, uses constellations of low-Earth orbiting ("LEO") satellites to provide commercial radiolocation and two-way data messaging services to potential customers anywhere in the world. We take this action on our own initiative in order to adopt domestically the NVNG MSS allocation adopted at the 1995 World Radiocommunication Conference ("WRC–95").[3] This proposal addresses the growing demand for NVNG MSS and could provide satellite operators with increased flexibility in the design of their systems.

B. Legal Basis

13. This action is taken pursuant to Sections 4(i), 7(a), 303(c), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 157(a), 303(c), 303(f), 303(g), and 303(r).

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

14. The Commission has not developed a definition of small entities relevant to satellite services licensees. Therefore, the applicable definition of small entity in the satellite services industry is the definition under the Small Business Administration (SBA) rules applicable to Communications Services "Not Elsewhere Classified."[4] This definition provides that a small entity is expressed as one with $11.0 million or less in annual receipts. According to Census Bureau data, there are 848 firms that fall under the category of Communications Services, Not Elsewhere Classified. Of those, approximately 775 reported annual receipts of $11 million or less and qualify as small entities.[5] The Census Bureau category is very broad and commercial satellite services constitute only a subset of its total.

15. Although it is difficult to estimate the number of Little LEO entities that will utilize the spectrum proposed in this Notice, we note that the Commission has licensed three entities to provide Little LEO services in the United States: Orbital Communications Corporation ("Orbcomm"), Starsys Global Positioning, Inc. ("Starsys"), and Volunteers in Technical Assistance ("VITA"). Additionally, five more entities have filed applications with the Commission to provide Little LEO services: LEO One USA Corporation ("LEO One"); CTA Commercial Systems; E-Sat, Inc.; Final Analysis Communication Service, Inc. ("FACS"); and GE American Communications, Inc. ("GE Americom"). Of the eight potential Little LEO licensees that may ultimately utilize these bands if allocated, only VITA and LEO One qualify as small businesses.[6] The other six entities are not small businesses because they each have revenues in excess of $11 million annually or have parent companies or investors that have revenues in excess of $11 million annually. We request comment on the description and number of small entities that are significantly impacted by this proposal.

16. Additionally, we note that there are numerous small entities that currently operate terrestrial fixed and mobile radio systems in the 455–456 MHz and 459–460 MHz bands under Parts 22, 74, 80 and 90 of our rules. However, in a future proceeding we will consider technical limitations on the new Little LEO operations in these bands in order to prevent harmful interference to incumbent fixed and mobile operations. We have not proposed any rule changes to the incumbent fixed and mobile operations. Accordingly, we do not believe this proposed action will have a negative impact on small entities that currently operate in the 455–456 MHz and 459–460 MHz bands.

D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

17. In this proceeding, we are proposing to allocate this spectrum to NVNG MSS. The licensing and technical regulations governing these operations will be addressed in a separate proceeding. Therefore, this proposed action does not create any reporting or compliance requirements.

[3] See Final Acts of the World Radio[communication] Conference (WRC–95) Geneva, 1995, Geneva, 17 November 1995 ("Final Acts").

[4] 13 CFR 121.201, Standard Industrial Classification (SIC) Code 4899.

[5] U.S. Bureau of the Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications, and Utilities, UC92–S–1, Subject Series, Establishment and Firm Size, Table 2D, Employment Size of Firms: 1992, SIC Code 4899 (issued May 1995).

[6] See *Notice of Proposed Rule Making* at 44, IB Docket No. 96–426, FCC 96–426, (1996).

E. Significant Alternatives to Proposed Rules Which Minimize Significant Economic Impact on Small Entities and Accomplish Stated Objectives

18. No Petitions for Rule Making were filed to initiate this proceeding and there are no comments in this proceeding that suggest alternatives to this proposed allocation. International regulations require that NVNG MSS operations not cause harmful interference to nor constrain the development of incumbent operations which should minimize the impact on incumbent small entities. We request comment on further alternatives that might minimize the amount of economic impact on small entities.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

19. None.

List of Subjects

47 CFR Part 2

Comunications equipment, Radio.

47 CFR Part 25

Communications equipment, Satellites.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–28760 Filed 10–30–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–220, RM–9178]

Radio Broadcasting Services; Dallas, OR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Michael Mattson seeking the allotment of Channel 252C3 to Dallas, OR, as the community's first local FM service. Channel 252C3 can be allotted to Dallas in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 44–55–06 North Latitude and 123–19–00 West Longitude.

DATES: Comments must be filed on or before December 15, 1997, and reply comments on or before December 30, 1997.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Michael L. Mattson, 15740 May Road, Dallas, OR 97338 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–220, adopted October 15, 1997, and released October 24, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97–28804 Filed 10–30–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–116, RM–9050 and RM–9123]

Radio Broadcasting Services; Everglades City, LaBelle, Estero and Key West, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; Order to Show Cause.

SUMMARY: In response to a counterproposal filed by InterMart Broadcasting West Coast, Inc., we have issued an Order to Show Cause to Spectrum Radio, Inc., licensee of Station WEOW, Channel 223C1, Key West, Florida. InterMart Broadcasting West Coast, Inc. has proposed the substitution of Channel 224C1 for Channel 223C1 at Key West, Florida, and modification of the license for Station WEOW accordingly. This document affords Station WEOW an opportunity to object to the proposed channel change but it does not afford an additional opportunity to comment on the merits of the proposal set forth in the Notice of Proposed Rule Making or the proposal advanced in the counterproposal. See 62 FR 22900, April 28, 1997.

DATES: Comments must be filed on or before December 15, 1997.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order to Show Cause, MM Docket No. 97–116, adopted October 15, 1997, and released October 24, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC. 20037, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97–28893 Filed 10–30–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–216; RM–9172]

Radio Broadcasting Services; Colchester, IL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Gary G. Kidd proposing the allotment of Channel 244A at Colchester, Illinois, as the community's second local FM transmission service. Channel 244A can be allotted to Colchester in compliance with the Commission's minimum distance separation requirements with a site restriction 13.2 kilometers (8.2 miles) southwest to avoid a short-spacing to the construction permit site of Station KRNQ(FM), Channel 242C2, Keokuk, Iowa. The coordinates for Channel 244A at Colchester are North Latitude 40–21–48 and West Longitude 90–55–41.

DATES: Comments must be filed on or before December 15, 1997, and reply comments on or before December 30, 1997.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: Gary G. Kidd, 7 Northview Estates, Metropolis, Illinois 62960–2506 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–218, adopted October 15, 1997, and released October 24, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97–28892 Filed 10–30–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–222, RM–9180]

Radio Broadcasting Services; Sault Ste. Marie, MI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Northern Christian Radio, Inc. proposing the allotment of Channel 272C3 at Sault Ste. Marie, Michigan, and reservation of the channel for noncommercial educational use. The channel can be allotted to Sault Ste. Marie at a site 15.9 kilometers (9.9 miles) south of the community at coordinates 46–21–36 and 84–25–36. We will request concurrence from the Canadian government for the allotment of Channel *272C3 at Sault Ste. Marie as a specially negotiated short spaced allotment.

DATES: Comments must be filed on or before December 15, 1997, and reply comments on or before December 30, 1997.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Jeffrey D. Southmayd, Southmayd & Miller, 1220 19th Street, N.W., Suite 400, Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–222, adopted October 15, 1997, and released October 24, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97–28891 Filed 10–30–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–223, RM–9014]

Radio Broadcasting Services; Ashdown and DeQueen, AR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Bunyard Partnership, licensee of Station KARQ(FM), Channel 221A, Ashdown, Arkansas, and Jay W. Bunyard and Anne W. Bunyard, licensee of Station KDQN–FM, Channel 226C2, DeQueen, Arkansas, seeking the substitution of Channel 227C3 for Channel 221A at Ashdown and modification of the license of Station KARQ(FM). Additionally, to accommodate the upgrade at Ashdown, petitioners seek the substitution of Channel 221C2 for Channel 226C2 at DeQueen and modification of the license of Station KDQN–FM accordingly. Coordinates used for Channel 227C3 at Ashdown, Arkansas, are 33–40–22 and 94–11–02; coordinates used for Channel 221C2 at DeQueen, Arkansas, are 34–13–35 and 94–17–35.

As the petitioner's modification proposal is filed pursuant to the provisions of Section 1.420(g)(3) of the Commission's Rules, we will not accept competing expressions of interest in Channel 227C3 at Ashdown.

DATES: Comments must be filed on or before December 15, 1997, and reply comments on or before December 30, 1997.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: John F. Garziglia, Esq., Pepper & Corazzini, L.L.P., 1776 K Street, NW., Suite 200, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–223, adopted October 15, 1997, and released October 24, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97–28890 Filed 10–30–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–221, RM–9181]

Radio Broadcasting Services; Satellite Beach, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Satellite Beach Community Broadcasters proposing the allotment of Channel 253A at Satellite Beach, Florida, as that community's first local FM broadcast service. The channel can be allotted to Satellite Beach without a site restriction at coordinates 28–10–24 and 80–36–12.

DATES: Comments must be filed on or before December 15, 1997, and reply comments on or before December 30, 1997.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Richard J. Hayes, Jr., 13809 Black Meadow Road, Spotsylvania, Virginia 22553.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–221, adopted October 15, 1997, and released October 24, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97–28888 Filed 10–30–97; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register

Vol. 62, No. 211

Friday, October 31, 1997

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Intergovernmental Advisory Committee Subcommittee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Intergovernmental Advisory Committee will meet on November 6, 1997, at the Double Tree Hotel, Columbia River, Portland, Oregon. The purpose of the meeting is to continue discussions on the implementation of the Northwest Forest Plan. The meeting will begin at 9:15 a.m. and continue until 3:00 p.m. Agenda items to be discussed include, but are not limited to: review accomplishments for the year, ongoing and potential activities for the coming year, and effectiveness monitoring. The IAC meeting will be open to the public and is fully accessible for people with disabilities. Interpreters are available upon request in advance. Written comments may be submitted for the record at the meeting. Time will also be scheduled for oral public comments. Interested persons are encouraged to attend.

FOR FURTHER INFORMATION CONTACT:

Questions regarding this meeting may be directed to Don Knowles, Executive Director, Regional Ecosystem Office, 333 SW 1st Avenue, P.O. Box 3623, Portland, OR 97208 (Phone: 503–808–2180).

Dated: October 24, 1997.

Donald R. Knowles,

Designated Federal Official.

[FR Doc. 97–28873 Filed 10–30–97; 8:45 am]

BILLING CODE 3410–11–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds to the Procurement List commodities to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: December 1, 1997.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On July 11 and August 8, 1997, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (62 F.R. 37192 and 42745) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities to the Government.
2. The action will not have a severe economic impact on current contractors for the commodities.
3. The action will result in authorizing small entities to furnish the commodities to the Government.
4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities proposed for addition to the Procurement List.

Accordingly, the following commodities are hereby added to the Procurement List:

Ribbon, Typewriter

7510–01–233–0033

Short Run, Short Schedule Duplicating (Program 2979–S)

7690–00–NSH–0087

(Requirements for the Government Printing Office, San Francisco, CA)

Books and Pamphlets (Program 1995–S)

7690–00–NSH–0088

(Requirements for the Government Printing Office, San Francisco, CA)

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 97–28900 Filed 10–30–97; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: December 1, 1997.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and service to the Government.
2. The action does not appear to have a severe economic impact on current contractors for the commodities and service.
3. The action will result in authorizing small entities to furnish the commodities and service to the Government.
4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and service proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodities and service have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodities

Office and Miscellaneous Supplies
(Requirements for Altus Air Force Base, Oklahoma)
NPA: Beacon Lighthouse, Inc. Wichita Falls, Texas

Tape, Electronic Data Processing
7045–00–377–9235
7045–01–123–0367
7045–01–293–4809
7045–01–338–6542
7045–01–372–8260
7045–01–364–2466
7045–01–269–8115
7045–01–115–0502
7045–01–193–4994
NPA: North Central Sight Services, Inc. Williamsport, Pennsylvania

Service

Janitorial/Custodial
Mount Weather Emergency Assistance Center
Buildings 400, 401, 403, 405, 409, 411 (offices and restrooms only), 413, 431 and Walkway (between 411 & 413)
Bluemont, Virginia
NPA: Northwestern Workshop, Inc., Winchester, Virginia

Beverly L. Milkman,

Executive Director.

[FR Doc. 97–28901 Filed 10–30–97; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 78–97]

Foreign-Trade Zone 143—Sacramento, CA; Application for Subzone Status; The Gymboree Corporation (Apparel, Accessories and Toys), Dixon, California

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Port of Sacramento, grantee of FTZ 143, requesting subzone status for the warehousing/distribution facility of the Gymboree Corporation (Gymboree), located in Dixon, California, some 25 miles west of Sacramento. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on October 24, 1997.

The facility (300,000 sq. ft. on 15 acres; 100 employees) is located at 2299 Kids Way in Dixon. It is used to store, distribute and repackage a wide range of consumer products, including children's apparel, accessories, shoes and toys, most of which are sourced from abroad. The products are distributed throughout the U.S. and abroad.

Zone procedures would exempt Gymboree from Customs duty payments on the foreign products that are reexported. On its domestic sales, it would be able to defer Customs duty payments on foreign-sourced items. The application indicates that zone savings would help improve the international competitiveness of the distribution facility.

In accordance with the Board's regulations, a member of the FTZ staff has been appointed examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is December 30, 1997. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period January 14, 1998.

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce Export Assistance Center, 917 7th St., 2nd Floor, Sacramento, California 95814
Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW., Washington, D.C. 20230.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 97–28938 Filed 10–30–97; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

ENVIRONMENTAL PROTECTION AGENCY

Coastal Nonpoint Pollution Control Program: Proposed Findings Documents, Environmental Assessments, and Findings of No Significant Impact

AGENCY: National Oceanic and Atmospheric Administration, U.S. Department of Commerce, and the The U.S. Environmental Protection Agency.

ACTION: Notice of availability of proposed findings documents, environmental assessments, and findings of no significant impact on approval of coastal nonpoint pollution control programs for Connecticut, North Carolina and Maine.

SUMMARY: Notice is hereby given of the availability of the Proposed Findings Documents, Environmental Assessments (EA's), and Findings of No Significant Impact for Connecticut, North Carolina and Maine. Coastal states and territories were required to submit their coastal nonpoint programs to the National Oceanic and Atmospheric Administration (NOAA) and the U.S. Environmental Protection Agency (EPA) for approval in July 1995. The Findings

documents were prepared by NOAA and EPA to provide the rationale for the agencies' decision to approve each state and territory coastal nonpoint pollution control program. Section 6217 of the Coastal Zone Act Reauthorization Amendments (CZARA), 16 U.S.C. section 1455b, requires states and territories with coastal zone management programs that have received approval under section 306 of the Coastal Zone Management Act to develop and implement coastal nonpoint pollution control programs. The EA's were prepared by NOAA, pursuant to the National Environmental Policy Act (NEPA), 42 U.S.C. sections 4321 *et seq.*, to assess the environmental impacts associated with the approval of the coastal nonpoint pollution control programs submitted to NOAA and EPA by Connecticut, North Carolina and Maine.

NOAA and EPA have proposed to approve, with conditions, the coastal nonpoint pollution control programs submitted by Connecticut, North Carolina and Maine. The requirements of 40 CFR Parts 1500–1508 (Council on Environmental Quality (CEQ) regulations to implement the National Environmental Policy Act) apply to the preparation of the Environmental Assessments. Specifically, 40 CFR section 1506.6 requires agencies to provide public notice of the availability of environmental documents. This notice is part of NOAA's action to comply with this requirement.

Copies of the Proposed Findings Documents, Environmental Assessments, and Findings of No Significant Impact may be obtained upon request from : Joseph P. Flanagan, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland, 20910, tel. (301) 713–3121, x201.

DATES: Individuals or organizations wishing to submit comments on the proposed Findings or Environmental Assessments should do so by December 1, 1997.

ADDRESSES: Comments should be made to: Joseph A Uravitch, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland, 20910, tel. (301) 713–3155, x195.

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

Dated: October 28, 1997.

Nancy Foster,

Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

Geoffrey H. Grubbs,

Director, Assessment and Watershed Protection Division, Environmental Protection Agency.

[FR Doc. 97–28902 Filed 10–30–97; 8:45 am]

BILLING CODE 3510–12–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

ENVIRONMENTAL PROTECTION AGENCY

Coastal Nonpoint Pollution Control Program: Conditional Approvals, Findings Documents, Responses to Comments, and Records of Decision

AGENCY: National Oceanic and Atmospheric Administration, U.S. Department of Commerce and the U.S. Environmental Protection Agency.

ACTION: Notice of conditional approval of Coastal Nonpoint Pollution Control Programs and availability of findings documents, responses to comments, and records of decision for Rhode Island, Massachusetts, Michigan, and Wisconsin.

SUMMARY: Notice is hereby given of the conditional approval of the Coastal Nonpoint Pollution Control Programs (coastal nonpoint programs) and of the availability of the Findings Documents, Responses to Comments, and Records of Decision for Rhode Island, Massachusetts, Michigan, and Wisconsin. Section 6217 of the Coastal Zone Act Reauthorization Amendments (CZARA), 16 U.S.C. section 1455b, requires states and territories with coastal zone management programs that have received approval under section 306 of the Coastal Zone Management Act to develop and implement coastal nonpoint programs. Coastal states and territories were required to submit their coastal nonpoint programs to the National Oceanic and Atmospheric Administration (NOAA) and the U.S. Environmental Protection Agency (EPA) for approval in July 1995.

NOAA and EPA have approved, with conditions, the coastal nonpoint programs submitted by Rhode Island, Massachusetts, Michigan, and Wisconsin.

NOAA and EPA have prepared a Findings Document for each 6217 program submitted for approval. The Findings Documents were prepared by NOAA and EPA to provide the rationale for the agencies' decision to approve each state and territory coastal nonpoint program. Proposed Findings Documents, Environmental Assessments, and Findings of No Significant Impact prepared for the coastal nonpoint programs submitted by Rhode Island, Massachusetts, Michigan, and Wisconsin were made available for public comment in the **Federal Register**. Public comments were received and responses prepared on the program submitted by Rhode Island. No public comments were received on the programs submitted by Massachusetts, Michigan, and Wisconsin.

In accordance with the National Environmental Policy Act (NEPA), NOAA has also prepared a Record of Decision on each program. The requirements of 40 CFR Parts 1500–1508 (Council on Environmental Quality (CEQ) regulations to implement the National Environmental Policy Act) apply to the preparation of a Record of Decision. Specifically, 40 CFR section 1505.2 requires an agency to prepare a concise public record of decision at the time of its decision on the action proposed in an environmental impact statement. The Record of Decision shall: (1) state what the decision was; (2) identify all alternatives considered, specifying the alternative considered to be environmentally preferable; and (3) state whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted.

In March 1996, NOAA published a programmatic environmental impact statement (PEIS) that assessed the environmental impacts associated with the approval of state and territory coastal nonpoint programs. The PEIS forms the basis for the environmental assessments NOAA has prepared for each state and territorial coastal nonpoint program submitted to NOAA and EPA for approval. In the PEIS, NOAA determined that the approval and conditional approval of coastal nonpoint programs will not result in any significant adverse environmental impacts and that these actions will have an overall beneficial effect on the environment. Because the PEIS served only as a "framework for decision" on individual state and territorial coastal nonpoint programs, and no actual decision was made following its publication, NOAA has prepared a NEPA Record of Decision on each individual state and territorial program submitted for review.

Copies of the Findings Documents, Responses to Comments, and Records of Decision may be obtained upon request from: Joseph A. Uravitch, Chief, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland, 20910, tel. (301) 713–3155, x195.

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

Dated: October 28, 1997.

Nancy Foster,

Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

Robert H. Wayland, III,

Director, Office of Wetlands, Oceans and Watersheds, Environmental Protection Agency.

[FR Doc. 97–28903 Filed 10–30–97; 8:45 am]

BILLING CODE 3510–12–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

ENVIRONMENTAL PROTECTION AGENCY

Coastal Nonpoint Pollution Control Program: Conditional Approvals, Findings Documents, Responses to Comments, and Records of Decision

AGENCY: National Oceanic and Atmospheric Administration, U.S. Department of Commerce and the U.S. Environmental Protection Agency.

ACTION: Notice of conditional approval of Coastal Nonpoint Pollution Control Programs and availability of Findings Documents, Responses to Comments, and Records of Decision for America Samoa, the Commonwealth of the Northern Mariana Islands, Guam, Delaware, Maryland, and Pennsylvania.

SUMMARY: Notice is hereby given of the conditional approval of the Coastal Nonpoint Pollution Control Programs (coastal nonpoint programs) and of the availability of the Findings Documents, Responses to Comments, and Records of Decision for American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, Delaware, Maryland, and Pennsylvania. Section 6217 of the Coastal Zone Act Reauthorization Amendments (CZARA), 16 U.S.C. section 1455b, requires states and territories with coastal zone management programs that have received approval under section 306 of the Coastal Zone Management Act to develop and implement coastal nonpoint programs. Coastal states and territories were required to submit their coastal nonpoint programs to the National Oceanic and Atmospheric Administration (NOAA) and the U.S. Environmental Protection Agency (EPA) for approval in July 1995.

NOAA and EPA have approved, with conditions, the coastal nonpoint programs submitted by American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, Delaware, Maryland, and Pennsylvania.

NOAA and EPA have prepared a Findings Document for each 6217 program submitted for approval. The Findings Documents were prepared by NOAA and EPA to provide the rationale for the agencies' decision to approve each state and territory coastal nonpoint program. Proposed Findings Documents, Environmental Assessments, and Findings of No Significant Impact prepared for the coastal nonpoint programs submitted by American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, Delaware, Maryland, and Pennsylvania were made available for public comment in the **Federal Register**. Public comments were received and responses prepared on the programs submitted by Delaware, Maryland, and Pennsylvania. No public comments were received on the programs submitted by American Samoa, the Commonwealth of the Northern Mariana Islands, and Guam.

In accordance with the National Environmental Policy Act (NEPA), NOAA has also prepared a Record of Decision on each program. The requirements of 40 CFR Parts 1500–1508 (Council on Environmental Quality (CEQ) regulations to implement the National Environmental Policy Act) apply to the preparation of a Record of Decision. Specifically, 40 CFR section 1505.2 requires an agency to prepare a concise public record of decision at the time of its decision on the action proposed in an environmental impact statement. The Record of Decision shall: (1) State what the decision was; (2) identify all alternatives considered, specifying the alternative considered to be environmentally preferable; and (3) state whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted.

In March 1996, NOAA published a programmatic environmental impact statement (PEIS) that assessed the environmental impacts associated with the approval of state and territory coastal nonpoint programs. The PEIS forms the basis for the environmental assessment NOAA has prepared for each state and territorial coastal nonpoint program submitted to NOAA and EPA for approval. In the PEIS, NOAA determined that the approval and conditional approval of coastal nonpoint programs will not result in any significant adverse environmental impacts and that these actions will have an overall beneficial effect on the environment. Because the PEIS served only as a "framework for decision" on individual state and territorial coastal nonpoint programs, and no actual decision was made following its publication, NOAA has prepared a NEPA Record of Decision on each individual state and territorial program submitted for review.

Copies of the Findings Documents, Responses to Comments, and Records of Decision may be obtained upon request from: Joseph A. Uravitch, Chief, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland, 20910, tel. (301) 713–3155, x195.

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

Dated: October 28, 1997.

Nancy Foster,

Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

Robert H. Wayland, III,

Director, Office of Wetlands, Oceans and Watersheds, Environmental Protection Agency.

[FR Doc. 97–28904 Filed 10–30–97; 8:45 am]

BILLING CODE 3510–12–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 102297B]

Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council's Coastal Pelagic Species Plan Development Team will hold a series of public meetings.

DATES: The meetings will be held Thursday, November 13, 1997; Thursday, December 11, 1997; Friday, January 16, 1998; Thursday, February 19, 1998. All sessions will begin at 10 a.m. and may go into the evening until business for the day is completed. See **SUPPLEMENTARY INFORMATION** for the schedule of meetings.

ADDRESSES: Meetings in La Jolla will be in the large conference room at NMFS Southwest Fisheries Science Center,

8604 La Jolla Shores Drive, La Jolla, CA. The meeting in Monterey will be held at the California Department of Fish and Game office, 20 Lower Ragsdale Drive, Suite 100, Monterey, CA.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Dr. Larry Jacobson; telephone: (619) 546–7117; or Dr. Doyle Hanan; telephone: (619) 546–7170.

SUPPLEMENTARY INFORMATION: The exact schedule is as follows:

Group Location Time Date
Team La Jolla 10:00 a.m. November 13
Team La Jolla 10:00 a.m. December 11
Team La Jolla 10:00 a.m. January 16
Team Monterey 10:00 a.m. February 19

The primary purpose of the meetings is to revise and update the proposed fishery management plan for resubmission. Current work is focused on options for limited entry (squid and finfish), control dates, framework management, establishing maximum sustainable yield control rules, and identifying essential fish habitat.

Although other issues not contained in this agenda may come before this Team for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Team action during these meetings. Team action will be restricted to those issues specifically identified in the agenda listed in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Eric Greene at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: October 27, 1997.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–28958 Filed 10–30–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 102197A]

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of an application for a scientific research permit (1102).

SUMMARY: Notice is hereby given that the Washington Department of Fish and Wildlife at White Salmon, WA (WDFW) has applied in due form for a permit that would provide authorization for takes of endangered and threatened anadromous fish species for the purpose of scientific research.

DATES: Written comments or requests for a public hearing on this application must be received on or before December 1, 1997.

ADDRESSES: The application and related documents are available for review in the following offices, by appointment:

Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401); and

Protected Resources Division, F/NWO3, 525 NE Oregon Street, Suite 500, Portland, OR 97232–4169 (503–230–5400).

Written comments or requests for a public hearing should be submitted to the Chief, Protected Resources Division in Portland, OR.

FOR FURTHER INFORMATION CONTACT: Robert Koch, Protected Resources Division, 503–230–5400.

SUPPLEMENTARY INFORMATION: WDFW requests a permit under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and the NMFS regulations governing ESA-listed fish and wildlife permits (50 CFR parts 217–227).

WDFW (1102) requests a 3-year permit for an annual take of adult, endangered, naturally-produced and artificially-propagated, upper Columbia River steelhead trout (*Oncorhynchus mykiss*); adult, threatened, Snake River steelhead trout (*Oncorhynchus mykiss*); adult, threatened, Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*); and adult, threatened, Snake River fall chinook salmon (*Oncorhynchus tshawytscha*) associated with scientific research to determine the number and timing of wild and hatchery steelhead trout that pass Bonneville Dam on the Columbia River in the Pacific Northwest and to determine the number and timing of wild and hatchery steelhead trout in the treaty fishery conducted by Native Americans on the river. Data will be used to determine the fishery impacts to ESA-listed stocks and if possible, to shape fisheries to reduce impacts to ESA-listed or depressed stocks while focusing harvest on healthy stocks. Tissue analysis by starch-gel electrophoresis will be the genetic stock identification tool used to differentiate steelhead trout groups by Evolutionarily Significant Unit (ESU). Current steelhead trout accounting methods (date or fork length) are insufficient to differentiate the passage, timing, and harvest impacts on specific ESUs, stocks, or genetic groups. ESA-listed adult fish are proposed to be captured at Bonneville Dam, anesthetized, measured and sampled for tissues and scales, allowed to recover from the anesthetic, and released. ESA-listed adult fish carcasses are also proposed to be sampled for tissues and scales.

Those individuals requesting a hearing (see **ADDRESSES**) should set out the specific reasons why a hearing on this application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in this application summary are those of the applicant and do not necessarily reflect the views of NMFS.

Dated: October 27, 1997.

Nancy Chu,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–28834 Filed 10–30–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 102497A]

Marine Mammals, Endangered or Threatened Species, Scientific Research Permit (File No. 473–1433)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of application.

SUMMARY: Notice is hereby given that Ms. Janice M. Straley, P.O.Box 273, Sitka, Alaska 99835, has applied in due form for a Scientific Research permit to take several species of cetaceans for purposes of scientific research.

DATES: Written comments must be received on or before December 1, 1997.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s): Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289); and

Regional Administrator, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668 (907/586–7221).

Written data or views, or requests for a public hearing on this application, should be submitted to the Director, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this application would be appropriate.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 et seq.), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 et seq.) and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR 222.23).

Ms. Straley proposes to conduct photo-identification scientific research on up to 1,000 humpback whales (*Megaptera novaeangliae*) from December 1, 1997, to November 30, 2002, in Alaska waters. The objective of the proposed research is to develop long-term sighting histories of individual humpback whales to assess stock structure, life history parameters, feeding behaviors, social behaviors of feeding populations, and population estimates. Up to 500 killer whales (*Orcinus orca*), 20 minke whales (*Balaenoptera acutorostrata*), 260 gray whales (*Eschrichtius robustus*), and 500 fin whales (*B. physalus*) may be opportunistically photo-identified during the course of the research.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: October 24, 1997.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–28833 Filed 10–30–97; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit and Sublimit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Fiji

October 27, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a limit and sublimit.

EFFECTIVE DATE: November 4, 1997.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The current limit for Categories 338/339/638/639 and sublimit for Categories 338–S/339–S/638–S/639–S are being increased, respectively, for carryover and carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 61 FR 66263, published on December 17, 1996). Also see 61 FR 54985, published on October 23, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 27, 1997.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 16, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Fiji and exported during the twelve-month period which began on January 1, 1997 and extends through December 31, 1997.

Effective on November 4, 1997, you are directed to increase the limit and sublimit for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit[1]
338/339/638/639	1,266,110 dozen of which not more than 977,923 dozen shall be in Categories 338–S/339–S/638–S/639–S[2].

[1] The limits have not been adjusted to account for any imports exported after December 31, 1996.

[2] Category 338–S: only HTS numbers 6103.22.0050, 6105.10.0010, 6105.10.0030, 6105.90.8010, 6109.10.6027, 6110.20.1025, 6110.20.2040, 6110.20.2065, 6110.90.9068, 6112.11.0030 and 6114.20.0005; Category 339–S: only HTS numbers 6104.22.0060, 6104.29.2049, 6106.10.0010, 6106.10.0030, 6106.90.2510, 6106.90.3010, 6109.10.0070, 6110.20.1030, 6110.20.2045, 6110.20.2075, 6110.90.9070, 6112.11.0040, 6114.20.0010 and 6117.90.9020; Category 638–S: all HTS numbers except 6109.90.1007, 6109.90.1009, 6109.90.1013 and 6109.90.1025; Category 639–S: all HTS numbers except 6109.90.1050, 6109.90.1060, 6109.90.1065 and 6109.90.1070.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C.553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.97–28928 Filed 10–30–97; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Consolidation and Amendment of Export Visa Requirements to Include the Electronic Visa Information System for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Taiwan

October 29, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs consolidating and amending visa requirements.

EFFECTIVE DATE: November 1, 1997.

FOR FURTHER INFORMATION CONTACT: Lori E. Mennitt, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

In exchange of letters, the American Institute in Taiwan (AIT) and the Taipei Economic and Cultural Representative Office (TECRO) agreed to amend the existing visa arrangement for textile products, produced or manufactured in Taiwan and exported on and after November 1, 1997. The amended arrangement consolidates existing and new provisions of the export visa arrangement, including provisions for the Electronic Visa Information System (ELVIS). In addition to the ELVIS requirements, shipments will continue to be accompanied by an original visa stamped on the front of the original commercial invoice issued by TECRO. Goods which currently require an exempt certificate shall not require an ELVIS transmission, but will continue to require the exempt certificate.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to amend the existing visa requirements for textile products produced or manufactured in Taiwan and exported on and after November 1, 1997.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 61 FR 66263, published on December 17, 1996). Also see 56 FR 26656, published on June 10, 1991.

Interested persons are advised to take all necessary steps to ensure that textile products that are entered into the United States for consumption, or withdrawn from warehouse for consumption, will meet the visa requirements set forth in the letter published below to the Commissioner of Customs.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 29, 1997.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on June 5, 1991, by the Chairman, Committee for the Implementation of Textile Agreements, that directed you to prohibit entry of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Taiwan for which the Coordination Council for North American Affairs (CCNAA) has not issued an appropriate export visa or exempt certification.

Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); and pursuant to the Export Visa Arrangement, effected by exchange of letters dated September 3 and 23, 1997, between the American Institute in Taiwan (AIT) and the Taipei Economic and Cultural Representative Office (TECRO) (formerly the CCNAA); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on November 1, 1997, entry into the Customs territory of the United States (i.e., the 50 states, the District of Columbia and the Commonwealth of Puerto Rico) for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in Categories 200–239, 300–369, 400–469, 600–670 and 800–899, including part categories and merged categories (see Annex I), produced or manufactured in Taiwan and exported on and after November 1, 1997 for which TECRO has not issued an appropriate export visa and Electronic Visa Information System (ELVIS) transmission or exempt certification fully described below. Should additional categories, part categories or merged categories become subject to import quota the entire category(s), part category(s) or merged category(s) shall be included in the coverage of this arrangement. Merchandise exported on or after the date the category(s) is added to the agreement or becomes subject to import quotas shall require a visa signifying the new designation.

A visa must accompany each commercial shipment of the aforementioned textile products. A circular stamped marking in blue ink will appear on the front of the original commercial invoice (also known as the Textile Export Visa). The original visa shall not be stamped on duplicate copies of the invoice. The original invoice with the original visa stamp will be required to enter the shipment into the United States. Duplicates of the invoice and/or visa may not be used for this purpose.

Each visa stamp shall include the following information:

1. The visa number. The visa number shall be in the standard nine digit letter format, beginning with one numeric digit for the last digit of the year of export, followed by the two character alpha country code specified by the International Organization for Standardization (ISO) (the code for Taiwan is "TW"), and a six digit numerical serial number identifying the shipment; e.g., 7TW123456.

2. The date of issuance. The date of issuance shall be the day, month and year on which the visa was issued.

3. The original signature of the issuing official of Taiwan.

4. The correct category(s), merged category(s), part category(s), quantity(s) and unit(s) of quantity in the shipment in the unit(s) of quantity provided for in the U.S. Department of Commerce Correlation and in the Harmonized Tariff Schedule of the United States, Annotated (HTS or successor documents) shall be reported in the spaces provided within the visa stamp (e.g., "Cat. 340–510 DOZ").

Quantities must be stated in whole numbers. Decimals or fractions will not be accepted. Merged category quota merchandise may be accompanied by either the appropriate merged category visa or the correct category visa corresponding to the actual shipment (e.g., quota Category 347/348 may be visaed as 347/348 or if the shipment consists solely of Category 347 merchandise, the shipment may be visaed as "Category 347," but not as "Category 348").

U.S. Customs shall not permit entry if the shipment does not have a visa, or if the visa number, date of issuance, signature, category, quantity or units of quantity are missing, incorrect or illegible, or have been crossed out or altered in any way. If the quantity indicated on the visa is less than that of the shipment, entry shall not be permitted. If the quantity indicated on the visa is more than that of the shipment, entry shall be permitted and only the amount entered shall be charged to any applicable quota.

If the visa is not acceptable then a new visa must be obtained from TECRO or its authorized agents or a waiver may be issued by the U.S. Department of Commerce at the request of TECRO or its authorized agents in Washington, DC., and presented to the U.S. Customs Service before any portion of the shipment will be released. The waiver, if used, only waives the requirement to present a visa with the shipment. It does not waive the quota requirement. Visa waivers will only be issued for classification disputes or for one time special purpose shipments that are not part of an ongoing commercial enterprise.

If the visaed invoice is deficient, the U.S. Customs Service will not return the original document after entry, but will provide a certified copy of that visaed invoice for use in obtaining a new correct original visaed invoice, or a visa waiver. A new visa number must begin with the numeric digit corresponding with the last digit of the year of export as previously stated.

The complete name and address of a company actually involved in the manufacturing process of the textile product covered by the visa shall be provided on the textile visa document.

ELVIS Requirements:

An ELVIS transmission as well as an export visa is required for each non-exempt entry subject to this directive.

A. Each ELVIS message will include the following information:

I. The visa number. The visa number shall be in the standard nine digit letter format, beginning with one numeric digit for the last digit of the year of export, followed by the two character alpha country code specified by the International Organization for Standardization (ISO) (the code for Taiwan is "TW"), and a six digit numerical serial number identifying the shipment; e.g., 7TW123456.

II. The date of issuance. The date of issuance shall be the day, month and year on which the visa was issued.

III. The correct category(s), merged category(s), part category(s), quantity(s) and unit(s) of quantity of the shipment in the unit(s) of quantity provided for in the U.S. Department of Commerce Correlation and in the Harmonized Tariff Schedule of the United States, Annotated (HTS or successor documents).

IV. The manufacturer ID number (MID). The MID shall begin with "TW," followed by the first three characters from each of the first two words of the name of the manufacturer, followed by the largest number on the address line up to the first four digits, followed by three letters from the city name.

B. Entry of a shipment shall not be permitted:

I. if an ELVIS transmission has not been received for the shipment from the country of orgin;

II. if the ELVIS transmission for that shipment is missing any of the following:

a. visa number
b. category or part category
c. quantity
d. unit of measure
e. date of issuance
f. manufacturer ID number

III. if the ELVIS transmission for the shipment does not match the information supplied by the importer or the Customs Broker acting as an agent on behalf of the importer, with regard to any of the following:

a. visa number
b. category or part category
c. unit of measure

IV. if the quantity being entered is greater than the quantity transmitted, or

V. if the visa number has previously been used, or canceled, except in the case of a split shipment, or if an entry has already been made using the visa number.

C. A new, correct ELVIS transmission from the country of origin is required before a shipment that has been denied entry for one of the circumstances mentioned in paragraph B.I–V will be released. Visa waivers will only be considered for circumstances described in paragraph B.I, if the shipment qualifies as a one time special purpose shipment that is not part of an ongoing commercial enterprise or for legitimate classification disputes.

D. A new correct ELVIS transmission from the country of origin is required for entries made using a visa waiver under the procedure described above.

E. Shipments will not be released for forty-eight hours in the event of a system failure. If system failure exceeds forty-eight hours, for the remaining period of the system failure the U.S. Customs Service will release shipments on the basis of the paper visaed document.

F. If a shipment from Taiwan has been allowed entry into the commerce of the United States with an incorrect visa, no visa, an incorrect ELVIS transmission, or no ELVIS transmission, and redelivery is requested but cannot be made, the shipment will be charged to the correct category limit whether or not a replacement visa or waiver is provided or a new ELVIS message is transmitted.

Annex II lists all the exempt products which will require a "Non-Quota Exempt Certification."

Other Provision:

Merchandise imported for the personal use of the importer and not for resale, regardless of value, and properly marked commercial sample shipments valued at U.S.$250 or less do not require a visa or exempt certification for entry and shall not be charged to the agreement levels. All other commerical shipments of the above mentioned require a visa along with an ELVIS transmission, or an exempt certification for entry.

Any shipment which is not accompanied by a valid and correct visa with an ELVIS transmission or exempt certification in accordance with the foregoing provisions shall be denied entry by the American Institute in Taiwan unless TECRO authorizes the entry and any charges to the agreement levels.

The actions taken concerning Taiwan with respect to imports of textiles and textile products in the foregoing categories have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1). This letter will be published in the **Federal Register**.

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Annex I

Part Categories (Descriptions below are for general reference only. Other miscellaneous products may also be included.)

347–W	Men's and boys' woven cotton pants: only HTS numbers 6103.19.2015, 6103.19.9020, 6103.22.0030, 6103.42.1020, 6103.42.1040, 6103.49.8010, 6112.11.0050, 6113.00.9038, 6203.19.1020, 6203.19.9020, 6203.22.3020, 6203.42.4005, 6203.42.4010, 6203.42.4015, 6203.42.4025, 6203.42.4035, 6203.42.4045, 6203.49.8020, 6210.40.9033, 6211.20.1520, 6211.20.3810 and 6211.32.0040.

Annex I—Continued

348–W	Women's and girls' woven cotton pants: only HTS numbers 6204.12.0030, 6204.19.8030, 6204.22.3040, 6204.22.3050, 6204.29.4034, 6204.62.3000, 6204.62.4005, 6204.62.4010, 6204.62.4020, 6204.62.4030, 6204.62.4040, 6204.62.4050, 6204.62.4055, 6204.62.4065, 6204.69.6010, 6204.69.9010, 6210.50.9060, 6211.20.1550, 6211.20.6810, 6211.42.0030 and 6217.90.9060.
359–C	Coveralls and overalls: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.82.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010.
359–H	Headwear: only HTS numbers 6505.90.1540 and 6505.90.2060.
359–O	Other: all HTS numbers except those in Category 359–C and Category 359–H.
369–L	Luggage: only HTS numbers 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3015 and 4202.92.6090.
369–S	Shop towels: only HTS number 6307.10.2005.
369–O	Other: all HTS numbers except those in Category 369–L and Category 369–S.
640–Y	Shirts with two or more colors in the warp and/or filling: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2050 and 6205.30.2060.
640–O	Other shirts: all HTS numbers except those in Category 640–Y.
641–Y	Blouses with two or more colors in the warp and/or filling: only HTS numbers 6204.23.0050, 6204.29.2030, 6206.40.3010 and 6206.40.3025.
641–O	Other blouses: all HTS numbers except those in Category 641–Y.
647–W	Men's and boys' woven man-made fiber pants: only HTS numbers 6203.23.0060, 6203.23.0070, 6203.29.2030, 6203.29.2035, 6203.43.2500, 6203.43.3500, 6203.43.4010, 6203.43.4020, 6203.43.4030, 6203.43.4040, 6203.49.1500, 6203.49.2015, 6203.49.2030, 6203.49.2045, 6203.49.2060, 6203.49.8030, 6210.40.5030, 6211.20.1525, 6211.20.3820 and 6211.33.0030.

Annex I—Continued

648–W	Women's and girls' woven man-made fiber pants: only HTS numbers 6204.23.0040, 6204.29.2020, 6204.29.2025, 6204.29.4038, 6204.63.2000, 6204.63.3000, 6204.63.3510, 6204.63.3530, 6204.63.3532, 6204.63.3540, 6204.69.2510, 6204.69.2530, 6204.69.2540, 6204.69.2560, 6204.69.6030, 6204.69.9030, 6210.50.5035, 6211.20.1555, 6211.20.6820, 6211.43.0040 and 6217.90.9060.
659–C	Coveralls and overalls: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.
659–H	Headwear: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.
659–S	Swimwear: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.
659–O	Other: all HTS numbers except those in Category 659–C, Category 659–H and Category 659–S.
669–P	Polypropylene bags: only HTS numbers 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020 and 6305.39.0000.
669–T	Tents and tarpaulins: only HTS numbers 6306.12.0000, 6306.19.0010 and 6306.22.9030.
669–O	Other: all HTS numbers except those in Category 669–P and Category 669–T.
670–H	Handbags: only HTS numbers 4202.22.4030 and 4202.22.8050.
670–L	Luggage: only HTS numbers 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9025.
670–O	Other: all HTS numbers except those in Category 670–H and Category 670–L.

Merged Categories and Subcategories

225/317/326
300/301/607
333/334/335
338/339
347/348
347–W/348–W
350/650
352/652
359–C/659–C
359–H/659–H
369–L/670–L/870
445/446
447/448
613/614/615/617
619/620
625/626/627/628/629
633/634/635
633/634
638/639
645/646
647/648
647–W/648–W

Annex II

Exempt Products Requiring Exempt Certification

1. Pincushions.
2. Embroideries (needle work), of man-made fibers with designs embroidered with wool thread.
3. Hand-made carpets, i.e., in which the pile was inserted or knotted by hand.
4. Christmas or Easter ornaments having a non-textile core or a non-textile structural frame and man-made fiber textile covering.
5. Martial arts uniforms, such as Kung Fu, Karate, and Judo uniforms.
6. Toy (novelty) animals, birds or insects with a plastic wire or other non-textile core that are covered or decorated with a textile thread or fiber.
7. Traditional Chinese caps.
8. Traditional Chinese garments:

• Jackets—three quarter length or shorter, or woven fabrics, usually with Chinese figures in the weave but may be plain/woven otherwise figured or printed. They have a low Mandarin collar, long sleeves and full frontal openings, with "front" type closures (looped fastenings made of braid, cording, etc., used with a matching knot or toggle of the same material.)

• Fur or imitation fur-lined jackets— which may or may not be reversible and are otherwise identical in appearance and construction with the jackets described above.

• Vests—sleeveless garments extending from the neck area to waist with or without pockets at the waist. They are otherwise identical in appearance and construction with the jackets described above.

[FR Doc. 97–29006 Filed 10–30–97; 8:45 am]
BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Department of the Army

Movement of Foreign Military Sales (FMS) Shipments—Proposed Policy Change

AGENCY: Military Traffic Management Command.

ACTION: Notice.

SUMMARY: The Military Traffic management command (MTMC) proposes to change the application of the Guaranteed Traffic (GT) and related freight movement programs to include movement of Foreign Military Sales (FMS) material. This proposed new policy was previously announced in the **Federal Register** on December 13, 1995, but was declared invalid on substantive and procedural grounds by the United States District Court for the District of Columbia in the case of *Munitions Carriers Conference, Inc., et al* versus *United States of America* 932F. Supp. 334 (D.D.C. June 19, 1996) ("MTMC I"). The government's appeal of that decision is presently pending before the United States Court of Appeals for the District of Columbia Circuit in Appeal No. 97–5119. Accordingly, MTMC does not propose to put the proposed policy into effect unless and until the District Court's decision in *MTMC I* is modified or reversed on appeal. The instant notice of proposed policy change is nevertheless being published at this time both to provide an opportunity for public comment on the proposed policy, and in an effort to address certain jurisdictional issues that might otherwise interfere with meaningful judicial review of the District Court's substantive ruling in *MTMC I*.

The policy change, if adopted, will be effective for new movements and for resolicited MTMC GT freight solicitations no earlier than 60 days after publication of this notice. This policy change will also apply, if adopted, to all other applicable effective MTMC GT movements and related freight movement programs. Carriers performing under existing GT agreements and related freight movement programs will be given the opportunity to voluntarily participate in the FMS movements. FMS movements will only be offered to those carriers who voluntarily participate. This policy change is the result of congressional repeal of most tariff requirements for motor carriers (other than carriers of household goods) in the Interstate Commerce Act.

DATES: This policy change, if adopted, will be effective no earlier than December 30, 1997. Interested parties are requested to submit comments on this proposal. All comments submitted within 60 days of publication of this notice will be considered prior to any decision on whether to adopt this proposal.

ADDRESSES: Comments should be addressed to Headquarters, Military Traffic Management Command, Room 117, 5611 Columbia Pike, Falls Church, VA 22041–5050, ATTN: MTTM–D (Barbara McGinnis).

FOR FURTHER INFORMATION CONTACT: Ms. Barbara McGinnis, (703) 681–6103.

SUPPLEMENTARY INFORMATION: Historically, the Interstate Commerce Act provided that carriers could provide transportation only at the rates set forth in a tariff filed with the Interstate Commerce Commission. A carrier could not charge a shipper any rate different from the filed tariff rate, with the exception that under 49 U.S.C. 10721 the carrier could transport property for the U.S. Government "at reduced rates", meaning rates that were reduced from the common carrier's tariff rates. By Pub. L. 103–311 (The Trucking Industry reform Act of 1994), effective 26 August 1994, and Pub. L. 104–88 (The ICC Termination Act of 1995), effective 29 December 1995, congress repealed the requirement that motor carriers (other than carriers of household goods) file a tariff and apply that tariff. With some exceptions, tariffs are no longer filed by motor carriers with the Interstate Commerce Commission, and there is, accordingly, no requirement that carriers apply a tariff rate to FMS traffic. MTMC's policy change in its movement programs will require motor carriers to participate in FMS shipments for new movements and resolicited GT agreements; and, will accommodate motor carrier's voluntary agreements to include FMS shipments in currently effective GT agreements and related freight movement programs.

Gregory D. Showalter,
Army Federal Register Liaison Officer.
[FR Doc. 97–28877 Filed 10–30–97; 8:45 am]
BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Corps of Engineers; Department of the Army

Intent To Prepare Draft Environmental Impact Statements for the Evaluation of Water Allocation Formulas for the Alabama-Coosa-Tallapoosa (ACT) and Apalachicola-Chattahoochee-Flint (ACF) River Basins, located in Alabama, Florida, and Georgia

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The Mobile District, U.S. Army Corps of Engineers (Corps), in cooperation with several Federal cooperating agencies, intends to prepare Draft Environmental Impact Statements (EISs), to address proposed water allocation formulas for the equitable apportionment of water in the ACT and ACF River Basins. The formulas will be developed by the States of Alabama and Georgia for the ACT basin; and by the States of Alabama, Florida and Georgia for the ACF basin. The States will develop these formulas, in conjunction with the United States, and subject to concurrence by a federal Commissioner. A separate EIS will be prepared to evaluate the formulas for each basin: ACT Basin and ACF Basin.

FOR FURTHER INFORMATION CONTACT: Questions about these EISs or the NEPA process can be answered by: Ms. Joanne Brandt (ACF) or Mr. Michael J. Eubanks (ACT), Inland Environment Section, U. S. Army Engineer District-Mobile, Post Office Box 2288, Mobile, Alabama 36628–0001; Telephone (334) 690–3260 or (334) 694–3861, respectively. Electronic mail may be addressed to:

michael.j.eubanks@sam.usace.army.mil

or

joanne.u.brandt@sam.usace.army.mil

Also, brief messages may be left on a toll-free line answering machine at 1–800–421–7637, or delivered by electronic facsimile at (334) 694–3815. For current information, you may also visit the Mobile District Web Page:

http://www.sam.usace.army.mil/sam/pd/ectacfeis

SUPPLEMENTARY INFORMATION:

1. Public Participation

a. The Corps invites full public participation to promote open communication and better decision making. All persons and organizations that have an interest in the water allocation formulas, including minority, low-income, disadvantaged and native American Groups, are urged to participate in this National Environmental Policy Act (NEPA) environmental analysis process. Assistance will be provided upon request to anyone having difficulty with learning how to participate.

b. Public comments are welcomed anytime throughout the NEPA process. Formal opportunities for public participation include:

(1) Response to the Scoping Brochure/Questionnaire—Anytime during the NEPA process.

(2) Review and Comment on the Draft EISs—Oct–Nov 1998.

(3) Comments/Presentation on the draft EISs at Public Workshops—Nov 1998.

(4) Review of the Final EISs—Summer 1999.

c. Precise schedules and locations will be announced in the local news media. You may also request to be included on the mailing list for public distribution of meeting announcements and documents.

2. Background

a. The States of Alabama, Florida, and Georgia, in conjunction with the United States, will soon be developing water allocation formulas for the ACT and ACF River Basins, in accordance with interstate water compacts. The States have ratified the compacts and implementing provisions are currently being developed in consent legislation before Congress. The purpose of the compacts would be to promote interstate comity, remove causes of present and future controversies, equitably apportion surface waters of the ACT and ACF Basins, engage in water planning, and develop and share common data bases.

b. Pursuant to the ACT and ACF interstate compacts, allocation formulas would be developed by Commissions established for each basin. A Federal Commissioner will be appointed as a non-voting advisory member for each compact Commission. The compacts would provide for approval of allocation formulas by unanimous vote of the State Commissioners and concurrence of the Federal Commissioner. Federal agency evaluations and these EISs will form the basis for the Federal Commissioner's decision to concur or nonconcur with the water allocation formulas developed in accordance with the compacts.

c. The Corps, in partnership with the States of Alabama, Florida, and Georgia, is currently conducting a Comprehensive Study of the ACT and ACF river basins. The Comprehensive Study was initiated in January 1992, under a Memorandum of Agreement among the three States and the U.S. Department of the Army. The Comprehensive Study has developed substantial data and predictive models useful for the development of water allocation formulas. The Comprehensive Study partners have also recommended development of interstate compacts as the mechanisms for coordinated management of the basins.

d. The Corps, in conjunction with the Federal cooperating agencies, will prepare separate EISs to evaluate the environmental and socioeconomic impacts of the proposed allocation formula for each basin. In addition to information available from the Comprehensive Study, a preliminary scope of evaluations necessary to assist the Federal Commissioner in a decision has been identified in a Federal Interagency Management Plan. Agency evaluations will be incorporated into the completed EISs, which may be used as supporting documentation for a decision by the Federal Commissioner on the acceptability of the water

allocation formulas. The EISs may also serve as supporting documents for future decisions related to the management of the basins.

e. The completion schedule for these EISs is coordinated with the legislated timelines mandated by the compact agreements.

The State Commissioners must agree on proposed allocation formulas by December 31, 1998, unless they agree on an extension. Following approval of an allocation formula by the State Commissioners, the Federal Commissioner must make a concurrence decision within 255 days thereafter. This timeline specified in the pending compacts warrants immediate commencement of the EISs, even though the allocation formulas have not yet been developed. The initial EIS work will include completion of field studies, gathering of environmental, socioeconomic and hydrologic baseline information. The public involvement process will be initiated as well.

f. The EISs will display the range of flows experienced by current water management operations, compared to a foreseeable range of reasonable alternative flows which may result from proposed allocation formulas. The alternative ranges of flows, along with the associated environmental impacts, will create the framework upon which the allocation formulas may be evaluated. Further NEPA analysis and other documentation will be prepared, as necessary, to address proposed actions that may become apparent under the allocation formulas or compacts, if the actions are not addressed by these EISs.

3. Cooperating Agencies

The lead responsibility for these EISs rests with the Corps. Federal cooperating agencies include:

Department of Interior's Fish and Wildlife Service, Geological Survey, and National Park Service; Environmental Protection Agency; Department of Agriculture's Natural Resource Conservation Service and Forest Service; Department of Commerce's National Ocean Service and National Marine Fisheries Service; Department of Energy's Southeastern Power Administration; and Department of Transportation's Maritime Administration. Each of the cooperating Federal agencies will provide their expertise in compiling information and evaluating potential impacts.

4. Scoping

a. The ACT/ACF Comprehensive Study involved the States, stakeholders and the public in identifying areas of concern; collecting and developing water resource, environmental, and socioeconomic data; and developing tools to assist in decisions affecting an equitable allocation of water resources within the two basins. Scoping for these EISs will continue to build upon the knowledge and information developed during the Comprehensive Study. Additional meetings with agencies and stakeholders groups will continue to identify significant issues and data gaps, and focus on the alternatives to be evaluated.

b. A significant component of the scoping process will be development and distribution of a Scoping Brochure/Questionnaire, and review of responses to the questionnaire. The Scoping Brochure/Questionnaire invites comments and participation in the scoping process by the public; Federal, State, and local agencies and officials; affected Indian tribes; and other interested parties.

c. An Internet Web Page has been established, to provide for public access to information related to the ACT and ACF Water Allocation Formulas development and the EIS evaluation process. The Scoping Brochure/Questionnaire, in addition to mail distribution, is located on the Web Page, and allows for receipt of public comments at any point during the NEPA process. Current information on the associated Comprehensive Basin Study results or Interstate Compact developments will also be presented on the Web Page.

5. Environmental Review and Consultation Requirements

Coordination with the U.S. Fish and Wildlife Service will be accomplished in compliance with the Endangered Species Act and the Fish and Wildlife Coordination Act. Coordination required by other laws and regulations will also be conducted.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 97–28879 Filed 10–30–97; 8:45 am]

BILLING CODE 3710–CR–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare Draft Supplement II to a Final Environmental Impact Statement (EIS) for Proposed Construction of a Water Supply Reservoir on Sugar Creek in Williamson and Johnson Counties, IL

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The U.S. Army Engineer District, Louisville Corps of Engineers is initiating the preparation of Draft Supplement II to a Final EIS for a regulatory permit application from the City of Marion, IL. The proposed action by the City of Marion is the construction of a water supply reservoir on Sugar Creek in Williamson and Johnson Counties, Illinois. The Draft Supplement II will address combinations of alternative actions, including separable alternatives, to provide water to the City of Marion, IL and Lake of Egypt Water District from various sources in southern Illinois.

FOR FURTHER INFORMATION CONTACT: Questions or comments concerning the preparation of this Draft Supplement II to the Final EIS should be addressed to Mr. Terry Siemsen, U.S. Army Engineer District, Louisville, Corps of Engineers, CELRL–PD–R, P.O. Box 59, Louisville, Kentucky 40201–0059 or phone (502) 582–5550.

SUPPLEMENTARY INFORMATION: The Louisville District prepared a Draft and Final EIS (Final EIS completed July 1995) for this permit application as well as a Draft and Final Supplement I to the Final EIS (Final Supplement I completed May 1996). A Record of Decision was prepared and a Department of the Army permit was issued (July 1996) to the City of Marion for placement of material in Sugar Creek as part of the construction of their proposed water supply reservoir.

The Department of the Army permit was contested in the U.S. District Court for the Southern District of Illinois and the issuance of the permit was upheld (December 1996). The Department of the Army permit was vacated, however, by order of the 7th Circuit Court of Appeals on July 14, 1997. The 7th Circuit Court of Appeals indicated that alternatives of supplying the water needs of the City of Marion, IL and Lake of Egypt Water District from separate sources were not sufficiently described in the completed Final EIS and Final Supplement I to the Final EIS.

The City of Marion has reinstated their application for a Department of the Army permit that will be needed to construct the proposed water supply reservoir. Because of the request by the City of Marion, the Draft Supplement II to the Final EIS will be prepared and will address separate water source options.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 97–28875 Filed 10–30–97; 8:45 am]

BILLING CODE 3710–JB–M

DEPARTMENT OF DEFENSE

Corps of Engineers; Department of the Army

Intent to Prepare an Environmental Impact Statement (EIS) for the Western Branch, Patuxent River, Water Resources Feasibility Study in Prince George's County, Maryland and Hold a Public Scoping Workshop

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA), the Baltimore District, U.S. Army Corps of Engineers is initiating the Western Branch, Patuxent River, Water Resources Feasibility Study. The riparian and aquatic environmental integrity of the Western Branch watershed has been severely degraded by urbanization, inadequate infrastructure and industrial encroachment. Potential environmental restoration of streambanks, wetlands and forest buffers could restore riparian and aquatic habitat, improve water quality through habitat restoration, restore stream channel stability, and reduce erosion and sedimentation. An EIS will be integrated into the feasibility study to document existing conditions, project actions, and project effects and products. Prince George's County and the Maryland Department of the Environment are the non-Federal sponsors for the project.

FOR FURTHER INFORMATION: Questions about the proposed action and DEIS can be addressed to Ms. Michele A. Bistany, Study Manager, Baltimore District, U.S. Army Corps of Engineers, Attn: CENAB–PL–P, P.O. Box 1715, Baltimore, Maryland 21203–1715, telephone (410) 962–4934, E-mail address:

michele.a.bistany@usace.army.mil

SUPPLEMENTARY INFORMATION:

1. The Patuxent River Water Resources Reconnaissance Study was authorized by a resolution of the Committee on Public Works and Transportation of the United States House of Representatives, adopted 28 September 1994.

2. The area proposed for environmental restoration is known as the Western Branch, Patuxent River watershed. The most significant problems in the Western Branch watershed are the loss of aquatic and riparian habitat and the instability of the streambeds and channels. This excessive degradation includes: rapid stormwater flows that cause streambank erosion and sedimentation, encroachment of development which limits riparian habitat and wetlands, and polluted runoff which contributes to poor water quality. These factors negatively impact the present aquatic and riparian environment and will continue to cause further degradation in the future.

3. On 24 July 1997, the Baltimore District and Prince George's County executed a feasibility cost-sharing agreement to prepare a study on the Western Branch watershed. This watershed study is being conducted to investigate the feasibility of restoring habitat and the environmental integrity of the watershed. The purpose of this study is to better define problems within the watershed including sedimentation and erosion, reduction of aquatic and riparian habitat, and degradation of wetland habitat and to determine solutions to these problems. The goal of this study is to improve the aquatic and riparian ecosystem, and reduce sedimentation and erosion within the Western Branch watershed. To achieve this goal, the Corps will further define the problems, needs, and opportunities in the watershed; analyze and forecast environmental resource conditions; formulate, evaluate, and compare alternative concept plans for numerous sites within the watershed; develop detailed designs and costs for the selected concepts; and recommend a cost effective overall plan for the watershed.

4. Throughout the feasibility study, potential restoration sites within the watershed will be identified, evaluated, and selected. To achieve the proposed watershed restoration, the alternatives to be evaluated will include stabilization of eroding stream channels, creation and enhancement of wetlands, restoration of floodplains, construction of or improvements to stormwater detention ponds, and construction of fish passage structures. Fish habitat structures would also be installed, if necessary, to restore aquatic habitat and provide added cover for spawning. Stream restoration alternatives may include stabilization techniques, such as plantings, and placement of geotextile tubes or natural materials.

5. The decision to implement these actions will be based on an evaluation of the probable impact of the proposed activities on the public interest, reflecting the national concern for both protection and utilization of important resources. The benefit that reasonably may be expected to accrue from the proposal will be balanced against its reasonably foreseeable costs. The Baltimore District is preparing an EIS that will describe the impacts of the proposed projects on environmental and cultural resources in the study area and the overall public interest. The EIS will be in accordance with NEPA and will document all factors that may be relevant to the proposal, including the cumulative effects thereof. Among these factors are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural and historic values, fish and wildlife values, threatened and endangered species, flood hazards, floodplain values, land use, recreation, water supply and conservation, water quality, air quality, hazardous and toxic substances, safety, and the general needs and welfare of the people. If applicable, the EIS will also apply guidelines issued by the Environmental Protection Agency, under the authority of Section 404(b)(1) of the Clean Water Act of 1977 (Public Law 95–217).

6. The public involvement program will include public workshops, meetings, and other coordination with interested private individuals and organizations, as well as with concerned Federal, state and local agencies. Coordination letters and newsletters have been sent to appropriate agencies, organizations, and individuals on an extensive mailing list. Additional public information will be provided through print media, mailings, and radio and television announcements.

7. In addition to the Corps, Prince George's County, and the Maryland Department of the Environment, other participants that will be involved in the study and EIS process include the following: U.S. Environmental Protection Agency; U.S. Fish and Wildlife Service; U.S. Forest Service; U.S. Geological Survey; National Marine Fisheries Service; Natural Resource Conservation Service; and the Maryland Department of Natural Resources. The Baltimore District invites potentially

affected Federal, state, and local agencies, and other organizations and entities to participate in this study.

8. A public scoping workshop will be held on 6 November 1997 from 7–9 p.m. at Largo High School in Upper Marlboro, Maryland. The purpose of the meeting is to solicit public concerns and comments on the study area and the study process.

9. The DEIS is tentatively scheduled to be available for public review in July of 1999.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 97–28878 Filed 10–30–97; 8:45 am]

BILLING CODE 3710–41–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of an Additional Public Hearing in Manteo, NC for the Draft Environmental Impact Statement (DEIS) for Realignment of F/A–18 Aircraft and Operational Functions from Naval Air Station (NAS) Cecil Field, Florida to Other East Coast Installations

SUMMARY: Pursuant to Section 102(2) of the National Environmental Policy Act (NEPA) of 1969 as implemented by the Council on Environmental Quality regulations (40 CFR 1500–1506), the Department of the Navy has prepared and filed with the U.S. Environmental Protection Agency a Draft Environmental Impact Statement (DEIS) to evaluate the realignment of F/A–18 aircraft and operational functions from Naval Air Station (NAS) Cecil Field, Florida to other Navy and Marine Corps air stations on the east coast of the United States. In accordance with these laws and regulations, this notice announces the date and location of an additional public hearing for the DEIS. A public hearing has been scheduled for Monday, November 17, 1997, at the North Carolina Aquarium on Roanoke Island, Airport Road, Manteo, North Carolina to provide information and to receive public input on the DEIS for the realignment of F/A–18 aircraft and associated functions from NAS Cecil Field, Florida to east coast installations. On October 23, 1997, the Department of the Navy conducted a public hearing at the North Carolina Aquarium in Manteo. Notice of this public hearing was made in the Federal Register on October 3, 1997. However, subsequent to the October 23 hearing, the Navy received information that indicated that the notice of the public hearing was not well publicized in the primary local newspaper serving the Manteo/Dare County area (The Virginian-Pilot, North Carolina edition). Therefore, the Department of the Navy has decided to conduct an additional public hearing at the North Carolina Aquarium on Monday, November 17, 1997, to ensure the public has an opportunity to obtain information and provide comment on the DEIS. An open information session, which will precede the scheduled public hearing will allow individuals to review the data presented in the DEIS. Navy representatives will be available during the information session to answer questions and/or clarify information related to the DEIS. The open information session is scheduled from 5:00 p.m. to 7:00 p.m., followed by the public hearing, which will begin at 7:30 p.m.

Navy will conduct the public hearing. Federal, state and local agencies and interested parties are invited and urged to be present or represented at the hearing. Oral statements will be heard and transcribed by a stenographer; however, to ensure the accuracy of the record, all statements should be submitted in writing. All statements, both oral and written, will become part of the public record on the DEIS and will be responded to in the Final Environmental Impact Statement (FEIS). Equal weight will be given to both oral and written statements.

In the interest of available time and to ensure all that wish to give an oral statement have the opportunity to do so, each speaker will be asked to limit comments to three (3) minutes. If longer statements are to be presented, they should be summarized at the public hearing and submitted in writing either at the hearing or mailed or faxed to Mr. Dan Cecchini at: Commander, Atlantic Division, Naval Facilities Engineering Command, Attn: Mr. J. Dan Cecchini (Code 2032DC), 1510 Gilbert Street, Norfolk, Virginia 23511; Fax: (757) 322–4894.

ADDRESSES: The DEIS has been distributed to various Federal, state, and local agencies, as well as other interested individuals and organizations. In addition, copies of the DEIS have been distributed to the following libraries for public review: Virginia Beach Central Library, 4100 Virginia Beach Boulevard, Virginia Beach, Virginia; Great Neck Library, 1251 Bayne Drive, Virginia Beach, Virginia; Chesapeake Central Library, 298 Cedar Road, Chesapeake, Virginia; Craven County Library, 300 Miller Boulevard, Havelock, North Carolina; Beaufort County Library, 311 Scott Street, Beaufort, South Carolina; Dare County Library, 700 North U.S. 64/264, Manteo, North Carolina; Pamlico County Library, 603 Main Street, Bayboro, North Carolina; Ida Hilton Library, 1105 North Way, Darien, Georgia. A limited number of single copies are available upon request by contacting Mr. J. Dan Cecchini at (757) 322–4891.

POINT OF CONTACT: Additional information concerning this notice may be obtained by contacting Mr. Cecchini at (757) 322–4891.

Dated: October 29, 1997.

Darse E. Crandall,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 97–29033 Filed 10–30–97; 8:45 am]

BILLING CODE 3810–FF–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of the Board of Advisors to the President, Naval War College, Open Meeting

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is given that the Board of Advisors to the President, Naval War College, will meet from 0830–1700 on November 21, 1997 in Conolly Hall, Naval War College, 686 Cushing Road, Newport, Rhode Island. The meeting will be open to the public.

The purpose of the meeting is to elicit the advice of the Board on educational, doctrinal and research policies and programs. The agenda will consist of presentations and discussions on the curriculum, programs and plans of the college since the last meeting of the Board on May 29 and 30, 1996. Naval War College.

FOR FURTHER INFORMATION CONTACT: Mrs. Mary E. Estabrooks, Assistant to the Dean of Academics, Naval War College, 686 Cushing Road, Newport, RI 02841–1207. Telephone number (401) 841–3589.

Dated: October 21, 1997.

Darse E. Crandall,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 97–28868 Filed 10–30–97; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

Office of Fossil Energy

[Docket No. FE C&E 97–03—Certification Notice—156]

Dighton Power Associates Limited Partnership Notice of Filing of Coal Capability Powerplant and Industrial Fuel Use Act

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of Filing.

SUMMARY: On October 10, 1997, Dighton Power Associates Limited Partnership submitted a coal capability self-certification pursuant to section 201 of the Powerplant and Industrial Fuel Use Act of 1978, as amended.

ADDRESSES: Copies of self-certification filings are available for public inspection, upon request, in the Office of Coal & Power Im/Ex, Fossil Energy, Room 3F–056, FE–27, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Ellen Russell at (202) 586–9624.

SUPPLEMENTARY INFORMATION: Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended (42 U.S.C. 6301 et seq.), provides that no new baseload electric powerplant may be constructed or operated without the capability to use coal or another alternate fuel as a primary energy source. In order to meet the requirement of coal capability, the owner or operator of such facilities proposing to use natural gas or petroleum as its primary energy source shall certify, pursuant to FUA section 201(d), to the Secretary of Energy prior to construction, or prior to operation as a base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) as of the date filed with the Department of Energy. The Secretary is required to publish a notice in the **Federal Register** that a certification has been filed. The following owner/operator of the proposed new baseload powerplant has filed a self-certification in acccordance with section 201(d).

Owner: Dighton Power Associates Limited Partnership.

Operator: Dighton Power Associates Limited Partnership.

Location: Dighton, MA.

Plant Configuration: combined-cycle.

Capacity: 168 megawatts.

Fuel: Natural gas.

Purchasing Entities: Output will be sold to the regional electric power grid as a merchant plant.

In-Service Date: April 1999.

Issued in Washington, D.C., October 24, 1997.

Anthony J. Como,

Director, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Coal & Power systems, Office of Fossil Energy.

[FR Doc. 97–28909 Filed 10–30–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Research

Continuation of Solicitation for the Office of Energy Research Financial Assistance Program Notice 98–01

AGENCY: U.S. Department of Energy.

ACTION: Annual notice of continuation of availability of grants and cooperative agreements.

SUMMARY: The Office of Energy Research (ER) of the Department of Energy hereby announces its continuing interest in receiving applications for grants and cooperative agreements supporting work in the following programs: Basic Energy Sciences, High Energy Physics, Nuclear Physics, Computational and Technology Research, Fusion Energy Sciences, Biological and Environmental Research and Energy Research Analyses. On September 3, 1992, (57 FR 40582), DOE published in the **Federal Register** the Office of Energy Research Financial Assistance Program, 10 CFR Part 605, Final Rule, which contained a solicitation for this program. Information about submission of applications, eligibility, limitations, evaluation and selection processes and other policies and procedures are specified in 10 CFR Part 605.

DATES: Applications may be submitted at any time in response to this Notice of Availability. This Notice is published annually and remains in effect until it is superseded by another issuance by the Office of Energy Research.

ADDRESSES: Applications must be sent to: Director, Grants and Contracts Division, Office of Energy Research, ER–64, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290. When preparing applications, applicants should use the Office of Energy Research Financial Assistance Program Application Guide and Forms located on the World Wide Web at: http://www.er.doe.gov/production/grants/grants.html. Applicants without Internet access may call 301–903–5544 for information.

SUPPLEMENTARY INFORMATION: It is anticipated that approximately $400 million will be available for grant and cooperative agreement awards in FY 1998. The DOE is under no obligation to pay for any costs associated with the preparation or submission of an application. DOE reserves the right to fund, in whole or in part, any, all, or none of the applications submitted in response to this Notice.

In addition, the following program descriptions are offered to provide more in-depth information on scientific and technical areas of interest to the Office of Energy Research.

1. Basic Energy Sciences

The Basic Energy Sciences (BES) program supports fundamental research in the natural sciences and engineering leading to new and improved energy technologies and to understanding and mitigating the environmental impacts of energy technologies. The science divisions and their objectives are as follows.

(a) Materials Sciences

The objective of this program is to increase the understanding of phenomena and properties important to materials behavior that will contribute to meeting the needs of present and future energy technologies. It is comprised of the subfields metallurgy, ceramics, solid state physics, materials chemistry, and related disciplines where the emphasis is on the science of materials. *Program Contact:* (301) 903–3427.

(b) Chemical Sciences

The objective of this program is to expand, through support of basic research, knowledge of various areas of chemistry, chemical engineering and atomic molecular and optical physics with a goal of contributing to new or improved processes for developing and using domestic energy resources in an efficient and environmentally sound manner. Disciplinary areas where research is supported include atomic molecular and optical physics; physical, inorganic and organic chemistry; chemical physics; photochemistry; radiation chemistry; analytical chemistry; separations science; actinide chemistry; and chemical engineering sciences.

Program Contact: (301) 903–5804.

(c) Engineering Research

This program's objectives are: (1) to extend the body of knowledge underlying current engineering practice in order to open new ways for enhancing energy savings and production, prolonging useful equipment life, and reducing costs

while maintaining output performance, and environmental quality; and (2) to broaden the technical and conceptual base for solving future engineering problems in the energy technologies. Long-term research topics of current interest include: foundations of bioprocessing of fuels and energy related wastes, fracture mechanics, experimental and theoretical studies of multi phase flows, intelligent machines, and diagnostics and control for plasma processing of materials.

Program Contact: (301) 903–5822.

(d) Geosciences

The goal of this program is to develop a quantitative and predictive understanding of the energy-related aspects of processes in the earth. The emphasis is on the upper levels of the earth's crust and the focus is on geophysics, geomechanics and geochemistry of rock-fluid systems and interactions emphasizing processes taking place at the atomic and molecular scale. Specific topical areas receiving emphasis include: high resolution geophysical imaging; rock physics, fundamental properties and interactions of rocks, minerals, and fluids; and sedimentary basin systems. The resulting improved understanding and knowledge base are needed to assist efforts in the utilization of the Nation's energy resources in an environmentally acceptable fashion.

Program Contact: (301) 903–5822.

(e) Energy Biosciences

The primary objective of this program is to generate the fundamental understanding of biological mechanisms in the areas of botanical and microbiological sciences that will support biotechnological developments related to DOE's mission. The research serves as the basic information foundation with respect to an environmentally responsible renewable resource production for fuels and chemicals, microbial conversions of renewable materials and biological systems for the conservation of energy. This office has special requirements for the submission of preapplications, when to submit, and the length of the applications. Applicants are encouraged to contact the office regarding these requirements.

Program Contact: (301) 903–2873.

2. High Energy and Nuclear Physics

This program supports about 90% of the U.S. efforts in high energy and nuclear physics. The objectives of these programs are indicated below.

(a) High Energy Physics

The primary objectives of this program are to understand the ultimate structure of matter in terms of the properties and interrelations of its basic constituents, and to understand the nature and relationships among the fundamental forces of nature. The research falls into three broad categories: experimental research, theoretical research, and technology R&D in support of the high energy physics program.

Program Contact: (301) 903–3624.

(b) Nuclear Physics (Including Nuclear Data Program)

The primary objectives of this program are an understanding of the interactions and structures of atomic nuclei and nuclear matter at the most elementary level possible, and an understanding of the fundamental forces of nature as manifested in nuclear matter.

Program Contact: (301) 903–3613.

3. Computational and Technology Research

The goal of this program is to conduct an integrated program in applied mathematical sciences, high performance computing and communications, information infrastructure, advanced energy projects research, and technology research, to address complex problems. Research in forefront and diverse programs is becoming more multi disciplinary and requires new approaches to the solution of these complex problems. The program exploits the capabilities and research skills at universities, national laboratories, and industrial research laboratories. The program provides technical, analytical, and management direction for development, implementation, and evaluation of research programs that include activities from fundamental research to technology development. The goal of the program is accomplished through the effort of the following two divisions.

(a) Mathematical, Information, and Computational Sciences

This is a diverse research program in applied mathematical sciences, high performance computing, communications and information infrastructure technologies that spans the spectrum of activities from strategic fundamental research to technology development and demonstration. The diverse activities supported by this program are integrated to support two major strategic directions that support the underlying mathematical concepts and information technology needs of all Department of Energy (DOE) mission areas. These two strategic directions are:

• National Collaboratories—developing a set of tools and capabilities to permit scientists and engineers to access facilities and collaborate on experiments system-wide, as easily as if they were in the same building.

• Advanced Computational Testing and Simulation—developing an integrated set of algorithms, software frameworks, and network infrastructures to enable simulation to complement experimentation when actual experiments would be dangerous, expensive, or infeasible.

Program Contact: (301)–903–5800.

(b) Advanced Energy Projects/ Laboratory Technology Research

Advanced Energy Projects

This activity funds research to establish the feasibility of novel, energy-related concepts. These concepts are usually derived from recent advances in basic research, but require additional research to establish their feasibility. A common theme for each concept is the initial linkage of new, or previously neglected, research results to a practical energy payoff for the Nation.

Laboratory Technology Research

This activity conducts technology research projects to reduce technical risk associated with a technology or process development. The program couples basic research advances at ER national laboratories into the advanced energy technology arena through leveraged collaborations with industry. The program is focused on critical technology research areas, i.e., tailored materials, intelligent manufacturing, and sustainable environments, to contribute technological innovations that will stimulate national economic growth, and to increase the return on the government investment in basic research.

Program Contact: (301)–903–5995.

4. Fusion Energy Sciences

The mission of the Fusion Energy Sciences program is to advance plasma science, fusion science, and fusion technology—the knowledge base needed for an economically and environmentally attractive fusion energy source. This program is supported by the Office of Fusion Energy Sciences (OFES), which fosters both applied and basic research and emphasizes international collaboration to accomplish this mission.

(a) Science Division

This Division seeks to develop the physics knowledge base needed to advance the Fusion Energy Sciences program toward its goals. Basic and applied research is carried out in the following areas: (1) basic plasma science research directed at furthering the understanding of fundamental processes in plasmas; (2) improving the theoretical understanding of fusion plasmas necessary for interpreting results from present experiments and the planning and design of future confinement devices, (3) obtaining the critical data on plasma properties, atomic physics and new diagnostic techniques for support of confinement experiments, (4) supporting exploratory research into concepts that are alternatives to the tokamak, and (5) carrying out research on issues that support the development of Inertial Fusion Energy, for which target development is carried out by the Department of Energy's Defense Programs.

Research into basic physics issues associated with medium to large scale confinement devices is essential to studying conditions relevant to the production of fusion energy.

Experiments on these scale of devices are used to explore the limits of specific confinement concepts, as well as study associated physical phenomena.

Specific areas of interest include: (1) the production of increased plasma densities and temperatures, (2) the understanding of the physical laws governing plasma energy of high plasma pressure, (4) the investigation of plasma interaction with radio frequency waves, and (5) the study and control of particle transport and exhaust in plasmas.

Program Contact: (301) 903–4095.

(b) Technology Division

This Division seeks to develop the technology knowledge base needed to advance the Fusion Energy Sciences program toward its goals. The Division's science-oriented goal is to provide the technologies that are required to successfully design, build, and operate near-term experiments aimed at producing, understanding, and optimizing the fusion energy process. The Division's energy-oriented goal is to develop the technologies that will be needed in the long-term for an economically and environmentally attractive fusion energy source. These goals are pursued through multi-institutional domestic programs and international collaboration partnerships that are centered around U.S. participation in the Engineering Design Activities for a long-pulse burning plasma experiment—the International Thermonuclear Experimental Reactor (ITER).

Program Contact: (301) 903–5378.

5. Biological and Environmental Research Program

The goals of the Biological and Environmental Research Program are as follows: (1) to provide, through basic and applied research, the scientific information required to identify, understand and anticipate the long-term health and environmental consequences of energy use and development; and (2) to utilize the Department's unique resources to solve major scientific problems in medicine, biology and the environment. Goals of the program are accomplished through the efforts of the following research program elements:

(a) Health Effects and Life Sciences Research

This is a broad program of basic and applied biological research. The objectives are: (1) to create and apply new technologies and resources in mapping, sequencing, and information management for characterizing the molecular nature of the human genome; (2) to develop and support DOE national user facilities for use in fundamental structural biology; (3) to use model organisms to understand human genome organization, human gene function and control, and the functional relationships between human genes and proteins; (4) to characterize and exploit the genomes and diversity of microbes with potential relevance for energy, bioremediation, or global climate; (5) to understand and characterize the risks to human health from exposures to low levels of radiation and chemicals; (6) to develop novel technologies for high throughput determination of protein structure; and (7) to anticipate and address ethical, legal, and social implications arising from genome research.

Program Contact: (301) 903–5468.

(b) Medical Applications and Measurement Science

The objectives of this program comprise the following areas: (1) to develop technologies for the beneficial applications of radiation and in vivo radiotracer detection in the study, diagnosis and treatment of human diseases and disorders; (2) to develop new instrumentation for biological and medical research; and (3) to develop new concepts and techniques for, detecting and measuring the hazardous agents of biochemical, physical and environmental consequences related to energy production.

Program Contact: (301) 903–3213.

(c) Environmental Remediation

The objectives of the program relate to environmental processes affected by energy production and use. The program develops information on the physical, chemical and biological processes that cycle and transport energy-related material, particularly contaminates that arose during nuclear weapons production, through the Earth's surface and subsurface. Emphasis is put on the development of a strong basis for understanding and implementing the appropriate and efficient use of bioremediation, particularly at the Department's sites.

Program Contact: (301) 903–3281.

(d) Environmental Processes

This program addresses global environmental change from increases in atmospheric carbon dioxide and other greenhouse gases. The scope of the global change program encompasses the carbon cycle, climate modeling and diagnostics, atmospheric sciences and meteorology, ecosystem responses, and impacts on resources. The role of clouds and radiation in climate prediction is a particular emphasis.

Program Contact: (301) 903–3281.

6. Energy Research Analyses

This program supports energy research analyses of the Department's basic and applied research activities. Specific objectives include assessments to identify any duplication or gaps in scientific research activities, and impartial and independent evaluations of scientific and technical research efforts.

Program Contact: (202) 586–7021

Issued in Washington, D.C., on October 15, 1997.

John Rodney Clark,

Associate Director for Resource Management, Office of Energy Research.

[FR Doc. 97–28912 Filed 10–30–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR98–1–000]

ARCO Products Company, a Division of Atlantic Richfield Company, Texaco Refining and Marketing Inc. and Mobil Oil Corporation, Complainants v. SFPP, L.P., Respondent; Notice of Complaint

October 27, 1997.

Take notice that on October 22, 1997, pursuant to Rule 206 of the Rules of Practice and Procedure of the Commission, 18 CFR 385.206, Sections 9, 13, and 15 of the Interstate Commerce Act, (ICA) 49 U.S.C. app. §§ 9, 13, and 15 (1994), and Section 1803 of the

Energy Policy Act of 1992, ARCO Products Company, a Division of Atlantic Richfield Company, (ARCO), Texaco Refining and Marketing Inc. (Texaco), and Mobil Oil Corporation (Mobil) (jointly referred to as Complainants) have filed a Complaint against SFPP, L.P. (SFPP).

Complainants challenge all of the jurisdictional interstate rates and charges of SFPP, whether "gathering," "trunkline," or some other classification, including those contained in SFPP FERC Tariff Nos. 17, 25, 26, and 27 (and any predecessors or successors to these tariffs), in addition to presently untariffed charges exacted by SFPP that are properly subject to the Commission's jurisdiction under the ICA.

Complainants assert that SFPP violated and continues to violate Sections 1(5), 2, 3(1), 4, 6, and 8 of the ICA by:

(a) Establishing and charging unjust and unreasonable rates for its jurisdictional services;

(b) Charging unduly discriminatory or preferential rates and charges for its jurisdictional services; and

(c) Assessing untariffed rates and charges for jurisdictional interstate services. 49 U.S.C. app. §§ 1(5), 2, 3(1), 4, 6, and 8 (1994).

Complainants request that SFPP be ordered to reduce its rates and pay refunds, reparations, damages, and attorneys' fees in accordance with the ICA, including Sections 8, 9, 15, and 16 of the ICA, and such other relief as may be appropriate in this proceeding.

Any person desiring to be heard or to protest said complaint should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214, 385.211. All such motions or protests should be filed on or before November 21, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. Answers to this complaint shall be due on or before November 21, 1997.

Lois D. Cashell,

Secretary.

[FR Doc. 97–28843 Filed 10–30–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–886–000]

Brooklyn Navy Yard Cogeneration Partners, L.P.; Notice of Issuance of Order

October 28, 1997.

Brooklyn Navy Yard Cogeneration Partners, L.P. (Brooklyn) filed an application for authorization to sell power at market-based rates, and for certain waivers and authorizations. In particular, Brooklyn requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by Brooklyn. On October 15, 1997, the Commission issued an Order Conditionally Accepting for Filing Proposed Market-Based Rates (Order), in the above-docketed proceeding.

The Commission's October 15, 1997 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (D), (E), and (G):

(D) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Brooklyn should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(E) Absent a request to be heard within the period set forth in Ordering Paragraph (D) above, Brooklyn is hereby authorized, pursuant to section 204 of the FPA, to issue securities and assume obligations or liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Brooklyn, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(G) The Commission reserves the right to modify this other to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of Brooklyn's issuances of securities or assumptions of liabilities * * *.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is November 14, 1997.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 97–28897 Filed 10–30–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–38–000]

Colorado Interstate Gas Company; Notice of Request Under Blanket Authorization

October 27, 1997.

Take notice that on October 20, 1997, Colorado Interstate Gas Company (CIG), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP98–38–000 a request pursuant to Sections 157.205, and 157.212, of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to operate in interstate commerce the Big Thompson Delivery Point, previously constructed and operated to effectuate transportation services performed pursuant to Section 311 of the Natural Gas Policy Act (NGPA), under CIG's blanket certificate issued in Docket No. CP83–21–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

CIG seeks authority to operate the Big Thompson Delivery Point located in Weld County, Colorado. CIG states that it believes that it would experience no significant impact on its peak day or annual requirements resulting from the operation of the subject facilities in interstate commerce, and that operation other than strictly for Section 311 purposes can be performed without detriment or disadvantage to CIG's other existing customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 97–28838 Filed 10–30–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–40–000]

East Tennessee Natural Gas Company; Notice of Application

October 27, 1997.

Take notice that on October 20, 1997, East Tennessee Natural Gas Company (East Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP98–40–000 an application pursuant to Section 7(c) of the Natural Gas Act and Part 157 of the Commission's regulations for a certificate of public convenience and necessity authorizing East Tennessee to construct and operate facilities and uprate the operating pressure of portions of its system in order to provide additional capacity for the Roanoke Gas Company (Roanoke), all as more fully described in the application which is on file with the Commission and open to public inspection.

Specifically, East Tennessee proposes to construct and operate approximately 9.95 miles of 12-inch diameter loop pipeline on its 3300-line in Washington and Wythe Counties, Virginia and upsize the existing Solar Saturn turbine compressor at Compressor Station 3313 on the 3300 line in Wythe County, Virginia from a T–1200 model to a T–1600 model. East Tennessee also proposes to test various segments of its 3100 and 3300 lines in order to increase the Maximum Allowable Operating Pressure (MAOP).

East Tennessee says that the proposed facilities and uprating will create 10,300 dth per day of new firm capacity. East Tennessee has provided a precedent agreement with Roanoke Gas for 5,150 dth per day, for a term of 20 years. East Tennessee says that it will use the remaining 5,150 dth per day for system reliability and flexibility until it has sold the capacity on a firm basis.

East Tennessee proposes to charge its existing Part 284 rates under Rates Schedule FT–A. Further, East Tennessee requests that the Commission make a determination that the costs of the facilities and uprating will qualify for rolled-in rate treatment when East Tennessee files its next rate case.

East Tennessee estimates that the proposed facilities and uprating will cost $8,642,366 and says that the project will be financed with funds on hand and funds generated internally.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 17, 1997, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that approval for the proposed application is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for East Tennessee to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97–28839 Filed 10–30–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–42–000]

Florida Gas Transmission Company; Notice of Request Under Blanket Authorization

October 27, 1997.

Take notice that on October 21, 1997, Florida Gas Transmission Company (FGT), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251–1188, filed in Docket No. CP98–42–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to construct and operate a new delivery point in Hillsborough County, Florida for TECO Peoples Gas (TECO), under FGT's blanket certificate issued in Docket No. CP82–553–000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

FGT proposed to construct, operate, and own an additional delivery point for TECO at or near mile post 17.7 on its existing St. Petersburg/Sarasota Connector in Hillsborough County, Florida. FGT states that the subject delivery point will include a tap, minor connecting pipe, electronic flow measurement equipment, and any other related appurtenant facilities necessary for FGT to transport for and deliver to TECO up to 24,000 MMBtu per day and 8,760,000 MMBtu per year of natural gas. FGT states that TECO will reimburse FGT for the $67,000 estimated construction costs. FGT further states that TECO will construct, own, and operate the meter and regulation station.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for

authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 97–28841 Filed 10–30–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–2–110–001]

Iroquois Gas Transmission System, L.P.; Notice of Proposed Changes in FERC Gas Tariff

October 27, 1997.

Take notice that on October 21, 1997, Iroquois Gas Transmission System, L.P. (Iroquois) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Substitute Eighteenth Revised Sheet No. 4, with a proposed effective date of November 1, 1997.

Iroquois states that pursuant to Part 154 of the Commission's regulations and Section 12.3 of the General Terms and Conditions of its tariff, Iroquois is filing the referenced tariff sheet and supporting workpapers as part of its annual update of its Deferred Asset Surcharge to reflect the annual revenue requirement associated with its Deferred Asset for the amortization period commencing November 1, 1997.

Iroquois states that the substitute tariff sheet corrects an error contained in its original filing. The revised tariff sheet reflects an increase of $.0001 per Dth in Iroquois' effective Deferred Asset Surcharge for Zone 2 of $.0001 per Dth (from $.0006 to $.0007 per Dth), and an increase in the Inter-Zone surcharge of $.0001 per Dth (from $.0015 to $.0016 per Dth). Iroquois requests a waiver of Section 154.207 of the Commission's regulations to permit the tariff sheet to become effective on November 1, 1997.

Iroquois states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should filed a protest with the Federal Energy Regulatory Commission, 888 First Street, NE Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedures. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–28845 Filed 10–30–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–152–002]

Kansas Pipeline Company; Notice of Amendment to Application

October 27, 1997.

Take notice that on October 21, 1997, Kansas Pipeline Company, majority owner and operator of Riverside Pipeline Company, L.P. ("Kansas Pipeline"), 8325 Lenexa Drive, Suite 400, Lenexa, Kansas 66214, filed a letter and pro forma tariff sheets that propose to amend its application and proposed tariff that is the subject of the Commission's October 3, 1997 order in the above docketed proceeding, Kansas Pipeline Company, et. al., 81 FERC ¶ 61,005 (1997) (October 3 Order).

Specifically, these tariff sheets are designed to permit the certificate holder, Kansas Pipeline, to implement negotiated transportation rates with its customers pursuant to the Commission's Policy Statement on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines issued in Docket No. RM95–6–000, 74 FERC ¶ 61,076 (1996).

The pro forma tariff sheets filed by Kansas Pipeline propose negotiated rates for its two largest customers that, in the aggregate, account for approximately 99 percent of Kansas Pipeline's deliveries. For Western Resources, Inc., the negotiated rate is the outcome of a Settlement Agreement dated July 9, 1997 and finalized by an order of the Kansas Corporation Commission, a party to the Settlement Agreement. In the case of Missouri Gas Energy, a Division of Southern Union Company (MGE), the negotiated rate is that which is set forth in its Firm Gas Transportation Service Agreement with Kansas Pipeline dated February 24, 1995.

In the filed letter, Kansas Pipeline also seeks clarification as to whether the Commission's October 3 Order requires service to MGE to be implemented under the generally applicable rates, terms and conditions set forth in the tariff that is the subject of the October 3 Order, rather than pursuant to the parties' February 24, 1995 contract.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 10, 1997, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Kansas Pipeline to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97–28837 Filed 10–30–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–41–000]

Tennessee Gas Pipeline Company; Notice of Application

October 27, 1997.

Take notice that on October 20, 1997, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252–2511 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a meter station located in Butler County, Kentucky, all as more fully set forth in the application on file with the Commission and open to public inspection.

Tennessee proposes to abandon, partially by removal and partially in place, the Bowling Green Meter Station, which consists of a meter, piping and appurtenant facilities. It is stated that the facilities were installed in 1959 and are no longer needed, because a new meter station has been installed under Tennessee's automatic authorization to replace these facilities. It is asserted that the facilities proposed for abandonment are obsolete and that Tennessee has determined that upgrading the facilities would not be practical or cost effective. It is further asserted that the facilities have been inactive since April 1, 1997. It is estimated that the cost of removing the facilities would be $22,000. Tennessee states that the proposal would not result in the abandonment of service to any customer.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 17, 1997, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Tennessee to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97–28840 Filed 10–30–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–46–000]

Williston Basin Interstate Pipeline Company; Notice of Application to Amend Certificate

October 27, 1997.

Take notice that on October 23, 1997, Williston Basin Interstate Pipeline Company (Applicant), 200 North Third Street, Suite 300, Bismarck, North Dakota 58501, filed under Section 7(c) of the Natural Gas Act to amend the Certificate issued in Docket No. CP91–1897–000. Applicant requests authorization to delete a receipt point for Northern States Power Company (NSP) and reassign those Daily Receipt Quantities to a different receipts point currently in use. This change would apply to transportation service provided by Applicant to NSP under Rate Schedule X–13.

The present and proposed quantities at the affected receipt points in Mcf per day are as follows:

Receipt points	Present	Proposed
Lignite Plant, Burke County, ND	1,569	0
Many Islands Pipe Line-Portal, Burke County, ND	4,181	5,750

Any person desiring to be heard or to make any protest with reference to this application should on or before November 3, 1997, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Secretary.

[FR Doc. 97–28842 Filed 10–30–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER96–2778–000, et al.]

Union Electric Company, et al.; Electric Rate and Corporate Regulation Filings

October 24, 1997.

Take notice that the following filings have been made with the Commission:

1. Union Electric Company

[Docket No. ER96–2778–000]

Take notice that on October 6, 1997, Union Electric Company tendered for filing a Notice of Withdrawal of in the above-referenced docket.

Comment date: November 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. Wabash Valley Power Association, Inc. v. Northern Indiana Public Service Company, Inc.)

[Docket No. EL98–5–000]

Take notice that Wabash Valley Power Association, Inc. (Wabash Valley), on October 14, 1997, tendered for filing its complaint against Northern Indiana Public Service Company (NIPSCO) alleging that NIPSCO's transmission rates to Wabash Valley are excessive, unjust and unreasonable.

Comment date: November 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. New Century Services, Inc.

[Docket No. ER98–62–000]

Take notice that on October 7, 1997, New Century Services, Inc., on behalf of Cheyenne Light, Fuel and Power Company, Public Service Company of Colorado, and Southwestern Public Service Company tendered for filing a Service Agreement under their Joint Open Access Transmission Service Tariff for Non-Firm Transmission Service between Public Service Company of Colorado and Colorado Springs Utilities.

Comment date: November 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Southern Company Services, Inc.

[Docket No. ER98–63–000]

Take notice that on October 7, 1997, Southern Company Services, Inc.

(SCSI), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company (collectively referred to as Southern Companies) filed a service agreement under Southern Companies' Market-Based Rate Power Sales Tariff (FERC Electric Tariff, Original Volume No. 4) with the following entity: Constellation Power Source. SCSI states that the service agreements will enable Southern Companies to engage in short-term market-based rate sales to this customer.

Comment date: November 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. New Century Services, Inc.

[Docket No. ER98–65–000]

Take notice that on October 7, 1997, New Century Services, Inc., on behalf of Cheyenne Light, Fuel and Power Company, Public Service Company of Colorado, and Southwestern Public Service Company tendered for filing a Service Agreement under their joint Open Access Transmission Service Tariff for Firm Point-to-Point Transmission Service between Public Service Company of Colorado and Colorado Springs Utilities.

Comment date: November 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. South Carolina Electric & Gas Company

[Docket No. ER98–66–000]

Take notice that on October 7, 1997, South Carolina Electric & Gas Company (SCE&G), submitted service agreements establishing Williams Energy Services Company (WESC) and Entergy Services, Inc. (ENTERGY), as customers under the terms of SCE&G's Negotiated Market Sales Tariff.

SCE&G requests an effective date of one day subsequent to the filing of the service agreements. Accordingly, SCE&G requests waiver of the Commission's notice requirements. Copies of this filing were served upon WESC, ENTERGY and the South Carolina Public Service Commission.

Comment date: November 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Public Service Company of New Mexico

[Docket No. ER98–67–000]

Take notice that on October 7, 1997, Public Service Company of New Mexico (PNM), submitted for filing an executed service agreement for electric power and energy sales at negotiated rates, to Williams Energy Services Company, dated September 11, 1997, under the terms of PNM's Power and Energy Sales Tariff. PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Comment date: November 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. The United Illuminating Company

[Docket No. ER98–69–000]

Take notice that on October 7, 1997, The United Illuminating Company (UI), tendered for filing a Service Agreement, dated September 9, 1997, between UI and Constellation Energy Services, Inc. (Constellation), for non-firm point-to-point transmission service under UI's Open Access Transmission Tariff, FERC Electric Tariff, Volume No. 4, as amended.

UI requests an effective date of September 9, 1997, for the Service Agreement. UI served a copy of the filing upon Constellation and upon the Connecticut Department of Public Utility Control.

Comment date: November 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Commonwealth Edison Company

[Docket No. ER98–70–000]

Take notice that on October 7, 1997, Commonwealth Edison Company (ComEd), tendered for filing a letter agreement, dated June 19, 1997, between ComEd and the City of Batavia, Illinois (Batavia). The letter agreement provides for strengthening of present facilities to insure reliability of service to Batavia.

ComEd seeks an effective date of June 19, 1997 and, accordingly, seeks waiver of the Commission's notice requirements. Copies of the filing were served on Batavia and the Illinois Commerce Commission.

Comment date: November 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Southern California Edison Company

[Docket No. ER98–71–000]

Take notice that on October 7, 1997, Southern California Edison Company (Edison), tendered for filing executed umbrella Service Agreements (Service Agreements) with Koch Energy Trading, Cook Inlet Energy Supply, and Kansas City Power & Light Company for Point-To-Point Transmission Service under Edison's Open Access Transmission Tariff (Tariff).

Edison filed the executed Service Agreements with the Commission in compliance with applicable Commission regulations. Edison also submitted revised Sheet Nos. 165 and 166 (Attachment E) to the Tariff, which is an updated list of all current subscribers. Edison requests waiver of the Commission's notice requirement to permit an effective date of October 8, 1997 for Attachment E, and to allow the Service Agreements to become effective according to their terms.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: November 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Illinois Power Company

[Docket No. ER98–72–000]

Take notice that on October 7, 1997, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing a Power Sales Tariff, Service Agreement under which Southern Energy Trading & Marketing will take service under Illinois Power Company's Power Sales Tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of September 8, 1997.

Comment date: November 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Upper Peninsula Power Company

[Docket No. ER98–73–000]

Take notice that on October 7, 1997, Upper Peninsula Power Company, tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission service under its open access transmission service tariff for service to Minnesota Power & Light Company. UPPCO proposes to make the service agreement effective as of May 19, 1997.

Comment date: November 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. The Empire District Electric Company

[Docket No. ER98–74–000]

Take notice that on October 8, 1997, The Empire District Electric Company (EDE), tendered for filing a service agreement between EDE Engage US, L.P. providing non-firm point-to-point transmission service pursuant to the open access transmission tariff (Schedule OATS) of EDE.

EDE states that a copy of this filing has been served by mail upon Engage US, L.P., Coastal Tower, Nine Greenway Plaza, Houston, TX 77046–0995.

Comment date: November 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. The Empire District Electric Company

[Docket No. ER98–75–000]

Take notice that on October 8, 1997, The Empire District Electric Company (EDE), tendered for filing a service agreement between EDE Avista Energy providing non-firm point-to-point transmission service pursuant to the open access transmission tariff (Schedule OATS) of EDE.

EDE states that a copy of this filing has been served by mail upon Avista Energy, Three Riverway, Suite 300, Houston, TX 77056.

Comment date: November 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. The Empire District Electric Company

[Docket No. ER98–76–000]

Take notice that on October 8, 1997, The Empire District Electric Company (EDE), tendered for filing a service agreement between EDE and Entergy Power Marketing Corp., providing firm point-to-point transmission service pursuant to the open access transmission tariff (Schedule OATS) of EDE.

EDE states that a copy of this filing has been served by mail upon Entergy Power Marketing Corp., Parkwood Two Building, Suite 500, 10055 Grogan's Mill Road, The Woodlands, TX 77380.

Comment date: November 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. The Empire District Electric Company

[Docket No. ER98–77–000]

Take notice that on October 8, 1997, The Empire District Electric Company (EDE), tendered for filing a service agreement between EDE and e prime, Inc. Power Marketing providing non-firm point-to-point transmission service pursuant to the open access transmission tariff (Schedule OATS) of EDE.

EDE states that a copy of this filing has been served by mail upon e prime, Inc. Power Marketing, 1331 17th Street, Suite 601, Denver, CO 80202.

Comment date: November 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Illinois Power Company

[Docket No. ER98–78–000]

Take notice that on October 8, 1997, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm transmission agreements under which American Steel Foundries Division of Amsted Industries, Inc., will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of October 1, 1997.

Comment date: November 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Illinois Power Company

[Docket No. ER98–79–000]

Take notice that on October 8, 1997, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing non-firm transmission agreements under which Kansas City Power and Light Company will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of September 16, 1997.

Comment date: November 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. American Electric Power Service Corporation

[Docket No. ER98–80–000]

Take notice that on October 8, 1997, the American Electric Power Service Corporation (AEPSC), tendered for filing executed service agreements under the AEP Companies' Open Access Transmission Service Tariff. The Transmission Tariff has been designated as FERC Electric Tariff Original Volume No. 4, effective July 9, 1996. AEPSC requests waiver of notice to permit the Service Agreements to be made effective for service billed on and after September 10, 1997.

A copy of the filing was served upon the Parties and the State Utility Regulatory Commissions of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: November 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. Colt Electric Corp.

[Docket No. ER98–81–000]

Take notice that on October 8, 1997, Colt Electric Corp., (CEC) petitioned the Commission for acceptance of CEC Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission Regulations.

CEC intends to engage in wholesale electric power and energy purchases and sales as a marketer. CEC is not in the business of generating or transmitting electric power. CEC is a wholly-owned company.

Comment date: November 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. Wisconsin Public Service Corporation

[Docket No. ER98–82–000]

Take notice that on October 8, 1997, Wisconsin Public Service Corporation (WPSC), tendered for filing an executed Transmission Service Agreement between WPSC and Williams Energy Services Company, provides for transmission service under the Open Access Transmission Service Tariff, FERC Original Volume No. 11.

Comment date: November 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. Wisconsin Public Service Corporation

[Docket No. ER98–83–000]

Take notice that on October 8, 1997, Wisconsin Public Service Corporation (WPSC), tendered for filing executed Transmission Service Agreements between WPSC and Williams Energy Services Company. The Agreements provide for transmission service under the Open Access Transmission Service Tariff, FERC Original Volume No. 11.

Comment date: November 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. Pacific Gas and Electric Company

[Docket No. ER98–84–000]

Take notice that on October 8, 1997, Pacific Gas and Electric Company (PG&E), tendered for filing an agreement by and between PG&E and Constellation Power Source, Inc. (Constellation) entitled, Service Agreement for Non-Firm Point-to-Point Transmission Service (Service Agreement).

PG&E proposes that the Service Agreement become effective on September 23, 1997. PG&E is requesting any necessary waivers. Copies of this filing have been served upon the California Public Utilities Commission and Constellation.

Comment date: November 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

24. MidAmerican Energy Company

[Docket No. ER98–85–000]

Take notice that on October 8, 1997, MidAmerican Energy Company

(MidAmerican), 666 Grand Avenue, Des Moines, IA 50303 submitted for filing with the Commission a Service Agreement dated September 22, 1997, with Union Electric Company (Union Electric) entered into pursuant to MidAmerican's Rate Schedule for Power Sales, FERC Electric Tariff, Original Volume No. 5 (Tariff).

MidAmerican requests an effective date of September 22, 1997, for this Agreement, and accordingly seeks a waiver of the Commission's notice requirement. MidAmerican has served a copy of the filing on Union Electric, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: November 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

25. Central Vermont Public Service Corporation

[Docket No. ER98–86–000]

Take notice that on October 8, 1997, Central Vermont Public Service Corporation (Central Vermont), tendered for filing a Service Agreement with Tractebel Energy Marketing, Inc. under its FERC Electric Tariff No. 5. The tariff provides for the sale by Central Vermont of power, energy, and/or resold transmission capacity at or below Central Vermont's fully allocated costs.

Central Vermont requests waiver of the Commission's Regulations to permit the service agreement to become effective on October 1, 1997.

Comment date: November 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

26. Ohio Edison Company and Pennsylvania Power Company

[Docket No. ER98–162–000]

Take notice that on October 15, 1997, Ohio Edison Company and Pennsylvania Power Company (collectively, OES) submitted forms of Service Agreement for Network Integration Service Under Pennsylvania Retail Access Pilot (Agreement). The Agreement is consistent with the OES Open Access Transmission Tariff which had been submitted for filing to the Federal Energy Regulatory Commission in Docket No. OA96–197–000. The proposed effective date for the Agreement is November 1, 1997.

Copies of the filing have been provided to the Pennsylvania Public Utility Commission.

Comment date: November 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

27. Allegheny Power Service Corporation on behalf of Monongahela Power Co., The Potomac Edison Company, and West Penn Power Co. (Allegheny Power), Pennsylvania Public Utility Commission

[Docket No. ER98–220–000 and Docket No. EL98–3–000]

Take notice that on October 9, 1997, the Pennsylvania Public Utility Commission tendered for filing a petition requesting expedited consideration of Retail Transmission Supplement to Allegheny Power's Pro Forma Open Access Transmission Tariff.

Comment date: November 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

28. PacifiCorp

[Docket No. ES83–28–001]

Take notice that on October 20, 1997, PacifiCorp (the Company) filed its application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, seeking an order amending its authority to the Commission Order issued March 18, 1983, in the Docket No. ES83–28–000, enter into a loan agreement with certain subsidiaries. The Company is requesting authority to borrow from its subsidiaries and issue promissory notes to its subsidiaries without limitation provided that such borrowing bear interest at rates which do not exceed the interest rates which the Company would otherwise incur externally. The other terms and conditions would remain the same.

Comment date: November 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

29. LUZ Solar Partners VIII, Ltd.

[Docket No. QF88–470–006]

On October 9, 1997, LUZ Solar Partners VIII, Ltd., (Applicant) a California limited partnership, c/o Prentice-Hall Corporate Services, 5670 Wilshire Boulevard, Suite No. 750, Los Angeles, California 90036 submitted for filing an application for recertification of a facility as a qualifying small power production facility pursuant to Section 292.207(b) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

According to the applicant, the small power production facility, using solar energy as its primary energy source, is located approximately 12 miles due east of Kramer Junction, California, 25 miles west-northwest of Bartow, California, and six miles north of California Highway 58, on Harper Lake Road. The facility consists of a solar collector field of approximately 852 solar collector assemblies, a solar-fired superheater unit, a solar-fired reheat unit, a natural gas-fired heat transfer fluid heater, and a steam turbine-generator generating a net capacity of 80 MW. The facility is interconnected with and sells power to Southern California Edison Company. The Commission previously certified the facility as a small power production facility, *LUZ Solar Partners VIII, Ltd.*, 50 FERC ¶ 62,141 (1990), and *LUZ Solar Partners VIII, Ltd.*, 45 FERC ¶ 62,261 (1988). Notices of self-recertification were filed on February 14, 1991, May 20, 1992, and February 15, 1994. The instant application for recertification is due to a proposed change in the ownership of the facility.

Comment date: November 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

30. New Century Services, Inc.

[Docket No. ER98–61–000]

Take notice that on October 7, 1997, New Century Services, Inc., on behalf of Cheyenne Light, Fuel and Power Company, Public Services Company of Colorado, and Southwestern Public Service Company tendered for filing a Service Agreement under their Joint Open Access Transmission Service Tariff for Non-Firm Point-to-Point Transmission Service between Public Service Company of Colorado and NP Energy, Inc.

Comment date: November 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–28899 Filed 10–30–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC98–8–000, et al.]

Wisconsin Energy Corporation and ESELCO, Inc., et al.; Electric Rate and Corporate Regulation Filings

October 27, 1997.

Take notice that the following filings have been made with the Commission:

1. Wisconsin Energy Corporation and ESELCO, Inc.

[Docket No. EC98–8–000]

Take notice that on October 22, 1997, Wisconsin Energy Corporation ("WEC") and ESELCO, Inc. ("ESELCO"), on behalf of themselves and their jurisdictional subsidiaries [1] (collectively "Applicants"), tendered for filing pursuant to Section 203 of the Federal Power Act (the "FPA"), 16 U.S.C. § 824b (1994) and Part 33, 18 CFR 33.1–33.10, and Section 2.26, 18 CFR 2.26, of the regulations of the Federal Energy Regulatory Commission (the "Commission"), an Application for Approval of Merger and Related Authorizations ("Application").

The merger is structured so that ESL Acquisition, Inc., a new WEC subsidiary created solely to effectuate the merger, will be merged into ESELCO, making ESELCO a wholly-owned subsidiary of WEC. Under the new corporate structure, Wisconsin Electric and ESELCO will be separate, first-tier subsidiaries of WEC, and they will retain their corporate existence. Wisconsin Electric and Edison Sault will each retain their own identities as public utilities and their current service territories. Wisconsin Electric and Edison Sault will continue to operate independently, but Applicants have proposed a single-system open access transmission tariff.

The Applicants state that they have submitted the information required by Part 33 of the Commission's regulations and by the Commission's Inquiry Concerning the Commission's Merger Policy Under the Federal Power Act; Policy Statement, Order No. 592, FERC Stats. & Regs. ¶ 31,044 (1996), order on reconsideration, Order No. 592-A, 79 FERC ¶ 61,321 (1997), in support of the application. Applicants represent that copies of the Application and related testimony and exhibits have been served by overnight delivery on each of WEC's and ESELCO's wholesale customers, on the Michigan Public Service Commission and the Public Service Commission of Wisconsin, and on other parties likely to be interested.

Comment date: December 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

[1] The FERC jurisdictional subsidiaries of WEC are Wisconsin Electric Power Company ("Wisconsin Electric") and Griffin Energy Marketing, L.L.C. ("Griffin"), a power marketer. Griffin is a wholly-owned subsidiary of WISVEST Corporation, which, like Wisconsin Electric, is a wholly-owned subsidiary of WEC. The FERC jurisdictional subsidiary of ESELCO is Edison Sault Electric Company ("Edison Sault").

2. Edison Sault Electric Company and ESEG, Inc.

[Docket No. EC98–9–000]

Take notice that on October 22, 1997, ESEG, Inc. ("ESEG") and Edison Sault Electric Company ("Edison Sault") jointly filed an application pursuant to Section 203 of the Federal Power Act requesting authorization to merge ESEG into Edison Sault contingent upon the Federal Energy Regulatory Commission's approval of the proposed merger between Wisconsin Energy Corporation and ESELCO, Inc. Edison Sault and ESEG are wholly-owned subsidiaries of ESELCO, Inc.

Comment date: December 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Citizens Power LLC

[Docket No. EC98–10–000]

Take notice that on October 23, 1997, Citizens Power LLC led an application for an order authorizing the proposed transfers of (1) 98% equity interests in each of CL Power Sales Three, L.L.C., CL Power Sales Four, L.L.C., and CL Power Sales Five, L.L.C. from Citizens Power L.L.C. to Citizens Power Sales, and (2) 1% equity interests in each of CL Power Sales Three, L.L.C., CL Power Sales Four, L.L.C., and CL Power Sales Five, L.L.C. from CL Funding L.L.C. to Citizens Power Sales. Citizens Power Sales, CL Funding L.L.C., CL Power Sales Three, L.L.C., CL Power Sales Four, L.L.C., and CL Power Sales Five, L.L.C. are all direct or indirect subsidiaries or affiliates of Citizens Power LLC.

Comment date: November 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Coral Power, L.L.C.

[Docket Nos. EC98–11–000 and ER98–25–008]

Take notice that Coral Power, L.L.C., a broker and marketer of electric power, filed on October 23, 1997, a request for approval of the disposition of jurisdictional assets that may result from the merger of Coral's affiliates, Shell Oil Company and Tejas Gas Corporation, and a notice of change in status relating to that merger.

Comment date: November 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. LG&E Energy Marketing Inc.

[Docket No. ER94–1188–018]

On October 9, 1997, LG&E Energy Marketing Inc. ("LEM"), formerly known as LG&E Power Marketing Inc., filed a notification of a change in status to reflect the proposed merger of LEM's parent, LG&E Energy Corp., with KU Energy Corporation, the parent of Kentucky Utilities Company.

Comment date: November 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Public Service Company of Colorado

[Docket No. ER98–713–001]

Take notice that on October 3, 1997, Public Service Company of Colorado filed amendments to the agreements with its wholesale customers and a Service Agreement for Network Transmission Service, all to comply with the Commission's letter-order issued June 13, 1997, in *Public Service Company of Colorado*, 79 FERC ¶ 61,343 (1997).

Copies of the filing have been served on the affected customers and on the Public Utilities Commission of the State of Colorado.

Comment date: November 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Tampa Electric Company

[Docket Nos. ER97–4195–000, ER97–4390–000, ER97–4570–000 and ER97–4571–000 (Not Consolidated)]

Take notice that on October 14, 1997, Tampa Electric Company (Tampa Electric) amended its filings in the above-referenced dockets by submitting amendments to its contracts for the purchase and sale of power and energy with The Energy Authority, Inc. (TEA), Sonat Power Marketing L.P. (Sonat), LG&E Energy Marketing Inc. (LG&E Energy), and PECO Energy Company—Power Team (PECO).

Tampa Electric proposes that the amendments be made effective concurrently with the contracts on August 18 (TEA), September 1 (Sonat), and September 15 (LG&E Energy and PECO), and therefore requests waiver of the Commission's notice requirement.

Copies of the amendatory filing were served on TEA, Sonat, LG&E Energy, PECO, and the Florida Public Service Commission.

Comment date: November 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. The Washington Water Power Company

[Docket No. ER97–4350–000]

Take notice that on October 20, 1997, The Washington Water Power Company ("WWP") tendered for filing with the Federal Energy Regulatory Commission an amendment in the above-referenced docket, amending a Service Agreement for Firm Point-To-Point Transmission Service with Duke Energy Trading and Marketing.

Comment date: November 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Rochester Gas and Electric Corporation

[Docket No. ER97–4382–000]

Take notice that on October 21, 1997, Rochester Gas and Electric Corporation (RG&E) tendered for filing an amendment to its filing in the above-referenced proceeding.

RG&E requests waiver of the Commission's sixty (60) day notice requirements and an effective date of August 20, 1997 for the Pennsylvania Power & Light Company Service Agreement.

Copies of this filing have been sent to PP&L and the New York Public Service Commission.

Comment date: November 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. PowerCom Corporation

[Docket No. ER97–4364–000]

Take notice that on October 20, 1997, PowerCom Corporation (PC) filed a supplement to its application for market-based rates as power marketer. The supplemental information pertains to the owners and affiliates of PC. PC is owned by a group of individuals who engage in the purchase of electricity along with other communications and utilities services and resell them to wholesale and retail customers. They have no affiliates.

Comment date: November 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Central Vermont Public Service Corporation

[Docket No. ER98–87–000]

Take notice that on October 8, 1997, Central Vermont Public Service Corporation ("Central Vermont"), tendered for filing a Service Agreement with New Energy Ventures, Inc. under its FERC Electric Tariff No. 5. The tariff provides for the sale by Central Vermont of power, energy, and/or resold transmission capacity at or below Central Vermont's fully allocated costs.

Central Vermont requests waiver of the Commission's regulations to permit the service agreement to become effective on October 1, 1997.

Comment date: November 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Central Vermont Public Service Corporation

[Docket No. ER98–88–000]

Take notice that on October 8, 1997, Central Vermont Public Service Corporation ("Central Vermont"), tendered for filing a Service Agreement with NP Energy Inc. under its FERC Electric Tariff No. 5. The tariff provides for the sale by Central Vermont of power, energy, and/or resold transmission capacity at or below Central Vermont's fully allocated costs.

Central Vermont requests waiver of the Commission's regulations to permit the service agreement to become effective on October 1, 1997.

Comment date: November 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. New York State Electric & Gas Corporation

[Docket No. ER98–90–000]

Take notice that on October 8, 1997, New York State Electric & Gas Corporation ("NYSEG"), filed a Service Agreement between NYSEG and The Dayton Power and Light Company ("Customer"). This Service Agreement specifies that the Customer has agreed to the rates, terms and conditions of the NYSEG open access transmission tariff filed and effective on June 11, 1997, in Docket No. OA97–571–000.

NYSEG requests waiver of the Commission's sixty-day notice requirements and an effective date of October 9, 1997 for the Dayton Power and Light Company Service Agreement. NYSEG has served copies of the filing on The New York State Public Service Commission and on the Customer.

Comment date: November 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Idaho Power Company

[Docket No. ER98–91–000]

Take notice that on October 8, 1997, Idaho Power Company (IPC), tendered for filing with the Federal Energy Regulatory Commission a Service Agreement under Idaho Power Company FERC Electric Tariff, Second Revised, Volume No. 1 between Mason #3 Public Utility District and Idaho Power Company.

Comment date: November 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Montaup Electric Company

[Docket No. ER98–92–000]

Take notice that on October 7, 1997, Montaup Electric Company ("Montaup") filed a revised Appendix IV to its FERC Electric Tariff, Original Volume No. IV, for system power sales. The changes consist of (a) the replacement of a fixed revenue requirement with a formula rate and (b) provisions for a pass-through of any NEPOOL charges for ancillary service that NEPOOL does not charge directly to the customer.

Montaup requests a waiver of the notice requirement so that this filing may be allowed to become effective on July 1, 1997.

Comment date: November 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Wisconsin Electric Power Company

[Docket No. ER98–93–000]

Take notice that on October 8, 1997, Wisconsin Electric Power Company ("Wisconsin Electric"), tendered for filing an addition to its FERC Electric Tariff, Volume No. 7. The proposed Attachment J would establish a redispatch protocol that describes how Wisconsin Electric would bill its transmission service customers when making additional transmission capability available by altering its generation dispatch. Wisconsin Electric acknowledges that application of Attachment J would require a subsequent rate filing with the Commission.

Wisconsin Electric also submits a revision to Section 17.3 of its transmission service tariff that allows it to waive, in certain circumstances, the deposit requirement that applies to applications for firm point-to-point transmission service.

Wisconsin Electric respectfully requests an effective date of sixty days after filing.

Copies of the filing have been served on all transmission service customers, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: November 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Central Power and Light Company; West Texas Utilities Company

[Docket No. ER98–94–000]

Take notice that on October 8, 1997, Central Power and Light Company (CPL) and West Texas Utilities Company (WTU) submitted for filing thirty-four (34) executed Delivery Point and Service Specifications sheets providing for various minor changes to the Service Agreements between WTU and nine of its wholesale customers: Brazos Electric Cooperative, Inc., Coleman County Electric Cooperative, Inc., Concho Valley Electric Cooperative, Inc., Greenbelt Electric Cooperative, Inc., Lighthouse Electric Cooperative, Inc., Midwest Electric Cooperative, Inc., Southwest Texas Electric Cooperative, Inc., Stamford Electric Cooperative, Inc. and Taylor Electric Cooperative, Inc. executed under WTU's FERC Electric Tariff, Original Volume No. 1 and a minor change to the Service Agreement between CPL and one of its full requirements wholesale customers, Medina Electric Cooperative, Inc., executed under CPL's FERC Electric Tariff, 6th Revised Volume No. 1.

CPL and WTU state that copies of the filing have been sent to the Public Utility Commission of Texas and the affected full-requirements wholesale customers.

Comment date: November 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Illinois Power Company

[Docket No. ER98–95–000]

Take notice that on October 9, 1997, Illinois Power Company ("Illinois Power"), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm and non-firm transmission agreements under which QST Energy Trading Inc. will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of October 1, 1997.

Comment date: November 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. Virginia Electric and Power Company

[Docket No. ER98–96–000]

Take notice that on October 9, 1997, Virginia Electric and Power Company (Virginia Power), tendered for filing the Service Agreement between Virginia Electric and Power Company and Market Responsive Energy, Inc. under the Power Sales Tariff to Eligible Purchasers dated May 27, 1994, as revised on December 31, 1996 (Tariff). Under the tendered Service Agreement, Virginia Power agrees to provide services to Market Responsive Energy, Inc. under the rates, terms and conditions of the applicable Service Schedules included in the Tariff. Virginia Power requests an effective date of September 12, 1997 for the Service Agreement.

Copies of the filing were served upon Market Responsive Energy, Inc., Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: November 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. Virginia Electric and Power Company

[Docket No. ER98–97–000]

Take notice that on October 9, 1997, Virginia Electric and Power Company (Virginia Power), tendered for filing Service Agreements for Non-Firm Point-to-Point Transmission Service with EnerZ Corporation, a subsidiary of the Zeigler Holding Co. and Market Responsive Energy, Inc. under the Open Access Transmission Tariff to Eligible Purchasers dated July 9, 1996. Under the tendered Service Agreement, Virginia Power will provide non-firm point-to-point service to the Transmission Customers under the rates, terms and conditions of the Open Access Transmission Tariff.

Copies of the filing were served upon EnerZ Corporation, Market Responsive Energy, Inc., the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: November 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. Southern California Edison Company

[Docket No. ER98–98–000]

Take notice that on October 9, 1997, Southern California Edison Company (Edison), tendered for filing a Notice of Cancellation of FERC Rate Schedule No. 247.38, FERC Rate Schedule No. 247.39, and all supplements thereto.

Edison requests that this cancellation become effective September 30, 1997.

Comment date: November 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. Illinois Power Company

[Docket No. ER98–100–000]

Take notice that on October 9, 1997, Illinois Power Company ("Illinois Power"), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing a Power Sales Tariff, Service Agreement under which EnerZ Corporation will take service under Illinois Power Company's Power Sales Tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of September 10, 1997.

Comment date: November 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. Illinois Power Company

[Docket No. ER98–101–000]

Take notice that on October 9, 1997, Illinois Power Company ("Illinois Power"), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing a Power Sales Tariff, Service Agreement under which USGen Power Services, L.P. will take service under Illinois Power Company's Power Sales Tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of September 10, 1997.

Comment date: November 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

24. Current Energy, Inc.

[Docket No. ER98–102–000]

Take notice that on October 9, 1997, Current Energy, Inc. ("Current") petitioned the Commission for acceptance of Current Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain commission regulations.

Current intends to engage in wholesale electric power and energy purchases and sales as a marketer. Current is not in the business of generating or transmitting electric power. Current is an independent corporation. Affiliates under control of one or more Current principals engage in general construction.

Comment date: November 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

25. New York State Electric & Gas Corporation

[Docket No. ER98–103–000]

Take notice that on October 9, 1997, New York State Electric & Gas Corporation ("NYSEG"), tendered for filing pursuant to Section 35 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 35 (1996), service agreements under which NYSEG may provide capacity and/or energy to Central Maine Power Company ("CMP"), Constellation Power Source, Inc. ("Constellation"), Market Responsive Energy, Inc. ("MRE"), Minnesota Power & Light Company ("Minnesota"), and Strategic Energy Ltd. ("SEL")(collectively, the "Purchasers") in accordance with NYSEG's FERC Electric Tariff, Original Volume No. 1.

NYSEG has requested waiver of the notice requirements so that the service agreements with CMP, Constellation, MRE, Minnesota, and SEL become effective as of October 10, 1997.

The Service Agreements are subject to NYSEG's Application for Approval of Corporate Reorganization which was filed with the Commission on September 1, 1997 and was assigned Docket No. EC97–52–000.

NYSEG has served copies of the filing upon the New York State Public Service Commission, CMP, Constellation, MRE, Minnesota, and SEL.

Comment date: November 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

26. Ohio Edison Company; Pennsylvania Power Company

[Docket No. ER98–104–000]

Take notice that on October 9, 1997, Ohio Edison Company tendered for filing on behalf of itself and Pennsylvania Power Company, a Service Agreement for Non-Firm Point-to-Point Transmission Service with Williams Energy Services Company and Ohio Edison Company pursuant to Ohio Edison's Open Access Tariff. This Service Agreement will enable the parties to obtain Non-Firm Point-to-Point Transmission Service in accordance with the terms of the Tariff.

Comment date: November 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

27. Fall River Rural Electric Cooperative, Inc.

[Docket No. ER98–105–000]

Take notice that on October 9, 1997, Fall River Rural Electric Cooperative, Inc. (Fall River) submitted for filing pursuant to 205 of the Federal Power Act (FPA), 16 U.S.C. 824d, and 35.12 of the Regulations of the Federal Energy Regulatory Commission (Commission), 18 CFR 35.12 (1966), three rate schedules for wholesale sales or for transmission services that Fall River provides to third parties and one certificate of concurrence by Fall River in a rate schedule of another public utility that was previously submitted to and accepted by the Commission. The three rate schedules and the certificate of concurrence are the following: Emergency Interconnection Agreement Between Fall River, and PacifiCorp; Lease Agreement Between Fall River and Bonneville Power Administration (BPA); Lease and Assignment Agreement—Felt Project Between Fall River and Bonneville Pacific Corporation, as assigned to CDM Hydroelectric Company; and, Fall River's certificate of concurrence in the Transmission Service and Interconnection Agreement Between PacifiCorp Electric Operations, Fall River, and Marysville Hydro Partners (Marysville) (PacifiCorp Rate Schedule No. 322). Fall River's filing is available for public inspection at its offices in Ashton, Idaho. Fall River requests that the Commission accept the Service Agreements with an effective date of March 20, 1996.

Fall River also submitted for informational purposes, or for acceptance and termination, two additional agreements, which are as follows: Interconnection Agreement Executed by Fall River Rural Electric Cooperative, Inc., and Buffalo Hydro, Inc.; and Transmission Agreement Providing Transmission Services for the Transfer of Power from the Buffalo Hydroelectric Project No. 1413 to PacifiCorp. Fall River also requests that these two agreements have an effective date of March 20, 1996, if accepted, and that they be terminated as of September 24, 1997.

Comment date: November 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

28. West Texas Utilities Company

[Docket No. ER98–106–000]

Take notice that on October 9, 1997, West Texas Utilities Company ("WTU"), submitted for filing a Power Supply Agreement ("PSA"), dated August 25, 1997, between WTU and the City of Hearne, Texas ("Hearne"). Under the PSA, WTU will supply Hearne's full-requirements for electric power and energy, effective April 1, 1998.

WTU requests an effective date of October 1, 1997 for the PSA and, accordingly, requests waiver of the Commission's notice requirements. Copies of this filing have been served on Hearne and the Public Utility Commission of Texas.

Comment date: November 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

29. Alabama Power Company

[Docket No. ER98–108–000]

Take notice that on October 9, 1997, Alabama Power Company filed Twenty-Ninth Revised Sheet No. 37 to its FERC Electric Tariff, Original Volume No. 1. The purpose of this filing is to give notice that, effective September 19, 1997, electric service to Black Warrior Electric Membership Corporation's new Mt. Sterling 115 kV delivery point was established.

A copy of the filing was served upon Black Warrior Electric Membership Corporation.

Comment date: November 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

30. Central Illinois Light Company

[Docket No. ER98–109–000]

Take notice that on October 9, 1997, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61602, on October 8, 1997, tendered for filing with the Commission a substitute Index of Point-To-Point Transmission Service Customers under its Open Access Transmission Tariff and service agreements for three new customers, Kansas City Power and Light Company, QST Energy Trading Inc., and Avista Energy, Inc.

CILCO requested an effective date of October 1, 1997.

Copies of the filing were served on the affected customers and the Illinois Commerce Commission.

Comment date: November 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

31. The Detroit Edison Company

[Docket No. ER98–110–000]

Take notice that on October 9, 1997, The Detroit Edison Company ("Detroit Edison"), filed a revised Power Sales Agreement between Detroit Edison and DTE Energy Trading, Inc. (the "Power Sales Agreement"), FERC Rate Schedule No. 33. The Power Sales Agreement has been revised in accordance with the order of the Federal Energy Regulatory Commission in *The Detroit Edison Company, et al.*, 80 FERC ¶61,348 (1997).

Comment date: November 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

32. Louisville Gas and Electric Company; Kentucky Utilities Company

[Docket No. ER98–111–000]

Take notice that on October 9, 1997, Louisville Gas and Electric Company ("LG&E") and Kentucky Utilities Company ("KU"), tendered for filing, pursuant to 18 CFR 35.13, three proposed new rate schedules titled "Power Supply System Agreement" ("PSSA"), and "Transmission Coordination Agreement ("TCA"). The PSSA provides the contractual basis for coordinated planning, operation and maintenance of the combined power supply systems of LG&E and KU. The TCA provides the contractual basis for coordinated planning, operation and maintenance of the combined transmission systems of LG&E and KU. In this connection, the PSSA and the TCA provide for the allocation between the Applicants of specified costs and benefits of coordinated operations.

Copies of the filing were served upon LG&E's and KU's jurisdictional customers, the Kentucky Public Service Commission, the Virginia State Corporation Commission, and the Tennessee Regulatory Authority.

Comment date: November 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

33. Northeast Utilities Service Company

[Docket No. ER98–112–000]

Take notice that on October 10, 1997, Northeast Utilities Service Company ("NUSCO"), tendered for filing, a Service Agreement with NP Energy, Inc. ("NPE") under the NU System Companies" System Power Sales/ Exchange Tariff No. 6.

NUSCO states that a copy of this filing has been mailed to NPE.

NUSCO requests that the Service Agreement become effective December 1, 1997.

Comment date: November 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

34. Northeast Utilities Service Company

[Docket No. ER98–113–000]

Take notice that on October 10, 1997, Northeast Utilities Service Company (NUSCO), on behalf of its operating affiliates, The Connecticut Light and Power Company, Western Massachusetts Electric Company, Holyoke Water Power Company, Holyoke Power and Electric Company and Public Service Company of New Hampshire, tendered for filing a Service Agreement with NP Energy, Inc. ("NPE") under the Northeast Utilities System Companies' Sale for Resale Tariff No. 7 Market Based Rates. NUSCO requests an effective date of December 1, 1997.

NUSCO states that a copy of its submission has been mailed or delivered to NPE.

Comment date: November 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

35. New England Power Company

[Docket No. FA96–53–001]

Take notice that on October 14, 1997, pursuant to an audit report issued by Commission Audit Staff, New England Power Company filed a plan to refund Spent Nuclear Fuel Disposal Costs to its customers under NEP's FERC Electric Tariff, Original Volume No. 1.

Comment date: November 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

36. Mark B. Grier

[Docket No. ID–3081–000]

Take notice that on October 17, 1997, Mark B. Grier (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director—Rochester Gas and Electric Corporation
Executive Vice President, Financial Management—The Prudential Insurance Company of America
Director—Prudential Securities Group, Inc.

Comment date: November 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

37. Kentucky Utilities Company

[Docket No. OA96–193–003]

Take notice that on September 8, 1997, Kentucky Utilities Company (KU) tendered for filing a list of KU's Transmission Service customers under its Transmission Services (TS) Tariff.

Comment date: November 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

38. Niagara Mohawk Power Corporation

[Docket No. OA96–194–003]

Take notice that on September 11, 1997, Niagara Mohawk Power Corporation made a filing in compliance with the Commission's order in Allegheny Power System, Inc. *et al.* issued July 31, 1997.

Comment date: November 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

39. Montana Power Company

[Docket No. OA96–199–002]

Take notice that on September 16, 1997, Montana Power Company tendered for filing in compliance to FERC orders dated December 18, 1996 and July 31, 1997 in Docket Nos. OA96–18–000, *et al.*, its FERC Electric Tariff, Second Revised Volume No. 5 ("Open Access Transmission Tariff").

Montana requests that the Commission accept the tariff for filing, effective as of September 15, 1997; and allow the tariff to supersede Montana's FERC Electric Tariff, First Revised Volume No. 5.

Comment date: November 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

40. Florida Power & Light Company

[Docket No. OA97–699–000]

Take notice that on September 8, 1997, Florida Power & Light Company ("FPL") tendered for filing various miscellaneous language changes to FPL's Open Access Transmission Tariff ("Tariff").

Comment date: November 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–28898 Filed 10–30–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Transfer of Licensee

October 27, 1997.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Transfer of Licenses.

b. *Projects Nos:* (1) 1855–018, (2) 1892–007, (3) 1904–026, (4) 2077–010, (5) 2323–029, and (6) 2868–006.

c. *Date filed:* October 15, 1997.

d. *Applicants:* New England Power Company and USGen New England, Inc.

e and f. *Name and Location of Projects:* (1) Bellows Falls: Connecticut River in Windham and Windsor Counties, Vermont, and Cheshire and Sullivan Counties, New Hampshire; (2) Wilder: Connecticut River in Windsor and Orange Counties, Vermont, and Grafton County, New Hampshire; (3) Vernon: Connecticut River in Windham County, Vermont, and Cheshire County, New Hampshire; (4) Fifteen Mile Falls: Connecticut River in Grafton and Coos Counties, New Hampshire, and Caledonia and Essex Counties, Vermont; (5) Deerfield River: Deerfield River in

Windham and Bennington Counties, Vermont, and Franklin and Berkshire Counties, Massachusetts; and (6) Bear Swamp: Deerfield River in Franklin and Berkshire Counties, Massachusetts.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contacts:*

Mr. Stanford L. Hartman, U.S. Generating Company, 7500 Old Georgetown Road, Bethesda, MD 20814, (301) 718–6816

Mr. Mark E. Slade, New England Power Company, 25 Research Drive, Westborough, MA 01582, (508) 389–2859.

i. *FERC Contact:* James Hunter, (202) 219–2839.

j. *Comment Date:* December 8, 1997.

k. *Description of Transfer:* Transfer of the licenses for these projects to USGen New England, Inc. is being sought in connection with the divestiture by New England Power Company of substantially all its generation resources.

1. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS" "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTESTS", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comment on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Lois D. Cashell,

Secretary.

[FR Doc. 97–28844 Filed 10–30–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Western Area Power Administration

Record of Decision for the Navajo Transmission Project (DOE/EIS–0231)

AGENCY: Western Area Power Administration, DOE.

ACTION: Record of Decision.

SUMMARY: Based upon the analysis and information contained in the Navajo Transmission Project (NTP) Draft and Final Environmental Impact Statements (EIS), the Department of Energy (DOE), Western Area Power Administration (Western), has decided that should the NTP be built, it should follow the preferred alternative described in the NTP Final EIS. This is the alternative identified in the EIS documents as the Kaibito 1 (K1) for the eastern half of the project area, and the Northern 1 West (N1W) for the western half. The K1 lies between the Shiprock Substation and either the Red Mesa, Copper Mine, or Moenkopi Substation sites. It parallels the existing Western 230-kilovolt (kV) Shiprock-to-Glen Canyon and 345-kV Glen Canyon-to-Pinnacle Peak transmission lines for most of its route. The N1W lies between the Moenkopi and Marketplace Substation sites and parallels an existing 500-kV transmission line for most of its route.

In making this decision, Western evaluated: (1) alternatives to the proposed project, and (2) alternatives that cover the reasonable range of options for siting and constructing a 500-kV transmission line. Western released the NTP Draft EIS in September 1996. The Notice of Availability for the Final EIS was published on August 8, 1997. This Record of Decision is pursuant to the Council on Environmental Quality regulations (40 CFR Parts 1500–1508), which implement the procedural provisions of the National Environmental Policy Act, and DOE's regulations (10 CFR Part 1021).

DATES: This decision will become effective October 31, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Nicholas Chevance, NTP EIS Project Manager, Corporate Services Office, Western Area Power Administration, 1627 Cole Boulevard, Golden, CO 80123–3398, (303) 275–1713.

SUPPLEMENTARY INFORMATION:

Background

Diné Power Authority (DPA), an enterprise of the Navajo Nation, requested assistance from Western in 1993 in planning for the construction, operation, and maintenance of a 500-kV transmission line from the Four Corners area in northwestern New Mexico across northern Arizona to a terminus in southern Nevada. As a Federal power marketing agency, Western is responsible for marketing and transmitting power from Federal power projects in the region. Since the 1960's, Western and its predecessor agency, the Bureau of Reclamation, have been assisting the Navajo Nation in meeting its energy needs through firm-energy agreements with the Navajo Tribal Utility Authority, a Navajo Nation enterprise providing utility services and various energy related projects. Western has provided technical assistance to DPA with the NTP, invested funds in the project, administered DOE grants to DPA for the project, and anticipates owning a portion of the NTP capacity commensurate with its final pro rata investment in the project.

The DPA proposal was developed in response to needs of the electric industry and of the Navajo Nation. These include the following:

- Relieve the constraints on the transmission of electricity west of the Four Corners area.
- Improve the operational flexibility and reliability of the extra-high-voltage transmission system in the region.
- Allow increased economical power transfers, sales, and purchases in the region.
- Improve economic conditions of the Navajo Nation.
- Facilitate the development of Navajo Nation energy resources and its participation in the electrical utility industry.

Western agreed to assist DPA in this endeavor by participating as the lead Federal agency for the preparation of the EIS. Federal involvement was provided because of the need to acquire rights-of-way across public lands, construction of the project could benefit Western and Western's customers, and because DOE supports the development of Native American energy programs pursuant to Title XXVI of the Energy Policy Act of 1992.

Development of Alternatives

The development of alternatives for the NTP EIS first focused on alternatives to the project proposed by DPA that might meet their needs. Six alternatives were developed: (1) achieve results through energy conservation and electric load management, (2) construct new generation facilities, (3) utilize the existing transmission system, (4) utilize alternative transmission technologies (different voltages, direct current versus alternating current, underground construction, and the use of new technologies), (5) no action, and (6) construct a new transmission line. The first four alternatives (1, 2, 3, and 4) were analyzed and found not to be responsive to the purpose and need for the project. While these would achieve some of the needs addressed by the proposal, none would satisfy all of them. Western then conducted a detailed analysis of the no action alternative and the proposed action alternative, which is to construct, operate, and maintain the transmission line. Western found that the no action alternative would not meet the needs addressed by the proposal.

For the proposed action alternative, several general alternative corridors (approximately 1,800 miles) were identified through a regional environmental feasibility study (June 1992) and introduced to agencies and the public during the scoping process for the EIS. This regional feasibility study evaluated the most reasonable means of placing a right-of-way corridor from proposed starting point to end point. It was assumed that to reduce impacts to all resources and issues associated with transmission line construction, paralleling an existing utility corridor was preferable. Therefore, the majority of routes explored in the environmental feasibility study paralleled other power lines, fiber optic cables and buried pipelines wherever possible.

Scoping and public outreach employed on this project were extensive. A Notice of Intent to prepare an EIS was published in the **Federal Register** on July 13, 1993, that announced the intent to conduct public meetings. A total of 17 meetings were held in the project area, in addition to several letters, fact sheets, media releases and notices posted on and off the Navajo Nation. These resulted in public input that led to the development of five issues of concern, which were addressed in the Draft EIS: (1) need for the project, (2) benefits of the project, (3) siting issues, (4) rights-of-way issues, and (5) health and safety issues.

Also, a non-environmental factor, the cost to construct, was tracked throughout the analysis to make sure that the environmental analysis was not leading to a solution that could not be accomplished. While this was not the deciding factor, the cost of constructing the project was monitored over the 4 years it has taken to reach a decision on the project and was considered in the determination of the final preferred alternative.

Through scoping, some alternative routes were eliminated and some were added, resulting in approximately 2,200 miles of alternative routes studied in detail for the EIS. The alternative routes were then systematically analyzed considering human, natural, and cultural environmental factors including, but not limited to, land use, socioeconomics, visual/aesthetics issues, human and animal health and safety, air and water quality issues, soil erodibility, and paleontological, biological and cultural resources. This analysis resulted in narrowing the number of alternative routes addressed in the EIS.

Description of Alternatives Evaluated in Detail

Once the scoping process was completed, resource inventories were conducted for each of the alternative routes to establish the baseline information from which to evaluate potential impacts. As inventory information was collected, a process was begun to sort this information and make decisions about further information needs. The interdisciplinary teams ranked the potential impacts for each alternative route in terms of the resources that might be impacted, the likely mitigation measures that would be required, and the residual impacts remaining after mitigation. The team then made decisions to eliminate routes with high potential for impacts. The results were then presented to the public during a set of 20 meetings held throughout the project area to obtain comments prior to preparing the Draft EIS.

The alternative routes finally addressed in the Draft EIS included four alternative routes in the eastern portion of the project area and six alternative routes in the western portion. The project area seemed naturally to split into halves, with different concerns and issues in the eastern portion than in the western portion. In the east, of major concern were those residual impacts associated with Navajo and Hopi traditional cultural places, and to a lesser degree, impacts to land use patterns, which is also related to traditional land uses. In the west, concerns centered around Hualapai traditional cultural places and land use, as well as visual impacts and impacts to historic resources.

These alternative routes were chosen for detailed analysis since they had minimal resource impacts. Impacts on visual resources could be mitigated to some degree. Other impacts are associated with Navajo and Hopi traditional cultural places in the Marsh Pass/Northern Black Mesa area, and to Hualapai traditional cultural places in the western portion of the project area. Because of the sensitivity of these resources, specific locations of these resources were not known. Zones of potential impacts were very general. The direct impacts associated with the environmentally preferred alternatives on specific resource locations, when known, can be lessened once engineering on a final route is completed.

The interdisciplinary team selected a single route in each half of the project area that avoided to the greatest degree possible impacts on these resources. The eastern alternative presented as the environmentally preferred alternative, the Kaibito 1 (K1) route, had the least amount of potential impacts on visual resources and Navajo and Hopi traditional cultural places. However, some impacts would result along a short segment of the proposed route in areas of new corridor (no existing transmission line) near Red Mesa, Black Mesa, Marsh Pass, and across the Kaibito Plateau. The Northern 1 West (N1W) route was chosen as the preferred alternative in the western half of the project area. Because of an issue associated with where the proposed line would cross the Colorado River, a termination at Marketplace was determined to be the least damaging. Therefore, this alternative would have no potential for significant impacts on resources.

Decision Process

Following the release of the Draft EIS in early October 1996, 44 public hearings were held throughout the project area, which included hearings held at each of the 36 Navajo chapters crossed by the alternative routes. Each of these hearings was preceded by public information meetings, where information on the project was presented and questions and comments by the public could be addressed. In addition, 13 written comments were submitted by the public, and 20 letters from the public and other agencies were

received. This information was summarized and addressed in the Final EIS, released to the public on August 8, 1997.

The verbal comments could be summarized into six issues of concern, expressed mainly but not exclusively by residents of the Navajo Nation. These were: (1) concerns over the distribution of project revenues to Navajo chapters, (2) concerns about extending the local electrical distribution system, (3) concerns for health and safety, (4) concerns over involving the public in the project status, (5) concerns over the acquisition of rights-of-way, and (6) concerns for employment opportunities. In addition, a few comments identified other issues.

Each of the concerns expressed orally or in writing was addressed in the Final EIS, by providing a reference to a previous discussion in the Draft EIS, by expanding on those previous discussions in the Final, and/or by providing new information. A standard answer was provided to each of the six issues discussed above, rather than respond individually to multiple questions on the same issues. Only one minor modification to the environmentally preferred alternative in the eastern half of the project area was presented in the Final EIS. This was in response to concerns expressed by the public during and immediately following the public meetings. Local land users in the Dennehotso, Arizona area expressed concerns over the preferred alternative passing through areas of dispersed but common use, though the alternative would not impact any residences directly. The route of the alternative was modified slightly to satisfy these concerns.

The Decision

Western has decided that should the NTP be built, it should follow the preferred alternative described in the NTP Final EIS. The project would satisfy the needs identified in the EIS: it would relieve the constraints on the transmission of electricity out of the region; it would improve the flexibility and reliability of the existing system; it would allow the economical transfer, sales, and purchases of power in the region; and it would provide an opportunity for the Navajo Nation to improve economic conditions. Based upon the information gathered throughout the EIS process, Western provided the public and the decisionmaker with complete information on the environmental impacts associated with the project. Western analyzed several alternatives to the proposed action in terms of their ability to satisfy the identified needs. Western then analyzed many routing alternatives in order to arrive at the least environmentally damaging alternative routes.

The following factors were taken into account in arriving at the preferred alternative: (1) environmental acceptability, (2) siting and permitting requirements that vary by land status (i.e., Federal, state, tribal, and local), (3) public and agency preferences, especially those of the Cooperating Agencies, (4) electrical system considerations such as power flow and the impacts on system interconnections, (5) engineering factors leading to an increase in costs, such as the length of route, construction difficulty, accessibility, extent of mitigation required, and the extent of design modifications needed for mitigation, (6) rights-of-way acquisition considerations, and (7) consideration of the statutory obligations of the permitting agencies.

In making this decision, Western believes that all practicable means to avoid or minimize significant impacts have been presented in the NTP EIS in the form of standard and specific mitigation measures.

The Kaibab National Forest; Bureau of Indian Affairs, Navajo and Phoenix Area Offices; Bureau of Land Management, Arizona State Office (representing the state BLM offices in Arizona, Nevada, and New Mexico); and the National Park Service, Colorado Plateau Systems Support Office, participated in the NTP EIS as Cooperating Agencies. In addition to the Federal agencies, the Hopi Tribe, Hualapai Tribe, and the Navajo Nation participated as Cooperating Agencies. These agencies and tribes have decisions to make concerning the granting of rights-of-way for the alignment described in the EIS, provided a Construction, Operation, and Maintenance Plan for the construction of the NTP, including a plan for all necessary environmental mitigation, is prepared and agreed upon by all parties.

Mitigation Action Plan

The Final EIS presents reasonable and practicable mitigation measures to reduce the severity of the impacts associated with construction of the line. The preferred action, given the analysis process and the proposed mitigation, will not have a significant impact on environmental factors, with the exception of the potential for impacts on visual resources and Hopi, Hualapai, and Navajo traditional cultural places as discussed above. Western will issue a Mitigation Action Plan (MAP), as required by DOE NEPA implementing procedures found at 10 CFR § 1021.331, at a later date. The MAP will detail the mitigation and monitoring required to reduce impacts to less than significant. Western's final decision is contingent upon the construction of the line consistent with the requirements of the MAP, and acceptance of the MAP by the Cooperating Agencies.

Dated: October 23, 1997.

Michael S. Hacskaylo,

Acting Administrator.

[FR Doc. 97–28910 Filed 10–30–97; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5486–6]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 OR (202) 564–7153.

Weekly receipt of Environmental Impact Statements

Filed October 20, 1997 Through October 24, 1997

Pursuant to 40 CFR 1506.9.

EIS No. 970405, Draft EIS, COE, FL, C–51 West End Flood Control Project, Implementation To Improve the Level of Flood Control, Central and Southern Florida Project, Palm Beach County, FL, Due: December 15, 1997, Contact: Bill Porter (904) 232–2259.

EIS No. 970406, Final EIS, AFS, MT, Lost Trail Ski Area Expansion Project, Implementation, New Master Development Plan, Bitterroot National Forest, Sula Ranger District, Ravalli County, MT, Due: December 01, 1997, Contact: Gina Owens (406) 821–3201.

EIS No. 970407, Final EIS, FAA, HI, Kahului Airport Master Plan Improvements, Implementation, Funding and Approval of Permits, Kahului, Maui County, HI, Due: December 01, 1997, Contact: David J. Welhouse (808) 541–1243.

EIS No. 970408, Draft EIS, FHW, IL, IL–315 Federal Aid Primary (FAP)/ (Illinois-336) Transportation Project, Construction from FAP 315, IL 336 (Southeast of Carthage) to US 136 (Just West of Midcomb), Funding, COE 404 Permit and NPDES Permit, Hancock and McDonough Counties, IL, Due: December 15, 1997, Contact: Ronald Marshall (217) 492–4600.

EIS No. 970409, Draft EIS, BLM, OR, Northeastern Oregon Assembled Land Exchange Resource Management Plan (RMP), Implementation, Site Specific, John Day, Umatilla, Granda Ronde, Power River Basins, Grant, Umatilla, Morrow, Wheeler, Baker, Wallowa and Union Counties, OR, Due: December 15, 1997, Contact: Dick Cosgriffe (541) 416–6731.

EIS No. 970410, Final Supplement, COE, NJ, Green Brook Sub-Basin Flood Control Plan, Updated Information Concerning a Revised Recommended Plan and Mitigation Plan, Implementation, Middlesex, Union and Somerset Counties, NJ, Due: December 01, 1997, Contact: William A. Richardson (212) 264–2199.

EIS No. 970411, Final EIS, TVA, AL, Bellefonte Nuclear Plant Conversion Project, Construction and Operation, NPDES Permit and COE Section 404 Permit, Tennessee River near Hollywood, AL, Due: December 01, 1997, Contact: Gregory L. Askew (423) 632–6416.

EIS No. 970412, Final EIS, GSA, OH, Voice of America Bethany Relay Station, Disposal and Reuse (VOA) Property for Public and/or Private Development, Union Township, Butler County, OH, Due: December 01, 1997, Contact: William Costa (617) 565–5696.

EIS No. 970413, Final EIS, NRCS, TX, Bexar-Medina-Atascosa Counties Water Conservation Plan, Renovation and Installation, Funding, Medina Lake, Bexar, Medina and Atascosa Counties, TX, Due: December 01, 1997, Contact: John P. Burt (254) 298–1214.

EIS No. 970414, Draft EIS, AFS, MT, Flathead National Forest, Management Direction Plan Related to Old Growth Forests, Forest Plan Amendment No. 21, Implementation, Flathead, Lake, Lincoln, Missoula and Lewis and Clark Counties, MT, Due: December 19, 1997, Contact: Jim Morrison (406) 758–5200.

EIS No. 970415, Final EIS, BLM, CA, Interlakes Special Recreation Management Area Plan, Implementation, Federal and Private Lands Issues, Shasta County, CA, Due: December 01, 1997, Contact: Eric Morgan (916) 224–2100. The US Department of Interior's, Bureau of Reclamation and National Park Service and the US Department of Agriculture's, Forest Service are Co-Lead Agencies for the above EIS.

Amended Notices

EIS No. 970290, Final EIS, FHW, CO, CO–82 Highway Transportation Project, Improvements to "Entrance to Aspen", Funding and COE Section 404 Permit, City of Aspen, Pitkin County, CO, Due: November 05, 1997, Contact: Ron Speral (303) 969–6737. Published FR 08–01–97—Review Period extended.

Dated: October 28, 1997.

William D. Dickerson,

Director, NEPA Compliance Division Office of Federal Activities.

[FR Doc. 97–28960 Filed 10–30–97; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5486–7]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared September 22, 1997 Through September 26, 1997 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 11, 1997 (62 FR 16154).

Draft EISs

ERP No. D–DOE–L08053–00 Rating LO, Lower Valley Transmission Project, Construction of a New 115 kV Transmission Line from Swan Valley Substation near Swan Valley, Special-Use-Permits, Bonneville and Teton Counties, ID and Teton County, WY.

Summary: Review of the Draft EIS has been completed and the project found to be satisfactory.

ERP No. D–FHW–K40221–CA Rating EO2, C–84—Realignment Project, Transportation Improvement between CA–84 from I–880 to CA–2389/Mission Blvd. Funding and COE Section 404 Permit, in the Cities of Fremont, Hayward and Union, Alameda County, CA.

Summary: EPA had environmental objections to the build alternatives based on concerns with the purpose and need, alternative analysis, impacts to water and air resources, and indirect and cumulative effects of the project. EPA suggested other alternatives be examined which also meet the stated purpose and need.

ERP No. D–FHW–K40226–CA Rating EC2, CA–37 Highway Improvement, Napa River Bridge to the existing Freeway Section of CA–37 that begins near Diablo Street, Funding and US Army COE Section 404 Permit Issuance, Vallejo, Solano County, CA.

Summary: EPA had environmental concerns regarding the cumulative impacts, mitigation for wetland impacts and CO hotspot analysis presented in the DEIS for the FHWA's CA–37 Improvement Project.

ERP No. D–GSA–L80016–WA Rating LO, Seattle New Federal Courthouse, Construction, King County, WA.

SUMMARY: EPA does not foresee having any environmental objections to the proposed project.

ERP No. D–JUS–K80035–CA Rating EC2, Service Processing Center (SPC) for Detainees, Construction and Operation, Possible Sites, Stockton and Tracy Sites, San Joaquin Counties, CA.

Summary: EPA expressed environmental concern regarding the air conformity analysis, potential water and waste water impacts and cumulative impact. EPA requested additional information on these issues.

ERP No. D–UAF–G11033–NM Rating EC2, Holloman Air Force Base, Proposed Expansion of German Air Force Operations, for the Beddown of 30 Aircrafts and Construction of Facilities for 640 Personnel, NM.

Summary: EPA expressed environmental concerns and requested additional information in the areas of environmental justice, and mitigation.

ERP No. D–UMC–K36048–CA Rating EC2, Santa Margarita River Flood Control Project (MILCON P–010) and Basilone Road Bridge Replacement Project (MILCON P–030), Construction and Operation, COE Section 404 Permit, Camp Pendleton, CA.

Summary: EPA had environmental concerns and requested additional information on the projects description, practicable least-damaging alternatives pursuant to the Clean Water Act 404(b)(1) Guidelines and biological resources, including wetlands mitigation.

Final EISs

ERP No. F–COE–L36110–WA, Cedar River Section 205 Flood Damage Reduction Plan, Implementation, Renton, King County, WA.

Summary: EPA had no objection to the preferred minimum dredging alternative. The final EIS is consistent with the draft.

ERP No. F–FHW–K40210–AZ, Pima Freeway—Loop 101, Construction, I–17 and Scottsdale Road, Funding, NPDES and COE Section 404 Permits, Maricopa County, AZ.

Summary: Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F–NRC–K01008–00, Crownpoint Uranium Solution Mining

Project, Construction and Operation, Leasing and Licensing, McKinley County, NM.

Summary: EPA continuous to express concern regarding pressure control of groundwater in old mine workings, hydrogeologic monitoring and aquifer testing and analysis, baseline water quality, injection well design, aquifer restoration, wildlife and mitigation, waste management and emergency response, and indemnification to the federal government by the project proponent.

ERP No. FS–AFS–L67028–AK, Kensington Venture Underground Gold Mine Project, Development, Construction and Operation, Operating Plan Approval, NPDES, Section 10 and 404 Permits, Tongass National Forest, Sherman Creek, City of Juneau, AK.

Summary: Review of the Final EIS has been completed and the project found to be satisfactory.

Dated: October 28, 1997.

William D. Dickerson,

Director, NEPA Compliance Division Office of Federal Activities.

[FR Doc. 97–28961 Filed 10–30–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5916–2]

Notice of Public Meeting on Notices of Data Availability for the Interim Enhanced Surface Water Treatment Rule and Stage 1 Disinfectants/ Disinfection Byproducts Rule

Notice is hereby given that the Environmental Protection Agency (EPA) is holding two public education meetings to provide information related to forthcoming Notices of Data Availability on the Interim Enhanced Surface Water Treatment Rule (IESWTR) and Stage 1 Disinfectants/Disinfection Byproducts Rule (D/DBPR) to be published in early November. The purpose of the meetings will be to discuss the content of these Notices, which includes the following: new data and information that the Agency has obtained and analyses that have been developed since the 1994 proposals of the IESWTR (59 FR 38832, July, 1994) and Stage 1 D/DBPR (59 FR 38668, July 29, 1994); information concerning recommendations of the Microbial-Disinfectants/Disinfection Byproducts (M–DBP) Advisory Committee (chartered in February 1997 under the Federal Advisory Committee Act) on key issues related to the proposal; and regulatory implications that flow from the new data and information. These meetings are not public hearings and EPA will not be accepting comments on the Notices of Data Availability at these meetings. Interested persons who wish to submit comments may do so during the 90 day public comment period described in the Notices.

The first public meeting will take place on November 14, 1997, from 8:30 a.m. until 3:00 p.m. at the Region VIII Environmental Protection Agency Conference Center, 999 18th Street, Second Floor, Denver, CO 80202–2466. The second meeting will take place on November 17, 1997, from 9:00 a.m. until 4:00 p.m. at the Environmental Protection Agency Auditorium, 401 M Street, S.W., Washington, D.C. 20460. EPA is inviting interested members of the public to attend the information sessions.

Dated: October 28, 1997.

William R. Diamond,

Acting Director, Office of Ground Water and Drinking Water.

[FR Doc. 97–28931 Filed 10–30–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5916–1]

Proposed Agreement and Covenant Not To Sue Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as Amended by the Superfund Amendments and Reauthorization Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (CERCLA), 42 U.S.C. 9601 *et seq.*, notice is hereby given that a proposed Agreement and Covenant not to Sue associated with the College of the Canyons Smelter Site in Cañon City, Colorado, was executed by the Agency on October 2, 1997 and by the Department of Justice on August 3, 1997. The Agreement and Covenant not to Sue would resolve certain potential EPA claims under sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607 against the Purchaser, Rocky Acres, a common law trust. The settlement would require the Purchaser to fill and level an excavation on the property, to route rainfall runoff so as to prevent erosion, and to provide access to its property to allow EPA and any other parties to conduct cleanup and/or monitoring activities. The Purchaser would receive contribution protection as provided under section 113(f)(2) of CERCLA, 42 U.S.C. 9613(f)(2).

DATES: The Agency will receive written comments relating to the proposed settlement on or before December 1, 1997.

ADDRESSES: The proposed agreement and additional background information relating to the settlement are available for public inspection at the Superfund Record Center, 999 18th Street, 5th Floor, North Tower, Denver, Colorado, during normal business hours. A copy of the proposed agreement may be obtained by contacting Andrew Lensink at (303) 312–6908. Comments should reference the "College of the Canyons Smelter Site" and "EPA Docket No. CERCLA VIII–97–69" and should be addressed to Andrew Lensink, Senior Enforcement Attorney, (8ENF-L), U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado, 80202–2405.

FOR FURTHER INFORMATION CONTACT: Andrew Lensink, Senior Enforcement Attorney, at (303) 312–6908.

Dated: October 9, 1997.

Carol Rushin,

Assistant Regional Administrator, Office of Enforcement, Compliance, and Environmental Justice, Region VIII.

[FR Doc. 97–28870 Filed 10–30–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 90–571] [DA 97–2286]

Notice of Telecommunications Relay Services (TRS) Applications for State Certification Accepted

Released: October 27, 1997.

Notice is hereby given that the states listed below have applied to the Commission for State Telecommunications Relay Service (TRS) Certification. Current state certifications expire July 25, 1998. Applications for certification, covering the five year period of July 26, 1998 to July 25, 2003, must demonstrate that the state TRS program complies with the Commission's rules for the provision of TRS, pursuant to Title IV of the Americans with Disabilities Act (ADA), 47 U.S.C. § 225. These rules are codified at 47 CFR 64.601–605.

Copies of applications for certification are available for public inspection at the Commission's Common Carrier Bureau, Network Services Division, Room 235, 2000 M Street, N.W., Washington, D.C., Monday through Thursday, 8:30 AM to 3:00 PM (closed 12:30 to 1:30 PM) and the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C., daily, from 9:00 AM to 4:30 PM.

Interested persons may file comments on or before December 12, 1997.

Comments should reference the relevant state file number of the state application that is being commented upon. One original and five copies of all comments must be sent to William F. Caton, Acting Secretary, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554. Two copies also should be sent to the Network Services Division, Common Carrier Bureau, 2000 M Street, N.W., Room 235, Washington, D.C. 20554.

A number of state TRS programs currently holding FCC certification have failed to apply for recertification. Applications received after October 1, 1997, for which no extension has been requested before October 1, 1997, must be accompanied by a petition explaining the circumstances of the late-filing and requesting acceptance of the late-filed application.

File No: TRS–97–36.

Applicant: Alaska Public Utilities Commission, State of Alaska.

File No: TRS–97–46.

Applicant: New York Department of Public Service, State of New York.

For further information, contact Al McCloud, (202) 418–2499, amccloud@fcc.gov, or Andy Firth, (202) 418–2224 (TTY), afirth@fcc.gov, at the Network Services Division, Common Carrier Bureau, Federal Communications Commission.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–28887 Filed 10–30–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

[Docket No. 97–16]

Ryan-Walsh, Inc. and Stevedoring Services of America v. Port of Houston Authority of Harris Country, Texas; Notice of Filing of Complaint and Assignment

Notice is given that a complain file by Ryan-Walsh, In., and Stevedoring Services of America ("Complainants") against Port of Houston Authority of Harris County, Texas ("Respondent") was served October 1, 1997.

Complainants allege that Respondent has violated sections 10(a)(3), (d)(1) and (d)(3) of the Shipping Act of 1984, 46 U.S.C. app. §§ 1709(a)(3), (d)(1) and (d)(3), by engaging in a pattern of willful and knowing, repeated, material and ongoing breaches to an agreement required to be file with the Commission, providing undue or unreasonable preferences or advantage to persons other than Complainants, and unreasonably refusing to deal with Complainants.

This proceeding has been assigned to the office of Administrative Law Judges. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61, and only after consideration has been give by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by October 1, 1998, and the final decision of the Commission shall be issued by January 29, 1999.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 97–28920 Filed 10–30–97; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 28, 1997.

A. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. *South Branch Valley Bancorp, Inc.*, Moorefield, West Virginia; to acquire an additional 60.4 percent of the voting shares of Capital State Bank, Inc., Charleston, West Virginia.

B. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. *Capitol Bancorp Ltd.*, Lansing, Michigan; to acquire 51 percent of the voting shares of Kent Commerce Bank (in organization), Kentwood, Michigan, a *de novo* bank.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. *The Banc'Ed Corp.*, Edwardsville, Illinois; to acquire 100 percent of the voting shares of OMNI Financial Corp., Pontoon Beach, Illinois, and thereby indirectly acquire Omni Bank, Pontoon Beach, Illinois.

D. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. *Peoples, Inc.*, Ottawa, Kansas; to to become a bank holding company by acquiring 49.82 percent of the voting shares of Johnson County Bank, Overland Park, Kansas.

Board of Governors of the Federal Reserve System, October 28, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–28927 Filed 10–30–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: Approximately 11:30 a.m., Wednesday, November 5, 1997, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed 1998 Federal Reserve Board officer salary structure and merit program.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: October 29, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–28992 Filed 10–29–97; 11:05 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10:00 a.m., Wednesday, November 5, 1997.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of its routine nature, no discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Proposed 1998 Private Sector Adjustment Factor.

Discussion Agenda

2. Publication for comment of proposed amendments to Regulation D (Reserve Requirements of Depository Institutions) regarding a proposed reserve maintenance system under which reserves are maintained on a lagged basis.
3. Publication for comment of a proposed Payment System Risk Policy for Privately Operated Multilateral Clearing and Settlement Systems.
4. Proposed 1998 fee schedules for priced services.
5. Any items carried forward from a previously announced meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $6 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: October 29, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–28993 Filed 10–29–97; 11:05 am]

BILLING CODE 6210–01–P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act Meeting

TIME AND DATE: 9:00 a.m. (EST) November 10, 1997.

PLACE: 4th Floor, Conference Room, 1250 H Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of the October 14, 1997, Board member meeting.
2. Thrift Savings Plan activity report by the Executive Director.
3. Review of KPMG Peat Marwick audit reports:

(a) "Pension and Welfare Benefits Administration Review of Backup, Recovery, and Contingency Planning of the Thrift Savings Plan at the United States Department of Agriculture, National Finance Center."

(b) "Pension and Welfare Benefits Administration Review of the Policies and Procedures of the Federal Retirement Thrift Investment Board Administrative Staff."

(c) "Pension and Welfare Benefits Administration Review of Thrift Savings Plan C and F Fund Investment Management Operations at Barclays Global Investors, N.A."

(d) "Pension and Welfare Benefits Administration Review of U.S. Department of Treasury Operations relating to the Thrift Savings Plan Investments in the Government Securities Investment Fund."

(e) "Pension and Welfare Benefits Administration Review of the Thrift Savings Plan Annuity Operations at the Metropolitan Life Insurance Company."

(f) "Pension and Welfare Benefits Administration Review of the Thrift Savings Plan Billing Process at the United States Department of Agriculture, National Finance Center."

4. Semiannual review of status of audit recommendations.
5. Labor Department audit briefing.
6. Quarterly investment policy review.
7. Annual ethics briefing.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Trabucco, Director, Office of External Affairs, (202) 942–1640.

Dated: October 29, 1997.

Roger W. Mehle,

Executive Director, Federal Retirement Thrift Investment Board.

[FR Doc. 97–29014 Filed 10–29–97; 8:45 am]

BILLING CODE 6760–01–M

FEDERAL TRADE COMMISSION

Cigarette Testing; Extension of Deadline for Submission of Public Comments

AGENCY: Federal Trade Commission.

ACTION: Extension of deadline for submission of comments on proposed revisions to the Federal Trade Commission methodology for determining tar, nicotine, and carbon monoxide yields of cigarettes, and on a proposed format for disclosing the resulting ratings in advertising.

SUMMARY: The Federal Trade Commission ("FTC" or "Commission") is extending until January 20, 1998 the deadline for filing comments on its proposed revisions to the testing method used to determine the tar, nicotine, and carbon monoxide ratings of cigarettes, and on two possible formats for disclosure of those test results.

FOR FURTHER INFORMATION CONTACT: Shira D. Modell, Division of Advertising Practices, Federal Trade Commission, Sixth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580, (202) 326–3116.

SUPPLEMENTARY INFORMATION: On September 9, 1997, the Commission issued a notice proposing changes to the methodology currently used to determine cigarette ratings for tar, nicotine, and carbon monoxide. *See* 62 FR 48.158 (Sept. 12, 1997). The proposed methodology would produce tar, nicotine, and carbon monoxide yields using both the current testing parameters and more intensive smoking conditions, thus producing a range of potential yields for each cigarette. The Commission requested comment on those proposed changes to the testing methodology, and on the feasibility of generating the upper tier of tar, nicotine, and carbon monoxide ratings through mathematical formulas, rather than actual testing on a smoking machine. The Commission also placed on the public record two different legends that could be used in advertising to disclose the ratings and sought comment on the usefulness and feasibility of these potential disclosure formats. Finally, comment was requested on alternative approaches that were considered but not proposed by the Commission. The deadline for submission of the requested comments was November 17, 1997.

The Commission has received requests for extension of this deadline from the Food and Drug Administration, the four largest cigarette manufacturers (Brown & Williamson Tobacco Corporation, Lorillard Tobacco Company, Philip Morris Incorporated and R.J. Reynolds Tobacco Company), the American Lung Association, the Commonwealth of Massachusetts and the American Society of Addiction Medicine.

In light of the importance and complexity of the issues addressed by the Commission's **Federal Register** notice, and the number of issues on which comment is being requested, the Commission has decided to extend the filing deadline until January 20, 1998.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 97–28913 Filed 10–30–97; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 93N–0195]

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

DATES: Submit written comments on the collection of information by December 1, 1997.

ADDRESSES: Submit written comments on the collection of information to Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attention: Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Margaret R. Wolff, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In compliance with section 3507 of the PRA (44 U.S.C. 3507), FDA has submitted the following proposed collection of information to OMB for review and clearance.

In a final rule entitled "Procedures for the Safe Processing and Importing of Fish and Fishery Products" (60 FR 65096, December 18, 1995), FDA issued regulations in part 123 (21 CFR part 123) mandating the application of Hazard Analysis and Critical Control Point (HACCP) principles to the processing of seafood. HACCP is a preventive system of hazard control designed to help ensure the safety of foods.

The regulations were issued under FDA's statutory authority to regulate food safety, including section 402(a)(1) and (a)(4) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342(a)(1) and (a)(4)), and will become effective on December 18, 1997.

Certain provisions in the regulations require that processors and importers of seafood collect and record information. In the final rule (60 FR 65096 at 65177 and 65178), the agency requested comments on the information collection provisions of the new regulations. No comments were received in response to this request.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1, 5]

21 CFR Section	No. of Recordkeepers	Annual Frequency of Recordkeeping[2]	Total Annual Records	Hours per Recordkeeper[3]	Total Hours
123.6(a),(b),(c)	4,850	1	4,850	16	77,600[4]
123.6(c)(5)	4,850	4	19,400	0.30	5,820
123.8(a)(1),(c)	4,850	1	4,850	4	19,400
123.12(a)(2)(ii)	1,000	80	80,000	0.20	16,000
123.6(c)(7)	4,850	280	1,358,000	0.30	407,400
123.7(d)	1,940	4	7,760	0.10	1,940
123.8(d)	4,850	47	227,950	0.10	22,795
123.11(c)	4,850	280	1,358,000	0.10	135,800
123.12(c)	1,000	80	80,000	0.10	8,000
123.12(a)(2)	1,000	1	1,000	4	4,000[4]
123.10	4,850	1	24	24	116,400[4]
First year total burden hours					815,155
Annual recurring burden hours					617,155

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Based on an estimated of 280 working days per year.
[3] Estimated average time per 8 hour workday unless one time response.
[4] Nonrecurring burdens.
[5] The above estimates include the information collection requirements in the following sections:
123.16 Smoked Fish—process controls (see 123.6(b))
123.28(a) Source Controls—Molluscan Shellfish (see 123.6(b))
123.28(c),(d) Records—molluscan shellfish (see 123.6(c)(7))
123.9 Records control—general (see recording and records)

The time and costs of these activities will vary considerably among processors and importers of fish and fishery products, depending on the type and number of products involved, and the nature of the equipment or instruments required to monitor critical control points. The burdens have been estimated using typical small seafood processing firms as a model because these firms represent a significant proportion of the industry .

The burden estimate in Table 1 includes only those collections of information under the seafood HACCP regulations that are not already required under other statutes and regulations. For example, the current food manufacturing practices provisions in 21 CFR part 110 already require that all food processors ensure good sanitary practices and conditions, monitor the quality of incoming materials, monitor and control food temperatures to prevent bacterial growth, and perform certain corrective actions and verification procedures. Furthermore, the estimate does not include collections of information that are a usual and customary part of businesses' normal activities. For example, the tagging and labeling of molluscan shellfish (21 CFR 1240.60) is a customary and usual practice among seafood processors. Consequently the estimates in Table 1 account only for new information collection and recording requirements attributable to part 123.

There were some inadvertent errors in the total burden hours column of the estimates for § 123.6(c)(5) and (c)(7) in the final rule. These errors have been corrected in this document, and the totals for part 123 as a whole have been adjusted accordingly.

Dated: October 27, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–28940 Filed 10–30–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Center for Research Resources Special Emphasis Panel (SEP) meeting:

Name of SEP: General Clinical Research Centers.

Date: December 18–19, 1997.

Time: 8:00 a.m.

Place: Georgetown University Conference Center, 800 Reservoir Road, N.W., Washington, DC 20057, (202) 687–3200.

Contact Person: Dr. Jill Carrington, Scientific Review Administrator, 6705 Rockledge Drive, MSC 7965, Room 6018, Bethesda, MD 20892–7965, (301) 435–0822.

Purpose/Agenda: To evaluate and review grant applications.

This meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.306, Laboratory Animal Science and Primate Research, National Institutes of Health, HHS)

Dated: October 24, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–28847 Filed 10–30–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute on Drug Abuse (NIDA) Special Emphasis Panel meetings.

Purpose/agenda: To review and evaluate grant applications.

Name of Committee: NIDA Special Emphasis Panel (Training Grants).

Date: November 4, 1997.

Time: 10:00 a.m

Place: National Institutes of Health, The Natcher Building, Conference Rm. H, 45 Center Drive, Bethesda, MD 20892.

Contact Person: Mark Swieter, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–42, Telephone (301) 443–2620.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Name of Committee: NIDA Special Emphasis Panel (Clinic Neuroscience and Imaging).

Date: November 18, 1997.

Time: 1:00 p.m

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Mark Swieter, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–42, Telephone (301) 443–2620.

Name of Committee: NIDA Special Emphasis Panel (AIDS Biomedical and Clinical).

Date: November 19, 1997.

Time: 11:00 a.m

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20818.

Contact Person: Khursheed Asghar, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 443–2620.

The meetings will be closed in accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. The applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 93.277, Drug Abuse Research Scientist Development and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs)

Dated: October 28, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–28922 Filed 10–30–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental Research; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Dental Research Special Emphasis Panel (SEP) meetings:

Name of SEP: National Institute of Dental Research Special Emphasis Panel—Review of F32 grant (98–11).

Dates: November 18, 1997.

Time: 1:00 p.m.

Place: Natcher Building, Rm. 4AN–44F, National Institutes of Health, Bethesda, MD 20892, (teleconference).

Contact Person: Dr. Philip Washko, Scientist Review Administrator, 4500 Center Drive, Natcher Building, Room 4AN–44F, Bethesda, MD 20892, (301) 594–2372.

Purpose/Agenda: To evaluate and review grant applications and/or contract proposals.

Name of SEP: National Institute of Dental Research Special Emphasis Panel—Review of P01 grant (98–10).

Dates: December 10, 1997.

Time: 8:00 a.m.

Place: Marriott Pooks Hill, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Dr. George Hausch, Chief, Grants Review Section, 4500 Center Drive, Natcher Building, Room 4AN–44F, Bethesda, MD 20892, (301) 594–2372.

Purpose/Agenda: To evaluate and review grant applications and/or contract proposals.

These meetings will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.121, Oral Diseases and Disorders Research)

Dated: October 24, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–28846 Filed 10–30–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Division of Extramural Activities; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings:

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel (Telephone Conference Call).

Date: November 10, 1997.

Time: 12:00 p.m.

Place: National Institutes of Health, 7550 Wisconsin Avenue, Room 9C10, Bethesda, MD 20892.

Contact Person: Dr. Paul Sheehy/Mr. Phillip Wiethorn, Scientific Review Administrators, NINDS, National Institutes of Health, 7550 Wisconsin Avenue, Room 9C10, Bethesda, MD 20892, (301) 496–9223.

Purpose/Agenda: To review and evaluate RFP Contract Proposal(s).

This notice if being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Neurological Disorders and Stroke Program Special Emphasis Panel.

Date: December 4–5, 1997.

Time: 7:30 p.m.

Place: Houston Marriott Medical Center, 6580 Fannin Street, Houston, TX 77030.

Phone: (713) 796–0080.

Contact Person: Dr. Katherine Woodbury, Scientific Review Administrator, NINDS, National Institutes of Health, 7550 Wisconsin Avenue, Room 9C10, Bethesda, MD 20892, (301) 496–9223.

Purpose/Agenda: To review and evaluate a grant application.

The meetings will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.853, Clinical Research Related to Neurological Disorders; No. 93.854, Biological Basis Research in the Neurosciences)

Dated: October 24, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–28848 Filed 10–30–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Child Health and Human Development Special Emphasis Panel (SEP) meeting:

Name of SEP: The Evaluation of a Community-based Intervention to Improve Pregnancy Outcomes and Reduced Perinatal Mortality in a Rural District of Balochistan, Pakistan. (Teleconference)

Date: November 19, 1997.

Time: 2:00 p.m. (ET)—adjournment.

Place: Division of Scientific Review, 6100 Executive Boulevard, Room 5E01, Rockville, Maryland 20852.

Contact Person: Hameed Khan, Ph.D, Scientific Review Administrator, NICHD, 6100 Executive Boulevard, 6100 Building—Room 5E01, Rockville, Maryland 20852, Telephone: 301–496–1485.

Purpose/Agenda: To provide concept review of proposed contract solicitations.

The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(9)(B), Title 5 U.S.C. The discussion could reveal the specific details of future requests for contract proposals (RFPs), the disclosure of which would significantly frustrate implementation of the agency's proposed contract activities by giving unfair competitive advantage to private firms or individuals.

(Catalog of Federal Domestic Assistance Program Nos. [93.864, Population Research and No. 93.865, Research for Mothers and Children], National Institutes of Health, HHS)

Dated: October 27, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–28849 Filed 10–30–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Prevention; Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Drug Testing Advisory Board of the Center for Substance Abuse Prevention in December 1997.

The first day (December 8) of the Drug Testing Advisory Board meeting will be open and will include a roll call, general announcements, and a discussion of various program, procedural, and technical issues. The preliminary agenda for the open session includes, but is not limited to, the following topics: a brief review of the DTAB Scientific Meetings on Alternative Specimens and Technologies held on April 28–30 and September 9–10, an update on the Nuclear Regulatory Commission fitness-for-duty program, an update on the Department of Transportation workplace drug and alcohol testing programs, adulteration/dilution testing, and hemp products. Public comments are welcome during the open session. If anyone needs special accommodations for persons with disabilities please notify the Contact listed below.

The second day (December 9) of the DTAB meeting involves the review of sensitive National Laboratory Certification Program (NLCP) internal operating procedures and program development issues. Therefore, the second day of the meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance with 5 U.S.C. 552b (c)(2), (4), and (6) and 5 U.S.C. App. 2, § 10(d).

An agenda for this meeting and a roster of board members may be obtained from: Ms. Giselle Hersh,

Division of Workplace Programs, Room 13A–54, 5600 Fishers Lane, Rockville, MD 20857, Telephone: (301) 443–6014.

Substantive program information may be obtained from the contact whose name and telephone number is listed below.

Committee Name: Drug Testing Advisory Board.

Meeting Date: December 8–9, 1997.

Place: DoubleTree Hotel, 1750 Rockville Pike, Rockville, Maryland 20857.

Open: December 8, 1997, 8:30 a.m.–4:00 p.m.

Closed: December 9, 1997, 8:30 a.m.–4:00 p.m.

Contact: Donna M. Bush, Ph.D., Executive Secretary, Telephone: (301) 443–6014 and FAX: (301) 443–3031.

Dated: October 21, 1997.

Dee Herman,

Acting Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 97–28832 Filed 10–30–97; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4235–N–27]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless .

EFFECTIVE DATE: October 31, 1997.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, Department of Housing and Urban Development, Room 7256, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1226; TDD number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: October 24, 1997.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 97–28739 Filed 10–30–97; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4300–N–01]

The Performance Review Board

AGENCY: Office of the Secretary, Department of Housing and Urban Development.

ACTION: Notice of appointments.

SUMMARY: The Department of Housing and Urban Development announces the appointments of Willie H. Gilmore, Maxine F. Griffith, Joseph F. Smith, and George L. Weidenfeller as members, and George S. Anderson as an alternate member to the Departmental Performance Review Board. The address is: Department of Housing and Urban Development, Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Persons desiring any further information about the Performance Review Board and its members may contact Earnestine Pruitt, Director, Executive Personnel Management Division, Department of Housing and Urban Development, Washington, D.C. 20410, telephone (202) 708–1381. (This is not a toll-free number.)

Dated: October 28, 1997.

Andrew M. Cuomo,

Secretary, Department of Housing and Urban Development.

[FR Doc. 97–28936 Filed 10–30–97; 8:45 am]

BILLING CODE 4210–32–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of an Environmental Assessment and Receipt of an Application From the City of La Mesa, California, for an Incidental Take Permit

AGENCY: Fish and Wildlife Service.

ACTION: Notice of availability.

SUMMARY: The City of La Mesa, California, has applied to the Fish and Wildlife Service for a 50-year permit to incidentally take the threatened coastal California gnatcatcher (*Polioptila californica californica*) and up to 84 other species pursuant to section 10(a)(1)(B) of the Endangered Species Act. Take would occur due to urban growth within the City of La Mesa. The application includes a Subarea Plan (City of La Mesa Subarea Habitat Conservation Plan/Natural Community Conservation Plan) and an Implementing Agreement. The La Mesa Subarea Plan is intended to complement and be consistent with regional planning efforts under the approved Multiple Species Conservation Program for southwestern San Diego County, California. In response to the permit application, the Service has prepared an Environmental Assessment pursuant to the National Environmental Policy Act. This assessment and the permit application are available for public review and comment. The Service specifically requests comment on the appropriateness of the "No Surprises" assurances contained in the application (sections 9.4, 9.5, 9.6, 9.7, and 9.18 of the Implementing Agreement).

DATES: Written comments on the La Mesa Subarea Plan, Environmental Assessment, and Implementing Agreement should be received by the Service on or before December 1, 1997.

ADDRESSES: Comments should be addressed to Mr. Gail Kobetich, Field Supervisor, Fish and Wildlife Service, 2730 Loker Avenue West, Carlsbad, California 92008. Written comments may be sent by facsimile to (760) 431–9618.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Gilbert, Supervisory Fish and Wildlife Biologist, at the above address, telephone (760) 431–9440.

SUPPLEMENTARY INFORMATION:

Availability of Documents

Persons wishing copies of the documents or additional background material should contact Mr. Brad Richter, Environmental Review Coordinator, City of La Mesa, Planning Department, 8130 Allison Avenue, La Mesa, California 91944–0937, telephone (619) 463–6611. Documents also will be available for public inspection, by appointment, during normal business hours, Monday through Friday, at the City of La Mesa Planning Department Office and at the Carlsbad Fish and Wildlife Service Office (see **ADDRESSES**).

Background

Section 9 of the Endangered Species Act prohibits the taking of endangered and threatened species. Under limited circumstances, however, the Service may issue permits to take endangered and/or threatened species incidental to, and not the purpose of otherwise lawful activities. Regulations governing permits for endangered and threatened species are at 50 CFR 17.22 and 17.32.

Under the proposed action, the Service would issue an incidental take permit for up to 85 species as described in the La Mesa Subarea Plan. Approximately 122 of the 179 acres of undeveloped land within La Mesa would be developed, primarily within the proposed Eastridge subdivision. Project-level biological surveys would be required for all future development proposals that would result in loss of native habitats due to grading and development. The direct impacts to coastal sage scrub habitat and other sensitive vegetation communities and associated species would be mitigated through the acquisition of off-site, in-kind habitat at a 1:1 ratio for all upland habitats (except southern maritime chaparral, native grassland, and oak woodlands, which have not been identified within the City but would require in-kind mitigation at a 2:1 ratio if identified within an area to be impacted). Offsite habitat would be acquired within an identified preserve area, either in the City of Poway, California, consistent with the approved Poway Subarea Habitat Conservation Plan, or in another location as approved by the Service and California Department of Fish and Game. The La Mesa Subarea Plan is intended to be consistent with, and to complement, the Poway Subarea Plan and the regional Multiple Species Conservation Program plan (Regional Plan).

In July 1997, the Service approved the Regional Plan. This long-term plan was prepared by the City of San Diego and 11 other participating jurisdictions, including La Mesa. The Regional Plan covers an approximately 900-square-mile area (580,000 acres) of rapid growth within the highly urbanized setting of southwestern San Diego County. The Regional Plan establishes a mechanism for creation of an approximate 172,000-acre preserve system that would conserve numerous sensitive plant and animal species and their habitats.

The existing 179 acres of coastal sage scrub in La Mesa comprises 0.2 percent of the total coastal sage scrub mapped in the regional planning area. The habitat in La Mesa is not included in the planning area of the regional preserve system due to its size and isolated location. In this regional context, the habitat in La Mesa is not considered a core biological resource area or linkage.

The Environmental Assessment for the La Mesa permit application considers the effects to the human environment of the proposed action and three alternatives. These alternatives include scenarios of no action, full development, and preservation of all undeveloped habitat within La Mesa.

Under the no action alternative, the Service would not issue an incidental take permit to the City of La Mesa for its Subarea Plan. Property owners in La Mesa would need to submit individual permit applications to the Service if proposed developments would result in take of endangered or threatened species. Potentially, all 179 acres of remaining habitat within the City could be developed over time. The result would be an uncoordinated and non-comprehensive approach to evaluating the resources within La Mesa.

Another alternative is issuing a permit to the City of La Mesa for incidental take associated with full rather than partial development of the Eastridge property. Loss of the remaining 179 acres of habitat within La Mesa would be mitigated offsite at a 1:1 ratio.

Under another alternative, all of the undeveloped habitat (179 acres) within the City of La Mesa would be preserved. No take of listed species would occur and no take authorizations would be issued.

This notice is provided pursuant to section 10(c) of the Endangered species Act of 1973, as amended, and Service regulations for implementing the National Environmental Policy Act (40 CFR 1506.6). All comments received will become part of the public record and may be released.

The Service will evaluate the application, associated documents, and comments submitted thereon to determine whether the application meets the requirements of the Endangered Species Act. A final decision on permit issuance will be made no sooner than 30 days from the date of this notice.

Dated: October 24, 1997.

Thomas J. Dwyer,

Regional Director, Region 1, Portland, Oregon.

[FR Doc. 97–28871 Filed 10–30–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Aquatic Nuisance Species Task Force Meeting and Field Trip

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting and Chesapeake Bay field trip.

SUMMARY: This notice announces the Fall 1997 Meeting of the Aquatic Nuisance Species Task Force and a field trip related to nonindigenous species issues in the Chesapeake Bay. A number of topics will be addressed during the Task Force meeting, including: Administration Initiative on Non-Native Invasive Species; a meeting of Task Force principals and proposal on staffing and funding; Task Force policies regarding regional panels, membership, and committee establishment and membership; Task Force web site proposal and plans; proposal for two-tier ANS designation/control program; and a green crab control program proposal. In addition, updates will be provided on other nonindigenous species issues and activities, including those of the Task Force's Great Lakes on ANS and Western Regional Panel. The meeting is open to the public. Interested persons may make oral statements at the meetings or submit written statements for consideration. The public is welcome to participate in the Chesapeake Bay field trip.

DATES: The ANS Task Force will meet from 8:30 a.m. to 4:30 p.m. on Thursday, November 13, 1997. The Chesapeake Bay field trip will begin at the Conference Center, Smithsonian Environmental Research Center, Edgewater, Maryland, at 8:00 a.m. on Friday, November 14, 1997, and conclude at the Inner Harbor, Baltimore, Maryland, by early afternoon.

ADDRESSES: The Task Force meeting will be held in the Conference Center of the USDA Center at Riverside, 4700 River Road, Riverdale, Maryland. The Chesapeake Bay field trip will leave from the Conference Center, Smithsonian Environmental Research Center, 647 Contees Wharf Road, Edgewater, Maryland, and conclude at the Inner Harbor, Baltimore, Maryland.

FOR FURTHER INFORMATION CONTACT: Robert A. Peoples, Executive Secretary, ANS Task Force, by telephone at 703–358–2025 or E-Mail at robert_peoples@fws.gov.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces the Fall 1997 meeting of the Aquatic Nuisance Species Task Force, as established by the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701–4741). It also announces a Chesapeake Bay field trip to view nonindigenous species and their impacts and visit, subject to availability, a vessel in Baltimore Harbor to view ballast water management facilities.

Minutes of the meeting will be maintained by the Executive Secretary, ANS Task Force, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Suite 840, Arlington, Virginia 22203–1622 and will be available for inspection during regular business hours within 30 days following the meeting.

Dated: October 28, 1997.

Gary Edwards,

Assistant Director—Fisheries, Co-Chair, Aquatic Nuisance Species Task Force.

[FR Doc. 97–28886 Filed 10–30–97; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Request for Public Comments on Extension of Existing Information Collection To Be Submitted to OMB for Review Under the Paperwork Reduction Act

A request extending the information collection described below will be submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)). Copies of the proposed collection may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Public comments on the proposal should be made within 60 days directly to the Bureau Clearance Officer, U.S. Geological survey, 807 National Center, Reston, VA 20192.

As required by OMB regulations at 5 CFR 1320.8(d)(1), the U.S. Geological Survey solicits specific public comments as to:

1. Whether the collection of information is necessary for the proper performance of the functions on the bureaus, including whether the information will have practical utility;
2. The accuracy of the bureau's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used:
3. The quality, utility, and clarity of the information to be collected; and.
4. How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other forms of information technology.

Title: North American Reporting Center for Amphibian Malformations.

OMB Approval No: 1028–0056.

Summary: The collection of information referred herein applies to a World-Wide Web site that permits individuals who observed malformed amphibians or who inspect substantial numbers of normal or malformed amphibians to report those observations and related information. The Web site is termed the North American Reporting Center for Amphibian Malformations. Information will be used by scientists and federal, state and local agencies to identify areas where malformed amphibians occur and the rates of occurrence.

Estimated Completion Times: 20 minutes.

Estimated Annual Number Of Respondents: 900.

Frequency: Once.

300 hours: 300 hours.

Affected Public: Primarily U.S. and Canadian residents.

FOR FURTHER INFORMATION CONTACT: To obtain copies of the survey, contact the Bureau clearance office, U.S. Geological Survey, 807 National Center, 12201 Sunrise Valley Drive, Reston, Virginia, 20192, telephone (703) 648–7313, or go to the Web Site (http://www.npsc.nbs.gov./narcam).

Dated: October 20, 1997.

Susan Haseltine,

Deputy Chief Biologist for Science.

[FR Doc. 97–28858 Filed 10–30–97; 8:45 am]

BILLING CODE 4310–31–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–933–1430–01; IDI–13232, IDI 015026C]

Termination of Recreation and Public Purpose Act Classification and Desert Land Entry Classification and Opening Order; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice terminates a Recreation and Public Purpose Act Classification on 639.84 acres and a Desert Land Classification on 16.26 acres, as these classifications are no longer needed. A portion of the lands affected by these classifications will be exchanged to the State of Idaho pursuant to section 206 of the Federal Land Policy and Management Act of 1976.

EFFECTIVE DATE: October 31, 1997.

FOR FURTHER INFORMATION CONTACT: Catherine D. Foster, BLM Idaho State Office, 1387 S. Vinnell Way, Boise, Idaho 83709, 208–373–3863.

SUPPLEMENTARY INFORMATION: On July 31, 1964, the following lands were classified as unsuitable for entry under the Desert Land Act of March 3, 1877 as amended and supplemented (43 U.S.C. 321, *et. seq.*): lot 7 of section 24, T. 6 N., R. 35 E., Boise Meridian. On December 29, 1980, the following described lands were classified as unsuitable for entry under the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869–869–4): lot 17, S½SW¼, SW¼SE¼ of section 22, and N½, N½S½ of section 27, T. 6 N., R. 36 E., Boise Meridian. Both the classification and segregation on the above described lands are hereby terminated. The area described above aggregates 656.1 acres in Jefferson County.

At 9 a.m. on October 31, 1997 both classifications will be terminated. A portion of these lands will remain closed to location and entry under the public land laws and the mining laws, as they are currently segregated for exchange. The only lands which will be opened to location and entry are described as follows:

T. 6 N., R. 36 E., B.M., section 27: N½, N½S½.

At 9 a.m. on October 31, 1997 these lands will be opened to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on October 31, 1997 be considered simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

At 9 a.m. on October 31, 1997 these lands will be opened to location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record and the requirements of applicable law. Appropriation of any of the lands described above under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: October 22, 1997.

Jimmie Buxton,

Branch Chief, Lands and Minerals.

[FR Doc. 97–28866 Filed 10–30–97; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–060–1620–01, WYW141435]

Notice of Scoping on a Coal Lease Application (WYW141435) Received From Antelope Coal Company

SUMMARY: On February 14, 1997, BLM received a coal lease application (WYW141435) from Antelope Coal Company (ACC), a subsidiary of Kennecott Energy and Coal Company. The application covers about 1,470 acres of Federal mineral estate and includes approximately 177.5 million tons of coal in Campbell and Converse Counties, Wyoming. The application area, called the Horse Creek Tract, is adjacent to ACC's existing Antelope Mine. The Horse Creek Tract application is a maintenance Lease-by-Application (LBA) under 43 CFR 3425.1. The Powder River Regional Coal Team (RCT), at their April 23, 1997, meeting in Casper, Wyoming, reviewed the application and recommended BLM process this lease application.

BLM requests comments from the public on which of the following options would best satisfy the requirements of NEPA for processing the Horse Creek LBA. Both options would analyze the impacts of issuing a coal lease for the area included in the application.

Option 1 is to prepare an Environmental Assessment (EA). The Horse Creek tract is adjacent to the existing Antelope Mine. If leased to the applicant, the Horse Creek Tract would be mined to extend the life of the Antelope Mine. No other existing operation is able to mine the Horse Creek Tract either as a maintenance lease or as a new mine start. The Horse Creek Tract is partially surrounded by existing Antelope Mine, Federal and State leases, and the surrounded portion of the tract will probably be bypassed if not mined with the existing leases.

Option 2 is to prepare an Environmental Impact Statement (EIS). This is the second application filed by ACC. In addition, this is BLM's ninth maintenance coal lease application from the six surface coal mines located immediately east and southeast of Wright, Wyoming, since 1990 when the Powder River Federal Coal Region was decertified. All are in southeastern Campbell and northern Converse Counties, Wyoming.

After reviewing the scoping comments, the BLM will decide whether to prepare an EA or an EIS for the Horse Creek Coal Tract application.

DATES: A public scoping meeting is scheduled at 7 p.m., on November 13, 1997, at the Tower West Lodge, 109 North U.S. Highway 14–16, Gillette, Wyoming. If you have concerns or issues you believe the BLM should address in processing this lease application, you can express them either verbally at the scoping meeting, or by mail, or fax written comment to BLM at the address below by November 30, 1997.

ADDRESSES: Please address questions, comments, or concerns to the Casper District Office, Bureau of Land Management, Attn: Nancy Doelger, 1701 East E Street, Casper, Wyoming 82601, or fax them to 307–234–1525.

FOR FURTHER INFORMATION CONTACT: Nancy Doelger or Mike Karbs at the above address, or telephone: 307–261–7600.

SUPPLEMENTARY INFORMATION: On February 14, 1997, ACC filed coal lease application WYW141435 for the following lands in Campbell and Converse Counties, Wyoming:

T. 41 N., R. 71 W., 6th P.M., Wyoming

Section 22: Lots 2 and 3;
Section 23: Lots 10 thru 16;
Section 25: Lot 11;
Section 26: Lots 1 thru 8, 12, and 13;
Section 27: Lots 5, 6, 11 thru 14, and 16;
Section 34: Lots 1, 7, 8 thru 10, and 16;
Section 35: Lots 8 thru 10;

Containing 1,470.570 acres more or less with an estimated 177.5 million tons of coal.

The Antelope Mine is adjacent to the lease application area. The Antelope Mine has an approved mining and reclamation plan, and an approved air quality permit from the Air Quality Division of the Wyoming Department of Environmental Quality to mine up to 30 million tons of coal per year. According to the application filed for the Horse Creek Tract, the maintenance tract would be mined to extend the life of the existing mine.

The ACC previously acquired maintenance coal lease WYW128322, containing approximately 617 acres adjacent to the Antelope Mine, using the LBA process, effective February 1, 1997.

The Office of Surface Mining Reclamation and Enforcement (OSM) will be a cooperating agency in the preparation of the environmental analysis. The OSM is the Federal agency responsible for recommending approval, approval with conditions, or disapproval of the mining plan to the Secretary of the Interior. If this maintenance tract is leased to the applicant, the new lease must be incorporated into the existing mining plans for the adjacent mine. The Secretary must approve those mining plans before the coal in the tract can be mined.

Although the lease application area is within the boundaries of the Thunder Basin National Grasslands, the U.S. Forest Service (USFS) will not be a cooperating agency in the preparation of the environmental document because none of the surface estate is currently owned by the Federal Government.

The major issues related to this lease application that have been identified to date, include the potential increases in impacts to air quality, groundwater, and wildlife that may occur if this lease is issued. If you have specific concerns about these issues, have other concerns or issues BLM should consider in processing this application, or if you have comments on whether BLM should prepare an EA or an EIS to evaluate the impacts of issuing a lease for this tract, please address them in writing to the above individuals or state them verbally at the November 13, 1997, public scoping meeting at the location shown above. The BLM will accept written comments at the address shown above through November 30, 1997.

Alan R. Pierson,

State Director.

[FR Doc. 97–28869 Filed 10–30–97; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–030–7122–00–7509; COC–61031]

Notice of Realty Action; Non-Competitive Sale of Lands

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice: designation of public lands located in San Juan County, Colorado as suitable for disposal.

SUMMARY: Approximately 2.54 acres of public land located in San Juan County, Colorado have determined to be suitable for disposal by sale utilizing non-competitive procedures, at not less than the fair market value. Fair Market value is to be determined by an appraisal completed by a Federal or independent appraiser using the principals contained in the "Uniform Appraisal Standards for Federal Land Acquisitions". Authority for the sale is section 203 of Public Law 94–579, the Federal Land Policy and Management Act of 1976.

FOR FURTHER INFORMATION: Additional information about this sale is available for review at the Bureau of Land Management, Montrose District Office, 2465 South Townsend, Montrose, Colorado 81401, attention: Tom

Hurshman. Comments shall be submitted by December 15, 1997 to the Montrose District Manager. Any adverse comments will be reviewed by the District Manager, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior.

SUPPLEMENTARY INFORMATION: The following described land has been determined to be suitable for disposal by sale utilizing non-competitive procedures.

New Mexico Principal Meridian, Colorado

T. 42 N., R. 6 W.,
Tract 37
Containing approximately 2.54 acres more or less.

This land is being offered as a direct, non-competitive sale to Mr. Kevin D. Padrick, a private individual. BLM has determined a direct sale is necessary as Mr. Padrick owns the adjoining private property known as the Great Western Lode, MS 1603. A large three story boarding house that was constructed in the 1920's, known as the Martin Boarding House, is situated on the Great Western Lode. A portion of the structure has encroached upon adjoining public lands that have been surveyed to create the above described Tract 37. The direct sale will resolve this inadvertent unauthorized occupancy of said land. The land will not be offered for sale until at least 60 days after the date of publication of this notice in the **Federal Register**.

In the event of a sale, the mineral interest shall be conveyed simultaneously with the surface interest. The mineral interest being offered for conveyance has no known mineral value. Upon acceptance of a direct sale offer, the purchaser shall be required to make application for conveyance of those mineral interests.

Upon publication of this notice in the **Federal Register**, the land will be segregated from all forms of appropriation under the public land laws, including the general mining laws. This segregation will terminate upon issuance of a patent or 270 days from the date of this publication.

The patent, when issued, would contain a reservation of a right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945. Any patent would also be subject to an existing overhead power line right-of-way authorization, COC–18281, currently held by San Miguel Power Association.

Signed: October 22, 1997.
Mark W. Stiles,
District Manager.
[FR Doc. 97–28864 Filed 10–30–97; 8:45 am]
BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–957–1430–00]

Idaho: Filing of Plats of Survey; Idaho

The plats of the following described land were officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m., October 23, 1997.

The plat representing the dependent resurvey of a portion of the south boundary, subdivisional lines, adjusted 1903–1904 meanders of the right and left banks of the Snake River, and the meanders of an island in the Snake River, designated as lots 2 and 6 in 1903–1904, the subdivision of section 35, the meanders of the left bank of the Snake River, and the survey of a partition line in section 35, T. 3 S., R. 1 E., Boise Meridian, Idaho, Group 955, was accepted October 23, 1997.

The plat representing the dependent resurvey of a portion of the subdivisional lines, and the subdivision of certain sections, T. 4 S., R. 1 E., Boise Meridian, Idaho, Group 955, was accepted October 23, 1997. These surveys were executed to meet certain administrative needs of the Bureau of Land Management. All inquiries concerning the surveys of the above described land must be sent to the Chief, Cadastral Survey, Idaho State Office, Bureau of Land Management, 1387 South Vinnell Way, Boise, Idaho, 83709–1657.

Dated: October 23, 1997.
Duane E. Olsen,
Chief Cadastral Surveyor for Idaho.
[FR Doc. 97–28859 Filed 10–30–97; 8:45 am]
BILLING CODE 4310–GG–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–957–1430–00]

Idaho: Filing of Plats of Survey; Idaho

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m. October 23, 1997.

The plat representing the dependent resurvey of portions of the north boundary, subdivisional lines and boundaries of certain mineral surveys, and the retracement of the northerly side line of Main Street through the townsite of Murray, Idaho, and the survey of certain new lots in section 5, T. 49 N., R. 5 E., Boise Meridian, Idaho, Group 951, was accepted October 23, 1997.

This survey was executed to meet certain administrative needs of the Bureau of Land Management. All inquiries concerning the survey of the above described land must be sent to the Chief, Cadastral Survey, Idaho State Office, Bureau of Land Management, 1387 South Vinnell Way, Boise, Idaho, 83709–1657.

Dated: October 23, 1997.
Duane E. Olsen,
Chief Cadastral Surveyor for Idaho.
[FR Doc. 97–28860 Filed 10–30–97; 8:45 am]
BILLING CODE 4310–GG–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–957–1420–00]

IDAHO: Filing of Plats of Survey; Idaho

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9 a.m. October 23, 1997.

The plat representing the dependent resurvey of portions of the Second Standard Parallel South (south boundary), portions of the east, west, and north boundaries of the subdivisional lines, and of Mineral Survey No. 2538, T. 12 S., R. 45 E., Boise Meridian, Idaho, Group 913, was accepted October 23, 1997. This survey was executed to meet certain administrative needs of the USDA Forest Service.

All inquiries concerning the survey of the above described land must be sent to the Chief, Cadastral Survey, Idaho State Office, Bureau of Land Management, 1387 South Vinnell Way, Boise, Idaho, 83709–1657.

Dated: October 23, 1997.
Duane E. Olsen,
Chief Cadastral Surveyor for Idaho.
[FR Doc. 97–28861 Filed 10–30–97; 8:45 am]
BILLING CODE 4310–GG–M

DEPARTMENT OF THE INTERIOR

National Park Service

Availability of Plan of Operations and Environmental Assessment for Drilling and Production of 3 Gas Wells; Mesa Operating Company (Lake Meredith National Recreation Area), Hutchinson County, TX

Notice is hereby given in accordance with Section 9.52(b) of Title 36 of the Code of Federal Regulations that the National Park Service has received from Mesa Operating Company a Plan of Operations for the Drilling and Production of 3 gas wells within Lake Meredith National Recreation Area, Potter County, TX.

The Plan of Operation and Environmental Assessment are available for public review and comment for a period of 30 days from the publication date of this notice in the Office of the Superintendent, Lake Meredith National Recreation Area/Alibates Flint Quarries National Monument, 419 East Broadway, Fritch, TX. Copies are available from the Superintendent, Lake Meredith National Recreation Area/ Alibates Flint Quarries National Monument, Post Office Box 1460, Fritch, TX 79036 and will be sent upon request, subject to a charge for copying.

Dated: October 17, 1997.
John Benjamin,
Superintendent, Lake Meredith National Recreation Area/Alibates Flint Quarries National Monument.
[FR Doc. 97–28923 Filed 10–30–97; 8:45 am]
BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Cape Cod National Seashore Advisory Commission; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App 1, section 10), that a meeting of the Cape Cod National Seashore Advisory Commission will be held on Friday, November 21, 1997.

The Commission was reestablished pursuant to Public Law 99–349, Amendment 24. The purpose of the Commission is to consult with the Secretary of the Interior, or his designee, with respect to matters relating to the development of the Cape Cod National Seashore, and with respect to carrying out the provisions of sections 4 and 5 of the Act establishing the Seashore.

The Commission members will first meet at 10:00 a.m. at Headquarters, Marconi Station to carpool for a site visit to Hatches Harbor/ Provincetown Airport. As transportation is unavailable for the public, they are invited to meet the members on-site at about 10:30 a.m.

The Commission members will then reconvene at Headquarters, Marconi Station at 1:00 p.m. for the regular business meeting which will be held for the following reasons:

1. Adoption of Agenda
2. Approval of Minutes of Previous Meeting 9/19/97
3. Reports of Officers
4. Report of Nickerson Subcommittee
5. Hatches Harbor Followup
6. Superintendent's Report
   Introduction of new Deputy Superintendent, Mike Murray
   Highlands Center for Arts & Environment
   News from Washington
   GMP
7. Old Business—GMP Subcommittee Report
8. New Business
9. Agenda for next meeting
10. Date for next meeting
11. Public comment
12. Adjournment

The meeting is open to the public. It is expected that 15 persons will be able to attend the meeting in addition to the Commission members.

Interested persons may make oral/ written presentations to the Commission during the business meeting or file written statements. Such requests should be made to the park superintendent at least seven days prior to the meeting. Further information concerning the meeting may be obtained from the Superintendent, Cape Cod National Seashore, 99 Marconi Site Road, Wellfleet, MA 02667.

Richard Obernesser,
Acting Superintendent.
[FR Doc. 97–28924 Filed 10–30–97; 8:45 am]
BILLING CODE 4310–70–P

DEPARTMENT OF JUSTICE

Justice Management Division; Agency Information Collection Activities; Proposed Collection

ACTION: Notice of information collection under review: extension of previously approved collection, Department of Justice procurement blanket clearance.

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until December 30, 1997.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time should be directed to Mr. Larry Silvis (phone number and address listed below). If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Mr. Larry Silvis, (202) 616–3754, Management and Planning Staff, Room 1400, National Place Building, 1331 Pennsylvania Avenue, NW., Washington, DC 20530.

Overview of this information Collection:

(1) *Type of information collection:* Extension of Current Collection.

(2) *The title of the form/collection:* Department of Justice Procurement Blanket Clearance.

(3) *The agency form number, if any, and applicable component of the Department sponsoring the collection:* Procurement Solicitation Documents, Justice Management Division, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract.* Primary: Commercial organizations and individuals who voluntarily submit offers and bids to compete for contract awards to provide supplies and services required by the Government. All work statements and pricing data are required to evaluate the contractors bid or proposal.

(5) *An estimate of the total number of respondents and the amount of time for an average respondent to respond:* 3,000

respondents, 20 hours average response time.

(6) *An estimate of the total public burden (in hours) associated with this collection:* 60,000 hours annually.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: October 27, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–28857 Filed 10–30–97; 8:45 am]

BILLING CODE 4410–06–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Inter Company Collaboration for Aids Drug Development

Notice is hereby given that, on September 15, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), Inter Company Collaboration for Aids Drug Development (The Collaboration) filed written notifications simultaneously with the Attorney General and the Federal Trade Commission. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

As indicated in its previous filings, the Collaboration is intended to facilitate more efficient concomitant and or comparative research on HIV antiviral compounds through the sharing of scientific information among its members, the sharing of compounds to conduct appropriate investigations for clinical research, and the coordination of certain clinical trials conducted independently by certain of its members. A purpose of this filing is to confirm that these activities of the Collaboration encompass gene therapy related to the treatment of HIV infection and AIDS.

The Collaboration may also engage in the collection, analysis and exchange of research information, including information on statistical techniques applicable to AIDS research with other groups or entities engaged in research on HIV and AIDS, as well as within the Collaboration.

In addition, the Collaboration may, as an organization, engage in scientific and policy discussions with governmental agencies (including FDA and NIH). This activity may involve development, exchange and analysis of scientific information within the Collaboration, and presentation, analysis and discussion by the Collaboration with government agencies. Such discussions may include consideration of the appropriate surrogate markers for approval of AIDS anti-viral drugs and innovative statistical techniques to address issues presented by AIDS drug clinical trials. This activity may also involve the development and presentation of regulatory positions by the Collaboration to governmental agencies.

Although no changes have been made in the membership of the Collaboration, Collaboration member AJI PHARMA USA, Inc. has merged with its parent, Ajinomoto Co., Inc.; Collaboration member Triangle Pharmaceuticals Inc. has acquired Avid Corporation by merger with a subsidiary; and Collaboration member Ciba-Geigy AG has merged with Sandoz AG to form Novartis AG. As a part of the merger process, the Ciba-Geigy pharmaceutical operations, including its membership in the Collaboration, became part of Novartis Pharma AG, Novartis, pharmaceutical operating subsidiary. Membership in the Collaboration remains open.

On May 27, 1993, the Collaboration filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 6, 1993 (58 FR 36223). The last notification was filed with the Department on August 23, 1996. A notice was published in the **Federal Register** on September 17, 1996 (61 FR 48962).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–28949 Filed 10–30–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; National Information Infrastructure Testbed

Notice is hereby given that, on August 11, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), National Information Infrastructure Testbed, Inc., a/b/a InfoTEST International ("InfoTEST") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in membership. the notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Agility Forum-Lehigh University, and Network & Systems Consulting are no longer members of InfoTEST.

No other changes have been made in the membership, nature, or objectives of the consortium. Membership in InfoTEST remains open, and the consortium intends to file additional written notifications disclosing all changes in membership.

On December 7, 1993, InfoTEST filed its original notification (as the National Information Infrastructure Testbed) pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on May 18, 1994 (60 FR 25,960).

The last notification was filed with the Department of Justuce on June 10, 1997. A notice for this filing has not yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations Antitrust Division.

[FR Doc. 97–28953 Filed 10–30–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Portland Cement Association

Notice is hereby given that, on September 15, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), the Portland Cement Association ("PCA") filed notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) a change in membership and (2) changes in the names of certain participants. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, effective November 1, 1997, Texas Industries, Dallas, TX will become a PCA member. Additionally, St. Marys Cement Company, Detroit, MI should now be listed as Blue Circle/St. Marys Cement Company; St. Marys Cement Corporation, Toronto, CANADA has been changed to Blue Circle Canada Inc.; ESSROC Corp, Nazareth, PA should be listed as Essroc Cement Corp.; ESSROC Canada, Downsview, Ontario, CANADA has been changed to Essroc Canada Inc.; ESSROC Materials Inc., Nazareth, PA should be dropped from the list; and the Southeast Cement Shippers Association, Salt Lake City, UT, an Affiliate Member, should be listed as the Southeastern Cement Shippers Association.

No other changes have been made in either the membership, corporate name, or planned activities of the venture.

On January 7, 1985, PCA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 5, 1985 (50 FR 5015). The last notification was filed with the Department on June 2, 1997. A notice was published in the **Federal Register** on July 16, 1997 (62 FR 38121).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–28950 Filed 10–30–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993 Semiconductor Research Corporation

Notice is hereby given that, on September 16, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), the Semiconductor Research Corporation ("SRC") filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, FLIPCHIP Technologies, L.L.C., Phoenix, AZ has become an Affiliate Member and Dawn Technology, Mountain View, CA; Ibis Technology, Danvers, MA; Hestia Technology, Sunnyvale, CA; OEA International, Santa Clara, CA; and Tyecin Systems, Los Altos, CA are no longer members.

No other changes have been made in either the membership, corporate name, or planned activities of this group research project. Membership in the project remains open, and Semiconductor Research Corporation intends to file additional written notifications disclosing all changes in membership.

On January 7, 1985, the Semiconductor Research Corporation filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on January 30, 1985 (50 FR 4281). The last notification was filed with the Department on June 11, 1997. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on August 4, 1997 (62 FR 41976).

Constance K. Robinson,

Director of Operations Antitrust Division.

[FR Doc. 97–28952 Filed 10–30–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Project Deeplook

Notice is hereby given that, on September 18, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), Project DeepLook has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are: BP Exploration & Oil Inc., Houston, TX; Chevron Petroleum Technology Co., Houston, TX; Conoco Inc., Houston, TX; Mobil Technology Co., Dallas, TX; Shell Oil Co., Houston, TX; Texaco Group Inc., Houston, TX; Union Oil Co. of California, Sugar Land, TX; Landmark Graphics Corp., Austin, TX; Schlumberger-Doll Research, Ridgefield, CT; Western Atlas International, Inc., Houston, TX; and CGG American Services, Inc., Houston, TX. The objectives of the venture are to accelerate the development of fluid imaging tools intended to increase the recovery factors of hydrocarbon reservoirs. The venture will strive to develop technical advances of broad applicability across a wide segment of the producing community, drawing on the resources of both producing companies and service suppliers.

Participation is open to all interested parties who execute a participation agreement and make required contributions. Information regarding participation in the Group may be obtained from Edward T. Stoessel, BP Exploration & Oil Co., 200 Westlake Park Blvd., Houston, TX 77079 and Richard J. Goetsch, Esq., BP America Inc., 200 Public Sq., 11–C, Cleveland, OH 44114.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–28951 Filed 10–30–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed extension of the Dislocated Worker Special Project Report, ETA 9038. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before December 30, 1997.

The Department of Labor is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary

for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collection; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Zenowia Choma, Office of Worker Retraining and Adjustment Programs, Office of World-Based Learning, Employment and Training Administration, U.S. Department of Labor, Room N–5426, 200 Constitution Avenue N.W., Washington, D.C. 20210, 202–219–5577 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The collection of the information in the Dislocated Worker Special Project Report (DWSPR) is necessary in order to satisfy the requirements of the provisions of the Job Training Partnership Act (JTPA), as amended. The provisions are related to the Secretary's responsibilities and authority for monitoring performance and expenditures, and for recordkeeping and reporting related to JTPA Title III.

II. Current Actions

This is a request for OMB approval of an extension of an existing collection of information previously approved by OMB. The extension will allow the Department to continue to monitor the performance of the discretionary programs under Title III of JTPA, to report to Congress and the Treasury, and to prepare annual budget reports.

Type of Review: Extension.

Agency: Employment and Training Administration.

Title: Dislocated Worker Special Project Report.

OMB Number: 1205–0318.

Affected Public: State, Local or Tribal Government/Business or other for-profit/not-for-profit institutions.

Total Respondents: 170.

Frequency: Quarterly.

Average Time per Response: 17.5 hours.

Estimated Total Burden Hours: 11,870.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: October 28, 1997.

Peter E. Rell,

Acting Administrator, Office of Work-Based Learning, Employment and Training Administration.

[FR Doc. 97–28916 Filed 10–30–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Job Training Partnership Act, Title III, Demonstration Program: Labor Organization Adjustment Assistance

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of availability of funds and solicitation for grant application (SGA).

SUMMARY: All information required to submit a proposal is contained in this announcement. The U.S. Department of Labor (DOL), Employment and Training Administration (ETA), announces a demonstration program to test the ability of labor organizations to develop innovative approaches for providing accelerated skills development and/or enhancement of job skills already possessed by affected workers to increase their prospects of transitioning to new or related occupational job opportunities. The program is to be funded with Secretary's National Reserve funds appropriated through Title III of the Job Training Partnership Act (JTPA). This notice describes the process that eligible applicants must use to apply for demonstration funds, the subject area for which applications will be accepted for funding, how grantees are to be selected, and the responsibilities of grantees. It is anticipated that up to $3 million will be available for funding approximately 6 demonstration projects covered by this solicitation with no project being awarded more than $500,000.

DATES: Applications for grant awards will be accepted commencing October 31, 1997. The closing date for receipt of applications will be *January 7, 1998*, at 2:00 p.m. (Eastern Time) at the address below.

ADDRESSES: Applications shall be mailed to: Division of Acquisition and Assistance, Attention: *Denise Roach*, Reference: SGA/DAA 98–001, Employment and Training Administration, U.S. Department of Labor, Room S–4203, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Denise Roach, Division of Acquisition and Assistance, Telephone: (202) 219–8694 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: This announcement consists of five parts. Part I describes the authorities and purpose of the demonstration program and identifies demonstration evaluation and oversight policy. Part II describes the application process and provides detailed guidelines for use in applying for demonstration grants. Part III includes the statement of work for the demonstration projects. Part IV identifies and defines the selection criteria which will be used in reviewing and evaluating applications. Part V describes the reporting requirements.

Part I. Background

A. Authorities

Section 323(a)(b) of the Job Training Partnership Act authorizes the use of funds reserved under part B of Title III for demonstration programs. The Department requires that applicants for grants comply with all Federal and State laws and regulations in setting up their programs.

B. Purpose of the Demonstration

As authorized under Title III of JTPA, the Dislocated Worker Program provides a wide range of employment and training services to eligible dislocated workers to help them find and qualify for new jobs. Many of these jobs will be in occupations different from workers' pre-layoff occupations and require affected workers to learn new skills and knowledge where the "skills gap" is substantial. In other instances the "skills gap" could be minimal and require only enhancement of workers' existing skills to increase their transferability to related occupations. Strategies which maximize the utilization of workers' current skills and/or reduce the length of training required for the acquisition of new skills should not only expand but also facilitate a more rapid transition to new employment opportunities.

This demonstration will test whether labor organizations as institutions knowledgeable about and focused on the maintenance of their members' skills and/or knowledgeable about emerging technologies and occupations can be successful providers of the above strategies either directly or by playing the principal role in the design and implementation of innovative approaches and strategies for meeting the skills needs of this target population. Projects funded through this solicitation are to provide reemployment and retraining services—as described in sections 314(c) and 314(d) of JTPA—to dislocated workers who may need and benefit from the receipt of these services. Participants must be eligible under sections 301(a)(1)(A), (B), or (C) of JTPA AND be members of the target population for which the project is designed. For purposes of this demonstration, appropriate target populations include those workers who have been represented through collective bargaining by the demonstration project grantee labor organization or its partnering labor organizations and who have been terminated or laid off within 90 days of the closing date of this solicitation or within 150 days subsequent to the grant award. Up to 15 percent of the target population may include represented workers who have been longer-term unemployed for three (3) months or longer and whose lay-offs occurred prior to the 90 day period indicated above.

The demonstration projects must ensure that the services and service mix provided will achieve the following program goals: (1) At least 74 percent of project participants will find employment within 90 days after leaving the project, (2) the post-program wage at 90 day follow-up is at least 96 percent of the wage at dislocation on average, and (3) at least 70 percent of the project participants will rate the services received as "extremely" or "very" valuable.

C. Evaluation

Under a separate announcement, DOL will select and fund a separate evaluation contractor to: (1) Provide technical assistance to grantees in establishing appropriate data collection methods and processes; and (2) conduct an independent process evaluation of the demonstration projects. Grantees will be expected to make available participant records and access to personnel, as specified by the evaluation contractor.

In addition, DOL will establish, for each demonstration project site, an oversight group made up of federal, State, and substate staff.

D. Definitions

Unless otherwise indicated in this announcement, definitions of terms used herein shall be those definitions found in the Job Training Partnership Act, as amended, particularly at section 4 and section 301.

Part II. Application Process—All Information Required To Submit a Proposal is Contained in This Announcement

A. Eligible Applicants

Eligible applicants for demonstration projects funded under this announcement are labor organizations which: (1) Provide exclusive representation to the target population to be served through collective bargaining agreements in effect at the time of the effective date of worker layoff or termination; and (2) that can demonstrate the ability to deliver the services proposed and to ensure the integrity of the funds requested.

Note: With respect to item 1, an eligible applicant may be a labor organization which provides exclusive representation to a *portion* of the target population and which is willing to administer grant funds *in partnership with* other labor organizations that provide exclusive representation to the other respective portions of the target population to be served. In these circumstances, the offeror must demonstrate through letters of support from the other labor organization that the latter will participate in the grant activities to be performed.

B. Contents

An original and three (3) copies of the proposal shall be submitted. The proposal shall consist of two (2) separate and distinct parts—Part I, the Financial Proposal, and Part II, the Technical Proposal.

1. Financial Proposal

The Financial Proposal, Part I, shall contain the SF–424, "Application for Federal Assistance" (Appendix No. 1), and SF 424–A, "Budget" (Appendix No. 2). The Federal Domestic Assistance Catalog number is 17.246. An applicant shall indicate on the SF–424 the type of organization for which it qualifies under the eligibility criteria in Part II, section A. of this solicitation. The budget shall include on separate pages: a cost analysis of the budget, identifying in detail the amount of each budget line item attributable to administrative costs and costs for one or more of the following categories: basic readjustment services (Section 314(c) (1–14, 16–18) of JTPA), supportive services (Section 314(c)(15)), and retraining services (Section 314(d)) requested through this grant **Note:** Other Title III cost categories not mentioned are specifically excluded from grant expenditures, e.g. rapid response assistance and needs-related payments); an identification of the amount of each budget line item which will be covered by other funds (if applicable), and the sources of those funds (including other Title III funds, employer funds, in-kind resources, secured and unsecured loans, grants, and other forms of assistance, public and private); and a justification for the average cost of service per placement. The latter is to be computed by dividing the number of proposed participants of the target population who will be employed within 90 days after leaving the project into the total Federal funds requested.

Grant funds may cover only those costs which are appropriate and reasonable. Federal funds cannot be used to provide training which an employer is in a position to, and would otherwise, provide, nor can they be used to provide salaries for program participants.

Federal funds may not be used for acquisition of production equipment. The only type of equipment that may be acquired with Federal funds is equipment necessary for the operation of the grant. In the instance of a purchase, the cost of the equipment is to be prorated over the projected life of the equipment to determine the cost to the grant. Use of grant funds to purchase equipment with a unit cost of $5,000 or more requires special review and approval from DOL prior to purchase.

Applicants may budget limited amounts of grant funds to work with technical expert(s) to provide advice and develop more complete project plans.

2. Technical Proposal

The technical proposal shall demonstrate the offeror's capabilities in accordance with the Statement of Work/Project Summary in Part III of this solicitation. No Cost Data or Reference to price shall be included in the technical proposal.

C. Submission

Grant applications will be evaluated carefully by a panel convened by the Department after the closing date of this solicitation. Incomplete or non-responsive proposals may be returned without evaluation. An application will be reviewed based upon the overall responsiveness of the application's content to the submission requirements and to the selection criteria found in Part IV, taking into consideration the extent to which funds are available.

D. Hand-Delivered Proposals

Proposals should be mailed at least five (5) days prior to the closing date for the receipt of applications. However, if proposals are hand-delivered, they shall be received at the designated place by 2 p.m., Eastern Time on the closing date for receipt of applications. All overnight mail will be considered to be hand-delivered and must be received at the designated place by the specified time and closing date. Telegraphed and/or faxed proposals will not be honored. Failure to adhere to the above instructions will be a basis for a determination of nonresponsiveness.

E. Late Proposals

Any proposal received at the offices designated in the solicitation after the exact time specified for rreciept will not be considered unless it—

(1) Was sent by the U.S. Postal Service registered or certified mail not later than the fifth calendar day before the date specified for receipt of the application (e.g., an offer submitted in response to a solicitation requiring receipt of applications by the 30th of January must have been mailed by the 25th); or

(2) Was sent by U.S. Postal Service Express Mail Next Day Service—Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two working days prior to the date specified for receipt of proposals. The term "working days" excludes weekends and U.S. Federal holidays.

The only acceptable evidence to establish the date of mailing of a late proposal sent either by the U.S. Postal Service registered or certified mail is the U.S. postmark both on the envelope or wrapper and on the original receipt from the U.S. Postal Service. Both postmarks must show a legible date or the proposal shall be processed as if mailed late. "Postmark" means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed by employees of the U.S. Postal Service on the date of mailing. Therefore, applicants should request the postal clerk to place a legible hand cancellation "bull's eye" postmark on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the date of mailing of a late proposal sent by "Express Mail Next Day Service—Post Office to Addressee" is the date entered by the post office receiving clerk on the "Express Mail Next Day Service—Post Office to Addressee" label and the postmark on both the envelope and wrapper and on the original receipt from the U.S. Postal Service. "Postmark" has the same meaning as defined above. Therefore, applicants should request the postal clerk to place a legible hand cancellation "bull's eye" postmark on both the receipt and the envelope or wrapper.

F. Withdrawal of Proposals

Proposals may be withdrawn by written notice or telegram (including mailgram) received at any time before award. Proposals may be withdrawn in person or by an applicant or an authorized representative thereof, if the representative's identity is made known and the representative signs a receipt for the proposal before an award.

G. Period of Performance

Grant awards will be made for a 17 month period. Project operators must be prepared to deliver services within 60 days following award. The delivery of services will be for a period of 12 months. Grantees will be allowed up to 90 days subsequent to the termination of service delivery for collecting follow-up information on individual completers and the preparation of final project reports.

H. Funding

DOL has set aside up to $3 million to be disbursed for 6 projects, contingent upon resources being available for this purpose. It is expected that no project will be awarded more than $500,000. DOL may elect to modify and add funds to a grant for an additional one (1) or two (2) years of operation based on the availability of funds, successful program operation, and the needs of the Department.

I. Page Count Limit

Applications are to be limited to thirty-five (35) double-spaced, single side, 8.5 inch x 11 inch pages with one inch margins. Attachments shall not exceed ten (10) pages. Text type shall be 11 point or larger. Applications that do not meet these requirements will not be considered.

J. Cost Limitations

Demonstration grants are not subject to the cost limitations for Title III grants at section 315 of the JTPA. However, any offeror proposing administrative costs that exceed 15 percent of the budget and/or supportive services that exceed 25 percent of the funds requested in the application shall provide a narrative justification.

Part III. Statement of Work

Each application should follow the format outlined here. For every section, A through F, the application should include: (1) Information that responds to the requirements in this part; (2) information that indicates adherence to the provisions described in Parts I and II of this solicitation; and (3) other information the offeror believes will address the selection criteria identified in Part IV.

A. Target Population

Described the dislocated worker target population, including the size, location, and needs of this population relative to the services being provided.

Indicate the beginning and end dates of the collective bargaining agreement(s) under which the target population was covered at the time of the workers' layoff or termination and the labor organization(s) and company(ies) who were the parties to the agreement(s).

B. Components of the Labor Organization Adjustment Assistance Demonstration

Describe the major elements of the demonstration project, including how the project works in terms of the individual worker getting access to the reemployment and retraining services which the individual needs. Specifically:

- How will new job openings and opportunities in demand occupations for the project participants be identified and developed?
- What services will be covered by the reemployment and retraining program? Describe the mechanisms to be used to ensure appropriate outreach and recruitment. Explain how these services are relevant to the target population to be served. Explain how these services will focus on utilizing a participant's current (pre-layoff) skills for placement and/or retraining purposes.

Note: Such services must be authorized under sections 314(c) and 314(d) of JTPA and comply with applicable federal regulations at 20 CFR parts 627 and 631.

- How will reemployment and retraining service needs of the individual worker be determined? What will be the sequence of services provided and the criteria/decision points used to determine the appropriateness of specific services for individual participants? By way of illustration, include a flowchart indicating the sequence of services provided, the decision points which determine the services to be provided to a participant, and the expected duration of each service component.
- How will qualified providers of reemployment and retraining services be determined if they are used?
- How will a participant's continuing participation in the program be monitored? At what point(s) will termination occur?
- What information will be available to the worker to identify and evaluate alternative employment opportunities? How will this information be developed? How will the worker be able to access this information?
- How will the components described in this subpart relate to the demonstration purpose of testing innovative approaches for maximizing the utilization of workers' current skills for entry into new or related demand occupations?

C. Administration and Management

Identify the management structure for the project and describe the means to ensure accountability for funds as well as performance.

Provide a description of the process and procedures to be used to obtain feedback from participants and other appropriate parties on the responsiveness and effectiveness of the services provided. The description should include an identification of the types of information to be obtained, the method(s) and frequency of data collection, and how the information will be used in implementing and managing the project. Specific references should be made to collecting information needed to determine: (1) The achievement of project outcomes as indicated in section E (including 90 day follow-ups of participants to determine demonstration program goal achievement) and (2) the reporting of participants, outcomes, and expenditures. Indicate what methods, e.g., surveys, focus groups, will be used to collect feedback information.

Describe the applicant's past experience in the management of projects similar to that being proposed.

D. Use of Existing Services and Resources

Identify specific sources and amounts of other funds, if any, which will be used in addition to funds provided through this grant to implement the project. Include: (1) Information on any non-JTPA resources committed to this project, including employer funds, secured and unsecured loans, grants, and other forms of assistance, public and private; and (2) a description of the relationship of the proposed project to the ongoing assistance to dislocated workers through the formula-funded JTPA Title III–A program in the service area and those procedures to be used to ensure non-duplication of services between the formula-funded Title III–A program and the project. Describe any other coordination of resources and agencies that may be undertaken.

E. Outcomes

Identify project outcomes and the specific measures, and planned achievement levels, that will be used to determine the success of the project.

These outcomes and measures should include, but are not limited to:

- The number of participants to be enrolled in services, those successfully completing services through the project, and those to be placed into new jobs including (to be separately identified) those obtaining new jobs utilizing a high degree of their previous job skills;
- Measurable effects of the services provided to project participants as indicated by gains in individuals' skills, competencies, or other outcomes;
- Average wages of participants prior to and at completion of project;
- Customer satisfaction with the project, and at critical points in the service delivery; and
- Other additional measurable, performance-based outcomes that are relevant to the proposed intervention and which may be readily assessed during the period of performance of the project.

Note: An explanation of how such additional measures are relevant to the purpose of the demonstration program shall be included in the application.

The proposal must also describe how outcomes achieved by individuals served by the project are to be related to the numerical demonstration program goals identified in Part I, section B.

F. Replicability

Describe the information to be provided on project activities that will allow other parties to replicate the proposed project. Discuss the applicability of the project to other dislocated worker programs.

Part IV. Evaluation Criteria

Prospective offerors are advised that the selection of grantee(s) for award is to be made after careful evaluation of proposals by a panel selected by DOL. Panelists will evaluate the proposals for acceptability based on the various factors enumerated below. The panel results are advisory in nature and not binding on the Grant Officer.

Evaluations will be made on the basis of both what the proposed offeror intends to do during the grant period, and on the usefulness of the demonstration after the end of the grant period.

A. Technical Evaluation (80 Points)

Services and Target Group (35 Points)

The responsiveness of the services to be provided, including the degree to which the services appear to meet the needs of the target population. The extent to which the services to be provided focus on and are innovative in utilizing participants' current (pre-layoff) skills. The demonstrated relationship between the services to be provided and the jobs into which participants are to be placed. The scope of the project in terms of the number of participants to be served. (Relates to information requested in Part III, sections A, B, and E.)

Management Structure (15 Points)

The extent to which the management structure ensures accountability for performance, monitors customer satisfaction, and includes procedures for continuous quality improvement. The ability of the management structure to determine the extent to which the planned project outcomes and demonstration program goals have been met by the project. (Relates to information requested in Part III, section C.)

Coordination and Linkages; Utilization of Resources (10 points)

The extent to which the project will use other existing public and private resources including employer and union-funded assistance, avoid duplication of services with the formula-funded Title III–A program, and coordinate its services with other appropriate State and local organizations. (Relates to information requested in Part III, section D.)

Demonstrated Experience (10 points)

Experience in the oversight and operation of projects requiring management capabilities and experience similar to the proposed project. (Relates to information requested in Part III, section C.)

Replicability (10 points)

The completeness of the information to be provided on project activities that will allow others to replicate the project. The likelihood that the approach may be applicable to a broad range of dislocated worker programs across the country. (Relates to information requested in Part III, section F.)

B. Cost Evaluation (20 points)

The cost effectiveness of the project as indicated by the relationship of proposed costs to number of participants to be served, the range of services to be provided and the planned outcomes, as compared to other service strategies available for Title III grantees. The extent to which the budget is justified and supports the planned outcomes.

Applicants are advised that discussions may be necessary in order to clarify any inconsistencies in their applications. Applications may be rejected where the information required is not provided in sufficient detail to permit adequate assessment of the proposal. The final decision on the award will be based on what is most advantageous to the Federal Government as determined by the ETA Grant Officer.

Part V. Reporting Requirements

Applicants selected as grantees will be required to provide the following reports:

A. Monthly and Quarterly Progress Reports

B. Standard Form 269, Financial Status Report Form, on a quarterly basis.

C. Final Project Report including an assessment of project performance.

Signed at Washington, DC, this 24th day of October, 1997.

Janice E. Perry,

Grant Officer, Employment and Training Administration.

Appendices

No. 1—Application for Federal Assistance (Standard Form 424)

No. 2—Budget Form—Non Construction Programs (Standard Form 424–A

BILLING CODE 4510–30–M

Attachment No. 1—Application for Federal Assistance (Standard Form 424)

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

		2. DATE SUBMITTED	Applicant Identifier
1. TYPE OF SUBMISSION: Application / Construction / Non-Construction; Preapplication / Construction / Non-Construction		3. DATE RECEIVED BY STATE	State Application Identifier
		4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (*give city, county, State, and zip code*):	Name and telephone number of person to be contacted on matters involving this application (*give area code*)
6. EMPLOYER IDENTIFICATION NUMBER (*EIN*):	7. TYPE OF APPLICANT: (*enter appropriate letter in box*) A. State H. Independent School Dist. B. County I. State Controlled Institution of Higher Learning C. Municipal J. Private University D. Township K. Indian Tribe E. Interstate L. Individual F. Intermunicipal M. Profit Organization G. Special District N. Other (Specify) _____
8. TYPE OF APPLICATION: New Continuation Revision If Revision, enter appropriate letter(s) in box(es) A. Increase Award B. Decrease Award C. Increase Duration D. Decrease Duration Other(*specify*):	9. NAME OF FEDERAL AGENCY:
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: TITLE:	11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:
12. AREAS AFFECTED BY PROJECT (*Cities, Counties, States, etc.*):	

13. PROPOSED PROJECT		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project
15. ESTIMATED FUNDING:			16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS? a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON: DATE _____ b. No. PROGRAM IS NOT COVERED BY E. O. 12372 OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW
a. Federal	$ .00		
b. Applicant	$ .00		
c. State	$ .00		
d. Local	$ .00		
e. Other	$ .00		
f. Program Income	$ .00		
g. TOTAL	$ .00		17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? Yes If "Yes," attach an explanation. No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Type Name of Authorized Representative	b. Title	c. Telephone Number
d. Signature of Authorized Representative		e. Date Signed

Previous Edition Usable
Authorized for Local Reproduction

Standard Form 424 (Rev. 7-97)
Prescribed by OMB Circular A-102

INSTRUCTIONS FOR THE SF-424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0043), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:
1.	Self-explanatory.
2.	Date application submitted to Federal agency (or State if applicable) and applicant's control number (if applicable).
3.	State use only (if applicable).
4.	If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5.	Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7.	Enter the appropriate letter in the space provided.
8.	Check appropriate box and enter appropriate letter(s) in the space(s) provided: -- "New" means a new assistance award. -- "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. -- "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9.	Name of Federal agency from which assistance is being requested with this application.
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11.	Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
12.	List only the largest political entities affected (e.g., State, counties, cities).
13.	Self-explanatory.
14.	List the applicant's Congressional District and any District(s) affected by the program or project.
15.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as Item 15.
16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18.	To be signed by the authorized representative of the applicant. A copy of the governing body's (Certain Federal agencies may require that this authorization be submitted as part of the application.)

SF-424 (Rev. 7-97) Back

Attachment No. 2—Budget Form—Non Construction Programs (Standard Form 424A)

PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

	(A)	(B)	(C)
1. Personnel	$	$	$
2. Fringe Benefits (Rate %)			
3. Travel			
4. Equipment			
5. Supplies			
6. Contractual			
7. Other			
8. Total, Direct Cost (Lines 1 through 7)			
9. Indirect Cost (Rate %)			
10. Training Cost/Stipends			
11. TOTAL Funds Requested (Lines 8 through 10)	$	$	$

SECTION B - Cost Sharing/ Match Summary (if appropriate)

	(A)	(B)	(C)
1. Cash Contribution			
2. In-Kind Contribution			
3. TOTAL Cost Sharing / Match (Rate %)			

NOTE: Use Column A to record funds requested for the initial period of performance (i.e. 12 months, 18 months, etc.); Column B to record changes to Column A (i.e. requests for additional funds or line item changes; and Column C to record the totals (A plus B).

[FR Doc. 97-28830 Filed 10-30-97; 8:45 am]
BILLING CODE 4510-30-C

DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as many from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decision shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations issued under the Davis-Bacon and Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210.

THE PAPER AND INK USED IN THE ORIGINAL PUBLICATION MAY AFFECT THE QUALITY OF THE MICROFORM EDITION

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Connecticut
CT970001 (FEB. 14, 1997)
CT970003 (FEB. 14, 1997)
CT970004 (FEB. 14, 1997)
New York
NY970003 (Feb. 14, 1997)
NY970005 (Feb. 14, 1997)
NY970007 (Feb. 14, 1997)
NY970013 (Feb. 14, 1997)
NY970018 (Feb. 14, 1997)
NY970019 (Feb. 14, 1997)
NY970026 (Feb. 14, 1997)
NY970033 (Feb. 14, 1997)
NY970036 (Feb. 14, 1997)
NY970043 (Feb. 14, 1997)
NY970045 (Feb. 14, 1997)
NY970048 (Feb. 14, 1997)
NY970050 (Feb. 14, 1997)
NY970051 (Feb. 14, 1997)
NY970075 (Feb. 14, 1997)

Volume II

Pennsylvania
PA970007 (Feb. 14, 1997)
PA970009 (Feb. 14, 1997)
PA970010 (Feb. 14, 1997)
PA970014 (Feb. 14, 1997)
PA970019 (Feb. 14, 1997)
PA970023 (Feb. 14, 1997)
PA970029 (Feb. 14, 1997)
PA970060 (Feb. 14, 1997)
Virginia
VA970011 (Feb. 14, 1997)
VA970020 (Feb. 14, 1997)

Volume III

Georgia
GA970050 (Feb. 14, 1997)

Volume IV

Illinois
IL970025 (Feb. 14, 1997)
IL970030 (Feb. 14, 1997)
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IL970047 (Feb. 14, 1997)
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OR970001 (Feb. 14, 1997)
Washington
WA970001 (Feb. 14, 1997)
WA970002 (Feb. 14, 1997)
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WA970007 (Feb. 14, 1997)
WA970008 (Feb. 14, 1997)
WA970011 (Feb. 14, 1997)
WA970013 (Feb. 14, 1997)

Volume VII

California
CA970098 (Feb. 14, 1997)
CA970099 (Feb. 14, 1997)
CA970101 (Feb. 14, 1997
CA970111 (Feb. 14, 1997)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and Related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the county.

The general wage determinations issued under the Davis-Bacon and Related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of

the U.S. Department of Commerce at (703) 487–4630.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, DC, this 24th day of October 1997.

Margaret Washington,

Acting Chief, Branch of Construction Wage Determinations.

[FR Doc. 97–28650 Filed 10–30–97; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Ventilation Plans, Tests, and Examinations in Underground Coal Mines

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the existing information collection related to Ventilation Plans, Tests, and Examinations in Underground Coal Mines. MSHA is particularly interested in comment which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions or responses.

A copy of the proposed information collection request can be obtained by contracting the employee listed below in the FOR FURTHER INFORMATION CONTACT section of this notice.

DATES: Submit comments on or before December 30, 1997.

ADDRESSES: Send comments to Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203–1984. Commenters are encouraged to send their comments on a computer disk, or via E-mail to psilvey@msha.gov, along with an original printed copy. Ms. Silvey can be reached at (703) 235–1910 (voice) or (703) 235–5551 (facsimile).

FOR FURTHER INFORMATION CONTACT: George M. Fesak, Director, Office of Program Evaluation and Information Resources, U.S. Department of Labor, Mine Safety and Health Administration, Room 715, 4015 Wilson Boulevard, Arlington, VA 22203–1984. Mr. Fesak can be reached at gfesak@gov (internet E-mail), (703) 235–8378 (voice), or (703) 235–1563 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Underground coal mines usually present harsh and hostile working environments. The ventilation system is the most vital life support system in underground mining and a properly operating ventilation system is essential for maintaining a safe and healthful working environment. Lack of adequate ventilation in underground mines has resulted in fatalities from asphyxiation and explosions.

An underground mine is a maze of tunnels that must be adequately ventilated with fresh air to provide a safe environment for miners. Methane is liberated from the strata, and noxious gases and dusts from blasting and other mining activities may be present. The explosive and noxious gases and dusts must be diluted, rendered harmless, and carried to the surface by the ventilating currents. Sufficient air must be provided to maintain the level of respirable dust at or below 2 milligrams per cubic meter of air and air quality must be maintained in accordance with MSHA standards. Mechanical ventilation equipment of sufficient capacity must operate at all times while miners are in the mine. Ground conditions are subject to frequent changes, thus sufficient tests and examinations are necessary to ensure the integrity of the ventilation system and to detect any changes that any require adjustments in the system. Records of tests and examinations are necessary to ensure that the ventilation system is being maintained and that changes which could adversely affect the integrity of the system or the safety of the miners are not occurring. These examinations requirements of 75.360 through 75.364 also incorporate examinations of other critical aspects of the underground work environment such as roof conditions and electrical equipment which have historically caused numerous fatalities if not properly maintained and operated.

II. Current Actions

MSHA is seeking to continue the requirements for mine mine ventilation plans, tests and examinations in underground coal mines. The records give notice to mine management and the miners on the oncoming shift on mine conditions, identify hazards on working sections during the previous shift, and verify that proper ventilation is being maintained. The information is available to all interested persons at the mine to assure them that the integrity of the ventilation system is being provided for the miners. MSHA inspectors use the records to determine that tests and examinations, required by the regulations, are made.

Type of Review: Revision.

Agency: Mine Safety and Health Administration.

Title: Ventilation Plans, Tests, and Examinations in Underground Coal Mines.

Affected Public Business or other for-profit.

Cite/Reference/Form/etc: 30 CFR 75.310, 75.312, 75.342, 75.351, 75.360, 75.361, 75.362, 75.363, 75.364, 75.370 and 75.382.

30 CFR section	Respondents	Burden hours	Burden hour cost
75.310	980	7,523	$195,598
75.312	980	99,739	$2,593,214
75.312(c)(d)	980	3,920	$101,920
75.312(g)	980	620	$16,120
75.312(g)(2)(ii)	23	46	$1,196
75.342	980	10,515	$273,390
75.351(h)	60	5,984	$155,584
75.360	980	1,470,667	$38,641,870
75.361	980	7,500	$195,000
75.362	980	642,744	25,709,760
75.363	980	19,224	319,514
75.364	980	410,884	10,767,544
75.370	554	38,226	$1,509,264
75.382	300	15,000	$390,000
Total	10,737	2,723,592	$80,869,974

Frequency: On occasion; quarterly.

Average Time per Response: Varies from 5 minutes for countersigning preshift examinations to 16 hours for updating mine ventilation plans.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $194,256.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: October 27, 1997.

George M. Fesak,

Director, Program Evaluation and Information Resource.

[FR Doc. 97–28918 Filed 10–30–97; 8:45 am]

BILLING CODE 4510–43–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[V–97–1]

Notice of Application for Permanent Variance From Dixie Divers

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Notice of application for permanent variance from Dixie Divers.

SUMMARY: This notice announces the application of Dixie Divers, Inc., for a permanent variance from the Occupational Safety and Health Administration (OSHA) requirements for the availability and use of decompression chambers for mixed-gas diving operations (i.e., 29 CFR 1910.423(b)(2), 29 CFR 1910.423 (c)(3)(iii), and 29 CFR 1910.426(b)(1)).

DATES: The last date for interested parties to submit comments on the variance application is December 30, 1997. The last date for affected parties, including employers and employees, to request a hearing regarding the variance application is December 30, 1997.

ADDRESSES: The original and four copies of written comments and requests for a hearing must be submitted to: U.S. Department of Labor, Occupational Safety and Health Administration, Office of Variance Determination, Room N–3653, Attention: Ms. Juanita Jones, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

For comments, one original (hardcopy) and one diskette (5¼-or 3½-inch) in Wordperfect 5.0, 5.1. or 6.1, or ASCII may be sent to this address; however, any information not contained on the diskettes (e.g., studies, articles) must be submitted in quadruplicate with the original written comments. Written comments of 10 pages or less may be transmitted by facsimile (fax) to OSHA's office of Variance Determination at (202) 219–7068, provided the original and four copies of the fax material are sent to OSHA's Office of Variance Determination within the 60day period allowed for comments.

FOR FURTHER INFORMATION CONTACT: Ms. Juanita Jones, Office of Variance Determination (see ADDRESSES above), Telephone: (202) 219–7193, Fax: (202) 219–7068, E–mail: juanita.jones@osha-no.osha.gov

or the following Regional and Area Offices:

U.S. Department of Labor—OSHA, 1375 Peachtree Street, N.E., Suite 587, Atlanta, Georgia 30367, Telephone: (404) 562–2300, Fax: (404) 562–2298, E–mail: burgoyne-joanne@dol.gov and

U.S. Department of Labor—OSHA, 5807 Breckenridge Parkway, Suite A, Tampa, Florida 33610, Telephone: (813) 626–1177, Fax: (813) 626–7015, E-mail: larry.falck@tampa.osha.gov.

For an electronic copy of this Federal Register notice, contact the Labor News Bulletin Board at (202) 219–4748, or access OSHA's web page on the Internet at http://www.OSHA.gov.

Notice of Application

Dixie Divers, Inc. (hereafter, "Dixie," "applicant," or "employer"), 14601 Orange Avenue, Ft. Pierce, Florida 34945, has applied, pursuant to Section 6(d) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655) and 29 CFR 1905.11, for a permanent variance from the requirements specified in 29 CFR 1910.423(b)(2), 29 CFR 1910.423(c)(3)(iii), and 29 CFR 1910.426(b)(1) concerning the availability and use of decompression chambers during mixed-gas diving operations.

SUPPLEMENTARY INFORMATION:

I. Background

The addresses of the places of employment affected by this application for a permanent variance are diving training facilities operated by Dixie Divers, including:

Dixie Divers of Boca Raton, 8241 Glades Road, Boca Raton, Florida 33434

Dixie Divers of Boynton Beach, 340 North Congress, Boynton Beach, Florida 33426

Dixie Divers of Coral Springs, 2060 University Drive, Coral Springs, Florida 33071

Dixie Divers of Deerfield, 1645 Southeast 3rd Court, Deerfield Beach, Florida 33441

Dixie Divers of Fort Pierce, 1717 South U.S. Route 1, Fort Pierce, Florida 34950

Dixie Divers of Key Largo, 103400 Overseas Highway, Key Largo, Florida 33037

Dixie Divers of Lakeland, 4120 South Florida Avenue, Lakeland, Florida 33813

Dixie Divers of Palm Bay, 4651 Babcock Street, Northeast, Palm Bay, Florida 32905
Dixie Divers of Panama City, 109B West 23rd Street, Panama City, Florida 32405
Dixie Divers of Stuart, 1839 Southeast Federal Highway, Stuart, Florida 34994
Dixie Divers of Vero Beach, 1833 U.S. Route 1, Vero Beach, Florida 32960
Dixie Divers of West Palm Beach, 1401 South Military Trail, West Palm Beach, Florida 33415.

The applicant has certified that employees who would be affected by the permanent variance have been notified of the application for a permanent variance by posting a copy of the application at locations where employee notices are normally posted, and that the employees have been informed of their right to petition the Assistant Secretary of Labor for the Occupational Safety and Health Administration for a hearing on the application.

Regarding the merits of the application, the applicant states that it is providing a place of employment at least as safe and healthful as that required by 29 CFR 1910.423(b)(2), 1910.423(c)(3)(iii), and 29 CFR 1910.426(b)(1).

Paragraph (b)(2) of 29 CFR 1910.423 requires that:

For any dive outside the no-decompression limits, deeper than 100 fsw [feet of sea water], or using mixed gas as a breathing mixture, the employer shall instruct the diver to remain awake and in the vicinity of the decompression chamber which is at the dive location for at least one hour after the dive (including decompression or treatment as appropriate).

Paragraph (c)(3)(iii) of 29 CFR 1910.423 specifies that:

[The decompression chamber shall be] located within 5 minutes of the dive location.

Paragraph (b)(1) of 29 CFR 1910.426 requires that:

A decompression chamber is ready for use at the dive location.

The purpose of these standards is to provide for the rapid treatment of decompression sickness (DCS) that may result from breathing mixed gases at diving depths and durations that require decompression.

The applicant operates 12 diving schools; five of the schools are operated directly by the applicant and seven of the schools are franchise operations. The applicant employs 34 recreational diving instructors, who are highly skilled and experienced divers, to train novice divers in recreational diving knowledge and skills. The same 34 employees also serve as diving guides and lead groups of sports divers to local diving sites for recreational purposes. (The recreational diving instructors and diving guides are also referred to hereafter as "employees" or, more generally, as "divers.")

As recreational diving instructors, employees train recreational diving students in conventional diving procedures and the safe operation of diving equipment. The diving students may use an open-circuit, semi-closed-circuit, or closed-circuit self-contained underwater breathing apparatus (SCUBA) with compressed-air or a high-oxygen breathing-gas mixture during these training dives. The applicant's training program involves both classroom instruction and practice dives in which the employees accompany diving students to ocean depths of zero to 130 feet of sea water (fsw) for durations that do not exceed established no-decompression limits. During these training dives, the diving instructors provide underwater instruction in, and allow the diving students to practice using, diving procedures and equipment. A diving instructor may make as many as three to four training dives a day while training diving students either individually or in small groups.

As diving guides, employees lead small groups of trained sports divers to local undersea diving locations for recreaitonal purposes. The diving locations are pre-selected by the diving guide. The diving guide provides the sports divers with information regarding the diving site, including hazardous conditions and safe practices. The recreational diving groups consist of sports divers who use open-circuit, semi-closed-circuit, or closed-circuit SCUBA with compressed-air or a high-oxygen breathing-gas mixture while diving. In conducting these diving excursions, the diving guide will dive for periods that do not exceed established no-decompression limits at diving depths ranging from zero to 130 fsw. A diving guide may make as many as five of these recreational diving excursions a day.

The applicant proposes to have its employees use open-circuit, closed-circuit, or semi-closed-circuit SCUBA supplied with high-oxygen breathing-gas mixtures that contain a higher fraction of oxygen than air. For the purpose of this application, the term "high-oxygen breathing-gas mixture" refers to any breathing-gas mixture containing an oxygen fraction of more that 22 percent (22%) by volume; the maximum oxygen fraction is 40 percent (40%) by volume for open-circuit SCUBA, and never exceeds an oxygen partial pressure delivered to the diver of 1.40 ATA (atmospheres absolute) for any SCUBA.

The high-oxygen breathing-gas mixture is obtained by mixing pure nitrogen with pure oxygen, removing oxygen from air for mixing with pure nitrogen, adding pure oxygen to air, or by denitrogenating air. Employees who use high-oxygen breathing-gas mixtures will be able to make more or longer repetitive-training and/or excursion divers than they would using compressed-air open-circuit SCUBA (their current mode of operation) because the higher oxygen and lower nitrogen levels of these breathing-gas mixtures will extend the no-decompression limits of these dives compared to repetitive-training and/or excursion dives made using breathing gases composed only of air. The use of closed-circuit and semi-closed-circuit SCUBA will also enable employees to make repetitive-training and/or excursion dives without continually refilling the cylinders that contain the breathing-gas mixture, as is the case currently when open-circuit SCUBA is used.

According to the applicant, the employees covered by this variance application will receive a level of protection that is equal to, or greater than, the level of protection they receive when they use compressed air supplied to open-circuit SCUBAs under no-decompression diving limits as permitted by the exemption to the Commercial Diving Operations standard at 29 CFR 1910.401(a)(2)(i).

Since OSHA first published the Commercial Diving Operations standard in 1977, diving equipment (including dive-decompression computers), decompression tables, training, and safety programs have steadily improved. Consequently, the overall safety performance of recreational diving has improved substantially. According to the data discussed in Reference A, the fatality rate for recreational diving as a whole (including non-work, recreational diving) has fallen from 8.62 fatalities per 100,000 divers in 1976 to 2.09–2.68 fatalities per 100,000 divers in 1991.

In the preamble to the Commercial Diving Operations standard (42 FR 37650), OSHA noted that high-oxygen breathing-gas mixtures were being developed by the National Oceanic and Atmospheric Administration (NOAA), but had not yet (in 1977) been made available to the recreational diving community. This technology increases the fraction of oxygen contained in the breathing-gas mixture, thereby exposing divers using this breathing-gas mixture to a decreased fraction of nitrogen.

During the 1980s, NOAA published diving procedures, including decompression protocols, for dives using high-oxygen breathing-gas mixtures. (See Reference B.)

While the percentage of oxygen in breathable air is 19.5–22.0 (see Gas Association Commodity Specification G–7.1–1966), the percentage of oxygen in high-oxygen breathing-gas mixtures for open-circuit SCUBA typically ranges from 28 to 40. By increasing the fraction of oxygen in the breathing-gas mixture, the driver's bodily tissues accumulate less nitrogen during a dive. As a result, the mathematical probability of developing decompression sickness (DCS) is reduced compared to divers who use compressed air under the same diving conditions (i.e., depth, bottom time, and descent and ascent rates). (See Reference C.)

Regardless of the diving equipment used (e.g., open-circuit SCUBA, surface-supplied air), paragraph 29 CFR 1910.423(b)(2), 29 CFR 1910.423(c)(3)(iii), and 29 CFR 1910.426(b)(1) of OSHA's Commercial Diving Operations standard require a decompression chamber at the diving site if a diver is supplied with high-oxygen breathing-gas mixtures; these requirements apply even if the dive does not involve decompression stops (i.e., is a no-decompression dive). Dixie believes, however, that the reduced mathematical probability of DCS that results from the use of high-oxygen breathing-gas mixtures under the conditions specified in this variance application will provide a level of safety to its employees that is equivalent to the level of safety they experience when they use open-circuit, compressed-air SCUBA within the no-decompression limits. Dixie asserts, therefore, that maintaining a decompression chamber at the dive location should not be required if it complies with the alternative conditions specified in this variance application.

II. Proposed Alternative

Instead of complying with the standard, the applicant contends that the specific safety procedures and technical provisions set forth in the variance application make the need for immediate access to a decompression chamber no greater than would be in the case when its divers use open-circuit, compressed-air SCUBA within the no-decompression diving limits as specified in the exemption to the Commercial Diving Operations standard under the provisions of 29 CFR 1910.401(a)(2)(i). These procedures and provisions are described in each of the following conditions:

A. High-oxygen breathing-gas mixtures shall be supplied using open-circuit, closed-circuit, or semi-closed-circuit SCUBA. If the divers use a closed-circuit or semi-closed-circuit SCUBA, this diving equipment must use:

1. Commercially-available disposable scrubber cartridges prepacked with sorbents that remove carbon dioxide and maintain the carbon-dioxide level in the breathable gas (i.e., the gas being inhaled directly by the diver from the regulator) below a partial pressure of 0.1 ATA. An alternate scrubber method may be used provided the employer demonstrates that this method is equal in effectiveness to commercially-available disposable scrubber cartridges in removing carbon dioxide and maintaining the carbon-dioxide level in the breathable gas below a partial pressure of 0.1 ATA.

2. Redundant, continuously-functioning carbon-dioxide sensor, moisture traps, an over-pressure valve, and redundant, continuously-functioning moisture sensors, or an equivalent method that provides immediate and accurate detection of depleted scrubber sorbent or scrubber sorbent that has been compromised by moisture contamination.

3. Flexible breathing bags (i.e., "counter lungs").

4. An open-circuit ("bail-out") system in which the second stage of the SCUBA regulator is connected to a separate supply of emergency breathing gas, or for semi-closed-circuit and closed-circuit SCUBA, a diluent supply of emergency breathing gas, in the event the SCUBA malfunctions (e.g., fails to provide a breathable oxygen level or to maintain carbon dioxide below 0.1 ATA). The bail-out system shall be at least as reliable as other commercially-available open-circuit SCUBA, and contain a supply of breathable air or a high-oxygen breathing-gas mixture sufficient to last 3 to 4 minutes at 130 fsw.

5. An information module that provides:

a. For closed-circuit SCUBA, digital and/or graphical displays for: gas pressures (including oxygen partial pressures) and/or deviations from the preset values for this information; time (i.e., surface time, dive time remaining, required ceiling stop times, and total ascent time); depth (i.e., current depth, maximum depth achieved, and required ceiling stop depth); gas temperature within the breathing loop; and ascent and decent rates.

b. For semi-closed circuit SCUBA, analog and/or digital displays for: gas pressures; time (i.e., surface time, dive time remaining, required ceiling stop times, and total ascent time); and ascent and decent rates.

c. For both closed-circuit and semi-closed-circuit SCUBA, flashing displays and symbols in the data-display module, audible alarms, or visual displays in the mask sufficient to warn the diver of: solenoid failure (when solenoids are used); low battery voltage (for electronic instruments); excessive ascent and descent rates; depth levels that are shallower than the required ceiling stop depth; and, for closed-circuit SCUBA only, oxygen partial pressures that are below or exceed the planned oxygen levels (e.g., exceed an oxygen partial pressure delivered to the diver of 1.40 ATA).

B. Closed-circuit SCUBA also must use:

1. Oxygen and diluent gas (i.e., air or nitrogen) supply-pressure sensors, depth sensors, continuously-functioning and redundant temperature-compensated oxygen sensors, and continuously-functioning gas-loop and ambient water-temperature sensors.

2. A gas-controller package with electrically-operated solenoid oxygen-supply valves and a pressure-activated regulator with a second-stage diluent-gas addition valve.

3. A manually-operated, gas-supply bypass valve to add oxygen or diluent gas to the breathing loop.

4. Separate oxygen and diluent-gas cylinders to supply the breathing-gas mixture.

C. Regardless of the SCUBA used (i.e., open-circuit, closed-circuit, or semi-closed-circuit), the fraction of oxygen in the high-oxygen breathing-gas mixture shall be greater than the fraction of oxygen in compressed air, with a maximum fraction of breathable oxygen of 40 percent (40%) by volume for open-circuit SCUBA, but never to exceed a maximum oxygen partial pressure delivered to the diver of 1.40 ATA for any SCUBA.

D. Regardless of the SCUBA used, the diver shall dive no deeper than 130 fsw, or to a maximum oxygen partial pressure delivered to the diver of 1.40 ATA, whichever is most restrictive.

E. The employer shall ensure that the divers' exposures to partial pressures of oxygen between 0.60 and 1.40 ATA (delivered to the diver) do not exceed the 24-hour single-exposure time limits specified by the 1991 NOAA Diving Manual or other oxygen-exposure limits, such as the Diving Science and Technology (DSAT) Oxygen Exposure Table, that provide a level of oxygen-toxicity protection at least equivalent to the level of protection afforded by the 1991 NOAA Diving Manual. (See

Reference D.) In using these tables, time limits shall be determined as the function of the maximum partial pressure of oxygen to which the diver was exposed during the dive, as well as the total time of the dive (i.e., from the time the diver leaves the surface until that diver returns to the surface), not the total bottom time of the dive.

F. Nitrogen shall be the only inert gas used to obtain the breathing-gas mixture.

G. The conditions listed below apply to mixing and analyzing the high-oxygen breathing-gas mixtures:

1. If the breathable gas is a high-oxygen mixture compounded by the employer, the follow procedures apply:

a. Either the continuous-flow or partial-pressure mixing techniques specified in the 1991 NOAA Diving Manual or a semi-permeable membrane shall be used to compound the appropriate breathing gas prior to delivery to the SCUBA cylinders.

b. For open-circuit and semi-closed-circuit SCUBA , the oxygen fraction of the breathing-gas mixture must be analyzed by the employer using a oxygen analyzer (e.g., consisting of a fuel-cell process the oxidizes a chemical to produce an electrical output proportional to the oxygen content) that is accurate to within one percent (1%) by volume.

c. For closed-circuit SCUBA, the oxygen fraction used in the breathing loop must be analyzed by the employer to an accuracy within one percent (1%) by using redundant temperature-compensated electromechanical sensors (e.g., consisting of electrodes that absorb oxygen that is used to form ions that react with counter electrodes and produce electrical outputs proportional to the oxygen fraction).

d. The accuracy of the equipment used by the employer to analyze the oxygen fraction shall be maintained in accordance with the manufacturer's instructions.

2. If the breathable gas is procured (purchased) high-oxygen breathing-gas mixture, the employer must ensure that:

a. The commercial supplier of the gas mixture analyses and documents the oxygen fraction of the mixture, and uses an oxygen-analytic method at least as accurate and reliable as the methods specified in Condition G.1 above;

b. The commercial supplier provides certification of the oxygen analysis; and

c. The oxygen used in the high-oxygen breathing-gas shall be Grade A (aviator's oxygen) or Grade B (industrial/medical oxygen), and shall meet the specifications, including the purity requirements, found in the 1991 NOAA Diving Manual. These specifications shall be analyzed using a method at least as accurate and reliable as the method described under Condition G.1 above, and the employer must obtain from the commercial supplier of the breathing-gas mixture a certification document to this effect.

H. If the employer uses a compressor to produce the high-oxygen breathing-gas mixture, the compressor shall be oil-less or the compressed-air shall be filtered to produce oxygen-compatible air.

I. SCUBA exposed to high-pressure (i.e., exceeding 300 psi) high-oxygen breathing-gas mixtures and/or pure oxygen must be rated for oxygen service (i.e., use components that are oxygen compatible and oxygen clean).

J. For both single and repetitive diving conducted while using a high-oxygen breathing-gas mixture, the diver shall remain within the no-decompression limits specified for such diving. The no-decompression limits shall be determined from decompression tables and formulas developed for single and repetitive air diving and published in the 1991 NOAA Diving Manual. The employer may use other decompression tables, formulas, and/or principles for their purpose provided the employer demonstrates that these tables, formulas, and/or principles are equivalent to, or better than, the NOAA tables and formulas.

K. The employee may wear and use an underwater dive-decompression computer designed to regulate decompression procedures provided that:

1. The dive-decompression computer uses decompression procedures that are based on the no-decompression tables or formulas specified in Condition J above;

2. The output from the dive-decompression computer can be demonstrated by the employer to provide its divers with protection that is equivalent to the tables or formulas specified in Condition J above;

3. A log is maintained at the dive site that records, for each dive, "Left Surface Time," "Reached Surface Time," "Maximum Depth," "Manufacturer and Model Number of the Dive-Decompression Computer," and "Serial Number of Dive-Decompression Computer"; and

4. Decompression tables are available at the dive site for use in case the dive-decompression computer fails, is damaged, or is lost.

L. Regardless of the SCUBA used, the employer shall confirm prior to each day's diving operations in which a high-oxygen breathing-gas mixture is supplied by the diver's SCUBA that the following resources are available to treat a diving-related medical emergency (e.g., DCS, air embolism) that may occur to a diver who uses such a breathing-gas mixture:

1. A hospital, qualified health-care professionals, and the nearest Coast Guard Coordination Center (or the State or Municipal equivalent), with a list of telephone or call numbers for these health-care professionals and facilities being maintained at the dive site; and

2. If a decompression chamber is not at the dive site, access and transportation to a decompression chamber must be available, with the transportation being capable of delivering the diver having a diving-related medical emergency to the decompression chamber within two hours of the injury.

M. Portable oxygen equipment with a transparent mask shall be available at the dive site to treat the diver who has a diving-related medical emergency; the oxygen shall be available for administration to the diver during the entire period the diver is being transported to a decompression chamber.

N. At least two personnel, one of whom shall be a diver employed by the applicant and both of whom are qualified in first-aid and in the administration of treatment oxygen, shall be available at the dive site to provide emergency treatment for diving-related medical emergencies.

O. The employer shall ensure that the employees covered by this variance application are divers who are certified by a training agency recognized by the recreational diving industry and who perform the functions of recreational diving instructors or diving guides. The divers must be qualified by such an agency to use the SCUBA and high-oxygen breathing-gas mixtures relevant to their recreational diving operations.

P. The employer shall ensure that the divers covered by this variance application conform with the recreational diving practices specified in the instructor training manual currently used by the certified training agency with which the diver is affiliated, to the extent that these practices are consistent with the conditions specified above in this variance application.

III. Rationale for the Proposed Alternative

The applicant provided a rationale for each of the conditions specified above in the proposed alternative; this section presents this rationale.

Conditions A and B

These conditions allow the use of closed-circuit and semi-closed-circuit SCUBA, in addition to traditional open-circuit SCUBA. While the safety of open-circuit SCUBA for use by recreational diving instructors is acknowledged by OSHA under the exemption provision to its Commercial Diving Operations standard at 29 CFR 1910.401(a)(2)(i), this provision made no reference to closed-circuit or semi-closed-circuit SCUBA because such equipment was not available or in common use by recreational diving instructors when OSHA's Commercial Diving Operations standard was promulgated in 1977. Closed-circuit and semi-closed-circuit SCUBA is now available for use by recreational divers, although data related to the reliability and safety of such equipment are difficult to obtain because its use by recreational divers is still uncommon. Conditions A and B specify a number of technical features (including manually-operated "bail-out" systems) that will ensure that such SCUBA supplies and maintains the appropriate breathing-gas mixture to the divers, thereby providing them with a degree of safety that is at least as protective as they would obtain using compressed-air, open-circuit SCUBA under no-decompression diving limits.

Conditions A and B require closed-circuit and semi-closed-circuit SCUBA to operate so as to: automatically inject oxygen into the breathing loop to maintain an oxygen partial pressure in the breathable gas (i.e., delivered to the diver) of 0.95 to 1.40 ATA; automatically add diluent gas through the regulator to compensate for decreases in gas volume during descent; and permit these functions to be performed manually by the diver using gas-supply bypass valves provided on the equipment. These conditions will maintain oxygen levels in the breathable gas within the range of partial pressures specified by Condition E above, and will ensure that sufficient breathing-gas pressure is available to deliver breathable gas to the diver without adversely affecting the diver's breathing effort.

These conditions also will prevent the diver from breathing unsafe levels of carbon dioxide by requiring the use of proven sorbent systems, continuously-functioning control systems, and information displays that inform the diver of the SCUBA's status. Should carbon dioxide in closed-circuit SCUBA exceed planned levels, a visual display and auditory warning will be activated so that the diver is alerted to take corrective action. Semi-closed-circuit SCUBA equipment shall provide the diver with an equivalent method for ensuring that the scrubber absorbent does not deplete, thereby avoiding excessive carbon-dioxide build-up. Providing a means to manually override these functions (i.e., the "bail-out" mode) ensures that a diver can maintain an adequate supply of air or high-oxygen breathing-gas mixture to return to the surface should problems develop with the closed-circuit or semi-closed-circuit SCUBA. The "bail-out" capability, therefore, will provide an effective means for divers using closed-circuit or semi-closed-circuit SCUBA to ascend to the surface in a manner that duplicates the safety advantages of open-circuit SCUBA, and to do so with an adequate margin of safety (i.e., well within the specified ascent rates).

Conditions C to E

While high partial pressures of oxygen can be poisonous or toxic when breathed by divers, current information indicates that oxygen toxicity is not a hazard if high-oxygen breathing-gas mixtures are used within the limits specified under Conditions C and D above (i.e., at or less than a diving depth of 130 fsw equivalent, with a maximum oxygen partial pressure delivered to the diver of 1.40 ATA). (See, also, References B and C.) Conditions C and D, therefore, limit the maximum fraction of breathable oxygen to 40 percent (40%) by volume when using open-circuit SCUBA, regardless of the diving depth or oxygen partial pressure, and restricts the use of high-oxygen breathing-gas mixtures to diving depths of 130 fsw or a maximum oxygen partial pressure delivered to the diver of 1.40 ATA, whichever is most restrictive.

When employees are breathing oxygen partial pressures between 0.6 and 1.4 ATA in the high-oxygen breathing-gas mixture, Condition E specifies that the employer shall comply with the 24-hour oxygen-exposure limits of the 1991 NOAA Diving Manual or other oxygen-exposure limits that are equivalent to the 1991 NOAA Diving Manual oxygen-exposure limits in terms of protecting divers from oxygen toxicity when they are exposed to partial pressures of oxygen between 0.6 and 1.4 ATA in the high-oxygen breathing-gas mixture. For the purposes of this variance application, the Diving Science and Technology (DSAT) Oxygen Exposure Table provides such protection. When the employer chooses to use oxygen-exposure limits other than the NOAA or DSAT limits, the employer must be able to demonstrate that these oxygen-exposure limits are equivalent to, or better than, the 1991 NOAA Diving Manual with regard to protecting divers from oxygen toxicity when they are exposed to partial pressures of oxygen between 0.6 and 1.4 ATA in the high-oxygen breathing-gas mixture. The provisions of Condition (E), therefore, will ensure that the probability of oxygen-induced central nervous system or pulmonary toxicity is not materially greater than would occur when using open-circuit, compressed-air SCUBA under the no-decompression limits.

A maximum oxygen partial pressure delivered to the diver of 1.40 ATA delivered to the diver is specified under Condition D because this limit is well within the normal oxygen partial-pressure exposure limits adopted by NOAA. Under the NOAA limits, the maximum total exposure duration to oxygen at a partial pressure (delivered to the diver) of 1.40 ATA must not exceed 180 minutes during any 24-hour period. (See Reference B.) Condition E also refers to the oxygen-exposure limits in the DSAT Oxygen Exposure Table. The DSAT Oxygen Exposure Table is more conservative (i.e., more protective of divers) than the 24-hour oxygen limits promulgated by NOAA; for example, at an oxygen partial pressure delivered to the diver of 1.40 ATA, the DSAT Oxygen Exposure Table allows a total exposure of 150 minutes during any 24-hour period, versus 180 minutes permitted under the NOAA limits. (See Reference D.)

Condition E also specifies that the time limits in the DSAT Oxygen Exposure Table be defined in terms of the total time of the dive (i.e., from the time the diver leaves the surface until the diver returns to the surface), which is more protective of divers than if the period is limited to the bottom time of the dive (i.e., from the time the diver leaves the surface until the diver leaves the bottom). The employees covered by this variance application will, therefore, be required to limit the time they spend at the maximum and intermediary depths so they can remain within these time limits; this procedure will reduce their exposure to hyperbaric and hyperoxic conditions, and, consequently, provide them with an added measure of protection from DCS and oxygen toxicity.

The U.S. Navy has reported no cases of central nervous system toxicity, and only two cases of pulmonary toxicity, among Navy divers exposed to oxygen partial pressures of 1.40 ATA. (See Reference E.) The two cases of pulmonary toxicity, however, resulted after the divers had been exposed to the hyperoxic conditions for a total of 55

hours over a 3-day period, far in excess of the maximum time limit that would be used by recreational divers, or permitted under the DSAT Oxygen Exposure Table.

Only a single case of central nervous system toxicity, and no cases of pulmonary toxicity, have been documented among civilian divers exposed to an oxygen partial pressure of 1.40 ATA. (See Reference F.) The single documented case of central nervous system toxicity involved a civilian technical sport diver who took an overdose of pseudoephedrine hydrochloride, a decongestant, prior to exposure to an oxygen partial pressure of 1.40 ATA; the resulting central nervous system seizures may well have been caused by the drug overdose, not oxygen toxicity alone.

The U.S. Navy is considering a maximum oxygen partial pressure limit of 1.30 ATA, apparently in response to the two pulmonary-toxicity cases described in the preceding paragraph. The 1.30–ATA limit is for use on dives in which the diver remains at the maximum depth for extended periods of time; these dives typically require decompression. Application of this limit to Dixie's employees who use high-oxygen breathing-gas mixtures is inappropriate because Dixie's employees will be limited to no-decompression diving. To ensure that the applicant's employees obtain the added protection that results from short-duration dives, Condition J of this variance application permits only no-decompression dives.

Condition F

The mathematical probability of DCS is elevated with increases in diving depth and duration, and if the diver uses breathing-gas mixtures consisting of oxygen at reduced partial pressures and high partial pressures of a diluent gas (especially helium). Consequently, Condition D limits diving to 130 fsw or to a maximum oxygen partial pressure delivered to the diver of 1.40 ATA (whichever condition is most restrictive), while Condition F restricts the inert gas used to obtain the breathing-gas mixture.

Condition G

This condition was adopted to ensure that the oxygen used in the high-oxygen breathing-gas mixture is safe and effective, and appropriate for use under no-decompression diving conditions. To remain safe and effective, the no-decompression limits used in the NOAA no-decompression diving tables (see Condition J below) require that breathing gases be properly mixed to an accuracy of no less than one percent (1%) by volume. Consequently, the high-oxygen breathing-gas mixtures must be compounded using the techniques specified in Condition G.1. In addition, the fraction of oxygen in the high-oxygen breathing-gas mixtures used with open-circuit SCUBA, and the fraction of oxygen in the breathing-gas loop of closed-circuit and semi-closed-circuit SCUBAs, shall be analyzed to an accuracy of one percent (1%) by volume. Analysis of the oxygen fraction shall be accomplished using, at a minimum, one of the oxygen-analysis methods specified by this condition. Also, the manufacturer's instructions shall be used to maintain the reliability of the oxygen-analysis method. If the breathing-gas mixtures are compounded by a commercial supplier, the employer must obtain from the commercial supplier a certification document attesting to the fraction of oxygen, the method used to analyze the oxygen fraction, and the procedures followed to maintain the reliability of the analytic method.

Pure oxygen that is supplied commercially to the employer must be Grade A (aviator's oxygen) or Grade B (industrial/medical oxygen). The employer must obtain from the commercial supplier a certification document attesting that the oxygen is at least 99.5% pure as specified by paragraph 15.3:3. of the 1991 NOAA Diving Manual. The employer must also receive from the commercial supplier certification that, at a minimum, one of the oxygen-analysis methods specified in Condition G.1 was used to analyze the oxygen fraction, and that the manufacturer's instructions were followed to maintain the reliability of the analytic method. Again, these requirements will ensure that only oxygen sufficient to maintain a diver's health and safety will be used by the applicant's employees.

Conditions H and I

These conditions require that oil-less compressors or compressed air filtered to produce oxygen-compatible air be used to obtain the high-oxygen breathing-gas mixtures, and that SCUBA equipment exposed to high-pressure (i.e., exceeding 300 psi) high-oxygen breathing-gas mixtures and/or pure oxygen be rated for oxygen service. These conditions will reduce the chance of fires and explosions by preventing petroleum by-products from serving as an ignition source during mixing procedures involving elevated levels of oxygen.

Conditions J

The variance application requires that the applicant's employees remain within the no-decompression limits specified by decompression tables for single and repetitive air diving developed and published in the 1991 NOAA Diving Manual; the employer may use other decompression tables, formulas, and/or principles for this purpose provided the employer demonstrates that these tables, formulas, and/or principles are equivalent to, or better than, the NOAA decompression tables and formulas. This condition was adopted to achieve an equivalent or lower mathematical probability of DCS when compared to recreational diving instructors covered by paragraph 29 CFR 1910.401(a)(2)(i) of the OSHA's Commercial Diving Operations standard. Consequently, this condition eliminates the need for a decompression chamber at the dive site, provided that the other conditions specified in the variance application are followed.

Condition K

When OSHA adopted the Commercial Diving Operations standard in 1977, divers typically relied on printed diving tables to plan their dives, and no-decompression limits were developed under the assumption that a diver would remain at one planned depth for the duration of the dive (i.e., "square-wave" diving). No-decompression limits for a subsequent dive made within 12 hours of a previous dive were determined using special extensions of the decompression tables; these extensions required that tedious and time-consuming calculations be made by hand. Consequently, any errors resulting from these calculations placed the diver at an increased probability of developing DCS.

Underwater dive-decompression computers, which were not widely available in 1977, are now commonly used by recreational divers to perform no-decompression calculations automatically; these calculations are based on diver's previous multi-level diving profiles, inclusive of diving depth and duration. The time remaining for subsequent no-decompression dives (i.e., the adjusted no-decompression limit) is accessible to the diver throughout the dive via the liquid crystal display (LCD) screen on a module that, typically, has been incorporated into an instrument console mounted on the end of the submersible pressure-gauge hose, or worn separately on the diver's wrist. This feature eliminates the need to calculate no-decompression limits manually, and to remember the depths and durations allowed for subsequent repetitive no-decompression dives. Dive-decompression computers, therefore, provide divers with continuous and instant access to adjusted no-decompression diving limits. This information can be used to plan subsequent repetitive dives by determining the no-decompression time remaining. Dive-decompression computers may also calculate and display, either digitally or graphically, the diver's: vertical ascent rate, which assists them in maintaining safe and controlled ascents to the surface; and breathing-gas consumption rates and oxygen loadings, either for single dives or over 24-hour periods, which aids divers in planning their subsequent diving activities.

After a diver reaches the surface, a dive-decompression computer automatically transfers the data collected during the dive into an electronic log that can be accessed and viewed on the LCD screen, and then entered in the diver's log book. Many dive-decompression computers also store the profile data of a dive (e.g., depths, times) for subsequent downloading to personal computers; once downloaded into a personnel computer, the data can be displayed in a tabular or graphic format, and manipulated for statistical purposes. This feature also enables analysis of precise dive-profile data in the event of a diving accident.

In summary, dive-decompression computers assist divers in decreasing their exposure to excessive ascent rates, oxygen toxicity, and DCS that could result from errors in calculating repetitive no-decompression diving schedules manually. Also, dive-profile information can be stored for subsequent viewing and downloading, thereby preventing errors that may result if the divers fail to record the information, or do so erroneously. Condition K, therefore, permits the applicant's employees to use dive-decompression computers to avoid the calculation and recording errors that could be made in determining adjusted no-decompression diving limits.

To ensure that the decompression schedules calculated by the dive-decompression computers are valid (i.e., conform to NOAA no-decompression air tables or formulas, or other equivalent tables, formulas, and/or principles as the basis of the decompression calculations. In addition, Condition K.2 specifies that these calculations must reliably represent the tables, formulas, and/or principles (i.e., the results determined by the dive-decompression computer for decompression stops, ascent and descent rates, and surface-interval determinations must be the same results that would be obtained using the model, formula and/or principles on which the dive-decompression computer calculations are based).

Conditions K.3 and K.4 have been included to provide backup procedures should the results calculated by the dive-decompression computer be lost or become unavailable for some reason. The information obtained under Condition K.3 can serve to reconstruct the diving schedule used previously by a diver, as well as assess the reliability of dive-decompression computers for dives that involve a diving-related medical emergency. Condition K.4 will provide the diver with immediately-accessible decompression information when such information is not available from the dive-decompression computer.

The provisions of Condition K will ensure that: the decompression procedures calculated by dive-decompression computers are accurate and appropriate to the diving conditions specified in the variance application; the reliability of the dive-decompression computer has been determined; and decompression information is readily accessible if the dive-decompression computer fails, is lost, or is damaged. These provisions, together with the detailed operating instructions provided by the manufacturers of dive-decompression computers, will ensure that dive-decompression computers are used appropriately. Consequently, the dive-decompression computers will improve diver safety by reducing errors made in determining decompression schedules.

Conditions L to N

As noted in the earlier discussion of Conditions C to E, the mathematical probability of DCS resulting from the use of open-circuit, closed-circuit, or semi-closed-circuit SCUBA supplied with high-oxygen breathing-gas mixtures is expected to be lower than the DCS incidence associated with the use of open-circuit, compressed-air SCUBA. Nevertheless, the divers covered by this variance application will receive added protection from DCS by implementing the measures described under Conditions L to N. The procedures specified in Conditions L to N will ensure that decompression chambers and other medical facilities have been identified and are available should a diving-related medical emergency occur at the dive site. Requiring the employer, under these conditions, to plan and prepare for diving-related medical emergencies will provide the divers covered by this variance application with an additional margin of safety compared to divers who experience DCS and other diving-related medical emergencies while using open-circuit, compressed-air SCUBA.

Conditions O and P

Condition O requires the applicant to hire and use only divers who, when they dive under the conditions specified in the variance application, have been certified by a diving training agency that is recognized by the recreational diving industry as possessing the qualifications necessary to effect the conditions specified in the variance application; the divers must also be capable of conducting dives consistent with these conditions. In addition, the employees must perform the functions of recreational diving instructors or diving guides when they dive under the conditions specified in the variance application. Condition O provides general uniformity to the diver qualification and training process, as well as quality control over the certifying agencies.

The applicant states that the requirements of Conditions O and P will ensure that the employees covered by this variance application are trained to perform diving procedures, use diving techniques, and operate diving equipment in a manner that is acknowledged by the recreational diving industry as being safe and effective, and that are consistent with the conditions specified in the variance application.

IV. References

Copies of the following references can be obtained from Ms. Juanita Jones at OSHA's Office of Variance Determination (see FOR FURTHER INFORMATION CONTACT above).

A. Richardson, D. (1995). An Assessment of Risk for Recreational Dive Instructors at Work. *Undersea Journal*, 2nd quarter, p. 14.

B. National Oceanic and Atmospheric Administration (1991). *NOAA Diving Manual: Diving for Science and Technology*, Chapter 15. U.S. Government Printing Office, Washington, D.C.

C. Hamilton, R.W. (1996). Justification for Allowing Recreational Divers To Use Oxygen-Enriched Air. Prepared for International PADI (Professional Association of Diving Instructors or "PADI"), Inc., Santa Ana, California.

D. Diving Science and Technology (1995). Analysis of Proposed Oxygen Exposure Limits for DSAT Oxygen Exposure Table Against Existing

Database of Manned Oxygen Test Dives. *Enriched Air Resource Guide*. PADI, Santa Ana, California.

E. Hornsby, A. (1996). Response to OSHA Draft Variance Application. Cited on p. 8 of a facsimile dated October 11, 1996 to Mr. Bill Ford of Patton Boggs, L.L.P., from PADI, Santa Ana, California.

F. See Reference E, p. 3.

V. Additional Information

Copies of this variance application are available from OSHA's Office of Variance Determination or the Regional and Area Offices listed above under FOR FURTHER INFORMATION CONTACT, or through the Labor News Bulletin Board at (202) 219–4748 or OSHA's web page on the Internet at http://www.OSHA.gov.

All interested parties, including the employers and employees, who believe they may be affected by the approval or denial of the variance application are invited to submit written data, views, and arguments relating to this application no later than December 30, 1997.

Under 29 CFR 1905.15, interested parties, including the employers and employees, who believe they may be affected by the grant or denial of this variance may request a hearing on the variance application no later than December 30, 1997. The original and four copies of written comments and requests for a hearing must be addressed to OSHA's Office of Variance Determination; for further information on submitting comments and requests for a hearing, see ADDRESSES above.

VI. Issues

In submitting comments on the variance application, OSHA invites the public to submit information (e.g., reports, case histories, statistical analyses, data) and specific comments and rationale on the following issues:

A. Differences between recreational diving instructors and diving guides in the underwater tasks and type of diving they perform, and the relationship of such differences to an increased probability of experiencing diving-related medical problems;

B. In general, the health and safety effectiveness of closed-circuit and semi-closed-circuit SCUBA if used under the conditions specified in the variance application;

C. In general, the health and safety protection afforded by high-oxygen breathing-gas mixtures, if used under the conditions specified in the variance application;

D. The health and safety protection provided to divers using the carbon-dioxide scrubber, sensor, and other control measures described in Conditions A.1 and A.2 of the variance application;

E. The adequacy of the "bail-out" provisions specified in Condition A.4 of the variance application;

F. The engineering and maintenance reliability of closed-circuit and semi-closed-circuit SCUBA, including the features specified in Conditions A and B of the variance application;

G. The adequacy of the methods used to obtain and analyze high-oxygen breathing-gas mixtures, especially the semi-permeable-membrane method, described in Condition G of the variance application;

H. The extent to which the conditions specified in the variance application will protect employees who are engaged in repetitive diving, including the use of (1) available decompression tables, formulas, and principles to prevent DCS, and (2) oxygen-exposure limits from the 1991 NOAA Diving Manual, DSAT Table, or other equivalent limits to protect divers from oxygen toxicity; and

I. The provision specified in Condition O of the variance application regarding the use of "a training agency recognized by the recreational-diving industry" to certify the applicant's employees.

VII. Authority and Signature

This document was prepared under the direction of Gregory R. Watchman, Acting Assistant Secretary of Labor, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, pursuant to Section 6(d) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655); Secretary of Labor's orders 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), or 6–96 (62 FR 111), as applicable; and 29 CFR Part 1905.

Signed at Washington, D.C., this 24th day of October 1997.

Gregory R. Watchman,

Acting Assistant Secretary of Labor.

[FR Doc. 97–28930 Filed 10–30–97; 8:45 am]

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–97–1]

Reports of Injuries to Employees Operating Mechanical Power Presses (§ 1910.217(g)); Announcement to OMB Approval of Information Collection Requirements

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Notice, Announcement of the OMB Approval of Information Collection Requirements.

SUMMARY: The Occupational Safety and Health Administration is announcing that the collections of information on the reporting of injuries to employees operating mechanical power presses, § 1910.217(g), has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. This document announces the OMB approval number and expiration date.

DATES: Effective October 31, 1997.

FOR FURTHER INFORMATION CONTACT: Barbara Bielaski, Directorate of Policy, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3627, 200 Constitution Avenue, N.W., Washington, DC 20210, telephone (202) 219–8076, ext. 142.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 7, 1997 (62 FR 10592), the Agency announced its intent to request renewal of its current OMB approval for 29 CFR 1910.217(g), Reports of Injuries to Employees Operating Mechanical Power Presses. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), OMB has renewed its approval for the information collection and assigned OMB control number 1218–0070. The approval expires on May 31, 2000. Under 5 CFR 1320.5(b), and Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Signed at Washington, D.C., this 23rd day of October 1997.

John F. Martonik,

Acting Director, Directorate of Safety Standards Program.

[FR Doc. 97–28775 Filed 10–30–97; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Proposed Extension of Information Collection Request Submitted for Public Comment and Recommendations; Summary Plan Descriptions Under ERISA

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, provides the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Pension and Welfare Benefits Administration is soliciting comments concerning the proposed extension of a currently approved collection of information, Summary Plan Description Requirements under the Employee Retirement Income Security Act (ERISA). A copy of the proposed ICR can be obtained by contacting the employee listed below in the contect section of this notice.

DATES: Written comments must be submitted on or before December 30, 1997. The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Gerald B. Lindrew, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW., Room N–5647, Washington, DC 20210. Telephone: 202–219–4782 (this is not a toll-free number). Fax: 202–219–4745.

SUPPLEMENTARY INFORMATION:

I. Background

The administrator of an employee benefit plan is required to furnish a Summary Plan Description (SPD) to each participant covered under the plan and to each beneficiary who is receiving benefits under the plan. The SPD must be written in a manner calculated to be understood by the average plan participant and must be sufficiently comprehensive to apprise the plan's participants and beneficiaries of their rights and obligations under the plan. To the extent that there is a material modification in the terms of the plan or a change in the information required to be contained in the SPD, ERISA requires that the administrator furnish participants covered under the plan and beneficiaries receiving benefits with a summary of such changes (SMM). The Health Insurance Portability and Accountability Act (HIPAA) and the Newborns' and Mothers' Health Protection Act (NMHPA) amend certain reporting and disclosure provisions of ERISA. On April 8, 1997, the Department of Labor issued Interim Rules Amending ERISA Disclosure Requirements for Group Health Plans with an information collection request (ICR). 62 F.R. 31885. OMB approved this ICR through December 31, 1997 under OMB control number 1210–0039. Subsequently, the Department published the OMB control number in the **Federal Register**. 62 FR 36205 (July 7, 1997).

II. Current Actions

Pension and Welfare Benefits Administration proposes to extend the currently approved information collection requirements of ERISA's Summary Plan Description Requirements.

Type of Review: Extension of a currently approved collection.

Agency: Pension and Welfare Benefits Administration.

Title: Summary Plan Description Requirements under ERISA.

OMB Number: 1210–0039.

Affected Public: Business or other for-profit, Not-for-profit institutions, Individuals.

Total Respondents (annual): 176,315 (1997), 194,235 (1998), 163,515 (1999).

Frequency: On occasion.

Average Time per Response: Average SPD/SMM—We estimate it takes an average of 8 hours for preparation of SPDs/SMMs, including the time to copy and assemble the document.

SMM Compliance—We estimate that preparation of an SMM sufficient to satisfy the requirements of the Interim Rules will take an average of 1 hour.

Distribution—We estimate that 2 minutes per participant is the time needed to distribute an SMM/SPD, including time spent reproducing the document and mailing the document.

Estimated Total Burden Hours: 1,007,425 (1997), 1,130,283 (1998), 942,980 (1999).

There is estimated to be no capital/start-up cost.

Total Burden Cost for operating/maintenance is estimated to be $72,310,858 in 1997, $82,838,958 in 1998 and $65,002,858 in 1999.

Note. The average Time Per Response, Estimated Total Burden Hours, and Total Burden Cost have been estimated without accounting for those respondents that will implement the "alternative mechanisms to delivery by mail" provision contained in the interim rules. It is expected that some respondents will use these alternatives, and that these alternatives will reduce burden hours and costs.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the ICR; they will also become a matter of public record.

Dated: October 28, 1997.

Gerald B. Lindrew,

Deputy Director, Pension and Welfare Benefits Administration, Office of Policy and Research.

[FR Doc. 97–28917 Filed 10–30–97; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Proposed Extension of Information Collection Request Submitted for Public Comment and Recommendations; Health Insurance Portability for Group Health Plans

ACTION: Notice.

SUMMARY: The Department of Labor submits this notice to extend its public information collection request (ICR) under the Health Insurance Portability and Accountability Act of 1996

(HIPAA), Pub. L. 104–191, consisting of three distinct ICRs, to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). These three ICRs were first published in the **Federal Register** under the Interim Rules implementing the Health Insurance Portability Requirements for Group Health Plans on April 8, 1997. 62 FR 16920 through 16923 (April 8 Interim Rules). In the April 8 publication, the Department submitted the group market information collection requirements for, among other things, establishing creditable coverage, notice of special enrollment rights, and notice of pre-existing condition exclusions to OMB for emergency review under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). OMB approved these ICRs through December 31, 1997 under OMB Control numbers 1210–0103, 1210–0101, and 1210–0102, respectively. Subsequently, the Department published the OMB control numbers in the **Federal Register**. 62 FR 36204 (July 7, 1997).

The April 8 Interim Rules contained three distinct ICRs. The ICRs on group health plans' obligations regarding Establishing Prior Creditable Coverage and Notice of Enrollment Rights are prescribed by the statute.

The first ICR implements statutorily prescribed requirements necessary to establish prior creditable coverage. This is accomplished primarily through the issuance of certificates of prior coverage by group health plans or by service providers that the group health plans contract with in order to provide these documents. In addition, this ICR permits plans to use a notice to meet their obligations in connection with periods of coverage ending during the transition period, October 1, 1996 through May 31, 1997, saving the respondents both hours and cost during that period. This ICR also covers the requests that certain plans will make regarding additional information they require because they are using the Alternative Method of Crediting Coverage. Finally, this ICR also includes the occasional circumstances where a participant is unable to secure a certificate and needs to provides some supplemental form of documentation in order to establish prior creditable coverage.

The second ICR, Notice of Special Enrollment Rights, implements the statutorily prescribed disclosure obligation of the plans to inform a participant, at the time of enrollment, of the plan's special enrollment rules.

The third ICR, Notice of Pre-Existing Condition Exclusion, concerns the disclosure requirements on those plans that contain pre-existing condition exclusion provisions. This ICR has two components: a notice to all participants at the time of enrollment stating the terms of the plan's pre-existing condition provisions, the participant's right to demonstrate creditable coverage, and that the plan or issuer will assist in securing a certificate if necessary; and notice by the plan of its determination that an exclusion period applies to an individual.

1. Establishing Prior Creditable Coverage

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 34) and 5 CFR 1320.11. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Pension and Welfare Benefits Administration is soliciting comments concerning the proposed extension of a currently approved collection of information, Establishing Prior Creditable Coverage. A copy of the proposed ICR can be obtained by contacting the employee listed below in the contact section of the notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before December 30, 1997. The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Gerald B. Lindrew, Office of Policy and Research, U.S. Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, Room N–5647, Washington, D.C. 20210. Telephone: 202–219–4782 (this is not a toll-free number). Fax: 202–219–4745.

SUPPLEMENTARY INFORMATION:

I. Background

In order to meet HIPAA's goal of improving access to and portability of health care benefits, the statute provides that, after the submission of evidence establishing prior creditable coverage, a subsequent health insurance provider would be limited in the extent to which it could use pre-existing condition exclusions to limit coverage. This ICR covers the submission of materials sufficient to establish prior creditable coverage.

II. Current Actions

Under 29 CFR 2590.70–5 of the April 8 Interim Rule, a group health plan offering group health insurance coverage is obliged to provide a written certificate of information suitable for establishing the prior creditable coverage of a participant or beneficiary. To the extent that a certification is not available or inadequate to prove prior creditably coverage, paragraph (c) provides other methods for establishing creditable coverage. During the transition period for certification under 29 CFR 2590.710(e), plans have the option of providing notices regarding participant's rights to certification rather than the certification itself; plans then provide certificates only to those participants who request them. 29 CFR 2590.701–5(a)(7) provides special rules for establishing prior coverage of dependents, and 29 CFR 2590.701–5(b) provides guidance on providing evidence of coverage to those plans that use the alternative method of crediting coverage.

The April 8 Interim Rules offer model certification and notice forms to be used by group health plans and health insurance issuers, containing the minimum information mandated by the statute. Based on past experience, the staff believes that most of the materials required to be exchanged under the certification procedure will be prepared by contract service providers such as insurance companies and third-party administrators.

Type of Review: Extension of a currently approved collection.

Agency: U.S. Department of Labor, Pension and Welfare Benefits Administration.

Title: Establishing Prior Creditable Coverage.

OMB Number: 1210–0103.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions; Group Health Plans.

Frequency: On occasion.

BURDEN

Year	Total respondents	Total responses	Average time per response (range)	Burden hours (range)	Cost (range)
1997	2,600,000	51,799,410	3.23 min	502,080	$57,180,000
			6.12 min	950,710	84,590,000
1998	2,600,000	44,431,970	5.04 min	672,120	64,480,000
			11.77 min	1,569,360	119,310,000
1999	2,600,000	44,399,150	5.27 min	702,360	96,310,000
			12.01 min	1,599,690	121,140,000

Start up costs: It is estimated that the 15,604 plans that will perform these functions internally (rather than use a service provider) will incur an average cost of $5,000 per plan to revise their automated records systems to accommodate this information for a total cost of $78 million over 10 years beginning in 1997.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the information collection request; they will also become a matter of public record.

2. Notice of Enrollment Rights

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed information collection requests (ICR) in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35) and 5 CFR 1320.11. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Pension and Welfare Benefits Administration is soliciting comments concerning the proposed extension of a currently approved collection of information, Notice of Enrollment Rights.

Dates: Written comments must be submitted to the office listed in the addressee section below on or before December 30, 1997.

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Addresses: Gerald B. Lindrew, Office of Policy and Research, U.S. Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, Room N–5647, Washington, D.C. 20210. *Telephone:* 202–219–4782 (this is not a toll-free number), *Fax:* 202–219–4745.

I. Background

In order to improve participants' understanding of their rights under an employer's welfare benefit plan, the statute provides that, a participant be provided with a description of a plan's special enrollment rules on or before the time when a participant is offered the opportunity to enroll in a group health plan.

II. Current Actions

Under 29 CFR 2590.701–6 of the April 8 Interim Rules, a group health plan offering group health insurance coverage is obligated to provide a description of the plans' special enrollment rules. The special enrollment rules generally apply in circumstances when the participant initially declined to enroll in the plan, and subsequently would like to have coverage.

The April 8 Interim Rules offer a model form to be used by group health plans and health insurance issuers, containing the minimum information mandated by the statute. Based on past experience, the staff believes that most of the materials required to be supplied under this ICR will be prepared by contract service providers such as insurance companies and third-party administrators.

Type of Review: Extension of a currently approved collection.

Agency: U.S. Department of Labor, Pension and Welfare Benefits Administration.

Title: Notice of Enrollment Rights.

OMB Number: 1210–0101.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions; Group Health Plans.

Frequency: On occasion.

BURDEN

Year	Total respondents (000)	Total responses	Average time per response	Burden hours	Cost
1997	2,600,000	499,080	.50 min	750	100,000
1998	2,600,000	7,622,010	.50 min	11,430	1,460,000
1999	2,000,000	8,959,380	.50 min	13,440	1,720,000

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the information collection request; they will also become a matter of public record.

3. Notice of Pre-Existing Condition Exclusion

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed information collection requests (ICR) in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35) and 5 CFR 1320.11. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Pension and Welfare Benefits Administration is soliciting comments concerning the proposed extension of a currently approved collection of information, Notice of Pre-Existing Condition Exclusion. A copy of the proposed ICR can be obtained by contacting the employee listed below in the contact section of the notice.

Dates: Written comments must be submitted to the office listed in the addressee section below on or before December 30, 1997.

The Department of Labor is particularly interested in comment which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance of quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Addresses: Gerald B. Lindrew, Office of Policy and Research, U.S. Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, Room N–5647, Washington, DC 20210. *Telephone:* 202–219–4782 (this is not a tool-free number). *Fax:* 202–219–4745.

I. Background

In order to meet HIPAA's goal of improving portability of health care coverage, participants need to understand their rights to show prior creditable coverage when entering a group health plan that contains pre-existing condition exclusion provisions. In addition, participants entering plans that use the alternative method of crediting coverage also need to be informed of the plan's provisions. Therefore, the Department has determined that plans that contain these provisions must disclose that fact to new participants, as well as inform individual participants of the extent to which a pre-existing condition exclusion applies to them.

II. Current Actions

29 CFR 2590.701–3(c) requires that a group health plan or health insurance issuer offering group health insurance under the plan may not impose any pre-existing condition exclusions on a participant unless the participant has been notified in writing that the plan contains pre-existing condition exclusions, that a participant has the right to demonstrate any period of prior creditable coverage, and that the plan or issuer will assist the participant in obtaining a certificate of prior coverage from any prior plan or issuer, if necessary. 20 CFR 2590.701–4(c)(4) requires that plans that use the alternative method of crediting coverage disclose their method at the time of enrollment in the plan. No additional cost of preparing or distributing this information has been included in this analysis because plans would only pursue this option if it were, on net, less costly than the standard method.

In addition, 29 CFR 2590.701–5(d)(2) requires that before a plan or issuer imposes a pre-existing condition exclusion on a particular participant, it must first disclose that determination in writing, including the basis for the decision, and an explanation of any appeal procedure established by the plan or issuer.

Type of Review: Extension of a currently approved collection.

Agency: U.S. Department of Labor, Pension and Welfare Benefits Administration.

Title: Notice of Pre-Existing Exclusion Provisions.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions; Group Health Plans.

Frequency: On occasion.

BURDEN

Cite/reference	Total respondents	Total responses	Average time per response	Burden hours	Cost
Notice at time of Enrollment:					
1997	1,261,450	500,800	0.70 min	2,470	$180,000
1998	1,261,450	7,626,880	0.54 min	16,300	1,700,000
1999	1,261,450	8,959,700	0.50 min	13,750	1,730,000
Notice of Pre-Existing Condition causing lack of coverage:					
1997	1,261,450	57,000	2.27 min	1,800	100,000

BURDEN—Continued

Cite/reference	Total respondents	Total responses	Average time per response	Burden hours	Cost
1998	1,261,450	862,830	0.84 min	6,160	410,000
1999	1,261,450	1,008,819	0.52 min	1,830	210,000

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the ICRs; they will also become a matter of public record.

Dated: October 28, 1997.

Gerald B. Lindrew,

Deputy Director, Pension and Welfare Benefits Administration, Office of Policy and Research.

[FR Doc. 97–28919 Filed 10–30–97; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL INDIAN GAMING COMMISSION

Submission for OMB Review; Comment Request

AGENCY: National Indian Gaming Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reeducation Act of 1995, this notice announces that the following information collection activities have been forwarded to the Office of Management and Budget (OMB) for review and comment: (1) Compliance and Enforcement under the Indian Gaming Regulatory Act (IGRA); (2) Privacy Act Regulations; (3) Approval of Class II and Class III Gaming Ordinances; (4) National Environmental Policy Act Procedures; and (5) Annual Fees Payable by Class II Gaming Operations. The National Indian Gaming Commission (NIGC) is requesting approval for revision and three-year extension for each information collection activity.

DATES: Comments on this notice must be received by December 1, 1997.

ADDITIONAL INFORMATION OR COMMENTS: Comments should be addressed to Desk Officer for National Indian Gaming Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

SUPPLEMENTARY INFORMATION:

Title: Compliance and Enforcement Under the Indian Gaming Regulatory Act.

OMB Number: 3141–0001.

Abstract: The Indian Gaming Regulatory Act (25 U.S.C. 2701 et. seq.) governs the regulation of gaming on Indian lands. Although the IGRA places primary responsibility on tribes to regulate gaming, section 2706(b) of the IGRA directs the NIGC to monitor gaming conducted on Indian lands on a continuing basis. The IGRA authorizes the NIGC to demand access to and inspect all papers, books and records relating to gaming conducted on Indian lands. In accordance with this statutory responsibility, 25 CFR 571.7 requires Indian gaming operations to keep permanent financial records.

Respondents: Indian gaming owners or operators.

Estimated Number of Respondents: 220.

Estimated Annual Responses: 665.

Estimated Annual Burden Hours: 1090.

Estimated Burden Hours Per Response: 2.5.

Title: Privacy Act Procedures.

OMB Number: 3141–0002.

Abstract: To implement the IGRA, it is necessary for the NIGC to collect, maintain and use personal information gathered on certain individuals. Under 25 CFR 556.4 and 556.6, tribes must submit to the NIGC information regarding key employees and management officials employed at a tribal gaming operation. The NIGC compiles and stores this information in a system of records. Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a) agencies must promulgate regulations regarding the collection, maintenance, use and dissemination of records within a system. Under 25 CFR 515.3 individuals can request information on whether they are subject to any record. Individuals may also request access to those records. The regulations promulgated by the NIGC sets forth certain exemptions that would otherwise authorize the NIGC to withhold certain information made available under the Privacy Act.

Respondents: Individuals requesting access to records.

Estimated Number of Respondents: 45.

Estimated Annual Responses: 50.

Estimated Annual burden Hours: 105.

Estimated Burden Hours Per Response: 2.

Title: Approval of class II and class III ordinances.

OMB Number: 3141–0003.

Abstract: The IGRA establishes the National Indian Gaming Commission as an independent regulatory agency to oversee Indian gaming. The IGRA sets standards for the regulations of gaming, including requirements for approval or disapproval of tribal gaming ordinances. IGRA Section 2705(a)(3) requires the Chairman to review all class II and class III tribal gaming ordinances and resolutions. In accordance with this provision, 25 CFR 552.2 of the NIGC's regulations require tribes to submit to the NIGC (1) a copy of all gaming ordinances and resolutions adopted after the effective date of the regulation; (2) background investigations for key employees or primary management officials; (4) copies of all gaming regulations; (5) copies of tribal-state compacts; (6) a description of dispute resolution procedures for disputes arising between the gaming public and the tribe or management contractor; (7) an independent audit; and (8) a request for approval of the ordinance or resolution. Under 25 CFR 522.3 tribes must submit amendments to the ordinance or resolution.

Respondents: Tribal gaming owners and operators.

Estimated Number of Respondents: 220.

Estimated Annual Responses: 977.

Estimated Annual burden Hours: 70,922.

Estimated Burden Hours Per Response: 72.5.

Title: National Environmental Policy Act Procedures.

OMB Number: 3141–0006.

Abstract: The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq) was enacted to encourage a national policy of protecting, enhancing, and restoring the quality of the human environment. The Council on Environmental Policy (CEQ), established pursuant to the National Environmental Policy Act (NEPA) promulgated implementing regulations at 40 CFR 1501 et seq. NEPA and CEQ's regulations require every federal agency to establish procedures and strategies that consider the environmental consequences of federal agency actions. Under NEPA, federal agencies are

required to prepare or cause to be prepared environmental documents relating to actions by the agency that have significant impacts on the environment. The Commission believes that the NEPA process will be triggered when a tribe and management contractor seek approval of a management contract under 25 CFR 533.

Respondents: Applicants seeking approval of a management contract and/or third party contractor.

Estimated Number of Respondents: 11.

Estimated Annual Responses: 11.

Estimated Annual Burden Hours: 5000.

Estimated Burden Hours Per Response: 455.

Title: Annual Fees Payable by Class II Gaming Operations.

OMB Number: 3141–0007.

Abstract: The IGRA authorizes the NIGC to establish a schedule of fees to be paid to the Commission by each class II gaming operation regulated by the IGRA. Fees are computed using rates set by the NIGC and the assessable gross revenues of each gaming operation. The total of all fees assessed annually cannot exceed $1,500,000. The required information is needed for the NIGC to both set and adjust rates and to support the computation of fees paid by each gaming operation.

Respondents: Class II gaming operations.

Estimated Number of Respondents: 201.

Estimated Annual Responses: 404.

Estimated Burden Hours Per Response: 5.

FOR COPIES AND FURTHER INFORMATION CONTACT: Copies of documents submitted to OMB may be obtained from the National Indian Gaming Commission, 1441 L Street NW, Suite 9100, Washington, DC 20005.

Tadd M. Johnson,

Chairman, National Indian Gaming Commission.

[FR Doc. 97–28878 Filed 10–30–97; 8:45 am]

BILLING CODE 7565–01–M

NUCLEAR REGULATORY COMMISSION

Application for a License To Import Nuclear Waste

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application", please take notice that the Nuclear Regulatory Commission has received the following application for an import license. Copies of the application are on file in the Nuclear Regulatory Commission's Public Document Room located at 2120 L Street, N.W., Washington, D.C..

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington D.C. 20555; the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; and the Executive Secretary, U.S. Department of State, Washington, D.C. 20520.

The information concerning the application follows.

NRC IMPORT LICENSE APPLICATION

Name of applicant, date of application, date received, application no.	Description of material			Country of origin
	Material type	Total qty	End use	
Chem-Nuclear Systems, October 14, 1997, October 20, 1997, IW005.	Contaminated Condenser tubes and tube plates.	1.4 million	Decontamination and recycling	Taiwan.

For the Nuclear Regulatory Commission.

Dated this 24th day of October 1997 at Rockville, Maryland.

Ronald D. Hauber,

Director, Division of Nonproliferation, Exports and Multilateral Relations, Office of International Programs.

[FR Doc. 97–28866 Filed 10–30–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. STN 50–457]

Commonwealth Edison Company; Braidwood Station, Unit 2 Environmental Assessment and Finding Of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of its regulations for Facility Operating License No. NPF–77, issued to Commonwealth Edison Company, (ComEd, the licensee), for operation of the Braidwood Station, Unit 2, located in Will County, Illinois.

Environmental Assessment

Identification of the Proposed Action

The proposed action would permit the licensee to use the alternate methodology in American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code (Code) Case N–514, "Low Temperature Overpressure Protection," to determine the low temperature overpressure protection (LTOP) system setpoints. By application dated November 30, 1994, as supplemented by letter dated May 11, 1995, the licensee requested an exemption from certain requirements of 10 CFR 50.60, "Acceptance Criteria for Fracture Prevention Measures for Lightwater Nuclear Power Reactors for Normal Operation." The exemption would allow application of an alternate methodology to determine the LTOP system setpoints for Braidwood, Unit 2. The proposed alternate methodology is consistent with guidelines developed by the ASME Working Group on Operating Plant Criteria to define pressure limits during LTOP events that avoid certain unnecessary operational restrictions, provide adequate margins against failure of the reactor pressure vessel, and reduce the potential for unnecessary activation of pressure relieving devices used for LTOP. These guidelines have been incorporated into the 1993 Addenda to the ASME Code, Section XI, Appendix G. However, 10 CFR 50.55a, "Codes and Standards," has not been updated to reflect the acceptability of the 1993 Addenda to the ASME Code.

The Need for the Proposed Action

Pursuant to 10 CFR 50.60, all lightwater nuclear power reactors must meet the fracture toughness requirements for the reactor coolant pressure boundary as set forth in 10 CFR Part 50, Appendix G. Appendix G of 10 CFR Part 50 defines pressure-temperature (P–T) limits during any condition of normal operation, including anticipated operational occurrences and system hydrostatic tests to which the pressure boundary may be subjected over its service lifetime, and specifies that these P–T limits must be at least as conservative as the limits obtained by following the methods of analysis and the margins of safety of the ASME Code, Section XI, Appendix G. It is required in 10 CFR 50.55a that any reference to the ASME Code, Section XI, in 10 CFR Part 50 refers to addenda through the 1986 Addenda and editions through the 1989 Edition of the Code unless otherwise noted. It is specified in 10 CFR 50.60(b) that alternatives to the described requirements in 10 CFR Part 50, Appendix G, may be used when an exemption is granted by the Commission under 10 CFR 50.12.

To prevent transients that would produce excursions exceeding the P–T limits while the reactor is operating at low temperatures, the licensee installed the LTOP system, which includes pressure relieving devices called power-operated relief valves (PORVs). The PORVs prevent the pressure in the reactor vessel from exceeding the P–T limits. However, to prevent the PORV from lifting as a result of normal operating pressure surges, some margin is needed between the normal operating pressure and the PORV setpoint. In addition, normal operating pressure must be high enough to prevent damage to reactor coolant pumps that may result from cavitation or inadequate differential pressure across the pump seals. Hence, the licensee must operate the plant in a pressure window that is defined as the difference between the minimum pressure required for reactor coolant pumps and the operating margin to prevent lifting of the PORVs. When instrument uncertainty is considered, the operating window is small and presents difficulties for plant operation.

To meet the 10 CFR Part 50, Appendix G, P–T limits, the PORVs would be set to open at a pressure very close to the normal pressure inside the reactor. With the PORV setpoint close to the normal operating pressure, minor pressure perturbations that typically occur in the reactor could cause the PORVs to open. This is undesirable from the safety perspective because after every PORV opening there is some concern that the PORV may not reclose. A stuck open PORV would continue to discharge primary coolant and reduce reactor pressure until the discharge pathway was closed by operator action.

The licensee requested use of the ASME Code Case N–514, "Low Temperature Overpressure Protection," for the determination of the PORV setpoints. This code case would permit a slightly higher PORV setpoint during low-temperature shutdown conditions. This would reduce the likelihood for inadvertent opening of the PORVs.

Appendix G of the ASME Code requires that the P–T limits be calculated: (a) using a safety factor of two on the principal membrane (pressure) stresses, (b) assuming a flaw at the surface with a depth of one quarter (¼) of the vessel wall thickness and a length of six (6) times its depth, and (c) using a conservative fracture toughness curve that is based on the lower bound of static, dynamic, and crack arrest fracture toughness tests on material similar to the Braidwood reactor vessel material.

ASME Code Case N–514 requires that the system pressure is maintained below the P–T limits during normal operation, but allows the pressure that may occur with the activation of pressure relieving devices (PORVs) to exceed the P–T limits, provided acceptable margins are maintained during these events. This approach protects the pressure vessel from LTOP events, and maintains the Technical Specification P-T limits applicable for normal heatup and cooldown in accordance with 10 CFR Part 50, Appendix G, and Sections III and XI of the ASME Code.

In determining the PORV setpoint for LTOP events, the licensee proposed to use the safety margins of ASME Code Case N–514. This alternate methodology allows determination of the setpoint for LTOP events such that the maximum pressure in the vessel will not exceed 110 percent of the P–T limits. This results in a safety factor of 1.8 on the principal membrane stresses. All other factors, including the assumed flaw size and fracture toughness, remain the same. Although this methodology would reduce the safety factor on the principal membrane stresses, use of the proposed criteria will provide adequate margins of safety for the reactor vessel during LTOP events.

Use of the Code Case N–514 safety margins will reduce operational challenges during low temperature, low pressure operations. In terms of overall safety, the safety benefits derived from simplified operations and the reduced potential for undesirable opening of the PORVs will more than offset the reduction of the principal membrane safety factor. Reduced operational challenges will reduce the potential for undesirable impacts to the environment.

Environmental Impacts of the Proposed Action

The proposed action involves features located entirely within the protected area as defined in 10 CFR Part 20.

The proposed action will not result in an increase in the probability or consequences of accidents or result in a change in occupational or offsite dose. Therefore, there are no radiological impacts associated with the proposed action.

The proposed action will not result in a change in nonradiological plant effluent and will have no other nonradiological environmental impact.

Accordingly, the Commission concludes that there are no environmental impacts associated with this action.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Braidwood Station.

Agencies and Persons Consulted

In accordance with its stated policy, on October 22, 1997, the staff consulted with the Illinois State official, Frank Niziolek of the Illinois Department of Nuclear Safety, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated November 30, 1994, as supplemented by letter dated May 11, 1995, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC.

and at the local public document room located at the Wilmington Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Dated at Rockville, Maryland, this 23rd day of October 1997.

For the Nuclear Regulatory Commission.

George F. Dick, Jr.,

Senior Project Manager, Project Directorate III–2, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 97–28881 Filed 10–30–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Meeting of the ACRS Subcommittee on Reliability and Probabilistic Risk Assessment; Revised

A meeting of the ACRS Subcommittee on Reliability and Probabilistic Risk Assessment scheduled to be held on November 13-14, 1997 has been rescheduled for *Wednesday, November 12, 1997 and Thursday, November 13, 1997*, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland. Notice of this meeting was published in the **Federal Register** on Friday, October 24, 1997 (62 FR 55435).

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, November 12, 1997—8:30 a.m. until the conclusion of business

Thursday, November 13, 1997—8:30 a.m. until the conclusion of business

The Subcommittee will review the proposed final Standard Review Plan (SRP) Chapter 19 and associated Regulatory Guide DG-1061(General Guidance) for risk-informed, performance-based regulation. The Subcommittee will continue its review of the matter included in the Staff Requirements Memorandum dated May 27, 1997, regarding the use of uncertainty versus point values in the PRA-related regulatory decisionmaking process. The Subcommittee will discuss policy issues related to performance-based regulation, including industry initiatives in this area. All other items regarding this meeting remain the same as announced in the **Federal Register** published on Friday, October 24, 1997 (62 FR 55435).

Further information regarding this meeting can be obtained by contacting the cognizant ACRS staff engineer, Mr. Michael T. Markley (telephone 301/415–6885) between 7:30 a.m. and 4:15 p.m. (EST).

Dated: October 27, 1997.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 97–28895 Filed 10–30–97; 8:45 am]

BILLING CODE 7590–01–P

SMALL BUSINESS ADMINISTRATION

[License No. 03/73–0212]

CEO Venture Fund III, L.P.; Notice of Issuance of a Small Business Investment Company License

On December 26, 1996, an application was filed by CEO Venture Fund III, L.P., at 2600 Technology Drive, Suite 160, Pittsburgh, Pennsylvania 15219–3109, with the Small Business Administration (SBA) pursuant to Section 107.300 of the Regulations governing small business investment companies (13 C.F.R. 107.300 (1996)) for a license to operate as a small business investment company.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 03/73–0212 on August 1, 1997, to CEO Venture Fund III, L.P. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 22, 1997.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 97–28907 Filed 10–30–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Revocation of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration by the Final Order of the United States District Court for the Eastern District of New York, dated September 23, 1997, the United States Small Business Administration hereby revokes the license of S & S Venture Associates, Ltd., a New York corporation, to function as a small business investment company under the Small Business Investment Company License No. 02/02–0383 issued to S & S Venture Associates, Ltd. on April 25, 1960 and said license is hereby declared null and void as of October 21, 1997.

United States Small Business Administration.

Dated: October 21, 1997.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 97–28905 Filed 10–30–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Revocation of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration by the Final Order of the United States District Court for the Eastern District of Pennsylvania, entered August 15, 1997, the United States Small Business Administration hereby revokes the license of Salween Financial Services, Inc., a Pennsylvania corporation, to function as a small business investment company under the Small Business Investment Company License No. 03/83–5157 issued to Salween Financial Services, Inc. on July 1, 1983 and said license is hereby declared null and void as of October 15, 1997.

United States Small Business Administration.

Dated: October 15, 1997.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 97–28906 Filed 10–30–97; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Information Collection Activities: Proposed Collection Requests and Comment Requests

This notice lists information collection packages that will require submission to the Office of Management and Budget (OMB), as well as information collection packages submitted to OMB for clearance, in compliance with PL. 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995.

I. The information collection(s) listed below require(s) extension(s) of the current OMB approval(s) or are proposed new collection(s):

1. Request to be Selected as Payee—0960–0014. The information collected on Form SSA–11–BK is used to determine the proper payee for a Social Security beneficiary, and it is designed to aid in the investigation of a payee applicant. The form will establish the applicant's relationship to the beneficiary, the justification, the concern for the beneficiary and the manner in which the benefits will be used. The respondents are applicants for selection as representative payee for Old-Age, Survivors and Disability Insurance (OASDI), Supplemental Security Income (SSI) and Black Lung benefits.

Number of Respondents: 1,709,657.

Frequency of Response: 1.

Average Burden Per Response: 10.5 Minutes.

Estimated Annual Burden: 299,190 Hours.

2. Application for Benefits Under the Federal Mine Safety and Health Act of 1977, as Amended; (Widow's Claim, Child's Claim and Dependent's Claim)—0960–0116. Sections 402(g) and 412(a) of the Federal Mine Safety and Health Act provide that those widows, surviving children, and dependent parents, brothers or sisters who are not currently receiving benefits on the deceased miner's account must file the appropriate application within 6 months of the deceased miner's death, using Forms SSA–47, 48 and 49. This information is used to determine eligibility for benefits.

Number of Respondents: 1,800.

Frequency of Response: 1.

Average Burden Per Response: 11 Minutes.

Estimated Annual Burden: 330 Hours.

3. Work History Report—0960–0552. Form SSA–3369–BK is used by the State Disability Determination Services (DDSs) to determine disability and to record information about the claimant's work history during the past 15 years. The respondents are claimants who live in Virginia and are applying for OASDI and SSI benefits.

Number of Respondents: 32,000.

Frequency of Response: 1.

Average Burden Per Response: 30 Minutes.

Estimated Annual Burden: 16,000 Hours.

4. Disability Report-Child—0960–0504. Form SSA–3820–BK is used by the State DDSs to record claimants' allegations and sources of evidence in determining eligibility for children filing for SSI disability benefits. The respondents are SSI claimants who live in Virginia and are applying for disabled child's benefits.

Number of Respondents: 10,900.

Frequency of Response: 1.

Average Burden Per Response: 40 Minutes.

Estimated Annual Burden: 7,267 Hours.

Written comments and recommendations regarding the information collection(s) should be sent within 60 days from the date of this publication, directly to the SSA Reports Clearance Officer at the following address: Social Security Administration, DCFAM, Attn: Nicholas E. Tagliareni, 6401 Security Blvd., 1–A–21 Operations Bldg., Baltimore, MD 21235.

In addition to your comments on the accuracy of the agency's burden estimate, we are soliciting comments on the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

II. The information collection(s) listed below have been submitted to OMB:

1. Disability Report—0960–0573. The information collected on Form SSA–3368–F6 is needed for the determination of disability by the State DDSs. The information will be used to develop medical evidence and to assess the alleged disability. The respondents are applicants for disability benefits.

Number of Respondents: 2,438,496.

Frequency of Response: 1.

Average Burden Per Response: 45 minutes.

Estimated Annual Burden: 1,828,872 hours.

2. Work History Report—0960–0572. The information collected on Form SSA–3369–F6 is needed for the determination of disability by the State DDSs. The information will be used to document an individual's past work history. The respondents are applicants for OASDI and SSI benefits.

Number of Respondents: 1,000,000.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 500,000 hours.

3. Medical History and Disability Report, Disabled Child—0960–0574. The information collected on Form SSA–3820–F4 is needed for the determination of disability by the State DDSs to obtain various types of information about a child's condition, his/her treating sources and/or other medical sources of evidence. The respondents are SSI claimants who are applying for disabled child's benefits.

Number of Respondents: 523,000.

Frequency of Response: 1.

Average Burden Per Response: 20 minutes.

Estimated Annual Burden: 174,333 hours.

Written comments and recommendations regarding the information collection(s) should be directed within 30 days to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses:

(OMB)

Office of Management and Budget, OIRA, Attn: Laura Oliven, New Executive Office Building, Room 10230, 725 17th St., NW, Washington, D.C. 20503

(SSA)

Social Security Administration, DCFAM, Attn: Nicholas E. Tagliareni, 1–A–21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235

To receive a copy of any of the forms or clearance packages, call the SSA Reports Clearance Officer on (410) 965–4125 or write to him at the address listed above.

Dated: October 24, 1997.

Nicholas E. Tagliareni,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 97–28782 Filed 10–30–97; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF STATE

[Public Notice No. 2916]

Office of Defense Trade Controls; Notifications to the Congress of Proposed Export Licenses

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of State has forwarded the attached Notifications of Proposed Export Licenses to the Congress on the dates shown on the attachments pursuant to section 36(c) and in compliance with section 36(e) of the Arms Export Control Act (22 U.S.C. § 2776).

EFFECTIVE DATE: As shown on each letter.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Lowell, Director, Office of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State (703) 875–6644.

SUPPLEMENTARY INFORMATION: Section 38(e) of the Arms Export Control Act mandates that notifications to the Congress pursuant to section 36(c) must be published in the **Federal Register** when they are transmitted to Congress or as soon thereafter as practicable.

Dated: October 10, 1997.

William J. Lowell,

Director, Office of Defense Trade Controls.

United States Department of State

Washington, D.C. 20520

September 30, 1997.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting here with certification of a proposed license for the export of defense articles and defense services sold

commercially under a contract in the amount of $50,000,000 or more.

The transaction described in the attached certification involves the export of 353 XTG411–6 tank transmissions to the Czech Republic.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC–40–97
The Honorable Newt Gingrich, Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

September 30, 1997.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles and defense services sold commercially under a contract in the amount of $14,000,000 or more.

The transaction described in the attached certification involves the export to Israel of seventy AVDS–1790–9AR2220 tank engines.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC–74–97
The Honorable Newt Gingrich, Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

September 30, 1997.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or services sold commercially under contract to Spain in the amount of $30,000,000.00 or more.

The transaction described in the attached certification involves the transfer of technical data and assistance for integration of weapons for use by the Spanish EF–18 aircraft.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC–77–97
The Honorable Newt Gingrich, Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

September 30, 1997.

Dear Mr. Speaker: Pursuant to the section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of proposed Manufacturing License Agreement involving the development of elements of the Tactical Command Control Communications System for the Government of Canada.

The United States Government is prepared to export these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC–105–97
The Honorable Newt Gingrich, Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

October 9, 1997.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold under a contract in the amount of $50,000,000 or more.

The transaction described in the attached certification involves the co-development of a training aircraft for the armed forces of the Republic of Korea.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC–28–97
The Honorable Newt Gingrich, Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

October 9, 1997.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold under contract in the amount of $50,000,000 or more.

The transaction described in the attached certification involves the sale to the Republic of Turkey of twenty (20) Low Altitude Navigation and Targeting Infrared for Night (LANTIRN) Targeting Pods.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC–108–97
The Honorable Newt Gingrich, Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

October 9, 1997.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold under a contract in the amount of $50,000,000 or more.

The transaction described in the attached certification involves a program with certain defense firms in NATO member countries to defend, develop, integrate, and qualify capabilities in the NATO AWACS Mid-Term Upgrade.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC–115–97
The Honorable Newt Gingrich, Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

October 9, 1997.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction described in the attached certification involves a program with the NATO AEW&C Progamme Management Organization (NAPMO) to define, develop, integrate, and qualify capabilities in the NATO AWACS Mid-Term Upgrade.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC–116–97
The Honorable Newt Gingrich, Speaker of the House of Representatives.

[FR Doc. 97–28862 Filed 10–30–97; 8:45 am]
BILLING CODE 4710–25–M

DEPARTMENT OF STATE

[Public Notice No. 2901]

Office of Defense Trade Controls; Notifications to the Congress of Proposed Export Licenses

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of State has forwarded the attached Notifications of Proposed Export Licenses to the Congress on the dates shown on the attachments pursuant to section 36(c) and in compliance with section 36(e) of the Arms Export Control Act (22 U.S.C. § 2776).

EFFECTIVE DATE: As shown on each letter.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Lowell, Director, Office of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State (703) 875–6644.

SUPPLEMENTARY INFORMATION: Section 38(e) of the Arms Export Control Act mandates that notifications to the Congress pursuant to section 36(c) must be published in the **Federal Register** when they are transmitted to Congress or as soon thereafter as practicable.

Dated: September 11, 1997.

William J. Lowell,

Director, Office of Defense Trade Controls.

United States Department of State

Washington, D.C. 20520

July 17, 1997.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $14,000,000.00 or more.

The transaction described in the attached certification involves the export to Brazil of four (4) S–70A–36 helicopters, including ground support and test equipment, tooling, spares, one (1) spare T–700–GE–701C engine with optional external stores support fuel systems.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC–97–97
The Honorable Newt Gingrich, Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

July 17, 1997.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of major defense equipment sold commercially under a contract in the amount of $14,000,000.00 or more.

The transaction contained in the attached certification involves the export to Sweden of 110 F404/RM12 engine kits, engine parts and raw materials for the Swedish JAS 39 Gripen program. The Swedish Air Force is the end-user.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC–11–97
The Honorable Newt Gingrich, Speaker, House of Representatives.

United States Department of State

Washington, D.C. 20520

July 25, 1997.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000.00 or more.

The transaction contained in the attached certification involves a joint venture, in which Norway, Ukraine and Russia will also participate, that is to provide commercial space launch services for commercial satellites from a modified oil platform in the Pacific Ocean.

The United States Government is prepared to license the export of these items having taken into account political, military, ecoinomic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC–16–97
The Honorable Newt Gingrich, Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

July 23, 1997.

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed Technical Assistance Agreement with Japan involving defense services sold commercially under a contract in the amount of $50,000,000.00 or more.

The transaction described in the attached certification involves the transfer of technical data and assistance to support the interface between U.S.-manufactured commercial and meteorological satellites and Japan's H-IIA launch vehicles.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC–43–97
The Honorable Newt Gingrich, Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

July 25, 1997.

Dear Mr. Speaker: Pursuant to sections 36(c) and (d) of the Arms Export Control Act, I am transmitting herewith certification of a proposed Technical Assistance Agreement and export license for defense articles and services sold commercially under contract to Taiwan in the amount of $50,000,000.00 or more.

The transaction described in the attached certification involves the sale and assembly of eleven helicopters; the integration of all specialized avionics; and, the maintenance/acceptance test flight of the aircraft after shipment.

The United States Government is prepared to license the export of these services having taken into account the political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,

Assistance Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC–63–97
The Honorable, Newt Gingrich, Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

July 18, 1997.

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense equipment or services sold commercially under contract to the United Kingdom in the amount of $50,000,000.00 or more.

The transaction described in the attached certification involves the transfer of technical data and launch services for commerical communications satellites.

The United States Government is prepared to license the export of these items having taken into account the political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,

Assistance Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC–98–97
The Honorable, Newt Gingrich, Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

September 17, 1997.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting here with certification of a proposed license for the export of defense articles and defense services sold commercially under a contract in the amount of $50,000,000.00 or more.

The transaction described in the attached certification involves the export to Germany of Radar System Improvement Program (RSIP) hardware.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC–75–97
The Honorable Newt Gingrich, Speaker of the House of Representatives.

[FR Doc. 97–28863 Filed 10–30–97; 8:45 am]

BILLING CODE 4710–09–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Renewal of Treatment on Government Procurement of Products From Countries Designated Under the Caribbean Basin Economic Recovery Act

Under the authority delegated to me by the President in section 1–201 of Executive Order 12260 of December 31, 1980, I hereby direct that products of countries listed below, designed by the President as beneficiaries under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701, et. seq.), shall continue to be treated as eligible products for purpose of section 1–101 of Executive Order 12260 until September 30, 1998. Such treatment shall not apply to products originating in these countries that are excluded from duty free treatment under 19 U.S.C. 2703(b). Subsequent renewal of this treatment beyond September 30, 1998, will be subject to beneficiaries' participation and cooperation in the World Trade Organization (WTO) Working Group on Transparency in Government Procurement, efforts they make to accede to the WTO Agreement on Government Procurement or to support continuing multilateral negotiations in the WTO in the future and their participation in the Free Trade Area of the Americas Working Group on Government Procurement. Countries making significant efforts to comply with these conditions will be considered for future multiple-year renewals of preferential procurement status.

Charlene Barshefsky,

United States Trade Representative.

List of Countries Designated as Beneficiary Countries for Purpose of the Caribbean Basin Economic Recovery Act (CBERA)

Antigua and Barbuda
Aruba
Bahamas, The
Barbados
Belize
Costa Rica
Dominica
Dominican Republic
El Salvador
Grenada
Guatemala
Guyana
Haiti
Honduras
Jamaica
Nicaragua
Panama
Saint Lucia
Saint Vincent and the Grenadines
Trinidad and Tobago
Montserrat
Netherland Antilles
Saint Kitts-Nevis
Vigin Islands, British

[FR Doc. 97–28915 Filed 10–30–97; 8:45 am]

BILLING CODE 3190–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request for Public Comment With Respect to the Annual National Trade Estimate Report on Foreign Trade Barriers

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: Pursuant to section 303 of the Trade and Tariff Act of 1984, as amended, USTR is required to publish annually the National Trade Estimate Report on Foreign Trade Barriers (NTE). With this notice, the Trade Policy Staff Committee (TPSC) is requesting interested parties to assist it in identifying significant barriers to U.S. exports of goods, services and overseas direct investment for inclusion in the NTE. Particularly important are impediments materially affecting the actual and potential financial performance of an industry sector. The TPSC invites written comments that provide views relevant to the issues to be examined in preparing the NTE.

DATES: Public comments are due not later than December 5, 1997.

ADDRESSES: Gloria Blue, Executive Secretary, Trade Policy Staff Committee, Office of the United States Trade Representative, 600 17th Street, NW., Room 501, Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Gregory Gerdes, Office of the General Counsel, Office of the United States Trade Representative, (202) 395–9493.

SUPPLEMENTARY INFORMATION: The information submitted should relate to one or more of the following nine categories of foreign trade barriers:

(1) Import policies (*e.g.*, tariffs and other import charges, quantitative restrictions, import licensing, and customs barriers);

(2) Standards, testing, labeling, and certification (including unnecessarily restrictive application of phytosanitary standards, refusal to accept U.S. manufacturers' self-certification of conformance to foreign product standards, and environmental restrictions);

(3) Government procurement (*e.g.*, "buy national" policies and closed bidding);

(4) Export subsidies (*e.g.*, export financing on preferential terms and agricultural export subsidies that displace U.S. exports in third country markets);

(5) Lack of intellectual property protection (*e.g.*, inadequate patent, copyright, and trademark regimes);

(6) Services barriers (*e.g.*, limits on the range of financial services offered by foreign financial institutions, regulation of international data flows, restrictions on the use of data processing, quotas on imports of foreign films, and barriers to the provision of services by professionals (*e.g.*, lawyers, doctors, accountants, engineers, nurses, *etc.*));

(7) Investment barriers (*e.g.*, limitations on foreign equity participation and on access to foreign government-funded R&D consortia, local content, technology transfer and export performance requirements, and restrictions on repatriation of earnings, capital, fees and royalties);

(8) Anticompetitive practices with trade effects tolerated by foreign governments (including anticompetitive activities of both state-owned and private firms that apply to services or to goods and that restrict the sale of U.S. products to any firm, not just to foreign firms that perpetuate the practices; and

(9) Other barriers (*e.g.*, barriers that encompass more than one category, *e.g.*, bribery and corruption, or that affect a single sector).

As in the case of last year's NTE, we are asking that particular emphasis be placed on any practices that may violate U.S. trade agreements. We are also interested in receiving any new or updated information pertinent to the barriers covered in last year's report as well as new information. Please note that the information not used in the NTE will be maintained for use in future negotiations.

It is MOST IMPORTANT that your submission contain estimates of the potential increase in exports that would result from the removal of the barrier, as well as a clear discussion of the method(s) by which the estimates were computed. Estimates should fall within the following value ranges: less than $5 million; $5 to $25 million; $25 million to $50 million; $50 million to $100 million; $100 million to $500 million; or over $500 million. Such assessments enhance USTR's ability to conduct meaningful comparative analyses of a barrier's effect over a range of industries.

Please note that interested parties discussing barriers in more than one country should provide a separate submission (*i.e.*, one that is self-contained) for each country.

Written Comments

All written comments should be addressed to: Gloria Blue, Executive Secretary, Trade Policy Staff Committee, Office of the United States Trade Representative, 600 17th Street N.W., Room 501, Washington, D.C. 20506.

All submissions must be in English and should conform to the information requirements of 15 CFR 2003.

A party must provide ten copies of its submission which must be received at USTR no later than December 5, 1997. If the submission contains business confidential information, ten copies of a non-confidential version must also be submitted. A justification as to why the information contained in the submission should be treated confidentially must be included in the submission. In addition, any submissions containing business confidential information must be clearly marked "Confidential" at the top and bottom of the cover page (or letter) and of each succeeding page of the submission. The version that does not contain confidential information should also be clearly marked, at the top and bottom of each page, "public version" or "non-confidential."

Written comments submitted in connection with this request, except for information granted "business confidential" status pursuant to 15 CFR 2003.6, will be available for public inspection shortly after the filing deadline. Inspection is by appointment only with the staff of the USTR Public Reading Room and can be arranged by calling (202) 395–6186.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 97–28914 Filed 10–30–97; 8:45 am]

BILLING CODE 3190–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

North American Free Trade Agreement; Invitation for Applications for Inclusion on the Chapter 19 Roster

AGENCY: Office of the United States Trade Representative.

ACTION: Invitation for applications.

SUMMARY: Chapter 19 of the North American Free Trade Agreement (NAFTA) provides for the establishment of a roster of individuals to serve on binational panels convened to review final determinations in antidumping or countervailing duty (AD/CVD) proceedings and amendments to AD/CVD statutes of a NAFTA Party. The United States annually renews its selections for the Chapter 19 roster. Applications are invited from eligible individuals wishing to be included on the roster for the period April 1, 1998 through March 31, 1999.

DATES: Applications should be received no later than December 1, 1997.

ADDRESSES: Applications should be sent to Ms. Sybia Harrison, Attn: Chapter 19 Roster Applications, Office of the United States Trade Representative, 600 17th Street, NW, Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: With regard to the form of the application, Ms. Sybia Harrison, (202) 395–3419; with regard to eligibility requirements, William L. Busis, Associate General Counsel, (202) 395–3150.

SUPPLEMENTARY INFORMATION:

Binational Panel Reviews Under NAFTA Chapter 19

Article 1904 of the NAFTA provides that a party involved in an AD/CVD

proceeding may obtain review by a binational panel of a final AD/CVD determination of one NAFTA Party with respect to the products of another NAFTA Party. Binational panels decide whether such AD/CVD determinations are in accordance with the domestic laws of the importing NAFTA Party, and must use the standard of review that would have been applied by a domestic court of the importing NAFTA Party. A panel may uphold the AD/CVD determination, or may remand it to the national administering authority for action not inconsistent with the panel's decision. Panel decisions may be reviewed in specific circumstances by a three-member extraordinary challenge committee, selected from a separate roster composed of fifteen current or former judges.

Article 1903 of the NAFTA provides that a NAFTA Party may refer an amendment to the AD/CVD statutes of another NAFTA Party to a binational panel for a declaratory opinion as to whether the amendment is inconsistent with the General Agreement on Tariffs and Trade (GATT), the GATT Antidumping or Subsidies Codes, successor agreements, or the object and purpose of the NAFTA with regard to the establishment of fair and predictable conditions for the liberalization of trade. If the panel finds that the amendment is inconsistent, the two NAFTA Parties shall consult and seek to achieve a mutually satisfactory solution.

Chapter 19 Roster and Composition of Binational Panels

Annex 1901.2 of the NAFTA provides for the maintenance of a roster of at least 75 individuals for service on Chapter 19 binational panels, with each NAFTA Party selecting at least 25 individuals. A separate five-person panel is formed for each review of a final AD/CVD determination or statutory amendment. To form a panel, the two NAFTA Parties involved each appoints two panelists, normally by drawing upon individuals from the roster. If the Parties cannot agree upon the fifth panelist, one of the Parties, decided by lot, selects the fifth panelist from the roster. The majority of individuals on each panel must consist of lawyers in good standing, and the chair of the panel must be a lawyer.

Upon each request for establishment of a panel, roster members from the two involved NAFTA Parties will be requested to complete a disclosure form, which will be used to identify possible conflicts of interest or appearances thereof. The disclosure form requests information regarding financial interests and affiliations, including information regarding the identity of clients of the roster member and, if applicable, clients of the roster member's firm.

Criteria for Eligibility for Inclusion on Chapter 19 Roster

Section 402 of the NAFTA Implementation Act (Pub. L. 103–182, as amended (19 U.S.C. 3432)) ("Section 402") provides that selections by the United States of individuals for inclusion on the Chapter 19 roster are to be based on the eligibility criteria set out in Annex 1901.2 of the NAFTA, and without regard to political affiliation. Annex 1901.2 provides that Chapter 19 roster members must be citizens of a NAFTA Party, must be of good character and of high standing and repute, and are to be chosen strictly on the basis of their objectivity, reliability, sound judgment and general familiarity with international trade law. Aside from judges, roster members may not be affiliated with any of the three NAFTA Parties. Section 402 also provides that, to the fullest extent practicable, judges and former judges who meet the eligibility requirements should be selected.

Procedures for Selection of Chapter 19 Roster Members

Section 402 establishes procedures for the selection by the United States Trade Representative of the individuals chosen by the United States for inclusion on the Chapter 19 roster. The roster is renewed annually, and applies during the one-year period beginning April 1 of each calendar year.

Under section 402, an interagency committee chaired by the United States Trade Representative prepares a preliminary list of candidates eligible for inclusion on the Chapter 19 Roster. After consultation with the Senate Committee on Finance and the House Committee on Ways and Means, the United States Trade Representative selects the final list of individuals chosen by the United States for inclusion on the Chapter 19 roster.

Remuneration

Roster members selected for service on a Chapter 19 binational panel will be remunerated at the rate of 400 Canadian dollars per day.

Applications

Eligible individuals who wish to be included on the Chapter 19 roster for the period April 1, 1998 through March 31, 1999 are invited to submit applications. Applicants should submit an original application and 1 copy. Applications must be typewritten, and should be headed "Application for Inclusion on NAFTA Chapter 19 Roster." Applications should include the following information, and each section of the application should be numbered as indicated:

1. Name of the applicant.
2. Business address, telephone and fax number.
3. Citizenship(s).
4. Current employment, including title, description of responsibility, and name and address of employer.
5. Relevant education and professional training
6. Spanish language fluency, written and spoken.
7. Post-education employment history, including the dates and address of each prior position and a summary of responsibilities.
8. Relevant professional affiliations and certifications, including, if any, current bar memberships in good standing.
9. A list and copies of publications, testimony and speeches, if any, concerning AD/CVD law. Judges or former judges should list relevant judicial decisions. Only one copy of publications, testimony, speeches and decisions need be submitted.
10. Summary of any current and past employment by, or consulting or other work for, the United States, Canadian or Mexican Governments.
11. The names and nationalities of all foreign principals for whom the applicant is currently or has previously been registered pursuant to the Foreign Agents Registration Act, 22 U.S.C. 611 et seq., and the dates of all registration periods.
12. List of proceedings brought under U.S., Canadian or Mexican AD/CVD law regarding imports of U.S., Canadian or Mexican products in which applicant advised or represented (for example, as consultant or attorney) any U.S., Canadian or Mexican party to such proceeding and, for each such proceeding listed, the name and country of incorporation of such party.
13. A short statement of qualifications and availability for service on Chapter 19 panels, including information relevant to the applicant's familiarity with international trade law and willingness and ability to make time commitments necessary for service on panels.
14. On a separate page, the names, addresses, telephone and fax number of three individuals willing to provide information concerning the applicant's qualifications for service, including the applicant's familiarity with international trade laws, character, reputation, reliability, and judgment.

Current Roster Members and Prior Applicants

Current members of the Chapter 19 roster who remain interested in inclusion on the Chapter 19 roster are requested to submit updated applications. Individuals who have previously applied but have not been selected may reapply. If an applicant, including a current or former roster member, has previously submitted materials referred to in item 9, such materials need not be resubmitted.

Public Disclosure

Applications normally will be subject to public disclosure. An applicant who wishes to exempt information from public disclosure should follow the procedures set forth in 15 CFR 2003.6.

False Statements

Pursuant to section 402(c)(5) of the NAFTA Implementation Act, false statements by applicants regarding their personal or professional qualifications, or financial or other relevant interests, which bear on the applicants' suitability for placement on the Chapter 19 roster or for appointment to binational panels are subject to criminal sanctions under 18 U.S.C. 1001.

Paperwork Reduction Act

This notice contains a collection of information provision subject to the Paperwork Reduction Act (PRA) which has been approved by the Office of Management and Budget (OMB). Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB number. This notice's collection of information burden is only for those persons who wish to voluntarily apply for nomination to the NAFTA Chapter 19 roster. It is expected that the collection of information burden will be under 3 hours. This collection of information contains no annual reporting or record keeping burden. This collection of information was approved by OMB under OMB Control Number 0350–0007. Please send comments regarding the collection of information burden or any other aspect of the information collection to USTR at the address above.

Privacy Act

The following statements are made in accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a). The authority for requesting information to be furnished is section 402 of the NAFTA Implementation Act. Provision of the information requested above is voluntary; however, failure to provide the information will preclude your consideration as a candidate for the NAFTA Chapter 19 roster. The information provided is needed, and will be used by USTR, other Federal Government trade policy officials concerned with NAFTA dispute settlement, and officials of the other NAFTA Parties to select well-qualified individuals for inclusion on the Chapter 19 roster and for service on Chapter 19 binational panels.

Susan G. Esserman,

General Counsel.

[FR Doc. 97–28933 Filed 10–30–97; 8:45 am]

BILLING CODE 3190–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, (DOT).

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published in 62 FR 28916, May 28, 1997.

DATES: Comments must be submitted on or before December 1, 1997.

FOR FURTHER INFORMATION CONTACT: Judith Street, ABC–100; Federal Aviation Administration; 800 Independence Avenue, SW.; Washington, DC 20591; Telephone number (202) 267–9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Pilot's Opinion Survey.

OMB Control Number: 2120–0612.

Type of Request: Extension of currently approved collection. FORM(s): N/A.

Affected Public: Individuals (a maximum of 9,700 licensed pilots with current medical certificates).

Abstract: In accordance with the Government Performance and Results Act of 1993 (GPRA) and Executive Order No. 12862, which mandate surveying customer satisfaction, the FAA is seeking to better understand pilots' opinions of the air traffic management and weather information services they receive. This information will be used by the FAA to track national airspace system service performance and identify trends and areas for improvement. It will also be used to support the FAA's work prioritization and resource allocation efforts.

Annual Estimated Burden Hours: 1675.

Addressee: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention FAA Desk Officer.

Comments are Invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, D.C. on October 24, 1997.

Phillip A. Leach,

Clearance Officer, United States Department of Transportation.

[FR Doc. 97–28934 Filed 10–30–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, (DOT).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the

following collection of information was published in 61 FR 59483–59484, November 22, 1996.

DATES: Comments must be submitted on or before December 1, 1997.

FOR FURTHER INFORMATION CONTACT: Aretha L. Carr, Office of Civil Rights, Program Operations Division, (202) 366–1585, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Room 4132, Washington, DC 20590. Office hours are from 6:30 a.m. to 4:00 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Federal Highway Administration (FHWA)

Title: Federal-aid Highway Construction Equal Employment Opportunity.

OMB Number: 2125–0019.

Type of Request: Reinstatement, without change, of a previously approved collection for which approval has expired.

Affected Public: Federal-aid Prime Contractors and State Highway Administration (SHA) in the 50 States, the District of Columbia, and Puerto Rico.

Abstract: Public comment is requested regarding the burden associated with collection of Federal-Aid project workforce statistics. This data is collected under authority of 23 U.S.C. 140, which places the responsibility on the Secretary of Transportation for ensuring nondiscrimination and equal opportunity employment in all States benefiting from the use of Federal funds. 23 CFR 121 provides the FHWA with the authority to request employment reports in conjunction with monitoring and administering the Federal-Aid Highway Program. Data collected from contractors and State Departments of Transportation is extracted and analyzed by FHWA to determine overall percentages of minorities and females, based upon the total project workforce in each State. By comparing yearly reports, FHWA is able to: (1) Monitor the progress; (2) Evaluate employment trends; and (3) Ensure commitment to the provisions of Title VI of the Civil Rights Act of 1964 and the PR–1273 (Federal-aid contract) agreement between FHWA and prime contractors awarded Federal-aid projects.

Estimated Annual burden Hours: 8,580 hours.

Number of Respondents: 52.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention FHWA Desk Officer. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on October 27, 1997.

Vanester M. Williams,

Clearance Officer, United States Department of Transportation.

[FR Doc. 97–28055 Filed 10–30–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Approval of Noise Compatibility Program; Ft. Lauderdale Executive Airport, Ft. Lauderdale, FL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by the City of Ft. Lauderdale under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96–52 (1980). On March 28, 1997, the FAA determined that the noise exposure maps submitted by the City of Ft. Lauderdale under Part 150 were in compliance with applicable requirements. On September 23, 1997, the Administrator approved the Ft. Lauderdale Executive Airport noise compatibility program. Most of the program measures were fully approved. One (1) measure was partially approved and one (1) measure was disapproved.

EFFECTIVE DATE: The effective date of the FAA's approval of the Ft. Lauderdale Executive Airport noise compatibility program is September 23, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Tommy J. Pickering, P.E., Federal Aviation Administration, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822, (407) 812–6331, Extension 29. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for Ft. Lauderdale Executive Airport, effective September 23, 1997.

Under Section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measure should be recommended for action. The FAA's approval or disapproval of FAR part 150 program recommendations is measured according to the standards expressed in part 150 and the Act, and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical users, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR part 150, Section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for project grants must be submitted to the FAA Airports District Office in Orlando, FL.

The City of Ft. Lauderdale submitted to the FAA on March 5, 1997, updated noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from January 3, 1994 through March 5, 1997. The Ft. Lauderdale Executive Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on March 28, 1997. Notice of this determination was published in the **Federal Register**.

The Ft. Lauderdale Executive Airport study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to the year 2002. It was requested that FAA evaluate and approve this material as a noise compatibility program as described in Section 104(b) of the Act. The FAA began its review of the program on March 28, 1997, and was required by a provision of the Act to approve or disapprove the program within 180-days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained twenty-three (23) proposed actions for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR part 150 have been satisfied. The overall program, therefore, was approved by the Administrator effective September 23, 1997.

Out right approval was granted for twenty-one (21) of the twenty-three (23) specific program measures. One (1) measure was disapproved and one (1) measure was partially approved. The approval action was for the following program controls:

Noise abatement measure	Description	NCP pages
	Operational Measures	
3.2.1	Revised Measure: Informal Nighttime Preferential Assignment of Runway 26 to All Aircraft. It is recommended that the existing nighttime (10 p.m. through 7 a.m.) preferential use of Runway 26 by turbojet aircraft be extended to be applicable to all aircraft to reduce overflight of the populated areas closest to the airport. This measure results in a reduction of 31 people within the 65 dB L_{dn} noise contour and operates in conjunction with the noise abatement flight path for Runway 26 departures (turn to a heading of 310°) discussed below. FAA Action: Approved as a voluntary measure.	Pgs. 20, 49, 50 and 52; Figures 5.1 and 5.2; and Tables 3.2, 3.5, 5.3, 5.4 and 5.5.
3.2.2	Existing Measure: Voluntary Restriction of Jet Use of Runway 13/31. It is recommended that the existing voluntary restriction of jet use of Runway 13/31 be continued. The elimination of this measure would dramatically increase direct jet overflights of the close-in residential areas under the extended centerlines of runways at the airport, in areas where jet operations currently are rare, increased jet use would almost certain result in a vigorous community reaction. FAA Action: Approved as a voluntary measure.	Pgs. 20 and 50; Tables 3.2, 3.5, 5.1, 5.2 and 5.3; and Appendix C.
3.23	New Measure: Relax Runway 08 Departure Altitude Restriction. Because of air traffic transiting the airspace around Fort Lauderdale Executive Airport (FXE) (largely from Fort Lauderdale-Hollywood International), the FAA currently restricts initial climb altitudes on departure from FXE to 2,000'. This measure recommends eliminating or relaxing this restriction. FAA Action: Disapproved for purposes of Part 150. The Air Traffic Control Tower commented that this procedure is already done to the maximum extent possible. Both FXE and Miami Tower personnel make every effort to climb aircraft to their cruising altitude as soon as traffic conditions permit. To eliminate the restriction, or to further relax it beyond current airport traffic capabilities, would impact air traffic efficiency and is therefore disapproved.	Pgs. 20, 21 and 56; Tables 3.2, 3.5, 5.3 and 5.7; and Figure 5.4.

Noise abatement measure	Description	NCP pages
3.2.4	Revised Measure: Noise Abatement Pattern Procedures. This measure proposes to raise the propeller pattern altitude from 1,000' to 1200', extend the upwind leg for Runway 31 departures out to the turnpike, and extend the approach leg for Runway 13 arrivals out to the turnpike. This measure would result in a reduction of 30 people within the 65 dB L_{dn} noise contour. FAA Action: Approved in part as a pilot request, voluntary measure, with respect to the proposal to extend the upwind leg for Runway 31 departures out to the turnpike. The measure is disapproved in part for the proposals to raise the propeller altitude and extend the approach leg for Runway 13 arrivals out to the turnpike. Raising the propeller altitude would have a severe impact on traffic at FXE and on traffic transiting into the Ft. Lauderdale-Hollywood International Airport, or working with Miami Approach Control overhead Ft. Lauderdale Executive Airport. The Air Traffic Control Tower (ATCT) expressed concern that the Runway 13 arrival change would create at least a 2½ mile longer pattern, more delays and a safety hazard due to the distance from the tower, and limited visibility for the ATCT at that distance.	Pgs. 21, 22 and 54; Tables 3.2, 3.5, 5.2, 5.3 and 5.6; and Figure 5.3.
5.7.3	Existing Measure: Voluntary Use of National Business Aircraft Association and Manufacturers' Procedures. This measure recommends continuation of an existing voluntary measure where pilots are requested to use National Business Aircraft Association (NBAA) recommended noise abatement procedures developed for corporate jet pilots or individual aircraft manufacturer developed aircraft-specific abatement procedures. The program recommends use of the "standard" departure procedure. Airport signs notify pilots. FAA Action: Approved as a voluntary measure.	Pgs. 58 and 114; Tables 3.2, 5.1, 5.2 and 5.3; and Appendix C.
3.2.5	Revised Measure: R/W 26 Departure Heading; Initiate Turns After Crossing NW 31st Avenue. The original Noise Compatibility Program included a turn to a heading of 260° for nighttime turbojet departures off of Runway 26. This procedure was implemented as a turn to 310°. It was extended to apply to fixed wing aircraft departing on this runway 24 hours per day. This measure recommends modifying the existing measure so the noise turn for aircraft departing Runway 26 would be initiated after crossing NW 31st Avenue for VFR guidance. Under instrument conditions, pilots should use the Runway 08 ILS approach middle marker for guidance. This measure reduces the population within the 65 dB L_{dn} noise contour by 631 people. FAA Action: Approved as a voluntary measure.	Pgs. 22, 63 and 65; Tables 3.2, 3.5, 5.3, 5.9 and 5.10; and Figures 5.8 and 5.9.
3.2.6	Existing Measure: Runway 08 Departure Headings. This measure recommends continuation of a noise abatement departure turn to the north, along I–95, for jets departing on Runway 08. The procedure requires all jets with destinations other than eastbound to be assigned a heading of 330°, with turns to be initiated "abeam of I–95". All eastbound departures, regardless of aircraft type, are assigned to a heading of 090°. Propeller-driven aircraft with non-eastbound destinations are assigned a heading of 300°. Emergency flights and medical "life flights" are exempt. The elimination of this procedure would approximately double the population within the 65 dB L_{dn} contour. FAA Action: Approved as a voluntary measure.	Pgs. 22, 58 and 59; Tables 3.2 and 5.8; Figures 5.5, 5.6 and 5.7; and Appendix C.
3.2.7	New Measure: Voluntary Use of Runway 08 "Quiet One" Departure Procedure. This measure recommends continuation of the current "Quiet One" departure procedure for nighttime (10 p.m. through 7 a.m.) eastbound jet departures on Runway 08. The procedure applies to visual meterological conditions only and is initiated at pilot request only. The procedure is published as a climbing left 360° turn to 090° then commence a standard rate turn so as to remain within 5 nautical miles of FXE and north of Runway 8 centerline until on assigned heading. This procedure provides a reduction in single event noise levels over residential areas east of the airport, including approximately 400 people within the 65 dB L_{dn} noise contour. FAA Action: Approved as a voluntary measure.	Pgs. 23 and 67; Tables 3.2, 3.5 and 5.3; and Figures 5.10, 5.11 and 5.12.
3.2.8	New Measure: Voluntary Restriction of Nighttime (10 pm–7 am) Touch-and-Go Operations. This measure includes only a request that pilots and Fixed Base Operators limit all touch-and-go activity, particularly nighttime operations, on a voluntary basis. This measure reduces the number of people from within the 65 dB L_{dn} noise contour. FAA Action: Approved as a voluntary measure.	Pgs. 24 and 78; and Tables 3.2, 3.5 and 5.3.
3.2.9	Existing Measure: Support of Airport Perimeter Development as Noise Barrier. The program recommends continuation of an existing measure calling for the City to promote development of property on the airport perimeter in such a manner that the structures can act as noise barriers for neighboring residences. FAA Action: Approved.	Pgs. 24, 87 and 88; Tables 3.2 and 5.2; Figure 5.18; and Appendix C).

Noise abatement measure	Description	NCP pages
3.2.10	Existing Measure: Aircraft Engine Runup Time and Location Restrictions. This recommends continuation of an existing restriction on the time and location of maintenance runups which is included in the Fort Lauderdale City Code. No maintenance runups are allowed between 7:00 p.m. and 7:00 a.m. and are limited to a location designated by the Air Traffic Control Tower. The designated runup area is at the compass rose as shown on figure 5.19 in the NCP document. The City Code will be revised to depict the location of the compass rose as the only site for maintenance runups unless the City authorizes alternate locations and the Airport Rules and Regulations manual will be revised to reflect the City Code. These existing restrictions have largely eliminated citizen complaints related to engine runup noise. FAA Action: Approved..	Pgs. 25 and 88; Tables 3.2 and 3.5; Figure 5.19; and Appendix C.
	Land Use Measures	
3.3.1	Existing Measure: Corrective Land Use and Zoning Changes. It is recommended that the City continue monitoring of land use and zoning requests in its environs to encourage appropriate changes to more compatible categories for vacant and developed land and to discourage inappropriate changes. Where changes could result in noncompatible land use but cannot be prevented, other corrective measures provided at the expense of the applicant should be pursued to maintain compatibility. The City will transmit the approved Noise Exposure Maps (NEM) to each local government with jurisdiction over land surrounding FXE along with a written request that they maintain land use compatibility and notification that no federal/airport funding will be available for corrective measures associated with any new non-compatible development within the noise contours depicted on the NEM. FAA Action: Approved.	Pgs. 26, 101 and 102; Tables 3.3, 3.6, 6.1, 6.2 and 6.5; and Figures 4.1 and 4.2.
3.3.2	Existing Measure: Preventive Development Controls. It is recommended that the Airport staff continue consultation with City and County planning, building, zoning and legal staff to explore the feasibility of enacting site plan and building code measures to minimize the potential for noise impacts. FAA Action: Approved.	Pgs. 26, 107 and 108; and Tables 3.3, 3.6, 6.1, 6.2 and 6.5.
3.3.3	Existing Measure: Preventive Fair Disclosure. It is recommended that the existing measure for fair disclosure primarily by NEM publication be continued. Dissemination and explanation of the Airport Master Plan and NEM to realtors and local government staff are recommended to ensure that potential residents are aware of the airport and its operations. This measure will protect both the airport and potential property owners. FAA Action: Approved.	Pgs. 26 and 108; and Tables 3.3, 3.6, 6.1, 6.2 and 6.5.
3.3.4	New Measure: Monitor to Determine Exact Extent of Contour into Residential Area. It is proposed that the City install one of the permanent noise monitors off the western end of Runway 08/26 within or close to the Village Park Mobile Home Park to measure actual noise levels. This will allow the City to fine tune implementation of the procedure to have pilots delay the initiation of the Runway 26 departure heading until they cross NW 31st Avenue so as to eliminate or reduce the encroachment of the contours into the property. Therefore, this measure would assist in the implementation of other measures. FAA Action: Approved.	Pgs. 27, 110 and 115; and Tables 3.3, 3.6, 3.7 and 6.5.
	Continuing Program Measures	
3.4.1	Existing Measure: Noise Abatement Advisory Committee. This will continue the Community Advisory Committee (CAC) which was established in the original Part 150 study to meet with FXE and other City staff throughout the year, as required, to discuss issues related to aircraft noise. The CAC provides a formal mechanism for ongoing dialogue with the community on noise issues. FAA Action: Approved.	Pgs. 29, 113 and 114; and Tables 3.4, 3.7 and 7.1
3.4.2	Existing Measure: Noise Abatement Officer. This will continue a full-time Noise Abatement Officer position which was established in the original Part 150 study. The Officer is responsible for operation of the permanent monitoring system, community liaison regarding noise issues, collection of and response to noise complaints, implementation of the NCP, and ongoing noise compatibility planning efforts. The Officer is a critical element of the ongoing implementation and success of the NCP. FAA Action: Approved.	Pgs. 29, 113 and 114; and Tables 3.4, 3.7 and 7.1.
3.4.3	Existing Measure: Permanent Noise Monitoring System. It is proposed that the City expand the existing noise monitoring system by adding a minimum of four new permanent noise monitors, a minimum of two compatible portable noise monitors, and expanded central database management capabilities. The monitoring system provides the City with objective and accurate information to use in implementing NCP elements, monitoring the effectiveness of the NCP, and responding to citizen inquiries. FAA Action: Approved. FAA participation in monitors will be limited to an additional four permanent monitors and two portable monitors unless FAA later specifically determines additional noise monitors are needed on a case-by-case basis.	Pgs. 29, 114, and 115; Tables 3.4, 3.7 and 7.1; and Figure 3.1 of the NEM document.

Noise abatement measure	Description	NCP pages
3.4.4	Existing Measure: Public Information Program. This will continue a public information program by the Airport staff through verbal and written briefings to the CAC, Aviation Advisory Board (AAB) meetings, briefings to City Commission meetings, and presentations to outside organizations, such as homeowner associations. This measure is a critical component of the ongoing dialogue with outside parties, to ensure that the NCP operates efficiently and effectively. FAA Action: Approved.	Pgs. 29, 113 and 114; and Tables 3.4, 3.7 and 7.1.
3.4.5	New Measure: Airfield Signs. It is proposed that the City install four additional signs on the airfield that inform departing pilots of the key noise abatement procedures to insure that all relevant locations have signs. FAA Action: Approved. Signs must not be construed as mandatory air traffic procedures. The content and location of airfield signs are subject to specific approval by appropriate FAA officials outside of the Part 150 process and are not approved in advance by this determination.	Pgs. 30 and 114; and Tables 3.4, 3.7 and 7.1.
3.4.6	New Measure: Pilot Manual Insert. The city has arranged for the printing of a full color informational insert on FXE in a format that is compatible with the Jepson Sanderson manual which includes a notice on the Runway 08 departure procedures. It is also recommended that the City reprint inserts prepared by the City that addresses the Runway 08 departure procedures. FAA Action: Approved.	Pgs. 30 and 114; and Tables 3.4, 3.7 and 7.1.
3.4.7	Existing Measure: NCP Review and Revision. This measure continues provisions for continuing review and evaluation of proposed changes to the NCP between overall updates as proposed in the NCP. This provides for amendment to the details of the NCP, to ensure its continued efficiency and effectiveness. FAA Action: Approved.	Pgs. 30, 31, 113 and 114; and Tables 3.4, 3.7 and 7.1.
3.4.8	Existing Measure: NEM and NCP Updates. The NCP recommends that the City update the NEM every five years, or as required by changed conditions, pursuant to FAA guidelines. Should the revised NEM indicate that changed conditions have diminished the effectiveness or efficiency of the NCP, the City will evaluate the NCP and update it as required. This will keep the NEM and NCP up to date. FAA Action: Approved.	Pgs. 31, 113 and 114; and Tables 3.4, 3.7 and 7.1.

These determinations are set forth in detail in a Record of Approval endorsed by the Administrator on September 23, 1997. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative office of the City of Ft. Lauderdale.

Issued in Orlando, Florida on October 16, 1997.

W. Dean Stringer,

Acting Manager, Orlando Airports District Office.

[FR Doc. 97–28939 Filed 10–30–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Aviation Rulemaking Advisory Committee to discuss general aviation operations issues.

DATES: The meeting will be held on November 18, 1997 at 1:00 p.m.

ADDRESSES: The meeting will be held at the Helicopter Association International, 1635 Prince Street, Alexandria, VA 22314.

FOR FURTHER INFORMATION CONTACT: Noreen Hannigan, Regulations Analyst, Office of Rulemaking (ARM–106), 800 Independence Avenue, SW., Washington, DC 20591. Telephone: (202) 267–7476; FAX: (202) 267–5075.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee to discuss general aviation operations issues. This meeting will be held on November 18, 1997, at 1:00 p.m. at the Helicopter Association International, 1635 Prince Street, Alexandria, VA 22314.

The agenda for this meeting will include:

(1) A status report on the Part 103 (Ultralight Vehicles) Working Group's Notice of Proposed Rulemaking (NPRM) on "Sport Pilot Certification Requirements;"

(2) A vote on the IFR Fuel Requirements/Destination and Alternate Weather Minimums Working Group's NPRM on "Flight Plan Requirements for Helicopter Operations Under Instrument Flight Rules." Members of the public may obtain copies of this NPRM by contacting the person listed above under **FOR FURTHER INFORMATION CONTACT;**

(3) An update of the status of the VHF Navigation and Communication Frequency Utilization Group's 1996 recommendations for implementation of International Civil Aviation Organization (ICAO) Annex 10 (VHF Navigation and Communication Receiver Immunity Performance Standards);

(4) Discussion of overflights of national parks;

(5) Other general aviation topics (open discussion). Attendance is open to the interested public but may be limited to the space available. The public must make arrangements in advance to present oral statements at the meeting or may present written statements to the committee at any time. In addition, sign and oral interpretation can be made available at the meeting, as well an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on October 27, 1997.

Louis C. Cusimano,

Assistant Executive Director for General Aviation Operations, Aviation Rulemaking Advisory Committee.

[FR Doc. 97–28944 Filed 10–30–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Smith County, TX

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for a proposed new location highway project in Smith County, Texas.

FOR FURTHER INFORMATION CONTACT: John Mack, P.E., Acting District Engineer, Federal Highway Administration, Room 826, Federal Office Building, 300 East 8th Street, Austin, Texas 78701. Randy Hopman, P.E., Director of Transportation Planning and Development, Texas Department of Transportation, PO Box 2031, Tyler, Texas 75710.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Texas Department of Transportation (TxDOT), will prepare an environmental impact statement (EIS) on a proposal to construct the western section of Loop 49, an approximately 40 mile circumferential controlled access highway around the urbanized area of Tyler in Smith County, Texas. The western section of the proposed Loop 49 extends from State Highway 155 northward to Interstate Highway 20 in western Smith County. The length of the project varies, depending on the selected alternative, averaging approximately 28.3 kilometers (17 miles). The proposed action is intended to provide access and increased mobility to the western Tyler/Smith County area and the Northeast Texas region; and to provide a safer, more convenient route for traffic traveling through the Tyler area.

Alternatives to the proposed action to be discussed in the EIS consist of (1) taking no action; and (2) improving existing roadways in the urbanized areas of Smith County. The build alternatives include five alternative alignments along new location rights-of-way connecting State Highway 155 to Interstate Highway 20.

Impacts caused by the construction and operation of Loop 49 will vary according to the alternative alignments utilized. Generally, impacts would include the following: Transportation impacts (construction detours, construction traffic, and mobility improvement), air and noise impacts from construction equipment and operation of the roadway, water impacts from construction area and roadway storm water runoff, impacts to waters of the United States including wetlands from right-of-way encroachment, wildlife habitat impacts, and impacts to residents and businesses including potential relocations.

Letters describing the proposed action and soliciting comments have been sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have previously expressed interest in the proposal. A Major Investment Study has been completed in compliance with the Intermodal Surface Transportation Efficiency Act. In addition, several meetings have been held by the Loop 49 Steering Committee, composed of representatives of local governments, agencies, and interested organizations and citizens. A public meeting was held on August 28, 1997, at the Harvey Convention Center in Tyler, Texas, at which public comments on the proposed action and alternatives were requested. In addition, a public hearing will be held after publication of the Draft EIS. Public notice will be given of the time and place of the hearing. The Draft EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA or TxDOT at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research Planning and Construction. The regulations implementing Executive Order 12373 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: October 21, 1997.

John Mack,

Acting District Engineer, Austin, Texas.

[FR Doc. 97–28865 Filed 10–30–97; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Travis and Williamson Counties, TX

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed highway project in Travis and Williamson Counties, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. John Mack, P.E., Federal Highway Administration, 826 Federal Office Building, 300 E. 8th Street, Austin, Texas 78701, and Ms. Dianna Noble, P.E., Director, Environmental Affairs Division, Texas Department of Transportation, 125 E. 11th St., Austin, Texas 78701.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Texas Department of Transportation (TxDOT), is considering an upgrade to the existing road network in Travis and Williamson Counties. Under this proposed action State Highway 45 (SH 45) would be constructed within a corridor beginning FM 685 north of Pflugerville, Texas, and running west to a terminus with U.S. Highway 183, a distance of approximately 14 miles. Improvements to be considered in this project include constructing a roadway on new or existing locations, and/or improving alternative transportation modes in the community. The proposed SH 45 would extend west from FM 685 along a new location right-of-way to Louis Henna Boulevard. The proposed roadway would follow Louis Henna Boulevard to its interchange with IH 35, briefly follow FM 1325 west from its intersection with IH 35, and then utilize new right-of-way location to connect with RM 620 west of Round Rock, Texas. The SH 45 roadway would follow RM 620 to its western terminus at U.S. Highway 183. Ultimate facility design is anticipated to be a six-lane roadway with frontage roads and overpasses at major thoroughfares and direct connection ramps at IH 35, Loop 1 and SH 130.

An EIS will be prepared for this project pursuant to 23 CFR part 771 and 40 CFR parts 1500 through 1508. The corridor being considered for SH 45 closely parallels a needed transportation corridor identified by the Austin Transportation Study. Two preliminary Draft EIS's were prepared in 1990 as part of the SH 45 planning process.

These previous studies identified the need for a new location, multiple lane roadway with full control of access; however, these DEIS's were never finalized. Much of the relevant information developed for these studies will be utilized during the project development process for proposed SH 45.

Major considerations in the EIS will include an analysis of the costs of right-of-way, the numbers and types of relocations necessary, engineering constraints and limitations due to topography, and potential environmental impacts involving land use, socioeconomic conditions, water resources, air quality, noise, traffic, ecological/cultural resources, and hazardous materials sites. Multiple alignment alternatives will be studied for the new location sections. At the present stage of the EIS process, no preferred alternative has been selected.

A public meeting was held on September 23, 1997, at the Cedar Valley Middle School in Round Rock, Texas. In addition, a public hearing will be held after the Draft EIS has been completed and made available to the agencies and public. Other public involvement opportunities include a newsletter to be sent periodically to update the public on the EIS progress and the dates, times, and locations of public meetings and hearings; and news releases to be prepared at appropriate times during the EIS process to inform the public about the EIS status and relevant dates, time, and locations of public meetings and hearings. In addition, at appropriate times over the course of the EIS process, presentations will be made to the Round Rock City Council, Williamson County Commissioner's Court, numerous resource protection agency personnel, and the Austin Transportation Study, which serves as the region's Metropolitan Planning Organization.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA or TxDOT at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: October 21, 1997.

John Mack,

Acting District Engineer Austin, Texas.

[FR Doc. 97–28867 Filed 10–30–97; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA–97–2707; Notice 2]

Pipeline Safety; Liquefied Natural Gas Facilities, Grant of Waiver; Applied LNG Technologies

Applied LNG Technologies (ALT) petitioned the Research and Special Programs Administration (RSPA) for a waiver from compliance with certain provisions of 49 CFR Part 193 for its Needle Mountain Liquefied Natural Gas (LNG) storage and truck loading facility at Topock, Arizona. This facility consists of two, 50,000 gallon LNG storage tanks and a truck transfer system. The LNG is piped a short distance to a liquefaction facility owned and operated by a subsidiary of El Paso Natural Gas. A transmission pipeline, owned by El Paso Natural Gas Company, supplies Part 192 regulated gas to the El Paso Field Services, a liquefaction facility. Petitioner alleges that the Needle Mountain LNG storage and loading facility (NMF) is non-jurisdictional in accordance with Sections 193.2001(a) and (b)(1) because the facility would not be transporting natural gas by pipeline, but rather would be loading LNG into tank trucks for delivery to commercial and industrial customers. ALT claims that it's NMF is the ultimate consumer of LNG.

On May 16, 1997, the RSPA issued a Interpretation of Part 193 as it applies to the NMF facility. In that interpretation, RSPA stated that regardless of who owns or operates different sections of an LNG facility, it is subject to Part 193 in its entirety. Part 193 encompasses all parts of an LNG facility from the point at which it receives gas from a Part 192 regulated gas transmission pipeline through the liquefaction process, storage, and transfer into a motor carrier vehicle.

Petitioner then requested a waiver from compliance with certain sections of Part 193 and proposed to ensure equivalent safety through compliance with the National Fire Protection Association (NFPA) standard 59A. The specific sections of Part 193 for which Petitioner sought a waiver are:

(1) *§ 193.2173—Water Removal:* § 193.2173(a) requires that except for Class 1 systems, impounding systems must have sump pumps and piping over the dike to remove water collecting in the sump basin.

NFPA 59A section 2–2.2.7 requires either sump pumps or gravity drainage for water removal, provided there is means to prevent the escape of LNG by way of the drainage system.

Petitioner's rationale for noncompliance: The impoundment area in this facility drains to a sump basin. A sump dump is not provided due to the arid location. In the rare event of rain in Topock, AZ, Petitioner does not expect to have standing water for any length of time.

RSPA proposed granting waiver from § 193.2173 only if petitioner could demonstrate that there would be no standing water (i.e., proving ground is permeable) in the sump for any significant period.

(2) *§ 193.2209(b)(2)—Instrumentation for LNG storage tanks:* For LNG tanks with capacity of 70,000 gallons or less, § 193.2209(b)(2) requires pressure gages and recorders with high pressure alarm.

NFPA 59A 7–2.1 requires only a pressure gage.

Petitioner does not believe that safety has been compromised by requiring only a pressure gage, because any high pressure in the storage tank is controlled by a recompressor system within the "facility" that maintains the storage pressure at 20 psig. Any failure of this system places the entire storage facility in a "fail safe" (shut down) mode.

RSPA proposed not granting a waiver from § 193.2209(b)(2) because, in our view recorders (at the storage tank site and possibly at the control center) and a high pressure alarm (at the control center) are essential in the event of the failure of the recompressor system. Although the entire storage facility will be placed in a shut down mode, there appears to be no way to prevent pressure from increasing in the LNG storage tank. This is especially important because this LNG storage facility will be an unattended operation.

(3) *§ 193.2321(a)—Nondestructive tests, Circumferential butt welds:* § 193.2321(a) requires that 100 percent of circumferential butt welded pipe joints in the cryogenic piping and 30 percent of circumferential butt welded pipe joints in the non-cryogenic piping be nondestructively tested.

NFPA 59A 6–6.3.2 requires all circumfesential butt welds to be nondestructively tested, except that liquid drain and vapor vent piping with an operating pressure that produces a hoop stress of less than 30 percent of specified minimum yield stress (SMYS) need not be nondestructively tested, provided it has been inspected visually in accordance with the American Society of Mechanical Engineers (ASME) standard B31.3, Chemical Plant and Petroleum Refinery Piping, 344.2.

RSPA considered granting a waiver from 193.2321(a) for the liquid drain and vapor vent piping with operating pressures that produce hoop stresses of less than 20 percent SMYS, if that piping complies with the NFPA 59A 6–6.3.2. We believe that safety is not comprised.

(4) *§ 193.2321(e)—Nondestructive test, Circumferential and longitudinal welds in metal shells of storage tanks:* § 193.2321(e) requires 100 percent of both longitudinal and circumferential butt welds in metal shells of storage tanks that are subject to cryogenic temperatures, and are under pressure, to be radiographically tested.

NFPA 59A 4–2.2.2 requires welded construction for shell in accordance with the ASME Code section VIII, and shall be ASME-stamped and registered with the National board of Boiler and Pressure Vessels (NBBI)

Petitioner's rationale for requesting a waiver is that safety in this case is not comprised as storage tanks at NMF facility are small, shop fabricated, and built to ASME Code. ASME Section VIII is an accepted standard to which cryogenic pressure vessels are built all over the world.

RSPA proposed to grant a waiver from § 193.2321(e), because we believe that safety is not compromised for smaller pressure vessels (less than 70,000 gallons) which are designed and built to ASME Code VIII (greater than 15 psig). Tanks built to this code are shop fabricated under strict quality control and are inspected and stamped by the Authorized Inspectors of the NBBI. Storage tanks at the NMF facility are built to ASME code Section VIII and have a capacity of 50,000 gallons (relatively small).

(5) *§§ 193.2329 (a) and (b)—Construction Records:* § 193.2329(a) requires that an operator shall retain records of specifications, procedures, and drawings consistent with this part, and § 193.2329(b) requires that an operator shall retain records of results of tests, inspections and quality assurance program required by this subpart.

Petitioner requested a waiver for records for design and manufacture of the pressure vessels, because they are built to the ASME code as referenced in NFPA 59A. Petitioner would comply with all other recordkeeping requirements in accordance with §§ 193.2329 (a) and (b).

RSPA proposed to grant waiver from §§ 193.2329 (a) and (b) for those parts of the NMF facility where the petitioner has requested.

(6) *§ 193.2431 (c)—Vents:* § 193.2431(c) requires that venting of natural gas/vapor under operational control which could produce a hazardous gas atmosphere must be directed to a flare stack of heat exchanger.

NFPA 59A 3–4.5 also requires safe discharge of boil-off and flash gas to the atmosphere or into a closed system. NFPA 10–12.4.4 requires that safety relief valve discharge stacks or vents shall discharge directly into the atmosphere.

Petitioner requested a waiver from § 193.2431(c) which requires flare stacks. Petitioner's reasons for noncompliance are that (i) safety relief valves relieve under emergency conditions, and (ii) there will be no boil-off venting at this facility because LNG storage vessels are maintained at a storage pressure of 20 psi by a recompressor system.

RSPA agrees that at the NMF facility recompressor system will maintain a pressure of 20 psi in the LNG storage tanks. Therefore, no continuous discharge of boil-off to atmosphere is expected. We believe that relief valves discharge only under emergency conditions. Therefore, it is safe to discharge them to the atmosphere through a stack without flaring. Based on that information, RSPA proposed to grant a waiver from compliance with § 193.2431(c), as long as relief valves discharge through stacks were higher than surrounding structures at this facility.

(7) *§ 193.2817(b)(2)—Fire Equipment:* § 193.2817(b)(2) requires fire control equipment and supplies to include a water supply and associated delivery system, if the total inventory of LNG is 70,000 gallons.

NFPA 59A 9–5.1 similarly requires a water system except where an evaluation in accordance with 9–1.2 indicates the use of water is unnecessary or impractical. Section 9–1.2 also requires evaluation of the methods necessary for protection of the equipment and structures from the effects of fire exposure.

Petitioner requested a waiver from § 193.2817(b)(2), citing exemption in paragraph 9–5.1 of the NFPA 59A. Petitioner's rationale for such a waiver was that this facility is remotely located, generally unattended, and is equipped with fire detection sensors which will annunciate fire detection to the control center, as well as initiate a facility shutdown to a fail-safe condition.

RSPA disagreed with Petitioner's rationale that water was unnecessary and impractical at this facility and proposed not to grant waiver from § 193.2817(b)(2). RSPA argued that a fire protection water system was necessary for protection of the components and for controlling unignited leaks and spills at the NMF facility. RSPA also believed that providing a water system at this facility was feasible.

After reviewing the petition, the RSPA published a notice inviting interested persons to comment on this waiver (Notice 1) (62 FR 41993; August 4, 1997). RSPA received no comments in response to the notice.

On August 12, 1997, two pipeline safety inspectors from the Arizona Public Utility Commission, one inspector from the Office of Pipeline Safety (OPS), Southwest Region office and one representative from the OPS headquarters visited the NMF facility. The purpose of this trip was to get more facts and discuss the above issues with the representatives of the ALT, ElPaso Natural Gas Company and its subsidiary. At this meeting ALT was advised to provide a formal report addressing firewater requirements and a letter from the NFPA confirming the fact that an exception to this requirement is allowed when the evaluation required by Section 9–1.2 of the NFPA 59A indicates the use of water is unnecessary or impractical. All other issues in this petition were verified and agreed by all parties.

Subsequently, Petitioner in support of its waiver, has provided: (1) a report of the "percolation test", proving the ground near the facility is permeable, dated August 12, 1997, prepared by Western Technologies, Inc.; (2) drawings and data report on "heat flux exclusion zones" and "Degadis Analysis"; (3) a formal report on "fire water requirement determination" dated September 30, 1997, developed by CH–IV Corporation; and (4) an interpretation letter from the NFPA dated October 1, 1997.

After a thorough review of the CH–IV Corporation's report, RSPA is not convinced with the conclusions that the lack of a fire water supply may not significantly increase foreseeable consequences of fires, including the failure of components or buildings within the facility.

RSPA notes that the above referenced NFPA interpretation letter states that Standard 59A permits the use of other fire protection systems (exclusive of a fixed water system) if an evaluation of the facility shows that the use of water is unnecessary or impractical. The NFPA letter further states that fire protection must be provided for all LNG facilities, and that water is the preferred

fire protection agent, but it is not mandated. The CH–IV report on the need for LNG fire fighting protection systems at the ALT facility describes fire detection, equipment shutdown and control systems. However, it does not address what other fire protection systems (in lieu of fixed water system) be utilized to prevent fire from spreading. Thus, it does not satisfy paragraph 9–1.2(c) of NFPA 59A, which states "The methods necessary for protection of the equipment and structures from the effects of fire exposure." RSPA has also concerns about safety of the Mojave Compressor Station (MCS) and its day-shift personnel. According to ALT's drawings MCS lies clearly within the "lower explosive limit" of the ALT facility. Therefore, it lies within the perimeter where fire could occur as result of vapor dispersion.

Based on the above discussion, RSPA is not granting a waiver from the firewater requirements in § 193.2817(b)(2). RSPA, however, may consider any other alternative fire protection systems satisfying Section 9–1.2(c) of NFPA 59A.

Except for the sections for which RSPA is granting a waiver, this LNG facility must meet all the other requirements of Part 193. For the sections for which RSPA is granting a waiver, RSPA believes that the granting of a waiver from these requirements would not be inconsistent with pipeline safety, as long as Petitioner follows alternative provisions in the NFPA 59A. Therefore, ALT's petition for waiver from compliance with above specified sections of 49 CFR 193 is granted, effective October 31, 1997.

Authority: 49 App. U.S.C. 2002(h) and 2015; and 49 CFR 1.53.

Issued in Washington, D.C. on October 27, 1997.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 97–28059 Filed 10–30–97; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33475]

C&NC Railroad Corporation—Lease and Operation Exemption—Lines of the Norfolk and Western Railway Company and Indiana Hi Rail Corporation

C&NC Railroad Corporation (CNUR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to lease and operate the Connersville Line (Line) in the State of Indiana, consisting of 27.62 miles of rail line. CNUR will lease from the Norfolk and Western Railway Corporation (NW) and operate the 22.42-mile portion of the rail line that is owned by NW: (1) from Beesons, (N&W milepost 4.80), to New Castle, (N&W milepost 25.30—Thornburg Street); and (2) from milepost 0.0 to 1.92, in New Castle, (the New Castle Industrial Track). R. Franklin Unger, Trustee of the Indiana Hi Rail Corporation (Hi Rail) currently leases and operates the NW portion of the Line.

The remaining 5.2 miles of the Line, from Beesons, milepost 5.2, to Connersville, milepost 0.0, is owned and operated by Hi Rail and is the subject of a separate acquisition exemption in STB Finance Docket No. 33476, *C&NC, L.L.C.—Acquisition Exemption—Indiana Hi Rail Corporation.* CNUR has entered into an agreement with C&NC, L.L.C. (CLLC) to lease from CLLC and operate the Beesons to Connersville portion of the Line.

CNUR will grant to NW incidental trackage rights over the main and auxiliary tracks of CNUR for non-revenue operations between mileposts CB–25.30 (through C.B. 25.00=R–00) and R–0.80.

The transaction was scheduled to be consummated on or after the October 15, 1997 effective date of the exemption. The transaction is related to the Hi Rail Trustee's filing of an Amended Plan of Reorganization with the Board in STB Finance Docket No. 33491 on October 3, 1997.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33475, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Richard R. Wilson, Esq., 1126 Eighth Avenue, Suite 403, Altoona, PA 16002.

Decided: October 21, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–28786 Filed 10–30–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33476]

C & NC, L.L.C.—Acquisition Exemption—Indiana Hi Rail Corporation

C & NC, L.L.C. (CLLC), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire a line of railroad owned and operated by R. Franklin Unger, Trustee of the Indiana Hi Rail Corporation (Hi Rail) from Connersville, IN (milepost 0.0), to Beesons, IN (milepost 5.2), a distance of approximately 5.2 route miles.

The line will be operated by C&NC Railroad Corporation under a lease and operating agreement with CLLC, which is the subject of a separate lease and operation exemption in STB Finance Docket No. 33475, *C&NC Railroad Corporation—Lease and Operation Exemption—Lines of the Norfolk and Western Railway Company and Indiana Hi Rail Corporation.*

The transaction was scheduled to be consummated on or after the October 15, 1997 effective date of the exemption. The transaction is related to the Hi Rail Trustee's filing of an Amended Plan of Reorganization with the Board in STB Finance Docket No. 33491 on October 3, 1997.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33476, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Richard R. Wilson, Esq., 1126 Eighth Avenue, Suite 403, Altoona, PA 16002.

Decided: October 21, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–28787 Filed 10–30–97; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33486]

Delphos Terminal Company, Inc.—Acquisition and Operation Exemption—Indiana Hi-Rail Corporation

Delphos Terminal Company, Inc. (DTC), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire and operate approximately 3.8 miles of rail line owned and operated by R Franklin Unger, Trustee of the Indiana Hi-Rail Corporation (Hi-Rail). The rail line to be acquired is located between approximate milepost 73.7 (Valuation Marker 3891 + 00.9), at or near Delphos, OH, and approximate milepost 77.5 (Valuation Marker 4090 + 00), at or near Landeck, OH, together with the interchange trackage connecting such line and Consolidated Rail Corporation (Conrail), at or near Delphos.[1]

The transaction was scheduled to be consummated after the October 24, 1997 effective date of the exemption. The transaction is related to the Hi-Rail Trustee's filing of an Amended Plan of Reorganization with the Board in STB Finance Docket No. 33491 on October 3, 1997.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33486, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Andrew P. Goldstein, Esq., McCarthy, Sweeney & Harkaway, P.C., 1750 Pennsylvania Avenue, N.W., Suite 1105, Washington, DC 20006.

Decided: October 22, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–28882 Filed 10–30–97; 8:45 am]

BILLING CODE 4915–00–P

[1] DTC indicates that it will contract with another entity, at the time of filing intended to be Conrail, to perform rail services over the line as a contract operator.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33477]

Fulton County, L.L.C.—Acquisition and Operation Exemption—Norfolk and Western Railway Company

Fulton County, L.L.C. (FC), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from the Norfolk and Western Railway Company and to operate the Rochester Line (Line),[1] consisting of approximately 13 miles of rail line, from Rochester, IN (milepost L—95.6), to Argos, IN (milepost L—108.6). In addition, FC will acquire incidental overhead trackage rights from milepost L—108.6 to the Argos Yard, a distance of 1.1 miles.

The transaction was scheduled to be consummated on or after the October 15, 1997 effective date of the exemption. The transaction is related to the Hi Rail Trustee's filing of an Amended Plan of Reorganization with the Board in STB Finance Docket No. 33491 on October 3, 1997.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33477, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Richard R. Wilson, Esq., 1126 Eighth Avenue, Suite 403, Altoona, PA 16002.

Decided: October 21, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–28788 Filed 10–30–97; 8:45 am]

BILLING CODE 4915–00–P

[1] R. Franklin Unger, Trustee of the Indiana Hi Rail Corporation currently leases and operates the Line.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33478]

Maumee & Western, L.L.C.—Acquisition and Operation Exemption—Norfolk and Western Railway Company

Maumee & Western, L.L.C. (MAW), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from the Norfolk and Western Railway Company (NW) and to operate the Maumee Line (Line),[1] consisting of approximately 51 miles of rail line, from Liberty Center, OH (milepost TN–26.0), to Woodburn, IN (milepost 79.0). In addition, MAW will also grant NW limited incidental local access trackage rights over MAW's line between milepost TN–77.8 and milepost TN–79.0.

The transaction was scheduled to be consummated on or after the October 15, 1997 effective date of the exemption. The transaction is related to the Hi Rail Trustee's filing of an Amended Plan of Reorganization with the Board in STB Finance Docket No. 33491 on October 3, 1997.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33478, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Richard R. Wilson, Esq., 1126 Eighth Avenue, Suite 403, Altoona, PA 16002.

Decided: October 21, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–28791 Filed 10–30–97; 8:45 am]

BILLING CODE 4915–00–P

[1] R. Franklin Unger, Trustee of the Indiana Hi Rail Corporation currently leases and operates the Line.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33492]

State of Oklahoma by and Through the Oklahoma Department of Transportation and Blackwell Industrial Authority—Acquisition Exemption—Central Kansas Railway, L.L.C.

The State of Oklahoma, a noncarrier, by and through the Oklahoma Department of Transportation (ODOT), and Blackwell Industrial Authority (BIA), also a noncarrier, have filed a notice of exemption under 49 CFR 1150.31 to acquire separate segments of approximately 35.3 miles of rail line (lines) from the Central Kansas Railway, L.L.C. ODOT will acquire the segment of the line between milepost 34.3, at Blackwell, OK, and milepost 18.0+ 1712.9 feet, at the Oklahoma/Kansas state line near Hun Newell, KS. BIA will acquire the segments of the line (1) between milepost 35.0+ 1848 feet, west of Blackwell, OK, and milepost 34.3, at Blackwell, OK, and (2) between milepost 18+ 1712.9 feet, at the Oklahoma/Kansas state line near Hun Newell, KS, and milepost 0+ 466.3 feet, at Wellington, KS.

South Kansas and Oklahoma Railroad, Inc., a Class III rail carrier, has filed a notice of exemption under 49 CFR 1150.41 in STB Finance Docket No. 33494, *South Kansas and Oklahoma Railroad, Inc.—Operation Exemption—Oklahoma Department of Transportation and Blackwell Industrial Authority* to operate the lines.

The transaction was expected to be consummated on or after October 16, 1997.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33492, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Eric M. Hocky, Esq., Gollatz, Griffin & Ewing, P.C., 213 W. Miner Street, P. O. Box 796, West Chester, PA 19381–0796.

Decided: October 22, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–28817 Filed 10–30–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33494]

South Kansas and Oklahoma Railroad, Inc.—Operation Exemption—Oklahoma Department of Transportation and Blackwell Industrial Authority

South Kansas and Oklahoma Railroad, Inc., a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to operate approximately 35.3 miles of rail line owned by the State of Oklahoma by and through the Oklahoma Department of Transportation and Blackwell Industrial Authority (1) between milepost 34.3, at Blackwell, OK, and milepost 18.0+ 1712.9 feet, at the Oklahoma/Kansas state line near Hun Newell, KS, (2) between milepost 35.0+ 1848 feet, west of Blackwell, OK, and milepost 34.3, at Blackwell, OK, and (3) between milepost 18+ 1712.9 feet, at the Oklahoma/Kansas state line near Hun Newell, KS, and milepost 0+ 466.3 feet, at Wellington, KS.

The transaction was expected to be consummated on or after October 16, 1997.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33494, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Karl Morrell, Esq., Ball Janik LLP, Suite 225, 1455 F Street, NW., Washington, DC 20005.

Decided: October 22, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–28792 Filed 10–30–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33479]

Wabash Central, L.L.C.—Acquisition and Operation Exemption—Norfolk and Western Railway Company

Wabash Central, L.L.C. (WBCR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from the Norfolk and Western Railway Company (NW) and to operate the Bluffton Line (Line)[1] from (1) milepost T.S. 117.8 to milepost T.S. 123.0, in Craigsville, IN, and (2) from milepost 123.8 in Craigsville, IN, to milepost T.S. 144.2 in Van Buren, IN, a distance of approximately 25.6 route miles. In addition, WBCR will acquire overhead trackage rights to operate over NW's main tracks between milepost T.S. 123.0=C.F. 163.0 and milepost T.S. 123.8=C.F. 162.2, a distance of approximately .8 route miles.

The transaction was scheduled to be consummated on or after the October 15, 1997 effective date of the exemption. The transaction is related to the Hi Rail Trustee's filing of an Amended Plan of Reorganization with the Board in STB Finance Docket No. 33491 on October 3, 1997.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33479, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Richard R. Wilson, Esq., 1126 Eighth Avenue, Suite 403, Altoona, PA 16002.

Decided: October 21, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–28789 Filed 10–30–97; 8:45 am]

BILLING CODE 4915–00–P

[1] R. Franklin Unger, Trustee of the Indiana Hi Rail Corporation currently leases and operates the Line.

Corrections

Federal Register
Vol. 62, No. 211
Friday, October 31, 1997

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ917–AZA29980]

Notice of Proposed Decision of Exchange of Lands in Maricopa and Pima Counties, Arizona

Correction

In notice document 97–28512, appearing on page 55826, in the issue of Tuesday, October 28, 1997, make the following correction:

On page 55826, in the second column, under the first **Gila and Salt River Meridian, Arizona** entry, in the fifth line, "Sec. 4, SW¼SW¼, SW¼SE¼," should read "Sec. 4, SW¼, SW¼SW¼SE¼,".

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 135

[Docket No.. 28743; Amendment No. 135-70]

RIN 2120-AG22

Commercial Passenger-Carrying Operations in Single-Engine Aircraft Under Instrument Flight Rules

Correction

In rule document 97–20641, beginning on page 42364, in the issue of Wednesday, August 6, 1997, make the following correction:

PART 135—[CORRECTED]

On page 42373, in the third column, in SFAR No. 81, in the first paragraph, in the sixth line, "month" should read "months".

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 836]

RIN 1512-AA07

Establishment of the San Francisco Bay Viticultural Area and the Realignment of the Boundary of the Central Coast Viticultural Area (97-242)

Correction

In proposed rule document 97–27692, beginning on page 54399, in the issue of Monday, October 20, 1997, make the following correction:

On page 54399, under the heading **DATES:**, in the second line, "January 20, 1997." should read "January 20, 1998."

BILLING CODE 1505–01–D

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federal register

Friday
October 31, 1997

Part II

Department of Health and Human Services

National Institutes of Health

Recombinant DNA Research: Actions Under the Guidelines; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Recombinant DNA Research: Actions Under the Guidelines

AGENCY: Notice of Actions Under the NIH Guidelines for Research Involving Recombinant DNA Molecules (NIH Guidelines) (59 FR 34496, amended 59 FR 40170, 60 FR 20726, 61 FR 1482, 61 FR 10004, 62 FR 4782).

FOR FURTHER INFORMATION CONTACT: Additional information can be obtained from Debra Knorr, Acting Director, Office of Recombinant DNA Activities (ORDA), Office of Science Policy, National Institutes of Health, MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892–7010, Phone 301–496–9838, FAX 301–496–9839. ORDA's web site is located at http://www.nih.gov/od/orda for further information about the office.

SUPPLEMENTARY INFORMATION: Today's actions are being promulgated under the NIH Guidelines for Research Involving Recombinant DNA Molecules. These Proposed Actions were published for comment in the **Federal Register** of July 8, 1996 (61 FR 7108), and August 20, 1997 (62 FR 44387). The Proposed Actions were reviewed and recommended for approval by the NIH Recombinant DNA Advisory Committee (RAC) at its meetings on December 9, 1996, March 6–7, 1997, and September 12, 1997.

I. Background Information and Decisions on Actions Under the NIH Guidelines

I–A. Amendment to the Overall Procedures for Human Gene Transfer Protocols

I–A–1. Notice of Intent—July 1996

On July 8, 1996, the NIH Director published a Notice of Intent to Propose Amendments to the NIH Guidelines for Research Involving Recombinant DNA Molecules Regarding Enhanced Oversight of Recombinant DNA Activities (61 FR 35774). This Notice of Intent proposed modifications in the NIH oversight of human gene transfer research. Specifically, it was proposed that RAC would be terminated and that all approval responsibilities for recombinant DNA experiments involving human gene transfer would be relinquished to the Food and Drug Administration (FDA), which retains statutory authority for such approval. Under this revised structure, a newly created ORDA Advisory Committee (OAC) would preserve continued public accountability for recombinant DNA research. To ensure quality and efficiency of public discussion of the scientific merit and the ethical issues relevant to gene therapy clinical trials, it was proposed that the NIH Director implement a regular series of Gene Therapy Policy Conferences (GTPCs). Finally, the proposal assured the continuation of the publicly available comprehensive NIH database of clinical trials with human gene transfer, including reporting of adverse events.

In response to the Notice of Intent, NIH received 71 written comments (90 signatures) reflecting a broad spectrum of public opinion on the proposed changes. Comments were received from a variety of stakeholders, including individuals representing academia, industry, patient advocacy organizations, consumer advocacy organizations, professional scientific societies, ethicists, other Federal agencies, NIH-funded investigators, past and present RAC members, and private citizens. Careful consideration was given to each of the written comments that was submitted.

I–B. Proposed Actions—November 1996

On November 22, 1996, the NIH Director published the Notice of Proposed Actions Under the NIH Guidelines for Research Involving Recombinant DNA Molecules (61 FR 59725). These Proposed Actions were prepared in response to public opinion and in keeping with the NIH Director's intent to increase the usefulness and productivity of public discussion of human gene transfer research.

In the Proposed Actions, the NIH Director proposed to: (1) Retain RAC, while modifying its roles and responsibilities relevant to human gene therapy research, (2) continue RAC discussion of novel human gene transfer experiments, without RAC approval of individual human gene transfer experiments; (3) regularly convene GTPCs; and (4) maintain public access to human gene transfer clinical trial information. The following summarizes the roles and responsibilities of the NIH Director, RAC, ORDA, and local institutions under the Notice of Proposed Actions.

I–B–1. Proposed Roles and Responsibilities in Accordance With the NIH Guidelines

I–B–1–a. NIH Director

The roles and responsibilities of the NIH Director in accordance with the NIH Guidelines remain unchanged except for the following: (1) Approval of human gene transfer experiments by the NIH Director will be relinquished to FDA which already holds statutory authority for such approval under 21 CFR, Chapter I, Subchapter D. (2) GTPCs will be established and regularly convened by the NIH Director.

I–B–1–b. Recombinant DNA Advisory Committee (RAC)

The roles and responsibilities of RAC related to human gene transfer research remain the same except for the following: (1) RAC will identify novel human gene transfer experiments deserving of public discussion by the full RAC and will transmit its comments/recommendations on specific human gene transfer experiments or categories of human gene transfer experiments to the NIH Director, the principal Investigator, the sponsoring institution, and other Department of Health and Human Services (DHHS) components, as appropriate. (2) Novel scientific, safety, social, and ethical issues relevant to specific human applications of gene transfer will be identified by RAC, which will recommend to the NIH Director appropriate modifications to the Points to Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA Molecules into One or More Human Subjects (Points to Consider) that will provide guidance in the design and submission of human gene transfer clinical trials. (3) RAC will publicly review human gene transfer clinical trial data submitted to NIH/ORDA in accordance with the annual data reporting requirements contained in Appendix M–VII–B of the NIH Guidelines. (4) Broad scientific,safety, social, and ethical issues relevant to human gene transfer research will be identified by RAC and submitted to the NIH Director as recommendations for consideration as potential GTPC topics.

I–B–1–c. Gene Therapy Policy Conferences (GTPCs)

In order to enhance the depth and value of public discussion relevant to scientific, safety, social, and ethical implications of gene therapy research, the NIH Director will convene GTPCs at regular intervals. As appropriate, the NIH Director may convene a GTPC in conjunction with a regularly scheduled RAC meeting. GTPCs will be administered by NIH/ORDA. Conference participation will not involve a standing committee membership but rather will offer the unique advantage of assembling numerous participants who possess significant scientific, safety, social, and ethical expertise and/or interest that is directly applicable to a specific gene therapy research issue. At least one member of RAC will serve as Co-chair of each GTPC and report the findings of each GTPC to RAC at its next scheduled meeting. The RAC representative for each GTPC will be chosen based on the participant's area of expertise relative to the specific gene therapy research issue to be discussed. GTPCs will have representation from other Federal agencies, including FDA and the Office for Protection from Research Risks (OPRR). GTPCs will focus on broad overarching policy and scientific issues related to gene therapy research. Proposals for GTPC topics may be submitted by members of RAC, representatives of academia, industry, patient and consumer advocacy organizations, other Federal agencies, professional scientific societies, and the general public. GTPC topics will not be limited to discussion of human applications of gene therapy research, i.e., they may include basic research on the use of novel gene delivery vehicles or novel applications of human gene transfer. GTPC findings will be transmitted to the NIH Director and will be made publicly available. The NIH Director anticipates that this public policy forum will serve as a model for interagency communication and collaboration, concentrated expert discussion of novel scientific issues and their potential societal implications, and enhanced opportunity for public discussion of the potential impact of such applications on human health and the environment.

I–B–1–d. The Office of Recombinant DNA Activities (ORDA)

ORDA is an organizational unit of the NIH Office of Science Policy within the Office of the Director. The roles and responsibilities of NIH/ORDA remain unchanged except for the following: (1) Serving as the focal point for public access to summary information pertaining to human gene transfer experiments. (2) Transmitting to the NIH Director comments/recommendations arising from public RAC discussion of a novel human gene transfer experiment. RAC recommendations shall be forwarded to the Principal Investigator(s), the sponsoring institution, and other DHHS components, as appropriate. (3) Collaborating with Principal Investigators, IBCs, Institutional Review Boards (IRBs), and other DHHS components, to ensure human gene transfer experiment registration compliance. (4) Administering GTPCs as deemed appropriate by the NIH Director. (5) Publishing announcements of GTPCs and tentative agendas in the Federal Register at least 15 days in advance.

I–B–1–e. Institutional Biosafety Committees (IBCs)

The roles and responsibilities of IBCs related to human gene transfer experiments remain unchanged, except when the institution participates in or sponsors recombinant DNA research involving human subjects, the institution must ensure that: (a) The IBC has adequate expertise and training (using *ad hoc* consultants as deemed necessary), and (b) all aspects of Appendix M, Points to Consider, have been appropriately addressed by the Principal Investigator prior to submission to NIH/ORDA.

I–C. Proposed Actions—December 1996 RAC Meeting

On November 22, 1996, the NIH Director published a Notice of Proposed Actions Under the NIH Guidelines for Research Involving Recombinant DNA Molecules (61 FR 59725). The Notice of Proposed Actions was prepared in response to public opinion and in keeping with the NIH Director's intent to increase the usefulness and productivity of public discussion of human gene transfer research. As a result of its December 9, 1996, deliberations of the Proposed Actions under the NIH Guidelines, RAC proposed the following modifications to the November 22, 1996, Notice of Intent:

I–C–1. Triggering Mechanism for RAC Discussion

A motion was made that: (1) The capacity for Principal Investigators and institutional representatives to request RAC discussion of an individual human gene transfer protocol should be deleted. (2) The NIH Director or an appropriate FDA representative may request RAC review of an individual protocol. (3) Rather than a majority vote, RAC recommendations for full review of an individual protocol should be changed to a minimum of three members. (4) The decision regarding necessity for RAC discussion should be made within 15 working days. The motion passed by a vote of 16 in favor, 0 opposed, and no abstentions.

I–C–2. Reporting Requirements

A motion was made to request that FDA report back to the RAC on how RAC recommendations on an individual protocol were implemented. RAC should require investigator to provide additional information if FDA is unable to provide the necessary information. The motion failed by a vote of 3 in favor, 7 opposed, and 4 abstentions.

Another motion was made to require investigators to submit a written report to the RAC that includes the following information: (1) How the investigator(s) responded to RAC's recommendations on the protocol (if applicable), and (2) any modifications to the protocol as required by FDA. The motion passed by a vote of 12 in favor, 1 opposed, and 1 abstention.

I–C–3. Relationship of RAC and GTPCs

A motion was made that the RAC, with the NIH Director's approval, should have the primary responsibility for: (1) planning GTPC agendas, and (2) summarizing GTPC recommendations in the form of a report back to the NIH Director. The close GTP/RAC relationship should not preclude other parties from suggesting GTPC topics and GTPCs should be convened in consultation with FDA and OPRR. The motion passed by a vote of 13 in favor, 0 opposed, and 2 abstentions.

I–C–4. Proposed Actions—Structural Changes

A motion was made to accept the overall structural changes put forward in the Proposed Actions as published in the November 22, 1996, **Federal Register** (61 FR 59725). However, RAC recommended that promulgation of the final actions should be postponed to the March 6–7, 1997, RAC meeting, in order to more fully address these unresolved issues. The structural changes endorsed by RAC were as follows: (1) Retain RAC, while modifying its roles and responsibilities relevant to human gene therapy research, (2) continue RAC discussion of novel human gene transfer experiments without RAC *approval* of individual human gene transfer experiments; (3) regularly convene GTPCs; and (4) maintain public access to human gene transfer clinical trial information. RAC members noted that several minor modification still remained unresolved, particularly with regard to the format for future discussion of gene therapy protocols and defining the role of RAC relative to GTPCs. The motion passed by a vote of 12 in favor, 0 opposed, and 2 abstentions.

I–D. Proposed Action—March 1997

On February 14, 1997, the NIH Director published a revised Notice of Proposed Actions Under the NIH Guidelines for Research Involving Recombinant DNA Molecules (62 FR 7108). The Notice of Proposed Actions was in response to public opinion and in keeping with the NIH Director's intent to increase the usefulness and productivity of public discussing of

human gene transfer research. During its March 6–7, 1997, meeting, RAC recommended the following changes to the February 14, 1997, Proposed Actions under the NIH Guidelines.

I–D–1. Relationship of RAC and GTPCs

A motion was made to include the following modifications will regard to the role of RAC relative to GTPCs: (1) One member of RAC will co-chair each GTPC. (2) GTPCs will be held in conjunction with RAC meetings when appropriate (preferably on the first day). (3) All RAC members will be invited to attend GTPCs. The motion passed by a vote of 8 in favor, 0 opposed, and no abstentions.

I–D–2. IBC Approval Requirements

A motion was made to modify IBC approval requirements for human gene transfer protocols under Section III–C–a of the NIH Guidelines. Specifically, RAC proposed that IBC approval must be obtained from each institution at which recombinant DNS material will be administered to human subjects (as opposed to each institution involved in the production of vectors for human application and each institution at which there is ex vivo transduction of recombinant DNA material into target cells for human application). The motion passed by a vote of 6 in favor, 0 opposed, and 2 abstentions.

I–D–3. NIH Human Gene Therapy Database

A motion was made to identify the objectives of the human gene transfer database. As a result of RAC's deliberation on this issue, the following five objectives were identified: (1) Maintain and institutional memory, (2) provide administrative details of protocol registration, (3) provide annual status reports of protocols, (4) facilitate risk assessment of individual applications of human gene transfer, and (5) enhance public awareness of relevant scientific, safety, social, and ethical issues. The motion passed by a vote of 7 in favor, 0 opposed, and 1 abstention.

I–E. Requirement for Submission of Appendix M to FDA

In a letter dated November 20, 1996, Dr. Andra Miller, Cytokine and Gene Therapy Branch, Center of Biologics Evaluation and Research, FDA, requested that the NIH Guidelines should be amended regarding procedures for simultaneous submission of Appendix M material to RAC and FDA. In her November 20, 1996, letter, Dr. Miller states:

"(1) Remove the requirement for submission of Appendix M to FDA. FDA does not accept Appendix M in place of an IND submission. FDA is not proposed to be and need not be included in the decisionmaking process to identify protocols to undergo full RAC review. Therefore, there is no reason for sponsors to submit Appendix M materials to FDA.

"(2) Explore the feasibility of a unified format for submission of protocols to RAC and FDA. This would relieve the sponsor of the burden of preparing duplicative submission to satisfy each agency.

"(3) Establish a mechanism for FDA staff to bring general issues of novelty and concern to RAC for discussion. This will provide a mechanism for public input toward the resolution of issues we all must consider and provide direction for policy development and growth in the field of gene therapy."

On January 27, 1997, NIH and FDA staff met to consider amendments to the NIH Guidelines that incorporate the recommendations of both NIH and FDA with regard to simultaneous submission of human gene transfer protocols.

During its December 9, 1996, and March 6–7, 1997, meetings, RAC discussed the proposed changes to the NIH Guidelines submitted by Dr. Miller. The consensus of RAC was that the requirement for submission of responses to Appendix M to FDA should be removed since FDA does not accept responses to Appendix M in place of an Investigational New Drug (IND) application. However, RAC stated that all human gene transfer protocols should include discussion of issues raised in Appendix M–II through M–V of the NIH Guidelines in the clinical protocols. The proposed action was published in the **Federal Register** of August 20, 1997, for public comment. No comment was received from the public with regard to the proposed action.

During the September 12, 1997, RAC meeting, RAC approved the amendments to the NIH Guidelines to eliminate the requirement for submission of responses to Appendix M of the NIH Guidelines to FDA. The motion passed by a vote of 12 in favor, 0 opposed, and 0 abstentions.

I–F. Environmental Assessment—October 1997

As a prerequisite to amending the NIH Guidelines for the purpose of relinquishing the requirement for NIH Director approval of individual human gene transfer experiments, NIH prepared an Environmental Assessment for the Proposed Actions in accordance with requirements of the National Environmental Protection Act of 1969, 42 U.S.C. This Environmental Assessment that was completed in October 1997 included a finding of no significant impact on the environment. Copies of the Environmental Assessment are available from the Office of Recombinant DNA Activities, National Institutes of Health, MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland, 20892–7010, (301) 496–9838.

These actions under the NIH Guidelines are detailed in Section II—Summary of Actions. I accept these recommendations, and the NIH Guidelines will be amended accordingly.

II. Summary of Actions

NIH will take the following action under the NIH Guidelines for Research Involving Recombinant DNA Molecules:

Note: Editorial changes and updating of references have been incorporated to clarify the document.

II–A. Amendments to Section I, Scope of the NIH Guidelines

Section I is amended to read:

"SECTION I. SCOPE OF THE NIH GUIDELINES

"Section I–A. Purpose"

[This section remains unchanged.]

"Section I–A–1. Any recombinant DNA experiment, which according to the NIH Guidelines requires approval by NIH, must be submitted to NIH or to another Federal agency that has jurisdiction for review and approval. Once approvals, or other applicable clearances, have been obtained from a Federal agency other than NIH (whether the experiment is referred to that agency by NIH or sent directly there by the submitter), the experiment may proceed without the necessity for NIH review or approval. (See exception in Section I–A–1–a regarding requirement for human gene transfer protocol registration.)

"Section I–A–1–a. Experiments involving the deliberate transfer of recombinant DNA or DNA or RNA derived from recombinant DNA into human subjects (human gene transfer) cannot be initiated without simultaneous submission to both NIH/ORDA and FDA of such information on the proposed experiment as is prescribed by those agencies. Submission of human gene transfer protocols to NIH shall be in the format described in Appendix M–I, Submission Requirements—Human Gene Transfer Experiments, of the NIH Guidelines. Submission to NIH shall be for registration purposes and will ensure continued public access to relevant human gene transfer information conducted in compliance with the NIH Guidelines. Investigational New Drug (IND) applications shall be submitted to FDA in the format described in 21 CFR, chapter I, subchapter D, part 312, subpart B, section 23, IND Content and Format.

"If a determination is made that an experiment will undergo full RAC discussion, NIH/ORDA will immediately notify the Principal Investigator. RAC members may forward requests for additional information relevant to a specific protocol through NIH/ORDA to the Principal Investigator. In making a determination whether an experiment is novel and deserving of full RAC discussion, reviewers will examine the scientific rational, scientific content (relative to other proposals reviewed by RAC), whether the preliminary *in vitro* and *in vivo* safety data were obtained in appropriate models and are sufficient, and whether questions related to relevant social and ethical issues have been resolved. RAC's recommendation(s) on a specific human gene transfer experiment will be forwarded to the NIH Director, the Principal Investigator, the sponsoring institution, and other DHHS components, as appropriate.

"Section I–B. Definition of Recombinant DNA Molecules"

[This section remains unchanged.]

"Section I–C. General Applicability

"Section I–C–1. The NIH Guidelines are applicable to:

Section I–C–1–a. All recombinant DNA research within the United States (U.S.) or its territories that is within the category of research described in either Section I–C–1–a–(1) or Section I–C–1–a–(2).

"Section I–C–1–a–(1). Research that is conducted at or sponsored by an institution that receives any support for recombinant DNA research from NIH, including research performed directly by NIH. An individual who receives support for research involving recombinant DNA must be associated with or sponsored by an institution that assumes the responsibilities assigned in the NIH Guidelines.

"Section I–C–1–a–(2). Research that involves testing in humans of materials containing recombinant DNA developed with NIH funds, if the institution that developed those materials sponsors or participates in those projects. Participation includes research collaboration or contractual agreements, not mere provision of research materials.

"Section I–C–1–b. All recombinant DNA research performed abroad that is within the category of research described in either Section I–C–1–b–(1) or Section I–C–1–b–(2).

"Section I–C–1–b–(1). Research supported by NIH funds.

"Section I–C–1–b–(2). Research that involves testing in humans of materials containing recombinant DNA developed with NIH funds, if the institution that developed those materials sponsors or participates in those projects. Participation includes research collaboration or contractual agreements, not mere provisions of research materials.

"Section I–C–1–b–(3). If the host country has established rules for the conduct of recombinant DNA research, then the research must be in compliance with those rules. If the host country does not have such rules, the proposed research must be reviewed and approved by an NIH-approved Institutional Biosafety Committee or equivalent review body and accepted in writing by an appropriate national governmental authority of the host country. The safety practices that are employed abroad must be reasonably consistent with the NIH Guidelines.

"Section I–D. Compliance with the NIH Guidelines

"As a condition for NIH funding of recombinant DNA research, institutions shall ensure that such research conducted at or sponsored by the institution, irrespective of the source of funding, shall comply with the NIH Guidelines.

"Information concerning noncompliance with the NIH Guidelines may be brought forward by any person. It should be delivered to both NIH/ORDA and the relevant institution. The institution, generally through the Institutional Biosafety Committee, shall take appropriate action. The institution shall forward a complete report of the incident recommending any further action to the Office of Recombinant DNA Activities, National Institutes of Health/MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892–7010, (301) 496–9838.

"In cases where NIH proposes to suspend, limit, or terminate financial assistance because of noncompliance with the NIH Guidelines, applicable DHHS and Public Health Service procedures shall govern.

"The policies on compliance are as follows:

"Section I–D–1. All NIH-funded projects involving recombinant DNA techniques must comply with the NIH Guidelines. Non-compliance may result in: (i) Suspension, limitation, or termination of financial assistance for the noncompliant NIH-funded research project and of NIH funds for other recombinant DNA research at the institution, or (ii) a requirement for prior NIH approval of any or all recombinant DNA projects at the institution.

"Section I–D–2. All non-NIH funded projects involving recombinant DNA techniques conducted at or sponsored by an institution that receives NIH funds for projects involving such techniques must comply with the NIH Guidelines. Noncompliance may result in: (i) Suspension, limitation, or termination of NIH funds for recombinant DNA research at the institution, or (ii) a requirement for prior NIH approval of any or all recombinant DNA projects at the institution."

[Previously numbered Section I–D, General Definitions, will be renumbered to Section I–E.]

II–B. Amendments to Section II, Safety Considerations

The second paragraph of Section II–A–3 is amended to read:

"Section II–A–3. Comprehensive Risk Assessment

"* * * A final assessment of risk based on these considerations is then used to set the appropriate containment conditions for the experiment (see Section II–B, Containment). The containment level required may be equivalent to the Risk Group classification of the agent or it may be raised or lowered as a result of the above considerations. The Institutional Biosafety Committee must approve the risk assessment and the biosafety containment level for recombinant DNA experiments described in Sections III–A, Experiments that Require Institutional Biosafety Committee Approval, RAC Review, and NIH Director Approval Before Initiation; III–B, Experiments that Require NIH/ORDA and Institutional Biosafety Committee Approval Before Initiation; III–C, Experiments that Require Institutional Biosafety Committee and Institutional Review Board Approvals and NIH/ORDA Registration Before Initiation; and III–D, Experiments that Require Institutional Biosafety Committee Approval Before Initiation * * *"

II–C. Amendments to Section III, Experiments Covered by the NIH Guidelines

Section III is amended to read:

"SECTION III. EXPERIMENTS COVERED BY THE NIH GUIDELINES

"This section describes six categories of experiments involving recombinant

DNA: (i) Those that require Institutional Biosafety Committee (IBC) approval, RAC review, and NIH Director approval before initiation (see Section III–A), (ii) those that require NIH/ORDA and Institutional Biosafety Committee approval before initiation (see Section II–B), (iii) those that require Institutional Biosafety Committee and Institutional Review Board approvals and NIH/ORDA registration before initiation (see Section III–C), (iv) those that require Institutional Biosafety Committee approval before initiation (see Section III–D), (v) those that require Institutional Biosafety Committee notification simultaneous with initiation (see Section III–E), and (vi) those that are exempt from the NIH Guidelines (see Section III–F).

"Note: If an experiment falls into Sections III–A, III–B, or III–C and one of the other sections, the rules pertaining to Sections II–A, II–B, or III–C shall be followed. If an experiment falls into Section III–F and into either Sections III–D or III–E as well, the experiment is considered exempt from the NIH Guidelines.

"Any change in containment level, which is different from those specified in the NIH Guidelines, may not be initiated without the express approval of NIH/ORDA (see Section IV–C–1–b–(2) and its subsections, Minor Actions).

"Section III–A, Experiments that Require Institutional Biosafety Committee Approval, RAC Review, and NIH Director Approval Before Initiation

(See Section IV–C–1–b–(1), Major Actions).

"Section III–A–1. Major Actions under the NIH Guidelines

"Experiments considered as Major Actions under the NIH Guidelines cannot be initiated without submission of relevant information on the proposed experiment to the Office of Recombinant DNA Activities, National Institutes of Health/MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892–7010, (301) 496–9838, the publication of the proposal in the **Federal Register** for 15 days of comment, review by RAC, and specific approval by NIH. The containment conditions or stipulation requirements for such experiments will be recommended by RAC and set by NIH at the time of approval. Such experiments require Institutional Biosafety Committee approval before initiation. Specific experiments already approved are included in Appendix D, Major Actions Taken under the NIH Guidelines, which may be obtained from the Office of Recombinant DNA Activities, National Institutes of Health/MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892–7010 (301) 496–9838.

"Section III–A–1–a. The deliberate transfer of a drug resistance trait to microorganisms that are not known to acquire the trait naturally (see Section V–B, Footnotes and References of Sections I–IV), if such acquisition could compromise the use of the drug to control disease agents in humans, veterinary medicine, or agriculture, will be reviewed by RAC.

"Section III–B. Experiments That Require NIH/ORDA and Institutional Biosafety Committee Approval Before Initiation

"Experiments in this category cannot be initiated without submission of relevant information on the proposed experiment to NIH/ORDA. The containment conditions for such experiments will be determined by NIH/ORDA in consultation with *ad hoc* experts. Such experiments require Institutional Biosafety Committee approval before initiation (see Section IV–B–2–b–(1), Institutional Biosafety Committee).

"Section III–B–1. Experiments Involving the Cloning of Toxin Molecules with LD_{50} of Less Than 100 Nanograms per Kilogram Body Weight

"Deliberate formation of recombinant DNA containing genes for the biosynthesis of toxin molecules lethal for vertebrates at an LD_{50} of less than 100 nanograms per kilogram body weight (e.g., microbial toxins such as the botulinum toxins, tetanus toxin, diphteria toxin, and *Shigella dysenteriae* neurotoxin). Specific approval has been given for the cloning in *Escherichia coli* K–12 of DNA containing genes coding for the biosynthesis of toxic molecules which are lethal to vertebrates at 100 nanograms to 100 micrograms per kilogram body weight. Specific experiments already approved under this section may be obtained from the Office of Recombinant DNA Activities, National Institutes of Health/MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 10892–7010, (301) 496–9838.

"Section III–C. Experiments That Require Institutional Biosafety Committee and Institutional Review Board Approvals and NIH/ORDA Registration Before Initiation

"Section III–C–1. Experiments Involving the Deliberate Transfer of Recombinant DNA or DNA or RNA Derived From Recombinant DNA Into One or More Human Subjects

"Research proposals involving the deliberate transfer of recombinant DNA, or DNA or RNA derived from recombinant DNA, into human subjects (human gene transfer) will be considered through a review process involving both NIH/ORDA and RAC. Investigators shall submit relevant information on the proposed human gene transfer experiments to NIH/ORDA. Submission of human gene transfer protocols to NIH will be in the format described in Appendix M–I, Submission Requirements—Human Gene Transfer Experiments. Submission to NIH/ORDA shall be for registration purposes and will ensure continued public access to relevant human gene transfer information in compliance with the NIH Guidelines. Investigational New Drug (IND) applications should be submitted to FDA in the format described in 21 CFR, chapter I, subchapter D, part 312, subpart B, section 23, IND content and Format.

"Institutional Biosafety Committee approval must be obtained from each institution at which recombinant DNA material will be administered to human subjects (as opposed to each institution invovled in the production of vectors for human application and each institution at which there is *ex vivo* transduction of recombinant DNA material into target cells for human application).

"RAC prefers that submission to NIH/ORDA in accordance with Appendix M–I, Submission Requirements—Human Gene Transfer Experiments, contain no proprietary data or trade secrets, enabling all aspects of the review to be open to the public. Following receipt by NIH/ORDA, relevant information shall be entered into the NIH human gene transfer database for registration purposes. Summary information pertaining to the human gene transfer protocol will be forwarded to RAC members. NIH/ORDA summary information shall include comparisons to previously registered protocols. Specific items of similarity to previous experiments include (but are not limited to): (i) Gene delivery vehicle, (ii) functional gene, (iii) marker gene, (iv) packaging cell (if applicable), (v) disease application, (vi) route of administration, and (vii) patient selection criteria.

"RAC members shall notify NIH/ORDA within 15 working days if the protocol has been determined to represent novel characteristics requiring further public discussion.

"Full RAC review of an individual human gene transfer experiment can be initiated by the NIH Director or recommended to the NIH Director by: (i) Three or more RAC members, or (ii) other Federal agencies. An individual human gene transfer experiment that is recommended for full RAC review should represent novel characteristics deserving of public discussion. RAC recommendations on a specific human gene transfer experiment shall be forwarded to the NIH Director, the Principal Investigator, the sponsoring institution, and other DHHS components, as appropriate.

"Note: For specific directives concerning the use of retroviral vectors for gene delivery, consult Appendix B–V–1, Murine Retroviral Vectors."

[Previously numbered Section III–C, Experiments that Require Institutional Biosafety Committee Approval Before Initiation, will be renumbered to Section III–D. References in this section will be changed due to renumbering.]

[Previously numbered Section III–D, Experiments that Require Institutional Biosafety Committee Notice Simultaneous with Initiation, will be renumbered to Section III–E. References in this section will be changed due to renumbering.]

[Previously numbered Section III–E, Exempt Experiments, will be renumbered to Section III–F. References in this section will be changed due to renumbering.]

II–D. Amendments to Section IV, Roles and Responsibilities

Section IV is amended to read:

"SECTION IV. ROLES AND RESPONSIBILITIES

"Section IV–A. Policy

"The safe conduct of experiments involving recombinant DNA depends on the individual conducting such activities. The NIH Guidelines cannot anticipate every possible situation. Motivation and good judgment are the key essentials to protection of health and the environment. The NIH Guidelines are intended to assist the institution, Institutional Biosafety Committee, Biological Safety Officer, and the Principal Investigator in determining safeguards that should be implemented. The NIH Guidelines will never be complete or final since all conceivable experiments involving recombinant DNA cannot be foreseen. Therefore, it is the responsibility of the institution and those associated with it to adhere to the intent of the NIH Guidelines as well as to their specifics. Each institution (and the Institutional Biosafety Committee acting on its behalf) is responsible for ensuring that all recombinant DNA research conducted at or sponsored by that institution is conducted in compliance with the NIH Guidelines. General recognition of institutional authority and responsibility properly establishes accountability for safe conduct of the research at the local level. The following roles and responsibilities constitute an administrative framework in which safety is an essential and integral part of research involving recombinant DNA molecules. Further clarifications and interpretations of roles and responsibilities will be issued by NIH as necessary.

"Section IV–B. Responsibilities of the Institution

"Section IV–B–1. General Information

"Each institution conducting or sponsoring recombinant DNA research which is covered by the NIH Guidelines is responsible for ensuring that the research is conducted in full conformity with the provisions of the NIH Guidelines. In order to fulfill this responsibility, the institution shall:

"Section IV–B–1–a. Establish and implement policies that provide for the safe conduct of recombinant DNA research and that ensure compliance with the NIH Guidelines. As part of its general responsibilities for implementing the NIH Guidelines, the institution may establish additional procedures, as deemed necessary, to govern the institution and its components in the discharge of its responsibilities under the NIH Guidelines. Such procedures may include: (i) Statements formulated by the institution for the general implementation of the NIH Guidelines, and (ii) any additional precautionary steps the institution deems appropriate.

"Section IV–B–1–b. Establish an Institutional Biosafety Committee that meets the requirements set forth in Section IV–B–2–a and carries out the functions detailed in Section IV–B–2–b.

"Section IV–B–1–c. Appoint a Biological Safety Officer (who is also a member of the Institutional Biosafety Committee) if the institution: (i) Conducts recombinant DNA research at Biosafety Level (BL) 3 or BL4, or (ii) engages in large scale (greater than 10 liters) research. The Biological Safety Officer carries out the duties specified in Section IV–B–3.

"Section IV–B–1–d. Appoint at least one individual with expertise in plant, plant pathogen, or plant pest containment principles (who is a member of the Institutional Biosafety Committee) if the institution conducts recombinant DNA research that requires Institutional Biosafety Committee approval in accordance with Appendix P, Physical and Biological Containment for Recombinant DNA Research Involving Plants.

"Section IV–B–1–e. Appoint at least one individual with expertise in animal containment principles (who is a member of the Institutional Biosafety Committee) if the institution conducts recombinant DNA research that requires Institutional Biosafety Committee approval in accordance with Appendix Q, Physical and Biological Containment for Recombinant DNA Research Involving Animals.

"Section IV–B–1–f. Ensure that when the institution participates in or sponsors recombinant DNA research involving human subjects: (i) The Institutional Biosafety Committee has adequate expertise and training (using *ad hoc* consultants as deemed necessary), and (ii) all aspects of Appendix M, Points to Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA Molecules into One or More Human Subject (Points to Consider), have been appropriately addressed by the Principal Investigator prior to submission to NIH/ORDA. Institutional Biosafety Committee approval must be obtained from each institution at which recombinant DNA material will be administered to human subjects (as opposed to each institution involved in the production of vectors for human application and each institution at which there is *ex vivo* transduction of recombinant DNA material into target cells for human application).

"Section IV–B–1–g. Assist and ensure compliance with the NIH Guidelines by Principal Investigators conducting research at the institution as specified in Section IV–B–4.

"Section IV–B–1–h. Ensure appropriate training for the Institutional Biosafety Committee Chair and members, Biological Safety Officer and other containment experts (when applicable), Principal Investigators, and laboratory staff regarding laboratory safety and implementation of the NIH Guidelines. The Institutional Biosafety Committee Chair is responsible for ensuring that Institutional Biosafety Committee members are appropriately trained. The Principal Investigator is

responsible for ensuring that laboratory staff are appropriately trained. The institution is responsible for ensuring that the Principal Investigator has sufficient training; however, this responsibility may be delegated to the Institutional Biosafety Committee.

"**Section IV–B–1–i.** Determine the necessity for health surveillance of personnel involved in connection with individual recombinant DNA projects; and if appropriate, conduct a health surveillance program for such projects. The institution shall establish and maintain a health surveillance program for personnel engaged in large scale research or production activities involving viable organisms containing recombinant DNA molecules which require BL3 containment at the laboratory scale. The institution shall establish and maintain a health surveillance program for personnel engaged in animal research involving viable recombinant DNA-containing microorganisms that require BL3 or greater containment in the laboratory. The Laboratory Safety Monograph discusses various components of such a program (e.g., records of agents handled, active investigation of relevant illnesses, and the maintenance of serial serum samples for monitoring serologic changes that may result from the employees' work experience). Certain medical conditions may place a laboratory worker at increased risk in any endeavor where infectious agents are handled. Examples cited in the Laboratory Safety Monograph include gastrointestinal disorders and treatment with steroids, immunosuppressive drugs, or antibiotics. Workers with such disorders or treatment should be evaluated to determine whether they should be engaged in research with potentially hazardous organisms during their treatment or illness. Copies of the Laboratory Safety Monograph are available from the Office of Recombinant DNA Activities, National Institutes of Health/MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892–7010, (301) 496–9838.

"**Section IV–B–1–j.** Report any significant problems, violations of the NIH Guidelines, or any significant research-related accidents and illnesses to NIH/ORDA within thirty days, unless the institution determines that a report has already been filed by the Principal Investigator or Institutional Biosafety Committee. Reports shall be sent to the Office of Recombinant DNA Activities, National Institutes of Health/MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892–7010, (301) 496–9838.

"Section IV–B–2. Institutional Biosafety Committee (IBC)

"The institution shall establish an Institutional Biosafety Committee whose responsibilities need not be restricted to recombinant DNA. The Institutional Biosafety Committee shall meet the following requirements:

"Section IV–B–2–a. Membership and Procedures

"**Section IV–B–2–a–(1).** The Institutional Biosafety Committee must be comprised of no fewer than five members so selected that they collectively have experience and expertise in recombinant DNA technology and the capability to assess the safety of recombinant DNA research and to identify any potential risk to public health or the environment. At least two members shall not be affiliated with the institution (apart from their membership on the Institutional Biosafety Committee) and who represent the interest of the surrounding community with respect to health and protection of the environment (e.g., officials of state or local public health or environmental protection agencies, members of other local governmental bodies, or persons active in medical occupational health, or environmental concerns in the community). The Institutional Biosafety Committee shall include at least one individual with expertise in plant, plant pathogen, or plant pest containment principles when experiments utilizing Appendix P, Physical and Biological Containment for Recombinant DNA Research Involving Plants, require prior approval by the Institutional Biosafety Committee. The Institutional Biosafety Committee shall include at least one scientist with expertise in animal containment principles when experiments utilizing Appendix Q, Physical and Biological Containment for Recombinant DNA Research Involving Animals, require Institutional Biosafety Committee prior approval. When the institution conducts recombinant DNA research at BL3, BL4, or Large Scale (greater than 10 liters), a Biological Safety Officer is mandatory and shall be a member of the Institutional Biosafety Committee (see Section IV–B–3, Biological Safety Officer). When the institution participates in or sponsors recombinant DNA research involving human subjects, the institution must ensure that: (i) The Institutional Biosafety Committee has adequate expertise and training (using ad hoc consultants and deemed necessary) and (ii) all aspects of Appendix M, Points to Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA Molecules into One or More Human Subjects (Points to Consider), have been appropriately addressed by the Principal Investigator prior to submission to NIH/ORDA. Institutional Biosafety Committee approval must be obtained from each institution at which recombinant DNA material will be administered to human subjects (as opposed to each institution involved in the production of vectors for human application and each institution at which there is *ex vivo* transduction of recombinant DNA material into target cells from human application).

"Note: Individuals, corporations, and institutions not otherwise covered by the NIH Guidelines, are encouraged to adhere to the standards and procedures set forth in Sections I through IV (see Section IV–E, Voluntary Compliance. The policy and procedures for establishing an Institutional Biosafety Committee under Voluntary Compliance, are specified in Section IV–D–2, Institutional Biosafety Committee Approval).

"**Section IV–B–2–a–(2).** In order to ensure the competence necessary to review and approve recombinant DNA activities, it is recommended that the Institutional Biosafety Committee: (i) Include persons with expertise in recombinant DNA technology, biological safety, and physical containment; (ii) include or have available as consultants persons knowledgeable in institutional commitments and policies, applicable law, standards of professional conduct and practice, community attitudes, and the environment, and (iii) include at least one member representing the laboratory technical staff.

"**Section IV–B–2–a–(3).** The institution shall file an annual report with NIH/ORDA which includes: (i) A roster of all Institutional Biosafety Committee members clearly indicating the Chair, contact person, Biological Safety Officer (if applicable), plan expert (if applicable), animal expert (if applicable), human gene therapy expertise or ad hoc consultant (if applicable); and (ii) biographical sketches of all Institutional Biosafety Committee members (including community members).

"**Section IV–B–2–a–(4).** No member of an Institutional Biosafety Committee may be involved (except to provide information requested by the Institutional Biosafety Committee) in the review or approval of a project in which he/she has been or expects to be engaged or has a direct financial interest.

"**Section IV–B–2–a–(5).** The institution, that is ultimately responsible for the effectiveness of the Institutional Biosafety Committee, may establish procedures that the Institutional Biosafety Committee shall follow in its initial and continuing review and approval of applications, proposals, and activities.

"**Section IV–B–2–a–(6).** When possible and consistent with protection of privacy and proprietary interests, the institution is encouraged to open its Institutional Biosafety Committee meetings to the public.

"**Section IV–B–a–(7).** Upon request, the institution shall make available to the public all Institutional Biosafety Committee meeting minutes and any documents submitted to or received from funding agencies which the latter are required to make available to the public. If public comments are made on Institutional Biosafety Committee actions, the institution shall forward both the public comments and the Institutional Biosafety Committee's response to the Office of Recombinant DNA Activities, National Institutes of Health/MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892–7010, (301) 496–9838.

"Section IV–B–2–b. Functions

"On behalf of the institution, the Institutional Biosafety Committee is responsible for:

"**Section IV–B–2–b–(1).** Reviewing recombinant DNA research conducted at or sponsored by the institution for compliance with the NIH Guidelines as specified in Section III, Experiments Covered by the NIH Guidelines, and approving those research projects that are found to conform with the NIH Guidelines. This review shall include: (i) Independent assessment of the containment levels required by the NIH Guidelines for the proposed research; (ii) assessment of the facilities, procedures, practices, and training and expertise of personnel involved in recombinant DNA research; and (iii) ensuring compliance with all surveillance, data reporting, and adverse event reporting requirements required by the NIH Guidelines.

"**Section IV–B–2–b–(2).** Notifying the Principal Investigator of the results of the Institutional Biosafety Committee's review and approval.

"**Section IV–B–2–b–(3).** Lowering containment levels for certain experiments as specified in Section III–C–2–a, Experiments in which DNA from Human or Animal Pathogens (Risk Group 2, Risk Group 3, Risk Group 4, or Restricted Agents is Cloned into Nonpathogenic Prokaryotic or Lower Eurkaryotic Host-Vector Systems.

"**Section IV–B–2–b–(4).** Setting containment levels as specified in Sections III–C–4–b, Experiments Involving Whole Animals, and III–C–5, Experiments Involving Whole Plants.

"**Section IV–B–2–b–(5).** Periodically reviewing recombinant DNA research conducted at the institution to ensure compliance with the NIH Guidelines.

"**Section IV–B–2–b–(6).** Adopting emergency plans covering accidental spills and personnel contamination resulting from recombinant DNA research.

"Note: The Laboratory Safety Monograph describes basic elements for developing specific procedures dealing with major spills of potentially hazardous materials in the laboratory, including information and references about decontamination and emergency plans. The NIH and the Centers for Disease Control and Prevention are available to provide consultation and direct assistance, if necessary, as posted in the Laboratory Safety Monograph. The institution shall cooperate with the state and local public health departments by reporting any significant research-related illness or accident that may be hazardous to the public health.

"**Section IV–B–2–b–(7).** Reporting any significant problems with or violations of the NIH Guidelines and any significant research-related accidents or illnesses to the appropriate institutional official and NIH/ORDA within 30 days, unless the Institutional Biosafety Committee determines that a report has already been filed by the Principal Investigator. Reports to NIH/ORDA shall be sent to the Office of Recombinant DNA Activities, National Institutes of Health/MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892–7010, (301) 496–9838.

"**Section IV–B–2–b–(8).** The Institutional Biosafety Committee may not authorize initiation of experiments which are not explicitly covered by the NIH Guidelines until NIH (with the advice of the RAC when required) establishes the containment requirement.

"**Section IV–B–2–b–(9).** Performing such other functions as may be delegated to the Institutional Biosafety Committee under Section IV–B–2, Institutional Biosafety Committee.

"Section IV–B–3. Biological Safety Officer (BSO)

"**Section IV–B–3–a.** The institution shall appoint a Biological Safety Officer if it engages in large scale research or production activities involving viable organisms containing recombinant DNA molecules.

"**Section IV–B–3–b.** The institution shall appoint a Biological Safety Officer if it engages in recombinant DNA research at BL3 or BL4. The Biological Safety Officer shall be a member of the Institutional Biosafety Committee.

"**Section IV–B–3–c.** The Biological Safety Officer's duties include, but are not limited to:

"**Section IV–B–3–c–(1).** Periodic inspections to ensure that laboratory standards are rigorously followed;

"**Section IV–B–3–c–(2).** Reporting to the Institutional Biosafety Committee and the institution any significant problems, violations of the NIH Guidelines, and any significant research-related accidents or illnesses of which the Biological Safety Officer becomes aware unless the Biological Safety Officer determines that a report has already been filed by the Principal Investigator;

"**Section IV–B–3–c–(3).** Developing emergency plans for handling accidental spills and personnel contamination and investigating laboratory accidents involving recombinant DNA research;

"**Section IV–B–3–c–(4).** Providing advice on laboratory security;

"**Section IV–B–3–c–(5).** Providing technical advice to Principal Investigators and the Institutional Biosafety Committee on research safety procedures.

"Note: See the Laboratory Safety Monograph for additional information on the duties of the Biological Safety Officer.

"Section IV–B–4. Plant, Plant Pathogen, or Plant Pest Containment Expert

"When the institution conducts recombinant DNA research that requires Institutional Biosafety Committee approval in accordance with Appendix P, Physical and Biological Containment for Recombinant DNA Research Involving Plants, the institution shall appoint at least one individual with expertise in plant, plant pathogen, or plant pest containment principles (who is a member of the Institutional Biosafety Committee).

"Section IV–B–5. Animal Containment Expert

"When the institution conducts recombinant DNA research that requires Institutional Biosafety Committee approval in accordance with Appendix Q, Physical and Biological Containment for Recombinant DNA Research Involving Animals, the institution shall appoint at least one individual with expertise in animal containment principles (who is a member of the Institutional Biosafety Committee).

"Section IV–B–6. Human Gene Therapy Expertise

"When the institution participates in or sponsors recombinant DNA research

involving human subjects, the institution must ensure that: (i) The Institutional Biosafety Committee has adequate expertise and training (using ad hoc consultants as deemed necessary) and (ii) all aspects of Appendix M, Points to Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA Molecules into One or More Human Subjects (Points to Consider), have been appropriately addressed by the Principal Investigator prior to submission to NIH/ORDA.

"Section IV–B–7. Principal Investigator (PI)

"On behalf of the institution, the Principal Investigator is responsible for full compliance with the NIH Guidelines in the conduct of recombinant DNA research.

"Section IV–B–7–a. General Responsibilities

"As part of this general responsibility, the Principal Investigator shall:

"**Section IV–B–7–a–(1).** Initiate or modify no recombinant DNA research which requires Institutional Biosafety Committee approval prior to initiation (see Sections III–A, III–B, III–C, and III–D, Experiments Covered by the NIH Guidelines) until that research or the proposed modification thereof has been approved by the Institutional Biosafety Committee and has met all other requirements of the NIH Guidelines;

"**Section IV–B–7–a–(2).** Determine whether experiments are covered by Section III–D, Experiments that Require Institutional Biosafety Committee Notice Simultaneous with Initiation, and ensure that the appropriate procedures are followed;

"**Section IV–B–7–a–(3).** Report any significant problems, violations of the NIH Guidelines, or any significant research-related accidents and illnesses to the Biological Safety Officer (where applicable), Greenhouse/Animal Facility Director (where applicable), Institutional Biosafety Committee, NIH/ORDA, and other appropriate authorities (if applicable) within 30 days. Reports to NIH/ORDA shall be sent to the Office of Recombinant DNA Activities, National Institutes of Health/MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892–7010, (301) 496–9838;

"**Section IV–B–7–a–(4).** Report any new information bearing on the NIH Guidelines to the Institutional Biosafety Committee and to NIH/ORDA (reports to NIH/ORDA shall be sent to the Office of Recombinant DNA Activities, National Institutes of Health/MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892–7010, (301) 496–9838);

"**Section IV–B–7–a–(5).** Be adequately trained in good microbiological techniques;

"**Section IV–B–7–a–(6).** Adhere to Institutional Biosafety Committee approved emergency plans for handling accidental spills and personnel contamination; and

"**Section IV–B–7–a–(7).** Comply with shipping requirements for recombinant DNA molecules (see Appendix H, Shipment, for shipping requirements and the Laboratory Safety Monograph for technical recommendations).

"Section IV–B–7–b. Submissions by the Principal Investigator to NIH/ORDA

"The Principal Investigator shall:

"**Section IV–B–7–b–(1).** Submit information to NIH/ORDA for certification of new host-vector systems;

"**Section IV–B–7–b–(2).** Petition NIH/ORDA, with notice to the Institutional Biosafety Committee, for proposed exemptions to the NIH Guidelines;

"**Section IV–B–7–b–(3).** Petition NIH/ORDA, with concurrence of the Institutional Biosafety Committee, for approval to conduct experiments specified in Sections III–A–1, Major Actions Under the NIH Guidelines, and III–B, Experiments that Require NIH/ORDA and Institutional Biosafety Committee Approval Before Initiation;

"**Section IV–B–7–b–(4).** Petition NIH/ORDA for determination of containment for experiments requiring case-by-case review; and

"**Section IV–B–7–b–(5).** Petition NIH/ORDA for determination of containment for experiments not covered by the NIH Guidelines.

"**Section IV–B–7–b–(6).** Ensure that all aspects of Appendix M, Points to Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA Molecules into One or More Human Subjects, have been appropriately addressed prior to submission of human gene therapy experiments to NIH/ORDA.

"Section IV–B–7–c. Submissions by the Principal Investigator to the Institutional Biosafety Committee

"The Principal Investigator shall:

"**Section IV–B–7–c–(1).** Make an initial determination of the required levels of physical and biological containment in accordance with the NIH Guidelines;

"**Section IV–B–7–c–(2).** Select appropriate microbiological practices and laboratory techniques to be used for the research;

"**Section IV–B–7–c–(3).** Submit the initial research protocol and any subsequent changes (e.g., changes in the source of DNA or host-vector system), if covered under Sections III–A, III–B, III–C, or III–D (Experiments Covered by the NIH Guidelines), to the Institutional Biosafety Committee for review and approval or disapproval; and

"**Section IV–B–7–c–(4).** Remain in communication with the Institutional Biosafety Committee throughout the conduct of the project.

"Section IV–B–7–d. Responsibilities of the Principal Investigator Prior To Initiating Research

"The Principal Investigator shall;

"**Section IV–B–7–d–(1).** Make available to all laboratory staff the protocols that describe the potential biohazards and the precautions to be taken;

"**Section IV–B–7–d–(2).** Instruct and train laboratory staff in: (i) The practices and techniques required to ensure safety, and (ii) the procedures for dealing with accidents; and

"**Section IV–B–7–d–(3).** Inform the laboratory staff of the reasons and provisions for any precautionary medical practices advised or requested (e.g., vaccinations or serum collection).

"Section IV–B–7–e. Responsibilities of the Principal Investigator During the Conduct of the Research

"The Principal Investigator shall:

"**Section IV–B–7–e–(1).** Supervise the safety performance of the laboratory staff to ensure that the required safety practices and techniques are employed;

"**Section IV–B–7–e–(2).** Investigate and report any significant problems pertaining to the operation and implementation of containment practices and procedures in writing to the Biological Safety Officer (where applicable), Greenhouse/Animal Facility Director (where applicable), Institutional Biosafety Committee, NIH/ORDA, and other appropriate authorities (if applicable) (reports to NIH/ORDA shall be sent to the Office of Recombinant DNA Activities, National Institutes of Health/MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892–7010, (301) 496–9838);

"**Section IV–B–7–e–(3).** Correct work errors and conditions that may result in the release of recombinant DNA materials; and

"**Section IV–B–7–e–(4).** Ensure the integrity of the physical containment (e.g., biological safety cabinets) and the biological containment (e.g., purity and genotypic and phenotypic characteristics).

"**Section IV–B–7–e–(5).** Comply with reporting requirements for human gene transfer experiments conducted in compliance with the NIH Guidelines (see Appendix M–VII, Reporting Requirements—Human Gene Transfer Protocols).

"Section IV–C. Responsibilities of the National Institutes of Health (NIH)

"Section IV–C–1. NIH Director

"The NIH Director is responsible for: (i) Establishing the NIH Guidelines, (ii) overseeing their implementation, and (iii) their final interpretation. The NIH Director has responsibilities under the NIH Guidelines that involve ORDA and RAC. ORDA's responsibilities under the NIH Guidelines are administrative. Advice from RAC is primarily scientific, technical, and ethical. In certain circumstances, there is specific opportunity for public comment with published response prior to final action.

"Section IV–C–1–a. General Responsibilities

"The NIH Director is responsible for:

"**Section IV–C–1–a–(1).** Promulgating requirements as necessary to implement the NIH Guidelines;

"**Section IV–C–1–a–(2).** Establishing and maintaining RAC to carry out the responsibilities set forth in Section IV–C–2, Recombinant DNA Advisory Committee (RAC membership is specified in its charter and in Section IV–C–2);

"**Section IV–C–1–a–(3).** Establishing and maintaining NIH/ORDA to carry out the responsibilities defined in Section IV–C–3, Office of Recombinant DNA Activities;

"**Section IV–C–1–a–(4).** Conducting and supporting training programs in laboratory safety for Institutional Biosafety Committee members, Biological Safety Officers and other institutional experts (if applicable), Principal Investigators, and laboratory staff.

"**Section IV–C–1–a–(5).** Establishing and convening Gene Therapy Policy Conferences as described in Appendix L, Gene Therapy Policy Conferences.

"Section IV–C–1–b. Specific Responsibilities

"In carrying out the responsibilities set forth in this section, the NIH Director, or a designee shall weigh each proposed action through appropriate analysis and consultation to determine whether it complies with the NIH Guidelines and presents no significant risk to health or the environment.

"Section IV–C–1–b–(1). Major Actions

"To execute Major Actions, the NIH Director shall seek the advice of RAC and provide an opportunity for public and Federal agency comment. Specifically, the Notice of Meeting and Proposed Actions shall be published in the **Federal Register** at least 15 days before the RAC meeting. The NIH Director's decision/recommendation (at his/her discretion) may be published in the **Federal Register** for 15 days of comment before final action is taken. The NIH Director's final decision/recommendation, along with responses to public comments, shall be published in the **Federal Register**. The RAC and Institutional Biosafety Committee Chairs shall be notified of the following decisions:

"**Section IV–C–1–b–(1)–(a).** Changing containment levels for types of experiments that are specified in the NIH Guidelines when a Major Action is involved;

"**Section IV–C–1–b–(1)–(b).** Assigning containment levels for types of experiments that are not explicitly considered in the NIH Guidelines when a Major Action is involved;

"**Section IV–C–1–b–(1)–(c).** Promulgating and amending a list of classes of recombinant DNA molecules to be exempt from the NIH Guidelines because they consist entirely of DNA segments from species that exchange DNA by known physiological processes or otherwise do not present a significant risk to health or the environment;

"**Section IV–C–1–b–(1)–(d).** Permitting experiments specified by Section III–A, Experiments that Require Institutional Biosafety Committee Approval, RAC Review, and NIH Director Approval Before Initiation;

"**Section IV–C–1–b–(1)–(e).** Certifying new host-vector systems with the exception of minor modifications of already certified systems (the standards and procedures for certification are described in Appendix I–II, Certification of Host-Vector Systems). Minor modifications constitute (e.g., those of minimal or no consequence to the properties relevant to containment); and

"**Section IV–C–1–b–(1)–(f).** Adopting other changes in the NIH Guidelines.

"Section IV–C–1–b–(2). Minor Actions

"NIH/ORDA shall carry out certain functions as delegated to it by the NIH Director (see Section IV–C–3, Office of Recombinant DNA Activities). Minor Actions (as determined by NIH/ORDA in consultation with the RAC Chair and one or more RAC members, as necessary) will be transmitted to RAC and Institutional Biosafety Committee Chairs:

"**Section IV–C–1–b–(2)–(a).** Changing containment levels for experiments that are specified in Section III, Experiments Covered by the NIH Guidelines (except when a Major Action is involved);

"**Section IV–C–1–b–(2)–(b).** Assigning containment levels for experiments not explicitly considered in the NIH Guidelines;

"**Section IV–C–1–b–(2)–(c).** Revising the Classification of Etiologic Agents for the purpose of these NIH Guidelines (see Section V–A, Footnotes and References of Sections I–IV).

"**Section IV–C–1–b–(2)–(d).** Interpreting the NIH Guidelines for experiments to which the NIH Guidelines do not specifically assign containment levels;

"**Section IV–C–1–b–(2)–(e).** Setting containment under Sections III–C–1–d, Experiments Using Risk Group 2, Risk Group 3, Risk Group 4, or Restricted Agents as Host-Vector Systems, and III–C–2–b, Experiments in which DNA from Risk Group 2, Risk Group 3, Risk Group 4, or Restricted Agents is Cloned into Nonpathogenic Prokaryotic or Lower Eukaryotic Host-Vector Systems;

"**Section IV–C–1–b–(2)–(f).** Approving minor modifications of already certified host-vector systems (the standards and procedures for such modifications are described in Appendix I–II, Certification of Host-Vector Systems);

"**Section IV–C–1–b–(2)–(g).** Decertifying already certified host-vector systems;

"**Section IV–C–1–b–(2)–(h).** Adding new entries to the list of molecules toxic for vertebrates (see Appendix F, Containment Conditions for Cloning of Genes Coding for the Biosynthesis of Molecules Toxic for Vertebrates); and

"**Section IV–C–1–b–(2)–(i).** Determining appropriate containment conditions for experiments according to case precedents developed under Section IV–C–1–b–(2)–(c).

"Section IV–C–2. Recombinant DNA Advisory Committee (RAC)

"RAC is responsible for carrying out specified functions cited below as well as others assigned under its charter or by the DHHS Secretary and the NIH Director. RAC consists of 15 voting members including the Chair, appointed by the DHHS Secretary or his/her designee, at least 8 of whom are selected from authorities knowledgeable in the fields of molecular genetics, molecular biology, recombinant DNA research, or other scientific fields. At least 4 members of RAC shall be persons knowledgeable in applicable law, standards of professional conduct and practice, public attitudes, the environment, public health, occupational health, or related fields. Representatives from Federal agencies shall serve as non-voting members.

Nominations for RAC members may be submitted to the Office of Recombinant DNA Activities, National Institutes of Health/MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892–7010, (301) 496–9838.

"All meetings of RAC shall be announced in the **Federal Register**, including tentative agenda items, 15 days before the meeting. Final agendas, if modified, shall be available at least 72 hours before the meeting. No item defined as a Major Action under Section IV–C–1–b–(1) may be added to an agenda following **Federal Register** publication.

"RAC shall be responsible for:

"**Section IV–C–2–a.** Advising the NIH Director on the following actions: (1) Adopting changes in the NIH Guidelines. (2) Assigning containment levels, changing containment levels, and approving experiments considered as Major Actions under the NIH Guidelines, i.e., the deliberate transfer of a drug resistance trait to microorganisms that are not known to acquire the trait naturally, if such acquisition could compromise the use of the drug to control disease agents in humans, veterinary medicine, or agriculture. (3) Promulgating and amending lists of classes of recombinant DNA molecules to be exempt from the NIH Guidelines because they consist entirely of DNA segments from species that exchange DNA by known physiological processes or otherwise do not present a significant risk to health or the environment. (4) Certifying new host-vector systems.

"**Section IV–C–2–b.** Identifying novel human gene transfer experiments deserving of public discussion by the full RAC;

"**Section IV–C–2–c.** Transmitting to the NIH Director specific comments/recommendations about: (i) A specific human gene transfer experiment, or (ii) a category of human gene transfer experiments;

"**Section IV–C–2–d.** Publicly reviewing human gene transfer clinical trial data and relevant information evaluated and summarized by NIH/ORDA in accordance with the annual data reporting requirements;

"**Section IV–C–2–e.** Identifying broad scientific, safety, social, and ethical issues relevant to gene therapy research as potential Gene Therapy Policy Conference topics;

"**Section IV–C–2–f.** Identifying novel social and ethical issues relevant to specific human applications of gene transfer and recommending appropriate modifications to the Points to Consider that will provide guidance in the preparation of relevant Informed Consent documents; and

"**Section IV–C–2–g.** Identifying novel scientific and safety issues relevant to specific human applications of gene transfer and recommending appropriate modifications to the Points to Consider that will provide guidance in the design and submission of human gene transfer clinical trials.

"**Section IV–C–3.** Office of Recombinant DNA Activities (ORDA)

"ORDA shall serve as a focal point for information on recombinant DNA activities and provide advice to all within and outside NIH including institutions, Biological Safety Officers, Principal Investigators, Federal agencies, state and local governments, and institutions in the private sector. ORDA shall carry out such other functions as may be delegated to it by the NIH Director. ORDA's responsibilities include (but are not limited to) the following:

"**Section IV–C–3–a.** Serving as the focal point for public access to summary information pertaining to human gene transfer experiments;

"**Section IV–C–3–b.** Serving as the focal point for data management of human gene transfer experiments;

"**Section IV–C–3–c.** Administering the annual data reporting requirements (and subsequent review) for human gene transfer experiments (see Appendix M–VII, Reporting Requirements—Human Gene Transfer Protocols);

"**Section IV–C–3–d.** Transmitting comments/recommendations arising from public RAC discussion of a novel human gene transfer experiment to the NIH Director. RAC recommendations shall be forwarded to the Principal Investigator, the sponsoring institution, and other DHHS components, as appropriate.

"**Section IV–C–3–e.** Collaborating with Principal Investigators, Institutional Biosafety Committees, Institutional Review Boards, and other DHHS components (including FDA and Office for Protection from Research Risks), to ensure human gene transfer experiment registration compliance in accordance with Appendix M–I, Submission Requirements, Human Gene Transfer Experiments of the NIH Guidelines.

"**Section IV–C–3–f.** Administering Gene Therapy Policy Conferences as deemed appropriate by the NIH Director (see Appendix L, Gene Therapy Policy Conference).

"**Section IV–C–3–g.** Reviewing and approving experiments in conjunction with *ad hoc* experts involving the cloning of genes encoding for toxin molecules that are lethal for vertebrates at an LD_{50} of less than or equal to 100 nanograms per kilogram body weight in organisms other than Escherichia coli K–12 (see Section III–B–1, Experiments Involving the Cloning of Toxin Molecules with LD_{50} of Less than 100 Nanograms Per Kilogram Body Weight, Appendix F, Containment Conditions for Cloning of Genes Coding for the Biosynthesis of Molecules Toxic for Vertebrates);

"**Section IV–C–3–h.** Serving as the executive secretary of RAC;

"**Section IV–C–3–i.** Publishing in the **Federal Register**:

"**Section IV–C–3–i–(1).** Announcements of RAC meetings and tentative agendas at least 15 days in advance (Note: If the agenda for a RAC meeting is modified, ORDA shall make the revised agenda available to anyone upon request in advance of the meeting);

"**Section IV–C–3–i–(2).** Announcements of Gene Therapy Policy Conferences and tentative agendas at least 15 days in advance;

"**Section IV–C–3–i–(3).** Proposed Major Actions (see Section IV–C–1–b–(1), Major Actions) at least 15 days prior to the RAC meeting; and

"**Section IV–C–3–j.** Reviewing and approving the membership of an institution's Institutional Biosafety Committee, and where it finds the Institutional Biosafety Committee meets the requirements set forth in Section IV–B–2, Institutional Biosafety Committee (IBC), giving its approval to the Institutional Biosafety Committee membership.

"Section IV–C–4. Other NIH Components

"Other NIH components shall be responsible for certifying maximum containment (BL4) facilities, inspecting them periodically, and inspecting other recombinant DNA facilities as deemed necessary.

"Section IV–D. Voluntary Compliance

"Section IV–D–1. Basic Policy—Voluntary Compliance

"Individuals, corporations, and institutions not otherwise covered by the NIH Guidelines are encouraged to follow the standards and procedures set forth in Sections I through IV. In order to simplify discussion, references hereafter to 'institutions' are intended to encompass corporations and individuals who have no organizational affiliation. For purposes of complying with the NIH Guidelines, and individual intending to carry out research involving recombinant DNA is encouraged to affiliate with an institution that has an Institutional Biosafety Committee approved under the NIH Guidelines.

"Since commercial organizations have special concerns, such as protection of proprietary data, some modifications and explanations of the procedures are provided in Section IV–D–2 through IV–D–6–b, Voluntary Compliance, in order to address these concerns.

"Section IV–D–2. Institutional Biosafety Committee Approval—Voluntary Compliance

"It should be emphasized that employment of an Institutional Biosafety Committee member solely for purposes of membership on the Institutional Biosafety Committee does not itself make the member an institutionally affiliated member. Except for the unaffiliated members, a member of an Institutional Biosafety Committee for an institution not otherwise covered by the NIH Guidelines may participate in the review and approval of a project in which the member has a direct financial interest so long as the member has not been, and does not expect to be, engaged in the project. Section IV–B–2–a–(4), Institutional Biosafety Committee, is modified to that extent for purposes of these institutions.

"Section IV–D–3. Certification of Host-Vector Systems—Voluntary Compliance

"A host-vector system may be proposed for certification by the NIH Director in accordance with the procedures set forth in Appendix I–II, Certification of Host-Vector Systems. In order to ensure protection for proprietary data, any public notice regarding a host-vector system which is designated by the institution as proprietary under Section IV–D, Voluntary Compliance, will be issued only after consultation with the institution as to the content of the notice.

"Section IV–D–4. Requests for Exemptions and Approvals—Voluntary Compliance

"Requests for exemptions or other approvals as required by the NIH Guidelines should be submitted based on the procedures set forth in Sections I through IV. In order to ensure protection for proprietary data, any public notice regarding a request for an exemption or other approval which is designated by the institution as proprietary under Section IV–D–5–a, Voluntary Compliance, will be issued only after consultation with the institution as to the content of the notice.

"Section IV–D–5. Protection of Proprietary Data—Voluntary Compliance

"Section IV–D–a. General

"In general, the Freedom of Information Act requires Federal agencies to make their records available to the public upon request. However, this requirement does not apply to, among other things, 'trade secrets and commercial or financial information that is obtained from a person and that is privileged or confidential.' Under 18 U.S.C. 1905, it is a criminal offense for an officer or employee of the U.S. or any Federal department or agency to publish, divulge, disclose, or make known 'in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with, such department or agency or officer or employee thereof, which information concerns or relates to the trade secrets, (or) processes * * * of any person, firm, partnership, corporation, or association.' This provision applies to all employees of the Federal Government, including special Government employees. Members of RAC are 'special Government employees.'

"In submitting to NIH for purposes of voluntary compliance with the NIH Guidelines, an institution may designate those items of information which the institution believes constitute trade secrets, privileged, confidential, commercial, or financial information. If NIH receives a request under the Freedom of Information Act for information so designated, NIH will promptly contact the institution to secure its views as to whether the information (or some portion) should be released. If NIH decides to release this information (or some portion) in response to a Freedom of Information request or otherwise, the institution will be advised and the actual release will be delayed in accordance with 45 Code of Federal Regulations, § 5.65 (d) and (e).

"Section IV–D–5–b. Pre-submission Review

"Any institution not otherwise covered by the NIH Guidelines, which is considering submission of data or information voluntarily to NIH, may request pre-submission review of the records involved to determine if NIH will make all or part of the records available upon request under the Freedom of Information Act.

"A request for pre-submission review should be submitted to NIH/ORDA along with the records involved to the Office of Recombinant DNA Activities, National Institutes of Health/MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892–7010, (301) 496–9838. These records shall be clearly marked as being the property of the institution on loan to NIH solely for the purpose of making a determination under the Freedom on Information Act. NIH/ORDA will seek a determination from the responsible official under DHHS regulations (45 CFR part 5) as to whether the records involved, (or some portion) will be made available to members of the public under the Freedom of Information Act. Pending such a determination, the records will be kept separate from NIH/ORDA files, will be considered records of the institution and not NIH/ORDA, and will not be received as part of NIH/ORDA files. No copies will be made of such records.

"NIH/ORDA will inform the institution of the DHHS Freedom of Information Officer's determination and follow the institution's instructions as to whether some or all of the records involved are to be returned to the institution or to become a part of NIH/ORDA files. If the institution instructs NIH/ORDA to return the records, no copies or summaries of the records will be made or retained by DHHS, NIH, or ORDA. The DHHS Freedom of Information Officer's determination will represent that official's judgment at the time of the determination as to whether the records involved (or some portion) would be exempt from disclosure under the Freedom of Information Act if at the time of the determination the records were in NIH/ORDA files and a request was received for such files under the Freedom of Information Act."

II–E. Amendments to Appendix A, Exemptions Under Section III–E–5—Sub-lists of Natural Exchanges

Appendix A, first paragraph, is amended to reflect renumbering of a previous section.

II–F. Amendments to Appendix C, Exemptions Under Section III–E–6

Appendix C is amended to reflect renumbering of a previous section.

II–G. Amendments to Appendix I, Biological Containment

After the first paragraph in Section I–II–A, Responsibility, the following Note is added:

"**Note.** A host-vector system may be proposed for certification by the NIH Director in accordance with the procedures set forth in Appendix I–II, Certification of Host-Vector Systems. In order to ensure protection for

proprietary data, any public notice regarding a host-vector system which is designated by the institution as proprietary under Section IV–D, Voluntary Compliance, will be issued only after consultation with the institution as as to the content of the notice (see Section IV–D–3, Certification of Host-Vector Systems-Voluntary Compliance)."

II–H. Addition of Appendix L, Gene Therapy Policy Conferences, to the NIH Guidelines

Appendix L is to read:

"Appendix L. Gene Therapy Policy Conferences (GTPCs)

"In order to enhance the depth and value of public discussion relevant to scientific, safety, social, and ethical implications of gene therapy research, the NIH Director will convene GTPCs at regular intervals. As appropriate, the NIH Director may convene a GTPC in conjunction with a RAC meeting. GTPCs will be administered by NIH/ORDA. Conference participation will not involve a standing committee membership but rather will offer the unique advantage of assembling numerous participants who possess significant scientific, ethical, and legal expertise and/or interest that is directly applicable to a specific gene therapy research issue. At least one member of RAC will serve as Co-chair of each GTPC and report the findings of each GTPC to RAC at its next scheduled meeting. The RAC representative for each GTPC will be chosen based on the participant's area of expertise relative to the specific gene therapy research issue to be discussed. All RAC members will be invited to attend GTPCs. GTPCs will have representation from other Federal agencies, including FDA and OPRR. GTPCs will focus on broad overarching policy and scientific issues related to gene therapy research. Proposals for GTPC topics may be submitted by members of RAC, representatives of academia, industry, patient and consumer advocacy organizations, other Federal agencies, professional scientific societies, and the general public. GTPC topics will not be limited to discussion of human applications of gene therapy research, i.e., they may include basic research on the use of novel gene delivery vehicles, or novel applications of human gene transfer. The RAC, with the Director's approval, will have the primary responsibility for planning GTPC agendas. GTPC findings will be transmitted to the NIH Director and will be made publicly available. The NIH Director anticipates that this public policy forum will serve as a model for interagency communication and collaboration, concentrated expert discussion of novel scientific issues and their potential societal implications, and enhanced opportunity for public discussion of specific issues and potential impact of such applications on human health and the environment."

II–I. Amendments to Appendix M, Points To Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA Molecules Into One or More Human Subjects

Appendix M is amended to read:

"Appendix M. Points To Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA Molecules Into One or More Human Subjects (Points to Consider)

"Appendix M applies to research conducted at or sponsored by an institution that receives any support for recombinant DNA research from NIH. Researchers not covered by the NIH Guidelines are encouraged to use Appendix M (see Section I–C, General Applicability).

"The acceptability of human somatic cell gene therapy has been addressed in several public documents as well as in numerous academic studies. In November 1982, the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research published a report, Splicing Life, which resulted from a two-year process of public deliberation and hearings. Upon release of that report, a U.S. House of Representatives subcommittee held three days of public hearings with witnesses from a wide range of fields from the biomedical and social sciences to theology, philosophy, and law. In December 1984, the Office of Technology Assessment released a background paper, Human Gene Therapy, which concluded that civic, religious, scientific, and medical groups have all accepted, in principle, the appropriateness of gene therapy of somatic cells in humans for specific genetic diseases. Somatic cell gene therapy is seen as an extension of present methods of therapy that might be preferable to other technologies. In light of this public support, RAC is prepared to consider proposals for somatic cell gene transfer.

"RAC will not at present entertain proposals for germ line alterations but will consider proposals involving somatic cell gene transfer. The purpose of somatic cell gene therapy is to treat an individual patient, e.g., by inserting a properly functioning gene into the subject's somatic cells. Germ line alteration involves a specific attempt to introduce genetic changes into the germ (reproductive) cells of an individual, with the aim of changing the set of genes passed on to the individual's offspring.

"Research proposals involving the deliberate transfer of recombinant DNA, or DNA or RNA derived from recombinant DNA, into human subjects (human gene transfer) will be considered through a review process involving both NIH/ORDA and RAC. Investigators shall submit their relevant information on the proposed human gene transfer experiments to NIH/ORDA. Submission of human gene transfer protocols to NIH will be in the format described in Appendix M–I, Submission Requirements—Human Gene Transfer Experiments. Submission to NIH shall be for registration purposes and will ensure continue public access to relevant human gene transfer information conducted in compliance with the NIH Guidelines. Investigational New Drug (IND) applications should be submitted to FDA in the format described in 21 CFR, Chapter I, Subchapter D, Part 312, Subpart B, Section 23, IND Content and Format.

"Institutional Biosafety Committee approval must be obtained from each institution at which recombinant DNA material will be administered to human subjects (as opposed to each institution involved in the production of vectors for human application and each institution at which there is ex vivo transduction of recombinant DNA material into target cells for human application).

"Factors that may contribute to public discussion of a human gene transfer experiment by RAC include: (i) New vectors/new gene delivery systems, (ii) new diseases, (iii) unique applications of gene transfer, and (iv) other issues considered to require further public discussion. Among the experiments that may be considered exempt from RAC discussion are those determined not to represent possible risk to human health or the environment. Full RAC review of an individual human gene transfer experiment can be initiated by the NIH Director or recommended to the NIH Director by: (i) Three or more RAC members, or (ii) other Federal agencies. An individual human gene transfer experiment that is recommended for full RAC review should represent novel characteristics deserving of public discussion. If the Director, NIH, determines that an experiment will undergo full RAC discussions, NIH/ORDA will immediately notify the Principal Investigator. RAC members may forward individual requests for additional information relevant to a specific protocol through NIH/ORDA to the Principal Investigator. In making a determination whether an experiment is novel, and thus deserving of full RAC discussion, reviewers will examine the scientific rationale, scientific context (relative to other proposals reviewed by RAC), whether the preliminary *in vitro* and *in vivo* safety data were obtained in appropriate models and are sufficient, and whether questions related to relevant social and ethical issues have been resolved. RAC recommendations on a specific human gene transfer experiment shall be forwarded to the NIH Director, the Principal Investigator, the sponsoring institution, and other DHHS components, as appropriate. Relevant documentation will be included in the material for the RAC meeting at which the experiment is scheduled to be discussed. RAC meetings will be open to the public except where trade secrets and proprietary information are reviewed (see Section IV–D–5, Protection of Proprietary Data). RAC prefers that information provided in response to Appendix M contain no proprietary data or trade secrets, enabling all aspects of the review to be open to the public.

"Note: Any application submitted to NIH/ORDA shall not be designated as 'confidential' in its entirety. In the event that a sponsor determines that specific responses to one or more of the items described in Appendix M should be considered as proprietary or trade secret, each item should be clearly identified as such. The cover letter (attached to the submitted material) shall: (1) Clearly indicate that select portions of the application contain information considered as proprietary or trade secret, (2) a brief explanation as to the reason that each of these items is determined proprietary or trade secret.

"Public discussion of human gene transfer experiments (and access to relevant information) shall serve to inform the public about the technical aspects of the proposals, meaning and significance of the research, and significant safety, social, and ethical implications of the research. RAC discussion is intended to ensure safe and ethical conduct of gene therapy experiments and facilitate public understanding of this novel area of biomedical research.

In its evaluation of human gene transfer proposals, RAC will consider whether the design of such experiments offers adequate assurance that their consequences will not go beyond their purpose, which is the same as the traditional purpose of clinical investigation, namely, to protect the health and well being of human subjects being treated while at the same time gathering generalizable knowledge. Two possible undesirable consequences of the transfer of recombinant DNA would be unintentional: (i) Vertical transmission of genetic changes from an individual to his/her offspring, or (ii) horizontal transmission of viral infection to other persons with whom the individual comes in contact. Accordingly, Appendices M–I through M–V request information that will enable RAC and NIH/ORDA to assess the possibility that the proposed experiment(s) will inadvertently affect reproductive cells or lead to infection of other people (e.g., medical personnel or relatives).

"Appendix M will be considered for revisions as experience in evaluating proposals accumulates and as new scientific developments occur. This review will be carried out periodically as needed.

"Appendix M–I. Submission Requirements—Human Gene Transfer Experiments

"Investigators must submit the following material to the Office of Recombinant DNA Activities, National Institutes of Health/MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892–7010, (301) 496–9838 (see exemption in Appendix M–VIII–A, Footnotes of Appendix M). Proposals shall be submitted to NIH/ORDA in the following order: (1) Scientific abstract; (2) non-technical abstract; (3) Institutional Biosafety Committee and Institutional Review Board approvals and their deliberations pertaining to your protocol (Institutional Biosafety Committee approval must be obtained from each institution at which recombinant DNA material will be administered to human subjects (as opposed to each institution involved in the production of vectors for human application and each institution at which there is ex vivo transduction of recombinant DNA material into target cells for human application)); (4) Responses to Appendix M–II through M–V, Description of the Proposal, Informed Consent, Privacy and Confidentiality, and Special Issues (the pertinent responses can be provided in the protocol or as an appendix to the protocol); (5) clinical protocol (as approved by the local Institutional Biosafety Committee and Institutional Review Board); (6) Informed Consent document—approved by the Institutional Review Board (see Appendix M–III, Informed Consent); (7) appendices (including tables, figures, and manuscripts); and (8) curricula vitae—2 pages for each key professional person in biographical sketch format. Investigational New Drug (IND) applications shall be submitted to FDA in the format described in 21 CFR, chapter I, subchapter D, part 312, subpart B, section 23, IND Content and Format. Submissions to FDA should be sent to the Division of Congressional and Public Affairs, Document Control Center, HFM–99, Center for Biologics Evaluation and Research, 1401 Rockville Pike, Rockville, Maryland 20852–1448.

"Appendix M–II. Description of the Proposal"

[This section remains unchanged]

"Appendix M–III. Informed Consent"

[This section remains unchanged]

"Appendix M–IV. Privacy and Confidentiality"

[This section remains unchanged]

"Appendix M–V. Special Issues"

[This section remains unchanged]

"Appendix M–VI. RAC Review—Human Gene Transfer Experiments

"In order to maintain public access to information regarding human gene transfer protocols, NIH/ORDA will maintain the documentation described in Appendices M–I through M–V (including protocols that are not reviewed by RAC). RAC prefers that information provided in response to Appendix M, Points to Consider, contain no proprietary data or trade secrets, enabling all aspects of the discussion to be open to the public.

"Appendix M–VI–A. RAC Members' Written Comments

"Following receipt by NIH/ORDA, summary information on each human gene transfer protocol will be forwarded to RAC members. Each RAC member shall notify NIH/ORDA within 15 working days regarding the necessity for full RAC discussion. Full RAC review of an individual human gene transfer experiment can be initiated by the NIH Director or recommended to the NIH Director by: (i) Three or more RAC members, or (ii) other Federal agencies. An individual human gene transfer experiment that is recommended for full RAC review should represent novel characteristics deserving of public discussion. If the Director, NIH, determines that an experiment will undergo full RAC discussion, NIH/ORDA will immediately notify the Principal Investigator. RAC members may forward individual requests for additional information relevant to a specific protocol through NIH/ORDA to the Principal Investigator. In making a determination whether an experiment is novel, and thus deserving of full RAC

discussion, reviewers shall examine the scientific rationale, scientific context (relative to other proposals reviewed by RAC), whether the preliminary *in vitro* and *in vitro* safety data were obtained in appropriate models and are sufficient, and whether questions related to relevant social and ethical issues have been resolved. RAC recommendations on a specific human gene transfer experiment shall be forwarded to the NIH Director, the Principal Investigator, the sponsoring institution, and other DHHS components, as appropriate.

"Appendix M–VII. Reporting Requirements—Human Gene Transfer Protocols

"Appendix M–VII–A. Investigational New Drug Application Reporting

"Upon receipt of notification of permission to proceed with an Investigational New Drug application for a human gene transfer protocol, the Principal Investigator(s) shall submit a written report that includes the following information: (1) How the investigator(s) responded to RAC's recommendations on the protocol (if applicable), and (2) any modifications to the protocol as required by FDA.

"Appendix M–VII–B. Annual Data Reporting and Gene Therapy Database

"Investigators shall comply with annual data reporting requirements. Annual Data Report forms will be forwarded by NIH/ORDA to investigators. Data submitted in these reports will be evaluated by RAC and NIH/ORDA, and reviewed at a future RAC meeting. Information obtained through annual data reporting will be included in a human gene transfer database that will be administered by NIH/ORDA. The purpose of this human gene transfer database is to: (1) Maintain an institutional memory, (2) provide administrative details of protocol registration, (3) provide annual status reports of protocols, (4) facilitate risk assessment of individual applications of human gene transfer, and (5) enhance public awareness of relevant scientific, safety, social, and ethical issues.

"Appendix M–VII–C. Adverse Event Reporting

"Investigators who have received approval for FDA to initiate a human gene transfer protocol must report any serious adverse event immediately to the local Institutional Review Board, Institutional Biosafety Committee, Office for Protection from Research Risks (if applicable), NIH/ORDA, and FDA, followed by the submission of a written report filed with each group. Reports submitted to NIH/ORDA shall be sent to the Office of Recombinant DNA Activities, National Institutes of Health/MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892–7010, (301) 496–9838.

"Appendix VIII. Footnotes of Appendix M

"Appendix VIII–A. Human studies in which induction or enhancement of an immune response to a vector-encoded microbialimmunogen is the major goal, such an immune response has been demonstrated in model systems, and the persistence of the vector-encoded immunogen is not expected, are exempt from Appendix M–I, Submission Requirements, and Appendix M–VII, Reporting Requirements—Human Gene Transfer Experiments."

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the Catalog of Federal Domestic Assistance. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers virtually every NIH and Federal research program in which recombinant DNA molecule techniques could be used, it has been determined not to be cost effective or in the public interst to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the Catalog of Federal Domestic Assistance are affected.

Effective Date: October 22, 1997.

Harold Varmus,

Director, National Institutes of Health.

[FR Doc. 97–28831 Filed 10–30–97; 8:45 am]

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federal register

Friday
October 31, 1997

Part III

Department of Health and Human Services

Health Care Financing Administration

42 CFR Part 400, et al.

Medicare: Physician Fee Schedule for Calendar Year 1998; Payment Policies and Relative Value Unit Adjustments and Clinical Psychologist Fee Schedule; Final Rule

Medicare: Physician Fee Schedule Conversion Factor for Calendar Year 1998; Sustainable Growth Rate for Fiscal Year 1998; Notice

Medicare: Physician Fee Schedule for Calendar Year 1998; Payment Policies and Relative Value Unit Adjustments; Practice Expense Relative Value Units Adjustments; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 400, 405, 410, 411, and 414

[BPD–884–FC]

RIN 0938–AH84

Medicare Program; Revisions to Payment Policies and Adjustments to the Relative Value Units Under the Physician Fee Schedule, Other Part B Payment Policies, and Establishment of the Clinical Psychologist Fee Schedule for Calendar Year 1998

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule with comment period.

SUMMARY: This final rule makes several policy changes affecting Medicare Part B payment. The changes relate to physician services, including geographic practice cost index changes, clinical psychologist services, physician supervision of diagnostic tests, establishment of independent diagnostic testing facilities, the methodology used to develop reasonable compensation equivalent limits, payment to participating and nonparticipating suppliers, global surgical services, caloric vestibular testing, and clinical consultations.

This rule also implements provisions in the Balanced Budget Act of 1997 relating to practice expense relative value units, screening mammography, colorectal cancer screening, screening pelvic examinations, and EKG transportation. In addition, we are finalizing the 1997 interim work relative value units and are issuing interim work relative value units for new and revised codes for 1998.

DATES: *Effective Date:* This rule is effective January 1, 1998. This rule is a major rule as defined in Title 5, United States Code, section 804(2). Pursuant to 5 U.S.C. section 801(a)(1)(A), we are submitting a report to the Congress on this rule on October 30, 1997.

Comment Date: We will accept comments on interim RVUs for selected procedure codes identified in Addendum C. Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on December 30, 1997.

ADDRESSES: Mail written comments (1 original and 3 copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BPD–884–FC, P.O. Box 26688, Baltimore, MD 21207–0488.

If you prefer, you may deliver your written comments (1 original and 3 copies) to one of the following addresses:

Room 309-G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or

Room C5–09–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code BPD–884-FC. Comments received timely will be available for public inspection as they are received, beginning approximately 3 weeks after publication of the document, in Room 309-G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

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FOR FURTHER INFORMATION CONTACT: For staff in the Center for Health Plans and Providers, Plan and Provider Purchasing Policy Group, Division of Practitioner and Ambulatory Care:

Jim Menas, (410) 786–4507 (for issues related to practice expense relative value units).

Regina Walker-Wren, (410) 786–9160 (for issues related to the clinical psychologist fee schedule).

William Morse, (410) 786–4520 (for issues related to the supervision of diagnostic tests and independent diagnostic testing facilities).

Ward Pleines, Center for Health Plans and Providers, Chronic Care Purchasing Policy Group, Division of Cost Reporting, (410) 786–4528, (for issues related to the reasonable compensation equivalent limit update factor).

Anita Heygster, Center for Health Plans and Providers, Plan and Provider Purchasing Policy Group, Division of Integrated Delivery Systems, (410) 786–4486 (for issues related to participating and nonparticipating suppliers).

Bill Larson, Office of Clinical Standards and Quality, Coverage and Analysis Group, (410) 786–4639 (for issues related to screening mammography, screening pelvic examinations, and screening colorectal cancer examinations).

Stanley Weintraub, Center for Health Plans and Providers, Plan and Provider Purchasing Policy Group, Division of Practitioner and Ambulatory Care, (410) 786–4498 (for all other issues).

SUPPLEMENTARY INFORMATION: In this final rule, we provide background on the statutory authority for and development of the physician fee schedule. We also explain in detail the process by which certain interim work relative value units (RVUs) are reviewed and, in some cases, revised.

Section 1848(c)(2)(B) of the Social Security Act (the Act) provides that adjustments in RVUs resulting from an annual review of those RVUs may not cause total physician fee schedule payments to differ by more than $20 million from what they would have been had the adjustments not been made. Thus, the statute allows a $20 million tolerance for increasing or reducing total expenditures under the physician fee schedule. We have determined that net increases because of changes to the physician fee schedule would have added to projected expenditures in calendar year 1998 by approximately $300 million. Therefore, we are making the budget neutrality adjustment required by changes in payment policy and Physicians' Current Procedural Terminology (CPT) through the conversion factor (CF). A CF is a national value that converts RVUs into payment amounts. Effective January 1, 1998, there will be one CF, as specified by the Balanced Budget Act of 1997 (BBA 1997) (Public Law 105–33), enacted on August 5, 1997. (Anesthesia has a separate CF but is paid using a different formula.) The CF is updated annually.

We have made the adjustment to achieve budget neutrality as we were best able to estimate. As a result, the total projected expenditures from the revised fee schedule are estimated to be the same as they would have been had we not changed the RVUs for any individual codes or added new codes to the fee schedule.

Addenda to this rule provide the following information:

Addendum A—Explanation and Use of Addenda B Through G.

Addendum B—1998 Relative Value Units and Related Information Used in Determining Medicare Payments for 1998.

Addendum C—Codes with Interim Relative Value Units.

Addendum D—1998 Geographic Practice Cost Indices by Medicare Carrier and Locality.

Addendum E—1998 Geographic Practice Cost Indices by Medicare Carrier and Locality.

Addendum F—1998 Versus 1997 Geographic Adjustment Factor (GAF) by 1998 Fee Schedule Area.

Addendum G—Counties Included in 1998 Localities (Alphabetically by State and Locality Name Within State).

The RVUs and revisions to payment policies in this final rule apply to physicians' services furnished on or after January 1, 1998.

To assist readers in referencing sections contained in this preamble, we are providing the following table of contents. Some of the issues discussed in this preamble affect the payment policies but do not require changes to the regulations in the Code of Federal Regulations. Information on the regulation's impact appears throughout the preamble and not exclusively in section VIII.

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In addition, because of the many organizations and terms to which we refer by acronym in this final rule, we are listing these acronyms and their corresponding terms in alphabetical order below:

AMA—American Medical Association.
BBA—1997 Balanced Budget Act of 1997
CF—Conversion factor.
CFR—Code of Federal Regulations.
CPI—Consumer Price Index.
CPI–U—Consumer Price Index for All Urban Consumers.
CPT—[Physicians'] Current Procedural Terminology [4th Edition, 1997, copyrighted by the American Medical Association].
CT—Computerized axial tomography.
FDA—Food and Drug Administration.
GAF—Geographic adjustment factor.
GPCI—Geographic practice cost index.
HCFA—Health Care Financing Administration.
HCPCS—HCFA Common Procedure Coding System.
HHS—[Department of] Health and Human Services.
HUD—[Department of] Housing and Urban Development.
IDTF—Independent Diagnostic Testing Facility.
IPL—Independent Physiological Laboratory.
MEI—Medicare Economic Index.
MRI—Magnetic resonance imaging.
OBRA—Omnibus Budget Reconciliation Act.
PC—Professional component.
RUC—[AMA's Specialty Society] Relative [Value] Update Committee.
RVU—Relative value unit.
TC—Technical component.

I. Background

A. Legislative History

Since January 1, 1992, Medicare has paid for physician services under section 1848 of the Social Security Act (the Act), "Payment for Physicians' Services." This section contains three major elements: (1) A fee schedule for the payment of physician services; (2) a method to control the rates of increase in Medicare expenditures for physicians' services; and (3) limits on the amounts that nonparticipating physicians can charge beneficiaries. The Act requires that payments under the fee schedule be based on national uniform relative value units (RVUs) based on the resources used in furnishing a service. Section 1848(c) of the Act requires that national RVUs be established for physician work, practice expense, and malpractice expense.

Section 1848(c)(2)(B)(ii)(II) of the Act provides that adjustments in RVUs because of changes resulting from a review of those RVUs may not cause total physician fee schedule payments to differ by more than $20 million from what they would have been had the adjustments not been made. As noted above, if this tolerance is exceeded, we must make an adjustment to the conversion factor (CF) to preserve budget neutrality.

Section 1848(e)(1)(C) of the Act requires us to review and, if necessary, adjust the geographic practice cost indices (GPCIs) at least every 3 years. This section also requires us to phase in the adjustment over 2 years and implement only one-half of any adjustment if more than 1 year has elapsed since the last GPCI revision. The GPCIs were first implemented in 1992 and were reviewed and revised in 1995. Thus, we are required to complete the second GPCI review and implement only one-half of any adjustment by 1998 and one-half in 1999.

The Act requires that payments vary among fee schedule areas according to geographic indices. In general, the fee schedule areas that existed under the prior reasonable charge system were retained under the fee schedule. A detailed discussion of fee schedule areas can be found in the June 5, 1991 proposed rule (56 FR 25832) and in the November 25, 1991 final rule (56 FR 59514). We are required by section 1848(e)(1)(A) of the Act to develop separate indices to measure relative cost differences among fee schedule areas compared to the national average for each of the three fee schedule components. While requiring that the practice expense GPCIs and malpractice GPCIs reflect the full relative cost differences, the Act requires that the work indices reflect only one-quarter of the relative cost differences compared to the national average.

B. Published Changes to the Fee Schedule

In the June 18, 1997 proposed rule (62 FR 33159), we listed all of the final rules published through November 22, 1996 relating to the updates to the RVUs and revisions to payment policies under the physician fee schedule. In the June 1997 proposed rule (62 FR 33158), we discussed several policy options affecting Medicare payment for physicians' services including resource-based practice expense RVUs, geographic practice cost index changes, clinical psychologist services, supervision of diagnostic tests, establishment of independent diagnostic testing facilities, the methodology used to develop reasonable compensation equivalent limits, payment to participating and nonparticipating suppliers, global surgical services, caloric vestibular testing, clinical consultations, and payments based on actual charges.

This final rule affects the regulations set forth at part 400, which consists of an introduction and definitions; part 405, which consists of regulations on Federal health insurance for the aged and disabled; part 410, which consists of regulations pertaining to supplementary medical insurance benefits (Part B); part 411, which consists of regulations pertaining to exclusions from Medicare and limitations on Medicare payment; and part 414, which consists of regulations pertaining to the payment for Part B medical and other health services. It also discusses changes to work RVUs affecting payment of physician services. The information in this final rule updates information in the June 18, 1997 proposed rule (62 FR 33158).

C. Components of the Fee Schedule Payment Amounts

Under the formula set forth in section 1848(b)(1) of the Act, the payment amount for each service paid for under the physician fee schedule is the product of three factors: (1) A nationally uniform relative value for the service; (2) a geographic adjustment factor (GAF) for each physician fee schedule area; and (3) a nationally uniform CF for the service. The CF converts the relative values into payment amounts.

For each physician fee schedule service, there are three relative values: (1) An RVU for physician work; (2) an RVU for practice expense; and (3) an RVU for malpractice expense. For each of these components of the fee schedule there is a GPCI for each fee schedule area. The GPCIs reflect the relative costs of practice expenses, malpractice insurance, and physician work in an area compared to the national average for each component.

The general formula for calculating the Medicare fee schedule amount for a given service in a given fee schedule area can be expressed as:

$$\text{Payment}=[(RVU_{work}\times_{work\ adjuster}\times GPCI_{(work)})+(RVU_{practice\ expense}\times GPCI_{(practice\ expense)})+(RVU_{malpractice}\times GPCI_{(malpractice)})\times CF]$$

The CF for calendar year 1998 appears in Addendum A. The RVUs for calendar year 1998 are in Addendum B. The GPCIs for calendar year 1998 are in Addendum E.

Section 1848(e) of the Act requires the Secretary to develop GAFs for all physician fee schedule areas. The total GAF for a fee schedule area is equal to a weighted average of the individual GPCIs for each of the three components of the service. Thus, the GPCIs reflect the relative costs of practice expenses, malpractice insurance, and physician work in an area compared to the national average. In accordance with the law, however, the GAF for the physician's work reflects one-quarter of the relative cost of physician's work compared to the national average.

D. Summary of the Development of the Relative Value Units

1. Work Relative Value Units

Approximately 7,500 codes represent services included in the physician fee schedule. The work RVUs established for the implementation of the fee schedule in January 1992 were developed with extensive input from the physician community. The original work RVUs for most codes were developed by a research team at the Harvard School of Public Health in a cooperative agreement with us. In constructing the vignettes for the original RVUs, Harvard worked with panels of expert physicians and obtained input from physicians from numerous specialties.

The RVUs for radiology services are based on the American College of Radiology relative value scale, which we integrated into the overall physician fee schedule. The RVUs for anesthesia services are based on RVUs from a uniform relative value guide. We established a separate CF for anesthesia services while we continue to recognize time as a factor in determining payment for these services. As a result, there is a separate payment system for anesthesia services.

Proposed RVUs for services were published in a proposed rule in the Federal Register on June 5, 1991 (56 FR 25792). We responded to the comments in the November 25, 1991 final rule. Since many of the RVUs were published for the first time in the final rule, we considered the RVUs to be interim during the first year of the fee schedule and gave the public 120 days to comment on all work RVUs. In response to the final rule, we received comments on approximately 1,000 services. We responded to those comments and listed the new RVUs in the November 25, 1992 notice for the 1993 fee schedule for physicians' services. We considered these RVUs to be final and did not request comments on them.

The November 25, 1992 notice (57 FR 55914) also discussed the process used to establish work RVUs for codes that were new or revised in 1993. The RVUs for these codes, which were listed in Addendum C of the November 25, 1992 notice, were considered interim in 1993 and open to comment through January 26, 1993.

We responded to comments received on RVUs listed in Addendum C of the November 25, 1992 notice (57 FR 56152) in the December 2, 1993 final rule (58 FR 63647) for the 1994 physician fee schedule. The December 2, 1993 final rule discussed the process used to establish RVUs for codes that were new or revised for 1994. The RVUs for these codes, which are listed in Addendum C of the December 2, 1993 final rule (58 FR 63842), were considered interim in 1994 and open to comment through January 31, 1994. We proposed RVUs for some non-Medicare and carrier-priced codes in our June 24, 1994 proposed rule (59 FR 32760). Codes listed in Table 1 of the June 1994 proposed rule were open to comment. These comments, in addition to comments on RVUs published as interim in the December 2, 1993 final rule were addressed in the December 8, 1994 final rule (59 FR 63432). In addition, the December 8, 1994 final rule discussed the process used to establish RVUs for codes that were new or revised for 1995. Interim RVUs for new or revised procedure codes were open to comment. Comments were also accepted on all RVUs considered under the 5-year refinement process. The December 8, 1995 final rule (60 FR 63124) addressed comments on RVUs published as interim in the December 8, 1994 final rule. In addition, the December 8, 1995 final rule discussed the process used to establish RVUs for codes that were new or revised for 1996. The November 22, 1996 final rule (61 FR 59490) addressed all comments received in response to our May 3, 1996 proposed notice (61 FR 19992) on the 5-year review of work RVUs, finalized the 1996 interim work RVUs, and issued interim RVUs for new and revised procedure codes for 1997.

2. Practice Expense and Malpractice Expense Relative Value Units

Section 1848(c)(2)(C) of the Act required that the practice expense and malpractice expense RVUs equal the product of the base allowed charges and the practice expense and malpractice percentages for the service. Base allowed charges are defined as the national average allowed charges for the service furnished during 1991, as estimated using the most recent data available. For most services, we used 1989 charge data "aged" to reflect the 1991 payment rules, since those were the most recent data available for the 1992 fee schedule.

Section 121 of the Social Security Act Amendments of 1994 (Pub. L. 103–432), enacted on October 31, 1994, and amended by the BBA 1997, requires us to develop a methodology for a resource-based system for determining practice expense RVUs for each physician service. In developing the methodology, we considered the staff, equipment, and supplies used in providing medical and surgical services in various settings. The legislation required the new payment methodology to be phased in over 4 years, effective for services furnished in 1999.

II. Specific Proposals for Calendar Year 1998

In response to the publication of the June 1997 proposed rule, we received approximately 8,600 comments. We received comments from individual physicians, health care workers, and professional associations and societies. The majority of the comments addressed the proposals related to resource-based practice expense RVUs, supervision of diagnostic tests, and payments based on actual charges.

The proposed rule discussed policies that affect the number of RVUs on which payment for certain services would be based. Certain changes implemented through this final rule are subject to the $20 million limitation on annual adjustments contained in section 1848(c)(2)(B) of the Act.

After reviewing the comments and determining the policies we will implement, we have estimated the costs and savings of these policies and added those costs and savings to the estimated costs associated with any other changes in RVUs for 1998. We discuss in detail the effects of these changes in the

Regulatory Impact Analysis (section VIII).

For the convenience of the reader, the headings for the policy issues in section II correspond to the headings used in the June 1997 proposed rule (62 FR 33158). More detailed background information for each issue can be found in the June 1997 proposed rule.

A. Resource-Based Practice Expense Relative Value Units

Section 121 of the Social Security Act Amendments of 1994 (Public Law 103–432), enacted on October 31, 1994, requires us to develop a methodology for a resource-based system for determining practice expense RVUs for each physician service. The June 1997 proposed rule (62 FR 33160), contained the proposed resource-based practice expense RVUs. We received a substantial number of comments on our proposal, both favorable and unfavorable.

Before the close of the comment period on August 18, 1997, the Balanced Budget Act (BBA) of 1997 (Pub. L. 105–33) was enacted on August 5, 1997. The BBA 1997 delayed implementation of the resource-based practice expense system until 1998. The BBA 1997 contained additional requirements.

1. Phased-in Implementation

Instead of paying for all services entirely under a resource-based practice expense system in 1998, the system will be implemented over a 4-year period. The practice expense RVUs for 1999 will be based on the product of 75 percent of the previous year's practice expense RVUs (1998) and 25 percent of the resource-based practice expense RVUs. For the year 2000, the percentages will be 50 percent of the charge-based practice expense RVUs and 50 percent of the resource-based practice expense RVUs. For 2001, the percentages will be 25 percent of the charge-based practice expense RVUs and 75 percent of the resource-based practice expense RVUs. For subsequent years, the RVUs will be based totally on resource-based practice expense RVUs.

2. Adjustment for Practice Expense Relative Value Units for 1998

Section 4505 of the BBA 1997 specifies the manner in which practice expense RVUs in 1998 are adjusted.

Section 4505 of the BBA 1997 enacted a provision that would in 1998 redistribute practice expense RVUs in the direction of the resource-based RVUs that are to be implemented in 1999. The 1998 practice expense RVUs for certain services are reduced to 110 percent of their work RVUs for the service, and the monies are used to raise the practice expense RVUs for office visit procedures. (Section 4505 of the BBA 1997 also gives us the authority to adjust this percentage if the aggregate amount of reductions exceeds $390 million. Since the application of the 110 percent results in reductions of approximately $330 million, no further adjustment is necessary.) A detailed discussion of this provisions is discussed in section III, "Implementation of the Balanced Budget Act of 1997."

3. Additional Provisions

Several additional provisions relating to the development of resource-based practice expense RVUs will be published in the **Federal Register** in the spring of 1998. These provisions will be discussed in a notice of intent to regulate that is being published elsewhere in this issue of the **Federal Register**.

We are not adopting the resource-based practice expense system proposal published in the June 1997 proposed rule. However, we will publish a new proposed rule in the spring of 1998 with a new set of resource-based practice expense RVUs.

B. Geographic Practice Cost Index Changes

The Act requires that payments vary among fee schedule areas to the extent that resource costs vary as measured by the GPCIs. As stated earlier, section 1848(e)(1)(C) of the Act requires us to review and, if necessary, adjust the GPCIs at least every 3 years. This section of the Act also requires us to phase in the adjustment over 2 years and implement only one-half of any adjustment in the first year if more than 1 year has elapsed since the last GPCI revision. The GPCIs were first implemented in 1992, and the first review and revision was implemented in 1995. (A detailed discussion of the development of the GPCIs and references to obtaining studies on the development of the GPCIs can be found in the June 1997 proposed rule (62 FR 33172.)

The 1998 through 2000 GPCIs represent the second GPCI update. The 1999 GPCIs (Addendum D) are the fully revised GPCIs. The 1998 GPCIs (Addendum E) represent the one-half transition GPCIs. Addendum F shows the estimated effects on area payments of the fully revised 1999 GPCIs. The payment effects in 1998 will be about one-half of these amounts.

The same data sources and methodology used for the 1995 through 1997 GPCIs were used for the 1998 through 2000 GPCIs with a few very minor modifications. No acceptable additional data sources were found.

1. Work Geographic Practice Cost Indices

The work GPCIs are based on the decennial census. The 1992 through 1994 work GPCIs were based on 1980 census data, because 1990 census data were not yet available. The work GPCIs were revised in 1995 with new data from the 1990 census. New census data will not be available again until after the 2000 census. We searched for other data that would enable us to update the work GPCIs between the decennial census. No acceptable data sources were found.

Therefore, we are making no changes in the work GPCIs, other than the generally negligible changes resulting from using 1994, rather than 1992, RVUs in mapping counties to localities for this GPCI update. We believe it is preferable to make no changes rather than making inaccurate changes based on unacceptable data. We believe that this is a particularly reasonable position given the generally small magnitude of the changes in payments resulting from the changes in the work GPCIs from the 1980 to the 1990 census data.

2. Practice Expense Geographic Practice Cost Indices

a. Employee Wage Indices. As with the work GPCIs, the employee wage portion of the practice expense GPCIs is based on decennial census data. Like the work GPCIs, the employee wage indices are not being changed during this GPCI update.

b. Rent Indices. The office rental indices are again based on HUD residential rent data. The revised rental indices are based on 1996 HUD data as opposed to 1994 HUD data used in the 1995 through 1997 GPCIs.

c. Medical Equipment, Supplies, and Miscellaneous Expenses. As with the 1992 through 1994 and 1995 through 1997 GPCIs, this component was given a national value of 1.000, indicating no measurable difference among areas in costs. (For previously published **Federal Register** documents that discuss these issues, see section I.B. of this final rule, "Published Changes to the Fee Schedule.")

3. Malpractice Geographic Practice Cost Indices

Again, malpractice premium data were collected for a mature "claims made" policy with $1 million to $3 million limits of coverage, with adjustments made for mandatory patient compensation funds. The proposed malpractice indices were based on 1992 through 1994 premium data, the latest years available when this study was being conducted in 1995 through 1996, compared to the 1990 through 1992 data used in the current 1995 through 1997 indices.

Fee schedule areas are described by carrier and locality number with a short geographic description such as "Atlanta." We received numerous inquiries about the geographic areas that comprise our fee schedule areas. Addendum G lists alphabetically by State and fee schedule area the counties included in each fee schedule area.

Comment: The majority of commenters expressed concern about the continued use of proxy data, especially the HUD residential rent data, rather than commercial rent data, in the GPCIs. They suggested we collect actual data on physician earnings and expenses.

Response: In both the 1995 and this GPCI revision we conducted an extensive search for alternative data sources as well as for more recent data. The search led us to conclude that the current GPCI proxies are still the best available data to measure practice cost differences among areas. As stated in all previous proposed and final rules on the GPCIs, the actual earnings of physicians were not used to adjust geographical differences in fees because these fees are, in large part, the determinants of the earnings. That is, the use of actual physician earnings would be "circular." As also discussed in all previous proposed and final rules on the GPCIs, no acceptable sources of commercial rent data were found.

We believe the current GPCI data sources are an accurate reflection of area practice cost differences. We believe physician earnings will vary among areas as do the earnings of other highly educated professionals, and commercial rents will vary among areas as do residential rents. The employee wage portion of the GPCIs is based on census data on the actual earnings of the type of employees found in physicians' offices. The malpractice index is based on actual malpractice premiums. The current GPCI data sources reflect costs across the country and are updated on a regular basis. Any data collection of actual physician costs of sufficient breadth to cover all counties and be updated on a regular basis would be massive and extremely costly. We are unconvinced that such an effort would produce a result so significantly at variance with the present GPCIs as to justify the resources required to collect the data.

Comment: Commenters stated that there should be no geographic payment differences under the physician fee schedule. They believe that in a national program with the same Medicare Part B premium everywhere, that equivalent services should have equivalent payment regardless of geographic area.

Response: Section 1848(e)(1)(A) of the Act requires that payments vary among areas as resource costs vary as reflected by the GPCIs.

Comment: One commenter stated that the GPCIs did not accurately reflect area cost differences because uniform GPCI component cost share weights were used. The commenter stated that use of the same cost shares everywhere fails to recognize that component weights might vary among areas, specialties, and services depending upon factors such as case mix, availability of other health care resources, and individual practice styles.

Response: We agree that different specialties and individual practitioners utilize resources differently and may have expenses in different proportions from the component weights used in the GPCIs as discussed in the June 1997 proposed rule at 62 FR 33172. The physician fee schedule was established in 1992 specifically to eliminate the large unjustifiable payment differences that existed among services, specialties, and geographic areas by establishing a uniform national payment system. Payments under the physician fee schedule are based on uniform national RVUs for a service and a national dollar conversion factor and can vary only as area resource costs vary as demonstrated by the GPCIs. The law prohibits any specialty payment differential. The RVUs for a service represent the typical service. The GPCI component weights represent the average practice expense component weights across all physician specialties and are intended to reflect average costs across all services and specialties in an area and not to reflect exactly the costs of each individual practitioner. Thus, physician fee schedule payments are designed by law to reflect the resources involved with provision of the typical service across all specialties and physicians in an area. It would not be in keeping with the intent of the law nor would it be practical or desirable in a national program to attempt to recognize individual practice patterns.

Comment: One commenter stated that contrary to the GPCIs, which show that costs tend to be higher in urban areas, rural physicians may actually have higher costs than urban or suburban physicians. The commenter attributed this to such factors as higher shipping costs, higher equipment maintenance costs, higher continuing education costs, and less efficient use of medical equipment.

Response: While we have heard this argument since the inception of the physician fee schedule, we have no data demonstrating that physicians in rural areas have higher costs of practice than physicians in urban or suburban areas. Physician work, rents, employee wages, and malpractice insurance represent about 86 percent of physician costs as reflected in the GPCIs. Our data show that wages, both physician wages as reflected by wages of other highly educated professionals and the wages of medical and clerical personnel in physicians' offices, and rents are higher in urban and suburban areas than in rural areas. While malpractice premiums are the same statewide in many States, in those States where premiums do vary geographically they are higher in urban areas. The types of expenses mentioned as higher in rural areas, continuing education, higher shipping costs, higher equipment maintenance costs, and less efficient use of equipment, represent only a very small portion of physician practice costs.

Comment: One commenter recommended that changes in malpractice GPCIs reflect actual changes in costs from year to year.

Response: We interpret this comment to mean that the malpractice GPCIs should reflect actual changes in malpractice premiums from the prior year. That is, the 1998 malpractice GPCIs should reflect actual changes in malpractice premiums from 1997 to 1998, and the malpractice GPCIs should be changed each year to reflect annual premium changes. The law requires that we review and revise the GPCIs at least every 3 years. This revision involves substantial data collection and analysis and must be published in a proposed rule. For example, the last GPCI revision was in 1995, meaning that the next revision is required in 1998. This requires publication of the proposed changes in the **Federal Register** in early 1997 to allow for public comment. To meet this timeframe, data collection begins in 1995 to allow time for data analysis and drafting of the proposed rule. Therefore, given the time frame for the process to utilize updated data, this is the most current data that could be used. Thus, the revised malpractice GPCIs are based on 1992 through 1994 malpractice premium data, the most recent data available at the time the revision process was begun in 1995. As discussed in the proposed rule, we use a 3-year average rather than the most recent single year of malpractice data to smooth the annual volatility of

malpractice premiums and present a more accurate indication of malpractice premium trends over time. We do not plan to revise the GPCIs more frequently than every 3 years as required by law.

Result of evaluation of comments: The GPCIs proposed on June 18, 1997 will be effective beginning in 1998.

C. Fee Schedule for Clinical Psychologist Services

1. Background

Until 1997, the fee schedule for clinical psychologist services was a locality-based fee schedule developed by the individual Medicare carriers. The Medicare carriers established the locality-based fee schedule in 1988 after section 4077(b) of the Omnibus Budget Reconciliation Act of 1987 (OBRA 1987) (Public Law 100–203), enacted on December 22, 1987, first provided for direct payment for clinical psychologist services furnished in a community mental health center. Section 4077(b)(3)(D) of OBRA 1987 amended section 1833(a)(1) of the Act by providing that payment for clinical psychologist services be based at 80 percent of the lower of the actual charge or a fee schedule.

The Act provides that the Secretary determine the fee schedule. As a result, we furnished guidance to all Medicare Part B carriers to establish the initial, that is, baseline, clinical psychologist fee schedule as follows:

- Set the fee schedule for therapeutic services at 80 percent of the adjusted prevailing charge for participating psychiatrists in a locality; and
- Set the fee schedule for diagnostic services at 90 percent of the adjusted prevailing charge for participating psychologists in a locality.

We also advised the Medicare Part B carriers to update the clinical psychologist fee schedule in subsequent years by the annual change in the Consumer Price Index for All Urban Consumers (CPI–U). We adopted the CPI–U to update the clinical psychologist fee schedule because it was the economic index used for updating most other nonphysician practitioner charges at that time.

Since that time, there have been two significant changes to the fee schedule for clinical psychologist services. First, effective January 1, 1992, we implemented the policy to base payment for psychological testing services furnished by clinical psychologists on the amounts in the physician fee schedule. Second, effective January 1, 1997, we linked the fee schedule for clinical psychologist services to the physician fee schedule in the same manner as for most other health care practitioner services. We describe these changes in more detail in the sections that follow.

2. Legislative Changes

Although section 4077(b) of OBRA 1987 provided for clinical psychologist services as separately payable under Medicare Part B under a fee schedule, direct payment was limited to services furnished in community mental health centers. Subsequent amendments to the law expanded the scope of the benefit. These amendments were discussed in a related **Federal Register** document described in section II.C.4. below.

3. Physician Payment Reform

As noted in section I.A., since January 1, 1992, Medicare Part B has paid for physician services based on a fee schedule. Until 1992, physician services had been paid on the basis of a reasonable charge system. This system led to significant payment variations among types of services, physician specialties, and localities. Section 6102 of OBRA 1989 added a new section 1848 to the Act, "Payment for Physicians" Services," which replaced the reasonable charge system with a fee schedule that reflected the resources required to perform a given service. Although this legislation linked the payment methodology for most practitioner services to the physician fee schedule, it did not address payment for clinical psychologist services. Nevertheless, because amounts established under the physician fee schedule for psychological testing were heavily based on combined charge data for psychiatrists and psychologists, we wished to ensure that clinical psychologists would receive 100 percent of the physician fee schedule amount for those services. Therefore, effective January 1, 1992, fee schedule amounts for psychological testing services furnished by clinical psychologists are set at 100 percent of the physician fee schedule. However, before 1997, no change was made to the clinical psychologist fee schedule for therapeutic and other diagnostic services.

4. Related **Federal Register** Document

We discussed several aspects of payment for clinical psychologist services in a proposed rule published in the **Federal Register** on December 29, 1993 (Medicare Coverage and Payment for Clinical Psychologist, Other Psychologist, and Clinical Social Worker Services (BPD–708–P)) (58 FR 68829). That document addressed issues such as coinsurance, the outpatient mental health treatment limitation in section 1833(c) of the Act, and assignment of claims. In the December 1993 proposed rule, we indicated that we would address the calculation of the clinical psychologist fee schedule amounts set forth under section 1833(a)(1)(L) of the Act in a separate proposed rule (58 FR 68837). Below, we discuss establishing the fee schedule for clinical psychologist services as referred to in the December 1993 proposed rule.

5. Policy Pertaining to Clinical Psychologist Services

There are two types of services billed directly to Medicare Part B by clinical psychologists: diagnostic services and therapeutic services. Medicare direct payment for services furnished by clinical psychologists became effective July 1, 1988. From 1988 through 1996, Medicare Part B payment to clinical psychologists for therapeutic services was subject to a locality-based fee schedule calculated by each Medicare carrier. In 1988, the Medicare carriers developed the clinical psychologist fee schedule on the basis of a HCFA analysis of charging practices of psychologists and psychiatrists. Because no Medicare charge data for therapeutic services furnished by clinical psychologists existed at that time, we compared psychologist and psychiatrist charges from other payor sources as a gap-filling measure for Medicare pricing purposes. The resulting clinical psychologist fee schedule amounts for therapeutic services, as shown in section II.C.1. above, were set at 80 percent of the adjusted prevailing charge for similar services of Medicare-participating psychiatrists in the locality. (The "adjusted prevailing charge" for physicians means the locality prevailing charge that is calculated by applying the Medicare Economic Index (MEI) to the base year prevailing charge. In this way, Medicare reasonable charges for physician services are increased above the base year rates only to the extent determined to be justified by appropriate economic data.)

Initially, the fee schedule amounts for diagnostic services furnished by clinical psychologists were set at 90 percent of the Medicare prevailing charge for independently practicing psychologists in a locality. In contrast to therapeutic services, Medicare charge data had existed for diagnostic testing because psychological testing furnished by independent psychologists under a physician's order had been covered as "other diagnostic tests" under section 1861(s)(3) of the Act.

The amounts established under the physician fee schedule for diagnostic psychological testing were largely based on blended charge data for both psychologists and physicians. Furthermore, because psychologists are the predominant suppliers of psychological testing services, the physician fee schedule amounts for those services were based in large part on psychologist charge data. In the November 25, 1991 final rule that established the physician fee schedule, we stated (56 FR 59507) that diagnostic tests furnished by clinical psychologists would be paid under the physician fee schedule. Since January 1, 1992, amounts for diagnostic psychological testing services furnished by psychologists are equivalent to the amounts established under the physician fee schedule authorized by section 1848 of the Act. (Diagnostic psychological testing services are listed in the Physicians' Current Procedural Terminology (CPT) '97 as CPT codes 96100 through 96117.)

A variety of health care practitioners under Medicare have payment levels that are tied, by law, to the physician fee schedule. These practitioners include nurse practitioners, nurse midwives, and physician assistants. We believe that it is also appropriate to establish a clinical psychologist fee schedule that is linked to the physician fee schedule. The implementation of 24 new billing codes for psychotherapy services effective January 1, 1997 required us to establish relative values under the physician fee schedule for each code. We established the clinical psychologist fee schedule value for all services at 100 percent of the physician fee schedule amount for the corresponding service. Consequently, this rule sets forth the fee schedule for covered clinical psychologist services at 100 percent of the physician fee schedule amount for the corresponding service. The rationale for this payment level appears in section II.C.6. below. Although this payment policy was implemented January 1, 1997, we are including it in this final rule in order to codify in regulations the methodology for the clinical psychologist fee schedule.

6. Rationale and Alternatives Considered

As noted in section II.C.1., we recommended in 1988 that Medicare carriers set clinical psychologist fee schedule amounts for therapeutic services at 80 percent of the MEI-adjusted prevailing charge for psychiatrists. That level had been primarily based on the fee differential found in a review of psychologist and psychiatrist fees from 1985 through 1988.

Effective January 1, 1992, physicians' services are paid under a resource-based fee schedule rather than a reasonable charge methodology. The physician fee schedule establishes payment amounts for all physician services as defined in section 1848(j)(3) of the Act. One effect of the physician fee schedule is that payment for physician services is now standardized. We believe that the clinical psychologist fee schedule amounts for therapeutic services should be tied to the physician fee schedule.

As noted earlier, effective for services furnished on or after January 1, 1992, payment for diagnostic psychological tests furnished by clinical psychologists is based on the physician fee schedule. The clinical psychologist fee schedule for therapeutic services, which was in use until January 1, 1997, was not resource-based but was derived from the initial linkage between psychologist and psychiatrist prevailing charges. However, with the implementation of the physician fee schedule, prevailing charges no longer apply for physician services. Furthermore, because the prevailing charge was based on actual charging patterns, it frequently resulted in large differences in charges from one area to another. With implementation of the physician fee schedule, the GAF used to adjust the RVUs for physician services has changed the geographic distribution of fees. The purpose of the GAF is to recognize only justifiable differences in the cost of operating a medical practice in different areas.

Finally, once the clinical psychologist fee schedule is linked directly to the physician fee schedule, the annual physician update factor used to update fees for clinical psychologist services will be the same as the index used to update fees for physicians and other health care practitioners. The following table illustrates that, for the years between 1989 through 1991 (during which the prevailing charge system applied), the CPI–U update factor exceeded the congressionally imposed limits on the MEI that was used to adjust Medicare prevailing charges for nonprimary care physician services:

Annual increase	1989 (percent)	1990 (percent)	1991 (percent)
CPI–U	4.0	5.2	4.7
MEI (for other than primary care)	1.0	2.0	0.0

Using a hypothetical prevailing charge of $100 for psychiatrists in 1988, we illustrate the relationship of the clinical psychologist fee schedule to psychiatrist prevailing charges in 1991 in the following table:

	1989	1990	1991
Psychiatrists (1988 prevailing charge = $100):			
MEI update factor	1.01	1.02	1.00
Updated prevailing charge	$101.01	$103.02	$103.02
Clinical Psychologists (1988 fee = $80):			
CPI–U update factor	1.04	1.052	1.047
Updated fee	$83.20	$87.53	$91.64
Psychologist/Psychiatrist (1988 = 80%)	82.4%	85.0%	89.0%

By 1991, the combined effect of using the CPI–U to update the clinical psychologist fee schedule and the MEI to update psychiatrist prevailing charges resulted in a clinical psychologist fee schedule that was equivalent to 89 percent of the psychiatrist prevailing charge. Additionally, implementation of the physician fee schedule resulted in slight payment decreases for psychiatrist services in 1992. In 1993 and 1994, moreover, the physician fee schedule amounts for nonsurgical services other than primary care services were increased by 0.8 percent and 5.3 percent, respectively. By comparison, during the first 3 years that the physician fee schedule was in effect, clinical psychologist fee schedule amounts increased by 4.7 percent, 3.1 percent, and 3.0 percent, respectively, for 1992, 1993, and 1994, because clinical psychologist fee schedule amounts were adjusted by a different economic index, the Consumer Price Index (CPI). Consequently, through 1994, clinical psychologist fee schedule increases outpaced those for physicians furnishing nonsurgical services other than primary care as well as those for

other nonphysician practitioners whose payments are tied to the physician fee schedule.

The combined effect of all these factors is that the clinical psychologist fee schedule no longer reflected the original fee differentials between psychologists and psychiatrists that had been found in the health care marketplace and factored into the initial clinical psychologist fee schedule. As a result, the clinical psychologist fee schedule was marked by disparities with the physician fee schedule for similar services as well as by wide geographic variations that reflected historical charging patterns in different areas.

We had previously considered setting the clinical psychologist fee schedule at the level established under the physician fee schedule for similar services. However, at that time, the CPT descriptors for individual psychotherapy services (CPT codes 90841 through 90844) included the term "* * * [with] continuing medical diagnostic evaluation, and drug management, when indicated." These are medical aspects of a psychotherapeutic service that are outside the scope of clinical psychologist licensure. Therefore, we were concerned that it would be inappropriate to set the clinical psychologist fee schedule amounts at the same level as the physician fee schedule when clinical psychologists were unable to perform the full service described in the codes.

During 1996, as part of the statutorily mandated 5-year refinement of the RVUs for the physician fee schedule, the American Medical Association's (AMA's) Specialty Society Relative Value Scale Update Committee (RUC) recommended increases for a number of psychotherapy codes. (The RUC, which is comprised of representatives of various medical specialty societies, the AMA, the American Osteopathic Association, and the CPT Editorial Panel, makes recommendations to us concerning the assignment of RVUs to new and revised CPT codes.) As a prelude to accepting the RUC recommendations, we examined the coding of psychiatry services. We concluded that the CPT code descriptors for individual psychotherapy needed to be changed to define the service more clearly, recognize the variations in work associated with different types of psychotherapy as well as the settings in which the types of psychotherapy are furnished, and assign face-to-face time values for the service. As a result, effective January 1, 1997, CPT codes 90842, 90843, 90844, and 90855 for individual psychotherapy are no longer recognized for Medicare purposes. These codes have been replaced by 24 alphanumeric codes that include 12 codes for therapy furnished in the office and other outpatient settings and 12 codes for therapy furnished in inpatient hospital, partial hospital, or residential care settings. These two categories were further broken down into the types of psychotherapy services. A full listing and discussion of these codes was included in the final rule (Medicare Program; Revisions to Payment Policies and Five-Year Review of and Adjustments to the Relative Value Units Under the Physician Fee Schedule for Calendar Year 1997 (BPD–852–FC)), published November 22, 1996. (See 61 FR 59521 through 59523.)

One of the effects of the coding system changes for psychiatric services is that now there are codes for reporting psychotherapy both with and without medical evaluation and management services. Under Medicare, clinical psychologists may bill for individual psychotherapy without medical evaluation and management services. Consequently, when clinical psychologists bill for individual psychotherapy without medical evaluation and management, those services are equivalent to individual psychotherapy without medical evaluation and management services when furnished by a physician. As a result, we believe that it is both reasonable and equitable to pay clinical psychologists the same amount as physicians for equivalent services.

Alternatively, we considered retaining the previous clinical psychologist fee schedule for therapeutic services. We also considered setting the clinical psychologist fee schedule at a level other than 100 percent of the physician fee schedule. However, we rejected these options because the resulting fee schedule amounts would have essentially continued to be derived from physician prevailing charges, which are no longer relevant under the physician fee schedule and would only serve to perpetuate geographic variations in charges that are a residual effect of the reasonable charge payment system.

We received a few comments on the clinical psychologist fee schedule from five separate major professional associations and federations at the national and State level.

Comment: One commenter urged us to develop an equitable payment methodology for clinical social workers that takes into account the practitioner's investment in education and training, office expenses, and malpractice costs instead of a methodology that is based on a percentage of what is paid to another nonphysician provider. The commenter noted that payment for clinical social worker services seems to be the only instance under the Medicare statute where one G48 nonphysician's payment rate is tied to that of another nonphysician provider.

Response: The Medicare statute requires that payment be made to clinical social workers at 80 percent of the lesser of the actual charge for the services or 75 percent of the amount determined for payment for clinical psychologist services. Under the circumstances, it would be inappropriate to develop an alternative payment amount for clinical social worker services.

Comment: Several commenters stated that they are pleased that we have addressed the problem of the clinical psychologist fee schedule and the inequitable situation that in some areas of the country fees for psychology services were higher than the fees for the same services provided by a psychiatrist. Accordingly, these commenters are supportive of our requirement that psychologists may bill only for psychotherapy without medical evaluation and management. However, two of the commenters suggested that we consider our policy of a fee schedule for psychologists' services set at 100 percent of the physician fee schedule amount to be an interim policy, pending completion of ongoing survey work and the RUC's deliberations. Completion of the RUC's review of the work involved in the new codes will help inform decision makers about whether the coding changes and RVUs have adequately captured the resource cost differences between psychotherapy provided by psychiatrists and that provided by psychologists.

Additionally, one of these commenters stated that it is illogical to permit psychologists to be paid at 100 percent of the physician fee schedule for comparable services using the same malpractice expense RVUs assigned to physician codes. Malpractice insurance premiums for psychologists are as low as 10 percent of the premiums charged to leading psychiatrists. Even when psychiatrists provide psychotherapy without evaluation and management, their professional standard of care exceeds the standard of care applicable to psychologists. Psychologists do not have the same responsibility as psychiatrists in terms of being accountable for failure to furnish medications or recognize a non-psychiatric medical condition when providing psychotherapy without medical evaluation and management. Accordingly, this commenter believes that the malpractice expense and practice expense associated with the significantly higher standard of care required of psychiatrists requires that we set payment for psychologists' services at less than 100 percent of the physician fee schedule amount.

Response: The temporary psychotherapy "G" HCFA Common Procedure Coding System (HCPCS) codes (G0071 through G0094) were implemented as interim codes, and the RUC-recommended RVUs for these services were also considered as interim. Although these temporary "G" codes will be crosswalked directly to permanent numeric HCPCS codes effective January 1, 1998, the codes and the assigned RVUs will continue to be considered interim.

We believe that, for the most part, we have addressed the situation when malpractice insurance premiums for psychiatrists are higher than the cost of malpractice insurance for psychologists by establishing an entire set of psychotherapy codes that are exclusive to physicians that psychologists are precluded from billing under the Medicare program. We established this set of codes because the services that both physicians and psychologists can furnish are probably not the services that are contributing to the psychiatrist's higher malpractice costs. The services that are reserved to physicians alone are those involving medications and complexities that would contribute to the higher malpractice costs.

Comment: One commenter expressed that it has a major concern about our continued exclusion of psychologists from the use of CPT evaluation and management codes as well as the "G" HCPCS codes that encompass an evaluation and management component. The commenter believes that we should remove our longstanding restriction on the use of these codes by psychologists and, instead, incorporate into our coding system a realistic reflection of the present day practice of psychology.

Moreover, the commenter believes that since psychologists play an important evaluative role, we should seriously reconsider our longstanding exclusionary policy and permit payment to psychologists for evaluation and management codes that represent services that psychologists are already providing under the Medicare program.

Response: We believe that the CPT diagnostic psychological testing CPT codes 96100 through 96117 and the CPT psychotherapy codes 90801 through 90899 capture the range of mental health services, including nonmedical evaluation services, that clinical psychologists are expected to provide for purposes of the Medicare clinical psychologist benefit and that clinical psychologists are authorized by law to furnish. The evaluation and management services included in the codes that psychologists cannot bill Medicare are services involving *medical* evaluation and management. Psychologists are not licensed to perform these types of services.

Result of evaluation of comments: We are finalizing our proposal to maintain the clinical psychologist fee schedule at 100 percent of the physician fee schedule amount for comparable services. The RVUs for individual psychotherapy services remain in effect on an interim basis.

D. Diagnostic Tests

1. Ordering of Diagnostic Tests

In our November 22, 1996 final rule for the 1997 physician fee schedule (61 FR 59490), we revised § 410.32 (Diagnostic x-ray tests, diagnostic laboratory tests, and other diagnostic tests: Conditions) to state that, to be covered, diagnostic tests had to be ordered by the physician who treats the patient. Section 410.32 contained exceptions for x-rays used by chiropractors to demonstrate the subluxation of the spine and for certain nonphysician practitioners operating within the scope of their statutory benefit and State licenses. We are adding an additional exception to § 410.32 to indicate that a physician who meets the qualification requirements for an interpreting physician under section 354 of the Public Health Service Act as provided in § 410.34 (Mammography services: Conditions for and limitations on coverage), paragraph (a)(7), may order a diagnostic mammogram based on the findings of a screening mammogram even though the physician does not treat the beneficiary. We believe this is appropriate because the Food and Drug Administration, rather than HCFA, is responsible for the conditions under which mammograms are covered. It would also facilitate additional and necessary diagnostic testing to investigate suspicious findings at the time the beneficiary is present at the testing site rather than requiring the beneficiary to return at a later date for follow-up testing.

In addition, commenters have asked about the statutory basis for denial of claims under the ordering rule adopted in the 1996 physician fee schedule final rule. We have determined that tests are not demonstrably reasonable and medically necessary unless they are ordered by the patient's physician who will employ the tests to manage the patient's care. Thus, we are clarifying in § 410.32(a) that the denials are based on the exclusion in section 1862(a)(1)(A) of the Act, and contained in § 411.15(k)(1), that is, the services "are not reasonable and necessary for the diagnosis and treatment of illness or injury or to improve the functioning of a malformed body member." Beneficiaries may be protected from liability for claims denied on this basis by the limitation on liability provision of section 1879 of the Act.

All commenters addressing the proposal to permit certain physicians to order a diagnostic mammogram based on the findings of a screening mammogram even though the physician does not treat the beneficiary enthusiastically supported the proposal. We received no comments on the proposal to clarify that denial of claims by carriers because the tests were not ordered by a physician who uses the findings in the management of the beneficiary's care are based on the reasonable and necessary exclusion in section 1862(a)(1)(A) of the Act and in § 411.15(k)(1).

Below is a discussion of the public comments we received on our proposal relating to ordering of diagnostic tests and our responses:

Comment: Several commenters requested clarification of the applicability of the diagnostic test ordering provision, adopted in the final rule of November 22, 1996, to diagnostic procedures performed in hospital settings: the responses to comments seemed to indicate that, although the intent of the new policy was primarily directed at nonhospital testing, the requirement applied in all settings.

Response: The policy was set forth in § 410.32, which generally addresses diagnostic tests covered under section 1861(s)(3) of the Act and payable by Part B carriers rather than fiscal intermediaries. Regulations other than § 410.32 govern the coverage of diagnostic tests furnished to hospital patients, which are payable through fiscal intermediary payment mechanisms. Specifically, the coverage of diagnostic tests furnished to hospital outpatients is addressed in § 410.28, and the coverage of diagnostic tests furnished to hospital inpatients is addressed in § 409.16. Therefore, the test ordering policy adopted in the final rule of November 22, 1996, effective for procedures furnished beginning January 1, 1997, does not apply to diagnostic tests furnished in hospitals.

Comment: A few commenters expressed concern that manual sections

implementing the ordering rule have not been issued. One commenter indicated that interpreting physicians are in the untenable position of having to choose between performing additional tests they know the patient needs based on the findings of the initial procedure or postponing procedures to ensure that they do not violate HCFA rules. Another indicated that there are times that the referring physician cannot be reached and delaying a procedure would not be in the best interests of the patient.

Response: In adopting the test-ordering proposal, we intended to establish the general principle that, to be covered under Medicare, a diagnostic test must be ordered by a physician who will use the findings in the medical management of the patient. The policy did not require that the order be in writing or instruct carriers to investigate claims prior to payment to ensure the existence of such an order. It was intended for use by carriers in situations in which a problem has been identified, or is strongly suspected, as a basis for recovery of payments for tests that did not meet the reasonable and necessary criteria of section 1862(a)(1)(A) of the Act. In the situations cited by the commenters, we do not think it would be unreasonable to ask for the testing physician to receive authorization from the ordering physician's office (either by phone or FAX) for the additional tests he or she believes to be necessary. Certainly, provision could be made for an emergency situation. We are trying to address situations in which there is a pattern of the testing entity's adding procedures to those ordered by the patient's personal physician.

Comment: Commenters representing the interests of entities that furnish nuclear medicine procedures indicated a continuing problem with the ordering requirement and stated that nuclear medicine physicians, by State and Federal regulations, are the only physicians who can actually order nuclear medicine tests.

Response: We see no conflict between our proposal and State and Federal regulations. However, in order to address these concerns more fully we would need more specific information as to the State and Federal regulations in question.

Comment: A national organization representing psychologists indicated that § 410.32 addresses the ordering and supervision of diagnostic tests and objected to some of the wording relating to nonphysician practitioners, such as clinical psychologists. The commenter pointed out that § 410.32(a)(3) indicates that certain nonphysician practitioners who furnish services that would be physician services if furnished by a physician, and who are operating within the scope of their authority under State law and within the scope of their Medicare statutory benefit, "*may* be treated the same as physicians treating beneficiaries for the purpose of this section." The commenter suggested that the wording be changed to "*shall* be treated the same . . ." because, as written, the wording does not require that these individuals always be treated as physicians for purposes of this section.

Response: The commenter raises an interesting point that we agree needs further clarification. The purpose of § 410.32(a)(3) is to ensure that the nonphysician practitioners in question may *order* tests for the beneficiaries they are treating. (We are adding the same wording to the section on independent diagnostic testing facilities (IDTFs) to clarify that the nonphysician practitioners in question may order diagnostic testing by IDTFs.) However, we did not intend to permit these same nonphysician practitioners to supervise diagnostic testing performed by others. Under the rule we are adopting, all diagnostic tests payable under the physician fee schedule must be performed under the supervision of a physician (as defined in section 1861(r) of the Act) with certain exceptions set forth in § 410.32(b). Therefore, we are modifying the wording of § 410.32(a)(3) to change the last word from "section" to "paragraph." In other words, the nonphysician practitioners are treated as physicians as far as the ordering of tests for the patients they are treating is concerned but not for the other subject of § 410.32, that is, the supervision of the performance of tests. (However, certain nonphysician practitioners may personally *perform* certain diagnostic tests without physician supervision. This subject is addressed in the discussion of the comments on both the physician supervision and IDTF proposals.)

Result of evaluation of comments: We are adopting the proposals (with the wording clarification indicated above) to (1) permit certain physicians to order a diagnostic mammogram based on the findings of a screening mammogram even though the physician does not treat the beneficiary and (2) clarify that carrier denial of claims because the tests were not ordered by a physician who uses the findings in the management of the beneficiary's care are based on the reasonable and necessary exclusion in section 1862(a)(1)(A) of the Act and in § 411.15(k)(1).

2. Supervision of Diagnostic Tests

We are clarifying in § 410.32 the policy on physician supervision of diagnostic x-ray and other diagnostic tests that are payable under the physician fee schedule. (Diagnostic procedures may be split into professional components (PCs) and technical components (TCs) or be TC-only.) The clarification is applicable to the TCs of diagnostic procedures covered under section 1861(s)(3) of the Act (whether billed separately or as part of a "global" charge with the PC) that are furnished in settings in which the Part B carrier pays for the TCs under the physician fee schedule. The coverage of diagnostic procedures furnished to hospital patients is addressed in other regulations and is not affected by this clarification. In addition, diagnostic laboratory tests as described in paragraph (d) of § 410.32 are not affected by this clarification. This final rule represents our judgment that diagnostic procedures are safe and effective only when they are furnished with appropriate physician supervision. Therefore, denials of claims for failure to meet the required level of physician supervision would be based on the exclusion in section 1862(a)(1)(A) of the Act and in § 411.15(k)(1), that is, they "are not reasonable and necessary for the diagnosis and treatment of illness or injury or to improve the functioning of a malformed body member." This means that the beneficiary may be protected under the limitation on liability provisions in section 1879 of the Act.

We believe that the requirements of § 410.32 should be revised because, except for the reference to "other diagnostic tests" in the heading of § 410.32, x-rays are the only diagnostic tests payable under the physician fee schedule that are discussed in the current § 410.32. We are clarifying that some degree of physician supervision is required for every diagnostic test payable under the physician fee schedule with a few exceptions.

Our specific revisions to the regulations are:

- The definition and discussion of the term "general supervision" currently appears only in § 410.32(a)(2) (concerning portable x-ray services). We are clarifying that this level of supervision is the minimal level required for all diagnostic tests payable under the physician fee schedule unless specific exception is made by regulation.
- The definition and discussion of the term "direct supervision" is set forth in revised § 410.32(b)(3)(ii), concerning diagnostic x-ray and other diagnostic tests. We are clarifying that this level of supervision is required for some types of diagnostic procedures that are not x-rays.
- We are incorporating into regulations at § 410.32(b)(3)(iii) the existing policy that there are some diagnostic procedures that require a physician's presence with the patient at the time of performance of the procedure for the procedure to be covered.

We are setting forth a general rule that diagnostic tests payable under the physician fee schedule require at least general supervision (and in some cases either direct or personal supervision, as defined in this final rule) by a physician (as defined in section 1861(r) of the Act). Because of the restrictive definitions in section 1861(r), we believe that nearly all tests will be supervised by doctors of medicine or osteopathy, or, in the case of procedures related to the eyes and consistent with State licensure, doctors of optometry. We do not perceive a significant impact on doctors of dentistry and chiropractic in this regard since Medicare covers limited services for these specialties and we believe diagnostic test supervision will not be an issue for these specialties.

We are excluding three types of diagnostic tests from the physician supervision requirements:

- Diagnostic mammography procedures, which are regulated by the Food and Drug Administration.
- Diagnostic tests personally furnished by a "qualified audiologist" as defined in section 1861(ll)(3) of the Act. These include "audiology services" as defined in section 1861(ll)(2) of the Act that are payable by Medicare carriers under the physician fee schedule. We are excluding these diagnostic tests from the physician supervision requirement because the Congress has defined these services without requiring physician supervision of their performance.
- Diagnostic psychological testing services personally performed by a qualified psychologist practicing independently of an institution, agency, or physician's office as currently defined in section 2070.2 of the Medicare Carriers Manual (HCFA Pub. 14–3). These services are distinguished from services of clinical psychologists, which are covered under section 1861(ii) of the Act, rather than section 1861(s)(3). We are excluding these tests from the physician supervision requirement because we do not believe that these services require physician supervision of their performance.

We are setting forth the policy that the minimal level of physician supervision, which is applicable to all diagnostic procedures payable under the physician fee schedule, with the exceptions cited above, is general supervision. "General supervision" means the procedure is furnished under the physician's overall direction and control, but physician presence is not required during the performance of the procedure. Under general supervision, the training of the nonphysician personnel who actually perform the diagnostic procedure and the maintenance of the necessary equipment and supplies are the continuing responsibility of the physician. Examples of procedures requiring only general physician supervision include the following:

- Plain films (x-rays) involving the extremities, pelvis, vertebral column, or skull.
- Plain films of the chest and abdomen that do not involve the use of contrast media.
- Electrocardiograms except when the code description specifies physician supervision such as with a cardiovascular stress test.
- Ultrasound diagnostic procedures except when the code description specifies a physician's service such as the placement of a probe in the case of transesophageal echocardiography.
- Electroencephalograms, polysomnography, and sleep studies.

We are setting forth the policy that the existing definition of "direct supervision" in § 410.32 be applied to types of services other than diagnostic x-rays. "Direct supervision" in the office setting does not mean that the physician must be present in the room when the procedure is performed; however, the physician must be present in the office suite and immediately available to furnish assistance and direction throughout the performance of the procedure. Examples of diagnostic procedures requiring both general and direct supervision include the following:

- Magnetic resonance imaging, computerized axial tomography, and nuclear medicine procedures.
- Procedures in which contrast materials are used.
- X-rays other than skeletal, abdominal, and chest x-rays cited in the discussion of "general supervision."

We are defining "personal supervision" as follows: "Personal supervision" means a physician must be in attendance in the room during the performance of the procedure. Examples of procedures requiring both general and personal supervision include the following:

- Cardiovascular stress tests including those furnished with nuclear medicine and echocardiography procedures.
- Cardiac catheterization.
- Radiological supervision and interpretation procedures.

Under the changes made to section 1861(s)(3) of the Act by section 145(b) of Public Law 103–432, the Congress has added diagnostic mammography as part of the portable x-ray benefit. Therefore, we are adding diagnostic mammograms (but not screening mammograms) to the list of services a portable x-ray supplier may furnish in § 410.32(c). However, the supplier must meet the certification requirements of section 354 of the Public Health Service Act, as implemented by 21 CFR part 900, subpart B.

These supervision requirements are applicable only for diagnostic tests under section 1861(s)(3) of the Act. Other statutory provisions such as CLIA, the physician self-referral rules, etc., which contain supervisory standards for physicians, are not affected by this rule, and continue to be required, if applicable.

Several commenters who objected to various aspects of the physician supervision proposal were obviously addressing procedures performed in hospitals, and we would like to clarify this situation for them. As pointed out in the first paragraph of the preamble discussion of this proposal in the June 18, 1997 proposed rule (62 FR 33179), we proposed to modify and clarify the policy in § 410.32 on physician supervision of diagnostic procedures that are covered under section 1861(s)(3) of the Act and *payable under the physician fee schedule*. Regulations other than § 410.32 govern the coverage of diagnostic tests furnished to hospital patients. Specifically, the coverage of diagnostic tests furnished to hospital outpatients is addressed in § 410.28, and the coverage of diagnostic tests furnished to hospital inpatients is addressed in § 409.16. Further, this proposal addressed the coverage of the technical component (TC) (including TCs billed with the professional component (PC) of the procedure in a global bill) and other diagnostic procedures that are not split into PC or TC components and that do not have RVUs reflecting physician work. Diagnostic *services* that have physician work RVUs are not "other diagnostic tests" covered under section 1861(s)(3) of the Act but physician services and services incident to a physician's services covered under sections 1861(s)(1) and 1861(s)(2)(A) of the Act. These services are either personally

furnished by the physician or furnished as an "incident to" service. In both cases, the policy has been established and is unaffected by this rule. Either the physician is present because he or she is personally furnishing the service or, in the case of "incident to" services, the physician is in the suite (the same standard as proposed for direct supervision under the proposal) during the time the diagnostic service is performed. To summarize, neither the technical services associated with diagnostic tests furnished in hospitals nor diagnostic service codes containing physician work RVUs (other than global billings) are affected by this proposal.

Comment: Many physician commenters disagreed with our proposal to place diagnostic ultrasound procedures in the category of tests requiring general supervision. We received the following comments:

- Most ultrasound diagnostic procedures should be placed in the direct or personal supervision categories. The requirement for general supervision is not sufficient to achieve the needed degree of physician input in the final product of the ultrasound examination.
- Good ultrasound can only be performed through a working partnership between the technologist and the supervising physician. Commenters pointed out that radiologists frequently will examine the patient in real time to clarify uncertain findings or to further characterize pathology detected during the technologist's examination. If the physician does not go back to scan these patients himself, critical diagnoses would be missed. The common and correct practice of ultrasound is for a technologist to perform the examination and for a physician to check the study before the patient leaves the examining area.
- The performance of ultrasound procedures requires more physician supervision than magnetic resonance imaging (MRIs), computerized axial tomography (CTs), or nuclear medicine procedures.
- One commenter referred to unregulated ultrasound procedures in the U.S. as a "cesspool of poor medical practice."
- One commenter suggested that Medicare should prohibit payments for self-referred sonographic procedures performed by physicians who purchase this equipment for their offices and find reasons to use the equipment on their patients even though they are poorly-trained in the interpretations of the findings.
- Several physicians commented that they often performed these tests personally without a technologist present.

Response: In developing our proposal on levels of physician supervision for out-of-hospital diagnostic testing, we placed ultrasound procedures in the general category on the basis that it was safe to perform these procedures without the presence, either in the room or in the suite, of a physician. However, in determining whether services and procedures are reasonable and necessary, we also consider whether a service or procedure is effective. Based on the comments we received on the proposal, primarily from physicians who utilize ultrasound procedures in diagnosing patients, we have become convinced that the effectiveness of ultrasound procedures is enhanced when the performance of these tests is supervised by a physician who is not only on-site when the procedure is performed, but who also monitors the performance of the procedure. Therefore, we are modifying our proposal and are placing ultrasound diagnostic procedures in the direct category that requires the presence of the physician in the office suite when an individual procedure is performed.

Comment: Some commenters objected to our proposal to place CTs, MRIs, and nuclear medicine procedures in the category of procedures requiring the direct supervision of a physician. Some commenters indicated that CTs and MRIs required direct supervision only when contrast media are used to perform the tests. Commenters suggested that such a requirement would cause a dramatic reduction in the availability of these services furnished through mobile entities in rural areas. It was alleged that the physician supervision requirements contradict those established by the United States Nuclear Regulatory Commission for nuclear medicine procedures. Some commenters indicated that some nuclear medicine procedures required direct supervision, some required only general supervision, and some required a mid-level of supervision in which the physician could monitor the performance of the test by telephone.

Response: Based on the comments received, we have decided to move the required level of supervision for computerized axial tomography procedures (CTs) and magnetic resonance imagery procedures (MRIs) performed without the introduction of contrast media into the category of general supervision. We have become convinced that general supervision by a physician has become the established standard of practice for CTs and MRIs performed without contrast media. CT and MRI procedures in which contrast materials are utilized will remain in the direct category. We are adopting our proposal of direct supervision with regard to all nuclear medicine procedures. (Also, see comment below addressing supervision of nuclear cardiology procedures.)

Comment: Several commenters objected to the assignment of cardiovascular stress tests, including those furnished with nuclear medicine and echocardiography procedures, to the category of tests requiring performance under the personal supervision of a physician. Their comments included the following:

- Cardiovascular stress tests performed by well-trained physician extenders, such as registered nurses and physician assistants, using established protocols and under the direct supervision of a physician have proved to be safe and effective.
- The use of exercise physiologists, B.S.N. degree nurses, or physician assistants was the "standard of care" in their hospital.
- In the absence of data to suggest that direct supervision is less safe than personal supervision, only direct supervision should be required.
- The requirement is contrary to the position of the American College of Physicians, the American College of Cardiology, and the American Heart Association, set forth in a 1990 task force statement that endorses the position that "exercise testing in selected patients can be safely performed by properly trained nurses, exercise physiologists, physical therapists, or medical technicians working directly under the supervision of a physician who should be in the immediate vicinity and available for emergencies."
- The success of cardiac rehabilitation programs has demonstrated the success of nonsupervised exercise in the cardiac patient.
- One physician commenter agreed with our placing of stress tests in the personal supervision category and indicated that personal physician supervision was absolutely essential for the safety of the patient and for the test to be of maximal diagnostic utility.

Response: We do not agree with the general tone of the comments. It is established policy under Medicare that cardiovascular stress tests must be performed under the direct supervision of a physician to be covered. (For example, the interim teaching physician instructions, issued June 28, 1996,

placed the procedures in the category of complex and dangerous procedures requiring the presence of a teaching physician (rather than a resident) during their performance.) In addition, we do not believe that the reference to "exercise" and cardiac rehabilitation programs is the same thing as a cardiovascular stress test. With regard to the 1990 task force statement by the three organizations cited above, we believe that the reference to "selected patients" being safely tested by nonphysicians is a telling one. It is not at all clear to us that the appropriate level for "selected patients" should be the general standard applicable to all patients, particularly patients in the age group of most Medicare beneficiaries.

The circumstances surrounding cardiovascular stress tests are unusual because, although the issue at hand for Medicare coverage purposes is the supervision of the performance of the technical component of the test, this supervision is described by the AMA's CPT coding system with a specific code (CPT code 93016) for use in billing for physician supervision of cardiovascular stress tests when the physician who supervises the performance of the test differs from the physician who bills for the interpretation and report of the procedure. This means that the in-person supervision by a physician of this particular procedure has been determined to be so essential that it was necessary to establish a separate code for it. This code should be billed in connection with a stress test that will be interpreted and used in the diagnosis of the patient. It may not be used to bill for "supervision" of exercise in connection with a cardiac rehabilitation program.

We firmly believe that there should be a physician in attendance during the performance of cardiovascular stress tests to provide—

- Medical expertise required for the performance of the test;
- Medical treatment for complications and side effects of the test;
- Medical services required as part of the test, for example, injections or the administration of medications; and
- Medical expertise in the interpretation of the test (some of which may have to be provided while the test is actually being performed).

We do not believe that nonphysician personnel, even well-trained personnel, possess the knowledge and skills to immediately address all complications that may occur.

The reference to cardiovascular stress tests performed in hospitals indicates a misunderstanding of the physician supervision proposal. This proposal does not apply in hospitals; it only applies in settings in which the TC of the procedure is payable by the carrier. However, even in hospitals, if a physician wishes to bill the carrier for the supervision of the procedure using CPT code 93016 (a physician's service covered under section 1861(s)(1) of the Act rather than a diagnostic test covered under 1861(s)(3) of the Act), the physician must have been present for the performance of the test. It is our view that the physician's presence to deal with emergencies, as well as the other activities listed above, is the service that CPT code 93016 describes and the appropriate level of physician supervision for cardiovascular stress tests.

Comment: Several commenters indicated that it was inappropriate to require direct supervision of nuclear cardiology imaging procedures. Commenters indicated that these procedures can be provided under the general supervision of a nuclear cardiologist who is close at hand (but not in the suite during the performance of the procedure) or through supervision of the procedure through telemedicine. This latter position was described as a mid-level of physician supervision between general and direct. One commenter indicated that ready availability (within minutes) was sufficient to address any procedural, clinical, or radiation safety concerns that arise. One commenter indicated that the proposal was not rational and that the requirement for the physician to be in the office during a nuclear cardiology imaging procedure would make excessive demands upon a physician's schedule flexibility. The commenters indicated that no data exist to show that nuclear cardiology imaging provided with direct supervision was in any way superior to this imaging provided under general supervision. Some commenters made a distinction between their comments on the direct level of supervision standard applicable to nuclear cardiology procedures generally (as well as all other nuclear medicine procedures) and the personal supervision standard applicable to nuclear cardiology procedures involving cardiovascular stress tests. The commenters cited the passage from the 1990 American College of Physicians/American College of Cardiology/American Heart Association Task Force quoted in the prior discussion on stress tests to justify their position that some level of physician supervision between general and direct was all that was required. Finally, some commenters suggested that the goal of improving quality while reducing costs to the Medicare program would be better served by tightening standards for physicians eligible to be paid for the procedures.

Response: As stated earlier in these comments, we believe that direct supervision is the minimum level for all diagnostic tests involving the use of contrast materials including the radionuclides used in nuclear medicine procedures. We are not persuaded by the comments that there is something about nuclear cardiology procedures that should, instead, require only general physician supervision. With regard to the statement used to support only general and direct physician supervision for stress testing, we would point out that the July 1997 American College of Cardiology/American Heart Association Guidelines for Exercise Testing in its introduction states:

> For the purpose of this document, exercise testing is a cardiovascular stress test using treadmill or bicycle exercise and electrocardiographic and blood pressure monitoring. *Pharmacological stress and the use of imaging modalities (radionuclide imaging, echocardiography) are beyond the scope of these guidelines.* (Emphasis added.)

This statement leads us to believe that the argument with respect to stress testing of "selected patients" by nonphysicians was being quoted out of context with respect to nuclear cardiology procedures. We are not persuaded that our proposal was wrong, and we are adopting the proposed standards of physician supervision for the procedures. When the nuclear cardiology procedure in question involves a stress test and separate nuclear medicine and cardiovascular codes are used, personal supervision is required for the portion of the procedure involving stress, and the direct supervision standard applies to the nuclear portions of the overall procedure.

Comment: One commenter objected to the term "other diagnostic tests" in the title of § 410.32, questioned why x-rays are listed, and suggested that the term "ultrasound" be specifically cited. The commenter argued that the level of supervision cannot be appropriately indicated unless ultrasound is specifically named and the tests requiring supervision indicated.

Response: "X-rays and other diagnostic tests" is the term used in section 1861(s)(3) of the Act. We will indicate the appropriate level of supervision for a code in the data base, as indicated above. With regard to ultrasound procedures, direct supervision is required.

Comment: Several commenters suggested that direct supervision be defined to include the presence of a physician in a remote office suite to accommodate teleradiology. The physician would review the examination remotely, in real time, and arrange for a response team to handle patient care or contrast media emergencies at the site where the procedure is performed.

Response: Medicare currently pays for the *interpretation* of diagnostic procedures using images or other data transmitted via teleradiology. We would have to have more information about the arrangement the commenters have in mind, but, under the policy we are adopting, a physician cannot appropriately provide direct or personal supervision of diagnostic tests through telemedicine.

Comment: One commenter suggested that, for uroradiology procedures, the radiologist may not be present for the entire procedure; however, because of the use of contrast material, the appropriate level of supervision is direct.

Response: We have placed some uroradiology procedures in the direct category and others in the personal category. This is consistent with our general policy of requiring the presence of the physician during the imaging portion of any procedure described with a supervision and interpretation code.

Comment: One commenter suggested that the definition of "personal supervision" be clarified to provide for situations in which a radiologist must leave the procedure room for either clinical or safety reasons. The example was given of a radiologist leaving the procedure room during filming due to radiation exposure.

Response: If it is the customary practice for radiologists to leave the room for a short period of time for safety reasons to avoid radiation exposure, we would, of course, have no problem with them continuing to do so. We would expect the supervising physician to be present for all portions of the procedure that do not present a safety problem.

Comment: One commenter asked for clarification of whether the personal supervision standard applicable to cardiac stress tests should be required for pulmonary stress tests. The example of ambulating the patient to obtain oxygen saturation for oxygen recertification was given.

Response: We are not exactly sure of the specific procedures about which the commenter is inquiring. If it is CPT code 94620 (Pulmonary stress testing, simple or complex), the level is personal. For CPT codes 94760 through 94762 for noninvasive oximetry, the level is general.

Comment: A national organization representing psychologists questioned our decision not to provide an exception from the physician supervision requirement for procedures performed by clinical psychologists in the same way that we did for qualified independent psychologists (who are not clinical psychologists as defined in Medicare instructions). They requested that the rules be rewritten to clarify that both types of psychologists may perform services without physician supervision.

Response: Under our proposal, we explained that we were regulating diagnostic procedures covered under section 1861(s)(3) of the Act and payable under the physician fee schedule. We provided an exception to the physician supervision requirement in the case of diagnostic psychological testing services personally performed by qualified independent psychologists because these tests are covered under section 1861(s)(3), and there had been longstanding specific national coverage policy in the Medicare Carriers Manual regarding these billings without any requirement for physician supervision. We pointed out in the proposal that diagnostic tests performed by clinical psychologists (the same range of tests as those that qualified independent psychologists are permitted to bill) were covered under section 1861(ii) of the Act, rather than section 1861(s)(3), and we meant to convey the point that diagnostic tests performed by clinical psychologists were unaffected by the proposal. That is, clinical psychologists could continue to perform these tests without physician supervision. We were concerned about the logical consistency of providing an exception to a requirement in the regulations for a class of services to which that regulation did not apply. However, to clarify the policy, we have decided to explicitly include diagnostic psychological testing personally performed by clinical psychologists in the exception to the physician supervision requirement.

Comment: Several commenters indicated that physical therapists have performed electromyography procedures consistent with State laws for years without physician supervision. They pointed out that eliminating the availability of physical therapist-provided electromyography services would create a severe hardship for Medicare enrollees in rural areas.

Response: We did not intend to limit access to care in rural areas, and therefore, we have modified our proposal to provide two additional exceptions to the requirement for physician supervision for diagnostic procedures in which physical therapists are involved. These exceptions apply to codes in the range of CPT codes 95860 through 95937. Under one exception with a physician fee schedule data base indicator of 6, that is, the procedure must be personally performed by a physician or a physical therapist who is certified by the American Board of Physical therapy Specialties as a qualified electrophysiologic clinical specialist and is permitted to provide the service under State law. Under the second exception with a data base indicator of 7, the procedure must be personally performed by a physical therapist who is certified by the American Board of Physical Therapy Specialties as a qualified electrophysiologic clinical specialist or performed under the direct supervision of a physician. We recognize that these categories were not contained in the proposed rule and specifically invite further comment on the appropriateness of these two exceptions to the CPT codes 95860 through 95937.

Comment: Several commenters expressed support for the physician supervision proposal but pointed out that we should state by CPT code into which category each procedure falls. One commenter pointed to the lack of specific information about the category of physician supervision into which pulmonary and neurology testing procedures should be placed and suggested that the final rule address these procedures to promote consistency among carriers.

Response: We are providing such a listing as a part of this preamble. It will become a part of the physician fee schedule data base and may be modified from time to time in the same way other data base indicators are changed; therefore, there should be consistency among carriers.

Result of evaluation of comments: We are adopting our proposal to assign an appropriate level of physician supervision to every diagnostic test payable under the physician fee schedule with exceptions for certain procedures personally performed by qualified independent psychologists, clinical psychologists, qualified audiologists, and physical therapists who are certified as qualified electrophysiologic clinical specialists. With respect to several groupings of diagnostic codes, we have changed our proposed policy based on comments from the physician specialties most involved with particular groups of codes. In some cases, such as CTs and MRIs performed without the use of contrast materials, we have lowered the level of required physician supervision. In others, such as ultrasound procedures, we have increased the level of required supervision. We are publishing a listing of diagnostic codes in this preamble with the level of physician supervision we have determined to be appropriate. In addition, we are adding a field to the physician fee schedule data base indicating the appropriate level of supervision. We anticipate that there will continue to be discussions among HCFA, physician specialty groups, and others about these levels of supervision, and we expect that the indicators applicable to individual procedures will be changed from time to time as is currently the case with other data base indicators.

Physician Fee Schedule Data Base Indicator

Physician Supervision of Diagnostic Procedures

0=Vacant
1=Procedure must be performed under the general supervision of a physician
2=Procedure must be performed under the direct supervision of a physician
3=Procedure must be performed under the personal supervision of a physician
4=Physician supervision policy does not apply when procedure personally furnished by a qualified, independent psychologist or a clinical psychologist; otherwise must be performed under the general supervision of a physician
5=Physician supervision policy does not apply when procedure personally furnished by a qualified audiologist; otherwise must be performed under the general supervision of a physician
6=Procedure must be personally performed by a physician OR a physical therapist who is certified by the American Board of Physical Therapy Specialties as a qualified electrophysiologic clinical specialist AND is permitted to provide the service under State law
7=Procedure must be personally performed by a physical therapist who is certified by the American Board of Physical Therapy Specialties as a qualified electrophysiologic clinical specialist AND is permitted to provide the service under State law OR performed under the direct supervision of a physician
9=Medicare physician diagnostic supervision policy does not apply
P=Decision pending

LEVEL OF PHYSICIAN SUPERVISION OF DIAGNOSTIC TESTS

HCPCS	Level	HCPCS	Level	HCPCS	Level
DIAGNOSTIC RADIOLOGY					
HEAD AND NECK					
70010 & TC	3	70015 & TC	3	70030 & TC	1
70100 & TC	1	70110 & TC	1	70120 & TC	1
70130 & TC	1	70134 & TC	1	70140 & TC	1
70150 & TC	1	70160 & TC	1	70170 & TC	3
70190 & TC	1	70200 & TC	1	70210 & TC	1
70220 & TC	1	70240 & TC	1	70250 & TC	1
70260 & TC	1	70300 & TC	1	70310 & TC	1
70320 & TC	1	70328 & TC	1	70330 & TC	1
70332 & TC	3	70336 & TC	1	70350 & TC	1
70355 & TC	1	70360 & TC	1	70370 & TC	3
70371 & TC	3	70373 & TC	3	70380 & TC	1
70390 & TC	3	70450 & TC	1	70460 & TC	2
70470 & TC	2	70480 & TC	1	70481 & TC	2
70482 & TC	2	70486 & TC	1	70487 & TC	2
70488 & TC	2	70490 & TC	1	70491 & TC	2
70492 & TC	2	70540 & TC	1	70541 & TC	2
70551 & TC	1	70552 & TC	2	70553 & TC	2
CHEST					
71010 & TC	1	71015 & TC	1	71020 & TC	1
71021 & TC	1	71022 & TC	1	71023 & TC	3
71030 & TC	1	71034 & TC	3	71035 & TC	1
71036 & TC	3	71038 & TC	3	71040 & TC	3
71060 & TC	3	71090 & TC	3	71100 & TC	1
71101 & TC	1	71110 & TC	1	71111 & TC	1
71120 & TC	1	71130 & TC	1	71250 & TC	1
71260 & TC	2	71270 & TC	2	71550 & TC	1
71555 & TC	9				
SPINE AND PELVIS					
72010 & TC	1	72020 & TC	1	72040 & TC	1
72050 & TC	1	72052 & TC	1	72069 & TC	1
72070 & TC	1	72072 & TC	1	72074 & TC	1
72080 & TC	1	72090 & TC	1	72100 & TC	1
72110 & TC	1	72114 & TC	1	72120 & TC	1
72125 & TC	1	72126 & TC	2	72127 & TC	2
72128 & TC	1	72129 & TC	2	72130 & TC	2
72131 & TC	1	72132 & TC	2	72133 & TC	2
72141 & TC	1	72142 & TC	2	72146 & TC	1

LEVEL OF PHYSICIAN SUPERVISION OF DIAGNOSTIC TESTS—Continued

HCPCS	Level	HCPCS	Level	HCPCS	Level
72147 & TC	2	72148 & TC	1	72149 & TC	2
72156 & TC	2	72157 & TC	2	72158 & TC	2
72159 & TC	9	72170 & TC	1	72190 & TC	1
72192 & TC	1	72193 & TC	2	72194 & TC	2
72196 & TC	1	72198 & TC	9	72200 & TC	1
72202 & TC	1	72220 & TC	1	72240 & TC	3
72255 & TC	3	72265 & TC	3	72270 & TC	3
72285 & TC	3	72295 & TC	3		
UPPER EXTREMITIES					
73000 & TC	1	73010 & TC	1	73020 & TC	1
73030 & TC	1	73040 & TC	3	73050 & TC	1
73060 & TC	1	73070 & TC	1	73080 & TC	1
73085 & TC	3	73090 & TC	1	73092 & TC	1
73100 & TC	1	73110 & TC	1	73115 & TC	3
73120 & TC	1	73130 & TC	1	73140 & TC	1
73200 & TC	1	73201 & TC	2	73202 & TC	2
73220 & TC	1	73221 & TC	1	73225 & TC	9
LOWER EXTREMITIES					
73500 & TC	1	73510 & TC	1	73520 & TC	1
73525 & TC	3	73530 & TC	3	73540 & TC	1
73550 & TC	3	73560 & TC	1	73562 & TC	1
73564 & TC	1	73565 & TC	1	73580 & TC	3
73590 & TC	1	73592 & TC	1	73600 & TC	1
73610 & TC	1	73615 & TC	3	73620 & TC	1
73630 & TC	1	73650 & TC	1	73660 & TC	1
73700 & TC	1	73701 & TC	2	73702 & TC	2
73720 & TC	1	73721 & TC	1	73725 & TC	2
ABDOMEN					
74000 & TC	1	74010 & TC	1	74020 & TC	1
74022 & TC	1	74150 & TC	1	74160 & TC	2
74170 & TC	2	74181 & TC	1	74185 & TC	9
74190 & TC	3				
GASTROINTESTINAL TRACT					
74210 & TC	3	74220 & TC	3	74230 & TC	3
74235 & TC	3	74240 & TC	3	74241 & TC	3
74245 & TC	3	74246 & TC	3	74247 & TC	3
74249 & TC	3	74250 & TC	2	74251 & TC	3
74260 & TC	3	74270 & TC	3	74280 & TC	3
74283 & TC	3	74290 & TC	2	74291 & TC	2
74300 & TC	3	74301 & TC	3	74305 & TC	3
74320 & TC	3	74327 & TC	3	74328 & TC	3
74329 & TC	3	74330 & TC	3	74340 & TC	3
74350 & TC	3	74355 & TC	3	74360 & TC	3
74363 & TC	3				
URINARY TRACT					
74400 & TC	2	74405 & TC	2	74410 & TC	2
74415 & TC	2	74420 & TC	3	74425 & TC	3
74430 & TC	3	74440 & TC	3	74445 & TC	3
74450 & TC	3	74455 & TC	3	74470 & TC	3
74475 & TC	3	74480 & TC	3	74485 & TC	3
GYNECOLOGICAL AND OBSTETRICAL					
74710 & TC	1	74740 & TC	3	74742 & TC	3
74775 & TC	3				
HEART					
75552 & TC	1	75553 & TC	2	75554 & TC	1
75555 & TC	1	75556	9		

LEVEL OF PHYSICIAN SUPERVISION OF DIAGNOSTIC TESTS—Continued

HCPCS	Level	HCPCS	Level	HCPCS	Level
AORTA AND ARTERIES					
75600 & TC	3	75605 & TC	3	75625 & TC	3
75630 & TC	3	75650 & TC	3	75658 & TC	3
75660 & TC	3	75662 & TC	3	75665 & TC	3
75671 & TC	3	75676 & TC	3	75680 & TC	3
75685 & TC	3	75705 & TC	3	75710 & TC	3
75716 & TC	3	75722 & TC	3	75724 & TC	3
75726 & TC	3	75731 & TC	3	75733 & TC	3
75736 & TC	3	75741 & TC	3	75743 & TC	3
75746 & TC	3	75756 & TC	3	75774 & TC	3
75790 & TC	3				
VEINS AND LYMPHATICS					
75801 & TC	3	75803 & TC	3	75805 & TC	3
75807 & TC	3	75809 & TC	3	75810 & TC	3
75820 & TC	3	75822 & TC	3	75825 & TC	3
75827 & TC	3	75831 & TC	3	75833 & TC	3
75840 & TC	3	75842 & TC	3	75860 & TC	3
75870 & TC	3	75872 & TC	3	75880 & TC	3
75885 & TC	3	75887 & TC	3	75889 & TC	3
75891 & TC	3	75893 & TC	3		
TRANSCATHETER PROCEDURES					
75894 & TC	3	75896 & TC	3	75898 & TC	3
75900 & TC	3	75940 & TC	3	75945 & TC	3
75946 & TC	3	75960 & TC	3	75961 & TC	3
75962 & TC	3	75964 & TC	3	75966 & TC	3
75968 & TC	3	75970 & TC	3	75978 & TC	3
75980 & TC	3	75982 & TC	3	75984 & TC	3
75989 & TC	3				
TRANSLUMINAL ATHERECTOMY					
75992 & TC	3	75993 & TC	3	75994 & TC	3
75995 & TC	3	75996 & TC	3		
OTHER PROCEDURES					
76000 & TC	3	76001 & TC	3	76003 & TC	3
76010 & TC	1	76020 & TC	1	76040 & TC	1
76061 & TC	1	76062 & TC	1	76065 & TC	1
76066 & TC	1	76070 & TC	1		
76075 & TC	1	76076 & TC	1	76078 & TC	1
76080 & TC	3	76086 & TC	3	76088 & TC	3
76090 & TC	9	76091 & TC	9	76092	9
76093 & TC	1	76094 & TC	1	76095 & TC	3
76096 & TC	3	76098 & TC	1	76100 & TC	2
76101 & TC	2	76102 & TC	2	76120 & TC	2
76125 & TC	2	76140	9	76150	1
76350	2	76355 & TC	3	76360 & TC	3
76365 & TC	3	76370 & TC	2	76375 & TC	1
76380 & TC	1	76400 & TC	1	76499 & TC	9
DIAGNOSTIC ULTRASOUND					
HEAD AND NECK					
76506 & TC	2	76511 & TC	2	76512 & TC	2
76513 & TC	2	76516 & TC	2	76519 & TC	2
76529 & TC	2	76536 & TC	2		
CHEST					
76604 & TC	2	76645 & TC	2		
ABDOMEN AND RETROPERITONEUM					
76700 & TC	2	76705 & TC	2	76770 & TC	2
76775 & TC	2	76778 & TC	2		

LEVEL OF PHYSICIAN SUPERVISION OF DIAGNOSTIC TESTS—Continued

HCPCS	Level	HCPCS	Level	HCPCS	Level
SPINAL CANAL					
76800 & TC	2				
PELVIS					
76805 & TC	2	76810 & TC	2	76815 & TC	2
76816 & TC	2	76818 & TC	2	76825 & TC	2
76826 & TC	2	76827 & TC	2	76828 & TC	2
76830 & TC	3	76856 & TC	2	76857 & TC	2
76870 & TC	2	76872 & TC	3		
EXTREMITIES					
76880 & TC	2				
VASCULAR STUDIES					
ULTRASONIC GUIDANCE PROCEDURES					
76930 & TC	3	76932 & TC	3	76934 & TC	3
76936 & TC	3	76938 & TC	3	76941 & TC	3
76942 & TC	3	76945 & TC	3	76946 & TC	3
76948 & TC	3	76950 & TC	2	76960 & TC	2
76965 & TC	3				
OTHER PROCEDURES					
76970 & TC	9	76975 & TC	3	76986 & TC	3
76999 & TC	9				
RADIATION ONCOLOGY					
77417	1				
DIAGNOSTIC NUCLEAR MEDICINE					
ENDOCRINE SYSTEM					
78000 & TC	2	78001 & TC	2	78003 & TC	2
78006 & TC	2	78007 & TC	2	78010 & TC	2
78011 & TC	2	78015 & TC	2	78016 & TC	2
78017 & TC	2	78018 & TC	2	78070 & TC	2
78075 & TC	2	78099 & TC	9		
HEMATOPOIETIC, RETICULOENDOTHELIAL, AND LYMPHATIC SYSTEM					
78102 & TC	2	78103 & TC	2	78104 & TC	2
78110 & TC	2	78111 & TC	2	78120 & TC	2
78121 & TC	2	78122 & TC	2	78130 & TC	2
78135 & TC	2	78140 & TC	2	78160 & TC	2
78162 & TC	2	78170 & TC	2	78172 & TC	2
78185 & TC	2	78190 & TC	2	78191 & TC	2
78195 & TC	2	78199 & TC	9		
GASTROINTESTINAL SYSTEM					
78201 & TC	2	78202 & TC	2	78205 & TC	2
78215 & TC	2	78216 & TC	2	78220 & TC	2
78223 & TC	2	78230 & TC	2	78231 & TC	2
78232 & TC	2	78258 & TC	2	78261 & TC	2
78262 & TC	2	78264 & TC	2	78270 & TC	2
78271 & TC	2	78272 & TC	2	78278 & TC	2
78282 & TC	2	78290 & TC	2	78291 & TC	2
78299 & TC	9				
MUSCULOSKELETAL SYSTEM					
78300 & TC	2	78305 & TC	2	78306 & TC	2
78315 & TC	2	78320 & TC	2	78350 & TC	2
78351	9	78399 & TC	9		

LEVEL OF PHYSICIAN SUPERVISION OF DIAGNOSTIC TESTS—Continued

HCPCS	Level	HCPCS	Level	HCPCS	Level
CARDIOVASCULAR SYSTEM					
78414 & TC	2	78428 & TC	2	78445 & TC	2
78455 & TC	2	78457 & TC	2	78458 & TC	2
78459 & TC	9	78460 & TC	2	78461 & TC	2
78464 & TC	2	78465 & TC	2	78466 & TC	2
78468 & TC	2	78469 & TC	2	78472 & TC	2
78473 & TC	2	78478 & TC	2	78480 & TC	2
78481 & TC	2	78483 & TC	2	78499 & TC	9
RESPIRATORY SYSTEM					
78580 & TC	2	78584 & TC	2	78585 & TC	2
78586 & TC	2	78587 & TC	2	78591 & TC	2
78593 & TC	2	78594 & TC	2	78596 & TC	2
78599 & TC	9				
NERVOUS SYSTEM					
78600 & TC	2	78601 & TC	2	78605 & TC	2
78606 & TC	2	78607 & TC	2	78608	9
78609	9	78610 & TC	2	78615 & TC	2
78630 & TC	2	78635 & TC	2	78645 & TC	2
78647 & TC	2	78650 & TC	2	78660 & TC	2
78699 & TC	9				
GENITOURINARY SYSTEM					
78700 & TC	2	78701 & TC	2	78704 & TC	2
78707 & TC	2	78710 & TC	2	78715 & TC	2
78725 & TC	2	78726 & TC	2	78727 & TC	2
78730 & TC	2	78740 & TC	2	78760 & TC	2
78761 & TC	2	78799 & TC	9		
OTHER DIAGNOSTIC NUCLEAR MEDICINE PROCEDURES					
78800 & TC	2	78801 & TC	2	78802 & TC	2
78803 & TC	2	78805 & TC	2	78806 & TC	2
78807 & TC	2	78810 & TC	9	78891 & TC	9
78990	9	78999 & TC	9		
PATHOLOGY AND LABORATORY					
85060	9	85095	9	85102	9
86485	1	86490	1	86510	1
86580	1	86585	1	86586	9
88104 & TC	9	88106 & TC	9	88107 & TC	9
88108 & TC	9	88125 & TC	1	88160 & TC	9
88161 & TC	9	88162 & TC	9	88170 & TC	1
88171 & TC	1	88172 & TC	9	88173 & TC	9
88180 & TC	9	88182 & TC	9	88300 & TC	9
88302 & TC	9	88304 & TC	9	88305 & TC	9
88307 & TC	9	88309 & TC	9	88311 & TC	1
88312 & TC	9	88313 & TC	9	88314 & TC	9
88318 & TC	9	88319 & TC	9	88323 & TC	9
88331 & TC	9	88332 & TC	9	88342 & TC	9
88346 & TC	9	88347 & TC	9	88348 & TC	9
88349 & TC	9	88355 & TC	9	88356 & TC	9
88358 & TC	9	88362 & TC	9	88365 & TC	9
89350	1	89360	9		
MEDICINE					
GASTROINTESTINAL					
91000 & TC	3	91010 & TC	3	91011 & TC	3
91012 & TC	3	91020 & TC	3	91030 & TC	3
91032 & TC	3	91033 & TC	3	91052 & TC	3
91055 & TC	3	91060 & TC	3	91065 & TC	1
91100	9	91105	9	91122 & TC	3

LEVEL OF PHYSICIAN SUPERVISION OF DIAGNOSTIC TESTS—Continued

HCPCS	Level	HCPCS	Level	HCPCS	Level
SPECIAL OPHTHALMOLOGICAL SERVICES					
92015	9	92081 & TC	1	92082 & TC	1
92083 & TC	1	92100	9	92120	9
92130	9	92140	9	92230	9
92235 & TC	2	92240 & TC	2	92250 & TC	2
92260	9				
OTHER SPECIALIZED SERVICES					
92265 & TC	3	92270 & TC	3	92275 & TC	3
92283 & TC	1	92284 & TC	3	92285 & TC	2
92286 & TC	3	92287	9		
SPECIAL OTORHINOLARYNGOLOGIC SERVICES					
92506	9	92507	9	92508	9
92511	9	92512	9	92516	9
92520	9	92525	9	92526	9
VESTIBULAR FUNCTION TESTS WITH OBSERVATION					
92531	9	92532	9	92533	9
92534	9				
VESTIBULAR FUNCTION TESTS WITH OBSERVATION					
92531	9	92532	9	92533	9
92534	9				
VESTIBULAR FUNCTION TESTS WITH RECORDING					
92541 & TC	2	92542 & TC	2	92543 & TC	2
92544 & TC	2	92545 & TC	2	92546 & TC	2
92547	2	92548 & TC	2		
AUDIOLOGIC FUNCTION TESTS					
92551	9	92552	5	92553	5
92555	5	92556	5	92557	5
92559	9	92560	9	92561	5
92562	5	92563	5	92564	5
92565	5	92567	5	92568	5
92569	5	92571	5	92572	5
92573	5	92575	5	92576	5
92577	5	92579	5	92582	5
92583	5	92584	5	92585 & TC	5
92587 & TC	5	92588 & TC	5	92589	5
92590	9	92591	9	92592	9
92593	9	92594	9	92595	9
92596	5	92597	9	92598	9
CARDIOGRAPHY					
93000	1	93005	1	93010	9
93012	1	93014	9	93015	3
93016	3	93017	3	93018	9
93024 & TC	3	93040	1	93041	1
93042	9	93224	1	93225	1
93226	1	93227	9	93230	1
93231	1	93232	9	93233	9
93235	1	93236	1	93237	9
93268	1	93270	1	93271	1
93272	9	93278 & TC	1		
ECHOCARDIOGRAPHY					
93303 & TC	2	93304 & TC	2	93307	2
93308 & TC	2	93312 & TC	3	93313	9
93314	9	93315 & TC	3	93316	9
93317	9	93320 & TC	2	93321 & TC	2
93325 & TC	2	93350 & TC	3		

LEVEL OF PHYSICIAN SUPERVISION OF DIAGNOSTIC TESTS—Continued

HCPCS	Level	HCPCS	Level	HCPCS	Level
CARDIAC CATHETERIZATION					
93501 & TC	3	93503	9	93505 & TC	3
93510 & TC	3	93511 & TC	3	93514 & TC	3
93524 & TC	3	93526 & TC	3	93527 & TC	3
93528 & TC	3	93529 & TC	3	93536	9
93539	9	93540	9	93541	9
93542	9	93543	9	93544	9
93545	9	93555 & TC	3	93556 & TC	3
93561 & TC	3	93562 & TC	3		
INTRACARDIAC ELECTROPHYSIOLOGICAL PROCEDURES					
93600 & TC	3	93602 & TC	3	93603 & TC	3
93607 & TC	3	93609 & TC	3	93610 & TC	3
93612 & TC	3	93615 & TC	3	93616 & TC	3
93618 & TC	3	93619 & TC	3	93620 & TC	3
93621 & TC	3	93622 & TC	3	93623 & TC	3
93624 & TC	3	93631 & TC	3	93640 & TC	3
93641 & TC	3	93642 & TC	3	93650	9
93651	9	93652	9	93660 & TC	3
OTHER VASCULAR STUDIES					
93720	1	93721	1	93722	9
93724 & TC	3	93731	2	93732	3
93733 & TC	2	93734 & TC	2	93735 & TC	3
93736 & TC	2	93737 & TC	3	93738 & TC	3
93740 & TC	2	93760	9	93762	9
93770 & TC	3	93784	9	93786	9
93788	9	93790	9		
CEREBROVASCULAR ARTERIAL STUDIES					
93875 & TC	2	93880 & TC	2	93882 & TC	2
93886 & TC	2	93888 & TC	2		
EXTREMITY ARTERIAL STUDIES					
93922 & TC	2	93923 & TC	2	93924 & TC	2
93925 & TC	2	93926 & TC	2	93930 & TC	2
93931 & TC	2				
EXTREMITY VENOUS STUDIES					
93965 & TC	2	93970 & TC	2	93971 & TC	2
VISCERAL AND PENILE VASCULAR STUDIES					
93975 & TC	2	93976 & TC	2	93978 & TC	2
93979 & TC	2	93980 & TC	2	93981 & TC	2
PULMONARY					
94010 & TC	1			94070 & TC	3
94150 & TC	9	94200 & TC	1	94240 & TC	1
94250 & TC	1	94260 & TC	1	94350 & TC	1
94360 & TC	1	94370 & TC	1	94375 & TC	1
94400 & TC	2	94450 & TC	2	94620 & TC	3
94640	9	94642	9	94650	9
94651	9	94652	9	94656	9
94657	9	94660	9	94662	9
94664	2	94665	2	94667	9
94668	9	94680 & TC	2	94681 & TC	2
94690 & TC	1	94720 & TC	1	94725 & TC	1
94750 & TC	1	94760	1	94761	1
94762	1	94770 & TC	1	94772 & TC	1
94799 & TC	9				
ALLERGY					
95004	2	95010	9	95015	9

LEVEL OF PHYSICIAN SUPERVISION OF DIAGNOSTIC TESTS—Continued

HCPCS	Level	HCPCS	Level	HCPCS	Level
95024	2	95027	2	95028	2
95044	2	95052	2	95056	2
95060	3	95065	3	95070	3
95071	3	95075	9	95078	3
NEUROLOGY AND NEUROMUSCULAR PROCEDURES					
SLEEP TESTING					
95805 & TC	1	95807 & TC	1	95808 & TC	1
95810 & TC	1	95812 & TC	1	95813 & TC	1
95816 & TC	2	95819 & TC	2	95822 & TC	1
95824 & TC	1	95827 & TC	1	95829 & TC	1
95830	9	95831	9	95832	9
95833	9	95834	9	95851	9
95852	9	95857	9	95858 & TC	3
95860 & TC	6	95861 & TC	6	95863 & TC	6
95864 & TC	6	95867 & TC	6	95868 & TC	6
95869 & TC	6	95870 & TC	6	95872 & TC	3
95875 & TC	3				
95900 & TC	7	95903 & TC	7	95904 & TC	7
95920 & TC	2	95921 & TC	2	95922 & TC	3
95923 & TC	3	95925 & TC	2	95926 & TC	2
95927 & TC	2	95930 & TC	2	95933 & TC	7
95934 & TC	7	95936 & TC	7	95937 & TC	7
95950 & TC	1	95951 & TC	1	95953 & TC	1
95954 & TC	3	95955 & TC	2	95956 & TC	1
95957 & TC	1	95958 & TC	3	95961 & TC	3
95962 & TC	3	95999	9		
CENTRAL NERVOUS SYSTEM ASSESSMENTS					
96100	4	96105	4	96110	4
96111	4	96115	4	96117	4
ALPHA-NUMERICS					
G0001	9	G0002	9	G0004	1
G0005	1	G0006	1	G0007	9
G0015	1	G0016	9	G0026	9
G0027	9	G0030 & TC	2	G0031 & TC	2
G0032 & TC	2	G0033 & TC	2	G0034 & TC	2
G0035 & TC	2	G0036 & TC	2	G0037 & TC	2
G0038 & TC	2	G0039 & TC	2	G0040 & TC	2
G0041 & TC	2	G0042 & TC	2	G0043 & TC	2
G0044 & TC	2	G0045 & TC	2	G0046 & TC	2
G0047 & TC	2	G0050	1	M0302	9
P2028	9	P2029	9	P2031	9
P2033	9	P2038	9	P3000	9
P3001	9	P7001	9	P9610	9
P9615	9	Q0035 & TC	1	Q0091	1
Q0092	9	Q0111	9	Q0112	9
Q0113	9	Q0114	9	Q0115	9
R0070	9	R0075	9	R0076	9
V5008	9	V5010	9	V5011	9
V5014	9	V5020	9	V5362	9
V5363	2	V5364	2		

3. Independent Diagnostic Testing Facility

Section 2070.5 of the Medicare Carriers Manual (HCFA Pub. 14–3) is the current policy basis for the coverage of Independent Physiological Laboratory (IPL) services. The section does not define the term "physiological" and specifically mentions only electrocardiograms and electroencephalograms as types of services the entity that has come to be known as an IPL may furnish. The section says little about the nature of IPLs other than that they operate independently of a hospital, physician's office, or rural health clinic and meet applicable State and local licensure laws. Few States regulate diagnostic services, other than x-rays, and the requirement for State and local licensure has had little meaning in practice. The other requirements for the coverage of IPL services are that the services be ordered by a "referring" physician and that the services be determined by the carrier to be reasonable and necessary. The requirement that the diagnostic services must be ordered by a referring physician has been addressed by the policy we adopted in the final rule for the 1997 physician fee schedule published in the **Federal Register** November 22, 1996 (61 FR 59497 through 59498), under which the physician who orders a diagnostic service must be a physician who is treating the patient.

We are setting aside the term "IPL" and are defining a new entity independent of a hospital or physician's office in which diagnostic tests are performed by licensed, certified nonphysician personnel under appropriate physician supervision. We are calling this entity an Independent Diagnostic Testing Facility (IDTF). The new entity will replace the IPL. The regulations are intended to resolve confusion surrounding the structure of entities Medicare previously classified as IPLs, as well as the services they furnish and to address the potential for abuse and the quality and safety concerns raised by the lack of Federal and State IPL licensure and certification requirements. The regulations will not apply to approved portable x-ray suppliers or to procedures furnished in physicians' offices including group practices or multispecialty clinics.

We are defining an IDTF as a fixed location, a mobile entity, or an individual nonphysician practitioner. The following diagnostic tests, which are payable under the physician fee schedule, are not required to be furnished in accordance with the IDTF criteria when furnished by a nonhospital entity:

- Diagnostic mammograms, the coverage of which is required by law to be regulated by the Food and Drug Administration rather than by HCFA.
- Diagnostic tests personally furnished by a "qualified audiologist" as defined in section 1861(ll)(3) of the Act. These include "audiology services" as defined in section 1861(ll)(2) of the Act that are payable by Medicare carriers under the physician fee schedule. We are excluding these diagnostic tests from the physician supervision requirement because the Congress has defined these services without requiring physician supervision of their performance.
- Diagnostic psychological testing services personally furnished by a qualified psychologist practicing independently of an institution, agency, or physician's office as currently defined in section 2070.2 of the Medicare Carriers Manual (HCFA Pub. 14–3). The services are distinguished from services of clinical psychologists, which are covered under section 1861(ii) of the Act rather than 1861(s)(3). We are excluding these tests from the physician supervision requirement because we do not believe that these services require physician supervision of their performance.

IDTFs must meet the following requirements:

- An IDTF must have one or more supervising physicians who are responsible for the direct and ongoing oversight of the quality of the testing performed, the proper operation and calibration of the equipment used to perform tests, and the qualification of nonphysician personnel who use the equipment. This level of supervision equates to general supervision as discussed in this section II.D. and § 410.32(b)(3)(i).
- The supervising physician must evidence proficiency in the performance and interpretation of each type of diagnostic procedure performed by the IDTF; however, there is no requirement that the IDTF's supervising physician actually furnish the interpretation. (For example, a physician might purchase tests from the IDTF that he or she will interpret.) Proficiency may be documented by certification in specific medical specialties or subspecialties or by criteria established by the carrier for the service area in which the IDTF is located. In the case of a procedure which would require the direct or personal supervision of a physician pursuant to II.D. in this section and § 410.32(b)(3)(ii) and (b)(3)(iii), respectively, the IDTF's supervising physician must personally furnish this level of supervision whether the procedure is performed in the IDTF or, in the case of mobile services, at a remote location. The IDTF must maintain documentation to demonstrate sufficient physician attendance during all hours of operation to assure that the required physician supervision is furnished. In the case of procedures requiring direct supervision, the supervising physician may oversee concurrent procedures.
- Any nonphysician personnel used by the IDTF to perform tests must demonstrate the basic qualifications to perform the tests in question and have appropriate training and proficiency as evidenced by licensure or certification by the appropriate State health or education department. In the absence of a State licensing board, the technician must be certified by the appropriate national credentialing body. The IDTF must maintain documentation available for review that these requirements are met.
- All procedures performed by the IDTF must be specifically ordered in writing by a physician who treats the beneficiary, that is, the physician who is furnishing a consultation or treating a beneficiary for a specific medical problem and who uses the results in the management of the beneficiary's specific medical problem. This requirement would be met when a beneficiary's primary care physician orders testing the results of which may determine whether or not the physician refers the beneficiary to a specialist. In other words, that physician is managing the patient's care. The order must specify the diagnosis or other basis for the testing. The supervising physician for the IDTF may not order tests performed by the IDTF, and the IDTF may not add any procedures based on internal protocols without written order from the treating physician.
- An IDTF that operates across State boundaries must maintain documentation that its supervising physicians and technicians are licensed and certified in each of the States in which it is furnishing services.

Below is a discussion of the public comments we received on this proposal and our responses:

Comment: We received many favorable comments (with reservations) from representatives of existing IPLs who indicated their preference for national standards rather than different standards in each carrier service area. Many expressed frustration with the current situation in which there is no national policy on the procedures an IPL may perform, and carriers have differing local medical review policies on these procedures.

One commenter indicated that limiting the types of diagnostic tests an IPL or IDTF can furnish is a better way to prevent unneeded and medically unnecessary testing than our proposal. He stated that adoption of the IDTF proposal will produce a rise in expenditures for diagnostic testing without a concomitant decrease in expenditures from other entities that currently bill Medicare for diagnostic tests.

Response: We believe that the time has come to change the current situation under which there are different local medical review policies on the services an IPL may perform in different carrier service areas. If a facility meets the standards established for IDTFs, including the appropriate level of physician supervision, it should be able to furnish the same range of procedures as other entities in the service area. Carriers should be denying claims for procedures that are not reasonable and necessary for individual patients.

Comment: A supplier of mobile bone density procedures commented that it had been erroneously classified as a portable x-ray supplier and supported the proposal as a clarification of its

mobile status under Medicare as an IDTF. The commenter supported the proposal.

Response: Under the IDTF policy, a mobile diagnostic facility may furnish the same procedures as a stationary facility unless there is a national policy indicating otherwise.

Comment: With regard to the credentialing criteria for IDTF personnel, several commenters questioned the need for the IDTF proposal and pointed out that there already were voluntary certification organizations in existence that possessed greater expertise than we did in these matters. Commenters cited organizations that have been granted membership by the National Commission for Certifying Agencies, such as The American Registry of Diagnostic Medical Sonographers for ultrasonography physician and nonphysician personnel, the Intersocietal Commission for the Accreditation of Vascular Laboratories, which deals with noninvasive vascular procedures, and the Intersocietal Commission for the Accreditation of Echocardiographic Laboratories for echocardiographic procedures. The commenters indicated that criteria established by these organizations are more specific than the vague criteria we proposed.

Response: We have no desire to interfere with these private accreditation activities. The IDTF should maintain documentation of recognition by these organizations for verification by the carrier as necessary. However, we do not believe that the standards for accreditation by these agencies are equivalent to ours. For example, in commenting on our proposal, one of the listed organizations indicated that it required records of the source of the order for the test in the accredited laboratories. However, this requirement is not the same as assuring that all tests are ordered by a physician who is treating the patient.

Comment: One commenter indicated that the proposal that the supervising physician in an IDTF cannot order tests performed by the IDTF is unrealistic. The commenter stated that if the IDTF is appropriately accredited and the supervising physician's income is fixed (rather than related to volume of testing), the supervising physician should be able to order any necessary test for his or her patients.

Response: We have decided to modify the prohibition in § 410.33(d) against the supervising physician's ordering of tests to be performed by the IDTF although we continue to believe there are potential problems in permitting such a practice. However, we acknowledge that there could be situations in which the IDTF's supervising physician is, in fact, the beneficiary's treating physician. The modified wording of the requirement indicates that, in these situations, the physician in question would have had a relationship with the beneficiary prior to the testing and would be *treating* the beneficiary for a specific medical problem.

Comment: Some commenters expressed concern that the policy requires State-credentialed nonphysician personnel to perform tests; commenters point out the varying State standards that may be applied. Some believed that credentialing by a national standardized body was preferable.

Response: We believe that credentialing of nonphysician technologists by either a State government or a recognized national organization should be sufficient.

Comment: Several commenters stated that the requirement that all procedures performed by IDTFs must be specifically ordered in writing by the treating physician would be very burdensome for the referring physician, patient, and the examiner if it is found that the patient needs additional tests and has to come back another day with written orders for them. Some indicated that the generally-applicable ordering provisions of § 410.32(a) were sufficient.

One commenter indicated that the requirement for written orders was redundant, time-consuming, and costly, and requested the rationale for the additional requirement applicable only to IDTFs.

Response: We believe that the physician responsible for the management of the patient's care (or some aspect of the patient's care) should be aware of the testing being performed. For that reason, we adopted a modification to § 410.32 to that effect in the physician fee schedule final rule of November 22, 1996. That rule did not explicitly require written orders but served to establish the link between test ordering and the treating physician as a matter of national Medicare law. If the testing entity chose not to maintain a file of written orders from physicians for the tests it performed, the entity might not be able to demonstrate the medical necessity of the tests to a reviewer from a Medicare carrier or another government agency. Some commenters have requested the rationale for requiring specific written orders for tests performed by IDTFs while not imposing the same requirement on testing in physicians' offices.

The rationale for requiring testing by IDTFs to be ordered in writing by the treating physician is based in our (and, more specifically, HCFA's contractors') experience with IPLs. There have been instances in which IPLs have offered "free" screening to Medicare beneficiaries in shopping malls and senior citizen centers, which meant that the IPL accepted the carrier payment for the procedure and waived billing the beneficiary for the coinsurance. There have been instances of mass testing in nursing facilities with questionable orders for the tests performed and little regard for the medical necessity of the tests. There have been numerous instances of IPLs performing tests in addition to those ordered by referring physicians.

The manual (Medicare Carriers Manual section 2070.5) has always required that the diagnostic services be ordered by a referring physician. Therefore, we believe there is little in this requirement that is new other than the explicit provision that the orders be in writing. While we are certain that many IPLs did not engage in the practices referred to above, we anticipate that the new rules will give the carriers tools to use to address abusive situations, when they do occur, through post-payment reviews. We believe that our experiences with waste and abuse in IPLs justify these requirements, including requiring the treating physician's order for a procedure.

In response to the absence of regulation of IPLs, we are creating the IDTF designation to establish a degree of national regulation of a diagnostic facility that is distinct from a physician's office and does not directly use the test results to treat a beneficiary. The facility's sole purpose is to furnish a test. We believe that any distinctions in treatment between IDTFs and physicians' offices or hospitals are justified by our experiences with the entities and the different degrees of regulation to which the entities have been subject.

We do not agree that the requirement for written orders is an unnecessarily burdensome requirement, or that there is any necessity for a beneficiary to return with written orders on another day. If an IDTF determines that a patient needs further testing, the IDTF may contact the ordering physician's office and receive a FAX order for the additional testing.

Comment: One commenter indicated that the term "referring physician" must be broadened to include appropriate "licensed medical practitioners," including podiatrists, chiropractors, optometrists and other similar allied-health care professionals. The commenter further stated that IDTF testing procedures should be ordered only by an appropriately licensed medical professional.

Response: The term "referring physician" was used in the proposal only in the description of the existing IPL policy. The current proposals refer to "ordering physician" and "supervising physician." Podiatrists and optometrists (when operating within the scope of their State licensure) are included in the Medicare definition of a "physician" set forth in section 1861(r) of the Act and do not need to be singled out as appropriate persons to order tests. Chiropractors may not order tests for Medicare beneficiaries under any circumstances. The changes made to § 410.32 by the physician fee schedule final rule of November 22, 1996 (61 FR 59490) provided for the ordering of diagnostic tests by nonphysician practitioners under certain conditions. We have modified proposed § 410.33(d) in this final rule to make it clear that nonphysician practitioners who are working within the scope of the laws of their States may order testing from IDTFs.

Comment: Several commenters expressed concern about the exemption of physicians' offices, group practices, and multispecialty groups from the rules governing IDTFs. One commenter indicated that such an exemption would lead to the potential for abuse and quality and safety concerns. Others said that the proposed rules would put IDTFs at a competitive disadvantage with entities such as hospitals and physicians' offices in the furnishing of diagnostic tests and that the same rules should apply in all settings.

Response: In several responses immediately preceding this one, we have given our reasoning regarding the application of specific requirements to IDTFs that do not apply to physicians' offices. Our reasoning is that hospitals are currently regulated, and physicians must have State licensure to perform the services they furnish. (We would like to reiterate here, however, that the physician supervision requirements for specific tests discussed elsewhere in this rule apply to all diagnostic tests payable under the physician fee schedule whether they are performed in an IDTF, physicians' office, or other setting.)

On the other hand, IPLs do not exist because of a specific statutory provision but because of unique circumstances. HCFA has, for a number of years, permitted payment for diagnostic tests to entities that were not created by law. The implementing manual instruction for IPLs (section 2070.5 of the Medicare Carriers Manual) clearly presumes the existence of "applicable State and local licensure laws" for these facilities although very little regulation actually exists.

Comment: A commenter objected to the requirement in § 410.33(b)(2) that the supervising physician must have demonstrated proficiency in the performance and interpretation of each type of diagnostic test performed by the IDTF when there is no such requirement for hospital outpatient departments or physician groups. The commenter indicated that, for radiology procedures, State Board Certification in Radiology should be deemed sufficient for supervision of procedures requiring direct or general supervision.

Response: As we have pointed out elsewhere in this discussion, hospitals are regulated through the accreditation process. For example, § 482.26(c) of the Medicare Conditions of Participation for Hospitals establishes standards for a qualified supervisory radiologist in a hospital. Further, all States have licensure requirements that apply to physicians' offices, and we are not aware of significant problems with physicians and physaician groups performing tests they are not qualified to perform.

On the other hand, the performance of diagnostic tests in IPLs (including the physician supervision of this testing) is generally not regulated by State or local laws. Our regional offices and carriers cite many problems with the way diagnostic procedures have been furnished in IPLs, such as IPLs entering into arrangements with physicians to serve as pro forma supervisors when these physicians had little expertise in the area of diagnostic testing involved. Because of systemic problems in IPLs, we believe that it is reasonable for Medicare to require physicians who supervise the performance of tests in IDTFs to demonstrate proficiency in the type of testing being performed while not imposing the same requirement on physicians' offices, which operate under the authority of the physician's State licensure.

Comment: A commenter indicated that the nonphysician credentialing requirements would impose significant additional costs and requirements on IDTFs that would not be borne by medical groups or hospitals.

Response: Most commenters from existing IPLs, many of whom indicated that their employees had already met these standards, did not raise this issue, and, therefore, we believe that any burden on IPLs will not be widespread. We believe it to be entirely appropriate to require the technologists who perform tests in IDTFs to possess appropriate credentialing while not imposing the same requirements on hospitals that must meet accreditation standards imposed by governmental and other bodies or on physicians' offices that operate under the authority of the physician's State licensure.

Comment: One commenter objected to the proposed requirement for documentation of physician supervision in IDTFs not being required of other entities.

Response: We believe that this requirement is justified by the past performance of IPLS. Moreover, when carriers identify a problem with lack of supervision of diagnostic testing in physicians' offices, they may request this information from the physician in the same way they currently request additional information on the medical necessity of a service or procedure.

Comment: One commenter indicated that record retention for CLIA laboratories was determined to be 2 years and that the same requirement should apply to IDTFs.

Response: We will review our record retention guidelines and will provide further advice through program instructions.

Comment: One commenter indicated that an IDTF should be allowed to bill globally for radiological procedures when it contracts with a medical group for interpretations and the medical group reassigns benefits to the IDTF.

Response: These billings are permitted under the policy in section 3060.5 of the Medicare Carriers Manual. In these situations, the IDTF would bill the carrier in such a way as to identify itself as an IDTF.

Comment: One commenter objected to the proposed requirement that an IDTF that operates across State boundaries maintain documentation that its supervising physicians are licensed in each of the States in which it is furnishing services. The commenter indicated that this requirement would be unnecessarily burdensome and cost prohibitive if the facility must engage physicians licensed in every State the facility serves.

Response: We believe it appropriate for a physician who is supervising the performance of tests performed in State to be licensed in that State.

Comment: One commenter indicated that we are creating a new regulatory scheme without Congressional authorization. The commenter stated that if a problem exists with respect to independent diagnostic facilities, the problem should be explored and

debated in public before rules are established.

Response: The commenter is correct in recognizing that IPLs are not created in the Medicare statute. Nonetheless, we have paid for services they furnish for a number of years. Over the years, however, a number of problems have become manifest in the operation of these entities. We believe that our general rulemaking authority is sufficient to permit us to deal with these problems and that the facts require our exercise of that authority. In addition, the publication of a proposed rule has provided the opportunity for public comment and debate.

Comment: Several commenters indicated that the regulation should address the competency of physicians to perform interpretations of, rather than supervision of, diagnostic tests. Some suggested that the responsibilities of the supervising physician in an IDTF include interpretation of the results of the procedures. One commenter supported the proposal that technologists in IDTFs be certified and recommended a requirement that radiologic procedures performed in IDTFs be interpreted by physicians who are qualified through: (1) Completing an approved residency program, (2) postresidency training, or (3) sufficient clinical experience.

Response: The performance of the interpretation (the physician's service covered under section 1861(s)(1) of the Act, as opposed to the diagnostic test covered under section 1861(s)(3) of the Act) is beyond the scope of this proposal except for the requirement that an IDTF's supervising physician evidence proficiency in the interpretation of each type of diagnostic procedure performed by the facility. In developing the IDTF proposal, we considered requiring IDTFs to furnish the interpretation as well as the test, but we decided not to include such a requirement because of the likelihood it would lead to unintended problems. For example, the physician who provides the general supervision for an IDTF may not be available to furnish an interpretation for a period of time and that could unnecessarily delay making a diagnosis in an urgent situation. In another situation, a beneficiary might want his or her test interpreted by a particular physician he or she has dealt with in the past.

Comment: One commenter pointed out that the proposal indicated that the IDTF policy did not apply to procedures furnished in physicians' offices and suggested that we clarify the status of procedures performed by IDTFs in physicians' offices.

Response: The IDTF requirements would apply to any procedures furnished by the IDTF either in its own facility or in a physician's office, clinic, or other nonprovider setting. For example, if a procedure requires direct supervision, it would be necessary for the IDTF's supervising physician to be present in the suite during performance. We have modified § 410.33(a)(1) to state that the IDTF policy applies to procedures performed by IDTFs in physicians' offices.

Comment: One commenter indicated that the IDTF proposal should apply to any noninvasive vascular procedure performed by portable x-ray suppliers.

Response: Noninvasive vascular procedures (or any test other than certain x-rays, diagnostic mammography, and EKGs) are not included in the portable x-ray benefit. If an approved portable x-ray supplier wishes to furnish these procedures, it would have to become an IDTF. No transportation payment would be made in connection with these types of procedures.

Comment: A national organization representing psychologists pointed out that, as written, the IDTF proposal would apply to individual nonphysician practitioners, including clinical psychologists and asked us to clarify that clinical psychologists do not have to become IDTFs and perform diagnostic psychological testing under physician supervision.

Response: We did not intend the IDTF proposal to apply to diagnostic psychological testing personally performed by clinical psychologists because these services are not covered under section 1861(s)(3) of the Act. However, in order to promote understanding of the policy by all concerned, we are explicitly excluding diagnostic psychological testing personally performed by clinical psychologists from the requirement that out-of-hospital, out-of-physician-office tests that must be performed under the supervision of a physician in an IDTF. In other words, a clinical psychologist does not have to become an IDTF to be paid by the carrier for the performance of diagnostic psychological testing.

Comment: A State Department of Health cited several aspects of the IDTF proposal that would conflict with the laws of its State. The commenter also indicated that the proposed rule did not define the types of diagnostic tests that could be covered by Medicare when performed by an IDTF, whether IDTFs can furnish radiologic services, or who will receive the Medicare payments for services performed by an IDTF.

Response: In making the IDTF proposal, we were recognizing the problems with the existing situation of largely unregulated entities that performed diagnostic tests. Neither IDTFs nor IPLs were established because of statutory mandate from the Congress. In making this proposal, it is not our intention to preempt any State licensing requirements; however, it is not clear to us how IPLs could have operated in a State and IDTFs cannot. However, in order to address these concerns, we have added an additional requirement in paragraph (f) of § 410.33 (Independent Diagnostic Testing Facility). Under this requirement, an IDTF must comply with the applicable laws of any State in which it operates. In IDTFs, Medicare would cover all tests payable under the Medicare physician fee schedule, including radiologic procedures, other than clinical laboratory tests. In many cases, the carrier will pay the IDTF for the technical component of the procedures. In some cases, an IDTF may purchase the interpretation of the test from a physician and bill for both professional and technical components, while in other cases, an interpreting physician may purchase the test from the IDTF and bill for both professional and technical components.

Comment: Some commenters expressed concern about the January 1, 1998 effective date of the IDTF proposal. They suggested transition periods of up to 1 year.

Response: We are addressing these comments in the discussion below.

Result of evaluation of comments: We are adopting the proposal to have IDTFs replace IPLs with the modifications or clarifications discussed above. In addition, we are providing that the replacement occur on a phased-in basis scheduled to be completed on July 1, 1998. Entities wishing to be recognized as IDTFs must send a letter to the Part B carrier for their service areas attesting that they meet all IDTF criteria. As soon as a carrier accepts the entity as an IDTF, the carrier notifies the entity of its new status and billing number. Once an entity becomes an IDTF, it is no longer subject to local medical review policies that currently preclude IPLs from furnishing procedures or groups of procedures while allowing other entities to perform them. An IDTF must comply with the applicable laws of any State in which it operates.

E. Reasonable Compensation Equivalent Limit Update Factor

1. Background

Section 1887(a)(2)(B) of the Act provided for the reasonable compensation equivalent limits used to determine the reasonableness of costs incurred by providers for professional services furnished by physicians for the benefit of provider patients in a hospital or skilled nursing facility. Regulations set forth at § 415.70 (Limits on compensation for physician services in providers), paragraph (b), concerning the methodology for establishing limits, established a methodology for determining reasonable annual compensation equivalents, considering average physician incomes by specialty and type of location, to the extent possible using the best available data. The regulations also expanded the application of the reasonable compensation equivalent limits to include comprehensive outpatient rehabilitation facilities. The initial and still current methodology for establishing reasonable compensation equivalent limits is based on an internal working paper ("A Methodology for Determination of Reasonable FTE Compensation for Hospital-Based Physicians" by James R. Cantwell and William J. Sobaski (Working Paper No. OR–32, revised December 1982)) developed by HCFA's Office of Strategic Planning, (formerly the Office of Research and Demonstrations). Copies of this paper are available on request from: OSP Publications, Office of Strategic Planning, Health Care Financing Administration, Room C3–20–11, 7500 Security Boulevard, Baltimore, MD 21244, (410) 786–6588. The inflation factor employed in the methodology used to develop the initial limits and, subsequently, to update those limits to reflect increases in net physician compensation was the Consumer Price Index for All Urban Consumers (CPI-U).

2. Change in the Methodology Used to Develop Reasonable Compensation Equivalent Limits

The methodology currently employed to update the physician fee schedule uses an inflation factor distinct from the CPI-U, which is used to update the reasonable compensation equivalent limits. To achieve a measure of consistency in the methodologies employed to determine reasonable payments to physicians for physicians' direct medical and surgical services furnished to individual patients and reasonable compensation levels for physicians' services that benefit provider patients generally, we are revising the methodology used to update the reasonable compensation equivalent limits that would entail the adoption of the physician fee schedule's inflation factor (the MEI) to update the reasonable compensation equivalent limits. For cost reporting periods beginning on or after January 1, 1998, updates to the reasonable compensation equivalent limits would be calculated using the MEI.

Comment: One association favored the adoption of the MEI in place of the CPI-U as the update factor for the reasonable compensation equivalent limits. Another medical association stated that, while it did not object to the adoption of the MEI, it recommended that the reasonable compensation equivalent limits methodology be replaced with a relative value based methodology.

Response: We will consider the development of a relative value based reasonable compensation equivalent limits methodology in the immediate future, but we are proceeding with the adoption of the MEI as the reasonable compensation equivalent limits update factor at the present time.

Result of evaluation of comments: As proposed, we are revising the reasonable compensation equivalent limits update methodology by replacing the CPI-U with the MEI as the update factor.

F. Payment to Participating and Nonparticipating Suppliers

Section 1848(a)(1) of the Act requires that payment for physician services (as defined in 1848(j)(3)) be based on the lesser of the actual charge for the service or the fee schedule amount. We proposed to revise the regulations at § 414.21 (Medicare payment basis) to ensure that they contain this statutory provision. (Our proposed definition of "actual charges" was discussed separately in section II.J. of our June 18, 1997 proposed rule (62 FR 33192).)

Section 1848(a)(3) of the Act provides incentives for participating physicians and suppliers by setting the fee schedule amount for those who participate at 100 percent of the amount calculated under the fee schedule for the service as provided in the formula at section 1848(b)(1) of the Act. It also provides that the fee schedule amount for nonparticipating physicians and suppliers be set at 95 percent of the amount for participating physicians and suppliers. Since regulations at § 400.202 (Definitions specific to Medicare) define the term "supplier" as including physicians and all other persons who provide services for which payment may be made under Part B except for "providers of services" as defined in 1861(u) of the Act, we proposed to define nonparticipating suppliers in § 400.202 as being suppliers who do not have a Part B participation agreement in effect on the date of the service. We also proposed to define participating suppliers as being suppliers who have an agreement to participate in Part B in effect on the date of the service. These definitions mirror the definitions of participating and nonparticipating physicians, suppliers, and other persons that are in section 1842(h) of the Act.

Section 1848(g)(2)(C) of the Act states that the Medicare limiting charge is to be set at 115 percent of the "* * * payment amount for nonparticipating physicians or nonparticipating suppliers or other persons." Hence, we proposed to reflect this requirement in regulations in proposed § 414.48(b) (concerning specific limits on actual charges of nonparticipating suppliers).

We received two comments related to these proposed changes.

Comment: Some physicians objected to being considered "suppliers," and some physicians did not recognize that, under current regulations, the term "supplier" includes physicians. These commenters wanted us to revise the terminology in the regulations to consider physicians not to be "suppliers."

Response: We did not accept this comment because the term "supplier" is used to include physicians for all other Medicare regulations (except where otherwise specified), all of which would have to be revised if we were to remove physicians from the definition of "supplier" for general Medicare regulations. Doing this would be impractical and would risk removing rules that apply to physicians in the same manner in which they apply to other persons who bill and are paid for services covered under Part B of Medicare.

Comment: Some commenters objected to the requirement that Medicare fee schedule payment be based on the lower of the actual charge or the fee schedule amount. They argued that the fee schedule amount should be the only basis for payment.

Response: We did not accept this comment because the law requires that the payment be based on the lesser of the actual charge or the fee schedule amount. Including it should have no practical effect on payment since carriers are already instructed to compare the submitted charge to the fee schedule amount and to base payment on the lesser of the two amounts. Moreover, we believe that some of these commenters may have confused this

general requirement with our proposed definition of "actual charges" (which is discussed in section II. J. of this preamble).

Result of evaluation of comments: We are making final the technical change to the regulations to conform them to statutory provisions and operating instructions (Medicare Carriers Manual).

G. Increase in Work Relative Value Units for Global Surgical Services to Account for the 1997 Increases for Work Relative Value Units in Evaluation and Management Services

In our November 22, 1996 final rule with comment period, as part of the 5-year review of all physician work RVUs, we increased most of the work RVUs for evaluation and management services for hospital and office or other outpatient visits. We revised the work RVUs for evaluation and management services partly in recognition of the increase in preservice and postservice work. At that time, we made no adjustments to the work RVUs assigned to global surgical services, which, in addition to the surgical procedure, include the related preservice and postservice evaluation and management visits a surgeon provides within a defined period of time.

Upon further examination of this issue, we are increasing the work RVUs for global surgical services to be consistent with the 1997 increases in the work RVUs for evaluation and management services.

Because the increases in the work RVUs for global surgical services will cause an increase in payments for those services, we must reduce all work payments by 0.7 percent to maintain budget neutrality.

We received the following public comments on this proposal:

Comment: Several commenters, ranging from individual physicians to physician specialty societies, expressed support for our proposal because it makes the increased work associated with the preservice and postservice work of global surgical services consistent with the increases that were made to evaluation and management services for the 1997 physician fee schedule.

Response: We agree that our proposal will make payment amounts for the increased evaluation and management services present in the preservice and postservice work of global surgical services more consistent with the increases in work that were made to evaluation and management services.

Comment: Several commenters expressed concerns that our proposal did not include all global surgical services. Commenters requested that we review our list of global surgical services to be affected by these work RVU increases.

Response: We agree with commenters that we inadvertently omitted certain global surgical services from our proposal. We addressed this oversight by reviewing the list of global surgical services, identifying those services which were omitted. After this residual list of services was compiled, we contacted the specialty societies most closely identified with the omitted CPT codes in order to attach the appropriate number of office visits associated with each individual CPT code.

Result of evaluation of comments: We are adopting our proposal to increase the work RVUs associated with global surgical services to reflect the increased evaluation and management present in the preservice and postservice portions of these services. We have added the services referred to above. This will assure that the evaluation and management portions of global surgical services are consistent with our 1997 increases to evaluation and management services. Those codes that have been changed due to the increase of work RVUs of global surgical services are identified in Addendum B.

H. Caloric Vestibular Testing

We proposed to reduce the RVUs for caloric vestibular testing, CPT code 92543, to 25 percent of what the values would have otherwise been. We made this proposal in order to permit physicians and suppliers to bill four units of service instead of the one unit now permitted. The use of four units is consistent with the AMA's interpretation of the code.

Addendum C in the June 18, 1997 proposed rule contained an error. The reduction to 25 percent of the RVUs otherwise applicable was reflected for the practice expense RVUs, but we incorrectly published unreduced RVUs for work and malpractice. On August 18, 1997, we published a correction notice (62 FR 43962) to reflect the correct values. The new values for work and malpractice were 25 percent of the numbers previously published.

The reduction to the direct practice expense RVUs had been correctly noted in the proposed rule. However, because the indirect practice expense RVUs are partially based on the work RVUs, the reduction to the work RVUs caused a reduction to the indirect practice expense RVUs. The new total practice expense RVUs published in the correction notice reflect the reduced indirect practice expense RVUs.

Because resource-based practice expense RVUs will not be implemented effective January 1998, the practice expense RVUs published in this final rule differ from those published in the proposed rule and the correction notice. The final practice expense RVUs continue to be based on charge-based data and are simply 25 percent of the charge-based RVUs currently in effect. The final work and malpractice RVUs are those published in the correction notice. They too are 25 percent of the values currently in effect.

Two physician organizations expressed support for this change. Other comments are discussed below.

Comment: One commenter suggested that Medicare should recognize four units of service when four irrigations are performed but that we should not make a reduction in RVU amounts.

Response: This change is not intended to reflect a decision that our relative payment amounts are too low for caloric vestibular testing. Medicare has not made such a decision. Instead, we are simply reconciling our interpretation of the code with the AMA's interpretation and, in order to do this in a budget neutral fashion, we are reducing the RVUs to 25 percent of the amount otherwise applicable.

Comment: Another commenter did not oppose this proposal but opposed the proposed resource-based practice expense RVUs for the service.

Response: Since we are no longer proceeding with resource-based practice expense RVUs for 1998, the merits of these comments will not be addressed in this final rule.

Result of evaluation of comments: Beginning in 1998, when a physician performs and interprets four irrigations, the physician will bill Medicare for four units of CPT code 92543 (that is, the global service). When a physician interprets four irrigations, the physician will bill four units of CPT code 92543–26. When a physician or supplier performs four irrigations, the physician or supplier will bill four units of CPT code 92543–TC.

I. Clinical Consultations

There are two CPT codes for clinical consultations, CPT codes 80500 (Clinical pathology consultation; limited, without review of patient's history and medical records) and 80502 (Clinical pathology consultation; comprehensive, for a complex diagnostic problem, with review of patient's history and medical records), which were added to the CPT in 1985.

The regulations set forth at § 415.130 (Conditions for payment: Physician pathology services), paragraph (b) (Clinical consultation services), require that a clinical consultation meet four criteria before it can be paid. One of these criteria is that the clinical consultation must be requested by the patient's attending physician. As we indicated in the preamble to the proposed rule, we have allowed a standing order policy to be used as a substitute for the individual request by the patient's attending physician since a 1984 law suit. However, we believe that this policy is no longer appropriate. Because the policy was not embodied in the court's judgment or otherwise required by law and because we view it as creating opportunities for abuse and waste, effective January 1, 1998, we are not accepting a standing order as a substitute for the individual request by the attending physician. We are instructing the Medicare carriers to enforce § 415.130(b) as it is presently written.

Comment: We received comments from two organizations and many individual pathologists from Florida. These commenters argue that standing orders are an efficient mechanism of providing interpretive reports of specific clinical laboratory tests to attending physicians without prolonging care or the length of a hospital stay. Therefore, the proposed elimination of standing orders would create unnecessary delays and could adversely affect patient care and increase the cost of care.

Response: As we explained in the June 1997 proposed rule, pathologists could use a standing order policy to generate unnecessary consultations. These consultations may occur even though the attending physician can properly interpret the test results and does not need the assistance of the pathologist. We readily admit that standing orders can offer efficiencies over individual requests by attending physicians when attending physicians need interpretations from pathologists. However, we must balance this concern with the risk that the Medicare program may be inappropriately paying for medically unnecessary services under a standing order policy.

Comment: Individual commenters stated that there are several tests when prompt interpretation of tests is needed and the tests require interpretation by pathologists. Examples of these tests include cardiac enzymes, serum protein electrophoresis, and immunoelectrophoresis.

Response: These commenters appear to be confusing our policy on clinical laboratory interpretation services with clinical consultations. Before the implementation of the physician fee schedule in 1992, we worked with the College of American Pathologists and our carrier medical directors to identify those clinical laboratory tests for which the attending physician would ordinarily need the pathologist's interpretation. The clinical laboratory tests, which the commenters mentioned, were on the original list of tests which our carrier medical directors reviewed. Working with the carrier medical directors, we identified a list of 15 clinical laboratory tests for which we would recognize a clinical laboratory interpretation service. These tests were listed in the November 1991 final rule (56 FR 59565) and can be found at section 15020 E of the Medicare Carriers Manual. The list includes CPT codes 86320, 86325 and 86327, which describe immunoelectrophoresis services, and CPT code 84165, which describes serum protein electrophoresis. Since these tests are ordinarily interpreted by a pathologist, we allow a standing order policy to be used in place of an individual request by an attending physician.

Result of evaluation of comments: Except for the clinical laboratory tests mentioned above, we will not accept a standing order as a substitute for the individual request by the attending physician. We will instruct the Medicare carriers to enforce § 415.130(b) as it is presently written.

J. Actual Charges

In the June 18, 1997 proposed rule (62 FR 33184), we defined the term "actual charge" to be the lesser of the amount the physician, supplier, or other person charges for the service to a particular beneficiary or the amount they have voluntarily agreed to accept as payment in full under a private plan contract that also covers the beneficiary when Medicare is primary and the private plan is secondary. We proposed this policy to protect Medicare beneficiaries from incurring greater deductible and coinsurance expenses as a result of enrollment in Part B of Medicare if the private plan's payment amount is less than the Medicare payment, and the Medicare coinsurance is more than the private plan's copayment.

For example, a retiree age 64, enrolled in a managed care plan, has a cataract removed by a physician who participates in Medicare and in the managed care plan. The managed care plan pays $800 of the physician's $1,500 actual charge. The retiree pays a $5 copayment. The physician cannot bill the retiree for the remaining amount under the terms of the contract with the managed care plan.

The retiree reaches age 65 and enrolls in Medicare Part B, which is usually required by the employer or the plan in order for the beneficiary to stay in the managed care plan. The beneficiary pays the Medicare premium each month and has the second cataract removed. Medicare is now the primary payer and the managed care plan is a secondary payer. The physician takes assignment on the Medicare claim and Medicare allows $1,000 of the physician's $1,500 charge. Medicare pays $800, its share of the payment. The physician bills the managed care plan for the $200 coinsurance but the plan may refuse to pay because the physician has already received the $800 that the plan considers to be payment in full. The physician may attempt to collect the coinsurance from the beneficiary. When this occurs, the beneficiary may have more out-of-pocket expense after age 65 than before. The potential for higher out-of-pocket expenses occurs also with the services of other practitioners and suppliers, especially suppliers of durable medical equipment, prosthetics, orthotics, and supplies, who often deeply discount the price they charge managed care organizations in exchange for exclusivity and guaranteed business.

We received numerous comments from individual physicians and suppliers and the organizations that represent them in opposition of this proposal. In general, the comments have the following common themes:

- Physicians and suppliers do not know what the plans will pay for their services, either because the plans change the payment amounts without notice or, in the case of physicians, because of withholds and bonuses that do not permit establishing actual payment for the service until after the end of the year—certainly not in time for the actual payment to be placed on the claim for Medicare payment.
- The proposal would increase physicians' and suppliers' administrative cost and burden to bill Medicare.
- There is no statutory basis for interpreting the term "actual charges" in any manner other than the plain meaning of the words, for example, whatever the physician or supplier chooses to charge.
- There is no standard coding and/or bundling among payers, hence, there is no standard description of services on which to base a comparison of Medicare and managed care payments.
- The proposal constitutes a breach of faith with the physician community that supports the physician fee schedule because of the participatory nature of its development.

As a result of our review of the comments, we have decided that the

actual charge issue, including the implications for beneficiary out-of-pocket expense, requires further study. Although we are not issuing a final rule requiring physicians and suppliers to show the lower negotiated payment as their submitted charge for the service, we continue to believe that the lower negotiated rate should be the submitted charge in this situation.

III. Implementation of the Balanced Budget Act of 1997

In addition to the physician fee schedule provisions of the Balanced Budget Act of 1997, the new legislation expands the previously enacted Medicare screening mammography benefit and adds several new screening benefits to the law—the colorectal cancer screening benefit and the screening pelvic examination benefit effective January 1, 1998. For many years physicians have understood the value of prevention and early detection measures in dealing with medical problems. Preventive services for the early detection of disease have also been associated with substantial reductions in morbidity. For example, dramatic reductions in the incidence of invasive cervical cancer and in cervical cancer mortality have occurred following the implementation of screening programs using Papanicolaou testing to detect cervical dysplasia.

Although sound clinical reasons exist for emphasizing prevention in medicine, studies have shown that clinicians often fail to provide recommended clinical preventive services. This is due to a variety of factors, including inadequate reimbursement for preventive services, fragmentation of health care delivery, and insufficient time with patients to deliver the range of preventive services that are recommended. It is our expectation that implementation of the recently enacted new Medicare benefit provisions should help to overcome at least some of the barriers to the use of preventive services, and may lead to substantial reductions in morbidity and mortality.

A. Changes in Practice Expense Relative Value Units for 1998

Section 4505 of the Balanced Budget Act of 1997 delays the implementation of the resource-based practice expense RVU system until January 1, 1999 and specifies the manner in which practice expense RVUs in 1998 are adjusted.

The 1998 practice expense RVUs for certain services are reduced to 110 percent of their work RVUs for the service. The reductions are used to increase practice expense RVUs for office visits. (Section 4505 of the BBA 1997 also provides the Secretary with the authority to adjust the 110 percent figure if the aggregate amount of reductions exceeds $390 million. Since the application of the 110 percent results in reductions of about $330 million, we did not need to make an additional adjustment.)

There are two categories of services that are excluded from this limitation: (1) The service provided more than 75 percent of the time in an office setting; and (2) the service had a proposed resource-based practice expense RVU (that is, the practice expense RVU for the service published in the June 18, 1997 proposed rule (62 FR 33158 et seq.)) that was an increase from its 1997 practice expense RVU.

In addition, there are services whose work RVU is zero and therefore are not affected by this provision. These services include technical component (TC) services (such as the TC of radiology services, surgical pathology services, and other services that have a corresponding PC service) and diagnostic tests, such as psychological tests, that are not TC services (because there is no corresponding PC service).

The exclusion for services because they have a value that increased in the June 1997 proposed rule (62 FR 33160) is applied separately by site-of-service with the distinction made between in-office and out-of-office services. For most codes, the June 1997 proposed rule provided a practice expense RVU for both the in-office and the out-of-office setting. Thus, if the proposed 1998 resource-based practice expense RVU for a code for the in-office setting increased in relation to its 1997 practice expense RVU even though the proposed value exceeded 110 percent of the work RVU, this code, for this service and this site, was excluded from the practice expense RVU reduction. Similarly, if the proposed 1998 resource-based practice expense RVU for the same code for the out-of-office setting decreased in relation to its 1997 practice expense RVU and the proposed value exceeded 110 percent of the work RVU, then this code, for this service and this site, was subject to the practice expense RVU reduction.

For 1998, the carriers will apply the same site-of-service differential policy they applied in 1997. Under the site-of-service differential, the practice expense RVUs for a procedure code that is furnished outside the office are reduced by 50 percent. There are approximately 700 codes affected by this policy. To coordinate this policy with the site-of-service distinctions in the June 1997 proposed rule and the interaction of the provisions of section 4505 of the BBA 1997, we are listing in Addendum B the practice expense RVUs for the two sites for the 700 procedure codes instead of allowing the carrier to calculate the 50 percent reduction.

The practice expense RVUs for office visit procedure codes are increased by a uniform percentage. This uniform percentage (13 percent) is calculated so that the aggregate increase in practice expense RVUs for office visit procedures is equal to the decrease in Practice expense RVUs for services whose practice expense RVUs are reduced. This results in an increase in total payments of between 3 percent and 5 percent for the office visit codes.

B. Coverage of Screening Mammography and Related Payment Changes

Before the enactment of the BBA 1997, section 1834(c)(2) of the Act prescribed certain limitations on the frequency of coverage of mammography screenings for women over 39 years of age with no waiver of the yearly Part B deductible requirement. Specifically, for a woman over age 39 but under 50 years of age, the law provided for coverage of screening mammography either once a year or twice a year depending upon whether the woman was considered to be at high risk of developing breast cancer, as determined pursuant to factors identified by the Secretary and specified in regulations. In the case of a woman over 49 years of age but under 65 years of age, the law specified that payment could be made for a screening mammography once a year (that is, if at least 11 months had passed following the month in which the last screening mammography was performed). Finally, in the case of a woman over 64 years of age, the law provided that payment could be made for a screening mammography once every 2 years following the month in which the last screening mammography was performed.

Section 4101(a) of the BBA 1997 amends section 1834(c)(2)(A) of the Act effective January 1, 1998 to simply provide that in the case of any women over 39 years of age, payment may be made for a screening mammography if at least 11 months have passed following the month in which the last screening mammography was performed. Section 4101(b) of the BBA 1997 amends sections 1833(b) and 1834(c)(1)(C) of the Act to waive the Part B deductible requirement.

In view of the statutory changes in the (1) limitations on the frequency of coverage of screening mammographies for all women over 39 years of age and (2) the Part B deductible requirement as it relates to all screening mammography services, we are amending § 410.34(d) (relating to limitations on coverage of screening mammography) and are adding a new exception as paragraph (5) in § 410.160(b) (relating to exceptions to the Part B annual deductible) to reflect these changes in the regulations.

C. Colorectal Cancer Screening

Section 4104 of the BBA 1997 provides for Medicare coverage of colorectal cancer screening tests effective for services provided on or after January 1, 1998. The law provides for coverage for screening fecal-occult blood tests, screening flexible sigmoidoscopy, screening colonoscopy, and other tests we determined to be appropriate, subject to certain frequency and payment limits.

Present Medicare coverage policy allows payment for diagnostic tests to diagnose colorectal cancer and related medically necessary services that are furnished to beneficiaries. Under this policy, diagnostic colorectal cancer tests are covered if they are medically necessary to evaluate a specific complaint from or monitor an existing medical condition of an individual who has had a history of colon cancer or inflammatory bowel disease. This coverage is based, in part, on section 1861(s)(3) of the Act, which provides general Medicare coverage for diagnostic x-ray, clinical laboratory, and other diagnostic tests. However, prior to the enactment of the BBA 1997, screening colorectal cancer tests have been excluded from coverage based on section 1862(a)(7) of the Act, which states that routine physical checkups are excluded services. This exclusion is described in Medicare regulations in § 411.15(a).

1. Coverage Determination in Screening Barium Enemas

Section 4104(a)(2) of the BBA 1997 requires us to publish a notice in the **Federal Register** related to the coverage of screening barium enema as a colorectal cancer screening test. As provided by section 4104(a)(2) of the BBA 1997, this notice is to be published in the **Federal Register** by November 3, 1997, within 90 days after the date of enactment.

To the three colorectal cancer screening tests specifically designated as covered under sections 1861(pp)(1)(A), (B), and (C) of the Act, section 4104(a)(2) of the BBA 1997 added a new section 1861(pp)(1)(D) to the Act to provide that colorectal cancer screening tests may also include coverage of other tests or procedures the Secretary determines to be appropriate based on consultation with appropriate organizations.

As required by section 1861(pp)(1)(D) of the Act, we, acting on behalf of the Secretary, consulted with appropriate Federal government organizations and other organizations regarding the efficacy of a barium enema examination for detecting colorectal cancer. We also inquired about how this coverage should be included under Medicare. We contacted representatives of various Federal agencies, including the Agency for Health Care Policy and Research, the Centers for Disease Control and Prevention, the Food and Drug Administration, and the National Cancer Institute, knowledgeable about using a barium enema as a screening test to detect colorectal cancer. We also consulted with staff from the American Cancer Society. In addition, the American Medical Association convened a preventive medicine expert panel that included representatives from the United States Preventive Services Task Force and various medical specialty organizations, such as the American Medical Association Council on Scientific Affairs, the American Medical Association Council on Medical Services, the American Academy of Family Physicians, the American College of Physicians, the American College of Preventive Medicine, the American College of Radiology, and the American Society of Colon and Rectal Surgeons.

Based on our review of this information and our evaluation of other data, we concluded that while there is not a consensus in the medical community regarding the specific role of a barium enema examination under the Medicare colorectal cancer screening benefit when compared to the use of the flexible sigmoidoscopy and colonoscopy examinations, there is a sufficient basis for us to include the use of barium enema as part of the new national Medicare coverage for colorectal screening.

In its Executive Summary, (AHCPR Publication Number 97–0302) Evidence Report No. 1: Colorectal Cancer Screening, the Agency for Health Care Policy and Research concluded that there is indirect evidence that supports the use of double contrast barium enema in screening for colorectal cancer. They also noted that the double contrast barium enema can image the entire colon and detect cancers and large polyps. (Medicare policy already allows payment for diagnostic barium enemas that are performed to evaluate a beneficiary's specific complaint or to monitor an existing medical condition for an individual with a history of colon cancer.) Additionally, the role of the barium enema examination as a colorectal cancer screening examination has recently been studied by several multi-disciplinary expert panels and, as a result of those studies, it appears that the usefulness of the examination is becoming widely accepted in the United States. First, the American Gastroenterological Association initially in conjunction with the Agency for Health Care Policy and Research, completed their report earlier this year. The double contrast barium enema was recommended as a screening option for all average risk patients (those with no predisposing factors) and selected groups of high risk patients (those with a history of prior polyps, or those with a first degree relative with colorectal cancer). Only in the case of the subset of patients at high risk with a family history of familial adenomatous polyposis, hereditary non-polyposis colorectal cancer, and inflammatory bowel disease was a colonoscopy recommended as the only screening modality. (This subset of patients represents a minority of the high risk population as defined by statute.) Second, earlier this year the American Cancer Society recently revised their guidelines to include the double contrast barium enema as an option for patients at average and moderate risk (nearly identical to the above described American Gastroenterological Association guidelines).

The American Gastroenterological Association and the National Cancer Institute studies have indicated that one of the major advantages of the barium enema examination is that it permits the imaging of the entire colorectum and it appears to have the ability to detect precursor adenomas as well as colorectal cancers. Anatomic visualization of the entire colorectum is believed to be highly desirable and is widely considered optimum for evaluating the colon. (It is generally acknowledged that one limitation of the flexible sigmoidoscopy examination is that it only allows for direct examination of the lower third to one-half of the colorectum.) There is also some evidence that racial differences exist in the distribution of colorectal cancers, with African-Americans having a higher proportion of cancers in the right side of the colon than Caucasians. Thus, tests that allow full structural coverage of the entire colorectum are needed as a choice for certain segments of the population.

Furthermore, on the basis of the information we have reviewed, the barium enema screening examination appears to have a superior safety profile

when compared to the screening flexible sigmoidoscopy and colonoscopy examinations, and it does not require sedation as is the case with colonoscopy examinations. Our information indicates that patients are typically exposed to 300 to 500 mrad of radiation during a barium enema examination, which is about equivalent to the dose of radiation that results from a single screening mammography examination. Considering the age and frequency at which screening is recommended for a barium enema examination, it is estimated by the American College of Radiology that a screening strategy using a barium enema x-ray every 2 or 4 years would deliver a lifetime dose of radiation that is lower than the radiation that would result from use of the annual Medicare screening mammography benefit.

Specifically, in view of the information summarized above, we have determined that a barium enema is a reasonable and necessary screening test for colorectal cancer, and have decided to cover screening barium enema examinations in the following manner:

First, such a screening examination may be covered as an alternative to a flexible sigmoidoscopy examination (that is, as a substitute for, and not as an added optional benefit) for an individual attaining age 50 and not at high risk for colorectal cancer, if the individual's attending physician orders the test in writing after a determination that the test is the appropriate screening test. That is, the attending physician must determine that, in the case of a particular individual, the estimated screening potential for the barium enema is equal to or greater than the screening potential that has been estimated for a flexible sigmoidoscopy for that same individual. For example, in the case of an individual who is taking anti-coagulant medications, the individual's attending physician may decide to order a barium enema instead of a flexible sigmoidoscopy because it is less likely to produce bleeding and typically allows for a total inspection of the colon, while the flexible sigmoidoscopy does not.

Second, we are establishing a frequency limitation for the coverage of the screening barium enema for an individual age 50 and over who is not at high risk for colorectal cancer at the same time interval that is specified in the statute for screening flexible sigmoidoscopy examination (that is, once every 48 months for the same individual.)

Third, we are providing that a screening barium enema may be covered as an alternative to a screening colonoscopy (that is, as a substitute and not as an added optional benefit) for individuals at high risk for colorectal cancer, if the individual's attending physician orders the test in writing following a determination that the screening barium enema is the appropriate test for that particular individual. This means that the attending physician must determine, in the case of a particular individual, that the estimated screening potential for the barium enema examination is equal to or greater than the screening potential that has been estimated for the colonoscopy examination. For instance, in the case of an individual at high risk for colorectal cancer who may not be able to receive a complete colonoscopy due to a markedly long and twisting loop(s) of colon, the individual's attending physician may decide to order a barium enema in lieu of a screening colonoscopy because it is more likely to permit a complete view of the entire colon.

Fourth, we are establishing the frequency limitation for coverage of the screening barium enema for an individual who is at high risk for colorectal cancer at the same time interval that is specified in the statute for screening colorectal examinations (that is, once every 24 months for the same individual.)

Fifth, we are establishing the double contrast barium enema as the standard type of screening barium enema that will be covered under the Medicare program because, based on information obtained from the American College of Radiology, we understand that it is regarded as the most sensitive for small colonic lesions in patients who are adequately prepared and optimally imaged. In the case of some patients who are infirm, immobile, or debilitated, however, a technically optimal double contrast examination may not be possible. In these patients a single contrast barium examination may be performed with high quality results despite the limitations of the patient's condition. In these situations, we are covering the single contrast method if it would satisfy the test described above for allowing coverage of the barium enema examination as an alternative to one of the other two colorectal cancer screening tests. That is, the individual's attending physician would have to determine that the estimated screening potential from the use of the single contrast barium enema is equal to or exceeds the estimated screening potential that would result from the use of the flexible sigmoidoscopy and the colonoscopy examinations.

In summary, effective January 1, 1998, we will pay for screening barium enemas as an alternative to either a screening flexible sigmoidoscopy or a screening colonoscopy, in accordance with the same frequency parameters specified in the law for the other two colorectal screening services identified.

2. Provisions of the Final Rule

We are specifying an exception to the list of examples of routine physical checkups excluded from coverage in § 411.15(a)(1) (Particular services excluded from coverage). The exception is for colorectal cancer screening tests that meet the frequency limitations and the conditions for coverage that we are specifying under § 410.37. Coverage of colorectal cancer screening tests is provided under Medicare Part B only.

3. Frequency Limits and Conditions of Coverage

Section 4104 of the BBA 1997 adds new subparagraph (R) to section 1861(s)(2) of the Act authorizing Medicare coverage of certain colorectal screening services as defined in section 1861(pp) that are furnished on or after January 1, 1998. These statutorily mandated colorectal services include screening fecal-occult blood tests, screening flexible sigmoidoscopy examinations, and screening colonoscopy examinations. Section 4104(b) of the BBA 1997 also establishes frequency of coverage limitations for all three of these colorectal screening services. The frequency of coverage limitations specified for fecal-occult blood tests is that payment may be made only for an individual 50 years of age or over, if the test has not been performed within the 11 months that have passed following the month in which the last screening fecal-occult blood test was performed. The frequency of coverage limitation indicated for screening flexible sigmoidoscopy examinations is that payment may be made only for an individual age 50 years of age or over, if the procedure has not been performed within the 47 months that have passed following the month in which the last screening flexible sigmoidoscopy examination was performed. In the case of screening colonoscopy examinations, section 4104 of the BBA 1997 provides for coverage of screening colonoscopies for individuals at high risk for developing colorectal cancer (as now defined in section 1861(pp)(2) of the Act), if the screening examination has not been performed within the 23 months that have passed following the month in which the last screening colonoscopy was performed.

We have added § 410.37 to provide for coverage of four types of colorectal cancer screening tests. First, we are specifying several definitions of terms that are included to implement the statutory provisions and to help the reader in understanding the regulation provisions. These include definitions of the terms (1) colorectal cancer screening tests, (2) fecal-occult blood test, (3) individual at high risk for colorectal cancer, (4) screening barium enema, and (5) attending physician. Second, we are establishing conditions of coverage for all four of the colorectal cancer screening tests that we will be paying for, effective January 1, 1998. Under our authority under the "reasonable and necessary" clause of the Act, section 1862(a)(1)(A), we are establishing conditions under which we would cover colorectal screening services. In § 410.37(b) (Conditions for coverage of screening fecal-occult blood tests) and § 410.37 (h) (Conditions for coverage of screening barium enemas) we are specifying that coverage is available for screening fecal-occult blood tests and screening barium enema examinations only if they are ordered in writing by the beneficiary's attending physician. We are including these coverage requirements to make certain that beneficiaries receive appropriate preventive counseling about the implications and possible results of having these examinations performed. In addition, in the case of the screening barium enema, which we will cover as an alternative to either the screening flexible sigmoidoscopy or the colonoscopy examination, we want to ensure that the beneficiary's attending physician has made a determination that the screening potential of that exam is at least equal to or greater than the screening potential for the alternative examination. Third, in order to ensure that the screening flexible sigmoidoscopy and screening colonoscopy exams are performed as safely and accurately as possible, we are requiring in § 410.37(d) (Conditions for coverage of screening flexible sigmoidoscopies) and § 410.37(f) (Conditions for coverage of screening colonoscopies) that the examinations must be performed by a doctor of medicine or osteopathy (as defined in section 1861(r)(1) of the Act.)

Additionally, in §§ 410.37(c), 410.37(e), 410.37(g), and 410.37(i) (Limitations on coverage of screening fecal-occult blood tests, Limitations on coverage of screening flexible sigmoidoscopies, Limitations on coverage of screening colonoscopies, and limitations on coverage of screening barium enemas, respectively), we are setting forth the following frequency and payment restrictions for the four types of colorectal cancer screening test covered, which are mandated by sections 1834(d)(1)(B), 1834(d)(2)(E) and 1834(d)(3)(E) of the Act, except for those relating to screening barium enema examinations, which the law did not specifically address.

Limits on Fecal-Occult Blood Tests

- Payment may not be made for a screening fecal-occult blood test performed for an individual under age 50.
- For an individual 50 years of age or over, payment may be made for a screening fecal-occult blood test performed after at least 11 months have passed following the month in which the last fecal-occult blood test was performed.

Limits on Flexible Sigmoidoscopies

- Payment may not be made for a screening flexible sigmoidoscopy performed for an individual under age 50.
- For an individual 50 years of age or over, payment may be made for a screening flexible sigmoidoscopy performed after at least 47 months have passed following the month in which the last screening flexible sigmoidoscopy, or the last screening barium enema was performed.

Limits on Colonoscopies

- Payment may not be made for a screening colonoscopy performed for an individual who is not at high risk for colorectal cancer.
- Payment may be made for a screening colonoscopy performed for an individual at high risk for colorectal cancer after at least 23 months have passed following the month in which the last screening colonoscopy or the last screening barium enema was performed.

Limits for Barium Enemas

- In the case of an individual age 50 and over who is not at high risk for colorectal cancer, payment may be made for a screening barium enema after 47 months have passed following the month in which the last screening barium enema, or the last screening flexible sigmoidoscopy was performed.
- In the case of an individual who is at high risk for colorectal cancer, payment may be made for a screening barium enema after at least 23 months have passed following the month in which the last screening barium enema, or the last screening colonoscopy was performed.

As indicated previously, in explaining our national coverage determination on screening barium enemas, we have decided to pay for this examination as an alternative to either the flexible sigmoidoscopy or the colonoscopy coverage provisions (that is, as a substitute for, and not as add-on coverage.) In reviewing the matter of the appropriate frequency limits for screening barium enemas, we did consider the possibility of providing for payment for these services as an add-on to the other two major screening coverage provisions. However, since the screening barium enema allows for a complete examination of the colon, we have not adopted this alternative because we believe it would be duplicative for us to permit coverage of both a screening barium enema and a screening flexible sigmoidoscopy (or a screening colonoscopy for an individual at high risk of colorectal cancer) during the same 2 or 4 year time period, respectively. In the case of a suspicious or equivocal examination, other tests would be necessary but would be considered diagnostic tests, not screening, and would be covered under Medicare. It is generally unnecessary to perform duplicate screening tests.

4. Payment Limits

Payment amounts for screening fecal-occult blood tests, screening sigmoidoscopies, screening colonoscopies, and barium enemas as follows:

- Screening fecal occult blood tests are covered at a frequency of once every 12 months for beneficiaries who have attained age 50. Section 1834(d)(1) of the Act provides that screening fecal occult blood tests are paid at the same rate as diagnostic fecal-occult blood tests (CPT code 82270) are paid under the clinical laboratory fee schedule. We have created a new HCPCS code G0107, colorectal cancer screening; fecal-occult blood test, one to three simultaneous determinations, to be used for screening fecal-occult blood tests. This code will be carrier-priced at the payment amount that the Medicare carrier pays for CPT code 82270 under the clinical laboratory fee schedule.
- Screening flexible sigmoidoscopy is covered at a frequency of once every 48 months for beneficiaries who have attained age 50. Section 1861(pp)(2) of the Act provides that payment for screening flexible sigmoidoscopies be paid at rates consistent with payment for similar or related services under the physician fee schedule, not to exceed the rates for a diagnostic flexible sigmoidoscopy (CPT code 45330).

We have created a new HCPCS code G0104, colorectal cancer screening; flexible sigmoidoscopy, to be used for screening flexible sigmoidoscopy. We believe that the work is the same whether the procedure is a screening or a diagnostic sigmoidoscopy and are, therefore, assigning the same RVUs to HCPCS code G0104 as those assigned to CPT code 45330 in Addendum B. If during the course of the screening flexible sigmoidoscopy a lesion or a growth is detected that results in a biopsy or removal of the growth, section 1834(d)(2)(D) of the Act provides that the physician should bill for a flexible sigmoidoscopy with biopsy or removal, rather than using the screening HCPCS code G0104.

• Screening colonoscopy is covered at a frequency of once every 24 months for beneficiaries at high risk for colorectal cancer under section 1834(d)(3)(E) of the Act. Section 1861(pp)(2) of the Act defines high risk as a person who, because of family history, prior experience of cancer or precursor neoplastic polyps, a history of chronic digestive disease condition (including inflammatory bowel disease, Crohn's disease, or ulcerative colitis), the presence of any appropriate recognized gene markers for colorectal cancer, or other predisposing factors, faces a high risk for colorectal cancer. The law provides that payment for screening colonoscopies be paid at rates consistent with payment for similar or related services under the physician fee schedule, not to exceed the rates for a diagnostic colonoscopy (CPT code 45378).

We have created a new HCPCS code G0105, colorectal cancer screening; colonoscopy for an individual at high risk, to be used for screening colonoscopy. We believe that the work is the same whether the procedure is a screening or a diagnostic colonoscopy, and we are, therefore, assigning the same RVUs to HCPCS code G0105 as those assigned to CPT code 45378 in Addendum B. If during the course of the screening colonoscopy a lesion or growth is detected that results in a biopsy or removal of the growth, section 1834(d)(3)(D) of the Act provides that the physician should bill for a colonoscopy with biopsy or removal, rather than using the screening HCPCS code G0105.

• The frequency of payment limitations for the screening barium exams will be exactly the same as the frequency of payment limitations that would apply if the barium examination were not being substituted for the other screening service (that is, once every 4 years for a flexible sigmoidoscopy examination for individuals age 50 or over and once every 2 years for colonoscopy screening for individuals at high risk for colorectal cancer).

We have created the following new HCPCS codes:

HCPCS code	Descriptor
G0106	Colorectal cancer screening; alternative to G0104, screening sigmoidoscopy, barium enema.
G0120	Colorectal cancer screening; alternative to G0105, screening colonoscopy, barium enema.
G0121	Colorectal cancer screening; colonoscopy on individual not meeting criteria for high risk (non-covered).
G0122	Colorectal cancer screening; barium enema (non-covered).

The first two codes (G0106, and G0120) are to be used for the barium enema when the barium enema is being substituted for either the sigmoidoscopy or the colonoscopy, as indicated by the code nomenclature. The RVUs for these procedures will be the same as for the diagnostic barium enema procedure, CPT code 74280, and are shown in Addendum B.

The second two codes are to be used when the high risk criteria are not met, or a barium enema is performed but not a substitute for either a sigmoidoscopy or colonoscopy. These are non-covered services.

5. Screening Colonoscopy in an Ambulatory Surgical Center

CPT code 45378, which is used to code a diagnostic colonoscopy, is on the list of procedures approved by Medicare for payment of an ambulatory surgical center (ASC) facility fee under section 1833(i) of the Act. CPT code 45378 is currently assigned to ASC payment group 2. We propose to add the new HCPCS code G0105, colorectal cancer screening; colonoscopy on individual at high risk, to the ASC list. We believe that the facility services are the same whether the procedure is a screening or a diagnostic colonoscopy and are, therefore, assigning HCPCS code G0105 to payment group 2, which is the same payment rate assigned to CPT code 45378. If during the course of the screening colonoscopy performed at an ASC a lesion or growth is detected which results in a biopsy or removal of the growth, the appropriate procedure classified as a colonoscopy with biopsy or removal should be billed and paid rather than HCPCS code G0105.

D. Coverage of Screening Pelvic Examination (Including a Clinical Breast Examination) and Related Payment Changes

Section 4102 of the BBA 1997 provides for coverage of screening pelvic examinations (including a clinical breast examination) for all female beneficiaries, effective January 1, 1998, subject to certain frequency and other limitations. A screening pelvic examination (including a clinical breast examination) should include at least seven of the following eleven elements:

• Inspection and palpation of breasts for masses or lumps, tenderness, symmetry, or nipple discharge.

• Digital rectal examination including sphincter tone, presence of hemorrhoids, and rectal masses. Pelvic examination (with or without specimen collection for smears and cultures) including:

• External genitalia (for example, general appearance, hair distribution, or lesions).

• Urethral meatus (for example, size, location, lesions, or prolapse).

• Urethra (for example, masses, tenderness, or scarring).

• Bladder (for example, fullness, masses, or tenderness).

• Vagina (for example, general appearance, estrogen effect, discharge, lesions, pelvic support, cystocele, or rectocele).

• Cervix (for example, general appearance, lesions, or discharge).

• Uterus (for example, size, contour, position, mobility, tenderness, consistency, descent, or support).

• Adnexa/parametria (for example, masses, tenderness, organomegaly, or nodularity).

• Anus and perineum.

This description is from *Documentation Guidelines for Evaluation and Management Services*, published in May 1997, and was developed by the Health Care Financing Administration and the American Medical Association. Section 1862(a)(1)(A) of the Act provides that Medicare cover only services that are reasonable and necessary for the diagnosis or treatment of illness or injury. We believe that a pelvic screening procedure should examine various anatomical structures to avoid missing detection of as many potential disorders as practical. We will be including this description in instructions in the Medicare Carriers Manual.

This coverage allows payment for one pelvic examination for every female beneficiary every 3 years but includes the allowance of payment once every year for certain women of childbearing age as well as certain women at high risk for cervical or vaginal cancer. Specifically, section 4102(a) of the BBA 1997 provides for the following frequency of coverage limitations:

As reflected in the law, payment may be made for a screening pelvic examination on an annual basis if one of the following occurs:

• The woman is of childbearing age and has had an examination indicating the presence of cervical or vaginal cancer or other abnormality during any of the preceding 3 years.

• The woman is considered by her physician or other practitioner to be at high risk of developing cervical or vaginal cancer as we have defined in these regulations.

We are adding § 410.56 (Screening pelvic examinations) to include this new coverage. In § 410.56(a) (Conditions for screening pelvic examinations), we are requiring that to be covered by Medicare Part B the screening pelvic examination must be performed by a doctor of medicine or osteopathy (as defined in section 1861(r)(1) of the Act), or by a certified nurse midwife (as defined in section 1861(gg) of the Act), or a physician assistant, nurse practitioner, or clinical nurse specialist (as defined in section 1861(aa) of the Act) who is authorized under State law to perform the examination. We have included this requirement to ensure that the screening exam is performed as safely and accurately as possible.

To implement the statutory mandate that requires us to identify in regulations the high risk factors for cervical and vaginal cancer, we are specifying in § 410.56(b)(2) (More frequent screening based on high-risk factors), the following factors that have been recommended to us by the National Cancer Institute and the Centers for Disease Prevention and Control. While other factors may have been identified such as low socioeconomic status, the lack of precise and verifiable definitions does not make them amenable to regulation at this time.

1. High Risk Factors for Cervical Cancer

• Early onset of sexual activity (under 16 years of age).

• Multiple sexual partners (five or more in a lifetime).

• History of a sexually transmitted disease (including the human immunodeficiency virus (HIV).

• Absence of three negative Pap smears or any Pap smears within the previous 7 years.

2. High Risk Factors for Vaginal Cancer

• Prenatal exposure to diethylstilbestrol.

Based on consultation with representatives of the American College of Gynecologists and Obstetricians and others, we have defined a woman of childbearing age in § 410.56(b)(3) (More frequent screening for women of childbearing age) to mean a woman who is premenopausal, and has been determined by her physician or other practitioner, as specified in § 410.56(a), to be of childbearing age, based on her medical history or other findings.

This new section also provides for a waiver of the Part B deductible requirement that would otherwise be applicable to these services.

E. Reinstatement of the Payment for Transportation of EKG Equipment

As set forth in section 4559 of the BBA 1997, effective for services furnished after December 31, 1997 and before January 1, 1999, carriers will make separate payments for HCPCS code R0076 (Transportation of portable EKG to facility or location, per patient) based upon payment methods in effect for these services as of December 31, 1996. EKG transportation payments are made at the carrier-priced level that was in effect on December 31, 1996. The procedure codes involved are CPT code 93000 (a 12-lead EKG with interpretation and report) or CPT code 93005 (a 12-lead EKG, tracing only, without interpretation and report). When multiple patients receive services at the same site, the transportation payment amount must be prorated among all patients seen. These payments may be made only under the following circumstances:

• The transportation service is furnished in connection with standard EKG procedures furnished by approved suppliers of portable x-ray services as set forth in section 2070.4.F. of the Medicare Carriers Manual.

• The transportation service is furnished in connection with standard EKG procedures by an independent diagnostic testing facility or an independent physiological laboratory under the conditions set forth in section 2070.1.G. of the Medicare Carriers Manual.

F. Waiver of Proposed Rulemaking for Provisions in the Balanced Budget Act of 1997

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** and invite prior public comment on proposed rules. We have found good cause that a notice-and-comment procedure can be waived for the BBA 1997 provisions discussed above. A complete explanation of reasons is given in section VII. of this preamble.

IV. Refinement of Relative Value Units for Calendar Year 1998 and Responses to Public Comments on Interim Relative Value Units for 1997

A. Summary of Issues Discussed Related to the Adjustment of Relative Value Units

Section IV.B. of this final rule describes the methodology used to review the comments received on the RVUs for physician work and the process used to establish RVUs for new and revised CPT codes. Changes to codes on the physician fee schedule reflected in Addendum B are effective for services furnished beginning January 1, 1998.

B. Process for Establishing Work Relative Value Units for the 1998 Fee Schedule

Our November 22, 1996 final rule on the 1997 physician fee schedule (61 FR 59490) announced the final RVUs for Medicare payment for existing procedure codes under the physician fee schedule and interim RVUs for new and revised codes. The RVUs contained in the rule apply to physician services furnished beginning January 1, 1997. We announced that we considered the RVUs for the interim codes to be subject to public comment under the annual refinement process. In this section, we summarize the refinements to the interim work RVUs that have occurred since publication of the November 1996 final rule and our establishment of the work RVUs for new and revised codes for the 1998 fee schedule.

1. Work Relative Value Unit Refinements of Interim and Related Relative Value Units (Includes Table 1—Work Relative Value Unit Refinements of 1997 Interim and Related Relative Value Units)

Although the RVUs in the November 1996 final rule were used to calculate 1997 payment amounts, we considered the RVUs for the new or revised codes to be interim. We accepted comments for a period of 60 days. We received substantive comments from

approximately five specialty societies on approximately nine CPT codes with interim RVUs. Only comments received on codes listed in Addendum C of the November 1996 final rule were considered this year.

Due to the low volume of comments we received for 1997 CPT codes with interim RVUs, we adjusted the refinement process we have used in previous years. (See the November 22, 1996 final rule on the physician fee schedule (61 FR 59536) for a detailed explanation of the refinement of CPT codes with interim RVUs.) Instead, we invited one representative from each of the five specialty societies from which comments were received to attend a discussion of the codes commented on by their respective societies. In attendance at this meeting were the following representatives:

- A clinician representing each of the specialties most identified with the procedures in question. Each specialist was nominated by the specialty society that submitted the comments.
- Representatives from the AMA's RUC.
- Carrier medical directors.
- HCFA medical officers.
- HCFA staff.

The group discussed the work involved in each procedure under review in comparison to the work associated with other services on the fee schedule. We had assembled a set of reference services and asked the group members to compare the clinical aspects of the work of services they believed were incorrectly valued to one or more of the reference services. In compiling the set, we attempted to include: (1) Services that are commonly performed whose work RVUs are not controversial; (2) services that span the entire spectrum from the easiest to the most difficult; and (3) at least three services performed by each of the major specialties so that each specialty would be represented. The set listed approximately 300 services. Group members were encouraged to make comparisons to reference services.

The specialty society's recommendations were accepted for all nine of the CPT codes that were reviewed. We will continue with the regular refinement process for future years.

Table 1—Work Relative Value Unit Refinements of 1997 Interim and Related Relative Value Units

Table 1 lists the interim and related codes reviewed during the 1997 refinement process described in this section. This table includes the following information:

- *CPT Code.* This is the CPT code for a service.
- *Description.* This is an abbreviated version of the narrative description of the code.
- *1997 Work RVU.* The work RVUs that appeared in the November 1996 rule are shown for each reviewed code.
- *Requested Work RVU.* This column identifies the work RVUs requested by commenters.
- *1998 Work RVU.* This column contains the final RVUs for physician work.

The new values emerged from analysis of the specialty representative's presentation.

TABLE 1.—WORK RVU REFINEMENT OF 1997 INTERIM AND RELATED RVUS

CPT*	MOD	Description	1997 work RVU	Requested work RVU	1998 work RVU
37250		Intravascular us	1.51	2.10	2.10
37251		Intravascular us	1.15	1.60	1.60
56300		Pelvis laparoscopy, dx	3.65	5.00	5.00
56305		Pelvic laparoscopy, biopsy	3.97	5.30	5.30
75945	26	Intravascular us	0.29	0.40	0.40
75946	26	Intravascular us	0.29	0.40	0.40
95921	26	Autonomic nerve function test	0.45	0.90	0.90
95922	26	Autonomic nerve function test	0.48	0.96	0.96
95923	26	Autonomic nerve function test	0.45	0.90	0.90

*All CPT and descriptors copyright 1997 American Medical Association

2. Establishment of Interim Work Relative Value Units for New and Revised Physicians' Current Procedural Terminology Codes and New HCFA Common Procedure Coding System Codes for 1998

a. Methodology (Includes Table 2—American Medical Association Specialty Society Relative Value Update Committee and Health Care Professionals Advisory Committee Recommendations and HCFA's Decisions for New and Revised 1998 CPT Codes). One aspect of establishing work RVUs for 1998 was related to the assignment of interim work RVUs for all new and revised CPT codes. As described in our November 25, 1992 notice on the 1993 fee schedule (57 FR 55938) and in section III.B. of our November 26, 1996 final rule (61 FR 59505 through 59506), we established a process, based on recommendations received from the AMA's Specialty Society Relative Value Update Committee (RUC), for establishing interim RVUs for new and revised codes.

We received work RVU recommendations for approximately 208 new and revised codes from the RUC. Physician panels consisting of carrier medical directors and our staff reviewed the RUC recommendations by comparing them to our reference set or to other comparable services on the fee schedule for which work RVUs had been established previously, or to both of these criteria. The panels also considered the relationships among the new and revised codes for which we received the RUC recommendations. We agreed with a majority of those relationships reflected in the RUC values. In some cases when we agreed with the RUC relationships, we revised the work RVUs recommended by the RUC in order to achieve work neutrality within families of codes. That is, the work RVUs have been adjusted so that the sum of the new or revised work RVUs (weighted by projected frequency of use) for a family of codes will be the same as the sum of the current work RVUs (weighted by their current frequency of use). For approximately 96 percent of the RUC recommendations, proposed work RVUs were accepted or increased, and, for approximately 4 percent, work RVUs were decreased.

We received 11 recommendations from the Health Care Professionals Advisory Committee (HCPAC) for new or revised codes for which the RUC did not provide a recommendation. For 7 of the HCPAC's recommendations, the proposed work RVUs were accepted.

There were also 5 CPT codes for which HCFA did not receive a RUC recommendation. HCFA established interim work RVUs for 3 of these codes.

Table 2 is a listing of those codes that will be new or revised in 1998 as well as their associated work RVUs. This table includes the following information:

- A "#" identifies a new code for 1998.
- *CPT code.* This is the CPT code for a service.
- *Modifier.* A "26" in this column indicates that the work RVUs are for the professional component of the code.
- *Description.* This is an abbreviated version of the narrative description of the code.
- *RUC recommendations.* This column identifies the work RVUs recommended by the RUC.
- *HCPAC recommendations.* This column identifies work RVUs recommended by the HCPAC.
- *HCFA decision.* This column indicates whether we agreed with the RUC recommendation ("agree"); we established work RVUs that are higher than the RUC recommendation ("increase"); or we established work RVUs that were less than the RUC recommendation ("decrease"). Codes for which we did not accept the RUC recommendation are discussed in greater detail following Table 2 in section IV.B.2.b. below. An "(a)" indicates that no RUC recommendation was provided. A discussion follows the table in section IV.B.2.b.
- *HCFA work RVUs.* This column contains the RVUs for physician work based on our reviews of the RUC recommendations. The RVUs shown for global surgical services have not been adjusted to account for the 1997 increases for work RVUs in evaluation and management services.
- *1998 work RVUs.* This column contains the 1998 RVUs for physician work. The RVUs shown for global surgical services have been adjusted to account for the 1997 increases for work RVUs in evaluation and management.

This table includes only those codes that were reviewed by the full RUC or for which we received a recommendation from the HCPAC.

TABLE 2.—AMA RUC AND HCPAC RECOMMENDATIONS AND HCFA DECISIONS FOR NEW AND REVISED 1998 CPT CODES

CPT* code	MOD	Description	RUC recommendation	HCPAC recommendation	HCFA decision	HCFA work RVU	1998 work RVU
11055#		Paring, Cutting, and Trimming of Nails		0.43	Decrease	0.27	0.27
11056#		Paring, Cutting, and Trimming of Nails		0.61	Decrease	0.39	0.39
11057#		Paring, Cutting, and Trimming of Nails		0.79	Decrease	0.50	0.50
11719#		Paring, Cutting, and Trimming of Nails		0.17	Decrease	0.06	0.06
11200		Destruction of lesions	0.69		Decrease	0.67	0.77
11201		Destruction of lesions	0.35		Decrease	0.29	0.29
15756		Free muscle flap	33.23		Agree	33.23	35.23
17000		Destruction of lesions	0.55		Agree	0.55	0.60
17003#		Destruction of lesions	0.15		Agree	0.15	0.15
17004#		Destruction of lesions	2.65		Agree	2.65	2.79
17110		Destruction of lesions	0.55		Agree	0.55	0.65
17111#		Destruction of lesions	0.82		Agree	0.82	0.92
17250		Destruction of lesions	0.50		Agree	0.50	0.50
19120		Excision of cyst	5.35		Agree	5.35	5.56
20664#		Application of halo	7.00		Agree	7.00	8.06
22818#		Kyphectomy	30.00		Agree	30.00	31.63
22819#		Kyphectomy	34.50		Agree	34.50	36.44
29860#		Arthroscopy of hip	7.75		Agree	7.75	8.05
29861#		Arthroscopy of hip	9.00		Agree	9.00	9.15
29862#		Arthroscopy of hip	9.50		Agree	9.50	9.90
29863#		Arthroscopy of hip	9.50		Agree	9.50	9.90
29891#		Arthroscopy of ankle	8.00		Agree	8.00	8.40
29892#		Arthroscopy of ankle	8.60		Agree	8.60	9.00
29893#		Arthroscopy of ankle		4.92	Agree	4.92	5.22
32200		Percutaneous abscess drainage	13.10		Agree	13.10	15.29
32201#		Percutaneous abscess drainage	4.00		Agree	4.00	4.00
33496#		Repair of non-structural valve dysfunction	25.64		Agree	25.64	27.25
33530		Repair of non-structural valve dysfunction	5.86		Agree	5.86	5.86
35400#		Intraoperative Endovascular Angioscopy	3.00		Agree	3.00	3.00
36215		Coronary Angiography	4.66		Agree	4.66	4.66
37195#		Thrombolytic therapy for acute ischemic	0.00		Agree	0.00	0.00
37250		Intravascular us	1.51		Agree	1.51	2.10
37251		Intravascular us	1.15		Agree	1.15	1.60
43116		Partial esophagectomy	29.67		Agree	29.67	31.22
43496		Free jejunum transfer	carrier		Agree	carrier	carrier
43835		Vagotomy	2.06		Agree	2.06	2.06
44625		Closure of colostomy	12.10		Agree	12.10	13.41
44626#		Closure of colostomy	21.29		Agree	21.29	22.59
44700#		Intestinal sling procedure	13.00		Agree	13.00	14.35
44900		Percutaneous abscess drainage	7.86		Agree	7.86	8.82
44901#		Percutaneous abscess drainage	3.38		Agree	3.38	3.38
45112		Proctectomy with coloanal anastomosis	24.02		Agree	24.02	25.96
45119#		Proctectomy with coloanal anastomosis	23.50		Increase	24.50	26.21
47010		Percutaneous abscess drainage	8.75		Agree	8.75	10.26
47011#		Percutaneous abscess drainage	3.70		Agree	3.70	3.70
48510		Percutaneous abscess drainage	11.22		Agree	11.22	12.96
48511#		Percutaneous abscess drainage	4.00		Agree	4.00	4.00
49040		Percutaneous abscess drainage	8.74		Agree	8.74	9.94
49041#		Percutaneous abscess drainage	4.00		Agree	4.00	4.00
49060		Percutaneous abscess drainage	10.55		Agree	10.55	11.66
49061#		Percutaneous abscess drainage	3.70		Agree	3.70	3.70
49062#		Lymphocele drainage	10.78		Agree	10.78	11.36
49423#		Percutaneous abscess drainage	1.46		Agree	1.46	1.46

TABLE 2.—AMA RUC AND HCPAC RECOMMENDATIONS AND HCFA DECISIONS FOR NEW AND REVISED 1998 CPT CODES—Continued

CPT* code	MOD	Description	RUC recommendation	HCPAC recommendation	HCFA decision	HCFA work RVU	1998 work RVU
49424#		Percutaneous abscess drainage	0.76		Agree	0.76	0.76
49560		Ventral herniorgraphy	9.48		Agree	9.48	9.86
49565		Ventral herniorgraphy	9.48		Agree	9.48	9.88
49568		Ventral herniorgraphy	4.89		Agree	4.89	4.89
50020		Percutaneous abscess drainage	12.41		Agree	12.41	14.66
50021#		Percutaneous abscess drainage	3.38		Agree	3.38	3.38
51840		Burch procedure	9.78		Agree	9.78	10.71
52281		Cystourethroscopy	2.80		Agree	2.80	2.80
52282#		Urethral endoprosthesis	6.40		Agree	6.40	6.40
53506#		Transurethral destruction of prostate	9.58		Decrease	9.25	9.45
53852#		Transurethral destruction of prostate	9.58		Agree	9.58	9.88
56300		Laparoscopic surgery	5.00		Agree	5.00	5.10
56301		Laparoscopic surgery	5.50		Agree	5.50	5.60
56302		Laparoscopic surgery	5.50		Agree	5.50	5.60
56303		Laparoscopic surgery	10.50		Increase	10.95	11.79
56304		Laparoscopic surgery	10.00		Increase	10.45	11.29
56305		Laparoscopic surgery	5.30		Agree	5.30	5.40
56306		Laparoscopic surgery	5.60		Agree	5.60	5.70
56309		Laparoscopic surgery	13.79		Agree	13.79	14.21
56310#		Laparoscopic surgery	13.50		Agree	13.50	14.44
56314#		Laparoscopic surgery	8.93		Agree	8.93	9.48
56318#		Laparoscopic surgery	10.63		Agree	10.63	10.96
56345#		Laparoscopic surgery			(*)	carrier	carrier
56346#		Laparoscopic surgery	7.18		Agree	7.18	7.73
56347#		Laparoscopic surgery			(*)	carrier	carrier
56348#		Laparoscopic surgery with intestinal resection	20.00		Increase	21.00	22.04
56349#		Laparoscopic surgery	17.75		Decrease	16.47	17.25
56350		Hysteroscopy	3.33		Agree	3.33	3.33
56351		Hysteroscopy	4.75		Agree	4.75	4.75
56352		Hysteroscopy	6.17		Agree	6.17	6.17
56353		Hysteroscopy	7.00		Agree	7.00	7.00
56354		Hysteroscopy	10.00		Agree	10.00	10.00
56355		Hysteroscopy	5.21		Agree	5.21	5.21
56356		Hysteroscopy	9.50		Decrease	6.17	6.17
57308		Closure of rectovaginal fistula	9.31		Agree	9.31	9.94
57531		Radical trachelectomy	26.00		Agree	26.00	29.60
58152		Burch procedure	14.10		Agree	14.10	15.09
58340		Hysterosonography	0.88		Agree	0.88	0.88
58820		Percutaneous abscess drainage	3.96		Agree	3.96	4.22
58822		Percutaneous abscess drainage	9.06		Agree	9.06	10.13
58823#		Percutaneous abscess drainage	3.38		Agree	3.38	3.38
59050		Fetal monitoring	0.89		Agree	0.89	0.89
59051		Fetal monitoring	0.74		Agree	0.74	0.74
59160		Curettage, postpartum	2.66		Agree	2.66	2.71
59871#		Removal of cerclage suture	2.13		Agree	2.13	2.13
61793		Stereotactic radiosurgery	16.70		Agree	16.70	17.24
67027#		Ganciclovir implant	10.35		Agree	10.35	10.65
70553	26	MI, brain	2.36		Agree	2.36	2.36
74263	26	Therapeutic Enema	2.02		Agree	2.02	2.02
74740	26	Hysterosonography	0.38		Agree	0.38	0.38
75989	26	Percutaneous Abscess drainage	1.19		Agree	1.19	1.19
76070	26	Bone density studies	0.25		Agree	0.25	0.25
76075	26	Bone density studies	0.30		Agree	0.30	0.30
76078#	26	Bone density studies	0.22		Agree	0.22	0.22
76079#	26	Bone density studies	0.20		Agree	0.20	0.20
76080	26	Percutaneous Abscess drainage	0.54		Agree	0.54	0.54
76095	26	Stereotactic breast biopsy	1.59		Agree	1.59	1.59
76375	26	Medical holography	0.16		Agree	0.16	0.16
76390#	26	Magnetic resonance spectroscopy	1.40		Agree	1.40	1.40
76815	26	Echography, pregent uterus	0.65		Agree	0.65	0.65
76830	26	Hysteroscopy	0.69		Agree	0.69	0.69
76831#	26	Hysteroscopy	0.72		Agree	0.72	0.72
76856#	26	Echography of infant hip	0.74		Agree	0.74	0.74
76868#	26	Echography of infant hip	0.62		Agree	0.62	0.62
77295	26	Therapeutic radiology simulation-aided	4.57		Agree	4.57	4.57
78350	26	Bone density studies	0.22		Agree	0.22	0.22
78351		Bone density studies	0.30		Agree	0.30	0.30
78459	26	PET myocardial perfusion imaging	1.88		Agree	1.88	1.88
78491#	26	PET myocardial perfusion imaging	1.50		Agree	1.50	1.50
78492#	26	PET myocardial perfusion imaging	1.87		Agree	1.87	1.87
78707	26	Renal nuclear medicine	0.96		Agree	0.96	0.96
78708#	26	Renal nuclear medicine	1.21		Agree	1.21	1.21
78709#	26	Renal nuclear medicine	1.41		Agree	1.41	1.41
78710	26	Kidney imaging	0.66		Agree	0.66	0.66
88108	26	Cervical or vaginal cytopathology	0.56		Agree	0.56	0.56
88141#		Cervical or vaginal cytopathology	0.42		Agree	0.42	0.42
90801		Psychotherapy	2.80		Agree	2.80	2.80
90802#		Psychotherapy	3.01		Agree	3.01	3.01
90804#		Psychotherapy	1.11		Agree	1.11	1.11

TABLE 2.—AMA RUC AND HCPAC RECOMMENDATIONS AND HCFA DECISIONS FOR NEW AND REVISED 1998 CPT CODES—Continued

CPT* code	MOD	Description	RUC recommendation	HCPAC recommendation	HCFA decision	HCFA work RVU	1998 work RVU
90805#		Psychotherapy	1.47		Agree	1.47	1.47
90806#		Psychotherapy	1.72		Agree	1.72	1.72
90807#		Psychotherapy	2.00		Agree	2.00	2.00
90808#		Psychotherapy	2.76		Agree	2.76	2.76
90809#		Psychotherapy	3.15		Agree	3.15	3.15
90810#		Psychotherapy	1.19		Agree	1.19	1.19
90811#		Psychotherapy	1.58		Agree	1.58	1.58
90812#		Psychotherapy	1.86		Agree	1.86	1.86
90813#		Psychotherapy	2.15		Agree	2.15	2.15
90814#		Psychotherapy	2.97		Agree	2.97	2.97
90815#		Psychotherapy	3.39		Agree	3.39	3.39
90816#		Psychotherapy	1.24		Agree	1.24	1.24
90817#		Psychotherapy	1.65		Agree	1.65	1.65
90818#		Psychotherapy	1.94		Agree	1.94	1.94
90819#		Psychotherapy	2.24		Agree	2.24	2.24
90821#		Psychotherapy	3.09		Agree	3.09	3.09
90822#		Psychotherapy	3.53		Agree	3.53	3.53
90823#		Psychotherapy	1.33		Agree	1.33	1.33
90824#		Psychotherapy	1.77		Agree	1.77	1.77
90826#		Psychotherapy	2.08		Agree	2.08	2.08
90827#		Psychotherapy	2.41		Agree	2.41	2.41
90828#		Psychotherapy	3.32		Agree	3.32	3.32
90829#		Psychotherapy	3.80		Agree	3.80	3.80
90845		Psychotherapy	1.79		Agree	1.79	1.79
90846		Psychotherapy	1.83		Agree	1.83	1.83
90847		Psychotherapy	2.21		Agree	2.21	2.21
90849		Psychotherapy	0.59		Agree	0.59	0.59
90853		Psychotherapy	0.59		Agree	0.59	0.59
90857		Psychotherapy	0.63		Agree	0.63	0.63
90865#		Psychotherapy	2.84		Agree	2.84	2.84
90875		Psychotherapy		1.20	Agree	1.20	1.20
90876		Psychotherapy		1.90	Agree	1.90	1.90
90880		Psychotherapy	2.19		Agree	2.19	2.19
90885#		Psychotherapy	0.97		Agree	0.97	0.97
90911		Biofeedback training	0.89		Agree	0.89	0.89
91010		Esophageal motility studies	1.25		Agree	1.25	1.25
91020		Esophageal motility studies	1.44		Agree	1.44	1.44
92978	26	Intravascular us	1.80		Agree	1.80	1.80
92979	26	Intravascular us	1.44		Agree	1.44	1.44
92992		Atrial septectomy of septostomy	carrier		Agree	carrier	carrier
92997#		Pulmonary artery angioplasty	12.00		Agree	12.00	12.00
92998#		Pulmonary artery angioplasty	6.00		Agree	6.00	6.00
93320		Doppler echo	0.38		Agree	0.38	0.38
93325		Doppler echo	0.07		Agree	0.07	0.07
93508#	26	Coronary angiography	4.10		Agree	4.10	4.10
93530#	26	Pediatric cardiac catheterization	4.23		Agree	4.23	4.23
93531#	26	Pediatric cardiac catheterization	8.35		Agree	8.35	8.35
93532#	26	Pediatric cardiac catheterization	10.00		Agree	10.00	10.00
93533#	26	Pediatric cardiac catheterization	6.70		Agree	6.70	6.70
94010	26	Spirometry	0.17		Agree	0.17	0.17
94070	26	Pulmonary procedures	0.60		Agree	0.60	0.60
95805	26	Sleep studies	1.88		Agree	1.88	1.88
95806	26	Sleep studies	1.85		Decrease	1.66	1.66
95807	26	Sleep studies	1.66		Agree	1.66	1.66
95811#	26	Sleep studies	3.80		Agree	3.80	3.80
95860	26	Needle EMG	0.96		Agree	0.96	0.96
95861	26	Needle EMG	1.54		Agree	1.54	1.54
95863	26	Needle EMG	1.87		Agree	1.87	1.87
95864	26	Needle EMG	1.99		Agree	1.99	1.99
95869	26	Needle EMG	0.37		Agree	0.37	0.37
95870#	26	Needle EMG			(*)	0.37	0.37
96902#		Trichogram	0.41		Agree	0.41	0.41
97001#		Occupational and Physical Therapy		1.20	Agree	1.20	1.20
97002#		Occupational and Physical Therapy		0.60	Agree	0.60	0.60
97003#		Occupational and Physical Therapy		1.20	Agree	1.20	1.20
97004#		Occupational and Physical Therapy		0.60	Agree	0.60	0.60
97780#		Acupuncture			(*)	0.00	0.00
97781#		Acupuncture			(*)	0.00	0.00
99141#		Conscious sedation	0.60		Agree	0.60	0.60
99142#		Conscious sedation	0.60		Agree	0.60	0.60
99217		Observation same day discharge	1.28		Agree	1.28	1.28
99234#		Observation same day discharge	2.56		Agree	2.56	2.56
99235#		Observation same day discharge	3.42		Agree	3.42	3.42
99236#		Observation same day discharge	4.27		Agree	4.27	4.27
99315#		Nursing facility discharge	1.20		Decrease	1.13	1.13
99316#		Nursing facility discharge	1.60		Decrease	1.50	1.50
99341		Home care visits	0.89		Increase	1.01	1.01
99342		Home care visits	1.33		Increase	1.52	1.52
99343		Home care visits	1.99		Increase	2.27	2.27

TABLE 2.—AMA RUC AND HCPAC RECOMMENDATIONS AND HCFA DECISIONS FOR NEW AND REVISED 1998 CPT CODES—Continued

CPT* code	MOD	Description	RUC recommendation	HCPAC recommendation	HCFA decision	HCFA work RVU	1998 work[b] RVU
99344#		Home care visits	2.66		Increase	3.03	3.03
99345#		Home care visits	3.32		Increase	3.79	3.79
99347		Home care visits	0.66		Increase	0.76	0.76
99348		Home care visits	1.11		Increase	1.26	1.26
99349		Home care visits	1.77		Increase	2.02	2.02
99350#		Home care visits	2.66		Increase	3.03	3.03
99374#		Care plan oversight	1.10		Agree	1.10	1.10
99375		Care plan oversight	1.73		Agree	1.73	1.73
99377#		Care plan oversight	1.10		Agree	1.10	1.10
99378#		Care plan oversight	1.73		Agree	1.73	1.73
99379#		Care plan oversight	1.10		Agree	1.10	1.10
99380#		Care plan oversight	1.73		Agree	1.73	1.73
99436#		Attendance at delivery	1.50		Agree	1.50	1.50

[a] No RUC recommendation provided
[b] Work RVU changes due to global surgery evaluation and management increases.
New Codes
* All numeric HCPCS CPT Copyright 1997 American Medical Association

b. Discussion of Codes for Which the RUC Recommendations Were Not Accepted. The following is a summary of our rationale for not accepting particular recommendations. It is arranged by type of service in CPT code order. This summary refers only to work RVUs.

CPT codes 11055 (Paring or cutting of benign hyperkeratotic lesion (eg, corn or callus), single lesion), 11056 (two to four lesions), 11057 (more than four lesions), and 11719 (Trimming of nails)).

CPT 1998 will include three new codes for paring or cutting of benign hyperkeratotic lesion(s) and one new code for trimming of nails. These new CPT codes will replace CPT codes 11050 through 11052 (Paring or curettement of benign hyperkeratotic skin lesion(s)) and HCFA Common Procedure Coding System (HCPCS) code M0101 (Cutting or removal of corns, calluses and/or trimming of nails, application of skin creams and other hygienic and preventive maintenance care).

We agreed with the work RVU relationship established by the RUC HCPAC Review Board for these four codes. However, we have not accepted the actual work RVUs recommended because the total number of RVUs associated with the new codes would exceed the total number of RVUs associated with code M0101. We believe the expectation of the RUC HCPAC Review Board was that the RVU recommendations would achieve work neutrality within the family of codes. However, some of the services previously reported with M0101 will now be reported with codes used to report the destruction of skin lesions. These codes, for example, CPT code 17000, have higher work RVUs than M0101. Thus, the result of the coding changes and the recommended work RVUs would be an increase in the total number of RVUs for these services. Consequently, we revised the work RVUs recommended by the RUC HCPC Review Board in order to achieve work neutrality within this family of codes. That is, the work RVUs have been adjusted so that the sum of the new work RVUs (weighted by projected frequency of use) for this family of codes will be the same as the sum of the current work RVUs (weighted by their current frequency of use).

CPT code	Descriptor	Work RVUs
11055	Paring or cutting of benign hyperkeratotic lesion (single).	0.27
11056	Two to four lesions	0.39
11057	More than four lesions	0.50
11719	Trimming of nails	0.06

CPT codes 11200 (Removal of skin tags, multiple fibrocutaneous tags, any area; up to and including 15 lesions) and 11201 (each additional ten lesions).

The RUC recommended 0.69 work RVUs for CPT code 11200 and 0.35 work RVUs for CPT code 11201. These codes encompass services that were previously reported using CPT codes 11200, 11201, 17200, and 17201. When valuing new and revised codes that replace deleted codes, we typically have used Medicare frequency data and used the work RVUs of the deleted and revised codes in order to arrive at weighted average values for the revised codes in a budget neutral fashion. We have used this method to arrive at the work RVUs for revised CPT codes 11200 and 11201. We are establishing 0.67 work RVUs for CPT code 11200, which is a weighted average of CPT codes 17200 and 11200. We are establishing 0.29 work RVUs for CPT code 11201, which is the weighted average of CPT codes 17201 and 11201.

CPT code 45119 (Proctectomy, combined abdominoperineal pull through procedure (eg, colo-anal anastomosis) with creation of colonic reservoir (eg, J-pouch), with or without proximal diverting ostomy).

CPT 1998 will include a new code for proctectomy with colo-anal anastomosis. The RUC recommended 23.50 work RVUs for CPT code 45119. Upon review of these values, we concluded that CPT code 45119 was undervalued. CPT code 45119 is nearly an identical procedure to CPT code 45112 with the exception of the creation of the colonic reservoir included in CPT code 45119. We agree with the current work value for CPT code 45112 (24.02 work RVUs). CPT code 45119 is a more extensive procedure and should be valued higher than CPT code 45112. We believe CPT code 45119 is undervalued, and we are increasing the RUC-recommended work RVUs from 23.50 work RVUs to 24.50 work RVUs for the 1998 physician fee schedule.

CPT code 53850 (Transurethral destruction of prostate tissue; by microwave therapy) and 53852 (Transurethral destruction of prostate tissue; by radiofrequency thermotherapy).

CPT 1998 will include two new codes for the transurethral destruction of prostate tissue. We agree with the RUC value for CPT code 53852 (the RUC recommended 9.58 work RVUs) but not with the work value assigned to CPT code 53850. The RUC recommendations would make the work values for these two codes identical. While both procedures require skillful technique, we believe the actual physician work involved for microwave therapy (CPT code 53850) is less than that of radiofrequency thermotherapy (CPT code 53852). Radiofrequency thermotherapy requires the physician to retract and reposition an electrode numerous times in order to destroy selected prostate tissue. Microwave therapy on the other hand does not require the repositioning of an electrode throughout the procedure. We are decreasing the RUC recommendation of 9.58 work RVUs to 9.25 interim work RVUs for CPT code 53850.

CPT codes 56300 through 56349 (Laparoscopic surgery) and CPT code 56356 (Hysteroscopy).

The RUC submitted recommendations to us during the 5-year review of the resource-based relative value scale for increases in the work RVUs for CPT code 56300 (Laparoscopy (peritoneoscopy), diagnostic; (separate procedure)) and CPT code 56305 (with biopsy (single or multiple)). At that time, we did not adopt those recommendations because we believed they would create rank order anomalies within the laparoscopy and hysteroscopy family of codes. Subsequently, at the request of HCFA, the entire family of codes was reviewed by the RUC. Following is a discussion of all of the codes that were affected by this review. The discussion is in order by CPT code. In some instances, global periods or work RVUs were changed in order to address inconsistencies within this family of codes. We believe additional review of the global period may be warranted and invite comment on this issue.

CPT codes 56300 (Laparoscopy, diagnostic; (separate procedure)) and 56305 (with biopsy (single or multiple)).

The RUC recommended 5.00 work RVUs for CPT code 56300 and 5.50 work RVUs for CPT code 56305. We agree with these work RVUs but will be changing the global period of both of these codes to 010 days.

CPT code 56304 Laparoscopy, surgical; with fulguration of oviducts (with or without transection), with lysis of adhesions).

The RUC recommended 10.00 work RVUs for this CPT code. We generally agree with the rank order of this recommendation but are increasing it to 10.45 work RVUs. We are increasing this recommendation because we added a level 2 office visit to the RUC recommendation (0.45 RVUs) to account for changing the global period from 010 to 090 days. Additionally, we will be discussing a change in the descriptor associated with CPT code 56304 with the CPT Editorial Panel. We will be asking the CPT Editorial Panel to revised the code descriptor to specify that it includes an extensive lysis of adhesions. A limited lysis of adhesions is included in CPT codes 56300 and 56305 and is not paid separately. CPT code 56304 should only be used for extensive lysis of adhesions.

CPT code 56303 (Laparoscopy, surgical; with fulguration of oviducts (with or without transection); with fulguration or excision of lesions of the ovary, pelvic viscera, or peritoneal surface by any method).

The RUC recommended 10.50 work RVUs to CPT code 56303. We changed this CPT code from a 010 day global period to a 090 day global period. Due to this increase in the global period, we are adding a level 2 office visit to the RUC recommendation. The resulting work RVUs for CPT code 56303 are 10.95.

CPT code 56345 (Laparoscopy, surgical; splenectomy) and CPT code 56347 (Laparoscopy, surgical; jejunostomy (eg, for decompression or feeding)).

We did not receive a RUC recommendation for CPT codes 56345 and 56347. We decided that we will make these as carrier-priced codes until we receive recommended RVUs from the RUC. Therefore, no RVUs are shown for these codes.

CPT code 56348 (Laparoscopy with intestinal resection).

The RUC recommended 20.00 work RVUs for CPT code 56348. We believe that the work involved with this procedure is comparable to that of CPT code 44145 (Partial removal of colon), which is valued at 21.29 work RVUs. We decided to value CPT code 56348 at the median value extracted from a RUC survey issued to colorectal surgeons. For the 1998 physician fee schedule, we are assigning 21.00 work RVUs to CPT code 56348.

CPT code 56349 (Laparoscopy, surgical, esophagogastric fundoplasty (eg, Nissen, Belsey IV, Hill, Toupet procedures)).

The RUC stated that the work represented by CPT code 56349 is more difficult than that in its corresponding open procedure (CPT code 43324 valued at 15.18 work RVUs). We do not agree that this procedure has more work involved than either a lobectomy (CPT code 32540 valued at 13.31 work RVUs) or colon resection (CPT code 44140 valued at 16.97 work RVUs). We are reducing the RUC recommendation of 17.75 work RVUs to 16.47 work RVUs for the 1998 physician fee schedule.

CPT code 56356 (Hysteroscopy, ablation).

The RUC recommended 9.50 work RVUs for CPT code 56356. Upon comparison of CPT code 56356 to other codes within this family, we decided to reduce the work RVUs to 6.17. This decision was based upon a comparison of CPT code 56356 to CPT code 56352 (Hysteroscopy, surgical; with sampling (biopsy) of endometrium and/or polypectomy, with or without D&C, with lysis of intrauterine adhesions (any method)) which is valued at 6.17 work RVUs. These codes had identical times and intensities identified in the survey of the clinical vignettes supplied to the RUC. Therefore, we decided to reduce the work RVU of CPT code 56356 to 6.17 work RVUs for the 1998 physician fee schedule.

CPT codes 59150 (Laparoscopic treatment of ectopic pregnancy; without salpingectomy and/or oophorectomy) and 59151 (Laparoscopic treatment of ectopic pregnancy; with salpingectomy and/or oophorectomy).

The RUC stated that the survey respondents substantially underestimated the number of post-procedure office visits associated with these procedures. We agree with the RUC and are increasing the work RVUs for both of these codes. We are assigning 11.20 work RVUs to CPT code 59150, and 11.10 work RVUs to CPT code 59151 for the 1998 physician fee schedule.

CPT code 95806 (Sleep study, simultaneous recording of ventilation, respiratory effort, ECG or heart rate, and oxygen saturation, unattended by a technologist).

CPT 1998 will include a new code for an unattended sleep study. Currently, CPT code 95807 (1.66 work RVUs) is used for a sleep study that is attended by a technologist. The RUC recommended 1.85 work RVUs for CPT code 95806. We do not agree that there is more work involved in an unattended sleep study as opposed to an attended sleep study. We are assigning 1.66 interim work RVUs to CPT code 95806, which will make the work RVUs identical to those of CPT code 95807.

CPT codes 99315 (Nursing facility discharge day management; 30 minutes or less) and 99316 (Nursing facility discharge day management; more than 30 minutes).

CPT 1998 will include two new codes for nursing facility discharge day management. The RUC recommended 1.20 work RVUs for CPT code 99315 and 1.60 work RVUs for CPT code 99316. Upon review of these values, we found that the projected utilization of these new nursing facility discharge codes causes a significant work neutrality problem within the family of nursing facility CPT codes. While the codes are new, the work is already reflected within the current codes. In order to maintain the same total pool of work RVUs within this family, we are

reducing the two new CPT codes (that is, CPT codes 99315 and 99316), as well as six existing codes within the nursing facility family of codes (CPT codes 99301, 99302, 99303, 99311, 99312, and 99313), by 6.0 percent.

CPT code	Descriptor	Work RVUs
99301	Comprehensive nursing facility assessment.	1.20
99302	Comprehensive nursing facility assessment.	1.61
99303	Comprehensive nursing facility assessment.	2.01
99311	Subsequent nursing facility care.	0.60
99312	Subsequent nursing facility care.	1.00
99313	Subsequent nursing facility care.	1.42
99315	Nursing facility discharge day management; 30 minutes or less.	1.13
99316	Nursing facility discharge day management; more than 30 minutes.	1.50

CPT codes 99341 through 99345 (Home care visits; new patient) and 99347 through 99350 (Home care visits; established patient).

The RUC-recommended RVUs for the home care visit codes were established through comparisons to CPT's current office visit codes. Although we agree with the use of the office visit codes as key reference services, we believe that the RUC underestimated the pre-, intra-, and post-service intensities associated with the home visit codes. We note that the intensity values of the survey respondents were higher for the home visit codes than the reference codes for office visits. We increased the RUC recommendations by applying a uniform intensity factor increase of 10 percent to the pre-, intra-, and post-service times of the office visits codes. These increased intensities were then multiplied by the typical times specified in the new and revised CPT codes for the home visits.

CPT code	Descriptor	Work RVUs
99341	Home services; new patient	1.01
99342	Home services; new patient	1.52
99343	Home services; new patient	2.27
99344	Home services; new patient	3.03
99345	Home services; new patient	3.79
99347	Home services; established patient.	.76
99348	Home services; established patient.	1.26
99349	Home services; established patient.	2.02
99350	Home services; established patient.	3.03

C. Other Changes to the 1998 Physician Fee Schedule and Clarification of CPT Definitions

For the 1998 physician fee schedule, we are establishing or revising several alpha-numeric HCPCS codes for the reporting of certain services that are not clearly described by existing CPT codes. We view these codes as temporary since we will be referring them to the CPT Editorial Panel for possible inclusion in future editions of the CPT. Additionally, included in this section are some clarifications of proper usages of some new or revised codes.

HCPCS codes G0062 (peripheral bone mineral density) and G0063 (central bone density).

Effective January 1, 1998, HCPCS codes G0062, G0062–26, G0062-TC, G0063, G0063–26, and G0063-TC have been deleted. Use the appropriate code from the 70000 section of the CPT to bill for bone mineral density studies.

CPT code 35400 (Intraoperative endovascular angioscopy non-coronary vessels or grafts).

Although we agree with the recommended RUC work RVUs for this CPT code, some clarification of proper usage is needed. When billing CPT code 35400, units can only equal 1.00 because the code descriptor specifies vessels or grafts. The RVUs assigned are based on an assumption that angioscopy may be performed on multiple vessels.

CPT codes 44625 and 44626 (Closure of colostomy).

CPT codes 44625 and 44626 should not be billed with CPT code 44139, which is used to report the immobilization (take down) of the splenic flexure. By CPT definition, code 44139 can be used only in conjunction with the partial colectomy codes 44140 through 44147. We will be establishing a national claims edit to ensure that neither of these two codes are billed with CPT code 44139.

CPT codes 99217 and 99234 through 99236 (Observation same day discharge).

We will be consulting with the CPT Editorial Panel to clarify that the use of these codes should be restricted to observation care services of at least 12 hours duration.

CPT code 49021 (Percutaneous abscess drainage).

Based on the recommendation of the RUC, we are changing the global period of CPT code 49021 from 010 days to 000 days. Post-operative care during the 90 day period following the procedure is not typically provided for this procedure.

CPT codes 95860 through 95870 (Needle EMGs).

Although we have accepted the RUC recommendations for this family of codes, we believe some clarification on the proper use of these codes would be beneficial.

CPT codes 95860, 95861, 95863, and 95864 (Needle electromyogram of 1, 2, 3, or 4 limbs with or without paraspinals (cannot bill paraspinals separately—unless studying paraspinals between T3–T11)).

To bill these codes, extremity muscles innervated by three nerves (for example, radial, ulnar, median, tibial, peroneal, femoral, not sub branches) or four spinal levels must be evaluated, with a minimum of five muscles studied.

CPT code 95869 (Needle electromyography, thoracic paraspinals).

This CPT code should be used when exclusively studying thoracic paraspinals. One unit can be billed, despite the number of levels studied or whether unilateral or bilateral. This cannot be billed with CPT codes 95860, 95861, 95863, or 95864 if only T1 and/or T2 are studied when an upper extremity was also studied.

CPT code 95870 (Needle electromyography, limited study).

This CPT code can be billed at one unit per extremity. Muscles on the thorax or abdomen (unilateral or bilateral). One unit may be billed for studying cervical or lumbar paraspinal muscles (unilateral or bilateral), regardless of the number of level tested. This code should not be billed when the paraspinal muscles corresponding to an extremity are tested and when the extremity codes 95860, 95861, 95863, or 95864 are also billed.

PET Myocardial Perfusion Imaging (HCPCS Codes G0030 Through G0047)

When the PET myocardial perfusion imaging tests were originally valued, they were considered analogous to the SPECT codes. In consultation with the RUC, we have decided to raise the values of the PET procedures. Unlike the large field of view of SPECT scanners, PET scanners have a much smaller field. In addition, due to the short half-life of the Rb-82 tracer, physician involvement in patient positioning is critical when using the PET scanner. For these reasons, we are raising the single PET myocardial perfusion image to 1.50 work RVUs and the multiple PET myocardial perfusion image to 1.87 work RVUs.

Cervical or Vaginal Cancer Screening; Pelvic and Clinical Breast Examination (HCPCS Code G0101)

The law provides for coverage and payment of screening pelvic and clinical breast examinations effective January 1, 1998. We decided that this service is comparable to a level 2 evaluation and management new patient office visit.

HCPCS code	Work RVUs	Practice Expense RVUs	Malpractice Expense RVUs
G0101	0.45	0.28	0.02

Colorectal Cancer Screening (HCPCS Codes G0104 Through G0107)

Section 4104 of the BBA 1997 provides for Medicare coverage of colorectal cancer screening tests effective for services provided on or after January 1, 1998. The law provides for coverage and payment for screening fecal-occult blood tests, screening flexible sigmoidoscopy, screening colonoscopy, and other such tests determined to be appropriate by the Secretary. We are setting payment amounts for screening sigmoidoscopy, screening colonoscopy, barium enema, and screening fecal-occult blood tests, as follows:

Flexible Sigmoidoscopy (HCPCS Code G0104)

The law provides that payment for screening flexible sigmoidoscopies be made at rates consistent with payment for similar or related services under the physician fee schedule, not to exceed the rates for a diagnostic flexible sigmoidoscopy (CPT 45330). We have created a new code— HCPCS code G0104 (Colorectal cancer screening; flexible sigmoidoscopy)—to be used for screening flexible sigmoidoscopy. We believe that the work is the same whether the procedure is a screening or a diagnostic sigmoidoscopy and are therefore assigning the same RVUs to HCPCS code G0104 as those assigned to CPT code 45330 in Addendum B.

Screening Colonoscopy (HCPCS Code G0105)

The law provides that payment for screening colonoscopies be paid at rates consistent with payment for similar or related services under the physician fee schedule, not to exceed the rates for a diagnostic colonoscopy (CPT 45378). We have created a new code— HCPCS code G0105 (Colorectal cancer screening; colonoscopy on individual at high risk)—to be used for screening colonoscopy. We believe that the work is the same whether the procedure is a screening or a diagnostic colonoscopy, and we are therefore assigning the same RVUs to HCPCS code G0105 as those assigned to CPT code 45378 in Addendum B.

Barium Enema (HCPCS Code G0106)

The law provides that payment for colorectal cancer screening-barium enema be paid at rates consistent with payment for similar or related services under the physician fee schedule. We believe that the work is analogous to CPT code 74280 (Contrast x-ray exam of the colon), and we are therefore assigning the same RVUs to HCPCS code G0106 as those assigned to CPT code 74280 in Addendum B.

Fecal-Occult Blood Tests (HCPCS Code G0107)

The law provides that screening fecal-occult blood tests be paid at the same rate as diagnostic fecal-occult blood tests (CPT code 82270) paid under the clinical laboratory fee schedule. We have created a new code— HCPCS code G0107 (Colorectal cancer screening; fecal-occult blood test, 1–3 simultaneous determinations)—to be used for screening fecal-occult blood tests. This code will be carrier-priced at the payment amount that the carrier pays for CPT code 82270 under the clinical laboratory fee schedule.

HCPCS code	Work RVUs	Practice expense RVUs	Malpractice expense RVUs
G0104	0.96	1.23	0.12
G0105	3.70	4.13	0.39
G0106	0.99	2.58	0.21
G0107	Lab Fee Schedule		

National Emphysema Treatment Trials (NETT) (CPT Codes G0110 Through G0116)

The following codes have been added to the physician fee schedule for the use of physicians participating in the NETT study. The National Emphysema Treatment Trials (NETT) are co-sponsored by HCFA and the National Heart, Lung, and Blood Institute with the Johns Hopkins University as the coordinating center for the study. The study is to last 7 years starting August 1, 1997. Since the use of these codes will be limited to some 18 clinical centers and physicians associated with these centers, either directly, as in furnishing services in the centers' outpatient departments or in rural areas where some of the participating beneficiaries live, these codes will be listed as restricted and can only be billed by those participating in the NETT study.

HCPCS code	Descriptor	Work RVUs	Practice expense RVUs	Malpractice expense RVUs
G0110	NETT Pulm Rehab; education/skills training, individual	0.90	0.26	0.04
G0111	NETT Pulm Rehab; education/skills training, group	0.27	0.20	0.02
G0112	NETT Pulm Rehab; nutritional guidance—initial	1.72	0.97	0.10
G0113	NETT Pulm Rehab; nutritional guidance—subsequent	1.29	0.77	0.09
G0114	NETT Pulm Rehab; psychosocial consultation	1.20	0.35	0.11
G0115	NETT Pulm Rehab; psychological testing	1.20	0.35	0.11
G0116	NETT Pulm Rehab; Psycho-social counseling—individual	1.11	0.35	0.05

V. Provisions of the Final Rule

The provisions of this final rule restate the provisions of the June 18, 1997, proposed rule except as noted elsewhere in this preamble. Following is a highlight of the exceptions:

For our proposal relating to physician supervision, we are adopting our proposal to assign an appropriate level of physician supervision to every diagnostic test payable under the physician fee schedule with exceptions for certain procedures personally performed by qualified independent psychologists, clinical psychologists, qualified audiologists, and physical therapists who are certified as qualified electrophysiologic clinical specialists. With respect to several groupings of diagnostic codes, we have changed our proposed policy based on comments from the physician specialities most involved with particular groups of codes. In some cases, such as CTs and MRIs performed without the use of contrast materials, we have lowered the level of required physician supervision. In others, such as ultrasound procedures, we have increased the level of required supervision. We are publishing a listing of diagnostic codes in the preamble of this document with the level of physician supervision we

have determined to be appropriate. In addition, we are adding a field to the physician fee schedule data base indicating the appropriate level of supervision. We anticipate that there will continue to be discussions among HCFA, physician specialty groups, and others about these levels of supervision, and we expect that the indicators applicable to individual procedures will be changed from time to time as is currently the case with other data base indicators.

As a result of our review of the comments, we have decided that the actual charge issue, including the implications for beneficiary out-of-pocket expense, requires further study. We received numerous comments from individual physicians and suppliers and the organizations that represent them in opposition to this proposal.

Based on provisions in the BBA 1997, we are not implementing the system of resource-based practice expense RVUs contained in the proposed rule for 1998. Rather, we are implementing the provision of the BBA 1997 that reduces practice expense RVUs for certain services and uses the monies to increase practice expense RVUs for office visits. Specifically, we are making the following changes from the regulations proposed in our June 18, 1997 proposed rule:

- In § 414.22 (Relative value units (RVUs)), we are stating that the practice expense RVUs for certain services are reduced to 110 percent of the work RVUs for those services. We are also stating that the following two categories of services are excluded from this limitation:
  - The service is provided more than 75 percent of the time in an office setting; or
  - The 1998 proposed resource-based practice expense RVUs (as specified in the June 18, 1997 physician fee schedule proposed rule) for the specific site, either in-office or out-of-office, increased from its 1997 practice expense RVUs.

In § 414.32 (Determining payments for certain physician services furnished in facility settings), we are revising paragraph (b) to state that if physician services of the type routinely furnished in a physician's office are furnished in facility settings, the fee schedule amount for those services is determined by reducing the applicable practice expense RVUs for the service by 50 percent.

We are not revising § 414.34 (Payment for services and supplies incident to a physician's service) because our resource-based practice expense system is not being implemented as proposed in the June 18, 1997 proposed rule.

We are adding the following changes to regulations required by the BBA 1997:

- In § 410.34 (Mammography services: Conditions for and limitations on coverage), we are expanding coverage of screening mammography services, effective January 1, 1998, to provide for payment for annual screening for all women beneficiaries age 40 and over.
- We are adding a new § 410.37 (Colorectal cancer screening tests: Conditions for and limitations on coverage) to provide for Medicare coverage of colorectal cancer screening tests effective for services provided on or after January 1, 1998.
- We are adding a new § 410.56 (Screening pelvic examinations) to provide for new coverage of screening pelvic exams (including a clinical breast exam) for all women beneficiaries subject to certain frequency and payment limitations.

VI. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995 (PRA), agencies are required to provide a 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the PRA requires that we solicit comment on the following issues:

- Whether the information collection is necessary and useful to carry out the proper functions of the agency;
- The accuracy of the agency's estimate of the information collection burden;
- The quality, utility, and clarity of the information to be collected; and
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

Therefore, we are soliciting public comment on each of these issues for the information collection requirements discussed below.

Under 5 CFR 1320.3(b)(2), the burden associated with the time, effort and financial resources necessary to comply with a collection of information that would be incurred by persons in the normal course of business is excluded from an information collection. The burden in connection with such types of collection activities can be disregarded if it can be demonstrated that such collection activities are usual and customary. Each of the collection requirements referenced below are of the type that are usual and customary in the conduct of commercial business. Thus, we believe they fall under this exception.

Under 5 CFR 1320.3(b)(3), a collection of information conducted or sponsored by a Federal agency that is also conducted or sponsored by a unit of State, local or tribal government is presumed to impose a Federal burden except to the extent that the agency shows that such State, local, or tribal requirement would be imposed even in the absence of a Federal requirement.

The following sections contain information collection requirements that we believe meet these requirements listed above; therefore, the burden is exempt from the Act.

Section 410.33(b)(2) (Supervising physicians) must maintain documentation of sufficient physician resources during all hours of operation to assure that the required physician supervision is furnished.

Section 410.33(c) (Non-physician personnel) must maintain documentation available for review certifying that non-physician personnel have the training and proficiency as evidenced by licensure or certification by the appropriate State health or education department or, in the absence of a State licensing board, a national credentialing body.

Section 410.33(e) (Multi-State entities) that operate across State boundaries must maintain documentation that its supervising physicians and technicians are licensed and certified in each of the States in which it is furnishing services.

The information collection requirement and associated burden as summarized below is subject to the PRA:

Section 410.33(b)(2) (Supervising physicians) must evidence proficiency in the performance and interpretation of each type of diagnostic procedure performed by the IDTF. The proficiency may be documented by certification in specific medical specialties or subspecialties or by criteria established by the carrier for the service area in which the IDTF is located.

The public reporting burden for this record keeping requirement is minimal. There are about 500 IPLs, which we assume will wish to become IDTFs, each requiring five minutes to document proficiency by certification in specific medical specialties or subspecialties or by criteria established by the carrier for the service area in which the IDTF is located. The total public burden is 42 hours.

We have submitted a copy of this final rule with comment to OMB for its review of the information collection requirements in § 410.33(b)(2). This requirement is not effective until it has been approved by OMB.

If you comment on any of these information collection and recordkeeping requirements, please mail copies directly to the following:

Health Care Financing Administration,
Office of Information Services,
Information Technology Investment Management Group, Division of HCFA Enterprise Standards, Room C2–26–17, 7500 Security Boulevard, Baltimore, MD 21244–1850, Attn: Louis Blank BPD–884

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn.: Allison Herron Eydt, HCFA Desk Officer

VII. Waiver of Proposed Rulemaking and Response to Comments

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** and invite prior public comment on proposed rules. The notice of proposed rulemaking can be waived, however, if an agency finds good cause that a notice-and-comment procedure is impracticable, unnecessary, or contrary to the public interest and it incorporates a statement of the finding and its reasons in the rule issued. We find good cause to waive the notice-and-comment procedure with respect to a number of provisions included in this final rule, as explained below.

With respect to the BBA 1997 provisions in this final rule affecting payment under the RVU system, we noted that the BBA 1997 was enacted shortly after the proposed rule was published. It delayed the implementation of the resource-based practice expense RVU system until January 1, 1999 and specifies the manner in which practice expense RVUs in 1998 are adjusted. As explained in section III. A. of this preamble, we are conforming the rules to be in compliance with these provisions of the statute. Our change is technical in nature and does not interpret the law. To submit such a technical, conforming change to notice-and-comment rulemaking would be both impracticable and unnecessary. Since the Congress intended that these provisions be effective on January 1, 1998 and intended to forestall significant adjustments in payment that would have occurred under the pre-amendment practice expense provision, it is in the public interest to issue this rule in final form.

With respect to the BBA 1997 provisions relating to coverage of screening mammography, coverage of screening pelvic examinations and colorectal cancer screening, and the related payment changes, our reasoning is somewhat similar. This rule conforms the regulations to the revisions contained in sections 4104 and 4102 of the BBA 1997. In addition, insofar as these regulations relate to coverage conditions under authority granted by section 1862(a)(1)(A) of the Act, they are exempted from public comment requirements pursuant to section 1869(b)(3)(B) of the Act. If we were to delay issuing a final rule beyond January, 1998, the statutory effective date of the benefit, our rules would be in conflict with the statute, which could cause confusion and would not be in the public interest.

We also note that, under express authority contained in section 1871(b)(2)(B) of the Act (42 U.S.C. 1395hh(b)(2)(B)) issuing a proposed rule is unnecessary if a statute establishes a specific deadline for the implementation of a provision and the deadline is less than 150 days after the enactment of the statute in which the deadline is contained. The BBA 1997 was enacted on August 5, 1997, less than 150 days from the statute's effective date of January 1, 1998.

The BBA 1997 provision related to colorectal cancer screening, as described in section III. C. of this preamble, requires us to publish a statement of coverage or noncoverage of screening barium enemas in the **Federal Register** by November 3, 1997. As noted in our preamble discussion, there was extensive consultation before we reached our decision. According to the National Cancer Institute, colorectal cancer is the second leading cause of death from cancer in the United States. It is clearly in the public interest to make this benefit available without delay and to bring our regulations into line with the expanded coverage.

In part IV. B. 2. of this preamble, we identify a number of interim 1997 codes. Since medical practice is dynamic, changes occur in coding or procedures and it is always possible that some changes occur after we have submitted our proposal for public comment. To address these changes, we identify "interim" RVUs for new and revised codes. To the extent possible, we subject these interim RVUs to all the procedures and considerations applicable to all RVUs, except publishing them in the **Federal Register** for public comment. It has been our practice to implement these interim RVUs, along with the "final" RVUs so that payment can be consistently made during the upcoming fee schedule year, and to solicit comments on the interim codes. We evaluate and respond to the comments in the next annual final rule. The public has recognized over the years that this approach has been in the public interest by allowing public participation yet permitting immediate, consistent payment to be made.

For the above reasons, we find good cause to waive notice-and-comment rulemaking. We invite written comments on the BBA 1997 provisions and the interim RVUs for selected procedures identified in Addendum C.

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, if we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

VIII. Regulatory Impact Analysis

We have examined the impacts of this final rule under Executive Order (E.O.) 12866, the Unfunded Mandates Act of 1995, and the Regulatory Flexibility Act. E.O. 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects; distributive impacts and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more annually). The benefit changes in this final rule due to the BBA 1997 will result in additional expenditures for calendar year 1998 in excess of $100 million.

Because the expenditures resulting from this final rule are expected to exceed $100 million, it is considered a major rule, and, as required by law, this final rule is subject to congressional review. Therefore, this final rule is being forwarded to the Congress for a 60-day review period.

The Unfunded Mandates Reform Act of 1995 also requires (in section 202) that agencies prepare an assessment of anticipated costs and benefits for any rule that may result in an annual expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million. The final

rule has no consequential effect on State, local, or tribal governments. We believe the private sector costs of this rule fall below these thresholds, as well.

A. Regulatory Flexibility Act

Consistent with the provisions of the Regulatory Flexibility Act we analyze options for regulatory relief for small businesses and other small entities. We prepare a Regulatory Flexibility Analysis (RFA) unless we certify that a rule will not have a significant economic impact on a substantial number of small entities. The RFA is to include a justification of why action is being taken, the kinds and number of small entities the final rule will affect, and an explanation of any considered meaningful options that achieve the objectives and will lessen any significant adverse economic impact on the small entities.

For purposes of the Act, all physicians are considered to be small entities. Thus, we have prepared the following analysis, which, together with the rest of this preamble, meets all three assessment requirements. It explains the rationale for and purposes of the rule, details the costs and benefits of the rule, analyzes alternatives, and presents the measures to minimize the burden on small entities.

B. Geographic Practice Cost Index Changes

Changes in GPCIs do not affect total payments under the physician fee schedule but rather redistribute payments among payment localities. An estimate of the overall redistributive effects can be seen by examining the changes in locality geographic adjustment factors or GAFs. The GAFs are a weighted composite of the locality GPCIs. Addendum F is a comparison of 1997 and 1999 locality GAFs. As this comparison shows, 58 of the 89 localities will experience changes in payments of less than 0.5 percent; 76 of the 89 localities will experience changes in payments of less than 1 percent; and only 3 of the 89 localities will experience changes in payment of 2 percent. The effects will be even less in 1998 as the GPCI revisions are phased in equally over a 2-year period. The effects of the GPCI revisions are thus negligible in most cases, and very minimal in all others.

C. Fee Schedule for Clinical Psychologist Services

Before January 1, 1997, the clinical psychologist fee schedule was derived from the reasonable charge payment system and was updated by an economic index different from that used for the physician fee schedule. As a result, relative to physicians' services, Medicare allowances for certain clinical psychologist services in many localities were artificially high or low. Moreover, there were wide geographic variations in Medicare rates for clinical psychologists as well as for clinical social workers, whose rates are set, by statute, at 75 percent of clinical psychologists' rates.

Effective January 1, 1997, the fee schedule for clinical psychologist services is linked to the physician fee schedule. The fee schedule for clinical psychologist services is set at 100 percent of the physician fee schedule amount for the corresponding service. This payment policy was prompted by the creation of new psychotherapy codes that make a distinction between services that include or exclude medical evaluation and management.

Both previous and current clinical psychologist fee schedules were implemented through carrier instruction. Because this final rule will codify current payment policy, there will be no impact on Medicare program or beneficiary expenditures.

D. Diagnostic Tests

Our policy specifies the level of physician supervision required for diagnostic tests furnished in settings in which such services are payable under the physician fee schedule. All of these tests will require at least a general level of physician supervision (that is, responsibility for the equipment and nonphysician personnel). The following services will be excepted from this provision:

- Diagnostic mammography procedures regulated by the FDA.
- Certain tests personally performed by qualified audiologists as discussed earlier.
- Certain testing services personally performed by qualified independent psychologists and clinical psychologists as discussed earlier.

This policy may result in some program savings due to the denial of payments for tests that are not reasonable and necessary because the required level of physician supervision was not furnished. However, we do not have data on which to base an estimate of savings. We expect that most testing entities that did not previously furnish testing with the level of physician supervision required under the proposal in our June 18, 1997 proposed rule (62 FR 33179 through 33181) will modify the way they furnish testing services to conform to the new policy.

We will also create a new type of entity known as an independent diagnostic testing facility (IDTF) with specific national standards. It will replace the existing IPL. Since the current IPL national policy is based on State law and local Medicare carrier policy, it is likely that some IPLs in certain areas will be more affected by this proposal than others. We do not have any data upon which to base any estimates of savings at this time. There are wide-spread allegations of unnecessary testing furnished by IPLs under the current policy. Our new policy is designed to assist Medicare carriers in addressing these allegations.

E. Reasonable Compensation Equivalent Limit Update Factor

The methodology currently employed to update the physician fee schedule uses an inflation factor distinct from the CPI-U used to update the reasonable compensation equivalent limits. To achieve a measure of consistency in the methodologies employed to determine reasonable payments to physicians for physicians' direct medical and surgical services furnished to individual patients and reasonable compensation levels for physicians' services that benefit provider patients generally, we are revising the methodology used to update the reasonable compensation equivalent limits by adopting the physician fee schedule's inflation factor (the MEI) to update the reasonable compensation equivalent limits. For cost reporting periods beginning on or after January 1, 1998, updates to the reasonable compensation equivalent limits will be calculated using the MEI.

Because we are not making an actual update to the reasonable compensation equivalent limits at this time that is based on the MEI for cost reporting periods beginning on or after January 1, 1998, this change in policy will not have an impact on Medicare program or beneficiary expenditures at this time.

F. Payment to Participating and Nonparticipating Suppliers

We are revising the definitions at § 414.2 (Definitions) to define a "participating supplier" as being a supplier as defined in § 400.202, which includes physicians as suppliers, when they have an agreement with HCFA to participate in Part B of Medicare in effect on the date of the service. Similarly, we are defining "nonparticipating supplier" as a supplier that does not have an agreement with HCFA to participate in Part B of Medicare in effect on the date of the service.

We are also revising § 414.20 (Formula for computing payment amounts) to clarify that the formula in the section computes the fee schedule amount, which may differ from the payment basis, and to clarify that the fee schedule amount for a nonparticipating supplier is 95 percent of the fee schedule amount for a participating supplier. We are also revising the heading of § 414.20 to read "Formula for computing fee schedule amounts" to reflect more accurately the content of the section.

We are revising § 414.48 (Limits on actual charges of nonparticipating suppliers), which describes the Medicare limiting charge for nonparticipating suppliers to clarify that the limiting charge is 115 percent of the fee schedule amount for nonparticipating physicians as calculated in § 414.20(b).

The changes to §§ 414.2, 414.20, and 414.48 will have no impact on Medicare payment, beneficiaries, physicians, other suppliers of physician services, Medicare carriers, or other insurers. We believe that Medicare carriers are currently properly calculating the fee schedule amounts for participating and nonparticipating suppliers and are paying based on those properly calculated amounts. These changes are intended to conform our regulations to the law and current practice.

G. Increase in Work Relative Value Units for Global Surgical Services to Account for the 1997 Increases for Work Relative Value Units in Evaluation and Management Services

In our November 22, 1996 final rule with comment period, as part of the 5-year review of all physician work RVUs, we increased most of the work RVUs for evaluation and management services for hospital and office or other outpatient visits. We revised the work RVUs for evaluation and management services partly in recognition of the increase in preservice and postservice work. At that time, we made no adjustments to the work RVUs assigned to global surgical services, which, in addition to the surgical procedure, include the related preservice and postservice evaluation and management visits a surgeon provides within a defined period of time.

Upon further examination of this issue, we are increasing the work RVUs for global surgical services to be consistent with the 1997 increases in the work RVUs for evaluation and management services.

Because the increases in the work RVUs for global surgical services will cause an increase in payments for those services, we must reduce all payments by 0.7 percent to maintain budget neutrality.

H. Caloric Vestibular Testing

We are reducing the work and malpractice RVUs for CPT code 92543 global service and CPT code 92543–26, and the malpractice RVUs for CPT code 92543–TC to 25 percent of what they would otherwise be. Therefore, beginning in 1998, when a physician performs and interprets four irrigations, the physician will bill Medicare for four units of CPT code 92543 (that is, the global service). When a physician interprets four irrigations, the physician will bill four units of CPT code 92543–26. When a physician or supplier performs four irrigations, the physician or supplier will bill four units of CPT code 92543–TC.

As part of the overall policy of resource-based practice expense RVUs for all codes, we are establishing practice expense RVUs for CPT code 92543 global service, -26, and -TC based on the assumption that one unit of the service equals one irrigation or the interpretation of one irrigation.

We expect the changes to the RVUs for caloric vestibular testing to have no impact on Medicare program or beneficiary expenditures because this is actually a change in coding interpretation rather than a change in value. Medicare has interpreted one unit of CPT code 92543 to mean up to four irrigations and has established its RVUs based on that interpretation. The AMA interprets one unit to mean one irrigation. Therefore, when the usual service is furnished (that is, a total of four irrigations—two to each ear), Medicare instructed physicians to bill for that as one unit of service, while the AMA's instructions considered it four. We are now, in a budget-neutral fashion, adopting the AMA interpretation to reduce billing confusion regarding this code. The change is being made by having what used to be one service—for Medicare purposes—now equal four services, while at the same time establishing the RVU levels at 25 percent of what they would have otherwise been.

I. Clinical Consultations

The regulations set forth at § 415.130 (Conditions for payment: Physician pathology services), paragraph (b) (Clinical consultation services), require that a clinical consultation meet four criteria before it can be paid. One of these criteria is that the clinical consultation must be requested by the patient's attending physician. We have allowed a standing order policy to be used as a substitute for the individual request by the patient's attending physician. However, effective January 1, 1998, we will not accept a standing order as a substitute for the individual request by the attending physician. We will instruct the Medicare carriers to enforce § 415.130(b) as it is presently written.

The national allowed charges for CPT code 80500 (Clinical pathology consultation; limited, without review of patient's history and medical records) for 1996 are $5.6 million. Of this amount, 70 percent of total allowed charges are from seven States. These are: Florida, Texas, Oklahoma, Illinois, Kentucky, California, and Missouri. Florida accounts for $2.5 million or 45 percent of the total.

We believe that the use of standing orders has clearly contributed to increased payments for clinical consultations in Florida relative to other States. We do not know the prevalence of standing orders in other States but, generally, the data do not seem to indicate a widespread problem.

J. Changes in Practice Expense Relative Value Units for 1998

As discussed earlier, section 4505 of the BBA 1997 specifies the manner in which practice expense RVUs in 1998 are adjusted. The 1998 practice expense RVUs for certain services are reduced to 110 percent of their work RVUs for the service. The reductions are used to increase practice expense RVUs for office visits. We estimate that the aggregate reduction in the practice expense RVUs for services subject to this 110 percent is about $330 million. (See section III. A. above for a detailed explanation of the calculation of this provision of the BBA 1997.) Because these funds are used to increase the practice expense RVUs for office visits, there is no change in total spending as a result of this provision.

K. Coverage of Screening Mammography and Related Payment Changes

Section 4101 of the BBA 1997 provides for expanded coverage and waiver of the Part B deductible for screening mammography services furnished on or after January 1, 1998. Specifically, the revised benefit will allow for annual coverage of screening mammographies for all women age 40 and over, including women age 65 and over. Before enactment of the BBA 1997, biennial coverage of screening mammograms was available for (1) women at least age 40 but not yet age 50 who were not at high risk for breast cancer, and (2) women age 65 and over. Annual coverage of screening mammograms was only available for (1) women at least age 40 but not yet age 50 who were at high risk for breast

cancer, and (2) women at least age 50 but not yet age 65. We estimate that these changes in the frequency limitations and in the Part B deductible will result in an increase in Medicare payments. These payments will be made to many screening mammography suppliers, including the physicians who interpret the results of these examinations, as well as to other physicians who may be involved in providing any medically necessary follow-up tests or treatment that may be required as a result of the screening tests.

L. Colorectal Cancer Screening

Section 4104 of the BBA 1997 authorizes coverage of certain colorectal screening tests, effective January 1, 1998, subject to certain frequency and payment limits. The new tests include (1) screening fecal-occult blood tests, (2) screening flexible sigmoidoscopy exams, (3) screening colonoscopy exams, and (4) screening barium enema exams. Based on the projected utilization of these various screening services and related medically necessary follow-up tests and treatment that may be required for the beneficiaries screened, we estimate that this new benefit will result in an increase in Medicare payments. These payments will be made to many primary care physicians for the screening fecal-occult blood tests, and mostly to physician specialists such as gastroenterologists (in the case of screening flexible sigmoidoscopies and screening colonoscopies) and radiologists (in the case of screening barium enema procedures).

M. Coverage of Screening Pelvic Examination (Including a Clinical Breast Examination) and Related Payment Changes

Effective for services furnished beginning January 1, 1998, section 4102 of the BBA 1997 provides for coverage and waiver of the Part B deductible for screening pelvic examinations (including a clinical breast examination) subject to certain frequency and payment limitations. We estimate that this new coverage provision will increase program expenditures. These payments will be made to a large number of physicians and other practitioners who provide these tests or any medically necessary follow-up tests or treatment that may be required as a result of the screening tests throughout the United States.

N. Reinstatement of the Payment for Transportation of EKG Equipment

As set forth in section 4559 of the BBA 1997, effective for services furnished after December 31, 1997 and before January 1, 1999, carriers will make separate payments for HCPCS code R0076 (Transportation of portable EKG to facility or location, per patient) based upon payment methods in effect for these services as of December 31, 1996. EKG transportation payments should be made at the carrier-priced level that was in effect on December 31, 1996. The procedure codes involved are CPT code 93000 (a 12-lead EKG with interpretation and report) or CPT code 93005 (a 12-lead EKG, tracing only, without interpretation and report). When multiple patients receive services at the same site, the transportation payment amount must be prorated among all patients seen. These payments may be made only under the following circumstances:

- The transportation service is furnished in connection with standard EKG procedures furnished by approved suppliers of portable x-ray services as set forth in section 2070.4.F. of the Medicare Carriers Manual.
- The transportation service is furnished in connection with standard EKG procedures by an independent diagnostic testing facility or an independent physiological laboratory under the condition set forth in section 2070.1.G. of the Medicare Carriers Manual. We estimate that this provision will result in some increase in program expenditures.

O. Elimination of the Separate Budget-Neutrality Adjuster for the Work Relative Value Units

As discussed in the November 22, 1996 final rule (61 FR 59532) for the 1997 physician fee schedule, we intend to eliminate the separate 8.3 percent budget-neutrality adjustment to the work RVUs that resulted from changes made during the 5-year review of work RVUs. We will accomplish this by increasing the practice and malpractice expense RVUs by 8.3 percent and reducing the CF by 8.3 percent. This allows us to eliminate the separate adjuster while not changing the payment for any service. However, due to the affects of the BBA 1997, we are postponing the elimination of the separate budget neutrality adjustment until 1999.

P. Effect of Changes Resulting From Adjustments to Relative Value Units

Because the new RVUs cause an increase in total estimated payments under the physician fee schedule, we must reduce payments by 0.8 percent in order to maintain budget neutrality as required by section 1848(c)(2)(B)(ii)(II) of the Act. This reduction in payments is being implemented through a 0.8 percent reduction to the conversion factor.

We anticipate that the reduction of net Medicare revenues for some physician practices due to the changes contained in this regulation will result in a volume and intensity response that will cause overall physician expenditures to increase by 0.1 percent, requiring an offsetting 0.1 percent reduction in the CF to maintain budget neutrality. This 0.1 percent reduction is included in the 0.8 percent reduction described above.

We increased the Sustainable Growth Rate target for physician spending by the anticipated 0.1 volume and intensity response. Because we increased the target, if the anticipated volume and intensity response does not occur, the Sustainable Growth Rate system will return the 0.1 percent reduction to the CF in the form of higher future updates.

Q. Net Impact of Relative Value Unit Changes on Medicare Specialties

1. Impact Estimation Methodology

Physician fee schedule impacts were estimated by comparing predicted physician payments under a continuation of the current RVUs to the estimated payments under the new RVUs.

2. Overall Fee Schedule Impact

As described above, we are making the budget neutrality adjustment required for changes in relative value units through an adjustment to the CF. In the discussion below of differential impacts by specialty, we have incorporated the separate 0.8 percent downward adjustment on the CF. The table below does not contain the impacts of the single CF.

3. Specialty Level Effect (Includes Table 3—Impact on Medicare Payments by Specialty Due to Changes in Relative Value Units)

Table 3, "Impact on Medicare Payments by Specialty Due to Changes in Relative Value Units," shows the estimated percentage change in Medicare physician fees from the current RVUs to the new RVUs and by specialty. The specialties are ranked according to the impact of the changes to Medicare fees. The impact of the changes contained in this regulation on the total revenue (Medicare and non-Medicare) for a given specialty is less than impact displayed in Table 3 since physicians provide services to Medicare and non-Medicare patients.

TABLE 3.—IMPACT ON MEDICARE PAYMENTS BY SPECIALITY DUE TO CHANGES IN RELATIVE VALUE UNITS

[In percent]

Specialty	Impact on total payments	Impact on work payments	Impact on practice expense payments
M.D./D.O. Physicians:			
Obstetrics/Gynecology	3.0	2.8	3.9
General Surgery	1.8	3.8	−0.4
Plastic Surgery	1.7	3.9	−0.6
Vascular Surgery	1.5	4.3	0.7
Rheumatology	1.4	−0.9	5.0
Family Practice	1.3	−1.0	5.3
General Practice	1.2	−0.4	4.1
Anesthesiology	0.9	1.0	0.7
Hematology/Oncology	0.8	−0.6	2.5
Orthopedic Surgery	0.8	4.0	−2.0
Internal Medicine	0.6	−0.9	3.0
Otolaryngology	0.6	0.3	1.1
Urology	0.4	0.6	0.3
Dermatology	0.2	−0.6	1.7
Neurology	0.0	0.7	1.2
Clinics	−0.1	−0.3	0.2
Neurosurgery	−0.2	3.2	−3.6
Thoracic Surgery	−0.2	5.0	−4.7
All Other Physicians	−0.2	−0.6	0.5
Pulmonary	−0.4	−0.8	0.4
Emergency Medicine	−0.6	−0.7	−0.5
Psychiatry	−0.7	−0.9	−0.4
Radiology	−0.7	−0.9	0.6
Cardiac Surgery	−0.7	5.4	−5.9
Radiation Oncology	−0.7	−0.7	−0.7
Pathology	−1.1	−0.8	−1.5
Nephrology	−1.2	−0.8	−1.9
Gastroenterology	−1.3	−0.8	−2.0
Cardiology	−1.4	−0.6	−2.3
Ophthalmology	−2.6	1.6	−6.8
Others:			
Podiatry	0.8	0.5	1.4
Optometry	0.1	−0.9	1.8
Nonphysician Practitioner	−0.6	0.3	−2.2
Chiropractic	−0.8	−0.8	−0.8
Suppliers	−1.0	−0.8	−1.1

R. Five-Year Impacts of Benefit Changes (Includes Table 4—Projected Budget Impact of New Benefits)

We estimate that the benefit changes enacted in the BBA 1997 described in this final rule will result in the following Medicare expenditures over the next 5 fiscal years:

TABLE 4.—PROJECTED BUDGET IMPACT OF NEW BENEFITS

[In millions]

	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002
Total budget impact	$160	$385	$510	$685	$780

S. Rural Hospital Impact Statement

Section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the Regulatory Flexibility Act. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

This final rule will have little direct effect on payments to rural hospitals since this rule will change only payments made to physicians and certain other practitioners under Part B of the Medicare program and will make no change in payments to hospitals under Part A. We do not believe the

changes will have a major, indirect effect on rural hospitals.

Therefore, we are not preparing an analysis for section 1102(b) of the Act since we have determined, and the Secretary certifies, that this rule will not have a significant impact on the operations of a substantial number of small rural hospitals.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

List of Subjects

42 CFR Part 400

Grant programs-health, Health facilities, Health maintenance organizations (HMO), Medicaid, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 405

Administrative practice and procedure, Health facilities, Health professions, Kidney diseases, Medicare, Reporting and recordkeeping requirements, Rural areas, X-rays.

42 CFR Part 410

Health facilities, Health professions, Kidney diseases, Laboratories, Medicare, Rural areas, X-rays.

42 CFR Part 411

Kidney diseases, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 414

Administrative practice and procedure, Health facilities, Health professions, Kidney diseases, Medicare, Reporting and recordkeeping requirements, Rural areas, X-rays.

42 CFR chapter IV is amended as set forth below:

PART 400—INTRODUCTION; DEFINITIONS

A. Part 400 is amended as set forth below:

1. The authority citation for part 400 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh), and 44 U.S.C. Chapter 35.

2. In § 400.202, the introductory text is republished, and the following definitions are added in alphabetical order:

§ 400.202 Definitions specific to Medicare.

As used in connection with the Medicare program, unless the context indicates otherwise—

* * * * *

Nonparticipating supplier means a supplier that does not have an agreement with HCFA to participate in Part B of Medicare in effect on the date of the service.

Participating supplier means a supplier that has an agreement with HCFA to participate in Part B of Medicare in effect on the date of the service.

* * * * *

B. Part 405 is amended as set forth below:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Subpart E—Criteria for Determination of Reasonable Charges

1. The authority citation for part 405, subpart E, continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

§ 405.535 [Amended]

2. In § 405.535(b), "§ 414.48(b)(3)" is removed and "§ 414.48(b)" is added in its place.

PART 410—SUPPLEMENTARY MEDICAL INSURANCE (SMI) BENEFITS

C. Part 410 is amended as set forth below:

1. The authority citation for part 410 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh), unless otherwise indicated.

2. Section 410.32 is revised to read as follows:

§ 410.32 Diagnostic x-ray tests, diagnostic laboratory tests, and other diagnostic tests: Conditions.

(a) *Ordering diagnostic tests.* All diagnostic x-ray tests, diagnostic laboratory tests, and other diagnostic tests must be ordered by the physician who is treating the beneficiary, that is, the physician who furnishes a consultation or treats a beneficiary for a specific medical problem and who uses the results in the management of the beneficiary's specific medical problem. Tests not ordered by the physician who is treating the beneficiary are not reasonable and necessary (see § 411.15(k)(1) of this chapter).

(1) *Chiropractic exception.* A physician may order an x-ray to be used by a chiropractor to demonstrate the subluxation of the spine that is the basis for a beneficiary to receive manual manipulation treatments even though the physician does not treat the beneficiary.

(2) *Mammography exception.* A physician who meets the qualification requirements for an interpreting physician under section 354 of the Public Health Service Act as provided in § 410.34(a)(7) may order a diagnostic mammogram based on the findings of a screening mammogram even though the physician does not treat the beneficiary.

(3) *Application to nonphysician practitioners.* Nonphysician practitioners (that is, clinical nurse specialists, clinical psychologists, clinical social workers, nurse-midwives, nurse practitioners, and physician assistants) who furnish services that would be physician services if furnished by a physician, and who are operating within the scope of their authority under State law and within the scope of their Medicare statutory benefit, may be treated the same as physicians treating beneficiaries for the purpose of this section.

(b) *Diagnostic x-ray and other diagnostic tests.* (1) *Basic rule.* Except as indicated in paragraph (b)(2) of this section, all diagnostic x-ray and other diagnostic tests covered under section 1861(s)(3) of the Act and payable under the physician fee schedule must be furnished under the appropriate level of supervision by a physician as defined in section 1861(r) of the Act. Services furnished without the required level of supervision are not reasonable and necessary (see § 411.15(k)(1) of this chapter).

(2) *Exceptions.* The following diagnostic tests payable under the physician fee schedule are excluded from the basic rule set forth in paragraph (b)(1) of this section:

(i) Diagnostic mammography procedures, which are regulated by the Food and Drug Administration.

(ii) Diagnostic tests personally furnished by a qualified audiologist as defined in section 1861(ll)(3) of the Act.

(iii) Diagnostic psychological testing services personally furnished by a clinical psychologist or a qualified independent psychologist as defined in program instructions.

(iv) Diagnostic tests (as established through program instructions) personally performed by a physical therapist who is certified by the American Board of Physical Therapy Specialties as a qualified electrophysiologic clinical specialist and permitted to provide the service under State law.

(3) *Levels of supervision.* Except where otherwise indicated, all diagnostic x-ray and other diagnostic tests subject to this provision and payable under the physician fee schedule must be furnished under at least a general level of physician supervision as defined in paragraph (b)(3)(i) of this section. In addition, some of these tests also require either direct or personal supervision as defined in paragraphs (b)(3)(ii) or (b)(3)(iii) of this section, respectively. When direct or personal supervision is required, physician supervision at the specified level is required throughout the performance of the test.

(i) *General supervision* means the procedure is furnished under the physician's overall direction and control, but the physician's presence is not required during the performance of the procedure. Under general supervision, the training of the nonphysician personnel who actually perform the diagnostic procedure and the maintenance of the necessary equipment and supplies are the continuing responsibility of the physician.

(ii) *Direct supervision* in the office setting means the physician must be present in the office suite and immediately available to furnish assistance and direction throughout the performance of the procedure. It does not mean that the physician must be present in the room when the procedure is performed.

(iii) *Personal supervision* means a physician must be in attendance in the room during the performance of the procedure.

(c) *Portable x-ray services.* Portable x-ray services furnished in a place of residence used as the patient's home are covered if the following conditions are met:

(1) These services are furnished under the general supervision of a physician, as defined in paragraph (b)(3)(i) of this section.

(2) The supplier of these services meets the requirements set forth in part 486, subpart C of this chapter, concerning conditions for coverage for portable x-ray services.

(3) The procedures are limited to—

(i) Skeletal films involving the extremities, pelvis, vertebral column, or skull;

(ii) Chest or abdominal films that do not involve the use of contrast media; and

(iii) Diagnostic mammograms if the approved portable x-ray supplier, as defined in subpart C of part 486 of this chapter, meets the certification requirements of section 354 of the Public Health Service Act, as implemented by 21 CFR part 900, subpart B.

(d) *Diagnostic laboratory tests.* Medicare Part B pays for covered diagnostic laboratory tests that are furnished by any of the following:

(1) A participating hospital or participating RPCH.

(2) A nonparticipating hospital that meets the requirements for emergency outpatient services specified in subpart G of part 424 of this chapter and the laboratory requirements specified in part 493 of this chapter.

(3) The office of the patient's attending or consulting physician if that physician is a doctor of medicine, osteopathy, podiatric medicine, dental surgery, or dental medicine.

(4) An RHC.

(5) A laboratory, if it meets the applicable requirements for laboratories of part 493 of this chapter, including the laboratory of a nonparticipating hospital that does not meet the requirements for emergency outpatient services in subpart G of part 424 of this chapter.

(6) An FQHC.

3. New § 410.33 is added to read as follows:

§ 410.33 Independent diagnostic testing facility.

(a) *General rule.* (1) Effective for diagnostic procedures performed on or after July 1, 1998, carriers will pay for diagnostic procedures under the physician fee schedule only when performed by a physician, a group practice of physicians, an approved supplier of portable x-ray services, or an independent diagnostic testing facility (IDTF). An IDTF may be a fixed location, a mobile entity, or an individual nonphysician practitioner. It is independent of a physician's office or hospital; however, these rules apply when an IDTF furnishes diagnostic procedures in a physician's office.

(2) *Exceptions.* The following diagnostic tests that are payable under the physician fee schedule and furnished by a nonhospital testing entity are not required to be furnished in accordance with the criteria set forth in paragraphs (b) through (e) of this section:

(i) Diagnostic mammography procedures, which are regulated by the Food and Drug Administration.

(ii) Diagnostic tests personally furnished by a qualified audiologist as defined in section 1861(ll)(3) of the Act.

(iii) Diagnostic psychological testing services personally furnished by a clinical psychologist or a qualified independent psychologist as defined in program instructions.

(iv) Diagnostic tests (as established through program instructions) personally performed by a physical therapist who is certified by the American Board of Physical Therapy Specialties as a qualified electrophysiologic clinical specialist and permitted to provide the service under State law.

(b) *Supervising physician.* (1) An IDTF must have one or more supervising physicians who are responsible for the direct and ongoing oversight of the quality of the testing performed, the proper operation and calibration of the equipment used to perform tests, and the qualification of nonphysician personnel who use the equipment. This level of supervision is that required for general supervision set forth in § 410.32(b)(3)(i).

(2) The supervising physician must evidence proficiency in the performance and interpretation of each type of diagnostic procedure performed by the IDTF. The proficiency may be documented by certification in specific medical specialties or subspecialties or by criteria established by the carrier for the service area in which the IDTF is located. In the case of a procedure requiring the direct or personal supervision of a physician as set forth in § 410.32(b)(3)(ii) or (b)(3)(iii), the IDTF's supervising physician must personally furnish this level of supervision whether the procedure is performed in the IDTF or, in the case of mobile services, at the remote location. The IDTF must maintain documentation of sufficient physician resources during all hours of operations to assure that the required physician supervision is furnished. In the case of procedures requiring direct supervision, the supervising physician may oversee concurrent procedures.

(c) *Nonphysician personnel.* Any nonphysician personnel used by the IDTF to perform tests must demonstrate the basic qualifications to perform the tests in question and have training and proficiency as evidenced by licensure or certification by the appropriate State health or education department. In the absence of a State licensing board, the technician must be certified by an appropriate national credentialing body. The IDTF must maintain documentation available for review that these requirements are met.

(d) *Ordering of tests.* All procedures performed by the IDTF must be specifically ordered in writing by the physician who is treating the beneficiary, that is, the physician who is furnishing a consultation or treating a beneficiary for a specific medical problem and who uses the results in the management of the beneficiary's specific medical problem. (Nonphysician practitioners may order tests as set forth in § 410.32(a)(3).) The order must specify the diagnosis or other basis for

the testing. The supervising physician for the IDTF may not order tests to be performed by the IDTF, unless the IDTF's supervising physician is in fact the beneficiary's treating physician. That is, the physician in question had a relationship with the beneficiary prior to the performance of the testing and is treating the beneficiary for a specific medical problem. The IDTF may not add any procedures based on internal protocols without a written order from the treating physician.

(e) *Multi-State entities.* An IDTF that operates across State boundaries must maintain documentation that its supervising physicians and technicians are licensed and certified in each of the States in which it is furnishing services.

(f) *Applicability of State law.* An IDTF must comply with the applicable laws of any State in which it operates.

4. In § 410.34, the introductory text to paragraph (d) and paragraph (d)(4) are revised to read as follows:

§ 410.34 Mammography services: Conditions for and limitations on coverage.

* * * * *

(d) *Limitations on coverage of screening mammography services.* The following limitations apply to coverage of screening mammography services as described in paragraphs (c) and (d) of this section:

* * * * *

(4) For an asymptomatic woman over 39 years of age, payment may be made for a screening mammography performed after at least 11 months have passed following the month in which the last screening mammography was performed.

* * * * *

5. A new § 410.37 is added to read as follows:

§ 410.37 Colorectal cancer screening tests: Conditions for and limitations on coverage.

(a) *Definitions.* As used in this section, the following definitions apply:

(1) *Colorectal cancer screening tests* means any of the following procedures furnished to an individual for the purpose of early detection of colorectal cancer:

(i) Screening fecal-occult blood tests.

(ii) Screening flexible sigmoidoscopies.

(iii) In the case of an individual at high risk for colorectal cancer, screening colonoscopies.

(iv) Screening barium enemas.

(v) Other tests or procedures, and modifications to tests under this paragraph, with such frequency and payment limits as HCFA determines appropriate, in consultation with appropriate organizations.

(2) *Screening fecal-occult blood test* means a guaiac-based test for peroxidase activity, testing two samples from each of three consecutive stools.

(3) An *individual at high risk for colorectal cancer* means an individual with—

(i) A close relative (sibling, parent, or child) who has had colorectal cancer or an adenomatous polyp;

(ii) A family history of familial adenomatous polyposis;

(iii) A family history of hereditary nonpolyposis colorectal cancer;

(iv) A personal history of adenomatous polyps; or

(v) A personal history of colorectal cancer; or

(vi) Inflammatory bowel disease, including Crohn's Disease, and ulcerative colitis.

(4) *Screening barium enema* means—

(i) A screening double contrast barium enema of the entire colorectum (including a physician's interpretation of the results of the procedure); or

(ii) In the case of an individual whose attending physician decides that he or she cannot tolerate a screening double contrast barium enema, a screening single contrast barium enema of the entire colorectum (including a physician's interpretation of the results of the procedure).

(5) An *attending physician for purposes of this provision* is a doctor of medicine or osteopathy (as defined in section 1861(r)(1) of the Act) who is fully knowledgeable about the beneficiary's medical condition, and who would be responsible using the results of any examination performed in the overall management of the beneficiary's specific medical problem.

(b) *Condition for coverage of screening fecal-occult blood tests.* Medicare Part B pays for a screening fecal-occult blood test if it is ordered in writing by the beneficiary's attending physician.

(c) *Limitations on coverage of screening fecal-occult blood tests.* (1) Payment may not be made for a screening fecal-occult blood test performed for an individual under age 50.

(2) For an individual 50 years of age or over, payment may be made for a screening fecal-occult blood test performed after at least 11 months have passed following the month in which the last screening fecal-occult blood test was performed.

(d) *Condition for coverage of screening flexible sigmoidoscopies.* Medicare Part B pays for a screening flexible sigmoidoscopy service if it is performed by a doctor of medicine or osteopathy (as defined in section 1861(r)(1) of the Act).

(e) *Limitations on coverage of screening flexible sigmoidoscopies.* (1) Payment may not be made for a screening flexible sigmoidoscopy performed for an individual under age 50.

(2) For an individual 50 years of age or over, payment may be made for a screening flexible sigmoidoscopy after at least 47 months have passed following the month in which the last screening flexible sigmoidoscopy or, as provided in paragraphs (h) and (i) of this section, the last screening barium enema was performed.

(f) *Condition for coverage of screening colonoscopies.* Medicare Part B pays for a screening colonoscopy if it is performed by a doctor of medicine or osteopathy (as defined in section 1861(r)(1) of the Act).

(g) *Limitations on coverage of screening colonoscopies.* (1) Payment may not be made for a screening colonoscopy for an individual who is not at high risk for colorectal cancer as described in paragraph (a)(3) of this section.

(2) Payment may be made for a screening colonoscopy performed for an individual who is at high risk for colorectal cancer as described in paragraph (a)(3) of this section, after at least 23 months have passed following the month in which the last screening colonoscopy was performed, or as provided in paragraphs (h) and (i) of this section, the last screening barium enema was performed.

(h) *Conditions for coverage of screening barium enemas.* Medicare Part B pays for a screening barium enema if it is ordered in writing by the beneficiary's attending physician.

(i) Limitations on coverage of screening barium enemas.

(1) In the case of an individual age 50 or over who is not at high risk of colorectal cancer, payment may be made for a screening barium enema examination performed after at least 47 months have passed following the month in which the last screening barium enema or screening flexible sigmoidoscopy was performed.

(2) In the case of an individual who is at high risk for colorectal cancer, payment may be made for a screening barium enema examination performed after at least 23 months have passed following the month in which the last screening barium enema or the last screening colonoscopy was performed.

6. A new § 410.56 is added to read as follows:

§ 410.56 Screening pelvic examinations.

(a) *Conditions for screening pelvic examinations.* Medicare Part B pays for a screening pelvic examination (including a clinical breast examination) if it is performed by a doctor of medicine or osteopathy (as defined in section 1861(r)(1) of the Act), or by a certified nurse midwife (as defined in section 1861(gg) of the Act), or a physician assistant, nurse practitioner, or clinic nurse specialist (as defined in section 1861(aa) of the Act) who is authorized under State law to perform the examination.

(b) *Limits on coverage of screening pelvic examinations.* The following limitations apply to coverage of screening pelvic examination services:

(1) *General rule.* Except as specified in paragraphs (b)(2) and (b)(3) of this section, payment may be made for a pelvic examination performed on an asymptomatic woman only if the individual has not had a pelvic examination paid for by Medicare during the preceding 35 months following the month in which her last Medicare-covered screening pelvic examination was performed and found to be normal.

(2) *More frequent screening based on high-risk factors.* Subject to the limitation as specified in paragraph (b)(4) of this section, payment may be made for a screening pelvic examination performed more frequently than once every 36 months if the test is performed by a physician or other practitioner specified in paragraph (a) of this section, and there is evidence that the woman is at high risk (on the basis of her medical history or other findings) of developing cervical cancer, or vaginal cancer, as determined in accordance with the following risk factors:

(i) High risk factors for cervical cancer:

(A) Early onset of sexual activity (under 16 years of age).

(B) Multiple sexual partners (five or more in a lifetime).

(C) History of a sexually transmitted disease (including HIV infection).

(D) Absence of three negative or any Pap smears within the previous 7 years.

(ii) High risk factor for vaginal cancer: DES (diethylstilbestrol)-exposed daughters of women who took DES during pregnancy.

(3) *More frequent screening for women of childbearing age.* Subject to the limitation as specified in paragraph (b)(4) of this section, payment may be made for a screening pelvic examination performed more frequently than once every 36 months if the test is performed by a physician or other practitioner as specified in paragraph (a) of this section for a woman of childbearing age who has had such an examination that indicated the presence of cervical or vaginal cancer or other abnormality during any of the preceding 3 years. The term "woman of childbearing age" means a woman who is premenopausal, and has been determined by a physician, or qualified practitioner as specified in paragraph (a) of this section, to be of childbearing age, based on her medical history or other findings.

(4) *Limitation applicable to women at high risk and those of childbearing age.* Payment is not made for a screening pelvic examination for women considered to be at high risk (under any of the criteria described in paragraph (b)(2) of this section), or who qualify for coverage under the childbearing provision (under the criteria described in paragraph (b)(3) of this section) more frequently than once every 11 months after the month that the last screening pelvic examination covered by Medicare was performed and found to be normal.

7. In § 410.160, the introductory text to paragraph (b) is republished, and new paragraphs (b)(5) and (b)(6) are added to read as follows:

§ 410.160 Part B annual deductible.

* * * * *

(b) *Exceptions.* Expenses incurred for the following services are not subject to the Part B annual deductible and do not count toward meeting that deductible:

* * * * *

(5) Screening mammography services as described in § 410.34 (c) and (d).

(6) Screening pelvic examinations as described in § 410.56.

* * * * *

PART 411—EXCLUSIONS FROM MEDICARE AND LIMITATIONS ON MEDICARE PAYMENT

D. Part 411 is amended as set forth below:

1. The authority citation for part 411 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

2. In § 411.15 the introductory text to the section and to paragraph (a) is republished, paragraph (a)(1) is revised, the introductory text to paragraph (k) is republished, and new paragraphs (k)(6), (k)(7), and (k)(8) are added to read as follows:

§ 411.15 Particular services excluded from coverage.

The following services are excluded from coverage.

(a) Routine physical checkups such as—

(1) Examinations performed for a purpose other than treatment or diagnosis of a specific illness, symptom, complaint, or injury, except for screening mammography, colorectal cancer screening tests, or screening pelvic examinations that meet the criteria specified in paragraphs (k)(6), (k)(7), and (k)(8) of this section.

* * * * *

(k) *Any services that are not reasonable and necessary* for one of the following purposes:

* * * * *

(6) In the case of screening mammography, for the purpose of early detection of breast cancer subject to the conditions and limitations specified in § 410.34 of this chapter.

(7) In the case of colorectal cancer screening tests, for the purpose of early detection of colorectal cancer subject to the conditions and limitations specified in § 410.37 of this chapter.

(8) In the case of screening pelvic examinations, for the purpose of early detection of cervical or vaginal cancer subject to the conditions and limitations specified in § 410.56 of this chapter.

* * * * *

PART 414—PAYMENT FOR PART B MEDICAL AND OTHER HEALTH SERVICES

E. Part 414 is amended as set forth below:

1. The authority citation for part 414 continues to read as follows:

Authority: Secs. 1102, 1871, and 1881(b)(1) of the Social Security Act (42 U.S.C. 1302, 1395hh, and 1395rr(b)(1)).

2. Section 414.20 is revised to read as follows:

§ 414.20 Formula for computing fee schedule amounts.

(a) *Participating supplier.* The fee schedule amount for a participating supplier for a physician service as defined in § 414.2 is computed as the product of the following amounts:

(1) The RVUs for the service.

(2) The GAF for the fee schedule area.

(3) The CF.

(b) *Nonparticipating supplier.* The fee schedule amount for a nonparticipating supplier for a physician service as defined in § 414.2 is 95 percent of the fee schedule amount as calculated in paragraph (a) of this section.

3. A new § 414.21 is added to read as follows:

§ 414.21 Medicare payment basis.

Medicare payment is based on the lesser of the actual charge or the applicable fee schedule amount.

4. In § 414.22, the introductory text to the section and to paragraph (b) is republished, and new paragraph (b)(4) is added to read as follows:

§ 414.22 Relative value units (RVUs).

HCFA establishes RVUs for physician work, physician practice expense, and malpractice insurance.

* * * * *

(b) *Practice expense RVUs.* * * *

(4) For services furnished beginning January 1, 1998, practice expense RVUs for certain services are reduced to 110 percent of the work RVUs for those services. The following two categories of services are excluded from this limitation:

(i) The service is provided more than 75 percent of the time in an office setting; or

(ii) The service is one described in section 1848(c)(2)(G)(v) of the Act, codified at 42 U.S.C. 1395w–4(c)(2)(G). Section 1848(c)(2)(G)(v) of the Act refers to the 1998 proposed resource-based practice expense RVUs (as specified in the June 18, 1997 physician fee schedule proposed rule (62 FR 33158)) for the specific site, either in-office or out-of-office, increased from its 1997 practice expense RVUs.)

* * * * *

5. In § 414.32, paragraph (b) is revised to read as follows:

§ 414.32 Determining payments for certain physician services furnished in facility settings.

* * * * *

(b) *General rule.* If physician services of the type routinely furnished in a physician's office are furnished in facility settings, the fee schedule amount for those services is determined by reducing the applicable practice expense RVUs for the service by 50 percent.

* * * * *

6. In § 414.48, paragraph (b) is revised to read as follows:

§ 414.48 Limits on actual charges of nonparticipating suppliers.

* * * * *

(b) *Specific limits.* For items or services paid under the physician fee schedule, the limiting charge is 115 percent of the fee schedule amount for nonparticipating suppliers. For items or services HCFA excludes from payment under the physician fee schedule (in accordance with section 1848 (j)(3) of the Act), the limiting charge is 115 percent of 95 percent of the payment basis applicable to participating suppliers as calculated in § 414.20(b).

7. Section 414.62 is added to read as follows:

§ 414.62 Fee schedule for clinical psychologist services.

The fee schedule for clinical psychologist services is set at 100 percent of the amount determined for corresponding services under the physician fee schedule.

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: October 23, 1997.

Nancy-Ann Min DeParle,

Deputy Administrator, Health Care Financing Administration.

Dated: October 27, 1997.

Donna E. Shalala,

Secretary.

Note: These addenda will not appear in the Code of Federal Regulations.

Addendum A—Explanation and Use of Addenda B Through G

The addenda on the following pages provide various data pertaining to the Medicare fee schedule for physician services furnished in 1998. Addendum B contains the RVUs for work, practice expense, and malpractice expense, and other information for all services included in the physician fee schedule. Addendum C provides interim RVUs and related information for codes that are subject to comment. Each code listed in Addendum C is also included in Addendum B. Further explanations of the information in these addenda are provided at the beginning of each addendum.

Addendum D contains the 1999 GPCIs by Medicare carrier and locality. Addendum E contains the 1998 GPCIs by Medicare carrier and locality. Addendum F contains the 1999 versus 1997 geographic adjustment factor by 1998 fee schedule area. Addendum G contains counties included in 1998 localities (listed alphabetically by State and locality name within the State).

To compute a fee schedule amount according to the formula provided in the final rule, use the RVUs listed in Addendum B and the GPCIs for 1998 listed in Addendum E of this final rule. In applying the formula, use the CF of $36.6873. The work adjuster for 1998 is 0.917.

Addendum B—1998 Relative Value Units and Related Information Used in Determining Medicare Payments for 1998

This addendum contains the following information for each CPT code and alphanumeric HCPCS code, except for alphanumeric codes beginning with B (enteral and parenteral therapy), E (durable medical equipment), K (temporary codes for nonphysician services or items), or L (orthotics), and codes for anesthesiology.

1. *CPT/HCPCS code.* This is the CPT or alphanumeric HCPCS number for the service. Alphanumeric HCPCS codes are included at the end of this addendum.

2. *Modifier.* A modifier is shown if there is a technical component (modifier TC) and a professional component (PC) (modifier -26) for the service. If there is a PC and a TC for the service, Addendum B contains three entries for the code: One for the global values (both professional and technical); one for modifier -26 (PC); and one for modifier TC. The global service is not designated by a modifier, and physicians must bill using the code without a modifier if the physician furnishes both the PC and the TC of the service.

Modifier -53 is shown for a discontinued procedure. There will be RVUs for the code (CPT code 45378) with this modifier.

3. *Status indicator.* This indicator shows whether the CPT/HCPCS code is in the physician fee schedule and whether it is separately payable if the service is covered.

A = Active code. These codes are separately payable under the fee schedule if covered. There will be RVUs for codes with this status. The presence of an "A" indicator does not mean that Medicare has made a national decision regarding the coverage of the service. Carriers remain responsible for coverage decisions in the absence of a national Medicare policy.

B = Bundled code. Payment for covered services is always bundled into payment for other services not specified. If RVUs are shown, they are not used for Medicare payment. If these services are covered, payment for them is subsumed by the payment for the services to which they are incident. (An example is a telephone call from a hospital nurse regarding care of a patient.)

C = Carrier-priced code. Carriers will establish RVUs and payment amounts for these services, generally on a case-by-case basis following review of documentation, such as an operative report.

D = Deleted code. These codes are deleted effective with the beginning of the calendar year.

E = Excluded from physician fee schedule by regulation. These codes are for items or services that we chose to exclude from the physician fee schedule payment by regulation. No RVUs are shown, and no payment may be made under the physician fee schedule for these codes. Payment for them, if they are covered, continues under reasonable charge or other payment procedures.

G = Code not valid for Medicare purposes. Medicare does not recognize codes assigned this status. Medicare uses another code for reporting of, and payment for, these services.

N = Noncovered service. These codes are noncovered services. Medicare payment may not be made for these codes. If RVUs are shown, they are not used for Medicare payment.

P = Bundled or excluded code. There are no RVUs for these services. No separate payment should be made for them under the physician fee schedule.

— If the item or service is covered as incident to a physician service and is furnished on the same day as a physician service, payment for it is bundled into the payment for the physician service to which it is incident (an example is an elastic bandage furnished by a physician incident to a physician service).

— If the item or service is covered as other than incident to a physician service, it is excluded from the physician fee schedule (for example, colostomy supplies) and is paid under the other payment provisions of the Act.

R = Restricted coverage. Special coverage instructions apply. If the service is covered and no RVUs are shown, it is carrier-priced.

T = Injections. There are RVUs for these services, but they are only paid if there are no other services payable under the physician fee schedule billed on the same date by the same provider. If any other services payable under the physician fee schedule are billed on the same date by the same provider, these services are bundled into the service(s) for which payment is made.

X = Exclusion by law. These codes represent an item or service that is not within the definition of "physician services" for physician fee schedule payment purposes. No RVUs are shown for these codes, and no payment may be made under the physician fee schedule. (Examples are ambulance services and clinical diagnostic laboratory services.)

4. *Description of code.* This is an abbreviated version of the narrative description of the code.

5. *Physician work RVUs.* These are the RVUs for the physician work for this service in 1998. Codes that are not used for Medicare payment are identified with a "+."

6. *Practice expense RVUs.* These are the RVUs for the practice expense for the service for 1998.

7. *Malpractice expense RVUs.* These are the RVUs for the malpractice expense for the service for 1998.

8. *Total RVUs.* This is the sum of the work, practice expense, and malpractice expense RVUs for 1998.

9. *Global period.* This indicator shows the number of days in the global period for the code (0, 10, or 90 days). An explanation of the alpha codes follows:

MMM = The code describes a service furnished in uncomplicated maternity cases including antepartum care, delivery, and postpartum care. The usual global surgical concept does not apply. See the 1998 Physicians' Current Procedural Terminology for specific definitions.

XXX = The global concept does not apply.

YYY = The global period is to be set by the carrier (for example, unlisted surgery codes).

ZZZ = The code is part of another service and falls within the global period for the other service.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [6]	Mal-practice RVUs	Non-facility total	Facility total	Global
10040		A	Acne surgery of skin abscess	*1.16	0.32	0.32	0.03	1.53	1.53	010
10060		A	Drainage of skin abscess	*1.17	0.44	0.44	0.04	1.65	1.65	010
10061		A	Drainage of skin abscess	*2.40	0.64	0.64	0.06	3.10	3.10	010
10080		A	Drainage of pilonidal cyst	*1.17	0.50	0.50	0.05	1.72	1.72	010
10081		A	Drainage of pilonidal cyst	*2.45	1.11	1.11	0.16	3.72	3.72	010
10120		A	Remove foreign body	*1.22	0.46	0.46	0.05	1.73	1.73	010
10121		A	Remove foreign body	*2.89	1.00	1.00	0.12	3.81	3.81	010
10140		A	Drainage of hematoma/fluid	*1.53	0.48	0.48	0.05	2.06	2.06	010
10160		A	Puncture drainage of lesion	*1.20	0.38	0.38	0.05	1.63	1.63	010
10180		A	Complex drainage, wound	*2.25	1.05	1.05	0.18	3.48	3.48	010
11000		A	Debride infected skin	0.60	0.40	0.40	0.04	1.04	1.04	000
11001		A	Debride infect skin add	0.30	0.26	0.26	0.02	0.58	0.58	ZZZ
11010		A	Debride skin, fx	*4.20	3.96	3.96	0.65	8.81	8.81	010
11011		A	Debride skin/muscle, fx	4.95	4.72	4.72	0.77	10.44	10.44	000
11012		A	Debride skin/muscle/bone, fx	6.88	6.56	6.56	1.07	14.51	14.51	000
11040		A	Debride skin partial	0.50	0.40	0.40	0.04	0.94	0.94	000
11041		A	Debride skin full	0.82	0.56	0.56	0.06	1.44	1.44	000
11042		A	Debride skin/tissue	1.12	0.65	0.65	0.08	1.85	1.85	000
11043		A	Debride tissue/muscle	*2.38	1.81	1.81	0.34	4.53	4.53	010
11044		A	Debride tissue/muscle/bone	*3.06	2.82	2.82	0.49	6.37	6.37	010
11050		D	Trim skin lesion	0.00	0.00	0.00	0.00	0.00	0.00	000
11051		D	Trim 2 to 4 skin lesions	0.00	0.00	0.00	0.00	0.00	0.00	000
11052		D	Trim over 4 skin lesions	0.00	0.00	0.00	0.00	0.00	0.00	000
11055		R	Trim skin lesion	0.27	0.19	0.19	0.01	0.47	0.47	000
11056		R	Trim 2 to 4 skin lesions	0.39	0.26	0.26	0.02	0.67	0.67	000
11057		R	Trim over 4 skin lesions	0.50	0.21	0.21	0.02	0.73	0.73	000
11100		A	Biopsy of skin lesion	0.81	0.51	0.51	0.04	1.36	1.36	000
11101		A	Biopsy, each added lesion	0.41	0.29	0.29	0.02	0.72	0.72	ZZZ
11200		A	Removal of skin tags	*0.77	0.43	0.43	0.04	1.24	1.24	010
11201		A	Removal of added skin tags	0.29	0.17	0.17	0.02	0.48	0.48	ZZZ
11300		A	Shave skin lesion	0.51	0.53	0.53	0.05	1.09	1.09	000
11301		A	Shave skin lesion	0.85	0.67	0.67	0.06	1.58	1.58	000
11302		A	Shave skin lesion	1.05	0.89	0.89	0.09	2.03	2.03	000
11303		A	Shave skin lesion	1.24	1.36	1.36	0.17	2.77	2.77	000
11305		A	Shave skin lesion	0.67	0.52	0.52	0.05	1.24	1.24	000

[1] CPT codes and descriptions only are copyright 1997 American Medical Association. All Rights Reserved. Applicable FARS/DFARS Apply.
[2] Copyright 1994 American Dental Association. All rights reserved.
[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
11306		A	Shave skin lesion	0.99	0.71	0.71	0.07	1.77	1.77	000
11307		A	Shave skin lesion	1.14	0.94	0.94	0.10	2.18	2.18	000
11308		A	Shave skin lesion	1.41	1.40	1.40	0.17	2.98	2.98	000
11310		A	Shave skin lesion	0.73	0.69	0.69	0.06	1.48	1.48	000
11311		A	Shave skin lesion	1.05	0.85	0.85	0.08	1.98	1.98	000
11312		A	Shave skin lesion	1.20	1.12	1.12	0.11	2.43	2.43	000
11313		A	Shave skin lesion	1.62	1.49	1.49	0.15	3.26	3.26	000
11400		A	Removal of skin lesion	*0.91	0.53	0.53	0.05	1.49	1.49	010
11401		A	Removal of skin lesion	*1.32	0.67	0.67	0.06	2.05	2.05	010
11402		A	Removal of skin lesion	*1.61	0.89	0.89	0.09	2.59	2.59	010
11403		A	Removal of skin lesion	*1.92	1.17	1.17	0.13	3.22	3.22	010
11404		A	Removal of skin lesion	*2.20	1.38	1.38	0.17	3.75	3.75	010
11406		A	Removal of skin lesion	*2.76	1.88	1.88	0.33	4.97	4.97	010
11420		A	Removal of skin lesion	*1.06	0.52	0.52	0.05	1.63	1.63	010
11421		A	Removal of skin lesion	*1.53	0.71	0.71	0.07	2.31	2.31	010
11422		A	Removal of skin lesion	*1.76	0.94	0.94	0.10	2.80	2.80	010
11423		A	Removal of skin lesion	*2.17	1.31	1.31	0.15	3.63	3.63	010
11424		A	Removal of skin lesion	*2.82	1.39	1.39	0.16	4.17	4.17	010
11426		A	Removal of skin lesion	*3.78	1.83	1.83	0.29	5.90	5.90	010
11440		A	Removal of skin lesion	*1.15	0.69	0.69	0.06	1.90	1.90	010
11441		A	Removal of skin lesion	*1.61	0.85	0.85	0.08	2.54	2.54	010
11442		A	Removal of skin lesion	*1.87	1.12	1.12	0.11	3.10	3.10	010
11443		A	Removal of skin lesion	*2.49	1.45	1.45	0.15	4.09	4.09	010
11444		A	Removal of skin lesion	*3.42	1.47	1.47	0.14	5.03	5.03	010
11446		A	Removal of skin lesion	*4.49	1.78	1.78	0.18	6.45	6.45	010
11450		A	Removal, sweat gland lesion	*2.73	2.68	2.68	0.44	5.85	5.85	090
11451		A	Removal, sweat gland lesion	*3.95	2.90	2.90	0.46	7.31	7.31	090
11462		A	Removal, sweat gland lesion	*2.51	2.41	2.41	0.36	5.28	5.28	090
11463		A	Removal, sweat gland lesion	*3.95	2.00	2.00	0.34	6.29	6.29	090
11470		A	Removal, sweat gland lesion	*3.25	2.78	2.78	0.45	6.48	6.48	090
11471		A	Removal, sweat gland lesion	*4.41	2.46	2.46	0.48	7.35	7.35	090
11600		A	Removal of skin lesion	*1.41	1.13	1.13	0.10	2.64	2.64	010
11601		A	Removal of skin lesion	*1.93	1.39	1.39	0.12	3.44	3.44	010
11602		A	Removal of skin lesion	*2.09	1.82	1.82	0.16	4.07	4.07	010
11603		A	Removal of skin lesion	*2.35	2.25	2.25	0.21	4.81	4.81	010
11604		A	Removal of skin lesion	*2.56	2.59	2.59	0.26	5.43	5.43	010
11606		A	Removal of skin lesion	*3.43	3.11	3.11	0.49	7.03	7.03	010
11620		A	Removal of skin lesion	*1.34	1.34	1.34	0.12	2.80	2.80	010
11621		A	Removal of skin lesion	*1.97	1.75	1.75	0.16	3.88	3.88	010
11622		A	Removal of skin lesion	*2.34	2.20	2.20	0.19	4.73	4.73	010
11623		A	Removal of skin lesion	*2.93	2.56	2.58	0.25	5.76	5.76	010
11624		A	Removal of skin lesion	*3.43	3.21	3.21	0.32	6.96	6.96	010
11626		A	Removal of skin lesion	*4.30	3.41	3.41	0.51	8.22	8.22	010
11640		A	Removal of skin lesion	*1.53	1.65	1.65	0.15	3.33	3.33	010
11641		A	Removal of skin lesion	*2.44	2.09	2.09	0.18	4.71	4.71	010
11642		A	Removal of skin lesion	*2.93	2.57	2.57	0.23	5.73	5.73	010
11643		A	Removal of skin lesion	*3.50	3.01	3.01	0.28	6.79	6.79	010
11644		A	Removal of skin lesion	*4.55	3.51	3.51	0.33	8.39	8.39	010
11646		A	Removal of skin lesion	*5.96	4.32	4.32	0.60	10.87	10.87	010
11719		R	Trim nail(s)	0.08	0.18	#0.07	0.01	0.25	0.14	000
11720		A	Debride nail, 1–5	0.32	0.32	0.32	0.03	0.67	0.67	000
11721		A	Debride nail, 6 or more	0.54	0.54	0.54	0.05	1.13	1.13	000
11730		A	Removal of nail plate	1.13	0.45	0.45	0.04	1.62	1.62	000
11731		A	Removal of second nail plate	0.57	0.51	0.51	0.05	1.13	1.13	ZZZ
11732		A	Remove additional nail plate	0.57	0.25	0.25	0.02	0.84	0.84	ZZZ
11740		A	Drain blood from under nail	0.37	0.39	0.39	0.04	0.80	0.80	000
11750		A	Removal of nail bed	*1.86	2.10	2.10	0.19	4.15	4.15	010
11752		A	Remove nail bed/finger tip	*2.67	2.82	2.82	0.36	5.85	5.85	010
11755		A	Biopsy, nail unit	1.31	0.99	0.99	0.12	2.42	2.42	000
11760		A	Reconstruction of nail bed	*1.56	0.93	0.93	0.09	2.60	2.60	010
11762		A	Reconstruction of nail bed	*2.89	2.57	2.57	0.24	5.70	5.70	010
11765		A	Excision of nail fold, toe	*0.69	0.51	0.51	0.05	1.25	1.25	010
11770		A	Removal of pilonidal lesion	*2.61	2.67	2.67	0.44	5.72	5.72	010
11771		A	Removal of pilonidal lesion	*5.74	4.52	4.52	0.92	11.18	11.18	090
11772		A	Removal of pilonidal lesion	*6.96	4.82	4.82	1.01	12.81	12.81	090
11900		A	Injection into skin lesions	0.52	0.25	0.25	0.02	0.79	0.79	000
11901		A	Added skin lesions injection	0.80	0.41	0.41	0.03	1.24	1.24	000
11920		R	Correct skin color defects	1.61	1.18	1.18	0.23	3.02	3.02	000
11921		R	Correct skin color defects	1.93	1.40	1.40	0.28	3.61	3.61	000
11922		R	Correct skin color defects	0.49	0.36	0.36	0.07	0.92	0.92	ZZZ
11950		R	Therapy for contour defects	0.84	1.19	1.19	0.11	2.14	2.14	000
11951		R	Therapy for contour defects	1.19	1.19	1.19	0.11	2.49	2.49	000
11952		R	Therapy for contour defects	1.69	1.19	1.19	0.11	2.99	2.99	000
11954		R	Therapy for contour defects	1.85	1.19	1.19	0.11	3.15	3.15	000

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[2] Copyright 1994 American Dental Association. All rights reserved.
[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
11960		A	Insert tissue expander(s)	*9.08	7.73	7.73	1.48	18.29	18.29	090
11970		A	Replace tissue expander	*7.08	#7.77	#7.77	1.61	16.44	16.44	090
11971		A	Remove tissue expander(s)	*2.13	2.30	2.30	0.82	5.25	5.25	090
11975		N	Insert contraceptive cap	+1.48	1.06	1.06	0.25	2.79	2.79	XXX
11976		R	Removal of contraceptive cap	1.78	1.28	1.28	0.30	3.36	3.36	XXX
11977		N	Removal/reinsert contra cap	+3.30	2.36	2.36	0.55	6.21	6.21	XXX
12001		A	Repair superficial wound(s)	*1.70	0.57	0.57	0.05	2.32	2.32	010
12002		A	Repair superficial wound(s)	*1.86	0.79	0.79	0.07	2.72	2.72	010
12004		A	Repair superficial wound(s)	*2.24	1.14	1.14	0.10	3.48	3.48	010
12005		A	Repair superficial wound(s)	*2.86	1.47	1.47	0.14	4.47	4.47	010
12006		A	Repair superficial wound(s)	*3.67	1.78	1.78	0.19	5.64	5.64	010
12007		A	Repair superficial wound(s)	*4.12	1.80	1.80	0.19	6.11	6.11	010
12011		A	Repair superficial wound(s)	*1.76	0.74	0.74	0.06	2.56	2.56	010
12013		A	Repair superficial wound(s)	*1.99	1.03	1.03	0.08	3.10	3.10	010
12014		A	Repair superficial wound(s)	*2.46	1.19	1.19	0.10	3.75	3.75	010
12015		A	Repair superficial wound(s)	*3.19	1.82	1.82	0.14	4.95	4.95	010
12016		A	Repair superficial wound(s)	*3.93	2.26	2.26	0.19	6.38	6.38	010
12017		A	Repair superficial wound(s)	*4.71	3.36	3.36	0.31	8.36	8.36	010
12018		A	Repair superficial wound(s)	*5.53	5.15	5.15	0.48	11.16	11.16	010
12020		A	Closure of split wound	*2.62	1.19	1.19	0.18	3.99	3.99	010
12021		A	Closure of split wound	*1.84	0.62	0.62	0.11	2.57	2.57	010
12031		A	Layer closure of wound(s)	*2.15	0.72	0.72	0.07	2.94	2.94	010
12032		A	Layer closure of wound(s)	*2.47	1.05	1.05	0.10	3.62	3.62	010
12034		A	Layer closure of wound(s)	*2.92	1.47	1.47	0.15	4.54	4.54	010
12035		A	Layer closure of wound(s)	*3.43	1.92	1.92	0.23	5.58	5.58	010
12036		A	Layer closure of wound(s)	*4.05	2.32	2.32	0.37	6.74	6.74	010
12037		A	Layer closure of wound(s)	*4.67	3.09	3.09	0.48	8.24	8.24	010
12041		A	Layer closure of wound(s)	*2.37	0.84	0.84	0.08	3.29	3.29	010
12042		A	Layer closure of wound(s)	*2.74	1.17	1.17	0.12	4.03	4.03	010
12044		A	Layer closure of wound(s)	*3.14	1.62	1.62	0.17	4.93	4.93	010
12045		A	Layer closure of wound(s)	*3.64	2.13	2.13	0.23	6.00	6.00	010
12046		A	Layer closure of wound(s)	*4.25	2.82	2.82	0.37	7.44	7.44	010
12047		A	Layer closure of wound(s)	*4.65	4.02	4.02	0.56	9.23	9.23	010
12051		A	Layer closure of wound(s)	*2.47	1.01	1.01	0.10	3.58	3.58	010
12052		A	Layer closure of wound(s)	*2.77	1.47	1.47	0.14	4.38	4.38	010
12053		A	Layer closure of wound(s)	*3.12	1.76	1.76	0.17	5.05	5.05	010
12054		A	Layer closure of wound(s)	*3.46	2.60	2.60	0.25	6.31	6.31	010
12055		A	Layer closure of wound(s)	*4.43	3.24	3.24	0.37	8.04	8.04	010
12056		A	Layer closure of wound(s)	*5.24	4.74	4.74	0.52	10.50	10.50	010
12057		A	Layer closure of wound(s)	*5.96	5.57	5.57	0.48	12.01	12.01	010
13100		A	Repair of wound or lesion	*3.12	1.14	1.14	0.13	4.39	4.39	010
13101		A	Repair of wound or lesion	*3.92	2.08	2.08	0.21	6.21	6.21	010
13120		A	Repair of wound or lesion	*3.30	1.35	1.35	0.17	4.82	4.82	010
13121		A	Repair of wound or lesion	*4.33	2.65	2.65	0.33	7.31	7.31	010
13131		A	Repair of wound or lesion	*3.79	1.98	1.98	0.23	6.00	6.00	010
13132		A	Repair of wound or lesion	*5.95	4.57	4.57	0.44	10.96	10.96	010
13150		A	Repair of wound or lesion	*3.81	1.76	1.76	0.23	5.80	5.80	010
13151		A	Repair of wound or lesion	*4.45	2.45	2.45	0.35	7.25	7.25	010
13152		A	Repair of wound or lesion	*6.33	5.13	5.13	0.68	12.14	12.14	010
13160		A	Late closure of wound	*10.48	3.33	3.33	0.58	14.39	14.39	090
13300		A	Repair of wound or lesion	*5.27	5.71	5.71	0.86	11.84	11.84	010
14000		A	Skin tissue rearrangement	*5.89	3.41	3.41	0.38	9.68	9.68	090
14001		A	Skin tissue rearrangement	*8.47	4.75	4.75	0.76	13.98	13.98	090
14020		A	Skin tissue rearrangement	*6.59	4.90	4.90	0.49	11.98	11.98	090
14021		A	Skin tissue rearrangement	*10.06	6.21	6.21	0.94	17.21	17.21	090
14040		A	Skin tissue rearrangement	*7.87	6.77	6.77	0.65	15.29	15.29	090
14041		A	Skin tissue rearrangement	*11.49	7.88	7.88	1.02	20.39	20.39	090
14060		A	Skin tissue rearrangement	*8.50	7.75	7.75	1.04	17.29	17.29	090
14061		A	Skin tissue rearrangement	*12.29	10.49	10.49	1.27	24.05	24.05	090
14300		A	Skin tissue rearrangement	*11.76	11.31	11.31	1.84	24.91	24.91	090
14350		A	Skin tissue rearrangement	*9.81	6.07	6.07	1.05	16.73	16.73	090
15000		A	Skin graft procedure	1.95	#2.15	#2.15	0.53	4.63	4.63	ZZZ
15050		A	Skin pinch graft procedure	*4.30	1.79	1.79	0.30	6.39	6.39	090
15100		A	Skin split graft procedure	*9.05	4.54	4.54	0.89	14.48	14.48	090
15101		A	Skin split graft procedure	1.72	1.59	1.59	0.33	3.64	3.64	ZZZ
15120		A	Skin split graft procedure	*9.83	6.05	6.05	0.94	16.82	16.82	090
15121		A	Skin split graft procedure	2.67	2.91	2.91	0.53	6.11	6.11	ZZZ
15200		A	Skin full graft procedure	*8.03	4.13	4.13	0.69	12.85	12.85	090
15201		A	Skin full graft procedure	1.32	1.68	#1.45	0.50	3.50	3.27	ZZZ
15220		A	Skin full graft procedure	*7.87	4.84	4.84	0.85	13.56	13.56	090
15221		A	Skin full graft procedure	1.19	1.59	#1.31	0.50	3.28	3.00	ZZZ
15240		A	Skin full graft procedure	*9.04	6.10	6.10	1.03	16.17	16.17	090
15241		A	Skin full graft procedure	1.88	2.38	#2.05	0.58	4.82	4.49	ZZZ
15260		A	Skin full graft procedure	*10.06	7.46	7.46	0.99	18.51	18.51	090

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[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
15261		A	Skin full graft procedure	2.23	2.85	#2.45	0.60	5.68	5.28	ZZZ
15350		A	Skin homograft procedure	*4.36	2.15	2.15	0.42	6.93	6.93	090
15400		A	Skin heterograft procedure	*5.78	1.06	1.06	0.17	7.01	7.01	090
15570		A	Form skin pedicle flap	*9.21	5.50	5.50	2.08	16.79	16.79	090
15572		A	Form skin pedicle flap	*9.27	5.38	5.38	1.86	16.51	16.51	090
15574		A	Form skin pedicle flap	*9.88	5.40	5.40	1.86	16.94	16.94	090
15576		A	Form skin pedicle flap	*8.69	3.12	3.12	0.60	12.41	12.41	090
15580		A	Attach skin pedicle graft	*9.46	4.31	4.31	1.30	15.07	15.07	090
15600		A	Skin graft procedure	*1.91	2.51	#2.10	0.86	5.30	4.89	090
15610		A	Skin graft procedure	*2.42	2.82	#2.66	0.80	6.04	5.88	090
15620		A	Skin graft procedure	*2.94	3.44	#3.23	0.86	7.24	7.03	090
15625		A	Skin graft procedure	*1.91	#2.10	#2.10	0.78	4.79	4.79	090
15630		A	Skin graft procedure	*3.27	#3.60	#3.60	0.90	7.77	7.77	090
15650		A	Transfer skin pedicle flap	*3.97	#4.37	#4.37	0.93	9.27	9.27	090
15732		A	Muscle-skin graft, head/neck	*17.84	15.48	15.48	3.46	36.78	36.78	090
15734		A	Muscle-skin graft, trunk	*17.79	19.01	19.01	3.24	40.04	40.04	090
15736		A	Muscle-skin graft, arm	*16.27	16.21	16.21	3.02	35.50	35.50	090
15738		A	Muscle-skin graft, leg	*17.92	12.89	12.89	3.29	34.10	34.10	090
15740		A	Island pedicle flap graft	*10.25	10.39	10.39	1.62	22.26	22.26	090
15750		A	Neurovascular pedicle graft	*11.41	11.96	11.96	2.03	25.40	25.40	090
15756		A	Free muscle flap, microvasc	*35.23	30.09	30.09	5.33	70.65	70.65	090
15757		A	Free skin flap, microvasc	*35.23	30.09	30.09	5.33	70.65	70.65	090
15758		A	Free fascial flap, microvasc	*35.10	30.09	30.09	5.33	70.52	70.52	090
15760		A	Composite skin graft	*8.74	7.29	7.29	1.11	17.14	17.14	090
15770		A	Derma-fat-fascia graft	*7.52	7.46	7.46	0.95	15.93	15.93	090
15775		R	Hair transplant punch grafts	3.96	2.88	2.88	0.56	7.40	7.40	000
15776		R	Hair transplant punch grafts	5.54	4.03	4.03	0.79	10.36	10.36	000
15780		A	Abrasion treatment of skin	*7.29	1.53	1.53	0.13	8.95	8.95	090
15781		A	Abrasion treatment of skin	*4.85	3.77	3.77	0.39	9.01	9.01	090
15782		A	Abrasion treatment of skin	*4.32	1.19	1.19	0.13	5.64	5.64	090
15783		A	Abrasion treatment of skin	*4.29	1.85	1.85	0.19	6.33	6.33	090
15786		A	Abrasion treatment of lesion	*2.03	0.62	0.62	0.06	2.71	2.71	010
15787		A	Abrasion, added skin lesions	0.33	0.23	0.23	0.03	0.59	0.59	ZZZ
15788		R	Chemical peel, face, epiderm	*2.09	1.48	1.48	0.12	3.69	3.69	090
15789		R	Chemical peel, face, dermal	*4.92	1.48	1.48	0.12	6.52	6.52	090
15792		R	Chemical peel, nonfacial	*1.86	0.50	0.50	0.05	2.41	2.41	090
15793		A	Chemical peel, nonfacial	*3.74	0.50	0.50	0.05	4.29	4.29	090
15810		A	Salabrasion	*4.74	3.80	3.80	0.29	8.83	8.83	090
15811		A	Salabrasion	*5.39	3.74	3.74	0.73	9.86	9.86	090
15819		A	Plastic surgery, neck	*9.38	8.01	8.01	0.87	18.26	18.26	090
15820		A	Revision of lower eyelid	*5.15	#5.67	#5.67	0.64	11.46	11.46	090
15821		A	Revision of lower eyelid	*5.72	#6.29	#6.29	0.68	12.69	12.69	090
15822		A	Revision of upper eyelid	*4.45	#4.90	#4.90	0.56	9.91	9.91	090
15823		A	Revision of upper eyelid	*7.05	7.71	7.71	0.61	15.37	15.37	090
15824		R	Removal of forehead wrinkles	0.00	0.00	0.00	0.00	0.00	0.00	XXX
15825		R	Removal of neck wrinkles	0.00	0.00	0.00	0.00	0.00	0.00	XXX
15826		R	Removal of brow wrinkles	0.00	0.00	0.00	0.00	0.00	0.00	XXX
15828		R	Removal of face wrinkles	0.00	0.00	0.00	0.00	0.00	0.00	XXX
15829		R	Removal of skin wrinkles	0.00	0.00	0.00	0.00	0.00	0.00	XXX
15831		A	Excise excessive skin tissue	*12.40	9.84	9.84	2.01	24.25	24.25	090
15832		A	Excise excessive skin tissue	*11.59	8.29	8.29	1.33	21.21	21.21	090
15833		A	Excise excessive skin tissue	*10.64	6.22	6.22	1.12	17.98	17.98	090
15834		A	Excise excessive skin tissue	*10.85	7.18	7.18	1.22	19.25	19.25	090
15835		A	Excise excessive skin tissue	*11.67	7.00	7.00	1.22	19.89	19.89	090
15836		A	Excise excessive skin tissue	*9.34	5.80	5.80	1.10	16.24	16.24	090
15837		A	Excise excessive skin tissue	*8.43	5.97	5.97	0.85	15.25	15.25	090
15838		A	Excise excessive skin tissue	*7.13	5.88	5.88	0.73	13.74	13.74	090
15839		A	Excise excessive skin tissue	*9.38	2.44	2.44	0.46	12.28	12.28	090
15840		A	Graft for face nerve palsy	*13.26	#14.59	#14.59	2.28	30.13	30.13	090
15841		A	Graft for face nerve palsy	*23.26	16.87	16.87	2.76	42.89	42.89	090
15842		A	Graft for face nerve palsy	*37.98	29.00	29.00	2.68	69.64	69.64	090
15845		A	Skin and muscle repair, face	*12.57	#13.83	#13.83	2.54	28.94	28.94	090
15850		B	Removal of sutures	+0.78	0.36	0.36	0.04	1.18	1.18	XXX
15851		A	Removal of sutures	0.86	0.30	0.30	0.03	1.19	1.19	000
15852		A	Dressing change, not for burn	0.86	0.44	0.44	0.07	1.37	1.37	000
15860		A	Test for blood flow in graft	1.95	1.35	1.35	0.25	3.55	3.55	000
15876		R	Suction assisted lipectomy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
15877		R	Suction assisted lipectomy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
15878		R	Suction assisted lipectomy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
15879		R	Suction assisted lipectomy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
15920		A	Removal of tail bone ulcer	*7.95	2.95	2.95	0.63	11.53	11.53	090
15922		A	Removal of tail bone ulcer	*9.80	5.98	5.98	1.19	17.07	17.07	090
15931		A	Remove sacrum pressure sore	*9.24	2.93	2.93	0.55	12.72	12.72	090
15933		A	Remove sacrum pressure sore	*10.85	6.92	6.92	1.43	19.20	19.20	090

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ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
15934		A	Remove sacrum pressure sore	*12.69	7.46	7.46	1.50	21.65	21.65	090
15935		A	Remove sacrum pressure sore	*14.57	11.24	11.24	2.27	28.08	28.08	090
15936		A	Remove sacrum pressure sore	*12.38	10.27	10.27	2.05	24.70	24.70	090
15937		A	Remove sacrum pressure sore	*14.21	13.47	13.47	2.67	30.35	30.35	090
15940		A	Removal of pressure sore	*9.34	3.55	3.55	0.73	13.62	13.62	090
15941		A	Removal of pressure sore	*11.43	7.05	7.05	1.39	19.87	19.87	090
15944		A	Removal of pressure sore	*11.46	9.26	9.26	1.82	22.54	22.54	090
15945		A	Removal of pressure sore	*12.69	11.14	11.14	2.09	25.92	25.92	090
15946		A	Removal of pressure sore	*21.57	16.61	16.61	3.24	41.42	41.42	090
15950		A	Remove thigh pressure sore	*7.54	3.01	3.01	0.58	11.13	11.13	090
15951		A	Remove thigh pressure sore	*10.72	7.85	7.85	1.58	19.95	19.95	090
15952		A	Remove thigh pressure sore	*11.39	7.13	7.13	1.37	19.89	19.89	090
15953		A	Remove thigh pressure sore	*12.63	9.08	9.08	1.87	23.58	23.58	090
15956		A	Remove thigh pressure sore	*15.52	#17.07	#17.07	3.39	35.98	35.98	090
15958		A	Remove thigh pressure sore	*15.48	#17.03	#17.03	3.76	36.27	36.27	090
15999		C	Removal of pressure sore	0.00	0.00	0.00	0.00	0.00	0.00	YYY
16000		A	Initial treatment of burn(s)	0.89	0.35	0.35	0.03	1.27	1.27	000
16010		A	Treatment of burn(s)	0.87	0.32	0.32	0.03	1.22	1.22	000
16015		A	Treatment of burn(s)	2.35	2.04	2.04	0.38	4.77	4.77	000
16020		A	Treatment of burn(s)	0.80	0.34	0.34	0.03	1.17	1.17	000
16025		A	Treatment of burn(s)	1.85	0.45	0.45	0.05	2.35	2.35	000
16030		A	Treatment of burn(s)	2.08	0.52	0.52	0.08	2.68	2.68	000
16035		A	Incision of burn scab	*4.82	1.88	1.88	0.34	7.04	7.04	090
16040		A	Burn wound excision	1.02	1.56	#1.12	0.53	3.11	2.67	000
16041		A	Burn wound excision	2.70	#2.97	#2.97	0.53	6.20	6.20	000
16042		A	Burn wound excision	2.35	#2.59	#2.59	0.53	5.47	5.47	000
17000		A	Destroy benign/premal lesion	*0.60	0.42	0.42	0.03	1.05	1.05	010
17001		D	Destruction of added lesions	0.00	0.00	0.00	0.00	0.00	0.00	ZZZ
17002		D	Destruction of added lesions	0.00	0.00	0.00	0.00	0.00	0.00	ZZZ
17003		A	Destroy 2–14 lesions	0.15	0.13	0.13	0.01	0.29	0.29	ZZZ
17004		A	Destroy 15 & more lesions	*2.79	2.25	2.25	0.20	5.24	5.24	010
17010		D	12 Destruction skin lesion(s)	*0.00	0.00	0.00	0.00	0.00	0.00	010
17100		D	12 Destruction of skin lesion	*0.00	0.00	0.00	0.00	0.00	0.00	010
17101		D	Destruction of 2nd lesion	0.00	#0.00	#0.00	0.00	0.00	0.00	ZZZ
17102		D	Destruction of added lesions	0.00	0.00	0.00	0.00	0.00	0.00	ZZZ
17104		D	Destruction of skin lesions	*0.00	0.00	0.00	0.00	0.00	0.00	010
17105		D	Destruction of skin lesions	*0.00	0.00	0.00	0.00	0.00	0.00	010
17106		A	Destruction of skin lesions	*4.59	1.93	1.93	0.18	6.70	6.70	090
17107		A	Destruction of skin lesions	*9.16	3.70	3.70	0.39	13.25	13.25	090
17108		A	Destruction of skin lesions	*13.20	9.32	9.32	0.69	23.21	23.21	090
17110		A	Destruct lesion, 1–14	*0.65	0.40	0.40	0.03	1.08	1.08	010
17111		A	Destruct lesion, 15 or more	*0.92	0.60	0.60	0.05	1.57	1.57	010
17200		D	1 Electrocautery of skin tags	*0.00	0.00	0.00	0.00	0.00	0.00	010
17201		D	Electrocautery added lesions	0.00	0.00	0.00	0.00	0.00	0.00	ZZZ
17250		A	Chemical cautery, tissue	0.50	0.34	0.34	0.04	0.88	0.88	000
17260		A	Destruction of skin lesions	*0.91	1.13	1.13	0.10	2.14	2.14	010
17261		A	Destruction of skin lesions	*1.17	1.39	1.39	0.12	2.68	2.68	010
17262		A	Destruction of skin lesions	*1.58	1.82	1.82	0.16	3.56	3.56	010
17263		A	Destruction of skin lesions	*1.79	2.25	2.25	0.21	4.25	4.25	010
17264		A	Destruction of skin lesions	*1.94	2.59	2.59	0.26	4.79	4.79	010
17266		A	Destruction of skin lesions	*2.34	3.11	3.11	0.49	5.94	5.94	010
17270		A	Destruction of skin lesions	*1.32	1.34	1.34	0.12	2.78	2.78	010
17271		A	Destruction of skin lesions	*1.49	1.75	1.75	0.16	3.40	3.40	010
17272		A	Destruction of skin lesions	*1.77	2.20	2.20	0.19	4.16	4.16	010
17273		A	Destruction of skin lesions	*2.05	2.58	2.58	0.25	4.88	4.88	010
17274		A	Destruction of skin lesions	*2.59	3.21	3.21	0.32	6.12	6.12	010
17276		A	Destruction of skin lesions	*3.20	3.41	3.41	0.51	7.12	7.12	010
17280		A	Destruction of skin lesions	*1.17	1.65	1.65	0.15	2.97	2.97	010
17281		A	Destruction of skin lesions	*1.72	2.09	2.09	0.18	3.99	3.99	010
17282		A	Destruction of skin lesions	*2.04	2.57	2.57	0.23	4.84	4.84	010
17283		A	Destruction of skin lesions	*2.64	3.01	3.01	0.28	5.93	5.93	010
17284		A	Destruction of skin lesions	*3.21	3.51	3.51	0.33	7.05	7.05	010
17286		A	Destruction of skin lesions	*4.44	4.32	4.32	0.60	9.36	9.36	010
17304		A	Chemosurgery of skin lesion	7.60	4.02	4.02	0.31	11.93	11.93	000
17305		A	2nd stage chemosurgery	2.85	2.26	2.26	0.17	5.28	5.28	000
17306		A	3rd stage chemosurgery	2.85	1.40	1.40	0.11	4.36	4.36	000
17307		A	Followup skin lesion therapy	2.85	1.47	1.47	0.12	4.44	4.44	000
17310		A	Extensive skin chemosurgery	0.95	0.13	0.13	0.01	1.09	1.09	000
17340		A	Cryotherapy of skin	*0.76	0.28	0.28	0.02	1.06	1.06	010
17360		A	Skin peel therapy	*1.43	0.27	0.27	0.02	1.72	1.72	010
17380		R	Hair removal by electrolysis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
17999		C	Skin tissue procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
19000		A	Drainage of breast lesion	0.84	0.38	0.38	0.07	1.29	1.29	000
19001		A	Drain added breast lesion	0.42	0.24	0.24	0.05	0.71	0.71	ZZZ

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[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
19020		A	Incision of breast lesion	*3.57	1.40	1.40	0.28	5.25	5.25	090
19030		A	Injection for breast x-ray	1.53	0.49	0.49	0.04	2.06	2.06	000
19100		A	Biopsy of breast	1.27	0.64	0.64	0.13	2.04	2.04	000
19101		A	Biopsy of breast	*3.18	2.34	2.34	0.45	5.97	5.97	010
19110		A	Nipple exploration	*4.30	2.46	2.46	0.51	7.27	7.27	090
19112		A	Excise breast duct fistula	*3.67	2.34	2.34	0.35	6.36	6.36	090
19120		A	Removal of breast lesion	*5.56	2.90	2.90	0.60	9.06	9.06	090
19125		A	Excision, breast lesion	*6.06	2.90	2.90	0.60	9.56	9.56	090
19126		A	Excision, added breast lesion	2.93	1.45	1.45	0.31	4.69	4.69	ZZZ
19140		A	Removal of breast tissue	*5.14	4.29	4.29	0.91	10.34	10.34	090
19160		A	Removal of breast tissue	*5.99	4.13	4.13	0.88	11.00	11.00	090
19162		A	Remove breast tissue, nodes	*13.53	9.36	9.36	1.96	24.87	24.87	090
19180		A	Removal of breast	*8.80	5.61	5.61	1.17	15.58	15.58	090
19182		A	Removal of breast	*7.73	6.07	6.07	1.27	15.07	15.07	090
19200		A	Removal of breast	*15.49	10.22	10.22	2.15	27.86	27.86	090
19220		A	Removal of breast	*15.72	10.73	10.73	2.38	28.83	28.83	090
19240		A	Removal of breast	*16.00	9.44	9.44	1.99	27.43	27.43	090
19260		A	Removal of chest wall lesion	*15.44	5.05	5.05	1.04	21.53	21.53	090
19271		A	Revision of chest wall	*18.90	13.95	13.95	2.77	35.62	35.62	090
19272		A	Extensive chest wall surgery	*21.55	12.60	12.60	2.56	36.71	36.71	090
19290		A	Place needle wire, breast	1.27	0.44	0.44	0.07	1.78	1.78	000
19291		A	Place needle wire, breast	0.63	0.25	0.25	0.04	0.92	0.92	ZZZ
19316		A	Suspension of breast	*10.69	#11.76	#11.76	2.43	24.88	24.88	090
19318		A	Reduction of large breast	*15.62	14.18	14.18	3.23	33.03	33.03	090
19324		A	Enlarge breast	*5.85	3.29	3.29	0.67	9.81	9.81	090
19325		A	Enlarge breast with implant	*8.45	5.87	5.87	1.13	15.45	15.45	090
19328		A	Removal of breast implant	*5.68	3.76	3.76	0.73	10.17	10.17	090
19330		A	Removal of implant material	*7.59	3.88	3.88	0.75	12.22	12.22	090
19340		A	Immediate breast prosthesis	6.33	#6.96	#6.96	2.08	15.35	15.35	ZZZ
19342		A	Delayed breast prosthesis	*11.20	10.81	10.81	2.03	24.04	24.04	090
19350		A	Breast reconstruction	*8.92	7.08	7.08	1.38	17.38	17.38	090
19355		A	Correct inverted nipple(s)	*7.57	4.93	4.93	1.00	13.50	13.50	090
19357		A	Breast reconstruction	*18.16	12.15	12.15	2.37	32.68	32.68	090
19361		A	Breast reconstruction	*19.26	20.13	20.13	3.88	43.27	43.27	090
19364		A	Breast reconstruction	*29.04	16.68	16.68	3.58	49.30	49.30	090
19366		A	Breast reconstruction	*21.28	16.40	16.40	3.18	40.86	40.86	090
19367		A	Breast reconstruction	*25.73	20.13	20.13	3.88	49.74	49.74	090
19368		A	Breast reconstruction	*32.42	20.13	20.13	3.88	56.43	56.43	090
19369		A	Breast reconstruction	*29.82	20.13	20.13	3.88	53.83	53.83	090
19370		A	Surgery of breast capsule	*8.05	6.17	6.17	1.19	15.41	15.41	090
19371		A	Removal of breast capsule	*9.35	7.91	7.91	1.54	18.80	18.80	090
19380		A	Revise breast reconstruction	*9.14	8.11	8.11	1.57	18.82	18.82	090
19396		A	Design custom breast implant	2.17	1.57	1.57	0.31	4.05	4.05	000
19499		C	Breast surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
20000		A	Incision of abscess	*2.12	0.85	0.85	0.08	3.05	3.05	010
20005		A	Incision of deep abscess	*3.42	1.83	1.83	0.28	5.53	5.53	010
20100		A	Explore wound, neck	*10.08	4.97	4.97	1.16	16.21	16.21	010
20101		A	Explore wound, chest	*3.22	1.57	1.57	0.37	5.16	5.16	010
20102		A	Explore wound, abdomen	*3.94	1.92	1.92	0.45	6.31	6.31	010
20103		A	Explore wound, extremity	*5.30	2.59	2.59	0.60	8.49	8.49	010
20150		A	Excise epiphyseal bar	*13.69	12.40	12.40	2.03	28.12	28.12	090
20200		A	Muscle biopsy	1.46	1.12	1.12	0.18	2.76	2.76	000
20205		A	Deep muscle biopsy	2.35	1.88	1.88	0.33	4.56	4.56	000
20206		A	Needle biopsy, muscle	0.99	0.96	0.96	0.14	2.09	2.09	000
20220		A	Bone biopsy, trocar/needle	1.27	1.31	1.31	0.09	2.67	2.67	000
20225		A	Bone biopsy, trocar/needle	1.87	2.39	#2.06	0.28	4.54	4.21	000
20240		A	Bone biopsy, excisional	*3.23	1.88	1.88	0.18	5.29	5.29	010
20245		A	Bone biopsy, excisional	*3.95	3.58	3.58	0.44	7.97	7.97	010
20250		A	Open bone biopsy	*5.03	5.07	5.07	0.76	10.86	10.86	010
20251		A	Open bone biopsy	*5.56	5.84	5.84	0.92	12.32	12.32	010
20500		A	Injection of sinus tract	*1.23	0.36	0.36	0.04	1.63	1.63	010
20501		A	Inject sinus tract for x-ray	0.76	0.30	0.30	0.02	1.08	1.08	000
20520		A	Removal of foreign body	*1.85	0.71	0.71	0.08	2.64	2.64	010
20525		A	Removal of foreign body	*3.50	2.23	2.23	0.33	6.06	6.06	010
20550		A	Inj tendon/ligament/cyst	0.86	0.38	0.38	0.04	1.28	1.28	000
20600		A	Drain/inject joint/bursa	0.68	0.47	0.47	0.05	1.18	1.18	000
20605		A	Drain/inject joint/bursa	0.68	0.45	0.45	0.05	1.18	1.18	000
20610		A	Drain/inject joint/bursa	0.79	0.45	0.45	0.05	1.29	1.29	000
20615		A	Treatment of bone cyst	*2.28	0.49	0.49	0.08	2.83	2.83	010
20650		A	Insert and remove bone pin	*2.23	1.08	1.08	0.14	3.45	3.45	010
20680		A	Apply, remove fixation device	2.51	1.56	1.56	0.21	4.28	4.28	000
20661		A	Application of head brace	*4.89	3.82	3.82	0.65	9.36	9.36	090
20662		A	Application of pelvis brace	*6.07	6.54	6.54	1.03	13.64	13.64	090
20663		A	Application of thigh brace	*5.43	4.64	4.64	0.76	10.83	10.83	090

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[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
20664		A	Halo brace application	*8.06	3.82	3.82	0.65	12.53	12.53	090
20665		A	Removal of fixation device	*1.31	0.50	0.50	0.07	1.88	1.88	010
20670		A	Removal of support implant	*1.74	0.74	0.74	0.11	2.59	2.59	010
20680		A	Removal of support implant	*3.35	3.33	3.33	0.51	7.19	7.19	090
20690		A	Apply bone fixation device	3.52	3.66	3.66	0.58	7.76	7.76	ZZZ
20692		A	Apply bone fixation device	6.41	5.51	5.51	0.89	12.81	12.81	ZZZ
20693		A	Adjust bone fixation device	*5.86	2.49	2.49	0.42	8.77	8.77	090
20694		A	Remove bone fixation device	*4.16	2.60	2.60	0.41	7.17	7.17	090
20802		A	Replantation, arm, complete	*41.15	37.72	37.72	6.17	85.04	85.04	090
20805		A	Replant forearm, complete	*50.00	46.17	46.17	7.56	103.73	103.73	090
20808		A	Replantation, hand, complete	*61.65	57.40	57.40	9.40	128.45	128.45	090
20816		A	Replantation digit, complete	*30.94	28.30	28.30	4.63	63.87	63.87	090
20822		A	Replantation digit, complete	*25.59	23.39	23.39	3.83	52.81	52.81	090
20824		A	Replantation thumb, complete	*30.94	28.30	28.30	4.63	63.87	63.87	090
20827		A	Replantation thumb, complete	*26.41	24.05	24.05	3.94	54.40	54.40	090
20838		A	Replantation, foot, complete	*41.41	37.72	37.72	6.17	85.30	85.30	090
20900		A	Removal of bone for graft	*5.58	2.80	2.80	0.45	8.83	8.83	090
20902		A	Removal of bone for graft	*7.55	4.95	4.95	0.80	13.30	13.30	090
20910		A	Remove cartilage for graft	*5.34	0.79	0.79	0.09	6.22	6.22	090
20912		A	Remove cartilage for graft	*8.35	4.62	4.62	0.64	11.61	11.61	090
20920		A	Removal of fascia for graft	*5.31	3.93	3.93	0.50	9.74	9.74	090
20922		A	Removal of fascia for graft	*8.61	4.39	4.39	0.71	11.71	11.71	090
20924		A	Removal of tendon for graft	*8.48	5.45	5.45	0.85	12.78	12.78	090
20926		A	Removal of tissue for graft	*5.53	2.59	2.59	0.39	8.51	8.51	090
20930		B	Spinal bone allograft	0.00	0.00	0.00	0.00	0.00	0.00	XXX
20931		A	Spinal bone allograft	1.81	1.73	1.73	0.28	3.82	3.82	ZZZ
20936		B	Spinal bone autograft	0.00	0.00	0.00	0.00	0.00	0.00	XXX
20937		A	Spinal bone autograft	2.79	2.66	2.66	0.44	5.89	5.89	ZZZ
20938		A	Spinal bone autograft	3.02	2.88	2.88	0.47	6.37	6.37	ZZZ
20950		A	Record fluid pressure, muscle	1.26	1.09	1.09	0.17	2.52	2.52	000
20955		A	Fibula bone graft, microvasc	*39.21	35.84	35.84	5.87	80.92	80.92	090
20956		A	Iliac bone graft, microvasc	*39.27	26.90	26.90	5.26	71.43	71.43	090
20957		A	Mt bone graft, microvasc	*40.65	27.87	27.87	5.45	73.97	73.97	090
20962		A	Other bone graft, microvasc	*39.27	26.90	26.90	5.26	71.43	71.43	090
20969		A	Bone/skin graft, microvasc	*43.92	40.13	40.13	6.57	90.62	90.62	090
20970		A	Bone/skin graft, iliac crest	*43.06	39.31	39.31	6.44	88.81	88.81	090
20972		A	Bone-skin graft, metatarsal	*42.99	39.61	39.61	6.49	89.09	89.09	090
20973		A	Bone-skin graft, great toe	*45.76	42.25	42.25	6.91	94.92	94.92	090
20974		A	Electrical bone stimulation	0.62	3.42	3.42	0.53	4.57	4.57	000
20975		A	Electrical bone stimulation	2.60	#2.86	#2.86	0.56	6.02	6.02	ZZZ
20999		C	Musculoskeletal surgery	0.00	0.00	0.00	0.00	0.00	0.00	YYY
21010		A	Incision of jaw joint	*10.14	10.24	10.24	0.93	21.31	21.31	090
21015		A	Resection of facial tumor	*5.29	#5.82	#5.82	1.13	12.24	12.24	090
21025		A	Excision of bone, lower jaw	*10.06	4.14	4.14	0.38	14.58	14.58	090
21026		A	Excision of facial bone(s)	*4.85	3.14	3.14	0.28	8.27	8.27	090
21029		A	Contour of face bone lesion	*7.71	#8.48	#8.48	0.78	16.97	16.97	090
21030		A	Removal of face bone lesion	*6.46	3.35	3.35	0.29	10.10	10.10	090
21031		A	Remove exostosis, mandible	*3.24	3.68	3.68	0.32	7.24	7.24	090
21032		A	Remove exostosis, maxilla	*3.24	3.88	3.88	0.35	7.47	7.47	090
21034		A	Removal of face bone lesion	*16.17	6.98	6.98	0.89	24.04	24.04	090
21040		A	Removal of jaw bone lesion	*2.11	2.76	2.76	0.24	5.11	5.11	090
21041		A	Removal of jaw bone lesion	*8.71	5.76	5.76	0.50	12.97	12.97	090
21044		A	Removal of jaw bone lesion	*11.86	9.55	9.55	1.11	22.52	22.52	090
21045		A	Extensive jaw surgery	*16.17	13.83	13.83	1.58	31.58	31.58	090
21050		A	Removal of jaw joint	*10.77	#11.85	#11.85	1.08	23.70	23.70	090
21060		A	Remove jaw joint cartilage	*10.23	#11.25	#11.25	1.04	22.52	22.52	090
21070		A	Remove coronoid process	*8.20	6.81	6.81	0.82	15.83	15.83	090
21076		A	Prepare face/oral prosthesis	*13.42	#14.76	#14.76	1.35	29.53	29.53	010
21077		A	Prepare face/oral prosthesis	*33.75	#37.13	#37.13	3.39	74.27	74.27	090
21079		A	Prepare face/oral prosthesis	*22.34	27.93	27.93	2.25	52.52	52.52	090
21080		A	Prepare face/oral prosthesis	*25.10	31.38	31.38	2.52	59.00	59.00	090
21081		A	Prepare face/oral prosthesis	*22.86	28.59	28.59	2.30	53.77	53.77	090
21082		A	Prepare face/oral prosthesis	*20.87	#22.96	#22.96	2.10	45.93	45.93	090
21083		A	Prepare face/oral prosthesis	*19.30	24.13	24.13	1.94	45.37	45.37	090
21084		A	Prepare face/oral prosthesis	*22.51	28.14	28.14	2.28	52.93	52.93	090
21085		A	Prepare face/oral prosthesis	*9.00	#9.90	#9.90	0.90	19.80	19.80	010
21086		A	Prepare face/oral prosthesis	*24.92	31.15	31.15	2.51	58.58	58.58	090
21087		A	Prepare face/oral prosthesis	*24.92	#27.41	#27.41	2.51	54.84	54.84	090
21088		C	Prepare face/oral prosthesis	0.00	0.00	0.00	0.00	0.00	0.00	090
21089		C	Prepare face/oral prosthesis	0.00	0.00	0.00	0.00	0.00	0.00	090
21100		A	Maxillofacial fixation	*4.22	1.06	1.06	0.11	5.39	5.39	090
21110		A	Interdental fixation	*5.21	5.53	5.53	0.48	11.20	11.20	090
21116		A	Injection, jaw joint x-ray	0.81	0.73	0.73	0.06	1.60	1.60	000
21120		A	Reconstruction of chin	*4.93	3.59	3.59	0.42	8.94	8.94	090

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ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [6]	Facility practice expense RVUs [6]	Mal-practice RVUs	Non-facility total	Facility total	Global
21121		A	Reconstruction of chin	*7.64	5.65	5.65	0.68	13.95	13.95	090
21122		A	Reconstruction of chin	*8.52	6.23	6.23	0.73	15.48	15.48	090
21123		A	Reconstruction of chin	*11.16	8.14	8.14	0.95	20.25	20.25	090
21125		A	Augmentation lower jaw bone	*10.62	4.72	4.72	0.54	15.88	15.88	090
21127		A	Augmentation lower jaw bone	*11.12	7.91	7.91	0.92	19.95	19.95	090
21137		A	Reduction of forehead	*9.82	7.11	7.11	0.83	17.76	17.76	090
21138		A	Reduction of forehead	*12.19	8.86	8.86	1.04	22.09	22.09	090
21139		A	Reduction of forehead	*14.61	10.64	10.64	1.25	26.50	26.50	090
21141		A	Reconstruct midface, lefort	*18.10	14.34	14.34	1.68	34.12	34.12	090
21142		A	Reconstruct midface, lefort	*18.81	14.84	14.84	1.74	35.39	35.39	090
21143		A	Reconstruct midface, lefort	*19.58	15.40	15.40	1.81	36.79	36.79	090
21145		A	Reconstruct midface, lefort	*19.94	14.34	14.34	1.68	35.96	35.96	090
21146		A	Reconstruct midface, lefort	*20.71	14.84	14.84	1.74	37.29	37.29	090
21147		A	Reconstruct midface, lefort	*21.77	15.40	15.40	1.81	38.98	38.98	090
21150		A	Reconstruct midface, lefort	*25.24	18.46	18.46	2.17	45.87	45.87	090
21151		A	Reconstruct midface, lefort	*28.30	20.68	20.68	2.42	51.40	51.40	090
21154		A	Reconstruct midface, lefort	*30.52	22.15	22.15	2.59	55.26	55.26	090
21155		A	Reconstruct midface, lefort	*34.45	25.11	25.11	2.94	62.50	62.50	090
21159		A	Reconstruct midface, lefort	*42.38	31.02	31.02	3.63	77.03	77.03	090
21160		A	Reconstruct midface, lefort	*46.44	33.96	33.96	3.98	84.38	84.38	090
21172		A	Reconstruct orbit/forehead	*27.80	20.30	20.30	2.37	50.47	50.47	090
21175		A	Reconstruct orbit/forehead	*33.17	24.37	24.37	2.85	60.39	60.39	090
21179		A	Reconstruct entire forehead	*22.25	16.24	16.24	1.90	40.39	40.39	090
21180		A	Reconstruct entire forehead	*25.19	18.46	18.46	2.17	45.82	45.82	090
21181		A	Contour cranial bone lesion	*9.90	7.11	7.11	0.83	17.84	17.84	090
21182		A	Reconstruct cranial bone	*32.19	23.63	23.63	2.77	58.59	58.59	090
21183		A	Reconstruct cranial bone	*35.31	25.85	25.85	3.03	64.19	64.19	090
21184		A	Reconstruct cranial bone	*38.24	28.06	28.06	3.28	69.58	69.58	090
21188		A	Reconstruction of midface	*22.46	16.24	16.24	1.90	40.60	40.60	090
21193		A	Reconstruct lower jaw bone	*17.15	12.31	12.31	1.44	30.90	30.90	090
21194		A	Reconstruct lower jaw bone	*19.84	14.26	14.26	1.67	35.77	35.77	090
21195		A	Reconstruct lower jaw bone	*17.24	12.34	12.34	1.44	31.02	31.02	090
21196		A	Reconstruct lower jaw bone	*18.91	13.61	13.61	1.58	34.10	34.10	090
21198		A	Reconstruct lower jaw bone	*14.16	14.82	14.82	1.74	30.72	30.72	090
21206		A	Reconstruct upper jaw bone	*14.10	10.14	10.14	1.19	25.43	25.43	090
21208		A	Augmentation of facial bones	*10.23	#11.25	#11.25	1.07	22.55	22.55	090
21209		A	Reduction of facial bones	*6.72	4.59	4.59	0.76	12.07	12.07	090
21210		A	Face bone graft	*10.23	#11.25	#11.25	1.29	22.77	22.77	090
21215		A	Lower jaw bone graft	*10.77	#11.85	#11.85	1.42	24.04	24.04	090
21230		A	Rib cartilage graft	*10.77	10.37	10.37	1.69	22.83	22.83	090
21235		A	Ear cartilage graft	*6.72	#7.39	#7.39	1.09	15.20	15.20	090
21240		A	Reconstruction of jaw joint	*14.05	#15.46	#15.46	2.09	31.60	31.60	090
21242		A	Reconstruction of jaw joint	*12.95	#14.25	#14.25	2.25	29.45	29.45	090
21243		A	Reconstruction of jaw joint	*20.79	14.40	14.40	1.68	36.87	36.87	090
21244		A	Reconstruction of lower jaw	*11.86	#13.05	#13.05	1.93	26.84	26.84	090
21245		A	Reconstruction of jaw	*11.86	11.47	11.47	1.31	24.64	24.64	090
21246		A	Reconstruction of jaw	*12.47	8.63	8.63	1.04	22.34	22.34	090
21247		A	Reconstruct lower jaw bone	*22.63	#24.89	#24.89	2.27	49.79	49.79	090
21248		A	Reconstruction of jaw	*11.48	#12.63	#12.63	1.75	25.86	25.86	090
21249		A	Reconstruction of jaw	*17.52	#19.27	#19.27	3.29	40.08	40.08	090
21255		A	Reconstruct lower jaw bone	*16.72	#18.39	#18.39	1.68	36.79	36.79	090
21256		A	Reconstruction of orbit	*16.19	#17.81	#17.81	1.63	35.63	35.63	090
21260		A	Revise eye sockets	*16.52	#18.17	#18.17	1.66	36.35	36.35	090
21261		A	Revise eye sockets	*31.49	17.78	17.78	1.65	50.92	50.92	090
21263		A	Revise eye sockets	*28.42	#31.26	#31.26	2.86	62.54	62.54	090
21267		A	Revise eye sockets	*18.90	14.61	14.61	2.13	35.64	35.64	090
21268		A	Revise eye sockets	*24.48	15.35	15.35	3.13	42.96	42.96	090
21270		A	Augmentation cheek bone	*10.23	9.60	9.60	1.41	21.24	21.24	090
21275		A	Revision orbitofacial bones	*11.24	8.95	8.95	1.26	21.45	21.45	090
21280		A	Revision of eyelid	*6.03	#6.63	#6.63	0.81	13.27	13.27	090
21282		A	Revision of eyelid	*3.49	#3.84	#3.84	0.79	8.12	8.12	090
21295		A	Revision of jaw muscle/bone	*1.53	0.96	0.96	0.13	2.62	2.62	090
21296		A	Revision of jaw muscle/bone	*4.25	3.62	3.62	0.22	8.09	8.09	090
21299		C	Cranio/maxillofacial surgery	0.00	0.00	0.00	0.00	0.00	0.00	YYY
21300		A	Treatment of skull fracture	0.72	0.92	#0.79	0.11	1.75	1.62	000
21310		A	Treatment of nose fracture	0.58	0.75	#0.64	0.09	1.42	1.31	000
21315		A	Treatment of nose fracture	*1.51	1.81	#1.66	0.21	3.53	3.38	010
21320		A	Treatment of nose fracture	*1.85	2.33	#2.04	0.34	4.52	4.23	010
21325		A	Repair of nose fracture	*3.77	4.09	4.09	0.52	8.38	8.38	090
21330		A	Repair of nose fracture	*5.38	#5.92	#5.92	0.86	12.16	12.16	090
21335		A	Repair of nose fracture	*8.61	#9.47	#9.47	1.56	19.64	19.64	090
21336		A	Repair nasal septal fracture	*5.72	4.09	4.09	0.52	10.33	10.33	090
21337		A	Repair nasal septal fracture	*2.70	2.82	2.82	0.36	5.90	5.90	090
21338		A	Repair nasoethmoid fracture	*6.46	5.01	5.01	0.66	12.13	12.13	090

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[2] Copyright 1994 American Dental Association. All rights reserved.
[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[6] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [6]	Facility practice expense RVUs [6]	Mal-practice RVUs	Non-facility total	Facility total	Global
21339		A	Repair nasoethmoid fracture	*8.09	7.09	7.09	0.70	15.88	15.88	090
21340		A	Repair of nose fracture	*10.77	8.91	8.91	1.04	20.72	20.72	090
21343		A	Repair of sinus fracture	*12.95	9.17	9.17	1.08	23.20	23.20	090
21344		A	Repair of sinus fracture	*19.72	9.17	9.17	1.08	29.97	29.97	090
21345		A	Repair of nose/jaw fracture	*8.16	7.90	7.90	0.81	16.87	16.87	090
21346		A	Repair of nose/jaw fracture	*10.61	9.40	9.40	1.04	21.05	21.05	090
21347		A	Repair of nose/jaw fracture	*12.69	10.36	10.36	1.36	24.41	24.41	090
21348		A	Repair of nose/jaw fracture	*16.69	11.34	11.34	2.22	30.25	30.25	090
21355		A	Repair cheek bone fracture	*3.77	1.56	1.56	0.17	5.50	5.50	010
21356		A	Repair cheek bone fracture	*4.15	#4.57	#4.57	0.89	9.61	9.61	010
21360		A	Repair cheek bone fracture	*6.46	#7.11	#7.11	0.89	14.46	14.46	090
21365		A	Repair cheek bone fracture	*14.95	12.35	12.35	1.63	28.93	28.93	090
21366		A	Repair cheek bone fracture	*17.77	12.08	12.08	2.36	32.21	32.21	090
21385		A	Repair eye socket fracture	*9.16	9.59	9.59	1.13	19.88	19.88	090
21386		A	Repair eye socket fracture	*9.16	9.07	9.07	1.25	19.48	19.48	090
21387		A	Repair eye socket fracture	*9.70	7.45	7.45	0.96	18.11	18.11	090
21390		A	Repair eye socket fracture	*10.13	#11.14	#11.14	1.37	22.64	22.64	090
21395		A	Repair eye socket fracture	*12.68	9.63	9.63	1.37	23.68	23.68	090
21400		A	Treat eye socket fracture	*1.40	1.67	#1.54	0.17	3.24	3.11	090
21401		A	Repair eye socket fracture	*3.26	2.58	2.58	0.32	6.16	6.16	090
21406		A	Repair eye socket fracture	*7.01	5.21	5.21	0.74	12.96	12.96	090
21407		A	Repair eye socket fracture	*8.61	7.09	7.09	0.78	16.48	16.48	090
21408		A	Repair eye socket fracture	*12.38	8.49	8.49	0.99	21.86	21.86	090
21421		A	Treat mouth roof fracture	*5.14	6.14	#5.65	0.62	11.90	11.41	090
21422		A	Repair mouth roof fracture	*8.32	#9.15	#9.15	1.19	18.66	18.66	090
21423		A	Repair mouth roof fracture	*10.40	9.80	9.80	1.19	21.39	21.39	090
21431		A	Treat craniofacial fracture	*7.05	6.02	6.02	0.71	13.78	13.78	090
21432		A	Repair craniofacial fracture	*8.61	6.76	6.76	0.84	16.21	16.21	090
21433		A	Repair craniofacial fracture	*25.35	17.96	17.96	2.10	45.41	45.41	090
21435		A	Repair craniofacial fracture	*17.25	13.25	13.25	1.88	32.38	32.38	090
21436		A	Repair craniofacial fracture	*28.04	14.65	14.65	2.08	44.77	44.77	090
21440		A	Repair dental ridge fracture	*2.70	3.07	#2.87	0.28	6.05	5.85	090
21445		A	Repair dental ridge fracture	*5.38	6.11	#5.92	0.56	12.05	11.86	090
21450		A	Treat lower jaw fracture	*2.97	2.84	2.84	0.26	6.07	6.07	090
21451		A	Treat lower jaw fracture	*4.87	5.83	#5.36	0.74	11.44	10.97	090
21452		A	Treat lower jaw fracture	*1.98	1.39	1.39	0.17	3.54	3.54	090
21453		A	Treat lower jaw fracture	*5.54	6.64	#6.09	0.55	12.73	12.18	090
21454		A	Treat lower jaw fracture	*6.46	#7.11	#7.11	1.42	14.99	14.99	090
21461		A	Repair lower jaw fracture	*8.09	#8.90	#8.90	1.30	18.29	18.29	090
21462		A	Repair lower jaw fracture	*9.79	#10.77	#10.77	1.34	21.90	21.90	090
21465		A	Repair lower jaw fracture	*11.91	8.44	8.44	0.99	21.34	21.34	090
21470		A	Repair lower jaw fracture	*15.34	#16.87	#16.87	1.74	33.95	33.95	090
21480		A	Reset dislocated jaw	0.61	0.78	#0.67	0.09	1.48	1.37	000
21485		A	Reset dislocated jaw	*3.99	2.19	2.19	0.20	6.38	6.38	090
21490		A	Repair dislocated jaw	*11.86	6.31	6.31	0.52	18.69	18.69	090
21493		A	Treat hyoid bone fracture	*1.27	1.52	#1.40	0.13	2.92	2.80	090
21494		A	Repair hyoid bone fracture	*6.26	7.52	7.52	0.63	14.43	14.43	090
21495		A	Repair hyoid bone fracture	*5.69	4.82	4.82	0.51	11.02	11.02	090
21497		A	Interdental wiring	*3.86	3.97	3.97	0.38	8.21	8.21	090
21499		C	Head surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
21501		A	Drain neck/chest lesion	*3.81	1.82	1.82	0.26	5.89	5.89	090
21502		A	Drain chest lesion	*7.12	4.22	4.22	0.75	12.09	12.09	090
21510		A	Drainage of bone lesion	*5.74	3.82	3.82	0.50	10.06	10.06	090
21550		A	Biopsy of neck/chest	*2.06	0.85	0.85	0.12	3.03	3.03	010
21555		A	Remove lesion neck/chest	*4.35	1.60	1.60	0.25	6.20	6.20	090
21556		A	Remove lesion neck/chest	*6.57	3.80	3.80	0.64	10.01	10.01	090
21557		A	Remove tumor, neck or chest	*8.88	8.50	8.50	1.41	18.79	18.79	090
21600		A	Partial removal of rib	*6.89	4.50	4.50	0.88	12.27	12.27	090
21610		A	Partial removal of rib	*14.61	5.17	5.17	0.76	20.54	20.54	090
21615		A	Removal of rib	*9.87	10.13	10.13	1.96	21.96	21.96	090
21616		A	Removal of rib and nerves	*12.04	7.26	7.26	1.50	20.80	20.80	090
21620		A	Partial removal of sternum	*8.79	6.85	6.85	1.23	14.87	14.87	090
21627		A	Sternal debridement	*8.81	5.03	5.03	0.90	12.74	12.74	090
21630		A	Extensive sternum surgery	*17.38	12.89	12.89	2.40	32.67	32.67	090
21632		A	Extensive sternum surgery	*18.14	11.54	11.54	2.22	31.90	31.90	090
21700		A	Revision of neck muscle	*8.19	4.16	4.16	0.50	10.85	10.85	090
21705		A	Revision of neck muscle/rib	*9.60	4.85	4.85	0.96	15.41	15.41	090
21720		A	Revision of neck muscle	*5.68	3.84	3.84	0.52	10.04	10.04	090
21725		A	Revision of neck muscle	*6.99	4.84	4.84	0.74	12.57	12.57	090
21740		A	Reconstruction of sternum	*16.50	8.99	8.99	1.64	27.13	27.13	090
21750		A	Repair of sternum separation	*10.77	7.33	7.33	1.43	19.53	19.53	090
21800		A	Treatment of rib fracture	*0.96	0.77	0.77	0.07	1.80	1.80	090
21805		A	Treatment of rib fracture	*2.75	1.35	1.35	0.17	4.27	4.27	090
21810		A	Treatment of rib fracture(s)	*6.86	7.33	7.33	0.61	14.80	14.80	090

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[2] Copyright 1994 American Dental Association. All rights reserved.
[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[6] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT[1]/ HCPCS[2]	MOD	Status	Description	Physician work RVUs[3,4]	Non-facility practice expense RVUs[5]	Facility practice expense RVUs[5]	Mal-practice RVUs	Non-facility total	Facility total	Global
21620		A	Treat sternum fracture	*1.26	1.36	1.36	0.17	2.81	2.81	090
21625		A	Repair sternum fracture	*7.41	6.90	6.90	1.12	15.43	15.43	090
21899		C	Neck/chest surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
21920		A	Biopsy soft tissue of back	*2.06	0.79	0.79	0.11	2.96	2.96	010
21925		A	Biopsy soft tissue of back	*4.49	1.95	1.95	0.32	6.76	6.76	090
21930		A	Remove lesion, back or flank	*5.00	2.72	2.72	0.49	8.21	8.21	090
21935		A	Remove tumor of back	*17.96	6.59	6.59	1.30	25.85	25.85	090
22100		A	Remove part of neck vertebra	*9.73	7.84	7.84	1.09	18.46	18.46	090
22101		A	Remove part, thorax vertebra	*9.81	8.01	8.01	1.38	19.20	19.20	090
22102		A	Remove part, lumber vertebra	*9.81	4.50	4.50	0.67	14.98	14.98	090
22103		A	Remove extra spine segment	2.34	2.23	2.23	0.37	4.94	4.94	ZZZ
22110		A	Remove part of neck vertebra	*12.74	9.72	9.72	1.64	24.10	24.10	090
22112		A	Remove part, thorax vertebra	*12.81	9.90	9.90	1.63	24.34	24.34	090
22114		A	Remove part, lumber vertebra	*12.81	7.25	7.25	1.17	21.23	21.23	090
22116		A	Remove extra spine segment	2.32	2.21	2.21	0.36	4.89	4.89	ZZZ
22210		A	Revision of neck spine	*23.82	13.83	13.83	2.43	40.08	40.08	090
22212		A	Revision of thorax spine	*19.42	17.29	17.29	2.63	39.54	39.54	090
22214		A	Revision of lumber spine	*19.45	15.11	15.11	2.66	37.24	37.24	090
22216		A	Revise, extra spine segment	6.04	5.07	5.07	0.89	12.00	12.00	ZZZ
22220		A	Revision of neck spine	*21.37	16.64	16.64	2.63	40.64	40.64	090
22222		A	Revision of thorax spine	*21.52	13.61	13.61	1.58	36.71	36.71	090
22224		A	Revision of lumber spine	*21.52	14.66	14.66	2.66	38.86	38.86	090
22226		A	Revise, extra spine segment	6.04	5.07	5.07	0.89	12.00	12.00	ZZZ
22305		A	Treat spine process fracture	*2.05	#2.26	#2.26	0.37	4.68	4.68	090
22310		A	Treat spine fracture	*2.61	2.52	2.52	0.69	5.82	5.82	090
22315		A	Treat spine fracture	*8.84	5.51	5.51	0.86	15.21	15.21	090
22325		A	Repair of spine fracture	*18.30	8.32	8.32	1.34	27.96	27.96	090
22326		A	Repair neck spine fracture	*19.59	15.93	15.93	2.74	38.26	38.26	090
22327		A	Repair thorax spine fracture	*19.20	15.95	15.95	2.35	37.50	37.50	090
22328		A	Repair each add spine fx	4.61	4.40	4.40	0.72	9.73	9.73	ZZZ
22505		A	Manipulation of spine	*1.87	1.31	1.31	0.17	3.35	3.35	010
22548		A	Neck spine fusion	*25.82	22.74	22.74	3.82	52.38	52.38	090
22554		A	Neck spine fusion	*18.62	19.81	19.81	3.52	41.95	41.95	090
22556		A	Thorax spine fusion	*23.46	21.68	21.68	3.56	48.72	48.72	090
22558		A	Lumber spine fusion	*22.28	20.17	20.17	3.38	45.83	45.83	090
22585		A	Additional spinal fusion	5.53	5.40	5.40	0.93	11.86	11.86	ZZZ
22590		A	Spine & skull spinal fusion	*20.51	21.57	21.57	3.44	45.52	45.52	090
22595		A	Neck spinal fusion	*19.39	#21.33	#21.33	3.87	44.59	44.59	090
22600		A	Neck spine fusion	*16.14	#17.75	#17.75	3.32	37.21	37.21	090
22610		A	Thorax spine fusion	*16.02	#17.62	#17.62	2.75	36.39	36.39	090
22612		A	Lumber spine fusion	*21.00	20.60	20.60	3.33	44.93	44.93	090
22614		A	Spine fusion, extra segment	6.44	5.65	5.65	0.92	13.01	13.01	ZZZ
22630		A	Lumber spine fusion	*20.84	18.44	18.44	3.15	42.43	42.43	090
22632		A	Spine fusion, extra segment	5.23	4.99	4.99	0.82	11.04	11.04	ZZZ
22800		A	Fusion of spine	*18.25	#20.08	#20.08	3.58	41.91	41.91	090
22802		A	Fusion of spine	*30.88	28.32	28.32	4.61	63.81	63.81	090
22804		A	Fusion of spine	*36.27	28.32	28.32	4.61	69.20	69.20	090
22808		A	Fusion of spine	*26.27	18.41	18.41	3.15	47.83	47.83	090
22810		A	Fusion of spine	*30.27	18.41	18.41	3.15	51.83	51.83	090
22812		A	Fusion of spine	*32.70	25.93	25.93	4.24	62.87	62.87	090
22818		A	Kyphectomy, 1–2 segments	*31.83	28.25	28.25	4.85	64.93	64.93	090
22819		A	Kyphectomy, 3 & more segment	*36.44	28.25	28.25	4.85	69.54	69.54	090
22830		A	Exploration of spinal fusion	*10.85	#11.94	#11.94	2.18	24.97	24.97	090
22840		A	Insert spine fixation device	12.54	5.98	5.98	0.98	19.50	19.50	ZZZ
22841		B	Insert spine fixation device	0.00	0.00	0.00	0.00	0.00	0.00	XXX
22842		A	Insert spine fixation device	12.58	6.86	6.86	1.12	20.56	20.56	ZZZ
22843		A	Insert spine fixation device	13.46	8.55	8.55	1.40	23.41	23.41	ZZZ
22844		A	Insert spine fixation device	18.44	10.45	10.45	1.71	28.60	28.60	ZZZ
22845		A	Insert spine fixation device	11.98	5.70	5.70	0.93	18.59	18.59	ZZZ
22846		A	Insert spine fixation device	12.42	7.90	7.90	1.29	21.61	21.61	ZZZ
22847		A	Insert spine fixation device	13.80	8.77	8.77	1.44	24.01	24.01	ZZZ
22848		A	Insert pelvic fixationdevice	6.00	5.72	5.72	0.94	12.66	12.66	ZZZ
22849		A	Reinsert spinal fixation	*18.51	11.76	11.76	1.97	32.24	32.24	090
22850		A	Remove spine fixation device	*9.52	9.17	9.17	1.50	20.19	20.19	090
22851		A	Apply spine prosth device	6.71	6.40	6.40	1.06	14.16	14.16	ZZZ
22852		A	Remove spine fixation device	*9.01	9.80	9.80	1.57	20.38	20.38	090
22855		A	Remove spine fixation device	*15.13	7.46	7.46	1.25	23.84	23.84	090
22899		C	Spine surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
22900		A	Remove abdominal wall lesion	*5.80	3.03	3.03	0.60	9.43	9.43	090
22999		C	Abdomen surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
23000		A	Removal of calcium deposits	*4.36	3.24	3.24	0.47	8.07	8.07	090
23020		A	Release shoulder joint	*8.93	7.27	7.27	1.09	17.29	17.29	090
23030		A	Drain shoulder lesion	*3.43	2.16	2.16	0.35	5.94	5.94	010
23031		A	Drain shoulder bursa	*2.74	0.50	0.50	0.05	3.29	3.29	010

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[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT[1]/ HCPCS[2]	MOD	Status	Description	Physician work RVUs[3,4]	Non-facility practice expense RVUs[5]	Facility practice expense RVUs[5]	Mal-practice RVUs	Non-facility total	Facility total	Global
23035		A	Drain shoulder bone lesion	*8.61	6.22	6.22	1.04	15.87	15.87	090
23040		A	Exploratory shoulder surgery	*9.20	9.27	9.27	1.47	19.94	19.94	090
23044		A	Exploratory shoulder surgery	*7.12	6.91	6.91	1.18	15.21	15.21	090
23065		A	Biopsy shoulder tissues	*2.27	0.66	0.66	0.09	3.02	3.02	010
23066		A	Biopsy shoulder tissues	*4.16	1.18	1.18	0.10	5.44	5.44	090
23075		A	Removal of shoulder lesion	*2.39	1.68	1.68	0.29	4.36	4.36	010
23076		A	Removal of shoulder lesion	*7.63	3.54	3.54	0.65	11.82	11.82	090
23077		A	Remove tumor of shoulder	*16.09	7.38	7.38	1.38	24.85	24.85	090
23100		A	Biopsy of shoulder joint	*8.03	#6.63	#6.63	1.24	13.90	13.90	090
23101		A	Shoulder joint surgery	*5.58	#6.14	#6.14	1.21	12.93	12.93	090
23105		A	Remove shoulder joint lining	*8.23	#9.05	#9.05	1.73	19.01	19.01	090
23106		A	Incision of collarbone joint	*5.96	4.75	4.75	0.80	11.51	11.51	090
23107		A	Explore,treat shoulder joint	*8.62	#9.48	#9.48	1.60	19.70	19.70	090
23120		A	Partial removal, collar bone	*7.11	4.61	4.61	0.74	12.46	12.46	090
23125		A	Removal of collarbone	*9.39	8.49	8.49	1.27	19.15	19.15	090
23130		A	Partial removal,shoulderbone	*7.55	7.05	7.05	1.14	15.74	15.74	090
23140		A	Removal of bone lesion	*6.89	4.16	4.16	0.73	11.78	11.78	090
23145		A	Removal of bone lesion	*9.09	8.13	8.13	1.33	18.55	18.55	090
23146		A	Removal of bone lesion	*7.83	5.23	5.23	1.01	14.07	14.07	090
23150		A	Removal of humerus lesion	*8.48	6.64	6.64	1.01	16.13	16.13	090
23155		A	Removal of humerus lesion	*10.35	8.80	8.80	1.37	20.52	20.52	090
23156		A	Removal of humerus lesion	*8.68	7.64	7.64	1.25	17.57	17.57	090
23170		A	Remove collarbone lesion	*6.86	4.81	4.81	0.78	12.45	12.45	090
23172		A	Remove shoulder blade lesion	*9.90	5.16	5.16	0.73	12.79	12.79	090
23174		A	Remove humerus lesion	*9.51	8.55	8.55	1.21	19.27	19.27	090
23180		A	Remove collar bone lesion	*8.53	4.30	4.30	0.67	13.50	13.50	090
23182		A	Remove shoulder blade lesion	*8.15	6.57	6.57	1.13	15.85	15.85	090
23184		A	Remove humerus lesion	*9.38	8.83	8.83	1.48	19.69	19.69	090
23190		A	Partial removal of scapula	*7.24	6.07	6.07	0.98	14.29	14.29	090
23195		A	Removal of head of humerus	*9.81	8.91	8.91	1.45	20.17	20.17	090
23200		A	Removal of collar bone	*12.08	9.17	9.17	1.26	22.51	22.51	090
23210		A	Removal of shoulderblade	*12.49	9.01	9.01	1.41	22.91	22.91	090
23220		A	Partial removal of humerus	*14.56	12.05	12.05	2.03	28.64	28.64	090
23221		A	Partial removal of humerus	*17.74	18.13	18.13	1.19	37.06	37.06	090
23222		A	Partial removal of humerus	*23.92	15.02	15.02	2.30	41.24	41.24	090
23330		A	Remove shoulder foreign body	*1.85	0.55	0.55	0.07	2.47	2.47	010
23331		A	Remove shoulder foreign body	*7.38	2.26	2.26	0.38	10.02	10.02	090
23332		A	Remove shoulder foreign body	*11.62	9.72	9.72	1.57	22.91	22.91	090
23350		A	Injection for shoulder x-ray	1.00	0.52	0.52	0.05	1.57	1.57	000
23395		A	Muscle transfer, shoulder/arm	*16.85	11.13	11.13	1.84	29.82	29.82	090
23397		A	Muscle transfers	*16.13	13.97	13.97	2.34	32.44	32.44	090
23400		A	Fixation of shoulder blade	*13.54	9.84	9.84	1.68	25.06	25.06	090
23405		A	Incision of tendon & muscle	*8.37	7.49	7.49	0.99	16.85	16.85	090
23406		A	Incise tendon(s) & muscle(s)	*10.79	9.41	9.41	1.58	21.78	21.78	090
23410		A	Repair of tendon(s)	*12.45	10.94	10.94	1.75	25.14	25.14	090
23412		A	Repair of tendon(s)	*13.31	13.37	13.37	2.16	28.84	28.84	090
23415		A	Release of shoulder ligament	*9.97	5.18	5.18	0.83	15.98	15.98	090
23420		A	Repair of shoulder	*13.30	#14.63	#14.63	2.34	30.27	30.27	090
23430		A	Repair biceps tendon	*9.98	7.34	7.34	1.19	18.51	18.51	090
23440		A	Removal/transplant tendon	*10.48	7.17	7.17	1.17	18.82	18.82	090
23450		A	Repair shoulder capsule	*13.40	12.75	12.75	2.04	28.19	28.19	090
23455		A	Repair shoulder capsule	*14.37	15.56	15.56	2.50	32.43	32.43	090
23460		A	Repair shoulder capsule	*15.37	14.07	14.07	2.24	31.68	31.68	090
23462		A	Repair shoulder capsule	*15.30	15.13	15.13	2.48	32.91	32.91	090
23465		A	Repair shoulder capsule	*15.85	14.15	14.15	2.27	32.27	32.27	090
23466		A	Repair shoulder capsule	*14.22	#15.64	#15.64	2.67	32.53	32.53	090
23470		A	Reconstruct shoulder joint	*17.15	16.76	16.76	2.65	36.56	36.56	090
23472		A	Reconstruct shoulder joint	*16.92	#18.61	#18.61	4.89	40.42	40.42	090
23480		A	Revision of collarbone	*11.18	6.59	6.59	1.02	18.79	18.79	090
23485		A	Revision of collar bone	*13.43	11.35	11.35	1.87	26.65	26.65	090
23490		A	Reinforce clavicle	*11.86	9.98	9.98	0.80	22.64	22.64	090
23491		A	Reinforce shoulder bones	*14.21	12.70	12.70	2.11	29.02	29.02	090
23500		A	Treat clavicle fracture	*2.08	1.65	1.65	0.21	3.94	3.94	090
23505		A	Treat clavicle fracture	*3.69	2.57	2.57	0.38	6.64	6.64	090
23515		A	Repair clavicle fracture	*7.41	6.93	6.93	1.12	15.46	15.46	090
23520		A	Treat clavicle dislocation	*2.16	1.38	1.38	0.19	3.73	3.73	090
23525		A	Treat clavicle dislocation	*3.60	1.98	1.98	0.27	5.85	5.85	090
23530		A	Repair clavicle dislocation	*7.31	6.58	6.58	0.91	14.80	14.80	090
23532		A	Repair clavicle dislocation	*8.01	7.23	7.23	1.19	16.43	16.43	090
23540		A	Treat clavicle dislocation	*2.23	1.55	1.55	0.19	3.97	3.97	090
23545		A	Treat clavicle dislocation	*3.25	1.98	1.98	0.29	5.52	5.52	090
23550		A	Repair clavicle dislocation	*7.24	#7.96	#7.96	1.46	16.66	16.66	090
23552		A	Repair clavicle dislocation	*8.45	7.29	7.29	1.17	16.91	16.91	090
23570		A	Treat shoulderblade fracture	*2.23	1.70	1.70	0.25	4.18	4.18	090

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[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1] / HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
23575		A	Treat shoulderblade fracture	*4.08	2.75	2.75	0.43	7.24	7.24	090
23585		A	Repair scapula fracture	*8.96	7.70	7.70	1.29	17.95	17.95	090
23600		A	Treat humerus fracture	*2.93	2.90	2.90	0.43	6.26	6.26	090
23605		A	Treat humerus fracture	*4.87	4.76	4.76	0.76	10.39	10.39	090
23615		A	Repair humerus fracture	*9.35	$10.29	$10.29	1.78	21.42	21.42	090
23616		A	Repair humerus fracture	*21.27	22.32	22.32	3.54	47.13	47.13	090
23620		A	Treat humerus fracture	*2.40	2.88	$2.64	0.46	5.74	5.50	090
23625		A	Treat humerus fracture	*3.93	3.82	3.82	0.60	8.35	8.35	090
23630		A	Repair humerus fracture	*7.35	$8.09	$8.09	1.40	16.84	16.84	090
23650		A	Treat shoulder dislocation	*3.39	2.10	2.10	0.24	5.73	5.73	090
23655		A	Treat shoulder dislocation	*4.57	2.93	2.93	0.44	7.94	7.94	090
23660		A	Repair shoulder dislocation	*7.49	$8.24	$8.24	1.40	17.13	17.13	090
23665		A	Treat dislocation/fracture	*4.47	3.35	3.35	0.51	8.33	8.33	090
23670		A	Repair dislocation/fracture	*7.90	$8.69	$8.69	1.85	18.44	18.44	090
23675		A	Treat dislocation/fracture	*8.05	3.93	3.93	0.61	10.59	10.59	090
23680		A	Repair dislocation/fracture	*10.06	$11.07	$11.07	2.13	23.26	23.26	090
23700		A	Fixation of shoulder	*2.52	2.09	2.09	0.34	4.95	4.95	010
23800		A	[illegible]ion of shoulder joint	*14.16	$15.58	$15.58	2.63	32.37	32.37	090
23802		A	[illegible]al of shoulder joint	*16.60	14.07	14.07	2.24	32.91	32.91	090
23900		A	Amputation of arm & girdle	*19.72	12.57	12.57	2.40	34.69	34.69	090
23920		A	Amputation at shoulder joint	*14.61	13.86	13.86	2.54	31.00	31.00	090
23921		A	Amputation follow-up surgery	*5.49	4.27	4.27	0.74	10.50	10.50	090
23929		C	Shoulder surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
23930		A	Drainage of arm lesion	*2.94	1.61	1.61	0.24	4.79	4.79	010
23931		A	Drainage of arm bursa	*1.79	0.75	0.75	0.11	2.65	2.65	010
23935		A	Drain arm/elbow bone lesion	*6.09	4.69	4.69	0.78	11.56	11.56	090
24000		A	Exploratory elbow surgery	*5.82	$6.40	$6.40	1.44	13.66	13.66	090
24006		A	Release elbow joint	*9.31	7.14	7.14	1.17	17.62	17.62	090
24065		A	Biopsy arm/elbow soft tissue	*2.08	0.79	0.79	0.10	2.97	2.97	010
24066		A	Biopsy arm/elbow soft tissue	*5.21	2.71	2.71	0.41	8.33	8.33	090
24075		A	Remove arm/elbow lesion	*3.92	1.98	1.98	0.35	6.25	6.25	090
24076		A	Remove arm/elbow lesion	*6.30	3.68	3.68	0.67	10.65	10.65	090
24077		A	Remove tumor of arm/elbow	*11.76	9.79	9.79	1.57	23.42	23.42	090
24100		A	Biopsy elbow joint lining	*4.93	4.23	4.23	0.69	9.85	9.85	090
24101		A	Explore/treat elbow joint	*6.13	$6.74	$6.74	1.41	14.28	14.28	090
24102		A	Remove elbow joint lining	*8.03	$8.83	$8.83	1.81	18.67	18.67	090
24105		A	Removal of elbow bursa	*3.61	3.77	3.77	0.63	8.01	8.01	090
24110		A	Remove humerus lesion	*7.39	7.69	7.69	1.22	16.30	16.30	090
24115		A	Remove/graft bone lesion	*9.63	7.68	7.68	1.33	18.64	18.64	090
24116		A	Remove/graft bone lesion	*11.81	9.72	9.72	1.47	23.00	23.00	090
24120		A	Remove elbow lesion	*6.65	6.02	6.02	0.98	13.65	13.65	090
24125		A	Remove/graft bone lesion	*7.89	5.79	5.79	0.81	14.29	14.29	090
24126		A	Remove/graft bone lesion	*8.31	7.40	7.40	1.21	16.92	16.92	090
24130		A	Removal of head of radius	*8.25	6.72	6.72	1.08	14.05	14.05	090
24134		A	Removal of arm bone lesion	*9.73	8.69	8.69	1.24	19.66	19.66	090
24136		A	Remove radius bone lesion	*7.99	8.78	8.78	0.92	17.69	17.69	090
24138		A	Remove elbow bone lesion	*8.05	6.39	6.39	1.06	15.50	15.50	090
24140		A	Partial removal of arm bone	*9.18	8.77	8.77	1.45	19.40	19.40	090
24145		A	Partial removal of radius	*7.56	6.38	6.38	1.03	14.99	14.99	090
24147		A	Partial removal of elbow	*7.54	6.61	6.61	1.08	15.23	15.23	090
24149		A	Radical resection of elbow	*14.20	12.64	12.64	2.07	28.91	28.91	090
24150		A	Extensive humerus surgery	*13.27	14.08	14.08	2.24	29.59	29.59	090
24151		A	Extensive humerus surgery	*15.58	13.83	13.83	2.11	31.52	31.52	090
24152		A	Extensive radius surgery	*10.08	6.80	6.80	1.16	18.02	18.02	090
24153		A	Extensive radius surgery	*11.54	10.44	10.44	1.71	23.69	23.69	090
24155		A	Removal of elbow joint	*11.73	10.75	10.75	1.72	24.20	24.20	090
24160		A	Remove elbow joint implant	*7.83	4.84	4.84	0.80	13.47	13.47	090
24164		A	Remove radius head implant	*8.23	5.53	5.53	0.90	12.66	12.66	090
24200		A	Removal of arm foreign body	*1.76	0.56	0.56	0.06	2.38	2.38	010
24201		A	Removal of arm foreign body	*4.56	3.06	3.06	0.49	8.11	8.11	090
24220		A	Injection for elbow x-ray	1.31	0.51	0.51	0.05	1.87	1.87	000
24301		A	Muscle/tendon transfer	*10.20	7.90	7.90	1.23	19.33	19.33	090
24305		A	Arm tendon lengthening	*7.45	3.08	3.08	0.29	10.82	10.82	090
24310		A	Revision of arm tendon	*5.98	2.95	2.95	0.48	9.41	9.41	090
24320		A	Repair of arm tendon	*10.58	9.20	9.20	1.29	21.05	21.05	090
24330		A	Revision of arm muscles	*9.60	8.74	8.74	1.43	19.77	19.77	090
24331		A	Revision of arm muscles	*10.65	9.62	9.62	1.57	21.84	21.84	090
24340		A	Repair of biceps tendon	*7.89	7.00	7.00	1.13	16.02	16.02	090
24341		A	Repair tendon/muscle arm	*7.90	6.99	6.99	1.14	16.03	16.03	090
24342		A	Repair of ruptured tendon	*10.62	10.38	10.38	1.76	22.76	22.76	090
24350		A	Repair of tennis elbow	*5.25	4.23	4.23	0.69	10.17	10.17	090
24351		A	Repair of tennis elbow	*5.91	4.57	4.57	0.73	11.21	11.21	090
24352		A	Repair of tennis elbow	*6.43	5.69	5.69	0.93	13.05	13.05	090
24354		A	Repair of tennis elbow	*8.48	5.61	5.61	0.94	13.03	13.03	090

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ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1] / HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
24356		A	Revision of tennis elbow	*6.68	7.28	7.28	1.18	15.14	15.14	090
24360		A	Reconstruct elbow joint	*12.34	$13.57	$13.57	2.47	28.38	28.38	090
24361		A	Reconstruct elbow joint	*14.08	13.13	13.13	2.00	29.21	29.21	090
24362		A	Reconstruct elbow joint	*14.99	13.14	13.14	0.80	28.93	28.93	090
24363		A	Replace elbow joint	*18.49	$20.34	$20.34	4.13	42.96	42.96	090
24365		A	Reconstruct head of radius	*8.39	7.52	7.52	1.19	17.10	17.10	090
24366		A	Reconstruct head of radius	*9.13	$10.04	$10.04	1.80	20.97	20.97	090
24400		A	Revision of humerus	*11.06	8.43	8.43	1.37	20.86	20.86	090
24410		A	Revision of humerus	*14.82	14.04	14.04	2.06	30.92	30.92	090
24420		A	Revision of humerus	*13.44	12.30	12.30	2.01	27.75	27.75	090
24430		A	Repair of humerus	*12.81	$14.09	$14.09	2.34	29.24	29.24	090
24435		A	Repair humerus with graft	*13.17	$14.49	$14.49	2.84	30.50	30.50	090
24470		A	Revision of elbow joint	*8.74	7.92	7.92	1.30	17.96	17.96	090
24495		A	Decompression of forearm	*8.12	5.75	5.75	1.10	14.97	14.97	090
24498		A	Reinforce humerus	*11.92	10.37	10.37	1.62	23.91	23.91	090
24500		A	Treat humerus fracture	*3.21	2.54	2.54	0.36	6.11	6.11	090
24505		A	Treat humerus fracture	*5.17	4.50	4.50	0.71	10.38	10.38	090
24515		A	Repair humerus fracture	*11.65	9.65	9.65	1.54	22.84	22.84	090
24516		A	Repair humerus fracture	*11.65	9.65	9.65	1.54	22.84	22.84	090
24530		A	Treat humerus fracture	*3.50	2.73	2.73	0.42	6.65	6.65	090
24535		A	Treat humerus fracture	*6.87	4.85	4.85	0.78	12.50	12.50	090
24538		A	Treat humerus fracture	*9.43	7.98	7.98	1.26	18.67	18.67	090
24545		A	Repair humerus fracture	*10.46	9.97	9.97	1.59	22.02	22.02	090
24546		A	Repair humerus fracture	*15.89	9.97	9.97	1.59	27.25	27.25	090
24560		A	Treat humerus fracture	*2.80	2.16	2.16	0.30	5.26	5.26	090
24565		A	Treat humerus fracture	*5.56	3.45	3.45	0.54	9.55	9.55	090
24566		A	Treat humerus fracture	*7.79	6.06	6.06	0.96	14.81	14.81	090
24575		A	Repair humerus fracture	*10.66	7.79	7.79	1.24	19.69	19.69	090
24576		A	Treat humerus fracture	*2.86	2.16	2.16	0.33	5.35	5.35	090
24577		A	Treat humerus fracture	*5.79	4.00	4.00	0.61	10.40	10.40	090
24579		A	Repair humerus fracture	*11.60	8.37	8.37	1.35	21.32	21.32	090
24582		A	Treat humerus fracture	*8.55	6.62	6.62	1.06	16.23	16.23	090
24586		A	Repair elbow fracture	*15.21	14.72	14.72	2.36	32.29	32.29	090
24587		A	Repair elbow fracture	*15.16	13.72	13.72	2.17	31.05	31.05	090
24600		A	Treat elbow dislocation	*4.23	1.95	1.95	0.26	6.44	6.44	090
24605		A	Treat elbow dislocation	*5.42	2.29	2.29	0.37	8.08	8.08	090
24615		A	Repair elbow dislocation	*9.42	9.29	9.29	1.48	20.19	20.19	090
24620		A	Treat elbow fracture	*6.98	3.78	3.78	0.57	11.33	11.33	090
24635		A	Repair elbow fracture	*13.19	11.06	11.06	1.78	26.03	26.03	090
24640		A	Treat elbow dislocation	*1.20	1.01	1.01	0.08	2.29	2.29	010
24650		A	Treat radius fracture	*2.16	2.25	2.25	0.33	4.74	4.74	090
24655		A	Treat radius fracture	*4.40	3.01	3.01	0.45	7.86	7.86	090
24665		A	Repair radius fracture	*8.14	7.13	7.13	1.14	16.41	16.41	090
24666		A	Repair radius fracture	*9.49	10.27	10.27	1.60	21.36	21.36	090
24670		A	Treatment of ulna fracture	*2.54	1.95	1.95	0.27	4.76	4.76	090
24675		A	Treatment of ulna fracture	*4.72	3.51	3.51	0.54	8.77	8.77	090
24685		A	Repair ulna fracture	*8.80	8.40	8.40	1.34	18.54	18.54	090
24800		A	Fusion of elbow joint	*11.20	10.59	10.59	1.55	23.34	23.34	090
24802		A	Fusion/graft of elbow joint	*13.69	12.18	12.18	1.99	27.86	27.86	090
24900		A	Amputation of upper arm	*9.80	7.68	7.68	1.39	18.87	18.87	090
24920		A	Amputation of upper arm	*9.54	6.78	6.78	1.19	17.51	17.51	090
24925		A	Amputation follow-up surgery	*7.07	6.27	6.27	0.75	14.09	14.09	090
24930		A	Amputation follow-up surgery	*10.25	8.16	8.16	1.17	19.58	19.58	090
24931		A	Amputate upper arm & implant	*12.72	11.17	11.17	1.84	25.73	25.73	090
24935		A	Revision of amputation	*15.56	13.70	13.70	2.24	31.50	31.50	090
24940		C	Revision of upper arm	0.00	0.00	0.00	0.00	0.00	0.00	090
24999		C	Upper arm/elbow surgery	0.00	0.00	0.00	0.00	0.00	0.00	YYY
25000		A	Incision of tendon sheath	*3.38	$3.72	$3.72	0.62	7.72	7.72	090
25020		A	Decompression of forearm	*5.92	4.35	4.35	0.77	11.04	11.04	090
25023		A	Decompression of forearm	*12.98	5.44	5.44	0.94	19.34	19.34	090
25028		A	Drainage of forearm lesion	*5.25	2.06	2.06	0.36	7.67	7.67	090
25031		A	Drainage of forearm bursa	*4.14	0.66	0.66	0.09	4.89	4.89	090
25035		A	Treat forearm bone lesion	*7.36	6.30	6.30	1.01	14.67	14.67	090
25040		A	Explore/treat wrist joint	*7.18	5.69	5.69	0.80	13.77	13.77	090
25065		A	Biopsy forearm soft tissues	*1.99	0.75	0.75	0.09	2.83	2.83	010
25066		A	Biopsy forearm soft tissues	*4.13	1.54	1.54	0.22	5.89	5.89	090
25075		A	Removal of forearm lesion	*3.74	2.19	2.19	0.37	6.30	6.30	090
25076		A	Removal of forearm lesion	*4.92	3.77	3.77	0.67	9.36	9.36	090
25077		A	Remove tumor, forearm/wrist	*9.76	8.48	8.48	1.67	19.91	19.91	090
25085		A	Incision of wrist capsule	*5.50	4.62	4.62	0.71	10.83	10.83	090
25100		A	Biopsy of wrist joint	*3.90	$4.29	$4.29	0.79	8.98	8.98	090
25101		A	Explore/treat wrist joint	*4.69	$5.16	$5.16	0.98	10.83	10.83	090
25105		A	Remove wrist joint lining	*5.85	$8.44	$6.44	1.19	13.48	13.48	090
25107		A	Remove wrist joint cartilage	*8.43	5.28	5.28	0.89	12.60	12.60	090

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[2] Copyright 1994 American Dental Association. All rights reserved.
[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT[1]/ HCPCS[2]	MOD	Status	Description	Physician work RVUs[3,4]	Non-facility practice expense RVUs[5]	Facility practice expense RVUs[5]	Mal-practice RVUs	Non-facility total	Facility total	Global
25110		A	Remove wrist tendon lesion	*3.92	2.80	2.80	0.48	7.18	7.18	090
25111		A	Remove wrist tendon lesion	*3.39	3.22	3.22	0.55	7.16	7.16	090
25112		A	Reremove wrist tendon lesion	*4.53	3.72	3.72	0.66	8.91	8.91	090
25115		A	Remove wrist/forearm lesion	*8.82	7.14	7.14	1.23	17.19	17.19	090
25116		A	Remove wrist/forearm lesion	*7.11	#7.82	#7.82	1.38	16.31	16.31	090
25118		A	Excise wrist tendon sheath	*4.37	#4.81	#4.81	1.02	10.20	10.20	090
25119		A	Partial removal of ulna	*6.04	#6.64	#6.64	1.32	14.00	14.00	090
25120		A	Removal of forearm lesion	*6.10	6.53	6.53	1.14	13.77	13.77	090
25125		A	Remove/graft forearm lesion	*7.48	6.84	6.84	1.04	15.36	15.36	090
25126		A	Remove/graft forearm lesion	*7.55	6.80	6.80	1.12	15.47	15.47	090
25130		A	Removal of wrist lesion	*5.26	4.21	4.21	0.67	10.14	10.14	090
25135		A	Remove & graft wrist lesion	*6.89	5.46	5.46	0.97	13.32	13.32	090
25136		A	Remove & graft wrist lesion	*5.97	4.74	4.74	0.85	11.56	11.56	090
25145		A	Remove forearm bone lesion	*6.37	5.95	5.95	0.75	13.07	13.07	090
25150		A	Partial removal of ulna	*7.09	6.67	6.67	1.12	14.88	14.88	090
25151		A	Partial removal of radius	*7.39	5.75	5.75	1.02	14.16	14.16	090
25170		A	Extensive forearm surgery	*11.09	9.79	9.79	1.51	22.39	22.39	090
25210		A	Removal of wrist bone	*5.95	4.86	4.86	0.80	11.63	11.63	090
25215		A	Removal of wrist bones	*7.89	8.66	8.66	1.42	17.99	17.99	090
25230		A	Partial removal of radius	*5.23	5.57	5.57	0.85	11.65	11.65	090
25240		A	Partial removal of ulna	*5.17	5.30	5.30	0.86	11.33	11.33	090
25246		A	Injection for wrist x-ray	1.45	0.50	0.50	0.05	2.00	2.00	000
25248		A	Remove forearm foreign body	*5.14	2.18	2.18	0.37	7.69	7.69	090
25250		A	Removal of wrist prosthesis	*8.60	5.63	5.63	0.91	13.14	13.14	090
25251		A	Removal of wrist prosthesis	*9.57	8.25	8.25	1.39	19.21	19.21	090
25260		A	Repair forearm tendon/muscle	*7.80	4.61	4.61	0.78	13.19	13.19	090
25263		A	Repair forearm tendon/muscle	*7.82	5.77	5.77	1.03	14.62	14.62	090
25265		A	Repair forearm tendon/muscle	*9.88	7.93	7.93	1.41	19.22	19.22	090
25270		A	Repair forearm tendon/muscle	*6.00	3.36	3.36	0.55	9.91	9.91	090
25272		A	Repair forearm tendon/muscle	*7.04	3.44	3.44	0.54	11.02	11.02	090
25274		A	Repair forearm tendon/muscle	*8.75	6.62	6.62	1.13	16.50	16.50	090
25280		A	Revise wrist/forearm tendon	*7.22	4.22	4.22	0.69	12.13	12.13	090
25290		A	Incise wrist/forearm tendon	*5.29	2.47	2.47	0.41	8.17	8.17	090
25295		A	Release wrist/forearm tendon	*6.55	3.05	3.05	0.52	10.12	10.12	090
25300		A	Fusion of tendons at wrist	*8.80	7.36	7.36	1.19	17.35	17.35	090
25301		A	Fusion of tendons at wrist	*8.40	6.77	6.77	1.18	16.35	16.35	090
25310		A	Transplant forearm tendon	*8.14	7.14	7.14	1.17	16.45	16.45	090
25312		A	Transplant forearm tendon	*9.57	7.63	7.63	1.31	18.51	18.51	090
25315		A	Revise palsy hand tendon(s)	*10.20	8.06	8.06	1.34	19.60	19.60	090
25316		A	Revise palsy hand tendon(s)	*12.33	10.58	10.58	1.78	24.69	24.69	090
25320		A	Repair/revise wrist joint	*10.77	8.60	8.60	1.45	20.82	20.82	090
25332		A	Revise wrist joint	*11.41	9.98	9.98	1.61	23.00	23.00	090
25335		A	Realignment of hand	*12.88	11.41	11.41	1.56	25.85	25.85	090
25337		A	Reconstruct ulna/radioulnar	*10.17	8.60	8.60	1.45	20.22	20.22	090
25350		A	Revision of radius	*8.78	7.61	7.61	1.26	17.65	17.65	090
25355		A	Revision of radius	*10.17	9.12	9.12	1.49	20.78	20.78	090
25360		A	Revision of ulna	*8.43	8.41	8.41	0.99	15.83	15.83	090
25365		A	Revise radius & ulna	*12.40	10.31	10.31	1.57	24.28	24.28	090
25370		A	Revise radius or ulna	*13.36	11.76	11.76	1.92	27.04	27.04	090
25375		A	Revise radius & ulna	*13.04	13.36	13.36	0.87	27.29	27.29	090
25390		A	Shorten radius/ulna	*10.40	8.82	8.82	1.50	20.72	20.72	090
25391		A	Lengthen radius/ulna	*13.85	11.25	11.25	1.93	26.83	26.83	090
25392		A	Shorten radius & ulna	*13.95	12.44	12.44	2.04	28.43	28.43	090
25393		A	Lengthen radius & ulna	*15.87	14.21	14.21	2.32	32.40	32.40	090
25400		A	Repair radius or ulna	*10.92	10.78	10.78	1.75	23.45	23.45	090
25405		A	Repair/graft radius or ulna	*14.38	12.42	12.42	2.02	28.82	28.82	090
25415		A	Repair radius & ulna	*13.35	11.42	11.42	1.92	26.69	26.69	090
25420		A	Repair/graft radius & ulna	*16.33	14.70	14.70	2.28	33.31	33.31	090
25425		A	Repair/graft radius or ulna	*13.21	12.02	12.02	1.87	27.10	27.10	090
25426		A	Repair/graft radius & ulna	*15.82	11.72	11.72	2.13	29.67	29.67	090
25440		A	Repair/graft wrist bone	*10.44	9.05	9.05	1.50	20.99	20.99	090
25441		A	Reconstruct wrist joint	*12.90	11.36	11.36	1.89	26.15	26.15	090
25442		A	Reconstruct wrist joint	*10.85	7.06	7.06	1.22	19.13	19.13	090
25443		A	Reconstruct wrist joint	*10.39	9.38	9.38	1.52	21.29	21.29	090
25444		A	Reconstruct wrist joint	*11.15	10.14	10.14	1.66	22.95	22.95	090
25445		A	Reconstruct wrist joint	*9.69	10.36	10.36	1.72	21.77	21.77	090
25446		A	Wrist replacement	*16.55	#18.21	#18.21	3.49	38.25	38.25	090
25447		A	Repair wrist joint(s)	*10.37	9.65	9.65	1.56	21.58	21.58	090
25449		A	Remove wrist joint implant	*14.49	7.84	7.84	1.16	23.49	23.49	090
25450		A	Revision of wrist joint	*7.87	7.31	7.31	1.19	16.37	16.37	090
25455		A	Revision of wrist joint	*9.49	8.71	8.71	1.42	19.62	19.62	090
25490		A	Reinforce radius	*9.54	8.69	8.69	1.42	19.65	19.65	090
25491		A	Reinforce ulna	*9.96	9.10	9.10	1.49	20.55	20.55	090
25492		A	Reinforce radius and ulna	*12.33	11.20	11.20	1.84	25.37	25.37	090

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[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT[1]/ HCPCS[2]	MOD	Status	Description	Physician work RVUs[3,4]	Non-facility practice expense RVUs[5]	Facility practice expense RVUs[5]	Mal-practice RVUs	Non-facility total	Facility total	Global
25500		A	Treat fracture of radius	*2.45	2.33	2.33	0.29	5.07	5.07	090
25505		A	Treat fracture of radius	*5.21	3.57	3.57	0.51	9.29	9.29	090
25515		A	Repair fracture of radius	*9.18	7.63	7.63	1.22	18.03	18.03	090
25520		A	Repair fracture of radius	*6.26	5.74	5.74	0.94	12.94	12.94	090
25525		A	Repair fracture of radius	*12.24	11.15	11.15	1.83	25.22	25.22	090
25526		A	Repair fracture of radius	*12.98	11.85	11.85	1.94	26.77	26.77	090
25530		A	Treat fracture of ulna	*2.09	2.44	#2.30	0.35	4.88	4.74	090
25535		A	Treat fracture of ulna	*5.14	3.57	3.57	0.54	9.25	9.25	090
25545		A	Repair fracture of ulna	*8.90	7.58	7.58	1.20	17.68	17.68	090
25560		A	Treat fracture radius & ulna	*2.44	2.27	2.27	0.27	4.98	4.98	090
25565		A	Treat fracture radius & ulna	*5.63	4.66	4.66	0.70	10.99	10.99	090
25574		A	Treat fracture radius & ulna	*7.01	#7.71	#7.71	1.73	16.45	16.45	090
25575		A	Repair fracture radius/ulna	*10.45	10.70	10.70	1.73	22.88	22.88	090
25600		A	Treat fracture radius/ulna	*2.63	2.84	2.84	0.42	5.89	5.89	090
25605		A	Treat fracture radius/ulna	*5.81	3.95	3.95	0.61	10.37	10.37	090
25611		A	Repair fracture radius/ulna	*7.77	6.01	6.01	0.97	14.75	14.75	090
25620		A	Repair fracture radius/ulna	*8.55	7.13	7.13	1.14	16.82	16.82	090
25622		A	Treat wrist bone fracture	*2.61	2.28	2.28	0.33	5.22	5.22	090
25624		A	Treat wrist bone fracture	*4.53	3.67	3.67	0.57	8.77	8.77	090
25628		A	Repair wrist bone fracture	*8.43	7.13	7.13	1.16	16.72	16.72	090
25630		A	Treat wrist bone fracture	*2.88	2.19	2.19	0.30	5.37	5.37	090
25635		A	Treat wrist bone fracture	*4.39	3.36	3.36	0.50	8.25	8.25	090
25645		A	Repair wrist bone fracture	*7.25	6.68	6.68	0.95	14.88	14.88	090
25650		A	Repair wrist bone fracture	*3.06	2.66	2.66	0.36	6.07	6.07	090
25660		A	Treat wrist dislocation	*4.76	1.82	1.82	0.26	6.84	6.84	090
25670		A	Repair wrist dislocation	*7.92	7.08	7.08	1.12	16.12	16.12	090
25675		A	Treat wrist dislocation	*4.67	2.28	2.28	0.34	7.29	7.29	090
25676		A	Repair wrist dislocation	*8.04	7.32	7.32	1.11	16.47	16.47	090
25680		A	Treat wrist fracture	*5.99	2.44	2.44	0.36	8.79	8.79	090
25685		A	Repair wrist fracture	*9.78	8.79	8.79	1.44	20.01	20.01	090
25690		A	Treat wrist dislocation	*5.50	4.89	4.89	0.73	11.12	11.12	090
25695		A	Repair wrist dislocation	*8.34	7.04	7.04	1.17	16.55	16.55	090
25800		A	Fusion of wrist joint	*9.76	#10.74	#10.74	1.80	22.30	22.30	090
25805		A	Fusion/graft of wrist joint	*11.28	#12.41	#12.41	2.09	25.78	25.78	090
25810		A	Fusion/graft of wrist joint	*10.57	#11.63	#11.63	2.08	24.28	24.28	090
25820		A	Fusion of hand bones	*7.45	#8.20	#8.20	1.48	17.13	17.13	090
25825		A	Fusion hand bones with graft	*9.27	#10.20	#10.20	1.99	21.46	21.46	090
25830		A	Fusion radioulnar jnt/ulna	*10.06	8.60	8.60	1.45	20.11	20.11	090
25900		A	Amputation of forearm	*9.01	7.08	7.08	1.31	17.40	17.40	090
25905		A	Amputation of forearm	*9.12	7.11	7.11	1.15	17.38	17.38	090
25907		A	Amputation follow-up surgery	*7.80	5.74	5.74	1.00	14.54	14.54	090
25909		A	Amputation follow-up surgery	*8.96	5.55	5.55	1.06	15.57	15.57	090
25915		A	Amputation of forearm	*17.08	15.83	15.83	2.59	35.50	35.50	090
25920		A	Amputate hand at wrist	*8.68	7.00	7.00	1.20	16.88	16.88	090
25922		A	Amputate hand at wrist	*7.42	5.55	5.55	1.02	13.99	13.99	090
25924		A	Amputation follow-up surgery	*8.46	7.50	7.50	1.22	17.18	17.18	090
25927		A	Amputation of hand	*8.80	6.29	6.29	1.22	16.31	16.31	090
25929		A	Amputation follow-up surgery	*7.59	4.74	4.74	0.96	13.29	13.29	090
25931		A	Amputation follow-up surgery	*7.81	4.54	4.54	0.90	13.25	13.25	090
25999		C	Forearm or wrist surgery	0.00	0.00	0.00	0.00	0.00	0.00	YYY
26010		A	Drainage of finger abscess	*1.54	0.48	0.48	0.05	2.07	2.07	010
26011		A	Drainage of finger abscess	*2.19	1.54	1.54	0.24	3.97	3.97	010
26020		A	Drain hand tendon sheath	*4.67	3.72	3.72	0.63	9.02	9.02	090
26025		A	Drainage of palm bursa	*4.82	4.51	4.51	0.76	10.09	10.09	090
26030		A	Drainage of palm bursa(s)	*5.93	5.73	5.73	0.98	12.64	12.64	090
26034		A	Treat hand bone lesion	*6.23	4.23	4.23	0.71	11.17	11.17	090
26035		A	Decompress fingers/hand	*9.51	5.17	5.17	0.86	15.54	15.54	090
26037		A	Decompress fingers/hand	*7.25	6.37	6.37	1.05	14.67	14.67	090
26040		A	Release palm contracture	*3.33	2.86	2.86	0.49	6.68	6.68	090
26045		A	Release palm contracture	*5.56	4.83	4.83	0.81	11.20	11.20	090
26055		A	Incise finger tendon sheath	*2.69	3.28	3.28	0.56	6.53	6.53	090
26060		A	Incision of finger tendon	*2.81	1.13	1.13	0.17	4.11	4.11	090
26070		A	Explore/treat hand joint	*3.69	2.76	2.76	0.42	6.87	6.87	090
26075		A	Explore/treat finger joint	*3.79	3.78	3.78	-0.62	8.19	8.19	090
26080		A	Explore/treat finger joint	*4.24	3.14	3.14	0.51	7.89	7.89	090
26100		A	Biopsy hand joint lining	*3.67	2.99	2.99	0.45	7.11	7.11	090
26105		A	Biopsy finger joint lining	*3.71	4.17	4.17	0.67	8.55	8.55	090
26110		A	Biopsy finger joint lining	*3.53	2.93	2.93	0.50	6.96	6.96	090
26115		A	Removal of hand lesion	*3.86	2.01	2.01	0.34	6.21	6.21	090
26116		A	Removal of hand lesion	*5.53	3.71	3.71	0.62	9.86	9.86	090
26117		A	Remove tumor, hand/finger	*8.55	5.07	5.07	0.91	14.53	14.53	090
26121		A	Release palm contracture	*7.54	#8.29	#8.29	1.61	17.44	17.44	090
26123		A	Release palm contracture	*9.29	9.10	9.10	1.53	19.92	19.92	090
26125		A	Release palm contracture	4.61	2.62	2.62	0.45	7.68	7.68	ZZZ

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[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
26130		A	Remove wrist joint lining	*5.42	5.01	5.01	0.86	11.29	11.29	090
26135		A	Revise finger joint, each	*6.96	4.86	4.86	0.82	12.64	12.64	090
26140		A	Revise finger joint, each	*6.17	4.40	4.40	0.75	11.32	11.32	090
26145		A	Tendon excision, palm/finger	*6.32	4.71	4.71	0.80	11.83	11.83	090
26160		A	Remove tendon sheath lesion	*3.15	2.32	2.32	0.40	5.87	5.87	090
26170		A	Removal of palm tendon, each	*4.77	2.83	2.83	0.45	8.05	8.05	090
26180		A	Removal of finger tendon	*5.18	4.01	4.01	0.71	9.90	9.90	090
26185		A	Remove finger bone	*5.25	4.24	4.24	0.41	9.90	9.90	090
26200		A	Remove hand bone lesion	*5.51	4.48	4.48	0.72	10.71	10.71	090
26205		A	Remove/graft bone lesion	*7.70	6.40	6.40	1.03	15.13	15.13	090
26210		A	Removal of finger lesion	*5.15	3.90	3.90	0.64	9.69	9.69	090
26215		A	Remove/graft finger lesion	*7.10	5.55	5.55	0.94	13.59	13.59	090
26230		A	Partial removal of hand bone	*6.33	4.26	4.26	0.69	11.28	11.28	090
26235		A	Partial removal, finger bone	*6.19	4.17	4.17	0.71	11.07	11.07	090
26236		A	Partial removal, finger bone	*5.32	3.86	3.86	0.66	9.84	9.84	090
26250		A	Extensive hand surgery	*7.55	6.00	6.00	1.07	14.62	14.62	090
26255		A	Extensive hand surgery	*12.43	8.94	8.94	1.54	22.91	22.91	090
26260		A	Extensive finger surgery	*7.03	5.73	5.73	0.97	13.73	13.73	090
26261		A	Extensive finger surgery	*9.09	7.70	7.70	1.31	18.10	18.10	090
26262		A	Partial removal of finger	*5.67	4.75	4.75	0.76	11.18	11.18	090
26320		A	Removal of implant from hand	*3.98	3.54	3.54	0.57	8.09	8.09	090
26350		A	Repair finger/hand tendon	*5.99	5.74	5.74	0.99	12.72	12.72	090
26352		A	Repair/graft hand tendon	*7.68	6.60	6.60	1.10	15.38	15.38	090
26356		A	Repair finger/hand tendon	*8.07	7.21	7.21	1.24	16.52	16.52	090
26357		A	Repair finger/hand tendon	*8.56	6.58	6.58	1.19	16.35	16.35	090
26358		A	Repair/graft hand tendon	*9.14	7.40	7.40	1.27	17.81	17.81	090
26370		A	Repair finger/hand tendon	*7.11	6.71	6.71	1.13	14.95	14.95	090
26372		A	Repair/graft hand tendon	*8.76	6.39	6.39	1.15	16.30	16.30	090
26373		A	Repair finger/hand tendon	*8.16	6.85	6.85	1.11	16.12	16.12	090
26390		A	Revise hand/finger tendon	*9.19	7.95	7.95	1.23	18.37	18.37	090
26392		A	Repair/graft hand tendon	*10.26	8.61	8.61	1.26	20.13	20.13	090
26410		A	Repair hand tendon	*4.63	3.29	3.29	0.51	8.43	8.43	090
26412		A	Repair/graft hand tendon	*6.31	6.01	6.01	0.97	13.29	13.29	090
26415		A	Excision, hand/finger tendon	*8.34	6.75	6.75	0.90	15.99	15.99	090
26416		A	Graft hand or finger tendon	*9.37	8.64	8.64	1.41	19.42	19.42	090
26418		A	Repair finger tendon	*4.25	3.58	3.58	0.59	8.42	8.42	090
26420		A	Repair/graft finger tendon	*6.77	5.68	5.68	0.96	13.41	13.41	090
26426		A	Repair finger/hand tendon	*6.15	6.31	6.31	1.07	13.53	13.53	090
26428		A	Repair/graft finger tendon	*7.21	5.50	5.50	1.00	13.71	13.71	090
26432		A	Repair finger tendon	*4.02	3.15	3.15	0.51	7.68	7.68	090
26433		A	Repair finger tendon	*4.56	3.94	3.94	0.66	9.16	9.16	090
26434		A	Repair/graft finger tendon	*6.09	4.95	4.95	0.84	11.88	11.88	090
26437		A	Realignment of tendons	*5.82	4.05	4.05	0.68	10.55	10.55	090
26440		A	Release palm/finger tendon	*5.02	3.57	3.57	0.59	9.18	9.18	090
26442		A	Release palm & finger tendon	*8.16	3.37	3.37	0.59	12.12	12.12	090
26445		A	Release hand/finger tendon	*4.31	3.25	3.25	0.54	8.10	8.10	090
26449		A	Release forearm/hand tendon	*7.00	5.57	5.57	0.96	13.53	13.53	090
26450		A	Incision of palm tendon	*3.67	2.28	2.28	0.36	6.31	6.31	090
26455		A	Incision of finger tendon	*3.64	1.89	1.89	0.33	5.86	5.86	090
26460		A	Incise hand/finger tendon	*3.46	1.72	1.72	0.30	5.48	5.48	090
26471		A	Fusion of finger tendons	*5.73	4.15	4.15	0.67	10.55	10.55	090
26474		A	Fusion of finger tendons	*5.32	4.61	4.61	0.75	10.68	10.68	090
26476		A	Tendon lengthening	*5.18	2.89	2.89	0.27	8.34	8.34	090
26477		A	Tendon shortening	*5.15	3.99	3.99	0.73	9.87	9.87	090
26478		A	Lengthening of hand tendon	*5.80	4.30	4.30	0.72	10.82	10.82	090
26479		A	Shortening of hand tendon	*5.74	5.29	5.29	0.86	11.89	11.89	090
26480		A	Transplant hand tendon	*6.69	6.53	6.53	1.11	14.33	14.33	090
26483		A	Transplant/graft hand tendon	*8.29	8.50	8.50	1.40	18.19	18.19	090
26485		A	Transplant palm tendon	*7.70	6.50	6.50	1.08	15.28	15.28	090
26489		A	Transplant/graft palm tendon	*9.55	3.40	3.40	0.51	13.46	13.46	090
26490		A	Revise thumb tendon	*8.41	7.80	7.80	1.26	17.49	17.49	090
26492		A	Tendon transfer with graft	*9.82	8.75	8.75	1.21	19.58	19.58	090
26494		A	Hand tendon/muscle transfer	*8.47	7.28	7.28	1.23	16.98	16.98	090
26496		A	Revise thumb tendon	*9.59	8.73	8.73	1.53	19.85	19.85	090
26497		A	Finger tendon transfer	*9.57	8.02	8.02	1.38	18.97	18.97	090
26498		A	Finger tendon transfer	*14.00	11.78	11.78	2.04	27.82	27.82	090
26499		A	Revision of finger	*8.98	7.75	7.75	1.25	17.98	17.98	090
26500		A	Hand tendon reconstruction	*5.98	3.49	3.49	0.60	10.05	10.05	090
26502		A	Hand tendon reconstruction	*7.14	5.27	5.27	0.95	13.36	13.36	090
26504		A	Hand tendon reconstruction	*7.47	6.72	6.72	1.11	15.30	15.30	090
26508		A	Release thumb contracture	*6.01	4.15	4.15	0.72	10.88	10.88	090
26510		A	Thumb tendon transfer	*5.43	4.15	4.15	0.66	10.26	10.26	090
26516		A	Fusion of knuckle joint	*7.15	4.16	4.16	0.67	11.98	11.98	090
26517		A	Fusion of knuckle joints	*8.83	7.07	7.07	1.23	17.13	17.13	090

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[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
26518		A	Fusion of knuckle joints	*9.02	6.51	6.51	1.22	16.75	16.75	090
26520		A	Release knuckle contracture	*5.30	4.48	4.48	0.71	10.49	10.49	090
26525		A	Release finger contracture	*5.33	3.84	3.84	0.62	9.59	9.59	090
26530		A	Revise knuckle joint	*6.89	5.16	5.16	0.86	12.70	12.70	090
26531		A	Revise knuckle with implant	*7.91	6.65	6.65	1.11	15.67	15.67	090
26535		A	Revise finger joint	*5.24	4.84	4.84	0.58	10.66	10.66	090
26536		A	Revise/implant finger joint	*6.37	#7.01	#7.01	1.19	14.57	14.57	090
26540		A	Repair hand joint	*6.43	6.64	6.64	1.12	14.19	14.19	090
26541		A	Repair hand joint with graft	*8.62	8.94	8.94	1.47	19.03	19.03	090
26542		A	Repair hand joint with graft	*6.78	5.67	5.67	0.97	13.42	13.42	090
26545		A	Reconstruct finger joint	*6.92	5.27	5.27	0.94	13.13	13.13	090
26546		A	Repair non-union hand	*8.92	8.11	8.11	1.33	18.36	18.36	090
26548		A	Reconstruct finger joint	*8.03	5.79	5.79	1.00	14.82	14.82	090
26550		A	Construct thumb replacement	*21.24	19.81	19.81	3.24	44.29	44.29	090
26551		A	Great toe-hand transfer	*46.58	42.25	42.25	6.92	95.75	95.75	090
26553		A	Single toe-hand transfer	*46.27	41.96	41.96	6.87	95.10	95.10	090
26554		A	Double toe-hand transfer	*54.95	50.06	50.06	8.20	113.21	113.21	090
26555		A	Positional change of finger	*16.83	15.41	15.41	2.52	34.56	34.56	090
26556		A	Toe joint transfer	*47.26	42.67	42.67	6.99	96.92	96.92	090
26560		A	Repair of web finger	*5.38	4.65	4.65	0.66	10.69	10.69	090
26561		A	Repair of web finger	*10.92	8.89	8.89	1.56	21.37	21.37	090
26562		A	Repair of web finger	*9.68	#10.65	#10.65	0.82	21.15	21.15	090
26565		A	Correct metacarpal flaw	*6.74	5.82	5.82	0.85	13.41	13.41	090
26567		A	Correct finger deformity	*8.82	4.28	4.28	0.67	11.77	11.77	090
26568		A	Lengthen metacarpal/finger	*9.08	8.45	8.45	1.06	18.59	18.59	090
26580		A	Repair hand deformity	*18.18	16.89	16.89	2.76	37.83	37.83	090
26585		A	Repair finger deformity	*14.05	12.95	12.95	2.12	29.12	29.12	090
26587		C	Reconstruct extra finger	0.00	0.00	0.00	0.00	0.00	0.00	090
26590		A	Repair finger deformity	*17.96	16.63	16.63	2.72	37.31	37.31	090
26591		A	Repair muscles of hand	*3.25	2.29	2.29	0.39	5.93	5.93	090
26593		A	Release muscles of hand	*5.31	4.12	4.12	0.70	10.13	10.13	090
26596		A	Excision constricting tissue	*8.95	8.24	8.24	1.35	18.54	18.54	090
26597		A	Release of scar contracture	*9.82	8.02	8.02	1.37	19.21	19.21	090
26600		A	Treat metacarpal fracture	*1.96	1.54	1.54	0.22	3.72	3.72	090
26605		A	Treat metacarpal fracture	*2.85	2.29	2.29	0.36	5.50	5.50	090
26607		A	Treat metacarpal fracture	*5.36	3.55	3.55	0.57	9.48	9.48	090
26608		A	Treat metacarpal fracture	*5.36	3.55	3.55	0.57	9.48	9.48	090
26615		A	Repair metacarpal fracture	*5.33	4.87	4.87	0.80	11.00	11.00	090
26641		A	Treat thumb dislocation	*3.94	1.11	1.11	0.14	5.19	5.19	090
26645		A	Treat thumb fracture	*4.41	2.20	2.20	0.33	6.94	6.94	090
26650		A	Repair thumb fracture	*5.72	4.01	4.01	0.64	10.37	10.37	090
26665		A	Repair thumb fracture	*7.60	6.39	6.39	1.09	15.08	15.08	090
26670		A	Treat hand dislocation	*3.69	0.96	0.96	0.10	4.75	4.75	090
26675		A	Treat hand dislocation	*4.64	4.34	4.34	0.60	9.58	9.58	090
26676		A	Pin hand dislocation	*5.52	4.86	4.86	0.67	11.05	11.05	090
26685		A	Repair hand dislocation	*6.98	5.76	5.76	0.91	13.65	13.65	090
26686		A	Repair hand dislocation	*7.94	6.31	6.31	1.04	15.29	15.29	090
26700		A	Treat knuckle dislocation	*3.69	0.88	0.88	0.10	4.67	4.67	090
26705		A	Treat knuckle dislocation	*4.19	1.78	1.78	0.27	6.24	6.24	090
26706		A	Pin knuckle dislocation	*5.12	4.66	4.66	0.75	10.55	10.55	090
26715		A	Repair knuckle dislocation	*5.74	4.13	4.13	0.66	10.53	10.53	090
26720		A	Treat finger fracture, each	*1.66	1.10	1.10	0.15	2.91	2.91	090
26725		A	Treat finger fracture, each	*3.33	1.54	1.54	0.23	5.10	5.10	090
26727		A	Treat finger fracture, each	*5.23	2.45	2.45	0.38	8.06	8.06	090
26735		A	Repair finger fracture, each	*5.98	3.73	3.73	0.61	10.32	10.32	090
26740		A	Treat finger fracture, each	*1.94	1.16	1.16	0.16	3.26	3.26	090
26742		A	Treat finger fracture, each	*3.85	1.98	1.98	0.32	6.15	6.15	090
26746		A	Repair finger fracture, each	*5.81	4.75	4.75	0.80	11.36	11.36	090
26750		A	Treat finger fracture, each	*1.70	0.83	0.83	0.10	2.63	2.63	090
26755		A	Treat finger fracture, each	*3.10	1.08	1.08	0.15	4.33	4.33	090
26756		A	Pin finger fracture, each	*4.39	1.90	1.90	0.33	6.62	6.62	090
26765		A	Repair finger fracture, each	*4.17	2.66	2.66	0.45	7.28	7.28	090
26770		A	Treat finger dislocation	*3.02	0.76	0.76	0.08	3.86	3.86	090
26775		A	Treat finger dislocation	*3.71	1.13	1.13	0.17	5.01	5.01	090
26776		A	Pin finger dislocation	*4.80	2.08	2.08	0.35	7.23	7.23	090
26785		A	Repair finger dislocation	*4.21	2.97	2.97	0.48	7.66	7.66	090
26820		A	Thumb fusion with graft	*8.26	6.65	6.65	1.05	15.96	15.96	090
26841		A	Fusion of thumb	*7.13	6.17	6.17	1.00	14.30	14.30	090
26842		A	Thumb fusion with graft	*8.24	8.58	8.58	1.37	18.19	18.19	090
26843		A	Fusion of hand joint	*7.61	6.37	6.37	1.10	15.08	15.08	090
26844		A	Fusion/graft of hand joint	*8.73	7.35	7.35	1.19	17.27	17.27	090
26850		A	Fusion of knuckle	*6.97	4.63	4.63	0.76	12.36	12.36	090
26852		A	Fusion of knuckle with graft	*8.46	5.72	5.72	1.00	15.18	15.18	090
26860		A	Fusion of finger joint	*4.69	4.30	4.30	0.68	9.67	9.67	090

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ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
26861		A	Fusion of finger joint, added	1.74	#1.91	#1.91	0.43	4.08	4.08	ZZZ
26862		A	Fusion/graft of finger joint	*7.37	5.16	5.16	0.86	13.38	13.38	090
26863		A	Fuse/graft added joint	3.90	3.37	3.37	0.57	7.84	7.84	ZZZ
26910		A	Amputate metacarpal bone	*7.60	5.16	5.16	0.93	13.69	13.69	090
26951		A	Amputation of finger/thumb	*4.59	2.87	2.87	0.49	7.95	7.95	090
26952		A	Amputation of finger/thumb	*6.31	4.00	4.00	0.69	11.00	11.00	090
26989		C	Hand/finger surgery	0.00	0.00	0.00	0.00	0.00	0.00	YYY
26990		A	Drainage of pelvis lesion	*7.48	3.10	3.10	0.51	11.09	11.09	090
26991		A	Drainage of pelvis bursa	*6.66	1.81	1.81	0.29	8.78	8.78	090
26992		A	Drainage of bone lesion	*13.02	6.38	6.38	1.05	20.45	20.45	090
27000		A	Incision of hip tendon	*5.62	1.85	1.85	0.24	7.71	7.71	090
27001		A	Incision of hip tendon	*6.94	2.34	2.34	0.38	9.66	9.66	090
27003		A	Incision of hip tendon	*7.34	6.77	6.77	1.08	15.19	15.19	090
27005		A	Incision of hip tendon	*9.66	3.37	3.37	0.54	13.57	13.57	090
27006		A	Incision of hip tendons	*9.66	4.64	4.64	0.77	15.09	15.09	090
27025		A	Incision of hip/thigh fascia	*11.16	6.12	6.12	1.02	18.30	18.30	090
27030		A	Drainage of hip joint	*13.01	11.42	11.42	1.86	26.29	26.29	090
27033		A	Exploration of hip joint	*13.39	11.52	11.52	1.85	26.76	26.76	090
27035		A	Denervation of hip joint	*16.89	11.86	11.86	2.21	30.76	30.76	090
27036		A	Excision of hip joint/muscle	*12.86	11.44	11.44	1.87	26.19	26.19	090
27040		A	Biopsy of soft tissues	*2.87	0.72	0.72	0.11	3.70	3.70	010
27041		A	Biopsy of soft tissues	*9.89	2.67	2.67	0.44	13.00	13.00	090
27047		A	Remove hip/pelvis lesion	*7.45	1.89	1.89	0.32	9.66	9.66	090
27048		A	Remove hip/pelvis lesion	*8.25	4.33	4.33	0.82	11.40	11.40	090
27049		A	Remove tumor, hip/pelvis	*13.66	10.14	10.14	1.87	25.67	25.67	090
27050		A	Biopsy of sacroiliac joint	*4.36	4.78	4.78	0.90	10.04	10.04	090
27052		A	Biopsy of hip joint	*8.23	#6.85	#6.85	1.59	14.67	14.67	090
27054		A	Removal of hip joint lining	*8.54	#9.39	#9.39	2.26	20.19	20.19	090
27060		A	Removal of ischial bursa	*5.43	3.93	3.93	0.68	10.04	10.04	090
27062		A	Remove femur lesion/bursa	*5.37	4.23	4.23	0.70	10.30	10.30	090
27065		A	Removal of hip bone lesion	*5.90	5.59	5.59	0.90	12.39	12.39	090
27066		A	Removal of hip bone lesion	*10.33	7.90	7.90	1.30	19.53	19.53	090
27067		A	Remove/graft hip bone lesion	*13.83	11.63	11.63	1.93	27.39	27.39	090
27070		A	Partial removal of hip bone	*10.72	7.41	7.41	1.21	19.34	19.34	090
27071		A	Partial removal of hip bone	*11.46	8.50	8.50	1.45	21.41	21.41	090
27075		A	Extensive hip surgery	*17.23	13.54	13.54	2.32	33.09	33.09	090
27076		A	Extensive hip surgery	*22.12	16.37	16.37	2.61	41.10	41.10	090
27077		A	Extensive hip surgery	*23.13	18.98	18.98	3.24	45.35	45.35	090
27078		A	Extensive hip surgery	*13.44	9.20	9.20	1.67	24.31	24.31	090
27079		A	Extensive hip surgery	*13.75	8.64	8.64	1.66	24.05	24.05	090
27080		A	Removal of tail bone	*6.39	4.78	4.78	0.87	12.04	12.04	090
27086		A	Remove hip foreign body	*1.87	0.58	0.58	0.07	2.52	2.52	010
27087		A	Remove hip foreign body	*8.54	3.62	3.62	0.60	12.76	12.76	090
27090		A	Removal of hip prosthesis	*11.15	9.09	9.09	1.46	21.70	21.70	090
27091		A	Removal of hip prosthesis	*22.14	19.81	19.81	3.16	45.11	45.11	090
27093		A	Injection for hip x-ray	1.30	0.82	0.82	0.11	2.23	2.23	000
27095		A	Injection for hip x-ray	1.50	0.93	0.93	0.13	2.56	2.56	000
27097		A	Revision of hip tendon	*8.80	7.71	7.71	1.26	17.77	17.77	090
27098		A	Transfer tendon to pelvis	*8.83	7.71	7.71	1.26	17.80	17.80	090
27100		A	Transfer of abdominal muscle	*11.06	7.68	7.68	1.42	20.16	20.16	090
27105		A	Transfer of spinal muscle	*11.77	5.89	5.89	1.36	19.02	19.02	090
27110		A	Transfer of iliopsoas muscle	*13.26	10.61	10.61	1.86	25.73	25.73	090
27111		A	Transfer of iliopsoas muscle	*12.15	11.63	11.63	1.65	25.43	25.43	090
27120		A	Reconstruction of hip socket	*18.01	18.10	18.10	2.95	39.06	39.06	090
27122		A	Reconstruction of hip socket	*14.98	#16.48	#16.48	2.94	34.40	34.40	090
27125		A	Partial hip replacement	*14.69	#16.16	#16.16	3.01	33.86	33.86	090
27130		A	Total hip replacement	*20.12	#22.13	#22.13	4.58	46.83	46.83	090
27132		A	Total hip replacement	*23.30	#25.63	#25.63	5.09	54.02	54.02	090
27134		A	Revise hip joint replacement	*28.52	#31.37	#31.37	5.96	65.85	65.85	090
27137		A	Revise hip joint replacement	*21.17	#23.29	#23.29	4.82	49.28	49.28	090
27138		A	Revise hip joint replacement	*22.17	24.23	24.23	4.58	50.98	50.98	090
27140		A	Transplant of femur ridge	*12.24	11.05	11.05	1.71	25.00	25.00	090
27146		A	Incision of hip bone	*17.43	10.88	10.88	1.35	29.66	29.66	090
27147		A	Revision of hip bone	*20.58	16.97	16.97	2.76	40.31	40.31	090
27151		A	Incision of hip bones	*22.51	17.71	17.71	2.90	43.12	43.12	090
27156		A	Revision of hip bones	*24.63	18.32	18.32	3.06	46.03	46.03	090
27158		A	Revision of pelvis	*19.74	14.42	14.42	2.64	36.80	36.80	090
27161		A	Incision of neck of femur	*16.71	14.31	14.31	2.31	33.33	33.33	090
27165		A	Incision/fixation of femur	*17.91	16.76	16.76	2.83	37.30	37.30	090
27170		A	Repair/graft femur head/neck	*16.07	16.41	16.41	2.65	35.13	35.13	090
27175		A	Treat slipped epiphysis	*8.46	1.18	1.18	0.18	9.82	9.82	090
27176		A	Treat slipped epiphysis	*12.05	10.39	10.39	1.70	24.14	24.14	090
27177		A	Repair slipped epiphysis	*15.08	12.39	12.39	2.05	29.52	29.52	090
27178		A	Repair slipped epiphysis	*11.99	10.46	10.46	1.55	24.00	24.00	090

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[2] Copyright 1994 American Dental Association. All rights reserved.
[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
27179		A	Revise head/neck of femur	*12.98	11.15	11.15	1.83	25.96	25.96	090
27181		A	Repair slipped epiphysis	*14.88	13.14	13.14	2.16	29.98	29.98	090
27185		A	Revision of femur epiphysis	*9.18	2.77	2.77	0.87	12.82	12.82	090
27187		A	Reinforce hip bones	*13.54	#14.89	#14.89	2.76	31.19	31.19	090
27193		A	Treat pelvic ring fracture	*5.56	2.41	2.41	0.39	8.36	8.36	090
27194		A	Treat pelvic ring fracture	*9.65	3.90	3.90	0.50	14.05	14.05	090
27200		A	Treat tail bone fracture	*1.84	1.49	1.49	0.17	3.50	3.50	090
27202		A	Repair tail bone fracture	*7.04	6.15	6.15	0.89	14.08	14.08	090
27215		A	Pelvic fracture(s) treatment	*10.05	#11.06	#11.06	2.33	23.44	23.44	090
27216		A	Treat pelvic ring fracture	*15.19	4.30	4.30	0.66	20.15	20.15	090
27217		A	Treat pelvic ring fracture	*14.11	14.55	14.55	2.33	30.99	30.99	090
27218		A	Treat pelvic ring fracture	*20.15	14.55	14.55	2.33	37.03	37.03	090
27220		A	Treat hip socket fracture	*6.18	4.26	4.26	0.64	11.08	11.08	090
27222		A	Treat hip socket fracture	*12.70	6.37	6.37	1.03	20.10	20.10	090
27226		A	Treat hip wall fracture	*14.91	15.78	15.78	2.52	33.21	33.21	090
27227		A	Treat hip fracture(s)	*23.45	19.70	19.70	3.20	46.35	46.35	090
27228		A	Treat hip fracture(s)	*27.16	19.95	19.95	3.20	50.31	50.31	090
27230		A	Treat fracture of thigh	*5.50	3.30	3.30	0.41	9.21	9.21	090
27232		A	Treat fracture of thigh	*10.66	8.98	8.98	1.46	21.12	21.12	090
27235		A	Repair of thigh fracture	*12.16	#13.38	#13.38	2.60	28.14	28.14	090
27236		A	Repair of thigh fracture	*15.60	16.91	16.91	2.71	35.22	35.22	090
27238		A	Treatment of thigh fracture	*5.52	4.91	4.91	0.71	11.14	11.14	090
27240		A	Treatment of thigh fracture	*12.50	9.70	9.70	1.53	23.73	23.73	090
27244		A	Repair of thigh fracture	*15.94	16.30	16.30	2.62	34.86	34.86	090
27245		A	Repair of thigh fracture	*20.31	16.30	16.30	2.62	39.23	39.23	090
27246		A	Treatment of thigh fracture	*4.71	3.87	3.87	0.60	9.18	9.18	090
27248		A	Repair of thigh fracture	*10.45	#11.50	#11.50	2.11	24.06	24.06	090
27250		A	Treat hip dislocation	*8.95	3.19	3.19	0.45	10.59	10.59	090
27252		A	Treat hip dislocation	*10.39	4.34	4.34	0.68	15.41	15.41	090
27253		A	Repair of hip dislocation	*12.92	13.14	13.14	2.11	28.17	28.17	090
27254		A	Repair of hip dislocation	*18.26	13.47	13.47	2.27	34.00	34.00	090
27256		A	Treatment of hip dislocation	*4.12	1.88	1.88	0.31	6.31	6.31	010
27257		A	Treatment of hip dislocation	*5.22	4.62	4.62	0.73	10.57	10.57	010
27258		A	Repair of hip dislocation	*15.43	13.73	13.73	2.25	31.41	31.41	090
27259		A	Repair of hip dislocation	*21.55	17.20	17.20	2.82	41.57	41.57	090
27265		A	Treatment of hip dislocation	*5.05	3.46	3.46	0.54	9.05	9.05	090
27266		A	Treatment of hip dislocation	*7.49	4.45	4.45	0.71	12.65	12.65	090
27275		A	Manipulation of hip joint	*2.27	1.88	1.88	0.30	4.45	4.45	010
27280		A	Fusion of sacroiliac joint	*13.39	10.06	10.06	1.77	25.22	25.22	090
27282		A	Fusion of pubic bones	*11.34	9.01	9.01	1.69	22.04	22.04	090
27284		A	Fusion of hip joint	*16.76	14.50	14.50	2.40	33.66	33.66	090
27286		A	Fusion of hip joint	*16.79	15.20	15.20	2.26	34.25	34.25	090
27290		A	Amputation of leg at hip	*23.28	25.40	25.40	4.70	53.38	53.38	090
27295		A	Amputation of leg at hip	*18.65	16.54	16.54	2.95	38.14	38.14	090
27299		C	Pelvis/hip joint surgery	0.00	0.00	0.00	0.00	0.00	0.00	YYY
27301		A	Drain thigh/knee lesion	*6.49	2.46	2.46	0.40	9.35	9.35	090
27303		A	Drainage of bone lesion	*8.28	5.86	5.86	0.96	15.10	15.10	090
27305		A	Incise thigh tendon & fascia	*5.92	3.80	3.80	0.68	10.40	10.40	090
27306		A	Incision of thigh tendon	*4.62	1.99	1.99	0.32	6.93	6.93	090
27307		A	Incision of thigh tendons	*5.80	3.01	3.01	0.48	9.29	9.29	090
27310		A	Exploration of knee joint	*9.27	9.60	9.60	1.51	20.38	20.38	090
27315		A	Partial removal, thigh nerve	*6.97	5.38	5.38	0.96	13.31	13.31	090
27320		A	Partial removal, thigh nerve	*6.30	5.18	5.18	0.73	12.21	12.21	090
27323		A	Biopsy thigh soft tissues	*2.26	0.91	0.91	0.13	3.32	3.32	010
27324		A	Biopsy thigh soft tissues	*4.90	2.63	2.63	0.45	7.98	7.98	090
27327		A	Removal of thigh lesion	*4.47	2.29	2.29	0.40	7.16	7.16	090
27328		A	Removal of thigh lesion	*6.57	4.07	4.07	0.73	10.37	10.37	090
27329		A	Remove tumor, thigh/knee	*14.14	11.69	11.69	2.14	27.97	27.97	090
27330		A	Biopsy knee joint lining	*4.97	#5.47	#5.47	1.19	11.63	11.63	090
27331		A	Explore/treat knee joint	*5.88	#6.47	#6.47	1.49	13.84	13.84	090
27332		A	Removal of knee cartilage	*8.27	#9.10	#9.10	1.73	19.10	19.10	090
27333		A	Removal of knee cartilage	*7.30	#8.03	#8.03	2.52	17.85	17.85	090
27334		A	Remove knee joint lining	*8.70	#9.57	#9.57	1.77	20.04	20.04	090
27335		A	Remove knee joint lining	*10.00	#11.00	#11.00	2.05	23.05	23.05	090
27340		A	Removal of kneecap bursa	*4.18	3.85	3.85	0.62	8.65	8.65	090
27345		A	Removal of knee cyst	*5.92	5.63	5.63	0.95	12.50	12.50	090
27350		A	Removal of kneecap	*8.17	#8.99	#8.99	1.54	18.70	18.70	090
27355		A	Remove femur lesion	*7.65	7.58	7.58	1.23	16.46	16.46	090
27356		A	Remove femur lesion/graft	*9.48	8.20	8.20	1.34	19.02	19.02	090
27357		A	Remove femur lesion/graft	*10.53	8.80	8.80	1.43	20.76	20.76	090
27358		A	Remove femur lesion/fixation	4.74	4.55	4.55	0.72	10.01	10.01	ZZZ
27360		A	Partial removal leg bone(s)	*10.50	8.56	8.56	1.40	20.46	20.46	090
27365		A	Extensive leg surgery	*16.27	13.94	13.94	2.45	32.64	32.64	090
27370		A	Injection for knee x-ray	0.96	0.60	0.60	0.05	1.61	1.61	000

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[2] Copyright 1994 American Dental Association. All rights reserved.
[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1] / HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
27372		A	Removal of foreign body	*5.07	3.42	3.42	0.54	9.03	9.03	090
27380		A	Repair of kneecap tendon	*7.16	#7.88	#7.88	1.29	16.33	16.33	090
27381		A	Repair/graft kneecap tendon	*10.34	11.27	11.27	1.82	23.43	23.43	090
27385		A	Repair of thigh muscle	*7.76	#8.54	#8.54	1.42	17.72	17.72	090
27386		A	Repair/graft of thigh muscle	*10.56	#11.62	#11.62	2.02	24.20	24.20	090
27390		A	Incision of thigh tendon	*5.33	4.36	4.36	0.71	10.40	10.40	090
27391		A	Incision of thigh tendons	*7.20	5.42	5.42	0.90	13.52	13.52	090
27392		A	Incision of thigh tendons	*9.20	7.67	7.67	1.28	18.15	18.15	090
27393		A	Lengthening of thigh tendon	*6.39	5.67	5.67	0.93	12.99	12.99	090
27394		A	Lengthening of thigh tendons	*8.50	5.73	5.73	0.94	15.17	15.17	090
27395		A	Lengthening of thigh tendons	*11.73	10.48	10.48	1.65	23.86	23.86	090
27396		A	Transplant of thigh tendon	*7.86	7.06	7.06	1.11	16.03	16.03	090
27397		A	Transplants of thigh tendons	*11.26	8.88	8.88	1.45	21.61	21.61	090
27400		A	Revise thigh muscles/tendons	*9.02	7.89	7.89	1.24	18.15	18.15	090
27403		A	Repair of knee cartilage	*8.33	8.79	8.79	1.44	18.56	18.56	090
27405		A	Repair of knee ligament	*8.65	#9.52	#9.52	1.67	19.84	19.84	090
27407		A	Repair of knee ligament	*10.26	8.87	8.87	1.42	20.57	20.57	090
27409		A	Repair of knee ligaments	*12.90	#14.19	#14.19	2.48	29.57	29.57	090
27418		A	Repair degenerated kneecap	*10.85	#11.94	#11.94	1.85	24.64	24.64	090
27420		A	Revision of unstable kneecap	*9.83	#10.81	#10.81	1.74	22.38	22.38	090
27422		A	Revision of unstable kneecap	*9.78	#10.76	#10.76	1.83	22.37	22.37	090
27424		A	Revision/removal of kneecap	*9.81	#10.79	#10.79	1.89	22.49	22.49	090
27425		A	Lateral retinacular release	*5.22	#5.74	#5.74	1.08	12.04	12.04	090
27427		A	Reconstruction, knee	*9.36	#10.30	#10.30	2.25	21.91	21.91	090
27428		A	Reconstruction, knee	*14.00	13.67	13.67	2.71	30.38	30.38	090
27429		A	Reconstruction, knee	*15.52	11.27	11.27	1.83	28.62	28.62	090
27430		A	Revision of thigh muscles	*8.67	9.36	9.36	1.50	20.53	20.53	090
27435		A	Incision of knee joint	*9.49	7.03	7.03	1.13	17.65	17.65	090
27437		A	Revise kneecap	*8.46	#9.31	#9.31	1.55	19.32	19.32	090
27438		A	Revise kneecap with implant	*11.23	#12.35	#12.35	2.14	25.72	25.72	090
27440		A	Revision of knee joint	*10.43	#11.47	#11.47	2.10	24.00	24.00	090
27441		A	Revision of knee joint	*10.82	9.14	9.14	1.51	21.47	21.47	090
27442		A	Revision of knee joint	*11.89	#13.08	#13.08	3.05	28.02	28.02	090
27443		A	Revision of knee joint	*10.93	#12.02	#12.02	3.34	26.29	26.29	090
27445		A	Revision of knee joint	*17.68	#19.45	#19.45	4.21	41.34	41.34	090
27446		A	Revision of knee joint	*15.84	#17.42	#17.42	3.87	37.13	37.13	090
27447		A	Total knee replacement	*21.48	#23.63	#23.63	4.95	50.06	50.06	090
27448		A	Incision of thigh	*11.06	#12.17	#12.17	2.09	25.32	25.32	090
27450		A	Incision of thigh	*13.98	14.84	14.84	2.36	31.18	31.18	090
27454		A	Realignment of thigh bone	*17.56	15.70	15.70	2.82	36.08	36.08	090
27455		A	Realignment of knee	*12.82	12.01	12.01	1.95	26.78	26.78	090
27457		A	Realignment of knee	*13.45	13.30	13.30	2.14	28.89	28.89	090
27465		A	Shortening of thigh bone	*13.87	12.24	12.24	2.00	28.11	28.11	090
27466		A	Lengthening of thigh bone	*16.33	13.43	13.43	2.27	32.03	32.03	090
27468		A	Shorten/lengthen thighs	*18.97	16.84	16.84	2.75	38.56	38.56	090
27470		A	Repair of thigh	*16.07	16.67	16.67	2.60	35.34	35.34	090
27472		A	Repair/graft of thigh	*17.72	#19.49	#19.49	3.16	40.37	40.37	090
27475		A	Surgery to stop leg growth	*8.64	7.74	7.74	1.27	17.65	17.65	090
27477		A	Surgery to stop leg growth	*9.85	#10.84	#10.84	2.57	23.26	23.26	090
27479		A	Surgery to stop leg growth	*12.80	11.63	11.63	1.89	26.32	26.32	090
27485		A	Surgery to stop leg growth	*8.84	7.91	7.91	1.30	18.05	18.05	090
27486		A	Revise knee joint replace	*19.27	#21.20	#21.20	4.26	44.73	44.73	090
27487		A	Revise knee joint replace	*25.27	*27.76	27.76	5.97	59.00	59.00	090
27488		A	Removal of knee prosthesis	*15.74	16.16	16.16	2.58	34.48	34.48	090
27495		A	Reinforce thigh	*15.55	#17.11	#17.11	2.82	35.48	35.48	090
27496		A	Decompression of thigh/knee	*6.11	4.53	4.53	0.74	11.38	11.38	090
27497		A	Decompression of thigh/knee	*7.17	5.55	5.55	0.91	13.63	13.63	090
27498		A	Decompression of thigh/knee	*7.99	6.32	6.32	1.04	15.35	15.35	090
27499		A	Decompression of thigh/knee	*9.00	7.28	7.28	1.19	17.47	17.47	090
27500		A	Treatment of thigh fracture	*5.92	5.41	5.41	0.82	12.15	12.15	090
27501		A	Treatment of thigh fracture	*5.92	5.41	5.41	0.82	12.15	12.15	090
27502		A	Treatment of thigh fracture	*10.58	7.67	7.67	1.21	19.46	19.46	090
27503		A	Treatment of thigh fracture	*10.58	7.67	7.67	1.21	19.46	19.46	090
27506		A	Repair of thigh fracture	*17.45	16.02	16.02	2.56	36.03	36.03	090
27507		A	Treatment of thigh fracture	*13.99	#15.39	#15.39	2.56	31.94	31.94	090
27508		A	Treatment of thigh fracture	*6.83	4.22	4.22	0.65	10.70	10.70	090
27509		A	Treatment of thigh fracture	*7.71	4.22	4.22	0.65	12.58	12.58	090
27510		A	Treatment of thigh fracture	*9.13	6.82	6.82	1.09	17.04	17.04	090
27511		A	Treatment of thigh fracture	*13.64	#15.00	#15.00	2.56	31.20	31.20	090
27513		A	Treatment of thigh fracture	*17.92	16.02	16.02	2.56	36.50	36.50	090
27514		A	Repair of thigh fracture	*17.30	15.76	15.76	2.53	35.59	35.59	090
27516		A	Repair of thigh growth plate	*5.37	4.82	4.82	0.71	10.90	10.90	090
27517		A	Repair of thigh growth plate	*8.78	7.82	7.82	1.26	17.88	17.88	090
27519		A	Repair of thigh growth plate	*15.02	12.68	12.68	2.05	29.75	29.75	090

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[4] * Work RVUs increased in global surgical package.
[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1] / HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
27520		A	Treat kneecap fracture	*2.86	3.04	3.04	0.45	6.35	6.35	090
27524		A	Repair of kneecap fracture	*10.00	10.34	10.34	1.65	21.99	21.99	090
27530		A	Treatment of knee fracture	*3.78	3.40	3.40	0.51	7.69	7.69	090
27532		A	Treatment of knee fracture	*7.30	5.68	5.68	0.91	13.89	13.89	090
27535		A	Treatment of knee fracture	*11.50	11.69	11.69	1.88	25.07	25.07	090
27536		A	Repair of knee fracture	*15.65	11.69	11.69	1.88	29.22	29.22	090
27538		A	Treat knee fracture(s)	*4.87	3.37	3.37	0.51	8.75	8.75	090
27540		A	Repair of knee fracture	*13.10	10.95	10.95	1.74	25.79	25.79	090
27550		A	Treat knee dislocation	*5.76	2.57	2.57	0.36	8.69	8.69	090
27552		A	Treat knee dislocation	*7.90	3.43	3.43	0.53	11.86	11.86	090
27556		A	Repair of knee dislocation	*14.41	12.48	12.48	1.95	28.84	28.84	090
27557		A	Repair of knee dislocation	*16.77	14.60	14.60	2.43	33.80	33.80	090
27558		A	Repair of knee dislocation	*17.72	14.60	14.60	2.43	34.75	34.75	090
27560		A	Treat kneecap dislocation	*3.82	1.43	1.43	0.16	5.41	5.41	090
27562		A	Treat kneecap dislocation	*5.79	5.18	5.18	0.76	11.73	11.73	090
27566		A	Repair kneecap dislocation	*12.23	10.56	10.56	1.67	24.46	24.46	090
27570		A	Fixation of knee joint	*1.74	1.72	1.72	0.28	3.74	3.74	010
27580		A	Fusion of knee	*19.37	15.70	15.70	2.56	37.63	37.63	090
27590		A	Amputate leg at thigh	*12.03	9.11	9.11	1.80	22.94	22.94	090
27591		A	Amputate leg at thigh	*12.88	11.77	11.77	2.11	26.56	26.56	090
27592		A	Amputate leg at thigh	*10.02	8.11	8.11	1.61	19.74	19.74	090
27594		A	Amputation follow-up surgery	*8.92	3.65	3.65	0.68	11.25	11.25	090
27596		A	Amputation follow-up surgery	*10.60	7.37	7.37	1.42	19.39	19.39	090
27598		A	Amputate lower leg at knee	*10.53	10.04	10.04	1.78	22.35	22.35	090
27599		C	Leg surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
27600		A	Decompression of lower leg	*5.85	3.39	3.39	0.64	9.88	9.88	090
27601		A	Decompression of lower leg	*5.84	3.38	3.38	0.67	9.89	9.89	090
27602		A	Decompression of lower leg	*7.35	4.05	4.05	0.77	12.17	12.17	090
27603		A	Drain lower leg lesion	*4.94	2.38	2.38	0.41	7.73	7.73	090
27604		A	Drain lower leg bursa	*4.47	1.02	1.02	0.14	5.63	5.63	090
27605		A	Incision of achilles tendon	*2.87	1.18	1.18	0.14	4.19	4.19	010
27606		A	Incision of achilles tendon	*4.14	2.12	2.12	0.35	6.61	6.61	010
27607		A	Treat lower leg bone lesion	*7.97	6.01	6.01	0.98	14.96	14.96	090
27610		A	Explore/treat ankle joint	*8.34	7.43	7.43	1.13	16.90	16.90	090
27612		A	Exploration of ankle joint	*7.33	7.97	7.97	1.30	16.60	16.60	090
27613		A	Biopsy lower leg soft tissue	*2.17	0.67	0.67	0.10	2.94	2.94	010
27614		A	Biopsy lower leg soft tissue	*5.66	2.26	2.26	0.38	8.30	8.30	090
27615		A	Remove tumor, lower leg	*12.56	8.23	8.23	1.42	22.21	22.21	090
27618		A	Remove lower leg lesion	*5.09	2.10	2.10	0.32	7.51	7.51	090
27619		A	Remove lower leg lesion	*8.40	4.13	4.13	0.67	13.20	13.20	090
27620		A	Explore, treat ankle joint	*5.98	6.03	6.03	0.96	12.97	12.97	090
27625		A	Remove ankle joint lining	*8.30	8.71	8.71	1.27	18.28	18.28	090
27626		A	Remove ankle joint lining	*8.91	#9.80	#9.80	1.25	19.96	19.96	090
27630		A	Removal of tendon lesion	*4.80	3.10	3.10	0.46	8.36	8.36	090
27635		A	Remove lower leg bone lesion	*7.76	8.04	8.04	1.27	17.09	17.09	090
27637		A	Remove/graft leg bone lesion	*9.85	8.47	8.47	1.40	19.72	19.72	090
27638		A	Remove/graft leg bone lesion	*10.57	9.15	9.15	1.52	21.24	21.24	090
27640		A	Partial removal of tibia	*11.37	9.81	9.81	1.57	22.75	22.75	090
27641		A	Partial removal of fibula	*9.24	7.13	7.13	1.18	17.55	17.55	090
27645		A	Extensive lower leg surgery	*14.17	11.84	11.84	1.98	27.79	27.79	090
27646		A	Extensive lower leg surgery	*12.66	10.75	10.75	1.71	25.12	25.12	090
27647		A	Extensive ankle/heel surgery	*12.24	9.95	9.95	1.35	23.54	23.54	090
27648		A	Injection for ankle x-ray	0.96	0.52	0.52	0.05	1.53	1.53	000
27650		A	Repair achilles tendon	*9.89	8.98	8.98	1.41	20.08	20.08	090
27652		A	Repair/graft achilles tendon	*10.33	10.41	10.41	1.56	22.30	22.30	090
27654		A	Repair of achilles tendon	*10.02	10.93	10.93	1.65	22.60	22.60	090
27656		A	Repair leg fascia defect	*4.57	3.18	3.18	0.54	8.29	8.29	090
27658		A	Repair of leg tendon, each	*4.98	4.02	4.02	0.60	9.60	9.60	090
27659		A	Repair of leg tendon, each	*6.81	5.87	5.87	0.86	13.54	13.54	090
27664		A	Repair of leg tendon, each	*4.59	3.41	3.41	0.52	8.52	8.52	090
27665		A	Repair of leg tendon, each	*5.40	4.95	4.95	0.76	11.11	11.11	090
27675		A	Repair lower leg tendons	*7.18	6.40	6.40	0.94	14.52	14.52	090
27676		A	Repair lower leg tendons	*8.42	7.56	7.56	1.14	17.12	17.12	090
27680		A	Release of lower leg tendon	*5.74	4.12	4.12	0.61	10.47	10.47	090
27681		A	Release of lower leg tendons	*6.82	5.97	5.97	0.86	13.65	13.65	090
27685		A	Revision of lower leg tendon	*6.50	3.83	3.83	0.41	10.74	10.74	090
27686		A	Revise lower leg tendons	*7.46	6.56	6.56	0.90	14.92	14.92	090
27687		A	Revision of calf tendon	*6.24	5.45	5.45	0.76	12.45	12.45	090
27690		A	Revise lower leg tendon	*8.71	6.74	6.74	0.88	16.33	16.33	090
27691		A	Revise lower leg tendon	*9.96	7.89	7.89	1.23	19.08	19.08	090
27692		A	Revise additional leg tendon	1.87	2.03	2.03	0.29	4.19	4.19	ZZZ
27695		A	Repair of ankle ligament	*6.51	#7.16	#7.16	1.32	14.99	14.99	090
27696		A	Repair of ankle ligaments	*8.27	7.06	7.06	1.16	16.49	16.49	090
27698		A	Repair of ankle ligament	*9.36	#10.30	#10.30	1.86	21.52	21.52	090

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[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT[1]/ HCPCS[2]	MOD	Status	Description	Physician work RVUs[3,4]	Non-facility practice expense RVUs[5]	Facility practice expense RVUs[5]	Mal-practice RVUs	Non-facility total	Facility total	Global
27700		A	Revision of ankle joint	#9.29	#10.22	#10.22	1.51	21.02	21.02	090
27702		A	Reconstruct ankle joint	*13.67	#15.04	#15.04	3.99	32.70	32.70	090
27703		A	Reconstruction, ankle joint	*15.87	13.82	13.82	2.25	31.94	31.94	090
27704		A	Removal of ankle implant	*7.62	5.84	5.84	0.96	14.44	14.44	090
27705		A	Incision of tibia	*10.38	10.74	10.74	1.76	22.88	22.88	090
27707		A	Incision of fibula	*4.37	4.75	4.75	0.79	9.91	9.91	090
27709		A	Incision of tibia & fibula	*9.95	#10.95	#10.95	2.14	23.04	23.04	090
27712		A	Realignment of lower leg	*14.25	10.99	10.99	1.63	26.87	26.87	090
27715		A	Revision of lower leg	*14.39	12.61	12.61	1.88	28.88	28.88	090
27720		A	Repair of tibia	*11.79	#12.97	#12.97	2.25	27.01	27.01	090
27722		A	Repair/graft of tibia	*11.82	10.50	10.50	1.64	23.96	23.96	090
27724		A	Repair/graft of tibia	*14.99	15.50	15.50	2.87	33.36	33.36	090
27725		A	Repair of lower leg	*15.59	10.43	10.43	1.53	27.55	27.55	090
27727		A	Repair of lower leg	*14.01	9.38	9.38	1.84	25.23	25.23	090
27730		A	Repair of tibia epiphysis	*7.41	3.59	3.59	0.84	11.84	11.84	090
27732		A	Repair of fibula epiphysis	*5.32	4.84	4.84	0.79	10.95	10.95	090
27734		A	Repair lower leg epiphyses	*8.48	7.54	7.54	1.23	17.25	17.25	090
27740		A	Repair of leg epiphyses	*9.30	8.36	8.36	1.36	19.02	19.02	090
27742		A	Repair of leg epiphyses	*10.30	9.29	9.29	1.52	21.11	21.11	090
27745		A	Reinforce tibia	*10.07	8.97	8.97	1.39	20.43	20.43	090
27750		A	Treatment of tibia fracture	*3.19	3.45	3.45	0.50	7.14	7.14	090
27752		A	Treatment of tibia fracture	*5.84	5.09	5.09	0.81	11.74	11.74	090
27756		A	Repair of tibia fracture	*8.78	#7.46	#7.46	1.70	15.94	15.94	090
27758		A	Repair of tibia fracture	*11.67	#12.84	#12.84	2.22	26.73	26.73	090
27759		A	Repair of tibia fracture	*13.76	13.74	13.74	2.22	29.72	29.72	090
27760		A	Treatment of ankle fracture	*3.01	2.58	2.58	0.37	5.96	5.96	090
27762		A	Treatment of ankle fracture	*5.25	3.36	3.36	0.50	9.11	9.11	090
27766		A	Repair of ankle fracture	*8.36	7.87	7.87	1.26	17.49	17.49	090
27780		A	Treatment of fibula fracture	*2.65	1.97	1.97	0.26	4.88	4.88	090
27781		A	Treatment of fibula fracture	*4.40	3.29	3.29	0.49	8.18	8.18	090
27784		A	Repair of fibula fracture	*7.11	5.59	5.59	0.87	13.57	13.57	090
27786		A	Treatment of ankle fracture	*2.84	2.52	2.52	0.38	5.74	5.74	090
27788		A	Treatment of ankle fracture	*4.45	3.27	3.27	0.50	8.22	8.22	090
27792		A	Repair of ankle fracture	*7.66	7.38	7.38	1.17	16.21	16.21	090
27808		A	Treatment of ankle fracture	*2.83	2.79	2.79	0.39	6.01	6.01	090
27810		A	Treatment of ankle fracture	*5.13	5.05	5.05	0.80	10.98	10.98	090
27814		A	Repair of ankle fracture	*10.66	10.00	10.00	1.60	22.28	22.28	090
27816		A	Treatment of ankle fracture	*2.89	3.47	#3.16	0.55	6.91	6.62	090
27818		A	Treatment of ankle fracture	*5.50	#6.05	#6.05	1.06	12.61	12.61	090
27822		A	Repair of ankle fracture	*9.20	#10.12	#10.12	1.88	21.20	21.20	090
27823		A	Repair of ankle fracture	*11.80	12.79	12.79	2.05	26.64	26.64	090
27824		A	Treat lower leg fracture	*2.89	3.47	#3.16	0.55	6.91	6.62	090
27825		A	Treat lower leg fracture	*6.19	6.51	6.51	1.06	13.76	13.76	090
27826		A	Treat lower leg fracture	*8.54	#9.39	#9.39	1.88	19.81	19.81	090
27827		A	Treat lower leg fracture	*14.06	11.71	11.71	1.88	27.65	27.65	090
27828		A	Treat lower leg fracture	*16.23	12.79	12.79	2.05	31.07	31.07	090
27829		A	Treat lower leg joint	*5.49	#6.04	#6.04	1.37	12.90	12.90	090
27830		A	Treat lower leg dislocation	*3.79	3.25	3.25	0.46	7.50	7.50	090
27831		A	Treat lower leg dislocation	*4.56	3.98	3.98	0.59	9.13	9.13	090
27832		A	Repair lower leg dislocation	*6.49	5.70	5.70	0.89	13.08	13.08	090
27840		A	Treat ankle dislocation	*4.58	1.87	1.87	0.21	6.66	6.66	090
27842		A	Treat ankle dislocation	*6.21	2.22	2.22	0.34	8.77	8.77	090
27846		A	Repair ankle dislocation	*9.79	8.59	8.59	1.37	19.75	19.75	090
27848		A	Repair ankle dislocation	*11.20	8.36	8.36	1.32	20.88	20.88	090
27860		A	Fixation of ankle joint	*2.34	1.39	1.39	0.23	3.96	3.96	010
27870		A	Fusion of ankle joint	*13.91	13.34	13.34	2.22	29.47	29.47	090
27871		A	Fusion of tibiofibular joint	*9.17	7.79	7.79	1.21	18.17	18.17	090
27880		A	Amputation of lower leg	*11.85	8.36	8.36	1.60	21.81	21.81	090
27881		A	Amputation of lower leg	*12.34	10.82	10.82	1.87	25.03	25.03	090
27882		A	Amputation of lower leg	*8.94	7.36	7.36	1.42	17.72	17.72	090
27884		A	Amputation follow-up surgery	*8.21	3.37	3.37	0.61	12.19	12.19	090
27886		A	Amputation follow-up surgery	*9.32	7.17	7.17	1.34	17.83	17.83	090
27888		A	Amputation of foot at ankle	*9.67	9.49	9.49	1.65	20.81	20.81	090
27889		A	Amputation of foot at ankle	*9.98	8.43	8.43	1.55	19.96	19.96	090
27892		A	Decompression of leg	*7.39	3.39	3.39	0.64	11.42	11.42	090
27893		A	Decompression of leg	*7.35	3.38	3.38	0.67	11.40	11.40	090
27894		A	Decompression of leg	*10.49	4.05	4.05	0.77	15.31	15.31	090
27899		C	Leg/ankle surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
28001		A	Drainage of bursa of foot	*2.73	0.52	0.52	0.05	3.30	3.30	010
28002		A	Treatment of foot infection	*4.62	2.25	2.25	0.33	7.20	7.20	010
28003		A	Treatment of foot infection	*8.41	3.50	3.50	0.59	12.50	12.50	090
28005		A	Treat foot bone lesion	*8.68	4.08	4.08	0.61	13.37	13.37	090
28008		A	Incision of foot fascia	*4.45	2.68	2.68	0.29	7.42	7.42	090
28010		A	Incision of toe tendon	*2.84	3.62	3.62	0.33	6.79	6.79	090

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[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT[1]/ HCPCS[2]	MOD	Status	Description	Physician work RVUs[3,4]	Non-facility practice expense RVUs[5]	Facility practice expense RVUs[5]	Mal-practice RVUs	Non-facility total	Facility total	Global
28011		A	Incision of toe tendons	*4.14	1.77	1.77	0.19	6.10	6.10	090
28020		A	Exploration of a foot joint	*5.01	4.40	4.40	0.56	9.97	9.97	090
28022		A	Exploration of a foot joint	*4.67	2.74	2.74	0.31	7.72	7.72	090
28024		A	Exploration of a toe joint	*4.38	2.39	2.39	0.24	7.01	7.01	090
28030		A	Removal of foot nerve	*8.15	3.93	3.93	0.42	10.50	10.50	090
28035		A	Decompression of tibia nerve	*5.09	6.18	#5.80	0.90	12.17	11.59	090
28043		A	Excision of foot lesion	*3.54	1.73	1.73	0.20	5.47	5.47	090
28045		A	Excision of foot lesion	*4.72	3.99	3.99	0.46	9.17	9.17	090
28046		A	Resection of tumor, foot	*10.18	5.35	5.35	0.79	16.32	16.32	090
28050		A	Biopsy of foot joint lining	*4.25	3.84	3.84	0.53	8.62	8.62	090
28052		A	Biopsy of foot joint lining	*3.94	3.82	3.82	0.43	8.19	8.19	090
28054		A	Biopsy of toe joint lining	*3.45	2.24	2.24	0.28	5.97	5.97	090
28060		A	Partial removal foot fascia	*5.23	4.22	4.22	0.53	9.98	9.98	090
28062		A	Removal of foot fascia	*6.52	7.06	7.06	0.86	14.44	14.44	090
28070		A	Removal of foot joint lining	*5.10	4.48	4.48	0.48	10.06	10.06	090
28072		A	Removal of foot joint lining	*4.58	3.21	3.21	0.42	8.21	8.21	090
28080		A	Removal of foot lesion	*3.58	4.07	4.07	0.45	8.10	8.10	090
28086		A	Excise foot tendon sheath	*4.78	3.12	3.12	0.46	8.36	8.36	090
28088		A	Excise foot tendon sheath	*3.86	3.62	3.62	0.40	7.88	7.88	090
28090		A	Removal of foot lesion	*4.41	3.02	3.02	0.29	7.72	7.72	090
28092		A	Removal of toe lesions	*3.64	2.03	2.03	0.25	5.92	5.92	090
28100		A	Removal of ankle/heel lesion	*5.66	4.58	4.58	0.56	10.80	10.80	090
28102		A	Remove/graft foot lesion	*7.73	6.84	6.84	0.85	15.42	15.42	090
28103		A	Remove/graft foot lesion	*6.50	5.61	5.61	0.69	12.80	12.80	090
28104		A	Removal of foot lesion	*5.12	4.33	4.33	0.49	9.94	9.94	090
28106		A	Remove/graft foot lesion	*7.16	6.42	6.42	0.79	14.37	14.37	090
28107		A	Remove/graft foot lesion	*5.56	4.86	4.86	0.48	10.90	10.90	090
28108		A	Removal of toe lesions	*4.16	4.20	4.20	0.38	8.74	8.74	090
28110		A	Part removal of metatarsal	*4.08	3.48	3.48	0.39	7.95	7.95	090
28111		A	Part removal of metatarsal	*5.01	5.04	5.04	0.65	10.70	10.70	090
28112		A	Part removal of metatarsal	*4.49	3.96	3.96	0.45	8.90	8.90	090
28113		A	Part removal of metatarsal	*4.79	4.44	4.44	0.48	9.71	9.71	090
28114		A	Removal of metatarsal heads	*9.79	9.17	9.17	1.42	20.38	20.38	090
28116		A	Revision of foot	*7.75	5.48	5.48	0.57	13.80	13.80	090
28118		A	Removal of heel bone	*5.96	5.71	5.71	0.66	12.33	12.33	090
28119		A	Removal of heel spur	*5.39	5.44	5.44	0.57	11.40	11.40	090
28120		A	Part removal of ankle/heel	*5.40	5.04	5.04	0.67	11.11	11.11	090
28122		A	Partial removal of foot bone	*7.29	4.48	4.48	0.54	12.31	12.31	090
28124		A	Partial removal of toe	*4.81	4.11	4.11	0.37	9.29	9.29	090
28126		A	Partial removal of toe	*3.52	3.98	3.98	0.36	7.86	7.86	090
28130		A	Removal of ankle bone	*8.11	7.03	7.03	0.88	16.02	16.02	090
28140		A	Removal of metatarsal	*6.91	4.93	4.93	0.62	12.46	12.46	090
28150		A	Removal of toe	*4.09	3.29	3.29	0.38	7.76	7.76	090
28153		A	Partial removal of toe	*3.86	3.99	3.99	0.36	8.01	8.01	090
28160		A	Partial removal of toe	*3.74	4.12	4.12	0.38	8.24	8.24	090
28171		A	Extensive foot surgery	*9.60	7.99	7.99	0.88	18.47	18.47	090
28173		A	Extensive foot surgery	*8.80	5.74	5.74	0.74	15.28	15.28	090
28175		A	Extensive foot surgery	*8.05	5.38	5.38	0.58	12.01	12.01	090
28190		A	Removal of foot foreign body	*1.96	0.52	0.52	0.05	2.53	2.53	010
28192		A	Removal of foot foreign body	*4.84	1.95	1.95	0.24	6.83	6.83	090
28193		A	Removal of foot foreign body	*5.73	2.38	2.38	0.30	8.41	8.41	090
28200		A	Repair of foot tendon	*4.60	5.06	5.06	0.50	10.16	10.16	090
28202		A	Repair/graft of foot tendon	*6.84	5.82	5.82	0.77	13.43	13.43	090
28208		A	Repair of foot tendon	*4.37	2.81	2.81	0.28	7.46	7.46	090
28210		A	Repair/graft of foot tendon	*8.35	5.60	5.60	0.80	12.55	12.55	090
28220		A	Release of foot tendon	*4.53	3.87	3.87	0.43	8.83	8.83	090
28222		A	Release of foot tendons	*5.82	6.40	6.40	0.63	12.65	12.65	090
28225		A	Release of foot tendon	*3.66	2.37	2.37	0.25	6.28	6.28	090
28226		A	Release of foot tendons	*4.53	3.36	3.36	0.40	8.31	8.31	090
28230		A	Incision of foot tendon(s)	*4.24	2.43	2.43	0.22	6.89	6.89	090
28232		A	Incision of toe tendon	*3.39	1.80	1.80	0.15	5.14	5.14	090
28234		A	Incision of foot tendon	*3.37	1.53	1.53	0.14	5.04	5.04	090
28238		A	Revision of foot tendon	*7.73	7.23	7.23	0.85	15.81	15.81	090
28240		A	Release of big toe	*4.36	2.13	2.13	0.23	6.72	6.72	090
28250		A	Revision of foot fascia	*5.92	4.46	4.46	0.50	10.88	10.88	090
28260		A	Release of midfoot joint	*7.96	4.43	4.43	0.48	12.87	12.87	090
28261		A	Revision of foot tendon	*11.73	5.91	5.91	0.58	18.22	18.22	090
28262		A	Revision of foot and ankle	*15.83	11.91	11.91	1.44	29.18	29.18	090
28264		A	Release of midfoot joint	*10.35	9.56	9.56	1.17	21.08	21.08	090
28270		A	Release of foot contracture	*4.76	2.63	2.63	0.23	7.62	7.62	090
28272		A	Release of toe joint, each	*3.80	2.04	2.04	0.18	6.02	6.02	090
28280		A	Fusion of toes	*5.19	2.22	2.22	0.30	7.71	7.71	090
28285		A	Repair of hammertoe	*4.56	4.37	4.37	0.39	9.35	9.35	090
28286		A	Repair of hammertoe	*4.56	3.58	3.58	0.38	8.52	8.52	090

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[2] Copyright 1994 American Dental Association. All rights reserved.
[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
28266		A	Partial removal of foot bone	*4.74	3.75	3.75	0.43	8.92	8.92	090
28290		A	Correction of bunion	*5.86	5.36	5.36	0.63	11.85	11.85	090
28292		A	Correction of bunion	*7.04	7.05	7.05	0.74	14.83	14.83	090
28293		A	Correction of bunion	*9.15	9.55	9.55	0.98	19.68	19.68	090
28294		A	Correction of bunion	*8.56	9.16	9.16	0.86	18.58	18.58	090
28296		A	Correction of bunion	*9.18	8.81	8.81	0.98	18.97	18.97	090
28297		A	Correction of bunion	*9.18	9.02	9.02	1.05	19.25	19.25	090
28298		A	Correction of bunion	*7.94	#8.73	#8.73	0.79	17.46	17.46	090
28299		A	Correction of bunion	*8.88	#9.77	#9.77	1.08	19.73	19.73	090
28300		A	Incision of heel bone	*9.54	6.52	6.52	0.79	16.85	16.85	090
28302		A	Incision of ankle bone	*9.55	8.89	8.89	1.12	19.56	19.56	090
28304		A	Incision of midfoot bones	*9.16	6.44	6.44	0.70	16.30	16.30	090
28305		A	Incise/graft midfoot bones	*10.50	9.85	9.85	1.03	21.38	21.38	090
28306		A	Incision of metatarsal	*5.86	4.57	4.57	0.47	10.90	10.90	090
28307		A	Incision of metatarsal	*8.33	5.87	5.87	0.76	12.96	12.96	090
28308		A	Incision of metatarsal	*5.29	5.71	5.71	0.50	11.50	11.50	090
28309		A	Incision of metatarsals	*12.78	6.87	6.87	1.00	20.65	20.65	090
28310		A	Revision of big toe	*5.43	4.17	4.17	0.42	10.02	10.02	090
28312		A	Revision of toe	*4.55	4.56	4.56	0.45	9.56	9.56	090
28313		A	Repair deformity of toe	*5.01	2.57	2.57	0.31	7.89	7.89	090
28315		A	Removal of sesamoid bone	*4.86	4.24	4.24	0.41	9.51	9.51	090
28320		A	Repair of foot bones	*9.18	8.69	8.69	1.03	18.90	18.90	090
28322		A	Repair of metatarsals	*8.34	4.67	4.67	0.52	13.53	13.53	090
28340		A	Resect enlarged toe tissue	*6.96	6.34	6.34	0.91	14.23	14.23	090
28341		A	Resect enlarged toe	*8.41	7.66	7.66	0.96	17.03	17.03	090
28344		A	Repair extra toe(s)	*4.26	3.70	3.70	0.60	8.56	8.56	090
28345		A	Repair webbed toe(s)	*5.92	5.34	5.34	0.73	11.99	11.99	090
28360		A	Reconstruct cleft foot	*13.34	11.91	11.91	1.95	27.20	27.20	090
28400		A	Treatment of heel fracture	*2.16	2.57	2.57	0.40	5.13	5.13	090
28405		A	Treatment of heel fracture	*4.57	3.90	3.90	0.58	9.05	9.05	090
28406		A	Treatment of heel fracture	*6.31	6.09	6.09	0.93	13.33	13.33	090
28415		A	Repair of heel fracture	*15.97	9.02	9.02	1.39	26.38	26.38	090
28420		A	Repair/graft heel fracture	*16.64	10.89	10.89	1.63	29.16	29.16	090
28430		A	Treatment of ankle fracture	*2.09	2.45	2.45	0.35	4.89	4.89	090
28435		A	Treatment of ankle fracture	*3.40	3.36	3.36	0.50	7.26	7.26	090
28436		A	Treatment of ankle fracture	*4.71	4.19	4.19	0.68	9.58	9.58	090
28445		A	Repair of ankle fracture	*9.33	8.80	8.80	1.40	19.53	19.53	090
28450		A	Treat midfoot fracture, each	*1.90	1.87	1.87	0.25	4.02	4.02	090
28455		A	Treat midfoot fracture, each	*3.09	2.54	2.54	0.34	5.97	5.97	090
28456		A	Repair midfoot fracture	*2.68	2.27	2.27	0.38	5.33	5.33	090
28465		A	Repair midfoot fracture, each	*7.01	5.54	5.54	0.81	13.36	13.36	090
28470		A	Treat metatarsal fracture	*1.99	1.80	1.80	0.23	4.02	4.02	090
28475		A	Treat metatarsal fracture	*2.97	2.34	2.34	0.30	5.61	5.61	090
28476		A	Repair metatarsal fracture	*3.38	3.37	3.37	0.45	7.20	7.20	090
28485		A	Repair metatarsal fracture	*5.71	4.68	4.68	0.60	10.99	10.99	090
28490		A	Treat big toe fracture	*1.09	0.90	0.90	0.10	2.09	2.09	090
28495		A	Treat big toe fracture	*1.58	1.12	1.12	0.13	2.83	2.83	090
28496		A	Repair big toe fracture	*2.33	2.07	2.07	0.31	4.71	4.71	090
28505		A	Repair big toe fracture	*3.81	2.99	2.99	0.43	7.23	7.23	090
28510		A	Treatment of toe fracture	*1.09	0.89	0.89	0.09	2.07	2.07	090
28515		A	Treatment of toe fracture	*1.46	1.12	1.12	0.11	2.69	2.69	090
28525		A	Repair of toe fracture	*3.32	2.06	2.06	0.29	5.67	5.67	090
28530		A	Treat sesamoid bone fracture	*1.06	1.00	1.00	0.10	2.16	2.16	090
28531		A	Treat sesamoid bone fracture	*2.35	1.91	1.91	0.32	4.58	4.58	090
28540		A	Treat foot dislocation	*2.04	0.60	0.60	0.06	2.70	2.70	090
28545		A	Treat foot dislocation	*2.45	1.31	1.31	0.14	3.90	3.90	090
28546		A	Treat foot dislocation	*3.20	2.74	2.74	0.45	6.39	6.39	090
28555		A	Repair foot dislocation	*6.30	5.56	5.56	0.73	12.61	12.61	090
28570		A	Treat foot dislocation	*1.66	1.59	1.59	0.17	3.42	3.42	090
28575		A	Treat foot dislocation	*3.31	2.77	2.77	0.42	6.50	6.50	090
28576		A	Treat foot dislocation	*4.17	2.77	2.77	0.42	7.36	7.36	090
28585		A	Repair foot dislocation	*7.99	4.96	4.96	0.55	13.50	13.50	090
28600		A	Treat foot dislocation	*1.89	0.68	0.68	0.08	2.65	2.65	090
28605		A	Treat foot dislocation	*2.71	2.26	2.26	0.34	5.31	5.31	090
28606		A	Treat foot dislocation	*4.90	3.49	3.49	0.55	8.94	8.94	090
28615		A	Repair foot dislocation	*7.77	4.96	4.96	0.78	13.51	13.51	090
28630		A	Treat toe dislocation	*1.70	1.03	1.03	0.11	2.84	2.84	010
28635		A	Treat toe dislocation	*1.91	1.45	1.45	0.18	3.54	3.54	010
28636		A	Treat toe dislocation	*2.77	2.56	2.56	0.42	5.75	5.75	010
28645		A	Repair toe dislocation	*4.22	3.24	3.24	0.38	7.84	7.84	090
28660		A	Treat toe dislocation	*1.23	0.63	0.63	0.06	1.92	1.92	010
28665		A	Treat toe dislocation	*1.92	0.98	0.98	0.11	3.01	3.01	010
28666		A	Treat toe dislocation	*2.66	2.44	2.44	0.40	5.50	5.50	010
28675		A	Repair of toe dislocation	*2.92	3.00	3.00	0.41	6.33	6.33	090

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[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
28705		A	Fusion of foot bones	*15.21	15.11	15.11	2.35	32.67	32.67	090
28715		A	Fusion of foot bones	*13.10	12.33	12.33	1.89	27.32	27.32	090
28725		A	Fusion of foot bones	*11.61	9.44	9.44	1.44	22.49	22.49	090
28730		A	Fusion of foot bones	*10.76	9.00	9.00	1.33	21.09	21.09	090
28735		A	Fusion of foot bones	*10.85	9.76	9.76	1.37	21.98	21.98	090
28737		A	Revision of foot bones	*9.64	8.87	8.87	1.13	19.64	19.64	090
28740		A	Fusion of foot bones	*8.02	5.14	5.14	0.72	13.88	13.88	090
28750		A	Fusion of big toe joint	*7.30	5.32	5.32	0.82	13.44	13.44	090
28755		A	Fusion of big toe joint	*4.74	3.69	3.69	0.45	8.88	8.88	090
28760		A	Fusion of big toe joint	*7.75	5.40	5.40	0.65	13.80	13.80	090
28800		A	Amputation of midfoot	*8.21	6.65	6.65	1.19	16.05	16.05	090
28805		A	Amputation thru metatarsal	*8.39	6.32	6.32	1.21	15.92	15.92	090
28810		A	Amputation toe & metatarsal	*6.21	3.91	3.91	0.75	10.87	10.87	090
28820		A	Amputation of toe	*4.41	2.56	2.56	0.46	7.45	7.45	090
28825		A	Partial amputation of toe	*3.59	2.40	2.40	0.41	6.40	6.40	090
28899		C	Foot/toes surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
29000		A	Application of body cast	2.25	1.85	1.85	0.21	4.31	4.31	000
29010		A	Application of body cast	2.06	2.33	#2.27	0.34	4.73	4.67	000
29015		A	Application of body cast	2.41	2.33	2.33	0.33	5.07	5.07	000
29020		A	Application of body cast	2.11	1.82	1.82	0.23	4.16	4.16	000
29025		A	Application of body cast	2.40	0.75	0.75	0.14	3.29	3.29	000
29035		A	Application of body cast	1.77	1.95	1.95	0.32	4.04	4.04	000
29040		A	Application of body cast	2.22	2.02	2.02	0.30	4.54	4.54	000
29044		A	Application of body cast	2.12	2.09	2.09	0.34	4.55	4.55	000
29046		A	Application of body cast	2.41	2.23	2.23	0.36	5.00	5.00	000
29049		A	Application of figure eight	0.89	0.42	0.42	0.06	1.37	1.37	000
29055		A	Application of shoulder cast	1.78	1.20	1.20	0.17	3.15	3.15	000
29058		A	Application of shoulder cast	1.31	0.65	0.65	0.09	2.05	2.05	000
29065		A	Application of long arm cast	0.87	0.80	0.80	0.13	1.80	1.80	000
29075		A	Application of forearm cast	0.77	0.61	0.61	0.10	1.48	1.48	000
29085		A	Apply hand/wrist cast	0.87	0.50	0.50	0.08	1.45	1.45	000
29105		A	Apply long arm splint	0.87	0.50	0.50	0.08	1.45	1.45	000
29125		A	Apply forearm splint	0.59	0.37	0.37	0.05	1.01	1.01	000
29126		A	Apply forearm splint	0.77	0.40	0.40	0.06	1.23	1.23	000
29130		A	Application of finger splint	0.50	0.17	0.17	0.02	0.69	0.69	000
29131		A	Application of finger splint	0.55	0.39	0.39	0.06	1.00	1.00	000
29200		A	Strapping of chest	0.65	0.27	0.27	0.03	0.95	0.95	000
29220		A	Strapping of low back	0.64	0.38	0.38	0.05	1.07	1.07	000
29240		A	Strapping of shoulder	0.71	0.27	0.27	0.03	1.01	1.01	000
29260		A	Strapping of elbow or wrist	0.55	0.23	0.23	0.03	0.81	0.81	000
29280		A	Strapping of hand or finger	0.51	0.21	0.21	0.02	0.74	0.74	000
29305		A	Application of hip cast	2.03	1.88	1.88	0.31	4.22	4.22	000
29325		A	Application of hip casts	2.32	1.94	1.94	0.28	4.54	4.54	000
29345		A	Application of long leg cast	1.40	1.02	1.02	0.16	2.58	2.58	000
29355		A	Application of long leg cast	1.53	1.10	1.10	0.17	2.80	2.80	000
29358		A	Apply long leg cast brace	1.43	#1.57	#1.57	0.33	3.33	3.33	000
29365		A	Application of long leg cast	1.18	0.86	0.86	0.14	2.18	2.18	000
29405		A	Apply short leg cast	0.88	0.79	0.79	0.12	1.77	1.77	000
29425		A	Apply short leg cast	1.01	0.97	0.97	0.14	2.12	2.12	000
29435		A	Apply short leg cast	1.18	1.18	1.18	0.18	2.54	2.54	000
29440		A	Addition of walker to cast	0.57	0.23	0.23	0.03	0.83	0.83	000
29445		A	Apply rigid leg cast	1.78	1.70	1.70	0.28	3.76	3.76	000
29450		A	Application of leg cast	1.02	0.39	0.39	0.04	1.45	1.45	000
29505		A	Application long leg splint	0.69	0.57	0.57	0.07	1.33	1.33	000
29515		A	Application lower leg splint	0.73	0.47	0.47	0.06	1.26	1.26	000
29520		A	Strapping of hip	0.54	0.36	0.36	0.03	0.93	0.93	000
29530		A	Strapping of knee	0.57	0.35	0.35	0.05	0.97	0.97	000
29540		A	Strapping of ankle	0.51	0.30	0.30	0.03	0.84	0.84	000
29550		A	Strapping of toes	0.47	0.28	0.28	0.03	0.78	0.78	000
29580		A	Application of paste boot	0.57	0.79	0.79	0.04	1.40	1.40	000
29590		A	Application of foot splint	0.76	0.28	0.28	0.03	1.07	1.07	000
29700		A	Removal/revision of cast	0.57	0.32	0.32	0.05	0.94	0.94	000
29705		A	Removal/revision of cast	0.76	0.35	0.35	0.05	1.16	1.16	000
29710		A	Removal/revision of cast	1.34	0.45	0.45	0.07	1.86	1.86	000
29715		A	Removal/revision of cast	0.94	0.86	0.86	0.12	1.92	1.92	000
29720		A	Repair of body cast	0.68	0.23	0.23	0.04	0.95	0.95	000
29730		A	Windowing of cast	0.75	0.26	0.26	0.04	1.05	1.05	000
29740		A	Wedging of cast	1.12	0.38	0.38	0.06	1.56	1.56	000
29750		A	Wedging of clubfoot cast	1.26	0.50	0.50	0.07	1.83	1.83	000
29799		C	Casting/strapping procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
29800		A	Jaw arthroscopy/surgery	*8.43	4.01	4.01	0.46	10.90	10.90	090
29804		A	Jaw arthroscopy/surgery	*8.14	#8.95	#8.95	1.46	18.55	18.55	090
29815		A	Shoulder arthroscopy	*5.80	4.84	4.84	0.76	11.49	11.49	090
29819		A	Shoulder arthroscopy/surgery	*7.62	#8.36	#8.36	1.73	17.73	17.73	090

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[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
29820		A	Shoulder arthroscopy/surgery	*7.07	#7.78	#7.78	1.73	16.58	16.58	090
29821		A	Shoulder arthroscopy/surgery	*7.72	#8.49	#8.49	2.13	18.34	18.34	090
29822		A	Shoulder arthroscopy/surgery	*7.43	#8.17	#8.17	1.74	17.34	17.34	090
29823		A	Shoulder arthroscopy/surgery	*8.17	#8.99	#8.99	2.32	19.48	19.48	090
29825		A	Shoulder arthroscopy/surgery	*7.62	#8.38	#8.38	2.05	18.05	18.05	090
29826		A	Shoulder arthroscopy/surgery	*8.99	#9.89	#9.89	2.31	21.19	21.19	090
29830		A	Elbow arthroscopy	*5.76	5.32	5.32	0.83	11.91	11.91	090
29834		A	Elbow arthroscopy/surgery	*6.28	5.84	5.84	0.98	13.08	13.08	090
29835		A	Elbow arthroscopy/surgery	*6.48	6.03	6.03	0.99	13.50	13.50	090
29836		A	Elbow arthroscopy/surgery	*7.55	7.03	7.03	1.15	15.73	15.73	090
29837		A	Elbow arthroscopy/surgery	*6.87	6.40	6.40	1.06	14.33	14.33	090
29838		A	Elbow arthroscopy/surgery	*7.71	7.05	7.05	1.14	15.90	15.90	090
29840		A	Wrist arthroscopy	*5.54	3.29	3.29	0.54	9.37	9.37	090
29843		A	Wrist arthroscopy/surgery	*6.01	5.60	5.60	0.91	12.52	12.52	090
29844		A	Wrist arthroscopy/surgery	*6.37	5.59	5.59	0.95	12.91	12.91	090
29845		A	Wrist arthroscopy/surgery	*7.52	7.00	7.00	1.15	15.67	15.67	090
29846		A	Wrist arthroscopy/surgery	*6.75	#7.43	#7.43	2.20	16.38	16.38	090
29847		A	Wrist arthroscopy/surgery	*7.08	6.78	6.78	0.97	14.83	14.83	090
29848		A	Wrist arthroscopy/surgery	*5.44	3.85	3.85	0.62	9.91	9.91	090
29850		A	Knee arthroscopy/surgery	*8.19	#9.01	#9.01	1.74	18.94	18.94	090
29851		A	Knee arthroscopy/surgery	*13.10	10.95	10.95	1.74	25.79	25.79	090
29855		A	Tibial arthroscopy/surgery	*10.82	#11.68	#11.68	1.88	24.18	24.18	090
29856		A	Tibial arthroscopy/surgery	*14.14	11.69	11.69	1.88	27.71	27.71	090
29860		A	Hip arthroscopy, dx	*8.05	4.84	4.84	0.76	13.65	13.65	090
29861		A	Hip arthroscopy/surgery	*9.15	9.38	9.38	1.73	20.26	20.26	090
29862		A	Hip arthroscopy/surgery	*9.90	10.07	10.07	2.32	22.29	22.29	090
29863		A	Hip arthroscopy/surgery	*9.90	8.72	8.72	1.73	20.35	20.35	090
29870		A	Knee arthroscopy, diagnostic	*5.07	4.02	4.02	0.64	9.73	9.73	090
29871		A	Knee arthroscopy/drainage	*6.55	6.77	6.77	0.96	14.28	14.28	090
29874		A	Knee arthroscopy/surgery	*7.05	#7.76	#7.76	1.52	16.33	16.33	090
29875		A	Knee arthroscopy/surgery	*6.31	#6.94	#6.94	1.61	14.86	14.86	090
29876		A	Knee arthroscopy/surgery	*7.92	#8.71	#8.71	1.95	18.58	18.58	090
29877		A	Knee arthroscopy/surgery	*7.35	#8.09	#8.09	1.81	17.25	17.25	090
29879		A	Knee arthroscopy/surgery	*8.04	#8.84	#8.84	2.19	19.07	19.07	090
29880		A	Knee arthroscopy/surgery	*8.50	#9.35	#9.35	2.22	20.07	20.07	090
29881		A	Knee arthroscopy/surgery	*7.76	#8.54	#8.54	1.82	18.12	18.12	090
29882		A	Knee arthroscopy/surgery	*8.65	#9.52	#9.52	1.90	20.07	20.07	090
29883		A	Knee arthroscopy/surgery	*9.46	#10.41	#10.41	2.80	22.67	22.67	090
29884		A	Knee arthroscopy/surgery	*7.33	#8.06	#8.06	1.56	16.95	16.95	090
29885		A	Knee arthroscopy/surgery	*9.09	8.23	8.23	1.35	18.67	18.67	090
29886		A	Knee arthroscopy/surgery	*7.54	6.80	6.80	1.12	15.46	15.46	090
29887		A	Knee arthroscopy/surgery	*9.04	#9.94	#9.94	1.71	20.69	20.69	090
29888		A	Knee arthroscopy/surgery	*13.90	#15.29	#15.29	3.18	32.37	32.37	090
29889		A	Knee arthroscopy/surgery	*15.13	10.26	10.26	1.68	27.07	27.07	090
29891		A	Ankle arthroscopy/surgery	*8.40	8.86	8.86	1.77	19.03	19.03	090
29892		A	Ankle arthroscopy/surgery	*9.00	8.86	8.86	1.77	19.63	19.63	090
29893		A	Scope, plantar fasciotomy	*5.22	5.20	5.20	0.46	10.88	10.88	090
29894		A	Ankle arthroscopy/surgery	*7.21	#7.93	#7.93	1.47	16.61	16.61	090
29895		A	Ankle arthroscopy/surgery	*6.99	#7.69	#7.69	1.51	16.19	16.19	090
29897		A	Ankle arthroscopy/surgery	*7.18	#7.90	#7.90	1.77	16.85	16.85	090
29898		A	Ankle arthroscopy/surgery	*8.32	#9.15	#9.15	1.91	19.38	19.38	090
29909		C	Arthroscopy of joint	0.00	0.00	0.00	0.00	0.00	0.00	YYY
30000		A	Drainage of nose lesion	*1.43	0.58	0.58	0.05	2.06	2.06	010
30020		A	Drainage of nose lesion	*1.43	0.60	0.60	0.06	2.09	2.09	010
30100		A	Intranasal biopsy	0.94	0.69	0.69	0.08	1.71	1.71	000
30110		A	Removal of nose polyp(s)	*1.63	1.29	1.29	0.14	3.06	3.06	010
30115		A	Removal of nose polyp(s)	*4.35	2.81	2.81	0.30	7.46	7.46	090
30117		A	Removal of intranasal lesion	*3.16	2.84	2.84	0.31	6.31	6.31	090
30118		A	Removal of intranasal lesion	*9.69	8.01	8.01	0.92	18.62	18.62	090
30120		A	Revision of nose	*5.27	#5.80	#5.80	1.00	12.07	12.07	090
30124		A	Removal of nose lesion	*3.10	1.34	1.34	0.16	4.60	4.60	090
30125		A	Removal of nose lesion	*7.16	5.55	5.55	0.73	13.44	13.44	090
30130		A	Removal of turbinate bones	*3.38	1.67	1.67	0.17	5.22	5.22	090
30140		A	Removal of turbinate bones	*3.43	3.04	3.04	0.34	6.81	6.81	090
30150		A	Partial removal of nose	*9.14	7.92	7.92	1.07	18.13	18.13	090
30160		A	Removal of nose	*9.58	#10.54	#10.54	1.73	21.85	21.85	090
30200		A	Injection treatment of nose	0.78	0.37	0.37	0.04	1.19	1.19	000
30210		A	Nasal sinus therapy	*1.08	0.26	0.26	0.03	1.37	1.37	010
30220		A	Insert nasal septal button	*1.54	1.51	1.51	0.16	3.21	3.21	010
30300		A	Remove nasal foreign body	*1.04	0.46	0.46	0.05	1.55	1.55	010
30310		A	Remove nasal foreign body	*1.96	1.62	1.62	0.18	3.76	3.76	010
30320		A	Remove nasal foreign body	*4.52	4.29	4.29	0.43	9.24	9.24	090
30400		R	Reconstruction of nose	*9.83	9.97	9.97	1.36	21.16	21.16	090
30410		R	Reconstruction of nose	*12.98	#14.28	#14.28	2.01	29.27	29.27	090

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[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
30420		R	Reconstruction of nose	*15.88	#17.47	#17.47	2.22	35.57	35.57	090
30430		R	Revision of nose	*7.21	6.09	6.09	0.66	13.96	13.96	090
30435		R	Revision of nose	*11.71	10.17	10.17	1.10	22.98	22.98	090
30450		R	Revision of nose	*18.66	11.24	11.24	0.91	30.80	30.80	090
30460		A	Revision of nose	*9.96	8.58	8.58	0.93	19.47	19.47	090
30462		A	Revision of nose	*19.57	17.16	17.16	1.87	38.60	38.60	090
30520		A	Repair of nasal septum	*5.70	#6.27	#6.27	0.96	12.93	12.93	090
30540		A	Repair nasal defect	*7.75	6.63	6.63	0.70	15.08	15.08	090
30545		A	Repair nasal defect	*11.38	10.83	10.83	0.93	23.14	23.14	090
30560		A	Release of nasal adhesions	*1.26	0.55	0.55	0.06	1.87	1.87	010
30580		A	Repair upper jaw fistula	*6.69	6.24	6.24	0.57	13.50	13.50	090
30800		A	Repair mouth/nose fistula	*6.02	3.77	3.77	0.36	10.15	10.15	090
30820		A	Intranasal reconstruction	*5.97	#6.57	#6.57	1.10	13.64	13.64	090
30830		A	Repair nasal septum defect	*7.12	6.24	6.24	0.71	14.07	14.07	090
30801		A	Cauterization inner nose	*1.09	0.47	0.47	0.05	1.61	1.61	010
30802		A	Cauterization inner nose	*2.03	0.94	0.94	0.11	3.08	3.08	010
30901		A	Control of nosebleed	1.21	0.56	0.56	0.06	1.83	1.83	000
30903		A	Control of nosebleed	1.54	0.85	0.85	0.08	2.47	2.47	000
30905		A	Control of nosebleed	1.97	1.79	1.79	0.17	3.93	3.93	000
30906		A	Repeat control of nosebleed	2.45	1.08	1.08	0.11	3.64	3.64	000
30915		A	Ligation nasal sinus artery	*7.20	4.95	4.95	0.52	12.67	12.67	090
30920		A	Ligation upper jaw artery	*9.83	9.54	9.54	1.32	20.69	20.69	090
30930		A	Therapy fracture of nose	*1.26	0.71	0.71	0.08	2.05	2.05	010
30999		C	Nasal surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
31000		A	Irrigation maxillary sinus	*1.15	0.43	0.43	0.05	1.63	1.63	010
31002		A	Irrigation sphenoid sinus	*1.91	0.46	0.46	0.05	2.42	2.42	010
31020		A	Exploration maxillary sinus	*2.94	2.66	2.66	0.29	5.89	5.89	090
31030		A	Exploration maxillary sinus	*5.92	#6.51	#6.51	0.86	13.29	13.29	090
31032		A	Explore sinus, remove polyps	*6.57	#7.23	#7.23	0.99	14.79	14.79	090
31040		A	Exploration behind upper jaw	*9.42	7.98	7.98	0.86	18.26	18.26	090
31050		A	Exploration sphenoid sinus	*5.28	#5.81	#5.81	0.64	11.73	11.73	090
31051		A	Sphenoid sinus surgery	*7.11	#7.82	#7.82	0.85	15.78	15.78	090
31070		A	Exploration of frontal sinus	*4.26	4.69	4.69	0.50	9.47	9.47	090
31075		A	Exploration of frontal sinus	*9.16	#10.08	#10.08	1.10	20.34	20.34	090
31080		A	Removal of frontal sinus	*11.42	9.21	9.21	1.12	21.75	21.75	090
31081		A	Removal of frontal sinus	*12.75	10.32	10.32	1.30	24.37	24.37	090
31084		A	Removal of frontal sinus	*13.51	14.79	14.79	1.82	29.92	29.92	090
31085		A	Removal of frontal sinus	*14.20	#15.62	#15.62	1.76	31.58	31.58	090
31086		A	Removal of frontal sinus	*12.88	10.87	10.87	1.15	24.88	24.88	090
31087		A	Removal of frontal sinus	*13.10	10.39	10.39	1.33	24.82	24.82	090
31090		A	Exploration of sinuses	*9.53	#10.48	#10.48	2.12	22.13	22.13	090
31200		A	Removal of ethmoid sinus	*4.97	4.62	4.62	0.48	10.07	10.07	090
31201		A	Removal of ethmoid sinus	*8.37	7.01	7.01	0.75	16.13	16.13	090
31205		A	Removal of ethmoid sinus	*10.24	8.03	8.03	0.81	19.08	19.08	090
31225		A	Removal of upper jaw	*19.23	19.44	19.44	2.37	41.04	41.04	090
31230		A	Removal of upper jaw	*21.94	21.74	21.74	2.48	46.16	46.16	090
31231		A	Nasal endoscopy, dx	1.10	1.37	1.37	0.15	2.62	2.62	000
31233		A	Nasal/sinus endoscopy, dx	2.18	2.79	2.79	0.31	5.28	5.28	000
31235		A	Nasal/sinus endoscopy, dx	2.64	2.39	2.39	0.26	5.29	5.29	000
31237		A	Nasal/sinus endoscopy, surg	2.98	#3.28	#3.28	0.37	6.63	6.63	000
31238		A	Nasal/sinus endoscopy, surg	3.26	#3.59	#3.59	0.45	7.30	7.30	000
31239		A	Nasal/sinus endoscopy, surg	*8.70	#9.57	#9.57	1.18	19.45	19.45	010
31240		A	Nasal/sinus endoscopy, surg	2.61	#2.87	#2.87	0.37	5.85	5.85	000
31254		A	Revision of ethmoid sinus	4.65	#5.12	#5.12	0.69	10.46	10.46	000
31255		A	Removal of ethmoid sinus	6.96	#7.66	#7.66	1.14	15.76	15.76	000
31256		A	Exploration maxillary sinus	3.29	#3.62	#3.62	0.41	7.32	7.32	000
31267		A	Endoscopy, maxillary sinus	5.46	5.23	5.23	0.81	11.50	11.50	000
31276		A	Sinus surgical endoscopy	8.85	6.72	6.72	0.73	16.30	16.30	000
31267		A	Nasal/sinus endoscopy, surg	3.92	#4.31	#4.31	0.85	8.88	8.88	000
31288		A	Nasal/sinus endoscopy, surg	4.58	#5.04	#5.04	0.78	10.40	10.40	000
31290		A	Nasal/sinus endoscopy, surg	*17.24	16.47	16.47	1.80	35.51	35.51	010
31291		A	Nasal/sinus endoscopy, surg	*16.19	17.31	17.31	1.88	37.38	37.38	010
31292		A	Nasal/sinus endoscopy, surg	*14.76	13.38	13.38	1.45	29.59	29.59	010
31293		A	Nasal/sinus endoscopy, surg	*16.21	14.64	14.64	1.59	32.44	32.44	010
31294		A	Nasal/sinus endoscopy, surg	*19.06	16.72	16.72	1.83	37.61	37.61	010
31299		C	Sinus surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
31300		A	Removal of larynx lesion	*14.29	11.58	11.58	1.28	27.15	27.15	090
31320		A	Diagnostic incision larynx	*5.26	3.87	3.87	0.48	9.61	9.61	090
31360		A	Removal of larynx	*17.08	#18.79	#18.79	2.19	38.06	38.06	090
31365		A	Removal of larynx	*24.16	#26.58	#26.58	3.10	53.84	53.84	090
31367		A	Partial removal of larynx	*21.86	17.22	17.22	1.88	40.96	40.96	090
31368		A	Partial removal of larynx	*27.09	26.78	26.78	3.06	56.91	56.91	090
31370		A	Partial removal of larynx	*21.38	17.18	17.18	1.88	40.44	40.44	090
31375		A	Partial removal of larynx	*20.21	14.84	14.84	1.56	36.61	36.61	090

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ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
31360		A	Partial removal of larynx	*20.21	17.27	17.27	1.88	39.36	39.36	090
31382		A	Partial removal of larynx	*20.52	16.06	16.06	1.78	38.36	38.36	090
31390		A	Removal of larynx & pharynx	*27.53	27.08	27.08	4.05	58.66	58.66	090
31395		A	Reconstruct larynx & pharynx	*31.09	33.52	33.52	4.42	69.03	69.03	090
31400		A	Revision of larynx	*10.31	7.81	7.81	0.91	19.03	19.03	090
31420		A	Removal of epiglottis	*10.22	8.08	8.08	0.84	19.14	19.14	090
31500		A	Insert emergency airway	2.33	1.14	1.14	0.14	3.61	3.61	000
31502		A	Change of windpipe airway	0.65	0.58	0.58	0.07	1.30	1.30	000
31505		A	Diagnostic laryngoscopy	0.61	0.43	0.43	0.06	1.09	1.09	000
31510		A	Laryngoscopy with biopsy	1.92	0.55	0.55	0.07	2.54	2.54	000
31511		A	Remove foreign body, larynx	2.16	0.96	0.96	0.10	3.22	3.22	000
31512		A	Removal of larynx lesion	2.07	1.79	1.79	0.20	4.06	4.06	000
31513		A	Injection into vocal cord	2.10	#2.31	#2.31	0.38	4.79	4.79	000
31515		A	Laryngoscopy for aspiration	1.80	1.13	1.13	0.14	3.07	3.07	000
31520		A	Diagnostic laryngoscopy	2.56	1.64	1.64	0.18	4.38	4.38	000
31525		A	Diagnostic laryngoscopy	2.63	2.20	2.20	0.23	5.06	5.06	000
31526		A	Diagnostic laryngoscopy	2.57	#2.83	#2.83	0.38	5.78	5.78	000
31527		A	Laryngoscopy for treatment	3.27	2.99	2.99	0.30	6.56	6.56	000
31528		A	Laryngoscopy and dilatation	2.37	#2.61	#2.61	0.30	5.28	5.28	000
31529		A	Laryngoscopy and dilatation	2.68	2.46	2.46	0.25	5.39	5.39	000
31530		A	Operative laryngoscopy	3.39	3.63	3.63	0.39	7.41	7.41	000
31531		A	Operative laryngoscopy	3.59	#3.95	#3.95	0.60	8.14	8.14	000
31536		A	Operative laryngoscopy	3.16	#3.48	#3.48	0.45	7.09	7.09	000
31536		A	Operative laryngoscopy	3.56	#3.92	#3.92	0.59	8.07	8.07	000
31540		A	Operative laryngoscopy	4.13	#4.54	#4.54	0.61	9.28	9.28	000
31541		A	Operative laryngoscopy	4.53	4.56	4.56	0.75	9.84	9.84	000
31560		A	Operative laryngoscopy	5.46	4.99	4.99	0.51	10.96	10.96	000
31561		A	Operative laryngoscopy	6.00	6.27	6.27	1.08	13.35	13.35	000
31570		A	Laryngoscopy with injection	3.87	#4.26	#4.26	0.60	8.73	8.73	000
31571		A	Laryngoscopy with injection	4.27	4.51	4.51	0.69	9.47	9.47	000
31575		A	Diagnostic laryngoscopy	1.10	1.56	1.56	0.17	2.83	2.83	000
31576		A	Laryngoscopy with biopsy	1.97	#2.17	#2.17	0.33	4.47	4.47	000
31577		A	Remove foreign body, larynx	2.47	#2.72	#2.72	0.37	5.56	5.56	000
31578		A	Removal of larynx lesion	2.84	#3.12	#3.12	0.46	6.44	6.44	000
31579		A	Diagnostic laryngoscopy	2.26	2.33	2.33	0.26	4.85	4.85	000
31580		A	Revision of larynx	*12.38	#13.62	#13.62	1.63	27.63	27.63	090
31582		A	Revision of larynx	*21.62	17.87	17.87	1.94	41.43	41.43	090
31584		A	Repair of larynx fracture	*19.64	12.72	12.72	1.34	33.70	33.70	090
31585		A	Repair of larynx fracture	*4.64	3.77	3.77	0.40	8.81	8.81	090
31586		A	Repair of larynx fracture	*8.03	6.56	6.56	0.71	15.29	15.29	090
31587		A	Revision of larynx	*11.99	7.21	7.21	0.79	19.99	19.99	090
31588		A	Revision of larynx	*13.11	10.70	10.70	1.16	24.97	24.97	090
31590		A	Reinnervate larynx	*8.97	5.76	5.76	0.62	13.35	13.35	090
31595		A	Larynx nerve surgery	*8.34	6.84	6.84	0.74	15.92	15.92	090
31599		C	Larynx surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
31600		A	Incision of windpipe	3.62	#3.98	#3.98	0.65	8.25	8.25	000
31601		A	Incision of windpipe	4.45	#4.90	#4.90	0.66	10.01	10.01	000
31603		A	Incision of windpipe	4.15	4.23	4.23	0.66	9.04	9.04	000
31605		A	Incision of windpipe	3.58	#3.94	#3.94	0.50	8.02	8.02	000
31610		A	Incision of windpipe	*8.76	6.67	6.67	0.92	16.35	16.35	090
31611		A	Surgery/speech prosthesis	*5.64	6.45	6.45	1.04	13.13	13.13	090
31612		A	Puncture/clear windpipe	0.91	1.17	#1.00	0.12	2.20	2.03	000
31613		A	Repair windpipe opening	*4.59	2.21	2.21	0.28	7.08	7.08	090
31614		A	Repair windpipe opening	*7.12	6.74	6.74	0.73	14.59	14.59	090
31615		A	Visualization of windpipe	2.09	1.95	1.95	0.22	4.26	4.26	000
31622		A	Diagnostic bronchoscopy	2.80	#3.08	#3.08	0.34	6.22	6.22	000
31625		A	Bronchoscopy with biopsy	3.37	#3.71	#3.71	0.35	7.43	7.43	000
31626		A	Bronchoscopy with biopsy	3.81	#4.19	#4.19	0.38	8.38	8.38	000
31629		A	Bronchoscopy with biopsy	3.37	#3.71	#3.71	0.34	7.42	7.42	000
31630		A	Bronchoscopy with repair	3.82	3.72	3.72	0.50	8.04	8.04	000
31631		A	Bronchoscopy with dilation	4.37	3.94	3.94	0.48	8.79	8.79	000
31635		A	Remove foreign body, airway	3.68	#4.05	#4.05	0.53	8.26	8.26	000
31640		A	Bronchoscopy & remove lesion	4.94	5.02	5.02	0.67	10.63	10.63	000
31641		A	Bronchoscopy, treat blockage	5.03	#5.53	#5.53	0.85	11.41	11.41	000
31645		A	Bronchoscopy, clear airways	3.16	#3.48	#3.48	0.30	6.94	6.94	000
31646		A	Bronchoscopy, reclear airways	2.72	#2.99	#2.99	0.27	5.98	5.98	000
31656		A	Bronchoscopy, inject for x-ray	2.17	#2.39	#2.39	0.31	4.87	4.87	000
31700		A	Insertion of airway catheter	1.34	1.38	1.38	0.17	2.89	2.89	000
31708		A	Instill airway contrast dye	1.41	0.77	0.77	0.09	2.27	2.27	000
31710		A	Insertion of airway catheter	1.30	0.90	0.90	0.12	2.32	2.32	000
31715		A	Injection for bronchus x-ray	1.11	0.48	0.48	0.04	1.63	1.63	000
31717		A	Bronchial brush biopsy	2.12	0.73	0.73	0.06	2.91	2.91	000
31720		A	Clearance of airways	1.06	0.74	0.74	0.09	1.89	1.89	000
31725		A	Clearance of airways	1.96	1.41	1.41	0.15	3.52	3.52	000

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[2] Copyright 1994 American Dental Association. All rights reserved.
[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
31730		A	Intro windpipe wire/tube	2.85	2.47	2.47	0.23	5.55	5.55	000
31750		A	Repair of windpipe	*13.02	8.88	8.88	1.09	22.99	22.99	090
31755		A	Repair of windpipe	*15.93	13.30	13.30	1.44	30.67	30.67	090
31760		A	Repair of windpipe	*22.35	10.92	10.92	2.55	35.82	35.82	090
31766		A	Reconstruction of windpipe	*30.43	18.40	18.40	1.12	49.95	49.95	090
31770		A	Repair/graft of bronchus	*22.51	15.07	15.07	2.08	39.66	39.66	090
31775		A	Reconstruct bronchus	*23.54	16.37	16.37	1.92	41.83	41.83	090
31780		A	Reconstruct windpipe	*17.72	17.33	17.33	2.08	37.13	37.13	090
31781		A	Reconstruct windpipe	*23.53	16.86	16.86	#1.96	42.35	42.35	090
31785		A	Remove windpipe lesion	*17.23	8.92	8.92	1.17	27.32	27.32	090
31786		A	Remove windpipe lesion	*23.98	13.30	13.30	2.24	39.52	39.52	090
31800		A	Repair of windpipe injury	*7.43	4.90	4.90	0.76	13.09	13.09	090
31805		A	Repair of windpipe injury	*13.13	9.82	9.82	1.41	24.36	24.36	090
31820		A	Closure of windpipe lesion	*4.49	3.58	3.58	0.46	8.53	8.53	090
31825		A	Repair of windpipe defect	*6.81	5.00	5.00	0.56	12.39	12.39	090
31830		A	Revise windpipe scar	*4.50	3.66	3.66	0.42	8.58	8.58	090
31899		C	Airways surgical procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
32000		A	Drainage of chest	1.54	0.90	0.90	0.08	2.52	2.52	000
32002		A	Treatment of collapsed lung	2.19	1.34	1.34	0.22	3.75	3.75	000
32005		A	Treat lung lining chemically	2.19	1.09	1.09	0.15	3.43	3.43	000
32020		A	Insertion of chest tube	3.98	2.63	2.63	0.43	7.04	7.04	000
32035		A	Exploration of chest	*8.67	6.76	6.76	1.25	16.68	16.68	090
32036		A	Exploration of chest	*9.68	7.13	7.13	1.32	18.13	18.13	090
32095		A	Biopsy through chest wall	*8.36	8.25	8.25	1.45	18.06	18.06	090
32100		A	Exploration/biopsy of chest	*11.84	11.24	11.24	2.10	25.18	25.18	090
32110		A	Explore/repair chest	*13.62	11.51	11.51	2.01	27.14	27.14	090
32120		A	Re-exploration of chest	*11.54	9.45	9.45	1.72	22.71	22.71	090
32124		A	Explore chest, free adhesions	*12.72	10.94	10.94	2.21	25.87	25.87	090
32140		A	Removal of lung lesion(s)	*13.93	12.37	12.37	2.42	28.72	28.72	090
32141		A	Remove/treat lung lesions	*14.00	13.42	13.42	2.53	29.95	29.95	090
32150		A	Removal of lung lesion(s)	*14.15	10.34	10.34	2.01	26.50	26.50	090
32151		A	Remove lung foreign body	*14.21	9.15	9.15	1.37	24.73	24.73	090
32160		A	Open chest heart massage	*9.30	9.13	9.13	1.52	19.95	19.95	090
32200		A	Open drainage, lung lesion	*15.28	6.89	6.89	0.93	23.11	23.11	090
32201		A	Percut drainage, lung lesion	4.00	3.03	3.03	0.35	7.38	7.38	000
32215		A	Treat chest lining	*11.33	7.62	7.62	1.28	20.23	20.23	090
32220		A	Release of lung	*19.27	15.81	15.81	3.01	38.09	38.09	090
32225		A	Partial release of lung	*13.96	11.84	11.84	2.28	28.08	28.08	090
32310		A	Removal of chest lining	*13.44	11.84	11.84	2.10	27.18	27.18	090
32320		A	Free/remove chest lining	*20.54	18.10	18.10	3.40	42.04	42.04	090
32400		A	Needle biopsy chest lining	1.76	1.46	1.46	0.12	3.36	3.36	000
32402		A	Open biopsy chest lining	*7.56	7.56	7.56	1.34	16.46	16.46	090
32405		A	Biopsy, lung or mediastinum	1.93	2.12	2.12	0.18	4.23	4.23	000
32420		A	Puncture/clear lung	2.18	1.50	1.50	0.13	3.81	3.81	000
32440		A	Removal of lung	*21.02	18.56	18.56	3.55	43.13	43.13	090
32442		A	Sleeve pneumonectomy	*26.24	17.94	17.94	3.50	47.68	47.68	090
32445		A	Removal of lung	*25.09	20.46	20.46	3.88	49.43	49.43	090
32480		A	Partial removal of lung	*18.32	17.15	17.15	3.23	38.70	38.70	090
32482		A	Bilobectomy	*19.71	17.15	17.15	3.23	40.09	40.09	090
32484		A	Segmentectomy	*20.69	17.15	17.15	3.23	41.07	41.07	090
32486		A	Sleeve lobectomy	*23.92	16.54	16.54	3.23	43.69	43.69	090
32488		A	Completion pneumonectomy	*25.71	17.74	17.74	3.46	46.91	46.91	090
32491		R	Lung volume reduction	21.25	15.45	15.45	3.02	39.72	39.72	090
32500		A	Partial removal of lung	*14.30	13.47	13.47	2.56	30.33	30.33	090
32501		A	Repair bronchus (add-on)	4.69	4.31	4.31	0.70	9.70	9.70	ZZZ
32520		A	Remove lung & revise chest	*21.68	20.67	20.67	3.93	46.28	46.28	090
32522		A	Remove lung & revise chest	*24.20	21.90	21.90	4.19	50.29	50.29	090
32525		A	Remove lung & revise chest	*26.50	23.50	23.50	4.61	54.61	54.61	090
32540		A	Removal of lung lesion	*14.64	11.57	11.57	2.05	28.36	28.36	090
32601		A	Thoracoscopy, diagnostic	5.46	3.47	3.47	0.57	9.50	9.50	000
32602		A	Thoracoscopy, diagnostic	5.98	3.87	3.87	0.84	10.47	10.47	000
32603		A	Thoracoscopy, diagnostic	7.81	3.47	3.47	0.57	11.85	11.85	000
32604		A	Thoracoscopy, diagnostic	8.78	3.87	3.87	0.84	13.29	13.29	000
32605		A	Thoracoscopy, diagnostic	6.93	3.47	3.47	0.57	10.97	10.97	000
32606		A	Thoracoscopy, diagnostic	8.40	3.87	3.87	0.84	12.91	12.91	000
32650		A	Thoracoscopy, surgical	*10.75	7.62	7.62	1.28	19.65	19.65	090
32651		A	Thoracoscopy, surgical	*12.91	11.84	11.84	2.28	27.03	27.03	090
32652		A	Thoracoscopy, surgical	*18.66	15.81	15.81	3.01	37.48	37.48	090
32653		A	Thoracoscopy, surgical	*12.87	10.34	10.34	2.01	25.22	25.22	090
32654		A	Thoracoscopy, surgical	*12.44	11.51	11.51	2.01	25.96	25.96	090
32655		A	Thoracoscopy, surgical	*13.10	13.42	13.42	2.69	29.05	29.05	090
32656		A	Thoracoscopy, surgical	*12.91	13.36	13.36	2.36	28.63	28.63	090
32657		A	Thoracoscopy, surgical	*13.65	13.47	13.47	2.56	29.68	29.68	090
32658		A	Thoracoscopy, surgical	*11.83	#12.79	#12.79	2.52	26.94	26.94	090

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[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
32659		A	Thoracoscopy, surgical	*11.59	#12.75	#12.75	2.61	26.95	26.95	090
32660		A	Thoracoscopy, surgical	*17.43	#19.17	#19.17	3.56	40.16	40.16	090
32661		A	Thoracoscopy, surgical	*13.25	9.25	9.25	1.47	23.97	23.97	090
32662		A	Thoracoscopy, surgical	*16.44	14.55	14.55	2.74	33.73	33.73	090
32663		A	Thoracoscopy, surgical	*18.47	17.15	17.15	3.23	38.85	38.85	090
32664		A	Thoracoscopy, surgical	*14.20	10.55	10.55	2.04	26.79	26.79	090
32665		A	Thoracoscopy, surgical	*15.54	14.33	14.33	2.64	32.51	32.51	090
32800		A	Repair lung hernia	*13.69	8.28	8.28	1.58	23.55	23.55	090
32810		A	Close chest after drainage	*13.05	6.50	6.50	1.19	20.74	20.74	090
32815		A	Close bronchial fistula	*23.15	15.22	15.22	2.62	40.99	40.99	090
32820		A	Reconstruct injured chest	*21.48	19.01	19.01	3.24	43.73	43.73	090
32850		X	Donor pneumonectomy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
32851		A	Lung transplant, single	*38.63	25.55	25.55	4.99	69.17	69.17	090
32852		A	Lung transplant w/bypass	*41.80	27.71	27.71	5.41	74.92	74.92	090
32853		A	Lung transplant, double	*47.81	31.94	31.94	6.24	85.99	85.99	090
32854		A	Lung transplant w/bypass	*50.98	34.10	34.10	6.67	91.75	91.75	090
32900		A	Removal of rib(s)	*20.27	8.47	8.47	1.68	30.37	30.37	090
32905		A	Revise & repair chest wall	*20.75	12.74	12.74	2.60	36.09	36.09	090
32906		A	Revise & repair chest wall	*26.77	15.42	15.42	2.92	45.11	45.11	090
32940		A	Revision of lung	*19.43	11.37	11.37	1.75	32.55	32.55	090
32960		A	Therapeutic pneumothorax	1.84	0.93	0.93	0.13	2.90	2.90	000
32999		C	Chest surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
33010		A	Drainage of heart sac	2.24	1.54	1.54	0.14	3.92	3.92	000
33011		A	Repeat drainage of heart sac	2.24	1.11	1.11	0.12	3.47	3.47	000
33015		A	Incision of heart sac	*6.80	4.26	4.26	0.62	11.68	11.68	090
33020		A	Incision of heart sac	*12.61	13.26	13.26	2.52	28.39	28.39	090
33025		A	Incision of heart sac	*12.09	#13.30	#13.30	2.61	28.00	28.00	090
33030		A	Partial removal of heart sac	*18.71	#20.58	#20.58	3.92	43.21	43.21	090
33031		A	Partial removal of heart sac	*21.79	13.25	13.25	2.50	37.54	37.54	090
33050		A	Removal of heart sac lesion	*14.36	9.25	9.25	1.47	25.08	25.08	090
33120		A	Removal of heart lesion	*24.56	#27.02	#27.02	5.17	56.75	56.75	090
33130		A	Removal of heart lesion	*21.39	13.50	13.50	2.22	37.11	37.11	090
33200		A	Insertion of heart pacemaker	*12.48	12.27	12.27	1.90	26.65	26.65	090
33201		A	Insertion of heart pacemaker	*10.18	11.19	11.19	1.67	23.04	23.04	090
33206		A	Insertion of heart pacemaker	*8.67	#7.34	#7.34	1.34	15.35	15.35	090
33207		A	Insertion of heart pacemaker	*8.04	#8.84	#8.84	1.33	18.21	18.21	090
33208		A	Insertion of heart pacemaker	*8.13	#8.94	#8.94	1.54	18.61	18.61	090
33210		A	Insertion of heart electrode	3.30	3.30	3.30	0.27	6.87	6.87	000
33211		A	Insertion of heart electrode	3.40	3.30	3.30	0.27	6.97	6.97	000
33212		A	Insertion of pulse generator	*5.52	5.38	5.38	0.88	11.78	11.78	090
33213		A	Insertion of pulse generator	*6.37	5.38	5.38	0.88	12.63	12.63	090
33214		A	Upgrade of pacemaker system	*7.75	5.40	5.40	1.08	14.21	14.21	090
33216		A	Revision implanted electrode	*5.39	5.02	5.02	0.55	10.96	10.96	090
33217		A	Insert/revise electrode	*5.75	5.02	5.02	0.55	11.32	11.32	090
33218		A	Repair pacemaker electrodes	*5.44	4.59	4.59	0.62	10.65	10.65	090
33220		A	Repair pacemaker electrode	*5.52	4.59	4.59	0.62	10.73	10.73	090
33222		A	Pacemaker aicd pocket	*4.96	#5.46	#5.46	1.01	11.43	11.43	090
33223		A	Pacemaker aicd pocket	*8.46	5.70	5.70	1.01	13.17	13.17	090
33233		A	Removal of pacemaker system	*3.29	2.64	2.64	0.05	5.98	5.98	090
33234		A	Removal of pacemaker system	*7.82	2.84	2.84	0.23	10.89	10.89	090
33235		A	Removal pacemaker electrode	*9.40	3.14	3.14	0.33	12.87	12.87	090
33236		A	Remove electrode/thoracotomy	*12.60	3.98	3.98	0.62	17.20	17.20	090
33237		A	Remove electrode/thoracotomy	*13.71	9.60	9.60	1.13	24.44	24.44	090
33238		A	Remove electrode/thoracotomy	*15.22	10.29	10.29	2.01	27.52	27.52	090
33240		A	Insert/replace pulse gener	*7.60	5.38	5.38	0.88	13.86	13.86	090
33241		A	Remove pulse generator only	*3.24	2.16	2.16	0.43	5.83	5.83	090
33242		A	Repair pulse generator/leads	*8.17	#8.79	#8.79	1.54	14.50	14.50	090
33243		A	Remove generator/thoracotomy	*22.64	9.02	9.02	1.54	33.20	33.20	090
33244		A	Remove generator	*8.97	9.02	9.02	1.54	19.53	19.53	090
33245		A	Implant heart defibrillator	*14.30	#15.73	#15.73	2.36	32.39	32.39	090
33246		A	Implant heart defibrillator	*20.71	20.79	20.79	3.19	44.69	44.69	090
33247		A	Insert/replace leads	*10.21	#11.23	#11.23	2.36	23.80	23.80	090
33249		A	Insert/replace leads/gener	*13.28	#14.61	#14.61	3.19	31.08	31.08	090
33250		A	Ablate heart dysrhythm focus	*21.85	11.56	11.56	0.86	34.27	34.27	090
33251		A	Ablate heart dysrhythm focus	*24.86	16.41	16.41	3.21	44.50	44.50	090
33253		A	Reconstruct atria	*31.06	21.81	21.81	4.26	57.13	57.13	090
33261		A	Ablate heart dysrhythm focus	*24.86	13.96	13.96	2.73	41.57	41.57	090
33300		A	Repair of heart wound	*17.92	14.36	14.36	2.60	34.88	34.88	090
33305		A	Repair of heart wound	*21.44	17.40	17.40	3.07	41.91	41.91	090
33310		A	Exploratory heart surgery	*18.51	11.28	11.28	1.93	31.72	31.72	090
33315		A	Exploratory heart surgery	*22.37	14.48	14.48	2.57	39.42	39.42	090
33320		A	Repair major blood vessel(s)	*16.79	14.14	14.14	2.51	33.44	33.44	090
33321		A	Repair major vessel	*20.20	21.75	21.75	3.61	45.56	45.56	090
33322		A	Repair major blood vessel(s)	*20.62	21.75	21.75	3.61	45.98	45.98	090

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[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
33330		A	Insert major vessel graft	*21.43	12.67	12.67	1.93	36.03	36.03	090
33332		A	Insert major vessel graft	*23.96	15.07	15.07	2.39	41.42	41.42	090
33335		A	Insert major vessel graft	*30.01	15.07	15.07	2.39	47.47	47.47	090
33400		A	Repair of aortic valve	*25.34	28.21	28.21	2.83	54.38	54.38	090
33401		A	Valvuloplasty, open	*23.91	28.21	28.21	2.83	52.95	52.95	090
33403		A	Valvuloplasty, w/cp bypass	*24.89	28.21	28.21	2.83	53.93	53.93	090
33404		A	Prepare heart-aorta conduit	*28.54	31.25	31.25	5.59	65.38	65.38	090
33405		A	Replacement of aortic valve	*30.61	30.48	30.48	5.33	66.42	66.42	090
33406		A	Replacement, aortic valve	*32.30	#35.53	#35.53	7.45	75.28	75.28	090
33411		A	Replacement of aortic valve	*32.47	#35.72	#35.72	7.45	75.64	75.64	090
33412		A	Replacement of aortic valve	*34.79	#38.27	#38.27	7.45	80.51	80.51	090
33413		A	Replacement, aortic valve	*35.24	#38.76	#38.76	7.23	81.23	81.23	090
33414		A	Repair, aortic valve	*30.35	#33.39	#33.39	7.45	71.19	71.19	090
33415		A	Revision, subvalvular tissue	*27.15	#29.87	#29.87	5.33	62.35	62.35	090
33416		A	Revise ventricle muscle	*30.35	28.14	28.14	4.99	63.48	63.48	090
33417		A	Repair of aortic valve	*28.53	#31.38	#31.38	6.18	66.09	66.09	090
33420		A	Revision of mitral valve	*22.70	19.82	19.82	2.45	44.97	44.97	090
33422		A	Revision of mitral valve	*25.94	#28.53	#28.53	6.45	60.92	60.92	090
33425		A	Repair of mitral valve	*27.00	#29.70	#29.70	5.42	62.12	62.12	090
33426		A	Repair of mitral valve	*31.03	31.96	31.96	5.80	68.79	68.79	090
33427		A	Repair of mitral valve	*33.72	34.71	34.71	6.30	74.73	74.73	090
33430		A	Replacement of mitral valve	*31.43	#34.57	#34.57	6.11	72.11	72.11	090
33460		A	Revision of tricuspid valve	*23.60	#25.96	#25.96	4.73	54.29	54.29	090
33463		A	Valvuloplasty, tricuspid	*25.82	#28.18	#28.18	5.95	59.75	59.75	090
33464		A	Valvuloplasty, tricuspid	*27.33	#30.06	#30.06	5.95	63.34	63.34	090
33465		A	Replace tricuspid valve	*28.79	#31.67	#31.67	5.95	66.41	66.41	090
33468		A	Revision of tricuspid valve	*30.12	#33.13	#33.13	6.30	69.55	69.55	090
33470		A	Revision of pulmonary valve	*20.81	19.82	19.82	2.45	43.08	43.08	090
33471		A	Valvotomy, pulmonary valve	*22.25	#24.48	#24.48	2.83	49.56	49.56	090
33472		A	Revision of pulmonary valve	*22.25	#24.48	#24.48	2.83	49.56	49.56	090
33474		A	Revision of pulmonary valve	*23.04	#25.34	#25.34	2.83	51.21	51.21	090
33475		A	Replacement, pulmonary valve	*28.41	#31.25	#31.25	6.11	65.77	65.77	090
33476		A	Revision of heart chamber	*25.77	28.14	28.14	4.99	58.90	58.90	090
33478		A	Revision of heart chamber	*26.74	#29.41	#29.41	5.42	61.57	61.57	090
33496		A	Repair, prosth valve clot	*27.25	#29.98	#29.98	5.33	62.56	62.56	090
33500		A	Repair heart vessel fistula	*25.55	#28.11	#28.11	5.20	58.86	58.86	090
33501		A	Repair heart vessel fistula	*17.78	14.14	14.14	2.51	34.43	34.43	090
33502		A	Coronary artery correction	*21.04	14.14	14.14	2.51	37.69	37.69	090
33508		A	Coronary artery graft	*21.78	#23.96	#23.96	5.20	50.94	50.94	090
33504		A	Coronary artery graft	*24.86	#27.13	#27.13	5.20	56.99	56.99	090
33505		A	Repair artery w/tunnel	*26.84	#29.52	#29.52	6.03	62.39	62.39	090
33506		A	Repair artery, translocation	*26.71	#29.38	#29.38	6.03	62.12	62.12	090
33510		A	CABG, vein, single	*25.12	#27.63	#27.63	5.20	57.95	57.95	090
33511		A	CABG, vein, two	*27.40	#30.14	#30.14	5.71	63.25	63.25	090
33512		A	CABG, vein, three	*29.67	#32.64	#32.64	6.22	68.53	68.53	090
33513		A	CABG, vein, four	*31.95	#35.15	#35.15	6.73	73.83	73.83	090
33514		A	CABG, vein, five	*35.00	#38.50	#38.50	7.23	80.73	80.73	090
33516		A	CABG, vein, six+	*37.40	#41.14	#41.14	7.74	86.28	86.28	090
33517		A	CABG, artery-vein, single	*2.57	#2.83	#2.83	0.50	5.90	5.90	090
33518		A	CABG, artery-vein, two	*4.86	#5.34	#5.34	1.02	11.21	11.21	090
33519		A	CABG, artery-vein, three	*7.12	#7.83	#7.83	1.52	16.47	16.47	090
33521		A	CABG, artery-vein, four	*9.40	#10.34	#10.34	2.03	21.77	21.77	090
33522		A	CABG, artery-vein, five	*11.67	#12.84	#12.84	2.54	27.05	27.05	090
33523		A	CABG, artery-vein, six+	*13.95	#15.35	#15.35	3.05	32.35	32.35	090
33530		A	Coronary artery, bypass/reop	5.86	#6.45	#6.45	2.18	14.49	14.49	ZZZ
33533		A	CABG, arterial, single	*25.83	#28.41	#28.41	5.38	59.60	59.60	090
33534		A	CABG, arterial, two	*28.82	#31.70	#31.70	6.03	66.55	66.55	090
33535		A	CABG, arterial, three	*31.81	#34.99	#34.99	6.70	73.50	73.50	090
33536		A	CABG, arterial, four+	*34.79	#38.27	#38.27	7.37	80.43	80.43	090
33542		A	Removal of heart lesion	*28.85	30.73	30.73	5.53	65.11	65.11	090
33545		A	Repair of heart damage	*36.78	34.92	34.92	6.28	77.98	77.98	090
33572		A	Open coronary endarterectomy	4.45	3.23	3.23	0.63	8.31	8.31	ZZZ
33600		A	Closure of valve	*29.51	#32.46	#32.46	6.11	68.08	68.08	090
33602		A	Closure of valve	*28.54	30.48	30.48	5.33	64.35	64.35	090
33606		A	Anastomosis/artery-aorta	*30.74	#33.81	#33.81	7.45	72.00	72.00	090
33608		A	Repair anomaly w/conduit	*31.09	#34.20	#34.20	7.45	72.74	72.74	090
33610		A	Repair by enlargement	*30.61	#33.67	#33.67	7.45	71.73	71.73	090
33611		A	Repair double ventricle	*32.30	#35.53	#35.53	7.45	75.28	75.28	090
33612		A	Repair double ventricle	*33.28	#36.59	#36.59	7.45	77.30	77.30	090
33615		A	Repair (simple fontan)	*32.06	#35.27	#35.27	7.45	74.78	74.78	090
33617		A	Repair by modified fontan	*34.03	#37.43	#37.43	7.45	78.91	78.91	090
33619		A	Repair single ventricle	*37.57	#41.33	#41.33	8.04	86.94	86.94	090
33641		A	Repair heart septum defect	*21.38	#23.53	#23.53	4.87	49.79	49.79	090
33645		A	Revision of heart veins	*24.62	#27.30	#27.30	4.87	56.99	56.99	090

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ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
33647		A	Repair heart septum defects	*26.73	#31.60	#31.60	6.28	66.61	66.61	090
33660		A	Repair of heart defects	*25.54	#28.09	#28.09	5.42	59.05	59.05	090
33665		A	Repair of heart defects	*28.60	31.27	31.27	5.42	65.29	65.29	090
33670		A	Repair of heart chambers	*32.73	#36.00	#36.00	7.45	76.18	76.18	090
33681		A	Repair heart septum defect	*27.67	#30.44	#30.44	6.28	64.39	64.39	090
33684		A	Repair heart septum defect	*29.65	#32.62	#32.62	6.28	68.55	68.55	090
33688		A	Repair heart septum defect	*30.62	#33.68	#33.68	6.28	70.58	70.58	090
33690		A	Reinforce pulmonary artery	*19.55	#21.51	#21.51	4.29	45.35	45.35	090
33692		A	Repair of heart defects	*30.75	#33.83	#33.83	7.45	72.03	72.03	090
33694		A	Repair of heart defects	*31.73	#34.90	#34.90	7.45	74.08	74.08	090
33697		A	Repair of heart defects	*33.71	#37.08	#37.08	7.45	78.24	78.24	090
33702		A	Repair of heart defects	*26.54	#29.19	#29.19	5.33	61.06	61.06	090
33710		A	Repair of heart defects	*29.71	#32.68	#32.68	6.28	68.67	68.67	090
33720		A	Repair of heart defect	*26.56	#29.22	#29.22	5.33	61.11	61.11	090
33722		A	Repair of heart defect	*28.41	30.48	30.48	5.33	64.22	64.22	090
33730		A	Repair heart-vein defect(s)	*31.67	#34.84	#34.84	7.45	73.96	73.96	090
33732		A	Repair heart-vein defect	*28.16	#30.98	#30.98	5.42	64.56	64.56	090
33735		A	Revision of heart chamber	*21.39	25.69	25.69	4.87	51.95	51.95	090
33736		A	Revision of heart chamber	*23.52	25.69	25.69	4.87	54.08	54.08	090
33737		A	Revision of heart chamber	*21.76	#23.94	#23.94	4.87	50.57	50.57	090
33750		A	Major vessel shunt	*21.41	22.10	22.10	4.29	47.80	47.80	090
33755		A	Major vessel shunt	*21.79	22.10	22.10	4.29	48.18	48.18	090
33762		A	Major vessel shunt	*21.79	22.10	22.10	4.29	48.18	48.18	090
33764		A	Major vessel shunt & graft	*21.79	22.10	22.10	4.29	48.18	48.18	090
33766		A	Major vessel shunt	*22.76	22.10	22.10	4.29	49.15	49.15	090
33767		A	Atrial septectomy/septostomy	*24.50	25.69	25.69	4.87	55.06	55.06	090
33770		A	Repair great vessels defect	*33.29	#36.62	#36.62	7.45	77.36	77.36	090
33771		A	Repair great vessels defect	*34.65	#38.12	#38.12	7.45	80.22	80.22	090
33774		A	Repair great vessels defect	*30.98	31.27	31.27	5.42	67.67	67.67	090
33775		A	Repair great vessels defect	*32.20	31.27	31.27	5.42	68.89	68.89	090
33776		A	Repair great vessels defect	*34.04	34.92	34.92	6.28	75.24	75.24	090
33777		A	Repair great vessels defect	*33.46	31.27	31.27	5.42	70.15	70.15	090
33778		A	Repair great vessels defect	*35.82	#39.40	#39.40	7.37	82.59	82.59	090
33779		A	Repair great vessels defect	*36.21	#39.83	#39.83	7.37	83.41	83.41	090
33780		A	Repair great vessels defect	*36.94	#40.63	#40.63	7.37	84.94	84.94	090
33781		A	Repair great vessels defect	*36.45	#40.10	#40.10	7.37	83.92	83.92	090
33786		A	Repair arterial trunk	*34.84	#38.32	#38.32	7.45	80.61	80.61	090
33788		A	Revision of pulmonary artery	*26.62	#29.28	#29.28	5.20	61.10	61.10	090
33800		A	Aortic suspension	*16.24	14.14	14.14	2.51	32.89	32.89	090
33802		A	Repair vessel defect	*17.66	#19.43	#19.43	4.29	41.38	41.38	090
33803		A	Repair vessel defect	*19.60	#21.56	#21.56	4.29	45.45	45.45	090
33813		A	Repair septal defect	*20.65	22.10	22.10	4.29	47.04	47.04	090
33814		A	Repair septal defect	*25.77	#28.35	#28.35	5.33	59.45	59.45	090
33820		A	Revise major vessel	*16.29	#17.92	#17.92	4.29	38.50	38.50	090
33822		A	Revise major vessel	*17.32	#19.05	#19.05	4.29	40.66	40.66	090
33824		A	Revise major vessel	*19.52	#21.47	#21.47	4.29	45.28	45.28	090
33840		A	Remove aorta constriction	*20.63	#22.69	#22.69	5.59	48.91	48.91	090
33845		A	Remove aorta constriction	*22.12	#24.33	#24.33	5.59	52.04	52.04	090
33851		A	Remove aorta constriction	*21.27	#23.40	#23.40	5.59	50.26	50.26	090
33852		A	Repair septal defect	*23.71	#26.08	#26.08	5.59	55.38	55.38	090
33853		A	Repair septal defect	*31.72	#34.89	#34.89	7.45	74.06	74.06	090
33860		A	Ascending aorta graft	*33.98	34.71	34.71	6.18	74.85	74.85	090
33861		A	Ascending aorta graft	*34.52	34.71	34.71	6.18	75.41	75.41	090
33863		A	Ascending aorta graft	*36.47	34.71	34.71	6.18	77.36	77.36	090
33870		A	Transverse aortic arch graft	*40.31	44.30	44.30	8.04	92.65	92.65	090
33875		A	Thoracic aorta graft	*33.06	31.25	31.25	5.59	69.90	69.90	090
33877		A	Thoracoabdominal graft	*42.60	44.11	44.11	8.36	95.09	95.09	090
33910		A	Remove lung artery emboli	*24.59	14.65	14.65	2.77	42.01	42.01	090
33915		A	Remove lung artery emboli	*21.02	12.02	12.02	2.22	35.26	35.26	090
33916		A	Surgery of great vessel	*25.83	17.57	17.57	3.43	46.83	46.83	090
33917		A	Repair pulmonary artery	*24.50	#26.95	#26.95	6.30	57.75	57.75	090
33918		A	Repair pulmonary stenosis	*26.45	#29.10	#29.10	5.20	60.75	60.75	090
33919		A	Repair pulmonary stenosis	*32.67	#35.94	#35.94	7.45	76.06	76.06	090
33920		A	Repair pulmonary stenosis	*31.95	#35.15	#35.15	7.45	74.55	74.55	090
33922		A	Transect pulmonary artery	*23.52	#25.87	#25.87	2.83	52.22	52.22	090
33924		A	Remove pulmonary shunt	5.50	4.00	4.00	0.78	10.28	10.28	ZZZ
33930		X	Removal of donor heart/lung	0.00	0.00	0.00	0.00	0.00	0.00	XXX
33935		R	Transplantation, heart/lung	*60.96	#67.06	#67.06	13.54	141.56	141.56	090
33940		X	Removal of donor heart	0.00	0.00	0.00	0.00	0.00	0.00	XXX
33945		R	Transplantation of heart	*42.10	#46.31	#46.31	11.05	99.46	99.46	090
33960		A	External circulation assist	19.36	7.01	7.01	0.94	27.31	27.31	XXX
33961		A	External circulation assist	10.93	7.01	7.01	0.94	18.88	18.88	XXX
33970		A	Aortic circulation assist	6.75	#7.43	#7.43	1.00	15.18	15.18	000
33971		A	Aortic circulation assist	*9.69	5.16	5.16	0.91	15.76	15.76	090

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ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
33973		A	Insert balloon device	9.76	7.54	7.54	1.00	18.30	18.30	000
33974		A	Remove intra-aortic balloon	*14.41	5.56	5.56	0.91	20.88	20.88	090
33975		A	Implant ventricular device	*21.60	14.19	14.19	2.77	38.56	38.56	090
33976		A	Implant ventricular device	*29.10	19.33	19.33	3.78	52.21	52.21	090
33977		A	Remove ventricular device	*19.29	12.41	12.41	2.43	34.13	34.13	090
33978		A	Remove ventricular device	*21.73	14.19	14.19	2.77	38.69	38.69	090
33999		C	Cardiac surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
34001		A	Removal of artery clot	*12.91	9.58	9.58	1.87	24.36	24.36	090
34051		A	Removal of artery clot	*15.21	8.81	8.81	1.59	25.61	25.61	090
34101		A	Removal of artery clot	*9.97	8.34	8.34	1.71	20.02	20.02	090
34111		A	Removal of arm artery clot	*8.07	7.59	7.59	1.59	17.25	17.25	090
34151		A	Removal of artery clot	*16.86	11.96	11.96	2.39	31.21	31.21	090
34201		A	Removal of artery clot	*9.13	8.90	8.90	1.78	19.81	19.81	090
34203		A	Removal of leg artery clot	*12.21	8.63	8.63	1.72	22.56	22.56	090
34401		A	Removal of vein clot	*12.86	8.07	8.07	1.39	22.32	22.32	090
34421		A	Removal of vein clot	*9.93	7.45	7.45	1.51	18.89	18.89	090
34451		A	Removal of vein clot	*14.44	10.69	10.69	2.14	27.27	27.27	090
34471		A	Removal of vein clot	*10.18	3.51	3.51	0.55	14.24	14.24	090
34490		A	Removal of vein clot	*7.60	7.27	7.27	1.54	16.41	16.41	090
34501		A	Repair valve, femoral vein	*10.93	7.35	7.35	0.86	19.14	19.14	090
34502		A	Reconstruct, vena cava	*26.95	18.65	18.65	3.64	49.24	49.24	090
34510		A	Transposition of vein valve	*13.25	8.89	8.89	1.04	23.18	23.18	090
34520		A	Cross-over vein graft	*13.74	9.33	9.33	1.09	24.16	24.16	090
34530		A	Leg vein fusion	*17.61	12.35	12.35	1.44	31.40	31.40	090
35001		A	Repair defect of artery	*19.84	15.90	15.90	3.18	38.72	38.72	090
35002		A	Repair artery rupture, neck	*21.00	12.64	12.64	2.41	36.05	36.05	090
35005		A	Repair defect of artery	*18.12	10.28	10.28	2.19	30.59	30.59	090
35011		A	Repair defect of artery	*11.65	#12.82	#12.82	2.76	27.23	27.23	090
35013		A	Repair artery rupture, arm	*17.40	14.70	14.70	3.03	35.13	35.13	090
35021		A	Repair defect of artery	*19.65	18.13	18.13	3.08	40.84	40.84	090
35022		A	Repair artery rupture, chest	*23.18	14.78	14.78	2.80	40.76	40.76	090
35045		A	Repair defect of arm artery	*11.26	12.35	12.35	2.50	26.11	26.11	090
35081		A	Repair defect of artery	*26.01	21.45	21.45	4.18	53.64	53.64	090
35082		A	Repair artery rupture, aorta	*36.35	22.91	22.91	4.59	63.85	63.85	090
35091		A	Repair defect of artery	*35.40	22.67	22.67	4.25	62.32	62.32	090
35092		A	Repair artery rupture, aorta	*38.39	26.27	26.27	5.21	69.87	69.87	090
35102		A	Repair defect of artery	*30.76	22.15	22.15	4.32	57.23	57.23	090
35103		A	Repair artery rupture, groin	*33.57	26.16	26.16	5.21	64.94	64.94	090
35111		A	Repair defect of artery	*16.43	17.60	17.60	3.70	37.73	37.73	090
35112		A	Repair artery rupture, spleen	*18.69	10.45	10.45	2.22	31.36	31.36	090
35121		A	Repair defect of artery	*25.99	19.12	19.12	3.66	48.77	48.77	090
35122		A	Repair artery rupture, belly	*33.45	17.92	17.92	3.96	55.33	55.33	090
35131		A	Repair defect of artery	*18.55	15.88	15.88	3.15	37.58	37.58	090
35132		A	Repair artery rupture, groin	*21.95	18.68	18.68	3.58	44.21	44.21	090
35141		A	Repair defect of artery	*14.46	14.70	14.70	2.88	32.04	32.04	090
35142		A	Repair artery rupture, thigh	*15.86	16.10	16.10	3.24	35.20	35.20	090
35151		A	Repair defect of artery	*17.00	15.36	15.36	2.94	35.30	35.30	090
35152		A	Repair artery rupture, knee	*16.70	9.27	9.27	1.95	27.92	27.92	090
35161		A	Repair defect of artery	*18.76	15.88	15.88	3.15	37.79	37.79	090
35162		A	Repair artery rupture	*19.78	18.68	18.68	3.58	42.04	42.04	090
35180		A	Repair blood vessel lesion	*13.62	7.37	7.37	1.48	22.47	22.47	090
35182		A	Repair blood vessel lesion	*17.74	10.65	10.65	1.61	30.00	30.00	090
35184		A	Repair blood vessel lesion	*12.25	9.73	9.73	1.96	23.94	23.94	090
35188		A	Repair blood vessel lesion	*14.28	8.11	8.11	1.59	23.98	23.98	090
35189		A	Repair blood vessel lesion	*18.43	11.33	11.33	2.21	31.97	31.97	090
35190		A	Repair blood vessel lesion	*12.75	10.34	10.34	2.14	25.23	25.23	090
35201		A	Repair blood vessel lesion	*9.99	10.07	10.07	1.94	22.00	22.00	090
35206		A	Repair blood vessel lesion	*9.25	10.15	10.15	2.03	21.43	21.43	090
35207		A	Repair blood vessel lesion	*10.15	10,60	10.60	1.93	22.88	22.88	090
35211		A	Repair blood vessel lesion	*22.12	13.38	13.38	2.59	38.09	38.09	090
35216		A	Repair blood vessel lesion	*18.75	10.68	10.68	2.08	31.51	31.51	090
35221		A	Repair blood vessel lesion	*16.42	11.09	11.09	2.20	29.71	29.71	090
35226		A	Repair blood vessel lesion	*9.06	#9.97	#9.97	1.95	20.98	20.98	090
35231		A	Repair blood vessel lesion	*12.00	#13.20	#13.20	2.91	28.11	28.11	090
35236		A	Repair blood vessel lesion	*10.54	#11.59	#11.59	2.56	24.69	24.69	090
35241		A	Repair blood vessel lesion	*23.12	13.49	13.49	2.60	39.21	39.21	090
35246		A	Repair blood vessel lesion	*19.84	16.95	16.95	2.15	38.94	38.94	090
35251		A	Repair blood vessel lesion	*17.49	9.59	9.59	1.88	28.96	28.96	090
35256		A	Repair blood vessel lesion	*11.38	12.40	12.40	2.39	26.17	26.17	090
35261		A	Repair blood vessel lesion	*11.63	#12.79	#12.79	2.66	27.08	27.08	090
35266		A	Repair blood vessel lesion	*10.30	#11.33	#11.33	2.41	24.04	24.04	090
35271		A	Repair blood vessel lesion	*22.12	12.53	12.53	2.56	37.21	37.21	090
35276		A	Repair blood vessel lesion	*18.75	10.85	10.85	2.26	31.86	31.86	090
35281		A	Repair blood vessel lesion	*16.48	17.28	17.28	3.37	37.13	37.13	090

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[2] Copyright 1994 American Dental Association. All rights reserved.
[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT 1/ HCPCS 2	MOD	Status	Description	Physician work RVUs 3 4	Non-facility practice expense RVUs 5	Facility practice expense RVUs 5	Mal-practice RVUs	Non-facility total	Facility total	Global
35286		A	Repair blood vessel lesion	*11.87	11.71	11.71	2.33	25.91	25.91	090
35301		A	Rechanneling of artery	*18.70	14.46	14.46	2.81	35.97	35.97	090
35311		A	Rechanneling of artery	*23.85	22.06	22.06	4.61	50.52	50.52	090
35321		A	Rechanneling of artery	*11.97	12.98	12.98	2.69	27.62	27.62	090
35331		A	Rechanneling of artery	*23.52	13.34	13.34	2.66	39.52	39.52	090
35341		A	Rechanneling of artery	*25.11	17.37	17.37	3.53	46.01	46.01	090
35351		A	Rechanneling of artery	*20.11	14.95	14.95	2.97	38.03	38.03	090
35355		A	Rechanneling of artery	*16.09	15.42	15.42	2.99	34.50	34.50	090
35361		A	Rechanneling of artery	*23.59	19.37	19.37	3.88	46.84	46.84	090
35363		A	Rechanneling of artery	*24.66	22.77	22.77	4.40	51.83	51.83	090
35371		A	Rechanneling of artery	*11.64	12.51	12.51	2.50	26.65	26.65	090
35372		A	Rechanneling of artery	*13.56	11.20	11.20	2.26	27.04	27.04	090
35381		A	Rechanneling of artery	*15.81	13.67	13.67	2.71	32.19	32.19	090
35390		A	Reoperation, carotid	3.19	1.67	1.67	0.39	5.25	5.25	ZZZ
35400		A	Angioscopy	3.00	2.27	2.27	0.27	5.54	5.54	ZZZ
35450		A	Repair arterial blockage	10.07	$11.08	$11.08	1.38	22.53	22.53	000
35452		A	Repair arterial blockage	6.91	4.35	4.35	0.61	11.87	11.87	000
35454		A	Repair arterial blockage	6.04	$6.64	$6.64	1.53	14.21	14.21	000
35456		A	Repair arterial blockage	7.35	$8.09	$8.09	1.69	17.13	17.13	000
35458		A	Repair arterial blockage	9.49	10.13	10.13	1.83	21.45	21.45	000
35459		A	Repair arterial blockage	8.63	$9.49	$9.49	1.69	19.81	19.81	000
35460		A	Repair venous blockage	6.04	3.16	3.16	0.74	9.94	9.94	000
35470		A	Repair arterial blockage	8.63	$9.49	$9.49	1.69	19.81	19.81	000
35471		A	Repair arterial blockage	10.07	$11.08	$11.08	1.38	22.53	22.53	000
35472		A	Repair arterial blockage	6.91	3.61	3.61	0.85	11.37	11.37	000
35473		A	Repair arterial blockage	6.04	$6.64	$6.64	1.53	14.21	14.21	000
35474		A	Repair arterial blockage	7.36	$8.10	$8.10	1.69	17.15	17.15	000
35475		R	Repair arterial blockage	9.49	10.13	10.13	1.83	21.45	21.45	000
35476		A	Repair venous blockage	6.04	3.16	3.16	0.74	9.94	9.94	000
35480		A	Atherectomy, open	11.08	$12.19	$12.19	1.38	24.65	24.65	000
35481		A	Atherectomy, open	7.61	4.35	4.35	0.61	12.57	12.57	000
35482		A	Atherectomy, open	6.65	$7.32	$7.32	1.53	15.50	15.50	000
35483		A	Atherectomy, open	8.10	$8.91	$8.91	1.69	18.70	18.70	000
35484		A	Atherectomy, open	10.44	10.13	10.13	1.83	22.40	22.40	000
35485		A	Atherectomy, open	9.49	4.52	4.52	1.06	15.07	15.07	000
35490		A	Atherectomy, percutaneous	11.08	$12.19	$12.19	1.38	24.65	24.65	000
35491		A	Atherectomy, percutaneous	7.61	4.35	4.35	0.61	12.57	12.57	000
35492		A	Atherectomy, percutaneous	6.65	$7.32	$7.32	1.53	15.50	15.50	000
35493		A	Atherectomy, percutaneous	8.10	$8.91	$8.91	1.69	18.70	18.70	000
35494		A	Atherectomy, percutaneous	10.44	10.13	10.13	1.83	22.40	22.40	000
35495		A	Atherectomy, percutaneous	9.49	4.52	4.52	1.06	15.07	15.07	000
35501		A	Artery bypass graft	*19.19	19.35	19.35	3.49	42.03	42.03	090
35506		A	Artery bypass graft	*19.67	19.17	19.17	3.64	42.48	42.48	090
35507		A	Artery bypass graft	*19.67	17.92	17.92	3.61	41.20	41.20	090
35508		A	Artery bypass graft	*18.65	18.11	18.11	3.43	40.19	40.19	090
35509		A	Artery bypass graft	*18.07	18.90	18.90	3.92	40.89	40.89	090
35511		A	Artery bypass graft	*16.83	10.40	10.40	1.92	29.15	29.15	090
35515		A	Artery bypass graft	*18.65	11.25	11.25	2.01	31.91	31.91	090
35516		A	Artery bypass graft	*16.32	17.37	17.37	3.54	37.23	37.23	090
35518		A	Artery bypass graft	*15.42	$16.96	$16.96	3.38	35.76	35.76	090
35521		A	Artery bypass graft	*16.17	17.53	17.53	3.34	37.04	37.04	090
35526		A	Artery bypass graft	*20.00	12.95	12.95	2.44	35.39	35.39	090
35531		A	Artery bypass graft	*25.61	20.25	20.25	3.90	49.76	49.76	090
35533		A	Artery bypass graft	*20.52	21.04	21.04	4.43	45.99	45.99	090
35536		A	Artery bypass graft	*23.11	21.37	21.37	4.17	48.65	48.65	090
35541		A	Artery bypass graft	*25.80	19.55	19.55	3.65	49.00	49.00	090
35546		A	Artery bypass graft	*25.54	21.39	21.39	4.26	51.19	51.19	090
35548		A	Artery bypass graft	*21.57	19.55	19.55	3.65	44.77	44.77	090
35549		A	Artery bypass graft	*23.35	21.39	21.39	4.26	49.00	49.00	090
35551		A	Artery bypass graft	*26.67	19.25	19.25	3.87	49.79	49.79	090
35556		A	Artery bypass graft	*21.76	18.71	18.71	3.71	44.18	44.18	090
35558		A	Artery bypass graft	*14.04	$15.44	$15.44	3.23	32.71	32.71	090
35560		A	Artery bypass graft	*23.56	20.22	20.22	3.93	47.71	47.71	090
35563		A	Artery bypass graft	*15.14	8.32	8.32	1.70	25.16	25.16	090
35565		A	Artery bypass graft	*15.14	$16.65	$16.65	3.51	35.30	35.30	090
35566		A	Artery bypass graft	*26.92	20.62	20.62	4.08	51.62	51.62	090
35571		A	Artery bypass graft	*18.56	19.36	19.36	3.87	41.81	41.81	090
35582		A	Vein bypass graft	*27.13	23.74	23.74	4.89	55.76	55.76	090
35583		A	Vein bypass graft	*22.37	20.44	20.44	4.13	46.94	46.94	090
35585		A	Vein bypass graft	*28.39	22.95	22.95	4.63	55.97	55.97	090
35587		A	Vein bypass graft	*19.05	$20.96	$20.96	4.13	44.14	44.14	090
35601		A	Artery bypass graft	*17.50	18.83	18.83	3.33	39.66	39.66	090
35606		A	Artery bypass graft	*18.71	17.55	17.55	3.51	39.77	39.77	090
35612		A	Artery bypass graft	*15.76	16.75	16.75	3.30	35.81	35.81	090

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[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT 1/ HCPCS 2	MOD	Status	Description	Physician work RVUs 3 4	Non-facility practice expense RVUs 5	Facility practice expense RVUs 5	Mal-practice RVUs	Non-facility total	Facility total	Global
35616		A	Artery bypass graft	*15.70	16.79	16.79	3.42	35.91	35.91	090
35621		A	Artery bypass graft	*14.54	#15.99	#15.99	3.80	34.33	34.33	090
35623		A	Bypass graft, not vein	*18.62	8.06	8.06	1.88	28.56	28.56	090
35626		A	Artery bypass graft	*23.63	20.51	20.51	4.08	48.22	48.22	090
35631		A	Artery bypass graft	*24.60	17.87	17.87	3.57	46.04	46.04	090
35636		A	Artery bypass graft	*22.46	13.50	13.50	2.45	38.41	38.41	090
35641		A	Artery bypass graft	*24.57	20.56	20.56	4.08	49.21	49.21	090
35642		A	Artery bypass graft	*17.98	10.33	10.33	2.20	30.51	30.51	090
35645		A	Artery bypass graft	*17.47	11.15	11.15	2.05	30.67	30.67	090
35646		A	Artery bypass graft	*25.81	23.78	23.78	4.73	54.32	54.32	090
35650		A	Artery bypass graft	*14.36	#15.80	#15.80	3.56	33.72	33.72	090
35651		A	Artery bypass graft	*25.04	24.09	24.09	4.69	53.82	53.82	090
35654		A	Artery bypass graft	*18.61	#20.47	#20.47	4.42	43.50	43.50	090
35656		A	Artery bypass graft	*19.53	17.73	17.73	3.60	40.86	40.86	090
35661		A	Artery bypass graft	*13.16	#14.50	#14.50	3.30	30.98	30.98	090
35663		A	Artery bypass graft	*14.17	#15.59	#15.59	3.80	33.56	33.56	090
35665		A	Artery bypass graft	*15.40	#16.94	#16.94	3.57	35.91	35.91	090
35666		A	Artery bypass graft	*19.19	20.06	20.06	4.00	43.25	43.25	090
35671		A	Artery bypass graft	*14.80	15.60	15.60	4.08	34.48	34.48	090
35681		A	Artery bypass graft	8.05	#8.86	#8.86	3.52	20.43	20.43	ZZZ
35691		A	Arterial transposition	*18.05	19.62	19.62	3.81	41.48	41.48	090
35693		A	Arterial transposition	*15.36	9.40	9.40	1.91	26.67	26.67	090
35694		A	Arterial transposition	*19.16	9.33	9.33	2.17	30.66	30.66	090
35695		A	Arterial transposition	*19.16	9.33	9.33	2.17	30.66	30.66	090
35700		A	Reoperation, bypass graft	3.08	1.61	1.61	0.38	5.07	5.07	ZZZ
35701		A	Exploration, carotid artery	*5.56	5.82	5.82	1.25	12.62	12.62	090
35721		A	Exploration, femoral artery	*5.28	5.56	5.56	1.11	11.95	11.95	090
35741		A	Exploration popliteal artery	*5.37	5.73	5.73	1.15	12.25	12.25	090
35761		A	Exploration of artery/vein	*5.37	5.81	5.81	1.14	12.32	12.32	090
35800		A	Explore neck vessels	*7.02	5.28	5.28	0.97	13.27	13.27	090
35820		A	Explore chest vessels	*12.88	7.92	7.92	1.43	22.23	22.23	090
35840		A	Explore abdominal vessels	*9.77	7.23	7.23	1.44	18.44	18.44	090
35860		A	Explore limb vessels	*5.55	5.81	5.81	1.15	12.51	12.51	090
35870		A	Repair vessel graft defect	*22.17	10.64	10.64	2.47	35.28	35.28	090
35875		A	Removal of clot in graft	*10.01	8.21	8.21	1.65	19.87	19.87	090
35876		A	Removal of clot in graft	*13.67	8.21	8.21	1.65	23.53	23.53	090
35901		A	Excision, graft, neck	*8.19	7.18	7.18	1.46	16.83	16.83	090
35903		A	Excision, graft, extremity	*9.39	7.18	7.18	1.46	18.03	18.03	090
35905		A	Excision, graft, thorax	*18.19	7.18	7.18	1.46	28.83	28.83	090
35907		A	Excision, graft, abdomen	*19.24	7.18	7.18	1.46	27.88	27.88	090
36000		A	Place needle in vein	0.18	0.24	#0.20	0.04	0.46	0.42	XXX
36005		A	Injection, venography	0.95	0.47	0.47	0.04	1.46	1.46	000
36010		A	Place catheter in vein	2.43	2.11	2.11	0.31	4.85	4.85	XXX
36011		A	Place catheter in vein	3.14	1.90	1.90	0.22	5.26	5.26	XXX
36012		A	Place catheter in vein	3.52	2.67	2.67	0.32	6.51	6.51	XXX
36013		A	Place catheter in artery	2.52	2.11	2.11	0.31	4.94	4.94	XXX
36014		A	Place catheter in artery	3.02	2.26	2.26	0.27	5.57	5.57	XXX
36015		A	Place catheter in artery	3.52	2.67	2.67	0.32	6.51	6.51	XXX
36100		A	Establish access to artery	3.02	2.59	2.59	0.32	5.93	5.93	XXX
36120		A	Establish access to artery	2.01	#2.21	#2.21	0.30	4.52	4.52	XXX
36140		A	Establish access to artery	2.01	1.41	1.41	0.24	3.66	3.66	XXX
36145		A	Artery to vein shunt	2.01	#2.21	#2.21	0.49	4.71	4.71	XXX
36160		A	Establish access to aorta	2.52	2.32	2.32	0.35	5.19	5.19	XXX
36200		A	Place catheter in aorta	3.02	2.73	2.73	0.28	6.03	6.03	XXX
36215		A	Place catheter in artery	4.68	2.78	2.78	0.23	7.69	7.69	XXX
36216		A	Place catheter in artery	5.28	3.29	3.29	0.27	8.84	8.84	XXX
36217		A	Place catheter in artery	6.30	3.92	3.92	0.32	10.54	10.54	XXX
36218		A	Place catheter in artery	1.01	0.62	0.62	0.05	1.68	1.68	XXX
36245		A	Place catheter in artery	4.68	3.15	3.15	0.26	8.09	8.09	XXX
36246		A	Place catheter in artery	5.28	3.29	3.29	0.27	8.84	8.84	XXX
36247		A	Place catheter in artery	6.30	3.92	3.92	0.32	10.54	10.54	XXX
36248		A	Place catheter in artery	1.01	0.62	0.62	0.05	1.68	1.68	XXX
36260		A	Insertion of infusion pump	*9.71	6.74	6.74	1.41	17.86	17.86	090
36261		A	Revision of infusion pump	*5.45	2.23	2.23	0.42	8.10	8.10	090
36262		A	Removal of infusion pump	*4.02	1.93	1.93	0.40	6.35	6.35	090
36299		C	Vessel injection procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
36400		A	Drawing blood	0.18	0.09	0.09	0.01	0.28	0.28	XXX
36405		A	Drawing blood	0.18	0.45	0.45	0.03	0.66	0.66	XXX
36406		A	Drawing blood	0.18	0.16	0.16	0.01	0.35	0.35	XXX
36410		A	Drawing blood	0.18	0.22	#0.20	0.02	0.42	0.40	XXX
36415		I	Drawing blood	0.00	0.00	0.00	0.00	0.00	0.00	XXX
36420		A	Establish access to vein	1.01	0.51	0.51	0.05	1.57	1.57	XXX
36425		A	Establish access to vein	0.76	0.08	0.08	0.01	0.85	0.85	XXX
36430		A	Blood transfusion service	0.00	0.96	0.96	0.07	1.03	1.03	XXX

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[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT 1/ HCPCS 2	MOD	Status	Description	Physician work RVUs 3 4	Non-facility practice expense RVUs 5	Facility practice expense RVUs 5	Mal-practice RVUs	Non-facility total	Facility total	Global
36440		A	Blood transfusion service	1.03	0.94	0.94	0.07	2.04	2.04	XXX
36450		A	Exchange transfusion service	2.23	1.88	1.88	0.18	4.29	4.29	XXX
36458		A	Exchange transfusion service	2.43	2.27	2.27	0.22	4.92	4.92	XXX
36460		A	Transfusion service, fetal	6.59	4.71	4.71	1.09	12.39	12.39	XXX
36468		R	Injection(s); spider veins	0.00	0.00	0.00	0.00	0.00	0.00	XXX
36469		R	Injection(s); spider veins	0.00	0.00	0.00	0.00	0.00	0.00	XXX
36470		A	Injection therapy of vein	*1.09	0.27	0.27	0.04	1.40	1.40	010
36471		A	Injection therapy of veins	*1.57	0.39	0.39	0.05	2.01	2.01	010
36481		A	Insertion of catheter, vein	6.99	5.30	5.30	0.61	12.90	12.90	000
36488		A	Insertion of catheter, vein	1.35	0.97	0.97	0.14	2.46	2.46	000
36489		A	Insertion of catheter, vein	1.22	1.12	1.12	0.17	2.51	2.51	000
36490		A	Insertion of catheter, vein	1.67	1.36	1.36	0.20	3.25	3.25	000
36491		A	Insertion of catheter, vein	1.43	#1.57	#1.57	0.32	3.32	3.32	000
36493		A	Repositioning of cvc	1.21	0.63	0.63	0.16	2.00	2.00	000
36500		A	Insertion of catheter, vein	3.52	0.08	0.08	0.01	3.61	3.61	000
36510		A	Insertion of catheter, vein	1.09	0.34	0.34	0.02	1.45	1.45	000
36520		A	Plasma and/or cell exchange	1.74	#1.91	#1.91	0.12	3.77	3.77	000
36522		A	Photopheresis	1.67	2.48	#1.84	0.37	4.52	3.88	000
36530		R	Insertion of infusion pump	*6.20	4.82	4.82	1.02	12.04	12.04	010
36531		R	Revision of infusion pump	*4.87	4.37	4.37	0.27	9.51	9.51	010
36532		R	Removal of infusion pump	*3.30	1.77	1.77	0.37	5.44	5.44	010
36533		A	Insertion of access port	*5.32	4.29	4.29	0.85	10.46	10.46	010
36534		A	Revision of access port	*2.80	#3.08	#3.08	0.21	6.09	6.09	010
36535		A	Removal of access port	*2.27	1.81	1.81	0.38	4.46	4.46	010
36600		A	Withdrawal of arterial blood	0.32	0.26	0.26	0.02	0.62	0.62	XXX
36620		A	Insertion catheter, artery	1.15	0.66	0.66	0.14	1.95	1.95	000
36625		A	Insertion catheter, artery	2.11	0.86	0.86	0.18	3.15	3.15	000
36640		A	Insertion catheter, artery	2.10	#2.31	#2.31	0.40	4.81	4.81	000
36660		A	Insertion catheter, artery	1.40	0.49	0.49	0.04	1.93	1.93	000
36680		A	Insert needle, bone cavity	1.20	1.24	1.24	0.10	2.54	2.54	000
36800		A	Insertion of cannula	2.43	2.22	2.22	0.26	4.93	4.93	000
36810		A	Insertion of cannula	3.97	#4.37	#4.37	0.74	9.08	9.08	000
36815		A	Insertion of cannula	2.62	#2.88	#2.88	0.70	6.20	6.20	000
36821		A	Artery-vein fusion	*8.93	7.24	7.24	1.46	17.63	17.63	090
36822		A	Insertion of cannula(s)	*5.42	5.60	5.60	0.77	11.79	11.79	090
36825		A	Artery-vein graft	*9.84	#10.82	#10.82	2.21	22.87	22.87	090
36830		A	Artery-vein graft	*12.00	9.96	9.96	2.36	24.32	24.32	090
36832		A	Revise artery-vein fistula	*6.45	#7.10	#7.10	2.36	15.93	15.93	090
36834		A	Repair A–V aneurysm	*9.93	7.80	7.80	1.86	19.39	19.39	090
36835		A	Artery to vein shunt	*7.15	3.42	3.42	0.79	11.36	11.36	090
36860		A	Cannula declotting	2.01	2.57	#2.21	0.43	5.01	4.65	000
36861		A	Cannula declotting	2.52	#2.77	#2.77	1.01	6.30	6.30	000
37140		A	Revision of circulation	*23.60	16.29	16.29	3.34	43.23	43.23	090
37145		A	Revision of circulation	*24.61	17.13	17.13	1.72	43.46	43.46	090
37160		A	Revision of circulation	*21.80	17.74	17.74	3.79	43.13	43.13	090
37180		A	Revision of circulation	*24.61	14.19	14.19	2.76	41.56	41.56	090
37181		A	Splice spleen/kidney veins	*26.66	16.41	16.41	3.52	46.61	46.61	090
37195		A	Thrombolytic therapy, stroke	0.00	7.68	7.68	0.54	8.22	8.22	XXX
37200		A	Transcatheter biopsy	4.56	1.59	1.59	0.13	6.28	6.28	000
37201		A	Transcatheter therapy infuse	5.00	5.50	5.50	0.64	11.14	11.14	000
37202		A	Transcatheter therapy infuse	5.68	4.30	4.30	0.50	10.48	10.48	000
37203		A	Transcatheter retrieval	5.03	3.82	3.82	0.45	9.30	9.30	000
37204		A	Transcatheter occlusion	18.14	13.76	13.76	1.60	33.50	33.50	000
37205		A	Transcatheter stent	8.26	5.16	5.16	0.42	13.86	13.86	000
37206		A	Transcatheter stent	4.13	2.58	2.58	0.21	6.92	6.92	ZZZ
37207		A	Transcatheter stent	8.26	5.16	5.16	0.42	13.86	13.86	000
37208		A	Transcatheter stent	4.13	2.58	2.58	0.21	6.92	6.92	ZZZ
37209		A	Exchange arterial catheter	2.27	1.41	1.41	0.11	3.79	3.79	000
37250		A	Intravascular us	2.10	1.14	1.14	0.13	3.37	3.37	ZZZ
37251		A	Intravascular us	1.60	0.87	0.87	0.10	2.57	2.57	ZZZ
37565		A	Ligation of neck vein	*4.44	3.79	3.79	0.74	8.97	8.97	090
37600		A	Ligation of neck artery	*4.57	4.98	4.98	0.80	10.35	10.35	090
37605		A	Ligation of neck artery	*6.19	5.56	5.56	1.04	12.79	12.79	090
37606		A	Ligation of neck artery	*6.26	5.92	5.92	0.72	12.92	12.92	090
37607		A	Ligation of fistula	*6.16	3.08	3.08	0.71	9.93	9.93	090
37609		A	Temporal artery procedure	*2.30	2.22	2.22	0.38	4.90	4.90	010
37615		A	Ligation of neck artery	*5.73	5.62	5.62	1.11	12.46	12.46	090
37616		A	Ligation of chest artery	*16.49	4.21	4.21	0.83	21.53	21.53	090
37617		A	Ligation of abdomen artery	*15.95	8.00	8.00	1.54	25.49	25.49	090
37618		A	Ligation of extremity artery	*4.84	4.98	4.98	1.06	10.88	10.88	090
37620		A	Revision of major vein	*10.56	8.81	8.81	1.48	20.85	20.85	090
37650		A	Revision of major vein	*5.13	4.02	4.02	0.52	9.67	9.67	090
37660		A	Revision of major vein	*10.61	5.75	5.75	1.07	17.43	17.43	090
37700		A	Revise leg vein	*3.73	3.64	3.64	0.73	8.10	8.10	090

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[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT 1/ HCPCS 2	MOD	Status	Description	Physician work RVUs 3 4	Non-facility practice expense RVUs 5	Facility practice expense RVUs 5	Mal-practice RVUs	Non-facility total	Facility total	Global
37720		A	Removal of leg vein	*5.66	5.11	5.11	1.04	11.81	11.81	090
37730		A	Removal of leg veins	*7.33	6.95	6.95	1.40	15.68	15.68	090
37735		A	Removal of leg veins/lesion	*10.53	8.34	8.34	1.68	20.55	20.55	090
37760		A	Revision of leg veins	*10.47	7.48	7.48	1.52	19.47	19.47	090
37780		A	Revision of leg vein	*3.84	1.89	1.89	0.35	6.08	6.08	090
37785		A	Revise secondary varicosity	*3.88	0.98	0.98	0.18	5.04	5.04	090
37788		A	Revascularization, penis	*22.01	15.14	15.14	1.48	38.63	38.63	090
37790		A	Penile venous occlusion	*8.34	5.70	5.70	0.55	14.59	14.59	090
37799		C	Vascular surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
38100		A	Removal of spleen, total	*13.01	8.55	8.55	1.81	23.37	23.37	090
38101		A	Removal of spleen, partial	*13.74	6.99	6.99	1.51	22.24	22.24	090
38102		A	Removal of spleen, total	4.80	2.51	2.51	0.58	7.89	7.89	ZZZ
38115		A	Repair of ruptured spleen	*14.19	7.64	7.64	1.49	23.32	23.32	090
38200		A	Injection for spleen x-ray	2.64	1.71	1.71	0.15	4.50	4.50	090
38230		R	Bone marrow collection	*4.54	2.78	2.78	0.21	7.53	7.53	010
38231		R	Stem cell collection	1.50	1.37	1.37	0.08	2.95	2.95	000
38240		R	Bone marrow/stem transplant	2.24	2.08	2.08	0.14	4.46	4.46	XXX
38241		R	Bone marrow/stem transplant	2.24	2.04	2.04	0.13	4.41	4.41	XXX
38300		A	Drainage lymph node lesion	*1.53	0.58	0.58	0.10	2.21	2.21	010
38305		A	Drainage lymph node lesion	*4.61	1.96	1.96	0.36	6.93	6.93	090
38308		A	Incision of lymph channels	*4.95	3.37	3.37	0.45	8.77	8.77	090
38380		A	Thoracic duct procedure	*7.46	4.44	4.44	0.78	12.66	12.66	090
38381		A	Thoracic duct procedure	*12.88	7.56	7.56	1.50	21.94	21.94	090
38382		A	Thoracic duct procedure	*10.08	4.84	4.84	1.13	16.05	16.05	090
38500		A	Biopsy/removal, lymph node(s)	*2.88	1.59	1.59	0.31	4.78	4.78	010
38505		A	Needle biopsy, lymph node(s)	1.14	1.12	1.12	0.17	2.43	2.43	000
38510		A	Biopsy/removal, lymph node(s)	*4.14	2.54	2.54	0.45	7.13	7.13	090
38520		A	Biopsy/removal, lymph node(s)	*5.12	2.99	2.99	0.56	8.67	8.67	090
38525		A	Biopsy/removal, lymph node(s)	*4.66	2.59	2.59	0.53	7.78	7.78	090
38530		A	Biopsy/removal, lymph node(s)	*8.13	3.17	3.17	0.65	9.95	9.95	090
38542		A	Explore deep node(s), neck	*5.91	4.26	4.26	0.59	10.76	10.76	090
38550		A	Removal neck/armpit lesion	*6.73	3.23	3.23	0.63	10.59	10.59	090
38555		A	Removal neck/armpit lesion	*14.27	7.27	7.27	1.38	22.92	22.92	090
38562		A	Removal, pelvic lymph nodes	*10.49	6.88	6.88	1.20	18.57	18.57	090
38564		A	Removal, abdomen lymph nodes	*10.83	7.39	7.39	1.51	19.73	19.73	090
38700		A	Removal of lymph nodes, neck	*8.24	#9.06	#9.06	1.31	18.61	18.61	090
38720		A	Removal of lymph nodes, neck	*13.61	#14.97	#14.97	2.04	30.62	30.62	* 090
38724		A	Removal of lymph nodes, neck	*14.54	14.36	14.36	2.00	30.90	30.90	090
38740		A	Remove armpit lymph nodes	*8.77	4.72	4.72	1.00	12.49	12.49	090
38745		A	Remove armpits lymph nodes	*8.84	8.28	8.28	1.76	18.88	18.88	090
38746		A	Remove thoracic lymph nodes	4.39	2.29	2.29	0.53	7.21	7.21	ZZZ
38747		A	Remove abdominal lymph nodes	4.89	2.56	2.56	0.59	8.04	8.04	ZZZ
38760		A	Remove groin lymph nodes	*8.74	6.63	6.63	1.35	16.72	16.72	090
38765		A	Remove groin lymph nodes	*16.06	12.67	12.67	2.42	31.15	31.15	090
38770		A	Remove pelvis lymph nodes	*13.23	#14.55	#14.55	1.73	29.51	29.51	090
38780		A	Remove abdomen lymph nodes	*16.59	16.06	16.06	3.13	35.78	35.78	090
38790		A	Injection for lymphatic x-ray	1.29	1.64	#1.42	0.19	3.12	2.90	000
38794		A	Access thoracic lymph duct	*4.45	2.84	2.84	0.38	7.67	7.67	090
38999		C	Blood/lymph system procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
39000		A	Exploration of chest	*8.10	6.05	6.05	1.08	13.23	13.23	090
39010		A	Exploration of chest	*11.79	11.46	11.46	2.08	25.33	25.33	090
39200		A	Removal chest lesion	*13.62	11.58	11.58	2.14	27.34	27.34	090
39220		A	Removal chest lesion	*17.42	14.94	14.94	2.83	35.19	35.19	090
39400		A	Visualization of chest	*5.61	5.12	5.12	0.95	11.68	11.68	010
39499		C	Chest procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
39501		A	Repair diaphragm laceration	*13.19	10.66	10.66	2.10	25.95	25.95	090
39502		A	Repair paraesophageal hernia	*16.33	11.93	11.93	2.45	30.71	30.71	090
39503		A	Repair of diaphragm hernia	*34.85	25.18	25.18	2.94	62.97	62.97	090
39520		A	Repair of diaphragm hernia	*16.10	12.53	12.53	2.46	31.09	31.09	090
39530		A	Repair of diaphragm hernia	*15.41	14.06	14.06	2.71	32.18	32.18	090
39531		A	Repair of diaphragm hernia	*16.42	10.00	10.00	1.80	28.22	28.22	090
39540		A	Repair of diaphragm hernia	*13.32	11.98	11.98	2.51	27.81	27.81	090
39541		A	Repair of diaphragm hernia	*14.41	12.16	12.16	2.37	28.94	28.94	090
39545		A	Revision of diaphragm	*13.37	7.90	7.90	1.31	22.58	22.58	090
39599		C	Diaphragm surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
40490		A	Biopsy of lip	1.22	0.74	0.74	0.07	2.03	2.03	000
40500		A	Partial excision of lip	*4.28	#4.71	#4.71	0.94	9.93	9.93	090
40510		A	Partial excision of lip	*4.70	#5.17	#5.17	0.83	10.70	10.70	090
40520		A	Partial excision of lip	*4.67	4.50	4.50	0.68	9.85	9.85	090
40525		A	Reconstruct lip with flap	*7.55	#8.31	#8.31	1.43	17.29	17.29	090
40527		A	Reconstruct lip with flap	*9.13	#10.04	#10.04	1.65	20.82	20.82	090
40530		A	Partial removal of lip	*5.40	5.10	5.10	0.74	11.24	11.24	090
40650		A	Repair lip	*3.84	#4.00	#4.00	0.65	8.29	8.29	090
40652		A	Repair lip	*4.26	#4.69	#4.69	0.79	9.74	9.74	090

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ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
40654		A	Repair lip	*5.31	#5.84	#5.84	1.00	12.15	12.15	090
40700		A	Repair cleft lip/nasal	*12.79	8.46	8.46	1.26	22.53	22.53	090
40701		A	Repair cleft lip/nasal	*15.85	19.33	19.33	1.62	36.80	36.80	090
40702		A	Repair cleft lip/nasal	*13.04	9.37	9.37	1.10	23.51	23.51	090
40720		A	Repair cleft lip/nasal	*13.55	9.59	9.59	1.79	24.93	24.93	090
40761		A	Repair cleft lip/nasal	*14.72	10.84	10.84	1.74	27.30	27.30	090
40799		C	Lip surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
40800		A	Drainage of mouth lesion	*1.17	0.74	0.74	0.07	1.98	1.98	010
40801		A	Drainage of mouth lesion	*2.53	1.70	1.70	0.16	4.39	4.39	010
40804		A	Removal foreign body, mouth	*1.24	0.58	0.58	0.06	1.88	1.88	010
40805		A	Removal foreign body, mouth	*2.69	2.50	2.50	0.30	5.49	5.49	010
40806		A	Incision of lip fold	0.31	0.36	0.36	0.03	0.70	0.70	000
40808		A	Biopsy of mouth lesion	*0.96	0.76	0.76	0.08	1.80	1.80	010
40810		A	Excision of mouth lesion	*1.31	1.18	1.18	0.11	2.60	2.60	010
40812		A	Excise/repair mouth lesion	*2.31	1.50	1.50	0.14	3.95	3.95	010
40814		A	Excise/repair mouth lesion	*3.42	3.23	3.23	0.32	6.97	6.97	090
40816		A	Excision of mouth lesion	*3.67	3.22	3.22	0.33	7.22	7.22	090
40818		A	Excise oral mucosa for graft	*2.41	2.25	2.25	0.20	4.86	4.86	090
40819		A	Excise lip or cheek fold	*2.41	1.23	1.23	0.14	3.78	3.78	090
40820		A	Treatment of mouth lesion	*1.26	0.53	0.53	0.06	1.87	1.87	010
40830		A	Repair mouth laceration	*1.76	0.67	0.67	0.07	2.50	2.50	010
40831		A	Repair mouth laceration	*2.46	1.94	1.94	0.21	4.61	4.61	010
40840		R	Reconstruction of mouth	*8.73	6.28	6.28	0.73	15.74	15.74	090
40842		R	Reconstruction of mouth	*8.73	6.28	6.28	0.73	15.74	15.74	090
40843		R	Reconstruction of mouth	*12.10	8.80	8.80	1.03	21.93	21.93	090
40844		R	Reconstruction of mouth	*16.01	11.63	11.63	1.36	29.00	29.00	090
40845		R	Reconstruction of mouth	*18.58	#20.44	#20.44	1.93	40.95	40.95	090
40899		C	Mouth surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
41000		A	Drainage of mouth lesion	*1.30	0.76	0.76	0.08	2.14	2.14	010
41005		A	Drainage of mouth lesion	*1.26	0.62	0.62	0.07	1.95	1.95	010
41006		A	Drainage of mouth lesion	*3.24	1.01	1.01	0.11	4.36	4.36	090
41007		A	Drainage of mouth lesion	*3.10	2.90	2.90	0.30	6.30	6.30	090
41008		A	Drainage of mouth lesion	*3.37	1.06	1.06	0.11	4.54	4.54	090
41009		A	Drainage of mouth lesion	*3.59	3.31	3.31	0.34	7.24	7.24	090
41010		A	Incision of tongue fold	*1.06	0.37	0.37	0.04	1.47	1.47	010
41015		A	Drainage of mouth lesion	*3.96	0.87	0.87	0.10	4.93	4.93	090
41016		A	Drainage of mouth lesion	*4.07	3.69	3.69	0.36	8.14	8.14	090
41017		A	Drainage of mouth lesion	*4.07	1.40	1.40	0.14	5.61	5.61	090
41018		A	Drainage of mouth lesion	*5.10	3.93	3.93	0.38	9.41	9.41	090
41100		A	Biopsy of tongue	*1.63	0.80	0.80	0.08	2.51	2.51	010
41105		A	Biopsy of tongue	*1.42	1.03	1.03	0.12	2.57	2.57	010
41108		A	Biopsy of floor of mouth	*1.05	0.85	0.85	0.09	1.99	1.99	010
41110		A	Excision of tongue lesion	*1.51	1.30	1.30	0.15	2.96	2.96	010
41112		A	Excision of tongue lesion	*2.73	2.39	2.39	0.23	5.35	5.35	090
41113		A	Excision of tongue lesion	*3.19	3.41	3.41	0.37	6.97	6.97	090
41114		A	Excision of tongue lesion	*8.47	6.39	6.39	0.73	15.59	15.59	090
41115		A	Excision of tongue fold	*1.74	1.78	1.78	0.17	3.69	3.69	010
41116		A	Excision of mouth lesion	*2.44	2.49	2.49	0.27	5.20	5.20	090
41120		A	Partial removal of tongue	*9.77	7.26	7.26	0.88	17.93	17.93	090
41130		A	Partial removal of tongue	*11.15	9.06	9.06	1.14	21.35	21.35	090
41135		A	Tongue and neck surgery	*23.09	18.30	18.30	2.64	44.03	44.03	090
41140		A	Removal of tongue	*25.50	18.89	18.89	2.45	46.84	46.84	090
41145		A	Tongue removal; neck surgery	*30.06	22.79	22.79	2.95	55.80	55.80	090
41150		A	Tongue, mouth, jaw surgery	*23.04	18.98	18.98	2.46	44.46	44.46	090
41153		A	Tongue, mouth, neck surgery	*23.77	25.00	25.00	3.03	51.80	51.80	090
41155		A	Tongue, jaw, & neck surgery	*27.72	29.95	29.95	3.75	61.42	61.42	090
41250		A	Repair tongue laceration	*1.91	1.07	1.07	0.11	3.09	3.09	010
41251		A	Repair tongue laceration	*2.27	2.07	2.07	0.21	4.55	4.55	010
41252		A	Repair tongue laceration	*2.97	2.35	2.35	0.26	5.58	5.58	010
41500		A	Fixation of tongue	*3.71	3.29	3.29	0.26	7.26	7.26	090
41510		A	Tongue to lip surgery	*3.42	2.53	2.53	0.45	6.40	6.40	090
41520		A	Reconstruction, tongue fold	*2.73	2.88	2.88	0.28	5.89	5.89	090
41599		C	Tongue and mouth surgery	0.00	0.00	0.00	0.00	0.00	0.00	YYY
41800		A	Drainage of gum lesion	*1.17	0.69	0.69	0.07	1.93	1.93	010
41805		A	Removal foreign body, gum	*1.24	0.84	0.84	0.08	2.16	2.16	010
41806		A	Removal foreign body, jawbone	*2.69	1.64	1.64	0.15	4.48	4.48	010
41820		R	Excision, gum, each quadrant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
41821		R	Excision of gum flap	0.00	0.00	0.00	0.00	0.00	0.00	XXX
41822		R	Excision of gum lesion	*2.31	3.03	3.03	0.25	5.59	5.59	010
41823		R	Excision of gum lesion	*3.30	#3.63	#3.63	0.34	7.27	7.27	090
41825		A	Excision of gum lesion	*1.31	1.49	1.49	0.14	2.94	2.94	010
41826		A	Excision of gum lesion	*2.31	2.07	2.07	0.18	4.56	4.56	010
41827		A	Excision of gum lesion	*3.42	#3.76	#3.76	0.38	7.56	7.56	090
41828		R	Excision of gum lesion	*3.09	4.07	4.07	0.33	7.49	7.49	010

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[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
41830		R	Removal of gum tissue	*3.35	#3.69	#3.69	0.36	7.40	7.40	010
41850		R	Treatment of gum lesion	0.00	0.00	0.00	0.00	0.00	0.00	XXX
41870		R	Gum graft	0.00	0.00	0.00	0.00	0.00	0.00	XXX
41872		R	Repair gum	*2.59	#2.85	#2.85	0.27	5.71	5.71	090
41874		R	Repair tooth socket	*3.09	#3.40	#3.40	0.32	6.81	6.81	090
41899		C	Dental surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
42000		A	Drainage mouth roof lesion	*1.23	0.62	0.62	0.06	1.91	1.91	010
42100		A	Biopsy roof of mouth	*1.31	0.79	0.79	0.08	2.18	2.18	010
42104		A	Excision lesion, mouth roof	*1.84	1.62	1.62	0.17	3.43	3.43	010
42106		A	Excision lesion, mouth roof	*2.10	2.22	2.22	0.21	4.53	4.53	010
42107		A	Excision lesion, mouth roof	*4.44	#4.88	#4.88	0.50	9.82	9.82	090
42120		A	Remove palate/lesion	*6.17	#6.79	#6.79	1.01	13.97	13.97	090
42140		A	Excision of uvula	*1.62	1.35	1.35	0.15	3.12	3.12	090
42145		A	Repair, palate, pharynx/uvula	*8.05	#8.86	#8.86	1.45	18.36	18.36	090
42160		A	Treatment mouth roof lesion	*1.80	1.53	1.53	0.16	3.49	3.49	010
42180		A	Repair palate	*2.50	2.24	2.24	0.26	5.00	5.00	010
42182		A	Repair palate	*3.83	3.47	3.47	0.38	7.68	7.68	010
42200		A	Reconstruct cleft palate	*12.00	7.19	7.19	0.85	20.04	20.04	090
42205		A	Reconstruct cleft palate	*9.59	#10.55	#10.55	0.79	20.93	20.93	090
42210		A	Reconstruct cleft palate	*14.50	12.51	12.51	0.95	27.96	27.96	090
42215		A	Reconstruct cleft palate	*8.82	7.68	7.68	0.86	17.36	17.36	090
42220		A	Reconstruct cleft palate	*7.02	5.40	5.40	0.81	13.23	13.23	090
42225		A	Reconstruct cleft palate	*9.54	6.90	6.90	1.08	17.52	17.52	090
42226		A	Lengthening of palate	*10.01	7.89	7.89	0.86	18.76	18.76	090
42227		A	Lengthening of palate	*9.52	7.41	7.41	0.38	17.31	17.31	090
42235		A	Repair palate	*7.87	5.55	5.55	0.49	13.91	13.91	090
42260		A	Repair nose to lip fistula	*9.80	3.98	3.98	0.44	14.22	14.22	090
42280		A	Preparation, palate mold	*1.54	1.99	1.99	0.17	3.70	3.70	010
42281		A	Insertion, palate prosthesis	*1.93	1.47	1.47	0.15	3.55	3.55	010
42299		C	Palate/uvula surgery	0.00	0.00	0.00	0.00	0.00	0.00	YYY
42300		A	Drainage of salivary gland	*1.93	0.96	0.96	0.12	3.01	3.01	010
42305		A	Drainage of salivary gland	*6.07	2.18	2.18	0.27	8.52	8.52	090
42310		A	Drainage of salivary gland	*1.56	1.03	1.03	0.12	2.71	2.71	010
42320		A	Drainage of salivary gland	*2.35	1.83	1.83	0.22	4.40	4.40	010
42325		A	Create salivary cyst drain	*2.75	2.12	2.12	0.20	5.07	5.07	090
42326		A	Create salivary cyst drain	*3.78	#4.16	#4.16	0.33	8.27	8.27	090
42330		A	Removal of salivary stone	*2.21	1.10	1.10	0.12	3.43	3.43	010
42335		A	Removal of salivary stone	*3.31	2.47	2.47	0.27	6.05	6.05	090
42340		A	Removal of salivary stone	*4.60	4.25	4.25	0.45	9.30	9.30	090
42400		A	Biopsy of salivary gland	0.78	0.79	0.79	0.10	1.67	1.67	000
42405		A	Biopsy of salivary gland	*3.29	1.54	1.54	0.19	5.02	5.02	010
42408		A	Excision of salivary cyst	*4.54	3.24	3.24	0.38	8.16	8.16	090
42409		A	Drainage of salivary cyst	*2.81	2.81	2.81	0.30	5.92	5.92	090
42410		A	Excise parotid gland/lesion	*9.34	5.94	5.94	0.92	16.20	16.20	090
42415		A	Excise parotid gland/lesion	*16.89	12.68	12.68	1.68	31.25	31.25	090
42420		A	Excise parotid gland/lesion	*19.59	14.82	14.82	1.87	36.28	36.28	090
42425		A	Excise parotid gland/lesion	*13.02	11.10	11.10	1.43	25.55	25.55	090
42426		A	Excise parotid gland/lesion	*21.26	#23.39	#23.39	3.21	47.86	47.86	090
42440		A	Excision submaxillary gland	*6.97	#7.67	#7.67	0.99	15.63	15.63	090
42450		A	Excision sublingual gland	*4.62	3.42	3.42	0.35	8.39	8.39	090
42500		A	Repair salivary duct	*4.30	4.61	4.61	0.50	9.41	9.41	090
42505		A	Repair salivary duct	*6.18	#6.80	#6.80	0.86	13.84	13.84	090
42507		A	Parotid duct diversion	*6.11	4.65	4.65	0.67	11.43	11.43	090
42508		A	Parotid duct diversion	*9.10	7.61	7.61	0.94	17.65	17.65	090
42509		A	Parotid duct diversion	*11.54	7.31	7.31	1.23	20.08	20.08	090
42510		A	Parotid duct diversion	*8.15	7.65	7.65	0.84	16.64	16.64	090
42550		A	Injection for salivary x-ray	1.25	0.44	0.44	0.04	1.73	1.73	000
42600		A	Closure of salivary fistula	*4.82	3.89	3.89	0.48	9.17	9.17	090
42650		A	Dilation of salivary duct	0.77	0.39	0.39	0.04	1.20	1.20	000
42660		A	Dilation of salivary duct	1.13	0.50	0.50	0.06	1.69	1.69	000
42665		A	Ligation of salivary duct	*2.53	2.04	2.04	0.25	4.82	4.82	090
42699		C	Salivary surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
42700		A	Drainage of tonsil abscess	*1.62	0.85	0.85	0.10	2.57	2.57	010
42720		A	Drainage of throat abscess	*5.42	1.89	1.89	0.22	7.53	7.53	010
42725		A	Drainage of throat abscess	*10.72	4.45	4.45	0.53	15.70	15.70	090
42800		A	Biopsy of throat	*1.39	0.74	0.74	0.08	2.21	2.21	010
42802		A	Biopsy of throat	*1.54	1.02	1.02	0.12	2.68	2.68	010
42804		A	Biopsy of upper nose/throat	*1.24	1.09	1.09	0.13	2.46	2.46	010
42806		A	Biopsy of upper nose/throat	*1.58	1.40	1.40	0.16	3.14	3.14	010
42808		A	Excise pharynx lesion	*2.30	2.52	2.52	0.29	5.11	5.11	010
42809		A	Remove pharynx foreign body	*1.81	0.82	0.82	0.08	2.71	2.71	010
42810		A	Excision of neck cyst	*3.33	3.14	3.14	0.47	6.94	6.94	090
42815		A	Excision of neck cyst	*7.23	#7.95	#7.95	1.12	16.30	16.30	090
42820		A	Remove tonsils and adenoids	*3.91	3.15	3.15	0.32	7.38	7.38	090

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[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
42821		A	Remove tonsils and adenoids	*4.29	3.93	3.93	0.46	8.68	8.68	090
42825		A	Removal of tonsils	*3.42	2.64	2.64	0.33	6.39	6.39	090
42826		A	Removal of tonsils	*3.36	#3.72	#3.72	0.43	7.53	7.53	090
42830		A	Removal of adenoids	*2.57	1.86	1.86	0.27	4.70	4.70	090
42831		A	Removal of adenoids	*2.71	2.36	2.36	0.25	5.32	5.32	090
42835		A	Removal of adenoids	*2.30	1.86	1.86	0.10	4.26	4.26	090
42836		A	Removal of adenoids	*3.18	2.79	2.79	0.31	6.28	6.28	090
42842		A	Extensive surgery of throat	*8.76	6.69	6.69	0.73	16.18	16.18	090
42844		A	Extensive surgery of throat	*14.31	10.85	10.85	1.27	26.43	26.43	090
42845		A	Extensive surgery of throat	*24.29	18.62	18.62	2.22	45.13	45.13	090
42860		A	Excision of tonsil tags	*2.22	1.89	1.89	0.21	4.32	4.32	090
42870		A	Excision of lingual tonsil	*5.40	2.32	2.32	0.26	7.98	7.98	090
42890		A	Partial removal of pharynx	*12.94	8.99	8.99	1.03	22.96	22.96	090
42892		A	Revision of pharyngeal walls	*15.83	10.92	10.92	1.27	28.02	28.02	090
42894		A	Revision of pharyngeal walls	*22.68	16.06	16.06	1.83	40.77	40.77	090
42900		A	Repair throat wound	*5.25	4.26	4.26	0.48	9.99	9.99	010
42950		A	Reconstruction of throat	*8.10	#8.91	#8.91	1.10	18.11	18.11	090
42953		A	Repair throat, esophagus	*8.96	6.34	6.34	0.93	16.23	16.23	090
42955		A	Surgical opening of throat	*7.39	3.32	3.32	0.43	11.14	11.14	090
42960		A	Control throat bleeding	*2.33	1.08	1.08	0.12	3.53	3.53	010
42961		A	Control throat bleeding	*5.59	1.75	1.75	0.19	7.53	7.53	090
42962		A	Control throat bleeding	*7.14	5.98	5.98	0.66	13.80	13.80	090
42970		A	Control nose/throat bleeding	*5.43	1.03	1.03	0.10	6.56	6.56	090
42971		A	Control nose/throat bleeding	*8.21	2.90	2.90	0.34	9.45	9.45	090
42972		A	Control nose/throat bleeding	*7.20	4.55	4.55	0.73	12.48	12.48	090
42999		C	Throat surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
43020		A	Incision of esophagus	*8.09	6.58	6.58	0.71	15.38	15.38	090
43030		A	Throat muscle surgery	*7.69	#8.46	#8.46	1.21	17.36	17.36	090
43045		A	Incision of esophagus	*20.12	12.45	12.45	2.36	34.93	34.93	090
43100		A	Excision of esophagus lesion	*9.19	6.19	6.19	0.95	16.33	16.33	090
43101		A	Excision of esophagus lesion	*16.24	9.48	9.48	1.88	27.60	27.60	090
43107		A	Removal of esophagus	*28.79	22.50	22.50	4.42	55.71	55.71	090
43108		A	Removal of esophagus	*34.19	25.27	25.27	4.77	64.23	64.23	090
43112		A	Removal of esophagus	*31.22	21.65	21.65	4.22	57.09	57.09	090
43113		A	Removal of esophagus	*35.27	25.27	25.27	4.77	65.31	65.31	090
43116		A	Partial removal of esophagus	*31.22	25.27	25.27	4.77	61.26	61.26	090
43117		A	Partial removal of esophagus	*30.02	25.27	25.27	4.77	60.06	60.06	090
43118		A	Partial removal of esophagus	*33.20	25.27	25.27	4.77	63.24	63.24	090
43121		A	Partial removal of esophagus	*29.19	21.36	21.36	4.19	54.74	54.74	090
43122		A	Partial removal of esophagus	*29.11	21.36	21.36	4.19	54.66	54.66	090
43123		A	Partial removal of esophagus	*33.20	25.27	25.27	4.77	63.24	63.24	090
43124		A	Removal of esophagus	*27.32	22.50	22.50	4.42	54.24	54.24	090
43130		A	Removal of esophagus pouch	*11.75	10.51	10.51	1.60	23.86	23.86	090
43135		A	Removal of esophagus pouch	*16.10	11.72	11.72	2.17	29.99	29.99	090
43200		A	Esophagus endoscopy	1.59	2.04	#1.75	0.26	3.89	3.60	000
43202		A	Esophagus endoscopy, biopsy	1.89	2.41	#2.08	0.31	4.61	4.28	000
43204		A	Esophagus endoscopy & inject	3.77	#4.15	#4.15	0.36	8.28	8.28	000
43205		A	Esophagus endoscopy/ligation	3.79	2.70	2.70	0.18	6.67	6.67	000
43215		A	Esophagus endoscopy	2.60	#2.86	#2.86	0.46	5.92	5.92	000
43216		A	Esophagus endoscopy/lesion	2.40	#2.64	#2.64	0.37	5.41	5.41	000
43217		A	Esophagus endoscopy	2.90	#3.19	#3.19	0.37	6.46	6.46	000
43219		A	Esophagus endoscopy	2.80	#3.08	#3.08	0.34	6.22	6.22	000
43220		A	Esophagus endoscopy, dilation	2.10	#2.31	#2.31	0.27	4.68	4.68	000
43226		A	Esophagus endoscopy, dilation	2.34	#2.57	#2.57	0.26	5.17	5.17	000
43227		A	Esophagus endoscopy, repair	3.60	#3.96	#3.96	0.34	7.90	7.90	000
43228		A	Esophagus endoscopy, ablation	3.77	#4.15	#4.15	0.38	8.30	8.30	000
43234		A	Upper GI endoscopy, exam	2.01	2.57	#2.21	0.30	4.88	4.52	000
43235		A	Upper gi endoscopy, diagnosis	2.39	3.07	#2.63	0.29	5.75	5.31	000
43239		A	Upper GI endoscopy, biopsy	2.69	3.44	#2.96	0.33	6.46	5.98	000
43241		A	Upper GI endoscopy with tube	2.59	#2.85	#2.85	0.38	5.82	5.82	000
43243		A	Upper GI endoscopy & inject.	4.57	#5.03	#5.03	0.39	9.99	9.99	000
43244		A	Upper GI endoscopy/ligation	4.50	3.47	3.47	0.41	8.47	8.47	000
43245		A	Operative upper GI endoscopy	3.39	#3.73	#3.73	0.40	7.52	7.52	000
43246		A	Place gastrostomy tube	4.33	#4.76	#4.76	0.51	9.60	9.60	000
43247		A	Operative upper GI endoscopy	3.39	#3.73	#3.73	0.38	7.50	7.50	000
43248		A	Upper GI endoscopy/guidewire	3.15	#3.47	#3.47	0.35	6.97	6.97	000
43249		A	Esophagus endoscopy, dilation	2.90	#3.19	#3.19	0.30	6.39	6.39	000
43250		A	Upper GI endoscopy/tumor	3.20	#3.52	#3.52	0.43	7.15	7.15	000
43251		A	Operative upper GI endoscopy	3.70	#4.07	#4.07	0.43	8.20	8.20	000
43255		A	Operative upper GI endoscopy	4.40	#4.84	#4.84	0.38	9.62	9.62	000
43258		A	Operative upper GI endoscopy	4.55	#5.01	#5.01	0.38	9.94	9.94	000
43259		A	Endoscopic ultrasound exam	4.89	4.02	4.02	0.35	9.26	9.26	000
43260		A	Endoscopy, bile duct/pancreas	5.98	5.98	5.98	0.39	12.33	12.33	000
43261		A	Endoscopy, bile duct/pancreas	6.27	5.98	5.98	0.39	12.64	12.64	000

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[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
43262		A	Endoscopy, bile duct/pancreas	7.39	#8.13	#8.13	0.58	16.10	16.10	000
43263		A	Endoscopy, bile duct/pancreas	6.19	5.83	5.83	0.38	12.40	12.40	000
43264		A	Endoscopy, bile duct/pancreas	8.90	8.92	8.92	0.61	18.43	18.43	000
43265		A	Endoscopy, bile duct/pancreas	8.90	6.82	6.82	0.49	16.21	16.21	000
43267		A	Endoscopy, bile duct/pancreas	7.39	7.41	7.41	0.48	15.28	15.28	000
43268		A	Endoscopy, bile duct/pancreas	7.39	#8.13	#8.13	0.56	16.08	16.08	000
43269		A	Endoscopy, bile duct/pancreas	6.04	#6.64	#6.64	0.51	13.19	13.19	000
43271		A	Endoscopy, bile duct/pancreas	7.39	7.63	7.63	0.50	15.52	15.52	000
43272		A	Endoscopy, bile duct/pancreas	7.39	5.60	5.60	0.42	13.41	13.41	000
43300		A	Repair of esophagus	*9.14	#10.05	#10.05	1.70	20.89	20.89	090
43305		A	Repair esophagus and fistula	*17.15	13.71	13.71	1.78	32.64	32.64	090
43310		A	Repair of esophagus	*25.39	16.99	16.99	3.23	45.61	45.61	090
43312		A	Repair esophagus and fistula	*28.42	13.72	13.72	2.30	44.44	44.44	090
43320		A	Fuse esophagus & stomach	*16.07	11.66	11.66	2.05	29.80	29.80	090
43324		A	Revise esophagus & stomach	*16.58	11.88	11.88	2.53	30.99	30.99	090
43325		A	Revise esophagus & stomach	*16.17	11.61	11.61	2.29	30.07	30.07	090
43326		A	Revise esophagus & stomach	*15.91	7.52	7.52	1.75	25.18	25.18	090
43330		A	Repair of esophagus	*15.94	11.36	11.36	2.39	29.69	29.69	090
43331		A	Repair of esophagus	*16.23	14.33	14.33	2.84	33.20	33.20	090
43340		A	Fuse esophagus & intestine	*15.81	12.44	12.44	2.52	30.77	30.77	090
43341		A	Fuse esophagus & intestine	*16.81	9.90	9.90	1.56	28.27	28.27	090
43350		A	Surgical opening, esophagus	*12.72	7.88	7.88	1.15	21.75	21.75	090
43351		A	Surgical opening, esophagus	*14.79	8.77	8.77	1.53	25.09	25.09	090
43352		A	Surgical opening, esophagus	*12.30	8.86	8.86	1.47	22.63	22.63	090
43360		A	Gastrointestinal repair	*28.78	21.36	21.36	4.19	54.33	54.33	090
43361		A	Gastrointestinal repair	*32.65	25.27	25.27	4.77	62.69	62.69	090
43400		A	Ligate esophagus veins	*17.09	10.82	10.82	1.63	29.54	29.54	090
43401		A	Esophagus surgery for veins	*17.81	9.59	9.59	1.93	29.33	29.33	090
43405		A	Ligate/staple esophagus	*16.13	14.33	14.33	2.64	33.10	33.10	090
43410		A	Repair esophagus wound	*10.86	8.90	8.90	1.54	21.30	21.30	090
43415		A	Repair esophagus wound	*17.08	12.74	12.74	2.52	32.32	32.32	090
43420		A	Repair esophagus opening	*11.57	5.86	5.86	0.78	18.23	18.23	090
43425		A	Repair esophagus opening	*16.95	9.94	9.94	1.71	28.60	28.60	090
43450		A	Dilate esophagus	1.38	0.68	0.68	0.05	2.11	2.11	000
43453		A	Dilate esophagus	1.51	1.51	1.51	0.11	3.13	3.13	000
43456		A	Dilate esophagus	2.57	2.47	2.47	0.24	5.28	5.28	000
43458		A	Dilation of esophagus	3.06	1.52	1.52	0.27	4.85	4.85	000
43460		A	Pressure treatment esophagus	3.80	1.67	1.67	0.15	5.62	5.62	000
43496		C	Free jejunum flap, microvasc	0.00	0.00	0.00	0.00	0.00	0.00	090
43499		C	Esophagus surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
43500		A	Surgical opening of stomach	*8.44	6.13	6.13	1.20	15.77	15.77	090
43501		A	Surgical repair of stomach	*15.31	8.58	8.58	1.83	25.72	25.72	090
43502		A	Surgical repair of stomach	*17.67	8.58	8.58	1.83	28.08	28.08	090
43510		A	Surgical opening of stomach	*9.99	8.29	8.29	0.94	19.22	19.22	090
43520		A	Incision of pyloric muscle	*7.63	4.48	4.48	0.87	12.98	12.98	090
43600		A	Biopsy of stomach	1.91	0.50	0.50	0.05	2.46	2.46	000
43605		A	Biopsy of stomach	*9.15	5.91	5.91	1.29	16.35	16.35	090
43610		A	Excision of stomach lesion	*11.15	8.17	8.17	1.71	21.03	21.03	090
43611		A	Excision of stomach lesion	*13.63	8.17	8.17	1.71	23.51	23.51	090
43620		A	Removal of stomach	*22.54	15.38	15.38	3.19	41.11	41.11	090
43621		A	Removal of stomach	*23.06	15.38	15.38	3.19	41.63	41.63	090
43622		A	Removal of stomach	*24.41	15.38	15.38	3.19	42.98	42.98	090
43631		A	Removal of stomach, partial	*19.66	12.42	12.42	2.66	34.74	34.74	090
43632		A	Removal stomach, partial	*19.66	12.42	12.42	2.66	34.74	34.74	090
43633		A	Removal stomach, partial	*20.10	12.42	12.42	2.66	35.18	35.18	090
43634		A	Removal stomach, partial	*21.86	20.83	20.83	4.57	47.26	47.26	090
43635		A	Partial removal of stomach	2.06	1.08	1.08	0.26	3.40	3.40	ZZZ
43638		A	Partial removal of stomach	*21.76	12.75	12.75	2.73	37.24	37.24	090
43639		A	Removal stomach, partial	*22.25	12.75	12.75	2.73	37.73	37.73	090
43640		A	Vagotomy & pylorus repair	*14.81	10.34	10.34	2.19	27.34	27.34	090
43641		A	Vagotomy & pylorus repair	*15.03	10.34	10.34	2.18	27.55	27.55	090
43750		A	Place gastrostomy tube	*4.49	4.35	4.35	0.56	9.40	9.40	010
43760		A	Change gastrostomy tube	1.10	0.69	0.69	0.09	1.88	1.88	000
43761		A	Reposition gastrostomy tube	2.01	1.08	1.08	0.26	3.32	3.32	000
43800		A	Reconstruction of pylorus	*10.46	6.85	6.85	1.47	18.78	18.78	090
43810		A	Fusion of stomach and bowel	*11.19	7.64	7.64	1.53	20.36	20.36	090
43820		A	Fusion of stomach and bowel	*11.74	8.29	8.29	1.75	21.78	21.78	090
43825		A	Fusion of stomach and bowel	*14.68	11.08	11.08	2.30	28.06	28.06	090
43830		A	Place gastrostomy tube	*7.28	6.19	6.19	1.19	14.66	14.66	090
43831		A	Place gastrostomy tube	*7.33	5.20	5.20	0.93	13.46	13.46	090
43832		A	Place gastrostomy tube	*11.92	7.95	7.95	1.36	21.23	21.23	090
43840		A	Repair of stomach lesion	*11.89	7.84	7.84	1.66	21.39	21.39	090
43842		A	Gastroplasty for obesity	*14.71	13.72	13.72	2.93	31.36	31.36	090
43843		A	Gastroplasty for obesity	*14.85	13.72	13.72	2.93	31.50	31.50	090

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[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
43846		A	Gastric bypass for obesity	*19.15	14.80	14.80	3.30	37.25	37.25	090
43847		A	Gastric bypass for obesity	*21.44	14.80	14.80	3.30	39.54	39.54	090
43848		A	Revision gastroplasty	*23.41	14.80	14.80	3.30	41.51	41.51	090
43850		A	Revise stomach-bowel fusion	*19.69	11.64	11.64	2.25	33.58	33.58	090
43855		A	Revise stomach-bowel fusion	*20.83	10.44	10.44	2.28	33.55	33.55	090
43860		A	Revise stomach-bowel fusion	*19.91	11.46	11.46	2.51	33.88	33.88	090
43865		A	Revise stomach-bowel fusion	*21.12	13.39	13.39	2.98	37.49	37.49	090
43870		A	Repair stomach opening	*7.40	5.77	5.77	1.14	14.31	14.31	090
43880		A	Repair stomach-bowel fistula	*19.63	8.25	8.25	1.76	29.64	29.64	090
43999		C	Stomach surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
44005		A	Freeing of bowel adhesion	*13.84	8.28	8.28	1.75	23.87	23.87	090
44010		A	Incision of small bowel	*10.68	6.91	6.91	1.42	19.01	19.01	090
44015		A	Insert needle catheter, bowel	2.62	#2.86	#2.86	0.45	5.95	5.95	ZZZ
44020		A	Exploration of small bowel	*11.93	7.81	7.81	1.86	21.39	21.39	090
44021		A	Decompress small bowel	*12.01	7.00	7.00	1.48	20.49	20.49	090
44025		A	Incision of large bowel	*12.18	7.74	7.74	1.61	21.53	21.53	090
44050		A	Reduce bowel obstruction	*11.40	7.77	7.77	1.64	20.81	20.81	090
44055		A	Correct malrotation of bowel	*13.14	7.66	7.66	1.60	22.40	22.40	090
44100		A	Biopsy of bowel	2.01	1.36	1.36	0.13	3.52	3.52	000
44110		A	Excision of bowel lesion(s)	*10.07	7.67	7.67	1.58	19.32	19.32	090
44111		A	Excision of bowel lesion(s)	*12.19	9.67	9.67	2.14	24.00	24.00	090
44120		A	Removal of small intestine	*14.50	9.46	9.46	2.02	25.98	25.98	090
44121		A	Removal of small intestine	4.45	2.32	2.32	0.54	7.31	7.31	ZZZ
44125		A	Removal of small intestine	*14.96	10.75	10.75	2.28	27.99	27.99	090
44130		A	Bowel to bowel fusion	*12.36	8.67	8.67	1.86	22.89	22.89	090
44139		A	Mobilization of colon	2.23	1.17	1.17	0.27	3.67	3.67	ZZZ
44140		A	Partial removal of colon	*18.35	11.37	11.37	2.40	32.12	32.12	090
44141		A	Partial removal of colon	*19.51	11.86	11.86	2.55	33.92	33.92	090
44143		A	Partial removal of colon	*20.17	12.26	12.26	2.62	35.05	35.05	090
44144		A	Partial removal of colon	*18.89	12.06	12.06	2.53	33.48	33.48	090
44145		A	Partial removal of colon	*23.18	13.25	13.25	2.78	39.21	39.21	090
44146		A	Partial removal of colon	*24.16	14.98	14.98	3.14	42.28	42.28	090
44147		A	Partial removal of colon	*18.17	15.34	15.34	3.50	36.81	36.81	090
44150		A	Removal of colon	*21.01	14.84	14.84	3.17	39.02	39.02	090
44151		A	Removal of colon/ileostomy	*20.04	10.21	10.21	2.22	32.47	32.47	090
44152		A	Removal of colon/ileostomy	*24.41	15.44	15.44	3.36	43.21	43.21	090
44153		A	Removal of colon/ileostomy	*26.83	19.35	19.35	3.63	49.81	49.81	090
44155		A	Removal of colon	*24.44	16.65	16.65	3.50	44.59	44.59	090
44156		A	Removal of colon/ileostomy	*23.01	11.40	11.40	2.52	36.93	36.93	090
44160		A	Removal of colon	*15.88	12.44	12.44	2.68	31.00	31.00	090
44300		A	Open bowel to skin	*8.86	6.03	6.03	1.29	16.20	16.20	090
44310		A	Ileostomy/jejunostomy	*11.70	7.86	7.86	1.66	21.24	21.24	090
44312		A	Revision of ileostomy	*5.88	3.08	3.08	0.45	9.41	9.41	090
44314		A	Revision of ileostomy	*11.04	6.66	6.66	1.21	18.93	18.93	090
44316		A	Devise bowel pouch	*16.47	9.64	9.64	1.43	28.54	28.54	090
44320		A	Colostomy	*12.94	7.46	7.46	1.57	21.97	21.97	090
44322		A	Colostomy with biopsies	*11.96	9.07	9.07	1.86	22.93	22.93	090
44340		A	Revision of colostomy	*5.66	1.68	1.68	0.35	7.69	7.69	090
44345		A	Revision of colostomy	*11.32	4.84	4.84	1.03	17.19	17.19	090
44346		A	Revision of colostomy	*12.46	6.65	6.65	1.36	20.49	20.49	090
44360		A	Small bowel endoscopy	2.92	#3.21	#3.21	0.32	6.45	6.45	000
44361		A	Small bowel endoscopy, biopsy	3.23	#3.55	#3.55	0.34	7.12	7.12	000
44363		A	Small bowel endoscopy	3.94	2.99	2.99	0.36	7.29	7.29	000
44364		A	Small bowel endoscopy	4.22	#4.64	#4.64	0.72	9.58	9.58	000
44365		A	Small bowel endoscopy	3.73	#4.10	#4.10	0.72	8.55	8.55	000
44366		A	Small bowel endoscopy	4.97	#5.47	#5.47	0.45	10.89	10.89	000
44369		A	Small bowel endoscopy	5.09	#5.60	#5.60	0.50	11.19	11.19	000
44372		A	Small bowel endoscopy	4.97	#5.47	#5.47	0.67	11.11	11.11	000
44373		A	Small bowel endoscopy	3.94	#4.33	#4.33	0.50	8.77	8.77	000
44376		A	Small bowel endoscopy	5.69	4.05	4.05	0.26	10.00	10.00	000
44377		A	Small bowel endoscopy	5.98	4.26	4.26	0.28	10.52	10.52	000
44378		A	Small bowel endoscopy	7.71	5.27	5.27	0.35	13.33	13.33	000
44380		A	Small bowel endoscopy	1.51	#1.66	#1.66	0.22	3.39	3.39	000
44382		A	Small bowel endoscopy	1.82	#2.00	#2.00	0.29	4.11	4.11	000
44385		A	Endoscopy of bowel pouch	1.82	2.33	#2.00	0.34	4.49	4.16	000
44386		A	Endoscopy, bowel pouch, biopsy	2.12	1.54	1.54	0.15	3.81	3.81	000
44388		A	Colon endoscopy	2.82	3.61	#3.10	0.50	6.93	6.42	000
44389		A	Colonoscopy with biopsy	3.13	4.00	#3.44	0.45	7.58	7.02	000
44390		A	Colonoscopy for foreign body	3.83	2.63	2.63	0.28	6.74	6.74	000
44391		A	Colonoscopy for bleeding	4.32	5.28	#4.75	0.58	10.11	9.60	000
44392		A	Colonoscopy & polypectomy	3.82	5.16	#4.20	0.70	9.68	8.72	000
44393		A	Colonoscopy, lesion removal	4.84	5.41	#5.32	0.70	10.95	10.86	000
44394		A	Colonoscopy w/snare	4.43	5.16	#4.67	0.70	10.29	10.00	000
44500		A	Intro, gastrointestinal tube	0.49	0.36	0.36	0.02	0.87	0.87	000

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ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
44602		A	Suture, small intestine	*10.61	7.65	7.65	1.62	19.88	19.88	090
44603		A	Suture, small intestine	*14.00	9.09	9.09	1.96	25.05	25.05	090
44604		A	Suture, large intestine	*14.26	7.87	7.87	1.67	23.82	23.82	090
44605		A	Repair of bowel lesion	*15.37	9.37	9.37	2.02	26.76	26.76	090
44615		A	Intestinal stricturoplasty	*14.19	6.74	6.74	1.57	22.50	22.50	090
44620		A	Repair bowel opening	*10.87	5.97	5.97	1.26	18.10	18.10	090
44625		A	Repair bowel opening	*13.41	9.58	9.58	2.03	25.02	25.02	090
44626		A	Repair bowel opening	*22.59	11.37	11.37	2.40	36.36	36.36	090
44640		A	Repair bowel-skin fistula	*14.83	6.54	6.54	1.35	22.72	22.72	090
44650		A	Repair bowel fistula	*15.25	7.33	7.33	1.46	24.04	24.04	090
44660		A	Repair bowel-bladder fistula	*14.63	8.34	8.34	1.21	24.18	24.18	090
44661		A •	Repair bowel-bladder fistula	*16.99	13.94	13.94	2.52	33.45	33.45	090
44680		A	Surgical revision, intestine	*13.72	9.71	9.71	2.14	25.57	25.57	090
44700		A	Suspend bowel w/prosthesis	*14.35	11.37	11.37	2.40	28.12	28.12	090
44799		C	Intestine surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
44800		A	Excision of bowel pouch	*11.23	5.24	5.24	1.08	17.55	17.55	090
44820		A	Excision of mesentery lesion	*10.31	5.80	5.80	1.21	17.32	17.32	090
44850		A	Repair of mesentery	*9.57	5.60	5.60	1.18	16.35	16.35	090
44899		C	Bowel surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
44900		A	Drain, app abscess, open	*8.82	4.26	4.26	0.88	13.96	13.96	090
44901		A	Drain, app abscess, perc	3.38	2.56	2.56	0.30	6.24	6.24	000
44950		A	Appendectomy	*8.70	4.89	4.89	1.01	14.60	14.60	090
44955		A	Appendectomy	1.53	#1.68	#1.68	0.60	3.81	3.81	ZZZ
44960		A	Appendectomy	*10.74	5.89	5.89	1.24	17.87	17.87	090
45000		A	Drainage of pelvic abscess	*4.52	1.59	1.59	0.24	6.35	6.35	090
45005		A	Drainage of rectal abscess	*1.99	1.29	1.29	0.21	3.49	3.49	010
45020		A	Drainage of rectal abscess	*4.72	2.61	2.61	0.51	7.84	7.84	090
45100		A	Biopsy of rectum	*3.68	1.88	1.88	0.35	5.91	5.91	090
45108		A	Removal of anorectal lesion	*4.76	2.66	2.66	0.53	7.95	7.95	090
45110		A	Removal of rectum	*23.80	16.32	16.32	3.43	43.55	43.55	090
45111		A	Partial removal of rectum	*16.48	11.77	11.77	2.49	30.74	30.74	090
45112		A	Removal of rectum	*25.96	16.06	16.06	3.36	45.38	45.38	090
45113		A	Partial proctectomy	*25.99	16.06	16.06	3.36	45.41	45.41	090
45114		A	Partial removal of rectum	*23.22	15.39	15.39	3.24	41.85	41.85	090
45116		A	Partial removal of rectum	*20.89	10.77	10.77	2.34	34.00	34.00	090
45119		A	Remove, rectum w/reservoir	*28.21	16.06	16.06	3.36	45.63	45.63	090
45120		A	Removal of rectum	*24.60	16.39	16.39	3.54	44.53	44.53	090
45121		A	Removal of rectum and colon	*27.04	10.79	10.79	2.01	39.84	39.84	090
45123		A	Partial proctectomy	*14.20	11.77	11.77	2.49	28.46	28.46	090
45130		A	Excision of rectal prolapse	*13.97	8.92	8.92	1.79	24.68	24.68	090
45135		A	Excision of rectal prolapse	*16.39	15.95	15.95	3.50	35.84	35.84	090
45150		A	Excision of rectal stricture	*5.67	3.38	3.38	0.63	9.68	9.68	090
45160		A	Excision of rectal lesion	*13.02	7.46	7.46	1.56	22.04	22.04	090
45170		A	Excision of rectal lesion	*9.77	4.62	4.62	0.96	15.35	15.35	090
45190		A	Destruction, rectal tumor	*8.28	5.09	5.09	1.08	14.43	14.43	090
45300		A	Proctosigmoidoscopy	0.70	0.55	0.55	0.07	1.32	1.32	000
45303		A	Proctosigmoidoscopy	0.80	0.64	0.64	0.12	1.56	1.56	000
45305		A	Proctosigmoidoscopy; biopsy	1.01	0.84	0.84	0.14	1.99	1.99	000
45307		A	Proctosigmoidoscopy	1.71	1.27	1.27	0.18	3.16	3.16	000
45308		A	Proctosigmoidoscopy	1.51	1.13	1.13	0.20	2.84	2.84	000
45309		A	Proctosigmoidoscopy	2.01	1.13	1.13	0.20	3.34	3.34	000
45315		A	Proctosigmoidoscopy	2.54	1.19	1.19	0.18	3.91	3.91	000
45317		A	Proctosigmoidoscopy	2.73	1.26	1.26	0.19	4.18	4.18	000
45320		A	Proctosigmoidoscopy	2.68	1.87	1.87	0.34	5.09	5.09	000
45321		A	Proctosigmoidoscopy	2.12	1.47	1.47	0.27	3.86	3.86	000
45330		A	Sigmoidoscopy, diagnostic	0.96	1.23	#1.06	0.12	2.31	2.14	000
45331		A	Sigmoidoscopy and biopsy	1.26	1.61	#1.39	0.15	3.02	2.80	000
45332		A	Sigmoidoscopy	1.96	1.76	1.76	0.16	3.88	3.88	000
45333		A	Sigmoidoscopy & polypectomy	1.96	2.24	#2.16	0.26	4.46	4.38	000
45334		A	Sigmoidoscopy for bleeding	2.99	2.71	2.71	0.23	5.93	5.93	000
45337		A	Sigmoidoscopy, decompression	2.36	#2.60	#2.60	0.38	5.34	5.34	000
45338		A	Sigmoidoscopy	2.57	2.24	2.24	0.26	5.07	5.07	000
45339		A	Sigmoidoscopy	3.14	3.24	3.24	0.31	6.69	6.69	000
45355		A	Surgical colonoscopy	3.52	1.17	1.17	0.10	4.79	4.79	000
45378		A	Diagnostic colonoscopy	3.70	4.13	#4.07	0.39	8.22	8.16	000
45378	53	A	Diagnostic colonoscopy	0.96	1.23	#1.06	0.12	2.31	2.14	000
45379		A	Colonoscopy	4.72	5.33	#5.19	0.45	10.50	10.36	000
45380		A	Colonoscopy and biopsy	4.01	4.79	#4.41	0.40	9.20	8.82	000
45382		A	Colonoscopy, control bleeding	5.73	5.87	5.87	0.41	12.01	12.01	000
45383		A	Colonoscopy, lesion removal	5.87	5.92	5.92	0.50	12.29	12.29	000
45384		A	Colonoscopy	4.70	#5.17	#5.17	0.58	10.45	10.45	000
45385		A	Colonoscopy, lesion removal	5.31	6.65	#5.84	0.58	12.54	11.73	000
45500		A	Repair of rectum	*7.29	5.95	5.95	1.21	14.45	14.45	090
45505		A	Repair of rectum	*8.02	6.29	6.29	1.23	13.54	13.54	090

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[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [6]	Mal-practice RVUs	Non-facility total	Facility total	Global
45520		A	Treatment of rectal prolapse	0.55	0.61	0.61	0.10	1.26	1.26	000
45540		A	Correct rectal prolapse	*12.92	9.89	9.89	2.10	24.91	24.91	090
45541		A	Correct rectal prolapse	*10.64	10.17	10.17	2.04	22.85	22.85	090
45550		A	Repair rectum; remove sigmoid	*18.26	11.49	11.49	2.38	32.13	32.13	090
45560		A	Repair of rectocele	*8.40	4.79	4.79	0.98	14.17	14.17	090
45562		A	Exploration/repair of rectum	*12.21	8.09	8.09	1.58	21.88	21.88	090
45563		A	Exploration/repair of rectum	*18.83	12.77	12.77	2.49	33.89	33.89	090
45800		A	Repair rectum/bladder fistula	*14.11	9.82	9.82	1.45	25.38	25.38	090
45805		A	Repair fistula; colostomy	*16.50	12.32	12.32	2.39	31.21	31.21	090
45820		A	Repair rectourethral fistula	*14.67	8.98	8.98	1.23	24.88	24.88	090
45825		A	Repair fistula; colostomy	*16.87	9.87	9.87	1.66	28.40	28.40	090
45900		A	Reduction of rectal prolapse	*1.83	0.58	0.58	0.11	2.52	2.52	010
45905		A	Dilation of anal sphincter	*1.61	0.71	0.71	0.12	2.44	2.44	010
45910		A	Dilation of rectal narrowing	*1.96	0.87	0.87	0.13	2.96	2.96	010
45915		A	Remove rectal obstruction	*2.20	0.78	0.78	0.09	3.07	3.07	010
45999		C	Rectum surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
46030		A	Removal of rectal marker	*1.23	0.40	0.40	0.07	1.70	1.70	010
46040		A	Incision of rectal abscess	*4.98	1.69	1.69	0.34	6.99	6.99	090
46045		A	Incision of rectal abscess	*4.32	1.85	1.85	0.36	6.55	6.55	090
46050		A	Incision of anal abscess	*1.19	0.60	0.60	0.11	1.90	1.90	010
46060		A	Incision of rectal abscess	*5.69	5.36	5.36	1.12	12.16	12.16	090
46070		A	Incision of anal septum	*2.71	1.37	1.37	0.33	4.41	4.41	090
46080		A	Incision of anal sphincter	*2.49	2.13	2.13	0.43	5.05	5.05	010
46083		A	Incise external hemorrhoid	*1.40	0.63	0.63	0.08	2.11	2.11	010
46200		A	Removal of anal fissure	*3.42	3.29	3.29	0.66	7.37	7.37	090
46210		A	Removal of anal crypt	*2.67	0.77	0.77	0.14	3.58	3.58	090
46211		A	Removal of anal crypts	*4.25	1.90	1.90	0.38	6.53	6.53	090
46220		A	Removal of anal tab	*1.56	0.63	0.63	0.12	2.31	2.31	010
46221		A	Ligation of hemorrhoid(s)	*1.43	0.66	0.66	0.14	2.23	2.23	010
46230		A	Removal of anal tabs	*2.57	0.83	0.83	0.12	3.52	3.52	010
46250		A	Hemorrhoidectomy	*4.53	2.84	2.84	0.52	7.89	7.89	090
46255		A	Hemorrhoidectomy	*5.38	4.72	4.72	0.85	10.93	10.93	090
46257		A	Remove hemorrhoids & fissure	*6.28	5.23	5.23	1.08	12.59	12.59	090
46258		A	Remove hemorrhoids & fistula	*6.87	5.87	5.87	1.22	13.76	13.76	090
46260		A	Hemorrhoidectomy	*7.42	6.07	6.07	1.25	14.74	14.74	090
46261		A	Remove hemorrhoids & fissure	*8.24	6.62	6.62	1.34	16.20	16.20	090
46262		A	Remove hemorrhoids & fistula	*8.73	6.72	6.72	1.39	16.84	16.84	090
46270		A	Removal of anal fistula	*3.72	1.87	1.87	0.37	5.96	5.96	090
46275		A	Removal of anal fistula	*4.56	#5.02	#5.02	1.13	10.71	10.71	090
46280		A	Removal of anal fistula	*5.98	6.08	6.08	1.24	13.30	13.30	090
46285		A	Removal of anal fistula	*4.09	2.28	2.28	0.43	6.80	6.80	090
46288		A	Repair anal fistula	*7.13	3.57	3.57	0.83	11.53	11.53	090
46320		A	Removal of hemorrhoid clot	*1.61	0.70	0.70	0.11	2.42	2.42	010
46500		A	Injection into hemorrhoids	*1.61	0.32	0.32	0.06	1.99	1.99	010
46600		A	Diagnostic anoscopy	0.50	0.28	0.28	0.03	0.81	0.81	000
46604		A	Anoscopy and dilation	1.31	0.38	0.38	0.06	1.75	1.75	000
46606		A	Anoscopy and biopsy	0.81	0.36	0.36	0.06	1.23	1.23	000
46608		A	Anoscopy; remove foreign body	1.51	1.07	1.07	0.12	2.70	2.70	000
46610		A	Anoscopy; remove lesion	1.32	0.85	0.85	0.15	2.32	2.32	000
46611		A	Anoscopy	1.81	0.85	0.85	0.15	2.81	2.81	000
46612		A	Anoscopy; remove lesions	2.34	1.39	1.39	0.20	3.93	3.93	000
46614		A	Anoscopy; control bleeding	2.01	1.55	1.55	0.25	3.81	3.81	000
46615		A	Anoscopy	2.66	1.55	1.55	0.25	4.46	4.46	000
46700		A	Repair of anal stricture	*7.25	6.14	6.14	1.24	14.63	14.63	090
46705		A	Repair of anal stricture	*7.17	3.60	3.60	0.77	11.54	11.54	090
46715		A	Repair of anovaginal fistula	*7.46	3.51	3.51	0.82	11.79	11.79	090
46716		A	Repair of anovaginal fistula	*12.15	6.05	6.05	1.40	19.60	19.60	090
46730		A	Construction of absent anus	*21.57	10.74	10.74	2.50	34.81	34.81	090
46735		A	Construction of absent anus	*25.94	13.04	13.04	3.04	42.02	42.02	090
46740		A	Construction of absent anus	*23.11	11.56	11.56	2.68	37.34	37.34	090
46742		A	Repair, imperforated anus	*29.67	19.75	19.75	1.93	51.35	51.35	090
46744		A	Repair, cloacal anomaly	*33.21	22.17	22.17	2.17	57.55	57.55	090
46746		A	Repair, cloacal anomaly	*36.74	24.26	24.26	2.37	63.37	63.37	090
46748		A	Repair, cloacal anomaly	*40.52	27.03	27.03	2.64	70.19	70.19	090
46750		A	Repair of anal sphincter	*8.14	6.00	6.00	1.22	15.36	15.36	090
46751		A	Repair of anal sphincter	*8.56	4.07	4.07	0.95	13.58	13.58	090
46753		A	Reconstruction of anus	*8.58	4.89	4.89	1.02	12.49	12.49	090
46754		A	Removal of suture from anus	*1.54	1.48	1.48	0.30	3.32	3.32	010
46760		A	Repair of anal sphincter	*11.46	6.80	6.80	1.41	19.67	19.67	090
46761		A	Repair of anal sphincter	*10.99	6.83	6.83	1.35	19.17	19.17	090
46762		A	Implant artificial sphincter	*10.09	5.72	5.72	1.21	17.02	17.02	090
46900		A	Destruction, anal lesion(s)	*1.91	0.39	0.39	0.06	2.36	2.36	010
46910		A	Destruction, anal lesion(s)	*1.86	0.64	0.64	0.08	2.58	2.58	010
46916		A	Cryosurgery, anal lesion(s)	*1.86	0.67	0.67	0.08	2.59	2.59	010

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ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [6]	Mal-practice RVUs	Non-facility total	Facility total	Global
46917		A	Laser surgery, anal lesion(s)	*1.86	1.94	1.94	0.31	4.11	4.11	010
46922		A	Excision of anal lesion(s)	*1.86	1.28	1.28	0.23	3.37	3.37	010
46924		A	Destruction, anal lesion(s)	*2.76	2.56	2.56	0.46	5.78	5.78	010
46934		A	Destruction of hemorrhoids	*4.08	1.19	1.19	0.17	5.44	5.44	090
46935		A	Destruction of hemorrhoids	*2.43	1.62	1.62	0.22	4.27	4.27	010
46936		A	Destruction of hemorrhoids	*4.30	2.29	2.29	0.24	6.83	6.83	090
46937		A	Cryotherapy of rectal lesion	*2.69	2.35	2.35	0.45	5.49	5.49	010
46938		A	Cryotherapy of rectal lesion	*4.66	2.50	2.50	0.52	7.68	7.68	090
46940		A	Treatment of anal fissure	*2.32	0.51	0.51	0.09	2.92	2.92	010
46942		A	Treatment of anal fissure	*2.04	0.46	0.46	0.08	2.58	2.58	010
46945		A	Ligation of hemorrhoids	*2.14	0.63	0.63	0.12	2.89	2.89	090
46946		A	Ligation of hemorrhoids	*3.00	0.94	0.94	0.17	4.11	4.11	090
46999		C	Anus surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
47000		A	Needle biopsy of liver	1.90	1.40	1.40	0.19	3.43	3.43	000
47001		A	Needle biopsy, liver	1.90	1.40	1.40	0.13	3.43	3.43	ZZZ
47010		A	Open drainage, liver lesion	*10.28	6.75	6.75	1.13	18.16	18.16	090
47011		A	Percut drain, liver lesion	3.70	2.80	2.80	0.33	6.83	6.83	000
47015		A	Inject/aspirate liver cyst	*9.70	6.75	6.75	1.13	17.58	17.58	090
47100		A	Wedge biopsy of liver	*7.49	3.29	3.29	0.67	11.45	11.45	090
47120		A	Partial removal of liver	*22.79	12.00	12.00	2.48	37.27	37.27	090
47122		A	Extensive removal of liver	*35.39	17.58	17.58	3.59	56.56	56.56	090
47125		A	Partial removal of liver	*31.58	17.43	17.43	3.61	52.62	52.62	090
47130		A	Partial removal of liver	*34.25	19.19	19.19	3.89	57.33	57.33	090
47133		X	Removal of donor liver	0.00	0.00	0.00	0.00	0.00	0.00	XXX
47134		R	Partial removal, donor liver	39.15	20.48	20.48	4.77	64.40	64.40	XXX
47135		R	Transplantation of liver	*81.52	54.48	54.48	8.49	144.49	144.49	090
47136		R	Transplantation of liver	*68.60	33.50	33.50	7.79	109.89	109.89	090
47300		A	Surgery for liver lesion	*9.88	7.67	7.67	1.59	18.94	18.94	090
47350		A	Repair liver wound	*12.56	7.46	7.46	1.49	21.51	21.51	090
47360		A	Repair liver wound	*17.26	10.93	10.93	2.18	30.39	30.39	090
47361		A	Repair liver wound	*30.25	14.84	14.84	3.41	48.30	48.30	090
47362		A	Repair liver wound	*11.88	5.23	5.23	1.22	18.33	18.33	090
47399		C	Liver surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
47400		A	Incision of liver duct	*20.86	8.53	8.53	1.36	30.75	30.75	090
47420		A	Incision of bile duct	*16.72	9.48	9.48	1.99	28.19	28.19	090
47425		A	Incision of bile duct	*16.68	11.71	11.71	2.45	30.84	30.84	090
47460		A	Incise bile duct sphincter	*15.17	15.54	15.54	1.82	32.53	32.53	090
47480		A	Incision of gallbladder	*9.10	7.60	7.60	1.59	18.29	18.29	090
47490		A	Incision of gallbladder	*7.23	3.57	3.57	0.38	11.18	11.18	090
47500		A	Injection for liver x-rays	1.98	1.51	1.51	0.14	3.61	3.61	000
47505		A	Injection for liver x-rays	0.76	0.98	#0.84	0.14	1.88	1.74	000
47510		A	Insert catheter, bile duct	*7.83	2.87	2.87	0.25	10.95	10.95	090
47511		A	Insert bile duct drain	*10.50	2.87	2.87	0.25	13.62	13.62	090
47525		A	Change bile duct catheter	*5.55	1.59	1.59	0.16	7.30	7.30	010
47530		A	Revise, reinsert bile tube	*5.85	1.51	1.51	0.19	7.55	7.55	090
47550		A	Bile duct endoscopy	3.02	1.56	1.56	0.35	4.93	4.93	000
47552		A	Biliary endoscopy, thru skin	6.04	1.36	1.36	0.21	7.61	7.61	000
47553		A	Biliary endoscopy, thru skin	6.35	3.80	3.80	0.62	10.77	10.77	000
47554		A	Biliary endoscopy, thru skin	9.06	3.93	3.93	0.67	13.66	13.66	000
47555		A	Biliary endoscopy, thru skin	7.56	2.63	2.63	0.30	10.49	10.49	000
47556		A	Biliary endoscopy, thru skin	8.56	2.63	2.63	0.30	11.49	11.49	000
47600		A	Removal of gallbladder	*11.42	7.53	7.53	1.58	20.53	20.53	090
47605		A	Removal of gallbladder	*12.36	8.14	8.14	1.75	22.25	22.25	090
47610		A	Removal of gallbladder	*15.83	9.37	9.37	2.00	27.20	27.20	090
47612		A	Removal of gallbladder	*15.80	14.23	14.23	3.05	33.08	33.08	090
47620		A	Removal of gallbladder	*17.36	11.23	11.23	2.36	30.95	30.95	090
47630		A	Remove bile duct stone	*9.11	3.75	3.75	0.40	13.26	13.26	090
47700		A	Exploration of bile ducts	*14.93	7.63	7.63	1.58	24.14	24.14	090
47701		A	Bile duct revision	*27.81	8.21	8.21	1.90	37.92	37.92	090
47711		A	Excision of bile duct tumor	*19.37	12.06	12.06	2.46	33.89	33.89	090
47712		A	Excision of bile duct tumor	*25.44	12.06	12.06	2.46	39.96	39.96	090
47715		A	Excision of bile duct cyst	*15.81	8.22	8.22	1.71	25.74	25.74	090
47716		A	Fusion of bile duct cyst	*13.83	6.56	6.56	1.53	21.92	21.92	090
47720		A	Fuse gallbladder & bowel	*13.38	9.16	9.16	1.93	24.47	24.47	090
47721		A	Fuse upper gi structures	*16.08	11.42	11.42	2.47	29.97	29.97	090
47740		A	Fuse gallbladder & bowel	*15.54	10.21	10.21	2.14	27.89	27.89	090
47741		A	Fuse gallbladder & bowel	*17.95	14.35	14.35	3.02	35.32	35.32	090
47760		A	Fuse bile ducts and bowel	*21.74	11.61	11.61	2.53	35.88	35.88	090
47765		A	Fuse liver ducts & bowel	*20.93	14.61	14.61	2.97	38.51	38.51	090
47780		A	Fuse bile ducts and bowel	*22.29	13.07	13.07	2.73	38.09	38.09	090
47785		A	Fuse bile ducts and bowel	*26.23	13.07	13.07	2.73	42.03	42.03	090
47800		A	Reconstruction of bile ducts	*19.60	13.22	13.22	2.43	35.25	35.25	090
47801		A	Placement, bile duct support	*12.76	5.48	5.48	0.81	19.05	19.05	090
47802		A	Fuse liver duct & intestine	*18.13	10.27	10.27	1.75	30.15	30.15	090

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ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
47900		A	Suture bile duct injury	*16.74	13.22	13.22	2.43	32.39	32.39	090
47999		C	Bile tract surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
48000		A	Drainage of abdomen	*14.91	7.05	7.05	1.40	23.36	23.36	090
48001		A	Placement of drain, pancreas	*18.83	8.13	8.13	1.89	28.85	28.85	090
48005		A	Resect/debride pancreas	*22.40	9.19	9.19	2.14	33.73	33.73	090
48020		A	Removal of pancreatic stone	*14.22	6.78	6.78	1.57	22.57	22.57	090
48100		A	Biopsy of pancreas	*11.06	4.21	4.21	0.79	16.08	16.08	090
48102		A	Needle biopsy, pancreas	*4.68	2.41	2.41	0.25	7.34	7.34	010
48120		A	Removal of pancreas lesion	*14.36	9.72	9.72	2.07	26.15	26.15	090
48140		A	Partial removal of pancreas	*20.78	13.29	13.29	2.83	36.90	36.90	090
48145		A	Partial removal of pancreas	*21.76	15.71	15.71	3.16	40.63	40.63	090
48146		A	Pancreatectomy	*23.91	16.49	16.49	1.92	42.32	42.32	090
48148		A	Removal of pancreatic duct	*15.71	8.23	8.23	1.68	25.62	25.62	090
48150		A	Partial removal of pancreas	*43.48	22.54	22.54	4.75	70.77	70.77	090
48152		A	Pancreatectomy	*39.63	22.54	22.54	4.75	66.92	66.92	090
48153		A	Pancreatectomy	*43.38	22.54	22.54	4.75	70.67	70.67	090
48154		A	Pancreatectomy	*39.95	22.54	22.54	4.75	67.24	67.24	090
48155		A	Removal of pancreas	*22.32	20.40	20.40	4.26	46.98	46.98	090
48160		N	Pancreas removal, transplant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
48180		A	Fuse pancreas and bowel	*22.39	12.60	12.60	2.63	37.62	37.62	090
48400		A	Injection, intraoperative	1.95	1.03	1.03	0.24	3.22	3.22	ZZZ
48500		A	Surgery of pancreas cyst	*13.84	8.53	8.53	1.66	24.03	24.03	090
48510		A	Drain pancreatic pseudocyst	*12.96	7.54	7.54	1.44	21.94	21.94	090
48511		A	Drain pancreatic pseudocyst	4.00	3.03	3.03	0.35	7.38	7.38	000
48520		A	Fuse pancreas cyst and bowel	*14.12	11.30	11.30	2.43	27.85	27.85	090
48540		A	Fuse pancreas cyst and bowel	*17.88	12.66	12.66	2.65	33.17	33.17	090
48545		A	Pancreatorrhaphy	*16.47	7.66	7.66	1.79	25.92	25.92	090
48547		A	Duodenal exclusion	*23.40	11.08	11.08	2.58	37.06	37.06	090
48550		N	Donor pancreatectomy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
48554		N	Transplantallograft pancreas	+34.17	17.87	17.87	4.16	56.20	56.20	XXX
48556		A	Removal, allograft pancreas	*15.71	7.26	7.26	1.69	24.66	24.66	090
48999		C	Pancreas surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
49000		A	Exploration of abdomen	*11.68	6.79	6.79	1.40	19.87	19.87	090
49002		A	Reopening of abdomen	*10.49	6.05	6.05	1.21	17.75	17.75	090
49010		A	Exploration behind abdomen	*12.28	8.95	8.95	1.31	20.54	20.54	090
49020		A	Drain abdominal abscess	*16.79	4.82	4.82	0.91	22.52	22.52	090
49021		A	Drain abdominal abscess	*3.38	ø3.72	ø3.72	0.91	8.01	8.01	000
49040		A	Open drainage abdom abscess	*9.94	6.54	6.54	1.27	17.75	17.75	090
49041		A	Percut drain abdom abscess	4.00	3.03	3.03	0.35	7.38	7.38	000
49060		A	Open drain retroper abscess	*11.66	5.54	5.54	1.01	18.21	18.21	090
49061		A	Percutdrain retroper abscess	3.70	2.80	2.80	0.33	6.83	6.83	000
49062		A	Drain to peritoneal cavity	*11.36	8.07	8.07	0.79	20.22	20.22	090
49080		A	Puncture, peritoneal cavity	1.35	0.87	0.87	0.08	2.30	2.30	000
49081		A	Removal of abdominal fluid	1.26	0.75	0.75	0.07	2.08	2.08	000
49085		A	Remove abdomen foreign body	*8.93	3.46	3.46	0.67	13.06	13.06	090
49180		A	Biopsy, abdominal mass	1.73	1.82	1.82	0.20	3.75	3.75	000
49200		A	Removal of abdominal lesion	*10.25	8.38	8.38	1.70	20.33	20.33	090
49201		A	Removal of abdominal lesion	*14.84	12.10	12.10	2.50	29.44	29.44	090
49215		A	Excise sacral spine tumor	*22.36	8.50	8.50	1.59	32.45	32.45	090
49220		A	Multiple surgery, abdomen	*14.88	12.30	12.30	2.53	29.71	29.71	090
49250		A	Excision of umbilicus	*8.35	4.52	4.52	0.96	13.83	13.83	090
49255		A	Removal of omentum	*11.14	5.16	5.16	1.15	17.45	17.45	090
49400		A	Air injection into abdomen	1.86	1.12	1.12	0.17	3.17	3.17	000
49420		A	Insert abdominal drain	2.22	1.58	1.58	0.20	4.00	4.00	000
49421		A	Insert abdominal drain	*5.54	4.14	4.14	0.81	10.49	10.49	090
49422		A	Remove perm cannula/catheter	*8.25	4.14	4.14	0.81	11.20	11.20	010
49423		A	Exchange drainage cath	1.46	1.10	1.10	0.13	2.69	2.69	000
49424		A	Assess cyst, contrast inj	0.76	0.57	0.57	0.07	1.40	1.40	000
49425		A	Insert abdomen-venous drain	*11.37	8.48	8.48	1.78	21.63	21.63	090
49426		A	Revise abdomen-venous shunt	*9.63	5.39	5.39	1.07	16.09	16.09	090
49427		A	Injection, abdominal shunt	0.89	0.49	0.49	0.03	1.41	1.41	000
49428		A	Ligation of shunt	*2.38	1.04	1.04	0.24	3.66	3.66	010
49429		A	Removal of shunt	*7.40	3.32	3.32	0.77	11.49	11.49	010
49495		A	Repair inguinal hernia, init	*5.89	4.98	4.98	0.95	11.82	11.82	090
49496		A	Repair inguinal hernia, init	*8.79	5.04	5.04	1.08	14.91	14.91	090
49500		A	Repair inguinal hernia	*4.66	4.98	4.98	0.95	10.61	10.61	090
49501		A	Repair inguinal hernia, init	*7.58	5.04	5.04	1.08	13.70	13.70	090
49505		A	Repair inguinal hernia	*8.49	4.51	4.51	0.94	11.94	11.94	090
49507		A	Repair, inguinal hernia	*8.17	5.04	5.04	1.08	14.29	14.29	090
49520		A	Rerepair inguinal hernia	*8.22	5.22	5.22	1.11	14.55	14.55	090
49521		A	Repair inguinal hernia, rec	*10.22	5.04	5.04	1.08	16.34	16.34	090
49525		A	Repair inguinal hernia	*7.32	5.55	5.55	1.16	14.03	14.03	090
49540		A	Repair lumbar hernia	*8.87	5.20	5.20	1.12	15.19	15.19	090
49550		A	Repair femoral hernia	*7.37	4.61	4.61	0.97	12.95	12.95	090

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[2] Copyright 1994 American Dental Association. All rights reserved.
[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] ø Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
49553		A	Repair femoral hernia, init	*8.06	4.61	4.61	0.97	13.64	13.64	090
49555		A	Repair femoral hernia	*7.71	6.07	6.07	1.26	15.04	15.04	090
49557		A	Repair femoral hernia, recur	*9.52	6.07	6.07	1.26	16.85	16.85	090
49560		A	Repair abdominal hernia	*9.88	5.65	5.65	1.19	16.72	16.72	090
49561		A	Repair incisional hernia	*12.17	5.65	5.65	1.19	19.01	19.01	090
49565		A	Rerepair abdominal hernia	*9.88	6.41	6.41	1.35	17.64	17.64	090
49566		A	Repair incisional hernia	*12.30	6.41	6.41	1.35	20.06	20.06	090
49568		A	Hernia repair w/mesh	4.89	2.56	2.56	0.59	8.04	8.04	ZZZ
49570		A	Repair epigastric hernia	*4.86	4.38	4.38	0.91	10.15	10.15	090
49572		A	Repair, epigastric hernia	*5.75	5.60	5.60	1.18	12.53	12.53	090
49580		A	Repair umbilical hernia	*3.51	ø3.86	ø3.86	0.94	8.31	8.31	090
49582		A	Repair umbilical hernia	*5.66	4.61	4.61	0.94	11.23	11.23	090
49585		A	Repair umbilical hernia	*5.32	4.41	4.41	0.91	10.64	10.64	090
49587		A	Repair umbilical hernia	*8.46	4.41	4.41	0.91	11.78	11.78	090
49590		A	Repair abdominal hernia	*7.29	5.63	5.63	1.22	14.14	14.14	090
49600		A	Repair umbilical lesion	*10.35	5.26	5.26	0.77	16.38	16.38	090
49605		A	Repair umbilical lesion	*22.66	8.57	8.57	1.77	33.00	33.00	090
49606		A	Repair umbilical lesion	*18.60	8.31	8.31	0.96	27.87	27.87	090
49610		A	Repair umbilical lesion	*10.50	5.48	5.48	1.27	17.25	17.25	090
49611		A	Repair umbilical lesion	*8.92	9.00	9.00	0.58	18.50	18.50	090
49900		A	Repair of abdominal wall	*12.28	3.66	3.66	0.75	16.69	16.69	090
49905		A	Omental flap	6.55	3.42	3.42	0.80	10.77	10.77	ZZZ
49906		C	Free omental flap, microvasc	0.00	0.00	0.00	0.00	0.00	0.00	090
49999		C	Abdomen surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
50010		A	Exploration of kidney	*10.98	9.55	9.55	1.13	21.66	21.66	090
50020		A	Open drain renal abscess	*14.66	6.80	6.80	0.85	22.31	22.31	090
50021		A	Percut drain renal abscess	3.36	2.56	2.56	0.30	6.24	6.24	000
50040		A	Drainage of kidney	*14.94	7.16	7.16	0.62	22.74	22.74	090
50045		A	Exploration of kidney	*15.46	9.81	9.81	0.89	26.16	26.16	090
50060		A	Removal of kidney stone	*19.30	12.25	12.25	1.21	32.76	32.76	090
50065		A	Incision of kidney	*20.79	13.93	13.93	1.35	36.07	36.07	090
50070		A	Incision of kidney	*20.32	12.87	12.87	1.35	34.54	34.54	090
50075		A	Removal of kidney stone	*25.34	16.87	16.87	1.62	43.83	43.83	090
50080		A	Removal of kidney stone	*14.71	12.20	12.20	1.15	28.06	28.06	090
50081		A	Removal of kidney stone	*21.80	14.96	14.96	1.44	38.20	38.20	090
50100		A	Revise kidney blood vessels	*16.09	10.34	10.34	1.35	27.78	27.78	090
50120		A	Exploration of kidney	*15.91	10.91	10.91	1.24	28.06	28.06	090
50125		A	Explore and drain kidney	*16.52	10.95	10.95	1.06	28.53	28.53	090
50130		A	Removal of kidney stone	*17.29	12.80	12.80	1.26	31.35	31.35	090
50135		A	Exploration of kidney	*19.18	17.05	17.05	1.63	37.86	37.86	090
50200		A	Biopsy of kidney	2.63	2.61	2.61	0.22	5.46	5.46	000
50205		A	Biopsy of kidney	*11.31	5.64	5.64	0.69	17.64	17.64	090
50220		A	Removal of kidney	*17.15	13.31	13.31	1.43	31.89	31.89	090
50225		A	Removal of kidney	*20.23	16.52	16.52	1.70	38.45	38.45	090
50230		A	Removal of kidney	*22.07	18.40	18.40	1.84	42.31	42.31	090
50234		A	Removal of kidney & ureter	*22.40	16.65	16.65	1.65	40.70	40.70	090
50236		A	Removal of kidney & ureter	*24.86	17.74	17.74	1.74	44.34	44.34	090
50240		A	Partial removal of kidney	*22.00	16.00	16.00	1.70	39.70	39.70	090
50280		A	Removal of kidney lesion	*15.67	10.86	10.86	1.16	27.69	27.69	090
50290		A	Removal of kidney lesion	*14.73	8.87	8.87	1.19	24.79	24.79	090
50300		X	Removal of donor kidney	0.00	0.00	0.00	0.00	0.00	0.00	XXX
50320		A	Removal of donor kidney	*22.21	16.49	16.49	2.40	41.10	41.10	090
50340		A	Removal of kidney	*12.15	12.49	12.49	2.24	26.88	26.88	090
50360		A	Transplantation of kidney	*31.53	24.45	24.45	4.24	60.22	60.22	090
50365		A	Transplantation of kidney	*36.81	30.71	30.71	3.89	71.41	71.41	090
50370		A	Remove transplanted kidney	*13.72	11.08	11.08	1.92	26.72	26.72	090
50380		A	Reimplantation of kidney	*20.76	10.12	10.12	1.71	32.59	32.59	090
50390		A	Drainage of kidney lesion	1.96	1.69	1.69	0.15	3.80	3.80	000
50392		A	Insert kidney drain	3.38	2.36	2.36	0.20	5.94	5.94	000
50393		A	Insert ureteral tube	4.16	3.01	3.01	0.26	7.43	7.43	000
50394		A	Injection for kidney x-ray	0.76	0.55	0.55	0.05	1.36	1.36	000
50395		A	Create passage to kidney	3.38	3.33	3.33	0.29	7.00	7.00	000
50396		A	Measure kidney pressure	2.09	0.50	0.50	0.05	2.64	2.64	000
50398		A	Change kidney tube	1.46	0.53	0.53	0.05	2.04	2.04	000
50400		A	Revision of kidney/ureter	*19.50	13.66	13.66	1.36	34.52	34.52	090
50405		A	Revision of kidney/ureter	*23.93	17.29	17.29	1.74	42.96	42.96	090
50500		A	Repair of kidney wound	*19.57	12.46	12.46	1.64	33.67	33.67	090
50520		A	Close kidney-skin fistula	*17.23	10.34	10.34	1.50	29.07	29.07	090
50525		A	Repair renal-abdomen fistula	*22.27	12.61	12.61	1.99	36.87	36.87	090
50526		A	Repair renal-abdomen fistula	*24.02	7.39	7.39	2.32	33.73	33.73	090
50540		A	Revision of horseshoe kidney	*19.93	13.41	13.41	1.54	34.88	34.88	090
50551		A	Kidney endoscopy	5.80	2.19	2.19	0.21	8.00	8.00	000
50553		A	Kidney endoscopy	5.99	1.66	1.66	0.17	7.82	7.82	000
50555		A	Kidney endoscopy & biopsy	6.53	4.70	4.70	0.45	11.68	11.68	000

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[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] ø Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
50557		A	Kidney endoscopy & treatment	6.62	4.71	4.71	0.49	11.82	11.82	000
50559		A	Renal endoscopy; radiotracer	6.78	1.34	1.34	0.14	8.26	8.26	000
50561		A	Kidney endoscopy & treatment	7.59	5.12	5.12	0.49	13.20	13.20	000
50570		A	Kidney endoscopy	9.54	1.45	1.45	0.14	11.13	11.13	000
50572		A	Kidney endoscopy	10.35	7.25	7.25	0.75	18.35	18.35	000
50574		A	Kidney endoscopy & biopsy	11.02	7.08	7.08	0.64	18.74	18.74	000
50575		A	Kidney endoscopy	13.98	9.93	9.93	0.97	24.88	24.88	000
50576		A	Kidney endoscopy & treatment	10.99	8.69	8.69	0.77	20.45	20.45	000
50578		A	Renal endoscopy; radiotracer	11.35	3.79	3.79	1.19	16.33	16.33	000
50580		A	Kidney endoscopy & treatment	11.86	3.58	3.58	0.35	15.79	15.79	000
50590		A	Fragmenting of kidney stone	*9.09	#10.00	#10.00	0.97	20.06	20.06	090
50600		A	Exploration of ureter	*15.84	9.69	9.69	1.01	26.54	26.54	090
50605		A	Insert ureteral support	*15.46	6.11	6.11	0.60	22.17	22.17	090
50610		A	Removal of ureter stone	*15.92	11.77	11.77	1.17	28.86	28.86	090
50620		A	Removal of ureter stone	*15.16	11.49	11.49	1.16	27.81	27.81	090
50630		A	Removal of ureter stone	*14.94	12.71	12.71	1.25	28.90	28.90	090
50650		A	Removal of ureter	*17.41	12.07	12.07	1.21	30.69	30.69	090
50660		A	Removal of ureter	*19.55	12.49	12.49	1.53	33.57	33.57	090
50684		A	Injection for ureter x-ray	0.76	0.49	0.49	0.05	1.30	1.30	000
50686		A	Measure ureter pressure	1.51	0.37	0.37	0.04	1.92	1.92	000
50688		A	Change of ureter tube	*1.17	0.39	0.39	0.04	1.60	1.60	010
50690		A	Injection for ureter x-ray	1.16	0.32	0.32	0.03	1.51	1.51	000
50700		A	Revision of ureter	*15.21	12.57	12.57	1.29	29.07	29.07	090
50715		A	Release of ureter	*18.90	11.24	11.24	1.49	31.63	31.63	090
50722		A	Release of ureter	*16.35	10.32	10.32	1.97	28.64	28.64	090
50725		A	Release/revise ureter	*18.49	12.05	12.05	1.75	32.29	32.29	090
50727		A	Revise ureter	*8.18	5.37	5.37	0.51	14.06	14.06	090
50728		A	Revise ureter	*12.02	7.90	7.90	0.77	20.69	20.69	090
50740		A	Fusion of ureter & kidney	*18.42	13.03	13.03	1.88	33.33	33.33	090
50750		A	Fusion of ureter & kidney	*19.51	14.04	14.04	1.26	34.81	34.81	090
50760		A	Fusion of ureters	*18.42	13.47	13.47	1.48	33.37	33.37	090
50770		A	Splicing of ureters	*19.51	15.23	15.23	1.53	36.27	36.27	090
50780		A	Reimplant ureter in bladder	*18.36	13.78	13.78	1.46	33.60	33.60	090
50782		A	Reimplant ureter in bladder	*19.54	13.78	13.78	1.46	34.78	34.78	090
50783		A	Reimplant ureter in bladder	*20.55	13.78	13.78	1.46	35.79	35.79	090
50785		A	Reimplant ureter in bladder	*20.52	15.42	15.42	1.80	37.74	37.74	090
50800		A	Implant ureter in bowel	*14.52	14.67	14.67	1.51	30.70	30.70	090
50810		A	Fusion of ureter & bowel	*20.05	12.57	12.57	1.75	34.37	34.37	090
50815		A	Urine shunt to bowel	*19.93	19.76	19.76	2.75	42.44	42.44	090
50820		A	Construct bowel bladder	*21.89	18.97	18.97	2.50	43.36	43.36	090
50825		A	Construct bowel bladder	*28.18	30.54	30.54	3.33	62.05	62.05	090
50830		A	Revise urine flow	*31.28	20.93	20.93	2.27	54.48	54.48	090
50840		A	Replace ureter by bowel	*20.00	13.32	13.32	1.35	34.67	34.67	090
50845		A	Appendico-vesicostomy	*20.89	13.87	13.87	1.35	36.11	36.11	090
50860		A	Transplant ureter to skin	*15.36	10.92	10.92	1.16	27.44	27.44	090
50900		A	Repair of ureter	*13.62	9.98	9.98	1.15	24.75	24.75	090
50920		A	Closure ureter/skin fistula	*14.33	9.52	9.52	0.99	24.84	24.84	090
50930		A	Closure ureter/bowel fistula	*18.72	12.50	12.50	1.22	32.44	32.44	090
50940		A	Release of ureter	*14.51	9.90	9.90	0.95	25.36	25.36	090
50951		A	Endoscopy of ureter	5.84	1.67	1.67	0.17	7.68	7.68	000
50953		A	Endoscopy of ureter	6.24	1.66	1.66	0.16	8.06	8.06	000
50955		A	Ureter endoscopy & biopsy	6.75	2.55	2.55	0.25	9.55	9.55	000
50957		A	Ureter endoscopy & treatment	6.79	2.50	2.50	0.25	9.54	9.54	000
50959		A	Ureter endoscopy & tracer	4.40	3.38	3.38	0.29	8.07	8.07	000
50961		A	Ureter endoscopy & treatment	6.05	2.62	2.62	0.26	8.93	8.93	000
50970		A	Ureter endoscopy	7.14	5.17	5.17	0.52	12.83	12.83	000
50972		A	Ureter endoscopy & catheter	6.89	1.54	1.54	0.16	8.59	8.59	000
50974		A	Ureter endoscopy & biopsy	9.17	7.01	7.01	0.65	16.83	16.83	000
50976		A	Ureter endoscopy & treatment	9.04	6.41	6.41	0.62	16.07	16.07	000
50978		A	Ureter endoscopy & tracer	5.10	4.05	4.05	0.48	9.63	9.63	000
50980		A	Ureter endoscopy & treatment	6.85	3.13	3.13	0.30	10.28	10.28	000
51000		A	Drainage of bladder	0.78	0.48	0.48	0.05	1.31	1.31	000
51005		A	Drainage of bladder	1.02	0.46	0.46	0.04	1.52	1.52	000
51010		A	Drainage of bladder	*3.53	0.97	0.97	0.11	4.61	4.61	010
51020		A	Incise & treat bladder	*8.71	6.85	6.85	0.71	14.27	14.27	090
51030		A	Incise & treat bladder	*6.77	4.53	4.53	0.43	11.73	11.73	090
51040		A	Incise & drain bladder	*4.40	#4.84	#4.84	0.75	9.99	9.99	090
51045		A	Incise bladder, drain ureter	*6.77	4.96	4.96	0.50	12.23	12.23	090
51050		A	Removal of bladder stone	*6.92	7.12	7.12	0.70	14.74	14.74	090
51060		A	Removal of ureter stone	*8.85	#9.74	#9.74	1.19	19.78	19.78	090
51065		A	Removal of ureter stone	*8.85	7.08	7.08	0.71	16.64	16.64	090
51080		A	Drainage of bladder abscess	*5.96	5.18	5.18	0.57	11.71	11.71	090
51500		A	Removal of bladder cyst	*10.14	6.86	6.86	1.21	18.21	18.21	090
51520		A	Removal of bladder lesion	*9.29	8.53	8.53	0.87	18.69	18.69	090

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[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
51525		A	Removal of bladder lesion	*13.97	10.67	10.67	1.08	25.70	25.70	090
51530		A	Removal of bladder lesion	*12.38	9.25	9.25	1.02	22.65	22.65	090
51535		A	Repair of ureter lesion	*12.57	7.68	7.68	1.14	21.39	21.39	090
51550		A	Partial removal of bladder	*15.66	10.71	10.71	1.17	27.54	27.54	090
51555		A	Partial removal of bladder	*21.23	12.26	12.26	1.31	34.80	34.80	090
51565		A	Revise bladder & ureter(s)	*21.62	15.84	15.84	1.67	39.13	39.13	090
51570		A	Removal of bladder	*24.24	15.66	15.66	1.62	41.52	41.52	090
51575		A	Removal of bladder & nodes	*30.45	22.87	22.87	2.25	55.57	55.57	090
51580		A	Remove bladder; revise tract	*31.08	19.95	19.95	2.04	53.07	53.07	090
51585		A	Removal of bladder & nodes	*35.23	25.12	25.12	2.42	62.77	62.77	090
51590		A	Remove bladder; revise tract	*32.66	24.52	24.52	2.56	59.74	59.74	090
51595		A	Remove bladder; revise tract	*37.14	33.80	33.80	3.34	74.28	74.28	090
51596		A	Remove bladder, create pouch	*39.52	34.89	34.89	3.45	77.86	77.86	090
51597		A	Removal of pelvic structures	*38.35	30.63	30.63	4.31	73.29	73.29	090
51600		A	Injection for bladder x-ray	0.88	0.28	0.28	0.03	1.19	1.19	000
51605		A	Preparation for bladder x-ray	0.64	0.30	0.30	0.03	0.97	0.97	000
51610		A	Injection for bladder x-ray	1.05	0.27	0.27	0.02	1.34	1.34	000
51700		A	Irrigation of bladder	0.88	0.22	0.22	0.02	1.12	1.12	000
51705		A	Change of bladder tube	*1.02	0.38	0.38	0.04	1.44	1.44	010
51710		A	Change of bladder tube	*1.49	0.57	0.57	0.06	2.12	2.12	010
51715		A	Endoscopic injection/implant	3.74	2.65	2.65	0.27	6.66	6.66	000
51720		A	Treatment of bladder lesion	1.96	0.45	0.45	0.05	2.46	2.46	000
51725		A	Simple cystometrogram	1.51	1.01	1.01	0.11	2.63	2.63	000
51725	TC	A	Simple cystometrogram	0.00	0.38	0.38	0.04	0.42	0.42	000
51725	26	A	Simple cystometrogram	1.51	0.63	0.63	0.07	2.21	2.21	000
51726		A	Complex cystometrogram	1.71	1.29	1.29	0.13	3.13	3.13	000
51726	TC	A	Complex cystometrogram	0.00	0.48	0.48	0.05	0.53	0.53	000
51726	26	A	Complex cystometrogram	1.71	0.81	0.81	0.08	2.60	2.60	000
51736		A	Urine flow measurement	0.61	0.41	0.41	0.04	1.06	1.06	000
51736	TC	A	Urine flow measurement	0.00	0.15	0.15	0.01	0.16	0.16	000
51736	26	A	Urine flow measurement	0.61	0.26	0.26	0.03	0.90	0.90	000
51741		A	Electro-uroflowmetry, first	1.14	0.56	0.56	0.06	1.76	1.76	000
51741	TC	A	Electro-uroflowmetry, first	0.00	0.21	0.21	0.02	0.23	0.23	000
51741	26	A	Electro-uroflowmetry, first	1.14	0.35	0.35	0.04	1.53	1.53	000
51772		A	Urethra pressure profile	1.61	0.94	0.94	0.11	2.66	2.66	000
51772	TC	A	Urethra pressure profile	0.00	0.42	0.42	0.05	0.47	0.47	000
51772	26	A	Urethra pressure profile	1.61	0.52	0.52	0.06	2.19	2.19	000
51784		A	Anal/urinary muscle study	1.53	1.04	1.04	0.11	2.68	2.68	000
51784	TC	A	Anal/urinary muscle study	0.00	0.39	0.39	0.04	0.43	0.43	000
51784	26	A	Anal/urinary muscle study	1.53	0.65	0.65	0.07	2.25	2.25	000
51785		A	Anal/urinary muscle study	1.53	1.04	1.04	0.11	2.68	2.68	000
51785	TC	A	Anal/urinary muscle study	0.00	0.39	0.39	0.04	0.43	0.43	000
51785	26	A	Anal/urinary muscle study	1.53	0.65	0.65	0.07	2.25	2.25	000
51792		A	Urinary reflex study	1.10	1.93	1.93	0.20	3.23	3.23	000
51792	TC	A	Urinary reflex study	0.00	1.34	1.34	0.14	1.48	1.48	000
51792	26	A	Urinary reflex study	1.10	0.59	0.59	0.06	1.75	1.75	000
51795		A	Urine voiding pressure study	1.53	1.44	1.44	0.16	3.13	3.13	000
51795	TC	A	Urine voiding pressure study	0.00	0.87	0.87	0.10	0.97	0.97	000
51795	26	A	Urine voiding pressure study	1.53	0.57	0.57	0.06	2.16	2.16	000
51797		A	Intraabdominal pressure test	1.60	0.96	0.96	0.10	2.66	2.66	000
51797	TC	A	Intraabdominal pressure test	0.00	0.45	0.45	0.05	0.50	0.50	000
51797	26	A	Intraabdominal pressure test	1.60	0.51	0.51	0.05	2.16	2.16	000
51800		A	Revision of bladder/urethra	*17.42	12.02	12.02	1.47	30.91	30.91	090
51820		A	Revision of urinary tract	*17.89	7.39	7.39	1.32	26.60	26.60	090
51840		A	Attach bladder/urethra	*10.71	9.22	9.22	1.26	21.19	21.19	090
51841		A	Attach bladder/urethra	*13.03	11.01	11.01	1.48	25.52	25.52	090
51845		A	Repair bladder neck	*9.73	#10.70	#10.70	1.09	21.52	21.52	090
51860		A	Repair of bladder wound	*12.02	7.62	7.62	0.91	20.55	20.55	090
51865		A	Repair of bladder wound	*15.04	10.96	10.96	1.27	27.27	27.27	090
51880		A	Repair of bladder opening	*7.66	4.96	4.96	0.52	13.14	13.14	090
51900		A	Repair bladder/vagina lesion	*12.97	11.65	11.65	1.41	26.03	26.03	090
51920		A	Close bladder-uterus fistula	*11.81	7.51	7.51	0.73	20.05	20.05	090
51925		A	Hysterectomy/bladder repair	*15.58	10.07	10.07	2.33	27.98	27.98	090
51940		A	Correction of bladder defect	*26.81	18.95	18.95	2.22	47.98	47.98	090
51960		A	Revision of bladder & bowel	*23.01	21.40	21.40	2.27	46.68	46.68	090
51980		A	Construct bladder opening	*11.36	7.46	7.46	0.75	19.57	19.57	090
52000		A	Cystoscopy	2.01	1.33	1.33	0.14	3.48	3.48	000
52005		A	Cystoscopy & ureter catheter	2.37	2.20	2.20	0.22	4.79	4.79	000
52007		A	Cystoscopy and biopsy	3.02	2.82	2.82	0.28	6.12	6.12	000
52010		A	Cystoscopy & duct catheter	3.02	1.90	1.90	0.20	5.12	5.12	000
52204		A	Cystoscopy	2.37	2.38	2.38	0.24	4.99	4.99	000
52214		A	Cystoscopy and treatment	3.71	2.80	2.80	0.28	6.79	6.79	000
52224		A	Cystoscopy and treatment	3.14	2.90	2.90	0.29	6.33	6.33	000
52234		A	Cystoscopy and treatment	4.63	4.71	4.71	0.45	9.79	9.79	000

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ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1] / HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
52235		A	Cystoscopy and treatment	5.45	#6.00	#6.00	0.81	12.26	12.26	000
52240		A	Cystoscopy and treatment	9.72	10.65	10.65	1.04	21.41	21.41	000
52250		A	Cystoscopy & radiotracer	4.50	2.86	2.86	0.29	7.65	7.65	000
52260		A	Cystoscopy & treatment	3.92	2.11	2.11	0.22	6.25	6.25	000
52265		A	Cystoscopy & treatment	2.94	1.35	1.35	0.14	4.43	4.43	000
52270		A	Cystoscopy & revise urethra	3.37	3.47	3.47	0.35	7.19	7.19	000
52275		A	Cystoscopy & revise urethra	4.70	3.42	3.42	0.34	8.46	8.46	000
52276		A	Cystoscopy and treatment	5.00	4.58	4.58	0.45	10.03	10.03	000
52277		A	Cystoscopy and treatment	6.17	4.82	4.82	0.47	11.46	11.46	000
52281		A	Cystoscopy and treatment	2.80	2.31	2.31	0.23	5.34	5.34	000
52282		A	Cystoscopy, implant stent	6.40	4.58	4.58	0.45	11.43	11.43	000
52283		A	Cystoscopy and treatment	3.74	1.51	1.51	0.15	5.40	5.40	000
52285		A	Cystoscopy and treatment	3.61	2.94	2.94	0.30	6.85	6.85	000
52290		A	Cystoscopy and treatment	4.59	2.34	2.34	0.24	7.17	7.17	000
52300		A	Cystoscopy and treatment	5.31	3.47	3.47	0.36	9.14	9.14	000
52301		A	Cystoscopy and treatment	5.51	3.47	3.47	0.36	9.34	9.34	000
52305		A	Cystoscopy and treatment	5.31	3.50	3.50	0.35	9.16	9.16	000
52310		A	Cystoscopy and treatment	2.81	2.99	2.99	0.30	6.10	6.10	000
52315		A	Cystoscopy and treatment	5.21	4.07	4.07	0.40	9.68	9.68	000
52317		A	Remove bladder stone	6.72	6.19	6.19	0.59	13.50	13.50	000
52318		A	Remove bladder stone	9.19	7.86	7.86	0.77	17.84	17.84	000
52320		A	Cystoscopy and treatment	4.70	4.86	4.86	0.47	10.03	10.03	000
52325		A	Cystoscopy, stone removal	6.16	#6.78	#6.78	0.68	13.62	13.62	000
52327		A	Cystoscopy, inject material	5.19	3.69	3.69	0.36	9.24	9.24	000
52330		A	Cystoscopy and treatment	5.04	3.47	3.47	0.35	8.86	8.86	000
52332		A	Cystoscopy and treatment	2.83	3.21	#3.11	0.32	6.36	6.26	000
52334		A	Create passage to kidney	4.83	3.33	3.33	0.34	8.50	8.50	000
52335		A	Endoscopy of urinary tract	5.86	4.89	4.89	0.45	11.00	11.00	000
52336		A	Cystoscopy, stone removal	6.88	#7.57	#7.57	0.99	15.44	15.44	000
52337		A	Cystoscopy, stone removal	7.97	#8.77	#8.77	1.08	17.82	17.82	000
52338		A	Cystoscopy and treatment	7.34	5.92	5.92	0.57	13.83	13.83	000
52339		A	Cystoscopy and treatment	8.82	5.92	5.92	0.57	15.31	15.31	000
52340		A	Cystoscopy and treatment	*9.68	5.15	5.15	0.50	15.33	15.33	090
52450		A	Incision of prostate	*7.64	4.99	4.99	0.49	13.12	13.12	090
52500		A	Revision of bladder neck	*8.47	7.44	7.44	0.72	16.63	16.63	090
52510		A	Dilation prostatic urethra	*8.72	#7.39	#7.39	0.74	14.85	14.85	090
52601		A	Prostatectomy (TURP)	*12.37	11.87	11.87	1.16	25.40	25.40	090
52606		A	Control postop bleeding	*8.13	3.32	3.32	0.33	11.78	11.78	090
52612		A	Prostatectomy, first stage	*7.96	#6.78	#6.78	0.99	17.75	17.75	090
52614		A	Prostatectomy, second stage	*6.84	7.09	7.09	0.68	14.61	14.61	090
52620		A	Remove residual prostate	*8.61	5.33	5.33	0.51	12.45	12.45	090
52630		A	Remove prostate regrowth	*7.26	#7.99	#7.99	1.13	16.38	16.38	090
52640		A	Relieve bladder contracture	*8.82	6.43	6.43	0.62	13.67	13.67	090
52647		A	Laser surgery of prostate	*10.36	#11.40	#11.40	1.16	22.92	22.92	090
52648		A	Laser surgery of prostate	*11.21	11.87	11.87	1.16	24.24	24.24	090
52700		A	Drainage of prostate abscess	*6.80	3.30	3.30	0.34	10.44	10.44	090
53000		A	Incision of urethra	*2.26	1.76	1.76	0.17	4.21	4.21	010
53010		A	Incision of urethra	*3.64	3.52	3.52	0.37	7.53	7.53	090
53020		A	Incision of urethra	1.77	0.82	0.82	0.09	2.68	2.68	000
53025		A	Incision of urethra	1.13	0.80	0.80	0.08	2.01	2.01	000
53040		A	Drainage of urethra abscess	*6.40	1.85	1.85	0.19	8.44	8.44	090
53060		A	Drainage of urethra abscess	*2.83	0.51	0.51	0.07	3.21	3.21	010
53080		A	Drainage of urinary leakage	*8.29	3.98	3.98	0.45	10.72	10.72	090
53085		A	Drainage of urinary leakage	*10.27	6.75	6.75	0.70	17.72	17.72	090
53200		A	Biopsy of urethra	2.59	1.10	1.10	0.12	3.81	3.81	000
53210		A	Removal of urethra	*12.57	6.64	6.64	0.67	19.88	19.88	090
53215		A	Removal of urethra	*15.58	10.00	10.00	0.98	26.54	26.54	090
53220		A	Treatment of urethra lesion	*7.00	4.77	4.77	0.49	12.26	12.26	090
53230		A	Removal of urethra lesion	*9.56	7.93	7.93	0.79	18.30	18.30	090
53235		A	Removal of urethra lesion	*10.14	5.02	5.02	0.49	15.65	15.65	090
53240		A	Surgery for urethra pouch	*8.45	4.33	4.33	0.45	11.23	11.23	090
53250		A	Removal of urethra gland	*5.89	4.05	4.05	0.40	10.34	10.34	090
53260		A	Treatment of urethra lesion	*2.98	1.12	1.12	0.16	4.26	4.26	010
53265		A	Treatment of urethra lesion	*3.12	1.66	1.66	0.22	5.22	5.22	010
53270		A	Removal of urethra gland	*3.09	0.84	0.84	0.18	4.11	4.11	010
53275		A	Repair of urethra defect	*4.53	2.37	2.37	0.26	7.16	7.16	010
53400		A	Revise urethra, 1st stage	*12.77	7.47	7.47	0.76	21.00	21.00	090
53405		A	Revise urethra, 2nd stage	*14.48	10.36	10.36	1.21	26.07	26.07	090
53410		A	Reconstruction of urethra	*16.44	8.56	8.56	0.84	25.84	25.84	090
53415		A	Reconstruction of urethra	*19.41	11.87	11.87	1.15	32.43	32.43	090
53420		A	Reconstruct urethra, stage 1	*14.06	10.86	10.86	1.05	26.01	26.01	090
53425		A	Reconstruct urethra, stage 2	*16.98	9.25	9.25	0.88	28.11	28.11	090
53430		A	Reconstruction of urethra	*16.34	7.16	7.16	0.76	24.26	24.26	090
53440		A	Correct bladder function	*12.34	13.14	13.14	1.39	26.87	26.87	090

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CPT [1] / HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
53442		A	Remove perineal prosthesis	*8.27	5.84	5.84	0.67	14.78	14.78	090
53443		A	Reconstruction of urethra	*19.89	10.03	10.03	1.07	30.99	30.99	090
53445		A	Correct urine flow control	*14.08	#15.47	#15.47	2.03	31.58	31.56	090
53447		A	Remove artificial sphincter	*13.17	9.16	9.16	0.89	23.22	23.22	090
53449		A	Correct artificial sphincter	*9.70	8.41	8.41	0.82	18.93	18.93	090
53450		A	Revision of urethra	*6.14	2.74	2.74	0.27	9.15	9.15	090
53460		A	Revision of urethra	*7.12	2.44	2.44	0.25	9.81	9.81	090
53502		A	Repair of urethra injury	*7.83	4.97	4.97	0.56	13.16	13.16	090
53505		A	Repair of urethra injury	*7.83	5.18	5.18	0.51	13.32	13.32	090
53510		A	Repair of urethra injury	*10.11	6.98	6.98	0.66	17.75	17.75	090
53515		A	Repair of urethra injury	*13.31	9.03	9.03	0.88	23.22	23.22	090
53520		A	Repair of urethra defect	*8.68	5.89	5.89	0.56	15.13	15.13	090
53600		A	Dilate urethra stricture	1.21	0.33	0.33	0.03	1.57	1.57	000
53601		A	Dilate urethra stricture	0.98	0.29	0.29	0.03	1.30	1.30	000
53605		A	Dilate urethra stricture	1.28	0.46	0.46	0.05	1.79	1.79	000
53620		A	Dilate urethra stricture	1.82	0.47	0.47	0.05	2.14	2.14	000
53621		A	Dilate urethra stricture	1.35	0.38	0.38	0.04	1.77	1.77	000
53660		A	Dilation of urethra	0.71	0.28	0.28	0.03	1.02	1.02	000
53661		A	Dilation of urethra	0.72	0.25	0.25	0.03	1.00	1.00	000
53665		A	Dilation of urethra	0.76	0.36	0.36	0.04	1.16	1.16	000
53670		A	Insert urinary catheter	0.50	0.22	0.22	0.02	0.74	0.74	000
53675		A	Insert urinary catheter	1.47	0.47	0.47	0.05	1.99	1.99	000
53850		A	Prostatic microwave thermotx	*9.45	6.71	6.71	0.66	16.82	16.82	090
53852		A	Prostatic rf thermotx	*9.88	7.01	7.01	0.69	17.58	17.58	090
53899		C	Urology surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
54000		A	Slitting of prepuce	*1.54	0.63	0.63	0.07	2.24	2.24	010
54001		A	Slitting of prepuce	*2.19	0.84	0.84	0.09	3.12	3.12	010
54015		A	Drain penis lesion	*5.32	0.83	0.83	0.09	6.24	6.24	010
54050		A	Destruction, penis lesion(s)	*1.24	0.38	0.38	0.03	1.65	1.65	010
54055		A	Destruction, penis lesion(s)	*1.22	0.61	0.61	0.06	1.89	1.89	010
54056		A	Cryosurgery, penis lesion(s)	*1.24	0.53	0.53	0.04	1.81	1.81	010
54057		A	Laser surg, penis lesion(s)	*1.24	1.52	#1.36	0.21	2.97	2.81	010
54060		A	Excision of penis lesion(s)	*1.93	1.17	1.17	0.12	3.22	3.22	010
54065		A	Destruction, penis lesion(s)	*2.42	2.47	2.47	0.25	5.14	5.14	010
54100		A	Biopsy of penis	1.90	0.65	0.65	0.07	2.62	2.62	000
54105		A	Biopsy of penis	*3.50	1.01	1.01	0.11	4.62	4.62	010
54110		A	Treatment of penis lesion	*10.13	6.03	6.03	0.61	16.77	16.77	090
54111		A	Treat penis lesion, graft	*13.57	9.18	9.18	0.97	23.72	23.72	090
54112		A	Treat penis lesion, graft	*15.86	10.84	10.84	1.14	27.84	27.84	090
54115		A	Treatment of penis lesion	*6.15	4.18	4.18	0.44	10.77	10.77	090
54120		A	Partial removal of penis	*9.97	6.47	6.47	0.62	17.06	17.06	090
54125		A	Removal of penis	*13.53	11.56	11.56	1.17	26.26	26.26	090
54130		A	Remove penis & nodes	*20.14	14.66	14.66	1.32	36.12	36.12	090
54135		A	Remove penis & nodes	*26.36	17.75	17.75	1.74	45.85	45.85	090
54150		A	Circumcision	*1.81	0.54	0.54	0.05	2.40	2.40	010
54152		A	Circumcision	*2.31	1.82	1.82	0.20	4.33	4.33	010
54160		A	Circumcision	*2.48	1.66	1.66	0.21	4.35	4.35	010
54161		A	Circumcision	*3.27	2.17	2.17	0.23	5.67	5.67	010
54200		A	Treatment of penis lesion	*1.06	0.32	0.32	0.03	1.41	1.41	010
54205		A	Treatment of penis lesion	*7.93	5.11	5.11	0.50	13.54	13.54	090
54220		A	Treatment of penis lesion	2.42	1.58	1.58	0.17	4.17	4.17	000
54230		A	Prepare penis study	1.34	1.34	1.34	0.13	2.81	2.81	000
54231		A	Dynamic cavernosometry	2.04	1.44	1.44	0.14	3.62	3.62	000
54235		A	Penile injection	1.19	0.43	0.48	0.04	1.66	1.66	000
54240		A	Penis study	1.31	0.99	0.99	0.12	2.42	2.42	000
54240	TC	A	Penis study	0.00	0.48	0.48	0.06	0.54	0.54	000
54240	26	A	Penis study	1.31	0.51	0.51	0.06	1.88	1.88	000
54250		A	Penis study	2.22	0.80	0.80	0.08	3.10	3.10	000
54250	TC	A	Penis study	0.00	0.30	0.30	0.03	0.33	0.33	000
54250	26	A	Penis study	2.22	0.50	0.50	0.05	2.77	2.77	000
54300		A	Revision of penis	*10.41	6.88	6.88	0.87	18.16	18.16	090
54304		A	Revision of penis	*12.49	8.66	8.66	0.90	22.05	22.05	090
54308		A	Reconstruction of urethra	*11.83	5.84	5.84	0.74	18.41	18.41	090
54312		A	Reconstruction of urethra	*13.57	9.37	9.37	0.91	23.85	23.85	090
54316		A	Reconstruction of urethra	*16.82	11.34	11.34	1.12	29.28	29.28	090
54318		A	Reconstruction of urethra	*11.25	7.53	7.53	1.11	19.89	19.89	090
54322		A	Reconstruction of urethra	*13.01	7.61	7.61	0.74	21.36	21.36	090
54324		A	Reconstruction of urethra	*16.31	10.98	10.98	1.08	28.37	28.37	090
54326		A	Reconstruction of urethra	*15.72	10.51	10.51	1.03	27.26	27.26	090
54328		A	Revise penis, urethra	*15.65	10.72	10.72	1.24	27.61	27.61	090
54332		A	Revise penis, urethra	*17.08	12.52	12.52	1.13	30.73	30.73	090
54336		A	Revise penis, urethra	*20.04	18.79	18.79	1.40	40.23	40.23	090
54340		A	Secondary urethral surgery	*8.91	6.07	6.07	0.59	15.57	15.57	090
54344		A	Secondary urethral surgery	*15.94	16.61	16.61	1.10	33.65	33.65	090

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[3] ◇ Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
54348		A	Secondary urethral surgery	*17.15	11.62	11.62	1.14	29.91	29.91	090
54352		A	Reconstruct urethra, penis	*24.74	16.18	16.18	1.49	42.41	42.41	090
54360		A	Penis plastic surgery	*11.93	7.02	7.02	0.73	19.68	19.68	090
54380		A	Repair penis	*13.18	9.42	9.42	0.75	23.35	23.35	090
54385		A	Repair penis	*15.39	10.46	10.46	0.89	26.74	26.74	090
54390		A	Repair penis and bladder	*21.61	13.57	13.57	1.56	36.76	36.76	090
54400		A	Insert semi-rigid prosthesis	*8.99	#9.89	#9.89	1.27	20.15	20.15	090
54401		A	Insert self-contd prosthesis	*10.26	#11.31	#11.31	1.73	23.32	23.32	090
54402		A	Remove penis prosthesis	*9.21	6.00	6.00	0.58	15.79	15.79	090
54405		A	Insert multi-comp prosthesis	*13.43	#14.77	#14.77	2.10	30.30	30.30	090
54407		A	Remove multi-comp prosthesis	*13.34	11.22	11.22	1.10	25.66	25.66	090
54409		A	Revise penis prosthesis	*12.20	8.97	8.97	0.87	22.04	22.04	090
54420		A	Revision of penis	*11.42	7.74	7.74	0.87	20.03	20.03	090
54430		A	Revision of penis	*10.15	6.99	6.99	0.69	17.83	17.83	090
54435		A	Revision of penis	*6.12	4.15	4.15	0.39	10.66	10.66	090
54440		C	Repair of penis	0.00	0.00	0.00	0.00	0.00	0.00	090
54450		A	Preputial stretching	1.12	0.68	0.68	0.07	1.87	1.87	000
54500		A	Biopsy of testis	1.31	0.44	0.44	0.05	1.80	1.80	000
54505		A	Biopsy of testis	*3.46	1.86	1.86	0.22	5.54	5.54	010
54510		A	Removal of testis lesion	*5.45	3.08	3.03	0.38	8.86	8.86	090
54520		A	Removal of testis	*5.23	5.31	5.31	0.52	11.06	11.06	090
54530		A	Removal of testis	*8.58	7.32	7.32	0.77	16.67	16.67	090
54535		A	Extensive testis surgery	*12.16	8.54	8.54	1.02	21.72	21.72	090
54550		A	Exploration for testis	*7.78	5.25	5.25	0.61	13.64	13.64	090
54560		A	Exploration for testis	*11.13	7.23	7.23	0.81	19.17	19.17	090
54600		A	Reduce testis torsion	*7.01	4.62	4.62	0.48	12.11	12.11	090
54620		A	Suspension of testis	*4.90	3.32	3.32	0.33	8.55	8.55	010
54640		A	Suspension of testis	*8.90	#7.59	#7.59	0.91	15.40	15.40	090
54650		A	Orchiopexy (Fowler-Stephens)	*11.45	7.82	7.82	0.91	20.18	20.18	090
54660		A	Revision of testis	*5.11	3.40	3.40	0.34	8.85	8.85	090
54670		A	Repair testis injury	*8.41	4.30	4.30	0.43	11.14	11.14	090
54680		A	Relocation of testis(es)	*12.65	8.19	8.19	0.80	21.64	21.64	090
54700		A	Drainage of scrotum	*3.43	0.90	0.90	0.11	4.44	4.44	010
54800		A	Biopsy of epididymis	2.33	1.97	1.97	0.19	4.49	4.49	000
54820		A	Exploration of epididymis	*5.14	2.62	2.62	0.29	8.05	8.05	090
54830		A	Remove epididymis lesion	*5.38	3.51	3.51	0.39	9.28	9.28	090
54840		A	Remove epididymis lesion	*5.20	4.84	4.84	0.48	10.52	10.52	090
54860		A	Removal of epididymis	*6.32	5.17	5.17	0.50	11.99	11.99	090
54861		A	Removal of epididymis	*8.90	7.30	7.30	0.72	16.92	16.92	090
54900		A	Fusion of spermatic ducts	*13.20	8.95	8.95	0.87	23.02	23.02	090
54901		A	Fusion of spermatic ducts	*17.94	12.29	12.29	1.20	31.43	31.43	090
55000		A	Drainage of hydrocele	1.43	0.40	0.40	0.04	1.87	1.87	000
55040		A	Removal of hydrocele	*5.36	4.86	4.86	0.55	10.79	10.79	090
55041		A	Removal of hydroceles	*7.74	7.47	7.47	0.81	16.02	16.02	090
55060		A	Repair of hydrocele	*5.52	4.13	4.13	0.50	10.15	10.15	090
55100		A	Drainage of scrotum abscess	*2.13	0.63	0.63	0.07	2.83	2.83	010
55110		A	Explore scrotum	*5.70	3.48	3.48	0.37	9.55	9.55	090
55120		A	Removal of scrotum lesion	*5.09	1.79	1.79	0.21	7.09	7.09	090
55150		A	Removal of scrotum	*7.22	5.45	5.45	0.57	13.24	13.24	090
55175		A	Revision of scrotum	*5.24	4.49	4.49	0.48	10.21	10.21	090
55180		A	Revision of scrotum	*10.72	6.83	6.83	0.82	18.37	18.37	090
55200		A	Incision of sperm duct	*4.24	1.97	1.97	0.20	6.41	6.41	090
55250		A	Removal of sperm duct(s)	*3.29	2.63	2.63	0.28	6.20	6.20	090
55300		A	Preparation, sperm duct x-ray	3.51	2.71	2.71	0.27	6.49	6.49	000
55400		A	Repair of sperm duct	*8.49	6.56	6.56	0.62	15.67	15.67	090
55450		A	Ligation of sperm duct	*4.12	2.61	2.61	0.32	7.05	7.05	010
55500		A	Removal of hydrocele	*5.59	4.32	4.32	0.50	10.41	10.41	090
55520		A	Removal of sperm cord lesion	*8.03	3.12	3.12	0.51	9.66	9.66	090
55530		A	Revise spermatic cord veins	*5.66	5.20	5.20	0.60	11.46	11.46	090
55535		A	Revise spermatic cord veins	*8.56	4.40	4.40	0.45	11.41	11.41	090
55540		A	Revise hernia & sperm veins	*7.67	4.54	4.54	0.91	13.12	13.12	090
55600		A	Incise sperm duct pouch	*6.38	4.31	4.31	0.55	11.24	11.24	090
55605		A	Incise sperm duct pouch	*7.96	5.60	5.60	0.59	14.15	14.15	090
55650		A	Remove sperm duct pouch	*11.80	7.22	7.22	0.76	19.78	19.78	090
55680		A	Remove sperm pouch lesion	*5.19	4.43	4.43	0.38	10.00	10.00	090
55700		A	Biopsy of prostate	1.57	1.50	1.50	0.16	3.22	3.22	000
55705		A	Biopsy of prostate	*4.57	3.37	3.37	0.34	8.28	8.28	010
55720		A	Drainage of prostate abscess	*7.64	3.51	3.51	0.37	11.52	11.52	090
55725		A	Drainage of prostate abscess	*8.66	5.62	5.62	0.54	14.84	14.84	090
55801		A	Removal of prostate	*17.80	12.76	12.76	1.44	32.00	32.00	090
55810		A	Extensive prostate surgery	*22.58	17.88	17.88	1.77	42.23	42.23	090
55812		A	Extensive prostate surgery	*27.51	17.88	17.88	1.94	47.13	47.13	090
55815		A	Extensive prostate surgery	*30.46	25.20	25.20	2.42	58.08	58.08	090
55821		A	Removal of prostate	*14.25	13.59	13.59	1.35	29.19	29.19	090

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[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
55831		A	Removal of prostate	*15.62	14.56	14.56	1.44	31.62	31.62	090
55840		A	Extensive prostate surgery	*22.89	16.60	16.60	1.61	40.90	40.90	090
55842		A	Extensive prostate surgery	*24.38	19.16	19.16	1.88	45.42	45.42	090
55845		A	Extensive prostate surgery	*28.55	25.10	25.10	2.44	56.09	56.09	090
55859		A	Percut/needle insert, pros	*12.52	5.89	5.89	0.58	18.99	18.99	090
55860		A	Surgical exposure, prostate	*14.45	7.13	7.13	0.70	22.28	22.28	090
55862		A	Extensive prostate surgery	*18.39	11.69	11.69	1.20	31.28	31.28	090
55865		A	Extensive prostate surgery	*22.87	24.52	24.52	2.39	49.78	49.78	090
55870		A	Electroejaculation	2.56	1.83	1.83	0.16	4.59	4.59	000
55899		C	Genital surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
55970		N	Sex transformation, M to F	0.00	0.00	0.00	0.00	0.00	0.00	XXX
55980		N	Sex transformation, F to M	0.00	0.00	0.00	0.00	0.00	0.00	XXX
56300		A	Laparoscopy; diagnostic	*5.10	4.45	4.45	0.93	10.48	10.48	010
56301		A	Laparoscopy; tubal cautery	*5.60	4.71	4.71	1.28	11.59	11.59	010
56302		A	Laparoscopy; tubal block	*5.80	5.26	5.26	1.32	12.18	12.18	010
56303		A	Laparoscopy; excise lesions	*11.79	5.53	5.53	1.16	18.48	18.48	090
56304		A	Laparoscopy; lysis	*11.29	5.60	5.60	1.20	18.09	18.09	090
56305		A	Laparoscopy; biopsy	*5.40	4.90	4.90	0.79	11.09	11.09	010
56306		A	Laparoscopy; aspiration	*5.70	4.87	4.87	1.18	11.75	11.75	010
56307		A	Laparoscopy; remove adnexa	*11.05	7.16	7.16	1.60	19.81	19.81	010
56308		A	Laparoscopy; hysterectomy	*14.19	9.39	9.39	2.07	25.65	25.65	010
56309		A	Laparoscopy; remove myoma	*14.21	4.76	4.76	1.09	20.00	20.00	010
56310		A	Laparoscopic enterolysis	*14.44	8.28	8.28	1.75	24.47	24.47	090
56311		A	Laparoscopic lymph node biop	*9.25	6.38	6.38	1.47	17.10	17.10	010
56312		A	Laparoscopic lymphadenectomy	*12.38	8.56	8.56	0.84	21.78	21.78	010
56313		A	Laparoscopic lymphadenectomy	*14.32	10.01	10.01	2.31	26.64	26.64	010
56314		A	Laper; drain lymphocele	*9.48	6.73	6.73	0.66	16.87	16.87	090
56315		A	Laparoscopic appendectomy	*8.70	4.89	4.89	1.01	14.60	14.60	090
56316		A	Laparoscopic hernia repair	*8.27	4.51	4.51	0.94	11.72	11.72	090
56317		A	Laparoscopic hernia repair	*8.24	5.22	5.22	1.11	14.57	14.57	090
56318		A	Laparoscopic orchiectomy	*10.96	7.23	7.23	0.81	19.00	19.00	090
56320		A	Laparoscopy, spermatic veins	*8.57	4.40	4.40	0.45	11.42	11.42	090
56322		A	Laparoscopy, vagus nerves	*10.15	5.07	5.07	1.18	16.40	16.40	090
56323		A	Laparoscopy, vagus nerves	*12.15	6.09	6.09	1.41	19.65	19.65	090
56324		A	Laparoscopy, cholecystoenter	*12.56	9.16	9.16	1.93	23.67	23.67	090
56340		A	Laparoscopic cholecystectomy	*11.09	7.99	7.99	1.74	20.82	20.82	090
56341		A	Laparoscopic cholecystectomy	*11.94	8.43	8.43	1.84	22.21	22.21	090
56342		A	Laparoscopic cholecystectomy	*14.23	9.37	9.37	2.00	25.60	25.60	090
56343		A	Laparoscopic salpingostomy	*13.74	5.28	5.28	1.11	20.13	20.13	090
56344		A	Laparoscopic fimbrioplasty	*12.88	5.11	5.11	1.19	19.18	19.18	090
56345		C	Laparoscopic splenectomy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
56346		A	Laparoscopic gastrostomy	*7.73	6.19	6.19	1.19	15.11	15.11	090
56347		C	Laparoscopic jejunostomy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
56348		A	Laparo; resect intestine	*22.04	13.25	13.25	2.78	38.07	38.07	090
56349		A	Laparoscopy; fundoplasty	*17.25	11.88	11.88	2.53	31.66	31.66	090
56350		A	Hysteroscopy; diagnostic	3.33	1.99	1.99	0.44	5.76	5.76	000
56351		A	Hysteroscopy; biopsy	4.75	1.99	1.99	0.44	7.18	7.18	000
56352		A	Hysteroscopy; lysis	6.17	3.77	3.77	0.85	10.79	10.79	000
56353		A	Hysteroscopy; resect septum	7.00	3.77	3.77	0.85	11.62	11.62	000
56354		A	Hysteroscopy; remove myoma	10.00	4.98	4.98	1.30	16.23	16.23	000
56355		A	Hysteroscopy; remove impact	5.21	1.99	1.99	0.44	7.64	7.64	000
56356		A	Hysteroscopy; ablation	6.17	4.39	4.39	1.49	12.05	12.05	000
56362		A	Laparoscopy w/cholangio	4.89	2.77	2.77	0.19	7.85	7.85	000
56363		A	Laparoscopy w/biopsy	5.18	3.98	3.98	0.45	9.56	9.56	000
56399		C	Laparoscopy procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
56405		A	I & D of vulva/perineum	*1.44	0.76	0.76	0.15	2.35	2.35	010
56420		A	Drainage of gland abscess	*1.39	0.80	0.80	0.13	2.32	2.32	010
56440		A	Surgery for vulva lesion	*2.84	2.63	2.63	0.52	5.99	5.99	010
56441		A	Lysis of labial lesion(s)	*1.97	1.65	1.65	0.30	3.92	3.92	010
56501		A	Destruction, vulva lesion(s)	*1.53	0.54	0.54	0.11	2.18	2.18	010
56515		A	Destruction, vulva lesion(s)	*1.89	2.36	#2.07	0.66	4.90	4.61	010
56605		A	Biopsy of vulva/perineum	1.10	0.68	0.68	0.15	1.93	1.93	000
56606		A	Biopsy of vulva/perineum	0.55	0.35	0.35	0.08	0.98	0.98	000
56620		A	Partial removal of vulva	*7.47	8.47	8.47	1.40	15.34	15.34	090
56625		A	Complete removal of vulva	*8.40	#9.24	#9.24	2.13	19.77	19.77	090
56630		A	Extensive vulva surgery	*12.36	13.46	13.46	3.28	29.10	29.10	090
56631		A	Extensive vulva surgery	*16.20	#17.82	#17.82	4.51	38.53	38.53	090
56632		A	Extensive vulva surgery	*20.29	21.32	21.32	4.51	46.12	46.12	090
56633		A	Extensive vulva surgery	*16.47	15.97	15.97	3.28	35.72	35.72	090
56634		A	Extensive vulva surgery	*17.88	#19.67	#19.67	4.51	42.06	42.06	090
56637		A	Extensive vulva surgery	*21.97	21.42	21.42	4.51	47.90	47.90	090
56640		A	Extensive vulva surgery	*22.17	19.95	19.95	4.36	46.48	46.48	090
56700		A	Partial removal of hymen	*2.52	1.82	1.82	0.35	4.69	4.69	010
56720		A	Incision of hymen	0.68	0.48	0.48	0.11	1.27	1.27	000

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[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT[1]/ HCPCS[2]	MOD	Status	Description	Physician work RVUs[3,4]	Non-facility practice expense RVUs[5]	Facility practice expense RVUs[5]	Mal-practice RVUs	Non-facility total	Facility total	Global
56740		A	Remove vagina gland lesion	*3.76	2.87	2.87	0.56	7.18	7.18	010
56800		A	Repair of vagina	*3.89	2.92	2.92	0.57	7.38	7.38	010
56805		A	Repair clitoris	*18.86	11.75	11.75	1.37	31.98	31.98	090
56810		A	Repair of perineum	*4.13	2.62	2.62	0.51	7.26	7.26	010
57000		A	Exploration of vagina	*2.97	2.03	2.03	0.35	5.35	5.35	010
57010		A	Drainage of pelvic abscess	*6.03	2.65	2.65	0.51	9.19	9.19	090
57020		A	Drainage of pelvic fluid	1.50	0.65	0.65	0.14	2.29	2.29	000
57061		A	Destruction vagina lesion(s)	*1.25	0.82	0.82	0.17	2.24	2.24	010
57065		A	Destruction vagina lesion(s)	*2.61	02.87	02.87	0.74	6.22	6.22	010
57100		A	Biopsy of vagina	0.97	0.62	0.62	0.13	1.72	1.72	000
57105		A	Biopsy of vagina	*1.69	1.57	1.57	0.33	3.59	3.59	010
57108		A	Partial removal of vagina	*6.36	5.26	5.26	1.10	12.74	12.74	090
57110		A	Removal of vagina	*14.29	7.86	7.86	1.78	23.93	23.93	090
57120		A	Closure of vagina	*7.41	6.99	6.99	1.51	15.91	15.91	090
57130		A	Remove vagina lesion	*2.43	2.62	2.62	0.55	5.60	5.60	010
57135		A	Remove vagina lesion	*2.67	1.93	1.93	0.38	4.98	4.98	010
57150		A	Treat vagina infection	0.55	0.19	0.19	0.04	0.78	0.78	000
57160		A	Insertion of pessary/device	0.89	0.25	0.25	0.05	1.19	1.19	000
57170		A	Fitting of diaphragm/cap	0.91	0.32	0.32	0.09	1.29	1.29	000
57180		A	Treat vaginal bleeding	*1.58	0.55	0.55	0.11	2.24	2.24	010
57200		A	Repair of vagina	*3.94	2.71	2.71	0.60	7.25	7.25	090
57210		A	Repair vagina/perineum	*5.17	3.27	3.27	0.65	9.09	9.09	090
57220		A	Revision of urethra	*4.31	4.44	4.44	0.80	9.55	9.55	090
57230		A	Repair of urethral lesion	*5.64	3.84	3.84	0.64	10.12	10.12	090
57240		A	Repair bladder & vagina	*6.07	06.68	06.68	1.60	14.35	14.35	090
57250		A	Repair rectum & vagina	*5.53	06.08	06.08	1.69	13.30	13.30	090
57260		A	Repair of vagina	*8.27	8.65	8.65	1.86	18.80	18.80	090
57265		A	Extensive repair of vagina	*11.34	9.42	9.42	2.11	22.87	22.87	090
57268		A	Repair of bowel bulge	*6.76	7.02	7.02	1.50	15.28	15.28	090
57270		A	Repair of bowel pouch	*12.11	6.83	6.83	1.44	20.38	20.38	090
57280		A	Suspension of vagina	*15.04	8.53	8.53	1.85	25.42	25.42	090
57282		A	Repair of vaginal prolapse	*8.86	8.72	8.72	1.89	19.47	19.47	090
57284		A	Repair paravaginal defect	*12.70	8.59	8.59	0.84	22.13	22.13	090
57288		A	Repair bladder defect	*13.02	10.72	10.72	1.36	25.10	25.10	090
57289		A	Repair bladder & vagina	*11.58	8.19	8.19	1.13	20.90	20.90	090
57291		A	Construction of vagina	*7.95	5.35	5.35	1.19	14.49	14.49	090
57292		A	Construct vagina with graft	*13.09	6.55	6.55	1.38	21.02	21.02	090
57300		A	Repair rectum-vagina fistula	*7.61	7.91	7.91	1.66	17.18	17.18	090
57305		A	Repair rectum-vagina fistula	*13.77	7.55	7.55	1.56	22.88	22.88	090
57307		A	Fistula repair & colostomy	*15.93	6.11	6.11	1.28	23.32	23.32	090
57308		A	Fistula repair, transperine	*9.94	7.23	7.23	1.41	18.58	18.58	090
57310		A	Repair urethrovaginal lesion	*6.78	4.32	4.32	0.48	11.58	11.58	090
57311		A	Repair urethrovaginal lesion	*7.98	5.58	5.58	0.41	13.97	13.97	090
57320		A	Repair bladder-vagina lesion	*8.01	06.81	06.81	1.35	18.17	18.17	090
57330		A	Repair bladder-vagina lesion	*12.35	8.29	8.29	0.81	21.45	21.45	090
57335		A	Repair vagina	*18.73	6.91	6.91	0.81	26.45	26.45	090
57400		A	Dilation of vagina	2.27	0.33	0.33	0.06	2.66	2.66	000
57410		A	Pelvic examination	1.75	0.36	0.36	0.05	2.16	2.16	000
57415		A	Removal vaginal foreign body	*2.17	0.36	0.36	0.05	2.58	2.58	010
57452		A	Examination of vagina	0.99	0.65	0.65	0.14	1.78	1.78	000
57454		A	Vagina examination & biopsy	1.27	1.21	1.21	0.26	2.74	2.74	000
57460		A	Cervix excision	2.83	2.02	2.02	0.46	5.31	5.31	000
57500		A	Biopsy of cervix	0.97	0.57	0.57	0.12	1.66	1.66	000
57505		A	Endocervical curettage	*1.14	0.63	0.63	0.13	1.90	1.90	010
57510		A	Cauterization of cervix	*1.90	0.52	0.52	0.09	2.51	2.51	010
57511		A	Cryocautery of cervix	*1.90	0.85	0.85	0.17	2.92	2.92	010
57513		A	Laser surgery of cervix	*1.90	02.09	02.09	0.67	4.66	4.66	010
57520		A	Conization of cervix	*4.04	3.45	3.45	0.78	8.22	8.22	090
57522		A	Conization of cervix	*3.38	3.45	3.45	0.73	7.54	7.54	090
57530		A	Removal of cervix	*4.79	3.61	3.61	0.78	9.18	9.18	090
57531		A	Removal of cervix, radical	*22.04	17.77	17.77	3.87	43.68	43.68	090
57540		A	Removal of residual cervix	*12.22	6.74	6.74	1.51	20.47	20.47	090
57545		A	Remove cervix, repair pelvis	*13.03	4.58	4.58	1.03	18.64	18.64	090
57550		A	Removal of residual cervix	*5.53	06.08	06.08	1.54	13.15	13.15	090
57555		A	Remove cervix, repair vagina	*8.95	09.85	09.85	2.17	20.97	20.97	090
57556		A	Remove cervix, repair bowel	*8.37	09.21	09.21	1.92	19.50	19.50	090
57700		A	Revision of cervix	*3.55	2.39	2.39	0.34	6.28	6.28	090
57720		A	Revision of cervix	*4.13	2.76	2.76	0.50	7.39	7.39	090
57800		A	Dilation of cervical canal	0.77	0.48	0.48	0.10	1.35	1.35	000
57820		A	D&c of residual cervix	*1.67	2.08	2.08	0.46	4.21	4.21	010
58100		A	Biopsy of uterus lining	0.71	0.66	0.66	0.14	1.51	1.51	000
58120		A	Dilation and curettage (D&C)	*3.27	2.70	2.70	0.56	6.53	6.53	010
58140		A	Removal of uterus lesion	*14.60	8.33	8.33	1.71	24.64	24.64	090
58145		A	Removal of uterus lesion	*8.04	8.24	8.24	1.54	17.82	17.82	090

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ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT[1]/ HCPCS[2]	MOD	Status	Description	Physician work RVUs[3,4]	Non-facility practice expense RVUs[5]	Facility practice expense RVUs[5]	Mal-practice RVUs	Non-facility total	Facility total	Global
58150		A	Total hysterectomy	*15.24	9.57	9.57	2.08	26.89	26.89	090
58152		A	Total hysterectomy	*15.09	11.99	11.99	2.59	29.67	29.67	090
58180		A	Partial hysterectomy	*15.29	9.76	9.76	2.11	27.16	27.16	090
58200		A	Extensive hysterectomy	*21.59	12.98	12.98	2.80	37.37	37.37	090
58210		A	Extensive hysterectomy	*28.85	17.77	17.77	3.87	50.49	50.49	090
58240		A	Removal of pelvis contents	*39.39	28.73	28.73	6.15	73.27	73.27	090
58260		A	Vaginal hysterectomy	*12.20	9.39	9.39	2.07	23.66	23.66	090
58262		A	Vaginal hysterectomy	*13.99	9.39	9.39	2.07	25.45	25.45	090
58263		A	Vaginal hysterectomy	*15.28	10.32	10.32	2.22	27.82	27.82	090
58267		A	Hysterectomy & vagina repair	*15.00	11.53	11.53	2.46	28.99	28.99	090
58270		A	Hysterectomy & vagina repair	*13.48	10.32	10.32	2.22	26.02	26.02	090
58275		A	Hysterectomy, revise vagina	*14.98	11.02	11.02	2.32	28.32	28.32	090
58280		A	Hysterectomy, revise vagina	*15.41	10.50	10.50	2.30	28.21	28.21	090
58285		A	Extensive hysterectomy	*18.57	11.80	11.80	2.70	32.87	32.87	090
58300		N	Insert intrauterine device	+1.01	0.77	0.77	0.13	1.91	1.91	XXX
58301		A	Remove intrauterine device	1.27	0.45	0.45	0.08	1.80	1.80	000
58321		A	Artificial insemination	0.92	0.71	0.71	0.15	1.78	1.78	000
58322		A	Artificial insemination	1.10	0.71	0.71	0.15	1.96	1.96	000
58323		A	Sperm washing	0.23	0.16	0.16	0.04	0.43	0.43	000
58340		A	Catheter for hysterography	0.88	0.57	0.57	0.08	1.53	1.53	000
58345		A	Reopen fallopian tube	*4.66	3.49	3.49	0.41	8.56	8.56	010
58350		A	Reopen fallopian tube	*1.01	0.69	0.69	0.16	1.86	1.86	010
58400		A	Suspension of uterus	*6.36	5.64	5.64	1.16	13.16	13.16	090
58410		A	Suspension of uterus	*12.73	5.53	5.53	0.84	19.10	19.10	090
58520		A	Repair of ruptured uterus	*11.92	4.24	4.24	0.99	17.15	17.15	090
58540		A	Revision of uterus	*14.64	6.13	6.13	1.42	22.19	22.19	090
58600		A	Division of fallopian tube	*3.84	04.22	04.22	1.38	9.44	9.44	090
58605		A	Division of fallopian tube	*3.34	03.67	03.67	1.01	8.02	8.02	090
58611		A	Ligate oviduct(s)	0.63	0.47	0.47	0.10	1.20	1.20	ZZZ
58615		A	Occlude fallopian tube(s)	*3.90	2.91	2.91	0.35	7.16	7.16	010
58700		A	Removal of fallopian tube	*6.49	6.33	6.33	1.31	14.13	14.13	090
58720		A	Removal of ovary/tube(s)	*11.36	7.50	7.50	1.63	20.49	20.49	090
58740		A	Revise fallopian tube(s)	*5.83	06.41	06.41	1.88	14.12	14.12	090
58750		A	Repair oviduct	*14.84	6.31	6.31	1.46	22.61	22.61	090
58752		A	Revise ovarian tube(s)	*14.84	6.74	6.74	0.93	22.51	22.51	090
58760		A	Remove tubal obstruction	*13.13	5.11	5.11	1.19	19.43	19.43	090
58770		A	Create new tubal opening	*13.97	5.28	5.28	1.11	20.36	20.36	090
58800		A	Drainage of ovarian cyst(s)	*4.14	2.68	2.68	0.53	7.35	7.35	090
58805		A	Drainage of ovarian cyst(s)	*5.86	6.36	6.36	1.36	13.62	13.62	090
58820		A	Open drain ovary abscess	*4.22	2.76	2.76	0.49	7.47	7.47	090
58822		A	Percut drain ovary abscess	*10.13	3.55	3.55	0.81	14.49	14.49	090
58823		A	Percut drain pelvic abscess	3.38	2.56	2.56	0.30	6.24	6.24	000
58825		A	Transposition, ovary(s)	*6.13	4.03	4.03	0.93	11.09	11.09	090
58900		A	Biopsy of ovary(s)	*5.99	5.19	5.19	1.07	12.25	12.25	090
58920		A	Partial removal of ovary(s)	*6.78	6.78	6.78	1.41	14.97	14.97	090
58925		A	Removal of ovarian cyst(s)	*11.36	6.56	6.56	1.38	19.30	19.30	090
58940		A	Removal of ovary(s)	*7.29	6.49	6.49	1.33	15.11	15.11	090
58943		A	Removal of ovary(s)	*18.43	12.11	12.11	2.63	33.17	33.17	090
58950		A	Resect ovarian malignancy	*15.27	11.24	11.24	2.38	28.89	28.89	090
58951		A	Resect ovarian malignancy	*21.81	18.34	18.34	3.93	44.08	44.08	090
58952		A	Resect ovarian malignancy	*25.01	18.11	18.11	3.92	47.04	47.04	090
58960		A	Exploration of abdomen	*14.65	12.98	12.98	2.85	30.58	30.58	090
58970		A	Retrieval of oocyte	3.53	2.52	2.52	0.56	6.63	6.63	000
58974		C	Transfer of embryo	0.00	0.00	0.00	0.00	0.00	0.00	000
58976		A	Transfer of embryo	3.85	2.73	2.73	0.69	7.19	7.19	000
58999		C	Genital surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
59000		A	Amniocentesis	1.30	0.97	0.97	0.18	2.45	2.45	000
59012		A	Fetal cord puncture, prenatal	3.46	2.62	2.62	0.31	6.39	6.39	000
59015		A	Chorion biopsy	2.20	1.20	1.20	0.10	3.50	3.50	000
59020		A	Fetal contract stress test	0.66	1.23	1.23	0.29	2.18	2.18	000
59020	TC	A	Fetal contract stress test	0.00	0.50	0.50	0.10	0.60	0.60	000
59020	26	A	Fetal contract stress test	0.66	00.73	00.73	0.19	1.58	1.58	000
59025		A	Fetal non-stress test	0.53	0.61	0.61	0.12	1.26	1.26	000
59025	TC	A	Fetal non-stress test	0.00	0.22	0.22	0.04	0.26	0.26	000
59025	26	A	Fetal non-stress test	0.53	0.39	0.39	0.08	1.00	1.00	000
59030		A	Fetal scalp blood sample	1.99	1.58	1.58	0.21	3.78	3.78	000
59050		A	Fetal monitor w/report	0.89	0.61	0.61	0.15	1.65	1.65	XXX
59051		A	Fetal monitor/interpret only	0.74	0.81	0.81	0.15	1.70	1.70	XXX
59100		A	Remove uterus lesion	*12.35	4.14	4.14	0.86	17.45	17.45	090
59120		A	Treat ectopic pregnancy	*11.49	7.86	7.86	1.50	20.85	20.85	090
59121		A	Treat ectopic pregnancy	*11.67	5.38	5.38	1.07	18.12	18.12	090
59130		A	Treat ectopic pregnancy	*14.22	5.98	5.98	0.70	20.88	20.88	090
59135		A	Treat ectopic pregnancy	*13.88	9.85	9.85	1.15	24.88	24.88	090
59136		A	Treat ectopic pregnancy	*13.18	8.22	8.22	1.44	20.84	20.84	090

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ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
59140		A	Treat ectopic pregnancy	*5.46	4.66	4.66	0.29	10.41	10.41	090
59150		A	Treat ectopic pregnancy	*5.89	4.53	4.53	1.05	12.47	12.47	090
59151		A	Treat ectopic pregnancy	*7.86	8.61	8.61	0.64	17.11	17.11	090
59160		A	D&C after delivery	*2.71	2.93	2.93	0.52	6.16	6.16	010
59200		A	Insert cervical dilator	0.79	0.54	0.54	0.11	1.44	1.44	000
59300		A	Episiotomy or vaginal repair	2.41	0.99	0.99	0.10	3.50	3.50	000
59320		A	Revision of cervix	2.48	1.78	1.78	0.41	4.67	4.67	000
59325		A	Revision of cervix	4.07	2.89	2.89	0.29	7.25	7.25	000
59350		A	Repair of uterus	4.95	3.54	3.54	0.82	9.31	9.31	000
59400		A	Obstetrical care	23.08	14.99	14.99	3.47	41.52	41.52	MMM
59409		A	Obstetrical care	13.50	9.48	9.48	2.20	25.18	25.18	MMM
59410		A	Obstetrical care	14.78	10.31	10.31	2.39	27.48	27.48	MMM
59412		A	Antepartum manipulation	1.71	1.22	1.22	0.29	3.22	3.22	MMM
59414		A	Deliver placenta	1.61	1.15	1.15	0.27	3.03	3.03	MMM
59425		A	Antepartum care only	4.81	2.88	2.88	0.66	8.35	8.35	MMM
59426		A	Antepartum care only	8.28	4.94	4.94	1.14	14.36	14.36	MMM
59430		A	Care after delivery	2.13	0.38	0.38	0.07	2.58	2.58	MMM
59510		A	Cesarean delivery	26.22	16.90	16.90	3.92	47.04	47.04	MMM
59514		A	Cesarean delivery only	15.97	10.99	10.99	2.55	29.51	29.51	MMM
59515		A	Cesarean delivery	17.37	11.82	11.82	2.73	31.92	31.92	MMM
59525		A	Remove uterus after cesarean	8.54	3.81	3.81	0.88	13.23	13.23	MMM
59610		A	Vbac delivery	24.82	14.99	14.99	3.47	43.08	43.08	MMM
59612		A	Vbac delivery only	15.08	9.48	9.48	2.20	26.74	26.74	MMM
59614		A	Vbac care after delivery	16.34	10.31	10.31	2.39	29.04	29.04	MMM
59618		A	Attempted vbac delivery	27.78	16.90	16.90	3.92	48.60	48.60	MMM
59620		A	Attempted vbac delivery only	17.53	10.99	10.99	2.55	31.07	31.07	MMM
59622		A	Attempted vbac after care	18.93	11.82	11.82	2.73	33.48	33.48	MMM
59812		A	Treatment of miscarriage	*3.25	3.61	63.56	0.77	7.63	7.60	090
59820		A	Care of miscarriage	*4.01	3.75	3.75	0.77	8.53	8.53	090
59821		A	Treatment of miscarriage	*4.47	2.72	2.72	0.62	7.81	7.81	090
59830		A	Treat uterus infection	*6.11	4.53	4.53	0.52	11.16	11.16	090
59840		A	Abortion	*3.01	3.22	3.22	0.69	6.92	6.92	010
59841		A	Abortion	*5.24	3.75	3.75	0.76	9.75	9.75	010
59850		A	Abortion	*5.91	4.00	4.00	0.85	10.76	10.76	090
59851		A	Abortion	*5.93	4.28	4.28	0.88	11.09	11.09	090
59852		A	Abortion	*8.24	5.51	5.51	1.27	15.02	15.02	090
59855		A	Abortion	*6.12	4.14	4.14	0.96	11.22	11.22	090
59856		A	Abortion	*7.46	5.11	5.11	1.19	13.76	13.78	090
59857		A	Abortion	*9.29	6.22	6.22	1.44	16.95	16.95	090
59866		A	Abortion	4.00	2.86	2.86	0.66	7.52	7.52	000
59870		A	Evacuate mole of uterus	*4.26	2.91	2.91	0.67	7.86	7.86	090
59871		A	Remove cerclage suture	2.13	1.78	1.78	0.41	4.32	4.32	000
59899		C	Maternity care procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
60000		A	Drain thyroid/tongue cyst	*1.76	0.60	0.60	0.09	2.45	2.45	010
60001		A	Aspirate/inject thyroid cyst	0.97	1.05	1.05	0.12	2.14	2.14	000
60100		A	Biopsy of thyroid	0.97	1.05	1.05	0.12	2.14	2.14	000
60200		A	Remove thyroid lesion	*3.55	6.02	6.02	1.04	16.61	16.61	090
60210		A	Partial excision thyroid	*10.88	8.68	8.68	1.65	21.21	21.21	090
60212		A	Partial thyroid excision	*16.03	9.04	9.04	1.74	26.81	26.81	090
60220		A	Partial removal of thyroid	*10.53	8.54	8.54	1.61	20.68	20.68	090
60225		A	Partial removal of thyroid	*14.19	10.49	10.49	1.92	26.60	26.60	090
60240		A	Removal of thyroid	*18.06	10.58	10.58	1.96	28.60	28.60	090
60252		A	Removal of thyroid	*18.20	13.65	13.65	2.55	34.40	34.40	090
60254		A	Extensive thyroid surgery	*23.88	19.21	19.21	3.08	46.17	46.17	090
60260		A	Repeat thyroid surgery	*15.46	3.14	3.14	0.34	18.94	18.94	090
60270		A	Removal of thyroid	*17.94	13.97	13.97	2.54	34.45	34.45	090
60271		A	Removal of thyroid	*14.89	12.14	12.14	2.25	29.28	29.28	090
60280		A	Remove thyroid duct lesion	*8.08	86.69	86.69	1.11	13.88	13.88	090
60281		A	Remove thyroid duct lesion	*8.53	5.04	5.04	0.95	14.52	14.52	090
60500		A	Explore parathyroid glands	*16.23	11.38	11.38	2.31	29.90	29.90	090
60502		A	Re-explore parathyroids	*20.35	11.39	11.39	2.33	34.07	34.07	090
60505		A	Explore parathyroid glands	*21.49	13.14	13.14	2.56	37.19	37.19	090
60512		A	Autotransplant, parathyroid	4.45	2.32	2.32	0.54	7.31	7.31	ZZZ
60520		A	Removal of thymus gland	*16.81	13.54	13.54	2.46	32.81	32.81	090
60521		A	Removal thymus gland	*18.87	13.54	13.54	2.46	34.87	34.87	090
60522		A	Removal of thymus gland	*23.09	13.54	13.54	2.46	39.09	39.09	090
60540		A	Explore adrenal gland	*17.03	12.05	12.05	2.08	31.16	31.16	090
60545		A	Explore adrenal gland	*19.88	14.27	14.27	2.34	36.49	36.49	090
60600		A	Remove carotid body lesion	*17.93	11.46	11.46	1.88	31.27	31.27	090
60605		A	Remove carotid body lesion	*20.24	10.71	10.71	2.21	33.16	33.16	090
60699		C	Endocrine surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
61000		A	Remove cranial cavity fluid	1.58	1.07	1.07	0.17	2.82	2.82	000
61001		A	Remove cranial cavity fluid	1.49	0.86	0.86	0.17	2.54	2.54	000
61020		A	Remove brain cavity fluid	1.51	1.26	1.26	0.20	2.97	2.97	000

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[2] Copyright 1994 American Dental Association. All rights reserved.
[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] ø Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
61026		A	Injection into brain canal	1.69	ø1.86	ø1.86	0.22	3.77	3.77	000
61050		A	Remove brain canal fluid	1.51	1.23	1.23	0.15	2.89	2.89	000
61055		A	Injection into brain canal	2.10	1.88	1.88	0.19	4.17	4.17	000
61070		A	Brain canal shunt procedure	0.89	0.49	0.49	0.03	1.41	1.41	000
61105		A	Drill skull for examination	*5.14	ø5.65	ø5.65	1.24	12.03	12.03	090
61106		A	Drill skull for exam/surgery	4.82	ø5.08	ø5.08	1.15	10.85	10.85	ZZZ
61107		A	Drill skull for implantation	5.00	ø5.50	ø5.50	1.26	11.76	11.76	000
61108		A	Drill skull for drainage	*10.19	ø11.21	ø11.21	2.22	23.62	23.62	090
61120		A	Pierce skull for examination	*8.76	5.95	5.95	1.08	15.79	15.79	090
61130		A	Pierce skull, exam/surgery	6.37	4.95	4.95	0.96	12.28	12.28	ZZZ
61140		A	Pierce skull for biopsy	*15.90	14.13	14.13	2.56	32.59	32.59	090
61150		A	Pierce skull for drainage	*17.57	14.65	14.65	2.63	34.85	34.85	090
61151		A	Pierce skull for drainage	*12.42	2.13	2.13	0.37	14.92	14.92	090
61154		A	Pierce skull, remove clot	*14.99	ø16.49	ø16.49	3.27	34.75	34.75	090
61156		A	Pierce skull for drainage	*16.32	16.19	16.19	3.05	35.56	35.56	090
61210		A	Pierce skull; implant device	5.84	6.04	6.04	1.53	13.41	13.41	000
61215		A	Insert brain-fluid device	*4.89	ø5.38	ø5.38	1.63	11.90	11.90	090
61250		A	Pierce skull & explore	*10.42	8.03	8.03	1.44	19.89	19.89	090
61253		A	Pierce skull & explore	*12.36	9.62	9.62	1.69	23.67	23.67	090
61304		A	Open skull for exploration	*21.98	ø24.16	ø24.16	4.78	50.90	50.90	090
61305		A	Open skull for exploration	*26.61	29.11	29.11	5.05	60.77	60.77	090
61312		A	Open skull for drainage	*24.57	24.13	24.13	4.46	53.16	53.16	090
61313		A	Open skull for drainage	*24.93	24.04	24.04	4.38	53.35	53.35	090
61314		A	Open skull for drainage	*24.23	25.62	25.62	4.68	54.53	54.53	090
61315		A	Open skull for drainage	*27.68	24.41	24.41	4.47	56.56	56.56	090
61320		A	Open skull for drainage	*25.62	18.70	18.70	3.41	47.73	47.73	090
61321		A	Open skull for drainage	*26.50	19.83	19.83	3.54	51.87	51.87	090
61330		A	Decompress eye socket	*23.32	12.97	12.97	1.22	37.51	37.51	090
61332		A	Explore/biopsy eye socket	*27.28	20.72	20.72	2.76	50.76	50.76	090
61333		A	Explore orbit; remove lesion	*27.95	20.46	20.46	3.26	51.67	51.67	090
61334		A	Explore orbit; remove object	*18.27	14.65	14.65	1.82	34.74	34.74	090
61340		A	Relieve cranial pressure	*18.66	14.80	14.80	2.54	36.00	36.00	090
61343		A	Incise skull, pressure relief	*29.77	30.05	30.05	5.28	65.10	65.10	090
61345		A	Relieve cranial pressure	*27.20	19.18	19.18	3.45	49.83	49.83	090
61440		A	Incise skull for surgery	*26.63	20.75	20.75	3.00	50.38	50.38	090
61450		A	Incise skull for surgery	*25.95	20.43	20.43	3.43	49.81	49.81	090
61458		A	Incise skull for brain wound	*27.29	27.28	27.28	4.87	59.44	59.44	090
61460		A	Incise skull for surgery	*28.39	25.05	25.05	3.98	57.42	57.42	090
61470		A	Incise skull for surgery	*28.06	13.86	13.86	2.53	42.45	42.45	090
61480		A	Incise skull for surgery	*26.49	15.07	15.07	1.78	43.34	43.34	090
61490		A	Incise skull for surgery	*25.66	11.72	11.72	2.16	39.54	39.54	090
61500		A	Removal of skull lesion	*17.92	ø19.71	ø19.71	3.58	41.21	41.21	090
61501		A	Remove infected skull bone	*14.84	ø16.32	ø16.32	3.33	34.49	34.49	090
61510		A	Removal of brain lesion	*28.45	27.04	27.04	4.90	60.39	60.39	090
61512		A	Remove brain lining lesion	*35.09	29.02	29.02	5.28	69.39	69.39	090
61514		A	Removal of brain abscess	*25.26	25.52	25.52	4.74	55.52	55.52	090
61516		A	Removal of brain lesion	*24.61	26.48	26.48	4.57	55.66	55.66	090
61518		A	Removal of brain lesion	*37.32	30.02	30.02	5.46	72.80	72.80	090
61519		A	Remove brain lining lesion	*41.39	31.22	31.22	5.77	78.38	78.38	090
61520		A	Removal of brain lesion	*54.84	33.85	33.85	5.89	94.58	94.58	090
61521		A	Removal of brain lesion	*44.46	32.97	32.97	5.85	83.30	83.30	090
61522		A	Removal of brain abscess	*29.45	19.96	19.96	3.79	53.20	53.20	090
61524		A	Removal of brain lesion	*27.86	27.45	27.45	5.15	60.46	60.46	090
61526		A	Removal of brain lesion	*52.17	34.01	34.01	4.79	90.97	90.97	090
61530		A	Removal of brain lesion	*43.86	34.01	34.01	4.79	82.66	82.66	090
61531		P	Implant brain electrodes	*14.63	14.98	14.98	1.75	31.36	31.36	090
61533		A	Implant brain electrodes	*19.71	17.02	17.02	3.33	40.06	40.06	090
61534		A	Removal of brain lesion	*20.97	6.38	6.38	2.01	29.36	29.36	090
61536		A	Remove brain electrodes	*11.63	7.66	7.66	1.25	20.54	20.54	090
61538		A	Removal of brain lesion	*35.52	21.96	21.96	3.99	61.47	61.47	090
61539		A	Removal of brain tissue	*26.81	29.08	29.08	4.97	60.86	60.86	090
61541		A	Removal of brain tissue	*32.08	22.96	22.96	4.07	59.11	59.11	090
61542		A	Incision of brain tissue	*28.85	19.80	19.80	3.78	52.43	52.43	090
61543		A	Removal of brain tissue	*31.02	19.91	19.91	3.90	54.83	54.83	090
61544		A	Removal of brain tissue	*29.22	17.24	17.24	2.49	48.95	48.95	090
61545		A	Remove & treat brain lesion	*25.50	ø28.05	ø28.05	2.11	55.66	55.66	090
61546		A	Excision of brain tumor	*43.80	25.66	25.66	4.80	74.26	74.26	090
61548		A	Removal of pituitary gland	*31.30	27.01	27.01	4.78	63.09	63.09	090
61550		A	Release of skull seams	*21.53	ø23.66	ø23.66	4.03	49.24	49.24	090
61552		A	Release of skull seams	*14.65	11.81	11.81	1.11	27.57	27.57	090
61556		A	Incise skull/sutures	*19.56	13.83	13.83	2.70	36.09	36.09	090
61557		A	Incise skull/sutures	*22.28	15.53	15.53	3.04	40.83	40.83	090
61558		A	Excision of skull/sutures	*22.36	15.62	15.62	3.05	41.05	41.05	090
61559		A	Excision of skull/sutures	*25.58	17.74	17.74	3.47	46.79	46.79	090

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[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] ø Indicates reduction of Practice Expense RVUs as result of 110% PE Reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
61559		A	Excision of skull/sutures	*32.79	23.01	23.01	4.50	60.30	60.30	090
61563		A	Excision of skull tumor	*26.83	18.81	18.81	3.68	49.32	49.32	090
61564		A	Excision of skull tumor	*33.83	23.73	23.73	4.64	62.20	62.20	090
61570		A	Remove brain foreign body	*24.60	16.49	16.49	3.06	44.15	44.15	090
61571		A	Incise skull for brain wound	*26.39	18.32	18.32	3.21	47.92	47.92	090
61575		A	Skull base/brainstem surgery	*34.36	32.99	32.99	5.05	72.40	72.40	090
61576		A	Skull base/brainstem surgery	*52.43	28.23	28.23	3.91	84.57	84.57	090
61580		A	Craniofacial approach, skull	*30.35	21.01	21.01	4.10	55.46	55.46	090
61581		A	Craniofacial approach, skull	*34.60	23.84	23.84	4.66	63.10	63.10	090
61582		A	Craniofacial approach, skull	*31.66	21.65	21.65	4.22	57.53	57.53	090
61583		A	Craniofacial approach, skull	*36.21	24.70	24.70	4.83	65.74	65.74	090
61584		A	Orbitocranial approach/skull	*34.65	23.91	23.91	4.68	63.24	63.24	090
61585		A	Orbitocranial approach/skull	*38.61	26.75	26.75	5.23	70.59	70.59	090
61586		A	Resect nasopharynx, skull	*25.10	21.38	21.38	2.32	48.80	48.80	090
61590		A	Infratemporal approach/skull	*41.78	29.10	29.10	5.68	76.56	76.56	090
61591		A	Infratemporal approach/skull	*43.06	30.52	30.52	5.96	80.16	80.16	090
61592		A	Orbitocranial approach/skull	*39.64	27.68	27.68	5.41	72.73	72.73	090
61595		A	Transtemporal approach/skull	*29.57	20.44	20.44	4.00	54.01	54.01	090
61596		A	Transcochlear approach/skull	*35.63	24.84	24.84	4.86	65.33	65.33	090
61597		A	Transcondylar approach/skull	*37.96	26.26	26.26	5.13	69.35	69.35	090
61598		A	Transpetrosal approach/skull	*33.41	23.13	23.13	4.52	61.06	61.06	090
61600		A	Resect/excise cranial lesion	*25.85	17.74	17.74	3.46	47.05	47.05	090
61601		A	Resect/excise cranial lesion	*27.89	19.03	19.03	3.72	50.64	50.64	090
61605		A	Resect/excise cranial lesion	*29.33	20.09	20.09	3.93	53.35	53.35	090
61606		A	Resect/excise cranial lesion	*38.83	26.90	26.90	5.25	70.98	70.98	090
61607		A	Resect/excise cranial lesion	*36.27	25.13	25.13	4.91	66.31	66.31	090
61608		A	Resect/excise cranial lesion	*42.10	29.24	29.24	5.71	77.05	77.05	090
61609		A	Transect, artery, sinus	9.89	7.19	7.19	1.40	18.48	18.48	ZZZ
61610		A	Transect, artery, sinus	29.67	21.57	21.57	4.21	55.45	55.45	ZZZ
61611		A	Transect, artery, sinus	7.42	5.39	5.39	1.06	13.87	13.87	ZZZ
61612		A	Transect, artery, sinus	27.88	20.27	20.27	3.96	52.11	52.11	ZZZ
61613		A	Remove aneurysm, sinus	*40.86	28.67	28.67	5.61	75.14	75.14	090
61615		A	Resect/excise lesion, skull	*32.07	22.07	22.07	4.31	58.45	58.45	090
61616		A	Resect/excise lesion, skull	*43.33	30.03	30.03	5.86	79.22	79.22	090
61618		A	Repair dura	*16.99	11.35	11.35	2.22	30.56	30.56	090
61619		A	Repair dura	*20.71	14.19	14.19	2.77	37.67	37.67	090
61624		A	Occlusion/embolization cath	20.15	15.28	15.28	1.79	37.22	37.22	000
61626		A	Occlusion/embolization cath	16.62	12.60	12.60	1.47	30.69	30.69	000
61680		A	Intracranial vessel surgery	*30.71	31.06	31.06	5.79	67.56	67.56	090
61682		A	Intracranial vessel surgery	*61.57	35.31	35.31	6.36	103.24	103.24	090
61684		A	Intracranial vessel surgery	*39.81	29.76	29.76	3.47	73.04	73.04	090
61686		A	Intracranial vessel surgery	*64.49	35.98	35.98	4.20	104.67	104.67	090
61690		A	Intracranial vessel surgery	*29.31	27.46	27.46	4.09	60.86	60.86	090
61692		A	Intracranial vessel surgery	*51.87	28.79	28.79	3.36	84.02	84.02	090
61700		A	Inner skull vessel surgery	*50.52	31.69	31.69	5.67	87.88	87.88	090
61702		A	Inner skull vessel surgery	*48.41	36.31	36.31	6.61	91.33	91.33	090
61703		A	Clamp neck artery	*17.47	12.21	12.21	2.24	31.92	31.92	090
61705		A	Revise circulation to head	*36.20	30.41	30.41	5.25	71.86	71.86	090
61708		A	Revise circulation to head	*35.30	25.20	25.20	2.32	62.82	62.82	090
61710		A	Revise circulation to head	*29.67	16.63	16.63	1.75	48.05	48.05	090
61711		A	Fusion of skull arteries	*36.33	33.04	33.04	6.20	75.57	75.57	090
61712		A	Skull or spine microsurgery	3.49	#3.84	#3.84	0.93	8.26	8.26	ZZZ
61720		A	Incise skull/brain surgery	*16.77	#18.45	#18.45	4.05	39.27	39.27	090
61735		A	Incise skull/brain surgery	*20.43	12.96	12.96	1.51	34.90	34.90	090
61750		A	Incise skull; brain biopsy	*18.20	13.54	13.54	4.31	36.05	36.05	090
61751		A	Brain biopsy with cat scan	*17.82	#19.38	#19.38	4.44	41.44	41.44	090
61760		A	Implant brain electrodes	*22.27	14.98	14.98	1.75	39.00	39.00	090
61770		A	Incise skull for treatment	*21.44	19.38	19.38	3.43	44.25	44.25	090
61790		A	Treat trigeminal nerve	*10.86	#11.95	#11.95	3.03	25.84	25.84	090
61791		A	Treat trigeminal tract	*14.61	9.77	9.77	3.16	27.54	27.54	090
61793		A	Focus radiation beam	*17.24	#18.96	#18.96	1.96	38.16	38.16	090
61795		A	Brain surgery using computer	4.04	#4.44	#4.44	1.55	10.03	10.03	000
61850		A	Implant neuroelectrodes	*12.39	11.63	11.63	2.26	26.28	26.28	090
61855		A	Implant neuroelectrodes	*13.39	10.39	10.39	1.47	25.25	25.25	090
61860		A	Implant neuroelectrodes	*20.87	8.14	8.14	1.59	30.60	30.60	090
61865		A	Implant neuroelectrodes	*22.97	15.78	15.78	3.09	41.84	41.84	090
61870		A	Implant neuroelectrodes	*14.94	4.19	4.19	0.82	19.95	19.95	090
61875		A	Implant neuroelectrodes	*15.08	6.69	6.69	1.31	23.08	23.08	090
61880		A	Revise/remove neuroelectrode	*6.29	4.79	4.79	0.66	11.74	11.74	090
61885		A	Implant neuroreceiver	*5.85	1.96	1.96	0.29	8.10	8.10	090
61888		A	Revise/remove neuroreceiver	*5.07	2.25	2.25	0.44	7.76	7.76	010
62000		A	Repair of skull fracture	*12.53	5.73	5.73	0.95	19.21	19.21	090
62005		A	Repair of skull fracture	*16.17	11.08	11.08	1.97	29.22	29.22	090
62010		A	Treatment of head injury	*19.81	19.20	19.20	3.39	42.40	42.40	090

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[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
62100		A	Repair brain fluid leakage	*22.03	21.62	21.62	3.72	47.37	47.37	090
62115		A	Reduction of skull defect	*21.66	15.51	15.51	1.82	38.99	38.99	090
62116		A	Reduction of skull defect	*23.59	16.98	16.98	1.99	42.56	42.56	090
62117		A	Reduction of skull defect	*26.60	19.20	19.20	2.25	48.05	48.05	090
62120		A	Repair skull cavity lesion	*23.35	16.90	16.90	1.98	42.23	42.23	090
62121		A	Incise skull repair	*21.56	17.51	17.51	3.41	42.50	42.50	090
62140		A	Repair of skull defect	*13.51	13.43	13.43	2.39	29.33	29.33	090
62141		A	Repair of skull defect	*14.91	#16.40	#16.40	3.28	34.59	34.59	090
62142		A	Remove skull plate/flap	*10.79	#11.87	#11.87	2.64	25.30	25.30	090
62143		A	Replace skull plate/flap	*13.05	9.17	9.17	1.65	23.87	23.87	090
62145		A	Repair of skull & brain	*16.82	13.16	13.16	2.29	34.27	34.27	090
62146		A	Repair of skull with graft	*16.12	10.99	10.99	2.15	29.26	29.26	090
62147		A	Repair of skull with graft	*19.34	13.17	13.17	2.57	35.08	35.08	090
62180		A	Establish brain cavity shunt	*21.06	14.21	14.21	2.70	37.97	37.97	090
62190		A	Establish brain cavity shunt	*11.07	#12.18	#12.18	3.21	26.46	26.46	090
62192		A	Establish brain cavity shunt	*12.25	#13.48	#13.48	2.74	28.47	28.47	090
62194		A	Replace/irrigate catheter	*5.03	1.88	1.88	0.29	7.20	7.20	010
62200		A	Establish brain cavity shunt	*16.32	16.95	16.95	3.09	36.36	36.36	090
62201		A	Establish brain cavity shunt	*14.86	8.78	8.78	1.72	25.36	25.36	090
62220		A	Establish brain cavity shunt	*13.00	#14.30	#14.30	3.12	30.42	30.42	090
62223		A	Establish brain cavity shunt	*12.87	#14.16	#14.16	3.02	30.05	30.05	090
62225		A	Replace/irrigate catheter	*5.41	4.80	4.80	0.58	10.79	10.79	090
62230		A	Replace/revise brain shunt	*10.54	9.83	9.83	1.82	22.19	22.19	090
62256		A	Remove brain cavity shunt	*6.60	6.36	6.36	1.17	14.15	14.15	090
62258		A	Replace brain cavity shunt	*14.54	14.78	14.78	2.55	31.87	31.87	090
62268		A	Drain spinal cord cyst	4.74	2.98	2.98	0.36	8.08	8.08	000
62269		A	Needle biopsy spinal cord	5.02	1.75	1.75	0.28	7.05	7.05	000
62270		A	Spinal fluid tap, diagnostic	1.13	0.71	0.71	0.06	1.90	1.90	000
62272		A	Drain spinal fluid	1.35	1.01	1.01	0.12	2.48	2.48	000
62273		A	Treat lumbar spine lesion	2.15	1.12	1.12	0.26	3.53	3.53	000
62274		A	Inject spinal anesthetic	1.78	0.74	0.74	0.17	2.69	2.69	000
62275		A	Inject spinal anesthetic	1.79	0.59	0.59	0.19	2.57	2.57	000
62276		A	Inject spinal anesthetic	2.04	1.23	1.23	0.23	3.50	3.50	000
62277		A	Inject spinal anesthetic	2.15	0.84	0.84	0.23	3.22	3.22	000
62278		A	Inject spinal anesthetic	1.51	0.98	0.98	0.26	2.75	2.75	000
62279		A	Inject spinal anesthetic	1.58	0.82	0.82	0.24	2.64	2.64	000
62280		A	Treat spinal cord lesion	*2.63	0.71	0.71	0.14	3.48	3.48	010
62281		A	Treat spinal cord lesion	*2.66	0.87	0.87	0.28	3.81	3.81	010
62282		A	Treat spinal canal lesion	*2.33	1.70	1.70	0.40	4.43	4.43	010
62284		A	Injection for myelogram	1.54	1.98	#1.69	0.34	3.86	3.57	000
62287		A	Percutaneous diskectomy	*8.08	6.96	6.96	2.65	17.69	17.69	090
62288		A	Injection into spinal canal	1.74	1.12	1.12	0.24	3.10	3.10	000
62289		A	Injection into spinal canal	1.84	1.07	1.07	0.29	3.00	3.00	000
62290		A	Inject for spine disk x-ray	3.00	1.86	1.86	0.24	5.10	5.10	000
62291		A	Inject for spine disk x-ray	2.91	1.76	1.76	0.39	5.08	5.08	000
62292		A	Injection into disk lesion	*7.86	#8.65	#8.65	2.13	18.64	18.64	090
62294		A	Injection into spinal artery	*11.83	5.84	5.84	0.68	18.35	18.35	090
62298		A	Injection into spinal canal	2.20	1.04	1.04	0.13	3.37	3.37	000
62350		A	Implant spinal catheter	*6.87	3.49	3.49	1.02	11.38	11.38	090
62351		A	Implant spinal catheter	*10.00	5.16	5.16	1.50	16.66	16.66	090
62355		A	Remove spinal canal catheter	*5.45	3.49	3.49	0.68	9.62	9.62	090
62360		A	Insert spine infusion device	*2.62	1.12	1.12	0.33	4.07	4.07	090
62361		A	Implant spine infusion pump	*5.42	2.68	2.68	0.78	8.88	8.88	090
62362		A	Implant spine infusion pump	*7.04	3.51	3.51	1.02	11.57	11.57	090
62365		A	Remove spine infusion device	*5.42	3.47	3.47	0.68	9.57	9.57	090
62367		C	Analyze spine infusion pump	0.00	0.00	0.00	0.00	0.00	0.00	XXX
62367	TC	C	Analyze spine infusion pump	0.00	0.00	0.00	0.00	0.00	0.00	XXX
62367	26	A	Analyze spine infusion pump	0.48	0.35	0.35	0.07	0.90	0.90	XXX
62368		C	Analyze spine infusion pump	0.00	0.00	0.00	0.00	0.00	0.00	XXX
62368	TC	C	Analyze spine infusion pump	0.00	0.00	0.00	0.00	0.00	0.00	XXX
62368	26	A	Analyze spine infusion pump	0.75	0.55	0.55	0.11	1.41	1.41	XXX
63001		A	Removal of spinal lamina	*15.82	#17.40	#17.40	3.42	36.64	36.64	090
63003		A	Removal of spinal lamina	*15.95	#17.55	#17.55	3.23	36.73	36.73	090
63005		A	Removal of spinal lamina	*14.92	#16.41	#16.41	3.10	34.43	34.43	090
63011		A	Removal of spinal lamina	*14.52	9.99	9.99	1.87	26.38	26.38	090
63012		A	Removal of spinal lamina	*15.40	#16.94	#16.94	3.15	35.49	35.49	090
63015		A	Removal of spinal lamina	*19.35	21.23	21.23	4.18	44.76	44.76	090
63016		A	Removal of spinal lamina	*19.20	#21.12	#21.12	4.11	44.43	44.43	090
63017		A	Removal of spinal lamina	*16.94	#17.53	#17.53	4.00	37.47	37.47	090
63020		A	Neck spine disk surgery	*14.81	16.04	16.04	3.38	34.23	34.23	090
63030		A	Low back disk surgery	*12.00	#13.20	#13.20	2.81	28.01	28.01	090
63035		A	Added spinal disk surgery	3.15	#3.47	#3.47	0.76	7.38	7.38	ZZZ
63040		A	Neck spine disk surgery	*18.81	#20.69	#20.69	4.30	43.80	43.80	090
63042		A	Low back disk surgery	*17.47	#19.22	#19.22	4.38	41.07	41.07	090

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[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
63045		A	Removal of spinal lamina	*16.50	#18.15	#18.15	4.38	39.03	39.03	090
63046		A	Removal of spinal lamina	*15.80	#17.38	#17.38	4.58	37.76	37.76	090
63047		A	Removal of spinal lamina	*14.61	#16.07	#16.07	4.48	35.16	35.16	090
63048		A	Removal of spinal lamina	3.26	#3.59	#3.59	1.03	7.88	7.88	ZZZ
63055		A	Decompress spinal cord	*21.99	23.73	23.73	4.18	49.90	49.90	090
63056		A	Decompress spinal cord	*20.36	21.84	21.84	3.76	45.96	45.96	090
63057		A	Decompress spinal cord	5.26	3.84	3.84	0.85	9.95	9.95	ZZZ
63064		A	Decompress spinal cord	*24.61	23.83	23.83	4.09	52.53	52.53	090
63066		A	Decompress spinal cord	3.26	2.48	2.48	0.45	6.19	6.19	ZZZ
63075		A	Neck spine disk surgery	*19.41	17.57	17.57	3.21	40.19	40.19	090
63076		A	Neck spine disk surgery	4.05	#4.46	#4.46	0.97	9.48	9.48	ZZZ
63077		A	Spine disk surgery, thorax	*21.44	18.42	18.42	3.17	43.03	43.03	090
63078		A	Spine disk surgery, thorax	3.26	2.61	2.61	0.45	6.34	6.34	ZZZ
63081		A	Removal of vertebral body	*23.73	#26.10	#26.10	4.50	54.33	54.33	090
63082		A	Removal of vertebral body	4.37	#4.81	#4.81	1.22	10.40	10.40	ZZZ
63085		A	Removal of vertebral body	*26.92	27.39	27.39	4.69	59.00	59.00	090
63086		A	Removal of vertebral body	3.19	#3.51	#3.51	1.07	7.77	7.77	ZZZ
63087		A	Removal of vertebral body	*35.57	28.25	28.25	4.85	68.67	68.67	090
63088		A	Removal of vertebral body	4.33	#4.76	#4.76	1.18	10.27	10.27	ZZZ
63090		A	Removal of vertebral body	*28.16	29.22	29.22	4.92	62.30	62.30	090
63091		A	Removal of vertebral body	3.03	2.73	2.73	0.46	6.22	6.22	ZZZ
63170		A	Incise spinal cord tract(s)	*19.83	18.88	18.88	3.28	41.99	41.99	090
63172		A	Drainage of spinal cyst	*17.66	#19.43	#19.43	4.26	41.35	41.35	090
63173		A	Drainage of spinal cyst	*21.99	15.47	15.47	1.81	39.27	39.27	090
63180		A	Revise spinal cord ligaments	*18.27	11.61	11.61	2.05	31.93	31.93	090
63182		A	Revise spinal cord ligaments	*20.50	16.44	16.44	2.21	39.15	39.15	090
63185		A	Incise spinal column/nerves	*15.04	15.55	15.55	2.93	33.52	33.52	090
63190		A	Incise spinal column/nerves	*17.45	#19.20	#19.20	3.91	40.56	40.56	090
63191		A	Incise spinal column/nerves	*17.54	13.04	13.04	2.21	32.79	32.79	090
63194		A	Incise spinal column & cord	*19.19	13.02	13.02	2.33	34.54	34.54	090
63195		A	Incise spinal column & cord	*18.84	13.86	13.86	2.11	34.81	34.81	090
63196		A	Incise spinal column & cord	*22.30	15.59	15.59	1.83	39.72	39.72	090
63197		A	Incise spinal column & cord	*21.11	14.36	14.36	2.62	38.09	38.09	090
63198		A	Incise spinal column & cord	*25.38	16.32	16.32	3.19	44.89	44.89	090
63199		A	Incise spinal column & cord	*26.89	21.40	21.40	2.61	50.90	50.90	090
63200		A	Release of spinal cord	*19.18	12.49	12.49	1.83	33.50	33.50	090
63250		A	Revise spinal cord vessels	*40.76	27.99	27.99	5.22	73.97	73.97	090
63251		A	Revise spinal cord vessels	*41.20	22.74	22.74	4.32	68.26	68.26	090
63252		A	Revise spinal cord vessels	*41.19	28.25	28.25	5.52	74.96	74.96	090
63265		A	Excise intraspinal lesion	*21.56	22.01	22.01	3.90	47.47	47.47	090
63266		A	Excise intraspinal lesion	*22.30	#24.53	#24.53	4.43	51.26	51.26	090
63267		A	Excise intraspinal lesion	*17.95	#19.75	#19.75	4.20	41.90	41.90	090
63268		A	Excise intraspinal lesion	*18.52	12.56	12.56	2.46	33.54	33.54	090
63270		A	Excise intraspinal lesion	*26.80	18.14	18.14	3.42	48.36	48.36	090
63271		A	Excise intraspinal lesion	*26.92	26.60	26.60	4.79	58.31	58.31	090
63272		A	Excise intraspinal lesion	*25.32	23.15	23.15	4.26	52.73	52.73	090
63273		A	Excise intraspinal lesion	*24.29	17.56	17.56	3.12	44.97	44.97	090
63275		A	Biopsy/excise spinal tumor	*23.68	#26.05	#26.05	5.09	54.82	54.82	090
63276		A	Biopsy/excise spinal tumor	*23.45	25.31	25.31	4.82	53.38	53.38	090
63277		A	Biopsy/excise spinal tumor	*20.83	#22.91	#22.91	4.25	47.99	47.99	090
63278		A	Biopsy/excise spinal tumor	*20.56	#22.62	#22.62	4.32	47.50	47.50	090
63280		A	Biopsy/excise spinal tumor	*28.35	28.08	28.08	4.99	61.42	61.42	090
63281		A	Biopsy/excise spinal tumor	*28.05	27.67	27.67	4.96	60.68	60.68	090
63282		A	Biopsy/excise spinal tumor	*26.39	24.11	24.11	4.44	54.94	54.94	090
63283		A	Biopsy/excise spinal tumor	*25.00	18.77	18.77	3.44	47.21	47.21	090
63285		A	Biopsy/excise spinal tumor	*36.00	24.49	24.49	4.49	64.98	64.98	090
63286		A	Biopsy/excise spinal tumor	*35.63	28.78	28.78	4.92	69.31	69.31	090
63287		A	Biopsy/excise spinal tumor	*36.70	25.72	25.72	4.53	66.95	66.95	090
63290		A	Biopsy/excise spinal tumor	*37.36	27.16	27.16	4.65	69.19	69.19	090
63300		A	Removal of vertebral body	*24.43	17.27	17.27	2.02	43.72	43.72	090
63301		A	Removal of vertebral body	*27.60	18.45	18.45	3.58	49.63	49.63	090
63302		A	Removal of vertebral body	*27.81	21.36	21.36	3.02	52.19	52.19	090
63303		A	Removal of vertebral body	*30.50	18.50	18.50	3.39	52.39	52.39	090
63304		A	Removal of vertebral body	*30.33	21.31	21.31	2.49	54.13	54.13	090
63305		A	Removal of vertebral body	*32.03	22.49	22.49	3.75	58.27	58.27	090
63306		A	Removal of vertebral body	*32.22	22.76	22.76	2.65	57.63	57.63	090
63307		A	Removal of vertebral body	*31.63	24.42	24.42	2.98	59.03	59.03	090
63308		A	Removal of vertebral body	5.25	4.05	4.05	0.73	10.03	10.03	ZZZ
63600		A	Remove spinal cord lesion	*14.02	10.70	10.70	2.63	27.35	27.35	090
63610		A	Stimulation of spinal cord	8.73	6.73	6.73	2.06	17.52	17.52	000
63615		A	Remove lesion of spinal cord	*16.28	11.55	11.55	2.03	29.86	29.86	090
63650		A	Implant neuroelectrodes	*8.74	#7.41	#7.41	2.13	18.28	18.28	090
63655		A	Implant neuroelectrodes	*10.29	#11.32	#11.32	3.64	25.25	25.25	090
63660		A	Revise/remove neuroelectrode	*8.16	#8.78	#8.78	1.56	14.50	14.50	090

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[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
63685		A	Implant neuroreceiver	*7.04	7.40	7.40	1.46	15.90	15.90	090
63688		A	Revise/remove neuroreceiver	*5.39	#5.93	#5.93	1.26	12.58	12.58	090
63690		A	Analysis of neuroreceiver	0.45	0.58	#0.50	0.12	1.15	1.07	XXX
63691		A	Analysis of neuroreceiver	0.65	0.41	0.41	0.11	1.17	1.17	XXX
63700		A	Repair of spinal herniation	*16.53	11.35	11.35	2.22	30.10	30.10	090
63702		A	Repair of spinal herniation	*18.48	12.78	12.78	2.49	33.75	33.75	090
63704		A	Repair of spinal herniation	*21.18	14.19	14.19	2.77	38.14	38.14	090
63706		A	Repair of spinal herniation	*24.11	16.33	16.33	3.18	43.62	43.62	090
63707		A	Repair spinal fluid leakage	*11.26	#12.39	#12.39	2.56	26.21	26.21	090
63709		A	Repair spinal fluid leakage	*14.32	#15.75	#15.75	3.30	33.37	33.37	090
63710		A	Graft repair of spine defect	*14.07	9.75	9.75	1.58	25.40	25.40	090
63740		A	Install spinal shunt	*11.36	#12.50	#12.50	2.99	26.85	26.85	090
63741		A	Install spinal shunt	*8.25	#9.08	#9.08	2.39	19.72	19.72	090
63744		A	Revision of spinal shunt	*8.10	8.15	8.15	1.68	17.93	17.93	090
63746		A	Removal of spinal shunt	*8.43	5.62	5.62	1.08	13.03	13.03	090
64400		A	Injection for nerve block	1.11	0.48	0.48	0.05	1.64	1.64	000
64402		A	Injection for nerve block	1.25	0.62	0.62	0.09	1.96	1.96	000
64405		A	Injection for nerve block	1.32	0.64	0.64	0.07	2.03	2.03	000
64408		A	Injection for nerve block	1.41	1.04	1.04	0.11	2.56	2.56	000
64410		A	Injection for nerve block	1.43	0.71	0.71	0.15	2.29	2.29	000
64412		A	Injection for nerve block	1.18	0.62	0.62	0.08	1.88	1.88	000
64413		A	Injection for nerve block	1.40	0.74	0.74	0.08	2.22	2.22	000
64415		A	Injection for nerve block	1.48	0.26	0.26	0.07	1.81	1.81	000
64417		A	Injection for nerve block	1.44	0.63	0.63	0.15	2.22	2.22	000
64418		A	Injection for nerve block	1.32	0.85	0.85	0.10	2.27	2.27	000
64420		A	Injection for nerve block	1.18	0.64	0.64	0.07	1.89	1.89	000
64421		A	Injection for nerve block	1.86	0.88	0.89	0.17	2.88	2.88	000
64425		A	Injection for nerve block	1.75	0.57	0.57	0.10	2.42	2.42	000
64430		A	Injection for nerve block	1.46	0.70	0.70	0.12	2.28	2.28	000
64435		A	Injection for nerve block	1.45	0.47	0.47	0.09	2.01	2.01	000
64440		A	Injection for nerve block	1.34	0.79	0.79	0.09	2.22	2.22	000
64441		A	Injection for nerve block	1.79	1.01	1.01	0.12	2.92	2.92	000
64442		A	Injection for nerve block	1.41	1.19	1.19	0.16	2.76	2.76	000
64443		A	Injection for nerve block	0.98	0.63	0.63	0.12	1.73	1.73	ZZZ
64445		A	Injection for nerve block	1.48	0.49	0.49	0.06	2.03	2.03	000
64450		A	Injection for nerve block	1.27	0.53	0.59	0.05	1.85	1.85	000
64505		A	Injection for nerve block	1.36	0.62	0.62	0.06	2.04	2.04	000
64508		A	Injection for nerve block	1.12	1.04	1.04	0.08	2.24	2.24	000
64510		A	Injection for nerve block	1.22	0.71	0.71	0.18	2.11	2.11	000
64520		A	Injection for nerve block	1.35	0.72	0.72	0.17	2.24	2.24	000
64530		A	Injection for nerve block	1.58	1.17	1.17	0.28	3.03	3.03	000
64550		A	Apply neurostimulator	0.18	0.44	0.44	0.04	0.66	0.66	000
64553		A	Implant neuroelectrodes	*2.51	1.02	1.02	0.10	3.43	3.43	010
64555		A	Implant neuroelectrodes	*2.27	0.42	0.42	0.10	2.79	2.79	010
64560		A	Implant neuroelectrodes	*2.36	1.45	1.45	0.24	4.05	4.05	010
64565		A	Implant neuroelectrodes	*1.76	0.76	0.76	0.08	2.60	2.60	010
64573		A	Implant neuroelectrodes	*4.43	3.16	3.16	0.61	8.20	8.20	090
64575		A	Implant neuroelectrodes	*4.35	3.07	3.07	0.40	7.82	7.82	090
64577		A	Implant neuroelectrodes	*4.82	2.76	2.76	0.45	7.83	7.83	090
64580		A	Implant neuroelectrodes	*4.12	2.91	2.91	0.20	7.23	7.23	090
64585		A	Revise/remove neuroelectrode	*2.08	0.97	0.97	0.09	3.12	3.12	010
64590		A	Implant neuroreceiver	*2.40	1.84	1.84	0.35	4.59	4.59	010
64595		A	Revise/remove neuroreceiver	*1.73	1.12	1.12	0.21	3.06	3.06	010
64600		A	Injection treatment of nerve	*3.45	1.89	1.89	0.17	5.31	5.31	010
64605		A	Injection treatment of nerve	*5.61	1.56	1.56	0.33	7.50	7.50	010
64610		A	Injection treatment of nerve	*7.16	7.28	7.28	1.35	15.77	15.77	010
64612		A	Destroy nerve, face muscle	*1.96	1.45	1.45	0.17	3.58	3.58	010
64613		A	Destroy nerve, spine muscle	*1.96	1.45	1.45	0.17	3.58	3.58	010
64620		A	Injection treatment of nerve	*2.84	1.00	1.00	0.19	4.03	4.03	010
64622		A	Injection treatment of nerve	*3.00	1.82	1.82	0.35	5.17	5.17	010
64623		A	Injection treatment of nerve	0.99	0.85	0.85	0.17	2.01	2.01	ZZZ
64630		A	Injection treatment of nerve	*3.00	1.74	1.74	0.38	5.12	5.12	010
64640		A	Injection treatment of nerve	*2.76	0.92	0.92	0.09	3.77	3.77	010
64680		A	Injection treatment of nerve	*2.62	1.55	1.55	0.41	4.58	4.58	010
64702		A	Revise finger/toe nerve	*4.23	4.22	4.22	0.76	9.15	9.15	090
64704		A	Revise hand/foot nerve	*4.57	#5.03	#5.03	0.74	10.34	10.34	090
64708		A	Revise arm/leg nerve	*8.12	#8.73	#8.73	1.26	14.11	14.11	090
64712		A	Revision of sciatic nerve	*7.75	#8.53	#8.53	1.68	17.96	17.96	090
64713		A	Revision of arm nerve(s)	*11.00	9.40	9.40	1.72	22.12	22.12	090
64714		A	Revise low back nerve(s)	*10.33	8.13	8.13	1.41	17.87	17.87	090
64716		A	Revision of cranial nerve	*8.31	4.83	4.83	0.67	11.81	11.81	090
64718		A	Revise ulnar nerve at elbow	*5.99	#6.59	#6.59	1.13	13.71	13.71	090
64719		A	Revise ulnar nerve at wrist	*4.85	4.95	4.95	0.85	10.65	10.65	090
64721		A	Carpal tunnel surgery	*4.29	4.72	4.72	0.83	9.84	9.84	090

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[2] Copyright 1994 American Dental Association. All rights reserved.
[3] ◆ Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT 1/ HCPCS 2	MOD	Status	Description	Physician work RVUs 3 4	Non-facility practice expense RVUs 5	Facility practice expense RVUs 5	Mal-practice RVUs	Non-facility total	Facility total	Global
64722		A	Relieve pressure on nerve(s)	*4.70	#5.17	#5.17	1.11	10.98	10.98	090
64726		A	Release foot/toe nerve	*4.18	0.72	0.72	0.07	4.97	4.97	090
64727		A	Internal nerve revision	3.10	3.24	3.24	0.55	6.89	6.89	ZZZ
64732		A	Incision of brow nerve	*4.41	4.31	4.31	0.72	9.44	9.44	090
64734		A	Incision of cheek nerve	*4.92	4.61	4.61	0.67	10.20	10.20	090
64736		A	Incision of chin nerve	*4.60	4.46	4.46	0.42	9.48	9.48	090
64738		A	Incision of jaw nerve	*3.73	5.07	5.07	0.81	11.41	11.41	090
64740		A	Incision of tongue nerve	*5.59	5.18	5.18	0.62	11.39	11.39	090
64742		A	Incision of facial nerve	*3.22	5.00	5.00	0.44	11.66	11.66	090
64744		A	Incise nerve, back of head	*5.24	#5.76	#5.76	1.10	12.10	12.10	090
64746		A	Incise diaphragm nerve	*5.93	3.77	3.77	0.77	10.47	10.47	090
64752		A	Incision of vagus nerve	*7.06	3.93	3.93	0.85	11.84	11.84	090
64755		A	Incision of stomach nerves	*13.52	10.47	10.47	2.27	26.26	26.26	090
64760		A	Incision of vagus nerve	*8.96	6.65	6.65	1.50	15.11	15.11	090
64761		A	Incision of pelvis nerve	*8.41	4.66	4.66	0.50	11.57	11.57	090
64763		A	Incise hip/thigh nerve	*8.93	4.80	4.80	0.92	12.65	12.65	090
64766		A	Incise hip/thigh nerve	*8.67	6.67	6.67	1.20	16.54	16.54	090
64771		A	Sever cranial nerve	*7.35	6.42	6.42	0.73	14.50	14.50	090
64772		A	Incision of spinal nerve	*7.21	6.77	6.77	1.30	15.28	15.28	090
64774		A	Remove skin nerve lesion	*5.17	2.74	2.74	0.45	8.36	8.36	090
64776		A	Remove digit nerve lesion	*5.12	2.78	2.78	0.41	8.31	8.31	090
64778		A	Added digit nerve surgery	3.11	2.73	2.73	0.43	6.27	6.27	ZZZ
64782		A	Remove limb nerve lesion	*6.23	4.70	4.70	0.46	11.39	11.39	090
64783		A	Added limb nerve surgery	3.72	3.26	3.26	0.47	7.45	7.45	ZZZ
64784		A	Remove nerve lesion	*9.82	5.64	5.64	0.96	16.42	16.42	090
64786		A	Remove sciatic nerve lesion	*15.46	12.66	12.66	2.14	30.26	30.26	090
64787		A	Implant nerve end	4.30	3.47	3.47	0.60	8.37	8.37	ZZZ
64788		A	Remove skin nerve lesion	*4.61	3.63	3.63	0.50	8.74	8.74	090
64790		A	Removal of nerve lesion	*11.31	7.11	7.11	1.22	19.64	19.64	090
64792		A	Removal of nerve lesion	*14.92	8.99	8.99	1.66	25.57	25.57	090
64795		A	Biopsy of nerve	3.01	2.38	2.38	0.39	5.78	5.78	000
64802		A	Remove sympathetic nerves	*9.15	5.40	5.40	1.10	15.65	15.65	090
64804		A	Remove sympathetic nerves	*14.64	12.77	12.77	2.44	29.85	29.85	090
64809		A	Remove sympathetic nerves	*13.67	10.55	10.55	2.04	26.26	26.26	090
64818		A	Remove sympathetic nerves	*10.30	8.57	8.57	1.72	20.59	20.59	090
64820		A	Remove sympathetic nerves	*10.37	7.27	7.27	1.42	19.06	19.06	090
64830		A	Microrepair of nerve	3.10	2.01	2.01	0.38	5.49	5.49	ZZZ
64831		A	Repair of digit nerve	*9.44	3.38	3.38	0.56	13.38	13.38	090
64832		A	Repair additional nerve	5.66	1.40	1.40	0.24	7.30	7.30	ZZZ
64834		A	Repair of hand or foot nerve	*10.19	3.50	3.50	0.56	14.25	14.25	090
64835		A	Repair of hand or foot nerve	*10.94	5.98	5.98	1.03	17.93	17.93	090
64836		A	Repair of hand or foot nerve	*10.94	6.70	6.70	1.22	18.86	18.86	090
64837		A	Repair additional nerve	6.26	4.45	4.45	0.85	11.56	11.56	ZZZ
64840		A	Repair of leg nerve	*13.02	10.35	10.35	0.53	23.90	23.90	090
64856		A	Repair/transpose nerve	*13.80	8.21	8.21	1.46	23.47	23.47	090
64857		A	Repair arm/leg nerve	*14.49	9.53	9.53	1.54	25.56	25.56	090
64858		A	Repair sciatic nerve	*16.49	10.98	10.98	2.11	29.58	29.58	090
64859		A	Additional nerve surgery	4.26	3.50	3.50	0.58	8.34	8.34	ZZZ
64861		A	Repair of arm nerves	*19.24	13.42	13.42	1.38	34.04	34.04	090
64862		A	Repair of low back nerves	*19.44	21.56	21.56	1.61	42.61	42.61	090
64864		A	Repair of facial nerve	*12.55	7.86	7.86	1.16	21.57	21.57	090
64865		A	Repair of facial nerve	*15.24	12.34	12.34	1.50	29.08	29.08	090
64866		A	Fusion of facial/other nerve	*15.74	11.19	11.19	1.84	28.77	28.77	090
64868		A	Fusion of facial/other nerve	*14.04	11.19	11.19	1.47	26.70	26.70	090
64870		A	Fusion of facial/other nerve	*15.99	13.91	13.91	1.70	31.60	31.60	090
64872		A	Subsequent repair of nerve	1.99	1.44	1.44	0.29	3.72	3.72	ZZZ
64874		A	Repair & revise nerve	2.98	2.17	2.17	0.43	5.58	5.58	ZZZ
64876		A	Repair nerve; shorten bone	3.38	2.46	2.46	0.48	6.32	6.32	ZZZ
64885		A	Nerve graft, head or neck	*17.53	12.69	12.69	1.48	31.70	31.70	090
64886		A	Nerve graft, head or neck	*20.75	15.13	15.13	1.77	37.65	37.65	090
64890		A	Nerve graft, hand or foot	*15.15	12.26	12.26	2.12	29.53	29.53	090
64891		A	Nerve graft, hand or foot	*16.14	10.42	10.42	1.73	28.29	28.29	090
64892		A	Nerve graft, arm or leg	*14.65	11.04	11.04	1.69	27.38	27.38	090
64893		A	Nerve graft, arm or leg	*15.80	13.93	13.93	2.27	31.80	31.80	090
64895		A	Nerve graft, hand or foot	*19.25	13.16	13.16	2.55	34.96	34.96	090
64896		A	Nerve graft, hand or foot	*20.49	17.53	17.53	1.90	39.92	39.92	090
64897		A	Nerve graft, arm or leg	*18.24	12.63	12.63	2.47	33.34	33.34	090
64898		A	Nerve graft, arm or leg	*19.50	14.40	14.40	2.35	36.25	36.25	090
64901		A	Additional nerve graft	10.22	10.16	10.16	0.87	21.25	21.25	ZZZ
64902		A	Additional nerve graft	11.83	11.92	11.92	0.99	24.74	24.74	ZZZ
64905		A	Nerve pedicle transfer	*14.02	9.40	9.40	0.70	24.12	24.12	090
64907		A	Nerve pedicle transfer	*18.83	13.02	13.02	2.55	34.40	34.40	090
64999		C	Nervous system surgery	0.00	0.00	0.00	0.00	0.00	0.00	YYY
65091		A	Revise eye	*6.46	#7.11	#7.11	0.45	14.02	14.02	090

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2 Copyright 1994 American Dental Association. All rights reserved.
3 • Indicates RVUs are not used for Medicare payment.
4 * Work RVUs increased in global surgical package.
5 # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT 1/ HCPCS 2	MOD	Status	Description	Physician work RVUs 3 4	Non-facility practice expense RVUs 5	Facility practice expense RVUs 5	Mal-practice RVUs	Non-facility total	Facility total	Global
65093		A	Revise eye with implant	*8.87	#7.56	#7.56	0.52	14.95	14.95	090
65101		A	Removal of eye	*7.03	#7.73	#7.73	0.47	15.23	15.23	090
65103		A	Remove eye/insert implant	*7.57	#8.33	#8.33	0.50	16.40	16.40	090
65105		A	Remove eye/attach implant	*8.49	#9.34	#9.34	0.55	18.38	18.38	090
65110		A	Removal of eye	*13.95	#16.35	#15.35	1.14	30.44	30.44	090
65112		A	Remove eye, revise socket	*16.38	12.16	12.16	1.09	29.63	29.63	090
65114		A	Remove eye, revise socket	*17.58	13.07	13.07	1.65	32.25	32.25	090
65125		A	Revise ocular implant	*3.12	2.47	2.47	0.13	5.72	5.72	090
65130		A	Insert ocular implant	*7.15	#7.87	#7.87	0.50	15.52	15.52	090
65135		A	Insert ocular implant	*7.33	5.42	5.42	0.35	13.10	13.10	090
65140		A	Attach ocular implant	*8.02	6.22	6.22	0.33	14.57	14.57	090
65150		A	Revise ocular implant	*8.26	#6.89	#6.89	0.56	13.71	13.71	090
65155		A	Reinsert ocular implant	*8.66	#9.53	#9.53	0.90	19.09	19.09	090
65175		A	Removal of ocular implant	*8.26	#8.91	#8.91	0.40	13.59	13.59	090
65205		A	Remove foreign body from eye	0.71	0.37	0.37	0.02	1.10	1.10	000
65210		A	Remove foreign body from eye	0.84	0.46	0.46	0.03	1.33	1.33	000
65220		A	Remove foreign body from eye	0.71	0.52	0.52	0.04	1.27	1.27	000
65222		A	Remove foreign body from eye	0.93	0.57	0.57	0.03	1.53	1.53	000
65235		A	Remove foreign body from eye	*7.57	5.61	5.61	0.30	13.48	13.48	090
65260		A	Remove foreign body from eye	*10.96	8.63	8.63	0.45	20.04	20.04	090
65265		A	Remove foreign body from eye	*12.59	10.04	10.04	0.51	23.14	23.14	090
65270		A	Repair of eye wound	*1.90	1.17	1.17	0.07	3.14	3.14	010
65272		A	Repair of eye wound	*3.82	1.64	1.64	0.10	5.56	5.56	090
65273		A	Repair of eye wound	*4.36	3.22	3.22	0.21	7.79	7.79	090
65275		A	Repair of eye wound	*5.34	0.66	0.66	0.04	6.04	6.04	090
65280		A	Repair of eye wound	*7.66	#8.43	#8.43	0.49	16.58	16.58	090
65285		A	Repair of eye wound	*12.90	12.26	12.26	0.64	25.80	25.80	090
65286		A	Repair of eye wound	*5.51	4.79	4.79	0.25	10.55	10.55	090
65290		A	Repair of eye socket wound	*5.41	#5.95	#5.95	0.37	11.73	11.73	090
65400		A	Removal of eye lesion	*6.06	6.46	6.46	0.35	12.87	12.87	090
65410		A	Biopsy of cornea	1.47	1.59	1.59	0.11	3.17	3.17	000
65420		A	Removal of eye lesion	*4.17	4.28	4.28	0.23	8.68	8.68	090
65426		A	Removal of eye lesion	*5.25	#5.78	#5.78	0.38	11.41	11.41	090
65430		A	Corneal smear	1.47	0.54	0.54	0.03	2.04	2.04	000
65435		A	Curette/treat cornea	0.92	0.77	0.77	0.04	1.73	1.73	000
65436		A	Curette/treat cornea	*4.19	1.53	1.53	0.08	5.80	5.80	090
65450		A	Treatment of corneal lesion	*3.27	3.28	3.28	0.17	6.72	6.72	090
65600		A	Revision of cornea	*3.40	2.62	2.62	0.14	6.16	6.16	090
65710		A	Corneal transplant	*12.35	12.44	12.44	1.13	25.92	25.92	090
65730		A	Corneal transplant	*14.25	15.14	15.14	1.29	30.68	30.68	090
65750		A	Corneal transplant	*15.00	16.10	16.10	1.33	32.43	32.43	090
65755		A	Corneal transplant	*14.89	16.10	16.10	1.39	32.38	32.38	090
65760		N	Revision of cornea	0.00	0.00	0.00	0.00	0.00	0.00	XXX
65765		N	Revision of cornea	0.00	0.00	0.00	0.00	0.00	0.00	XXX
65767		N	Corneal tissue transplant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
65770		A	Revise cornea with implant	*17.56	13.81	13.81	0.71	32.08	32.08	090
65771		N	Radial keratotomy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
65772		A	Correction of astigmatism	*4.29	#4.72	#4.72	0.31	9.32	9.32	090
65775		A	Correction of astigmatism	*5.79	#6.37	#6.37	0.50	12.66	12.66	090
65800		A	Drainage of eye	1.91	1.72	1.72	0.10	3.73	3.73	000
65805		A	Drainage of eye	1.91	1.81	1.81	0.10	3.82	3.82	000
65810		A	Drainage of eye	*4.87	#5.36	#5.36	0.30	10.53	10.53	090
65815		A	Drainage of eye	*5.05	4.49	4.49	0.24	9.78	9.78	090
65820		A	Relieve inner eye pressure	*8.13	9.54	9.54	0.51	18.18	18.18	090
65850		A	Incision of eye	*10.52	#11.57	#11.57	0.69	22.78	22.78	090
65855		A	Laser surgery of eye	*4.30	6.01	6.01	0.52	10.83	10.83	090
65860		A	Incise inner eye adhesions	*3.55	#3.91	#3.91	0.37	7.83	7.83	090
65865		A	Incise inner eye adhesions	*5.60	#6.16	#6.16	0.41	12.17	12.17	090
65870		A	Incise inner eye adhesions	*3.27	5.86	5.86	0.31	12.44	12.44	090
65875		A	Incise inner eye adhesions	*8.54	6.28	6.28	0.34	13.16	13.16	090
65880		A	Incise inner eye adhesions	*7.09	6.85	6.85	0.37	14.31	14.31	090
65900		A	Remove eye lesion	*10.93	7.91	7.91	0.92	19.76	19.76	090
65920		A	Remove implant from eye	*8.40	8.36	8.36	0.44	17.20	17.20	090
65930		A	Remove blood clot from eye	*7.44	7.68	7.68	0.41	15.53	15.53	090
66020		A	Injection treatment of eye	*1.59	#1.75	#1.75	0.14	3.48	3.48	010
66030		A	Injection treatment of eye	*1.25	0.54	0.54	0.03	1.82	1.82	010
66130		A	Remove eye lesion	*7.69	5.28	5.28	0.28	13.25	13.25	090
66150		A	Glaucoma surgery	*8.30	#9.13	#9.13	0.59	18.02	18.02	090
66155		A	Glaucoma surgery	*8.29	#9.12	#9.12	0.50	17.91	17.91	090
66160		A	Glaucoma surgery	*10.17	10.77	10.77	0.55	21.49	21.49	090
66165		A	Glaucoma surgery	*8.01	#8.81	#8.81	0.57	17.39	17.39	090
66170		A	Glaucoma surgery	*12.16	12.15	12.15	0.63	24.94	24.94	090
66172		A	Incision of eye	*16.04	12.15	12.15	0.63	27.82	27.82	090
66180		A	Implant eye shunt	*14.55	#16.01	#16.01	1.03	31.59	31.59	090

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3 • Indicates RVUs are not used for Medicare payment.
4 * Work RVUs increased in global surgical package.
5 # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [6]	Mal-practice RVUs	Non-facility total	Facility total	Global
66185		A	Revise eye shunt	*8.14	$8.95	$8.95	0.58	17.67	17.67	090
66220		A	Repair eye lesion	*7.77	5.95	5.95	0.34	14.06	14.06	090
66225		A	Repair/graft eye lesion	*11.05	$12.16	$12.16	0.86	24.07	24.07	090
66250		A	Follow-up surgery of eye	*5.98	$6.58	$6.58	0.38	12.94	12.94	090
66500		A	Incision of iris	*3.71	$4.08	$4.08	0.27	8.06	8.06	090
66505		A	Incision of iris	*4.06	3.27	3.27	0.17	7.92	7.52	000
66600		A	Remove iris and lesion	*8.68	9.36	9.36	0.51	18.55	18.55	090
66605		A	Removal of iris	*12.79	11.87	11.87	0.67	25.33	25.33	090
66625		A	Removal of iris	*5.13	$5.64	$5.64	0.48	11.25	11.25	090
66630		A	Removal of iris	*8.16	$8.78	$8.78	0.45	13.39	13.39	090
66635		A	Removal of iris	*8.25	$8.88	$8.88	0.49	13.62	13.62	090
66680		A	Repair iris & ciliary body	*5.44	$5.98	$5.98	0.35	11.77	11.77	090
66682		A	Repair iris and ciliary body	*8.21	$8.83	$8.83	0.38	13.42	13.42	090
66700		A	Destruction, ciliary body	*4.78	$5.26	$5.26	0.35	10.39	10.39	090
66710		A	Destruction, ciliary body	*4.78	$5.26	$5.26	0.41	10.45	10.45	090
66720		A	Destruction, ciliary body	*4.78	$5.26	$5.26	0.38	10.42	10.42	090
66740		A	Destruction, ciliary body	*4.78	$5.26	$5.26	0.39	10.43	10.43	090
66761		A	Revision of iris	*4.07	$4.48	$4.48	0.47	9.02	9.02	090
66762		A	Revision of iris	*4.58	$5.04	$5.04	0.55	10.17	10.17	090
66770		A	Removal of inner eye lesion	*5.18	$5.70	$5.70	0.45	11.33	11.33	090
66820		A	Incision, secondary cataract	*3.89	$4.28	$4.28	0.29	8.46	8.46	090
66821		A	After cataract laser surgery	*2.35	$2.59	$2.59	0.37	5.31	5.31	090
66825		A	Reposition intraocular lens	*8.23	7.33	7.33	0.38	15.94	15.94	090
66830		A	Removal of lens lesion	*8.20	7.67	7.67	0.40	16.27	16.27	090
66840		A	Removal of lens material	*7.91	$8.70	$8.70	0.54	17.15	17.15	090
66850		A	Removal of lens material	*9.11	$10.02	$10.02	0.70	19.83	19.83	090
66852		A	Removal of lens material	*9.97	$10.97	$10.97	0.90	21.84	21.84	090
66920		A	Extraction of lens	*8.86	$9.75	$9.75	0.60	19.21	19.21	090
66930		A	Extraction of lens	*10.18	10.49	10.49	0.57	21.24	21.24	090
66940		A	Extraction of lens	*8.93	$9.82	$9.82	0.62	19.37	19.37	090
66983		A	Remove cataract, insert lens	*8.99	$9.89	$9.89	0.95	19.83	19.83	090
66984		A	Remove cataract, insert lens	*10.29	$11.31	$11.31	0.94	22.53	22.53	090
66985		A	Insert lens prosthesis	*8.39	$9.23	$9.23	0.83	18.25	18.25	090
66986		A	Exchange lens prosthesis	*12.28	12.20	12.20	0.83	25.11	25.11	090
66999		C	Eye surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
67005		A	Partial removal of eye fluid	*5.70	$6.27	$6.27	1.13	13.10	13.10	090
67010		A	Partial removal of eye fluid	*8.87	$7.56	$7.56	1.04	15.47	15.47	090
67015		A	Release of eye fluid	*5.92	5.45	5.45	0.35	13.72	13.72	090
67025		A	Replace eye fluid	*8.84	6.75	6.75	0.36	13.95	13.95	090
67027		A	Implant eye drug system	*10.85	9.04	9.04	0.47	20.36	20.36	090
67028		A	Injection eye drug	2.52	3.22	$2.77	0.18	5.92	5.47	000
67030		A	Incise inner eye strands	*4.84	$5.32	$5.32	0.56	10.66	10.66	090
67031		A	Laser surgery, eye strands	*3.67	$4.04	$4.04	0.75	8.46	8.46	090
67036		A	Removal of inner eye fluid	*11.89	$13.08	$13.08	1.49	26.46	26.46	090
67039		A	Strip retinal membrane	*21.24	$23.36	$23.36	1.80	46.40	46.40	090
67040		A	Laser treatment of retina	*14.52	$15.97	$15.97	1.88	32.17	32.17	090
67101		A	Laser treatment of retina	*17.23	$18.95	$18.95	1.75	37.93	37.93	090
67105		A	Repair, detached retina	*7.53	$8.28	$8.28	0.86	16.47	16.47	090
67107		A	Repair, detached retina	*7.41	9.14	9.14	0.80	17.35	17.35	090
67108		A	Repair detached retina	*14.84	$16.32	$16.32	1.10	32.26	32.26	090
67110		A	Repair detached retina	*20.82	$22.90	$22.90	1.76	45.48	45.48	090
67112		A	Re-repair detached retina	*8.81	$9.69	$9.69	0.97	19.47	19.47	090
67115		A	Release, encircling material	*16.86	16.51	16.51	0.86	34.23	34.23	090
67120		A	Remove eye implant material	*4.99	$5.49	$5.49	0.44	10.92	10.92	090
67121		A	Remove eye implant material	*5.88	$6.58	$6.58	0.38	12.94	12.94	090
67141		A	Treatment of retina	*10.67	9.42	9.42	0.49	20.58	20.58	090
67145		A	Treatment of retina	*5.20	$5.72	$5.72	0.48	11.40	11.40	090
67208		A	Treatment of retinal lesion	*5.37	5.50	5.50	0.48	12.36	12.36	090
67210		A	Treatment of retinal lesion	*8.70	$7.37	$7.37	0.52	14.59	14.59	090
67218		A	Treatment of retinal lesion	*10.05	9.02	9.02	0.47	19.54	19.54	090
67227		A	Treatment of retinal lesion	*13.52	13.31	13.31	0.70	27.53	27.53	090
67228		A	Treatment of retinal lesion	*8.58	$7.24	$7.24	0.51	14.33	14.33	090
67250		A	Reinforce eye wall	*12.74	9.39	9.39	0.48	22.61	22.61	090
67255		A	Reinforce/graft eye wall	*8.66	6.99	6.99	0.40	16.05	16.05	090
67299		C	Eye surgery procedure	*8.90	$9.79	$9.79	0.87	19.56	19.56	090
67311		A	Revise eye muscle	0.00	0.00	0.00	0.00	0.00	0.00	YYY
67312		A	Revise two eye muscles	*8.65	$7.32	$7.32	0.47	14.44	14.44	090
67314		A	Revise eye muscle	*8.54	$9.39	$9.39	0.53	18.46	18.46	090
67316		A	Revise two eye muscles	*7.52	$8.27	$8.27	0.58	16.37	16.37	090
67318		A	Revise eye muscle(s)	*9.66	10.27	10.27	0.67	20.60	20.60	090
67320		A	Revise eye muscle(s)	*7.85	8.21	8.21	0.33	14.39	14.39	090
67331		A	Eye surgery follow-up	*8.88	$9.53	$9.53	0.69	18.88	18.88	090
67332		A	Rerevise eye muscles	*8.12	$8.93	$8.93	0.54	17.59	17.59	090
				*8.99	$9.89	$9.89	0.58	19.46	19.46	090

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[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [6]	Mal-practice RVUs	Non-facility total	Facility total	Global
67334		A	Revise eye muscle w/suture	*7.96	6.30	6.30	0.33	14.59	14.59	090
67335		A	Eye suture during surgery	2.49	$2.74	$2.74	0.43	5.66	5.66	ZZZ
67340		A	Revise eye muscle	*9.85	7.88	7.88	0.41	18.14	18.14	090
67343		A	Release eye tissue	*7.35	5.83	5.83	0.31	13.49	13.49	090
67345		A	Destroy nerve of eye muscle	*2.96	2.22	2.22	0.26	5.44	5.44	010
67350		A	Biopsy eye muscle	2.87	2.39	2.39	0.13	5.39	5.39	000
67399		C	Eye muscle surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
67400		A	Explore/biopsy eye socket	*9.76	$10.74	$10.74	0.62	21.12	21.12	090
67405		A	Explore/drain eye socket	*7.93	$8.72	$8.72	0.67	17.32	17.32	090
67412		A	Explore/treat eye socket	*9.50	$10.45	$10.45	0.67	20.62	20.62	090
67413		A	Explore/treat eye socket	*10.00	8.09	8.09	0.57	18.66	18.66	090
67414		A	Explore/decompress eye socket	*11.13	8.39	8.39	0.44	19.96	19.96	090
67415		A	Aspiration orbital contents	1.76	$1.94	$1.94	0.12	3.82	3.82	000
67420		A	Explore/treat eye socket	*20.06	16.78	16.78	1.11	37.95	37.95	090
67430		A	Explore/treat eye socket	*13.39	10.65	10.65	0.54	24.58	24.58	090
67440		A	Explore/drain eye socket	*13.09	$14.40	$14.40	0.97	28.46	28.46	090
67445		A	Explore/decompress eye socket	*14.42	11.13	11.13	0.57	26.12	26.12	090
67450		A	Explore/biopsy eye socket	*13.51	$14.86	$14.86	0.87	29.24	29.24	090
67500		A	Inject/treat eye socket	0.79	0.73	0.73	0.06	1.58	1.58	000
67505		A	Inject/treat eye socket	0.82	1.04	$0.90	0.06	1.92	1.78	000
67515		A	Inject/treat eye socket	0.61	0.56	0.56	0.03	1.20	1.20	000
67550		A	Insert eye socket implant	*10.19	9.62	9.62	0.70	20.51	20.51	090
67560		A	Revise eye socket implant	*10.60	8.30	8.30	0.48	19.38	19.38	090
67570		A	Decompress optic nerve	*13.58	7.56	7.56	0.39	21.53	21.53	090
67599		C	Orbit surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
67700		A	Drainage of eyelid abscess	*1.35	0.49	0.49	0.03	1.87	1.87	010
67710		A	Incision of eyelid	*1.02	1.01	1.01	0.06	2.09	2.09	010
67715		A	Incision of eyelid fold	*1.22	$1.34	$1.34	0.09	2.65	2.65	010
67800		A	Remove eyelid lesion	*1.38	0.94	0.94	0.05	2.37	2.37	010
67801		A	Remove eyelid lesions	*1.88	1.39	1.39	0.08	3.35	3.35	010
67805		A	Remove eyelid lesions	*2.22	1.38	1.38	0.08	3.68	3.68	010
67808		A	Remove eyelid lesion(s)	*3.60	2.13	2.13	0.13	6.06	6.06	090
67810		A	Biopsy of eyelid	1.48	0.81	0.81	0.05	2.34	2.34	000
67820		A	Revise eyelashes	0.89	0.38	0.38	0.02	1.29	1.29	000
67825		A	Revise eyelashes	*1.38	0.90	0.90	0.05	2.33	2.33	010
67830		A	Revise eyelashes	*1.70	2.12	$1.87	0.17	3.99	3.74	010
67835		A	Revise eyelashes	*5.56	$6.12	$6.12	0.45	12.13	12.13	090
67840		A	Remove eyelid lesion	*2.04	1.22	1.22	0.07	3.33	3.33	010
67850		A	Treat eyelid lesion	*1.69	0.82	0.82	0.05	2.56	2.56	010
67875		A	Closure of eyelid by suture	1.35	1.72	$1.49	0.13	3.20	2.97	000
67880		A	Revision of eyelid	*3.80	3.94	3.94	0.23	7.97	7.97	090
67882		A	Revision of eyelid	*5.07	$5.58	$5.58	0.37	11.02	11.02	090
67900		A	Repair brow defect	*8.14	3.78	3.78	0.20	10.12	10.12	090
67901		A	Repair eyelid defect	*8.97	$7.67	$7.67	0.64	15.28	15.28	090
67902		A	Repair eyelid defect	*7.03	$7.73	$7.73	0.72	15.48	15.48	090
67903		A	Repair eyelid defect	*8.37	$7.01	$7.01	0.73	14.11	14.11	090
67904		A	Repair eyelid defect	*8.26	$8.89	$8.89	0.71	13.86	13.86	090
67906		A	Repair eyelid defect	*6.79	5.46	5.46	0.36	12.61	12.61	090
67908		A	Repair eyelid defect	*5.13	$5.64	$5.64	0.54	11.31	11.31	090
67909		A	Revise eyelid defect	*5.40	$5.94	$5.94	0.48	11.82	11.82	090
67911		A	Revise eyelid defect	*5.27	$5.80	$5.80	0.79	11.86	11.86	090
67914		A	Repair eyelid defect	*3.68	$4.05	$4.05	0.39	8.12	8.12	090
67915		A	Repair eyelid defect	*3.18	1.25	1.25	0.07	4.50	4.50	090
67916		A	Repair eyelid defect	*5.31	$5.84	$5.84	0.36	11.53	11.53	090
67917		A	Repair eyelid defect	*8.02	$8.82	$8.82	0.47	13.11	13.11	090
67921		A	Repair eyelid defect	*3.40	$3.74	$3.74	0.20	7.34	7.34	090
67922		A	Repair eyelid defect	*3.06	1.19	1.19	0.07	4.32	4.32	090
67923		A	Repair eyelid defect	*5.88	$6.47	$6.47	0.38	12.73	12.73	090
67924		A	Repair eyelid defect	*5.79	$6.37	$6.37	0.43	12.59	12.59	090
67930		A	Repair eyelid wound	*3.61	1.27	1.27	0.08	4.96	4.96	010
67935		A	Repair eyelid wound	*8.22	3.79	3.79	0.24	10.25	10.25	090
67938		A	Remove eyelid foreign body	*1.33	0.52	0.52	0.03	1.88	1.88	010
67950		A	Revision of eyelid	*5.82	$6.40	$6.40	0.45	12.67	12.67	090
67961		A	Revision of eyelid	*5.69	$6.26	$6.26	0.50	12.45	12.45	090
67966		A	Revision of eyelid	*8.57	$7.23	$7.23	0.66	14.46	14.46	090
67971		A	Reconstruction of eyelid	*9.79	10.68	10.68	0.64	21.11	21.11	090
67973		A	Reconstruction of eyelid	*12.87	13.54	13.54	0.91	27.32	27.32	090
67974		A	Reconstruction of eyelid	*12.84	14.07	14.07	0.87	27.78	27.78	090
67975		A	Reconstruction of eyelid	*9.13	4.15	4.15	0.24	13.52	13.52	090
67999		C	Revision of eyelid	0.00	0.00	0.00	0.00	0.00	0.00	YYY
68020		A	Incise/drain eyelid lining	*1.37	0.51	0.51	0.03	1.91	1.91	010
68040		A	Treatment of eyelid lesions	0.85	0.45	0.45	0.02	1.32	1.32	000
68100		A	Biopsy of eyelid lining	1.35	0.99	0.99	0.06	2.40	2.40	000
68110		A	Remove eyelid lining lesion	*1.77	1.24	1.24	0.07	3.08	3.08	010

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ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT ¹/ HCPCS²	MOD	Status	Description	Physician work RVUs³⁴	Non-facility practice expense RVUs⁵	Facility practice expense RVUs⁶	Mal-practice RVUs	Non-facility total	Facility total	Global
68115		A	Remove eyelid lining lesion	*2.36	1.93	1.93	0.11	4.40	4.40	010
68130		A	Remove eyelid lining lesion	*4.93	4.09	4.09	0.22	9.24	9.24	090
68135		A	Remove eyelid lining lesion	*1.84	0.74	0.74	0.04	2.62	2.62	010
68200		A	Treat eyelid by injection	0.49	0.52	0.52	0.03	1.04	1.04	000
68320		A	Revise/graft eyelid lining	*5.37	#5.91	#5.91	0.42	11.70	11.70	090
68325		A	Revise/graft eyelid lining	*7.36	#8.10	#8.10	0.62	16.08	16.08	090
68326		A	Revise/graft eyelid lining	*7.15	#7.87	#7.87	0.49	15.51	15.51	090
68328		A	Revise/graft eyelid lining	*8.18	#9.00	#9.00	0.82	18.00	18.00	090
68330		A	Revise eyelid lining	*4.83	#5.31	#5.31	0.35	10.49	10.49	090
68335		A	Revise/graft eyelid lining	*7.19	#7.91	#7.91	0.66	15.76	15.76	090
68340		A	Separate eyelid adhesions	*4.17	3.14	3.14	0.17	7.48	7.48	090
68360		A	Revise eyelid lining	*4.37	#4.81	#4.81	0.33	9.51	9.51	090
68362		A	Revise eyelid lining	*7.34	8.01	8.01	0.42	15.77	15.77	090
68399		C	Eyelid lining surgery	0.00	0.00	0.00	0.00	0.00	0.00	YYY
68400		A	Incise/drain tear gland	*1.69	1.00	1.00	0.06	2.75	2.75	010
68420		A	Incise/drain tear sac	*2.30	1.02	1.02	0.06	3.38	3.38	010
68440		A	Incise tear duct opening	*0.94	0.76	0.76	0.04	1.74	1.74	010
68500		A	Removal of tear gland	*11.02	7.61	7.61	0.75	19.38	19.38	090
68505		A	Partial removal tear gland	*10.94	8.69	8.69	0.49	20.12	20.12	090
68510		A	Biopsy of tear gland	4.61	3.69	3.69	0.28	8.58	8.58	000
68520		A	Removal of tear sac	*7.51	#8.26	#8.26	0.51	16.28	16.28	090
68525		A	Biopsy of tear sac	4.43	3.68	3.68	0.23	8.34	8.34	000
68530		A	Clearance of tear duct	*3.66	2.85	2.85	0.17	6.68	6.68	010
68540		A	Remove tear gland lesion	*10.60	8.31	8.31	0.50	19.41	19.41	090
68550		A	Remove tear gland lesion	*13.26	11.34	11.34	0.74	25.34	25.34	090
68700		A	Repair tear ducts	*3.60	2.69	2.69	0.15	9.44	9.44	090
68705		A	Revise tear duct opening	*2.06	1.02	1.02	0.05	3.13	3.13	010
68720		A	Create tear sac drain	*8.96	9.84	9.84	0.74	19.54	19.54	090
68745		A	Create tear duct drain	*8.63	8.56	8.56	0.45	15.64	15.64	090
68750		A	Create tear duct drain	*8.66	#9.53	#9.53	0.83	19.02	19.02	090
68760		A	Close tear duct opening	*1.73	0.92	0.92	0.04	2.69	2.69	010
68761		A	Close tear duct opening	*1.36	0.92	0.92	0.04	2.32	2.32	010
68770		A	Close tear system fistula	*7.02	4.24	4.24	0.23	11.49	11.49	090
68801		A	Dilate tear duct opening	*0.94	0.42	0.42	0.02	1.38	1.38	010
68810		A	Probe nasolacrimal duct	*1.90	0.55	0.55	0.03	2.48	2.48	010
68811		A	Probe nasolacrimal duct	*2.35	1.49	1.49	0.09	3.93	3.93	010
68815		A	Probe nasolacrimal duct	*3.20	1.93	1.93	0.10	5.23	5.23	010
68840		A	Explore/irrigate tear ducts	*1.25	0.49	0.49	0.03	1.77	1.77	010
68850		A	Injection for tear sac x-ray	0.80	0.51	0.51	0.04	1.35	1.35	000
68899		C	Tear duct system surgery	0.00	0.00	0.00	0.00	0.00	0.00	YYY
69000		A	Drain external ear lesion	*1.45	0.35	0.35	0.03	1.83	1.83	010
69005		A	Drain external ear lesion	*2.11	1.16	1.16	0.13	3.40	3.40	010
69020		A	Drain outer ear canal lesion	*1.48	0.45	0.45	0.04	1.97	1.97	010
69090		N	Pierce earlobes	0.00	0.00	0.00	0.00	0.00	0.00	XXX
69100		A	Biopsy of external ear	0.81	0.66	0.66	0.07	1.54	1.54	000
69105		A	Biopsy of external ear canal	0.85	0.80	0.80	0.09	1.74	1.74	000
69110		A	Partial removal external ear	*3.44	2.63	2.63	0.37	6.44	6.44	090
69120		A	Removal of external ear	*4.05	0.78	0.78	0.07	4.90	4.90	090
69140		A	Remove ear canal lesion(s)	*7.97	8.00	8.00	0.88	16.85	16.85	090
69145		A	Remove ear canal lesion(s)	*2.62	2.51	2.51	0.28	5.41	5.41	090
69150		A	Extensive ear canal surgery	*13.43	10.46	10.46	1.25	25.14	25.14	090
69155		A	Extensive ear/neck surgery	*20.80	15.92	15.92	1.81	38.33	38.33	090
69200		A	Clear outer ear canal	0.77	0.42	0.42	0.04	1.23	1.23	000
69205		A	Clear outer ear canal	*1.20	1.07	1.07	0.11	2.38	2.38	010
69210		A	Remove impacted ear wax	0.61	0.23	0.23	0.02	0.86	0.86	000
69220		A	Clean out mastoid cavity	0.83	0.50	0.50	0.05	1.38	1.38	000
69222		A	Clean out mastoid cavity	*1.40	0.74	0.74	0.08	2.22	2.22	010
69300		R	Revise external ear	6.36	5.30	5.30	0.28	11.94	11.94	YYY
69310		A	Rebuild outer ear canal	*10.79	9.84	9.84	1.08	21.71	21.71	090
69320		A	Rebuild outer ear canal	*16.96	14.65	14.65	1.66	33.27	33.27	090
69399		C	Outer ear surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
69400		A	Inflate middle ear canal	0.83	0.45	0.45	0.05	1.33	1.33	000
69401		A	Inflate middle ear canal	0.63	0.25	0.25	0.03	0.91	0.91	000
69405		A	Catheterize middle ear canal	*2.83	0.48	0.48	0.04	3.15	3.15	010
69410		A	Inset middle ear baffle	0.33	0.60	0.60	0.07	1.00	1.00	000
69420		A	Incision of eardrum	*1.33	0.69	0.69	0.08	2.10	2.10	010
69421		A	Incision of eardrum	*1.73	1.14	1.14	0.13	3.00	3.00	010
69424		A	Remove ventilating tube	0.86	0.60	0.60	0.06	1.51	1.51	000
69433		A	Create eardrum opening	*1.52	1.33	1.33	0.15	3.00	3.00	010
69436		A	Create eardrum opening	*1.96	2.13	2.13	0.23	4.32	4.32	010
69440		A	Exploration of middle ear	*7.57	#8.33	#8.33	0.93	16.83	16.83	090
69450		A	Eardrum revision	*5.57	#6.13	#6.13	1.15	12.85	12.85	090
69501		A	Mastoidectomy	*9.07	#9.98	#9.98	1.17	20.22	20.22	090
69502		A	Mastoidectomy	*12.36	13.36	13.36	1.45	27.19	27.19	090

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²Copyright 1994 American Dental Association. All rights reserved.
³- Indicates RVUs are not used for Medicare payment.
⁴* Work RVUs increased in global surgical package.
⁵# Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT ¹/ HCPCS²	MOD	Status	Description	Physician work RVUs³⁴	Non-facility practice expense RVUs⁵	Facility practice expense RVUs⁶	Mal-practice RVUs	Non-facility total	Facility total	Global
69505		A	Remove mastoid structures	*12.99	#14.29	#14.29	1.79	29.07	29.07	090
69511		A	Extensive mastoid surgery	*13.52	#14.87	#14.87	1.84	30.23	30.23	090
69530		A	Extensive mastoid surgery	*19.19	16.71	16.71	1.72	37.62	37.62	090
69535		A	Remove part of temporal bone	*36.14	25.27	25.27	2.85	64.26	64.26	090
69540		A	Remove ear lesion	*1.20	1.27	1.27	0.14	2.61	2.61	010
69550		A	Remove ear lesion	*10.99	#12.09	#12.09	2.00	25.08	25.08	090
69552		A	Remove ear lesion	*19.46	16.73	16.73	1.86	38.05	38.05	090
69554		A	Remove ear lesion	*33.16	22.87	22.87	2.83	58.66	58.66	090
69601		A	Mastoid surgery revision	*13.24	14.02	14.02	1.55	28.81	28.81	090
69602		A	Mastoid surgery revision	*13.58	#14.94	#14.94	1.75	30.27	30.27	090
69603		A	Mastoid surgery revision	*14.02	#15.42	#15.42	1.88	31.32	31.32	090
69604		A	Mastoid surgery revision	*14.02	#15.42	#15.42	2.70	32.14	32.14	090
69605		A	Mastoid surgery revision	*18.49	14.95	14.95	1.86	35.30	35.30	090
69610		A	Repair of eardrum	*4.43	0.93	0.93	0.10	5.46	5.46	010
69620		A	Repair of eardrum	*5.89	#6.48	#6.48	1.16	13.53	13.53	090
69631		A	Repair eardrum structures	*9.86	#10.85	#10.85	1.61	22.32	22.32	090
69632		A	Rebuild eardrum structures	*12.75	#14.03	#14.03	1.73	28.51	28.51	090
69633		A	Rebuild eardrum structures	*12.10	#13.31	#13.31	1.78	27.19	27.19	090
69635		A	Repair eardrum structures	*13.33	#14.66	#14.66	1.91	29.90	29.90	090
69636		A	Rebuild eardrum structures	*15.22	#16.74	#16.74	2.11	34.07	34.07	090
69637		A	Rebuild eardrum structures	*15.11	#16.62	#16.62	2.22	33.95	33.95	090
69641		A	Revise middle ear & mastoid	*12.71	#13.98	#13.98	1.87	28.56	28.56	090
69642		A	Revise middle ear & mastoid	*16.84	#16.52	#16.52	2.21	37.57	37.57	090
69643		A	Revise middle ear & mastoid	*15.32	#16.85	#16.85	2.51	34.68	34.68	090
69644		A	Revise middle ear & mastoid	*16.97	#18.67	#18.67	2.70	38.34	38.34	090
69645		A	Revise middle ear & mastoid	*16.38	#18.02	#18.02	2.51	36.91	36.91	090
69646		A	Revise middle ear & mastoid	*17.99	#19.79	#19.79	2.40	40.18	40.18	090
69650		A	Release middle ear bone	*9.86	#10.63	#10.63	1.33	21.82	21.82	090
69660		A	Revise middle ear bone	*11.90	#13.09	#13.09	1.82	26.81	26.81	090
69661		A	Revise middle ear bone	*15.74	#17.31	#17.31	1.93	34.98	34.98	090
69662		A	Revise middle ear bone	*15.44	#16.98	#16.98	1.94	34.36	34.36	090
69666		A	Repair middle ear structures	*9.75	#10.73	#10.73	1.77	22.25	22.25	090
69667		A	Repair middle ear structures	*9.76	#10.74	#10.74	1.86	22.16	22.16	090
69670		A	Remove mastoid air cells	*11.51	10.18	10.18	1.08	22.77	22.77	090
69676		A	Remove middle ear nerve	*9.52	8.53	8.53	0.86	18.91	18.91	090
69700		A	Close mastoid fistula	*8.23	7.86	7.86	0.84	16.93	16.93	090
69710		N	Implant/replace hearing aid	0.00	0.00	0.00	0.00	0.00	0.00	XXX
69711		A	Remove/repair hearing aid	*10.44	8.44	8.44	0.44	19.32	19.32	090
69720		A	Release facial nerve	*14.36	#15.82	#15.82	2.27	32.47	32.47	090
69725		A	Release facial nerve	*25.38	14.65	14.65	1.51	41.54	41.54	090
69740		A	Repair facial nerve	*15.96	11.83	11.83	1.69	29.48	29.48	090
69745		A	Repair facial nerve	*16.69	15.95	15.95	1.53	34.17	34.17	090
69799		C	Middle ear surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
69801		A	Incise inner ear	*8.56	#9.42	#9.42	1.84	19.82	19.82	090
69802		A	Incise inner ear	*13.10	11.24	11.24	1.22	25.56	25.56	090
69805		A	Explore inner ear	*13.82	13.14	13.14	2.00	28.96	28.96	090
69806		A	Explore inner ear	*12.35	#13.59	#13.59	2.54	28.48	28.48	090
69820		A	Establish inner ear window	*10.34	8.85	8.85	1.00	20.19	20.19	090
69840		A	Revise inner ear window	*10.26	8.49	8.49	0.51	19.26	19.26	090
69905		A	Remove inner ear	*11.10	#12.21	#12.21	2.07	25.38	25.38	090
69910		A	Remove inner ear & mastoid	*13.83	#14.99	#14.99	2.34	30.96	30.96	090
69915		A	Incise inner ear nerve	*21.23	17.71	17.71	2.02	40.96	40.96	090
69930		A	Implant cochlear device	*16.81	#18.49	#18.49	3.34	38.64	38.64	090
69949		C	Inner ear surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
69950		A	Incise inner ear nerve	*25.84	17.99	17.99	2.31	45.94	45.94	090
69955		A	Release facial nerve	*27.04	20.28	20.28	2.25	49.57	49.57	090
69960		A	Release inner ear canal	*27.04	17.85	17.85	1.93	46.82	46.82	090
69970		A	Remove inner ear lesion	*30.04	19.69	19.69	2.26	51.99	51.99	090
69979		C	Temporal bone surgery	0.00	0.00	0.00	0.00	0.00	0.00	YYY
70010		A	Contrast x-ray of brain	1.19	4.65	4.65	0.34	6.18	6.18	XXX
70010	TC	A	Contrast x-ray of brain	0.00	4.13	4.13	0.26	4.39	4.39	XXX
70010	26	A	Contrast x-ray of brain	1.19	0.52	0.52	0.08	1.79	1.79	XXX
70015		A	Contrast x-ray of brain	1.19	1.81	1.81	0.17	3.17	3.17	XXX
70015	TC	A	Contrast x-ray of brain	0.00	1.29	1.29	0.09	1.38	1.38	XXX
70015	26	A	Contrast x-ray of brain	1.19	0.52	0.52	0.08	1.79	1.79	XXX
70030		A	X-ray eye for foreign body	0.17	0.48	0.48	0.04	0.69	0.69	XXX
70030	TC	A	X-ray eye for foreign body	0.00	0.40	0.40	0.03	0.43	0.43	XXX
70030	26	A	X-ray eye for foreign body	0.17	0.08	0.08	0.01	0.26	0.26	XXX
70100		A	X-ray exam of jaw	0.18	0.59	0.59	0.04	0.81	0.81	XXX
70100	TC	A	X-ray exam of jaw	0.00	0.50	0.50	0.03	0.53	0.53	XXX
70100	26	A	X-ray exam of jaw	0.18	0.09	0.09	0.01	0.28	0.28	XXX
70110		A	X-ray exam of jaw	0.25	0.71	0.71	0.06	1.02	1.02	XXX
70110	TC	A	X-ray exam of jaw	0.00	0.59	0.59	0.04	0.63	0.63	XXX
70110	26	A	X-ray exam of jaw	0.25	0.12	0.12	0.02	0.39	0.39	XXX

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³- Indicates RVUs are not used for Medicare payment.
⁴* Work RVUs increased in global surgical package.
⁵# Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [6]	Mal-practice RVUs	Non-facility total	Facility total	Global
70120		A	X-ray exam of mastoids	0.18	0.68	0.68	0.05	0.91	0.91	XXX
70120	TC	A	X-ray exam of mastoids	0.00	0.59	0.59	0.04	0.63	0.63	XXX
70120	26	A	X-ray exam of mastoids	0.18	0.09	0.09	0.01	0.28	0.28	XXX
70130		A	X-ray exam of mastoids	0.34	0.91	0.91	0.07	1.32	1.32	XXX
70130	TC	A	X-ray exam of mastoids	0.00	0.75	0.75	0.05	0.80	0.80	XXX
70130	26	A	X-ray exam of mastoids	0.34	0.16	0.16	0.02	0.52	0.52	XXX
70134		A	X-ray exam of middle ear	0.34	0.86	0.86	0.07	1.27	1.27	XXX
70134	TC	A	X-ray exam of middle ear	0.00	0.70	0.70	0.05	0.75	0.75	XXX
70134	26	A	X-ray exam of middle ear	0.34	0.16	0.16	0.02	0.52	0.52	XXX
70140		A	X-ray exam of facial bones	0.19	0.68	0.68	0.05	0.92	0.92	XXX
70140	TC	A	X-ray exam of facial bones	0.00	0.59	0.59	0.04	0.63	0.63	XXX
70140	26	A	X-ray exam of facial bones	0.19	0.09	0.09	0.01	0.29	0.29	XXX
70150		A	X-ray exam of facial bones	0.26	0.87	0.87	0.07	1.20	1.20	XXX
70150	TC	A	X-ray exam of facial bones	0.00	0.75	0.75	0.05	0.80	0.80	XXX
70150	26	A	X-ray exam of facial bones	0.26	0.12	0.12	0.02	0.40	0.40	XXX
70160		A	X-ray exam of nasal bones	0.17	0.58	0.58	0.04	0.79	0.79	XXX
70160	TC	A	X-ray exam of nasal bones	0.00	0.50	0.50	0.03	0.53	0.53	XXX
70160	26	A	X-ray exam of nasal bones	0.17	0.08	0.08	0.01	0.26	0.26	XXX
70170		A	X-ray exam of tear duct	0.30	1.04	1.04	0.08	1.42	1.42	XXX
70170	TC	A	X-ray exam of tear duct	0.00	0.90	0.90	0.06	0.96	0.96	XXX
70170	26	A	X-ray exam of tear duct	0.30	0.14	0.14	0.02	0.46	0.46	XXX
70190		A	X-ray exam of eye sockets	0.21	0.69	0.69	0.05	0.95	0.95	XXX
70190	TC	A	X-ray exam of eye sockets	0.00	0.59	0.59	0.04	0.63	0.63	XXX
70190	26	A	X-ray exam of eye sockets	0.21	0.10	0.10	0.01	0.32	0.32	XXX
70200		A	X-ray exam of eye sockets	0.28	0.88	0.88	0.07	1.23	1.23	XXX
70200	TC	A	X-ray exam of eye sockets	0.00	0.75	0.75	0.05	0.80	0.80	XXX
70200	26	A	X-ray exam of eye sockets	0.28	0.13	0.13	0.02	0.43	0.43	XXX
70210		A	X-ray exam of sinuses	0.17	0.67	0.67	0.05	0.89	0.89	XXX
70210	TC	A	X-ray exam of sinuses	0.00	0.59	0.59	0.04	0.63	0.63	XXX
70210	26	A	X-ray exam of sinuses	0.17	0.08	0.08	0.01	0.26	0.26	XXX
70220		A	X-ray exam of sinuses	0.25	0.87	0.87	0.07	1.19	1.19	XXX
70220	TC	A	X-ray exam of sinuses	0.00	0.75	0.75	0.05	0.80	0.80	XXX
70220	26	A	X-ray exam of sinuses	0.25	0.12	0.12	0.02	0.39	0.39	XXX
70240		A	X-ray exam pituitary saddle	0.19	0.49	0.49	0.04	0.72	0.72	XXX
70240	TC	A	X-ray exam pituitary saddle	0.00	0.40	0.40	0.03	0.43	0.43	XXX
70240	26	A	X-ray exam pituitary saddle	0.19	0.09	0.09	0.01	0.29	0.29	XXX
70250		A	X-ray exam of skull	0.24	0.70	0.70	0.06	1.00	1.00	XXX
70250	TC	A	X-ray exam of skull	0.00	0.59	0.59	0.04	0.63	0.63	XXX
70250	26	A	X-ray exam of skull	0.24	0.11	0.11	0.02	0.37	0.37	XXX
70260		A	X-ray exam of skull	0.34	1.01	1.01	0.08	1.43	1.43	XXX
70260	TC	A	X-ray exam of skull	0.00	0.85	0.85	0.06	0.91	0.91	XXX
70260	26	A	X-ray exam of skull	0.34	0.16	0.16	0.02	0.52	0.52	XXX
70300		A	X-ray exam of teeth	0.10	0.30	0.30	0.03	0.43	0.43	XXX
70300	TC	A	X-ray exam of teeth	0.00	0.25	0.25	0.02	0.27	0.27	XXX
70300	26	A	X-ray exam of teeth	0.10	0.05	0.05	0.01	0.16	0.16	XXX
70310		A	X-ray exam of teeth	0.16	0.47	0.47	0.04	0.67	0.67	XXX
70310	TC	A	X-ray exam of teeth	0.00	0.40	0.40	0.03	0.43	0.43	XXX
70310	26	A	X-ray exam of teeth	0.16	0.07	0.07	0.01	0.24	0.24	XXX
70320		A	Full mouth x-ray of teeth	0.22	0.85	0.85	0.07	1.14	1.14	XXX
70320	TC	A	Full mouth x-ray of teeth	0.00	0.75	0.75	0.05	0.80	0.80	XXX
70320	26	A	Full mouth x-ray of teeth	0.22	0.10	0.10	0.02	0.34	0.34	XXX
70328		A	X-ray exam of jaw joint	0.18	0.56	0.56	0.04	0.78	0.78	XXX
70328	TC	A	X-ray exam of jaw joint	0.00	0.47	0.47	0.03	0.50	0.50	XXX
70328	26	A	X-ray exam of jaw joint	0.18	0.09	0.09	0.01	0.28	0.28	XXX
70330		A	X-ray exam of jaw joints	0.24	0.91	0.91	0.07	1.22	1.22	XXX
70330	TC	A	X-ray exam of jaw joints	0.00	0.80	0.80	0.05	0.85	0.85	XXX
70330	26	A	X-ray exam of jaw joints	0.24	0.11	0.11	0.02	0.37	0.37	XXX
70332		A	X-ray exam of jaw joint	0.54	2.25	2.25	0.17	2.96	2.96	XXX
70332	TC	A	X-ray exam of jaw joint	0.00	2.00	2.00	0.13	2.13	2.13	XXX
70332	26	A	X-ray exam of jaw joint	0.54	0.25	0.25	0.04	0.83	0.83	XXX
70336		A	Magnetic image jaw joint	1.48	11.11	11.11	0.73	13.32	13.32	XXX
70336	TC	A	Magnetic image jaw joint	0.00	10.68	10.68	0.67	11.35	11.35	XXX
70336	26	A	Magnetic image jaw joint	1.48	0.43	0.43	0.06	1.97	1.97	XXX
70350		A	X-ray head for orthodontia	0.17	0.44	0.44	0.03	0.64	0.64	XXX
70350	TC	A	X-ray head for orthodontia	0.00	0.36	0.36	0.02	0.38	0.38	XXX
70350	26	A	X-ray head for orthodontia	0.17	0.08	0.08	0.01	0.26	0.26	XXX
70355		A	Panoramic x-ray of jaws	0.20	0.63	0.63	0.05	0.88	0.88	XXX
70355	TC	A	Panoramic x-ray of jaws	0.00	0.54	0.54	0.04	0.58	0.58	XXX
70355	26	A	Panoramic x-ray of jaws	0.20	0.09	0.09	0.01	0.30	0.30	XXX
70360		A	X-ray exam of neck	0.17	0.48	0.48	0.04	0.69	0.69	XXX
70360	TC	A	X-ray exam of neck	0.00	0.40	0.40	0.03	0.43	0.43	XXX
70360	26	A	X-ray exam of neck	0.17	0.08	0.08	0.01	0.26	0.26	XXX
70370		A	Throat x-ray & fluoroscopy	0.32	1.39	1.39	0.10	1.81	1.81	XXX
70370	TC	A	Throat x-ray & fluoroscopy	0.00	1.24	1.24	0.08	1.32	1.32	XXX

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[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] ø Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [6]	Mal-practice RVUs	Non-facility total	Facility total	Global
70370	26	A	Throat x-ray & fluoroscopy	0.32	0.15	0.15	0.02	0.49	0.49	XXX
70371		A	Speech evaluation, complex	0.84	2.38	2.38	0.19	3.41	3.41	XXX
70371	TC	A	Speech evaluation, complex	0.00	2.00	2.00	0.13	2.13	2.13	XXX
70371	26	A	Speech evaluation, complex	0.84	0.38	0.38	0.06	1.28	1.28	XXX
70373		A	Contrast x-ray of larynx	0.44	1.90	1.90	0.14	2.48	2.48	XXX
70373	TC	A	Contrast x-ray of larynx	0.00	1.70	1.70	0.11	1.81	1.81	XXX
70373	26	A	Contrast x-ray of larynx	0.44	0.20	0.20	0.03	0.67	0.67	XXX
70380		A	X-ray exam of salivary gland	0.17	0.72	0.72	0.05	0.94	0.94	XXX
70380	TC	A	X-ray exam of salivary gland	0.00	0.64	0.64	0.04	0.68	0.68	XXX
70380	26	A	X-ray exam of salivary gland	0.17	0.08	0.08	0.01	0.26	0.26	XXX
70390		A	X-ray exam of salivary duct	0.38	1.87	1.87	0.14	2.39	2.39	XXX
70390	TC	A	X-ray exam of salivary duct	0.00	1.70	1.70	0.11	1.81	1.81	XXX
70390	26	A	X-ray exam of salivary duct	0.38	0.17	0.17	0.03	0.58	0.58	XXX
70450		A	CAT scan of head or brain	0.85	4.66	4.66	0.35	6.06	6.06	XXX
70450	TC	A	CAT scan of head or brain	0.00	4.50	4.50	0.29	4.79	4.79	XXX
70450	26	A	CAT scan of head or brain	0.85	0.38	0.38	0.06	1.29	1.29	XXX
70460		A	Contrast CAT scan of head	1.13	5.89	5.89	0.43	7.45	7.45	XXX
70460	TC	A	Contrast CAT scan of head	0.00	5.39	5.39	0.35	5.74	5.74	XXX
70460	26	A	Contrast CAT scan of head	1.13	0.50	0.50	0.08	1.71	1.71	XXX
70470		A	Contrast CAT scans of head	1.27	7.30	7.30	0.52	9.09	9.09	XXX
70470	TC	A	Contrast CAT scans of head	0.00	6.74	6.74	0.43	7.17	7.17	XXX
70470	26	A	Contrast CAT scans of head	1.27	0.56	0.56	0.09	1.92	1.92	XXX
70480		A	CAT scan of skull	1.28	5.07	5.07	0.38	6.73	6.73	XXX
70480	TC	A	CAT scan of skull	0.00	4.50	4.50	0.29	4.79	4.79	XXX
70480	26	A	CAT scan of skull	1.28	0.57	0.57	0.09	1.94	1.94	XXX
70481		A	Contrast CAT scan of skull	1.38	6.00	6.00	0.44	7.82	7.82	XXX
70481	TC	A	Contrast CAT scan of skull	0.00	5.39	5.39	0.35	5.74	5.74	XXX
70481	26	A	Contrast CAT scan of skull	1.38	0.61	0.61	0.09	2.08	2.08	XXX
70482		A	Contrast CAT scans of skull	1.45	7.38	7.38	0.53	9.36	9.36	XXX
70482	TC	A	Contrast CAT scans of skull	0.00	6.74	6.74	0.43	7.17	7.17	XXX
70482	26	A	Contrast CAT scans of skull	1.45	0.64	0.64	0.10	2.19	2.19	XXX
70486		A	CAT scan of face, jaw	1.14	5.00	5.00	0.37	6.51	6.51	XXX
70486	TC	A	CAT scan of face, jaw	0.00	4.50	4.50	0.29	4.79	4.79	XXX
70486	26	A	CAT scan of face, jaw	1.14	0.50	0.50	0.08	1.72	1.72	XXX
70487		A	Contrast CAT scan, face/jaw	1.30	5.96	5.96	0.44	7.70	7.70	XXX
70487	TC	A	Contrast CAT scan, face/jaw	0.00	5.39	5.39	0.35	5.74	5.74	XXX
70487	26	A	Contrast CAT scan, face/jaw	1.30	0.57	0.57	0.09	1.96	1.96	XXX
70488		A	Contrast CAT scans face/jaw	1.42	7.37	7.37	0.53	9.32	9.32	XXX
70488	TC	A	Contrast CAT scans face/jaw	0.00	6.74	6.74	0.43	7.17	7.17	XXX
70488	26	A	Contrast CAT scans face/jaw	1.42	0.63	0.63	0.10	2.15	2.15	XXX
70490		A	CAT scan of neck tissue	1.26	5.07	5.07	0.38	6.73	6.73	XXX
70490	TC	A	CAT scan of neck tissue	0.00	4.50	4.50	0.29	4.79	4.79	XXX
70490	26	A	CAT scan of neck tissue	1.26	0.57	0.57	0.09	1.94	1.94	XXX
70491		A	Contrast CAT of neck tissue,	1.38	6.00	6.00	0.44	7.82	7.82	XXX
70491	TC	A	Contrast CAT of neck tissue	0.00	5.39	5.39	0.35	5.74	5.74	XXX
70491	26	A	Contrast CAT of neck tissue	1.38	0.61	0.61	0.09	2.08	2.08	XXX
70492		A	Contrast CAT of neck tissue	1.45	7.38	7.38	0.53	9.36	9.36	XXX
70492	TC	A	Contrast CAT of neck tissue	0.00	6.74	6.74	0.43	7.17	7.17	XXX
70492	26	A	Contrast CAT of neck tissue	1.45	0.64	0.64	0.10	2.19	2.19	XXX
70540		A	Magnetic image, face, neck	1.48	11.34	11.34	0.77	13.59	13.59	XXX
70540	TC	A	Magnetic image, face, neck	0.00	10.68	10.68	0.67	11.35	11.35	XXX
70540	26	A	Magnetic image, face, neck	1.48	0.66	0.66	0.10	2.24	2.24	XXX
70541		R	Magnetic image, head (MRA)	1.81	11.34	11.34	0.77	13.92	13.92	XXX
70541	TC	R	Magnetic image, head (MRA)	0.00	10.68	10.68	0.67	11.35	11.35	XXX
70541	26	R	Magnetic image, head (MRA)	1.81	0.66	0.66	0.10	2.57	2.57	XXX
70551		A	Magnetic image, brain (MRI)	1.48	11.34	11.34	0.77	13.59	13.59	XXX
70551	TC	A	Magnetic image, brain (MRI)	0.00	10.68	10.68	0.67	11.35	11.35	XXX
70551	26	A	Magnetic image, brain (MRI)	1.48	0.66	0.66	0.10	2.24	2.24	XXX
70552		A	Magnetic image, brain (MRI)	1.78	13.61	13.61	0.93	16.32	16.32	XXX
70552	TC	A	Magnetic image, brain (MRI)	0.00	12.81	12.81	0.81	13.62	13.62	XXX
70552	26	A	Magnetic image, brain (MRI)	1.78	0.80	0.80	0.12	2.70	2.70	XXX
70553		A	Magnetic image, brain	2.36	24.79	24.79	1.65	28.80	28.80	XXX
70553	TC	A	Magnetic image, brain	0.00	23.72	23.72	1.49	25.21	25.21	XXX
70553	26	A	Magnetic image, brain	2.36	1.07	1.07	0.16	3.59	3.59	XXX
71010		A	Chest x-ray	0.18	0.53	0.53	0.04	0.75	0.75	XXX
71010	TC	A	Chest x-ray	0.00	0.45	0.45	0.03	0.48	0.48	XXX
71010	26	A	Chest x-ray	0.18	0.08	0.08	0.01	0.27	0.27	XXX
71015		A	X-ray exam of chest	0.21	0.60	0.60	0.04	0.85	0.85	XXX
71015	TC	A	X-ray exam of chest	0.00	0.50	0.50	0.03	0.53	0.53	XXX
71015	26	A	X-ray exam of chest	0.21	0.10	0.10	0.01	0.32	0.32	XXX
71020		A	Chest x-ray	0.22	0.69	0.69	0.05	0.96	0.96	XXX
71020	TC	A	Chest x-ray	0.00	0.59	0.59	0.04	0.63	0.63	XXX
71020	26	A	Chest x-ray	0.22	0.10	0.10	0.01	0.33	0.33	XXX
71021		A	Chest x-ray	0.27	0.82	0.82	0.07	1.16	1.16	XXX

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[5] ø Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1] / HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
71021	TC	A	Chest x-ray	0.00	0.70	0.70	0.05	0.75	0.75	XXX
71021	26	A	Chest x-ray	0.27	0.12	0.12	0.02	0.41	0.41	XXX
71022		A	Chest x-ray	0.31	0.84	0.84	0.07	1.22	1.22	XXX
71022	TC	A	Chest x-ray	0.00	0.70	0.70	0.05	0.75	0.75	XXX
71022	26	A	Chest x-ray	0.31	0.14	0.14	0.02	0.47	0.47	XXX
71023		A	Chest x-ray and fluoroscopy	0.38	0.92	0.92	0.08	1.38	1.38	XXX
71023	TC	A	Chest x-ray and fluoroscopy	0.00	0.75	0.75	0.05	0.80	0.80	XXX
71023	26	A	Chest x-ray and fluoroscopy	0.38	0.17	0.17	0.03	0.58	0.58	XXX
71030		A	Chest x-ray	0.31	0.89	0.89	0.07	1.27	1.27	XXX
71030	TC	A	Chest x-ray	0.00	0.75	0.75	0.05	0.80	0.80	XXX
71030	26	A	Chest x-ray	0.31	0.14	0.14	0.02	0.47	0.47	XXX
71034		A	Chest x-ray & fluoroscopy	0.46	1.56	1.56	0.12	2.16	2.16	XXX
71034	TC	A	Chest x-ray & fluoroscopy	0.00	1.37	1.37	0.09	1.46	1.46	XXX
71034	26	A	Chest x-ray & fluoroscopy	0.46	0.21	0.21	0.03	0.70	0.70	XXX
71035		A	Chest x-ray	0.18	0.58	0.58	0.04	0.80	0.80	XXX
71035	TC	A	Chest x-ray	0.00	0.50	0.50	0.03	0.53	0.53	XXX
71035	26	A	Chest x-ray	0.18	0.08	0.08	0.01	0.27	0.27	XXX
71036		A	X-ray guidance for biopsy	0.54	1.75	1.75	0.14	2.43	2.43	XXX
71036	TC	A	X-ray guidance for biopsy	0.00	1.50	1.50	0.10	1.60	1.60	XXX
71036	26	A	X-ray guidance for biopsy	0.54	0.25	0.25	0.04	0.83	0.83	XXX
71038		A	X-ray guidance for biopsy	0.54	1.85	1.85	0.15	2.54	2.54	XXX
71038	TC	A	X-ray guidance for biopsy	0.00	1.60	1.60	0.11	1.71	1.71	XXX
71038	26	A	X-ray guidance for biopsy	0.54	0.25	0.25	0.04	0.83	0.83	XXX
71040		A	Contrast x-ray of bronchi	0.58	1.66	1.66	0.13	2.37	2.37	XXX
71040	TC	A	Contrast x-ray of bronchi	0.00	1.39	1.39	0.09	1.48	1.48	XXX
71040	26	A	Contrast x-ray of bronchi	0.58	0.27	0.27	0.04	0.89	0.89	XXX
71060		A	Contrast x-ray of bronchi	0.74	2.44	2.44	0.19	3.37	3.37	XXX
71060	TC	A	Contrast x-ray of bronchi	0.00	2.10	2.10	0.14	2.24	2.24	XXX
71060	26	A	Contrast x-ray of bronchi	0.74	0.34	0.34	0.05	1.13	1.13	XXX
71090		A	X-ray & pacemaker insertion	0.54	1.85	1.85	0.15	2.54	2.54	XXX
71090	TC	A	X-ray & pacemaker insertion	0.00	1.60	1.60	0.11	1.71	1.71	XXX
71090	26	A	X-ray & pacemaker insertion	0.54	0.25	0.25	0.04	0.83	0.83	XXX
71100		A	X-ray exam of ribs	0.22	0.64	0.64	0.06	0.92	0.92	XXX
71100	TC	A	X-ray exam of ribs	0.00	0.54	0.54	0.04	0.58	0.58	XXX
71100	26	A	X-ray exam of ribs	0.22	0.10	0.10	0.02	0.34	0.34	XXX
71101		A	X-ray exam of ribs, chest	0.27	0.77	0.77	0.06	1.10	1.10	XXX
71101	TC	A	X-ray exam of ribs, chest	0.00	0.64	0.64	0.04	0.68	0.68	XXX
71101	26	A	X-ray exam of ribs, chest	0.27	0.13	0.13	0.02	0.42	0.42	XXX
71110		A	X-ray exam of ribs	0.27	0.88	0.88	0.07	1.22	1.22	XXX
71110	TC	A	X-ray exam of ribs	0.00	0.75	0.75	0.05	0.80	0.80	XXX
71110	26	A	X-ray exam of ribs	0.27	0.13	0.13	0.02	0.42	0.42	XXX
71111		A	X-ray exam of ribs, chest	0.32	1.00	1.00	0.08	1.40	1.40	XXX
71111	TC	A	X-ray exam of ribs, chest	0.00	0.85	0.85	0.06	0.91	0.91	XXX
71111	26	A	X-ray exam of ribs, chest	0.32	0.15	0.15	0.02	0.49	0.49	XXX
71120		A	X-ray exam of breastbone	0.20	0.71	0.71	0.05	0.96	0.96	XXX
71120	TC	A	X-ray exam of breastbone	0.00	0.62	0.62	0.04	0.66	0.66	XXX
71120	26	A	X-ray exam of breastbone	0.20	0.09	0.09	0.01	0.30	0.30	XXX
71130		A	X-ray exam of breastbone	0.22	0.77	0.77	0.05	1.04	1.04	XXX
71130	TC	A	X-ray exam of breastbone	0.00	0.67	0.67	0.04	0.71	0.71	XXX
71130	26	A	X-ray exam of breastbone	0.22	0.10	0.10	0.01	0.33	0.33	XXX
71250		A	Cat scan of chest	1.16	6.14	6.14	0.44	7.74	7.74	XXX
71250	TC	A	Cat scan of chest	0.00	5.63	5.63	0.36	5.99	5.99	XXX
71250	26	A	Cat scan of chest	1.16	0.51	0.51	0.08	1.75	1.75	XXX
71260		A	Contrast CAT scan of chest	1.24	7.29	7.29	0.51	9.04	9.04	XXX
71260	TC	A	Contrast CAT scan of chest	0.00	6.74	6.74	0.43	7.17	7.17	XXX
71260	26	A	Contrast CAT scan of chest	1.24	0.55	0.55	0.08	1.87	1.87	XXX
71270		A	Contrast CAT scans of chest	1.38	9.04	9.04	0.61	11.03	11.03	XXX
71270	TC	A	Contrast CAT scans of chest	0.00	8.43	8.43	0.52	8.95	8.95	XXX
71270	26	A	Contrast CAT scans of chest	1.38	0.61	0.61	0.09	2.08	2.08	XXX
71550		A	Magnetic image, chest	1.60	11.40	11.40	0.78	13.78	13.78	XXX
71550	TC	A	Magnetic image, chest	0.00	10.68	10.68	0.67	11.35	11.35	XXX
71550	26	A	Magnetic image, chest	1.60	0.72	0.72	0.11	2.43	2.43	XXX
71555		N	Magnetic imaging/chest (MRA)	+1.81	11.40	11.40	0.78	13.99	13.99	XXX
71555	TC	N	Magnetic imaging/chest (MRA)	+0.00	10.68	10.68	0.67	11.35	11.35	XXX
71555	26	N	Magnetic imaging/chest (MRA)	+1.81	0.72	0.72	0.11	2.64	2.64	XXX
72010		A	X-ray exam of spine	0.45	1.18	1.18	0.09	1.72	1.72	XXX
72010	TC	A	X-ray exam of spine	0.00	0.98	0.98	0.06	1.04	1.04	XXX
72010	26	A	X-ray exam of spine	0.45	0.20	0.20	0.03	0.68	0.68	XXX
72020		A	X-ray exam of spine	0.15	0.47	0.47	0.04	0.66	0.66	XXX
72020	TC	A	X-ray exam of spine	0.00	0.40	0.40	0.03	0.43	0.43	XXX
72020	26	A	X-ray exam of spine	0.15	0.07	0.07	0.01	0.23	0.23	XXX
72040		A	X-ray exam of neck spine	0.22	0.67	0.67	0.05	0.94	0.94	XXX
72040	TC	A	X-ray exam of neck spine	0.00	0.57	0.57	0.04	0.61	0.61	XXX
72040	26	A	X-ray exam of neck spine	0.22	0.10	0.10	0.01	0.33	0.33	XXX

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[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1] / HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
72050		A	X-ray exam of neck spine	0.31	0.99	0.99	0.08	1.38	1.38	XXX
72050	TC	A	X-ray exam of neck spine	0.00	0.85	0.85	0.06	0.91	0.91	XXX
72050	26	A	X-ray exam of neck spine	0.31	0.14	0.14	0.02	0.47	0.47	XXX
72052		A	X-ray exam of neck spine	0.38	1.25	1.25	0.09	1.70	1.70	XXX
72052	TC	A	X-ray exam of neck spine	0.00	1.08	1.08	0.07	1.15	1.15	XXX
72052	26	A	X-ray exam of neck spine	0.38	0.17	0.17	0.02	0.55	0.55	XXX
72069		A	X-ray exam of trunk spine	0.22	0.57	0.57	0.04	0.83	0.83	XXX
72069	TC	A	X-ray exam of trunk spine	0.00	0.47	0.47	0.03	0.50	0.50	XXX
72069	26	A	X-ray exam of trunk spine	0.22	0.10	0.10	0.01	0.33	0.33	XXX
72070		A	X-ray exam of thorax spine	0.22	0.72	0.72	0.05	0.99	0.99	XXX
72070	TC	A	X-ray exam of thorax spine	0.00	0.62	0.62	0.04	0.66	0.66	XXX
72070	26	A	X-ray exam of thorax spine	0.22	0.10	0.10	0.01	0.33	0.33	XXX
72072		A	X-ray exam of thoracic spine	0.22	0.80	0.80	0.06	1.08	1.08	XXX
72072	TC	A	X-ray exam of thoracic spine	0.00	0.70	0.70	0.05	0.75	0.75	XXX
72072	26	A	X-ray exam of thoracic spine	0.22	0.10	0.10	0.01	0.33	0.33	XXX
72074		A	X-ray exam of thoracic spine	0.22	0.97	0.97	0.07	1.26	1.26	XXX
72074	TC	A	X-ray exam of thoracic spine	0.00	0.87	0.87	0.06	0.93	0.93	XXX
72074	26	A	X-ray exam of thoracic spine	0.22	0.10	0.10	0.01	0.33	0.33	XXX
72080		A	X-ray exam of trunk spine	0.22	0.74	0.74	0.05	1.01	1.01	XXX
72080	TC	A	X-ray exam of trunk spine	0.00	0.64	0.64	0.04	0.68	0.68	XXX
72080	26	A	X-ray exam of trunk spine	0.22	0.10	0.10	0.01	0.33	0.33	XXX
72090		A	X-ray exam of trunk spine	0.28	0.77	0.77	0.06	1.11	1.11	XXX
72090	TC	A	X-ray exam of trunk spine	0.00	0.64	0.64	0.04	0.68	0.68	XXX
72090	26	A	X-ray exam of trunk spine	0.28	0.13	0.13	0.02	0.43	0.43	XXX
72100		A	X-ray exam of lower spine	0.22	0.74	0.74	0.05	1.01	1.01	XXX
72100	TC	A	X-ray exam of lower spine	0.00	0.64	0.64	0.04	0.68	0.68	XXX
72100	26	A	X-ray exam of lower spine	0.22	0.10	0.10	0.01	0.33	0.33	XXX
72110		A	X-ray exam of lower spine	0.31	1.01	1.01	0.08	1.40	1.40	XXX
72110	TC	A	X-ray exam of lower spine	0.00	0.87	0.87	0.06	0.93	0.93	XXX
72110	26	A	X-ray exam of lower spine	0.31	0.14	0.14	0.02	0.47	0.47	XXX
72114		A	X-ray exam of lower spine	0.36	1.30	1.30	0.09	1.75	1.75	XXX
72114	TC	A	X-ray exam of lower spine	0.00	1.13	1.13	0.07	1.20	1.20	XXX
72114	26	A	X-ray exam of lower spine	0.36	0.17	0.17	0.02	0.55	0.55	XXX
72120		A	X-ray exam of lower spine	0.22	0.95	0.95	0.07	1.24	1.24	XXX
72120	TC	A	X-ray exam of lower spine	0.00	0.85	0.85	0.06	0.91	0.91	XXX
72120	26	A	X-ray exam of lower spine	0.22	0.10	0.10	0.01	0.33	0.33	XXX
72125		A	CAT scan of neck spine	1.16	6.14	6.14	0.44	7.74	7.74	XXX
72125	TC	A	CAT scan of neck spine	0.00	5.63	5.63	0.36	5.99	5.99	XXX
72125	26	A	CAT scan of neck spine	1.16	0.51	0.51	0.08	1.75	1.75	XXX
72126		A	Contrast CAT scan of neck	1.22	7.27	7.27	0.51	9.00	9.00	XXX
72126	TC	A	Contrast CAT scan of neck	0.00	6.74	6.74	0.43	7.17	7.17	XXX
72126	26	A	Contrast CAT scan of neck	1.22	0.53	0.53	0.08	1.83	1.83	XXX
72127		A	Contrast CAT scans of neck	1.27	8.99	8.99	0.61	10.87	10.87	XXX
72127	TC	A	Contrast CAT scans of neck	0.00	8.43	8.43	0.52	8.95	8.95	XXX
72127	26	A	Contrast CAT scans of neck	1.27	0.56	0.56	0.09	1.92	1.92	XXX
72128		A	CAT scan of thorax spine	1.16	6.14	6.14	0.44	7.74	7.74	XXX
72128	TC	A	CAT scan of thorax spine	0.00	5.63	5.63	0.36	5.99	5.99	XXX
72128	26	A	CAT scan of thorax spine	1.16	0.51	0.51	0.08	1.75	1.75	XXX
72129		A	Contrast CAT scan of thorax	1.22	7.27	7.27	0.51	9.00	9.00	XXX
72129	TC	A	Contrast CAT scan of thorax	0.00	6.74	6.74	0.43	7.17	7.17	XXX
72129	26	A	Contrast CAT scan of thorax	1.22	0.53	0.53	0.08	1.83	1.83	XXX
72130		A	Contrast CAT scans of thorax	1.27	8.99	8.99	0.61	10.87	10.87	XXX
72130	TC	A	Contrast CAT scans of thorax	0.00	8.43	8.43	0.52	8.95	8.95	XXX
72130	26	A	Contrast CAT scans of thorax	1.27	0.56	0.56	0.09	1.92	1.92	XXX
72131		A	CAT scan of lower spine	1.16	6.14	6.14	0.44	7.74	7.74	XXX
72131	TC	A	CAT scan of lower spine	0.00	5.63	5.63	0.36	5.99	5.99	XXX
72131	26	A	CAT scan of lower spine	1.16	0.51	0.51	0.08	1.75	1.75	XXX
72132		A	Contrast CAT of lower spine	1.22	7.27	7.27	0.51	9.00	9.00	XXX
72132	TC	A	Contrast CAT of lower spine	0.00	6.74	6.74	0.43	7.17	7.17	XXX
72132	26	A	Contrast CAT of lower spine	1.22	0.53	0.53	0.08	1.83	1.83	XXX
72133		A	Contrast CAT scans, low spine	1.27	8.99	8.99	0.61	10.87	10.87	XXX
72133	TC	A	Contrast CAT scans, low spine	0.00	8.43	8.43	0.52	8.95	8.95	XXX
72133	26	A	Contrast CAT scans, low spine	1.27	0.56	0.56	0.09	1.92	1.92	XXX
72141		A	Magnetic image, neck spine	1.60	11.40	11.40	0.78	13.78	13.78	XXX
72141	TC	A	Magnetic image, neck spine	0.00	10.68	10.68	0.67	11.35	11.35	XXX
72141	26	A	Magnetic image, neck spine	1.60	0.72	0.72	0.11	2.43	2.43	XXX
72142		A	Magnetic image, neck spine	1.92	13.67	13.67	0.94	16.53	16.53	XXX
72142	TC	A	Magnetic image, neck spine	0.00	12.81	12.81	0.81	13.62	13.62	XXX
72142	26	A	Magnetic image, neck spine	1.92	0.86	0.86	0.13	2.91	2.91	XXX
72146		A	Magnetic image, chest spine	1.60	12.58	12.58	0.85	15.03	15.03	XXX
72146	TC	A	Magnetic image, chest spine	0.00	11.86	11.86	0.74	12.60	12.60	XXX
72146	26	A	Magnetic image, chest spine	1.60	0.72	0.72	0.11	2.43	2.43	XXX
72147		A	Magnetic image, chest spine	1.92	13.67	13.67	0.94	16.53	16.53	XXX
72147	TC	A	Magnetic image, chest spine	0.00	12.81	12.81	0.81	13.62	13.62	XXX

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[2] Copyright 1994 American Dental Association. All rights reserved.
[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
72147	26	A	Magnetic image, chest spine	1.92	0.86	0.86	0.13	2.91	2.91	XXX
72148	.....	A	Magnetic image, lumbar spine	1.48	12.52	12.52	0.84	14.84	14.84	XXX
72148	TC	A	Magnetic image, lumbar spine	0.00	11.86	11.86	0.74	12.60	12.60	XXX
72148	26	A	Magnetic image, lumbar spine	1.48	0.66	0.66	0.10	2.24	2.24	XXX
72149	.....	A	Magnetic image, lumbar spine	1.78	13.61	13.61	0.93	16.32	16.32	XXX
72149	TC	A	Magnetic image, lumbar spine	0.00	12.81	12.81	0.81	13.62	13.62	XXX
72149	26	A	Magnetic image, lumbar spine	1.78	0.80	0.80	0.12	2.70	2.70	XXX
72156	.....	A	Magnetic image, neck spine	2.57	24.87	24.87	1.66	29.10	29.10	XXX
72156	TC	A	Magnetic image, neck spine	0.00	23.72	23.72	1.49	25.21	25.21	XXX
72156	26	A	Magnetic image, neck spine	2.57	1.15	1.15	0.17	3.89	3.89	XXX
72157	.....	A	Magnetic image, chest spine	2.57	24.87	24.87	1.66	29.10	29.10	XXX
72157	TC	A	Magnetic image, chest spine	0.00	23.72	23.72	1.49	25.21	25.21	XXX
72157	26	A	Magnetic image, chest spine	2.57	1.15	1.15	0.17	3.89	3.89	XXX
72158	.....	A	Magnetic image, lumbar spine	2.36	24.79	24.79	1.65	28.80	28.80	XXX
72158	TC	A	Magnetic image, lumbar spine	0.00	23.72	23.72	1.49	25.21	25.21	XXX
72158	26	A	Magnetic image, lumbar spine	2.36	1.07	1.07	0.16	3.59	3.59	XXX
72159	.....	N	Magnetic imaging/spine (MRA)	+1.80	12.52	12.52	0.84	15.16	15.16	XXX
72159	TC	N	Magnetic imaging/spine (MRA)	+0.00	11.86	11.86	0.74	12.60	12.60	XXX
72159	26	N	Magnetic imaging/spine (MRA)	+1.80	0.66	0.66	0.10	2.56	2.56	XXX
72170	.....	A	X-ray exam of pelvis	0.17	0.57	0.57	0.04	0.78	0.78	XXX
72170	TC	A	X-ray exam of pelvis	0.00	0.50	0.50	0.03	0.53	0.53	XXX
72170	26	A	X-ray exam of pelvis	0.17	0.07	0.07	0.01	0.25	0.25	XXX
72190	.....	A	X-ray exam of pelvis	0.21	0.74	0.74	0.05	1.00	1.00	XXX
72190	TC	A	X-ray exam of pelvis	0.00	0.64	0.64	0.04	0.68	0.68	XXX
72190	26	A	X-ray exam of pelvis	0.21	0.10	0.10	0.01	0.32	0.32	XXX
72192	.....	A	CAT scan of pelvis	1.09	6.11	6.11	0.43	7.63	7.63	XXX
72192	TC	A	CAT scan of pelvis	0.00	5.69	5.69	0.36	5.99	5.99	XXX
72192	26	A	CAT scan of pelvis	1.09	0.48	0.48	0.07	1.64	1.64	XXX
72193	.....	A	Contrast CAT scan of pelvis	1.16	7.03	7.03	0.49	8.68	8.68	XXX
72193	TC	A	Contrast CAT scan of pelvis	0.00	6.52	6.52	0.41	6.93	6.93	XXX
72193	26	A	Contrast CAT scan of pelvis	1.16	0.51	0.51	0.08	1.75	1.75	XXX
72194	.....	A	Contrast CAT scans of pelvis	1.22	8.62	8.62	0.58	10.42	10.42	XXX
72194	TC	A	Contrast CAT scans of pelvis	0.00	8.09	8.09	0.50	8.59	8.59	XXX
72194	26	A	Contrast CAT scans of pelvis	1.22	0.53	0.53	0.08	1.83	1.83	XXX
72196	.....	A	Magnetic image, pelvis	1.60	11.40	11.40	0.78	13.78	13.78	XXX
72196	TC	A	Magnetic image, pelvis	0.00	10.68	10.68	0.67	11.35	11.35	XXX
72196	26	A	Magnetic image, pelvis	1.60	0.72	0.72	0.11	2.43	2.43	XXX
72198	.....	N	Magnetic imaging/pelvis(MRA)	+1.80	11.40	11.40	0.78	13.98	13.98	XXX
72198	TC	N	Magnetic imaging/pelvis(MRA)	+0.00	10.68	10.68	0.67	11.35	11.35	XXX
72198	26	N	Magnetic imaging/pelvis(MRA)	+1.80	0.72	0.72	0.11	2.63	2.63	XXX
72200	.....	A	X-ray exam sacroiliac joints	0.17	0.58	0.58	0.04	0.79	0.79	XXX
72200	TC	A	X-ray exam sacroiliac joints	0.00	0.50	0.50	0.03	0.53	0.53	XXX
72200	26	A	X-ray exam sacroiliac joints	0.17	0.08	0.08	0.01	0.26	0.26	XXX
72202	.....	A	X-ray exam sacroiliac joints	0.19	0.68	0.68	0.05	0.92	0.92	XXX
72202	TC	A	X-ray exam sacroiliac joints	0.00	0.59	0.59	0.04	0.63	0.63	XXX
72202	26	A	X-ray exam sacroiliac joints	0.19	0.09	0.09	0.01	0.29	0.29	XXX
72220	.....	A	X-ray exam of tailbone	0.17	0.62	0.62	0.05	0.84	0.84	XXX
72220	TC	A	X-ray exam of tailbone	0.00	0.54	0.54	0.04	0.58	0.58	XXX
72220	26	A	X-ray exam of tailbone	0.17	0.08	0.08	0.01	0.26	0.26	XXX
72240	.....	A	Contrast x-ray of neck spine	0.91	4.93	4.93	0.35	6.19	6.19	XXX
72240	TC	A	Contrast x-ray of neck spine	0.00	4.52	4.52	0.29	4.81	4.81	XXX
72240	26	A	Contrast x-ray of neck spine	0.91	0.41	0.41	0.06	1.38	1.38	XXX
72255	.....	A	Contrast x-ray thorax spine	0.91	4.54	4.54	0.32	5.77	5.77	XXX
72255	TC	A	Contrast x-ray thorax spine	0.00	4.13	4.13	0.26	4.39	4.39	XXX
72255	26	A	Contrast x-ray thorax spine	0.91	0.41	0.41	0.06	1.38	1.38	XXX
72265	.....	A	Contrast x-ray lower spine	0.83	4.26	4.26	0.31	5.40	5.40	XXX
72265	TC	A	Contrast x-ray lower spine	0.00	3.88	3.88	0.25	4.13	4.13	XXX
72265	26	A	Contrast x-ray lower spine	0.83	0.38	0.38	0.06	1.27	1.27	XXX
72270	.....	A	Contrast x-ray of spine	1.33	6.40	6.40	0.48	8.19	8.19	XXX
72270	TC	A	Contrast x-ray of spine	0.00	5.81	5.81	0.37	6.18	6.18	XXX
72270	26	A	Contrast x-ray of spine	1.33	0.59	0.59	0.09	2.01	2.01	XXX
72285	.....	A	X-ray of neck spine disk	0.83	8.37	8.37	0.56	9.76	9.76	XXX
72285	TC	A	X-ray of neck spine disk	0.00	7.99	7.99	0.50	8.49	8.49	XXX
72285	26	A	X-ray of neck spine disk	0.83	0.38	0.38	0.06	1.27	1.27	XXX
72295	.....	A	X-ray of lower spine disk	0.83	7.87	7.87	0.52	9.22	9.22	XXX
72295	TC	A	X-ray of lower spine disk	0.00	7.49	7.49	0.46	7.95	7.95	XXX
72295	26	A	X-ray of lower spine disk	0.83	0.38	0.38	0.06	1.27	1.27	XXX
73000	.....	A	X-ray exam of collarbone	0.16	0.57	0.57	0.04	0.77	0.77	XXX
73000	TC	A	X-ray exam of collarbone	0.00	0.50	0.50	0.03	0.53	0.53	XXX
73000	26	A	X-ray exam of collarbone	0.16	0.07	0.07	0.01	0.24	0.24	XXX
73010	.....	A	X-ray exam of shoulder blade	0.17	0.58	0.58	0.04	0.79	0.79	XXX
73010	TC	A	X-ray exam of shoulder blade	0.00	0.50	0.50	0.03	0.53	0.53	XXX
73010	26	A	X-ray exam of shoulder blade	0.17	0.08	0.08	0.01	0.26	0.26	XXX
73020	.....	A	X-ray exam of shoulder	0.15	0.52	0.52	0.04	0.71	0.71	XXX

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[2] Copyright 1994 American Dental Association. All rights reserved.
[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] # Indicates reduction of Practice Expense RVUs as result of 11.0% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
73020	TC	A	X-ray exam of shoulder	0.00	0.45	0.45	0.03	0.48	0.48	XXX
73020	26	A	X-ray exam of shoulder	0.15	0.07	0.07	0.01	0.23	0.23	XXX
73030	.....	A	X-ray exam of shoulder	0.18	0.82	0.82	0.05	0.85	0.85	XXX
73030	TC	A	X-ray exam of shoulder	0.00	0.54	0.54	0.04	0.58	0.58	XXX
73030	26	A	X-ray exam of shoulder	0.18	0.08	0.08	0.01	0.27	0.27	XXX
73040	.....	A	Contrast x-ray of shoulder	0.54	2.25	2.25	0.17	2.96	2.96	XXX
73040	TC	A	Contrast x-ray of shoulder	0.00	2.00	2.00	0.13	2.13	2.13	XXX
73040	26	A	Contrast x-ray of shoulder	0.54	0.25	0.25	0.04	0.83	0.83	XXX
73050	.....	A	X-ray exam of shoulders	0.20	0.73	0.73	0.05	0.98	0.98	XXX
73050	TC	A	X-ray exam of shoulders	0.00	0.64	0.64	0.04	0.68	0.68	XXX
73050	26	A	X-ray exam of shoulders	0.20	0.09	0.09	0.01	0.30	0.30	XXX
73060	.....	A	X-ray exam of humerus	0.17	0.62	0.62	0.05	0.84	0.84	XXX
73060	TC	A	X-ray exam of humerus	0.00	0.54	0.54	0.04	0.58	0.58	XXX
73060	26	A	X-ray exam of humerus	0.17	0.08	0.08	0.01	0.26	0.26	XXX
73070	.....	A	X-ray exam of elbow	0.15	0.57	0.57	0.04	0.76	0.76	XXX
73070	TC	A	X-ray exam of elbow	0.00	0.50	0.50	0.03	0.53	0.53	XXX
73070	26	A	X-ray exam of elbow	0.15	0.07	0.07	0.01	0.23	0.23	XXX
73080	.....	A	X-ray exam of elbow	0.17	0.82	0.82	0.05	0.84	0.84	XXX
73080	TC	A	X-ray exam of elbow	0.00	0.54	0.54	0.04	0.58	0.58	XXX
73080	26	A	X-ray exam of elbow	0.17	0.08	0.08	0.01	0.26	0.26	XXX
73085	.....	A	Contrast x-ray of elbow	0.54	2.25	2.25	0.17	2.96	2.96	XXX
73085	TC	A	Contrast x-ray of elbow	0.00	2.00	2.00	0.13	2.13	2.13	XXX
73085	26	A	Contrast x-ray of elbow	0.54	0.25	0.25	0.04	0.83	0.83	XXX
73090	.....	A	X-ray exam of forearm	0.16	0.57	0.57	0.04	0.77	0.77	XXX
73090	TC	A	X-ray exam of forearm	0.00	0.50	0.50	0.03	0.53	0.53	XXX
73090	26	A	X-ray exam of forearm	0.16	0.07	0.07	0.01	0.24	0.24	XXX
73092	.....	A	X-ray exam of arm, infant	0.16	0.54	0.54	0.04	0.74	0.74	XXX
73092	TC	A	X-ray exam of arm, infant	0.00	0.47	0.47	0.03	0.50	0.50	XXX
73092	26	A	X-ray exam of arm, infant	0.16	0.07	0.07	0.01	0.24	0.24	XXX
73100	.....	A	X-ray exam of wrist	0.16	0.54	0.54	0.04	0.74	0.74	XXX
73100	TC	A	X-ray exam of wrist	0.00	0.47	0.47	0.03	0.50	0.50	XXX
73100	26	A	X-ray exam of wrist	0.16	0.07	0.07	0.01	0.24	0.24	XXX
73110	.....	A	X-ray exam of wrist	0.17	0.59	0.59	0.04	0.80	0.80	XXX
73110	TC	A	X-ray exam of wrist	0.00	0.51	0.51	0.03	0.54	0.54	XXX
73110	26	A	X-ray exam of wrist	0.17	0.08	0.08	0.01	0.26	0.26	XXX
73115	.....	A	Contrast x-ray of wrist	0.54	1.75	1.75	0.14	2.43	2.43	XXX
73115	TC	A	Contrast x-ray of wrist	0.00	1.50	1.50	0.10	1.80	1.80	XXX
73115	26	A	Contrast x-ray of wrist	0.54	0.25	0.25	0.04	0.83	0.83	XXX
73120	.....	A	X-ray exam of hand	0.16	0.54	0.54	0.04	0.74	0.74	XXX
73120	TC	A	X-ray exam of hand	0.00	0.47	0.47	0.03	0.50	0.50	XXX
73120	26	A	X-ray exam of hand	0.16	0.07	0.07	0.01	0.24	0.24	XXX
73130	.....	A	X-ray exam of hand	0.17	0.59	0.59	0.04	0.80	0.80	XXX
73130	TC	A	X-ray exam of hand	0.00	0.51	0.51	0.03	0.54	0.54	XXX
73130	26	A	X-ray exam of hand	0.17	0.08	0.08	0.01	0.26	0.26	XXX
73140	.....	A	X-ray exam of finger(s)	0.13	0.46	0.46	0.04	0.63	0.63	XXX
73140	TC	A	X-ray exam of finger(s)	0.00	0.40	0.40	0.03	0.43	0.43	XXX
73140	26	A	X-ray exam of finger(s)	0.13	0.06	0.06	0.01	0.20	0.20	XXX
73200	.....	A	CAT scan of arm	1.09	5.21	5.21	0.37	6.67	6.67	XXX
73200	TC	A	CAT scan of arm	0.00	4.73	4.73	0.30	5.03	5.03	XXX
73200	26	A	CAT scan of arm	1.09	0.48	0.48	0.07	1.64	1.64	XXX
73201	.....	A	Contrast CAT scan of arm	1.16	6.14	6.14	0.44	7.74	7.74	XXX
73201	TC	A	Contrast CAT scan of arm	0.00	5.63	5.63	0.36	5.99	5.99	XXX
73201	26	A	Contrast CAT scan of arm	1.16	0.51	0.51	0.08	1.75	1.75	XXX
73202	.....	A	Contrast CAT scans of arm	1.22	7.61	7.61	0.53	9.36	9.36	XXX
73202	TC	A	Contrast CAT scans of arm	0.00	7.08	7.08	0.45	7.53	7.53	XXX
73202	26	A	Contrast CAT scans of arm	1.22	0.53	0.53	0.08	1.83	1.83	XXX
73220	.....	A	Magnetic image, arm, hand	1.48	11.34	11.34	0.77	13.59	13.59	XXX
73220	TC	A	Magnetic image, arm, hand	0.00	10.68	10.68	0.67	11.35	11.35	XXX
73220	26	A	Magnetic image, arm, hand	1.48	0.66	0.66	0.10	2.24	2.24	XXX
73221	.....	A	Magnetic image, joint of arm	1.48	11.11	11.11	0.73	13.32	13.32	XXX
73221	TC	A	Magnetic image, joint of arm	0.00	10.68	10.68	0.67	11.35	11.35	XXX
73221	26	A	Magnetic image, joint of arm	1.48	0.43	0.43	0.08	1.97	1.97	XXX
73225	.....	N	Magnetic imaging/upper (MRA)	+1.73	11.34	11.34	0.77	13.84	13.84	XXX
73225	TC	N	Magnetic imaging/upper (MRA)	+0.00	10.68	10.68	0.67	11.35	11.35	XXX
73225	26	N	Magnetic imaging/upper (MRA)	+1.73	0.66	0.66	0.10	2.49	2.49	XXX
73500	.....	A	X-ray exam of hip	0.17	0.53	0.53	0.04	0.74	0.74	XXX
73500	TC	A	X-ray exam of hip	0.00	0.45	0.45	0.03	0.48	0.48	XXX
73500	26	A	X-ray exam of hip	0.17	0.08	0.08	0.01	0.26	0.26	XXX
73510	.....	A	X-ray exam of hip	0.21	0.84	0.84	0.05	0.90	0.90	XXX
73510	TC	A	X-ray exam of hip	0.00	0.54	0.54	0.04	0.58	0.58	XXX
73510	26	A	X-ray exam of hip	0.21	0.10	0.10	0.01	0.32	0.32	XXX
73520	.....	A	X-ray exam of hips	0.26	0.76	0.76	0.06	1.08	1.08	XXX
73520	TC	A	X-ray exam of hips	0.00	0.64	0.64	0.04	0.68	0.68	XXX
73520	26	A	X-ray exam of hips	0.26	0.12	0.12	0.02	0.40	0.40	XXX

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[2] Copyright 1994 American Dental Association. All rights reserved.
[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] # Indicates reduction of Practice Expense RVUs as result of 11.0% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
73525		A	Contrast x-ray of hip	0.54	2.25	2.25	0.17	2.96	2.96	XXX
73525	TC	A	Contrast x-ray of hip	0.00	2.00	2.00	0.13	2.13	2.13	XXX
73525	26	A	Contrast x-ray of hip	0.54	0.25	0.25	0.04	0.83	0.83	XXX
73530		A	X-ray exam of hip	0.29	0.63	0.63	0.05	0.97	0.97	XXX
73530	TC	A	X-ray exam of hip	0.00	0.50	0.50	0.03	0.53	0.53	XXX
73530	26	A	X-ray exam of hip	0.29	0.13	0.13	0.02	0.44	0.44	XXX
73540		A	X-ray exam of pelvis & hips	0.20	0.64	0.64	0.05	0.89	0.89	XXX
73540	TC	A	X-ray exam of pelvis & hips	0.00	0.54	0.54	0.04	0.58	0.58	XXX
73540	26	A	X-ray exam of pelvis & hips	0.20	0.10	0.10	0.01	0.31	0.31	XXX
73550		A	X-ray exam of thigh	0.17	0.62	0.62	0.05	0.84	0.84	XXX
73550	TC	A	X-ray exam of thigh	0.00	0.54	0.54	0.04	0.58	0.58	XXX
73550	26	A	X-ray exam of thigh	0.17	0.08	0.08	0.01	0.26	0.26	XXX
73560		A	X-ray exam of knee	0.17	0.57	0.57	0.04	0.78	0.78	XXX
73560	TC	A	X-ray exam of knee	0.00	0.50	0.50	0.03	0.53	0.53	XXX
73560	26	A	X-ray exam of knee	0.17	0.07	0.07	0.01	0.25	0.25	XXX
73562		A	X-ray exam of knee	0.18	0.63	0.63	0.05	0.86	0.86	XXX
73562	TC	A	X-ray exam of knee	0.00	0.54	0.54	0.04	0.58	0.58	XXX
73562	26	A	X-ray exam of knee	0.18	0.09	0.09	0.01	0.28	0.28	XXX
73564		A	X-ray exam of knee	0.22	0.69	0.69	0.06	0.97	0.97	XXX
73564	TC	A	X-ray exam of knee	0.00	0.59	0.59	0.04	0.63	0.63	XXX
73564	26	A	X-ray exam of knee	0.22	0.10	0.10	0.02	0.34	0.34	XXX
73565		A	X-ray exam of knee	0.17	0.54	0.54	0.04	0.75	0.75	XXX
73565	TC	A	X-ray exam of knee	0.00	0.47	0.47	0.03	0.50	0.50	XXX
73565	26	A	X-ray exam of knee	0.17	0.07	0.07	0.01	0.25	0.25	XXX
73580		A	Contrast x-ray of knee joint	0.54	2.75	2.75	0.21	3.50	3.50	XXX
73580	TC	A	Contrast x-ray of knee joint	0.00	2.50	2.50	0.17	2.67	2.67	XXX
73580	26	A	Contrast x-ray of knee joint	0.54	0.25	0.25	0.04	0.83	0.83	XXX
73590		A	X-ray exam of lower leg	0.17	0.57	0.57	0.04	0.78	0.78	XXX
73590	TC	A	X-ray exam of lower leg	0.00	0.50	0.50	0.03	0.53	0.53	XXX
73590	26	A	X-ray exam of lower leg	0.17	0.07	0.07	0.01	0.25	0.25	XXX
73592		A	X-ray exam of leg, infant	0.16	0.54	0.54	0.04	0.74	0.74	XXX
73592	TC	A	X-ray exam of leg, infant	0.00	0.47	0.47	0.03	0.50	0.50	XXX
73592	26	A	X-ray exam of leg, infant	0.16	0.07	0.07	0.01	0.24	0.24	XXX
73600		A	X-ray exam of ankle	0.16	0.54	0.54	0.04	0.74	0.74	XXX
73600	TC	A	X-ray exam of ankle	0.00	0.47	0.47	0.03	0.50	0.50	XXX
73600	26	A	X-ray exam of ankle	0.16	0.07	0.07	0.01	0.24	0.24	XXX
73610		A	X-ray exam of ankle	0.17	0.59	0.59	0.04	0.80	0.80	XXX
73610	TC	A	X-ray exam of ankle	0.00	0.51	0.51	0.03	0.54	0.54	XXX
73610	26	A	X-ray exam of ankle	0.17	0.08	0.08	0.01	0.26	0.26	XXX
73615		A	Contrast x-ray of ankle	0.54	2.25	2.25	0.17	2.96	2.96	XXX
73615	TC	A	Contrast x-ray of ankle	0.00	2.00	2.00	0.13	2.13	2.13	XXX
73615	26	A	Contrast x-ray of ankle	0.54	0.25	0.25	0.04	0.83	0.83	XXX
73620		A	X-ray exam of foot	0.16	0.54	0.54	0.04	0.74	0.74	XXX
73620	TC	A	X-ray exam of foot	0.00	0.47	0.47	0.03	0.50	0.50	XXX
73620	26	A	X-ray exam of foot	0.16	0.07	0.07	0.01	0.24	0.24	XXX
73630		A	X-ray exam of foot	0.17	0.59	0.59	0.04	0.80	0.80	XXX
73630	TC	A	X-ray exam of foot	0.00	0.51	0.51	0.03	0.54	0.54	XXX
73630	26	A	X-ray exam of foot	0.17	0.08	0.08	0.01	0.26	0.26	XXX
73650		A	X-ray exam of heel	0.16	0.52	0.52	0.04	0.72	0.72	XXX
73650	TC	A	X-ray exam of heel	0.00	0.45	0.45	0.03	0.48	0.48	XXX
73650	26	A	X-ray exam of heel	0.16	0.07	0.07	0.01	0.24	0.24	XXX
73660		A	X-ray exam of toe(s)	0.13	0.46	0.46	0.04	0.63	0.63	XXX
73660	TC	A	X-ray exam of toe(s)	0.00	0.40	0.40	0.03	0.43	0.43	XXX
73660	26	A	X-ray exam of toe(s)	0.13	0.06	0.06	0.01	0.20	0.20	XXX
73700		A	CAT scan of leg	1.09	5.21	5.21	0.37	6.67	6.67	XXX
73700	TC	A	CAT scan of leg	0.00	4.73	4.73	0.30	5.03	5.03	XXX
73700	26	A	CAT scan of leg	1.09	0.48	0.48	0.07	1.64	1.64	XXX
73701		A	Contrast CAT scan of leg	1.16	6.14	6.14	0.44	7.74	7.74	XXX
73701	TC	A	Contrast CAT scan of leg	0.00	5.63	5.63	0.36	5.99	5.99	XXX
73701	26	A	Contrast CAT scan of leg	1.16	0.51	0.51	0.08	1.75	1.75	XXX
73702		A	Contrast CAT scans of leg	1.22	7.61	7.61	0.53	9.36	9.36	XXX
73702	TC	A	Contrast CAT scans of leg	0.00	7.08	7.08	0.45	7.58	7.53	XXX
73702	26	A	Contrast CAT scans of leg	1.22	0.53	0.53	0.08	1.83	1.83	XXX
73720		A	Magnetic image, leg, foot	1.48	11.34	11.34	0.77	13.59	13.59	XXX
73720	TC	A	Magnetic image, leg, foot	0.00	10.66	10.66	0.67	11.35	11.35	XXX
73720	26	A	Magnetic image, leg, foot	1.48	0.66	0.66	0.10	2.24	2.24	XXX
73721		A	Magnetic image, joint of leg	1.48	11.11	11.11	0.73	13.32	13.32	XXX
73721	TC	A	Magnetic image, joint of leg	0.00	10.68	10.68	0.67	11.35	11.35	XXX
73721	26	A	Magnetic image, joint of leg	1.48	0.43	0.43	0.06	1.97	1.97	XXX
73725		R	Magnetic imaging/flower (MRA)	1.82	11.34	11.34	0.77	13.93	13.93	XXX
73725	TC	R	Magnetic imaging/flower (MRA)	0.00	10.66	10.66	0.67	11.35	11.35	XXX
73725	26	R	Magnetic imaging/flower (MRA)	1.82	0.66	0.66	0.10	2.58	2.58	XXX
74000		A	X-ray exam of abdomen	0.18	0.58	0.58	0.04	0.80	0.80	XXX
74000	TC	A	X-ray exam of abdomen	0.00	0.50	0.50	0.03	0.53	0.53	XXX

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[3] "-" Indicates RVUs are not used for Medicare payment.
[4] "*" Work RVUs increased in global surgical package.
[5] "@" Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
74000	26	A	X-ray exam of abdomen	0.18	0.08	0.08	0.01	0.27	0.27	XXX
74010		A	X-ray exam of abdomen	0.23	0.65	0.65	0.06	0.94	0.94	XXX
74010	TC	A	X-ray exam of abdomen	0.00	0.54	0.54	0.04	0.58	0.58	XXX
74010	26	A	X-ray exam of abdomen	0.23	0.11	0.11	0.02	0.36	0.36	XXX
74020		A	X-ray exam of abdomen	0.27	0.72	0.72	0.06	1.05	1.05	XXX
74020	TC	A	X-ray exam of abdomen	0.00	0.59	0.59	0.04	0.63	0.63	XXX
74020	26	A	X-ray exam of abdomen	0.27	0.13	0.13	0.02	0.42	0.42	XXX
74022		A	X-ray exam series, abdomen	0.32	0.85	0.85	0.07	1.24	1.24	XXX
74022	TC	A	X-ray exam series, abdomen	0.00	0.70	0.70	0.05	0.75	0.75	XXX
74022	26	A	X-ray exam series, abdomen	0.32	0.15	0.15	0.02	0.49	0.49	XXX
74150		A	CAT scan of abdomen	1.19	5.91	5.91	0.43	7.53	7.53	XXX
74150	TC	A	CAT scan of abdomen	0.00	5.39	5.39	0.35	5.74	5.74	XXX
74150	26	A	CAT scan of abdomen	1.19	0.52	0.52	0.08	1.79	1.79	XXX
74160		A	Contrast CAT scan of abdomen	1.27	7.08	7.08	0.50	8.85	8.85	XXX
74160	TC	A	Contrast CAT scan of abdomen	0.00	6.52	6.52	0.41	6.93	6.93	XXX
74160	26	A	Contrast CAT scan of abdomen	1.27	0.56	0.56	0.09	1.92	1.92	XXX
74170		A	Contrast CAT scans, abdomen	1.40	8.71	8.71	0.60	10.71	10.71	XXX
74170	TC	A	Contrast CAT scans, abdomen	0.00	8.09	8.09	0.50	8.59	8.59	XXX
74170	26	A	Contrast CAT scans, abdomen	1.40	0.62	0.62	0.10	2.12	2.12	XXX
74181		A	Magnetic image, abdomen (MRI)	1.60	11.40	11.40	0.78	13.78	13.78	XXX
74181	TC	A	Magnetic image, abdomen (MRI)	0.00	10.68	10.68	0.67	11.35	11.35	XXX
74181	26	A	Magnetic image, abdomen (MRI)	1.60	0.72	0.72	0.11	2.43	2.43	XXX
74185		N	Magnetic image/abdomen (MRA)	+1.80	11.40	11.40	0.78	13.98	13.98	XXX
74185	TC	N	Magnetic image/abdomen (MRA)	+0.00	10.68	10.68	0.67	11.35	11.35	XXX
74185	26	N	Magnetic image/abdomen (MRA)	+1.80	0.72	0.72	0.11	2.63	2.63	XXX
74190		A	X-ray exam of peritoneum	0.48	1.37	1.37	0.10	1.95	1.95	XXX
74190	TC	A	X-ray exam of peritoneum	0.00	1.24	1.24	0.08	1.32	1.32	XXX
74190	26	A	X-ray exam of peritoneum	0.48	0.13	0.13	0.02	0.63	0.63	XXX
74210		A	Contrast x-ray exam of throat	0.36	1.29	1.29	0.09	1.74	1.74	XXX
74210	TC	A	Contrast x-ray exam of throat	0.00	1.13	1.13	0.07	1.20	1.20	XXX
74210	26	A	Contrast x-ray exam of throat	0.36	0.16	0.16	0.02	0.54	0.54	XXX
74220		A	Contrast x-ray exam,esophagus	0.46	1.34	1.34	0.10	1.90	1.90	XXX
74220	TC	A	Contrast x-ray exam,esophagus	0.00	1.13	1.13	0.07	1.20	1.20	XXX
74220	26	A	Contrast x-ray exam,esophagus	0.46	0.21	0.21	0.03	0.70	0.70	XXX
74230		A	Cinema x-ray throat/esophagus	0.53	1.49	1.49	0.12	2.14	2.14	XXX
74230	TC	A	Cinema x-ray throat/esophagus	0.00	1.24	1.24	0.08	1.32	1.32	XXX
74230	26	A	Cinema x-ray throat/esophagus	0.53	0.25	0.25	0.04	0.82	0.82	XXX
74235		A	Remove esophagus obstruction	1.19	3.02	3.02	0.25	4.46	4.46	XXX
74235	TC	A	Remove esophagus obstruction	0.00	2.50	2.50	0.17	2.67	2.67	XXX
74235	26	A	Remove esophagus obstruction	1.19	0.52	0.52	0.08	1.79	1.79	XXX
74240		A	X-ray exam upper GI tract	0.69	1.71	1.71	0.14	2.54	2.54	XXX
74240	TC	A	X-ray exam upper GI tract	0.00	1.39	1.39	0.09	1.48	1.48	XXX
74240	26	A	X-ray exam upper GI tract	0.69	0.32	0.32	0.05	1.06	1.06	XXX
74241		A	X-ray exam upper GI tract	0.69	1.74	1.74	0.14	2.57	2.57	XXX
74241	TC	A	X-ray exam upper GI tract	0.00	1.42	1.42	0.09	1.51	1.51	XXX
74241	26	A	X-ray exam upper GI tract	0.69	0.32	0.32	0.05	1.06	1.06	XXX
74245		A	X-ray exam upper GI tract	0.91	2.68	2.68	0.21	3.80	3.80	XXX
74245	TC	A	X-ray exam upper GI tract	0.00	2.27	2.27	0.15	2.42	2.42	XXX
74245	26	A	X-ray exam upper GI tract	0.91	0.41	0.41	0.06	1.38	1.38	XXX
74246		A	Contrast x-ray upper GI tract	0.69	1.89	1.89	0.15	2.73	2.73	XXX
74246	TC	A	Contrast x-ray upper GI tract	0.00	1.57	1.57	0.10	1.67	1.67	XXX
74246	26	A	Contrast x-ray upper GI tract	0.69	0.32	0.32	0.05	1.06	1.06	XXX
74247		A	Contrast x-ray upper GI tract	0.69	1.92	1.92	0.16	2.77	2.77	XXX
74247	TC	A	Contrast x-ray upper GI tract	0.00	1.60	1.60	0.11	1.71	1.71	XXX
74247	26	A	Contrast x-ray upper GI tract	0.69	0.32	0.32	0.05	1.06	1.06	XXX
74249		A	Contrast x-ray upper GI tract	0.91	2.86	2.86	0.22	3.99	3.99	XXX
74249	TC	A	Contrast x-ray upper GI tract	0.00	2.45	2.45	0.16	2.61	2.61	XXX
74249	26	A	Contrast x-ray upper GI tract	0.91	0.41	0.41	0.06	1.38	1.38	XXX
74250		A	X-ray exam of small bowel	0.47	1.45	1.45	0.11	2.03	2.03	XXX
74250	TC	A	X-ray exam of small bowel	0.00	1.24	1.24	0.08	1.32	1.32	XXX
74250	26	A	X-ray exam of small bowel	0.47	0.21	0.21	0.03	0.71	0.71	XXX
74251		A	X-ray exam of small bowel	0.69	1.45	1.45	0.11	2.25	2.25	XXX
74251	TC	A	X-ray exam of small bowel	0.00	1.24	1.24	0.08	1.32	1.32	XXX
74251	26	A	X-ray exam of small bowel	0.69	0.21	0.21	0.03	0.93	0.93	XXX
74260		A	X-ray exam of small bowel	0.50	1.85	1.85	0.12	2.27	2.27	XXX
74260	TC	A	X-ray exam of small bowel	0.00	1.42	1.42	0.09	1.51	1.51	XXX
74260	26	A	X-ray exam of small bowel	0.50	0.23	0.23	0.03	0.76	0.76	XXX
74270		A	Contrast x-ray exam of colon	0.69	1.94	1.94	0.16	2.79	2.79	XXX
74270	TC	A	Contrast x-ray exam of colon	0.00	1.62	1.62	0.11	1.73	1.73	XXX
74270	26	A	Contrast x-ray exam of colon	0.69	0.32	0.32	0.05	1.06	1.06	XXX
74280		A	Contrast x-ray exam of colon	0.99	2.58	2.58	0.21	3.78	3.78	XXX
74280	TC	A	Contrast x-ray exam of colon	0.00	2.13	2.13	0.14	2.27	2.27	XXX
74280	26	A	Contrast x-ray exam of colon	0.99	0.45	0.45	0.07	1.51	1.51	XXX
74283		A	Contrast x-ray exam of colon	2.02	3.34	3.34	0.30	5.66	5.66	XXX

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[4] "*" Work RVUs increased in global surgical package.
[5] "@" Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1] / HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
74263	TC	A	Contrast x-ray exam of colon	0.60	2.44	2.44	0.16	2.60	2.60	XXX
74263	26	A	Contrast x-ray exam of colon	2.02	0.90	0.90	0.14	3.06	3.06	XXX
74290		A	Contrast x-ray, gallbladder	0.32	0.85	0.85	0.07	1.24	1.24	XXX
74290	TC	A	Contrast x-ray, gallbladder	0.00	0.70	0.70	0.05	0.75	0.75	XXX
74290	26	A	Contrast x-ray, gallbladder	0.32	0.15	0.15	0.02	0.49	0.49	XXX
74291		A	Contrast x-rays, gallbladder	0.20	0.49	0.49	0.04	0.73	0.73	XXX
74291	TC	A	Contrast x-rays, gallbladder	0.00	0.40	0.40	0.03	0.43	0.43	XXX
74291	26	A	Contrast x-rays, gallbladder	0.20	0.09	0.09	0.01	0.30	0.30	XXX
74300		C	X-ray bile ducts, pancreas	0.00	0.00	0.00	0.00	0.00	0.00	XXX
74300	TC	C	X-ray bile ducts, pancreas	0.00	0.00	0.00	0.00	0.00	0.00	XXX
74300	26	A	X-ray bile ducts, pancreas	0.36	0.17	0.17	0.02	0.55	0.55	XXX
74301		C	Additional x-rays at surgery	0.00	0.00	0.00	0.00	0.00	0.00	XXX
74301	TC	C	Additional x-rays at surgery	0.00	0.00	0.00	0.00	0.00	0.00	XXX
74301	26	A	Additional x-rays at surgery	0.21	0.10	0.10	0.01	0.32	0.32	XXX
74305		A	X-ray bile ducts, pancreas	0.42	0.94	0.94	0.08	1.44	1.44	XXX
74305	TC	A	X-ray bile ducts, pancreas	0.00	0.75	0.75	0.05	0.80	0.80	XXX
74305	26	A	X-ray bile ducts, pancreas	0.42	0.19	0.19	0.03	0.64	0.64	XXX
74320		A	Contrast x-ray of bile ducts	0.54	3.25	3.25	0.23	4.02	4.02	XXX
74320	TC	A	Contrast x-ray of bile ducts	0.00	3.00	3.00	0.19	3.19	3.19	XXX
74320	26	A	Contrast x-ray of bile ducts	0.54	0.25	0.25	0.04	0.83	0.83	XXX
74327		A	X-ray for bile stone removal	0.70	2.00	2.00	0.16	2.86	2.86	XXX
74327	TC	A	X-ray for bile stone removal	0.00	1.68	1.68	0.11	1.79	1.79	XXX
74327	26	A	X-ray for bile stone removal	0.70	0.32	0.32	0.05	1.07	1.07	XXX
74328		A	X-ray for bile duct endoscopy	0.70	3.32	3.32	0.24	4.26	4.26	XXX
74328	TC	A	X-ray for bile duct endoscopy	0.00	3.00	3.00	0.19	3.19	3.19	XXX
74328	26	A	X-ray for bile duct endoscopy	0.70	0.32	0.32	0.05	1.07	1.07	XXX
74329		A	X-ray for pancreas endoscopy	0.70	3.32	3.32	0.24	4.26	4.26	XXX
74329	TC	A	X-ray for pancreas endoscopy	0.00	3.00	3.00	0.19	3.19	3.19	XXX
74329	26	A	X-ray for pancreas endoscopy	0.70	0.32	0.32	0.05	1.07	1.07	XXX
74330		A	X-ray, bile/pancreas endoscopy	0.90	3.32	3.32	0.24	4.46	4.46	XXX
74330	TC	A	X-ray, bile/pancreas endoscopy	0.00	3.00	3.00	0.19	3.19	3.19	XXX
74330	26	A	X-ray, bile/pancreas endoscopy	0.90	0.32	0.32	0.05	1.27	1.27	XXX
74340		A	X-ray guide for GI tube	0.54	2.75	2.75	0.21	3.50	3.50	XXX
74340	TC	A	X-ray guide for GI tube	0.00	2.50	2.50	0.17	2.67	2.67	XXX
74340	26	A	X-ray guide for GI tube	0.54	0.25	0.25	0.04	0.83	0.83	XXX
74350		A	X-ray guide, stomach tube	0.76	3.35	3.35	0.24	4.35	4.35	XXX
74350	TC	A	X-ray guide, stomach tube	0.00	3.00	3.00	0.19	3.19	3.19	XXX
74350	26	A	X-ray guide, stomach tube	0.76	0.35	0.35	0.05	1.16	1.16	XXX
74355		A	X-ray guide, intestinal tube	0.76	2.85	2.85	0.22	3.83	3.83	XXX
74355	TC	A	X-ray guide, intestinal tube	0.00	2.50	2.50	0.17	2.67	2.67	XXX
74355	26	A	X-ray guide, intestinal tube	0.76	0.35	0.35	0.05	1.16	1.16	XXX
74360		A	X-ray guide, GI dilation	0.54	3.25	3.25	0.23	4.02	4.02	XXX
74360	TC	A	X-ray guide, GI dilation	0.00	3.00	3.00	0.19	3.19	3.19	XXX
74360	26	A	X-ray guide, GI dilation	0.54	0.25	0.25	0.04	0.83	0.83	XXX
74363		A	X-ray, bile duct dilation	0.88	6.21	6.21	0.43	7.52	7.52	XXX
74363	TC	A	X-ray, bile duct dilation	0.00	5.81	5.81	0.37	6.18	6.18	XXX
74363	26	A	X-ray, bile duct dilation	0.88	0.40	0.40	0.06	1.34	1.34	XXX
74400		A	Contrast x-ray urinary tract	0.49	1.82	1.82	0.14	2.45	2.45	XXX
74400	TC	A	Contrast x-ray urinary tract	0.00	1.60	1.60	0.11	1.71	1.71	XXX
74400	26	A	Contrast x-ray urinary tract	0.49	0.22	0.22	0.03	0.74	0.74	XXX
74405		A	Contrast x-ray urinary tract	0.49	2.11	2.11	0.16	2.76	2.76	XXX
74405	TC	A	Contrast x-ray urinary tract	0.00	1.89	1.89	0.13	2.02	2.02	XXX
74405	26	A	Contrast x-ray urinary tract	0.49	0.22	0.22	0.03	0.74	0.74	XXX
74410		A	Contrast x-ray urinary tract	0.49	2.08	2.08	0.15	2.72	2.72	XXX
74410	TC	A	Contrast x-ray urinary tract	0.00	1.86	1.86	0.12	1.98	1.98	XXX
74410	26	A	Contrast x-ray urinary tract	0.49	0.22	0.22	0.03	0.74	0.74	XXX
74415		A	Contrast x-ray urinary tract	0.49	2.24	2.24	0.16	2.89	2.89	XXX
74415	TC	A	Contrast x-ray urinary tract	0.00	2.02	2.02	0.13	2.15	2.15	XXX
74415	26	A	Contrast x-ray urinary tract	0.49	0.22	0.22	0.03	0.74	0.74	XXX
74420		A	Contrast x-ray urinary tract	0.36	2.66	2.66	0.19	3.21	3.21	XXX
74420	TC	A	Contrast x-ray urinary tract	0.00	2.50	2.50	0.17	2.67	2.67	XXX
74420	26	A	Contrast x-ray urinary tract	0.36	0.16	0.16	0.02	0.54	0.54	XXX
74425		A	Contrast x-ray urinary tract	0.39	1.49	1.49	0.10	1.98	1.98	XXX
74425	TC	A	Contrast x-ray urinary tract	0.00	1.24	1.24	0.08	1.32	1.32	XXX
74425	26	A	Contrast x-ray urinary tract	0.36	0.16	0.16	0.02	0.54	0.54	XXX
74430		A	Contrast x-ray of bladder	0.32	1.15	1.15	0.09	1.56	1.56	XXX
74430	TC	A	Contrast x-ray of bladder	0.00	1.00	1.00	0.07	1.07	1.07	XXX
74430	26	A	Contrast x-ray of bladder	0.32	0.15	0.15	0.02	0.49	0.49	XXX
74440		A	X-ray exam male genital tract	0.39	1.25	1.25	0.10	1.73	1.73	XXX
74440	TC	A	X-ray exam male genital tract	0.00	1.08	1.08	0.07	1.15	1.15	XXX
74440	26	A	X-ray exam male genital tract	0.39	0.17	0.17	0.03	0.58	0.58	XXX
74445		A	X-ray exam of penis	1.14	1.58	1.58	0.15	2.87	2.87	XXX
74445	TC	A	X-ray exam of penis	0.00	1.08	1.08	0.07	1.15	1.15	XXX
74445	26	A	X-ray exam of penis	1.14	0.50	0.50	0.09	1.72	1.72	XXX

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[2] Copyright 1994 American Dental Association. All rights reserved.
[3] ○ Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] ø Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1] / HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
74450		A	X-ray exam urethra/bladder	0.33	1.54	1.54	0.11	1.98	1.98	XXX
74450	TC	A	X-ray exam urethra/bladder	0.00	1.39	1.39	0.09	1.48	1.48	XXX
74450	26	A	X-ray exam urethra/bladder	0.33	0.15	0.15	0.02	0.50	0.50	XXX
74455		A	X-ray exam urethra/bladder	0.33	1.65	1.65	0.12	2.10	2.10	XXX
74455	TC	A	X-ray exam urethra/bladder	0.00	1.50	1.50	0.10	1.60	1.60	XXX
74455	26	A	X-ray exam urethra/bladder	0.33	0.15	0.15	0.02	0.50	0.50	XXX
74470		A	X-ray exam of kidney lesion	0.54	1.44	1.44	0.12	2.10	2.10	XXX
74470	TC	A	X-ray exam of kidney lesion	0.00	1.19	1.19	0.08	1.27	1.27	XXX
74470	26	A	X-ray exam of kidney lesion	0.54	0.25	0.25	0.04	0.83	0.83	XXX
74475		A	X-ray control catheter insert	0.54	4.13	4.13	0.29	4.96	4.96	XXX
74475	TC	A	X-ray control catheter insert	0.00	3.88	3.88	0.25	4.13	4.13	XXX
74475	26	A	X-ray control catheter insert	0.54	0.25	0.25	0.04	0.83	0.83	XXX
74480		A	X-ray control catheter insert	0.54	4.13	4.13	0.29	4.96	4.96	XXX
74480	TC	A	X-ray control catheter insert	0.00	3.88	3.88	0.25	4.13	4.13	XXX
74480	26	A	X-ray control catheter insert	0.54	0.25	0.25	0.04	0.83	0.83	XXX
74485		A	X-ray guide, GU dilation	0.54	3.25	3.25	0.23	4.02	4.02	XXX
74485	TC	A	X-ray guide, GU dilation	0.00	3.00	3.00	0.19	3.19	3.19	XXX
74485	26	A	X-ray guide, GU dilation	0.54	0.25	0.25	0.04	0.83	0.83	XXX
74710		A	X-ray measurement of pelvis	0.34	1.16	1.16	0.09	1.59	1.59	XXX
74710	TC	A	X-ray measurement of pelvis	0.00	1.00	1.00	0.07	1.07	1.07	XXX
74710	26	A	X-ray measurement of pelvis	0.34	0.16	0.16	0.02	0.52	0.52	XXX
74740		A	X-ray female genital tract	0.38	1.41	1.41	0.11	1.90	1.90	XXX
74740	TC	A	X-ray female genital tract	0.00	1.24	1.24	0.08	1.32	1.32	XXX
74740	26	A	X-ray female genital tract	0.38	0.17	0.17	0.03	0.58	0.58	XXX
74742		A	X-ray fallopian tube	0.61	3.25	3.25	0.23	4.09	4.09	XXX
74742	TC	A	X-ray fallopian tube	0.00	3.00	3.00	0.19	3.19	3.19	XXX
74742	26	A	X-ray fallopian tube	0.61	0.25	0.25	0.04	0.90	0.90	XXX
74775		A	X-ray exam of perineum	0.62	1.68	1.68	0.13	2.43	2.43	XXX
74775	TC	A	X-ray exam of perineum	0.00	1.39	1.39	0.09	1.48	1.48	XXX
74775	26	A	X-ray exam of perineum	0.62	0.29	0.29	0.04	0.95	0.95	XXX
75552		A	Magnetic image, myocardium	1.60	11.40	11.40	0.78	13.78	13.78	XXX
75552	TC	A	Magnetic image, myocardium	0.00	10.68	10.68	0.67	11.35	11.35	XXX
75552	26	A	Magnetic image, myocardium	1.60	0.72	0.72	0.11	2.43	2.43	XXX
75553		A	Magnetic image, myocardium	2.00	11.40	11.40	0.78	14.18	14.18	XXX
75553	TC	A	Magnetic image, myocardium	0.00	10.68	10.68	0.67	11.35	11.35	XXX
75553	26	A	Magnetic image, myocardium	2.00	0.72	0.72	0.11	2.83	2.83	XXX
75554		A	Cardiac MRI/function	1.83	11.40	11.40	0.78	14.01	14.01	XXX
75554	TC	A	Cardiac MRI/function	0.00	10.68	10.68	0.67	11.35	11.35	XXX
75554	26	A	Cardiac MRI/function	1.83	0.72	0.72	0.11	2.66	2.66	XXX
75555		A	Cardiac MRI/limited study	1.74	11.40	11.40	0.78	13.92	13.92	XXX
75555	TC	A	Cardiac MRI/limited study	0.00	10.68	10.68	0.67	11.35	11.35	XXX
75555	26	A	Cardiac MRI/limited study	1.74	0.72	0.72	0.11	2.57	2.57	XXX
75556		N	Cardiac MRI/flow mapping	0.00	0.00	0.00	0.00	0.00	0.00	XXX
75600		A	Contrast x-ray exam of aorta	0.49	12.23	12.23	0.78	13.50	13.50	XXX
75600	TC	A	Contrast x-ray exam of aorta	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75600	26	A	Contrast x-ray exam of aorta	0.49	0.22	0.22	0.03	0.74	0.74	XXX
75605		A	Contrast x-ray exam of aorta	1.14	12.51	12.51	0.83	14.48	14.48	XXX
75605	TC	A	Contrast x-ray exam of aorta	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75605	26	A	Contrast x-ray exam of aorta	1.14	0.50	0.50	0.08	1.72	1.72	XXX
75625		A	Contrast x-ray exam of aorta	1.14	12.51	12.51	0.83	14.48	14.48	XXX
75625	TC	A	Contrast x-ray exam of aorta	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75625	26	A	Contrast x-ray exam of aorta	1.14	0.50	0.50	0.08	1.72	1.72	XXX
75630		A	X-ray aorta, leg arteries	1.79	13.09	13.09	0.88	15.76	15.76	XXX
75630	TC	A	X-ray aorta, leg arteries	0.00	12.51	12.51	0.79	13.30	13.30	XXX
75630	26	A	X-ray aorta, leg arteries	1.79	0.58	0.58	0.09	2.46	2.46	XXX
75650		A	Artery x-rays, head & neck	1.49	12.67	12.67	0.85	15.01	15.01	XXX
75650	TC	A	Artery x-rays, head & neck	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75650	26	A	Artery x-rays, head & neck	1.49	0.66	0.66	0.10	2.25	2.25	XXX
75658		A	X-ray exam of arm arteries	1.31	12.59	12.59	0.84	14.74	14.74	XXX
75658	TC	A	X-ray exam of arm arteries	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75658	26	A	X-ray exam of arm arteries	1.31	0.58	0.58	0.09	1.98	1.98	XXX
75660		A	Artery x-rays, head & neck	1.31	12.59	12.59	0.84	14.74	14.74	XXX
75660	TC	A	Artery x-rays, head & neck	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75660	26	A	Artery x-rays, head & neck	1.31	0.58	0.58	0.09	1.98	1.98	XXX
75662		A	Artery x-rays, head & neck	1.86	12.75	12.75	0.86	15.27	15.27	XXX
75662	TC	A	Artery x-rays, head & neck	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75662	26	A	Artery x-rays, head & neck	1.86	0.74	0.74	0.11	2.51	2.51	XXX
75665		A	Artery x-rays, head & neck	1.31	12.59	12.59	0.84	14.74	14.74	XXX
75665	TC	A	Artery x-rays, head & neck	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75665	26	A	Artery x-rays, head & neck	1.31	0.58	0.58	0.09	1.98	1.98	XXX
75671		A	Artery x-rays, head & neck	1.86	12.75	12.75	0.86	15.27	15.27	XXX
75671	TC	A	Artery x-rays, head & neck	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75671	26	A	Artery x-rays, head & neck	1.86	0.74	0.74	0.11	2.51	2.51	XXX
75676		A	Artery x-rays, neck	1.31	12.59	12.59	0.84	14.74	14.74	XXX

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[2] Copyright 1994 American Dental Association. All rights reserved.
[3] ○ Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] ø Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1] / HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
75676	TC	A	Artery x-rays, neck	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75676	26	A	Artery x-rays, neck	1.31	0.58	0.58	0.09	1.98	1.98	XXX
75680		A	Artery x-rays, neck	1.66	12.75	12.75	0.86	15.27	15.27	XXX
75680	TC	A	Artery x-rays, neck	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75680	26	A	Artery x-rays, neck	1.66	0.74	0.74	0.11	2.51	2.51	XXX
75685		A	Artery x-rays, spine	1.31	12.59	12.59	0.84	14.74	14.74	XXX
75685	TC	A	Artery x-rays, spine	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75685	26	A	Artery x-rays, spine	1.31	0.58	0.58	0.09	1.98	1.98	XXX
75705		A	Artery x-rays, spine	2.18	12.99	12.99	0.90	16.07	16.07	XXX
75705	TC	A	Artery x-rays, spine	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75705	26	A	Artery x-rays, spine	2.18	0.98	0.98	0.15	3.31	3.31	XXX
75710		A	Artery x-rays, arm/leg	1.14	12.51	12.51	0.83	14.48	14.48	XXX
75710	TC	A	Artery x-rays, arm/leg	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75710	26	A	Artery x-rays, arm/leg	1.14	0.50	0.50	0.08	1.72	1.72	XXX
75716		A	Artery x-rays, arms/legs	1.31	12.59	12.59	0.84	14.74	14.74	XXX
75716	TC	A	Artery x-rays, arms/legs	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75716	26	A	Artery x-rays, arms/legs	1.31	0.58	0.58	0.09	1.98	1.98	XXX
75722		A	Artery x-rays, kidney	1.14	12.51	12.51	0.83	14.48	14.48	XXX
75722	TC	A	Artery x-rays, kidney	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75722	26	A	Artery x-rays, kidney	1.14	0.50	0.50	0.08	1.72	1.72	XXX
75724		A	Artery x-rays, kidneys	1.49	12.67	12.67	0.85	15.01	15.01	XXX
75724	TC	A	Artery x-rays, kidneys	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75724	26	A	Artery x-rays, kidneys	1.49	0.66	0.66	0.10	2.25	2.25	XXX
75726		A	Artery x-rays, abdomen	1.14	12.51	12.51	0.83	14.48	14.48	XXX
75726	TC	A	Artery x-rays, abdomen	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75726	26	A	Artery x-rays, abdomen	1.14	0.50	0.50	0.08	1.72	1.72	XXX
75731		A	Artery x-rays, adrenal gland	1.14	12.51	12.51	0.83	14.48	14.48	XXX
75731	TC	A	Artery x-rays, adrenal gland	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75731	26	A	Artery x-rays, adrenal gland	1.14	0.50	0.50	0.08	1.72	1.72	XXX
75733		A	Artery x-rays, adrenal glands	1.31	12.59	12.59	0.84	14.74	14.74	XXX
75733	TC	A	Artery x-rays, adrenal glands	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75733	26	A	Artery x-rays, adrenal glands	1.31	0.58	0.58	0.09	1.98	1.98	XXX
75736		A	Artery x-rays, pelvis	1.14	12.51	12.51	0.83	14.48	14.48	XXX
75736	TC	A	Artery x-rays, pelvis	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75736	26	A	Artery x-rays, pelvis	1.14	0.50	0.50	0.08	1.72	1.72	XXX
75741		A	Artery x-rays, lung	1.31	12.59	12.59	0.84	14.74	14.74	XXX
75741	TC	A	Artery x-rays, lung	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75741	26	A	Artery x-rays, lung	1.31	0.58	0.58	0.09	1.98	1.98	XXX
75743		A	Artery x-rays, lungs	1.66	12.75	12.75	0.86	15.27	15.27	XXX
75743	TC	A	Artery x-rays, lungs	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75743	26	A	Artery x-rays, lungs	1.66	0.74	0.74	0.11	2.51	2.51	XXX
75746		A	Artery x-rays, lung	1.14	12.51	12.51	0.83	14.48	14.48	XXX
75746	TC	A	Artery x-rays, lung	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75746	26	A	Artery x-rays, lung	1.14	0.50	0.50	0.08	1.72	1.72	XXX
75756		A	Artery x-rays, chest	1.14	12.51	12.51	0.83	14.48	14.48	XXX
75756	TC	A	Artery x-rays, chest	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75756	26	A	Artery x-rays, chest	1.14	0.50	0.50	0.08	1.72	1.72	XXX
75774		A	Artery x-ray, each vessel	0.36	12.17	12.17	0.77	13.30	13.30	XXX
75774	TC	A	Artery x-ray, each vessel	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75774	26	A	Artery x-ray, each vessel	0.36	0.16	0.16	0.02	0.54	0.54	XXX
75790		A	Visualize A–V shunt	1.84	2.12	2.12	0.21	4.17	4.17	XXX
75790	TC	A	Visualize A–V shunt	0.00	1.29	1.29	0.09	1.38	1.38	XXX
75790	26	A	Visualize A–V shunt	1.84	0.83	0.83	0.12	2.79	2.79	XXX
75801		A	Lymph vessel x-ray, arm/leg	0.81	5.53	5.53	0.38	6.72	6.72	XXX
75801	TC	A	Lymph vessel x-ray, arm/leg	0.00	5.16	5.16	0.33	5.49	5.49	XXX
75801	26	A	Lymph vessel x-ray, arm/leg	0.81	0.37	0.37	0.05	1.23	1.23	XXX
75803		A	Lymph vessel x-ray, arms/legs	1.17	6.67	6.67	0.41	7.25	7.25	XXX
75803	TC	A	Lymph vessel x-ray,arms/legs	0.00	5.16	5.16	0.33	5.49	5.49	XXX
75803	26	A	Lymph vessel x-ray,arms/legs	1.17	0.51	0.51	0.08	1.76	1.76	XXX
75805		A	Lymph vessel x-ray, trunk	0.81	6.18	6.18	0.42	7.41	7.41	XXX
75805	TC	A	Lymph vessel x-ray, trunk	0.00	5.81	5.81	0.37	6.18	6.18	XXX
75805	26	A	Lymph vessel x-ray, trunk	0.81	0.37	0.37	0.05	1.23	1.23	XXX
75807		A	Lymph vessel x-ray, trunk	1.17	6.32	6.32	0.45	7.94	7.94	XXX
75807	TC	A	Lymph vessel x-ray, trunk	0.00	5.81	5.81	0.37	6.18	6.18	XXX
75807	26	A	Lymph vessel x-ray, trunk	1.17	0.51	0.51	0.08	1.76	1.76	XXX
75809		A	Nonvascular shunt, x-ray	0.47	0.94	0.94	0.06	1.49	1.49	XXX
75809	TC	A	Nonvascular shunt, x-ray	0.00	0.75	0.75	0.05	0.80	0.80	XXX
75809	26	A	Nonvascular shunt, x-ray	0.47	0.19	0.19	0.03	0.69	0.69	XXX
75810		A	Vein x-ray, splenic/liver	1.14	12.51	12.51	0.83	14.48	14.48	XXX
75810	TC	A	Vein x-ray, splenic/liver	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75810	26	A	Vein x-ray, splenic/liver	1.14	0.50	0.50	0.08	1.72	1.72	XXX
75820		A	Vein x-ray, arm/leg	0.70	1.22	1.22	0.11	2.03	2.03	XXX
75820	TC	A	Vein x-ray, arm/leg	0.00	0.90	0.90	0.06	0.96	0.96	XXX
75820	26	A	Vein x-ray, arm/leg	0.70	0.32	0.32	0.05	1.07	1.07	XXX

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[5] ø Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1] / HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
75822		A	Vein x-ray, arms/legs	1.06	1.86	1.86	0.16	3.10	3.10	XXX
75822	TC	A	Vein x-ray, arms/legs	0.00	1.41	1.41	0.09	1.50	1.50	XXX
75822	26	A	Vein x-ray, arms/legs	1.06	0.47	0.47	0.07	1.60	1.60	XXX
75825		A	Vein x-ray, trunk	1.14	12.51	12.51	0.83	14.48	14.48	XXX
75825	TC	A	Vein x-ray, trunk	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75825	26	A	Vein x-ray, trunk	1.14	0.50	0.50	0.08	1.72	1.72	XXX
75827		A	Vein x-ray, chest	1.14	12.51	12.51	0.83	14.48	14.48	XXX
75827	TC	A	Vein x-ray, chest	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75827	26	A	Vein x-ray, chest	1.14	0.50	0.50	0.08	1.72	1.72	XXX
75831		A	Vein x-ray, kidney	1.14	12.51	12.51	0.83	14.48	14.48	XXX
75831	TC	A	Vein x-ray, kidney	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75831	26	A	Vein x-ray, kidney	1.14	0.50	0.50	0.08	1.72	1.72	XXX
75833		A	Vein x-ray, kidneys	1.49	12.67	12.67	0.85	15.01	15.01	XXX
75833	TC	A	Vein x-ray, kidneys	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75833	26	A	Vein x-ray, kidneys	1.49	0.66	0.66	0.10	2.25	2.25	XXX
75840		A	Vein x-ray, adrenal gland	1.14	12.51	12.51	0.83	14.48	14.48	XXX
75840	TC	A	Vein x-ray, adrenal gland	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75840	26	A	Vein x-ray, adrenal gland	1.14	0.50	0.50	0.08	1.72	1.72	XXX
75842		A	Vein x-ray, adrenal glands	1.49	12.67	12.67	0.85	15.01	15.01	XXX
75842	TC	A	Vein x-ray, adrenal glands	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75842	26	A	Vein x-ray, adrenal glands	1.49	0.66	0.66	0.10	2.25	2.25	XXX
75860		A	Vein x-ray, neck	1.14	12.51	12.51	0.83	14.48	14.48	XXX
75860	TC	A	Vein x-ray, neck	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75860	26	A	Vein x-ray, neck	1.14	0.50	0.50	0.08	1.72	1.72	XXX
75870		A	Vein x-ray, skull	1.14	12.51	12.51	0.83	14.48	14.48	XXX
75870	TC	A	Vein x-ray, skull	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75870	26	A	Vein x-ray, skull	1.14	0.50	0.50	0.08	1.72	1.72	XXX
75872		A	Vein x-ray, skull	1.14	12.51	12.51	0.83	14.48	14.48	XXX
75872	TC	A	Vein x-ray, skull	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75872	26	A	Vein x-ray, skull	1.14	0.50	0.50	0.08	1.72	1.72	XXX
75880		A	Vein x-ray, eye socket	0.70	1.22	1.22	0.11	2.03	2.03	XXX
75880	TC	A	Vein x-ray, eye socket	0.00	0.90	0.90	0.06	0.96	0.96	XXX
75880	26	A	Vein x-ray, eye socket	0.70	0.32	0.32	0.05	1.07	1.07	XXX
75885		A	Vein x-ray, liver	1.44	12.65	12.65	0.85	14.94	14.94	XXX
75885	TC	A	Vein x-ray, liver	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75885	26	A	Vein x-ray, liver	1.44	0.64	0.64	0.10	2.18	2.18	XXX
75887		A	Vein x-ray, liver	1.44	12.65	12.65	0.85	14.94	14.94	XXX
75887	TC	A	Vein x-ray, liver	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75887	26	A	Vein x-ray, liver	1.44	0.64	0.64	0.10	2.18	2.18	XXX
75889		A	Vein x-ray, liver	1.14	12.51	12.51	0.83	14.48	14.48	XXX
75889	TC	A	Vein x-ray, liver	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75889	26	A	Vein x-ray, liver	1.14	0.50	0.50	0.08	1.72	1.72	XXX
75891		A	Vein x-ray, liver	1.14	12.51	12.51	0.83	14.48	14.48	XXX
75891	TC	A	Vein x-ray, liver	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75891	26	A	Vein x-ray, liver	1.14	0.50	0.50	0.08	1.72	1.72	XXX
75893		A	Venous sampling by catheter	0.54	12.26	12.26	0.79	13.59	13.59	XXX
75893	TC	A	Venous sampling by catheter	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75893	26	A	Venous sampling by catheter	0.54	0.25	0.25	0.04	0.83	0.83	XXX
75894		A	Xrays, transcatheter therapy	1.31	23.58	23.58	1.53	26.42	26.42	XXX
75894	TC	A	Xrays, transcatheter therapy	0.00	23.00	23.00	1.44	24.44	24.44	XXX
75894	26	A	Xrays, transcatheter therapy	1.31	0.58	0.58	0.09	1.98	1.98	XXX
75896		A	Xrays, transcatheter therapy	1.31	20.58	20.58	1.34	23.23	23.23	XXX
75896	TC	A	Xrays, transcatheter therapy	0.00	20.00	20.00	1.25	21.25	21.25	XXX
75896	26	A	Xrays, transcatheter therapy	1.31	0.58	0.58	0.09	1.98	1.98	XXX
75898		A	Follow-up angiogram	1.65	1.74	1.74	0.18	3.57	3.57	XXX
75898	TC	A	Follow-up angiogram	0.00	1.00	1.00	0.07	1.07	1.07	XXX
75898	26	A	Follow-up angiogram	1.65	0.74	0.74	0.11	2.50	2.50	XXX
75900		A	Arterial catheter exchange	0.49	20.22	20.22	1.29	22.00	22.00	XXX
75900	TC	A	Arterial catheter exchange	0.00	19.99	19.99	1.26	21.25	21.25	XXX
75900	26	A	Arterial catheter exchange	0.49	0.23	0.23	0.03	0.75	0.75	XXX
75940		A	X-ray placement, vein filter	0.54	12.26	12.26	0.79	13.59	13.59	XXX
75940	TC	A	X-ray placement, vein filter	0.00	12.01	12.01	0.75	12.76	12.76	XXX
75940	26	A	X-ray placement, vein filter	0.54	0.25	0.25	0.04	0.83	0.83	XXX
75945		A	Intravascular us	0.40	4.57	4.57	0.31	5.28	5.28	XXX
75945	TC	A	Intravascular us	0.00	4.35	4.35	0.28	4.63	4.63	XXX
75945	26	A	Intravascular us	0.40	0.22	0.22	0.03	0.65	0.65	XXX
75946		A	Intravascular us	0.40	2.40	2.40	0.17	2.97	2.97	XXX
75946	TC	A	Intravascular us	0.00	2.18	2.18	0.14	2.32	2.32	XXX
75946	26	A	Intravascular us	0.40	0.22	0.22	0.03	0.65	0.65	XXX
75960		A	Transcatheter intro, stent	0.82	14.57	14.57	0.94	16.33	16.33	XXX
75960	TC	A	Transcatheter intro, stent	0.00	14.20	14.20	0.88	15.08	15.08	XXX
75960	26	A	Transcatheter intro, stent	0.82	0.37	0.37	0.06	1.25	1.25	XXX
75961		A	Retrieval, broken catheter	4.25	11.91	11.91	0.90	17.06	17.06	XXX
75961	TC	A	Retrieval, broken catheter	0.00	10.01	10.01	0.62	10.63	10.63	XXX

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[5] ø Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT[1]/ HCPCS[2]	MOD	Status	Description	Physician work RVUs[3,4]	Non-facility practice expense RVUs[5]	Facility practice expense RVUs[5]	Mal-practice RVUs	Non-facility total	Facility total	Global
75961	26	A	Retrieval, broken catheter	4.25	1.90	1.90	0.28	6.43	6.43	XXX
75962		A	Repair arterial blockage	0.54	15.25	15.25	0.98	16.77	16.77	XXX
75962	TC	A	Repair arterial blockage	0.00	15.00	15.00	0.94	15.94	15.94	XXX
75962	26	A	Repair arterial blockage	0.54	0.25	0.25	0.04	0.83	0.83	XXX
75964		A	Repair artery blockage, each	0.36	8.16	8.16	0.52	9.04	9.04	XXX
75964	TC	A	Repair artery blockage, each	0.00	8.00	8.00	0.50	8.50	8.50	XXX
75964	26	A	Repair artery blockage, each	0.36	0.16	0.16	0.02	0.54	0.54	XXX
75966		A	Repair arterial blockage	1.31	15.58	15.58	1.03	17.92	17.92	XXX
75966	TC	A	Repair arterial blockage	0.00	15.00	15.00	0.94	15.94	15.94	XXX
75966	26	A	Repair arterial blockage	1.31	0.58	0.58	0.09	1.98	1.98	XXX
75968		A	Repair artery blockage, each	0.36	8.16	8.16	0.52	9.04	9.04	XXX
75968	TC	A	Repair artery blockage, each	0.00	8.00	8.00	0.50	8.50	8.50	XXX
75968	26	A	Repair artery blockage, each	0.36	0.16	0.16	0.02	0.54	0.54	XXX
75970		A	Vascular biopsy	0.83	11.38	11.38	0.75	12.96	12.96	XXX
75970	TC	A	Vascular biopsy	0.00	11.00	11.00	0.69	11.69	11.69	XXX
75970	26	A	Vascular biopsy	0.83	0.38	0.38	0.06	1.27	1.27	XXX
75978		A	Repair venous blockage	0.54	15.48	15.48	0.98	17.00	17.00	XXX
75978	TC	A	Repair venous blockage	0.00	15.00	15.00	0.94	15.94	15.94	XXX
75978	26	A	Repair venous blockage	0.54	0.48	0.48	0.04	1.06	1.06	XXX
75980		A	Contrast x-ray exam bile duct	1.44	5.80	5.80	0.43	7.67	7.67	XXX
75980	TC	A	Contrast x-ray exam bile duct	0.00	5.16	5.16	0.33	5.49	5.49	XXX
75980	26	A	Contrast x-ray exam bile duct	1.44	0.64	0.64	0.10	2.18	2.18	XXX
75982		A	Contrast x-ray exam bile duct	1.44	6.45	6.45	0.47	8.36	8.36	XXX
75982	TC	A	Contrast x-ray exam bile duct	0.00	5.81	5.81	0.37	6.18	6.18	XXX
75982	26	A	Contrast x-ray exam bile duct	1.44	0.64	0.64	0.10	2.18	2.18	XXX
75984		A	X-ray control catheter change	0.72	2.19	2.19	0.17	3.08	3.08	XXX
75984	TC	A	X-ray control catheter change	0.00	1.86	1.86	0.12	1.98	1.98	XXX
75984	26	A	X-ray control catheter change	0.72	0.33	0.33	0.05	1.10	1.10	XXX
75989		A	Abscess drainage under x-ray	1.19	3.52	3.52	0.27	4.98	4.98	XXX
75989	TC	A	Abscess drainage under x-ray	0.00	3.00	3.00	0.19	3.19	3.19	XXX
75989	26	A	Abscess drainage under x-ray	1.19	0.52	0.52	0.08	1.79	1.79	XXX
75992		A	Atherectomy, x-ray exam	0.54	15.25	15.25	0.98	16.77	16.77	XXX
75992	TC	A	Atherectomy, x-ray exam	0.00	15.00	15.00	0.94	15.94	15.94	XXX
75992	26	A	Atherectomy, x-ray exam	0.54	0.25	0.25	0.04	0.83	0.83	XXX
75993		A	Atherectomy, x-ray exam	0.36	8.16	8.16	0.52	9.04	9.04	XXX
75993	TC	A	Atherectomy, x-ray exam	0.00	8.00	8.00	0.50	8.50	8.50	XXX
75993	26	A	Atherectomy, x-ray exam	0.36	0.16	0.16	0.02	0.54	0.54	XXX
75994		A	Atherectomy, x-ray exam	1.31	15.58	15.58	1.03	17.92	17.92	XXX
75994	TC	A	Atherectomy, x-ray exam	0.00	15.00	15.00	0.94	15.94	15.94	XXX
75994	26	A	Atherectomy, x-ray exam	1.31	0.58	0.58	0.09	1.98	1.98	XXX
75995		A	Atherectomy, x-ray exam	1.31	15.58	15.58	1.03	17.92	17.92	XXX
75995	TC	A	Atherectomy, x-ray exam	0.00	15.00	15.00	0.94	15.94	15.94	XXX
75995	26	A	Atherectomy, x-ray exam	1.31	0.58	0.58	0.09	1.98	1.98	XXX
75996		A	Atherectomy, x-ray exam	0.36	8.16	8.16	0.52	9.04	9.04	XXX
75996	TC	A	Atherectomy, x-ray exam	0.00	8.00	8.00	0.50	8.50	8.50	XXX
75996	26	A	Atherectomy, x-ray exam	0.36	0.16	0.16	0.02	0.54	0.54	XXX
76000		A	Fluoroscope examination	0.17	1.31	1.31	0.09	1.57	1.57	XXX
76000	TC	A	Fluoroscope examination	0.00	1.24	1.24	0.08	1.32	1.32	XXX
76000	26	A	Fluoroscope examination	0.17	0.07	0.07	0.01	0.25	0.25	XXX
76001		A	Fluoroscope exam, extensive	0.67	2.81	2.81	0.22	3.70	3.70	XXX
76001	TC	A	Fluoroscope exam, extensive	0.00	2.50	2.50	0.17	2.67	2.67	XXX
76001	26	A	Fluoroscope exam, extensive	0.67	0.31	0.31	0.05	1.03	1.03	XXX
76003		A	Needle localization by x-ray	0.54	1.49	1.49	0.12	2.15	2.15	XXX
76003	TC	A	Needle localization by x-ray	0.00	1.24	1.24	0.08	1.32	1.32	XXX
76003	26	A	Needle localization by x-ray	0.54	0.25	0.25	0.04	0.83	0.83	XXX
76010		A	X-ray, nose to rectum	0.18	0.58	0.58	0.04	0.80	0.80	XXX
76010	TC	A	X-ray, nose to rectum	0.00	0.50	0.50	0.03	0.53	0.53	XXX
76010	26	A	X-ray, nose to rectum	0.18	0.08	0.08	0.01	0.27	0.27	XXX
76020		A	X-rays for bone age	0.19	0.59	0.59	0.04	0.82	0.82	XXX
76020	TC	A	X-rays for bone age	0.00	0.50	0.50	0.03	0.53	0.53	XXX
76020	26	A	X-rays for bone age	0.19	0.09	0.09	0.01	0.29	0.29	XXX
76040		A	X-rays, bone evaluation	0.27	0.88	0.88	0.07	1.22	1.22	XXX
76040	TC	A	X-rays, bone evaluation	0.00	0.75	0.75	0.05	0.80	0.80	XXX
76040	26	A	X-rays, bone evaluation	0.27	0.13	0.13	0.02	0.42	0.42	XXX
76061		A	X-rays, bone survey	0.45	1.15	1.15	0.09	1.69	1.69	XXX
76061	TC	A	X-rays, bone survey	0.00	0.95	0.95	0.06	1.01	1.01	XXX
76061	26	A	X-rays, bone survey	0.45	0.20	0.20	0.03	0.68	0.68	XXX
76062		A	X-rays, bone survey	0.54	1.62	1.62	0.13	2.29	2.29	XXX
76062	TC	A	X-rays, bone survey	0.00	1.37	1.37	0.09	1.46	1.46	XXX
76062	26	A	X-rays, bone survey	0.54	0.25	0.25	0.04	0.83	0.83	XXX
76065		A	X-rays, bone evaluation	0.26	0.83	0.83	0.07	1.16	1.16	XXX
76065	TC	A	X-rays, bone evaluation	0.00	0.70	0.70	0.05	0.75	0.75	XXX
76065	26	A	X-rays, bone evaluation	0.26	0.13	0.13	0.02	0.43	0.43	XXX
76066		A	Joint(s) survey, single film	0.31	1.20	1.20	0.09	1.60	1.60	XXX

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[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT[1]/ HCPCS[2]	MOD	Status	Description	Physician work RVUs[3,4]	Non-facility practice expense RVUs[5]	Facility practice expense RVUs[5]	Mal-practice RVUs	Non-facility total	Facility total	Global
76066	TC	A	Joint(s) survey, single film	0.00	1.06	1.06	0.07	1.13	1.13	XXX
76066	26	A	Joint(s) survey, single film	0.31	0.14	0.14	0.02	0.47	0.47	XXX
76070		A	CT scan, bone density study	0.25	2.93	2.93	0.20	3.38	3.38	XXX
76070	TC	A	CT scan, bone density study	0.00	2.81	2.81	0.18	2.99	2.99	XXX
76070	26	A	CT scan, bone density study	0.25	0.12	0.12	0.02	0.39	0.39	XXX
76075		A	Dual energy x-ray study	0.30	3.07	3.07	0.21	3.58	3.58	XXX
76075	TC	A	Dual energy x-ray study	0.00	2.95	2.95	0.19	3.14	3.14	XXX
76075	26	A	Dual energy x-ray study	0.30	0.12	0.12	0.02	0.44	0.44	XXX
76076		A	Dual energy x-ray study	0.22	1.54	1.54	0.12	1.88	1.88	XXX
76076	TC	A	Dual energy x-ray study	0.00	1.44	1.44	0.10	1.54	1.54	XXX
76076	26	A	Dual energy x-ray study	0.22	0.10	0.10	0.02	0.34	0.34	XXX
76078		A	Photodensitometry	0.20	0.82	0.82	0.07	1.09	1.09	XXX
76078	TC	A	Photodensitometry	0.00	0.72	0.72	0.05	0.77	0.77	XXX
76078	26	A	Photodensitometry	0.20	0.10	0.10	0.02	0.32	0.32	XXX
76080		A	X-ray exam of fistula	0.54	1.25	1.25	0.11	1.90	1.90	XXX
76080	TC	A	X-ray exam of fistula	0.00	1.00	1.00	0.07	1.07	1.07	XXX
76080	26	A	X-ray exam of fistula	0.54	0.25	0.25	0.04	0.83	0.83	XXX
76086		A	X-ray of mammary duct	0.36	2.67	2.67	0.19	3.22	3.22	XXX
76086	TC	A	X-ray of mammary duct	0.00	2.50	2.50	0.17	2.67	2.67	XXX
76086	26	A	X-ray of mammary duct	0.36	0.17	0.17	0.02	0.55	0.55	XXX
76088		A	X-ray of mammary ducts	0.45	3.69	3.69	0.25	4.39	4.39	XXX
76088	TC	A	X-ray of mammary ducts	0.00	3.49	3.49	0.22	3.71	3.71	XXX
76088	26	A	X-ray of mammary ducts	0.45	0.20	0.20	0.03	0.68	0.68	XXX
76090		A	Mammogram, one breast	0.58	1.12	1.12	0.09	1.79	1.79	XXX
76090	TC	A	Mammogram, one breast	0.00	1.00	1.00	0.07	1.07	1.07	XXX
76090	26	A	Mammogram, one breast	0.58	0.12	0.12	0.02	0.72	0.72	XXX
76091		A	Mammogram, both breasts	0.89	1.42	1.42	0.11	2.22	2.22	XXX
76091	TC	A	Mammogram, both breasts	0.00	1.24	1.24	0.08	1.32	1.32	XXX
76091	26	A	Mammogram, both breasts	0.89	0.18	0.18	0.03	0.90	0.90	XXX
76092		X	Mammogram, screening	0.00	0.00	0.00	0.00	0.00	0.00	XXX
76093		A	Magnetic image, breast	1.63	17.52	17.52	1.16	20.31	20.31	XXX
76093	TC	A	Magnetic image, breast	0.00	16.80	16.80	1.05	17.85	17.85	XXX
76093	26	A	Magnetic image, breast	1.63	0.72	0.72	0.11	2.46	2.46	XXX
76094		A	Magnetic image, both breasts	1.63	23.51	23.51	1.53	26.67	26.67	XXX
76094	TC	A	Magnetic image, both breasts	0.00	22.79	22.79	1.42	24.21	24.21	XXX
76094	26	A	Magnetic image, both breasts	1.63	0.72	0.72	0.11	2.46	2.46	XXX
76095		A	Stereotactic breast biopsy	1.59	7.54	7.54	0.54	9.67	9.67	XXX
76095	TC	A	Stereotactic breast biopsy	0.00	6.83	6.83	0.43	7.26	7.26	XXX
76095	26	A	Stereotactic breast biopsy	1.59	0.71	0.71	0.11	2.41	2.41	XXX
76096		A	X-ray of needle wire, breast	0.56	1.50	1.50	0.12	2.18	2.18	XXX
76096	TC	A	X-ray of needle wire, breast	0.00	1.24	1.24	0.08	1.32	1.32	XXX
76096	26	A	X-ray of needle wire, breast	0.56	0.26	0.26	0.04	0.86	0.86	XXX
76098		A	X-ray exam, breast specimen	0.16	0.47	0.47	0.04	0.67	0.67	XXX
76098	TC	A	X-ray exam, breast specimen	0.00	0.40	0.40	0.03	0.43	0.43	XXX
76098	26	A	X-ray exam, breast specimen	0.16	0.07	0.07	0.01	0.24	0.24	XXX
76100		A	X-ray exam of body section	0.56	1.46	1.46	0.12	2.16	2.16	XXX
76100	TC	A	X-ray exam of body section	0.00	1.19	1.19	0.08	1.27	1.27	XXX
76100	26	A	X-ray exam of body section	0.56	0.27	0.27	0.04	0.89	0.89	XXX
76101		A	Complex body section x-ray	0.58	1.62	1.62	0.13	2.33	2.33	XXX
76101	TC	A	Complex body section x-ray	0.00	1.35	1.35	0.09	1.44	1.44	XXX
76101	26	A	Complex body section x-ray	0.58	0.27	0.27	0.04	0.89	0.89	XXX
76102		A	Complex body section x-rays	0.58	1.92	1.92	0.15	2.65	2.65	XXX
76102	TC	A	Complex body section x-rays	0.00	1.65	1.65	0.11	1.76	1.76	XXX
76102	26	A	Complex body section x-rays	0.58	0.27	0.27	0.04	0.89	0.89	XXX
76120		A	Cinematic x-rays	0.38	1.17	1.17	0.10	1.65	1.65	XXX
76120	TC	A	Cinematic x-rays	0.00	1.00	1.00	0.07	1.07	1.07	XXX
76120	26	A	Cinematic x-rays	0.38	0.17	0.17	0.03	0.58	0.58	XXX
76125		A	Cinematic x-rays	0.27	0.87	0.87	0.07	1.21	1.21	XXX
76125	TC	A	Cinematic x-rays	0.00	0.75	0.75	0.05	0.80	0.80	XXX
76125	26	A	Cinematic x-rays	0.27	0.12	0.12	0.02	0.41	0.41	XXX
76140		I	X-ray consultation	0.00	0.00	0.00	0.00	0.00	0.00	XXX
76150		A	X-ray exam, dry process	0.00	0.40	0.40	0.03	0.43	0.43	XXX
76350		C	Special x-ray contrast study	0.00	0.00	0.00	0.00	0.00	0.00	XXX
76355		A	CAT scan for localization	1.21	8.40	8.40	0.57	10.18	10.18	XXX
76355	TC	A	CAT scan for localization	0.00	7.87	7.87	0.49	8.36	8.36	XXX
76355	26	A	CAT scan for localization	1.21	0.53	0.53	0.08	1.82	1.82	XXX
76360		A	CAT scan for needle biopsy	1.16	8.37	8.37	0.57	10.10	10.10	XXX
76360	TC	A	CAT scan for needle biopsy	0.00	7.87	7.87	0.49	8.36	8.36	XXX
76360	26	A	CAT scan for needle biopsy	1.16	0.50	0.50	0.08	1.74	1.74	XXX
76365		A	CAT scan for cyst aspiration	1.16	8.37	8.37	0.57	10.10	10.10	XXX
76365	TC	A	CAT scan for cyst aspiration	0.00	7.87	7.87	0.49	8.36	8.36	XXX
76365	26	A	CAT scan for cyst aspiration	1.16	0.50	0.50	0.08	1.74	1.74	XXX
76370		A	CAT scan for therapy guide	0.85	3.19	3.19	0.24	4.28	4.28	XXX
76370	TC	A	CAT scan for therapy guide	0.00	2.81	2.81	0.18	2.99	2.99	XXX

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[2] Copyright 1994 American Dental Association. All rights reserved.
[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT[1]/ HCPCS[2]	MOD	Status	Description	Physician work RVUs[3,4]	Non-facility practice expense RVUs[5]	Facility practice expense RVUs[5]	Mal-practice RVUs	Non-facility total	Facility total	Global
76370	26	A	CAT scan for therapy guide	0.85	0.38	0.38	0.06	1.29	1.29	XXX
76375		A	3d/holograph reconstr add-on	0.16	3.44	3.44	0.22	3.82	3.82	XXX
76375	TC	A	3d/holograph reconstr add-on	0.00	3.37	3.37	0.21	3.58	3.58	XXX
76375	26	A	3d/holograph reconstr add-on	0.16	0.07	0.07	0.01	0.24	0.24	XXX
76380		A	CAT scan follow-up study	0.98	3.76	3.76	0.28	5.04	5.04	XXX
76380	TC	A	CAT scan follow-up study	0.00	3.34	3.34	0.21	3.55	3.55	XXX
76380	26	A	CAT scan follow-up study	0.98	0.44	0.44	0.07	1.49	1.49	XXX
76390		A	Mr spectroscopy	1.40	11.34	11.34	0.77	13.51	13.51	XXX
76390	TC	A	Mr spectroscopy	0.00	10.68	10.68	0.67	11.35	11.35	XXX
76390	26	A	Mr spectroscopy	1.40	0.66	0.66	0.10	2.16	2.16	XXX
76400		A	Magnetic image, bone marrow	1.60	11.40	11.40	0.78	13.78	13.78	XXX
76400	TC	A	Magnetic image, bone marrow	0.00	10.68	10.68	0.67	11.35	11.35	XXX
76400	26	A	Magnetic image, bone marrow	1.60	0.72	0.72	0.11	2.43	2.43	XXX
76499		C	Radiographic procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
76499	TC	C	Radiographic procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
76499	26	C	Radiographic procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
76506		A	Echo exam of head	0.63	1.64	1.64	0.13	2.40	2.40	XXX
76506	TC	A	Echo exam of head	0.00	1.35	1.35	0.09	1.44	1.44	XXX
76506	26	A	Echo exam of head	0.63	0.29	0.29	0.04	0.96	0.96	XXX
76511		A	Echo exam of eye	0.94	1.44	1.44	0.12	2.50	2.50	XXX
76511	TC	A	Echo exam of eye	0.00	1.19	1.19	0.08	1.27	1.27	XXX
76511	26	A	Echo exam of eye	0.94	0.25	0.25	0.04	1.23	1.23	XXX
76512		A	Echo exam of eye	0.68	1.75	1.75	0.15	2.58	2.58	XXX
76512	TC	A	Echo exam of eye	0.00	1.45	1.45	0.10	1.55	1.55	XXX
76512	26	A	Echo exam of eye	0.68	0.30	0.30	0.05	1.01	1.01	XXX
76513		A	Echo exam of eye, water bath	0.68	1.75	1.75	0.15	2.58	2.58	XXX
76513	TC	A	Echo exam of eye, water bath	0.00	1.45	1.45	0.10	1.55	1.55	XXX
76513	26	A	Echo exam of eye, water bath	0.68	0.30	0.30	0.05	1.01	1.01	XXX
76516		A	Echo exam of eye	0.54	1.44	1.44	0.12	2.10	2.10	XXX
76516	TC	A	Echo exam of eye	0.00	1.19	1.19	0.08	1.27	1.27	XXX
76516	26	A	Echo exam of eye	0.54	0.25	0.25	0.04	0.83	0.83	XXX
76519		A	Echo exam of eye	0.54	1.44	1.44	0.12	2.10	2.10	XXX
76519	TC	A	Echo exam of eye	0.00	1.19	1.19	0.08	1.27	1.27	XXX
76519	26	A	Echo exam of eye	0.54	0.25	0.25	0.04	0.83	0.83	XXX
76529		A	Echo exam of eye	0.57	1.56	1.56	0.13	2.26	2.26	XXX
76529	TC	A	Echo exam of eye	0.00	1.30	1.30	0.09	1.39	1.39	XXX
76529	26	A	Echo exam of eye	0.57	0.26	0.26	0.04	0.87	0.87	XXX
76536		A	Echo exam of head and neck	0.56	1.61	1.61	0.13	2.30	2.30	XXX
76536	TC	A	Echo exam of head and neck	0.00	1.35	1.35	0.09	1.44	1.44	XXX
76536	26	A	Echo exam of head and neck	0.56	0.26	0.26	0.04	0.86	0.86	XXX
76604		A	Echo exam of chest	0.55	1.50	1.50	0.12	2.17	2.17	XXX
76604	TC	A	Echo exam of chest	0.00	1.24	1.24	0.08	1.32	1.32	XXX
76604	26	A	Echo exam of chest	0.55	0.26	0.26	0.04	0.85	0.85	XXX
76645		A	Echo exam of breast	0.54	1.25	1.25	0.11	1.90	1.90	XXX
76645	TC	A	Echo exam of breast	0.00	1.00	1.00	0.07	1.07	1.07	XXX
76645	26	A	Echo exam of breast	0.54	0.25	0.25	0.04	0.83	0.83	XXX
76700		A	Echo exam of abdomen	0.81	2.25	2.25	0.17	3.23	3.23	XXX
76700	TC	A	Echo exam of abdomen	0.00	1.88	1.88	0.12	2.00	2.00	XXX
76700	26	A	Echo exam of abdomen	0.81	0.37	0.37	0.05	1.23	1.23	XXX
76705		A	Echo exam of abdomen	0.59	1.62	1.62	0.13	2.34	2.34	XXX
76705	TC	A	Echo exam of abdomen	0.00	1.35	1.35	0.09	1.44	1.44	XXX
76705	26	A	Echo exam of abdomen	0.59	0.27	0.27	0.04	0.90	0.90	XXX
76770		A	Echo exam abdomen back wall	0.74	2.22	2.22	0.17	3.13	3.13	XXX
76770	TC	A	Echo exam abdomen back wall	0.00	1.88	1.88	0.12	2.00	2.00	XXX
76770	26	A	Echo exam abdomen back wall	0.74	0.34	0.34	0.05	1.13	1.13	XXX
76775		A	Echo exam abdomen back wall	0.58	1.62	1.62	0.13	2.33	2.33	XXX
76775	TC	A	Echo exam abdomen back wall	0.09	1.35	1.35	0.09	1.44	1.44	XXX
76775	26	A	Echo exam abdomen back wall	0.58	0.27	0.27	0.04	0.89	0.89	XXX
76778		A	Echo exam kidney transplant	0.74	2.22	2.22	0.17	3.13	3.13	XXX
76778	TC	A	Echo exam kidney transplant	0.00	1.88	1.88	0.12	2.00	2.00	XXX
76778	26	A	Echo exam kidney transplant	0.74	0.34	0.34	0.05	1.13	1.13	XXX
76800		A	Echo exam spinal canal	1.13	1.85	1.85	0.17	3.15	3.15	XXX
76800	TC	A	Echo exam spinal canal	0.00	1.35	1.35	0.09	1.44	1.44	XXX
76800	26	A	Echo exam spinal canal	1.13	0.50	0.50	0.08	1.71	1.71	XXX
76805		A	Echo exam of pregnant uterus	0.99	2.45	2.45	0.20	3.64	3.64	XXX
76805	TC	A	Echo exam of pregnant uterus	0.00	2.00	2.00	0.13	2.13	2.13	XXX
76805	26	A	Echo exam of pregnant uterus	0.99	0.45	0.45	0.07	1.51	1.51	XXX
76810		A	Echo exam of pregnant uterus	1.97	4.86	4.86	0.38	7.23	7.23	XXX
76810	TC	A	Echo exam of pregnant uterus	0.00	4.00	4.00	0.25	4.25	4.25	XXX
76810	26	A	Echo exam of pregnant uterus	1.97	0.86	0.86	0.13	2.96	2.96	XXX
76815		A	Echo exam of pregnant uterus	0.65	1.65	1.65	0.13	2.43	2.43	XXX
76815	TC	A	Echo exam of pregnant uterus	0.00	1.35	1.35	0.09	1.44	1.44	XXX
76815	26	A	Echo exam of pregnant uterus	0.65	0.30	0.30	0.04	0.99	0.99	XXX
76816		A	Echo exam followup or repeat	0.57	1.32	1.32	0.11	2.00	2.00	XXX

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[2] Copyright 1994 American Dental Association. All rights reserved.
[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] ø Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT[1]/ HCPCS[2]	MOD	Status	Description	Physician work RVUs[3,4]	Non-facility practice expense RVUs[5]	Facility practice expense RVUs[5]	Mal-practice RVUs	Non-facility total	Facility total	Global
76816	TC	A	Echo exam followup or repeat	0.00	1.06	1.06	0.07	1.13	1.13	XXX
76816	26	A	Echo exam followup or repeat	0.57	0.26	0.26	0.04	0.87	0.87	XXX
76818		A	Fetal biophysical profile	0.77	1.89	1.89	0.15	2.81	2.81	XXX
76818	TC	A	Fetal biophysical profile	0.00	1.54	1.54	0.10	1.64	1.64	XXX
76818	26	A	Fetal biophysical profile	0.77	0.35	0.35	0.05	1.17	1.17	XXX
76825		A	Echo exam of fetal heart	1.67	2.23	2.23	0.17	4.07	4.07	XXX
76825	TC	A	Echo exam of fetal heart	0.00	1.88	1.88	0.12	2.00	2.00	XXX
76825	26	A	Echo exam of fetal heart	1.67	0.35	0.35	0.05	2.07	2.07	XXX
76826		A	Echo exam of fetal heart	0.83	1.35	1.35	0.10	2.28	2.28	XXX
76826	TC	A	Echo exam of fetal heart	0.00	0.67	0.67	0.05	0.72	0.72	XXX
76826	26	A	Echo exam of fetal heart	0.83	0.68	0.68	0.05	1.56	1.56	XXX
76827		A	Echo exam of fetal heart	0.58	2.28	2.28	0.18	3.04	3.04	XXX
76827	TC	A	Echo exam of fetal heart	0.00	1.64	1.64	0.13	1.77	1.77	XXX
76827	26	A	Echo exam of fetal heart	0.58	ø0.64	ø0.64	0.05	1.27	1.27	XXX
76828		A	Echo exam of fetal heart	0.56	1.34	1.34	0.11	2.01	2.01	XXX
76828	TC	A	Echo exam of fetal heart	0.00	1.06	1.06	0.09	1.15	1.15	XXX
76828	26	A	Echo exam of fetal heart	0.56	0.28	0.28	0.02	0.86	0.86	XXX
76830		A	Echo exam, transvaginal	0.89	1.77	1.77	0.15	2.61	2.61	XXX
76830	TC	A	Echo exam, transvaginal	0.00	1.45	1.45	0.10	1.55	1.55	XXX
76830	26	A	Echo exam, transvaginal	0.89	0.32	0.32	0.05	1.06	1.06	XXX
76831		A	Echo exam, uterus	0.72	1.77	1.77	0.15	2.64	2.64	XXX
76831	TC	A	Echo exam, uterus	0.00	1.45	1.45	0.10	1.55	1.55	XXX
76831	26	A	Echo exam, uterus	0.72	0.32	0.32	0.05	1.09	1.09	XXX
76856		A	Echo exam of pelvis	0.89	1.77	1.77	0.15	2.61	2.61	XXX
76856	TC	A	Echo exam of pelvis	0.00	1.45	1.45	0.10	1.55	1.55	XXX
76856	26	A	Echo exam of pelvis	0.89	0.32	0.32	0.05	1.06	1.06	XXX
76857		A	Echo exam of pelvis	0.38	1.17	1.17	0.10	1.65	1.65	XXX
76857	TC	A	Echo exam of pelvis	0.00	1.00	1.00	0.07	1.07	1.07	XXX
76857	26	A	Echo exam of pelvis	0.38	0.17	0.17	0.03	0.58	0.58	XXX
76870		A	Echo exam of scrotum	0.64	1.74	1.74	0.14	2.52	2.52	XXX
76870	TC	A	Echo exam of scrotum	0.00	1.45	1.45	0.10	1.55	1.55	XXX
76870	26	A	Echo exam of scrotum	0.64	0.29	0.29	0.04	0.97	0.97	XXX
76872		A	Echo exam, tranerectal	0.89	1.77	1.77	0.15	2.61	2.61	XXX
76872	TC	A	Echo exam, tranerectal	0.00	1.45	1.45	0.10	1.55	1.55	XXX
76872	26	A	Echo exam, tranerectal	0.89	0.32	0.32	0.05	1.06	1.06	XXX
76880		A	Echo exam of extremity	0.59	1.62	1.62	0.13	2.34	2.34	XXX
76880	TC	A	Echo exam of extremity	0.00	1.35	1.35	0.09	1.44	1.44	XXX
76880	26	A	Echo exam of extremity	0.59	0.27	0.27	0.04	0.90	0.90	XXX
76885		A	Echo exam, infant hips	0.74	1.77	1.77	0.15	2.66	2.66	XXX
76885	TC	A	Echo exam, infant hips	0.00	1.45	1.45	0.10	1.55	1.55	XXX
76885	26	A	Echo exam, infant hips	0.74	0.32	0.32	0.05	1.11	1.11	XXX
76886		A	Echo exam, infant hips	0.62	1.62	1.62	0.13	2.37	2.37	XXX
76886	TC	A	Echo exam, infant hips	0.00	1.35	1.35	0.09	1.44	1.44	XXX
76886	26	A	Echo exam, infant hips	0.62	0.27	0.27	0.04	0.93	0.93	XXX
76930		A	Echo guide for heart asc tap	0.67	1.76	1.76	0.15	2.58	2.58	XXX
76930	TC	A	Echo guide for heart asc tap	0.00	1.45	1.45	0.10	1.55	1.55	XXX
76930	26	A	Echo guide for heart asc tap	0.67	0.31	0.31	0.05	1.03	1.03	XXX
76932		A	Echo guide for heart biopsy	0.67	1.76	1.76	0.15	2.58	2.58	XXX
76932	TC	A	Echo guide for heart biopsy	0.00	1.45	1.45	0.10	1.55	1.55	XXX
76932	26	A	Echo guide for heart biopsy	0.67	0.31	0.31	0.05	1.03	1.03	XXX
76934		A	Echo guide for chest tap	0.67	1.76	1.76	0.15	2.58	2.58	XXX
76934	TC	A	Echo guide for chest tap	0.00	1.45	1.45	0.10	1.55	1.55	XXX
76934	26	A	Echo guide for chest tap	0.67	0.31	0.31	0.05	1.03	1.03	XXX
76936		A	Echo guide for artery repair	1.99	7.24	7.24	0.48	9.71	9.71	XXX
76936	TC	A	Echo guide for artery repair	0.00	6.00	6.00	0.38	6.38	6.38	XXX
76936	26	A	Echo guide for artery repair	1.99	1.24	1.24	0.10	3.33	3.33	XXX
76938		A	Echo exam for drainage	0.67	1.76	1.76	0.15	2.58	2.58	XXX
76938	TC	A	Echo exam for drainage	0.00	1.45	1.45	0.10	1.55	1.55	XXX
76938	26	A	Echo exam for drainage	0.67	0.31	0.31	0.05	1.03	1.03	XXX
76941		A	Echo guide for transfusion	1.34	2.07	2.07	0.19	3.60	3.60	XXX
76941	TC	A	Echo guide for transfusion	0.00	1.48	1.48	0.09	1.55	1.55	XXX
76941	26	A	Echo guide for transfusion	1.34	0.61	0.61	0.10	2.05	2.05	XXX
76942		A	Echo guide for biopsy	0.67	1.76	1.76	0.15	2.58	2.58	XXX
76942	TC	A	Echo guide for biopsy	0.00	1.45	1.45	0.10	1.55	1.55	XXX
76942	26	A	Echo guide for biopsy	0.67	0.31	0.31	0.05	1.03	1.03	XXX
76945		A	Echo guide, villus sampling	0.67	2.07	2.07	0.19	2.93	2.93	XXX
76945	TC	A	Echo guide, villus sampling	0.00	1.48	1.48	0.09	1.55	1.55	XXX
76945	26	A	Echo guide, villus sampling	0.67	0.61	0.61	0.10	1.38	1.38	XXX
76946		A	Echo guide for amniocentesis	0.38	1.82	1.82	0.13	2.13	2.13	XXX
76946	TC	A	Echo guide for amniocentesis	0.00	1.45	1.45	0.10	1.55	1.55	XXX
76946	26	A	Echo guide for amniocentesis	0.38	0.17	0.17	0.03	0.58	0.58	XXX
76948		A	Echo guide, ova aspiration	0.38	1.82	1.82	0.13	2.13	2.13	XXX
76948	TC	A	Echo guide, ova aspiration	0.00	1.45	1.45	0.10	1.55	1.55	XXX
76948	26	A	Echo guide, ova aspiration	0.38	0.17	0.17	0.03	0.58	0.58	XXX

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[5] ø Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
76950		A	Echo guidance radiotherapy	0.58	1.51	1.51	0.12	2.21	2.21	XXX
76950	TC	A	Echo guidance radiotherapy	0.00	1.24	1.24	0.08	1.32	1.32	XXX
76950	26	A	Echo guidance radiotherapy	0.58	0.27	0.27	0.04	0.89	0.89	XXX
76960		A	Echo guidance radiotherapy	0.58	1.51	1.51	0.12	2.21	2.21	XXX
76960	TC	A	Echo guidance radiotherapy	0.00	1.24	1.24	0.08	1.32	1.32	XXX
76960	26	A	Echo guidance radiotherapy	0.58	0.27	0.27	0.04	0.89	0.89	XXX
76965		A	Echo guidance radiotherapy	1.34	6.78	6.78	0.52	8.64	8.64	XXX
76965	TC	A	Echo guidance radiotherapy	0.00	5.31	5.31	0.33	5.64	5.64	XXX
76965	26	A	Echo guidance radiotherapy	1.34	$1.47	$1.47	0.19	3.00	3.00	XXX
76970		A	Ultrasound exam follow-up	0.40	1.18	1.18	0.10	1.68	1.68	XXX
76970	TC	A	Ultrasound exam follow-up	0.00	1.00	1.00	0.07	1.07	1.07	XXX
76970	26	A	Ultrasound exam follow-up	0.40	0.18	0.18	0.03	0.61	0.61	XXX
76975		A	GI endoscopic ultrasound	0.81	1.79	1.79	0.15	2.75	2.75	XXX
76975	TC	A	GI endoscopic ultrasound	0.00	1.45	1.45	0.10	1.55	1.55	XXX
76975	26	A	GI endoscopic ultrasound	0.81	0.34	0.34	0.05	1.20	1.20	XXX
76986		A	Echo exam of surgery	1.20	3.03	3.03	0.25	4.48	4.48	XXX
76986	TC	A	Echo exam of surgery	0.00	2.50	2.50	0.17	2.67	2.67	XXX
76986	26	A	Echo exam of surgery	1.20	0.53	0.53	0.08	1.81	1.81	XXX
76999		C	Echo examination procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
76999	TC	C	Echo examination procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
76999	26	C	Echo examination procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
77261		A	Radiation therapy planning	1.39	0.82	0.82	0.09	2.10	2.10	XXX
77262		A	Radiation therapy planning	2.11	0.94	0.94	0.14	3.19	3.19	XXX
77263		A	Radiation therapy planning	3.14	1.40	1.40	0.20	4.74	4.74	XXX
77280		A	Set radiation therapy field	0.70	3.63	3.63	0.26	4.59	4.59	XXX
77280	TC	A	Set radiation therapy field	0.00	3.31	3.31	0.21	3.52	3.52	XXX
77280	26	A	Set radiation therapy field	0.70	0.32	0.32	0.05	1.07	1.07	XXX
77285		A	Set radiation therapy field	1.05	5.77	5.77	0.41	7.23	7.23	XXX
77285	TC	A	Set radiation therapy field	0.00	5.31	5.31	0.34	5.65	5.65	XXX
77285	26	A	Set radiation therapy field	1.05	0.46	0.46	0.07	1.58	1.58	XXX
77290		A	Set radiation therapy field	1.56	6.90	6.90	0.50	8.96	8.96	XXX
77290	TC	A	Set radiation therapy field	0.00	6.20	6.20	0.39	6.59	6.59	XXX
77290	26	A	Set radiation therapy field	1.56	0.70	0.70	0.11	2.37	2.37	XXX
77295		A	Set radiation therapy field	4.57	28.66	28.66	1.93	35.18	35.18	XXX
77295	TC	A	Set radiation therapy field	0.00	28.62	28.62	1.70	28.32	28.32	XXX
77295	26	A	Set radiation therapy field	4.57	2.05	2.05	0.23	6.86	6.86	XXX
77299		C	Radiation therapy planning	0.00	0.00	0.00	0.00	0.00	0.00	XXX
77299	TC	C	Radiation therapy planning	0.00	0.00	0.00	0.00	0.00	0.00	XXX
77299	26	C	Radiation therapy planning	0.00	0.00	0.00	0.00	0.00	0.00	XXX
77300		A	Radiation therapy dose plan	0.62	1.56	1.56	0.12	2.30	2.30	XXX
77300	TC	A	Radiation therapy dose plan	0.00	1.28	1.28	0.08	1.36	1.36	XXX
77300	26	A	Radiation therapy dose plan	0.62	0.28	0.28	0.04	0.94	0.94	XXX
77305		A	Radiation therapy dose plan	0.70	2.09	2.09	0.17	2.96	2.96	XXX
77305	TC	A	Radiation therapy dose plan	0.00	1.77	1.77	0.12	1.89	1.89	XXX
77305	26	A	Radiation therapy dose plan	0.70	0.32	0.32	0.05	1.07	1.07	XXX
77310		A	Radiation therapy dose plan	1.05	2.88	2.88	0.22	3.95	3.95	XXX
77310	TC	A	Radiation therapy dose plan	0.00	2.22	2.22	0.15	2.37	2.37	XXX
77310	26	A	Radiation therapy dose plan	1.05	0.46	0.46	0.07	1.58	1.58	XXX
77315		A	Radiation therapy dose plan	1.56	3.23	3.23	0.28	5.07	5.07	XXX
77315	TC	A	Radiation therapy dose plan	0.00	2.53	2.53	0.17	2.70	2.70	XXX
77315	26	A	Radiation therapy dose plan	1.56	0.70	0.70	0.11	2.37	2.37	XXX
77321		A	Radiation therapy port plan	0.85	4.28	4.28	0.30	5.53	5.53	XXX
77321	TC	A	Radiation therapy port plan	0.00	3.85	3.85	0.24	4.09	4.09	XXX
77321	26	A	Radiation therapy port plan	0.85	0.43	0.43	0.06	1.44	1.44	XXX
77326		A	Radiation therapy dose plan	0.93	2.67	2.67	0.21	3.81	3.81	XXX
77326	TC	A	Radiation therapy dose plan	0.00	2.25	2.25	0.15	2.40	2.40	XXX
77326	26	A	Radiation therapy dose plan	0.93	0.42	0.42	0.06	1.41	1.41	XXX
77327		A	Radiation therapy dose plan	1.39	3.93	3.93	0.30	5.62	5.62	XXX
77327	TC	A	Radiation therapy dose plan	0.00	3.31	3.31	0.21	3.52	3.52	XXX
77327	26	A	Radiation therapy dose plan	1.39	0.62	0.62	0.09	2.10	2.10	XXX
77328		A	Radiation therapy dose plan	2.09	5.66	5.66	0.44	8.19	8.19	XXX
77328	TC	A	Radiation therapy dose plan	0.00	4.73	4.73	0.30	5.03	5.03	XXX
77328	26	A	Radiation therapy dose plan	2.09	0.93	0.93	0.14	3.16	3.16	XXX
77331		A	Special radiation dosimetry	0.87	0.87	0.87	0.09	1.83	1.83	XXX
77331	TC	A	Special radiation dosimetry	0.00	0.48	0.48	0.03	0.51	0.51	XXX
77331	26	A	Special radiation dosimetry	0.87	0.39	0.39	0.06	1.32	1.32	XXX
77332		A	Radiation treatment aid(s)	0.54	1.53	1.53	0.12	2.19	2.19	XXX
77332	TC	A	Radiation treatment aid(s)	0.00	1.28	1.28	0.08	1.36	1.36	XXX
77332	26	A	Radiation treatment aid(s)	0.54	0.25	0.25	0.04	0.83	0.83	XXX
77333		A	Radiation treatment aid(s)	0.84	2.19	2.19	0.18	3.21	3.21	XXX
77333	TC	A	Radiation treatment aid(s)	0.00	1.81	1.81	0.12	1.93	1.93	XXX
77333	26	A	Radiation treatment aid(s)	0.84	0.38	0.38	0.06	1.28	1.28	XXX
77334		A	Radiation treatment aid(s)	1.24	3.64	3.64	0.27	5.15	5.15	XXX
77334	TC	A	Radiation treatment aid(s)	0.00	3.10	3.10	0.19	3.29	3.29	XXX

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ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
77334	26	A	Radiation treatment aid(s)	1.24	0.54	0.54	0.08	1.86	1.86	XXX
77336		A	Radiation physics consult	0.00	2.84	2.84	0.18	3.02	3.02	XXX
77370		A	Radiation physics consult	0.00	3.33	3.33	0.21	3.54	3.54	XXX
77399		C	External radiation dosimetry	0.00	0.00	0.00	0.00	0.00	0.00	XXX
77399	TC	C	External radiation dosimetry	0.00	0.00	0.00	0.00	0.00	0.00	XXX
77399	26	C	External radiation dosimetry	0.00	0.00	0.00	0.00	0.00	0.00	XXX
77401		A	Radiation treatment delivery	0.00	1.89	1.89	0.11	1.80	1.80	XXX
77402		A	Radiation treatment delivery	0.00	1.89	1.89	0.11	1.80	1.80	XXX
77403		A	Radiation treatment delivery	0.00	1.89	1.89	0.11	1.80	1.80	XXX
77404		A	Radiation treatment delivery	0.00	1.89	1.89	0.11	1.80	1.80	XXX
77406		A	Radiation treatment delivery	0.00	1.89	1.89	0.11	1.80	1.80	XXX
77407		A	Radiation treatment delivery	0.00	1.99	1.99	0.13	2.12	2.12	XXX
77408		A	Radiation treatment delivery	0.00	1.99	1.99	0.13	2.12	2.12	XXX
77409		A	Radiation treatment delivery	0.00	1.99	1.99	0.13	2.12	2.12	XXX
77411		A	Radiation treatment delivery	0.00	1.99	1.99	0.13	2.12	2.12	XXX
77412		A	Radiation treatment delivery	0.00	2.22	2.22	0.15	2.37	2.37	XXX
77413		A	Radiation treatment delivery	0.00	2.22	2.22	0.18	2.37	2.37	XXX
77414		A	Radiation treatment delivery	0.00	2.22	2.22	0.15	2.37	2.37	XXX
77416		A	Radiation treatment delivery	0.00	2.22	2.22	0.15	2.37	2.37	XXX
77417		A	Radiology port film(s)	0.00	0.56	0.56	0.04	0.60	0.60	XXX
77419		A	Weekly radiation therapy	3.60	1.61	1.61	0.23	5.44	5.44	XXX
77420		A	Weekly radiation therapy	1.61	0.72	0.72	0.11	2.44	2.44	XXX
77425		A	Weekly radiation therapy	2.44	1.10	1.10	0.17	3.71	3.71	XXX
77430		A	Weekly radiation therapy	3.60	1.61	1.61	0.23	5.44	5.44	XXX
77431		A	Radiation therapy management	1.61	0.81	0.81	0.12	2.74	2.74	XXX
77432		A	Stereotactic radiation trmt	7.98	4.84	4.84	0.40	13.27	13.27	XXX
77470		A	Special radiation treatment	2.09	11.55	11.55	0.80	14.44	14.44	XXX
77470	TC	A	Special radiation treatment	0.00	10.62	10.62	0.66	11.28	11.28	XXX
77470	26	A	Special radiation treatment	2.09	0.93	0.93	0.14	3.16	3.16	XXX
77499		C	Radiation therapy management	0.00	0.00	0.00	0.00	0.00	0.00	XXX
77499	TC	C	Radiation therapy management	0.00	0.00	0.00	0.00	0.00	0.00	XXX
77499	26	C	Radiation therapy management	0.00	0.00	0.00	0.00	0.00	0.00	XXX
77600		R	Hyperthermia treatment	1.56	3.60	3.60	0.29	5.45	5.45	ZZZ
77600	TC	R	Hyperthermia treatment	0.00	2.90	2.90	0.18	3.08	3.08	ZZZ
77600	26	R	Hyperthermia treatment	1.56	0.70	0.70	0.11	2.37	2.37	ZZZ
77605		R	Hyperthermia treatment	2.09	4.80	4.80	0.39	7.28	7.28	ZZZ
77605	TC	R	Hyperthermia treatment	0.00	3.87	3.87	0.25	4.12	4.12	ZZZ
77605	26	R	Hyperthermia treatment	2.09	0.93	0.93	0.14	3.16	3.16	ZZZ
77610		R	Hyperthermia treatment	1.56	3.60	3.60	0.29	5.45	5.45	ZZZ
77610	TC	R	Hyperthermia treatment	0.00	2.90	2.90	0.18	3.08	3.08	ZZZ
77610	26	R	Hyperthermia treatment	1.56	0.70	0.70	0.11	2.37	2.37	ZZZ
77615		R	Hyperthermia treatment	2.09	4.80	4.80	0.39	7.28	7.28	ZZZ
77615	TC	R	Hyperthermia treatment	0.00	3.87	3.87	0.25	4.12	4.12	ZZZ
77615	26	R	Hyperthermia treatment	2.09	0.93	0.93	0.14	3.16	3.16	ZZZ
77620		R	Hyperthermia treatment	1.56	3.60	3.60	0.29	5.45	5.45	ZZZ
77620	TC	R	Hyperthermia treatment	0.00	2.90	2.90	0.18	3.08	3.08	ZZZ
77620	26	R	Hyperthermia treatment	1.56	0.70	0.70	0.11	2.37	2.37	ZZZ
77750		A	Infuse radioactive materials	*4.91	3.32	3.32	0.39	8.61	8.61	090
77750	TC	A	Infuse radioactive materials	0.00	1.27	1.27	0.08	1.35	1.35	090
77750	26	A	Infuse radioactive materials	*4.91	2.05	2.05	0.30	7.26	7.26	090
77761		A	Radioelement application	*3.81	3.99	3.99	0.38	8.18	8.18	090
77761	TC	A	Radioelement application	0.00	2.39	2.39	0.16	2.55	2.55	090
77761	26	A	Radioelement application	*3.81	1.59	1.59	0.23	5.63	5.63	090
77762		A	Radioelement application	*5.72	5.83	5.83	0.57	12.12	12.12	090
77762	TC	A	Radioelement application	0.00	3.44	3.44	0.22	3.66	3.66	090
77762	26	A	Radioelement application	*5.72	2.39	2.39	0.35	8.46	8.46	090
77763		A	Radioelement application	*8.57	7.86	7.86	0.77	17.20	17.20	090
77763	TC	A	Radioelement application	0.00	4.28	4.28	0.27	4.55	4.55	090
77763	26	A	Radioelement application	*8.57	3.58	3.58	0.50	12.65	12.65	090
77776		A	Radioelement application	4.66	4.16	4.16	0.45	9.27	9.27	XXX
77776	TC	A	Radioelement application	0.00	2.67	2.67	0.14	2.21	2.21	XXX
77776	26	A	Radioelement application	4.66	2.09	2.09	0.31	7.06	7.06	XXX
77777		A	Radioelement application	*7.46	7.17	7.17	0.71	15.36	15.36	090
77777	TC	A	Radioelement application	0.00	4.04	4.04	0.26	4.30	4.30	090
77777	26	A	Radioelement application	*7.46	3.13	3.13	0.45	11.06	11.06	090
77778		A	Radioelement application	*11.19	9.58	9.58	0.98	21.75	21.75	090
77778	TC	A	Radioelement application	0.00	4.89	4.89	0.31	5.20	5.20	090
77778	26	A	Radioelement application	*11.19	4.69	4.69	0.67	16.55	16.55	090
77781		A	High intensity brachytherapy	*1.86	20.04	20.04	1.32	23.02	23.02	090
77781	TC	A	High intensity brachytherapy	0.00	19.35	19.35	1.21	20.56	20.56	090
77781	26	A	High intensity brachytherapy	*1.86	0.69	0.69	0.11	2.46	2.46	090
77782		A	High intensity brachytherapy	*2.49	20.40	20.40	1.37	24.26	24.26	090
77782	TC	A	High intensity brachytherapy	0.00	19.35	19.35	1.21	20.56	20.56	090
77782	26	A	High intensity brachytherapy	*2.49	1.05	1.05	0.16	3.70	3.70	090

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ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
77783		A	High intensity brachytherapy	[3].73	20.90	20.90	1.44	26.07	26.07	090
77783	TC	A	High intensity brachytherapy	0.00	19.35	19.35	1.21	20.56	20.56	090
77783	26	A	High intensity brachytherapy	[3].73	1.55	1.55	0.23	5.51	5.51	090
77784		A	High intensity brachytherapy	[5].61	21.89	21.89	1.56	28.86	28.86	090
77784	TC	A	High intensity brachytherapy	0.00	19.35	19.35	1.21	20.56	20.56	090
77784	26	A	High intensity brachytherapy	[5].61	2.34	2.34	0.35	8.30	8.30	090
77789		A	Radioelement application	[1].12	0.89	0.89	0.10	2.11	2.11	090
77789	TC	A	Radioelement application	0.00	0.43	0.43	0.03	0.46	0.46	090
77789	26	A	Radioelement application	[1].12	0.46	0.46	0.07	1.65	1.65	090
77790		A	Radioelement handling	1.05	0.94	0.94	0.10	2.09	2.09	XXX
77790	TC	A	Radioelement handling	0.00	0.48	0.48	0.03	0.51	0.51	XXX
77790	26	A	Radioelement handling	1.05	0.46	0.46	0.07	1.58	1.58	XXX
77799		C	Radium/radioisotope therapy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
77799	TC	C	Radium/radioisotope therapy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
77799	26	C	Radium/radioisotope therapy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78000		A	Thyroid, single uptake	0.19	1.01	1.01	0.07	1.27	1.27	XXX
78000	TC	A	Thyroid, single uptake	0.00	0.92	0.92	0.06	0.98	0.98	XXX
78000	26	A	Thyroid, single uptake	0.19	0.09	0.09	0.01	0.29	0.29	XXX
78001		A	Thyroid, multiple uptakes	0.26	1.36	1.36	0.10	1.72	1.72	XXX
78001	TC	A	Thyroid, multiple uptakes	0.00	1.24	1.24	0.08	1.32	1.32	XXX
78001	26	A	Thyroid, multiple uptakes	0.26	0.12	0.12	0.02	0.40	0.40	XXX
78003		A	Thyroid suppress/stimul	0.33	1.07	1.07	0.08	1.48	1.48	XXX
78003	TC	A	Thyroid suppress/stimul	0.00	0.92	0.92	0.06	0.98	0.98	XXX
78003	26	A	Thyroid suppress/stimul	0.33	0.15	0.15	0.02	0.50	0.50	XXX
78006		A	Thyroid, imaging with uptake	0.49	2.49	2.49	0.18	3.16	3.16	XXX
78006	TC	A	Thyroid, imaging with uptake	0.00	2.27	2.27	0.15	2.42	2.42	XXX
78006	26	A	Thyroid, imaging with uptake	0.49	0.22	0.22	0.03	0.74	0.74	XXX
78007		A	Thyroid, image, mult uptakes	0.50	2.68	2.68	0.19	3.37	3.37	XXX
78007	TC	A	Thyroid, image, mult uptakes	0.00	2.45	2.45	0.16	2.61	2.61	XXX
78007	26	A	Thyroid, image, mult uptakes	0.50	0.23	0.23	0.03	0.76	0.76	XXX
78010		A	Thyroid imaging	0.39	1.90	1.90	0.14	2.43	2.43	XXX
78010	TC	A	Thyroid imaging	0.00	1.73	1.73	0.11	1.84	1.84	XXX
78010	26	A	Thyroid imaging	0.39	0.17	0.17	0.03	0.59	0.59	XXX
78011		A	Thyroid imaging with flow	0.45	2.50	2.50	0.18	3.13	3.13	XXX
78011	TC	A	Thyroid imaging with flow	0.00	2.29	2.29	0.15	2.44	2.44	XXX
78011	26	A	Thyroid imaging with flow	0.45	0.21	0.21	0.03	0.69	0.69	XXX
78015		A	Thyroid met imaging	0.67	2.76	2.76	0.21	3.64	3.64	XXX
78015	TC	A	Thyroid met imaging	0.00	2.45	2.45	0.16	2.61	2.61	XXX
78015	26	A	Thyroid met imaging	0.67	0.31	0.31	0.05	1.03	1.03	XXX
78016		A	Thyroid met imaging/studies	0.82	3.70	3.70	0.27	4.79	4.79	XXX
78016	TC	A	Thyroid met imaging/studies	0.00	3.32	3.32	0.21	3.53	3.53	XXX
78016	26	A	Thyroid met imaging/studies	0.82	0.38	0.38	0.06	1.26	1.26	XXX
78017		A	Thyroid met imaging, mult	0.87	3.94	3.94	0.28	5.09	5.09	XXX
78017	TC	A	Thyroid met imaging, mult	0.00	3.55	3.55	0.22	3.77	3.77	XXX
78017	26	A	Thyroid met imaging, mult	0.87	0.39	0.39	0.06	1.32	1.32	XXX
78018		A	Thyroid, met imaging, body	0.95	5.60	5.60	0.39	6.94	6.94	XXX
78018	TC	A	Thyroid, met imaging, body	0.00	5.17	5.17	0.33	5.50	5.50	XXX
78018	26	A	Thyroid, met imaging, body	0.95	0.43	0.43	0.06	1.44	1.44	XXX
78070		A	Parathyroid nuclear imaging	0.82	1.96	1.96	0.15	2.93	2.93	XXX
78070	TC	A	Parathyroid nuclear imaging	0.00	1.73	1.73	0.11	1.84	1.84	XXX
78070	26	A	Parathyroid nuclear imaging	0.82	0.23	0.23	0.04	1.09	1.09	XXX
78075		A	Adrenal nuclear imaging	0.74	5.51	5.51	0.38	6.63	6.63	XXX
78075	TC	A	Adrenal nuclear imaging	0.00	5.17	5.17	0.38	5.50	5.50	XXX
78075	26	A	Adrenal nuclear imaging	0.74	0.34	0.34	0.05	1.13	1.13	XXX
78099		C	Endocrine nuclear procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78099	TC	C	Endocrine nuclear procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78099	26	C	Endocrine nuclear procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78102		A	Bone marrow imaging, ltd	0.56	2.19	2.19	0.17	2.91	2.91	XXX
78102	TC	A	Bone marrow imaging, ltd	0.00	1.94	1.94	0.13	2.07	2.07	XXX
78102	26	A	Bone marrow imaging, ltd	0.56	0.25	0.25	0.04	0.84	0.84	XXX
78103		A	Bone marrow imaging, mult	0.75	3.36	3.36	0.24	4.35	4.35	XXX
78103	TC	A	Bone marrow imaging, mult	0.00	3.02	3.02	0.19	3.21	3.21	XXX
78103	26	A	Bone marrow imaging, mult	0.75	0.34	0.34	0.05	1.14	1.14	XXX
78104		A	Bone marrow imaging, body	0.80	4.25	4.25	0.30	5.35	5.35	XXX
78104	TC	A	Bone marrow imaging, body	0.00	3.86	3.86	0.25	4.13	4.13	XXX
78104	26	A	Bone marrow imaging, body	0.80	0.37	0.37	0.05	1.22	1.22	XXX
78110		A	Plasma volume, single	0.19	0.99	0.99	0.07	1.25	1.25	XXX
78110	TC	A	Plasma volume, single	0.00	0.90	0.90	0.06	0.96	0.96	XXX
78110	26	A	Plasma volume, single	0.19	0.09	0.09	0.01	0.29	0.29	XXX
78111		A	Plasma volume, multiple	0.22	2.55	2.55	0.18	2.95	2.95	XXX
78111	TC	A	Plasma volume, multiple	0.00	2.45	2.45	0.16	2.61	2.61	XXX
78111	26	A	Plasma volume, multiple	0.22	0.10	0.10	0.02	0.34	0.34	XXX
78120		A	Red cell mass, single	0.23	1.76	1.76	0.13	2.12	2.12	XXX
78120	TC	A	Red cell mass, single	0.00	1.65	1.65	0.11	1.76	1.76	XXX

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[2] Copyright 1994 American Dental Association. All rights reserved.
[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
78120	26	A	Red cell mass, single	0.23	0.11	0.11	0.02	0.36	0.36	XXX
78121		A	Red cell mass, multiple	0.32	2.92	2.92	0.19	3.43	3.43	XXX
78121	TC	A	Red cell mass, multiple	0.00	2.77	2.77	0.17	2.94	2.94	XXX
78121	26	A	Red cell mass, multiple	0.32	0.15	0.15	0.02	0.49	0.49	XXX
78122		A	Blood volume	0.45	4.59	4.59	0.31	5.35	5.35	XXX
78122	TC	A	Blood volume	0.00	4.39	4.39	0.28	4.67	4.67	XXX
78122	26	A	Blood volume	0.45	0.20	0.20	0.03	0.68	0.68	XXX
78130		A	Red cell survival study	0.61	3.00	3.00	0.21	3.82	3.82	XXX
78130	TC	A	Red cell survival study	0.00	2.72	2.72	0.17	2.89	2.89	XXX
78130	26	A	Red cell survival study	0.61	0.28	0.28	0.04	0.93	0.93	XXX
78135		A	Red cell survival kinetics	0.64	4.93	4.93	0.34	5.91	5.91	XXX
78135	TC	A	Red cell survival kinetics	0.00	4.64	4.64	0.30	4.94	4.94	XXX
78135	26	A	Red cell survival kinetics	0.64	0.29	0.29	0.04	0.97	0.97	XXX
78140		A	Red cell sequestration	0.61	4.03	4.03	0.28	4.92	4.92	XXX
78140	TC	A	Red cell sequestration	0.00	3.75	3.75	0.24	3.99	3.99	XXX
78140	26	A	Red cell sequestration	0.61	0.28	0.28	0.04	0.93	0.93	XXX
78160		A	Plasma iron turnover	0.33	3.84	3.84	0.24	4.21	4.21	XXX
78160	TC	A	Plasma iron turnover	0.00	3.49	3.49	0.22	3.71	3.71	XXX
78160	26	A	Plasma iron turnover	0.33	0.15	0.15	0.02	0.50	0.50	XXX
78162		A	Iron absorption exam	0.45	3.25	3.25	0.22	3.92	3.92	XXX
78162	TC	A	Iron absorption exam	0.00	3.05	3.05	0.18	3.24	3.24	XXX
78162	26	A	Iron absorption exam	0.45	0.20	0.20	0.03	0.68	0.68	XXX
78170		A	Red cell iron utilization	0.41	5.24	5.24	0.35	6.00	6.00	XXX
78170	TC	A	Red cell iron utilization	0.00	5.06	5.06	0.32	5.38	5.38	XXX
78170	26	A	Red cell iron utilization	0.41	0.18	0.18	0.03	0.62	0.62	XXX
78172		C	Total body iron estimation	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78172	TC	C	Total body iron estimation	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78172	26	A	Total body iron estimation	0.53	0.25	0.25	0.04	0.82	0.82	XXX
78185		A	Spleen imaging	0.40	2.43	2.43	0.18	3.01	3.01	XXX
78185	TC	A	Spleen imaging	0.00	2.25	2.25	0.15	2.40	2.40	XXX
78185	26	A	Spleen imaging	0.40	0.18	0.18	0.03	0.61	0.61	XXX
78190		A	Platelet survival, kinetics	1.09	5.93	5.93	0.42	7.44	7.44	XXX
78190	TC	A	Platelet survival, kinetics	0.00	5.45	5.45	0.35	5.80	5.80	XXX
78190	26	A	Platelet survival, kinetics	1.09	0.48	0.48	0.07	1.64	1.64	XXX
78191		A	Platelet survival	0.61	7.27	7.27	0.48	8.36	8.36	XXX
78191	TC	A	Platelet survival	0.00	6.99	6.99	0.44	7.43	7.43	XXX
78191	26	A	Platelet survival	0.61	0.28	0.28	0.04	0.93	0.93	XXX
78195		A	Lymph system imaging	1.20	4.20	4.20	0.30	5.70	5.70	XXX
78195	TC	A	Lymph system imaging	0.00	3.88	3.88	0.25	4.13	4.13	XXX
78195	26	A	Lymph system imaging	1.20	0.32	0.32	0.05	1.57	1.57	XXX
78199		C	Blood/lymph nuclear exam	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78199	TC	C	Blood/lymph nuclear exam	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78199	26	C	Blood/lymph nuclear exam	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78201		A	Liver imaging	0.44	2.44	2.44	0.18	3.06	3.06	XXX
78201	TC	A	Liver imaging	0.00	2.25	2.25	0.15	2.40	2.40	XXX
78201	26	A	Liver imaging	0.44	0.19	0.19	0.03	0.66	0.66	XXX
78202		A	Liver imaging with flow	0.51	2.98	2.98	0.21	3.70	3.70	XXX
78202	TC	A	Liver imaging with flow	0.00	2.75	2.75	0.17	2.92	2.92	XXX
78202	26	A	Liver imaging with flow	0.51	0.23	0.23	0.04	0.78	0.78	XXX
78205		A	Liver imaging (3D)	0.71	5.96	5.96	0.41	7.08	7.08	XXX
78205	TC	A	Liver imaging (3D)	0.00	5.63	5.63	0.36	5.99	5.99	XXX
78205	26	A	Liver imaging (3D)	0.71	0.33	0.33	0.05	1.09	1.09	XXX
78215		A	Liver and spleen imaging	0.49	3.02	3.02	0.20	3.71	3.71	XXX
78215	TC	A	Liver and spleen imaging	0.00	2.80	2.80	0.17	2.97	2.97	XXX
78215	26	A	Liver and spleen imaging	0.49	0.22	0.22	0.03	0.74	0.74	XXX
78216		A	Liver & spleen image, flow	0.57	3.58	3.58	0.25	4.40	4.40	XXX
78216	TC	A	Liver & spleen image, flow	0.00	3.32	3.32	0.21	3.53	3.53	XXX
78216	26	A	Liver & spleen image, flow	0.57	0.26	0.26	0.04	0.87	0.87	XXX
78220		A	Liver function study	0.49	3.77	3.77	0.25	4.51	4.51	XXX
78220	TC	A	Liver function study	0.00	3.55	3.55	0.22	3.77	3.77	XXX
78220	26	A	Liver function study	0.49	0.22	0.22	0.03	0.74	0.74	XXX
78223		A	Hepatobiliary imaging	0.84	3.87	3.87	0.28	4.99	4.99	XXX
78223	TC	A	Hepatobiliary imaging	0.00	3.49	3.49	0.22	3.71	3.71	XXX
78223	26	A	Hepatobiliary imaging	0.84	0.38	0.38	0.06	1.28	1.28	XXX
78230		A	Salivary gland imaging	0.45	2.28	2.28	0.17	2.90	2.90	XXX
78230	TC	A	Salivary gland imaging	0.00	2.07	2.07	0.14	2.21	2.21	XXX
78230	26	A	Salivary gland imaging	0.45	0.21	0.21	0.03	0.69	0.69	XXX
78231		A	Serial salivary imaging	0.52	3.26	3.26	0.23	4.01	4.01	XXX
78231	TC	A	Serial salivary imaging	0.00	3.02	3.02	0.19	3.21	3.21	XXX
78231	26	A	Serial salivary imaging	0.52	0.24	0.24	0.04	0.80	0.80	XXX
78232		A	Salivary gland function exam	0.47	3.59	3.59	0.24	4.30	4.30	XXX
78232	TC	A	Salivary gland function exam	0.00	3.37	3.37	0.21	3.58	3.58	XXX
78232	26	A	Salivary gland function exam	0.47	0.22	0.22	0.03	0.72	0.72	XXX
78258		A	Esophageal motility study	0.74	3.09	3.09	0.22	4.05	4.05	XXX

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[2] Copyright 1994 American Dental Association. All rights reserved.
[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT 1/ HCPCS 2	MOD	Status	Description	Physician work RVUs 3 4	Non-facility practice expense RVUs 5	Facility practice expense RVUs 5	Mal-practice RVUs	Non-facility total	Facility total	Global
78258	TC	A	Esophageal motility study	0.00	2.75	2.75	0.17	2.92	2.92	XXX
78258	26	A	Esophageal motility study	0.74	0.34	0.34	0.05	1.13	1.13	XXX
78261		A	Gastric mucosa imaging	0.60	4.23	4.23	0.30	5.22	5.22	XXX
78261	TC	A	Gastric mucosa imaging	0.00	3.91	3.91	0.25	4.16	4.16	XXX
78261	26	A	Gastric mucosa imaging	0.69	0.32	0.32	0.05	1.06	1.06	XXX
78262		A	Gastroesophageal reflux exam	0.66	4.38	4.38	0.31	5.35	5.35	XXX
78262	TC	A	Gastroesophageal reflux exam	0.00	4.05	4.05	0.26	4.31	4.31	XXX
78262	26	A	Gastroesophageal reflux exam	0.66	0.31	0.31	0.05	1.04	1.04	XXX
78264		A	Gastric emptying study	0.78	4.29	4.29	0.30	5.37	5.37	XXX
78264	TC	A	Gastric emptying study	0.00	3.98	3.98	0.25	4.18	4.18	XXX
78264	26	A	Gastric emptying study	0.78	0.36	0.36	0.05	1.19	1.19	XXX
78270		A	Vit B–12 absorption exam	0.20	1.57	1.57	0.11	1.88	1.88	XXX
78270	TC	A	Vit B–12 absorption exam	0.00	1.47	1.47	0.10	1.57	1.57	XXX
78270	26	A	Vit B–12 absorption exam	0.20	0.10	0.10	0.01	0.31	0.31	XXX
78271		A	Vit B–12 absorp exam, IF	0.20	1.57	1.57	0.11	1.98	1.98	XXX
78271	TC	A	Vit B–12 absorp exam, IF	0.00	1.57	1.57	0.10	1.67	1.67	XXX
78271	26	A	Vit B–12 absorp exam, IF	0.20	0.10	0.10	0.01	0.31	0.31	XXX
78272		A	Vit B–12 absorp, combined	0.27	2.34	2.34	0.17	2.78	2.78	XXX
78272	TC	A	Vit B–12 absorp, combined	0.00	2.21	2.21	0.15	2.36	2.36	XXX
78272	26	A	Vit B–12 absorp, combined	0.27	0.13	0.13	0.02	0.42	0.42	XXX
78278		A	Acute GI blood loss imaging	0.99	5.09	5.09	0.37	6.45	6.45	XXX
78278	TC	A	Acute GI blood loss imaging	0.00	4.84	4.84	0.30	4.94	4.94	XXX
78278	26	A	Acute GI blood loss imaging	0.99	0.45	0.45	0.07	1.51	1.51	XXX
78282		C	GI protein loss exam	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78282	TC	C	GI protein loss exam	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78282	26	A	GI protein loss exam	0.36	0.17	0.17	0.03	0.56	0.56	XXX
78290		A	Meckel's divert exam	0.66	3.21	3.21	0.23	4.12	4.12	XXX
78290	TC	A	Meckel's divert exam	0.00	2.90	2.90	0.18	3.08	3.08	XXX
78290	26	A	Meckel's divert exam	0.66	0.31	0.31	0.05	1.04	1.04	XXX
78291		A	Leveen/shunt patency exam	0.66	3.31	3.31	0.24	4.43	4.43	XXX
78291	TC	A	Leveen/shunt patency exam	0.00	2.92	2.92	0.18	3.10	3.10	XXX
78291	26	A	Leveen/shunt patency exam	0.66	0.39	0.39	0.06	1.33	1.33	XXX
78299		C	GI nuclear procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78299	TC	C	GI nuclear procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78299	26	C	GI nuclear procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78300		A	Bone imaging, limited area	0.62	2.66	2.66	0.20	3.48	3.48	XXX
78300	TC	A	Bone imaging, limited area	0.00	2.37	2.37	0.16	2.53	2.53	XXX
78300	26	A	Bone imaging, limited area	0.62	0.29	0.29	0.04	0.95	0.95	XXX
78305		A	Bone imaging, multiple areas	0.83	3.67	3.67	0.28	4.98	4.98	XXX
78305	TC	A	Bone imaging, multiple areas	0.00	3.49	3.49	0.22	3.71	3.71	XXX
78305	26	A	Bone imaging, multiple areas	0.83	0.38	0.38	0.06	1.27	1.27	XXX
78306		A	Bone imaging, whole body	0.86	4.46	4.46	0.32	5.64	5.64	XXX
78306	TC	A	Bone imaging, whole body	0.00	4.07	4.07	0.26	4.33	4.33	XXX
78306	26	A	Bone imaging, whole body	0.86	0.39	0.39	0.06	1.31	1.31	XXX
78315		A	Bone imaging, 3 phase	1.02	5.00	5.00	0.36	6.38	6.38	XXX
78315	TC	A	Bone imaging, 3 phase	0.00	4.55	4.55	0.29	4.84	4.84	XXX
78315	26	A	Bone imaging, 3 phase	1.02	0.45	0.45	0.07	1.54	1.54	XXX
78320		A	Bone imaging (SD)	1.04	6.09	6.09	0.43	7.56	7.56	XXX
78320	TC	A	Bone imaging (SD)	0.00	5.63	5.63	0.36	5.99	5.99	XXX
78320	26	A	Bone imaging (SD)	1.04	0.46	0.46	0.07	1.57	1.57	XXX
78350		A	Bone mineral, single photon	0.22	0.82	0.82	0.07	1.11	1.11	XXX
78350	TC	A	Bone mineral, single photon	0.00	0.72	0.72	0.05	0.77	0.77	XXX
78350	26	A	Bone mineral, single photon	0.22	0.10	0.10	0.02	0.34	0.34	XXX
78351		N	Bone mineral, dual photon	+0.30	0.19	0.19	0.02	0.51	0.51	XXX
78399		C	Musculoskeletal nuclear exam	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78399	TC	C	Musculoskeletal nuclear exam	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78399	26	C	Musculoskeletal nuclear exam	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78414		C	Non-imaging heart function	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78414	TC	C	Non-imaging heart function	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78414	26	A	Non-imaging heart function	0.45	0.20	0.20	0.03	0.68	0.68	XXX
78428		A	Cardiac shunt imaging	0.78	2.51	2.51	0.19	3.48	3.48	XXX
78428	TC	A	Cardiac shunt imaging	0.00	2.15	2.15	0.14	2.29	2.29	XXX
78428	26	A	Cardiac shunt imaging	0.78	0.36	0.36	0.05	1.19	1.19	XXX
78445		A	Vascular flow imaging	0.49	2.01	2.01	0.15	2.65	2.65	XXX
78445	TC	A	Vascular flow imaging	0.00	1.77	1.77	0.11	1.88	1.88	XXX
78445	26	A	Vascular flow imaging	0.49	0.24	0.24	0.04	0.77	0.77	XXX
78455		A	Venous thrombosis study	0.73	4.13	4.13	0.29	5.15	5.15	XXX
78455	TC	A	Venous thrombosis study	0.00	3.80	3.80	0.24	4.04	4.04	XXX
78455	26	A	Venous thrombosis study	0.73	0.33	0.33	0.05	1.11	1.11	XXX
78457		A	Venous thrombosis imaging	0.77	2.88	2.88	0.22	3.87	3.87	XXX
78457	TC	A	Venous thrombosis imaging	0.00	2.53	2.53	0.17	2.70	2.70	XXX
78457	26	A	Venous thrombosis imaging	0.77	0.35	0.35	0.05	1.17	1.17	XXX
78458		A	Ven thrombosis images, bilat	0.90	4.23	4.23	0.30	5.43	5.43	XXX
78458	TC	A	Ven thrombosis images, bilat	0.00	3.83	3.83	0.24	4.07	4.07	XXX

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ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT 1/ HCPCS 2	MOD	Status	Description	Physician work RVUs 3 4	Non-facility practice expense RVUs 5	Facility practice expense RVUs 5	Mal-practice RVUs	Non-facility total	Facility total	Global
78458	26	A	Ven thrombosis images, bilat	0.90	0.40	0.40	0.06	1.36	1.36	XXX
78459		I	Heart muscle imaging (PET)	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78459	TC	I	Heart muscle imaging (PET)	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78459	26	I	Heart muscle imaging (PET)	+1.88	1.34	1.34	0.10	3.32	3.32	XXX
78460		A	Heart muscle blood single	0.86	2.64	2.64	0.21	3.71	3.71	XXX
78460	TC	A	Heart muscle blood single	0.00	2.25	2.25	0.15	2.40	2.40	XXX
78460	26	A	Heart muscle blood single	0.86	0.39	0.39	0.06	1.31	1.31	XXX
78461		A	Heart muscle blood multiple	1.23	5.04	5.04	0.37	6.64	6.64	XXX
78461	TC	A	Heart muscle blood multiple	0.00	4.50	4.50	0.29	4.79	4.79	XXX
78461	26	A	Heart muscle blood multiple	1.23	0.54	0.54	0.08	1.85	1.85	XXX
78464		A	Heart image (3D) single	1.09	7.22	7.22	0.50	8.81	8.81	XXX
78464	TC	A	Heart image (3D) single	0.00	6.74	6.74	0.43	7.17	7.17	XXX
78464	26	A	Heart image (3D) single	1.09	0.48	0.48	0.07	1.64	1.64	XXX
78465		A	Heart image (3D) multiple	1.46	11.89	11.89	0.80	14.15	14.15	XXX
78465	TC	A	Heart image (3D) multiple	0.00	11.24	11.24	0.70	11.94	11.94	XXX
78465	26	A	Heart image (3D) multiple	1.46	0.65	0.65	0.10	2.21	2.21	XXX
78466		A	Heart infarct image	0.60	2.82	2.82	0.22	3.73	3.73	XXX
78466	TC	A	Heart infarct image	0.00	2.50	2.50	0.17	2.67	2.67	XXX
78466	26	A	Heart infarct image	0.60	0.32	0.32	0.05	1.06	1.06	XXX
78468		A	Heart infarct image, EF	0.80	3.85	3.85	0.27	4.92	4.92	XXX
78468	TC	A	Heart infarct image, EF	0.00	3.49	3.49	0.22	3.71	3.71	XXX
78468	26	A	Heart infarct image, EF	0.80	0.36	0.36	0.05	1.21	1.21	XXX
78469		A	Heart infarct image (SD)	0.92	5.39	5.39	0.38	6.69	6.69	XXX
78469	TC	A	Heart infarct image (SD)	0.00	4.98	4.98	0.32	5.30	5.30	XXX
78469	26	A	Heart infarct image (SD)	0.92	0.41	0.41	0.06	1.39	1.39	XXX
78472		A	Gated heart, resting	0.98	5.69	5.69	0.41	7.08	7.08	XXX
78472	TC	A	Gated heart, resting	0.00	5.25	5.25	0.34	5.59	5.59	XXX
78472	26	A	Gated heart, resting	0.98	0.44	0.44	0.07	1.49	1.49	XXX
78473		A	Gated heart, multiple	1.47	8.52	8.52	0.59	10.58	10.58	XXX
78473	TC	A	Gated heart, multiple	0.00	7.87	7.87	0.49	8.36	8.36	XXX
78473	26	A	Gated heart, multiple	1.47	0.65	0.65	0.10	2.22	2.22	XXX
78478		A	Heart wall motion (add-on)	0.62	1.76	1.76	0.14	2.52	2.52	XXX
78478	TC	A	Heart wall motion (add-on)	0.00	1.48	1.48	0.10	1.58	1.58	XXX
78478	26	A	Heart wall motion (add-on)	0.62	0.28	0.28	0.04	0.94	0.94	XXX
78480		A	Heart function, (add-on)	0.62	1.76	1.76	0.14	2.52	2.52	XXX
78480	TC	A	Heart function, (add-on)	0.00	1.48	1.48	0.10	1.58	1.58	XXX
78480	26	A	Heart function, (add-on)	0.62	0.28	0.28	0.04	0.94	0.94	XXX
78481		A	Heart first pass single	0.98	5.42	5.42	0.39	6.79	6.79	XXX
78481	TC	A	Heart first pass single	0.00	4.98	4.98	0.32	5.30	5.30	XXX
78481	26	A	Heart first pass single	0.98	0.44	0.44	0.07	1.49	1.49	XXX
78483		A	Heart first pass multiple	1.47	8.15	8.15	0.57	10.19	10.19	XXX
78483	TC	A	Heart first pass multiple	0.00	7.50	7.50	0.47	7.97	7.97	XXX
78483	26	A	Heart first pass multiple	1.47	0.65	0.65	0.10	2.22	2.22	XXX
78491		I	Heart image (pet) single	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78491	TC	I	Heart image (pet) single	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78491	26	I	Heart image (pet) single	+1.50	1.34	1.34	0.10	2.94	2.94	XXX
78492		I	Heart image (pet) multiple	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78492	TC	I	Heart image (pet) multiple	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78492	26	I	Heart image (pet) multiple	+1.87	1.34	1.34	0.10	3.31	3.31	XXX
78499		C	Cardiovascular nuclear exam	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78499	TC	C	Cardiovascular nuclear exam	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78499	26	C	Cardiovascular nuclear exam	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78580		A	Lung perfusion imaging	0.74	3.61	3.61	0.26	4.61	4.61	XXX
78580	TC	A	Lung perfusion imaging	0.00	3.27	3.27	0.21	3.48	3.48	XXX
78580	26	A	Lung perfusion imaging	0.74	0.34	0.34	0.05	1.13	1.13	XXX
78584		A	Lung V/Q image single breath	0.99	3.50	3.50	0.26	4.75	4.75	XXX
78584	TC	A	Lung V/Q image single breath	0.00	3.05	3.05	0.19	3.24	3.24	XXX
78584	26	A	Lung V/Q image single breath	0.99	0.45	0.45	0.07	1.51	1.51	XXX
78585		A	Lung V/Q imaging	1.09	5.85	5.85	0.41	7.35	7.35	XXX
78585	TC	A	Lung V/Q imaging	0.00	5.37	5.37	0.34	5.71	5.71	XXX
78585	26	A	Lung V/Q imaging	1.09	0.48	0.48	0.07	1.64	1.64	XXX
78586		A	Aerosol lung image, single	0.40	2.65	2.65	0.19	3.24	3.24	XXX
78586	TC	A	Aerosol lung image, single	0.00	2.47	2.47	0.16	2.63	2.63	XXX
78586	26	A	Aerosol lung image, single	0.40	0.18	0.18	0.03	0.61	0.61	XXX
78587		A	Aerosol lung image, multiple	0.49	2.89	2.89	0.20	3.58	3.58	XXX
78587	TC	A	Aerosol lung image, multiple	0.00	2.67	2.67	0.17	2.84	2.84	XXX
78587	26	A	Aerosol lung image, multiple	0.49	0.22	0.22	0.03	0.74	0.74	XXX
78591		A	Vent image, 1 breath, 1 proj	0.40	2.90	2.90	0.20	3.50	3.50	XXX
78591	TC	A	Vent image, 1 breath, 1 proj	0.00	2.72	2.72	0.17	2.89	2.89	XXX
78591	26	A	Vent image, 1 breath, 1 proj	0.40	0.18	0.18	0.03	0.61	0.61	XXX
78593		A	Vent image, 1 proj, gas	0.49	3.51	3.51	0.24	4.24	4.24	XXX
78593	TC	A	Vent image, 1 proj, gas	0.00	3.29	3.29	0.21	3.50	3.50	XXX
78593	26	A	Vent image, 1 proj, gas	0.49	0.22	0.22	0.03	0.74	0.74	XXX
78594		A	Vent image, mult proj, gas	0.53	4.60	5.00	0.34	5.87	5.87	XXX

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ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1] / HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
78594	TC	A	Vent imags, mult proj, gas	0.00	4.75	4.75	0.30	5.05	5.05	XXX
78594	26	A	Vent imags, mult proj, gas	0.53	0.25	0.25	0.04	0.82	0.82	XXX
78596		A	Lung differential function	1.27	7.30	7.30	0.52	9.09	9.09	XXX
78596	TC	A	Lung differential function	0.00	6.74	6.74	0.43	7.17	7.17	XXX
78596	26	A	Lung differential function	1.27	0.56	0.56	0.09	1.92	1.92	XXX
78599		C	Respiratory nuclear exam	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78599	TC	C	Respiratory nuclear exam	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78599	26	C	Respiratory nuclear exam	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78600		A	Brain imaging, ltd static	0.44	2.95	2.95	0.20	3.59	3.59	XXX
78600	TC	A	Brain imaging, ltd static	0.00	2.75	2.75	0.17	2.92	2.92	XXX
78600	26	A	Brain imaging, ltd static	0.44	0.20	0.20	0.03	0.67	0.67	XXX
78601		A	Brain ltd imaging & flow	0.51	3.48	3.48	0.24	4.23	4.23	XXX
78601	TC	A	Brain ltd imaging & flow	0.00	3.24	3.24	0.20	3.44	3.44	XXX
78601	26	A	Brain ltd imaging & flow	0.51	0.24	0.24	0.04	0.79	0.79	XXX
78605		A	Brain imaging, complete	0.53	3.49	3.49	0.24	4.26	4.26	XXX
78605	TC	A	Brain imaging, complete	0.00	3.24	3.24	0.20	3.44	3.44	XXX
78605	26	A	Brain imaging, complete	0.53	0.25	0.25	0.04	0.82	0.82	XXX
78608		A	Brain imaging comp & flow	0.64	3.98	3.98	0.27	4.89	4.89	XXX
78608	TC	A	Brain imaging comp & flow	0.00	3.69	3.69	0.23	3.92	3.92	XXX
78608	26	A	Brain imaging comp & flow	0.64	0.29	0.29	0.04	0.97	0.97	XXX
78607		A	Brain imaging (3D)	1.23	6.79	6.79	0.47	8.49	8.49	XXX
78607	TC	A	Brain imaging (3D)	0.00	6.25	6.25	0.39	6.64	6.64	XXX
78607	26	A	Brain imaging (3D)	1.23	0.54	0.54	0.08	1.85	1.85	XXX
78608		N	Brain imaging (PET)	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78609		N	Brain imaging (PET)	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78610		A	Brain flow imaging only	0.30	1.84	1.84	0.12	2.06	2.06	XXX
78610	TC	A	Brain flow imaging only	0.00	1.50	1.50	0.10	1.60	1.60	XXX
78610	26	A	Brain flow imaging only	0.30	0.14	0.14	0.02	0.46	0.46	XXX
78615		A	Cerebral blood flow imaging	0.42	3.86	3.86	0.26	4.54	4.54	XXX
78615	TC	A	Cerebral blood flow imaging	0.00	3.67	3.67	0.23	3.90	3.90	XXX
78615	26	A	Cerebral blood flow imaging	0.42	0.19	0.19	0.03	0.64	0.64	XXX
78630		A	Cerebrospinal fluid scan	0.68	5.11	5.11	0.36	6.15	6.15	XXX
78630	TC	A	Cerebrospinal fluid scan	0.00	4.80	4.80	0.31	5.11	5.11	XXX
78630	26	A	Cerebrospinal fluid scan	0.68	0.31	0.31	0.05	1.04	1.04	XXX
78635		A	CSF ventriculography	0.61	2.70	2.70	0.20	3.51	3.51	XXX
78635	TC	A	CSF ventriculography	0.00	2.42	2.42	0.16	2.58	2.58	XXX
78635	26	A	CSF ventriculography	0.61	0.28	0.28	0.04	0.93	0.93	XXX
78645		A	CSF shunt evaluation	0.57	3.53	3.53	0.25	4.35	4.35	XXX
78645	TC	A	CSF shunt evaluation	0.00	3.27	3.27	0.21	3.48	3.48	XXX
78645	26	A	CSF shunt evaluation	0.57	0.26	0.26	0.04	0.87	0.87	XXX
78647		A	Cerebrospinal fluid scan	0.90	6.04	6.04	0.42	7.36	7.36	XXX
78647	TC	A	Cerebrospinal fluid scan	0.00	5.63	5.63	0.36	5.99	5.99	XXX
78647	26	A	Cerebrospinal fluid scan	0.90	0.41	0.41	0.06	1.37	1.37	XXX
78650		A	CSF leakage imaging	0.61	4.70	4.70	0.32	5.63	5.63	XXX
78650	TC	A	CSF leakage imaging	0.00	4.42	4.42	0.28	4.70	4.70	XXX
78650	26	A	CSF leakage imaging	0.61	0.28	0.28	0.04	0.93	0.93	XXX
78660		A	Nuclear exam of tear flow	0.53	2.27	2.27	0.17	2.97	2.97	XXX
78660	TC	A	Nuclear exam of tear flow	0.00	2.02	2.02	0.13	2.15	2.15	XXX
78660	26	A	Nuclear exam of tear flow	0.53	0.25	0.25	0.04	0.82	0.82	XXX
78699		C	Nervous system nuclear exam	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78699	TC	C	Nervous system nuclear exam	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78699	26	C	Nervous system nuclear exam	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78700		A	Kidney imaging, static	0.45	3.10	3.10	0.21	3.76	3.76	XXX
78700	TC	A	Kidney imaging, static	0.00	2.90	2.90	0.18	3.08	3.08	XXX
78700	26	A	Kidney imaging, static	0.45	0.20	0.20	0.03	0.68	0.68	XXX
78701		A	Kidney imaging with flow	0.49	3.61	3.61	0.24	4.34	4.34	XXX
78701	TC	A	Kidney imaging with flow	0.00	3.39	3.39	0.21	3.60	3.60	XXX
78701	26	A	Kidney imaging with flow	0.49	0.22	0.22	0.03	0.74	0.74	XXX
78704		A	Imaging renogram	0.74	4.11	4.11	0.29	5.14	5.14	XXX
78704	TC	A	Imaging renogram	0.00	3.77	3.77	0.24	4.01	4.01	XXX
78704	26	A	Imaging renogram	0.74	0.34	0.34	0.05	1.13	1.13	XXX
78707		A	Kidney flow & function image	0.98	4.86	4.86	0.33	5.97	5.97	XXX
78707	TC	A	Kidney flow & function image	0.00	4.26	4.26	0.27	4.53	4.53	XXX
78707	26	A	Kidney flow & function image	0.98	0.42	0.42	0.06	1.44	1.44	XXX
78708		A	Kidney flow & function image	1.21	4.86	4.86	0.35	6.22	6.22	XXX
78708	TC	A	Kidney flow & function image	0.00	4.26	4.26	0.27	4.53	4.53	XXX
78708	26	A	Kidney flow & function image	1.21	0.42	0.42	0.06	1.69	1.69	XXX
78709		A	Kidney flow & function image	1.41	4.86	4.86	0.33	6.42	6.42	XXX
78709	TC	A	Kidney flow & function image	0.00	4.26	4.26	0.27	4.53	4.53	XXX
78709	26	A	Kidney flow & function image	1.41	0.42	0.42	0.06	1.89	1.89	XXX
78710		A	Kidney imaging (3D)	0.66	5.93	5.93	0.41	7.00	7.00	XXX
78710	TC	A	Kidney imaging (3D)	0.00	5.63	5.63	0.36	5.99	5.99	XXX
78710	26	A	Kidney imaging (3D)	0.66	0.30	0.30	0.05	1.01	1.01	XXX
78715		A	Renal vascular flow exam	0.30	1.84	1.84	0.12	2.06	2.06	XXX

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[5] 9 Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1] / HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
78715	TC	A	Renal vascular flow exam	0.00	1.50	1.50	0.10	1.60	1.60	XXX
78715	26	A	Renal vascular flow exam	0.30	0.14	0.14	0.02	0.46	0.46	XXX
78725		A	Kidney function study	0.38	1.87	1.87	0.14	2.39	2.39	XXX
78725	TC	A	Kidney function study	0.00	1.70	1.70	0.11	1.81	1.81	XXX
78725	26	A	Kidney function study	0.38	0.17	0.17	0.03	0.58	0.58	XXX
78726		D	Kidney function w/intervent	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78726	TC	D	Kidney function w/intervent	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78726	26	D	Kidney function w/intervent	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78727		D	Kidney transplant evaluation	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78727	TC	D	Kidney transplant evaluation	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78727	26	D	Kidney transplant evaluation	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78730		A	Urinary bladder retention	0.38	1.55	1.55	0.11	2.02	2.02	XXX
78730	TC	A	Urinary bladder retention	0.00	1.39	1.39	0.09	1.48	1.48	XXX
78730	26	A	Urinary bladder retention	0.38	0.16	0.16	0.02	0.54	0.54	XXX
78740		A	Ureteral reflux study	0.57	2.28	2.28	0.17	3.02	3.02	XXX
78740	TC	A	Ureteral reflux study	0.00	2.02	2.02	0.13	2.15	2.15	XXX
78740	26	A	Ureteral reflux study	0.57	0.26	0.26	0.04	0.87	0.87	XXX
78760		A	Testicular imaging	0.66	2.85	2.85	0.21	3.72	3.72	XXX
78760	TC	A	Testicular imaging	0.00	2.55	2.55	0.17	2.72	2.72	XXX
78760	26	A	Testicular imaging	0.66	0.30	0.30	0.04	1.00	1.00	XXX
78761		A	Testicular imaging & flow	0.71	3.98	3.98	0.24	4.93	4.93	XXX
78761	TC	A	Testicular imaging & flow	0.00	3.05	3.05	0.19	3.24	3.24	XXX
78761	26	A	Testicular imaging & flow	0.71	0.33	0.33	0.05	1.09	1.09	XXX
78799		C	Genitourinary nuclear exam	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78799	TC	C	Genitourinary nuclear exam	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78799	26	C	Genitourinary nuclear exam	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78800		A	Tumor imaging, limited area	0.66	3.54	3.54	0.24	4.44	4.44	XXX
78800	TC	A	Tumor imaging, limited area	0.00	3.24	3.24	0.20	3.44	3.44	XXX
78800	26	A	Tumor imaging, limited area	0.66	0.30	0.30	0.04	1.00	1.00	XXX
78801		A	Tumor imaging, mult areas	0.79	4.39	4.39	0.31	5.49	5.49	XXX
78801	TC	A	Tumor imaging, mult areas	0.00	4.03	4.03	0.28	4.29	4.29	XXX
78801	26	A	Tumor imaging, mult areas	0.79	0.36	0.36	0.05	1.20	1.20	XXX
78802		A	Tumor imaging, whole body	0.86	5.66	5.66	0.40	6.92	6.92	XXX
78802	TC	A	Tumor imaging, whole body	0.00	5.27	5.27	0.34	5.61	5.61	XXX
78802	26	A	Tumor imaging, whole body	0.86	0.39	0.39	0.06	1.31	1.31	XXX
78803		A	Tumor imaging (3D)	1.09	6.73	6.73	0.46	8.28	8.28	XXX
78803	TC	A	Tumor imaging (3D)	0.00	6.25	6.25	0.39	6.64	6.64	XXX
78803	26	A	Tumor imaging (3D)	1.09	0.48	0.48	0.07	1.64	1.64	XXX
78805		A	Abscess imaging, ltd area	0.73	3.57	3.57	0.25	4.55	4.55	XXX
78805	TC	A	Abscess imaging, ltd area	0.00	3.24	3.24	0.20	3.44	3.44	XXX
78805	26	A	Abscess imaging, ltd area	0.73	0.33	0.33	0.05	1.11	1.11	XXX
78806		A	Abscess imaging, whole body	0.86	6.51	6.51	0.45	7.82	7.82	XXX
78806	TC	A	Abscess imaging, whole body	0.00	6.13	6.13	0.39	6.52	6.52	XXX
78806	26	A	Abscess imaging, whole body	0.86	0.38	0.38	0.06	1.30	1.30	XXX
78807		A	Nuclear localization/abscess	1.09	6.73	6.73	0.46	8.28	8.28	XXX
78807	TC	A	Nuclear localization/abscess	0.00	6.25	6.25	0.39	6.64	6.64	XXX
78807	26	A	Nuclear localization/abscess	1.09	0.48	0.48	0.07	1.64	1.64	XXX
78810		N	Tumor imaging (PET)	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78810	TC	N	Tumor imaging (PET)	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78810	26	N	Tumor imaging (PET)	+1.99	1.37	1.37	0.10	3.40	3.40	XXX
78890		B	Nuclear medicine data proc	+0.05	1.26	1.26	0.08	1.39	1.39	XXX
78890	TC	B	Nuclear medicine data proc	+0.00	1.24	1.24	0.08	1.32	1.32	XXX
78890	26	B	Nuclear medicine data proc	+0.05	0.02	0.02	0.00	0.07	0.07	XXX
78891		B	Nuclear med data proc	+0.10	2.55	2.55	0.18	2.83	2.83	XXX
78891	TC	B	Nuclear med data proc	+0.00	2.50	2.50	0.17	2.67	2.67	XXX
78891	26	B	Nuclear med data proc	+0.10	0.05	0.05	0.01	0.16	0.16	XXX
78999		I	Provide diag radionuclide(s)	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78999		C	Nuclear diagnostic exam	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78999	TC	C	Nuclear diagnostic exam	0.00	0.00	0.00	0.00	0.00	0.00	XXX
78999	26	C	Nuclear diagnostic exam	0.00	0.00	0.00	0.00	0.00	0.00	XXX
79000		A	Initial hyperthyroid therapy	1.80	3.31	3.31	0.29	5.40	5.40	XXX
79000	TC	A	Initial hyperthyroid therapy	0.00	2.50	2.50	0.17	2.67	2.67	XXX
79000	26	A	Initial hyperthyroid therapy	1.80	0.81	0.81	0.12	2.73	2.73	XXX
79001		A	Repeat hyperthyroid therapy	1.05	1.70	1.70	0.15	2.90	2.90	XXX
79001	TC	A	Repeat hyperthyroid therapy	0.00	1.24	1.24	0.08	1.32	1.32	XXX
79001	26	A	Repeat hyperthyroid therapy	1.05	0.46	0.46	0.07	1.58	1.58	XXX
79020		A	Thyroid ablation	1.81	3.31	3.31	0.29	5.41	5.41	XXX
79020	TC	A	Thyroid ablation	0.00	2.50	2.50	0.17	2.67	2.67	XXX
79020	26	A	Thyroid ablation	1.81	0.81	0.81	0.12	2.74	2.74	XXX
79030		A	Thyroid ablation, carcinoma	2.10	3.44	3.44	0.31	5.85	5.85	XXX
79030	TC	A	Thyroid ablation, carcinoma	0.00	2.50	2.50	0.17	2.67	2.67	XXX
79030	26	A	Thyroid ablation, carcinoma	2.10	0.94	0.94	0.14	3.18	3.18	XXX
79035		A	Thyroid metastatic therapy	2.52	3.63	3.63	0.34	6.49	6.49	XXX
79035	TC	A	Thyroid metastatic therapy	0.00	2.50	2.50	0.17	2.67	2.67	XXX

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[2] Copyright 1994 American Dental Association. All rights reserved.
[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] 9 Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1] / HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
79835	26	A	Thyroid metastatic therapy	2.52	1.13	1.13	0.17	3.82	3.82	XXX
79100		A	Hematopoietic nuclear therapy	1.32	3.08	3.08	0.26	4.66	4.66	XXX
79100	TC	A	Hematopoietic nuclear therapy	0.00	2.50	2.50	0.17	2.67	2.67	XXX
79100	26	A	Hematopoietic nuclear therapy	1.32	0.58	0.58	0.09	1.99	1.99	XXX
79200		A	Intracavitary nuc treatment	1.99	3.39	3.39	0.31	5.69	5.69	XXX
79200	TC	A	Intracavitary nuc treatment	0.00	2.50	2.50	0.17	2.67	2.67	XXX
79200	26	A	Intracavitary nuc treatment	1.99	0.89	0.88	0.14	3.02	3.02	XXX
79300		C	Interstitial nuclear therapy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
79300	TC	C	Interstitial nuclear therapy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
79300	26	A	Interstitial nuclear therapy	1.60	0.71	0.71	0.11	2.42	2.42	XXX
79400		A	Nonhemato nuclear therapy	1.96	3.37	3.37	0.30	5.63	5.63	XXX
79400	TC	A	Nonhemato nuclear therapy	0.00	2.50	2.50	0.17	2.67	2.67	XXX
79400	26	A	Nonhemato nuclear therapy	1.96	0.87	0.87	0.13	2.96	2.96	XXX
79420		C	Intravascular nuc therapy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
79420	TC	C	Intravascular nuc therapy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
79420	26	A	Intravascular nuc therapy	1.51	0.67	0.67	0.10	2.28	2.28	XXX
79440		A	Nuclear joint therapy	1.99	3.39	3.39	0.31	5.69	5.69	XXX
79440	TC	A	Nuclear joint therapy	0.00	2.50	2.50	0.17	2.67	2.67	XXX
79440	26	A	Nuclear joint therapy	1.99	0.89	0.89	0.14	3.02	3.02	XXX
79800		C	Provide ther radiopharm(s)	0.00	0.00	0.00	0.00	0.00	0.00	XXX
79999		C	Nuclear medicine therapy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
79999	TC	C	Nuclear medicine therapy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
79999	26	C	Nuclear medicine therapy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80002		D	1–2 clinical chem tests	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80003		D	3 clinical chemistry tests	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80004		D	124 clinical chemistry tests	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80005		D	5 clinical chemistry tests	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80006		D	6 clinical chemistry tests	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80007		D	7 clinical chemistry tests	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80008		D	8 clinical chemistry tests	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80009		D	129-clinical chemistry tests	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80010		D	110 clinical chemistry tests	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80011		D	11 clinical chemistry tests	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80012		D	12 clinical chemistry tests	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80016		D	13–16 blood/urine tests	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80018		D	112/317–18 blood/urine tests	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80019		D	12/31/8719 blood/urine tests	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80048		X	Metabolic panel, basic	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80050		N	General health panel	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80051		X	Electrolyte panel	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80054		X	Comprehen metabolic panel	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80055		I	Obstetric panel	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80058		X	Hepatic function panel	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80059		X	Hepatitis panel	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80061		X	Lipid panel	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80072		X	Arthritis panel	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80090		X	Torch antibody panel	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80081		X	Thyroid panel	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80092		X	Thyroid panel w/TSH	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80100		X	Drug screen	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80101		X	Drug screen	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80102		X	Drug confirmation	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80103		X	Drug analysis, tissue prep	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80150		X	Assay of amikacin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80152		X	Assay of amitriptyline	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80154		X	Assay of benzodiazepines	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80156		X	Assay carbamazepine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80158		X	Assay of cyclosporine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80160		X	Assay of desipramine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80162		X	Assay for digoxin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80164		X	Assay, dipropylacetic acid	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80166		X	Assay of doxepin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80168		X	Assay of ethosuximide	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80170		X	Gentamicin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80172		X	Assay for gold	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80174		X	Assay of imipramine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80176		X	Assay for lidocaine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80178		X	Assay for lithium	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80182		X	Assay for nortriptyline	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80184		X	Assay for phenobarbital	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80185		X	Assay for phenytoin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80186		X	Assay for phenytoin, free	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80188		X	Assay for primidone	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80190		X	Assay for procainamide	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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[2] Copyright 1994 American Dental Association. All rights reserved.
[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] ∮ Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1] / HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
80192		X	Assay for procainamide	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80194		X	Assay for quinidine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80196		X	Assay for salicylate	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80197		X	Assay for tacrolimus	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80198		X	Assay for theophylline	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80200		X	Assay for tobramycin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80201		X	Assay for topiramate	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80202		X	Assay for vancomycin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80299		X	Quantitative assay, drug	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80400		X	Acth stimulation panel	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80402		X	Acth stimulation panel	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80406		X	Acth stimulation panel	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80408		X	Aldosterone suppression eval	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80410		X	Calcitonin stimul panel	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80412		X	CRH stimulation panel	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80414		X	Testosterone response	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80415		X	Estradiol response panel	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80416		X	Renin stimulation panel	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80417		X	Renin stimulation panel	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80418		X	Pituitary evaluation panel	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80420		X	Dexamethasone panel	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80422		X	Glucagon tolerance panel	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80424		X	Glucagon tolerance panel	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80426		X	Gonadotropin hormone panel	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80428		X	Growth hormone panel	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80430		X	Growth hormone panel	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80432		X	Insulin suppression panel	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80434		X	Insulin tolerance panel	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80435		X	Insulin tolerance panel	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80436		X	Metyrapone panel	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80438		X	TRH stimulation panel	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80439		X	TRH stimulation panel	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80440		X	TRH stimulation panel	0.00	0.00	0.00	0.00	0.00	0.00	XXX
80500		A	Lab pathology consultation	0.37	0.20	0.20	0.01	0.58	0.58	XXX
80502		A	Lab pathology consultation	1.33	0.33	0.33	0.02	1.68	1.68	XXX
81000		X	Urinalysis, nonauto, w/scope	0.00	0.00	0.00	0.00	0.00	0.00	XXX
81001		X	Urinalysis, auto, w/scope	0.00	0.00	0.00	0.00	0.00	0.00	XXX
81002		X	Urinalysis nonauto w/o scope	0.00	0.00	0.00	0.00	0.00	0.00	XXX
81003		X	Urinalysis, auto, w/o scope	0.00	0.00	0.00	0.00	0.00	0.00	XXX
81005		X	Urinalysis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
81007		X	Urine screen for bacteria	0.00	0.00	0.00	0.00	0.00	0.00	XXX
81015		X	Microscopic exam of urine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
81020		X	Urinalysis, glass test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
81025		X	Urine pregnancy test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
81050		X	Urinalysis, volume measure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
81099		X	Urinalysis test procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82000		X	Assay blood acetaldehyde	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82003		X	Assay acetaminophen	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82009		X	Test for acetone/ketones	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82010		X	Acetone assay	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82013		X	Acetylcholinesterase assay	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82024		X	ACTH	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82030		X	ADP & AMP	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82040		X	Assay serum albumin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82042		X	Assay urine albumin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82043		X	Microalbumin, quantitative	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82044		X	Microalbumin, semiquant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82055		X	Assay ethanol	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82075		X	Assay breath ethanol	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82085		X	Assay of aldolase	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82088		X	Aldosterone	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82101		X	Assay of urine alkaloids	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82103		X	Alpha-1-antitrypsin, total	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82104		X	Alpha-1-antitrypsin, pheno	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82105		X	Alpha-fetoprotein, serum	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82106		X	Alpha-fetoprotein; amniotic	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82108		X	Assay, aluminum	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82128		X	Test for amino acids	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82130		X	Amino acids analysis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82131		X	Amino acids	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82135		X	Assay, aminolevulinic acid	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82140		X	Assay of ammonia	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82143		X	Amniotic fluid scan	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82145		X	Assay of amphetamines	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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[4] * Work RVUs increased in global surgical package.
[5] ∮ Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT 1/ HCPCS 2	MOD	Status	Description	Physician work RVUs 3 4	Non-facility practice expense RVUs 5	Facility practice expense RVUs 5	Mal-practice RVUs	Non-facility total	Facility total	Global
82150		X	Assay of amylase	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82154		X	Androstanediol glucuronide	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82157		X	Assay of androstenedione	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82160		X	Androsterone assay	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82163		X	Assay of angiotensin II	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82164		X	Angiotensin I enzyme test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82172		X	Apolipoprotein	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82175		X	Assay of arsenic	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82180		X	Assay of ascorbic acid	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82190		X	Atomic absorption	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82205		X	Assay of barbiturates	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82232		X	Beta-2 protein	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82239		X	Bile acids, total	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82240		X	Bile acids, cholylglycine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82250		X	Assay bilirubin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82251		X	Assay bilirubin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82252		X	Fecal bilirubin test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82270		X	Test feces for blood	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82273		X	Test for blood, other source	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82286		X	Assay of bradykinin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82300		X	Assay cadmium	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82306		X	Assay of vitamin D	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82307		X	Assay of vitamin D	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82308		X	Assay of calcitonin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82310		X	Assay calcium	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82330		X	Assay calcium	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82331		X	Calcium infusion test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82340		X	Assay calcium in urine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82355		X	Calculus (stone) analysis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82360		X	Calculus (stone) assay	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82365		X	Calculus (stone) assay	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82370		X	X-ray assay, calculus (stone)	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82374		X	Assay blood carbon dioxide	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82375		X	Assay blood carbon monoxide	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82376		X	Test for carbon monoxide	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82378		X	Carcinoembryonic antigen	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82380		X	Assay carotene	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82382		X	Assay urine catecholamines	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82383		X	Assay blood catecholamines	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82384		X	Assay three catecholamines	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82387		X	Cathepsin-D	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82390		X	Assay ceruloplasmin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82397		X	Chemiluminescent assay	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82415		X	Assay chloramphenicol	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82435		X	Assay blood chloride	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82436		X	Assay urine chloride	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82438		X	Assay other fluid chlorides	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82441		X	Test for chlorohydrocarbons	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82465		X	Assay serum cholesterol	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82480		X	Assay serum cholinesterase	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82482		X	Assay rbc cholinesterase	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82485		X	Assay chondroitin sulfate	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82486		X	Gas/liquid chromatography	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82487		X	Paper chromatography	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82488		X	Paper chromatography	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82489		X	Thin layer chromatography	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82491		X	Chromotography, quantitative	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82495		X	Assay chromium	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82507		X	Assay citrate	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82520		X	Assay for cocaine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82523		X	Collagen crosslinks	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82525		X	Assay copper	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82526		X	Assay corticosterone	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82530		X	Cortisol, free	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82533		X	Total cortisol	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82540		X	Assay creatine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82550		X	Assay CK (CPK)	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82552		X	Assay CPK in blood	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82553		X	Creatine, MB fraction	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82554		X	Creatine, isoforms	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82565		X	Assay creatinine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82570		X	Assay urine creatinine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82575		X	Creatinine clearance test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82585		X	Assay cryofibrinogen	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT 1/ HCPCS 2	MOD	Status	Description	Physician work RVUs 3 4	Non-facility practice expense RVUs 5	Facility practice expense RVUs 5	Mal-practice RVUs	Non-facility total	Facility total	Global
82595		X	Assay cryoglobulin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82600		X	Assay cyanide	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82607		X	Vitamin B–12	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82608		X	B–12 binding capacity	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82615		X	Test for urine cystines	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82626		X	Dehydroepiandrosterone	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82627		X	Dehydroepiandrosterone	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82633		X	Deoxycorticosterone	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82634		X	Deoxycortisol	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82638		X	Assay dibucaine number	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82646		X	Assay of dihydrocodeinone	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82649		X	Assay of dihydromorphinone	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82651		X	Dihydrotestosterone assay	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82652		X	Assay, dihydroxyvitamin D	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82654		X	Assay of dimethadione	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82664		X	Electrophoretic test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82668		X	Epiandrosterone assay	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82668		X	Erythropoietin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82670		X	Estradiol	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82671		X	Estrogens assay	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82672		X	Estrogen assay	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82677		X	Estriol	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82679		X	Estrone	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82680		X	Ethchlorvynol	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82693		X	Ethylene glycol	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82696		X	Etiocholanolone	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82705		X	Fats/lipids, feces, qualitativ	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82710		X	Fats/lipids, feces, quantitati	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82715		X	Fecal fat assay	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82725		X	Assay blood fatty acids	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82728		X	Assay ferritin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82735		X	Assay fluoride	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82742		X	Assay of flurazepam	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82746		X	Blood folic acid serum	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82747		X	Folic acid, RBC	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82757		X	Assay semen fructose	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82759		X	RBC galactokinase assay	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82760		X	Assay galactose	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82775		X	Assay galactose transferase	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82776		X	Galactose transferase test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82784		X	Assay gammaglobulin IgM	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82785		X	Assay, gammaglobulin IgE	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82787		X	IgG1, 2, 3 and 4	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82800		X	Blood pH	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82803		X	Blood gases: pH, pO2 & pCO2	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82805		X	Blood gases W/O2 saturation	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82810		X	Blood gases, O2 sat only	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82820		X	Hemoglobin-oxygen affinity	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82926		X	Assay gastric acid	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82928		X	Assay gastric acid	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82938		X	Gastrin test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82941		X	Assay of gastrin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82943		X	Assay of glucagon	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82946		X	Glucagon tolerance test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82947		X	Assay quantitative, glucose	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82948		X	Reagent strip/blood glucose	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82950		X	Glucose test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82951		X	Glucose tolerance test (GTT)	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82952		X	GTT-added samples	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82953		X	Glucose-tolbutamide test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82955		X	Assay G6PD enzyme	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82960		X	Test for G6PD enzyme	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82962		X	Glucose blood test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82963		X	Glucokinase assay	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82965		X	Assay GDH enzyme	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82975		X	Assay glutamine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82977		X	Assay of GGT	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82978		X	Glutathione assay	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82979		X	Assay RBC glutathione enzyme	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82980		X	Assay of glutethimide	0.00	0.00	0.00	0.00	0.00	0.00	XXX
82985		X	Glycated protein	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83001		X	Gonadotropin (FSH)	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83002		X	Gonadotropin (LH)	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83003		X	Assay growth hormone (HGH)	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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5 # Indicates reduction of Practice Expense RVUs as result of 116% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT[1]/ HCPCS[2]	MOD	Status	Description	Physician work RVUs[3,4]	Non-facility practice expense RVUs[5]	Facility practice expense RVUs[5]	Mal-practice RVUs	Non-facility total	Facility total	Global
83008		X	Assay guanosine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83010		X	Quant assay haptoglobin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83012		X	Assay haptoglobins	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83015		X	Heavy metal screen	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83018		X	Quantitative screen, metals	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83019		X	Breath isotope test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83020		X	Assay hemoglobin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83020	26	A	Assay hemoglobin	0.37	0.20	0.20	0.01	0.58	0.58	XXX
83026		X	Hemoglobin, copper sulfate	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83030		X	Fetal hemoglobin assay	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83033		X	Fetal fecal hemoglobin assay	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83036		X	Glycated hemoglobin test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83045		X	Blood methemoglobin test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83050		X	Blood methemoglobin assay	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83051		X	Assay plasma hemoglobin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83055		X	Blood sulfhemoglobin test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83060		X	Blood sulfhemoglobin assay	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83065		X	Hemoglobin heat assay	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83066		X	Hemoglobin stability screen	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83069		X	Assay urine hemoglobin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83070		X	Quant assay hemosiderin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83071		X	Quant assay of hemosiderin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83086		X	Assay histamine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83150		X	Assay for HVA	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83491		X	Assay of corticosteroids	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83497		X	Assay 5-HIAA	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83498		X	Assay of progesterone	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83499		X	Assay of progesterone	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83500		X	Assay free hydroxyproline	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83505		X	Assay total hydroxyproline	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83516		X	Immunoassay, nonantibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83518		X	Immunoassay, dipstick	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83519		X	Immunoassay nonantibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83520		X	Immunoassay, RIA	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83525		X	Assay of insulin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83527		X	Assay of insulin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83528		X	Assay intrinsic factor	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83540		X	Assay iron	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83550		X	Iron binding test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83570		X	Assay IDH enzyme	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83582		X	Assay ketogenic steroids	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83586		X	Assay 17-(17-KS)ketosteroids	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83593		X	Fractionation ketosteroids	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83605		X	Lactic acid assay	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83615		X	Lactate (LD) (LDH) enzyme	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83625		X	Assay LDH enzymes	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83632		X	Placental lactogen	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83633		X	Test urine for lactose	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83634		X	Assay urine for lactose	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83655		X	Assay for lead	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83661		X	Assay L/S ratio	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83662		X	L/S ratio, foam stability	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83670		X	Assay LAP enzyme	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83690		X	Assay lipase	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83716		X	Assay blood lipoproteins	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83717		X	Assay blood lipoproteins	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83718		X	Blood lipoprotein assay	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83719		X	Blood lipoprotein assay	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83721		X	Blood lipoprotein assay	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83727		X	LRH hormone assay	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83735		X	Assay magnesium	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83775		X	Assay of rnd enzyme	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83785		X	Assay of manganese	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83805		X	Assay of meprobamate	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83825		X	Assay mercury	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83835		X	Assay metanephrines	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83840		X	Assay methadone	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83857		X	Assay methemalbumin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83858		X	Assay methsuximide	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83864		X	Mucopolysaccharides	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83866		X	Mucopolysaccharides screen	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83872		X	Assay synovial fluid mucin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83873		X	Assay, CSF protein	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83874		X	Myoglobin	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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[4] ' Work RVUs increased in global surgical package.
[5] 9 Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT[1]/ HCPCS[2]	MOD	Status	Description	Physician work RVUs[3,4]	Non-facility practice expense RVUs[5]	Facility practice expense RVUs[5]	Mal-practice RVUs	Non-facility total	Facility total	Global
83863		X	Nephelometry, not specified	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83885		X	Assay for nickel	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83887		X	Assay nicotine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83890		X	Molecular diagnostics	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83892		X	Molecular diagnostics	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83894		X	Molecular diagnostics	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83896		X	Molecular diagnostics	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83898		X	Molecular diagnostics	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83902		X	Molecular diagnostics	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83912		X	Genetic examination	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83912	26	A	Genetic examination	0.37	0.20	0.20	0.01	0.58	0.58	XXX
83915		X	Assay nucleotidase	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83916		X	Oligoclonal bands	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83918		X	Assay organic acids	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83925		X	Opiates	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83930		X	Assay blood osmolality	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83935		X	Assay urine osmolality	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83937		X	Assay for osteocalcin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83945		X	Assay oxalate	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83970		X	Assay of parathormone	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83986		X	Assay body fluid acidity	0.00	0.00	0.00	0.00	0.00	0.00	XXX
83992		X	Assay for phencyclidine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84022		X	Assay of phenothiazine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84030		X	Assay blood PKU	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84035		X	Assay phenylketones	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84060		X	Assay acid phosphatase	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84061		X	Phosphatase, forensic exam	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84066		X	Assay prostate phosphatase	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84075		X	Assay alkaline phosphatase	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84078		X	Assay alkaline phosphatase	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84080		X	Assay alkaline phosphatases	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84081		X	Amniotic fluid enzyme test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84085		X	Assay RBC PGSD enzyme	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84087		X	Assay phosphohexose enzymes	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84100		X	Assay phosphorus	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84105		X	Assay urine phosphorus	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84106		X	Test for porphobilinogen	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84110		X	Assay porphobilinogen	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84119		X	Test urine for porphyrins	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84120		X	Assay urine porphyrins	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84126		X	Assay feces porphyrins	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84127		X	Porphyrins, feces	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84132		X	Assay serum potassium	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84133		X	Assay urine potassium	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84134		X	Prealbumin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84135		X	Assay pregnanediol	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84136		X	Assay pregnanetriol	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84140		X	Assay for pregnenolone	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84143		X	Assay/17-hydroxypregnenolone	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84144		X	Assay progesterone	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84146		X	Assay for prolactin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84150		X	Assay of prostaglandin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84153		X	Prostate specific antigen	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84155		X	Assay protein	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84160		X	Assay serum protein	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84165		X	Assay serum proteins	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84165	26	A	Assay serum proteins	0.37	0.20	0.20	0.01	0.58	0.58	XXX
84181		X	Western blot test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84181	26	A	Western blot test	0.37	0.20	0.20	0.01	0.58	0.58	XXX
84182		X	Protein, western blot test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84182	26	A	Protein, western blot test	0.37	0.20	0.20	0.01	0.58	0.58	XXX
84202		X	Assay RBC protoporphyrin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84203		X	Test RBC protoporphyrin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84206		X	Assay of proinsulin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84207		X	Assay vitamin B–6	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84210		X	Assay pyruvate	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84220		X	Assay pyruvate kinase	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84228		X	Assay quinine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84233		X	Assay estrogen	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84234		X	Assay pregesterone	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84235		X	Assay endocrine hormone	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84238		X	Assay non-endocrine receptor	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84244		X	Assay of renin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84252		X	Assay vitamin B–2	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT 1/ HCPCS 2	MOD	Status	Description	Physician work RVUs 3 4	Non-facility practice expense RVUs 5	Facility practice expense RVUs 5	Mal-practice RVUs	Non-facility total	Facility total	Global
84255		X	Assay selenium	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84260		X	Assay serotonin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84270		X	Sex hormone globulin (SHBG)	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84275		X	Assay sialic acid	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84285		X	Assay silica	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84295		X	Assay serum sodium	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84300		X	Assay urine sodium	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84305		X	Somatomedin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84307		X	Somatostatin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84311		X	Spectrophotometry	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84315		X	Body fluid specific gravity	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84375		X	Chromatogram assay, sugars	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84392		X	Assay urine sulfate	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84402		X	Testosterone	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84403		X	Assay total testosterone	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84425		X	Assay vitamin B–1	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84430		X	Assay thiocyanate	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84432		X	Thyroglobulin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84436		X	Assay, total thyroxine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84437		X	Assay neonatal thyroxine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84439		X	Assay, free thyroxine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84442		X	Thyroid activity (TBG) assay	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84443		X	Assay thyroid stim hormone	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84445		X	Thyroid immunoglobulins TSI	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84446		X	Assay vitamin E	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84449		X	Assay for transcortin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84450		X	Transferase (AST) (SGOT)	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84460		X	Alanine amino (ALT) (SGPT)	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84466		X	Transferrin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84478		X	Assay triglycerides	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84479		X	Assay thyroid (t–3 or t–4)	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84480		X	Assay triiodothyronine (t–3)	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84481		X	Free assay (FT–3)	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84482		X	T3 reverse	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84484		X	Troponin, quant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84485		X	Assay duodenal fluid trypsin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84488		X	Test feces for trypsin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84490		X	Assay feces for trypsin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84510		X	Assay tyrosine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84512		X	Troponin, qual	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84520		X	Assay urea nitrogen	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84525		X	Urea nitrogen semi-quant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84540		X	Assay urine urea-N	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84545		X	Urea-N clearance test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84550		X	Assay blood uric acid	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84560		X	Assay urine uric acid	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84577		X	Assay feces urobilinogen	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84578		X	Test urine urobilinogen	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84580		X	Assay urine urobilinogen	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84583		X	Assay urine urobilinogen	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84585		X	Assay urine VMA	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84588		X	VIP assay	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84589		X	Assay vasopressin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84590		X	Assay vitamin-A	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84597		X	Assay vitamin-K	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84600		X	Assay for volatiles	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84620		X	Xylose-tolerance test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84630		X	Assay zinc	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84681		X	Assay C-peptide	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84702		X	Chorionic gonadotropin test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84703		X	Chorionic gonadotropin assay	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84830		X	Ovulation tests	0.00	0.00	0.00	0.00	0.00	0.00	XXX
84999		X	Clinical chemistry test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85002		X	Bleeding time test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85007		X	Differential WBC count	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85008		X	Nondifferential WBC count	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85009		X	Differential WBC count	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85013		X	Hematocrit	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85014		X	Hematocrit	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85018		X	Hemoglobin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85021		X	Automated hemogram	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85022		X	Automated hemogram	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85023		X	Automated hemogram	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85024		X	Automated hemogram	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT 1/ HCPCS 2	MOD	Status	Description	Physician work RVUs 3 4	Non-facility practice expense RVUs 5	Facility practice expense RVUs 5	Mal-practice RVUs	Non-facility total	Facility total	Global
85025		X	Automated hemogram	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85027		X	Automated hemogram	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85029		X	Automated hemogram	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85080		X	Automated hemogram	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85031		X	Manual hemogram, complete cbc	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85041		X	Red blood cell (RBC) count	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85044		X	Reticulocyte count	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85045		X	Reticulocyte count	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85048		X	White blood cell (WBC) count	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85060		A	Blood smear interpretation	0.45	0.22	0.22	0.02	0.69	0.69	XXX
85095		A	Bone marrow aspiration	1.08	0.67	0.67	0.05	1.80	1.80	XXX
85097		A	Bone marrow interpretation	0.94	0.48	0.48	0.04	1.46	1.46	XXX
85102		A	Bone marrow biopsy	1.37	0.80	0.80	0.05	2.22	2.22	XXX
85130		X	Chromogenic substrate assay	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85170		X	Blood clot retraction	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85175		X	Blood clot lysis time	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85210		X	Blood clot factor II test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85220		X	Blood clot factor V test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85230		X	Blood clot factor VII test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85240		X	Blood clot factor VIII test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85244		X	Blood clot factor VIII test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85245		X	Blood clot factor VIII test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85246		X	Blood clot factor VIII test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85247		X	Blood clot factor VIII test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85250		X	Blood clot factor IX test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85260		X	Blood clot factor X test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85270		X	Blood clot factor XI test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85280		X	Blood clot factor XII test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85290		X	Blood clot factor XIII test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85291		X	Blood clot factor XIII test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85292		X	Blood clot factor assay	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85293		X	Blood clot factor assay	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85300		X	Antithrombin III test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85301		X	Antithrombin III test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85302		X	Blood clot inhibitor antigen	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85303		X	Blood clot inhibitor test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85305		X	Blood clot inhibitor assay	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85306		X	Blood clot inhibitor test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85335		X	Factor inhibitor test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85337		X	Thrombomodulin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85345		X	Coagulation time	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85347		X	Coagulation time	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85348		X	Coagulation time	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85360		X	Euglobulin lysis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85362		X	Fibrin degradation products	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85366		X	Fibrinogen test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85370		X	Fibrinogen test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85378		X	Fibrin degradation	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85379		X	Fibrin degradation	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85384		X	Fibrinogen	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85385		X	Fibrinogen	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85390		X	Fibrinolysins screen	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85390	26	A	Fibrinolysins screen	0.37	0.20	0.20	0.01	0.58	0.58	XXX
85400		X	Fibrinolytic plasmin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85410		X	Fibrinolytic antiplasmin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85415		X	Fibrinolytic plasminogen	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85420		X	Fibrinolytic plasminogen	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85421		X	Fibrinolytic plasminogen	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85441		X	Heinz bodies; direct	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85445		X	Heinz bodies; induced	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85460		X	Hemoglobin, fetal	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85461		X	Hemoglobin, fetal	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85475		X	Hemolysin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85520		X	Heparin assay	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85525		X	Heparin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85530		X	Heparin-protamine tolerance	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85535		X	Iron stain, blood cells	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85540		X	Wbc alkaline phosphatase	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85547		X	RBC mechanical fragility	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85549		X	Muramidase	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85555		X	RBC osmotic fragility	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85557		X	RBC osmotic fragility	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85576		X	Blood platelet aggregation	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85576	26	A	Blood platelet aggregation	0.37	0.20	0.20	0.01	0.58	0.58	XXX

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[2] Copyright 1994 American Dental Association. All rights reserved.
[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT[1] HCPCS[2]	MOD	Status	Description	Physician work RVUs[3,4]	Non-facility practice expense RVUs[5]	Facility practice expense RVUs[5]	Mal-practice RVUs	Non-facility total	Facility total	Global
85585		X	Blood platelet estimation	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85590		X	Platelet manual count	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85595		X	Platelet count, automated	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85597		X	Platelet neutralization	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85610		X	Prothrombin time	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85611		X	Prothrombin test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85612		X	Viper venom prothrombin time	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85613		X	Russell viper venom, diluted	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85635		X	Reptilase test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85651		X	Rbc sed rate, nonautо	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85652		X	Rbc sed rate, auto	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85660		X	RBC sickle cell test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85670		X	Thrombin time, plasma	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85675		X	Thrombin time, titer	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85705		X	Thromboplastin inhibition	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85730		X	Thromboplastin time, partial	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85732		X	Thromboplastin time, partial	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85810		X	Blood viscosity examination	0.00	0.00	0.00	0.00	0.00	0.00	XXX
85999		X	Hematology procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86000		X	Agglutinins; febrile	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86001		X	Allergen specific IgE	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86005		X	Allergen specific IgE	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86021		X	WBC antibody identification	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86022		X	Platelet antibodies	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86023		X	Immunoglobulin assay	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86038		X	Antinuclear antibodies	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86039		X	Antinuclear antibodies (ANA)	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86060		X	Antistreptolysin O titer	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86063		X	Antistreptolysin O screen	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86077		A	Physician blood bank service	0.94	0.30	0.30	0.02	1.26	1.26	XXX
86078		A	Physician blood bank service	0.94	0.34	0.34	0.02	1.30	1.30	XXX
86079		A	Physician blood bank service	0.94	0.33	0.33	0.02	1.29	1.29	XXX
86140		X	C-reactive protein	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86147		X	Cardiolipin antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86148		X	Phospholipid antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86155		X	Chemotaxis assay	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86156		X	Cold agglutinin screen	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86157		X	Cold agglutinin, titer	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86160		X	Complement, antigen	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86161		X	Complement/function activity	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86162		X	Complement, total (CH50)	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86171		X	Complement fixation, each	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86185		X	Counterimmunoelectrophoresis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86215		X	Deoxyribonuclease, antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86225		X	DNA antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86226		X	DNA antibody, single strand	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86235		X	Nuclear antigen antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86243		X	Fc receptor	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86255		X	Fluorescent antibody; screen	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86255	26	A	Fluorescent antibody; screen	0.37	0.20	0.20	0.01	0.58	0.58	XXX
86256		X	Fluorescent antibody; titer	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86256	26	A	Fluorescent antibody; titer	0.37	0.20	0.20	0.01	0.58	0.58	XXX
86277		X	Growth hormone antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86280		X	Hemagglutination inhibition	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86287		D	12/Hepatitis B (HBsAg)	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86289		D	Hepatitis BC antibody test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86290		D	12/Hepatitis BC antibody test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86291		D	Hepatitis BS antibody test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86293		D	Hepatitis Be antibody test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86295		D	12/Hepatitis Be antibody test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86296		D	Hepatitis A antibody test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86299		D	Hepatitis A antibody test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86302		D	Hepatitis C antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86303		D	Hepatitis C antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86306		D	Hepatitis, delta agent	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86308		X	Heterophile antibodies	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86309		X	Heterophile antibodies	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86310		X	Heterophile antibodies	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86311		D	12/31/87/HIV antigen test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86313		D	Immunoassay, infectious agent	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86315		D	Immunoassay, infectious agent	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86316		X	Immunoassay, tumor antigen	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86317		X	Immunoassay, infectious agent	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86318		X	Immunoassay, infectious agent	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] ø Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT[1] HCPCS[2]	MOD	Status	Description	Physician work RVUs[3,4]	Non-facility practice expense RVUs[5]	Facility practice expense RVUs[5]	Mal-practice RVUs	Non-facility total	Facility total	Global
86320		X	Serum immunoelectrophoresis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86320	26	A	Serum immunoelectrophoresis	0.37	0.20	0.20	0.01	0.58	0.58	XXX
86325		X	Other immunoelectrophoresis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86325	26	A	Other immunoelectrophoresis	0.37	0.20	0.20	0.01	0.58	0.58	XXX
86327		X	Immunoelectrophoresis assay	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86327	26	A	Immunoelectrophoresis assay	0.42	0.20	0.20	0.01	0.63	0.63	XXX
86329		X	Immunodiffusion	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86331		X	Immunodiffusion oucherlony	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86332		X	Immune complex assay	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86334		X	Immunofixation procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86334	26	A	Immunofixation procedure	0.37	0.20	0.20	0.01	0.58	0.58	XXX
86337		X	Insulin antibodies	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86340		X	Intrinsic factor antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86341		X	Islet cell antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86343		X	Leukocyte histamine release	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86344		X	Leukocyte phagocytosis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86353		X	Lymphocyte transformation	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86355		X	T cells, total count	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86360		X	T cell absolute count/ratio	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86361		X	T cell,absolute count	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86376		X	Microsomal antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86378		X	Migration inhibitory factor	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86382		X	Neutralization test, viral	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86384		X	Nitroblue tetrazolium dye	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86403		X	Particle agglutination test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86406		X	Particle agglutination test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86430		X	Rheumatoid factor test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86431		X	Rheumatoid factor, quant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86485		C	Skin test, candida	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86490		A	Coccidioidomycosis skin test	0.00	0.28	0.28	0.02	0.30	0.30	XXX
86510		A	Histoplasmosis skin test	0.00	0.30	0.30	0.02	0.32	0.32	XXX
86580		A	TB intradermal test	0.00	0.24	0.24	0.02	0.26	0.26	XXX
86585		A	TB,tine test	0.00	0.19	0.19	0.01	0.20	0.20	XXX
86586		C	Skin test, unlisted	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86588		X	Streptococcus, direct screen	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86590		X	Streptokinase, antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86592		X	Blood serology, qualitative	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86593		X	Blood serology, quantitative	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86602		X	Antinomyces antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86603		X	Adenovirus, antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86606		X	Aspergillus antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86609		X	Bacterium, antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86612		X	Blastomyces, antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86615		X	Bordetella antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86617		X	Lyme disease antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86618		X	Lyme disease antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86619		X	Borrelia antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86622		X	Brucella,antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86625		X	Campylobacter, antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86628		X	Candida, antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86631		X	Chlamydia, antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86632		X	Chlamydia, IgM, antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86635		X	Coccidioides, antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86638		X	Q fever antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86641		X	Cryptococcus antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86644		X	CMV antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86645		X	CMV antibody, IgM	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86648		X	Diphtheria antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86651		X	Encephalitis antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86652		X	Encephalitis antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86653		X	Encephalitis, antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86654		X	Encephalitis, antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86658		X	Enterovirus, antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86663		X	Epstein-barr antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86664		X	Epstein-barr antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86665		X	Epstein-barr, antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86668		X	Francisella tularensis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86671		X	Fungus, antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86674		X	Giardia lamblia	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86677		X	Helicobacter pylori	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86682		X	Helminth, antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86684		X	Hemophilus influenza	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86687		X	HTLV I	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86688		X	HTLV–II	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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[5] ø Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT 1/ HCPCS 2	MOD	Status	Description	Physician work RVUs 3 4	Non-facility practice expense RVUs 5	Facility practice expense RVUs 5	Mal-practice RVUs	Non-facility total	Facility total	Global
86689		X	HTLV/HIV confirmatory test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86692		X	Hepatitis, delta agent	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86694		X	Herpes simplex test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86695		X	Herpes simplex test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86698		X	Histoplasma	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86701		X	HIV-1	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86702		X	HIV-2	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86703		X	HIV-1/HIV-2, single assay	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86704		X	Hep b core ab test, igg & m	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86705		X	Hep b core ab test, igm	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86706		X	Hepatitis b surface ab test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86707		X	Hepatitis be ab test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86708		X	Hep a ab test, igg & m	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86709		X	Hep a ab test, igm	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86710		X	Influenza virus	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86713		X	Legionella	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86717		X	Leishmania	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86720		X	Leptospira	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86723		X	Listeria monocytogenes	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86727		X	Lymph choriomeningitis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86729		X	Lympho venereum	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86732		X	Mucormycosis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86735		X	Mumps	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86738		X	Mycoplasma	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86741		X	Neisseria meningitidis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86744		X	Nocardia	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86747		X	Parvovirus	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86750		X	Malaria	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86753		X	Protozoa, not elsewhere	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86756		X	Respiratory virus	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86758		X	Rotavirus	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86762		X	Rubella	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86765		X	Rubeola	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86768		X	Salmonella	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86771		X	Shigella	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86774		X	Tetanus	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86777		X	Toxoplasma	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86778		X	Toxoplasma, igM	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86781		X	Treponema pallidum confirm	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86784		X	Trichinella	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86787		X	Varicella-zoster	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86790		X	Virus, not specified	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86793		X	Yersinia	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86800		X	Thyroglobulin antibody	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86803		X	Hepatitis c ab test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86804		X	Hep c ab test, confirm	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86805		X	Lymphocytotoxicity assay	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86806		X	Lymphocytotoxicity assay	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86807		X	Cytotoxic antibody screening	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86808		X	Cytotoxic antibody screening	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86812		X	HLA typing, A, B, or C	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86813		X	HLA typing, A, B, or C	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86816		X	HLA typing, DR/DQ	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86817		X	HLA typing, DR/DQ	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86821		X	Lymphocyte culture, mixed	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86822		X	Lymphocyte culture, primed	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86849		X	Immunology procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86850		X	RBC antibody screen	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86860		X	RBC antibody elution	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86870		X	RBC antibody identification	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86880		X	Coombs test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86885		X	Coombs test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86886		X	Coombs test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86890		X	Autologous blood process	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86891		X	Autologous blood, op salvage	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86900		X	Blood typing, ABO	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86901		X	Blood typing, Rh (D)	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86903		X	Blood typing, antigen screen	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86904		X	Blood typing, patient serum	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86905		X	Blood typing, RBC antigens	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86906		X	Blood typing, Rh phenotype	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86910		N	Blood typing, paternity test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86911		N	Blood typing, antigen system	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86915		X	Bone marrow	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT 1/ HCPCS 2	MOD	Status	Description	Physician work RVUs 3 4	Non-facility practice expense RVUs 5	Facility practice expense RVUs 5	Mal-practice RVUs	Non-facility total	Facility total	Global
86920		X	Compatibility test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86921		X	Compatibility test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86922		X	Compatibility test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86927		X	Plasma, fresh frozen	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86930		X	Frozen blood prep	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86931		X	Frozen blood thaw	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86932		X	Frozen blood, freeze/thaw	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86940		X	Hemolysins/agglutinins auto	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86941		X	Hemolysins/agglutinins	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86945		X	Blood product/irradiation	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86950		X	Leukocyte transfusion	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86965		X	Pooling blood platelets	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86970		X	RBC pretreatment	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86971		X	RBC pretreatment	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86972		X	RBC pretreatment	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86975		X	RBC pretreatment, serum	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86976		X	RBC pretreatment, serum	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86977		X	RBC pretreatment, serum	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86978		X	RBC pretreatment, serum	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86985		X	Split blood or products	0.00	0.00	0.00	0.00	0.00	0.00	XXX
86999		X	Transfusion procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87001		X	Small animal inoculation	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87003		X	Small animal inoculation	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87015		X	Specimen concentration	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87040		X	Blood culture for bacteria	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87045		X	Stool culture for bacteria	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87060		X	Nose/throat culture,bacteria	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87070		X	Culture specimen, bacteria	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87072		X	Culture of specimen by kit	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87075		X	Culture specimen, bacteria	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87076		X	Bacteria identification	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87081		X	Bacteria culture screen	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87082		X	Culture of specimen by kit	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87083		X	Culture of specimen by kit	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87084		X	Culture of specimen by kit	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87085		X	Culture of specimen by kit	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87086		X	Urine culture, colony count	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87087		X	Urine bacteria culture	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87088		X	Urine bacteria culture	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87101		X	Skin fungus culture	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87102		X	Fungus isolation culture	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87103		X	Blood fungus culture	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87106		X	Fungus identification	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87109		X	Mycoplasma culture	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87110		X	Culture, chlamydia	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87116		X	Mycobacteria culture	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87117		X	Mycobacteria culture	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87118		X	Mycobacteria identification	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87140		X	Culture typing, fluorescent	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87143		X	Culture typing, GLC method	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87145		X	Culture typing, phage method	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87147		X	Culture typing, serologic	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87151		X	Culture typing, serologic	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87155		X	Culture typing, precipitin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87158		X	Culture typing, added method	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87163		X	Special microbiology culture	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87164		X	Dark field examination	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87164	26	A	Dark field examination	0.37	0.20	0.20	0.01	0.58	0.58	XXX
87166		X	Dark field examination	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87174		X	Endotoxin, bacterial	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87175		X	Assay, endotoxin, bacterial	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87176		X	Endotoxin, bacterial	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87177		X	Ova and parasites smears	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87178		D	Microbe identification	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87179		D	Microbe identification	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87181		X	Antibiotic sensitivity, each	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87184		X	Antibiotic sensitivity, each	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87186		X	Antibiotic sensitivity, MIC	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87187		X	Antibiotic sensitivity, MBC	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87188		X	Antibiotic sensitivity, each	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87190		X	TB antibiotic sensitivity	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87192		X	Antibiotic sensitivity, each	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87197		X	Bactericidal level, serum	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87205		X	Smear, stain & interpret	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT 1/ HCPCS 2	MOD	Status	Description	Physician work RVUs 3 4	Non-facility practice expense RVUs 5	Facility practice expense RVUs 5	Mal-practice RVUs	Non-facility total	Facility total	Global
87206		X	Smear, stain & interpret	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87207		X	Smear, stain & interpret	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87207	26	A	Smear, stain & interpret	0.37	0.20	0.20	0.01	0.58	0.58	XXX
87208		X	Smear, stain & interpret	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87210		X	Smear, stain & interpret	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87211		X	Smear, stain & interpret	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87220		X	Tissue exam for fungi	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87230		X	Assay, toxin or antitoxin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87250		X	Virus inoculation for test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87252		X	Virus inoculation for test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87253		X	Virus inoculation for test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87260		X	Adenovirus ag, dfa	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87265		X	Pertussis ag, dfa	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87270		X	Chylmd trach ag, dfa	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87272		X	Cryptosporidium ag, dfa	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87274		X	Herpes simplex ag, dfa	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87276		X	Influenza ag, dfa	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87278		X	Legion pneumo ag, dfa	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87280		X	Resp syncytial ag, dfa	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87285		X	Trepon pallidum ag, dfa	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87290		X	Varicella ag, dfa	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87299		X	Ag detection nos, dfa	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87301		X	Adenovirus ag, eia	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87320		X	Chylmd trach ag, eia	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87324		X	Clostridium ag, eia	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87328		X	Cryptosporidium ag, eia	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87332		X	Cytomegalovirus ag, eia	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87335		X	E coli 0157 ag, eia	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87340		X	Hepatitis b surface ag, eia	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87350		X	Hepatitis b ag, eia	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87380		X	Hepatitis delta ag, eia	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87385		X	Histoplasma capsul ag, eia	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87390		X	HIV-1 ag, eia	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87391		X	HIV-2 ag, eia	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87420		X	Resp syncytial ag, eia	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87425		X	Rotavirus ag, eia	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87430		X	Strep a ag, eia	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87449		X	Ag detect nos, eia, multi	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87450		X	Ag detect nos, eia, single	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87470		X	Bartonella, dna, dir probe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87471		X	Bartonella, dna, amp probe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87472		X	Bartonella, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87475		X	Lyme dis, dna, dir probe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87476		X	Lyme dis, dna, amp probe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87477		X	Lyme dis, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87480		X	Candida, dna, dir probe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87481		X	Candida, dna, amp probe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87482		X	Candida, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87485		X	Chylmd pneum, dna, dir probe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87486		X	Chylmd pneum, dna, amp probe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87487		X	Chylmd pneum, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87490		X	Chylmd trach, dna, dir probe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87491		X	Chylmd trach, dna, amp probe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87492		X	Chylmd trach, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87495		X	Cytomeg, dna, dir probe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87496		X	Cytomeg, dna, amp probe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87497		X	Cytomeg, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87510		X	Gardner vag, dna, dir probe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87511		X	Gardner vag, dna, amp probe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87512		X	Gardner vag, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87515		X	Hepatitis b, dna, dir probe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87516		X	Hepatitis b, dna, amp probe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87517		X	Hepatitis b, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87520		X	Hepatitis c, rna, dir probe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87521		X	Hepatitis c, rna, amp probe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87522		X	Hepatitis c, rna, quant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87525		X	Hepatitis g , dna, dir probe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87526		X	Hepatitis g, dna, amp probe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87527		X	Hepatitis g, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87528		X	Hev, dna, dir probe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87529		X	Hev, dna, amp probe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87530		X	Hev, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87531		X	Hhv–6, dna, dir probe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87532		X	Hhv–6, dna, amp probe	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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2 Copyright 1994 American Dental Association. All rights reserved.
3 + Indicates RVUs are not used for Medicare payment.
4 * Work RVUs increased in global surgical package.
5 # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT 1/ HCPCS 2	MOD	Status	Description	Physician work RVUs 3 4	Non-facility practice expense RVUs 5	Facility practice expense RVUs 5	Mal-practice RVUs	Non-facility total	Facility total	Global
87533		X	Hhv–6, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87534		X	Hiv–1, dna, dir probe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87535		X	Hiv–1, dna, amp probe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87536		X	Hiv–1, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87537		X	Hiv–2, dna, dir probe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87538		X	Hiv–2, dna, amp probe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87539		X	Hiv–2, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87540		X	Legion pneumo, dna, dir prob	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87541		X	Legion pneumo, dna, amp prob	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87542		X	Legion pneumo, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87550		X	Mycobacteria, dna, dir probe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87551		X	Mycobacteria, dna, amp probe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87552		X	Mycobacteria, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87555		X	M. tuberculo, dna, dir probe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87556		X	M. tuberculo, dna, amp probe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87557		X	M. tuberculo, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87560		X	M. avium-intra, dna, dir prob	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87561		X	M. avium-intra, dna, amp prob	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87562		X	M. avium-intra, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87580		X	M. pneumon, dna, dir probe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87581		X	M. pneumon, dna, amp probe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87582		X	M. pneumon, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87590		X	N. gonorrhoeae, dna, dir prob	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87591		X	N. gonorrhoeae, dna, amp prob	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87592		X	N. gonorrhoeae, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87620		X	Hpv, dna, dir probe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87621		X	Hpv, dna, amp probe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87622		X	Hpv, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87650		X	Strep a, dna, dir probe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87651		X	Strep a, dna, amp probe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87652		X	Strep a, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87797		X	Detect agent nos, dna, dir	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87798		X	Detect agent nos, dna, amp	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87799		X	Detect agent nos, dna, quant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87810		X	Chylmd trach assay w/optic	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87850		X	N. gonorrhoeae assay w/optic	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87880		X	Strep a assay w/optic	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87899		X	Agent nos assay w/optic	0.00	0.00	0.00	0.00	0.00	0.00	XXX
87999		X	Microbiology procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88000		N	Autopsy (necropsy), gross	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88005		N	Autopsy (necropsy), gross	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88007		N	Autopsy (necropsy), gross	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88012		N	Autopsy (necropsy), gross	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88014		N	Autopsy (necropsy), gross	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88016		N	Autopsy (necropsy), gross	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88020		N	Autopsy (necropsy), complete	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88025		N	Autopsy (necropsy), complete	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88027		N	Autopsy (necropsy), complete	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88028		N	Autopsy (necropsy), complete	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88029		N	Autopsy (necropsy), complete	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88036		N	Limited autopsy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88037		N	Limited autopsy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88040		N	Forensic autopsy (necropsy)	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88045		N	Coroner's autopsy (necropsy)	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88099		N	Necropsy (autopsy) procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88104		A	Cytopathology, fluids	0.56	0.44	0.44	0.04	1.04	1.04	XXX
88104	TC	A	Cytopathology, fluids	0.00	0.21	0.21	0.02	0.23	0.23	XXX
88104	26	A	Cytopathology, fluids	0.56	0.23	0.23	0.02	0.81	0.81	XXX
88106		A	Cytopathology, fluids	0.56	0.37	0.37	0.03	0.96	0.96	XXX
88106	TC	A	Cytopathology, fluids	0.00	0.17	0.17	0.02	0.19	0.19	XXX
88106	26	A	Cytopathology, fluids	0.56	0.20	0.20	0.01	0.77	0.77	XXX
88107		A	Cytopathology, fluids	0.76	0.47	0.47	0.04	1.27	1.27	XXX
88107	TC	A	Cytopathology, fluids	0.00	0.23	0.23	0.02	0.25	0.25	XXX
88107	26	A	Cytopathology, fluids	0.76	0.24	0.24	0.02	1.02	1.02	XXX
88108		A	Cytopath, concentrate tech	0.56	0.47	0.47	0.04	1.07	1.07	XXX
88108	TC	A	Cytopath, concentrate tech	0.00	0.23	0.23	0.02	0.25	0.25	XXX
88108	26	A	Cytopath, concentrate tech	0.56	0.24	0.24	0.02	0.82	0.82	XXX
88125		A	Forensic cytopathology	0.26	0.11	0.11	0.00	0.37	0.37	XXX
88125	TC	A	Forensic cytopathology	0.00	0.04	0.04	0.00	0.04	0.04	XXX
88125	26	A	Forensic cytopathology	0.26	0.07	0.07	0.00	0.33	0.33	XXX
88130		X	Sex chromatin identification	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88140		X	Sex chromatin identification	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88141		A	Cytopath cervl/vag interpret	0.42	0.32	0.32	0.04	0.78	0.78	XXX
88142		X	Cytopath cervl/vag thin layer	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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3 + Indicates RVUs are not used for Medicare payment.
4 * Work RVUs increased in global surgical package.
5 # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT 1/ HCPCS 2	MOD	Status	Description	Physician work RVUs 3 4	Non-facility practice expense RVUs 5	Facility practice expense RVUs 5	Mal-practice RVUs	Non-facility total	Facility total	Global
88150		X	Cytopath cervl/vag	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88151		D	Cytopathology interpretation	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88151	26	D	Cytopathology interpretation	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88152		X	Cytopath cervl/vag auto	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88155		X	Cytopath cervl/vag index	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88156		X	Cytopath cervl/vag tbs	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88157		D	1TBS smear (bethesda system)	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88157	26	D	1TBS smear (bethesda system)	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88158		X	Cytopath cervl/vag tbs auto	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88160		A	Cytopath smear, other source	0.50	0.38	0.33	0.09	0.88	0.88	XXX
88160	TC	A	Cytopath smear, other source	0.00	0.16	0.16	0.02	0.18	0.18	XXX
88160	26	A	Cytopath smear, other source	0.50	0.17	0.17	0.01	0.68	0.68	XXX
88161		A	Cytopath smear, other source	0.50	0.39	0.39	0.03	0.92	0.92	XXX
88161	TC	A	Cytopath smear, other source	0.00	0.19	0.19	0.02	0.21	0.21	XXX
88161	26	A	Cytopath smear, other source	0.50	0.20	0.20	0.01	0.71	0.71	XXX
88162		A	Cytopath smear, other source	0.76	0.79	0.79	0.05	1.60	1.60	XXX
88162	TC	A	Cytopath smear, other source	0.00	0.38	0.38	0.02	0.40	0.40	XXX
88162	26	A	Cytopath smear, other source	0.76	0.41	0.41	0.03	1.20	1.20	XXX
88170		A	Fine needle aspiration	1.27	0.99	0.99	0.09	2.35	2.35	XXX
88170	TC	A	Fine needle aspiration	0.00	0.47	0.47	0.04	0.51	0.51	XXX
88170	26	A	Fine needle aspiration	1.27	0.52	0.52	0.05	1.84	1.84	XXX
88171		A	Fine needle aspiration	1.27	1.35	1.35	0.09	2.71	2.71	XXX
88171	TC	A	Fine needle aspiration	0.00	0.64	0.64	0.04	0.68	0.68	XXX
88171	26	A	Fine needle aspiration	1.27	0.71	0.71	0.05	2.03	2.03	XXX
88172		A	Evaluation of smear	0.60	0.71	0.71	0.05	1.36	1.36	XXX
88172	TC	A	Evaluation of smear	0.00	0.35	0.35	0.02	0.37	0.37	XXX
88172	26	A	Evaluation of smear	0.60	0.36	0.36	0.03	0.99	0.99	XXX
88173		A	Interpretation of smear	1.39	0.87	0.87	0.05	2.31	2.31	XXX
88173	TC	A	Interpretation of smear	0.00	0.42	0.42	0.02	0.44	0.44	XXX
88173	26	A	Interpretation of smear	1.39	0.45	0.45	0.03	1.87	1.87	XXX
88180		A	Cell marker study	0.38	0.33	0.33	0.03	0.72	0.72	XXX
88180	TC	A	Cell marker study	0.00	0.16	0.16	0.02	0.18	0.18	XXX
88180	26	A	Cell marker study	0.38	0.17	0.17	0.01	0.54	0.54	XXX
88182		A	Cell marker study	0.77	0.89	0.89	0.07	1.73	1.73	XXX
88182	TC	A	Cell marker study	0.00	0.44	0.44	0.04	0.48	0.48	XXX
88182	26	A	Cell marker study	0.77	0.45	0.45	0.03	1.25	1.25	XXX
88199		C	Cytopathology procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88199	TC	C	Cytopathology procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88199	26	C	Cytopathology procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88230		X	Tissue culture, lymphocyte	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88233		X	Tissue culture, skin/biopsy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88235		X	Tissue culture, placenta	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88237		X	Tissue culture, bone marrow	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88239		X	Tissue culture, other	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88245		X	Chromosome analysis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88248		X	Chromosome analysis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88250		X	Chromosome analysis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88260		X	Chromosome analysis: 5 cells	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88261		X	Chromosome analysis: 6 cells	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88262		X	Chromosome count: 15–20 cells	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88263		X	Chromosome analysis: 45 cells	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88267		X	Chromosome analysis: placenta	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88268		X	Chromosome analysis: amniotic	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88280		X	Chromosome karyotype study	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88283		X	Chromosome banding study	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88285		X	Chromosome count: additional	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88289		X	Chromosome study: additional	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88299		C	Cytogenetic study	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88300		A	Surg path, gross	0.08	0.20	0.20	0.01	0.29	0.29	XXX
88300	TC	A	Surg path, gross	0.00	0.10	0.10	0.00	0.10	0.10	XXX
88300	26	A	Surg path, gross	0.08	0.10	0.10	0.01	0.19	0.19	XXX
88302		A	Tissue exam by pathologist	0.13	0.40	0.40	0.04	0.57	0.57	XXX
88302	TC	A	Tissue exam by pathologist	0.00	0.23	0.23	0.02	0.25	0.25	XXX
88302	26	A	Tissue exam by pathologist	0.13	0.17	0.17	0.02	0.32	0.32	XXX
88304		A	Tissue exam by pathologist	0.22	0.57	0.57	0.04	0.83	0.88	XXX
88304	TC	A	Tissue exam by pathologist	0.00	0.33	0.33	0.02	0.35	0.35	XXX
88304	26	A	Tissue exam by pathologist	0.22	●0.24	●0.24	0.02	0.48	0.48	XXX
88305		A	Tissue exam by pathologist	0.75	1.08	1.08	0.08	1.86	1.86	XXX
88305	TC	A	Tissue exam by pathologist	0.00	0.50	0.50	0.04	0.54	0.54	XXX
88305	26	A	Tissue exam by pathologist	0.75	0.53	0.53	0.04	1.32	1.32	XXX
88307		A	Tissue exam by pathologist	1.59	1.52	1.52	0.12	3.23	3.23	XXX
88307	TC	A	Tissue exam by pathologist	0.00	0.74	0.74	0.06	0.80	0.80	XXX
88307	26	A	Tissue exam by pathologist	1.59	0.78	0.78	0.06	2.43	2.43	XXX
88309		A	Tissue exam by pathologist	2.28	1.92	1.92	0.13	4.33	4.33	XXX

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ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT 1/ HCPCS 2	MOD	Status	Description	Physician work RVUs 3 4	Non-facility practice expense RVUs 5	Facility practice expense RVUs 5	Mal-practice RVUs	Non-facility total	Facility total	Global
88309	TC	A	Tissue exam by pathologist	0.00	0.93	0.93	0.06	0.99	0.99	XXX
88309	26	A	Tissue exam by pathologist	2.28	0.99	0.99	0.07	3.34	3.34	XXX
88311		A	Decalcify tissue	0.24	0.21	0.21	0.01	0.46	0.46	XXX
88311	TC	A	Decalcify tissue	0.00	0.10	0.10	0.00	0.10	0.10	XXX
88311	26	A	Decalcify tissue	0.24	0.11	0.11	0.01	0.36	0.36	XXX
88312		A	Special stains	0.54	0.26	0.26	0.01	0.81	0.81	XXX
88312	TC	A	Special stains	0.00	0.12	0.12	0.00	0.12	0.12	XXX
88312	26	A	Special stains	0.54	0.14	0.14	0.01	0.69	0.69	XXX
88313		A	Special stains	0.24	0.21	0.21	0.01	0.46	0.46	XXX
88313	TC	A	Special stains	0.00	0.10	0.10	0.00	0.10	0.10	XXX
88313	26	A	Special stains	0.24	0.11	0.11	0.01	0.36	0.36	XXX
88314		A	Histochemical stain	0.45	0.62	0.62	0.04	1.11	1.11	XXX
88314	TC	A	Histochemical stain	0.00	0.27	0.27	0.02	0.29	0.29	XXX
88314	26	A	Histochemical stain	0.45	0.35	0.35	0.02	0.82	0.82	XXX
88318		A	Chemical histochemistry	0.42	0.24	0.24	0.01	0.67	0.67	XXX
88318	TC	A	Chemical histochemistry	0.00	0.12	0.12	0.00	0.12	0.12	XXX
88318	26	A	Chemical histochemistry	0.42	0.12	0.12	0.01	0.55	0.55	XXX
88319		A	Enzyme histochemistry	0.53	0.49	0.49	0.04	1.06	1.06	XXX
88319	TC	A	Enzyme histochemistry	0.00	0.23	0.23	0.02	0.25	0.25	XXX
88319	26	A	Enzyme histochemistry	0.53	0.26	0.26	0.02	0.81	0.81	XXX
88321		A	Microslide consultation	1.30	0.41	0.41	0.03	1.74	1.74	XXX
88323		A	Microslide consultation	1.35	0.72	0.72	0.05	2.12	2.12	XXX
88323	TC	A	Microslide consultation	0.00	0.33	0.33	0.02	0.35	0.35	XXX
88323	26	A	Microslide consultation	1.35	0.39	0.39	0.03	1.77	1.77	XXX
88325		A	Comprehensive review of data	2.22	0.47	0.47	0.04	2.73	2.73	XXX
88329		A	Pathology consult in surgery	0.67	0.37	0.37	0.03	1.07	1.07	XXX
88331		A	Pathology consult in surgery	1.19	1.10	1.10	0.08	2.37	2.37	XXX
88331	TC	A	Pathology consult in surgery	0.00	0.54	0.54	0.04	0.58	0.58	XXX
88331	26	A	Pathology consult in surgery	1.19	0.56	0.56	0.04	1.79	1.79	XXX
88332		A	Pathology consult in surgery	0.59	0.56	0.56	0.04	1.19	1.19	XXX
88332	TC	A	Pathology consult in surgery	0.00	0.27	0.27	0.02	0.29	0.29	XXX
88332	26	A	Pathology consult in surgery	0.59	0.29	0.29	0.02	0.90	0.90	XXX
88342		A	Immunocytochemistry	0.85	0.64	0.64	0.04	1.53	1.53	XXX
88342	TC	A	Immunocytochemistry	0.00	0.31	0.31	0.02	0.33	0.33	XXX
88342	26	A	Immunocytochemistry	0.85	0.33	0.33	0.02	1.20	1.20	XXX
88346		A	Immunofluorescent study	0.86	0.58	0.58	0.04	1.48	1.48	XXX
88346	TC	A	Immunofluorescent study	0.00	0.27	0.27	0.02	0.29	0.29	XXX
88346	26	A	Immunofluorescent study	0.86	0.31	0.31	0.02	1.19	1.19	XXX
88347		A	Immunofluorescent study	0.86	0.42	0.42	0.04	1.32	1.32	XXX
88347	TC	A	Immunofluorescent study	0.00	0.27	0.27	0.02	0.29	0.29	XXX
88347	26	A	Immunofluorescent study	0.86	0.15	0.15	0.02	1.03	1.03	XXX
88348		A	Electron microscopy	1.51	2.28	2.28	0.16	3.95	3.95	XXX
88348	TC	A	Electron microscopy	0.00	1.09	1.09	0.08	1.17	1.17	XXX
88348	26	A	Electron microscopy	1.51	1.19	1.19	0.08	2.78	2.78	XXX
88349		A	Scanning electron microscopy	0.76	1.55	1.55	0.12	2.43	2.43	XXX
88349	TC	A	Scanning electron microscopy	0.00	0.76	0.76	0.06	0.82	0.82	XXX
88349	26	A	Scanning electron microscopy	0.76	0.79	0.79	0.06	1.61	1.61	XXX
88355		A	Analysis, skeletal muscle	1.85	1.74	1.74	0.13	3.72	3.72	XXX
88355	TC	A	Analysis, skeletal muscle	0.00	0.82	0.82	0.06	0.88	0.88	XXX
88355	26	A	Analysis, skeletal muscle	1.85	0.92	0.92	0.07	2.84	2.84	XXX
88356		A	Analysis, nerve	3.02	2.66	2.66	0.18	5.86	5.86	XXX
88356	TC	A	Analysis, nerve	0.00	1.27	1.27	0.08	1.35	1.35	XXX
88356	26	A	Analysis, nerve	3.02	1.39	1.39	0.10	4.51	4.51	XXX
88358		A	Analysis, tumor	2.82	2.32	2.32	0.16	5.30	5.30	XXX
88358	TC	A	Analysis, tumor	0.00	1.16	1.16	0.08	1.24	1.24	XXX
88358	26	A	Analysis, tumor	2.82	1.16	1.16	0.08	4.06	4.06	XXX
88362		A	Nerve teasing preparations	2.17	1.97	1.97	0.13	4.27	4.27	XXX
88362	TC	A	Nerve teasing preparations	0.00	0.97	0.97	0.06	1.03	1.03	XXX
88362	26	A	Nerve teasing preparations	2.17	1.00	1.00	0.07	3.24	3.24	XXX
88365		A	Tissue hybridization	0.93	0.75	0.75	0.05	1.73	1.73	XXX
88365	TC	A	Tissue hybridization	0.00	0.37	0.37	0.02	0.39	0.39	XXX
88365	26	A	Tissue hybridization	0.93	0.38	0.38	0.03	1.34	1.34	XXX
88371		X	Protein, western blot tissue	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88371	26	A	Protein, western blot tissue	0.37	0.20	0.20	0.01	0.58	0.58	XXX
88372		X	Protein analysis w/probe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88372	26	A	Protein analysis w/probe	0.37	0.20	0.20	0.01	0.58	0.58	XXX
88399		C	Surgical pathology procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88399	TC	C	Surgical pathology procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
88399	26	C	Surgical pathology procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89050		X	Body fluid cell count	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89051		X	Body fluid cell count	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89060		X	Exam, synovial fluid crystals	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89060	26	A	Exam, synovial fluid crystals	0.37	0.20	0.20	0.01	0.58	0.58	XXX
89100		A	Sample intestinal contents	0.60	0.42	0.42	0.03	1.05	1.05	XXX

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ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT 1/ HCPCS 2	MOD	Status	Description	Physician work RVUs 3 4	Non-facility practice expense RVUs 5	Facility practice expense RVUs 5	Mal-practice RVUs	Non-facility total	Facility total	Global
89105		A	Sample intestinal contents	0.50	0.39	0.39	0.03	0.92	0.92	XXX
89125		X	Specimen fat stain	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89130		A	Sample stomach contents	0.45	0.41	0.41	0.03	0.89	0.89	XXX
89132		A	Sample stomach contents	0.19	0.19	0.19	0.02	0.40	0.40	XXX
89135		A	Sample stomach contents	0.79	0.58	0.58	0.04	1.41	1.41	XXX
89136		A	Sample stomach contents	0.21	0.22	0.22	0.02	0.45	0.45	XXX
89140		A	Sample stomach contents	0.94	0.81	0.81	0.07	1.82	1.82	XXX
89141		A	Sample stomach contents	0.85	0.73	0.73	0.06	1.64	1.64	XXX
89160		X	Exam feces for meat fibers	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89190		X	Nasal smear for eosinophils	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89250		X	Fertilization of oocyte	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89251		X	Culture oocyte w/embryos	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89252		X	Assist oocyte fertilization	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89253		X	Embryo hatching	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89254		X	Oocyte identification	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89255		X	Prepare embryo for transfer	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89256		X	Prepare cryopreserved embryo	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89257		X	Sperm identification	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89258		X	Cryopreservation, embryo	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89259		X	Cryopreservation, sperm	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89260		X	Sperm isolation, simple	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89261		X	Sperm isolation; complex	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89300		X	Semen analysis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89310		X	Semen analysis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89320		X	Semen analysis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89325		X	Sperm antibody test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89329		X	Sperm evaluation test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89330		X	Evaluation, cervical mucus	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89350		A	Sputum specimen collection	0.00	0.39	0.39	0.03	0.42	0.42	XXX
89355		X	Exam feces for starch	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89360		A	Collect sweat for test	0.00	0.43	0.43	0.03	0.46	0.46	XXX
89365		X	Water load test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89399		C	Pathology lab procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89399	TC	C	Pathology lab procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
89399	26	C	Pathology lab procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90700		E	DTaP immunization	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90701		E	DTP immunization	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90702		E	DT immunization	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90703		E	Tetanus immunization	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90704		E	Mumps immunization	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90705		E	Measles immunization	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90706		E	Rubella immunization	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90707		E	MMR virus immunization	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90708		E	Measles-rubella immunization	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90709		E	Rubella & mumps immunization	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90710		E	Combined vaccine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90711		E	Combined vaccine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90712		E	Oral poliovirus immunization	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90713		E	Poliomyelitis immunization	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90714		E	Typhoid immunization	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90716		E	Chicken pox vaccine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90717		E	Yellow fever immunization	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90718		E	Td immunization	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90719		E	Diphtheria immunization	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90720		E	DTP/HIB vaccine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90721		E	Dtap/hib vaccine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90724		X	Influenza immunization	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90725		E	Cholera immunization	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90726		E	Rabies immunization	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90727		E	Plague immunization	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90728		E	BCG immunization	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90730		E	Hepatitis A vaccine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90732		X	Pneumococcal immunization	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90733		E	Meningococcal immunization	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90735		E	Encephalitis virus vaccine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90737		E	Influenza B immunization	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90741		E	Passive immunization, ISG	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90742		E	Special passive immunization	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90744		X	Hepatitis B vaccine, under 11	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90745		X	Hepatitis B vaccine, 11–19	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90746		X	Hepatitis B vaccine, over 20	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90747		X	Hepatitis B vaccine, ill pat	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90748		X	Hepatitis b/hib vaccine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90749		C	Immunization procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT 1/ HCPCS 2	MOD	Status	Description	Physician work RVUs 3 4	Non-facility practice expense RVUs 5	Facility practice expense RVUs 5	Mal-practice RVUs	Non-facility total	Facility total	Global
90780		A	IV infusion therapy, 1 hour	0.00	1.06	1.06	0.08	1.14	1.14	XXX
90781		A	IV infusion, additional hour	0.00	0.53	0.53	0.04	0.57	0.57	XXX
90782		T	Injection (SC)/(IM)	0.00	0.10	0.10	0.01	0.11	0.11	XXX
90783		T	Injection (IA)	0.00	0.39	0.39	0.03	0.42	0.42	XXX
90784		T	Injection (IV)	0.00	0.45	0.45	0.04	0.49	0.49	XXX
90788		T	Injection of antibiotic	0.00	0.11	0.11	0.01	0.12	0.12	XXX
90799		C	Therapeutic/diag injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90801		A	Psy dx interview	2.80	0.67	0.67	0.09	3.56	3.56	XXX
90802		A	Intac psy dx interview	3.01	0.38	0.38	0.05	3.44	3.44	XXX
90804		A	Psytx, office (20–30)	1.11	0.35	0.35	0.05	1.51	1.51	XXX
90805		A	Psytx, office (20–30) w/e&m	1.47	0.35	0.35	0.05	1.87	1.87	XXX
90806		A	Psytx, office (45–50)	1.73	0.54	0.54	0.08	2.35	2.35	XXX
90807		A	Psytx, office (45–50) w/e&m	2.00	0.54	0.54	0.08	2.62	2.62	XXX
90808		A	Psytx, office (75–80)	2.78	1.05	1.05	0.15	3.98	3.98	XXX
90809		A	Psytx, office (75–80) w/e&m	3.15	1.05	1.05	0.15	4.35	4.35	XXX
90810		A	Intac psytx, office (20–30)	1.19	0.59	0.59	0.09	1.87	1.87	XXX
90811		A	Intac psytx, off 20–30 w/e&m	1.58	0.59	0.59	0.09	2.26	2.26	XXX
90812		A	Intac psytx, office (45–50)	1.86	0.59	0.59	0.09	2.54	2.54	XXX
90813		A	Intac psytx, off 45–50 w/e&m	2.15	0.59	0.59	0.09	2.83	2.83	XXX
90814		A	Intac psytx, office (75–80)	2.97	0.59	0.59	0.09	3.65	3.65	XXX
90815		A	Intac psytx, off 75–80 w/e&m	3.39	0.59	0.59	0.09	4.07	4.07	XXX
90816		A	Psytx, hosp (20–30)	1.24	0.35	0.35	0.05	1.64	1.64	XXX
90817		A	Psytx, hosp (20–30) w/e&m	1.85	0.35	0.35	0.05	2.05	2.05	XXX
90818		A	Psytx, hosp (45–50)	1.94	0.54	0.54	0.08	2.56	2.56	XXX
90819		A	Psytx, hosp (45–50) w/e&m	2.24	0.54	0.54	0.08	2.86	2.86	XXX
90820		D	Diagnostic interview	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90821		A	Psytx, hosp (75–80)	3.09	1.05	1.05	0.15	4.29	4.29	XXX
90822		A	Psytx, hosp (75–80) w/e&m	3.53	1.05	1.05	0.15	4.73	4.73	XXX
90823		A	Intac psytx, hosp (20–30)	1.33	0.59	0.59	0.09	2.01	2.01	XXX
90824		A	Intac psytx, hsp 20–30 w/e&m	1.77	0.59	0.59	0.09	2.45	2.45	XXX
90825		D	1Evaluation of tests/records	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90826		A	Intac psytx, hosp (45–50)	2.08	0.59	0.59	0.09	2.76	2.76	XXX
90827		A	Intac psytx, hsp 45–50 w/e&m	2.41	0.59	0.59	0.09	3.09	3.09	XXX
90828		A	Intac psytx, hosp (75–80)	3.32	0.59	0.59	0.09	4.00	4.00	XXX
90829		A	Intac psytx, hsp 75–80 w/e&m	3.80	0.59	0.59	0.09	4.48	4.48	XXX
90835		D	Special interview	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90841		D	Psychotherapy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90842		D	Psychotherapy, 75–80 min.	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90843		D	Psychotherapy, 20–30 min.	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90844		D	Psychotherapy, 45–50 min.	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90845		A	Psychoanalysis	1.79	0.41	0.41	0.05	2.25	2.25	XXX
90846		R	Family psytx w/o patient	1.83	0.82	0.82	0.08	2.53	2.53	XXX
90847		R	Family psytx w/patient	2.21	0.58	0.58	0.08	2.87	2.87	XXX
90849		R	Multiple family group psytx	0.59	0.26	0.26	0.03	0.88	0.88	XXX
90853		A	Group psychotherapy	0.59	0.26	0.26	0.03	0.88	0.88	XXX
90855		D	12/3 Individual psychotherapy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90857		A	Intac group psytx	0.63	0.15	0.15	0.02	0.80	0.80	XXX
90862		A	Medication management	0.95	0.37	0.37	0.05	1.37	1.37	XXX
90865		A	Narcosynthesis	2.84	0.50	0.50	0.07	3.41	3.41	XXX
90870		A	Electroconvulsive therapy	1.88	0.55	0.55	0.08	2.51	2.51	000
90871		A	Electroconvulsive therapy	2.72	0.83	0.83	0.13	3.68	3.68	000
90875		N	Psychophysiological therapy	1.20	0.00	0.00	0.00	1.20	1.20	XXX
90876		N	Psychophysiological therapy	1.90	0.00	0.00	0.00	1.90	1.90	XXX
90880		A	Hypnotherapy	2.19	0.64	0.64	0.07	2.90	2.90	XXX
90882		N	Environmental manipulation	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90885		B	Psy evaluation of records	+0.97	0.31	0.31	0.04	1.32	1.32	XXX
90887		B	Consultation with family	+1.46	0.33	0.33	0.04	1.85	1.85	XXX
90889		B	Preparation of report	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90899		C	Psychiatric service/therapy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90901		A	Biofeedback, any method	0.41	0.97	0.97	0.07	1.45	1.45	000
90911		A	Biofeedback peri/uro/rectal	0.89	1.13	1.13	0.27	2.29	2.29	000
90918		A	ESRD related services, month	11.18	2.19	2.19	0.14	13.51	13.51	XXX
90919		A	ESRD related services, month	8.54	2.19	2.19	0.14	10.87	10.87	XXX
90920		A	ESRD related services, month	7.27	2.19	2.19	0.14	9.60	9.60	XXX
90921		A	ESRD related services, month	4.47	2.19	2.19	0.14	6.80	6.80	XXX
90922		A	ESRD related services, day	0.37	0.07	0.07	0.01	0.45	0.45	XXX
90923		A	Esrd related services, day	0.28	0.07	0.07	0.01	0.36	0.36	XXX
90924		A	Esrd related services, day	0.24	0.07	0.07	0.01	0.32	0.32	XXX
90925		A	Esrd related services, day	0.15	0.07	0.07	0.01	0.23	0.23	XXX
90935		A	Hemodialysis, one evaluation	1.22	#1.34	#1.34	0.10	2.66	2.66	000
90937		A	Hemodialysis, repeated eval.	2.11	#2.32	#2.32	0.18	4.61	4.61	000
90945		A	Dialysis, one evaluation	1.28	1.27	1.27	0.08	2.63	2.63	000
90947		A	Dialysis, repeated eval.	2.16	2.09	2.09	0.14	4.39	4.39	000
99999		X	Dialysis training/complete	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
90989		X	Dialysis training/incomplete	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90997		A	Hemoperfusion	1.84	#2.02	#2.02	0.16	4.02	4.02	000
90999		C	Dialysis procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
91000		A	Esophageal intubation	0.73	0.66	0.66	0.06	1.45	1.45	000
91000	TC	A	Esophageal intubation	0.00	0.07	0.07	0.01	0.08	0.08	000
91000	26	A	Esophageal intubation	0.73	0.59	0.59	0.05	1.37	1.37	000
91010		A	Esophagus motility study	1.25	2.16	2.16	0.17	3.58	3.58	000
91010	TC	A	Esophagus motility study	0.00	0.78	0.78	0.06	0.84	0.84	000
91010	26	A	Esophagus motility study	1.25	#1.38	#1.38	0.11	2.74	2.74	000
91011		A	Esophagus motility study	1.50	2.83	2.83	0.18	4.31	4.31	000
91011	TC	A	Esophagus motility study	0.00	0.98	0.98	0.07	1.05	1.05	000
91011	26	A	Esophagus motility study	1.50	#1.85	#1.85	0.11	3.26	3.26	000
91012		A	Esophagus motility study	1.48	2.71	2.71	0.23	4.40	4.40	000
91012	TC	A	Esophagus motility study	0.00	1.10	1.10	0.08	1.18	1.18	000
91012	26	A	Esophagus motility study	1.48	#1.61	#1.61	0.15	3.22	3.22	000
91020		A	Gastric motility	1.44	2.31	2.31	0.18	3.93	3.93	000
91020	TC	A	Gastric motility	0.00	0.73	0.73	0.06	0.79	0.79	000
91020	26	A	Gastric motility	1.44	#1.58	#1.58	0.12	3.14	3.14	000
91030		A	Acid perfusion of esophagus	0.91	0.56	0.56	0.05	1.52	1.52	000
91030	TC	A	Acid perfusion of esophagus	0.00	0.21	0.21	0.02	0.23	0.23	000
91030	26	A	Acid perfusion of esophagus	0.91	0.35	0.35	0.03	1.29	1.29	000
91032		A	Esophagus, acid reflux test	1.21	1.98	1.98	0.16	3.33	3.33	000
91032	TC	A	Esophagus, acid reflux test	0.00	0.71	0.71	0.06	0.77	0.77	000
91032	26	A	Esophagus, acid reflux test	1.21	1.25	1.25	0.10	2.56	2.56	000
91033		A	Prolonged acid reflux test	1.30	2.71	2.71	0.25	4.26	4.26	000
91033	TC	A	Prolonged acid reflux test	0.00	1.28	1.28	0.11	1.39	1.39	000
91033	26	A	Prolonged acid reflux test	1.30	#1.43	#1.43	0.14	2.87	2.87	000
91052		A	Gastric analysis test	0.79	0.82	0.82	0.07	1.68	1.68	000
91052	TC	A	Gastric analysis test	0.00	0.32	0.32	0.03	0.35	0.35	000
91052	26	A	Gastric analysis test	0.79	0.50	0.50	0.04	1.33	1.33	000
91055		A	Gastric intubation for smear	0.94	0.80	0.80	0.06	1.80	1.80	000
91055	TC	A	Gastric intubation for smear	0.00	0.29	0.29	0.02	0.31	0.31	000
91055	26	A	Gastric intubation for smear	0.94	0.51	0.51	0.04	1.49	1.49	000
91060		A	Gastric saline load test	0.45	0.71	0.71	0.06	1.22	1.22	000
91060	TC	A	Gastric saline load test	0.00	0.21	0.21	0.02	0.23	0.23	000
91060	26	A	Gastric saline load test	0.45	0.50	0.50	0.04	0.99	0.99	000
91065		A	Breath hydrogen test	0.20	0.58	0.58	0.05	0.81	0.81	000
91065	TC	A	Breath hydrogen test	0.00	0.34	0.34	0.02	0.36	0.36	000
91065	26	A	Breath hydrogen test	0.20	#0.22	#0.22	0.03	0.45	0.45	000
91100		A	Paso tissue bleeding tube	1.08	0.58	0.58	0.05	1.69	1.69	000
91105		A	Gastric intubation treatment	0.37	#0.41	#0.41	0.04	0.82	0.82	000
91122		A	Anal pressure record	1.77	1.73	1.73	0.22	3.72	3.72	000
91122	TC	A	Anal pressure record	0.00	0.67	0.67	0.09	0.76	0.76	000
91122	26	A	Anal pressure record	1.77	1.08	1.08	0.13	2.98	2.98	000
91299		C	Gastroenterology procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
91299	TC	C	Gastroenterology procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
91299	26	C	Gastroenterology procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92002		A	Eye exam, new patient	0.88	0.49	0.49	0.02	1.39	1.39	XXX
92004		A	Eye exam, new patient	1.67	0.57	0.57	0.02	2.26	2.26	XXX
92012		A	Eye exam established pt	0.67	0.44	0.44	0.02	1.13	1.13	XXX
92014		A	Eye exam & treatment	1.10	0.54	0.54	0.02	1.66	1.66	XXX
92015		M	Refraction	+0.38	0.32	0.32	0.02	0.72	0.72	XXX
92018		A	New eye exam & treatment	1.51	0.47	0.47	0.03	2.01	2.01	XXX
92019		A	Eye exam & treatment	1.31	0.47	0.47	0.03	1.81	1.81	XXX
92020		A	Special eye evaluation	0.37	0.29	0.29	0.01	0.67	0.67	XXX
92060		A	Special eye evaluation	0.69	0.39	0.39	0.02	1.10	1.10	XXX
92060	TC	A	Special eye evaluation	0.00	0.18	0.18	0.01	0.19	0.19	XXX
92060	26	A	Special eye evaluation	0.69	0.21	0.21	0.01	0.91	0.91	XXX
92065		A	Orthoptic/pleoptic training	0.37	0.36	0.36	0.01	0.74	0.74	XXX
92065	TC	A	Orthoptic/pleoptic training	0.00	0.16	0.16	0.00	0.16	0.16	XXX
92065	26	A	Orthoptic/pleoptic training	0.37	0.20	0.20	0.01	0.58	0.58	XXX
92070		A	Fitting of contact lens	0.70	1.20	1.20	0.06	1.96	1.96	XXX
92081		A	Visual field examination(s)	0.36	0.32	0.32	0.01	0.69	0.69	XXX
92081	TC	A	Visual field examination(s)	0.00	0.15	0.15	0.00	0.15	0.15	XXX
92081	26	A	Visual field examination(s)	0.36	0.17	0.17	0.01	0.54	0.54	XXX
92082		A	Visual field examination(s)	0.44	0.49	0.49	0.02	0.95	0.95	XXX
92082	TC	A	Visual field examination(s)	0.00	0.19	0.19	0.01	0.20	0.20	XXX
92082	26	A	Visual field examination(s)	0.44	0.30	0.30	0.01	0.75	0.75	XXX
92083		A	Visual field examination(s)	0.50	0.85	0.85	0.04	1.37	1.37	XXX
92083	TC	A	Visual field examination(s)	0.00	0.28	0.28	0.01	0.29	0.29	XXX
92083	26	A	Visual field examination(s)	0.50	0.55	0.55	0.03	1.08	1.08	XXX
92100		A	Serial tonometry exam(s)	0.92	0.25	0.25	0.01	1.18	1.18	XXX
92120		A	Tonography & eye evaluation	0.81	0.31	0.31	0.02	1.14	1.14	XXX
92130		A	Water provocation tonography	0.81	0.49	0.49	0.02	1.32	1.32	XXX

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[5] # Indicates reduction of Practice Expense RVUs as result of 11.0% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
92140		A	Glaucoma provocative tests	0.50	0.30	0.30	0.01	0.81	0.81	XXX
92225		A	Special eye exam, initial	0.38	0.45	0.45	0.02	0.85	0.85	XXX
92226		A	Special eye exam, subsequent	0.33	0.40	0.40	0.02	0.75	0.75	XXX
92230		A	Eye exam with photos	0.80	0.69	0.69	0.04	1.33	1.33	XXX
92235		A	Eye exam with photos	0.81	1.58	1.58	0.09	2.48	2.48	XXX
92235	TC	A	Eye exam with photos	0.00	0.99	0.99	0.06	1.05	1.05	XXX
92235	26	A	Eye exam with photos	0.81	0.59	0.59	0.03	1.43	1.43	XXX
92240		A	Icg angiography	1.10	1.58	1.58	0.09	2.77	2.77	XXX
92240	TC	A	Icg angiography	0.00	0.99	0.99	0.06	1.05	1.05	XXX
92240	26	A	Icg angiography	1.10	0.59	0.59	0.03	1.72	1.72	XXX
92250		A	Eye exam with photos	0.44	0.42	0.42	0.02	0.88	0.88	XXX
92250	TC	A	Eye exam with photos	0.00	0.17	0.17	0.01	0.18	0.18	XXX
92250	26	A	Eye exam with photos	0.44	0.25	0.25	0.01	0.70	0.70	XXX
92260		A	Ophthalmoscopy/dynamometry	0.20	0.54	0.54	0.03	0.77	0.77	XXX
92265		A	Eye muscle evaluation	0.81	0.29	0.29	0.02	1.12	1.12	XXX
92265	TC	A	Eye muscle evaluation	0.00	0.22	0.22	0.02	0.24	0.24	XXX
92265	26	A	Eye muscle evaluation	0.81	0.07	0.07	0.00	0.88	0.88	XXX
92270		A	Electro-oculography	0.81	0.67	0.67	0.05	1.53	1.53	XXX
92270	TC	A	Electro-oculography	0.00	0.30	0.30	0.02	0.32	0.32	XXX
92270	26	A	Electro-oculography	0.81	0.37	0.37	0.03	1.21	1.21	XXX
92275		A	Electroretinography	1.01	0.90	0.90	0.05	1.96	1.96	XXX
92275	TC	A	Electroretinography	0.00	0.39	0.39	0.02	0.41	0.41	XXX
92275	26	A	Electroretinography	1.01	0.51	0.51	0.03	1.55	1.55	XXX
92283		A	Color vision examination	0.17	0.29	0.29	0.01	0.47	0.47	XXX
92283	TC	A	Color vision examination	0.00	0.12	0.12	0.00	0.12	0.12	XXX
92283	26	A	Color vision examination	0.17	0.17	0.17	0.01	0.35	0.35	XXX
92284		A	Dark adaptation eye exam	0.24	0.45	0.46	0.02	0.71	0.71	XXX
92284	TC	A	Dark adaptation eye exam	0.00	0.17	0.17	0.01	0.18	0.18	XXX
92284	26	A	Dark adaptation eye exam	0.24	0.28	0.28	0.01	0.53	0.53	XXX
92285		A	Eye photography	0.20	0.29	0.29	0.01	0.50	0.50	XXX
92285	TC	A	Eye photography	0.00	0.11	0.11	0.00	0.11	0.11	XXX
92285	26	A	Eye photography	0.20	0.18	0.18	0.01	0.39	0.39	XXX
92286		A	Internal eye photography	0.88	1.22	1.22	0.07	1.95	1.95	XXX
92286	TC	A	Internal eye photography	0.00	0.39	0.39	0.02	0.41	0.41	XXX
92286	26	A	Internal eye photography	0.88	0.83	0.83	0.05	1.54	1.54	XXX
92287		A	Internal eye photography	0.81	1.52	1.52	0.08	2.41	2.41	XXX
92310		N	Contact lens fitting	+1.17	#1.29	#1.29	0.00	2.46	2.46	XXX
92311		A	Contact lens fitting	1.06	0.90	0.90	0.03	2.01	2.01	XXX
92312		A	Contact lens fitting	1.26	1.16	1.16	0.03	2.45	2.45	XXX
92313		A	Contact lens fitting	0.92	0.88	0.88	0.03	1.83	1.83	XXX
92314		N	Prescription of contact lens	+0.69	#0.76	#0.76	0.00	1.45	1.45	XXX
92315		A	Prescription of contact lens	0.45	0.66	0.66	0.03	1.14	1.14	XXX
92316		A	Prescription of contact lens	0.88	0.95	0.95	0.04	1.87	1.87	XXX
92317		A	Prescription of contact lens	0.45	0.39	0.39	0.02	0.86	0.86	XXX
92325		A	Modification of contact lens	0.00	0.38	0.38	0.01	0.39	0.39	XXX
92326		A	Replacement of contact lens	0.00	1.56	1.56	0.06	1.62	1.62	XXX
92330		A	Fitting of artificial eye	1.06	1.13	1.13	0.09	2.30	2.30	XXX
92335		A	Fitting of artificial eye	0.45	1.97	1.97	0.11	2.53	2.53	XXX
92340		N	Fitting of spectacles	+0.37	0.42	#0.41	0.00	0.79	0.78	XXX
92341		N	Fitting of spectacles	+0.47	0.53	#0.52	0.00	#1.00	0.99	XXX
92342		N	Fitting of spectacles	+0.53	0.60	#0.59	0.00	1.13	1.11	XXX
92352		B	Special spectacles fitting	+0.37	0.30	0.30	0.01	0.68	0.68	XXX
92353		B	Special spectacles fitting	+0.50	0.40	0.40	0.01	0.91	0.91	XXX
92354		B	Special spectacles fitting	+0.00	8.44	8.44	0.10	8.54	8.54	XXX
92355		B	Special spectacles fitting	+0.00	4.13	4.13	0.01	4.14	4.14	XXX
92358		B	Eye prosthesis service	+0.00	0.92	0.92	0.05	0.97	0.97	XXX
92370		N	Repair & adjust spectacles	+0.32	0.36	#0.35	0.00	0.68	0.67	XXX
92371		B	Repair & adjust spectacles	+0.00	0.59	0.59	0.02	0.61	0.61	XXX
92390		N	Supply of spectacles	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92391		N	Supply of contact lenses	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92392		I	Supply of low vision aids	+0.00	3.85	3.85	0.02	3.87	3.87	XXX
92393		I	Supply of artificial eye	+0.00	11.96	11.96	0.67	12.63	12.63	XXX
92395		I	Supply of spectacles	+0.00	1.31	1.31	0.10	1.41	1.41	XXX
92396		I	Supply of contact lenses	+0.00	2.19	2.19	0.08	2.27	2.27	XXX
92499		C	Eye service or procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92499	TC	C	Eye service or procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92499	26	C	Eye service or procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92502		A	Ear and throat examination	1.51	1.12	1.12	0.12	2.75	2.75	000
92504		A	Ear microscopy examination	0.18	0.28	0.26	0.02	0.48	0.46	XXX
92506		A	Speech & hearing evaluation	0.86	0.52	0.52	0.05	1.43	1.43	XXX
92507		A	Speech/hearing therapy	0.52	0.33	0.30	0.03	0.88	0.85	XXX
92508		A	Speech/hearing therapy	0.26	0.19	0.19	0.02	0.48	0.46	XXX
92510		A	Rehab for ear implant	1.50	1.36	1.36	0.15	3.01	3.01	XXX
92511		A	Nasopharyngoscopy	0.84	0.85	0.85	0.09	1.78	1.78	000

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ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1] / HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
92512		A	Nasal function studies	0.55	0.47	0.47	0.05	1.07	1.07	XXX
92516		A	Facial nerve function test	0.43	0.39	0.39	0.04	0.86	0.86	XXX
92520		A	Laryngeal function studies	0.76	0.53	0.53	0.05	1.34	1.34	XXX
92525		A	Oral function evaluation	1.50	1.02	1.02	0.11	2.63	2.63	XXX
92526		A	Oral function therapy	0.55	0.47	0.47	0.05	1.07	1.07	XXX
92531		B	Spontaneous nystagmus study	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92532		B	Positional nystagmus study	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92533		B	Caloric vestibular test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92534		B	Optokinetic nystagmus	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92541		A	Spontaneous nystagmus test	0.40	0.67	0.67	0.07	1.14	1.14	XXX
92541	TC	A	Spontaneous nystagmus test	0.00	0.22	0.22	0.02	0.24	0.24	XXX
92541	26	A	Spontaneous nystagmus test	0.40	0.45	0.45	0.05	0.90	0.90	XXX
92542		A	Positional nystagmus test	0.33	0.61	0.61	0.07	1.01	1.01	XXX
92542	TC	A	Positional nystagmus test	0.00	0.25	0.25	0.03	0.28	0.28	XXX
92542	26	A	Positional nystagmus test	0.33	0.36	0.36	0.04	0.73	0.73	XXX
92543		A	Caloric vestibular test	0.38	0.82	0.82	0.09	1.29	1.29	XXX
92543	TC	A	Caloric vestibular test	0.00	0.40	0.40	0.04	0.44	0.44	XXX
92543	26	A	Caloric vestibular test	0.38	0.42	0.42	0.05	0.85	0.85	XXX
92544		A	Optokinetic nystagmus test	0.26	0.47	0.47	0.05	0.78	0.78	XXX
92544	TC	A	Optokinetic nystagmus test	0.00	0.20	0.20	0.02	0.22	0.22	XXX
92544	26	A	Optokinetic nystagmus test	0.26	0.27	0.27	0.03	0.56	0.56	XXX
92545		A	Oscillating tracking test	0.23	0.40	0.40	0.04	0.67	0.67	XXX
92545	TC	A	Oscillating tracking test	0.00	0.20	0.20	0.02	0.22	0.22	XXX
92545	26	A	Oscillating tracking test	0.23	0.20	0.20	0.02	0.45	0.45	XXX
92546		A	Sinusoidal rotational test	0.29	0.53	0.53	0.05	0.87	0.87	XXX
92546	TC	A	Sinusoidal rotational test	0.00	0.23	0.23	0.02	0.25	0.25	XXX
92546	26	A	Sinusoidal rotational test	0.29	0.30	0.30	0.03	0.62	0.62	XXX
92547		A	Supplemental electrical test	0.00	0.53	0.53	0.06	0.59	0.59	XXX
92548		A	Posturography	0.50	1.85	1.85	0.19	2.54	2.54	XXX
92548	TC	A	Posturography	0.00	1.40	1.40	0.14	1.54	1.54	XXX
92548	26	A	Posturography	0.50	0.45	0.45	0.05	1.00	1.00	XXX
92551		N	Pure tone hearing test, air	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92552		A	Pure tone audiometry, air	0.00	0.42	0.42	0.04	0.46	0.46	XXX
92553		A	Audiometry, air & bone	0.00	0.63	0.63	0.07	0.70	0.70	XXX
92555		A	Speech threshold audiometry	0.00	0.36	0.36	0.04	0.40	0.40	XXX
92556		A	Speech audiometry, complete	0.00	0.54	0.54	0.06	0.60	0.60	XXX
92557		A	Comprehensive hearing test	0.00	1.13	1.13	0.18	1.26	1.26	XXX
92559		N	Group audiometric testing	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92560		N	Bekesy audiometry, screen	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92561		A	Bekesy audiometry, diagnosis	0.00	0.68	0.68	0.07	0.75	0.75	XXX
92562		A	Loudness balance test	0.00	0.39	0.39	0.04	0.43	0.43	XXX
92563		A	Tone decay hearing test	0.00	0.36	0.36	0.04	0.40	0.40	XXX
92564		A	Sisi hearing test	0.00	0.45	0.45	0.05	0.50	0.50	XXX
92565		A	Stenger test, pure tone	0.00	0.36	0.36	0.04	0.42	0.42	XXX
92567		A	Tympanometry	0.00	0.50	0.50	0.06	0.56	0.56	XXX
92568		A	Acoustic reflex testing	0.00	0.36	0.36	0.04	0.40	0.40	XXX
92569		A	Acoustic reflex decay test	0.00	0.39	0.39	0.04	0.43	0.43	XXX
92571		A	Filtered speech hearing test	0.00	0.37	0.37	0.04	0.41	0.41	XXX
92572		A	Staggered spondaic word test	0.00	0.08	0.08	0.01	0.09	0.09	XXX
92573		A	Lombard test	0.00	0.33	0.33	0.04	0.37	0.37	XXX
92575		A	Sensorineural acuity test	0.00	0.29	0.29	0.03	0.32	0.32	XXX
92576		A	Synthetic sentence test	0.00	0.42	0.42	0.05	0.47	0.47	XXX
92577		A	Stenger test, speech	0.00	0.69	0.69	0.08	0.76	0.76	XXX
92579		A	Visual audiometry (vra)	0.00	0.69	0.69	0.07	0.76	0.76	XXX
92582		A	Conditioning play audiometry	0.00	0.69	0.69	0.07	0.76	0.76	XXX
92583		A	Select picture audiometry	0.00	0.85	0.85	0.09	0.94	0.94	XXX
92584		A	Electrocochleography	0.00	2.36	2.36	0.25	2.61	2.61	XXX
92585		A	Auditory evoked potential	0.50	3.25	3.25	0.31	4.06	4.06	XXX
92585	TC	A	Auditory evoked potential	0.00	1.76	1.76	0.17	1.93	1.93	XXX
92585	26	A	Auditory evoked potential	0.50	1.49	1.49	0.14	2.13	2.13	XXX
92587		A	Evoked auditory test	0.13	1.35	1.35	0.13	1.61	1.61	XXX
92587	TC	A	Evoked auditory test	0.00	1.24	1.24	0.12	1.36	1.36	XXX
92587	26	A	Evoked auditory test	0.13	0.11	0.11	0.01	0.25	0.25	XXX
92588		A	Evoked auditory test	0.36	1.70	1.70	0.18	2.22	2.22	XXX
92588	TC	A	Evoked auditory test	0.00	1.40	1.40	0.14	1.54	1.54	XXX
92588	26	A	Evoked auditory test	0.36	0.30	0.30	0.02	0.68	0.68	XXX
92589		A	Auditory function test(s)	0.00	0.51	0.51	0.06	0.57	0.57	XXX
92590		N	Hearing aid exam, one ear	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92591		N	Hearing aid exam, both ears	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92592		N	Hearing aid check, one ear	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92593		N	Hearing aid check, both ears	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92594		N	Electro hearing aid test, one	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92595		N	Electro hearing aid test, both	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92596		A	Ear protector evaluation	0.00	0.56	0.56	0.06	0.62	0.62	XXX

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[2] Copyright 1994 American Dental Association. All rights reserved.
[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1] / HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
92597		A	Oral speech device eval	1.35	1.01	1.01	0.11	2.47	2.47	XXX
92598		A	Modify oral speech device	0.99	0.66	0.66	0.07	1.72	1.72	XXX
92599		C	ENT procedure/service	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92599	TC	C	ENT procedure/service	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92599	26	C	ENT procedure/service	0.00	0.00	0.00	0.00	0.00	0.00	XXX
92950		A	Heart/lung resuscitation (CPR)	3.80	2.27	2.27	0.17	6.24	6.24	000
92953		A	Temporary external pacing	0.23	#0.25	#0.25	0.15	0.63	0.63	000
92960		A	Heart electroconversion	2.25	1.88	1.88	0.16	4.29	4.29	000
92970		A	Cardioassist, internal	3.52	3.47	3.47	0.41	7.40	7.40	000
92971		A	Cardioassist, external	1.77	1.11	1.11	0.08	2.96	2.96	000
92975		A	Dissolve clot, heart vessel	7.25	5.71	5.71	0.42	13.38	13.38	000
92977		A	Dissolve clot, heart vessel	0.00	7.66	7.66	0.54	8.22	8.22	XXX
92978		A	Intravas us, heart (add-on)	1.80	5.41	5.41	0.56	7.57	7.57	ZZZ
92978	TC	A	Intravas us, heart (add-on)	0.00	4.35	4.35	0.28	4.63	4.63	ZZZ
92978	26	A	Intravas us, heart (add-on)	1.80	1.06	1.06	0.08	2.94	2.94	ZZZ
92979		A	Intravas us, heart (add-on)	1.44	3.03	3.03	0.20	4.67	4.67	ZZZ
92979	TC	A	Intravas us, heart (add-on)	0.00	2.18	2.18	0.14	2.32	2.32	ZZZ
92979	26	A	Intravas us, heart (add-on)	1.44	0.85	0.85	0.06	2.35	2.35	ZZZ
92980		A	Insert intracoronary stent	14.84	#16.32	#16.32	1.22	32.38	32.38	000
92981		A	Insert intracoronary stent	4.17	#4.59	#4.59	0.44	9.20	9.20	ZZZ
92982		A	Coronary artery dilation	10.98	#12.08	#12.08	1.22	24.28	24.28	000
92984		A	Coronary artery dilation	2.97	#3.27	#3.27	0.44	6.68	6.68	ZZZ
92986		A	Revision of aortic valve	*21.80	12.04	12.04	0.90	34.74	34.74	000
92987		A	Revision of mitral valve	*22.70	12.20	12.20	0.91	35.81	35.81	000
92990		A	Revision of pulmonary valve	*17.34	9.59	9.59	0.71	27.64	27.64	000
92992		C	Revision of heart chamber	0.00	0.00	0.00	0.00	0.00	0.00	000
92993		C	Revision of heart chamber	0.00	0.00	0.00	0.00	0.00	0.00	000
92995		A	Coronary atherectomy	12.09	#13.30	#13.30	1.22	26.61	26.61	000
92996		A	Coronary atherectomy	3.26	#3.59	#3.59	0.44	7.29	7.29	ZZZ
92997		A	Pul art balloon repair, perc	12.00	#13.20	#13.20	1.22	26.42	26.42	000
92998		A	Pul art balloon repair, perc	6.00	3.80	3.80	0.44	10.24	10.24	ZZZ
93000		A	Electrocardiogram, complete	0.17	0.59	0.59	0.04	0.80	0.80	XXX
93005		A	Electrocardiogram, tracing	0.00	0.43	0.43	0.03	0.46	0.46	XXX
93010		A	Electrocardiogram report	0.17	0.16	0.16	0.01	0.34	0.34	XXX
93012		A	Transmission of ecg	0.00	2.25	2.25	0.22	2.47	2.47	XXX
93014		A	Report on transmitted ecg	0.52	0.40	0.40	0.05	0.97	0.97	XXX
93015		A	Cardiovascular stress test	0.75	2.32	2.32	0.18	3.25	3.25	XXX
93016		A	Cardiovascular stress test	0.45	0.39	0.39	0.03	0.87	0.87	XXX
93017		A	Cardiovascular stress test	0.00	1.60	1.60	0.12	1.72	1.72	XXX
93018		A	Cardiovascular stress test	0.30	#0.33	#0.33	0.03	0.66	0.66	XXX
93024		A	Cardiac drug stress test	1.17	2.36	2.36	0.23	3.76	3.76	XXX
93024	TC	A	Cardiac drug stress test	0.00	1.07	1.07	0.09	1.16	1.16	XXX
93024	26	A	Cardiac drug stress test	1.17	#1.29	#1.29	0.14	2.60	2.60	XXX
93040		A	Rhythm ECG with report	0.18	0.26	0.26	0.02	0.44	0.44	XXX
93041		A	Rhythm ECG, tracing	0.00	0.14	0.14	0.01	0.15	0.15	XXX
93042		A	Rhythm ECG, report	0.18	0.12	0.12	0.01	0.29	0.29	XXX
93224		A	ECG monitor/report, 24 hrs	0.52	3.83	3.83	0.31	4.66	4.66	XXX
93225		A	ECG monitor/record, 24 hrs	0.09	1.18	1.18	0.09	1.27	1.27	XXX
93226		A	ECG monitor/report, 24 hrs	0.00	2.08	2.08	0.16	2.24	2.24	XXX
93227		A	ECG monitor/review, 24 hrs	0.52	#0.57	#0.57	0.06	1.15	1.15	XXX
93230		A	ECG monitor/report, 24 hrs	0.52	4.09	4.09	0.34	4.95	4.95	XXX
93231		A	ECG monitor/record, 24 hrs	0.00	1.45	1.45	0.11	1.56	1.56	XXX
93232		A	ECG monitor/report, 24 hrs	0.00	2.07	2.07	0.15	2.22	2.22	XXX
93233		A	ECG monitor/review, 24 hrs	0.52	#0.57	#0.57	0.08	1.17	1.17	XXX
93235		A	ECG monitor/report, 24 hrs	0.45	3.00	3.00	0.23	3.68	3.68	XXX
93236		A	ECG monitor/report, 24 hrs	0.00	2.50	2.50	0.17	2.67	2.67	XXX
93237		A	ECG monitor/review, 24 hrs	0.45	#0.50	#0.50	0.06	1.01	1.01	XXX
93268		A	ECG record/review	0.52	3.83	3.83	0.36	4.71	4.71	XXX
93270		A	ECG recording	0.00	1.18	1.18	0.09	1.27	1.27	XXX
93271		A	ECG/monitoring and analysis	0.00	2.25	2.25	0.22	2.47	2.47	XXX
93272		A	ECG/review, interpret only	0.52	0.40	0.40	0.05	0.97	0.97	XXX
93278		A	ECG/signal-averaged	0.25	1.38	1.38	0.18	1.81	1.81	XXX
93278	TC	A	ECG/signal-averaged	0.00	1.10	1.10	0.12	1.22	1.22	XXX
93278	26	A	ECG/signal-averaged	0.25	#0.28	#0.28	0.06	0.59	0.59	XXX
93303		A	Echo transthoracic	1.30	4.88	4.88	0.36	6.54	6.54	XXX
93303	TC	A	Echo transthoracic	0.00	3.88	3.88	0.27	3.95	3.95	XXX
93303	26	A	Echo transthoracic	1.30	1.00	1.00	0.09	2.39	2.39	XXX
93304		A	Echo transthoracic	0.75	2.53	2.53	0.19	3.47	3.47	XXX
93304	TC	A	Echo transthoracic	0.00	1.85	1.85	0.14	1.99	1.99	XXX
93304	26	A	Echo transthoracic	0.75	0.68	0.68	0.05	1.48	1.48	XXX
93307		A	Echo exam of heart	0.92	4.88	4.88	0.36	5.96	5.96	XXX
93307	TC	A	Echo exam of heart	0.00	3.88	3.88	0.27	3.95	3.95	XXX
93307	26	A	Echo exam of heart	0.92	1.00	1.00	0.09	2.01	2.01	XXX
93308		A	Echo exam of heart	0.53	2.43	2.43	0.19	3.15	3.15	XXX

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[2] Copyright 1994 American Dental Association. All rights reserved.
[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT[1]/ HCPCS[2]	MOD	Status	Description	Physician work RVUs[3,4]	Non-facility practice expense RVUs[5]	Facility practice expense RVUs[5]	Mal-practice RVUs	Non-facility total	Facility total	Global
93308	TC	A	Echo exam of heart	0.00	1.85	1.85	0.14	1.99	1.99	XXX
93308	26	A	Echo exam of heart	0.53	#0.58	#0.58	0.05	1.16	1.16	XXX
93312		A	Echo transesophageal	2.20	4.95	4.95	0.45	7.60	7.60	XXX
93312	TC	A	Echo transesophageal	0.00	3.60	3.60	0.33	3.93	3.93	XXX
93312	26	A	Echo transesophageal	2.20	1.35	1.35	0.12	3.67	3.67	XXX
93313		A	Echo transesophageal	0.95	0.67	0.67	0.06	1.68	1.68	XXX
93314		A	Echo transesophageal	1.25	4.27	4.27	0.39	5.91	5.91	XXX
93314	TC	A	Echo transesophageal	0.00	3.60	3.60	0.33	3.93	3.93	XXX
93314	26	A	Echo transesophageal	1.25	0.67	0.67	0.06	1.98	1.98	XXX
93315		A	Echo transesophageal	2.78	4.95	4.95	0.45	8.18	8.18	XXX
93315	TC	A	Echo transesophageal	0.00	3.60	3.60	0.33	3.93	3.93	XXX
93315	26	A	Echo transesophageal	2.78	1.35	1.35	0.12	4.25	4.25	XXX
93316		A	Echo transesophageal	0.95	0.67	0.67	0.06	1.68	1.68	XXX
93317		A	Echo transesophageal	1.63	4.27	4.27	0.39	6.49	6.49	XXX
93317	TC	A	Echo transesophageal	0.00	3.60	3.60	0.33	3.93	3.93	XXX
93317	26	A	Echo transesophageal	1.63	0.67	0.67	0.06	2.56	2.56	XXX
93320		A	Doppler echo exam, heart	0.38	2.05	2.05	0.18	2.61	2.61	ZZZ
93320	TC	A	Doppler echo exam, heart	0.00	1.63	1.63	0.13	1.76	1.76	ZZZ
93320	26	A	Doppler echo exam, heart	0.38	#0.42	#0.42	0.05	0.85	0.85	ZZZ
93321		A	Doppler echo exam, heart	0.15	1.23	1.23	0.11	1.49	1.49	ZZZ
93321	TC	A	Doppler echo exam, heart	0.00	1.08	1.08	0.09	1.15	1.15	ZZZ
93321	26	A	Doppler echo exam, heart	0.15	#0.17	#0.17	0.02	0.34	0.34	ZZZ
93325		A	Doppler color flow	0.07	2.80	2.80	0.25	3.12	3.12	ZZZ
93325	TC	A	Doppler color flow	0.00	2.76	2.76	0.24	3.00	3.00	ZZZ
93325	26	A	Doppler color flow	0.07	0.04	0.04	0.01	0.12	0.12	ZZZ
93350		A	Echo transthoracic	0.78	2.54	2.54	0.24	3.56	3.56	XXX
93350	TC	A	Echo transthoracic	0.00	1.68	1.68	0.14	1.82	1.82	XXX
93350	26	A	Echo transthoracic	0.78	#0.86	#0.86	0.10	1.74	1.74	XXX
93501		A	Right heart catheterization	3.02	19.43	19.43	1.54	23.99	23.99	000
93501	TC	A	Right heart catheterization	0.00	16.11	16.11	1.20	17.31	17.31	000
93501	26	A	Right heart catheterization	3.02	#3.32	#3.32	0.34	6.68	6.68	000
93503		A	Insertion/place heart catheter	2.91	2.37	2.37	0.36	5.64	5.64	000
93505		A	Biopsy of heart lining	4.38	4.92	4.92	0.46	9.76	9.76	000
93505	TC	A	Biopsy of heart lining	0.00	1.89	1.89	0.18	2.07	2.07	000
93505	26	A	Biopsy of heart lining	4.38	3.03	3.03	0.29	7.69	7.69	000
93508		A	Cath placement, angiography	4.10	14.79	14.79	0.98	19.87	19.87	000
93508	TC	A	Cath placement, angiography	0.00	12.01	12.01	0.75	12.76	12.76	000
93508	26	A	Cath placement, angiography	4.10	2.78	2.78	0.23	7.11	7.11	000
93510		A	Left heart catheterization	4.33	38.28	38.28	2.86	45.47	45.47	000
93510	TC	A	Left heart catheterization	0.00	35.22	35.22	2.63	37.85	37.85	000
93510	26	A	Left heart catheterization	4.33	3.06	3.06	0.23	7.62	7.62	000
93511		A	Left heart catheterization	5.93	38.91	38.91	2.76	44.70	44.70	000
93511	TC	A	Left heart catheterization	0.00	34.29	34.29	2.56	36.85	36.85	000
93511	26	A	Left heart catheterization	5.93	2.62	2.62	0.20	7.85	7.85	000
93514		A	Left heart catheterization	7.05	38.84	38.84	2.94	48.83	48.83	000
93514	TC	A	Left heart catheterization	0.00	34.29	34.29	2.56	36.85	36.85	000
93514	26	A	Left heart catheterization	7.05	4.55	4.55	0.38	11.98	11.98	000
93524		A	Left heart catheterization	8.95	49.45	49.45	3.69	60.09	60.09	000
93524	TC	A	Left heart catheterization	0.00	44.80	44.80	3.35	48.15	48.15	000
93524	26	A	Left heart catheterization	8.95	4.65	4.65	0.34	11.94	11.94	000
93526		A	Rt & Lt heart catheters	5.98	51.48	51.48	3.83	61.30	61.30	000
93526	TC	A	Rt & Lt heart catheters	0.00	46.08	46.08	3.44	49.47	49.47	000
93526	26	A	Rt & Lt heart catheters	5.98	5.46	5.46	0.39	11.83	11.83	000
93527		A	Rt & Lt heart catheters	7.28	51.94	51.94	3.85	63.07	63.07	000
93527	TC	A	Rt & Lt heart catheters	0.00	44.80	44.80	3.35	48.15	48.15	000
93527	26	A	Rt & Lt heart catheters	7.28	7.14	7.14	0.50	14.92	14.92	000
93528		A	Rt & Lt heart catheters	9.00	49.29	49.29	3.68	61.91	61.91	000
93528	TC	A	Rt & Lt heart catheters	0.00	44.80	44.80	3.35	48.15	48.15	000
93528	26	A	Rt & Lt heart catheters	9.00	4.43	4.43	0.33	13.76	13.76	000
93529		A	Rt, Lt heart catheterization	4.80	47.73	47.73	3.57	56.10	56.10	000
93529	TC	A	Rt, Lt heart catheterization	0.00	44.80	44.80	3.35	48.15	48.15	000
93529	26	A	Rt, Lt heart catheterization	4.80	2.93	2.93	0.22	7.95	7.95	000
93530		A	Rt heart cath, congenital	4.23	19.72	19.72	1.54	25.49	25.49	000
93530	TC	A	Rt heart cath, congenital	0.00	16.11	16.11	1.20	17.31	17.31	000
93530	26	A	Rt heart cath, congenital	4.23	3.61	3.61	0.34	8.18	8.18	000
93531		A	R & I heart cath, congenital	8.35	51.48	51.48	3.83	63.66	63.66	000
93531	TC	A	R & I heart cath, congenital	0.00	46.03	46.03	3.44	49.47	49.47	000
93531	26	A	R & I heart cath, congenital	8.35	5.45	5.45	0.39	14.19	14.19	000
93532		A	R & I heart cath, congenital	10.00	51.94	51.94	3.85	65.79	65.79	000
93532	TC	A	R & I heart cath, congenital	0.00	44.80	44.80	3.35	48.15	48.15	000
93532	26	A	R & I heart cath, congenital	10.00	7.14	7.14	0.50	17.64	17.64	000
93533		A	R & I heart cath, congenital	8.70	47.73	47.73	3.57	58.00	58.00	000
93538	TC	A	R & I heart cath, congenital	0.00	44.80	44.80	3.35	48.15	48.15	000
93539	26	A	R & I heart cath, congenital	8.70	2.98	2.98	0.22	9.85	9.85	000

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[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT[1]/ HCPCS[2]	MOD	Status	Description	Physician work RVUs[3,4]	Non-facility practice expense RVUs[5]	Facility practice expense RVUs[5]	Mal-practice RVUs	Non-facility total	Facility total	Global
93536		A	Insert circulation assel	4.85	#6.34	#6.34	0.71	10.90	10.90	000
93539		A	Injection, cardiac cath	0.40	0.88	#0.44	0.20	1.48	1.04	000
93540		A	Injection, cardiac cath	0.43	0.88	#0.47	0.20	1.51	1.10	000
93541		A	Injection for lung angiogram	0.29	#0.32	#0.32	0.16	0.77	0.77	000
93542		A	Injection for heart x-rays	0.29	#0.32	#0.32	0.16	0.77	0.77	000
93543		A	Injection for heart x-rays	0.29	0.57	#0.32	0.11	0.97	0.72	000
93544		A	Injection for aortography	0.25	0.57	#0.28	0.11	0.93	0.64	000
93545		A	Injection for coronary x-rays	0.40	#0.44	#0.44	0.24	1.08	1.08	000
93555		A	Imaging, cardiac cath	0.81	6.25	6.25	0.42	7.48	7.48	XXX
93555	TC	A	Imaging, cardiac cath	0.00	5.98	5.98	0.39	6.36	6.36	XXX
93555	26	A	Imaging, cardiac cath	0.81	0.27	0.27	0.04	1.12	1.12	XXX
93556		A	Imaging, cardiac cath	0.83	9.88	9.88	0.65	11.36	11.36	XXX
93556	TC	A	Imaging, cardiac cath	0.00	9.43	9.43	0.58	10.01	10.01	XXX
93556	26	A	Imaging, cardiac cath	0.83	0.45	0.45	0.07	1.35	1.35	XXX
93561		A	Cardiac output measurement	0.50	1.05	1.05	0.16	1.71	1.71	000
93561	TC	A	Cardiac output measurement	0.00	0.50	0.50	0.07	0.57	0.57	000
93561	26	A	Cardiac output measurement	0.50	#0.55	#0.55	0.09	1.14	1.14	000
93562		A	Cardiac output measurement	0.16	0.46	0.46	0.10	0.74	0.74	000
93562	TC	A	Cardiac output measurement	0.00	0.30	0.30	0.04	0.34	0.34	000
93562	26	A	Cardiac output measurement	0.16	#0.16	#0.18	0.06	0.40	0.40	000
93600		A	Bundle of His recording	2.12	4.19	4.19	0.38	6.69	6.69	000
93600	TC	A	Bundle of His recording	0.00	1.86	1.86	0.14	2.00	2.00	000
93600	26	A	Bundle of His recording	2.12	#2.33	#2.33	0.24	4.69	4.69	000
93602		A	Intra-atrial recording	2.12	2.83	2.83	0.22	5.17	5.17	000
93602	TC	A	Intra-atrial recording	0.00	1.06	1.06	0.08	1.14	1.14	000
93602	26	A	Intra-atrial recording	2.12	1.77	1.77	0.14	4.03	4.03	000
93603		A	Right ventricular recording	2.12	3.79	3.79	0.28	6.19	6.19	000
93603	TC	A	Right ventricular recording	0.00	1.60	1.60	0.12	1.72	1.72	000
93603	26	A	Right ventricular recording	2.12	2.19	2.19	0.16	4.47	4.47	000
93607		A	Right ventricular recording	3.26	3.63	3.63	0.28	7.17	7.17	000
93607	TC	A	Right ventricular recording	0.00	1.42	1.42	0.11	1.53	1.53	000
93607	26	A	Right ventricular recording	3.26	2.21	2.21	0.17	5.64	5.64	000
93609		A	Mapping of tachycardia	10.07	6.43	6.43	0.47	16.97	16.97	000
93609	TC	A	Mapping of tachycardia	0.00	2.59	2.59	0.19	2.78	2.78	000
93609	26	A	Mapping of tachycardia	10.07	3.84	3.84	0.28	14.19	14.19	000
93610		A	Intra-atrial pacing	3.02	3.60	3.60	0.27	6.89	6.89	000
93610	TC	A	Intra-atrial pacing	0.00	1.29	1.29	0.10	1.39	1.39	000
93610	26	A	Intra-atrial pacing	3.02	2.31	2.31	0.17	5.50	5.50	000
93612		A	Intraventricular pacing	3.02	3.88	3.88	0.29	7.19	7.19	000
93612	TC	A	Intraventricular pacing	0.00	1.54	1.54	0.12	1.66	1.66	000
93612	26	A	Intraventricular pacing	3.02	2.34	2.34	0.17	5.53	5.53	000
93615		A	Esophageal recording	0.99	0.65	0.65	0.04	1.68	1.68	000
93615	TC	A	Esophageal recording	0.00	0.30	0.30	0.02	0.32	0.32	000
93615	26	A	Esophageal recording	0.99	0.35	0.35	0.02	1.36	1.36	000
93616		A	Esophageal recording	1.49	1.66	1.66	0.10	3.25	3.25	000
93616	TC	A	Esophageal recording	0.00	0.30	0.30	0.02	0.32	0.32	000
93616	26	A	Esophageal recording	1.49	1.36	1.36	0.08	2.93	2.93	000
93618		A	Heart rhythm pacing	4.26	8.47	8.47	0.72	13.45	13.45	000
93618	TC	A	Heart rhythm pacing	0.00	3.78	3.78	0.28	4.06	4.06	000
93618	26	A	Heart rhythm pacing	4.26	#4.69	#4.69	0.44	9.39	9.39	000
93619		A	Electrophysiology evaluation	7.32	15.39	15.39	1.40	24.11	24.11	000
93619	TC	A	Electrophysiology evaluation	0.00	7.34	7.34	0.54	7.88	7.88	000
93619	26	A	Electrophysiology evaluation	7.32	#8.05	#8.05	0.86	16.23	16.23	000
93620		A	Electrophysiology evaluation	11.59	21.29	21.29	1.55	34.43	34.43	000
93620	TC	A	Electrophysiology evaluation	0.00	8.54	8.54	0.60	9.14	9.14	000
93620	26	A	Electrophysiology evaluation	11.59	#12.75	#12.75	0.95	25.29	25.29	000
93621		C	Electrophysiology evaluation	0.00	0.00	0.00	0.00	0.00	0.00	000
93621	TC	C	Electrophysiology evaluation	0.00	0.00	0.00	0.00	0.00	0.00	000
93621	26	A	Electrophysiology evaluation	12.66	#13.93	#13.93	1.11	27.70	27.70	000
93622		C	Electrophysiology evaluation	0.00	0.00	0.00	0.00	0.00	0.00	000
93622	TC	C	Electrophysiology evaluation	0.00	0.00	0.00	0.00	0.00	0.00	000
93622	26	A	Electrophysiology evaluation	12.74	#14.01	#14.01	1.07	27.82	27.82	000
93623		C	Stimulation, pacing heart	0.00	0.00	0.00	0.00	0.00	0.00	000
93623	TC	C	Stimulation, pacing heart	0.00	0.00	0.00	0.00	0.00	0.00	000
93623	26	A	Stimulation, pacing heart	2.85	2.78	2.78	0.20	5.83	5.83	000
93624		A	Electrophysiologic study	4.81	4.86	4.86	0.35	10.04	10.04	000
93624	TC	A	Electrophysiologic study	0.00	1.89	1.89	0.14	2.03	2.03	000
93624	26	A	Electrophysiologic study	4.81	2.99	2.99	0.21	8.01	8.01	000
93631		A	Heart pacing, mapping	7.60	11.62	11.62	1.37	20.59	20.59	000
93631	TC	A	Heart pacing, mapping	0.00	5.86	5.86	0.70	6.56	6.56	000
93631	26	A	Heart pacing, mapping	7.60	5.76	5.76	0.67	14.03	14.03	000
93640		A	Evaluation heart device	3.52	10.71	10.71	1.09	15.32	15.32	000
93640	TC	A	Evaluation heart device	0.00	6.84	6.84	0.48	7.32	7.32	000
93640	26	A	Evaluation heart device	3.52	#3.87	#3.87	0.61	8.00	8.00	000

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[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
93641	.....	A	Electrophysiology evaluation	5.93	13.36	13.36	1.09	20.38	20.38	000
93641	TC	A	Electrophysiology evaluation	0.00	6.84	6.84	0.46	7.32	7.32	000
93641	26	A	Electrophysiology evaluation	5.93	#6.52	#6.52	0.61	13.06	13.06	000
93642	.....	A	Electrophysiology evaluation	4.89	12.22	12.22	1.09	18.20	18.20	000
93642	TC	A	Electrophysiology evaluation	0.00	6.84	6.84	0.46	7.32	7.32	000
93642	26	A	Electrophysiology evaluation	4.89	#5.38	#5.38	0.61	10.88	10.88	000
93650	.....	A	Ablate heart dysrhythm focus	10.51	#11.56	#11.56	1.34	23.41	23.41	000
93651	.....	A	Ablate heart dysrhythm focus	16.25	17.83	17.83	1.34	35.42	35.42	000
93652	.....	A	Ablate heart dysrhythm focus	17.68	17.83	17.83	1.34	36.85	36.85	000
93660	.....	C	Tilt table evaluation	0.00	0.00	0.00	0.00	0.00	0.00	000
93660	TC	C	Tilt table evaluation	0.00	0.00	0.00	0.00	0.00	0.00	000
93660	26	A	Tilt table evaluation	1.89	1.44	1.44	0.17	3.50	3.50	000
93720	.....	A	Total body plethysmography	0.17	0.89	0.89	0.10	1.16	1.19	XXX
93721	.....	A	Plethysmography tracing	0.00	0.67	0.67	0.07	0.74	0.74	XXX
93722	.....	A	Plethysmography report	0.17	0.22	#0.19	0.03	0.42	0.39	XXX
93724	.....	A	Analyze pacemaker system	4.89	6.66	6.66	0.50	12.05	12.05	000
93724	TC	A	Analyze pacemaker system	0.00	3.78	3.78	0.28	4.06	4.06	000
93724	26	A	Analyze pacemaker system	4.89	2.88	2.88	0.22	7.99	7.99	000
93731	.....	A	Analyze pacemaker system	0.45	0.79	0.79	0.07	1.31	1.31	XXX
93731	TC	A	Analyze pacemaker system	0.00	0.47	0.47	0.04	0.51	0.51	XXX
93731	26	A	Analyze pacemaker system	0.45	0.32	0.32	0.03	0.80	0.80	XXX
93732	.....	A	Analyze pacemaker system	0.92	0.91	0.91	0.08	1.91	1.91	XXX
93732	TC	A	Analyze pacemaker system	0.00	0.49	0.49	0.04	0.53	0.53	XXX
93732	26	A	Analyze pacemaker system	0.92	0.42	0.42	0.04	1.38	1.38	XXX
93733	.....	A	Telephone analysis, pacemaker	0.17	0.86	0.86	0.06	1.13	1.13	XXX
93733	TC	A	Telephone analysis, pacemaker	0.00	0.69	0.69	0.06	0.75	0.75	XXX
93733	26	A	Telephone analysis, pacemaker	0.17	#0.19	#0.19	0.02	0.38	0.38	XXX
93734	.....	A	Analyze pacemaker system	0.38	0.64	0.64	0.06	1.08	1.08	XXX
93734	TC	A	Analyze pacemaker system	0.00	0.33	0.33	0.03	0.36	0.36	XXX
93734	26	A	Analyze pacemaker system	0.38	0.31	0.31	0.03	0.72	0.72	XXX
93735	.....	A	Analyze pacemaker system	0.74	0.85	0.85	0.08	1.67	1.67	XXX
93735	TC	A	Analyze pacemaker system	0.00	0.42	0.42	0.04	0.46	0.46	XXX
93735	26	A	Analyze pacemaker system	0.74	0.43	0.43	0.04	1.21	1.21	XXX
93736	.....	A	Telephone analysis, pacemaker	0.16	0.77	0.77	0.08	1.01	1.01	XXX
93736	TC	A	Telephone analysis, pacemaker	0.00	0.60	0.60	0.06	0.66	0.66	XXX
93736	26	A	Telephone analysis, pacemaker	0.16	#0.17	#0.17	0.03	0.35	0.35	XXX
93737	.....	A	Analyze cardio/defibrillator	0.45	0.74	0.74	0.06	1.25	1.25	XXX
93737	TC	A	Analyze cardio/defibrillator	0.00	0.47	0.47	0.04	0.51	0.51	XXX
93737	26	A	Analyze cardio/defibrillator	0.45	0.27	0.27	0.02	0.74	0.74	XXX
93738	.....	A	Analyze cardio/defibrillator	0.92	0.88	0.88	0.07	1.87	1.87	XXX
93738	TC	A	Analyze cardio/defibrillator	0.00	0.49	0.49	0.04	0.53	0.53	XXX
93738	26	A	Analyze cardio/defibrillator	0.92	0.39	0.39	0.03	1.34	1.34	XXX
93740	.....	A	Temperature gradient studies	0.16	0.45	0.45	0.04	0.65	0.65	XXX
93740	TC	A	Temperature gradient studies	0.00	0.15	0.15	0.01	0.16	0.16	XXX
93740	26	A	Temperature gradient studies	0.16	0.30	0.30	0.03	0.49	0.49	XXX
93760	.....	N	Cephalic thermogram	0.00	0.00	0.00	0.00	0.00	0.00	XXX
93762	.....	N	Peripheral thermogram	0.00	0.00	0.00	0.00	0.00	0.00	XXX
93770	.....	A	Measure venous pressure	0.16	0.20	0.20	0.02	0.38	0.38	XXX
93770	TC	A	Measure venous pressure	0.00	0.03	0.03	0.00	0.03	0.03	XXX
93770	26	A	Measure venous pressure	0.16	0.17	0.17	0.02	0.35	0.35	XXX
93784	.....	N	Ambulatory BP monitoring	0.00	0.00	0.00	0.00	0.00	0.00	XXX
93786	.....	N	Ambulatory BP recording	0.00	0.00	0.00	0.00	0.00	0.00	XXX
93788	.....	N	Ambulatory BP analysis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
93790	.....	N	Review/report BP recording	0.00	0.00	0.00	0.00	0.00	0.00	XXX
93797	.....	A	Cardiac rehab	0.18	#0.20	#0.20	0.02	0.40	0.40	000
93798	.....	A	Cardiac rehab/monitor	0.28	0.47	0.47	0.04	0.79	0.79	000
93799	.....	C	Cardiovascular procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
93799	TC	C	Cardiovascular procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
93799	26	C	Cardiovascular procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
93875	.....	A	Extracranial study	0.22	1.29	1.29	0.18	1.69	1.69	XXX
93875	TC	A	Extracranial study	0.00	1.05	1.05	0.12	1.17	1.17	XXX
93875	26	A	Extracranial study	0.22	#0.24	#0.24	0.06	0.52	0.52	XXX
93880	.....	A	Extracranial study	0.89	3.94	3.94	0.44	4.98	4.98	XXX
93880	TC	A	Extracranial study	0.00	3.55	3.55	0.40	3.95	3.95	XXX
93880	26	A	Extracranial study	0.89	0.39	0.39	0.04	1.03	1.08	XXX
93882	.....	A	Extracranial study	0.40	2.62	2.62	0.29	3.31	3.31	XXX
93882	TC	A	Extracranial study	0.00	2.36	2.36	0.26	2.62	2.62	XXX
93882	26	A	Extracranial study	0.40	0.26	0.26	0.03	0.69	0.69	XXX
93886	.....	A	Intracranial study	0.94	4.44	4.44	0.50	5.88	5.88	XXX
93886	TC	A	Intracranial study	0.00	4.02	4.02	0.45	4.47	4.47	XXX
93886	26	A	Intracranial study	0.94	0.42	0.42	0.05	1.41	1.41	XXX
93888	.....	A	Intracranial study	0.62	2.96	2.96	0.34	3.92	3.92	XXX
93888	TC	A	Intracranial study	0.00	2.68	2.68	0.31	2.99	2.99	XXX
93888	26	A	Intracranial study	0.62	0.28	0.28	0.09	0.93	0.93	XXX

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ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
93922	.....	A	Extremity study	0.25	1.38	1.38	0.19	1.82	1.82	XXX
93922	TC	A	Extremity study	0.00	1.10	1.10	0.14	1.24	1.24	XXX
93922	26	A	Extremity study	0.25	0.28	0.28	0.05	0.58	0.58	XXX
93923	.....	A	Extremity study	0.45	2.58	2.58	0.35	3.38	3.38	XXX
93923	TC	A	Extremity study	0.00	2.08	2.08	0.26	2.34	2.34	XXX
93923	26	A	Extremity study	0.45	#0.50	#0.50	0.09	1.04	1.04	XXX
93924	.....	A	Extremity study	0.50	2.81	2.81	0.39	3.70	3.70	XXX
93924	TC	A	Extremity study	0.00	2.26	2.26	0.29	2.55	2.55	XXX
93924	26	A	Extremity study	0.50	#0.55	#0.55	0.10	1.15	1.15	XXX
93925	.....	A	Lower extremity study	0.58	3.98	3.98	0.44	4.98	4.98	XXX
93925	TC	A	Lower extremity study	0.00	3.57	3.57	0.40	3.97	3.97	XXX
93925	26	A	Lower extremity study	0.58	0.39	0.39	0.04	1.01	1.01	XXX
93926	.....	A	Lower extremity study	0.39	2.84	2.84	0.30	3.33	3.33	XXX
93926	TC	A	Lower extremity study	0.00	2.38	2.38	0.27	2.65	2.65	XXX
93926	26	A	Lower extremity study	0.39	0.26	0.26	0.03	0.68	0.68	XXX
93930	.....	A	Upper extremity study	0.46	4.18	4.18	0.47	5.11	5.11	XXX
93930	TC	A	Upper extremity study	0.00	3.79	3.79	0.42	4.21	4.21	XXX
93930	26	A	Upper extremity study	0.46	0.39	0.39	0.05	0.90	0.90	XXX
93931	.....	A	Upper extremity study	0.31	2.78	2.78	0.31	3.40	3.40	XXX
93931	TC	A	Upper extremity study	0.00	2.52	2.52	0.28	2.80	2.80	XXX
93931	26	A	Upper extremity study	0.31	0.26	0.26	0.03	0.60	0.60	XXX
93965	.....	A	Extremity study	0.35	1.43	1.43	0.19	1.97	1.97	XXX
93965	TC	A	Extremity study	0.00	1.04	1.04	0.13	1.17	1.17	XXX
93965	26	A	Extremity study	0.35	#0.39	#0.39	0.06	0.80	0.80	XXX
93970	.....	A	Extremity study	0.88	4.33	4.33	0.51	5.52	5.52	XXX
93970	TC	A	Extremity study	0.00	3.93	3.93	0.46	4.39	4.39	XXX
93970	26	A	Extremity study	0.88	0.40	0.40	0.05	1.13	1.13	XXX
93971	.....	A	Extremity study	0.45	2.89	2.89	0.34	3.68	3.68	XXX
93971	TC	A	Extremity study	0.00	2.62	2.62	0.31	2.93	2.93	XXX
93971	26	A	Extremity study	0.45	0.27	0.27	0.03	0.75	0.75	XXX
93975	.....	A	Vascular study	1.80	4.90	4.90	0.55	7.25	7.25	XXX
93975	TC	A	Vascular study	0.00	4.46	4.46	0.50	4.96	4.96	XXX
93975	26	A	Vascular study	1.80	0.42	0.42	0.05	2.27	2.27	XXX
93976	.....	A	Vascular study	1.21	3.27	3.27	0.37	4.85	4.85	XXX
93976	TC	A	Vascular study	0.00	2.99	2.99	0.34	3.33	3.33	XXX
93976	26	A	Vascular study	1.21	0.28	0.28	0.08	1.52	1.52	XXX
93978	.....	A	Vascular study	0.85	4.08	4.08	0.47	5.18	5.18	XXX
93978	TC	A	Vascular study	0.00	3.67	3.67	0.42	4.09	4.09	XXX
93978	26	A	Vascular study	0.85	0.39	0.39	0.05	1.09	1.09	XXX
93979	.....	A	Vascular study	0.44	2.70	2.70	0.31	3.45	3.45	XXX
93979	TC	A	Vascular study	0.00	2.44	2.44	0.28	2.72	2.72	XXX
93979	26	A	Vascular study	0.44	0.26	0.26	0.03	0.73	0.73	XXX
93980	.....	A	Penile vascular study	1.25	4.15	4.15	0.45	5.85	5.85	XXX
93980	TC	A	Penile vascular study	0.00	3.33	3.33	0.38	3.71	3.71	XXX
93980	26	A	Penile vascular study	1.25	0.82	0.82	0.07	2.14	2.14	XXX
93981	.....	A	Penile vascular study	0.44	3.47	3.47	0.39	4.30	4.30	XXX
93981	TC	A	Penile vascular study	0.00	3.07	3.07	0.36	3.43	3.43	XXX
93981	26	A	Penile vascular study	0.44	0.40	0.40	0.03	0.87	0.87	XXX
93990	.....	A	Doppler flow testing	0.25	2.57	2.57	0.29	3.11	3.11	XXX
93990	TC	A	Doppler flow testing	0.00	2.38	2.38	0.27	2.65	2.65	XXX
93990	26	A	Doppler flow testing	0.25	0.19	0.19	0.02	0.46	0.46	XXX
94010	.....	A	Breathing capacity test	0.17	0.68	0.68	0.05	0.90	0.90	XXX
94010	TC	A	Breathing capacity test	0.00	0.40	0.40	0.03	0.43	0.43	XXX
94010	26	A	Breathing capacity test	0.17	0.28	0.28	0.02	0.47	0.47	XXX
94060	.....	A	Evaluation of wheezing	0.31	1.23	1.23	0.09	1.63	1.63	XXX
94060	TC	A	Evaluation of wheezing	0.00	0.89	0.89	0.06	0.95	0.95	XXX
94060	26	A	Evaluation of wheezing	0.31	#0.34	#0.34	0.03	0.68	0.68	XXX
94070	.....	A	Evaluation of wheezing	0.60	1.77	1.77	0.13	2.50	2.50	XXX
94070	TC	A	Evaluation of wheezing	0.00	1.39	1.39	0.10	1.49	1.49	XXX
94070	26	A	Evaluation of wheezing	0.60	0.38	0.38	0.03	1.01	1.01	XXX
94150	.....	B	Vital capacity test	+0.07	0.16	0.16	0.02	0.25	0.25	XXX
94150	TC	B	Vital capacity test	+0.00	0.08	0.08	0.01	0.09	0.09	XXX
94150	26	B	Vital capacity test	+0.07	#0.08	#0.08	0.01	0.16	0.16	XXX
94200	.....	A	Lung function test (MBC/MVV)	0.11	0.36	0.36	0.03	0.50	0.50	XXX
94200	TC	A	Lung function test (MBC/MVV)	0.00	0.24	0.24	0.02	0.26	0.26	XXX
94200	26	A	Lung function test (MBC/MVV)	0.11	#0.12	#0.12	0.01	0.24	0.24	XXX
94240	.....	A	Residual lung capacity	0.26	0.88	0.88	0.07	1.21	1.21	XXX
94240	TC	A	Residual lung capacity	0.00	0.65	0.65	0.05	0.70	0.70	XXX
94240	26	A	Residual lung capacity	0.26	0.23	0.23	0.02	0.51	0.51	XXX
94250	.....	A	Expired gas collection	0.11	0.25	0.25	0.02	0.38	0.38	XXX
94250	TC	A	Expired gas collection	0.00	0.13	0.13	0.01	0.14	0.14	XXX
94250	26	A	Expired gas collection	0.11	#0.12	#0.12	0.01	0.24	0.24	XXX
94260	.....	A	Thoracic gas volume	0.13	0.66	0.66	0.06	0.85	0.85	XXX
94260	TC	A	Thoracic gas volume	0.09	0.52	0.52	0.04	0.56	0.56	XXX

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[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
94260	26	A	Thoracic gas volume	0.13	#0.14	#0.14	0.02	0.29	0.29	XXX
94350		A	Lung nitrogen washout curve	0.26	0.73	0.73	0.05	1.04	1.04	XXX
94350	TC	A	Lung nitrogen washout curve	0.00	0.52	0.52	0.04	0.56	0.56	XXX
94350	26	A	Lung nitrogen washout curve	0.26	0.21	0.21	0.01	0.48	0.48	XXX
94360		A	Measure airflow resistance	0.26	1.11	1.11	0.07	1.44	1.44	XXX
94360	TC	A	Measure airflow resistance	0.00	0.92	0.92	0.06	0.98	0.98	XXX
94360	26	A	Measure airflow resistance	0.26	0.19	0.19	0.01	0.46	0.46	XXX
94370		A	Breath airway closing volume	0.26	0.40	0.40	0.03	0.69	0.69	XXX
94370	TC	A	Breath airway closing volume	0.00	0.26	0.26	0.02	0.28	0.28	XXX
94370	26	A	Breath airway closing volume	0.26	0.14	0.14	0.01	0.41	0.41	XXX
94375		A	Respiratory flow volume loop	0.31	0.67	0.67	0.04	1.02	1.02	XXX
94375	TC	A	Respiratory flow volume loop	0.00	0.46	0.46	0.03	0.49	0.49	XXX
94375	26	A	Respiratory flow volume loop	0.31	0.21	0.21	0.01	0.53	0.53	XXX
94400		A	CO2 breathing response curve	0.40	0.77	0.77	0.19	1.36	1.36	XXX
94400	TC	A	CO2 breathing response curve	0.00	0.30	0.30	0.06	0.36	0.36	XXX
94400	26	A	CO2 breathing response curve	0.40	0.47	0.47	0.13	1.00	1.00	XXX
94450		A	Hypoxia response curve	0.40	0.61	0.61	0.05	1.06	1.06	XXX
94450	TC	A	Hypoxia response curve	0.00	0.37	0.37	0.03	0.40	0.40	XXX
94450	26	A	Hypoxia response curve	0.40	0.24	0.24	0.02	0.66	0.66	XXX
94620		A	Pulmonary stress testing	0.88	2.05	2.05	0.15	3.08	3.08	XXX
94620	TC	A	Pulmonary stress testing	0.00	1.35	1.35	0.10	1.45	1.45	XXX
94620	26	A	Pulmonary stress testing	0.88	0.70	0.70	0.05	1.63	1.63	XXX
94640		A	Airway inhalation treatment	0.00	0.39	0.39	0.03	0.42	0.42	XXX
94642		C	Aerosol inhalation treatment	0.00	0.00	0.00	0.00	0.00	0.00	XXX
94650		A	Pressure breathing (IPPB)	0.00	0.37	0.37	0.03	0.40	0.40	XXX
94651		A	Pressure breathing (IPPB)	0.00	0.36	0.36	0.03	0.39	0.39	XXX
94652		A	Pressure breathing (IPPB)	0.00	0.41	0.41	0.08	0.49	0.49	XXX
94656		A	Initial ventilator mgmt	1.22	1.13	1.13	0.12	2.47	2.47	XXX
94657		A	Cont. ventilator	0.83	0.62	0.62	0.05	1.50	1.50	XXX
94660		A	Pos airway pressure, CPAP	0.76	0.71	0.71	0.06	1.53	1.53	XXX
94662		A	Neg pressure ventilation, cnp	0.76	0.30	0.30	0.02	1.08	1.08	XXX
94664		A	Aerosol or vapor inhalations	0.00	0.50	0.50	0.04	0.54	0.54	XXX
94665		A	Aerosol or vapor inhalations	0.00	0.46	0.46	0.05	0.51	0.51	XXX
94667		A	Chest wall manipulation	0.00	0.55	0.55	0.05	0.60	0.60	XXX
94668		A	Chest wall manipulation	0.00	0.34	0.34	0.03	0.37	0.37	XXX
94680		A	Exhaled air analysis: O2	0.26	0.78	0.78	0.10	1.14	1.14	XXX
94680	TC	A	Exhaled air analysis: O2	0.00	0.49	0.49	0.07	0.56	0.56	XXX
94680	26	A	Exhaled air analysis: O2	0.26	#0.29	#0.29	0.03	0.58	0.58	XXX
94681		A	Exhaled air analysis: O2, CO2	0.20	1.54	1.54	0.17	1.91	1.91	XXX
94681	TC	A	Exhaled air analysis: O2, CO2	0.00	1.32	1.32	0.13	1.45	1.45	XXX
94681	26	A	Exhaled air analysis: O2, CO2	0.20	#0.22	#0.22	0.04	0.46	0.46	XXX
94680		A	Exhaled air analysis	0.07	0.56	0.56	0.04	0.67	0.67	XXX
94680	TC	A	Exhaled air analysis	0.00	0.51	0.51	0.04	0.55	0.55	XXX
94680	26	A	Exhaled air analysis	0.07	0.05	0.05	0.00	0.12	0.12	XXX
94720		A	Monoxide diffusing capacity	0.26	1.03	1.03	0.08	1.37	1.37	XXX
94720	TC	A	Monoxide diffusing capacity	0.00	0.80	0.80	0.06	0.86	0.86	XXX
94720	26	A	Monoxide diffusing capacity	0.26	0.23	0.23	0.02	0.51	0.51	XXX
94725		A	Membrane diffusion capacity	0.26	1.84	1.84	0.14	2.24	2.24	XXX
94725	TC	A	Membrane diffusion capacity	0.00	1.66	1.66	0.13	1.79	1.79	XXX
94725	26	A	Membrane diffusion capacity	0.26	0.18	0.18	0.01	0.45	0.45	XXX
94750		A	Pulmonary compliance study	0.23	0.80	0.80	0.06	1.09	1.09	XXX
94750	TC	A	Pulmonary compliance study	0.00	0.55	0.55	0.04	0.59	0.59	XXX
94750	26	A	Pulmonary compliance study	0.23	#0.25	#0.25	0.02	0.50	0.50	XXX
94760		A	Measure blood oxygen level	0.00	0.25	0.25	0.02	0.27	0.27	XXX
94761		A	Measure blood oxygen level	0.00	0.64	0.64	0.06	0.70	0.70	XXX
94762		A	Measure blood oxygen level	0.00	1.08	1.08	0.10	1.18	1.18	XXX
94770		A	Exhaled carbon dioxide test	0.15	0.40	0.40	0.11	0.66	0.66	XXX
94770	TC	A	Exhaled carbon dioxide test	0.00	0.29	0.29	0.08	0.37	0.37	XXX
94770	26	A	Exhaled carbon dioxide test	0.15	0.11	0.11	0.03	0.29	0.29	XXX
94772		C	Breath recording, infant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
94772	TC	C	Breath recording, infant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
94772	26	C	Breath recording, infant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
94799		C	Pulmonary service/procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
94799	TC	C	Pulmonary service/procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
94799	26	C	Pulmonary service/procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
95004		A	Allergy skin tests	0.00	0.09	0.09	0.01	0.10	0.10	XXX
95010		A	Sensitivity skin tests	0.15	0.11	0.11	0.01	0.27	0.27	XXX
95015		A	Sensitivity skin tests	0.15	0.11	0.11	0.01	0.27	0.27	XXX
95024		A	Allergy skin tests	0.00	0.14	0.14	0.01	0.15	0.15	XXX
95027		A	Skin end point titration	0.00	0.14	0.14	0.01	0.15	0.15	XXX
95028		A	Allergy skin tests	0.00	0.22	0.22	0.01	0.23	0.23	XXX
95044		A	Allergy patch tests	0.00	0.19	0.19	0.01	0.20	0.20	XXX
95052		A	Photo patch test	0.00	0.24	0.24	0.01	0.25	0.25	XXX
95056		A	Photosensitivity tests	0.00	0.17	0.17	0.01	0.18	0.18	XXX

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[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
95060		A	Eye allergy tests	0.00	0.33	0.33	0.02	0.35	0.35	XXX
95065		A	Nose allergy test	0.00	0.19	0.19	0.01	0.20	0.20	XXX
95070		A	Bronchial allergy tests	0.00	2.17	2.17	0.02	2.19	2.19	XXX
95071		A	Bronchial allergy tests	0.00	2.78	2.78	0.02	2.80	2.80	XXX
95075		A	Ingestion challenge test	0.95	1.97	1.97	0.02	2.94	2.94	XXX
95078		A	Provocative testing	0.00	0.24	0.24	0.02	0.26	0.26	XXX
95115		A	Immunotherapy, one injection	0.00	0.37	0.37	0.02	0.39	0.39	000
95117		A	Immunotherapy injections	0.00	0.48	0.48	0.02	0.50	0.50	000
95120		I	Immunotherapy, one injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
95125		I	Immunotherapy, many antigens	0.00	0.00	0.00	0.00	0.00	0.00	XXX
95130		I	Immunotherapy, insect venom	0.00	0.00	0.00	0.00	0.00	0.00	XXX
95131		I	Immunotherapy, insect venome	0.00	0.00	0.00	0.00	0.00	0.00	XXX
95132		I	Immunotherapy, insect venome	0.00	0.00	0.00	0.00	0.00	0.00	XXX
95133		I	Immunotherapy, insect venome	0.00	0.00	0.00	0.00	0.00	0.00	XXX
95134		I	Immunotherapy, insect venome	0.00	0.00	0.00	0.00	0.00	0.00	XXX
95144		A	Antigen therapy services	0.06	0.13	0.13	0.01	0.20	0.20	000
95145		A	Antigen therapy services	0.06	0.34	0.34	0.03	0.43	0.43	000
95146		A	Antigen therapy services	0.06	0.61	0.61	0.03	0.70	0.70	000
95147		A	Antigen therapy services	0.06	0.91	0.91	0.03	1.00	1.00	000
95148		A	Antigen therapy services	0.06	0.91	0.91	0.03	1.00	1.00	000
95149		A	Antigen therapy services	0.06	1.14	1.14	0.03	1.23	1.23	000
95165		A	Antigen therapy services	0.06	0.10	0.10	0.01	0.17	0.17	000
95170		A	Antigen therapy services	0.06	0.35	0.35	0.03	0.44	0.44	000
95180		A	Rapid desensitization	2.01	0.14	0.14	0.01	2.16	2.16	000
95199		C	Allergy immunology services	0.00	0.00	0.00	0.00	0.00	0.00	000
95805		A	Multiple sleep latency test	1.88	5.51	5.51	0.45	7.84	7.84	XXX
95805	TC	A	Multiple sleep latency test	0.00	4.95	4.95	0.38	5.33	5.33	XXX
95805	26	A	Multiple sleep latency test	1.88	0.56	0.56	0.07	2.51	2.51	XXX
95806		A	Sleep study, unattended	1.66	7.18	6.56	0.55	9.39	8.77	XXX
95806	TC	A	Sleep study, unattended	0.00	4.73	4.73	0.36	5.09	5.09	XXX
95806	26	A	Sleep study, unattended	1.66	2.45	#1.83	0.19	4.30	3.68	XXX
95807		A	Sleep study, attended	1.66	8.13	8.13	0.67	10.46	10.46	XXX
95807	TC	A	Sleep study, attended	0.00	6.30	6.30	0.48	6.78	6.78	XXX
95807	26	A	Sleep study, attended	1.66	#1.83	#1.83	0.19	3.68	3.68	XXX
95808		A	Polysomnography, 1–3	2.65	8.75	8.75	0.67	12.07	12.07	XXX
95808	TC	A	Polysomnography, 1–3	0.00	6.30	6.30	0.48	6.78	6.78	XXX
95808	26	A	Polysomnography, 1–3	2.65	2.45	2.45	0.19	5.29	5.29	XXX
95810		A	Polysomnography, 4 or more	3.53	8.75	8.75	0.67	12.95	12.95	XXX
95810	TC	A	Polysomnography, 4 or more	0.00	6.30	6.30	0.48	6.78	6.78	XXX
95810	26	A	Polysomnography, 4 or more	3.53	2.45	2.45	0.19	6.17	6.17	XXX
95811		A	Polysomnography w/epap	3.80	9.19	9.19	0.70	13.69	13.69	XXX
95811	TC	A	Polysomnography w/epap	0.00	6.62	6.62	0.50	7.12	7.12	XXX
95811	26	A	Polysomnography w/epap	3.80	2.57	2.57	0.20	6.57	6.57	XXX
95812		A	Electroencephalogram (EEG)	1.08	1.85	1.85	0.15	3.08	3.08	XXX
95812	TC	A	Electroencephalogram (EEG)	0.00	1.35	1.35	0.11	1.46	1.46	XXX
95812	26	A	Electroencephalogram (EEG)	1.08	0.50	0.50	0.04	1.62	1.62	XXX
95813		A	Electroencephalogram (EEG)	1.73	1.85	1.85	0.15	3.73	3.73	XXX
95813	TC	A	Electroencephalogram (EEG)	0.00	1.35	1.35	0.11	1.46	1.46	XXX
95813	26	A	Electroencephalogram (EEG)	1.73	0.50	0.50	0.04	2.27	2.27	XXX
95816		A	Electroencephalogram (EEG)	1.08	1.54	1.54	0.13	2.75	2.75	XXX
95816	TC	A	Electroencephalogram (EEG)	0.00	1.26	1.26	0.10	1.36	1.36	XXX
95816	26	A	Electroencephalogram (EEG)	1.08	0.28	0.28	0.03	1.39	1.39	XXX
95819		A	Electroencephalogram (EEG)	1.08	1.80	1.80	0.14	3.02	3.02	XXX
95819	TC	A	Electroencephalogram (EEG)	0.00	1.30	1.30	0.10	1.40	1.40	XXX
95819	26	A	Electroencephalogram (EEG)	1.08	0.50	0.50	0.04	1.62	1.62	XXX
95822		A	Sleep electroencephalogram	1.08	2.28	2.28	0.18	3.54	3.54	XXX
95822	TC	A	Sleep electroencephalogram	0.00	1.72	1.72	0.14	1.86	1.86	XXX
95822	26	A	Sleep electroencephalogram	1.08	0.56	0.56	0.04	1.68	1.68	XXX
95824		A	Electroencephalography	0.74	0.98	0.98	0.07	1.79	1.79	XXX
95824	TC	A	Electroencephalography	0.00	0.40	0.40	0.03	0.43	0.43	XXX
95824	26	A	Electroencephalography	0.74	0.58	0.58	0.04	1.36	1.36	XXX
95827		A	Night electroencephalogram	1.08	3.06	3.06	0.24	4.38	4.38	XXX
95827	TC	A	Night electroencephalogram	0.00	2.18	2.18	0.17	2.35	2.35	XXX
95827	26	A	Night electroencephalogram	1.08	0.88	0.88	0.07	2.03	2.03	XXX
95829		A	Surgery electrocorticogram	6.21	0.59	0.59	0.05	6.85	6.85	XXX
95829	TC	A	Surgery electrocorticogram	0.00	0.14	0.14	0.02	0.16	0.16	XXX
95829	26	A	Surgery electrocorticogram	6.21	0.45	0.45	0.03	6.69	6.69	XXX
95830		A	Insert electrodes for EEG	1.70	0.78	0.78	0.07	2.55	2.55	XXX
95831		A	Limb muscle testing, manual	0.28	0.29	0.29	0.03	0.60	0.60	XXX
95832		A	Hand muscle testing, manual	0.29	0.25	0.25	0.02	0.56	0.56	XXX
95833		A	Body muscle testing, manual	0.47	0.38	0.38	0.05	0.90	0.90	XXX
95834		A	Body muscle testing, manual	0.60	0.61	0.61	0.06	1.27	1.27	XXX
95851		A	Range of motion measurements	0.16	0.24	0.24	0.02	0.42	0.42	XXX
95852		A	Range of motion measurements	0.11	0.15	0.15	0.02	0.28	0.28	XXX

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[4] * Work RVUs increased in global surgical package.
[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT / HCPCS[2]	MOD	Status	Description	Physician work RVUs[3,4]	Non-facility practice expense RVUs[5]	Facility practice expense RVUs[5]	Mal-practice RVUs	Non-facility total	Facility total	Global
95857	.....	A	Tension test	0.53	0.50	0.50	0.04	1.07	1.07	XXX
95858	.....	A	Tension test & myogram	1.56	1.02	1.02	0.09	2.67	2.67	XXX
95858	TC	A	Tension test & myogram	0.00	0.38	0.38	0.04	0.42	0.42	XXX
95858	26	A	Tension test & myogram	1.56	0.64	0.64	0.05	2.25	2.25	XXX
95860	.....	A	Muscle test, one limb	0.96	1.09	1.09	0.09	2.14	2.14	XXX
95860	TC	A	Muscle test, one limb	0.00	0.36	0.36	0.03	0.39	0.39	XXX
95860	26	A	Muscle test, one limb	0.96	0.73	0.73	0.06	1.75	1.75	XXX
95861	.....	A	Muscle test, two limbs	1.54	1.97	1.97	0.16	3.67	3.67	XXX
95861	TC	A	Muscle test, two limbs	0.00	0.70	0.70	0.06	0.76	0.76	XXX
95861	26	A	Muscle test, two limbs	1.54	1.27	1.27	0.10	2.91	2.91	XXX
95863	.....	A	Muscle test, 3 limbs	1.87	2.30	2.30	0.18	4.35	4.35	XXX
95863	TC	A	Muscle test, 3 limbs	0.00	0.89	0.89	0.07	0.96	0.96	XXX
95863	26	A	Muscle test, 3 limbs	1.87	1.41	1.41	0.11	3.39	3.39	XXX
95864	.....	A	Muscle test, 4 limbs	1.99	3.45	3.45	0.27	5.71	5.71	XXX
95864	TC	A	Muscle test, 4 limbs	0.00	1.70	1.70	0.13	1.83	1.83	XXX
95864	26	A	Muscle test, 4 limbs	1.99	1.75	1.75	0.14	3.88	3.88	XXX
95867	.....	A	Muscle test, head or neck	0.79	1.13	1.13	0.09	2.01	2.01	XXX
95867	TC	A	Muscle test, head or neck	0.00	0.55	0.55	0.04	0.59	0.59	XXX
95867	26	A	Muscle test, head or neck	0.79	0.58	0.58	0.05	1.42	1.42	XXX
95868	.....	A	Muscle test, head or neck	1.18	1.92	1.92	0.15	3.25	3.25	XXX
95868	TC	A	Muscle test, head or neck	0.00	0.66	0.66	0.05	0.71	0.71	XXX
95868	26	A	Muscle test, head or neck	1.18	1.26	1.26	0.10	2.54	2.54	XXX
95869	.....	A	Muscle test, thor paraspinal	0.37	0.53	0.53	0.05	0.95	0.95	XXX
95869	TC	A	Muscle test, thor paraspinal	0.00	0.20	0.20	0.02	0.22	0.22	XXX
95869	26	A	Muscle test, thor paraspinal	0.37	0.33	0.33	0.03	0.73	0.73	XXX
95870	.....	A	Muscle test, non-paraspinal	0.37	0.53	0.53	0.05	0.95	0.95	XXX
95870	TC	A	Muscle test, non-paraspinal	0.00	0.20	0.20	0.02	0.22	0.22	XXX
95870	26	A	Muscle test, non-paraspinal	0.37	0.33	0.33	0.03	0.73	0.73	XXX
95872	.....	A	Muscle test, one fiber	1.50	1.25	1.25	0.11	2.86	2.86	XXX
95872	TC	A	Muscle test, one fiber	0.00	0.57	0.57	0.05	0.62	0.62	XXX
95872	26	A	Muscle test, one fiber	1.50	0.68	0.68	0.06	2.24	2.24	XXX
95875	.....	A	Limb exercise test	1.34	0.60	0.60	0.10	2.04	2.04	XXX
95875	TC	A	Limb exercise test	0.00	0.38	0.38	0.06	0.44	0.44	XXX
95875	26	A	Limb exercise test	1.34	0.22	0.22	0.04	1.60	1.60	XXX
95900	.....	A	Motor nerve conduction test	0.42	0.62	0.62	0.05	1.09	1.09	XXX
95900	TC	A	Motor nerve conduction test	0.00	0.27	0.27	0.02	0.29	0.29	XXX
95900	26	A	Motor nerve conduction test	0.42	0.35	0.35	0.03	0.80	0.80	XXX
95903	.....	A	Motor nerve conduction test	0.60	0.59	0.59	0.05	1.24	1.24	XXX
95903	TC	A	Motor nerve conduction test	0.00	0.24	0.24	0.02	0.26	0.26	XXX
95903	26	A	Motor nerve conduction test	0.60	0.35	0.35	0.03	0.98	0.98	XXX
95904	.....	A	Sense nerve conduction test	0.34	0.55	0.55	0.05	0.94	0.94	XXX
95904	TC	A	Sense nerve conduction test	0.00	0.21	0.21	0.02	0.23	0.23	XXX
95904	26	A	Sense nerve conduction test	0.34	0.34	0.34	0.03	0.71	0.71	XXX
95920	.....	A	Intraoperative nerve testing	2.11	2.67	2.67	0.20	4.98	4.98	XXX
95920	TC	A	Intraoperative nerve testing	0.00	1.24	1.24	0.08	1.32	1.32	XXX
95920	26	A	Intraoperative nerve testing	2.11	1.43	1.43	0.12	3.66	3.66	XXX
95921	.....	A	Autonomic nervous func test	0.90	0.68	0.68	0.05	1.63	1.63	XXX
95921	TC	A	Autonomic nervous func test	0.00	0.36	0.36	0.03	0.39	0.39	XXX
95921	26	A	Autonomic nervous func test	0.90	0.32	0.32	0.02	1.24	1.24	XXX
95922	.....	A	Autonomic nervous func test	0.96	0.70	0.70	0.06	1.72	1.72	XXX
95922	TC	A	Autonomic nervous func test	0.00	0.36	0.36	0.03	0.39	0.39	XXX
95922	26	A	Autonomic nervous func test	0.96	0.34	0.34	0.03	1.33	1.33	XXX
95923	.....	A	Autonomic nervous func test	0.90	0.68	0.68	0.05	1.63	1.63	XXX
95923	TC	A	Autonomic nervous func test	0.00	0.36	0.36	0.03	0.39	0.39	XXX
95923	26	A	Autonomic nervous func test	0.90	0.32	0.32	0.02	1.24	1.24	XXX
95925	.....	A	Somatosensory testing	0.54	1.51	1.51	0.12	2.17	2.17	XXX
95925	TC	A	Somatosensory testing	0.00	0.87	0.87	0.07	0.94	0.94	XXX
95925	26	A	Somatosensory testing	0.54	0.64	0.64	0.05	1.23	1.23	XXX
95926	.....	A	Somatosensory testing	0.54	1.51	1.51	0.12	2.17	2.17	XXX
95926	TC	A	Somatosensory testing	0.00	0.87	0.87	0.07	0.94	0.94	XXX
95926	26	A	Somatosensory testing	0.54	0.64	0.64	0.05	1.23	1.23	XXX
95927	.....	A	Somatosensory testing	0.54	1.51	1.51	0.12	2.17	2.17	XXX
95927	TC	A	Somatosensory testing	0.00	0.87	0.87	0.07	0.94	0.94	XXX
95927	26	A	Somatosensory testing	0.54	0.64	0.64	0.05	1.23	1.23	XXX
95930	.....	A	Visual evoked potential test	0.35	0.83	0.83	0.05	1.23	1.23	XXX
95930	TC	A	Visual evoked potential test	0.00	0.25	0.25	0.01	0.26	0.26	XXX
95930	26	A	Visual evoked potential test	0.35	0.58	0.58	0.04	0.97	0.97	XXX
95933	.....	A	Blink reflex test	0.59	1.25	1.25	0.10	1.94	1.94	XXX
95933	TC	A	Blink reflex test	0.00	0.75	0.75	0.06	0.81	0.81	XXX
95933	26	A	Blink reflex test	0.59	0.50	0.50	0.04	1.13	1.13	XXX
95934	.....	A	h reflex test	0.51	0.54	0.54	0.05	1.10	1.10	XXX
95934	TC	A	h reflex test	0.00	0.20	0.20	0.02	0.22	0.22	XXX
95934	26	A	h reflex test	0.51	0.34	0.34	0.03	0.88	0.88	XXX
95936	.....	A	h reflex test	0.55	0.54	0.54	0.05	1.14	1.14	XXX

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ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT / HCPCS[2]	MOD	Status	Description	Physician work RVUs[3,4]	Non-facility practice expense RVUs[5]	Facility practice expense RVUs[5]	Mal-practice RVUs	Non-facility total	Facility total	Global
95936	TC	A	h reflex test	0.09	0.20	0.20	0.02	0.22	0.22	XXX
95936	26	A	h reflex test	0.55	0.34	0.34	0.03	0.92	0.92	XXX
95937	.....	A	Neuromuscular junction test	0.65	0.77	0.77	0.07	1.49	1.49	XXX
95937	TC	A	Neuromuscular junction test	0.00	0.32	0.32	0.03	0.35	0.35	XXX
95937	26	A	Neuromuscular junction test	0.65	0.45	0.45	0.04	1.14	1.14	XXX
95950	.....	A	Ambulatory eeg monitoring	1.51	7.25	7.25	0.69	9.36	9.36	XXX
95950	TC	A	Ambulatory eeg monitoring	0.00	6.04	6.04	0.50	6.54	6.54	XXX
95950	26	A	Ambulatory eeg monitoring	1.51	1.21	1.21	0.10	2.82	2.82	XXX
95951	.....	A	EEG monitoring/videorecord	6.60	8.83	8.83	0.84	15.47	15.47	XXX
95951	TC	A	EEG monitoring/videorecord	0.00	7.33	7.33	0.58	7.86	7.86	XXX
95951	26	A	EEG monitoring/videorecord	6.60	1.50	1.50	0.11	7.61	7.61	XXX
95953	.....	A	EEG monitoring/computer	3.08	7.25	7.25	0.60	10.93	10.93	XXX
95953	TC	A	EEG monitoring/computer	0.00	6.04	6.04	0.50	6.54	6.54	XXX
95953	26	A	EEG monitoring/computer	3.08	1.21	1.21	0.10	4.39	4.39	XXX
95954	.....	A	EEG monitoring/giving drugs	2.45	2.52	2.52	0.28	5.05	5.05	XXX
95954	TC	A	EEG monitoring/giving drugs	0.00	0.45	0.45	0.06	0.51	0.51	XXX
95954	26	A	EEG monitoring/giving drugs	2.45	1.87	1.87	0.22	4.54	4.54	XXX
95955	.....	A	EEG during surgery	1.01	2.90	2.90	0.30	4.21	4.21	XXX
95955	TC	A	EEG during surgery	0.60	1.87	1.87	0.19	2.66	2.66	XXX
95955	26	A	EEG during surgery	1.01	1.03	1.03	0.11	2.15	2.15	XXX
95956	.....	A	EEG monitoring/cable/radio	3.08	7.54	7.54	0.61	11.23	11.23	XXX
95956	TC	A	EEG monitoring/cable/radio	0.00	6.04	6.04	0.50	6.54	6.54	XXX
95956	26	A	EEG monitoring/cable/radio	3.08	1.50	1.50	0.11	4.69	4.69	XXX
95957	.....	A	EEG digital analysis	1.98	2.25	2.25	0.18	4.41	4.41	XXX
95957	TC	A	EEG digital analysis	0.00	1.62	1.62	0.13	1.75	1.75	XXX
95957	26	A	EEG digital analysis	1.98	0.63	0.63	0.05	2.66	2.66	XXX
95958	.....	A	EEG monitoring/function test	4.25	4.89	4.89	0.52	9.66	9.66	XXX
95958	TC	A	EEG monitoring/function test	0.00	1.86	1.86	0.14	1.80	1.80	XXX
95958	26	A	EEG monitoring/function test	4.25	3.23	3.23	0.38	7.86	7.86	XXX
95961	.....	A	Electrode stimulation, brain	2.97	2.67	2.67	0.20	5.84	5.84	XXX
95961	TC	A	Electrode stimulation, brain	0.90	1.24	1.24	0.08	1.32	1.32	XXX
95961	26	A	Electrode stimulation, brain	2.97	1.43	1.43	0.12	4.52	4.52	XXX
95962	.....	A	Electrode stimulation, brain	3.21	2.67	2.67	0.20	6.08	6.08	XXX
95962	TC	A	Electrode stimulation, brain	0.09	1.24	1.24	0.08	1.32	1.32	XXX
95962	26	A	Electrode stimulation, brain	3.21	1.43	1.43	0.12	4.76	4.76	XXX
95999	.....	C	Neurological procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
96100	.....	A	Psychological testing	0.00	1.68	1.68	0.20	1.88	1.88	XXX
96105	.....	A	Assessment of aphasia	0.00	1.68	1.68	0.20	1.88	1.88	XXX
96110	.....	C	Developmental test, lim	0.00	0.00	0.00	0.00	0.00	0.00	XXX
96111	.....	A	Developmental test, extend	0.00	1.68	1.68	0.20	1.88	1.88	XXX
96115	.....	A	Neurobehavior status exam	0.00	1.68	1.68	0.20	1.88	1.88	XXX
96117	.....	A	Neuropsych test battery	0.00	1.68	1.68	0.20	1.88	1.88	XXX
96400	.....	A	Chemotherapy, (SC)/(IM)	0.00	0.13	0.13	0.01	0.14	0.14	XXX
96405	.....	A	Intralesional chemo admin	0.52	0.38	0.38	0.03	0.93	0.93	000
96408	.....	A	Intralesional chemo admin	0.80	0.56	0.56	0.04	1.40	1.40	000
96408	.....	A	Chemotherapy, push technique	0.00	0.92	0.92	0.06	0.98	0.98	XXX
96410	.....	A	Chemotherapy, infusion method	0.00	1.47	1.47	0.09	1.56	1.56	XXX
96412	.....	A	Chemotherapy, infusion method	0.00	1.10	1.10	0.08	1.18	1.18	XXX
96414	.....	A	Chemotherapy, infusion method	0.00	1.27	1.27	0.09	1.36	1.36	XXX
96420	.....	A	Chemotherapy, push technique	0.00	1.19	1.19	0.09	1.28	1.28	XXX
96422	.....	A	Chemotherapy, infusion method	0.80	1.17	1.17	0.09	1.26	1.26	XXX
96423	.....	A	Chemotherapy, infusion method	0.00	0.46	0.46	0.03	0.49	0.49	XXX
96425	.....	A	Chemotherapy, infusion method	0.00	1.36	1.36	0.09	1.45	1.45	XXX
96440	.....	A	Chemotherapy, intracavitary	2.37	0.81	0.81	0.06	3.24	3.24	000
96445	.....	A	Chemotherapy, intracavitary	2.20	0.98	0.98	0.09	3.27	3.27	000
96450	.....	A	Chemotherapy, into CNS	1.89	0.87	0.87	0.06	2.82	2.82	000
96520	.....	A	Pump refilling, maintenance	0.00	0.85	0.85	0.06	0.91	0.91	XXX
96530	.....	A	Pump refilling, maintenance	0.00	1.01	1.01	0.07	1.08	1.08	XXX
96542	.....	A	Chemotherapy injection	1.42	1.09	1.09	0.13	2.64	2.64	XXX
96545	.....	B	Provide chemotherapy agent	0.00	0.00	0.00	0.00	0.00	0.00	XXX
96549	.....	C	Chemotherapy, unspecified	0.00	0.00	0.00	0.00	0.00	0.00	XXX
96900	.....	A	Ultraviolet light therapy	0.00	0.38	0.38	0.03	0.41	0.41	XXX
96902	.....	B	Trichogram	#0.41	0.29	0.29	0.02	0.72	0.72	XXX
96910	.....	A	Photochemotherapy with UV–B	0.00	0.55	0.55	0.04	0.59	0.59	XXX
96912	.....	A	Photochemotherapy with UV–A	0.60	0.63	0.63	0.05	0.68	0.68	XXX
96913	.....	A	Photochemotherapy, UV–A or B	0.00	1.29	1.29	0.10	1.39	1.39	XXX
96999	.....	C	Dermatological procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
97001	.....	A	Pt evaluation	1.28	0.35	0.35	0.11	1.86	1.86	XXX
97002	.....	A	Pt re-evaluation	0.80	0.04	0.04	0.01	0.85	0.85	XXX
97003	.....	A	Ot evaluation	1.28	0.35	0.35	0.11	1.86	1.86	XXX
97004	.....	A	Ot re-evaluation	0.80	0.04	0.04	0.01	0.85	0.85	XXX
97010	.....	B	Hot or cold packs therapy	#0.08	0.21	0.21	0.02	0.29	0.29	XXX
97012	.....	A	Mechanical traction therapy	0.25	0.19	0.19	0.02	0.46	0.46	XXX
97014	.....	A	Electric stimulation therapy	0.18	0.20	0.20	0.02	0.40	0.40	XXX

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ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
97016		A	Vasopneumatic device therapy	0.18	0.25	0.25	0.02	0.45	0.45	XXX
97018		A	Paraffin bath therapy	0.06	0.24	0.24	0.09	0.33	0.33	XXX
97020		A	Microwave therapy	0.06	0.20	0.20	0.02	0.28	0.28	XXX
97022		A	Whirlpool therapy	0.17	0.19	0.19	0.02	0.38	0.38	XXX
97024		A	Diathermy treatment	0.06	0.21	0.21	0.02	0.29	0.29	XXX
97026		A	Infrared therapy	0.06	0.19	0.19	0.02	0.27	0.27	XXX
97026		A	Ultraviolet therapy	0.06	0.19	0.19	0.01	0.26	0.26	XXX
97032		A	Electrical stimulation	0.25	0.14	0.14	0.01	0.40	0.40	XXX
97033		A	Electric current therapy	0.26	0.14	0.14	0.02	0.42	0.42	XXX
97034		A	Contrast bath therapy	0.21	0.10	0.10	0.01	0.32	0.32	XXX
97035		A	Ultrasound therapy	0.21	0.11	0.11	0.01	0.33	0.33	XXX
97036		A	Hydrotherapy	0.28	0.21	0.21	0.02	0.51	0.51	XXX
97039		A	Physical therapy treatment	0.20	0.24	0.24	0.03	0.47	0.47	XXX
97110		A	Therapeutic exercises	0.45	0.13	0.13	0.02	0.60	0.60	XXX
97112		A	Neuromuscular reeducation	0.45	0.13	0.13	0.01	0.59	0.59	XXX
97113		A	Aquatic therapy/exercises	0.44	0.20	0.20	0.02	0.66	0.66	XXX
97116		A	Gait training therapy	0.40	0.11	0.11	0.01	0.52	0.52	XXX
97122		A	Manual traction therapy	0.42	0.11	0.11	0.01	0.54	0.54	XXX
97124		A	Massage therapy	0.35	0.11	0.11	0.01	0.47	0.47	XXX
97139		A	Physical medicine procedure	0.21	0.16	0.16	0.02	0.39	0.39	XXX
97150		A	Group therapeutic procedures	0.27	0.20	0.20	0.02	0.49	0.49	XXX
97250		A	Myofascial release	0.45	0.35	0.35	0.04	0.84	0.84	000
97260		A	Regional manipulation	0.19	0.20	0.20	0.02	0.41	0.41	000
97261		A	Supplemental manipulations	0.12	0.11	0.11	0.01	0.24	0.24	000
97265		A	Joint mobilization	0.45	0.35	0.35	0.04	0.84	0.84	XXX
97504		A	Orthotic training	0.45	0.14	0.14	0.02	0.61	0.61	XXX
97520		A	Prosthetic training	0.45	0.15	0.15	0.02	0.62	0.62	XXX
97530		A	Therapeutic activities	0.44	0.17	0.17	0.02	0.63	0.63	XXX
97535		A	Self care mngment training	0.45	0.17	0.17	0.02	0.64	0.64	XXX
97537		A	Community/work reintegration	0.45	0.17	0.17	0.02	0.64	0.64	XXX
97542		A	Wheelchair mngement training	0.25	0.17	0.17	0.02	0.44	0.44	XXX
97545		R	Work hardening	0.00	0.00	0.00	0.00	0.00	0.00	XXX
97546		R	Work hardening	0.00	0.09	0.00	0.00	0.00	0.00	XXX
97703		A	Prosthetic checkout	0.25	0.18	0.18	0.03	0.46	0.46	XXX
97750		A	Physical performance test	0.45	0.24	0.24	0.03	0.72	0.72	XXX
97770		A	Cognitive skills development	0.44	0.28	0.28	0.03	0.75	0.75	XXX
97780		N	Acupuncture w/o stim	0.00	0.00	0.00	0.00	0.00	0.00	XXX
97781		N	Acupuncture w/stim	0.00	0.00	0.00	0.00	0.00	0.00	XXX
97799		C	Physical medicine procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
98925		A	Osteopathic manipulation	0.45	0.25	0.25	0.02	0.72	0.72	000
98926		A	Osteopathic manipulation	0.65	0.40	0.40	0.03	1.08	1.08	000
98927		A	Osteopathic manipulation	0.87	0.38	0.38	0.03	1.28	1.28	000
98928		A	Osteopathic manipulation	1.03	0.42	0.42	0.04	1.49	1.49	000
98929		A	Osteopathic manipulation	1.19	0.39	0.39	0.03	1.61	1.61	000
98940		A	Chiropractic manipulation	0.45	0.29	0.29	0.01	0.75	0.75	000
98941		A	Chiropractic manipulation	0.65	0.29	0.29	0.01	0.95	0.95	000
98942		A	Chiropractic manipulation	0.87	0.29	0.29	0.01	1.17	1.17	000
98943		N	Chiropractic manipulation	+0.40	0.29	0.29	0.01	0.70	0.70	XXX
99000		B	Specimen handling	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99001		B	Specimen handling	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99002		B	Device handling	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99024		B	Post-op follow-up visit	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99025		B	Initial surgical evaluation	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99050		B	Medical services after hrs	0.60	0.00	0.00	0.00	0.00	0.00	XXX
99052		B	Medical services at night	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99054		B	Medical services, unusual hrs	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99056		B	Nonoffice medical services	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99058		B	Office emergency care	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99070		B	Special supplies	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99071		B	Patient education materials	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99075		N	Medical testimony	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99078		B	Group health education	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99080		B	Special reports or forms	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99082		C	Unusual physician travel	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99090		B	Computer data analysis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99100		B	Special anesthesia service	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99116		B	Anesthesia with hypothermia	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99135		B	Special anesthesia procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99140		B	Emergency anesthesia	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99141		B	Sedation, iv/im or inhalant	+0.80	0.83	0.83	0.05	1.68	1.68	XXX
99142		B	Sedation, oral/rectal/nasal	+0.68	0.62	0.62	0.04	1.26	1.26	XXX
99175		A	Induction of vomiting	0.00	1.33	1.33	0.10	1.43	1.43	XXX
99183		A	Hyperbaric oxygen-therapy	2.34	1.67	1.67	0.11	4.12	4.12	XXX
99185		A	Regional hypothermia	0.00	0.61	0.61	0.04	0.65	0.65	XXX

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[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] § Indicates reduction of Practice Expense RVUs as result of 11/01/97 PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
99188		A	Total body hypothermia	0.00	1.70	1.70	0.02	2.22	2.22	XXX
99190		X	Special pump services	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99191		X	Special pump services	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99192		X	Special pump services	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99195		A+	Phlebotomy	0.00	0.42	0.42	0.03	0.45	0.45	XXX
99199		C	Special service or report	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99201		A	Office/outpatient visit, new	0.45	0.42	0.37	0.04	0.91	0.86	XXX
99202		A	Office/outpatient visit, new	0.88	0.51	0.45	0.05	1.44	1.38	XXX
99203		A	Office/outpatient visit, new	1.34	0.59	0.52	0.06	1.99	1.92	XXX
99204		A	Office/outpatient visit, new	2.00	0.88	0.78	0.09	2.98	2.88	XXX
99205		A	Office/outpatient visit, new	2.57	0.99	0.85	0.09	3.72	3.61	XXX
99211		A	Office/outpatient visit, est	0.17	0.21	0.19	0.02	0.40	0.38	XXX
99212		A	Office/outpatient visit, est	0.45	0.32	0.28	0.02	0.79	0.75	XXX
99213		A	Office/outpatient visit, est	0.67	0.43	0.39	0.03	1.13	1.09	XXX
99214		A	Office/outpatient visit, est	1.10	0.57	0.50	0.04	1.71	1.64	XXX
99215		A	Office/outpatient visit, est	1.77	0.86	0.76	0.07	2.70	2.60	XXX
99217		A	Observation care discharge	1.28	0.62	0.62	0.04	1.94	1.94	XXX
99218		A	Observation care	1.28	0.69	0.69	0.05	2.02	2.02	XXX
99219		A	Observation care	2.14	1.05	1.05	0.09	3.28	3.28	XXX
99220		A	Observation care	2.99	1.14	1.14	0.09	4.22	4.22	XXX
99221		A	Initial hospital care	1.28	0.67	0.67	0.06	2.01	2.01	XXX
99222		A	Initial hospital care	2.14	1.04	1.04	0.09	3.27	3.27	XXX
99223		A	Initial hospital care	2.99	1.13	1.13	0.08	4.20	4.20	XXX
99231		A	Subsequent hospital care	0.64	0.39	0.39	0.03	1.05	1.05	XXX
99232		A	Subsequent hospital care	1.08	0.45	0.45	0.04	1.55	1.55	XXX
99233		A	Subsequent hospital care	1.51	0.60	0.60	0.05	2.16	2.16	XXX
99234		A	Observ/hosp same date	2.56	0.66	0.66	0.08	3.30	3.30	XXX
99235		A	Observ/hosp same date	3.42	1.05	1.05	0.09	4.56	4.56	XXX
99236		A	Observ/hosp same date	4.27	1.14	1.14	0.09	5.50	5.50	XXX
99238		A	Hospital discharge day	1.28	0.51	0.51	0.04	1.83	1.83	XXX
99239		A	Hospital discharge day	1.75	0.51	0.51	0.04	2.30	2.30	XXX
99241		A	Office consultation	0.64	0.64	0.64	0.05	1.36	1.36	XXX
99242		A	Office consultation	1.29	0.77	0.77	0.09	2.15	2.15	XXX
99243		A	Office consultation	1.72	0.97	0.97	0.10	2.79	2.79	XXX
99244		A	Office consultation	2.58	1.23	1.23	0.11	3.92	3.92	XXX
99245		A	Office consultation	3.43	1.69	1.69	0.16	5.28	5.28	XXX
99251		A	Initial inpatient consult	0.65	0.97	0.97	0.08	1.41	1.41	XXX
99252		A	Initial inpatient consult	1.32	0.78	0.78	0.09	2.17	2.17	XXX
99253		A	Initial inpatient consult	1.82	0.95	0.88	0.10	2.87	2.87	XXX
99254		A	Initial inpatient consult	2.84	1.20	1.20	0.11	3.95	3.95	XXX
99255		A	Initial inpatient consult	3.65	1.57	1.57	0.14	5.36	5.36	XXX
99261		A	Follow-up inpatient consult	0.42	0.38	0.38	0.09	0.78	0.78	XXX
99262		A	Follow-up inpatient consult	0.85	0.46	0.48	0.04	1.35	1.35	XXX
99263		A	Follow-up inpatient consult	1.27	0.67	0.67	0.04	1.98	1.98	XXX
99271		A	Confirmatory consultation	0.45	0.58	0.58	0.07	1.10	1.10	XXX
99272		A	Confirmatory consultation	0.84	0.71	0.71	0.09	1.64	1.64	XXX
99273		A	Confirmatory consultation	1.19	1.02	1.02	0.11	2.32	2.32	XXX
99274		A	Confirmatory consultation	1.73	1.22	1.22	0.11	3.06	3.06	XXX
99275		A	Confirmatory consultation	2.31	1.74	1.74	0.17	4.22	4.22	XXX
99281		A	Emergency dept visit	0.33	0.28	0.28	0.01	0.62	0.62	XXX
99282		A	Emergency dept visit	0.55	0.39	0.39	0.03	0.96	0.96	XXX
99283		A	Emergency dept visit	1.24	0.49	0.49	0.04	1.77	1.77	XXX
99284		A	Emergency dept visit	1.95	0.70	0.70	0.06	2.71	2.71	XXX
99285		A	Emergency dept visit	3.08	1.13	1.13	0.08	4.27	4.27	XXX
99288		B	Direct advanced life support	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99291		A	Critical care, first hour	4.00	1.48	1.43	0.11	5.54	5.54	XXX
99292		A	Critical care, addl 30 min	2.00	0.69	0.69	0.04	2.67	2.67	XXX
99295		A	Neonatal critical care	16.00	5.09	5.09	1.85	22.63	22.63	XXX
99296		A	Neonatal critical care	8.00	2.46	2.46	0.77	11.23	11.23	XXX
99297		A	Neonatal critical care	4.00	1.23	1.23	0.38	5.61	5.61	XXX
99301		A	Nursing facility care	1.20	0.45	0.45	0.06	1.68	1.68	XXX
99302		A	Nursing facility care	1.61	0.50	0.50	0.04	2.15	2.15	XXX
99309		A	Nursing facility care	2.01	0.95	0.95	0.07	3.03	3.03	XXX
99311		A	Nursing facility care, subseq	0.60	0.34	0.34	0.03	0.97	0.97	XXX
99312		A	Nursing facility care, subseq	1.00	0.41	0.41	0.03	1.44	1.44	XXX
99313		A	Nursing facility care, subseq	1.42	0.48	0.48	0.04	1.92	1.92	XXX
99315		A	Nursing fac discharge day	1.19	0.51	0.51	0.04	1.68	1.68	XXX
99316		A	Nursing fac discharge day	1.50	0.51	0.51	0.04	2.05	2.05	XXX
99321		A	Rest home visit, new patient	0.71	0.37	0.37	0.03	1.11	1.11	XXX
99322		A	Rest home visit, new patient	1.01	0.51	0.51	0.05	1.57	1.57	XXX
99323		A	Rest home visit, new patient	1.28	0.73	0.73	0.06	2.07	2.07	XXX
99331		A	Rest home visit, estab pat	0.60	0.28	0.28	0.02	0.90	0.90	XXX
99332		A	Rest home visit, estab pat	0.80	0.86	0.86	0.03	1.19	1.19	XXX
99333		A	Rest home visit, estab pat	1.00	0.44	0.44	0.02	1.46	1.46	XXX

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[5] § Indicates reduction of Practice Expense RVUs as result of 11/01/97 PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT 1/ HCPCS 2	MOD	Status	Description	Physician work RVUs 3 4	Non-facility practice expense RVUs 5	Facility practice expense RVUs 5	Mal-practice RVUs	Non-facility total	Facility total	Global
99341		A	Home visit, new patient	1.01	0.53	0.53	0.05	1.59	1.59	XXX
99342		A	Home visit, new patient	1.52	0.60	0.60	0.05	2.17	2.17	XXX
99343		A	Home visit, new patient	2.27	0.77	0.77	0.06	3.10	3.10	XXX
99344		A	Home visit, new patient	3.03	0.85	0.85	0.09	3.97	3.97	XXX
99345		A	Home visit, new patient	3.79	0.85	0.85	0.09	4.73	4.73	XXX
99347		A	Home visit, estab patient	0.76	0.45	0.45	0.04	1.25	1.25	XXX
99348		A	Home visit, estab patient	1.26	0.53	0.53	0.04	1.83	1.83	XXX
99349		A	Home visit, estab patient	2.02	0.61	0.61	0.05	2.68	2.68	XXX
99350		A	Home visit, estab patient	3.03	0.76	0.76	0.07	3.86	3.86	XXX
99351		B	Home visit, estab patient	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99352		D	Home visit, estab patient	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99353		D	12/Home visit, estab patient	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99354		A	Prolonged service, office	1.77	0.76	0.76	0.07	2.60	2.60	XXX
99355		A	Prolonged service, office	1.77	0.76	0.76	0.07	2.60	2.60	XXX
99356		A	Prolonged service, inpatient	1.71	0.85	0.85	0.08	2.64	2.64	XXX
99357		A	Prolonged service, inpatient	1.71	0.85	0.85	0.08	2.64	2.64	XXX
99358		B	Prolonged serv, w/o contact	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99359		B	Prolonged serv, w/o contact	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99360		X	Physician standby services	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99361		B	Physician/team conference	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99362		B	Physician/team conference	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99371		B	Physician phone consultation	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99372		B	Physician phone consultation	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99373		B	Physician phone consultation	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99374		B	Home health care supervision	+1.10	0.51	0.51	0.04	1.65	1.65	XXX
99375		A	Home health care supervision	1.73	0.51	0.51	0.04	2.28	2.28	XXX
99376		D	1/Care plan oversight/over 30	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99377		B	Hospice care supervision	+1.10	0.51	0.51	0.04	1.65	1.65	XXX
99378		A	Hospice care supervision	1.73	0.51	0.51	0.04	2.28	2.28	XXX
99379		B	Nursing fac care supervision	+1.10	0.51	0.51	0.04	1.65	1.65	XXX
99380		B	Nursing fac care supervision	+1.73	0.51	0.51	0.04	2.28	2.28	XXX
99381		N	Preventive visit, new, infant	+1.19	1.23	1.23	0.08	2.50	2.50	XXX
99382		N	Preventive visit, new, age 1–4	+1.36	1.41	1.41	0.09	2.86	2.86	XXX
99383		N	Preventive visit, new, age 5–11	+1.36	1.41	1.41	0.09	2.86	2.86	XXX
99384		N	Preventive visit, new, 12–17	+1.53	1.59	1.59	0.10	3.22	3.22	XXX
99385		N	Preventive visit, new, 18–39	+1.53	1.40	1.40	0.09	3.02	3.02	XXX
99386		N	Preventive visit, new, 40–64	+1.88	1.72	1.72	0.10	3.70	3.70	XXX
99387		N	Preventive visit, new, 65 & over	+2.06	1.88	1.88	0.11	4.05	4.05	XXX
99391		N	Preventive visit, est, infant	+1.02	1.06	1.06	0.07	2.15	2.15	XXX
99392		N	Preventive visit, est, age 1–4	+1.19	1.23	1.23	0.08	2.50	2.50	XXX
99393		N	Preventive visit, est, age 5–11	+1.19	1.23	1.23	0.08	2.50	2.50	XXX
99394		N	Preventive visit, est, 12–17	+1.36	1.41	1.41	0.09	2.86	2.86	XXX
99395		N	Preventive visit, est, 18–39	+1.36	1.25	1.25	0.08	2.69	2.69	XXX
99396		N	Preventive visit, est, 40–64	+1.53	1.40	1.40	0.09	3.02	3.02	XXX
99397		N	Preventive visit, est, 65 & over	+1.71	1.56	1.56	0.10	3.37	3.37	XXX
99401		N	Preventive counseling, indiv	+0.48	0.45	0.45	0.03	0.96	0.96	XXX
99402		N	Preventive counseling, indiv	+0.96	0.89	0.89	0.05	1.92	1.92	XXX
99403		N	Preventive counseling, indiv	+1.46	1.34	1.34	0.08	2.88	2.88	XXX
99404		N	Preventive counseling, indiv	+1.95	1.78	1.78	0.11	3.84	3.84	XXX
99411		N	Preventive counseling, group	+0.15	0.14	0.14	0.01	0.30	0.30	XXX
99412		N	Preventive counseling, group	+0.25	0.23	0.23	0.01	0.49	0.49	XXX
99420		N	Health risk assessment test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99429		N	Unlisted preventive service	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99431		A	Initial care, normal newborn	1.17	1.21	1.21	0.08	2.46	2.46	XXX
99432		A	Newborn care not in hospital	1.26	1.31	1.31	0.08	2.65	2.65	XXX
99433		A	Normal newborn care, hospital	0.62	0.64	0.64	0.04	1.30	1.30	XXX
99435		A	Hospital NB discharge day	1.50	1.55	1.55	0.10	3.15	3.15	XXX
99436		A	Attendance, birth	1.50	1.55	1.55	0.10	3.15	3.15	XXX
99440		A	Newborn resuscitation	2.93	3.04	3.04	0.19	6.16	6.16	XXX
99450		N	Life/disability evaluation	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99455		R	Disability examination	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99456		R	Disability examination	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99499		C	Unlisted E/M service	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0021		I	Outside state ambulance serv	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0030		X	Air ambulance service	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0040		X	Helicopter ambulance service	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0050		X	Water amb service emergency	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0080		I	Noninterest escort in non er	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0090		I	Interest escort in non er	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0100		I	Nonemergency transport taxi	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0110		I	Nonemergency transport bus	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0120		I	Noner transport mini-bus	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0130		I	Noner transport wheelch van	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0140		I	Nonemergency transport air	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT 1/ HCPCS 2	MOD	Status	Description	Physician work RVUs 3 4	Non-facility practice expense RVUs 5	Facility practice expense RVUs 5	Mal-practice RVUs	Non-facility total	Facility total	Global
A0160		I	Noner transport case worker	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0170		I	Noner transport parking fees	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0180		I	Noner transport lodging recip	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0190		I	Noner transport meals recip	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0200		I	Noner transport lodging escrt	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0210		I	Noner transport meals escort	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0225		X	Neonatal emergency transport	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0300		X	Ambulance basic non-emer all	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0302		X	Ambulance basic emergency all	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0304		X	Amb adv non-er no serv all	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0306		X	Amb adv non-er spec serv all	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0308		X	Amb adv er no spec serv all	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0310		X	Amb adv er spec serv all	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0320		X	Amb basic non-er + supplies	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0322		X	Amb basic emerg + supplies	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0324		X	Adv non-er serv sep mileage	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0326		X	Adv non-er no serv sep mile	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0328		X	Adv er no serv sep mileage	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0330		X	Adv er spec serv sep mile	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0340		X	Amb basic non-er + mileage	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0342		X	Ambul basic emer + mileage	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0344		X	Amb adv non-er no serv +mile	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0346		X	Amb adv non-er serv + mile	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0348		X	Adv emer no spec serv + mile	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0350		X	Adv emer spec serv + mileage	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0360		X	Basic non-er sep mile & supp	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0362		X	Basic emer sep mile & supply	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0364		X	Adv non-er no serv sep mi & su	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0366		X	Adv non-er serv sep mil & supp	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0368		X	Adv er no serv sep mile & supp	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0370		X	Adv er spec serv sep mi & supp	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0380		X	Basic life support mileage	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0382		X	Basic support routine supplt	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0384		X	Bls defibrillation supplies	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0390		X	Advanced life support mileag	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0392		X	Als defibrillation supplies	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0394		X	Als IV drug therapy supplies	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0396		X	Als esophageal intub supplt	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0398		X	Als routine disposable supplt	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0420		X	Ambulance waiting 1/2 hr	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0422		X	Ambulance 02 life sustaining	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0424		X	Extra ambulance attendant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0888		N	Noncovered ambulance mileage	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A0999		X	Unlisted ambulance service	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A2000		D	Chiropractor manip of spine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4206		P	1 CC sterile syringe & needle	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4207		P	2 CC sterile syringe & needle	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4208		P	3 CC sterile syringe & needle	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4209		P	5+ CC sterile syringe & needle	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4210		N	Nonneedle injection device	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4211		P	Supp for self-adm injections	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4212		P	Non coring needle or stylet	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4213		P	20+ CC syringe only	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4214		P	30 CC sterile water/saline	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4215		P	Sterile needle	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4220		P	Infusion pump refill kit	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4221		X	Maint drug infus cath per wk	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4222		X	Drug infusion pump supplies	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4230		N	Infus-insulin pump non needle	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4231		N	Infusion insulin pump needle	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4232		N	Syringe w/needle insulin 3cc	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4244		P	Alcohol or peroxide per pint	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4245		P	Alcohol wipes per box	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4246		P	Betadine/phisohex solution	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4247		P	Betadine/iodine swabs/wipes	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4250		N	Urine reagent strips/tablets	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4253		P	Blood glucose/reagent strips	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4254		X	Battery for glucose monitor	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4255		X	Glucose monitor platforms	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4256		P	Calibrater solution/strips	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4258		P	Lancet device each	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4259		P	Lancets per box	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4260		N	Levonorgestrel implant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4262		B	Temporary tear duct plug	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
A4263		A	Permanent tear duct plug	0.00	0.95	0.95	0.00	0.95	0.95	XXX
A4265		P	Paraffin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4270		B	Disposable endoscope sheath	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4300		A	Cath impl vasc access portal	0.00	0.95	0.95	0.00	0.95	0.95	XXX
A4301		P	Implantable access syst perc	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4305		P	Drug delivery system >=50 ML	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4306		P	Drug delivery system <=5 ML	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4310		P	Insert tray w/o bag/cath	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4311		P	Catheter w/o bag 2-way latex	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4312		P	Cath w/o bag 2-way silicone	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4313		P	Catheter w/bag 3-way	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4314		P	Cath w/drainage 2-way latex	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4315		P	Cath w/drainage 2-way silcne	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4316		P	Cath w/drainage 3-way	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4320		P	Irrigation tray	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4321		X	Cath therapeutic irrig agent	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4322		P	Irrigation syringe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4323		P	Saline irrigation solution	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4326		P	Male external catheter	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4327		P	Fem urinary collect dev cup	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4328		P	Fem urinary collect pouch	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4329		P	External catheter start set	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4330		P	Stool collection pouch	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4335		P	Incontinence supply	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4338		P	Indwelling catheter latex	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4340		P	Indwelling catheter special	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4344		P	Cath indw foley 2 way silicn	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4346		P	Cath indw foley 3 way	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4347		P	Male external catheter	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4351		P	Straight tip urine catheter	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4352		P	Coude tip urinary catheter	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4353		X	Intermittent urinary cath	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4354		P	Cath insertion tray w/bag	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4355		P	Bladder irrigation tubing	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4356		P	Ext uretn clmp or compr dvc	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4357		P	Bedside drainage bag	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4358		P	Urinary leg bag	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4359		P	Urinary suspensory w/o leg b	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4361		P	Ostomy face plate	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4362		P	Solid skin barrier	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4363		P	Liquid skin barrier	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4364		P	Ostomy/cath adhesive	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4365		X	Ostomy adhesive remover wipe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4367		P	Ostomy belt	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4368		X	Ostomy filter	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4397		P	Irrigation supply sleeve	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4398		P	Ostomy irrigation bag	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4399		P	Ostomy irrig cone/cath w brs	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4400		P	Ostomy irrigation set	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4402		P	Lubricant per ounce	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4404		P	Ostomy ring each	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4421		P	Ostomy supply misc	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4454		P	Tape all types all sizes	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4455		P	Adhesive remover per ounce	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4460		P	Elastic compression bandage	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4462		X	Abdmnl drsng holder/binder	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4465		P	Non-elastic extremity binder	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4470		P	Gravlee jet washer	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4480		P	Vabra aspirator	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4481		X	Tracheostoma filter	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4490		N	Above knee surgical stocking	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4495		N	Thigh length surg stocking	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4500		N	Below knee surgical stocking	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4510		N	Full length surg stocking	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4550		A	Surgical trays	0.00	0.95	0.95	0.00	0.95	0.95	XXX
A4554		N	Disposable underpads	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4556		P	Electrodes	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4557		P	Lead wires	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4558		P	Conductive paste or gel	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4560		X	Pessary	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4565		X	Slings	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4570		X	Splint	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4572		X	Rib belt	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4575		N	Hyperbaric o2 chamber diaps	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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[5] 0 Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
A4580		X	Cast supplies (plaster)	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4590		X	Special casting material	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4595		X	TENS suppl 2 lead per month	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4611		X	Heavy duty battery	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4612		X	Battery cables	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4613		X	Battery charger	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4615		X	Cannula nasal	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4616		X	Tubing (oxygen) per foot	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4617		X	Mouth piece	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4618		X	Breathing circuits	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4619		X	Face tent	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4620		X	Variable concentration mask	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4621		X	Tracheotomy mask or collar	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4622		X	Tracheostomy or laringectomy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4623		X	Tracheostomy inner cannula	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4624		X	Tracheal suction tube	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4625		X	Trach care kit for new trach	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4626		X	Tracheostomy cleaning brush	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4627		N	Spacer bag/reservoir	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4628		X	Oropharyngeal suction cath	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4629		X	Tracheostomy care kit	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4630		X	Repl bat t.e.n.s. own by pt	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4631		X	Wheelchair battery	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4635		X	Underarm crutch pad	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4636		X	Handgrip for cane etc	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4637		X	Repl tip cane/crutch/walker	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4640		X	Alternating pressure pad	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4641		E	Diagnostic imaging agent	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4642		E	Saturnomab pendetide per dose	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4643		E	High dose contrast MRI	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4644		E	Contrast 100–199 MGs iodine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4645		E	Contrast 200–299 MGs iodine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4646		E	Contrast 300–399 MGs iodine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4647		B	Supp- paramagnetic contr mat	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4649		P	Surgical supplies	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4650		X	Supp eard centrifuge	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4655		X	Eard syringe/needle	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4660		X	Eard blood pressure device	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4663		X	Eard blood pressure cuff	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4670		N	Auto blood pressure monitor	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4680		X	Activated carbon filters	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4690		X	Dialyzers	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4700		X	Standard dialysate solution	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4705		X	Bicarb dialysate solution	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4712		X	Sterile water	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4714		X	Treated water for dialysis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4730		X	Fistula cannulation set dial	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4735		X	Local/topical anesthetics	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4740		X	Eard shunt accessory	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4750		X	Arterial or venous tubing	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4755		X	Arterial and venous tubing	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4760		X	Standard testing solution	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4765		X	Dialysate concentrate	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4770		X	Blood testing supplies	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4771		X	Blood clotting time tube	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4772		X	Dextrostick/glucose strips	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4773		X	Hemostix	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4774		X	Ammonia test paper	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4780		X	Eard sterilizing agent	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4790		X	Eard cleansing agents	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4800		X	Heparin/antidote dialysis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4820		X	Supplies hemodialysis kit	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4850		X	Rubber tipped hemostats	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4860		X	Disposable catheter cape	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4870		X	Plumbing/electrical work	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4880		X	Water storage tanks	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4890		R	Contracts/repair/maintenance	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4900		X	Capd supply kit	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4901		X	Ccpd supply kit	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4905		X	Ipd supply kit	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4910		X	Eard nonmedical supplies	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4912		X	Gomco drain bottle	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4913		X	Eard supply	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4914		X	Preparation kit	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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[2] Copyright 1994 American Dental Association. All rights reserved.
[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] 0 Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
A4918		X	Venous pressure clamp	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4919		X	Supp dialysis dialyzer holde	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4920		X	Harvard pressure clamp	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4921		X	Measuring cylinder	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A4927		X	Gloves	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5051		P	Pouch clsd w barr attached	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5052		P	Clsd ostomy pouch w/o barr	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5053		P	Clsd ostomy pouch faceplate	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5054		P	Clsd ostomy pouch w/flange	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5055		P	Stoma cap	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5061		P	Pouch drainable w barrier at	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5062		P	Drnble ostomy pouch w/o barr	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5063		P	Drain ostomy pouch w/flange	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5064		I	Drain ostomy pouch w/faceplte	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5065		I	Drain ostomy pouch on faplte	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5071		P	Urinary pouch w/barrier	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5072		P	Urinary pouch w/o barrier	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5073		P	Urinary pouch on barr w/fling	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5074		I	Urinary pouch w/faceplate	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5075		I	Urinary pouch on faceplate	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5081		P	Continent stoma plug	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5082		P	Continent stoma catheter	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5093		P	Ostomy accessory convex inse	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5102		P	Bedside drain bll w/wo tube	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5105		P	Urinary suspensory	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5112		P	Urinary leg bag	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5113		P	Latex leg strap	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5114		P	Foam/fabric leg strap	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5119		P	Skin barrier wipes box pr 50	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5121		P	Solid skin barrier 6x6	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5122		P	Solid skin barrier 8x8	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5123		P	Skin barrier with flange	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5126		P	Adhesive disc/foam pad	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5131		P	Appliance cleaner	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5149		P	Incontinence/ostomy supply	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5500		X	Diab shoe for density insert	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5501		X	Diabetic custom molded shoe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5502		X	Diabetic shoe density insert	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5503		X	Diabetic shoe w/roller/rocker	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5504		X	Diabetic shoe with wedge	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5505		X	Diab shoe w/metatarsal bar	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5506		X	Diabetic shoe w/off set heel	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A5507		X	Modification diabetic shoe	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6020		P	Collagen dressing cover es	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6025		I	Silicone gel sheet, each	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6154		P	Wound pouch each	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6196		P	Alginate dressing <=16 sq in	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6197		P	Alginate drsg ≤16 <=48 sq in	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6198		P	alginate dressing > 48 sq in	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6199		P	Alginate drsg wound filler	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6203		P	Composite drsg <=16 sq in	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6204		P	Composite drsg >16<=48 sq in	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6205		P	Composite drsg >48 sq in	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6206		P	Contact layer <=16 sq in	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6207		P	Contact layer >16<=48 sq in	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6208		P	Contact layer >48 sq in	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6209		P	Foam drsg <=16 sq in w/o bdr	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6210		P	Foam drg >16<=48 sq in w/o b	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6211		P	Foam drg >48 sq in w/o brdr	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6212		P	Foam drg <=16 sq in w/border	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6213		P	Foam drg >16<=48 sq in w/bdr	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6214		P	Foam drg >48 sq in w/border	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6215		P	Foam dressing wound filler	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6216		P	Non-sterile gauze <=16 sq in	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6217		P	Non-sterile gauze >16<=48 sq	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6218		P	Non-sterile gauze >48 sq in	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6219		P	Gauze <=16 sq in w/border	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6220		P	Gauze >16 <=48 sq in w/bordr	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6221		P	Gauze >48 sq in w/border	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6222		P	Gauze <=16 in no w/sal w/o b	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6223		P	Gauze >16 <=48 no w/sal w/o b	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6224		P	Gauze >48 in no w/sal w/o b	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6226		P	Gauze <=16 sq in water/sal	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6229		P	Gauze >16 <=48 sq in wat/sal	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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[2] Copyright 1994 American Dental Association. All rights reserved.
[3] "-" Indicates RVUs are not used for Medicare payment.
[4] "*" Work RVUs increased in global surgical package.
[5] "#" Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
A6230		P	Gauze >48 sq in water/saline	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6234		P	Hydrocolid drg <=16 w/o bdr	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6235		P	Hydrocolid drg >16 <=48 w/o b	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6236		P	Hydrocolid drg >48 in w/o b	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6237		P	Hydrocolid drg <=16 in w/bdr	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6238		P	Hydrocolid drg >16<=48 w/bdr	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6239		P	Hydrocolid drg >48 in w/bdr	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6240		P	Hydrocolid drg filler paste	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6241		P	Hydrocolloid drg filler dry	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6242		P	Hydrogel drg <=16 in w/o bdr	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6243		P	Hydrogel drg >16<=48 w/o bdr	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6244		P	Hydrogel drg >48 in w/o bdr	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6245		P	Hydrogel drg <=16 in w/bdr	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6246		P	Hydrogel drg >≤16 <=48 in w/b	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6247		P	Hydrogel drg >48 sq in w/b	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6248		P	Hydrogel drsg gel filler	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6250		P	Skin seal protect moisturizr	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6251		P	Absorpt drg <=16 sq in w/o b	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6252		P	Absorpt drg >16 <=48 w/o bdr	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6253		P	Absorpt drg >48 sq in w/o b	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6254		P	Absorpt drg <=16 sq in w/bdr	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6255		P	Absorpt drg >16<=48 in w/bdr	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6256		P	Absorpt drg >48 sq in w/bdr	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6257		P	Transparent film <= 16 sq in	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6258		P	Transparent film >16<=48 in	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6259		P	Transparent film >48 sq in	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6260		P	Wound cleanser any type/size	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6261		P	Wound filler gel/paste/oz	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6262		P	Wound filler dry form/gram	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6263		P	Non-sterile elastic gauze/yd	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6264		P	Non-sterile no elastic gauze	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6265		P	Tape per 18 sq inches	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6266		P	Impreg gauze no h20/each/yard	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6402		P	Sterile gauze <=16 sq in	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6403		P	Sterile gauze >16 <=48 sq in	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6404		P	Sterile gauze >48 sq in	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6405		P	Sterile elastic gauze/yd	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A6406		P	Sterile non-elastic gauze/yd	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A9150		E	Misc/super non-prescript drg	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A9160		N	Podiatrist non-covered servi	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A9170		N	Chiropractor non-covered ser	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A9190		N	Misc/supe personal comfort i	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A9270		N	Non-covered item or service	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A9300		N	Exercise equipment	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A9500		E	Technetium TC 99m sestamibi	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A9502		X	Technetium TC99M tetrofosmin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A9503		E	Technetium TC 99m medronate	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A9505		E	Thallous chloride TL 201/mci	0.00	0.00	0.00	0.00	0.00	0.00	XXX
A9600		X	Strontium-89 chloride	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D0120		N	Periodic oral evaluation	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D0140		N	Limit oral eval problm focus	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D0150		R	Comprehensive oral evaluation	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D0160		N	Extensv oral eval prob focus	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D0210		I	Intraor complete film series	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D0220		I	Intraoral periapical first f	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D0230		I	Intraoral periapical ea add	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D0240		R	Intraoral occlusal film	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D0250		R	Extraoral first film	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D0260		R	Extraoral ea additional film	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D0270		R	Dental bitewing single film	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D0272		R	Dental bitewings two films	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D0274		R	Dental bitewings four films	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D0290		I	Dental film siall/sialol bon	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D0310		I	Dental sialography	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D0320		I	Dental tmj arthrogram incl i	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D0321		I	Dental other tmj films	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D0322		I	Dental tomographic survey	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D0330		I	Dental panoramic film	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D0340		I	Dental cephalometric film	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D0415		N	Bacteriologic study	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D0425		N	Caries susceptibility test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D0460		R	Pulp vitality test	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D0470		N	Diagnostic casts	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D0471		R	Diagnostic photographs	0.00	0.00	0.00	0.00	0.00	0.00	YYY

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[4] "*" Work RVUs increased in global surgical package.
[5] "#" Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
D0501		R	Histopathologic examinations	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D0502		R	Other oral pathology procedu	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D0999		R	Unspecified diagnostic proce	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D1110		N	Dental prophylaxis adult	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D1120		N	Dental prophylaxis child	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D1201		N	Topical fluor w prophy child	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D1203		N	Topical fluor wlo prophy chi	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D1204		N	Topical fluor wlo prophy adu	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D1205		N	Topical fluoride w/ prophy a	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D1310		N	Nutri counsel-control caries	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D1320		N	Tobacco counseling	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D1330		N	Oral hygiene instruction	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D1351		N	Dental sealant per tooth	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D1510		R	Space maintainer bd unilat	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D1515		R	Fixed bilat space maintainer	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D1520		R	Remove unilat space maintainer	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D1525		R	Remove bilat space maintainer	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D1550		R	Recement space maintainer	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D2110		N	Amalgam one surface primary	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2120		N	Amalgam two surfaces primary	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2130		N	Amalgam three surfaces primary	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2131		N	Amalgam four/more surf primary	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2140		N	Amalgam one surface permanent	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2150		N	Amalgam two surfaces permanent	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2160		N	Amalgam three surfaces permanent	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2161		N	Amalgam 4 or > surfaces permanent	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2210		N	Silicate cement per restorat	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2330		N	Resin one surface-anterior	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2331		N	Resin-two surfaces-anterior	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2332		N	Resin three surfaces-anterior	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2335		N	Resin 4/> surf or w incis en	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2336		N	Composite resin crown	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2380		N	Resin one surf poster primary	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2381		N	Resin two surf poster primary	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2382		N	Resin three/more surf post p	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2385		N	Resin one surf poster permanent	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2386		N	Resin two surf poster permanent	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2387		N	Resin three/more surf post p	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2410		N	Dental gold foil one surface	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2420		N	Dental gold foil two surfaces	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2430		N	Dental gold foil three surfaces	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2510		N	Dental inlay metallic 1 surface	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2520		N	Dental inlay metallic 2 surfaces	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2530		N	Dental inlay metl 3/more sur	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2543		N	Dental onlay metallic 3 surf	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2544		N	Dental onlay metl 4/more sur	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2610		N	Inlay porcelain/ceramic 1 su	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2620		N	Inlay porcelain/ceramic 2 su	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2630		N	Dental onlay porc/c-3/more sur	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2642		N	Dental onlay porcelin 2 surf	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2643		N	Dental onlay porcelin 3 surf	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2644		N	Dental onlay porc 4/more sur	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2650		N	Inlay composite/resin one su	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2651		N	Inlay-composite/resin two su	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2652		N	Dental inlay resin 3/more sur	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2662		N	Dental onlay resin 2 surfaces	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2663		N	Dental onlay resin 3 surfaces	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2664		N	Dental onlay resin 4/more sur	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2710		N	Crown resin laboratory	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2720		N	Crown resin w/high noble ma	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2721		N	Crown resin w/base metal	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2722		N	Crown resin w/noble metal	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2740		N	Crown-porcelain/ceramic subs	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2750		N	Crown porcelain w/h noble m	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2751		N	Crown porcelain-fused base m	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2752		N	Crown porcelain w/noble met	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2780		N	Crown full cast high noble m	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2791		N	Crown full cast base metal	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2792		N	Crown full cast noble metal	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2810		N	Crown 3/4 cast metallic	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2910		N	Dental recement inlay	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2920		N	Dental recement crown	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2930		N	Prefab stnles steel crown pri	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2931		N	Prefab stnles steel crown pe	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
D2932		N	Prefabricated resin crown	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2933		N	Prefab stainless steel crown	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2940		N	Dental sedative filling	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2950		N	Core build-up incl any pins	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2951		N	Tooth pin retention	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2952		N	Post and core cast + crown	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2954		N	Prefab post/core + crown	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2955		N	Post removal	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2960		N	Laminate labial veneer	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2961		N	Lab labial veneer resin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2962		N	Lab labial veneer porcelain	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2970		R	Temporary—fractured tooth	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D2980		N	Crown repair	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D2999		R	Dental unspec restorative pr	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D3110		N	Pulp cap direct	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3120		N	Pulp cap indirect	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3220		N	Therapeutic pulpotomy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3230		N	Pulpal therapy anterior prim	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3240		N	Pulpal therapy posterior prim	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3310		N	Anterior	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3320		N	Root canal therapy 2 canals	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3330		N	Root canal therapy 3 canals	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3346		N	Retreat root canal anterior	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3347		N	Retreat root canal bicuspid	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3348		N	Retreat root canal molar	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3351		N	Apexification/recalc initial	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3352		N	Apexification/recalc interim	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3353		N	Apexification/recalc final	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3410		N	Apicoect/perirad surg anter	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3421		N	Root surgery bicuspid	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3425		N	Root surgery molar	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3426		N	Root surgery ea add root	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3430		N	Retrograde filling	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3450		N	Root amputation	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3460		R	Endodontic endosseous implant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3470		N	Intentional replantation	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D3910		N	Isolation-tooth w rubb dam	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3920		N	Tooth splitting	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3950		N	Canal prep/fitting of dowel	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3960		N	Bleaching of discolored tooth	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D3999		R	Endodontic procedure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D4210		I	Gingivectomy/plasty per quad	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D4211		I	Gingivectomy/plasty per tooth	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D4220		N	Gingival curettage per quadr	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D4240		N	Gingival flap proc w/planing	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D4249		N	Crown lengthen hard tissue	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D4250		R	Mucogingival surg per quadra	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D4260		R	Osseous surgery per quadrant	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D4263		R	Bone replce graft first site	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D4264		R	Bone replce graft each add	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D4266		N	Guided tiss regen resorble	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D4267		N	Guided tiss regen nonresorb	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D4270		R	Pedicle soft tissue graft pr	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D4271		R	Free soft tissue graft proc	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D4273		R	Subepithelial tissue graft	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D4274		N	Distal/proximal wedge proc	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D4320		N	Provision splint intracoronal	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D4321		N	Provisional splint extracoro	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D4341		N	Periodontal scaling & root	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D4355		R	Full mouth debridement	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D4381		R	Localized chemo delivery	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D4910		N	Periodontal maint procedures	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D4920		N	Unscheduled dressing change	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D4999		N	Unspecified periodontal proc	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5110		N	Dentures complete maxillary	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5120		N	Dentures complete mandible	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5130		N	Dentures immediat maxillary	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5140		N	Dentures immediat mandible	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5211		N	Dentures maxill part resin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5212		N	Dentures mand part resin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5213		N	Dentures maxill part metal	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5214		N	Dentures mandibl part metal	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5281		N	Removable partial denture	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5410		N	Dentures adjust cmplt maxil	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1] / HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
D5411		N	Dentures adjust cmplt mand	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5421		N	Dentures adjust part maxill	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5422		N	Dentures adjust part mandibl	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5510		N	Dentur repr broken compl bas	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5520		N	Replace denture teeth complt	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5610		N	Dentures repair resin base	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5620		N	Rep part denture cast frame	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5630		N	Rep partial denture clasp	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5640		N	Replace part denture teeth	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5650		N	Add tooth to partial denture	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5660		N	Add clasp to partial denture	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5710		N	Dentures rebase cmplt maxil	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5711		N	Dentures rebase cmplt mand	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5720		N	Dentures rebase part maxill	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5721		N	Dentures rebase part mandibl	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5730		N	Denture reln cmplt maxil ch	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5731		N	Denture reln cmplt mand chr	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5740		N	Denture reln part maxil chr	0.00	0.00	0.00	0.00	0.00	0.00	XXX
B5741		N	Denture reln part mand chr	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5750		N	Denture reln-cmplt max lab	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5751		N	Denture reln cmplt mand lab	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5760		N	Denture reln part maxil lab	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5761		N	Denture reln part mand lab	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5810		N	Denture interm cmplt maxill	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5811		N	Denture interm-cmplt mandibl	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5820		N	Denture interm part maxill	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5821		N	Denture interm-part mandibl	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5850		N	Denture tiss conditn maxill	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5851		N	Denture tiss conditn mandibl	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5860		N	Overdenture-complete	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5861		N	Overdenture-partial	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5862		N	Precision attachment	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5899		N	Removable prosthodontic proc	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5911		R	Facial moulage sectional	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D5912		R	Facial moulage complete	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D5913		I	Nasal prosthesis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5914		I	Auricular prosthesis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5915		I	Orbital prosthesis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5916		I	Ocular prosthesis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5919		I	Facial prosthesis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5922		I	Nasal septal prosthesis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5923		I	Ocular prosthesis interim	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5924		I	Cranial prosthesis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5925		I	Facial augmentation implant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5926		I	Replacement nasal prosthesis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
B5927		I	Auricular replacement	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5928		I	Orbital replacement	0.00	0.00	0.00	0.00	0.00	0.00	XXX
B5929		I	Facial replacement	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5931		I	Surgical obturator	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5932		I	Postsurgical obturator	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5933		I	Refitting of obturator	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5934		I	Mandibular flange prosthesis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5935		I	Mandibular denture prosth	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5936		I	Temp obturator prosthesis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5937		I	Trismus appliance	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5951		R	Feeding aid	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D5952		I	Pediatric speech aid	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5953		I	Adult-speech aid	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5954		I	Superimposed prosthesis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5955		I	Palatal lift prosthesis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5958		I	Intraoral con def inter plt	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5959		I	Intraoral con def mod palat	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5960		I	Modify speech aid prosthesis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5982		I	Surgical stent	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5983		R	Radiation applicator	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D5984		R	Radiation shield	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D5985		R	Radiation cone locator	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D5986		N	Fluoride applicator	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5987		R	Commissure splint	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D5988		I	Surgical splint	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D5999		I	Maxillofacial prosthesis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6010		I	Odontics endosteal implant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6020		I	Odontics abutment placement	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6040		I	Odontics eposteal implant	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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[2] Copyright 1994 American Dental Association. All rights reserved.
[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1] / HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
D6050		I	Odontics transosteal implnt	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6055		I	Implant connecting bar	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6080		I	Implant maintenance	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6090		I	Repair implant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6095		I	Odontics repr abutment	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6100		I	Removal of implant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6199		I	Implant prosedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6210		N	Prosthodont high noble metal	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6211		N	Bridge base metal cast	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6212		N	Bridge noble metal cast	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6240		N	Bridge porcelain high noble	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6241		N	Bridge porcelain base metal	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6242		N	Bridge porcelain nobel metal	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6250		N	Bridge resin w/high noble	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6251		N	Bridge resin base metal	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6252		N	Bridge resin w/noble metal	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6520		N	Dental retainer two surfaces	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6530		N	Retainer metallic 3+ surface	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6543		N	Dental retainr onlay 3 surf	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6544		N	Dental retainr onlay 4/more	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6545		N	Dental retainr cast metl	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6720		N	Retain crown resin w hi nble	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6721		N	Crown resin w/base metal	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6722		N	Crown resin w/noble metal	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6750		N	Crown porcelain high noble	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6751		N	Crown porcelain base metal	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6752		N	Crown porcelain noble metal	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6780		N	Crown 3/4 high noble metal	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6790		N	Crown full high noble metal	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6791		N	Crown full base metal cast	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6792		N	Crown full noble metal cast	0.00	0.00	0.00	0.00	0.00	0.00	XXX
B6920		R	Dental connector bar	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D6930		N	Dental recement bridge	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6940		N	Stress breaker	0.00	0.00	0.00	0.00	0.00	0.00	XXX
B6950		N	Precision attachment	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6970		N	Post & core plus retainer	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6971		N	Cast post bridge retainer	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6972		N	Prefab post & core plus reta	0.00	0.00	0.00	0.00	0.00	0.00	XXX
B6973		N	Core build up for retainer	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6975		N	Coping metal	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D6980		N	Bridge repair	0.00	0.00	0.00	0.00	0.00	0.00	XXX
B6999		N	Fixed prosthodontic proc	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7110		R	Oral surgery single tooth	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D7120		R	Each add tooth extraction	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D7130		R	Tooth root removal	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D7210		R	Rem impt tooth w mucoper flp	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D7220		R	Impact tooth remov soft tiss	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D7230		R	Impact tooth remov part bony	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D7240		R	Impact tooth remov comp bony	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D7241		R	Impact tooth rem bony w/comp	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D7250		R	Tooth root removal	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D7260		R	Oral antral fistula closure	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D7270		N	Tooth reimplantation	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7272		N	Tooth transplantation	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7280		N	Exposure impact tooth orthod	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7281		N	Exposure tooth aid eruption	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7285		I	Biopsy of oral tissue hard	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7286		I	Biopsy of oral tissue soft	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7290		N	Repositioning of teeth	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7291		R	Transeptal fiberotomy	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D7310		I	Alveoplasty w/extraction	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7320		I	Alveoplasty w/o extraction	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7340		I	Vestibuloplasty ridge extens	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7350		I	Vestibuloplasty exten graft	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7410		I	Rad exc lesion up to 1.25 cm	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7420		I	Lesion >1.25 cm	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7430		I	Exc benign tumor to 1.25 cm	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7431		I	Benign tumor exc >1.25 cm	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7440		I	Malig tumor exc to 1.25 cm	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7441		I	Malig tumor >1.25 cm	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7450		I	Rem odontogen cyst to 1.25cm	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7451		I	Rem odontogen cyst >1.25 cm	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7460		I	Rem nonodonto cyst to 1.25cm	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7461		I	Rem nonodonto cyst >1.25 cm	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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[2] Copyright 1994 American Dental Association. All rights reserved.
[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1] / HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal practice RVUs	Non-facility total	Facility total	Global
D7465		I	Lesion destruction	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7470		I	Rem exostosis maxilla/mandib	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7480		I	Partial ostectomy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7485		I	Mandible resection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7510		I	I&d absc intraoral soft tiss	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7520		I	I&d abscess extraoral	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7530		I	Removal fb skin/scalp tiss	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7540		I	Removal of fb reaction	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7550		I	Removal of sloughed off bone	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7560		I	Maxillary sinusotomy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7610		I	Maxilla open reduct simple	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7620		I	Clsd reduct simpl maxilla fx	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7630		I	Open red simpl mandible fx	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7640		I	Clsd red simpl mandible fx	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7650		I	Open red comp malar/zygom fx	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7660		I	Clsd red simp malar/zygom fx	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7670		I	Open red simple alveolus fx	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7680		I	Reduct simple facial bone fx	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7710		I	Maxilla open reduct compound	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7720		I	Clsd reduct compd maxilla fx	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7730		I	Open reduct compd mandible fx	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7740		I	Clsd reduct compd mandible fx	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7750		I	Open red comp malar/zygma fx	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7760		I	Clsd red comp malar/zygma fx	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7770		I	Open reduc compd alveolus fx	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7780		I	Reduct compnd facial bone fx	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7810		I	Tmj open reduct-dislocation	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7820		I	Closed tmp manipulation	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7830		I	Tmj manipulation under anest	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7840		I	Removal of tmj condyle	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7850		I	Tmj meniscectomy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7852		I	Tmj repair of joint disc	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7854		I	Tmj excion of joint membrane	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7856		I	Tmj cutting of a muscle	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7858		I	Tmj reconstruction	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7860		I	Tmj cutting into joint	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7865		I	Tmj reshaping components	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7870		I	Tmj aspiration joint fluid	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7872		I	Tmj diagnostic arthroscopy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7873		I	Tmj arthroscopy lysis adhesn	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7874		I	Tmj arthroscopy disc reposit	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7875		I	Tmj arthroscopy synovectomy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7876		I	Tmj arthroscopy discectomy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7877		I	Tmj arthroscopy debridement	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7880		I	Occlusal orthotic appliance	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7899		I	Tmj unspecified therapy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7910		I	Dent suture recent wnd to 5cm	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7911		I	Dental suture wound to 5 cm	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7912		I	Suture complicate wnd >5 cm	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7920		I	Dental skin graft	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7940		R	Reshaping bone orthognathic	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D7941		I	Bone cutting ramus closed	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7942		I	Bone cutting ramus open	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7943		I	Cutting ramus open wgraft	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7944		I	Bone cutting segmented	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7945		I	Bone cutting body mandible	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7948		I	Reconstruction maxilla total	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7947		I	Reconstruct maxilla segment	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7948		I	Reconstruct midface no graft	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7949		I	Reconstruct midface-wgraft	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7950		I	Mandible graft	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7955		I	Repair maxillofacial defects	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7960		I	Frenulectomy/frenulotomy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7970		I	Excision hyperplastic tissue	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7971		I	Excision pericoronal gingiva	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7980		I	Sialolithotomy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7981		I	Excision of salivary gland	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7982		I	Sialodochoplasty	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7983		I	Closure of salivary fistula	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7990		I	Emergency tracheotomy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7991		I	Dental coronoidectomy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7995		I	Synthetic graft facial bones	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7996		I	Implant mandible for augment	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D7999		I	Oral surgery procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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[5] "@" Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1] / HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal practice RVUs	Non-facility total	Facility total	Global
D8010		N	Limited dental tx primary	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D8020		N	Limited dental tx transition	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D8030		N	Limited dental tx adolescent	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D8040		N	Limited dental tx adult	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D8050		N	Intercep dental tx primary	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D8060		N	Intercep dental tx transitn	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D8070		N	Compre dental tx transition	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D8080		N	Compre dental tx adolescent	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D8090		N	Compre dental tx adult	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D8210		N	Orthodontic rem appliance tx	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D8220		N	Fixed appliance therapy habt	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D8660		N	Preorthodontic tx visit	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D8670		N	Periodic orthodontic tx visit	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D8680		N	Orthodontic retention	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D8690		N	Orthodontic treatment	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D8999		N	Orthodontic procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D9110		R	Tx dental pain minor proc	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D9210		I	Dent anesthesia w/o surgery	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D9211		I	Regional block anesthesia	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D9212		I	Trigeminal block anesthesia	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D9215		I	Local anesthesia	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D9220		I	General anesthesia	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D9221		I	General anesthesia ea ad 15m	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D9230		R	Analgesia	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D9240		I	Intravenous sedation	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D9310		I	Dental consultation	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D9410		I	Dental house call	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D9420		I	Hospital call	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D9430		I	Office visit during hours	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D9440		I	Office visit after hours	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D9610		I	Dent therapeutic drug inject	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D9630		R	Other drugs/medicaments	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D9910		N	Dent appl desensitizing med	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D9920		M	Behavior management	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D9930		R	Treatment of complications	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D9940		R	Dental occlusal guard	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D9941		N	Fabrication athletic guard	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D9950		R	Occlusion analysis	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D9951		R	Limited occlusal adjustment	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D9952		R	Complete occlusal adjustment	0.00	0.00	0.00	0.00	0.00	0.00	YYY
D9970		N	Enamel microabrasion	0.00	0.00	0.00	0.00	0.00	0.00	XXX
D9999		I	Adjunctive procedure	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0001		X	Drawing blood for specimen	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0002		A	Temporary urinary catheter	0.50	0.70	0.70	0.02	1.22	1.22	000
G0004		A	ECG transm phys review & int	0.52	7.31	7.31	0.65	8.48	8.48	XXX
G0005		A	ECG 24 hour recording	0.00	1.18	1.18	0.09	1.27	1.27	XXX
G0006		A	ECG transmission & analysis	0.00	5.73	5.73	0.51	6.24	6.24	XXX
G0007		A	ECG phy review & interpret	0.52	0.40	0.40	0.05	0.97	0.97	XXX
G0008		X	Admin influenza virus vac	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0009		X	Admin pneumococcal vaccine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0010		X	Admin hepatitis-b vaccine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0015		A	Post symptom ECG tracing	0.00	5.73	5.73	0.51	6.24	6.24	XXX
G0016		A	Post symptom ECG md review	0.52	0.40	0.40	0.05	0.97	0.97	XXX
G0025		A	Collagen skin test kit	0.00	0.95	0.95	0.00	0.95	0.95	XXX
G0026		X	Fecal leukocyte examination	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0027		X	Semen analysis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0030		C	PET imaging prev PET single	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0030	TC	C	PET imaging prev PET single	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0030	26	A	PET imaging prev PET single	1.50	0.48	0.48	0.07	2.05	2.05	XXX
G0031		C	PET imaging prev PET multiple	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0031	TC	C	PET imaging prev PET multiple	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0031	26	A	PET imaging prev PET multiple	1.87	0.65	0.65	0.10	2.62	2.62	XXX
G0032		C	PET follow SPECT 78464 singl	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0032	TC	C	PET follow SPECT 78464 singl	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0032	26	A	PET follow SPECT 78464 singl	1.50	0.48	0.48	0.07	2.05	2.05	XXX
G0033		C	PET follow SPECT 78464 mult	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0033	TC	C	PET follow SPECT 78464 mult	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0033	26	A	PET follow SPECT 78464 mult	1.87	0.65	0.65	0.10	2.62	2.62	XXX
G0034		C	PET follow SPECT 78465 singl	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0034	TC	C	PET follow SPECT 78465 singl	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0034	26	A	PET follow SPECT 78465 singl	1.50	0.48	0.48	0.07	2.05	2.05	XXX
G0035		C	PET follow SPECT 78465 mult	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0035	TC	C	PET follow SPECT 78465 mult	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0035	26	A	PET follow SPECT 78465 mult	1.87	0.65	0.65	0.10	2.62	2.62	XXX

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ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT[1]/ HCPCS[2]	MOD	Status	Description	Physician work RVUs[3,4]	Non-facility practice expense RVUs[5]	Facility practice expense RVUs[5]	Mal-practice RVUs	Non-facility total	Facility total	Global
G0036		C	PET follow corny angio sing	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0036	TC	C	PET follow corny angio sing	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0036	26	A	PET follow corny angio sing	1.50	0.48	0.48	0.07	2.05	2.05	XXX
G0037		C	PET follow corny angio mult	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0037	TC	C	PET follow corny angio mult	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0037	26	A	PET follow corny angio mult	1.87	0.65	0.65	0.10	2.62	2.62	XXX
G0038		C	PET follow myocard perf sing	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0038	TC	C	PET follow myocard perf sing	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0038	26	A	PET follow myocard perf sing	1.50	0.48	0.48	0.07	2.05	2.05	XXX
G0039		C	PET follow myocard perf mult	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0039	TC	C	PET follow myocard perf mult	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0039	26	A	PET follow myocard perf mult	1.87	0.65	0.65	0.10	2.62	2.62	XXX
G0040		C	PET follow stress echo sing	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0040	TC	C	PET follow stress echo sing	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0040	26	A	PET follow stress echo sing	1.59	0.48	0.48	0.07	2.05	2.05	XXX
G0041		C	PET follow stress echo mult	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0041	TC	C	PET follow stress echo mult	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0041	26	A	PET follow stress echo mult	1.87	0.65	0.65	0.10	2.62	2.62	XXX
G0042		C	PET follow ventriculogm sing	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0042	TC	C	PET follow ventriculogm sing	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0042	26	A	PET follow ventriculogm sing	1.50	0.48	0.48	0.07	2.05	2.05	XXX
G0043		C	PET follow ventriculogm mult	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0043	TC	C	PET follow ventriculogm mult	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0043	26	A	PET follow ventriculogm mult	1.87	0.65	0.65	0.10	2.62	2.62	XXX
G0044		C	PET following rest ECG sing	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0044	TC	C	PET following rest ECG sing	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0044	26	A	PET following rest ECG sing	1.50	0.48	0.48	0.07	2.05	2.05	XXX
G0045		C	PET following rest ECG mult	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0045	TC	C	PET following rest ECG mult	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0045	26	A	PET following rest ECG mult	1.87	0.65	0.65	0.10	2.62	2.62	XXX
G0046		C	PET follow stress ECG sing	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0046	TC	C	PET follow stress ECG sing	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0046	26	A	PET follow stress ECG sing	1.50	0.48	0.48	0.07	2.05	2.05	XXX
G0047		C	PET follow stress ECG mult	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0047	TC	C	PET follow stress ECG mult	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0047	26	A	PET follow stress ECG mult	1.87	0.65	0.65	0.10	2.62	2.62	XXX
G0050		A	Residual urine by ultrasound	0.00	0.81	0.81	0.05	0.86	0.86	XXX
G0051		D	Destroy benign/premal lesion	0.00	0.00	0.00	0.00	0.00	0.00	010
G0052		D	Destruction of added lesions	0.00	0.00	0.00	0.00	0.00	0.00	ZZZ
G0053		D	Destruction of added lesions	0.00	0.00	0.00	0.00	0.00	0.00	010
G0058		D	Auto multichannel 29 tests	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0059		D	Auto multichannel 21 tests	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0060		D	Auto multichannel 22 tests	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0062		D	peripheral bone densitometry	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0062	TC	D	peripheral bone densitometry	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0062	26	D	peripheral bone densitometry	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0063		D	central bone densitometry	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0063	TC	D	central bone densitometry	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0063	26	D	central bone densitometry	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0064		D	care plan oversight, hosp hlth	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0065		D	care plan oversight, hospice	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0066		D	care plan oversight nurs fac	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0071		D	Psychotherapy, office, no E/M	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0072		D	Psychotherapy, office, wth E/M	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0073		D	Psychotherapy, office, no E/M	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0074		D	Psychotherapy, office, wth E/M	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0075		D	Psychotherapy, office, no E/M	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0076		D	Psychotherapy, office, wth E/M	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0077		D	Psychotherapy, office, no E/M	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0078		D	Psychotherapy, office, wth E/M	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0079		D	Psychotherapy, office, no E/M	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0080		D	Psychotherapy, office, wth E/M	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0081		D	Psychotherapy, office, no E/M	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0082		D	Psychotherapy, office, wth E/M	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0083		D	Psychotherapy, inpt, no E/M	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0084		D	Psychotherapy, inpt, with E/M	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0085		D	Psychotherapy, inpt, no E/M	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0086		D	Psychotherapy, inpt, with E/M	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0087		D	Psychotherapy, inpt, no E/M	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0088		D	Psychotherapy, inpt, with E/M	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0089		D	Psychotherapy, inpt, no E/M	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0090		D	Psychotherapy, inpt, with E/M	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0091		D	Psychotherapy, inpt, no E/M	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0092		D	Psychotherapy, inpt, with E/M	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT[1]/ HCPCS[2]	MOD	Status	Description	Physician work RVUs[3,4]	Non-facility practice expense RVUs[5]	Facility practice expense RVUs[5]	Mal-practice RVUs	Non-facility total	Facility total	Global
G0093		D	Psychotherapy, inpt, no E/M	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0094		D	Psychotherapy, inpt, with E/M	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0100		D	HIV-1, viral load, quant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0101		A	CA screen; pelvic/breast exam	0.45	0.28	0.28	0.02	0.75	0.75	XXX
G0104		A	CA screen; flexi sigmoidscope	0.96	1.23	♦1.06	0.12	2.31	2.14	000
G0105		A	Colorectal scrn; hi risk ind	3.70	4.13	♦4.07	0.39	8.22	8.16	000
G0106		A	Colon CA screen; barium enema	0.99	2.58	2.58	0.21	3.78	3.78	XXX
G0106	TC	A	Colon CA screen; barium enema	0.00	2.13	2.13	0.14	2.27	2.27	XXX
G0106	26	A	Colon CA screen; barium enema	0.99	0.45	0.45	0.07	1.51	1.51	XXX
G0107		X	CA screen; fecal blood test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0110		R	Nett pulm-rehab educ; ind	0.90	0.26	0.26	0.04	1.20	1.20	XXX
G0111		R	Nett pulm-rehab educ; group	0.27	0.20	0.20	0.02	0.49	0.49	XXX
G0112		R	Nett; nutrition guid, initial	1.72	0.97	0.97	0.10	2.79	2.79	XXX
G0113		R	Nett; nutrition guid, subsequnt	1.29	0.77	0.77	0.09	2.15	2.15	XXX
G0114		R	Nett; psychosocial consult	1.20	0.35	0.35	0.11	1.66	1.66	XXX
G0115		R	Nett; psychological testing	1.20	0.35	0.35	0.11	1.66	1.66	XXX
G0116		A	Nett; psychosocial counsel	1.11	0.35	0.35	0.05	1.51	1.51	XXX
G0120		A	Colon ca scrn; barium enema	0.99	2.58	2.58	0.21	3.78	3.78	XXX
G0120	TC	A	Colon ca scrn; barium enema	0.00	2.13	2.13	0.14	2.27	2.27	XXX
G0120	26	A	Colon ca scrn; barium enema	0.99	0.45	0.45	0.07	1.51	1.51	XXX
G0121		N	Colon ca scrn; barium enema	+3.70	4.13	♦4.07	0.39	8.22	8.16	XXX
G0122		N	Colon ca scrn; barium enema	+0.99	2.58	2.58	0.21	3.78	3.78	XXX
G0122	TC	N	Colon ca scrn; barium enema	+0.00	2.13	2.13	0.14	2.27	2.27	XXX
G0122	26	N	Colon ca scrn; barium enema	+0.99	0.45	0.45	0.07	1.51	1.51	XXX
H5300		D	Occupational therapy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0120		E	Tetracyclin injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0150		E	Injection adenosine 6 MG	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0170		E	Adrenalin epinephrin inject	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0190		E	Inj biperiden lactate/5 mg	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0205		E	Alglucerase injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0207		E	Amifostine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0210		E	Methyldopate hcl injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0256		E	Alpha 1-proteinase 500 MG	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0270		E	Alprostadil for injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0280		E	Aminophyllin 250 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0290		E	Ampicillin 500 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0295		E	Ampicillin sodium per 1.5 gm	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0300		E	Amobarbital 125 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0330		E	Succinycholine chloride inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0340		E	Nandrolon phenpropionate inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0350		E	Injection anistreplase 30 u	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0360		E	Hydralazine hcl injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0380		E	Inj metaraminol bitartrate	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0390		E	Chloroquine injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0400		E	Inj trimethaphan camsylate	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0460		E	Atropine sulfate injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0470		E	Dimercaprol injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0475		E	Baclofen 10 MG injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0500		E	Dicyclomine injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0510		E	Benzquinamide injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0515		E	Inj benztropine mesylate	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0520		E	Bethanechol chloride inject	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0530		E	Penicillin g benzathine inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0540		E	Penicillin g benzathine inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0550		E	Penicillin g benzathine inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0560		E	Penicillin g benzathine inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0570		E	Penicillin g benzathine inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0580		E	Penicillin g benzathine inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0585		E	Botulinum toxin a per unit	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0590		E	Ethylnorepinephrine hcl inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0600		E	Edetate calcium disodium inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0610		E	Calcium gluconate injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0620		E	Calcium glycer & lact/10 ML	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0630		E	Calcitonin salmon injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0635		E	Calcitriol injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0640		E	Leucovorin calcium injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0670		E	Inj mepivacaine HCL/10 ml	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0690		E	Cefazolin sodium injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0694		E	Cefoxitin sodium injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0695		E	Cefonocid sodium injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0696		E	Ceftriaxone sodium injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0697		E	Sterile cefuroxime injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0698		E	Cefotaxime sodium injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0702		E	Betamethasone acet&sod phosp	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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[2] Copyright 1994 American Dental Association. All rights reserved.
[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] ♦ Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
J0704		E	Betamethasone sod phosp/4 MG	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0710		E	Cephapirin sodium injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0713		E	Inj ceftazidime per 500 mg	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0715		E	Ceftizoxime sodium / 500 MG	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0720		E	Chloramphenicol sodium injec	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0725		E	Chorionic gonadotropin/1000u	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0730		E	Chlorpheniramin maleate inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0735		E	Clonidine hydrochloride	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0740		E	Cidofovir injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0743		E	Cilastatin sodium injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0745		E	Inj codeine phosphate /30 MG	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0760		E	Colchicine injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0770		E	Colistimethate sodium inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0780		E	Prochlorperazine injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0800		E	Corticotropin injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0810		E	Cortisone injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0835		E	Inj cosyntropin per 0.25 MG	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0850		E	Cytomegalovirus imm IV /vial	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0895		E	Deferoxamine mesylate inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0900		E	Testosterone enanthate inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0945		E	Brompheniramine maleate inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J0970		E	Estradiol valerate injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1000		E	Depo-estradiol cypionate inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1020		E	Methylprednisolone 20 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1030		E	Methylprednisolone 40 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1040		E	Methylprednisolone 80 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1050		E	Medroxyprogesterone inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1055		N	Medroxyprogester acetate inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1060		E	Testosterone cypionate 1 ML	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1070		E	Testosterone cypionat 100 MG	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1080		E	Testosterone cypionat 200 MG	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1090		E	Testosterone cypionate 50 MG	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1095		E	Inj dexamethasone acetate	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1100		E	Dexamethasone sodium phos	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1110		E	Inj dihydroergotamine mesylt	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1120		E	Acetazolamid sodium injectio	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1160		E	Digoxin injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1165		E	Phenytoin sodium injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1170		E	Hydromorphone injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1180		E	Dyphylline injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1190		E	Dexrazoxane HCl injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1200		E	Diphenhydramine hcl injectio	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1205		E	Chlorothiazide sodium inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1212		E	Dimethyl sulfoxide 50% 50 ML	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1230		E	Methadone injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1240		E	Dimenhydrinate injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1245		E	Dipyridamole injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1250		E	Inj dobutamine HCL/250 mg	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1320		E	Amitriptyline injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1325		E	Epoprostenol injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1330		E	Ergonovine maleate injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1362		E	Erythromycin glucep / 250 MG	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1364		E	Erythro lactobionate /500 MG	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1380		E	Estradiol valerate 10 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1390		E	Estradiol valerate 20 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1410		E	Inj estrogen conjugate 25 MG	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1435		E	Injection estrone per 1 MG	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1436		E	Etidronate disodium Inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1440		E	Filgrastim 300 mcg injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1441		E	Filgrastim 480 mcg injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1455		E	Foscarnet sodium injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1460		E	Gamma globulin 1 CC inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1470		E	Gamma globulin 2 CC inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1480		E	Gamma globulin 3 CC inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1490		E	Gamma globulin 4 CC inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1500		E	Gamma globulin 5 CC inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1510		E	Gamma globulin 6 CC inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1520		E	Gamma globulin 7 CC inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1530		E	Gamma globulin 8 CC inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1540		E	Gamma globulin 9 CC inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1550		E	Gamma globulin 10 CC inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1560		E	Gamma globulin >10 CC inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1561		E	Immune globulin 500 mg	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1562		E	Immune globulin 5 gms	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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[2] Copyright 1994 American Dental Association. All rights reserved.
[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
J1565		E	RSV-Ivig	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1570		E	Ganciclovir sodium injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1580		E	Garamycin gentamicin inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1600		E	Gold sodium thiomalate inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1610		E	Glucagon hydrochloride/1 MG	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1620		E	Gonadorelin hydrochl/ 100 mcg	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1625		D	Granisetron hydrochlor/1 MG	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1626		E	Granisetron HCl injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1630		E	Haloperidol injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1631		E	Haloperidol decanoate inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1642		E	Inj heparin sodium per 10 u	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1644		E	inj heparin sodium per 1000u	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1645		E	Dalteparin sodium	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1650		E	Inj enoxaparin sodium 30 mg	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1670		E	Tetanus immune globulin inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1690		E	Prednisolone tebutate inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1700		E	Hydrocortisone acetate inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1710		E	Hydrocortisone sodium ph inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1720		E	Hydrocortisone sodium succ I	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1730		E	Diazoxide injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1739		E	Hydroxyprogesterone cap 125	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1741		E	Hydroxyprogesterone cap 250	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1742		E	Ibutilide fumarate injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1760		E	Iron dextran 2 CC inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1770		E	Iron dextran 5 CC inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1780		E	Iron dextran 10 CC inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1785		E	Injection imiglucerase /unit	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1790		E	Droperidol injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1800		E	Propranolol injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1810		E	Droperidol/fentanyl inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1820		E	Insulin injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1825		E	Interferon beta-1a	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1830		E	Interferon beta-1b/.25 MG	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1840		E	Kanamycin sulfate 500 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1850		E	Kanamycin sulfate 75 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1885		E	Ketorolac tromethamine inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1890		E	Cephalothin sodium injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1910		E	Kutapressin injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1930		E	Propiomazine injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1940		E	Furosemide injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1950		E	Leuprolide acetate/3.75 MG	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1955		E	Inj levocarnitine per 1 gm	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1960		E	Levorphanol tartrate inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1970		E	Methotrimeprazine injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1980		E	Hyoscyamine sulfate inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J1990		E	Chlordiazepoxide injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2000		E	Lidocaine injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2010		E	Lincomycin injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2060		E	Lorazepam injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2150		E	Mannitol injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2175		E	Meperidine hydrochl/100 MG	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2180		E	Meperidine/promethazine inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2210		E	Methylergonovin maleate inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2240		E	Metocurine iodide injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2250		E	Inj midazolam hydrochloride	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2260		E	Inj milrinone lactate/5 ML	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2270		E	Morphine sulfate injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2275		E	Morphine sulfate injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2300		E	Inj nalbuphine hydrochloride	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2310		E	Inj naloxone hydrochloride	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2320		E	Nandrolone decanoate 50 MG	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2321		E	Nandrolone decanoate 100 MG	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2322		E	Nandrolone decanoate 200 MG	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2330		E	Thiothixene injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2350		E	Niacinamide/niacin injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2360		E	Orphenadrine injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2370		E	Phenylephrine hcl injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2400		E	Chloroprocaine hcl injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2405		E	Ondansetron hcl injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2410		E	Oxymorphone hcl injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2430		E	Pamidronate disodium/30 MG	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2440		E	Papaverin hcl injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2460		E	Oxytetracycline injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2480		E	Hydrochlorides of opium inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1] / HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [6]	Mal-practice RVUs	Non-facility total	Facility total	Global
J2510		E	Penicillin g procaine inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2512		E	Inj pentagastrin per 2 ML	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2515		E	Pentobarbital sodium inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2540		E	Penicillin g potassium inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2545		E	Pentamidine isethionate/300mg	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2550		E	Promethazine hcl injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2560		E	Phenobarbital sodium inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2590		E	Oxytocin injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2597		E	Inj desmopressin acetate	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2640		E	Prednisolone sodium ph inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2650		E	Prednisolone acetate inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2670		E	Tetracaine hcl injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2675		E	Inj progesterone per 50 MG	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2680		E	Fluphenazine decanoate 25 MG	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2690		E	Procainamide hcl injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2700		E	Oxacillin sodium injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2710		E	Neostigmine methylsulfate inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2720		E	Inj protamine sulfate/10 MG	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2725		E	Inj protirelin per 250 mcg	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2730		E	Prednisolone chloride inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2760		E	Phentolamine mesylate inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2765		E	Metoclopramide hcl injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2790		E	Rho d immune globulin inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2800		E	Methocarbamol injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2810		E	Inj theophylline per 40 MG	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2820		E	Sargramostim injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2860		E	Secobarbital sodium inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2910		E	Aurothioglucose injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2912		E	Sodium chloride injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2920		E	Methylprednisolone injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2930		E	Methylprednisolone injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2950		E	Promazine hcl injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2970		E	Methicillin sodium injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2995		E	Inj streptokinase/250000 IU	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J2998		E	Alteplase recombinant inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3000		E	Streptomycin injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3005		D	Strontium-89 chloride/10 ML	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3010		E	Fentanyl citrate injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3030		E	Sumatriptan succinate/6 MG	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3070		E	Pentazocine hcl injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3080		E	Chlorpropthixene injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3105		E	Terbutaline sulfate inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3120		E	Testosterone enanthate inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3130		E	Testosterone enanthate inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3140		E	Testosterone suspension inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3150		E	Testosteron propionate inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3230		E	Chlorpromazine hcl injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3240		E	Thyrotropin injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3250		E	Trimethobenzamide hcl inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3260		E	Tobramycin sulfate injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3265		E	Injection torsemide 10 mg/ml	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3270		E	Imipramine hcl injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3280		E	Thiethylperazine maleate inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3301		E	Triamcinolone acetonide inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3302		E	Triamcinolone diacetate inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3303		E	Triamcinolone hexacetonl inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3305		E	Inj trimetrexate glucoronate	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3310		E	Perphenazine injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3320		E	Spectinomycin di-hcl inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3350		E	Urea injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3360		E	Diazepam injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3364		E	Urokinase 5000 IU injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3365		E	Urokinase 250,000 IU inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3370		R	Vancomycin hcl injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3390		E	Methoxamine injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3400		E	Triflupromazine hcl inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3410		E	Hydroxyzine hcl injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3420		E	Vitamin b12 injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3430		E	Vitamin k phytonadione inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3450		E	Mephentermine sulfate inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3470		E	Hyaluronidase injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3475		E	Inj magnesium sulfate	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3480		E	Inj potassium chloride	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3490		E	Drugs unclassified injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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[4] "*" Work RVUs increased in global surgical package.
[5] "@ Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—Continued

CPT [1] / HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [6]	Mal-practice RVUs	Non-facility total	Facility total	Global
J3520		N	Edetate disodium per 150 mg	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3530		E	Nasal vaccine inhalation	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3535		N	Metered dose inhaler drug	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J3570		N	Laetrile amygdalin vit B17	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7030		E	Normal saline solution infus	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7040		E	Normal saline solution infus	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7042		E	5% dextrose/normal saline	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7050		E	Normal saline solution infus	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7051		E	Sterile saline/water	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7060		E	5% dextrose/water	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7070		E	D5w infusion	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7100		E	Dextran 40 infusion	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7110		E	Dextran 75 infusion	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7120		E	Ringers lactate infusion	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7130		E	Hypotonic saline solution	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7190		X	Factor viii	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7191		X	Factor-VIII (porcine)	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7192		X	Factor viii recombinant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7194		X	Factor ix complex	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7196		X	Othr hemophilia clot factors	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7197		X	Antithrombin iii injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7300		N	Intraut copper contraceptive	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7310		E	Ganciclovir long act implant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7500		X	Azathiop po tab 50mg 100s ea	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7501		X	Azathioprine parenteral	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7503		X	Cyclosporine parenteral	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7504		X	Lymphocyte immune globulin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7505		X	Monoclonal antibodies	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7506		X	Prednisone oral	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7507		E	Tacrolimus oral per 1 MG	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7508		E	Tacrolimus oral per .5 MG	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7509		X	Methylprednisolone oral	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7510		X	Prednisolone oral per 5 mg	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7599		X	Immunosuppressive drug noc	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7610		E	Acetylcysteine 10% injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7615		E	Acetylcysteine 20% injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7620		E	Albuterol sulfate .083%/ml	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7625		E	Albuterol sulfate .5% inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7627		E	Bitolterolmesylate inhal sol	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7630		E	Cromolyn sodium injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7640		E	Epinephrine injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7645		E	Ipratropium bromide .02%/ml	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7650		E	Isoetharine hcl .1% inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7651		E	Isoetharine hcl .125% inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7652		E	Isoetharine hcl .167% inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7653		E	Isoetharine hcl .2%/ inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7654		E	Isoetharine hcl .25% inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7655		E	Isoetharine hcl 1% inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7660		E	Isoproterenol hcl .5% inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7665		E	Isoproterenol hcl 1% inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7670		E	Metaproterenol sulfate .4%	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7672		E	Metaproterenol sulfate .6%	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7675		E	Metaproterenol sulfate 5%	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7699		E	Inhalation solution for DME	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J7799		E	Non-inhalation drug for DME	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J8499		N	Oral prescrip drug non chemo	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J8530		E	Cyclophosphamide oral 25 MG	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J8560		E	Etoposide oral 50 MG	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J8600		E	Melphalan oral 2 MG	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J8610		E	Methotrexate oral 2.5 MG	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J8999		E	Oral prescription drug chemo	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9000		E	Doxorubic hcl 10 MG vl chemo	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9015		E	Aldesleukin/single use vial	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9020		E	Asparaginase injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9031		E	Bcg live intravesical vac	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9040		E	Bleomycin sulfate injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9045		E	Carboplatin injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9050		E	Carmus bischl nitro inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9060		E	Cisplatin 10 MG injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9062		E	Cisplatin 50 MG injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9065		E	Inj cladribine per 1 MG	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9070		E	Cyclophosphamide 100 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9080		E	Cyclophosphamide 200 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9090		E	Cyclophosphamide 500 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT 1/ HCPCS 2	MOD	Status	Description	Physician work RVUs 3 4	Non-facility practice expense RVUs 5	Facility practice expense RVUs 5	Mal-practice RVUs	Non-facility total	Facility total	Global
J8091		E	Cyclophosphamide 1.0 gm inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J8092		E	Cyclophosphamide 2.0 gm inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J8093		E	Cyclophosphamide lyophilized	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J8094		E	Cyclophosphamide lyophilized	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J8095		E	Cyclophosphamide lyophilized	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J8096		E	Cyclophosphamide lyophilized	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J8097		E	Cyclophosphamide lyophilized	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9100		E	Cytarabine hcl 100 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9110		E	Cytarabine hcl 500 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9120		E	Dactinomycin actinomycin d	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9130		E	Dacarbazine 10 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9140		E	Dacarbazine 200 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9150		E	Daunorubicin	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9160		E	Diethylstilbestrol injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9170		E	Docetaxel	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9181		E	Etoposide 10 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9182		E	Etoposide 100 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9185		E	Fludarabine phosphate inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9190		E	Fluorouracil injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9200		E	Floxuridine injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9201		E	Gemcitabine HCl	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9202		E	Goserelin acetate implant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9206		E	Irinotecan injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9208		E	Ifosfamide injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9209		E	Mesna injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9211		E	Idarubicin hcl injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9213		E	Interferon alfa-2a inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9214		E	Interferon alfa-2b inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9215		E	Interferon alfa-n3 inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9216		E	Interferon gamma 1-b inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9217		E	Leuprolide acetate suspension	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9218		E	Leuprolide acetate injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9230		E	Mechlorethamine hcl inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9245		E	Inj melphalan hydrochl 50 MG	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9250		E	Methotrexate sodium inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9260		E	Methotrexate sodium inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9265		E	Paclitaxel injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9266		E	Pegaspargase/single dose vial	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9268		E	Pentostatin injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9270		E	Plicamycin (mithramycin) inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9280		E	Mitomycin 5 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9290		E	Mitomycin 20 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9291		E	Mitomycin 40 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9293		E	Mitoxantrone hydrochl/5 MG	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9320		E	Streptozocin injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9340		E	Thiotepa injection	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9350		E	Topotecan	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9360		E	Vinblastine sulfate inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9370		E	Vincristine sulfate 1 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9375		E	Vincristine sulfate 2 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9380		E	Vincristine sulfate 5 MG inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9390		E	Vinorelbine tartrate/10 mg	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9600		E	Porfimer sodium	0.00	0.00	0.00	0.00	0.00	0.00	XXX
J9999		E	Chemotherapy drug	0.00	0.00	0.00	0.00	0.00	0.00	XXX
M0005		D	Ott visit 2/more modalities	0.00	0.00	0.00	0.00	0.00	0.00	XXX
M0006		D	One phys therapy modality	0.00	0.00	0.00	0.00	0.00	0.00	XXX
M0007		D	Combined phys ther mod & tx	0.00	0.00	0.00	0.00	0.00	0.00	XXX
M0008		D	Combined phys ther mod & tx	0.00	0.00	0.00	0.00	0.00	0.00	XXX
M0064		A	Visit for drug monitoring	0.37	0.19	0.19	0.03	0.59	0.59	XXX
M0075		N	Cellular therapy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
M0076		N	Prolotherapy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
M0100		N	Intregastric hypothermia	0.00	0.00	0.00	0.00	0.00	0.00	XXX
M0101		G	Foot care hygiene/pm	0.43	0.35	0.35	0.03	0.81	0.81	XXX
M0300		N	IV chelation therapy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
M0301		N	Fabric wrapping of aneurysm	0.00	0.00	0.00	0.00	0.00	0.00	XXX
M0302		N	Assessment of cardiac output	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P2028		X	Cephalin flocculation test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P2029		X	Congo red blood test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P2031		N	Hair analysis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P2033		X	Blood thymol turbidity	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P2038		X	Blood mucoprotein	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P3000		X	Screen pap by tech w md supv	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P3001		X	Screening pap smear by phys	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P3001	26	A	Screening pap smear by phys	0.42	0.32	0.32	0.04	0.78	0.78	XXX

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3 - Indicates RVUs are not used for Medicare payment.
4 / Work RVUs increased in global surgical package.
5 # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT 1/ HCPCS 2	MOD	Status	Description	Physician work RVUs 3 4	Non-facility practice expense RVUs 5	Facility practice expense RVUs 5	Mal-practice RVUs	Non-facility total	Facility total	Global
P7001		I	Culture bacterial urine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P9010		E	Whole blood for transfusion	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P9011		E	Blood split unit	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P9012		E	Cryoprecipitate each unit	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P9013		E	Unit/s blood fibrinogen	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P9014		E	Gamma globulin 1 ML	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P9015		E	Rh immune globulin 1 ML	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P9016		E	Leukocyte poor blood, unit	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P9017		E	One donor fresh frozn plasma	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P9018		E	Plasma protein fract, unit	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P9019		E	Platelet concentrate unit	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P9020		E	Platelet rich plasma unit	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P9021		E	Red blood cells unit	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P9022		E	Washed red blood cells unit	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P9603		X	One-way allow prorated miles	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P9604		X	One-way allow prorated trip	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P9610		X	Urine specimen-collect singl	0.00	0.00	0.00	0.00	0.00	0.00	XXX
P9615		X	Urine specimen collect mult	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0034		X	Admin of influenza vaccine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0035		A	Cardiokymography	0.17	0.49	0.49	0.04	0.70	0.70	XXX
Q0035	TC	A	Cardiokymography	0.00	0.37	0.37	0.03	0.40	0.40	XXX
Q0035	26	A	Cardiokymography	0.17	0.12	0.12	0.01	0.30	0.30	XXX
Q0068		A	Extracorpeal plasmapheresis	1.67	1.27	1.27	0.16	3.10	3.10	000
Q0091		A	Obtaining screen pap smear	0.37	0.28	0.28	0.03	0.68	0.68	XXX
Q0092		A	Set up port x-ray equipment	0.00	0.30	0.30	0.01	0.31	0.31	XXX
Q0103		D	Physical therapy evaluation	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0104		D	Phys therapy re-evaluation	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0109		D	Occupational therapy eval	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0110		D	Occupational therap re-eval	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0111		X	Wet mounts/w preparations	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0112		X	Potassium hydroxide preps	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0113		X	Pinworm examinations	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0114		X	Fern test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0115		X	Post-coital mucous exam	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9132		X	Dispensing fee DME neb drug	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0136		X	Non esrd epoetin alpha inj	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0144		N	Azithromycin dihydrate, oral	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0156		X	Human albumin 5%	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0157		X	Human albumin 25%	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q0158		D	Combined hib & hep B vaccine	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9920		E	Epoetin with hct <=20	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9921		E	Epoetin with hct =21	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9922		E	Epoetin with hct =22	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9923		E	Epoetin with hct =23	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9924		E	Epoetin with hct =24	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9925		E	Epoetin with hct =25	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9926		E	Epoetin with hct =26	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9927		E	Epoetin with hct =27	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9928		E	Epoetin with hct =28	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9929		E	Epoetin with hct =29	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9930		E	Epoetin with hct =30	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9931		E	Epoetin with hct =31	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9932		E	Epoetin with hct =32	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9933		E	Epoetin with hct =33	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9934		E	Epoetin with hct =34	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9935		E	Epoetin with hct =35	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9936		E	Epoetin with hct =36	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9937		E	Epoetin with hct =37	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9938		E	Epoetin with hct =38	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9939		E	Epoetin with hct =39	0.00	0.00	0.00	0.00	0.00	0.00	XXX
Q9940		E	Epoetin with hct >=40	0.00	0.00	0.00	0.00	0.00	0.00	XXX
R0070		C	Transport portable x-ray	0.00	0.00	0.00	0.00	0.00	0.00	XXX
R0075		C	Transport port x-ray-multipl	0.00	0.00	0.00	0.00	0.00	0.00	XXX
R0076		C	Transport portable EKG	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2020		X	Vision svcs frames purchases	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2025		N	Eyeglasses deluxe frames	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2100		X	Less spher single plano 4.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2101		X	Single vien sphere 4.12–7.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2102		X	Singl vien sphere 7.12–20.00	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2103		X	Spherocylindr 4.00–0.12–2.00d	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2104		X	Spherocylindr 4.00d/2.12–4d	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2105		X	Spherocylinder 4.00d/4.25–6d	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2106		X	Spherocylinder 4.00d/>6.00d	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2107		X	Sphesocylinder 4.25d/12–2d	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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3 - Indicates RVUs are not used for Medicare payment.
4 / Work RVUs increased in global surgical package.
5 # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1] / HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
V2108		X	Spherocylinder 4.25d/2.12–4d	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2109		X	Spherocylinder 4.25d/4.25–6d	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2110		X	Spherocylinder 4.25d/over 6d	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2111		X	Spherocylindr 7.25d/.25–2.25	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2112		X	Spherocylindr 7.25d/2.25–4d	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2113		X	Spherocylindr 7.25d/4.25–6d	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2114		X	Spherocylinder over 12.00d	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2115		X	Lens lenticular bifocal	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2116		X	Nonaspheric lens bifocal	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2117		X	Aspheric lens bifocal	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2118		X	Lens aniseikonic single	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2199		X	Lens single vision not oth c	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2200		X	Lens spher bifoc plano 4.00d	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2201		X	Lens sphere bifocal 4.12–7.0	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2202		X	Lens sphere bifocal 7.12–20.	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2203		X	Lens sphcyl bifocal 4.00d/.1	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2204		X	Lens sphcy bifocal 4.00d/2.1	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2205		X	Lens sphcy bifocal 4.00d/4.2	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2206		X	Lens sphcy bifocal 4.00d/eve	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2207		X	Lens sphcy bifocal 4.25–7d/.	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2208		X	Lens sphcy bifocal 4.25–7/2.	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2209		X	Lens sphcy bifocal 4.25–7/4.	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2210		X	Lens sphcy bifocal 4.25–7/ev	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2211		X	Lens sphcy bifo 7.25–12/.25–	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2212		X	Lens sphcyl bifo 7.25–12/2.2	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2213		X	Lens sphcyl bifo 7.25–12/4.2	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2214		X	Lens sphcyl bifocal over 12.	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2215		X	Lens lenticular bifocal	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2216		X	Lens lenticular nonaspheric	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2217		X	Lens lenticular aspheric bif	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2218		X	Lens aniseikonic bifocal	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2219		X	Lens bifocal seg width over	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2220		X	Lens bifocal add over 3.25d	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2299		X	Lens bifocal specialty	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2300		X	Lens sphere trifocal 4.00d	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2301		X	Lens sphere trifocal 4.12–7.	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2302		X	Lens sphere trifocal 7.12–20	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2303		X	Lens sphcy trifocal 4.0/.12–	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2304		X	Lens sphcy trifocal 4.0/2.25	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2305		X	Lens sphcy trifocal 4.0/4.25	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2306		X	Lens sphcyl trifocal 4.00/-6	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2307		X	Lens sphcy trifocal 4.25–7/.	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2308		X	Lens sphc trifocal 4.25–7/2.	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2309		X	Lens sphc trifocal 4.25–7/4.	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2310		X	Lens sphc trifocal 4.25–7/v6	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2311		X	Lens sphc trifo 7.25–12/.25–	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2312		X	Lens sphc trifo 7.25–12/2.25	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2313		X	Lens sphc trifo 7.25–12/4.25	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2314		X	Lens sphcyl trifocal over 12	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2315		X	Lens lenticular trifocal	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2316		X	Lens lenticular nonaspheric	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2317		X	Lens lenticular aspheric tri	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2318		X	Lens aniseikonic trifocal	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2319		X	Lens trifocal seg width >28	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2320		X	Lens trifocal add over 3.25d	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2399		X	Lens trifocal specialty	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2410		X	Lens variab asphericity sing	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2430		X	Lens variable asphericity bi	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2499		X	Variable asphericity lens	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2500		X	Contact lens pmma spherical	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2501		X	Cntct lens pmma toric/prism	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2502		X	Contact lens pmma bifocal	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2503		X	Cntct lens pmma color vision	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2510		X	Cntct gas permeable sphercl	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2511		X	Cntct toric prism ballast	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2512		X	Cntct lens gas permbl bifocl	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2513		X	Contact lens extended wear	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2520		P	Contact lens hydrophilic	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2521		X	Cntct lens hydrophilic toric	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2522		X	Cntct lens hydrophil bifocl	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2523		X	Cntct lens hydrophil extend	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2530		X	Contact lens gas impermeable	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2531		X	Contact lens gas permeable	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2599		X	Contact lens/ee other type	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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[2] Copyright 1994 American Dental Association. All rights reserved.
[5] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUs) AND RELATED INFORMATION—Continued

CPT [1] / HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
V2600		X	Hand held low vision aids	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2610		X	Single lens spectacle mount	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2615		X	Telescop/othr compound lens	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2623		X	Plastic eye prosth custom	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2624		X	Polishing artifical eye	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2625		X	Enlargemnt of eye prosthesis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2626		X	Reduction of eye prosthesis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2627		X	Scleral cover shell	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2628		X	Fabrication & fitting	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2629		X	Prosthetic eye other type	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2630		X	Anter chamber intraocul lens	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2631		X	Iris support intraocir lens	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2632		X	Post chmbr intraocular lens	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2700		X	Balance lens	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2710		X	Glass/plastic slab off prism	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2715		X	Prism lens/es	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2718		X	Fresnell prism prese-on lens	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2730		X	Special base curve	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2740		X	Rose tint plastic	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2741		X	Non-rose tint plastic	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2742		X	Rose tint glass	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2743		X	Non-rose tint glass	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2744		X	Tint photochromatic lens/es	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2750		X	Anti-reflective coating	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2755		X	UV lens/es	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2760		X	Scratch resistant coating	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2770		X	Occluder lens/es	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2780		X	Oversize lens/es	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2781		X	Progressive lens per lens	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2785		X	Corneal tissue processing	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V2799		X	Miscellaneous vision service	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5008		N	Hearing screening	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5010		N	Assessment for hearing aid	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5011		N	Hearing aid fitting/checking	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5014		N	Hearing aid repair/modifying	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5020		N	Conformity evaluation	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5030		N	Body-worn hearing aid air	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5040		N	Body-worn hearing aid bone	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5050		N	Body-worn hearing aid in ear	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5060		N	Behind ear hearing aid	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5070		N	Glasses air conduction	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5080		N	Glasses bone conduction	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5090		N	Hearing aid dispensing fee	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5100		N	Body-worn bilat hearing aid	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5110		N	Hearing aid dispensing fee	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5120		N	Body-worn binaur hearing aid	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5130		N	In ear binaural hearing aid	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5140		N	Behind ear binaur hearing aid	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5150		N	Glasses binaural hearing aid	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5160		N	Dispensing fee binaural	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5170		N	Within ear cros hearing aid	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5180		N	Behind ear cros hearing aid	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5190		N	Glasses cros hearing aid	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5200		N	Cros hearing aid dispens fee	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5210		N	In ear bicros hearing aid	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5220		N	Behind ear bicros hearing aid	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5230		N	Glasses bicros hearing aid	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5240		N	Dispensing fee bicros	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5299		R	Hearing service	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5336		N	Repair communication device	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5362		R	Speech screening	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5363		R	Language screening	0.00	0.00	0.00	0.00	0.00	0.00	XXX
V5364		R	Dysphagia screening	0.00	0.00	0.00	0.00	0.00	0.00	XXX

Addendum C—Codes With Interim Relative Value Units

Addendum C lists the codes for which interim RVUs have been established. Because these RVUs are interim, public comments on these codes will be considered if they are received by 5 p.m., December 30, 1997. Any revisions to the interim RVUs will be announced in a document to be published in 1998 that provides our analysis of and responses to public comments. These revisions will apply to services furnished beginning January 1, 1999.

Addendum C contains the following information:

1. *CPT/HCPCS code.* This is either a CPT or alphanumeric HCPCS code for the service in question. CPT codes are listed first, followed by alphanumeric HCPCS codes.

2. *Modifier.* A modifier is shown if there is TC (modifier TC) and a PC (modifier -26) for the service. If there is a PC and a TC for the service, Addendum C contains three entries for the code: one for the global values (both professional and technical); one for modifier -26 (PC); and one for modifier TC. The global service is not designated by a modifier, and physicians must bill using the code without a modifier if the physician furnishes both the PCs and the TCs of the service.

3. *Status indicator.* This indicator shows whether the CPT/HCPCS code is in the fee schedule and whether it is separately payable if the service is covered. See Addendum B for a description of the status indicators.

4. *Description of the code.* This is an abbreviated version of the narrative description of the code.

5. *Physician work RVUs.* These are the interim RVUs for the physician work for this service.

6. *Practice expense RVUs.* These are the interim RVUs for the practice expense for the service.

7. *Malpractice expense RVUs.* These are the interim RVUs for the malpractice expense for the service.

8. *Total RVUs.* This is the sum of the work, practice expense, and malpractice expense RVUs.

9. *Global period.* This indicator shows the number of days in the global period for the code (0, 10, or 90 days). See Addendum B for explanations of the alpha codes.

ADDENDUM C.—CODES WITH INTERIM RVUS

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [6]	Facility practice expense RVUs [6]	Mal-practice RVUs	Non-facility total	Facility total	Global
11055		R	Trim skin lesion	0.27	0.19	0.19	0.01	0.47	0.47	000
11056		R	Trim 2 to 4 skin lesions	0.39	0.26	0.26	0.02	0.67	0.67	000
11057		R	Trim over 4 skin lesions	0.50	0.21	0.21	0.02	0.73	0.73	000
11200		A	Removal of skin tags	*0.77	0.43	0.43	0.04	1.24	1.24	010
11201		A	Removal of added skin tags	0.29	0.17	0.17	0.02	0.48	0.48	ZZZ
11719		R	Trim nail(s)	0.06	0.18	#0.07	0.01	0.25	0.14	000
17000		A	Destroy benign/premal lesion	*0.60	0.42	0.42	0.03	1.05	1.05	010
17003		A	Destroy 2–14 lesions	0.15	0.13	0.13	0.01	0.29	0.29	ZZZ
17004		A	Destroy 15 & more lesions	*2.79	2.25	2.25	0.20	5.24	5.24	010
17110		A	Destruct lesion, 1–14	*0.65	0.40	0.40	0.03	1.08	1.08	010
17111		A	Destruct lesion, 15 or more	*0.92	0.60	0.60	0.05	1.57	1.57	010
17200		D	1Electrocautery of skin tags	*0.00	0.00	0.00	0.00	0.00	0.00	010
17340		A	Cryotherapy of skin	*0.76	0.28	0.28	0.02	1.06	1.06	010
19020		A	Incision of breast lesion	*3.57	1.40	1.40	0.28	5.25	5.25	090
19316		A	Suspension of breast	*10.69	#11.76	#11.76	2.43	24.88	24.88	090
19357		A	Breast reconstruction	*18.16	12.15	12.15	2.37	32.68	32.68	090
19361		A	Breast reconstruction	*19.26	20.13	20.13	3.88	43.27	43.27	090
19366		A	Breast reconstruction	*21.28	16.40	16.40	3.18	40.86	40.86	090
20102		A	Explore wound, abdomen	*3.94	1.92	1.92	0.45	6.31	6.31	010
20103		A	Explore wound, extremity	*5.30	2.59	2.59	0.60	8.49	8.49	010
20664		A	Halo brace application	*8.06	3.82	3.82	0.65	12.53	12.53	090
20982		A	Other bone graft, microvasc	*39.27	26.90	26.90	5.26	71.43	71.43	090
21010		A	Incision of jaw joint	*10.14	10.24	10.24	0.93	21.31	21.31	090
21015		A	Resection of facial tumor	*5.29	#5.82	#5.82	1.13	12.24	12.24	090
21026		A	Excision of facial bone(s)	*4.85	3.14	3.14	0.28	8.27	8.27	090
21029		A	Contour of face bone lesion	*7.71	#8.48	#8.48	0.78	16.97	16.97	090
21030		A	Removal of face bone lesion	*8.46	3.35	3.35	0.29	10.10	10.10	090
21032		A	Remove exostosis, maxilla	*3.24	3.86	3.86	0.35	7.47	7.47	090
21034		A	Removal of face bone lesion	*16.17	6.98	6.98	0.89	24.04	24.04	090
21040		A	Removal of jaw bone lesion	*2.11	2.76	2.76	0.24	5.11	5.11	090
21044		A	Removal of jaw bone lesion	*11.86	9.55	9.55	1.11	22.52	22.52	090
21045		A	Extensive jaw surgery	*16.17	13.83	13.83	1.58	31.58	31.58	090
21050		A	Removal of jaw joint	*10.77	#11.85	#11.85	1.08	23.70	23.70	090
21060		A	Remove jaw joint cartilage	*10.23	#11.25	#11.25	1.04	22.52	22.52	090
21070		A	Remove coronoid process	*8.20	6.81	6.81	0.82	15.83	15.83	090
21076		A	Prepare face/oral prosthesis	*13.42	#14.76	#14.76	1.35	29.53	29.53	010
21077		A	Prepare face/oral prosthesis	*33.75	#37.13	#37.13	3.39	74.27	74.27	090
21079		A	Prepare face/oral prosthesis	*22.34	27.93	27.93	2.25	52.52	52.52	090
21080		A	Prepare face/oral prosthesis	*25.10	31.38	31.38	2.52	59.00	59.00	090
21081		A	Prepare face/oral prosthesis	*22.86	28.59	28.59	2.30	53.77	53.77	090
21082		A	Prepare face/oral prosthesis	*20.87	#22.96	#22.96	2.10	45.93	45.93	090
21083		A	Prepare face/oral prosthesis	*19.30	24.13	24.13	1.94	45.37	45.37	090
21084		A	Prepare face/oral prosthesis	*22.51	28.14	28.14	2.28	52.93	52.93	090
21085		A	Prepare face/oral prosthesis	*9.00	#9.90	#9.90	0.90	19.80	19.80	010
21086		A	Prepare face/oral prosthesis	*24.92	31.15	31.15	2.51	58.58	58.58	090
21087		A	Prepare face/oral prosthesis	*24.92	#27.41	#27.41	2.51	54.84	54.84	090
21100		A	Maxillofacial fixation	*4.22	1.08	1.08	0.11	5.39	5.39	090
21110		A	Interdental fixation	*5.21	5.53	5.53	0.46	11.20	11.20	090
21141		A	Reconstruct midface, lefort	*18.10	14.34	14.34	1.68	34.12	34.12	090
21142		A	Reconstruct midface, lefort	*18.81	14.84	14.84	1.74	35.39	35.39	090
21143		A	Reconstruct midface, lefort	*19.58	15.40	15.40	1.81	36.79	36.79	090
21206		A	Augmentation of facial bones	*10.23	#11.25	#11.25	1.07	22.55	22.55	090
21209		A	Reduction of facial bones	*8.72	4.59	4.59	0.76	12.07	12.07	090
21210		A	Face bone graft	*10.23	#11.25	#11.25	1.29	22.77	22.77	090
21215		A	Lower jaw bone graft	*10.77	#11.85	#11.85	1.42	24.04	24.04	090

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[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[6] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM C.—CODES WITH INTERIM RVUS—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [6]	Facility practice expense RVUs [6]	Mal-practice RVUs	Non-facility total	Facility total	Global
21230		A	Rib cartilage graft	*10.77	10.37	10.37	1.69	22.83	22.83	090
21235		A	Ear cartilage graft	*6.72	#7.39	#7.39	1.09	15.20	15.20	090
21242		A	Reconstruction of jaw joint	*12.95	#14.25	#14.25	2.25	29.45	29.45	090
21244		A	Reconstruction of lower jaw	*11.86	#13.05	#13.05	1.93	26.84	26.84	090
21245		A	Reconstruction of jaw	*11.86	11.47	11.47	1.31	24.64	24.64	090
21246		A	Reconstruction of jaw	*12.47	8.83	8.83	1.04	22.34	22.34	090
21247		A	Reconstruct lower jaw bone	*22.63	#24.89	#24.89	2.27	49.79	49.79	090
21255		A	Reconstruct lower jaw bone	*16.72	#18.39	#18.39	1.68	36.79	36.79	090
21256		A	Reconstruction of orbit	*16.19	#17.81	#17.81	1.63	35.63	35.63	090
21260		A	Revise eye sockets	*16.52	#18.17	#18.17	1.66	36.35	36.35	090
21261		A	Revise eye sockets	*31.49	17.78	17.78	1.65	50.92	50.92	090
21263		A	Revise eye sockets	*28.42	#31.26	#31.26	2.86	62.54	62.54	090
21267		A	Revise eye sockets	*16.90	14.61	14.61	2.13	35.64	35.64	090
21268		A	Revise eye sockets	*24.48	15.35	15.35	3.13	42.96	42.96	090
21270		A	Augmentation cheek bone	*10.23	9.60	9.60	1.41	21.24	21.24	090
21275		A	Revision orbitofacial bones	*11.24	8.95	8.95	1.26	21.45	21.45	090
21280		A	Revision of eyelid	*6.03	#6.63	#6.63	0.61	13.27	13.27	090
21282		A	Revision of eyelid	*3.49	#3.84	#3.84	0.79	8.12	8.12	090
21295		A	Revision of jaw muscle/bone	*1.53	0.96	0.96	0.13	2.62	2.62	090
21296		A	Revision of jaw muscle/bone	*4.25	3.62	3.62	0.22	8.09	8.09	090
21325		A	Repair of nose fracture	*3.77	4.09	4.09	0.52	8.38	8.38	090
21330		A	Repair of nose fracture	*5.38	#5.92	#5.92	0.86	12.16	12.16	090
21335		A	Repair of nose fracture	*8.61	#9.47	#9.47	1.56	19.64	19.64	090
21336		A	Repair nasal septal fracture	*5.72	4.09	4.09	0.52	10.33	10.33	090
21337		A	Repair nasal septal fracture	*2.70	2.82	2.82	0.38	5.90	5.90	090
21338		A	Repair nasoethmoid fracture	*6.46	5.01	5.01	0.66	12.13	12.13	090
21339		A	Repair nasoethmoid fracture	*8.09	7.09	7.09	0.70	15.88	15.88	090
21340		A	Repair of nose fracture	*10.77	8.91	8.91	1.04	20.72	20.72	090
21343		A	Repair of sinus fracture	*12.95	9.17	9.17	1.08	23.20	23.20	090
21344		A	Repair of sinus fracture	*19.72	9.17	9.17	1.08	29.97	29.97	090
21345		A	Repair of nose/jaw fracture	*8.16	7.90	7.90	0.81	16.87	16.87	090
21346		A	Repair of nose/jaw fracture	*10.61	9.40	9.40	1.04	21.05	21.05	090
21347		A	Repair of nose/jaw fracture	*12.69	10.36	10.36	1.36	24.41	24.41	090
21348		A	Repair of nose/jaw fracture	*16.69	11.34	11.34	2.22	30.25	30.25	090
21355		A	Repair cheek bone fracture	*3.77	1.56	1.56	0.17	5.50	5.50	010
21356		A	Repair cheek bone fracture	*4.15	#4.57	#4.57	0.89	9.61	9.61	090
21360		A	Repair cheek bone fracture	*6.46	#7.11	#7.11	0.89	14.46	14.46	090
21366		A	Repair cheek bone fracture	*17.77	12.08	12.08	2.36	32.21	32.21	090
21385		A	Repair eye socket fracture	*9.16	9.59	9.59	1.13	19.88	19.88	090
21386		A	Repair eye socket fracture	*9.16	9.07	9.07	1.25	19.48	19.48	090
21387		A	Repair eye socket fracture	*9.70	7.45	7.45	0.96	18.11	18.11	090
21390		A	Repair eye socket fracture	*10.13	#11.14	#11.14	1.37	22.64	22.64	090
21395		A	Repair eye socket fracture	*12.68	9.63	9.63	1.37	23.68	23.68	090
21400		A	Treat eye socket fracture	*1.40	1.67	#1.54	0.17	3.24	3.11	090
21401		A	Repair eye socket fracture	*3.26	2.58	2.58	0.32	6.16	6.16	090
21406		A	Repair eye socket fracture	*7.01	5.21	5.21	0.74	12.96	12.96	090
21407		A	Repair eye socket fracture	*8.61	7.09	7.09	0.78	16.48	16.48	090
21408		A	Repair eye socket fracture	*12.38	8.49	8.49	0.99	21.86	21.86	090
21421		A	Treat mouth roof fracture	*5.14	6.14	#5.65	0.62	11.90	11.41	090
21422		A	Repair mouth roof fracture	*8.32	#9.15	#9.15	1.19	18.66	18.66	090
21423		A	Repair mouth roof fracture	*10.40	9.80	9.80	1.19	21.39	21.39	090
21431		A	Treat craniofacial fracture	*7.05	6.02	6.02	0.71	13.78	13.78	090
21432		A	Repair craniofacial fracture	*8.61	6.76	6.76	0.84	16.21	16.21	090
21433		A	Repair craniofacial fracture	*25.35	17.96	17.96	2.10	45.41	45.41	090
21435		A	Repair craniofacial fracture	*17.25	13.25	13.25	1.86	32.36	32.36	090
21436		A	Repair craniofacial fracture	*28.04	14.65	14.65	2.08	44.77	44.77	090
21440		A	Repair dental ridge fracture	*2.70	3.07	#2.97	0.28	6.05	5.95	090
21445		A	Repair dental ridge fracture	*5.38	6.11	#5.92	0.56	12.05	11.86	090
21450		A	Treat lower jaw fracture	*2.97	2.84	2.84	0.26	6.07	6.07	090
21451		A	Treat lower jaw fracture	*4.87	5.83	#5.39	0.74	11.44	10.97	090
21452		A	Treat lower jaw fracture	*1.98	1.39	1.39	0.17	3.54	3.54	090
21453		A	Treat lower jaw fracture	*5.54	6.64	#6.09	0.55	12.73	12.18	090
21454		A	Treat lower jaw fracture	*6.46	#7.11	#7.11	1.42	14.99	14.99	090
21461		A	Repair lower jaw fracture	*8.09	#8.90	#8.90	1.30	18.29	18.29	090
21462		A	Repair lower jaw fracture	*9.79	#10.77	#10.77	1.34	21.90	21.90	090
21465		A	Repair lower jaw fracture	*11.91	8.44	8.44	0.99	21.34	21.34	090
21485		A	Reset dislocated jaw	*3.99	2.19	2.19	0.20	6.38	6.38	090
21490		A	Repair dislocated jaw	*11.86	6.31	6.31	0.52	18.69	18.69	090
21493		A	Treat hyoid bone fracture	*1.27	1.52	#1.40	0.13	2.92	2.80	090
21494		A	Repair hyoid bone fracture	*6.26	7.52	7.52	0.63	14.43	14.43	090
21495		A	Repair hyoid bone fracture	*5.89	4.82	4.82	0.51	11.02	11.02	090
21497		A	Interdental wiring	*3.86	3.97	3.97	0.36	8.21	8.21	090
21740		A	Reconstruction of sternum	*16.50	8.99	8.99	1.64	27.13	27.13	090
21750		A	Repair of sternum separation	*10.77	7.33	7.33	1.43	19.53	19.53	090

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[2] Copyright 1994 American Dental Association. All rights reserved.
[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[6] # Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM C.—CODES WITH INTERIM RVUs—Continued

CPT 1/ HCPCS 2	MOD	Status	Description	Physician work RVUs 3 4	Non-facility practice expense RVUs 5	Facility practice expense RVUs 5	Mal-practice RVUs	Non-facility total	Facility total	Global
22505		A	Manipulation of spine	*1.87	1.31	1.31	0.17	3.35	3.35	010
22818		A	Kyphectomy, 1–2 segments	*31.83	28.25	28.25	4.85	64.93	64.93	090
22819		A	Kyphectomy, 3 & more segment	*36.44	28.25	28.25	4.85	69.54	69.54	090
23616		A	Repair humerus fracture	*21.27	22.32	22.32	3.54	47.13	47.13	090
24008		A	Release elbow joint	*9.31	7.14	7.14	1.17	17.62	17.62	090
24516		A	Repair humerus fracture	*11.65	9.65	9.65	1.64	22.84	22.84	090
24546		A	Repair humerus fracture	*15.69	9.97	9.97	1.59	27.25	27.25	090
25337		A	Reconstruct ulna/radioulnar	*10.17	8.60	8.60	1.45	20.22	20.22	090
25520		A	Repair fracture of radius	*8.26	5.74	5.74	0.94	12.94	12.94	090
25525		A	Repair fracture of radius	*12.24	11.15	11.15	1.83	25.22	25.22	090
25526		A	Repair fracture of radius	*12.98	11.85	11.85	1.94	26.77	26.77	090
25574		A	Treat fracture radius & ulna	*7.01	87.71	87.71	1.73	16.45	16.45	090
28548		A	Repair non-union hand	*8.92	8.11	8.11	1.33	18.36	18.36	090
26608		A	Treat metacarpal fracture	*5.36	3.55	3.55	0.57	9.48	9.48	090
27193		A	Treat pelvic ring fracture	*5.58	2.41	2.41	0.39	8.38	8.38	090
27194		A	Treat pelvic ring fracture	*8.65	3.90	3.90	0.59	14.05	14.05	090
27215		A	Pelvic fracture(s) treatment	*16.05	$11.08	$11.08	2.39	23.44	23.44	090
27216		A	Treat pelvic ring fracture	*15.19	4.30	4.30	0.66	20.15	20.15	090
27217		A	Treat pelvic ring fracture	*14.11	14.55	14.55	2.33	30.99	30.99	090
27218		A	Treat pelvic ring fracture	*20.15	14.55	14.55	2.33	37.03	37.03	090
27226		A	Treat hip wall fracture	*14.91	15.78	15.78	2.52	33.21	33.21	090
27245		A	Repair of thigh fracture	*20.31	16.30	16.30	2.62	39.23	39.23	090
27486		A	Decompression of thigh/knee	*8.11	4.53	4.53	0.74	11.38	11.38	090
27487		A	Decompression of thigh/knee	*7.17	5.55	5.55	0.91	13.63	13.63	090
27488		A	Decompression of thigh/knee	*7.98	6.32	6.32	1.04	15.35	15.35	090
27499		A	Decompression of thigh/knee	*9.00	7.28	7.28	1.19	17.47	17.47	090
27501		A	Treatment of thigh fracture	*5.92	5.41	5.41	0.82	12.15	12.15	090
27503		A	Treatment of thigh fracture	*10.58	7.67	7.67	1.21	19.46	19.46	090
27507		A	Treatment of thigh fracture	*13.98	$15.39	$15.39	2.56	31.94	31.94	090
27509		A	Treatment of thigh fracture	*7.71	4.22	4.22	0.65	12.58	12.58	090
27511		A	Treatment of thigh fracture	*13.84	$15.00	$15.00	2.56	31.20	31.20	090
27535		A	Treatment of knee fracture	*11.50	11.99	11.99	1.88	25.07	25.07	090
27558		A	Repair of knee dislocation	*17.72	14.60	14.60	2.43	34.75	34.75	090
27759		A	Repair of tibia fracture	*13.76	13.74	13.74	2.22	29.72	29.72	090
27824		A	Treat lower leg fracture	*2.89	3.47	$3.18	0.55	6.91	6.62	090
27825		A	Treat lower leg fracture	*5.19	6.51	6.51	1.06	13.76	13.76	090
27826		A	Treat lower leg fracture	*8.54	$9.39	$9.39	1.88	19.81	19.81	090
27829		A	Treat lower leg joint	*5.49	$8.04	$8.04	1.37	12.90	12.90	090
27882		A	Decompression of leg	*7.39	3.39	3.39	0.84	11.42	11.42	090
27886		A	Decompression of leg	*7.35	3.39	3.39	0.67	11.40	11.40	090
28470		A	Treat metatarsal fracture	*1.99	1.80	1.80	0.23	4.02	4.02	090
28475		A	Treat metatarsal fracture	*2.97	2.34	2.34	0.39	5.61	5.61	090
28531		A	Treat sesamoid bone fracture	*2.35	1.91	1.91	0.32	4.58	4.58	090
28576		A	Treat foot dislocation	*4.17	2.77	2.77	0.42	7.36	7.36	090
29809		A	Jaw arthroscopy/surgery	*3.43	4.01	4.01	0.48	10.90	10.90	090
29804		A	Jaw arthroscopy/surgery	*8.14	$8.95	$8.95	1.46	18.55	18.55	090
29850		A	Knee arthroscopy/surgery	*8.19	$8.01	$8.01	1.74	18.94	18.94	090
29851		A	Knee arthroscopy/surgery	*13.10	10.95	10.95	1.74	25.79	25.79	090
29855		A	Tibial arthroscopy/surgery	*10.62	$11.68	$11.68	1.88	24.18	24.18	090
29856		A	Tibial arthroscopy/surgery	*14.14	11.68	11.68	1.88	27.71	27.71	090
29860		A	Hip arthroscopy, dx	*8.05	4.84	4.84	0.76	13.65	13.65	090
29861		A	Hip arthroscopy/surgery	*9.15	9.38	9.38	1.73	20.26	20.26	090
29862		A	Hip arthroscopy/surgery	*9.98	10.07	10.07	2.32	22.29	22.29	090
29863		A	Hip arthroscopy/surgery	*9.90	8.72	8.72	1.73	20.35	20.35	090
29891		A	Ankle arthroscopy/surgery	*8.40	8.86	8.86	1.77	19.03	19.03	090
29892		A	Ankle arthroscopy/surgery	*9.00	8.86	8.86	1.77	19.63	19.63	090
29893		A	Scope, plantar fasciotomy	*5.22	5.20	5.20	0.48	10.89	10.89	090
30460		A	Revision of nose	*3.98	8.58	8.58	0.99	19.47	19.47	090
30462		A	Revision of nose	*19.57	17.16	17.16	1.87	38.60	38.60	090
30801		A	Cauterization inner nose	*1.09	0.47	0.47	0.05	1.61	1.61	010
30802		A	Cauterization inner nose	*2.03	0.94	0.94	0.11	3.08	3.08	010
32201		A	Percut drainage, lung lesion	4.00	3.03	3.03	0.35	7.38	7.38	000
33496		A	Repair, prosth valve clot	*27.25	$29.98	$29.98	5.33	62.56	62.56	090
33501		A	Repair heart vessel fistula	*17.78	14.14	14.14	2.51	34.43	34.43	090
33514		A	CABG, vein, five	*35.00	$36.50	$36.50	7.23	80.73	80.73	090
33516		A	CABG, vein, six+	*37.40	$41.14	$41.14	7.74	86.28	86.28	090
33517		A	CABG, artery-vein, single	*2.57	$2.63	$2.63	0.50	5.90	5.90	090
33518		A	CABG, artery-vein, two	*4.85	$5.34	$5.34	1.02	11.21	11.21	090
33519		A	CABG, artery-vein, three	*7.12	$7.88	$7.88	1.52	16.47	16.47	090
33521		A	CABG, artery-vein, four	*9.40	$10.34	$10.34	2.03	21.77	21.77	090
33522		A	CABG, artery-vein, five	*11.67	$12.84	$12.84	2.54	27.05	27.05	090
33523		A	CABG, artery-vein, six+	*13.95	$15.35	$15.35	3.05	32.35	32.35	090
33533		A	CABG, arterial, single	*25.83	$28.41	$28.41	5.36	59.60	59.60	090
33534		A	CABG, arterial, two	*28.82	$31.70	$31.70	6.09	66.55	66.55	090

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[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] $ Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM C.—CODES WITH INTERIM RVUs—Continued

CPT 1/ HCPCS 2	MOD	Status	Description	Physician work RVUs 3 4	Non-facility practice expense RVUs 5	Facility practice expense RVUs 5	Mal-practice RVUs	Non-facility total	Facility total	Global
33535		A	CABG, arterial, three	*31.81	$34.99	$34.99	6.70	73.50	73.50	090
33536		A	CABG, arterial, four+	*34.79	$38.27	$38.27	7.37	80.43	80.43	090
33600		A	Aortic suspension	*16.24	14.14	14.14	2.51	32.89	32.89	090
34151		A	Removal of artery clot	*16.86	11.96	11.96	2.39	31.21	31.21	090
35400		A	Angioscopy	3.00	2.27	2.27	0.27	5.54	5.54	ZZZ
35691		A	Arterial transposition	*18.05	19.62	19.62	3.81	41.48	41.48	090
35693		A	Arterial transposition	*15.36	9.40	9.40	1.91	26.67	26.67	090
35694		A	Arterial transposition	*19.16	9.33	9.33	2.17	30.66	30.66	090
35695		A	Arterial transposition	*19.16	9.33	9.33	2.17	30.66	30.66	090
36470		A	Injection therapy of vein	*1.09	0.27	0.27	0.04	1.40	1.40	010
36530		R	Insertion of infusion pump	*6.20	4.82	4.82	1.02	12.04	12.04	010
36531		R	Revision of infusion pump	*4.87	4.37	4.37	0.27	9.51	9.51	010
36532		R	Removal of infusion pump	*3.30	1.77	1.77	0.37	5.44	5.44	010
36534		A	Revision of access port	*2.80	$3.08	$3.08	0.21	6.09	6.09	010
36535		A	Removal of access port	*2.27	1.81	1.81	0.36	4.46	4.46	010
36834		A	Repair A–V aneurysm	*9.93	7.80	7.80	1.66	19.39	19.39	090
37195		A	Thrombolytic therapy, stroke	0.00	7.88	7.88	0.54	8.22	8.22	XXX
37250		A	Intravascular us	2.10	1.14	1.14	0.13	3.37	3.37	ZZZ
37251		A	Intravascular us	1.60	0.87	0.87	0.10	2.57	2.57	ZZZ
40800		A	Drainage of mouth lesion	*1.17	0.74	0.74	0.07	1.98	1.98	010
40801		A	Drainage of mouth lesion	*2.53	1.70	1.70	0.16	4.39	4.39	010
40804		A	Removal foreign body, mouth	*1.24	0.58	0.58	0.06	1.88	1.88	010
40805		A	Removal foreign body, mouth	*2.89	2.50	2.50	0.30	5.49	5.49	010
40808		A	Biopsy of mouth lesion	*0.96	0.76	0.76	0.08	1.80	1.80	010
40810		A	Excision of mouth lesion	*1.31	1.18	1.18	0.11	2.60	2.60	010
40812		A	Excise/repair mouth lesion	*2.31	1.50	1.50	0.14	3.95	3.95	010
40814		A	Excise/repair mouth lesion	*3.42	3.23	3.23	0.32	6.97	6.97	090
40816		A	Excision of mouth lesion	*3.67	3.22	3.22	0.33	7.22	7.22	090
40818		A	Excise oral mucosa for graft	*2.41	2.25	2.25	0.20	4.86	4.86	090
40819		A	Excise lip or cheek fold	*2.41	1.23	1.23	0.14	3.78	3.78	090
40820		A	Treatment of mouth lesion	*1.28	0.53	0.53	0.06	1.87	1.87	010
40830		A	Repair mouth laceration	*1.76	0.67	0.67	0.07	2.50	2.50	010
40831		A	Repair mouth laceration	*2.46	1.94	1.94	0.21	4.61	4.61	010
41800		A	Drainage of gum lesion	*1.17	0.69	0.69	0.07	1.93	1.93	010
41805		A	Removal foreign body, gum	*1.24	0.84	0.84	0.08	2.16	2.16	010
41806		A	Removal foreign body, jawbone	*2.89	1.84	1.84	0.15	4.48	4.48	010
41822		R	Excision of gum lesion	*2.31	3.03	3.03	0.25	5.59	5.59	010
41823		R	Excision of gum lesion	*3.30	$3.63	$3.63	0.34	7.27	7.27	090
41825		A	Excision of gum lesion	*1.31	1.49	1.49	0.14	2.94	2.94	010
41826		A	Excision of gum lesion	*2.31	2.07	2.07	0.18	4.56	4.56	010
41827		A	Excision of gum lesion	*3.42	$3.76	$3.76	0.38	7.56	7.56	090
41828		R	Excision of gum lesion	*3.08	4.07	4.07	0.33	7.49	7.49	010
41830		R	Removal of gum tissue	*3.35	$3.69	$3.69	0.36	7.40	7.40	010
41872		R	Repair gum	*2.59	$2.85	$2.85	0.27	5.71	5.71	090
41874		R	Repair tooth socket	*3.09	$3.40	$3.40	0.32	6.81	6.81	090
43360		A	Gastrointestinal repair	*28.78	21.36	21.36	4.19	54.33	54.33	090
43361		A	Gastrointestinal repair	*32.65	25.27	25.27	4.77	62.69	62.69	090
44626		A	Repair bowel opening	*22.59	11.37	11.37	2.40	36.36	36.36	090
44700		A	Suspend bowel w/prosthesis	*14.35	11.37	11.37	2.40	28.12	28.12	090
44801		A	Drain, app abscess, perc	3.38	2.56	2.56	0.30	6.24	6.24	000
45119		A	Remove, rectum w/reservoir	*26.21	16.06	16.06	3.36	45.63	45.63	090
45900		A	Reduction of rectal prolapse	*1.85	0.56	0.56	0.11	2.52	2.52	010
45905		A	Dilation of anal sphincter	*1.61	0.71	0.71	0.12	2.44	2.44	010
45910		A	Dilation of rectal narrowing	*1.96	0.87	0.87	0.13	2.96	2.96	010
46715		A	Repair of anovaginal fistula	*7.46	3.51	3.51	0.82	11.79	11.79	090
46748		A	Repair, cloacal anomaly	*36.74	24.26	24.26	2.37	63.37	63.37	090
47011		A	Percut drain, liver lesion	3.70	2.80	2.80	0.33	6.83	6.83	000
47511		A	Insert bile duct drain	*10.50	2.87	2.87	0.25	13.62	13.62	090
47716		A	Fusion of bile duct cyst	*13.83	6.56	6.56	1.53	21.92	21.92	090
48001		A	Placement of drain, pancreas	*18.83	8.13	8.13	1.89	28.85	28.85	090
48005		A	Resect/debride pancreas	*22.40	9.19	9.19	2.14	33.73	33.73	090
48146		A	Pancreatectomy	*23.91	16.49	16.49	1.92	42.32	42.32	090
48154		A	Pancreatectomy	*39.95	22.54	22.54	4.75	67.24	67.24	090
48511		A	Drain pancreatic pseudocyst	4.00	3.03	3.03	0.35	7.38	7.38	000
48556		A	Removal, allograft pancreas	*15.71	7.26	7.26	1.89	24.86	24.86	090
49021		A	Drain abdominal abscess	*3.38	$3.72	$3.72	0.91	8.01	8.01	000
49041		A	Percut drain abdom abscess	4.00	3.03	3.03	0.35	7.38	7.38	000
49061		A	Percutdrain retroper abscess	3.70	2.80	2.80	0.33	6.83	6.83	000
49062		A	Drain to peritoneal cavity	*11.36	8.07	8.07	0.79	20.22	20.22	090
49423		A	Exchange drainage cath	1.46	1.10	1.10	0.13	2.69	2.69	000
49424		A	Assess cyst, contrast inj	0.76	0.57	0.57	0.07	1.40	1.40	000
49507		A	Repair, inguinal hernia	*8.17	5.04	5.04	1.08	14.29	14.29	090
50021		A	Percut drain renal abscess	3.38	2.56	2.56	0.30	6.24	6.24	000
50727		A	Revise ureter	*8.18	5.37	5.37	0.51	14.06	14.06	090

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[5] $ Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM C.—CODES WITH INTERIM RVUS—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
50726		A	Revise ureter	*12.02	7.90	7.90	0.77	20.69	20.69	090
50782		A	Reimplant ureter in bladder	*19.54	13.78	13.78	1.46	34.78	34.78	090
50783		A	Reimplant ureter in bladder	*20.55	13.78	13.78	1.46	35.79	35.79	090
52282		A	Cystoscopy, implant stent	6.40	4.58	4.58	0.45	11.43	11.43	000
52450		A	Incision of prostate	*7.64	4.99	4.99	0.49	13.12	13.12	090
53850		A	Prostatic microwave thermotx	*9.45	6.71	6.71	0.66	16.82	16.82	090
53852		A	Prostatic rf thermotx	*9.88	7.01	7.01	0.69	17.58	17.58	090
54401		A	Insert self-contd prosthesis	*10.28	#11.31	#11.31	1.73	23.32	23.32	090
56300		A	Laparoscopy; diagnostic	*5.10	4.45	4.45	0.83	10.48	10.48	010
56301		A	Laparoscopy; tubal cautery	*5.60	4.71	4.71	1.28	11.59	11.59	010
56302		A	Laparoscopy; tubal block	*5.60	5.26	5.26	1.32	12.18	12.18	010
56303		A	Laparoscopy; excise lesions	*11.79	5.53	5.53	1.16	18.48	18.48	090
56304		A	Laparoscopy; lysis	*11.29	5.60	5.60	1.20	18.09	18.09	090
56305		A	Laparoscopy; biopsy	*5.40	4.90	4.90	0.79	11.09	11.09	010
56306		A	Laparoscopy; aspiration	*5.70	4.87	4.87	1.18	11.75	11.75	010
56310		A	Laparoscopic enterolysis	*14.44	8.28	8.28	1.75	24.47	24.47	090
56314		A	Laper; drain lymphocele	*9.48	6.73	6.73	0.66	16.87	16.87	090
56318		A	Laparoscopic orchiectomy	*10.96	7.23	7.23	0.81	19.00	19.00	090
56322		A	Laparoscopy, vagus nerves	*10.15	5.07	5.07	1.18	16.40	16.40	090
56323		A	Laparoscopy, vagus nerves	*12.15	6.09	6.09	1.41	19.65	19.65	090
56324		A	Laparoscopy; excise cholecystoenter	*12.58	9.16	9.16	1.93	23.67	23.67	090
56342		A	Laparoscopic cholecystectomy	*14.23	9.37	9.37	2.00	25.60	25.60	090
56343		A	Laparoscopic salpingostomy	*13.74	5.28	5.28	1.11	20.13	20.13	090
56344		A	Laparoscopic fimbrioplasty	*12.86	5.11	5.11	1.19	19.18	19.18	090
56345		C	Laparoscopic splenectomy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
56346		A	Laparoscopic gastrostomy	*7.73	6.19	6.19	1.19	15.11	15.11	090
56347		C	Laparoscopic jejunostomy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
56348		A	Lapero; resect intestine	*22.04	13.25	13.25	2.78	38.07	38.07	090
56349		A	Laparoscopy; fundoplasty	*17.25	11.86	11.86	2.53	31.66	31.66	090
56350		A	Hysteroscopy; diagnostic	3.33	1.99	1.99	0.44	5.76	5.76	000
56351		A	Hysteroscopy; biopsy	4.75	1.99	1.99	0.44	7.18	7.18	000
56352		A	Hysteroscopy; lysis	6.17	3.77	3.77	0.85	10.79	10.79	000
56353		A	Hysteroscopy; resect septum	7.00	3.77	3.77	0.85	11.62	11.62	000
56354		A	Hysteroscopy; remove myoma	10.00	4.93	4.93	1.30	16.23	16.23	000
56355		A	Hysteroscopy; remove impact	5.21	1.99	1.99	0.44	7.64	7.64	000
56356		A	Hysteroscopy; ablation	6.17	4.39	4.39	1.49	12.05	12.05	000
56631		A	Extensive vulva surgery	*16.20	#17.82	#17.82	4.51	38.53	38.53	090
56634		A	Extensive vulva surgery	*17.86	#19.67	#19.67	4.51	42.06	42.06	090
56637		A	Extensive vulva surgery	*21.97	21.42	21.42	4.51	47.90	47.90	090
56810		A	Repair of perineum	*4.13	2.62	2.62	0.51	7.26	7.26	010
57308		A	Fistula repair, transperine	*9.94	7.23	7.23	1.41	18.58	18.58	090
57510		A	Cauterization of cervix	*1.90	0.52	0.52	0.09	2.51	2.51	010
57531		A	Removal of cervix, radical	*22.04	17.77	17.77	3.87	43.68	43.68	090
58262		A	Vaginal hysterectomy	*13.99	9.39	9.39	2.07	25.45	25.45	090
58263		A	Vaginal hysterectomy	*15.26	10.32	10.32	2.22	27.82	27.82	090
58345		A	Reopen fallopian tube	*4.66	3.49	3.49	0.41	8.56	8.56	010
58823		A	Percut drain pelvic abscess	3.36	2.56	2.56	0.30	6.24	6.24	000
58825		A	Transpositon, ovary(s)	*6.13	4.03	4.03	0.93	11.09	11.09	090
59150		A	Treat ectopic pregnancy	*6.89	4.53	4.53	1.05	12.47	12.47	090
59151		A	Treat ectopic pregnancy	*7.86	8.61	8.61	0.64	17.11	17.11	090
59871		A	Remove cerclage suture	2.13	1.78	1.78	0.41	4.32	4.32	000
60271		A	Removal of thyroid	*14.89	12.14	12.14	2.25	29.28	29.28	090
61760		A	Implant brain electrodes	*22.27	14.96	14.96	1.75	39.00	39.00	090
62260		A	Treat spinal cord lesion	*2.63	0.71	0.71	0.14	3.48	3.48	010
62261		A	Treat spinal cord lesion	*2.66	0.87	0.87	0.28	3.81	3.81	010
62282		A	Treat spinal canal lesion	*2.33	1.70	1.70	0.40	4.43	4.43	010
64612		A	Destroy nerve, face muscle	*1.98	1.45	1.45	0.17	3.58	3.58	010
64613		A	Destroy nerve, spine muscle	*1.98	1.45	1.45	0.17	3.58	3.58	010
64716		A	Revision of cranial nerve	*6.31	4.83	4.83	0.67	11.81	11.81	090
64755		A	Incision of stomach nerves	*13.52	10.47	10.47	2.27	26.26	26.26	090
64865		A	Nerve graft, head or neck	*17.53	12.69	12.69	1.48	31.70	31.70	090
64866		A	Nerve graft, head or neck	*20.75	15.13	15.13	1.77	37.65	37.65	090
65860		A	Incise inner eye adhesions	*3.55	#3.91	#3.91	0.37	7.83	7.83	090
66700		A	Destruction, ciliary body	*4.78	#5.26	#5.26	0.35	10.39	10.39	090
66710		A	Destruction, ciliary body	*4.78	#5.26	#5.26	0.41	10.45	10.45	090
66740		A	Destruction, ciliary body	*4.78	#5.26	#5.26	0.39	10.43	10.43	090
67027		A	Implant eye drug system	*10.85	9.04	9.04	0.47	20.36	20.36	090
67414		A	Explore/decompress eye socke	*11.13	8.39	8.39	0.44	19.96	19.96	090
67445		A	Explore/decompress eye socke	*14.42	11.13	11.13	0.57	26.12	26.12	090
67570		A	Decompress optic nerve	*13.58	7.56	7.56	0.39	21.53	21.53	090
68761		A	Close tear duct opening	*1.36	0.92	0.92	0.04	2.32	2.32	010
69205		A	Clear outer ear canal	*1.20	1.07	1.07	0.11	2.38	2.38	010
75945	26	A	Intravascular us	0.40	0.22	0.22	0.03	0.65	0.65	XXX
75946	26	A	Intravascular us	0.40	0.22	0.22	0.03	0.65	0.65	XXX

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ADDENDUM C.—CODES WITH INTERIM RVUS—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3,4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
76076	26	A	Dual energy x-ray study	0.22	0.10	0.10	0.02	0.34	0.34	XXX
76078	26	A	Photodensitometry	0.20	0.10	0.10	0.02	0.32	0.32	XXX
76390	26	A	Mr spectroscopy	1.40	0.66	0.66	0.10	2.16	2.16	XXX
76831	26	A	Echo exam, uterus	0.72	0.32	0.32	0.05	1.09	1.09	XXX
76885	26	A	Echo exam, infant hips	0.74	0.32	0.32	0.05	1.11	1.11	XXX
76886	26	A	Echo exam, infant hips	0.62	0.27	0.27	0.04	0.93	0.93	XXX
77750		A	Infuse radioactive materials	*4.91	3.32	3.32	0.38	8.61	8.61	090
77750	26	A	Infuse radioactive materials	*4.91	2.05	2.05	0.30	7.26	7.26	090
77761		A	Radioelement application	*3.81	3.98	3.98	0.39	8.18	8.18	090
77761	26	A	Radioelement application	*3.81	1.59	1.59	0.23	5.63	5.63	090
77762		A	Radioelement application	*5.72	5.83	5.83	0.57	12.12	12.12	090
77762	26	A	Radioelement application	*5.72	2.39	2.39	0.35	8.46	8.46	090
77763		A	Radioelement application	*8.57	7.86	7.86	0.77	17.20	17.20	090
77763	26	A	Radioelement application	*8.57	3.58	3.58	0.60	12.05	12.05	090
77777		A	Radioelement application	*7.48	7.17	7.17	0.71	15.36	15.36	090
77777	26	A	Radioelement application	*7.48	3.13	3.13	0.45	11.06	11.06	090
77778		A	Radioelement application	*11.19	9.58	9.58	0.98	21.75	21.75	090
77778	26	A	Radioelement application	*11.19	4.69	4.69	0.67	16.55	16.55	090
77781		A	High intensity brachytherapy	*1.86	20.04	20.04	1.32	23.02	23.02	090
77781	26	A	High intensity brachytherapy	*1.86	0.69	0.69	0.11	2.46	2.46	090
77782		A	High intensity brachytherapy	*2.49	20.40	20.40	1.37	24.26	24.26	090
77782	26	A	High intensity brachytherapy	*2.49	1.05	1.05	0.16	3.70	3.70	090
77783		A	High intensity brachytherapy	*3.73	20.90	20.90	1.44	26.07	26.07	090
77783	26	A	High intensity brachytherapy	*3.73	1.55	1.55	0.23	5.51	5.51	090
77784		A	High intensity brachytherapy	*5.61	21.69	21.69	1.56	28.86	28.86	090
77784	26	A	High intensity brachytherapy	*5.61	2.34	2.34	0.35	8.30	8.30	090
77789		A	Radioelement application	*1.12	0.89	0.89	0.10	2.11	2.11	090
77789	26	A	Radioelement application	*1.12	0.46	0.46	0.07	1.65	1.65	090
78491	26	I	Heart image (pet) single	+1.50	1.34	1.34	0.10	2.94	2.94	XXX
78492	26	I	Heart image (pet) multiple	+1.87	1.34	1.34	0.10	3.31	3.31	XXX
78707	26	A	Kidney flow & function image	0.96	0.42	0.42	0.06	1.44	1.44	XXX
78708	26	A	Kidney flow & function image	1.21	0.42	0.42	0.06	1.69	1.69	XXX
78709	26	A	Kidney flow & function image	1.41	0.42	0.42	0.06	1.89	1.89	XXX
88141		A	Cytopath cervivag interpret	0.42	0.32	0.32	0.04	0.78	0.78	XXX
88152		X	Cytopath cervivag auto	0.00	0.00	0.00	0.00	0.00	0.00	XXX
90802		A	Intac pay dx interview	3.01	0.38	0.38	0.05	3.44	3.44	XXX
90804		A	Psytx, office (20–30)	1.11	0.35	0.35	0.05	1.51	1.51	XXX
90805		A	Psytx, office (20–30) w/e&m	1.47	0.35	0.35	0.05	1.87	1.87	XXX
90806		A	Psytx, office (45–50)	1.73	0.54	0.54	0.08	2.35	2.35	XXX
90807		A	Psytx, office (45–50) w/e&m	2.00	0.54	0.54	0.08	2.62	2.62	XXX
90808		A	Psytx, office (75–80)	2.76	1.05	1.05	0.15	3.96	3.96	XXX
90809		A	Psytx, office (75–80) w/e&m	3.15	1.05	1.05	0.15	4.35	4.35	XXX
90810		A	Intac psytx, office (20–30)	1.19	0.59	0.59	0.09	1.87	1.87	XXX
90811		A	Intac psytx, off 20–30 w/e&m	1.58	0.59	0.59	0.09	2.26	2.26	XXX
90812		A	Intac psytx, office (45–50)	1.86	0.59	0.59	0.09	2.54	2.54	XXX
90813		A	Intac psytx, off 45–50 w/e&m	2.15	0.59	0.59	0.09	2.83	2.83	XXX
90814		A	Intac psytx, office (75–80)	2.97	0.59	0.59	0.09	3.65	3.65	XXX
90815		A	Intac psytx, off 75–80 w/e&m	3.39	0.59	0.59	0.09	4.07	4.07	XXX
90816		A	Psytx, hosp (20–30)	1.24	0.35	0.35	0.05	1.64	1.64	XXX
90817		A	Psytx, hosp (20–30) w/e&m	1.65	0.35	0.35	0.05	2.05	2.05	XXX
90818		A	Psytx, hosp (45–50)	1.94	0.54	0.54	0.08	2.56	2.56	XXX
90819		A	Psytx, hosp (45–50) w/e&m	2.24	0.54	0.54	0.08	2.86	2.86	XXX
90821		A	Psytx, hosp (75–80)	3.09	1.05	1.05	0.15	4.29	4.29	XXX
90822		A	Psytx, hosp (75–80) w/e&m	3.53	1.05	1.05	0.15	4.73	4.73	XXX
90823		A	Intac psytx, hosp (20–30)	1.33	0.59	0.59	0.09	2.01	2.01	XXX
90824		A	Intac psytx, hsp 20–30 w/e&m	1.77	0.59	0.59	0.09	2.45	2.45	XXX
90826		A	Intac psytx, hosp (45–50)	2.08	0.59	0.59	0.09	2.76	2.76	XXX
90827		A	Intac psytx, hsp 45–50 w/e&m	2.41	0.59	0.59	0.09	3.09	3.09	XXX
90828		A	Intac psytx, hosp (75–80)	3.32	0.59	0.59	0.09	4.00	4.00	XXX
90829		A	Intac psytx, hsp 75–80 w/e&m	3.80	0.59	0.59	0.09	4.48	4.48	XXX
90865		A	Narcosynthesis	2.84	0.50	0.50	0.07	3.41	3.41	XXX
90875		N	Psychophysiological therapy	1.20	0.00	0.00	0.00	1.20	1.20	XXX
90876		N	Psychophysiological therapy	1.90	0.00	0.00	0.00	1.90	1.90	XXX
90885		B	Psy evaluation of records	+0.97	0.31	0.31	0.04	1.32	1.32	XXX
92986		A	Revision of aortic valve	*21.80	12.04	12.04	0.90	34.74	34.74	090
92987		A	Revision of mitral valve	*22.70	12.20	12.20	0.91	35.81	35.81	090
92990		A	Revision of pulmonary valve	*17.34	9.59	9.59	0.71	27.64	27.64	090
92997		A	Pul art balloon repair, perc	12.00	#13.20	#13.20	1.22	26.42	26.42	000
92998		A	Pul art balloon repair, perc	6.00	3.80	3.80	0.44	10.24	10.24	ZZZ
93508	26	A	Cath placement, angiography	4.10	2.78	2.78	0.28	7.11	7.11	000
93530	26	A	Rt heart cath, congenital	4.23	3.61	3.61	0.34	8.18	8.18	000
93531	26	A	R & l heart cath, congenital	8.35	5.45	5.45	0.39	14.19	14.19	000
93532	26	A	R & l heart cath, congenital	10.00	7.14	7.14	0.50	17.64	17.64	000
93533	26	A	R & l heart cath, congenital	6.70	2.93	2.93	0.22	9.85	9.85	000

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ADDENDUM C.—CODES WITH INTERIM RVUs—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
95806	26	A	Sleep study, unattended	1.66	2.45	¤1.83	0.19	4.30	3.66	XXX
95811	26	A	Polysomnography w/cpap	3.80	2.57	2.57	0.20	6.57	6.57	XXX
95870	26	A	Muscle test, non-paraspinal	0.37	0.33	0.33	0.03	0.73	0.73	XXX
95921	26	A	Autonomic nervous func test	0.90	0.32	0.32	0.02	1.24	1.24	XXX
95922	26	A	Autonomic nervous func test	0.96	0.34	0.34	0.03	1.33	1.33	XXX
95923	26	A	Autonomic nervous func test	0.90	0.32	0.32	0.02	1.24	1.24	XXX
96902		B	Trichogram	+0.41	0.29	0.29	0.02	0.72	0.72	XXX
97001		A	Pt evaluation	1.20	0.35	0.35	0.11	1.66	1.66	XXX
97002		A	Pt re-evaluation	0.60	0.04	0.04	0.01	0.65	0.65	XXX
97003		A	Ot evaluation	1.20	0.35	0.35	0.11	1.66	1.66	XXX
97004		A	Ot re-evaluation	0.60	0.04	0.04	0.01	0.65	0.65	XXX
97780		N	Acupuncture w/o stim	0.00	0.00	0.00	0.00	0.00	0.00	XXX
97781		N	Acupuncture w/stim	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99141		B	Sedation, iv/im or inhalant	+0.60	0.83	0.83	0.05	1.66	1.66	XXX
99142		B	Sedation, oral/rectal/nasal	+0.60	0.62	0.62	0.04	1.26	1.26	XXX
99234		A	Observ/hosp same date	2.56	0.68	0.68	0.06	3.30	3.30	XXX
99235		A	Observ/hosp same date	3.42	1.05	1.05	0.09	4.56	4.56	XXX
99236		A	Observ/hosp same date	4.27	1.14	1.14	0.09	5.50	5.50	XXX
99301		A	Nursing facility care	1.20	0.45	0.45	0.03	1.68	1.68	XXX
99302		A	Nursing facility care	1.61	0.50	0.50	0.04	2.15	2.15	XXX
99303		A	Nursing facility care	2.01	0.95	0.95	0.07	3.03	3.03	XXX
99311		A	Nursing facility care, subseq	0.60	0.34	0.34	0.03	0.97	0.97	XXX
99312		A	Nursing facility care, subseq	1.00	0.41	0.41	0.03	1.44	1.44	XXX
99313		A	Nursing facility care, subseq	1.42	0.46	0.46	0.04	1.92	1.92	XXX
99315		A	Nursing fac discharge day	1.13	0.51	0.51	0.04	1.68	1.68	XXX
99316		A	Nursing fac discharge day	1.50	0.51	0.51	0.04	2.05	2.05	XXX
99341		A	Home visit, new patient	1.01	0.53	0.53	0.05	1.59	1.59	XXX
99342		A	Home visit, new patient	1.52	0.60	0.60	0.05	2.17	2.17	XXX
99343		A	Home visit, new patient	2.27	0.77	0.77	0.06	3.10	3.10	XXX
99344		A	Home visit, new patient	3.03	0.85	0.85	0.09	3.97	3.97	XXX
99345		A	Home visit, new patient	3.79	0.85	0.85	0.09	4.73	4.73	XXX
99347		A	Home visit, estab patient	0.76	0.45	0.45	0.04	1.25	1.25	XXX
99348		A	Home visit, estab patient	1.26	0.53	0.53	0.04	1.83	1.83	XXX
99349		A	Home visit, estab patient	2.02	0.81	0.81	0.05	2.88	2.88	XXX
99350		A	Home visit, estab patient	3.03	0.78	0.78	0.07	3.86	3.86	XXX
99374		B	Home health care supervision	+1.10	0.51	0.51	0.04	1.65	1.65	XXX
99375		A	Home health care supervision	1.73	0.51	0.51	0.04	2.28	2.28	XXX
99377		B	Hospice care supervision	+1.10	0.51	0.51	0.04	1.65	1.65	XXX
99378		A	Hospice care supervision	1.73	0.51	0.51	0.04	2.28	2.28	XXX
99379		B	Nursing fac care supervision	+1.10	0.51	0.51	0.04	1.65	1.65	XXX
99380		B	Nursing fac care supervision	+1.73	0.51	0.51	0.04	2.28	2.28	XXX
99436		A	Attendance, birth	1.50	1.55	1.55	0.10	3.15	3.15	XXX
G0030	26	A	PET imaging prev PET single	1.50	0.48	0.48	0.07	2.05	2.05	XXX
G0031	26	A	PET imaging prev PET multiple	1.87	0.65	0.65	0.10	2.62	2.62	XXX
G0032	26	A	PET follow SPECT 78464 singl	1.50	0.48	0.48	0.07	2.05	2.05	XXX
G0033	26	A	PET follow SPECT 78464 mult	1.87	0.65	0.65	0.10	2.62	2.62	XXX
G0034	26	A	PET follow SPECT 78465 singl	1.50	0.48	0.48	0.07	2.05	2.05	XXX
G0035	26	A	PET follow SPECT 78465 mult	1.87	0.65	0.65	0.10	2.62	2.62	XXX
G0036	26	A	PET follow comry angio sing	1.50	0.48	0.48	0.07	2.05	2.05	XXX
G0037	26	A	PET follow comry angio mult	1.87	0.65	0.65	0.10	2.62	2.62	XXX
G0038	26	A	PET follow myocard perf sing	1.50	0.48	0.48	0.07	2.05	2.05	XXX
G0039	26	A	PET follow myocard perf mult	1.87	0.65	0.65	0.10	2.62	2.62	XXX
G0040	26	A	PET follow stress echo singl	1.50	0.48	0.48	0.07	2.05	2.05	XXX
G0041	26	A	PET follow stress echo mult	1.87	0.65	0.65	0.10	2.62	2.62	XXX
G0042	26	A	PET follow ventriculogm sing	1.50	0.48	0.48	0.07	2.05	2.05	XXX
G0043	26	A	PET follow ventriculogm mult	1.87	0.65	0.65	0.10	2.62	2.62	XXX
G0044	26	A	PET following rest ECG singl	1.50	0.48	0.48	0.07	2.05	2.05	XXX
G0045	26	A	PET following rest ECG mult	1.87	0.65	0.65	0.10	2.62	2.62	XXX
G0046	26	A	PET follow stress ECG singl	1.50	0.48	0.48	0.07	2.05	2.05	XXX
G0047	26	A	PET follow stress ECG mult	1.87	0.65	0.65	0.10	2.62	2.62	XXX
G0051		D	Destroy benign/premal lesion	0.00	0.00	0.00	0.00	0.00	0.00	010
G0101		A	CA screen;pelvic/breast exam	0.45	0.28	0.28	0.02	0.75	0.75	XXX
G0104		A	CA screen;flexi sigmoidscope	0.96	1.23	¤1.08	0.12	2.31	2.14	000
G0105		A	Colorectal scrn; hi risk ind	3.70	4.13	¤4.07	0.39	8.22	8.16	000
G0106	26	A	Colon CA screen;barium enema	0.99	0.45	0.45	0.07	1.51	1.51	XXX
G0107		X	CA screen; fecal blood test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0110		R	Nett pulm-rehab educ; ind	0.90	0.26	0.26	0.04	1.20	1.20	XXX
G0111		R	Nett pulm-rehab educ; group	0.27	0.20	0.20	0.02	0.49	0.49	XXX
G0112		R	Nett;nutrition guid, initial	1.72	0.97	0.97	0.10	2.79	2.79	XXX
G0113		R	Nett;nutrition guid, subseqnt	1.29	0.77	0.77	0.09	2.15	2.15	XXX
G0114		R	Nett; psychosocial consult	1.20	0.35	0.35	0.11	1.66	1.66	XXX
G0115		R	Nett; psychological testing	1.20	0.35	0.35	0.11	1.66	1.66	XXX
G0116		A	Nett; psychosocial counsel	1.11	0.36	0.36	0.05	1.51	1.51	XXX
G0120	26	A	Colon ca scrn; barium enema	0.99	0.45	0.45	0.07	1.51	1.51	XXX

[1] CPT codes and descriptions only are copyright 1997 American Medical Association. All Rights Reserved. Applicable FARS/DFARS Apply.
[2] Copyright 1994 American Dental Association. All rights reserved.
[3] + Indicates RVUs are not used for Medicare payment.
[4] " Work RVUs increased in global surgical package.
[5] ¤ Indicates reduction of Practice Expense RVUs as result of 110% PE reduction.

ADDENDUM C.—CODES WITH INTERIM RVUs—Continued

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Mal-practice RVUs	Non-facility total	Facility total	Global
G0121		N	Colon ca scrn; barium enema	+3.70	4.13	¤4.07	0.39	8.22	8.16	XXX
G0122	26	N	Colon ca scrn; barium enema	+0.99	0.45	0.45	0.07	1.51	1.51	XXX

ADDENDUM D.—1999 GEOGRAPHIC PRACTICE COST INDICES BY MEDICARE CARRIER AND LOCALITY

Carrier No.	Locality No.	Locality name	Work	Practice expense	Mal-practice
00510	00	ALABAMA	0.978	0.872	0.876
00831	01	ALASKA	1.063	1.173	1.533
00832	00	ARIZONA	0.995	0.971	1.189
00520	13	ARKANSAS	0.953	0.855	0.403
02050	26	ANAHEIM/SANTA ANA, CA	1.038	1.191	0.846
02050	18	LOS ANGELES, CA	1.055	1.169	0.846
31140	03	MARIN/NAPA/SOLANO, CA	1.014	1.161	0.867
31140	07	OAKLAND/BERKLEY, CA	1.040	1.196	0.867
31140	05	SAN FRANCISCO, CA	1.087	1.299	0.867
31140	06	SAN MATEO, CA	1.047	1.274	0.867
31140	09	SANTA CLARA, CA	1.082	1.282	0.867
02050	17	VENTURA, CA	1.027	1.131	0.717
02050	99	REST OF STATE*	1.008	1.043	0.698
31140	99	REST OF STATE*	1.008	1.043	0.698
00824	01	COLORADO	0.987	0.970	0.795
10230	00	CONNECTICUT	1.049	1.172	1.062
00570	01	DELAWARE	1.019	1.026	0.660
00580	01	DC + MD/VA SUBURBS	1.050	1.161	1.032
00590	03	FORT LAUDERDALE, FL	0.998	.026	1.783
00590	04	MIAMI, FL	1.015	1.077	2.350
00590	99	REST OF STATE	0.975	0.948	1.327
00511	01	ATLANTA, GA	1.006	1.034	0.951
00511	99	REST OF STATE	0.970	0.900	0.951
00833	01	HAWAII/GUAM	0.998	1.183	0.954
05130	00	IDAHO	0.960	0.892	0.566
00621	16	CHICAGO, IL	1.027	1.066	1.693
00621	12	EAST ST. LOUIS, IL	0.988	0.931	1.487
00621	15	SUBURBAN CHICAGO, IL	1.006	1.067	1.365
00621	99	REST OF STATE	0.983	0.886	0.990
00630	00	INDIANA	0.981	0.917	0.408
00640	00	IOWA	0.958	0.862	0.648
00650	00	KANSAS*	0.963	0.898	0.890
00740	04	KANSAS*	0.963	0.898	0.890
00660	00	KENTUCKY	0.970	0.874	0.807
00528	01	NEW ORLEANS, LA	0.998	0.950	1.153
00528	99	REST OF STATE	0.969	0.881	1.031
31142	03	SOUTHERN MAINE	0.979	1.030	0.708
31142	99	REST OF STATE	0.961	0.924	0.708
00901	01	BALTIMORE/SURR. CNTYS, MD	1.019	1.039	1.096
00901	99	REST OF STATE	0.985	0.986	0.866
31143	01	METROPOLITAN BOSTON	1.039	1.196	0.713
31143	99	REST OF STATE	1.010	1.093	0.713
00823	01	DETROIT, MI	1.042	1.022	3.069
00823	99	REST OF STATE	0.996	0.939	1.828
10240	00	MINNESOTA	0.999	0.987	0.507
10250	00	MISSISSIPPI	0.957	0.848	0.721
00740	02	METROPOLITAN KANSAS CITY, MO*	0.988	0.949	1.196
11260	01	METROPOLITAN ST. LOUIS, MO	0.994	0.943	1.198
00740	99	REST OF STATE*	0.945	0.828	1.185
11260	99	REST OF STATE*	0.945	0.828	1.185
00751	01	MONTANA	0.951	0.877	0.732
00655	00	NEBRASKA	0.949	0.873	0.443
00834	00	NEVADA	1.005	1.032	0.997
31144	40	NEW HAMPSHIRE	0.988	1.033	1.013
00660	01	NORTHERN NJ	1.057	1.191	0.795
00660	99	REST OF STATE	1.028	1.094	0.795
00521	05	NEW MEXICO	0.973	0.910	0.716
00803	01	MANHATTAN, NY	1.093	1.353	1.654
00803	02	NYC SUBURBS/LONG I., NY	1.067	1.233	1.932
00803	03	POUGHKPSIE/N NYC SUBURBS, NY	1.010	1.084	1.326
14330	04	QUEENS, NY	1.057	1.234	1.839
00801	99	REST OF STATE	0.999	0.956	0.793
05535	00	NORTH CAROLINA	0.970	0.924	0.497
00820	01	NORTH DAKOTA	0.950	0.877	0.656
16360	00	OHIO	0.990	0.939	1.074

ADDENDUM D.—1999 GEOGRAPHIC PRACTICE COST INDICES BY MEDICARE CARRIER AND LOCALITY—Continued

Carrier No.	Locality No.	Locality name	Work	Practice expense	Mal-practice
00522	00	OKLAHOMA	0.969	0.882	0.451
00835	01	PORTLAND, OR	0.996	1.021	0.587
00835	99	REST OF STATE	0.961	0.936	0.587
00865	01	METROPOLITAN PHILADELPHIA, PA	1.024	1.089	1.207
00865	99	REST OF STATE	0.989	0.931	0.637
00973	20	PUERTO RICO	0.882	0.729	0.359
00870	01	RHODE ISLAND	1.018	1.089	1.189
00880	01	SOUTH CAROLINA	0.975	0.905	0.280
00820	02	SOUTH DAKOTA	0.935	0.873	0.435
05440	35	TENNESSEE	0.975	0.899	0.552
00900	31	AUSTIN, TX	0.986	1.000	0.849
00900	20	BEAUMONT, TX	0.992	0.899	1.386
00900	09	BRAZORIA, TX	0.992	0.977	1.386
00900	11	DALLAS, TX	1.010	1.016	0.930
00900	28	FORT WORTH, TX	0.997	0.971	0.930
00900	15	GALVESTON, TX	0.988	0.970	1.386
00900	18	HOUSTON, TX	1.020	1.007	1.418
00900	99	REST OF STATE	0.966	0.888	0.871
00910	09	UTAH	0.977	0.909	0.594
31145	50	VERMONT	0.973	0.984	0.548
00973	50	VIRGIN ISLANDS	0.965	1.034	1.032
10490	00	VIRGINIA	0.995	0.941	0.557
00836	02	SEATTLE (KING CNTY), WA	1.005	1.060	0.742
00836	99	REST OF STATE	0.982	0.976	0.742
16510	16	WEST VIRGINIA	0.963	0.853	1.106
00951	00	WISCONSIN	0.981	0.933	0.841
00825	21	WYOMING	0.967	0.895	0.705

* Payment locality is serviced by two carriers.

Note: Work GPCI is the 1/4 work GPCI required by Section 1848(e)(1)(A)(iii) of the Social Security Act. GPCIs rescaled by the following factors to assure budget neutrality: Work = 1.00027; Practice expense = 1.00057; Malpractice = 1.03174.

ADDENDUM E.—1998 GEOGRAPHIC PRACTICE COST INDICES BY MEDICARE CARRIER AND LOCALITY

Carrier No.	Locality No.	Locality name	Work	Practice expense	Mal-practice
00510	00	ALABAMA	0.979	0.871	0.902
00831	01	ALASKA	1.064	1.164	1.575
00832	00	ARIZONA	0.996	0.964	1.255
00520	13	ARKANSAS	0.954	0.854	0.415
02050	26	ANAHEIM/SANTA ANA, CA	1.037	1.198	0.799
02050	18	LOS ANGELES, CA	1.056	1.203	0.799
31140	03	MARIN/NAPA/SOLANO, CA	1.015	1.171	0.832
31140	07	OAKLAND/BERKLEY, CA	1.041	1.206	0.832
31140	05	SAN FRANCISCO, CA	1.068	1.315	0.832
31140	08	SAN MATEO, CA	1.048	1.267	0.832
31140	09	SANTA CLARA, CA	1.063	1.276	0.832
02050	17	VENTURA, CA	1.028	1.162	0.702
02050	99	REST OF STATE*	1.009	1.046	0.663
31140	99	REST OF STATE*	1.009	1.046	0.663
00824	01	COLORADO	0.988	0.961	0.811
10230	00	CONNECTICUT	1.050	1.182	1.027
00570	01	DELAWARE	1.020	1.030	0.826
00580	01	DC + MD/VA SUBURBS	1.051	1.177	1.006
00590	03	FORT LAUDERDALE, FL	0.997	1.031	1.825
00590	04	MIAMI, FL	1.016	1.082	2.403
00590	99	REST OF STATE	0.976	0.946	1.372
00511	01	ATLANTA, GA	1.007	1.032	0.927
00511	99	REST OF STATE	0.971	0.986	0.927
00833	01	HAWAII/GUAM	0.999	1.202	0.938
05130	00	IDAHO	0.981	0.887	0.577
00621	16	CHICAGO, IL	1.026	1.084	1.538
00621	12	EAST ST. LOUIS, IL	0.988	0.930	1.345
00621	15	SUBURBAN CHICAGO, IL	1.007	1.080	1.262
00621	99	REST OF STATE	0.964	0.885	0.906
00830	00	INDIANA	0.982	0.917	0.382
00840	00	IOWA	0.959	0.880	0.664
00650	00	KANSAS*	0.984	0.895	1.041
00740	04	KANSAS*	0.984	0.895	1.041
00860	00	KENTUCKY	0.971	0.871	0.813
00526	01	NEW ORLEANS, LA	0.999	0.948	1.075
00526	99	REST OF STATE	0.969	0.876	0.972
31142	03	SOUTHERN MAINE	0.980	1.032	0.734
31142	99	REST OF STATE	0.962	0.925	0.734
00901	01	BALTIMORE/SURR. CNTYS, MD	1.020	1.038	1.107
00901	99	REST OF STATE	0.984	0.969	0.864

ADDENDUM E.—1998 GEOGRAPHIC PRACTICE COST INDICES BY MEDICARE CARRIER AND LOCALITY—Continued

Carrier No.	Locality No.	Locality name	Work	Practice expense	Mal-practice
31143	01	METROPOLITAN BOSTON	1.040	1.205	0.846
31143	99	REST OF STATE	1.011	1.089	0.846
00823	01	DETROIT, MI	1.043	1.030	3.080
00823	99	REST OF STATE	0.997	0.937	1.836
10240	00	MINNESOTA	0.990	0.966	0.551
10250	00	MISSISSIPPI	0.957	0.845	0.724
00740	02	METROPOLITAN KANSAS CITY, MO	0.989	0.949	1.202
11280	01	METROPOLITAN ST. LOUIS, MO	0.995	0.944	1.203
00740	99	REST OF STATE*	0.946	0.831	1.162
11280	99	REST OF STATE*	0.946	0.831	1.162
00751	01	MONTANA	0.952	0.871	0.744
00655	00	NEBRASKA	0.950	0.873	0.444
00834	00	NEVADA	1.006	1.030	0.942
31144	40	NEW HAMPSHIRE	0.988	1.034	0.965
00860	01	NORTHERN NJ	1.058	1.203	0.779
00860	99	REST OF STATE	1.029	1.104	0.779
00521	05	NEW MEXICO	0.974	0.907	0.754
00803	01	MANHATTAN, NY	1.094	1.356	1.600
00803	02	NYC SUBURBS/LONG I., NY	1.068	1.234	1.846
00803	03	POUGHKPSIE/N NYC SUBURBS, NY	1.011	1.093	1.272
14330	04	QUEENS, NY	1.058	1.237	1.763
00801	99	REST OF STATE	1.000	0.957	0.807
05535	00	NORTH CAROLINA	0.971	0.921	0.466
00820	01	NORTH DAKOTA	0.951	0.869	0.637
16360	00	OHIO	0.991	0.940	1.082
00522	00	OKLAHOMA	0.969	0.861	0.437
00835	01	PORTLAND, OR	0.997	1.011	0.612
00835	99	REST OF STATE	0.962	0.934	0.612
00865	01	METROPOLITAN PHILADELPHIA, PA	1.025	1.060	1.261
00865	99	REST OF STATE	0.990	0.928	0.687
00973	20	PUERTO RICO	0.883	0.734	0.314
00870	01	RHODE ISLAND	1.019	1.072	1.379
00880	01	SOUTH CAROLINA	0.976	0.902	0.321
00820	02	SOUTH DAKOTA	0.936	0.865	0.439
05440	35	TENNESSEE	0.976	0.899	0.536
00900	31	AUSTIN, TX	0.987	0.993	0.836
00900	20	BEAUMONT, TX	0.993	0.898	1.407
00900	09	BRAZORIA, TX	0.993	0.972	1.407
00900	11	DALLAS, TX	1.011	1.014	0.912
00900	28	FORT WORTH, TX	0.988	0.972	0.912
00900	15	GALVESTON, TX	0.989	0.968	1.407
00900	18	HOUSTON, TX	1.021	1.008	1.423
00900	99	REST OF STATE	0.966	0.884	0.855
00910	09	UTAH	0.978	0.900	0.819
31145	50	VERMONT	0.974	0.986	0.500
00973	50	VIRGIN ISLANDS	0.966	1.008	1.028
10490	00	VIRGINIA	0.986	0.940	0.538
00836	02	SEATTLE (KING CNTY), WA	1.008	1.079	0.745
00836	99	REST OF STATE	0.983	0.959	0.745
16510	16	WEST VIRGINIA	0.984	0.852	1.055
00951	00	WISCONSIN	0.982	0.930	1.001
00825	21	WYOMING	0.968	0.888	0.758

* Payment locality is serviced by two carriers.

Note: Work GPCI is the 1/4 work GPCI required by Section 1848(e)(1)(A)(iii) of the Social Security Act. GPCIs rescaled by the following factors to assure budget neutrality: Work = 1.00027; Practice expense = 1.00057; Malpractice = 1.03174.

ADDENDUM F.—1999 VERSUS 1997 GEOGRAPHIC ADJUSTMENT FACTOR (GAF) BY 1998 FEE SCHEDULE AREA

Carrier No.	Locality No.	Locality name	1999 GAF	1997 GAF	Difference	Percent difference
00973	50	VIRGIN ISLANDS	0.997	0.974	0.023	2.4
00621	16	CHICAGO, IL	1.084	1.066	0.018	1.7
00901	99	REST OF MARYLAND	0.980	0.964	0.016	1.7
00621	12	EAST ST. LOUIS, IL	0.989	0.974	0.015	1.5
00526	99	REST OF LOUISIANA	0.936	0.926	0.010	1.1
00621	99	REST OF ILLINOIS	0.933	0.924	0.009	1.0
00526	01	NEW ORLEANS, LA	0.986	0.977	0.009	0.9
00820	01	NORTH DAKOTA	0.906	0.898	0.008	0.9
00803	02	NYC SUBURBS/LONG I., NY	1.177	1.170	0.007	0.6
00834	00	NEVADA	1.016	1.010	0.006	0.6
00803	03	POUGHKPSIE/N NYC SUBURBS, NY	1.056	1.050	0.006	0.6
00835	01	PORTLAND, OR	0.987	0.981	0.006	0.6
00820	02	SOUTH DAKOTA	0.886	0.880	0.006	0.7
00900	31	AUSTIN, TX	0.985	0.979	0.006	0.6
16510	16	WEST VIRGINIA	0.925	0.919	0.006	0.7

ADDENDUM F.—1999 VERSUS 1997 GEOGRAPHIC ADJUSTMENT FACTOR (GAF) BY 1998 FEE SCHEDULE AREA—Continued

Carrier No.	Locality No.	Locality name	1999 GAF	1997 GAF	Difference	Percent difference
00824	01	COLORADO	0.971	0.966	0.005	0.5
00900	99	REST OF TEXAS	0.929	0.924	0.005	0.5
00910	09	UTAH	0.931	0.926	0.005	0.5
00836	99	REST OF WASHINGTON	0.968	0.963	0.005	0.5
31144	40	NEW HAMPSHIRE	1.008	1.003	0.005	0.5
00511	01	ATLANTA, GA	1.015	1.011	0.004	0.4
00511	99	REST OF GEORGIA	0.940	0.936	0.004	0.4
05635	00	NORTH CAROLINA	0.928	0.924	0.004	0.4
14330	04	QUEENS, NY	1.167	1.163	0.004	0.3
00900	11	DALLAS, TX	1.009	1.006	0.003	0.3
00751	01	MONTANA	0.910	0.907	0.003	0.3
00831	01	ALASKA	1.131	1.128	0.003	0.3
05130	00	IDAHO	0.913	0.911	0.002	0.2
00630	00	INDIANA	0.927	0.925	0.002	0.2
00660	00	KENTUCKY	0.923	0.921	0.002	0.2
00803	01	MANHATTAN, NY	1.227	1.225	0.002	0.2
00900	09	BRAZORIA, TX	1.005	1.003	0.002	0.2
10490	00	VIRGINIA	0.946	0.944	0.002	0.2
31145	50	VERMONT	0.957	0.955	0.002	0.2
02050	18	LOS ANGELES	1.104	1.103	0.001	0.1
10250	00	MISSISSIPPI	0.900	0.899	0.001	0.1
00835	99	REST OF OREGON	0.934	0.933	0.001	0.1
05440	35	TENNESSEE	0.924	0.923	0.001	0.1
00580	03	FORT WORTH, TX	0.978	0.977	0.001	0.1
00570	01	DELAWARE	1.015	1.015	0.000	0.0
00840	00	IOWA	0.912	0.912	0.000	0.0
00823	99	REST OF MICHIGAN	1.013	1.013	0.000	0.0
00855	00	NEBRASKA	0.894	0.894	0.000	0.0
16380	00	OHIO	0.973	0.973	0.000	0.0
00973	20	PUERTO RICO	0.794	0.794	0.000	0.0
00800	18	HOUSTON, TX	1.034	1.034	0.000	0.0
00800	20	BEAUMONT, TX	0.973	0.973	0.000	0.0
00836	02	SEATTLE (KING CNTY), WA	1.023	1.023	0.000	0.0
00825	21	WYOMING	0.925	0.925	0.000	0.0
02050	99	REST OF CALIFORNIA*	1.007	1.008	−0.001	−0.1
31140	99	REST OF CALIFORNIA*	1.007	1.008	−0.001	−0.1
00520	13	ARKANSAS	0.886	0.887	−0.001	−0.1
00832	00	ARIZONA	0.994	0.995	−0.001	−0.1
00740	02	METROPOLITAN KANSAS CITY, MO	0.982	0.983	−0.001	−0.1
11260	01	METROPOLITAN ST. LOUIS, MO	0.983	0.984	−0.001	−0.1
00801	99	REST OF NEW YORK	0.973	0.974	−0.001	−0.1
00901	01	BALTIMORE/SURR. CNTYS, MD	1.031	1.032	−0.001	−0.1
00900	15	GALVESTON, TX	1.000	1.001	−0.001	−0.1
00510	00	ALABAMA	0.930	0.932	−0.002	−0.2
02050	26	ANAHEIM/SANTA ANA, CA	1.090	1.092	−0.002	−0.2
00621	15	SUBURBAN CHICAGO, IL	1.048	1.050	−0.002	−0.2
00521	05	NEW MEXICO	0.935	0.937	−0.002	−0.2
00522	00	OKLAHOMA	0.908	0.910	−0.002	−0.2
00880	01	SOUTH CAROLINA	0.913	0.915	−0.002	−0.2
00560	99	REST OF FLORIDA	0.981	0.984	−0.003	−0.3
31142	99	REST OF MAINE	0.934	0.937	−0.003	−0.3
00740	99	REST OF MISSOURI*	0.908	0.911	−0.003	−0.3
11260	99	REST OF MISSOURI*	0.908	0.911	−0.003	−0.3
00865	99	REST OF PENNSYLVANIA	0.948	0.951	−0.003	−0.3
10240	00	MINNESOTA	0.957	0.961	−0.004	−0.4
31140	03	MARIN/NAPA/SOLANO, CA	1.058	1.063	−0.005	−0.5
31142	03	SOUTHERN MAINE	0.987	0.992	−0.005	−0.5
31140	07	OAKLAND/BERKLEY, CA	1.088	1.092	−0.008	−0.5
10230	00	CONNECTICUT	1.100	1.108	−0.008	−0.5
00823	01	DETROIT, MI	1.131	1.137	−0.006	−0.5
00880	99	REST OF NEW JERSEY	1.044	1.051	−0.007	−0.7
00865	01	METROPOLITAN PHILADELPHIA, PA	1.059	1.066	−0.007	−0.7
31140	08	SAN MATEO, CA	1.122	1.130	−0.008	−0.7
00900	28	FORT LAUDERDALE, FL	1.046	1.055	−0.009	−0.9
31140	09	SANTA CLARA, CA	1.125	1.134	−0.009	−0.8
00590	04	MIAMI, FL	1.105	1.114	−0.009	−0.8
31140	06	SAN FRANCISCO, CA	1.143	1.153	−0.010	−0.9
00560	01	DC +MD/VA SUBURBS	1.095	1.105	−0.010	−0.9
31143	99	REST OF MASSACHUSETTS	1.030	1.040	−0.010	−1.0
00860	01	NORTHERN NJ	1.099	1.109	−0.010	−0.9
00850	00	KANSAS*	0.933	0.945	−0.012	−1.3
00740	04	KANSAS*	0.933	0.945	−0.012	−1.3
00951	00	WISCONSIN	0.955	0.968	−0.013	−1.3
00833	01	HAWAII/GUAM	1.072	1.086	−0.014	−1.3
31143	01	METROPOLITAN BOSTON	1.088	1.108	−0.020	−1.8

ADDENDUM F.—1999 VERSUS 1997 GEOGRAPHIC ADJUSTMENT FACTOR (GAF) BY 1998 FEE SCHEDULE AREA—Continued

Carrier No.	Locality No.	Locality name	1999 GAF	1997 GAF	Difference	Percent difference
00870	01	RHODE ISLAND	1.047	1.068	−0.021	−2.0
02050	17	VENTURA, CA	1.055	1.079	−0.024	−2.2

*Payment locality is serviced by two carriers.

ADDENDUM G.—COUNTIES INCLUDED IN 1998 LOCALITIES
[Alphabetically by State and Locality Name Within State]

Carrier No.	Locality No.	State	Fee schedule area	Counties
00510	00	ALABAMA	STATEWIDE	ALL COUNTIES.
00831	01	ALASKA	STATEWIDE	ALL COUNTIES.
00832	00	ARIZONA	STATEWIDE	ALL COUNTIES.
00520	13	ARKANSAS	STATEWIDE	ALL COUNTIES.
02050	26	CALIFORNIA	ANAHEIM/SANTA ANA	ORANGE.
02050	18		LOS ANGELES	LOS ANGELES.
31140	03		MARIN/NAPA/SOLANO	MARIN, NAPA, AND SOLANO.
31140	07		OAKLAND/BERKLEY	ALAMEDA AND CONTRA COSTA.
31140	05		SAN FRANCISCO	SAN FRANCISCO.
31140	08		SAN MATEO	SAN MATEO.
31140	09		SANTA CLARA	SANTA CLARA.
02050	17		VENTURA	VENTURA.
02050	99		REST OF STATE*	ALL OTHER COUNTIES.
31140	99		REST OF STATE*	ALL OTHER COUNTIES.
00824	01	COLORADO	STATEWIDE	ALL COUNTIES.
10230	00	CONNECTICUT	STATEWIDE	ALL COUNTIES.
00570	01	DELAWARE	STATEWIDE	ALL COUNTIES.
00560	01	DISTRICT OF COLUMBIA	DC + MD/VA SUBURBS	DISTRICT OF COLUMBIA; ALEXANDRIA CITY, ARLINGTON, FAIRFAX, FAIRFAX CITY, FALLS CHURCH CITY IN VIRGINIA; MONTGOMERY AND PRINCE GEORGE'S IN MARYLAND.
00800	03	FLORIDA	FORT LAUDERDALE	BROWARD, COLLIER, INDIAN RIVER, LEE, MARTIN, PALM BEACH, AND ST. LUCIE.
00590	04		MIAMI	DADE AND MONROE.
00590	99		REST OF STATE	ALL OTHER COUNTIES.
00511	01	GEORGIA	ATLANTA	BUTTS, CHEROKEE, CLAYTON, COBB, DEKALB, DOUGLAS, FAYETTE, FORSYTH, FULTON, GWINNETT, HENRY, NEWTON, PAULDING, ROCKDALE AND WALTON.
00511	99		REST OF STATE	ALL OTHER COUNTIES.
00833	01	HAWAII/GUAM	STATEWIDE	ALL COUNTIES.
05130	00	IDAHO	STATEWIDE	ALL COUNTIES.
00821	16	ILLINOIS	CHICAGO	COOK.
00821	12		EAST ST. LOUIS	BOND, CALHOUN, CLINTON, JERSEY, MACOUPIN, MADISON, MONROE, MONTGOMERY, RANDOLPH, ST. CLAIR AND WASHINGTON.
00821	15		SUBURBAN CHICAGO	DUPAGE, KANE, LAKE AND WILL.
00821	99		REST OF STATE	ALL OTHER COUNTIES.
00630	00	INDIANA	STATEWIDE	ALL COUNTIES.
00840	00	IOWA	STATEWIDE	ALL COUNTIES.
00850	00	KANSAS	STATEWIDE*	ALL COUNTIES.
00740	04		STATEWIDE*	ALL COUNTIES.
00660	00	KENTUCKY	STATEWIDE	ALL COUNTIES.
00528	01	LOUISIANA	NEW ORLEANS	JEFFERSON, ORLEANS, PLAQUEMINES AND ST. BERNARD.
00528	99		REST OF STATE	ALL OTHER COUNTIES.
31142	03	MAINE	SOUTHERN MAINE	CUMBERLAND AND YORK.
31142	99		REST OF STATE	ALL OTHER COUNTIES.
00901	01	MARYLAND	BALTIMORE/SURR. CNTYS	ANNE ARUNDEL, BALTIMORE, BALTIMORE CITY, CARROLL, HARFORD AND HOWARD.
00901	99		REST OF STATE	ALL OTHER COUNTIES EXCEPT MONTGOMERY AND PRINCE GEORGE'S.
31143	01	MASSACHUSETTS	METROPOLITAN BOSTON	MIDDLESEX, NORFOLK AND SUFFOLK.
31143	99		REST OF STATE	ALL OTHER COUNTIES.
00823	01	MICHIGAN	DETROIT	MACOMB, OAKLAND, WASHTENAW AND WAYNE.
00823	99		REST OF STATE	ALL OTHER COUNTIES.
10240	00	MINNESOTA	STATEWIDE	ALL COUNTIES.
10250	00	MISSISSIPPI	STATEWIDE	ALL COUNTIES.
00740	02	MISSOURI	METROPOLITAN KANSAS CITY	CLAY, JACKSON AND PLATTE.
11260	01		METROPOLITAN ST. LOUIS	JEFFERSON, ST. CHARLES, ST. LOUIS AND ST. LOUIS CITY.
00740	99		REST OF STATE*	ALL OTHER COUNTIES.
11260	99		REST OF STATE*	ALL OTHER COUNTIES.
00751	01	MONTANA	STATEWIDE	ALL COUNTIES.

ADDENDUM G.—COUNTIES INCLUDED IN 1998 LOCALITIES—Continued
[Alphabetically by State and Locality Name Within State]

Carrier No.	Locality No.	State	Fee schedule area	Counties
00855	00	NEBRASKA	STATEWIDE	ALL COUNTIES.
00834	00	NEVADA	STATEWIDE	ALL COUNTIES.
31144	40	NEW HAMPSHIRE	STATEWIDE	ALL COUNTIES.
00880	01	NEW JERSEY	NORTHERN NJ	BERGEN, ESSEX, HUDSON, HUNTERDON, MIDDLESEX, MORRIS, PASSAIC, SOMERSET, SUSSEX, UNION AND WARREN.
00880	99		REST OF STATE	ALL OTHER COUNTIES.
00521	05	NEW MEXICO	STATEWIDE	ALL COUNTIES.
00803	01	NEW YORK	MANHATTAN	NEW YORK.
00803	02		NYC SUBURBS/LONG ISLAND	BRONX, KINGS, NASSAU, RICHMOND, ROCKLAND, SUFFOLK AND WESTCHESTER.
00803	03		POUGHKPSIE/N NYC SUBURBS	COLUMBIA, DELAWARE, DUTCHESS, GREENE, ORANGE, PUTNAM, SULLIVAN AND ULSTER.
14330	04		QUEENS	QUEENS.
00801	99		REST OF STATE	ALL OTHER COUNTIES.
05535	00	NORTH CAROLINA	STATEWIDE	ALL COUNTIES.
00820	01	NORTH DAKOTA	STATEWIDE	ALL COUNTIES.
16380	00	OHIO	STATEWIDE	ALL COUNTIES.
00522	00	OKLAHOMA	STATEWIDE	ALL COUNTIES.
00835	01	OREGON	PORTLAND	CLACKAMAS, MULTNOMAH AND WASHINGTON.
00835	99		REST OF STATE	ALL OTHER COUNTIES.
00865	01	PENNSYLVANIA	METROPOLITAN PHILADELPHIA	BUCKS, CHESTER, DELAWARE, MONTGOMERY AND PHILADELPHIA.
00865	99		REST OF STATE	ALL OTHER COUNTIES.
00973	20	PUERTO RICO	PUERTO RICO	ALL COUNTY EQUIVALENTS.
00870	01	RHODE ISLAND	STATEWIDE	ALL COUNTIES.
00860	01	SOUTH CAROLINA	STATEWIDE	ALL COUNTIES.
00820	02	SOUTH DAKOTA	STATEWIDE	ALL COUNTIES.
05440	35	TENNESSEE	STATEWIDE	ALL COUNTIES.
00900	31	TEXAS	AUSTIN	TRAVIS.
00900	20		BEAUMONT	JEFFERSON.
00900	09		BRAZORIA	BRAZORIA.
00900	11		DALLAS	DALLAS.
00590	03		FORT WORTH	TARRANT.
00900	15		GALVESTON	GALVESTON.
00900	16		HOUSTON	HARRIS.
00900	99		REST OF STATE	ALL OTHER COUNTIES.
00910	09	UTAH	STATEWIDE	ALL COUNTIES.
31145	50	VERMONT	STATEWIDE	ALL COUNTIES.
00973	50	VIRGIN ISLANDS	VIRGIN ISLANDS	ALL COUNTY EQUIVALENTS.
10490	00	VIRGINIA	STATEWIDE	ALL COUNTIES, EXCEPT ALEXANDRIA CITY, ARLINGTON, FAIRFAX, FAIRFAX CITY, AND FALLS CHURCH CITY.
00836	02	WASHINGTON	SEATTLE (KING CNTY)	KING.
00836	99		REST OF STATE	ALL OTHER COUNTIES.
16510	16	WEST VIRGINIA	STATEWIDE	ALL COUNTIES.
00951	00	WISCONSIN	STATEWIDE	ALL COUNTIES.
00825	21	WYOMING	STATEWIDE	ALL COUNTIES.

* Payment locality is serviced by two carriers.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[BPD–883–FN]

RIN 0938–AI16

Medicare Program; Physician Fee Schedule Conversion Factor for Calendar Year 1998 and Sustainable Growth Rate for Fiscal Year 1998

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final notice.

SUMMARY: This final notice announces the calendar year 1998 Medicare physician fee schedule conversion factor and the fiscal year 1998 sustainable growth rate for expenditures for physicians' services under the Medicare Supplementary Medical Insurance (Part B) program as required by sections 1848(d) and (f), respectively, of the Social Security Act. The 1998 Medicare physician fee schedule conversion factor is $36.6873. The sustainable growth rate for fiscal year 1998 is 1.5 percent.

EFFECTIVE DATE: The provisions in this final notice pertaining to the Medicare sustainable growth rate of increase are effective October 1, 1997, and the provisions pertaining to the Medicare physician fee schedule conversion factor are effective January 1, 1998, as provided by the Medicare statute.

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FOR FURTHER INFORMATION CONTACT:
Ordering information: See **ADDRESSES** section.

Content information: Don Thompson, (410) 786–4586.

SUPPLEMENTARY INFORMATION:

I. Background and Summary of Legislation

The following discussion contains references to the conversion factor and relative value units as components of the Medicare physician fee schedule. The 1998 physician fee schedule final rule, published elsewhere in this **Federal Register** issue, explains how these factors are used in determining payments under the fee schedule.

A. Calendar Year 1998 Physician Fee Schedule Conversion Factor

There are currently three conversion factors used in the physician fee schedule: one for primary care services, one for surgical services, and one for all other services. However, section 1848(d)(1)(C) of the Social Security Act (the Act), as amended by section 4501 of the Balanced Budget Act of 1997 (BBA 1997) (Pub. L. 105–33), enacted on August 5, 1997, states that the 1998 physician fee schedule conversion factor for all services "shall be the conversion factor for primary care services for 1997, increased by the Secretary's estimate of the weighted average of the three separate updates that would otherwise occur were it not for the enactment of . . . the Balanced Budget Act of 1997."

The conversion factor is also affected by section 1848(c)(2)(B)(ii)(II) of the Act, which requires that any changes to the relative value units of the Medicare physician fee schedule not cause expenditures to increase or decrease by more than $20 million from the amount of expenditures that would have been made if such adjustments had not been made. We implement this requirement through a uniform budget neutrality adjustment to the conversion factor.

B. Fiscal Year 1998 Medicare Sustainable Growth Rate

Section 1848(f) of the Act, as amended by section 4503 of the BBA 1997, replaces the volume performance standard with a sustainable growth rate standard. It specifies the formula for establishing yearly sustainable growth rate expenditure targets for physicians' services under Medicare. The use of sustainable growth rate targets is intended to control the actual growth in Medicare expenditures for physicians' services.

The sustainable growth rate targets are not limits on expenditures. Payments for services are not withheld if the sustainable growth rate target is exceeded. Rather, the appropriate fee schedule update, as specified in section 1848(d)(3)(A) of the Act, is adjusted to reflect the success or failure in meeting the sustainable growth rate target.

The amended section 1848(f)(2) of the Act now states that "the sustainable growth rate for all physicians' services for a fiscal year (beginning with fiscal year 1998) shall be equal to the product of—

(A) 1.0 plus the Secretary's estimate of the weighted-average percentage increase (divided by 100) in the fees for all physicians' services in the fiscal year involved,

(B) 1.0 plus the Secretary's estimate of the percentage change (divided by 100) in the average number of individuals enrolled under this part (other than Medicare+Choice plan enrollees) from the previous fiscal year to the fiscal year involved,

(C) 1.0 plus the Secretary's estimate of the projected percentage growth in real gross domestic product per capita (divided by 100) from the previous fiscal year to the year involved, and

(D) 1.0 plus the Secretary's estimate of the percentage change (divided by 100) in expenditures for all physicians' services in the fiscal year (compared with the previous fiscal year) that will result from changes in law or regulations determined without taking into account estimated changes in

expenditures resulting from the update adjustment factor determined under subsection (d)(3)(B), minus 1 and multiplied by 100.

C. Physicians' Services

Because the scope of physicians' services covered by the sustainable growth rate is identical to the scope of services that was covered by the Medicare volume performance standards, we are using the same definition of physicians' services for the sustainable growth rate as we did for the Medicare volume performance standard. The November 22, 1996 final notice (61 FR 59717) announcing the fiscal year 1997 volume performance standard rates of increase contains a detailed description of this scope of services.

II. Provisions of This Final Notice

A. Calendar Year 1998 Physician Fee Schedule Conversion Factor

Under the requirements of the amended section 1848(d)(1)(C) of the Act, the 1998 physician fee schedule conversion factor is $36.6873. We determined this conversion factor as follows:

1997 Primary care conversion factor	35.7671
Weighted average update if BBA 1997 not enacted	1.034
Budget neutrality adjustment*	0.992
1998 Physician fee schedule conversion factor	36.6873

*This adjustment results from section 1848(c)(2)(B)(ii) of the Act and is described in the 1998 physician fee schedule final rule, published elsewhere in this Federal Register issue.

Under the requirements of section 1848(d)(1)(D) of the Act, as amended by section 4504 of the BBA 1997, the 1998 anesthesia conversion factor is equal to 46 percent of the 1998 physician fee schedule conversion factor. This calculation yields a 1998 anesthesia conversion factor of $16.8762.

The specific calculations to determine the conversion factor for physicians' services for calendar year 1998 are explained in section III. A. of this notice.

The following table shows the combined effect on calendar year 1998 payments (relative to calendar year 1997) of the move to a single conversion factor and the changes to the 1998 Medicare physician fee schedule relative value units (described in the 1998 physician fee schedule final rule published elsewhere in this Federal Register issue).

TABLE 1.—1998 PERCENT CHANGE IN PAYMENTS BY SPECIALTY*

Specialty	Change due to single conversion factor	Change due to relative value units	Combined change
M.D./D.O. Physicians:			
Radiation Oncology	9.2	−0.7	8.4
Psychiatry	9.0	−0.7	8.2
Radiology	9.0	−0.7	8.2
Pathology	9.3	−1.1	8.1
Hematology/Oncology	7.1	0.8	8.0
Neurology	7.9	0.0	7.9
Pulmonary	8.1	−0.4	7.7
Rheumatology	5.7	1.4	7.2
Gastroenterology	8.5	−1.3	7.1
Internal Medicine	6.4	0.6	7.0
Family Practice	5.0	1.3	6.4
Cardiology	7.9	−1.4	6.4
Other Physician	6.4	−0.2	6.2
General Practice	4.7	1.2	6.0
Nephrology	6.0	−1.2	4.7
Clinics	4.5	−0.1	4.4
Emergency Medicine	3.8	−0.6	3.2
Anesthesiology	1.2	0.9	2.1
Obstetrics/Gynecology	−2.3	3.0	0.6
Otolaryngology	−0.1	0.6	0.5
General Surgery	−4.0	1.8	−2.3
Vascular Surgery	−4.0	1.5	−2.6
Urology	−3.3	0.4	−2.9
Orthopedic Surgery	−4.8	0.8	−4.0
Dermatology	−4.8	0.2	−4.6
Plastic Surgery	−6.9	1.7	−5.3
Ophthalmology	−3.3	−2.6	−5.8
Neurosurgery	−5.7	−0.2	−5.9
Thoracic Surgery	−7.0	−0.2	−7.2
Cardiac Surgery	−8.1	−0.7	−8.8
Others:			
Chiropractic	9.3	−0.8	8.4
Suppliers	9.3	−1.0	8.2
Optometry	5.7	0.1	5.8
Nonphysician practitioners	5.1	−0.6	4.5
Podiatry	−5.2	0.8	−4.4

*Table reflects changes from 1997 payments due to the relative value units and single conversion factor, excluding the 0.3 percent volume and intensity increase associated with the single conversion factor and the 0.1 percent volume and intensity increase associated with the relative value unit changes.

B. Physician Sustainable Growth Rate for Fiscal Year 1998

Under the requirements in sections 1848(f)(2)(A) and (B) of the Act, as amended by section 4503 of the BBA 1997, we have determined that the sustainable growth rate of increase for physicians' services for fiscal year 1998 is 1.5 percent.

This determination is based on the following statutory factors:

Statutory factors	Percent change
Fees	2.3
Enrollment	−2.4
Increase in Gross Domestic Product	1.1
Legislation	0.6
Total	1.5

The specific calculations to determine the sustainable growth rate for physicians' services for fiscal year 1998 are explained in section III. B. of this notice.

III. Detail on Calculation of the Calendar Year 1998 Physician Fee Schedule Conversion Factor and the Fiscal Year 1998 Sustainable Growth Rate

A. Physician Fee Schedule Conversion Factor

1. The Weighted Average Update

The weighted average update if the BBA 1997 had not been enacted is 3.4 percent. This was determined based on the Medicare Economic Index (MEI) and the Medicare volume performance standard (MVPS) adjustments as follows:

Service	1998 MEI	MVPS adjustment	Update (prior to BBA 1997)
	[In Percent]		
Primary Care	2.2	5.3	7.5
Surgical	2.2	0.3	2.5
All other	2.2	−0.9	1.9
Weighted average			3.4

The MEI and the MVPS adjustments are described below.

2. The Percentage Change in the Medicare Economic Index

The MEI measures the weighted-average annual price change for various inputs needed to produce physicians' services. The MEI is a fixed-weight input price index, with an adjustment for the change in economy-wide labor productivity. This index, which has 1989 base weights, is comprised of two broad categories: (1) Physician's own time, and (2) physician's practice expense.

The physician's own time component represents the net income portion of business receipts and primarily reflects the input of the physician's own time into the production of physicians' services in physicians' offices. This category consists of two subcomponents: wages and salaries, and fringe benefits. These components are adjusted by the 10-year moving average percent change in output per man-hour for the nonfarm business sector to eliminate double counting for productivity growth in physicians' offices and the general economy.

The physician's practice expense category represents the rate of price growth in nonphysician inputs to the production of services in physicians' offices. This category consists of wages and salaries and fringe benefits for nonphysician staff and other nonlabor inputs. Like physician's own time, the nonphysician staff categories are adjusted for productivity using the 10-year moving average percent change in output per man-hour for the nonfarm business sector. The physician's practice expense component also includes the following categories of nonlabor inputs: office expense, medical materials and supplies, professional liability insurance, medical equipment, professional car, and other expense. The table below presents a listing of the MEI cost categories with associated weights and percent changes for price proxies for the 1998 update. The calendar year 1998 MEI is 2.2 percent.

INCREASE IN THE MEDICARE ECONOMIC INDEX UPDATE FOR CALENDAR YEAR 1998[1]

	1989 weights[2]	CY 1998 percent changes
Medicare Economic Index Total	100.0	2.2
1. Physician's Own Time[3,4]	54.2	2.5
a. Wages and Salaries: Average hourly earnings private nonfarm, net of productivity	45.3	2.8
b. Fringe Benefits: Employment Cost Index, benefits, private nonfarm, net of productivity	8.8	1.2
2. Physician's Practice Expense[3]	45.8	1.9
a. Nonphysician Employee Compensation	16.3	2.4
1. Wages and Salaries: Employment Cost Index, wages and salaries, weighted by occupation, net of productivity	13.8	2.6
2. Fringe Benefits: Employment Cost Index, fringe benefits, white collar, net of productivity	2.5	1.4
b. Office Expense: Consumer Price Index for Urban Consumers (CPI–U), housing	10.3	2.9
c. Medical Materials and Supplies: Producer Price Index (PPI), ethical drugs/PPI, surgical appliances and supplies/CPI–U, medical equipment and supplies (equally weighted)	5.2	1.6
d. Professional Liability Insurance: HCFA professional liability insurance survey[5]	4.8	−1.8
e. Medical Equipment: PPI, medical instruments and equipment	2.3	−0.4
f. Other Professional Expense	8.9	2.5
1. Professional Car: CPI–U, private transportation	1.4	2.3
2. Other: CPI–U, all items less food and energy	5.5	2.6

INCREASE IN THE MEDICARE ECONOMIC INDEX UPDATE FOR CALENDAR YEAR 1998 [1]—Continued

	1989 weights [2]	CY 1998 percent changes
Addendum:		
Productivity: 10-year moving average of output per man-hour, nonfarm business sector	N/A	0.8
Physician's Own Time, not productivity adjusted	54.2	3.3
Wages and salaries, not productivity adjusted	45.3	3.6
Fringe benefits, not productivity adjusted	8.8	2.0
Nonphysician Employee Compensation, not productivity adjusted	16.3	3.2
Wages and salaries, not productivity adjusted	13.8	3.4
Fringe benefits, not productivity adjusted	2.5	2.2

[1] The rates of change are for the 12-month period ending June 30, 1997, which is the period used for computing the calendar year 1998 update. The price proxy values are based upon the latest available Bureau of Labor Statistics data as of September 1997.

[2] The weights shown for the MEI components are the 1989 base-year weights, which may not sum to subtotals or totals because of rounding. The MEI is a fixed-weight, Laspeyres-type input price index whose category weights indicate the distribution of expenditures among the inputs to physicians' services for calendar year 1989. To determine the MEI level for a given year, the price proxy level for each component is multiplied by its 1989 weight. The sum of these products (weights multiplied by the price index levels) over all cost categories yields the composite MEI level for a given year. The annual percent change in the MEI levels is an estimate of price change over time for a fixed market basket of inputs to physicians' services.

[3] The Physician's Own Time and Nonphysician Employee Compensation category price measures include an adjustment for productivity. The price measure for each category is divided by the 10-year moving average of output per man-hour in the nonfarm business sector. For example, the wages and salaries component of Physician's Own Time is calculated by dividing the rate of growth in average hourly earnings by the 10-year moving average rate of growth of output per man-hour for the nonfarm business sector. Dividing one plus the decimal form of the percent change in the average hourly earnings (1+.036=1.036 by one plus the decimal form of the percent change in the 10-year moving average of labor productivity (1+.008=1.008) equals one plus the change in average hourly earnings net of the change in output per manhour (1.036/1.008=1.028). All Physician's Own Time and Nonphysician Employee Compensation categories are adjusted in this way. Due to a higher level of precision the computer calculated quotient may differ from the quotient calculated from rounded individual percent changes.

[4] The average hourly earnings proxy, the Employment Cost Index proxies, as well as the CPI-U, housing and CPI-U, private transportation are published in the Current Labor Statistics Section of the Bureau of Labor Statistics' Monthly Labor Review. The remaining CPIs and PPIs in the revised index can be obtained from the Bureau of Labor Statistics' CPI Detailed Report or Producer Price Indexes.

[5] Derived from a HCFA survey of several major insurers (the latest available historical percent change data are for calendar year 1997). This is consistent with prior computations of the professional liability insurance component of the MEI.

n/a Productivity is factored into the MEI compensation categories as an adjustment to the price variables; therefore, no explicit weight exists for productivity in the MEI.

3. Medicare Volume Performance Standard Performance Adjustment

Prior to the enactment of the BBA 1997, the update methodology set forth in section 1848(d)(3)(B)(i) of the Act would have increased the primary care services update by 5.3 percentage points, increased the surgical services update by 0.3 percentage points, and decreased the update for all other services by 0.3 percentage points. These adjustments reflect the percentage increase in expenditures between fiscal year 1995 and fiscal year 1996 relative to the volume performance standard rates of increase for fiscal year 1996. The volume performance standard rates of increase were targets for the growth in Medicare expenditures for physicians' services that have subsequently been replaced by the sustainable growth rates. The success or failure in meeting the volume performance standard targets was taken into account in determining the Medicare physician fee schedule update. The update methodology prior to the enactment of the BBA 1997 is described in detail in the November 22, 1996 final notice announcing the physician fee schedule update for 1997 (61 FR 59717).

The MVPS adjustments were derived as follows:

Service	FY 1998 MVPS target	FY 1998 increase in expenditures	MVPS adjustment difference)
	(In Percent)		
Primary Care	9.3	4.0	5.3
Surgical	−0.5	−0.8	0.3
All other	0.6	0.9	−0.3

B. Fiscal Year 1998 Sustainable Growth Rate

Below we explain how we determined the increases for each of the four factors used in determining the sustainable growth rate for fiscal year 1998.

Factor 1—Percentage Increase in Fees for Physicians' Services (Before Applying Legislative Adjustments) for Fiscal Year 1998

This factor was calculated as a weighted average of the calendar year 1997 and 1998 fee increases that apply during fiscal year 1998. Adjustments to the fee increases, such as the move to a single conversion factor, are accounted for in Factor 4 (the increase in expenditures resulting from changes in law or regulations).

Most of the fees for physicians' services (as defined in section I. C. of this notice) are updated by the MEI. However, laboratory services, which represent about 13 percent of the Medicare allowed charges for physicians' services, are updated by the Consumer Price Index for Urban Consumers (CPI–U). The following table, therefore, shows both the MEI and CPI–U updates that were used in determining the percentage increase in physicians' fees for fiscal year 1998.

MEDICARE ECONOMIC INDEX AND CONSUMER PRICE INDEX FOR URBAN CONSUMERS FOR CALENDAR YEARS 1997 AND 1998

	1997	1998
MEI	2.0	2.2
CPI–U	2.7	3.0

After taking into account all the elements described above, we estimate that the weighted-average increase in fees for physicians' services in fiscal year 1998 before applying any legislative adjustments will be 2.3 percent for all physicians' services.

Factor 2—The Percentage Change in the Average Number of Part B Enrollees from Fiscal Year 1997 to Fiscal Year 1998

Due to the rapid growth in Medicare+Choice plan enrollees (whose Medicare-covered medical care is outside the scope of the sustainable growth rate), we estimate that the average number of Medicare Part B enrollees excluding those in Medicare+Choice plans will decline by 2.4 percent. This was derived as follows:

	Average Medicare Part B enrollment (in millions)		
	Overall	Medicare +Choice*	Overall excluding Medicare+Choice
FY 1997	36.384	4.461	31.923
FY 1998	38.775	5.627	31.148
Percent change			−2.4%

*Because the Medicare+Choice program does not begin until 1998, the 1997 Medicare+Choice enrollment was proxied by the risk health maintenance organization enrollment.

Differences between projected and actual enrollment will be adjusted for in subsequent years.

Factor 3—Estimated Real Gross Domestic Product Per Capita Growth in Fiscal Year 1998

In calculating the sustainable growth rate, section 1848(f)(2)(C) of the Act, as amended by section 4503 of the BBA 1997, requires the Secretary to project real gross domestic product per capita growth for the coming fiscal year. We estimate that this growth will be 1.1 percent in fiscal year 1998.

Differences between projected and actual real gross domestic product per capita growth will be adjusted for in subsequent years.

Factor 4—Percentage Increase in Expenditures for Physicians' Services Resulting from Changes in Law or Regulations in Fiscal Year 1998 Compared with Fiscal Year 1997

Legislative changes contained in the BBA 1997 will impact expenditures for physicians' services in fiscal year 1998. Although the move to a single conversion factor for the Medicare physician fee schedule will cause the payments for surgical services to decline, it will increase the payments for nonsurgical services sufficiently to cause an overall increase in expenditures for fiscal year 1998 relative to fiscal year 1997. The Medicare coverage changes for screening mammography, colorectal cancer screening, screening PAP smears, and screening pelvic exams will cause increases in Medicare expenditures. The changes in payments for nurse practitioners, clinical nurse specialists, and physician assistants will also increase expenditures. Medicare to be secondary payer and the provisions relating to payments for laboratory services will cause reductions in Medicare expenditures.

In response to the fee changes associated with implementation of the 1998 physician fee schedule, we anticipate that the volume and intensity of physician services provided to Medicare beneficiaries will increase by 0.1 percent. In order to prevent an increase in expenditures as a result of this volume and intensity response, an offsetting 0.1 percent reduction is made to the conversion factor. Because we incorporate both the volume and intensity response and the offsetting conversion factor reduction into the sustainable growth rate target, if the volume and intensity response does not occur, the sustainable growth rate system returns the offsetting reduction to the conversion factor in form of higher future updates to the Medicare physician fee schedule.

After taking into account all the BBA 1997 provisions, the increase in expenditures for physician services due to changes in law or regulations is estimated to be 0.6 percent.

IV. Inapplicability of a Notice and Comment Procedure and of a 30-Day Delay in Effective Date

We find good cause to waive notice and comment procedure for this final notice. It is an interpretive rule because section 1848 of the Social Security Act, as amended by sections 4501 and 4503 of the BBA 1997, sets out in detail the factors and procedures necessary to calculate the conversion factor for calendar year 1998 and the sustainable growth rate of increase for fiscal year 1998. As required by the statute, section I. A. of this notice discusses the replacement of the three conversion factors that are currently used under the physician fee schedule with a single conversion factor, and the method used to determine the conversion factor for calendar year 1998. Section I. B. of this notice discusses the replacement of the volume performance standard with the sustainable growth rate of increase, and the formula for establishing the fiscal year 1998 sustainable growth rate target for physicians' services under Medicare. Therefore, it would be impracticable and unnecessary to submit this notice to the public for a notice and comment procedure.

We usually provide a delay of 30 days in the effective date for final **Federal Register** documents. In this case, however, the sustainable growth rates of increase are required by law to be published by November 1, 1997 and are effective on October 1, 1997. Thus, the

Congress has clearly indicated its intent that the rates of increase be implemented without the usual 30-day delay in the effective date and has foreclosed any discretion by us in this matter. Therefore, the requirement for a 30-day delay in the effective date does not apply to this notice. With regard to the physician fee schedule conversion factor, the effective date will be January 1, 1998, which exceeds the 30-day requirement for the publication of this notice.

V. Regulatory Impact Statement

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that a notice will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, States and individuals are not entities, but we consider all physicians to be small entities.

We are not preparing a regulatory flexibility analysis since we have determined, and the Secretary certifies, that this notice will not have a significant economic impact on a substantial number of small entities.

Also, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a notice may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

We are not preparing a rural impact analysis since we have determined, and the Secretary certifies, that this notice will not have a significant impact on the operations of a substantial number of small rural hospitals.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

(Sections 1848(d) and (f) of the Social Security Act) (42 U.S.C. 1395w–4(d) and (f))

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: October 27, 1997.

Nancy-Ann Min DeParle,

Deputy Administrator, Health Care Financing Administration.

Dated: October 28, 1997.

Donna E. Shalala,

Secretary.

[FR Doc. 97–29028 Filed 10–30–97; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 414

[BPD–901–NC]

RIN 0938–AI33

Medicare Program; Delay in Implementing the Adjustments to the Practice Expense Relative Value Units Under the Physician Fee Schedule for Calendar Year 1998

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of intent to regulate.

SUMMARY: This notice identifies previsions in the Medicare physician fee schedule regulations that are affected by enactment of the Balanced Budget Act of 1997 (BBA 1997). Section 4505 of the BBA 1997 postpones implementation of a resource-based practice expense relative value unit system until January 1, 1999 and provides for a 4-year transition. In addition, it provides for an adjustment for practice expense relative value units for 1998. It also requires publication of a new proposed rule for practice expense by May 1, 1998, thus requiring significant revision of our proposal contained in the proposed rule published June 18, 1997 (62 FR 33158).

DATES: *Comment Date:* Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on December 30, 1997.

ADDRESSES: Mail written comments (1 original and 3 copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BPD–901–NC, P.O. Box 26688, Baltimore, MD 21207–0488.

If you prefer, you may deliver your written comments (1 original and 3 copies) to one of the following addresses:

Room 309-G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or

Room C5–09–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code BPD–901-NC. Comments received timely will be available for public inspection as they are received, beginning approximately 3 weeks after publication of the document, in Room 309-G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

FOR FURTHER INFORMATION CONTACT: Stanley Weintraub, (410) 786–4498.

SUPPLEMENTARY INFORMATION:

I. Legislative History

Since January 1, 1992, Medicare has paid for physician services under section 1848 of the Social Security Act (the Act), "Payment for Physicians' Services." This section contains three major elements: (1) A fee schedule for the payment of physician services; (2) a method to control the rates of increase in Medicare expenditures for physician services; and (3) limits on the amounts that nonparticipating physicians can charge beneficiaries. Title XVIII of the Act requires that payments under the fee schedule be based on national uniform relative value units (RVUs) based on the resources used in furnishing a service. Section 1848(c) of the Act requires that national RVUs be established for physician work, practice expense, and malpractice expense.

Section 1848(c)(2)(B)(ii)(II) of the Act provides that adjustments in RVUs because of changes resulting from a review of those RVUs may not cause total physician fee schedule payments to differ by more than $20 million from what they would have been had the adjustments not been made. If this tolerance is exceeded, we must make adjustments to the conversion factor to preserve budget neutrality.

II. Published Changes to the Fee Schedule

We published a final rule on November 25, 1991 (56 FR 59502) to implement section 1848 of the Act by establishing a fee schedule for physician services furnished on or after January 1, 1992. In the November 1991 final rule (56 FR 59511), we stated our intention to update RVUs for new and revised codes in the American Medical Association's (AMA's) Physicians' Current Procedural Terminology (CPT) through an "interim RVU" process every year. The latest update to the RVUs and fee schedule was published on November 22, 1996, as a final rule with comment period (61 FR 59490).

In addition, on June 18, 1997, we issued a proposed rule (62 FR 33158) to revise various policies relating to physician services and included in that proposal a chronology of all regulations that updated the fee schedule and related policies.

III. Implementation of Section 4505 of the Balanced Budget Act of 1997

Under the law in effect at the time that the June 18, 1997 physician fee schedule proposed rule was published, we were required to develop a resource-based system for determining practice expense RVUs effective January 1, 1998. The BBA 1997 (Pub. L. 105–33), enacted on August 5, 1997, provides for several revisions in the requirement to change from charge-based practice expense RVUs to a resource-based method.

Specifically, the BBA 1997 provides for the following:

- One-year delay.

Section 4505(a) of the BBA 1997 provides that the implementation of the requirement to move from the current charge-based practice expense RVUs to resource-based practice expense RVUs be delayed from January 1, 1998 to January 1, 1999.

- Phased-in implementation.

Instead of paying for all services entirely under a resource-based system in 1999, section 4505(b) of the BBA 1997 provides for a 4-year transition period. Practice expense RVUs for 1998 will be based on the adjustments described below. The practice expense RVUs for the year 1999 will be determined as the product of 75 percent of the previous year's RVUs (1998) and 25 percent of the resource-based RVUs. For the year 2000, the percentages will be 50 percent charge-based and 50 percent resource-based. For the year 2001, the percentages will be 25 percent charge-based and 75 percent resource-based. For subsequent years, the RVUs will be totally resource-based.

- Review by Comptroller General.

Section 4505(c) of the BBA 1997 requires the Comptroller General to review and evaluate our proposed rule and report to the Congress within 6 months of the date of enactment of the BBA 1997 (that is, by February 5, 1998). The review is to include an analysis of (1) the adequacy of the data used in preparing the rule, (2) categories of allowable costs, (3) methods for allocating direct and indirect expenses, (4) the potential impact of the rule on beneficiary access to services, and (5) any other matters related to the appropriateness of resource-based methodology for practice expenses. The Comptroller General is to consult with representatives of physicians' organizations with respect to matters of both data and methodology.

- Adjustment for practice expense RVUs for 1998.

Section 4505(e) of the BBA 1997 provides that, for 1998, the practice expense RVUs will be adjusted for

certain services in anticipation of the implementation of resource-based practice expenses beginning in 1999. Practice expense RVUs for office visits will increase, while practice expense RVUs for certain other services will be reduced according to a formula included in section 4505(e) of the BBA 1997. The formula requires that services that were proposed to be reduced in the June 18, 1997 proposed rule, and were not performed at least 75 percent of the time in an office setting, would get a uniform percentage reduction. The reduced RVUs for practice expense would be calculated to be equivalent to 110 percent of the work RVUs for the service. However, the total of the reductions cannot exceed $390 million. The procedure codes affected and the final RVUs for 1998 are being published in the physician fee schedule final rule.

• Requirements for new resource-based practice expense RVUs.

Section 4505(d)(3) of the BBA 1997 requires that the Secretary transmit a Report to the Congress by March 1, 1998 including a presentation of data to be used in developing the practice expense RVUs and an explanation of the methodology. Section 4505(d)(3) requires that a proposed rule be published by May 1, 1998, with a 90-day comment period. In order for the transition to begin on January 1, 1999, a final rule would need to be published by October 31, 1998.

In the May 1, 1998 proposed rule, we are required to develop new resource-based practice expense RVUs. In developing new practice expense RVUs, section 4505(d)(3) requires us to: (1) utilize, to the maximum extent practicable, generally accepted cost accounting principles that recognize all staff, equipment, supplies, and expenses, not solely those that can be linked to specific procedures, and use actual data on equipment utilization and other key assumptions; (2) consult with organizations representing physicians regarding methodology and data to be used; and (3) develop a refinement process to be used during each of the 4 years of the transition period.

To assist us in developing the new RVUs using the data the BBA 1997 requires, we are requesting that any physicians, physician organizations, or others provide us with the following information:

• Generally accepted cost accounting principles—We are requesting comments on generally accepted cost accounting principles that recognize all staff, equipment, supplies, and expenses, not just those that can be tied to specific procedures. We particularly solicit comments on aspects of the cost accounting methodology used in the June 18, 1997 proposed rule that were not consistent with the statutory guidance.

We understand from various representatives of physicians and physician groups that special studies were conducted to develop or validate resource-based RVUs for physicians' services. We believe that the information collected from these studies could be helpful in allowing us to evaluate the consistency of our methodology with generally accepted cost accounting principles that recognize all resources, not just those that can be tied to specific procedures. Those studies would also provide a valuable source of information to develop the new set of proposed RVUs. Therefore, we are requesting that completed copies of studies of resource-based RVUs be submitted during the comment period for this notice. We are requesting any underlying surveys supporting those studies, including copies of the actual survey instrument, sample design, general and item response rates, and characteristics of non-response bias.

• Equipment utilization—We are requesting complete copies of any studies or other data showing the actual utilization of equipment by physician practices. The data should be related to specific pieces of equipment used in medical, surgical, and diagnostic (including radiology) services and should be identified as being used in the provision of specific procedure codes. In providing the information, the methodology used to determine the actual equipment utilization should be provided. If a survey was used to obtain the information, pertinent details about the survey (for example, the number and type of surveyed entities and general and item response rates, and assessment of the characteristics of non-response bias) should be provided, as well as a complete copy of the report describing the sampling design, methodology, directions, and definitions.

• Other assumptions—During the development of the proposed practice expense RVUs published in our June 18, 1997 proposed rule, we made a number of assumptions about pricing and other information needed. We would like any actual data that would assist us in reviewing or revising our assumptions for the following:

+ Useful life of equipment—We utilized manufacturer and other estimates of the useful life of equipment. We would like information on the actual useful life of equipment used in providing services. That is, we would like information about the time equipment is in service from the time it is purchased until it is disposed of. This information should be for equipment used by physician practices in furnishing specific procedures.

+ Direct and indirect costs—We would like actual data describing the amount and percentage of direct practice costs versus the amount and percentage of indirect practice costs by specialty. Indirect costs are generally being defined as those costs not *directly* allocable to individual services, such as rent, utilities, maintenance, phones, general clerical staff, and office equipment. We would also like summary information by specialty for these major types of indirect costs. Costs attributable to billing, procedure-specific equipment maintenance, and other direct expenses should not be included since they were captured by the clinical practice expert panels or through other means. The methodology commenters use to gather this information should be provided. If a survey was used, the details of the survey methodology, including the general and item response rates, and characteristics of non-response bias, should be provided, as well as a complete copy of the report describing the sampling design, methodology, directions, and definitions.

Site-of-service assumptions—In our June 18, 1997 proposed rule, we did not publish a practice expense RVU for a site-of-service (in-office or out-of-office) if the service, according to our data, was not performed in that site. We indicated "NA" (not applicable) in the column describing that site in Addendum C (Relative Value Units (RVUs) and Related Information) of the June 1997 proposed rule. We invite comments about whether services where an "NA" indicator was shown can be done safely at that site. Conversely, we invite comments about the safety of services furnished at a site where we show an RVU for a practice expense for a service.

(A copy of the entire June 1997 proposed rule, including the addenda, is available through the Internet at the following address: http://www.access.gpo.gov/su_docs/, by using local WAIS client software, or by telnet to swais.access.gpo.gov, then login as guest (no password required).)

• Use of physician-employed staff in hospitals and other facility settings.

We have been informed by physicians and others that it is a common and widespread practice for a physician's employees, for example, nurses, to accompany the physician to the hospital, ambulatory surgical center, and other facilities. It has been suggested that the function of the staff is to assist the physician in providing services by acting as assistants-at-surgery or serving as scrub nurses.

There seems to be some question whether this practice is in fact common and widespread; therefore, we are requesting comments and information about this practice. We seek precise information about the extent to which it occurs, including but not limited to the specific procedures involved, the specific functions performed by the staff, the specific type of staff involved and their training and credentialling, the particular types of facilities involved, and the type of diagnosis-related group to which the service is assigned. We seek comments from physicians who are familiar with this practice as well as from physicians who are not familiar with it.

We particularly seek information and data from executives and managers of hospitals, ambulatory surgical centers, and other facilities about the nature and extent of this practice. Where it occurs, we are particularly interested in the specific functions performed by the physician's employees and the extent to which they are substitutes for hospital employees. This is particularly important because action would have to be taken to reduce the Medicare facility reimbursement rate since the rate currently covers payment for staff to provide functions that are not provided directly by the facility.

For physicians and others who are providing information about the use of their own staff, and for others who are familiar with the practice, we would like the details of the arrangements, including the name and location of the hospital or facility; whether the facility is a teaching or community hospital; whether the hospital is located in an urban or rural area; the facility's requirements for credentialing of the staff; the specific functions the physician's staff are performing, including any limits on duties of the staff by the facility; and any compensation arrangements from the facility. In addition, where surveys have been conducted to document this practice, we would like to receive complete copies of the survey and its results, including the details of the survey methodology, the response rates, a description of the survey universe and any analysis of non-response bias, the sampling design, directions, definitions, survey forms, and correspondence with respondents.

We would like to contact some of these specific institutions in order to provide us with a more complete understanding of the specific types of staff involved and the specific types of functions provided by the staff.

• Refinement process—We have concluded the first step in the refinement process for resource-based practice expenses. From October 6 through October 8, 1997, we conducted 17 validation panels to review the raw input data previously accumulated by our contractor, Abt Associates, during the clinical practice expert panel process. We validated about 325 high-volume procedure codes. The information from this validation process, subsequent processes under development, and information obtained as a result of this notice will provide a basis for the practice expense RVUs to be proposed in our proposed rule in 1998.

We expect that refinement will be a continuing process for the existing codes and for new codes that come into the system. Since section 4505(d)(1)(C) of the BBA 1997 requires that we develop a refinement process for each of the 4 years of the transition, we would welcome comments on how such a refinement process would operate. In particular, we would like comments about the process to refine the current codes each year and specific comments about assigning practice expense RVUs to new codes. The comments should describe not only the process, but who should be involved and how all of the users of the physician fee schedule would have access to the process. Commenters should consider the amount of time for refinements in 1998 given when the comment period will close (July 31, 1998) and when a final rule needs to be published (October 31, 1998) allowing sufficient time to compile and assemble comments. We will consider the public comments we receive in response to this notice to develop our spring 1998 proposed rule for resource-based practice expense RVUs.

(Secs. 1102, 1848, and 1871 of the Social Security Act; 42 U.S.C. 1302, 1395w–4, and 1395hh)

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: October 9, 1997.

Nancy-Ann Min DeParle,

Deputy Administrator, Health Care Financing Administration.

Dated: October 28, 1997.

Donna E. Shalala,

Secretary.

[FR Doc. 97–29029 Filed 10–30–97; 8:45 am]

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Part IV

The President

Executive Order 13066—Amendment to Executive Order 13037, Commission To Study Capital Budgeting

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Presidential Documents

Title 3—

The President

Executive Order 13086 of October 29, 1997

Amendment to Executive Order 13037, Commission To Study Capital Budgeting

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to increase the membership of the Commission to Study Capital Budgeting, it is hereby ordered that the second sentence of section 1 of Executive Order 13037 is amended by deleting "11" and inserting "no more than 20" in lieu thereof. It is further ordered that section 3 of Executive Order 13037 is amended by deleting the words "by March 15, 1998, or".

William Jefferson

THE WHITE HOUSE,
October 29, 1997.

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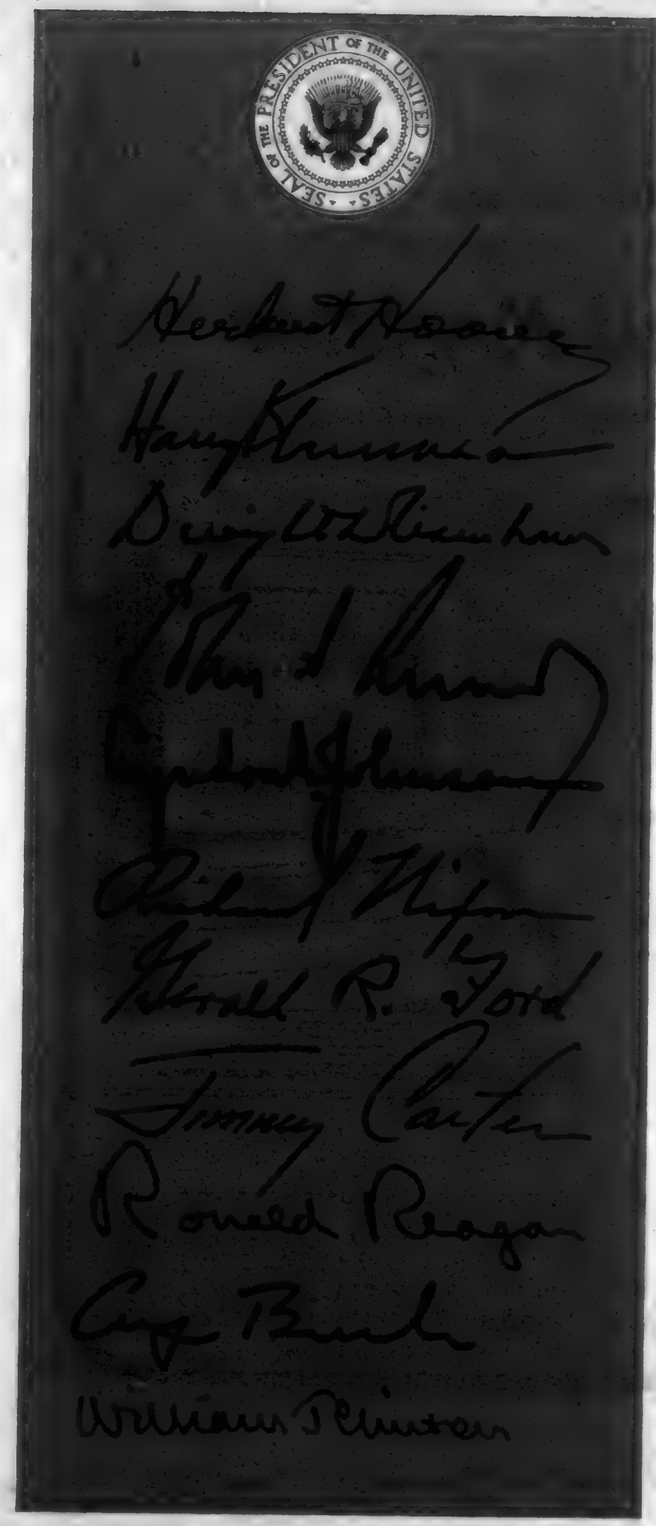

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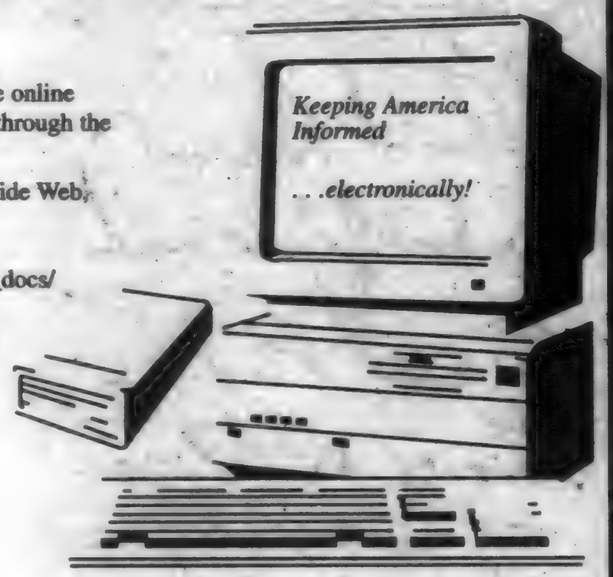

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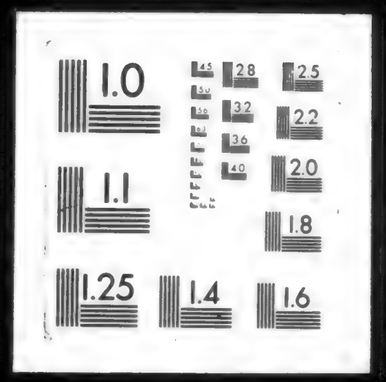

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 13, 32, 50, 51, 55, 60, 72, and 110

RIN 3150–AF86

Minor Correcting Amendments

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; Technical amendment.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to correct several miscellaneous errors in the Code of Federal Regulations (CFR). This document is necessary to inform the public of these corrective changes to NRC regulations.

EFFECTIVE DATE: November 3, 1997.

FOR FURTHER INFORMATION CONTACT: David L. Meyer, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Telephone (301) 415–7162.

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission is amending the regulations in 10 CFR Parts 13, 32, 50, 51, 55, 60, 72, and 110 to correct several miscellaneous errors in regulatory text. These changes in CFR text are necessary because of errors that occurred in the process of preparing and printing various rulemaking documents.

Because these are amendments dealing with agency practice and procedure, the notice and comment provisions of the Administrative Procedure Act do not apply pursuant to 5 U.S.C. 553(b)(A). These amendments are effective upon publication in the **Federal Register**. Good cause exists to dispense with the usual 30-day delay in the effective date because the amendments are of a minor and administrative nature dealing with corrections to certain CFR sections.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, approval numbers 3150–0001, 3150–0011, 3150–0021, 3150–0018, 3150–00127, 3150–0132, and 3150–0036.

Public Protection Notification

If a document used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule and that a backfit analysis is not required, because these amendments do not involve any provisions that would impose backfits as defined in 10 CFR Chapter I.

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10 CFR Part 50

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10 CFR Part 110

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For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to 10 CFR parts 13, 32, 50, 51, 55, 60, 72, and 110.

PART 13—PROGRAM FRAUD CIVIL REMEDIES

1. The authority citation for Part 13 continues to read as follows:

Authority: Public Law 99–509, sec. 6101–6104, 100 Stat. 1874 (31 U.S.C. 3801–3812). Sections 13.13 (a) and (b) also issued under section Pub. L. 101–410, 104 Stat. 890, as amended by section 31001(s), Pub. L. 104–134, 110 Stat. 1321–373 (28 U.S.C. 2461 note).

§ 13.3 [Amended]

2. In § 13.3(b)(1)(ii), add "by" between "prescribed" and "law."

PART 32—SPECIFIC DOMESTIC LICENSES TO MANUFACTURE OR TRANSFER CERTAIN ITEMS CONTAINING BYPRODUCT MATERIAL

3. The authority citation for Part 32 is revised to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

§ 32.74 [Amended]

4. In § 32.74(a)(3), in the first sentence "§ 35.58" is revised to read "§ 35.57."

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

5. The authority citation for Part 50 is revised to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 955 as amended (42 U.S.C. 2131, 2235), sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C 2237).

§ 50.2 [Amended]

6. In § 50.2, the definition of "Electric Utility," in the second sentence, the word "coperatives" is revised to read "cooperatives."

§ 50.46 [Amended]

7. In § 50.46(a)(2), the word "Regulations" is revised to read "Regulation."

§ 50.55 [Amended]

8. In § 50.55a(g)(6)(ii)(A)(2), insert "()" around the "A" in the cite "§ 50.55a(g)(6)(ii)A(3)".

§ 50.65 [Amended]

9. In § 50.65(a)(3), in the third sentence, the first time the word "preventative" appears, it is revised to read "preventing", in the third sentence, the second time the word "preventative" appears, it is revised to read "preventive", and in the fourth sentence, the word "preventative" is revised to read "preventive."

PART 51—ENVIRONMENTAL PROTECTION REGULATIONS FOR DOMESTIC LICENSING AND RELATED REGULATORY FUNCTIONS

10. The Authority citation for Part 51 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953, (42 U.S.C. 2201, 2297f); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842). Subpart A also issued under National Environmental Policy Act of 1969, secs. 102, 104, 105, 83 Stat. 853–854, as amended (42 U.S.C. 4332, 4334, 4335); and Pub. L. 95–604, Title II, 92 Stat. 3033–3041; and sec. 193, Pub. L. 101–575, 104 Stat. 2835 (42 U.S.C. 2243). Sections 51.20, 51.30, 51.60, 51.61, 51.80, and 51.97 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241, and sec. 148, Pub. L. 100–203, 101 Stat. 1330–223 (42 U.S.C. 10155, 10161, 10168). Section 51.22 also issued under sec. 274, 73 Stat. 688, as amended by 92 Stat. 3036–3038 (42 U.S.C. 2021) and under Nuclear Waste Policy Act of 1982, sec 121, 96 Stat. 2228 (42 U.S.C. 10141). Sections 51.43, 51.67, and 51.109 also under Nuclear Waste Policy Act of 1982, sec 114(f), 96 Stat. 2216, as amended (42 U.S.C. 10134(f)).

§ 51.55 [Amended]

11. In § 51.55(a), in the second sentence, insert the word "of" between the words "Office" and "Nuclear."

Appendix B to Subpart A [Amended]

12. In Subpart A, Appendix B, Table B–1 under "Uranium Fuel Cycle and Waste Management," in the third column, second paragraph, fourth sentence, the word "does" is revised to read "dose," and in the third column, fourth paragraph, last sentence, "310^{-3}" is revised to read "3×10^{-3}."

PART 55—OPERATORS' LICENSES

13. The authority citation for Part 55 continues to read as follows:

Authority: Secs. 107, 161, 182, 68 Stat. 939, 948, 953 , as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2137, 2201, 2232, 2282); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842).

Sections 55.41, 55.43, 55.45, and 55.59 also issued under sec. 306, Pub. L. 97–425, 96 Stat. 2262 (42 U.S.C. 10226). Section 55.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237).

§ 55.45 [Amended]

14. In § 55.45(a)(7), the word "head" is revised to read "heat."

PART 60—DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTES IN GEOLOGIC REPOSITORIES

15. The authority citation for Part 60 continues to read as follows:

Authority: Secs. 51, 53, 62, 63, 65, 81, 161, 182, 183, 68 Stat. 929, 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2071, 2073, 2092, 2093, 2095, 2111, 2201, 2232, 2233); secs. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846); secs. 10 and 14, Pub. L. 95–601, 92 Stat. 2951 (42 U.S.C. 2021a and 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 114, 121, Pub. L. 97–425, 96 Stat. 2213g, 2228, as amended (42 U.S.C. 10134, 10141), and Pub. L. 102–486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851).

§ 60.111 [Amended]

16. In § 60.111(a), insert the word "the" between the words "by" and "Environmental."

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

17. The Authority citation for Part 72 is revised to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142 (b) and 148 (c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162 (b), 10168 (c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2224 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

§ 72.54 [Amended]

18. In § 72.54(d), "§ 72.42(d)" is revised to read "§ 72.42(b)."

PART 110—EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL

19. The authority citation for Part 110 continues to read as follows:

Authority: Secs. 51, 53, 54, 57, 63, 64, 65, 81, 82, 103, 104, 109, 111, 126, 127, 128, 129, 161, 181, 182, 183, 187, 189, 68 Stat. 929, 930, 931, 932, 933, 936, 937, 948, 953, 954, 955, 956, as amended (42 U.S.C. 2071, 2073, 2074, 2077, 2092–2095, 2111, 2112, 2133, 2134, 2139, 2139a, 2141, 2154–2158, 2201, 2231–2233, 2237, 2239); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec 5, Pub. L. 101–575, 104 Stat 2835 (42 U.S.C. 2243).

Sections 110.1(b)(2) and 110.1(b)(3) also issued under Pub. L. 96–92, 93 Stat. 710 (22 U.S.C. 2403). Section 110.11 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152) and secs. 54c and 57d, 88 Stat. 473, 475 (42 U.S.C. 2074). Section 110.27 also issued under sec. 309(a), Pub. L. 99–440. Section 110.50(b)(3) also issued under sec. 123, 92 Stat. 142 (42 U.S.C. 2153).Section 110.51 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 110.52 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236). Sections 110.80–110.113 also issued under 5 U.S.C. 552, 554. Sections 110.130–110.135 also issued under 5 U.S.C. 553. Sections 110.2 and 110.42(a)(9) also issued under sec. 903, Pub. L. 102–496 (42 U.S.C. 2151 *et seq.*).

§ 110.4 [Amended]

20. In § 110.4, the telephone number is revised to read "(301) 415–2344."

§ 110.26 [Amended]

21. In § 110.26(a)(2), the words "South Korea" are revised to read "Republic of Korea."

§ 110.52 [Amended]

22. In § 110.52(c), "subpart J" is revised to read "subpart L."

§ 110.111 [Amended]

23. In § 110.111(f), "subpart L" is revised to read "subpart K."

Dated at Rockville, Maryland, this 21st day of October 1997.

For the Nuclear Regulatory Commission.

L. Joseph Callan,

Executive Director for Operations.

[FR Doc. 97–28988 Filed 10–31–97; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–90–AD; Amendment 39–10188; AD 97–23–01]

RIN 2120–AA64

Airworthiness Directives; Fairchild Aircraft, Inc. SA226 and SA227 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 93–15–02 R2, which currently requires the following on Fairchild Aircraft, Inc. (Fairchild Aircraft) SA226 and SA227 series airplanes that are equipped with a certain Simmonds-Precision pitch trim actuator: repetitively measuring the freeplay of the pitch trim actuator and repetitively inspecting the actuator for rod slippage; immediately replacing any actuator if certain freeplay limitations are exceeded or rod slippage is evident; and, eventually replacing the actuator regardless of the inspection results. This action retains the repetitive inspections and replacement requirements, adds the repetitive inspections after the installation of certain Barber-Colesman pitch time actuators, and removes the terminating action. This action is the result of failure of the no-backs on a Barber-Colman pitch time actuator installed on a Fairchild Aircraft SA227 series airplane. The actions specified by this AD are intended to prevent failure of the pitch trim actuator, which could cause loss of control of the airplane.

DATES: Effective December 1, 1997.

The incorporation by reference of Fairchild Aircraft SA226 Series Service Letter 226–SL–014, Fairchild Aircraft SA227 Series Service Letter 227–SL–031, and Fairchild Aircraft SA227 Series Service Letter CC7–SL–021, all Issued: October 3, 1997, is approved by the Director of the Federal Register as of December 1, 1997.

The incorporation by reference of Fairchild Aircraft SA226 Series Service Letter 226–SL–005, and Fairchild Aircraft SA227 Series Service Letter 227–SL–011, both Issued: April 8, 1993, Revised: May 22, 1996, listed in the regulations was previously approved by the Director of the Federal Register as of July 25, 1996 (61 FR 36817, July 15, 1996).

Comments for inclusion in the Rules Docket must be receive on or before January 2, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket 97–CE–90–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Service information that applies to this AD may be obtained from Field Support Engineering, Fairchild Aircraft, Inc., P.O. Box 790490, San Antonio, Texas 78279–0490; telephone (210) 824–9421; facsimile (210) 820–8609. This information may also be examined at the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket 97–CE–90–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Werner Koch, Aerospace Engineer, FAA, Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone (817) 222–5133; facsimile (817) 222–5960.

SUPPLEMENTARY INFORMATION:

Discussion

Airworthiness Directive (AD) 93–15–02 R2, Amendment 39–9689 (61 FR 36817, July 25, 1996), currently requires the following on Fairchild Aircraft SA226 and SA227 series airplanes that are equipped with a certain Simmonds-Precision pitch trim actuator: repetitively measuring the freeplay of the pitch trim actuator and repetitively inspecting the actuator for rod slippage; immediately replacing any actuator if certain freeplay limitations are exceeded or rod slippage is evident; and eventually replacing the actuator regardless of the inspection results.

Accomplishment of the inspections required by AD 93–15–02 R2 is in accordance with Fairchild Aircraft SA226 Series Service Letter (SL) 226–SL–005, or Fairchild Aircraft SA227 Series SL 227–SL–011, both Issued: April 8, 1993, Revised: May 22, 1996.

In addition, AD 93–15–02 R2, Amendment 39–9689 (61 FR 36817, July 15, 1996), eliminates the initial inspection and the repetitive inspection if a Barber-Colman actuator (part number (P/N) 27–19008–001 or –002 is installed.

Actions Since Issuance of the Previous Rule

Since issuance of AD 93–15–02 R2, the FAA received an incident report of a failure of a pitch trim actuator installed on a Fairchild SA227 series airplane during a landing approach. The failure was specifically of the no-backs

on a Barber-Colman pitch trim actuator (P/N 27–19008–002), which caused the horizontal stabilizer to go full leading edge down, resulting in a violent pitch-up of the airplane. According to the report, both pilots had to use extreme force on the control column to recover from the pitch-up and get the airplane safely on the ground.

Because of this incident, Fairchild re-examined the possible fail rate of these pitch trim actuators. This examination shows that the no-backs in the Barber-Coleman pitch trim actuators installed on the Fairchild SA226 and SA227 series airplanes are subject to failure after accumulating a certain amount of hours time-in-service (TIS). As a result, Fairchild now recommends repetitive inspections of the Barber-Colman pitch trim actuators (P/N 27–19008–001/–002).

Relevant Service Information

Fairchild has issued SA226 Series Service Letter (SL) 226–SL–014, Fairchild Aircraft SA227 Series SL 227–SL–031, and Fairchild Aircraft SA227 Series SL CC7–SL–021, all Issued: October 3, 1997, which specify procedures for inspecting and testing all Fairchild SA226 and SA227 series airplanes equipped with a Barber-Colman pitch trim actuator P/N 27–19008–001 or –002.

The FAA's Determination

After examining the circumstances and reviewing all available information related to the incidents described above, including the referenced service information, the FAA has determined that AD action should be taken in order to prevent failure of the pitch trim actuator, which could cause loss of control of the airplane.

Explanation of the Provisions of This AD

Since an unsafe condition has been identified that is likely to exist or develop in other Fairchild SA226 and SA227 series airplanes of the same type design, the FAA is issuing this AD to supersede AD 93–15–02 R2. This AD retains the inspection requirements for airplanes equipped with the Simmonds-Precision pitch trim actuators, and changes the inspection requirements for airplanes equipped with Barber-Colman pitch trim actuators to require repetitively inspecting the actuator. This action eliminates the terminating action in AD 93–15–02 R2. Inspecting the Barber-Colman actuator (P/N 27–19008–001 or –002) is required in accordance with the instructions in Fairchild SL 226–SL–014, SL 227–SL–031, or CC7–SL–021, all Issued: October 3, 1997, whichever is applicable. Inspecting the Simmonds-Precision actuators will continue to be accomplished in accordance with Fairchild Aircraft SA226 Series SL 226–SL–005, or Fairchild Aircraft SA227 Series SL 227–SL–011, both Issued: April 8, 1993, Revised: May 22, 1996.

Determination of the Effective Date of the AD

Since a situation exists (failure of the pitch-trim actuators) that requires the immediate adoption of this regulation, it is found that notice and opportunity for public prior comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting immediate flight safety and, thus, was not preceded by notice and opportunity to comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 97–CE–90–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing AD 93–15–02 R2, Amendment 39–9689 (61 FR 36817, July 15, 1996), and by adding a new airworthiness directive (AD) to read as follows:

97–23–01 Fairchild Aircraft, Inc.: Amendment 39–10188; Docket No. 97–CE–90–AD. Supersedes AD 93–15–01 R2, Amendment 39–9689.

Applicability: All SA226 and SA227 series airplanes (all models and serial numbers), certificated in any category, that are equipped with a Simmonds-Precision pitch trim actuator, (part number (P/N) DL5040M5 or P/N DL5040M6) or a Barber-Colman pitch trim actuator (P/N 27–19008–001 or P/N 27–19008–002).

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD.

The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent failure of the pitch trim actuator, which could cause loss of control of the airplane, accomplish the following:

Note 2: The paragraph structure of this AD is as follows:

Level 1: (a), (b), (c), etc.
Level 2: (1), (2), (3), etc.
Level 3: (i), (ii), (iii), etc.

Level 2 and Level 3 structures are designations of the Level 1 paragraph they immediately follow.

(a) Accomplish the following at the times specified in the chart in paragraph (b) of this AD:

(1) *Initial and repetitive inspections:*

(i) For airplanes equipped with a Simmonds-Precision actuator, P/N DL5040M5 and P/N DL5040M6, measure the freeplay (inspection) of the pitch trim actuator and inspect the actuator for rod slippage in accordance with the INSTRUCTIONS section of Fairchild Aircraft SA226 Series Service Letter (SL) 226–SL–005, or Fairchild Aircraft SA227 Series SL 227–SL–011, both Issued: April 8, 1993, Revised: May 22, 1996, as applicable.

(ii) For airplanes equipped with Barber-Colman actuators, P/N 27–19008–001 or P/N 27–19008–002, conduct a functional inspection of the actuator in accordance with the INSTRUCTIONS section of Fairchild Aircraft SL 226–SL–014, 227–SL–031, or CC7–SL–021, Issued: October 3, 1997, whichever is applicable.

Note 3: The actions in this AD are the same as the actions in AD 93–15–02 R2, except for the repetitive inspections added to the Barber-Colman actuator, P/N 27–19008–001 or P/N 27–19008–002.

(2) *Initial and repetitive replacements:* Replace the pitch trim actuator with one of the following, in accordance with the instructions in the applicable maintenance manual at the time specified in the Repetitive Replacement column of the chart in paragraph (b) of this AD. However, if certain freeplay limitations that are specified in the service letters are exceeded or if rod slippage is found, replace the pitch trim actuator prior to further flight.

(i) A new Simmonds-Precision actuator, P/N DL5040M5 or P/N DL5040M6.

(ii) A pitch trim actuator with an overhauled, zero-timed part of the same design and part number.

(iii) A Barber-Colman actuator, P/N 27–19008–001 or P/N 27–19008–002.

(b) The following chart presents the initial and repetitive inspection and replacement compliance times of this AD:

Condition	Initial inspection	Repetitive inspection	Repetitive replacement
With an original Simmonds-Precision actuator, P/N DL5040M5, installed.	Upon accumulating 3,000 hours TIS on a Simmonds-Precision P/N DL5040M5 actuator or within 50 hours TIS after April 17, 1996 (the effective date of AD 93–15–02 R1), whichever occurs later.	Every 250 hours TIS after initial inspection until accumulating 5,000 hours TIS on the actuator or 500 hours TIS after the last inspection required by AD 93–15–02 R1, whichever occurs later.	Initially upon accumulating 5,000 hours TIS on the actuator or 500 hours TIS after the initial inspection, whichever occurs later, and thereafter as indicated below.
With a replacement Simmonds-Precision actuator, P/N DL5040M5, installed.	Initially upon accumulating 5,000 hours TIS on the new actuator, or within 50 hours TIS after April 17, 1996 (the effective date of AD 93–15–02 R1), whichever occurs later.	Every 300 hours TIS after the initial inspection until accumulating 8,500 hours TIS on the actuator.	Upon accumulating 8,500 hours TIS on the actuator.
With a replacement Simmonds-Precision actuator, P/N DL5040M6, installed. This part can be new, modified from a P/N DL5040M5 actuator, or overhauled and zero-timed.	Initially upon accumulating 7,500 hours TIS on the new or modified actuator, or within 50 hours TIS after April 17, 1996 (the effective date of AD 93–15–02 R1), whichever occurs later.	Every 300 hours TIS after the initial inspection until accumulating 9,900 hours TIS on the actuator.	Upon accumulating 9,900 hours TIS on the actuator.
With a replacement P/N DL5040M5 actuator installed that was overhauled and zero-timed where both nut assemblies, P/N AA56142, were replaced with new assemblies during overhaul.	Initially upon accumulating 5,000 hours TIS on the over-hauled actuator, or within 50 hours TIS after April 17, 1996 (the effective date of AD 93–15–02 R1), whichever occurs later.	Every 300 hours TIS after the initial inspection until accumulating 6,500 hours TIS on the actuator.	Upon accumulating 6,500 hours TIS on the actuator.
With a replacement P/N DL5040M5 actuator installed that was overhauled and zero-timed where both nut assemblies, P/N AA56142, were not replaced with new assemblies during overhaul.	Initially upon accumulating 3,000 hours TIS on the over-hauled actuator, or within 50 hours TIS after April 17, 1996 (the effective date of AD 93–15–02 R1), whichever occurs later.	Every 250 hours TIS after the initial inspection until accumulating 5,000 hours TIS on the actuator.	Upon accumulating 5,000 hours TIS on the actuator.
With a Barber-Colman pitch trim actuator installed, P/N 27–19008–001 or 27–19008–002, currently in-service with less than 1,000 hours TIS since new or overhauled, zero-timed.	Upon accumulating 500 hours total TIS on the new or overhauled zero-timed pitch trim actuator, or within 50 hours TIS after the effective date of this AD, whichever occurs later.	Every 300 hours TIS after the initial inspection.	None.
For newly fabricated and overhauled, zero-timed Barber-Colman actuator, P/N 27–19008–001 or P/N 27–19008–002 actuators.	Upon accumulating 500 hours total TIS on the actuator, or within 50 hours TIS after the effective date of this AD, whichever occurs later.	Every 300 hours TIS after the initial inspection.	None.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Airplane Certification Office (ACO), FAA, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Fort Worth Airplane Certification Office. Alternative methods of compliance, approved in accordance with AD 93–15–02 R2, are not considered to be approved as alternative methods of compliance with this AD.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Forth Worth Airplane Certification Office.

(e) The inspections required by this AD for Fairchild SA226 and SA227 series airplanes equipped with Barber-Colman pitch trim actuators shall be done in accordance with Fairchild Aircraft SA226 Series Service Letter 226–SL–014, Fairchild Aircraft SA227 Series Service Letter 227–SL–031, or Fairchild Aircraft SA227 Series Service Letter CC7–SL–021, all Issued: October 3, 1997, whichever is applicable. This incorporation by reference is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The inspections required by this AD on Fairchild Aircraft SA226 and SA227 series airplanes equipped with Simmonds-Precision pitch trim actuators shall be done in accordance with Fairchild Aircraft SA226 Series Service Letter (SL) 226–SL–005, and Fairchild Aircraft SA227 Series SL 227–SL–011, both Issued: April 8, 1993, Revised: May 22, 1996. This incorporation by reference was previously approved by the Director of the Federal Register as of July 25, 1996 (61 FR 38817, July 15, 1996). Copies of all of the documents may be obtained from Field Support Engineering, Fairchild Aircraft Inc., P.O. Box 790490, San Antonio Texas 78279–0490.

Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment (39–10188) supersedes AD 93–15–02 R2, Amendment 39–8669.

(g) This amendment (39–10188) becomes effective on December 1, 1997.

Issued in Kansas City, Missouri, on October 27, 1997.

Mary Ellen A. Schutt,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–28980 Filed 10–31–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 84–CE–27–AD; Amendment 39–10188; AD 85–02–05 R1]

RIN 2120–AA64

Airworthiness Directives; The New Piper Aircraft, Inc. PA–20, PA–22, PA–23, PA–24, PA–25, PA–30, PA–31P, PA–36, PA–39, and PA–44 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document clarifies information in Airworthiness Directive (AD) 85–02–05, which applies to all The New Piper Aircraft, Inc. (Piper) PA–20, PA–22, PA–23, PA–24, PA–25, PA–30, PA–31P, PA–36, PA–39, and PA–44 series airplanes. AD 85–02–05 currently requires installing on the pilot's instrument panel a Piper part number (P/N) 81090–02 placard, which provides information for operation of the parking brake. Piper has superseded that placard with a P/N 683–107 placard, and operators in need of a new placard can only obtain the P/N 683–107 placard. In this scenario, the owners/operators of the affected airplanes could not comply with AD 85–02–05 as currently written. The P/N 683–107 placard contains the same wording as the P/N 81090–02 placard. The actions specified in that AD are intended to prevent airplane controllability problems while involved in ground operation because of improper brake operations. This document maintains the placard requirement of AD 85–02–05, and adds the installation of the P/N 683–107 placard as an option of compliance.

DATES: Effective November 21, 1997.

FOR FURTHER INFORMATION CONTACT: William Herderich, Aerospace Engineer, Atlanta Certification Office, FAA, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6084; facsimile (770) 703–6097.

SUPPLEMENTARY INFORMATION:

Discussion

AD 85–02–05, Amendment 39–4984, currently requires the following on Piper PA–20, PA–22, PA–23, PA–24, PA–25, PA–30, PA–31P, PA–36, PA–39, and PA–44 series airplanes: installing on the pilot's instrument panel a Piper part number (P/N) 81090–02 placard, which provides information for operation of the parking brake. The actions required by AD 85–02–05 are intended to prevent airplane controllability problems while involved in ground operation because of improper brake operations.

Need for the Correction

Piper has superseded the P/N 81090–02 placard with a P/N 683–107 placard, and owners/operators in need of a new placard can only obtain the P/N 683–107 placard. In this scenario, the owners/operators of the affected airplanes could not comply with AD 85–02–05 as currently written. The P/N 683–107 placard contains the same wording as the P/N 81090–02 placard.

Correction of Publication

This document maintains the placard requirement of AD 85–02–05, adds the installation of the Piper P/N 683-107 placard as an option of compliance, adds a paragraph that allows the pilot to install the placard, adds the standard alternative method of compliance paragraph, and adds the AD as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13).

Since this action only adds the Piper P/N 683–107 placard as an option of compliance, it has no adverse economic impact and imposes no additional burden on any person than would have been necessary to comply with AD 85–02–05. Therefore, the FAA has determined that prior notice and opportunity for public comment are unnecessary.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Airworthiness Directive (AD)

85–02–05, Amendment 39–4984, and by adding a new AD to read as follows:

85–02–05 R1 The New Piper Aircraft, Inc.: Amendment 39–10188; Docket No. 84–CE–27–AD. Revises AD 85–02–05, Amendment 39–4984.

Applicability: The following model and serial number airplanes, certificated in any category:

Models	Serial numbers
PA–20, PA–20S, PA–20–115, PA–20S–115, PA–20–135, and PA–20S–135.	20–1 through 20–1121.
PA–22, PA–22–108, PA–22–135, PA–22S–135, PA–22–150, PA–22S–150, PA–22–160, and PA–22S–160.	22–1 through 22–9848.
PA–23 and PA–23–160.	23–1 through 23–2046.
PA–23–235, PA–23–250, and PA–E23–250.	27–1 through 27–8154030.
PA–24, PA–24–250, and PA–24–260.	24–1 through 24–5034.
PA–24–400	26–1 through 26–148.
PA–25, PA–25–235, and PA–25–260.	25–1 through 25–8156024.
PA–30	30–1 through 30–2000.
PA–31P	31P–1 through 31P–7730012.
PA–36–285, PA–36–300, and PA–36–375.	36–7360001 through 36–8302025.
PA–39	39–1 through 39–162.
PA–44–180	44–7995001 through 44–8195026.
PA–44–180T	44–8107001 through 44–8207020.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, repaired, or reconfigured in the area subject to the requirements of this AD. For airplanes that have been modified, altered, repaired, or reconfigured so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within 100 hours time-in-service after March 1, 1985 (the effective date of AD 85–02–05, Amendment 39–4984) or prior to the next flight after the effective date of this AD, whichever occurs later, unless already accomplished.

To prevent airplane controllability problems while involved in ground operation because of improper brake operations, accomplish the following:

(a) Install one of the following in a central location on the pilot's instrument panel in full view of the pilot.

(1) A Piper part number 81090–02 placard; or

(2) A Piper part number 683–107 placard.

Note 2: The above referenced placards both contain the following language:

"Warning No Braking Will Occur if Aircraft Brakes Are Applied While Parking Brake Handle is Pulled and Held"

(b) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) Installing the placard required by paragraph (a) of this AD may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Atlanta Aircraft Certification Office (ACO), One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349.

(1) The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

(2) Alternative methods of compliance approved in accordance with AD 85–02–05 (revised by this action) are considered approved as alternative methods of compliance with this AD.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

(e) All persons affected by this directive may examine information pertaining to this document at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(f) This amendment (39–10188) becomes effective on November 21, 1997.

Issued in Kansas City, Missouri, on October 27, 1997.

Mary Ellen A. Schutt,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–28983 Filed 10–31–97; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 173

[Docket No. 93F–0481]

Secondary Direct Food Additives Permitted in Food for Human Consumption; Milk-Clotting Enzymes

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of aspartic proteinase enzyme preparation produced by pure culture fermentation of *Aspergillus oryzae* modified by recombinant deoxyribonucleic (DNA) techniques to contain the gene for aspartic proteinase enzyme from *Rhizomucor miehei* for use as a milk-clotting enzyme in the production of cheese.

DATES: The regulation is effective November 3, 1997; written objections and requests for a hearing by December 3, 1997.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Wendy J. Dixon, Center for Food Safety and Applied Nutrition (HFS–206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3090.

SUPPLEMENTARY INFORMATION:

In a notice published in the **Federal Register** of January 21, 1994 (59 FR 3385), FDA announced that a food additive petition (FAP 4A4406) had been filed by Novo Nordisk Bioindustrials, Inc., proposing that the food additive regulations be amended to provide for the safe use of aspartic proteinase enzyme preparation produced by pure culture fermentation of *A. oryzae* modified by recombinant DNA techniques to contain the gene for aspartic proteinase enzyme from *R. miehei* for use in the production of cheese. Although Novo Nordisk Bioindustrials, Inc., submitted FAP 4A4406, while the petition was under review, Gist-Brocades International B. V. purchased the dairy enzyme business from Novo Nordisk, at which time, the responsibility for the petition transferred to Gist-Brocades International B. V.

I. Evaluation of Safety of the Petitioned Use of the Additive

A. Aspergillus Oryzae

The host organism for production of aspartic proteinase is the fungus *A. oryzae*. *A. oryzae* has had a long history of use, greater than 2,000 years, in the production of enzymes, e.g., koji and α-amylase, used in the fermentation and processing of food products, such as soy-sauce, miso, sake, baked goods, and brewery products (Refs. 1 and 2). The nonpathogenicity and nontoxigenicity of this microbe to humans and its inability to produce antibiotics is well-documented in the literature (Refs. 1, 3, and 4). This conclusion regarding the nonpathogenicity and nontoxigenicity of this microbe is consistent with a recent evaluation of the Joint Expert Committee on Food Additives (JECFA) of the Food and Agriculture Organization (FAO) and the World Health Organization (WHO) (Ref. 5). JECFA evaluated the current uses of *A. oryzae* and enzyme preparations therefrom and concluded that the amylases and proteases from *A. oryzae* that were included in JECFA's review should be regarded as foods and thus, are safe for use in food processing.

The petitioner submitted a study to investigate the pathogenic potential of five strains of *A. oryzae*, including the parental strain and four recombinant strains; one of the strains tested is the subject of this petition. FDA evaluated this study and concluded that the recombinant strains of *A. oryzae*, as well as the unmodified parental strain, demonstrated no pathogenicity for mice when spores were inoculated in large numbers. Previously, *A. oryzae* has been the subject of evaluations performed by FDA, and based on those evaluations FDA concluded that the spores of two strains of *A. oryzae* are nonpathogenic to mice (Ref. 6). Therefore, FDA concludes that the recombinant strain of *A. oryzae* that is the subject of this petition is nonpathogenic and nontoxigenic (Ref. 3).

B. Rhizomucor Miehei

R. miehei, originally named *Mucor miehei* (Ref. 7), is the microorganism used as the source of the genetic material for the aspartic proteinase enzyme that is the subject of FAP 4A4406. Enzyme preparations derived from *R. miehei* (aspartic proteinase, or esterase-lipase activity produced by pure culture fermentation of *R. miehei* (as *M. miehei*)) are food additives that are approved for use in cheese production under §§ 173.150(a)(4) and 173.140 (21 CFR 173.150(a)(4) and 173.140), respectively.

C. Aspartic Proteinase Preparation

As discussed above, aspartic proteinase preparation produced by pure culture fermentation of *R. miehei* for use as a milk-clotting agent in the production of cheese is an approved food additive under § 173.150(a)(4). The petitioner has submitted the following evidence to demonstrate that it has cloned full length copies of the aspartic proteinase gene from *R. miehei* into *A. oryzae*: (1) DNA sequencing information, whereby the cloned putative aspartic proteinase gene was shown to have the same nucleotide sequence that encodes the amino acid sequence of the *R. miehei* aspartic proteinase; and (2) nucleic acid hybridization studies whereby the cloned DNA fragments were shown to hybridize (i.e., specifically bind) with complementary DNA from the aspartic proteinase gene.

To further confirm the identity of the aspartic proteinase cloned into *A. oryzae*, the petitioner provided information on the sodium dodecyl polyacrylamide gel electrophoresis (SDS–PAGE)[1] relative mobility of recombinant aspartic proteinase and aspartic proteinase from *R. miehei*, with and without treatment by endo-glucosidase H (an enzyme that removes most glycosyl moieties from proteins). The results from this study establish that untreated aspartic proteinase from recombinant *A. oryzae* has a lower relative mobility than untreated aspartic proteinase from *R. miehei*. However, after pretreatment with endo-glucosidase H, the aspartic proteinase preparations from both recombinant *A. oryzae* and *R. miehei* have an identical SDS–PAGE relative mobility. This is higher than the mobilities of either of the untreated forms of aspartic proteinase. These results show that aspartic proteinase from *A. oryzae* or *R. miehei* is glycosylated but when the *R. miehei* gene for aspartic proteinase is expressed in *A. oryzae*, the aspartic proteinase enzyme is more extensively glycosylated (Ref. 8).

FDA finds that glycosylation of the aspartic proteinase enzyme does not raise any safety concerns. Glycosylation is characteristic of many proteins produced in the cells of eukaryotic organisms, which include higher plants and animals, and fungi, such as *A. oryzae* and *R. miehei* (Ref. 9). However, the type and amount of glycosyl moieties attached to glycoproteins varies, even among closely related organisms (Ref. 10). Therefore, proteins with identical amino acid sequences may have different amounts and types of glycosylation when produced in different eukaryotic organisms, such as *A. oryzae* and *R. miehei*. Because *A. oryzae* is a common, nonpathogenic, nontoxigenic organism that has a safe history of use in the production of food processing enzymes (Refs. 1 and 3), the agency finds that the more extensively glycosylated aspartic proteinase enzyme from recombinant *A. oryzae* is as safe as the less extensively glycosylated aspartic proteinase enzyme from *R. miehei*.

The petitioner submitted several toxicological studies that address the safety of the petitioned aspartic proteinase preparation. These include: (1) Short term and subchronic toxicity studies in both rats and dogs; (2) a teratogenicity study in rats; and (3) genotoxicity studies, including tests for mutagenic activity in *Salmonella typhimurium* and mammalian cells, as well as tests for chromosome-damaging activity in human lymphocytes. FDA has reviewed these studies and concludes that the petitioned aspartic proteinase preparation does not raise any toxicity concerns at the expected level of consumption nor does it have any mutagenic potential (Refs. 6, 11, and 12).

D. Source of Impurities

Enzyme preparations used in food are usually not chemically pure, but contain cellular and processing material. The nature and amounts of these impurities in the finished enzyme preparation depend on the organism from which the enzyme preparation is produced (the production organism), the fermentation materials and methods used to grow the production organism, and the materials and methods used to generate the finished enzyme preparation. Thus, the question is whether the production organism or the manufacturing methods used to grow the production organism or to generate the finished enzyme preparation from recombinant *A. oryzae*, will introduce impurities that raise concerns about the safety of the enzyme preparation. In addition, § 173.150(c) states that the milk-clotting enzyme preparation shall be produced by a process that completely removes the generating organism from the milk-clotting enzyme product. The agency concludes that the petition contains information demonstrating that the manufacturing process includes procedures to ensure that the production organism is completely removed from the enzyme preparation during the manufacturing (Refs. 3 and 13).

One issue raised by the use of recombinant DNA techniques is the potential transfer of DNA encoding for extraneous proteins along with the gene of interest (i.e., aspartic proteinase), thereby contaminating the enzyme preparation. As a matter of current good manufacturing practice, manufacturers using recombinant DNA technology should ensure that they have not inadvertently cloned extraneous protein-encoding DNA along with the aspartic proteinase gene that may lead to contamination of the aspartic proteinase enzyme preparation. Such assurance can come from reviewing the details of the cloning steps, which include the origin and sequence of the DNA fragments used in the cloning, and full characterization of the final genetic constructs via techniques such as DNA sequencing.

The petition contains information demonstrating that the petitioner evaluated the cloning process to ensure that the final cloning product, i. e., the DNA with the aspartic proteinase gene and other components to ensure accurate expression of the gene, used in the development of the recombinant *A. oryzae* was accurately constructed. As mentioned above, the petitioner submitted evidence to demonstrate that it cloned full length copies of the aspartic proteinase gene from *R. miehei* into *A. oryzae*. In addition to the aspartic proteinase gene, the recombinant *A. oryzae* strain contains a marker gene conferring resistance to ampicillin (*amp*^{r}), a clinically useful antibiotic, as well as a marker gene encoding the enzyme acetamidase (*amdS*), which permits the transformed strain to utilize acetamide as a nitrogen or carbon source. The petitioner states that the only transgenes expressed in the production organism, *A. oryzae*, are the aspartic proteinase transgene and the *amdS* transgene. Aspartic proteinase is secreted into the culture medium from which the enzyme preparation is produced while the enzyme acetamidase is not. Therefore, the agency concludes that the acetamidase is effectively removed when the production cells are discarded during processing (Ref. 13).

The expression of the *amp*^{r} gene is controlled by a promoter, a region of DNA that is a major component in the regulation of a gene. In general, bacterial promoters do not function in higher organisms, including the fungus *A. oryzae*. Because expression of the *amp*^{r} gene is controlled by a bacterial promoter, this gene is not expected to be expressed in the production organism, *A. oryzae*. The agency has considered the potential consequences if expression of the *amp*^{r} transgene were to occur in the production organism. The petitioner noted that the enzyme preparation is produced from the fermentation supernatant and that in the process, intact cells are removed. Therefore, even if expression of the *amp*^{r} gene takes place, the gene product would be sequestered within the intact cells and therefore, would not be present in the fermentation supernatant, which is the source of the aspartic proteinase enzyme preparation. Accordingly, the agency concludes that any *amp*^{r} gene product would effectively be removed from the enzyme preparation (Ref. 13).

Finally, FDA notes that § 173.150(b) stipulates that the microbial milk-clotting enzyme listed in the food additive regulations should be produced using a production strain that is nonpathogenic and nontoxic in man or other animals. For example, if the DNA inserted by recombinant methodology were to encode a toxic substance that would render the enzyme preparation unsafe, the resulting aspartic proteinase preparation would not conform with the prescribed conditions under § 173.150, and therefore, food processed with the improperly manufactured enzyme preparation would be deemed adulterated.

FDA concludes that, when the aspartic proteinase preparation is manufactured in conformity with § 173.150, there is no basis for concern regarding the possibility that the aspartic proteinase preparation will be contaminated by the products of extraneous protein-encoding DNA (e.g., products of *amdS* and *amp*^{r} genes) inserted along with the aspartic proteinase gene in *A. oryzae* (Ref. 13).

Furthermore, FDA concludes, having considered the evidence concerning the production organism and the processing steps to derive the aspartic proteinase preparation, that *A. oryzae* containing aspartic proteinase gene from *R. miehei* is safe for use as a source of food-grade aspartic proteinase preparations, and that impurities resulting from the use of *A. oryzae* containing aspartic proteinase gene from *R. miehei* in the production of aspartic proteinase preparation will not affect the safety of the aspartic proteinase preparation.

II. Conclusion

The agency finds that the principal active ingredient, i.e., aspartic proteinase, in the aspartic proteinase enzyme preparation, is the same as that in the milk-clotting enzyme preparation from *R. miehei*, and that when the preparation is manufactured in accordance with the conditions of use listed in § 173.150, the source organism and manufacturing process will not introduce impurities that may render the use of the enzyme preparation unsafe.

The agency has evaluated the data in the petition and other relevant material. Based on this information, the agency concludes that the proposed use of aspartic proteinase enzyme preparation from *A. oryzae* containing the aspartic proteinase gene from *R. miehei* is safe and that the additive will achieve its intended technical effect. Therefore, the regulation in § 173.150 should be amended.

III. Inspection of Documents

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

IV. Environmental Impact

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

V. Objections

Any person who will be adversely affected by this regulation may at any time on or before December 3, 1997, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and

[1] SDS–PAGE is a technique that enables one to compare the relative molecular weight of proteins based on their rate of migration through the gel. The SDS-PAGE relative mobility of a protein is directly related to its molecular weight.

analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

VI. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Barbesgaard, P., H. P. Heldt-Hansen, and B. Diderichsen, "On the Safety of *Aspergillus oryzae*: A Review," *Applied Microbiology and Biotechnology*, 36:569–572, 1992.

2. "Biotechnologies and Food: Assuring the Safety of Foods Produced by Genetic Modification," *Regulatory Toxicology and Pharmacology*, 12 (3):S114–S128, 1990.

3. Memorandum from J. Madden, FDA, to D. Keefe, FDA, April 11, 1994.

4. Gray, W. D., *The Use of Fungi as Food and in Food Processing*, pp. 42–100, CRC Press, Cleveland, OH, 1970.

5. Joint FAO/WHO Expert Committee on Food Additives. "Toxicological Evaluation of Certain Food Additives," 31st Meeting, Geneva, February 16–25, 1987.

6. Memorandum from H. C. A. Chang, FDA, to D. Keefe, FDA, March 14, 1994.

7. Shipper, M. A. A., "On the Genera *Rhizomucor* and *Parasitella*," *Studies in Mycology*, 17:53–65, 1978.

8. Cristensen, T. et al., "High Level Expression of Recombinant Genes in *Aspergillus oryzae*," *Bio/Technology*, 6:1419–1422, 1988.

9. Herrman, J. L. et al., "Bacterial Glycoproteins: A Link Between Glycosylation and Proteolytic Cleavage of a 19 kDa Antigen from *Mycobacterium tuberculosis*," *EMBO Journal*, 15:3547–3554, 1996.

10. Grinna, L. S., and J. F. Tschopp, "Size Distribution and General Structural Features of N-linked Oligosaccharides from the Methylotrophic Yeast, *Pichia pastoris*," *Yeast*, 5 (2):107–115, 1989.

11. Memorandum from S. E. Carberry, FDA, to D. Keefe, FDA, January 5, 1995.

12. Memorandum from H. C. A. Chang, FDA, to D. Keefe, FDA, February 6, 1995.

13. Memorandum from T. A. Cebula, FDA, to D. Keefe, FDA, April 4, 1995.

List of Subjects in 21 CFR Part 173

Food additives.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 173 is amended as follows:

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR part 173 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348.

2. Section 173.150 is amended by adding paragraph (a)(5) to read as follows:

§ 173.150 Milk-clotting enzymes, microbial.

* * * * *

(a) * * *

(5) *Aspergillus oryzae* modified by recombinant deoxyribonucleic (DNA) techniques to contain the gene coding for aspartic proteinase from *Rhizomucor miehei* var. *Cooney et Emerson* as defined in paragraph (a)(4) of this section, and classified as follows: Class, Blastodeuteromycetes (Hyphomycetes); order, Phialidales (Monliliales); genus, *Aspergillus*; species *oryzae*.

Dated: October 20, 1997.

L. Robert Lake,

Director, Office of Policy, Planning and Strategic Initiatives, Center for Food Safety and Applied Nutrition.

[FR Doc. 97–29048 Filed 10–31–97; 8:45 am]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 063–0053a; FRL–5911–4]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, San Diego County Air Pollution Control District, Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the California State Implementation Plan (SIP). These revisions concern rules from the San Diego County Air Pollution Control District (SDCAPCD) and the Ventura County Air Pollution Control District (VCAPCD). This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The revised rules control VOC emissions from metal container, metal closure, and metal coil coating operations and marine vessel coating operations. Thus, EPA is finalizing the approval of these revisions into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

DATES: This action is effective on January 2, 1998 unless adverse or critical comments are received by December 3, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the rule revisions and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are available for inspection at the following locations:

Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, S.W., Washington, D.C. 20460

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 92123–1095

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123–1096

Ventura County Air Pollution Control District, 702 County Square Drive, Ventura, California 93003.

FOR FURTHER INFORMATION CONTACT: Jerald S. Wamsley, Rulemaking Office, AIR–4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1226

SUPPLEMENTARY INFORMATION:

I. Applicability

The rules being approved into the California SIP include SDCAPCD's Rule 67.4, Metal Container, Metal Closure, and Metal Coil Coating Operations, and VCAPCD's Rule 74.24, Marine Vessel Coating Operations. These rules were submitted by the California Air Resources Board (CARB) to EPA on October 18, 1996 and May 24, 1994, respectively.

II. Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 Act or pre-amended Act), that included San Diego and Ventura counties, see 43 FR 8964, 40 CFR 81.305. On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the 1977 Act, that the San Diego and Ventura county portions of the California SIP were inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies.

Section 182(a)(2)(A) applies to areas designated as nonattainment prior to enactment of the amendments and classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172(b) as interpreted in pre-amendment guidance.[1] EPA's SIP-Call used that guidance to indicate the necessary corrections for specific nonattainment areas. San Diego County is classified as "serious" and Ventura County as "severe".[2] As a result, these areas were subject to the RACT fix-up requirement and the May 15, 1991 deadline.

The State of California submitted many revised RACT rules for incorporation into its SIP on October 18, 1996 and May 24, 1994, including the rules being acted on in this document. This document addresses EPA's direct-final action on SDCAPCD's Rule 67.4, Metal Container, Metal Closure, and Metal Coil Coating Operations, and VCAPCD's Rule 74.24, Marine Vessel Coating Operations. SDCAPCD adopted revisions to Rule 67.4 on July 25, 1995 and May 15, 1996. This submitted rule was found to be complete on December 19, 1996 pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51 Appendix V.[3] VCAPCD adopted Rule 74.24 on March 8, 1994. EPA found this submitted rule complete on July 14, 1994.

EPA's review of SDCAPCD Rule 67.4 addresses two adopted revisions of the rule, one from July 25, 1995 and May 15, 1996. These two adopted versions of SDCAPCD 67.4 were submitted by CARB to EPA on October 18, 1996. Because the July 25, 1995 revisions to Rule 67.4 are reflected in the later May 15, 1996 revision and adoption, this rulemaking concerns substantively the latest adopted submittal of Rule 67.4, the May 15, 1996 rule revision.

SDCAPCD Rule 67.4 and VCAPCD Rule 74.24 are prohibitory rules governing the use and application of coating compounds containing photochemically reactive volatile organic compounds (VOCs) in their respective industries, metal container, closure, and coil manufacturing and marine vessel building, painting, and repair. VOCs contribute to the production of ground level ozone and smog. These rules were originally adopted as part of both the SDCAPCD and VCAPCD's respective efforts to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and in response to EPA's SIP-Call and the section 182(a)(2)(A) CAA requirement. EPA's evaluation and final action for these rules follow below.

III. EPA Evaluation and Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote 1. Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "fix-up" their RACT rules. See section 182(a)(2)(A). The CTGs applicable to these rules are as follows: "Control of Volatile Organic Emissions from Existing Stationary Sources Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light Duty Trucks," USEPA, May 1977, EPA–450/2–77–008; and, "Control Technique Guidelines (CTG) for Shipbuilding and Ship Repair Operations (Surface Coating), USEPA, 61 FR 44050–44057, August 27, 1996. Further interpretations of EPA policy are found in the Blue Book, referred to in footnote one. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

On May 2, 1995, EPA approved into the SIP a version of SDCAPCD's Rule 67.4, Metal Container, Metal Closure, and Metal Coil Coating Operations, that had been adopted by SDCAPCD on September 27, 1994. The revised version of SDCAPCD Rule 67.4 under consideration today includes the following significant changes from the current SIP rule:

—Lowered VOC limits for end sealing compound for food and beverage containers, from 440 grams/liter (gr/l) to 20 gr/l;
—Added VOC limits for exterior and interior spray coating of new (as opposed to reconditioned) drums, pails, and lids at 340 and 420 gr/l;
—Added requirements for equipment cleaning operations;
—Exempted the use of cleaning material in quantities of less than 10 gallons per month from the prohibition of VOC containing materials;
—Updated several definitions;
—Updated and added test methods; and,
—Revised the exempt compound definition to reference Rule 2, a rule defining exempt compounds for all rules regulating VOC emissions.

EPA has reviewed and approved Rule 2 and similar changes to other VOC related rules for incorporation into the California SIP (see 62 FR 14659, March 27, 1997.)

EPA has evaluated SDCAPCD Rule 67.4 and has determined that it is consistent with the CAA, EPA regulations, and EPA policy. Therefore,

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[1] Among other things, the pre-amendment guidance consists of those portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 Federal Register Notice" (Blue Book) (notice of availability was published in the Federal Register on May 25, 1988); and the existing control technique guidelines (CTGs).

[2] Both San Diego and Ventura counties retained their designation of nonattainment and were classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 56 FR 56694 (November 6, 1991).

[3] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

SDCAPCD's Rule 67.4, Metal Container, Metal Closure, and Metal Coil Coating Operations, is approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and part D.

There is no version of VCAPCD's Rule 74.24, Marine Vessel Coating Operations, in the SIP. The submitted rule includes the following provisions: applicability, general and specialty coating emission limits, add-on emission control equipment requirements; allowable exemptions from the rule, recordkeeping requirements, appropriate test methods, violations under the rule, and a list of definitions operable within the rule.

EPA has evaluated VCAPCD Rule 74.24 as submitted and has determined that it is consistent with the CAA, EPA regulations, and EPA policy. Therefore, VCPCD's Rule 74.24, Marine Vessel Coating Operations, is approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and part D.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

EPA is publishing this document without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective January 2, 1998, unless, by December 3, 1997, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective January 2, 1998.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 2, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: September 26, 1997.

Felicia Marcus,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(197)(i)(D) and (c)(241)(i)(A)(*2*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(197) * * *

(i) * * *

(D) Ventura County Air Pollution Control District.

(*1*) Rule 74.24, adopted on March 8, 1994.

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(241) * * *

(i) * * *

(A) * * *

(*2*) Rule 67.4, revised on May 15, 1996.

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[FR Doc. 97–29050 Filed 10–31–97; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 260

[FRL–5916–3]

Project XL Site-Specific Rulemaking for Molex, Inc., 700 Kingbird Road Facility, Lincoln, NE

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is proposing to implement a project under the Project XL program for the Molex, Inc. (Molex) facility located at 700 Kingbird Road, Lincoln, NE. The terms of the project are defined in a draft Final Project Agreement (FPA) which is being made available for public review and comment by this document. Also, EPA is making available for informational purposes a draft variance by the Nebraska Department of Environmental Quality necessary for implementation of the project. In addition, EPA is today promulgating a direct final site-specific rule, applicable only to the Molex facility, to facilitate implementation of the project. Also in today's **Federal Register**, EPA is publishing a proposed rule identical to this direct final rule. By this document, EPA solicits comment on the direct final rule, the draft variance, the draft FPA, and the project generally. Public notice is also being provided locally.

This direct final site-specific rule is intended to provide regulatory changes under the Resource Conservation and Recovery Act (RCRA) to implement Molex's XL project, which will result in superior environmental performance and, at the same time, provide Molex with greater operational flexibility. The flexibility provided by Project XL will allow the facility to segregate waste streams which had previously been co-mingled into a single waste stream. By changing the process lines to generate separate waste streams (nickel, copper, tin/lead), the facility can optimize the precipitation of each metal more effectively before the effluent is sent to the POTW. The environmental benefit from the project will be a substantial reduction in the mass loading of metals entering the City of Lincoln's POTW. In addition, the resultant mono-metal sludges will be commodity-like materials suitable for recycling by smelters. A secondary environmental benefit will be increased recycling and reducing the amount of material that would otherwise be landfilled. The site-specific rule, applicable only to the Molex facility, would change certain RCRA requirements so the implementing agency, the Nebraska Department of Environmental Quality, may issue a temporary variance from classifying as solid waste nickel, copper, and tin/lead non-precious metals containing sludges generated by Molex.

DATES: This action will be effective January 2, 1998, unless adverse comments are received by December 3, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.

Public Hearing. A public hearing will be held, if requested, to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning this direct final rule to implement Molex's XL project. If anyone contacts the EPA requesting to speak at a public hearing by November 24, 1997, a public hearing will be held at 7:00 p.m. on December 15, 1997. EPA will determine no later than November 28, 1997 whether a public hearing will be held. Additional information is provided in the section entitled **ADDRESSES**.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact Mr. David Doyle at the EPA by November 24, 1997. Additional information is provided in the section entitled **ADDRESSES**.

ADDRESSES: *Comments.* Written comments should be submitted in duplicate to: Mr. David Doyle, U.S. Environmental Protection Agency, Region VII, Air, RCRA & Toxics Division, 726 Minnesota Avenue, Kansas City, KS 66101, (913) 551–7667.

Docket. A docket containing supporting information used in developing this direct final rulemaking is available for public inspection and copying at U.S. EPA, Region VII, Air, RCRA & Toxics Division, 726 Minnesota Avenue, during normal business hours, and at EPA's Water docket (Docket name "XL–Molex"); 401 M Street, SW, Washington, DC 20460. For access to the Water docket materials, call (202) 260–3027 between 9:00 a.m. and 3:30 p.m. (Eastern time) for an appointment. A reasonable fee may be charged for copying. A docket is also available for public inspection at the Nebraska Department of Environmental Quality, Lincoln, NE.

Public Hearing. If a public hearing is held, it will be held at 7:00 p.m. on December 15, 1997 at the following location: Nebraska Department of Environmental Quality, Lincoln, NE. Persons interested in whether a hearing will be held should contact Mr. David Doyle, (913) 551–7667, after November 28, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. David Doyle, U.S. Environmental Protection Agency, Region VII, Air, RCRA & Toxics Division, 726 Minnesota Avenue, Kansas City, KS 66101, (913) 551–7667.

SUPPLEMENTARY INFORMATION:

Outline of This Document

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II. Background
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1. Introduction
2. Molex XL Project Description
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III. Resource Conservation and Recovery Act Requirements
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I. Authority

This regulation is being promulgated under the authority of sections 1004, 2002, 3001–3007, and 3010 of the Solid Waste Disposal Act of 1970, as amended by the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6903, 6912, 6921–6927, and 6930).

II. Background

A. Overview of Project XL

This site-specific rule is designed to implement a project developed under Project XL, an important EPA initiative to allow regulated entities to achieve better environmental results at less cost.

Project XL—for "eXcellence and Leadership"—was announced on March 16, 1995, as a central part of the National Performance Review's and EPA's effort to reinvent environmental protection. See 60 FR 27282 (May 23, 1995). In addition, on April 22, 1997, EPA modified its guidance on Project XL, solicited new XL proposals, clarified EPA definitions, and described changes intended to bring greater efficiency to the process of developing XL projects. See 62 FR 19872 (April 22, 1997).

Project XL provides a limited number of private and public regulated entities an opportunity to develop their own pilot projects to provide regulatory flexibility that will result in environmental protection that is superior to what would be achieved through compliance with current and reasonably anticipated future regulations. These efforts are crucial to the Agency's ability to test new regulatory strategies that reduce regulatory burden and promote economic growth while achieving better environmental and public health protection. The Agency intends to evaluate the results of this and other Project XL projects to determine which specific elements of the project, if any, should be more broadly applied to other regulated entities to the benefit of both the economy and the environment.

In Project XL, participants in four categories—facilities, industry sectors, governmental agencies and communities—are offered the flexibility to develop common sense, cost-effective strategies that will replace or modify specific regulatory requirements, on the condition that they produce and demonstrate superior environmental performance. To participate in Project XL, applicants must develop alternative pollution reduction strategies pursuant to eight criteria—superior environmental performance; cost savings and paperwork reduction; local stakeholder involvement and support; test of an innovative strategy; transferability; feasibility; identification of monitoring, reporting and evaluation methods; and avoidance of shifting risk burden. They must have full support of affected Federal, state and tribal agencies to be selected. The XL program is intended to allow EPA to experiment with untried, potentially promising regulatory approaches, both to assess whether they provide benefits at the specific facility affected, and whether they should be considered for wider application. Such pilot projects allow EPA to proceed more quickly than would be required to undertake changes on a nationwide basis. As part of this experimentation, EPA may try out approaches or legal interpretations that depart from or are even inconsistent with longstanding Agency practice, so long as those interpretations are within the broad range of discretion enjoyed by the Agency in interpreting statutes that it implements. EPA may also modify rules that represent one of several possible policy approaches within a more general statutory directive, so long as the alternative being used is permissible under the statute. Adoption of such alternative approaches or interpretations in the context of a given XL project does not, however, signal EPA's willingness to adopt that interpretation as a general matter, or even in the context of other XL projects. It would be inconsistent with the forward-looking nature of these pilot projects to adopt such innovative approaches prematurely on a widespread basis without first finding out whether or not they are viable in practice and successful in the particular projects that embody them. Furthermore, as EPA indicated in announcing the XL program, the Agency expects to adopt only a limited number of carefully selected projects. These pilot projects are not intended to be a means for piecemeal revision of entire programs. Depending on the results in these projects, EPA may or may not be willing to consider adopting the alternative interpretation again, either generally or for other specific facilities.

EPA believes that adopting alternative policy approaches and interpretations, on a limited, site-specific basis and in connection with a carefully selected pilot project, is consistent with the expectations of Congress about EPA's role in implementing the environmental statutes (so long as the Agency acts within the discretion allowed by the statute). Congress' recognition that there is a need for experimentation and research, as well as ongoing re-evaluation of environmental programs, is reflected in a variety of statutory provisions, such as sections 101(b) and 103 of the Clean Air Act. In some cases, as in this XL project, such experimentation requires an alternative regulatory approach that, while permissible under the statute, was not the one adopted by EPA historically or for general purposes.

B. Overview of the Molex XL Project

1. Introduction

Today's direct final site-specific rule supports a Project XL draft Final Project Agreement (FPA) and the Nebraska Department of Environmental Quality draft variance that have been developed by the Molex XL stakeholder group, namely Molex, Inc. (Molex), EPA, Nebraska Department of Environmental Quality (NDEQ), Lincoln/Lancaster County Health Department and the City of Lincoln, NE. The draft FPA and NDEQ draft variance are available for review in the docket for today's action and also are available on the world wide web at http://www.epa.gov/ProjectXL. The proposed FPA outlines how the project addresses the eight Project XL criteria, in particular how the project will produce, measure, monitor, report, and demonstrate superior environmental benefits. The NDEQ draft variance is the implementation mechanism for the project.

In today's action, the Agency is soliciting comment on the site-specific regulatory changes to implement the project. EPA also seeks comment on the proposed FPA, which is available on the world wide web and in the docket file for today's action, in light of the criteria outlined in the Agency's May 23, 1995, **Federal Register** notice (60 FR 27282) regarding Regulatory Reinvention (XL) Pilot Projects and April 22, 1997 **Federal Register** notice (62 FR 19872) Those criteria are: (1) Environmental performance superior to what would be achieved through compliance with current and reasonably anticipated future regulations; (2) cost savings or economic opportunity, and/or decreased paperwork burden; (3) stakeholder support; (4) test of innovative strategies for achieving environmental results; (5) approaches that could be evaluated for future broader application; (6) technical and administrative feasibility; (7) mechanisms for monitoring, reporting, and evaluation; and (8) consistency with Executive Order 12898 on Environmental Justice (avoidance of shifting of risk burden).

2. Molex XL Project Description

Molex is a multinational company that operates several electroplating facilities worldwide. Molex as part of its proposal has upgraded its facility in Lincoln, NE by changing its waste water treatment system to allow it to optimize the recovery of metals used in the electroplating processes. Once operating this system under the project, the primary environmental benefit will be the reduction of metals loading in the effluent discharges into the publicly owned treatment works (POTW). A secondary environmental benefit will be increased recycling and reducing the amount of material that would otherwise be landfarmed.

This project is an alternative environmental compliance strategy that encompasses technical changes to the facility's wastewater treatment system, environmental improvements in the effluent to the POTW, regulatory relief for the facility for storage and shipment of wastes, and documentation of the technical, environmental and economic impacts of the alternative strategy.

The facility generates several metals-bearing wastewater streams that formerly were brought together for combined treatment. Metals recovery in such a system is limited because each metal has its own optimal set of treatment conditions. At its new facility Molex is operating a segregated treatment system that separately treats each metal waste stream to optimize the precipitation of each metal contaminant to more effectively remove metals from the effluent to the POTW. Molex has made its investment in the system in anticipation of its participation in the XL program and the regulatory relief it will provide. At the new facility Molex changed the process lines to generate separate treatment sludges for nickel, copper, and tin/lead. The environmental benefit will be a substantial reduction in the mass loading of metals entering the City of Lincoln's POTW. In addition, the resultant mono-metal sludges will be commodity-like materials suitable for recycling by smelters. However, the segregated system will cost more to operate than a combined treatment system. Additionally, the segregated system will result in increased costs from compliance with the current regulations for handling the resultant sludges. Currently, Molex is handling the sludges as hazardous wastes. Without the regulatory relief provided in this project, Molex will not be able to financially justify continued operation of the segregated system.

3. Environmental Benefits

This project supports goals of both the Federal Water Pollution Control Act (FWPCA), Nebraska Surface Water Quality Standards, Resource Conservation and Recovery Act (RCRA) and the Nebraska Hazardous Waste Management Program.

This project supports the FWPCA and Nebraska Surface Water Quality Standards goals to restore and maintain the chemical, physical and biological integrity of the Nation's and State's waters. Specifically, this project reduces the metals loading effluent into the City of Lincoln, NE's POTW, thus reducing metals discharges from the POTW into the nation's and State's waters and metals constituents in the POTW sludge that ultimately is landfarmed. Additionally, the reduced loading maintains the reserve treatment capacity of the POTW, thus deferring the replacement or enlargement of the publicly financed construction.

This project also supports the RCRA and Nebraska Hazardous Waste Management Program goals of resource recovery and conservation. Specifically, this project results in direct recycling of mono-metals bearing sludges by smelters, which will decrease the need for mining of ores or other virgin materials, thus conserving mineral resources and reducing the amount of materials that would otherwise be landfarmed.

4. Stakeholder Involvement

The participating stakeholders are the signatories to this FPA. In addition, the Lincoln/Lancaster County Health Department and the City of Lincoln, Nebraska have supported the development of this project. Also, the public has been notified from the outset of this project and invited to participate, and will continue to be informed as the project is implemented through dissemination of the reports submitted by Molex to NDEQ and EPA.

III. Resource Conservation and Recovery Act Requirements

A. Summary of Regulatory Changes for the Molex XL Project

The NDEQ hazardous waste program has been authorized by EPA pursuant to the Resource Conservation and Recovery Act (RCRA) Section 3006(b) and 40 CFR Part 271, to carry out the Nebraska program in lieu of the Federal hazardous waste program. Sludges from Molex's former combined treatment system contain copper, nickel, tin, lead, and gold. The gold content of the materials has allowed Molex to handle the combined treatment sludge as "recyclable materials" from which precious metals are reclaimed under Title 128, Rules and Regulations Governing Hazardous Waste Management in Nebraska, Chapter 7, Section 010.

Except for a small quantity of sludge generated from the gold plating operation, the sludges at the new facility will not contain precious metals and therefore will not qualify as "recyclable material" from which precious metals are reclaimed. As such, in the absence of this regulatory relief, the materials will be subject to the NDEQ Title 128 generator requirements for storage and shipment of hazardous wastes, at considerably greater expense for storage, shipment and disposal/recycling as compared to the precious metals exemption. With the regulatory relief, Molex will be allowed to handle the non-precious mono-metals sludges as a commodity-like material with substantially reduced regulatory compliance costs.

To accomplish the regulatory relief, the U.S. EPA today is promulgating a direct final site-specific rule to amend 40 CFR 260.31(c), which provides that authorized state agencies may:

"* * * grant requests for a variance from classifying as a solid waste those materials that have been reclaimed but must be reclaimed further before recovery is completed if, after initial reclamation, the resulting material is commodity-like (even though it is not yet a commercial product, and has to be reclaimed further)."

The federal site-specific rule will provide that the nickel, copper, and tin/lead non-precious metals bearing sludges generated at the Molex facility may qualify for a regulatory variance from NDEQ. The site-specific rule will also provide that the variance may be issued on a temporary basis by NDEQ.

IV. Additional Information

A. Public Hearing

A public hearing will be held, if requested, to provide opportunity for interested persons to make oral presentations regarding the direct final rule. Persons wishing to make oral presentation on the rule to implement Molex's XL project should contact the EPA at the address given in the **ADDRESSES** section of this document. Any member of the public may file a written statement before, during, or within 30 days after the hearing. Written statements should be sent to EPA at the addresses given in the **ADDRESSES** section of this document. If a public hearing is held, a verbatim transcript of the hearing and written statements will be available for inspection and copying during normal business hours at the EPA addresses given in the **ADDRESSES** section of this document.

B. Executive Order 12866

Because this rule only affects one facility it is not a rule of general applicability subject to OMB review under E.O. 12866. In addition, OMB has agreed that they do not need to review site specific rules under Project XL.

C. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and

small governmental jurisdictions. This rule would not have a significant impact on a substantial number of small entities because it only affects one entity, the Molex facility in Lincoln, NE. Therefore, EPA certifies that this action will not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act

This action applies only to one company, and therefore requires no information collection activities subject to the Paperwork Reduction Act, and therefore no information collection request (ICR) will be submitted to the Office of Management and Budget (OMB) for review in compliance with the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

E. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

As noted above, this rule is limited to Molex's facility in Lincoln, NE. EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. EPA has also determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

List of Subjects in 40 CFR Part 260

Environmental protection, Hazardous waste, Treatment storage and disposal facility, Waste determination.

Dated: October 27, 1997.

Carol M. Browner,

Administrator.

For the reasons set forth in the preamble of this rule, chapter I of title 40 of the Code of Federal Regulations is amended as follows:

1. The authority citation for part 260 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921–6927, 6930, 6934, 6935, 6937, 6938, 6939, and 6974.

2. Section 260.31 is amended by adding paragraph (d) to read as follows:

§ 260.31 Standards and criteria for variances from classification as a solid waste.

* * * * *

(d) Pursuant to participation by Molex, Inc. in the Project XL program (May 23, 1995 and April 22, 1997), and for a period not to exceed two years, the Nebraska Department of Environmental Quality may grant to the Molex, Inc. facility located at 700 Kingbird Road in Lincoln, NE, a temporary variance from classifying as a solid waste the commodity-like nickel, copper, and tin/lead non-precious metals bearing sludges generated at the facility.

[FR Doc. 97–29052 Filed 10–31–97; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA–7673]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule identifies communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The dates listed in the third column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIP at: Post Office Box 6464, Rockville, MD 20849, (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Robert F. Shea, Jr., Division Director, Program Implementation Division, Mitigation Directorate, 500 C Street SW., room 417, Washington, DC 20472, (202) 646–3619.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Associate Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fourth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012(a), requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard areas shown on the map.

The Associate Director finds that the delayed effective dates would be contrary to the public interest. The Associate Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Associate Director certifies that this rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U. S. C. 601 *et seq.*, because the rule creates no additional burden, but lists those communities eligible for the sale of flood insurance.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State/location	Community No.	Effective date of eligibility	Current effective map date
New Eligibles—Emergency Program			
Iowa: Marshall County, unincorporated areas	190690	Sept. 19, 1997	June 3, 1997.
Texas:			
Eastland County, unincorporated areas	480793	Sept. 30, 1997	Nov. 15, 1997.
Frio County, unincorporated areas	481172	....do.	
New Eligibles—Regular Program			
Pennsylvania: Lumber City, borough of, Clearfield County.	420309	Sept. 9, 1997	NSFHA.
Michigan: Meyer, township of, Menominee County	260458	Aug. 19, 1997	Aug. 19, 1997.
Maine: Long Island, town of, Cumberland County[1]	231035	Sept. 17, 1997	July 15, 1982.
North Carolina: Cornelius, town of, Mecklenburg County[2].	370498	Sept. 30, 1997	Feb. 3, 1993.
Texas: Montgomery, city of, Montgomery County	481483	....do	Dec. 19, 1996.
Withdrawal			
South Dakota: Corsica, town of, Douglas County	460167	Feb. 24, 1997, Emerg.; Apr. 25, 1997, Reg.; Sept. 30, 1997, With.	NSFHA.
Reinstatements			
Ohio: Milford Center, village of, Union County	390662	May 14, 1975, Emerg.; June 2, 1995, Reg.; June 2, 1995, Susp.; Sept. 17, 1997, Rein.	June 2, 1995.
Illinois:			
Lake Forest, city of, Lake County	170374	Apr. 23, 1974, Emerg.; Feb. 18, 1981, Reg.; Sept. 3, 1997, Susp.; Sept. 18, 1997, Rein.	Sept. 3, 1997.
Lake Villa, village of, Lake County	170375	Oct. 16, 1974, Emerg.; July 2, 1981, Reg.; Sept. 3, 1997, Susp.; Sept. 18, 1997, Rein.	Do.
Hainesville, village of, Lake County	171005	May 11, 1995, Reg.; Sept. 3, 1997, Susp.; Sept. 19, 1997, Rein.	Do.
Riverwoods, village of, Lake County	170387	Aug. 21, 1975, Emerg.; Aug. 15, 1980, Reg.; Sept. 3, 1997, Susp.; Sept. 19, 1997, Rein.	Do.
Deer Park, village of, Lake County	171028	Feb. 17, 1993, Emerg.; Sept. 3, 1997, Susp.; Sept. 22, 1997, Rein.	Do.
Lake County, unincorporated areas	170357	Apr. 4, 1973, Emerg.; Nov. 3, 1982, Reg.; Sept. 3, 1997, Susp.; Sept. 23, 1997, Rein.	Do.
Fox Lake, village of, Lake County	170362	Mar. 9, 1973, Emerg.; Sept. 29, 1978, Reg.; Sept. 3, 1997, Susp.; Sept. 24, 1997, Rein.	Do.
Highland Park, city of, Lake County	170367	Apr. 5, 1973, Emerg.; Nov. 5, 1980, Reg.; Sept. 3, 1997, Susp.; Sept. 30, 1997; Rein.	Do.
Michigan: Nottawa, township of, Isabella County	260621	Apr. 24, 1989, Emerg.; May 2, 1991, Reg.; May 2, 1991, Susp.; Sept. 30, 1997, Rein.	May 2, 1991.
Ohio: Stockport, village of, Morgan County	390423	May 30, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp.; Sept. 30, 1997, Rein.	Aug. 1, 1987.
Texas: Smith County, unincorporated areas	481185	Jan. 5, 1979, Emerg.; July 2, 1981, Reg.; July 2, 1981, Susp.; Sept. 30, 1997, Rein.	July 2, 1981.
Regular Program Conversions			
Regional III			
Virginia: Culpeper County, unincorporated areas	510041	Sept. 3, 1997, Suspension Withdrawn	Sept. 3, 1997.
Region V			
Illinois:			
Antioch, village of, Lake County	170358	....do	Do.

State/location	Community No.	Effective date of eligibility	Current effective map date
Bannockburn, village of, Lake County	170359	....do	Do.
Beach Park, village of, Lake County	171022	....do	Do.
Buffalo Grove, village of, Lake County	170068	....do	Do.
Deerfield, village of, Lake County	170361	....do	Do.
Grayslake, village of, Lake County	170363	....do	Do.
Green Oaks, village of, Lake County	170364	....do	Do.
Gurnee, village of, Lake County	170365	....do	Do.
Hawthorn Woods, village of, Lake County	170366	....do	Do.
Kildeer, village of, Lake County	170371	....do	Do.
Lake Barrington, village of, Lake County	170372	....do	Do.
Lake Bluff, village of, Lake County	170373	....do	Do.
Lake County unincorporated areas	170357	....do	Do.
Lake Zurich, village of, Lake County	170376	....do	Do.
Libertyville, village of, Lake County	170377	....do	Do.
Lincolnshire, village of, Lake County	170378	....do	Do.
Lindenhurst, village of, Lake County	170379	....do	Do.
Long Grove, village of, Lake County	170380	....do	Do.
Mettawa, village of, Lake County	170381	....do	Do.
Mundelein, village of, Lake County	170382	....do	Do.
North Barrington, village of, Lake County	170383	....do	Do.
North Chicago, village of, Lake County	170384	....do	Do.
Old Mill Creek, village of, Lake County	170385	....do	Do.
Park City, city of, Lake County	170386	....do	Do.
Round Lake, village of, Lake County	170388	....do	Do.
Round Lake Beach, village of, Lake County	170389	....do	Do.
Round Lake Heights, village of, Lake County	170390	....do	Do.
Round Lake Park, village of, Lake County	170391	....do	Do.
Third Lake, village of, Lake County	170392	....do	Do.
Tower Lakes, village of, Lake County	170393	....do	Do.
Vernon Hills, village of, Lake County	170394	....do	Do.
Wadsworth, village of, Lake County	170395	....do	Do.
Wauconda, village of, Lake County	170396	....do	Do.
Waukegan, city of, Lake County	170397	....do	Do.
Winthrop Harbor, village of, Lake County	170398	....do	Do.
Zion, city of, Lake County	170399	....do	Do.
Region VII			
Kansas: Garden City, city of, Finney County	205186	....do	Do.
Region IX			
California:			
Madera County, unincorporated areas	060170	....do	Do.
Santa Paula, city of, Ventura County	060420	....do	Do.
Simi Valley, city of, Ventura County	060421	....do	Do.
Ventura County, unincorporated areas	060413	....do	Do.
Region I			
Connecticut: Cromwell, town of, Middlesex County	090129	Sept. 17, 1997, Suspension Withdrawn	Sept. 17, 1997.
Massachusetts: Edgartown, town of, Dukes County.	250069	....do	Do.
New Hampshire: Keene, city of, Cheshire County	330023	....do	Do.
Region II			
New York:			
Brutus, town of, Cayuga County	360104	....do	Do.
Gardiner, town of, Ulster County	360856	....do	Do.
Region III			
Pennsylvania:			
Lock Haven, city of, Clinton County	420328	....do	Do.
Woodward, township of, Clinton County	420337	....do	Do.
Region V			
Ohio:			
Canal Winchester, village of, Franklin County	390169	....do	Do.
Franklin County, unincorporated areas	390167	....do	Do.
Wisconsin: West Bend, city of, Washington County	550475	....do	Do.
Region IX			
Arizona: Apache County, unincorporated areas	040001	....do	Do.
California:			
Dublin, city of, Alameda County	060705	....do	Do.
Livermore, city of, Alameda County	060008	....do	Do.
Modoc County, unincorporated areas	060192	....do	Do.

State/location	Community No.	Effective date of eligibility	Current effective map date
Region VI			
Oklahoma: Marshall County, unincorporated areas	400511	Sept. 30, 1997, Suspension Withdrawn	Sept. 30, 1997.
Region VII			
Nebraska: Howard County, unincorporated areas	310446	....do	Do.
Region VIII			
Colorado: Broomfield, city of, Adams, Boulder, and Jefferson Counties.	085073	....do	Do.
Montana: Bull Creek, village of, Taney County	290916	....do	Do.

[1] The Town of Long Island has adopted the City of Portland (CID #230051) Flood Insurance Rate Map dated July 15, 1992, panels 0003, 0004, 009 and 0010.
[2] The Town of Cornelius has adopted the Mecklenburg County (CID #370158) Flood Insurance Rate Map dated February 3, 1993, panels 005, 0015, and 0020.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Rein.—Reinstatement; Susp.—Suspension; With.—Withdrawn; NSFHA—Non Special Flood Hazard Area.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")
Issued: October 24, 1997.
Michael J. Armstrong,
Associate Director for Mitigation.
[FR Doc. 97–28997 Filed 10–31–97; 8:45 am]
BILLING CODE 6718–05–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[IB Docket No. 96–220; FCC 97–370]

Non-Voice, Non-Geostationary Mobile Satellite Service

AGENCY: Federal Communications Commission.
ACTION: Final rule.

SUMMARY: The Commission has adopted rules and policies to govern the second processing round for the non-voice, non-geostationary mobile satellite service ("NVNG MSS") also referred to as the "Little LEO" service. The Commission's rules adopted include a spectrum sharing plan that permits licensing five NVNG MSS applicants; financial qualification rules; rules requiring NVNG MSS licensees to time-share spectrum with existing commercial and government licensees; and a rule requiring second processing round applicants to file amendments to their applications to conform their applications to the rules adopted in the Report and Order.
EFFECTIVE DATE: January 2, 1998.
ADDRESSES: Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.
FOR FURTHER INFORMATION CONTACT: Daniel Connors, International Bureau, Satellite Policy Branch, (202) 418–0755; or Kathleen Campbell, International Bureau, Satellite Policy Branch (202) 418–0753.
SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order in IB Docket No. 96–220; FCC 97–370, adopted October 8, 1997, and released October 15, 1997. The complete text of this Report and Order is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W. Washington, D.C., and from the Commission's world-wide-web page on the Internet (http://www.fcc.gov), and also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037. Because this Report and Order contains information collections that affect less than 10 persons and, therefore, is not subject to the Paperwork Reduction Act of 1995, Public Law No. 104–13. As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared a Regulatory Flexibility Analysis ("RFA") of the expected impact on small entities of the proposals suggested in this document.

Summary of the Report and Order

1. This Report and Order ("R&O") reflects the Commission's commitment to licensing applicants in the second processing round to provide Little LEO service and the Commission's continued efforts to promote competition in the U.S. satellite services market. With this R&O, we adopt a spectrum sharing plan and service rules and polices for the licensing of five applicants in the second processing round.

2. Because the second processing round applicants filed a mutually agreed upon spectrum sharing plan with the Commission that accommodates all of their proposed systems, we decline to adopt our proposed new entrant rule. The spectrum sharing plan that we adopt achieves the same pro-competitive objectives as our proposed new entrant rule with the additional benefit of permitting the licensing of all five second processing round applicants. Therefore, our proposed new entrant rule is unnecessary.

3. As a result of the spectrum sharing plan agreed to by the second processing round applicants, all applicants can be accommodated in the available spectrum being licensed. Consequently, our proposed strict financial qualification standard is unnecessary to prevent an under-financed applicant from preventing a fully capitalized applicant from going forward. Therefore, we adopt a relaxed financial qualification standard that requires that second processing round applicants demonstrate finances sufficient to construct and launch two satellites in their proposed systems and to operate two satellites in their system for one year after their launch.

4. We adopt a spectrum sharing plan that permits licensing five second processing round applicants: three new Little LEO systems and two existing Little LEO licensees. One new Little LEO applicant ("System 1") can operate a system in the 148–150.05 MHz uplink band and the 137–137.025 MHz, 400.15–401 MHz downlink bands. A second new Little LEO applicant ("System 2") can operate a system in the 148–150.05 MHz uplink band and in parts of the 400.15–401 MHz and 137–138 MHz downlink bands. A third new Little LEO applicant ("System 3") can operate a system in the 148–148.905 MHz uplink band and the 137.0725–137.9275 MHz downlink band. Orbital Communications Corporation, an existing Little LEO licensee ("Orbcomm"), can expand its Little LEO system by sharing approximately 355 kHz of spectrum in the 148–148.855 MHz uplink band with Systems 1, 2 and 3. Orbcomm will also operate in parts of the 137–138 MHz downlink band not being used by Systems 1 or 2. Finally, Volunteers in Technical Assistance, Inc. ("VITA"), also an existing Little LEO licensee, can expand its authorized Little LEO system to operate in the 400.3983–400.645 MHz downlink band on a time-shared basis with System 2. In the 137–138 MHz band, System 2 will

be required to time-share spectrum with meteorological satellites of the National Oceanic and Atmospheric Administration ("NOAA"). In the 400.15–400.505 MHz and 400.645–401 MHz bands, System 1 will be required to time-share the spectrum with meteorological satellites of the Department of Defense ("DoD").

5. Because System 2 will be unable to implement its system fully in the spectrum available in the second processing round, the Commission has adopted a rule that makes the System 2 licensee eligible to apply for and use up to 210 kHz of downlink spectrum subsequently allocated to the Little LEO service on a worldwide and domestic basis, subject to operating conditions and other restrictions imposed by the Commission. This priority will enable the System 2 licensee to implement its proposed system.

6. The R&O requires System 1 and System 2 to time-share parts of their downlink spectrum with the meteorological satellite systems of DoD and NOAA, respectively. Consequently, we have adopted rules permitting System 1 and System 2 to time-share this spectrum with DoD and NOAA, respectively, subject to certain elevation angle, transmission termination, satellite shut-off and frequency demonstration and change requirements imposed by the Commission to protect the DoD and NOAA meteorological satellite systems from harmful interference from the operations of System 1 and System 2, respectively.

7. We also adopted a rule prohibiting a NVNG licensee from entering into exclusive agreements or arrangements with other countries concerning communications to and from the United States. An exclusive agreement or arrangement may foreclose other United States Little LEO licensees from serving a foreign market and preventing that licensee from providing global service.

8. Finally, we adopted a rule requiring second processing round applicants to amend their applications within 15 days after the release of the R&O in order to conform their applications with the rules and policies adopted in the R&O.

Ordering Clauses

9. Accordingly, *It Is Ordered* pursuant to sections 1, 4, 303(r), and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154, 303(r), and 309(j), that Part 25 of the Commission's Rules, 47 CFR 25, and the Commission's policies are amended as specified in this R&O.

10. *It is further ordered* that second round applicants shall file amended applications on or before October 30, 1997. We find good cause to make this rule effective within 15 days after the release of this R&O. This rule will enable the five second round applicants to expedite the amendment of their second round applications which have been pending for approximately three years. This will enable the Commission to expedite the processing of second round applications in order to issue licenses to qualified applicants. Continued delay in the processing of second round applications will increase the headstarts already given to existing first round licensees and other providers of competitive services. Further delay in issuing second processing round licenses will undermine the public interest by delaying the entry of new competitors in the markets for Little LEO services. Moreover, we find that good cause exists to waive additional notice and comment upon this rule because it is unnecessary and contrary to the public interest. This rule has already been subject to notice and comment in this rulemaking proceeding and the second round applicants that are directly affected by this rule are urging the Commission to take prompt action in this R&O that will expedite the issuance of second round licenses. It would be contrary to the public interest for the Commission to delay further the processing of second round applications now that the second round applicants have mutually agreed upon a spectrum sharing plan and are urging the Commission to expedite the issuance of second round licenses.

11. The analysis required pursuant to the Regulatory Flexibility Act, 5 U.S.C. § 604, is set forth below.

12. The Paperwork Reduction Act does not apply to the rules adopted herein because such rules apply to less than 10 persons.

13. Except for the rule requiring the filing of amended applications by second round applicants within 15 days after the release of this R&O, *It is further ordered* that amendments to Part 25 of the Commission's Rules, 47 CFR part 25, and the Commission's policies, as specified in this R&O, Will Become Effective January 2, 1998.

Final Regulatory Flexibility Act Statement

14. As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared a final Regulatory Flexibility Analysis ("FRFA") of the expected impact on small entities of the proposals suggested in this document. The Secretary shall send a copy of this R&O, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, Public Law No. 96–354, 94 Stat. 1164, 5 U.S.C. § 601 *et seq.* (1981).

Final Regulatory Flexibility Analysis

15. As required by RFA, an Initial Regulatory Flexibility Analysis ("IRFA") was incorporated in the Notice of Proposed Rulemaking (the "Notice"). The Commission sought written public comment on the proposals in the Notice, including comment on the IRFA. This FRFA, concerning the R&O, conforms to the RFA.

I. Need for and Objectives of the R&O

16. In this decision, the Commission, adopts a spectrum licensing plan and service rules and policies for second processing round applicants for NVNG MSS systems that will operate in frequency bands below 1 GHz. The purpose of this action is to develop rules and policies for licensing new NVNG MSS systems and existing NVNG licensees seeking to expand the service capability of their systems in order to (a) promote competition in the emerging NVNG MSS service markets and (b) spur the rapid delivery of new services to the public at reasonable prices. NVNG MSS systems provide near real-time data services worldwide and are global systems. In order to ensure the rapid and successful implementation of new NVNG MSS systems, the Commission has worked closely with the National Telecommunications and Information Administration ("NTIA") to develop innovative technical service rules that permit new NVNG MSS systems to time-share the licensed spectrum with existing United States government systems that will be operating in the same downlink spectrum. The R&O adopts rules and policies that promote efficiency in licensing and use of the electromagnetic spectrum. In addition, we expect that the licensing framework we have set out for NVNG MSS systems will aid in the development of competitive and innovative satellite systems.

II. Summary of Significant Issues Raised by Public Comments in Response to the Initial Regulatory Flexibility Analysis

17. No comments were received specifically in response to the IRFA. However, in order to minimize the entry barriers for new Little LEO systems seeking to provide NVNG MSS systems, the Commission staff spent months working with NTIA and the applicants to fashion a spectrum licensing plan that was proposed in the Notice. Before release of the R&O, we, again, worked closely with second round applicants and encouraged them to develop a mutually acceptable spectrum licensing plan. All of the second processing round applicants were able to reach agreement regarding a spectrum sharing plan and that plan has been adopted in the R&O. The spectrum sharing plan accommodates the system designs of all second round applicants, including existing NVNG MSS licensees. Therefore, we will not adopt our new entrant eligibility requirements and will apply our relaxed financial standard, rather than the strict financial standard proposed in the Notice. In addition, because all second round applicants can be accommodated in the available spectrum, the spectrum sharing plan we adopt avoids mutual exclusivity. Consequently, it will be unnecessary for the Commission to employ an auction to choose among mutually exclusive applicants. Finally, the R&O adopts eligibility rules for the use of future MSS spectrum and for receiving a second processing round authorization. By licensing all second round NVNG MSS applicants, we enable small entities and start-up companies the opportunity to compete in the capital intensive satellite industry.

III. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

18. The Commission has not developed a definition of small entities applicable to satellite service licensees. Therefore, the applicable definition of small entity is the definition under the Small Business Administration rules applicable to Communications Services "Not Elsewhere Classified." This definition provides that a small entity is one with $11 million or less in annual receipts.[1]

19. Of the five applicants in the second processing round, two are small entities: Volunteers in Technical Assistance, Inc. and LEO One USA Corporation. The remaining three second round applicants, Orbital Communications Corporation, Final Analysis Communications, Inc. and E-Sat, are not small entities because they each have revenues in excess of $11 million annually or have parent companies or investors that have revenues in excess of $11 million annually.

20. The service rules adopted in the R&O will not apply to other small entities currently providing NVNG MSS types of services. The services rules apply only to second round NVNG MSS licensees that time-share spectrum in the 400.15–401 MHz and 137–138 MHz frequency bands with existing United States government satellite systems.

[1] 13 CFR 121.201, Standard Industrial Classification (SIC) Code 4899.

IV. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

21. The rules adopted in the R&O require that all second processing round applicants file amendments to their pending applications to conform to the rules and policies adopted in the R&O. Such amendments are required in order to provide the Commission with updated technical and financial information about each applicant so that the Commission can determine whether or not an applicant is technically and financially qualified to receive a license to operate in the applied for spectrum.

22. In this R&O, we also adopt certain compliance requirements for second round NVNG MSS licensees that time-share spectrum in the 400.15–401 MHz and 137–138 MHz frequency bands with United States government satellite systems. The Commission may terminate the operations of NVNG MSS licensees determined to be interfering with the operations of United States government satellite systems. NVNG MSS licensees will also be required to comply with technical operational parameters relating to elevation angle, system demonstration requirements and satellite fail-safe procedures.

V. Steps Taken to Minimize Significant Economic Burden on Small Entities, and Significant Alternatives Considered

23. The Commission proposed in the Notice applying a strict financial standard to second round NVNG MSS applicants. In order to minimize any barriers for entry into this new satellite market for small entities, Commission staff spent months encouraging and working with all of the NVNG MSS second round applicants to develop a spectrum sharing plan that could accommodate all second round applicants. As discussed in the R&O, all second round applicants can be accommodated under the spectrum licensing plan that we adopt. Therefore, we will apply the same relaxed financial standard to second processing round applicants that we applied to first processing round licenses. By developing a spectrum sharing plan that accommodates all second round applicants, we enable small entities and start-up companies the opportunity to compete in the capital intensive satellite industry.

VI. Report to Congress

24. The Commission shall send a copy of this FRFA, along with the R&O, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A). A copy of this FRFA will also be published in the **Federal Register.**

List of Subjects in 47 CFR Part 25

Satellites.

Federal Communications Commission.
William F. Caton,
Acting Secretary.

Rule Changes

Part 25 of title 47 of the Code of Federal Regulations is amended as follows:

PART 25—SATELLITE COMMUNICATIONS

1. The authority citation for part 25 continues to read as follows:

Authority: Secs. 25.101 to 25.601 issued under Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply secs. 101–104, 76 Stat. 419–427; 47 U.S.C. 701–744; 47 U.S.C. 554.

2. Paragraphs (d) and (e) are added to § 25.142 to read as follows:

§ 25.142 Licensing provisions for the non-voice, non-geostationary mobile-satellite service.

* * * * *

(d) *Prohibition of certain agreements.* No license shall be granted to any applicant for a non-voice, non-geostationary mobile-satellite service system if that applicant, or any companies controlling or controlled by the applicant, shall acquire or enjoy any right, for the purpose of handling traffic to or from the United States, its territories or possessions, to construct or operate space segment or earth stations in the non-voice, non-geosynchronous mobile-satellite service, or to interchange traffic, which is denied to any other United States company by reason of any concession, contract, understanding, or working arrangement to which the licensee or any persons or companies controlling or controlled by the licensee are parties.

(e) *Spectrum priority.* (1) The non-voice, non-geosynchronous mobile-satellite service system that is authorized in the second application processing round to operate in the 148–148.25 MHz, 148.75–148.855 MHz, 148.905–149.81 MHz and 150–150.05 MHz uplink frequency bands and the 400.505–400.5517 MHz, 400.5983–400.645 MHz, 137.025–137.175 MHz, 137.333–137.4125 MHz, 137.475–

137.525 MHz, 137.595–137.645 MHz, 137.753–137.787 MHz and 137.825–138 MHz downlink frequency bands (the "System 2 licensee") will have a first priority to apply for and use a limited amount of downlink spectrum duly allocated worldwide and domestically to the non-voice, non-geosynchronous mobile-satellite service by the ITU, at WRC–97 or a subsequent World Radiocommunication Conference, and by the Commission, respectively (the "Future Spectrum"). The System 2 licensee will be eligible to apply for and use the first 210 kHz of Future Spectrum plus spectrum sufficient to account for Doppler frequency shift in the Future Spectrum (the "Supplemental Spectrum") to implement its non-voice, non-geosynchronous mobile-satellite service system. The System 2 licensee's application for and use of the Supplemental Spectrum is subject to the Commission's Rules and policies, such reasonable operating conditions as may be imposed by the Commission, and international spectrum coordination requirements. For so long as the System 2 licensee is permitted by the Government of France to operate in the 400.5517–400.5983 MHz band coordinated with the French system S80–1, the Supplemental Spectrum shall be reduced to an amount equivalent to 150 kHz of Future Spectrum plus spectrum sufficient to account for Doppler frequency shift in the Future Spectrum.

(2) The System 2 licensee's priority to apply for and use the Supplemental Spectrum is conditioned on the System 2 licensee's compliance with the terms and conditions of its second processing round authorization, including, but not limited to, its system construction, launch and operation milestones, and any modifications thereto, and the Commission's Rules. The System 2 licensee's priority to apply for and use the Supplemental Spectrum shall automatically terminate upon the occurrence of any of the following events:

(i) The System 2 licensee being permitted to operate in the Supplemental Spectrum;

(ii) The expiration or revocation of the System 2 licensee's second processing round authorization;

(iii) The discontinuance of use of the spectrum assigned to the System 2 licensee under its second processing round authorization; or

(iv) The surrender of the System 2 licensee's second processing round authorization to the Commission.

3. Section 25.201 is amended by adding the following definition, in alphabetical order, to read as follows:

§ 25.201 Definitions.

* * * * *

Protection areas. The geographic regions on the surface of the Earth where United States Department of Defense ("DoD") meteorological satellite systems or National Oceanic and Atmospheric Administration ("NOAA") meteorological satellite systems, or both such systems, are receiving signals from low earth orbiting satellites.

* * * * *

4. Add §§ 25.259 and 25.260 to subpart C to read as follows:

§ 25.259 Time sharing between NOAA meteorological satellite systems and non-voice, non-geostationary satellite systems in the 137–138 MHz band.

(a) A non-voice, non-geostationary mobile-satellite service system licensee ("NVNG licensee") time-sharing spectrum in the 137–138 MHz frequency band shall not transmit signals into the "protection areas" of National Oceanic and Atmospheric Administration ("NOAA") satellite systems. When calculating the protection areas for a NOAA satellite in the 137.333–137.367 MHz, 137.485–137.515 MHz, 137.605–137.635 MHz and 137.753–137.787 MHz bands, a NVNG licensee shall use an earth station elevation angle of five degrees towards the NOAA satellite and will cease its transmissions prior to the NVNG licensee's service area, based on an elevation angle of zero degrees towards the NVNG licensee's satellite, overlapping the NOAA protection area. When calculating the protection areas for a NOAA satellite in the 137.025–137.175 MHz and 137.825–138 MHz bands, a NVNG licensee shall use an earth station elevation angle of zero degrees, or less if reasonably necessary, towards the NOAA satellite and will cease its transmissions prior to the NVNG licensee's service area, based on an elevation angle of zero degrees towards the NVNG licensee's satellite, overlapping the NOAA protection area. A NVNG licensee is responsible for obtaining the necessary ephemeris data. This information shall be updated system-wide on at least a weekly basis. A NVNG licensee shall use an orbital propagator algorithm with an accuracy equal to or greater than the NORAD propagator used by NOAA.

(b) A NVNG licensee time sharing spectrum in the 137–138 MHz band shall establish a 24-hour per day contact person and telephone number so that claims of harmful interference into NOAA earth station users and other operational issues can be reported and resolved expeditiously. This contact information shall be made available to NOAA or its designee. If the National Telecommunications and Information Administration ("NTIA") notifies the Commission that NOAA is receiving unacceptable interference from a NVNG licensee, the Commission will require such NVNG licensee to terminate its interfering operations immediately unless it demonstrates to the Commission's reasonable satisfaction, and that of NTIA, that it is not responsible for causing harmful interference into the worldwide NOAA system. A NVNG licensee assumes the risk of any liability or damage that it and its directors, officers, employees, affiliates, agents and subcontractors may incur or suffer in connection with an interruption of its non-voice, non-geostationary mobile-satellite service, in whole or in part, arising from or relating to its compliance or noncompliance with the requirements of this paragraph (b). The Commission will not hesitate to impose sanctions on a NVNG licensee time-sharing spectrum in the 137–138 MHz band with NOAA, including monetary forfeitures and license revocations, when appropriate.

(c) Each satellite in a NVNG licensee's system time-sharing spectrum with NOAA in the 137–138 MHz band shall automatically turn off and cease satellite transmissions if, after 72 consecutive hours, no reset signal is received from the NVNG licensee's gateway earth station and verified by the satellite. All satellites in such NVNG licensee's system shall be capable of instantaneous shutdown on any sub-band upon command from such NVNG licensee's gateway earth station.

§ 25.260 Time sharing between DoD meteorological satellite systems and non-voice, non-geostationary satellite systems in the 400.15–401 MHz band.

(a) A non-voice, non-geostationary mobile-satellite service system licensee ("NVNG licensee") time-sharing spectrum in the 400.15–401.0 MHz band shall not transmit signals into the "protection areas" of Department of Defense ("DoD"). When calculating the protection areas for a DoD satellite in the 400.15–401 MHz band, a NVNG licensee shall use an earth station elevation angle of five degrees towards the DoD satellite and will shut off its transmissions prior to the NVNG licensee's service area, based on an elevation angle of zero degrees towards the NVNG licensee's satellite, overlapping the DoD protection area. A NVNG licensee is responsible for obtaining the necessary ephemeris data. This information shall be updated system-wide at least once per week. A NVNG licensee shall use an orbital propagator algorithm with an accuracy equal to or greater than the NORAD propagator used by DoD.

(b) A NVNG licensee time sharing spectrum in the 400.15–401 MHz band shall establish a 24-hour per day contact person and telephone number so that claims of harmful interference into DoD earth station users and other operational issues can be reported and resolved expeditiously. This contact information shall be made available to DoD or its designee. If the National Telecommunications and Information Administration ("NTIA") notifies the Commission that DoD is receiving unacceptable interference from a NVNG licensee, the Commission will require such NVNG licensee to terminate its interfering operations immediately unless it demonstrates to the Commission's reasonable satisfaction, and that of NTIA, that it is not responsible for causing harmful interference into the worldwide DoD system. A NVNG licensee assumes the risk of any liability or damage that it and its directors, officers, employees, affiliates, agents and subcontractors may incur or suffer in connection with an interruption of its non-voice, non-geostationary mobile-satellite service, in whole or in part, arising from or relating to its compliance or noncompliance with the requirements of this paragraph (b). The Commission will not hesitate to impose sanctions on a NVNG licensee time-sharing spectrum in the 400.15–401 MHz band with DoD, including monetary forfeitures and license revocations, when appropriate.

(c) Each satellite in a NVNG licensee's system time-sharing spectrum with DoD in the 400.15–401 MHz band shall automatically turn off and cease satellite transmissions if, after 72 consecutive hours, no reset signal is received from the NVNG licensee's gateway earth station and verified by the satellite. All satellites in such NVNG licensee's system shall be capable of instantaneous shutdown on any sub-band upon command from such NVNG licensee's gateway earth station.

(d) Initially, a NVNG licensee time-sharing spectrum with DoD in the 400.15–401 MHz band shall be able to change the frequency on which its system satellites are operating within 125 minutes of receiving notification from a DoD required frequency change in the 400.15–401 MHz band. Thereafter, when a NVNG licensee constructs additional gateway earth stations located outside of North and South America, it shall use its best efforts to decrease to 90 minutes the time required to implement a DoD required frequency change. A NVNG licensee promptly shall notify the Commission and NTIA of any decrease in the time it requires to implement a DoD required frequency change.

(e) Once a NVNG licensee time-sharing spectrum with DoD in the 400.15–401 MHz band demonstrates to DoD that it is capable of implementing a DoD required frequency change within the time required under paragraph (d) of this section, thereafter, such NVNG licensee shall demonstrate its capability to implement a DoD required frequency change only once per year at the instruction of DoD. Such demonstrations shall occur during off-peak hours, as determined by the NVNG licensee, unless otherwise agreed by the NVNG licensee and DoD. Such NVNG licensee will coordinate with DoD in establishing a plan for such a demonstration. In the event that a NVNG licensee fails to demonstrate to DoD that it is capable of implementing a DoD required frequency change in accordance with a demonstration plan established by DoD and the NVNG licensee, upon the Commission's receipt of a written notification from NTIA describing such failure, the Commission shall impose additional conditions or requirements on the NVNG licensee's authorization as may be necessary to protect DoD operations in the 400.15–401 MHz downlink band until the Commission is notified by NTIA that the NVNG licensee has successfully demonstrated its ability to implement a DoD required frequency change. Such additional conditions or requirements may include, but are not limited to, requiring such NVNG licensee immediately to terminate its operations interfering with the DoD system.

[FR Doc. 97–28995 Filed 10–31–97; 8:45 am]
BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 199

[Docket RSPA–97–2995, Notice No. 5]

Control of Drug Use and Alcohol Misuse in Natural Gas, Liquefied Natural Gas, and Hazardous Liquid Pipeline Operations Alcohol Misuse Prevention Program

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of random drug testing rate.

SUMMARY: RSPA has received and evaluated the 1996 Management Information System (MIS) Data Collection forms for the drug testing of pipeline industry personnel. The RSPA determined that the random positive drug testing rate for pipeline industry for the period of January 1, 1996, through December 31, 1996, is 0.7 percent.

DATES: Effective January 1, 1998, through December 31, 1998.

FOR FURTHER INFORMATION CONTACT: Catrina Pavlik, Drug/Alcohol Program Analyst, Research and Special Programs Administration, Office of Pipeline Safety, Room 2335, 400 Seventh Street, SW, Washington, DC 20590. Telephone: (202) 366–6199, Fax: (202) 366–4566, e-mail: catrina.pavlik@RSPA.dot.gov. Information is also available on the Office of Pipeline Safety's internet home page at "OPS.dot.gov."

SUPPLEMENTARY INFORMATION: In a final rule published on December 23, 1993 (58 FR 68257), RSPA announced that it would require operators of gas, hazardous liquid and carbon dioxide pipelines, and liquefied natural gas facilities, who are subject to 49 CFR parts 192, 193 and 195, to implement, maintain, and submit an annual report of their drug testing program data. Operators with 51 or more covered employees are required to submit this information on an annual basis. Operators with 50 or fewer covered employees are required to maintain this information, and RSPA randomly selected 100 operators in this category to submit their data. The drug testing statistical data is essential for RSPA to analyze its current approach to deterring and detecting illegal drug abuse in the pipeline industry, and, as appropriate, plan a more efficient and effective approach. In 1997, RSPA lowered the random drug testing rate to 25 percent. Since the positive random testing rate continues to be less than 1 percent industry-wide, the RSPA announces in accordance with Section 199.11(c)(3), that the minimum random drug testing rate will be maintained at 25 percent of covered pipeline employees for the period of January 1, 1998, through December 31, 1998.

Submission of MIS reports are due to the Office of Pipeline Safety, Research and Special Programs Administration, DPS–23, Room 2335, 400 7th Street SW., Washington, DC 20590, not later than March 15 of each calendar year. Notice of statistical data will be published in the future to report results of each calendar year's MIS Data Collection results. At that time, the RSPA will also publish whether or not the random rate will be reduced or

increased for the pipeline industry pursuant to Section 199.11.

Issued in Washington, DC on October 28, 1997.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 97–28965 Filed 10–31–97; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 960531152–7241–06; I.D. 082897A]

RIN 0648–AI18

Fisheries in the Exclusive Economic Zone Off Alaska; Technical Amendment

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; technical amendment.

SUMMARY: NMFS issues a technical amendment correcting minor errors in the regulations implementing the Individual Fishing Quota (IFQ) Program for fixed gear Pacific halibut and sablefish fisheries in and off of Alaska. This action is necessary to correct a number of inadvertent errors in the regulations implementing the IFQ Program. The intent of this action is to improve the clarity and coherence of the IFQ regulations.

DATES: November 3, 1997.

ADDRESSES: Comments must be sent to Chief, Fisheries Management Division, Alaska Region, NMFS, 709 West 9th Street, Room 453, Juneau, AK 99801 or P.O. Box 21668, Juneau, AK, Attn: Lori J. Gravel. Send comments regarding burden estimates or any other aspect of the data requirements, including suggestions for reducing the burdens, to NMFS and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20530, Attn: NOAA Desk Officer.

FOR FURTHER INFORMATION CONTACT: James Hale, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

The fixed gear halibut and sablefish fisheries are managed by the IFQ Program, a limited access system for fixed gear Pacific halibut (*Hippoglossus stenolepis*) and sablefish (*Anoplopoma fimbria*) fisheries in and off of Alaska. Under authority of the Magnuson-Stevens Fishery Conservation and Management Act and the Northern Pacific Halibut Act of 1982 (Halibut Act), NMFS implemented the IFQ Program in 1995, on the recommendation of the North Pacific Fishery Management Council (Council).

At 50 CFR 679.1(d)(2), the regulations state that the term "fixed gear" is described in 16 U.S.C. 773(d). The term "fixed gear" is not defined in 16 U.S.C. 773(d). However, it is defined, as an "authorized fishing gear" in 50 CFR 679.2, *Definitions*. The reference is corrected.

On August 9, 1996, at 61 FR 41523, NMFS published a final rule implementing a number of regulatory changes in the IFQ Program. Among these changes, the requirements for submitting IFQ Shipment Reports at 50 CFR 679.5(l)(2)(iii)(A) were revised to require that Shipment Reports be submitted to NMFS within 7 days of the date of shipment, not prior to the shipment as was formerly required. In the revised regulations, the reference to submission of Shipment Reports in 50 CFR 679.5(l)(2)(ii)(A) should also have been revised to be consistent with the new requirement. Moreover, this section is redundant and awkward. To correct the inconsistency and clarify the requirements for shipping reports, NMFS revises in its entirety § 679.5(l)(2).

Finally, a final rule published at 61 FR 43312, on August 22, 1996, revised the definitions of vessel categories to which quota share and IFQ can be assigned (§ 679.40(a)(5)(ii)(B)), and included an exception to the revised definitions elsewhere in the regulations (§ 679.42(a)). The exception is not referenced in the definitions themselves. For the sake of clarity, this action revises the regulations defining QS categories to reference the exception.

Classification

Because this technical amendment makes only minor, non-substantive corrections to an existing rule, prior notice and opportunity for public comment would serve no purpose. Accordingly, the Assistant Administrator for Fisheries, under 5 U.S.C. 553(b)(3)(B), finds for good cause that prior notice and opportunity for public comment are unnecessary. Because this is a non-substantive rule, 5 USC(d) does not require a delay in the effective date.

Because this rule is being issued without prior notice, it is not subject to the Regulatory Flexibility Act requirement for a regulatory flexibility analysis, and none has been prepared.

This rule makes minor technical changes to a rule that has been determined to be not significant under E.O. 12866. No change in the regulatory impact previously reviewed and analyzed will result from implementation of this technical amendment.

This rule repeals a collection-of-information requirement subject to the Paperwork Reduction Act (PRA). The requirement for an IFQ shipment report has been approved by the Office of Management Budget, Control Number 0648–0272. Public reporting burden for this collection of information is estimated to average 12 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering the data needed, and completing and reviewing the collection of information. Send comments regarding these burden estimates or any other aspect of the data requirements, including suggestions for reducing the burden, to NMFS and OMB (see **ADDRESSES**).

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the PRA, unless that collection-of-information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: October 27, 1997.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 679 is amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*

2. In § 679.1, paragraph (d)(2) is revised to read as follows:

§ 679.1 Purpose and scope.

* * * * *

(d) * * *

(2) *Halibut.* Regulations in this part govern commercial fishing for halibut by vessels of the United States using fixed gear, as that term is defined in 50 CFR 679.2, in and off of Alaska.

* * * * *

3. In § 679.5, paragraph (l)(2) is revised to read as follows:

§ 679.5 Recordkeeping and reporting.

* * * * *

(l) * * *

(2) *IFQ shipment report*—(i) *Registered buyer.* Each registered buyer, other than those conducting dockside sales, must:

(A) Report on a shipment report any shipments or transfers of IFQ halibut and IFQ sablefish to the first destination beyond the location of the IFQ landing.

(B) Complete a shipment report for each shipment or transfer from that register buyer prior to shipment and assure that the shipment report is submitted to, and received by, the NMFS Alaska Enforcement Division, within 7 days of the date shipment or transfer commenced;

(C) Assure that a copy of the shipment report or a bill of lading containing the same information accompanies the shipment to its first destination beyond the location of the IFQ landing; and

(D) Submit a revised shipment report if any information on the original shipment report changes prior to the first destination of the shipment. A revised shipment report must be clearly labeled "Revised Shipment Report," and must be received by NMFS Alaska Enforcement Division, within 7 days of the change.

(ii) *Shipment report.* (A) A shipment report must be submitted to NMFS Alaska Enforcement Division in a manner prescribed on the registered buyer permit.

(B) A shipment report must specify: Species and product type being shipped, number of shipping units, fish product weight, names of the shipper and receiver, names and addresses of the consignee and consignor, mode of transportation, and intended route.

* * * * *

4. In § 679.40, paragraph (a)(5)(ii)(B) is revised to read as follows:

§ 679.40 Sablefish and halibut QS.

* * * * *

(a) * * *

(5) * * *

(ii) * * *

(B) Category B QS and associated IFQ, which authorizes an IFQ cardholder to harvest IFQ species on a vessel of any length, except as provided in § 679.42(a);

* * * * *

[FR Doc. 97–29025 Filed 10–31–97; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 62, No. 212
Monday, November 3, 1997

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AI06

Prevailing Rate Systems; Removal of Putnam, Richmond, and Rockland Counties, NY, and Monmouth County, NJ, from the New York, NY, Appropriated Fund Survey Area

AGENCY: Office of Personnel Management.

ACTION: Proposed rule with request for comments.

SUMMARY: The Office of Personnel Management is issuing a proposed rule that would remove Putnam, Richmond, and Rockland Counties, NY, and Monmouth County, NJ, from the survey area of the New York, NY, appropriated fund Federal Wage System wage area. The four counties would remain in the area of application of the New York, NY, wage area.

DATES: Comments must be received by December 3, 1997.

ADDRESSES: Send or deliver comments to Donald J. Winstead, Assistant Director for Compensation Policy, Human Resources Systems Service, Office of Personnel Management, Room 7H31, 1900 E Street NW., Washington, DC 20415, or FAX: (202) 606–0824.

FOR FURTHER INFORMATION CONTACT: Frank Derby at (202) 606–2848, or e-mail: fjderby@opm.gov.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management (OPM) is engaged in an ongoing project to review the geographic definitions of selected Federal Wage System (FWS) appropriated fund wage areas. OPM recently reviewed the definition of the New York, New York, FWS wage area and is proposing the change described below.

When the Federal Wage System was established in 1972, the New York, NY, survey area was composed of Bronx, Kings, Nassau, New York, Queens, Richmond, Rockland, Suffolk, and Westchester Counties, NY; and Essex, Hudson, Morris, and Union Counties, NJ. In 1975, the Federal Prevailing Rate Advisory Committee agreed by consensus with a proposal to recommend that the New York, NY, survey area be expanded to include Putnam County, NY; and Bergen, Middlesex, Monmouth, Passaic, and Somerset Counties, NJ. This change was made so as to include 100 percent of the New York wage area's FWS employment in the New York, NY, survey area and to provide for a larger number of surveyable private industrial establishments.

As the largest FWS survey—with a sample of more than 900 industrial establishments—the New York, NY, FWS wage survey has become increasingly difficult to conduct because its logistical demands create unusual burdens on local agency activities already strained by downsizing and budget constraints. To reduce the logistical burdens of the New York, NY, FWS wage survey, OPM would remove Putnam, Richmond, and Rockland Counties, NY; and Monmouth County, NJ, from the New York, NY, survey area. Of the 19 counties in the New York, NY, survey area, OPM proposes that these four counties be removed from the survey area because their removal appears to offer the best means of reducing the logistical burdens of surveys in the New York, NY, wage area while least affecting the determination of prevailing rates for FWS employees in that wage area.

Putnam County is located north of Westchester County, New York. There are currently no FWS employees stationed in Putnam County and, in addition, there are only 11 surveyable private industrial establishments in the county (less than 1 percent of the wage area total).

Richmond County, Staten Island, is accessible from the rest of the New York, NY, survey area only via four toll bridges. There are currently about 91 FWS employees stationed in Richmond County (2 percent of the wage are total). There are only 33 surveyable private industrial establishments in Richmond County (less than 1 percent of the wage area total).

Rockland County is located to the north of Bergen County, New Jersey, and to the west of Westchester County, New York. There are currently no FWS employees stationed in Rockland County and, in addition, there are only 72 surveyable private industrial establishments in the county (1 percent of the wage area total).

Monmouth County is located to the south of Middlesex County, New Jersey, and is the southeastern-most county in the New York, NY, wage area. There are currently about 335 FWS employees stationed in Monmouth County (8 percent of the wage area total). When Monmouth County was added to the New York, NY, survey area in 1975, there were more than 1,500 FWS employees stationed in the county. While there were about 1,000 FWS employees stationed at Fort Monmouth in 1975, there are now only about 60 FWS employees stationed at that installation. In addition, there are only 133 surveyable private industrial establishments in the county (2 percent of the wage area total).

The removal of these four counties from the New York, NY, FWS survey area would leave 90 percent of the wage area's FWS employment in the New York, NY, survey area, and would include the number of surveyable private industrial establishments in the New York, NY, survey universe by only 4 percent. OPM also considered the possible removal of other counties from the New York survey area but none appeared to offer as convincing a rationale for removal as do Putnam, Richmond, Rockland, or Monmouth Counties.

The Federal Prevailing Rate Advisory Committee, the statutory national-level labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees, has reviewed and concurred by consensus with this proposed change.

Because of a typographical error in appendix C to subpart B of 5 CFR part 532, the wage area listing for the New York, NY wage area follows immediately after the wage area listing for the Newburgh, NY, wage area without showing the title of the New York, NY, wage area. This rule would correct that inadvertent omission.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Office of Personnel Management.

Janice R. Lachance,

Acting Director.

Accordingly, OPM proposes to amend 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

Appendix C to Subpart B of Part 532 [Amended]

2. Appendix C to subpart B is amended by revising the wage area listings for the Newburgh, New York, and New York, New York, wage area to read as follows: Appendix C to Subpart B of Part 532—Appropriated Fund Wage and Survey Areas.

* * * * *

New York

* * * * *

Newburgh

Survey Area

New York:
- Dutchess
- Orange
- Ulster

Area of Application. Survey area plus:

New York:
- Delaware
- Sullivan

New York

Survey Area

New York:
- Bronx
- Kings
- Nassau
- New York
- Queens
- Suffolk
- Westchester

New Jersey:
- Bergen
- Essex
- Hudson
- Middlesex
- Morris
- Passaic
- Somerset
- Union

Area of Application. Survey area plus:

New York:
- Putnam
- Richmond
- Rockland

New Jersey:
- Monmouth
- Sussex

* * * * *

[FR Doc. 97–28971 Filed 10–31–97; 8:45 am]

BILLING CODE 6325–01–M

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 630

RIN: 3206–AI03

Emergency Leave Transfer Program

AGENCY: Office of Personnel Management.

ACTION: Proposed rule with request for comments.

SUMMARY: The Office of Personnel Management is issuing proposed regulations governing the establishment of an emergency leave transfer program to permit the transfer of unused annual leave to Federal employees adversely affected by a major disaster or emergency, as declared by the President.

DATES: Comments must be received on or before January 2, 1998.

ADDRESSES: Comments may be sent or delivered to Donald J. Winstead, Assistant Director for Compensation Administration, Office of Personnel Management, Room 7H31, 1900 E Street NW., Washington, DC 20415; FAX (202) 606–0824; or email to payleave@opm.gov.

FOR FURTHER INFORMATION CONTACT: Jo Ann Perrini, (202) 606–2858, FAX (202) 606–0824, or email to payleave@opm.gov.

SUPPLEMENTARY INFORMATION: Section 9004 of Pub. L. 105–18, June 12, 1997, added section 6391 to title 5, United States Code, to provide that in the event of a major disaster or emergency, as declared by the President, that results in severe adverse effects for a substantial number of employees, the President may direct the Office of Personnel Management (OPM) to establish an emergency leave transfer program under which an employee in any Executive agency may donate annual leave for transfer to employees of his or her agency or to employees in other agencies who are adversely affected by such disaster or emergency. The Act also permits agency leave banks established under 5 U.S.C. 6362 to donate leave under an emergency leave transfer program established by OPM.

The Federal leave sharing program has proven to be an effective and cost-efficient means of allowing Federal employees to help their fellow workers in times of need. Under the current voluntary leave transfer program established under 5 U.S.C. 6332, an employee may donate unused annual leave for transfer to other Federal employees who have medical emergencies and who have exhausted their own leave. The emergency leave transfer program will be in addition to the voluntary leave transfer and leave bank programs and will provide leave benefits specific to the needs of employees affected by major disasters or emergencies. The emergency leave transfer program will permit employees to donate annual leave to employees who do not necessarily face a medical emergency but who need to take leave because of other effects of disasters or emergencies, such as a flood or an earthquake that has destroyed an employee's property or an emergency situation such as that created by the Oklahoma City bombing on April 19, 1995. In addition, employees approved as emergency leave recipients under the emergency leave transfer program will be able to use donated leave without having to exhaust their own accrued and accumulated annual and sick leave.

Establishment of Emergency Leave Bank

When directed by the President, OPM will establish an emergency leave transfer program for a major disaster or emergency that is declared by the President under which employees may transfer their unused annual leave to employees in their own agencies or other agencies who are adversely affected by the disaster or emergency. We anticipate that the authority to establish an emergency leave transfer program for an emergency or disaster declared by the President will be exercised only after appropriate consultation with the agencies affected by the emergency or disaster. OPM will establish and maintain an emergency leave bank for each such disaster or emergency that will contain the aggregate amount of annual leave donated by emergency leave donors in the agencies for a specific disaster or emergency. OPM will coordinate the transfer of donated annual leave from each agency to the emergency leave bank. An emergency leave donor may not contribute annual leave for transfer to a specific emergency leave recipient under this program. However, an employee may continue to donate his or her unused annual leave to a specific leave recipient under the separate authority for voluntary leave transfer in

5 U.S.C. 6332 and must follow the rules governing that program.

Each agency will be responsible for approving an emergency leave recipient and determining the amount of donated annual leave to be transferred to each of its approved emergency leave recipients. The agency must notify OPM of the aggregate amount of donated annual leave needed for transfer from the emergency leave bank to its approved emergency leave recipients. The minimum amount of annual leave an emergency leave donor may contribute in a leave year is 1 hour, and the maximum is 104 hours. In unusual situations, OPM may waive the limitations on donating annual leave.

To ensure that a sufficient amount of donated annual leave is available for all affected employees, emergency leave recipients may receive a maximum of 240 hours of donated leave at any one time from the emergency leave bank for each disaster or emergency. Emergency leave recipients may substitute donated leave retroactively for any period of leave without pay or advanced annual or sick leave used as result of the disaster or emergency. In addition, while an emergency leave recipient is in a shared leave status (i.e., using donated leave to recover from the disaster or emergency), annual and sick leave will continue to accrue to the credit of the employee without limitation. Any accrued annual leave is subject to the maximum annual leave ceilings established by 5 U.S.C. 6304(a), (b), (c), or (f).

Termination of Disaster or Emergency

Annual leave donated to an emergency leave bank for a specific disaster or emergency cannot be transferred to another emergency leave bank. When a disaster or emergency terminates, OPM will return to the donating agencies any donated annual leave that was not used by the emergency leave recipients. The amount of donated leave returned will be proportional to the amount of annual leave donated by the agency to the emergency leave bank for the disaster or emergency. Each agency will be responsible for determining the amount of returned annual leave to be restored to each of its emergency leave donors based on agency records of the amount of annual leave donated by the leave donor.

Redesignating Subpart K—Reservist Leave Bank Program

Subpart K of 5 CFR part 630, Reservist Leave Bank Program, is redesignated in its entirety as subpart M of 5 CFR part 630. The proposed rules for the new Emergency Leave Transfer Program are added as subpart K of 5 CFR part 630.

E.O. 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with E.O. 12866.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will affect only Federal employees and agencies.

List of Subjects in 5 CFR Part 630

Government employees.

Office of Personnel Management.

Janice R. Lachance,

Acting Director.

Accordingly, OPM is amending part 630 of title 5 of the Code of Federal Regulations as follows:

PART 630—ABSENCE AND LEAVE

1. The authority citation for part 630 is revised to read as follows:

Authority: 5 U.S.C. 6311; § 630.301 also issued under Pub. L. 103–356, 108 Stat. 3410; § 630.303 also issued under 5 U.S.C. 6133(a); §§ 630.306 and 630.308 also issued under 5 U.S.C. 6304(d)(3), Pub. L. 102–484, 106 Stat. 2722, and Pub. L. 103–337, 108 Stat. 2663; subpart D also issued under Pub. L. 103–329, 108 Stat. 2423; § 630.501 and subpart F also issued under E.O. 11228, 30 FR 7739, 3 CFR, 1974 Comp., p. 163; subpart G also issued under 5 U.S.C. 6305; subpart H also issued under 5 U.S.C. 6326; subpart I also issued under 5 U.S.C. 6332, Pub. L. 100–566, 102 Stat. 2834, and Pub. L. 103–103, 107 Stat. 1022; subpart J also issued under 5 U.S.C. 6362, Pub. L. 100–566, and Pub. L. 103–103; subpart K also issued under Pub. L. 102–25, 105 Stat. 92; subpart L also issued under 5 U.S.C. 6387 and Pub. L. 103–3, 107 Stat. 23; and subpart M also issued under 5 U.S.C. 6391 and Pub. L. 105–18, 111 Stat. 158.

2. In part 630, subpart K (consisting of §§ 630.1101 through 630.1109) is redesignated as subpart M (consisting of §§ 630.1301 through 630.1309); a new subpart K (consisting of §§ 630.1101 through 630.1106) is added; and in the newly redesignated subpart M, for each section indicated in the left column, the citations in the middle column are removed wherever they appear in the section, and the citations in the right column are added to read as follows:

Subpart K—Emergency Leave Transfer Program

Sec.

630.1101 Purpose, applicability, and administration.
630.1102 Definitions.
630.1103 Establishment of emergency leave transfer program.
630.1104 Transfer of annual leave.
630.1105 Limitations on donation and use of annual leave.
630.1106 Termination of disaster or emergency.

Subpart K—Emergency Leave Transfer Program

§ 630.1101 Purpose, applicability, and administration.

(a) *Purpose.* This subpart provides regulations to implement section 6391 of title 5, United States Code, and must be read together with section 6391. Section 6391 of title 5, United States Code, provides that in the event of a major disaster or emergency, as declared by the President, that results in severe adverse effects for a substantial number of employees, the President may direct the Office of Personnel Management (OPM) to establish an emergency leave transfer program under which an employee may donate unused annual leave for transfer to employees of his or her agency or to employees in other Executive agencies who are adversely affected by such disaster or emergency.

(b) *Applicability.* This subpart applies to any individual who is defined as an "employee" in 5 U.S.C. 6331(1) and who is employed in an Executive agency.

(c) *Administration.* The head of each agency having employees subject to this subpart is responsible for the proper administration of this subpart. Each Federal agency shall establish and administer procedures to permit the voluntary transfer of annual leave consistent with this subpart.

§ 630.1102 Definitions.

In this subpart—

Agency means an "Executive agency," as defined in 5 U.S.C. 105.

Disaster or emergency means a major disaster or emergency, as declared by the President, that results in severe adverse effects for a substantial number of employees (e.g., loss of life or property, serious injury, or mental illness as a result of direct threat to life or health).

Emergency leave bank means a pooled fund of annual leave established by OPM under § 630.1103(b) for employees who are adversely affected by a disaster or emergency.

Emergency leave donor means a current employee whose voluntary written request for transfer of annual leave to an emergency leave bank is approved by his or her employing agency.

Emergency leave recipient means a current employee for whom the employing agency has approved an application to receive annual leave from an emergency leave bank.

Emergency shared leave status means the administrative status of an employee while the employee is using leave transferred from an emergency leave bank.

Employee has the meaning given that term in 5 U.S.C. 6331(1).

Leave year has the meaning given that term in § 630.201.

Paid leave status under subchapter I has the meaning given that term in § 630.902.

§ 630.1103 Establishment of emergency leave transfer program.

(a) When directed by the President, OPM will establish an emergency leave transfer program for a major disaster or emergency that is declared by the President. The emergency leave transfer program will permit an employee to donate his or her accrued annual leave for transfer to employees of the same or other Executive agencies who are adversely affected by such disaster or emergency.

(b) OPM will establish an emergency leave bank for each disaster or emergency for which the President directs OPM to establish an emergency leave transfer program. Each emergency leave bank established under this paragraph will contain the aggregate amount of annual leave donated by emergency leave donors to employees affected by the disaster or emergency for which the emergency leave bank was established. OPM will determine the period of time for which donations of accrued annual leave may be accepted for each emergency leave bank.

(c) Each Federal agency shall—

(1) Accept annual leave donated by emergency leave donors for each declared disaster or emergency;

(2) Debit the amount of annual leave donated to an emergency leave bank from each emergency leave donor's annual leave account;

(3) Maintain records on the amount of leave donated by each emergency leave donor for a specific emergency leave bank (for the purpose of restoring unused transferred annual leave under § 630.1105(i)); and

(4) Report the aggregate amount of annual leave donated to an emergency leave bank to OPM.

(d) A leave bank established under subchapter IV of chapter 63 of title 5, United States Code, and subpart J of this part 630 may, with the concurrence of the leave bank board established under § 630.1003, donate annual leave to an emergency leave bank.

§ 630.1104 Transfer of annual leave.

(a) An employee may submit a voluntary written request to his or her employing agency that a specified number of hours of his or her accrued annual leave, consistent with the limitations in § 630.1105(a), be transferred from his or her annual leave account to an emergency leave bank established under § 630.1103(b). An emergency leave donor may not donate annual leave for transfer to a specific emergency leave recipient under this subpart.

(b) OPM will notify each affected agency of the aggregate amount of donated annual leave that will be credited to the agency for transfer by the agency to its approved emergency leave recipient(s).

(c) An employee who has been affected by a disaster or emergency (or his or her personal representative) may make written application to his or her employing agency to become an emergency leave recipient. The employee's application shall include a statement describing his or her need for leave from an emergency leave bank.

(d) Each affected agency shall—

(1) Take action to approve or disapprove a request to become an emergency leave recipient based on evidence administratively acceptable to the agency;

(2) Determine the amount of donated annual leave to be transferred to each emergency leave recipient (an amount that may vary according to individual needs);

(3) Notify OPM of the total number of approved emergency leave recipients and the aggregate amount of donated annual leave needed for transfer from the emergency leave bank; and

(4) Credit the annual leave account of each approved emergency leave recipient as soon as possible after the date OPM notifies the agency of the amount of donated annual leave that will be credited to the agency under paragraph (b) of this section.

§ 630.1105 Limitations on donation and use of annual leave.

(a) An emergency leave donor may not contribute less than 1 hour nor more than 104 hours of annual leave in a leave year. In unusual situations, OPM may waive the maximum limitation on donating annual leave under this section.

(b) Annual leave donated under this subpart may not be applied against the limitations on annual leave that may be donated under the voluntary leave transfer or leave bank programs established under 5 U.S.C. 6332 and 6362, respectively.

(c) An emergency leave recipient may receive a maximum of 240 hours of donated annual leave at any one time from an emergency leave bank for each disaster or emergency.

(d) Each emergency leave recipient shall use the donated annual leave for purposes related to the disaster or emergency for which the emergency leave recipient was approved.

(e) Annual leave transferred under this subpart may be—

(1) Substituted retroactively for any period of annual leave, sick leave, or leave without pay used as a result of the disaster or emergency, or

(2) Used to liquidate an indebtedness incurred by the emergency leave recipient for advanced annual or sick leave used as a result of the disaster or emergency.

(f) While an emergency leave recipient is in an emergency shared leave status under this subpart, annual and sick leave shall accrue to the credit of the employee at the same rate as if the employee were in a paid leave status under subchapter I of chapter 63 of title 5, United States Code, and shall be subject to the limitations imposed by 5 U.S.C. 6304(a), (b), (c), and (f) at the end of the leave year in which the transferred annual leave is received.

(g) Annual leave transferred under this subpart may not be—

(1) Included in a lump-sum payment under 5 U.S.C. 5551 or 5552;

(2) Made available for recredit under 5 U.S.C. 6306 upon reemployment by a Federal agency; or

(3) Used to establish initial eligibility for immediate retirement or acquire eligibility to continue health benefits into retirement under 5 U.S.C. 6302(g).

(h) When OPM determines that a disaster or emergency has terminated under § 630.1106(a)(1), OPM will return to the donating agencies any annual leave donated to an emergency leave bank that is not used by an approved emergency leave recipient. The amount of remaining annual leave to be returned to each agency will be proportional to the amount of annual leave donated by the agency to the emergency leave bank for such disaster or emergency. Annual leave donated to an emergency leave bank for a specific disaster or emergency may not be transferred to another emergency leave bank.

(i) Under procedures established by the donating agency, the agency shall determine the amount of annual leave returned under paragraph (h) of this section to be restored to each of the emergency leave donors who, on the date leave restoration is made, is employed by a Federal agency. At the election of the emergency leave donor,

unused transferred annual leave restored to the emergency leave donor under paragraph (h) of this section may be restored by—

(1) Crediting the restored annual leave to the emergency leave donor's annual leave account in the current leave year; or

(2) Crediting the restored annual leave to the emergency leave donor's annual leave account effective as of the first day of the first leave year beginning after the date of election.

§ 630.1109 Termination of disaster or emergency.

The disaster or emergency affecting an emergency leave recipient shall terminate—

(a) When OPM determines that the disaster or emergency has terminated;

(b) When the emergency leave recipient's Federal service terminates;

(c) At the end of the biweekly pay period in which the emergency leave recipient, or his or her personal representative, notifies the employing agency that he or she is no longer affected by such disaster or emergency;

(d) At the end of the biweekly pay period in which the employing agency determines, after written notice from the agency and an opportunity for the emergency leave recipient, or his or her personal representative, to answer orally or in writing, that the emergency leave recipient is no longer affected by such disaster or emergency; or

(e) At the end of the biweekly pay period in which the emergency leave recipient's employing agency receives notice that OPM has approved an application for disability retirement for the emergency leave recipient under the Civil Service Retirement System or the Federal Employees' Retirement System.

§§ 630.1304, 630.1308, and 630.1309 [Amended]

Section	Remove	Add
630.1304(c)	§ 630.1109(b)(1)	§ 630.1309(b)(1).
630.1308(b)	§ 630.1107	§ 630.1307.
630.1309(b)(1) and (d)	§ 630.1104(c)	§ 630.1304(c).
630.1309(d)	§ 630.1103(b)	§ 630.1303(b).

[FR Doc. 97–28970 Filed 10–31–97; 8:45 am]

BILLING CODE 6325–01–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 304, 308, 310, 320, 327, 381, 416, and 417

[Docket No. 97–051N]

Reopening of Comment Period on the Generic HACCP Models and Guidance Materials

AGENCY: Food Safety and Inspection Service.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing the reopening of the comment period to solicit additional public comment on the 13 generic Hazard Analysis and Critical Control Point (HACCP) models, the Guidebook for the Preparation of HACCP Plans, and Hazards and Controls Guide for Meat and Poultry Products. The comment period is being reopened so that ongoing public meetings on plant communication can include further discussion on the usefulness of the generic models and guidance materials in preparing for HACCP implementation.

DATES: Written comments on the generic models and guidance materials must be submitted on or before February 2, 1998.

ADDRESSES: The models, Guidebook, and Guide may be viewed in the FSIS Docket Reading Room, Room 102 Cotton Annex Building, 300 12th Street, SW, Washington, DC 20250–3700 and at Government Depository Libraries throughout the country. Comments on the models and other documents should be directed to Ms. Diane Moore, FSIS Docket Clerk, at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia F. Stolfa, Assistant Deputy Administrator, Regulations & Inspection, Office of Policy, Program Development, and Evaluation, Food Safety and Inspection Service, at (202) 205–0699, FAX (202) 401–1760.

SUPPLEMENTARY INFORMATION: On July 25, 1996, FSIS published a final rule, "Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems" (61 FR 38806). This rule introduces sweeping changes to the meat and poultry inspection system and directly targets pathogenic organisms on those products that can cause foodborne illness. In the preamble to the proposed rule, FSIS announced it would develop generic models to facilitate preparation of mandated HACCP plans, especially by "small" and "very small" establishments.

FSIS announced the availability of the models and guidance materials on June 12, 1997, and solicited public comment on those documents. (62 FR 32053) The models included Generic HACCP Model for Raw, Ground Meat and Poultry Products; Generic HACCP Model for Raw, Not Ground Meat and Poultry Products; Generic HACCP Model for Poultry Slaughter; Generic HACCP Model for Mechanically Separated (Species)/Mechanically Deboned Poultry; Generic HACCP Model for Thermally Processed Commercially Sterile Meat and Poultry Products; Generic HACCP Model for Irradiation; Generic HACCP Model for Meat and Poultry Products with Secondary Inhibitors, Not Shelf-Stable; Generic HACCP Model for Heat Treated, Shelf-Stable Meat and Poultry Products; Generic HACCP Model for Not Shelf-Stable Heat Treated, Not Fully Cooked Meat and Poultry Products; Generic HACCP Model for Fully Cooked, Not Shelf-Stable Meat and Poultry Products; Generic HACCP Model for Beef Slaughter; Generic HACCP Model for Pork Slaughter; and Generic HACCP Model for Not Heat Treated, Shelf-Stable Meat and Poultry Products. The initial comment period expired on August 11, 1997.

FSIS is reopening the comment period to allow plant owners and operators to further discuss the generic models and other documents during the second round of meetings held as part of the Agency's Plant Communications Initiative. Seven meetings, including a teleconference, are scheduled to be held across the country from August 18 through December 6, 1997. FSIS is interested in learning about the types of technical assistance that would be helpful to small plant managers in development of their HACCP systems.

Done in Washington, DC, on: October 24, 1997.

Thomas J. Billy,

Administrator.

[FR Doc. 97–29034 Filed 10–31–97; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 310 and 381

[Docket No. 97–004P]

RIN 0583–AC32

Generic E. coli Testing for Sheep, Goats, Equine, Ducks, Geese and Guineas

AGENCY: Food Safety and Inspection Service.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to require establishments slaughtering sheep, goats, horses, mules, and other equines, and establishments slaughtering ducks, geese, and guineas to sample and test carcasses for generic *E. coli*. This proposal extends the sampling and testing requirements already applied to establishments that slaughter cattle, swine, chickens, and turkeys. Regular microbial testing by slaughter establishments is necessary to verify the adequacy of the establishment's process controls for the prevention and removal of fecal contamination and associated bacteria.

DATES: Comments on the proposed regulations must be received on or before January 2, 1998.

ADDRESSES: Please send an original and two copies of comments to: FSIS Docket Clerk, DOCKET No. 97–004P, Room 3806, 1400 Independence Ave., SW, Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Stolfa, Assistant Deputy Administrator, Office of Policy, Program Development, and Evaluation, FSIS, Room 402 Annex Building, Washington, DC 20250-3700; (202) 205–0699.

SUPPLEMENTARY INFORMATION:

Background

On July 25, 1996, FSIS published a final rule, "Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems," (61 FR 38806). The new regulations (1) require that each establishment develop, implement, and maintain written sanitation standard operating procedures (Sanitation SOP's); (2) require regular microbial testing for generic *E. coli* by cattle, swine, chicken, and turkey establishments to verify the adequacy of the each establishment's process control for the prevention and removal of fecal contamination and associated bacteria; (3) establish pathogen reduction performance standards for *Salmonella* that slaughter establishments and establishments producing raw ground products must meet; and (4) require that all meat and poultry establishments develop and implement a system of preventive controls designed to improve the safety of their products, known as HACCP (Hazard Analysis and Critical Control Points).

At present, all inspected establishments that slaughter cattle, swine, chickens or turkeys must sample and test carcasses for generic *E. coli*. These establishments must develop sampling plans and sample at specified frequencies, locations, and sites. They must maintain records of results and evaluate the results using either the m/M criteria developed in FSIS' baseline studies or, if m/M criteria are not available, statistical process control techniques. Establishments defined as "very low volume" may sample at an alternative frequency. Also, establishments operating under HACCP may develop alternative sampling frequencies if certain requirements are met. The Pathogen Reduction/HACCP final rule and the "Pathogen Reduction/HACCP; Technical Amendments and Corrections" rule (62 FR 26211) provide detailed information about the need for these requirements.

FSIS now is proposing to extend these sampling and testing requirements to sheep, goats, horses, mules and other equines, defined as livestock in 9 CFR 301.2(qq), and to ducks, geese and guineas, defined as poultry in 9 CFR 381.1(b)(40). All establishments slaughtering sheep, goats, horses, mules or other equines would be required to meet the sampling and testing requirements in 9 CFR 310.25. Similarly, establishments slaughtering ducks, geese and guineas would be required to meet the sampling and testing requirements in 9 CFR 381.94. These establishments would only be required to test sheep, goats, equines, ducks, geese, or guineas if they primarily slaughter these types of livestock or poultry. FSIS considers the livestock or poultry an establishment slaughters in the largest number to be that establishment's primary type of livestock or poultry slaughtered.

Sampling Frequencies and Definitions For Very Low Volume Establishments

For the Pathogen Reduction/HACCP final rule, FSIS used a methodology to select sampling frequencies so that in the subgroup of establishments accounting for 99 percent of total production for each type of livestock or poultry, the 5 percent of establishments with the highest production volume would each conduct a minimum of 13 *E. coli* tests, one complete test "window", each day. Under these frequencies, 90 percent of all cattle, 94 percent of all swine, 99 percent of all chickens, and 99 percent of all turkeys would be slaughtered in establishments conducting a minimum of one *E. coli* test per day. Additionally, FSIS concluded that all establishments, except those defined as very low volume establishments, must conduct sampling at a frequency of at least once per week to provide a minimum, adequate basis for process control verification.

FSIS developed alternative sample frequencies for establishments defined as "very low volume." If there are published m/M criteria for the type of livestock or poultry primarily slaughtered, the establishment must sample that type of livestock or poultry at a minimum frequency of once per week starting the first full week of operation after June 1 until a series of 13 tests has met those m/M criteria. If there are no m/M criteria for the type of livestock or poultry primarily slaughtered, a very low volume establishment must collect at least one sample per week, starting the first full week of operation after June 1 of each year, and continue sampling at a minimum of once each week the establishment operates until June 1 of the following year or until 13 samples have been collected, whichever comes first. This provision will be eliminated once m/M criteria are developed for the primary type of livestock or poultry slaughtered.

FSIS permits very low volume establishments to test at this frequency, in part, because of their relatively simple and stable production environments. Also, FSIS assumed that the total risk of exposure to enteric pathogens from products produced at such establishments would be small and roughly proportional to the amount of products produced. FSIS requires these establishments to begin testing in June because it is most important for these establishments to conduct testing during the summer months, when there is a seasonal peak in the occurrence of foodborne diseases attributable to the major bacterial pathogens.

The final rule noted that very low volume cattle and swine establishments account for only 1.5 percent and 1.3 percent of overall production,

respectively. Very low volume chicken and turkey establishments account for .05 percent and .1 percent of overall production, respectively.

FSIS proposes to require sheep, goat, and equine establishments to sample at the same frequency now required for cattle, one test per 300 carcasses. Similarly, FSIS proposes to require duck, geese, and guinea establishments to sample at the same frequency now required for turkeys, one test per 3,000 carcasses. FSIS also proposes to require sheep, goat, equine, duck, geese, and guinea establishments, except those defined as very low volume establishments, to conduct sampling at a frequency of at least once per week to provide a minimum, adequate basis for process control verification.

FSIS is proposing to require sheep, goat, equine, duck, geese, and guinea establishments defined as "very low volume" to collect at least one sample per week, starting the first full week of operation after June 1 of each year, and continue sampling at a minimum of once each week the establishment operates until June 1 of the following year or until 13 samples have been collected, whichever comes first. At this time, baseline studies have not been conducted to develop m/M criteria for sheep, goats, equine, ducks, geese, and guinea. When m/M criteria is developed for any of these types of livestock or poultry, FSIS would require sampling at a minimum frequency of once per week starting the first full week of operation after June 1 until a series of 13 tests has met those m/M criteria.

Sheep and Goats

In fiscal year 1993, 93 establishments primarily slaughtered sheep and goats. FSIS is proposing that sheep and goat establishments sample at a frequency of one test per 300 carcasses or at least once a week, whichever is greater, unless they are very low volume establishments. At this sampling frequency, 85 percent of all sheep and goats would be slaughtered in establishments conducting a minimum of one *E. coli* test per day. A very low volume sheep or goat slaughter establishment would annually slaughter no more than 6,000 head. Based on fiscal year 1993 data, 61 of the 93 establishments would be classified as very low volume and account for 1.9 percent of total sheep and goat production.

Equine

In fiscal year 1995, eight establishments slaughtered equine under Federal inspection for human food. These eight establishments slaughtered only equine. The Agency is proposing that horse, mule, or other equine establishments sample at a rate of one per 300 carcasses or at least once a week, whichever is greater, unless they are very low volume establishments. Very low volume equine establishments would annually slaughter no more than 6,000 equines. Two of the equine establishments, slaughtering 5.6 percent of overall production, would be classified as very low volume.

Ducks, Geese, and Guineas

In fiscal year 1995, there were 12 establishments slaughtering primarily ducks and two establishments slaughtering primarily geese. FSIS is not aware of any federally inspected establishment currently processing guineas. FSIS is proposing that establishments slaughtering ducks, geese, and guineas sample at a frequency of one test per 3,000 carcasses or at least once a week, whichever is greater, unless they are very low volume establishments. At this frequency, 96 percent of all ducks would be slaughtered in establishments conducting a minimum of one *E. coli* test per day. Very low volume duck, geese or guinea establishments would slaughter no more than 60,000 ducks, geese, or guineas, respectively, a year.

In FY 1995, 25 establishments slaughtered 19.2 million ducks. Only 12 establishments primarily slaughtered ducks. These establishments produced 98.7 percent of all ducks slaughtered under Federal inspection. One of the 12 establishments produces less than .2 percent of ducks slaughtered and would be defined as a very low volume duck establishment.

Eight establishments under Federal inspection slaughtered 159,000 geese in FY 1995. Only two establishments primarily slaughtered geese and only one of these establishments slaughters more than 60,000 geese.

Alternative Sampling Frequencies

Establishments operating under a validated HACCP plan in accordance with 9 CFR 417.2(b) would be permitted to substitute an alternative frequency if the alternative is an integral part of the establishment's verification procedures for its HACCP plan. Establishments would not be allowed to use an alternative frequency if FSIS determines and notifies the establishment in writing that the alternative frequency is inadequate to verify the effectiveness of the establishment's process controls.

Sampling Plans

Sheep, goat, equine, duck, geese, and guinea establishments would prepare written specimen collection procedures. The procedures would include the identification of employees designated to collect samples, the location(s) of sampling, how sampling randomness is achieved, and how samples are handled to ensure sample integrity. The written procedures would be made available to FSIS upon request.

Sampling Locations

Sheep, goat, and equine establishments would collect samples from chilled carcasses. Carcasses boned before chilling (hot boned) would be sampled after the final wash. For ducks, geese and guineas, samples would be taken from the end of the chilling process, after the drip line. If the bird is boned before chilling, the sample would be taken from the end of the slaughter line instead of the end of the drip line.

Sampling Sites

Samples from sheep, goats, and equine carcasses would be taken by sponging tissue from three sites, the flank, brisket, and rump. Hide-on carcasses would be sampled by sponging from inside the flank, inside the brisket, and inside the rump. Ducks, geese, and guineas would be rinsed in an amount of buffer appropriate to the type of bird being tested.

Recordkeeping

Establishments would enter test results onto a process control chart or table and recorded in terms of colony forming units per milliliter (cfu/ml) for poultry carcasses or per square centimeter (cfu/cm^2) for livestock carcasses. Establishments would use the records to evaluate test results. These records would be maintained at the establishment for 12 months and must be made available to Inspection Program employees on request. Inspectors would review results over time to verify effective and consistent process control.

Evaluation Criteria

Establishments would evaluate results using statistical process control techniques until such time as m/M criteria are established for these types of livestock and poultry. FSIS intends to give high priority in its baseline plan to collect data that will support establishing m/M criteria for ducks and geese, and sheep.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been determined to be significant, and therefore, has been reviewed by the Office of Management and Budget.

The Administrator has made an initial determination that this proposed rule would not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601).

This proposed rule is an extension of the Pathogen Reduction/HACCP rule which was economically significant. Many aspects of that economically significant rule, such as the public health risks associated with pathogens present in fecal contamination and the potential health benefits of pathogen reduction, are applicable to this rule. In the Final Regulatory Impact Assessment (FRIA) (61 FR 38945, July 25, 1996) for the Pathogen Reduction/HACCP rule, FSIS addressed these areas in detail.

By extending coverage of generic *E. coli* testing to additional types of livestock and poultry, this proposed rule would increase the effectiveness of pathogen reduction efforts and thereby generate proportional increases in predicted public health benefits. The benefits assessment in the FRIA was based on a proportional reduction assumption, that is, an assumption that a reduction in pathogens at the manufacturing level leads to a proportional reduction in foodborne illness. Public health benefits are quantified in terms of reduced cost of foodborne illness.

This proposed rule would affect an estimated 101 federally inspected livestock slaughter establishments and a smaller number of State inspected livestock slaughter establishments. The total of 101 federally inspected establishments includes 11 establishments that slaughter only sheep and goats, 82 establishments that slaughter cattle and/or swine but slaughter sheep or goats as their primary type of livestock, and eight establishments that slaughter equine. Additionally, there are 574 establishments that slaughter sheep or goats but are not affected because they primarily slaughter cattle or swine.

This proposed rule would also affect an estimated 14 federally inspected poultry slaughter establishments and possibly a few State inspected poultry slaughter establishments. These include 12 federally inspected establishments that primarily slaughter ducks and two establishments that primarily slaughter geese. There are 14 establishments that also slaughter ducks and/or geese but are not affected because they primarily slaughter chickens or turkeys. There are currently no establishments that slaughter guineas under federal inspection.

Cost Analysis

This analysis is based on the same estimates and assumptions that were used to develop the FRIA for the Pathogen Reduction/HACCP rule and include:

(1) An average cost of $24 for collecting and analyzing a sample for generic *E. coli*.

(2) A cost of $640 for the preparation of a sampling plan. This estimate is based on 25 hours at $25.60 per hour, the average wage of a quality control manager.

(3) A cost of $403 per establishment for an estimated three out of four establishments that would require extra training for aseptic sampling.

(4) An estimate of 26 sample collections annually by very low volume slaughter establishments. (The proposed requirement is a minimum of 13.)

(5) An estimate of five minutes to record and review laboratory results for each sample by an employee earning $13.42 per hour.

Sheep, Goats and Equine

Unless otherwise specified, this cost analysis is based on data from the Agency's Enhanced Economic Database. This database includes ADRS data from FY 1993. Sheep and goat production were combined in the Enhanced Economic Database. Although the proposed rule treats sheep and goats as two separate types of livestock, the cost analysis is based on combined sheep and goat production. This has a minimal impact on the accuracy of the cost estimates.

There are 11 establishments that slaughter only sheep and goats. This proposed rule would extend mandatory generic *E. coli* testing to these establishments. Each of these 11 establishments would be required to develop a sampling plan at a cost of $640 per establishment or $7,040 in total. This cost would include items such as preparing a written plan, establishing sampling procedures, locating a laboratory and arranging for necessary supplies, and developing the statistical process control techniques to be used for analyzing results.

This analysis assumes that eight establishments (75 percent) would require training in aseptic sampling at a cost of $3,224 (8 times $403). Three of the eleven establishments would be very low volume establishments and would analyze 26 samples per year for a recurring cost of $1,872. Based on production data and a sampling rate of one in 300, the other eight establishments would analyze a total of 8,015 samples annually at a cost of $192,360. Recording and reviewing costs for 8,015 samples would require 668 hours annually and cost $8,970. The annual recording and reviewing costs for the three very low volume establishments would be $87 (6.5 hours at $13.43 per hour).

As discussed above, there are 82 establishments that slaughter cattle and/or swine but slaughter sheep or goats as their primary type of livestock. There would be no additional cost for 58 of these establishments because these 58 are now required to conduct sampling as very low volume cattle or swine slaughter establishments and would be very low volume sheep or goat establishments under the proposed rule. The impact on these 58 establishments would be a shift in the type of livestock sampled. It is assumed they can make this shift without additional costs for sampling plan development.

The other 24 establishments within the 82 that slaughter both cattle and/or swine and sheep or goats are now required to test for cattle or swine. However, under this proposed rule they would have to conduct additional analyses based on their sheep or goat production. Their sheep/goat production is greater than the larger of their cattle or swine production. As they shift from cattle or swine to sheep or goats, annual sampling would increase by 2,928 samples or $70,272 per year. Annual recording and reviewing costs would be $3,277 (244 hours at $13.43 per hour).

This proposed rule would also extend mandatory generic *E. coli* testing to 8 establishments that slaughter equines for human food. Based on FY 1995 ADRS data, the 8 equine establishments would be required to conduct 469 analyses per year. It was assumed they would all have to develop sampling plans ($640 each) and that six would have to obtain training in aseptic sampling ($403 per establishment). Two of the 8 equine establishments would meet the definition for a very low volume establishment. The total recurring cost for 469 analyses would be $11,256. Recording and reviewing costs would be $525 per year (39 hours at $13.43 per hour).

In conclusion, there are 43 federally inspected livestock slaughter establishments that would experience increased costs under this proposal. The one time up-front costs would total $17,802, $5,642 for training in aseptic sampling and $12,160 for sampling plan development. The total recurring cost for the 43 establishments would be $288,619, $275,760 for sample

collection and analysis and $12,859 for recording and reviewing test results.

All the costs discussed above for sheep, goat and equine establishments are summarized in Table 1.

TABLE 1.—COSTS FOR IMPLEMENTING GENERIC E. COLI SAMPLING PROGRAMS IN SHEEP, GOAT AND EQUINE ESTABLISHMENTS

Production category	Number of establishments	Training for aseptic sampling	Sampling plan development	Sample collection and analysis (recurring)	Recording and review (recurring)
Exclusively Sheep or Goats with Annual Production over 6,000	8	$2,418	$5,120	$192,360	$8,970
Exclusively Sheep or Goats with Annual Production under 6,000	3	806	1,920	1,872	87
Primarily Sheep or Goats with Annual Production over 6,000	24	.....	.....	70,272	3,277
Equine	8	2,418	5,120	11,256	525
Total	43	5,642	12,160	275,760	12,859

Ducks, Geese and Guineas

The ADRS data show that 28 federally inspected establishments slaughtered ducks and/or geese in FY 1995. FSIS is not aware of any establishment slaughtering guineas. Six establishments slaughtered only the types of poultry covered by this proposal. This proposal extends mandatory generic *E. coli* testing to six federally inspected poultry establishments that are not currently required to test. There are eight poultry slaughter establishments that currently test chickens or turkeys but slaughter more ducks or geese and, therefore, would shift their testing program to ducks or geese. Seven of these establishments would have to conduct more testing because they would not be very low volume establishments based on their duck or goose production. The eighth establishment would shift from a very low volume chicken establishment to a very low volume duck establishment and would not incur any additional costs.

In summary, under this proposal, 14 establishments would test ducks or geese. Two of these establishments would be very low volume establishments. All 14 poultry slaughter establishments affected by this proposal were included in the Pathogen Reduction/HACCP FRIA as very low volume poultry slaughter establishments, that is, annual chicken slaughter under 440,000 and annual turkey slaughter under 60,000. The methodology applied in the FRIA started with all 306 poultry slaughter establishments (FY 1993 ADRS data) in the Agency's Enhanced Economic Database. FSIS calculated the costs for 208 establishments processing more than 440,000 chickens annually and the costs for 48 establishments processing more than 60,000 turkeys annually. FSIS treated the remaining 50 poultry slaughter establishments as very low volume establishments.

This methodology most likely overestimated costs for the FRIA because more recent FY 1995 ADRS data include six poultry slaughter establishments processing ducks and/or geese exclusively. This cost analysis separates the costs already addressed and the incremental costs of basing sampling frequency upon duck and geese production. The costs already addressed that are actually costs of this proposal include the cost of six sampling plans at $640 per plan or $3,840; training in aseptic sampling for five establishments at $403 per establishment or $2,015; sample collection and analysis costs for 156 (6 multiplied by 26) samples per year at a cost of $24 per sample or $3,744; and recording and record review costs of $175. Using ducks and geese production levels from FY 1995, five of the six establishments slaughtering only ducks and geese would have to collect and analyze an additional 2,281 samples per year at an annual cost of $54,744. The recording and reviewing costs for 2,281 samples would be $2,553 annually. The other establishment is a very low volume establishment.

As discussed above, there are seven establishments that are currently required to test for chickens or turkeys as very low volume establishments but would have to conduct more analyses under this proposal because they would not be very low volume establishments based on their duck or goose production. These seven establishments would have to collect and analyze an additional 3,769 samples annually at a cost of $90,456. Recording and review costs at five minutes per sample would total $4,218 per year.

The total cost for extending testing to ducks, geese, and guineas includes a one time cost of $5,855 for training and sampling plan development and an annual recurring sampling and recording cost of $155,890. The costs for implementing generic *E. coli* sampling for duck, geese and guineas are summarized in Table 2.

TABLE 2.—COSTS FOR IMPLEMENTING GENERIC E. COLI SAMPLING PROGRAMS FOR DUCK, GOOSE, AND GUINEA ESTABLISHMENTS

Production category	Number of establishments	Training for aseptic sampling	Sampling plan development	Sample collection and analysis (recurring)	Recording and review (recurring)
Ducks and Geese only-Costs Included in FRIA	6	$2,015	$3,840	$3,744	$175
Ducks and Geese only-Costs not Previously accounted for	5 (included in the 6 above)	.....	.....	54,744	2,553

TABLE 2.—COSTS FOR IMPLEMENTING GENERIC E. COLI SAMPLING PROGRAMS FOR DUCK, GOOSE, AND GUINEA ESTABLISHMENTS—Continued

Production category	Number of establishments	Training for aseptic sampling	Sampling plan development	Sample collection and analysis (recurring)	Recording and review (recurring)
Establishments Currently Required to test Chickens or Turkeys	7	.....	.....	90,456	4,218
Total	13	2,015	3,840	148,944	6,946

Overall Summary of Cost Analysis

This proposed rule would extend mandatory generic *E. coli* sampling requirements to 25 federally inspected establishments, 11 that slaughter sheep and goats exclusively, eight that slaughter equine and six that currently slaughter only ducks and/or geese. The nonrecurring up-front costs for these establishments would total $23,657. The annual recurring costs for collecting and analyzing 10,999 samples and recording and reviewing results for these 25 establishments would be $276,286. There are 31 establishments that currently test cattle, swine, chickens or turkeys that would have to increase their testing programs by 6,697 samples. The increase in annual recurring costs for these 31 establishments would be $168,223.

The costs summarized in Tables 1 and 2 are maximum costs because the proposal would allow for establishments operating under a validated HACCP system to use sampling frequencies other than those specified in this proposal if the alternative sampling frequency is an integral part of the establishments HACCP plan. The cost estimates in Tables 1 and 2 do not account for possible reductions in sampling frequencies.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If the proposed rule becomes final: (1) all state and local laws and regulations that are inconsistent with this rule would be preempted; (2) no retroactive effect would be given to this rule; and (3) administrative proceedings would not be required before parties may file suit in court challenging this rule.

Paperwork Requirements

Abstract: As part of microbiological testing, each slaughter establishment would be required to develop written procedures outlining specimen collection and handling. The slaughter establishments would be responsible for entering the results into a statistical process control chart or table. The data and chart would be available for review by FSIS upon request.

Estimate of Burden: Agency subject matter experts estimate that it would take 25 hours for establishments to develop a microbial sampling and analysis plan. It would take an estimated 17.5 minutes to collect samples and 5 minutes per sample to enter data into charts, and then review and file the information.

This proposal would require 25 federally inspected establishments to develop sampling plans. FSIS estimates that each plan would require 25 hours to develop. Plan development for 25 establishments would require 625 burden hours. Fifty-six establishments would be required to collect samples and to record new or additional test results. These 56 establishments would be required to collect and record and review the results of 17,696 analyses, annually. To collect samples at 17.5 minutes per sample, 5,161 burden hours would be required. To record and review results at 5 minutes per result, it would take 1,475 burden hours.

Respondents: Livestock and poultry product establishments.

Estimated Number of Respondents: 56.

Estimated Number of Responses per Respondent: 18,402.

Estimated Total Annual Burden on Respondents: 7,261 hours.

Copies of this information collection assessment can be obtained from Lee Puricelli, Paperwork Specialist, Food Safety and Inspection Service, USDA, 1400 Independence Ave, SW, Room 3812, Washington, DC 20250–3700.

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information would have practical utility; (b) the accuracy of the Agency's estimate of the burden of the collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Lee Puricelli, Paperwork Specialist, see the address above, and Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20253.

Comments are requested by January 2, 1998. To be most effective, comments should be sent to OMB within 30 days of the publication date of this proposed rule.

Proposed Rule

List of Subjects

9 CFR Part 310

Meat inspection, Microbial testing.

9 CFR Part 381

Poultry and poultry products, Microbial testing.

For the reasons set forth in this preamble, 9 CFR chapter III would be amended as follows:

PART 310—POST MORTEM INSPECTION

1. The authority citation for part 310 would continue to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

2. Section 310.25 would be amended by revising the first sentence of paragraph (a)(1) introductory text, paragraphs (a)(2)(ii),(a)(2)(iii), and the first sentence of (a)(2)(v)(A) to read as follows:

§ 310.25 Contamination with microorganisms; pathogen reduction performance standards for Salmonella.

(a) * * *

(1) Each official establishment that slaughters livestock must test for *Escherichia coli* Biotype 1 (*E. coli*). * * *.

* * * * * *

(2) * * *

(i) * * *

(ii) *Sample collection.* The establishment must collect samples from all chilled livestock carcasses, except those boned before chilling (hot-boned), which must be sampled after the final wash. Samples must be collected in the following manner: [1]

(A) For cattle, establishments must sponge or excise tissue from the flank, brisket and rump, except for hide-on calves, in which case establishments must take samples by sponging from inside the flank, inside the brisket, and inside the rump.

(B) For sheep, goat, horse, mule, or other equine carcasses, establishments must sponge from the flank, brisket and rump, except for hide-on carcasses, in which case establishments must take samples by sponging from inside the flank, inside the brisket, and inside the rump.

(C) For swine carcasses, establishments must sponge or excise tissue from the ham, belly and jowl areas.

(iii) *Sampling frequency.* Slaughter establishments, except very low volume establishments as defined in paragraph (a)(2)(v) of this section, must take samples at a frequency proportional to the volume of production at the following rates:

(A) Cattle, Sheep, Goats, Horses, Mules, and Other Equine: 1 test per 300 carcasses, but at a minimum one sample each week of operation.

(B) Swine: 1 test per 1000 carcasses, but at a minimum one sample each week of operation.

* * * * *

(v) * * *

(A) Very low volume establishments annually slaughter no more than 6,000 cattle, 6,000 sheep, 6,000 goats, 6,000 horses, mules, or other equine, 20,000 swine, or a combination of livestock not exceeding 6,000 cattle and 20,000 total of all livestock. * * *

* * * * *

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

3. The authority citation for part 381 would continue to read as follows:

Authority: 7 U.S.C. 138f, 450; 21 U.S.C. 451–470, 7 CFR 2.18, 2.53.

Subpart K—Post Mortem Inspection; Disposition of Carcasses and Parts

6. Section 381.94 would be amended by revising paragraph (a)(2)(iii), and the first and second sentences of paragraph (a)(2)(v)(A) as follows:

§ 381.94 Contamination with microorganisms; process control verification criteria and testing; pathogen reduction standards.

(a) * * *

(2) * * *

(iii) *Sampling frequency.* Slaughter establishments, except very low volume establishments as defined in paragraph (a)(2)(v) of this section, must take samples at a frequency proportional to the establishment's volume of production at the following rates:

(A) Chickens: 1 sample per 22,000 carcasses, but at a minimum one sample per each week of operation.

(B) Turkeys, Ducks, Geese, and Guineas: 1 sample per 3,000 carcasses, but at a minimum one sample each week of operation.

* * * * *

(v) * * *

(A) Very low volume establishments annually slaughter no more than 440,000 chickens or 60,000 turkeys, 60,000 duck, 60,000 geese, 60,000 guineas or a combination all types of poultry not exceeding 60,000 turkeys and 440,000 birds total. Very low volume establishments slaughtering turkeys, ducks, geese, or guineas in the largest number must collect at least one sample per week, starting the first full week of operation after June 1 of each year, and continue sampling at a minimum of once each week the establishment operates until June 1 of the following year or until 13 samples have been collected, whichever comes first. * * *

* * * * *

Done at Washington, DC, on October 24, 1997.

Thomas J. Billy,

Administrator.

[FR Doc. 97–29027 Filed 10–31–97; 8:45 am]

BILLING CODE 3410–DM–P

[1] A copy of FSIS's "Guidelines for *E. coli* Testing for Process Control verification in Cattle and Swine Slaughter Establishments" is available for inspection in the FSIS Docket Room.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–79–AD]

RIN 2120–AA64

Airworthiness Directives; American Champion Aircraft Corporation 7, 8, and 11 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to American Champion Aircraft Corporation (ACAC) 7, 8, and 11 series airplanes, excluding Model 8GCBC airplanes. The Federal Aviation Administration (FAA) previously proposed similar AD action for the ACAC Model 8GCBC airplanes. The proposed AD would require installing inspection holes on the top and bottom wing surfaces, repetitively inspecting the front and rear wood spars for damage, repairing or replacing any damaged wood spar, and installing inspection covers. Damage is defined as cracks; compression cracks; longitudinal cracks through the bolt holes or nail holes; or loose or missing rib nails. The proposed AD results from a review of the service history of the affected airplanes that incorporate wood wing spars. The review was prompted by in-flight wing structural failures on ACAC Model 8GCBC airplanes, and revealed several incidents where damage was found on the front and rear wood spars on the affected airplanes. The actions specified by the proposed AD are intended to prevent possible compression cracks and other damage in the wood spar wing, which, if not detected and corrected, could eventually result in in-flight structural failure of the wing with consequent loss of the airplane.

DATES: Comments must be received on or before January 8, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–79–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from American Champion Aircraft Corporation, P.O. Box 37, 32032 Washington Avenue, Highway D, Rochester, Wisconsin 53167. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. William Rohder, Aerospace Engineer, FAA, Chicago Aircraft Certification Office, 2300 E. Devon Avenue, Des Plaines, Illinois 60018; telephone (847) 294–7697; facsimile (847) 294–7834.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire.

Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 97–CE–79–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–79–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

AD 87–18–09, Amendment 39–5725, currently requires inspecting (one-time) the sides of the front and rear wood spars for compression cracks on ACAC Model 8GCBC airplanes, repairing or replacing any wood spar with compression cracks, and re-inspecting immediately after any incident involving wing damage. AD 87–18–09 was the result of three accidents involving ACAC Model 8GCBC airplanes where structural damage to the wing caused by compression cracks in a wood spar was considered to be a primary factor of the accidents.

Wood compression cracks are failures of wood fibers on a plane perpendicular to the wood fiber longitudinal axis. Repetitive high stress can initiate these compression cracks on the top surface of the wing spar that is adjacent to doubler plate glue lines and rib nail holes. These high stress conditions can occur during crop dusting, banner and glider tow operations, turbulence, and rough field or float operations. Compression cracks can also initiate if the wing contacts the ground. Compression cracks can initiate at either the top or bottom surface of the spar depending on the loads (either upward or downward) at impact.

In-flight structural failure of the wing recently occurred on an ACAC Model 8GCBC airplane that was initially inspected as required by AD 87–18–09. A possible contributing factor of this incident was an undetected compression crack on the right wing front spar.

Investigation of this accident and data acquired from inspections of several ACAC Model 8GCBC airplanes indicate that wood spar compression cracks can occur without previous wing damage. The data indicates that detection of compression crack initiation is unlikely on the sides of the spar, unless the crack is in an advanced state of propagation. Based on this data, the FAA believes that repetitive inspections are necessary. The FAA recently issued an NPRM on the Model 8GCBC airplanes that was published in the **Federal Register** on September 26, 1997 (62 FR 50527). This NPRM proposes to supersede AD 87–18–09, and, if issued as a final rule, would require similar action to that proposed in this document.

Reasons for the Proposed AD

The above-referenced incidents on the ACAC Model 8GCBC airplanes prompted the FAA to review the service history of the other ACAC 8 series airplanes, as well as the 7 and 11 series airplanes. The FAA has record of eight reports of accidents (five fatal) on ACAC 7 and 8 series airplanes, other than the Model 8GCBC airplanes. Four of these accidents are attributed to overstress, two to wing failure due to previous damage going undetected, one to an overload condition with evidence of wing panel failure prior to impact, and one spar with an out-of-specification wood spar grain slope. This review revealed 16 reports of spar crack damage (spar butt end and/or longitudinal cracks), 6 reports of compression cracked spars, and 13 reports of loose/missing rib nails. These reports break down as follows:

—Model 7AC (2,626 U.S. registered airplanes): 12 reports of spar crack damage, plus 2 reports of loose/missing rib nails;

—Model 7BCM (253 U.S. registered airplanes): 1 report of spar crack damage;

—Model 7ECA (871 U.S. registered airplanes): 1 report of a compression cracked spar, plus 6 reports of loose/missing rib nails;

—Model 7GCBC (829 U.S. registered airplanes): 1 report of a compression cracked spar;

—Model 7KCAB (482 U.S. registered airplanes): 2 reports of spar crack damage, 2 reports of compression cracked spars, and 3 reports of loose/missing rib nails; and

—Model 8KCAB (480 U.S. registered airplanes): 1 report of spar crack damage, 2 reports of compression cracked spars, and 2 reports of loose/missing rib nails.

The FAA believes that many cracked/damaged spars are not reported because general aviation operators (operating in accordance with part 91 of the Federal Aviation Regulations (14 CFR part 91)) are not required to submit service difficulty reports.

Relevant Service Information

The FAA has reviewed and approved the technical contents of ACAC Service Letter 406, dated March 28, 1994, and ACAC Service Letter 417, Revision A, dated October 2, 1997. ACAC Service Letter 406, dated March 28, 1994, includes procedures for conducting a detailed visual inspection of both the front and rear wood wing spars for cracks; compression cracks; longitudinal cracks through the bolt holes or nail holes; and loose or missing rib nails (referred to as damage hereafter). ACAC Service Letter 417, Revision A, dated October 2, 1997, includes procedures for installing inspection holes and surface covers and assuring that all applicable lower surface drain holes are installed.

The FAA's Determination

After examining the circumstances and reviewing all available information related to the incidents and accidents described above, including the referenced service information, the FAA has determined that (1) the wing design of all 7, 8, and 11 series airplanes equipped with wood spars is similar and is conducive to spar cracks/damage; and (2) AD action should be taken to prevent possible compression cracks and other damage in the wood spar wing, which, if not detected and corrected, could eventually result in in-flight structural failure of the wing with consequent loss of the airplane.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other ACAC 7, 8, and 11 series airplanes (excluding the Model 8GCBC airplanes) of the same type design, the FAA is proposing AD action. The proposed AD would require installing inspection holes on the top

and bottom wing surfaces, repetitively inspecting the front and rear wood spars for damage, repairing or replacing any damaged wood spar, and installing surface covers. Accomplishment of the proposed actions would be as follows:

—Installations: in accordance with ACAC Service Letter 417, Revision A, dated October 2, 1997;

—Inspections: in accordance with ACAC Service Letter 406, dated March 28, 1994; and

—Spar Repair and Replacement, as applicable: in accordance with Advisory Circular (AC) 43–13–1A, Acceptable Methods, Techniques and Practices; or other data that the FAA has approved for spar repair and replacement.

Differences Between This Proposed AD and ACAC Service Letter 406

ACAC Service Letter 406, dated March 28, 1994, specifies the same inspections as are proposed in this notice of proposed rulemaking (NPRM). The differences between the service letter and NPRM are:

—the service letter specifies the proposed action within the next 30 days or 10 flight hours and at each 100 hour/annual inspection thereafter. The FAA has determined that a more realistic and enforceable compliance time would be to require:

1. The proposed initial inspection at the first annual inspection that occurs 3 calendar months or more after the effective date of the AD or within 15 calendar months after the effective date of the AD, whichever occurs first; and

2. The proposed repetitive inspections thereafter at intervals not to exceed 12 calendar months or 500 hours time-in-service (TIS), whichever occurs first;

and

—the service letter applies to all ACAC 7 and 8 series airplanes, whereas the NPRM applies to ACAC 7, 8, and 11 series airplanes with similar design, except for the Model 8GCBC airplanes. The FAA previously proposed similar AD action for the ACAC Model 8GCBC airplanes, Docket No. 97–CE–33–AD (62 FR 50527, September 26, 1997).

Compliance Time of the Proposed AD

The compliance time of the proposed AD is presented in calendar time and hours TIS. Although the unsafe condition specified in the proposed AD is a result of airplane operation, operators of the affected airplanes utilize their airplanes in different ways.

For example, an operator may utilize his/her airplane 50 hours TIS in a year while utilizing the aircraft in no or very little crop dusting operations, banner and glider tow operations, or rough field or float operations. This airplane would obviously have a lower crack propagation rate than an airplane operated 300 hours TIS a year in frequent crop dusting operations, banner and glider tow operations, or rough field or float operations. However, this airplane could have pre-existing and undetected wood spar damage that occurred during previous operations. In this situation, the damage to the wood spar would propagate at a level that depends on the operational exposure of the airplane and severity of the initial wood spar damage.

To assure that compression cracks do not go undetected in the wood spars of the affected airplanes, the FAA has determined that the following compliance times should be used:

1. The proposed initial inspection at the first annual inspection that occurs 3 calendar months or more after the effective date of the AD or within 15 calendar months after the effective date of the AD, whichever occurs first; and

2. The proposed repetitive inspections thereafter at intervals not to exceed 12 calendar months or 500 hours TIS, whichever occurs first.

Cost Impact

The FAA estimates that 6,440 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 6 workhours (Installations: 5 workhours; Initial Inspection: 1 workhour) per airplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $292 per airplane, provided that each airplane would only need 11 additional standard inspection hole covers per wing bottom surface (total of 22 new covers per airplane). If the airplane would require the installation of more inspection covers (i.e., a result of previous non-factory wing recover work), the cost could be slightly higher. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $4,198,880 or $652 per airplane.

This cost figure is based on the presumption that no affected airplane owner/operator has accomplished the installations or the initial inspection. The FAA has no knowledge of any owner/operator of the affected airplanes that has already accomplished the installations and initial inspection.

This cost figure also does not account for repetitive inspections. The FAA has no way of determining the number of repetitive inspections each owner/operator of the affected airplanes will incur over the life of his/her airplane. However, each proposed repetitive inspection would cost substantially less than the initial inspection because of the cost of the initial proposed inspection hole and cover installations would not be repetitive. The inspection covers allow easy access for the inspection of the wood spars, and the proposed compliance time would enable the owners/operators of the affected airplanes to accomplish the repetitive inspections at regularly scheduled annual inspections.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

American Champion Aircraft Company: Docket No. 97–CE–79–AD.

Applicability: The following airplane models, all serial numbers, certificated in any category, that are equipped with wood wing spars:

7AC
7BCM (L–16A)
7DC
S7EC
7GC
7GCB
7HC
7KCAB
S11AC
7ACA
7CCM (L–16B)
S7DC
7ECA
7GCA
7GCBA
7JC
8KCAB
11BC
S7AC
S7CCM
7EC
7FC
7GCAA
7GCBC
7KC
11AC
S11BC

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, repaired, or reconfigured in the area subject to the requirements of this AD. For airplanes that have been modified, altered, repaired, or reconfigured so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent possible compression cracks and other damage in the wood spar wing, which, if not detected and corrected, could eventually result in in-flight structural failure of the wing with consequent loss of the airplane, accomplish the following:

(a) At the first annual inspection that occurs 3 calendar months or more after the effective date of this AD or within the next 15 calendar months after the effective date of this AD, whichever occurs first, accomplish the following:

(1) Install inspection holes in the top and bottom surface of each wing in accordance with American Champion Aircraft Corporation (ACAC) Service Letter 417, Revision A, dated October 2, 1997. Assure that all drainage holes are installed as depicted in this service letter, and install drainage holes as necessary.

(2) Inspect (detailed visual) both the front and rear wood wing spars for cracks; compression cracks; longitudinal cracks through the bolt holes or nail holes; and loose or missing rib nails (referred to as damage hereafter). Accomplish these inspections in accordance with ACAC Service Letter 406, dated March 28, 1994.

(3) If any spar damage is found, prior to further flight, accomplish the following:

(i) Repair or replace the wood wing spar in accordance with Advisory Circular (AC) 43–13–1A, Acceptable Methods, Techniques and Practices; or other data that is approved by the FAA for wing spar repair or replacement.

(ii) If the wing is recovered, accomplish the installations required by paragraph (a)(1) of this AD, as applicable.

(4) Install inspection hole covers on the top and bottom surface of the wing in accordance with ACAC Service Letter 417, Revision A, dated October 2, 1997.

(b) Within 12 calendar months or 500 hours TIS (whichever occurs first) after accomplishing all actions required by paragraph (a) of this AD, and thereafter at intervals not to exceed 12 calendar months or 500 hours TIS, whichever occurs first, accomplish the inspection, repair, replacement, and installation required by paragraphs (a)(2), (a)(3), as applicable; including its subparagraphs; and (a)(4) of this AD.

(c) If, after the effective date of this AD, any of the affected airplanes are involved in an incident/accident that involves wing contact damage (e.g., surface deformations such as abrasions, gouges, scratches, or dents, etc.), prior to further flight after that incident/accident, accomplish the inspection, repair, replacement, and installation required by paragraphs (a)(2), (a)(3), as applicable; including its subparagraphs; and (a)(4) of this AD.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) An alternative method of compliance or adjustment of the initial or repetitive compliance time that provides an equivalent level of safety may be approved by the Manager, Chicago Aircraft Certification Office (ACO), 2300 E. Devon Avenue, Des Plaines, Illinois 60018. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Chicago ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Chicago ACO.

(f) All persons affected by this directive may obtain copies of the documents referred to herein upon request to American Champion Aircraft Corporation, P.O. Box 37, 32032 Washington Avenue, Highway D, Rochester, Wisconsin 53167; or may examine these documents at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on October 27, 1997.

Mary Ellen A. Schutt,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–28984 Filed 10–31–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 255

[Docket No. OST–97–3057; Notice No. 97–11]

RIN 2105–AC67

Computer Reservations System (CRS) Regulations (Part 255)

AGENCY: Office of the Secretary, (DOT).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department is proposing to revise its rules governing airline computer reservations systems (CRSs) by changing the rules' expiration date from December 31, 1997, to March 31, 1999. If the Department does not change the expiration date in the rules (14 CFR Part 255), they will terminate on December 31, 1997. The proposed extension of the current rules will cause those rules to remain in effect while the Department carries out an extensive reexamination of the need for CRS regulations. The Department tentatively believes that the current rules should be maintained because they appear to be necessary for promoting airline competition and helping to ensure that consumers and their travel agents can obtain complete and accurate information on airline services.

DATES: Comments must be submitted on or before November 18, 1997.

ADDRESSES: Comments must be filed in Room PL–401, Docket OST–97–3057, U.S. Department of Transportation, 400 7th St. SW., Washington, DC 20590. Late filed comments will be considered to the extent possible. To facilitate consideration of comments, each commenter should file six copies of its comments.

FOR FURTHER INFORMATION CONTACT: Thomas Ray, Office of the General Counsel, 400 Seventh St. SW., Washington, DC 20590, (202) 366–4731.

SUPPLEMENTARY INFORMATION: The Department in 1992 adopted its rules governing CRS operations—14 CFR Part 255—because CRSs had become essential for the marketing of airline services for almost all airlines operating in this country. 57 FR 43780, September 22, 1992. We concluded that the rules were necessary to ensure that the owners of the systems—all of which were airlines or airline affiliates—did not use them to unreasonably prejudice the competitive position of other airlines or to provide misleading or inaccurate information to travel agents and their customers. CRS practices can injure airline competition because travel agents rely on CRSs to provide airline information and bookings for their customers and because almost all airlines rely heavily on travel agencies to distribute their services. Our rules will expire on their sunset date, December 31, 1997, unless we readopt them or extend the expiration date. We have begun a proceeding to determine whether the rules are necessary and should be readopted and, if so, with what modifications. 62 FR 47606, September 10, 1997. We are proposing here to extend the expiration date for the current rules to March 31, 1999, so that they will remain in force while we conduct our overall reexamination of the rules.

We have set a short comment period of fifteen days so that we can publish a final decision on this proposal before the rules' current expiration date. We note that our advance notice of proposed rulemaking has already given interested persons notice of our intent to propose an extension of the rules' expiration date. 62 FR at 47610–47611.

The CRS Business

Four CRSs—each affiliated with one or more U.S. airlines—operate in the United States. A CRS consists of a periodically-updated central database that contains information on airline services and other travel services sold through the system. The major users of the information and transaction capabilities provided by CRSs are travel agents, who access CRSs through computer terminals, which are normally leased from the system. Consumers can also access a CRS through an on-line computer service or an Internet website. A CRS enables travel agents and other users to find out what airline seats and fares are available, book a seat, and issue a ticket on each airline that "participates" in the system, that is, that makes its services saleable through the CRS.

Each CRS obtains most of its revenues from airlines and other travel suppliers participating in the system. An airline participant pays a fee whenever the system is used to make a booking on that airline (most of the systems also charge fees for related transactions, such as booking changes and cancellations). Other travel suppliers pay similar fees. While travel agencies subscribing to the system may also pay fees, subscriber fees, unlike airline fees, are disciplined by competition. Many travel agencies obtain CRS services at little or no charge.

Regulatory Background

CRSs became essential for airline distribution in the early 1980s. At that time each of the systems operating in the United States, with one exception, was owned by a single airline (one system was owned by a non-airline firm, but it had a small market share and was later sold to an airline CRS). Each owner airline used its system to prejudice airline competition and give consumers biased or incomplete information in order to obtain more bookings. These factors caused the agency formerly responsible for the economic regulation of airlines, the Civil Aeronautics Board ("the Board"), to adopt rules governing the operations of airline-affiliated CRSs. 49 FR 32540, August 15, 1984. The Board found that regulations were essential to keep the systems from causing substantial harm to airline competition. The Board adopted its regulations primarily under its authority under section 411 of the Federal Aviation Act, later recodified as 49 U.S.C. 41712, to prevent unfair methods of competition and unfair and deceptive practices in air transportation and the marketing of airline transportation. On review the Seventh Circuit upheld the Board's rules. *United Air Lines* v. *CAB*, 766 F.2d 1107 (7th Cir. 1985).

The Board's major rules required each system to make participation available to all airlines on non-discriminatory terms, to offer at least one unbiased display, and to make available to each airline participant any marketing and booking data from bookings for domestic travel that it chose to generate from its system. The Board's rules also prohibited certain contract terms that limited the travel agencies' ability to choose which system to use.

We assumed the Board's responsibilities for airline regulation, including its regulation of CRSs, after the Board's sunset on December 31, 1984. *See United Air Lines, supra*, 766 F.2d at 1109.

To ensure that we would reexamine the need for the rules and their effects, the Board included a sunset date of December 31, 1990, in its rules. To carry out that reexamination we held a rulemaking proceeding to determine whether the rules should be readopted or modified. 54 FR 38870, September 21, 1989, (advance notice of proposed rulemaking); 56 FR 12586, March 26, 1991, (notice of proposed rulemaking); and 57 FR 43780, September 22, 1992, (the final rule). Since we did not complete that rulemaking by December 31, 1990, the rules' original expiration date, we extended that date to keep the rules in effect until the rulemaking's completion. 55 FR 53149, December 27, 1990; 56 FR 60915, November 29, 1991; 57 FR 22643, May 29, 1992. In the rulemaking we relied in part on the findings made in the staff's study of the rules and the CRS business. Secretary's Task Force on Competition in the U.S. Domestic Airline Industry, *Airline Marketing Practices: Travel Agencies, Frequent-Flyer Programs, and Computer Reservation Systems* (February 1990).

In our rulemaking we concluded that CRS rules remained necessary: market forces still did not discipline the price or level of service offered participating airlines by the systems, CRS owners would still use their control of the systems to prejudice airline competition if there were no rules, and systems could still bias their displays of airline services if there were no rules requiring unbiased displays. 57 FR at 43783–43787. We therefore readopted the Board's rules with several changes intended to further promote competition in the airline and CRS industries.

To ensure that we would reexamine the need for our rules and their effectiveness, our rules, like the Board's rules, included a sunset date, December 31, 1997. 14 CFR 255.12; 57 FR, 43829–43830, September 22, 1992. If we do not readapt the rules or extend their expiration date, the rules will end on that date.

We recently published an advance notice of proposed rulemaking asking interested persons to comment on whether we should readapt the rules and, if so, with what changes. 62 FR 47606, September 10, 1997. We did not issue the advance notice earlier due to

the on-going study of the CRS business and the impact of the rules being conducted by the staff, which was begun by Order 94–9–35 (September 26, 1994) and is examining such recent developments as the growth in Internet booking services.

Since we adopted the rules, we have proposed two amendments to them. One proposed rule would prohibit each system from imposing contract terms on participating airlines that require an airline to participate in a system at least as high a level as the airline participates in any other system, at least when the airline participant did not own or market a competing system. 61 FR 42197, August 14, 1996. The second proposal would revise our rules on CARS displays to promote airline competition and ensure that systems provide reasonable displays of airline services. 61 FR 42208, August 14, 1996.

Our Proposed Extension of the CARS Rules

We are proposing to change the expiration date for our CARS rules to March 31, 1999, so that the rules will remain in effect while we conduct our reexamination of the need for the rules and the rules' effectiveness. Given the time required for completing the overall reexamination of our rules, including the need to give parties an adequate opportunity to file comments and reply comments in response to the advance notice of proposed rulemaking and to our future notice of proposed rulemaking, we will not be able to complete that proceeding by the current expiration date of our rules.

A temporary extension of the current rules will preserve the status quo until we determine which rules, if any, should be adopted. Allowing the current rules to expire could be disruptive, since the systems, airlines, and travel agencies have been conducting their operations in the expectation that each system will comply with the rules. Systems, airlines, and travel agencies, moreover, would be unreasonably burdened if the rules were allowed to expire and if we later determined that those rules (or similar rules) should be adopted, since they could have changed their business methods in the meantime.

We tentatively find that a short-term continuation of the current rules is necessary, primarily because of the need to protect airline competition and consumers against unreasonable practices. Before adopting our current rules we carefully considered the CARS business and airline marketing, both as part of the Secretary's study of domestic airline competition and through the rulemaking. We concluded in that CARS rulemaking, completed in 1992, that CRSs were still essential for the marketing of the services of virtually all airlines. 57 FR 43780, 43783–43784, September 22, 1992. Each airline's need to participate in each system meant that market forces did not discipline the terms offered by the systems for airline participation.

Although the staff has not completed its current study of the CARS business and although we have only begun a rulemaking to reexamine the need for the rules, we tentatively believe that the findings made in our last CARS rulemaking on the need for CARS rules are still valid, at least for the purpose of a short-term extension of the rules' expiration date. If we continue the current rules, those regulations will protect airline competition and consumers against the injuries that might otherwise occur, given our earlier findings on the market power of the systems and each airline owner's potential interest in using its affiliated CARS to prejudice the competitive position of other airlines. Continuing the rules in effect should not impose significant costs on the systems and their owners, since they have already adjusted their operations to comply with the rules and since the rules do not impose costly burdens of a continuing nature on the systems.

The need for the rules results from the airlines' dependence on travel agencies, the agencies' dependence on CRSs, the use by most travel agency offices of only a single CARS, the difficulty of creating alternatives for CRSs and getting travel agencies to use them, and the airlines' inability to cause agencies to use one CARS instead of another. Because of these factors, almost all airlines must participate in each CARS, and the CRSs have no need to compete for airline subscribers.

In recent years seventy percent of all airline bookings in the United States have been made by travel agencies, and travel agencies have relied almost entirely on CRSs to determine what airline services are available and to make reservations for their customers. 57 FR at 43782. Few travel agency offices make extensive use of more than one CARS. 57 FR at 43783.

If an airline does not participate in one system, the travel agents using that system must call the airline to obtain information and make bookings, which is substantially less efficient than using a CARS. Travel agents are less likely to book an airline when doing so is significantly more difficult than booking a competing airline participating in the agents' CARS. As a result, the non-participating airline will receive fewer bookings than it would obtain if it participated in the agents' system. The importance of marginal revenues in the airline industry means that an airline's loss of a few bookings on each flight is likely to substantially reduce its profitability. 57 FR at 43783–43784.

Most airlines do not have practicable alternatives to CARS participation. An airline could try to mitigate the loss of bookings caused by non-participation in a system by establishing a direct electronic link between the travel agencies using that system and its own internal reservations system, but doing so is expensive and potentially less convenient for travel agents.

We doubt that any airline could successfully create a new CARS, since doing so would be extremely costly. In addition, any new system could not easily obtain a significant number of subscribers. Moreover, due to the economies of scale in the CARS business, a system without a large subscriber base is unlikely to be profitable. 57 FR at 43783–43784. We recognize that U.S. Travel Agency Registry has announced a plan to create a new CARS, but its system would apparently not be available until late 1998, and a few industry sources have questioned USTAR's plans. *See Travel Distribution Report*, vol. 5, no. 11, August 26, 1997, at 1, 4. We will welcome new competition in the CARS business, but USTAR's plans do not undermine the apparent need for a short-term extension of the rules.

Airlines could exert some competitive pressure on the systems if they could encourage travel agencies to use one system instead of another, but that has not been practicable. 57 FR at 43831.

In our recent notices of proposed rulemaking on airline parity clauses and CARS displays, we tentatively concluded that market forces did not discipline the terms offered by a system for airline participation. *See, e.g.*, 61 FR at 42198. The Department of Justice filed comments in the parity clause rulemaking which supported our tentative findings. The Justice Department thus stated, Justice Dept. Comments at 2–3, Docket OST–96–1145 (footnote omitted):

> Each CARS provides access to a large, discrete group of travel agents, and unless a carrier is willing to forego access to those travel agents, it must participate in every CARS. Thus, from an airline's perspective, each CARS constitutes a separate market and each system possesses market power over any carrier that wants travel agents subscribing to that CARS to sell its airline tickets.

We are aware of the changes in the CARS business and airline marketing

practices since our last major CARS rulemaking, but we are reluctant to change our existing regulations until we have completed our study of the impact of those changes.

Many airlines and travel agencies and some CRSs now offer booking sites on the Internet that consumers may use, but few consumers currently book airline services through the Internet. Despite the rapid growth in the number of consumers using the Internet for airline bookings, airlines will probably remain dependent on travel agencies for most of their revenues for at least the next few years. Furthermore, many of the websites use a CARS for a booking engine, so CRSs have captured a significant share of the Internet business.

In addition, several new low-cost airlines began operations without making their services saleable through any CARS. Initially those airlines' adoption of that strategy suggested that airlines could compete successfully without CARS participation. However, some of these low-cost airlines—Western Pacific and ValuJet, for example—have recently announced plans to make their services available through CRSs, and other low-cost airlines—Reno and Frontier, for example—have always relied on CARS participation in their marketing. As a result, while Southwest has managed to prosper without participating in any CARS except Sabre, it appears that virtually no other airline has been able to duplicate Southwest's method of operations enough to avoid CARS participation.

Our tentative conclusion that CARS rules remain necessary, at least on a short-term basis, is supported by current airline complaints about CARS practices. For example, a number of airlines (including Delta, one of the three largest airlines in the United States and a part-owner of a CARS) have complained about the continuing increases in booking fees and the airlines' inability to exert any check on those increases. Justice Dept. Comments at 5, Docket OST–96–1145. There are also disputes between some participating airlines and some systems over the systems' imposition of booking fees on transactions that participating airlines believe are of no benefit to them. *See, e.g., Travel Distribution Report*, vol. 5, no. 2, April 24, 1997, at 1.

Finally, there is an additional basis for our tentative determination that we should keep the current rules in place pending our reexamination of the rules. Our goals of promoting airline competition and preventing consumer deception were not the only bases for our adoption of the rules. We also relied on our obligation under section 1102(b) of the Federal Aviation Act, recodified as 49 U.S.C. 40105(b), to act consistently with the United States' obligations under treaties and bilateral air services agreements. Many of those bilateral agreements assure the airlines of each party a fair and equal opportunity to compete. We have held that the fair and equal opportunity to compete includes, among other things, a right to have an airline's services fairly displayed in CRSs. Our rules against display bias and discriminatory treatment help to provide foreign airlines with a fair and equal opportunity to compete in the United States. 57 FR at 43791–43792. We note in that regard that the European Union, Canada, and Australia, among other countries, have adopted rules regulating CARS operations that help give U.S. airlines a fair opportunity to sell their services in the countries covered by the rules.

Regulatory Process Matters

Regulatory Assessment

This rule is a nonsignificant regulatory action under section 3(f) of Executive Order 12866 and has not been reviewed by the Office of Management and Budget under that order. Executive Order 12866 requires each executive agency to prepare an assessment of costs and benefits for each significant rule under section 6(a)(3) of that order. The proposal is also not significant under the regulatory policies and procedures of the Department of Transportation, 44 FR 11034.

Maintaining the current rules should impose no significant costs on the CRSs. The systems have already taken all the steps necessary to comply with the rules' requirements on displays and functionality, and operating in compliance with the rules does not impose a substantial burden on the systems. Maintaining the rules will benefit participating airlines, since otherwise they would be subjected to unreasonable terms for participation, and will benefit consumers, who otherwise might obtain incomplete or inaccurate information on airline services. Several provisions of the rules, moreover, are designed to prevent abuses in the systems' competition with each other for travel agency subscribers.

When we conducted our last major CARS rulemaking, we included a tentative regulatory impact statement in our notice of proposed rulemaking and made that analysis final when we issued our final rule. We believe that analysis remains applicable to our proposal to extend the rules' expiration date. As a result, no new regulatory impact statement appears to be necessary. However, we will consider comments from any party on that analysis before we make our proposal final.

This rule does not impose unfunded mandates or requirements that will have any impact on the quality of the human environment.

Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.*, was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. The act requires agencies to review proposed regulations that may have a significant economic impact on a substantial number of small entities. For purposes of this rule, small entities include smaller U.S. and foreign airlines and smaller travel agencies. Our notice of proposed rulemaking sets forth the reasons for our proposed extension of the rules' expiration date and the objectives and legal basis for that proposed rule.

In addition, we note that keeping the current rules in force will not modify the existing regulation of small businesses. Our notice of proposed rulemaking in our last major CARS rulemaking contained an initial regulatory flexibility analysis on the impact of the rules, and we discussed the comments on that analysis in our final rule. Our analysis appears to be valid for our proposed extension of the rules' termination date. Accordingly, we adopt that analysis as our tentative regulatory flexibility statement and will consider any comments filed on that analysis in connection with this proposal.

The continuation of our existing CARS rules will primarily affect two types of small entities, smaller airlines and travel agencies. To the extent that airlines can operate more efficiently and reduce their costs, the rule will also affect all small entities that purchase airline tickets, since airline fares may be somewhat lower than they would otherwise be, although the amount may not be large.

Continuing the rules will protect smaller non-owner airlines from certain potential system practices that could injure their ability to operate profitably and compete successfully. No smaller airline has a CARS ownership interest. Market forces do not significantly influence the systems' treatment of airline participants. As a result, if there were no rules, the systems' airline owners could use them to prejudice the competitive position of other airlines. The rules provide important protection to smaller airlines. For example, by prohibiting systems from ranking and editing displays of airline services on the basis of carrier identity, they limit the ability of each system to bias its displays in favor of its owner airlines and against other airlines. The rules also prohibit charging participating airlines discriminatory fees. The rules, on the other hand, impose no significant costs on smaller airlines.

The CARS rules affect the operations of smaller travel agencies, primarily by prohibiting certain CARS practices that could unreasonably restrict the travel agencies' ability to use more than one system or to switch systems. The rules prohibit CARS contracts that have a term longer than five years, give travel agencies the right to use third-party hardware and software, and prohibit certain types of contract clauses, such as minimum use and parity clauses, that restrict an agency's ability to use multiple systems. By prohibiting display bias based on carrier identity, the rules also enable travel agencies to obtain more useful displays of airline services.

The Regulatory Flexibility Act also requires each agency to periodically review rules which have a significant economic impact upon a substantial number of small entities. 5 U.S.C. 610. Our rulemaking reexamining the need for the CARS rules and their effectiveness will constitute the required review of those rules.

Our proposed rule contains no direct reporting, recordkeeping, or other compliance requirements that would affect small entities. There are no other federal rules that duplicate, overlap, or conflict with our proposed rules.

Interested persons may address our tentative conclusions under the Regulatory Flexibility Act in their comments submitted in response to this notice of proposed rulemaking.

The Department certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. *et seq.*) that this regulation will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This proposal contains no collection-of-information requirements subject to the Paperwork Reduction Act, Pub. L. No. 96–511, 44 U.S.C. Chapter 35.

Federalism Implications

The rule proposed by this notice will have no substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, we have determined that the proposed rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

List of Subjects for 14 CFR Part 255

Air carriers, Antitrust, Consumer protection, Reporting and recordkeeping requirements, Travel agents.

Accordingly, the Department of Transportation proposes to amend 14 CFR Part 255, Carrier-owned Computer Reservations Systems, as follows:

PART 255—[AMENDED]

1. The authority citation for Part 255 continues to read as follows:

Authority: 49 U.S.C. 1301, 1302, 1324, 1381, 1502.

2. Section 255.12 is amended to read as follows:

§ 255.12 Termination.

Unless extended, these rules shall terminate on March 31, 1999.

Issued in Washington, D.C. on October 27, 1997.

Rodney E. Slater,

Secretary of Transportation.

[FR Doc. 97–29001 Filed 10–31–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

15 CFR Part 960

[Docket No. 951031259–7103–02]

Licensing of Private Land Remote-Sensing Space Systems

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) proposes regulations revising its regime for the licensing of private Earth remote-sensing space systems under Title II of the Land Remote Sensing Policy Act of 1992, 15 U.S.C. 5601 *et seq.* (1992 Act). These proposed regulations implement the licensing provisions of the 1992 Act and the Presidential Policy announced March 10, 1994. They are intended to facilitate the development of the U.S. commercial remote-sensing industry and thus promote the collection and widespread availability of Earth remote sensing data while preserving essential U.S. national security, international obligations and foreign policy interests. A fundamental principle is that restrictions imposed on a licensee must appropriately balance promoting competitive capabilities of U.S. commercial firms and the protection of national security, international obligations and foreign policy. The proposed regulations also describe when a system, though privately owned, has received sufficient financial or other support from the U.S. Government that the operator may have to comply with a nondiscriminatory data access policy that applies to all Government systems. These regulations reflect that policy.

DATES: Comments must be received by January 2, 1998.

ADDRESSES: Comments should be sent to, Charles Wooldridge, NOAA, National Environmental Satellite, Data, and Information Service, 1315 East-West Highway, Room 3620, Silver Spring, MD 20910–3282.

FOR FURTHER INFORMATION CONTACT: Charles Wooldridge at (301) 713–2024, ext. 107 or Kira Alvarez, NOAA, Office of General Counsel at (301) 713–1217.

SUPPLEMENTARY INFORMATION: Title II of the 1992 Act authorizes the Secretary of Commerce (Secretary) to issue licenses for operation of private remote sensing space systems. The authority to issue licenses has been delegated to the Administrator of NOAA and redelegated to the Assistant Administrator for Satellite and Information Services.

On July 10, 1987, NOAA published final regulations (1987 Regulations) implementing Title IV of the Land Remote Sensing Act of 1984 (the 1984 Act) setting forth the requirements for obtaining a license. In 1988 the Radio Television News Directors Association (RTNDA) filed a Petition for Rulemaking requesting NOAA to reopen these regulations in light of the President's January 5, 1988 Decision Directive encouraging commercial space development. On January 18, 1989, NOAA responded to this Petition, agreeing to reopen the rulemaking and incorporate certain principles favorable to commercial development that were consistent with the Directive. *see* 54 FR 1995.

Shortly thereafter, Congress began to review the 1984 Act and, on October 28, 1992, enacted the 1992 Act which repealed and succeeded the 1984 Act. The 1992 Act made significant changes to the 1984 Act, particularly with regard to the latter's requirement that all unenhanced data must be provide on a nondiscriminatory basis. The 1992 Act also provided for judicial review of

certain licensing and enforcement actions.

On March 10, 1994, the President announced a Policy Decision (the "President's Policy") to "support and enhance U.S. competitiveness in the field of remote sensing space capabilities while at the same time protecting U.S. interests in the national security and international obligations." This policy adopted a number of principles that promote an appropriate balance between these interests.

On December 4, 1995 a *Notice of Inquiry and Request for Public Comment* was published in the **Federal Register** (60 FR 62054), wherein NOAA sought public comment to determine the extent the 1987 Regulations needed revision to conform to the President's Policy and the 1992 Act, and, if so, which issues should be addressed. NOAA received seven sets of comments (*see* 61 FR 24480). On May 15, 1996, NOAA published a *Notice of Public Hearing* in the **Federal Register** (61 FR 24480) announcing a public hearing to be held at the Department of Commerce on June 14, 1996. The main theme that emerged at the public hearing was the request of commercial representatives for transparency and predictability in the regulations.

The regulations proposed herein update the 1987 Regulations to reflect these intervening events and information gathered through the public comment process, as well as the experience gained in the issuance of licenses over the last five years. When finalized, these regulations will apply to all existing licenses, as well as to all pending license applications (i.e. those applications which are currently being reviewed and for which no license has yet been issued) and will apply to all future applications to operate a private remote sensing system. The intent of the proposed regulations is to promote the development of the commercial remote sensing industry by keeping Government oversight to the minimum necessary to ensure protection of U.S. national security, international obligations and foreign policy interests. In addition, it is the intent of these regulations to make U.S. Government policies regarding remote sensing and established timeliness, predictable and transparent to licensees and applicants. An underlying premise is that helping the U.S. industry to lead this emerging market supports the long term national security, international obligation and foreign policy interests of the United States.

Major Revisions

1. National Security and Foreign Policy Considerations

The regulations incorporate the basic regulatory principle that any restrictions on a licensee, including those required for national security, international obligations and foreign policy purposes, should be the least burdensome possible to achieve the stated objective § 960.10(a)). This was one of the two principles previously recognized in the January 18, 1989, response to the RTNDA Petition for Rulemaking and is reflected in the President's Policy.

Proposed § 960.10(a) sets forth a presumption that, in the case of systems whose operational capabilities are similar to those of systems already licensed, national security, international obligations and foreign policy concerns can be resolved through license conditions similar to those established by the President's Policy and described in §§ 960.9 and 960.10 without the necessity of permanently barring any area from sensing. For systems whose operational capabilities exceed those of systems already licensed, the Government will make every effort to resolve any national security, international obligation and foreign policy concerns that may arise in review of license applications with license conditions rather than by denying the license.

Section 960.10(b) sets forth the basic license condition that has been designed to preserve national security, international obligations and foreign policy interests. This condition was established in the first license issued after the 1992 Act, refined slightly in the President's Policy, and is contained in all licenses issued since then. This condition provides that the Secretary of Commerce may require the licensee to stop imaging an area and/or stop distributing data of an area after being informed by the Secretary of Defense or State, as appropriate, that a period exists when national security, international obligations or foreign policy interests may be compromised. It should be noted that the consultation and decisionmaking must take place at the Secretarial level, thus ensuring that invoking this provision will be invoked only at the highest levels within the U.S. Government. The decision will take into account the potential negative economic impact of interrupting commercial operations.

In reaching determinations as to whether the unrestricted data collection and distribution capabilities of a licensed commercial remote sensing system would adversely affect the U.S. national security, international obligations and/or foreign policies, the Secretary of Defense or Secretary of State will exercise his or her judgment in light of the existing or emerging international situation. Of particular concern will be situations in which: (a) A condition of crisis or war exists or is developing and this condition poses an immediate and serious threat to U.S. or allied national security objectives such as affecting the lives or resources of U.S. or allied personnel; (b) a condition of crisis or serious impairment to U.S. international obligations or foreign policy exists or is developing and this condition poses an immediate serious and permanent threat to U.S. or allied relations with one or more foreign countries; (c) an adversary's ability to receive and exploit the data from the licensee's system contributes to the threat U.S. or allied national security objectives, concerning military planning and operations, or to implement international obligations, taking into account the ability of the adversary to receive and exploit similar data from other sources.

Subsection (c) also includes additional criteria that reflect the principle that restrictions be the least burdensome possible to achieve the stated objective: restrictions will be imposed on the smallest area and during the shortest period of time possible; alternatives to the complete suspension of operations such as delaying transmission of data and/or restricting the field of view will be considered; and the distribution of data will generally not be restricted if comparable data is otherwise available from foreign systems with comparable resolution and accessibility over which the U.S. has no jurisdiction or control.

The regulations implementing this condition recognize the need for close coordination between the U.S. Government and the licensee during periods when concerns relating to national security, international obligations and foreign policies have been raised.

Subsection (d) allows (but does not require) the inclusion in a license of a related condition, also derived from the President's Policy, that ensures that, during periods when imaging or data distribution are restricted for national security, international obligations or foreign policy purposes under subsection (c), on request the licensee will provide the data exclusively to the U.S. Government by means of government furnished rekeyable encryption on the downlink. This condition makes commercial remote sensing assets available as appropriate to enhance U.S. Government national security capabilities. Subsection (e) provides that technical modifications needed to meet this condition may be required to be paid for by the requesting agency in accordance with section 507(d) of the Act.

2. Changes in Data Policy

A major change made by the 1992 Act was to remove the 1984 requirement that all private operators must make their unenhanced data available on a nondiscriminatory basis. The 1992 Act retains this requirement of essentially Governmental systems, such as the Landsat system and those systems that are substantially funded by the U.S. Government, but allows the operator of a non-governmental system to follow normal commercial practices unless U.S. interests dictate otherwise. (section 201(e), 202(b)(3), and 501).

Section 960.11 of the regulations implements this change within the Act's overall objective of making environmental data available to the widest possible spectrum of users, particularly for scientific and operational purposes in support of the public good. This section addresses three categories of licensees. The first are those whose development, fabrication, launch, or operations costs have been funded entirely or in substantial part directly by the Government. As dictated by the Act, these operators must make their unenhanced data available on a nondiscriminatory basis (§ 960.11(a)). This requirement ensures that the data are broadly accessible and is consistent with the basic policy codified in the Paperwork Reduction Act, 44 U.S.C. 3506 *et. seq.* and included in OMB Circular A–130, that data paid for by the taxpayer is a public good to be made equally available to all members of the public *see* 44 U.S.C. 3506(d).

The second category of licensees are those that are fully commercial, i.e., not funded by the Government in whole or in part. These operators will be allowed to follow their preferred commercial data practices, subject to providing the unenhanced data to the governments of those states sensed, subject to national security, international obligations and foreign policy concerns, as discussed below (§ 960.11(b)). These licensees will be encouraged to promote access to their data on as widespread a basis as possible and it is anticipated that, in most cases, there will be a commercial incentive to reach a broad customer base. It is recognized that in some cases, some of the data collected by such systems may not become generally accessible. However, NOAA believes that overall this loss will be outweighed by the substantially greater volume of data that will be collected by a vigorous commercial industry. It should be noted that limited purchases by the United States Government as a normal customer of the licensee would not constitute funding or support for purposes of this section.

The third category of licensees falls between the first two and consists of those for whom the U.S. Government provides some support. Here, the Government's interest is more significant, because of the investment by the taxpayer and the possible precedential effect hat permitting restricted access could have on future U.S. access to the data from foreign international data exchange involving government subsidized public-private ventures. The data policy applicable to these licensees will be determined on a case-by-case basis, balancing the effect on the licensee of limiting its commercial options against the potential benefits of providing widespread access of the data for scientific, educational or other non-commercial purposes supporting the public good. In evaluating the potential for data loss, NOAA will consider both the data to be gathered by the particular licensee as well as the possible implications for future intergovernmental data exchanges.

It is anticipated that the U.S. Government interest in making the data available frequently can be addressed through terms and conditions in the license that do not require full nondiscriminatory data access policy. For example, it may be possible to accommodate such interests by ensuring access for research, education, and other governmental purposes, while protecting a licensee's commercial options.

3. The Sensed State Provision

When Congress removed the blanket nondiscriminatory data access requirement, it was careful to ensure that access to the unenhanced data would remain consistent with the basic international principle, contained in the United Nations' Principles on Remote Sensing, that the government of a sensed state should have timely access to all such data concerning its own territory. Section 202(b)(2) of the 1992 Act requires that all licenses include the condition that the licensee shall make available to the government of any country, including the United States, unenhanced data collected by the system concerning the territory under the jurisdiction of such government on reasonable terms and conditions as soon as such data are available; consistent with national security, international obligations and foreign policy of the U.S.

Section 960.9(c) of the proposed regulations incorporates this requirement and discusses the terms and conditions that are "reasonable" in those cases where the data will not be made available on a nondiscriminatory basis. Making the data available to different classes of customers, e.g. researcher, commercial end user, and value-added redistributor, at different prices is reasonable provided the data is available to the sensed state on the most favorable terms available to any member of the class appropriate to the intended use by that state.

If a licensee intends to provide its unenhanced data on a restricted or exclusive basis, it becomes more difficult to determine what is "reasonable" vis-a-vis a sensed state. The price of those data, if measured in terms of their value to a particular commercial customer, may be prohibitive to a small government that simply wishes to monitor its own natural resources or to use the data, for example, for purposes of land use planning or to mitigate the effects of a recent natural disaster. On the other hand; the same price may be reasonable if the sensed state intends to use the data for competitive purposes. The terms and conditions will have to be considered on a case-by-case basis. In any event, the sensed state has the opportunity to demonstrate that the terms result in an undue hardship (§ 960.9(c)(3)(D)).

4. Procedural Changes

The existing regulations state that they are intended to provide the "minimum practicable procedures" for licensing private operators of remote sensing space systems. In order to promote the growth of the U.S. remote sensing industry, U.S. Government review of license applications and foreign agreements must be as efficient and expeditious as possible. Congress recognized this need by establishing certain statutory deadlines for U.S. Government administrative action.

The Government's remote sensing policy with regards to preserving national security, international obligations and foreign affairs interests should be clear and predictable. Predictability is critical in terms of the conditions that may require restrictions on imaging after a system is operational. The provisions of the regulations describing these conditions are discussed under number 1 above and set forth at § 960.10.

The proposed regulations clearly state, and are intended to promote adherence to, the time limits that Congress has established for these reviews.

The specific process by which the various agencies of the U.S. Government will interact in the review of a license and amendment applications, significant or substantial foreign agreement, and determinations concerning the restrictions and limitation on imaging and data collection, will be established in a Memorandum of Understanding (MOU) among the agencies. The MOU will specify that disagreements among the agencies will be decided by the President. To promote transparency and predictability of government action in these procedures, we expect that the MOU will be publicly available. The MOU will be finalized by the time of issuance of a final rule.

Section 960.6 of both the existing and proposed regulations require a license applicant to supply the NOAA Administrator with sufficient information about a proposed remote-sensing space system's orbit and data collection characteristics to determine that a system will be operated in a manner that preserves the national security and international obligations of the United States.

Section 960.8(f) allows the applicant to request a hearing before an Administrative Law Judge (ALJ) regarding any adverse action on a license application. The documentation in the record will serve as the basis for the ALJ's determination as to whether the Administrator's action regarding any conditions imposed on the license, denial of the license, or a decision that no action can be taken within the required limit, was appropriate.

Section 960.12 sets forth regulations for the review of proposed significant and substantial foreign agreements between licensees and foreign nations or persons for which notification is required pursuant to section 202(b)(8) of the Act and § 960.9(g) of these regulations. We would note that the Act does not expressly confer the right to approve foreign agreements, but it is our interpretation that the Secretary has sufficient authority under the statute to prevent a licensee from entering into an agreement that violates the national security, international obligation or foreign policy interests of the United States. Accordingly, submission and approval of these will be a condition of the license (960.9(c)).

To provide due process, the regulations treat negative advice to a licensee concerning a proposed foreign agreement as an "adverse action" under section 203(b) of the Act, which grants the right to a hearing on the record for certain actions, e.g., denying or conditioning a license. Finally, § 960.12 contains a number of implementing record keeping requirements similar to those for the initial license review (*see* § 960.12(b)–(d)).

5. Investors in Licensees

Section 960.14 is new. It is intended to encourage investment in the space remote sensing industry while ensuring that those licensed to operate these systems retain sufficient control to be able to preserve U.S. national security, international obligations and foreign policies. In essence, it requires a licensee to notify NOAA of significant changes in ownership and to give the Government the opportunity to review those changes that might result in a shift of control, particularly to foreign persons or nations.

Section 960.14(a)(1) simply requires the licensee to notify NOAA when a domestic investor's financial interest in the licensee reaches ten percent. Certain basic information such as the identity of the investor and the extent of the holdings must be provided within ten days after the 10 percent threshold is reached.

Section 960.14(a)(2) recognizes that the potential for transfer of control of the management and/or operations of a licensee is more likely when a single domestic investor acquires a financial interest in the licensee of 25 percent or more. If the licensee, notwithstanding the acquisition of such interest, will retain control, it must document this fact and include the information described in this section.This documentation is to be filed within 10 days of the transaction.

Section 960.14(a)(3) requires an amendment where the financial interest of a single domestic investor will reach or exceed 40 percent of the licensee. In effect, it is presumed that an investment at this level results in a transfer of control.

Section 960.14(b)(1) requires the licensee to notify NOAA when a foreign investor's financial interest in the licensee reaches five percent. Certain basic information such as the identity of the investor and the extent of the holdings, and any updates to the technology control plans, if necessary, must be provided within ten days after the five percent threshold is reached.

Section 960.14(b)(2) recognizes that the potential for transfer of control of the management and/or operations of a of a licensee is more likely when a foreign investor holds a financial interest in the licensee of 15 percent or more. If the licensee, notwithstanding such acquisition, will retain control, it must document this fact and include the information described in this section. Section 960.14(b)(3) provides that this documentation must be filed 60 days prior to acquisition together with the relevant investment agreement which is considered a "significant agreement" under § 960.12.

Section960.14(b)(4) requires an amendment to the license where the financial interest of either a foreign investor or foreign investors as a whole will exceed 40 percent of the licensee. In effect, it is presumed that an investment at this level results in control. Since control by foreign investors generally will not be approved, licensees may obtain approval for an amendment of this nature only by rebutting this presumption with clear documentation that it retains control over its management and operations. In addition to other specified information for an amendment, it must include a certification that no foreign persons can influence the corporation's activities and that the control of the Board of Directors is still exerted by the majority U.S. shareholders. The licensee must also establish a technology control plan that ensures that the company complies with relevant U.S. laws such as export control laws.

Foreign investment that exceeds 49 percent of the licensee is prohibited in § 960.14(b)(5).

Section 960.14(c) provides that if through the acquisition of a financial interest by any person(s) or nation(s), regardless of the percentage of investment, or a through contractual or other relationship, there will be a transfer of control of the licensee, § 960.13(d)(2) requires an amendment of the license. However, as this section makes clear, control of these sensitive remote-sensing systems to foreign investors generally raises national security, international obligation or foreign policy concerns and an amendment involving such a transfer of control is unlikely to be approved.

The procedures in this section applies only to U.S. operators that are subject to U.S. jurisdiction or control. However, a foreign operator over which the U.S. initially has no jurisdiction or control, may decide to carry out its activities in the U.S. to the extent that it becomes subject to U.S. jurisdiction and control under § 960.2(c). In such cases the provisions with respect to changes in foreign ownership will be set forth in the license.

6. New Enforcement Provisions

Section 203(a) of the 1992 Act revised the administrative authorities granted to the Secretary, primarily to provide grater judicial oversight and more predictability for the licensees. Thus, the Administrator now may seek an injunction in order to terminate, modify, or suspend a license or to terminate licensed operations in the case of violations of the Act, regulations, or license. Further, the Administrator may obtain a warrant in order to seize records or objects believed to be used in a violation.

Subpart C of the proposed regulations would implement these changes. They also continue to set forth the procedures for imposing any administrative civil penalty under section 203(b) of the Act. These include provisions for the formal agency adjudication on the record to which the licensee is entitled which are found in 15 CFR part 904.

7. Additional Changes

a. Definitions

Several new technical definitions have been added relating to the operational capability of a remote sensing system. These include the terms: "ground sample distance," "field of view," "instantaneous field of view," "resolution," "spatial resolution," and "tasking." Experience in prior licensing exercises has shown that these parameters help define the operational characteristics of the system for the purpose of determining national security and foreign policy concerns and the definitions are intended to establish these informational requirements as precisely as possible.

In accordance with the President's policy, the regulations define the term "foreign agreement" to establish those that are "significant and substantial" and, therefore, subject to the advance notification requirement of sections 202(b)(8) of the Act and implemented in § 960.9(g) of the regulations. The definition focuses on the two types of agreements that could have particular national security or foreign policy implications: Those that give a foreign party a degree of control over the operation of the system, e.g. the ability to control the spacecraft, task the sensors, or exercise managerial control over the system, including technology transfer; and those that establish a particularly important role for a foreign party in distributing the data from the system, either by operating a foreign ground station or by acting as a major customer or distributor; and those that involve foreign investment. If the agreement effectively expands the capability of the system, for example by adding a ground station that could collect data not anticipated by the license, the process would require an amendment to the license (*see* § 960.13(e)(3)).

The proposed regulations would state that ordinary data sales agreements might be considered a significant or substantial foreign agreement. However, NOAA requests comment on this issue.

New definitions have also been added defining "beneficial owner" and "voting interest," as part of the new foreign investment agreement provisions.

Finally, the definition of "unenhanced data" has been modified consistent with the 1992 Act, and the definition of "value-added activity" has been deleted as no longer necessary.

b. Informational Requirements

The proposed regulations update the informational requirements of a license application. As with the existing regulations, the intent is to solicit only that information relevant to those limited U.S. interests covered by the 1992 Act while ensuring that applications will be as complete as possible. The information of primary importance is that describing the orbit and data collection characteristics aspects of a proposed system which are significant in terms of its national security and foreign policy implications (§ 960.6(c). Additional relevant information concerns the applicant's data distribution plans and the extent of any U.S. government support of the system. This information is needed to determine the appropriate data access policy (§§ 960.6(d) and (e)).

c. The Archive Provision

In accordance with section 502 of the Act § 960.9(h) states that licenses will include terms and conditions for making unenhanced data available to U.S. Government agencies, including the Archive, for the specific purpose of including it in the basic data set. The negotiation to provide such data on reasonable terms and conditions will take into account the commercial value of the data. This section also states that before the licensee unenhanced data obtained under the license is purged, the licensee shall offer such unenhanced data to the Archive, at the cost of reproduction and transmission, which the Archive will then distribute at the cost of fulfilling user requests. Because the licensee will offer this unenhanced data at this minimum cost and the Archive will distribute the data at the cost of fulfilling user requests, it is presumed that the commercial value of the data is negligible. No licensee can negotiate terms with a potential customer or distributor that would prohibit or otherwise prevent the licensee from meeting its obligation to make all data collected available to the Archive.

d. Protecting Proprietary Information

Proposed § 960.7 would require that the applicant for a license submit two different versions of their application. One version would be the proprietary version, with brackets around the information that should be given confidential treatment; and the other would be the public version, with the information inside the brackets taken out. The prospective licensee must include a general justification for such confidential treatment. This requirement reflects a balance between the needs of the licensees to be assured that the sensitive information which they submit will be treated confidentially, and the need to enable the public to have access to these government records.

Request for Public Comment

NOAA is requesting public comment on the major revisions in the proposed regulations, as described above. NOAA is particularly seeking comment on the following: (1) The definition of "Significant or Substantial Foreign Agreement"; (2) the review of foreign investment agreements; (3) the reporting of "beneficial owners"; and (4) the information requirements of the application process.

With regards to the definition of "Significant or Substantial Foreign Agreement" as well as the review of such foreign agreements, NOAA has proposed a regime for addressing issues of foreign ownership, or control over U.S. licensed private remote sensing systems. As stated in an earlier section, the intent is to set up a regime that ensures that undue foreign control or influence over satellite operations does not compromise national security or foreign policy goals while at the same time promoting and permitting investment in these capital intensive systems. By monitoring the investment closely and having certain thresholds which raise the level of scrutiny, the intent is that detailed review at certain thresholds will be able to prevent the occurrence of any imperiling national security situations. We are interested in hearing if our approach adequately achieves our intentions, or, given our intent, it would be better to adopt a regime similar to that found at 10 U.S.C. 2327 for defense procurements or 50 U.S.C. app. 2710, the Exon-Florio investment review procedures. Also of

concern is whether the requirement to provide information about beneficial owners should be qualified to require that information only need be provided about "known" beneficial owners. This would make the NOAA regulatory requirement consistent with the Security and Exchange Commission's requirement to provide information on "known" beneficial owners.

Concerning information requirements of the application process, and technical definitions found in these proposed regulations, NOAA is considering placing these requirements in an appendix to the regulations. This would make it easier to change the required contents of an application, as only notice in the **Federal Register** need be provided for changes. This would give the Administrator greater flexibility in the face rapidly changing technology. NOAA has also increased the information requested in the application to include information about export licenses which the applicant holds or intends to apply for. NOAA is seeking comment on whether this requirement is duplicative of the existing export control regime.

Classificaiton

A. Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

This proposed rule establishes a process intended to promote the development of the industry and to minimize any adverse impact on any entity, large or small, that may seek a license to operate a private remote-sensing space system. Even though there has been a substantial reduction in size and cost of Earth remote-sensing space projects, costs of development and launch still involve extraordinary capitalization. As such, small entities have yet to enter this field and appear highly unlikely to do so.

Accordingly, the Assistant General Counsel for Legislation and Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act of 1995 (35 U.S.C. 3500 et seq.)

This proposed rule contains collection-of-information requirements subject to review and approval by OMB under the Paperwork Reduction Act (PRA). The proposed rule revises collection of information requirements that were previously approved by the Office of Management and Budget under control number 0648–0174. A request to make these revisions has been submitted to the Office of Management and Budget for approval. Public reporting burden for these collections of information is estimated to average 20 hours per license applications; 5 hours for amendment submissions; 10 hours for foreign agreement notification; 2 hours for notification of disposition/orbital debris change; and 1 hour for notification of deviation of orbit. This estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including, through the use of automated collection techniques or other forms of information technology. Send comments regarding this burden estimate or any other aspect of this collection of information to Charles Woolbridge, NOAA, National Environmental Satellite, Data, and Information Service, 1315 East West Highway, Room 3620, Silver Spring, MD 20910–3282 and to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attention: NOAA Desk Officer). Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

C. National Environmental Policy Act (42 U.S.C. 4321 et seq.)

Publication of the proposed regulations does not constitute a major federal action significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required.

List of Subjects in 15 CFR Part 960

Scientific equipment, Space transportation and exploration.

Dated: October 28, 1997.

Robert S. Winokur,

Assistant Administrator.

Accordingly, for the reasons set forth above, part 960 of Title 15 of the Code of Federal Regulations is proposed to be revised to read as follows:

PART 960—LICENSING OF PRIVATE REMOTE-SENSING SYSTEMS

Subpart A—General

Sec.

960.1 Purpose.
960.2 Scope.
960.3 Definitions.

Subpart B—Application Process

960.4 Pre-application consultation.
960.5 Filing Information.
960.6 Information to be included with application.
960.7 Confidentiality of information.
960.8 Review procedures for license applications.
960.9 Conditions for operation.
960.10 National security, International Obligations and Foreign Policy concerns.
960.11 Data policy for remote sensing space systems.
960.12 Notification of foreign agreements.
960.13 Amendments to licenses.
960.14 Investment agreements.
960.15 Certain rights not conferred by license.

Subpart C—Enforcement Procedures

960.16 General.
960.17 Prohibitions.
960.18 Sanctions.
960.19 Civil penalties.
960.20 Seizure.

Authority: 15 U.S.C. 5624.

Subpart A—General

§ 960.1 Purpose.

(a) These regulations set forth the procedural and informational requirements for licensing and supervising the operation of a private remote sensing space system under Title II of the Land Remote Sensing Policy Act of 1992 (15 U.S.C. 5601 *et seq.*) (Pub. L. 102–555) (the Act). The regulations are intended to facilitate development of the commercial space remote-sensing industry in the United States and broadly promote the beneficial use of remote sensing data while ensuring compliance with basic requirements of the Act:

(1) Preserving the national security of the United States;

(2) Observing the international obligations and policies of the United States;

(3) Ensuring that unenhanced data collected by licensed systems concerning the territory of any country are made available to the government of that country as soon as such data are available and on reasonable terms and conditions;

(4) Ensuring that remotely sensed data from space are widely available for research, particularly environmental and global change research; and

(5) Maintaining a permanent comprehensive government archive of global land remote sensing data for long-term monitoring and study of the changing global environment and other archival purposes.

(b) In accordance with the Act and the President's Policy announced on March 10, 1994 entitled, "U.S. Policy on Foreign Access to Remote Sensing Space Capabilities", decisions regarding the issuance of licenses and operational conditions (*see* §§ 960.8, 960.9, 960.12, 960.13 and 960.14) will be made by the Secretary of Commerce, or his or her designee, after consultation with the Secretaries of Defense and State with respect to national security, international obligations, and foreign policy.

(c) Obtaining a license to operate a satellite pursuant to these regulations does not affect related licensing requirements of other Federal agencies such as the Department of State, the Federal Communications Commission, and the Department of Transportation.

§ 960.2 Scope.

(a) The Act and these regulations apply to any person subject to the jurisdiction or control of the United States who operates or proposes to operate a private remote-sensing system either directly or through affiliate, or subsidiary. For the purposes of these regulations a person is subject to the jurisdiction or control of the United States if such person is:

(1) An individual who is a United States citizen; or

(2) A corporation, partnership, association, or other entity organized or existing under the laws of any state, territory, or possession of the United States.

(b) Other private space system operators may be subject to U.S. jurisdiction and control, and their operations, therefore, subject to the provisions of the Act and these regulations, if they have substantial connections with the United States or deriving substantial benefits from U.S. law that support their international remote-sensing operations. Substantial connections include factors or a combination of factors such as using a U.S. launch vehicle and/or platform, operating a spacecraft command and/or data acquisition station in the U.S., and processing the data at and/or marketing it from facilities within the U.S. The following examples are intended to illustrate the application of this paragraph, and should not be considered limitations thereon, or as an indication of how other Federal agencies may interpret related licensing requirements that they administer.

Example 1: A non-U.S. corporation launches an operational remote-sensing space system, pursuant to a Department of Transportation license, using a U.S. operated launch vehicle and/or a platform launched from U.S. territory. The company operates no spacecraft command ground station in the U.S. although it has technicians and supervisors present in the U.S. to ensure integration of the foreign-built satellite or space system with the launch vehicle. The company acquires data directly from the space system and processes and distributes it from facilities outside the U.S., although it advertises the availability of data and/or information in U.S. publications.

The company is not subject to U.S. jurisdiction or control and requires no license for its remote-sensing activities.

Example 2: A company's operation is the same as in Example 1 except that it acquires, processes and distributes the data to U.S. and foreign customers from one or more facilities within the U.S.

The company is subject to U.S. jurisdiction and control and requires a license for the purposes of this Act and these regulations.

Potential applicants with questions concerning the application of these regulations to specific operations may consult with the Administrator prior to filing an application. Such consultations shall not be included in the record of any subsequently filed application unless the applicant specifically so requests or the Administrator so advises the applicant.

(c) These regulations are applicable to any action taken on or after the effective date of these regulations by the Secretary with respect to any existing, proposed or future license.

§ 960.3 Definitions.

For purposes of these regulations, the following terms have the following meanings:

Act means the Land Remote Sensing Policy Act of 1992.

Administrator means the Administrator of NOAA or his or her designee.

Affiliate means any person who is under common ownership or control with the applicant or licensee.

Archive means the National Satellite Land Remote Sensing Data Archive established by the Secretary of the Interior pursuant to the archival responsibilities defined in sec. 502 of the Act.

Basic data set means those unenhanced data generated by the Landsat system or by any remote sensing space system licensed under the Act that have been selected by the Secretary of the Interior to be maintained in the Archive, as described in section 502(c) of the Act.

Beneficial Owner means any person who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares: the right to exercise the voting power of any security or financial interest in a licensee; and the power to dispose of, or to direct the disposition of, any security or other financial interest in a licensee. All securities or other financial interests of the same class beneficially owned by a person, regardless of the form which such beneficial ownership takes, shall be aggregated in calculating the number of shares beneficially owned by such person. A person shall be deemed to be the beneficial owner of a security or other financial interest if that person has the right to acquire beneficial ownership, as defined above, within sixty days including but not limited to any right to acquire: through the exercise of any option, warrant or right; through the conversion of a security; pursuant to the power to revoke a trust, discretionary account, or similar arrangement; or pursuant to the automatic termination of a trust, discretionary account or similar arrangement.

Field of view means the solid angle through which an instrument is sensitive to radiation.

Ground sample distance (GSD) means the distance of the terrain between successive ground resolution cells (the area on the terrain that is covered by the instantaneous field of view of a detector).

Instantaneous field of view (IFOV) means the narrow angle within which incident energy is focused on the detector of the radiometer at a particular instant in time; defined as the radio of detector size to the focal length of the optical system, and often expressed in microradians.

Measured values means the assigned numbers, shades or colors, which represent, in a standardized system, an amount of electromagnetic radiation sensed in a spectral band.

NOAA means the National Oceanic and Atmospheric Administration.

Party (to a licensing process of foreign agreement notification) shall include the Secretary, the applicant, or the Secretary of Defense, the Secretary of State and the head of any other Federal organization, as appropriate, recognized by the Secretary of Commerce as being involved in any proceedings between the U.S. Government and a licensee/applicant.

Person means any individual (whether or not a citizen of the United

States), corporation, partnership, association, or other entity organized or existing under the laws of any nation, or consortium of any such entities acting together for the acquisition, holding, or disposal of securities or other financial interests in the licensee. "Person" does not include any government or intergovernmental organization or agency thereof.

President's Policy means the President's Policy entitled "U.S. Policy on Foreign Access to Remote Sensing Space Capabilities" announced on March 10, 1994.

Remote sensing space system means any instrument or device or combination thereof flown on any space-borne platform and any related ground based facilities capable of actively or passively sensing the Earth's surface (including bodies of water) from space by making use of the properties of the electromagnetic waves emitted, reflected, or diffracted by the sensed objects. For purposes of these regulations, small, hand-held cameras shall not be considered remote sensing systems.

Resolution means the ability of an entire remote sensing system, including lens, antennae, display, exposure, processing, and other factors, to render an interpretable image.

Secretary means the Secretary of Commerce.

Security means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral trust certificate, pre-organization certificate or subscription, transferable share, investment contract, voting trust certificate, certificate of deposit for a security, any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into a national securities exchange relating to foreign currency, or, in general, any interest or instrument commonly as a "security", or any certificate of interest or participation in, temporary or interim certificate for, recipe for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.

Significant or substantial foreign agreement means an agreement with a foreign nation or person that provides for:

(1) Cooperation in the operation of the spacecraft;

(2) Tasking of the satellite sensors, modifying satellite tasking commands, or revising the priority of tasking requests, or otherwise providing an opportunity to exercise a significant level of managerial control over the system's operation;

(3) Real-time direct access to the system's unenhanced data.

(4) Distributorship arrangements involving the receipt of high volumes of the system's unenhanced data;

(5) An equity interest in the Licensee, if the equity interest in the Licensee by a foreign nation and/or person equals or exceeds or will equal or exceed 15 percent of total outstanding shares, or entitles the foreign person to a position on the Licensee's Board of Directors;

(6) The acquisition by any person(s) or nation(s) of any security or other financial interest of the licensee, regardless of the percentage acquired, that will result in a transfer of sufficient voting power to control the management, policies, and/or operations of the licensee; or any contractual or other relationship with a foreign person or nation, wherein the foreign person or nation obtains the ability to control the management, policies, technology transfer and/or operations of the licensee.

(7) Significant or Substantial Foreign agreements may include agreements for the sale of data, for the sale of value added products, or for the establishment of marketing outlets in foreign countries, pursuant to operations in the ordinary course of business as described in the applicant's plan for sale and distribution contained in a license application submitted pursuant to these regulations.

Spatial resolution means the ground area sensed by a radiometers's IFOV calculated at nadir as the product of the IFOV and the satellite altitude.

Spectral band means the interval in the electromagnetic spectrum defined by two wavelengths, frequencies, or wave numbers.

Subsidiary means a person in which the applicant or licensee holds the voting power necessary to control its management, policies, and/or operations. If a subsidiary is the entity responsible for operation a remote sensing space system, and the subsidiary is under the jurisdiction or control of the United States, the subsidiary must obtain the license.

Tasking means any action taken to command a satellite or it's sensor to acquire data for direct transmission or storage on the satellite's recording subsystem. Such action can be in the form of commands sent to the satellite from a ground site for immediate execution or for storage in the satellite's memory for execution at a specified time or location within a given orbit.

Unenhanced data means Earth remote sensing signals or imagery products that are unprocessed or subject only to data preprocessing. Data preprocessing may include rectification of system and sensor distortions in remote-sensing data received directly from the satellite; registration of such data with respect to features of the Earth; and calibrations of spectral response with respect to such data, but does not include conclusions, manipulations, or calculations derived from such data, or a combination of the remote-sensing data with other data and excludes phase history data for synthetic aperture radar systems or other space based radar systems.

Voting Power means the power to vote, or direct the voting of, any security or other financial interest in a licensee, including the power to vote on or for:

(1) The conduct of the operations or significant policies of the licensee;

(2) The selection or appointment of directors, trustees, or partners (or persons exercising similar functions of the licensee); and/or

(3) The power to vote on the appointment of the principal executive officers of the licensee.

Subpart B—Application Process

§ 960.4 Pre-application consultation.

Potential applicants are encouraged to contact the Administrator at the earliest possible planning stages. Such consultation may reveal design or data collection requirements that may be accommodated early at low cost or avoid costly changes in design or data collection characteristics. Consultation before a license application is submitted may also prove useful in defining informational requirements and in expediting review. Informal consultations held prior to the submission of an application will not be considered part of the agency record of an application. The agency record will be open upon the filing of the application pursuant to § 960.5.

§ 960.5 Filing information.

(a) *Who must file.* A person desiring to operate a private remote space sensing system and/or establish substantial connections with the United States relating to the operation of a private remote space sensing system shall file an application for such a license under these regulations. The holder of an existing license seeking to modify the terms of that license shall file an application for an amendment under § 960.13.

(b) *Where to file.* Applications and all related documents shall be filed with the Assistant Administrator, National Environmental Satellite, Data and Information Service (NESDIS), NOAA, Department of Commerce, Washington, D.C. 20233.

(c) *Form.* No particular form is required but each application must be in writing, must include all of the information specified in this subpart, and must be signed by an authorized principal executive officer.

(d) *Number of copies.* Three (3) copies of each application must be submitted in a readily reproducible form. If proprietary treatment is requested for any portion of the application, one (1) copy of the public version required by § 960.7(b) must also be submitted in a readily reproducible form.

§ 960.6 Information to be included in the application.

The following information shall be filed by the applicant and revised as necessary:

(a) The name, mailing address, telephone number and citizenship of: The applicant and any affiliates or subsidiaries; the chief executive officer of the applicant and each director, if the applicant is a corporation, or each general partner, if the applicant is a partnership; all executive personnel or senior management; any directors, partners, executive personnel or senior management who hold positions with or serve as consultants for any foreign nation or person; each domestic beneficial owner of an interest equal to or greater than 10 percent in the applicant; each foreign owner of an interest equal to or greater than 5 percent in the applicant; each foreign lender and amount of debt where foreign indebtedness exceeds 25 percent of an applicants total indebtedness; and a person upon whom service of all documents may be made.

(b) A copy of the charter or other authorizing instrument certified by the jurisdiction in which the applicant is incorporated or organized and authorized to do business.

(c) Orbital and data collection characteristics regarding the applicant's proposed remote sensing space system in sufficient detail to enable the secretary to determine whether the proposal meets requirements of the Act and the President's Policy. These characteristics shall include:

(1) The date of the intended commencement of operations and the expected duration of the operations;

(2) The number and type of satellites and sensors proposed;

(3) The range of orbits and altitudes proposed, orbital characteristics such as inclination angle, equator crossing time, and those parameters which affect swath width;

(4) The range of ground sample distance, spatial resolution, field of view, and instantaneous field of view proposed;

(5) The specific spectral bands and/or radar characteristics that are proposed;

(6) The data collection capabilities proposed including on board storage capacity, off-nadir viewing, scene revisit time, tasking procedures, and scheduling plans;

(7) The command (uplink and downlink) and mission data (downlink) transmission frequencies and system transmission (uplink and downlink) footprint;

(8) The methods applicant will use to ensure that integrity of its operations during a national security crisis, including plans for: positive control of the spacecraft and relevant ground stations; denial of unauthorized access to data transmissions to or from the satellite; and restriction of collection and/or distribution of unenhanced data from specific areas at the request of the U.S. Government. If such plans include encryption, encryption devices used will require U.S. Government approval.

(9) A description of an significant or substantial agreements between the applicant, its affiliates and subsidiaries, with foreign nation or person, including copies if available;

(10) The proposed concept of operations for the system; and

(11) If the applicant wishes, information concerning the extent to which data comparable to those generated by the applicant's system could be acquired or made available from foreign systems which are not subject to these regulations.

(d) The applicant's proposed technology control plan, if the concept of operations includes any international component which requires an export license. Such plan should ensure that the applicant:

(1) Maintain policies and procedures to safeguard the export of controlled information that is entrusted to it; and

(2) Complies with U.S. export control laws and regulations, and does not take actions adverse to the conditions of the license; and

(3) Protects the operational control of the licensed system from foreign influence and any technology transfer that would impinge on national security, international obligations and foreign policy; and

(4) Informs the Administrator of all export licenses which the applicant holds or intends to apply for.

(e) The applicant's plans for providing access to or distributing the unenhanced data generated by the system including:

(1) A description of the plan for the sale and distribution of such data;

(2) The method for making the data available to governments whose territories have been sensed;

(3) A description of the place for making data available to the Archive inclusion in the basic data set; and

(4) Opportunities for the data to be made available for long term monitoring, protection, and study of the changing global environment and study of the changing global environment.

(f) If the applicant is proposing to follow a commercial data distribution and pricing policy as provided for by § 960.11(b) or (c), the application shall include the following additional financial information:

(1) The extent of the private investment in the system;

(2) The extent of any direct funding or other direct assistance which the applicant or its affiliates or subsidiaries have received or anticipate receiving from any agency of the U.S. Government for the development, fabrication, launch, or operation of the system including direct financial support, loan guarantees, or the use of U.S. Government equipment or services;

(3) Any existing or anticipated contract(s) between the applicant, affiliate, or subsidiary and U.S. Government agencies for the purchase of data, information, or services from the proposed system;

(4) Any other relationship between the applicant, affiliate, or subsidiary and the U.S. Government which has supported the development, fabrication, launch, or operation of the system; and

(5) Any plans to provide preferred or exclusive access to the unenhanced data to any particular user or class of users.

(g) The plan for post-mission disposition of any remote-sensing satellites owned or operated by the applicant to allow a determination that the plan minimizes orbital debris and does not endanger public safety. If the satellite disposition involves an uncontrolled re-entry the applicant must provide an analysis of the total debris casualty area of the system's components and structure surviving re-entry and assure that the system design minimizes the threat to the public from such re-entry.

(h) If information supplied in an application becomes materially inaccurate or incomplete prior to issuance of the license, the operator must promptly file the new or corrected information with the Administrator. If new or revised information is filed

during the application process, the Administrator shall promptly determine whether the deadline imposed by section 201(c) of the Act must be extended to allow adequate review of the revised application and, if so, for how long.

§ 960.7 Confidentiality of information.

(a) *Proprietary information.* The Administrator will treat business or trade secrets or commercial or financial information, the release of which to the public would cause substantial harm to the competitive position of the submitter, as proprietary information, if that information is so designated by the submitter.

(1) Any person who submits information to the Administrator in connection with any requirements imposed by these regulations may request that the Administrator consider that information, or any specified part, be treated as proprietary.

(2) The submitter shall identify proprietary information on each page by placing brackets around the proprietary information and clearly stating at the top of each page containing such information "Proprietary Treatment Requested."

(3) The submitter shall provide a general explanation as to why proprietary treatment is being requested.

(b) Public summary. Prior to issuance of a license, any person submitting information for which proprietary treatment is requested, shall also provide to the Administrator a public version of the document. This public summary shall be available for public review at a location designated by the Administrator. The public summary shall include:

(1) An adequate public summary of all proprietary information; and

(2) A statement itemizing those portions of the proprietary information which cannot be summarized adequately and all arguments supporting that conclusion for each portion.

(c) Status during consideration of request. While considering whether to grant a request for proprietary treatment, the Administrator will not disclose or make public the information. The Administrator normally will decide not later than 14 days after the Secretary receives the request. The Administrator will give persons whose request for proprietary treatment of their information has been denied seven (7) working days notice before the information is disclosed.

(d) *Treatment of proprietary information.* Unauthorized disclosure of any proprietary information marked in accordance with this section is subject to the criminal penalties set forth in 18 U.S.C. 1905. NOAA shall provide marked information only to those interested agencies which require the information for review purposes and shall ensure that the copies provided to these agencies contain all markings provided.

(e) *Requests for disclosure.* (1) Requests for public disclosure of information submitted, reported, or collected pursuant to this part shall be in accordance with 15 CFR 903.1 (which directs the reader to 15 CFR part 4).

(2) Upon receipt of a request for disclosure of information for which proprietary treatment has been requested, NOAA will immediately notify the applicant or licensee who submitted the information and inquire whether the applicant or licensee continues to request proprietary treatment.

(3)(i) If the applicant or licensee waives or withdraws a request for proprietary treatment in full or in part, the person shall deliver to NOAA a written statement to that effect. If the person confirms the request for proprietary treatment, such person is strongly encouraged to deliver to NOAA a written statement in sufficient time for NOAA to fully consider it in making its formal determination (generally, not later than the close of business on the seventh working day after being notified under paragraph (e)(3) of this section). Such statement shall provide an explanation as to why each piece of information subject to the request is entitled to proprietary treatment under this section. The explanation should describe:

(A) The commercial or financial nature of the information;

(B) The nature and extent of competitive advantage enjoyed as a result of possession of the information;

(C) The nature and extent of the competitive harm that would result from public disclosure of the information;

(D) The extent to which the information has been disseminated to employees and contractors of the person submitting the information;

(E) The extent to which persons other than the person submitting the information possess, or have access to, the information; and

(F) The nature of the measures that have been and are being taken to protect the information from disclosure; and

(G) Present any other arguments against disclosure of information.

(ii) Failure to respond to the agency notification in a written statement will be deemed as a waiver of confidential treatment.

§ 960.8 Review procedures for license applications.

(a)(1) Within twenty-one (21) days after the receipt of an application, the Administrator, shall notify the applicant, in writing whether the application omits any of the information required by § 960.6.

(2) For any systems whose operational capabilities are similar to those of previously licensed systems, an application will be considered to be complete on the date of receipt if all information required in § 960.6 has been provided. For any systems whose operational capabilities exceed those of previously licensed systems, the Administrator shall determine the additional information necessary to complete the application. The Administrator shall notify the applicant of the need for this information and specify the period of time in which to provide it. The 120 day review period prescribed in section 201(c) of the Act will commence upon receipt of the information requested by the Administrator.

(b) The Administrator shall review any completed application and make a determination thereon, in accordance with the Act and § 960.1(b) within 120 days of the receipt of such completed application. If final action has not occurred within such time, the Administrator shall inform the applicant of any pending issues and of actions required to resolve them.

(c) Before issuing a licensee, the Administrator shall find, in writing, that the applicant will comply subject to penalties prescribed by law with any national security concerns, international obligations, and foreign policies of the United States and with all other requirements of the Act and these regulations.

(d)(1) If the Administrator denies the license or includes additional conditions in the license other than those set forth in §§ 960.9 and 960.10, the Administrator shall notify the applicant in writing together with a concise statement, of the facts in the record which the Administrator has determined support the action. Such notice shall inform the applicant that, within twenty-one (21) days of the date the notice was mailed, the applicant may request a hearing on the record on the Administrator's decision by serving a written request on the Administrator at the address specified in the Notice.

(2) The applicant shall be entitled at any time during business hours to inspect and copy the entire record, in accordance with applicable law (e.g. 5 U.S.C. 552b, the Freedom of Information Act), upon which the decision was made.

(3) In the interest of compiling an accurate record of the decisionmaking for later possible review, oral communications on matters affecting the substance of a pending receives such a communication, the Administrator shall include in the record a summary of the communication and the circumstances surrounding its receipt.

(e)(1) The hearing requested under paragraph (d)(1) of this section may be granted unless, in accordance with 5 U.S.C. 554(a)(4), the hearing would involve the conduct of a military or foreign affairs function, i.e. determinations concerning license conditions necessary to meet national security concerns, international obligations and foreign policy concerns are not subject to review. A determination to deny a hearing on this basis shall constitute final agency action.

(2) Any hearing shall be closed to the public as necessary to protect classified information.

(3) A hearing under this section shall be based solely on the record developed in accordance with § 960.6 and this section.

(4) The hearing shall be held in accordance with the procedures set forth at 15 CFR part 904, subpart C, except to the extent that these sections allow the introduction of testimony or other evidence not contained in the administrative record upon which the decision was made (*see* e.g. §§ 904.204(d) and (e); 904.240–242; and 904.252).

(f) The Administrator shall terminate the license application process if:

(1) The application is withdrawn before the decision approving or denying it is issued; or

(2) the applicant, after receiving a request for additional information pursuant to paragraph (c) of this section, does not provide such information within the time stated in the notice.

§ 960.9 Conditions for operation.

(a) Each license issued for the operation of a remote sensing space system shall specify that the licensee shall comply with all the requirements of the Act and these regulations, and shall set forth the conditions necessary to ensure compliance.

(b) A licensee shall operate its system in a manner that preserves the national security and observes the international obligations and the foreign policies of the United States. The basic license conditions to ensure compliance with these requirements are set forth in § 960.10 and conditions consistent with this section will be incorporated in each license. Any additional conditions necessary to ensure compliance with these requirements will be incorporated into that license in accordance with § 960.8(d).

(c)(1) A licensee shall make available to the government of any country (including the United States) unenhanced data collected by its system concerning the territory under the jurisdiction of such government as soon as such data are available and on reasonable terms and conditions. However, no sensed data shall be provided to the sensed state if such release is contrary to U.S. national security, international obligations or foreign policy concerns, e.g. where the sensed state is deemed to be a state sponsor of terrorism or a country subject to U.S. or international arms embargoes.

(2) To comply with this subsection, a licensee must make its unenhanced data available on request to the affected government as soon as the licensee is able to distribute them commercially or as soon as the licensee has processed them into a format that the licensee uses for its own purposes, whichever occurs sooner.

(3) For purposes of this subsection, terms and conditions are reasonable if the licensee:

(i) Follows a nondiscriminatory data access policy that complies with section 501 of the Act and § 960.11 of this part;

(ii) Makes the unenhanced data available to all users on a regular commercial basis and does not establish terms and conditions which favor any user, or any class or users over the affected government in terms of delivery, format pricing, or technical considerations; or

(iii) Establishes separate, reasonable terms and conditions for the affected government if the licensee makes some or all of the unenhanced data available only to particular users. In establishing these reasonable terms and conditions the licensee shall take into account the intended use of the data by the affected government; and

(iv) Has provided affected governments an opportunity to demonstrate that the above terms and conditions present an undue hardship in acquiring the unenhanced data.

(4) Issues relating to appropriate notification of affected governments including issues concerning disputed territories and the methods for ensuring availability, international obligations and foreign policy will be referred to the Department of State.

(5) Issues relating to national security will be referred to the Department of Defense.

(d) A licensee shall make available on a nondiscriminatory basis in accordance with section 501 of the Act and § 960.11 of this part any unenhanced data designated by the Administrator in the license in accordance with section 201(e) of the Act and § 960.11.

(e) A licensee shall dispose of any space platforms owned or operated by the licensee upon termination of operations under the license in a manner satisfactory to the President. The licensee shall obtain approval from the Administrator of all plans and procedures for the disposition of such platforms, e.g. uncontrolled re-entry, burn on re-entry or controlled de-orbit, providing sufficient notification to allow determination that the proposed procedures will minimize orbital debris and not jeopardize safety.

(f) A licensee shall inform the Administrator immediately of any deviation or proposed deviation from the approved operational characteristics of the system furnished pursuant to § 960.6 or § 960.13. Such notification is required sufficiently prior to the deviation so as to enable government approval of such deviation if circumstances permit or, if advance notice is not possible because of an emergency posing an imminent and substantial threat of harm to human life, property, the environment or the remote sensing space system itself, the licensee shall notify the Administrator of the deviation as soon as circumstances permit.

(g) A licensee shall notify the Administrator, for review under § 960.12, or its intent to enter into any significant or substantial foreign agreement. The proposed agreement may not be implemented by the licensee until the licensee has been advised by the Administrator that the document's provisions are acceptable or acceptable with conditions.

(h) A licensee shall make available unenhanced data requested by the Archive for the basic data set on reasonable terms as agreed by the licensee and the Archive. A licensee shall make available to the Administrator for review upon request the record of unenhanced data obtained pursuant to the license. Before any unenhanced data so obtained is purged from its holdings, or the holdings of its distributors, or customers that may have rights to distribute such data, the licensee shall make such data available to the Archive at the cost of reproduction and transmission with no

further restrictions on release of the data to the public.

(i) If the space system will utilize a U.S. Government platform, the licensee will reach an agreement with the appropriate agency to reimburse the Government for all related costs and to ensure that use of the platform will not interfere with the Government's mission.

§ 960.10 National security, international obligations and foreign policy concerns.

(a) For any system whose operational capabilities are similar to those of previously licensed systems, it is presumed that any concerns relating to national security, international obligations, and foreign policies can be resolved through the imposition of similar license conditions. For any system whose operational capabilities exceed those of previously licensed systems, the Administrator shall make every effort to resolve these concerns through license conditions and any additional ones as necessary, but may deny the issuance of a license if necessary to avoid compromising these concerns.

(b) The conditions in licenses shall include:

(1) The licensee shall maintain positive control of the spacecraft at all times and shall include safeguards to ensure the integrity of spacecraft operations. The Licensee shall also maintain and make available to the U.S. Government, upon request, a record of all satellite tasking operations for the previous year, and allow the Administrator to inspect such records at all reasonable times.

(2) During periods when national security or international obligations and/or foreign policies may be compromised, as defined by the Secretary of Defense or the Secretary of State, respectively, the Secretary may, after consultation with the appropriate agency(ies), require a Licensee to limit data collection and/or distribution by the system to the extent necessitated by the given situation. Decisions to impose such limits only will be made by the Secretary of Commerce in consultation with the Secretary of Defense or the Secretary of State, as appropriate.

(3) During those periods when, and for those geographic areas that, the Secretary will require the Licensee to limit distribution under paragraph (b)(2) of this section the licensee shall, on request, make the unenhanced data thus limited available exclusively to the U.S. Government by means of government furnished rekeyable encryption on the down-link. To make this possible, the conditions in the license shall also require the licensee to use only encryption devices approved by the U.S. Government and to use a data down-link format that allows the U.S. Government access and use of these data during such periods.

(c) In determining the extent of required controls on the collection or distribution of imagery, the Government will give full consideration to:

(1) Making limitations imposed applicable to the smallest geographic area feasible and for the briefest period of time necessary for the full achievement of the intended objective.

(2) Alternative actions such as delaying the transmission or distribution of data, restricting the field of view of the system, encryption of the data if this is possible, or other means to control access to the data so as to justify the overall impact on commercial operations.

(d) In accordance with section 507(d) of the Act, if the conditions described in paragraph (b)(3) of this section or any other license conditions result in technical modifications being imposed on a licensee on the basis of national security concerns and the Administrator, in consultation with the appropriate federal agencies, determines that additional costs will be incurred by the licensee, or that past development costs (including the cost of capital) will not be recovered by the licensee, the agency or agencies requesting such technical modifications may be required to reimburse the licensee for such additional or development costs, but not for anticipated profits. Reimbursements may cover costs associated with required changes in system performance, but not costs ordinarily associated with doing business abroad. The costs and terms associated with meeting this condition will be negotiated directly between the Licensee and the agency or agencies requesting the technical modifications in accordance with section 507(d) of the Act. In no event shall licensees be entitled to reimbursements for license conditions imposed on the basis of international obligations and foreign policy considerations.

§ 960.11 Data policy for remote sensing space systems.

(a) In accordance with section 501 of the Act, if the U.S. Government has or will directly fund all or a substantial part of the development, fabrication, launch, or operation costs of a licensed system, the Administrator shall state in the license that all of the unenhanced data from the system shall be made available on a nondiscriminatory basis.

(b) If the U.S. Government has not funded and will not fund, either directly or indirectly, any of the development, fabrication, launch, or operations costs of a licensed system, the Administrator shall make no designation in the license and the licensee may provide access to its unenhanced data in accordance with normal commercial policies, subject to the requirement for providing data to the government of any sensed state in § 960.9(c) and subject to implementation of the licensee's plan contained in its application to provide widespread access to its unenhanced data for non-commercial scientific and educational purposes.

(c) If the U.S. Government has funded some of the development, fabrication, launch, or operations costs of a licensed system (either directly or indirectly), the Administrator, in consultation with other appropriate U.S. agencies, shall determine whether the interest of the United States in promoting widespread availability of remote-sensing data requires that some or all of the unenhanced data from the system be made available on a nondiscriminatory basis in accordance with section 501 of the Act and shall designate in the license any data subject to this requirement. In making this determination, the Administrator shall consider:

(1) The extent and proportion of private and federal funding of the system;

(2) The extent of the governmental versus the commercial market for the unenhanced data;

(3) The effect of a nondiscriminatory data access designation on the applicant's commercial activity;

(4) The extent to which the applicant's proposed commercial data policies would encourage foreign operators to limit access, particularly for research and public benefit purposes; and

(5) The extent to which the U.S. interest in promoting widespread data availability can be satisfied through license conditions that ensure access to the data for research and public benefit purposes without requiring full nondiscriminatory access.

(d) The data policy established pursuant to this section shall be consistent with any contract or other agreement entered into between a U.S. government agency and the licensee.

§ 960.12 Notification of Foreign Agreements

(a) Upon notification by a licensee, pursuant to § 960.9(g), the Administrator shall initiate review of the proposed significant or substantial agreement in light of the national security, international obligations and foreign policy concerns of the U.S. Government.

(b)(1) If the Administrator determines, pursuant to the Act and § 960.1(b), that a proposed agreement will impair his or her ability to enforce the terms or conditions of the license, the Administrator shall identify the terms and conditions of the license and specify how the agreement impairs enforcement.

(2) If the Administrator determines, under paragraph (d)(1) of this section that a proposed agreement will compromise a specific national security interest, international obligation, or foreign policy of the United States, the Administrator shall provide the Licensee with an unclassified explanation of the U.S. interest that is at risk, if such is possible without jeopardizing the interest at risk. Such notice shall inform the licensee that, within twenty-one (21) days from the date the notice was mailed, the licensee may provide an alternative that will not jeopardize the U.S. interest that is at risk or request a hearing or, within seven (7) days of such date, may request an expedited hearing.

(e)(1) The Administrator shall grant the hearing requested under paragraph (d) of this section unless, in accordance with 5 U.S.C 554(a)(4), the hearing would involve the conduct of a military or foreign affairs function, i.e. determinations of the concerning license conditions necessary to meet national security concerns, international obligations and foreign policy concerns are not subject to review. A determination to deny a hearing on this basis shall constitute final agency action. Any hearing shall be closed as necessary to protect classified information. The hearing shall be based solely on the record developed in accordance with this section and shall be for the purpose of determining whether a preponderance of the evidence in that record supports the objection raised to the proposed agreement.

(2) The applicant shall be entitled at any time during business hours to inspect and copy the entire record, in accordance with applicable law, upon which the decision was made.

(3) In the interest of compiling an accurate record of the decisionmaking for later possible review, oral communications on matters affecting the substance of a pending receives such a communication, the Administrator shall include in the record a summary of the communication and the circumstances surrounding its receipt.

(f)(1) A hearing requested under paragraph (d) of this section shall be held in accordance with the procedures set forth as 15 CFR part 904, subpart C, except insofar as those procedures provide for the introduction of testimony or other evidence not contained in the administrative record upon which the decision was made (*see* e.g. §§ 904.204 (d) and (e); 904.240–242; and 904.251–252).

(2) The Licensee shall be entitled to an expedited hearing as provided for in 15 CFR 904.209 if the request is filed and all other parties are served within seven (7) days of the date the Administrator's notice under paragraph (d) of this section, was mailed, specifically sets forth the Licensee's objections to the determinations contained in the notice, and demonstrates that delaying the proposed agreement during the time necessary to complete the normal hearing process will jeopardize that agreement. Where an expedited hearing is granted, the procedures of subpart C of 15 CFR part 904 shall be modified to accommodate the following schedule:

(i) The hearing shall commence within 5 days after the filing of the request with the Office of the Administrative Law Judge (ALJ) unless the ALJ postpones the date of the hearing or grants continuation of the hearing in the interest of justice or the parties agree that it shall commence at a later time.

(ii) The ALJ shall make provision for daily transcripts. Hearing shall be stenographically reported, transcribed, and made available to the public as required by statute.

(iii) Within 5 days of the conclusion of the hearing, the parties shall propose findings and conclusions to the ALJ accompanied by a supporting brief.

(iv) Within 10 days after receipt of such brief, the ALJ shall issue his or her findings and conclusions and a statement of the reasons on which they are based. The ALJ's decision shall become final in 10 days unless a party files suit in the United States District Court contesting the decision as not based upon substantial evidence in the record considered as a whole.

(v) Extensions of procedural dates shall be granted only when required in the interest of justice, unless the parties otherwise agree.

(g) Notification of any agreement that provides for an on-going or a continuous relationship serves as notification of specific transactions carried out within the scope of that agreement.

(h) A Licensee seeking to enter a foreign agreement that would require the modification of the terms of an existing license shall submit a license amendment as provided in § 960.14 and the proposed foreign agreement shall be considered in the context of the amendment review process.

§ 960.13 Amendments to licenses.

(a) The licensee shall notify the Administrator when the information supporting a license has become inaccurate and shall file all necessary amendment applications in a timely manner. Notifications shall contain all relevant new information and shall be filed at the same address identified in § 960.5(a). Amendment applications shall be filed in accordance with the procedures specified in §§ 960.5 and 960.6 for original license applications.

(b) Pursuant to the Act and § 960.1(b), the Administrator shall determine whether the amendment is permissible under the Act and § 960.9.

(c) If the Administrator determines that the notification omits information required for an amendment application, the Administrator shall notify the licensee of the items omitted.

(d) A licensee may not take any of the following actions until it has been granted an amendment to the license:

(1) Assign the license;

(2) Transfer sufficient voting power to control the management, policies and/or operations of the licensee or an operating subsidiary to any person or to foreign nations or persons collectively;

(3) Incur any change in citizenship of the chairman of the board, president, or other chief executive officer; or

(4) Deviate from the orbital characteristics, performance specifications, data collection and exploitation capabilities, and any other operational characteristic identified under § 960.6(c), except to the extent necessitated by an emergency posing an imminent and substantial threat of harm to human life, property, the environment or the remote sensing space system itself. In such emergency cases, the licensee shall return to previously approved operations as soon as circumstances permit. Any request to depart from approved orbital and data collection characteristics of the system for an extended period shall be in the form of a timely request to amend the license.

§ 960.14 Investment agreements.

(a)(1) *Domestic investment agreements.* If the acquisition of any security or other financial interest in a licensee results in any domestic person becoming the beneficial owner of 10 percent or more of such securities or class of such securities, or of any other financial interest in the licensee, the

acquisition constitutes a material change in the information supporting the license and requires notification under § 960.13. The licensee shall file this notification within ten days of the acquisition and shall include:

(i) The name of the acquirer;

(ii) The date of acquisition;

(iii) The number of shares of securities or the extent of any other financial interest in the licensee owned; and

(iv) Such other information as NOAA may specify.

(2) If the acquisition of any security or other financial interest in a licensee results in any domestic person becoming the beneficial owner of 25 percent or more of such class of securities, or any other financial interest of the licensee, the licensee shall provide assurance that such acquisition will not result in a transfer of sufficient voting power to control its management, policies, and/or operations. The licensee shall file a statement within 10 days of such acquisition setting forth the basis for its conclusion that no such transfer of voting power will occur and include the following information in addition to that required by paragraph (a)(1) of this section:

(i) The identity and residence of the beneficial owner and of all other persons by whom or on whose behalf the purchases are to be effected;

(ii) The number of shares of such securities or the extent of any other financial interest in the licensee which are beneficially owned, and the number of shares or other financial interests which there is a right to acquire, directly or indirectly, by

(A) Such person, and

(B) By each affiliate of such person, giving the background, identity, and residence of each such associate;

(iii) Information as to any contracts, arrangements, or understandings with any person with respect to any securities of or other financial interests in the licensee, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, guaranties of loans, guaranties against loss or guaranties of profits, division of losses or profits, or the giving or withholding of proxies, naming the persons with whom such contracts, arrangements, or understandings have been entered into, and giving the details thereof;

(iv) The number of shares of the securities and the particular class of securities, or the extent of the other financial interests in the licensee, which are retained by existing beneficial owners; and

(v) Such additional information, as NOAA may prescribe as necessary or appropriate to protect the national security interests or international obligations of the United States.

(3) Before any domestic person becomes the beneficial owner of 40 percent or more of any securities, any class of securities, or any other financial interest of the licensee, the licensee must file an amendment application in accordance with § 960.13 at least 90 days prior to acquisition.

(b)(1) *Foreign investment agreements.* If the acquisition of any security or other financial interest in a licensee results in any foreign person or nation becoming the beneficial owner of 5 percent or more of such securities or class of such securities, or of any other financial interest in the licensee, the acquisition constitutes a material change in the information supporting the license and requires notification under § 960.13 unless the licensee has provided notice in advance of acquisition pursuant to paragraphs (b)(2)–(5) of this section. The licensee shall file this notification within ten days of the acquisition and shall include:

(i) The name of the acquirer;

(ii) The date of acquisition;

(iii) The number of shares of securities or the extent of any other financial interest in the licensee owned;

(iv) Any updates to the technology control plan, if necessary; and

(v) Such other information as NOAA may specify.

(2) Before any foreign person or nation, becomes the beneficial owner or 15 percent or more of any securities, any class of securities, or any other financial interest of the licensee, the licensee shall provide assurance that such acquisition will not result in a transfer of sufficient voting power to control its management, policies, and/or operations. The licensee shall file a statement setting forth the basis for its conclusion that no such transfer will occur and include the following information in addition to that required by paragraph (b)(1) of this section:

(i) The identity, residence, and citizenship of the beneficial owner and of all other foreign persons or nations by whom or on whose behalf the purchases are to be effected;

(ii) The number of shares of such securities or the extent of any other financial interest in the licensee which are beneficially owned, and the number of shares or other financial interests which there is a right to acquire, directly or indirectly, by

(A) Such foreign person or nation, and

(B) By each affiliate of such foreign person or nation, giving the background, identity, residence and citizenship of each such associate;

(iii) Information as to any contracts, arrangements, or understanding with any foreign person or nation with respect to any securities of or other financial interests in the licensee, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, guaranties of loans, guaranties against loss or guaranties of profits, division of losses or profits, or the giving or withholding of proxies, naming the persons with whom such contracts, arrangements, or understandings have been entered into, and giving the details thereof;

(iv) The number of shares of the securities and the particular class of securities, or the extent of the other financial interests in the licensee, which are retained by existing beneficial owners;

(v) Any updates to the technology control plan, if necessary; and

(vi) Such additional information, as NOAA may prescribe as necessary or appropriate to protect the national security interests or international obligations of the United States.

(3) The statement required by this section shall be provided at least 60 days prior to acquisition by foreign persons or nations. The statement shall be filed with the relevant investment agreement which shall be deemed a "significant or substantial agreement" and reviewed in accordance with § 960.12.

(4) Before any foreign person(s) or nation(s) collectively become the beneficial owners of more than 40 percent of any securities, any class of securities, or any other financial interest of the licensee, the licensee must file an amendment application in accordance with § 960.13 at least 90 days prior to acquisition. The amendment application must clearly rebut the presumption that the acquisition will result in the transfer of sufficient voting power to control the licensee's management, policies, and/or operations and shall include a certification, in writing, to the Administrator that no foreign persons or nations, either individually or collectively, can influence the Licensee's corporate activity related to its obligations under the terms and conditions of its license; this certification must show that control over the Board of Directors is still exercised by the majority U.S. shareholders and explain how the Board of Directors insures that there is no undue influence exercised by the foreign shareholders on the appointment of key officers of the corporation.

(5) No amendment shall be granted where more than 49% of the voting interest will be beneficially owned by foreign persons or nations.

(c) If the acquisition by any person(s) or nation(s) of any security or other financial interest of the licensee, regardless of the percentage acquired, will result in a transfer of sufficient voting power to control the management, policies, and/or operations of the licensee; or if any person(s) or nation(s) will through a contractual relationship or any other means obtain the ability to control the management, policies and/or operations of the licensee, the licensee must file an amendment application in accordance with § 960.13 at least 90 days prior to acquisition. There is a strong presumption that the transfer of such an interest to foreign persons or nations will not preserve the national security or international obligations of the United States and will not be approved.

(d) The provisions of this section apply only to licensees that are subject to U.S. jurisdiction or control under § 960.2(a). Foreign persons that are subject to U.S. jurisdiction or control under § 960.2(b) shall report changes in their financial interests in accordance with the terms and conditions of their licensees.

§ 960.15 Certain rights not conferred by license.

Issuance of a license does not affect the authority of the Federal Communications Commission under the Communications Act of 1934 (47 U.S.C. 151 *et seq.*), or the authority of the Secretary of Transportation under the Commercial Space Launch Act of 1984 (49 U.S.C. app. 2601 *et seq.*), the authority of the Secretary under the Export Administration Act (50 U.S.C. app. 2401 *et seq.*), or the authority of the Secretary of State under the Arms Export Control Act (22 U.S.C. 2778).

Subpart C—Enforcement Procedures

§ 960.16 General.

The Administrator may take appropriate actions against a licensee if the licensee fails to comply with the Act, these regulations, or any condition or restriction in the license, Such actions may include any or all of the following: pursuit of judicial determinations to terminate, modify or suspend licenses or to terminate licensed operations, administratively imposed civil penalties, and seizure pursuant to warrant. Such actions shall be taken in accordance with this subpart.

§ 960.17 Prohibitions.

It is unlawful for any person who is subject to the jurisdiction or control of the United States, directly or through any subsidiary or affiliate to:

(a) Operate a private remote sensing system without possession of a valid license issued under the Act and these regulations;

(b) Violate any provision of the Act or these regulations or any term, condition, or restriction of the license; or

(c) Violate any order, directive, or other notice issued by the Secretary in accordance with § 960.10(b)(2) to inform the licensee of any temporary restrictions imposed or necessary actions to be followed during periods when national security or international obligations/and or foreign policies may be compromised.

§ 960.18 Sanctions.

As authorized by section 203(a) of the Act, if the Administrator determines that the licensee has substantially failed to comply with the Act, these regulations, or any term, condition or restriction of the license, the Administrator may request the appropriate U.S. Attorney to seek an order of injunction or similar judicial determination from the U.S. District Court for the District of Columbia Circuit or a U.S. District Court within which the licensee resides or has its principal place of business, to terminate, modify, or suspend the license, and/or to terminate licensed operations on an immediate basis. For purposes of this section, failure to comply with the Act, these regulations or a term, condition, or restriction of a license or of the Act shall be considered substantial where

(a) The failure is knowing; or

(b) The failure occurs after notice by the Administrator; or

(c) The licensee has been advised that it failed to comply with an international obligation, foreign policy or national security concern of the United States.

§ 960.19 Civil penalties.

(a) In addition to the sanctions provided in § 960.16, any person who violates any provision of the Act or of any license issued thereunder or regulation contained in this part may be assessed a civil penalty by the Administrator of not more that $10,000 for each violation. Each day of operation in violation constitutes a separate violation.

(b) When the Administrator proposes the assessment of a civil penalty under this section, the Administrator will serve upon the licensee by mail a Notice of Civil Penalty and Assessment (Notice) containing:

(1) A concise statement of the facts believed to show a violation;

(2) A specific reference to the provisions of the Act, regulation, or license allegedly violated;

(3) The amount of the proposed penalty in accordance with paragraph (a) of this section.

(c) Within 30 days after receipt of the Notice, the licensee may request a hearing by serving a written request on the Administrator either in person or by certified or registered mail, return receipt requested, at the address specified in the Notice. Such hearing shall be held in accordance with procedures set forth at 15 CFR part 904, supart C.

(d) If the respondent does not request a hearing within thirty days of the date of the Notice, the civil penalty and the assessment shall become the final determination of the Administrator.

§ 960.20 Seizure.

If the Administrator believes that any object, record, or report, was used, is being used or is likely to be used in violation of the Act, these regulations or any condition or restriction of the license, the Administrator may seek a warrant from a magistrate to seize such item(s) by showing probable cause for this belief. Seizure shall be conducted in accordance with 15 CFR part 904, subpart F.

[FR Doc. 97–28948 Filed 10–31–97; 8:45 am]
BILLING CODE 3510–12–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 083–0053b; FRL–5911–5]

Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision, San Diego County Air Pollution Control District, Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the California State Implementation Plan (SIP) which concern the control of volatile organic compound (VOC) emissions from metal container, metal closure, and metal coil coating operations and marine vessel coating operations. The intended effect of proposing approval of these rules is

to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In the Final Rules Section of this **Federal Register**, the EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by December 3, 1997.

ADDRESSES: Written comments on this action should be addressed to: Andrew Steckel, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rule revisions and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123–1096.

Ventura County Air Pollution Control District, 702 County Square Drive, Ventura, California 93003.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812.

FOR FURTHER INFORMATION CONTACT: Jerald S. Wamsley, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1226.

SUPPLEMENTARY INFORMATION: This document concerns SDCAPCD's Rule 67.4, Metal Container, Metal Closure, and Metal Coil Coating Operations, and VCAPCD's Rule 74.24, Marine Vessel Coating Operations. These rules were submitted by the California Air Resources Board (CARB) to EPA on October 18, 1996 and May 24, 1994, respectively. For further information, please see the information provided in the Direct Final action that is located in the Rules Section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: September 26, 1997.

Felicia Marcus,

Regional Administrator.

[FR Doc. 97–29051 Filed 10–31–97; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 260

[FRL–5916–4]

Project XL Site-specific Rulemaking for Molex, Inc., 700 Kingbird Road Facility, Lincoln, Nebraska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to implement a project under the Project XL program for the Molex, Inc. (Molex) facility located at 700 Kingbird Road, Lincoln, Nebraska. The terms of the project are defined in a draft Final Project Agreement (FPA) which is being made available for public review and comment by this document. Also, EPA is making available for informational purposes a draft variance by the Nebraska Department of Environmental Quality necessary for implementation of the project. In addition, EPA is today proposing a site-specific rule, applicable only to the Molex facility, to facilitate implementation of the project. In the final rules section of this **Federal Register**, EPA is also adopting this rule as a direct final rule because EPA views this as a noncontroversial action and anticipates no adverse comments. If no significant adverse comments are received, the direct final rule will become effective in 60 days and no further action will be taken on this proposed rule. If significant adverse comments are received during the comment period, the direct final rule will not go into effect and EPA will proceed pursuant to this proposal, responding to the comments on the direct final rule and this proposal when final action is taken on the rule. EPA does not intend to initiate a further round of notice and comment, if comments are received on this proposal or the direct final rule. Therefore, any parties interested in commenting on this rule, or on the FPA, should do so at this time.

The site-specific rule is intended to provide regulatory changes under the Resource Conservation and Recovery Act (RCRA) to implement Molex's XL project, which will result in superior environmental performance and, at the same time, provide Molex with greater operational flexibility. The flexibility provided by Project XL will allow the facility to segregate waste streams which had previously been co-mingled into a single waste stream. By changing the process lines to generate separate waste streams (nickel, copper, tin/lead), the facility can optimize the precipitation of each metal more effectively before the effluent is sent to the POTW. The environmental benefit from the project will be a substantial reduction in the mass loading of metals entering the City of Lincoln's POTW. In addition, the resultant mono-metal sludges will be commodity-like materials suitable for recycling by smelters. A secondary environmental benefit will be increased recycling and reducing the amount of material that would otherwise be landfilled. The site-specific rule, applicable only to the Molex facility, would change certain RCRA requirements so the implementing agency, the Nebraska Department of Environmental Quality, may issue a temporary variance from classifying as solid waste nickel, copper, and tin/lead non-precious metals containing sludges generated by Molex.

DATES: Comments. All public comments must be received on or before December 3, 1997 except that if a public hearing is held, the public comment period will remain open until December 18, 1997.

Public Hearing. A public hearing will be held, if requested, to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning this direct final rule to implement Molex's XL project. If anyone contacts the EPA requesting to speak at a public hearing by November 24, 1997, a public hearing will be held on December 15, 1997. EPA will decide by November 28, 1997 whether a public hearing will be held. Additional information is provided in the section entitled **ADDRESSES**.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact Mr. David Doyle at the EPA by November 24, 1997. Additional information is provided in the section entitled **ADDRESSES**.

ADDRESSES: Comments. Written comments should be submitted in duplicate to: Mr. David Doyle, U.S. Environmental Protection Agency, Region VII, Air, RCRA & Toxics Division, 726 Minnesota Avenue, Kansas City, KS 66101, (913) 551–7667.

Docket. A docket containing supporting information used in developing this rulemaking, including the draft FPA and draft variance, is available for public inspection and copying at U.S. EPA, Region VII, Air, RCRA & Toxics Division, 726 Minnesota Avenue, during normal business hours, and at EPA's RCRA docket (Docket name "XL-Molex"); 401 M Street, SW, Washington, DC 20460. For access to the Water docket materials, call (202) 260–3027 between 9 a.m. and 3:30 p.m. (Eastern time) for an appointment. A reasonable fee may be charged for copying. A docket is also available for public inspection at the Nebraska Department of Environmental Quality, Lincoln, Nebraska.

Public Hearing. If a public hearing is held, it will be held at 7 pm on +40 days next business day, 1997 at the following location: Nebraska Department of Environmental Quality, Lincoln, Nebraska. Persons interested in attending the hearing should notify Mr. David Doyle, (913) 551–7667, to verify that a hearing will be held. Same change as in final rule.

FOR FURTHER INFORMATION CONTACT: Mr. David Doyle, U.S. Environmental Protection Agency, Region VII, Air, RCRA & Toxics Division, 726 Minnesota Avenue, Kansas City, KS 66101, (913) 551–7667.

SUPPLEMENTARY INFORMATION: For further information on the rule proposed today, including the text of the proposed rule, see the direct final rule which appears in the Final Rules section of today's **Federal Register**.

Dated: October 27, 1997.

Carol M. Browner,

Administrator.

Before The Nebraska Department of Environmental Quality

In the Matter of Molex, Inc.; Applicant. Case No. 1898.

Order for a Temporary Variance

This matter comes before the Director of the Department of Environmental Quality (DEQ) on the application of Molex, Inc. (Molex), for an Order granting a temporary variance pursuant to Title 128, Rules and Regulations Governing Hazardous Waste Management in Nebraska, chapter 5, section *001.04*. The variance requests a temporary exemption from the classifying as solid waste of segregated sludges generated during wastewater treatment at the Molex Upland facility located at 700 Kingbird Road, Lincoln, Nebraska. The purpose of the variance request is to allow Molex sufficient time to collect information to demonstrate that segregation and separate treatment of various wastestreams at its facility results in a significantly reduced metals content in its wastewater effluent discharge to the City of Lincoln's publicly owned treatment works (POTW) and produces a readily recyclable sludge with market value. The variance is necessary to remove a regulatory barrier which would otherwise classify the sludges generated from the segregation and treatment of wastewater from Molex's electroplating operation as a solid waste and a listed hazardous waste. The sludge generated from wastewater treatment at the Molex facility, prior to the implementation of process changes to segregate and separately treat wastestreams, was considered a recyclable material utilized for precious metal recovery subject to reduced management requirements under title 128, chapter 7, section *010*. The Director has investigated the claims made by the applicant and the interests of others likely to be affected and the general public.

The Director finds that the application of the regulation which would classify the sludge generated from the treatment of electroplating wastestreams at the Molex facility as a listed hazardous waste as applied to the applicant discourages innovative treatment by greatly increasing the cost and ability of the company to continue the recycling of the sludges. However, the Director possesses insufficient information to determine whether the sludges generated from the segregation and separate treatment of wastestreams should not be classified as solid waste because they have been reclaimed and are commodity-like, but must be reclaimed further.

The Director finds that the granting of a temporary variance to allow Molex to obtain this information removes a significant barrier to the achievement of the environmental performance goal of a cleaner effluent discharge from the facility and reduced mass metals loading on the POTW and continued recycling of sludges. Among the factors to be considered in any final variance determination are:

The degree of processing the material has undergone and the degree of further processing that is required;

- The value of the material after it has been reclaimed;
- The degree to which the reclaimed material is like an analogous raw material;
- The extent to which an end market for the reclaimed material is guaranteed; and
- The extent to which the reclaimed material is handled to minimize the loss.

The Director further finds that the granting of this temporary variance fosters the incentive for innovation demonstrated by Molex and provides an opportunity to test monitoring requirements that may result in modified performance standards for the material at issue.

It Is Therefore Ordered that the temporary variance request for up to two years from classification as solid waste of the sludges generated from the segregation and treatment of wastestreams at the Molex facility is granted subject to the following conditions and requirements:

1. The temporary variance is limited to three sludges which are being recycled to reclaim nickel, copper, and tin/lead. These sludges shall not be mixed with each other and any other materials at the Molex facility.

2. Molex shall maintain records to document the volume of these materials generated, stored, and recycled during the two years this temporary variance is in effect.

3. Within 30 days of the date of issuance of this variance, Molex shall conduct an initial waste analysis on all three sludges (nickel, copper, and tin/lead) for TCLP and total metals (to be reported in milligrams per kilogram dry weight, in accordance with the procedures found in 40 CFR part 261, Appendices I, II, and III, and for pH and moisture content and report this analysis to the DEQ within 30 days of receipt of analytical results. This data shall be included in the initial baseline report required in paragraph 10.

4. Molex shall conduct waste analysis for a representative composite sample from each shipment of sludge prior to shipment for reclamation for the following parameters: Total copper, nickel, lead, tin, zinc; pH; and moisture content; to be reported in milligrams per kilogram dry weight.

5. The DEQ reserves the right to require additional waste analysis based on the results of any waste analysis performed on the sludges, including any testing conducted by the DEQ.

6. Molex shall maintain records of test results, waste analyses and other determinations made in accordance with this temporary variance.

7. Within sixty days of the date of issuance of this variance, Molex shall notify the DEQ of the name, address, and facility contact for each facility to which material is sent for reclamation and provide a description of the processing to be done on the sludge, including specifications on material which the facility will accept for processing.

8. Molex shall maintain non-hazardous waste manifests identifying the specific shipment by an individual number, the date on which the material was shipped and confirmation from the reclamation facility of the date on which the shipment is received.

9. The sludges containing nickel and copper destined for reclamation pursuant to this temporary variance shall not be accumulated at the facility for longer than 180 days. The sludge containing tin/lead destined for reclamation pursuant to this temporary variance shall be stored in closed containers which are clearly marked to identify the contents and the date on which accumulation in the container began. Containers shall be stored in a secure location, inspected on a weekly basis, and otherwise managed to prevent any exposure to the environment. Materials subject to this variance shall be transported in accordance with U.S. Department of Transportation requirements for hazardous materials, including use of a non-hazardous waste manifest.

10. Within 60 days of the date of issuance of this variance, Molex shall provide an initial report in accordance with Attachment 1 describing baseline data for: (a) the combined treatment system for the most recent 12 month period prior to implementation of the segregated treatment system, including a description of the wastewater treatment process, estimated daily average metals mass loading and pH

measurement in the effluent discharge, capital and operating costs of the combined treatment system, volume and fate of the sludge, TCLP and total metals analysis of the sludge if previously done, reclamation value of the sludge and the associated costs to Molex for the storage, transportation, and reclamation of the sludge, and (b) the segregated treatment system including descriptions of each wastewater treatment process, capital costs of the segregated treatment system, the proposed volume and fate of the sludge, and an estimate of the cost to transport and treat or dispose of the sludge as hazardous waste based on anticipated generation rate and transportation and treatment or disposal costs.

11. Quarterly reports in accordance with Attachment 2 shall be due on the last day of the month every three months after the initial report describing current data for the segregated treatment system including the actual daily average mass metals loading in the facility discharge and associated metal effluent concentrations including pH measurements; operating costs of the segregated treatment system; storage, recycling volume, and fate of the sludge; waste analysis of the sludge; and reclamation value of the sludge and the associated costs to Molex for the storage, transportation, and reclamation of the sludge.

12. Within 90 days of the end of this two year temporary variance, Molex shall provide a final report that: (a) provides an overview of the demonstration project; (b) incorporates the initial report and quarterly reports as appendices; (c) describes the technical aspects of the project; (d) describes and quantifies the environmental aspects of the project; (e) describes and quantifies the economic aspects of the project, including a comparison of the mass treatment system to the segregated treatment system and calculation of costs saved by this variance.

It Is Further Ordered that Molex shall at all times remain in compliance with its Pretreatment Permit #NE0131776 and comply with all other applicable requirements in Title 128 and Nebraska law.

It Is Further Ordered that this temporary variance shall expire two years from the date signed below. This temporary variance shall be subject to cancellation at any time for violation of any of the conditions and requirements identified in this temporary variance or refusal to conduct any additional waste analysis required pursuant to paragraph 5 above.

By The Director.

Randolph Wood,

Nebraska Department of Environmental Quality.

[FR Doc. 97–29053 Filed 10–31–97; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period for Additional Information Relative to the Status of the Lesser Prairie-Chicken

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Reopening of public comment period

SUMMARY: On July 8, 1997, the U.S. Fish and Wildlife Service (Service) published a positive 90-day finding on a petition to list the lesser prairie-chicken (*Tympanuchus pallidicinctus*) as threatened under the Endangered Species Act of 1973 (Act), as amended, and requested that any additional information be submitted by September 8, 1997. The Service has been asked by the Lesser Prairie-chicken Interstate Working Group to reopen the comment period to allow for submission of a conservation strategy for the lesser prairie-chicken.

Thus, the Service announces that it will reopen the comment period to allow additional time for submission of information regarding the status, population trend, distribution, and habitat use of the lesser prairie-chicken.

DATES: The comment period, which originally closed on September 8, 1997, is reopened and now closes on December 3, 1997. To be considered in the 12-month finding for this petition, additional information on the lesser prairie-chicken should be submitted to the Service by December 3, 1997.

ADDRESSES: Information, comments, or questions should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Ecological Services Field Office, 222 S. Houston, Suite A, Tulsa, Oklahoma 74127–8909. The petition finding and supporting data are available for public inspection by appointment during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Jerry Brabander, Field Supervisor, at the above address, or telephone (918) 581–7458 ext. 224.

SUPPLEMENTARY INFORMATION: Section 4(b)(3)(A) of the Act (16 U.S.C. 1531 *et seq.*), requires that the Service make an initial finding within 90 days, if practicable, on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to indicate that the petitioned action may be warranted. A petition to list the lesser prairie-chicken (*Tympanuchus pallidicinctus*) as threatened was received by the Service on October 6, 1995, from the Biodiversity Legal Foundation, Boulder, Colorado, and Marie E. Morrissey. On July 8, 1997 (62 FR 36482), the Service published a 90-day finding on that petition. The finding stated that the petition contained substantial information to indicate that listing under the Act may be warranted, and announced that the Service would conduct a thorough status review of the species in conjunction with the affected states. In addition, the Service requested that any additional information on lesser prairie-chicken population abundance, population trends, distribution, and use of habitats be submitted to the Service by September 8, 1997.

On September 3, 1997, the Service received a request from the Lesser Prairie-chicken Interstate Working Group (Working Group) to extend or reopen the comment period to allow this group additional time to submit a Conservation Plan for the lesser prairie-chicken. The Working Group stated in their letter that they are currently editing the first draft of a conservation strategy that contains goals, objectives, and action items that will significantly reduce the threats to the species.

This notice reopens the comment period for submission of information on the status of the species throughout its range until December 3, 1997. The Service invites the public to submit additional information on the population abundance, population trends, distribution, use of habitats including native prairie and cropland, and factors documented to influence population abundance, distribution, and habitat use of lesser prairie-chickens.

Authors

This document was prepared by Noreen E. Walsh, at the Service's Oklahoma Ecological Services Field Office (see **ADDRESSES** above).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1544).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Dated: October 28, 1997.

Thomas Bauer,

Acting Regional Director, Region 2, Fish and Wildlife Service.

[FR Doc. 97–28961 Filed 10–31–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 222

Docket No. 971021250–7250–01; I.D. 092297E

RIN 0648–AK46

Endangered Fish or Wildlife; Special Prohibitions; North Atlantic Right Whale Protection

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce

ACTION: Proposed rule; temporary closure of fishery.

SUMMARY: NMFS proposes to close the Mid-Atlantic and Northeast Coastal segments of the Atlantic pelagic drift gillnet fishery for swordfish, tuna, and shark through July 31, 1998. The swordfish portion of the Atlantic pelagic drift gillnet fishery has been closed since December 5, 1996, under an emergency Magnuson-Stevens Fishery Conservation and Management Act closure which expires on November 26, 1997. This action is necessary to avoid jeopardy to the continued existence of the northern right whale (*Eubalaena glacialis*), a species listed as endangered under the Endangered Species Act (ESA). The purpose of this action is to continue the existing closure of the swordfish portion of the Atlantic pelagic drift gillnet fishery and to close the tuna and shark portions of the Atlantic pelagic drift gillnet fishery until regulatory measures implementing one or more reasonable and prudent alternatives necessary to avoid jeopardy to the continued existence of the northern right whale are completed and implemented.

DATES: Written comments must be received on or before November 18, 1997.

ADDRESSES: Send comments to the Chief, Marine Mammal Division (F/PR2), Office of Protected Resources (F/PR), NMFS, 1315 East West Highway, Silver Spring, MD 20910–3282. Copies of the May 29, 1997, Biological Opinion (BO), of the August 29, 1997, Amended BO, and, a draft environmental assessment on the Atlantic Offshore Cetacean Take Reduction Plan are available upon request from Gregory Silber, Ph.D., Marine Mammal Division, Office of Protected Resources, NMFS, 1315 East West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Gregory Silber, Ph.D. or Michael Payne, Office of Protected Resources, (F/PR2), NMFS, 1315 East West Highway, Silver Spring, MD 20910, 310–713–2322; or by facsimile at 301–713–0376.

SUPPLEMENTARY INFORMATION:

The Atlantic pelagic fishery (which includes the swordfish, tuna, and shark drift gillnet fishery) is managed by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 *et seq.*) and the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*). Section 7(a)(2) of the ESA (16 U.S.C. 1531 *et seq.*) requires an agency to ensure that any action proposed by a Federal agency is not likely to jeopardize the continued existence of a threatened or endangered species. Due to new information concerning the status of the northern right whale, NMFS re-initiated consultation on the Atlantic pelagic fishery on September 25, 1996.

One right whale entanglement has been documented by a NMFS observer in Atlantic pelagic drift gillnet gear. The potential exists for further entanglements in this gear because the geographic distribution of right whales overlaps with that of the Atlantic drift gillnet fishery during part of the year. On December 5, 1996, NMFS published an emergency closure pursuant to the Magnuson-Stevens Act closing the drift gillnet fishery for swordfish in the Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, from December 1, 1996, through May 29, 1997 (61 FR 64486). In its December 5, 1996, notice, NMFS announced that it had reinitiated consultation under the ESA for the entire Atlantic pelagic fishery (which includes the drift gillnet fishery for swordfish, tuna, and shark).

On May 29, 1997, NMFS issued a BO which concluded that continued operation of the swordfish, tuna, and shark drift gillnet portions of the Atlantic pelagic fishery was likely to jeopardize the continued existence of the northern right whale. This BO identified two reasonable and prudent alternatives for the use of drift gillnet gear that would avoid the likelihood of jeopardy for the northern right whale. The first alternative is to prohibit the use of drift gillnet gear for the taking of pelagic swordfish, tuna, and shark. The second alternative is to allow the restricted use of drift gillnet gear. Under this alternative, drift gillnet fishing for swordfish, tuna, and shark would take place under a limited entry system with 100 percent observer coverage, time/area closures, and elimination of the derby nature of the fishery during certain times of the year.

On June 5, 1997, pursuant to the Magnuson-Stevens Act, NMFS extended the closure of the swordfish portion of fishery until November 26, 1997, or until a preferred option to avoid the likelihood of jeopardy was identified and implemented (62 FR 30775).

Based on new information on the implementation of additional right whale management measures, consultation under section 7 of the ESA was again re-initiated on August 12, 1997. On August 29, 1997, NMFS issued an amended BO identifying a third reasonable and prudent alternative to avoid jeopardy to the northern right whale from the Atlantic pelagic drift gillnet fishery. The reasonable and prudent alternative would be 100 percent observer coverage with expanded time/area closures. The BO concluded that the distribution of right whales overlaps with that of the swordfish component of the drift gillnet fishery from November 1 until July 31 and that closure of the fishery during that period is likely to avoid jeopardy for northern right whales.

NMFS is now proposing to implement the time/area closure component of the reasonable and prudent alternatives developed through this consultation process. However, there is not sufficient time to implement the alternatives identified in the BO under the Magnuson-Stevens Act. As a result, NMFS is proposing to implement this measure under the ESA on an temporary basis pending full implementation of the reasonable and prudent alternative(s). This proposed temporary closure would provide necessary protections to the northern right whale while NMFS develops a long term fishery management solution in conformance with alternatives identified in the BOs for this fishery.

The BO issued on August 29, 1997, requires that the driftnet fishery for swordfish, shark, and tunas be prohibited from operating from November 1 to July 31 to avoid jeopardy to the continued existence of northern right whales. Although the final rule version of this document will not become effective until late November, NMFS has determined that the risk to right whales from drift gillnet gear from November 1, 1997, to the effective date of this rule is remote for the following

reasons: (1) Swordfish - This proposed action would extend the existing closure for swordfish, which expires on November 26, 1997, through July 31, 1998, thereby avoiding jeopardy for the swordfish component of the drift gillnet fishery until the expiration date of the closure; and (2) Tuna and sharks - Although the tuna and shark portions of the pelagic drift gillnet fishery were not closed by the December 5, 1996, emergency closure and subsequent extension, no directed drift gillnet operations historically exist to target these species in pelagic waters during the month of November, as evidenced by the lack of landings records and the lack of requests for observer coverage required under the Marine Mammal Protection Act (MMPA). In addition, the directed fishery for large coastal sharks was closed on July 21, 1997, through December 31, 1997, because that fishery has reached its allowable quota (62 FR 32942, July 21, 1997). The directed gillnet fishery for small coastal sharks during fall and winter generally occurs south of Cape Hatteras along the Georgia and Florida coastal areas south to Sebastian Inlet, Florida (approximately 27°51' N latitude). This is a known high-use area for northern right whales during winter and, as such, was the focus of the Atlantic Large Whale Take Reduction Team established under section 118 of the MMPA. The interim final rule implementing the Atlantic Large Whale Take Reduction Plan (62 FR 39157, July 22, 1997) closes the area to drift gillnet fishing from 32°00' N latitude (approximately Savannah, Georgia) south to 27°51' N latitude from November 1 to March 31.

This proposed rule would prohibit vessels operating in the North Atlantic off the coast of the United States in waters south and east of the 100 fathom contour from having on board, fishing with, or otherwise possessing or controlling drift gillnet gear from November 1, 1997, through July 31, 1998, except as authorized under 50 CFR 229.32 (regulations implementing the Atlantic Large Whale Take Reduction Plan that allow for restricted drift gillnet operations targeting sharks in the Southeast United States, 62 FR 39157, July 22, 1997).

NMFS has prepared a draft environmental assessment on the Atlantic Offshore Cetacean Take Reduction Plan that considers several alternatives for reducing the bycatch of marine mammals in the Mid-Atlantic and Northeast segments of the pelagic drift gillnet and longline fisheries for swordfish, tuna, and shark (see **ADDRESSES**). Although this draft environmental assessment does not indicate a preferred alternative for operation of these fisheries, it does include an analysis of the impact of the proposed action to close the Mid-Atlantic and Northeast segments of the pelagic drift gillnet fisheries for swordfish, tuna, and shark. A final National Environmental Protection Act document analyzing the proposed action will be available to the public upon publication of a final rule.

Section 11(f) of the ESA provides the Secretary of Commerce with broad rulemaking authority to enforce the ESA. Because the affected fisheries may harm, harass, or otherwise "take" a right whale, this rule is proposed to prevent this fishery from jeopardizing the continued existence of the northern right whale and to prevent "take" of right whales prohibited by section 9(a) of the ESA. NMFS will undertake additional management actions necessary to ensure that conduct of the Atlantic pelagic drift gillnet fishery will not jeopardize the continued existence of the northern right whale before the expiration of this rule.

This action is not intended to place restrictions on coastal drift gillnet or other gillnet fisheries in Mid-Atlantic or Northeast coastal waters (as defined under 50 CFR 229.2), other than those placed on the pelagic driftnet fisheries described in this document. These coastal fisheries are believed to include fisheries targeting bonito, little tunny, croaker, weakfish, shad, herring, striped bass, or bluefish. NMFS requests comments on how to better define or characterize such fisheries so that this and future rules regarding gear restrictions can be specifically targeted to the fisheries for which management actions are intended. Specifically, comments are requested on how best to characterize the boundaries between coastal and pelagic fisheries and/or the specific gear types (e.g., mesh size, net length) used in the different fisheries. This request was previously made in a proposed rule to define fisheries under the Marine Mammal Protection Act list of fisheries (62 FR 28657, May 27, 1997). No comments have been received to date with respect to this request.

Classification

This rule is necessary to enforce the requirements of the ESA.

NMFS has determined that this rule is not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule, if adopted, will not have a significant economic impact on a substantial number of small entities as follows:

I certify that the attached proposed rule to close the Mid-Atlantic and Northeast Coastal segments of the Atlantic drift gillnet fisheries for swordfish, tuna, and shark through July 31, 1998, issued under authority of the Endangered Species Act, will not have a significant economic impact on a substantial number of small entities, as defined under the Regulatory Flexibility Act. Between 1987 and 1995, over 1,500 vessels were permitted to participate in the swordfish fishery. Twelve to fifteen of these vessels use drift gillnet gear primarily to target swordfish. All are also permitted to take tuna and shark. All of the vessels fishing for swordfish, tuna, and shark with drift gillnet gear are small entities.

Because NMFS has traditionally apportioned swordfish quota into two semi-annual seasons, fishing effort in the swordfish fishery has traditionally consisted of a summer and a winter season. However, two Magnuson-Stevens Fishery Conservation and Management Act closures have closed the swordfish component of this fishery since December 1996. For 1998, consistent with the BO on the Atlantic pelagic fishery, the proposed rule would prohibit the use of drift gillnet gear during the winter season, and delay the summer season until after July 31, 1998. NMFS has also taken a separate action to apportion the 1998 swordfish quota into one fishing period. Thus participants in this fishery would have the opportunity to fish for the full annual quota during the period of non-closure.

Most pelagic drift gillnet fishing occurs during the summer when swordfish are concentrated off the northeastern U.S. Based on logbooks submitted to NMFS, typically only one vessel has participated in the winter drift gillnet swordfish fishery. Therefore, restricting fishing effort to the summer season should not impact a substantial number of small entities and should result in only minimal economic impacts. Prior to 1991, when drift gillnetters were not restricted by a semi-annual quota, fishing occurred as late as the fourth quarter (October, November, and December). Therefore, delaying the start date of the fishery until August 1, 1998, is not expected to significantly impact fishing effort or landings.

This proposed rule would have no impact on drift gillnetters directly fishing for sharks in the Southeast because participants in the directed shark fishery are covered by regulations implementing the Atlantic Large Whale Take Reduction Plan and would not be further restricted by this proposed rule. In addition, the fishery for large coastal sharks was closed on July 21, 1997, through December 31, 1997, because that fishery has reached its allowable quota (62 FR 32942, July 21, 1997). Based on recent records and the lack of requests for observer coverage as required under the Marine Mammal Protection Act, there is no history of a directed drift gillnet fishery for tunas in the winter and early summer.

Accordingly, this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

As a result, no Initial Regulatory Flexibility Analysis has been prepared.

This proposed rule would be implemented in a manner that is consistent, to the maximum extent practicable, with the coastal zone management programs of the Atlantic and Gulf of Mexico states that have approved programs. This determination has been submitted for review by the responsible agencies under section 307 of the Coastal Zone Management Act.

This rule does not contain policies with federalism implications to warrant preparation of a federalism assessment under Executive Order 12612. This proposed rule does not contain new collection-of-information requirements subject to the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 222

Administrative practice and procedure, Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Dated: October 28, 1997.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 222 is proposed to be amended as follows:

PART 222—ENDANGERED FISH OR WILDLIFE

1. The authority citation for part 222 continues to read as follows:

Authority: 16 U.S.C. 1531–1543.

2. In subpart D, a new § 222.34 is proposed to be added to read as follows:

Subpart D—Special Prohibitions

§ 222.34 Restrictions on taking right whales incidental to fishery operations.

During the period from November 1, 1997, through July 31, 1998, it is unlawful for any person or vessel subject to the jurisdiction of the United States to have on board a vessel, to fish with, or otherwise to posses or control drift gillnet gear, as defined in 50 CFR 229.2, in the North Atlantic Ocean in waters off the coast of the eastern United States south and east of the 100 fathom contour except that such gear may be used in southeast waters, as defined under 50 CFR 229.2, if that gear is used in compliance with the requirements of 50 CFR 229.32(f).

[FR Doc. 97–29022 Filed 10–29–97; 1:14 pm]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 62, No. 212
Monday, November 3, 1997

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 97–071–1]

Availability of an Environmental Assessment and Finding of No Significant Impact for Field Testing Salmonella Typhimurium Vaccine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared an environmental assessment and a finding of no significant impact for the shipment for field testing of an unlicensed bacterial vaccine for use in chickens. A risk analysis, which forms the basis for the environmental assessment, has led us to conclude that shipment of this veterinary vaccine for field testing will not have a significant impact on the quality of the human environment. Based on our finding of no significant impact, we have determined that an environmental impact statement need not be prepared. With this notice, we state our intention to authorize shipment of this vaccine for field testing 14 days after the date of this notice, unless new substantial issues bearing on the effects of the action contemplated here are brought to our attention. We also state our intention to issue a veterinary biological product license for this vaccine, provided the field trial data support the conclusions of the environmental assessment and finding of no significant impact and the product meets all other requirements for licensure.

ADDRESSES: Copies of the environmental assessment and finding of no significant impact may be obtained by contacting the person listed under FOR FURTHER INFORMATION CONTACT. Please refer to the docket number, date, and complete title of this notice when requesting copies. Copies of the environmental assessment and finding of no significant impact (as well as the risk analysis with confidential business information removed) are also available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect those documents are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Jeanette Greenberg, Technical Writer-Editor, Center for Veterinary Biologics, Licensing and Policy Development, VS, APHIS, USDA, 4700 River Road Unit 148, Riverdale, MD 20737–1231; telephone (301) 734–5338; fax (301) 734–8910; e-mail jgreenberg@aphis.usda.gov.

SUPPLEMENTARY INFORMATION: Under the Virus-Serum-Toxin Act (21 U.S.C. 151 *et seq.*), a veterinary biological product must be shown to be pure, safe, potent, and efficacious before a veterinary biological product license may be issued. A field test is generally necessary to satisfy prelicensing requirements for veterinary biological products. In order to ship an unlicensed veterinary biological product for the purpose of conducting a proposed field test, a person must receive authorization from the Animal and Plant Health Inspection Service (APHIS).

In determining whether to authorize shipment for field testing of the unlicensed veterinary biological product referenced in this notice, APHIS conducted a risk analysis to assess the potential effect of this product on the safety of animals, public health, and the environment. Based on the risk analysis, APHIS has prepared an environmental assessment (EA). APHIS has concluded that shipment of the unlicensed veterinary biological product for field testing will not significantly affect the quality of the human environment. Based on this finding of no significant impact (FONSI), we have determined that there is no need to prepare an environmental impact statement. An EA and FONSI have been prepared by APHIS for the shipment of the following unlicensed veterinary biological product for field testing:

Requester: Maine Biological Laboratories, Inc.

Product: Salmonella Typhimurium Vaccine, Avirulent Live Culture, Code 19C1.01.

Field test locations: Alabama, Delaware, Georgia, Maryland, North Carolina, and Virginia.

The above-mentioned product is a gene-deleted vaccine for use as an aid in preventing paratyphoid in young chickens.

The EA and FONSI have been prepared in accordance with: (1) The National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Unless substantial environmental issues are raised in response to this notice, APHIS intends to authorize the shipment of the above product and the initiation of the field tests 14 days from the date of this notice.

Because the issues raised by authorization of a field trial and issuance of a license are identical, APHIS has concluded that the EA and FONSI that were generated for the field trial would also be applicable to the proposed licensing action. Furthermore, provided that the field trial data support the conclusions of the original EA and FONSI, APHIS does not intend to generate a separate EA to support the issuance of the product license, and would determine that an environmental impact statement need not be prepared. Therefore, APHIS intends to issue a veterinary biological product license for this vaccine following the completion of the field trial, provided no adverse impacts on the human environment are identified as a result of field testing and provided the product meets all other requirements for licensure.

Authority: 21 U.S.C. 151–159.

Done in Washington, DC, this 28th day of October 1997.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–29018 Filed 10–31–97; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 96–046–4]

Agency Information Collection Activities; OMB Approval Received

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act, this notice announces the Office of Management and Budget's approval of a collection of information contained in the Animal and Plant Health Inspection Service final rule amending the regulations concerning the importation into the United States of fruits and vegetables.

FOR FURTHER INFORMATION CONTACT: Ms. Cheryl Groves, APHIS Information Collection Coordinator, AIM, APHIS, suite 2C48, 4700 River Road Unit 103, Riverdale, MD 20737–1235, (301) 734–5086.

SUPPLEMENTARY INFORMATION:

Background

On September 25, 1997, we published in the **Federal Register** (62 FR 50231–50237, Docket No. 96–046–3) a final rule amending the regulations at 7 CFR part 319, "Foreign Quarantine Notices." This rule contains information collection requirements. On October 3, 1997, the Office of Management and Budget (OMB) approved the collection of information requirements with respect to this final rule under OMB control number 0579–0128 (expires October 31, 2000).

Done in Washington, DC, this 28th day of October 1997.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–29019 Filed 10–31–97; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 97–064N]

National Advisory Committee on Microbiological Criteria for Foods Meeting

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The National Advisory Committee on Microbiological Criteria for Foods (NACMCF) will hold a meeting to discuss microbial-based topics relating to Risk Assessment, Good Manufacturing Practices (GMP), Hazard Analysis and Critical Control Point (HACCP), and Codex food safety standards for Cheese, Fresh Produce, Meat, Poultry, and Seafood.

DATES: The meeting will be held on November 18–20, 1997, from 8:30 a.m. to 4:30 p.m. The morning session on November 18 and the all-day session on November 20 are designated as full committee meeting times. The afternoon session on November 18 and the all-day session on November 19 will include several subcommittee breakout sessions.

ADDRESSES: The NACMCF meeting will be held at the Kellogg Conference Center at Gallaudet University, Florida and 8th Streets, NE, in Washington, D.C.

FOR FURTHER INFORMATION CONTACT: The Committee encourages persons with information or data on these matters to present their comments. Persons interested in making presentations, submitting technical papers, or providing comments are requested to mail or FAX their name, title, firm name, address, and telephone number to Ms. Amelia L. Wright, Advisory Committee Specialist, Scientific Research Oversight Staff, Department of Agriculture, Suite 6913, Franklin Court, 1099 14th Street, NW, Washington, DC 20250–3700; FAX (202) 501–7628. Comments and requests may be provided by E-mail to: amelia.wright@usda.gov. Participants may also reserve time to comment publicly when they register. Persons requiring a sign language interpreter or other special accommodations should contact Ms. Wright at the above telephone or FAX numbers by November 9, 1997.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public on a space available basis. Persons wishing to make an oral presentation should notify Ms. Wright in writing. Presentations will be scheduled on a time available basis in accordance with the timeliness of the written request. Comments may be made before or after the meeting. All comments received will become part of the public record of this meeting. Technical papers also will be accepted and made part of the official record.

NACMCF provides advice and recommendations to the Secretary of Agriculture and the Secretary of Health and Human Services about the development of microbiological criteria to assess the safety and wholesomeness of food. NACMCF also provides guidance to the Departments of Commerce and Defense.

Done at Washington, DC, on October 24, 1997.

Thomas J. Billy,

Administrator.

[FR Doc. 97–29035 Filed 10–31–97; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 97–059N]

Third Annual Federal/State Conference on Food Safety

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The Department of Agriculture's (USDA) Food Safety and Inspection Service (FSIS), in cooperation with the Food and Drug Administration (FDA), an agency of the Department of Health and Human Services (HHS), will hold "The Third Annual Federal/State Conference on Food Safety." The conference will focus on building Federal and State partnerships to facilitate the management of food safety concerns at the State and local levels.

DATES: The conference will be held on November 20 and 21, 1997, from 8:30 a.m. to 5:00 p.m. Registration will begin at 8:00 a.m.

ADDRESSES: The conference will be held at the Ramada Inn, 2600 Auburn Boulevard, Sacramento, California 95821; telephone (916) 487–7600; FAX (916) 481–7112.

FOR FURTHER INFORMATION CONTACT: To register for the meeting, contact Ms. Traci Phebus at (202) 501–7138, FAX (202) 501–7642, or E-mail to HACCP.Confer@USDA.GOV. If you require a sign language interpreter or other accommodations, contact Ms. Mary Harris at (202) 501–7315.

SUPPLEMENTARY INFORMATION: On July 25, 1996, FSIS published a final rule, "Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems (61 FR 38806). The rule introduced sweeping changes to the inspection of meat and poultry products. In the preamble of the rule, FSIS addressed "farm-to-table" strategies which include preventive approaches to hazards that occur during transportation, distribution, and retail sale of meat, poultry, and egg products. To implement these strategies, close coordination between Federal and State governments is necessary.

For the past two years, FSIS has held a "Federal/State Conference on Food

Safety." The 1995 and 1996 conferences brought together representatives from the principal Federal and State food safety organizations who discussed their views on the best ways to apply limited resources to improve farm-to-table food safety.

This year's conference will explore ways in which Federal and State partnerships can be organized to maximize valuable resources and facilitate the management of food safety concerns at the State and local levels. California, which has developed successful partnerships with Federal agencies, will highlight some of its experiences. Other States also are encouraged to discuss their recent initiatives in farm-to-table food safety.

Representatives from USDA, FDA, the Centers for Disease Control and Prevention, and State food safety agencies have been invited to participate and discuss other topics of mutual interest.

Done at Washington, DC on October 24, 1997.

Thomas J. Billy,

Administrator.

[FR Doc. 97–29036 Filed 10–31–97; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Designations for the Idaho (ID), Lewiston (ID), and the State of Utah Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA).

ACTION: Notice.

SUMMARY: GIPSA announces the designation of Idaho Grain Inspection Service, Inc. (Pocatello), Lewiston Grain Inspection Service, Inc. (Lewiston), and the Utah Department of Agriculture (Utah) to provide official services under the United States Grain Standards Act, as amended (Act).

EFFECTIVE DATE: December 1, 1997.

ADDRESSES: USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604, Room 1647-S, 1400 Independence Avenue, S.W., Washington, DC 20250–3604.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart, telephone 202–720–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the June 2, 1997, **Federal Register** (62 FR 29707), GIPSA asked persons interested in providing official services in the geographic areas assigned to Pocatello, Lewiston, and Utah to submit an application for designation. Applications were due by July 1, 1997. Pocatello, Lewiston, and Utah, the only applicants, each applied for designation to provide official services in the entire area currently assigned to them.

Since Pocatello, Lewiston, and Utah were the only applicants for the respective areas, GIPSA did not ask for comments on the applicants.

GIPSA evaluated all available information regarding the designation criteria in Section 7(f)(1)(A) of the Act and, according to Section 7(f)(1)(B), determined that Pocatello, Lewiston, and Utah are able to provide official services in the geographic areas for which they applied. Effective December 1, 1997, and ending November 30, 2000, Pocatello, Lewiston, and Utah are designated to provide official services in the geographic areas specified in the June 2, 1997, **Federal Register**.

Interested persons may obtain official services by contacting Pocatello at 208–233–8303, Lewiston at 208–746–0451, and Utah at 801–392–2292.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 et seq.).

Dated: October 24, 1997.

Neil E. Porter,

Director, Compliance Division.

[FR Doc. 97–28852 Filed 10–31–97; 8:45 am]

BILLING CODE 3410–EN–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Opportunity to Comment on the Applicant for the Northeast Indiana (IN) Region.

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA).

ACTION: Notice.

SUMMARY: GIPSA requests comments on the applicant for designation to provide official services in part of the geographic area currently assigned to East Indiana Grain Inspection, Inc. (East Indiana).

DATES: Comments must be postmarked, or sent by telecopier (FAX) by December 2, 1997.

ADDRESSES: Comments must be submitted in writing to USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604, Room 1647-S, 1400 Independence Avenue, S.W., Washington, DC 20250–3604. Telecopier (FAX) users may send comments to the automatic telecopier machine at 202–690–2755, attention: Janet M. Hart. All comments received will be made available for public inspection at the above address located at 1400 Independence Avenue, S.W., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart, telephone 202–720–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the August 21, 1997, **Federal Register** (62 FR 44439), GIPSA asked persons interested in providing official services in the Northeast Indiana area, currently assigned to East Indiana, to submit an application for designation. There was one applicant: Northeast Indiana Grain Inspection, Inc., a proposed organization to be established by Steve Walker to be located at Hoagland, Indiana, applied for designation to provide official services in the Northeast Indiana region. The Northeast Indiana region consists of the following geographic area, in the State of Indiana:

Bounded on the North by the northern Lagrange and Steuben County lines;

Bounded on the East by the eastern Steuben, De Kalb, Allen, and Adams, County lines;

Bounded on the South by the southern Adams and Wells County lines; and

Bounded on the West by the western Wells County line; the southern Huntington and Wabash County lines; the western Wabash County line north to State Route 114; State Route 114 northwest to State Route 19; State Route 19 north to Kosciusko County; the western and northern Kosciusko County lines; the western Noble and Lagrange County lines.

The following grain elevator, located outside of the above contiguous geographic area, is part of this geographic area assignment: E. M. P. Grain, Payne, Paulding County, Ohio (located inside Lima Grain Inspection Service, Inc.'s, area).

GIPSA is publishing this notice to provide interested persons the opportunity to present comments concerning the applicant. Commenters are encouraged to submit reasons and pertinent data for support or objection to the designation of this applicant. All comments must be submitted to the

Compliance Division at the above address. Comments and other available information will be considered in making a final decision. GIPSA will publish notice of the final decision in the **Federal Register**, and GIPSA will send the applicants written notification of the decision.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 et seq.).

Dated: October 24, 1997.

Neil E. Porter,

Director, Compliance Division.

[FR Doc. 97–28850 Filed 10–31–97; 8:45 am]

BILLING CODE 3410–EN–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Opportunity for Designation in the Detroit (MI), Keokuk (IA), and Michigan (MI) Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA).

ACTION: Notice.

SUMMARY: The United States Grain Standards Act, as amended (Act), provides that official agency designations will end not later than triennially and may be renewed. The designations of Detroit Grain Inspection Service, Inc. (Detroit), Keokuk Grain Inspection Service (Keokuk), and Michigan Grain Inspection Services, Inc. (Michigan), will end April 30, 1998, according to the Act. GIPSA is asking persons interested in providing official services in the Detroit, Keokuk, and Michigan areas to submit an application for designation.

DATES: Applications must be postmarked or sent by telecopier (FAX) on or before December 2, 1997.

ADDRESSES: Applications must be submitted to USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604, Room 1647–S, 1400 Independence Avenue, S.W., Washington, DC 20250–3604. Applications may be submitted by FAX on 202–690–2755. If an application is submitted by FAX, GIPSA reserves the right to request an original application. All applications will be made available for public inspection at this address located at 1400 Independence Avenue, S.W., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart, telephone 202–720–8525.

SUPPLEMENTARY INFORMATION: This Action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this Action.

Section 7(f)(1) of the Act authorizes GIPSA's Administrator to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services. GIPSA designated Detroit, main office located in Emmett, Michigan, Keokuk, main office located in Keokuk, Iowa, and Michigan, main office located in Marshall, Michigan, to provide official inspection services under the Act on May 1, 1995.

Section 7(g)(1) of the Act provides that designations of official agencies shall end not later than triennially and may be renewed according to the criteria and procedures prescribed in Section 7(f) of the Act. The designations of Detroit, Keokuk, and Michigan end on April 30, 1998, according to the Act.

Pursuant to Section 7(f)(2) of the Act, the following geographic area, in the State of Michigan, is assigned to Detroit.

Bounded on the North by the northern Clinton County line; the eastern Clinton County line south to State Route 21; State Route 21 east to State Route 52; State Route 52 north to the Shiawassee County line; the northern Shiawassee County line east to the Genesee County line; the western Genesee County line; the northern Genesee County line east to State Route 15; State Route 15 north to Barnes Road; Barnes Road east to Sheridan Road; Sheridan Road north to State Route 46; State Route 46 east to State Route 53; State Route 53 north to the Michigan State line;

Bounded on the East by the Michigan State line south to State Route 50;

Bounded on the South by State Route 50 west to U.S. Route 127; and

Bounded on the West by U.S. Route 127 north to U.S. Route 27; U.S. Route 27 north to the northern Clinton County line.

The following grain elevator, located outside of the above contiguous geographic area, is part of this geographic area assignment: Countrymark, Inc., St. Johns, Clinton County (located inside Michigan Grain Inspection Services, Inc.'s, area).

Pursuant to Section 7(f)(2) of the Act, the following geographic area, in the States of Illinois and Iowa, is assigned to Keokuk.

Adams, Brown, Fulton, Hancock, Mason, McDonough, and Pike (northwest of a line bounded by U.S. Route 54 northeast to State Route 107; State Route 107 northeast to State Route 104; State Route 104 east to the eastern Pike County line) Counties, Illinois.

Davis, Lee, and Van Buren Counties, Iowa.

Pursuant to Section 7(f)(2) of the Act, the following geographic area, in the State of Michigan, is assigned to Michigan.

Bounded on the North by the northern Michigan State line;

Bounded on the East by the eastern Michigan State line south and east to State Route 53; State Route 53 south to State Route 46;

Bounded on the South by State Route 46 west to Sheridan Road; Sheridan Road south to Barnes Road; Barnes Road west to State Route 15; State Route 15 south to the Genesee County line; the northern Genesee County line west to the Shiawassee County line; the northern Shiawassee County line west to State Route 52; State Route 52 south to State Route 21; State Route 21 west to Clinton County; the eastern and northern Clinton County lines west to U.S. Route 27; U.S. Route 27 south to U.S. Route 127; U.S. Route 127 south to the southern Hillsdale County line; the southern Hillsdale and Branch County lines; the western Branch County line north to the Kalamazoo County line; the southern Kalamazoo and Van Buren County lines; and

Bounded on the West by the western Michigan State line north to the northern Michigan State line.

Michigan's assigned geographic area does not include the following grain elevator inside Michigan's area which has been and will continue to be serviced by the following official agency: Detroit Grain Inspection Service, Inc.: St. Johns Coop., St. Johns, Clinton County.

Interested persons, including Detroit, Keokuk, and Michigan, are hereby given the opportunity to apply for designation to provide official services in the geographic areas specified above under the provisions of Section 7(f) of the Act and section 800.196(d) of the regulations issued thereunder. Designation in the Detroit, Keokuk, and Michigan areas is for the period beginning May 1, 1998, and ending April 30, 2001. Persons wishing to apply for designation should contact the Compliance Division at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Dated: October 24, 1997.
Neil E. Porter,
Director, Compliance Division.
[FR Doc. 97–28853 Filed 10–31–97; 8:45 am]
BILLING CODE 3410–EN–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Designation for the Fostoria (OH) Area

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA).
ACTION: Notice.

SUMMARY: GIPSA announces the designation of Fostoria Grain Inspection, Inc. (Fostoria), to provide official services under the United States Grain Standards Act, as amended (Act).
EFFECTIVE DATE: December 1, 1997.
ADDRESSES: USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604, Room 1647-S, 1400 Independence Avenue, S.W., Washington, DC 20250–3604.
FOR FURTHER INFORMATION CONTACT: Janet M. Hart, telephone 202–720–8525.
SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the June 2, 1997, **Federal Register** (62 FR 29707), GIPSA asked persons interested in providing official services in the geographic area assigned to Fostoria to submit an application for designation. Applications were due by July 1, 1997. Fostoria, the only applicant, applied for designation to provide official services in the entire area currently assigned to them.

Since Fostoria was the only applicant for the area, GIPSA did not ask for comments on the applicant.

GIPSA evaluated all available information regarding the designation criteria in Section 7(f)(l)(A) of the Act and, according to Section 7(f)(l)(B), determined that Fostoria is able to provide official services in the geographic area for which they applied. Effective December 1, 1997, and ending November 30, 1998, Fostoria is designated to provide official services in the geographic area specified in the June 2, 1997, **Federal Register**.

Interested persons may obtain official services by contacting Fostoria at 419–435–3804.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Dated: October 24, 1997.
Neil E. Porter,
Director, Compliance Division.
[FR Doc. 97–28854 Filed 10–31–97; 8:45 am]
BILLING CODE 3410–EN–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Grain Inspection, Packers and Stockyards Administration.
ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Grain Inspection, Packers and Stockyards Administration's (GIPSA) intention to request an extension for and revision to the currently approved information collection for "Regulations Governing the National Inspection and Weighing System Under the United States Grain Standards Act and the Agricultural Marketing Act of 1946."
DATES: Comments on this notice must be received by January 2, 1998.
ADDITIONAL INFORMATION OR COMMENTS: Contact Sharon Vassiliades, ARTS, GIPSA, USDA, STOP 3649, 1400 Independence Avenue, SW, Washington, D.C. 20250-3649, or FAX 202 720–4628, telephone: 202 720–1738, e-mail: svassili@fgisdc.usda.gov.
SUPPLEMENTARY INFORMATION: The United States Grain Standards Acts (USGSA) and the Agricultural Marketing Act (AMA) were enacted to facilitate the marketing of grain, oilseeds, pulses, rice, and related commodities. These statutes establish standards and terms which accurately and consistently measure the quality of grain and related products, provide for uniform official inspection and weighing, provide regulatory and service responsibilities, and furnish the framework for commodity quality improvement incentives to both domestic and foreign buyers. The Federal Grain Inspection Service of USDA's Grain Inspection, Packers and Stockyards Administration establishes policies, guidelines, and regulations to carry out the objectives of the USGSA and the AMA.

The USGSA, with few exceptions, requires official certification of export grain sold by grade. Official services are provided, upon request, for grain in domestic commerce. The AMA authorizes similar inspection and weighing services, upon request, for rice, pulses, flour, corn meal, and certain other agricultural products. Conversely, the regulations promulgating the USGSA and AMA require specific information collection and recordkeeping necessary to carry out requests for official services. Applicants for service must specify the kind and level of service desired, the identification of the product, the location, the amount, and other pertinent information in order that official personnel can efficiently respond to their needs.

Official services under the USGSA are provided through FGIS field offices and delegated and/or designated State and private agencies. Delegated agencies are State agencies delegated authority under the Act to provide official inspection service, Class X or Class Y weighing services, or both, at one or more export port locations in the State. Designated agencies are State or local governmental agencies or persons designated under the Act to provide either official inspection services, Class X or Class Y weighing services, or both, at locations other than export port locations. State and private agencies, as a requirement for delegation and/or designation, must comply with all regulations, procedures, and instructions in accordance with provisions established under the USGSA. FGIS field offices oversee the performance of these agencies and provide technical guidance as needed.

Official services under the AMA are performed, upon request, on a fee basis for domestic and export shipments either by FGIS employees, individual contractors, or cooperators. Contractors are persons who enter into a contract with FGIS to perform specified inspection services. Cooperators are agencies or departments of the Federal Government which have an interagency agreement or State agencies which have a reimbursable agreement with FGIS.

Title: Regulations Governing the National Inspection and Weighing System Under the USGSA and AMA of 1946.

OMB Number: 0580–0013.

Expiration Date of Approval: February 28, 1998.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: The United States Grain Standards Act (7 U.S.C. 71 et seq.) and the Agricultural Marketing Act of 1946 (7 U.S.C 1621 et seq.) provide that USDA inspect, certify and identify the class, quality, quantity and condition of agricultural products shipped or received in interstate and foreign commerce. Also, that USDA may enter contracts or agreements with delegated or designated agencies to provide official inspection personnel to perform the services.

Estimate of Burden: Public reporting and record keeping burden for this collection of information is estimated to average .16 hours per response.

Respondents: Grain producers, buyers, and sellers, elevator operators, grain merchandisers and official grain inspection agencies.

Estimated Number of Respondents: 3200.

Estimated Number of Responses per Respondent: 899.3.

Estimated Total Annual Burden on Respondents: 468,109.55 hours.

Copies of this information collection can be obtained from Cathy McDuffie, the Agency Support Services Specialist, at (301) 734–5190.

Comments: Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or forms of information technology. Comments may be sent to: Sharon Vassiliades, ARTS, GIPSA, USDA, STOP 3649, 1400 Independence Avenue, SW, Washington, D.C. 20250-3649 or FAX 202 720–4628, telephone: 202 720–1738. All comments will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: October 28, 1997.
James R. Baker,
Administrator.
[FR Doc. 97–29020 Filed 10–31–97; 8:45 am]
BILLING CODE 3410–EN–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Construction Project Reporting Surveys (CPRS)

ACTION: Proposed Collection; Comment Request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).
DATES: Written comments must be submitted on or before January 2, 1998.
ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.
FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to George A. Roff, Jr., Bureau of the Census, Room 2225, Building 4, Washington, DC 20233 on (301) 457–1605.
SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau is the preeminent collector and provider of timely, relevant and quality data about the people and economy of the United States. Economic data are the Census Bureau's primary program commitment during nondecennial census years. The Census Bureau, under the authority of Title 13, United States Code, Section 182, conducts the following three Construction Project Reporting Surveys (CPRS); Private Construction Projects, State and Local Governments and Multifamily Residential. These surveys provide the dollar value of construction put in place by private companies, individuals, private multifamily residential buildings, and state and local government sectors. The C–700 form (Private Construction Projects) collects construction put in place data for nonresidential projects owned by private companies or individuals. The C–700(R) (Multifamily Residential Projects) form collects construction put in place data for private multifamily residential buildings. Form C–700(SL) (State and Local Government Projects) collects construction put in place data for state and local government projects.

The Census Bureau uses the information from the CPRS to publish the value of construction put in place series. Published estimates are used by a variety of private business and trade associations to estimate the demand for building materials and to schedule production, distribution, and sales efforts. They also provide various governmental agencies with a tool to evaluate economic policy and to measure progress towards established goals. For example, Bureau of Economic Analysis staff use data to develop the construction components of gross private domestic investment in the gross domestic product. The Federal Reserve Board and the Department of Treasury use the value in place data to predict the gross domestic product, which is presented to the Board of Governors and has an impact on monetary policy.

II. Method of Collection

The universes for these surveys are as follows:

(1) Private nonresidential and state and local projects are obtained from F.W. Dodge, a division of the McGraw-Hill Information Systems Company, for projects valued at $50,000 or more in the United States, except Hawaii. Building permit notifications are used for sampling in permit-issuing places of Hawaii and for projects in areas not covered by Dodge.

(2) Multifamily projects are sampled from the Census Bureau's Housing Starts Survey.

An independent systematic sample of projects is selected each month according to predetermined sampling rates. Once a project is selected it remains in the sample until completion of the project. Preprinted forms are mailed monthly to respondents to fill in current month data and any revisions to previous months. To manage CPRS data, a database was created. A portion of this database is used for computer assisted telephone interviewing. Repondents are contacted on the day and time specified by them, thereby reducing their burden.

III. Data

OMB Numbers: 0607–0153 C–700 (Private Construction Projects), 0607–0163 C–700(R) (Multifamily Residential Projects), 0607–0171 C–700(SL) (State and Local Government Projects).

Form Numbers: C–700, C–700(R), C–700(SL).

Type of Review: Regular Review.

Affected Public: Individuals, Businesses or Other for Profit, Non Profit Institutions, Small Businesses or Organizations, and State or Local Governments.

Estimated Number of Respondents: C–700= 6,000, C–700(R)=1,440, C–700(SL)= 6,000.

Estimated Time Per Response: .25 hrs per month.

Estimated Total Annual Burden Hours: C–700= 18,000, C–700(R)=4,320, C–700(SL)=18,000.

Estimated Total Annual Cost: The cost to the Government for this work is estimated to be $2.702 million.

Respondents Obligation: Construction Project Reporting Surveys are voluntary.

Legal Authority: Title 13, United States Code, Section 182.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: October 28, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–29005 Filed 10–31–97; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of revocation of Export Trade Certificate of Review No. 94–00004.

SUMMARY: The Secretary of Commerce issued an export trade certificate of review to Allegheny Highland Hardwoods, Inc. Because this certificate holder has failed to file an annual report as required by law, the Secretary is revoking the certificate. This notice summarizes the notification letter sent to Allegheny Highland Hardwoods, Inc.

FOR FURTHER INFORMATION CONTACT: Morton Schnabel, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, 202/482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the Act") (Pub. L. No. 97–290, 15 U.S.C. 4011–21) authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing Title III ("the Regulations") are found at 15 CFR part 325 (1997). Pursuant to this authority, a certificate of review was issued on July 13, 1994 to Allegheny Highland Hardwoods, Inc.

A certificate holder is required by law to submit to the Department of Commerce annual reports that update financial and other information relating to business activities covered by its certificate (Section 308 of the Act, 15 U.S.C. 4018, Section 325.14(a) of the Regulations, 15 CFR 325.14(a)). The annual report is due within 45 days after the anniversary date of the issuance of the certificate of review (Sections 325.14(b) of the Regulations, 15 CFR 325.14(b)). Failure to submit a complete annual report may be the basis for revocation (Sections 325.10(a) and 325.14(c) of the Regulations, 15 CFR 325.10(a)(3) and 325.14(c)).

On October 6, 1995, the Department of Commerce sent to Allegheny Highland Hardwoods, Inc. a letter containing annual report questions with a reminder that its annual report was due by August 28, 1995. Additional reminder letters were sent on July 18, 1996, October 18, 1996, and on January 3, 1997. The Department has received no written response from Allegheny Highland Hardwoods, Inc. to any of these letters.

On August 4, 1997, and in accordance with Section 325.10(c)(1) of the Regulations, (15 CFR 325.10(c)(1)), the Department of Commerce sent a letter by certified mail to notify Allegheny Highland Hardwoods, Inc. that the Department was formally initiating the process to revoke its certificate for failure to file an annual report. In addition, a summary of this letter allowing Allegheny Highland Hardwoods, Inc. thirty days to respond was published in the **Federal Register** on August 11, 1997 at 62 FR 42965. Pursuant to 325.10(c)(2) of the Regulations (15 CFR 325.10(c)(2)), the Department considers the failure of Allegheny Highland Hardwoods, Inc. to respond to be an admission of the statements contained in the notification letter.

The Department has determined to revoke the certificate issued to Allegheny Highland Hardwoods, Inc. for its failure to file an annual report. The Department has sent a letter, dated October 28, 1997, to notify Allegheny Highland Hardwoods, Inc. of its determination. The revocation is effective thirty (30) days from the date of publication of this notice. Any person aggrieved by this decision may appeal to an appropriate U.S. district court within 30 days from the date on which this notice is published in the **Federal Register** (325.10(c)(4) and 325.11 of the Regulations, 15 CFR 324.10(c)(4) and 325.11 of the Regulations, 15 CFR 325.10(c)(4) and 325.11).

Dated: September 28, 1997.

Morton Schnabel,

Acting Director, Office of Export Trading Company Affairs

[FR Doc. 97–29000 Filed 10–31–97; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[Docket No. 971023252–7252–01]

CFDA No.: 11.115; Cooperative Agreement Program for an American Business Center in Russia

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

Summary

The International Trade Administration (ITA) is soliciting competitive applications to establish and operate an American Business Center (ABC) in Novosibirsk, Russia for a two (2) year multi-year award period. ABC Novosibirsk will encourage the export of U.S. goods and services and stimulate trade and investment in Russia's regions. Funds to support the new ABC Award are not currently available. Any award resulting from this announcement is contingent upon the availability of appropriated funds.

Background

On September 15, 1997, ITA published a notice in the **Federal Register** (62 FR 48219) solicitating proposals to operate American Business Centers in five (5) cities in Russia and the New Independent States. Closing date for receipt of proposals was October 15, 1997. No proposals were received to operate a center in Novosibirsk. Accordingly, ITA is hereby providing notice that the portion of the September 15, 1997 (62 FR 48219) solicitation pertaining to Novosibirsk is canceled. Since ITA did not receive any applications under the closed solicitation, we are issuing this solicitation with revised requirements.

ABC Novosibirsk will provide, on a user fee basis, a broad range of business development and facilitation services to United States companies in Russia's regions. Services provided by ABC Novosibirsk will be designed to encourage more U.S. firms to explore opportunities for trade and investment in Russia's regions and to help them conduct business there more effectively. The core services to be provided by the ABC include: international telephone, fax, and data transmission; temporary office space; space for meetings, small seminars, and small product exhibitions or demonstrations; secretarial support (e.g. word processing, typing, message taking); translator/interpreters; photocopying; market research; counseling on local business conditions; and arranging appointments with Russian business contacts. The Center also will work closely with Russian businesses to help them become more attractive trading partners; identify and report obstacles to trade and investment; and serve as a link between financial institutions, U.S. companies, and Russian enterprises.

In addition to these core services, the ABC will support U.S. Government activities under the Regional Investment Initiative (RII). This will include providing, at cost, support for the activities of the RII coordinators. Such support may include office space, computers, telecommunications equipment and secretarial and translation services.

Projects supported under the terms of this notice will establish and operate an ABC in Novosibirsk.

DATES: ITA will accept only those applications which are received at the U.S. Department of Commerce, Room 1235, HCHB, no later than 3:00 pm E.S.T. December 3, 1997. Late applications will not be accepted and will not be considered. On November 7, 1997, competitive application kits are available from the Department of Commerce.

ADDRESSES: To obtain a copy of the application kit, please send a written request with a self-addressed mail label to: Russia-NIS Program Office, U.S. & Foreign Commercial Service, Room 1235, HCHB, U.S. Department of Commerce, Washington, D.C. 20230. Requests for application kits also may be faxed to 202–482–2456. Only one application kit will be provided to each organization requesting it, but the kit may be reproduced by the requestor. All forms necessary to submit an application will be included in the application kit. Completed applications should be returned to the same address. Applicants must submit a signed original and two copies of the application and supporting materials. It is anticipated that it will take ten weeks after the deadline for receipt of applications to process applications and make an award.

FOR FURTHER INFORMATION CONTACT: Applicants wishing further information should contact Ms. E. Vivian Spathopoulos, Deputy Director, Russia-NIS Program Office, U.S. & Foreign Commercial Service, U.S. Department of Commerce, room 1235, HCHB, Washington, D.C. 20230, telephone: (202) 482–2902, or Fax: (202) 482–2456.

SUPPLEMENTARY INFORMATION:

Program Authority

The American Business Center program is authorized by Title III of the "Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992" or the "FREEDOM Support Act", Pub. L. 102–511. Funding for the program is provided by the Agency for International Development under Section 632(a) of the Foreign Assistance Act of 1961, as amended.

Eligible Applicants

United States for-profit firms, non-profit organizations, non-Federal government agencies, industry and trade associations, and educational institutions are eligible to apply. An enterprise which includes or intends to include participation of host country citizens or entities will be considered an eligible applicant so long as the applicant is and will remain, throughout the award period, controlled by citizens or entities of the United States.

Funding Guidelines

Since it is anticipated that ITA will be involved in the implementation of the project for which an award is made, the funding instrument for the program will be a cooperative agreement. Examples of ITA involvement include but are not limited to the following: supplemental marketing to promote the ABC, guidance on eligibility of ABC clients, and coordination with other U.S. government assistance programs.

ITA anticipates $200,000 will be available for the first year of funding for one multi-year cooperative agreement award during FY 1998. Applicants will be requested to submit a work-plan and budget which cover a one (1) year period for a total amount of not more than $200,000 in Federal funds. Applicants must supply at least thirty-percent (30%) of total project costs, with the Federal portion of total project costs to be no more than seventy-percent (70%). A minimum of one-half (½) of the support supplied by the applicant must be in the form of cash. The remaining portion of the applicant's support may consist of cash or in-kind contributions (goods and services contributed by a third-party). Applicants are requested to also submit a work-plan and budget for a second year of operation based on the level of funding for the first year with the understanding that funding levels may or may not be the same as the first year.

Applicant receipt of future funding is contingent upon the availability of appropriated funds, and satisfactory performance, and will be at the sole discretion of ITA. Publication of this notice does not constitute an obligation by the Department of Commerce to enter into a cooperative agreement with any responding applicant.

Evaluation Criteria

Consideration for financial assistance under the program will be based on the following evaluation criteria:

(1) Quality of Work Plan: core commercial activities, marketing strategy, management/staffing, cooperation with ITA and outreach programs to NIS firms;

(2) Qualifications of Applicant: financial history, personnel's experience in region and in delivering commercial products/services;

(3) Market Knowledge of Locations: applicant's demonstrated familiarity with the market conditions in the proposed city and/or region;

(4) Project Timetable: ability of applicant to complete major stages in the scope of work quickly, particularly bringing an ABC into the fully-operational stage;

(5) U.S. Small Business Utility: accessibility of services to small firms and reasonableness of fees;

(6) Cost-Effectiveness: reasonableness, allowability and allocability of costs.

For purpose of evaluation of the applications, the above criteria will be weighted as follows: Criterion (1) will be worth a maximum of 30 (thirty) percent; criterion (2) will be worth a maximum of 30 (thirty) percent; criterion (3) will be worth a maximum of 20 (twenty) percent; criterion (4) will be worth a maximum of 10 (ten) percent; criterion (5) and (6) will be worth a maximum of 5 (five) percent each.

Selection Procedure

Each application will be evaluated by a panel of at least three independent reviewers qualified to evaluate applications submitted under the program. Applications will be evaluated on a competitive basis in accordance with the evaluation criteria set forth above. This announcement is for applicants in Novosibirsk only. Awards will be based on highest total accumulated score and geographic location.

Notifications

All applicants are advised of the following:

(1) Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

(2) If applicants incur any cost prior to an award being made, they do so solely at their own risk of not being reimbursed by the Federal Government. Not withstanding any verbal assurance that they may receive, there is no obligation on the part of the Department of Commerce to cover pre-award costs.

(3) If an application is selected for funding, the Department of Commerce has no obligation to provide any additional future funding in connection with the award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of the Department of Commerce.

(4) No award of Federal funds shall be made to an applicant who has an outstanding debt until either:

a. The delinquent account is paid in full;

b. A negotiated repayment schedule is established and at least one payment is received; or

c. Other arrangements satisfactory to the Department of Commerce are made.

(5) All primary applicants must submit a completed Form CD–511, "Certification Regarding Debarment, Suspension and other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying". Prospective participants (as defined at 15 CFR part 26, section 105) are subject to 15 CFR part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies. Grantees (as defined at 15 CFR part 26, section 605) are subject to 15 CFR part 26, subpart F "Government wide Requirement for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies. Persons (as defined at 15 CFR part 28, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on the use of appropriated funds to influence certain Federal contracting and financial transactions;" and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000 and loans and loan guarantees for more than $150,000 or the single family maximum mortgage limit for affected programs, whichever is greater". Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, Appendix B.

(6) Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction and Lobbying" and disclosure form, SF–LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be submitted by any tier recipient or sub-recipient should be submitted to the Department of Commerce in accordance with instructions contained in the award document.

(7) A false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001 and denial or termination of Federal funding.

(8) All recipients and sub-recipients are subject to all applicable Federal laws and Federal Department of Commerce policies, regulations, and procedures applicable to Federal assistance awards. For-profit organizations shall be subject to OMB Circular A–110 and 15 CFR 29a.

(9) All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management honesty or financial integrity.

(10) Recipients are subject to the Fly America Act (49 U.S.C. sec. 1517 as implemented by 41 CFR sec. 301–3.6).

(11) Executive Order 12372 "Intergovernmental Review of Federal Programs" does not apply to this program.

(12) Paperwork Reduction Act does apply to this program. This document involves collections of information subject to the Paperwork Reduction Act, which have been approved by the Office of Management and Budget under OMB Control Numbers 0348–0043, 0348–0044, 0348–0040, 0348–0046, and 0651–0001. Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number.

(13) The total dollar amount of the indirect costs proposed in an application under this program must not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award or 100 percent of the total proposed direct costs dollar amount in the application, whichever is less.

Dated: October 29, 1997.

E. Vivian Spathopoulos,

Deputy Director, US&FCS/Russia-NIS Program Office

[FR Doc. 97–29116 Filed 10–31–97; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 102697A]

Fisheries of the Exclusive Economic Zone Off Alaska; Recordkeeping and Reporting Requirements; Public Workshop

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of workshop

SUMMARY: NMFS announces a workshop to explain provisions of the 1998 recordkeeping and reporting requirements for the Alaska groundfish fisheries, to introduce the proposed electronic reporting system, to provide detailed instructions on completion and submittal of the required forms and logsheets, and to answer questions on recordkeeping and reporting from members of the fishing industry and other interested parties.

DATES: Tuesday, December 16, 1997, 8:00 a.m. to 5:00 p.m. Alaska local time.

ADDRESSES: The workshop will be held in the Windsor Room at the Westmark Hotel located at 720 West Fifth Avenue, Anchorage, Alaska.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, 907–586–7228.

SUPPLEMENTARY INFORMATION: This workshop is scheduled by NMFS in response to requests by the affected fishing industry for a training workshop on the groundfish recordkeeping and reporting system.

Dated: October 28, 1997.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–29023 Filed 10–31–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 102797B]

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene a public meeting of the Texas Habitat Protection Advisory Panel (AP).

DATES: The meeting will be held on Tuesday, November 18, 1997, and is scheduled to begin at 9:00 a.m. and adjourn at 3:00 p.m.

ADDRESSES: The meeting will be held at the Hobby Airport Hilton Hotel, 8181 Airport Boulevard, Houston, TX; telephone: 713–645–3000.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Jeff Rester, Habitat Specialist, Gulf States Marine Fisheries Commission; telephone: 601–875–5912.

SUPPLEMENTARY INFORMATION: The Texas Habitat Protection AP will be convened to discuss the recent red tide events in Texas, a seagrass conservation plan, the introduction of exotic viruses from shrimp mariculture and the monitoring for exotic viruses in coastal waters, and representatives will discuss Galveston Bay Estuary Program and the Corpus Christi National Estuary Program. The AP will also hear reports on the status of completion of the Essential Fish Habitat (EFH) guidelines being developed by NMFS; and of completion of a generic amendment by the Council which describes EFH as required by the Sustainable Fisheries Act.

A copy of the agenda can be obtained by calling 813–228–2815. Although other issues not on the agenda may come before the AP for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal AP action during this meeting. AP action will be restricted to those issues specifically identified in the agenda listed as available by this notice.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see ADDRESSES) by November 11, 1997.

Dated: October 28, 1997.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–29024 Filed 10–31–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 102797D]

North Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of Committee Meeting

SUMMARY: The North Pacific Fishery Management Council's Observer Advisory Committee (OAC) will meet in Seattle, WA.

DATES: The meeting will be held on Monday, November 24, 1997, beginning at 8:30 a.m.

ADDRESSES: The meeting will be held at the Alaska Fisheries Science Center (Building 4, Observer Training Room) 7600 Sand Point Way, NE., Seattle, WA.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Chris Oliver; telephone: 907–271–280 9.

SUPPLEMENTARY INFORMATION: The Committee will review a proposed joint partnership agreement structure and alternatives for the proposed third-party observer program.

Although other issues not contained in this agenda may come before this Committee for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Committee action during this meeting. Committee action will be restricted to those issues specifically identified in the agenda listed in this notice.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen, 907–271–2809, at least 5 working days prior to the meeting date.

Dated: October 28, 1997.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–29026 Filed 10–31–97; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Guatemala

October 29, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a limit.

EFFECTIVE DATE: November 5, 1997.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The current limit for Categories 342/642 is being increased for carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 61 FR 66263, published on December 17, 1996). Also

see 61 FR 58038, published on November 12, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 29, 1997.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 4, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Guatemala and exported during the twelve-month period which began on January 1, 1997 and extends through December 31, 1997.

Effective on November 5, 1997, you are directed to increase the limit for Categories 342/642 to 454,215 dozen [1], as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC).

The Guaranteed Access Level for Categories 342/642 remains unchanged.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 97–29007 Filed 10–31–97; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Deputy Chief Information Officer, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by October 31, 1997.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer: Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, D.C. 20503. Requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 7th & D Streets, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 3506 (c)(2)(A) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Deputy Chief Information Officer, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: October 30, 1997.

Gloria Parker,

Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: New.
Title: Survey of Deactivated Consolidation Loans.
Abstract: This study will determine why students who initially applied for a loan consolidation, subsequently withdrew. Students will be surveyed regarding their reasons for dropping out of the loan consolidation process so that ED can better address their needs.
Additional Information: This survey is critically important to the Department. It is required so that ED can better manage the backlog of requests for consolidated loan applications. We expect to clear the backlog in November. Therefore, the usual OMB clearance process will not enable the Department to complete this survey in sufficient time.
Frequency: One-time.
Affected Public: Individuals or households.
Annual Reporting and Recordkeeping Hour Burden:
Responses: 500.
Burden Hours: 42.

[FR Doc. 97–29120 Filed 10–31–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Acting Deputy Chief Information Officer, Office of the Chief Information Officer, invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before December 3, 1997.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U. S. C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Deputy Chief Information Officer, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: October 28, 1997.

Linda C. Tague,

Acting Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: New.
Title: Survey of Consumer Choice and Satisfaction in the Choice Demonstration Projects.
Frequency: On occasion.
Affected Public: Individuals or households..
Annual Reporting and Recordkeeping Hour Burden:
Responses: 217.
Burden Hours: 54.
Abstract: As mandated in P.L. 102–569, RSA/ED is conducting an evaluation of the "effects of increased choice on consumers" in seven demonstrations projects funded under the legislation. The independent evaluator, InfoUse, will survey a random sample of 217 current and former project participants. Respondents are working-aged persons with disabilities who have received vocational rehabilitation services through the demonstration projects. The results will determine the extent to which the demonstration projects have increased consumer choice and satisfaction with vocational rehabilitation planning, service purchasing, and outcomes. The results will inform key Congressional and Administration policy-makers, personnel in the 82 state vocational rehabilitation agencies, private rehabilitation providers, and organizations serving consumers of vocational rehabilitation.

[FR Doc. 97–28996 Filed 10–31–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Notice of Restricted Eligibility Support of Advanced Fossil Resource Utilization Research by Historically Black Colleges and Universities and Other Minority Institutions

AGENCY: U.S. Department of Energy (DOE), Federal Energy Technology Center (FETC).

ACTION: Notice of restricted eligibility.

SUMMARY: The Department of Energy announces that it intends to conduct a competitive Program Solicitation and award financial assistance (grants) to U.S. Historically Black Colleges and Universities and Other Minority Institutions in support of innovative research and development of advanced concepts pertinent to fossil resource conversion and utilization. Applications will be subjected to a review by a DOE technical panel, and awards will be made to a limited number of applicants on the basis of the scientific merit of the application, application of relevant program policy factors, and the availability of funds. Collaboration with private industry is encouraged.

FOR FURTHER INFORMATION CONTACT: Mr. John R. Columbia, U.S. Department of Energy, Federal Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS 921–143, Pittsburgh PA 15236–0940, Telephone: (412) 892–6219, FAX: (412) 892–6216. The solicitation (created in Word Perfect 6.1 for Windows) will be released on DOE's FETC World Wide Web Server Internet System (http://www.fetc.doe.gov/business) on or about November 7, 1997. If applicants do not have Internet capability or experience difficulty accessing the solicitation file, a 3.5" double sided/high density diskette copy of the solicitation will be available, upon receipt of a written request submitted via facsimile (fax) at (412) 892–6216 or e-mail at columbia@fetc.doe.gov. No telephone requests will be honored for request of diskettes.

SUPPLEMENTARY INFORMATION:

Title of Solicitation. "Support of Advanced Fossil Resource Utilization Research by Historically Black Colleges and Universities and Other Minority Institutions".

Objectives. Through Program Solicitation No. DE–PS26–98FT40047, the Department of Energy seeks applications from Historically Black Colleges and Universities (HBCU) and Other Minority Institutions (OMI) and HBCU/OMI-affiliated research institutes for innovative research and development of advanced concepts pertinent to fossil resource conversion and utilization. The resultant grants are intended to maintain and upgrade educational, training, and research capabilities of our HBCU/OMI in the fields of science and technology related to fossil energy resources; to foster private sector participation, collaboration, and interaction with HBCU/OMI; and to provide for the exchange of technical information and to raise the overall level of HBCU/OMI competitiveness with other institutions in the field of fossil energy research and development. Thus, the establishment of linkages between the HBCU/OMI and the private sector fossil energy community is critical to the success of this program, and consistent with the

[1] The limit has not been adjusted to account for any imports exported after December 31, 1996.

Nation's goal of ensuring a future supply of fossil fuel scientists and engineers from a previously under-utilized resource.

Eligibility. Eligibility for participation in this Program Solicitation is restricted to Historically Black Colleges and Universities (HBCU) and Other Minority Institutions (OMI) recognized by the Office for Civil Rights (OCR), U.S. Department of Education, and identified on the OCR's United States Department of Education list of U.S. Accredited Postsecondary Minority Institutions list in effect on the closing date of the program solicitation. *Applications submitted by any institution not on OCR's aforementioned list are ineligible for technical evaluation and award.* For information regarding the qualification criteria and process of becoming recognized by the Education Department's Office for Civil Rights as a "Minority Institution", institutions should contact the Education Department directly at the following address: Mr. Peter A. McCabe, Office for Civil Rights, U.S. Department of Education, Washington DC 20202, Telephone (202) 205–0567. Note: The Education Department should only be contacted on matters related to Institutional status; questions regarding the Program Solicitation should be directed to Mr. Columbia at DOE by telefacsimile on (412) 892–6216.

Applications from HBCU/OMI-affiliated research institutes must be submitted through the college or university with which they are affiliated. The university (*not* the university-affiliated research institute) will be the recipient of any resultant DOE grant award. Applications submitted in response to the solicitation must meet the following two criteria: the Principal Investigator or a Co-Principal Investigator must be a teaching professor at the submitting university listed in the application; *and* at least one student registered at the university is to be compensated for a significant portion of the work performed in the conduct of research proposed in the application. Although it is not required as an application qualification criterion, collaboration with the private sector is encouraged, and applications proposing private sector collaboration may be evaluated more favorably. The solicitation will contain a complete description of the technical evaluation factors and relative importance of each factor. Collaboration by the private sector with the HBCU/OMI may be in the form of cash cost sharing, consultation, HBCU/OMI access to industrial facilities or equipment, experimental data and/or equipment not available at the university, or as a subgrantee/subcontractor to the HBCU/OMI.

Areas of Interest. In order to develop and sustain a national program of HBCU/OMI research in advanced and fundamental fossil fuel studies, the Department is interested in innovative research and development of advanced concepts pertinent to fossil fuel conversion and utilization limited to the following seven (7) technical topics:

Topic 1—Advanced Environmental Control Technology for Coal
Topic 2—Advanced Coal Utilization
Topic 3—Coal Liquefaction Technology
Topic 4—Heavy Oil Upgrading and Processing
Topic 5—Advanced Environmental and Recovery Technologies for Oil
Topic 6—Natural Gas Supply, Storage, and Processing
Topic 7—Faculty/Student Exploratory Grants

Note: This is the *only* topic (Topic seven (7)) under this Program Solicitation wherein the inclusion or exclusion of private sector collaboration will not affect the technical evaluation of the application.

Awards. DOE anticipates issuing financial assistance (grants) for each project selected. DOE reserves the right to support or not support any or all applications received in whole or in part, and to determine how many awards may be made through the solicitation subject to funds available in this fiscal year. The limitation on the maximum DOE funding for each selected grant to be awarded under this Program Solicitation is as follows:

	Maximum award
Topics 1–6:	
To 12 months grant duration	$85,000.00
13—24 months grant duration	150,000.00
25—36 months grant duration	200,000.00
Topic 7:	
To 12 months grant duration	15,000.00

Approximately $850,000 is planned for this solicitation. The total should provide support for four to eight R&D application selections (Topics 1–6), and approximately two to four faculty/student exploratory application selections (Topic 7).

Solicitation Release Date. The Program Solicitation is expected to be ready for release on or about November 7, 1997. Applications must be prepared and submitted in accordance with the instructions and forms contained in the Program Solicitation. To be eligible, applications must be *Received* by the designated DOE office by the closing time and date specified in the Program Solicitation (anticipated to be on or about December 19, 1997, at 5:00 pm Eastern Standard Time).

Dale A. Siciliano,
Contracting Officer, Acquisition and Assistance Division.

[FR Doc. 97–29004 Filed 10–31–97; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Fossil Energy

[FE Docket Nos. 97–47–NG; 95–38–NG; 97–60–NG; 92–154–NG; 91–67–NG; 97–61–NG; 97–62–NG; 93–40–NG; 95–66–NG; 97–65–NG; 97–66–NG]

Inland Pacific Resources Inc. (Successor to Inland Pacific Energy Services Corp.); Columbia Energy Services Corporation Successor to PennUnion Energy Services, L.L.C.); Barrett Resources Corporation; Gas Company of New Mexico; Duke Energy LNG Sales, Inc.; (Formerly PanEnergy LNG Sales, Inc.); Public Service Company of New Mexico; Amoco Energy Trading Corporation; El Paso Energy Marketing Company (Formerly El Paso Gas Marketing Company); PG&E Texas Industrial Energy, L.P. (Formerly Valero Industrial Gas, L.P.; PG&E Texas Industrial Energy, L.P.; Panhandle Eastern Pipe Line Company; Orders Granting, Transferring and Vacating Blanket Authorizations to Import and/or Export Natural Gas

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of orders.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued Orders authorizing, transferring and/or vacating various imports and/or exports of natural gas. These Orders are summarized in the attached appendix.

These Orders are available for inspection and copying in the Office of Natural Gas & Petroleum Import and Export Activities, Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–9478. The Docket Room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on October 27, 1997.

Wayne E. Peters,
Manager, Natural Gas Regulation Office of Natural Gas & Petroleum Import and Export Activities, Office of Fossil Energy.

APPENDIX.—BLANKET IMPORT/EXPORT AUTHORIZATIONS GRANTED
[DOE/FE Authority]

Order No.	Date issued	Importer/Exporter FE Docket No.	Two-year maximum		Comments
			Import volume	Export volume	
1284–A	09/08/97	Inland Pacific Resources Inc. (Successor to Inland Pacific Energy Services Corp.) 97–47–NG.	.....	.....	Transfer of authority.
1055–A	09/09/97	Columbia Energy Services Corporation (Successor to PennUnion Energy Services, L.L.C.) 95–38–NG.	.....	.....	Transfer of authority.
1298	09/15/97	Barrett Resources Corporation 97–60–NG	109.5 Bcf	.....	Import from Canada.
930–A	09/16/97	Gas Company of New Mexico 92–154–NG	.....	.....	Vacate.
569–B	09/15/97	Duke Energy LNG Sales, Inc. (Formerly PanEnergy LNG Sales, Inc.) 91–67–NG.	.....	.....	Name change.
1299	09/16/97	Public Service Company of New Mexico 97–61–NG	300 Bcf	300 Bcf	Import up to a combined total from Canada and Mexico. Export up to a combined total to Canada and Mexico.
1300	09/19/97	Amoco Energy Trading Corporation 97–62–NG	.....	300 Bcf	Export to Mexico.
801–A	09/30/97	El Paso Energy Marketing Company (Formerly El Paso Gas Marketing Company) 93–40–NG.	.....	.....	Vacate.
1084–A	09/30/97	PG&E Texas Industrial Energy, L.P. (Formerly Valero Industrial Gas, L.P.) 95–66–NG.	.....	.....	Name change.
1301	09/30/97	PG&E Texas Industrial Energy, L.P. 97–65–NG	300 Bcf		Import and export up to a combined total from and to Mexico.
1302	09/30/97	Panhandle Eastern Pipe Line Company 97–66–NG	5 Bcf	5 Bcf	Export domestic gas to Canada for reimport into the United States.

[FR Doc. 97–29002 Filed 10–31–97; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Fossil Energy

[FE Docket Nos. 97–58–NG; 97–57–NG; 97–55–NG; 96–67–NG; 97–56–NG; 97–59–NG]

MC², Inc.; CMS Marketing, Services and Trading Company; ONXY Gas Marketing Company, L.C., Duke Energy Trading and Marketing, L.L.C. (Formerly PanEnergy Trading and Marketing Services, L.L.C.), Conoco Inc.; Valero Gas Marketing, L.P.; Orders Granting, Transferring and Vacating Blanket Authorizations To Import and/or Export Natural Gas

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of Orders.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued Orders authorizing, transferring and/or vacating various imports and/or exports of natural gas. These Orders are summarized in the attached appendix.

These Orders are available for inspection and copying in the Office of Natural Gas & Petroleum Import and Export Activities, Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–9478. The Docket Room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on October 27, 1997.

Wayne E. Peters,
Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum Import and Export Activities, Office of Fossil Energy.

Attachment.

APPENDIX.—BLANKET IMPORT/EXPORT AUTHORIZATIONS GRANTED
[DOE/FE Authority]

Order No.	Date issued	Importer/Exporter FE Docket No.	Two-year maximum		Comments
			Import volume	Export volume	
1293	08/18/97	MC², Inc. 97–58–NG	600 Bcf	.....	Import from Canada.
1294	08/18/97	CMS Marketing, Services and Trading Company 97–57–NG.	140 Bcf	140 Bcf	Import/export from and to Canada.

APPENDIX.—BLANKET IMPORT/EXPORT AUTHORIZATIONS GRANTED—Continued
[DOE/FE Authority]

Order No.	Date issued	Importer/Exporter FE Docket No.	Two-year maximum		Comments
			Import volume	Export volume	
1295	08/19/97	Onyx Gas Marketing Company, L.C. 97–55–NG	110 Bcf		Import/export combined total from and to Mexico.
1215–A	08/19/97	Duke Energy Trading and Marketing, L.L.C. (Formerly PanEnergy Trading and Marketing Services, L.L.C.) 96–67–NG.			Transfer of authority.
1296	08/20/97	CONOCO Inc. 97–56–NG	100 Bcf		Import/export combined total from and to Canada and Mexico.
1297	08/27/97	Valero Gas Marketing, L.P. 97–59–NG	150 Bcf	150 Bcf	Import and export, including LNG from and to Canada and Mexico.
			25 Bcf		Import LNG from other countries.

[FR Doc. 97–29003 Filed 10–31–97; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–43–000]

PG&E-Tex, L.P.; Notice of Petition for Declaratory Order

October 28, 1997.

Take notice that on October 21, 1997, PG&E-Tex, L.P. (PG&E-Tex) filed in the above docket, a petition for Declaratory Order requesting the Commission to declare that certain facilities being acquired by PG&E-Tex from Transwestern Pipeline Company (Transwestern) and Northern Natural Gas Company (Northern) are "intrastate pipeline" facilities as defined in section 2(16) of the Natural Gas Policy Act of 1978 (NGPA) and are exempt from the Commission's Natural Gas Act (NGA) jurisdiction; and that the acquisition of the facilities will not subject PG&E-Tex, or its affiliate, PG&E-Tex Pipeline, L.P., which will operate the facilities, to the Commission's NGA jurisdiction.

The Transwestern facilities that are the subject of the petition consist of Transwestern's Gomez Lateral located in Ward and Pecos Counties, Texas. Transwestern has filed in Docket No. CP98–13–000 seeking permission to abandon by sale, its Gomez Lateral that consists of approximately 33 miles of 20-inch diameter pipeline and other appurtenances.

The facilities to be acquired from Northern are located in the Permian Area of West Texas and consist of approximately 250 miles of 6-inch through 24-inch diameter pipeline, 9 compressor units at two compressor stations, treating and dehydration facilities, all delivery points located along the length of the pipelines and all other appurtenant facilities attached. These facilities are the subject of an abandonment application filed by Northern in Docket No. CP98–14–000.

Any person desiring to be heard or to make any protest with reference to said petition should on or before November 6, 1997, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this petition if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the petition is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for PG&E-Tex to appear or be represented at the hearing.

Lois D. Cashell,
Secretary.

[FR Doc. 97–28975 Filed 10–31–97; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP97–71–000 and RP97–312–000]

Transcontinental Gas Pipe Line Corporation; Notice of Informal Settlement Conference

October 28, 1997.

Take notice that an informal settlement conference will be convened in this proceeding on Monday, November 3, 1997, at 2:00 p.m., at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC, for the purpose of exploring the possible settlement of the above-referenced dockets. If necessary, the conference will continue to Tuesday, November 4, 1997.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact David R. Cain at (202) 208–0917, Donald A Heydt at (202) 208–0740 or Paul B. Mohler at (202) 208–1240.

Lois D. Cashell,
Secretary.

[FR Doc. 97–28977 Filed 10–31–97; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11286 South Carolina]

City of Abbeville; Notice of Availability of Environmental Assessment

October 28, 1997.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 F.R. 47897), the Office of Hydropower Licensing has reviewed the application for major license for the proposed Abbeville Project located on the Rocky River in Abbeville and Anderson counties, near Abbeville, South Carolina, and has prepared an Environmental Assessment (EA) for the proposed project. In the EA, the Commission's staff has analyzed the potential environmental impacts of the proposed project and has concluded that approval of the proposed project, with appropriate mitigative measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, of the Commission's offices at 888 First Street, N.E., Washington, D.C. 20426.

Lois D. Cashell,
Secretary.

[FR Doc. 97–28976 Filed 10–31–97; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–626–000]

Texas Eastern Transmission Corporation, Notice of Intent To Prepare an Environmental Assessment for the Proposed 1998 Lebanon Expansion Project and Request for Comments on Environmental Issues

October 28, 1997.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the construction and operation of an additional 17,070 horsepower (hp) of compression, proposed in the 1998 Lebanon Expansion Project.[1] This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

Summary of the Proposed Project

Texas Eastern Transmission Corporation (Texas Eastern) proposed to expand the capacity of its facilities in Indiana and Ohio to transport an additional 302,290 dekatherms per day of natural gas for Spectrum Interstate Pipeline Corporation. Texas Eastern seeks authority to construct and operate:

- One reciprocating gas engine rated at 3,400 hp and one reciprocating gas engine rated at 5,500 hp at the existing Gas City Compressor Station in Grant Country, Indiana;
- An expansion to the compressor building and associated ancillary facilities and piping at the existing Gas City Compressor Station;
- One 8,170 hp gas turbine-driven centrifugal compressor at its existing Glen Karn meter station site in Darke County, Ohio;
- Compressor station buildings and associated ancillary facilities and piping at the existing Glen Karn meter station site;
- A modification at the existing Lebanon Meter Station by adding two 12-inch orifice meters and the associated instrumentation in Warren County, Ohio; and
- A modification at the existing Glen Karn Meter Station by adding one additional 12-inch turbine meter and the associated instrumentation.

The location of the project facilities is shown in appendix 1.[2] If you are interested in obtaining procedural information, please write to the Secretary of the Commission.

Land Requirements for Construction

Construction of the proposed facilities would be within the boundaries of existing station properties.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. We call this "scoping." The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils.
- Water resources, fisheries, and wetlands.
- Land use.
- Cultural resources.
- Vegetation and wildlife.
- Endangered and threatened species.
- Public safety.
- Air quality and noise.
- Hazardous waste.

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

Currently Identified Environmental Issues

We have already identified one issue that we think deserves attention based on a preliminary review of the proposed facilities and the environmental information provided by Texas Eastern. Addition issues may be included based on your comments and our analysis.

- Potential impacts to noise-sensitive areas that are near the Gas City Compressor Station and Glen Karn Meter Station.

Public Participation

You can make a difference by sending a letter addressing your specific comments or concerns about the project. You should focus on the potential environmental effects of the proposal, alternatives to the proposal, and

[1] Texas Eastern Transmission Corporation's application was filed with the Commission under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

[2] The appendices referenced in this notice are not being printed in the Federal Register. Copies are available from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, N.E., Washington, D.C. 20426, or call (202) 208–1371. Copies of the appendices were sent to all those receiving this notice in the mail.

measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send two copies of your letter to: Lois Cashell, Secretary, Federal Energy Regulatory Commission, 888 First St., N.E., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of the Environmental Review and Compliance Branch II, PR–11.2;
- Reference Docket No. CP97–626–000; and
- Mail your comments so that they will be received in Washington, DC on or before November 28, 1997.

Becoming an Intervenor

Besides involvement in the EA scoping process, you may want to become an official party to the proceeding or become an "intervenor." Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide copies of its filings to all other parties. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 2).

The date for filing timely motions to intervene in this proceeding has passed. Therefore, parties now seeking to file late interventions must show good cause, as required by section 385.214(b)(3), why this time limitation should be waived. Environmental issues have been viewed as good cause for late intervention. You do not need intervenor status to have your comments considered.

Lois D. Cashell,

Secretary.

[FR Doc. 97–28974 Filed 10–31–97; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–62151B; FRL–5741–6]

Dialogue Group on Identification of Lead-Based Paint Hazards; Notice of Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will be holding a meeting of the Dialogue Process to support the forthcoming rulemaking under section 403 of the Toxic Substances Control Act (TSCA). Section 403 directs the Agency to promulgate regulations which shall identify lead-based paint hazards, lead-contaminated dust, and lead-contaminated soil. The purpose of this meeting of the Dialogue Process is to obtain comment on regulatory options that will be presented to senior EPA management the following week.

DATES: The Dialogue Process will meet on November 12, 1997, from 10 a.m. to 4 p.m.

ADDRESSES: The meeting will be held at the Metro Center Marriott Hotel, 775 12th St., NW., Washington, DC. All written comments should be submitted in triplicate to: TSCA Document Receipts (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–G99, 401 M St., SW., Washington, DC 20460. All comments should be identified by the docket control number OPPTS–62151B.

Comments and data may also be submitted electronically by following the instructions under Unit IV. of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: For specific or technical information contact: Karen Lannon, National Program Chemicals Division (7404), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: 202–260–2797, Fax: 202–260–0770, e-mail: lannon.karen@epamail.epa.gov.

For general information contact: National Lead Information Clearinghouse (NLIC), 1025 Connecticut Ave., NW., Suite 1200, Washington, DC 20036–5405 or Toll free at 1–800–424–5323, Fax: 202–659–1192, e-mail: leadctr@nsc.org, Internet site: http://www.nsc.org/ehc/lead.htm.

SUPPLEMENTARY INFORMATION:

I. Background

Section 403 of TSCA, 15 U.S.C. 2683, directs EPA to promulgate regulations that identify lead hazards in paint, household dust, and bare residential soil. Title IV of TSCA, titled "Lead Exposure Reduction," which includes section 403, was added to TSCA by the Residential Lead-Based Paint Hazard Reduction Act of 1992. To support the rulemaking, EPA established a Dialogue Process in 1995 to obtain input from interested parties early in the rulemaking process. Establishment of the Dialogue Process was announced in the **Federal Register** of July 18, 1995 (60 FR 36806) (FRL–4964–8).

EPA held four meetings of the Dialogue Process in 1995 and 1996 to obtain input from interested parties on a range of regulatory and policy issues and options. Since that time, the Agency has conducted risk, economic, and policy analyses and has developed options to present to senior EPA managers. Following selection of the preferred options, the proposed rule will undergo final Agency review and Office of Management and Budget review. EPA will then publish the proposed regulation in the **Federal Register** for public comment.

II. Dialogue Meeting

The purpose of the meeting being announced today is to obtain input and comment on the regulatory options that will be presented to EPA management. Agency staff plan to include a synopsis of these comments in their presentation to management.

This meeting is open to the public and will provide 30 minutes for public comment on a first-come, first-served basis. Due to the need to accommodate as many interested parties as possible during the public comment period, EPA will limit comments to 5 minutes for representatives of organizations and 3 minutes for individuals. Members of the public interested in offering comment at the meeting should sign-up at the registration desk.

Individuals wishing to provide comments to EPA, but who cannot be accommodated during the comment period or cannot attend the Dialogue meeting may submit written comments to EPA at the address listed in the ADDRESSES unit of this notice. In order to be included in the synopsis of comments to be presented to EPA management, written comments must be received by close of business on November 14, 1997.

III. Confidential Business Information

A person may assert a claim of confidentiality for any information, including all or portions of written comments, submitted to EPA in connection with the Dialogue Process. Any person who submits a comment subject to a claim of confidentiality must also submit a nonconfidential version. Any claim of confidentiality must accompany the information when it is submitted to EPA. Persons must mark information claimed as confidential by circling, bracketing, or underlining it, and marking it with "CONFIDENTIAL" or some other appropriate designation. EPA will disclose information subject to a claim of confidentiality only to the extent permitted by section 14 of TSCA and 40 CFR part 2, subpart B. If a person does not assert a claim of confidentiality for information at the time it is submitted to EPA, EPA may make the information public without further notice to that person.

IV. Public Docket

A record has been established for this action under docket control number "OPPTS–62151B" (including comments submitted electronically as described below). A public version of this record, including printed, paper versions of the electronic comments, which does not include any information claimed as CBI, is available for inspection from noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:

oppt.ncic@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this action as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in ADDRESSES at the beginning of this document.

List of Subjects

Environmental protection and Lead.

Dated: October 28, 1997.

William H. Sanders III,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 97–29054 Filed 10–31–97; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 92–237; DA 97–2295]

FCC Announces the Next Meeting of the North American Numbering Council

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On October 30, 1997, the Commission released a public notice announcing the November 18, 1997, meeting and agenda of the North American Numbering Council (NANC). The intended effect of this action is to make the public aware of the NANC's next meeting and its Agenda.

FOR FURTHER INFORMATION CONTACT: Jeannie Grimes, Paralegal Specialist, assisting the NANC at (202) 418–2313 or via the Internet at jgrimes@fcc.gov. The address is: Network Services Division, Common Carrier Bureau, Federal Communications Commission, 2000 M Street, NW, Suite 235, Washington, DC 20054. The fax number is: (202) 418–7314. The TTY number is: (202)418–0484.

SUPPLEMENTARY INFORMATION: The next meeting of the North American Numbering Council (NANC) will be held on Tuesday, November 18, 1997, from 8:30 a.m until 4:30 p.m., EST at the Federal Communications Commission, 1919 M Street, NW, Room 856, Washington, DC 20054.

Proposed Agenda

The planned agenda for the November 18, 1997, meeting is as follows:

1. Industry Numbering Committee (INC) Monthly Report to the NANC.
2. Number Pooling Management Group (NPMG) Status Report.
3. North American Numbering Plan Administration (NANPA) Working Group Report: Transition Planning to the new NANPA, Central Office Code Administration Transition Task Force, and Cost Recovery Task Force updates.
4. Network Interconnection Interoperability Forum (NIIF) Report: Central Office Code and NPA Code Activation Issue.
5. Telecommunications Industry Association (TIA) and Committee T–1 Discussion: Workplan Coordination with the NANC on LNP Standards, *i.e.*, NPAC SMS Change Management Process.
6. Local Number Portability Administration (LNPA) Working Group Status Report: Followup Activities for FCC 97–289 *Second Report and Order*, Local Number Portability, Docket 95–116.
7. Wireline/Wireless Task Force Work Plan Report.
8. Consideration of NANC Responsibilities under the *Further Notice of Proposed Rulemaking and Order*, In the Matter of Administration of the North American Numbering Plan Carrier Identification Codes (CICs), CC Docket 92–237, FCC 97–364.
9. Other Business.
10. Review of Decisions Reached and Action Items.

Federal Communications Commission.

Geraldine A. Matise,

Chief, Network Services Division, Common Carrier Bureau.

[FR Doc. 97–29136 Filed 10–31–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1189–DR]

New Jersey; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of New Jersey (FEMA–1189–DR), dated September 23, 1997, and related determinations.

EFFECTIVE DATE: September 23, 1997.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated September 23, 1997, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of New Jersey, resulting from severe storms and flooding on August 20–21, 1997, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of New Jersey.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance, Public Assistance, and Hazard Mitigation in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of

the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Marianne C. Jackson of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of New Jersey to have been affected adversely by this declared major disaster:

Atlantic County for Individual Assistance and Public Assistance.

All counties within the State of New Jersey are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 97–28999 Filed 10–31–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1173–DR]

South Dakota; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of South Dakota, (FEMA–1173–DR), dated April 7, 1997, and related determinations.

EFFECTIVE DATE: October 20, 1997.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated October 20, 1997 the President amended the cost sharing arrangements concerning Federal funds provided under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 51521 *et seq.*), in a letter to James L. Witt, Director of the Federal Emergency Management Agency, as follows:

I have determined that the damage in certain areas of the State of South Dakota, resulting from severe flooding, severe winter storms, heavy spring rain, rapid snowmelt, high winds, and ice jams beginning on February 3, 1997, and continuing through May 24, 1997, is of sufficient severity and magnitude to warrant special cost sharing arrangements concerning Federal funds provided under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act").

Therefore, I amend my previous declaration to authorize Federal funds for Public Assistance, Categories C through G, at 90 percent of total eligible costs, except for direct Federal assistance costs and debris removal and emergency protective measures (Categories A and B) under the Public Assistance program which were previously authorized at 100 percent Federal funding.

This adjustment to State and local cost sharing applies only to Public Assistance costs (Categories C through G) eligible for such adjustment under the law. The law specifically prohibits a similar adjustment for funds provided to the State for the Individual and Family Grant program and Hazard Mitigation Assistance. These funds will continue to be reimbursed at 75 percent of total eligible costs.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 97–28998 Filed 10–31–97; 8:45 am]

BILLING CODE 6718–02–P

GENERAL ACCOUNTING OFFICE

Termination of the Prospective Payment Assessment Commission and the Physician Payment Review Commission.

AGENCY: General Accounting Office.

ACTION: Notice of termination of Commissions.

SUMMARY: The Balanced Budget Act of 1997 requires the Comptroller General, after the Medicare Payment Advisory Commission has been established, to provide for the termination of the Prospective Payment Assessment Commission and the Physician Payment Review Commission. This notice announces the termination of the two commissions.

DATES: Termination of Commissions effective November 1, 1997.

ADDRESSES: The General Accounting Office is at 441 G St. NW., Washington, DC, 20548. The Office of the Chairman of the Medicare Payment Advisory Commission is at 2120 L St. NW., Washington, DC, 20037–1527.

FOR FURTHER INFORMATION CONTACT: General Accounting Office: Walter S. Ochinko, 202–512–7157. Medicare Payment Advisory Commission: Lauren LeRoy, 202–653–7220.

SUPPLEMENTARY INFORMATION: Section 1805 of the Social Security Act, as added by section 4022 of the Balanced Budget Act of 1997 (Pub. L. 105–33, 111 Stat. 251, 350), requires the Comptroller General, in consultation with the Prospective Payment Assessment Commission (PPRC) and the Physician Payment Review Commission (ProPAC), to provide for their termination as quickly as possible after a majority of members of the new Medicare Payment Advisory Commission (MedPAC) are appointed. All of the members of MedPAC were appointed effective October 1, 1997. As determined in consultation with them, both PPRC and ProPAC will terminate as of November 1, 1997. MedPAC will then assume outstanding obligations of PPRC and ProPAC.

James F. Hinchman,

Acting Comptroller General of the United States.

[FR Doc. 97–29038 Filed 10–31–97; 8:45 am]

BILLING CODE 1610–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information collection Activity; Comment Request

Proposed Projects

Title: Emergency TANF Data Report.

OMB No.: 0970–0164.

Description: This information is being collected to meet the statutory requirements of section 411 of the Social Security Act and section 116 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. It consists of desaggregated demographic and program information that will be used to determine participation rates and other statutorily required indicators for the Temporary Assistance for Needy Families (TANF) program.

Respondents: State, Local or Tribal Govt.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
TANF Data Report	54	4	451	97,416

Estimated Total Annual Burden Hours: 97,416

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: October 27, 1997.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 97–28964 Filed 10–31–97; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: 45 CFR part 303.72—Request for collection of past-due support by Federal tax refund offset and administrative offset.

OMB No.: 0970–0161.

Description: The Office of Child Support Enforcement (OCSE) operates the Tax refund offset TROP. The TROP was enacted by Congress on August 13, 1981 (Pub. L. 97–35, section 2331). This is a computerized system operated by the Office of Child Support Enforcement (OCSE) within the Administration for Children and Families (ACF) of the U.S. Department of Health and Human Services (HHS) and State child support agencies. The TROP was established to recover delinquent AFDC child support debts with ongoing cooperation of states and local child support agencies.

The Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) signed by the President in November 1990, expanded the Program to include a provision for non-AFDC cases.

In 1996 the Debt Collection Improvement Act (Pub. L. 104–134) further expanded the program to increase the collection of nontax debts owned to the Federal Government and to assist families in collecting past-due child support. It required the development and implementation of procedures necessary to collect past-due support by administrative offset by agencies. As a result, this program is now known as the Tax Refund and Administrative Offset Program TROP/ADOP).

Purpose: Pursuant to Public Law 97–35 enacted by Congress on August 13, 1981, Pub. L. 101–508 signed by the President in November 1990 and Pub. L. 104–134 enacted into law on April 26, 1996, the Debt Collection Improvement Act of 1996, and pursuant to the Executive Order 13019 dated September 28, 1996, the OSCE will match the tax refund records against Federal payment certification records and Federal financial assistance records. The purpose is to facilitate the collection of delinquent child support obligations *from* persons who may be entitled or eligible to receive certain Federal payments or Federal assistance. State child support agencies submit cases of delinquent child support claims to the OSCE for submission to the Financial Management Service (FMS). These cases are sent by on-line dial-up access via personal computer, tape and cartridge via mail, Mitron tape, file transfer, or electronic data transmission. The Office of Child Support Enforcement serves as a conduit between state child support enforcement agencies and the FMS by processing weekly updates of collection data and distributing the information back to the appropriate State child support agency. The information will be disclosed by OCSE to state child support agencies for use in the collection of child support debts, through locate action wage withholding or other enforcement actions.

Respondents: State District of Columbia, Guam, Puerto Rico, and Virgin Islands Governments

Respondents: State and local governments.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Sub/test tape and Data Spec	1,744	52	5 minutes	7,557.3 hours.
Sub/test tape and Data Spec	54	52	5 minutes	234 hours.
Withdrawal notice	1,744	5	2 minutes	291 hours.
Pre-offset notice	54	87,075	2 minutes	15,673.5 hours.
Case Cert	54	52	3 minutes	140.4 hours.
Payment Infor	26	1	10 minutes	4.3 hours.
Local office contact phone address	1,744	1	90 minutes	872 hours.
Request for update	54	52	5 minutes	234 hours.

ANNUAL BURDEN ESTIMATES—Continued

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Federal Tax Offset contact	54	1	2 minutes	1.8 hours.
Update Spec	54	1	2 minutes	1.8 hours.
Issuance of pre-offset notice	54	1	2 minutes	1.8 hours.
Contact point for OCSE Pre-offset notice	30	1	1 minute	0.9 hours.
Non-TANF Tax Refund Offset Information	1,744	40,735	10 minutes	6,789.2 hours.
Offset notice address/phone number change	54	1	10 minutes	9.0 hours.
Personal computer data	54	1	5 minutes	4.5 hours.
Notice of intention	25	1	2 minutes	0.8 hours.

Estimated Total Annual Burden Hours: 31,816.3.

Additional Information: Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW., Washington, DC 20503, Attn: Ms. Wendy Taylor.

Dated: October 28, 1997.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 97–28966 Filed 10–31–97; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Current Topics in Immunohematologic Testing; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

The Food and Drug Administration (FDA) is announcing a public workshop entitled "Current Topics in Immunohematologic Testing." The topics to be discussed include specificity and sensitivity of Anti-D Blood Grouping Reagents; the development of performance standards for antiglobulin control cells and blood bank saline; user interpretation of labeling information; and the validation and use of blood grouping instrumentation.

Date and Time: The workshop will be held on December 10, 1997, 8 a.m. to 5 p.m.

Location: The workshop will be held at Natcher Auditorium, National Institutes of Health, 9000 Rockville Pike, Bldg. 45, Bethesda, MD.

Contact Person: Joseph Wilczek, Center for Biologics Evaluation and Research (HFM–350), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–3514, FAX 301–827–2843.

SUPPLEMENTARY INFORMATION: The goals of the workshop are specific to each topic and include the following: (1) Distinguish between those issues that are medically important and those issues that are primarily of scientific interest with respect to Anti-D specificity and sensitivity; (2) present examples of significant problems attributable to the variability seen within two types of product, antiglobulin control cells and blood bank saline, due to the lack of standards; (3) identify areas of immunohematologic product labeling which need to be modified to provide the user with a better understanding of its uses and limitations; and (4) discuss user validation of complete systems as well as partial or site-assembled systems regarding blood grouping instrumentation. The information obtained from these presentations and discussions will assist FDA in taking the necessary steps for assuring the safety and effectiveness of these medical devices.

Registration and Requests for Oral Presentations: Send or fax registration information (including name, title, firm name, address, telephone, and fax number), written material, and requests to make oral presentations by November 28, 1997, to Cody Bridges, 14504 Greenview Dr., suite 500, Laurel, MD 20708, 301–490–5500, FAX 301–490–7260, e-mail CBRIDGES@icgnet.com. Registration at the site will be done on a space available basis on the day of the workshop beginning at 7:30 a.m. There is no registration fee for the workshop.

If you need special accommodations due to a disability, please contact Cody Bridges at least 7 days in advance.

Transcripts: Transcripts of the workshop may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 15 working days after the workshop at a cost of 10 cents per page.

Dated: October 24, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–29049 Filed 10–31–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[BPO–150–N]

Medicare and Medicaid Programs; Quarterly Listing of Program Issuances—First Quarter 1997

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice lists HCFA manual instructions, substantive and interpretive regulations, and other **Federal Register** notices that were published during January, February, and March of 1997 that relate to the Medicare and Medicaid programs. It also identifies certain devices with investigational device exemption numbers approved by the Food and Drug Administration that may be potentially covered under Medicare.

Section 1871(c) of the Social Security Act requires that we publish a list of Medicare issuances in the **Federal Register** at least every 3 months. Although we are not mandated to do so by statute, for the sake of completeness of the listing, we are including all Medicaid issuances and Medicare and Medicaid substantive and interpretive regulations (proposed and final) published during this time frame.

FOR FURTHER INFORMATION CONTACT:

Bridget Wilhite, (410) 786–5248 (For Medicare instruction information).
Betty Stanton, (410) 786–3247 (For Medicaid instruction information).
Sharon Hippler, (410) 786–4633 (For Food and Drug Administration-approved investigational device exemption information).
Cathy Johnson, (410) 786–5241 (For all other information).

SUPPLEMENTARY INFORMATION:

I. Program Issuances

The Health Care Financing Administration (HCFA) is responsible for administering the Medicare and Medicaid programs, which pay for health care and related services for 38 million Medicare beneficiaries and 36 million Medicaid recipients. Administration of these programs involves (1) providing information to Medicare beneficiaries and Medicaid recipients, health care providers, and the public, and (2) effective communications with regional offices, State governments, State Medicaid Agencies, State Survey Agencies, various providers of health care, fiscal intermediaries and carriers that process claims and pay bills, and others. To implement the various statutes on which the programs are based, we issue regulations under the authority granted the Secretary under sections 1102, 1871, and 1902 and related provisions of the Social Security Act (the Act) and also issue various manuals, memoranda, and statements necessary to administer the programs efficiently.

Section 1871(c)(1) of the Act requires that we publish in the **Federal Register** at least every 3 months a list of all Medicare manual instructions, interpretive rules, and guidelines of general applicability not issued as regulations. We published our first notice June 9, 1988 (53 FR 21730). Although we are not mandated to do so by statute, for the sake of completeness of the listing of operational and policy statements, we are continuing our practice of including Medicare substantive and interpretive regulations (proposed and final) published during the 3-month time frame. Since the publication of our quarterly listing on June 12, 1992 (57 FR 24797), we decided to add Medicaid issuances to our quarterly listings. Accordingly, we list in this notice Medicaid issuances and Medicaid substantive and interpretive regulations published during January through March 1997.

II. How to Use the Addenda

This notice is organized so that a reader may review the subjects of all manual issuances, memoranda, substantive and interpretive regulations, or Food and Drug Administration-approved investigational device exemptions published during the time frame to determine whether any are of particular interest. We expect it to be used in concert with previously published notices. Most notably, those unfamiliar with a description of our Medicare manuals may wish to review Table I of our first three notices (53 FR 21730, 53 FR 36891, and 53 FR 50577) and the notice published March 31, 1993 (58 FR 16837), and those desiring information on the Medicare Coverage Issues Manual may wish to review the August 21, 1989 publication (54 FR 34555).

To aid the reader, we have organized and divided this current listing into five addenda. Addendum I lists the publication dates of the most recent quarterly listings of program issuances.

Addendum II identifies previous **Federal Register** documents that contain a description of all previously published HCFA Medicare and Medicaid manuals and memoranda.

Addendum III of this notice lists, for each of our manuals or Program Memoranda, a HCFA transmittal number unique to that instruction and its subject matter. A transmittal may consist of a single instruction or many. Often it is necessary to use information in a transmittal in conjunction with information currently in the manuals.

Addendum IV lists all substantive and interpretive Medicare and Medicaid regulations and general notices published in the **Federal Register** during the quarter covered by this notice. For each item, we list the date published, the **Federal Register** citation, the parts of the Code of Federal Regulations (CFR) that have changed (if applicable), the agency file code number, the title of the regulation, the ending date of the comment period (if applicable), and the effective date (if applicable).

On September 19, 1995, we published a final rule (60 FR 48417) establishing in regulations at 42 CFR 405.201 *et seq.* that certain devices with an investigational device exemption approved by the Food and Drug Administration and certain services related to those devices may be covered under Medicare. That final rule states that we will announce in this quarterly notice all investigational device exemption categorizations, using the investigational device exemption numbers the Food and Drug Administration assigns. Addendum V includes listings of the Food and Drug Administration-approved investigational device exemption numbers that have been approved or revised during the quarter covered by this notice. The listings are organized according to the categories to which the device numbers are assigned (that is, Category A or Category B) and identified by the investigational device exemption number.

III. How To Obtain Listed Material

A. Manuals

An individual or organization interested in routinely receiving any manual and revisions to it may purchase a subscription to that manual. Those wishing to subscribe should contact either the Government Printing Office (GPO) or the National Technical Information Service (NTIS) at the following addresses:

Superintendent of Documents, Government Printing Office, ATTN: New Orders, PO Box 371954, Pittsburgh, PA 15250–7954, Telephone (202) 512–1800, Fax number (202) 512–2250 (for credit card orders).

National Technical Information Service, Department of Commerce, 5825 Port Royal Road, Springfield, VA 22161, Telephone (703) 487–4630.

In addition, individual manual transmittals and Program Memoranda listed in this notice can be purchased from NTIS. Interested parties should identify the transmittal(s) they want. GPO or NTIS can give complete details on how to obtain the publications they sell. Additionally, all manuals are available at the following Internet address: http//www.hcfa.gov/pubforms/progman.htm.

B. Regulations and Notices

Regulations and notices are published in the daily **Federal Register**. Interested individuals may purchase individual copies or subscribe to the **Federal Register** by contacting the GPO at the address given above. When ordering individual copies, it is necessary to cite either the date of publication or the volume number and page number.

The **Federal Register** is also available on 24x microfiche and as an online database through GPO Access. The online database is updated by 6 a.m. each day the **Federal Register** is published. The database includes both

text and graphics from Volume 59, Number 1 (January 2, 1994) forward. Free public access is available on a Wide Area Information Server (WAIS) through the Internet and via asynchronous dial-in. Internet users can access the database by using the World Wide Web; the Superintendent of Documents home page address is http://www.access.gpo.gov/su_docs/, by using local WAIS client software, or by telnet to swais.access.gpo.gov, then log in as guest (no password required). Dial-in users should use communications software and modem to call (202) 512–1661; type swais, then log in as guest (no password required).

C. Rulings

We publish Rulings on an infrequent basis. Interested individuals can obtain copies from the nearest HCFA Regional Office or review them at the nearest regional depository library. We have, on occasion, published Rulings in the **Federal Register**. In addition, Rulings, beginning with those released in 1995, are available online, through the HCFA Home Page. The Internet address is http://www.hcfa.gov/regs/rulings.htm.

D. HCFA's Compact Disk–Read Only Memory (CD–ROM)

Our laws, regulations, and manuals are also available on CD-ROM, which may be purchased from GPO or NTIS on a subscription or single copy basis. The Superintendent of Documents list ID is HCLRM, and the stock number is 717–139–00000–3. The following material is on the CD-ROM disk:

- Titles XI, XVIII, and XIX of the Social Security Act.
- HCFA-related regulations.
- HCFA manuals and monthly revisions.
- HCFA program memoranda.

The titles of the Compilation of the Social Security Act are current as of January 1, 1995. The remaining portions of CD–ROM are updated on a monthly basis.

Because of complaints about the unreadability of the Appendices (Interpretive Guidelines) in the State Operations Manual (SOM), as of March 1995, we deleted these appendices from CD–ROM. We intend to re-visit this issue in the near future, and, with the aid of newer technology, we may again be able to include the appendices on CD–ROM.

Any cost report forms incorporated in the manuals are included on the CD–ROM disk as LOTUS files. LOTUS software is needed to view the reports once the files have been copied to a personal computer disk.

IV. How to Review Listed Material

Transmittals or Program Memoranda can be reviewed at a local Federal Depository Library (FDL). Under the FDL program, government publications are sent to approximately 1400 designated libraries throughout the United States. Interested parties may examine the documents at any one of the FDLs. Some may have arrangements to transfer material to a local library not designated as an FDL. To locate the nearest FDL, contact any library.

In addition, individuals may contact regional depository libraries, which receive and retain at least one copy of most Federal government publications, either in printed or microfilm form, for use by the general public. These libraries provide reference services and interlibrary loans; however, they are not sales outlets. Individuals may obtain information about the location of the nearest regional depository library from any library. Superintendent of Documents numbers for each HCFA publication are shown in Addendum III, along with the HCFA publication and transmittal numbers. To help FDLs locate the instruction, use the Superintendent of Documents number, plus the HCFA transmittal number. For example, to find the Intermediary Manual, Part 3—Claims Process (HCFA Pub 13–3) transmittal entitled "Oral Cancer Drugs," use the Superintendent of Documents No. HE 22.8/6 and the HCFA transmittal number 1700.

V. General Information

It is possible that an interested party may have a specific information need and not be able to determine from the listed information whether the issuance or regulation would fulfill that need. Consequently, we are providing information contact persons to answer general questions concerning these items. Copies are not available through the contact persons. Copies can be purchased or reviewed as noted above.

Questions concerning Medicare items in Addendum III may be addressed to Bridget Wilhite, Office of Communications and Operations Support, Division of Regulations and Issuances, Health Care Financing Administration, Telephone (410) 786–5248.

Questions concerning Medicaid items in Addendum III may be addressed to Betty Stanton, Center for Medicaid State Operations, Policy Coordination and Planning Group, Health Care Financing Administration, C4–25–02, 7500 Security Boulevard, Baltimore, MD 21244–1850, Telephone (410) 786–3247.

Questions concerning Food and Drug Administration-approved investigational device exemptions may be addressed to Sharon Hippler, Office of Clinical Standards and Quality, Coverage Analysis Group, Health Care Financing Administration, C4–11–04, 7500 Security Boulevard, Baltimore, MD 21244–1850, Telephone (410) 786–4633.

Questions concerning all other information may be addressed to Cathy Johnson, Office of Communications and Operations Support, Division of Regulations and Issuances, Health Care Financing Administration, C5–12–16, 7500 Security Boulevard, Baltimore, MD 21244–1850, Telephone (410) 786–5241.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance, Program No. 93.774, Medicare—Supplementary Medical Insurance Program, and Program No. 93.714, Medical Assistance Program)

Dated: October 10, 1997.

Pamela J. Gentry,

Director, Office of Communications and Operations Support.

Addendum I

This addendum lists the publication dates of the most recent quarterly listings of program issuances.

June 26, 1996 (61 FR 33119)
December 18, 1996 (61 FR 66676)
April 21, 1997 (62 FR 19328)
May 12, 1997 (62 FR 25957)

Addendum II—Description of Manuals, Memoranda, and HCFA Rulings

An extensive descriptive listing of Medicare manuals and memoranda was published on June 9, 1988, at 53 FR 21730 and supplemented on September 22, 1988, at 53 FR 36891 and December 16, 1988, at 53 FR 50577. Also, a complete description of the Medicare Coverage Issues Manual was published on August 21, 1989, at 54 FR 34555. A brief description of the various Medicaid manuals and memoranda that we maintain was published on October 16, 1992, at 57 FR 47468.

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS
(January 1997 through March 1997)

Trans. No.		Manual/Subject/Publication No.
		Intermediary Manual Part 3—Claims Process (HCFA Pub. 13–3) (Superintendent of Documents No. HE 22.8/6)
1696	o	Review of Form HCFA–1450 for Inpatient and Outpatient Bills. Bill Review for Partial Hospitalization Services Provided in Community Mental Health Centers. Pneumococcal Pneumonia Influenza Virus and Hepatitis B Vaccines.
1697	o	Laboratory Tests for Hemodialysis, Intermittent Peritoneal Dialysis and Continuous Cycling Peritoneal Dialysis Included in Composite Rate. Laboratory Tests for CAPD Covered Routinely and Separately Billable.
1698	o	Review of Form HCFA–1450 for Inpatient and Outpatient Bills. Review of Hospice Bills.
1699	o	Medical—Subject to Waiver.
1700	o	Oral Cancer Drugs. Self-Administered Antiemetic Drugs Mammography Quality Standards Act.
1701	o	Hospital Outpatient Partial Hospitalization Services.
1702	o	Billing for Durable Medical Equipment Orthotic/Prosthetic Devices and Surgical Dressings.
1703	o	Applicability of Limitation on Liability to Items or Services Furnished by Providers of Services Payable Under Part A When to Make Limitation on Liability Decisions.
1704	o	Contractor Data Security and Confidentiality Requirements. File Specifications, Records Specifications, and Data Element Definitions for EMC Bills. Electronic Media Claims. Requirements for Submission of EMC Data. Claims Processing Timeliness.
1705	o	Federal BL Program Address.
1706	o	Ambulance Services.
1707	o	Review of Form HCFA–1450 for Inpatient and Outpatient Bills. EMC Flat File Record for ESRD Medical Documentation—Record Type (RT) 76. Flat File Requirements for RT 76, ESRD Medical Documentation. Provider Electronic Billing File and Record Format. Alphabetic Listing of Data Elements. Medical Review Attachment Data Definitions and Codes.
1708	o	Routine Services and Appliances.
		Carriers Manual Part 3—Program Administration (HCFA Pub. 14–2) (Superintendent of Documents No. HE 22.8/7–3)
13	o	Claims Processing Timeliness. Functional Standards for Claims Processing Operations.
		Carriers Manual Part 3—Claims Process (HCFA Pub. 14–3) (Superintendent of Documents No. HE 22.8/7)
1555	o	Reasonableness and Necessity.
1556	o	Beneficiary Address Change.
1557	o	Laboratory Tests. Separately Billable Tests Furnished to Patients of Independent Dialysis Facilities.
1558	o	Type of Service.
1559	o	Reasonableness and Necessity.
1560	o	Contractor Data Security and Confidentiality Requirements. EMC Testing and Verification. Data Sets and Formats for EMC and Electronic Remittance Advice. Requirements for Processing EMC. Technical Requirements. Requirements for Processing EMC.
1561	o	Federal Black Lung Program Address. Charges by Relative or Member of Immediate Household. Duplicate and/or Overlapping Bills With Discrepant Charges. Evidence of Medical Necessity for Parenteral and Enteral Nutrition. TPP Pays Primary Benefits When Not Required. Federal Government's Right to Sue and Collect Double Damages. Documentation of Conformance. When Medicare Secondary Benefits are Payable. When Medicare Secondary Benefits are Not Payable. Calculating Medicare Secondary Payments for Services Reimbursed on Reasonable Charge or Other Basis Under Part B. Effect of Failure to File Proper Claim. Effect of Primary Payments on Deductibles and Coinsurance. Right of Physician or Supplier to Charge Beneficiary. Charging Expenses Against Annual Limit on Incurred Expenses for Services of Independently Practicing Physical Therapist. Nondiscrimination. Medicare Secondary Payment for Managed Care Organization Copayments. Individuals Receiving Delayed Compensation Payments Subject to FICA Taxes. Referral to Internal Revenue Services. Primary Payer is Bankrupt or Insolvent.

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued
[January 1997 through March 1997]

Trans. No.		Manual/Subject/Publication No.
		Determining Size of Employers.
		Current Employment Status.
		Limitation on Payment for Services to Individuals Entitled to Benefits on the Basis of ESRD Who are Covered by GHPs.
		Prohibition Against Taking into Account, Medicare Eligibility or Entitlement and Benefit Differentiation During Coordination Period.
		Determining Period During Which Medicare May Be Secondary Payer.
		Dual Eligibility/Entitlement Situations.
		Effect of ESRD MSP on Consolidated Omnibus Budget Reconciliation Act Continuation Coverage.
		Medicare Secondary Payer Provision for Disabled Beneficiaries
		Items and Services Furnished on or After August 10, 1993 and Before October 1, 1998.
		Individuals Not Subject to MSP Provision.
		The 100-or-More Employees Requirement.
		Disabled Individuals Who Return to Work.
		Dually-Entitled Individuals.
		Items and Services Furnished on or After January 1, 1987 and Before August 10, 1993.
		Prohibition Against Financial and Other Incentives.
		Federal Government's Right to Sue and Collect Double Damages.
		Excise Tax Penalties for Contributors to Nonconforming Group Health Plans.
1563	o	Paper Remittance Notice Requirements.
		Program Memorandum Intermediaries (HCFA Pub. 60A) (Superintendent of Documents No. HE 22.8/6–5)
A–97–1	o	Extension of Due Date for Filing Provider 2552–96 Cost Reports.
A–97–2	o	Hospital Outpatient Procedures: Medicare Changes for Radiology and Other Diagnostic Coding Due to the 1997 HCPCS Update and New Dermatology HCPCS Codes.
A–97–3	o	Cost Report Filing Requirements for Hospitals with Multiple Skilled Nursing Facilities.
		Program Memorandum Intermediaries/Carriers (HCFA Pub. 60A/B) (Superintendent of Documents No. HE 22.8/6–5)
AB–96–12	o	Sterile Intravitreal Implant with Cytovene (Trade Name: Vitrasert).
AB–96–13	o	Revaccination of Beneficiaries Who Received Recalled Influenza Virus Vaccine.
AB–97–1	o	New Interest Rate Payable on Clean Claims Not Paid Timely.
AB–97–2	o	Calculation Methodology for Hematocrit Levels Used to Determine the Applicability of Payment for EPO Provided to ESRD Patients.
AB–97–3	o	Binding Contractor Hearing Officers to L/RMRP.
AB–97–4	o	Common Working File (CWF) Crossover Edits in Release 97.1.
AB–97–5	o	New Panels Approved by CPT.
		State Operations Manual Provider Certification (HCFA Pub. 7) (Superintendent of Documents No. HE 22.8/12)
279	o	Model Letter to Provider (Send with Form HCFA–2567) (Immediate Jeopardy Does Not Exist) Model Letter Notifying Provider Acceptance of Allegation of Compliance.
		Model Letter Notifying Provider of Results of Revisit.
		Notice Requirements.
		Timing of CMPs.
		Procedures for Recommending Enforcement Remedies When Immediate Jeopardy Does Not Exist.
		Response to Allegation of Compliance.
		Basis for Imposing CMPs.
280	o	Updates of Interpretive Guidelines and Survey Procedures for Hospitals.
		Hospital Manual (HCFA Pub. 10) (Superintendent of Documents No. HE 22.8/2)
704	o	Outpatient Therapeutic Services.
705	o	Pneumococcal Pneumonia Influenza Virus and Hepatitis B Vaccines.
706	o	Laboratory Tests for Hemodialysis, Intermittent Peritoneal Dialysis (IPD) and Continuous Cycling Peritoneal Dialysis (CCPD) Included in Composite Rate.
		Laboratory Tests for CAPD Covered Routinely and Separately Billable.
707	o	Oral Cancer Drugs.
		Self-Administered Antiemetic Drugs.
708	o	Billing for Hospital Outpatient Partial Hospitalization Services.
709	o	Billing for DME, Orthotic/Prosthetic Devices and Surgical Dressings.
710	o	Ambulance Service Claims.
711	o	Outpatient Therapeutic Services.

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued
[January 1997 through March 1997]

Trans. No.		Manual/Subject/Publication No.
		Home Health Agency Manual (HCFA Pub. 11) (Superintendent of Documents No. HE 22.8/5)
282	o	Billing for Oral Cancer Drugs.
		Self-Administered Antiemetic Drugs.
		Medicare Renal Dialysis Facility Manual (Non-Hospital Operated) (HCFA Pub. 29) (Superintendent of Documents No. HE 22.8/13)
77	o	Laboratory Tests for Hemodialysis, IPD and CCPD.
		Medicare Outpatient Physical Therapy and Comprehensive Outpatient Rehabilitation Facility Manual (HCFA Pub. 9) (Superintendent of Documents No. HE 22.8/9)
129	o	Billing Instructions for Partial Hospitalization Services Provided in Community Mental Health Centers.
		Medicare Coverage Issues Manual (HCFA Pub. 6) (Superintendent of Documents No. HE 22.8/14)
91	o	Laboratory Tests—CRD Patients.
92	o	Osteogenic Stimulation.
93	o	Treatment of Motor Function Disorders with Electric Nerve Stimulation.
		Transmyocardial Revascularization With Laser—Not Covered.
		Intraocular Lenses (IOL).
		Partial Ventriculectomy (Also known as Ventricular Reduction, Ventricular Remodeling or Heart Volume Reduction Surgery).
		Cryosurgery of Prostate.
		Vertebral Axial Decompression (VAX-D).
		Infusion Pumps.
		Medicare Provider Reimbursement Manual Part 1—(HCFA Pub.15–1) (Superintendent of Documents No. HE 22.8/4)
398	o	Regional Medicare Swing-Bed SNF Rates.
		Provider Reimbursement Manual Part II—Provider Cost Reporting Forms and Instructions (HCFA Pub. 15–II–A/F) (Superintendent of Documents No. HE 22.8/4)
3	o	Home Health Agency Complex Identification Data.
		Adjustments to Expenses.
		Cost Allocation—General Service Costs, and
		Cost Allocation—Statistical Basis.
4	o	Home Health Agency Cost Report.
		Home Health Agency Complex Identification Data.
		Cost Allocation—General Service Costs, and
		Cost Allocation—Statistical Basis.
		Cost Center Coding.
		State Medicaid Manual—Part 3—Eligibility (HCFA Pub. 45–3) (Superintendent of Documents No. HE 22.8/10)
67	o	Changes Due to Welfare Reform.
		Changes in SSI Definition of Disability Due to Welfare Reform.
		Citizenship and Alienage.
		Aliens.
		State Medicaid Manual—Part 4—Services (HCFA Pub. 45–4) (Superintendent of Documents No. HE 22.8/10)
70	o	Home Respiratory Care for Ventilator-Dependent Individuals.
		Home and Community-Based Services—Basis, Scope, and Purpose.
		Description of Waiver Participants.
		Definition of Services.
		Safeguards—Assurances and Documentation.
		Evaluations—Assurances and Documentation.
		Cost Effectiveness—Assurances and Documentation.
		Annual Report—Assurances and Documentations.
		Independent Assessment of the Waiver.
		Home and Community-Based Services—Model Waiver Request.
		Home and Community-Based Services—Procedures to Request Renewal of Approved Waivers.
		Home and Community-Based Services—Amendments.
		State Medicaid Manual—Part 6 Payment for Services (HCFA Pub. 45–6) (Superintendent of Documents No. HE 22.8/10)
33	o	Physician Services to Children Under 21.
		Physician Services to Pregnant Women.
		Medicare/Medicaid Sanction—Reinstatement Report (HCFA Pub. 69)
97–1	o	Report of Physicians/Practitioners, Providers and/or Other Health Care Suppliers Excluded/Reinstated—December 1996.

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued

[January 1997 through March 1997]

Trans. No.		Manual/Subject/Publication No.
97–2	o	Cumulative Report of Physicians/Practitioners, Providers and/or Other Health Care Suppliers Sanctioned/Reinstated.
97–3	o	Report of Physicians/Practitioners, Providers and/or Other Health Care Suppliers Excluded/Reinstated—January 1997.
97–4	o	Report of Physicians/Practitioners, Providers and/or Other Health Care Suppliers Excluded/Reinstated—February 1997.

ADDENDUM IV.—REGULATION DOCUMENTS PUBLISHED IN THE FEDERAL REGISTER

Publication date	FR vol. 61 page	CFR part(s)	File code*	Regulation title	End of comment period	Effective date
01/02/97	26–31	413	BPD–788–F	Medicare Program; Electronic Cost Reporting for Skilled Nursing Facilities and Home Health Agencies.		02/01/97
01/13/97	1682–1685	435	MB–105–FC	Medicaid Program; Redeterminations of Medicaid Eligibility Due to Welfare Reform.	03/14/97	01/13/97
01/13/97	1768–1776		BPD–882–N	Notification Procedures for States Implementing "Alternative Mechanisms" in the Individual Health Insurance Market.		
01/16/97	2373–2374		ORD–095–N	New and Pending Demonstration Project Proposals Submitted Pursuant to Section 1115(a) of the Social Security Act: November 1996.		
01/23/97	3563		BPD–886–N	Department of Health and Human Services, Health Care Financing Administration; Department of Labor, Pension and Welfare Benefits Administration; and Department of the Treasury, Office of Tax Policy and Internal Revenue Service (the Agencies); Health Insurance Portability; Correction.		
01/29/97	4305–4311		ORD–089–N	Medicare and Medicaid Programs; Small Business Innovation Research Grants for Fiscal Year 1997.		
01/31/97	4772–4776		MB–104–N	Medicaid Program; Preliminary Limitations on Aggregate Payments to Disproportionate Share Hospitals: Federal Fiscal Year 1997.		
02/05/97	5433–5442		HSQ–244–N	CLIA Program; Clinical Laboratory Improvement Amendments of 1988—Denial of Exemption of Laboratories in the Commonwealth of Puerto Rico.		10/28/96
02/21/97	7945–7946	410 415	BPD–852–CN	Medicare Program; Revisions to Payment Policies and Five-Year Review of and Adjustments to the Relative Value Units Under the Physician Fee Schedule for Calendar Year 1997; Correction.		01/01/97
02/25/97	8451–8452		ORD–096–N	New and Pending Demonstration Project Proposals Submitted Pursuant to Section 1115(a) of the Social Security Act: December 1996.		
03/06/97	10286		OPL–014–N	Medicare Program; March 24, 1997 Meeting of the Practicing Physicians Advisory Council.		
03/10/97	11035–11064	484	HSQ–238–P	Medicare and Medicaid Programs; Use of the OASIS as Part of the Conditions of Participation for Home Health Agencies.	06/09/97	
03/10/97	11005–11035	484	BPD–819–P	Medicare and Medicaid Programs; Conditions of Participation for Home Health Agencies.	06/09/97	
03/28/97	14851–14878	413	BPD–808–P	Medicare and Medicaid Programs; Salary Equivalency Guidelines for Physical Therapy, Respiratory Therapy, Speech Language Pathology, and Occupational Therapy Services.	05/27/97	
03/31/97	15187–15191		ORD–097–N	New and Pending Demonstration Project Proposals Submitted Pursuant to Section 1115(a) of the Social Security Act: January 1997 and Supplement to December 1996 Listing.		

Addendum V—Categorization of Food and Drug Administration-Approved Investigational Device Exemptions

Under the Food, Drug, and Cosmetic Act (21 U.S.C. 360c), devices fall into one of three classes. Also, under the new categorization process to assist HCFA, the Food and Drug Administration assigns each device with a Food and Drug Administration-approved investigational device exemption to one of two categories. To obtain more information about the classes or categories, please refer to the **Federal Register** notice published on April 21, 1997 (62 FR 19328).

The following information presents the device number, category (in this case, A), and criterion code.

G960213	A2
G960218	A1
G960258	A1
G960266	A1
G970004	A1
G970007	A1
G970015	A2
G970016	A2
G970018	A2
G970022	A2
G970035	A2
G970051	A2
G970053	A2

The following information presents the device number category (in this case, B), and criterion code.

G950115	B1
G956391	B2
G960193	B4
G960199	B2
G960208	B1
G960229	B1
G960230	B2
G960231	B3
G960234	B4
G960235	B3
G960241	B2
G960243	B2
G960245	B2
G960246	B1
G960247	B1
G960248	B4
G960249	B4
G960250	B3
G960252	B2
G960253	B4
G960254	B2
G960255	B2
G960256	B1
G960257	B3
G960259	B4
G960262	B3
G960263	B3
G960264	B3
G960267	B1
G970001	B3
G970002	B4
G970003	B3
G970005	B4
G970011	B2
G970012	B4
G970019	B3
G970023	B4
G970025	B3
G970026	B3
G970028	B3
G970029	B3
G970030	B1
G970031	B3
G970032	B3
G970033	B4
G970034	B4
G970037	B4
G970038	B4
G970039	B4
G970040	B3
G970041	B4
G970046	B1
G970047	B3
G970052	B1
G970054	B4
G970059	B3

[FR Doc. 97–28972 Filed 10–31–97; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[OACT–057–N]

RIN 0938–AI12

Medicare Program; Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts for 1998

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice announces the inpatient hospital deductible and the hospital and extended care services coinsurance amounts for services furnished in calendar year 1998 under Medicare's hospital insurance program (Medicare Part A). The Medicare statute specifies the formulae to be used to determine these amounts.

The inpatient hospital deductible will be $764. The daily coinsurance amounts will be: (a) $191 for the 61st through 90th days of hospitalization in a benefit period; (b) $382 for lifetime reserve days; and (c) $95.50 for the 21st through 100th days of extended care services in a skilled nursing facility in a benefit period.

EFFECTIVE DATE: This notice is effective on January 1, 1998.

FOR FURTHER INFORMATION CONTACT: John Wandishin, (410) 786–6389. For case-mix analysis only: Gregory J. Savord, (410) 786–1521.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1813 of the Social Security Act (the Act) provides for an inpatient hospital deductible to be subtracted from the amount payable by Medicare for inpatient hospital services furnished to a beneficiary. It also provides for certain coinsurance amounts to be subtracted from the amounts payable by Medicare for inpatient hospital and extended care services. Section 1813(b)(2) of the Act requires us to determine and publish between September 1 and September 15 of each year the amount of the inpatient hospital deductible and the hospital and extended care services coinsurance amounts applicable for services furnished in the following calendar year.

II. Computing the Inpatient Hospital Deductible for 1998

Section 1813(b) of the Act prescribes the method for computing the amount of the inpatient hospital deductible. The inpatient hospital deductible is an amount equal to the inpatient hospital deductible for the preceding calendar year, changed by our best estimate of the payment-weighted average of the applicable percentage increases (as defined in section 1886(b)(3)(B) of the Act). This estimate is used for updating the payment rates to hospitals for discharges in the fiscal year that begins on October 1 of the same preceding calendar year and adjusted to reflect real case mix. The adjustment to reflect real case mix is determined on the basis of the most recent case mix data available. The amount determined under this formula is rounded to the nearest multiple of $4 (or, if midway between two multiples of $4, to the next higher multiple of $4).

Section 4401(a) of the Balanced Budget Act of 1997 (Public Law 105–33, enacted on August 5, 1997) amended section 1886(b)(3)(B)(i) of the Act by making the percentage increase for hospitals paid under the prospective payment system 0 percent for fiscal year 1998. Section 4411(a) of the Balanced Budget Act of 1997 similarly amended section 1886(b)(3)(B)(ii) of the Act by making the percentage increase for hospitals excluded from the prospective payment system 0 percent for fiscal year 1998. Therefore, our best estimate of the payment-weighted average of the increase in the payment rates for fiscal year 1998 is 0 percent.

To develop the adjustment for real case mix, an average case mix was first calculated for each hospital that reflects the relative costliness of that hospital's

mix of cases compared to that of other hospitals. We then computed the increase in average case mix for hospitals paid under the Medicare prospective payment system in fiscal year 1997 compared to fiscal year 1996. (Hospitals excluded from the prospective payment system were excluded from this calculation since their payments are based on reasonable costs and are affected only by real increases in case mix.) We used bills from prospective payment hospitals received in HCFA as of July 1997. These bills represent a total of about 8.3 million discharges for fiscal year 1997 and provide the most recent case mix data available at this time. Based on these bills, the increase in average case mix in fiscal year 1997 is 0.12 percent. Based on past experience, we expect overall case mix to increase to 0.5 percent as the year progresses and more fiscal year 1997 data become available.

Section 1813 of the Act requires that the inpatient hospital deductible be increased only by that portion of the case mix increase that is determined to be real. We estimate that the increase in real case mix is about 0.5 percent. We believe that any case mix increased up to 1 percent is real case mix increase. Therefore, for fiscal year 1997, all of the case mix increase, 0.5 percent, is real case mix increase.

Thus, the estimate of the payment-weighted average of the applicable percentage increases used for updating the payment rates is 0 percent, and the real case mix adjustment factor for the deductible is 0.5 percent. Therefore, under the statutory formula, the inpatient hospital deductible for services furnished in calendar year 1998 is $764. This deductible amount is determined by multiplying $760 (the inpatient hospital deductible for 1997) by the payment rate increase of 1.00 multiplied by the increase in real case mix of 1.005 which equals $763.8 and is rounded to $764.

III. Computing the Inpatient Hospital and Extended Care Services Coinsurance Amounts for 1998

The coinsurance amounts provided for in section 1813 of the Act are defined as fixed percentages of the inpatient hospital deductible for services furnished in the same calendar year. Thus, the increase in the deductible generates increases in the coinsurance amounts. For inpatient hospital and extended care services furnished in 1998, in accordance with the fixed percentages defined in the law, the daily coinsurance for the 61st through 90th days of hospitalization in a benefit period will be $191 (¼ of the inpatient hospital deductible); the daily coinsurance for lifetime reserve days will be $382 (½ of the inpatient hospital deductible); and the daily coinsurance for the 21st through 100th days of extended care services in a skilled nursing facility in a benefit period will be $95.50 (⅛ of the inpatient hospital deductible).

IV. Cost to Beneficiaries

We estimate that in 1998 there will be about 9.1 million deductibles paid at $764 each, about 2.8 million days subject to coinsurance at $191 per day (for hospital days 61 through 90), about 1.3 million lifetime reserve days subject to coinsurance at $382 per day, and about 25.0 million extended care days subject to coinsurance at $95.50 per day. Similarly, we estimate that in 1997 there will be about 8.9 deductibles paid at $760 each, about 2.7 million days subject to coinsurance at $190 per day (for hospital days 61 through 90), about 1.3 million lifetime reserve days subject to coinsurance at $380 per day, and about 24.6 million extended care days subject to coinsurance at $95.00 per day. Therefore, the estimated total increase in cost to beneficiaries is about $260 million (rounded to the nearest $10 million), due to (1) the increase in the deductible and coinsurance amounts and (2) the change in the number of deductibles and daily coinsurance amounts paid.

V. Waiver of Proposed Notice and Comment Period

The Medicare statute, as discussed previously, requires publication of the Medicare Part A inpatient hospital deductible and the hospital and extended care services coinsurance amounts for services for each calendar year. The amounts are determined according to the statute. As has been our custom, we use general notices, rather than formal notice and comment rulemaking procedures, to make such announcements. In doing so, we acknowledge that, under the Administrative Procedure Act, interpretive rule, general statements of policy, and rules of agency organization, procedure, or practice are excepted from the requirements of notice and comment rulemaking.

We considered publishing a proposed notice to provide a period for public comment. However, we may waive that procedure if we find good cause that prior notice and comment are impracticable, unnecessary, or contrary to the public interest. We find that the procedure for notice and comment is unnecessary because the formula used to calculate the inpatient hospital deductible and hospital and extended care services coinsurance amounts is statutorily directed, and we can exercise no discretion in following that formula. Moreover, the statute establishes the time period for which the deductible and coinsurance amounts will apply and delaying publication would be contrary to the public interest. Therefore, we find good cause to waive publication of a proposed notice and solicitation of public comments.

VI. Impact Statement

This notice merely announces amounts required by legislation. This notice is not a proposed rule or a final rule issued after a proposal and does not alter any regulation or policy. Therefore, we have determined, and certify, that no analyses are required under Executive Order 12866, the Regulatory Flexibility Act (5 U.S.C. 601 through 612), or section 1102(b) of the Act.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

Authority: Section 1813(b)(2) of the Social Security Act (42 U.S.C. 1395e(b)(2)).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance)

Dated: September 19, 1997.

Nancy-Ann Min DeParle,

Deputy Administrator, Health Care Financing Administration.

Dated: October 7, 1997.

Donna E. Shalala,

Secretary.

[FR Doc. 97–29032 Filed 10–31–97; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[OACT–066–N]

RIN 0938–AI10

Medicare Program; Part A Premium for 1998 for the Uninsured Aged and for Certain Disabled Individuals Who Have Exhausted Other Entitlement

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice announces the hospital insurance premium for calendar year 1998 under Medicare's hospital insurance program (Part A) for the uninsured aged and for certain disabled individuals who have exhausted other entitlement. The monthly Medicare Part A premium for the 12 months beginning January 1, 1998 for these individuals is $309. The reduced premium for certain other individuals as described in this notice is $170. Section 1818(d) of the Social Security Act specifies the method to be used to determine these amounts.

EFFECTIVE DATE: This notice is effective on January 1, 1998.

FOR FURTHER INFORMATION CONTACT: John Wandishin, (410) 786–6389.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1818 of the Social Security Act (the Act) provides for voluntary enrollment in the Medicare hospital insurance program (Medicare Part A), subject to payment of a monthly premium, of certain persons who are age 65 and older, uninsured for social security or railroad retirement benefits and do not otherwise meet the requirements for entitlement to Medicare Part A. (Persons insured under the Social Security or Railroad Retirement Acts need not pay premiums for hospital insurance.)

Section 1818(d) of the Act requires us to estimate, on an average per capita basis, the amount to be paid from the Federal Hospital Insurance Trust Fund for services performed and for related administrative costs incurred in the following year with respect to individuals age 65 and over who will be entitled to benefits under Medicare Part A. We must then, during September of each year, determine the monthly actuarial rate (the per capita amount estimated above divided by 12) and publish the dollar amount to be applicable for the monthly premium in the succeeding year. If the premium is not a multiple of $1, the premium is rounded to the nearest multiple of $1 (or, if it is a multiple of 50 cents but not of $1, it is rounded to the next highest $1). The 1997 premium under this method was $311 and was effective January 1, 1997. (See 61 FR 56691, November 4, 1996.)

Section 1818(d)(2) of the Act requires us to determine and publish, during September of each calendar year, the amount of the monthly premium for the following calendar year for persons who voluntarily enroll in Medicare Part A.

Section 1818A of the Act provides for voluntary enrollment in Medicare Part A, subject to payment of a monthly premium, of certain disabled individuals who have exhausted other entitlement. These individuals are those not now entitled but who have been entitled under section 226(b) of the Act, who continue to have the disabling impairment upon which their entitlement was based, and whose entitlement ended solely because they had earnings that exceeded the substantial gainful activity amount (as defined in section 223(d)(4) of the Act).

Section 1818A(d)(2) of the Act specifies that the premium determined under section 1818(d)(2) of the Act for the aged will also apply to certain disabled individuals as described above.

Section 13508 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66, enacted on August 10, 1993) amended section 1818(d) of the Act to provide for a reduction in the monthly premium amount for certain voluntary enrollees. The reduction applies for individuals who are not eligible for social security or railroad retirement benefits but who:

- Had at least 30 quarters of coverage under title II of the Act;
- Were married and had been married for the previous 1-year period to an individual who had at least 30 quarters of coverage;
- Had been married to an individual for at least 1 year at the time of the individual's death and the individual had at least 30 quarters of coverage; or
- Are divorced from an individual who at the time of divorce had at least 30 quarters of coverage and the marriage lasted at least 10 years.

For calendar year 1998, section 1818(d)(4)(A) of the Act specifies that the monthly premium that these individuals will pay for calendar year 1998 will be equal to the monthly premium for aged voluntary enrollees reduced by 45 percent.

II. Premium Amount for 1998

Under the authority of sections 1818(d)(2) and 1818A(d)(2) of the Act, the Secretary has determined that the monthly Medicare Part A hospital insurance premium for the uninsured aged and for certain disabled individuals who have exhausted other entitlement for the 12 months beginning January 1, 1998, is $309.

The monthly premium for those individuals entitled to a 45-percent reduction in the monthly premium for the 12-month period beginning January 1, 1998 is $170.

III. Statement of Actuarial Assumptions and Bases Employed in Determining the Monthly Premium Rate

As discussed in section I of this notice, the monthly Medicare Part A premium for 1998 is equal to the estimated monthly actuarial rate for 1998 rounded to the nearest multiple of $1. The monthly actuarial rate is defined to be one-twelfth of the average per capita amount that the Secretary estimates will be paid from the Federal Hospital Insurance Trust Fund for services performed and related administrative costs incurred in 1998 for individuals age 65 and over who will be entitled to benefits under the hospital insurance program. Thus, the number of individuals age 65 and over who will be entitled to hospital insurance benefits and the costs incurred on behalf of these beneficiaries must be projected to determine the premium rate.

The principal steps involved in projecting the future costs of the hospital insurance program are (a) establishing the present cost of services furnished to beneficiaries, by type of service, to serve as a projection base; (b) projecting increases in payment amounts for each of the various service types; and (c) projecting increases in administrative costs. Establishing historical Medicare Part A enrollment and projecting future enrollment, by type of beneficiary, is part of this process.

We have completed all of the above steps, basing our projections for 1998 on (a) current historical data and (b) projection assumptions under current law from the Midsession Review of the President's Fiscal Year 1998 Budget, incorporating the provisions of Public Law 103–66. It is estimated that in calendar year 1998, 33.032 million people age 65 and over will be entitled to Medicare Part A benefits (without premium payment), and that these individuals will, in 1998, incur $122.357 billion of benefits for services performed and related administrative costs. Thus, the estimated monthly average per capita amount is $308.68 and the monthly premium is $309. The monthly premium for those individuals eligible to pay this premium reduced by 45 percent is $170.

IV. Costs to Beneficiaries

The 1998 Medicare Part A premium is less than 1 percent lower than the $311 monthly premium amount for the 12-month period beginning January 1, 1997.

We estimate that there will be, in calendar year 1998, approximately 344,000 enrollees who will voluntarily enroll in Medicare Part A by paying the full premium and who do not otherwise meet the requirements for entitlement. An additional 9,000 enrollees will be paying the reduced premium. The estimated overall effect of the changes in the premium will be a savings to these voluntary enrollees of about $10 million.

V. Waiver of Notice of Proposed Rulemaking

The Medicare statute, as discussed previously, requires publication of the Medicare Part A hospital insurance premium for the upcoming calendar year during September of each year. The amounts are determined according to the statute. As has been our custom, we use general notices, rather than formal notice and comment rulemaking procedures, to make such announcements. In doing so, we acknowledge that, under the Administrative Procedure Act, interpretive rules, general statements of policy, and rules of agency organization, procedure, or practice are excepted from the requirements of notice and comment rulemaking.

We considered publishing a proposed notice to provide a period for public comment. However, we may waive that procedure if we find good cause that prior notice and comment are impracticable, unnecessary, or contrary to the public interest. We find that the procedure for notice and comment is unnecessary because the formula used to calculate the Part A hospital insurance premium is statutorily directed, and we can exercise no discretion in following that formula. Moreover, the statute established the time period for which the premium will apply and delaying publication of the premium amount would be contrary to the public interest. Therefore, we find good cause to waive publication of a proposed notice and solicitation of public comments.

VI. Impact Statement

This notice merely announces amounts required by legislation. This notice is not a proposed rule or a final rule issued after a proposal, and it does not alter any regulation or policy. Therefore, we have determined and certify that no analyses are required under Executive Order 12866, the Regulatory Flexibility Act (5 U.S.C. 601 through 612), or section 1102(b) of the Act.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

Authority: Sections 1818(d)(2) and 1818A(d)(2) of the Social Security Act (42 U.S.C. 1395i–2(d)(2) and 1395i–2a(d)(2)).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance)

Dated: September 19, 1997.

Nancy-Ann Min DeParle,

Deputy Administrator, Health Care Financing Administration.

Dated: October 7, 1997.

Donna E. Shalala,

Secretary.

[FR Doc. 97–29030 Filed 10–31–97; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration (SAMHSA)

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Substance Abuse and Mental Health Services Administration (SAMHSA) National Advisory Council in November 1997.

The meeting will include the review, discussion and evaluation of individual contract proposals, as well as a presentation and discussion of information about the Agency's procurement plans. Therefore, a portion of the meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance with Title 5 U.S.C. 552b(c) (3), (4), and (6) and 5 U.S.C. App. 2, Section 10(d).

In addition, a portion of the SAMHSA National Advisory Council meeting will be open and include a presentation of certificates of appreciation to those members whose terms will end on November 30. Attendance by the public will be limited to space available. Public comments are welcome during the open session. Please communicate with the individual listed as contact below to make arrangements to comment or to request special accommodations for persons with disabilities.

Substantive program information, summary of the meeting and a roster of Council members may also be obtained from the contact whose name and telephone number is listed below.

Committee Name: SAMHSA National Advisory Council.

Meeting Date: November 13, 1997.

Place: Phoenix Park Hotel, 520 North Capitol Street, N.W., Washington, D.C. 20001.

Closed: November 13, 1997, 1:00 p.m. to 4:20 p.m.

Open: November 13, 1997, 4:30 p.m. to 5:30 p.m.

Contact: Toian Vaughn, Executive Secretary, Room 12C–15, Parklawn Building, Telephone: (301) 443–4640 and FAX: (301) 443–1450.

Dated: October 28, 1997.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 97–28991 Filed 10–31–97; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration (SAMHSA) Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the following meeting of the SAMHSA Special Emphasis Panel II in November, 1997.

A summary of the meeting may be obtained from: Ms. Dee Herman, Committee Management Liaison, SAMHSA, Office of Program Planning and Coordination (OPPC), Division of Extramural Activities Policy and Review, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857. Telephone: (301) 443–7390.

Substantive program information may be obtained from the individual named as Contact for the meeting listed below.

The meeting will include the review, discussion and evaluation of individual contract proposals. These discussions could reveal personal information concerning individuals associated with the proposals and confidential and financial information about an individual's proposal. The discussion may also reveal information about procurement activities exempt from disclosure by statute and trade secrets and commercial or financial information obtained from a person and privileged and confidential. Accordingly, the meeting is concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c) (3), (4), and (6) and 5 U.S.C. App. 2, § 10(d).

Committee Name: SAMHSA Special Emphasis Panel II.

Meeting Date: November 13, 1997.

Place: Residence Inn, Gate House Board Room, 335 Wisconsin Avenue, Bethesda, MD 20814.

Closed: November 13, 1997, 9:00 a.m.—Adjournment.

Contact: Ferdinand W. Hui, Ph.D., Room 17–89, Parklawn Building, Telephone: (301) 443–2437 and FAX: (301) 443–3437.

Dated: October 28, 1997.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 97–28994 Filed 10–31–97; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–080–08–5420–00–H011; GP8–0025; OR–53981]

Recordable Disclaimer of Interest; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed issuance of recordable disclaimer of interest, Oregon.

SUMMARY: An application has been filed by John Hancock Mutual Life Insurance Company for a recordable disclaimer of interest involving 200 acres of land in Columbia County, Oregon, to remove a cloud on the title. The cloud is a result of an exclusion contained in the patent conveying title from the United States. The patent excluded "the timber thereon." Subsequently, the United States interest in the said timber was extinguished when a timber sale contract was issued; however, no instrument was recorded to show that the interest was extinguished. The applicant desires to have clear title. The United States of America hereby gives notice of its intention to disclaim and release all interest in the timber to the owner of record.

EFFECTIVE DATE: Until February 2, 1998, all persons who wish to submit comments may do so in writing to the Salem District Manager, Bureau of Land Management, 1717 Fabry Road SE, Salem, Oregon 97306.

FOR FURTHER INFORMATION CONTACT: John Radosta, Realty Specialist, Salem District Office, (503) 375–5664.

SUPPLEMENTARY INFORMATION: Pursuant to Section 315 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. 1745, an application has been filed by John Hancock Mutual Life Insurance Company for issuance of a recordable disclaimer of interest by the United States, affecting the following described land:

Willamette Meridian

T. 3 N., R. 2 W.,
Sec. 9, NE¼ and the SE¼NW¼.

The subject land (and other land) was conveyed by the United States by Coal Patent No. 646950, dated August 18, 1918. The patent conveyed the land "exclusive of the timber thereon." On January 10, 1941, the United States (General Land Office) issued Timber Contract I6g–428, in which the reserved timber was sold. When the timber contract was terminated in 1946, the landowner requested that a release or relinquishment of the timber interest be recorded so as to provide him with clear title. The response was that the General Land Office had no authority to do so.

Section 315 of FLPMA authorizes the Secretary of the Interior to issue a recordable disclaimer of interest in land where the disclaimer will help to remove a cloud on the title under certain criteria. One criterion is where a record interest of the United States in the land has terminated by operation of law or is otherwise invalid. The Bureau of Land Management has reviewed the official records and has determined that the United States has no claim to or interest in the above described land and that the issuance of a recordable disclaimer of interest will help to remove a cloud on the title to the land. Accordingly, a recordable disclaimer of interest will be issued shortly after the 90-day comment period.

Dated: October 23, 1997.

Robert D. DeVinny, Jr.,

Chief, Branch of Realty and Records Services.

[FR Doc. 97–28979 Filed 10–31–97; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–030–98–1020–00–24–1 A]

Sierra Front/Northwest Great Basin Resource Advisory Council—Notice of Meeting Locations and Times

AGENCY: Bureau of Land Management, Interior.

ACTION: Resource Advisory Council Meeting Locations and Times.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA) the Department of the Interior, Bureau of Land Management (BLM) Council meetings will be held as indicated below. The agenda includes a business meeting, public comment period and a tour of the Walker River Basin.

All meetings are open to the public. The public may present written comments to the council. Each formal council meeting will have a time allocated for hearing public comments. The public comment period for the council meeting is listed below. Depending on the number of persons wishing to comment, and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need further information about the meetings, or need special assistance such as sign language interpretation or other reasonable accommodations, should contact Joan Sweetland, Carson City District Office, 5665 Morgan Mill Road, Carson City, NV 89701 (702) 885–6107.

DATE, TIMES: The dates are November 20 and 21, 1997. Depart BLM Carson City Office, 5665 Morgan Mill Road, Carson City at 7:00 a.m. November 20, and begin tour of Walker River Basin. Arrive Hawthorne, Nevada, 5:00 p.m. At 6:00 p.m. the Council will have dinner at the El Capitan, Hawthorne, followed by the meeting at 6:30 p.m. The Agenda will include a business meeting, approval of the Minutes of the previous meeting, remarks by State Director Robert Abbey, discussion of the proposed Black Rock Desert Management Plan. The public comment period will be at 8:30 p.m., with adjournment for the evening at 9:00 p.m. At 8:00 a.m. the council will depart Hawthorne to continue tour of Walker River Basin and will return to Carson City at 5:00 p.m.

All council meetings and tours are open to the public, but the public is responsible for their own transportation, food and lodgings.

FOR FURTHER INFORMATION CONTACT: John Singlaub, Carson City District Manager, 5665 Morgan Mill Road, Carson City, Nevada 89701 (702) 885–6000.

Dated: October 22, 1997.

John O. Singlaub,

District Manager.

[FR Doc. 97–28978 Filed 10–31–97; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–910–0777–61–241A]

State of Arizona Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Arizona Resource Advisory Council Meeting, notice of meeting.

SUMMARY: This notice announces a meeting of the Arizona Resource Advisory Council. The meeting will be held December 2, 1997, beginning at 9:00 a.m. in the Montana Room at the Bureau of Land Management National Training Center, 9828 N. 31st Avenue, Phoenix, Arizona. The agenda items to be covered at the one-day meeting include: Review of previous meeting minutes; BLM State Director's Update on legislation, regulations and statewide planning efforts; Grazing Issues and Update on FWS Biological Opinion;

Update on Impacts of the Lawsuit on State Grazing Leases on BLM Permits; Report on S&G Technical Review and Rangeland Resource Teams; Reports by the S&G, Recreation and Public Relations Working Groups; Reports from RAC members; RAC Discussion on future meeting dates and locations. A public comment period will take place at 11:30 a.m. for any interested publics who wish to address the Council.

FOR FURTHER INFORMATION CONTACT: Deborah Stevens Bureau of Land Management, Arizona State Office, 222 North Central Avenue, Phoenix, Arizona 85004–2203, (602) 417–9215.

Michael A. Ferguson,

Deputy State Director, Resources Division.

[FR Doc. 97–28982 Filed 10–31–97; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–990–1020–00]

Resource Advisory Councils; Notice of a Meeting

AGENCY: Bureau of Land Management, Upper Columbia—Salmon Clearwater Districts, Idaho.

ACTION: Notice of Resource Advisory Council Meeting.

SUMMARY: In accordance with the Federal land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C. Appendix, the Bureau of Land Management (BLM) announces the meeting of the Upper Columbia—Salmon Clearwater Districts Resource Advisory Council (RAC) on Wednesday, December 3, 1997 and Thursday, December 4, 1997 in Missoula, MT.

Agenda items include: a briefing on the status of implementation of the approved Idaho rangeland standards and guidelines; discussion of potential issues for future meetings; the status of the Interior Columbia Basin Ecosystem Management Project; and range improvement/contributed funds. The meeting will begin at 1:00 p.m. (MST), December 3, 1997 and be held at the Grant Creek Inn, 5280 Grant Creek Road, Missoula, MT. The public may address the Council during the public comment period from 2:00 p.m.–2:30 p.m. on December 3, 1997.

SUPPLEMENTARY INFORMATION: All Resource Advisory Council meetings are open to the public. Interested persons may make oral statements to the Council, or written statements may be submitted for the Council's consideration. Depending on the number of persons wishing to make oral statements, a per-person time limit may be established by the District Manager.

The Council's responsibilities include providing long-range planning and establishing resource management priorities.

FOR FURTHER INFORMATION CONTACT: Ted Graf (208) 769–5004.

Dated: October 22, 1997.

Fritz U. Rennebaum,

District Manager.

[FR Doc. 97–29013 Filed 10–31–97; 8:45 am]

BILLING CODE 4310–GG–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects from Lake and Harney Counties, OR in the Control of the Oregon State Office, Bureau of Land Management, Portland, OR

AGENCY: National Park Service.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003 (d), of the completion of an inventory of human remains and associated funerary objects from Lake and Harney Counties, OR in the control of the Oregon State Office, Bureau of Land Management, Portland, OR.

A detailed assessment of the human remains was made by Bureau of Land Management and Oregon State Museum of Anthropology professional staff in consultation with representatives of the Burns Paiute Tribe of Burns Paiute Indian Colony of Oregon, the Confederated Tribes of the Warm Springs Reservation, and the Klamath Tribe.

Between 1935-1937, human remains representing one individual were recovered from Catlow Cave, Harney County, OR during legally authorized excavations on BLM lands by the University of Oregon Museum of Natural History. No known individuals were identified. No associated funerary objects are present.

In 1957, human remains representing five individuals were recovered from the vicinity of Table Rock, Lake County, OR during excavations without permit by Joan Oswalt. In 1960, Ms. Oswalt donated these human remains and associated funerary objects to the Oregon State Museum. No known individuals were identified. The five associated funerary objects include a shell necklace and chipped stone tools.

Between 1967-1969, human remains representing five individuals were recovered from Table Rock caves, Lake County, OR during legally authorized excavations by the University of Oregon Museum of Natural History. No known individuals were identified. The eleven associated funerary objects include woven matting, a winnowing tray, an obsidian tool, and a basketry fragment.

In 1968, human remains representing two individuals were recovered from the vicinity of Table Rock, Lake County, OR during legally authorized excavations by Bureau of Land Management staff. No known individuals were identified. No associated funerary objects are present.

Morphological evidence indicates these human remains are Native American based on dental wear and bone condition. Based on the contexts, manner of internment, and associated funerary objects, the sites listed above have been determined to be precontact habitation sites. Archeological and ethnographic evidence indicates these sites are precontact Northern Paiute sites and burials based on continuities of tool and basketry styles. Oral history evidence presented by representatives of the Burns Paiute Tribe of Burns Paiute Indian Colony of Oregon during consultation supports this affiliation. Northern Paiute people are represented by the present day tribes of the Burns Paiute Tribe of Burns Paiute Indian Colony of Oregon, Confederated Tribes of the Warm Springs Reservation of Oregon, and the Klamath Indian Tribe of Oregon.

Based on the above mentioned information, officials of the Bureau of Land Management have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of thirteen individuals of Native American ancestry. Officials of the Bureau of Land Management have also determined that, pursuant to 25 U.S.C. 3001 (3)(A), the sixteen objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Bureau of Land Management have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and associated funerary objects and the Burns Paiute Tribe of Burns Paiute Indian Colony of Oregon, Confederated Tribes of the Warm Springs Reservation of Oregon, and the Klamath Indian Tribe of Oregon.

This notice has been sent to officials of the Burns Paiute Tribe of Burns Paiute Indian Colony of Oregon, the Confederated Tribes of the Warm Springs Reservation of Oregon, and the Klamath Indian Tribe of Oregon. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Richard Hanes, Cultural Program Lead, Bureau of Land Management, P.O. Box 10226, Eugene, OR 97440; telephone: (541) 683-6669, before December 3, 1997. Repatriation of the human remains and associated funerary objects to the culturally affiliated tribes may begin after that date if no additional claimants come forward.

Dated: October 29, 1997.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnology Program.

[FR Doc. 97–29017 Filed 10-31-97; 8:45 am]

BILLING CODE 4310-70-F

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decrees Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, and 42 U.S.C. 9622(d), notice is hereby given that on October 16, 1997, the trustees for natural resources at the Tulalip Landfill Superfund Site on Ebey Island in Puget Sound, WA ("the Site") lodged with the United States District Court for the Western District of Washington a civil natural resource damages complaint against defendants the Boeing Company, Kaiser Cement Corporation, Safeway Inc., Richard Halffman, Washington Iron Works, Seattle Goodwill Industries, Manson Construction Co., Inc. and R.W. Rhine, Inc. in the civil action styled *United States* v. *The Boeing Company, et al.*, Civil Action No. C97–1648–WD. On the same day, the trustees lodged two consent decrees resolving the trustees' claims against all defendants except R.W. Rhine and Seattle Goodwill Industries.

The consent decrees require the defendants to compensate the trustees for natural resource damages resulting from the release of hazardous substances at the Site. The trustees consist of the State of Washington Department of Ecology, the Tulalip Tribes of Washington, the National Oceanic and Atmospheric Administration of the United States Department of Commerce, and the United States Department of Interior. Under the consent decrees, the settling defendants will pay a total of $183,068 for natural resource damages.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decrees. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *The Boeing Company, et al.*, DOJ Ref. #90–11–3–1412.

The proposed consent decrees may be examined at the office of the United States Attorney, 1010 Fifth Avenue, Seattle, WA 98104; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decrees may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting copies please refer to the referenced case, specify which decree or decrees you would like to receive, and enclose a check payable to the Consent Decree Library in the amount of $12.00 for the decree with Boeing, Kaiser, Safeway, Halffman and Washington Iron Works (48 pages), and/or $8.50 for the decree with Manson Construction Co., Inc. (34 pages) (25 cents per page reproduction costs).

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–29012 Filed 10–31–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that on October 22, 1997, a proposed Consent Decree in *United States* v. *Charles Chrin et al.*, Civil Action No. 39–CV–4244 was lodged with the United States District Court for the Eastern District of Pennsylvania.

In this action the United States sought reimbursement of past response costs pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9607, incurred by the United States Environmental Protection Agency ("EPA") in connection with the Industrial Lane Superfund Site (also known as the Chrin Landfill Site) located in Williams Township, Northampton County, Pennsylvania. Under the proposed Consent Decree 51 original and third party defendants agree to reimburse the United States $2.5 million in past response costs incurred by EPA at the Site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree, Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20503, and should refer to *United States* v. *Charles Chrin et al.*,, D.J. Ref. 90–11–2–908. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of RCRA, 42 U.S.C. 6973(d).

The Consent Decree may be examined at the Office of the United States Attorney, 615 Chestnut Street, Suite 1250, Philadelphia, PA 19106, at U.S. EPA Region 3, 841 Chestnut Building, Philadelphia, PA 19107, and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy exclusive of exhibits and defendants' signatures, please enclose a check in the amount of $12.50 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Walker Smith,

Deputy Chief, Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–29011 Filed 10–31–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Water Act

Under 28 CFR 50.7, notice is hereby give that on October 21, 1997 a proposed consent decree ("the decree") in *United States, Commonwealth of Virginia, and District of Columbia* v. *Colonial Pipeline Company*, Civil Action No. *97–1680–A*, was lodged with the United States District Court for the Eastern District of Virginia.

In this action brought pursuant to the Clean Water Act, as amended by the Oil

Pollution Act of 1990, 33 U.S.C. 1251 *et. seq.*, the United States, Commonwealth of Virginia and District of Columbia sought civil penalties and natural resource damages regarding a March 1993 oil discharge to Sugarland Run, a tributary of the Potomac River. The proposed decree requires Colonial Pipeline Company to perform comprehensive projects to restore natural resources that were damaged as a result of the oil discharge, reimbursing all assessment costs of the natural resource trustees, and monitoring and oversight costs associated with the projects. In addition, the decree requires Colonial Pipeline Company to pay $253,314 toward the notching of Little Falls Dam on the Potomac River, a joint project of the District of Columbia, State of Maryland and U.S. Army Corps of Engineers, and to pay a $1.5 million civil penalty, $750,000 to the United States, and $750,000 to the Commonwealth of Virginia.

The Department of Justice will receive written comments relating to the decree for thirty (30) days from the date of publication of this notice. Please address comments to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044 and refer to *United States, Commonwealth of Virginia, and District of Columbia* v. *Colonial Pipeline Company*, D.J. Ref. #90–5–1–1–4055.

The decree may be examined at the Office of the United States Attorney, Eastern District of Virginia, 2100 Jamieson Avenue, Alexandria, VA 22314; the Region III Office of the United States Environmental Protection Agency, 841 Chestnut Building, Philadelphia, PA 19107; and at the Consent Decree Library 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005 (202) 624–0892. A copy of the decree may be obtained in person or by mail at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005 (202–624–0892). When requesting a copy, please enclose a check in the amount of $16.75 (twenty-five cents per page reproduction costs) payable to the "Consent Decree Library."

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division, U.S. Department of Justice.

[FR Doc. 97–29010 Filed 10–31–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Request OMB emergency approval; application to register permanent residence or adjust status and supplement A to Form I–485.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request (ICR) utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. OMB approval has been requested by October 31, 1997. If granted, the emergency approval is only valid for 180 days. All comments and/or questions pertaining to this pending request for emergency approval must be directed to OMB, Office of Information and Regulatory Affairs, Attention: Ms. Debra Bond, 202–395–7316, Department of Justice Desk Officer, Washington, DC 20503. You may also submit comments to Ms. Bond via facsimile at 202–395–6974.

During the first 60 days of this same period a regular review of this information collection is also being undertaken. Comments are encouraged and will be accepted until; January 2, 1997. During the 60-day regular review all comments and suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Mr. Richard A. Sloan, 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Your comments should address one or more of the following four points.

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Application to Register Permanent Residence or Adjust Status and Supplement A to Form I–485.

(3) *Agency form number, if any, and the applicable component of the Department of justice sponsoring the collection:* Form I–485/Form I–485 Supplement A. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This form allows an applicant to determine whether he or she must file under section 245 of the INA, and it allows the Service to collect information needed for reports to be made to different government committees.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* I–485 Adult respondents is 160,000 at 5.25 hours per response; I–485 Children respondents is 112,000 at 4.5 hours per response; and I–485 Supplement A respondents is 50,000 at 13 minutes (.216) hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* Form I–485 annual burden hours are 1,316,000 and Form I–485 Supplement A annual burden hours are 10,800.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Mr. Richard A. Sloan, 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G. Street, NW., Washington, DC 20530.

Dated: October 29, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–29039 Filed 10–31–97; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Extension of existing collection; application for replacement/initial nonimmigrant arrival-departure document.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted an emergency information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 to provide for the required final 30 days for public review/comment and ample time for OMB's review and final action.

This proposed information collection was previously published in the **Federal Register** on July 17, 1997 at 62 FR 38324, allowing for an emergency extension with a 60-day public comment period. No comments were received by the Immigration and Naturalization Service. Comments are encouraged and will be accepted for an additional "thirty days" until December 3, 1997.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Ms. Debra Bond, 202–395–7316, Department of Justice Desk Officer, Room 10235, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to 202–395–6974.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan, 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, 425 I Street, NW., Room 5307, Washington, DC 20536.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points.

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this Information Collection

(1) *Type of Information Collection:* Extension of currently approved information collection.

(2) *Title of the Form/Collection:* Application for Replacement/Initial Nonimmigrant Arrival—Departure Document.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–102. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This form is used by an alien temporarily residing in the United States whose evidence of registration has been lost, mutilated or destroyed. This form is used by an alien to request a replacement of his or her arrival evidence; and by the INS to verify status and to determine eligibility of an applicant for said replacement.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 20,000 respondents at 25 minutes (.416) hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 8,320 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: October 28, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–29041 Filed 10–31–97; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Extension of Existing Collection; Application for Issuance or Replacement of Northern Mariana Card.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted an emergency information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 to provide for the required final 30 days for public review/comment and ample time for OMB's review and final action.

This information collection was previously published in the **Federal Register** on August 7, 1997 at 62 FR 42600, allowing for an extension with a 60-day public comment period. No comments were received by the Immigration and Naturalization Service. Comments are encouraged and will be accepted for an additional "thirty days" until December 3, 1997.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Ms. Debra Bond, 202–395–7316, Department of Justice Desk Officer, Room 10235, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to 202–395–6974.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan, 202-514-3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, 425 I Street, NW., Room 5307, Washington, DC 20536.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points.

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of currently approved information collection.

(2) *Title of the Form/Collection:* Application for Issuance or Replacement of Northern Mariana Card.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I-777. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. Applicants may apply for a Northern Mariana identification card if they received United States citizenship pursuant to Public Law 94-241 (Covenant to Establish a Commonwealth of the Northern Mariana Island).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 100 respondents at 30 minutes (.5) hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 50 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: October 28, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97-29042 Filed 10-31-97; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Extension of existing collection; application to file declaration of intention.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted an information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 to provide for the required final 30 days for public review/comment and ample time for OMB's review and final action.

This proposed information collection was previously published in the **Federal Register** on July 17, 1997 at 62 FR 38322, allowing for an emergency extension with a 60-day public comment period. No comments were received by the Immigration and Naturalization Service. Comments are encouraged and will be accepted for an additional "thirty days" until December 3, 1997.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Ms. Debra Bond, 202–395–7316, Department of Justice Desk Officer, Room 10235, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to 202–395–6974.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan, 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, 425 I Street, NW., Room 5307, Washington, DC 20536.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points.

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of currently approved information collection.

(2) *Title of the Form/Collection:* Application to File Declaration of Intention.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form N–300. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This collection is used by the Service to determine eligibility for a declaration of intention to become a citizen of the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 1,015 respondents at 45 minutes (.75) hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 761 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: October 28, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–29043 Filed 10–31–97; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Extension of existing collection: Application for travel document.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted an information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 to provide for the required final 30 days for public review/comment and ample time for OMB's review and final action.

This information collection was previously published in the **Federal Register** on July 7, 1997 at 62 FR 36308, allowing for an emergency extension with a 60-day public comment period. No comments were received by the Immigration and Naturalization Service. Comments are encouraged and will be accepted for an additional "thirty days" until December 3, 1997.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs, Attention: Ms. Debra Bond, 202–395–7316, Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to 202–395–6974.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instruction, or additional information, pleas contact Mr. Richard A. Sloan, 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536.

Written comments and suggestions from the public and affected agencies concerning the this information collection should address one or more of the following four points.

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic,mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Application for Travel Document.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–131. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This form is used by permanent or conditional residents, refugees or asylees and aliens abroad seeking to apply for a travel document to lawfully reenter the United States or be paroled for humanitarian purposes into the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 335,000 respondents at 55 minutes (.90) hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 301,500 annual burden hours.

If additional information is required contact Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: October 28, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–29044 Filed 10–31–97; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Extension of existing collection: Application for action on an approved application or petition.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted an emergency information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 to provide for the required final 30 days for public review/comment and ample time for OMB's review and final action.

This proposed information collection was previously published in the **Federal Register** on July 17, 1997 at 62 FR 38323, allowing for an emergency extension with a 60-day public comment period. No comments were received by the Immigration and Naturalization Service. Comments are encouraged and will be accepted for an additional "thirty days" until December 3, 1997.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Ms. Debra Bond, 202–395–7316, Department of Justice Desk Officer, Room 10235, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to 202–395–6974.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan, 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, 425 I Street, NW., Room 5307, Washington, DC 20536.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points.

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of currently approved information collection.

(2) *Title of the Form/Collection:* Application for Action on an Approved Application or Petition.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–824. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This form is used to request a duplicate approval notice, to notify the U.S. Consulate that a person has been adjusted to permanent resident status so a family member can apply for a derivative immigrant visa and to request another U.S. Consulate be notified that a petition has been approved.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 43,772 respondents at 25 minutes (.416) hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 18,209 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: October 28, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–29045 Filed 10–31–97; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Extension of existing collection. Request for certification of military or naval service.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted an emergency information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 to provide for the required final 30 days for public review/comment and ample time for OMB's review and final action.

This proposed information collection was previously published in the **Federal Register** on July 30, 1997 at 62 FR 40842, allowing for an emergency extension with a 60-day public comment period. No comments were received by the Immigration and Naturalization Service. Comments are encouraged and will be accepted for an additional "thirty days" until December 3, 1997.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Ms. Debra Bond, 202–395–7316, Department of Justice Desk Officer, Room 10235, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to 202–395–6974.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan, 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, 425 I Street, NW., Room 5307, Washington, DC 20536.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points.

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of currently approved information collection.

(2) *Title of the Form/Collection:* Request for Certification of Military or Naval Service.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form N–426. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This form is used by the INS to request a verification of the military or naval service claim by an applicant filing for naturalization on the basis of honorable service in the United States Armed Forces.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 45,000 respondents at 10 minutes (.166) hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 7,470 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: October 28, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–29046 Filed 10–31–97; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Extension of existing collection, Application for temporary protected status.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted an emergency information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 to provide for the required final 30 days for public review/comment and ample time for OMB's review and final action.

This proposed information collection was previously published in the **Federal Register** on August 4, 1997 at 62 FR 41978, allowing for an emergency extension with a 60-day public comment period. No comments were received by the Immigration and Naturalization Service. Comments are encouraged and will be accepted for an additional "thirty days" until December 3, 1997.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Ms. Debra Bond, 202–395–7316, Department of Justice Desk Officer, Room 10235, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to 202–395–6974.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan, 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, 425 I Street, NW., Room 5307, Washington, DC 20536.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points.

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of currently approved information collection.

(2) *Title of the Form/Collection:* Application for Temporary Protected Status.

(3) *Agency from number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–821. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The information provided on this collection will be used by the INS to determine whether an applicant for Temporary Protected Status (TPS) meets the eligibility requirements. Such TPS benefits include employment authorization and relief from the threat of removal or deportation from the U.S. while in such status.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 10,000 respondents at 30 minutes (.5) hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 5,000 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: October 28, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–29047 Filed 10–31–97; 8:45 am]

BILLING CODE 4410–18–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (97–160]

National Environmental Policy Act; Earth Obeerving System Program

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Finding of no significant impact.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321, *et seq.*), the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA (40 CFR Parts 1500–1508), and NASA policy and procedures (14 CFR Part 1216 Subpart 1216.3), NASA has made a finding of no significant impact (FONSI) with respect to the proposed Earth Obeerving System (EOS) Program, which would involve a series of Earth orbiting spacecraft to be launched over the time period of 1998 through 2014 from Vandenberg Air Force Base (VAFB), California.

DATES: Comments on the FONSI must be provided in writing to NASA on or before December 3, 1997.

ADDRESSES: Written comments should be addressed to Mr. Richard T. Beck, Deputy Director (Resources), Mission to Planet Earth Office, Code 170, NASA/Goddard Space Flight Center, Greenbelt, MD 20711. The Programmatic Environmental Assessment (PEA) prepared for the Earth Obeerving System Program which supports this FONSI may be reviewed at the following locations:

(a) NASA Headquarters, Library, Room 1J20, 300 E Street, SW, Washington, DC 20546.

(b) VAFB, Technical Library, Building 7015, 806 13th Street, Vandenberg AFB, CA 39437.

(c) Jet Propulsion Laboratory, Visitors Lobby, Building 249, 4800 Oak Grove Drive, Pasadena, CA 91109 (818–354–5179).

(d) Spaceport USA, Room 2001, John F. Kennedy Space Center, Florida, 32899. Please call Lisa Fowler beforehand at 407–867–2497 so that arrangements can be made.

The PEA may also be examined at the following NASA locations by contacting the pertinent Freedom of Information Act Office:

(e) NASA, Ames Research Center, Moffett Field, CA 94035 (650–604–4190).

(f) NASA, Dryden Flight Research Center, Edwards, CA 93523 (805–258–3448).

(g) NASA, Goddard Space Flight Center, Greenbelt, MD 20771 (301–286–0730).

(h) NASA, Johnson Space Center, Houston, TX 77058 (281–483–8612).

(i) NASA, Langley Research Center, Hampton, VA 23665 (757–864–2497).

(j) NASA, Lewis Research Center, 21000 Brookpark Rd, Cleveland, OH 44135 (216–433–2222).

(k) NASA, Marshall Space Flight Center, Huntsville, AL 35812 (205–544–0031).

(l) NASA, Stennis Space Center, MS 39529 (601–688–2164).

A limited number of copies of the PEA are available by contacting Mr. Richard T. Beck at the address or telephone number indicated herein.

FOR FURTHER INFORMATION CONTACT: Mr. Richard T. Beck, 301–286–6613.

SUPPLEMENTARY INFORMATION: NASA has reviewed the PEA prepared for the EOS Program and has determined that it represents an accurate and adequate analysis of the scope and level of associated environmental impacts. The PEA is incorporated by reference in this FONSI.

NASA is proposing to develop, build and launch a series of investigative spacecraft designed to provide global science data from a low-altitude, Sun-synchronous orbit over the time period of 1998 through 2014 from VAFB, California. EOS investigations would study the atmosphere, oceans, biosphere, land surface, and solid Earth systems. Spacecraft final assembly, propellant loading and checkout of payload systems would be performed in Payload Processing Facilities at VAFB. The spacecraft would then be transported to a Space Launch Complex at VAFB where it would be integrated with the launch vehicle. Due to varying payload weights and orbital requirements, Earth Observing System (EOS) spacecraft would require different launch vehicles. The launch vehicle selected as an environmental "bounding case" is the Delta II 7925.

The EROS Flight and Science projects focus on defining the state of the Earth system, understanding its basic processes, and developing and applying predictive models of these processes. All EROS instrument payloads are designed to measure physical Earth system phenomena from which specific data products can be derived. This effort would consist of both focused, disciplinary research centered around a specific data set and interdisciplinary research geared toward a broader exploration of systemic functions. Collecting data from the vantage point of space would provide information about Earth's land, atmosphere, oceans, ice and biota that is obtainable in no other way. In concert with the global research community, the EOS Program would spearhead the development of scientific knowledge required to support the complex national and international environmental policy decisions that lie ahead.

Alternative to the proposed action that were considered included those that: (1) utilize an alternate launch vehicle, (2) utilize an alternate launch site, or (3) cancel the Earth Observing System Program (the "no action" alternative). Failure to undertake the EOS Program would impede scientific progress toward understanding the natural environment and its response to human activity and would cause more U.S. dependence on foreign acquisition of these data. The resultant loss of continuity in Earth observation data acquisition could lead to not meeting national priorities with respect to management of the environmental global commons and may result in ineffective policy decisions with respect to managing the global commons. Of the launch vehicles evaluated, U.S. launch vehicles proposed for launch of EOS spacecraft (specifically the Atlas IIAS, Delta II 7925, Medium-Lite Expendable Launch Vehicles and the Pegasus) are best suited for the EOS Program for the following reasons: (1) the alternative launch vehicles examined are approximately equal in their potential impact to the environment, and these impacts are not substantial; (2) U.S. launch vehicles proposed closely match EOS performance requirements and allow for variations in payload size and weight; and (3) selected launch vehicles cost the same or less than the examined alternatives and are similar in terms of reliability. Of the launch sites evaluated, VAFB is best suited for the EOS Program for the following reasons: (1) the majority of EOS spacecraft would be launched to polar orbits, which require an orbital inclination greater than the maximum allowable inclination for Cape Canaveral Air Station launches; and (2) available information in the detail necessary to make a judgment as to environmental impact and differences in philosophy with regard to overflight of land for acceptable launch trajectory and debris risk is unavailable for foreign launch sites.

Expected impacts to the human environment associated with the program are bounded by and arise almost entirely from the normal launch of the Delta II 7925. Air emissions from the exhaust produced by the solid propellant graphite epoxy motors and liquid first stage primarily include carbon monoxide, hydrochloric acid, aluminum oxide in soluble and insoluble forms, carbon dioxide, and deluge water mixed with propellant by-products. Air impacts would be short-term and not substantial. Short-term water quality and noise impacts, as well as short-term effects on plants, and animals, would occur only in the vicinity of the launch complex. There would be no impact on threatened or endangered species of critical habitat, cultural resources, wetlands or floodplains. The EOS Program would follow the NASA guidelines regarding orbital debris and minimizing the risk of uncontrolled reentry into the Earth's atmosphere. Accident scenarios have also been addressed. None of the EOS Program missions will have radioactive materials aboard the spacecraft, except for the possibility of minute quantities on certain missions for instrumentation purposes. Consequently, no adverse impacts from radioactive substances are anticipated. No other individual or cumulative impacts of environmental concern have been identified.

The level and scope of environmental impacts associated with the launch of EOS spacecraft are well within the envelope of impact that have been addressed in previous FONSI's concerning other launch vehicles and spacecraft. EOS spacecraft would not increase launch rates nor utilize launch systems beyond the scope of approved programs at VAFB. No EOS-specific processing or launch activities have been identified that would require new permits and/or mitigation measures beyond those currently in place or in coordination at VAFB. No significant new circumstances or information relevant to environmental concerns associated with the launch vehicle have been identified which would affect the earlier findings. As specific spacecraft and missions are fully defined, they will be reviewed in light of the PEA. If any fall outside of the scope of the PEA, further NEPA review will be conducted, as necessary.

On the basis of the EOS, PEA, NASA has determined that the environmental impacts associated with the program would not individually or cumulatively have a significant impact on the quality of the human environment. NASA will take no final action prior to the expiration of the 30-day comment period.

William F. Townsend,

Acting Associate Administrator for Mission to Planet Earth.

[FR Doc. 97–28966 Filed 10–31–97; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Humanities; Notice of A Meeting

October 28, 1997.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that a meeting of the National Council on the Humanities will be held in Washington, D.C. on November 20–21, 1997.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out his functions, to review applications for financial support submitted, and gifts offered to, the Endowment, and to make recommendations thereon to the Chairman.

The meeting will be held in the Old Post Office Building, 1100 Pennsylvania Avenue, N.W., Washington, D.C. A portion of the morning and afternoon sessions on November 20–21, 1997, will not be open to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code because the Council will consider information that may disclose: trade secrets and commercial or financial information obtained from a person and privileged or confidential; information of a personal nature the disclosure of which will constitute a clearly unwarranted invasion of personal privacy; and information the disclosure of which would significantly frustrate implementation of proposed agency action. I have made this determination under the authority granted me by the Chairman's Delegation of Authority dated July 19, 1993.

The agenda for the session on November 20, 1997 will be as follows:

Committee Meetings

(Open to the Public)

9:00–10:30 a.m.

Policy Discussion
Research/Education Programs—Room M–07
Public Programs—Room 420
Challenge Grants and Preservation and Access—Room 415

9:30–12:00 p.m.

Federal/State Partnership—Room 507

(Closed to the Public)

10:30 a.m. until Adjourned

Discussion of specific grant applications before the Council

1:00–3:00 p.m.

Jefferson Lecture Committee—Room 430

The morning session on November 21, 1997 will convene at 10:00 a.m. in the 1st Floor Council Room, M–09. The session will be open to the public as set forth below:

I. Minutes of the Previous Meeting
II. Reports
A. Introductory Remarks
B. Staff Introductions
C. Budget Report
D. Congressional Report
E. Committee Reports on Policy & General Matters
1. Overview
2. Research and Education Programs
3. Public Programs
4. Federal/State Partnership
5. Preservation and Access and Challenge Grants
6. Jefferson Lecture

The remainder of the proposed meeting will be closed to the public for the reasons stated above. Further information about this meeting can be obtained from Ms. Nancy E. Weiss, Advisory Committee Management Officer, Washington, D.C. 20506, or call area code (202) 606–8322, TDD (202) 606–8282. Advance notice of any special needs or accommodations is appreciated.

Nancy E. Weiss,

Advisory Committee Management Officer.

[FR Doc. 97–28968 Filed 10–31–97; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meeting of Humanities Panel

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania, N.W., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Nancy E. Weiss, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential and/or information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that this meeting will be closed to the public pursuant to subsections (c)(4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* November 3, 1997.
Time: 9:00 a.m. to 5:00 p.m.
Room: 415.
Program: The purpose of this meeting is to review applications submitted to Preservation and Access for the deadline of July 1, 1997.

2. *Date:* November 13, 1997.
Time: 9:00 a.m. to 5:00 p.m.
Room: 415.
Program: The purpose of this meeting is to review applications submitted to Preservation and Access for the deadline of July 1, 1997.

3. *Date:* November 18, 1997.
Time: 9:00 a.m. to 5:00 p.m.
Room: 415.
Program: The purpose of this meeting is to review applications submitted to Preservation and Access for the deadline of July 1, 1997.

Nancy E. Weiss,

Advisory Committee Management Officer.

[FR Doc. 97–28969 Filed 10–31–97; 8:45 am]

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATES: Weeks of November 3, 10, 17, and 24, 1997.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of November 3

Tuesday, November 4

10:00 a.m. Briefing by the Executive Branch (Closed—Ex. 1)

11:00 a.m. Briefing on Investigative Matters (Closed—Ex. 5 & 6)
2:00 p.m. Meeting with Commonwealth Edison (Public Meeting) (Contact: Bob Capra—301–415–1395)

Wednesday, November 5

9:30 a.m. Briefing on Proposed Resolution to a Petition for Rulemaking Relating to Use of Potassium Iodide (KI) following Severe Accident at a Nuclear Power Plant (Public Meeting)
11:00 a.m. Affirmation Session (Public Meeting)

(Please Note: These items will be affirmed immediately following the conclusion of the preceding meeting)

a. Final Amendments to 10 CFR Part 73, "Changes to Nuclear Power Plants Security Requirements"
b. Final rule on Exempt Distribution and Use of a Radioactive Drug Containing One Microcurie of Carbon 14 Urea (Parts 30 and 32)

Week of November 31—Tentative

There are no meetings the week of November 10.

Week of November 17—Tentative

Friday, November 21

11:30 a.m. Affirmation Session (Public Meeting) (if needed)

Week of November 24—Tentative

There are no meetings the week of November 24.

ADDITIONAL INFORMATION: The Commission meeting, "Briefing on Staff's Plans for 50.59 Regulatory Process Improvements," previously scheduled on Wednesday, November 5, has been postponed. The rescheduled date for the meeting has not been set.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (Recording)—(301) 415–1292.

CONTACT PERSON FOR MORE INFORMATION: Bill Hill (301) 415–1661.

The NRC Commission Meeting Schedule can be found on the Internet at:http://www.nrc.gov/SECY/smj/schedule.htm

This notice is distributed by mail to several hundred subscribers: if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661).

In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

Dated: October 29, 1997.

William M. Hill, Jr.,

Secretary Tracking Officer, Office of the Secretary.

[FR Doc. 97–29135 Filed 10–30–97; 12:24 p.m.]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Workshop Notice To Solicit Public Comments on Draft Regulatory Guide and Standard Review Plan Section for Risk-Informed Inservice Inspection Programs for Piping at Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of change in date for workshop.

SUMMARY: The **Federal Register** notice, dated October 15, 1997 (Volume 62, Number 199, page 53663) announced the availability and solicited public comment on drafts of a regulatory guide and a Standard Review Plan Section for risk-informed inservice inspection programs for piping. These issuances follow the Commission's August 16, 1995 (60 FR 42622) policy statement on the "Use of PRA Methods in Nuclear Regulatory Activities." In June 1997, the NRC published for public comment (62 FR 34321) four draft guides, three standard review plans and a NUREG series document on the use of PRA in nuclear power reactor licensing. The NRC is developing guidance for power reactor licensees on acceptable methods for using probabilistic risk assessment (PRA) information and insights in support of plant-specific applications to change the current licensing basis (CLB) for inservice inspection of piping, known as risk-informed inservice inspection (RI–ISI) programs. The use of such PRA information and guidance will be voluntary. To facilitate comment, the Commission will conduct a workshop to explain the draft documents and answer questions.

DATES: The workshop will be held on November 20–21, 1997 (not on November 19th, as announced in the October 15, 1997, **Federal Register**).

Registration

There is no registration fee for this workshop. However, we request that interested parties register in writing to Kesselman-Jones, 8912 James Ave., NE., Albuquerque, NM 87111, their intent on participating in the workshop. Please include name, organization, address and phone number with your registration request. Notification of attendance (e.g., pre-registration) is requested so that adequate space, etc., for the workshop can be arranged. Questions regarding meeting registration or fees should be directed to Kesselman-Jones, phone (505) 271–0003, fax (505) 271–0482, e-mail kesjones@aol.com.

Onsite registration begins on November 19 at 3:00 P.M. The comment period expires on January 13, 1997. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date. See the October 15, 1997 Notice for additional details.

Implementation

It is intended that the risk-informed regulatory guide on inservice inspection of piping (DG–1063), and its associated Standard Review Plan Section 3.9.8, be published by early to mid CY 1998.

Dated at Rockville, Maryland, this 29th day of October 1997.

For the Nuclear Regulatory Commission.

Mark A. Cunningham,

Chief, Probabilistic Risk Analysis Branch, Division of Systems Technology, Office of Nuclear Regulatory Research.

[FR Doc. 97–28989 Filed 10–31–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

NRC/Nuclear Pharmacy and Radiopharmaceutical Manufacturer Industry—Public Workshop on the Public Comments on Draft Regulatory Guides DG–0006 and DG–0007

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The U.S. Nuclear Regulatory Commission will be holding a public meeting to discuss the public comments received on two draft regulatory guides: Draft Regulatory Guide DG–0006, "Guide for the Preparation of Applications for Commercial Nuclear Pharmacy Licenses," and Draft Regulatory Guide DG–0007, "Guide for the Preparation of Applications for Licenses to Authorize Distribution of Various Items to Commercial Nuclear Pharmacies and Medical Use Licensees." These documents provide guidance to individuals applying for commercial nuclear pharmacy and radiopharmaceutical manufacturer distribution licenses. Representatives of these categories of licensees have been invited to discuss the public comments on the draft guides and the staff's proposed resolutions of the comments, as well as alternative solutions presented at the meeting. (Draft Regulatory Guide DG–0007 also includes guidance for sealed source and device manufacturers, but since this guidance was not changed, it will not be discussed at this meeting.) The workshop will be held at NRC Headquarters in Rockville, MD.

DATES: The meeting will begin at 8:30 a.m. and close at 4:30 p.m., on November 21, 1997.

ADDRESSES: U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike (Auditorium), Rockville, MD 20852–2738.

FOR FURTHER INFORMATION CONTACT: Donna-Beth Howe, Ph.D., U.S. Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, MS T8F5, Washington, DC 20555, telephone (301) 415–7848, e-mail dbh@nrc.gov.

SUPPLEMENTARY INFORMATION: NRC published three draft regulatory guides, in March 1997, for public comment. Two of the draft guides (Draft Regulatory Guide DG–0006, "Guide for the Preparation of Applications for Commercial Nuclear Pharmacy Licenses," and Draft Regulatory Guide DG–0007, "Guide for the Preparation of Applications for Licenses to Authorize Distribution of Various Items to Commercial Nuclear Pharmacies and Medical Use Licensees") provide guidance to individuals applying for commercial nuclear pharmacy and radiopharmaceutical manufacturer distribution licenses issued pursuant to Title 10, *U.S. Code of Federal Regulations* (10 CFR) part 32, "Specific Domestic Licenses to Manufacture or Transfer Certain Items Containing Byproduct Material." The third draft guide (Draft Regulatory Guide DG–0009, "Proposed Supplement to Regulatory Guide 10.8, Revision 2, "Guide for the Preparation of Applications for Medical Use Programs'") provides guidance for part 35 medical use licensees. The official comment period for all three guides closed July 31, 1997.

On November 21, 1997, NRC will be holding a public meeting, at NRC Headquarters, with invited nuclear pharmacy and radiopharmaceutical manufacturer industry representatives to discuss the public comments received on DG–0006 and DG–0007 and staff's proposed resolutions of these comments, as well as any alternatives presented at the meeting. In addition, the staff will explore, with the meeting participants, the extent to which these regulatory guides allow for flexibility in the licensing process and represent risk-informed and performance-oriented guidance.

The workshop will not address the third draft guide (DG–0009), which is for 10 CFR part 35 medical use licensees, and will not include discussion of the staff's efforts to revise part 35. Separate public meetings are being held to solicit public input on the revision of 10 CFR part 35 (62 FR 53249).

Larry W. Camper, Chief, Medical, Academic, and Commercial Use Safety Branch, will chair the workshop. To ensure participation by the spectrum of interests that may be impacted by the regulatory guides, a panel of nuclear pharmacy and radiopharmaceutical manufacturer industry representatives has been invited and will lead the discussion. Other members of the public are welcome to attend, and the public will have the opportunity to comment at periodic intervals during the workshop. To keep the workshop focused on the public comments and the staff's resolution of those comments, the workshop will have a pre-defined agenda, but the format will be sufficiently flexible to allow for the introduction of alternative resolutions to the comments and related issues that the participants may want to raise. The workshop commentary will be transcribed and made available to the invited participants and the public.

Persons who wish to provide a written statement should submit a reproducible copy to Dr. Howe (address listed previously) by November 15, 1997. Statements must pertain to the specific scope of the workshop. Persons who wish to obtain copies of the draft regulatory guides and public comments received may contact the NRC Public Document Room (PDR) or Dr. Howe.

The transcript and written comments will be available for inspection, and copying, for a fee, at the NRC PDR, 2120 L Street, N.W., Lower Level, Washington, DC 20555, or by writing to the U.S. Nuclear Regulatory Commission, Attention: NRC Public Document Room, Washington, DC 20555–0001, or by phoning (202) 634–3273, on or about December 1, 1997.

Dated at Rockville, MD this 28th day of October 1997.

For the Nuclear Regulatory Commission.

Steven L. Baggett,

Acting Chief, Medical, Academic and Commercial Use Safety Branch, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 97–28990 Filed 10–31–97; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings, Agreements Filed During the Week of October 24, 1997

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–97–3027.
Date Filed: October 20, 1997.
Parties: Members of the International Air Transport Association.
Subject: PTC31 N/C 0040 dated October 14, 1997 r1–6, PTC31 N/C 0041 dated October 14, 1997 r7–8, PTC31 N/C 0042 dated October 14, 1997 r9, Expedited North & Central Pacific Resos, Intended effective date: as early as November 15, 1997.

Docket Number: OST–97–3028.
Date Filed: October 20, 1997.
Parties: Members of the International Air Transport Association.
Subject: PTC31 N/C 0039 dated October 14, 1997 r1 (015v), PTC31 N/C 0043 dated October 14, 1997 r2 (002p), Expedited North & Central Pacific Reso, Intended effective date: as early as November 15, 1997.

Docket Number: OST–97–3029.
Date Filed: October 20, 1997.
Parties: Members of the International Air Transport Association.
Subject: PTC123 0007 dated October 17, 1997, North/Mid/South Atlantic Expedited Reso 002q, Intended effective date: January 1, 1997.

Docket Number: OST–97–3030.
Date Filed: October 20, 1997.
Parties: Members of the International Air Transport Association.
Subject: PTC23 EUR–WP 0014 dated October 17, 1997, Europe-Southwest Pacific Expedited Resos r1–002j r2–015v, Intended effective date: December 1, 1997.

Docket Number: OST–97–3035.
Date Filed: 10/22/97.
Parties: Members of the International Air Transport Association.
Subject: PTC23 Telex Mail Vote 895, Zimbabwe-South Pacific fare increase,

Intended effective date: November 10, 1997.

Paulette V. Twine,

Documentary Services.

[FR Doc. 97–29008 Filed 10–31–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Notice of Application for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending October 24, 1997

The following Applications for Certificate of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–97–3036.
Date Filed: October 22, 1997.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 19, 1997.
Description: Application of Singapore Airlines Limited pursuant to 49 U.S.C., Section 41301, and Subpart Q of the Regulations, applies for an amendment to its foreign air carrier permit authorizing SIA to operate scheduled combination and all-cargo services on the following routing: From points behind Singapore via Singapore and intermediate points to a point or points in the United States and beyond.

Docket Number: OST–97–3040.
Date Filed: October 23, 1997.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 20, 1997.
Description: Application of Valujet Airlines, inc. d/b/a Air Tran Airlines, pursuant to U.S. CFR Part 215, and Subpart Q of the Regulations, requests the Department to register its new corporate name AIRTRAN AIRLINES, INC., reissue its Certificate in the name of AIRTRAN AIRLINES, INC., and grant such other relief that it may find to be in the public interest. It is further requested that the effective date for all such changes be November 18, 1997.

Docket Number: OST–97–3049.
Date Filed: October 24, 1997.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 21, 1997.
Description: Application of AIRPortland, Inc., pursuant to U.S.C. Section 41102 and Subpart Q of the Regulations, applies for a certificate of public convenience and necessity authorizing interstate scheduled air transportation of persons, property and mail: Between any point in any state in the United States or the District of Columbia, or any territory or possession of the United States, and any other point in any state of the United States or the District of Columbia, or any territory or possession of the United States.

Paulette V. Twine,

Documentary Services.

[FR Doc. 97–29009 Filed 10–31–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; Training and Qualifications Issues—New Task

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Notice of new task assignments for the Aviation Rulemaking Advisory Committee (ARAC).

SUMMARY: Notice is given of new tasks assigned to and accepted by the Aviation Rulemaking Advisory Committee (ARAC). This notice informs the public of the activities of ARAC.

FOR FURTHER INFORMATION CONTACT: Tom Toula, Federal Aviation Administration, Flight Standards Service, AFS–210, 800 Independence Avenue, SW., Washington, DC 20591; phone (202) 267–3729; fax (202) 267–5229.

SUPPLEMENTARY INFORMATION:

Background

The FAA has established an Aviation Rulemaking Advisory Committee to provide advice and recommendations to the FAA Administrator, through the Associate Administrator for Regulation and Certification, on the full range of the FAA's rulemaking activities with respect to aviation-related issues. This includes obtaining advice and recommendations on the FAA's commitment to harmonize its Federal Aviation Regulations (FAR) and practices with its trading partners in Europe and Canada.

One area ARAC deals with is training and qualifications issues. These issues involve training and qualification of air carrier crewmembers and other air transport employees.

The Tasks

This notice is to inform the public that the FAA has asked ARAC to provide advice and recommendation on the following harmonization tasks:

Task 1. Determine the benefits of licensing harmonization.

Task 2. Define criteria for Federal Aviation Administration (FAA) conversion of Joint Aviation Authorities (JAA) issued licenses, and for JAA conversion of FAA issued licenses. Consider only the Airline Transport Pilot license, except where that license might convert to only a Commercial pilot license. Include a review of type and class ratings and instructor ratings and qualifications, as and if necessary.

Task 3. Develop a recommendation, with justification, on whether the product (i.e., a specific level of license or certificate) should be harmonized, or the process (i.e., the curriculum, prerequisite experience, length of training, etc.) should be harmonized.

(a) If recommending that the product should be harmonized, develop a matrix of essential requirements for the FAA and JAA to impose on license holders of the other in order to convert licenses.

(b) If recommending that the process should be harmonized, develop a matrix of specific differences and how those differences should be equalized.

(c) Make specific recommendations about which FAA regulations or Joint Aviation Requirements should be changed to achieve the recommended actions. Any recommendations requiring changes to Title 14 of the Code of Federal Regulations must be forwarded to the FAA for consideration of rulemaking priority, resource allocation, and additional tasking to ARAC to develop rulemaking, as appropriate.

Task 4. Review the current standards of 14 CFR sections 61.75 and 61.77 as part of the overall task. In light of this review, recommend appropriate guidance material that could later be incorporated into advisory material or an appendix to 14 CFR part 61 that contains the criteria developed in task 3 (a) or (b) above.

The FAA expects ARAC to complete these tasks within 12 months and submit a report through ARAC to the FAA and to the JAA.

ARAC Acceptance of Tasks

ARAC has accepted the tasks and has chosen to establish a new Licensing Harmonization Working Group. The working group will serve as staff to ARAC to assist ARAC in the analysis of the assigned task. Working group recommendations must be reviewed and approved by ARAC. If ARAC accepts the working group's recommendations, it forwards them to the FAA as ARAC recommendations.

Working Group Activity

As is the case with all harmonization working groups, meetings of the Licensing Harmonization Working Group will be held alternatively between the United States and Europe. Tentatively, the next two meetings will be held in Washington, DC, in January 1998 and in Hoofddorp, The Netherlands, in February 1998.

The Licensing Harmonization Working Group is expected to comply with the procedures adopted by ARAC. As part of the procedures, the working group is expected to:

1. Recommend to ARAC a work plan for completion of the tasks, including the rationale supporting such a plan, for consideration at the meeting of ARAC to consider Training and Qualifications Issues held following publication of this notice.

2. Give a detailed conceptual presentation to ARAC of the proposed recommendations, prior to proceeding with the work stated in item 3 below.

3. Provide a status report at each meeting of ARAC held to consider Training and Qualifications Issues.

Participation in the Working Group

The Licensing Harmonization Working Group is composed of experts having an interest in the assigned task. A working group member need not be a representative of a member of the full committee.

An individual who has expertise in the subject matter and wishes to become a member of the working group should write to the person listed under the caption **FOR FURTHER INFORMATION CONTACT** expressing that desire, describing his or her interest in the tasks, and stating the expertise he or she would bring to the working group. The request will be reviewed by the assistant chair, the assistant executive director, and the working group chair, and the individual will be advised whether or not the request can be accommodated. Requests to participate on the Licensing Harmonization Working Group should be submitted no later than November 28, 1997. To the extent possible, the composition of the working group will be balanced among the aviation interests selected to participate.

The Secretary of Transportation has determined that the formation and use of ARAC are necessary and in the public interest in connection with the performance of duties imposed on the FAA by law.

Meetings of ARAC will be open to the public. Meetings of the Licensing Harmonization Working Group will not be open to the public, except to the extent that individuals with an interest and expertise are selected to participate. No public announcement of working group meetings will be made.

Issued in Washington, DC, on October 29, 1997.

Thomas K. Toula,

Assistant Executive Director for Training and Qualifications Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 97–29016 Filed 10–31–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA, Inc. Special Committee 187; Mode Select Beacon and Data Link System

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for Special Committee 187 meeting to be held on November 18, 1997, starting at 9:00 a.m. The meeting will be held at RTCA, 1140 Connecticut Avenue, N.W., Suite 1020, Washington, DC, 20036.

The agenda will be as follows: (1) Introductory Remarks; (2) Review and Approval of the Agenda; (3) Review and Approval of the Summary of the Previous Meeting; (4) Review and Approval of Change 3 to RTCA/DO–181A; (5) Review and Approval of Change 2 to RTCA/DO–218; (6) Other Business; (7) Date and Place of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, N.W., Suite 1020, Washington, D.C. 20036; (202) 833–9339 (phone); (202) 833–9434 (fax); or http://www.rtca.org (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on October 27, 1997.

Janice L. Peters,

Designated Official.

[FR Doc. 97–28986 Filed 10–31–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose a Passenger Facility Charge (PFC) at Marquette County Airport, Marquette, MI and to Use the Revenue at Sawyer Airport, Marquette, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Marquette County Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before December 3, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address:

Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Harold R. Pawley, Airport Manager, of the County of Marquette Airport, at the following address: 198–B Airport Road, Negaunee, Michigan 49866.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the County of Marquette under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Jon Gilbert, Program Manager, Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111 (313) 487–7281). The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose a PFC at Marquette County Airport and use the revenue at Sawyer Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On October 15, 1997, the FAA determined that the application to

impose and use a PFC submitted by Marquette County was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than January 17, 1998.

The following is a brief overview of the application.

PFC Application No.: 97–04–C–00–MQT.

Level of the proposed PFC: $3.00.

Proposed charge effective date: November 1, 1997.

Proposed charge expiration date: December 31, 1999.

Total estimated PFC revenue: $673,968.00.

Brief description of proposed projects at Sawyer Airport: (1) Airport Master Plan, (2) Install MALSR on Runway 01, (3) Construct Terminal Building—Design Only, (4) Install High Intensity Runway Lights (HIRL) on Runway 01/19, including airfield signs and marking, (5) Construct Terminal Building, (6) Install Security Fence (9,700± L.F.), and (7) Update Exhibit "A" Property Map.

Class or classes of air carriers which the public agency has requested not be required to collect PFC's: FAR Part 135 operators who file Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice, and other documents germane to the application in person at the Marquette County Airport.

Issued in Des Plaines, Illinois, on October 24, 1997.

Benito De Leon,

Manager, Planning/Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 97–28987 Filed 10–31–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Indiana County, PA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Indiana County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: David W. Cough, P.E. District Engineer, Federal Highway Administration, Pennsylvania Division Office, 228 Walnut Street, Harrisburg, PA 17101–1720, Telephone: (717) 221–3411 -OR- Raymond Schilling, P.E., Project Manager, Pennsylvania Department of Transportation, District 10–0, Route 286 South, Box 429, Indiana, PA 15701, Telephone: (412) 357–2800.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Pennsylvania Department of Transportation (PennDOT), will prepare an Environmental Impact Statement (EIS) on a proposal to identify and evaluate alternatives for transportation improvements to a 13.4 kilometer (8.3 mile) section of US 119 from US 22 at Blairsville, Pennsylvania to the US 119 intersection with State Route 56 in Homer City, Pennsylvania. Included in the proposed project will be the identification of a range of alternatives that meet the identified project need, and supporting environmental documentation and analysis to recommend a selected alternative for implementation. A complete public involvement program is part of the proposed project. Cooperating agencies for this proposed project are the U.S. Environmental Protection Agency, the U.S. Army Corps of Engineers, and the PA Department of Environmental Protection.

Documentation of the need for the proposed project was completed in 1991. The need for roadway improvements for the proposed project was based on transportation and public/social service demands, economic development, and consistency with regional and local land use planning. A Preliminary Alternative Analysis Report was prepared in 1991 to identify and evaluate potential alternatives which would meet the project need. As a result of the preliminary alternatives analysis and public input, additional alternatives are being studied.

Alternatives under consideration include: No Build; Transportation System Management (TSM); Widen left on existing alignment; Widen right on existing alignment; Widening alternative that combines widening left and right; three eastern off-line alignments; and two western off-line alignments. These alternatives will be the basis for recommendation of alternatives to be carried forward for detailed environamental and engineering studies in the EIS. Incorporated into and studied with the various build alternatives will be design variations of grade and alignment.

Letters describing the proposed actions and soliciting comments will be sent to appropriate federal, state and local agencies and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. Public meetings will be held in the area throughout the study process. Public involvement and agency coordination will be maintained throughout the development of the EIS.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to FHWA or PennDOT at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued: October 23, 1997.

J. Stephen Gukin,

FHWA Assistant Division Administrator, Harrisburg, Pennsylvania.

[FR Doc. 97–29015 Filed 10–31–97; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Office of the Assistant Secretary for Economic Policy

Survey of United States Ownership of Foreign Long-Term Securities as of December 31, 1997

AGENCY: Department Offices, Department of the Treasury.

ACTION: Notice of reporting requirements.

SUMMARY: By this Notice, the Department of the Treasury is informing the public that it is conducting a mandatory survey of the ownership of foreign long-term securities by United States residents as of December 31, 1997. This Notice constitutes legal notification to all United States persons (defined below) who meet the reporting requirements set forth in this Notice that they must respond to, and comply with, this survey. United States persons who meet the reporting requirements but who do not receive a set of the survey forms and instructions should contact the Department of the Treasury at (202) 622–2240 to obtain a copy.

Definition: A U.S. person is any individual, branch, partnership, associated group, association, estate, trust, corporation, or other organization (whether or not organized under the laws of any State), and any government (including a foreign government, the United States Government, a state, provincial, or local government, and any agency, corporation, financial institution, or other entity or instrumentality thereof, including a government-sponsored agency), who resides in the United States or is subject to the jurisdiction of the United States.

Who Must Report: The following U.S. persons must report on this survey:

—U.S. persons who manage as custodians the safekeeping of foreign long-term securities (as specified below) for United States persons. These U.S. persons, who include the affiliates in the United States of foreign entities, must report on this survey if the total market value of the foreign long-term securities whose safekeeping they manage on behalf of U.S. persons—aggregated over all accounts and for all branches and affiliates of their firm—is $20 million or more as of December 31, 1997.

—U.S. persons who own foreign long-term securities, if the total market value of their securities owned is $20 million or more as of December 31, 1997.

What To Report: The survey will measure U.S. holdings of all foreign equity securities, and all foreign debt securities with an original term-to-maturity in excess of one year.

How To Report: Copies of the survey forms and instructions, which contain complete information on reporting procedures, can be obtained by contacting the survey staff at (202) 622–2240.

When To Report: Data should be submitted to the Department of the Treasury by March 31, 1998.

Dated: October 22, 1997.

Robert Gillingham,

Deputy Assistant Secretary Policy Coordination.

[FR Doc. 97–29021 Filed 10–31–97; 8:45 am]

BILLING CODE 4810–25–M

Corrections

Federal Register
Vol. 62, No. 212
Monday, November 3, 1997

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 970829214–7214–01; I.D. 082097B]

RIN 0648–AJ76

Magnuson-Stevens Act Provisions; Observer Health and Safety

Correction

In proposed rule document 97–28440, beginning on page 55774, in the issue of Tuesday, October 28, 1997, make the following correction:

On page 55775, in the second column, in the last line, "49464" should read "49463".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 600 and 606

[Docket No. 97N-0242]

Biological Products; Reporting of Errors and Accidents in Manufacturing

Correction

In proposed rule document 97–25129 beginning on page 49642, in the issue of Tuesday, September 23, 1997, make the following correction:

On page 49642, in the second column, in the **DATES** section, in the last line, "March 23, 1998." should read "180 days after its date of publication in the **Federal Register**."

BILLING CODE 1505-01-D

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Collection; Comment Request

Correction

In notice document 97–28258, beginning on page 55428, in the issue of Friday, October 24, 1997 make the following corrections:

On page 55429, in the first column:

1. Under the heading *OMB Number*, "15-0037" should read "1215-0037".

2. Above the signature line, "Dated: October 2, 1997" should read "Dated: October 20, 1997".

BILLING CODE 1505-01-D

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-315 and 50-316]

Indiana Michigan Power Company; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination and Opportunity for a Hearing

Correction

In notice document 97–28003, beginning on page 54861, in the issue of Wednesday, October 22, 1997 make the following correction:

On page 54863, in the second column, in the second full paragraph, in the third line "October 8, 1997" should read "September 19, 1997".

BILLING CODE 1505-01-D

federal register

Monday
November 3, 1997

Part II

Environmental Protection Agency

40 CFR Parts 141 and 142
National Primary Drinking Water Regulations: Disinfectants and Disinfection Byproducts; Notice of Data Availability; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 141 and 142

[WH–FRL–5915–5]

National Primary Drinking Water Regulations: Disinfectants and Disinfection Byproducts Notice of Data Availability

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Notice of data availability.

SUMMARY: In 1994 USEPA proposed a Stage 1 Disinfectants/Disinfection Byproducts Rule (DBPR) to reduce the level of exposure from disinfectants and disinfection byproducts (DBPs) in drinking water (USEPA, 1994b). This Notice of Data Availability summarizes the 1994 proposal; describes new data and information that the Agency has obtained and analyses that have been developed since the proposal; provides information concerning recommendations of the Microbial-Disinfection/Disinfectants Byproducts (M–DBP) Advisory Committee (chartered in February 1997 under the Federal Advisory Committee Act) on key issues related to the proposal; and requests comment on these recommendations as well as on other regulatory implications that flow from the new data and information. USEPA solicits comment on all aspects of this Notice and the supporting record. The Agency also solicits additional data and information that may be relevant to the issues discussed in the Notice. USEPA is particularly interested in public comment on the Committee's recommendations and whether the Agency should reflect these recommendations in the final rule. USEPA also requests that any information, data or views submitted to the Agency since the close of the comment period on the 1994 proposal that members of the public would like the Agency to consider as part of the final rule development process be resubmitted during this current 90-day comment period unless already in the underlying record in the Docket for this Notice.

The Stage 1 DBPR would apply to community water systems and nontransient noncommunity water systems that treat their water with a chemical disinfectant for either primary or residual treatment. In addition, certain requirements for chlorine dioxide would apply to transient noncommunity water systems because of the short-term health effects from high levels of chlorine dioxide.

Key issues related to the Stage 1 DBPR that are addressed in this Notice include the establishment of Maximum Contaminant Levels for total trihalomethanes, five haloacetic acids, bromate and chlorite; requirements for enhanced coagulation and enhanced softening; disinfection credit; health effects information; and analytical methods.

Today's **Federal Register** also contains a related Notice of Data Availability for the Interim Enhanced Surface Water Treatment Rule (IESWTR). USEPA proposed this rule at the same time as the Stage 1 DBPR and plans to promulgate it along with the Stage 1 DBPR in November 1998.

DATES: Comments should be postmarked or delivered by hand on or before February 3, 1998. Comments must be received or post-marked by midnight February 3, 1998.

ADDRESSES: Send written comments to DBP NODA Docket Clerk, Water Docket (MC–4101); U.S. Environmental Protection Agency; 401 M Street, SW; Washington, DC 20460. Please submit an original and three copies of your comments and enclosures (including references). If you wish to hand-deliver your comments, please call the Docket between 9:00 a.m. and 4 p.m., Monday through Friday, excluding legal holidays, to obtain the room number for the Docket. Comments may be submitted electronically to ow-docket@epamail.epa.gov.

FOR FURTHER INFORMATION CONTACT: The Safe Drinking Water Hotline, Telephone (800) 426–4791. The Safe Drinking Water Hotline is open Monday through Friday, excluding Federal holidays, from 9:00 am to 5:30 pm Eastern Time. For technical inquiries, contact Thomas Grubbs or William Hamele, Office of Ground Water and Drinking Water (MC 4607), U.S. Environmental Protection Agency, 401 M Street SW, Washington DC 20460; telephone (202) 260–7270 (Grubbs) or (202) 260–2584 (Hamele).

Regional Contacts

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X. Wendy Marshall, Drinking Water Unit, 1200 Sixth Avenue (OW–136), Seattle, WA 98101, (206) 553–1890

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially regulated by the Stage 1 DBPR are public water systems that add a disinfectant or oxidant. Regulated categories and entities include:

Category	Examples of regulated entities
Public Water System.	Community water systems that add disinfectant or oxidant.
State Governments.	State government offices that regulate drinking water.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by the Stage 1 DBPR. This table lists the types of entities that EPA is now aware could potentially be regulated by the rule. Other types of entities not listed in this table could also be regulated. To determine whether your facility may be regulated by this action, you should carefully examine the applicability criteria in § 141.130 of the proposed rule published on July 29, 1994 at 59 FR 38668 (USEPA, 1994b). If you have questions regarding the applicability of this action to a particular entity, contact one of the persons listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Additional Information for Commenters

The Agency requests that commenters follow the following format: type or print comments in ink, and cite, where possible, the paragraph(s) in this Notice to which each comment refers. Commenters should use a separate paragraph for each method or issue discussed. Electronic comments must be submitted as a WP5.1 or WP6.1 file or as an ASCII file avoiding the use of special characters and any form of name or title of the **Federal Register**. Comments and data will also be accepted on disks in WordPerfect in 5.1 or WP6.1 or ASCII file format. Electronic comments on this Notice may be filed online at many Federal Depository Libraries. Commenters who want EPA to acknowledge receipt of their comments should include a self-addressed, stamped envelope. No facsimiles (faxes) will be accepted.

Availability of Record

The record for this Notice, which includes supporting documentation as well as printed, paper versions of electronic comments, is available for inspection from 9 to 4 p.m., Monday through Friday, excluding legal holidays at the Water Docket, U.S. EPA Headquarters, 401 M. St., S.W. Washington, D.C. 20460. For access to docket materials, please call 202/260–3027 to schedule an appointment and obtain the room number.

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Abbreviations Used in This Notice

AOC: Assimilable organic carbon
ASDWA: Association of State Drinking Water Administrators
AWWA: American Water Works Association
AWWARF: AWWA Research Foundation
AWWSCo: American Water Works Service Company
BAC: Biologically active carbon
BAF: Biologically active filtration
BAT: Best Available Technology
BCAA: Bromochloroacetic acid
BDOC: Biodegradable organic carbon
CT: Contact time
CWS: Community Water System
DBP: Disinfection byproducts
D/DBP: Disinfectants and disinfection byproducts
DBPRAM: DBP Regulatory Analysis Model
DOC: Dissolved Organic Carbon
EPA: United States Environmental Protection Agency
ESWTR: Enhanced Surface Water Treatment Rule
FACA: Federal Advisory Committee Act
FY: Fiscal year
GAC: Granular Activated Carbon
GWDR: Ground Water Disinfection Rule
HAA5: Haloacetic acids (five)
IC: Ion chromotography
ICR: Information Collection Rule
ILSI: International Life Sciences Institute
IOC: Inorganic chemical
LOAEL: Lowest observed adverse effect level
MCL: Maximum Contaminant Level (expressed as mg/l, 1,000 micrograms (µg)=1 milligram (mg))
MCLG: Maximum Contaminant Level Goal
M–DBP: Microbial and Disinfectants/Disinfection Byproducts
MDL: Method Detection Limit
mg/dl: Milligrams per deciliter
mg/L: Milligrams per liter
MGD: Million Gallons per Day
MRDL: Maximum Residual Disinfectant Level (as mg/l)
MRDLG: Maximum Residual Disinfectant Level Goal
MWDSC: Metropolitan Water District of Southern California
NCI: National Cancer Institute
NIPDWR: National Interim Primary Drinking Water Regulation
NOAEL: No observed adverse effect level
NOM: Natural Organic Matter
NPDWR: National Primary Drinking Water Regulation
NTNCWS: Nontransient noncommunity water system
O&M: Operations and maintenance
PE: Performance evaluation
PODR: Point of Diminishing Returns
POE: Point-of-Entry Technologies
POU: Point-of-Use Technologies
ppb: Parts per billion
PQL: Practical Quantitation Level
PWS: Public Water System
RIA: Regulatory Impact Analysis
RMCL: Recommended Maximum Contaminant Level
SAB: Science Advisory board
SDWA: Safe Drinking Water Act, or the "Act," as amended in 1986
SUVA: Specific ultraviolet absorbance at 254 nm
SWTR: Surface Water Treatment Rule
TOC: Total organic carbon
TTHM: Total trihalomethanes
TWG: Technical Working Group
UNC: University of North Carolina
VOC: Volatile Synthetic Organic Chemical
WIDB: Water Industry Data Base
WITAF: Water Industry Technical Action Fund

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I. Introduction and Background

A. Existing Regulations

1. Surface Water Treatment Rule

Under the Surface Water Treatment Rule (SWTR)(USEPA, 1989a), USEPA set maximum contaminant level goals of zero for *Giardia lamblia*, viruses, and *Legionella*; and promulgated national primary drinking water regulations for all public water systems (PWSs) using surface water sources or ground water sources under the direct influence of surface water. The SWTR includes treatment technique requirements for filtered and unfiltered systems that are intended to protect against the adverse health effects of exposure to *Giardia lamblia*, viruses, and *Legionella*, as well as many other pathogenic organisms. Briefly, those requirements include (1) removal or inactivation of 3 logs (99.9%) for *Giardia* and 4 logs (99.99%) for viruses (2) combined filter effluent performance of 5 NTU as a maximum and 0.5 NTU at 95th percentile monthly, based on 4-hour monitoring for treatment plants using conventional treatment or direct filtration (with separate standards for other filtration technologies); and (3) watershed protection and other requirements for unfiltered systems.

2. Total trihalomethane MCL

USEPA set an interim maximum contaminant level (MCL) for total trihalomethanes (TTHMs) of 0.10 mg/l as an annual average in November 1979 (USEPA, 1979). This standard was based on the need to balance the requirement for continued disinfection of water to reduce exposure to pathogenic microorganisms while simultaneously lowering exposure to disinfection byproducts which might be carcinogenic to humans.

The interim TTHM standard only applies to any PWSs (surface water and/or ground water) serving at least 10,000 people that add a disinfectant to the drinking water during any part of the treatment process. At their discretion, States may extend coverage to smaller PWSs. However, most States have not exercised this option. About 80 percent of the PWSs, serving populations of less than 10,000, are served by ground water that is generally low in THM precursor content (USEPA, 1979) and which would be expected to have low TTHM levels even if they disinfect.

3. Total Coliform Rule

The Total Coliform Rule (USEPA, 1989b) was revised in June 1989, and became effective on December 31, 1990. The rule, which applies to all public water systems, sets compliance with the maximum contaminant level (MCL) for total coliforms as follows. For systems that collect 40 or more samples per month, no more than 5.0% of the samples may be total coliform-positives; for those that collect fewer than 40 samples, only one sample may be total coliform-positive. If a system exceeds the MCL for a month, it must notify the public using mandatory language developed by the USEPA. The required monitoring frequency for a system ranges from 480 samples per month for the largest systems to once annually for certain of the smallest systems. All systems must have a written plan identifying where samples are to be collected. In addition, systems are required to conduct repeat sampling after a positive sample.

The Total Coliform Rule also requires each system that collects fewer than five samples per month to have the system inspected every 5 years (10 years for certain types of systems using only protected and disinfected ground water.) This on-site inspection (referred to as a sanitary survey) must be performed by the state or by an agent approved by the state.

4. Information Collection Rule

The Information Collection Rule (ICR) is a monitoring and data reporting rule that was promulgated on May 14, 1996 (USEPA, 1996b). The purpose of the ICR is to collect occurrence and treatment information to evaluate the need for possible changes to the current Surface Water Treatment Rule and existing microbial treatment practices and to evaluate the need for future regulation for disinfectants and DBPs. The ICR will provide USEPA with additional information on the national occurrence in drinking water of (1) chemical byproducts that form when disinfectants used for microbial control react with compounds already present in source water and (2) disease-causing microorganisms, including *Cryptosporidium*, *Giardia*, and viruses. The ICR will also collect engineering data on how PWSs currently control such contaminants. This information is being collected because the regulatory negotiation on disinfectants and DBPs concluded that additional information was needed to assess the potential health problem created by the presence of DBPs and pathogens in drinking water and to assess the extent and severity of risk in order to make sound regulatory and public health decisions. The ICR will also provide information to support regulatory impact analyses for various regulatory options, and to help develop monitoring strategies for cost effectively implementing regulations.

B. Public Health Concerns To Be Addressed

In 1990, USEPA's Science Advisory Board, an independent panel established by Congress, cited drinking water contamination as one of the highest ranking environmental risks. The Science Advisory board reported that microbiological contaminants (e.g. bacteria, protozoa, viruses) are likely the greatest remaining health risk management challenge for drinking water suppliers. The control of microbiological contaminants is further complicated because commonly-used disinfection processes themselves may pose health risks. Conventional practices require the addition of disinfectant chemicals to the water that, while effective in controlling many harmful microorganisms, combine with organic matter in the water and form compounds known as disinfection byproducts (DBPs). One of the most complex questions facing water supply professionals is how to minimize the risks from these DBPs and still control microbial contaminants.

Chemical disinfectants (e.g., chlorine, chloramines, chlorine dioxide) are added to drinking water to provide continuous disinfection throughout the distribution system. There is generally little health concern over exposure to the levels of the disinfectant residuals commonly found in finished drinking water. A number of organic DBPs, including some trihalomethanes (chloroform, bromoform, and bromodichloromethane) and some haloacetic acids (e.g., dichloroacetic acid) cause cancer in laboratory animals. Other DBPs cause reproductive or developmental effects in laboratory animals (e.g., chlorite). Bromate, a byproduct of ozonation, causes cancer in laboratory animals.

Several epidemiology studies have evaluated the association of chlorination and chloramination with several adverse outcomes including cancer, cardiovascular disease, and adverse reproductive outcomes. Several studies have reported small increases in bladder, colon, and rectal cancers. In some cases, these effects appeared to be associated with the duration of exposure and volume of water consumed. Data on DBPs and cardiovascular disease are inconclusive. Animal studies in the mid 1980's indicated a potential increase in the serum lipid levels in animals exposed to chlorinated water. However, in a cross-sectional epidemiology study in humans, comparing chlorinated and unchlorinated water supplies with varying water hardness, no adverse effects on serum lipid levels were found. Recent epidemiology studies have reported increased incidence of decreased birth weight, premature births, intrauterine growth retardation, and neural tube defects with chlorinated water. As with the other reported adverse outcomes from the epidemiology studies, there is considerable debate in the scientific community on the significance of these findings (USEPA, 1994a). A discussion of new health effects information that has become available since the 1994 proposal appears in Section VI of this Notice.

In order to accurately assess risk from DBPs, it is important to have information on human exposure to DBPs, information on the toxicity of the DBPs and an understanding of the mode of action of toxicity. The preamble to the 1994 proposed DBP rule presented information on the occurrence and exposure to the Stage 1 DBPs. The information presented in that preamble was summarized from the document "Occurrence Assessment for Disinfectants and Disinfection By-products (Phase 6a) in Drinking Water" (USEPA, 1992a) and from information presented as a part of the 1992 and 1993 Regulatory Negotiation process that led to the 1994 Stage 1 DBP proposal (see section D below). Since the proposal, USEPA has updated the document cited above with new occurrence and exposure information. Copies of the revised document, entitled "Occurrence Assessment for Disinfectants and Disinfection Byproducts in Public Drinking Water Supplies" (USEPA, 1997a) can be obtained from the Docket for this Notice. The Information Collection Rule (ICR) (USEPA, 1996b) will supply additional information on the occurrence of DBPs for the Stage 2 DBP rule; however, this ICR information will not be available in time for the Stage 1 DBP rule.

C. Statutory Provisions

1. SDWA and 1986 Provisions

The Safe Drinking Water Act (SDWA or the Act), as amended in 1986, requires USEPA to publish a "maximum contaminant level goal" (MCLG) for each contaminant which, in the judgement of the USEPA Administrator, "may have any adverse effect on the health of persons and which are known or anticipated to occur in public water systems" (Section 1412(b)(3)(A)). MCLGs are to be set at a level at which "no known or anticipated adverse effect on the health of persons occur and which allows an adequate margin of safety" (Section 1412(b)(4)).

The Act also requires that at the same time USEPA publishes an MCLG, which is a non-enforceable health goal, it also must publish a National Primary Drinking Water Regulation (NPDWR) that specifies either a maximum contaminant level (MCL) or treatment technique (Sections 1401(1) and 1412(a)(3)). USEPA is authorized to promulgate a NPDWR "that requires the use of a treatment technique in lieu of establishing a MCL," if the Agency finds that "it is not economically or technologically feasible to ascertain the level of the contaminant".

Section 1414(c) of the Act requires each owner or operator of a public water system to give notice to the persons served by the system of any failure to comply with an MCL or treatment technique requirement of, or testing procedure prescribed by, a NPDWR and any failure to perform monitoring required by section 1445 of the Act.

Section 1412(b)(7)(C) of the SDWA requires the USEPA Administrator to publish a NPDWR "specifying criteria under which filtration (including coagulation and sedimentation, as appropriate) is required as a treatment technique for public water systems supplied by surface water sources". In establishing these criteria, USEPA is required to consider "the quality of source waters, protection afforded by watershed management, treatment practices (such as disinfection and length of water storage) and other factors relevant to protection of health". This section of the Act also requires USEPA to promulgate a NPDWR requiring disinfection as a treatment technique for all public water systems and a rule specifying criteria by which variances to this requirement may be granted.

2. Changes to Initial Provisions and New Mandates

In 1996, Congress reauthorized the Safe Drinking Water Act. Several of the 1986 provisions discussed above were renumbered and augmented with additional language, while other sections mandate new drinking water requirements. These modifications, as well as new provisions, are detailed below.

As part of the 1996 amendments to the Safe Drinking Water Act (the Amendments), USEPA's general authority to set a MCLG and NPDWR was modified to apply to contaminants that may "have an adverse effect on the health of persons", that are "known to occur or there is a substantial likelihood that the contaminant will occur in public water systems with a frequency and at levels of public health concern", and for which "in the sole judgement of the Administrator, regulation of such contaminant presents a meaningful opportunity for health risk reduction for persons served by public water systems' (1986 SDWA Section 1412 (b)(3)(A) stricken and amended with 1412(b)(1)(A)).

The Amendments also require that USEPA, when proposing a NPDWR that includes an MCL or treatment technique, publish and seek public comment on health risk reduction and cost analyses. The Amendments also require USEPA to take into consideration the effects of contaminants upon sensitive subpopulations (i.e. infants, children, pregnant women, the elderly, and individuals with a history of serious illness), and other relevant factors. (Section 1412 (b)(3)(C)).

The 1996 Amendments also newly require USEPA to promulgate an Interim Enhanced SWTR and a Stage I Disinfectants and Disinfection Byproducts Rule by November 1998. In addition, the 1996 Amendments require USEPA to promulgate a Final Enhanced SWTR and a Stage 2 Disinfection Byproducts Rule by November 2000 and May 2002, respectively (Section 1412(b)(2)(C)).

Under the Amendments of 1996, recordkeeping requirements were modified to apply to "every person who is subject to a requirement of this title or who is a grantee" (Section 1445 (a)(1)(A)). Such persons are required to "establish and maintain such records, make such reports, conduct such monitoring, and provide such information as the Administrator may reasonably require by regulation * * *".

D. Regulatory Negotiation Process

In 1992 USEPA initiated a negotiated rulemaking to develop a disinfectants/disinfection byproducts rule. The negotiators included representatives of State and local health and regulatory agencies, public water systems, elected officials, consumer groups and environmental groups. The Committee met from November 1992 through June 1993.

Early in the process, the negotiators agreed that large amounts of information necessary to understand how to optimize the use of disinfectants to concurrently minimize microbial and DBP risk on a plant-specific basis were unavailable. Nevertheless, the Committee agreed that USEPA propose a Disinfectant/Disinfection Byproducts rule to extend coverage to all community and nontransient noncommunity water systems that use disinfectants. This rule proposed to reduce the current TTHM MCL, regulate additional disinfection byproducts, set limits for the use of disinfectants, and reduce the level of organic compounds in the source water that may react with disinfectants to form byproducts.

One of the major goals addressed by the Committee was to develop an approach that would reduce the level of exposure from disinfectants and DBPs without undermining the control of microbial pathogens. The intention was to ensure that drinking water is microbiologically safe at the limits set for disinfectants and DBPs and that these chemicals do not pose an unacceptable risk at these limits.

Following months of intensive discussions and technical analysis, the Committee recommended the development of three sets of rules: a two-staged Disinfectants/Disinfection Byproduct Rule (proposal: 59 FR 38668, July 29, 1994), an "interim" ESWTR (proposal: 59 FR 38832, July 29, 1994), and an Information Collection rule (proposal: 59 FR 6332, February 10, 1994). The IESWTR would only apply to systems serving 10,600 people or more. The Committee agreed that a "long-term" ESWTR (LTESWTR) would be needed for systems serving fewer than 10,000 people when the results of more research and water quality monitoring became available. The LTESWTR could also include additional refinements for larger systems.

The approach in developing these proposals considered the constraints of simultaneously treating water to control for both microbial contaminants and DBPs. As part of this effort, the Negotiating Committee concluded that the SWTR may need to be revised to address health risk from high densities of pathogens in poorer quality source waters and from the protozoan, *Cryptosporidium*. The Committee also agreed that the schedules for IESWTR and LTESWTR should be "linked" to the schedule for the Stage 1 DBP Rule to assure simultaneous compliance and a balanced risk-risk based implementation. The Committee agreed that additional information on health risk, occurrence, treatment technologies, and analytical methods needed to be developed in order to better understand the risk-risk tradeoff, and how to accomplish an overall reduction in risk.

Finally the Negotiating Committee agreed that to develop a reasonable set of rules and to understand more fully the limitations of the current SWTR, additional field data were critical. Thus, a key component of the regulation negotiation agreement was the promulgation of the Information Collection Rule (ICR) noted above and described in more detail below.

E. Information Collection Rule

As stated above, the ICR established monitoring and data reporting requirements for large public water systems serving populations over 100,000. About 350 PWSs operating 500 treatment plants are involved in the data collection effort. Under the ICR, these PWSs monitor their source water for bacteria, viruses, and protozoa (surface water sources only); water quality factors affecting DBP formation; and DBPs within the treatment plant and in the distribution system. In addition, PWSs must provide operating data and a description of their treatment plan design. Finally, a subset of PWSs perform treatment studies, using either granular activated carbon or membrane processes, to evaluate DBP precursor removal. Monitoring for treatment study applicability began in September 1996. The remaining occurrence monitoring began in July 1997.

The initial intent of the ICR was to collect monitoring data and other information for use in developing the Stage 2 DBPR and IESWTR and to estimate national costs for various treatment options. However, because of delays in promulgating the ICR and technical difficulties associated with laboratory approval and review of facility sampling plans, most ICR monitoring did not begin until July 1, 1997. As a result of this delay and the new Stage 1 DBPR and IESWTR deadlines specified in the 1996 SDWA amendments, ICR data will not be available for analysis in connection with these rules. In place of the ICR data, the Agency has worked with stakeholders to identify additional data developed since 1994 that can be used in components of these rules. USEPA intends to continue to work with stakeholders in analyzing and using the comprehensive ICR data and research for developing subsequent revisions to the SWTR and the Stage 2 DBP Rule.

F. Formation of 1997 Federal Advisory Committee

In May 1996, the Agency initiated a series of public informational meetings to exchange information on issues related to microbial and disinfectants/disinfection byproducts regulations. To help meet the deadlines for the IESWTR and Stage 1 DBPR established by Congress in the 1996 SDWA Amendments and to maximize stakeholder participation, the Agency established the Microbial and Disinfectants/Disinfection Byproducts (M–DBP) Advisory Committee under the Federal Advisory Committee Act (FACA) on February 12, 1997, to collect, share, and analyze new information and data, as well as to build consensus on the regulatory implications of this new information. The Committee consists of 17 members representing USEPA, State and local public health and regulatory agencies, local elected officials, drinking water suppliers, chemical and equipment manufacturers, and public interest groups.

The Committee met five times, in March through July 1997, to discuss issues related to the IESWTR and Stage 1 DBPR. Technical support for these discussions was provided by a Technical Work Group (TWG) established by the Committee at its first meeting in March 1997. The Committee's activities resulted in the collection, development, evaluation, and presentation of substantial new data and information related to key elements of both proposed rules. The Committee reached agreement on the following major issues discussed in this Notice and the Notice for the IESWTR published elsewhere in today's **Federal Register**: (1) MCLs for TTHMs, HAA5 and bromate; (2) requirements for enhanced coagulation and enhanced softening (as part of DBP control); (3) microbial benchmarking/profiling to provide a methodology and process by which a PWS and the State, working together, assure that there will be no significant reduction in microbial protection as the result of modifying disinfection practices in order to meet MCLs for TTHM and HAA5; (4) disinfection credit; (5) turbidity; (6) *Cryptosporidium* MCLG; (7) removal of *Cryptosporidium;* (8) role of *Cryptosporidium* inactivation as part of a multiple barrier concept and (9) sanitary surveys. The Committee's recommendations to USEPA on these issues were set forth in an Agreement In Principle document dated July 15, 1997. This document is included with this Notice as Appendix 1.

G. Overview of 1994 DBP Proposal

The proposed Disinfectants and Disinfection Byproducts Stage I Rule (DBPI) addressed a number of complex and interrelated drinking water issues. The proposal attempted to balance the control of health risks from compounds formed during drinking water disinfection against the risks from microbial organisms (such as *Giardia lamblia, Cryptosporidium*, bacteria, and viruses) to be controlled by the IESWTR.

The proposed Stage 1 DBP rule applied to all community water systems (CWSs) and nontransient noncommunity water systems (NTNCWSs) that treat their water with a chemical disinfectant for either primary or residual treatment. In addition, certain requirements for chlorine dioxide would apply to transient noncommunity water systems because of the short-term health effects from high levels of chlorine dioxide. Following is a summary of key components of the 1994 Stage 1 DBPR proposal.

1. MCLGs/MCLs/MRDLGs/MRDLs

EPA proposed MCLGs of zero for chloroform, bromodichloromethane, bromoform, bromate, and dichloroacetic acid and MCLGs of 0.06 mg/L for dibromochloromethane, 0.3 mg/L for trichloroacetic acid, 0.04 mg/L for chloral hydrate, and 0.08 mg/L for chlorite. In addition, EPA proposed to lower the MCL for TTHMs from 0.10 to 0.080 mg/L and added an MCL for five haloacetic acids (i.e., the sum of the concentrations of mono-, di-, and trichloroacetic acids and mono-and dibromoacetic acids) of 0.060 mg/L. EPA also, for the first time, proposed MCLs for two inorganic DBPs: 0.010 mg/L for bromate and 1.0 mg/L for chlorite.

In addition to proposing MCLGs and MCLs for several DBPs, EPA proposed maximum residual disinfectant level goals (MRDLGs) of 4 mg/L for chlorine and chloramines and 0.3 mg/L for chlorine dioxide. The Agency also proposed maximum residual disinfectant levels (MRDLs) for chlorine and chloramines of 4.0 mg/L, and 0.8 mg/L for chlorine dioxide. MRDLs protect public health by setting limits on the level of residual disinfectants in the distribution system. MRDLs are similar in concept to MCLs—MCLs set limits on contaminants and MRDLs set limits on residual disinfectants in the distribution system. MRDLs, like MCLs, are enforceable, while MRDLGs, like MCLGs, are not enforceable.

2. Best Available Technologies

EPA identified the best available (BAT) technology for achieving compliance with the MCLs for both TTHMs and HAA5 as enhanced coagulation or treatment with granular activated carbon with a ten minute empty bed contact time and 180 day reactivation frequency (GAC10), with chlorine as the primary and residual disinfectant. The BAT for achieving compliance with the MCL for bromate was control of ozone treatment process to reduce formation of bromate. The BAT for achieving compliance with the chlorite MCL was control of precursor removal treatment processes to reduce disinfectant demand, and control of chlorine dioxide treatment processes to reduce disinfectant levels. EPA identified BAT for achieving compliance with the MRDL for chlorine, chloramine, and chlorine dioxide as control of precursor removal treatment processes to reduce disinfectant demand, and control of disinfection treatment processes to reduce disinfectant levels.

3. Treatment Technique

EPA proposed a treatment technique that would require surface water systems and groundwater systems under the direct influence of surface water that use conventional treatment or precipitative softening to remove DBP precursors by enhanced coagulation or enhanced softening. A system would have been required to remove a certain percentage of TOC (based on raw water quality) prior to the point of continuous disinfection. EPA also proposed a procedure to be used by a PWS not able to meet the percent reduction, to allow them to comply with an alternative minimum TOC removal level. Compliance for systems required to operate with enhanced coagulation or enhanced softening was based on a running annual average, computed quarterly, of normalized monthly TOC percent reductions. A complete discussion of the proposed requirements is in Section III.A.

4. Preoxidation (Predisinfection) Credit

The proposed rule did not allow PWSs required to use enhanced coagulation or enhanced softening to take credit for compliance with disinfection requirements in the SWTR/IESWTR prior to removing required levels of precursors unless they met specified criteria. These criteria are explained in Section IV.A.

5. Analytical Methods

EPA proposed nine analytical methods (some of which can be used for multiple analytes) to ensure compliance with proposed MRDLs for chlorine, chloramines, and chlorine dioxide. The three disinfectant residuals were measured and reported as: chlorine as free chlorine (four methods) or total chlorine (five methods); chloramines as combined chlorine (three methods) or total chlorine (five methods); and chlorine dioxide as chlorine dioxide (3 methods). EPA proposed methods for the analysis of two classes of organic DBPs: TTHMs (three methods) and HAA5 (2 methods). In addition, EPA proposed one method for measuring both inorganic DBPs (chlorite and bromate) and two methods for total organic carbon (TOC).

6. New Information

Since July, 1994, new information has become available in several key areas related to issues put forth in the DBP Stage 1 proposal. The key issues where new information has become available since the proposal include the following: (1) MCLs; (2) Enhanced Coagulation and Enhanced Softening; (3) Predisinfection Credit; (4) Health Effects Information; (5) Analytical Methods; and (6) the Regulatory Impact Analysis (DBP and TOC occurrence, compliance decision tree). This information and its implications are discussed in more detail below.

II. Health Effects

The preamble to the 1994 proposed rule provided a summary of the health criteria documents for bromate; chloramines; haloacetic acids and chloral hydrate; chlorine; chlorine dioxide, chlorite, and chlorate; and trihalomethanes. The information presented in the proposal was used to establish MCLGs and MRDLGs for the disinfectants and DBPs listed above. Since the 1994 proposal, several epidemiology and toxicology studies have been completed. The study results need to be considered for the final Stage 1 DBPR. The following section briefly

discusses the new epidemiological and laboratory toxicology studies. In addition, USEPA has developed summaries of this new information and included these documents in the Docket for this action as "Summaries of New Health Effects Data" (USEPA, 1997b).

A. Cancer Epidemiology Studies

The preamble to the proposed rule discussed several cancer epidemiology studies that had been conducted over the past 20 years on chlorinated drinking water (see USEPA, 1994b). At the time of the proposed rule, there was disagreement among the members of the Negotiating Committee on the conclusions to be drawn from the cancer epidemiology studies. Some members of the Committee felt that the cancer epidemiology data, taken in conjunction with the results from toxicological studies, provide an ample and sufficient weight of evidence to conclude that exposure to DBPs in drinking water could result in an increased cancer risk at levels encountered in some public water supplies. Other members of the Committee concluded that the degree of resolution in cancer epidemiology studies on the consumption of chlorinated drinking water to date was insufficient to provide definitive information for the regulation. USEPA, therefore, agreed to pursue additional research to reduce the uncertainties associated with these epidemiology data and to better characterize and project the potential human cancer risks associated with the consumption of chlorinated drinking water. To implement this commitment, USEPA sponsored two expert panel reviews on the state of cancer epidemiology. Each of these panels recommended short and long-term research for improving the assessment of risks using cancer epidemiology.

1. Expert Panels Recommendations on Cancer Epidemiology

USEPA conducted an expert panel workshop in July 1994 on the scientific considerations for conducting cancer epidemiologic studies for DBPs (USEPA, 1994a). The expert panel presented the following conclusions.

(A)lthough ecological and analytic epidemiologic studies have reported associations between chlorinated water and cancer at various sites, many of the studies have methodologic problems or systematic biases that limit the interpretation of results. Moreover, the studies vary according to the amount of information available on exposure to chlorinated water or DBPs. The panel agrees that existing epidemiologic data are insufficient to conclude that the reported associations are causal or provide an accurate estimate of the magnitude of risk.

This cancer workshop panel also provided several recommendations for conducting additional research. These included: (1) improving exposure assessments; (2) conducting a reanalysis of previously conducted interview-based case control studies using improved exposure estimates and analytical methods to determine the validity of these risks and to address confounding factors and bias not adequately excluded in previous reports such as the meta-analysis completed by Morris, et al. (1992) discussed in the 1994 proposed rule (USEPA, 1994b, page 38689); (3) conducting feasibility studies to identify geographic locations with adequate exposure data and appropriate cohorts for study (including the possibility of using existing cohorts that are being studied for other potential exposures); and (4) consideration of several possible designs for full scale studies (i.e., cohort, case-control, and case-control nested within a cohort).

In October 1995, the International Life Sciences Institute (ILSI) sponsored a workshop on "Disinfection by-products in Drinking Water: Critical Issues in Health Effects Research" (ILSI, 1995). One of the panels at the workshop provided a brief summary of the findings from cancer epidemiology studies and made recommendations for further research in this area. The panel concluded that the epidemiological studies of bladder and colorectal cancer have generally shown an increased risk associated with the consumption of chlorinated surface water, although a causal association has not been conclusively established. The panel made several recommendations for future research including the need to conduct hypothesis driven cancer epidemiological studies to examine the risk of classes of DBPs other than THMs and to support these studies with improved exposure assessments.

2. Implementation of Expert Panel Recommendations

a. *Improve Exposure Assessments/ Geographic Identification Studies/ Classes of DBPs Other Than THMs.* USEPA, in conjunction with other parties, has begun research to provide the tools needed to improve exposure assessments for epidemiology studies. USEPA is supporting studies in Colorado, North Carolina, and New Jersey that will provide improved tools for conducting exposure assessments for epidemiology studies. While the results from these studies will not be available for the final Stage 1 DBP rule, they will be very useful in designing future epidemiology studies.

In addition to USEPA's research, the Microbial/DBP Research Council (M/DBP Council) is funding a study on "Identification of Geographic Areas for Possible Epidemiological Studies" and is evaluating several proposals for a project on "Development of Methods for Predicting THM and HAA Concentrations in Exposure Assessment Studies." The M/DBP Council was formed as a joint USEPA and American Water Works Association Research Foundation (AWWARF) project to identify and fund critical research. This research, in conjunction with the USEPA research discussed above, will improve the understanding of risks associated with the consumption of chlorinated surface water. However, as with USEPA's work, this research will not be completed in time to impact the Stage 1 DBPR.

b. Meta-analysis of Existing Cancer Epidemiology Data. The 1994 proposal includes results of a meta-analysis that pooled the relative risks from 10 cancer epidemiology studies in which there was a presumed exposure to chlorinated water and its byproducts (Morris et al., 1992). This meta-analysis estimated that approximately 10,000 cancer cases each year could be attributed to the consumption of chlorinated drinking water and its byproducts. As discussed in the preamble to the proposed rule, this study generated considerable debate among the members of the Negotiation Committee. An evaluation of the Morris et al. meta-analysis has been recently completed for USEPA. USEPA is currently evaluating this report and will provide an opportunity to comment on EPA's assessment and implications for the regulatory provisions for the final Stage 1 DBPR.

In addition to the meta-analysis, USEPA has summarized several new cancer epidemiology studies and included them as part of the "Summaries of New Health Effects Data" (USEPA, 1997b) that is included in the Docket for this Notice. USEPA will be evaluating the data from the new epidemiology studies and will provide an opportunity to comment on the potential implications of these new studies for the regulatory provisions for the final Stage 1 DBPR.

B. Reproductive and Developmental Epidemiology Studies

The preamble to the 1994 proposal discussed several reproductive epidemiology studies that had been conducted (see USEPA, 1994b, page 38690). It also included a discussion of an USEPA and ILSI expert panel that reviewed the published epidemiologic and experimental data on reproductive and developmental effects and a strategy developed by the panel for related short-term and long-term research (USEPA, 1993b). The panel concluded that the currently available data on the effects of chlorination byproducts provide an inadequate basis for identifying DBPs as a reproductive or developmental hazard. Recommendations were made for refining studies using existing data bases, strengthening studies designed to collect new data, improving exposure assessments, investigating selected health endpoints, and developing a stronger link between animal research and epidemiology studies.

The results from the ILSI expert panel, and additional information provided since the 1994 proposal, are summarized in Reif et al. (1996). This paper reviewed the available epidemiological data on the reported association between the consumption of chlorinated drinking water and reproductive and developmental effects. The panel reached the following conclusions. "The currently available human studies on effects of chlorination by-products provide an inadequate basis for identifying DBPs as a reproductive or developmental hazard. Nevertheless, additional laboratory animal and epidemiological research should be conducted, employing a coordinated multi disciplinary approach." They also provided recommendations for short- and longer-term research.

1. Improving Exposure Assessments

Many of the exposure assessment projects identified above for cancer epidemiology are also relevant to improving exposure assessments for evaluating reproductive and developmental effects. As discussed in the cancer epidemiology section, while the results from these studies will not be available for the final Stage 1 DBPR, they will be very useful in designing future reproductive epidemiology studies.

2. New Studies Since Proposal

Since the proposal, several new reproductive and developmental epidemiology studies have been published. Additionally, studies in California and Colorado are nearing completion, but results will not be available for this NODA. Savitz et al. (1995) used data from a population-based case-control study to evaluate the potential risk of miscarriage, preterm delivery and low birth weight in North Carolina based on water source, amount of water consumed, and TTHM concentration in water. The authors concluded, "These data do not indicate a strong association between chlorinated byproducts and adverse pregnancy outcome, but given the limited quality of the exposure assessment and the increased miscarriage risk in the higher exposure group, more refined evaluation is warranted."

Kanitz et al. (1996) conducted an epidemiology study in Italy on the association between somatic parameters (e.g., birthweight, body length, cranial circumference, and neonatal jaundice) and drinking water disinfection with chlorine dioxide and/or sodium hypochlorite. The authors concluded, "The study provides some new information on the possible association between some drinking water disinfection treatments and somatic parameters of infants at birth. Further investigations will be needed to verify the results of the present study by rigorous exposure assessments."

The 1994 proposed rule reported the results of a New Jersey Department of Health report on the results of a cross-sectional study evaluating the association between drinking water contaminants with low birth weight and selected birth defects (Bove et al., 1992a, 1992b). Since the proposal, an article summarizing the cross-sectional study has been published by Bove et al. (1995). The results are consistent with those reported in the proposed Stage 1 DBPR. The authors concluded, "By itself, this study cannot resolve whether the drinking water contaminants caused the adverse birth outcomes; therefore, these findings should be followed up utilizing available drinking water contamination databases."

While the new epidemiology studies add to the database on the potential reproductive and developmental effects from DBPs, USEPA believes that the results are inconclusive. A more complete discussion of the new reproductive and development epidemiology studies can be found in the "Summaries of New Health Effects Data" (USEPA, 1997b).

C. Significant New Toxicological Information for the Stage 1 Disinfectants and Disinfection Byproducts

Since the proposal, new toxicological information has become available for several of the disinfectants and DBPs. The information presented below is a summary of the significant new information for several disinfectants and DBPs. For a more complete discussion of the new information see the "Summaries of New Health Effects Data" (USEPA, 1997b) in the Docket (a summary of the new information for chlorine and chloramines is not included below, but is included in the document cited above.)

1. Chlorite

The 1994 proposal included an MCLG of 0.08 mg/L and an MCL of 1.0 mg/L for chlorite. In order to fill an important data gap, the Chemical Manufacturers Association (CMA) agreed to conduct a two-generation reproductive effects study of chlorite. The Negotiating Committee agreed that if the studies indicated that a level of 1.0 mg/L of chlorite is safe, the MCL would remain at 1.0 mg/L. If the studies indicate that a level of 1.0 mg/L of chlorite is not safe or, if such a study is not conducted, the MCL would be re-evaluated.

After the Negotiating Committee agreed to support a proposed MCL of 1.0 mg/L, USEPA selected developmental neurotoxicity hazard as the critical effect for chlorite (Mobley et al., 1990). Based on this 1990 rat developmental study, an MCLG of 0.08 mg/L was derived for chlorite. USEPA believed that the MCL of 1.0 mg/L agreed to by the Committee was not adequate to protect the public from the acute developmental health effects of chlorite. USEPA decided to propose an MCL of 1.0 mg/L to honor the agreement of the Committee and requested comment on several possible approaches for promulgating the final rule.

Since the proposal, a study on the subchronic toxicity of sodium chlorite in rats (Harrington et al., 1995a) and a developmental toxicity study in rabbits (Harrington, et al., 1995b) have been published. Both of these studies reported no adverse toxicological effects. Other than the two-generation reproductive study cited above, which USEPA recently received, relevant new literature has not been found that would alter the assessment for chlorite from the 1994 proposal. USEPA is conducting an external peer review of the CMA two-generation reproductive study. These peer review comments will be included in the Docket for this NODA when they become available. USEPA will evaluate the data from the CMA study, including the peer review, and will provide an opportunity to comment on the potential implications for the regulatory provisions for chlorite prior to the final Stage 1 DBP rule. The CMA study is included in the Docket for this action (CMA, 1997).

2. Chlorine Dioxide

The proposed Stage 1 DBPR included a MRDLG of 0.3 mg/L and a MRDL of 0.8 mg/L for chlorine dioxide. The proposed MRDLG for chlorine dioxide was based on developmental neurotoxicity as the critical effect (Orme et al., 1985). The Negotiating Committee agreed to the MRDL of 0.8 mg/L for

chlorine dioxide with certain qualifications and reservations. As cited above, the Committee agreed that a two-generation reproductive study on chlorite would be completed for consideration in the final Stage 1 DBPR. Toxicity information on chlorite is considered relevant for characterizing the toxicity of chlorine dioxide. If the chlorite study indicated no concern from reproductive effects at 0.8 mg/L, then the proposed MRDL for chlorine dioxide would remain the same as proposed. If these new data indicate reproductive or developmental effects, then the MRDL will need to be re-examined comparing the tradeoffs and regulatory impacts of a lower chlorine dioxide MRDL and the positive aspects of using chlorine dioxide as a disinfectant.

Other than the two-generation reproductive study conducted by CMA for chlorite, there is no new literature that would alter the assessment for chlorine dioxide from the 1994 proposal. As stated above, USEPA believes that the results from the chlorite study are applicable for addressing the toxicity data gaps for chlorine dioxide. USEPA will evaluate the data from the CMA study, including the peer review, and will provide an opportunity to comment on the potential implications for the regulatory provisions for chlorine dioxide prior to the final Stage 1 DBP rule.

3. Trihalomethanes

The proposed rule includes an MCL for total trihalomethanes (TTHM) of 0.080 mg/L. MCLGs of zero for chloroform, bromodichloromethane (BDCM), and bromoform were based on sufficient evidence of carcinogenicity in animals. The MCLG of 0.060 mg/L for dibromochloromethane (DBCM) was based on observed liver toxicity from a subchronic study and possible carcinogenicity. Since the 1994 proposal, several new studies have been published on the metabolism for BDCM and chloroform (Testai et al., 1995; Gemma et al., 1996a, 1996b; Gao et al., 1996; Nakajima et al., 1995). In addition, several new studies were found concerning the genotoxicity of chloroform, BDCM, and bromoform (Roldan-Arjona and Pueyo, 1993; LeCurieux et al., 1995; Pegram et al., 1997; Larson et al., 1994c; Fujie et al., 1993; Shelby and Witt, 1995; Hayashi et al., 1992; Sofuni et al., 1996; Matsuoka et al., 1996; Miyagawa et al., 1995; Banerji and Fernandes, 1996; and Potter et al., 1996). There are considerable new data on cytotoxicity and regenerative cell proliferation in the liver and kidney of rats and mice under various conditions (Larson et al., 1993, 1994a, 1994b, 1994c, 1995a, 1995b, 1996; Templin et al., 1996a, 1996b). Many other studies also examined the mechanism of chloroform carcinogenicity, including studying the effects on methylation and expression of growth control genes (Fox et al., 1990, Vorce and Goodman, 1991, Dees and Travis, 1994, Testai et al., 1995, Sprankle et al., 1996, Chiu et al., 1996, Gemma et al., 1996a, 1996b). Short-term toxicity studies (Thorton-Manning et al., 1994; Lilly et al., 1994 and 1996) and chronic toxicity studies which included reproductive evaluations (Klinefelter et al., 1995) were found for BDCM.

The new studies on THMs contribute to the weight-of-evidence conclusions reached in the 1994 proposal. Based on the available new studies noted above, the proposed MCLGs for BDCM, DBCM, and bromoform are not anticipated to change.

The International Life Science Institute (ILSI) convened an expert panel in 1996 to explore the application of the USEPA's 1996 Proposed Guidelines for Carcinogen Risk Assessment (USEPA, 1996a) to the available data on the potential carcinogenicity of chloroform and dichloroacetic acid (DCA); these data include chronic bioassay data and information on mutagenicity, metabolism, toxicokinetics and mode of carcinogenic action. USEPA will be evaluating the data from the ILSI expert panel for chloroform and will provide an opportunity to comment on the potential implications for the regulatory provisions for chloroform and the trihalomethanes prior to the final Stage 1 DBP rule.

4. Haloacetic Acids

The proposed rule included an MCL of 0.060 mg/L for the haloacetic acids (five HAAs-monobromoacetic acid, dibromoacetic acid, monochloroacetic acid, dichloroacetic acid, and trichloroacetic acid) with an MCLG of zero for dichloroacetic acid (DCA) based on sufficient evidence of carcinogenicity in animals, and a MCLG of 0.3 mg/L for trichloroacetic acid (TCA) based on developmental toxicity and possible carcinogenicity.

There has been cancer research completed for other HAAs since the 1994 proposal. The 1994 proposal did not include an MCLG for monochloroacetic acid (MCA) because there were inadequate occurrence data for MCA. Since the proposal, a few toxicological studies on MCA have been identified. A recent 2-year carcinogenicity study on MCA and trichloroacetic acid (TCA) (DeAngelo et al., 1997) demonstrated that MCA and TCA were not carcinogenic in male rats. This confirms the results of the NTP (1990) cancer rodent bioassays of MCA. There have been several recent studies examining the mode of carcinogenic action for both DCA and TCA (Pereira and Phelps 1996; and Pereira 1996) including mutagenicity studies (Austin et al., 1996; Mackay et al., 1995; Fox et al., 1996; Fuscoe et al., 1996; Tao et al., 1996; and Parrish et al., 1996). As discussed above USEPA will evaluate the significance of the ILSI panel's report on the risk assessment for DCA and provide an opportunity to comment on the potential implications for the regulatory provisions for DCA and the other haloacetic acids prior to the final Stage 1 DBP rule.

Screening studies have shown the potential of different haloacetic acids, including DCA and brominated haloacetic acids, to produce reproductive and developmental effects (Linder et al., 1997c; Hunter et al., 1996; Richard and Hunter, 1996; Linder et al. 1994, 1995, 1997a, 1997b). At this time, these new studies are not expected to alter the MCLGs for DCA or TCA in the proposed rule. USEPA continues to believe that there are inadequate occurrence data to establish MCLGs for MCA, monobromoacetic acid and dibromoacetic acid.

5. Chloral Hydrate

The proposed rule included an MCLG of 0.04 mg/L for chloral hydrate. USEPA did not set an MCL for chloral hydrate because it believed the MCLs for TTHM and HAA5, and the treatment technique requirements would provide adequate control for chloral hydrate. In the 1994 proposal, chloral hydrate was considered a group C, possible human carcinogen. Since the 1994 proposal, several new studies have been published which contribute to the weight of evidence conclusion for the potential carcinogenicity of chloral hydrate. These include *in vitro* cell transformation and genotoxicity studies (Gibson et al., 1995; Adler, 1996; Allen et al., 1994; Parry et al., 1996; and Ni et al., 1996). Some screening studies were found concerning the potential of chloral hydrate to cause reproductive and developmental toxicity (Klinefelter et al., 1995 and Saillenfait et al., 1995). The available new studies mentioned above do not indicate a change in the MCLG for chloral hydrate.

6. Bromate

The proposed rule included an MCL of 0.010 mg/L and an MCLG of zero for bromate. A major issue in the proposal was that setting an MCL at 0.010 mg/L would exceed the theoretical 1×10^{-4} lifetime excess cancer risk level for bromate of 5 ug/L. Since the proposal, several toxicology studies have been completed on bromate, including assays for reproductive and developmental effects (Wolfe and Kaiser, 1996).

USEPA has recently completed a chronic cancer study in male rats and male mice for bromate. USEPA is evaluating this data and will provide an opportunity for public comment on the potential implications for the regulatory provisions for bromate prior to the final rule.

D. Summary of Key Observations

Since the proposal, several epidemiology and toxicology studies have been completed on the potential health effects associated with exposure to DBPs. USEPA currently believes the new published data will not impact the MCLGs for BDCM, CDBM, bromoform, chloral hydrate, or trichloroacetic acid. However, USEPA is currently evaluating the results from new toxicology studies for chlorite and bromate and will evaluate the report from the ILSI expert panel on chloroform and DCA when it becomes available. USEPA will provide an opportunity to comment on the potential implications for the regulatory provisions for these DBPs prior to the final rule.

E. Request for Public Comments

USEPA requests comment on all the new information outlined above and its potential impacts on the regulatory provisions for the final Stage 1 DBPR and any additional data on the health effects from DBPs that need to be considered for the final Stage 1 DBPR.

III. Enhanced Coagulation and Enhanced Softening

A. 1994 Enhanced Coagulation and Enhanced Softening Proposal

As discussed above, the 1994 proposed rule for D/DBPs included enhanced coagulation/enhanced softening requirements in addition to maximum contaminant levels (MCLs) for total trihalomethanes (TTHMs) and the sum of five haloacetic acids (HAA5) (USEPA, 1994b). In that proposal, Subpart H systems (utilities treating either surface water or groundwater under the direct influence of surface water) that use conventional treatment (i.e., coagulation, sedimentation, and filtration) or precipitative softening would be required to remove DBP precursors by enhanced coagulation or enhanced softening. The removal of total organic carbon (TOC) would be used as a performance indicator for DBP precursor control. The 1994 proposed rule (in "Step 1" of the treatment technique) provided for 20–50 percent TOC removal, depending on influent water quality (Table III–1).

TABLE III–1.—1994 PROPOSED REQUIRED REMOVAL OF TOC BY ENHANCED COAGULATION/ENHANCED SOFTENING FOR SURFACE-WATER SYSTEMS[a] USING CONVENTIONAL TREATMENT[b]

Source-water TOC, mg/L	Source-water alkalinity, mg/L as $CaCO_3$		
	0–60 (percent)	>60–120 (percent)	>120[c] (percent)
>2.0–4.0	40.0	30.0	20.0
>4.0–8.0	45.0	35.0	25.0
>8.0	50.0	40.0	30.0

[a] Also applies to utilities that treat groundwater under the influence of surface water.
[b] Systems meeting at least one of the conditions in Section 141.135(a)(1)(i)–(iv) of the proposed rule are not required to operate with enhanced coagulation.
[c] Systems practicing precipitative softening must meet the TOC removal requirements in this column.

The 1994 Stage I **Federal Register** notice proposed that systems achieve a percent TOC removal based on their influent TOC concentration and alkalinity. The proposed rule provided for a number of exceptions to the enhanced coagulation and enhanced softening requirements, namely: (a) When the system's treated water TOC concentration, prior to the point of continuous disinfection, is ≤2.0 mg/L (b) when the PWS's source water TOC level, prior to any treatment, is <4.0 mg/L; the alkalinity is >60 mg/L; and these systems are achieving TTHMs <0.040 mg/L and HAA5 <0.030 mg/L, or have made irrevocable financial commitments to technologies that will meet these levels; (c) the PWS's TTHM annual average is no more than 0.040 mg/L and the HAA5 annual average is no more than 0.030 mg/L and the system uses only chlorine for disinfection; and (d) PWSs practicing softening and removing at least 10 mg/L of magnesium hardness (as $CaCO_3$), except those that use ion exchange, are not subject to performance criteria for the removal of TOC.

As part of the enhanced coagulation requirements, the proposed rule indicated that if a PWS could not meet the prescribed TOC removal criteria, it must perform a series of jar or pilot-scale tests ("Step 2") to determine how much TOC removal they can reasonably and practically achieve. This Step 2 requirement was created to handle the 10 percent of the waters that were not expected to meet the Step 1 criteria, and considerations as to what was practical to achieve involved a consensus-based balancing of policy and scientific perspectives.

The proposed jar-testing protocol involves adding regular-grade alum in 10 mg/L increments (or an equivalent amount of iron coagulant) until specific depressed pH goals are achieved (this was referred to as "maximum pH" in the proposal), which depends on influent alkalinity and what is practical to achieve. For the alkalinity ranges 0–60, >60–120, >120–240, and >240 mg/L as calcium carbonate ($CaCO_3$), the maximum pH values are 5.5, 6.3, 7.0, and 7.5, respectively. The maximum pH is a target pH goal for step 2 testing. The maximum pH is the pH value the tested water must be at or below before incremental coagulant addition is discontinued. The protocol was based on alum, as more data were available on the use of this coagulant in a wide variety of waters. However, the proposed rule allows for the use of iron coagulants in the step 2 jar testing.

The TOC of each jar-treated water is measured, and then the residual TOC is plotted versus alum dosage. The "point of diminishing returns" (PODR) is determined to be when 10 mg/L of additional alum (or an equivalent amount of iron coagulant) does not decrease residual TOC by 0.3 mg/L (i.e., slope of TOC versus alum dosage curve ≤[0.3 mg/L TOC]/[10 mg/L alum]). These data would be used by a utility

to request alternative TOC removal performance criteria from the primacy agency. However, one of the intents in setting the step 1 TOC removal percentages at the values chosen was to provide that 90 percent of the systems would not need to do step 2 testing. This would minimize transactional costs for the primacy agencies.

If the TOC removal curve never met the slope criterion at any coagulant dose, such a water would be considered unamenable to enhanced coagulation and no TOC removal would be required for such a water. Waters with low TOC and moderate-to-high alkalinity were expected to be some of the more difficult to treat with enhanced coagulation, so systems treating such waters were encouraged to explore alternative technologies (e.g., ozone/chloramines) that could reduce DBP levels significantly below the proposed Stage 1 MCLs (i.e., <50 percent of the proposed Stage 1 MCLs).

EPA solicited comments on all aspects of enhanced coagulation's step 2 protocol in the preamble to the rule, as well as on the step 1 TOC removal percentages including:

(1) Whether the TOC removal levels shown in Table III–1 are representative of what 90 percent of systems required to use enhanced coagulation could be expected to achieve with elevated, but not unreasonable, coagulant addition?

(2) Whether filtration should be required as part of the bench-pilot-scale procedure for determination of Step 2 enhanced coagulation? If so, what type of filter should be specified for bench-scale studies?

(3) Whether a slope of 0.3 mg/L of TOC removed per 10 mg/L of alum should be considered representative of the point of diminishing returns for coagulant addition under Step 2? Comments were also solicited on how the slope should be determined (e.g., point-to-point, curve-fitting); and if the slope varies above and below 0.3/10, where should the Step 2 alternate TOC removal requirement be set—at the first point below 0.3/10?, at some other point?

(4) How often bench- or pilot-scale studies should be performed to determine compliance under step 2? Should such frequency and duration of testing be included in the rule or left to guidance (i.e., allow the State to define what testing would be needed on a case by case basis for each system)? Is quarterly monitoring appropriate for all systems. What is the best method to present the testing data to the primacy agency that reflects changing influent water quality conditions and also keeps transactional costs to a minimum? How should compliance be determined if the system is not initially meeting the percent TOC reduction requirements because of a difficult to treat waters and a desire to demonstrate alternative performance criteria?

EPA also solicited comments on several issues related to the enhanced softening requirements including:

(1) 3×3 matrix: For softening plants, is enhanced softening properly defined by the percent removals in Table III–1 in this Notice, or by 10 mg/L removal of magnesium hardness reported as $CaCO_3$?

(2) Use of ferrous salts: Can ferrous salts be used at softening pH levels to further enhance TOC removals?

(3) Step 2: Whether data are available on the use of ferrous salts in the softening process which can help define a step 2 for softening? What is the definition of Step 2?

B. New Information on Enhanced Coagulation and Enhanced Softening since 1994 Proposal

Since the 1994 proposal, there has been considerable research on a number of enhanced coagulation and enhanced softening issues highlighted above in a wide variety of waters nationwide. A summary of the results of some of the studies and surveys are included below. Studies of enhanced coagulation are covered first, followed by discussion of enhanced softening studies. Note that a number of the softening studies looked at TOC removal in essentially the same framework as is used for enhanced coagulation, with emphasis on the coagulant and lime dose and geared toward finding a similar format for step 2 enhanced softening as was defined for enhanced coagulation. A number of these studies focused on the benefits of increased lime or coagulant doses in removing TOC in softening systems. Results of these studies generally showed that percent TOC removal is dependent on the raw water.

1. New Data on Enhanced Coagulation

a. UNC Enhanced Coagulation Study. To address many of the aforementioned issues, the University of North Carolina (UNC) at Chapel Hill, with funding from the Water Industry Technical Action Fund (WITAF), performed an enhanced coagulation study (Singer et al., 1995). The UNC research team evaluated a wide range of waters nationwide, which included at least three waters in each box of the 3×3 matrix in Table III–1. Each water was jartested in order to determine the feasibility of achieving the proposed step 1 TOC percent removal requirement for each water, as well as to assess the PODR criteria.

In addition, recognizing that coagulation primarily removes the humic fraction of the natural organic matter (NOM) in water (Owen et al., 1993), a determination of the percent humic content was made for each of the waters studied in order to better characterize the treatability of each water. NOM fractionation was performed on samples of each raw water and on select coagulated waters using an XAD–8 resin adsorption procedure (Thurman & Malcolm, 1981). In this procedure, the hydrophobic fraction of the water, which includes humic substances, was determined.

Furthermore, Edzwald and Van Benschoten (1990) have found the specific ultraviolet absorbance (SUVA) of a water to be a good indicator of the humic content of that water, so SUVA was also determined in the UNC study. SUVA is defined as the UV (measured in m^{-1}) divided by the dissolved organic carbon (DOC) concentration (measured as mg/L). Typically, SUVA values <3 L/mg-m are representative of largely nonhumic material, whereas SUVA values in the range of 4–5 L/m-mg represent mainly humic material (Edzwald & Van Benschoten, 1990).

Figures III–1 and III–2 represent a typical set of jar test results from the UNC study. In these tests, water from Raleigh, NC, with a TOC of 7.5 mg/L and alkalinity of 17 mg/L was evaluated (White et al., 1997). At low alum doses (<20 mg/L), an initial TOC (and turbidity) plateau was observed for which no removal of TOC (or turbidity) occurred with the coagulant addition. Following the addition of a "threshold" alum dose (20 mg/L), a steep drop in the concentration of TOC (and turbidity) was observed with increases in alum dose. As the alum dose increased further, the drop in TOC (and turbidity) decreased to a final plateau at which little to no additional removal of TOC (or turbidity) was seen with further increases in alum dose (>40 mg/L).

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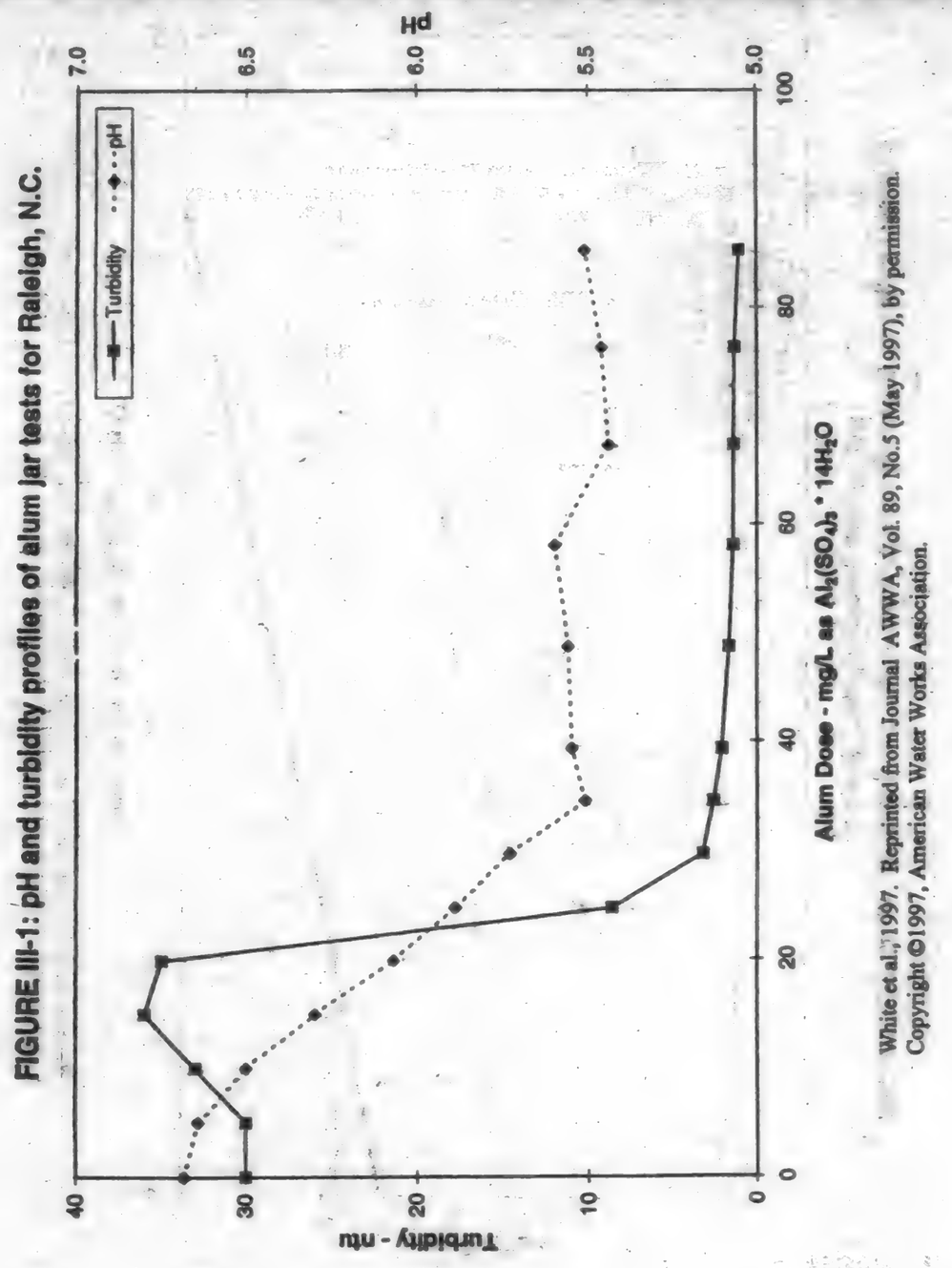

FIGURE III-1: pH and turbidity profiles of alum jar tests for Raleigh, N.C.

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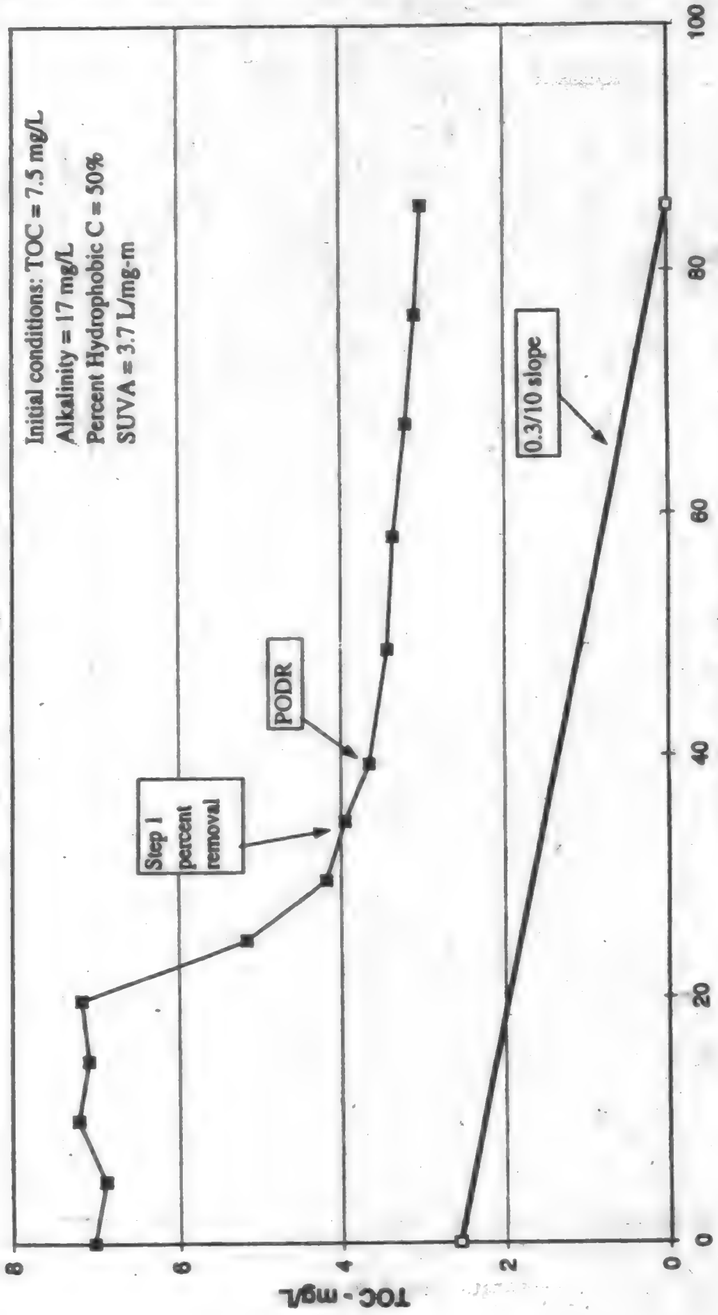

FIGURE III-2: Alum jar-test profile for Raleigh, N.C., showing dosages required to meet Step 1 removal and PODR

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In the jar tests of the Raleigh water, an alum dose of ~35 mg/L resulted in the removal of ~47 percent of the TOC, where the proposed step 1 TOC removal for this water was predicted to be 45 percent. The PODR, based on the slope criterion of 0.3 mg/L TOC/10 mg/L of alum, was realized at a jar-test alum dose of 39 mg/L, in which 51 percent of the TOC was removed. In order to comply with a 45-percent TOC removal requirement with a 15-percent safety factor (Krasner et al, 1996), a system would need to design for a 52-percent TOC removal.

The results using the Raleigh water appear to address several of the outstanding issues: namely, that the step 1 TOC removal requirements for this water is appropriate, the slope criterion did identify the PODR, and evaluation of the PODR required an examination of points beyond the threshold coagulant dose. Figure III–3 shows jar test results for a low-TOC (2.9 mg/L), high-alkalinity (239 mg/L) water from Indianapolis, IN, from the UNC study (White et al., 1997). The TOC removal curve never exceeded the 0.3/10 slope criterion, which means that this water would be exempt from the enhanced coagulation requirements in the 1994 proposed rule. The step 1 TOC removal requirement of 20 percent can be achieved, with an alum dose of ~65 mg/L required in the jar tests. However, the slope of the TOC removal curve shows that this water is not very amenable to enhanced coagulation.

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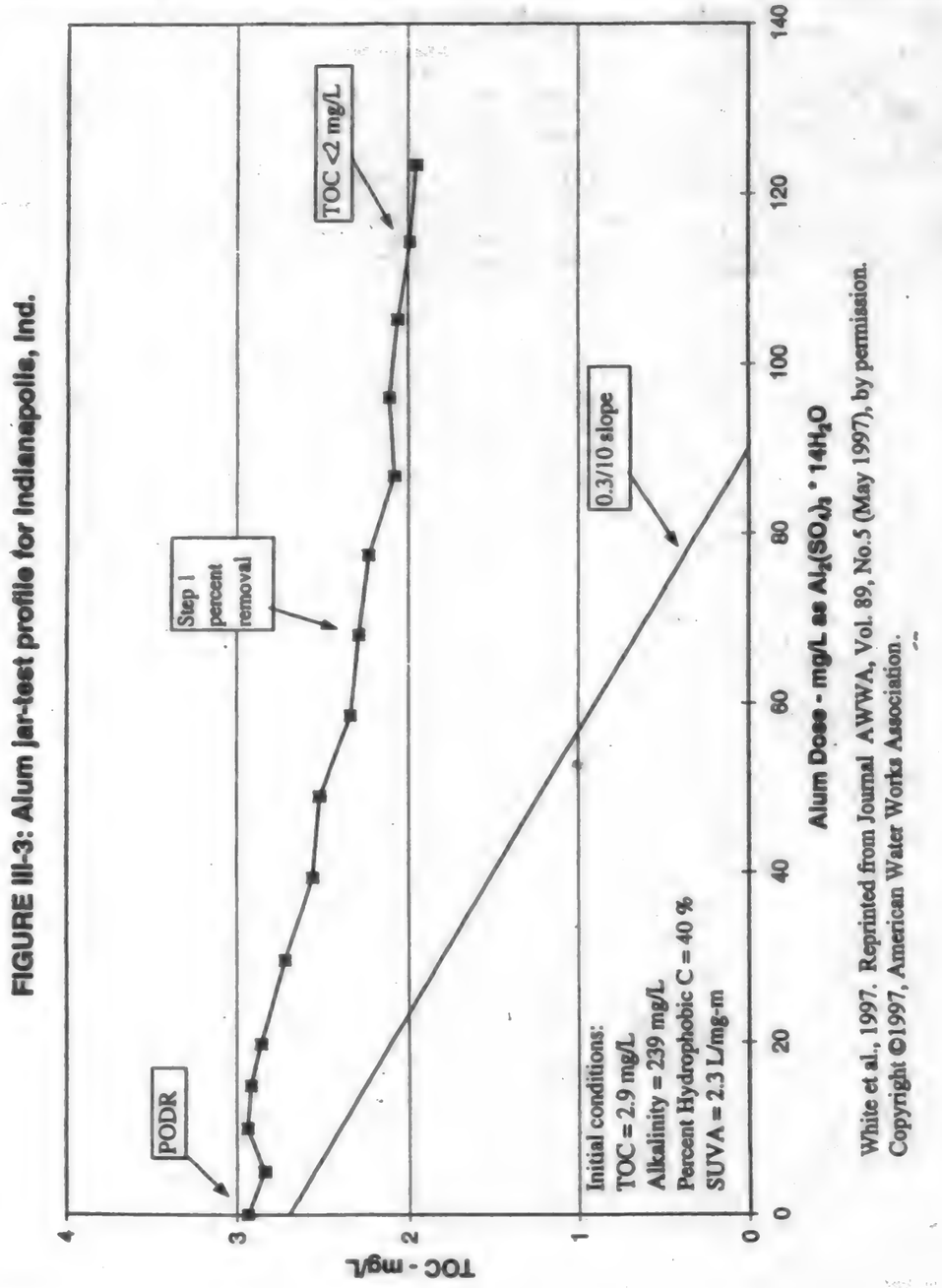

FIGURE III-3: Alum jar-test profile for Indianapolis, Ind.

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A summary of the controlling criterion for each of the 31 waters tested by UNC, based on the 1994 proposed rule criteria, is shown in Table III–2 (adapted from White et al., 1997). Only 14 of the 31 waters met the proposed step 1 percent TOC removal requirements or achieved a settled water TOC concentration <2.0 mg/L at an alum dose less than or equal to that needed to meet the PODR. Those waters that readily met the step 1 TOC removal requirements were mostly moderate-to-high-TOC waters with low alkalinity. The UNC study suggested that a significant number of waters (especially low-TOC, high-alkalinity waters) would probably need to use the step 2 protocol to establish alternative performance criteria.

TABLE III–2.—CONTROLLING CRITERION FOR ENHANCED COAGULATION FOR WATERS EVALUATED IN UNC STUDY, BASED ON 1994 PROPOSED RULE CRITERIA

Source-water TOC, mg/L	Source-water alkalinity, mg/L as $CaCO_3$		
	0–60	>60–120	>120
>2.0–4.0	<2.0[a]	PODR[b]	N/A[c]
	PODR	PODR	PODR
	PODR	STEP 1[d]	N/A
	PODR	PODR	
	PODR		
>4.0–8.0	STEP 1	PODR	STEP 1
	STEP 1	PODR	STEP 1
	STEP 1	STEP 1	PODR
		STEP 1	
>8.0	STEP 1	STEP 1	STEP 1
	STEP 1	PODR	PODR
	PDOR	STEP 1	PODR

[a] Settled water TOC less than 2.0 mg/L.
[b] Point of diminishing returns.
[c] Not amenable to enhanced coagulation.
[d] Step 1 required percent removal of TOC.

White and co-workers (1997) examined the relationship between the percent humic (hydrophobic) content of the raw waters in the UNC study and the maximum percent removal of DOC achieved at the high alum doses where little additional TOC removal was observed. Figure III–4 shows that waters with relatively high levels of humic material tended to exhibit higher degrees of DOC removal than those with low humic content. Figure III–5 shows that waters that contained high initial nonhumic (hydrophilic) DOC concentrations tended to have high residual DOC concentrations following coagulation.

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FIGURE III-4: Effect of initial hydrophobic organic content on maximum DOC removal

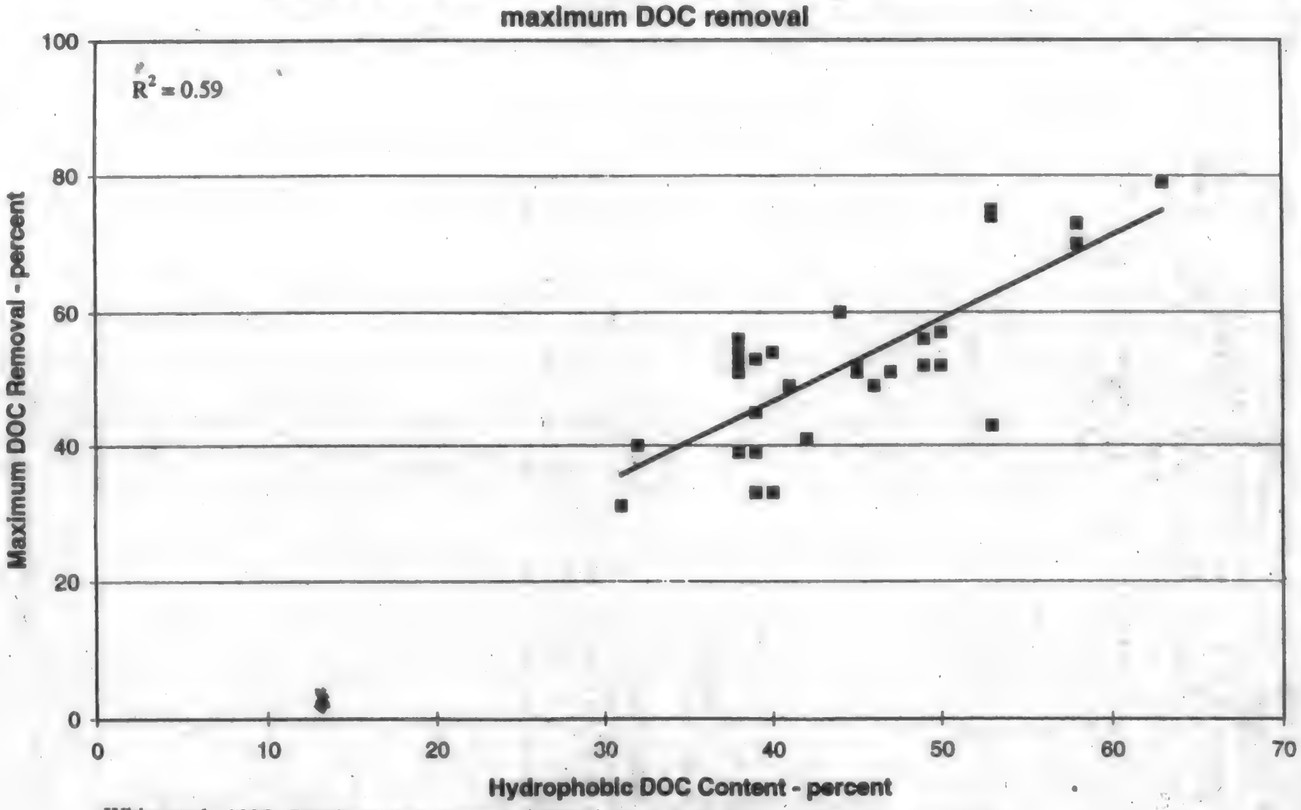

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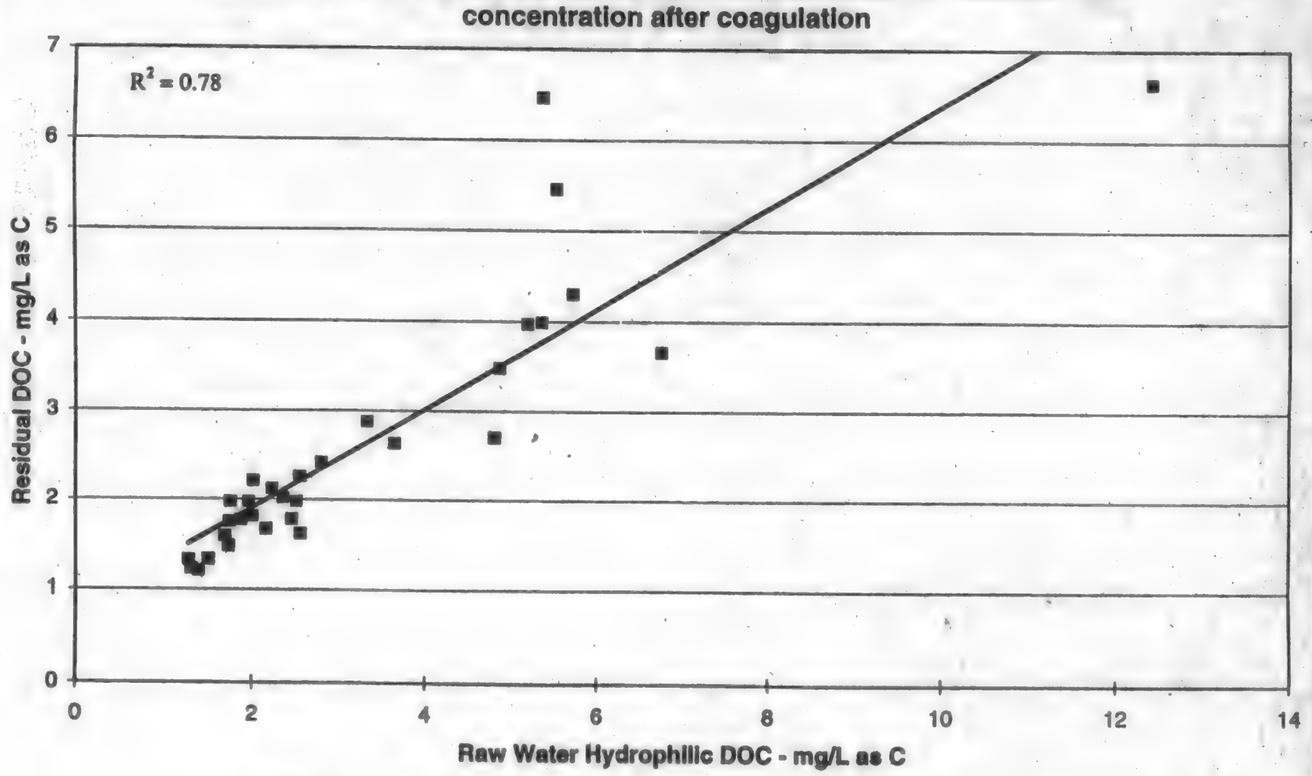
FIGURE III-5: Effect of Hydrophilic DOC concentration on residual DOC concentration after coagulation



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In the UNC study, the humic carbon content of the raw waters was reasonably correlated (r^2=0.74) with their SUVA values (White et al., 1997). Figure III–6 shows that waters with high initial SUVA values (i.e., 3.4–5.7 L/mg-m) exhibited significant reductions in SUVA as a result of coagulation, reflecting substantial removal of the humic (and other UV-absorbing) components of the overall organic matter, whereas waters with low initial SUVA values (i.e., 1.5–2.0 L/mg-m) exhibited relatively low reductions in SUVA. For all of the waters examined, the residual SUVA (i.e., ≤2.4 L/mg-m) tended to plateau at high alum doses, reflecting that the residual DOC was primarily nonhumic organic matter.

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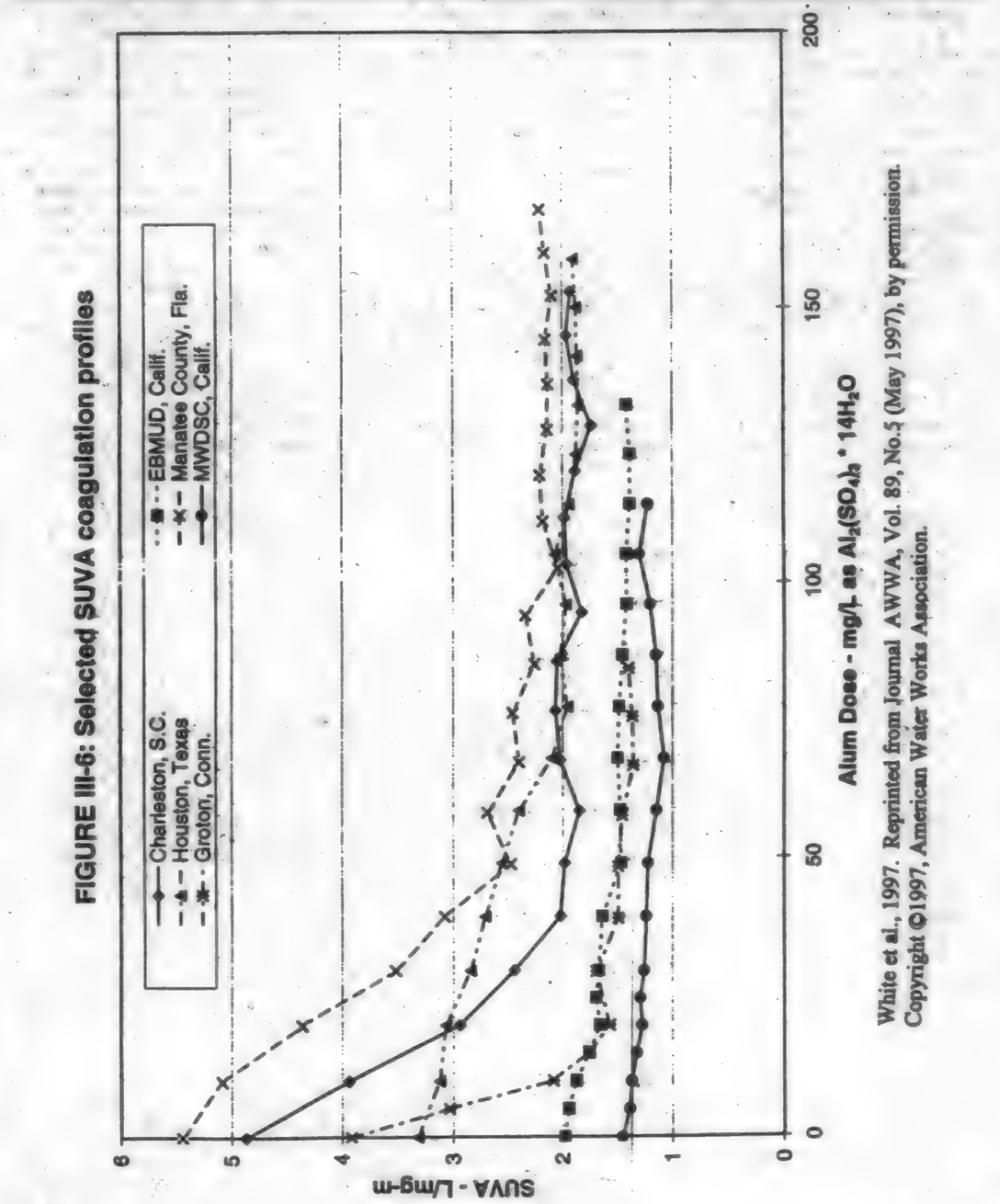

FIGURE III-6: Selected SUVA coagulation profiles

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In the UNC study, for the 14 waters in which the step 1 TOC removal requirements were met before the PODR was reached, the average raw-water SUVA was 3.9 L/mg-m, whereas the average raw-water SUVA of the other 17 waters was 2.6 L/mg-m (White et al., 1997). For most of the 31 waters examined, the PODR was found to occur at alum doses where SUVA had already reached its plateau. These findings suggested that raw-water SUVA values might be utilized in redefining the step 1 TOC removal requirements and that residual SUVA values might be utilized in defining the PODR. Unlike NOM characterizations with XAD resins in a research laboratory, SUVA is an easy parameter that can be determined by laboratories that measure DOC concentrations and UV absorbance.

b. Metropolitan Water District of Southern California/Colorado University Enhanced Coagulation Study. As noted in the UNC study, waters with low TOC and high alkalinity were expected to be the more difficult to treat with enhanced coagulation. Metropolitan Water District of Southern California (MWDSC) and Colorado University at Boulder did detailed studies on two low-TOC waters, one with moderate alkalinity (California State Project Water) and the other with high alkalinity (Colorado River water). In addition to using an XAD–8 resin fractionation to quantify the humic (hydrophobic) versus nonhumic (hydrophilic) content of the NOM, a 1000-dalton (1K) ultrafilter was used to determine what fraction of the bulk or coagulated water was of a lower versus higher molecular weight (Amy et al., 1987).

California State Project Water (with 80 mg/L alkalinity) was jar-treated with incremental alum doses of ~ 622 mg/L (up to a total of 111 mg/L). Figures III–7 and III–8 show that addition of alum at 47 mg/L reduced the raw-water bulk DOC concentration from 4.3 mg/L to 2.6 mg/L (a 39-percent bulk DOC removal); subsequent alum addition resulted in a plateauing of the DOC removal rate (Krasner et al., 1995). Throughout the entire range of alum doses evaluated, little of the low-MW and nonhumic DOC was removed. The high-MW and humic fractions, however, were well removed with increasing alum dosages, demonstrating preferential removal of these fractions. The residual DOC remaining after enhanced coagulation was primarily made up of low-MW and nonhumic material. The latter NOM fractions represent the part of the bulk DOC that is not readily amenable to removal by coagulation.

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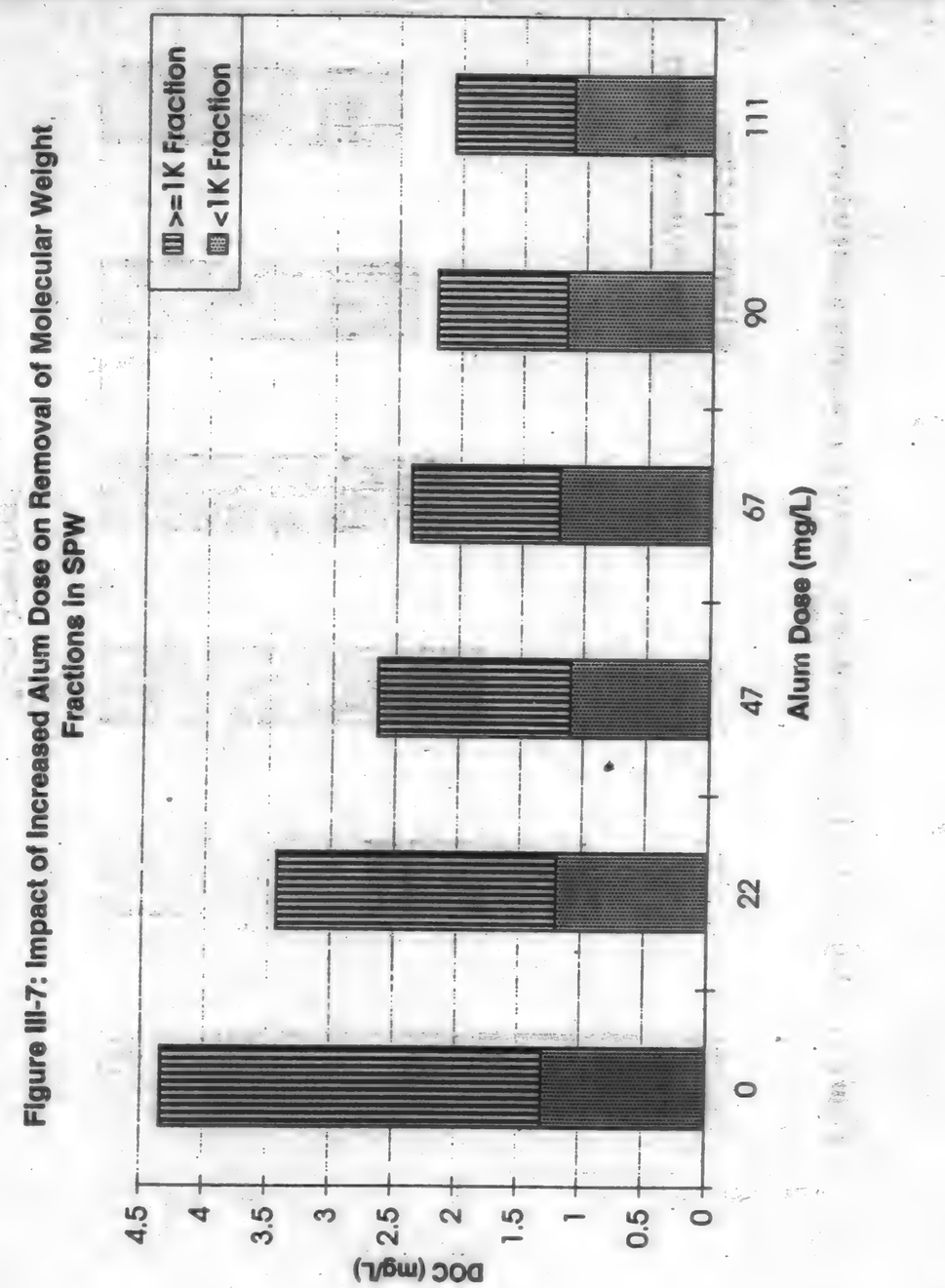

Figure III-7: Impact of Increased Alum Dose on Removal of Molecular Weight Fractions in SPW

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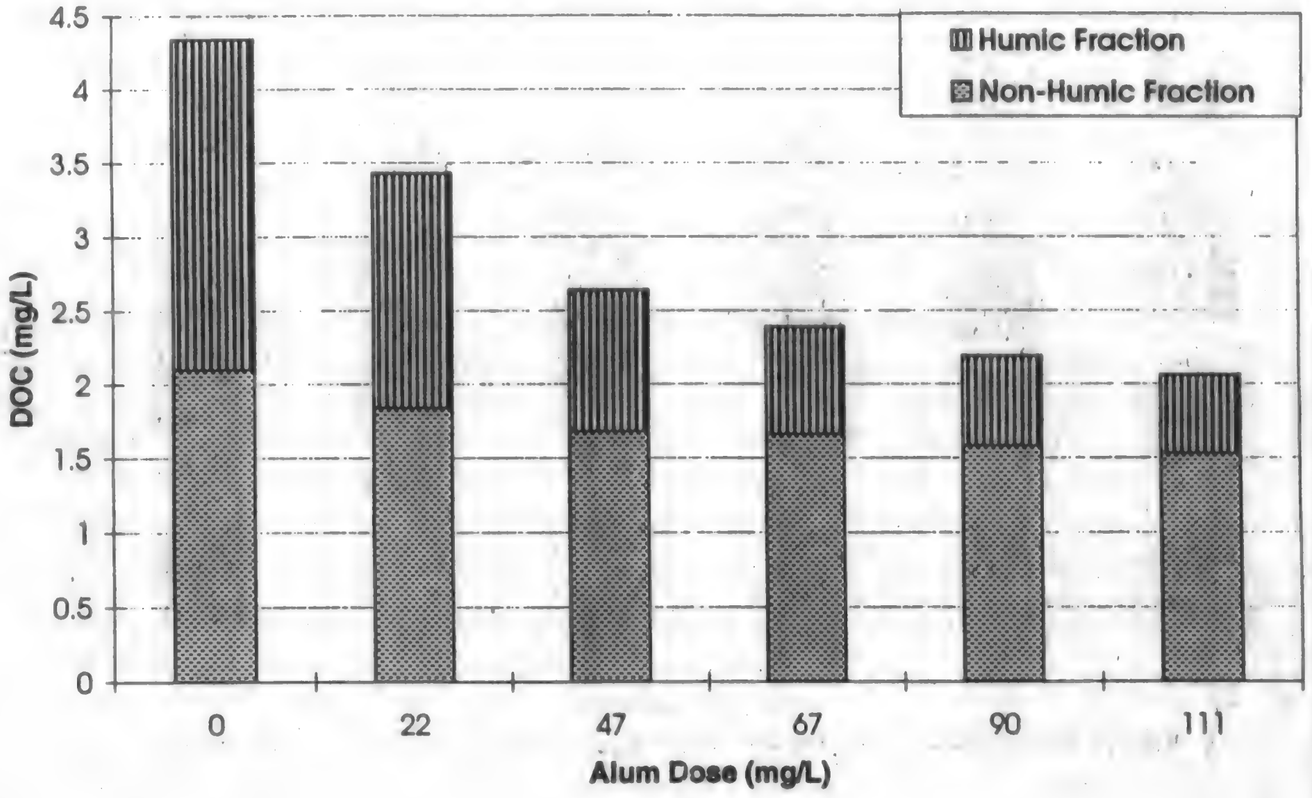
Figure III-8: Impact of increased alum dose on removal of humic/non-humic fractions in SPW



For this sample of California State Project Water, 52 percent of the DOC was humic NOM and the SUVA value was 2.5 L/mg-m (Kraemer et al., 1995). Figure III–9 shows that increasing doses of alum reduced the fraction of humic DOC in the residual DOC to 28 percent. In addition, the reduction in SUVA closely paralleled the reduction in the humic content of the residual DOC. SUVA was reduced to 1.7 L/mg-m with 47 mg/L of alum, whereas the addition of 111 mg/L of alum only reduced the value of SUVA to 1.5 L/mg-m.

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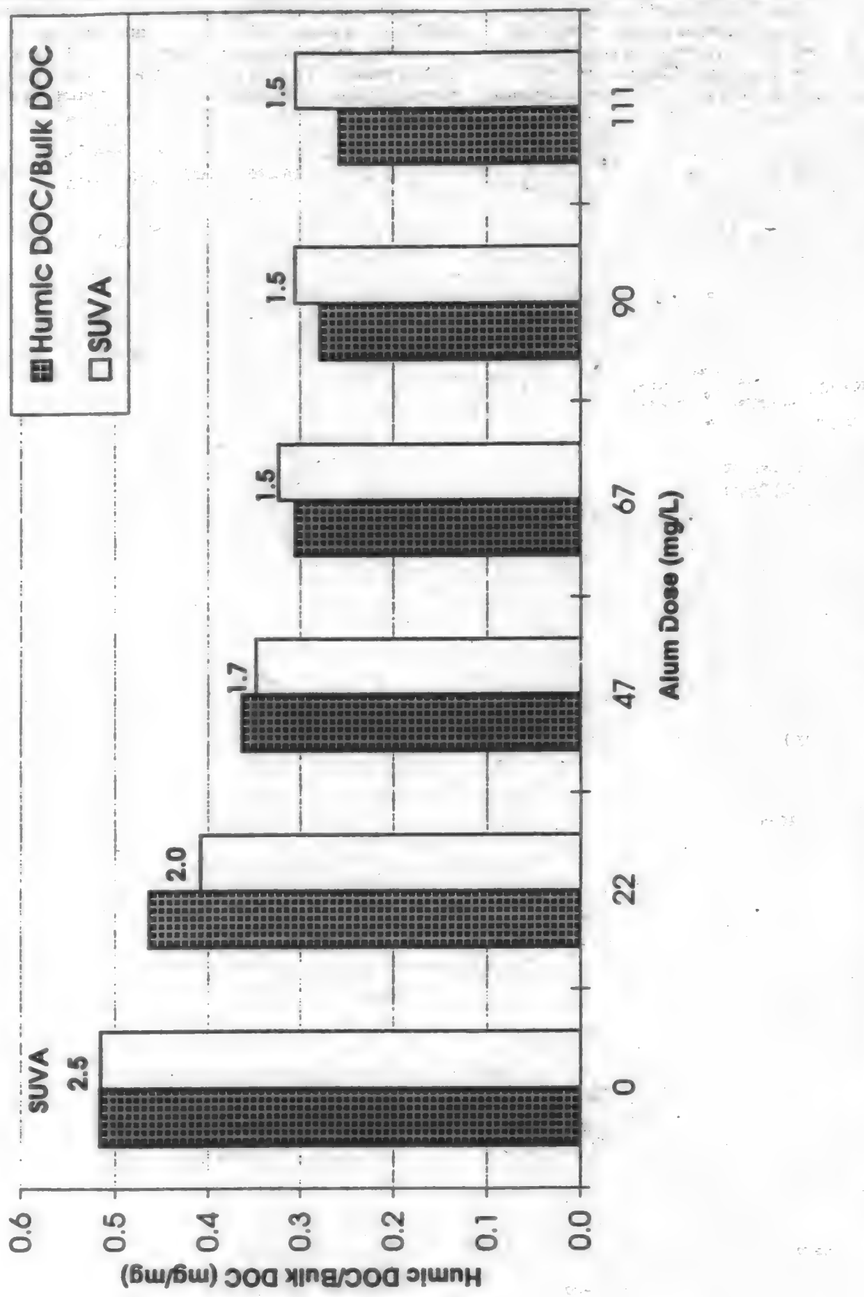

Figure III-9: Impact of Increased Alum Dose on SUVA and Fraction of Humic DOC in SFW

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Colorado River water has a greater amount of low-molecular weight DOC and somewhat more nonhumic DOC than California State Project Water (Krasner et al., 1995). Nonetheless, increased doses of alum did remove DOC in Colorado River water, although not to the same extent as in California State Project Water. Although the alkalinity of Colorado River water (135 mg/L) is higher than that of California State Project Water, the difference in treatability was more likely related to the differences in the NOM characteristics of the two waters. As with California State Project Water, the residual DOC in the coagulated Colorado River water was primarily low-molecular weight and nonhumic NOM (Figures III–10 and III–11). The raw-water Colorado River water had a SUVA value of 1.1 L/mg-m and 44 percent of the DOC was humic NOM. After the addition of 114 mg/L of alum, the humic content of the residual DOC was only reduced to 38 percent and the SUVA value was only reduced to 1.0 L/mg-m (Figure III–12).

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Figure III-10: Effect of Increased Alum Dose on Removal of Humic/Non-Humic Fractions in CRW

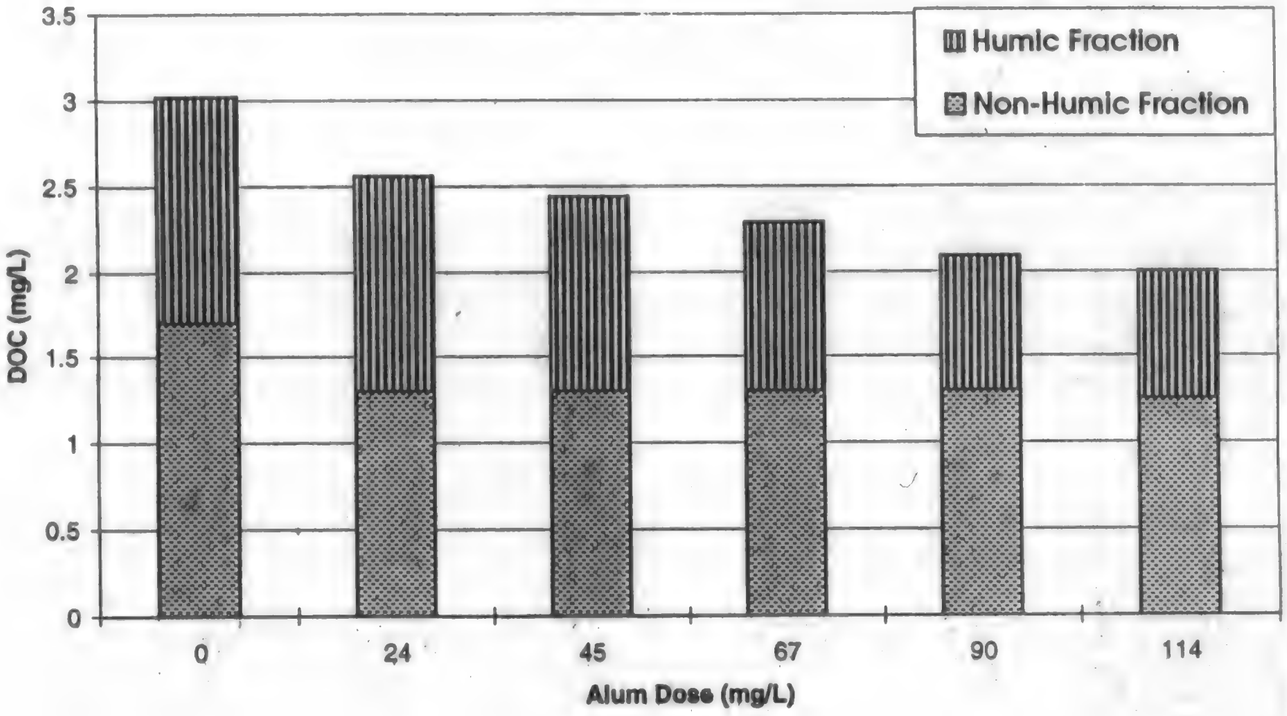
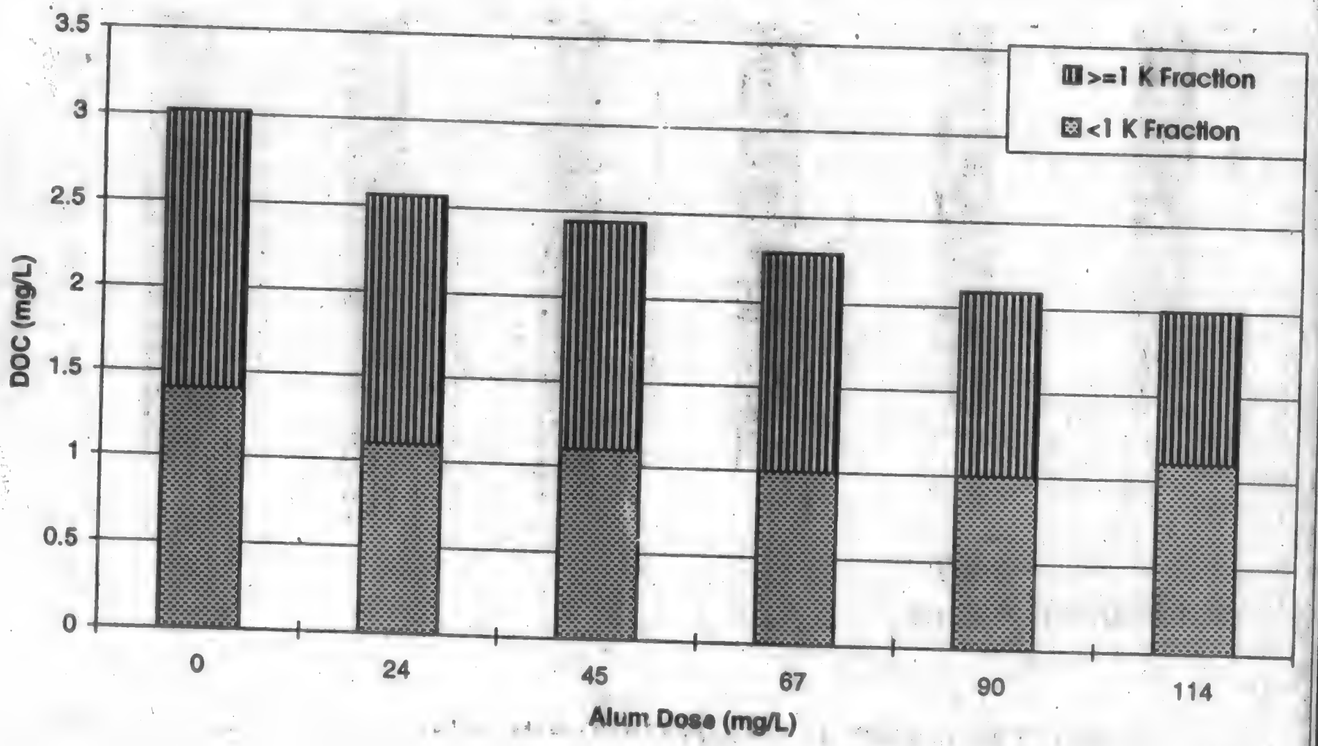


Figure III-11: Impact of Increased Alum Dose on Removal of Molecular Weight Fractions in CRW



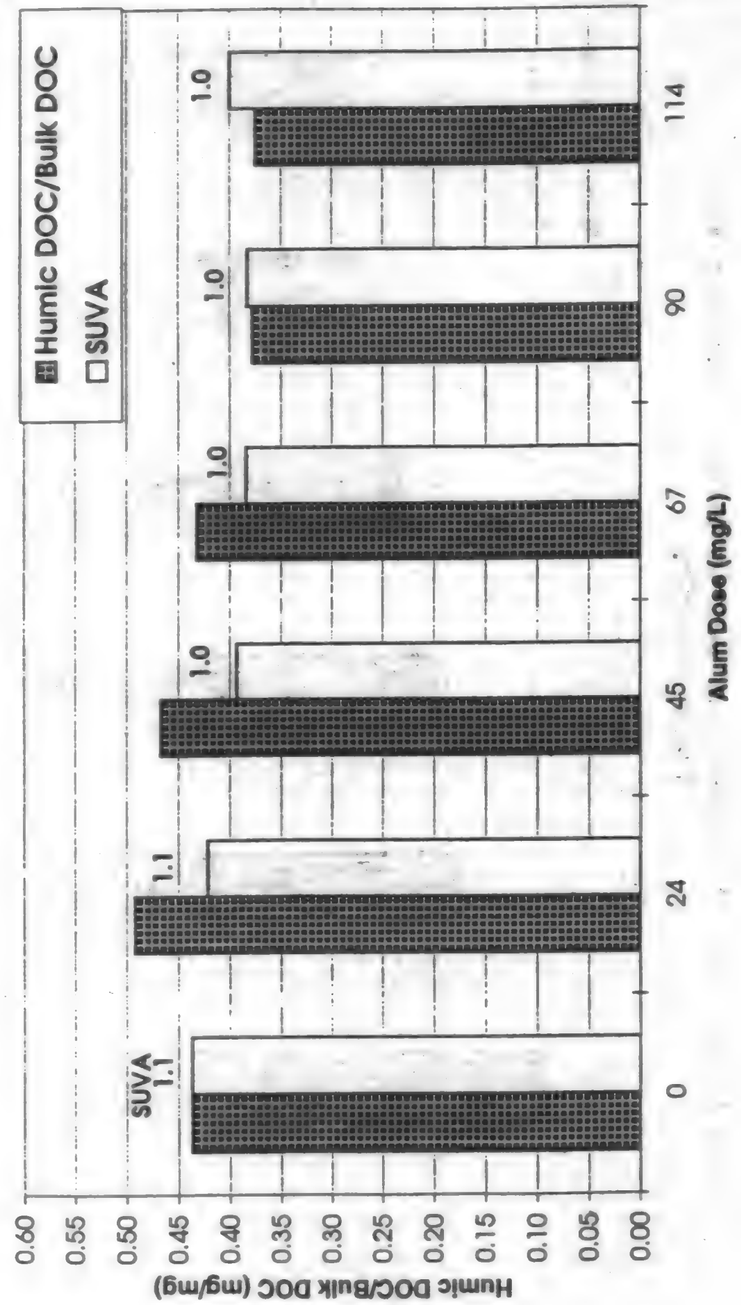


Figure III-12: Impact of Increased Alum Dose on SUVA and Fraction of Humic DOC in CRW

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Cheng and co-workers (1995) studied enhanced coagulation of California State Project Water and Colorado River water, as well as the effects of seasonal changes on TOC removal. Several water blends were tested, including 100-percent California State Project Water and Colorado River water, as well as 90–, 80–, 70–, 60–, and 50-percent Colorado River water blends. These blends represent the range of waters that are treated at MWDSC's plants and may be subject to enhanced coagulation treatment. The SUVA values for California State Project Water during this study ranged from 2.8 to 3.8 L/m-mg, whereas the SUVA values for Colorado River water varied from 1.0 to 1.7 L/m-mg (the blends of California State Project Water and Colorado River water contained SUVA values of <3.0 L/m-mg).

Cheng and co-workers (1995) also addressed the issue of curve fitting to examine the TOC removal curves. All data were analyzed by fitting to either an exponential decay-type equation, a third-order polynomial-fit equation or to an isopleth-type equation. The data fit best when the curve-fitting started after the "threshold" coagulant dose, and this is consistent with the finding of the UNC group (discussed in section 1.a. above). When the data are fitted to a 100-percent California State Project Water water during October 1993 (Cheng et al., 1995) the data did not fall into an isopleth or exponential-type curve, but rather a third order equation fit. The third order equation fit the data with a very high correlation coefficient, but it smoothed the curve and masked the actual slope of the removal curve.

The results from Cheng and co-workers indicate that a single model could not adequately fit all the data sets (data below the threshold coagulant dose had to be omitted), nor could it fit all the waters tested during various seasons. MWDSC's data better fit the decay-type or polynomial-fit equation than the isopleth, but the isopleth yielded the PODR TOC removal percentages that best matched those of the point-to-point method for all samples, and better matched the TOC removal curve.

c. *Malcolm Pirnie, Inc./Colorado University data collection and analysis.* The UNC/AWWA enhanced coagulation provided substantial new information and addresses some of the outstanding issues raised above, but also raised concern over the number of systems that might seek alternative performance criteria. In order to evaluate the number of systems that may seek alternative treatment and to develop data to support revisions to the proposed requirements, Malcolm Pirnie, Inc. and Colorado University, with funding from the Water Industry Technical Action Fund (WITAF), performed a data collection and analysis project to collect additional data on enhanced coagulation.

Because the Malcolm Pirnie, Inc./Colorado University team assembled enhanced coagulation data from numerous researchers throughout the country, some source waters were tested more than once. If a source water was studied more than once (e.g., Colorado River water), but had similar water quality over time (e.g., comparable TOC, SUVA, alkalinity), the results of the different experiments were averaged so as to not have the database overly influenced by a few water types. On the other hand, if the same source water was evaluated, but the water quality was different, then each experiment was separately considered. In some cases, a source water moved from one box in the 3×3 matrix to another with variations in TOC and/or alkalinity. If the identical sample of water was evaluated with different coagulants, both sets of data were included as separate entries. It is important to note that a number of systems have started to not only enhance their coagulation process, but have switched the type of coagulant they are using to one that improves TOC removal.

Table III–3 provides a summary of the raw-water characteristics of the 127 waters in the Malcolm Pirnie, Inc./AWWA database. When waters in this nationwide database were examined by raw-water TOC, SUVA, and alkalinity, researchers observed that high-TOC (>8 mg/L)/low alkalinity (<60 mg/L) waters had high SUVA (median = 4.9), whereas low-TOC (2–4 mg/L)/high-alkalinity (>120 mg/L) waters had low-SUVA (median = 1.7). For the entire 3×3 matrix, the cumulative probability distribution (10th, 50th, and 90th percentile) of SUVA values typically increased with either increasing TOC or decreasing alkalinity. Because SUVA is an indication of humic NOM content, and it is the humic fraction that is most amenable to enhanced coagulation, this SUVA distribution supports the earlier observation of the UNC research team that step 1 TOC removals were most readily met in high-TOC waters with low alkalinity.

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Table III-3 Summary Raw-Water Statistics for Enhanced Coagulation Database

TOC	Percentile Rank	Alkalinity = ≤ 60				Alkalinity = 60 < Alkalinity = ≤ 120				Alkalinity > 120			
		ALK.	TOC	UV-254	SUVA	ALK.	TOC	UV-254	SUVA	ALK.	TOC	UV-254	SUVA
> 2.0 - 4.0	10th	11	2.3	0.069	2.84	74	2.4	0.054	2.03	126	2.3	0.039	1.43
	50th	32	2.7	0.090	3.38	83	2.8	0.077	2.73	141	3.0	0.053	1.74
	90th	60	3.4	0.127	3.97	113	3.3	0.103	3.09	214	3.5	0.104	3.48
		n = 20 (149)				n = 30 (283)				n = 22 (197)			
> 4.0 - 8.0	10th	20	3.3	0.142	2.38	70	4.1	0.087	1.95	128	4.1	0.067	1.44
	50th	27	6.0	0.229	3.39	96	5.2	0.130	2.48	146	4.8	0.092	1.90
	90th	45	7.0	0.288	4.79	110	6.4	0.217	3.83	202	6.5	0.142	3.01
		n = 6 (77)				n = 14 (172)				n = 18 (169)			
> 8.0	10th	12	13.2	0.505	4.33	86	15.1	0.674	3.80	137	8.6	0.263	2.22
	50th	16	16.0	0.747	4.86	87	17.1	0.697	4.15	218	10.3	0.252	2.60
	90th	28	23.5	1.288	5.45	88	19.0	0.739	4.49	227	13.3	0.357	3.17
		n = 5 (102)				n = 2 (44)					n = 9 (93)		

Note: n = number of raw waters (number of data points).

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From this database, the Colorado University research team (Edwards, 1997; Tseng & Edwards, 1997) developed a model for predicting organic carbon removal during enhanced coagulation, using as input the coagulant dose, coagulation pH, raw-water UV absorbance, and raw-water DOC concentration. The model assumes that all DOC can be divided into two distinct fractions (Figure III–13): DOC that strongly complexes hydroxide surfaces formed during coagulation and DOC that does not (Edwards et al., 1996). Edwards defined these fractions as sorbing and nonsorbing DOC, respectively. In the model, the relative fraction of sorbing and nonsorbing NOM is calculated using an empirical relation based on the value of SUVA (Edwards, 1997).

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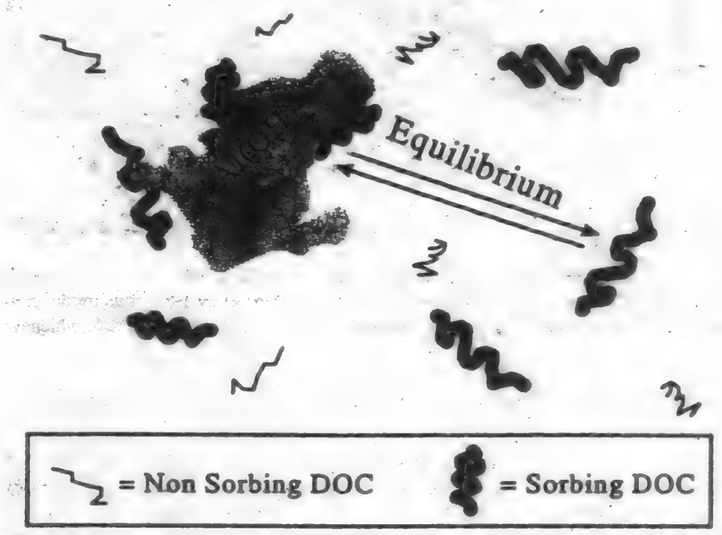
Figure III-13: Basic conceptualization of two hypothetical DOC fractions in natural waters.



Basic conceptualization of two hypothetical DOC fractions in natural waters. The sorbing DOC fraction is in equilibrium with sorbent hydroxide formed during coagulation.

Edwards, M. 1997. Reprinted from Journal AWWA, Vol. 89, No.5 (May 1997), by permission. Copyright ©1997, American Water Works Association.

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In the Colorado University modeling effort (Edwards, 1997), the best predictive capability was provided by a site-specific approach using a best-fit sorption constant and nonsorbing DOC fraction for each water quality and coagulant type (Figure III–14). Assuming a typical DOC analytical error of either ±0.25 mg/L or ±5 percent, 81 percent of the model predictions were accurately predicted within analytical precision.

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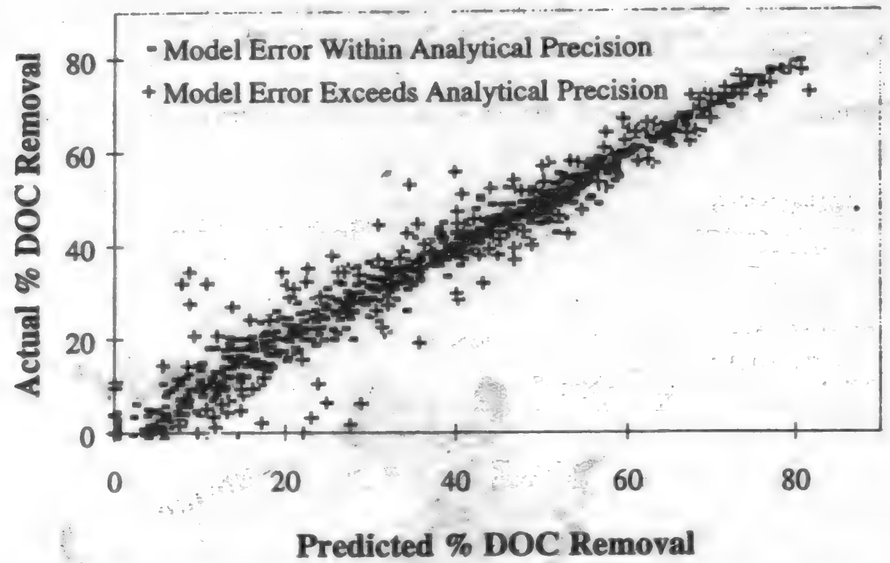
Figure III-14: Actual percentage of DOC removal versus model prediction for DOC model



Actual percentage DOC removal versus model prediction for DOC model calibrated using a site specific sorption constant and non-sorbing DOC fraction. Only 19% of all model predictions exceeded expected error in calculating %DOC removal of either ± 0.25 mg/L or ± 5%, whichever is greater

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The Colorado University DOC/SUVA model was subsequently used to determine the "maximum" TOC removal that can be achieved with enhanced coagulation. All nine boxes in the 3×3 matrix (Table III–3) were evaluated using the 10th, 50th, and 90th percentile water qualities. The model was used to determine the amount of sorbable TOC and to examine removal of 100, 90, 80, 70, 60, and 50 percent of the sorbable TOC.

Table III–4 summarizes the results from the maximum TOC removal task. A 10th percentile SUVA value corresponds to a water that is difficult to treat (relative to other waters in that same box), whereas a 50th and 90th percentile SUVA value corresponds to waters that are average and easy to treat, respectively, in that box. The sorbable amount of TOC represents the maximum amount of TOC that can be removed using coagulants with no limit on coagulant dosage. Therefore, these values may not be practical or realistic to achieve. In Table III–4, the 1994 proposed Step 1 TOC removal requirements are listed, along with a 15 percent safety factor. For example, in the low-TOC, low alkalinity box, the current Step 1 TOC removal requirement (40 percent) with a safety factor is 46 percent. In this box, for an easy to treat water (90th percentile SUVA of 3.97), 62 percent of the sorbable TOC would need to be removed to ensure compliance with the proposed requirement; whereas for a difficult to treat water (10th percentile SUVA of 2.84), 71 percent of the sorbable TOC would need to be removed.

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TABLE III-4: Prediction of "Maximum" TOC Removal Based on Colorado University DOC/SUVA Model

Percentile	TOC mg/L	Alkalinity = 0-60 mg/L							Step 1 TOC Rem.	Step 1 TOC Rem. +15%	%Sorb. TOC Rem.: Meet Step1 +15%
		SUVA	TOC Removal (% Sorbable TOC Removal)								
			(100%)	(90%)	(80%)	(70%)	(60%)	(50%)			
10th	>2-4	2.84	65	59	52	46	39	33	40	46	71%
50th		3.38	69	62	55	48	41	35	40	46	67%
90th		3.97	74	67	59	52	44	37	40	46	62%
10th	>4-8	2.38	62	56	50	43	37	31	45	52	83%
50th		3.29	69	62	55	48	41	35	45	52	75%
90th		4.79	80	72	64	56	48	40	45	52	65%
10th	>8	4.33	76	68	61	53	46	38	50	58	76%
50th		4.86	80	72	64	56	48	40	50	58	72%
90th		5.54	86	77	69	60	52	43	50	58	67%

Percentile	TOC mg/L	Alkalinity >60-120 mg/L							Step 1 TOC Rem.	Step 1 TOC Rem. +15%	%Sorb. TOC Rem.: Meet Step1 +15%
		SUVA	TOC Removal (% Sorbable TOC Removed)								
			(100%)	(90%)	(80%)	(70%)	(60%)	(50%)			
10th	>2-4	2.03	59	53	47	41	35	30	30	35	58%
50th		2.73	64	58	51	45	38	32	30	35	54%
90th		3.09	67	60	54	47	40	34	30	35	51%
10th	>4-8	1.93	58	52	46	41	35	29	35	40	69%
50th		2.48	63	57	50	44	38	32	35	40	64%
90th		3.83	73	66	58	51	44	37	35	40	55%
10th	>8	3.80	73	66	58	51	44	37	40	46	63%
50th		4.15	75	68	60	53	45	38	40	46	61%
90th		4.49	78	70	62	55	47	39	40	46	59%

Percentile	TOC mg/L	Alkalinity >120 mg/L							Step 1 TOC Rem.	Step1 TOC Rem. +15%	%Sorb. TOC Rem.: Meet Step1 +15%
		SUVA	TOC Removal (% Sorbable TOC Removed)								
			(100%)	(90%)	(80%)	(70%)	(60%)	(50%)			
10th	>2-4	1.43	55	50	44	39	33	28	20	23	42%
50th		1.74	57	51	46	40	34	29	20	23	40%
90th		3.68	72	65	58	50	43	36	20	23	32%
10th	>4-8	1.64	56	50	45	39	34	28	25	29	51%
50th		1.90	58	52	46	41	35	29	25	29	50%
90th		3.01	67	60	54	47	40	34	25	29	43%
10th	>8	2.22	61	55	49	43	37	31	30	35	57%
50th		2.60	64	58	51	45	38	32	30	35	54%
90th		3.17	68	61	54	48	41	34	30	35	51%

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The next analyses evaluated what TOC removal is "practical" to achieve in order to better define the 3×3 matrix. The data analyses were aimed at developing an alternative set of percent TOC removal numbers for step 1 requirements, recognizing that the goal was to select values that could be "reasonably" met by 90 percent of the systems implementing enhanced coagulation. Using the database compiled through the Malcolm Pirnie, Inc./AWWA project and summarized in Table III–3, the following nine equations were developed to predict "90th-percentile" TOC for a given coagulant dose. Figure III–15 illustrates the shape of the curves for the low-alkalinity waters.

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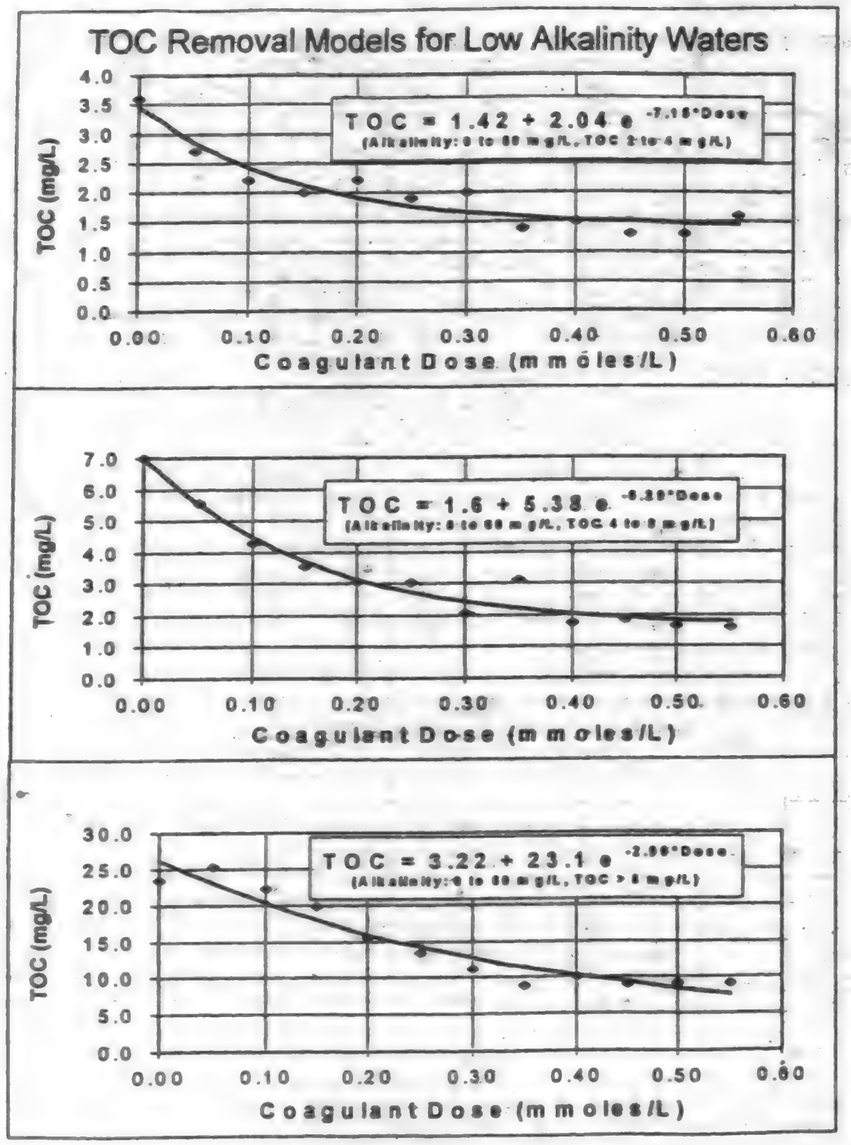
Figure III-15: TOC Removal Models for Low Alkalinity Waters



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The significance of the 90th-percentile data point is that 90 percent of systems (represented by the database) will have a lower residual TOC compared to what is predicted by the equations for a given coagulant dose.

1. $TOC=1.42+2.04 \bullet e^{-7.15 \bullet Dose\ (moles/L)}$ [for low-TOC, low-alkalinity box]
2. $TOC=1.37+2.10 \bullet e^{-3.92 \bullet Dose\ (moles/L)}$ [for low-TOC, medium-alkalinity box]
3. $TOC=2.10+1.27 \bullet e^{-2.73 \bullet Dose\ (moles/L)}$ [for low-TOC, high-alkalinity box]
4. $TOC=1.60+5.38 \bullet e^{-6.29 \bullet Dose\ (moles/L)}$ [for medium-TOC, low-alkalinity box]
5. $TOC=2.11+4.41 \bullet e^{-3.47 \bullet Dose\ (moles/L)}$ [for medium-TOC, medium-alkalinity box]
6. $TOC=2.64+3.30 \bullet e^{-4.83 \bullet Dose\ (moles/L)}$ [for medium-TOC, high-alkalinity box]
7. $TOC=3.22+23.1 \bullet e^{-2.99 \bullet Dose\ (moles/L)}$ [for high-TOC, low-alkalinity box]
8. $TOC=4.88+13.8 \bullet e^{-3.33 \bullet Dose\ (moles/L)}$ [for high-TOC, medium-alkalinity box]
9. $TOC=6.61+6.44 \bullet e^{-3.57 \bullet Dose\ (moles/L)}$ [for high-TOC, high-alkalinity box]

Based upon the above equations, the coagulant dosages for achieving the proposed percent TOC removals and the proposed PODR slope criterion (i.e., 0.3 mg/L TOC per 10 mg/L of alum) were calculated. These calculations indicated that the low-TOC boxes will be at the proposed slope criterion at coagulant dosages lower than what would be required for achieving the proposed step 1 percent TOC removals. The opposite was true for the high-TOC boxes. For the medium-TOC boxes, the calculated coagulant dosages were approximately equal for both criteria. The trends for the different boxes in the matrix are similar to that observed by the UNC research team (Table III–2). Table III–5 summarizes the controlling criteria.

TABLE III–5.—CONTROLLING CRITERION FOR ENHANCED COAGULATION FOR WATERS EVALUATED IN MALCOLM PIRNIE, INC. STUDY, BASED ON MODELING APPROACH

TOC (mg/L)	Alkalinity mg/L		
	0–60	>60–120	>120
>2.0–4.0	PODR	PODR	PODR
>4.0–8.0	Step 1	PODR	Step 1
>8.0	Step 1	Step 1	Step 1

Malcolm Pirnie, Inc. next examined SUVA removal curves (Figure III–16), similar to what was examined by the UNC research team (Figure III–6).

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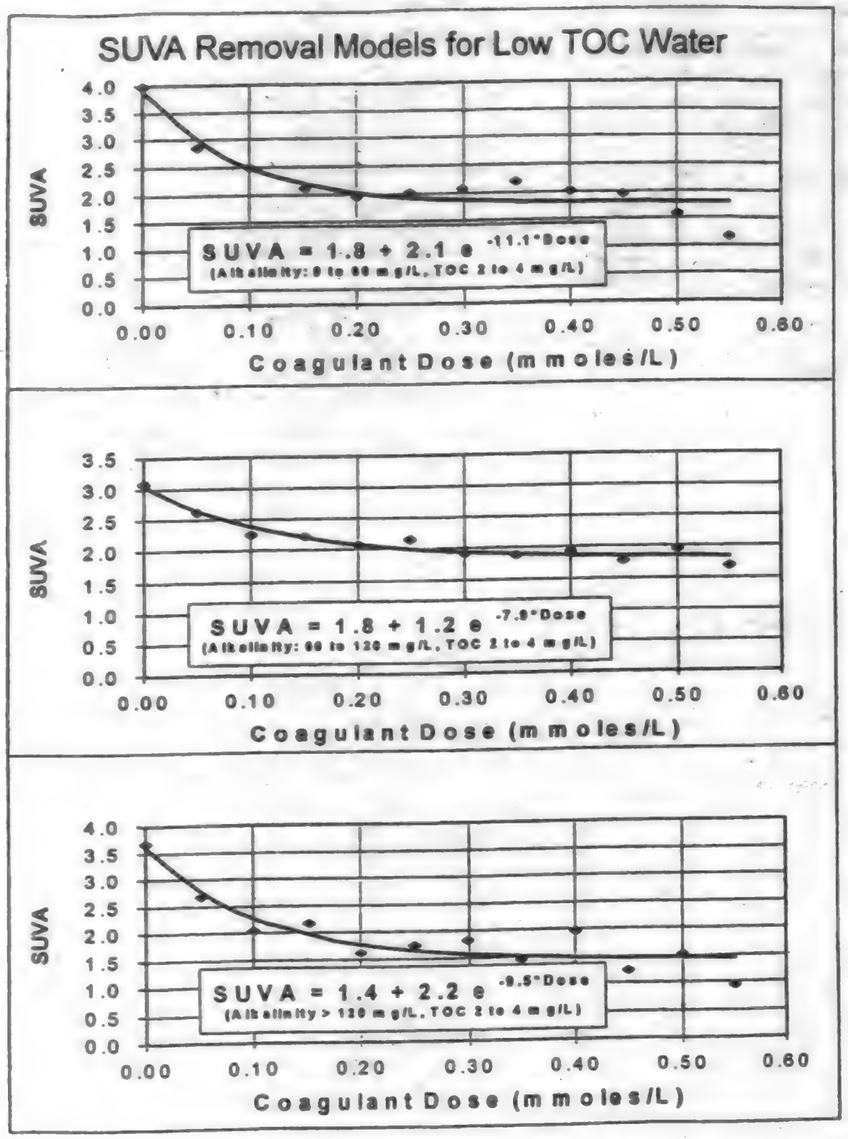
Figure III-16: SUVA Removal Models for Low TOC Waters



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The 90th-percentile SUVA curves were observed to reach asymptotic values with increasing coagulant Dose (Figure III–16 illustrates the shape of the curves for the low-TOC waters). The following seven equations were developed to predict the 90th-percentile SUVA for a given coagulant Dose. The three alkalinity ranges for the high-TOC waters were collapsed into one group due to lack of sufficient data. Similar to the TOC equations, the significance of the 90th-percentile data point is that 90 percent of systems (represented by the database) will have a lower residual SUVA compared to what is predicted by the equations for a given coagulant Dose.

a. $SUVA=1.8+2.1 \bullet e^{-11.1 \bullet Dose\ (moles/L)}$ [for low-TOC, low-alkalinity box]

b. $SUVA=1.8+1.2 \bullet e^{-7.9 \bullet Dose\ (moles/L)}$ [for low-TOC, medium-alkalinity box]

c. $SUVA=1.4+2.2 \bullet e^{-9.5 \bullet Dose\ (moles/L)}$ [for low-TOC, high-alkalinity box]

d. $SUVA=1.9+2.8 \bullet e^{-17.5 \bullet Dose\ (moles/L)}$ [for medium-TOC, low-alkalinity box]

e. $SUVA=1.8+2.0 \bullet e^{-5.2 \bullet Dose\ (moles/L)}$ [for medium-TOC, medium-alkalinity box]

f. $SUVA=2.1+0.95 \bullet e^{-6.0 \bullet Dose\ (moles/L)}$ [for medium-TOC, high-alkalinity box]

g. $SUVA=2.5+2.8 \bullet e^{-3.8 \bullet Dose\ (moles/L)}$ [for high-TOC boxes]

From a theoretical viewpoint, the asymptote of the above equations represents the minimum SUVA that could be achieved for a given data set (box) of the 3x3 matrix. The dosages for the minimum SUVA are related to certain maximum percent TOC removals. However, from a practical standpoint, achieving the minimum SUVA could be extremely difficult. An alternative approach could be to attempt to reach SUVA values which are 20 or 25 percent above minimum SUVA indicated by the above equations. Equations 1 through 9 and equations a. through g. were combined to determine the practical percent TOC removal values that could be achieved. The results for "minimum SUVA+25%" are shown in Table III–6.

TABLE III–6.—TOC REMOVALS (%) AT "MINIMUM SUVA+25%," BASED ON MALCOLM PIRNIE, INC. MODELING EFFORT

TOC (mg/L)	Alkalinity (mg/L)		
	0–60	>60–120	>120
>2.0–4.0	35	25	15
>4.0–8.0	35	45	20
>8.0	60	55	35

One limitation of a step 2 based on a settled-water SUVA approach would be that the utilities would have to determine these SUVA values in the absence of any oxidant (such as chlorine, permanganate, or ozone). Addition of oxidant changes the characteristics of the NOM in a manner that disproportionately affects the UV absorbance compared to TOC, thus changing the SUVA values without any actual removal of TOC.

d. Evaluation of current (baseline) TOC removals at full-scale. Full-scale TOC removal data were obtained from 76 treatment plants (Table III–7). These data were obtained from plants in the American Water Works Service Company (AWWSCo) system, plants studied by Randtke et al. (1994), and plants in North Carolina studied by Singer et al. (1995). Note that these data represent a one-time sampling at each plant and no specific attempt was made to meet the proposed TOC removal percentages. Also, the proposed compliance requirements were based on an annual average. Based on current treatment, 83 percent of the systems treating moderate-TOC, low-alkalinity water removed an amount of TOC greater than the proposed step 1 requirement, whereas only 14 percent of the systems treating water with low TOC and high alkalinity met the proposed step 1 requirement. For the other systems treating low- or moderate-TOC water, 29–38 percent met the proposed step 1 requirements with existing treatment. Although all of the high-TOC systems met the proposed TOC removal requirements with current treatment, the number of systems in this database were insignificant (1–2 per box).

TABLE III–7.—TOC REMOVAL AT FULL-SCALE TREATMENT PLANTS

TOC >2.0–4.0 mg/L			Percent of plants that achieve specified TOC removal				
Alkalinity (mg/L)	No. of Plants	Step 1 TOC%	0–10% removal	10–20% removal	20–30% removal	30–40% removal	>40% removal
0–60	14	40	14	14	14	29	**29**
>60–120	11	30	36	0	27	18	**18**
>120	7	20	57	29	14	0	**0**
TOC >4.0–8.0 mg/L			Percent of plants that achieve specified TOC removal				
			0–15% removal	15–25% removal	25–35% removal	35–45% removal	>45% removal
0–60	18	45	0	0	11	6	**83**
>60–120	8	35	12	25	25	38	**0**
>120	13	25	31	31	23	15	**0**
TOC >8.0 mg/L			Percent of plants that achieve specified TOC removal				
			0–20	20–30	30–40	40–50	>50
0–60	2	50	0	0	0	0	**100**
>60–120	2	40	0	0	0	0	**100**
>120	1	30	NA	NA	**100**	NA	NA

*Values in bold represent the percentage of systems that achieved full-scale TOC removal that is greater than the proposed step 1 requirements.

e. *Evaluation of "optimized" TOC removal.* An "optimized" coagulation database was assembled, utilizing experiments performed by AWWSCo and by Randtke et al. (1994) (Table III–8). This database included experiments in which a combination of coagulant and acid was evaluated. The National Sanitation Foundation (NSF) limit on sulfuric acid addition (to minimize the introduction of trace impurities present in the acid) is 50 mg/L. In examining the database, an attempt was made to limit coagulant doses to ~10–20 times the TOC level. Thus, a water with 3 mg/L TOC might use up to 30–60 mg/L of coagulant (with or without acid), but would not use 100 mg/L of coagulant full-scale. However, a water with 10 mg/L TOC could use 100 mg/L or more of coagulant given the aforementioned ~10–20 multiplier for coagulant dose and TOC. A dose of this magnitude is discouraged because the NSF limits on aluminum sulfate and ferric chloride are 150 mg/L and 250 mg/L, respectively. Because these experiments were performed without these acid and coagulant dose limits as constraints, some waters were evaluated with more realistic chemical doses in the PODR experiments. A judgment was made in deciding which set of conditions was the most realistic for each water evaluated. With these elements in mind, an assessment was made as to which experiment was the most appropriate (controlling criteria) for each water. In some cases, a source water was tested more than once. If the identical sample of water (same TOC, SUVA, alkalinity) was coagulated with different coagulants, with or without acid, the highest TOC removal for that water was chosen, as many systems enhancing their coagulation process are also evaluating switching the type of coagulant.

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TABLE III-8: Analysis of the Optimized Coagulation Database

TOC Removal at "Controlling" Condition				
Statistic	TOC	Alkalinity (mg/L)		
		0-60	>60-120	>120
(% w/SUVA$_t$<2.0)	>2-4 (mg/L)	(13%)	(0%)	(64%)
(no. w/SUVA$_t$>2.0)		(12)**	(7)	(5)
minimum*		26%	16%	2%
25th percentile*		30%	~25%	17%
50th percentile*		39%	27%	20%
75th percentile*		~5%	~34%	22%
maximum*		57%	46%	28%
(% w/SUVA$_t$<2.0)	>4-8	(0%)	(36%)	(57%)
(no. w/SUVA$_t$>2.0)		(12)	(6**)	(2**)
minimum*		17%	19%	10%
25th percentile*		46%	34%	N/A
50th percentile*		54%	39%	N/A
75th percentile*		61%	43%	N/A
maximum*		68%	50%	44%
(% w/SUVA$_t$<2.0)	>8	(0%)	(0%)	(0%)
(no. w/SUVA$_t$>2.0)		(7)	(2)***	(4)
minimum*		56%	65%	37%
25th percentile*		56%	N/A	N/A
50th percentile*		68%	68%	44%
75th percentile*		69%	N/A	N/A
maximum*		76%	72%	61%

*Cumulative probability distribution for waters with SUVA$_t$>2.0.

**Number of waters with SUVA$_t$>2.0, excluding waters evaluated w/acid dose>NSF limit.

***Same source water.

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f. "Case-by-case" data analyses. A decision was made by the TWG, based on the Malcolm Pirnie, Inc. modeling effort and examination of the case-by-case data, to segment out raw waters with SUVA ($SUVA_r$) <2.0 L/mg-m during the analyses of the optimized coagulation database. This decision was made because including a significant number of low-SUVA waters in the analysis of the boxes results in lowering the amount of TOC that 90 percent of the systems in that box can remove. Thus, the TWG decided to examine what TOC removal could be accomplished by the medium-and high-SUVA waters that remained in each box.

Table III–8 provided a statistical summary of all the waters in each box of the matrix. Listed below are a summary of the key observations:

(1) A majority of the high-alkalinity (>120 mg/L) waters in the low (>2–4 mg/L) and moderate (>4–8 mg/L) TOC boxes have SUVA <2.0 L/mg-m. For many of these waters, optimized coagulation requires very high doses of acid or coagulant, which are not practical to use. Many of these waters are not readily amenable to enhanced coagulation. However, some of the systems that treat these waters will incorporate some level of enhanced coagulation in order to control DBP formation.

(2) For the waters in which the raw-water SUVA was >2.0 L/mg-m, the minimum, 25th percentile, 50th percentile, 75th percentile, and maximum TOC removal for each of the boxes in the 3 x 3 matrix were determined. This analysis allowed for an analysis of the cumulative probability distribution of TOC removal for waters that are amenable to enhanced coagulation.

(3) For example, the high-TOC (>8 mg/L)/low alkalinity (0-60 mg/L) box had a range of TOC removals from 56 to 76 percent. In order to comply with a 50 percent TOC removal (the proposed step 1 value for that box) with a safety factor of 15 percent, a 57 percent TOC removal would be required. The minimum and 25th percentile TOC removal for that box is 56 percent. Thus, it is expected that essentially all of the waters in this box (based on this limited data set and data from other sources) could comply with the proposed step 1 requirement.

(4) If the step 1 requirement for the high-TOC/low-alkalinity box was raised, for example, to 60 percent, then systems would need a 69 percent TOC removal to safely meet such a requirement. The 75th percentile of TOC removal for this box is 69 percent. Thus, raising the step 1 requirement to 60 percent could potentially drive half or more of the systems in this box to need to do step 2 testing for possible alternative performance criteria. Thus, these data suggest that for this and a number of other boxes (all of the high-TOC boxes and probably most of the moderate-TOC boxes), the currently proposed step 1 TOC removals are appropriate. Systems that can achieve higher TOC removals in these boxes will consider doing so in order to more effectively meet the DBP MCLs that have been proposed.

(5) For the low-TOC boxes, even after excluding the low-SUVA waters, the proposed step 1 TOC removal levels still appear too high. In Malcolm Pirnie, Inc."s modeling of TOC removal at minimum SUVA + 25 percent, it was predicted that the required TOC removals in the low-TOC boxes would be 35, 25, and 15 percent for low-, moderate-, and high-alkalinity, respectively. These predicted TOC removal values are in the range for which the majority of low-TOC waters with SUVA values >2.0 L/mg-m can achieve. Thus, the TWG recommended to the FACA Negotiating Committee-based on Malcolm Pirnie, Inc."s modeling effort and this case-by-case analysis—a revised set of TOC removal numbers for the low-TOC boxes, keeping in mind that low-SUVA waters would be excluded from the requirement.

(6) The TWG also recommended to the FACA Negotiating Committee an alternative step 2 point of diminishing return (PODR) of settled-water SUVA ≤2.0 L/mg-m. This action will also reduce transactional costs, as presentation of a settled-water SUVA value will be easier than presenting jar-test data. Nonetheless, the jar-test protocol and slope criterion will still be needed for evaluating alternative performance criterion for other waters.

2. New Data on Enhanced Softening

a. AWWARF studies—data on TOC removal. Several studies examined the relationship between increased coagulant dose and TOC removal (Shorney and Randtke, 1996; Clark et al. 1994). These studies indicate that the benefit from increased coagulant dose in TOC removal was dependent on the raw water. In a study funded by AWWARF, Shorney and Randtke (1994) indicated that utilities treating source water relatively low in TOC (i.e., 2.5 to 4 mg/L) and low in turbidity will have the greatest difficulty in removing TOC (Figure III–17 and III–18).

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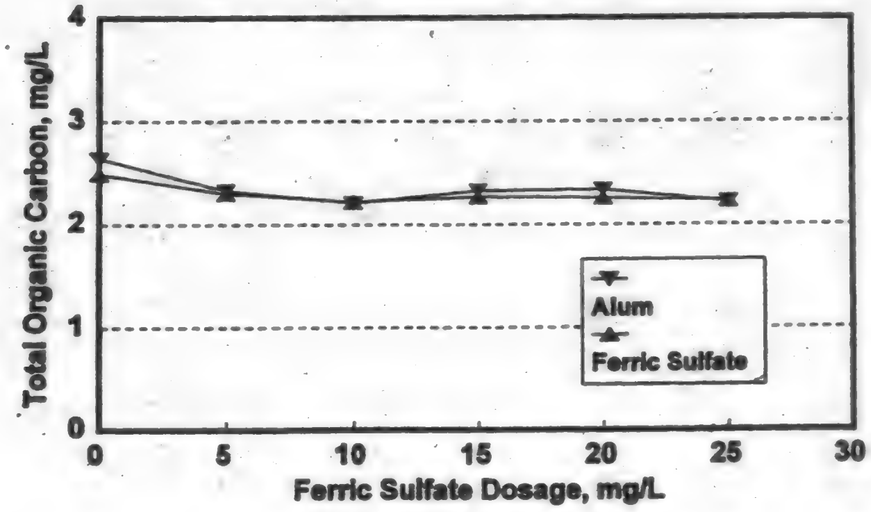
Figure III-17: The Effect of Increasing Coagulant Dosage on TOC Removal by Softening (100 mg/L CaO) of UT6 Water



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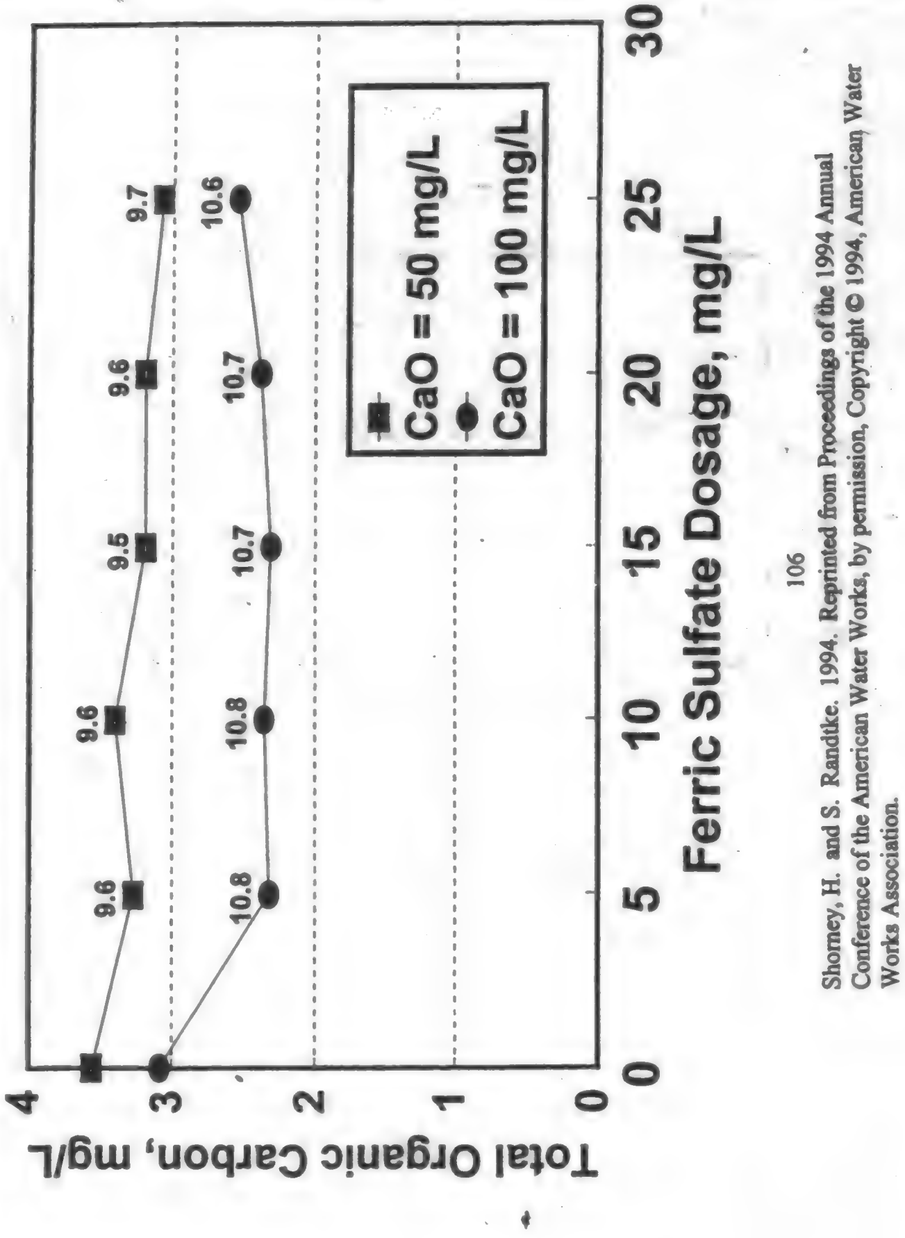

Figure III-18: the Effect of Increasing Coagulant Dosage on TOC Removal by Softening of UT1 Water

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The authors indicate some improved TOC removal from small doses of iron salts (5 mg/L ferric sulfate), but no additional TOC removal during softening occurred with increased coagulant addition (up to 25 mg/L dose) as shown in Figures III–17 and III–18.

In limited jar testing and in pilot testing, the City of Austin (a softening plant) has observed no significant difference in TOC removal with increasing doses of ferric sulfate beyond a low dose. Table III–9 shows the impact of increasing ferric sulfate doses on the turbidity and TOC concentration for jar tests in the City of Austin. The results indicate no significant difference in TOC removal with increasing doses of ferric coagulants, but did show that varying the coagulant dose did impact the turbidity removal as measured by NTU.

TABLE III–9.—IMPACT OF VARYING FERRIC COAGULANT DOSE ON TOC REMOVAL, AUSTIN, TEXAS, 4/9/93, 110 mg/L LIME DOSE, JAR TESTS

Ferric sulfate addition (mg/L)	Treated water turbidity, NTU	Treated water TOC (mg/L)
3	16	2.45
6	15	2.30
9	12	2.46
12	12	2.23
18	5.5	2.31

Pilot testing confirmed the jar test results by showing that increasing ferric sulfate doses beyond that required for turbidity removal proved to have no advantage in additional TOC removal (see Figure III–19).

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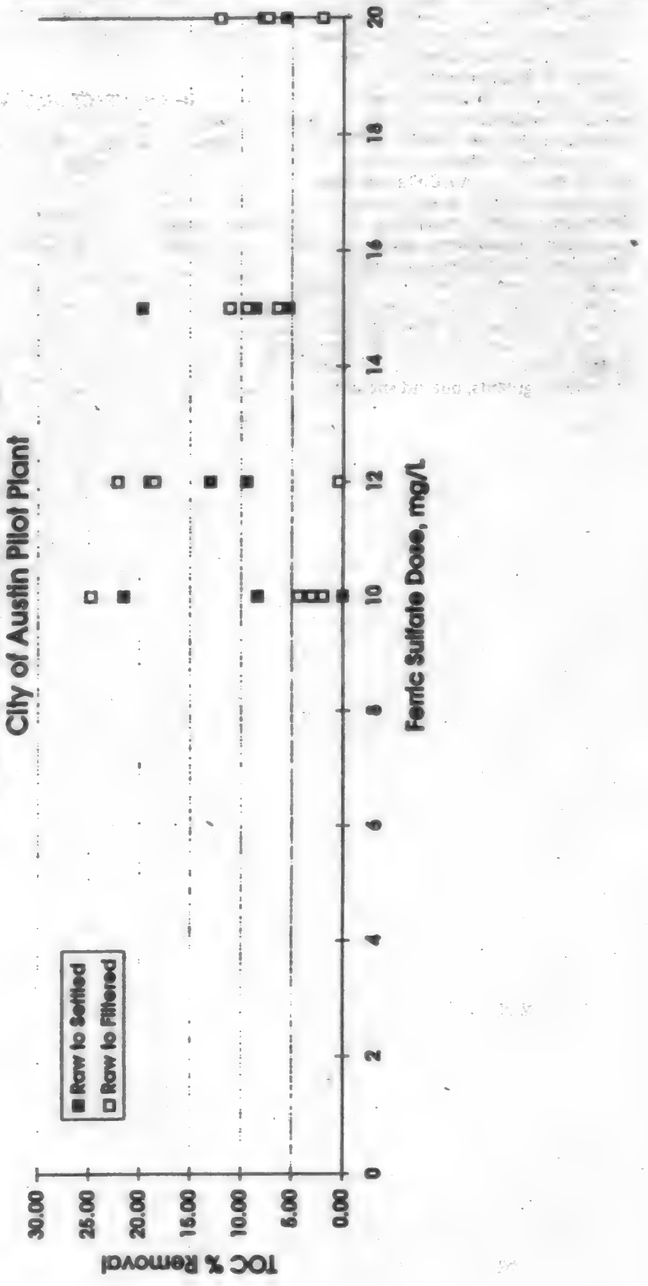

Figure III-19: Effect of Ferric Sulfate Dose on TOC Removal

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Full-scale plant data from St. Louis County Water Company and Kansas City, MO Water Services show that water temperature, turbidity, and raw water TOC levels have direct impact upon the efficiency of lime softening with iron salt coagulants to improve TOC removal.

Multiple jar tests on various waters done by Singer et al. (1996) focused on the relationship between use of lime and soda ash and TOC removal. Using only lime and soda ash (no coagulants), Singer et al. defined the dosages required to meet TOC removal percentages in the matrix. He also defined the dosages required to remove 10 mg/L of magnesium for nine waters that met the alkalinity levels in the right hand column of the matrix (i.e., >120 mg/L). Results of these jar tests are shown in Table III–10. Impacts of the proposed rule would be significant to softening plants if the TOC removal requirements were required to be met by all plants because the requisite lime and soda ash doses were higher than existing doses in the plants. Singer et al. (1996) found the removal of 10 mg/L of magnesium hardness to have less impact, although using the magnesium criteria would make TOC removal levels variable and less significant than meeting the removal levels in the matrix.

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Table III-10: Lime and Soda Doses Required for Various Enhanced Softening Criteria

Utility	% TOC Removal Required	Existing Plant Dose*	Existing pH of Settled Water at Treatment Plant	Dose* to Meet Req'd Percent TOC Removal	Corres-ponding Settled Water pH	Corres-ponding Mg Removal*	Dose to Remove 10 mg/l Mg*	Corres-ponding Settled Water pH	Corres-ponding Percent TOC Removal
Omaha, NE	30.0%	n/a	n/a	140 Lime 51 Soda	10.8	9	150 Lime 72 Soda	11.0	28
Austin, TX	30.0%	100 Lime 0.0 Soda	10.0	158 Lime 77 Soda	11.1	43	126 Lime 0.0 Soda	10.7	9
St. Louis, MO	30.0%	116 Lime 0.0 Soda	9.5	174 Lime 88 Soda	11.0	34	130 Lime 0.0 Soda	10.4	13
Ann Arbor, MI	25.0%	209 Lime 0.0 Soda	11.3	143 Lime 0.0 Soda	10.6	10	142 Lime 0.0 Soda	10.8	29
Adrian, MI	25.0%	146 Lime 0.0 Soda	9.7	161 Lime 0.0 Soda	10.4	17	161 Lime 0.0 Soda	10.4	31
Topeka, KS	25.0%	145 Lime 0.0 Soda	10.2	195 Lime 189 Soda	11.1	47	166 Lime 0.0 Soda	10.9	24
Sioux Falls, SD	30.0%	n/a	n/a	198 Lime 0.0 Soda	10.7	77	118 Lime 0.0 Soda	9.6	16
St. Paul, MN	30.0%	145 Lime 0.0 Soda	11.0	149 Lime 60 Soda	10.7	18	81 Lime 0.0 Soda	9.9	19
Ft. Lauder-dale, FL	30.0%	168 Lime 0.0 Soda	9.6	216 Lime 123 Soda	10.9	9	239 Lime 172 Soda	11.0	33

Notes: *Lime doses in mg/L as CaO/Soda Ash doses in mg/l as Na_2CO_3. *Mg removal expressed in mg/l as $CaCO_3$. n/a = not applicable

From Singer, et al, "Enhanced Coagulation and Enhanced Softening for the Removal of Disinfection By-Product Precursors: An Evaluation," Report to AWWA Disinfectants/Disinfection By-Products Technical Advisory Workgroup of the Water Utility Council, December 1996.

b. Shorney and coworkers—data on use of SUVA. As discussed previously, SUVA may be a practical method for determining which PWSs would be required to perform enhanced coagulation and enhanced softening. SUVA has been found to be a good indicator of humic content and it is the humic material that is best removed by coagulation. Shorney et al. (1996) report raw water SUVA values <3 in the harder (softened) source waters that have high levels of both turbidity and hardness. SUVA is defined as the UV absorbance measured as (m^{-1}) divided by the DOC concentration (mg/L). Typically, SUVA values <3 L/mg-m are representative of largely non-humic material, whereas SUVA values in the range of 4–5 L/mg-m represent mainly humic material (Edzwald & Van Benschoten, 1990). Shorney et al. (1996) report that coagulation and softening decreased SUVA, as expected, resulting in SUVA values between 1 and 2 L/mg-m. The decrease in SUVA, by treatment, also corresponded to a decrease in the apparent molecular weight. Austin's pilot work indicated that for their water, no additional TOC removal was observed with increasing lime and coagulant doses, demonstrating the difficulty in coagulation (see Figure III-20). Austin's water typically has a SUVA of approximately 2, indicating that most of the TOC in that water is non-humic and therefore likely to be difficult to coagulate. Concurrent work to fine-tune the enhanced coagulation criteria has yielded extensive justification for using SUVA values below 2 to define raw waters that have hard-to-treat TOC.

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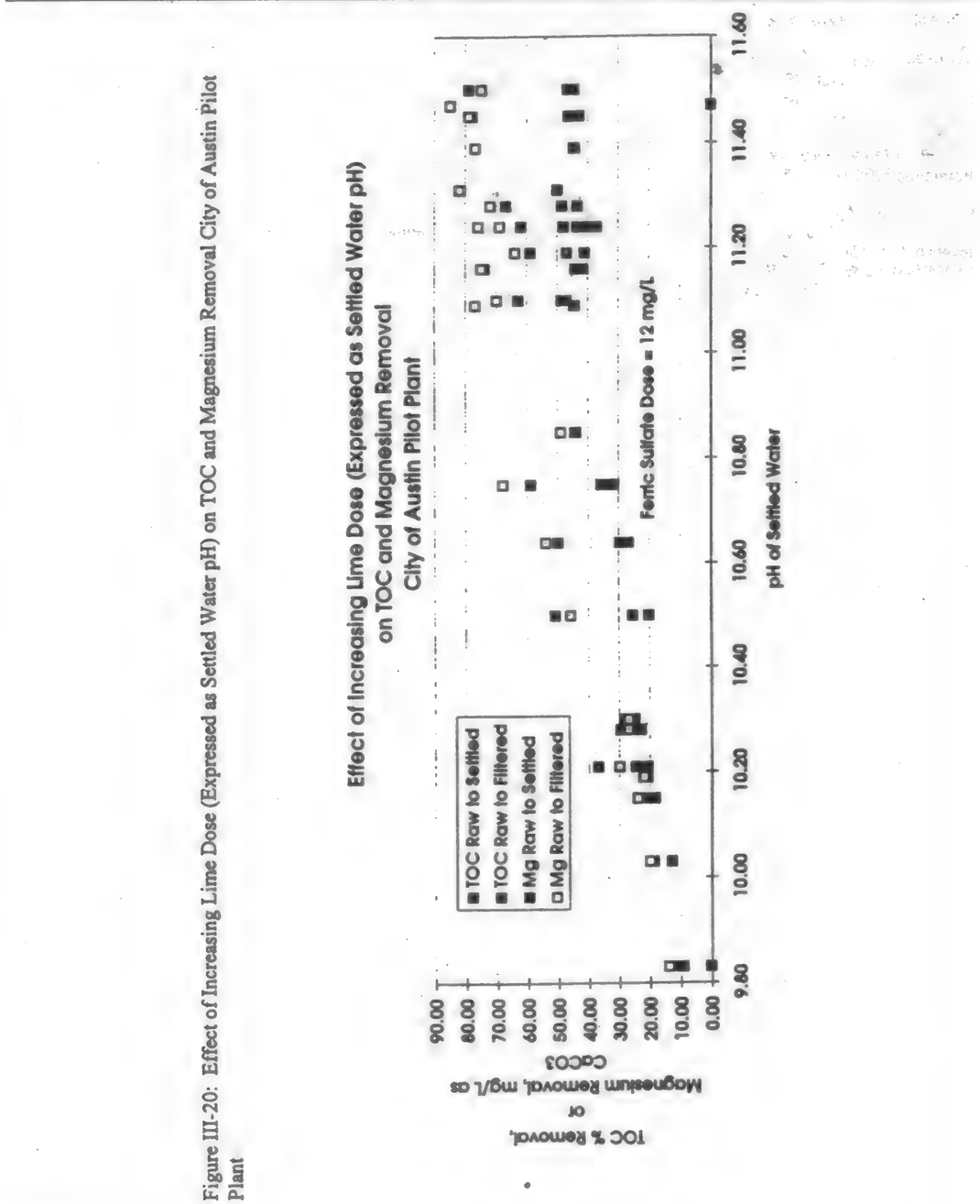

Figure III-20: Effect of Increasing Lime Dose (Expressed as Settled Water pH) on TOC and Magnesium Removal City of Austin Pilot Plant

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c. Malcolm Pirnie, Inc. modeling. Efforts to model the removal of TOC in softening systems were included in an American Water Works Association (AWWA) study done by Malcolm Pirnie, Inc. A database was compiled consisting of all the known and accessible jar test, pilot, and full-scale data from softening studies that investigated TOC removal. The database was used to develop some predictive equations for TOC removal for each raw water TOC level (as identified in Table III–1 of this Notice). Comparison of the predictive equations to case-by-case analyses of the same data base showed the equations to be fairly accurate for the low TOC waters (median removal levels of 20–25 percent) and medium TOC waters (median removal levels of 40 percent). Insufficient data made analysis unreliable for the high TOC group.

d. ICR mail survey. In order to obtain additional information on the current TOC removals being achieved by softening plants, a survey was sent to all the Information Collection Rule (ICR) softening utilities (49 plants) requesting that they fill out a single page of information with yearly average, maximum and minimum values for multiple operating parameters for each softening plant. The survey also asked for information regarding the use of coagulants. Most of the plants reported using a coagulant in addition to lime (88%) and some used multiple coagulants. Iron salts were the most frequently used coagulants, but alum, polymers, and starch were also used. Of the 49 plants responding to the survey, there was sufficient data to perform an analysis of TOC removal for 41 plants. The distribution of the number of responding plants in each TOC category is shown in Table III–11.

TABLE III–11.—DISTRIBUTION OF RESPONDING PLANTS BY TOC CONCENTRATION

Raw TOC (mg/L)	Number of plants responding	Number reporting sufficient data to calculate %TOC removal
0–2	5	5
>2–4	11	8
>4–8	20	17
>8	4	3

The data were analyzed with two goals in mind: to find the appropriate TOC removal levels for the rule matrix for softening plants and to determine what would define an appropriate step 2 for softening systems. To address the first question, the average TOC percent removals for each TOC group were plotted on a percentile basis and are shown in Figure III–21 (Clark et al., 1997) for the 2–4 mg/L TOC, and Figure III–22 for the 4–8 mg/L TOC (Clark et al., 1997).

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Figure III-21: Percent TOC Removal ICR Softening Plants with Raw TOC 2-4 mg/L.

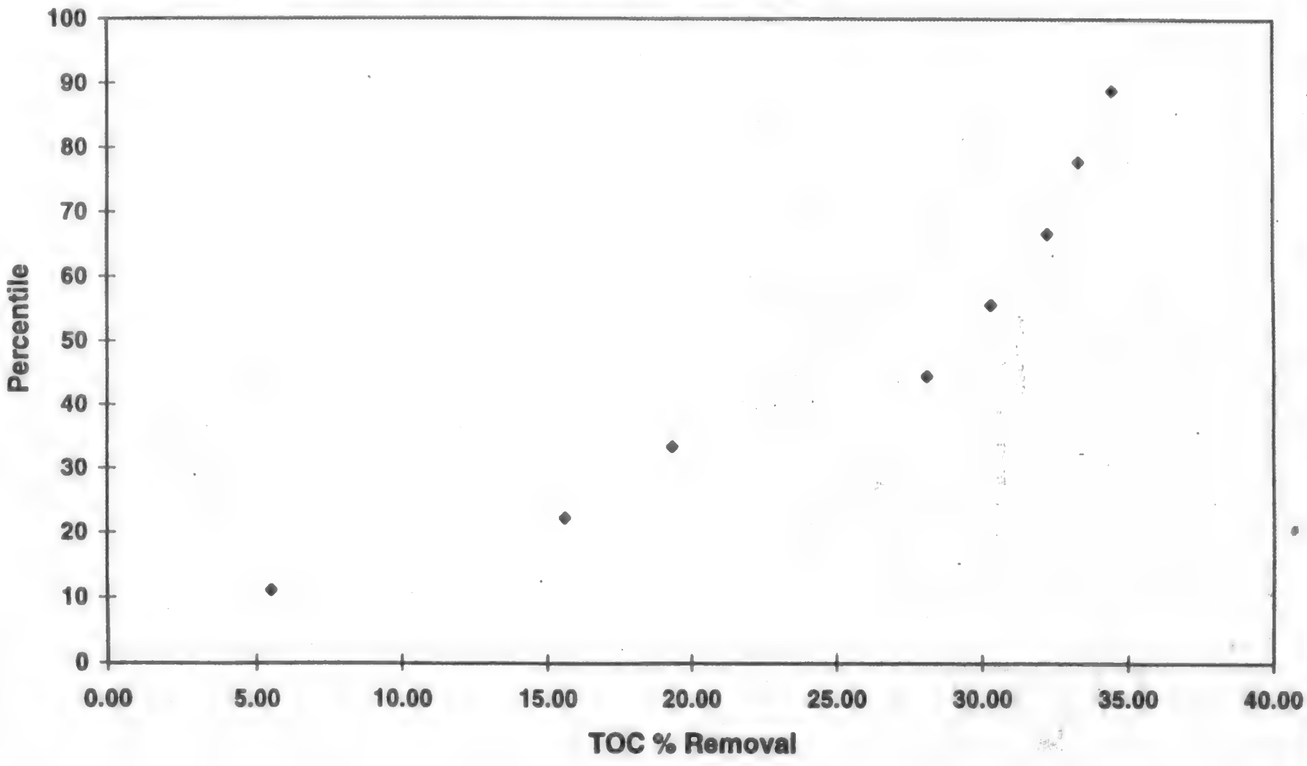

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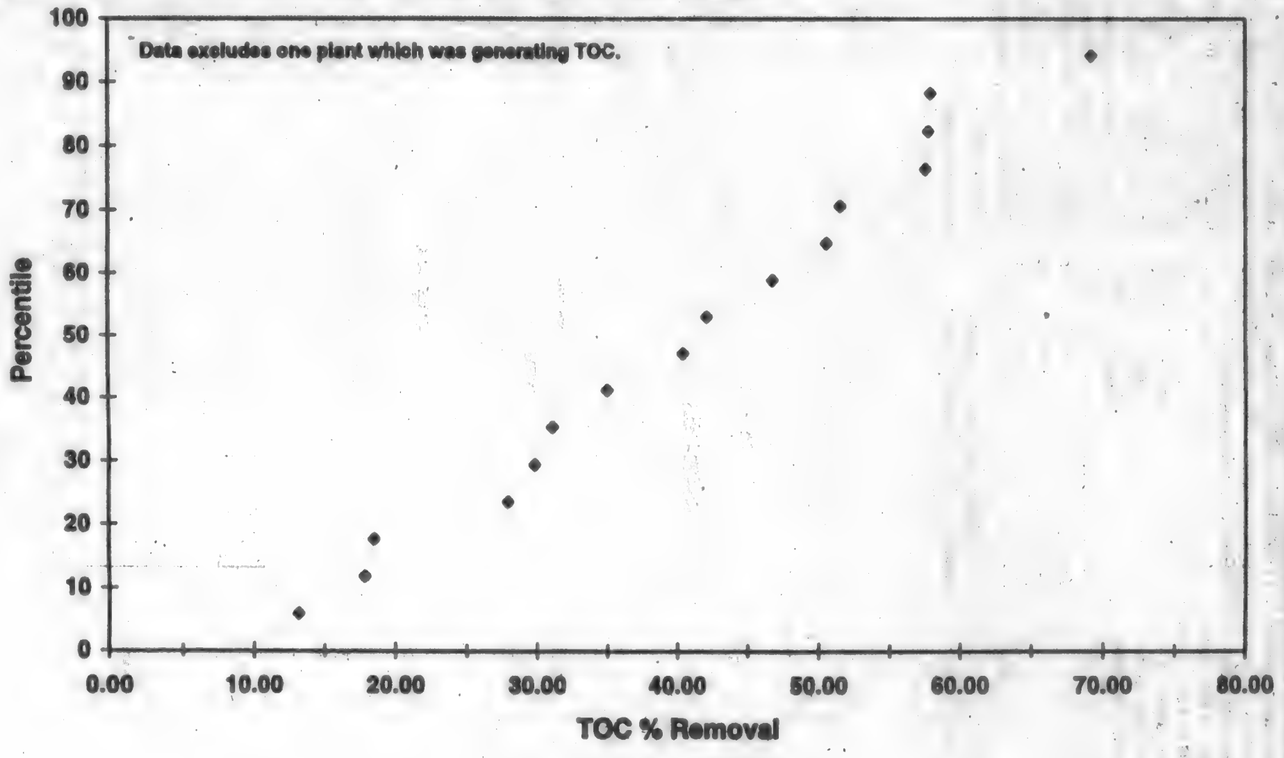
Figure III-22: Percent TOC Removal ICR Softening Plants with Raw TOC 4-8 mg/L



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To examine the percentage of plants that would meet the proposed requirements, the survey data were analyzed and the results are shown in Table III–12. The results in Table III–12 indicate that the relative impact of meeting the TOC removal requirement in the proposed rule would be greatest in the low TOC group (>2–4 mg/L) .

TABLE III–12.—PERCENTAGE OF SOFTENING PLANTS MEETING CURRENT PROPOSED REQUIREMENTS

Raw TOC (mg/L)	Proposed 1994 required percent removals	Percentage of plants that met requirements
>2–4	20	60
>4–8	25	80
>8	30	66

To address the second question regarding Step 2 criteria, the survey results for percent removal TOC and lime dose were plotted to examine the relationship between them (see Figure III-23) and to determine whether a point of diminishing returns can be identified for lime addition. Figure III–23 indicates that no correlation can be discerned, the data are highly variable, and no point of diminishing returns corresponding to a specific lime dose addition can be identified. The wide variation in water quality (e.g., pH, alkalinity, type of TOC), as well as the differences in coagulant usage, probably contributed to data variability.

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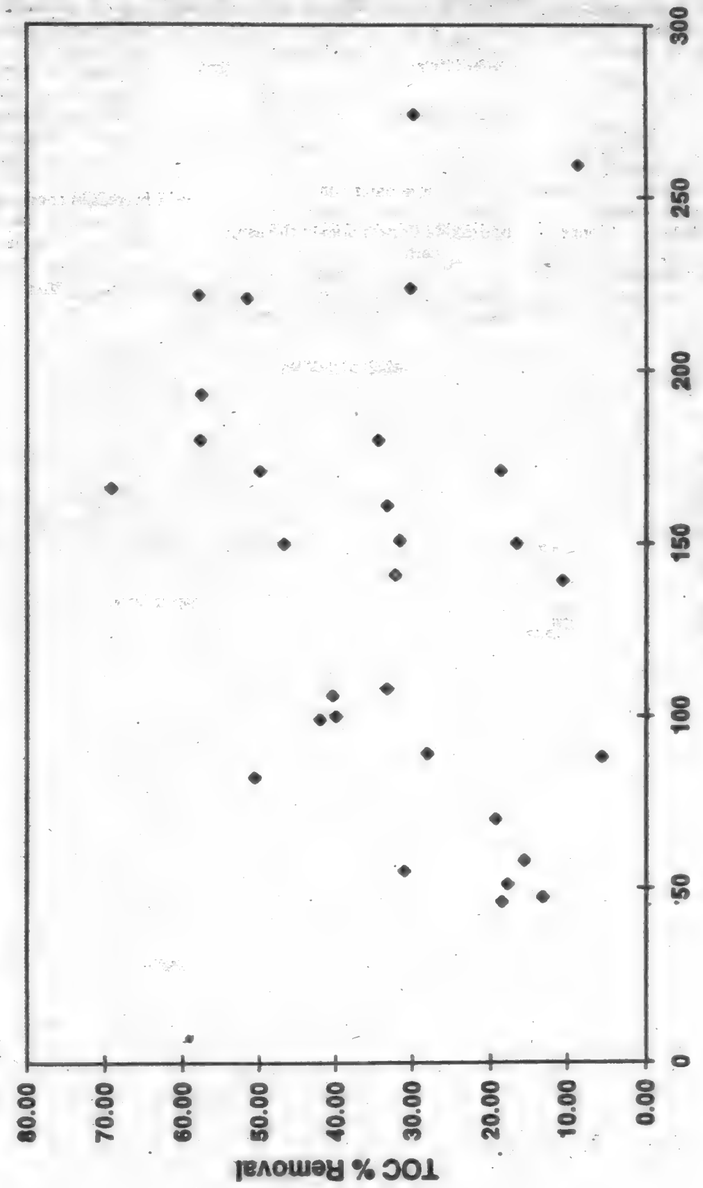

Figure III-23: Relationship of Lime dose to TOC Removal ICR Softening Plants

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Another important issue for softening systems is the pH level used in the softening process. As the lime dose is increased, the pH of the softening process increases and the character of the precipitate changes; as the pH rises above 10, the major precipitate formed changes from calcium carbonate to magnesium hydroxide. The TOC percent removal in the survey data was plotted versus the pH of softening and is shown in Figure III–24 . The data show that at higher softening pH levels, generally greater percentages of TOC are removed. Also as the lime dose is increased alkalinity is consumed and if the lime dose is high enough to deplete the raw water alkalinity, soda ash must be added to maintain the precipitation process. Crossing either one of these thresholds (either changing the dominant precipitate from calcium carbonate to magnesium hydroxide or changing from a lime softening system to a lime/soda softening system) constitutes a major change in the treatment process. Magnesium hydroxide floc do not act the same as calcium carbonate floc either in settling or in sludge treatment and the plant design for the two precipitates would be significantly different. Forcing a plant to increase pH to the point of having to add soda ash would also be a significant treatment change due to pH adjustment problems and because the precipitate would likely be changing at the same time. Most softening plants are normally operated without soda ash addition because of the high cost of soda ash, the additional sludge production, the increased chemical addition to stabilize the water and the increased sodium levels in the finished water (Randtke et al., 1994 and Shorney et al., 1996).

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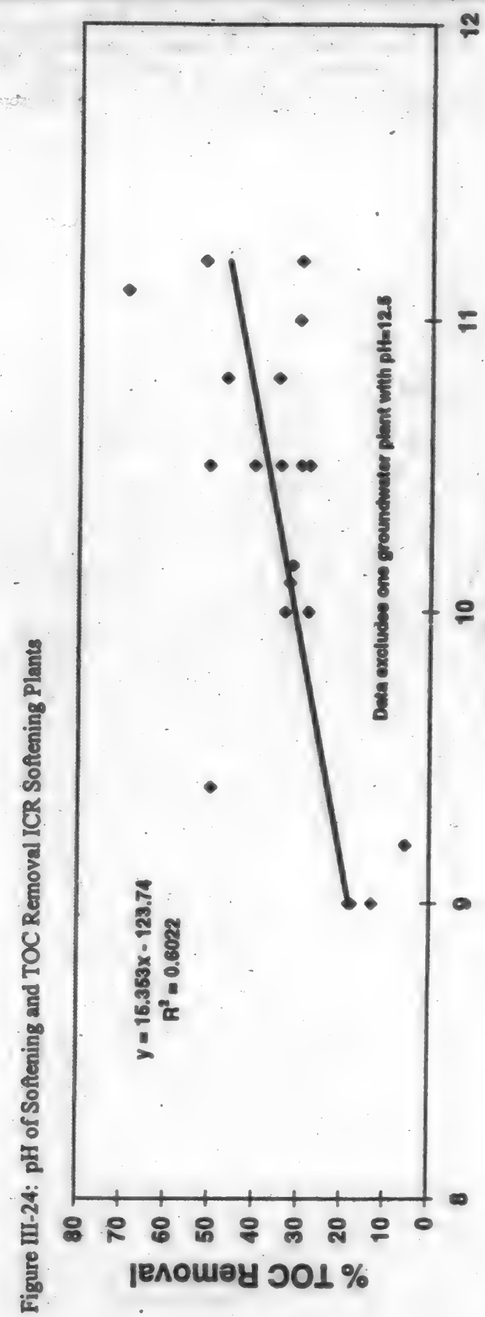

Figure III-24: pH of Softening and TOC Removal ICR Softening Plants

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Raising the pH by adding lime can have other impacts such as depleting alkalinity and potentially causing corrosion problems. To determine what finished water alkalinity most softening plants produce, the survey data was plotted for finished water alkalinity and TOC percent removal (see Figure III–25 (Clark et al., 1997)). With only a few outliers and regardless of the percent TOC removal, most plants produce finished water with alkalinity between 30 and 60 mg/L as $CaCO_3$.

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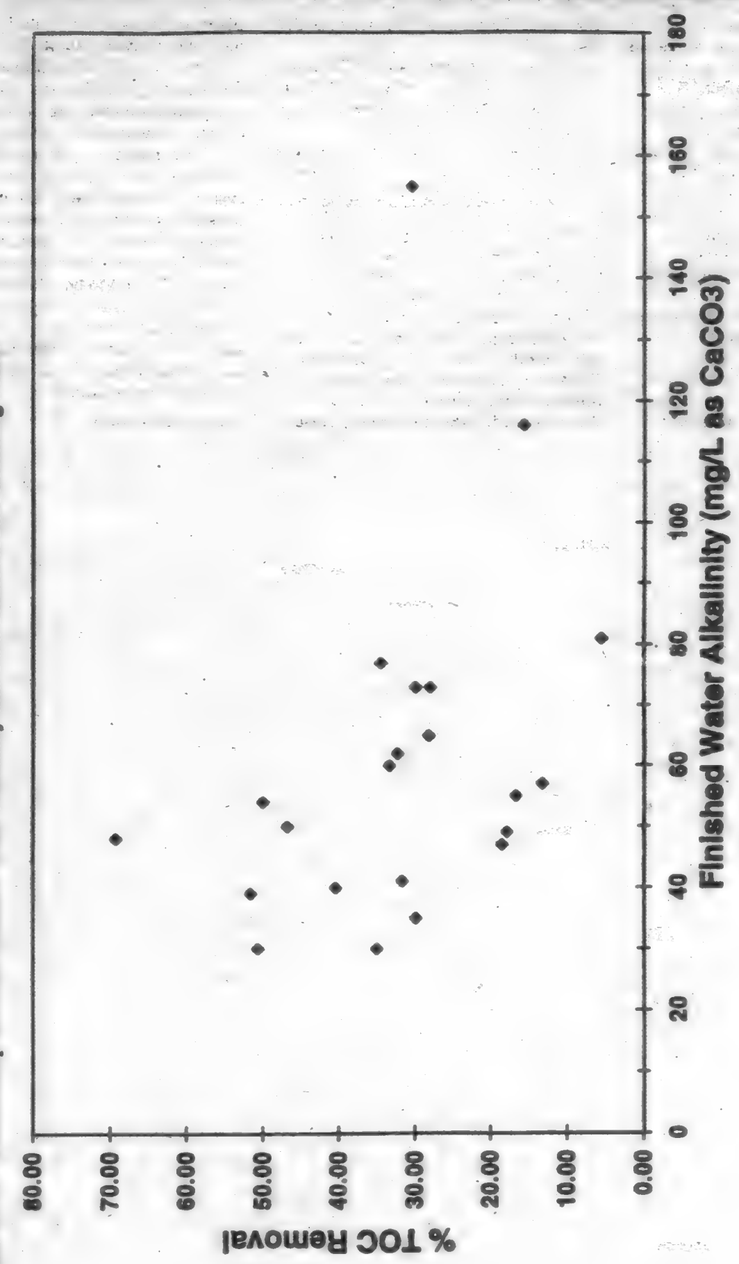

Figure III-25: Relationship between Finished Water Alkalinity and TOC Removal ICR Softening Plants

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The survey obtained basic information on disinfection practices in softening plants. Forty percent of the plants responding predisinfect. Softening plants predisinfect for the same reasons that conventional coagulation plants do, that is, to comply with Surface Water Treatment Rule Disinfection requirements, to oxidize iron and manganese, to control zebra mussels and Asiatic clams, and to control taste and odor problems. Disinfectants in use in softening plants are as follows:

- 28% of plants use free chlorine for both primary and secondary disinfection.
- 50% of plants use free chlorine/chloramine.
- 10% of plants use chloramine.
- 7% of plants use chlorine dioxide/chloramine.
- 5% of plants use ozone/chloramine.

In spite of the fact that some 78% of softening plants are using free chlorine for at least a portion of their disinfection, the reported yearly average THMs indicate that 90 percent of plants are currently meeting an 80 µg/L level for THMs (see Figure III–28 (Clark et al., 1997)). All reporting softening plants have average HAA5 levels below 60 µg/L (see Figure III–27 (Clark et al., 1997)). For the majority of softening plants, minor adjustments to disinfection practices may bring them into compliance with the proposed total THM and HAA5 MCLs, as long as predisinfection credit is allowed. Without predisinfection credit, these plants could face the major impact of having to provide disinfection time after sedimentation, and for at least one of the reporting utilities, that could mean significantly increasing the free chlorine contact time to get the maximum CT credit by making up for a shortened detention time. The end result for that system will likely be an increase in finished water total THMs over what are being produced using predisinfection credit. However, these site-specific issues will need to be addressed individually, as removing the precursors by enhanced softening will also remove some of the chlorine demand resulting in less disinfectant addition to obtain the necessary residual.

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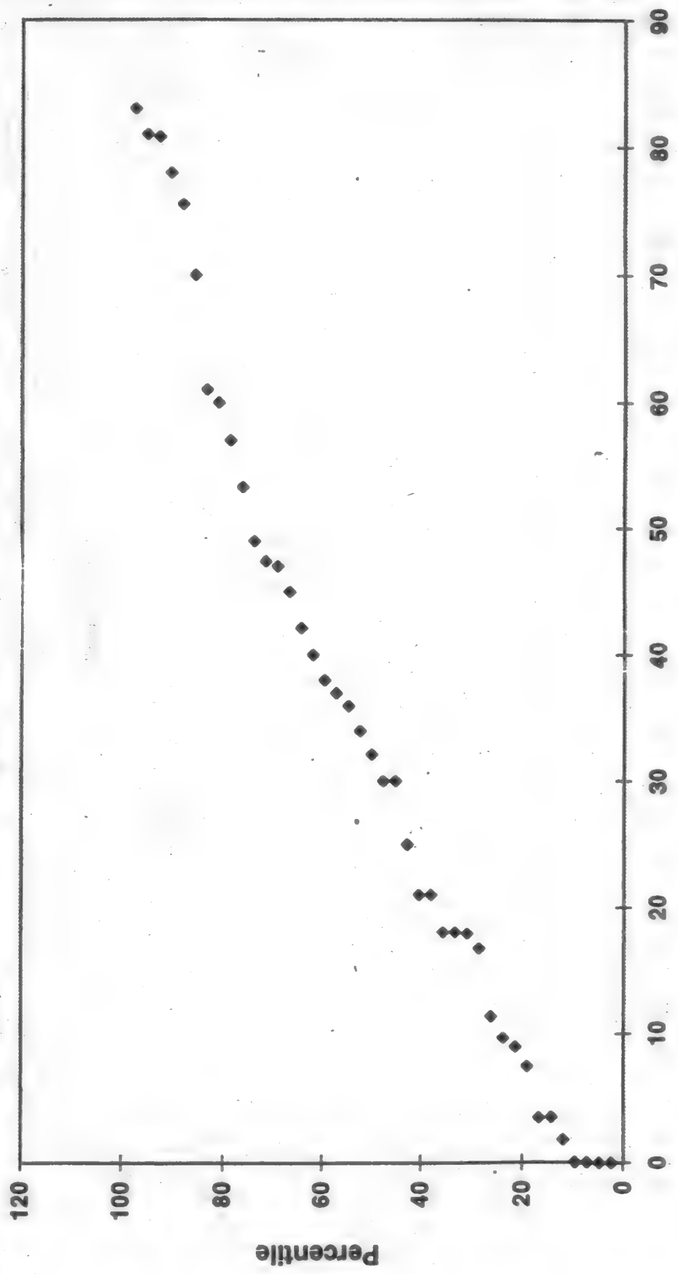

Figure III-26: Average THMs for ICR Softening Plants

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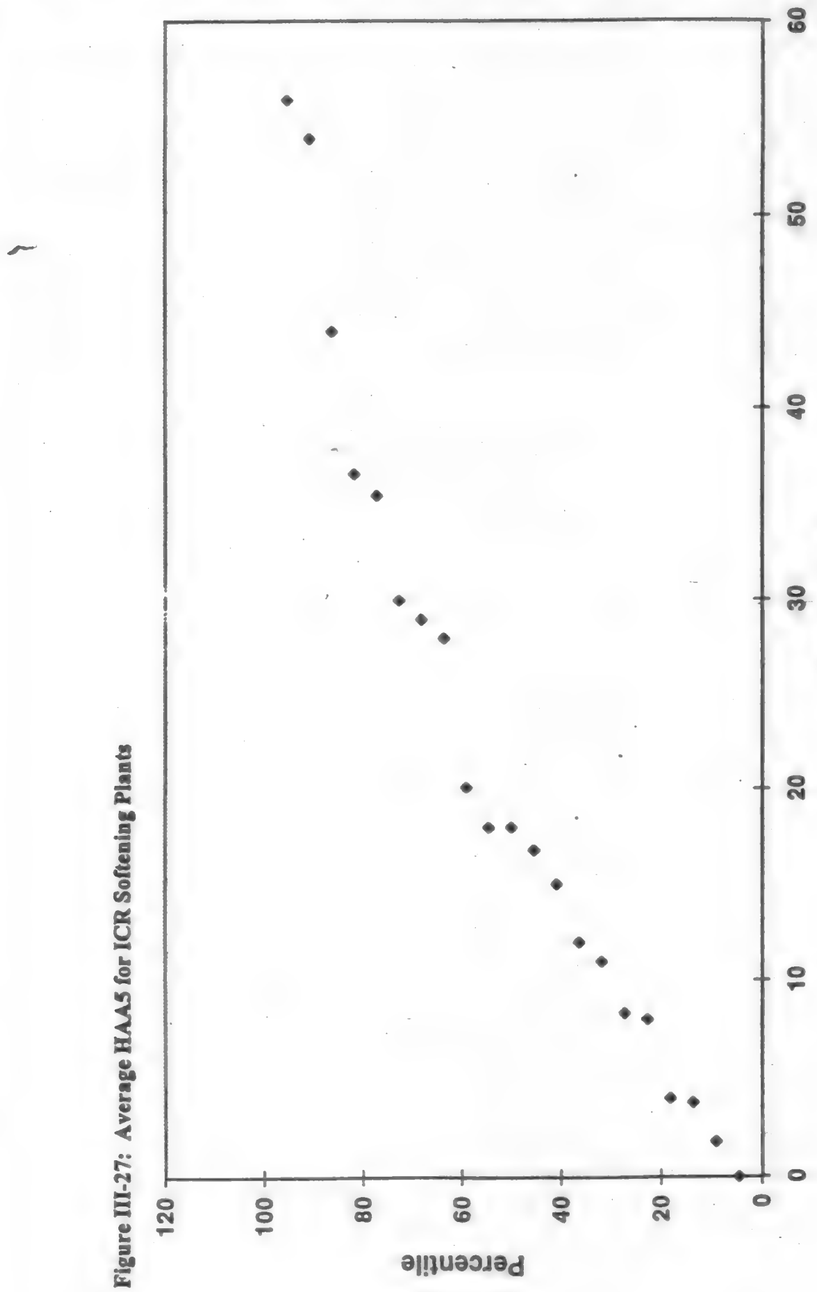

Figure III-27: Average HAA5 for ICR Softening Plants

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C. Summary of Key Enhanced Coagulation and Enhanced Softening Observations

Based on the data and analysis outlined above, the M/DBP Advisory Committee has recommended the following revisions to the proposed enhanced coagulation and softening requirements to address the outstanding issues on the use of this technology to control DBP precursors (see Table III–13). The top row has been modified from the proposal by lowering the values by 5%. Enhanced softening systems are required to comply with the column for alkalinity > 120 mg/L as $CaCO_3$.

TABLE III–13.—1997 PROPOSED REQUIRED REMOVAL OF TOC BY ENHANCED COAGULATION/ENHANCED SOFTENING FOR SURFACE-WATER SYSTEMS USING CONVENTIONAL TREATMENT

Source water TOC, mg/L	Source water alkalinity, mg/L as $CaCO_3$		
	0–60[a] (percent)	>60–120[a] (percent)	>120[a,b] (percent)
>2.0–4.0	35.0	25.0	15.0
>4.0–8.0	45.0	35.0	25.0
>8.0	50.0	40.0	30.0

[a] Not applicable to waters with raw-water SUVA ≤ 2.0 L/mg-m.
[b] Systems practicing precipitative softening must meet the TOC removal requirements in this column.

For waters with TOC >4.0 mg/L (6 of the 9 boxes in the 3 x 3 matrix), the TWG felt that 90 percent of these waters can meet the 1994 proposed step 1 TOC removal requirements. For waters with TOC >2.0–4.0 mg/L, the Committee recommended that the TOC removal requirements be 35, 25, and 15 percent for low-, moderate-, and high-alkalinity waters, respectively. For low-TOC waters with raw-water SUVA >2 L/mg-m, the TWG felt that 90 percent of the systems treating such waters will be able to comply with the revised step 1 TOC removal levels.

The Committee recommended that waters with raw-water SUVA ≤2.0 L/mg-m be given an exemption to enhanced coagulation and enhanced softening. SUVA is an indicator of the humic content of a water. Coagulation removes humic matter, so waters with low-SUVA values contain primarily nonhumic matter, which is not amenable to enhanced coagulation. The use of a raw water SUVA < 2.0 liter/mg-m as a criterion for not requiring a system to practice enhanced coagulation or softening should be added to those proposed in § 141.135(a)(1)(i)–(iv).

For systems practicing enhanced coagulation (in any of the 9 boxes in the matrix) that can not meet the step 1 removal values, a step 2 protocol needs to be used to develop alternative TOC removal requirements. In addition to the current proposed PODR of the slope criterion of 0.3 mg/L of TOC removal per incremental 10-mg/L alum dose, the TWG developed another PODR (a second option for the protocol), which is a settled-water SUVA ≤2.0 L/mg-m. At this point, the residual TOC is mainly composed of nonhumic matter that is not amenable to enhanced coagulation; therefore, it is not productive to add additional coagulant. Because oxidants can destroy UV, but not TOC, SUVA must be determined on water that has not been exposed to oxidants. Thus, using a settled-water SUVA ≤2.0 L/mg-m as a PODR should be done on jar-tested water (as the slope criterion is done) unless the full-scale plant is not using preoxidation/predisinfection. The TWG believes that these revised requirements will result in a limited amount of transactional costs for the PWSs and their primacy agencies. The Committee recommended this option to EPA.

Enhanced softening systems that cannot meet the removal percentages specified in the TOC removal matrix must demonstrate that they have met alternative performance criteria, e.g., depressed the alkalinity to a minimum level or lowered settled water SUVA ≤ 2.0 L/mg-m. Also, systems that remove a minimum of 10 mg/L of magnesium hardness (as $CaCO_3$) from their raw water are exempt for enhanced softening requirements. Lime softening plants would not be required to perform lime-soda ash softening, and no softening plant will be required to lower treated effluent alkalinity below 40 mg/L (as $CaCO_3$), as part of any Step 2 procedure.

Because the determination of SUVA requires measurement of DOC, the TWG believed that guidance on this determination is necessary. DOC is determined on filtered samples, but it is important that the filter paper does not leach DOC. Protocols and quality assurance measures to ensure that SUVA is properly measured are discussed in the analytical methods section.

Another exception to enhanced coagulation in the proposed 1994 rule was for systems that treated water with <4.0 mg/L TOC and >60 mg/L alkalinity that achieved TTHMs <0.040 mg/L and HAA5 <0.030 mg/L. Waters with low TOC and moderate-to-high alkalinity were expected to be some of the more difficult to treat with enhanced coagulation, so this exception encouraged systems treating such waters to explore alternative technologies (e.g., ozone/chloramines) that could reduce DBP levels significantly below the proposed Stage 1 MCLs (i.e., <50 percent of the proposed Stage 1 MCLs). The analysis of the optimized coagulation database (Table III–10 in the draft NOA) confirms this point. Thus, the Committee recommended maintaining this exception to enhanced coagulation.

D. Request for Public Comment on Enhanced Coagulation and Enhanced Softening Issues

The 1994 proposal required that TOC compliance monitoring be performed before continuous disinfection. If there are no limits to where a PWS can add a disinfectant for compliance with disinfection requirements, EPA must address the question of where the TOC compliance monitoring point should be located. Two possible compliance monitoring locations (pre- and post-filtration) are discussed below. Pre-filtration sampling may not give utilities complete TOC removal credit because a small portion of the TOC may bind with coagulant but remain in suspension and fail to settle; it would pass through the sedimentation basin and be removed by the filter. Even though the TOC would be removed by the filter and prevented from entering the distribution system to form DBPs, PWSs would not receive TOC removal credit with a pre-filtration sampling point. Post-filtration sampling would ensure utilities receive credit for all TOC removed by the treatment train. It is possible, although unlikely, that some utilities would use filtration to buttress their TOC removal capability in place of optimizing the enhanced

coagulation process. EPA solicits comment on where the TOC compliance monitoring point should be located. EPA also requests comment on the modifications to enhanced coagulation TOC removal concentrations and other provisions for enhanced coagulation outlined above. Finally, EPA requests comment on the modifications to the requirements for enhanced softening.

IV. Disinfection Credit

A. 1994 Proposal

The proposed 1994 DBP Stage I rule discouraged the overuse of disinfectants prior to precursor (measured as TOC) removal by not allowing credit for compliance with disinfection requirements in the SWTR prior to removal of a specified percentage of TOC, at treatment plants using conventional treatment. The proposed IESWTR options, scheduled to be promulgated concurrently with the Stage 1 DBPR, were intended to include microbial treatment requirements to prevent increases in microbial risk. The purpose of not allowing predisinfection credit was to maximize removal of TOC prior to the addition of chlorine or chloramines, thus minimizing disinfection byproduct (DBP) formation.

Many drinking water systems use preoxidation to control a variety of water quality problems such as iron and manganese, sulfides, zebra mussels, Asiatic clams, and taste and odor. The 1994 proposed rule did not preclude the continuous addition of oxidants to the influent to the treatment plant to control these problems. However, the proposed regulations did not allow credit for compliance with disinfection requirements prior to precursor removal through enhanced coagulation or enhanced softening. Enhanced coagulation and enhanced softening processes would decrease the concentration of TOC and UV absorbing compounds, thereby decreasing the precursor concentration and the chlorine demand. Thus, analysis supporting the proposed rule concluded that many plants would be able to comply with the Stage 1 MCLs for THMs and HAA5 of 0.080 mg/L and 0.060 mg/L, respectively, by reductions in DBP levels as a result of reduced disinfection practice in the early stages of treatment. Also, enhanced coagulation and enhanced softening was thought to lower the formation of other unidentified DBPs as well. The 1994 proposal assumed that addition of disinfectant prior to TOC removal would initiate DBP formation through contact of the chlorine with the TOC thus effectively "mooting" the value of the EC step. Finally, the analysis underlying the 1994 proposed elimination of the preoxidation credit assumed that the addition of disinfectant was essentially "mutually exclusive" of the goal to reduce DBP formation by the removal of TOC. As discussed below, new data developed since 1994 suggests this may not be the case.

In the 1994 proposal, preoxidation credit was allowed for some systems that met any of the following criteria:

—Credit may be taken prior to precursor removal when the water temperature was less than 5 °C and the total THM (TTHM) and HAA5 quarterly averages are no greater than 0.040 mg/L and 0.030 mg/L, respectively.
—PWSs which purchase water from another entity were allowed to include this credit if the TTHM and HAA5 quarterly averages are no greater than 0.040 mg/L and 0.030 mg/L, respectively. If these DBP averages are higher, then the systems may use a "C" of 0.2 mg/L or the measured value (whichever is lower) and the actual contact time. The credit is allowed from the disinfectant feed point, through a closed conduit, and ending at the delivery point in the treatment plant.
—For ozone, disinfection credit would be allowed prior to enhanced coagulation, if ozonation is followed by biologically active filtration (BAF), to ensure the control of the ozonation byproducts by BAF.
—For chlorine dioxide, disinfection credit would be allowed if the PWS could demonstrate 95 percent efficient yield of chlorine dioxide from sodium chlorite (i.e., the chlorine dioxide feed stream must contain less than five percent per weight free chlorine residual).

EPA solicited comments on several issues related to the predisinfection credit requirements:

—Whether preoxidation was necessary in water treatment to control the various water quality problems such as iron and manganese oxidation, control of taste and odor, zebra mussels and Asiatic clams?
—Would the addition of a preoxidant before precursor removal by enhanced coagulation or enhanced softening produce excessive DBP levels?

B. New Information Since 1994 Proposal

At the time of the proposed rule, EPA intended to use data from the ICR to develop the IESWTR (specifically risk-based disinfection requirements). For the reasons outlined in section I.E., the ICR monitoring data will not be available for consideration as part of developing the IESWTR. In light of this, M/DBP FACA members agreed that the IESWTR should include requirements for a disinfection benchmark to assure no significant reductions in existing levels of microbial inactivation while PWSs complied with the Stage 1 DBP requirements, unless they met certain site-specific conditions. In a separate NODA concerning the IESWTR published today, EPA describes the disinfection benchmark requirements that it intends to promulgate by November 1998. The Advisory Committee was specifically concerned about maintaining the same level of disinfection while (1) not compelling many more systems to install either substantial replacement contact time or an alternative disinfectant after precursor removal than were predicted in 1994 and (2) still allowing systems to meet the TTHM and HAA5 MCLs. This was an issue because MCL compliance predictions in the 1994 proposal were based on assumptions that (1) TTHM and HAA5 formation would be limited by precursor removal, which would limit the number of systems having to install alternative disinfectants or advanced precursor removal (GAC or membranes) and (2) systems would, where possible, receive necessary inactivation credit through addition of contactors located after precursor removal processes. Several committee members were concerned that these assumptions would result in systems installing costly technologies or contact basins in order to meet DBP MCLs that would prove unnecessary when EPA was able to develop a risk-based ESWTR. However, if systems could continue to receive inactivation credit for all disinfection used and still meet DBP MCLs, these costly alternatives to achieve compliance could be avoided. The following is information considered by committee members that led to the recommendation to allow disinfection credit for disinfection used, as is currently allowed.

1. ICR Mail Survey—Predisinfection Practices

To obtain information on the current predisinfection practices of systems, a survey was sent out to utilities participating in the ICR. The results of the survey of 329 surface water treatment plants indicated that 80 percent (263) of these plants use predisinfection for one or more reasons. A detailed breakdown of the reasons cited is shown below:

Predisinfection reason	Number of "yes" responses (% of total)
Taste and Odor Control	114 (35%)
Turbidity Control	38 (12%)
Algae Growth Control	177 (54%)
Inorganic Oxidation	104 (32%)
Microbial Inactivation	222 (67%)
Other	27 (8%)

The survey indicated that the majority of the plants using predisinfection were doing so for multiple reasons. The main reported reason for predisinfection was microbial inactivation, followed by algae control, taste and odor and inorganic oxidation. Seventy-seven percent of plants that predisinfected reported that their current levels of *Giardia lamblia* inactivation would be lowered if predisinfection was discontinued and no subsequent additional disinfection was added to compensate for change in practice. Eighty-one percent of plants that predisinfected would have to make major capital investments to make up for the lost logs of *Giardia lamblia* inactivation. Thus, to maintain the same level of microbial protection currently afforded, additional contact time would have to be provided if predisinfection was eliminated. Most of the surveyed plants also used preoxidation to control for taste and odor, algae growth or inorganic oxidation. Therefore, many PWSs would have had to continue use of a predisinfectant for these problems and also provide additional contact time for disinfection credit.

The survey also demonstrated that many utilities were unfamiliar with the concept of log inactivation of *Giardia lamblia* and did not know how to determine it, since the SWTR only requires unfiltered systems to make this calculation. Instead, many utilities reported the ratio of CT values, which is the ratio of the actual CT to the required value, instead of actual log inactivation.

In addition to the ICR mail survey, results from EPA's Comprehensive Performance Evaluations (CPE) of a total of 307 PWSs (4 to 750 mgd) reported that 71 percent of the total number of plants used predisinfection and 93 percent of those that predisinfected used two or three disinfectant application points during treatment.

Based on the above information, EPA believes that predisinfection is used by a majority of PWSs for microbial inactivation, as well as other drinking water treatment objectives.

2. Summers et al.—Impact of Chlorination Point on DBP Production

In developing the 1994 proposal, EPA assumed that the removal of precursors by enhanced coagulation or enhanced softening had to precede Cl_2/chloramine addition in order to lead to reduction of DBPs. Four investigators tested the validity of this assumption. Summers (Summers et al., 1997) summarized the findings of the four investigators concerning the impact of moving the point of chlorination during coagulation, flocculation and sedimentation on DBP formation for a representative range of waters and treatment conditions. In addition, studies were carried out at the University of Cincinnati under the sponsorship of EPA, the American Water Works Association (Water Utility Council-Water Industry Technical Action Fund) and the Chlorine Chemistry Council (Solarik et al., 1997). The results of these studies are summarized here.

Sixteen source waters have been evaluated to date. The waters were selected to proportionately represent the national source water distribution in the enhanced coagulation 3 x 3 (TOC—alkalinity) matrix as estimated from AWWA water industry database (WIDB). Waters were chosen to represent the >2.0–4.0 mg/L and >4.0–8.0 mg/L TOC ranges. For TOC >8.0 mg/L, prechlorination would generally not be a suitable option, as experience and computer modeling have shown that prechlorination of these waters under the conditions of this study is likely to yield TTHM and HAA5 values that exceed the 0.080 mg/L and 0.060 mg/L proposed MCLs, respectively. WIDB TOC data indicate that less than 10 percent of the surface waters have TOC concentrations greater than 8.0 mg/L.

The study was conducted using a bench-scale batch jar testing procedure with chlorine added at different times to simulate full-scale continuous flow conditions with chlorine added at different points. Alum ($Al_2(SO_4)_3 \cdot 18H_2O$) was used as the coagulant for all waters and two alum doses were examined for 14 of the 16 waters evaluated. The baseline dose was set at the level required for turbidity control, while a second increased dose was set at the level necessary to meet the required percent TOC removal in the 3 X 3 enhanced coagulation matrix. In three cases, the required TOC removal was achieved by baseline coagulation. The jar tests were carried out at ambient laboratory temperature, (22°C).

Chlorine was added to four parallel jars at four different times during the coagulation, flocculation and sedimentation process for both the baseline coagulant dose and the increased coagulant dose: 1) 3 minutes before rapid mixing (Pre-RM), (2) at the end of rapid mixing (Post-RM), (3) in the middle of flocculation (Mid-Floc), and (4) at the end of sedimentation (Post-Sed). Additionally, the raw uncoagulated water was adjusted to the settled water pH and chlorinated. The DBP results from the raw uncoagulated water served as a basis for comparison. The chlorine doses were chosen to yield a free chlorine residual of 0.6 ± 0.4 mg/L after 3 hours of total contact time at ambient pH (6.1–8.1) and laboratory temperature (22°C). The 3 hour reaction time is representative of that of a typical coagulation, flocculation and sedimentation process train. At the end of the 3 hour incubation time, the reaction was quenched and DBPs were assessed. Settled water was also chlorinated under uniform formation conditions (UFC) (Summers et al., 1996) to represent distribution system DBP formation. A more detailed experimental approach is presented elsewhere (Solarik et al., 1997, Summers et al., 1997).

Impact of Point of Chlorination

The impact of moving the point of chlorination downstream for both baseline and increased dose coagulation is shown in Figures IV.1, IV.2, and IV.3 for TOX, TTHM, and HAA5 concentrations, respectively. The distribution of data is shown as box and whisker plots indicating the mean and median, the 10th, 25th, 75th, and 90th percentiles, and any data that lies outside the 10th and 90th percentiles. Moving the point of chlorination further downstream decreased the concentration of DBPs formed after three hours of contact time with free chlorine. The DBP concentrations shown in these three figures are not intended to represent occurrence levels of DBPs in the distribution system, only those which were formed under the conditions of this study. Figures IV.4, IV.5, and IV.6 show the percent decrease in DBP formation relative to that formed in the raw uncoagulated water.

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Figure IV. 1: Impact of point of chlorination on TOX formation

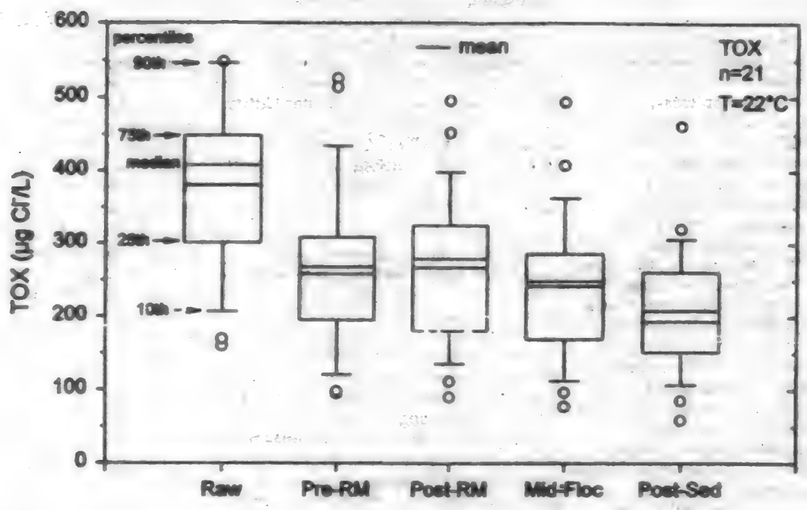

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Figure IV.2: Impact of point of chlorination on TTHM formation

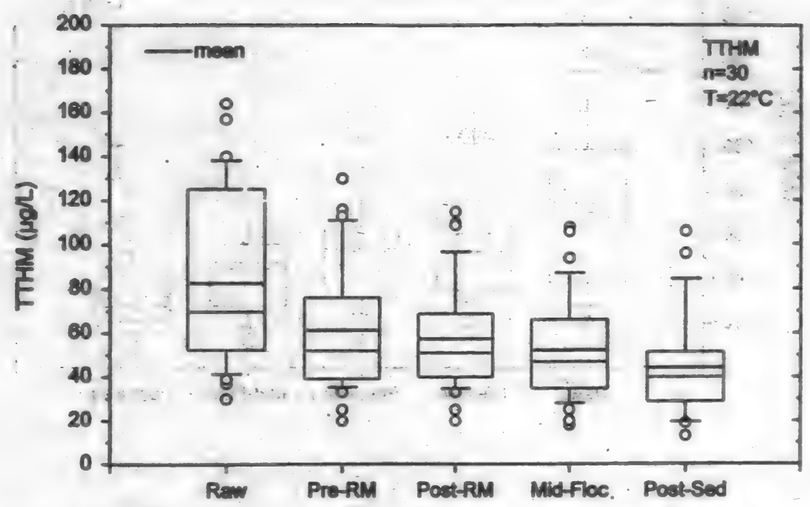

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Figure IV.3: Impact of point of chlorination on HAA5 formation

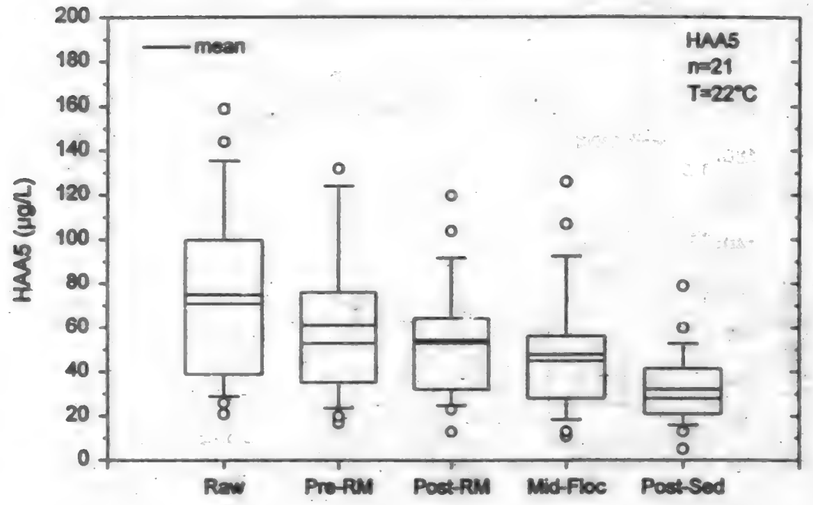

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Figure IV.4: Impact of point of chlorination on percent decrease in TOX formation for all waters (compared to raw)

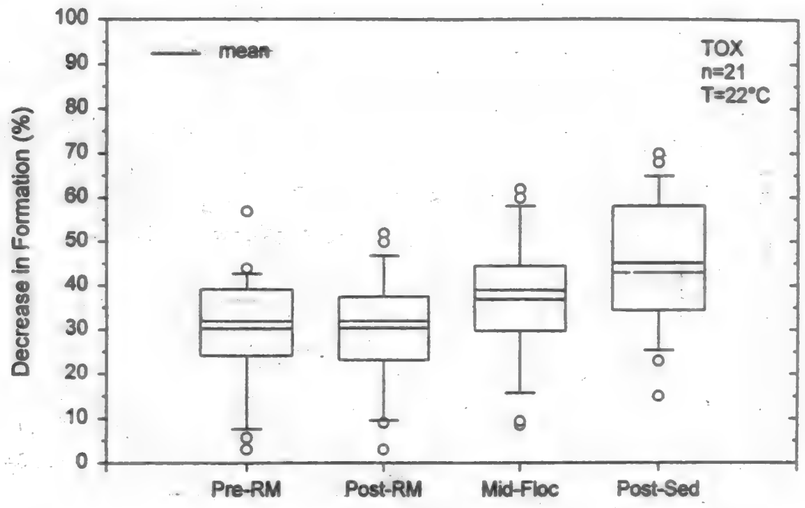

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Figure IV.5: Impact of point of chlorination on percent decrease in TTHM formation for all waters (compared to raw)

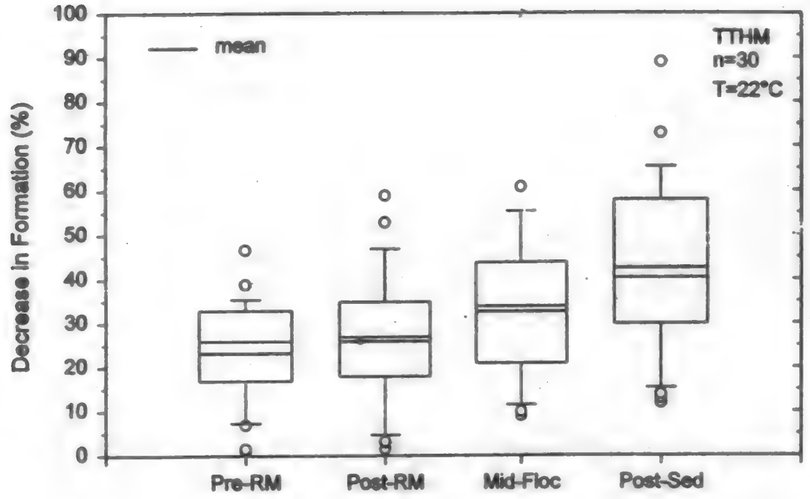

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Figure IV.6: Impact of point of chlorination on percent decrease in HAA5 formation for all waters (compared to raw)

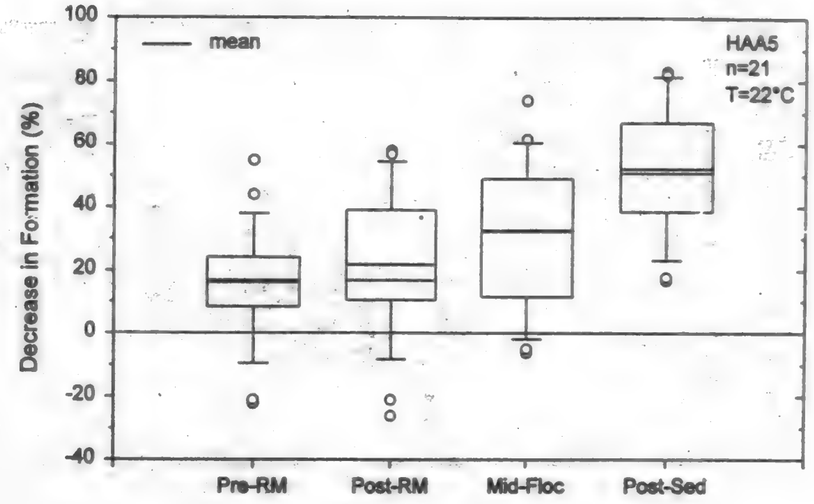

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Figure IV.7: Impact of point of chlorination and percent TOC removal on percent decrease in TOX formation for all waters (compared to raw)

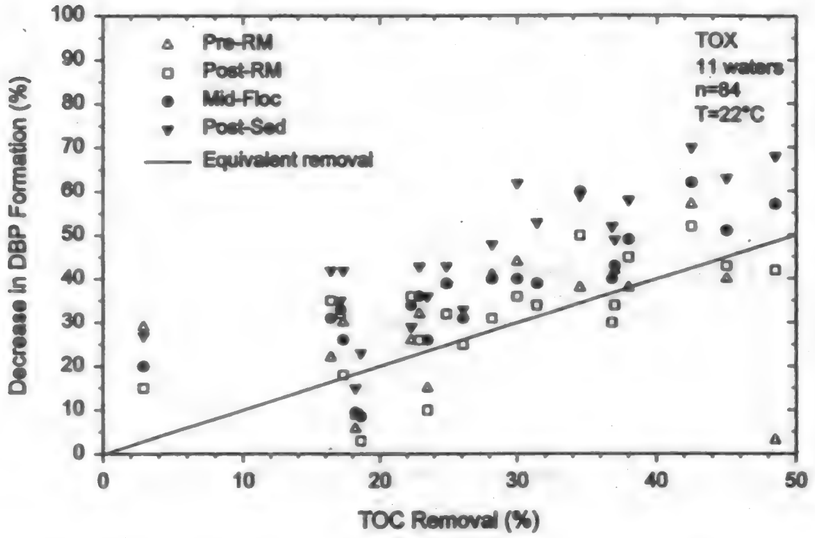

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Figure IV.8: Impact of point of chlorination and percent TOC removal on percent decrease in TTHM formation for all waters (compared to raw)

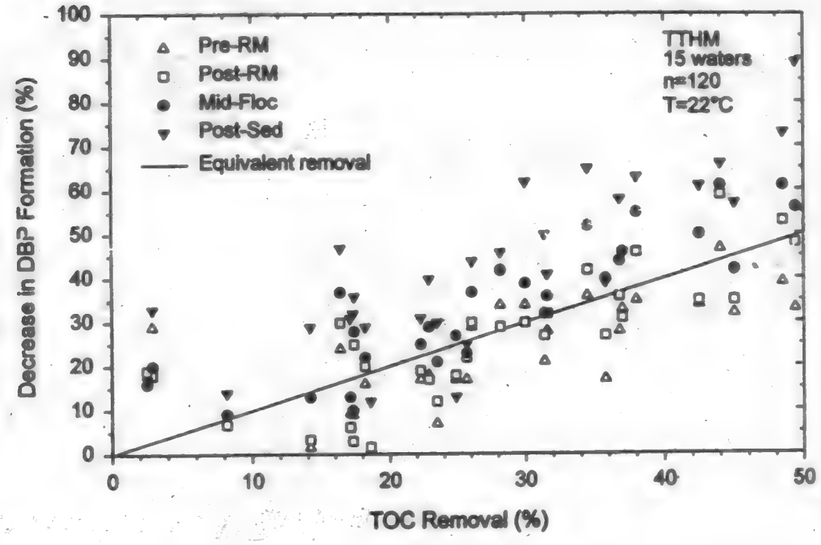

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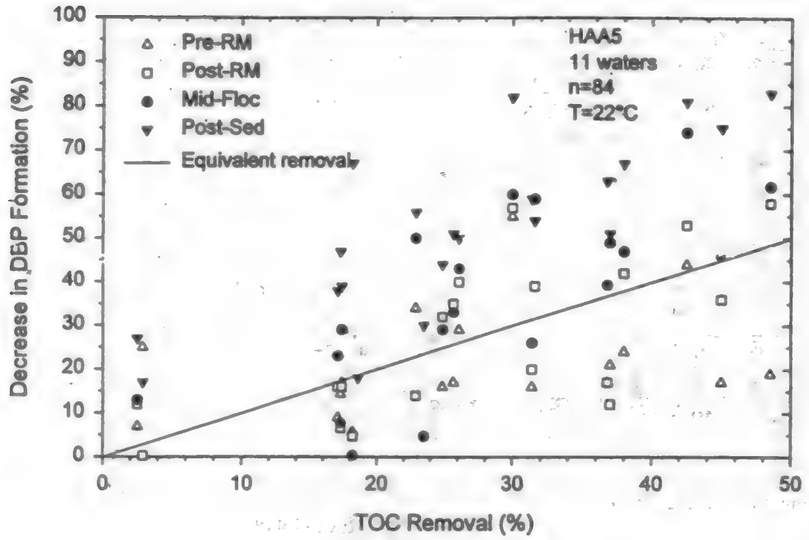
Figure IV.9: Impact of point of chlorination and percent TOC removal on percent reduction in HAA5 formation for all waters (compared to raw)



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The decrease in DBP formation was calculated by subtracting the DBP concentration formed upon chlorination at a given point in the jar test from that formed upon chlorination of the raw waters. Chlorinating 3 minutes prior to rapid mixing (Pre-RM) led to a median 32, 26 and 17 percent decrease in TOX, TTHM, and HAA5 concentrations, respectively, relative to those formed upon chlorination of the raw uncoagulated water. Prechlorinating more than 3 minutes prior to rapid mixing was shown to increase the DBP formation relative to Pre-RM.

For TOX, TTHM, and HAA5, moving the point of chlorination downstream in the coagulation, flocculation, and sedimentation process decreased DBP formation and the chlorine demand by providing additional time for NOM removal before chlorine could react with the NOM to form DBPs. While having only a small impact on average for TOX, TTHM, and HAA5 formation, moving the point of chlorination from Pre-RM to Post-RM was very beneficial for some waters. As expected, the largest benefit for all parameters investigated was observed by moving the point of chlorination to after sedimentation, which resulted in the lowest DBP formation. On average, the benefit of moving the point of chlorination downstream was greater for HAA5 than for TOX and TTHM.

The median, 10th and 90th percentile (shown in brackets) decrease in TOX formation as a result of moving the point of chlorination from Pre-RM to (1) post-RM was −5.4 percent (−17 and 16 percent); (2) mid-Floc was 6.1 percent (−6.8 and 19 percent); and (3) post-Sed was 17 percent (4.5 and 34 percent).

The median, 10th and 90th percentile (shown in brackets) decrease in TTHM formation as a result of moving the point of chlorination from Pre-RM to (1) post-RM was 1.9 percent (−5.9 and 18 percent); (2) mid-Floc was 13 percent (0.4 and 28 percent); and (3) post-Sed was 25 percent (6.5 and 43 percent).

The median, 10th and 90th percentile (shown in brackets) decrease in HAA5 formation as a result of moving the point of chlorination from Pre-RM to (1) post-RM was 5.3 percent (−11 and 23 percent); (2) mid-Floc was 19 percent (−5.7 and 53 percent); and (3) post-Sed was 40 percent (26 and 67 percent).

The impact of percent TOC removal and point of chlorination on TOX, TTHM, and HAA5 formation are shown in Figures IV.7, IV.8, and IV.9, respectively. Increased TOC removal resulted in decreased DBP formation. In general, moving the point of chlorination from raw water to Mid-Floc and Post-Sed resulted in a percent decrease in DBP formation that was equivalent to or greater than the percent TOC removal achieved. Thus, in this study, precursor removal was a more effective DBP control strategy when used in conjunction with delaying the point of chlorination until Mid-Floc or later.

Impact of Alum Dose

Coagulation conditions of the waters at baseline conditions were determined based on turbidity control. The median alum dose used for baseline coagulation conditions was 30 mg/L (10th and 90th percentile were 15 and 48 mg/L, respectively). Under these conditions, the median TOC removal was 24 percent (10th and 90th percentiles were 6.5 and 38 percent, respectively). For this study, the alum dose was increased from the baseline case by a median value of 22 mg/L (the 10th and 90th percentiles were 15 and 35 mg/L, respectively). Increasing the alum dose resulted in a median increase in TOC removal to 33 percent (10th and 90th percentile were 18 and 48 percent, respectively). Thus, at the higher alum doses, DBP formation was decreased. For nine of the waters studied, increasing the alum dose from baseline coagulation conditions resulted in TOC removal equivalent to or greater than those required by the 3 × 3 enhanced coagulation matrix. This yielded a median increase in the percent TOC removal of 14 percent. Table IV.1 summarizes the median benefit associated with moving the point of chlorination downstream under baseline coagulation and with increasing the alum dose to achieve enhanced coagulation on DBP formation. DBP formation resulting from chlorine addition at Pre-RM under baseline coagulation conditions was used as a point of reference. The data in the table indicates that even when prechlorination is practiced, TOX, TTHM, and HAA5 formation can be reduced by moving from conventional to enhanced coagulation. For TOX and TTHM, the benefits of moving to enhanced coagulation are greatest when Post-Sed chlorination is used. Furthermore, the benefits are greater for the control of HAA5 formation than for the control of TOX and TTHM formation.

TABLE IV.1.—IMPACT OF POINT OF CHLORINATION AND ENHANCED COAGULATION ON DBP FORMATION USING PRE-RM DBP FORMATION UNDER BASELINE COAGULATION CONDITIONS AS BASIS FOR COMPARISON

	Median benefit (%)					
	TOX (n=7)		TTHM (n=9)		HAA5 (n=6)	
	Baseline coagulation	Enhanced coagulation	Baseline coagulation	Enhanced coagulation	Baseline coagulation	Enhanced coagulation
Pre-RM	.....	11	.....	17	.....	4.7
Post-RM	0.3	10	1.6	21	5.3	21
Mid-Floc	3.9	23	8.7	36	14	36
Post-Sed	11	40	21	48	35	61

3-Hour DBP Formation Relative to Distribution System DBP Formation

Chlorination with a 3-hour holding time before quenching the reaction resulted in a significant formation of DBPs. The 3-hour period was chosen as it is typical of reaction times in conventional treatment plants. To get a general sense of short-term DBP formation kinetics, DBP formation for chlorinated settled water held for 3 hours was compared to DBP formation of settled water chlorinated under UFC (24 hour holding time). The data indicate that 3-hour chlorination resulted in a high percentage of DBP formation that would normally be measured in the distribution system. The median DBP concentrations formed in 3 hours were 61, 44, and 46 percent of distribution system formation for TOX, TTHM, and HAA5, respectively. This can be thought of as in-plant DBP formation relative to distribution system formation for systems with 3-hour post sedimentation contact.

Summary

The results of this study indicate that enhancing the coagulation process, while maintaining prechlorination, can result in decreased DBP formation (especially for TOX and TTHM) with greater benefits being realized by moving the point of chlorination to post rapid mixing or further downstream for HAA5 and to mid flocculation or post sedimentation for TOX and TTHM. Compared to prechlorinating three minutes before rapid mixing, the greatest DBP reduction was realized by moving the point of chlorination to post-sedimentation, with a median decrease of 17, 25, and 40 percent in TOX, TTHM, and HAA5 formation, respectively. However, operational and regulatory constraints may limit the extent to which the point of chlorination can be moved downstream in the process train, since one requirement in the IESWTR may be a disinfection benchmark; which would require some plants making significant changes in disinfection practice (including moving the point of disinfection) to design the change to maintain their level of Giardia inactivation at or above a site-specific level. This may limit the degree to which some plants can delay the point of chlorination without seeking State approval and potentially modifying their treatment train to make up lost Giardia inactivation later in the plant.

C. Summary of Key Observations

TWG analyses indicated that most PWSs, using enhanced coagulation or enhanced softening as required, would be able to meet MCLs of 0.080 mg/L and 0.060 mg/L for TTHM and HAA5, respectively, while maintaining existing disinfection practice. This analysis also indicated that significant precursor removal and DBP reduction can still be achieved with predisinfection left in place. Although in most cases the reduction in DBP formation is not as great as would be accomplished in moving the point of disinfection to after enhanced coagulation, the Advisory Committee recommended balancing the need to maximize precursor removal against the need to substantially maintain existing levels of microbial protection that is provided by many plants through predisinfection. However, as noted above, another key implication of Summers' work is that some PWSs that only add disinfectant just prior to coagulant addition (e.g., rapid mix), could achieve significant additional DBP reduction without sacrificing meaningful disinfection credit by moving the point of disinfectant addition from just before to just after the point of coagulant addition.

The Advisory Committee recommended that PWSs continue to receive credit for compliance with applicable disinfection requirements for disinfectants applied at any point prior to the first customer consistent with the existing provisions of the 1989 Surface Water Treatment Rule.

EPA will develop guidance on the uses and costs of oxidants that control water quality problems (e.g., Asiatic clams, zebra mussels, iron, manganese, algae, taste and odor) and whose use will reduce or eliminate the formation of DBPs of public health concern.

D. Request for Public Comments

EPA requests comment on continued disinfection credit for all disinfectant use prior to the first customer.

V. Analytical Methods

EPA is requesting comment on the addition, and in one case the deletion, of analytical methods for the disinfectants and DBPs listed below. These potential changes are based on information received during the public comment period or on new information that has become available since the July 1994 proposed rule.

A. Chlorine Dioxide

The proposed DBP rule included the same three methods for analyzing chlorine dioxide (ClO_2) that are approved under the SWTR and ICR regulations. Two of these methods, Standard Methods 4500.ClO_2 C (APHA 1992) and 4500.ClO_2 E (APHA 1992), are amperometric methods. The third method proposed was Standard Method 4500.ClO_2 D (APHA 1992), a colorimetric method using the color indicator N,N-diethyl-p-phenylenediamine (DPD).

EPA received several comments stating that these methods to calculate ClO_2 concentration are intrinsically inaccurate because free chlorine, chloramines and chlorite are subtracted from the measurement, causing a propagation of errors. However, they stated that the DPD method is sufficiently accurate for monitoring ClO_2 residuals in drinking water and is relatively easy to perform.

Method 4500.ClO_2 C was cited as an outdated, inaccurate and time consuming method, subject to interferences from oxidants commonly found in drinking water (Dietrich, 1992). Significant, positive interferences have been described by Gates (1988), and attributed to mono-and dichloramines by Haller and Listek (1948). Method 4500.ClO_2 E is a better method because it utilizes differences in the physical properties of ClO_2, as opposed to chemical detection of anionic oxychlorocompounds (Aieta et al., 1984). Therefore, EPA requests comments on omitting Method 4500.ClO_2 C from the list of approved methods for the analysis of chlorine dioxide for compliance with the MRDL for chlorine dioxide. Comments on omitting it from 40 CFR 141.74 (SWTR analytical methods) are also requested.

B. Haloacetic Acids

In 1994, EPA proposed two methods for the analysis of five haloacetic acids—Method 552.1 (USEPA, 1992b) and Standard Method 6233B (APHA 1992). Both methods use capillary column gas chromatographs equipped with electron capture detectors. The two methods differ in the sample preparation steps. Method 552.1 uses solid phase extraction disks followed by an acidic methanol derivitization. Method 6233B is a small volume liquid-liquid (micro) extraction with methyl-t-butyl ether, followed by a diazomethane derivitization. Standard Method 6233B was revised (and renumbered 6251B (APHA 1995)) to include bromochloroacetic acid, for which a standard was not commercially available in 1994. Recognizing these improvements, EPA approved Method 6251B for analysis under the 1996 Information Collection Rule (40 CFR Part 141 or USEPA, 1996b). Several commenters requested that the revised and renumbered method, Method 6251B, also be approved for the analysis of haloacetic acids under the Stage 1 DBP regulations.

In 1995 EPA published a third method for HAAs, Method 552.2 (EPA 1995), and subsequently approved it for HAA analysis under the 1996 Information Collection Rule (40 CFR Part 141 or USEPA, 1996b). Method 552.2 is an improved method, combining the micro extraction procedure of Standard Method 6233B with the acidic methanol derivitization procedure of Method 552.1. It is capable of analyzing nine HAAs. EPA received comments requesting approval of Method 552.2 for HAA5 analyses required under this section.

EPA requests comment on the technical adequacy of using Methods 552.2 and 6251B (formerly 6233B) for analyzing haloacetic acids. Method 552.1 would continue to be approved for the analysis of haloacetic acids.

C. Total Trihalomethanes (TTHMs)

Three methods are approved for the analysis of total trihalomethanes (TTHMs) under 40 CFR 141.24(e). These same methods were proposed under the 1994 Stage I DBP proposal. One of the three methods, EPA Method 551, was revised to Method 551.1, rev. 1.0 (EPA 1995). Method 551.1 is approved for ICR monitoring under 40 CFR 141.142.

Method 551.1 has several improvements upon Method 551. The use of sodium sulfate is strongly recommended over sodium chloride for the MTBE extraction of DBPs. This change was in response to a report indicating elevated recoveries of some brominated DBPs due bromide impurities in the sodium chloride (Xie, 1995). EPA's NERL laboratories confirmed this finding in samples that were not extracted immediately after the sodium chloride was added.

Other changes to Method 551.1 include a buffer addition to stabilize chloral hydrate, elimination of the preservative ascorbic acid, and modification of the extraction procedure to minimize the loss of volatile analytes. The revised method requires the use of surrogate and other quality control standards to improve the precision and accuracy of the method.

D. Bromate

The proposed rule required systems that use ozone to monitor for bromate ion. EPA proposed Method 300.0 (Determination of Inorganic Anions by Ion Chromatography)(USEPA, 1993a) for the analysis of bromate and chlorite ions. Method 300.0 is used in many laboratories because it can analyze bromide, chloride, fluoride, nitrate, nitrite, orthophosphate, sulfate, bromate, chlorite and chlorate ions. The cost of bromate ion analysis was estimated to range from $50 to $100 per sample.

At the time of the proposal, EPA was aware that Method 300.0 was not sensitive enough to measure bromate ion concentration at the proposed MCL of 0.010 mg/L (10 µg/L). EPA recognized that modifications to the method would be necessary to increase the method sensitivity. Studies at that time indicated that changes to the injection volume and the eluent chemistry would decrease the detection limit below the MCL. There was also an issue concerning whether bromate formation could be reliably controlled to levels below 10 µg/L when ozone is used as part of the treatment process. Most commenters agreed that Method 300.0 was not sensitive enough to determine compliance with a MCL of 10 µg/L bromate ion, given that MCLs are set no less than 5 times the MDLs. One commenter did achieve a MDL for bromate ion in the 1–2 µg /L range under research laboratory conditions.

Since the proposal, EPA has improved Method 300.0 and renumbered it as Method 300.1. EPA intends to approve this method for use in the final rule; it is available for review in the Docket. Method 300.1 specifies a new, high capacity ion chromatography (IC) column that is used for the analysis of all anions listed in method instead of requiring two different columns as specified in Method 300.0. The new column has a higher ion exchange capacity that improves chromatographic resolution and minimizes the potential for chromatographic interferences from common anions at concentrations typically 10,000 times greater than bromate ion. For example, quantification of 5.0 µg/L bromate is feasible in a matrix containing 50 mg/L chloride. Minimizing the interferences permits the introduction of a larger sample volume to yield a method detection limit of 2 µg/L. Sample analysis time is approximately 30 minutes per sample.

An IC column's capacity is directly proportional to its operating back pressure at a given flow rate and the older IC systems may not be able to tolerate the higher back pressures required when using these new IC columns. Consequently, in order to perform this analysis, some laboratories with IC systems over 15 years old may need to upgrade their instrumentation to current technology. Newer instruments can easily be operated under these conditions.

As in Method 300.0, Part A of the revised method contains procedures for measuring the common anions of bromide, nitrate, nitrite, fluoride, chloride, sulfate and phosphate. Part B contains procedures for measuring the disinfection byproduct anions of bromate, chlorite and chlorate. Bromide ion is also included in Part B to determine its potential presence as a disinfection byproduct precursor.

The anions are split into two distinct parts due to the disparity in the relative concentrations expected in drinking water. Method 300.1 analyzes mg/L levels of the Part A common anions and µg/L levels of the Part B inorganic disinfection byproducts and bromide ion. To accommodate this, the recommended sample volume injected for Part A is 10 µL and for Part B is 50 µL, when using a 2 mm diameter column. The lower injected sample volume for Part A is required to compensate for their higher (mg/L) concentrations. If this injected volume is not reduced, poor analyte response characteristics are observed and the integrity of the data is compromised. The higher injected sample volume for Part B is required to yield low detection limits for the inorganic disinfection byproducts, specifically bromate. Analysis for Part A and Part B cannot be concurrent without sacrificing analytical integrity and therefore a separate 30 minute analysis must be done for each concentration range.

To preserve samples for chlorite, chlorate, and bromate analyses, the method requires the addition of ethylenediamine (EDA) at a final sample concentration of 50 mg/L. EDA is primarily used as a preservative for chlorite. Chlorite is susceptible to degradation both through catalytic reactions with dissolved iron salts and reactivity towards free chlorine which exists as hypochlorous acid/hypochlorite ion in most drinking water as a residual disinfectant. EDA serves a dual purpose as a preservative for chlorite by chelating iron as well as any other catalytically destructive metal cations and removing hypochlorous acid/hypochlorite ion by forming an organochloramine. EDA also preserves the integrity of bromate concentrations by binding with hypobromous acid/hypobromite which is an intermediate formed as a byproduct of the reaction of ozone or free chlorine with bromide ion. If hypobromous acid/hypobromite is not removed from the matrix, further reactions may form bromate ion.

Method 300.1 was validated for the inorganic DBPs and bromide by conducting nine replicate analyses at two different fortified levels of seven water matrices including reagent water, simulated high ionic strength water, untreated surface water, untreated ground water, chlorinated drinking water, chlorine dioxide treated drinking water, and ozonated drinking water. Holding time studies have been incorporated into these validation studies with aliquots of each fortified matrix currently being stored as unpreserved and EDA preserved at 4°C. These stored sample matrices will be monitored out to 30 days to determine appropriate holding times. MDL determinations have been completed in both reagent water and high ionic strength water. Results of these validation studies are included in the method.

With Method 300.1, EPA projects that more laboratories will achieve lower detection limits for bromate and report data having better precision and accuracy. Compliance monitoring for low levels of bromate ion will require an appropriate certification process to ensure that the measurements are accurate. Although there may be a

limited number of laboratories that will be qualified to do such analyses, there should be adequate laboratory capacity for bromate ion compliance monitoring. EPA estimates that 250 treatment plants utilizing ozone will be monitored for bromate once per month, for a total of 3,000 samples per year.

E. Chlorite

The proposed rule required monitoring for the chlorite ion for those systems using chlorine dioxide for disinfection. The proposed rule included Method 300.0 (ion chromatography) for chlorite analysis. Other methods using amperometric and potentiometric techniques were considered, but EPA decided that only the ion chromatography method (300.0) would produce results with the precision needed for compliance determinations. Several commenters suggested that EPA permit other methods for chlorite.

Since the proposed rule, Method 300.1, which uses ion chromatography, was developed for bromate ion (as discussed above). Since Method 300.1 can also be used to analyze for chlorite ion, EPA requests comment on allowing both Methods 300.0 and 300.1 as approved methods for the analysis of chlorite ion.

F. Total Organic Carbon (TOC)

The proposed rule included two methods for analyzing TOC: Standard Method 5310 C and 5310 D (APHA 1992). These methods were selected because they cite a detection limit ≤0.5 mg/L and a precision of ± 0.1 mg/L TOC. Standard Method 5310 B (18th edition) was considered, but not proposed because the method had a detection limit of 1 mg/L. The proposal stated that if planned improvements to the instrumentation in 5310 B were successful, the next version would be considered for promulgation.

Improvements were made to method 5310B and were included in a revised method in the 19th edition of Standard Methods (APHA 1995). Based on these improvements, method 5310B (19th edition) was approved for TOC analyses under the Information Collection Rule. Several commenters requested that Standard Methods 5310B also be approved for TOC analysis under this rule because the newer instrumentation achieves a detection limit of 0.5 mg/L TOC.

Since the ICR was promulgated, another revision of 5310 B was published in the supplement to the Standard Methods 19th Edition (APHA 1996). EPA intends to approve this method for the analysis of TOC. EPA requests comments on the technical equivalency of Methods 5310 B, C, and D in the Supplement to Standard Methods 19th Edition and those same methods in the 19th Edition.

G. Specific Ultraviolet Absorbance (SUVA)

Specific Ultraviolet Absorbance at 254 nm (SUVA) is an indicator of the humic content of a water. Waters with low SUVA values contain primarily non-humic matter and are not amenable to enhanced coagulation. As discussed in section III, systems may demonstrate that enhanced coagulation or enhanced softening is unnecessary if the raw water after being filtered through a 0.45 μm filter has a SUVA below 2 L/mg-m.

SUVA is a calculated parameter obtained by dividing a sample's ultraviolet light absorbance at a wavelength of 254 nm (UV_{254}), by the dissolved organic carbon (DOC), and multiplying by 100:

$$SUVA = 100\ (cm/m)\ [\ UV_{254}\ (cm^{-1})/DOC\ (mg/L)]$$

Two separate analytical methods are necessary to make this measurement: 1) UV_{254} and 2) DOC.

1. UV_{254}. EPA approved Standard Methods 5910 (APHA 1995) for measuring UV_{254} under the Information Collection Rule and intends to approve its use under the disinfection byproducts rule. EPA requests comments on this and other methods for measuring UV_{254}.

2. DOC. Standard Methods (19th Edition-Supplement)(APHA 1996) defines DOC as the fraction of TOC that passes through a 0.45 μm-pore-diameter filter. DOC is measured by performing an analysis for TOC on the sample filtrate. Filtration eliminates particulate organic matter but may contaminate the sample if carbon-containing compounds leach from the filter. Standard Methods 5310 B, 5310 C and 5310 D require that filters be rinsed before use and checked for their contribution to DOC by analyzing a filtered blank. Contact with organic material such as plastic containers, rubber tubing, etc. must be kept to a minimum to prevent contamination. EPA requests comments on the approval of Standard Methods 5310 B, 5310 C and 5310 D for measuring DOC for the SUVA calculation.

EPA is aware of several issues relating to the measurement of SUVA that are not addressed in the methods above. In determining SUVA, DOC and UV_{254} are both to be measured from the same sample filtrate, which is prepared by filtering a raw water sample through a pre-washed 0.45 μm filter paper. Standard Methods 5910 (UV) recommends to wash the filter with 50 mL of organic-free water to avoid contamination, however, more rinsate may be necessary to eliminate the DOC.

Because disinfectants/oxidants (chlorine, ozone, chlorine dioxide, potassium permanganate) can destroy UV but not DOC, SUVA needs to be determined on water prior to the application of disinfectants/oxidants. In the raw water, this is usually not a problem. If disinfectants/oxidants are applied in raw-water transmission lines upstream of the plant, then raw-water SUVA should be based on a sample collected upstream of the point of disinfectant/oxidant addition.

For determining settled-water SUVA, if the plant applies disinfectants/oxidants prior to the settled water sample tap, then settled-water SUVA should be determined in jar testing. Finally, the use of iron-base coagulants can interfere with UV measurements, as dissolved iron can penetrate the filter paper.

To address these issues in more detail, EPA intends to provide guidance on SUVA measurements in the Guidance Manual for Enhanced Coagulation (USEPA, 1997d). The manual will include guidance on sampling, sample preparation, filter type, pH, interferences to UV, high turbidity waters, quality control, etc. EPA requests comment on other issues that should be addressed in the guidance, as well as any recommendations on how the above issues should be addressed.

H. Summary of Key Observations

Since the 1994 proposal, improvements have been made to the analytical methods for trihalomethanes, haloacetic acids, total organic carbon, bromate ion and chlorite ion. EPA received comments to include Method 552.2 and 6251B for HAAs, and Method 5310B for TOC. Commenters made a general suggestion to approve methods promulgated under the ICR rule in the Stage 1 DBP rule. EPA intends to approve these methods and if appropriate, promulgate their most recent versions. EPA also intends to approve Method 300.1, the revised method for bromate ion, and permit its use for chlorite ion.

I. Request for Public Comments

1. EPA requests additional comments on omitting Method 4500.ClO_2 C from the list of approved methods for the analysis of chlorine dioxide.

2. EPA requests additional comments on the approval of EPA Method 552.2 and Standard Method 6251B for analyzing haloacetic acids.

3. EPA requests comment on replacing Method 300.0 with Method 300.1 for the analysis of bromate ion.

4. EPA requests comment on allowing both Method 300.0 and 300.1 as approved methods for the analysis of chlorite ion.

5. EPA requests comments on the technical equivalency of Methods 5310 B, C and D in the Supplement to Standard Methods, 19th edition and those same methods in the 19th edition of Standard Methods for measuring TOC and DOC.

6. EPA requests comments on the methods and filtration procedures for measuring SUVA.

VI. MCLs for TTHM, HAAs, Chlorite and Bromate

A. 1994 Proposal

The 1994 proposal for Stage 1 of the DBPR included MCLs for total trihalomethanes [TTHMs], the sum of five haloacetic acids (HAA5), bromate and chlorite at 0.080, 0.060, 0.010 and 1.0 mg/L, respectively (EPA, 1994b). In addition to the proposed MCLs, Subpart H systems—utilities treating either surface water or groundwater under the direct influence of surface water—that use conventional treatment (i.e., coagulation, sedimentation, and filtration) or precipitative softening would be required to remove DBP precursors by enhanced coagulation or enhanced softening. The removal of total organic carbon (TOC) would be used as a performance indicator for DBP precursor control.

As part of the proposed rule, EPA estimated that 17% of PWSs would need to change their treatment process to alternative disinfectants (ozone or chlorine dioxide) or advanced precursor removal (GAC or membranes) in order to comply with the Stage 1 requirements. This evaluation was important to assist in determining whether the proposed MCLs were achievable and at what cost. This evaluation required an understanding of the baseline occurrence for the DBPs and TOC being considered in the Stage 1 DBPR, an understanding of the baseline treatment in-place, and an estimation of what treatment technologies systems would use to comply with the Stage 1 DBPR requirements.

For systems switching to ozone or chlorine dioxide, separate MCLs were proposed for inorganic DBPs associated with their usage: bromate and chlorite, respectively. Although the theoretical 10^{-4} risk level for bromate is 5 μg/L, an MCL of 0.010 mg/L (10 μg/L) was proposed (because available analytical detection methods for bromate were reliable only to the projected practical quantification limit (PQL) of 10 μg/L (USEPA, 1994b). For chlorite, the MCL goal (MCLG) was 0.08 mg/L, due (in part) to data gaps that required higher uncertainty factors in the MCLG determination. The Chemical Manufacturer's Association (CMA) agreed to fund new health effects research on chlorine dioxide and chlorite—with EPA approval of the experimental plan—to resolve these data gaps.

In the preamble to the proposed rule, EPA requested comment on several issues related to the MCLs and requested any new information that may influence the MCLs. For bromate, EPA requested comment on whether there were ways to set (or achieve) a lower MCL (i.e., 0.005 mg/L [5 μg/L]) and whether the PQL for bromate could be lowered to 5 μg/L in order to allow compliance determinations for a lower MCL in Stage 1 of the proposed rule.

For chlorite, EPA requested comment on the appropriate MCL (i.e., at the MCLG, at the proposed MCL, or above the MCLG but below the proposed MCL), the feasibility of achieving a particular MCL, and whether there were other benefits to chlorine dioxide disinfection that should be considered when balancing the health risks associated with chlorite.

B. New Information Since 1994 Proposal

1. TTHM and HAA5 MCLs

At the direction of the Advisory Committee, the Technologies Working Group (TWG) reviewed MCL compliance predictions developed for the 1994 proposal because of concern by several Committee members that modifications to the rule would result in more PWSs not being able to meet the TTHM and HAA MCLs without installation of higher cost technologies such as ozone or GAC. The members were particularly concerned that allowing disinfection inactivation credit prior to precursor removal (by enhanced coagulation or enhanced softening) in order to prevent significant reductions in microbial protection would result in higher DBP formation and force systems to install alternative disinfectants, or advanced precursor removal to meet TTHM and HAA5 MCLs. As discussed earlier in today's Notice in Section IV. (Disinfection Credit), PWSs can achieve significant reduction in DBP formation through the combination of enhanced coagulation (or enhanced softening) and moving the point of disinfection downstream from coagulant addition, while preventing significant reduction in microbial protection. The TWG's analysis of the cumulative effect of these changes was that there would be no significant increase in the percentage of PWSs that would need to install higher cost technologies to meet TTHM and HAA5 MCLs and no significant reduction in microbial protection. The TWG estimated that 6.4% (based on WIDB data) to 15% (based on AWWSCo data) of PWSs would install alternative disinfectants or advanced precursor removal technologies based on the new information presented in this Notice, which is less than estimated in the 1994 proposal. It is now estimated that these other systems will either switch to chloramines or move the point of predisinfection, which are low cost means of compliance. EPA has included a detailed discussion of the TWG's prediction of technology choices in Section VIII of this Notice. EPA continues to believe the proposed MCLs are achievable without large-scale technology shifts. EPA requests comment on the new information and related analysis outlined in Section VIII.

2. Bromate

The proposed MCL of 0.010 mg/L for bromate was based on a projected practical quantitation level (PQL) that would be achieved by improved methods. The PQL of the revised method is approximately 0.010 mg/L for bromate, as discussed in Section V (Analytical Methods). EPA is not aware of any new information that would lower the PQL for bromate and thus allow lowering the MCL. As a result, EPA concluded that the proposed bromate MCL is appropriate and requests comment on this position.

3. Chlorite

The proposed chlorite MCL of 1.0 mg/L was supported by the Regulatory Negotiation Committee because 1.0 mg/L is the lowest level practicably achievable by typical systems using chlorine dioxide, from both treatment and monitoring perspectives. Since the proposed MCLG of 0.08 mg/L contained several uncertainty factors because of data gaps, i.e., lack of two-generation reproductive study, CMA funded a 2-generation reproductive study with chlorite, with EPA approval of the study design. CMA has submitted this study for EPA review. EPA has not completed its review of the study at the time of this Notice. EPA intends to publish the results of its review in a future Notice of Data Availability, along with any possible modifications to regulatory requirements that its review may justify.

EPA has included a more complete discussion of this issue earlier in this Notice (Section II. Health Effects) and the CMA study is available for review in the Docket. In addition, an EPA sponsored peer-review of the CMA study is included in the Docket. EPA is requesting comments on the conclusions of this peer review report.

VII. Regulatory Compliance Schedule and Other Compliance-Related Issues

A. Regulatory Compliance Schedule

Background

During the 1992 Disinfectants/Disinfection Byproducts Regulatory Negotiation (reg-neg) that resulted in the 1994 proposed Stage 1 DBPR and proposed IESWTR, there was extensive discussion of the compliance schedule and applicability to different groups of systems and coordination of timing with other regulations.

In addition to the Stage 1 DBPR, the Negotiating Committee agreed that EPA would a) propose an interim ESWTR which would apply to surface water systems serving 10,000 or more people, and b) at a later date, propose a long-term ESWTR applying primarily to small systems under 10,000. Both of these microbial rules would be proposed and promulgated so as to be in effect at the same time that systems of the respective size categories would be required to comply with new regulations for disinfectants and DBPs. Finally, although the GWDR was not specifically addressed during the reg-neg, EPA anticipated that it would be promulgated at about the same time as the IESWTR and Stage 1 DBPR.

EPA proposed a staggered compliance schedule, based on the reg-neg results. The Negotiating Committee and EPA believed that such a process was needed for the rules to be properly implemented by both States and PWSs. Also, EPA proposed a staggered schedule to achieve the greatest risk reduction by providing that larger water systems were to come into compliance earlier than small systems (to cover more people earlier), and surface water systems were to come into compliance earlier than ground water systems (since the potential risks of both pathogens and DBPs were considered generally higher for surface water systems). Large and medium size surface water PWSs (serving at least 10,000 people) constitute less than 25% of community water systems using surface water and less than 3% of the total number of community water systems, but serve 90% of the population using surface water and over 60% of the population using water from community water systems. These large PWSs are also those with experience in simultaneous control of DBPs and microbial contaminants. EPA proposed that these systems be required to comply with the Stage 1 DBPR and IESWTR 18 months after promulgation of the rules and that States would be required to adopt the rules no later than 18 months after promulgation. These 18 month periods were prescribed in the 1986 SDWA Amendments.

Surface water PWSs serving fewer than 10,000 people were to comply with the Stage 1 DBPR requirements 42 months after promulgation, to allow such systems to simultaneously come into compliance with the LTESWTR. This compliance date reflected a schedule that called for the LTESWTR to be promulgated 24 months after the IESWTR was promulgated and for PWSs then to have 18 months to come into compliance. Such a simultaneous compliance schedule was intended to provide the necessary protection from any downside microbial risk that might otherwise result when systems of this size attempted to achieve compliance with the Stage 1 DBPR.

Ground water PWSs serving at least 10,000 people would also be required to achieve compliance with the Stage 1 DBPR 42 months after promulgation. A number of these systems, due to recently installing or upgrading to meet the GWDR (which EPA planned to promulgate at about the same time as the Stage 1 DBPR), were expected to need some period of monitoring for DBPs in order to adjust their treatment processes to also meet the Stage 1 DBPR standards.

1996 Safe Drinking Water Act Amendments

The SDWA 1996 Amendments affirmed several key principles underlying the M-DBP compliance strategy developed by EPA and stakeholders as part of the 1992 Regulatory Negotiation process. First, under Section 1412(b)(5)(A), Congress recognized the critical importance of addressing risk/risk tradeoffs in establishing drinking water standards and gave EPA the authority to take such risks into consideration in setting MCL or treatment technique requirements. Second, Congress explicitly adopted the staggered M-DBP regulatory development schedule developed by the Negotiating Committee. Section 1412(b)(2)(C) requires that the standard setting intervals laid out in EPA's proposed ICR rule be maintained even if promulgation of one of the M-DBP rules was delayed. As noted above, this staggered regulatory schedule was specifically designed as a tool to minimize risk/risk tradeoff. A central component of this approach was the concept of "simultaneous compliance" which provides that a PWS must comply with new microbial and DBP requirements at the same time to assure that in meeting a set of new requirements in one area, a facility does not inadvertently increase the risk (i.e., the risk "tradeoff") in the other area.

The SDWA 1996 Amendments also changed two statutory provisions that elements of the 1992 Negotiated Rulemaking Agreement were based upon. As outlined above, the 1994 Stage 1 DBPR and ICR proposals provided that 18 months after promulgation large PWSs would comply with the rules and States would adopt and implement the new requirements. Section 1412(b)(10) of the SDWA as amended now provides that drinking water rules shall become effective 36 months after promulgation (unless the Administrator determines that an earlier time is practicable or that additional time for capital improvements is necessary—up to two years). In addition, Section 1413(a)(1) now provides that States have 24 instead of the previous 18 months to adopt new drinking water standards that have been promulgated by EPA.

Discussion

In light of the 1996 SDWA amendments, developing a compliance deadline strategy that encompasses both the Stage 1 DBPR and IESWTR, as well the related LTESWTR and Stage 2 DBPR, is a complex challenge. On the one hand, such a strategy needs to reflect new statutory provisions. On the other, it needs to continue to embody key reg-neg principles reflected in both the 1994 ICR and Stage 1 DBPR proposals; principles that both Congressional intent and the structure of the new Amendments, themselves, indicate must be maintained.

An example of the complexity that must be addressed is the relationship between the principles of risk/risk tradeoff, simultaneous compliance, and the staggered regulatory schedule adopted by Congress. Under the 1996 SDWA amendments, the staggered regulatory deadlines under Section 1412(b)(2)(C) call for the IESWTR and Stage 1 DBPR to be promulgated in November 1998 and the LTESWTR in November of 2000. However, a complicating factor reflected in the Negotiated Rulemaking Agreement of 1992 and contained in the 1994 ICR, IESWTR, and Stage 1 DBPR proposals, is that Stage 1 applies to all PWSs, while IESWTR applies only to PWSs over 10,000, and the LTESWTR covers remaining surface water systems under 10,000.

One approach might be to simply provide that each M-DBP rule becomes effective 3 years after promulgation in accordance with the new SDWA provisions. For surface water systems over 10,000, each plant would be required to comply with related microbial and DBP requirements at the same time thereby minimizing potential risk/risk tradeoffs. For surface water systems under 10,000, however, this approach would result in a very large number of smaller plants complying with DBP requirements two years before related LTESWTR microbial provisions became effective, thereby creating an unbalanced risk tradeoff situation that the Negotiating Committee, EPA, and Congress each sought to avoid.

As this example suggests, given the staggered regulatory development schedule developed by stakeholders in the reg-neg process and adopted by Congress, there is a difficult inconsistency between the principle of avoiding risk tradeoffs, simultaneous compliance, and simply requiring all facilities to comply with applicable M-DBP rules three years after their respective promulgation. The challenge, then, is to give the greatest possible meaning to each of the new SDWA provisions while adhering to the fundamental principles also endorsed by Congress of addressing risk-risk tradeoffs and assuring simultaneous compliance.

A further question that must be factored into this complex matrix is how to address the relationship between promulgation of a particular rule, its effective date, and its adoption by a primacy State responsible for implementing the Safe Drinking Water Act. Under the 1994 IESWTR and Stage 1 DBPR proposals, the rule's 18 month effective date was the same as the 18 month date by which a State was required to adopt it. This approach reflected the 18 month SDWA deadlines applicable during reg-neg negotiations and at the time of proposal.

The difficulty with requiring PWS compliance and State implementation by the same date is that States may not have enough lead time to adopt rules, train their own staff, and develop policies to implement and enforce new rules by the deadline for PWS compliance. In situations where the new rules are complex and compliance requires state review and ongoing interaction with PWSs, successful implementation can be very difficult, particularly for States with many small systems that have smaller staffs and fewer resources to anticipate the requirements of final rules. As noted above, Congress addressed this issue by extending the time for States to put their own rules in place from 18 months to two years after federal promulgation and, then, by generally providing for a one year interval before PWSs must comply (three years after promulgation). As a result, the 18 month interval contemplated by the 1994 proposals is no longer applicable, and the approach of setting the same date for PWS compliance and State rule implementation is no longer consistent with the phased approach laid out in the new SDWA amendments.

A final set of issues that must be addressed in connection with the Stage 1 DBPR proposal are compliance deadlines for ground water systems that currently disinfect. Reflecting the Negotiated Rulemaking Agreement, the 1994 proposal provided that ground water systems serving at least 10,000 that disinfect must comply three and one half years (42 months) after Stage 1 DBPR promulgation. Small ground water systems serving fewer than 10,000 that disinfect would be required to come into compliance five years (60 months) after Stage 1 DBPR promulgation. Again, the challenge here is to reconcile new statutory compliance provisions with the principles of simultaneous compliance, avoiding risk/risk tradeoffs, and deference to Congress' clear intent to preserve the "delicate balance that was struck by the parties in structuring the negotiated rulemaking agreement". (Joint Explanatory Statement of the Committee on Conference on S.1316, p2). An additional factor that must be considered in this context is that Congress affirmed the need for microbial ground water regulations but also clearly contemplated that such standards might not be promulgated until issuance of Stage 2 DBPR (no later than May, 2002).

Alternative Approaches

In light of the 1996 SDWA amendments and their conflicting implications for different elements of the compliance strategy agreed to by the Negotiating Committee and set forth in the 1994 IESWTR and Stage 1 DBPR proposals, EPA is today requesting comment on four alternative compliance approaches. The Agency also requests comment on any other compliance approaches or modifications to these options that commenters believe may be appropriate.

OPTION 1.—IMPLEMENT 1994 PROPOSAL SCHEDULE

Rule (promulgation)	Surface water PWS		Ground water PWS	
	≥10k	<10k	≥10k	<10k
DBP 1 (11/98)	5/00	5/02	5/02	11/03
IESWTR (11/98)	5/00	NA	NA	NA
LTESWTR (11/00)	5/02 (if required)	5/02	NA	NA
GWDR (11/00)	NA	NA	(1)	(1)

[1] Not addressed.

Option 1 (schedule as proposed in 1994) simply continues the compliance strategy laid out in the 1994 Stage 1 DBPR and IESWTR proposals. This would provide that medium and large surface water PWSs (those serving at least 10,000 people) comply with the final Stage 1 DBPR and IESWTR within 18 months after promulgation, and that surface water systems serving fewer than 10,000 comply within 42 months of Stage 1 DBPR promulgation. This option also would provide that ground water systems serving at least 10,000 and that disinfect comply within 42 months, while ground water systems serving fewer than 10,000 comply within 60 months.

This approach was agreed to by EPA and other stakeholder members of the 1992 Negotiating Committee. However, it has been at least in part superseded by both the general 36 month PWS compliance period and the 24 month State adoption and implementation period provided under the 1996 SDWA amendments. If the proposed 1994 compliance schedule were to be retained, EPA would need to make a determination that the statutory compliance provision of 36 months was

not necessary for large and medium surface systems because compliance within 18 months is "practicable". To maintain simultaneous compliance, the Agency would also have to make the same practicability determination for small surface water systems in complying with the LTESWTR and for ground water systems serving at least 10,000 in complying with the GWDR. In addition, the Agency would need to justify 42 months for small surface water systems and 60 months for small ground water systems with disinfection by making a national determination that the additional time was required due to the need for capital improvements at each of these small systems. EPA also would need to articulate a rationale for why States should not be provided the statutorily specified 24 months to implement new complex regulatory provisions before PWSs are required to comply. Finally, to implement this approach, the Agency would be required to modify the timing associated with the microbial backstop provision agreed to on July 15, 1997 by the M–DBP Advisory Committee (since a 18 month schedule would not allow time after promulgation for medium surface water systems (10,000–99,999) to collect HAA data prior to having to determine whether disinfection benchmarking is necessary).

EPA requests comment on the issues outlined above in connection with this option. In particular, the Agency requests comment and information to support a finding that compliance by specified systems in 18 months is practicable for some rules, and that extensions to 42 or 60 months for other systems are required to allow for capital improvements.

OPTION 2.—ADD 18 MONTHS TO 1994 PROPOSAL SCHEDULE

Rule (promulgation)	Surface water PWS		Ground water PWS	
	≥10k	<10k	≥10k	<10k
DBP 1 (11/98)	11/01	11/03	11/03	5/05
IESWTR (11/98)	11/01	NA	NA	NA
LTESWTR (11/00)	11/03 (if required)	11/03	NA	NA
GWDR (11/00)	NA	NA	(1)	(1)

[1] Not addressed.

Option 2 (each date in proposed 1994 compliance strategy extended by 18 months) reflects the fact that the 1996 SDWA amendments generally extended the previous statutory deadlines by 18 months (to three years) and established an overall compliance period not to extend beyond 5 years. This second approach would result in simultaneous compliance for surface water systems. Large surface water systems (those serving at least 10,000) would have three years to comply in accordance with the baseline 3 year compliance period established under Section 1412(b)(10) of the 1996 Amendments.

Small surface water systems (under 10,000) would be required to comply with Stage 1 D/DBPR requirements within five years and applicable LTESWTR requirements within three years. Since the LTESWTR will be promulgated two years after Stage 1 DBPR (in accordance with the new SDWA M–DBP regulatory deadlines discussed above), the net result of this approach is that small surface water systems would be required to comply with both Stage 1 DBPR and IESWTR requirements by the same end date of November 2003, thus assuring simultaneous compliance. This meets the objective of both the reg-neg process and Congress to address risk-risk tradeoffs in implementing new M–DBP requirements.

USEPA believes that providing a five year compliance period for small surface water systems under the Stage 1 DBPR is appropriate and warranted under section 1412(b)(10), which expressly allows five years where necessary for capital improvements. Of necessity, capital improvements require preliminary planning and evaluation. Such planning requires, perhaps most importantly, identification of final compliance objectives. This then is followed by an evaluation of compliance alternatives, site assessments, consultation with appropriate state and local authorities, development of final engineering and construction designs, financing, and scheduling. In the case of the staggered M–DBP regulatory schedule established as part of the 1996 SDWA amendments, LTESWTR microbial requirements for small systems are required to be promulgated two years after the establishment of Stage 1 DBPR requirements. Under these circumstances, small systems will not even know what their final combined M–DBP compliance obligations are until Federal Register publication of the final LTESWTR. As a result, an additional two year period reflecting the two year Stage 1 DBPR/LTESWTR regulatory development interval established by Congress is required to allow for preliminary planning and evaluation which is an inherent component of any capital improvement process. EPA believes this approach is consistent with both the objective of assuring simultaneous compliance and not exceeding the overall statutory compliance period of five years. This same logic would also apply to ground water systems serving at least 10,000, since such systems would need the final GWDR to determine and implement a compliance strategy.

With regard to extended compliance schedules, EPA notes that the economic analysis developed as part of the M–DBP Advisory Committee indicates that there will be capital costs associated with implementation of both the IESWTR as well as the Stage I DBP rules. As outlined above, the 1996 SDWA amendments provide that a two year extension may be provided by EPA at the national level or by States on a case-by-case basis if either EPA or a State determines that additional time is necessary for capital improvements. EPA does not believe there is data presently in the record for either of these rulemakings to support a national determination by the Agency that a two-year extension is justified. EPA requests comment on this issue and, if a commenter believes such an extension is warranted, requests that the comments provide data to support such a position.

Adding 18 months to the 1994 proposed compliance strategy would result in 78 month (six and a half year) compliance period for small ground water systems. This is beyond the overall five year compliance period established by Congress under Section 1412(b)(10). EPA is not aware of a rationale to support this result that is consistent with both the objectives of the reg-neg process and the new SDWA amendments; however, the Agency requests comment on this issue. As discussed below, EPA believes there is a reasonable compliance strategy for addressing ground water systems that reflects the requirements of the SDWA amendments as well as the intent of the reg-neg process.

OPTION 3.—REQUIRE COMPLIANCE WITH ALL RULES WITHIN THREE YEARS OF PROMULGATION

Rule (promulgation)	Surface water PWS		Ground water PWS	
	≥10k	<10k	≥10k	<10k
DBP 1 (11/98)	11/01	11/01	11/01	11/01
IESWTR (11/98)	11/01	NA	NA	NA
LTESWTR (11/00)	11/03 (if required)	11/01	NA	NA
GWDR (11/00)	NA	NA	11/03	11/03

Under this approach, all systems would be required to comply with Stage 1 DBPR, IESWTR, and LTESWTR within three years of final promulgation. This approach reflects the baseline three year compliance period included as part of the new SDWA compliance provisions. Unlike option 2 outlined above which simply adds an 18 month extension to the 1994 proposed compliance approach, this option is not tied to the 1994 proposal. Rather it applies the new baseline three year compliance period to the staggered M–DBP regulatory development schedule which was also established as part of the 1996 SDWA amendments.

This approach would result in simultaneous compliance for large surface water systems. However, it would eliminate the possibility of simultaneous compliance for small surface water systems and all ground water systems. Contrary to reg-neg objectives and Congressional intent, it would create an incentive for risk/risk tradeoffs on the part of small surface water systems who would be required to take steps to comply with Stage 1 DBPR provisions two years before coming into compliance with the LTESWTR, and for all ground water systems who would be required to take steps to comply with Stage 1 DBPR provisions two years before coming into compliance with the GWDR.

OPTION 4.—MERGE SDWA PROVISIONS WITH NEGOTIATED RULEMAKING OBJECTIVES

Rule (promulgation)	Surface water PWS		Ground water PWS	
	≥10k	<10k	≥10k	<10k
DBP 1 (11/98)	11/01	11/03	11/03	11/03
IESWTR (11/98)	11/01	NA	NA	NA
LTESWTR (11/00)	11/03 (if required)	11/03	NA	NA
GWDR (11/00)	NA	NA	11/03	11/03

This option combines the principle of simultaneous compliance with the revised compliance provisions reflected in the 1996 SDWA amendments. Large surface water systems would be required to comply with Stage 1 DBPR and IESWTR within 3 years of promulgation, thus assuring simultaneous compliance and consistency with the baseline statutory compliance period of 3 years. Small surface water systems under 10,000 would comply with the provisions of the Stage 1 DBPR at the same time they are required to come into compliance with the analogous microbial provisions of the LTESWTR. This would result in small surface water systems simultaneously complying with both the LTESWTR and Stage 1 DBPR requirements. Under this approach, small systems would comply with LTESWTR requirements three years after promulgation and Stage 1 DBPR requirements five years after promulgation. For the reasons articulated under option two above, EPA believes providing a five year compliance period under Stage 1 DBPR is appropriate and necessary to provide for capital improvements.

For ground water systems, the 1994 proposed Stage 1 DBPR compliance schedules provided for only one half of the risk-risk tradeoff balance. They did not include a companion rule development and compliance schedules for the analogous microbial provisions of a Ground Water Disinfection Rule. The 1996 SDWA amendments provide an outside date for promulgation of ground water microbial requirements of "no later than" May 2002, but leave to EPA the decision of whether an earlier promulgation is more appropriate. In light of the reg-neg emphasis and Congressional affirmation of the principal of simultaneous compliance to assure no risk-risk tradeoffs, EPA has developed a ground water disinfection rule promulgation schedule that will result in a final GWDR by November 2000, the same date as the Congressional deadline for the LTESWTR. Ground water systems would be required to comply with the GWDR by November 2003, three years after promulgation, and to assure simultaneous compliance with DBP provisions, such systems would be required to comply with Stage 1 DBPR requirements by the same date. Again, for the reasons outlined under option 2, USEPA believes a five year compliance period for ground water systems is necessary and appropriate.

Option 4 assures that ground water systems will be required to comply with Stage 1 DBPR provisions at the same time that they comply with the microbial provisions of the Ground Water Disinfection Rule (GWDR). Successful implementation of this option requires that EPA develop and promulgate the GWDR by November 2000 as indicated above. The Agency recognizes that this is an ambitious schedule, but believes it is necessary to meet the twin objectives of simultaneous implementation and consistency with the new statutory compliance provisions of the 1996 SDWA. In evaluating this option, the Agency also considered the possibility of meeting these twin objectives in a somewhat different fashion by delaying final promulgation of the Stage I DBP

rule as it applies ground water systems until the promulgation of the GWDR. This alternative possibility would assure simultaneous compliance and also provide a "safety net" in the event that the GWDR November 2000 promulgation schedule is delayed. EPA is concerned, however, that this approach may not meet or be consistent with new SDWA requirements which provide that the Stage I DBPR be promulgated by November 1998. The Agency requests comment on this issue.

Recommendation

EPA has evaluated each of the considerations identified in Options 1 through 4. On balance, the Agency believes that Option 4 is the preferred option. The primary reasons are 1) to allow States at least two years to adopt and implement M–DBP rules consistent with new two year time frame provided for under the 1996 SDWA amendments, 2) to match the compliance schedules for the LTESWTR and Stage 1 DBPR for small (<10,000 served) surface water systems to allow time for capital improvements and addressing risk-risk tradeoff issues, and 3) to assure that all ground water systems simultaneously comply with newly applicable microbial and Stage 1 DBPR requirements on the same compliance schedule provided for small surface water systems.

Request for Comments

EPA requests comment on both the compliance schedule options discussed above and on any other variations or combinations of these options. EPA also requests comment on its preferred option 4 and on the underlying rationale for allowing a five year compliance schedule for ground water and small surface water systems under the Stage 1 DBPR.

B. Compliance Violations and State Primacy Obligations

A public water system that fails to comply with any applicable requirement of the SDWA (as defined in 1414 (i)) is subject to an enforcement action and a requirement for public notice under the provisions of section 1414. Applicable requirements include, but are not limited to, MCLs, treatment techniques, monitoring and reporting. These regulatory requirements are set out in 40 CFR 141.

The SDWA also requires States that would have primary enforcement responsibility for the drinking water regulations ("primacy") to adopt regulations that are no less stringent than those promulgated by EPA. States must also adopt and implement adequate procedures for the enforcement of such regulations, and keep records and make reports with respect to these activities in accordance with EPA regulations. 5 U.S.C. 1413. EPA may promulgate regulations that require States to submit reports on how they intend to comply with certain requirements (e.g., how the State plans to schedule and conduct sanitary surveys required by the IESWTR), how the State plans to make certain decisions or approve PWS-planned actions (e.g., approve significant changes in disinfection under the IESWTR or approve Step 2 DBP precursor removals under the enhanced coagulation requirements of the Stage I DBPR), and how the State will enforce its authorities (e.g., correct deficiencies identified by the State during a sanitary survey within a specified time). The primacy regulations are set out in 40 CFR 142.

EPA drafted requirements for both the PWSs (part 141) and the primacy States (part 142) in the proposed rules. EPA is requesting comments on whether there are elements of the Advisory Committee's recommendations in this Notice that should be treated as applicable requirements for the PWS and included in part 141 as enforceable requirements. Similarly, EPA requests comments on whether there are elements of the Advisory Committee's recommendations in this Notice that should be treated as requirements for States and included in part 142 as primacy requirements.

C. Compliance With Current Regulations

EPA reaffirms its commitment to the current Safe Drinking Water Act regulations, including those related to microbial pathogen control and disinfection. Each public water system must continue to comply with the current rules while new microbial and disinfectants/disinfection byproducts rules are being developed.

VIII. Economic Analysis of the M–DBP Advisory Committee Recommendations

The Regulatory Impact Analysis (RIA) for the 1994 proposed rule (USEPA, 1994b) was based on information generated from the Disinfection Byproducts Regulatory Analysis Model (DBPRAM) and modified by a Technologies Working Group (TWG), which consisted of technical representatives of members of the regulatory negotiation committee. The regulatory impact analysis (RIA), which provided information on the costs and benefits of the proposed rule, was developed using the DBPRAM in conjunction with the TWG. Since the proposal, new information has become available which EPA has used to modify the estimated costs and benefits. This new information is discussed below. EPA requests comments on the adequacy of the new data, how the new data have been used, and any additional data that would improve the assessment of costs and benefits.

A. Plant-Level DBP Treatment Effectiveness and Cost

The 1994 RIA analysis was supported by modeling apparatus known as the DBPRAM. The DBPRAM, which was actually a collection of analytical models, utilized Monte Carlo simulation techniques to produce national forecasts of compliance and resulting exposure reductions for different regulatory scenarios. For a complete discussion of the DBPRAM model, see the RIA from the proposed rule (USEPA, 1994b).

Initially, the TWG revisited the modeling tools to re-examine the results with new assumptions regarding the effectiveness of enhanced coagulation in the presence of predisinfection. A central component of the DBPRAM apparatus is the Water Treatment Plant model (WTP). Initial investigations by Malcolm Pirnie, Inc., concluded that the manner in which predisinfection is characterized in the WTP model makes it impossible to distinguish the effects of the proposed change in the Stage 1 Disinfectants and Disinfection Byproducts Rule (DBPR). The model makes simplifying assumptions about the point of predisinfection and does not permit marginal analysis of shifting this point. In the 1994 RIA analysis, the point of predisinfection did not matter since the proposal called for elimination of Enhanced Surface Water Treatment Rule (ESWTR) credit for predisinfection and the analyses or models developed for the RIA assumed predisinfection would be eliminated.

Based on TWG analysis, the cost and effectiveness of enhanced coagulation (as captured in the 3-by-3 matrix) was made more consistent with the assumptions made in the DBPRAM for the 1994 RIA analysis. The TWG believed that the changes in the enhanced coagulation matrix should not therefore affect the decision tree.

The major role of the DBPRAM modeling apparatus in the 1994 RIA analysis was to help the TWG verify assumptions for a compliance decision tree forecast that is suitable as the basis for national cost calculations. The driving factor in the 1994 RIA analysis became the degree to which water systems would have to cross over the threshold from standard treatment technologies to more expensive technologies such as GAC, ozone, chlorine dioxide, and membranes. Keying on this feature, the TWG formed in 1997 to provide technical support to the M–DBP Advisory Committee designed an approach to re-evaluating the 1994 national cost analysis by re-evaluating the manner in which newly available information and changes in the proposed rules would affect this advanced technology threshold in the compliance decision tree forecast.

The TWG evaluated two sets of data that documented levels of TOC, TTHM, HAA5, and predisinfection practices for groups of water systems. The 1996 Water Industry Data Base (WIDB) data set provided data for 308 [1] water systems nationwide. The American Waterworks Service Company (AWWSCo.) data set provided two years of data (1991 and 1992) for 52 plants, located primarily in the Northeast and Midwest.

Using these two data sets and experience and personal knowledge of many of these particular plants, the 1997 TWG was able to undertake a plant-by-plant assessment of the prospective compliance choices of the plants likely to have to change treatment in order to comply with the Advisory Committee recommendations for the Stage 1 DBPR. By computing the percentage of systems forecast to require the more expensive advanced treatments, it was possible to see if results were in the same range as that projected in the 1994 RIA analysis. This decision tree analysis is detailed below.

B. Decision Tree Analysis—Compliance Forecasts

A sub-group of the 1997 TWG consisting of individuals familiar with the 1994 DBPRAM analyses, and also familiar with the WIDB and AWWSCo. data sets, performed the re-evaluation of the compliance decision tree forecast based upon the Advisory Committee recommendations. This was performed by making case-by-case evaluations of each water system in the data set for which total trihalomethane (TTHM) or haloacetic acids (HAAs) exceeded 64 µg/L or 48 µg/L, respectively. These numbers are design targets for maximum contaminant levels (MCLs) of 80 µg/L and 60 µg/L, reflecting the variation in DBP levels from year to year.

Table VIII–1 presents a side-by-side comparison of compliance forecasts developed for the 1994 RIA and analyses of the 1996 WIDB data and the 1991 and 1992 AWWSCo. data.

TABLE VIII–1.—STAGE 1 DBP COMPLIANCE FORECAST

Treatment technology to be implemented	1993 stage 1 RIA (percent)	Analysis of 1996 WIDB data	Analysis of AWWSCo 1991–1992 data (percent)
Maintain Current Treatment	28	39.0	22
Chlorine/Chloramine	3	16.6	28
Enhanced Coagulation + Cl_2/NH_2Cl	10	19.0	35
Enhanced Coagulation + Cl_2	43	19.0	----
Ozone/Chloramine	5	2.2	7.5
Enhanced Coagulation + O_3/NH_2Cl	6	2.2	7.5
Enhanced Coagulation + GAC10/GAC20	6	0.3	----
Chlorine Dioxide	----	1.6	----
Membrane	0	0.3	----

The compliance forecast developed for the 1994 RIA using the DBPRAM (column 2 of Table VIII–1) predicted that 17 percent of systems would adopt advanced treatments (ozone, chlorine dioxide, GAC, or membranes) in order to comply with the Stage 1 MCLs. In many instances, the adoption of advanced technologies was forecast as a result of the companion requirements of the proposed IESWTR to increase disinfection to assure a 10^{-4} risk level for *Giardia*.

Since the 1994 proposal, the IESWTR requirement to achieve a 10^{-4} risk level for *Giardia* has been replaced with a "disinfection benchmark" requirement intended to preserve the status quo of disinfection practices. As a result, the TWG predicted fewer systems to adopt advanced technologies. In addition, probable compliance choices can be evaluated based on the existing treatment configuration and performance rather than having to first predict the effects of changes in disinfection, as was done with the DBPRAM previously.

The 1997 TWG reviewed the data for the 73 of 308 [2] systems in the 1996 WIDB data set (23.7%) that had either TTHM ≥64 µg/l or HAA(5) ≥48 µg/l. The systems were evaluated at a plant-by-plant level, incorporating multiple plant compliance strategies where applicable and other data, such as that available from the ICR plant schematics. Results are tabulated in Table VIII–1. Based on the case-by-case analysis of this sample, the TWG predicted that 20 of the 73 systems would require advanced technologies in order to comply with the proposed MCLs. This equates to a decision tree percentage of 6.4% (20/308) based on WIDB data to 15% (based on AWWSCo data). The TWG assigned another 51 systems (16.6%) to a compliance category consisting of various combinations of relatively low cost strategies, such as moving the point of predisinfection and using chloramines. Only two of the 73 systems were projected to install enhanced coagulation purely for purposes of meeting the MCLs.

The 1997 TWG did not forecast the number of systems in the WIDB data set that would have to install enhanced coagulation in compliance with the treatment technique requirements in the Stage 1 proposal. Because several years have passed since the negotiated rulemaking process, some water systems have probably already moved ahead with implementation of enhanced coagulation. Indeed, some systems were achieving enhanced coagulation standards even before it was given its name during the negotiated rulemaking

[1] Percentages reported here differ from those computed earlier by members of the TWG due to a correction in the denominator. Previous calculations used 309 systems as a denominator, but since 91 of them did not report TTHM or HAA data, they were not included in these computations.

[2] Percentages reported here differ from those computed earlier by members of the TWG due to a correction in the denominator. Previous calculations used 309 systems as a denominator, but since 91 of them did not report TTHM or HAA data, they were not included in these computations.

process. In order to complete a compliance forecast (decision tree analysis) for the final Stage 1 Rule, the Agency needs to know what proportion of the universe is already achieving enhanced coagulation and what proportion will have to install enhanced coagulation. The 1996 WIDB data is the best available source of information from which to develop these estimates.

The 1996 WIDB provides data on influent total organic carbon (TOC), effluent TOC, and alkalinity by plant, as well as TTHM and HAA5 data by system. Using this information, the 1997 TWG developed an assessment of the extent to which enhanced coagulation is already in place. The resulting decision tree percentages are summarized in Table VIII–1. These percentages are used to estimate national cost.

The 1997 TWG performed a parallel case-by-case analysis using the AWWSCo. 1991–92 data representing 52 systems; results are in Table VIII–1. The AWWSCo. and WIDB results are clearly different, and potentially reflect a number of factors: (1) more adverse DBP control conditions in the waters represented in this data set; (2) greater use of chloramines as a residual disinfectant by AWWSCo. plants, and (3) the influence of having 2 years of data illustrates how TTHM and HAA5 values threshold exceedances can change from year to year for a given system. (These features of the AWWSCo. data are discussed in Chapter 4 of the Economic Analysis of the M-DBP Advisory Committee Recommendations document).

The compliance decision tree analyses discussed above and summarized in Table VIII–1 pertain to large systems serving more than 10,000 persons. The small systems (less than 10,000 population served) decision tree is likely to be different. As a default, EPA assumed that the small systems decision tree would be exactly the same as that used in the 1994 RIA. The small systems face a different set of compliance choices because the current TTHM standard of 0.10 mg/L (100 µg/L) does not apply to them; they are therefore applying DBP controls for the first time.

C. National Cost Estimates

A national cost analysis, based on the TWG's decision tree analyses discussed above, is summarized in this section. The analysis incorporates updated unit cost estimates for alternative treatment technologies.

A national cost model has been developed to evaluate modified Stage 1 decision trees. The total annual cost for surface water systems in the 1994 RIA was $645 million per year (in 1992 dollars) or $728 million (in 1997 dollars). These data are presented in Table VIII–2.

EPA initially assessed the proportion of the total national cost in the 1994 RIA that was attributable to enhanced coagulation. While enhanced coagulation by itself is not very expensive in terms of the cost per household, national costs are large when it is broadly implemented and its inexpensive cost per-thousand-gallon is multiplied by many billions of gallons. Enhanced coagulation accounted for $272 million of the total $645 million per year (42 percent) documented in the 1994 RIA.

When EPA applied the decision tree predictions derived from the 1996 WIDB data (Table VIII–1) to the large surface water system portion of the cost model, while holding the 1994 decision tree assumptions constant for small systems, results indicated a reduction in total national cost to surface water systems from $728 million per year to $453 million, of which $135 million is for enhanced coagulation. Two major factors cause this drop in costs: (1) the halving of the number of systems estimated to employ advanced technologies, and (2) some systems are assumed to have already implemented enhanced coagulation.

The decision tree predictions derived from the AWWSCo. data were also run through the national cost model. The results indicate a total national cost for surface water systems of $399 million per year, of which $222 million is enhanced coagulation. In this scenario, there are twice as many systems as in the 1996 WIDB data adopting advanced technologies, and only half as many able to comply with no action. The cost reductions are, however, comparable to those observed in the scenario based on the WIDB decision tree. The reasons this scenario has comparable cost advantages relate to the emphasis placed on ozone and chloramines. The alternate disinfectants are less costly than the precursor removal strategies (e.g., GAC, membranes).

The above compliance scenarios and cost estimates are subject to considerable uncertainty. Although there is no better forecasting method available than case-by-case analysis, the data employed here consist only of a few snapshots of each situation. EPA believes that national costs are lower than those estimated in the 1994 RIA, due to Advisory Committee Recommendations for significant modifications in the IESWTR and in the Stage 1 DBPR that would result in reductions in total national costs. EPA believes that the order of magnitude indicated by the WIDB and AWWSCo. decision tree analyses is reasonable.

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Table VIII-2: A Comparison of 1992 Disinfection By-Product Compliance Cost Forecast in 1992 and 1997 Dollars (in thousands of $s)

Costs	In December 1992 Dollars	In April 1997 Dollars
Utility Cost	**All Water Systems (Surface Water & Ground Water)**	**All Water Systems (Surface Water & Ground Water)**
Treatment Costs		
Total Capital	$4,400,000	$4,967,600
Total Annual Cost	$1,035,000	$1,168,515
Annualized Capital	$546,000	$616,434
Annual O&M	$489,000	$552,081
Monitoring & Reporting Cost		
Start-up/One-time Activities	$8,841	$9,981
Annual Monitoring	$54,924	$62,009
State Costs		
Annual Implementation	$80,224	$90,572
Total Annualized DBPR Costs[1]	**$1,170,148**	**$1,321,096**

Note:

(1) The start-up/one-time activities cost is not included in the total annualized DBPR cost.

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TABLE VIII-3: 1997 Disinfection By-Product Compliance Cost Forecast

(annual costs in thousands of $, based on Advisory Committee recommendations)

	Ground Water Systems			Surface Water Systems			All Water Systems		
	Small < 10,000	Large ≥ 10,000	Total	Small < 10,000	Large ≥ 10,000	Total	Small <10,000	Large ≥ 10,000	Total
Utility Costs									
Treatment Costs									
Total Capital[1]	1,486,078	920,101	$2,406,179	930,900	528,148	$1,459,048	2,416,978	1,448,249	$3,865,227
Total Annual Cost[2]	226,756	223,031	$489,787	162,983	290,186	$453,169	429,739	513,217	$942,956
Monitoring & Reporting Cost									
Start-up/One-time Activities	8,184	371	$8,555	897	530	$1,426	9,081	901	$9,981
Annual Monitoring	17,722	16,696	$34,419	12,603	14,987	$27,590	30,325	31,684	$62,009
Total Annualized Utility Cost	284,478	239,727	$524,206	175,586	305,173	$480,759	460,064	544,901	$1,004,965
State Annual Implementation Costs									$90,572
Total Annualized DBPR Cost									$1,095,537

Notes:

(1) Total Capital Cost (1991 June dollars) is the cost of installing required equipment; the amount to be financed.

(2) Total Annual Cost is the sum of annual debt service payments and annual operation and maintenance costs.

1. System Level Costs

The unit cost estimates in the proposal were developed for each of the different treatment technologies in each system size category. The unit cost estimates were derived from a cost model described in the Cost and Technology Documents (USEPA, 1992c) and adjusted after discussion among TWG members to reflect site-specific factors (USEPA, 1994b). For systems in six categories serving greater than 10,000 people, the estimated system-level costs for achieving compliance ranged from $0.01/1000 gallons (chlorine/chloramines) to $1.87/1000 gallons (membrane technology). For systems in size categories serving less than 10,000 people the estimated system level costs for achieving compliance ranged from $0.03/1000 gallons (chlorine/chloramines) to $3.49/1000 gallons (membranes). Although some technologies cost more than $3.49/1000 gallons in the smallest size categories, such technologies would not be used because the systems would be able to achieve compliance with membrane technology.

Revised unit costs were not available during the deliberations of the M-DBP Advisory Committee. Table VIII–4 is an analysis of the implications of the revised decision tree for national costs using the updated unit cost assumptions.

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Table VIII-4: Total Annualized Costs of Compliance ($/Year)

Treatment Technologies	Total Annualized Cost	
	Surface Water Systems	Ground Water Systems
Cl_2/NH_2Cl	8,680,504	14,046,091
Enhanced Coagulation	109,488,776	0
EC/NH_2Cl	106,221,902	----
Oz/NH_2Cl	26,455,305	7,125,032
$EC+Oz/NH_2Cl$	41,836,288	----
EC+GAC10	2,932,837	0
EC+GAC20	8,027,006	0
Chlorine Dioxide	3,497,116	----
Membranes	146,029,198	468,615,599
TOTALS	$453,168,933	$489,786,721

Table VIII-5: Total Annualized Enhanced Coagulation Costs ($/Year)

Treatment Technology	Surface Water Systems	Surface Water Systems AWWSCo Data
Enhanced Coagulation	109,488,776	0.00
EC/NH_2Cl	11,762,811	183,105,479
$EC+Oz/NH_2Cl$	12,175,334	39,236,888
EC+GAC10	717,683	0.00
EC+GAC20	717,683	0.00
TOTALS	$135,682,949	222,342,367

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2. Household Costs

In the 1994 proposal, EPA estimated that about 45 million households would incur no additional treatment costs for compliance with the Stage 1 DBPR. Of the 49 million households incurring treatment costs for compliance with Stage 1, EPA estimated that about 99% (48.6 million households) would incur costs ranging between $10 per year to $300 per year and 1% (0.2 million households) would incur costs of more than $300 per year. Annual household costs above $200 are projected predominantly for small systems that may be required to install membrane treatment. Some of these systems could find that there are less expensive options available, such as connecting into a larger regional water system. See Table VIII–6.

TABLE VIII–6.—AVERAGE COST PER HOUSEHOLD FOR COMPLIANCE TECHNOLOGIES ($/YEAR)

Treatment technology	Total surface water systems		Total ground water systems	
	<10,000	>10,000	<10,000	>10,000
Cl_2/NH_2Cl	$4.36	$0.69	$0.39	$1.10
Enhanced coagulation	10.48	6.70	0.00	0.00
EC/NH_2Cl	14.84	7.39	0.00	0.00
Oz/NH_2Cl	69.10	8.36	0.00	14.74
$EC+Oz/NH_2Cl$	79.58	15.06	0.00	0.00
EC+GAC10	0.00	27.39	0.00	0.00
Chlorine dioxide	0.00	74.97	0.00	0.00
EC+GAC20	0.00	3.06	0.00	0.00
Membranes	413.10	193.02	379.91	220.82

Monitoring and State Implementation Costs

Since the Advisory Committee made no recommendations that affected monitoring or State implementation, there are no changes to the cost analysis presented in the 1994 RIA accompanying the proposed Stage 1 DBPR. The estimates of monitoring and reporting costs to utilities and implementation costs to states have been adjusted for inflation and included in the total national cost summary presented in Table VIII–3.

D. DBP Exposure Estimates

The proposed rule included estimates of the baseline exposures and exposure after the Stage 1 DBPR for influent bromide levels; influent and effluent TOC levels; percent TOC removal; TTHM levels; and HAA5 levels (Table VIII–7). These data were applicable only to large surface water systems which filter but did not soften. Quantitative changes in exposure for TOC and DBPs were not predicted for ground water systems because of insufficient data.

Table VIII–7 presents profiles of exposure reflecting the baseline condition and the Stage 1 DBPR. The change in exposure is characterized in terms of TOC, TTHM, and HAA5. These data are applicable only to large systems (>10,000 population) which filter but do not soften.

TABLE VIII–7.—BASELINE COMPARISONS

	Influent TOC (mg/L)	% removal of TOC (%)	TTHM s (µg/L)	HAA5s (µg/L)
DBPRAM Baseline:				
Median	3.9	30	46	28
90th	8.4	57	90	65
DBPRAM Stage 1:				
Median	3.9	45	31	20
90th	8.4	67	52	40
WIDB 1996:				
Median	3.2	32	40	29
90th	6.1	62	70	60
AWWSCo 1991:				
Median	3.9	26	59	42
90th	7.8	58	83	88
AWWSCo 1992:				
Median	3.9	26	65	34
90th	7.8	58	87	79

Table VIII–7 presents a tabular comparison of distributional parameters for influent TOC, TOC removal, and distribution system TTHM and HAA5 levels from several different data sets. The table compares the DBPRAM baseline assumptions used in the 1994 Stage 1 RIA to the 1996 WIDB data and the 1991 and 1992 AWWSCo. data.

- The influent TOC levels assumed in the DBPRAM baseline are similar to those of the AWWSCo. data set. The median in both data sets is 3.9 mg/L. The 1996 WIDB data set, in contrast, has a median influent TOC of 3.2 mg/L.
- The DBPRAM assumed a baseline distribution of TOC removal of 30 percent at the median. This is comparable to a median TOC removal of 32 percent in the 1996 WIDB data. Median TOC removal in the 1991–92 AWWSCo. data is only 26 percent.
- The DBPRAM baseline assumptions are roughly similar to the 1996 WIDB data at the medians for TTHMs (46 vs. 40 µg/l) and HAA5 (28 vs 29 µg/l). The 1991 and 1992 AWWSCo. data are higher for both TTHM (59 and 65 µg/l)

and HAA5 (42 and 34 µg/l) at the medians.

AWWSCo. data consists of higher influent TOC levels and higher levels of DBPs than the 1996 WIDB data. Another conclusion to be drawn from Table VIII–7 is that the two different years of data provided by AWWSCo. are rather different from each other, illustrating year-to-year variability.

E. National Benefits Estimates

EPA developed a complete regulatory impact analysis (May 25, 1994) in support of the Negotiated Rulemaking process that ended with the proposed Stage 1 D/DBP Rule. Since the proposed rule, new data have become available that can be used to evaluate the impact forecasts made in the 1994 RIA. In addition, Advisory Committee recommendations, if incorporated into the rule (and into the companion IESWTR), would have effects on national benefit estimates.

The Advisory Committee recommendations that were evaluated for possible effects on the national benefit estimates include: allowance of ESWTR credit for disinfection prior to the point of coagulant addition; re-definition of TOC removal requirements for enhanced coagulation; and modification of disinfection requirements for an ESWTR.

The major new sources of information that were evaluated included: 1996 data from the WIDB on TOC, TTHM, HAA5, and disinfection practices; 1991 and 1992 data on TTHM and HAA5 from the AWWSCo.; as well as TOC data; plant schematics for ICR utilities; research data from numerous sources regarding the efficacy of enhanced coagulation (Krasner, 1997); and new research results produced in jar tests by TWG members documenting the effect of moving the point of predisinfection under varying conditions (Krasner, 1997).

1. Recap of Previous Benefits Analysis

The 1992–93 Regulatory Negotiation Committee, formed under the FACA, considered the full range of information and expert opinion available on the short-and long-term health risks associated with the complete catalogue of disinfection byproducts. Committee members had very different views. Some believed that cancer risks account for less than one case of cancer per year, while others believed that 10,000 cases per year was the correct order of magnitude. The lower bound baseline risk estimate was based on the maximum likelihood estimates of toxicological risk (best case estimates as opposed to upper 95% confidence bound estimates) associates with TTHM levels predicted by the DBPRAM (USEPA, 1994b). Not included in the lower bound estimate were any risks resulting from exposure to haloacetic acids (HAA5), bromate, or chloral hydrate. The upper bound estimated risk was based upon a study by Morris et al. (1992) in which the results from ten previously published epidemiology studies were combined. As discussed above, the use of the Morris study was questioned by some members of the negotiating committee.

In the end, the assessment of health risks was left in this broad range. Based on the DBPRAM modeling work, however, the 1994 RIA concludes that the proposed rule would have reduced median TTHM and HAA5 exposures by 33 and 29 percent, respectively. TOC exposure would be reduced by 12 percent at the median (*DBP RIA*, EPA, 1994. and Table VIII–7). In addition, this was achieved without triggering massive shifts to alternative disinfectants (ozone, chlorine dioxide, and chloramines), the health effects of which are not fully understood.

EPA received a comment addressing the concern for increasing the risk to the bromate exposure due to the increased number of systems that will switch to ozone. The compliance decision tree that was developed for the 1994 RIA using the DBPRAM indicated that 17 percent of systems would adopt advanced treatments (ozone, chlorine dioxide, GAC, or membranes) in order to comply with the Stage 1 MCLs. After a case-by-case reevaluation of the 1996 WIDB and AWWSCo. data sets by the members of the TWG, it was decided that fewer systems would require to shift to advanced technologies (6.5%). The TWG reevaluated the 1994 decision tree by considering the bromide levels for some systems. The TWG assumed that systems with high raw water bromide levels will not pick ozonation as their advanced technology and will choose other treatments like chlorine dioxide or GAC; therefore, there is no expected increase in bromate risk.

2. Current Benefits Analysis

When USEPA considered modifications to both the IESWTR and Stage 1 DBPR, the Stage 1 DBPR could result in reductions in TTHM and HAA5 exposures at the medians that are in a comparable range to those forecast in the original Stage 1 proposal. The extent of TOC removal may be somewhat less than forecast for the proposed rule, but not by as much as the difference in the proposed rule and NODA decision trees, because some of the previously estimated use of advanced technology may have been driven by increased IESWTR disinfection requirements. Also, it is possible that the use of chloramines will be greater under Advisory Committee recommendations than under the proposal. Based on this, USEPA estimates the level of benefits to be the same.

F. Cost-Effectiveness

The central requirement of regulatory impact analyses under Executive Order 12866 is to perform an analysis of net benefits and to consider the regulatory alternatives in light of a criterion of maximizing net benefits. This section summarizes the problem of regulating disinfection byproducts in terms of this economic perspective.

The understanding of net benefits in DBP control is complicated by the fact that there is a wide gulf in the scientific understanding of the health risks. During the 1992–93 Regulatory Negotiation, various Negotiating Committee members believed that cancer risks due to DBPs ranged from less than 1 case per year to over 10,000 cases per year. Reflecting this uncertainty, the 1994 RIA computed an implied cost per statistical case of cancer avoided in a range of $400,000 to $8 billion, fully bracketing—and underscoring—the range of uncertainty.

In the face of these uncertainties, most of the analyses undertaken by the 1992–93 Negotiation Committee, and the subsequent 1997 M-DBP Advisory Committee that developed the recommendations in this Notice, have used cost-effectiveness and household costs as a decision framework. In the 1994 RIA, EPA estimated that only 17 percent of systems would have to adopt expensive advanced treatments to comply. In the current analysis, that percentage is projected to be as low as 6.4 percent.

The household cost impacts based on the M-DBP Advisory Committee Recommendations and the revised national cost analysis, are summarized in Table VIII–6. The results show that 49 million of the 52 million households affected by the rule will pay about $10 or less per year for compliance. In the small proportion of systems where household costs are much greater (up to several hundreds of dollars per year), costs are driven by the assumption that membrane technology will be the selected treatment. However many of these systems may find less expensive means of compliance (e.g., purchased water). If systems do install membranes, they may realize additional water quality and compliance benefits beyond those associated with DBPs, such as additional pathogen and turbidity removal.

IX. National Technology Transfer and Advancement Act

Under section 12(d) of the National Technology Transfer and Advancement Act ("NTTAA"), the Agency is required to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standards bodies. Where available and potentially applicable voluntary consensus standards are not used by EPA, the Act requires the Agency to provide Congress, through the Office of Management and Budget, an explanation of the reasons for not using such standards.

The analytical methods that are discussed in this Notice were, with two exceptions, developed and proposed prior to the enactment of the NTTAA. Since EPA is now requesting public comment on potential changes to the methods for the Stage 1 DBPR, the Agency felt it would be appropriate to also explain the requirements of the NTTAA and seek comment on these methods and possible modifications to these methods in that context as well.

EPA's process for developing the analytical test methods in the proposal and the potential modifications to those methods is similar to the requirements of the NTTAA. EPA performed literature searches to identify analytical methods from industry, academia, voluntary consensus standards bodies, and other parties that could be used to measure disinfectants, disinfection byproducts, and other parameters. In addition, EPA's development of the methods benefited from the recommendations of an Advisory Committee established under the Federal Advisory Committee Act to assist the Agency with the Stage 1 DBPR. The Committee made available additional technical experts who were well-versed in both existing analytical methods and new developments in the field. The results of these efforts formed the basis for the analytical methods in the 1994 proposed rule in which EPA included: six methods for measuring different disinfection byproducts, of which five are EPA methods and one is a voluntary consensus standard; nine methods for measuring disinfectants, all of which are voluntary consensus standards; two voluntary consensus methods for measuring total organic carbon (TOC); an EPA method for measuring bromide; and both governmental and voluntary consensus methods for measuring alkalinity. See proposed DBP regulations (USEPA 1994b) at 38751–38752 (July 29, 1994). Where the only method proposed is an EPA method, there were either no voluntary consensus standards available or the standards did not meet EPA's data quality objectives.

In this Notice, as discussed in section V, above, EPA is requesting comment on possible changes to the proposed analytic methods, These possible changes are based on information received during public comment on the proposed regulations, or on new information that has become available since the 1994 proposal. In general, the suggested modifications to the proposed methods are the result of improvements in both voluntary consensus methods and EPA methods, or the addition of methods that have been approved for other regulatory uses and might be used for the DBPR (e.g., Specific Ultraviolet Absorbance (SUVA) and TOC).

In this Notice, EPA discusses potential changes to the proposed methods and the reasons for the changes, and requests public comment on the possible modifications. The Agency also solicits comments on whether there are voluntary consensus standards that have not been addressed and should be considered for addition to the list of approved analytical methods in the final Stage 1 DBPR.

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Dated: October 22, 1997.

Robert Perciasepe,

Assistant Administrator.

Appendix 1—U.S. Environmental Protection Agency; Microbial Disinfection By-Products (M/DBP), Federal Advisory Committee

Agreement in Principle

1.0 Introduction

Pursuant to requirements under the Safe Drinking Water Act (SDWA), the Environmental Protection Agency (EPA) is developing interrelated regulations to control microbial pathogens and disinfectants/disinfection byproducts (D/DBPs) in drinking water. These rules are collectively known as the microbial/disinfection byproducts (M/DBP) rules.

The regulations are intended to address complex risk trade-offs between the two different types of contaminants. In keeping with the agreement reached during the 1992–93 negotiated rulemaking on these matters, EPA issued a Notice of Proposed Rulemaking for Disinfection By-Products Stage I on July 29, 1994. EPA also issued a Notice of Proposed Rulemaking for an Interim Enhanced Surface Water Treatment Rule (IESWTR) on July 29, 1994. Finally, in May 1996, EPA promulgated a final Information Collection Rule (ICR), to obtain data on source water quality, byproduct formation and drinking water treatment plant design and operations.

As part of recent amendments to the SDWA, Congress has established deadlines for all the M/DBP rules, beginning with a November 1998 deadline for promulgation of both the IESWTR and the Stage I D/DBP Rule. To meet this new deadline, EPA initiated an expedited schedule for development of these two rules. Building on the 1994 proposals, EPA intends to issue a Notice of Data Availability (NODA) in November 1997 for public comment. EPA also decided to establish a committee under the Federal Advisory Committee Act (FACA) for development of the rules.

The M/DBP Advisory Committee is made up of organizational members (parties) named by EPA (see Attachment A). The immediate task of the Committee has been to discuss, evaluate and provide advice on data, analysis and approaches to be included in the NODA to be published in November 1997. This Committee met four times from March through June 1997, with the initial objective to reach consensus, where possible, on the elements to be contained in the D/DBP Stage I and IESWTR NODA. Where consensus was not reached, the Committee sought to develop options and/or to clarify key issues and areas of agreement and disagreement. This document is the Committee's statement on the points of agreement reached.

2.0 Agreement in Principle

The Microbial and Disinfection By-Products Federal Advisory Committee considered the technical and policy issues involved in developing a DBP Stage I rule and an IESWTR under the Safe Drinking Water Act and recommends that the Environmental Protection Agency base the applicable sections of its anticipated M/DBP Notice of Data Availability (NODA) on the elements of agreement described below.

This agreement in principle represents the consensus of the parties on the best conceptual principles that the Committee was able to generate within the allocated time and resources available.

The USEPA, a party to the negotiations, agrees that:

1. The person signing this agreement is authorized to commit this party to its terms.

2. EPA agrees to hold a meeting in July 1997 following circulation of a second draft of the NODA to obtain comments from the parties and the public on the extent to which the applicable sections of the draft NODA are consistent with the agreements below.

3. Each party and individual signatory that submits comments on the NODA agrees to support those components of the NODA that reflect the agreements set forth below. Each party and individual signatory reserves the right to comment, as individuals or on behalf of the organization he or she represents, on any other aspect of the Notice of Data Availability.

4. EPA will consider all relevant comments submitted concerning the Notice(s) of Proposed Rulemaking and in response to such comments will make such modifications in the proposed rule(s) and preamble(s) as EPA determines are appropriate when issuing a final rule.

5. Recognizing that under the Appointments Clause of the Constitution governmental authority may be exercised only by officers of the United States and recognizing that it is EPA's responsibility to issue final rules, EPA intends to issue final rules that are based on the provisions of the Safe Drinking Water Act, pertinent facts, and comments received from the public.

6. Each party agrees not to take any action to inhibit the adoption of final rule(s) to the extent it and corresponding preamble(s) have the same substance and effect as the elements of this agreement in principle.

2.1 MCLs

MCLs should remain at the levels proposed: 0.080 mg/l for TTHMs, 0.060 mg/l for HAA5, and 0.010 mg/l for bromate.

2.2 Enhanced Coagulation

The proposed enhanced coagulation provisions should be revised as follows:

a. The top row of the TOC removal table (3x3 matrix) should be modified for systems that practice enhanced coagulation by lowering the TOC removal percentages by 5 percent across the top row, while leaving the other rows the same.

b. SUVA (specific UV absorbance) should be used for determining whether systems would be required to use enhanced coagulation. The use of a raw water SUVA < 2.0 liter/mg-m as a criterion for not requiring a system to practice enhanced coagulation should be added to those proposed in § 141.135(a)(1) (i)–(iv).

c. For a system required to practice enhanced coagulation or enhanced softening, the use of a finished water SUVA < 2.0 liter/mg-m should be added as a step 2 procedure. Such a criterion would be in addition to the proposed step 2 procedure, not in lieu of it.

d. The proposed TOC removals for softening systems should be modified by lowering the value for TOC removal in the matrix at alkalinity > 120 mg/l and TOC between 2–4 mg/l by 5 percent (which would make it equal to the value for non-softening systems) and leaving the remaining values as proposed.

e. If a system is required to practice enhanced softening, lime softening plants would not be required to perform lime soda softening or to lower alkalinity below 40–60 mg/l as part of any step 2 procedure.

f. There is no need to separately address softening systems in the 3x3 matrix or the Step 1 regulatory language, which was identical to enhanced coagulation regulatory language in the proposed D/DBPR. The revised matrix should appear as follows:

	Alkalinity (mg/l)		
TOC (mg/l)	0–<60	60–<120	≥120
2–4	35	25	15
4–8	45	35	25
>8	50	40	30

2.3 Microbial Benchmarking/Profiling

A microbial benchmark to provide a methodology and process by which a PWS and the State, working together, assure that there will be no significant reduction in microbial protection as the result of modifying disinfection practices in order to meet MCLs for TTHM and HAA5 should be established as follows:

A. *Applicability.* The following PWSs to which the IESWTR applies must prepare a disinfection profile:

(1) PWSs with measured TTHM levels of at least 80% of the MCL (0.064 mg/l) as an annual average for the most recent 12 month compliance period for which compliance data are available prior to November 1998 (or some other period designated by the State),

(2) PWSs with measured HAA5 levels of at least 80% of the MCL (0.048 mg/l) as an annual average for the most recent 12 month period for which data are available (or some other period designated by the State)—In connection with HAA5 monitoring, the following provisions apply:

(a) PWSs that have collected HAA5 data under the Information Collection Rule must use those data to determine the HAA5 level, unless the State determines that there is a more representative annual data set.

(b) For those PWSs that do not have four quarters of HAA5 data 90 days following the IESWTR promulgation date, HAA5 monitoring must be conducted for four quarters.

B. *Disinfection profile.* A disinfection profile consists of a compilation of daily *Giardia lamblia* log inactivations (or virus inactivations under conditions to be specified), computed over the period of a year, based on daily measurements of operational data (disinfectant residual concentration(s), contact time(s), temperature(s), and where necessary, pH(s)). The PWS will then determine the lowest average month (critical period) for each 12 month period and average critical periods to create a "benchmark" reflecting the lower bound of a PWS's current disinfection practice. Those PWSs that have all necessary data to determine profiles, using operational data collected prior to promulgation of the IESWTR, may use up to three years of operational data in developing those profiles. Those PWSs that do not have three years of operational data to develop profiles must conduct the necessary monitoring to develop the profile for one year beginning no later than 15 months after promulgation, and use up to two years of existing operational data to develop profiles.

C. *State review.* The State will review disinfection profiles as part of its sanitary survey. Those PWSs required to develop a disinfection profile that subsequently decide to make a significant change in disinfection practice (i.e., move point of disinfection, change the type of disinfectant, change the disinfection process, or any other change designated as significant by the State) must consult with the State prior to implementing such a change. Supporting materials for such consultation must include a description of the proposed change, the disinfection profile, and an analysis of how the proposed change will affect the current disinfection.

D. *Guidance.* EPA, in consultation with interested stakeholders, will develop detailed guidance for States and PWSs on how to develop and evaluate disinfection profiles, identify and evaluate significant changes in disinfection practices, and guidance on moving the point of disinfection from prior to the point of coagulant addition to after the point of coagulant addition.

2.4 Disinfection Credit

Consistent with the existing provisions of the 1989 Surface Water Treatment Rule, credit for compliance with applicable disinfection requirements should continue to be allowed for disinfection applied at any point prior to the first customer.

EPA will develop guidance on the use and costs of oxidants that control water quality problems (e.g., zebra mussels, Asiatic clams, iron, manganese, algae) and whose use will reduce or eliminate the formation of DBPs of public health concern.

2.5 Turbidity

Turbidity Performance Requirements. For all surface water systems that use conventional treatment or direct filtration, serve more than 10,000 people, and are required to filter: (a) the turbidity level of a system's combined filtered water at each plant must be less than or equal to 0.3 NTU in at least 95 percent of the measurements taken each month and, (b) the turbidity level of a system's combined filtered water at each plant must at no time exceed 1 NTU. For both the maximum and the 95th percentile requirements. Compliance shall be determined based on measurements of the combined filter effluent at four-hour intervals.

Individual Filter Requirements. All surface water systems that use rapid granular filtration, serve more than 10,000 people, and are required to filter shall conduct continuous monitoring of turbidity for each individual filter and shall provide an exceptions report to the State on a monthly

basis. Exceptions reporting shall include the following: (1) any individual filter with a turbidity level greater than 1.0 NTU based on 2 consecutive measurements fifteen minutes apart; and (2) any individual filter with a turbidity level greater than 0.5 NTU at the end of the first 4 hours of filter operation based on 2 consecutive measurements fifteen minutes apart. A filter profile will be produced if no obvious reason for the abnormal filter performance can be identified.

If an individual filter has turbidity levels greater than 1.0 NTU based on 2 consecutive measurements fifteen minutes apart at any time in each of 3 consecutive months, the system shall conduct a self-assessment of the filter utilizing as guidance relevant portions of guidance issued by the Environmental Protection Agency for Comprehensive Performance Evaluation (CPE). If an individual filter has turbidity levels greater than 2.0 NTU based on 2 consecutive measurements fifteen minutes apart at any time in each of two consecutive months, the system will arrange for the conduct of a CPE by the State or a third party approved by the State.

State Authority. States must have rules or other authority to require systems to conduct a Composite Correction Program (CCP) and to assure that systems implement any follow-up recommendations that result as part of the CCP.

2.6 Cryptosporidium MCLG

EPA should establish an MCLG to protect public health. The Agency should describe existing and ongoing research and areas of scientific uncertainty on the question of which species of *Cryptosporidium* represents a concern for public health (e.g. *parvum, muris, serpententious*) and request further comment on whether to establish an MCLG on the genus or species level.

In the event the Agency establishes an MCLG on the genus level, EPA should make clear that the objective of this MCLG is to protect public health and explain the nature of scientific uncertainty on the issue of taxonomy and cross reactivity between strains. The Agency should indicate that the scope of MCLG may change as scientific data on specific strains of particular concern to human health become available.

2.7 Removal of Cryptosporidium

All surface water systems that serve more than 10,000 people and are required to filter must achieve at least a 2 log removal of *Cryptosporidium*. Systems which use rapid granular filtration (direct filtration or conventional filtration treatment—as currently defined in the SWTR), and meet the turbidity requirements described in Section 2.5 are assumed to achieve at least a 2 log removal of *Cryptosporidium*. Systems which use slow sand filtration and diatomaceous earth filtration and meet existing turbidity performance requirements (less than 1 NTU for the 95th percentile or alternative criteria as approved by the State) are assumed to achieve at least a 2 log removal of *Cryptosporidium*.

Systems may demonstrate that they achieve higher levels of physical removal.

2.8 Multiple Barrier Concept

EPA should issue a risk-based proposal of the Final Enhanced Surface Water Treatment Rule for *Cryptosporidium* embodying the multiple barrier approach (e.g. source water protection, physical removal, inactivation, etc.), including, where risks suggest appropriate, inactivation requirements. In establishing the Final Enhanced Surface Water Treatment Rule, the following issues will be evaluated:

- Data and research needs and limitations (e.g. occurrence, treatment, viability, active disease surveillance, etc.);
- Technology and methods capabilities and limitations;
- Removal and inactivation effectiveness;
- Risk tradeoffs including risks of significant shifts in disinfection practices;
- Cost considerations consistent with the SDWA;
- Reliability and redundancy of systems;
- Consistency with the requirements of the Act.

2.9 Sanitary Surveys

Sanitary surveys operate as an important preventive tool to identify water system deficiencies that could pose a risk to public health. EPA and ASDWA have issued a joint guidance dated 12/21/95 on the key components of an effective sanitary survey. The following provisions concerning sanitary surveys should be included.

I. Definition

(A) A sanitary survey is an onsite review of the water source (identifying sources of contamination using results of source water assessments where available), facilities, equipment, operation, maintenance, and monitoring compliance of a public water system to evaluate the adequacy of the system, its sources and operations and the distribution of safe drinking water.

(B) Components of a sanitary survey may be completed as part of a staged or phased state review process within the established frequency interval set forth below.

(C) A sanitary survey must address each of the eight elements outlined in the December 1995 EPA/STATE Guidance on Sanitary Surveys.

II. Frequency

(A) Conduct sanitary surveys for all surface water systems (including groundwater under the influence) no less frequently than every three years for community systems except as provided below and no less frequently than every five years for noncommunity systems.

—May "grandfather" sanitary surveys conducted after December 1995, if they address the eight sanitary survey components outlined above.

(B) For community systems determined by the State to have outstanding performance based on prior sanitary surveys, successive sanitary surveys may be conducted no less than every five years.

III. Follow Up

(A) Systems must respond to deficiencies outlined in a sanitary survey report within at least 45 days, indicating how and on what schedule the system will address significant deficiencies noted in the survey.

(B) States must have the appropriate rules or other authority to assure that facilities take the steps necessary to address significant deficiencies identified in the survey report that are within the control of the PWS and its governing body.

Agreed to by:

Name, Organization

Date

Signed By:

Peter L. Cook, National Association of Water Companies
Michael A. Dimitriou, International Ozone Association
Cynthia C. Dougherty, US Environmental Protection Agency
Mary J.R. Gilchrist, American Public Health Association
Jeffrey K. Griffiths, National Association of People with AIDS
Barker Hamill, Association of State Drinking Water Administrators
Robert H. Harris, Environmental Defense Fund
Edward G. Means III, American Water Works Association
Rosemary Menard, Large Unfiltered Systems
Erik D. Olson, Natural Resources Defense Council
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Coretta Simmons, National Association of State Utility Consumer Advocates
Bruce Tobey, National League of Cities
Chris J. Wiant, National Association of City and County Health Officials; National Environmental Health Association

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federal register

Monday
November 3, 1997

Part III

Environmental Protection Agency

40 CFR Parts 141 and 142
National Primary Drinking Water Regulations: Interim Enhanced Surface Water Treatment Rule Notice of Data Availability; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 141 and 142

[WH–FRL–5915–4]

National Primary Drinking Water Regulations: Interim Enhanced Surface Water Treatment Rule Notice of Data Availability

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Notice of Data Availability; request for comments; reopening of comment period.

SUMMARY: USEPA proposed in 1994 to amend the Surface Water Treatment Rule to provide additional protection against disease-causing organisms (pathogens) in drinking water (59 FR 38832: July 29, 1994). This Notice of Data Availability summarizes the 1994 proposal; describes new data and information that the Agency has obtained and analyses that have been developed since the proposal; provides information concerning recommendations of the Microbial-Disinfectants/Disinfection Byproducts (M-DBP) Advisory Committee (chartered in February 1997 under the Federal Advisory Committee Act) on key issues related to the proposal; and requests comment on these recommendations as well as on other regulatory implications that flow from the new data and information. USEPA solicits comment on all aspects of this Notice and the supporting record. The Agency also solicits additional data and information that may be relevant to the issues discussed in the Notice. USEPA is particularly interested in public comment on the Committee's recommendations and whether the Agency should reflect these recommendations in the final rule. In addition, USEPA is hereby providing notice that the Agency is re-opening the comment period for the 1994 proposal for 90 days beginning on the date of publication of today's Notice in the **Federal Register**. USEPA also requests that any information, data or views submitted to the Agency since the close of the comment period on the 1994 proposal that members of the public would like the Agency to consider as part of the final rule development process be resubmitted during this current 90-day comment period unless already in the underlying record in the Docket for this Notice.

The Interim Enhanced Surface Water Treatment Rule (IESWTR) would apply to surface water systems serving 10,000 or more people. USEPA intends to promulgate the final rule in November 1998 as required by the 1996 Amendments to the Safe Drinking Water Act. The Agency plans subsequently to address surface water systems serving fewer than 10,000 people as part of a "long-term" Enhanced Surface Water Treatment Rule which may also include additional refinements for larger systems.

Key issues related to the IESWTR that are addressed in this Notice include the establishment of a Maximum Contaminant Level Goal for *Cryptosporidium;* removal of *Cryptosporidium* by filtration; revised turbidity provisions; disinfection benchmark provisions to assure continued levels of microbial protection while facilities take the necessary steps to comply with new disinfection byproduct standards; sanitary surveys; inclusion of *Cryptosporidium* in the definition of ground water under the direct influence of surface water; and inclusion of *Cryptosporidium* in the watershed control requirements for unfiltered public water systems. Other issues that are discussed include inactivation of *Cryptosporidium,* viruses and *Giardia lamblia;* uncovered finished water reservoirs; cross connection control; and recycling of filter backwash water and filter-to-waste.

Today's **Federal Register** also contains a related Notice of Data Availability for the Stage 1 Disinfectants/Disinfection Byproducts Rule (DBPR). USEPA proposed this rule at the same time as the IESWTR and plans to promulgate it along with the IESWTR in November 1998.

DATES: Comments should be postmarked or delivered by hand on or before February 3, 1998. Comments must be received or post-marked by midnight February 3, 1998.

ADDRESSES: Send written comments to IESWTR NODA Docket Clerk, Water Docket (MC-4101); U.S. Environmental Protection Agency; 401 M Street, SW; Washington, DC 20460. Please submit an original and three copies of your comments and enclosures (including references). If you wish to hand-deliver your comments, please call the Docket between 9:00 a.m. and 4 p.m., Monday through Friday, excluding legal holidays, to obtain the room number for the Docket. Comments may be submitted electronically to ow-docket@epamail.epa.gov.

FOR FURTHER INFORMATION, CONTACT: The Safe Drinking Water Hotline, Telephone (800) 426–4791. The Safe Drinking Water Hotline is open Monday through Friday, excluding Federal holidays, from 9:00 am to 5:30 pm Eastern Time. For technical inquiries, contact Elizabeth Corr or Paul S. Berger, Ph.D.(Microbiology), Office of Ground Water and Drinking Water (MC 4607), U.S. Environmental Protection Agency, 401 M Street SW, Washington DC 20460; telephone (202) 260–8907 (Corr) or (202) 260–3039 (Berger).

Regional Contacts

I. Kevin Reilly, Water Supply Section, JFK Federal Bldg., Room 203, Boston, MA 02203, (617) 565–3616
II. Michael Lowy, Water Supply Section, 290 Broadway, 24th Floor, New York, NY 10007–1866, (212) 637–3830
III. Jason Gambatese, Drinking Water Section (3WM41), 841 Chestnut Building, Philadelphia, PA 19107, (215) 566–5759
IV. David Parker, Water Supply Section, 345 Courtland Street, Atlanta, GA 30365, (404)562–9460
V. Kimberly Harris (micro), Miguel Del Toral (DBP), Water Supply Section, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 886–4239 (Harris), (312) 886–5253 (Del Toral)
VI. Blake L. Atkins, Team Leader, Water Supply Section, 1445 Ross Avenue, Dallas, TX 75202, (214) 665–2297
VII. Stan Calow, State Programs Section, 726 Minnesota Ave., Kansas City, KS 66101, (913) 551–7410
VIII. Bob Clement, Public Water Supply Section (8WM-DW), 999 18th Street, Suite 500, Denver, CO 80202–2466, (303) 312–6653
IX. Bruce Macler, Water Supply Section, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744–1884
X. Wendy Marshall, Drinking Water Unit, 1200 Sixth Avenue (OW–136), Seattle, WA 98101, (206) 553–1890.

SUPPLEMENTARY INFORMATION:

Regulated entities. Entities potentially regulated by the IESWTR are public water systems that use surface water and serve at least 10,000 people. Regulated categories and entities include:

Category	Examples of regulated entities
Public Water System	PWSs that use surface water and serve at least 10,000 people.
State Governments	State government offices that regulate drinking water.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by the IESWTR. This table lists the types of entities that USEPA is now aware could potentially be regulated by the rule. Other types of entities not listed in this table could also be regulated. To determine whether your facility may be regulated by this action, you should carefully examine the applicability criteria outlined under Alternatives A and B in § 141.70 of the proposed rule (59 FR 38832, July 29, 1994).

If you have questions regarding the applicability of the IESWTR to a particular entity, contact one of the persons listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Additional Information for Commenters. The Agency requests that commenters follow the following format: type or print comments in ink, and cite, where possible, the paragraph(s) in this Notice to which each comment refers. Commenters should use a separate paragraph for each method or issue discussed. Electronic comments must be submitted as a WP5.1 or WP6.1 file or as an ASCII file avoiding the use of special characters and any form of name or title of the **Federal Register**. Comments and data will also be accepted on disks in WordPerfect in 5.1 or WP6.1 or ASCII file format. Electronic comments on this Notice may be filed online at many Federal Depository Libraries. Commenters who want EPA to acknowledge receipt of their comments should include a self-addressed, stamped envelope. No facsimiles (faxes) will be accepted.

Availability of Record. The record for this Notice, which includes supporting documentation as well as printed, paper versions of electronic comments, is available for inspection from 9 to 4 p.m., Monday through Friday, excluding legal holidays at the Water Docket, U.S. EPA Headquarters, 401 M. St., S.W. Washington, D.C. 20460. For access to docket materials, please call 202/260–3027 to schedule an appointment and obtain the room number.

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List of Abbreviations Used in This Document

ASCE—American Society of Civil Engineers
ASTM—American Society for Testing Materials
AWWA—American Water Works Association
C—the residual concentration of disinfectant, mg/L
CDC—Centers for Disease Control
CFE—Combined Filter Effluent
CFR—Code of Federal Regulations
CPE—Comprehensive Performance Evaluation
CT—the residual concentration of disinfectant multiplied by the contact time
DOC—dissolved organic carbon
ESWTR—Enhanced Surface Water Treatment Rule
FACA—Federal Advisory Committee Act
gpm/sf—gallons per minute per square foot
HAA5—Haloacetic acids (monochloroacetic, dichloroacetic, trichloroacetic, monobromoacetic, and dibromoacetic acids)
HAV—hepatitis A virus
hrs—hours
ICR—Information Collection Rule
IESWTR—Interim Enhanced Surface Water Treatment Rule
IFA—Individual Filter Assessment
IFE—Individual Filter Effluent
ISO—International Standards Organization
k—the pseudo first-order reaction rate constant
L—liter
Log Inactivation—logarithm of (N_o/N_T)
Log—logarithm (common, base 10)
LTESWTR—Long Term Enhanced Surface Water Treatment Rule
MCL—Maximum Contaminant Level
MCLG—Maximum Contaminant Level Goal
M-DBP—Microbial and Disinfectants/Disinfection Byproducts
mg/L—milligram per liter
mg-min/L—milligram minutes per liter
MMWR—Morbidity and Mortality Weekly Report
mW-s/cm²—milliwatt seconds per square centimeter
N_o—the initial viable concentration of microorganisms
NPDWR—National Primary Drinking Water Regulation
N_T—the concentration of surviving microorganisms at time T
NTU—nephelometric turbidity unit
°C—degrees centigrade
PE—Performance Evaluation
pH—negative logarithm of the effective hydrogen-ion concentration
PV1—poliovirus 1
PV3—poliovirus 3
PWS—Public Water System
RSD—Relative Standard Deviation
SAB—Science Advisory Board
SDWA—Safe Drinking Water Act
T—the contact time, second or minute
TOC—total organic carbon
TTHM—Total Trihalomethanes
TWG—Technical Work Group
UV—ultraviolet
x—log removal Reduction by 1/10**x

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I. Introduction and Background

A. Existing Regulations

1. Surface Water Treatment Rule

Under the Surface Water Treatment Rule (SWTR)(54 FR 27486, June 29, 1989), USEPA set maximum contaminant level goals of zero for *Giardia lamblia*, viruses, and *Legionella*; and promulgated national primary drinking water regulations for all public water systems (PWSs) using surface water sources or ground water sources under the direct influence of surface water. The SWTR includes treatment technique requirements for filtered and unfiltered systems that are intended to protect against the adverse health effects of exposure to *Giardia lamblia*, viruses, and *Legionella*, as well as many other pathogenic organisms. Briefly, those requirements include (1) removal or inactivation of 3 logs (99.9%) for *Giardia* and 4 logs (99.99%) for viruses; (2) combined filter effluent performance of 5 NTU as a maximum and 0.5 NTU at 95th percentile monthly, based on 4-hour monitoring for treatment plants using conventional treatment or direct filtration (with separate standards for other filtration technologies); and (3) watershed protection and other requirements for unfiltered systems.

2. Total Trihalomethane MCL

USEPA set an interim Maximum Contaminant Level (MCL) for total trihalomethanes (TTHM) of 0.10 mg/l as an annual average in November 1979 (44 FR 68624). This standard was based on the need to balance the requirement for continued disinfection of water to reduce exposure to pathogenic microorganisms while simultaneously lowering exposure to disinfection byproducts which might be carcinogenic to humans.

The interim TTHM standard only applies to any PWSs (surface water and/or ground water) serving at least 10,000 people that add a disinfectant to the drinking water during any part of the treatment process. At their discretion, States may extend coverage to smaller PWSs. However, most States have not exercised this option. About 80 percent of the PWSs, serving populations of less than 10,000, are served by ground water that is generally low in THM precursor content (USEPA, 1979) and which would be expected to have low TTHM levels even if they disinfect.

3. Total Coliform Rule

The Total Coliform Rule (54 FR 27544; June 29, 1989), revised in June 1989 and effective on December 31, 1990 applies to all public water systems (USEPA, 1989b). This regulation sets compliance with the Maximum Contaminant Level (MCL) for total coliforms as follows. For systems that collect 40 or more samples per month, no more than 5.0% of the samples may be total coliform-positive; for those that collect fewer than 40 samples, only one sample may be total coliform-positive. If a system exceeds the MCL for a month, it must notify the public using mandatory language developed by the USEPA. The required monitoring frequency for a system ranges from 480 samples per month for the largest systems to once annually for certain of the smallest systems. All systems must have a written plan identifying where samples are to be collected. In addition, systems are required to conduct repeat sampling after a positive sample.

The Total Coliform Rule also requires each system that collects fewer than five samples per month to have the system inspected every 5 years (10 years for certain types of systems using only protected and disinfected ground water.) This on-site inspection (referred to as a sanitary survey) must be performed by the State or by an agent approved by the State.

4. Information Collection Rule

The Information Collection Rule (ICR) is a monitoring and data reporting rule that was promulgated on May 14, 1996 (61 FR 24354) (USEPA, 1996b). The purpose of the ICR is to collect occurrence and treatment information to evaluate the need for possible changes to the current Surface Water Treatment Rule and existing microbial treatment practices and to evaluate the need for future regulation for disinfectants and DBPs. The ICR will provide USEPA with additional information on the national occurrence in drinking water of (1) chemical byproducts that form when disinfectants used for microbial control react with compounds already present in source water and (2) disease-causing microorganisms, including *Cryptosporidium*, *Giardia*, and viruses. The ICR will also collect engineering data on how PWSs currently control such contaminants. This information is being collected because the regulatory negotiation on disinfectants and DBPs concluded that additional information was needed to assess the potential health problem created by the presence of DBPs and pathogens in drinking water and to assess the extent and severity of risk in order to make sound regulatory and public health decisions. The ICR will also provide information to support regulatory impact analyses for various regulatory options, and to help develop monitoring strategies for cost effectively implementing regulations.

B. Public Health Concerns To Be Addressed

In 1990, USEPA's Science Advisory Board (SAB), an independent panel of experts established by Congress, cited drinking water contamination as one of the most important environmental risks and indicated that disease-causing microbial contaminants (i.e., bacteria, protozoa and viruses) are probably the greatest remaining health risk management challenge for drinking water suppliers (USEPA/SAB 1990). This view was prompted by the SAB's concern about the number of waterborne disease outbreaks in the U.S. Between 1980 and 1994, 379 waterborne disease outbreaks were reported, with over 500,000 cases of disease. During this period, a number of agents were implicated as the cause, including protozoa, viruses and bacteria, as well as several chemicals. Most of the cases (but not outbreaks) were associated with surface water, and specifically with a single outbreak of cryptosporidiosis in Milwaukee (over 400,000 cases) (Craun, Pers. Comm. 1997a).

The number of waterborne disease outbreaks and cases is, however, probably much greater than that recorded because the vast majority of waterborne disease is probably not reported. Few States have an active outbreak surveillance program and disease outbreaks are often not recognized in a community or, if recognized, are not traced to the drinking water source. This situation is complicated by the fact that the vast majority of people experiencing gastrointestinal illness (predominantly diarrhea) do not seek medical attention. For those who do, physicians generally cannot attribute gastrointestinal illness to any specific origin such as a drinking water source. An unknown but probably significant portion of waterborne disease is endemic, i.e., not associated with an outbreak, and thus is even more difficult to recognize.

One of the key regulations USEPA has developed and implemented to counter pathogens in drinking water is the SWTR. Among its provisions, the rule requires that a public water system have sufficient treatment to reduce the source water concentration of *Giardia* and viruses by at least 99.9% (3 logs) and 99.99% (4 logs), respectively.

The goal of the SWTR is to reduce risk to less than one infection per year per 10,000 people (10^{-4}). However, one of the SWTR's shortcomings is that the source waters of some systems have high pathogen concentrations that, when reduced by the levels required under the rule, still may not meet a common health goal (e.g., 10^{-4}).

Another shortcoming of the SWTR is that the rule does not specifically control for the protozoan *Cryptosporidium*. The first report of a recognized outbreak caused by *Cryptosporidium* was published during the development of the SWTR (D'Antonio et al., 1985). Other outbreaks caused by this pathogen have since been reported both in the United States and other countries (Smith et al.,1988; Hayes et al., 1989; Levine and Craun, 1990; Moore et al., 1993; Craun, 1993). A particular public health challenge is that simply increasing existing disinfection levels above those most commonly practiced in the United States today does not appear to be an effective strategy for controlling *Cryptosporidium*.

In addition to these issues, there is another potentially counter-balancing public health concern. The disinfectants used to control microbial pathogens may produce toxic or carcinogenic disinfection byproducts (DBPs) when they react with organic chemicals in the source water. Thus, an important question facing water supply professionals is how to minimize the risk from both microbial pathogens and DBPs simultaneously.

At the time the SWTR was promulgated, USEPA had limited data concerning *Giardia* and *Cryptosporidium* occurrence in source waters and treatment efficiencies. The 3-log removal/inactivation of *Giardia lamblia* and 4-log removal/inactivation of enteric viruses required by the SWTR were developed to provide protection from most pathogens in source waters. However, additional data has become available since promulgation of the SWTR concerning source water occurrence and treatment efficiencies for *Giardia*, as well as for *Cryptosporidium* (LeChevallier et al. 1991 a,b). A major concern is that if systems currently provide four or more logs of removal/inactivation for *Giardia*, such systems might reduce existing levels of disinfection to more easily meet new DBP regulations, and thus only marginally meet the three-log removal/inactivation requirement for *Giardia lamblia* specified in the current SWTR. Depending upon source water *Giardia* concentrations, such treatment changes could lead to significant increases in microbial risk (Regli et al., 1993; Grubbs et al., 1992; USEPA, 1994b).

C. Statutory Provisions

1. SDWA and 1986 Provisions

The Safe Drinking Water Act (SDWA or the Act), as amended in 1986, requires USEPA to publish a "maximum contaminant level goal" (MCLG) for each contaminant which, in the judgement of the USEPA Administrator, "may have any adverse effect on the health of persons and which are known or anticipated to occur in public water systems" (Section 1412(b)(3)(A)). MCLGs are to be set at a level at which "no known or anticipated adverse effect on the health of persons occur and which allows an adequate margin of safety" (Section 1412(b)(4)).

The Act also requires that at the same time USEPA publishes an MCLG, which is a non-enforceable health goal, it also must publish a National Primary Drinking Water Regulation (NPDWR) that specifies either a maximum contaminant level (MCL) or treatment technique (Sections 1401(1) and 1412(a)(3)). USEPA is authorized to promulgate a NPDWR "that requires the use of a treatment technique in lieu of establishing a MCL," if the Agency finds that "it is not economically or technologically feasible to ascertain the level of the contaminant".

Section 1414 (c) of the Act requires each owner or operator of a public water system to give notice to the persons served by the system of any failure to comply with an MCL or treatment technique requirement of, or testing procedure prescribed by, a NPDWR and any failure to perform monitoring required by section 1445 of the Act.

Section 1412(b)(7)(C) of the SDWA requires the USEPA Administrator to publish a NPDWR "specifying criteria under which filtration (including coagulation and sedimentation, as appropriate) is required as a treatment technique for public water systems supplied by surface water sources". In establishing these criteria, USEPA is required to consider "the quality of source waters, protection afforded by watershed management, treatment practices (such as disinfection and length of water storage) and other factors relevant to protection of health". This section of the Act also requires USEPA to promulgate a NPDWR requiring disinfection as a treatment technique for all public water systems and a rule specifying criteria by which variances to this requirement may be granted.

2. Changes to Initial Provisions and New Mandates

In 1996, Congress reauthorized the Safe Drinking Water Act. Several of the 1986 provisions discussed above were renumbered and augmented with additional language, while other sections mandate new drinking water requirements. These modifications, as well as new provisions, are detailed below.

As part of the 1996 amendments to the Safe Drinking Water Act (the Amendments), USEPA's general

authority to set a MCLG and NPDWR was modified to apply to contaminants that may "have an adverse effect on the health of persons", that are "known to occur or there is a substantial likelihood that the contaminant will occur in public water systems with a frequency and at levels of public health concern", and for which "in the sole judgement of the Administrator, regulation of such contaminant presents a meaningful opportunity for health risk reduction for persons served by public water systems' (1986 SDWA Section 1412 (b)(3)(A) stricken and amended with 1412(b)(1)(A)).

The Amendments also require that USEPA, when proposing a NPDWR that includes an MCL or treatment technique, publish and seek public comment on health risk reduction and cost analyses. The Amendments also require USEPA to take into consideration the effects of contaminants upon sensitive subpopulations (i.e. infants, children, pregnant women, the elderly, and individuals with a history of serious illness), and other relevant factors. (Section 1412 (b)(3)(C)).

The 1996 Amendments also newly require USEPA to promulgate an Interim Enhanced SWTR and a Stage I Disinfectants and Disinfection Byproducts Rule by November 1998. In addition, the 1996 Amendments require USEPA to promulgate a Final Enhanced SWTR and a Stage 2 Disinfection Byproducts Rule by November 2000 and May 2002, respectively (Section 1412(b)(2)(C)).

Under the Amendments of 1996, recordkeeping requirements were modified to apply to "every person who is subject to a requirement of this title or who is a grantee" (Section 1445 (a)(1)(A)). Such persons are required to "establish and maintain such records, make such reports, conduct such monitoring, and provide such information as the Administrator may reasonably require by regulation . . .".

D. Regulatory Negotiation Process

In 1992 USEPA initiated a negotiated rulemaking to develop a disinfectants/disinfection byproducts rule. The negotiators included representatives of State and local health and regulatory agencies, public water systems, elected officials, consumer groups and environmental groups. The Committee met from November 1992 through June 1993.

Early in the process, the negotiators agreed that large amounts of information necessary to understand how to optimize the use of disinfectants to concurrently minimize microbial and DBP risk on a plant-specific basis were unavailable. Nevertheless, the Committee agreed that USEPA propose a disinfectants/disinfection byproducts rule to extend coverage to all community and nontransient noncommunity water systems that use disinfectants. This rule proposed to reduce the current TTHM MCL, regulate additional disinfection byproducts, set limits for the use of disinfectants, and reduce the level of organic compounds in the source water that may react with disinfectants to form byproducts.

One of the major goals addressed by the Committee was to develop an approach that would reduce the level of exposure from disinfectants and DBPs without undermining the control of microbial pathogens. The intention was to ensure that drinking water is microbiologically safe at the limits set for disinfectants and DBPs and that these chemicals do not pose an unacceptable risk at these limits.

Following months of intensive discussions and technical analysis, the Committee recommended the development of three sets of rules: a two-staged Disinfectants/Disinfection Byproduct Rule (proposal: 59 FR 38668, July 29, 1994) (USEPA, 1994a), an "interim" ESWTR (proposal: 59 FR 38832, July 29, 1994) (USEPA, 1994b), and an Information Collection rule (proposal: 59 FR 6332, February 10, 1994) (USEPA, 1994c). The IESWTR would only apply to systems serving 10,000 people or more. The Committee agreed that a "long-term" ESWTR (LTESWTR) would be needed for systems serving fewer than 10,000 people when the results of more research and water quality monitoring became available. The LTESWTR could also include additional refinements for larger systems.

The approach in developing these proposals considered the constraints of simultaneously treating water to control for both microbial contaminants and DBPs. As part of this effort, the Negotiating Committee concluded that the SWTR may need to be revised to address health risk from high densities of pathogens in poorer quality source waters and from the protozoan, *Cryptosporidium*. The Committee also agreed that the schedules for IESWTR and LTESWTR should be "linked" to the schedule for the Stage 1 DBP Rule to assure simultaneous compliance and a balanced risk-risk based implementation. The Committee agreed that additional information on health risk, occurrence, treatment technologies, and analytical methods needed to be developed in order to better understand the risk-risk tradeoff, and how to accomplish an overall reduction in risk.

Finally the Negotiating Committee agreed that to develop a reasonable set of rules and to understand more fully the limitations of the current SWTR, additional field data were critical. Thus, a key component of the regulation negotiation agreement was the promulgation of the Information Collection Rule (ICR) noted above and described in more detail below.

E. Information Collection Rule

As stated above, the ICR established monitoring and data reporting requirements for large public water systems serving populations over 100,000. About 350 PWSs operating 500 treatment plants are involved in the data collection effort. Under the ICR, these PWSs monitor their source water for bacteria, viruses, and protozoa (surface water sources only); water quality factors affecting DBP formation; and DBPs within the treatment plant and in the distribution system. In addition, PWSs must provide operating data and a description of their treatment plan design. Finally, a subset of PWSs perform treatment studies, using either granular activated carbon or membrane processes, to evaluate DBP precursor removal. Monitoring for treatment study applicability began in September 1996. The remaining occurrence monitoring began in July 1997.

The initial intent of the ICR was to collect monitoring data and other information for use in developing the Stage 2 DBPR and IESWTR and to estimate national costs for various treatment options. However, because of delays in promulgating the ICR and technical difficulties associated with laboratory approval and review of facility sampling plans, most ICR monitoring did not begin until July 1, 1997. As a result of this delay and the new Stage 1 DBPR and IESWTR deadlines specified in the 1996 SDWA amendments, ICR data will not be available for analysis in connection with these rules. In place of the ICR data, the Agency has worked with stakeholders to identify additional data developed since 1994 that can be used in components of these rules. USEPA intends to continue to work with stakeholders in analyzing and using the comprehensive ICR data and research for developing subsequent revisions to the SWTR and the Stage 2 DBP Rule.

F. Formation of 1997 Federal Advisory Committee

In May 1996, the Agency initiated a series of public informational meetings to exchange information on issues related to microbial and disinfectants/disinfection byproducts regulations. To help meet the deadlines for the IESWTR and Stage 1 DBPR established by Congress in the 1996 SDWA Amendments and to maximize stakeholder participation, the Agency established the Microbial and Disinfectants/Disinfection Byproducts (M-DBP) Advisory Committee under the Federal Advisory Committee Act (FACA) on February 12, 1997, to collect, share, and analyze new information and data, as well as to build consensus on the regulatory implications of this new information. The Committee consists of 17 members representing USEPA, State and local public health and regulatory agencies, local elected officials, drinking water suppliers, chemical and equipment manufacturers, and public interest groups.

The Committee met five times, in March through July 1997, to discuss issues related to the IESWTR and Stage 1 DBPR. Technical support for these discussions was provided by a Technical Work Group (TWG) established by the Committee at its first meeting in March 1997. The Committee's activities resulted in the collection, development, evaluation, and presentation of substantial new data and information related to key elements of both proposed rules. The Committee reached agreement on the following major issues discussed in this Notice and the Notice for the Stage 1 DBPR published elsewhere in today's **Federal Register**: (1) MCLs for TTHMs, HAA5 and bromate; (2) requirements for enhanced coagulation and enhanced softening (as part of DBP control); (3) microbial benchmarking/profiling to provide a methodology and process by which a PWS and the State, working together, assure that there will be no significant reduction in microbial protection as the result of modifying disinfection practices in order to meet MCLs for TTHM and HAA5; (4) disinfection credit; (5) turbidity; (6) *Cryptosporidium* MCLG; (7) removal of *Cryptosporidium*; (8) role of *Cryptosporidium* inactivation as part of a multiple barrier concept and (9) sanitary surveys. The Committee's recommendations to USEPA on these issues were set forth in an Agreement In Principle document dated July 15, 1997. This document is included with this notice as Appendix 1.

G. Overview of IESWTR 1994 Proposal

1. Summary of Major Elements

As part of the IESWTR July 29, 1994, **Federal Register** notice (59 FR 38832), USEPA proposed to revise the SWTR to provide additional protection against pathogens in drinking water. USEPA proposed to set the MCLG for *Cryptosporidium* at zero based on animal studies and human epidemiology studies of waterborne outbreaks of cryptosporidiosis. The proposal also focused on treatment requirements for the waterborne pathogens *Giardia lamblia*, *Cryptosporidium*, Legionella and viruses that would apply to all public water systems that use surface water or ground water under the influence of surface water and serve 10,000 people or more. Major features of the proposal included a stricter watershed control requirement for systems using surface water that wish to avoid filtration; a change in the definition of ground water under the influence of surface water to include the presence of *Cryptosporidium*; a periodic sanitary survey requirement for all systems using surface water or ground water under the influence of surface water; and several alternative requirements, described below, for augmenting treatment control of *Giardia lamblia*, *Cryptosporidium*, and viruses. USEPA also requested comment on several supplemental provisions and on other related issues, described below.

2. Alternative Treatment Requirements

USEPA proposed five treatment alternatives for controlling *Giardia lamblia*, *Cryptosporidium*, and viruses. Each alternative included several options. Alternative A addressed enhanced treatment for *Giardia lamblia* only. Alternatives B and C addressed treatment for *Cryptosporidium* only. Alternative D addressed enhanced treatment for viruses only. Alternative E would maintain existing levels of treatment for *Giardia lamblia* and viruses.

a. *Alternative A. Enhanced treatment for Giardia lamblia.* The SWTR currently requires a 99.9 percent (3-log) removal/inactivation of *Giardia lamblia* for all surface waters, regardless of *Giardia lamblia* cyst concentrations in the source water. Under Alternative A, the minimum level of treatment a system would be required to provide (e.g., 3, 4, 5 or 6 log removal/inactivation) would depend on the *Giardia lamblia* density in the source water as determined by monitoring over some specified interval of time. The level of prescribed treatment for a particular system would correspond to providing water below an annual risk level for *Giardia lamblia* infections (e.g. 10^{-4}).

b. *Alternative B. Specific Treatment for Cryptosporidium.* USEPA also proposed a treatment technique for *Cryptosporidium* similar to the proposal for *Giardia* under Alternative A, such that the required level of *Cryptosporidium* treatment for any particular system would depend on the density of *Cryptosporidium* in the source water.

c. *Alternative C. 99% (2-log) removal of Cryptosporidium.* Under this alternative, USEPA would require systems to achieve at least a 99% (2-log) removal of *Cryptosporidium* by filtration (with pretreatment). The 2-log level was based on the premise that a 3-log level (as currently required for *Giardia* removal/inactivation) is not economically or technologically possible, since data suggests that *Cryptosporidium* is consistently more resistant to disinfection than is *Giardia*. USEPA indicated that it would continue to assess new field and laboratory data to control *Cryptosporidium* by physical removal and disinfection for consideration in subsequent microbial regulations.

d. *Alternative D. Specific disinfection treatment for viruses.* The SWTR required systems to achieve a four-log removal/inactivation of viruses. This is to be achieved through a combination of filtration and disinfection or, for systems not required to filter their source waters, by disinfection alone. However, this level of treatment may not be adequate to achieve a particular health risk (e.g., 10^{-4} infections/yr/person) for viruses. Viruses are of particular concern, given that one or several virus particles may be infectious (Regli et al.,1991) and that several enteric viruses are associated with relatively high mortality rates (Bennett et al., 1987). Failure or impairment of filtration performance could allow substantial pathogen contamination of drinking water, particularly if the disinfection barrier following filtration is minimal.

Alternative D would require that systems provide sufficient disinfection such that disinfection alone would achieve at least a 0.5-log inactivation of *Giardia lamblia* or, alternatively, a 4-log inactivation of viruses. This proposed approach would be independent of the level of physical removal or the source water density of viruses. If the filtration process was able to remove three logs of *Giardia lamblia*, a system would still have to provide at least an additional 0.5-log inactivation of *Giardia lamblia* or 4-log inactivation of viruses by disinfection.

e. *Alternative E. No change to existing SWTR treatment requirements for Giardia lamblia and viruses.* Alternative E maintains existing SWTR levels of

treatment for *Giardia lamblia* and viruses. USEPA could regulate *Cryptosporidium* directly (e.g., Alternative C above) or make a finding that existing SWTR filtration and disinfection requirements are adequate to control this organism.

3. Possible Supplemental Treatment Requirements

USEPA also requested comment on three supplemental requirements regarding uncovered finished water reservoirs, cross connection control and State notification of turbidity levels.

a. Uncovered Finished Water Reservoirs. As part of the 1994 proposal, USEPA requested comment on possible supplemental requirements for uncovered finished water reservoirs. The Agency noted that USEPA guidelines recommend that all finished water reservoirs be covered (USEPA, 1991a) and that the American Water Works Association (AWWA) also has issued a policy statement that strongly supports the covering of such reservoirs (AWWA, 1993).

b. Cross Connection Control Program. USEPA requested comment on whether to require States or public water systems to have cross connection control programs. Plumbing cross-connections are actual or potential connections between a potable and non-potable water supply (USEPA, 1989a). According to Craun (1991), 24% of the waterborne disease outbreaks that occurred during 1981–1990 were caused by water contamination in the distribution system, primarily as the result of cross-connections and main repairs.

c. State Notification of High Turbidity Levels. USEPA also requested comment on whether to require systems to notify the State as soon as possible for persistent turbidity levels above the performance standards or for any other situation that is not now a violation of the turbidity standards. Under the SWTR, any time the turbidity of a treatment plant's combined filter effluent exceeds 5 NTU the system must notify the State as soon as possible, but no later than the end of the next business day. In addition, the system must notify the public as soon as possible, but in no case later than 14 days after the violation.

USEPA indicated in the proposal that it was considering broadening the requirement for State notification. The Agency suggested it might, for example, require systems to notify the State as soon as possible if at any point during the month it becomes apparent that a system will violate the monthly 95th percentile turbidity performance standard specified in the SWTR, rather than wait to the end of the month.

USEPA outlined a number of public health reasons for requiring swift State notification for persistent turbidity levels. Pathogens may accompany the turbidity particles that exit the filters, especially with poor quality source waters. High turbidity levels in the filtered water, even for a limited time, may represent a significant risk to the public. USEPA's proposed approach was intended to allow States to respond in controlling a potentially serious problem more quickly.

4. Other related issues. The Agency also requested comments on other issues related to possible IESWTR options. A number of these are listed below.

(a) To what extent should the ESWTR address the issue of recycling filter backwash, given its potential for increasing the densities of *Giardia lamblia* and *Cryptosporidium* on the filter?

(b) Should the ESWTR define minimum certification criteria for surface water treatment plant operators? Currently the SWTR (40 CFR 141.70) requires such systems to be operated by "qualified personnel who meet the requirements specified by the State."

(c) What criteria, if any, should the ESWTR include to ensure that systems optimize treatment plant performance?

(d) Should turbidity performance criteria be modified? Should criteria pertain to individual filters?

(e) Should the rule include a performance standard for particle removal?

(f) Should the rule include a requirement for an early warning for high turbidity?

(g) Under what conditions could systems be allowed different log removal credits than is currently recommended in the SWTR Guidance Manual?

(h) How should USEPA decide, in developing a Notice of Data Availability, what treatment approach(es) is most suitable for additional public comment?

II. New Information and Key Issues to be Addressed

A. MCLG for Cryptosporidium

1. Summary of 1994 Proposal and Public Comments

The July 29, 1994, **Federal Register** notice proposed to set the MCLG for Cryptosporidium at zero. The purpose of the MCLG is to protect public health. The reasons for this determination were based upon animal studies and human epidemiology studies of waterborne outbreaks of cryptosporidiosis.

Most commenters supported an MCLG of zero for *Cryptosporidium*. Those who provided reasons stated that (1) a single cell could infect, and data do not support a threshold dose below which an outbreak or disease will not occur, (2) the organism is present in water and has caused major waterborne disease outbreaks, and (3) it is consistent with the goals set under the SWTR and Total Coliform Rule. Commenters who opposed the proposed MCLG stated that USEPA needed more health risk and organism/disease transmission data and better analytical methods before setting an MCLG and regulating *Cryptosporidium*.

2. New data and Perspectives

Since publication of the proposed rule, results of a human feeding study have become available. Dupont et al. (1995) fed 29 healthy volunteers single doses ranging from 30 to 1 million *C. parvum* oocysts obtained from a calf. Of the 16 volunteers who received 300 or more oocysts, 88% became infected. Of the five volunteers who received the lowest dose (30 oocysts), one became infected. The median infective dose was 132 oocysts. According to a mathematical model based upon the Dupont et al. data, 0.5% of a population exposed to an average dose of one oocyst, would be expected to become infected. (Haas et al., 1996).

An important concern is that certain populations are at greater risk of waterborne disease infection than others. These vulnerable populations include the immunocompromised; children, especially the very young; the elderly; and pregnant women (Gerba et al. 1996; Fayer and Ungar 1986). The most significant segment within these vulnerable populations with regard to cryptosporidiosis is people who are immunocompromised. In patients with severely weakened immune systems, (e.g cancer, AIDS patients), cryptosporidiosis can be serious, long-lasting and sometimes fatal. There is concern about cryptosporidiosis in immunocompromised individuals because currently there is no cure for the disease.

C. parvum is the only *Cryptosporidium* species known for certain to infect humans. One controversial report (the only one of its kind) found evidence that *C. baileyi*, which infects birds, was present in the stools and other autopsied organs of an immunodeficient patient (Ditrich et al., 1991). There was no indication that *Cryptosporidium* had been responsible in this instance for any adverse health effects. *C. parvum* also infects many other mammals. While *C. parvum* is a well-documented human pathogen, strain variation may occur and one strain may cause infection and/or disease at a higher or lower concentration than other strains. USEPA is currently funding research [*Cryptosporidium* virulence study using different strains, Herbert Dupont] to examine this issue.

There is some question about the taxonomy (i.e., classification) of species within the genus *Cryptosporidium*. Up until 1980, classification was based on the assumption that a particular species only infected one type of animal. This assumption appears to be incorrect; hence other appropriate taxonomy schemes have been suggested.

An important issue not directly related to the MCLG involves the measurement of *C. parvum* in water. With current technology, it is often very difficult to distinguish between viable and non-viable oocysts. When *Cryptosporidium* is identified it is often not clear whether it is *C. parvum* or another species. Several *Cryptosporidium* species look similar to *C. parvum* and react to "specific" *C. parvum* stains in a like manner (cross-reactions). In addition, it can be difficult to distinguish *Cryptosporidium* from alga and invertebrate eggs (Clancy et al. 1994)

3. Advisory Committee Recommendations and Related Issues

The M-DBP Federal Advisory Committee supported the proposed establishment of a *Cryptosporidium* MCLG at zero. However, a key issue identified by the Committee and public commenters is whether the MCLG should be set at the genus level (i.e., *Cryptosporidium*), as proposed, or at the more specific species level (i.e., *C. parvum*). Setting the MCLG at the genus level would automatically include any *Cryptosporidium* species other than *C. parvum* that is later found to be pathogenic to humans. In contrast, setting an MCLG at the species level would indicate that only *C. parvum* infects humans, and would also be consistent with the approach taken under the SWTR for *Giardia* where the MCLG is set at the species level (i.e., *G. lamblia*). USEPA has not decided which approach is most appropriate and seeks public comment on this issue.

As indicated above, USEPA's intent in establishing this MCLG at zero is to protect public health. The Agency believes there is adequate research data to support this determination. However, as noted above, the Agency recognizes that there is scientific uncertainty on the issue of *Cryptosporidium* taxonomy and on the question of cross reactions between species. USEPA expects further clarification on this issue as research continues, *Cryptosporidium* analytical methods improve, and more is learned about the circumstances under which cross-reactivity between species occurs. The Agency also wishes to emphasize that the scope or specificity of the MCLG may be modified in the future to reflect new research and additional information about particular species that represent a significant risk to human health.

As part of this notice, USEPA requests comment on whether to establish a *Cryptosporidium* MCLG at the genus level as proposed or at the species level (i.e., *Cryptosporidium* vs. *Cryptosporidium parvum*). USEPA also requests copies of any additional research, data or other information related to this issue.

B. Removal of Cryptosporidium by Filtration

1. Summary of 1994 Proposal and Public Comments Received

One of USEPA's proposed treatment Alternatives (Alternative C) would require filtered systems to achieve at least a 2 log removal of *Cryptosporidium* oocysts. USEPA recognized that the proposed removal level was based on limited data and therefore solicited comment on whether other minimum removal levels might be appropriate.

Most commenters addressing the issue of treatment alternatives supported Alternative C. Some commenters opposed any treatment requirement greater than a 2 log removal due to a lack of better understanding of dose-response, effectiveness of treatment, and analyses to justify the higher treatment costs involved.

Other commenters referred to specific studies (Nieminski 1995; Patania et al., 1995) that provided additional information on *Cryptosporidium* removal. One commenter cited a study (Parker and Smith, 1993), where oocyst damage was observed after agitation with sand. This study postulated that oocysts may be damaged as they pass through the filtration media. This commenter also pointed to the lack of data on cyst removal by full-scale plants and recommended that additional research be conducted. Some commenters recognized the need to regulate *Cryptosporidium*, but opposed having the level of treatment based upon source water pathogen density (alternative B). One commenter indicated that further implementation and evaluation of the adequacy of the SWTR needs to occur before modifying it.

2. New Data and Perspectives

a. Rapid Granular Filtration. Table 1 summarizes research pertinent to *Cryptosporidium* and *Giardia lamblia* removal efficiencies by rapid granular filtration. Brief descriptions of these studies and a summary of key points follow.

TABLE 1.—CRYPTOSPORIDIUM AND GIARDIA LAMBLIA REMOVAL EFFICIENCIES BY RAPID GRANULAR FILTRATION

Type of treatment plant	Log removal	Experimental design	Researcher
Conventional filtration plants	*Crypt* 2.7–5.9	Pilot Plants	Patania et al. 95.
Do	*Giardia* 3.4–5.8	do	Do.
Do	*Crypt* 2.3–3.0	Pilot scale plant	Nieminski/Ongerth 95.
Do	*Giardia* 3.3–3.4	+full scale plant with seeded cysts/ oocysts.	Do.
Do	*Crypt* 2.7–3.1	Pilot Plants	Ongerth/Pecaroro 95.
Do	*Giardia* 3.1–3.5	do	Do.
Do	*Crypt* 2–2.5	Full scale plants	LeChevallier et al. 91b.
Do	*Giardia* 2–2.5	Full scale plants	LeChevallier et al. 91b.
Do	*Crypt* 2.3–2.5	Full scale plants	LeChevallier/Norton 92.
Do	*Giardia* 2.2–2.8	do	Do.
Do	*Crypt* 2–3	Pilot scale plant	Foundation for Water. Research 94.
Do	*Giardia* and	Full scale plant	Kelley et al. 95.
Do	*Crypt 1.5–2*	operation considered ot optimized).	
Direct filtration plants	*Crypt* 1.5–4.0	Pilot Plants	Patania et al. 1995.
Do	*Giardia* 1.5–4.8	do	Do.

TABLE 1.—CRYPTOSPORIDIUM AND GIARDIA LAMBLIA REMOVAL EFFICIENCIES BY RAPID GRANULAR FILTRATION—Continued

Type of treatment plant	Log removal	Experimental design	Researcher
Do	*Crypt* 2.8–3.0	....do	Nieminski/Ongerth 95.
Do	*Giardia* 3.3–3.9	....do	Do.
Do	*Crypt* 2–3	....do	West et al. 1994.

Patania, Nancy L; et al. 1995

Raw water turbidities were between 0.2 and 13. When treatment conditions were optimized for turbidity and particle removal at four different sites, *Cryptosporidium* removal ranged from 2.7 to 5.9 log and *Giardia* removal ranged from 3.4 to 5.1 log during stable filter operation. The median turbidity removal was 1.4 log, whereas the median particle removal was 2 log. Median oocyst and cyst removal was 4.2 log. A filter effluent turbidity of 0.1 NTU or less resulted in the most effective cyst removal, by up to 1 log greater than when filter effluent turbidities were greater than 0.1 NTU (within the 0.1 to 0.3 NTU range) (see Figures 1 and 2 below). *Cryptosporidium* removal rates of less than 2.0 log (indicated in Figures 1 and 2) occurred at the end of the filtration cycle.

Blackened data points in these figures represent data in which oocysts were not detected in the filtered water. The log removal values shown would be greater than indicated had the influent oocyst concentration been sufficiently high to show oocyst detection in the filtered water. The researchers also noted that removal of *Cryptosporidium* was 0.4 to 0.9 log lower during filter ripening than during stable filter operation; *Giardia* removal was generally 0.4 to 0.5 log lower during ripening. *Cryptosporidium* removal was 1.4 to 1.8 log higher for conventional treatment (including sedimentation) as compared to direct filtration. Similarly, *Giardia* removal was 0.2 to 1.8 log higher. Figures 1 and 2 below show the log removal rates discussed above.

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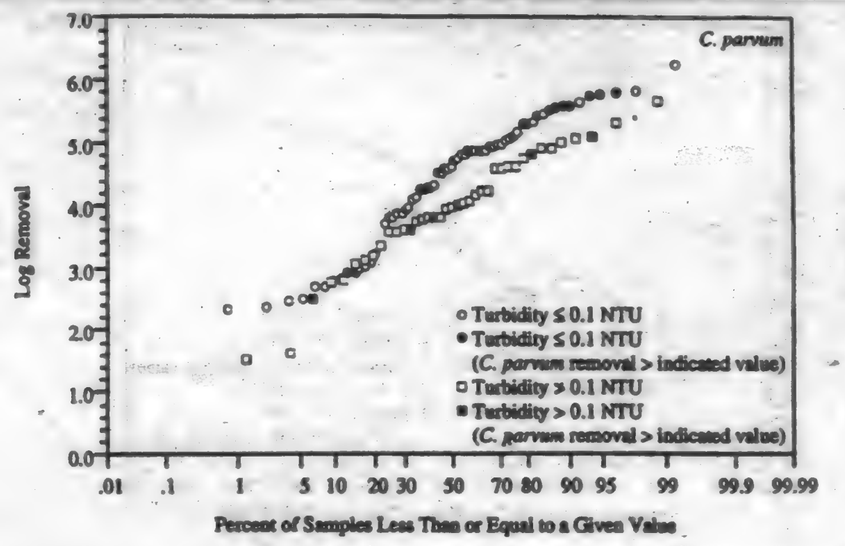

Figure 1: Cumulative probability distribution of aggregate pilot plant data for *C. parvum* removal when filtered water turbidity was ≤ 0.1 NTU and > 0.1 NTU (extracted from Patania et al. 1995). Reprinted from *Optimization of Filtration for Cyst Removal*, by permission.

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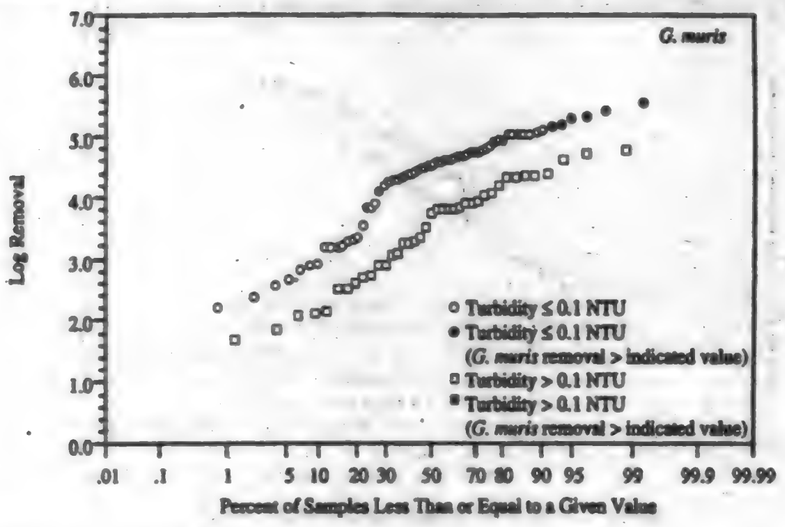

Figure 2: Cumulative probability distribution of aggregate pilot plant data for *G. muris* removal when filtered water turbidity was ≤ 0.1 NTU and > 0.1 NTU (extracted from Patania et al. 1995). Reprinted from *Optimization of Filtration for Cyst Removal*, by permission.

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Nieminski, Eva C. and Ongerth, Jerry E. 1995

This study evaluated performance in a pilot plant and in a full scale plant (not in operation during the time of the study) and considered two treatment modes: direct filtration and conventional treatment. The source water of the full scale plant had turbidities typically between 2.5 and 11 NTU with a peak level of 28 NTU. The source water of the pilot plant typically had turbidities of 4 NTU with a maximum of 23 NTU. For the pilot plant, achieving filtered water turbidities between 0.1–0.2 NTU, *Cryptosporidium* removals averaged 3.0 log for conventional treatment and 3.0 log for direct filtration, while the respective *Giardia* removals averaged 3.4 log and 3.3 log. For the full scale plant, achieving similar filtered water turbidities, *Cryptosporidium* removal averaged 2.25 log for conventional treatment and 2.8 log for direct filtration, while the respective *Giardia* removals averaged 3.3 log for conventional treatment and 3.9 log for direct filtration. Differences in performance between direct filtration and conventional treatment by the full scale plant were attributed to different source water quality during the filter runs.

Ongerth, Jerry E. and Pecoraro, J.P. 1995

This project used very low turbidity source waters (0.35 to 0.58 NTU). With optimal coagulation, 3 log removal for both cysts were obtained. In one test run, where coagulation was intentionally suboptimal, the removals were only 1.5 log for *Cryptosporidium* and 1.3 log for *Giardia*. This emphasized the importance of proper coagulation for cyst removal even though the effluent turbidity was less than 0.5 NTU.

LeChevallier, Mark W. and Norton, William D. 1992

Source water turbidities ranged from less than 1 to 120 NTU. Removals of *Giardia* and *Cryptosporidium* (2.2–2.8 log) were slightly less than those reported by other researchers, possibly because full scale plants were studied, under less ideal conditions than the pilot plants. The participating treatment plants were in varying stages of treatment optimization. Removal achieved a median of 2.5 log for *Cryptosporidium* and *Giardia*.

LeChevallier, Mark W.; Norton, William D.; and Lee, Raymond G. 1991b

This study evaluated removal efficiencies for *Giardia* and *Cryptosporidium* in 66 surface water treatment plants in 14 States and 1 Canadian province. Most of the utilities achieved between 2 and 2.5 log removals for both *Giardia* and *Cryptosporidium*. When no cysts were detected on the finished water below detection protozoan levels were set at the detection limit for calculating removal efficiencies.

Foundation for Water Research 1994

Raw water turbidity ranged from 1 to 30 NTU. *Cryptosporidium* oocyst removal was between 2 and 3 log. Investigators concluded that any measure which reduced filter effluent turbidity should reduce risk from *Cryptosporidium*. The importance in selecting coagulants, dosages, and pH should not be overlooked. Apart from turbidity, indicators of possible reduced efficiency for oocyst removal would be increased color and dissolved metal ion coagulant concentration in the effluent, for these are indications of reduced efficiency of coagulation/ flocculation.

Kelley, M.B. et al. 1995

Protozoa removal was between 1.5 and 2 log. The authors speculated that this low *Cryptosporidium* removal occurred because the coagulation process was not optimized, though the finished water turbidity was less than 0.5 NTU. Also, when cysts were not detected in the finished water below detection values were assumed as filtered water concentration levels.

West, Thomas; et al. 1994

Pilot scale direct filtration was used with anthracite mono-media at filtration rates of 6 and 14 gpm/sq ft. Raw water turbidity was 0.3 to 0.7 NTU. Removal efficiencies for *Cryptosporidium* at both filtration rates were 2 log during filter ripening (despite turbidity exceeding 0.2 NTU), and 2 to 3 log for the stable filter run, declining significantly during particle breakthrough. When effluent turbidity was less than 0.1 NTU, removal typically exceeded 2 log. Log removal of *Cryptosporidium* generally exceeded that for particle removal.

Summary of Studies

The studies described above indicate that rapid granular filtration, when operated under appropriate coagulation conditions and optimized to achieve a filtered water turbidity level of less than 0.3 NTU, should achieve at least 2 log of *Cryptosporidium* removal. Removal rates vary widely, up to almost 0 log, depending upon water matrix conditions, filtered water turbidity effluent levels, and where and when removal efficiencies are measured within the filtration cycle. The highest log pathogen removal rates occurred in those pilot plants and systems which achieved very low finished water turbidities (less than 0.1 NTU).

Members of the M–DBP Advisory Committee discussed that tighter turbidity performance criteria would increase the likelihood of systems achieving higher oocyst removal rates. As a general principle, members of the M–DBP Advisory Committee indicated that if a utility were required to achieve less than 0.3 NTU 95% of the time, it would target substantially lower turbidity levels in order to have confidence that it will not exceed the 0.3 level. This principle was also recognized by the M–DBP Advisory Committee's Technical Work Group and served as a technical basis for much of the Committee's discussion of turbidity (i.e., that if the performance standard is 0.3 NTU systems would target achieving less than 0.2 NTU 95 percent of the time).

The Patania and Nieminski/Ongerth studies as they relate to finished water turbidity levels and log removal are particularly relevant to this point. These particular studies involve finished water turbidity at low levels in the same range as the finished water target identified by the Committee. The associated removal of *Cryptosporidium* at these turbidity levels was reliably in the range of 2 log or greater.

Other key points discussed during the Advisory Committee's deliberations related to the studies include:

- As turbidity performance improves for treatment of a particular water, there tends to be greater removal of *Cryptosporidium*.
- Pilot plant study data in particular indicate high likelihood of achieving at least 2 log removal when plant operation is optimized to achieve low turbidity levels. Moreover, pilot studies represented in the table tend to be for low-turbidity waters, which are considered to be the most difficult to treat regarding particulate removal and associated protozoan removal. Since high removal rates have been demonstrated in pilot studies using lower-turbidity source waters, it is likely that similar or higher removal rates would be achieved for higher-turbidity source waters.
- The evaluation of *Cryptosporidium* removal in full-scale plants can be difficult in that this data includes many non-detects in the finished water. In these cases, values assigned at the detection limit will likely result in over-estimation of oocysts in the finished water. This in turn means that removal levels will tend to be under-estimated.
- Another factor that contributes to differences among the data is that some of the full-scale plant data comes from plants that are not optimized, but that still meet existing SWTR requirements. In such cases, oocyst removal may be less than 2 log. In those studies that indicate that full-scale plants are achieving greater than 2 log removal (LeChevallier studies in particular), the following characteristics pertain:
  - —Substantial numbers of filtered water measurements resulted in oocyst detections;
  - —Source water turbidity tended to be relatively high compared to some of the other studies;
  - —A significant percentage of these systems were also achieving low filtered water turbidities, substantially less than 0.5 NTU.
- Removal of *Cryptosporidium* can vary significantly in the course of the filtration cycle (i.e., at the start-up and end of filter operations versus the stable period of operation, which is the predominant period).

b. Other Filtration Technologies. Other filtration technologies include slow sand and diatomaceous earth filtration. "Technologies and Costs for the Treatment of Microbial Contaminants in Potable Water Supplies, October 1988" by USEPA (1988) listed research studies indicating that a well designed and operated plant using these technologies is capable of 3- to 4-log removal of *Giardia* and viruses. Recent findings appear in Table 2 below.

TABLE 2.—CRYPTOSPORIDIUM AND GIARDIA LAMBLIA REMOVAL EFFICIENCIES

Type of treatment plant	Log removal	Experimental design	Researcher
Slow Sand	*Giardia* >3 *Crypt* >3	Pilot plant at 4.5 to 16.5 degrees C.	Schuler and Ghosh, 91.
	Crypt 4.5	Full scale plant	Timms et al., 1995
Diatomaceous Earth	*Giardia* >3 *Crypt* >3	Pilot plant, addition of coagulant increased removal beyond values shown.	Schuler and Ghosh, 90.

c. Multiple Barrier Approach.

The M–DBP Advisory Committee engaged in extensive discussion regarding the adequacy of relying solely on physical removal to control *Cryptosporidium* in drinking water supplies and on the need for inactivation. There was a substantial absence of technical consensus on how to or whether it is currently possible to adequately measure *Cryptosporidium* inactivation efficiencies for various disinfection technologies. This issue emerged as a significant impediment to addressing inactivation in the IESWTR.

As part of the original 1994 proposal, USEPA included control strategies that would entail the development of a map of inactivation efficiencies for *Cryptosporidium*. As discussed later in Section M. of this Notice, adequate information to develop such a map is not available at this time. The Advisory Committee discussion recognized, however, that inactivation requirements may be appropriate and necessary under future regulatory scenarios and that physical removal by filtration may not be sufficient under all circumstances or for all source waters.

As part of the development process for the long term ESWTR, the Advisory Committee recommended that USEPA request comment on a risk-based proposal for *Cryptosporidium* embodying the multiple barrier approach (e.g., source water protection, physical removal, inactivation, etc.), including, where risks suggest appropriate, inactivation requirements. In establishing the LTESWTR, the Committee recommended that the following issues be evaluated:

—Data and research needs and limitations (e.g., occurrence, treatment, viability, active disease surveillance, etc.);
—Technology and methods capabilities and limitations;
—Removal and inactivation effectiveness;
—Risk tradeoffs including risks of significant shifts in disinfection practices;
—Cost considerations consistent with the SDWA;
—Reliability and redundancy of systems; and
—Consistency with the requirements of the Act.

3. Advisory Committee Recommendations and Related Issues

USEPA reiterates its request for comment on the following recommendations of the M–DBP Advisory Committee.

All surface water systems that serve more than 10,000 people and are required to filter must achieve at least a 2-log removal of *Cryptosporidium*. Systems which use rapid granular filtration (direct filtration or conventional filtration treatment-as currently defined in the SWTR), and meet the turbidity requirements described in section II.C. are assumed to achieve at least a 2-log removal of *Cryptosporidium*. Systems which use slow sand filtration and diatomaceous earth filtration and meet existing turbidity performance requirements under the SWTR (less than 1 NTU for the 95th percentile or alternative criteria as approved by the State) are assumed to achieve at least 2-logs removal of *Cryptosporidium*.

Systems may demonstrate that they achieve higher levels of physical removal.

C. Turbidity Control

1. Summary of 1994 Proposal as it Relates to Turbidity Issues and Public Comments

Finished water turbidity levels are currently regulated by USEPA under the SWTR as a treatment technique to ensure removal of *Giardia* and viruses. The SWTR requires systems to monitor the turbidity of the combined filter effluent every four hours at each treatment plant. Systems using direct filtration or conventional treatment must achieve a combined filter effluent turbidity level of no more than 0.5 NTU in 95% of the measurements in each month and never exceed 5 NTU. Failure of individual filters may allow pathogens to enter the distribution system. However, the SWTR does not presently require systems to monitor the effluent of individual filters.

As a treatment technique, turbidity is an indicator of filtration performance. Treatment plants are, as noted above, required to meet certain turbidity levels to meet the removal requirements for Giardia. Although turbidity is not a direct indicator of health risk, a very low turbidity level of the treated water is in general a good indicator of effective *Cryptosporidium* and *Giardia* oocyst and cyst removal by rapid granular filtration. USEPA continues to believe that turbidity is the most readily measurable parameter to indicate filtration treatment effectiveness.

A primary focus of the 1994 proposal was the establishment of treatment requirements that would address public health risks from high densities of pathogens in poor quality source waters and from the waterborne pathogen *Cryptosporidium*. As discussed earlier in this Notice, waterborne pathogens have caused significant disease outbreaks in the United States. Approaches outlined in the 1994 proposal included treatment requirements based on site-specific concentrations of pathogens in source water and a proposed 2-log removal requirement for *Cryptosporidium* by filtration.

USEPA also specifically requested comment on what criteria, if any, should be included to ensure that systems optimize treatment plant performance and on whether any of the existing turbidity performance criteria should be modified (e.g., should systems be required to base compliance with the turbidity standards on individual filter effluent monitoring in lieu of or in addition to monitoring the confluence of all filters; and should any performance standard value be changed). In addition, the Agency requested comment in the 1994 proposal on possible supplemental requirements for State notification of persistent high turbidity levels (e.g., broadening the requirements for State notification of turbidity exceedances).

Some comments suggested and supported a revised approach to the IESWTR that would focus on optimizing existing water treatment processes to provide insurance against microbial disease outbreak in the absence of source water occurrence data. Another comment suggested that current levels of treatment, including filtration, have a sufficient degree of effectiveness in preventing transmission of *Cryptosporidium* in drinking water.

One commenter suggested that turbidity performance standards should not be modified until the SWTR has been further implemented. One commenter suggested that decreases in turbidity standards or monitoring after each filter should be voluntary unless scientific data demonstrate otherwise. Another commenter suggested that individual filters can be evaluated during sanitary surveys. Several commenters supported tighter turbidity standards and monitoring of individual filters. Suggested turbidity performance levels included 0.1 or less, or 0.2 NTU as revised standards. Several commenters supported monitoring of individual filters, with one suggesting backwashing of filters when turbidity levels increase.

2. New Data and Perspectives

As presented in detail below, the M-DBP Advisory Committee's recommendations to the Agency included tighter turbidity performance criteria and individual filter monitoring requirements as part of the IESWTR. These revised performance criteria, along with the individual filter monitoring requirements, would better enable systems to demonstrate that they meet a 2 log removal requirement for *Cryptosporidium*. Because *Cryptosporidium* is exceptionally

resistant to inactivation using chlorine, physical removal by filtration is extremely important in controlling this organism. Data presented in the previous section of this Notice support modifications to the existing turbidity requirements under the SWTR to enable systems to demonstrate that they meet the proposed 2 log requirement.

The revised turbidity performance criteria would also contribute to another of the IESWTR's key objectives, which is to establish a microbial backstop to prevent significant increases in microbial risk when systems implement new disinfection byproduct standards under the Stage 1 DBPR. As indicated by data presented below, tighter turbidity performance criteria would reflect actual current performance for a substantial percentage of systems nationally. Revising the turbidity criteria would effectively ensure that these systems continue to perform at these levels (in addition to resulting in improved performance by systems that currently meet the existing criteria but that operate at levels higher than those suggested in the Advisory Committee's recommendations). The other major component of a microbial backstop would be provisions for disinfection profiling and benchmarking, which are discussed in Section D. of this Notice.

The revisions to the turbidity provisions (including the individual filter provisions) recommended by the Committee would also contribute to the microbial backstop objective in direct relationship to the treatment process itself. The reliability of the disinfection barrier as a means for preventing waterborne disease should increase substantially as a result of these tighter turbidity provisions because:

—There would be fewer and shorter periods of elevated turbidity during which the disinfection barrier could be compromised; and
—The removal of particulate matter achieved by the filtration process will both be higher on average and more consistent throughout the treatment cycle, thus putting less burden on the disinfection barrier.

a. 95th Percentile and Maximum Turbidity Levels of Composite Filtered Water.

Three data sets, summarizing the historical turbidity performance of various filtration plants, were evaluated to assess the national impact of modifying existing turbidity requirements. This included turbidity information from the American Water Works Service Company (AWWSC, 1997), a multi-State data set (which was analyzed in two sets) (SAIC, 1997), and information from plants participating in the Partnership for Safe Water program (Bissonette, 1997). Only turbidity data from plants serving populations greater than 10,000 persons were used. The analyses also included only plants that met the current 95th percentile turbidity standard, 0.5 NTU, and the current maximum turbidity standard, 5 NTU, in all months. Each of the data sets was analyzed to assess the current performance of plants with respect to the number of months in which selected 95th percentile and maximum turbidity levels were exceeded.

The AWWSC is a privately-held company that owns and operates for profit about 70 water treatment facilities located across the country. For this analysis, the AWWSC data set (AWWSC, 1997) included one year's data for 45 plants in 10 States. The States, with number of plants in each state listed in parentheses, are as follows: California (1), Connecticut (3), Iowa (2), Indiana (6), Maryland (1), Missouri (2), Pennsylvania (24), Tennessee (1), Virginia (2), and West Virginia (3). USEPA analyzed the composite filtered effluent turbidity data obtained from the AWWSC plants measured every 4-hours.

The analyses examined two variations of turbidity data obtained from the multi-State data set (SAIC, 1997). The multi-State data set included 66 plants in 11 states. The States, with number of plants in each state listed in parentheses, are as follows: California (10), Georgia (5), Kansas (9), New Jersey (5), Ohio (12), Oregon (10), Rhode Island (6), Texas (9), Wisconsin (8), West Virginia (8), Wyoming (6). The State data was analyzed as two data sets, denoted as State 1 and State 2. The State 1 data set included only plant information with measurements every 4 hours, comprising slightly more than half of the State data (47 plants in CA (10), OR (10), TX (9), WI (6), WY (6), WV (8)). The State 2 data set was comprised of both the State 1 data and other data including plant information consisting of daily maximum turbidity values only, altogether 66 plants.

The State 1 data set was expected to provide a more accurate picture of typical plant performance among the plants in the entire State data set because there were more data points per plant. However, the State 2 data set increased regional coverage by incorporating data from five additional States (GA, KS, NJ, OH, RI) to reflect additional geographic variation that may not have been captured in the State 1 data set.

In order to determine how many of the systems met lower 95th percentile turbidity levels based on turbidity measurements every four hours, the data from those States in which systems only report maximum daily values had to be statistically adjusted. The adjustment is necessary to take into account the difference in the number of reported measurements in a month that can exceed a particular level (e.g., 0.3 NTU) without exceeding the monthly 95th percentile for that level. (Systems that report measurements every four hours can have up to 9 of 180 measurements (5%) that exceed the level in a month; however, there is no way to directly calculate an equivalent value for systems that only report daily maximum values without making some adjustment.) No adjustment was necessary for assessing monthly maximum turbidity levels.

The State 2 analyses adjusted the monthly 95th percentile turbidity levels for plants with only daily maximum data. This was done because the 95th percentile based on 31 daily turbidity maximums a month will overestimate the 95th percentile based on 186 daily measures (or measurements every 4 hours). To assess the magnitude of the bias, the State 1 data were used to examine the relationship between the 95th percentile of the daily maximums and the 95th percentile of the daily measurements.

The State 2 monthly 95th percentile analyses were obtained by dividing the estimated monthly 95th percentiles of those systems reporting only daily maximums by a factor of 1.2 to account for bias. This factor was derived as follows. The daily maximum was determined for each day in the State 1 data set and a monthly 95th percentile (of the 30 or 31 daily maximums) was determined, i.e., the second largest daily maximum. The corresponding monthly 95th percentile based on the daily data was also determined. The ratio of these two values was then calculated and summarized across months. The median ratio across all months was 1.2, with 90 percent of the ratios ranging between 1.0 and 1.9. The analysis used to derive the adjustment factor examined only plants that reported six values per day.

The remaining data set included in the turbidity analysis was of plants participating in the Partnership for Safe Water. The Partnership for Safe Water is a joint venture of several organizations, including the American Water Works Association, the Association of State Drinking Water Administrators, the Association of Metropolitan Water Agencies, the National Association of Water Companies, the American Water Works Association Research Foundation and USEPA. These organizations

entered into a voluntary "partnership" with the nation's drinking water filtration plants treating surface water to tighten treatment practices and operational controls to reduce the risk from *Cryptosporidium* and other waterborne pathogens. The Partnership approach, described in the "Partnership for Safe Water Voluntary Water Treatment Plant Performance Improvement Program Self-Assessment Procedures" (USEPA et al. 1995), is based on USEPA's Composite Correction Program (CCP). The CCP is a voluntary program which is described in detail in the handbook Optimizing Water Treatment Plant Performance Using the Composite Correction Program—USEPA/625/6–91/027. The Partnership for Safe Water utility membership consists of 199 utilities representing almost 280 water treatment plants. These plants serve approximately 80 million persons. The Partnership consists of four phases with each phase providing tools and methodologies to assist utilities in progressing toward a higher quality finished water. The following data summarizes turbidity performance based on 4-hour measurements reported by the Partnership utilities for 12 months overlapping 1995 and 1996. The data represents a composite of Partnership utilities that have completed varying phases of Partnership activities, ranging from having just joined to having progressed well into the self-assessment phase (phase 3). All data were derived from the 1997 Partnership for Safe Water Annual report (Bissonette, 1997).

The results of the analyses of all of the data sets are shown in Tables 3 and 4.

Tables 3 and 4 indicate the extent to which plants, as currently operated, are meeting different turbidity levels. Conversely the data indicate the portion of utilities which might need to alter existing practice in order to meet lower turbidity limits, if such limits were required through regulation.

Table 3 is organized to reflect the extent to which utilities are currently meeting monthly 95th percentile turbidity limits, assuming that compliance with such limits is determined as currently done under the existing monthly 95th percentile standard of < 0.5 NTU. For example, Table 3 indicates that 19.1 percent (based on the Partnership data set) and 34.9 percent (based on the State 2 data set) exceed a monthly 95th percentile turbidity limit of 0.3 NTU at least one month during the year for which data were collected. Table 3 also indicates the extent to which utilities meet a particular limit for multiple months of the year (i.e., for at least 3 months and for at least 6 months). The frequency in months by which utilities exceed a particular monthly turbidity limit could influence the extent of treatment that might be needed to achieve compliance through out the year.

The Technical Work Group (TWG) which provided technical advice to the Advisory Committee made the following recommendations for estimating national compliance forecasts.

(1) The State 2 data set could be used as a reference point for estimating potential compliance burdens for systems serving less than 100,000 people. The Partnership data could be used as a reference point for estimating potential compliance burdens for systems serving greater than 500,000 people. For systems serving between 100,000 and 500,000 people, the average of the percentages of systems not meeting a particular limit reflected by the Partnership and State 2 data could be used for estimating compliance burdens.

(2) Estimates for systems needing to make changes to meet a turbidity performance limit of < 0.3 NTU should be based on the ability of systems currently being able to meet a 0.2 NTU as reflected in Table 3. This assumption would also take into account a utility's concern with possible turbidity measurement error.

For example, for systems serving less than 100,000 people, the TWG assumed that 51.7 percent of the systems could be expected to make treatment changes to consistently comply with a monthly 95th percentile limit of 0.3 NTU. Similarly, for systems serving over 500,000 people, the TWG assumed that 41.7 percent could be expected to make treatment changes to comply with a 0.3 NTU regulatory limit.

Table 4 is organized to reflect the extent to which utilities meet different monthly maximum turbidity limits (i.e., all measurements taken during the month must be below the indicated limit). For example, Table 4 indicates that 6 percent of the plants (based on State 2 Partnership data) are currently exceeding a monthly maximum limit of 1.0. The data in Table 4 were considered for evaluating possible national impacts of lowering the current maximum limit of 5 NTU to some lower value.

Regarding maximum turbidity levels, the Advisory Committee also discussed filtered water turbidity levels with respect to the cryptosporidiosis outbreak in Milwaukee in 1993. Some members indicated concern that filtered water turbidities associated with the outbreak apparently were significantly lower than the current maximum turbidity level of 5 NTU. Indications are that the turbidity levels were at about 2 NTU (MacKenzie et al., 1994; Fox and Lytle., 1996).

TABLE 3.—NUMBER AND PERCENT OF PLANTS THAT EXCEEDED MONTHLY 95TH PERCENTILE TURBIDITY LIMITS IN AT LEAST N MONTHS OUT OF 12

Turbidity limit	Data source	At least 1 month		At least 3 months		At least 6 months	
		Num	Pct	Num	Pct	Num	Pct
0.1	State 1	34	72.3	28	59.6	24	51.1
	State 2	80.2	59	68.6	51	59.3	
	AWWSC	73.3	24	53.3	15	33.3	
	Partnership	177	75.3	136	57.9	100	42.6
0.2	State 1	17	36.2	9	19.1	2	4.3
	State 2	44	51.2	29	33.7	15	17.4
	AWWSC	12	26.7	7	15.6	2	4.4
	Partnership	98	41.7	51	21.7	27	11.5
0.3	State 1	10	21.3	3	6.4	0	0.0
	State 2	30	34.9	11	12.8	3	3.5
	AWWSC	6	13.3	1	2.4	0	0.0
	Partnership	45	19.1	17	7.2	7	3.0
0.4	State 1	3	6.4	0	0.0	0	0.0
	State 2	9	10.5	1	1.2	0	0.0
	AWWSC	3	6.7	0	0.0	0	0.0

TABLE 3.—NUMBER AND PERCENT OF PLANTS THAT EXCEEDED MONTHLY 95TH PERCENTILE TURBIDITY LIMITS IN AT LEAST N MONTHS OUT OF 12—Continued

Turbidity limit	Data source	At least 1 month		At least 3 months		At least 6 months	
		Num	Pct	Num	Pct	Num	Pct
Partnership	22	9.4	5	2.1	3	1.3	

Population served ≥10,000. State 1 (4-hour daily data from 47 plants): 10 CA, 10 OR, 9 TX, 6 WI, 6 WV, 6 WY. State 2 (86 plants including State 1 data and daily maximums * from additional plants) : 10 CA, 5 GA, 9 KS, 5 NJ, 12 OH, 10 OR, 6 RI, 9 TX, 8 WI, 6 WV, 6 WY. AWWSC: 45 plants: 1 CA, 3 CT, 2 IA, 6 IN, 1 MD, 2 MO, 24 PA, 1 TN, 2 VA, 3 WV. Partnership for Safe Water 235 plants. *For plants with only daily maximums, the monthly 95th percentile was estimated as the 95th percentile of the daily maximums divided by 1.2. The adjustment was done to account for the potential bias of taking the 95th percentile of daily maximums, and was based on the relationship observed in the State 1 data between the 95th percentile of the daily maximums and the 95th percentile of the 4-hour data.

TABLE 4.—NUMBER AND PERCENT OF PLANTS THAT EXCEEDED MONTHLY MAXIMUM TURBIDITY LIMITS IN AT LEAST N MONTHS OUT OF 12

Maximum turbidity limit	Data source	At least 1 month		At least 3 months		At least 6 months	
		Num	Pct	Num	Pct	Num	Pct
0.3	State 1	36	76.6	15	31.9	6	12.8
	State 2	80.2	36	41.9	15	7.4	
	AWWSC	53.3	10	22.2	4	8.9	
	Partnership	129	54.9	72	30.6	37	15.7
0.5	State 1	18	38.3	3	6.4	1	2.1
	State 2	35	40.7	7	8.1	1	1.2
	AWWSC	12	26.7	3	6.7	0	0.0
	Partnership	65	27.7	20	8.5	5	2.1
1.0	State 1	1	2.1	0	0.0	0	0.0
	State 2	6	7.0	0	0.0	0	0.0
	AWWSC	4	8.9	0	0.0	0	0.0
	Partnership	16	6.8	4	1.7	2	0.9
2.0	State 1	1	2.1	0	0.0	0	0.0
	State 2	2	2.3	0	0.0	0	0.0
	AWWSC	0	0.0	0	0.0	0	0.0
	Partnership	7	3.0	2	0.9	1	0.4

b. Individual Filter Performance.

During a turbidity spike, significant amounts of particulate matter (including oocysts, if present) may pass through the filter. Figure 3 presents the turbidity levels over time of a typical filter. The greatest potential for a peak (and thus, pathogen break-through) is near the beginning of the filter run after filtered backwash or start up of operation (Amirtharajah 1988; Bucklin et al. 1988; Cleasby 1990; and Hall and Croll 1996).

Various factors effect the duration and amplitude of filter spikes, including sudden changes to the flow rate through the filter, treatment of the filter backwash water, filter to waste capability, and site-specific water quality conditions. The M–DBP Advisory Committee also discussed the need to control turbidity spikes in order to limit the number of oocysts passing through the filter.

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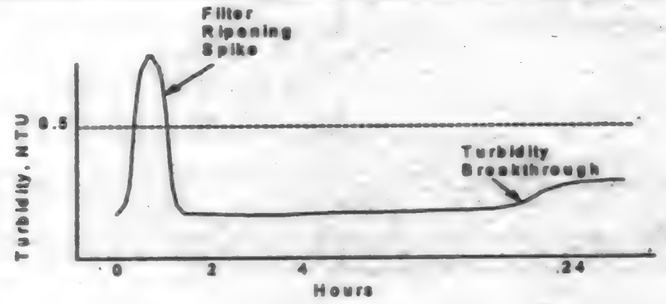

Figure 3. Plot of Turbidity Profile

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c. Turbidity Measurement.

Turbidity is a measure of light scatter that is affected by the size distribution and shape of suspended particles in the water. Four methods are commonly used to measure turbidity and all are approved for use under the SWTR. They include the Nephelometric Method listed in 2130B of the *Standard Methods for the Examination of Water and Wastewater*, Standard Test Method for Turbidity of Water ASTM (1990) D1889–94, the Nephelometric Method in 180.1 of USEPA–600/R–93–100 and the Great Lakes Instruments Method 2 (see section 141.74(a)(1)).

Turbidimeters which measure turbidity commonly consist of the following components: (1) a light source and lenses and other optical devices to project the light beam at the sample container and to direct the scattered light to the detector; (2) a transparent cell that contains the water to be measured; (3) light traps within the sample chamber that minimize the amount of stray light that reaches the detector; and (4) a meter that indicates the intensity of the light reaching the detector. While turbidity measurement has long been recognized as a means for evaluating treatment performance for removal of particulate matter (which include microorganisms), issues remain pertinent to the accuracy and precision of the measurement (Hart et al. 1992; Sethi et al. 1997).

Large tolerances in instrument design criteria, intended to promote competition among instrument manufacturers, have lead to turbidimeters with significantly different design features being available on the market. Turbidimeters with different designs (but within the design specifications of Standard Methods), calibrated according to manufacturer's recommendations, have been shown to provide different turbidity readings for a given suspension (Hart et al. 1992). The significance of this phenomenon as it might pertain to the same water with changing turbidities over time or different waters in the U.S. is not known. Therefore, narrowing instrument design criteria could reduce variation of turbidity measurement but the best direction that such change should take is not yet apparent.

Calibration procedures also affect turbidity measurements. Calibration typically involves placing a quantity of a standard suspension in the turbidimeter and then adjusting the response so that the meter gives a reading equal to the turbidity value assigned to the standard. Instruments that are calibrated with currently approved different standard suspensions can yield different turbidity measurements on the same water (Hart et al. 1992). The significance of this phenomenon as it might pertain to the same water with changing turbidities over time or different waters in the U.S. is also not known. While narrowing specifications for current calibration procedures could reduce variation of turbidity measurements, the best direction that such change should take is not yet apparent.

Other factors that may affect turbidity measurement include procedures used to prepare and wipe the sample cell and use of sample degassing procedures. The extent to which all of the above factors, collectively, affect turbidity measurement is not known. However, past performance evaluation (PE) studies conducted by USEPA provide some indication of accuracy and precision of turbidity measurements among different laboratories for a common synthetically prepared water. In PE studies, PE samples with known turbidity levels are sent to participating laboratories (who are not informed of the turbidity level). Laboratories participating in these studies used turbidimeters from various manufacturers and conducted their analysis in accordance with calibration and analytical procedures they are familiar with. Thus, the variability of the results reflect differences resulting from using different turbidimeter models and methods and the effects of different laboratory procedures. Table 5 summarizes results from PE studies conducted at turbidity levels close to the SWTR turbidity performance limit of 0.5 NTU. The Relative Standard Deviation (RSD) is the Standard Deviation divided by the mean. It appears that the RSD at turbidity levels considered in these PE studies are slightly below 20%. (A RSD of 20% implies that 95% of one-time turbidity measurements made by different laboratories would fall within 40% of the mean. The RSD for an individual laboratory, making numerous measurements on a given sample water would be expected to be significantly less than that achieved among different laboratories (using a variety of turbidimeters as indicated in Table 5).

TABLE 5.—USEPA PERFORMANCE EVALUATION RESULTS OF TURBIDITY MEASUREMENTS (USEPA 1997d)

[Turbidity readings are expressed in NTU, and Relative Standard Deviation in %]

Study No.		True Turb.	No. of samples	Mean	Relative S D
34	USEPA/State	.720	54	.752	16.0
34	All Lab	.720	1503	.744	15.8
23	USEPA/State	.650	24	.659	10.1
25	USEPA/State	.600	28	.585	13.8
25	All Lab	.600	708	.597	16.0
25	USEPA/State	.450	29	.463	20.5
26	All Lab	.450	707	.481	19.5
22	USEPA/State	.350	52	.406	16.1

No data is yet available on measurement performance from PE studies at levels less than 0.3 NTU. A major concern expressed by participants among the Advisory Committee is the ability to reliably measure low turbidity levels. The TWG assumed that if systems operated to achieve a turbidity limit of less than 0.2 NTU 95 percent of the time, this would provide an adequate margin of safety from variability in treatment performance and turbidity measurement error, to consistently meet a turbidity limit of 0.3 NTU.

USEPA intends to conduct two PE studies with true turbidities ranging from 0.1 to 0.3 NTU. One study is planned to begin no later than the end of January 1998 and the other study within 6 months thereafter. These new studies will provide an indication of accuracy and precision of turbidity measurements at lower levels than previously examined. Measurements by on-line turbidimeters will also be evaluated.

On-line monitoring issues: For expedience, on-line turbidimeters are often calibrated against a bench instrument that has been accurately calibrated by comparing the turbidity level in a water sample. However, at regular intervals they need to be taken off line and calibrated, as for bench instruments, by pouring the prepared standard suspension into the chamber of the instrument. On-line instruments must be inspected regularly to remove air bubbles and accumulated debris. Fluctuations in continuous measurements do not necessarily signify a decrease in water treatment performance. Fluctuations in continuous measurements should be investigated since they may be due to air bubbles, debris or a temporary disturbance due to a change in the flow rate of sample water flow through the turbidimeter. To address the contingency of such phenomenon, the Advisory Committee recommended, based on advice from the Technical Work Group, that turbidity spikes should be defined on the basis of at least 2 consecutive measurements taken over some interval of time (e.g., 15 minutes).

There is no standard design specification for on-line turbidimeters regarding chamber size and recommended flow rate. Thus, turbidity spikes of the treated water will be reflected with a delay of a few seconds to a few minutes, depending on chamber volume and flow rate of the turbidimeter. A turbidity peak measured by a turbidimeter with a large chamber volume and small flow rate will result in slightly reduced peak.

3. Advisory Committee Recommendations and Related Issues

USEPA reiterates its request for comment on the following recommendations of the M–DBP Advisory Committee.

1. Turbidity Performance Requirements. For all surface water systems that use conventional treatment or direct filtration, serve more than 10,000 people, and are required to filter: (a) the turbidity level of a system's combined filtered water at each plant must be less than or equal to 0.3 NTU in at least 95 percent of the measurements taken each month and, (b) the turbidity level of a system's combined filtered water at each plant must at no time exceed 1 NTU. For both the maximum and the 95th percentile requirements, compliance shall be determined based on measurements of the combined filter effluent at four-hour intervals.

2. Individual Filter Requirements. All surface water systems that use rapid granular filtration, serve more than 10,000 people, and are required to filter shall conduct continuous monitoring of turbidity for each individual filter and shall provide an exceptions report to the State on a monthly basis. Exceptions reporting shall include the following: (1) any individual filter with a turbidity level greater than 1.0 NTU based on 2 consecutive measurements fifteen minutes apart; and (2) any individual filter with a turbidity level greater than 0.5 NTU at the end of the first 4 hours of filter operation based on 2 consecutive measurements fifteen minutes apart. A filter profile will be produced if no obvious reason for the abnormal filter performance can be identified.

If an individual filter has turbidity levels greater than 1.0 NTU based on 2 consecutive measurements fifteen minutes apart at any time in each of 3 consecutive months, the system shall conduct a self-assessment of the filter utilizing as guidance relevant portions of guidance issued by the Environmental Protection Agency for Comprehensive Performance Evaluation (CPE). If an individual filter has turbidity levels greater than 2.0 NTU based on 2 consecutive measurements fifteen minutes apart at any time in each of two consecutive months, the system will arrange for the conduct of a CPE by the State or a third party approved by the State.

3. State Authority: States must have rules or other authority to require systems to conduct a Composite Correction Program (CCP) and to assure that systems implement any follow-up recommendations that result as part of the CCP.

In reference to the above recommendations, EPA also requests comment on what would or would not constitute an obvious reason for abnormal filter performance. The Agency also requests comment on how much time a system should have to conduct a self-assessment of the filter and how much time a system should have to arrange for the conduct of a CPE under circumstances such as described in the recommendations.

USEPA also requests comment on whether there are particular filters currently in operation in the United States for which specific guidance may be needed with regard to individual filter monitoring. For example, some members of the M-DBP Advisory Committee suggested that special guidance be developed for unique filtration devices made by Infilco Degremeont (previously made by Aldridge). These devices consist of multi-celled filters with a traveling bridge-automated back washing unit that are not conducive to individual cell monitoring.

USEPA also requests comment regarding existing SWTR provisions for lime softening plants that have very low

turbidity in source waters. The existing SWTR allows States to set numerically higher standards up to 1 NTU in 95 percent of samples taken per month for conventional treatment and direct filtration plants if the State determines that on-site studies demonstrate at least 99.9 percent overall removal and/or inactivation of Giardia cysts. (54 FR 27503). In the SWTR (54 FR 27486), the Agency notes that actual demonstrations "(e.g. with pilot plant study results)" are not required for the State to determine when minimum performance requirements at the higher turbidity level might be appropriate for a particular system. The SWTR states:

> Instead, the State's determination may be based upon an analysis of existing design and operating conditions (e.g. adequacy of treatment prior to filtration, percent turbidity removal across the entire treatment train, stringency of disinfection) and/or performance relative to certain water quality characteristics (e.g. microbiological analysis of the filtered water, particle size counts in water before and after filtration). The State may wish to consider such factors as source water quality and system size in determining the extent of analysis necessary. (54 FR 27503).

Committee members raised situations where filtration plants have been designed for specific source water quality characteristics such as high alkalinity and extremely low turbidity water (e.g. 0.1 to 0.5 NTU). In systems with such source waters, turbidity levels from the filters may actually be higher than in the source waters due to reactions from chemicals added mainly for purposes other than source water particle removal. Lime softening plants operating under certain conditions, depending upon process configuration and raw water characteristics or when flocculation conditions change, may periodically experience a carry over of extremely fine calcium carbonate or magnesium hydroxide particles. These fine particles may pass through filters thereby resulting in artificially elevated effluent turbidity levels. If turbidity performance criteria are tightened under the IESWTR some plants may have difficulty meeting these criteria but still achieve substantial removal of *Giardia lamblia*, *Cryptosporidium parvum*, and viruses. As reflected in the 1989 SWTR, USEPA believes that in cases where lime softening is practiced and source water turbidity levels are low, provisions for alternative treatment performance criteria (i.e., in lieu of turbidity) may be appropriate.

As in the present SWTR, USEPA believes that demonstrations of equivalent protection need not be based on actual demonstrations (e.g. pilot plant study results). Instead the State's determination can be based on the factors cited at 54 FR 27503 as quoted above. Other factors related to source water microbial quality (e.g. pristine source water, source water protection programs, microbial monitoring results, bank filtration) may be appropriate for such determinations.

USEPA requests comment on the appropriateness of continuing existing provisions that provide States the flexibility of approving higher turbidity levels up to 1 NTU in 95 percent of samples per month and up to 2 NTU maximum turbidity for such plants, and additionally seeks comments on:

- What types of plants might fall in this category (e.g. softening plants designed for color and hardness removal with very low turbidity source waters);
- What demonstrations of equivalent protection from Giardia lamblia, Cryptosporidium parvum, and viruses are appropriate (e.g. microbiological analysis of the filtered water, monitoring results for protozoans, watershed control, wellhead protection programs);
- What additional or alternative requirements States might place on such systems to insure the objective of equivalent protection from Giardia lamblia, Cryptosporidium parvum, and viruses (e.g. regular monitoring for protozoans in source and or filtered water, or for other water quality parameters, watershed control, well head protection programs);
- Allowing systems to acidify turbidity samples when calcium carbonate carry-over exists to obtain true turbidity readings; and
- The appropriateness of including source water microbial quality measurements or surrogates as part of a State determination of equivalent protection when considering whether to authorize higher operating turbidity levels.

D. Disinfection Benchmark for Stage 1 DBP MCLS

A fundamental principle of the 1992–93 regulatory negotiation which was reflected in the 1994 proposal for the IESWTR was that new standards for control of byproducts must not result in significant increases in microbial risk. This principle was also one of the underlying premises of the M-DBP Advisory Committee's deliberations, i.e., that existing microbial protection must not be significantly reduced or undercut as a result of systems taking the necessary steps to comply with the Stage 1 DBPR. The Advisory Committee's recommendations to meet this key objective are discussed in this section.

The approach outlined below represents the recommendation of the Advisory Committee to develop a mechanism that is designed to assure that pathogen control is maintained while the Stage 1 DBPR provisions are implemented. Briefly, the disinfection benchmark addresses the three issues of who must gather the necessary information to evaluate current practices, how the benchmark operates, and finally, how the system and the State work together to assure that microbial control is maintained.

Based on data provided by systems and reviewed by the TWG, the baseline of microbial inactivation (expressed as logs of *Giardia lamblia* inactivation) demonstrated high variability. Inactivation varied by several logs on a day-to-day basis at any particular treatment plant and by as much as tens of logs over a year due to changes in water temperature, flow rate (and consequently contact time), seasonal changes in residual disinfectant, pH, and disinfectant demand (and consequently disinfectant residual). There were also differences between years at individual plants.

To address these variations, the TWG developed an approach for a system to use to characterize disinfection practice; the procedure is called profiling. In essence, this approach allows a plant to chart or plot its daily levels of *Giardia* inactivation on a graph which, when viewed on a seasonal or annual basis, represents a "profile" of the plant's inactivation performance. The system can use the profile to develop a baseline or benchmark of inactivation against which to measure possible changes in disinfection practice. This approach makes it possible for a plant that may need to change practice to meet DBP MCLs to assure no significant increase in microbial risk. It provides the necessary tool to allow plants to project or measure the possible impacts of potential changes in disinfection. Only certain systems would be required to develop a profile and keep it on file for State review during sanitary surveys, and only a subset of those required to develop a profile would be required to submit it to the State as part of a package submitted when the system is making significant changes to its disinfection practice.

USEPA reiterates its request for comment on the following recommendations of the M-DBP Advisory Committee that address the three questions outlined above: (1) who should develop a profile, (2) how a profile is actually generated, and (3) how the profile will be used.

1. Applicability

Systems would be required to prepare a disinfection profile, if at least one of the following criteria are met:

(1) TTHM levels are at least 80% of the MCL (0.064 mg/l) as an annual average for the most recent 12 month compliance period for which compliance data are available prior to November 1998 (or some other period designated by the State). Monitoring would be in accordance with current TTHM requirements.

(2) Haloacetic acid (HAA5) levels are at least 80% of the MCL (0.048 mg/l) as an annual average for the most recent 12 month period for which data are available (or some other period designated by the State). In connection with HAA5 monitoring, the following provisions apply:

(a) Systems that have collected HAA5 data under the ICR must use those data to determine the HAA5 level, unless the State determines that there is a more representative annual data set.

(b) If the system does not have four quarters of HAA5 data by the end of 90 days following the IESWTR promulgation date, the PWS must conduct HAA5 monitoring for four quarters. This monitoring must comply with the monitoring requirements included in the DBP Stage 1 rule.

(The Advisory Committee recommended a value of 80% of the MCL because available data indicated that DBP levels varied from year to year due to many factors (e.g., changes in source water quality, changes in water demand). The Committee believed that targeting a level 20% below the MCL would include most systems that would be expected to make changes to comply with the TTHM and HAA5 MCLs on a continuing basis. Also, USEPA previously considered this target level at the recommendation of the 1992 reg-neg committee, to evaluate DBP Stage 1 compliance forecasts and costs, based upon the judgement that most facilities will take additional steps to ensure continuing MCL compliance if they are at or above these levels.)

2. Developing the Profile and Benchmark

As outlined above, profiling is the characterization of a system's disinfection practice over a period of time. The system can create the profile by conducting new daily monitoring or by using "grandfathered" data (as explained below). A disinfection profile consists of a compilation of daily *Giardia lamblia* log inactivations (or virus inactivations under conditions to be specified in the final rule), computed over the period of a year, based on daily measurements of operational data (disinfectant residual concentration(s), contact time(s), temperature(s), and where necessary, pH(s)).

Grandfathered data are those operational data that a system previously collected at a treatment plant during the course of normal operation. These data may or may not have been used previously for compliance determinations with the SWTR. Those systems that have all necessary data to determine profiles, using operational data collected prior to promulgation of the IESWTR, would be able to use up to three years of operational data in developing profiles. Grandfathered operational data should be substantially equivalent to operational data that would be collected under this rule.

Those systems that do not have three years of operational data to develop profiles would have to conduct monitoring to develop the profile for one year beginning no later than 15 months after IESWTR promulgation. If the PWS has existing operational data to develop profiles, it would have to use those data to develop profiles for the years prior to the IESWTR promulgation.

In order to develop the profile, a system would have to:

—Measure disinfectant residual concentration (C, in mg/l) prior to entrance into distribution system and just prior to each additional point of disinfectant addition, whether with the same or a different disinfectant.
—Determine contact time (T, in minutes) during peak flow conditions. T can be based on either a tracer study *or* assumptions based on contactor geometry and baffling. However, systems would have to use the same method for both grandfathered data and new data.
—Measure water temperature (° C).
—Measure pH (for chlorine only).

The system would then have to convert operational data to log inactivation values for *Giardia* (and viruses when chloramines or ozone used as primary disinfectant).

—Determine CT_{actual} for each disinfection segment.
—Determine $CT_{99.9}$ (i.e., 3-logs inactivation) from tables in the SWTR/IESWTR using temperature (and pH for chlorine) for each disinfection segment. [NOTE: USEPA may redesign the tables so that no conversion is necessary (i.e., the tables will reflect a CT_{90} (1-log) value.]
—For each segment, log inactivation = $(CT_{act}/CT_{99.9}) \times 3.0$.

A log inactivation benchmark would then be calculated as follows:

1. Calculate the average log inactivation for each calendar month.
2. Determine the calendar month with the lowest average log inactivation.
3. The lowest average month becomes the critical period for that year.
4. If data from multiple years are available, the average of critical periods for each year becomes the benchmark.
5. If only one year of data is available, the critical period for that year is the benchmark.

3. State Review

The State would review disinfection profiles as part of its periodic sanitary survey. If a system that is required to develop a disinfection profile subsequently decides to make a significant change in disinfection practice, it would have to consult with the State before implementing such a change. Significant changes would be defined as: (1) moving the point of disinfection, (2) changing the type of disinfectant, (3) changing the disinfection process, or (4) making any other change designated as significant by the State. Supporting materials for such consultation would have to include a description of the proposed change, the disinfection profile, and an analysis of how the proposed change will affect the current disinfection benchmark.

4. Guidance

USEPA, in consultation with interested stakeholders, will develop guidance for States and systems on how to develop and evaluate disinfection profiles, how to identify and evaluate significant changes in disinfection practices, and guidance on moving the point of disinfection from before the point of coagulant addition to after the point of coagulant addition. USEPA will also develop guidance for systems that would be required to develop a profile based on virus inactivation instead of *Giardia lamblia* inactivation. Guidance will be available when the IESWTR is promulgated.

5. Request for Public Comment

USEPA requests comment on all aspects of the recommendation outlined above and any alternative suggestions that stakeholders or other interested parties may have. Commenters may want to focus particular attention on the following issues:

—Applicability requirements,
—Characterization of disinfection practices and components (e.g., monitoring, analysis),
—Use of TTHM and HAA5 data from the same time period instead of TTHM data from one year and HAA5 data from another,
—Definition of significant changes to disinfection practice,
—Different approaches to evaluating possible changes in disinfection practice against a disinfection profile, and
—Whether the use of grandfathered data, if available, should be

mandatory for profiling and benchmarking.

E. Definition of Ground Water Under the Direct Influence of Surface Water (GWUDI)—Inclusion of Cryptosporidium in the Definition

1. Summary of 1994 Proposal and Public Comments

The July 29, 1994, **Federal Register** notice proposed to amend the SWTR by including *Cryptosporidium* in the definition of a GWUDI system. Under the rule, a system using ground water considered vulnerable to *Cryptosporidium* contamination would be subject to the provisions of the SWTR. USEPA proposed that this determination be made by the State for individual sources using State-established criteria.

The 1994 proposed IESWTR also requested comment on revisions to USEPA's guidance on this issue. *Cryptosporidium* oocysts are smaller than *Giardia* cysts and may have substantially different hydrodynamic behavior in ground water due to their smaller size and perhaps also due to a difference in charge distribution on the outer surface of the oocyst. USEPA guidance for the determination of GWUDI suggests methods that may be insensitive to this differing hydrodynamic behavior in ground water.

Almost all commenters agreed that *Cryptosporidium* should be added to the definition. Only one commenter clearly opposed the addition without caveat, maintaining that problems with the analytical methods for the recovery and enumeration of viable organisms and uncertainties associated with risk assessment should preclude its addition. One commenter contended that *Cryptosporidium* should be included only if USEPA addresses the amount of natural disinfection at each site and defines treatment effectiveness, especially coagulant use, for GWUDI systems. One commenter believed that the definition of *Cryptosporidium* should be made at the species level, e.g. *Cryptosporidium parvum*, because other species were not pathogenic to humans.

One commenter was concerned about the Microscopic Particulate Analysis (MPA), one of the methods that USEPA identifies in guidance as being suitable for making GWUDI determinations. As part of this method, a microscopic examination is made of the ground water to determine whether insect parts, plant debris, rotifers, nematodes, *Giardia lamblia*, and other material associated with the surface or near surface environment are present. The commenter claimed that the MPA has analytical method problems similar to those associated with the recovery of cysts and oocysts from environmental samples and suggested that the method should undergo additional testing with positive and negative controls and with performance evaluation samples.

2. Overview of Existing Guidance

USEPA issued guidance on the MPA in October 1992 as the Consensus Method for Determining Groundwater Under the Direct Influence of Surface Water Using Microscopic Particulate Analysis. Additional guidance for making GWUDI determinations is also available (USEPA, 1994e,f). Since 1990, States have acquired substantial experience in making GWUDI determinations and have documented their approaches (Massachusetts Department of Environmental Protection, 1993; Maryland, 1993; Sonoma County Water Agency, 1991). Guidance on existing practices undertaken by States in response to the SWTR may also be found in the State Sanitary Survey Resource Directory, jointly published in December 1995 by USEPA and the Association of State Drinking Water Administrators. AWWARF has also published guidance (Wilson et al., 1996).

3. Summary of New Data and Perspectives

Most recently, Hancock et al. (1997) used the MPA test to study the occurrence of *Giardia* and *Cryptosporidium* in the subsurface. They found that, in a study of 383 ground water samples, the presence of *Giardia* correlated with the presence of *Cryptosporidium*. The presence of both pathogens correlated with the amount of sample examined but not with the month of sampling. There was a correlation between source depth and occurrence of *Giardia* but not *Cryptosporidium*. The investigators also found no correlation between the distance of the ground water source from adjacent surface water and the occurrence of either *Giardia* or *Cryptosporidium*. However, they did find a correlation between distance from a surface water source and generalized MPA risk ratings of high (high represents an MPA score of 20 or greater), medium or low, but no correlation was found with the specific numerical values that are calculated by the MPA scoring system.

USEPA is interested in an expanded discussion of MPA performance. The work cited here is preliminary information and represents the only data provided to USEPA so far. USEPA is considering several analytical activities to address possible changes in the GWUDI determination guidance. These changes are as follows:

- Change the MPA methodology to include a score for *Cryptosporidium* oocysts in the risk rating method.
- Conduct additional comparison of MPA scores with cyst and oocyst recovery to evaluate the performance of MPA as an indicator method (e.g., Schulmeyer, 1995).
- Conduct additional MPA performance evaluation testing (with both positive and negative controls).
- Compare MPA scores and cyst/oocyst recovery in horizontal collector wells and vertical wells to determine if additional guidance for horizontal collector wells is needed.

4. Request for Public Comment

USEPA is continuing to consider inclusion of *Cryptosporidium* in the definition of GWUDI. USEPA requests further comment on this issue as well as on issues outlined above pertaining to guidance for GWUDI determinations.

F. Inclusion of Cryptosporidium in Watershed Control Requirements

1. Summary of 1994 Proposal and Public Comments

USEPA proposed to extend the existing watershed control requirements for unfiltered systems to include the control of *Cryptosporidium*. This would be analogous to and build upon the existing requirements for *Giardia lamblia* and viruses; *Cryptosporidium* would be included in the watershed control provisions wherever *Giardia lamblia* is mentioned. USEPA also proposed requiring a State, as a condition of primacy, to describe how it would judge the adequacy of watershed control programs for *Cryptosporidium* as well as *Giardia lamblia* and viruses in the source water.

Several commenters to the proposed rule specifically supported inclusion of *Cryptosporidium* in watershed control. Others supported watershed control programs in general without specifically articulating an opinion on *Cryptosporidium*. One commenter specifically opposed the inclusion of *Cryptosporidium* in watershed control program, maintaining that other avenues of watershed control could be promoted without including this organism in the control plan. Another commenter opposed including *Cryptosporidium* because environmental sources of *Giardia* and *Cryptosporidium* were not sufficiently understood. This commenter also opposed the requirement to include *Cryptosporidium* in State watershed control program protocols as a condition of primacy.

Other comments included: (1) Systems need to be informed of the nature of upstream pathogen sources and changes in upstream water quality in a timely manner, (2) watershed characteristics should not be the sole basis for determining water treatment strategies, (3) upstream sewage discharges should be prohibited and cattle farming and feedlots prohibited or substantially limited in a watershed, and (4) watershed control programs should be scientifically based, educational, and voluntary. One commenter contended that the burden of contamination on the watershed should not fall to the drinking water systems, and that better coordination on regulations is needed between the USEPA's drinking water and wastewater programs.

2. Overview of Existing Guidance

The SWTR specifies the conditions under which a system can avoid filtration (40 CFR 141.71). These conditions include good source water quality, as measured by concentrations of coliforms and turbidity, disinfection requirements; watershed control; periodic on-site inspections; the absence of waterborne disease outbreaks; and compliance with the Total Coliform Rule and the MCL for TTHMs.

The watershed control program under the SWTR must minimize the potential for source water contamination by Giardia lamblia and viruses. This program must include a characterization of the watershed hydrology characteristics, land ownership and activities which may have an adverse effect on source water quality. The SWTR Guidance Manual (USEPA, 1991a) identifies both natural and human-caused sources of contamination to be controlled. These sources include wild animal populations, wastewater treatment plants, grazing animals, feedlots, and recreational activities. The Guidance Manual recommends that grazing and sewage discharges not be permitted within the watershed of unfiltered systems, but indicates that these activities may be permissible on a case-by-case basis where there is a long detention time and a high degree of dilution between the point of activity and the water intake.

3. Summary of New Data and Perspectives

Since proposal of the IESWTR in July 1994, several new outbreaks of waterborne cryptosporidiosis have occurred in the United States. A recent summary of these outbreaks (Solo-Gabriele and Neumeister, 1996) identified raw sewage, surface runoff from livestock grazing areas, septic tank effluent, cattle wastes, treated wastewater, and backflow of contaminated water in the distribution system as the suspected sources of *Cryptosporidium* contamination of the water supplies in these outbreaks. Cattle grazing, feedstocks and in particular, calves and other young livestock, appear to be of greater concern for *Cryptosporidium* contamination than for *Giardia*. Some outbreaks of cryptosporidiosis have been related to upsets in the treatment process of filtered water systems or have occurred on occasions when spikes in turbidity have occurred in those systems. However, little information is available for unfiltered water systems as to whether spikes in raw water turbidity increase the likelihood that elevated levels of *Cryptosporidium* are present in the source water. Because *Cryptosporidium* cannot easily be controlled with conventional disinfection practices, there is particular concern about the presence of this organism in the source waters of systems that do not filter.

Data from the ICR may be useful in providing information on the relative *Giardia* and *Cryptosporidium* levels in the raw water sources of unfiltered and filtered water systems. In one comprehensive study on *Giardia* and *Cryptosporidium* densities in ambient water and drinking water, investigators (LeChevallier and Norton, 1995) found *Cryptosporidium* oocyst levels in ambient water ranging from 0.065/L to 65.1/L, with a geometric mean of 2.4 oocysts/L. In drinking water, the level of *Cryptosporidium* oocysts ranged from 0.29–57 oocysts/100L, with a mean of 3.3 oocysts/100L.

The Seattle Water Department summarized the *Giardia* and *Cryptosporidium* monitoring results from several unfiltered water systems (Montgomery Watson, 1995). The central tendency of this data is about 1 oocyst/100L. Thus, depending upon what removal efficiencies are achieved by filtration for *Cryptosporidium* (for example, 2 logs), it appears that unfiltered water systems that comply with the source water requirements of the SWTR may have a risk of cryptosporidiosis equivalent to that of a water system with a well-operated filter plant using a water source of average quality.

Although there are no specific monitoring requirements in the watershed protection program, the non-filtering utility is required to develop state-approved techniques to eliminate or minimize the impact of identified point and non-point sources of pathogenic contamination. USEPA is considering adding specific monitoring requirements to the IESWTR for the unfiltered supplies serving 10,000 or more people to ensure the continued effectiveness of the watershed control program. The monitoring would be similar to the requirements under the ICR for *Giardia* and *Cryptosporidium* although the sampling frequency may be modified. As with the ICR, a USEPA-approved method and laboratory for *Giardia* and *Cryptosporidium* analyses would be required.

At a minimum, such a monitoring program might require some level of routine sampling (e.g., on a weekly, biweekly or monthly basis). The program may also include "event" sampling. An "event" would constitute an occasion when the raw water turbidity and/or fecal/total coliform concentration exceeded a specific value or possibly exceeded a site-specific 90th percentile value. At least one sample during an event might be required in addition to routine sampling. Results of all protozoa and related analyses would be made available to the State at a minimum as part of the annual on-site inspection required under the SWTR for non-filtering supplies.

USEPA is continuing to consider extending the existing watershed control requirements for unfiltered systems to include the control of *Cryptosporidium*. USEPA requests further comment on this issue. The Agency also requests comment on issues pertaining to monitoring for unfiltered systems serving 10,000 or more people, including comment on the following approaches:

Routine Source Water *Giardia* and *Cryptosporidium* Monitoring:

Option 1. Weekly *Giardia* and *Cryptosporidium* Monitoring
Option 2. Bi-Weekly *Giardia* and *Cryptosporidium* Monitoring
Option 3. Monthly *Giardia* and *Cryptosporidium* Monitoring

The Agency also requests comments on whether the frequency of monitoring should depend on system size, e.g., should requirements differ for systems serving between 10–100,000 people versus those serving more than 100,000 people.

"Event" Source Water *Giardia* and *Cryptosporidium* Monitoring:

Option 1. No event sampling required.
Option 2. Collect sample(s) for *Giardia* and *Cryptosporidium* when source water turbidity exceeds 1.0 NTU or some alternative value such as a site-

specific 90th percentile which might be lower than 1.0 NTU.

Option 3. Collect sample(s) for *Giardia* and *Cryptosporidium* when source water fecal coliform concentration exceeds 20 per 100 mL or total coliform level exceeds 100 per 100 mL, depending on which class of coliforms is used under the individual systems filtration avoidance agreement. Alternatively, the trigger could be some other coliform or fecal coliform value.

Option 4. Individual utility develops turbidity frequency distribution (e.g., based on previous 1 to 3 years of daily historical data) and collects sample(s) for *Giardia* and *Cryptosporidium* when turbidity exceeds 90th percentile level.

Option 5. Some combination of Options 2, 3, or 4.

The Agency also requests comment on whether any of the above options should depend on system size.

G. Sanitary Survey Requirements

1. Summary of 1994 Proposal and Public Comments

The July 29, 1994, **Federal Register** proposed to amend the SWTR to require periodic sanitary surveys for all public water systems that use surface water, or ground water under the direct influence of surface water, regardless of whether they filter or not. States would be required to review the results of each sanitary survey to determine whether the existing monitoring and treatment practices for that system are adequate, and if not, what corrective measures are needed to provide adequate drinking water quality.

The July 1994 notice proposed that only the State or an agent approved by the State would be able to conduct the required sanitary survey, except in the unusual case where a State has not yet implemented this requirement, i.e., the State had neither performed the required sanitary survey nor generated a list of approved agents. The proposal suggested that under exceptional circumstances the sanitary survey could be conducted by the public water system with a report submitted to the State within 90 days. USEPA also requested comment on whether sanitary surveys should be required every three or every five years.

Most commenters on this issue voiced support for requiring a periodic sanitary survey for all systems. One commenter suggested that USEPA develop sanitary survey guidance for administration by the States, while another commenter suggested that sanitary surveys by the private sector be certified by States or national associations using USEPA-defined criteria. Commenters recommended that surveys be conducted either by the State or a private independent party/contractor. One respondent contended that sanitary surveys, as presently conducted, were insufficient to assess operational effectiveness in surface water systems.

With regard to sanitary survey frequency, commenters were nearly evenly divided between every three years and every five years. Some commenters argued that the frequency should depend on: (1) whether a system's control is effective or marginal, (2) system size (less frequent for small systems), (3) source water quality, (4) whether the State believes a system's water quality is likely to change over time, (5) results of the previous survey, and (6) population density on the watershed. One commenter suggested an annual sanitary survey.

Regarding criteria for sanitary survey inspectors, some commenters suggested that the State should decide what requirements to use. Others suggested some combination of education and working experience related to water plant operations, including (1) professional engineering certificate and water plant operator license for at least five years, (2) knowledge of surface water contaminants, source and fate of contaminants, and both removal capabilities of existing treatment technologies and ability to evaluate their performance, (3) a BS degree (preferably MS degree) in sanitary or environmental engineering with two years experience in evaluating water treatment plants and valid plant operator's license, (4) five years experience in water system operation, evaluation, and/or design, and a BS in engineering or environmental science, (5) a BS degree in science or engineering and five years experience in the drinking water field.

2. Overview of Existing Regulations and Guidance

Sanitary surveys have historically been conducted by state drinking water programs as a preventive tool to identify water system deficiencies that could pose a threat to public health. The first regulatory requirement for systems to have a periodic on-site sanitary survey appeared in the final TCR (54 FR 27544–27568). This rule requires all systems that collect less than 5 total coliform samples each month to undergo such surveys. These sanitary surveys must be conducted by the State or an agent approved by the State. Community water systems were to have had the first sanitary survey conducted by June 29, 1994, and every five years thereafter while non-community water systems are to have the first sanitary survey conducted by June 29, 1999, and every five years thereafter unless the system is served by a protected and disinfected ground water supply, in which case, a survey must be conducted every 10 years.

The SWTR did not specifically require water systems to undergo a sanitary survey. Instead, it required that unfiltered water systems, as one criterion to remain unfiltered, have an annual on-site inspection to assess the system's watershed control program and disinfection treatment process. The on-site survey must be conducted by the State or a party approved by the state. This on-site survey is not a substitute for a more comprehensive sanitary survey, but the information can be used to supplement a full sanitary survey.

USEPA's SWTR Guidance Manual (USEPA, 1991a), Appendix K, suggests that, in addition to the annual on-site inspection, a sanitary survey be conducted every three to five years by both filtered and unfiltered systems. This time period is suggested "since the time and effort needed to conduct the comprehensive survey makes it impractical for it to be conducted annually."

3. New Developments

Since the publication of the proposed ESWTR in 1994, USEPA and the States (through the Association of State Drinking Water Authorities) have issued a joint guidance on sanitary surveys entitled USEPA/State Joint Guidance on Sanitary Surveys (1995). The Guidance outlines the following elements as integral components of a comprehensive sanitary survey:

- Source
  - —Protection
  - —Physical Components and Condition
- Treatment
- Distribution System
- Finished Water Storage
- Pumps/Pump Facilities and Controls
- Monitoring/Reporting/Data Verification
- Water System Management/ Operations
- Operator Compliance with State Requirements

The guidance also addresses the qualifications for sanitary survey inspectors, the development of assessment criteria, documentation, follow-up after the survey, tracking and enforcement.

USEPA is aware that a number of States have independently developed their own sanitary survey criteria. For instance, the American Water Works Association California-Nevada Section, Source Water Quality Committee in conjunction with the California Department of Health Services, Division of Drinking Water and Environmental Management (DHS) have published a document entitled Watershed Sanitary Survey Guidance Manual (AWWA-California -Nevada Section 1993) to assist domestic water suppliers in defining the scope of their watershed sanitary surveys and to provide information on the methods and sources of information for conducting sanitary surveys.

4. Advisory Committee Recommendations and Related Issues

USEPA reiterates its request for comment on the following recommendations of the M–DBP Advisory Committee.

A sanitary survey would be defined as an onsite review of the water source (identifying sources of contamination using results of source water assessments where available), facilities, equipment, operation, maintenance, and monitoring compliance of a system to evaluate the adequacy of the system, its sources and operations and the distribution of safe drinking water. Included in this definition is the concept that components of a sanitary survey may be completed as part of a staged or phased State review process within the established frequency interval set forth below. Finally, for a sanitary survey to fall within this definition, it must address each of the eight elements in the December 1995 USEPA/State Guidance on Sanitary Surveys.

In terms of frequency, this approach would provide that sanitary surveys must be conducted for all surface water systems (including ground water under the influence) no less frequently than every three years for community systems and no less frequently than every five years for noncommunity systems. Any sanitary survey conducted after December 1995, that addresses the eight sanitary survey components of the 1995 EPA/State guidance, may be counted or "grandfathered" for purposes of completing the round of surveys. This approach would also provide that for community systems determined by the State to have outstanding performance based on prior sanitary surveys, successive sanitary surveys may be conducted no less than every five years.

Finally, under this approach, as part of follow-up activity for sanitary surveys, systems must respond to deficiencies outlined in the State's sanitary survey report within 45 days, indicating how and on what schedule the system will address significant deficiencies noted in the survey. In addition, States must have the appropriate rules or other authority to assure that facilities take the steps necessary to address significant deficiencies identified in the survey report that are within the control of the PWS and its governing body.

USEPA also requests comment on whether systems should be required to respond in writing to a State's sanitary survey report discussed in the paragraph above. USEPA also requests comment on (1) what would constitute "outstanding performance" for purposes of allowing sanitary surveys for a community water system to be conducted every five years and (2) how to define "significant deficiencies."

H. Covered Finished Water Reservoirs

1. Summary of the 1994 Proposal and Public Comments Received

The July 29, 1994, **Federal Register** indicated that USEPA was considering whether to issue regulations requiring systems to cover finished water reservoirs and storage tanks, and requested public comment. The rationale for this position was given in the proposed rule.

Most commenters supported either federal or State requirements. Some commenters suggested that regulations apply only to new reservoirs. Some commenters opposed any requirement, citing high cost, the notion that "one size does not fit all", and aesthetic benefits of an open reservoir.

Some commenters suggested elements for such regulations or guidance, including (1) applying the same criteria to finished water reservoirs as exists for unfiltered surface water systems, (2) using engineering measures to minimize contamination, (3) disinfecting the effluent to maintain residual in distribution system, (4) monitoring reservoirs routinely for water quality indicators, (5) covering all storage tanks, (6) fencing reservoirs with signs warning against swimming, trespassing, and tampering, and (7) adding notices in the annual water quality report that the reservoir is not in compliance with current waterworks standards. A few commenters suggested a number of other elements.

2. Overview of Existing Information

Possible Health Concerns: When a finished water reservoir is open to the atmosphere it may be subject to some of the environmental factors that surface water is subject to, depending upon site-specific characteristics and the extent of protection provided. It may be subject to contamination by persons tossing items into the reservoir or illegal swimming (Pluntze 1974; Erb, 1989).

Microscopic and other organisms may proliferate in open finished water reservoirs. Increases in algal cells, heterotrophic plate count (HPC) bacteria, turbidity, color, particle counts, biomass and decreases in chlorine residuals have been reported (Pluntze, 1974, AWWA Committee Report, 1983, Silverman et al., 1983, LeChevallier et al. 1997a).

Small mammals, birds, fish, and the growth of algae may contribute to the microbial degradation of an open finished water reservoir (Graczyk et al., 1996; Geldreich, 1990; Fayer and Unger, 1986; Current, 1986). Mammals, birds and fish and their carcasses seed the water and the sediment with total and fecal coliforms, *E. coli* and pathogens. In one study, sea gulls contaminated a 10 million gallon reservoir and increased bacteriological growth and in another study waterfowl were found to elevate coliform levels in small recreational lakes by twenty times their normal levels (Morre, 1979). Seagulls are a source of numerous coliforms and can also be a source for several human pathogens, (Geldreich and Shaw, 1993). Algal growth increases the biomass in the reservoir, which reduces dissolved oxygen and thereby increases the release of iron, manganese, and nutrients from the sediments. This, in turn, supports more growth (Cooke and Carlson, 1989). Plants, macrophytes and organic debris will add to the biomass and nutrient supply.

State Regulations: In order to assess regulatory requirements at the State level, it is necessary to contact individual drinking water programs and collect and evaluate specific regulatory language obtained from those programs. A survey of nine States was conducted in the summer of 1996 (Montgomery Watson, 1996). The States which were surveyed included several in the West (Oregon, Washington, California, Idaho, Arizona, and Utah), two States in the East known to have water systems with open reservoirs (New York and New Jersey), and one midwestern state (Wisconsin). Seven of the nine States which were surveyed require by direct rule that all new finished water reservoirs and tanks be covered.

Survey of Ten Utilities: There is no comprehensive information available on the number or size of open finished water reservoirs in water systems around the country; however, there is one recent survey of ten utilities which either have open finished water reservoirs or which had them in the past and covered or replaced them (E&S Environmental Chemistry, 1997). The existing open reservoirs which were operated by these systems varied greatly in size, from 5.5 million gallons (MG) to 900 MG. The systems with open finished reservoirs also had closed reservoirs within their service area, but for some of the systems the open reservoirs represent the largest component of total storage volume in the systems.

Most of the reservoirs in the systems in this survey were excavated and lined, but several of the larger ones were formed by dams or natural lakes that had been converted to water supply use. Many of these reservoirs have irregular geometry and configurations which make covering very difficult or impossible. Others are so large that covering them would be impractical. For some of these reservoirs, it is impractical to find locations for replacement with the proper hydraulic characteristics and size. To partially solve this problem in some cases, systems have chosen to leave large existing open reservoirs off-line, except for emergency supply purposes.

None of the systems had comprehensive evidence about the effect of open reservoirs on water quality. These water systems had instituted a number of measures at open reservoirs to control potential sources of contamination; these measures included fencing setbacks, security cameras, on-site surveillance, rechlorination, wire canopies to control bird activity, and other measures.

3. Request for Public Comment

USEPA is considering as part of the IESWTR a requirement that systems cover all new reservoirs, holding tanks or other storage facilities for finished water for which construction begins after the effective date of the rule. The Agency intends to further consider this issue, including whether there should be a requirement that all finished water reservoirs, holding tanks and other storage facilities be covered, as part of the development of the Long-Term ESWTR. The Agency requests further comment on this issue and whether provisions should be established to require all new reservoirs, holding tanks, or other storage facilities to be covered.

I. Cross Connection Control Program

1. Summary of 1994 Proposal and Public Comments

The July 29, 1994, **Federal Register** requested public comment on whether the Agency should require States and/or systems to have a cross-connection control program. In addition, the Agency solicited comment on a number of associated issues, including (1) what specific criteria, if any, should be included in such a requirement, (2) how often such a program should be evaluated, (3) whether USEPA should limit any requirement to only those connections identified as a cross connection by the public water system or the State, and (4) conditions under which a waiver from this requirement would be appropriate. The Agency also requested commenters to identify other regulatory measures USEPA should consider to prevent contamination of drinking water in the distribution system (e.g., minimum pressure requirements in the distribution system).

Most commenters supported either a federal or State cross connection control program. Various commenters recommended that such a program include a backflow prevention program with approved backflow preventer lists, categorization of all service connections with respect to potential risk of backflow, requirement for periodic testing and maintenance of backflow prevention devices, periodic review of program by State, establishment of an annual backflow device testing program, establishment of a backflow device inspector certification program, enforcement authority, and other suggestions. Commenters also recommended national disinfection procedures for repair of water lines and for placing new lines into service, a provision for at least one person trained in cross-connection control to carry out the program, and other suggestions.

Commenters opposed to a cross connection control program indicated that (1) a federally-mandated program would be impractical, burdensome, and would fail, (2) a State program would be more appropriate than an USEPA-mandated program, (3) most States already have a comprehensive program, thus negating need for federal regulations, (4) USEPA should publish general guidelines only, and (5) there should be a separate regulation because a cross connection control program would affect both surface water and ground water.

2. Overview of Existing Information

Historically, a significant portion of waterborne disease outbreaks reported by CDC are caused by distribution system deficiencies. Distribution system deficiencies are defined in CDC's publication Morbidity and Mortality Weekly Report as cross connections, contamination of water mains during construction or repair, and contamination of a storage facility. Between 1971–1994, approximately 53 waterborne disease outbreaks were associated with cross connections or backsiphonage. Fifty-six outbreaks were associated with other distribution system deficiencies (Craun, Pers. Comm. 1997b). Some outbreaks have resulted from water main breaks or repairs.

There is no centralized repository where backflow incidents are reported or recorded. The vast majority of backflow incidents are probably not reported. Specific backflow incidents are described in detail in USEPA's Cross-Connection Control Manual (USEPA, 1989a).

Where cross connections exist, some protection is still afforded to the distribution system by the maintenance of a positive water pressure in the system. Adequate maintenance of pressure provides a net movement of water out through breaks in the distribution pipes and prevents contaminated water outside of the pipes from entering the drinking water supply. The loss of pressure in the distribution system, less than 20 psi, can cause a net movement of water from outside the pipe to the inside, possibly allowing the introduction of fecal contamination into the system. This problem is of special concern where wastewater piping is laid in the same street as the water pipes, creating a potential threat to public health whenever there is low or no pressure.

Many States have cross connection control programs. A Florida Department of Environmental Protection survey evaluated cross-connection control regulations in the 50 states (Florida DEP 1996). The survey results showed that 29 of the 40 states that responded to the survey request have programs. The rigor of the programs and the extent to which they are enforced was not addressed by the survey. An USEPA report suggests that the responsibility for administration and enforcement of the State programs is generally at the local level (USEPA, 1995a).

3. Request for Public Comment

USEPA does not plan to address cross connection control in the IESWTR. As noted above, many States currently have programs, although the extent to which these vary is unclear. The Agency does plan to consider cross connection control issues during the development of the Long-Term ESWTR, in the context of a broad range of issues related to distribution systems. USEPA continues to request comments or additional information related to cross connection control or other distribution system issues.

J. Recycling Filter Backwash Water and Filtering to Waste

The July 29, 1994, notice requested comment on the extent to which the ESWTR should address the issue of recycling filter backwash water, given its potential for increasing the densities of *Giardia* and *Cryptosporidium* on the filters. The 1996 Amendments to the SDWA require USEPA to promulgate a regulation for filter backwash recycling not later than August 2000, (SDWA 1412(b)(14)).

Most commenters who addressed this issue contended that backwash water should not be recycled or that, if it is recycled, it should be treated first. One commenter suggested that this decision should be based on the pathogen density in the backwash water. Another commenter suggested that the rule should include criteria for assessing the extent of backwash recycling, depending on raw water quality, size of filters, and water volume. Another commenter maintained that this issue should be left to the State and system. One commenter suggested that the impacts of recycling needed additional research and that any rule addressing this issue needed to incorporate the results of the latest research.

1. Filter Backwash Recycle Configurations

Treatment plants can be configured into several general categories but the variation within each category is significant.

One aspect of this treatment variation is how recycling of waste streams from plant processes are handled. Figure 4 shows a general schematic of a conventional treatment plant and how recycle streams may be developed and treated. Note that backwash water treatment is carried out in a miniature coagulation-flocculation-sedimentation treatment facility. Some utilities are considering microfiltration to replace these unit processes.

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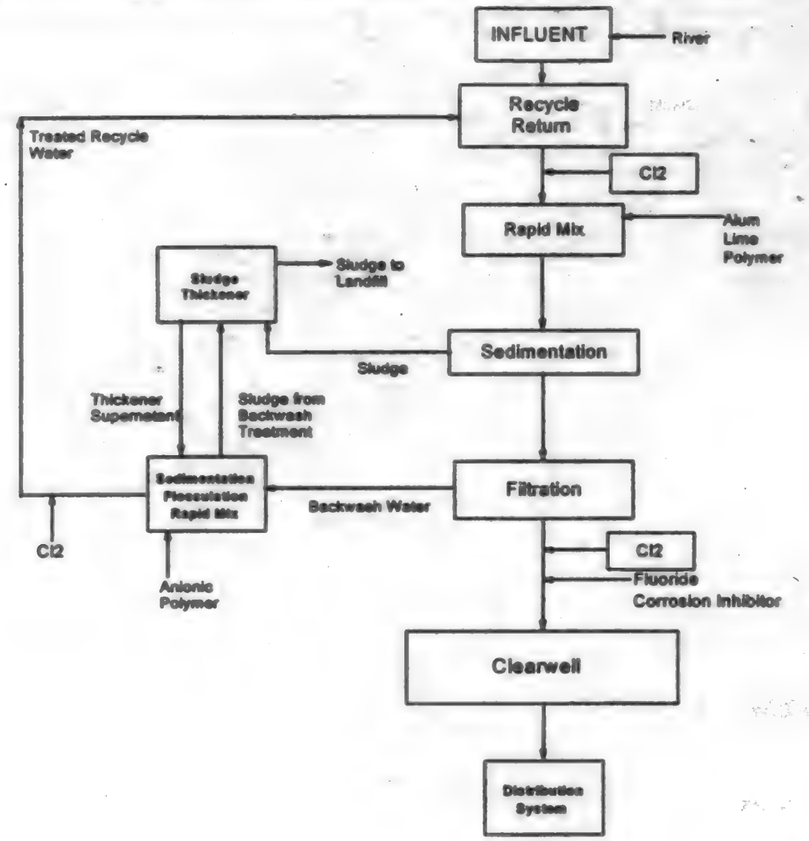

Figure 4. Schematic of Typical Waste Stream Recycle with Treatment

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Figure 5 shows an alternate view for some water treatment facilities that do not practice treatment of their recycled waste streams. There is an almost infinite variety between these two examples. In addition, waste streams can be recycled to many different points in the treatment train. The most common recycle points are at the plant influent or rapid mix. However, there are several known examples of recycle streams being introduced into the treatment process as late as the filter influent.

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Figure 5. Schematic of Typical Waste Stream Recycle without Treatment

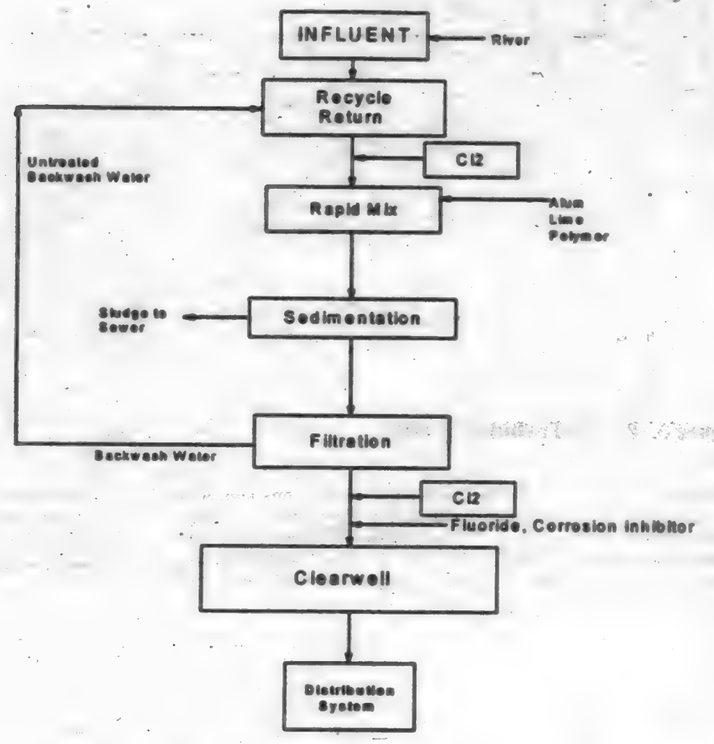

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Figure 6 shows a typical plot of turbidity over time from a filter from reintroduction into service after backwash to breakthrough of turbidity at the end of the filter run. Some plants have installed filter-to-waste facilities which allow the discharge of the first minutes of a filter's operation after backwashing usually into the backwash reclamation system. In California, the State drinking water regulations define filter-to-waste as: ''Filter-to-waste'' means a provision in a filtration process to allow the first filtered water, after backwashing a filter, to be wasted or reclaimed.' (McGuire, 1994)

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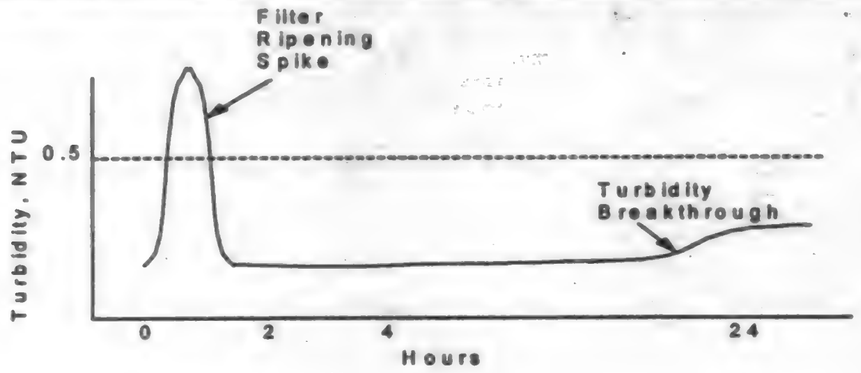

Figure 6. Plot of Turbidity Profile

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Figure 7 shows a general schematic of a filter-to-waste operation. After the backwash process is complete and the filter influent water is allowed to enter the filter, Valve A is operated so that all of the filter effluent water is sent to waste. After a specified period of time or when it is determined that the ripening spike is largely over, Valve A is operated so that the filtered water becomes part of the product water of the treatment plant.

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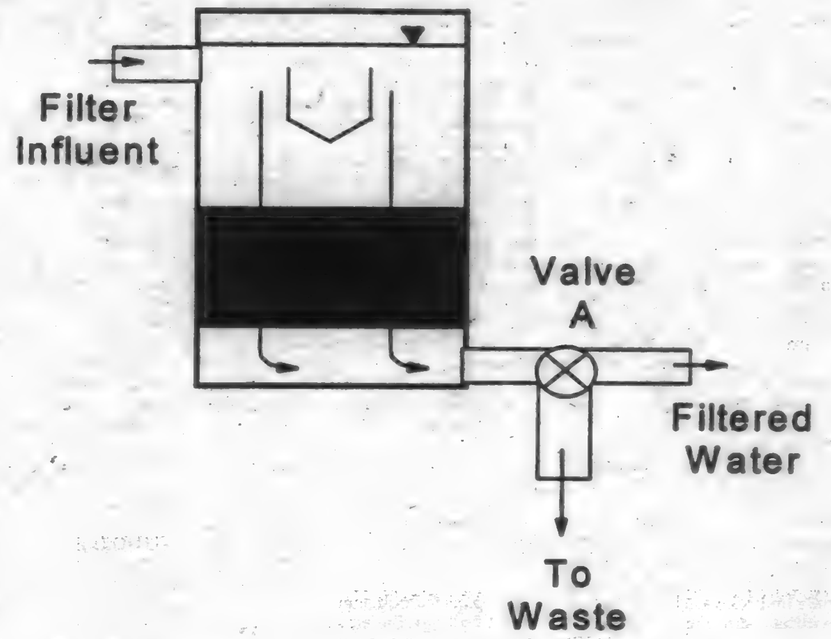
Figure 7. Filter-to-Waste Operation



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2. State Drinking Water Regulations

California has specific regulations that deal with backwash recycle and filter-to-waste. Treatment of backwash recycle flows is covered in the design of treatment facilities section. For new construction, utilities are required to install solids removal treatment for recycled filter backwash water. Also, treated backwash water must be returned to the "headworks" (i.e., the plant influent) of the treatment plant. Solids removal treatment unit processes are not specified in the regulation, but new construction must be approved by the California Department of Health Services (California Health and Safety Code, Sections 64655 & 64660).

To minimize the filter ripening spike, the California Department of Health specifies operational requirements such that filtration rates are increased gradually when filters are placed back into service following backwashing or any other interruption in the operation of the filter. When any individual filter is placed back into service following backwashing or other interruption event, the filtered water turbidity from that filter cannot exceed any of the following criteria:

- 2.0 NTU.
- 1.0 NTU in at least 90 percent of the interruption events during any consecutive 12-month period.
- 0.5 NTU after the filter has been in operation for 4 hours.

For new construction, utilities are required to provide filter-to-waste or add additional coagulant chemicals to backwash water.

3. Literature Overview of Standard of Practice

a. Treatment Reference Texts. The joint ASCE/AWWA (1990) water treatment plant design book includes one section on page 182 dealing with washwater disposal and recovery. The section lists several possibilities including recycling without treatment, equalization and treatment, and lagoons to provide for both equalization and sedimentation. On page 188, the backwash recycle facility at the Duluth, Minnesota plant is described. Chemical addition, flocculation and clarification comprise the backwash treatment system.

The fourth edition of Water Quality and Treatment contains one section on pages 988–989 dealing with filter backwash residuals. The section notes that recovery of "dirty" backwash water is becoming increasingly common and that the volume of backwash water is typically one to five percent of total plant production. Flow equalization is listed as the most common approach to dealing with recycling of backwash water. The section states that "For conventional plants, solid separation before return is not common, and some holding tanks are mixed to keep solids in suspension." Direct filtration plants are noted for needing solids separation

treatment of backwash water, because there is no sedimentation facility in a direct filtration plant. Concerns are expressed in the section about increasing the concentrations of *Giardia* cysts in the plant influent with the recycle of untreated backwash water.

A handbook of practice was published in 1987 dealing with water treatment plant waste management. Backwash water was described as a major waste stream on page 5 and flow equalization was listed as an important requirement. The handbook gives specific examples of the size of beckwash basins needed based on the number of filters backwashed and the backwash frequency. The example discusses tankage volumes that would allow a maximum 10 percent recycle rate of the backwash water to the plant influent. Neither clarification nor polymer addition were mentioned in this early reference (Cornwell et al., 1987).

b. ICR Treatment Plants. Of the 523 treatment plants subject to the ICR, 282 use conventional treatment. Of the conventional treatment plants, 146 (or 52%) practice recycling of their backwash water. Additionally, 15 direct filtration plants and 3 in-line filter plants recycle their backwash water. These data show that a large fraction of the surface water treatment plants recycle their backwash water.

The ICR will provide the first detailed data on the number of treatment plants that treat their recycled backwash water and the technologies they use and some limited data on backwash water quality. Until the initial sampling plan data is available for analysis sometime in early 1998, the only information available on the ICR utilities is from their Initial Sampling Schematics and that will only show the addition of a treatment chemical. The Initial Sampling Schematics do not indicate if coagulation, flocculation or sedimentation is used for washwater recycle treatment.

An inspection of those schematics revealed the following information on treatment of recycled backwash water. A total of 164 schematics for plants using conventional treatment, direct filtration or in-line filtration were examined. Only 12 of the plants indicated that they provided any chemical treatment. Addition of a polymer was practiced at 5 plants. Chlorination as the only treatment of the recycled washwater was found at 2 plants. A total of 5 plants provided both chlorination and polymer treatment of the backwash water.

c. Cornwell and Lee 1993 Report. Another source of information on waste stream quality and the impact of recycling of these streams on treated water quality is found in an American Water Works Association Research Foundation (AWWARF) 1993 report authored by Cornwell and Lee. They studied the quality characteristics of waste streams from 24 treatment plants and investigated the treatment characteristics in some detail at 6 plants.

Among the contaminants analyzed were *Giardia* and *Cryptosporidium*. The study found that filter backwash water could have very high cyst/oocyst concentrations and chemical loads. However, the researchers found no finished water quality problems as a result of recycling.

The study found that backwash water sedimentation was effective in reducing particle and pathogen concentrations in the used filter backwash water. However, very low overflow rates (less than 0.05 gpm/sf) of the sedimentation basin were required to achieve the solids removal unless a polymer was used. Using an anionic polymer increased the particle removals and allowed sedimentation overflow rates of 0.2 to 0.3 gpm/sf. The last two sentences of the Executive Summary of the report provide insight into the overall findings.

"The use of equalized, continuous recycle, proper waste stream treatment prior to recycle, and characterization of waste stream quality through proper monitoring should be used in conjunction with recycle operations. If these recommendations are used, recycle can be an appropriate part of water treatment operations (Cornwell and Lee, 1993)."

In a paper which summarized the report findings, the authors stated a general rule that the recycle streams should be flow equalized and blended in to the plant flow over the entire 24 hour plant operating cycle. The rule of thumb that the amount of recycle should be less than 10 percent of the plant flow may not be sufficient, and a lower percentage of recycle may have to be practiced depending on the quality of the recycled water (Cornwell and Lee, 1994).

d. Other Studies. In 1996, AWWA conducted a survey of treatment plants to determine the extent of backwash water recycling and the treatment provided to that water (McGuire, 1997). A total of 400 plants from utilities serving more than 100,000 people were contacted. About 40 percent of those plants responded. Of those responding, about 60 percent of the plants recycled their filter backwash water. The other 40 percent appeared to discharge the backwash water to a surface water supply or to a sanitary sewer. Of the plants that recycled their backwash water, 27 percent responded that they treated the recycle water. The important point to note from this limited survey is that recycle of backwash water appears to be a common practice among water treatment plants.

4. Filter-to-Waste

One possible concern is the discharge of large number of particles from filters that are put back into service after backwashing. Work done on *Giardia* removal by filtration at Fort Collins, Colorado, indicated that a filter-to-waste period was not necessary to produce low *Giardia* filter effluent levels as long as proper chemical preconditioning of the filter was practiced (Gertig et al. 1988). Logsdon et al. studied sedimentation and several different filter media from removing *Giardia* cysts at McKeesport, Pennsylvania. *Giardia* cyst concentrations were found to be higher at the beginning of the filter run, indicating that filter-to-waste may be needed to reduce the levels of *Giardia* in the finished water (Logsdon et al, 1985).

One study (Amirtharajah, 1988) indicated that more than 90% of the particles that pass through a filter do so during the initial stages of filtration. Another study (Logsdon et al., 1981) found that initial cyst concentrations in the effluent, after backwash, were from 10 to 25 times higher than those in the stabilized filter run, even though the difference in turbidity was less than 0.1 NTU. One British study (Hall and Croll 1996) found that in one test filter run, calculation of the total number of particles released during the whole run showed that up to 30% of the particles were released during the first hour of filter ripening. The turbidity during this peak was 0.4 NTU. Gradual start of the filter after backwashing reduced the peak particle count in the effluent. Effectiveness of practicing filter-to-waste in reducing the passing of oocysts depends on the duration of the ripening period. For example, a 15 minute filter-to-waste period will not be very effective for a ripening period of 2 hours. Mid and end-of-run turbidity spikes can also pass large number of particles (including pathogen oocysts) into the effluent. However, these latter spikes can be controlled by avoidance of flow changes and by timely backwashing the filter.

5. Request for Public Comment

USEPA does not plan to include separate provisions for recycling of filter backwash water and filter-to-waste issues in the IESWTR. The Agency anticipates that some systems will address these issues as part of their efforts to comply with revised turbidity performance standards of 0.3 NTU for the 95th percentile of monthly measurements and a maximum turbidity level of 1 NTU. As previously discussed in this Notice, USEPA is required under the 1996 Amendments to the SDWA to issue a regulation to address filter backwash recycling by August 2000. USEPA plans to develop these regulations in conjunction with the development of the Long-Term ESWTR. USEPA continues to request comments or additional information related to recycling of filter backwash water or filter-to-waste issues.

K. Certification Criteria for Water Plant Operators

The July 29, 1994, notice requested comment on whether the ESWTR should define minimum certification criteria for surface water treatment plant operators. Currently, the SWTR (141.70) requires such systems to be operated by "qualified personnel who meet the requirements specified by the State." The 1996 Amendments to the SDWA require USEPA to undertake several actions with regard to operator certification, including the publication of guidelines specifying minimum standards.

Of the few commenters who addressed this issue most asserted that minimum certification criteria for water operators should be left to the States. One commenter contended that certified operator(s) should be on site at all times and that a non-certified operator should never be in charge. Another respondent noted that rewording § 141.70 to read "personnel who are certified by the State, or can obtain certification within one year of date of employment" will adequately define certification criteria.

Consistent with the 1996 SDWA amendments, USEPA appointed an Operator Certification Working Group of the National Drinking Water Advisory Council (NDWAC) to form a partnership with States, water systems and the public to develop information on recommended operator certification requirements. USEPA will publish guidelines specifying minimum standards for certification (and recertification) of operators of community and nontransient noncommunity public water systems. USEPA is developing the draft guidelines based on recommendations from the NDWAC. The draft guidelines, when available, will be published in the **Federal Register** for public review and comment. Members of the public who are interested in further information regarding this effort may contact Richard Naylor of USEPA's Office of Ground Water and Drinking Water at 202–260–5135 or at e-mail address: naylor.richard@epamail.epa.gov.

L. Regulatory Compliance Schedule and Other Compliance-Related Issues

A. Regulatory Compliance Schedule

Background

During the 1992 Disinfectants/Disinfection Byproducts Regulatory Negotiation (reg-neg) that resulted in the 1994 proposed Stage 1 DBPR and proposed IESWTR, there was extensive discussion of the compliance schedule and applicability to different groups of systems and coordination of timing with other regulations.

In addition to the Stage 1 DBPR, the Negotiating Committee agreed that EPA would (a) propose an interim ESWTR which would apply to surface water systems serving 10,000 or more people, and (b) at a later date, propose a long-term ESWTR applying primarily to small systems under 10,000. Both of these microbial rules would be proposed and promulgated so as to be in effect at the same time that systems of the respective size categories would be required to comply with new regulations for disinfectants and DBPs. Finally, although the GWDR was not specifically addressed during the reg-neg, EPA anticipated that it would be promulgated at about the same time as the IESWTR and Stage 1 DBPR.

EPA proposed a staggered compliance schedule, based on the reg-neg results. The Negotiating Committee and EPA believed that such a process was needed for the rules to be properly implemented by both States and PWSs. Also, EPA proposed a staggered schedule to achieve the greatest risk reduction by providing that larger water systems were to come into compliance earlier than small systems (to cover more people earlier), and surface water systems were to come into compliance earlier than ground water systems (since the potential risks of both pathogens and DBPs were considered generally higher for surface water systems). Large and medium size surface water PWSs (serving at least 10,000 people) constitute less than 25% of community water systems using surface water and less than 3% of the total number of community water systems, but serve 90% of the population using surface water and over 60% of the population using water from community water systems. These large PWSs are also those with experience in simultaneous control of DBPs and microbial contaminants. EPA proposed that these systems be required to comply with the Stage 1 DBPR and IESWTR 18 months after promulgation of the rules and that States would be required to adopt the rules no later than 18 months after promulgation. These 18 month periods were prescribed in the 1986 SDWA Amendments.

Surface water PWSs serving fewer than 10,000 people were to comply with the Stage 1 DBPR requirements 42 months after promulgation, to allow such systems to simultaneously come into compliance with the LTESWTR. This compliance date reflected a schedule that called for the LTESWTR to be promulgated 24 months after the IESWTR was promulgated and for PWSs then to have 18 months to come into compliance. Such a simultaneous compliance schedule was intended to provide the necessary protection from any downside microbial risk that might otherwise result when systems of this size attempted to achieve compliance with the Stage 1 DBPR.

Ground water PWSs serving at least 10,000 people would also be required to achieve compliance with the Stage 1 DBPR 42 months after promulgation. A number of these systems, due to recently installing or upgrading to meet the GWDR (which EPA planned to promulgate at about the same time as the Stage 1 DBPR), were expected to need some period of monitoring for DBPs in order to adjust their treatment processes to also meet the Stage 1 DBPR standards.

1996 Safe Drinking Water Act Amendments

The SDWA 1996 Amendments affirmed several key principles underlying the M–DBP compliance strategy developed by EPA and stakeholders as part of the 1992 Regulatory Negotiation process. First, under Section 1412(b)(5)(A), Congress recognized the critical importance of addressing risk/risk tradeoffs in establishing drinking water standards and gave EPA the authority to take such risks into consideration in setting MCL or treatment technique requirements. Second, Congress explicitly adopted the staggered M–DBP regulatory development schedule developed by the Negotiating Committee. Section 1412(b)(2)(C) requires that the standard setting intervals laid out in EPA's proposed ICR rule be maintained even if promulgation of one of the M–DBP rules was delayed. As noted above, this staggered regulatory schedule was specifically designed as a tool to minimize risk/risk tradeoff. A central component of this approach was the concept of "simultaneous compliance" which provides that a PWS must comply with new microbial and DBP requirements at the same time to assure

that in meeting a set of new requirements in one area, a facility does not inadvertently increase the risk (i.e., the risk "tradeoff") in the other area.

The SDWA 1996 Amendments also changed two statutory provisions that elements of the 1992 Negotiated Rulemaking Agreement were based upon. As outlined above, the 1994 Stage 1 DBPR and ICR proposals provided that 18 months after promulgation large PWSs would comply with the rules and States would adopt and implement the new requirements. Section 1412(b)(10) of the SDWA as amended now provides that drinking water rules shall become effective 36 months after promulgation (unless the Administrator determines that an earlier time is practicable or that additional time for capital improvements is necessary—up to two years). In addition, Section 1413(a)(1) now provides that States have 24 instead of the previous 18 months to adopt new drinking water standards that have been promulgated by EPA.

Discussion

In light of the 1996 SDWA amendments, developing a compliance deadline strategy that encompasses both the Stage 1 DBPR and IESWTR, as well the related LTESWTR and Stage 2 DBPR, is a complex challenge. On the one hand, such a strategy needs to reflect new statutory provisions. On the other, it needs to continue to embody key reg-neg principles reflected in both the 1994 ICR and Stage 1 DBPR proposals; principles that both Congressional intent and the structure of the new Amendments, themselves, indicate must be maintained.

An example of the complexity that must be addressed is the relationship between the principles of risk/risk tradeoff, simultaneous compliance, and the staggered regulatory schedule adopted by Congress. Under the 1996 SDWA amendments, the staggered regulatory deadlines under Section 1412(b)(2)(C) call for the IESWTR and Stage 1 DBPR to be promulgated in November 1998 and the LTESWTR in November of 2000. However, a complicating factor reflected in the Negotiated Rulemaking Agreement of 1992 and contained in the 1994 ICR, IESWTR, and Stage 1 DBPR proposals, is that Stage 1 applies to all PWSs, while IESWTR applies only to PWSs over 10,000, and the LTESWTR covers remaining surface water systems under 10,000.

One approach might be to simply provide that each M–DBP rule becomes effective 3 years after promulgation in accordance with the new SDWA provisions. For surface water systems over 10,000, each plant would be required to comply with related microbial and DBP requirements at the same time thereby minimizing potential risk/risk tradeoffs. For surface water systems under 10,000, however, this approach would result in a very large number of smaller plants complying with DBP requirements two years before related LTESWTR microbial provisions became effective, thereby creating an unbalanced risk tradeoff situation that the Negotiating Committee, EPA, and Congress each sought to avoid.

As this example suggests, given the staggered regulatory development schedule developed by stakeholders in the reg-neg process and adopted by Congress, there is a difficult inconsistency between the principle of avoiding risk tradeoffs, simultaneous compliance, and simply requiring all facilities to comply with applicable M–DBP rules three years after their respective promulgation. The challenge, then, is to give the greatest possible meaning to each of the new SDWA provisions while adhering to the fundamental principles also endorsed by Congress of addressing risk-risk tradeoffs and assuring simultaneous compliance.

A further question that must be factored into this complex matrix is how to address the relationship between promulgation of a particular rule, its effective date, and its adoption by a primacy State responsible for implementing the Safe Drinking Water Act. Under the 1994 IESWTR and Stage 1 DBPR proposals, the rule's 18 month effective date was the same as the 18 month date by which a State was required to adopt it. This approach reflected the 18 month SDWA deadlines applicable during reg-neg negotiations and at the time of proposal.

The difficulty with requiring PWS compliance and State implementation by the same date is that States may not have enough lead time to adopt rules, train their own staff, and develop policies to implement and enforce new rules by the deadline for PWS compliance. In situations where the new rules are complex and compliance requires state review and ongoing interaction with PWSs, successful implementation can be very difficult, particularly for States with many small systems that have smaller staffs and fewer resources to anticipate the requirements of final rules. As noted above, Congress addressed this issue by extending the time for States to put their own rules in place from 18 months to two years after federal promulgation and, then, by generally providing for a one year interval before PWSs must comply (three years after promulgation). As a result, the 18 month interval contemplated by the 1994 proposals is no longer applicable, and the approach of setting the same date for PWS compliance and State rule implementation is no longer consistent with the phased approach laid out in the new SDWA amendments.

A final set of issues that must be addressed in connection with the Stage 1 DBPR proposal are compliance deadlines for ground water systems that currently disinfect. Reflecting the Negotiated Rulemaking Agreement, the 1994 proposal provided that ground water systems serving at least 10,000 that disinfect must comply three and one half years (42 months) after Stage 1 DBPR promulgation. Small ground water systems serving fewer than 10,000 that disinfect would be required to come into compliance five years (60 months) after Stage 1 DBPR promulgation. Again, the challenge here is to reconcile new statutory compliance provisions with the principles of simultaneous compliance, avoiding risk/risk tradeoffs, and deference to Congress' clear intent to preserve the "delicate balance that was struck by the parties in structuring the negotiated rulemaking agreement". (Joint Explanatory Statement of the Committee on Conference on S.1316, p2). An additional factor that must be considered in this context is that Congress affirmed the need for microbial ground water regulations but also clearly contemplated that such standards might not be promulgated until issuance of Stage 2 DBPR (no later than May, 2002).

Alternative Approaches

In light of the 1996 SDWA amendments and their conflicting implications for different elements of the compliance strategy agreed to by the Negotiating Committee and set forth in the 1994 IESWTR and Stage 1 DBPR proposals, EPA is today requesting comment on four alternative compliance approaches. The Agency also requests comment on any other compliance approaches or modifications to these options that commenters believe may be appropriate.

OPTION 1.—IMPLEMENT 1994 PROPOSAL SCHEDULE

Rule (promulgation)	Surface water PWS		Ground water PWS	
	≥10k	<10k	≥10k	<10k
DBP 1 (11/96)	5/00	5/02	5/02	11/03
IESWTR (11/96)	5/00	NA	NA	NA
LTESWTR (11/00)	[1]5/02	5/02	NA	NA
GWDR (11/00)	NA	NA	[2]	[2]

[1] (If required).
[2] Not addressed.

Option 1 (schedule as proposed in 1994) simply continues the compliance strategy laid out in the 1994 Stage 1 DBPR and IESWTR proposals. This would provide that medium and large surface water PWSs (those serving at least 10,000 people) comply with the final Stage 1 DBPR and IESWTR within 18 months after promulgation, and that surface water systems serving fewer than 10,000 comply within 42 months of Stage 1 DBPR promulgation. This option also would provide that ground water systems serving at least 10,000 and that disinfect comply within 42 months, while ground water systems serving fewer than 10,000 comply within 60 months.

This approach was agreed to by EPA and other stakeholder members of the 1992 Negotiating Committee. However, it has been at least in part superseded by both the general 36 month PWS compliance period and the 24 month State adoption and implementation period provided under the 1996 SDWA amendments. If the proposed 1994 compliance schedule were to be retained, EPA would need to make a determination that the statutory compliance provision of 36 months was not necessary for large and medium surface systems because compliance within 18 months is "practicable". To maintain simultaneous compliance, the Agency would also have to make the same practicability determination for small surface water systems in complying with the LTESWTR and for ground water systems serving at least 10,000 in complying with the GWDR. In addition, the Agency would need to justify 42 months for small surface water systems and 60 months for small ground water systems with disinfection by making a national determination that the additional time was required due to the need for capital improvements at each of these small systems. EPA also would need to articulate a rationale for why States should not be provided the statutorily specified 24 months to implement new complex regulatory provisions before PWSs are required to comply. Finally, to implement this approach, the Agency would be required to modify the timing associated with the microbial backstop provision agreed to on July 15, 1997 by the M–DBP Advisory Committee (since a 18 month schedule would not allow time after promulgation for medium surface water systems (10,000–99,999) to collect HAA data prior to having to determine whether disinfection benchmarking is necessary).

EPA requests comment on the issues outlined above in connection with this option. In particular, the Agency requests comment and information to support a finding that compliance by specified systems in 18 months is practicable for some rules, and that extensions to 42 or 60 months for other systems are required to allow for capital improvements.

OPTION 2.—ADD 18 MONTHS TO 1994 PROPOSAL SCHEDULE

Rule (promulgation)	Surface water PWS		Ground water PWS	
	≥10k	<10k	≥10k	<10k
DBP 1 (11/98)	11/01	11/03	11/03	5/05
IESWTR (11/98)	11/01	NA	NA	NA
LTESWTR (11/00)	[1]11/03	11/03	NA	NA
GWDR (11/00)	NA	NA	[2]	[2]

[1] (If required).
[2] Not addressed.

Option 2 (each date in proposed 1994 compliance strategy extended by 18 months) reflects the fact that the 1996 SDWA amendments generally extended the previous statutory deadlines by 18 months (to three years) and established an overall compliance period not to extend beyond 5 years. This second approach would result in simultaneous compliance for surface water systems. Large surface water systems (those serving at least 10,000) would have three years to comply in accordance with the baseline 3 year compliance period established under Section 1412(b)(10) of the 1996 Amendments.

Small surface water systems (under 10,000) would be required to comply with Stage 1 D/DBPR requirements within five years and applicable LTESWTR requirements within three years. Since the LTESWTR will be promulgated two years after Stage 1 DBPR (in accordance with the new SDWA M–DBP regulatory deadlines discussed above), the net result of this approach is that small surface water systems would be required to comply with both Stage 1 DBPR and IESWTR requirements by the same end date of November 2003, thus assuring simultaneous compliance. This meets the objective of both the reg-neg process and Congress to address risk-risk tradeoffs in implementing new M–DBP requirements.

USEPA believes that providing a five year compliance period for small surface water systems under the Stage 1 DBPR is appropriate and warranted under section 1412(b)(10), which expressly allows five years where necessary for capital improvements. Of necessity, capital improvements require

preliminary planning and evaluation. Such planning requires, perhaps most importantly, identification of final compliance objectives. This then is followed by an evaluation of compliance alternatives, site assessments, consultation with appropriate state and local authorities, development of final engineering and construction designs, financing, and scheduling. In the case of the staggered M–DBP regulatory schedule established as part of the 1996 SDWA amendments, LTESWTR microbial requirements for small systems are required to be promulgated two years after the establishment of Stage 1 DBPR requirements. Under these circumstances, small systems will not even know what their final combined M–DBP compliance obligations are until **Federal Register** publication of the final LTESWTR. As a result, an additional two year period reflecting the two year Stage 1 DBPR/LTESWTR regulatory development interval established by Congress is required to allow for preliminary planning and evaluation which is an inherent component of any capital improvement process. EPA believes this approach is consistent with both the objective of assuring simultaneous compliance and not exceeding the overall statutory compliance period of five years. This same logic would also apply to ground water systems serving at least 10,000, since such systems would need the final GWDR to determine and implement a compliance strategy.

With regard to extended compliance schedules, EPA notes that the economic analysis developed as part of the M–DBP Advisory Committee indicates that there will be capital costs associated with implementation of both the IESWTR as well as the Stage I DBP rules. As outlined above, the 1996 SDWA amendments provide that a two year extension may be provided by EPA at the national level or by States on a case-by-case basis if either EPA or a State determines that additional time is necessary for capital improvements. EPA does not believe there is data presently in the record for either of these rulemakings to support a national determination by the Agency that a two-year extension is justified. EPA requests comment on this issue and, if a commenter believes such an extension is warranted, requests that the comments provide data to support such a position.

Adding 18 months to the 1994 proposed compliance strategy would result in 78 month (six and a half year) compliance period for small ground water systems. This is beyond the overall five year compliance period established by Congress under Section 1412(b)(10). EPA is not aware of a rationale to support this result that is consistent with both the objectives of the reg-neg process and the new SDWA amendments; however, the Agency requests comment on this issue. As discussed below, EPA believes there is a reasonable compliance strategy for addressing ground water systems that reflects the requirements of the SDWA amendments as well as the intent of the reg-neg process.

OPTION 3.—REQUIRE COMPLIANCE WITH ALL RULES WITHIN THREE YEARS OF PROMULGATION

Rule (promulgation)	Surface water PWS		Ground water PWS	
	≥10k	<10k	≥10k	<10k
DBP 1 (11/96)	11/01	11/01	11/01	11/01
IESWTR (11/98)	11/01	NA	NA	NA
LTESWTR (11/00)	[1] 11/03	11/03	NA	NA
GWDR (11/00)	NA	NA	11/03	11/03

[1] (If required).

Under this approach, all systems would be required to comply with Stage 1 DBPR, IESWTR, and LTESWTR within three years of final promulgation. This approach reflects the baseline three year compliance period included as part of the new SDWA compliance provisions. Unlike option 2 outlined above which simply adds an 18 month extension to the 1994 proposed compliance approach, this option is not tied to the 1994 proposal. Rather it applies the new baseline three year compliance period to the staggered M–DBP regulatory development schedule which was also established as part of the 1996 SDWA amendments.

This approach would result in simultaneous compliance for large surface water systems. However, it would eliminate the possibility of simultaneous compliance for small surface water systems and all ground water systems. Contrary to reg-neg objectives and Congressional intent, it would create an incentive for risk/risk tradeoffs on the part of small surface water systems who would be required to take steps to comply with Stage 1 DBPR provisions two years before coming into compliance with the LTESWTR, and for all ground water systems who would be required to take steps to comply with Stage 1 DBPR provisions two years before coming into compliance with the GWDR.

OPTION 4.—MERGE SDWA PROVISIONS WITH NEGOTIATED RULEMAKING OBJECTIVES

Rule (promulgation)	Surface water PWS		Ground water PWS	
	≥10k	<10k	≥10k	<10k
DBP 1 (11/96)	11/01	11/03	11/03	11/03
IESWTR (11/98)	11/01	NA	NA	NA
LTESWTR (11/00)	[1] 11/03	11/03	NA	NA
GWDR (11/00)	NA	NA	11/03	11/03

[1] (If required).

This option combines the principle of simultaneous compliance with the revised compliance provisions reflected in the 1996 SDWA amendments. Large surface water systems would be required to comply with Stage 1 DBPR and IESWTR within 3 years of promulgation, thus assuring simultaneous compliance and consistency with the baseline statutory compliance period of 3 years. Small surface water systems under 10,000 would comply with the provisions of the Stage 1 DBPR at the same time they are required to come into compliance with the analogous microbial provisions of the LTESWTR. This would result in small surface water systems simultaneously complying with both the LTESWTR and Stage 1 DBPR requirements. Under this approach, small systems would comply with LTESWTR requirements three years after promulgation and Stage 1 DBPR requirements five years after promulgation. For the reasons articulated under option two above, EPA believes providing a five year compliance period under Stage 1 DBPR is appropriate and necessary to provide for capital improvements.

For ground water systems, the 1994 proposed Stage 1 DBPR compliance schedules provided for only one half of the risk-risk tradeoff balance. They did not include a companion rule development and compliance schedules for the analogous microbial provisions of a Ground Water Disinfection Rule. The 1996 SDWA amendments provide an outside date for promulgation of ground water microbial requirements of "no later than" May 2002, but leave to EPA the decision of whether an earlier promulgation is more appropriate. In light of the reg-neg emphasis and Congressional affirmation of the principal of simultaneous compliance to assure no risk-risk tradeoffs, EPA has developed a ground water disinfection rule promulgation schedule that will result in a final GWDR by November 2000, the same date as the Congressional deadline for the LTESWTR. Ground water systems would be required to comply with the GWDR by November 2003, three years after promulgation, and to assure simultaneous compliance with DBP provisions, such systems would be required to comply with Stage 1 DBPR requirements by the same date. Again, for the reasons outlined under option 2, USEPA believes a five year compliance period for ground water systems is necessary and appropriate.

Option 4 assures that ground water systems will be required to comply with Stage 1 DBPR provisions at the same time that they comply with the microbial provisions of the Ground Water Disinfection Rule (GWDR). Successful implementation of this option requires that EPA develop and promulgate the GWDR by November 2000 as indicated above. The Agency recognizes that this is an ambitious schedule, but believes it is necessary to meet the twin objectives of simultaneous implementation and consistency with the new statutory compliance provisions of the 1996 SDWA. In evaluating this option, the Agency also considered the possibility of meeting these twin objectives in a somewhat different fashion by delaying final promulgation of the Stage I DBP rule as it applies ground water systems until the promulgation of the GWDR. This alternative possibility would assure simultaneous compliance and also provide a "safety net" in the event that the GWDR November 2000 promulgation schedule is delayed. EPA is concerned, however, that this approach may not meet or be consistent with new SDWA requirements which provide that the Stage I DBPR be promulgated by November 1998. The Agency requests comment on this issue.

Recommendation

EPA has evaluated each of the considerations identified in Options 1 through 4. On balance, the Agency believes that Option 4 is the preferred option. The primary reasons are (1) to allow States at least two years to adopt and implement M–DBP rules consistent with new two year time frame provided for under the 1996 SDWA amendments, (2) to match the compliance schedules for the LTESWTR and Stage 1 DBPR for small (<10,000 served) surface water systems to allow time for capital improvements and addressing risk-risk tradeoff issues, and (3) to assure that all ground water systems simultaneously comply with newly applicable microbial and Stage 1 DBPR requirements on the same compliance schedule provided for small surface water systems.

Request for Comments

EPA requests comment on both the compliance schedule options discussed above and on any other variations or combinations of these options. EPA also requests comment on its preferred option 4 and on the underlying rationale for allowing a five year compliance schedule for ground water and small surface water systems under the Stage 1 DBPR.

B. Compliance Violations and State Primacy Obligations

A public water system that fails to comply with any applicable requirement of the SDWA (as defined in 1414 (l)) is subject to an enforcement action and a requirement for public notice under the provisions of section 1414. Applicable requirements include, but are not limited to, MCLs, treatment techniques, monitoring and reporting. These regulatory requirements are set out in 40 CFR 141.

The SDWA also requires States that would have primary enforcement responsibility for the drinking water regulations ("primacy") to adopt regulations that are no less stringent than those promulgated by EPA. States must also adopt and implement adequate procedures for the enforcement of such regulations, and keep records and make reports with respect to these activities in accordance with EPA regulations. 5 U.S.C. 1413. EPA may promulgate regulations that require States to submit reports on how they intend to comply with certain requirements (e.g., how the State plans to schedule and conduct sanitary surveys required by the IESWTR), how the State plans to make certain decisions or approve PWS-planned actions (e.g., approve significant changes in disinfection under the IESWTR or approve Step 2 DBP precursor removals under the enhanced coagulation requirements of the Stage I DBPR), and how the State will enforce its authorities (e.g., correct deficiencies identified by the State during a sanitary survey within a specified time). The primacy regulations are set out in 40 CFR 142.

EPA drafted requirements for both the PWSs (part 141) and the primacy States (part 142) in the proposed rules. EPA is requesting comments on whether there are elements of the Advisory Committee's recommendations in this Notice that should be treated as applicable requirements for the PWS and included in part 141 as enforceable requirements. Similarly, EPA requests comments on whether there are elements of the Advisory Committee's recommendations in this Notice that should be treated as requirements for States and included in part 142 as primacy requirements.

C. Compliance With Current Regulations

EPA reaffirms its commitment to the current Safe Drinking Water Act regulations, including those related to microbial pathogen control and disinfection. Each public water system must continue to comply with the current rules while new microbial and disinfectants/disinfection byproducts rules are being developed.

M. Disinfection Studies

1. New *Giardia* Inactivation Studies at High pH Levels

The Surface Water Treatment Rule (SWTR) requires plants treating surface

water to meet minimum inactivation/removal requirements for *Giardia* cysts and viruses. Under the SWTR, the concept of CT values (disinfectant residual concentration (C) multiplied by contact time (T)) is used for estimating inactivation efficiency of disinfection practices in plants. As a supplement to the rule, USEPA published a guidance manual document entitled "Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems Using Surface Water Sources" (USEPA 1991a) [SWTR Guidance Manual]. In this manual, CT tables (Log inactivation versus CT values under different environmental conditions) are provided to utilities as a guidance in carrying out the disinfection requirements.

The SWTR Guidance Manual did not include CT values at pH values above 9 due to the limited research results available at the time of rule promulgation. pH values above 9 mainly exist in plants with lime softening processes. An approach for extending the existing CT tables in the SWTR Guidance Manual to the upper pH boundary (pH 11.5) that may occur in some plants is presented below. With this approach, the latest available data reported by Logsdon et al. (1994) was used as a basis for CT values at high pH values by applying a linear regression to Logsdon's experimental results in laboratory water and a safety factor to cover the variability in natural water.

Analysis of Logsdon's Data: Logsdon et al. (1994) performed *Giardia* inactivation experiments with free chlorine in both laboratory and natural waters at 5°C and at pH values of 9.5, 10.5, and 11.5. The analysis of MW-s's data is performed with the following assumptions:

1. Since the experimental data of MW-s et al. for CT values vs. log inactivation are relatively scattered, a sophisticated model will not improve the result of simulation. Rather, a linear regression was used to fit these data points, by assuming the dilution coefficient n=1 in the conventional Watson's Law (first-order kinetics).

2. Data points for inactivation greater than 3-logs in the Logsdon et al. report are not included in the linear regression because of their uncertainty.

3. Data points for natural water have a greater variability than those for laboratory water. Also, CT tables in the SWTR Guidance Manual were developed solely based on tests using laboratory water. To ensure consistency, therefore, data points for natural water from the Logsdon et al. study were not used. However, a safety factor was applied to the CT values estimated from laboratory data to reflect the variability of inactivation results in natural water.

4. To be consistent, the safety factor of CT values at pH > 9 is assumed to be the same as that for the existing CT values in the SWTR Guidance Manual at pH ≤ 9. To appropriately quantify a safety factor being applied to obtain those existing CT values in the SWTR Guidance Manual, the previous data base for pH ≤ 9 was reevaluated and interpreted in the same manner as that for pH > 9 (using a linear regression and a safety factor). Subsequently, the safety factor was set at a value such that, if multiplied by the CT values estimated by a linear regression, the resultant CT values would match the existing CT values in the SWTR Guidance Manual.

5. For determination of a safety factor, data from the following studies were considered: Jarroll et al. (1981), Rice et al. (1982), Hibler et al. (1987), and Rubin et al. (1989) [Those data were used as a basis for developing the existing CT values in the SWTR Guidance Manual.]. Only the data from Jarroll et al. (1981) were used in the linear regression because the protocols or conditions in other studies are not comparable to those used in the study by Logsdon et al. (1994), as noted below:

(1) The study by Hibler et al. (1987) was based on animal infectivity tests. Excystation was used in the study by Logsdon et al. (1994).

(2) The study by Rubin et al. (1989) was conducted only at 15°C while the study by Logsdon et al. (1994) was performed at 5°C.

(3) No data for control excystation was shown in the study by Rice et al. (1982) and therefore this data was not used in the regression analysis.

The data from Jarroll et al. (1981) for chlorine concentrations of 4 and 8 mg/L were not used in the regression analysis because the chlorine residual in the study by Logsdon et al. (1994) was no higher than 2.1 mg/L.

The Results of Data Analysis: The data from Jarroll et al. (1981) pertaining to log inactivation versus CT values are plotted in Figures 8—10 for pH values of 6, 7, and 8, respectively. Because Jarroll et al. found that essentially no inactivation at pH values of 6–8 was observed in control samples in which no disinfectant was added within 60 minutes (i.e., CT = 0, log inactivation = 0), the intercept of the linear regression line was zero.

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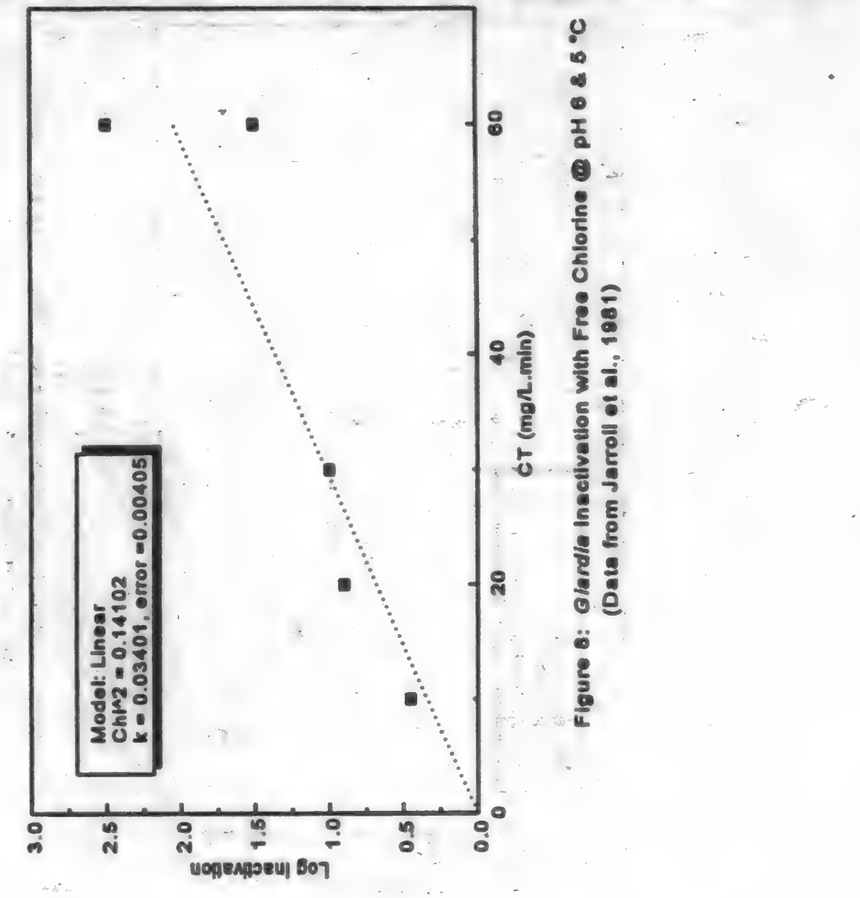

Figure 8: *Giardia* Inactivation with Free Chlorine @ pH 6 & 5 °C (Data from Jarroll et al., 1981)

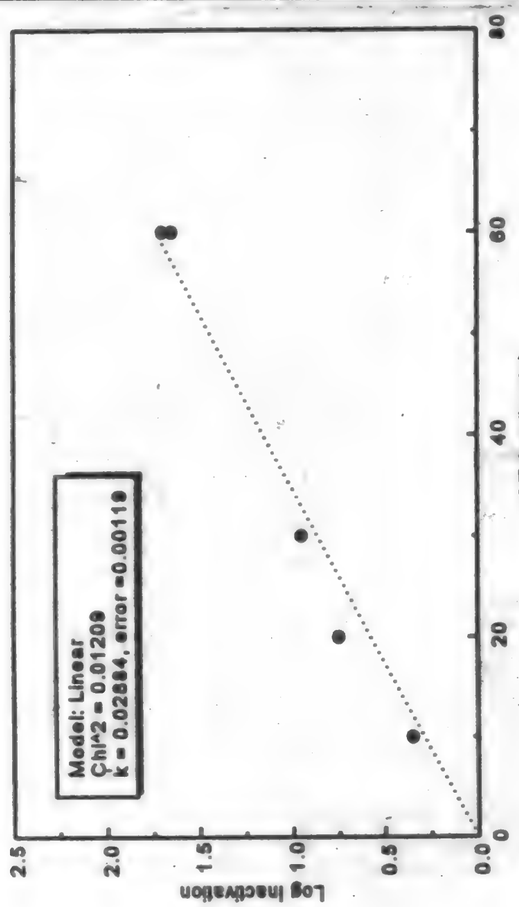

Figure 9: *Giardia* Inactivation with Free Chlorine @ pH 7 & 5 °C
(Data from Jarroll et al., 1981)

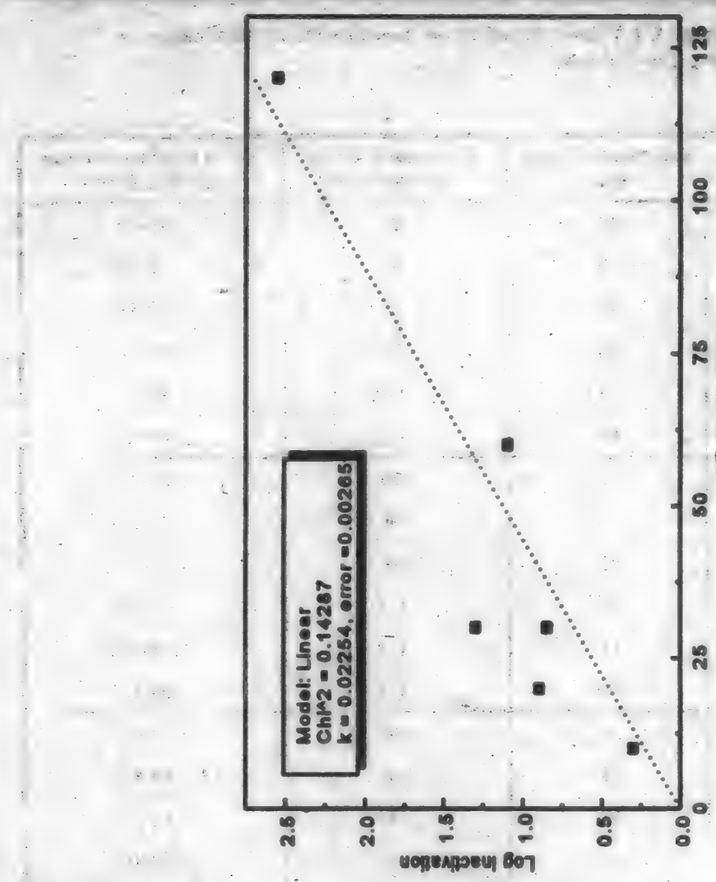

Figure 10: *Giardia* Inactivation with Free Chlorine @ pH 8 & 5 °C
(Data from Jarroll et al., 1981)

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The regression results with the values of the Watson coefficient k are shown in each figure. Based on these results, CT values for a designated log inactivation at the three different pH values are estimated and shown in Table 6. By trials, it is found that if a safety factor of 1.5 is applied to those estimated CT values, the resulting CT values approximate the values in the SWTR Guidance Manual for chlorine concentration ≤ 2 mg/L: at pH 6, the safety-factored CT values are slightly higher than those in the SWTR Guidance Manual; at pH 7, the safety-factored CT values are about in the middle of the range of CT values in the SWTR Guidance Manual; at pH 8, the safety-factored CT values are in the low range of CT values in the SWTR Guidance Manual. Therefore, a safety factor of 1.5 appears appropriate for the development of CT tables at higher pHs.

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Table 6: Comparison of Estimated CT Values (Based on the Jarroll's Study) and Values in the Manual for C ≤ 2 mg/L for pH=6-8 at 5 °C

pH	Log Inactivation	Estimated CT, mg-min/L	Estimated CT x 1.5 Safety Factor	CT in Guidance Manual for C ≤ 2 mg/L
pH=6	0.5	14	21	16-19
	1	29	43	32-39
	1.5	44	66	49-58
	2	58	87	65-77
	2.5	73	110	81-97
	3	88	132	97-116
pH=7	0.5	17	26	23-28
	1	34	51	46-55
	1.5	52	78	70-83
	2	69	104	93-110
	2.5	86	129	116-138
	3	103	154	139-165
pH=8	0.5	23	34	33-41
	1	45	68	66-81
	1.5	68	102	99-122
	2	91	136	132-162
	2.5	114	171	165-203
	3	136	204	198-243

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The Logsdon data for *Giardia* inactivation with chlorine are shown in Figures 11–13 for pH values of 9.5, 10.5, and 11.5, respectively. Since Logsdon et al. (1994) also observed that little or no inactivation was caused by a high pH itself (i.e., non-disinfected lime softened water) in at least 6 hours, the intercept of the linear regression line should be zero. Based on the determinant k values indicated in each Figure, CT values required for inactivation in the range of 0.5–3 log at pH values of 9.5–11.5 and temperature of 5°C are estimated and tabulated in Table 7. To evaluate the adequacy of the safety factor value (1.5), the line of log inactivation versus the safety-factored CT values is also shown in each of Figures 11–13. It can be seen from Figures 11 and 12 that most data points for natural water are above the safety-factored line, and few points are near the line, indicating the safety factor of 1.5 is appropriate for the establishment of CT tables for pH > 9.

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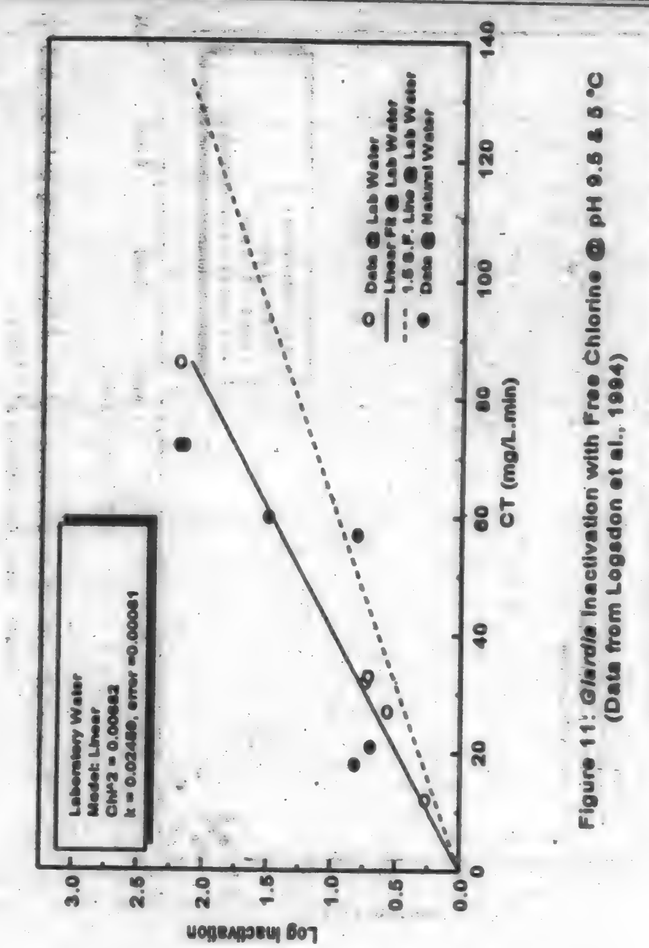

Figure 11: *Giardia* Inactivation with Free Chlorine @ pH 9.5 & 5 °C (Data from Logsdon et al., 1994)

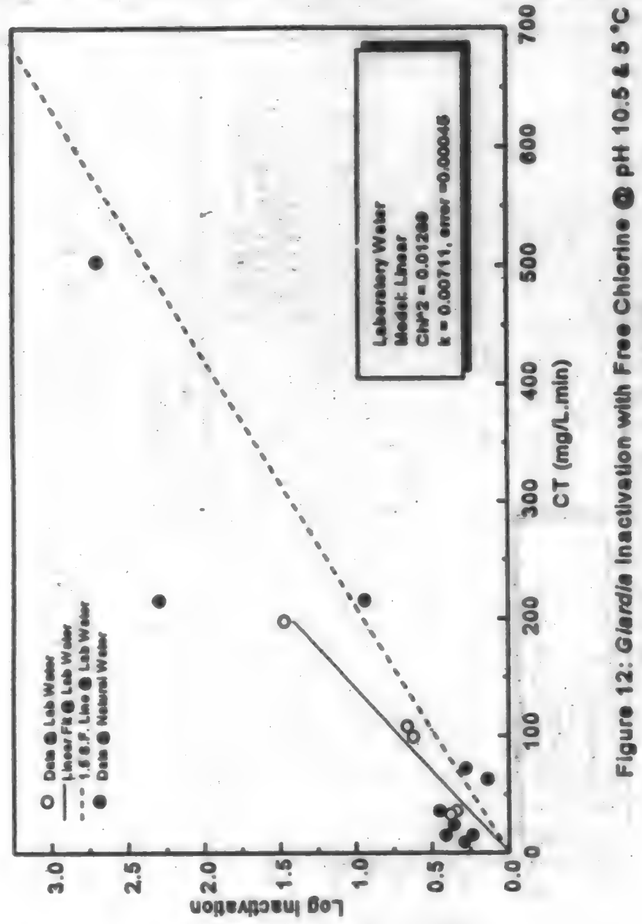

Figure 12: *Giardia* Inactivation with Free Chlorine @ pH 10.5 & 5 °C (Data from Logsdon et al., 1994)

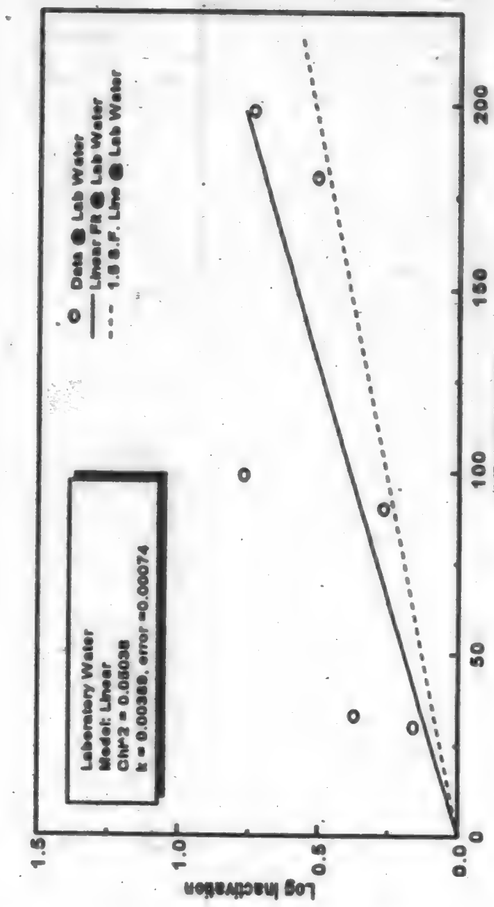

Figure 13: *Giardia* Inactivation with Free Chlorine @ pH 11.5 & 5 °C. (Data from Logsdon et al., 1994)

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TABLE 7.—ESTIMATED CT VALUES FOR pH=9.5–11.5 AT C ≤ 2 mg/L AND AT 5°C—BASED ON THE LOGSDON'S STUDY FOR LABORATORY WATER

pH	Log inactivation	Estimated CT mg-min/L	Estimated CT x 1.5 S.F.
pH=9.5	0.5	21	32
	1	42	63
	1.5	62	93
	2	83	124
	2.5	104	156
	3	125	188
pH=10.5	0.5	70	105
	1	141	212
	1.5	211	316
	2	282	423

TABLE 7.—ESTIMATED CT VALUES FOR pH=9.5–11.5 AT C ≤ 2 mg/L AND AT 5°C—BASED ON THE LOGSDON'S STUDY FOR LABORATORY WATER—Continued

pH	Log inactivation	Estimated CT mg-min/L	Estimated CT x 1.5 S.F.
	2.5	352	528
	3	422	633
pH=11.5	0.5	128	192
	1	256	384
	1.5	385	578
	2	513	770
	2.5	641	962
	3	769	1154

By comparing the data in Table 6 and 10, it is seen that estimated CT values at pH 9.5 are consistently lower than those at pH 8 in the SWTR Guidance Manual. To maintain the consistency of an increasing trend of CT values with an increasing pH and be conservative for compliance purposes, the mathematical model described in the SWTR Guidance Manual (equation 15 in Appendix F) by Clark and Regli (1993) is used to extend the existing CT tables in the SWTR Guidance Manual to pH=9.5, e.g., CT=60 mg/L for 0.5 log inactivation with 1 mg/L of chlorine at 5°C. As proposed in the SWTR Guidance Manual, the equation can be directly applied to estimate CT values for 0.5 and 5°C, and a twofold decrease in CT values for every 10°C increase in temperature can be assumed when it is higher than 5°C. Consequently, the CT

values for *Giardia* inactivation with free chlorine at pH 9.5 are computed and shown in Table 8.

The same temperature correction factor above is used to estimate CT values for pH values of 10.5 and 11.5 at temperature from 5 to 25°C, and 1.5 of temperature factor is applied to convert CT values at 5°C to those at 0.5°C. Subsequently, the safety-factored CT values for *Giardia* inactivation with free chlorine were estimated and summarized in Tables 11 and 13 for pH values of 10.5 and 11.5, respectively. It should be mentioned that although the level of chlorine residual (the C value) may affect CT values shown in Tables 12 and 13, it is recommended that those values are only applicable to a C value up to 3 mg/L, at least until more research data become available.

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Table 8: CT Values (mg-min/L) for Inactivation of Giardia by Free Chlorine at pH 9.5

C, mg/L	Log Inactivation at 0.5 °C						C, mg/L	Log Inactivation at 5 °C					
	0.5	1	1.5	2	2.5	3.0		0.5	1	1.5	2	2.5	3.0
0.4	74	149	223	297	371	446	0.4	53	105	158	210	263	315
0.6	79	158	237	316	395	474	0.6	56	112	168	224	279	335
0.8	82	165	247	330	412	494	0.8	58	117	175	233	292	350
1	85	170	256	341	426	511	1	60	121	181	241	302	362
1.2	88	175	263	350	438	525	1.2	62	124	186	248	310	372
1.4	90	179	269	358	448	538	1.4	63	127	190	254	317	381
1.6	91	183	274	366	457	549	1.6	65	129	194	259	324	388
1.8	93	186	279	372	465	558	1.8	66	132	198	264	329	395
2	95	189	284	378	473	567	2	67	134	201	268	335	402
2.2	96	192	288	384	480	575	2.2	68	136	204	272	339	407
2.4	97	194	292	389	486	583	2.4	69	138	206	275	344	413
2.6	98	197	295	393	492	590	2.6	70	139	209	278	348	418
2.8	99	199	298	398	497	597	2.8	70	141	211	282	352	422
3	100	201	301	402	502	603	3	71	142	213	285	356	427

Continued

C, mg/L	Log Inactivation at 10 °C						C, mg/L	Log Inactivation at 15 °C					
	0.5	1	1.5	2	2.5	3.0		0.5	1	1.5	2	2.5	3.0
0.4	35	70	105	140	175	210	0.4	26	53	79	105	131	158
0.6	37	75	112	149	186	224	0.6	28	56	84	112	140	168
0.8	39	78	117	156	194	233	0.8	29	58	88	117	146	175
1	40	80	121	161	201	241	1	30	60	90	121	151	181
1.2	41	83	124	165	207	248	1.2	31	62	93	124	155	186
1.4	42	85	127	169	211	254	1.4	32	63	95	127	159	190
1.6	43	86	129	173	216	259	1.6	32	65	97	129	162	194
1.8	44	88	132	176	220	264	1.8	33	66	99	132	165	198
2	45	89	134	178	223	268	2	33	67	100	134	167	201
2.2	45	91	136	181	226	272	2.2	34	68	102	136	170	204
2.4	46	92	138	183	229	275	2.4	34	69	103	138	172	206
2.6	46	93	139	186	232	278	2.6	35	70	104	139	174	209
2.8	47	94	141	188	235	282	2.8	35	70	106	141	176	211
3	47	95	142	190	237	285	3	36	71	107	142	178	213

Table 8: CT Values (mg-min/L) for Inactivation of *Giardia* by Free Chlorine at pH 9.5

Continued

C, mg/L	Log Inactivation at 20 °C						C, mg/L	Log Inactivation at 25 °C					
	0.5	1	1.5	2	2.5	3.0		0.5	1	1.5	2	2.5	3.0
0.4	21	42	63	84	105	126	0.4	18	35	53	70	88	105
0.6	22	45	67	89	112	134	0.6	19	37	56	75	93	112
0.8	23	47	70	93	117	140	0.8	19	39	58	78	97	117
1	24	48	72	97	121	145	1	20	40	60	80	101	121
1.2	25	50	74	99	124	149	1.2	21	41	62	83	103	124
1.4	25	51	76	102	127	152	1.4	21	42	63	85	106	127
1.6	26	52	78	104	129	155	1.6	22	43	65	86	108	129
1.8	26	53	79	105	132	158	1.8	22	44	66	88	110	132
2	27	54	80	107	134	161	2	22	45	67	89	112	134
2.2	27	54	81	109	136	163	2.2	23	45	68	91	113	136
2.4	28	55	83	110	138	165	2.4	23	46	69	92	115	138
2.6	28	56	84	111	139	167	2.6	23	46	70	93	116	139
2.8	28	56	84	113	141	169	2.8	23	47	70	94	117	141
3	28	57	85	114	142	171	3	24	47	71	95	119	142

Table 9: CT Values (mg-min/L) for Inactivation of *Giardia* by Free Chlorine at pH 10.5

Temp. °C	Log Inactivation @ pH=10.5					
	0.5	1	1.5	2	2.5	3.0
0.5	131	265	395	395	529	660
5	105	212	316	316	423	528
10	79	159	237	237	317	396
15	53	106	158	158	212	264
20	39	80	119	119	159	198
25	26	53	79	79	106	132

Table 10: CT Values (mg-min/L) for Inactivation of *Giardia* by Free Chlorine at pH 11.5

Temp. °C	Log Inactivation @ pH=11.5					
	0.5	1	1.5	2	2.5	3.0
0.5	240	480	723	963	1203	1443
5	192	384	578	770	962	1154
10	144	288	434	578	722	866
15	96	192	289	385	481	577
20	72	144	217	289	361	433
25	48	96	145	193	241	289

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In summary, the CT table for *Giardia* inactivation with free chlorine at pH 9.5 was developed by using the same approach in the SWTR Guidance Manual for the existing CT tables at lower pH values. For the development of CT tables at pH values of 10.5 and 11.5, the data reported by Logsdon et al. (1994) was used with a linear regression multiplied by a safety factor of 1.5. The new CT values are shown in Tables 11, 12, and 13 for pH values of 9.5, 10.5, and 11.5, respectively. USEPA solicits comment on the approach taken and whether the CT values shown in Tables 11, 12 and 13 are appropriate for revising existing guidance for estimating inactivation efficiencies for chlorine at pHs above 9. USEPA also solicits comment on other approaches for developing criteria by which systems could estimate inactivation efficiencies at pHs above 9.

2. Effectiveness of Different Disinfectants on *Cryptosporidium*

When the ESWTR was proposed in 1994, USEPA recognized that chlorine disinfectants were relatively ineffective in inactivating *Cryptosporidium*, but was not certain if alternative disinfectants might be more effective than chlorine. No public comment addressed this issue directly. Studies since the proposal have confirmed the ineffectiveness of chlorine species, such as free chlorine and monochloramine, for the practical inactivation of *Cryptosporidium*. However, new data suggest that sequential disinfection with free chlorine followed by monochloramine can achieve a greater degree of *Cryptosporidium* inactivation than by chlorine alone. Moreover, ozone and chlorine dioxide have been found to be much more effective than chlorine. Sequential disinfection such as ozone or chlorine dioxide followed by one of the chlorine species appears more powerful than either disinfectant alone in inactivating *Cryptosporidium*. The following data detail the inactivation of *Cryptosporidium* by individual disinfectants, as well as by sequential disinfectants.

The purpose of presenting this data in this section is to provide the public opportunity to comment on whether there is (a) sufficient information available for generating CT tables to estimate log inactivation of *Cryptosporidium*, comparable to what was done for *Giardia* under the SWTR, and (b) sufficient data to conclude that chlorination, at levels commonly practiced by utilities, is virtually ineffective for inactivating *Cryptosporidium*. Both of these issues relate to USEPA's rationale for using *Giardia* as the key target organism for defining the disinfection benchmark (see Section D).

Table 11a summarizes the data on disinfection of *Cryptosporidium* with

chlorine species and ultraviolet radiation (UV). The results from studies with free chlorine indicate that some inactivation of *C. parvum* could be achieved at relatively high doses of chlorine (i.e., >1,000 mg/L of free chlorine) (Korich et al., 1990a; Ransome et al., 1993) and a high CT value (7,200 mg-min/L) (Korich et al., 1990a; Lykins et al., 1992). However, this common water disinfectant has been conclusively shown to be ineffective for inactivation of *C. parvum* oocysts at practical plant doses (<3 mg Cl_2/L) or CT values (Korich et al., 1990a; Ransome et al., 1993; Finch et al., 1997). The same is essentially true for monochloramine (Lykins et al., 1992; Finch et al., 1997) and the oxidant of permanganate (Finch et al., 1997). Therefore, it is unlikely that significant inactivation of *Cryptosporidium* will occur in water treatment plants with the single addition of these disinfectants at currently used levels.

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Table 11a: Summary of Literature Data on Inactivation of Waterborne *Cryptosporidium parvum* - with Free Chlorine, Chloramine, and Ultraviolet Radiation (UV)

Disinfectant	Test Condition	Analytical method	Inactivation	Reference
Free Chlorine	CT=1.44x10^6 (1000 mg/l, 24 hrs) @ pH 9.5, 10 °C	In vitro excystation	< one log	Ransome et al., 1993
	Practical plant doses (5 mg/L)	Viability in Neonatal BALB/c mice	Ineffective	Korich et al., 1990a
	CT=7,200 (80 mg/L, 90 min.)	Viability in Neonatal BALB/c mice	One log	Korich et al., 1990b
	CT=7,200 @ pH 7, 25 °C		2 log	Lykins et al., 1992
	CT=480 (2 mg/L, 240 min.) @ pH 6, 22 °C	Infectivity in Neonatal CD-1 mice	0.5 log	Finch et al., 1997
	CT=960 (4 mg/L, 240 min.) @ pH 8, & 22 °C	Infectivity in Neonatal CD-1 mice	Ineffective	
Chloramine	CT=7,200 @ pH 7, 25 °C		2 log	Lykins et al., 1992
	CT=4320 (3 mg/L, 24 hrs.) @ pH 7, 10 °C	In vitro Excystation	0.6 log	Ransome et al., 1993
	CT=960 (4 mg/L, 240 min.) @ pH 8, 22 °C	Infectivity in Neonatal CD-1 mice	Ineffective	Finch et al., 1997
UV	In a prolonged period (120 min)	Animal infectivity	Effective	Lorenzo-Lorenzo et al., 1993
	80 mW-s/cm^2 @ pH 7, 10 °C	In vitro excystation	1 log	Ransome et al., 1993
	8,748 mW-s/cm^2 on Oocysts captured on 2 µm filter	In vitro excystation	2 log	Campbell et al., 1995
	1,280 - 41,400 mW-s/cm^2 in a batch reactor	Infectivity in Neonatal CD-1 mice	Ineffective	Finch et al., 1997
	8,000 mW-s/cm^2 on Oocysts captured on 2 µm filter	Infectivity of BALB/c mice	> 3 log	Clancy et al., 1997

As indicated in Table 11a, the literature data on *Cryptosporidium* inactivation with UV appear controversial because of different experimental protocols used by different investigators. Finch et al. (1997) found that UV was ineffective in inactivating *C. parvum* suspended in a batch reactor. However, significant inactivation was observed when the oocysts were captured in 2cm filters and exposed to a preset UV irradiation dose (Campbell et al., 1995; Clancy et al., 1997). More data are needed to evaluate the practical application of UV for inactivation of *Cryptosporidium* oocysts. Also, of interest are possible synergistic effects with UV application followed by residual disinfectants.

Table 11b summarizes the findings of inactivation of *Cryptosporidium* with ozone. The data obtained from bench-scale tests with oxidant-demand-free laboratory water indicate that for CT values between 1.2–23.0 mg-min/L, the range of inactivation was 0.5 to 5 log at temperatures of 5 to 25 °C and at pH values of 7 to 8 (Peeters et al., 1989; Korich et al., 1990a,b; Parker et al., 1993; Ransome et al., 1993; Finch et al., 1994 & 1997). The variability demonstrated in these results is influenced by the differences in test procedures used by different researchers, i.e., the different measures of *Cryptosporidium* inactivation (infectivity, excystation, etc.) and the different methods of CT calculations (initial ozone dose, average ozone concentration, and ozone residual).

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Table 11b: Summary of Literature Data on Inactivation of Waterborne *Cryptosporidium* Oocysts - with Ozone*

Water Type	Test Condition	Analytical method	Inactivation	Reference
Laboratory Water (Bench-Scale)	CT= 4.1-4.6 @ room temp.	Viability in Neonatal Swiss OF1	2 log	Peeters et al., 1989
	CT=5 (constant residual of 1.0 mg/L, 5 min) @ pH=7, 25 °C.	Viability in Neonatal BALB/c mice	2 log	Korich et al., 1990a,b
	CT=10 (residual 1.0 mg/L) @ 22 °C	DAPI/PI	0.5 log	Parker et al., 1993
	CT=5-19 (residual 0.3-1.3) @ pH 7, 10 °C	In vitro excystation	1-1.5 log	Ransome et al., 1993
	CT=2.5-23 (ave. Residual 0.38-2.3 mg/L) @ pH 7, 22 °C	Infectivity in Neonatal CD-1 mice	0.6-4.7 log	Finch et al., 1997
	CT=2.8 (0.75 mg/L, 3.7 min.) @ pH=6, 22 °C	Same above	1.5 log	
	CT=1.2 (0.5 mg/L, 2.4 min.) @ pH=8, 22 °C	Same above	0.5 log	
Natural Water (Pilot-Scale)	CT=10-15 @ pH 7, 15 °C, 0.3 NTU, Alk=10 mg $CaCO_3$/L, TOC=1.5 mg/L		3 log	Daniel et al., 1993
	CT=6, @ pH 8, 24 °C, 0.5 NTU, Alk=59 mg $CaCO_3$/L, TOC=1.7 mg/L	Infectivity in Neonatal BALB/c mice	2 log	Miltner et al., 1997

Therefore, caution should be used when comparing the results from one study to another. For instance, a CT value of 10 mg-min/L for 0.5-log inactivation was obtained from the study conducted by Parker et al. (1993), who used vital dyes to evaluate the viability of *Cryptosporidium*. This result is incomparable to the data shown in Table 11b. Subsequently, Korich et al. (1993) found that vital stains are of questionable value for determining oocyst viability.

In another example, in a series of experiments at pH 7 and at temperatures of 5–22 °C, Finch et al. (1997) found a 45–92% reduction in ozone concentration at initial residuals of 0.6–2.2 mg/L and contact times of 5–15 minutes. Parker et al. (1993) reported that the *Cryptosporidium* inactivation level was greater when the ozone concentration was maintained at a constant level (i.e., through a batch mode reactor), compared to when the same initial ozone dose was allowed to decay during the same contact time. Both Finch et al. (1994) and Parker et al. (1993) found that an increase in temperature caused a higher inactivation at the same ozone residual and the same contact time. It appears that an increase of 15 °C decreases by half the CT values needed for a 2-log inactivation.

Owens et al. (1994) observed that *C. muris* is slightly more resistant to ozone than *C. parvum*, and proposed that *C. muris* be used as a surrogate model for *C. parvum*. However, the data that support this hypothesis are very limited.

Two pilot-scale studies with natural waters have been performed (Danial et al., 1993; Miltner et al., 1997). The CT values of ozone required to achieve 2- and 3-logs inactivation of *Cryptosporidium* were 6.0 mg-min/L (pH 8, 24 °C) (Miltner et al., 1997) and 10–15 mg-min/L (pH 7, 15 °C) (Danial et al., 1993). It appears that higher CT values are required in natural water for inactivation of *Cryptosporidium* than in laboratory water; this may be attributed to the existing oxidant demands in natural water or other factors. Danial et al. (1993) indicated that the ozone residual for a given dose rapidly decomposed as the pH was increased from 7 to 9 during lime addition. This finding implies that if ozonation is practiced in lime-softening water plants, it will be necessary to adjust the pH downstream.

When inactivation of *Cryptosporidium* oocysts is compared with that of *Giardia* cysts with similar test protocols, *C. parvum* is approximately 10 times more resistant to ozone than *G. lamblia* in laboratory water (Finch et al., 1994) and *G. muris* in natural water (Owens et al., 1994; Miltner et al., 1997). These findings imply that the use of ozone cannot be expected to significantly inactivate *Cryptosporidium* at the concentration and contact times employed in inactivating *Giardia* in water treatment practices.

Table 11c summarizes the findings of *Cryptosporidium* inactivation with chlorine dioxide. For CT values between 23–213 mg-min/L, the range of inactivation is 0.5–3.2 log or higher at temperatures of 10–25 °C and at pH values of 7–8 in laboratory water (Peeters et al., 1989; Korich et al., 1990b; Ransome et al., 1993; Finch et al., 1995 & 1997). Similar to ozone, chlorine dioxide is also unstable in the water. In 0.05 M phosphate buffer water at pH 8 and 22 °C, Finch et al. (1997) found that a 49–99% reduction in chlorine dioxide concentrations occurs after 15–120 minutes at initial residuals of 0.36–3.3 mg/L. LeChevallier et al. (1997b) recently performed a pilot-scale study in a natural water by evaluating viability of oocysts with both an in-vitro excystation assay and a tissue culture infectivity. While the difference in results with the two methods was not shown, the study reported that a CT value of 40 mg-min/L results in 1-log inactivation of oocysts at pH 8.0 and 20°C, and a 0.5-log inactivation at pH 6.0. The study also revealed that a temperature reduction from 20 to 10 °C decreases the effectiveness of chlorine dioxide by 40%.

The existing data show chlorine dioxide as an effective disinfectant for *Cryptosporidium* inactivation. However, CT values required for *Cryptosporidium* inactivation appear much higher than those for same log inactivation of *Giardia* under comparable water conditions (Lisle and Rose, 1995). Since the 1994 D/DBP proposed rule has set the maximum contaminant levels for chlorine dioxide and chlorite (by-product of chlorine dioxide), at 0.8 mg/L and 1 mg/L, respectively, the use of chlorine dioxide may be limited for the inactivation of *Cryptosporidium*.

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Table 11c: Summary of Literature Data on Inactivation of Waterborne *Cryptosporidium parvum* - with Chlorine Dioxide

Water Type	Test Condition	Analytical method	Inactivation	Reference
Laboratory Water (Bench-Scale)	CT=4.6 (residual=9.22 mg/L, 30 min.) @ room temp.	Viability in Neonatal Swiss OF1	1.2 log	Peeters et al., 1989
	CT=66-80 @ pH 7, 25 °C,	Viability of Neonatal BALB/c mice	1-1.4 log	Korich et al., 1990b
	CT=75 (residual 5 mg/L, 15 min) @ pH 7, 10 °C	In vitro excystation	>1 log	Ransome et al., 1993
	CT=27-30, 40, & 70 @ pH 7, 22°C	Infectivity in Neonatal CD-1 mice	1, 2, & 3 log	Finch et al., 1995
	CT=168 (1.4 mg/L, 120 min.) @ pH=8, 22 °C	Infectivity in Neonatal CD-1 mice	1.7 log	Finch et al., 1997
Natural Water (Pilot-Scale)	CT=40 @ Pilot scale, TOC=2-4 mg/L, 20 °C	In vitro excystation and tissue culture infectivity	1 log @ pH 8 0.18 log @ pH 6	LeChevallier et al., 1997b

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Table 12 summarizes the results from Finch et al. (1997). Finch et al. found that sequential disinfection of *C. parvum* oocysts by different disinfectants is more effective than that indicated by the effectiveness of each disinfectant from independent studies, i.e., the effect is synergistic. According to their current report, greater than 2.9-log inactivation of oocysts can be achieved when *C. parvum* is exposed to 0.75 mg/L initial ozone residual for 3.7 minutes and then 2.0 mg/L free chlorine residual for 265 minutes (pH 6). Based on the additive effects of ozone and free chlorine alone under similar conditions, a 2.0-logs inactivation is expected. Similarly, the inactivation by monochloramine following ozonation is increased by 1.5 log-units when compared with either ozone or monochloramine alone.

Additional 1.2-log inactivation due to the synergism of chlorine dioxide and free chlorine has also been obtained at pH 8. Furthermore, sequential exposure of *C. parvum* oocysts to free chlorine followed by a monochloramine (pH 8.0) reduces infectivity by 0.6 log. Since the expected inactivation by either chlorine species at pH 8 is virtually zero, there is a synergism between free chlorine and monochloramine. It should be noted that combinations of chlorine species with other disinfectants may stimulate the formation of chlorate (Siddiqui et al., 1996) or other toxic disinfectant byproducts. Also, the synergistic effect with sequential disinfectants has only been observed in bench-scale studies in a single laboratory. Nevertheless, such findings suggest new strategies for the effective inactivation of *Cryptosporidium*. For a practical application, further investigations are being conducted at a wider range of water quality conditions (pH, temperature, and disinfectant demand) (USEPA, 1995b).

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Table 12: Summary of Literature Data on Inactivation of Waterborne *Cryptosporidium parvum* - with Sequential Disinfectants

Sequential Disinfectants	Test Condition	Inactivation	Analytical method	Reference
Ozone & Free Chlorine	O_3=0.75 mg/L for 3.7 min, Cl_2=2.0 mg/L for 265 min, @ pH 6, 22 °C	2.9 log	Infectivity in Neonatal CD-1 mice	Finch et al., 1997
Ozone & Monochloramine	O_3=0.5 mg/L for 2.4 min, NH_2Cl=2.0 mg/L for 240 min, @ pH 8, 22 °C	1.9 log	Same above	
Chlorine Dioxide & Free Chlorine	ClO_2=1.3 mg/L for 120 min, Cl_2=1.3 mg/L for 120 min, @ pH 8, 22 °C	2.9 log	Same above	
Free Chlorine & Monochloramine	Cl_2=4.0 mg/L for 15 min, NH_2Cl=4.0 mg/L for 240 min, @ pH 8, 22 °C	0.6 log	Same above	
Ozone, Hydrogen Peroxide & UV_{254}	O_3=0.5 mg/L & H_2O_2=1.5 mg/L for 3.4 min, UV=131 W.s/cm, pH 8, 22 °C	1.1 log	Same above	

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Analytical Method—Four analytical methods are currently being used to evaluate inactivation of *Cryptosporidium* oocysts: in vitro excystation, vital dyes (DAPI/PI staining), animal infectivity, and tissue culture infectivity. It has been shown that excystation and DAPI/PI staining consistently underestimate inactivation when compared with animal infectivity, which is more expensive (Finch et al., 1994; Black et al., 1996). The use of different animal models also leads to inconsistent results for *Cryptosporidium* infectivity. Although the tissue culture technique may provide a convenient, low-cost alternative to animal infectivity, only limited data exist with this method (LeChevallier et al., 1997b).

Cryptosporidium Inactivation Map—In conjunction with development of the long-term ESWTR, USEPA is developing a graph of CT values versus log inactivation under various water quality conditions. The Agency is also exploring other means that utilities can use to estimate *Cryptosporidium* inactivation with different single or sequential disinfectants. Additional data, especially under natural water/field conditions, is necessary to develop this graph. Finch et al. (1994) attempted to establish CT tables for *Cryptosporidium* inactivation with ozone by analyzing numerous sets of experimental data by using both the Chick-Watson model and the Hom model. It was found that the inactivation kinetics of *C. parvum* by ozone deviated from the simple first-order Chick-Watson model and was better described by a nonlinear Hom model. A further analysis, however, hasn't been performed on a broader data basis to evaluate such a finding. Moreover, a much better understanding of *Cryptosporidium* inactivation with sequential disinfectants is needed.

3. New Virus Inactivation Studies

One of the treatment options that USEPA proposed as part of the ESWTR was to include a 4-logs minimal inactivation requirement for viruses, in addition to any physical removal of viruses that might be achieved. USEPA intends to consider this option when additional data become available. However, significant data are available regarding disinfection conditions necessary to achieve different inactivation levels of viruses. The availability of such data is discussed below.

USEPA's guidance manual to the SWTR (USEPA, 1991a), assumes that CT values for chlorine necessary to achieve a 0.5-log inactivation of *Giardia cysts* will result in greater than a 4-log inactivation of viruses. This assumption is based on the comparison between the effects of free chlorine on *Giardia lamblia* and hepatitis A virus (HAV). In the proposed ESWTR, USEPA noted that some viruses are more resistant to chlorine than is HAV, and the use of disinfectants other than free chlorine to achieve 0.5-log inactivation of *Giardia* may not yield a 4-log inactivation of viruses. Achieving adequate inactivation of viruses may be of greater concern when disinfectants other than chlorine (e.g., chlorine dioxide and ozone) are used to inactivate *Cryptosporidium* oocysts.

CT tables in the SWTR for estimating viral inactivation efficiency with chlorine dioxide and ozone were based on laboratory studies using HAV and poliovirus 1, respectively. Very few studies have since been conducted to investigate viral inactivation with chlorine dioxide. Huang et al. (1997) evaluated the disinfection effects of chlorine dioxide on six viruses, including poliovirus type 1, coxsackievirus type B_3, echovirus 11, adenovirus type 7, herpes simplex virus 1, and mumps virus. All viruses were completely inactivated at CT=90 mg-min/L (3 mg/L of initial dose and 30 minutes of contact time) at pH values of 3, 5, and 7, but not 9. Complete inactivation of all six viruses was also found at CT=30 mg-min/L (1 mg/L of initial dose and 30 minutes of contact time) at pH 7.0. At 7.0 mg/L of initial dose, greater than 10 minutes of contact time were required for complete inactivation at the same pH.

More studies have been performed to evaluate viral inactivation efficiencies by ozone than by chlorine dioxide. The results from these studies are summarized in Table 13.

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Table 13: Literature Data on Inactivation of Viruses with Ozone*

Virus	Ozone Dose & Contact Time	pH	Temp °C	Inactivation	Reference
Hepatitis A virus (HAV)	Residual=0.37 mg/L & <40 sec.	7.0	10	4-6 log	Herbold et al., 1989
	Initial 1 mg/L & 24 sec.	6-7	4	4 log	Vaughn et al., 1990
	Residual 0-1.4 mg/L (Initial 0.3-1.7 mg/L) & 5 sec.	6-10	3-10	>4 to >6 log	Hall & Sobsey, 1993
MS2 Coliphage	Initial 0.6-1.8 mg/L & 60-240 sec. (Paired study w/PV3)	7	22	2.7-7 log	Finch et al., 1992
	Residual 0.84 mg/L & 29 sec.	7	22	4 log	
	Residual=not detected & <40 sec. (Natural water w/TOC 1.3 -4.7 mg/L)	7-8	4-22	~100%	
	Residual 0-1.4 mg/L (Initial 0.3-1.7 mg/L) & 5 sec.	6-10	3-10	>4 to >5 log	Hall & Sobsey, 1993
Poliovirus 1 (PV1)	Residual 0.88 mg/L & <5 sec.	7	10	4-6 log	Herbold et al., 1989
	Initial 1 mg/L & 5 min.	6-9	17	4 log	Kamiko, 1989
	CT=0.15 mg-min/L	8	24	3 log	Miltner et al., 1997
Poliovirus 3 (PV3)	Initial 0.6-1.8 mg/L & 60-240 sec. (Paired study w/MS2)	7	22	~1.6-3.6 log or high	Finch et al., 1992
T2 Phage	Residual 0.6 mg/L & 4 min.	7	17	3 log	Kamiko, 1989

* Bench studies except one conducted by Miltner et al., 1997 who performed a pilot study with natural water at 0.5 NTU and 59 mg $CaCO_3$/L.

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In general, the tested viruses, including HAV, MS2 coliphage, poliovirus 1 (PV1), poliovirus 3 (PV3), and T2 phage, are relatively sensitive to ozone, and more than 4-logs inactivation of these viruses can be achieved with less than 2 mg/L of ozone and 5 minutes of contact time in a wide range of pH values and temperatures (Herbold et al., 1989; Kaneko, 1989; Vaughn et al., 1990; Finch et al., 1992; Hall and Sobsey, 1993; Miltner et al., 1997). Finch et al. (1992) reported that MS2 coliphage was extremely sensitive to ozone in both laboratory water and natural water, and that complete viral inactivation could occur during the process of satisfying ozone demand in natural water. In paired experiments, they also found that there was significantly less inactivation of PV3 than MS2 coliphage under the same ozonation conditions. In contrast, Hall and Sobsey (1993) demonstrated that MS2 coliphage was at least as resistant to ozone as HAV in a pH range of 6–10, suggesting that MS2 coliphage might be a good model for predicting HAV inactivation by ozone. In a continuous-flow system with a constant flow of ozone and viral suspensions, Herbold et al. (1993) found that HAV required approximately three times the ozone that PV1 required for the same inactivation. In a similar system, Botzenhart et al. (1993) showed that MS2 coliphage was more resistant to ozone than PhiX 174 coliphage.

Some researchers have pointed out that viral disinfection with ozone is difficult to evaluate, not only due to the relatively short inactivation times, but also because the concentration of ozone significantly decreases during the contact time. Finch et al. (1992) found ozone dose and the interaction between ozone dose and dissolved organic carbon (DOC) were the most important factors affecting ozone inactivation of MS2 coliphage in surface waters. Inactivation of MS2 coliphage was significantly reduced when the natural DOC in the water increased during spring runoff, presumably because the ozone concentration was rapidly depleted by the DOC. This effect, however, was not observed when an ozone residual of 0.1 mg/L at the end of 30 seconds was detected, resulting in greater than 4-logs inactivation of MS2 coliphage under all water quality conditions.

Finch et al. (1992) found that the effects of temperature and turbidity on inactivation rates were indistinguishable from experimental error. This contrasts with other studies that reported that viral inactivation with ozone was more efficient at lower temperatures (Botzenhart et al., 1993; Herbold et al., 1993), and the presence of kaolin particles at 1 mg/L or higher resulted in a greater level of ozone residual required for the same level of viral inactivation (Kaneko, 1989). Vaughn et al. (1990) observed that the pH-related effects on ozonation of viruses was not significant in a pH range of 6–8. Kaneko (1989) reported that the presence of ammonium decreased the ozone concentration and thus decreased the inactivation efficiency of ozone.

Kaneko (1989) also revealed that ozonation of viruses could be divided into three phases: an initial large reduction of viruses; a subsequent logarithmic reduction of viruses; and finally, a slow reduction in response to decreasing ozone concentrations. Thus, it is not surprising that the viral inactivation rate beginning 5 minutes after adding the disinfectant was greater with chlorine than with ozone, even though the inactivation rates within 5 minutes of the addition of ozone were 10 to 1,000 higher than the initial rates of inactivation with chlorine (Kaneko and Igarashi, 1983; Kaneko, 1989).

Finch et al. (1992) have concluded that, when comparing the ozone inactivation data for MS2 coliphage, PV3, and *Giardia muris*, the conditions for inactivating *G. muris* cysts are the most rigorous and it is likely that enteric viruses will be inactivated by greater than 4 logs when *Giardia* is inactivated by 3 logs. Such a comparison is also needed for chlorine dioxide. Although the tested enteric viruses appear to be more susceptible to ozone than *Giardia*, no data are yet available on the effectiveness of ozone in inactivating Norwalk virus and other pathogenic human viruses, especially when they are clumped and adsorbed to organic matter as they usually are in natural water. The varying results on viral inactivation with ozone suggest that ozone inactivation studies need to measure and report ozone concentrations over time.

III. Economic Analysis of the M–DBP Advisory Committee Recommendations

A. Overview of RIA for Proposed Rule

The Regulatory Impact Analysis (RIA) for the proposed IESWTR (59 FR 38832, July 29, 1994), estimated national capital and annualized costs (amortized capital and annual operating costs) for surface water systems serving at least 10,000 people at $3.6 billion and $391 million respectively. These costs were based on the assumption that systems would also be required to provide enough treatment to achieve less than a 10^{-4} risk level from giardiasis while meeting the Stage 1 DBPR. In estimating these costs, it was assumed that additional *Giardia* reduction beyond the requirements of the SWTR to achieve the 10^{-4} risk level would be achieved solely by using chlorine as the disinfectant and providing additional contact time by increasing the disinfectant contact basin size.

The Regulatory Impact Analysis for the Interim Enhanced Surface Water Treatment Rule (USEPA, 1994d) predicted that ESWTR compliance would result in no more than a few hundred infections caused by waterborne *Giardia* per year per 100 million people. This is hundreds of thousands of cases fewer than predicted in the absence of an ESWTR. USEPA estimated that the benefit per *Giardia* infection avoided would be $3000 per case. Using this estimate, the 400,000 to 500,000 *Giardia* infections per year that could be avoided would have an economic value of $1.2 to $1.5 billion per year. This suggests that the benefit nationwide of avoiding *Giardia* infections is as much as three or four times greater than the estimated $391 million national annual cost of providing additional contact time.

Table 14 shows this $391 million estimated cost as described in the proposal (using 1992 $s and a discount rate of 10 percent). The table also converts this cost to 1997$s (with a 10 percent discount rate) to provide for comparison with costs based on provisions included in this notice.

For a more detailed discussion of the cost and benefit analysis of the 1994 proposal refer to The Regulatory Impact Analysis for the Interim Enhanced Surface Water Treatment Rule (USEPA, 1994d).

B. What's Changed Since the Proposed Rule

The cost estimates in the proposed rule reflect cost estimates for one of several regulatory alternatives included in the proposal. At the time of proposal USEPA assumed that additional data would be collected under the ICR to more accurately estimate costs and benefits of the *Giardia* based rule option as well as alternative regulatory options. National source water occurrence data for *Giardia* and *Cryptosporidium* are being collected as part of the ICR to help this effort. Due to the delays discussed earlier in this Notice and the new expedited rule deadlines, ICR data will not be available for the IESWTR impact analysis. From February 1997, however, the Agency has worked with stakeholders to identify additional data available since 1994 to be used in developing components of the expedited rules. USEPA established the Microbial and Disinfectants/Disinfection Byproducts Advisory Committee to collect, share and analyze new information and data, as well as to build consensus on the regulatory implications of this new information. The Committee met five times from March to July, 1997 to discuss issues related to the IESWTR and Stage I D/DBPR.

USEPA has also evaluated comments received on the proposal in its consideration of elements to be included in a regulatory option independent of ICR source water occurrence data. These comments suggested (1) sufficient degrees of effectiveness of current treatment, including filtration, in preventing waterborne transmission of *Cryptosporidium* and (2) a revised approach focussing on optimizing treatment processes. In response to these comments, new information received and the Advisory Committee's recommendations, USEPA has developed the Economic Analysis described in summary below. Details of the analysis used to derive the costs and benefits described below are available in the draft document Economic Analysis of M/DBP Advisory Committee Recommendations for the Interim Enhanced Surface Water Treatment Rule (USEPA, 1997a). The economic analyses are based on the Committee's recommendations to USEPA on issues including turbidity control, removal of *Cryptosporidium*, disinfection benchmarking and sanitary surveys.

C. Summary of Cost Analysis

1. Total National Costs.

USEPA is considering several approaches, based on the recommendations of the Advisory Committee. The two most substantial approaches, from the perspective of costs and benefits, govern turbidity performance and turbidity monitoring. The Microbial and Disinfectants/Disinfection Byproducts Committee made a number of recommendations that are indicated in this Notice for comment, including new turbidity provisions with associated monitoring requirements, disinfection benchmarking practices to help ensure there are no significant increases in microbial risk while systems comply with the Stage 1 DBPR and a sanitary survey provision of relatively minimal costs. USEPA estimates that the national capital and annualized costs (amortized capital and annual operating costs) of these provisions (based on a 10 percent interest rate) would be $730 million and $312 million, respectively (Table 14) (USEPA, 1997a). These figures include costs associated with improved treatment, turbidity monitoring, a disinfection benchmark and sanitary surveys. This represents a reduction of over $3.4 billion (in 1997 $s) from the capital costs estimated for the proposed rule. This is accounted for primarily by the recommendations for changes in the level of disinfection required and restoration of disinfection credit prior to precursor removal. This would result in fewer systems needing to install additional disinfectant contact basins, relative to the costs in the 1994 proposal.

A discount rate of 10 percent was used to calculate the unit costs for the national cost model. This discount rate provides both a link to the 1994 IESWTR cost analyses and is a reasonable estimation of the cost to utilities to finance capital purchases assumed to be necessary due to the proposal.

In order to demonstrate the sensitivity of the national cost model to different discount rates, the national costs at 10 percent are compared to national costs calculated using a 7% discount rate. This rate represents the standard social discount rate preferred by the Office of Management and Budget for benefit-cost analyses of government programs and regulations. Tables of unit cost estimates at the 7 percent rate are included in the appendix to the draft Economic Analysis and displayed for comparative purposes (USEPA, 1997a). Costs presented in the Economic Analysis are expressed in June 1997 constant dollars.

The water flow rates that were used in calculating the costs of the 1994 proposal (in 1992 $s and 1997 $s) were also used in calculating the national costs of the recommended provisions discussed in this Notice. Additional analyses gauged the sensitivity of the cost model to a different input value for maximum flow rates for the largest system category (systems serving >1 million people). With this adjusted flow rate (using a 10 percent discount rate) total annualized national costs would be $314 million, compared to $312 million based on flow rates used in the 1994 proposal.

USEPA requests comment on how the new data have been used and any additional data that would improve the assessment of costs and benefits.

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Table 14: Costs of the Interim Enhanced Surface Water Treatment Rule ($000)

	Advisory Committee Recommendations (1997 $s)			1994 Proposal	
	10 Percent discount rate	7 Percent discount rate	10 Percent w/adjusted flow rates)	1997 $s (10 percent discount rate)	1992 $s (7 percent discount rate)
Utility Costs					
Total Utility Treatment Capital	730,802			4,139,555	3,665,568
Annual Utility Costs					
Annualized Capital	*101,834*				
Annual O & M	*101,102*				
Total Treatment	202,936	191,251	205,124	442,231	391,702
Turbidity Monitoring	95,982	95,982	95,982		
Total Annual Utility Costs	298,918	287,233	301,106	442,231	391,702
One-Time Utility Costs					
Turbidity Monitoring Start-up	4,291	4,291	4,291		
Disinfection Benchmarking	2,691	2,691	2,691		
State Costs					
Annual State Costs					
Turbidity Monitoring	5,257	5,257	5,257		
IFAs and CPEs	547	547	547		
Sanitary Survey	6,781	6,781	6,781	979	867
One-Time State Costs					
Start-up/Implementation	407	407	407	3,057	2,708
Disinfection Benchmarking	3,112	3,112	3,112		
Summary of Total Costs					
Utility Costs					
Total Annual	298,918	287,233	301,106	442,231	391,702
One-Time	6,983	6,983	6,983		
State Costs					
Total Annual	12,585	12,585	12,585	979	867
One-Time	3,519	3,519	3,519	3,057	
Total One-Time Costs	10,501	10,501	10,501	3,057	2,708
Total Annual Costs	311,503	299,818	313,691	443,210	392,569

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2. Household Costs

Household costs are a way to represent water system treatment costs as a costs to the system customer. Figure 14 displays results of the household cost analyses for a 0.3 NTU, 1 maximum CFE NTU turbidity treatment approach discussed in this Notice. As can be seen from the graph, a small percentage of the systems might, using this methodology, incur a maximum cost per household of approximately $110 per year. The highest household costs are incurred in households served by small systems that need to implement all of the activities to comply.

It must be borne in mind that the upper bound of the graph displays an extrapolated curve, and does not represent actual data points. The assumptions and structure of this analysis, in describing the curve, tend to overestimate the highest costs. To find itself on the upper bound of the curve, a system would have to implement all, or almost all, of the treatment activities. These systems, conversely, might seek less costly alternatives, such as connecting into a larger regional water system. In the judgment of the Advisory Committee's Technical Work Group, this extreme situation and the resulting high values may occur only for a small number of households.

Based on this analysis, over 97 percent of the households are estimated to incur annual costs of less than $20 per household per year and over 50 percent are estimated to incur costs of less than $2 per household per year.

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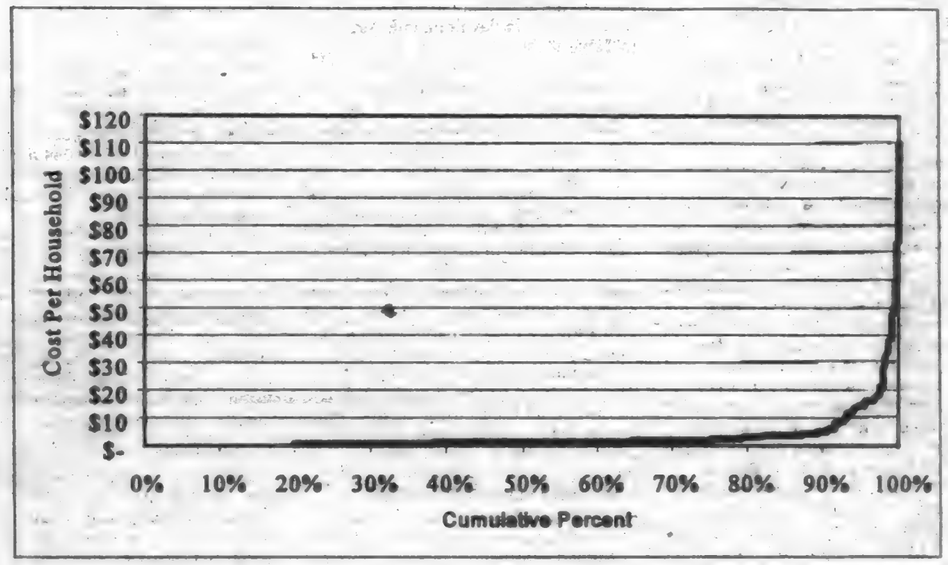
Figure 14: Cumulative Percentage of Household Costs



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D. Cost of Turbidity Performance Criteria and Associated Monitoring

1. System Level Impact Analysis

The TWG developed a list of treatment activities that systems would be expected to employ in order to implement Advisory Committee recommendations. These activities were grouped into 10 categories based on general process descriptions as follows; chemical addition, coagulant improvements, rapid mixing, flocculation improvements, settling improvements, filtration improvements, hydraulic improvements, administration culture improvements, laboratory modifications and process control testing modifications. Descriptions of how systems were expected to evaluate these activities are described in the draft document Technologies and Costs for the Interim Enhanced Surface Water Treatment Rule (USEPA, 1997b).

2. National Impact Analyses

a. Decision Tree. The decision tree is a table of treatment activities that taken either singly or in combination will help utilities evaluate what is potentially involved in meeting the turbidity limits recommended by the Advisory Committee, i.e., the requirement that utilities serving more than 10,000 people be required to achieve a 95 percentile turbidity limit of 0.3 NTU and at no time exceed a turbidity value of 1 NTU (Appendix A, USEPA, 1997a). Percentages in a decision tree represent the projected percentage of public water systems using that activity to meet the turbidity limits recommended by the Advisory Committee. These percentages were factors in the national cost model

and generally represent the percentage of systems needing to modify treatment to meet the limits.

Further description of the compliance decision tree and methodology are included in the draft Economic Analysis of M/DBP Advisory Committee Recommendations for the Interim Enhanced Surface Water Treatment Rule (Economic Analysis) (USEPA, 1997a).

b. Utility Costs. Turbidity Treatment. The number of systems, the associated total capital costs, and the associated total annualized costs were estimated for seven system size categories. Total annual costs were calculated for each possible treatment activity and for each system size category. Unit costs were converted to annualized cost totals (in thousands of dollars) using the methodology described in the draft Economic Analysis.

As indicated in Table 14, the estimate of national annualized turbidity treatment costs are $203 million based on the Advisory Committee's recommended 0.3 NTU 95th percentile CFE standard while meeting a 1 NTU maximum combined filter effluent level (calculated with a 10% interest rate in 1997$s).

Turbidity Monitoring. A generalized turbidity monitoring model was developed to provide a framework for estimating costs associated with individual filter monitoring. The model assumes turbidimeters for each filter and an on-line Supervisory Control And Data Acquisition (SCADA) system. Filter readings would be taken at least once every 15 minutes and tabulated. The model assumes that once each work shift (8 hours) the turbidity data would be converted to a reviewable form, and would then be reviewed by a system manager. In cases where the monitoring recorded exceedances as described below, a report would be made to the State and, if warranted, an individual filter review or system assessment might occur. Annual utility monitoring costs are estimated at $96 million as shown in Table 14 above.

Under the approach recommended by the Advisory Committee, exception reporting to the State is warranted if:

—An individual filter has a turbidity level greater than 1.0 NTU for 2 consecutive measurements 15 minutes apart.
—An individual filter has a turbidity level greater than 0.5 NTU at the end of the first 4 hours of filter operation for 2 consecutive measurements 15 minutes apart.
—If a plant reports exceedances of 1.0 NTU at one filter for 3 consecutive months, an individual filter assessment (IFA) is required to be performed by the utility.
—If a plant records exceedances of 2.0 NTU at one filter in 2 consecutive months, a comprehensive performance evaluation (CPE) is required and must be performed by a third party.

c. State Costs. Annual Review Costs. Under the recommended provisions, it would be the State's responsibility to review system data to ensure that all systems in the State are in compliance with the provisions. State activities include compliance tracking, review of Statewide utility data, record keeping, and compliance determinations. Annual State costs for review (nationwide) are estimated to be $5.3 million (USEPA, 1997a).

Implementation and Start-Up Costs Related to Turbidity Monitoring. One-time State implementation activities include the adoption of the rule and State regulation development. As shown in Table 14, the rule would collectively cost States a total of $407,000 to implement turbidity monitoring provisions.

Exception Costs (Exception Reports, IFAs and CPEs). Under the approach recommended by the Advisory Committee, a monthly exception report would be filed by each utility at which a plant exceeds individual filter effluent (IFE) turbidities of either 1.0 NTU for 2 consecutive measurements 15 minutes apart, or 0.5 NTU at the end of the first 4 hours of a filter run.

In addition to the monthly exception report of individual filter effluent exceedances, additional steps are triggered when exceedances persist. If an individual filter has turbidity levels greater than 1.0 NTU based on 2 consecutive measurements fifteen minutes apart at any time in each of 3 consecutive months, the system conducts a self assessment of the filter utilizing as guidance relevant portions of guidance issued by the Environmental Protection Agency for Comprehensive Performance Evaluation (CPE). If an individual filter has turbidity levels greater than 2.0 NTU based on 2 consecutive measurements fifteen minutes apart at any time in each of two consecutive months, the system will arrange for the conduct of a CPE by the State or a third party approved by the State.

The following assumptions were made by the Technical Working Group of the Advisory Committee regarding the percentage of systems per year that would trigger an interaction with the State based on the recommended provisions.

—10 percent of systems per year are assumed to file monthly reports to the State based on individual filter effluent provisions
—2 percent of systems per year are assumed to trigger Individual Filter Assessment (IFA) provisions
—1 percent of systems per year are assumed to trigger Comprehensive Performance Evaluation (CPE) provisions.

Based on these assumptions, approximately 28 IFAs and 14 CPEs will be conducted each year at an estimated cost of $5,000 and $25,000 each, respectively. States are expected, therefore, to incur annual costs (nationally) of $64,000 to review the exception reports, $138,000 and $345,300 in annual costs for IFAs and CPEs, respectively. The combined total annual State cost for these items is $572,000 (Table 14, above).

E. Disinfection Benchmark

1. Decision Tree

The Advisory Committee recommended that a utility prepare a disinfection profile if they:

—measure TTHM levels of at least 80 percent of the MCL (0.064 mg/l) as an annual average for the most recent 12-month period for which compliance data are available.
—measure HAA% level of at least 80 percent of the MCL (0.048 mg/l) as an annual average for the most recent 12-month compliance period for which compliance data are available.

HAA and TTHM figures from the 1996 Water Industry Data Base (WIDB) were used to estimate the percentage of systems that would be required to prepare a disinfection profile.

2. Utility Costs

Utility costs associated with profiling were divided into four activity areas; cost per system, cost per plant using paper data (i.e., for those plants that currently use paper to document their plant profile data), cost per plant using mainframe data, and cost per plant using PC data. Plants with paper data were assumed to represent half of the number of plants needing profiling, while plants with mainframe data and plants with PC data each represent 25 percent of all plants. The TWG assumed that all plants currently collect this data in either an electronic or paper format, and, therefore, would not incur additional data collection expenses due to microbial profiling. Data reporting costs per plant that are associated with microbial profiling include; data entry and spreadsheet development, data manipulation and analysis, and data review. Costs per system include those to; read and understand the rule, mobilization and planning, generation of reports to State and for in-house review, and meet and review profile with the State. The national costs associated with microbial profiling for utilities was estimated at $2.7 million [Table 14].

3. State Costs

States will review profiles as part of its sanitary survey process. Utilities required to develop a disinfection profile that subsequently decide to make a significant change in disinfection practice must consult with the state prior to making such a change. Table 14 details the total national State costs of profiling (one-time) at $3.1 million.

F. Sanitary Surveys

States are expected to conduct sanitary surveys on a rotating basis, in general no less frequently than once every 3 years for community water systems (CWSs) and no less frequently than every 5 years for noncommunity water systems (NCWSs). For this analysis, 80 percent of Systems are assumed to have already conducted a sanitary survey. The remaining 20 percent of systems are considered to require new surveys in order to comply with the requirements in the IESWTR. The total national cost estimate for sanitary surveys, as shown in Table 14, is estimated at $6.7 million.

G. Summary of Benefits Analysis

The economic benefits of the provisions recommended by the Advisory Committee derive from the increased level of protection to public health. The primary goal of these provisions is to improve public health by increasing the level of protection from exposure to *Cryptosporidium* and other pathogens in drinking water supplies through improvements in filtration at water systems. In this case, benefits will accrue due to the decreased likelihood of endemic incidences of cryptosporidiosis, giardiasis and other waterborne disease, and the avoidance of resulting health costs. In addition to reducing the endemic disease, the provisions are expected to reduce the likelihood of the occurrence of *Cryptosporidium* outbreaks and their associated economic costs, by providing a larger margin of safety against such outbreaks for some systems.

The benefits analysis quantitatively examines health damages avoided based on the provisions recommended by the Advisory Committee. The assessment also discusses, but does not quantify, other economic benefits that may result from the provisions, including reduced risk of outbreaks, avoided costs of averting behavior such as boiling water.

The assessment of net benefits is always somewhat problematic due to the relative ease of quantifying compliance treatment costs versus the difficulty of assigning monetary values to the avoidance of health damages and other benefits arising from a regulation. The challenge of assessing net benefits for the recommended provisions is compounded by the fact that there are large areas of scientific uncertainty regarding the exposure to and the risk assessment for *Cryptosporidium*. Areas where important sources of uncertainty enter the benefits assessment include the following.

- Occurrence of *Cryptosporidium* oocysts in source waters.
- Occurrence of *Cryptosporidium* oocysts in finished waters.
- Reduction of *Cryptosporidium* oocysts due to treatment, including filtration and disinfection.
- Viability of *Cryptosporidium* oocysts after treatment.
- Infectivity of *Cryptosporidium*.
- Incidence of infections and associated symptomatic response (including impact of under reporting).
- Characterization of the risk.
- Willingness to pay to reduce risk and avoid costs.

The cumulative impact of these uncertainties on the outcome of the exposure and risk assessment is impossible to measure. The benefit analysis attempts to take into account some of these uncertainties by estimating benefits under two different current treatment assumptions and three improved removal assumptions. The benefit analysis also used Monte Carlo simulations to derive a distribution of estimates, rather than a single point estimate.

The following two assumptions were made about the performance of current treatment in removing or inactivating oocysts to estimate finished water *Cryptosporidium* concentrations. The standard assumption is that current treatment results in a mean physical removal and inactivation of oocysts of 2.5 logs and a standard deviation ±0.63 logs). Because the finished water concentrations of oocysts represent the baseline against which improved removal from the recommended provisions is compared, variations in the log removal assumption could have considerable impact on the risk assessment. To evaluate the impact of the removal assumptions on the baseline and resulting improvements, an alternative mean log removal/inactivation assumption of 3.0 logs (and a standard deviation ±0.63 logs) was also used to calculate finished water concentrations of *Cryptosporidium*.

USEPA made three assumptions about the improved log removal of oocysts that would result from the turbidity provisions recommended by the Advisory Committee. These were based on studies of treatment removal efficiencies discussed earlier in this Notice (Table 1: *Cryptosporidium* and *Giardia lamblia* removal efficiencies by rapid granular filtration). A range of 2–6 logs removal of *Cryptosporidium* oocysts were observed in these studies. USEPA assumed that a certain number of plants would show low, mid or high improved removal, depending upon factors such as water matrix conditions, filtered water turbidity effluent levels, and coagulant treatment conditions.

The finished water *Cryptosporidium* distributions that would result from additional log removal with the turbidity provisions were derived assuming that additional log removal was dependent on current removal, as described above, i.e., that sites currently achieving the highest filtered water turbidity performance levels would show the largest improvements or high improved removal assumption (e.g., plants now failing to meet a 0.4 NTU limit would show greater removal improvements than plants now meeting a 0.3 NTU limit). Table 15 contains the assumptions used to generate the new treatment distribution.

TABLE 15.—IMPROVED REMOVAL ASSUMPTIONS

	Additional log removal with committee recommendations		
	Low	Mid	High
Plants now meeting 0.2 NTU limit	None	None	None
Plants operating between 0.2–0.3 NTU	0.15	0.25	0.3
Plants now meeting 0.4 NTU limit	0.35	0.5	0.6

TABLE 15.—IMPROVED REMOVAL ASSUMPTIONS—Continued

Additional log removal with committee recommendations			
	Low	Mid	High
Plants now failing to meet 0.4 NTU limit	0.5	0.75	0.9

The TWG working group assumed that for plants to achieve a 0.3 NTU 95th percentile standard they would operate their plants to achieve a 0.2 NTU limit. Therefore, systems meeting a 95th percentile limit of 0.2 NTU were assumed to make no further treatment changes to meet a 0.3 NTU standard, and therefore show no incremental increase in log removal.

Given the uncertainties described above, assumptions were made in developing the risk characterization. In summary, USEPA assumed:

—an exponential dose/response function for estimating infection rates (Haas et al., 1996)
—2 liters per person daily water consumption with a log normal distribution (Haas and Rose, 1995)
—a national surface water distribution of oocysts based on Monte Carlo analysis of data collected by LeChevallier and Norton (USEPA, 1996a)
—A uniform distribution of percentage of oocysts that would be infectious with a mean value of 10 percent
—An estimated 0.39 mean ratio (triangular distribution) of people that are infected to people that become ill (Haas, et al., 1996).
—The cost of an avoided case of cryptosporidiosis was estimated to be approximately $1800 per case. This was extrapolated from the estimate of $3,000 for giardiasis used in the RIA for the proposal, and based on the relatively shorter average length of illness.

Risk characterization uses these assumptions to calculate the number of illnesses avoided in Table 16. Using this number of illnesses avoided, the cost of illnesses avoided is calculated under each current log treatment assumption (i.e., 2.5 and 3.0 logs) for each of the improved removal assumptions. Table 16 summarizes the mean expected value of potential benefits expected to accrue to the recommended provisions under the six different scenarios, as well as the range.

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Table 16: Summary of Potential Benefits

	Current Treatment Assumption	
	2.5 Logs	3.0 Logs
Cost of Illness Avoided Annually		
LOW (improved removal assumption)		
Number of Illnesses Avoided (Expected Value)	319,000	136,000
Cost of Illness Avoided	$574.2 million	$244.8 million
MID (improved removal assumption)		
Number of Illnesses Avoided (Expected Value)	437,000	165,000
Cost of Illness Avoided	$786.6 million	$297.0 million
HIGH (improved removal assumption)		
Number of Illnesses Avoided (Expected Value)	469,000	177,000
Cost of Illness Avoided	$844.2 million	$318.6 million
Mortalities Prevented Annually		
Low (Expected Value)	48	19
Mid (Expected Value)	63	23
High (Expected Value)	67	24
Value of Lives Saved	Benefits not quantified, but could be substantial (estimated at $300 million annually at 2.5 logs or $100 million at 3.0 logs).	
Reduced Risk of Outbreaks		
Cost of Illness Avoided	Benefits not quantified, but could be substantial for large outbreak ($720 million cost of illness avoided for Milwaukee).	
Emergency Expenditures		
Liability Costs		
Averting Behavior	Benefits not quantified, but could be substantial for large outbreak ($19.5 million to $61.9 million for Milwaukee).	

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IV. National Technology Transfer and Advancement Act

Under section 12(d) of the National Technology Transfer and Advancement Act ("NTTAA"), the Agency is required to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standards bodies. Where available and potentially applicable voluntary consensus standards are not used by EPA, the Act requires the Agency to provide Congress, through the Office of Management and Budget, an explanation of the reasons for not using such standards.

The Agency does not believe that this Notice addresses any technical standards subject to the NTTAA. A commenter who disagrees with this conclusion should indicate how the Notice is subject to the Act and identify any potentially applicable voluntary consensus standards.

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Dated: October 22, 1997.

Robert Perciasepe,

Assistant Administrator.

Appendix A—U.S. Environmental Protection Agency, Microbial/Disinfection by-Products (M/DBP), Federal Advisory Committee

Agreement in Principle

1.0 Introduction

Pursuant to requirements under the Safe Drinking Water Act (SDWA), the Environmental Protection Agency (EPA) is developing interrelated regulations to control microbial pathogens and disinfectants/disinfection byproducts (D/DBPs) in drinking water. These rules are collectively known as the microbial/disinfection byproducts (M/DBP) rules.

The regulations are intended to address complex risk trade-offs between the two different types of contaminants. In keeping with the agreement reached during the 1992–93 negotiated rulemaking on these matters, EPA issued a Notice of Proposed Rulemaking for Disinfection By-Products Stage I on July 29, 1994. EPA also issued a Notice of Proposed Rulemaking for an Interim Enhanced Surface Water Treatment Rule (IESWTR) on July 29, 1994. Finally, in May 1996, EPA promulgated a final Information Collection Rule (ICR), to obtain data on source water quality, byproduct formation and drinking water treatment plant design and operations.

As part of recent amendments to the SDWA, Congress has established deadlines for all the M/DBP rules, beginning with a November 1998 deadline for promulgation of both the IESWTR and the Stage I D/DBP Rule. To meet this new deadline, EPA initiated an expedited schedule for development of these two rules. Building on the 1994 proposals, EPA intends to issue a Notice of Data Availability (NODA) in November 1997 for public comment. EPA also decided to establish a committee under the Federal Advisory Committee Act (FACA) for development of the rules.

The M/DBP Advisory Committee is made up of organizational members (parties) named by EPA (see Attachment A). The immediate task of the Committee has been to discuss, evaluate and provide advice on data, analysis and approaches to be included in the NODA to be published in November 1997. This Committee met four times from March through June 1997, with the initial objective to reach consensus, where possible, on the elements to be contained in the D/DBP Stage I and IESWTR NODA. Where consensus was not reached, the Committee sought to develop options and/or to clarify key issues and areas of agreement and disagreement. This document is the Committee's statement on the points of agreement reached.

2.0 Agreement in Principle

The Microbial and Disinfection By-Products Federal Advisory Committee considered the technical and policy issues involved in developing a DBP Stage I rule and an IESWTR under the Safe Drinking Water Act and recommends that the Environmental Protection Agency base the applicable sections of its anticipated M/DBP Notice of Data Availability (NODA) on the elements of agreement described below.

This agreement in principle represents the consensus of the parties on the best conceptual principles that the Committee was able to generate within the allocated time and resources available.

The USEPA, a party to the negotiations, agrees that:

1. The person signing this agreement is authorized to commit this party to its terms.

2. EPA agrees to hold a meeting in July 1997 following circulation of a second draft of the NODA to obtain comments from the parties and the public on the extent to which the applicable sections of the draft NODA are consistent with the agreements below.

3. Each party and individual signatory that submits comments on the NODA agrees to support those components of the NODA that reflect the agreements set forth below. Each party and individual signatory reserves the right to comment, as individuals or on behalf of the organization he or she represents, on any other aspect of the Notice of Data Availability.

4. EPA will consider all relevant comments submitted concerning the Notice(s) of Proposed Rulemaking and in response to such comments will make such modifications in the proposed rule(s) and preamble(s) as EPA determines are appropriate when issuing a final rule.

5. Recognizing that under the Appointments Clause of the Constitution governmental authority may be exercised only by officers of the United States and recognizing that it is EPA's responsibility to issue final rules, EPA intends to issue final rules that are based on the provisions of the Safe Drinking Water Act, pertinent facts, and comments received from the public.

6. Each party agrees not to take any action to inhibit the adoption of final rule(s) to the extent it and corresponding preamble(s) have the same substance and effect as the elements of this agreement in principle.

2.1 MCLs

MCLs should remain at the levels proposed: 0.080 mg/l for TTHMs; 0.060 mg/l for HAA5, and 0.010 mg/l for bromate.

2.2 Enhanced Coagulation

The proposed enhanced coagulation provisions should be revised as follows:

a. The top row of the TOC removal table (3x3 matrix) should be modified for systems that practice enhanced coagulation by lowering the TOC removal percentages by 5% across the top row, while leaving the other rows the same.

b. SUVA (specific UV absorbance) should be used for determining whether systems would be required to use enhanced coagulation. The use of a raw water SUVA < 2.0 liter/mg-m as a criterion for not requiring a system to practice enhanced coagulation should be added to those proposed in § 141.135(a)(1)(i)–(iv).

c. For a system required to practice enhanced coagulation or enhanced softening, the use of a finished water SUVA < 2.0 liter/mg-m should be added as a Step 2 procedure. Such a criterion would be in addition to the proposed Step 2 procedure, not in lieu of it.

d. The proposed TOC removals for softening systems should be modified by lowering the value for TOC removal in the matrix at alkalinity >120 mg/l and TOC between 2–4 mg/l by 5% (which would make it equal to the value for non-softening systems) and leaving the remaining values as proposed.

e. If a system is required to practice enhanced softening, lime softening plants would not be required to perform lime soda softening or to lower alkalinity below 40–60 mg/l as part of any Step 2 procedure.

f. There is no need to separately address softening systems in the 3x3 matrix or the Step 1 regulatory language, which was identical to enhanced coagulation regulatory language in the proposed D/DBPR. The revised matrix should appear as follows:

TOC (mg/l)	Alkalinity (mg/l)		
	0–< 60	60–< 120	≥ 120
2–4	35	25	15
4–8	45	35	25
>8	50	40	30

2.3 Microbial Benchmarking/Profiling

A microbial benchmark to provide a methodology and process by which a PWS and the State, working together, assure that there will be no significant reduction in microbial protection as the result of modifying disinfection practices in order to meet MCLs for TTHM and HAA5 should be established as follows:

A. *Applicability.* The following PWSs to which the IESWTR applies must prepare a disinfection profile:

(1) PWSs with measured TTHM levels of at least 80% of the MCL (0.064 mg/l) as an annual average for the most recent 12 month compliance period for which compliance data are available prior to November 1998 (or some other period designated by the State),

(2) PWSs with measured HAA5 levels of at least 80% of the MCL (0.048 mg/l) as an annual average for the most recent 12 month period for which data are available (or some other period designated by the State)—in connection with HAA5 monitoring, the following provisions apply.

(a) PWSs that have collected HAA5 data under the Information Collection Rule must use those data to determine the HAA5 level, unless the State determines that there is a more representative annual data set.

(b) For those PWSs that do not have four quarters of HAA5 data 90 days following the IESWTR promulgation date, HAA5 monitoring must be conducted for four quarters.

B. *Disinfection profile.* A disinfection profile consists of a compilation of daily *Giardia lamblia* log inactivations (or virus inactivations under conditions to be specified), computed over the period of a year, based on daily measurements of operational data (disinfectant residual concentration(s), contact time(s), temperature(s), and where necessary, pH(s)). The PWS will then determine the lowest average month (critical period) for each 12 month period and average critical periods to create a "benchmark" reflecting the lower bound of a PWS's current disinfection practice. Those PWSs that have all necessary data to determine profiles, using operational data collected prior to promulgation of the IESWTR, may use up to three years of operational data in developing those profiles. Those PWSs that do not have three years of operational data to develop profiles must conduct the necessary monitoring to develop the profile for one year beginning no later than 15 months after promulgation, and use up to two years of existing operational data to develop profiles.

C. *State review.* The State will review disinfection profiles as part of its sanitary survey. Those PWSs required to develop a disinfection profile that subsequently decide to make a significant change in disinfection practice (i.e., move point of disinfection, change the type of disinfectant, change the disinfection process, or any other change designated as significant by the State) must consult with the State prior to implementing such a change. Supporting materials for such consultation must include a description of the proposed change, the disinfection profile, and an analysis of how the proposed change will affect the current disinfection.

D. *Guidance.* EPA, in consultation with interested stakeholders, will develop detailed guidance for States and PWSs on how to develop and evaluate disinfection profiles, identify and evaluate significant changes in disinfection practices, and guidance on moving the point of disinfection from prior to the point of coagulant addition to after the point of coagulant addition.

2.4 Disinfection Credit

Consistent with the existing provisions of the 1989 Surface Water Treatment Rule, credit for compliance with applicable disinfection requirements should continue to be allowed for disinfection applied at any point prior to the first customer.

EPA will develop guidance on the use and costs of oxidants that control water quality problems (e.g., zebra mussels, Asiatic clams, iron, manganese, algae) and whose use will reduce or eliminate the formation of DBPs of public health concern.

2.5 Turbidity

Turbidity *Performance Requirements.* For all surface water systems that use conventional treatment or direct filtration, serve more than 10,000 people, and are required to filter: (a) the turbidity level of a system's combined filtered water at each plant must be less than or equal to 0.3 NTU in at least 95 percent of the measurements taken each month and, (b) the turbidity level of a system's combined filtered water at each plant must at no time exceed 1 NTU. For both the maximum and the 95th percentile requirements, compliance shall be determined based on measurements of the combined filter effluent at four-hour intervals.

Individual Filter Requirements. All surface water systems that use rapid granular filtration, serve more than 10,000 people, and are required to filter shall conduct continuous monitoring of turbidity for each individual filter and shall provide an exceptions report to the State on a monthly basis. Exceptions reporting shall include the following: (1) any individual filter with a turbidity level greater than 1.0 NTU based on 2 consecutive measurements fifteen minutes apart; and (2) any individual filter with a turbidity level greater than 0.5 NTU at the end of the first 4 hours of filter operation based on 2 consecutive measurements fifteen minutes apart. A filter profile will be produced if no obvious reason for the abnormal filter performance can be identified.

If an individual filter has turbidity levels greater than 1.0 NTU based on 2 consecutive measurements fifteen minutes apart at any time in each of 3 consecutive months, the system shall conduct a self-assessment of the filter utilizing as guidance relevant portions of guidance issued by the Environmental Protection Agency for Comprehensive Performance Evaluation (CPE). If an individual filter has turbidity levels greater than 2.0 NTU based on 2 consecutive measurements fifteen minutes apart at any time in each of two consecutive months, the system will arrange for the conduct of a CPE by the State or a third party approved by the State.

State Authority. States must have rules or other authority to require systems to conduct a Composite Correction Program (CCP) and to assure that systems implement any follow-up recommendations that result as part of the CCP.

2.6 *Cryptosporidium* MCLG

EPA should establish an MCLG to protect public health. The Agency should describe existing and ongoing research and areas of scientific uncertainty on the question of which species of *Cryptosporidium* represents a concern for public health (e.g. *parvum, muris, serpententious*) and request further comment on whether to establish an MCLG on the genus or species level.

In the event the Agency establishes an MCLG on the genus level, EPA should make clear that the objective of this MCLG is to protect public health and explain the nature of scientific uncertainty on the issue of taxonomy and cross reactivity between strains. The Agency should indicate that the scope of MCLG may change as scientific data on specific strains of particular concern to human health become available.

2.7 Removal of *Cryptosporidium*

All surface water systems that serve more than 10,000 people and are required to filter must achieve at least a 2 log removal of *Cryptosporidium*. Systems which use rapid granular filtration (direct filtration or conventional filtration treatment—as currently defined in the SWTR), and meet the turbidity requirements described in Section 2.5 are assumed to achieve at least a 2 log removal of *Cryptosporidium*. Systems which use slow sand filtration and diatomaceous earth filtration and meet existing turbidity performance requirements (less than 1 NTU for the 95th percentile or alternative criteria as approved by the State) are assumed to achieve at least a 2 log removal of *Cryptosporidium*.

Systems may demonstrate that they achieve higher levels of physical removal.

2.8 Multiple Barrier Concept

EPA should issue a risk-based proposal of the Final Enhanced Surface Water Treatment Rule for *Cryptosporidium* embodying the multiple barrier approach (e.g. source water protection, physical removal, inactivation, etc.), including, where risks suggest appropriate, inactivation requirements. In establishing the Final Enhanced Surface Water Treatment Rule, the following issues will be evaluated:

- Data and research needs and limitations (e.g. occurrence, treatment, viability, active disease surveillance, etc.);
- Technology and methods capabilities and limitations;
- Removal and inactivation effectiveness;
- Risk tradeoffs including risks of significant shifts in disinfection practices;
- Cost considerations consistent with the SDWA;
- Reliability and redundancy of systems;
- Consistency with the requirements of the Act.

2.9 Sanitary Surveys

Sanitary surveys operate as an important preventive tool to identify water system deficiencies that could pose a risk to public health. EPA and ASDWA have issued a joint guidance dated 12/21/95 on the key components of an effective sanitary survey. The following provisions concerning sanitary surveys should be included.

I. Definition

(A) A sanitary survey is an onsite review of the water source (identifying sources of contamination using results of source water assessments where available), facilities, equipment, operation, maintenance, and monitoring compliance of a public water system to evaluate the adequacy of the system, its sources and operations and the distribution of safe drinking water.

(B) Components of a sanitary survey may be completed as part of a staged or phased state review process within the established frequency interval set forth below.

(C) A sanitary survey must address each of the eight elements outlined in the December 1995 EPA/STATE Guidance on Sanitary Surveys.

II. Frequency

(A) Conduct sanitary surveys for all surface water systems (including groundwater under the influence) no less frequently than every three years for community systems except as provided below and no less frequently than every five years for noncommunity systems.

—May "grandfather" sanitary surveys conducted after December 1995, if they address the eight sanitary survey components outlined above.

(B) For community systems determined by the State to have outstanding performance based on prior sanitary surveys, successive sanitary surveys may be conducted no less than every five years.

III. Follow Up

(A) Systems must respond to deficiencies outlined in a sanitary survey report within at least 45 days, indicating how and on what schedule the system will address significant deficiencies noted in the survey.

(B) States must have the appropriate rules or other authority to assure that facilities take the steps necessary to address significant deficiencies identified in the survey report that are within the control of the PWS and its governing body.

Agreed to by:

Name, Organization

Date

Signed By:

Peter L. Cook, National Association of Water Companies
Michael A. Dimitriou, International Ozone Association
Cynthia C. Dougherty, US Environmental Protection Agency
Mary J.R. Gilchrist, American Public Health Association
Jeffrey K. Griffiths, National Association of People with AIDS
Barker Hamill, Association of State Drinking Water Administrators
Robert H. Harris, Environmental Defense Fund
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Rosemary Menard, Large Unfiltered Systems
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Coretta Simmons, National Association of State Utility Consumer Advocates
Bruce Tobey, National League of Cities
Chris J. Wiant, National Association of City and County Health Officials; National Environmental Health Association

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REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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"Most widely distributed" gauge selection factor; removal; published 10-2-97
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Rural Utilities Service
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H.J. Res. 75/P.L. 105–67

To confer status as an honorary veteran of the United States Armed Forces on Leslie Townes (Bob) Hope. (Oct. 30, 1997; 111 Stat. 1452)

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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

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November 7	November 24	December 8	December 22	January 6	February 5
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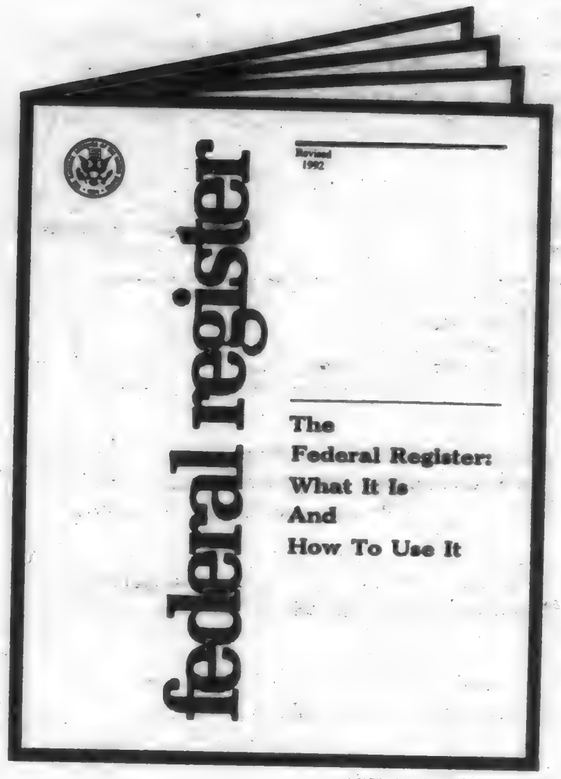

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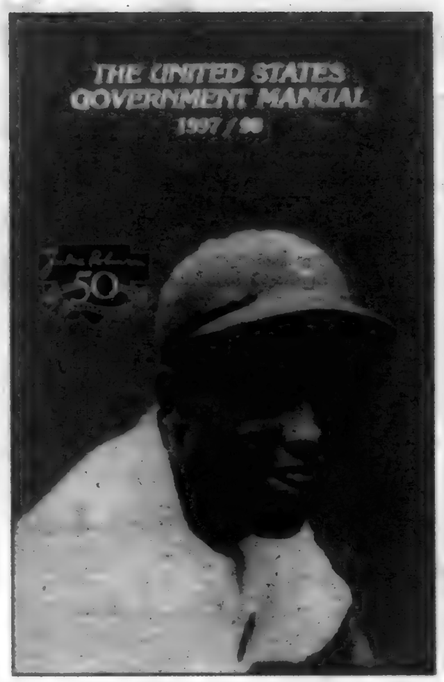

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Additional information, including a list of telephone numbers, finding aids, reminders, and a list of Public Laws appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free Electronic Bulletin Board service for Public Law numbers, Federal Register finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

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Presidential Documents

Title 3—

The President

Proclamation 7046 of October 30, 1997

National Employer Support of the Guard and Reserve Week, 1997

By the President of the United States of America

A Proclamation

As we approach this century's end, many of the blocs and barriers that divided the world for 50 years largely have fallen away. All around the world, with America's help, nations are moving from conflict to cooperation. However, we still face challenges that have taken on new and dangerous dimensions: ethnic and religious violence, aggression by outlaw states, the illegal drug trade, and threats from international terrorism and weapons of mass destruction. The National Guard and Reserve play a vital role in the response of America's Armed Forces to this broad spectrum of challenges to our national security, and they are an indispensable part of the effort to promote peace and democratic values.

While most Americans understand and deeply appreciate the strategic and military value of our National Guard and Reserve forces, too often we fail to recognize or acknowledge the important contributions of their civilian employers. When called upon to share their greatest resource—employees serving as citizen-soldiers—these employers subordinate their own interests for the good of our country, even when they may incur financial hardship and organizational disruption. It is only because of the willingness by employers to place our Nation's well-being above their own that our National Guard and Reserve are able to provide mission-ready and accessible forces to help preserve our freedom and protect our national interests. The generosity of these employers is key to enabling Reserve components to play an ever greater and more diverse role in our country's Armed Forces. By setting aside this special time to honor the sacrifice of our Nation's employers, we express our heartfelt appreciation to these patriots for employing our citizen-soldiers, making it possible for them to serve, and helping to keep America strong, secure, and free.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 2 through November 8, 1997, as National Employer Support of the Guard and Reserve Week. I encourage all Americans to join me in expressing our heartfelt thanks to the civilian employers of the members of our National Guard and Reserve for their extraordinary sacrifices on behalf of our Nation. I also call upon State and local officials, private organizations, businesses, and all military commanders to observe this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of October, in the year of our Lord nineteen hundred and ninety-seven, and of the Independence of the United States of America the two hundred and twenty-second.

William Jefferson

[FR Doc. 97-29287
Filed 11-3-97; 8:45 am]
Billing code 3195-01-P

Rules and Regulations

Federal Register
Vol. 62, No. 213
Tuesday, November 4, 1997

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM-25; Special Conditions No. 25-ANM-16A]

Special Conditions: Boeing Model 747 Series Airplanes; Overhead Crew Rest Area

AGENCY: Federal Aviation Administration, DOT.

ACTION: Amended special conditions.

SUMMARY: These amended special conditions are issued to the Boeing Commercial Airplane Company for the Model 747 series airplanes. This airplane has a novel or unusual design feature associated with the overhead crew rest area. Special Conditions No. 25-ANM-16 were issued on November 13, 1987, addressing this installation. On January 23, 1997, Boeing applied for a type design change which proposes to add an additional feature; the installation of curtains or partitions in the crew rest area. Since the applicable airworthiness regulations, including those contained in Special Conditions No. 25-ANM-16, do not contain adequate or appropriate safety standards for this particular design feature, these amended special conditions contain the additional safety standards which the Administrator finds necessary to establish a level of safety equivalent to that established by the airworthiness standards for transport category airplanes.

EFFECTIVE DATE: October 23, 1997.

FOR FURTHER INFORMATION CONTACT: Greg Dunn, FAA, Transport Standards Staff, Standardization Branch, ANM-113, 1601 Lind Avenue SW., Renton, WA 98055-4056; telephone (425) 227-2799, or facsimile (425) 227-1149.

SUPPLEMENTARY INFORMATION:

Background

On December 17, 1986, the Boeing Commercial Airplane Company applied for a change to Type Certificate No. A20WE to include Model 747 series airplanes with overhead crew rest areas installed. The crew rest area was to be installed above the main passenger cabin in the vicinity of the Number 5 passenger door. This is an area that had not been used for this purpose in any previous transport category airplane. Due to the novel or unusual features associated with the installation of those crew rest areas, Special Conditions No. 25-ANM-16 were issued on November 13, 1987, to provide a level of safety equal to that established by the regulations incorporated by reference in the type certificate. Upon issuance, Special Conditions No. 25-ANM-16 became part of the regulations incorporated by reference in Type Certificate No. A20WE for Boeing 747 series airplanes.

Boeing Commercial Airplane Group now proposes certification of overhead crew rest areas that would be divided into three sections by a hard partition and a curtain. These crew rest areas, which would be in the same location, would be designated for in-flight use only and would include additional novel or unusual design features not incorporated in the previous crew rest areas. Because of these additional features, the regulations incorporated by reference in Type Certificate No. A20WE, including Special Conditions 25-ANM-16, do not contain adequate or appropriate safety standards. Special Conditions 25-ANM-16 would, therefore, be amended to contain the additional safety standards found necessary to establish a level of safety equivalent to that established in the regulations.

Discussion

A hard partition separates the crew rest area into forward and aft sections while a door in the partition provides access between the forward and aft sections. A curtain slides in the forward and aft directions to visually divide the aft section of the crew rest area. Item 3 of Special Conditions No. 25-ANM-16 requires that a stairway be installed between the main deck and the crew rest area. Additionally, there must be an alternate evacuation route for occupants of the crew rest area, located on the opposite side of the crew rest area or sufficiently separated within the compartment from the stairway. The installation of a hard partition creates an area within the crew rest area which does not have a means of egressing directly to the main cabin.

In addition to the partition, a curtain has been added to the crew rest area which further breaks up the crew rest area into sections. This was not considered in Special Conditions No. 25-ANM-16. The curtain and partition installation also reduces the accessibility to the emergency equipment and communication controls, and has the potential to prevent the occupants from being able to easily locate the primary and secondary escape means. This could cause additional confusion during an emergency.

Since the installation of a door in the crew rest area raises concerns about operational reliability during an in-flight emergency and since the related paragraphs of § 25.819 from which the original special conditions were developed require two evacuation routes, design features must be provided to assure that occupants of the forward section will be able to vacate the crew rest area in the event of an in-flight emergency. Additional emergency equipment and two-way communication equipment will also be required in the forward section since the equipment in the aft area will not be readily accessible to the forward section occupants in the event of an in-flight emergency.

A limitation in the Airplane Flight Manual or other suitable means requiring that crewmembers be trained in the use of the evacuation routes would be required.

The additional safety standards are contained in Item 13 of these amended special conditions. Items 1 through 12 are standards already adopted in Special Conditions No. 25-ANM-16.

Type Certification Basis

The Type Certification Basis for the Boeing Model 747 series prior to the 747-400 is Part 25 of the FAR effective February 1, 1965, as amended by Amendments 25-1 through 25-8, plus Amendments 25-15, 25-17, 25-18, 25-20, and 25-39, with certain exceptions and several sets of special conditions, which are identified in Type Certificate Data Sheet No. A20WE. These

exceptions are not pertinent to the subject of overhead crew rest areas.

The regulations incorporated by reference in Type Certificate No. A20WE for the Boeing Model 747–400 series airplanes include Part 25 of the FAR as amended by Amendments 25–1 through 25–59, with certain exceptions not relevant to the installation of an overhead crew rest area.

In addition, the regulations incorporated by reference for all 747 series include the noise certification requirements of Part 36 of the FAR, emission standards, and a number of special conditions, including Special Conditions No. 25–ANM–16.

If the Administrator finds that the applicable airworthiness regulations (i.e., Part 25 as amended) do not contain adequate or appropriate safety standards for the Boeing Model 747 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions, as appropriate, are issued in accordance with § 11.49 of the FAR after public notice, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with § 21.101(b)(2).

Discussion of Comments

Notice of Proposed Special Conditions No. SC–97–4–NM for the Boeing Model 747 series airplanes, was published in the **Federal Register** on August 28, 1997 (62 FR 45589). Fourteen comments (from 4 different commenters) were received.

Four comments were submitted by The Boeing Company. One seeks to limit the applicability of the new requirements in Item 13 to new designs and wants clarification that prior certified designs should be exempt from the revisions to the special condition. The FAA is not aware of any previously certified crew rest configurations that are divided into sections by a partition with a door. However, the FAA agrees that the requirements of Item 13 are only applicable to new designs. Existing designs approved by Type Certificate (TC) or by Supplemental Type Certificate (STC) are not required to be modified and can continue to be delivered without any retroactive changes. Any new TC or STC projects that modify an existing crew rest area or install a crew rest area into a previously certificated aircraft will be required to comply with the new requirements contained in Item 13, if the rest area is divided into sections. Since Item 13 contains requirements pertaining only to crew rest areas that are divided into sections, the requirements for crew rest areas not divided into sections are unchanged.

Another comment suggests that Item 13, paragraph a., should be revised to prevent confusion. Paragraph a. states, "* * * there must be an audible alert concurrent with automatic presentation of supplemental oxygen masks in each section of the crew rest, * * *". Currently it is unclear whether the alerting method and/or the supplemental oxygen masks are required in each section of the crew rest area. The intent of paragraph a. was to require automatically presented supplemental oxygen in each section of the crew rest area. The presentation of the supplemental oxygen masks must be accompanied by an alert that can be heard in each section of the crew rest area. Paragraph a. has been revised to allow one alerting device to serve more than one section, provided it can clearly be heard in each section. Paragraph a. has also been clarified to identify that the supplemental oxygen masks are required in each section of the crew rest area.

Another comment objects to the requirement in Item 13, paragraph e., that requires doors installed between partitions to be frangible from either direction. It was proposed to change the requirement to state that, "All doors installed must be designed to preclude anyone from being trapped inside the compartment." This proposed revision identifies door performance criteria rather than a specific design solution. The proposed revision is also consistent with the requirement that was applied to the 777–200 Lower Lobe Attendant Rest. For this crew rest area, Boeing proposes alternate means to open the partition door in the event it is jammed or inoperable. The door can be removed from the aft side by disconnecting the hinge pins. From the front side the striker mechanism can be defeated to open the door and access the evacuation routes. The FAA concurs with the comment. These alternative means of opening a jammed or blocked door are acceptable, and that consideration should be given to designs that meet the proposed performance criteria rather than require partition doors to be frangible from both sides. Item 13, paragraph e., of these amended special conditions has been revised accordingly.

Another comment seeks to change the requirements contained in Item 13, paragraph f. This paragraph requires two-way voice communication equipment and additional emergency equipment in each section of a crew rest created by the installation of a hard partition with a door. The proposed revision suggests that the additional equipment should only be required in section(s) that did not provide an escape route to the main deck. The rationale was that the overall area of the crew rest is unchanged, so the only reason the additional equipment would be needed is if the partition door were inoperable (blocked or jammed). If the door were blocked or jammed, the alternate escape route could be used, precluding the necessity for the additional two-way communication equipment and emergency equipment. The FAA disagrees this is the only reason to install the additional equipment. There are several other scenarios that the FAA has considered. There may be a need for the main deck flightcrew to alert the occupants of the crew rest area to an in-flight emergency in the passenger cabin. In this case, a phone in each section needs to be readily accessible. Another situation that may occur is the need for additional emergency equipment to fight a fire just outside a partition door. Accepting this comment could result in circumstances where a flight attendant may be forced to evacuate a crew rest area rather than retrieve the emergency equipment and fight a fire. This would be unacceptable. In this type of an emergency the two-way voice communication equipment is also necessary so that backup personnel can be contacted.

Two comments were received from a company that modifies aircraft interiors by STC projects. One comment was similar to the previously addressed comment regarding the requirements for frangible doors. The commenter thinks the requirement for a two-way frangible door is too restrictive and that other means of preventing entrapment within a compartment should be allowed. The commenter suggests that Item 13, paragraph e., could be applied to a lavatory door installed in the crew rest area. For an application such as a lavatory door, it was suggested that a removable panel in the door could adequately provide a means by which entrapment could be prevented. As discussed previously, the FAA agrees that other means to prevent entrapment should be considered and has revised Item 13, paragraph e., accordingly.

This commenter also suggests that the requirement for additional emergency equipment contained in Item 13, paragraph f., should not be applied to a small section such as a lavatory, since a lavatory is not expected to be occupied for extended periods of time. The FAA agrees with this comment and has revised Item 13, paragraph f., accordingly. In addition, Item 13, paragraph f., has also been revised using the above rationale to remove the requirement for additional two-way voice communication equipment in areas that are only meant to be temporarily occupied.

A representative from the Association of Flight Attendants (AFA) submitted several comments. A summary of the AFA's position is that a crew rest area that is divided into sections by partitions and doors does not provide the same level of safety as the "open" configuration that was initially certified.

One comment from the AFA was that the hard partition and curtain block the lines of sight within the crew rest area. The visual obstructions could then reduce the situational awareness within the individual sections, should an emergency develop. The example given by the commenter is that with the previously approved open area, if a fire were to break out, all occupants would be able to immediately assess conditions throughout the crew rest area. The commentor also expresses concern that the partition and curtains would limit visibility of the primary and secondary evacuation routes. Although the situational awareness from visibility between the sections may be reduced, the FAA's position is that the new requirements for additional smoke detectors, decompression alarms; two-way voice communication equipment, and public address (PA) systems audible in each section adequately compensate for the reduced visibility. These systems will adequately alert the crew rest area occupants to emergencies in the crew rest area and to emergencies on the main deck of the aircraft.

In order to compensate for reduced visibility of the escape routes, exit signs have been required in each section of the crew rest area to assist the occupants in locating the primary exit. It should also be noted that the occupants of this crew rest area are required by Item 12 of these special conditions to receive additional training in the use of both the primary and alternate evacuation routes. After considering the requirement for additional occupant training, the additional signs required by Item 13, paragraphs d. and e., and the small confines of the overhead crew rest area, it has been determined that the installation of the hard partition and curtain are very unlikely to create a situation where the occupants would not be able to locate either of the escape routes. To assure that future installations don't propose what could be envisioned as a maze within the overhead crew rest area, Item 13, paragraph e., prohibits arrangements that would require the occupants to pass through more than one door before reaching the primary exit.

Another comment opposes installation of the partition door because of concerns for entrapment and the potential of the door to become a barrier to evacuation. There is no specific time requirement for evacuating the overhead crew rest area since it is not allowed to be occupied for taxi, takeoff and landing. Boeing has conducted certification testing that has shown that the door in the hard partition can be opened or removed should the door become blocked or jammed. The hinge pins can be removed from the aft side, and the striker mechanism can be defeated from the forward side; these operations can be accomplished in several seconds and are contrary to comments suggesting these features are difficult to operate. Since the door can be opened or removed in several seconds, the door cannot be considered an entrapment hazard or an impediment to egress. It should be noted that similar hinge pin designs and striker defeat mechanisms have been previously approved for other crew rest areas and lavatories.

A comment was also made that the door hinge pins should be relocated to the forward side of the partition door in conjunction with relocating the striker defeat mechanism to the aft side. There was no supportive reasoning provided for this recommendation, although it appears that the commenter believes that in the event the door is blocked or inoperable, it would be easier to evacuate the forward section of the crew rest area by removing the door from it's hinges than by defeating the striker mechanism. As was previously stated, the door design proposed by Boeing has been reviewed by the FAA, and has been found to provide an acceptable means to prevent entrapment.

Another comment suggests that a crash axe should be required in the forward compartment as a backup to the striker defeat mechanism. This suggestion will not be added to these special conditions. The partition door proposed by Boeing has been designed so that it cannot be jammed as a result of aircraft structural failure. Even if the door were jammed, it is possible to defeat the striker mechanism to gain access to the aft section of the crew rest area. If for some reason it were not possible to operate the striker defeat mechanism, the occupants of the forward section of the crew rest area could still use the two-way voice communication equipment required by Item 13, paragraph f., to summon additional help. Since this area is not allowed to be occupied for taxi, takeoff, and landing, there is no immediate need to be able to evacuate to the main deck. For this reason, the two-way voice communication equipment is considered an adequate backup to the striker defeat mechanism.

A comment was also submitted regarding the requirement for one additional protective breathing equipment (PBE) in the forward section of the crew rest. Concern was expressed that one additional PBE installed in the forward section of the crew rest area would not adequately protect all the occupants. The PBE's that are installed in the forward and aft sections are intended to be used for firefighting, not for providing breathable air for each crew rest occupant. There are no other crew rest areas that require one PBE per occupant. In the event of a fire in the crew rest area, it would be expected that one or two flight attendants would don the protective breathing equipment and stay to fight the fire while the others quickly evacuated to the main deck. For this reason, the one additional PBE in the forward section provides the same level of safety for a divided crew rest as has been provided for the previously certified open crew rest in that its installation assures accessibility of the emergency equipment deemed most critical, within each section of the crew rest area.

Another comment suggests that the leg rests on the double seats located directly aft of the partition door should be required to be stowed when not in use. For the Boeing 747–400 that was reviewed by the AFA, instructional placards have been installed that require the legrests be stowed in accordance with the commenter's suggestion. It is the FAA's position that it is not necessary to include this proposal in the revised special conditions, as the legrests do not affect the partition door operation and can be quickly stowed by anyone in the aft section of the crew rest area. As a normal function of certifying new crew rest configurations, this type of a potential egress hindrance would be evaluated and appropriate actions would be taken to ensure the effectiveness of the escape path.

Another comment from the AFA relates a near-fire incident inside a 747–400 crew rest where a blanket started smoldering in a crew rest bunk after having been in contact with a reading light. The commenter requests that fire retardant lights and materials be required in this area. The types of materials allowed in the overhead crew rest area are already addressed as part of the certification basis of the 747–400 which includes § 25.853, Amendment 59. In addition to the materials required

by § 25.853 Amendment 59, the crew rest area is also protected by a smoke detection system required by item 10; item 13, paragraph c.; and item 13, paragraph f., that annunciates in the flight deck, even when the crew rest area is unoccupied. In regard to the specific incident identified by the commenter, Boeing has made design changes to replace the style of reading light involved in the near fire incident with a reading light design that puts out less heat.

One comment was received from the Air Line Pilots Association, who states that the location of the crew rest area would make it unsuitable for cockpit crews, but provided no supportive reasoning for its position.

It is the FAA's position that the additional criteria contained in item 13 of these special conditions provides an equal level of safety for a divided crew rest as that established by the regulations incorporated by reference in Type Certificate No. A20WE.

Under standard practice, the effective date of final or amended special conditions would be 30 days after the date of publication in the Federal Register. However, since delivery of Model 747–400 airplanes with these additional novel or unusual design features is currently scheduled for October 24, 1997, and because a delay would significantly affect the applicant's installation and type certification of the crew rest area, the FAA finds that good cause exists for making these amended special conditions effective upon issuance.

Conclusion: This action affects only certain novel or unusual design features on one model series of airplanes. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Air transportation, Aircraft, Aviation safety, Safety.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Amended Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following amended special conditions are issued as part of the type certification basis for the Boeing Model 747 series airplanes.

1. Occupancy of the overhead crew rest area is limited to a maximum of 10 crewmembers. Occupancy during taxi, takeoff, or landing is not permitted.

2. There must be a stairway between the main deck and the crew rest area and there must be an alternate evacuation route for occupants of the crew rest area.

The stairway and alternate evacuation route must be located on opposite sides of the crew rest area or have sufficient separation within the compartment. The stairway and the alternate evacuation route must provide for evacuation of an incapacitated person, with assistance, from the crew rest area to the main deck, must not be dependent on any powered device, and must be designed to minimize the possibility of blockage which might result from fire, mechanical or structural failure. The crewmember procedures for carriage of an incapacitated person must be established.

3. An exit sign meeting the requirements of § 25.812(b)(1)(i) must be provided in the crew rest area near the stairway.

4. In the event the airplane's main power system should fail, emergency illumination of the crew rest area must be automatically provided. Unless two independent sources of normal lighting are provided, the emergency illumination of the crew rest area must be automatically provided if the crew rest area normal lighting system should fail. The illumination level must be sufficient for the occupants of the crew rest area to locate, and descend to the main deck by means of the stairway and/or the alternate evacuation route, and to read any required operating instructions.

5. There must be a means for two-way voice communication between crewmembers on the flight deck and occupants of the crew rest area, and between crewmembers and at least one flight attendant seat on the main deck and occupants of the crew rest area.

6. There must also be either public address speaker(s), or other means of alerting the occupants of the crew rest area to an emergency situation, installed in the crew rest area.

7. There must be a means, readily detectable by occupants of the crew rest area, that indicates when seat belts should be fastened and when smoking is prohibited.

8. For each occupant permitted in the crew rest area, there must be an approved seat or berth that must be able to withstand the maximum flight loads when occupied.

9. The following equipment must be provided:

a. At least one approved fire extinguisher appropriate to the kinds of fires likely to occur.

b. One protective breathing device, having TSO–C99 authorization or equivalent, suitable for firefighting.

c. One flashlight.

10. A smoke detection system that annunciates in the flight deck and is audible in the crew rest area must be provided.

11. A supplemental oxygen system equivalent to that provided for main deck passengers must be provided for each seat and berth.

12. There must be a limitation in the Airplane Flight Manual or other suitable means requiring that crewmembers be trained in the use of the evacuation routes.

13. The following requirements apply to crew rest areas that are divided into several sections by the installation of curtains or partitions.

a. To compensate for lack of crowd awareness, there must be an aural alert that can be heard in each section of the crew rest area that accompanies automatic presentation of supplemental oxygen masks in each section of the crew rest area. The supplemental oxygen masks are required in each section whether or not seats or berths are installed in each section. There must also be a means by which the flightcrew can manually deploy the oxygen masks.

b. A placard is required adjacent to each curtain that visually divides or separates the overhead crew rest area into small areas to serve a function of creating privacy. The placard must require that the curtain(s) remain open when the private area it creates is unoccupied. The vestibule area adjacent to the stairway is not considered a private area and, as such, its vacancy does not require a placard.

c. Each crew rest section created by the installation of a curtain must meet the requirements of items 4, 6, 7, and 10 of these special conditions with the curtain open or closed.

d. Overhead crew rest areas, which are visually divided to the extent that evacuation could be affected, must have exit signs meeting the requirements of § 25.812(b)(1)(i) in each separate area of the crew rest area which direct occupants to the primary stairway exit.

e. Sections within an overhead crew rest area that are created by the installation of a rigid partition with a door physically separating the sections must provide a secondary evacuation route from each section of the crew rest area to the main deck, or it must be shown that any door between the sections has been designed to preclude anyone from being trapped inside the compartment. Any door between the sections must be shown to be openable when crowded against. There can be no more than one door between each section of a crew rest area and the primary stairway exit. Exit signs meeting the requirements of § 25.812(b)(1)(i) that direct occupants to the primary stairway exit must be provided in each section of the crew rest area.

f. Each smaller area, within the main crew rest area, created by the installation of a partition with a door must individually meet the requirements of items 4, 5, 6, 7, 9 and 10 of these special conditions with the door open or closed. The requirements of items 5 and 9 are not applicable to lavatories or other small areas that are not intended to be occupied for extended periods of time.

Issued in Renton, Washington, on October 23, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–100.

[FR Doc. 97–29125 Filed 11–3–97; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–265–AD; Amendment 39–10190; AD 97–23–02]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 727–100 Series Airplanes Modified in Accordance With Supplemental Type Certificate (STC) SA8472SW

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Boeing Model 727–100 series airplanes. This action requires a revision to the Airplane Flight Manual (AFM) to prohibit stabilized operation between 60 and 75 percent N1 speed during ground operations in reverse or forward thrust. This amendment is prompted by a report that, during preparation for takeoff, a transport category airplane equipped with Rolls-Royce Tay 650–15 engines sustained an engine fan blade failure, followed by an engine fire. The actions specified in this AD are intended to prevent uncontained failure of engine fan blades due to high cycle fatigue cracking, which could result in loss of thrust from the affected engine and secondary damage to the airplane and/or fire.

DATES: Effective November 19, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 19, 1997.

Comments for inclusion in the Rules Docket must be received on or before January 5, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–265–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The Airplane Flight Manual (AFM) Supplement referenced in this AD may be obtained from the Dee Howard Company, P.O. Box 469001, San Antonio, Texas 78246. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Rotorcraft Directorate, 2601 Meacham Boulevard, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ron Piller, Flight Test Pilot, Airplane Certification Office, ASW–150, FAA, Rotorcraft Directorate, 2601 Meacham Boulevard, Fort Worth, Texas, 76137–4298; telephone (817) 222–5132; fax (817) 222–5960.

SUPPLEMENTARY INFORMATION: The Rijksluchtvaartdienst (RLD), which is the airworthiness authority for the Netherlands, recently notified the FAA that it received a report indicating that, during preparation for takeoff, a Fokker Model F28 Mark 0100 series airplane equipped with Rolls-Royce Tay 650–15 engines sustained an engine fan blade failure, followed by an engine fire.

Investigation revealed that five fan blades failed at the root area, three fan blades failed at mid-height, and the remainder were damaged severely. Further investigation revealed that all five fan blades failed due to rapid high cycle fatigue cracking with low cycle fatigue cracking origin. Evidence of rapid high cycle fatigue cracking indicates that an operational effect is causing high vibratory stresses. Rolls-Royce considers that the high cycle fatigue cracking was caused by vibration during previous thrust reverser applications.

Upon further investigation, the FAA has determined that Boeing 727QF airplanes have engine installation and service records that are similar to Fokker Model F28 Mark 0100 series airplanes. Boeing 727QF airplanes are Boeing Model 727–100 airplanes that have been modified in accordance with Supplemental Type Certificate (STC) SA8472SW, which includes the installation of Rolls-Royce Tay 651–54 engines.

The FAA has evaluated these findings and has determined that high-cycle fatigue cracking of the engine fan blades could cause uncontained failure of the engine fan blades. Such fatigue cracking, if not corrected, could result in loss of thrust from the affected engine and secondary damage to the airplane and/or fire.

Explanation of Relevant Service Information

The FAA has reviewed and approved Dee Howard Airplane Flight Manual (AFM) Supplement CR102–F–068, Change 19, dated October 2, 1997 (for Boeing 727QF airplanes), which prohibits stabilized operation between 60 and 75 percent N1 speed during ground operations in reverse or forward thrust. Accomplishment of the actions specified in the service document is intended to adequately address the identified unsafe condition.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other Boeing Model 727–100 series airplanes of this same type design registered in the United States, this AD is issued to require a revision to the Limitations Section of the FAA-approved AFM to prohibit stabilized operation between 60 and 75 percent N1 speed during ground operations in reverse or forward thrust.

These actions are required to be accomplished in accordance with the document described previously.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire.

Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97–NM–268–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

97–23–03 Boeing: Amendment 39–10190. Docket 97–NM–268–AD.

Applicability: Model 727–100 series airplanes modified in accordance with Supplemental Type Certificate (STC) SA8472SW, which includes installation of Rolls-Royce Tay 651–54 engines; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent uncontained failure of engine fan blades due to high cycle fatigue cracking, which could result in loss of thrust from the affected engine and secondary damage to the airplane and/or fire, accomplish the following:

(a) Within 72 hours after the effective date of this AD, revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) by inserting a copy of Dee Howard Airplane AFM Supplement CR102–F–066, Change 19, dated October 2, 1997, in the AFM.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Airplane Certification Office, ASW–150, FAA, Rotorcraft Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Airplane Certification Office, ASW–150.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Airplane Certification Office, ASW–150.

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The AFM revision shall be done in accordance with Dee Howard Airplane Flight Manual Supplement CR102–F–066, Change 19, dated October 2, 1997 (for Boeing 727QF airplanes), which contains the following list of effective pages.

Page number	Revision level shown on page	Date shown on page
Title Page	19	November 25, 1992.
1–1, 1–3, 3–4, 3–15, 4–61.	Not Shown ...	October 2, 1997.

The incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Dee Howard Company, P.O. Box 460001, San Antonio, Texas 78246. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Rotorcraft Directorate, 2601 Meacham Boulevard, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on November 19, 1997.

Issued in Renton, Washington, on October 28, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–29114 Filed 11–3–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–225–AD; Amendment 39–10191; AD 97–23–03]

RIN 2120–AA64

Airworthiness Directives; British Aerospace (Jetstream) Model HS 748 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain British Aerospace (Jetstream) Model HS 748 series airplanes. This action requires a one-time visual inspection of the retraction jack mounting brackets in the nose landing gear bay to determine the type of attachment bolts installed on the bracket bearing caps, and replacement of any incorrect bolt with a serviceable bolt of the correct type. This amendment is prompted by the issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified in this AD are intended to prevent failure of the bearing cap attachment bolts, which could result in detachment of the bearing caps and consequent collapse of the nose landing gear on landing.

DATES: Effective November 19, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 19, 1997.

Comments for inclusion in the Rules Docket must be received on or before December 4, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–225–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Ai(R) American Support, Inc., 13850 McLearen Road, Herndon, Virginia 20171. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, notified the FAA that an unsafe condition may exist on certain British Aerospace (Jetstream) Model HS 748 series airplanes. The CAA advises that it received reports indicating that mounting bracket assemblies of several replacement retraction jack mounting brackets in the nose landing gear bay were installed with incorrect "transport" bolts, rather than the required high-strength bolts. The actions specified in this AD are intended to prevent failure of the bearing cap attachment bolts, which could result in detachment of the bearing caps and consequent collapse of the nose landing gear on landing.

Explanation of Relevant Service Information

Jetstream has issued Service Bulletin HS748–53–59–INSP, dated May 4, 1994, which describes procedures for a one-time visual inspection of the retraction jack mounting brackets in the nose landing gear bay to determine the type of attachment bolts installed on the bracket bearing caps, and replacement of any incorrect bolt with a serviceable bolt of the correct type. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The CAA classified this service bulletin as mandatory and issued British airworthiness directive 007–05–94 in order to assure the continued airworthiness of these airplanes in the United Kingdom.

FAA's Conclusions

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.19) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD requires accomplishment of the actions specified in the service bulletin described previously, except as described below.

Differences Between this AD and the Service Information

Operators should note that, unlike the procedures described in the referenced service bulletin and the British airworthiness directive, this AD will not permit further flight with any incorrect bolt installed on a bracket bearing cap. The FAA has determined that, due to the safety implications and consequences associated with the installation of such incorrect parts, all incorrect bolts must be replaced prior to further flight.

Cost Impact

None of the Jetstream Model HS 748 series airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 1 work hour per airplane to accomplish the required actions, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this AD would be $60 per airplane.

Determination of Rule's Effective Date

Since this AD action does not affect any airplane that is currently on the U.S. register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, prior notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register**.

Comments Invited

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic,

environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97–NM–225–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

97–23–03 British Aerospace Regional Aircraft [Formerly Jetstream Aircraft Limited, British Aerospace (Commercial Aircraft) Limited]: Amendment 39–10191. Docket 97–NM–225–AD.

Applicability: Jetstream Model HS 748 series airplanes on which Modification 7513 has been accomplished; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the bearing cap attachment bolts, which could result in detachment of the bearing caps and consequent collapse of the nose landing gear on landing, accomplish the following:

(a) Within 100 landings after the effective date of this AD, perform a one-time visual inspection of the retraction jack mounting brackets in the nose landing gear bay to determine the type of attachment bolts installed on the bracket bearing caps, in accordance with Jetstream Service Bulletin HS748–53–89–INSP, dated May 4, 1994. If any series A111 bolt or any other hexagonal head bolt is found, prior to further flight, replace that bolt with a new 12-point, star-shaped bolt having part number A228E18H or MS21250H04018, and washer having part number 6D14770; in accordance with the service bulletin.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The actions shall be accomplished in accordance with Jetstream Service Bulletin HS748–53–89–INSP, dated May 4, 1994. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Jetstream Aircraft, Inc., 13850 McLearen Road, Herndon, Virginia 20171. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on November 19, 1997.

Note 3: The subject of this AD is addressed in British airworthiness directive 007–05–94.

Issued in Renton, Washington, on October 29, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–29113 Filed 11–3–97; 8:45 am]

BILLING CODE 4910–13–U

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Part 2204

Amendment of the Commission's Equal Access to Justice Rules

AGENCY: Occupational Safety and Health Review Commission.

ACTION: Final rule.

SUMMARY: This document amends the Occupational Safety and Health Review Commission's procedural rules on eligibility under the equal Access to Justice Act by adding a paragraph requiring that the net worth and number of employees of an applicant shall be aggregated with those of its affiliates, unless to do so would be unfair and contrary to the purposes of the Equal Access to Justice Act. This amendment will minimize extra unnecessary collateral litigation and bring the Commission into conformity with the corresponding rule adopted by most other federal agencies. This document also changes the shortened reference to the Equal Access to Justice Act used in this Part to read, as it is commonly referred to, "EAJA."

DATES: Effective November 4, 1997.

FOR FURTHER INFORMATION CONTACT: Earl R. Ohman, Jr., General Counsel, (202) 606–5410, Occupational Safety and Health Review Commission, 1120 20th Street, N.W., Ninth Floor, Washington, DC 20036–3419.

SUPPLEMENTARY INFORMATION: On August 11, 1997, the Commission published in the **Federal Register** a proposed new paragraph (f) to add to 29 CFR 2204.105 containing its Rules of Procedure concerning eligibility under the Equal Access to Justice Act, 62 FR 42957 (August 11, 1997). The new paragraph is based on the model rule of the (former) Administrative Conference of the United States, adopted in large part by most federal agencies, concerning aggregation of the net worth and number of employees of the applicant with those of its affiliates. At the same time, the Commission also proposed to change all references to the "EAJ Act" in 29 CFR Part 2204 to read "EAJA" to conform to the common shortened reference term for the Equal Access to Justice Act. The only comments that the Commission received were from the Office of the Solicitor, U.S. Department of Labor, which supports the changes as proposed. The Commission thanks that office for its time and interest.

List of Subjects in 29 CFR Part 2204

Claims, Equal access to justice, Lawyers.

For the reasons set forth in the preamble, the Occupational Safety and Health Review Commission amends Title 29, Chapter XX, Part 2204 of the Code of Federal Regulations to read as follows:

PART 2204—IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN PROCEEDINGS BEFORE THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

1. The authority citation for Part 2204 continues to read as follows:

Authority: Sec. 203(a)(1), Pub. L. 96–481, 94 Stat. 2325 (5 U.S.C. 504(c)(1)); Pub. L. 99–80, 99 Stat. 183.

PART 2204—[AMENDED]

2. All references in Part 2204 to "EAJ Act" are revised to read "EAJA" wherever they appear.

3. A new paragraph (f) is added to § 2204.105 to read as follows:

§ 2204.105 Eligibility of applicants.

* * * * *

(f) The net worth and number of employees of the applicant and all of its affiliates shall be aggregated to determine eligibility. Any individual, corporation, or other entity that directly or indirectly controls or owns a majority of the voting shares or other interest of the applicant, or any corporation or other entity of which the applicant directly or indirectly owns or controls a majority of the voting shares or other interest, will be considered an affiliate for purposes of this part, unless such treatment would be unjust and contrary to the purposes of the EAJA in light of the actual relationship between the affiliated entities. In addition, financial relationships of the applicant other than those described in this paragraph may constitute special circumstances that would make an award unjust.

Dated: October 29, 1997.

Stuart E. Weisberg,

Chairman.

Daniel Guttman,

Commissioner.

[FR Doc. 97–29101 Filed 11–3–97; 8:45 am]

BILLING CODE 7600–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

[SPATS No. IN–134–FOR; State Program Amendment No. 95–12]

Indiana Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving with certain exceptions a proposed amendment to the Indiana regulatory program (hereinafter referred to as the "Indiana program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Indiana proposed revisions to the Indiana Surface Coal Mining and Reclamation Act (ISMCRA) as enacted by the Indiana General Assembly (1995) in Senator Enrolled Act 125 (SEA 125). The proposed amendment, concerning the submittal of affected area status reports and performance bonding, is intended to revise the Indiana program to be consistent with SMCRA and incorporate State initiatives.

EFFECTIVE DATE: November 4, 1997.

FOR FURTHER INFORMATION CONTACT: Andrew R. Gilmore, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, IN 46204–1521, Telephone (317) 226–6166.

SUPPLEMENTARY INFORMATION:

I. Background on the Indiana Program
II. Submission of the Proposed Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background on the Indiana Program

On July 29, 1982, the Secretary of the Interior conditionally approved the Indiana program. Background information on the Indiana program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the July 26, 1982, **Federal Register** (47 FR 32107). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 914.10, 914.15, and 914.16.

II. Submission of the Proposed Amendment

By letter dated September 11, 1995 (Administrative Record No. IND–1510), the Indiana Department of Natural Resources (IDNR) submitted a proposed amendment to its program pursuant to SMCRA. Indiana submitted the proposed amendment as its own initiative. SEA 125 amends ISMCRA by adding new sections and revising existing sections, concerning affected area status reports and performance bonding, to recodified Indiana Code (IC) 14–8. The provisions of the ISMCRA that Indiana proposes to add at recodified IC 14–8 are: IC 14–8–42.5, definition of "collateral"; IC 14–8–2–49.5, definition of "comparative balance sheet"; IC 14–8–2–49.6, definition of "comparative income statement"; IC 14–8–2–274.5, definition of "Surface Mining Control and Reclamation Act." The provisions of the ISMCRA that Indiana proposes to revise or add at recodified IC 14–34 are: IC 14–34–5–10, affected area status reports; IC 14–34–6–14.3 and IC 14–34–14.6, general requirements of performance bonding; IC 14–34–7–0.5, definition of "collateral"; IC 14–34–7–0.6, definition of "comparative balance sheet"; IC 14–34–7–0.7, definition of "comparative income statement"; IC 14–34–7–2.5, definition of "Surface Mining Control and Reclamation Act"; IC 14–34–7–1, definition of "liabilities"; IC–14–34–7–4(b), definition of "current liabilities"; IC 14–34–7–4(d), conditions for self-bonding; IC 14–34–7–4(e), (f) and (g), additional conditions for self-bonding; IC 14–34–7–4.1, replacement of self-bonds; IC 14–34–7–5, corporate guarantee; IC 14–34–7–7, indemnity agreement conditions; IC 14–34–7–7.1, use of collateral to support a self-bond; IC 14–34–7–8, information requirements for self-bonding; IC 14–34–7–9, requirements for a change in financial conditions; IC 14–34–7–10, self-bonding report requirements; IC 14–34–7–11, self-bond coverage requirements; IC 14–34–7–12, self-bond Phase I grading

release requirements; and IC 14–34–7–13, nonseverability provision.

OSM announced receipt of the proposed amendment in January 22, 1996, Federal Register (61 FR 1551), and in the same document opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on February 21, 1996.

During its review of the amendment, OSM identified concerns relating to duplicate bond coverage/reclamations agreements, IC 14–34–6–14.6; definition of "liabilities," IC 14–34–7–1; self-bonding qualifying criteria, IC 14–34–7–4; collateral self-bonds, IC 14–34–7–7.1; and report of qualified independent public accounting consultant, IC 14–34–7–10. OSM notified Indiana of these concerns by letter dated September 13, 1996 (Administrative Record No. INC–1543).

By letter dated October 25, 1996 (Administrative Record No. IND–1545), Indiana responded to most of OSM's concerns by submitting additional explanatory information. By letter dated August 4, 1997 (Administrative Record No. IND–1584), Indiana responded to OSM's editorial concerns by submitting Senate Enrolled Act 7, which contained technical corrections to its proposed amendment. Because the additional information merely clarified certain provisions of Indiana's proposed amendment, OSM did not reopen the public comment period.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment.

Revisions not specifically discussed below concern nonsubstantive wording changes, or revised cross-references and paragraph notations to reflect organizational changes resulting from this amendment.

A. Revisions to Indian's Statutes That Are Substantively Identical to the Corresponding Federal Provisions

1. Indiana proposes to revise the following statute that contains language that is identical in meaning to the counterpart Federal regulation indicated in brackets IC 14–34–7–5, Self-Bonding Corporate Guarantee [30 CFR 800.23(c)(1)].

Because the above proposed revision is identical in meaning to the corresponding Federal regulation, the Director finds that Indiana's proposed statute is no less stringent than SMCRA and no less effective than the Federal rule.

B. Revisions to Indiana's Statutes That Are Not Substantively Identical to the Corresponding Federal Provisions

1. IC 14–8–2–42.5 and IC 14–34–7–0.5 Definition of Collateral

Indiana proposes to add a definition of "Collateral" to its statutes. At IC 14–8–2–42.5, Indiana proposes to add language as follows.

"Collateral," for purposes of IC 14–34–7, has the meaning set forth in IC–14–34–7–0.5.

At IC 14–34–7–0.5, Indiana proposes to add the following definition of "Collateral."

As used in this chapter, *collateral* means the actual or constructive deposit, as appropriate, with the director of one (1) or more of the following types of property in support of a self-bond:

(1) A perfected, first-lien security interest in favor of the department of natural resources in real property located in Indiana that meets the requirements of this chapter.

(2) Securities backed by the full faith and credit of the United States government, or state government securities, that are: (A) acceptable to; (B) endorsed to the order of; and (C) placed in the possession of; the director.

(3) Personal property that is located in Indiana and owned by the applicant, the market value of which is more than one million dollars ($1,000,000) per property unit.

Indiana's proposed language at IC 14–34–7–0.5(1) and (2) would allow operators to use as collateral the same forms of collateral approved by the Federal regulation that define "Collateral bond" at 30 CFR 800.5(b)(5) and (6). The Federal regulation at 30 CFR 800.5(b) do not include a provision that allows personal property to be used as collateral, but neither do they specifically prohibit the use of personal property for collateral.

With the exception of personal property, Indiana is proposing collateral mechanisms to support a self-bond that are similar to the collateral mechanisms allowed in the federal program to support a permittee's indemnity agreement as bond. The Federal self-bonding regulations at 30 CFR 800.23 do not contain a counterpart to Indiana's revised statutes providing for the use of personal property as collateral for self-bonds. The Federal regulations at 30 CFR 800.21 do allow the use of real property and government-backed securities as collateral for indemnity agreements. OSM eliminated the use of personal property as collateral in a July 19, 1983, Federal Register notice (48 FR 32932). In that notice OSM stated that "because of potential problems, including potential loss of the property, difficulties obtaining appraisals of such items, fluctuations in value, and the potential attachment of liens, personal property as a general form of collateral was deleted from the Federal definition of acceptable collateral." Indiana's proposal to allow self-bonding applicants to collateralize a self-bond with personal property is similar to the State of Wyoming's self-bonding program approved by OSM (55 FR 30227, July 25, 1990). As stated in the preamble to the approval of the Wyoming regulations, OSM said that the State had addressed all of OSM's concerns about the use of personal property, namely that with a minimum value of $1 million per unit, the concern that property would be small and hard to track is resolved. The Indiana proposal also requires a per unit property value of $1 million. In addition, the State plans to accept the value of property at the difference between the marke t value of the State's projected liquidation costs. This is consistent with the requirements under the Federal regulations to adjust the value of collateral by a margin that represents liquidation cost in order to avoid inflating the value of the property as bonding collateral. Both the Wyoming self-bonding program and the proposed Indiana self-bonding revisions require the applicant to meet certain financial tests in order to use collateral to support the self-bond. In Wyoming, the tests are an alternate set of tests. Indiana is proposing that an applicant meet two out of the three standard financial tests in order to pledge personal property collateral; therefore, this provides extra assurance that the applicant will have the financial resources necessary to perform the reclamation should the property decrease in value. Like the Wyoming program, Indiana's proposal requires that the applicant provide the State with a perfected, first lien security interest. Therefore, the concern over liens is resolved. The State's proposal to require maintenance reports will help assure that the collateral is maintained in good working order. As with the Wyoming program, the Director finds that the State's proposed use of personal property to collaterlize self-bond is not inconsistent with not less effective that the Federal regulations. Therefore, the Direct's is approving Indiana's proposed definitions for the term collateral at IC 14–8–2–42.5 and IC 14–34–7–0.5.

2. IC 14–8–2–274.5 and IC 14–34–7–2.5 Definition of Surface Mining Control and Reclamation Act

Indiana proposes to add a definition of "Surface Mining Control and Reclamation Act," to its statutes. At IC 14–8–2–274.5, Indiana proposes to add language as follows.

"Surface Mining Control and Reclamation Act," for purpose of IC 14–34–7, has the meaning set forth in IC 14–34–7–2.5.

At IC 14–34–7–2.5, Indiana proposes to add the following definition of "Surface Mining Control and Reclamation Act."

As used in this chapter, *Surface Mining Control and Reclamation Act* means the federal Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 through 1328).

The Federal regulations at 30 CFR 705.5 define the term "Act" to mean the Surface Mining Control and Reclamation Act of 1977, Pub. L. 95–87. Indiana's proposed definition at IC 14–34–7–2.5, which refers to the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 through 1328) as the "Surface Mining Control and Reclamation Act," would not render the Indiana statutes less stringent than SMCRA or less effective than the Federal regulations at 30 CFR 705.5. Therefore, the Director is approving Indiana's definition of at IC 14–8–2–274.5 and IC 14–34–7.2.5.

3. IC 14–34–7–1 Definition of Liabilities

Indiana's existing statute at IC 14–34–7–1 is identical to the Federal definition of libitlities at 30 CFR 800.23(a). The State proposes to amend the definition of liabilities as:

"obligations to transfer assets or provide services to other entities in the future as a result of past transaction. The term does not include amounts that are required to be recorded for financial accounting purpose under Statement of Financial Accounting Standards number 106 issued by the Financial Accounting Standards Board and effective December 1990."

The State proposes to allow companies to exclude FAS 106 obligations form liabilities for the purpose of applying for self-bonding.

As outlined in OSM's September 13, 1996, letter to Indiana, this proposal is deemed to be less effective than the counterpart Federal regulations. The Federal regulations require that all liabilities be shown on an applicant's balance sheet prepared in accordance with Generally Accepted Accounting Principles (GAAP). GAAP follows the accounting rules established by the Financial Accounting Standards Board (FASB), a private organization funded by professional accounting associations.

In its October 25, 1996, response to OSM's letter, the State supports its position that FAS 106 liabilities do not need to be included in an applicant's financial statement by referring to public comments dated February 6, 1996 (Administrative Record Number IND–1532), as its justification.

OSM does not believe that these comments reflect the most current and/or the most accurate information on FAS 106 and its effects on self-bonding applicants. Therefore, OSM continues to consider the State's proposed definition of liabilities to be less effective than the Federal regulations for the reasons discussed below.

The information and journal articles that the comments referred to have subsequently been updated by more current thinking and journal articles on the subject. In addition, the State has not provided any evidence that eliminating FAS 106 liabilities from an applicant's balance sheet provides the same level of information and accuracy for financial reporting that is gained by reporting all liabilities (as required by the FASB). Part of the FAS 106 liability includes, the current portion of the liability (for retirees for the current year). Eliminating the total FAS 106 obligation from the balance sheet would result in an inaccurate accounting of the applicant's current obligations. This would result in a current ratio that does not represent the actual current obligations of the applicant.

Below is an analysis of the FAS 106 obligations and reasons why removing the obligations from an applicant's balance sheet is less effective than the Federal regulations. A new accounting rule, FAS 106, issued by the FASB in December 1990, requires companies to accrue the costs of postretirement health benefits and to show this as a liability on their balance sheets starting in 1993. Prior to 1993, these obligations were recognized on a pay-as-you-go-basis. FAS 106 obligations include health benefits earned during an employee's active employment and paid out at retirement. Computing the amount of the liability involves a number of factors including long-term interest rates and the health care cost trend rate. As stated in "FAS 106 Still Looms Large," published in the January 23, 1995, issue of Pensions and Investments, "While many investment managers and financial analysts believe 1993's big writeoffs and resulting earnings losses put the bad news behind, there will be ongoing, albeit smaller, financial problems associated with FAS 106, that could produce a drag on earnings, according to benefits specialists and actuaries."

The State's proposed change to the definition of liabilities would allow self-bonding applicants to compute the self-bond qualifying ratios and financial limitations based on pre-FAS 106 financial data, thereby applying the 25 percent of net worth test to pre-FAS 106 net worth. Under this proposal, the State would not know the extent and the effects of the applicant's FAS 106 obligation on the applicant's long-term financial condition. This could result in the State accepting a self-bond from an applicant whose long-term FAS 106 obligations are material enough to threaten the future viability of the self-bonding arrangement. While the obligation as a whole does not represent a cash outlay in any given accounting period, it eventually must be paid whether a company amortizes the amount (delayed recognition) or accounts for it on an "immediate recognition basis." While some components of the FAS 166 obligation are estimated, to recognize only that part of the obligation being paid to current retirees, or to exclude the liability altogether, results in an inaccurate picture of a companys' long term financial condition. The longer the life of the mine for which a self-bonding arrangement is sought, the greater the significance of the FAS 106 obligation because of the long-term nature of reclamation.

Articles published in the February and March 1993, issues of Corporate Cashflow Magazine and Financial World state that bond rating services such as Moody's and Standard and Poor's will consider the effects of FAS 106 when rating a company's bond issues. Companies' bonds will be rated on the basis of both pre-FAS 106 and post-FAS 106 financials. One of the articles advises readers to "Ignore FAS 106 at your peril * * *" and that " 'Over time there will be credit-quality implications for those companies that are unable to recoup FAS 106 losses through earnings or some other balance-sheet enhancement, such as issuing new stock,' says Joseph C. Bencivenga, managing director and head of corporate bond research for Salomon Brothers. Adds Brown Brothers' Hill: 'Future claims on cash should not be overlooked by equity investors in their investment decision-making. This is especially true for the more labor-intensive, unionized industries with large postretirement benefit liabilities, where retired employees sometimes have a claim on cash equal to that of the shareholders.' " In the January 23, 1995, issue of Pensions and Investments, the

article entitled "FAS 106 Still Looms Large," states that "In 1993, most companies adopted FAS 106 and recognized obligations for past service liabilities on the balance sheet, resulting in writedowns of 7% to 12% in book value among Standard & Poor's 500 companies alone."

The above articles on FAS 106 are in contrast to earlier articles on the subject published in 1989 and 1991 that indicated that bond rating services, Moody's and Standard and Poor's (S&P), would ignore the effects of FAS 106 and that bond ratings would stay the same. However, as indicated in the above 1993 and 1995 articles, after companies began implementing the requirement in 1993, the post-retiree health benefit obligations far exceeded amounts anticipated causing rating companies such as S&P and Moody's to take a second look at the effects of these obligations. According to "FAS 106 Still Looms Large," in the January 23, 1995, issue of Pensions and Investments, "liabilities that resulted in billions of dollars in reduced operations earnings last year still hold some expensive surprises. Industry sources warn there may be additional reductions in earnings linked to higher ongoing annual expenses caused by Financial Accounting Standards FAS 106."

In its summary to the FAS 106 statement, the FASB stated that one of the Board's objectives in issuing this Statement is" * * * to enhance the ability of users of the employer's financial statement to understand the extent and effects of the employer's undertaking to provide postretirement benefits to its employees by disclosing relevant information about the obligation and cost of the postretirement benefit plan and how those amounts are measured."

A commenter (Administrative Record Number IND–1532), in support of the State's proposed amendment, stated that the Indiana statute (SEA 125) was "enacted to remedy a situation resulting from a change in accounting standards [FAS 106] which occurred subsequent to the original enactment of statutory provisions governing self-bonding in Indiana in 1988, as a result of which most Indiana coal producers are no longer eligible to self-bond." The commenter believes that the Federal self-bonding regulations should also be revised in light of the FAS 106 change to accounting principles especially because "credit-rating agencies, including the bond rating agencies referred to in section 800.23(b)(3)(i) [S&P and Moody's], have decided not to change credit ratings based on FAS 106." To support the State's proposal, the commenter cited an article published in 1989, prior to the 1993 implementation of FAS 106 and prior to the financial industry knowing the actual effects of implementing FAS 106.

OSM disagrees with the commenter that bond rating companies have decided not to change credit [bond] ratings and that the best approach is to follow the lead of credit-rating agencies as justification for changing the self-bonding regulations. Based on OSM's discussions with Standard and Poor's (S&P) and Dun and Bradstreet (D&B), and in reviewing current literature as discussed above, OSM believes that the effects of FAS 106 apply to many aspects of an applicant's financial statement and are too complex to be discounted by simply removing the obligation from liabilities. S&P and Moody's employ many variables related to FAS 106 obligations when establishing a company's bond rating. FAS 106 obligations are considered.

During its review of the State's proposal, OSM conducted research to determine how the credit industry is treating FAS 106 obligations in underwriting decisions. Financial analysts from (S&P) and (D&B) discussed their procedures for recognizing the FAS 106 obligation with OSM. One senior analyst from S&P said that S&P recognizes the FAS 106 transaction as a "non-cash" charge and retains the prior bond rating if the fundamentals of a company have not changed. According to S&P's written guidance, "Corporate Finance Criteria," S&P states that FAS 106 obligations:

"are not viewed in the same light as straight debt, since amounts to be paid in future years are subject to change. Nonetheless, S&P believes that, for analytic purposes, the entire unfunded APBO [Accumulated Postretirement Benefit Obligation] should be reflected in the balance sheet as a liability regardless of whether a company opts for immediate or delayed recognition [of the liability] under FAS 106 * * *. Moreover, it is critical to have one basis for analysis to allow comparison between companies. In assessing capital structure, S&P makes balance sheet adjustments so that the unfunded APBO is fully recognized * * *. In cases where a company's retiree medical liability burden is material, S&P does not rely on any single figure as a definitive representation of the OPEB [Employers' Accounting for Post-retirement Benefits other than pensions]. Rather, the analysis may consider several alternative estimates and financial ratios based on each * * *. The level of cash outlays has the most immediate impact on a company's financial health. Given the trend of dramatic increases in spending for these benefits, S&P focuses on prospective cash outlays * * *. In assessing the significance of OPEBs and other debt-like obligations to a company, the ratio of total liabilities to net worth becomes a more significant ratio."

As shown above, S&P considers the effects of FAS 106 when assigning bond ratings; and in fact, S&P adjusts the obligation so that it is fully recognized (rather than amortized) in order to have a basis of comparison between companies. If an applicant can retain an A or higher bond rating after implementing FAS 106, and after being analyzed by S&P or Moody's, it may still qualify for self-bonding.

In discussions with OSM, two Dun and Bradstreet financial analysts indicated that they might drop a company's Dun and Bradstreet credit rating as a result of FAS 106; however, this would be based on many considerations including whether a company made a profit and had positive cash flow after implementing FAS 106. One analyst said that if the financial effects of a one-time charge were significant, but other items in the financial statement indicated the company was strong, he might change the credit rating to a "blank" rating [no rating assigned] with notes of explanation. Both analysts indicated that following a company's implementation of FAS 106, factors that are heavily weighed during the credit rating process are a company's cash flow, profitability, and ranking when compared with industry peers (industry norms).

Bond ratings and credit ratings may or may not be changed depending on the overall financial condition of the company being rated. Therefore, eliminating the FS 106 obligation from liabilities based on assumptions that the liability is being ignored by the rating services and the investment and credit industries is incorrect.

Based on the above discussion, the Director is not approving the proposed revision to Indiana's definition of liabilities at IC 14–34–7–1, and is requiring Indiana to remove the disapproved language. To be no less effective than the Federal regulations, the State needs to retain its current approved definition of liabilities that requires all liabilities be reported in the application, and not exclude FAS 106 obligations from the definition of liabilities. A possible future option for dealing with FAS 106-type obligations would be to develop alternative self-bonding criteria, no less effective than the Federal regulations, that recognize FAS 106 obligations as a liability while still allowing financially strong companies to qualify for self-bonding.

4. IC 14–34–6–14.3 Release of Bond From Undisturbed Areas

Indiana proposes to add the following new section at 14–34–6–14.3.

The director may release the bond, deposit, or letter of credit covering an area that has not been disturbed by surface mining activities. A release under this subsection is not subject to the public notice and hearing requirements set forth in sections 7 through 14 of this chapter.

Indiana's proposed language is similar to the Federal provision at 30 CFR 800.15(c) where a permittee may request reduction of the bond amount upon submission of evidence to the regulatory authority that the method of operation or other circumstances reduces the estimated cost for the regulatory authority to reclaim the bonded area. Under this provision, bond adjustments which involve undisturbed land or revision of the cost estimate of reclamation are not considered bond releases subject to the performance bond release requirements at 30 CFR 800.40. Therefore, Indiana's proposed new section at 1C 14–34–6–14.3 would not render Indiana's statutes less stringent than SMCRA or less effective than the Federal regulations.

The Director notes that Indiana's reference to the term "subsection" in the proposed statute should be "section" and is requesting Indiana to correct this error.

5. IC 14–34–7–4(b) Definition of Current Liabilities

Indiana proposes to revise IC 14–34–7–4(b) by making nonsubstantive language changes, designating the existing provision as (b)(1), and adding (b)(2). Subsection (b)(2 specifies that "current liabilities" also include dividends payable on preferred stock within one (1) quarter, if declared, or one (1) year, if a pattern of declaring dividends each quarter is apparent from past business practice. Existing IC 14–34–7–4(b) is substantially the same as the Federal definition of "current liabilities" at 30 CFR 800.23(a). Indiana's proposed additional language at (b)(2) would add specificity to the definition of "current liabilities" and would not render the State statutes less stringent than SMCRA or less effective than the Federal regulations at 30 CFR 800.23(a).

6. IC 14–34–7–8 Information Requirements for Self-Bonding

Indiana proposes to add a provision at IC 14–34–7–8(2) that requires submission of unaudited financial statements for completed quarters in the current fiscal year not later than sixty (60) days after the end of each quarter. The Federal regulations at 30 CFR 800.23(b)(4) also require submission of such statements but do not set a specific time for submittal. Indiana's proposed requirement clarifies when the statements are to be submitted, and it will not render the State statutes less stringent than SMCRA or less effective than the Federal regulations.

C. Revisions to Indiana's Statutes With No Corresponding Federal Provisions

1. IC 14–8–2–49.5 and IC 14–34–7–0.6 Definition of Comparative Balance Sheet

Indiana proposes to add a definition of "Comparative balance sheet" to its statutes. At IC 14–8–2–49.5, Indiana proposes to add language as follows.

"Comparative balance sheet", for purposes of IC 14–34–7, has the meaning set forth in IC 14–34–7–0.6.

At IC 14–34–7–0.6, Indiana proposes to add the following definition of "Comparative balance sheet."

As used in this chapter, *comparative balance sheet* means items accounts from a number of the operator's successive yearly balance sheets arranged side by side in a single statement.

Although SMCRA and the Federal regulations do not include a definition for "comparative balance sheet," the term, as defined by Indiana, is a generally accepted accounting term. Therefore, the Director is approving Indiana's proposed definitions at IC 14–8–2–49.5 and IC 14–34–7–0.6. The Director notes that an apparent typographical error exists in the proposed definition at IC 14–8–2–49.5, where "item accounts" should read "item amounts," and is requesting Indiana to correct this error.

2. IC 14–8–2–49.6 and IC 14–34–7–0.7 Definition of Comparative Income Statement

Indiana proposes to add a definition of "Comparative income statement" to its statutes. At IC 14–8–2–49.6, Indiana proposes to add language as follows.

"Comparative income statement", for purposes of IC 14–34–7, has the meaning set forth in IC 14–34–7–0.7.

At IC 14–34–7–0.7, Indiana proposes to add the following definition of "Comparative income statement."

As used in this chapter *comparative income statement* means an operator's income statement amounts for a number of successive yearly periods arranged side by side in a single statement.

Although SMCRA and the Federal regulations do not include a definition for "comparative income statement," the term, as defined by Indiana, is a generally accepted accounting term.

Therefore, the Director is approving Indiana's proposed definitions at IC 14–8–2–49.6 and IC 14–34–7–0.7.

3. IC 14–34–5–10 Affected Area Status Reports

Indiana proposes to amend IC 14–34–5–10, pertaining to affected area status reports, by removing time specific submittal requirements, adding language authorizing the State to adopt content and data filing requirements under its regulations, and making nonsubstantive wording changes.

There are no counterpart provisions in the Federal regulations that require submission of affected area status reports; however, the States' proposed changes at IC 14–34–5–10 are not inconsistent with SMCRA or less effective than the Federal regulations.

4. IC 14–34–6–14.6 Duplicate Bond Coverage/Reclamation Agreements

At IC 14–34–6–14.6, Indiana proposed to add a new section to its statutes. Subsection (a) specifies that the proposed section applies when an applicant or permittee submits a bond, deposit, or letter of credit covering an area that has been disturbed by surface coal mining activities and is covered by another bond, deposit, or letter of credit previously submitted by another permittee.

Indiana's proposed provision at subsection (b) allows release of the previously submitted bond, deposit, or letter of credit when the director of IDNR accepts the bond, deposit, or letter of credit submitted by the new applicant or permittee for the previously disturbed area. The new bond, deposit, or letter of credit is subject to the bonding standards of IC 14–34–6, sections 7 through 14. In its September 13, 1996, letter to Indiana, OSM expressed concern that as proposed at IC 14–34–6–14(6), the first bond could be released prior to issuance of the second permit, and if for some reason a permit is never issued to the second operator, the state could be left with an unreclaimed and unbonded site, since the previously submitted bond would have already been released. In its October 25, 1996, response to OSM's letter, Indiana explained that for the purposes of bond, the term "accept" at proposed IC 14–34–6–14.6(b)(1) coincides with permit approval. The new bond would not be approved until the replacement permit was approved an no previous bond would be considered for release until that time. Also, both companies would have to agree as to the acreage size and location and an acceptance of liability statement would have to be received from the new

permittee. Indiana supported its explanation by referring to its rule at 310 IAC 12–4–15 which states that the director of IDNR shall not release existing performance bonds until the permittee has submitted and the director of IDNR has approved acceptable replacement performance bonds. Indiana's proposed provision at subsection (b) is not inconsistent with the Federal regulations at 30 CFR Part 800 that require permit areas to be adequately bonded or the bonding requirements at 30 CFR 774.17 for transfer, assignment, or sale of permit rights. The Director is approving subsection (b) with the understanding that Indiana will place conditions on the permit of the second permittee that require assumption of the reclamation obligation of the previous permittee, that specifically give notice to the second permittee of the State's intention to release the previous permittee's bond in reliance on the assumption of liability by the second permittee, and that require any surety bond or other contract securing the reclamation obligation of the second permittee to reflect the assumption of liability and the intent to release the previous bond.

Indiana's proposed provision at subsection (c) allows two or more persons who are applicants or permittees, when each has filed a bond, deposit, or letter of credit covering the same area, to enter into an agreement, subject to approval by the director of IDNR, that allocates responsibility among the persons for the reclamation of the area. There are no counterpart provision in the Federal regulations that address overlapping permit areas that are double-bonded, but this proposed provision is not inconsistent with the Federal regulations at 30 CFR Part 800 that require permit areas, or increments of permit areas, to be adequately bonded.

Based on the above discussion, the Director is approving IC 14–34–6–14.6.

5. IC 14–34–7–4(d)–(g) Conditions for Self-Bonding

On its own initiative, the State proposed to revise IC 14–34–7–4 by making subsection (d) subject to new subsection (f), which pertains to requirements for an applicant to meet industry norms for the financial ratio tests, and by specifying at subsection (d) that the qualifying criteria in Section 4 must be met by the applicant at the time the self-bond is accepted [approved by the State as the bond].

The State also proposes to expand the existing standard qualifying criteria at subsection (d). The State is adding criteria at (d)(3), (4), (5), and (6) that require an applicant not to be subject to any outstanding cessation order issued under the State program or the Surface Mining Control and Reclamation Act, not owe any civil penalties or fees, not be delinquent in paying penalties or fees, and not be listed on the Applicant Violator system (AVS).

The State is adding a provision at (d)(7)(A), previously codified as (d)(3)(A), that requires an applicant to identify the bond rating service [Moody's or Standard and Poor's] that rated its bond issues. The State is adding a provision to (d)(7)(B), and (C), previously codified a (d)(3)(B) and (C), that requires an applicant to document its ratio values for the ratio of current assets to current liabilities and the ratio of total liabilities net worth for the four (4) years preceding the application, in addition to the existing requirement to demonstrate that the applicant met the required values for the year [fiscal year] immediately preceding the application. The State is adding subsection (e) that requires the applicant to add the proposed self-bond amount, excluding any amount currently accrued for reclamation that appears on the balance sheet, to either current liabilities or total liabilities before calculating the required financial ratio tests included in subsection (d)(7)(B) or (d)(7)(C).

The provisions added at subsections (d)(3), (4), (5), (6), and (7) that address an applicant's compliance status are no less effective than the Federal regulations. These proposals are consistent with OSM's preamble to the final self-bonding regulations (48 FR 36418, August 10, 1983) where in response to comments OSM stated that it "agrees that the regulatory authority should consider the operator's past history of compliance and patterns of violation in deciding whether to allow an operator to self-bond. OSM does not intend to establish regulations which would detail how a history of compliance should be judged, however, and leaves this to the regulatory authority who has the final responsibility to accept or reject an application to self-bond." The proposed addition to subsection (d)(7)(A) requiring the applicant to identify which rating company rated the applicant's bonds would provide the State with more detailed information about the bond applicant's bond rating.

The State proposes to add new requirements at subsection (d)(8)(C) and (D), previously subsection (d)(4), that require an application to include comparative income statements and comparative balance sheets for a five-year period preceding the application, a list of liens filed against any assets of the applicant in any jurisdiction in the United States for an amount that is more than 2 percent of the applicant's net worth, a list of every action pending against the applicant, a list of every unsatisfied judgment rendered against the applicant within the seven years preceding the application, and a list of any petitions or bankruptcy actions against the applicant. under Indiana's proposed action at subsection (g), the State is requiring details about the listed liens, actions, and petitions such as jurisdiction, case number, parties, and status.

The proposed additional information that must be submitted with an application by the applicant or the applicant's corporate guarantor at subsection (d)(8)(C) and (D) is not inconsistent with the Federal regulation at 30 CFR 800.23(b)(4)(iii) that allows a regulatory authority to require additional unaudited information.

The State is adding subsection (f) that requires an applicant's financial ratios to be at least as favorable as those reported by Dun and Bradstreet's report of "Industry Norms and Key Business Ratios."

The proposed addition at subsection (f) requires that an applicant's key business ratios [as reported by Dun & Bradstreet] must be "at least as favorable as those listed for the medium performers in the Dun and Bradstreet listing of Industry Norms and Key Business Ratios." This requirements is in addition to the requirements at subsections (d)(7)(B) and (C) for applicants to meet the standard financial tests of at least 1.2:1 for the ratio of current assets to current liabilities and not more than 2.5:1 for the ratio of total liabilities to net worth. Comparing an applicant to its industry norms would provide the State with information about how the applicant currently compares with its industry and can be useful in seeing financial trends.

In its October 25, 1996, response to OSM's letter dated September 13, 1996, the State explains and reaffirms that the qualifying criteria of the existing rules at subsections (d)(7)(B)(ii) and (iii) take precedence over the proposed qualifying criteria at subsection (f). OSM's letter recognized that the criteria proposed at subsection (f) are in addition to the criteria at subsection (d) but suggested that the State clarify that the criteria at subsection (d) would be the true qualifying criteria in any case. Given the financial criteria at subsection (d) must be met at a minimum, the State's proposal is no less effective than the Federal regulations.

OSM recommends that the State clarify which industry norms the applicant is required to meet at subsection (f). The Dun and Bradstreet industry norms report includes 15 different ratios. In addition, specifying time periods during which the norms must be met is important because the norms are dynamic and are updated periodically in the Dun and Bradstreet database. A cautious approach to comparing an applicant with industry norms is recommended since the norms could indicate an overall weak industry.

Based upon the above discussions, the Director finds that the proposed revisions to Indiana's self-bonding criteria at IC 14–34–7–4(d) through (g) are not inconsistent with the Federal requirements for self-bonding at 30 CFR 800.23(b), and the Director is approving them.

6. IC 14–34–7–4.1 Self-Bonding Reapplication and Replacement

The State proposes to add requirements at IC 14–34–7–4.1 for self-bonded permittees to either replace existing self-bonds in effect on January 1, 1995, with another allowable form of bond or reapply for self-bonding under the revised, proposed self-bonding provisions. If an application is not accepted under the proposed provisions, then the self-bond must be replaced with another allowable form of bond.

There is no direct Federal counterpart to the State proposal revisions; however, that part of the State's proposal that pertains to requirements for existing self-bonded permittees who no longer meet the criteria is not inconsistent with 30 CFR 800.23(g) which requires a self-bond to be replaced within 90 days of the permittee becoming aware that it no longer meets the criteria for self-bonding. Therefore, the Director is approving this new section.

7. IC 14–34–7–7 Self-Bonding Indemnity Agreement

The State proposes to add a provision at section 7(1) that requires all parties to the indemnity agreement to be liable to the director of IDNR for the costs of pursuing forfeiture of any self-bond posted by the permittee and liable for the costs of reclamation that are in excess of the forfeited self-bond amount. At section 7(6), the State is adding a requirement that all bonds and guarantees must be indemnified corporately and personally by all principals.

The existing State statute is substantively the same as the Federal counterpart regulations that require all parties bound to the agreement to execute an indemnity agreement for the sum of the self-bond. The State statute and Federal regulations require that the indemnity agreement be executed by two authorized corporate officers of all the parties bound and that the applicant or corporate guarantor must complete the approved reclamation plan or pay to the director of IDNR the amount necessary to complete the approved reclamation plan.

The State's proposed additional requirements for the self-bonding indemnity agreement do not have direct Federal counterpart requirements. However, the State's proposed requirements are not inconsistent with or less effective than the Federal regulations at 30 CFR 800.23(e) and 30 CFR 800.50(d)(1), and the Director is approving the proposed revisions at IC 14–34–7–7. Requiring that all self-bonds and guarantees be indemnified corporately and personally by all principals affords the State additional protection against nonpayment in the event of bond forfeiture.

8. IC 14–34–7–7.1 Collaterized Self-Bonds

As also discussed in finding No. B.1, Indiana proposes to revise its program to allow the use of collateral for securing self-bonds. The existing State statute requires that self-bonding applicants qualify on the basis of financial criteria at IC 14–34–7–4 without additional collateral. The Federal regulations at 30 CFR 800.23 do not contain a counterpart to Indiana's revised regulations; however, a similar proposal was approved for the Wyoming program on July 25, 1990 (55 CFR 30221).

The State proposes to allow a self-bonding applicant who cannot qualify on the basis of meeting the financial criteria or limitations at IC 14–34–7–4 to offer collateral in the form of real property, government-backed securities, and/or personal property. The real property must be located in Indiana, and a perfected, first-lien security interest made in favor of and deposited with the IDNR. Securities must be backed by the United States or the state government, and they must be endorsed to the order of and placed in the possession of the director of IDNR. The personal property must be located within the State, owned by the operator, and valued at more than $1 million per property unit. In addition to the offer of collateral, the applicant must execute an indemnity agreement that complies with IC 14–34–7–7.

For any property collateral offered to support a self-bond, the property must be valued at the difference between the fair market value of the property and reasonable expenses the IDNR anticipates incurring in selling the property. The fair market value must be determined by an appraiser proposed by the applicant. A description of the property and a statement of any liens, encumbrances, or adverse judgments imposed on the property and any pending litigation relating to the property is also required.

Real property may not include lands that are in the process of being mined or reclaimed or lands that are the subject of a mining application. Although, the operator may offer land that has been released from bond. Securities offered as collateral may include only securities that meet the definition of collateral at IC 14–34–7–0.5. Personal property must be in the possession of the operator; must be encumbered; and not include property already being used as collateral, goods that the operator sells in the ordinary course of business, fixtures, or certificates of deposit that are not federally insured. Evidence of ownership of property offered as collateral must be submitted in specified forms.

In order to offer personal property collateral, Indiana requires the applicant to satisfy the financial requirements in IC 14–34–7–4(d)(7) (B) and (C), which are two of the standard financial tests in the Indiana program. This proposal is similar to the approved Wyoming self-bonding program except that in the Wyoming program personal property collateral is only accepted when the applicant cannot meet the standard tests but can meet an alternative set of financial tests.

If personal property is accepted as collateral, quarterly and annual maintenance reports from the applicant are required. The director of IDNR may also require quarterly or annual inspections of the personal property. The director of IDNR shall require possession of the personal property or a mortgage or security agreement executed by the applicant with the right and power to sell or otherwise dispose of the property so as to ensure reclamation. While in possession of the IDNR, any income received from the collateral shall be remitted to the applicant. An applicant may substitute other property for any property accepted and held as collateral under specified conditions. If collateral is posted to support a self-bond, the applicant shall notify all persons that have an interest in the collateral and provide copies of the notices to director of IDNR.

In its October 13, 1996, letter to Indiana, OSM expressed concern

regarding three provisions in the State's collateral proposal that appeared to be less effective than the Federal regulations at 30 CFR 800.21 for collateral bonding.

(1) To be no less effective than the Federal regulations, the State needs to require that the market value of the individual or combined collateral (adjusted by a margin of value for the State's cost of liquidation) equals or exceeds the required bond amount under the self-bond indemnity agreement. In its October 25, 1996, response, the State explained that it intended to implement its proposed statute at section 7.1(b)(1) so that the cost of liquidating the property used as collateral will be deducted from the market value when determining the bonding value of the collateral. Given that the State will implement the proposed section to require that the collateral value, less liquidation costs, equal the required bond amount, this portion of the proposal is consistent with the Federal requirements at 30 CFR 800.21 and therefore no less effective than the Federal regulations.

(2) To be no less effective than the Federal regulations for real property collateral at 30 CFR 800.21(c)(2), the State must require that real property be appraised by an independent certified appraiser. In its response to OSM's concerns, the State indicated that while not stated, it intends to only accept appraisers who are "professionally qualified." According to the Indiana Real Estate Appraisal Licensurer and Certification Board, Indiana statutes at IC 25–34.1–8–10 requires that appraisers in Indiana be licensed and certified. On September 22, 1997 (Administrative Record No. IND–1591), OSM discussed this issue with Indiana. Indiana stated that coal operators are required to comply with all Indiana rules and statutes, and they will be required to comply with IC 25–34.1–8–10. Therefore, Indiana's proposal is consistent with SMCRA and no less effective than the Federal regulations at 30 CFR 800.21(c)(2).

(3) The State's proposed statute at subsection (b)(2) requires that real property liens and encumbrances be disclosed in the application. This implies that the State has discretion to accept encumbered real property. In its letter, OSM stated that to be no less effective than the Federal regulations on real property collateral, the State must require that any real property accepted as collateral be unencumbered. In its response to this concern, the State explained that it does not intend to accept property that is encumbered and that it included the disclosure requirement as an aid to learning of liens and other encumbrances that might not otherwise be apparent (so as to prohibit acceptance of encumbered property). While the language is not clear in this regard, the State indicated that it will implement this proposal so that only unencumbered property is acceptable as collateral. Therefore, the proposal is consistent with SMCRA and no less effective than the Federal regulations at 30 CFR 800.21(c).

The Director finds that Indiana's proposed provisions at IC 14–34–7–7.1 are not inconsistent with the Federal regulations at 30 CFR 800.23 concerning self-bonding and are no less effective than the Federal regulations at 30 CFR 800.21 concerning collateral bonds. Therefore, the Director is approving Indiana's proposed provisions at IC 14–34–7–7.1.

9. IC 14–34–7–10 Self-Bonding Report Requirements

At IC 14–34–7–10, Indiana proposes to add a new section to its statutes to require that self-bonding applicants provide the director of IDNR with an independent public accounting consultant's report if requested. This is in addition to the financial statements and a report prepared by an independent certified public accountant that is required under IC 14–34–7–4(d)(8) and IC 14–34–7–8. The report shall be provided within 90 days after the applicant is notified that the report is required. The consultant must verify that the financial information required under IC 14–34–7–4 was prepared in accordance with generally accepted accounting principles and that the accounting principles were applied consistently for each year of the period for which the information is submitted. The consultant must also state the amount and reason for any restatement of the financial information that is necessary to meet the consistency requirement. Finally, the consultant must state whether any information reviewed would lead him to conclude that the applicant would not meet the requirements of IC 14–34–7–4 at the end of each of the three fiscal years ending after the month the report is completed. This report may also be required after the applicant's self-bond is accepted, but not more than once every three years unless the consultant cannot project the applicant's ability to meet the self-bonding financial criteria for each of the three fiscal years. If the consultant is unable to conclude that the applicant would meet the requirements of IC 14–34–7–4 for each of the three fiscal years, the applicant must submit an updated report annually. If the applicant fails to submit a report, the director of IDNR shall refuse to accept the self-bond until the applicant files the report. If a permittee who has posted a self-bond fails to submit a report when required by the director of IDNR, the permittee may be required to post an alternate form of bond.

In its letter of October 30, 1996 (Administrative Record No. IND–1545), Indiana indicated that the purpose of the option of financial projections is intended to give the director of IDNR a greater understanding for any future problems that may be anticipated that could influence the applicant's financial stability and is viewed as another tool for assessing risk.

There are no Federal counterpart provisions for a qualified independent public accounting consultant report that projects an applicant's future ability to meet self-bonding requirements. However, the State's proposed provisions are not inconsistent with the Federal regulations at 30 CFR 800.23(b)(4)(i) that require that an applicant's financial statements be audited by an independent certified public accountant with no adverse opinion or 30 CFR 800.23(f) that allow regulatory authorities to require updated financial information and independent certified public accountants' reports annually. Therefore, considering that the provisions in IC 14–34–7–10 are in addition to the State's counterparts to 30 CFR 800.23(b)(4)(i) and (f), the Director is approving them.

10. IC 14–34–7–11 Self-Bond Coverage Requirements

Indiana proposes to add provisions requiring permit increments that are self-bonded to be 100 percent self-bonded. For example, bond coverage of a permit increment could not consist of a combination of a surety bond and a self-bond. This is not inconsistent with SMCRA or the Federal regulations at 30 CFR Part 800 which allow permit increment bonding and require the regulatory authority to prescribe by regulation terms and conditions for performance bonds, including self-bonds.

The State also proposes to allow self-bond coverage on areas where as of July 1, 1995, grading has been deferred, or the approved deferral extended. However, areas where grading was deferred after July 1, 1995, may not be bonded by self-bonds or the Indiana bond pool. The State proposes to remove the self-bonding and bond pool option from companies that have been given approval to defer grading of an area in order to assure more long-term

certainty by requiring other forms of bond such as corporate surety bonds for grading-deferred areas. There are no Federal counterpart regulations for bond coverage of grading deferral areas. The State's bonding provisions at this section are not inconsistent with SMCRA or the Federal regulations at 30 CFR 800.23 on self-bonding in that self-bonding is a discretionary bonding program intended for financially strong companies that are in compliance with the statute, permit, and regulations. Therefore, the Director approves Indiana's proposed statute at IC 14–34–7–11.

11. IC 14–34–7–12 Self-Bond Phase I Grading Release Requirements

Indiana proposes additions to the self-bonding statutes that restrict the use of self-bonding when an area requires Phase I reclamation or is eligible for a Phase I grading release but the permittee has not applied for the release before the "second November 1 after the year in which the coal was removed from the site covered by the self-bond." If this occurs, or if a release application is filed within the required time frame but not approved, then the permittee must replace the self-bond with another form of bond within 90 days. Permittees must also submit annual reports of acres under self-bond that have been effected and reclaimed.

Indiana proposes to exempt acreage and structures used to facilitate active mining and reclamation operations from the requirements of this section.

The State's proposal restricts the use of self-bonding for areas that have been used for fly or bottom ash disposal, flue gas byproducts, or coal processing wastes to 10 years after disturbance or after the acceptance of the self-bond, whichever is later. An alternative form of bond must be posted for the area within 90 days of its becoming ineligible for self-bonding.

If Indiana determines that an area is no longer eligible for self-bonding and an alternative form of bond is posted, the area is never again eligible for self-bonding and may not be bonded by Indiana's surface coal mine reclamation bond pool.

There are no direct counterpart provisions in SMCRA or the Federal regulations. The Director finds that the State's proposal is not inconsistent with SMCRA or the Federal regulations at 30 CFR 800.23 that allow regulatory authorities to accept self-bonds, and she is approving IC 14–34–7–12.

12. IC 14–34–7–13

Indiana proposes to add the following new section at IC 14–34–7–13.

For purposes of IC 1–1–1–8, if the amendments to IC 14–34–7–1, as amended by SEA 125–1995, are held invalid or otherwise unenforceable, the other amendments to IC 14–34–7 made by SEA 125–1995 are also void.

There are no counterparts to this proposal in SMCRA or the Federal regulations. However, as discussed in the findings above, the proposed amendments to IC 14–34–7 have no direct Federal counterparts. Therefore, the proposal to declare them void under the circumstances specified would not render the Indiana program less stringent than SMCRA or less effective than the Federal regulations. However, in accordance with 30 CFR 732.17(b)(3), Indiana must notify OSM of any actions it takes because of IC 14–34–7–13 that would effect or change any of the proposals at IC 14–34–7 that are being approved in this document.

IV. Summary and Disposition of Comments

Public Comments

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. Comments were received from the Indiana Coal Council and the National Coal Association. These comments have been addressed in finding No. III.B.3. Because no one requested an opportunity to speak at a public hearing, no hearing was held.

Federal Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), the Director solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Indiana program. No Federal agencies responded.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (12 U.S.C. 7401 *et seq.*).

None of the revisions that Indiana proposed to make in its amendment pertain to air or water quality standards. Therefore, OSM did not request the EPA's concurrence.

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA (Administrative Record No. IND–1515). It did not respond to OSM's request.

Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Pursuant to 30 CFR 732.17(h)(4), OSM is required to solicit comments on proposed amendments which may have an effect on historic properties from the SHPO and ACHP. OSM solicited comments on the proposed amendment from the SHPO and ACHP (Administrative Record No. IND–1515). Neither SHPO nor ACHP responded to OSM's request.

V. Director's Decision

Based on the above findings, the Director is approving with certain exceptions, the proposed amendment as submitted by Indiana on September 11, 1995.

The Director is not approving, as discussed in finding No. B.3, the new language Indiana is proposing to add to its definition of "liabilities" at IC 14–34–7–1 that would allow companies to exclude FAS 106 obligations from liabilities for the purpose of applying for self-bonding. Furthermore, the Director is requiring Indiana to remove this language and to notify OSM when the removal is completed.

The Director is approving, as discussed in finding No. C.4, IC 14–34–6–14.6(b) with the understanding that Indiana will place conditions on the permit of the second permittee that require assumption of the reclamation obligation of the previous permittee, that specifically give notice to the second permittee of the State's intention to release the previous permittee's bond in reliance on the assumption of liability by the second permittee, and that require any surety bond or other contract securing the reclamation obligation of the second permittee to reflect the assumption of liability and the intent to release the previous bond.

The Director notes, as discussed in finding No. B.4, that Indiana's reference to the term "subsection" in its statute at IC 14–34–6–14.3 should be "section" and, as discussed in finding No. C.1, Indiana's reference to "item accounts" in its definition at IC 14–34–7–0.6 should be "item amounts."

The Federal regulations at 30 CFR Part 914, codifying decisions concerning the Indiana program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

Effect of Director's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any alteration of an approved State program be submitted to OSM for review as a program amendment. The Federal regulations at 30 CFR 732.17(g) prohibit any unilateral changes to approved State programs. In the oversight of the Indiana program, the Director will recognize only the statutes, regulations and other materials approved by OSM, together with any consistent implementing policies, directives and other materials, and will require the enforcement by Indiana of only such provisions.

VI. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

Unfunded Mandates

OSM has determined and certifies pursuant to the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of $100 million or more in any given year on local, state, or tribal governments or private entities.

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 20, 1997.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 914—INDIANA

1. The authority citation for Part 914 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 914.15 is amended in the table by adding a new entry in chronological order by "Date of Final Publication" to read as follows:

§ 914.15 Approval of Indiana regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
September 11, 1995	November 4, 1997	IC 14–8–2–42.5, –49.5, –49.6, –274.5; 14–34–6–10; 14–34–6–14.3, –14.6; 14–34–7–0.5, –0.6, –0.7, –2.5, –4 (b), (d) through (g), –4.1, –5, –7, –7.1, –8, –9, –10, –11, –12, –13.

[FR Doc. 97–29133 Filed 11–3–97; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 311

OSD Privacy Program

AGENCY: Office of the Secretary, DOD.

ACTION: Final rule.

SUMMARY: The Office of the Secretary of Defense is exempting a system of records identified as DUSP 11, entitled POW/Missing Personnel Office Files. The exemption is needed to protect information properly classified under E.O. 12958, Classified National Security Information.

EFFECTIVE DATE: October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. David Bosworth at (703) 695–0970.

SUPPLEMENTARY INFORMATION:

The proposed rule was published on August 1, 1997, at 62 FR 41323. No comments were received, therefore, the rule is being adopted as published.

Executive Order 12866. It has been determined that this Privacy Act rule for the Department of Defense does not constitute "significant regulatory action'. Analysis of the rule indicates that it does not have an annual effect on the economy of $100 million or more; does not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; does not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Regulatory Flexibility Act. It has been determined that this Privacy Act rule for the Department of Defense does not have significant economic impact on a substantial number of small entities because it is concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Paperwork Reduction Act. It has been determined that this Privacy Act rule for the Department of Defense imposes no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act, and 44 U.S.C. Chapter 35.

List of Subjects in 32 CFR Part 311

Privacy.

Accordingly, 32 CFR part 311 is amended as follows:

PART 311—[AMENDED]

1. The authority citation for 32 CFR part 311 continues to read as follows:

Authority: Pub.L. 93–579, 88 Stat 1896 (5 U.S.C. 552a).

2. Section 311.7, is amended by adding paragraphs (c)(11)(i) through (c)(11)(iii) to read as follows:

§ 311.7 Procedures for exemptions.

* * * * * *

(c) * * *

(11) *System identifier and name:* DUSP 11, POW/Missing Personnel Office Files.

(i) *Exemption:* Information classified under E.O. 12958, as implemented by DoD 5200.1–R, may be exempt pursuant to 5 U.S.C. 552a(k)(1).

(ii) *Authority:* 5 U.S.C. 552a(k)(1).

(iii) *Reasons:* From subsection 5 U.S.C. 552a(d) because granting access to information that is properly classified pursuant to E.O. 12958, as implemented by DoD 5200.1–R, may cause damage to the national security.

* * * * *

Dated: October 29, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–29070 Filed 11–3–97; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AI45

Survivors and Dependents Education: Extension of Eligibility Period

AGENCY: Department of Veterans Affairs.

ACTION: Final rule; technical amendment.

SUMMARY: In a document published in the **Federal Register** on October 3, 1997 (62 FR 51783), VA amended the "Survivors' and Dependents' Educational Assistance Under 38 U.S.C. Chapter 35" regulations. The final rule, among other things, transferred the subject matter of paragraph (e) of § 21.3046 to a new § 21.3047. Inadvertently, two cross-references to said paragraph (e) were not amended to reflect the change. Accordingly, this document corrects this error by changing the cross-references to refer to the new § 21.3047.

EFFECTIVE DATE: November 4, 1997.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration, 202–273–7187.

SUPPLEMENTARY INFORMATION: The Catalog of Federal Domestic Assistance number for the program affected by this final rule is 64.117.

List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Education, Employment, Grant programs-education, Grant programs-veterans, Health care, Loan programs-education, Loan programs-veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: October 28, 1997.

Thomas O. Gessel,

Director, Office of Regulations Management, Office of General Counsel, Department of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 21, subpart C, is amended as set forth below.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart C—Survivors'—and Dependents'—Educational Assistance Under 38 U.S.C. Chapter 35

1. The authority citation for subpart C continues to read as follows:

Authority: 38 U.S.C. 501(a), 512, 3500–3566, unless otherwise noted.

§ 21.3046 [Amended]

2. In § 21.3046, paragraph (c)(1) is amended by removing "paragraphs (d) and (e) of this section" and adding, in its place, "paragraph (d) of this section and § 21.3047" and paragraph (d)(6)(ii) is amended by removing "or (e) of this section" and adding, in its place, "of this section or § 21.3047".

[FR Doc. 97–29096 Filed 11–3–97; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPPTS–50621B; FRL–5745–1]

RIN 2070–AB27

Dipropylene Glycol Dimethyl Ether; Final Significant New Use Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is promulgating a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for the chemical substance described as dipropylene glycol dimethyl ether (DGDE), which was the subject of premanufacture notice (PMN) P–93–507. This final rule will require persons who intend to manufacture, import, or process this substance for a use designated by this SNUR as a "significant new use" to notify EPA at least 90 days before commencing those manufacturing or processing activities. The notice will provide EPA with the opportunity to evaluate the intended use and, if necessary, prohibit or limit that activity before it can occur.

DATES: The effective date of this rule is January 5, 1998. This rule shall be promulgated for purposes of judicial review at 1 p.m. (e.s.t.) on November 18, 1997.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–543B, 401 M St., SW., Washington, DC 20460, telephone: (202) 554–1404, TDD: (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Availability: Electronic copies of this document are available from the EPA Home Page at the **Federal Register**-Environmental Documents entry for this document under "Laws and Regulations" (http://www.epa.gov/fedrgstr/).

The proposed SNUR for dipropylene glycol dimethyl ether was published in the **Federal Register** on August 22, 1994 (59 FR 43079). While background information is presented here, readers should also consult the preamble of that proposed rule for further information on the objectives and rationale for this final rule.

I. Authority

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule after considering all relevant factors, including those listed in section 5(a)(2). Once EPA promulgates a final significant new use rule, section 5(a)(1)(B) of TSCA and 40 CFR part 721 require persons to submit a notice to EPA at least 90 days before they manufacture, import, or process the chemical substance for the significant new uses. Section 26(c) of TSCA authorizes EPA to take action under section 5(a)(2) with respect to a category of chemical substances. Persons subject to this SNUR must comply with most of the same requirements as submitters of premanufacture notices under section 5(a)(1) of TSCA. These requirements include the information submission requirements of sections 5(b) and (d)(1), the exemptions authorized by section 5(h)(1), (h)(2), (h)(3), and (h)(5), and the regulations at 40 CFR part 720. Once EPA receives a SNUR notice, EPA may take regulatory action under section 5(e), 5(f), 6, or 7 to control the activities for which it has received a SNUR notice. If EPA does not take action, section 5(g) of TSCA requires EPA to explain in the **Federal Register** its reasons for not taking action.

Persons who intend to export a substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b). The regulations that interpret section 12(b) appear at 40 CFR part 707.

II. Applicability of General Provisions

General regulatory provisions applicable to SNURs are codified at 40 CFR part 721, subpart A. Regulatory provisions covering user fees applicable to significant new use notices are codified at 40 CFR part 700 under the authority of TSCA section 26(b). Interested persons may refer to those sections for further information.

III. Discussion of Comments and Final Rule

Almost all public comments on the proposed SNUR for dipropylene glycol dimethyl ether (DGDE) were submitted to EPA by the PMN submitter. The other comments, which were general in nature and spoke to the advantages of the PMN substance over similar products, are discussed in Comment 5 and in the EPA Response.

The comments addressed each requirement of the proposed SNUR and also furnished substantial background material in the form of toxicological studies and technical information on the PMN substance and analogous chemical substances. Nearly all this information had previously been submitted to the Agency, considered during the PMN review period, and incorporated into the Agency's regulatory decision. The results of this toxicological review and analysis are reflected in the Agency's risk assessment document, which is part of the public record for this SNUR. It is important to note that although the risk assessment document does not specifically reference studies submitted following the PMN review period, most notably a reproductive toxicity study on the PMN substance, these studies were considered in EPA's final assessment of DGDE and support the Agency's decision. The comments also suggested language for revising the proposed SNUR, specifically to have the SNUR apply only to the substance when it was manufactured, imported, or processed containing greater than 5 percent by weight of the isomer propane 2,2'-oxybis[1-methoxy-. The Agency has particularly strong concerns for adverse health effects of that isomer and has adopted the above suggested approach in this final rule.

The proposed rule for DGDE listed the following uses as significant new uses that would require notice to the Agency 90 days prior to commencement:

(1) Manufacturing or processing the substance without use of dermal protection that provides an impervious barrier to the substance.

(2) Annual manufacture and importation volume for any domestic use greater than 4 times the yearly volume specified in the PMN for the substance.

(3) Use of the substance in a consumer product.

After careful consideration of all public comments on the proposed SNUR, the Agency has decided to issue the final rule with several changes from the proposed version. Based upon toxicological and background information submitted to the public docket by the PMN submitter, the Agency no longer has concerns for use of the PMN substance in consumer uses or without a strict requirement for dermal protection. In the final SNUR, the significant new uses defined above in the proposed SNUR will apply to DGDE only when containing more than 5 percent of the above mentioned isomer, thereby addressing EPA's primary health concerns for the toxicity of the isomer. Accordingly, to reflect the Agency's concern for the isomer, the production volume limit contained in the proposed rule has been intentionally omitted and the Agency is now requiring notice of any volume of the substance as defined by this final rule when used either without dermal protection or in consumer uses.

1. *Comment.* The PMN submitter argues that the dermal protection provision is unnecessary since its material safety data sheet (MSDS) for DGDE provides adequate warnings and guidance as to appropriate protective equipment. In addition, the company stated that its product stewardship program and corporate responsibility ethic also obviate the need for this provision.

EPA Response. Hazard communication is not equivalent to, and does not ensure, the actual use of protective equipment; it is merely a means of encouragement towards that end. The Agency did not take issue with the adequacy of the warnings and information on how to protect against dermal exposure to DGDE that is contained in the PMN submitter's MSDS. It is important to note, however, that the PMN submitter's MSDS is in its current form, which EPA now considers satisfactory, as a result of glove testing required by the Agency. The company's research safety sheet for DGDE, which is the precursor to its MSDS, contained no special handling precautions to ensure that individuals who might come into contact with the substance would use adequate dermal protection.

The dermal protection requirement is designed to ensure that all manufacturers and processors of DGDE, with the isomer of concern present at greater than 5 percent, provide workers with adequate protection against dermal exposure to the substance. While a company's product stewardship program and Responsible Care® ethic cannot in themselves alleviate the need for this provision, the Agency will consider, as explained in the proposed rule, the product stewardship program of a future significant new use notice (SNUN) submitter in its decision on how to regulate DGDE.

Ultimately, however, the Agency must ensure that all workers who might be exposed to DGDE containing greater than 5 percent by weight of the isomer propane 2,2'-oxybis[1-methoxy-, at all potential manufacturing sites and downstream locations, are adequately protected, not just warned, against its health risks. Hence, the Agency retains this provision in the final SNUR as proposed.

2. *Comment.* The PMN submitter informed the Agency that the company's annual domestic production of DGDE has exceeded 4 times the yearly volume specified in the PMN and expects this to continue. The comment provides specific information on the quantities of DGDE manufactured in the United States solely for export (claimed by the PMN submitter as confidential business information), which accounts for the exceedance of the volume limit contained in the proposed SNUR. The comment also states that the Agency was informed about the company's production levels during the PMN review period.

EPA Response. The limitation on the isomeric make-up of DGDE effectively addresses any Agency concerns for risk, regardless of ultimate production volume. For more information on the isomeric make-up of the PMN submitter's DGDE formulation, see the discussion in the proposed rule (59 FR 43079, August 22, 1994).

3. *Comment.* The PMN submitter states that the Agency has never defined under TSCA what a "consumer use" is and that, therefore, the proposed SNUR provision requiring notice prior to use in a consumer product is vague and unenforceable.

EPA Response. The Agency disagrees with the PMN submitter's assertion that "use in a consumer product" is a vague concept and an inappropriate SNUR provision. Although the Agency may not have specifically defined the term "consumer use" under TSCA, the definitions section for SNURs, 40 CFR 721.3, defines both *consumer* and *consumer product*. The meaning of "consumer use" is clear from the definition of these terms.

Consumer is defined at 40 CFR 721.3 as a private individual who uses a chemical substance or any product containing the chemical substance in or around a permanent or temporary household or residence, during recreation, or for any personal use or enjoyment. *Consumer product* is described as a chemical substance that is directly, or as part of a mixture, sold or made available to consumers for their use in or around a permanent or temporary household or residence, in or around a school, or in recreation. It is plain from reading these definitions what the Agency intends when it designates "use of the PMN substance in a consumer product" as a significant new use. It is the regulated community's responsibility to know, through research and development activities, market research or other means, whether its products will be or are likely to be used in consumer applications. The Agency believes it is reasonable to assume that companies have knowledge of potential distribution patterns and uses for their products. In deciding whether it is appropriate to submit a SNUN to the Agency, a company should use a standard based on reasonableness. If the company believes or has reason to believe, based on reasonably ascertainable information obtained in the course of conducting its business, that the substance will or will likely be used by a consumer, they should comply with the SNUR requirement. If there is any uncertainty as to the provision's applicability in a given case or need for clarification of the definitions, the company should contact the Agency for guidance.

Glycol ethers, like DGDE, are present in many consumer products, some of which, like hand lotions, may involve significant contact with skin and other types of human exposures. Since the Agency continues to have concerns when the use of DGDE in a consumer product may expose the general population to a potentially significant health risk, the final rule requires submission of a SNUN prior to any use of DGDE, as defined by this SNUR, in a consumer product.

4. *Comment.* As part of its public comments on the SNUR, the PMN submitter provided a substantial amount of information, in the form of toxicity studies and background documents, on the potential toxicity of the PMN substance and related chemicals. The company believes that the Agency has taken a more restrictive approach with DGDE than it has in the past with similar PMN substances.

EPA Response. As stated above, the Agency has decided to limit applicability of this restrictive approach only to DGDE with greater than 5 percent by weight of the isomer, propane, 2,2'-oxybis[1-methoxy- (CAS No. 189354–80–1). Nearly all of the company's toxicological and background information was available to the Agency during the PMN review period and incorporated into EPA's risk assessment of DGDE, which is available in the public record (the risk assessment document in the public record, however, has not been updated with studies submitted following the PMN review period). While EPA does not intend to comment on each toxicity study and background document in this response, a brief review of the Agency's hazard assessment of DGDE, especially as it compares to similar compounds, should be helpful in understanding the regulatory approach selected for this substance.

In its comments, the PMN submitter mentions two PMN substances—both propylene glycol monoethers—that were not regulated by the Agency. From the standpoint of toxicity, data indicate that the P-series glycol ethers should be broken down into two groups: secondary and primary alcohols. Because of DGDE's isomeric ratio and the way it is metabolized, the substance has the potential to form much more primary alcohol *in vivo* (i.e., 2-methoxy-1-propanol, 2-(2-methoxypropoxy)-1-propanol, and 2-(2-methoxy-1-methylethoxy)-1-propanol) than is present in the monoethers, which are generally 90–95 percent secondary alcohol, and 5–10 percent primary alcohol. Available toxicity data show that the primary alcohols are more toxic than the secondary alcohols.

The test data provided by the PMN submitter indicate that DGDE's potential human health hazard falls between the ethylene glycol ethers it will replace, namely, glyme (1,2-dimethoxyethane) and diglyme (1-methoxy-2-methoxyethoxyethane) and the P-series glycol ethers mentioned in the company's comments. The data indicate no observable effects levels (NOELs) from the toxicity studies on DGDE, glyme, and diglyme are similar, but the effects seen with glyme and diglyme are more severe. The toxic effects observed with DGDE and the P-series mono glycol ethers are similar, but the NOEL for the P-series mono glycol ethers is approximately 10–fold higher, indicating relatively less toxicity for the P-series.

In other words, if the Agency were ranking the glycol ethers currently under discussion according to relative toxicity/hazard, the glycol ethers would fall in the following order (from high to low): E-series glycol ethers like glyme and diglyme; then DGDE, the PMN substance; and lastly the P-series glycol ethers, such as those referenced by the PMN submitter in its comments. The Agency's risk assessments have reflected and have been consistent with this relative hazard ranking, allowing for variations in the degree of exposure/use patterns, and its regulatory decisions have corresponded as well.

5. *Comment.* The PMN submitter and two other commenters, the only other parties to address the proposed rule, objected to regulation of DGDE because the substance represents an improvement over existing glycol ethers in both performance and safety characteristics. They believe that the manufacture or commercial availability of DGDE should not be restricted in any way.

EPA Response. While the Agency acknowledges that the PMN submitter's DGDE may hold safety advantages over some substances for which it is intended to substitute, the extent of this advantage, and whether there is an advantage at all, depends in large part on the formulation of the substance. Consequently, the Agency has modified the proposed SNUR to apply only to DGDE with greater than 5 percent by weight of the isomer, propane, 2,2'-oxybis[1-methoxy- (CAS No. 189354-80-1). Specifically, the "safer substitute" qualities of DGDE are a function, as mentioned earlier and discussed in the proposed SNUR, of the percentage mix of the three isomers of which it is constituted and also of the hazard/exposure profiles of the specific potential substitutes.

IV. Applicability of SNUR to Uses Occurring Before Effective Date of the Final SNUR

EPA has decided that the intent of section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of proposal rather than as of the effective date of the rule. If uses which had commenced between that date and the effective date of this rulemaking were considered ongoing, rather than new, any person could defeat the SNUR by initiating a significant new use before the effective date. This would make it difficult for EPA to establish SNUR notice requirements. Thus, persons who begin commercial manufacture, import, or processing of the substance for uses regulated under this SNUR after the proposed date of this rule will have to cease any such activity before the effective date of this rule. To resume their activities, such persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires. EPA, not wishing to unnecessarily disrupt the activities of persons who begin commercial manufacture, import, or processing of a significant new use before the effective date of the SNUR, has promulgated provisions to allow such persons to comply with this proposed SNUR before it is promulgated. If a person were to meet the conditions of advance compliance under § 721.45(h), the person would be considered to have met the requirements of the final SNUR for those activities. If persons who begin commercial manufacture, import, or processing of the substance between proposal and the effective date of the SNUR do not meet the conditions of advance compliance, they must cease that activity before the effective date of the rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

V. Economic Analysis

EPA has evaluated the potential costs of establishing significant new use notice requirements for potential manufacturers, importers, and processors of the chemical substance. The Agency's complete economic analysis is available in the public record for this rule (OPPTS-50621B).

VI. Public Record

The official record for this rulemaking, as well as the public version, has been established for this rulemaking under docket control number OPPTS-50621B (including comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as confidential business information (CBI), is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located in the TSCA Nonconfidential Information Center, Rm. NE-B607, 401 M St., SW., Washington, DC.

VII. Regulatory Assessment Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" subject to review by the Office of Management and Budget (OMB). In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special considerations of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

An agency may not conduct or sponsor, and a person is not required to respond to, an information collection request unless it displays a currently valid OMB control number. The information collection requirements related to this action have already been approved by OMB pursuant to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, under OMB control number 2070-0012 (EPA ICR No. 574). This action does not impose any burdens requiring additional OMB approval. The public reporting burden for this collection of information is estimated to average 100 hours per response. The burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information.

In addition, pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency has determined that the promulgation of a SNUR does not have a significant adverse economic impact on a substantial number of small entities. The Agency's generic certification for promulgation of new SNURs appears on June 2, 1997 (62 FR 29684) (FRL-5597-1) and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

VIII. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the Agency has submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of this rule in today's **Federal Register**. This is not a major rule as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: October 28, 1997.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR part 721 is amended as follows:

PART 721—[AMENDED]

1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

2. By adding new § 721.3550 to subpart E to read as follows:

§ 721.3550 Dipropylene glycol dimethyl ether.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified as dipropylene glycol dimethyl ether (PMN P-93-507; CAS No. 11109-77-4) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. This class 2 substance is exempt from the notification requirements of this rule if it contains less than 5 percent by weight of the specific isomer, propane, 2,2'-oxybis[1-methoxy- (CAS No. 189354-80-1), which is one of the possible products of the manufacturing process for PMN P-93-507.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(1), (a)(2)(i), and (a)(3).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* The following recordkeeping requirements specified in § 721.125 (a), (b), (c), (d), and (e) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

[FR Doc. 97-29153 Filed 11-3-97; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 42 and 61

[CC Docket No. 96-61; FCC 97-293]

Policy and Rules Concerning the Interstate, Interexchange Marketplace

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Order on Reconsideration (Order) released August 20, 1997 reconsiders the Second Report and Order in this docket (61 FR 59340 (November 22, 1996)). The Order modifies the Second Report and Order by: adopting permissive detariffing for interstate, domestic, interexchange direct-dial services; adopting permissive detariffing for the first 45 days of service to new customers that contact the local exchange carrier to choose their primary interexchange carrier; and eliminating the requirement that nondominant interexchange carriers make publicly available information concerning current rates, terms, and conditions for all of their interstate, domestic, interexchange services, except in the case of dial-around 0+ services from aggregator locations.

EFFECTIVE DATE: December 4, 1997.

FOR FURTHER INFORMATION CONTACT: Lisa Choi, Attorney, Common Carrier Bureau, Policy and Program Planning Division, (202) 418-1580. For additional information concerning the information collections contained in this Order contact Judy Boley at (202) 418-0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order adopted August 15, 1997, and released August 20, 1997. The full text of this Order is available for inspection and copying during normal business hours in the FCC Reference Center, 1919 M St., NW, Room 239, Washington, DC The complete text also may be obtained through the World Wide Web, at http://www.fcc.gov/Bureaus/Common Carrier/Orders/fcc97-293.wp, or may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 1231 20th St., NW, Washington, DC 20036.

Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act, the Order contains a Final Regulatory Flexibility Analysis on Reconsideration which is set forth in the Order on Reconsideration. A brief description of the analysis follows. Pursuant to section 604 of the Regulatory Flexibility Act, the Commission performed a comprehensive analysis of the Order on Reconsideration with regard to small entities. This analysis includes: (1) A succinct statement of the need for, and objectives of, the Commission's decisions in the Order on Reconsideration; (2) a summary of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the Commission's assessment of these issues, and a statement of any changes made in the Order on Reconsideration as a result of the comments; (3) a description of and an estimate of the number of small entities to which the Order on Reconsideration will apply; (4) a description of the projected reporting, recordkeeping and other compliance requirements of the Order on Reconsideration, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for compliance with the requirement; (5) a description of the steps the Commission has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the Order on Reconsideration and why each one of the other significant alternatives to each of the Commission's decisions which affect small entities was rejected.

The rules adopted in this Order on Reconsideration are necessary to implement the provisions of the Telecommunications Act of 1996.

Paperwork Reduction Act

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Pub. L. 104-13. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number.

OMB Control Number: 3060-0704.

Expiration Date: February 28, 1998.

Title: Policy and Rules Concerning the Interstate, Interexchange Marketplace; Implementation of section 254(g) of the Communications Act of 1934, as amended, CC Docket No. 96-61.

Respondents: Business or other for-profit.

Public reporting burden for the collection of information is estimated as follows:

Information collection	No. of respondents (approx.)	Annual hour burden per response	Total annual burden
Detariffing*	0	0	0.
Certification requirement	519	0.5 hour	259.5.
Tariff cancellation requirement: completely cancel tariffs	519	2 hours per page (1,252 pages) (one-time).	2,504 (one-time).
Tariff cancellation requirement: revise mixed tariffs to remove domestic services	519	2 hours per page (36,047 pages) (one-time).	72,094 (one-time).
Information disclosure requirement**	0	0	0.
Recordkeeping requirement	519	2 hours	1,038.

*The Commission affirmed its decision in the Second Report and Order to eliminate the requirement that nondominant interexchange carriers file tariffs for interstate, domestic, interexchange services. In the Order, the Commission has decided to (1) permit nondominant interexchange carriers to file tariffs for the provision of dial-around 1+ services using a nondominant interexchange carrier's carrier access code; (2) permit nondominant interexchange carriers to file tariffs for the initial 45 days of domestic, interstate, interexchange service, or until there is a written contract between the carrier and the customer, whichever is earlier; and (3) eliminate the public disclosure requirement.

**The Commission has eliminated the information disclosure requirement.

Total Annual Burden: 75,895.5 hours, of which 74,596 will be one-time.

Frequency of Response: Annual, except for tariff cancellation requirement, which will be one-time, and on occasion.

Estimated Annual Reporting and Recordkeeping Costs: $435,000.

Needs and Uses: The attached item affirms the Commission's previous decision in the Second Report and Order to eliminate the requirement that nondominant interexchange carriers file tariffs for interstate, domestic, interexchange telecommunications services. In this Order, the Commission has eliminated this information disclosure requirement. In addition, the Commission has reconsidered its decision to require affected carriers to maintain, and to make available to the public in at least one location, information concerning their rates, terms and conditions for all of their interstate, domestic, interexchange services.

Public reporting burden for the collection of information is as noted above. Send comments regarding the burden estimate or any other aspect of the collections of information, including suggestions for reducing the burden to Performance Evaluation and Records Management, Washington, DC 20554.

Synopsis of Order on Reconsideration

I. Introduction

1. On October 29, 1996, the Commission adopted the *Second Report and Order* (61 FR 59340 (November 22, 1996)) in its proceeding reviewing the regulation of interstate, domestic, interexchange telecommunications services in light of the passage of the Telecommunications Act of 1996 (1996 Act) and the increasing competition in the interexchange market over the last decade. Consistent with the intent of the 1996 Act to provide a "pro-competitive, deregulatory" national policy framework for telecommunications and information technologies and services, Congress directed the Commission to forbear from applying any provision of the Communications Act or the Commission's regulations if certain conditions are met.

2. We determined in the *Second Report and Order* that the statutory forbearance criteria in section 10 of the Communications Act were met for complete detariffing ("Complete detariffing" refers to a policy of neither requiring nor permitting nondominant interexchange carriers to file tariffs pursuant to section 203 of the Communications Act for their interstate, domestic, interexchange services. "Permissive detariffing" refers to a policy of allowing, but not requiring, nondominant interexchange carriers to file tariffs for such services.) of the interstate, domestic, interexchange services offered by nondominant interexchange carriers, and, therefore, that we would no longer allow such carriers to file tariffs pursuant to section 203 of the Communications Act for their interstate, domestic, interexchange services, with the limited exception of AT&T's provision of 800 directory assistance and analog private line services. At the same time, we recognized that a transition period was necessary to allow nondominant interexchange carriers time to adapt to complete detariffing. We therefore ordered all nondominant interexchange carriers to cancel their tariffs for such services within nine months from the effective date of the *Second Report and Order*. We maintained the tariffing requirement for the international portion of bundled domestic and international service offerings. We further required nondominant interexchange carriers to: (1) File an annual certification stating that they are in compliance with the geographic rate averaging and rate integration requirements of section 254(g) of the Communications Act; (2) maintain supporting documentation on the rates, terms, and conditions of their interstate, domestic, interexchange services that they could submit to the Commission within ten business days upon request; and (3) make publicly available information concerning current rates, terms, and conditions for all of their interstate, domestic, interexchange services. The basis for the information disclosure requirement was to ensure that the public was provided with the information necessary to determine whether a nondominant interexchange carrier was adhering to the rate averaging and rate integration requirements of section 254(g) of the Communications Act. In addition, we determined that a public disclosure requirement would promote the public interest by making it easier for consumers, including resellers, to compare service offerings.

3. Our actions in the *Second Report and Order* were intended to advance Congress' pro-competitive and deregulatory objectives by eliminating regulatory requirements that the Commission determined were no longer necessary to protect consumers or serve the public interest. We concluded that our actions would foster increased competition in the market for interstate, domestic, interexchange services by deterring tacit price coordination, eliminating the possible invocation of the "filed-rate" doctrine, and establishing market conditions that more closely resemble an unregulated environment. We found that elimination of the possible invocation of the "filed-rate" doctrine is in the public interest because, pursuant to the "filed-rate" doctrine articulated by the courts, where a filed tariff rate, term, or condition differs from a rate, term, or condition in a non-tariffed carrier-customer contract, the carrier is required to assess the tariff rate, term, or condition. *See Armour Packing Co. v. United States*, 209 U.S. 56 (1908); *American Broadcasting Cos., Inc.* v. *FCC*, 643 F.2d 818 (D.C. Cir. 1980); *see also Aero Trucking, Inc.* v. *Regal Tube Co.*, 584 F.2d 619 (7th Cir. 1979); *Farley Terminal Co., Inc.* v. *Atchison, T. & S.F. Ry.*, 522 F.2d 1095 (9th Cir.), *cert. denied*, 423 U.S. 996 (1975). Consequently, if a carrier unilaterally changes a rate by filing a tariff revision, the newly filed rate becomes the applicable rate for all customers of that service unless the revised rate is found to be unjust, unreasonable, or unlawful under the Communications Act. *See* 47 U.S.C. 201(b); *see also Maislin Industries, U.S., Inc.* v. *Primary Steel, Inc.*, 497 U.S. 116 (1990).

4. Several parties appealed the *Second Report and Order* to the United States Court of Appeals for the District of Columbia Circuit and filed motions requesting that the court stay the Second Report and Order pending judicial review. On February 13, 1997, the court granted these motions. The Commission's rules adopted in this proceeding, therefore, are stayed until the court issues its determination on the merits of the appeal. Accordingly, nondominant interexchange carriers are currently required to file tariffs for their interstate, domestic, interexchange services.

5. In addition, eleven parties filed petitions requesting that we reconsider or clarify the rules we adopted in the Second Report and Order. The United States Court of Appeals for the District of Columbia Circuit deferred the briefing schedule in the appeal of the rules adopted in the *Second Report and Order* to allow the Commission to act on these petitions for reconsideration. *MCI Telecommunications Corp.* v. *FCC*, No. 96–1459 (D.C. Cir. April 4, 1997). The court directed the parties to file motions to govern further proceedings 60 days after April 4, 1997. *Id.* The Commission issued a public notice to establish a pleading cycle for the issues raised in the petitions for reconsideration and clarification. The public notice sought comments on or oppositions to the petitions and replies. *Policy and Rules Concerning the Interstate, Interexchange Marketplace*, CC Docket No. 96–61, Public Notice, Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings (released January 7, 1997). For convenience, we will cite the parties' filings in these three phases as petitions, comments, and replies, respectively. For the reasons set forth below, we grant requests for reconsideration on three issues. Specifically, we modify the *Second Report and Order* by: (1) Adopting permissive detariffing for interstate, domestic, interexchange direct-dial services to which end-users obtain access by dialing a carrier's access code (CAC); (2) adopting permissive detariffing for the first 45 days of service to new customers that contact the local exchange carrier (LEC) to choose their primary interexchange carrier (PIC); and (3) eliminating the requirement that nondominant interexchange carriers make publicly available information concerning current rates, terms, and conditions for all of their interstate, domestic, interexchange services, except in the case of dial-around 0+ services from aggregator locations, pursuant to section 226 of the Communications Act. In another proceeding, we are considering the issue of forbearing from applying section 226, which requires operator service providers to file informational tariffs. *See Billed Party Preference for InterLATA 0+ Calls*, CC Docket No. 92–77, Second Further Notice of Proposed Rulemaking, 11 FCC Rcd 7274 (1996); Public Notice, DA 96–1685 (released October 10, 1996) (seeking further comment). We deny all of the other petitions for reconsideration. We also make a number of clarifications in this Order on Reconsideration.

II. Detariffing Issues

A. Forbearance From Tariff Filing Requirements for the Interstate, Domestic, Interexchange Services of Nondominant Interexchange Carriers

i. Background

6. In the *Second Report and Order*, we concluded that the statutory forbearance criteria in section 10 were satisfied, based on our findings that: (1) Tariffs are not necessary to ensure that the rates, practices, classifications, and regulations of nondominant interexchange carriers for interstate, domestic, interexchange services are just and reasonable and not unjustly or unreasonably discriminatory; (2) tariffs for interstate, domestic, interexchange services of nondominant interexchange carriers are not necessary to protect consumers; and (3) complete detariffing of interstate, domestic, interexchange services provided by nondominant interexchange carriers, and not permissive detariffing of such services, is in the public interest. We concluded that permissive detariffing of interstate, domestic, interexchange services provided by nondominant interexchange carriers is not in the public interest because it: (1) Would not necessarily eliminate possible invocation of the "filed-rate" doctrine; (2) would create a risk that nondominant interexchange carriers would file tariffs to send price signals and to manipulate prices; and (3) would impose administrative costs on the Commission, which must maintain and organize tariff filings for public inspection. We further concluded that the Commission has the authority under section 10 to prohibit carriers from filing tariffs. Accordingly, pursuant to section 10, we determined that we must forbear from applying section 203 tariff filing requirements to the interstate, domestic, interexchange services offered by nondominant interexchange carriers and not permit nondominant interexchange carriers to file tariffs for their interstate, domestic, interexchange services, with the limited exception of AT&T's provision of 800 directory assistance and analog private line services.

ii. Positions of the Parties

7. Frontier, Telecommunications Resellers Association (TRA), and Telco petition the Commission to reconsider its decision to adopt complete detariffing, and urge the Commission to adopt permissive detariffing for the interstate, domestic, interexchange services offered by nondominant interexchange carriers. TRA further argues that the increased costs and burdens of a complete detariffing regime will adversely affect small and mid-sized nondominant interexchange carriers, which have fewer resources. TRA proposes specifically that the Commission adopt permissive detariffing in conjunction with a carrier-administered electronic tariff filing system, thereby relieving the Commission of the burden of administering and maintaining tariff filings. AT&T, CompTel, SBC, U S WEST, and WorldCom also support permissive detariffing.

8. AT&T, CompTel, and WorldCom argue that section 10 only authorizes the Commission to refrain from requiring tariffs, and does not empower the agency to prohibit carriers from voluntarily complying with section 203. These parties, and others, also challenge the Commission's determination that permissive detariffing is not in the public interest. Specifically, these parties argue that: (1) The "filed-rate" doctrine would no longer apply if the Commission adopted a permissive detariffing regime because the tariffed

rate would no longer be the only permissible rate; (2) even if the "filed-rate" doctrine would continue to apply, that doctrine and carriers' ability to limit their liability through tariff provisions, benefit consumers because the terms of the carrier-customer relationship are certain; (3) price coordination would be difficult, if not impossible, with permissive detariffing, because carriers would at best have fragmentary information about their competitors' rates, terms, and conditions; (4) requiring nondominant interexchange carriers to make price and service information publicly available allows carriers to coordinate prices as easily as with filed tariffs; (5) even under a system of permissive detariffing, a carrier could not refuse to accommodate a customer's request for services tailored to its specific needs on the ground that the request is beyond the scope of the carrier's tariff; (6) complete detariffing significantly increases transactional and administrative costs, especially for small carriers, by forcing nondominant interexchange carriers to conclude written agreements with every customer and notify them of modifications to the carriers' rates, terms, and conditions; and (7) permissive detariffing, or even mandatory tariffing, promotes vigorous competition to an even greater extent than complete detariffing, because carriers can react to market conditions quickly and without appreciable costs by filing a new tariff.

9. Ad Hoc Users Committee, American Petroleum Institute (API), and the Television Networks oppose the petitions of TRA and Frontier, at least to the extent that they request reconsideration of complete detariffing of individually-negotiated service arrangements. Ad Hoc Users Committee and API contend that the petitions for reconsideration should be denied because they merely repeat arguments previously made and rejected by the Commission in the *Second Report and Order*. In addition, these parties argue that complete detariffing, and not permissive detariffing, of interstate, domestic, interexchange services offered by nondominant interexchange carriers is in the public interest, because: (1) The "filed-rate" doctrine would continue to apply under a system of permissive detariffing; (2) the "filed-rate" doctrine harms consumers because it allows carriers unilaterally to alter or abrogate agreements; (3) complete detariffing ensures that carriers would no longer be able to refuse to accommodate a customer's request for services tailored to its specific needs on the grounds that the request conflicts with the carriers' tariffs; and (4) tariffs delay rapid responses to customer demands. API further argues that the 1996 Act gives the Commission authority to prohibit tariff filings.

iii. Discussion

10. We deny the petitions of Frontier, Telco, and TRA urging us to adopt permissive detariffing for all interstate, domestic, interexchange services. As discussed *infra*, arguments presented by these petitioners, and others, have persuaded us that permissive detariffing is warranted in certain limited circumstances. Specifically, we find that permissive detariffing is warranted for: (1) Interstate, domestic, interexchange direct-dial services to which end-users obtain access by dialing a carrier's CAC (dial-around 1+ services); (A CAC enables callers to reach any carrier (presubscribed or otherwise) from any telephone. During the current transition from five to seven digit CACs, both five digit CACs (10XXX) and seven digit CACs (101XXXX) are in use. On April 11, 1997, the Commission determined that the transition will end on January 1, 1998. *See Administration of the North American Numbering Plan, Carrier Identification Codes (CICs)*, CC Docket 92–237, Second Report and Order, 62 FR 19056 (April 18, 1997), *stay and recon. pending*. Thus, after January 1, 1998, only seven digit CACs may be used.) and (2) interstate, domestic, interexchange services provided by a nondominant interexchange carrier for the initial 45 days of service or until there is a written contract between the carrier and the customer, in those limited circumstances in which a prospective customer contacts the LEC to select an interexchange carrier or to initiate a PIC change (LEC-implemented new customer services). Aside from these two limited categories of service, the petitions and comments do not present any arguments that were not considered and addressed in the *Second Report and Order*. Thus, we find no basis upon which to reconsider our determination that the statutory criteria are met for completely detariffing all other interstate, domestic, interexchange services of nondominant interexchange carriers, except for dial-around 0+ services from aggregator locations, pursuant to section 226 of the Communications Act.

11. In the *Second Report and Order*, we extensively considered and rejected the argument that the Commission does not have statutory authority under section 10 to adopt complete detariffing. No new arguments have been presented that persuade us to reconsider our decision. Therefore, we reaffirm our earlier conclusion that Congress, in section 10, provided the Commission with broad forbearance authority that enables the agency to eliminate tariff filings under section 203.

12. In the *Second Report and Order*, we also considered all of the arguments advanced by those parties now urging us to reconsider our determination that permissive detariffing is in the public interest and complete detariffing is not. With the exception of dial-around 1+ services and LEC-implemented new customer services, we affirm our conclusion in the *Second Report and Order* that permissive detariffing of interstate, domestic, interexchange services offered by nondominant interexchange carriers is not in the public interest, for the reasons set forth in our prior order. We are not persuaded that a permissive detariffing regime would eliminate possible invocation of the "filed-rate" doctrine. In a permissive detariffing regime, a nondominant interexchange carrier may choose to file a tariff for an interstate, domestic, interexchange service, even if the carrier has signed an underlying contract with the customer. If a carrier files a tariff for an interstate, domestic, interexchange service with the Commission, whether on a permissive or mandatory basis, section 203(c) requires the carrier to provide service at the rates, and on the terms and conditions, set forth in the tariff until the carrier files a superseding tariff cancelling, or changing the rates, terms, and conditions of the tariffed offering. Thus, if the tariffed rates, terms, and conditions differ from those in the contract, section 203(c), in all likelihood, requires the carrier to provide service at the rates, and on the terms and conditions, set forth in the tariff. Because the "filed-rate" doctrine is a judicially-created doctrine, the determination of how to apply the doctrine in a permissive detariffing regime when the tariffed rates, terms, or conditions differ from those contained in a contract must necessarily be left to the courts. *See supra* paragraph 3. Only with a complete detariffing regime, under which the carrier-customer relationship would more closely resemble the legal relationship between service providers and customers in an unregulated, competitive environment, can we definitively avoid the negative consequences for consumers of the "filed-rate" doctrine. The Common Carrier Bureau, on numerous occasions, has issued Orders Designating Issues for Investigation to examine whether a carrier's proposed unilateral changes in a tariff meet the "substantial cause" standard applied by the Commission. *See AT&T Contract Tariff No. 374*, Transmittal Nos. CT 2952 and CT 3441, Order Designating Issues for Investigation, DA 95–1784 (Common Carrier Bureau released August 11, 1995); *AT&T Communications Contract Tariff No. 380*, Transmittal No. CT 3076, CC Docket No. 95–148, Order Designating Issues for Investigation (Common Carrier Bureau released September 8, 1995).

13. Moreover, we reject carriers' arguments that the "filed-rate" doctrine benefits customers by creating certainty in the carrier-customer relationship. In fact, the "filed-rate" doctrine creates uncertainty in the carrier-customer relationship. Invocation of the "filed-rate" doctrine can be especially harmful to consumers who have signed long-term service contracts with interexchange carriers. As Ad Hoc Users Committee, API and the Television Networks point out, the doctrine permits interexchange carriers subsequently to file a tariff that differs from the long-term contract, and if justified by substantial cause, unilaterally to alter or abrogate their contractual obligations in a manner that is not available in most commercial relationships and that undermines consumers' legitimate business expectations. The "filed-rate" doctrine also harms residential and small business consumers who utilize mass-market services and do not enter into long-term service arrangements. Such customers may purchase these mass market services in response to representations made by sales agents of the interexchange carrier or advertisements. In addition, such customers may assume the interexchange carrier will not modify its rates without actual notice to the customer. In the event of a dispute about the representations made by a sales agent, or a subsequent modification to an interexchange carrier's rates, terms, or conditions without actual notice to customers, a customer would be bound by the tariffed rates, terms, and conditions.

14. Moreover, we reaffirm our finding that permissive detariffing would facilitate tacit price coordination, because nondominant interexchange carriers could file tariffs to send price signals. On further reflection, however, we are persuaded by the comments of AT&T, TRA, and Telco, which maintain that complete detariffing, in conjunction with a public disclosure requirement, may not effectively impede tacit price coordination, because a nondominant interexchange carrier's rates, terms, and conditions for its interstate, domestic, interexchange services would still be available to its competitors in one location. We adopted the public disclosure requirement primarily to aid enforcement of the geographic rate averaging and rate integration requirements of section 254(g). In response to petitions asking us to reconsider the information disclosure requirements, we determine, as discussed below, that we can effectively meet our obligations to enforce section 254(g) without the public disclosure requirement. We conclude that complete detariffing, without a public disclosure requirement, will more effectively deter tacit price coordination.

15. We recognized in the *Second Report and Order* that complete detariffing would change in significant respects the manner in which nondominant interexchange carriers conduct their business. We considered the arguments raised by the parties in their petitions for reconsideration and comments regarding costs and administrative burdens associated with complete detariffing that would be avoided if carriers were allowed to file tariffs. With the exception of casual calling services and LEC-implemented new customer services, these arguments either essentially restate claims that were advanced in the initial phase of this proceeding in response to the NPRM and were rejected in the *Second Report and Order*, or are new, but unsupported by credible evidence. For example, Frontier, CompTel and SBC contend, as numerous parties did in earlier comments in this proceeding, that complete detariffing will increase the costs and administrative burdens on nondominant interexchange carriers because they will have to enter into individually negotiated contracts with every end user in order to establish a binding contractual relationship. Commenters assert that the costs associated with establishing an enforceable contractual relationship in the absence of tariffs will be "enormous," "significant," and "substantial;" however, they do not provide any evidence in support of these claims. In short, these parties did not raise any new arguments or provide any credible new evidence concerning the costs of providing interstate, domestic, interexchange service in a detariffed environment, as required by section 405 of the Communications Act. We, therefore, affirm our conclusion, for the reasons set forth in the *Second Report and Order*, that requiring nondominant interexchange carriers to conduct their businesses as do other businesses in unregulated markets will not substantially increase their costs.

16. In contrast, parties offered additional credible evidence on reconsideration concerning the costs and burdens to carriers of providing dial-around 1+ services and LEC-implemented new customer services in the absence of tariffs. As discussed below, we reconsider our decision in light of this evidence, and determine that permissive detariffing in these specific, limited instances is in the public interest. With respect to other interstate, domestic, interexchange services, we affirm our finding that the benefits and pro-competitive effects of complete detariffing outweigh any increased transactional or administrative costs resulting from the shift to complete detariffing.

17. Finally, we reject the argument that permissive detariffing or mandatory tariffing would promote competition more effectively than complete detariffing. As discussed above, allowing nondominant interexchange carriers to file tariffs for interstate, domestic, interexchange services creates the risk that such carriers will use these tariffs to send price signals in an effort to manipulate prices. Moreover, for the reasons discussed above and in the *Second Report and Order*, requiring nondominant interexchange carriers to conduct their businesses as do other businesses in unregulated markets will not substantially increase their costs. We, therefore, conclude that complete detariffing of the interstate, domestic, interexchange services of nondominant interexchange carriers is in the public interest, with the exception of dial-around 1+ services, LEC-implemented new customer services and section 226 tariffs associated with dial-around 0+ calls.

B. Casual Calling Services

i. Background

18. In contrast to other interstate, domestic, interexchange services, casual calling services are those services that do not require the calling party to establish an account with an interexchange carrier or otherwise presubscribe to a service. "Casual calling" refers to services such as collect calling, the use of a third-party credit card, or dial-around through the use of an access code. Casual calling does not include services for which customers presubscribe to an interexchange carrier or otherwise establish an account with an interexchange carrier prior to using the service, such as by obtaining a calling card, in advance, from an interexchange carrier. References to

casual calling in this reconsideration do not pertain to section 226 informational tariffs. We concluded in the *Second Report and Order* that the record did not support a finding that complete detariffing would cause nondominant interexchange carriers to cease offering such services. Rather, we found that nondominant interexchange carriers have options other than tariffs by which they can ensure the establishment of a contractual relationship with casual callers that would legally obligate such callers to pay for the telecommunications service they use and bind them to the carriers' terms and conditions. *Second Report and Order* at 59350, paragraph 58. We stated that a casual caller providing billing or payment information, such as a credit card or billing number, and completing use of the telecommunications service, may be deemed to have accepted a legal obligation to pay for any such services rendered. We also noted that a carrier could alternatively seek recovery under an implied-in-fact contract theory. An implied-in-fact contract "refers to that class of obligations which arises from mutual agreement and intent to promise, when the agreement and promise have simply not been expressed in words. Despite the fact that no words of promise or agreement have been used, such transactions are nevertheless true contracts, and may properly be called inferred contracts or contracts implied in fact." 1 Williston on Contracts, § 1.5, at 20–21 (4th ed. 1990); *see also* 1 Arthur L. Corbin, et al., Corbin on Contracts, § 1.19, at 55–57 (rev. ed. 1993) (stating that an implied-in-fact contract requires the same terms as an express contract and those terms are determined through a process of implication and inference). We further concluded on the basis of the record before us at that time that the competitive benefits of complete detariffing of nondominant interexchange carriers' interstate, domestic, interexchange service outweighed any potential increased costs resulting from detariffing such services.

ii. Positions of the Parties

19. AT&T, Frontier, Telco, and TRA petition the Commission to reconsider its decision to adopt complete detariffing for casual calling services and argue that the Commission, instead, should allow nondominant interexchange carriers to file tariffs for these services. CompTel, Television Networks, SBC, Sprint and WorldCom support this request. TRA and Sprint contend that unlike most other businesses, common carriers are required by statute to provide service upon demand prior to payment for their services. AT&T argues that allowing nondominant interexchange carriers to file tariffs for casual calling services is the simplest and most efficient means of ensuring a contractual relationship between carriers and casual callers. These parties, and others, contend that, in the absence of tariffs, carriers would need to develop costly and burdensome mechanisms to ensure the establishment of a legal relationship with casual callers to obligate them to pay for the services they receive and to bind casual callers to the terms and conditions of the service, including limitations on liability.

20. Several of these parties also maintain that the alternatives to tariffs that the Commission suggested in the *Second Report and Order* are insufficient to ensure that carriers have a contractual basis for enforcing their rates, terms, and conditions for casual calling services. Specifically, these parties assert that neither the implied-in-fact contract theory nor requiring customers to provide credit card information or a billing number guarantees that a carrier will be able to recover its charges for calls made by casual callers, because the carrier will have to demonstrate that the parties agreed upon definite terms. AT&T, Sprint, CompTel, and SBC assert that without tariffs, interexchange carriers would have to resort to costly, repetitive, state-by-state litigation to secure payment for services rendered. They assert that the outcome of such litigation is uncertain, and that the associated costs would inevitably be passed on to consumers.

21. AT&T argues that nondominant interexchange carriers, to ensure the establishment of a contractual relationship with a casual caller, would likely need to provide casual callers with the rates, terms, and conditions, or at a minimum, the option of obtaining the rates, terms, and conditions, prior to completion of the call. AT&T contends that using a recorded announcement that provides the rates, terms, and conditions of the call would greatly inconvenience callers by adding a delay in call set-up time of between 1.5 and 2 minutes. AT&T further maintains that even providing casual callers with the option of hearing such information would add between 7 and 9 seconds to the call set-up time. AT&T argues that this time delay is especially burdensome to the casual caller because in most instances, the caller is placing the call from a telephone away from the home in circumstances that necessitate simplicity, convenience and speed. Moreover, AT&T contends that these mechanisms would increase by approximately $0.33 to $0.77 the cost of each call. AT&T asserts that the costs would be higher if the nondominant interexchange carrier announces the rates, terms, and conditions and lower if the carrier provides the option of hearing the information. AT&T further argues that it may have underestimated this incremental cost per call, because it was unable to calculate the cost of playing an announcement to dial-around callers. AT&T also argues that computers and fax machines are unable to recognize the announcement, and, therefore, that any announcement would interfere with a caller's ability to use casual calling services for computer access or sending faxes. AT&T states, further, that an announcement of the rates, terms, and conditions transmitted to a computer or fax machine may be insufficient to create an enforceable contractual relationship with the caller.

22. AT&T and Sprint also claim that a recorded announcement may not even be an option for callers who use dial-around 1+ services, because interexchange carriers may be unable to distinguish these calls from direct dial 1+ calls placed from telephones presubscribed to that carrier. Letter from Marybeth M. Banks, Director, Federal Regulatory Affairs, Sprint, to William F. Caton, Acting Secretary, Federal Communications Commission, April 30, 1997 (Sprint April 30 *Ex Parte*); Letter from Marybeth M. Banks, Director, Federal Regulatory Affairs, Sprint, to William F. Caton, Acting Secretary, Federal Communications Commission, March 21, 1997 (Sprint March 21 *Ex Parte*). Direct-dial 1+ calls are those interstate, interexchange calls that an end-user makes using his or her presubscribed interexchange carrier. A caller completes this call by simply dialing 1 before the number being called. In contrast, dial-around 1+ calls are generally those made by end-users to access the interstate, domestic, interexchange services of an interexchange carrier other than the carrier presubscribed to that line. Once an end-user dials a carrier's CAC, the caller is connected to that interexchange carrier, and may place a 1+ (dial-around 1+) or a 0+ (dial-around 0+) call using the services of that interexchange carrier. End-users may use a dial-around service to take advantage of a lower rate offered by a competing interexchange carrier for that specific call, or during outages of its presubscribed interexchange carrier's network. Sprint contends that the technology to distinguish between these two types of calls exists, but that this feature is not universally offered by all LECs. Sprint contends that only those LECs with switches capable of providing signalling using Signalling System 7 (SS7) protocol are able to provide this feature. Moreover, Sprint asserts that several LECs that have switches capable of providing SS7 do not offer this feature. Sprint and AT&T further argue that the cost of implementing this technology, where available, is significant and inevitably will be passed on to consumers.

23. Several parties state that the increase in costs related to ensuring that a legally enforceable relationship is established with casual callers in the absence of tariffs may make it difficult for carriers effectively to provide casual calling services, and may ultimately result in carriers ceasing to offer these services altogether.

24. Telco and SBC also argue that possible invocation of the "filed-rate" doctrine—a primary reason the Commission adopted complete detariffing in the *Second Report and Order*—is not an issue with respect to casual calling services, for which carriers do not negotiate individual contracts. Frontier and SBC claim, moreover, that contrary to the Commission's conclusions in the *Second Report and Order*, the "filed-rate" doctrine is actually beneficial to consumers because the ability to tariff a service "promotes certainty" in the carrier-customer relationship. Frontier contends that this certainty is particularly beneficial in situations such as casual calling, where the carrier provides the service prior to establishing an enforceable contractual relationship with the customer.

25. Finally, Western Union urges the Commission to allow nondominant interexchange carriers to file tariffs for consumer messaging services (*e.g.*, telegram services). Western Union advances essentially the same arguments in support of this claim that other parties make in urging the Commission to adopt permissive detariffing for casual calling services. Western Union asserts that customers often convey to Western Union by telephone the message that they want transmitted by telegram. As a result, Western Union contends that it does not have an opportunity to formalize a written contract with the customer that would bind the customer to its terms and conditions. Western Union states that although the carrier could provide such information orally at the time the customer telephones Western Union to place an order, such a method of conveying the information would confuse customers, and may not create a legally enforceable contract that effectively limits the carrier's liability. Western Union further contends that if carriers are unable to limit their liability effectively, they may be forced to increase their rates or cease offering consumer messaging services altogether, which would not be in the public interest.

iii. Discussion

26. A number of parties urge us to reconsider our decision to adopt complete detariffing for casual calling services in general. Sprint has focused its comments on dial-around 1+ services. After examining additional evidence presented by the parties on reconsideration, we partially grant the petitions and adopt permissive detariffing, on an interim basis, for a subset of casual calling services, specifically, the provision of dial-around 1+ services. For all other types of casual calling services that are the subject of this proceeding, we affirm our determination that complete detariffing is warranted, and, therefore, deny the petitions for reconsideration to this extent.

27. We note at the outset that the problems that nondominant interexchange carriers maintain will arise with respect to ensuring the establishment of a contractual relationship with casual callers in a detariffed environment do not arise with calling cards. Because customers obtain calling cards in advance of using the service, the carrier can formalize a contractual relationship at the time the customer obtains the card, rather than at the time the call is placed. Consumers always have the option of obtaining a carrier's calling card to make calls and carriers may choose to advertise calling cards as a preferable alternative to casual calling in a detariffed environment.

28. With the exception of dial-around 1+ calls, discussed *infra*, we affirm our prior finding that nondominant interexchange carriers have reasonable options other than tariffs by which they can ensure the establishment of a contractual relationship with casual callers that would legally obligate such callers to pay for the services they use and bind them to the carrier's terms and conditions. We recognize that the implied-in-fact contract theory and the provision of credit card information or a billing number, alone, do not guarantee that nondominant interexchange carriers will have an enforceable contract with the casual caller, if the caller does not have knowledge of the carrier's rates, terms, and conditions prior to completion of the call. Interexchange carriers, however, do not dispute that alternatives can be created by which they can establish an enforceable contract with casual callers. One alternative, as discussed by AT&T, is that nondominant interexchange carriers could establish an enforceable contract with casual callers by providing them with the rates, terms, and conditions of the interstate, domestic, interexchange service by operator or recorded announcements prior to completion of the call. The parties acknowledge that an enforceable contract would exist if the rates, terms, and conditions were provided prior to completion of the call. Rather, these carriers argue only that providing such an announcement of rates, terms, and conditions prior to completion of the call would be burdensome to their casual calling customers. Many casual calling services, including collect calling, and calls billed to third-party numbers, however, already require intervention by the interexchange carrier before the call is completed, and nondominant interexchange carriers could provide this announcement at that time. Furthermore, less burdensome alternatives may also be sufficient to ensure the establishment of a contractual relationship. Another alternative discussed by AT&T would be to provide casual callers with the option of obtaining the rates, terms, and conditions prior to completion of the call either through an operator or a recorded announcement. We need not address whether this alternative is sufficient to ensure the establishment of an enforceable contract, because we conclude that providing the rates, terms, and conditions prior to completion of the call would establish an enforceable contract and, as discussed below, is a feasible alternative. Moreover, at a minimum, we agree with Frontier and reaffirm our conclusion in the *Second Report and Order* that if the customer has used the carrier's service with knowledge of the rates, terms, and conditions, nondominant interexchange carriers could seek recovery under an implied-in-fact contract theory. Thus, we conclude that the fact that a casual caller has not signed a written contract does not preclude a finding that a legally enforceable obligation exists between the nondominant interexchange carrier and the casual caller, especially when the customer has knowledge of the carrier's charges.

29. We recognize that complete detariffing of casual calling services may require nondominant interexchange

carriers to modify in significant respects the manner in which these carriers bill and collect charges for their affected services. We further recognize the concerns raised by AT&T and Sprint that the cost of casual calls may increase and that casual callers may experience a delay in call set-up time. Nevertheless, we affirm our prior conclusion that the benefits of complete detariffing of casual calling services except dial-around 1+ services are substantial. These benefits include elimination of the possible invocation of the "filed-rate" doctrine, decreased risk of tacit price coordination, and increased rate and service information provided directly to casual callers to ensure that a legal relationship is established between carriers and customers at the time the caller uses the casual calling service. In our view, these benefits outweigh the increased costs and delays in call set-up time that AT&T and Sprint claim will result from complete detariffing. In addition, we reiterate that casual callers always have the option of obtaining and using an interexchange carrier's calling card, thereby avoiding any increased cost or delay.

30. We also recognize AT&T's concern that complete detariffing of casual calling services would impede the use of certain casual calling arrangements for calls originated by computers and fax machines, because the computer or fax machine would not recognize the announcement, thereby interfering with the call, and because an announcement transmitted to a computer or fax machine may be insufficient to establish an enforceable contract. AT&T, however, overstates the problem. Casual calling services such as collect calling and calls billed to third-party numbers presently require intervention by the interexchange carrier before the call is completed. Likewise, use of a third-party credit card often requires interaction with the carrier to provide the credit card information. Thus, the use of a recorded announcement in a detariffed environment will not significantly alter the current requirement of intervention by the interexchange carrier. One casual calling service that does not require intervention with the interexchange carrier prior to completion of the call is dial-around 1+ service. As discussed *infra*, we are permitting carriers to file tariffs for dial-around 1+ service through use of a carrier's CAC. Concededly, there may be situations where callers using third-party credit cards may be able to enter their credit card information electronically by swiping the card prior to beginning a call, and that in the absence of tariffs, these customers may face an additional announcement of rates, terms, and conditions. We nevertheless find that the negative consequences to the limited number of those casual callers who may use third-party credit cards for computer access and fax machines do not warrant reconsideration of our decision to detariff completely casual calling except dial-around 1+ services in light of the benefits of complete detariffing of such casual calling services and the fact that most casual calling services already require intervention by an interexchange carrier. Moreover, casual callers who now use third-party credit cards for computer access and fax machines can avoid the announcement of rates, terms, and conditions by obtaining in advance and using an interexchange carrier's calling card. As discussed above, an interexchange carrier can establish an enforceable contract with customers at the time they obtain the calling card, rather than when the call is placed.

31. We also reject Telco's and SBC's argument that, because carriers do not negotiate individual contracts with casual callers, possible invocation of the "filed-rate" doctrine is not a concern for casual callers. Although we agree with Telco and SBC that generally the "filed-rate" doctrine is an issue when a tariffed rate, term, or condition differs from a rate, term, or condition in a contract, invocation of the "filed-rate" doctrine may also harm casual callers. Customers may use a casual calling service in response to an advertisement or direct solicitation, which may provide rates, terms, and conditions for the interstate, domestic, interexchange casual calling service. If the interexchange carrier modifies these rates, terms, or conditions in the future, the consumer would be bound by the tariffed rates, terms, and conditions, even if the consumer did not receive actual notice of the modification. In the absence of tariffs, consumers will likely receive, or have the option of receiving, current information on the rates, terms, and conditions for the specific service they are about to use, because nondominant interexchange carriers will likely disclose such information to the casual caller in order to ensure the establishment of a contractual relationship.

32. While we continue to require complete detariffing for casual calling services in general, we adopt permissive detariffing for dial-around 1+ services using a nondominant interexchange carrier's access code. We are persuaded that the means of ensuring the establishment of an enforceable contract with customers of other casual calling services cannot be implemented currently for dial-around 1+ services, because, as explained below, the interexchange carrier does not have the ability reasonably to distinguish a caller using dial-around 1+ services from direct dial 1+ services, as required to provide the dial-around 1+ caller with the rates, terms, and conditions prior to completion of the call. We note that this issue is not a concern for dial-around 0+ calls from aggregator locations, because those calls require intervention between the carrier and customer, at which time the carrier can establish a contractual relationship with the customer. We further note that not all dial-around 1+ calls are from casual callers. Presently, some customers may need to dial their presubscribed interexchange carrier's access code to use that carrier's interstate, domestic, interexchange services, rather than the caller's LEC, for interstate, intraLATA calls. After February 8, 1999, however, customers will no longer need to dial their presubscribed interexchange carrier's access code to use that carrier's interstate, domestic, interexchange services because LECs are required to institute dialing parity and allow customers to select a PIC for intraLATA toll calling by then. *See Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Interconnection Between Local Exchange Carriers and Commercial Mobile Radio; Area Code Relief Plan for Dallas and Houston, Ordered by the Public Utility Commission of Texas; Administration of the North American Numbering Plan; Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech-Illinois*, CC Docket Nos. 96–98, 95–185, NSD File No. 96–8, CC Docket No. 92–237, IAD File No. 94–102, Second Report and Order and Memorandum Opinion and Order, 61 FR 47284 (September 6, 1996).

33. Sprint and AT&T have presented evidence that the technology to distinguish dial-around 1+ calls from direct dial 1+ calls placed from telephones presubscribed to an interexchange carrier is not universally offered by all LECs either because some LEC switches are not capable of providing signalling using SS7, which is necessary to provide this feature, or because some LECs have chosen not to offer the technology needed to distinguish dial-around 1+ calls from direct dial 1+ calls. Sprint's and AT&T's unchallenged representations, which were not in the record when we considered casual calling services in the *Second Report and Order*, lead us to find that adoption of complete detariffing at this time for dial-around 1+ services would not be in the public interest. Such a regime would impose substantial costs and burdens on nondominant interexchange carriers that offer dial-around 1+ services and their customers. The rates, terms, and conditions of services provided to presubscribed direct dial callers often differ from those provided to casual callers using a dial-around 1+ service. Because nondominant interexchange carriers would not always be able to distinguish between these two types of calls, they would not always be able to determine the rates, terms, and conditions for a particular call at the time the call is placed. Moreover, the inability of nondominant interexchange carriers to distinguish between these two types of calls would require these carriers to implement for dial-around 1+ callers and direct dial 1+ callers the recorded announcement of the rates, terms, and conditions or other means adopted by such carriers to ensure a contractual relationship with dial-around 1+ callers. Such a recorded announcement may confuse direct dial 1+ customers. Further, the increased costs and the delay in call set-up time that AT&T and Sprint contend are attendant with ensuring the establishment of a contractual relationship would likely be imposed on both dial-around 1+ calls and direct dial 1+ calls from a presubscribed telephone line. We find that imposing these increased costs and delays in call set-up time on both dial-around 1+ callers and customers using a direct dial 1+ service from a telephone line presubscribed to that carrier—in all likelihood, the majority of calls over that line—would impose an unreasonable burden on consumers using direct dial 1+ services from their PIC. We note that these concerns do not arise with respect to dial-around 0+ calls from aggregator locations, because such calls always require intervention by the interexchange carrier and, therefore, implementation of a recorded announcement or some other means of providing customers with the rates, terms, and conditions of the call would not affect consumers making calls other than dial-around 0+ calls. We reach this conclusion because the volume of direct dial 1+ calls from a PIC is vastly larger than the volume of dial-around 1+ calls, and therefore, the costs and burdens associated with providing an announcement of rates, terms, and conditions for dial-around 1+ callers would be imposed on this much larger group. In contrast, the increased costs and delays in call set-up time for other casual calling services would be imposed only on those customers using that particular casual calling service, and the benefits of completely detariffing those casual calling services outweigh the costs, as discussed above.

34. We recognize that nondominant interexchange carriers, to avoid burdening their presubscribed customers, could decide not to provide an announcement of rates, terms, and conditions prior to completion of dial-around 1+ calls. In this circumstance, as in any circumstance where there is no contract, the carrier, at a minimum, could seek to recover under a theory of quantum meruit (Quantum meruit is an "equitable doctrine, based on the concept that no one who benefits by the labor and materials of another should be unjustly enriched thereby; under those circumstances, the law implies a promise to pay a reasonable amount for the labor and materials furnished, even absent a specific contract therefor." Black's Law Dictionary 1243 (6th ed. 1990).) for the value of its services. Because we appreciate the somewhat greater burden of pursuing a collection action when only a quantum meruit theory of recovery is available, however, we find that allowing nondominant interexchange carriers to file tariffs for dial-around 1+ services at this time is in the public interest. We are also concerned that nondominant interexchange carriers, to avoid imposing these costs and delays on their presubscribed customers, may decide not to offer a dial-around 1+ service option. Such a result would limit consumers' choices, and, therefore, would also not be in the public interest.

35. We realize that the unique problems created by dial-around 1+ services as they are presently handled could be eliminated if we were to require LECs to deploy universally switches capable of providing SS7. We are not requiring LECs to take such measures in this Order on Reconsideration. A significant number of LEC switches do not presently have SS7 capability, and we do not have an adequate record in this proceeding to evaluate the costs that such a decision would impose on LECs. We note, however, that LECs have been rapidly deploying switches capable of providing SS7, and therefore, the unique technological concerns about the ability to distinguish between dial-around 1+ calls and direct dial 1+ calls from presubscribed customers will not be an issue in the near future. Once LECs universally deploy switches that are capable of providing SS7, we will reexamine this issue to determine whether we will completely detariff dial-around 1+ services for the same reasons that we determine that complete detariffing of other casual calling services is in the public interest. In the meantime, we conclude that permissive detariffing of dial-around 1+ services offered by nondominant interexchange carriers is in the public interest as an interim measure. In addition, we strongly encourage nondominant interexchange carriers to provide dial-around 1+ services on a detariffed basis as soon as they have the capability to do so. Because we are adopting permissive detariffing for dial-around 1+ services, we need not address concerns raised by Sprint that the "bad debt ratio" is higher for dial-around 1+ calls than for calls from presubscribed customers.

36. We recognize that adopting permissive detariffing for dial-around 1+ services may raise concerns about invocation of the "filed-rate" doctrine for customers of these services. Due to the unique technological concerns with dial-around 1+ services that prevent the interexchange carrier from reasonably being able to provide the dial-around 1+ caller with the rates, terms, and conditions prior to completion of the call, discussed above, we conclude, on balance, that the costs to consumers of adopting complete detariffing for dial-around 1+ services outweigh the benefits of complete detariffing with respect to this particular type of service.

C. Initial Period of Service to Presubscribed Customers

i. Background

37. The *Second Report and Order* did not specifically address whether complete detariffing is in the public interest with respect to the provision of interstate, domestic, interexchange service to new customers that select and use an interexchange service before receiving information about the rates, terms, and conditions of that service. None of the comments filed in response to the NPRM raised this issue.

ii. Positions of the Parties

38. AT&T contends that we should permit carriers to file tariffs that are effective for the initial 45 days of service to residential and small business customers, or until a contract with the new customer is consummated, whichever is earlier. AT&T claims that many of the concerns carriers raise with respect to casual calling services in a detariffed environment are also relevant with respect to presubscribed customers during the initial period of service. AT&T states that, absent tariffs, nondominant interexchange carriers

will be required to provide service to new customers prior to the formalization of a contractual relationship during the period: (1) After the customer contacts the LEC to designate an interexchange carrier or initiate a PIC change, but before the nondominant interexchange carrier is able to ensure the establishment of an enforceable contractual relationship; and (2) when the customer contacts the interexchange carrier or its marketing agents directly, but before the contract can be prepared and mailed to the customer. AT&T contends that in both situations, tariffs are the only means by which the interexchange carrier can enforce its rates, terms, and conditions and limit its liability before a contract is finalized, without resort to costly, repetitive litigation. AT&T concludes that permitting nondominant interexchange carriers to file tariffs before they have an opportunity to finalize a written contract with a new customer will not adversely affect consumers because market forces will ensure that the filed rates, terms, and conditions will be just, reasonable, and nondiscriminatory, and the Commission's complaint process is available as an additional safeguard. Several commenters support AT&T's request.

iii. Discussion

39. We grant, in part, AT&T's petition for reconsideration urging us to adopt permissive detariffing for the initial 45 days of nondominant interexchange carriers' provision of interstate, domestic, interexchange mass market services to new residential and business customers, or until a written contract is consummated, whichever is earlier. We find, based on the evidence presented by the parties, that permitting interexchange carriers to file tariffs to cover the provision of service during this period is in the public interest in the limited circumstance when a new customer contacts the LEC to select an interexchange carrier or to initiate a PIC change. We expect each LEC to process service requests promptly. Interexchange carriers are reminded that during the effective period of their tariffs, they must make their services generally available to all similarly-situated customers, pursuant to section 202(a). During the effective period of a tariff, interexchange carriers are required, pursuant to section 201(a), to make all efforts to provide service quickly, even under protest. *See In the Matter of Hawaiian Telephone Company*, 78 F.C.C. 2d 1062, 1065 (1980). Carriers are also bound by section 201 when providing service pursuant to individually-negotiated contracts. We conclude, however, that the interexchange carriers have not demonstrated that this exception to our detariffing policy should be extended to the initial period of service to a new customer when the customer directly contacts the interexchange carrier or its marketing agents.

40. We find persuasive AT&T's argument that when a residential or small business customer contacts the LEC in order to presubscribe to an interexchange carrier or initiate a PIC change, (We note that residential and small business customers that contact the LEC to presubscribe to an interexchange carrier or initiate a PIC change are generally those customers that utilize mass market services.) the selected interexchange carrier, because it does not have direct contact with the customer, may be unable immediately to ensure that a legal relationship is established with that customer. AT&T presented evidence establishing that: (1) It takes some LECs up to 60 days to notify AT&T of the PIC designation; (The 45-day period during which we are allowing permissive detariffing was requested by the parties. Although AT&T asserts that it takes LECs up to 60 days to notify it of a PIC change, AT&T's petition for reconsideration requests only that we adopt permissive detariffing for at most 45 days to enable it to formalize a contract. *See* AT&T Petition at 9, 11–12 & n.12. Other parties supported AT&T's request. *See supra* note . AT&T subsequently clarified that allowing interexchange carriers to file tariffs that are applicable for a maximum of 45 days after the customer begins taking service would provide the interexchange carrier a sufficient amount of time to establish a contractual relationship with the customer in almost all cases. Letter from E. E. Estey, Government Affairs Vice President, AT&T, to William F. Caton, Acting Secretary, Federal Communications Commission, July 16, 1997.) (2) AT&T, because of the enormous churn rate in the industry, processes in excess of 30 million PIC changes or requests annually (an average of more than 600,000 requests per week); and (3) an additional two weeks may elapse after AT&T receives notice that it has been designated as a customer's PIC before contract information is mailed to that customer. Thus, during some initial period after interexchange service is established, carriers may be providing interstate, domestic, interexchange service to new customers without adequate assurance that the carriers' rates, terms, and conditions will be legally enforceable, and as a result, may be required to seek recovery of unremitted charges under alternative equitable theories, as discussed above.

41. We have considered various means by which LECs could convey to new customers of a nondominant interexchange carrier the information necessary to ensure the establishment of an enforceable contract during the initial period after the customer contacts the LEC and before the nondominant interexchange carrier can formalize the contractual relationship. We conclude, however, that none of these means adequately ensures an enforceable contractual relationship between the nondominant interexchange carrier and the customer during this initial period. Nondominant interexchange carriers conceivably could contract with LECs to act as agents of the interexchange carrier to establish a contractual relationship with the prospective customer by orally providing the rates, terms, and conditions of the interexchange service. We are reluctant, however, to adopt a policy that may have the effect of mandating such agency arrangements, especially since the LEC may have an affiliate that offers competing interstate interexchange services. Alternatively, if prospective customers are required to contact nondominant interexchange carriers directly prior to the commencement of service in order to establish the necessary contractual relationship, such a requirement would preclude residential and business customers from changing or selecting a PIC by contacting the LECs as they do today. That, in turn, could diminish competition among interexchange carriers by making it more difficult for customers to switch interexchange carriers. Finally, the nondominant interexchange carrier may decide to delay provisioning of the service until a contractual relationship is formalized, which also may discourage residential and business customers from making PIC changes, thereby deterring competition in the interexchange market. We, therefore, conclude that the benefits of allowing nondominant interexchange carriers to file tariffs, at their discretion, for the limited period before the customer executes a written contract outweigh any potential benefits resulting from complete detariffing in this particular situation. Consistent with the deregulatory framework of the 1996 Act, we are allowing nondominant interexchange carriers to file tariffs under the circumstances described herein, as opposed to requiring tariffs, to allow nondominant interexchange carriers and LECs to agree upon alternatives to tariffs for the purpose of adequately ensuring a contractual relationship between the nondominant interexchange carrier and the customer before the customer formally executes the written contract.

42. We reject AT&T's arguments that we should also allow nondominant interexchange carriers to provide an initial period of service under tariff when a customer contacts the interexchange carrier or its marketing agent directly. AT&T claims that even when the customer contacts the carrier or its marketing agents directly to begin interexchange service or initiate a PIC change, it is unable to consummate a written contract prior to the commencement of service, given the large number of requests it receives and the period of time it takes to process customers' requests. When a customer contacts the interexchange carrier or its marketing agent directly, however, there is an opportunity for the interexchange carrier to establish, at a minimum, an oral contract by relating to the customer the rates, terms, and conditions that will be in effect from the commencement of service until such time as the customer formalizes a written contract with the interexchange carrier. This situation is distinguishable from both the situation in which the prospective customer contacts the LEC to select an interexchange carrier or to initiate a PIC change, and when a customer places a casual call using a carrier's CAC. The interexchange carrier does not have an opportunity in either of those cases to interact with the customer. In contrast, a customer who contacts the nondominant interexchange carrier directly is in essentially the same position as customers of other businesses in unregulated, competitive markets, *i.e.*, they have an opportunity to interact with the service provider before the service is initiated. We are not persuaded, therefore, that we should reconsider our decision to require complete detariffing when a customer contacts the interexchange carrier or its marketing agent directly to begin interexchange service or to initiate a PIC change. We reaffirm our finding that complete detariffing when a customer contacts the interexchange carrier or its marketing agent directly to begin interexchange service or to initiate a PIC change is in the public interest.

43. Moreover, we find that permitting nondominant interexchange carriers to file tariffs effective for the initial 45 days of service or until there is a written contract between the carrier and the customer, whichever is earlier, in those limited instances where prospective customers contact the LEC to select an interexchange carrier or to initiate a PIC change, is not inconsistent with a primary reason we adopted complete detariffing in the *Second Report and Order*, *i.e.*, eliminating the ability of carriers to invoke the "filed-rate" doctrine. We believe that the ability of carriers to invoke the "filed-rate" doctrine does not create significant problems when a customer contacts the LEC to select an interexchange carrier or to initiate a PIC change because the proposed tariff is in place only for a limited time, *i.e.*, the initial 45 days of service or until a written contract between the carrier and the customer is consummated, whichever is earlier. The limited term of the tariff would prevent carriers from unilaterally changing the terms of negotiated agreements or unilaterally limiting their liability for damages after the initial period of service. Upon expiration of the tariff, the legal relationship between carriers and customers will much more closely resemble the legal relationship between service providers and customers in an unregulated environment, a goal of detariffing delineated in the *Second Report and Order*.

44. We recognize that permitting nondominant interexchange carriers to file tariffs for service to new customers that contact the LEC raises the risk that carriers could use these tariffs to send price signals for their mass market services. We believe, however, that we cannot address the unique problems raised by the commenters about establishing a contractual relationship with these new customers in a detariffed environment without allowing nondominant interexchange carriers to file tariffs for a short period needed to formalize the contract. We note that should we become aware of evidence indicating that nondominant interexchange carriers are using these tariffs to send price signals for their mass market services, we can reexamine our decision to adopt permissive detariffing for LEC-implemented new customer services.

D. Tariff Filing Requirements for Bundled Domestic and International Service Offerings

i. Background

45. In the NPRM in this rulemaking docket, the Commission sought comment on whether it should forbear from requiring nondominant interexchange carriers to file tariffs for the international portions of service offerings that include both interstate, domestic, interexchange services and international services. The Commission noted that it was reserving for a separate proceeding the issue of whether it should consider generally forbearing from requiring tariffs for international services provided by nondominant carriers.

46. We determined in the *Second Report and Order* that there was insufficient record evidence to find that each of the statutory criteria necessary to forbear from requiring nondominant interexchange carriers to file tariffs for the international portions of bundled domestic and international service offerings had been satisfied. We concluded that we should address detariffing of the international portions of bundled domestic and international service offerings in a separate proceeding in which we could examine the state of competition in the international market. We therefore required nondominant interexchange carriers with bundled domestic and international services to bifurcate their bundled domestic and international service offerings and file a tariff that includes only the international portions of their service offerings.

47. We also adopted a nine-month transition period in the *Second Report and Order* to allow nondominant interexchange carriers time to adjust to detariffing. We determined that the Commission would not accept new tariffs for interstate, domestic, interexchange services, or revisions to existing tariffs, for long-term service arrangements during the nine-month transition.

ii. Positions of the Parties

48. API and SDN Users request that the Commission detariff the international portions of bundled domestic and international services offered by nondominant interexchange carriers. Ad Hoc Users Committee and the Television Networks support API's and SDN Users' petitions for reconsideration. AT&T and CompTel argue that the international services portion of bundled service offerings should be treated on the same basis as the interstate, domestic, interexchange services portion, without specifying whether both portions should be tariffed or detariffed. SDN Users, AT&T, Ad Hoc Users Committee, and CompTel contend that requiring tariffs only for the international portions of bundled domestic and international service offerings confuses customers and complicates negotiations. API further argues that the statutory forbearance criteria are satisfied with respect to the international portion of bundled international and domestic services, because the policy considerations that

support the Commission's decision to detariff the interstate, domestic, interexchange market are equally relevant to the international portion of bundled international and domestic offerings. In particular, API states that the public interest objectives of eliminating the possible invocation of the "filed-rate" doctrine and establishing market conditions that more closely resemble an unregulated environment are also served by detariffing the international portions of bundled international and domestic offerings. API further argues that there is no evidence in the record that would support a need to retain tariffs for the international portions of bundled offerings.

49. Sprint opposes the request to allow domestic nondominant carriers to detariff the international portions of bundled domestic and international services offered by nondominant interexchange carriers. Sprint argues that requiring carriers to detariff such international services will confuse customers, because some carriers are dominant in certain international markets and nondominant in others. Sprint therefore urges the Commission to maintain tariff filing requirements for all international services until the Commission is able to examine the unique issues involved in applying its detariffing policies to international services.

50. AT&T and CompTel further request that the Commission allow permissive detariffing for mixed international and domestic services offered by nondominant interexchange carriers during the nine-month transition to allow carriers and customers to adjust to the new policy. Ad Hoc Users Committee and API oppose this request on the ground that such a policy would allow carriers to alter or abrogate long-term arrangements by invoking the "filed-rate" doctrine. API disputes AT&T's contention that customers are "significantly confused" by the requirement that nondominant interexchange carriers bifurcate mixed international and domestic service offerings and states that customers have worked through issues with carriers that are far more daunting and potentially confusing.

iii. Discussion

51. In order to determine whether the statutory criteria are satisfied for us to forbear from requiring tariffs for the international portion of bundled domestic and international service offerings, we need to examine the state of competition for these international services. We find nothing in the record on reconsideration that enables us to make findings on the state of competition for such services. API claims only that detariffing the international portion of bundled domestic and international service offerings would lead to the same public interest benefits as detariffing interstate, domestic, interexchange services. Other parties argue that requiring tariffs only for the international portions of bundled domestic and international service offerings confuses customers and complicates negotiations. The parties, however, have not provided new evidence in the record that would enable us to determine that the statutory forbearance criteria are met for detariffing the international portion of bundled domestic and international service offerings. The state of competition in the international market may not be the same as in the domestic market, and, we do not have sufficient evidence in this proceeding to make such a determination. We therefore affirm our conclusion that the determination of whether to detariff the international portions of bundled domestic and international service offerings should be addressed as part of a separate proceeding in which the Commission can further examine the state of competition in the international market.

52. We need not address at this time AT&T's request that we adopt permissive detariffing for bundled international and domestic service offerings during the nine-month transition. The United States Court of Appeals for the D.C. Circuit has stayed the *Second Report and Order*, pending judicial review. Nondominant interexchange carriers, therefore, are currently required to file tariffs for all of their interstate, domestic, interexchange services, including those that are bundled with international services. We delegate authority to the Common Carrier Bureau to determine the appropriate transition period and address other transition issues when the detariffing rules become effective.

E. Local Access Portion of Interstate, Domestic, Interexchange Services

i. Positions of the Parties

53. Ad Hoc Users Committee requests that the Commission clarify that the *Second Report and Order* detariffed the exchange access components of the interstate, domestic, interexchange services offered by nondominant interexchange carriers, and not only the interoffice component of such services. It argues that a requirement that nondominant interexchange carriers separate their integrated end-to-end service offerings into interexchange and exchange access services would radically depart from the Commission's historical approach to regulation of the interstate, domestic, interexchange marketplace and would create a "practical nightmare" for nondominant interexchange carriers to implement. API and Sprint support Ad Hoc Users Committee's request for clarification.

54. Bell Atlantic contends that Ad Hoc's request, which deals with the regulation of exchange access services and not the regulation of interexchange services, is beyond the scope of this proceeding. Moreover, Bell Atlantic argues that the Commission should not detariff the exchange access services of nondominant providers without detariffing such services for all providers.

ii. Discussion

55. We agree with Ad Hoc Users Committee that we detariffed integrated end-to-end interstate, domestic, interexchange services in the *Second Report and Order*, including both the interexchange portion and the interstate exchange access components of such services when offered on an integrated basis. We note that our conclusion that the forbearance criteria are satisfied applies only to interstate exchange access that is offered to customers as part of an integrated, end-to-end interstate, domestic, interexchange service that the customer is purchasing. We are not detariffing in this proceeding the sale of interstate exchange access that is offered on a stand-alone basis. The Commission, in another proceeding, recently granted, in part, two petitions seeking forbearance from tariff filing requirements for competitive access providers (CAPs) and non-dominant providers of interestate exchange access services. In that proceeding, the Commission adopted permissive detariffing for non-ILEC providers of interstate exchange access services, and proposed the adoption of complete detariffing for all non-ILEC providers of these services. *See In the Matters of Hyperion Telecommunications, Inc. Petition Requesting Forbearance, Time Warner Communications Petition for Forbearance, Complete Detariffing for Competitive Access Providers and Competitive Local Exchange Carriers*, Memorandum Opinion and Order and Notice of Proposed Rulemaking, CC Docket No. 97–146, 62 FR 38244 (July 17, 1997); *see also Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers; Transport Rate Structure and Pricing; End User Common Line Charges*, CC Docket Nos. 96–262, 94–1, 91–213, 95–72, First Report and Order, 62 FR 31868 (June 11, 1997) (*Access Charge Reform Order*).

56. Nondominant interexchange carriers purchase or self provide interstate exchange access as an input to providing integrated, end-to-end interstate, domestic, interexchange service. Thus, access is merely a component of a service offered to end users. We have found that market forces generally will ensure that nondominant interexchange carriers do not charge rates, or impose terms and conditions, for their interstate, domestic, interexchange services that violate sections 201 and 202 of the Communications Act. Because market forces will generally constrain nondominant interexchange carriers' charges for interstate, domestic, interexchange services, there is no need to require the nondominant interexchange carrier to break out and tariff a separate charge for interstate exchange access.

F. Effect of Detariffing on AT&T/Alascom's Common Carrier Services

i. Background

57. AT&T/Alascom offers certain "common carrier" services that the Commission has defined as "all interstate interexchange transport and switching services that are necessary for other interexchange carriers to provide services in Alaska up to the point of interconnection with each Alaska local exchange carrier." In the *AT&T Reclassification* proceeding, AT&T made certain commitments, including, *inter alia*, that it "will comply with all of the obligations and conditions contained in the Commission orders associated with AT&T's purchase of Alascom, Inc., including the *Alascom Authorization Order*; the *Market Structure Order* (59 FR 27496 (May 27, 1994)), and the *Final Recommended Decision* (58 FR 63345 (December 1, 1993))." In the *Second Report and Order*, we stated that our decision to forbear from requiring nondominant interexchange carriers to file tariffs for interstate, domestic, interexchange services would not affect AT&T's commitment to comply with the Commission's orders associated with AT&T's purchase of Alascom, and that AT&T would continue to be bound by this commitment.

ii. Discussion

58. We have been asked to clarify in this proceeding that the *Second Report and Order* did not detariff AT&T/Alascom's common carrier services. A similar issue has been raised in the *AT&T Reclassification Order*. We believe this issue is better addressed in that proceeding in light of AT&T's commitment in that proceeding to comply with the Commission's orders associated with AT&T's purchase of Alascom. We therefore incorporate the record filed in this proceeding on the issue of detariffing AT&T/Alascom's common carriers services to the *AT&T Reclassification* proceeding.

III. Information Disclosure Issues

A. Background

59. The Commission tentatively concluded in the NPRM that it would require nondominant providers of interstate, domestic, interexchange telecommunications services to file certifications that they are in compliance with the geographic rate averaging and rate integration requirements of section 254(g) of the Communications Act to ensure compliance with those requirements. The Commission also tentatively concluded in the NPRM that, if it were to adopt a complete detariffing policy, nondominant interexchange carriers would be required to maintain at their premises price and service information regarding all of their interstate, domestic, interexchange service offerings, which they could submit to the Commission upon request.

60. In the *Second Report and Order*, we adopted the tentative conclusion in the NPRM and required nondominant interexchange carriers to file an annual certification stating that they are in compliance with the statutory rate averaging and rate integration requirements. We further adopted the tentative conclusion in the NPRM and ordered nondominant interexchange carriers to maintain supporting documentation on the rates, terms, and conditions of their interstate, domestic, interexchange services that they could submit to the Commission within ten business days upon request. In addition, in the *Second Report and Order*, we required nondominant interexchange carriers to make information concerning current rates, terms, and conditions for all of their interstate, domestic, interexchange services available to the public in at least one location during regular business hours, although we expressly stated that we did not intend to require nondominant interexchange carriers to disclose more information than is currently provided in tariffs.

B. Positions of the Parties

61. Several parties filed petitions asking the Commission to reconsider or clarify various aspects of the public disclosure requirement in the *Second Report and Order*. Ad Hoc Users Committee requests that the Commission eliminate the public disclosure requirement with respect to information on individually-negotiated service arrangements. It argues that a public disclosure requirement makes it easier for interexchange carriers to ascertain their competitors' price and service information, and, therefore, the requirement is inconsistent with the Commission's interest in deterring price coordination. Ad Hoc Users Committee further argues that, because the Commission decided to forbear from applying section 254(g) to contract tariffs and similar customer-specific agreements, disclosure of the rates and terms of individually-negotiated service arrangements cannot be justified on the basis of enforcing section 254(g). Rather than requiring public disclosure, Ad Hoc Users Committee contends that the Commission could meet the objectives supporting a public disclosure requirement in the *Second Report and Order* through: (1) The workings of the competitive market; (2) the Commission's complaint process; and (3) disclosure of rate and term information to Commission and state regulatory staff, to Congress in connection with agency oversight, and to complainants in discovery proceedings before the Commission or courts.

62. API, Bell Atlantic, and Sprint support Ad Hoc Users Committee's petition, arguing that a public disclosure requirement for customer-specific arrangements will inhibit competition and that businesses in other competitive markets are not required to disclose the terms of customer-specific deals. Bell Atlantic further argues that, if the Commission eliminates the public disclosure requirement, it should also not require dominant interexchange carriers to disclose their prices to the public through tariffs. Bell Atlantic maintains that requiring dominant interexchange carriers to file tariffs or otherwise disclose their prices would be anticompetitive, because nondominant interexchange carriers would set their prices based on the dominant carrier's disclosed prices.

63. TRA argues that the public disclosure requirement is necessary to address, at least in part, its concerns that carriers will discriminate against resellers in the absence of tariffs. Several other parties request that the Commission strengthen the information disclosure requirements in the *Second Report and Order*, which they deem insufficient. Specifically, Rural

Telephone Coalition (RTC) asks the Commission to require carriers to make information more widely available to consumers to ensure that they have easy access to the information necessary to determine whether nondominant interexchange carriers are complying with the rate integration and rate averaging requirements of section 254(g). RTC argues that the *Second Report and Order's* requirement that nondominant interexchange carriers make information available in only one location will prevent customers, especially those in rural areas, from obtaining the information. Instead, RTC urges the Commission to require carriers to make the information available on-line and at one public place in each state in which the carrier operates. RTC contends that these requirements would not be unduly burdensome on carriers. Alaska and Hawaii support RTC's petition.

64. Telecommunications Management Information Systems Coalition (TMISC) requests that we clarify the disclosure rules by specifying the type and amount of information that must be made publicly available, as well as the time limit within which nondominant interexchange carriers must make the information publicly available. TMISC argues that, without more specific information requirements, the Commission and other interested parties may not be able effectively to enforce the geographic rate averaging and rate integration requirements of section 254(g). TMISC further points out that a significant number of consumer organizations, public interest organizations, and state governments filed comments in this proceeding, arguing that effective public disclosure requirements are not only necessary to enforce section 254(g), but also to enable consumers to make fully informed service decisions. Hawaii argues that the Commission should require nondominant interexchange carriers to disclose the same amount of information that is currently provided in tariffs and also agrees with TMISC that the current information disclosure provisions are inadequate.

65. AT&T responds to RTC and TMISC by arguing that complete detariffing will impose substantial burdens on nondominant interexchange carriers, particularly the costs associated with establishing and maintaining a legal relationship with their customers. AT&T contends that there is no reason to add to these costs by imposing more burdensome information disclosure requirements.

C. Discussion

66. The basis for our decision in the *Second Report and Order* to adopt a public disclosure requirement for all interstate, domestic, interexchange services offered by nondominant interexchange carriers was to provide the public with the information necessary to determine whether a carrier was adhering to the rate integration and rate averaging requirements of section 254(g). We recognized that, in competitive markets, carriers would not necessarily maintain geographically averaged and integrated rates for interstate, domestic, interexchange services as required by section 254(g). We also determined that a public disclosure requirement would promote the public interest by making it easier for consumers, including resellers, to compare service offerings and to bring complaints. We noted, however, that nondominant interexchange carriers will generally provide such information to consumers to improve or maintain their competitive position in the market.

67. We sought to tailor this public disclosure requirement to meet our objective of ensuring that nondominant interexchange carriers comply with section 254(g) in their provision of interstate, domestic, interexchange services, while minimizing any potential adverse effects on our general policy of allowing market forces, rather than regulation, to discipline the practices of these carriers. Although a public disclosure requirement does not affect certain benefits of complete detariffing, such as elimination of possible invocation of the "filed-rate" doctrine, it may detract from our objective of reducing regulatory burdens and deterring tacit price coordination. Thus, we minimized the burdens on nondominant interexchange carriers of complying with this requirement by, for example, only requiring nondominant interexchange carriers to make information available in one location and not specifying a format for the disclosure.

68. Upon further examination, we agree with Ad Hoc Users Committee that we can more narrowly tailor our information disclosure requirement. We therefore grant Ad Hoc Users Committee's petition and eliminate the public disclosure requirement for individually-negotiated service arrangements. Individually-negotiated service arrangements, as opposed to mass market services, are customer-specific arrangements, such as contract tariffs, AT&T's Tariff 12 options, MCI's special customer arrangements, and Sprint's custom network service arrangements. We find that the disclosure of the rates, terms, and conditions of individually-negotiated service arrangements cannot be justified on the basis of the need to enforce the rate averaging requirements of section 254(g). This is because the Commission decided to "forbear from applying section 254(g) to such arrangements, consistent with the intent of Congress, to the extent necessary." The Commission continues to require carriers to ensure that individually-negotiated service offerings are available to all similarly-situated customers, regardless of their geographic location. The Commission did not forbear from applying the rate integration requirements to individually-negotiated service arrangements. There are several means to ensure that nondominant interexchange carriers make individually-negotiated service arrangements available to all similarly-situated customers without a public disclosure requirement. Market forces generally will ensure that nondominant interexchange carriers that lack market power do not charge rates, or impose terms and conditions, for interstate, domestic, interexchange services that are unjustly or unreasonably discriminatory. Specifically, if a nondominant interexchange carrier could profit from selling an interstate, domestic, interexchange service at one price to one customer and attempted to sell the same service at an unjustly or unreasonably discriminatory price to a similarly-situated customer, that customer would purchase services from other facilities-based nondominant interexchange carriers that could profit from selling the same services to that customer at the lower market price. Moreover, we can remedy any carrier conduct that violates the requirement that carriers make individually-negotiated service arrangements available to all similarly-situated customers through the section 208 complaint process. A customer can file a section 208 complaint and allege that a carrier has unreasonably discriminated against it in the provision of either contract or mass market services. The customer complainant, as always, under section 208, bears the initial burden of establishing that: (1) The complainant sought substantially the same service arrangement under the same terms and conditions that were made available to another customer; and (2) the carrier refused to make that service available to the complainant on terms similar to those of another customer's service arrangement. If a complainant establishes this, the burden shifts to the carrier which must demonstrate why the discrimination is reasonable. In addition, we will be able to investigate carriers' compliance with our rules through the requirement adopted in the *Second Report and Order* that interexchange carriers maintain price and service information on all of their interstate, domestic, interexchange services and make this information available to the Commission upon request. Thus, eliminating public disclosure for individually-negotiated service arrangements will not hinder enforcement of the requirement that carriers make such services available to all similarly-situated customers, and will also decrease the regulatory burden on nondominant interexchange carriers and deter tacit price coordination.

69. Although Ad Hoc Users Committee requests that the Commission eliminate the public disclosure requirement only for individually-negotiated service arrangements, the arguments it raises about the effect of public disclosure on tacit price coordination and the need to tailor more narrowly the information requirements apply to mass market services as well. Although no party specifically requested that the Commission eliminate the public disclosure requirement for mass market services, the Commission, in light of pending petitions for reconsideration, retains jurisdiction to reconsider its rules on its own motion. *See Central Florida Enters., Inc. v. FCC*, 598 F.2d 37, 49 n.51 (D.C. Cir. 1978), *cert. dismissed*, 441 U.S. 957 (1979). We therefore conclude on reconsideration that we should also eliminate the public disclosure requirement for mass market interstate, domestic, interexchange services offered by nondominant interexchange carriers. Mass market interstate, domestic, interexchange services are those services that are not individually-negotiated service arrangements, and, therefore, we are eliminating the public disclosure requirement for all interstate, domestic, interexchange services offered by nondominant interexchange carriers. Bell Atlantic's argument that we should also not require dominant interexchange carriers to disclose their rates, terms, and conditions is now largely moot in light of our determination that LECs providing interstate, domestic, interexchange services will generally be classified as nondominant in their provision of such services, pursuant to *Regulatory Treatment of LEC Provision of Interexchange Services Originating in the LEC's Local Exchange Area; and Policy and Rules Concerning the Interstate, Interexchange Marketplace*, CC Docket Nos. 96–149, 96–61, Second Report and Order and Third Report and Order, (62 FR 35974 (July 3, 1997)). Because this proceeding concerns detariffing only nondominant interexchange carriers' interstate, domestic, interexchange services and the record on dominant interexchange carrier regulation is extremely limited, we will address the issue of the regulatory treatment of dominant interexchange carriers if and when we determine that an interexchange carrier should be classified as dominant in its provision of interstate, domestic, interexchange services. We emphasize, however, that this decision does not suggest any diminution in our commitment to enforce the geographic rate averaging and rate integration requirements. To that end, we require nondominant interexchange carriers to file annually certifications stating that they are in compliance with their obligations under section 254(g) and to maintain price and service information on all of their interstate, domestic, interexchanges services that they must make available to the Commission and to state regulatory commissions upon request. In addition, we will further our goal of deterring tacit price coordination, because a nondominant interexchange carrier's rate, terms, and conditions for interstate, domestic, interexchange services will not be collected and available in one location, although we recognize that nondominant interexchange carriers may still be able to obtain information about their competitors' rates and service offerings in the absence of a public disclosure requirement.

70. We believe that our decision to eliminate the public disclosure requirement for mass market services will not deprive residential and other low volume customers of information about nondominant interexchange carriers' interstate, domestic, interexchange service offerings that they need to ensure that they have been correctly billed and to bring to the Commission's attention possible violations of the Communications Act, particularly section 254(g). To the contrary, we find nothing in the record of this reconsideration proceeding that would cause us to modify our conclusion in the *Second Report and Order* that consumers will have access to information concerning the rates, terms, and conditions for interstate, domestic, interexchange services offered by nondominant interexchange carriers to consumers through, *inter alia*, the billing process, information provided by nondominant interexchange carriers to establish a contractual relationship with their customers, notifications required by service contracts or state consumer protection laws, and advertisements and marketing materials. We note that the majority of consumer complaints about the lawfulness of carriers' rates, terms, or conditions for interstate, domestic, interexchange services are based on information obtained through the billing process. Moreover, as set forth in the *Second Report and Order*, we find that it is highly unlikely that interexchange carriers that lack market power could successfully charge rates, or impose terms and conditions that violate sections 201 and 202 of the Communications Act. Consumers will also have the information they need to select the service best suited to their calling patterns through the mechanisms discussed above and the workings of the competitive market. Because consumers will have access to rate and service information about nondominant interexchange carriers' interstate, domestic, interexchange services in a detariffed environment without a public disclosure requirement, we conclude that the public disclosure requirement in the *Second Report and Order*, let alone an expanded public disclosure requirement as RTC and TMISC request, is unnecessary to protect consumers.

71. We recognize that elimination of the public disclosure requirement will make the collection of information more difficult for businesses, including consumer groups, that analyze and compare the rates and services of interexchange carriers and offer their analysis to the public for a fee. These businesses, however, will have access to the information that nondominant interexchange carriers provide to the public in order to market their services and improve their competitive position in the market. On balance, we conclude that the benefits of eliminating the public disclosure requirement for consumers, *e.g.*, decreased risk of tacit price coordination and increased competition in the interstate, domestic, interexchange market, outweigh any potential adverse effects on these businesses. Moreover, as stated above, consumers will not be deprived of the information they need and will receive additional information directly from nondominant interexchange carriers that will provide rate and service information to consumers in order to ensure the establishment of a contractual relationship with them in a detariffed environment. Although we find on the basis of the record in this

proceeding that a public disclosure requirement is not necessary to ensure that interexchange carriers comply with their obligation under section 254(g), we are prepared to revisit this issue in the event that evidence shows that the safeguards we have implemented are inadequate. One tool at our disposal is to conduct audits of interexchange carrier compliance with the rate averaging obligations of section 254(g).

72. We also recognize the concerns of resellers, as expressed by TRA, that, without rate and service information through either tariffs or a public disclosure requirement, resellers will not have adequate information to prevent nondominant interexchange carriers from discriminating against resellers, which are not only customers, but also competitors of the carriers. We conclude, however, that the resellers' concern that the resale market will not survive in a detariffed environment without a public disclosure requirement is overstated. As noted in the *Second Report and Order*, our decision to forbear from requiring nondominant interexchange carriers to file tariffs for interstate, domestic, interexchange services does not affect such carriers' obligations under sections 201 and 202. Thus, as discussed below, our long-standing policies barring prohibitions on resale and restrictive eligibility requirements will continue in full force to the same extent as prior to detariffing. Moreover, we agree with Ad Hoc Users Committee that it is unreasonable to assume that in a substantially competitive market, facilities-based carriers will not provide resellers with service options at reasonable rates. As TRA noted, in another proceeding, AT&T has just begun to "reform its conduct with respect to resellers" when its market share declined to fifty percent. If a carrier does not provide resellers with service options at reasonable rates, resellers are not only likely to find another facilities-based carrier that will do so, but resellers also have the right to file a section 208 complaint with the Commission. We therefore find that the increased benefits to interexchange carriers and consumers of complete detariffing without a public disclosure requirement, *e.g.*, decreased risk of tacit price coordination and increased competition in the interstate, domestic, interexchange market, and a reduced regulatory burden justify any negative effect upon resellers of eliminating the public disclosure requirement.

73. Finally, we make clear that the annual certification requirement and the requirement that nondominant interexchange carriers maintain price and service information on all of their interstate, domestic, interexchange services that they must submit to the Commission upon request, discussed herein, are the same as those contained in the *Second Report and Order*.

IV. Miscellaneous Issues

A. Nondiscriminatory Access to Interstate, Domestic, Interexchange Services

i. Positions of the Parties

74. TRA asks the Commission to clarify that nondominant interexchange carriers are required to make available, upon request, all interstate, domestic, interexchange services, including contract-based services, on a nondiscriminatory basis, to all qualified entities, including resellers. TRA argues that the Commission has required nondominant interexchange carriers to make such service offerings generally available, and has declared unlawful restrictive eligibility requirements that unreasonably discriminate against similarly-situated customers. TRA notes that the Commission addressed its concerns in the *Second Report and Order*, in part, by requiring nondominant interexchange carriers to make publicly available price and service information on all of their interstate, domestic, interexchange services. TRA contends, however, that the *Second Report and Order* does not expressly declare that the "general availability" requirement will continue to apply.

ii. Discussion

75. The Commission has long-standing policies of prohibiting restrictions on resale and barring restrictive eligibility requirements for interstate, domestic, interexchange services that have the effect of unreasonably discriminating against similarly-situated customers. The Commission has further concluded that individually-negotiated service arrangements do not violate section 202(a)'s prohibition against "unjust or unreasonable discrimination," if the terms of the service arrangement are made available to similarly-situated customers. In the *Second Report and Order*, we made clear that our decision to forbear from requiring nondominant interexchange carriers to file tariffs for interstate, domestic, interexchange services does not affect carriers' obligations under sections 201 and 202. Thus, nondominant interexchange carriers are prohibited from imposing restrictions on resale and restrictive eligibility requirements that unreasonably discriminate against similarly-situated customers to the same extent that they were prohibited from doing so prior to adoption of the *Second Report and Order*. TRA also stated in its petition that the Commission partially addressed its concerns by requiring nondominant interexchange carriers to disclose publicly certain information regarding their interstate, domestic, interexchange services. As stated above, we have eliminated the public disclosure requirement in this Order on Reconsideration. For a discussion of this issue and TRA's concerns, see *supra* paras. 59–73.

B. Law Governing the Lawfulness of Rates, Terms, and Conditions for Interstate Services

i. Positions of the Parties

76. AT&T requests that the Commission clarify that federal, and not state, law governs the determination as to whether a nondominant interexchange carrier's rates, terms, and conditions for interstate, domestic, interexchange services are lawful. AT&T contends that parties may interpret the statement in the *Second Report and Order* that, with complete detariffing, "consumers will also be able to pursue remedies under state consumer protection and contract laws" as allowing challenges under state law to the lawfulness of rates, terms, and conditions for these interstate services. AT&T argues that any interpretation that authorizes such challenges under state law is foreclosed by numerous judicial decisions recognizing that sections 201 and 202 of the Communications Act preempt state law with respect to the reasonableness of rates, terms, and conditions for interstate telecommunications services. Sprint, and WorldCom support AT&T's petition, arguing that the Communications Act, and not state law, governs rates, terms, and conditions for interstate telecommunications services. U S WEST argues that the Commission should adopt permissive detariffing until it conducts a new proceeding to determine the law that governs the relationship between carriers and customers in a detariffed environment. API opposes U S WEST's request that the Commission conduct a new proceeding to determine the applicability of state and federal law in a detariffed environment.

ii. Discussion

77. In the *Second Report and Order*, we stated that our decision to forbear from requiring nondominant interexchange carriers to file tariffs for interstate, domestic, interexchange services will not affect our enforcement of carriers' obligations under sections 201 and 202 to charge rates, and impose practices, classifications, and regulations that are just and reasonable, and not unjustly or unreasonably discriminatory. We therefore agree with AT&T, Sprint, and WorldCom that the Communications Act continues to govern determinations as to whether rates, terms, and conditions for interstate, domestic, interexchange services are just and reasonable, and are not unjustly or unreasonably discriminatory. While the parties only sought clarification that the Communications Act governs the determination as to the lawfulness of rates, terms, and conditions, we note that the Communications Act does not govern other issues, such as contract formation and breach of contract, that arise in a detariffed environment. As stated in the *Second Report and Order*, consumers may have remedies under state consumer protection and contract laws as to issues regarding the legal relationship between the carrier and customer in a detariffed regime.

78. We reject U S WEST's argument that we should adopt permissive detariffing until there is greater certainty about the law that would govern the relationship between carriers and customers in the absence of tariffs. We adopted a nine-month transition in the *Second Report and Order*, during which nondominant interexchange carriers are permitted to file new tariffs and revise existing tariffs for mass market services. This transition provides for a period of permissive detariffing to allow nondominant interexchange carriers time to adjust to detariffing. We believe that a lengthier period of time is unnecessary to address U S WEST's concern.

C. Private Contract Clauses Preserving the "Filed-Rate" Doctrine

i. Positions of the Parties

79. Ad Hoc requests that the Commission clarify that the intent of the *Second Report and Order* is not to permit carriers to preserve the "unfair advantages" they would enjoy under "filed-rate" doctrine, but to eliminate the ability of nondominant interexchange carriers to invoke the "filed-rate" doctrine. Ad Hoc contends that some interexchange carriers are attempting to preserve their right to make unilateral changes to contracts by including a contract clause pursuant to which the carrier is permitted to alter the terms of the contract at any time, and for any reason.

ii. Discussion

80. In the *Second Report and Order*, we stated that not permitting nondominant interexchange carriers to file tariffs for the provision of interstate, domestic, interexchange services will achieve the public interest objective of eliminating the ability of nondominant interexchange carriers to invoke the "filed-rate" doctrine. We also observed that eliminating the ability of carriers to invoke the "filed-rate" doctrine benefits consumers by creating a legal relationship that more closely resembles the legal relationship between service providers and customers in an unregulated environment, and is in the public interest. While we do not support attempts by carriers to preserve their ability to alter unilaterally the terms of a contract, pursuant to a contract clause, we will rely on private negotiations between the parties in the first instance to resolve such issues. The issue of whether a particular contract clause is "just and reasonable," as required by section 201(b) of the Communications Act, is not before us in this proceeding, however, such an issue would be an appropriate matter for a section 208 complaint.

D. Relationship of Detariffing to Access Charge Reform and Universal Service

i. Positions of the Parties

81. RTC urges the Commission in this proceeding to ensure adequate universal support for access charges in high-cost areas to minimize the incentive of interexchange carriers to deaverage their rates. RTC contends that, notwithstanding the statutory requirement that interexchange carriers charge "reasonably comparable" rural and urban interexchange rates, interexchange carriers have an incentive to deaverage their rates, especially as they face increased competition from BOCs and others. RTC further argues that eliminating tariffs and curtailing public information availability will decrease interexchange carriers' incentive to average interexchange rates. Although RTC recognizes that the Commission is considering universal service support and access charge reform in other dockets, it nevertheless contends that there is an overlap between this proceeding and those other dockets. Thus, RTC urges the Commission in this proceeding to reduce the incentive to deaverage rates by ensuring adequate support mechanisms for high-cost areas.

82. AT&T counters that the *Second Report and Order* does not compel a particular result in the Commission's universal service and access charge reform proceedings. AT&T further argues that any relationship between detariffing and access charge reform or universal service should be considered in those particular dockets.

ii. Discussion

83. We have recently addressed universal service support and access charge reform in separate proceedings. We agree with AT&T that these issues are beyond the scope of this proceeding and better addressed in those particular proceedings in which numerous parties commented specifically on universal service and access charge reform issues. Therefore, we decline to address these issues in this proceeding.

E. Fees for the Withdrawal of Tariffs

i. Positions of the Parties

84. TRA requests that the Commission refrain from collecting filing fees from nondominant interexchange carriers that are required to withdraw tariffs pursuant to the *Second Report and Order*. TRA argues that § 1.1113(a)(4) of the Commission's rules supports its argument that it is inequitable to retain filing fees when carriers are compelled to withdraw tariffs as a result of Commission action.

ii. Discussion

85. Pursuant to § 1.1105 of the Commission's rules, tariff filings must be accompanied by a filing fee, which is currently six hundred dollars per tariff filing. After we adopted the *Second Report and Order*, the Common Carrier Bureau received inquiries concerning whether nondominant interexchange carriers must pay the tariff filing fee to withdraw or revise tariffs pursuant to the *Second Report and Order*, and whether nondominant interexchange carriers that pay such fees would be entitled to a refund or return of the fee. On December 19, 1996, the Common Carrier Bureau issued the *Public Notice Concerning Implementation*, in which it responded to these inquiries and addressed the precise issue TRA raises here. The Common Carrier Bureau, consistent with Commission precedent and practice, concluded in the *Public Notice Concerning Implementation* that nondominant interexchange carriers would need to pay tariff filing fees to withdraw or revise existing tariffs pursuant to the *Second Report and Order*, and that such carriers would not be entitled to a return or refund of the fee. We now affirm this conclusion.

86. The purpose of the fee program is to assess and collect fees for regulatory services provided to the public, and the

fees charged are based primarily on the costs to the Commission of providing those services. In the *Fee Program Order* (52 FR 5285 (February 20, 1987)), the Commission concluded that § 1.1113(a)(4) was "intended to apply in those rare instances where the Commission creates a new regulation or policy, or the Congress and the President approve a new law or treaty, that would make the grant of a *pending* application a legal nullity." The Commission specifically concluded that Congress, when it established the regulatory fee program, did not envision an exemption from the payment of fees for additional tariff filings required by changes to the Commission's rules. Based on its analysis in the *Fee Program Order*, the Commission required Commercial Mobile Radio Service providers to pay the tariff filing fee for cancelling tariffs for domestic interstate services pursuant to a Commission order. We are not aware of any distinction that justifies a different determination in this case. We therefore conclude that nondominant interexchange carriers cancelling their tariffs for interstate, domestic, interexchange services, or revising their tariffs for bundled international and domestic service offerings to exclude interstate, domestic, interexchange services, will be required to pay the tariff filing fee and will not be eligible for a return or refund of that fee.

87. To minimize the cost to nondominant interexchange carriers of cancelling or revising tariffs pursuant to the *Second Report and Order*, we reiterate that such carriers may cancel or revise several tariffs under one cover letter with the payment of one filing fee, as stated in the *Public Notice Concerning Implementation*. In addition, organizations that file tariffs on behalf of several carriers may request a waiver of applicable filing rules so that they may cancel the tariffs of several carriers or file revisions to tariffs of several carriers under one cover letter with the payment of one filing fee.

V. Procedural Issues

A. Final Regulatory Flexibility Analysis on Reconsideration

88. As required by section 603 of the Regulatory Flexibility Act (RFA), 5 U.S.C. 603, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the NPRM. The Commission sought written public comments on the proposals in the NPRM. In addition, pursuant to section 603, a Final Regulatory Flexibility Analysis (FRFA) was incorporated in the *Second Report and Order*. That FRFA conformed to the RFA, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). The Supplemental Final Regulatory Flexibility Analysis in this initial Order on Reconsideration (Supplemental FRFA) also conforms to the RFA.

i. Need for and Objectives of This Order on Reconsideration and the Rules Adopted Herein

89. With the exception of dial-around 1+ services and LEC-implemented new customer services, our decisions and rules in this Order on Reconsideration detariff completely the interstate, domestic, interexchange services of nondominant interexchange carriers. In this Order on Reconsideration, we grant in part and deny in part several of the petitions filed for reconsideration and/or clarification of the *Second Report and Order*, in order to further the same needs and objectives as those discussed in the FRFA in the *Second Report and Order*, including reducing the costs and burdens of providing interstate, domestic, interexchange services, in the absence of tariffs, on nondominant interexchange carriers and customers, some of which are small entities. First, we adopt permissive detariffing for dial-around 1+ services using a nondominant interexchange carrier's access code. Second, we adopt permissive detariffing for the initial 45 days of LEC-implemented interstate, domestic interexchange service to new residential or small business customers, or until a written contract is consummated, whichever is earlier. Third, we eliminate the public disclosure requirement for all interstate, domestic, interexchange service offered by nondominant interexchange carriers. In addition, we require nondominant interexchange carriers to file annual certifications stating that they are in compliance with their obligations under section 254(g) and to maintain price and service information on all of their interstate, domestic, interexchange services that they must make available to the Commission upon request. Finally, with the exception of dial-around 1+ services and LEC-implemented new customer services, we affirm our conclusion that permissive detariffing of all other interstate, domestic, interexchange service of nondominant interexchange carriers is not in the public interest.

ii. Analysis of Significant Issues Raised in Response to the FRFA

90. *Summary of the FRFA.* In the FRFA, we recognized that many of the decisions and rules adopted in the *Second Report and Order* may have a significant effect on a substantial number of the small telephone companies identified by the Small Business Administration (SBA). Based upon data contained in the most recent census and a report by the Commission's Common Carrier Bureau, we estimated that fewer than 3,497 telephone service firms are small entity telephone service firms that could be affected. We also discussed the reporting requirements imposed by the *Second Report and Order*.

91. In addition, we discussed the steps we had taken to minimize the impact on small entities, consistent with our stated objectives. We concluded that our actions in the *Second Report and Order* would benefit small entities by facilitating the development of increased competition in the interstate, domestic, interexchange market, thereby benefitting all consumers, some of which are small business entities. We found that the record in that proceeding indicated that detariffing on a permissive basis would not definitively eliminate the possible invocation of the "filed-rate" doctrine and would create the risk of price signalling. We concluded that only with complete detariffing could we definitively eliminate these possible anticompetitive practices and protect consumers, some of which are small business entities. We noted that we attempted to keep burdens on nondominant interexchange carriers to a minimum. For example, we did not require nondominant interexchange carriers to make rate and service information available to the public in any particular format, or at any particular location.

a. Impact of Complete Detariffing on Small, Nondominant Interexchange Carriers

92. *Comments.* Although not in response to the FRFA, TRA claims that the *Second Report and Order* does not adequately address the impact of complete detariffing on small, nondominant interexchange carriers. TRA requests that the Commission permit nondominant interexchange carriers to tariff their domestic, interstate, interexchange service offerings.

93. *Discussion.* As discussed in the Order on Reconsideration, we permit carriers to file tariffs for dial-around 1+ services and LEC-implemented new customer services. We base this decision on the credible evidence offered by parties on reconsideration concerning the costs and burdens to carriers and customers of providing these services in the absence of tariffs. Permitting carriers to file tariffs in these limited circumstances will ease the burdens on nondominant interexchange carriers and customers, some of which are small entities. We discuss these issues above in the Order on Reconsideration.

iii. Description and Estimates of the Number of Small Entities Affected by This Order on Reconsideration

94. For the purposes of this Order on Reconsideration, the RFA defines a "small business" to be the same as a "small business concern" under the Small Business Act, 15 U.S.C. 632, unless the Commission has developed one or more definitions that are appropriate to its activities. Under the Small Business Act, a "small business concern" is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the SBA. The SBA has defined a small business for Standard Industrial Classification (SIC) categories 4812 (Radiotelephone Communications) and 4813 (Telephone Communications, Except Radiotelephone) to be small entities with fewer than 1,500 employees. We first discuss generally the total number of small telephone companies falling within both of those SIC categories. Then, we discuss the number of small businesses within the two subcategories that may be affected by our rules, and attempt to refine further those estimates to correspond with the categories of telephone companies that are commonly used under our rules.

95. *Total Number of Telephone Companies Affected.* Many of the decisions and rules adopted herein may have a significant effect on a substantial number of the small telephone companies identified by the SBA. The United States Bureau of the Census (the Census Bureau) reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year. This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, PCS providers, covered SMR providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not "independently owned and operated." For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It seems reasonable to conclude, therefore, that fewer than 3,497 telephone service firms are small entity telephone service firms that may be affected by this Order on Reconsideration.

96. *Wireline Carriers and Service Providers.* The SBA has developed a definition of small entities for telephone communications companies other than radiotelephone (wireless) companies. The Census Bureau reports that there were 2,321 such telephone companies in operation for at least one year at the end of 1992. According to the SBA's definition, a small business telephone company other than a radiotelephone company is one employing fewer than 1,500 persons. All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small incumbent LECs. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 2,295 small entity telephone communications companies other than radiotelephone companies that may be affected by the decisions and rules adopted in this Order on Reconsideration.

97. *Interexchange Carriers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of interexchange services. The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of interexchange carriers nationwide of which we are aware appears to be the data that the Commission collects annually in connection with Telecommunications Relay Services (TRS). According to our most recent data, 97 companies reported that they were engaged in the provision of interexchange services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of interexchange carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 97 small entity interexchange carriers that may be affected by the decisions and rules adopted in this Order on Reconsideration.

98. *Resellers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to resellers. The closest applicable definition under the SBA's rules is for all telephone communications companies. The most reliable source of information regarding the number of resellers nationwide of which we are aware appears to be the data that we collect annually in connection with the TRS. According to our most recent data, 206 companies reported that they were engaged in the resale of telephone services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of resellers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 206 small entity resellers that may be affected by the decisions and rules adopted in this Order on Reconsideration.

99. In addition, the rules adopted in this Order on Reconsideration may affect companies that analyze information contained in tariffs. The SBA has not developed a definition of small entities specifically applicable to companies that analyze tariff information. The closest applicable definition under the SBA rules is for Information Retrieval Services (SIC Category 7375). The Census Bureau reports that, at the end of 1992, there were approximately 618 such firms classified as small entities. This number contains a variety of different types of companies, only some of which analyze tariff information. We are unable at this time to estimate with greater precision the number of such companies and those that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 618 such small entity companies that may be affected by the decisions and rules adopted in this Order on Reconsideration.

100. We assume that most, if not all, small businesses purchase interstate, domestic, interexchange telecommunications services. As a result, our rules in this Order on Reconsideration would affect virtually all small business entities. The SBA guidelines to the SBREFA state that about 99.7 percent of all firms are small and have fewer than 500 employees and

less than $25 million in sales or assets. There are approximately 6.3 million establishments in the SBA's database. The SBA database does include nonprofit establishments, but it does not include governmental entities. SBREFA requires us to estimate the number of such entities with populations of less than 50,000 that would be affected by our new rules. There are 85,006 governmental entities in the nation. This number includes such entities as states, counties, cities, utility districts and school districts. There are no figures available on what portion of this number has populations of fewer than 50,000. This number, however, includes 38,978 counties, cities and towns, and of those, 37,566, or 96 percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 96 percent, or 81,600, are small entities that would be affected by the decisions and rules adopted in this Order on Reconsideration.

iv. Summary Analysis of the Projected Reporting, Recordkeeping, and Other Compliance Requirements and Steps Taken to Minimize the Significant Economic Impact of This Order on Reconsideration on Small Entities, Including the Significant Alternatives Considered and Rejected

101. *Structure of the Analysis.* In this section of the Supplemental FRFA, we analyze the projected reporting, recordkeeping, and other compliance requirements that may apply to small entities as a result of this Order on Reconsideration. As a part of this discussion, we mention some of the types of skills that will be needed to meet the new requirements. We also describe the steps taken to minimize the economic impact of our decisions on small entities, including the significant alternatives considered and rejected.

102. We provide this summary analysis to provide context for our analysis in this Supplemental FRFA. To the extent that any statement contained in this Supplemental FRFA is perceived as creating ambiguity with respect to our rules or statements made in the *Second Report and Order* or preceding sections of this Order on Reconsideration, the rules and statements set forth in the *Second Report and Order* and in the preceding sections of this Order on Reconsideration shall be controlling.

a. Permissive Detariffing for Dial-around 1+ Services

103. *Summary of Projected Reporting, Recordkeeping and Other Compliance Requirements.* In the *Second Report and Order*, we concluded that the record did not support a finding that complete detariffing would cause nondominant interexchange carriers to cease offering casual calling services. Rather, we found that nondominant interexchange carriers have options other than tariffs by which they can ensure the establishment of a contractual relationship with casual callers that would legally obligate such callers to pay for the telecommunications service they use and bind them to the carriers' terms and conditions. In this Order on Reconsideration, we adopt permissive detariffing, on an interim basis, for a subset of casual calling services, specifically, the provision of dial-around 1+ services. This change in the manner of conducting their business may require nondominant interexchange carriers to use technical, operation, accounting, billing, and legal skills.

104. *Steps Taken to Minimize Significant Economic Impact on Small Entities and Small Incumbent LECs, and Alternatives Considered.* By permitting nondominant interexchange carriers to file tariffs for dial-around 1+ services, we enable these carriers and their customers, some of which are small business entities, to avoid the substantial costs and burdens associated with ensuring the establishment of an enforceable contract in the absence of tariffs. The means of ensuring the establishment of an enforceable contract with customers of other casual calling services cannot be reasonably implemented currently for dial-around 1+ services because the interexchange carriers do not have the ability reasonably to distinguish dial-around 1+ calls from direct dial 1+ calls placed from telephones presubscribed to an interexchange carrier, as required to provide the dial-around 1+ caller with the rates, terms, and conditions prior to completion of the call. The inability of nondominant interexchange carriers to distinguish between dial-around 1+ and direct dial 1+ calls would require these carriers to implement the recorded announcement of the rates, terms, and conditions or other means adopted by such carriers to ensure a contractual relationship with dial-around 1+ callers for both dial-around 1+ callers and direct dial 1+ callers. The increased costs and the delay in call set-up time that are attendant with ensuring the establishment of a contractual relationship with dial-around 1+ callers would impose an unreasonable burden on consumers using direct dial 1+ service from their PIC. We find in this Order on Reconsideration that the technology to distinguish dial-around 1+ calls from direct dial 1+ calls placed from telephones presubscribed to an interexchange carrier is not universally offered by all LECs, either because some LEC switches are not capable of providing signalling using SS7, which is necessary to provide this feature, or because a LEC has chosen not to offer this feature.

105. In this Order on Reconsideration, we reject the option of requiring LECs to deploy universally switches capable of providing SS7. We reject this option, which might impose greater burdens on small LECs, because a significant number of LEC switches do not presently have SS7 capability and we do not have an adequate record in this proceeding to evaluate the costs that such a decision would impose on LECs.

b. Permissive Detariffing for LEC-Implemented New Customer Services

106. *Summary of Projected Reporting, Recordkeeping and Other Compliance Requirements.* In the *Second Report and Order*, we did not specifically address whether complete detariffing is in the public interest with respect to the provision of interstate, domestic, interexchange service to new customers that select and use an interexchange service before receiving information about the rates, terms, and conditions of that service. In this Order on Reconsideration, we permit interexchange carriers to file tariffs to cover the provision of service during the initial 45 days of nondominant interexchange carriers' provision of interstate, domestic, interexchange services to new residential and small business customers, or until a written contract is consummated, whichever is earlier, in the limited circumstance when a new customer contacts the LEC to select an interexchange carrier or to initiate a PIC change. This change in the manner of conducting their business may require nondominant interexchange carriers to use technical, operation, accounting, billing, and legal skills.

107. *Steps Taken to Minimize Significant Economic Impact on Small Entities and Alternatives Considered.* Adoption of permissive detariffing for the initial period of LEC-implemented interstate, domestic, interexchange service to new residential and small business customer enables the nondominant interexchange carriers and their customers, some of which are small business entities, to avoid the substantial costs and burdens associated with ensuring the establishment of an enforceable contract in the absence of tariffs.

108. In this Order on Reconsideration, we considered several means by which LECs could convey to customers of nondominant interexchange carriers the information necessary to ensure the establishment of an enforceable contract during the initial period after the customer contacts the LEC and before the nondominant interexchange carrier can formalize the contractual relationship. We conclude, however, that none of these means adequately ensures an enforceable contractual relationship between the nondominant interexchange carrier and the customer during this initial period of service. We reject the alternative of requiring nondominant interexchange carriers to contract with LECs to act as agents of the interexchange carrier to establish a contractual relationship with the prospective customer by orally providing the rates, terms, and conditions of the interexchange service. We are reluctant to adopt a policy that may have the effect of mandating such agency arrangements, especially since the LEC may have an affiliate that offers competing interstate interexchange services. In addition, requiring prospective customers to contact nondominant interexchange carriers directly prior to the commencement of service in order to establish the necessary contractual relationship would preclude residential and small business customers from changing or selecting a PIC by contacting the LECs as they do today. Finally, nondominant interexchange carrier could decide to delay provisioning of the service until a contractual relationship is formalized, but such a delay may also discourage residential and small business customers from making PIC changes, thereby deterring competition in the interexchange market.

c. Information Disclosure Requirements

109. *Summary of Projected Reporting, Recordkeeping and Other Compliance Requirements.* In the *Second Report and Order*, we required nondominant interexchange carriers to make information on current rates, terms, and conditions for all of their interstate, domestic, interexchange services available to the public in at least one location during regular business hours. We also required carriers to inform the public that this information is available when responding to consumer inquiries or complaints and to specify the manner in which the consumer may obtain the information. We further required nondominant interexchange carriers to maintain, for a period of two years and six months, the information provided to the public, as well as documents supporting the rates, terms, and conditions for all of their interstate, domestic, interexchange offerings, that they can submit to the Commission upon request. In addition, we required nondominant interexchange carriers to file with the Commission, and update as necessary, the name, address, and telephone number of the individual, or individuals, designated by the carrier to respond to Commission inquiries and requests for documents. We further required nondominant providers of interstate, domestic, interexchange telecommunications services to file annual certifications signed by an officer of the company under oath that the company is in compliance with its statutory geographic rate averaging and rate integration obligations.

110. In this Order on Reconsideration, we eliminate the requirement that nondominant interexchange carriers make publicly available information concerning rates, terms, and conditions for all of their interstate, domestic, interexchange services. To enforce the geographic rate averaging and rate integration requirements applicable to mass market services, we require nondominant interexchange carriers to file annual certifications stating that they are in compliance with their obligations under section 254(g) and to maintain price and service information on all of their interstate, domestic, interexchange services that they must make available to the Commission upon request. Compliance with this obligation may require the use of accounting, billing, and legal skills.

111. *Steps Taken to Minimize Significant Economic Impact on Small Entities and Small Incumbent LECs, and Alternatives Considered.* We recognize that elimination of the public disclosure requirement will make the collection of information more difficult for businesses, including consumer groups, that analyze and compare the rates and services of interexchange carriers and offer their analysis to the public for a fee. These businesses, however, will have access to the information that nondominant interexchange carriers provide to the public in order to market their services and improve their competitive position in the market. Moreover, we conclude that consumers will not be deprived of the information they need and will receive additional information directly from nondominant interexchange carriers that will provide rate and service information to consumers in order to ensure the establishment of a contractual relationship with them in a detariffed environment.

112. We also recognize the concerns of resellers that, without rate and service information made available through either tariffs or a public disclosure requirement, resellers will not have adequate information to prevent nondominant interexchange carriers from discriminating against resellers, which are not only customers, but also competitors of the carriers. We find, however, that the increased benefits to interexchange carriers and consumers of complete detariffing without a public disclosure requirement, *e.g.*, decreased risk of tacit price coordination and increased competition in the interstate, domestic, interexchange market, and a reduced regulatory burden justify any negative effect upon resellers of eliminating the public disclosure requirement.

v. Report to Congress

113. The Commission shall send a copy of this Supplemental FRFA, along with this Order on Reconsideration, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A). A copy of this Supplemental FRFA will also be published in the **Federal Register**.

B. Supplemental Final Paperwork Reduction Analysis

114. As required by the Paperwork Reduction Act of 1995, Pub. L. 104–13, the NPRM invited the general public and the Office of Management and Budget (OMB) to comment on proposed changes to the Commission's information collection requirements contained in the NPRM. The changes to our information collection requirements proposed in the NPRM included: (1) The elimination of tariff filings by nondominant interexchange carriers for interstate, domestic, interexchange telecommunications services; (2) the requirement that nondominant interexchange carriers maintain at their premises price and service information regarding their interstate, interexchange offerings that they can submit to the Commission upon request; (3) the requirement that providers of interexchange services file certifications with the Commission stating that they are in compliance with their statutory rate integration and geographic rate averaging obligations under section 254(g) of the Communications Act; and (4) the requirement that interexchange carriers advertise the availability of

discount rate plans throughout the entirety of their service areas.

115. On June 12, 1996, OMB approved all of the proposed changes to our information collection requirements in accordance with the Paperwork Reduction Act. In approving the proposed changes, OMB "strongly recommend(ed) that the (Commission) investigate potential mechanisms to provide consumers, State regulators, and other interested parties with some standardized pricing information," which "could be provided as part of the certification process or could be made available to the public in other ways."

116. In this Order on Reconsideration, we adopt several changes to our information collection requirements proposed in the NPRM. Specifically, we have decided to: (1) Permit nondominant interexchange carriers to file tariffs for the provision of dial-around 1+services using a nondominant interexchange carrier's carrier access code; (2) permit nondominant interexchange carriers to file tariffs for the initial 45 days of domestic, interstate, interexchange service, or until there is a written contract between the carrier and the customer, whichever is earlier; (3) eliminate the public disclosure requirement. We reaffirm our decision in the *Second Report and Order* to require nondominant interexchange carriers to: (1) File annual certifications with the Commission stating that they are in compliance with their statutory rate integration and geographic rate averaging obligations under section 254(g) of the Communications Act, and (2) maintain price and service information on all their interstate, domestic, interexchange services that they can make available to the Commission upon request. Implementation of these requirements will be subject to approval by OMB as prescribed by the Paperwork Reduction Act.

VI. Ordering Clauses

117. Accordingly, *it is ordered* that, pursuant to sections 1–4, 10, 201, 202, 203, 204, 205, 215, 218, 220, 226, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 160, 201, 202, 203, 204, 205, 215, 218, 220, 226, and 254, *the Order on Reconsideration* is hereby *adopted*. The requirements adopted in this Order on Reconsideration shall be effective December 4, 1997, or on the date when the requirements adopted in the Second Report and Order in this proceeding become effective, whichever is later. The collections of information contained within are contingent upon approval by the Office of Management and Budget.

118. *It is further ordered* that parts 42 and 61 of the Commission's rules, 47 CFR parts 42 and 61 *are amended* as set forth herein.

119. *It is further ordered* that the Petitions for Reconsideration filed by Ad Hoc Users Committee, AT&T, Frontier, Telco, and TRA are granted in part and denied in part, as described herein. All other Petitions for Reconsideration filed in this proceeding are denied.

120. *It is further ordered* that the Petitions for Clarification filed in this proceeding are granted in part, and denied in part, as described herein.

121. *It is further ordered that whereas the Second Report and Order* in this proceeding was stayed by the United States Court of Appeals for the District of Columbia Circuit, we direct the General Counsel expeditiously to file the necessary papers with the court to request clarification of that stay on the decision herein.

Accordingly, this Order on Reconsideration is stayed pending the court's ruling.

List of Subjects in 47 CFR Parts 42 and 61

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

Parts 42 and 61 of title 47 of the Code of Federal Regulations are amended as follows:

PART 42—PRESERVATION OF RECORDS OF COMMUNICATIONS COMMON CARRIERS

1. The authority citation for part 42 continues to read as follows:

Authority: Sec. 4(i), 48 Stat. 1066, as amended, 47 U.S.C. 154(i). Interprets or applies secs. 219 and 220, 48 Stat. 1077–78, 47 U.S.C. 219, 220.

§ 42.10 [Removed]

2. Section 42.10 is removed.

3. Section 42.11 is amended by revising paragraph (a) and removing paragraph (c).

§ 42.11 Retention of information concerning detariffed interexchange services.

(a) A nondominant interexchange carrier shall maintain, for submission to the Commission upon request, price and service information regarding all of the carrier's detariffed interstate, domestic, interexchange service offerings. The price and service information maintained for purposes of this subparagraph shall include documents supporting the rates, terms, and conditions of the carrier's detariffed interstate, domestic, interexchange offerings. The information maintained pursuant to this subsection shall be maintained in a manner that allows the carrier to produce such records within ten business days.

* * * * *

PART 61— TARIFFS

4. The authority citation for part 61 continues to read as follows:

Authority: Secs. 1, 4(i), 4(j), 201–205, and 403 of the Communications Act of 1934, as amended; 47 U.S.C.151, 154(i), 154(j), 201–205, and 4–3, unless otherwise noted.

5. Section 61.20 is revised to read as follows:

§ 61.20 Detariffing of interstate, domestic, interexchange services.

(a) Except as otherwise provided in paragraphs (b) and (c), or by Commission order, carriers that are nondominant in the provision of interstate, domestic, interexchange services shall not file tariffs for such services.

(b) Carriers that are nondominant in the provision of interstate, domestic, interexchange services shall be allowed to file tariffs for dial-around 1+services. For the purposes of this paragraph, dial-around 1+calls are those calls made by accessing the interexchange carrier through the use of that carrier's carrier access code. A carrier access code is a five or seven digit access code that enables callers to reach any carrier, presubscribed or otherwise, from any telephone.

(c) Carriers that are nondominant in the provision of interstate, domestic, interexchange services shall be allowed to file tariffs for such service to those customers who contact the local exchange carrier to designate an interexchange carrier or to initiate a change with respect to their primary interexchange carrier. These tariffs shall remain in effect until the interexchange carrier and the customer consummate a written contract, but in no event for more than 45 days.

6. Section 61.72 is amended by revising the introductory text of paragraph (a) to read:

§ 61.72 Posting.

(a) Offering carriers must post (i.e., keep accessible to the public) during the carrier's regular business hours, a schedule of rates and regulations for those services for which tariff filings are required and those services for which carriers exercise the option to file tariffs. This schedule must include all effective and proposed rates and regulations pertaining to the services offered to and from the community or communities served, and must be the same as that on file with the Commission. This posting requirement must be satisfied by the following methods:

* * * * *

[FR Doc. 97–29117 Filed 11–3–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 96–250; RM–8852]

Radio Broadcasting Services; Parris Island and Hampton, SC

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Simmons Broadcasting Company, substitutes Channel 276C3 for Channel 221A at Parris Island, South Carolina, and modifies Station WGZO(FM)'s license accordingly. To accommodate the upgrade, we also substitute Channel 221A for Channel 276A at Hampton, South Carolina, and modify Station WBHC–FM's license accordingly. *See* 61 FR 66248, December 17, 1996. Channel 276C3 can be allotted to Parris Island in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction at petitioner's requested site. The coordinates for Channel 276C3 at Parris Island are North Latitude 32–27–00 and West Longitude 80–47–30. Additionally, Channel 221A can be allotted to Hampton in compliance with the Commission's minimum distance separation requirements at Station WBHC–FM's presently licensed site. The coordinates for Channel 221A at Hampton are North Latitude 32–50–39 and West Longitude 81–07–28. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 8, 1997.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 96–250, adopted October 15, 1997, and released October 24, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under South Carolina, is amended by removing Channel 221A and adding Channel 276C3 at Parris Island; and by removing Channel 276A and adding Channel 221A at Hampton.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97–29116 Filed 11–3–97; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AD06

Endangered and Threatened Wildlife and Plants; Final Rule to List the Northern Population of the Bog Turtle as Threatened and the Southern Population as Threatened Due to Similarity of Appearance

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) determines threatened status pursuant to the Endangered Species Act of 1973, as amended (Act) for the northern population of the bog turtle (*Clemmys muhlenbergii*), which ranges from New York and Massachusetts south to Maryland. The Service also determines the southern population of the bog turtle, which occurs in the Appalachian Mountains from southern Virginia to northern Georgia, to be threatened due to similarity of appearance to the northern population, with a special rule.

The bog turtle is threatened by a variety of factors including habitat degradation and fragmentation from agriculture and development, habitat succession due to invasive exotic and native plants, and illegal trade and collecting. This rule implements Federal protection and recovery provisions afforded by the Act.

DATES: Effective November 4, 1997.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Pennsylvania Field Office, U.S. Fish and Wildlife Service, 315 South Allen Street, Suite 322, State College, Pennsylvania 16801.

FOR FURTHER INFORMATION CONTACT: Carole Copeyon, Endangered Species Biologist, at the above address (telephone 814/234–4090; facsimile 814/234–0748).

SUPPLEMENTARY INFORMATION:

Background

The bog turtle was first described and named as Muhlenberg's tortoise (*Testudo muhlenbergii*) by Johann David Schoepff in 1801 based on specimens received in 1778 from Reverend Heinreich Muhlenberg of Lancaster County, Pennsylvania. In 1835, L.J. Fitzinger transferred the species to the genus *Clemmys*, where it remains today (Barton and Price 1955). In 1917, Dunn considered bog turtles within the southern range to be distinct, and classified the southern population as *Clemmys nuchalis* (Amato, Behler, Tryon, and Herman 1993). This taxon was subsequently synonymized with *Clemmys muhlenbergii*; however, researchers still question the taxonomic status of the northern and southern populations (Amato *et al.* 1993, Klemens *in press*). Initial data from recent preliminary genetic studies, based on examination of variability at the 16S ribosomal gene, suggest that there may not be significant genetic differences between the northern and southern populations. However, due to the conservative nature of this gene in other species, any definitive conclusions concerning genetic differences between the northern and southern populations is premature (Amato *et al.* 1993).

The bog turtle is sparsely distributed over a discontinuous geographic range extending from New England south to northern Georgia. A 250-mile gap within the range separates the species into distinct northern and southern populations (Klemens *in press*, Tryon 1990, Tryon and Herman 1990). The

northern population extends from southern New York and western Massachusetts southward through western Connecticut, New Jersey and eastern Pennsylvania, to northern Delaware and Maryland. Disjunct populations previously occurred in western Pennsylvania and in the Lake George and Finger Lakes regions of New York. The western Pennsylvania and Lake George populations have been extirpated, and only a remnant population exists at one remaining site in the Finger Lakes region. The southern population occurs in the Appalachian Mountains from southwestern Virginia southward through western North Carolina, eastern Tennessee, northwestern South Carolina, and northern Georgia. The southern population also occurs in the upper piedmont physiographic provinces of North Carolina. The species' disjunct distribution is thought to be the result of Pleistocene and post-Pleistocene climatic changes (Lee and Norden 1996).

The Act defines a species to include any subspecies of fish or wildlife or plants, or any distinct population segment (DPS) of any species of vertebrate fish or wildlife which interbreeds when mature. Based on the disjunct distribution of this species, the northern population of the bog turtle is considered a DPS and, therefore, a separate species under the Act.

The bog turtle is the smallest member of the genus *Clemmys*, with the carapace (upper shell) of adults measuring 7.5 to 11.4 centimeters (3.0 to 4.5 inches) in length (Bury 1979). The domed carapace is weakly keeled and ranges in color from light brown to ebony. The scutes of the shell often have lighter-colored centers resembling a starburst pattern (Herman and George 1986). The plastron (lower shell) is brownish-black with contrasting yellow or cream areas, often along the midline. This species is readily distinguished from other turtles by the large, conspicuous bright orange, yellow, or red blotch found on each side of the head. The species is sexually dimorphic. Males have concave plastrons and long, thick tails, and the vent of the male is located beyond the posterior carapace margin. Females have proportionately higher carapaces, flat plastrons, and relatively short tails, and the vent of the female is located beneath the carapace edge (Bury 1979, Klemens *in press*).

Bog turtles are semi-aquatic and are only active during part of the year (Barton and Price 1955). In the northern part of their range, they are active from April to mid-October (Arndt 1977, Nemuras 1967). Reported periods of inactivity in July and August may be an artifact of collecting bias and the difficulty of locating turtles at that time of year (Lovich, Herman, and Fahey 1992). Bog turtles hibernate from October to April, often just below the upper surface of frozen mud or ice (Chase, Dixon, Gates, Jacobs, and Taylor 1989). Their varied diet consists of beetles, lepidopteran larvae, caddisfly larvae, snails, nematodes, millipedes, fleshy pondweed seeds, sedge seeds, and carrion (Barton and Price 1955, Nemuras 1967). Where population estimates are available, bog turtles have been found at densities ranging from 7 to 213 turtles per hectare (Chase *et al.* 1989). Chase *et al.* (1989) found an average of 44 turtles per site at 9 study sites in Maryland.

Female bog turtles reach sexual maturity between 5 and 8 years of age (Barton and Price 1955, Ernst 1977). Mating occurs in May and June, and females deposit from two to six white eggs in sphagnum moss or sedge tussocks in May, June, or July (Arndt 1977, Herman 1990, Herman and George 1986, Klemens *in press*). Unlike most other semi-aquatic turtles, bog turtles do not leave their wetland habitat and travel to dry, upland areas to lay eggs. "Instead, they select slightly elevated sites, generally on *Carex stricta* tussocks, for nesting within their marshy habitat. Nesting areas typically have limited canopy closure, support an array of moisture tolerant, low vegetation, and provide ample solar exposure" (Robert Zappalorti, Herpetological Associates, *in litt.* 1997). The eggs hatch after an incubation period of 42 to 56 days (Arndt 1977, Herman 1990), and the young emerge in August or early September (Arndt 1977, Barton and Price 1955). Infertile eggs are common (Arndt 1977, Herman 1990, Tryon 1990), and not all females produce clutches annually (Tryon 1990). Also, there is no evidence to suggest that multiple clutches are deposited in a single season.

Bog turtles inhabit shallow, spring-fed fens, sphagnum bogs, swamps, marshy meadows, and pastures which have soft, muddy bottoms; clear, cool, slow-flowing water, often forming a network of rivulets; and open canopies (Arndt 1977, Barton and Price 1955, Herman and George 1986, Klemens *in press*). In Maryland, Chase *et al.* (1989) reported that bog turtles were found in circular basins with spring-fed pockets of shallow water, a substrate of soft mud and rock, dominant vegetation of low grasses and sedges, and interspersed wet and dry pockets. In these types of habitats, bog turtles often utilize the runways of muskrats and meadow voles (Barton and Price 1955, Nemuras 1967, Taylor *et al.* 1984). Bog turtles have been found at elevations ranging from near sea level in the north to 1500 meters (4500 feet) in the south (Herman and George 1986).

Bog turtles usually occur in small, discrete populations occupying suitable wetland habitat dispersed along a watershed (Collins 1990). These wetlands are a mosaic of micro-habitats which include dry pockets, saturated areas, and areas that are periodically flooded. They depend upon this diverse hydrological mosaic, utilizing shallow water in spring, and returning to deeper water in winter (Chase *et al.* 1989). Unless disrupted by fire, beaver activity, grazing, or periodic wet years, open-canopy wetlands are slowly invaded by woody vegetation. They undergo a transition into closed-canopy, wooded swamplands that are unsuitable for habitation by bog turtles (Klemens *in press*, Tryon 1990). Historically, bog turtles probably moved from one open-canopy wetland patch to another, as succession closed wetland canopies in some areas, and natural processes (e.g., beaver activity or fire) opened canopies in other areas (Klemens 1993).

Several plant species commonly associated with bog turtle habitats include alders (*Alnus* sp.), willows (*Salix* sp.), sedges (*Carex* sp.), sphagnum moss (*Sphagnum* sp.), jewelweed (*Impatiens capensis*), rice cut-grass (*Leersia oryzoides*), tearthumb (*Polygonum sagittatum*), arrow arum (*Peltandra virginica*), red maple (*Acer rubrum*), skunk cabbage (*Symplocarpus foetidus*) and bulrushes (*Juncus* sp. and *Scirpus* sp.) (Arndt 1977; Barton and Price 1955; Herman and George 1986; Taylor, Dawson, Beall, and Scheaffer 1984). Pedestal vegetation, such as tussock sedge (*C. stricta*) and sphagnum moss, are utilized for nesting and basking (Gelvin-Innvaer and Stetzar 1992, Klemens *in press*).

Currently, many wetlands occupied by bog turtles in agricultural areas are subject to livestock grazing. Light to moderate grazing may function to impede succession by preventing or minimizing the encroachment of invasive native and exotic plant species, thereby maintaining an intermediate stage of succession (Smith 1894, Tryon 1990). It has been suggested that in precolonial times the grazing activities of large herbivores, such as bison (*Bison bison*) and elk (*Cervus canadensis*), may have been important in maintaining bog turtle habitat (Lee and Norden 1996). The occurrence of bog turtles in wetlands grazed by livestock is probably an instance where grazing by livestock has either replaced grazing by native herbivores or replaced one of the other historical factors that would have acted to maintain the wetlands in an early successional stage.

Due to the bog turtle's rarity, small size, predator-evasive behavior (i.e., tendency to burrow rapidly into the mud), and habitat preferences (e.g., dense herbaceous vegetation), it is difficult to obtain reliable bog turtle population demographics. This lack of data has led to a misconception as to the number of healthy populations found throughout the species' range. For example, some documented bog turtle sites support populations consisting primarily of old individuals. These populations are slowly disappearing due to negligible recruitment of juveniles over a sustained period of time (Klemens 1980).

A protocol was developed to assess the capacity of sites to maintain viable populations of bog turtles. Known as the "Standardized Bog Turtle Site-quality Analysis" (Michael Klemens, Wildlife Conservation Society, *in litt.* 1993), it groups bog turtle occurrences into sites based on the likelihood of turtles moving between documented occurrence locations and interbreeding. A site is ranked according to four factors—(1) habitat size and degree of fragmentation; (2) the presence of invasive plants and later successional species; (3) immediate threats such as wetland ditching, draining, filling or excavation; and (4) the type and extent of land use in the area. Where adequate data are available, sites are also ranked according to population size and evidence of recruitment.

Using this site-quality analysis in 1993 and 1994, the individuals most familiar with each site (the primary bog turtle researcher(s) in each State) assessed and ranked the suitability of almost every known northern population site. The ranking process resulted in each site receiving a numerical score, and based on these scores, each site was then ranked as good, fair, or poor. By incorporating factors related to habitat quality and threats, these rankings reflect the suitability of the sites to maintain viable bog turtle populations. The classification system was based on researchers' best professional judgments regarding site suitability. The classifications based upon these scores are conservative for several reasons. Threats from illegal collecting were not considered in the rankings. Rankings were often based on interpretation of old maps (more than 10 years old); therefore, recent land use changes such as development were not considered. Also, at some sites the presence of turtles had not been confirmed for over 10 years.

Occurrence refers to a documented specific bog turtle location (a single wetland or a road-crossing sighting), one or more of which are included in a site. Due to widespread wetland habitat fragmentation throughout the turtle's range, most sites are comprised of only one small extant occurrence, often isolated from other such occurrences.

Of 191 known extant bog turtle sites within the northern population in 1996, 33 were classified as good, 67 as fair, 76 as poor, and 15 as unknown status. The State-by-State summaries given below present information primarily about the status and distribution of extant northern bog turtle populations/sites within each State.

In Connecticut, bog turtles are found in the northwestern corner of the State in Fairfield and Litchfield Counties. All five remaining populations are found on private lands; four of these populations are classified as fair and one as poor (Julie Victoria, Connecticut Division of Wildlife, *in litt.* 1994).

In Delaware, bog turtles were historically reported from 11 localities in the piedmont and coastal plain of New Castle County (Arndt 1977). Currently, only four sites are known to support bog turtles, and all of these are classified as fair. Two of these sites occur on State lands and two on private property (Lisa Gelvin-Innvaer, Jay Greenwood and Bill Zawaki, Delaware Division of Fish and Wildlife, *in litt.* 1994).

All three known bog turtle populations in Massachusetts occur on private property in southern Berkshire County. Two of these sites receive some degree of protection through landowner conservation agreements. One population is considered good, one fair, and one poor.

Maryland's 65 remaining extant bog turtle sites occur in the piedmont region of Baltimore, Carroll, Cecil and Harford Counties, with approximately 97 percent of the habitat privately owned and the other 3 percent in State ownership (Scott Smith, Maryland Department of Natural Resources, *in litt.* 1994). Seventeen of these sites are classified as good, 23 as fair, and 25 as poor. In 1995 and 1996, five additional bog turtle sightings were documented from Harford, Baltimore, and Carroll Counties. However, most of these occurrences are components of previously identified and ranked sites (Smith, *in litt.* 1996).

In New Jersey, there are 53 known extant bog turtle sites in Burlington, Hunterdon, Monmouth, Morris, Ocean, Somerset, Sussex, Union, and Warren counties (James Sciascia, New Jersey Department of Fish, Game and Wildlife, and Robert Zappalorti, Herpetological Associates, Inc., *in litt.* 1994; Sciascia, *in litt.* 1997). Eight of these sites are classified as good, 21 as fair, 18 as poor, and 6 are of unknown status. Approximately 90 percent of the turtle habitat in New Jersey is privately owned, while the State and Federal governments own 5 percent each (Sciascia and Zappalorti, in *litt.* 1994).

The New Jersey Endangered and Nongame Species Program recently conducted extensive surveys to locate and document bog turtle habitat. From 1993 to 1995, the habitat suitability of 473 wetlands in Hunterdon, Somerset, Sussex, and Warren counties was assessed. Only 77 sites (16 percent) contained potentially suitable bog turtle habitat, and bog turtles were found at only 8 of these wetlands (Sciascia 1996). In 1996, additional surveys conducted in Sussex County documented 18 new bog turtle occurrences, primarily in calcareous fen habitats. These fens are restricted to a 40-square-mile area in central Sussex and northern Warren counties. The discovery of bog turtles in calcareous fen habitats is important to the species' conservation within this area of New Jersey and neighboring Pennsylvania. Fens are primarily shrub and herb communities formed in low-lying areas where groundwater percolates over limestone bedrock. This alkaline seepage water most likely retards the growth of canopy-closing trees such as red maple. The persistence of this type of shrub/herb community could account for the presence of bog turtles (James Sciascia, New Jersey Department of Fish, Game and Wildlife, *in litt.* 1996).

The bog turtle's range in New York is concentrated primarily in the extreme southeastern corner of the State. Disjunct populations historically occurred in the Lake George area in eastern New York, in the Finger Lakes region in western New York, and in south central New York. The Lake George and south central populations have been extirpated, and only one extant Seneca County site remains in the Finger Lakes region (Alvin Breisch and Michael Kallaji, New York Department of Environmental Conservation, and Paul Novak, New York Natural Heritage Program, *in litt.* 1994; Novak, *in litt.* 1997). Potentially, 22 sites remain in southeastern New York; however, only 17 are considered extant. Of the 18 total remaining extant sites in New York (Seneca, Columbia, Dutchess, Putnam, and Orange counties), 5 are considered good, 6 fair

and 7 poor. Nearly all bog turtle habitat (99 percent) occurs on private lands; the remaining 1 percent is found on State lands (Breisch *et al., in litt.* 1994).

In Pennsylvania, bog turtles are still found in 13 of the 17 counties from which the species was previously reported (Adams, Berks, Bucks, Chester, Cumberland, Franklin, Lancaster, Lebanon, Lehigh, Monroe, Montgomery, Northampton, and York). Of the 34 remaining sites evaluated, 2 sites are considered good, 8 fair, and 24 poor. Approximately 85 percent of the bog turtle habitat is found on private lands, with the remainder occurring on State and Federal lands (10 percent and 5 percent, respectively) (Barton, *in litt.* 1994). In addition, between 1994 and 1996, nine new sightings were reported from Berks, Chester, and Northampton counties. These sites have yet to be evaluated; however, some appear to be small and marginal in quality.

The extent of the captive bog turtle population is poorly documented at this time, with the exception of bog turtles held by zoological institutions. According to data from the International Species Information System (ISIS), 102 bog turtles are currently held by 16 zoos in the United States; 64 percent of these turtles are captive born and 24 percent wild born (Judy Hendrickson, ISIS, *in litt.* 1997). Only a few people within the range of the northern and southern populations have valid State permits to possess bog turtles or conduct studies of wild turtles. Although the full extent of the illegally-held bog turtle population is unknown, based on evidence of collection and trade (see the "Summary of Factors" section), it is likely to greatly exceed that of the legally-held population.

Based on documented losses of bog turtles and their habitat, the northern population has declined by at least 50 percent, with most of the decline occurring over the last 20 years. Habitat destruction and illegal collecting for the pet trade are the primary threats to the species. Widespread alteration of bog turtle habitat has resulted from the draining, ditching, dredging, filling, and flooding of wetlands for residential, urban, and commercial development; road construction; agricultural activities; and pond and reservoir construction. The proximity of many remaining bog turtle populations to rapidly developing areas also poses a significant threat to the species.

Previous Federal Action

The bog turtle was first recognized as a Category 2 candidate species by the Service in the December 30, 1982, **Federal Register** notice of review (47 FR 58454). It was later retained as a Category 2 species in subsequent notices of review (60 FR 37958, September 18, 1995; 54 FR 554, January 6, 1989; and 56 FR 58804, November 21, 1991). Reclassification of the bog turtle to Category 1 was reflected in the November 15, 1994, animal notice of review (59 FR 58982). On February 28, 1996 (61 FR 7457), the Service published a notice of review that no longer included species formerly referred to as Category 2 candidate species. The notice revised the definition of the term "candidate" as taxa for which the Service has on file sufficient information on biological vulnerability and threats to list them as endangered or threatened species. The northern population of the bog turtle was included as a candidate in this February 28 notice of review. On January 29, 1997, the Service published a proposed rule in the **Federal Register** (62 FR 4229) to list the northern population of the bog turtle as threatened and the southern population as threatened due to similarity of appearance.

The processing of this final rule conforms with the Service's listing priority guidance published in the **Federal Register** on December 5, 1996 (61 FR 64475). The guidance clarifies the order in which the Service will process rulemakings following two related events: (1) the lifting, on April 26, 1996, of the moratorium on final listings imposed on April 10, 1995 (Public Law 104–6), and (2) the restoration of significant funding for listing through enactment of the omnibus budget reconciliation law on April 26, 1996, following severe funding constraints imposed by a number of continuing resolutions between November 1995 and April 1996. The guidance calls for giving highest priority to handling emergency situations (Tier 1) and second highest priority to resolving the listing status of outstanding proposed listings (Tier 2). A lower priority is assigned to resolving the conservation status of candidate species and processing administrative findings on petitions to add species to the lists or reclassify species from threatened to endangered (Tier 3). The lowest priority is given to processing critical habitat determinations, delistings, and other reclassifications (Tier 4). Processing of this final rule is a Tier 2 action since it resolves the conservation status of a proposed species.

In 1975, the bog turtle was added to Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) in order to monitor trade in the species. In 1991, the New York Zoological Society submitted a proposal to the Service requesting the transfer of the bog turtle from Appendix II to Appendix I of CITES (Anon. 1991). In response to a notice (56 FR 33895; July 24, 1991) calling for changes to the CITES Appendices, a total of 13 comments were received concerning the bog turtle proposal. All commenters recommended transferring the bog turtle from Appendix II to Appendix I due to the increased number of bog turtles being advertised for sale, the increased price being paid for individuals and pairs, and illegal trade not being reported under CITES. In the March 4, 1992, **Federal Register** notice (57 FR 7722), the Service announced that the party members to CITES agreed to transfer the bog turtle from Appendix II to Appendix I; and on June 11, 1992, the species was officially added to Appendix I.

Summary of Comments and Recommendations

In the January 29, 1997, proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate Federal and State agencies, county governments, scientific organizations, and other interested parties were contacted and requested to comment. Notices were published in newspapers across the range of the species inviting public comment.

On March 14, 1997, the Service received a written request for a public hearing from Mr. Gary Hoffman, Chief Engineer for the Pennsylvania Department of Transportation (PennDOT). As a result, on April 3, 1997, the Service published a notice in the **Federal Register** (62 FR 15873) announcing the public hearing. The Service conducted a public hearing on April 21, 1997, at the Oley High School in Oley, Pennsylvania. Testimony was taken from 7:00 to 9:00 p.m. (Eastern Standard Time). Thirty-two of the approximately 200 people attending the hearing presented testimony. During the comment period, the Service received 237 comments (letters and oral testimony) from 15 State agencies; 6 local governments; and 216 individuals, groups, and organizations. Eight opposed, 218 supported, and 11 were neutral on the proposed action.

The Service has reviewed all of the written and oral comments received during the comment period. Some comments dealt with matters of opinion or issues unrelated to the question of

listing, and are, therefore, not addressed as part of this rulemaking. Comments updating the data presented in the "Background" or "Summary of Factors Affecting the Species" sections are incorporated into those sections of this final rule. Opposing comments and other substantive comments concerning the rule have been organized into specific issues, which may be paraphrased. Comments of a similar nature are grouped together by issue. These issues and the Service's response to each are summarized as follows.

Issue 1

Two commenters thought the Service should consider economic impacts when listing species. One commenter further contended that "all state and federal actions designed to protect alleged threatened and/or assumed endangered species pursuant to the ESA should demonstrate that the benefits to humans exceed the costs to humans."

Service Response: Under section 4(b)(1)(A) of the Act, a listing determination must be based solely on the best scientific and commercial data available. The legislative history of this provision clearly states the intent of Congress to "ensure" that listing decisions are "based solely on biological criteria and to prevent non-biological criteria from affecting such decisions" (H.R. Rep. No. 97–835, 97th Cong., 2d Sess. 19 (1982)). As further stated in the congressional report, "economic considerations have no relevance to determinations regarding the status of species." Because the Service is specifically precluded from considering economic impacts in a final decision on a proposed listing, the Service did not consider the possible economic consequences of listing the bog turtle.

Issue 2

Two commenters contended that the Service did not provide adequate opportunity for public comment, and should therefore consider extending the comment period and holding additional public hearings.

Service Response: The Service went through an extensive notification process to make the public aware of the proposal, including **Federal Register** notification, letters to specific concerned parties, and notifications to local newspapers. In order to increase the opportunity for public comment, the Service had a 90-day comment period on the proposed rule, although only a 60-day comment period is required. In response to a request by the PennDOT, the Service also held a public hearing within the core of the bog turtle's range in Pennsylvania. These processes were described at the beginning of this section.

Issue 3

One commenter requested additional information regarding the scientific basis for identifying a species as federally threatened when the species is not considered threatened throughout its entire biological range.

Service Response: The Endangered Species Act requires the Secretary of the Interior (or Commerce, depending on jurisdiction) to determine whether species are endangered or threatened. A "species" as defined under the Act includes species, subspecies and "any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature." From a biological perspective, the Act supports the goals of conserving genetic resources, and maintaining natural systems and biodiversity over a representative portion of a species' historical occurrence. In that respect, the listing of DPS's may allow the Service to protect and conserve species and the ecosystems upon which they depend before a large-scale decline occurs that would necessitate listing a species throughout its entire range. This may allow protection and recovery of declining organisms in a more timely and less costly manner, and on a smaller scale than the more costly and extensive efforts that might be needed to recover an entire species.

Issue 4

One commenter alleged that the northern population of the bog turtle is not a DPS as defined by Service policy, partially due to the lack of documented genetic differences between the northern and southern populations.

Service Response: According to the Service's policy on Distinct Population Segments (61 FR 4725), three elements are considered regarding the potential recognition of a DPS as endangered or threatened—(1) discreteness of the population segment in relation to the remainder of the species to which it belongs; (2) the significance of the population segment to the species to which it belongs; and (3) the population segment's conservation status in relation to the Act's standards for listing.

With respect to the bog turtle, the northern population meets the "discreteness" criterion in that it is markedly separated from the southern population by a distance of approximately 250 miles. Evidence of such discreteness may include genetic or morphological differences, but this is not a requirement. The northern population of the bog turtle meets the "significance" criterion because loss of this DPS, which occurs in seven States and represents over 50 percent of the species' range, would result in a significant void in the range and distribution of the species. The "status" criterion is met in that the northern population of the bog turtle, when evaluated with respect to the Act's listing factors (see the "Summary of Factors Affecting the Species" section), qualifies for listing as threatened.

Issue 5

With regard to habitat loss, one commenter questioned whether the Service had historical data on habitat, populations, and the species' range, or only considered information from the past 20 years, which may represent an artificial baseline and an "unusual period in the species' natural history." In considering the species historical baseline, this commenter questioned whether bog turtles may have occurred over a smaller range in the distant past, but later followed deforestation into open areas and livestock pastures along floodplains.

Service Response: In assessing the status of the bog turtle, the Service reviewed the best available information regarding populations, past and present distribution, and habitat loss. Information provided by State wildlife agencies, natural heritage programs, researchers, and others dated back to the late 1800's, and indicated a reduction in range, and loss of habitat and populations over this period of time, with the documented loss dramatically accelerating over the past 20 years. In this respect, the past 20 years may represent an unusual period in the species' natural history—a period of unprecedented decline.

Bog turtles inhabit open canopy wetlands, a habitat type which was more common historically than today because (1) historically, the ecological factors of fire and beaver activity were unimpeded in creating and maintaining these areas, and (2) since the 1800's, wetland draining, dredging, and filling have become a prevalent practice of land conversion for development, agriculture, and resource extraction. Bog turtles are occasionally found in grazed wet pastures, and it has been suggested that in precolonial times the grazing activities of large herbivores, such as bison and elk, may have been important in maintaining bog turtle habitat (Lee and Norden 1996). Thus, the occurrence of bog turtles in wetlands lightly grazed by livestock is probably an instance where grazing by livestock has replaced grazing by native herbivores, or replaced one of the other historical factors that

would have acted to maintain the wetlands in an early successional stage.

Issue 6

One commenter suggested that the decline in bog turtle habitat may be due to farm pastures evolving into habitat areas unsuitable for bog turtles.

Service Response: Bog turtles are occasionally found in grazed wet pastures, and vegetative succession in these habitats is a contributing factor, though not the only factor, to the species' decline. Light to moderate grazing may impede vegetative succession by preventing or minimizing the encroachment of invasive native and exotic plant species, and it appears that this level of grazing helps to maintain the intermediate stage of succession required by the bog turtle (Smith 1994, Tryon 1990). When grazing is discontinued the habitat becomes less suitable (or unsuitable) due to succession.

Issue 7

Three commenters requested that the Service delay or not list the bog turtle due to an insufficient amount of data to justify listing. One commenter alleged that a single modeling study (i.e., the assessment of sites using the "Standardized Bog Turtle Site-quality Analysis") rather than a sufficient number of diverse studies were used to support the listing. This commenter also contended that the information used to justify the listing was not adequate because the Service did not cite any studies that might question the validity of the proposal, and that where there are data gaps, the Service must complete studies to close these gaps. No data or studies were provided or cited by these commenters supporting their assertion that the information utilized by the Service was incomplete or incorrect.

Expressing a contrary view, peer reviewers and several other biologists familiar with the species stated that the Service had clearly documented the species status and threats to its existence, and concurred that listing was warranted.

Service Response: The Service concludes, as detailed in the "Background" and "Summary of Factors Affecting the Species" sections, that there are sufficient biological data to warrant listing of the bog turtle under the Act. Information, studies, field data, and site analyses provided by biologists, law enforcement personnel, and others familiar with the bog turtle and its habitat provided adequate information on the distribution, habitat requirements, and, most importantly, threats to the bog turtle to warrant the present action. The listing process includes an opportunity for the public to comment and provide information that is evaluated and considered by the Service before making a final decision. The additional data provided by respondents during the comment period, and other appropriate information available to the Service have been incorporated into this final rule; none of these data indicated that this taxon is not threatened.

Issue 8

Two commenters contended that the Service has insufficient population data to justify listing the bog turtle.

Service Response: The Service agrees that estimates of total population are lacking for this species; however, the Service considered several additional factors that are also important in developing a biologically accurate species status assessment. The biological security of many declining species is more a function of the number of healthy local populations than the total number of individuals in the wild. In addition to considering the number of sites and subpopulations comprising the northern population, the Service also considered factors such as the size of existing subpopulations, historical and current rates of decline, the species' low recruitment potential, distribution and proximity of subpopulations, quantity and quality of available habitat, genetic diversity, and imminent and potential threats to the species and its habitat. Therefore, although quantitative sampling has not been completed throughout the range of the bog turtle, pertinent and significant information regarding the other aspects of the species' status is available. The decreasing number of bog turtle sites and the quality of these remaining sites throughout the species' historical and current distributions are a more accurate reflection of the turtle's status than are rough estimates of the total number of bog turtles. When all of these factors are considered for the bog turtle, it is clear that listing is warranted.

Issue 9

Seven commenters questioned or criticized the use of a model (i.e., the "Standardized Bog Turtle Site-quality Analysis") to assess bog turtle sites, claiming that such evaluations are qualitative and subjective, and that such assessments should be based on field data. One commenter requested additional information regarding the methods and data used to characterize sites.

Service Response: Extensive surveys of potential wetland habitats have been conducted for bog turtles within the range of the northern population. Most of these surveys were designed to primarily document bog turtle presence, not to evaluate habitat quality, threats, or population demography. Merely knowing the total number of occupied bog turtle sites did not allow the Service to adequately assess the status of this species, however. Therefore, a "Standardized Bog Turtle Site-quality Analysis" was developed by Dr. Michael Klemens in conjunction with other bog turtle researchers to qualitatively assess the capacity of sites to maintain viable populations of bog turtles. The Service requested that State wildlife agencies, natural heritage programs, and researchers evaluate known bog turtle sites using this site analysis protocol. The evaluators used site-specific information on habitat conditions and threats obtained from field investigations and maps. Using these data, each site received a numerical score ranging from one to five for each of four factors, including—(1) habitat size and degree of fragmentation; (2) percent coverage of invasive plants and later successional species; (3) proximity of major threats (e.g., wetland alteration via ditching, draining, filling or excavation); and (4) the type and extent of land use within a one-mile radius of the site. When available, data on population size and recruitment were also used. Although qualitative in nature, the Service believes that this method presented a more objective approach to assessing the status of the bog turtle than simply looking at the total number of sites, without regard to habitat quality and threats. The methods and site data are contained within the administrative file (see **ADDRESSES** section).

Issue 10

Two commenters questioned whether certain factors (i.e., predation, flooding of habitat by beaver, mortality due to vehicles and livestock, and pollution) pose a sufficient threat to justify listing.

Service Response: Although these factors pose a significant threat to several known bog turtle sites, none of them, when considered alone, poses a sufficient threat to the northern population to justify listing. When making a listing determination, however, the Service assesses the potential impact of all threats to the species. Although listing of a species might not be justified based upon a single factor, when all factors are considered collectively, the threat may be substantial enough to warrant listing. Such is the case for the bog turtle (see the "Summary of Factors Affecting the Species" section).

Issue 11

One commenter felt that the Service relied almost exclusively on previous habitat loss to justify the listing, rather than focusing on the present or threatened destruction, modification, or curtailment of the species' habitat.

Service Response: The Service considers a variety of factors in making a listing determination. Although historical habitat loss and rates of decline are considered during the species' status assessment, many other factors, including current rates of decline, potential and imminent threats, number and status of populations, and amount and quality of remaining habitat, are evaluated as well. Historical habitat loss and rates of decline are utilized by the Service to ascertain if a species is undergoing a precipitous or gradual decline. The Service considered the historical trend information in combination with all other information to determine whether listing was warranted.

Issue 12

One commenter questioned whether it was warranted to list the bog turtle in the north if most of the trade occurs in the south, where the species is not threatened.

Service Response: Trade occurs in the range of the northern population and poses a threat to the northern population, as documented under factor "B" in the "Summary of Factors Affecting the Species" section. When considered in conjunction with the other factors affecting the species, listing of the northern population is warranted.

Issue 13

Two commenters questioned the degree of threat posed by illegal collecting. Specifically, one commenter did not believe that over 2000 bog turtles had been shipped overseas for trade, thinking the number more likely to be 20. Another commenter contended that the Service's "inference that demand for turtles is increasing simply because the price is increasing is questionable." Neither commenter supplied the Service with any data or further information to substantiate these assertions.

Service Response: Considering the number of bog turtles that have been found in the possession of individual collectors, the Service has no reason to discount the overseas trade information. The Service's inference about price and demand for turtles is based on the Service's experience with other species vulnerable to trade. This inference is also based upon principles of economics (when supply does not meet demand, price increases); increasing prices for bog turtles likely mean that demand is increasing while the supply of wild bog turtles is decreasing.

Threats from illegal collection are real. Because bog turtles are not uniformly distributed over their range, collecting is often focused on a known source or site, thereby threatening the entire population at the site with extirpation. Listing pursuant to the Act will close the loopholes in the various existing protective laws and make it easier to prove illegal collecting activities.

Issue 14

Six commenters questioned the Service's assertion that existing regulations are inadequate to protect the bog turtle. They argued that Federal listing is unnecessary and redundant because the bog turtle is already protected as a State-listed species. Two of these commenters argued that existing wetland regulations are adequate to protect the bog turtle.

Expressing a contrary position, 38 commenters (including all peer reviewers) noted that Federal, State, and local laws have been ineffective in providing protection for the bog turtle and its habitat. Several commenters noted that bog turtle habitat is particularly vulnerable due to various provisions of Federal and State wetland regulations, including agricultural exemptions, general permits, and nationwide permits. Referring to Pennsylvania's wetland permitting program, the Monroe County Conservation District noted that "tracking of the state's program demonstrates that permits are generally being issued as requested which will further fragment habitat locally over time." Another commenter noted that between 1988 and 1996, 1181 actions were authorized through general permits, and none were denied in 3 Pennsylvania counties inhabited by bog turtles. Several commenters noted that State endangered species laws are ineffective in deterring collection and trade.

Service Response: Based on an examination of the available information, the Service has determined that proposed and on-going damage or destruction of wetlands due to development and agriculture throughout the range of the northern population is prevalent despite existing Federal, State, and local regulations, and that existing levels of protection are not adequate to assure the survival of the bog turtle. In addition, although the bog turtle is State-listed throughout its range, State laws are not sufficient or able to address the threats of collection and trade. For example, some State law penalties are not as stringent as others, and law enforcement priorities vary between States. A more detailed discussion of the inadequacy of existing regulations can be found under the "Summary of Factors Affecting the Species" section. Listing pursuant to the Act will provide consistency by providing a uniform regulation that applies across all States.

Issue 15

Two commenters questioned the reliability of surveys in concluding that previously occupied sites were no longer occupied by bog turtles. Specifically, one commenter did not believe that the number of extirpated populations was as high as reported. He noted that surveyors are not always successful in locating bog turtles, even in wetlands where turtles are known to occur. Another commenter contended that some sites may no longer exist, but this "may only be due to the bog turtle populations moving to another site."

Service Response: The Service, State wildlife agencies, and bog turtle researchers recognize the difficulties associated with conducting bog turtle surveys; even under the best conditions, bog turtles can be difficult to locate. For those previously documented bog turtle sites that still bore evidence of potentially suitable habitat, repeated surveys were conducted by qualified surveyors before concluding that bog turtles were indeed extirpated from the site.

Although historically bog turtles probably moved from less suitable wetlands (e.g., those undergoing succession) to more suitable wetlands (e.g., those recently formed, or where succession was set back by natural processes), it is much less likely that such movements would be successful today. Bog turtle habitats are now highly fragmented, making successful immigration and emigration difficult due to loss of wetland travel corridors, and the prevalence of roads, subdivisions, and agricultural land near, and often encircling, many sites. In addition, more habitat is becoming unsuitable, and fewer potentially suitable wetland sites are becoming available because those natural processes that served to maintain and create bog turtle habitat have been suppressed or are no longer operative (see the "Summary of Factors Affecting the Species" section).

Issue 16

One commenter questioned the thoroughness and geographic extent of the surveys that had been conducted for the species range-wide, including the area between the currently known northern and southern populations.

Service Response: Prior to preparation of the proposed rule, the Service assessed the status of the northern and southern populations. At that time, the Service queried State wildlife agencies, natural heritage programs, and bog turtle researchers about the adequacy of surveys conducted to date. Based on their responses, approximately 10 to 20 percent of the potentially suitable bog turtle habitat within the northern range remains to be surveyed. Surveys of potential bog turtle habitat continue in most of the northern range States. Survey coverage is much less complete in the southern range States, particularly in North Carolina and Virginia, where less than 50 percent of the potentially suitable habitat has been surveyed. A comprehensive survey of the southern population is currently underway, as discussed under Issue 20. Numerous herpetological surveys have failed to locate bog turtles between the northern and southern populations.

Issue 17

The PennDOT proposed that a task force be established to develop a candidate conservation agreement for the bog turtle, rather than list the species. The PennDOT felt such an agreement would provide a greater benefit to the species than listing, while at the same time minimizing Federal intervention, and provide regulatory relief should the species be listed in the future. The PennDOT also indicated that they would be precluded from pursuing proactive efforts to conserve the bog turtle after listing occurs.

Service Response: Candidate conservation agreements are formal agreements between the Service and one or more parties (i.e., land owners, land managers, or State fish and wildlife agencies) to address the conservation needs of proposed or candidate species. The participants take on the responsibility of developing the agreement, and voluntarily commit to implementing specific actions that will remove or reduce the threats to the subject species, thereby contributing to stabilizing or restoring the species. Conservation benefits to the species may include an increase in habitat connectivity, restoration or enhancement of habitats, maintenance or increase of population numbers or distribution, and establishment of buffers for protected areas. The ultimate goal of any candidate conservation agreement is to remove threats to the species thereby eliminating the need for listing under the Act.

In order to preclude the need for listing the bog turtle, a sufficient number of candidate conservation agreements would have to be developed and implemented throughout the seven-State range of the northern population to remove enough threats for the Service to conclude that the bog turtle is no longer in need of protection under the Act. The Service has not been approached by any property owners, land managers, or State wildlife agencies regarding development of candidate conservation agreements. Also, although the PennDOT suggested the development of such an agreement, they have not proposed a specific plan, nor would they have control over implementation of such a plan since they do not own or manage land containing any known bog turtle sites.

Most State wildlife agencies within the range of the northern population have expressed support for Federal listing of the bog turtle, often citing the vulnerability of the species to illegal collection and the need for Federal listing to address this threat. Because candidate conservation agreements would be unable to address the significant threats of trade and illegal collection, their implementation would not preclude the need to list the bog turtle under the Act.

Regarding implementation of proactive efforts to conserve bog turtles, these efforts would be encouraged, not precluded, by the Service after listing. Because the bog turtle occurs primarily on private property, the Service fully realizes that recovery of this species will depend upon the voluntary cooperation of private landowners, and welcomes them as partners in the recovery effort. The Service will work to provide technical assistance to those property owners and land managers who wish to implement conservation measures for this species.

Issue 18

Forty-one commenters (including two peer reviewers) recommended that the Service list the northern population as endangered rather than threatened. Although little additional information was offered by these commenters to support the change in status, some argued that the threats (particularly the inadequacy of existing regulations) were substantial enough to support such a listing. Others contended that the information in the proposed rule supported an endangered listing, or felt that the species would receive better protection if designated as endangered.

The Tortoise and Freshwater Turtle Specialist Group of the International Union for the Conservation of Nature (IUCN) commented that they recently evaluated the status of the bog turtle and added it as "endangered" to their 1996 IUCN Red List. Based on the information in the proposed rule, as well as their extensive knowledge of the species and threats to its survival, they concluded that the northern population should be federally listed as endangered.

Service Response: Based on the available information on the bog turtle's status, and a careful assessment of threats, the Service proposed the bog turtle for listing as threatened. Although the northern population of the bog turtle faces serious ongoing and potential threats, it is not currently in imminent danger of extinction. Although some additional data on threats and the species' status were received during the public comment period, these data did not justify a change in the proposed classification of threatened. The Service, therefore, still believes that a listing of threatened is appropriate for the northern population.

Issue 19

One commenter stated that listing of the southern population must be based on more than its similar physical appearance to the northern population.

Service Response: Listing of the southern population as threatened due to similarity of appearance is based upon more than its similar physical appearance to the northern population, as detailed in the proposed rule and this final rule (see "Similarity of Appearance" section).

Issue 20

The Service received 10 comments disagreeing with the proposed listing of the southern population as threatened due to similarity of appearance. Four commenters recommended listing the bog turtle as threatened or endangered in Georgia, Tennessee, and/or South Carolina, specifically excluding North Carolina and Virginia. Six commenters recommended listing the entire southern population as threatened or endangered. In addition, one commenter stated that the Service has insufficient data on the southern population to say that it is not biologically threatened or endangered at this time.

Service Response: The northern and southern populations of the bog turtle can each be considered a DPS under the Service's DPS Policy (see discussion under Issue 4). However, while both populations meet the "discreteness" and "significance" criteria under this policy, the Service only has sufficient status and threat data on the northern population to justify its listing.

Prior to proposing the northern population of the bog turtle for listing, the Service conducted a status review of both the northern and southern populations. Several factors weighed into the Service's decision not to propose the southern population for listing, including—(1) the recent discovery of bog turtle sites in the Piedmont physiographic province of North Carolina, well outside the species' previously known Appalachian Mountains range; (2) limited information regarding threats; and (3) inadequate survey coverage within the southern range. A comprehensive status survey of the southern population is currently underway and is anticipated to be completed by December 1999. The Service agrees that it is premature to draw any conclusions regarding the status of the southern population until additional survey and threat information becomes available.

Although the Service could have delayed action on the northern population until such time that additional data became available on the southern population, such an action would have been irresponsible considering the northern population faces documented and substantial threats, and forthcoming data on the southern population may or may not demonstrate that it qualifies for Federal listing.

Federal listing of only a portion of the southern population (e.g., bog turtles occurring in Georgia, South Carolina, and Tennessee) is not appropriate because subpopulations do not qualify as legitimate listing entities (i.e., DPS's) under the Service's DPS Policy. Also, boundaries between States are not considered when determining whether a population is "discrete" under the DPS Policy.

Issue 21

Five commenters expressed concerns that listing of the southern population as threatened due to similarity of appearance will result in intentional destruction of bog turtle habitat by landowners who fear the potential for future listing, who don't understand what the similarity of appearance listing means, or who don't believe that the southern population will be regulated differently from the northern population. Some of these commenters were also concerned that the special rule exempting incidental take would further contribute to loss of bog turtle habitat in the southern range.

Service Response: The Service recognizes that it has a responsibility to conduct outreach activities to ensure that the public understands the implications of the similarity of appearance listing for the southern bog turtle population. Because bog turtle collection and trade are already prohibited acts under State law throughout the southern range, Federal listing will have no effect on landowners within the southern range unless they are engaged in these already illegal activities. Wanton destruction of bog turtle habitat within the southern range, however, could precipitate the action that these landowners would most like to avoid (i.e., Federal listing of the southern population).

While the special rule for the southern population does exempt incidental take, this does not mean that the Service condones the destruction of bog turtle habitat in the southern range. The Service recognizes that the bog turtle is State-listed in all five southern range States, and hopes that land owners, land managers, and Federal, State and local agencies will take this into account and give the species the full consideration it deserves when planning and implementing projects.

Issue 22

The Connecticut Farm Bureau Association presented information which they felt contradicted the Service's assertion that deleterious agricultural practices are affecting the bog turtle. They stated that "according to USDA/NARCS data, between 1982 and 1992, the amount of cropland still requiring conservation treatment declined by nearly a quarter. Pasture and forest acres needing conservation treatment also declined between 1982 and 1992."

Service Response: While the information presented may reflect positive national trends in soil conservation, it also implies that progress is slow and incomplete (i.e., in 10 years, less than 25 percent of the land needing conservation treatment received such treatment). It also does not contradict available information on known and potential threats to bog turtles posed by agricultural activities, including conversion of wetlands to farm ponds; heavy grazing; hydrological alteration of wetlands (e.g., draining, ditching); and chemical and sediment input to wetlands.

Issue 23

Seven commenters criticized the Service's decision not to designate critical habitat for the bog turtle. Three of these commenters felt that the additional protection and recovery benefits afforded by such designation would outweigh the potential risk from increased collecting. Four commenters who opposed the listing stated that the Service's failure to identify critical habitat would mean that landowners could be found in violation of the Act without knowledge of where the species' habitat is located. They also contended that landowners have a right to know how the listing will affect use of their property.

Expressing a contrary view, several commenters concurred with the Service's decision not to designate critical habitat, citing the threat posed by illegal collection and the pet trade.

Service Response: The Service maintains that the risks associated with designation of critical habitat for the bog turtle outweigh any benefits of such designation. Once sites become publicly known, they can be quickly exploited by collectors; exploitation of sites by collectors soon after the sites had become publicly known has been documented. Due to the small size of existing populations and the low reproductive and recruitment potential of this species, the removal of even a few breeding adults can do irrevocable damage to a population. Therefore, due primarily to the threat of illegal collection, the Service concludes that designation of critical habitat is not prudent, as discussed in detail in the "Critical Habitat" section of this rule.

The Service appreciates the concern that landowners have about the potential implications of having a federally listed species on their property. Therefore, in order to increase awareness of the effect of listing on proposed and ongoing activities, and minimize the likelihood of landowners unknowingly affecting listed species and their habitat, the Service has identified those activities that would or would not constitute a violation of section 9 of the Act, as detailed in the "Available Conservation Measures" section. Questions regarding whether specific activities may constitute a violation of section 9 should be directed to the appropriate Service Field Office. In addition, based on information provided by State wildlife agencies and natural heritage programs, the Service notified persons (within the northern range States) having known bog turtle habitat on their property about the proposed rulemaking, and will notify these landowners about the final listing as well.

Issue 24

One commenter noted that some bog turtles are legally possessed by Maryland citizens as grandfathered animals (i.e., they were in possession prior to State listing), and questioned whether it would be a violation of section 9 to possess these turtles.

Service Response: The Service would not consider it a violation of section 9 for a person to possess bog turtles, if at the time of Federal listing, those bog turtles were legally in their possession under a permit or other provisions (e.g., "grandfathering" provisions) of State law. Documentation (e.g., valid State permit) is recommended to serve as proof of legal possession. However, as with other listed species, a "grandfathered" bog turtle or its progeny cannot be sold in interstate commerce.

Issue 25

One commenter noted that the market value of the bog turtle will increase once the species is listed, which will likely lead to increased take from the wild. They recommended that the Service address this concern by either enhancing law enforcement activities, or allowing for the legal trade of captively-produced bog turtles to meet market demand.

Service Response: Although Federal listing of the bog turtle may increase its market value, it is unclear whether this will result in increased collection pressure. The Service recognizes that Federal listing of the bog turtle may serve as a deterrent to some collectors. The subsequent smaller market source for bog turtles would increase the vulnerability of large-scale illegal operations to exposure. Fortunately, public awareness about the plight of this species has increased dramatically since the proposed rulemaking. This has prompted some citizen groups to establish surveillance at bog turtle sites to protect the turtles from collection. The Service applauds the efforts of these groups, and recognizes that concerned citizens, landowners, and State law enforcement personnel have a vital role to play in protecting this vulnerable species from collection. The Service anticipates that its law enforcement efforts will increase as well in response to the Federal listing of the bog turtle.

The Service believes that if trade in captive-produced bog turtles were allowed, it would pose a significant threat to wild bog turtles. We have noted that despite State-listing throughout its range, and the existence of some captive breeding stock, bog turtles are still being collected from the wild. Also, considering the low reproductive potential of the species and the small number of bog turtles known to be legally in captivity, it is unlikely that there are enough bog turtles in captivity to legally supply the market demand. If trade were legalized and the demand could not be met by captive-produced turtles, it is very likely that turtles would be taken from the wild for direct sale and for use as breeders. In addition, it would be difficult, if not impossible, to devise a process that would preclude the possibility of substituting wild-caught turtles or eggs for those claimed to be captive-produced. Finally, it would be extremely difficult to prosecute a case of illegal take unless the actual taking from the wild was observed or extensive circumstantial evidence was available. Based on these factors, the Service believes that legalizing trade in bog turtles would be inconsistent with the Service's responsibilities to conserve, protect, and recover this species under the Act.

Issue 26

One commenter recommended that the Service define "heavy grazing" if violations of section 9 due to heavy grazing are foreseen. Several other commenters stressed the importance of light to moderate grazing in maintaining bog turtle habitat in an early successional stage, thereby preventing canopy closure and minimizing encroachment of invasive native and exotic plant species.

Service Response: The Service recognizes both the risks and the benefits associated with livestock grazing of bog turtle habitat. Where light to moderate grazing serves to maintain the suitability of bog turtle habitat, the benefits of grazing are likely to outweigh the risks (e.g., trampling of bog turtles or their nests, and nutrient input from animal excrement). Heavy grazing, however, is detrimental to bog turtles and their habitat. At the extreme, it is recognized by closely cropped vegetation and exposed soil (e.g., denuded, compacted or muddy) due to trampling and overgrazing. Due to the damage inflicted upon pasture land, heavy grazing is probably not a desirable or sustainable land use practice.

The Service recognizes that the terms "light, moderate, and heavy grazing are subjective; however, at this time the Service is unable to quantify these terms with respect to potential positive and negative effects to bog turtles and their habitat. The Service looks forward to working cooperatively with the agricultural community, researchers, and others to determine what levels of grazing (e.g., animal densities, seasons, rotations, etc.) are most beneficial to bog turtles.

Issue 27

One commenter requested that if the Service proceeds with listing, information should be included with the listing to identify which population and/or habitat criteria must be met for the species to be considered no longer threatened.

Service Response: This type of information is not included in the listing; however, it will be included in the species' recovery plan. Recovery plans, which are developed after a species is listed, identify delisting criteria and the tasks which must be implemented to achieve recovery.

Peer Review

In conformance with Service policy on information standards under the Act (59 FR 34270; July 1, 1994), the Service solicited the expert opinions of three appropriate and independent specialists (Dr. Michael Klemens; Dr. Joseph Mitchell; and Dr. C. Kenneth Dodd, Jr.) regarding issues and assumptions relating to the biological and ecological information in the rule, and scientific data relating to the factors for listing. Comments received from these reviewers were supportive of Federal listing of the northern population.

Dr. Klemens indicated that the Service had conducted a "thorough analysis of the biological, ecological, and commercial issues that threaten this turtle," and had accurately depicted the conservation status and viability of the northern population. He also thought that the species had surpassed the threshold of threatened and should be listed as endangered (see Issue 18 for the Service's response), based on the Service's data, his professional opinion, and "given the alarming drop in both suitable habitat and viable populations." He stated that the prognosis for the northern population "is very poor if this species is reliant upon the varied habitat and take protection offered by the range States and the total absence of protection from commercial exploitation afforded by the non-range States." He concurred that designation of critical habitat is not prudent. With regard to the southern population, he (1) concurred with its listing as threatened due to similarity of appearance; (2) felt that with large areas of potential habitat unsurveyed, it was impossible for the Service to draw any conclusions about the status of the southern population (see Issue 20 for the Service's response); and (3) was concerned that incidental take under the special rule would reduce bog turtle habitat and populations (see Issue 21 for the Service's response).

Dr. Dodd also supported Federal listing of the bog turtle, concurring that illegal collection and trade posed a significant threat which States have been unable to address. He also agreed that loss of wetland habitat had reduced bog turtle populations, particularly within the northern range.

Dr. Mitchell recommended that the northern population of the bog turtle be listed as endangered, and the southern population be listed as threatened. Despite the lack of geographic survey coverage in North Carolina, he felt that the trends in land use in the south were similar to those in the north, and that in the next 20 to 30 years the southern population would be in the same shape the northern population is in now (see Issue 20 for the Service's response). He referred to the status of the northern population as "dire" and stated that with most of the known bog turtle populations occurring on private lands, "remaining habitat will certainly be reduced in the very near future to a point where most of them will be unable to support viable populations." He questioned whether the Service may have been politically motivated in proposing the northern population as threatened instead of endangered, and stated that such a decision "should be based solely on biological criteria."

Dr. Mitchell agreed that the species is vulnerable to illegal collection and trade, and noted that bog turtles had even been stolen from the Atlanta Zoo, a locked facility. He also noted that a few days after a newspaper article appeared in the Richmond *Times-Dispatch* mentioning the proposed listing, he received "information that several people in that area who collected turtles in the genus *Clemmys* for the pet trade were hard at work scouring topographic maps looking for potential sites to poach."

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the northern population of the bog turtle should be classified as a threatened species. Procedures found at section 4(a)(1) of the Act and regulations implementing the listing provisions of the Act (50 CFR part 424) were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the bog turtle (*Clemmys muhlenbergii*) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

Habitat loss is a major factor for the past and present decline of bog turtles throughout much of their range. Wetland habitats have been drained and filled for development, agriculture, road construction, and impoundments. These activities have also severely fragmented the remaining habitat and have created physical barriers to movement, thus isolating existing bog turtle populations from other such sites.

Even when located in upland areas, development and agriculture can also cause indirect hydrological alterations of adjacent wetland habitats. If these alterations present a barrier to surface water or groundwater flow, the wetland can become wetter or drier, either of which may render the habitat less suitable or unsuitable for bog turtles. If surface water flow is intercepted, groundwater recharge may be reduced, potentially reducing water levels in adjacent wetlands.

The concentration of storm water runoff, such as discharges from storm water detention basins associated with developments, poses a threat to adjacent bog turtle habitat, as illustrated by a documented case of habitat destruction. A New Jersey bog turtle site was destroyed over the course of 4 years as water from an upland storm water detention basin was released into an adjacent wetland. The storm water discharge carved a channel through the wetland; modified the site hydrology by removing the surface inundation and many of the spring-fed seeps; and increased the invasion of woody and annual plant species which replaced the sedges and rushes typical of bog turtle habitat. Bog turtles no longer occur at this site (Torok 1994).

Development in the vicinity of wetlands also poses a threat when the water table is lowered due to the sinking of wells, or when roads act as barriers to the normal flow of surface water (Klemens 1988, 1989). Urban, commercial, and residential development contribute to increased traffic (leading to increased bog turtle road-kills), surface water pollution, and accelerated succession by invasive native and exotic plant species (due to changes in wetland hydrology, and suppression of natural factors that impede succession).

Untimely mowing or burning and the use of herbicides and pesticides on adjacent agricultural fields also degrade bog turtle habitat (Klemens 1988). Many wetlands occupied by bog turtles are located in agricultural areas that are subject to frequent livestock grazing. Light to moderate grazing impedes plant succession by minimizing the encroachment of invasive native and exotic plant species. However, heavy grazing destroys bog turtle habitat by cropping and trampling vegetation that is necessary for turtle nesting, basking, foraging, and cover.

Three of Connecticut's eight known bog turtle sites have already been extirpated. A Fairfield County population was obliterated by industrial development, and two Litchfield County populations were destroyed by pond construction. The five remaining sites are small, isolated pockets ringed by development, with "no opportunity for turtle movement between locations for interbreeding or to escape successional changes" (Julie Victoria, Connecticut Department of Environmental Protection, *in litt.* 1997). Residential development and natural plant succession have already contributed to the partial loss of two of these extant populations in Litchfield and Fairfield counties (Victoria, *in litt.* 1994). Also, in the vicinity of the current populations are "remnants of what were at one time suitable habitats which have been altered by agricultural practices, housing development, ponding, etc." (Hank Gruner, Science Center of Connecticut, *in litt.* 1997).

Only a small fraction of Delaware's freshwater wetlands are potential bog turtle habitat, and between approximately 40 and 50 percent of the State's freshwater wetlands have already been lost (Tiner 1985). The four remaining bog turtle populations are threatened by invasive exotic plant species, collecting, and development (Golvin-Innvaer and Stetzar 1992); one of these sites is also threatened by a proposed reservoir project.

Maryland's 178 historical bog turtle occurrence locations (Taylor *et al.* 1994) are represented by 90 (population analysis) sites, 25 of which have been lost in the last 15 years (Smith, *in litt.* 1994). Plant succession and exotic plant invasions have caused the extirpation of turtles at some of these sites, while other sites were lost due to wetland destruction and alteration and stream channelization. In addition, heavy grazing has been implicated in the loss of at least six sites (Smith, *in litt.* 1994).

Of the remaining 65 sites, 17 are considered good, 23 fair and 25 poor. Habitat at 31 of these sites has been partially destroyed or degraded by pond construction (6 sites), filling of wetlands (1 site), heavy grazing (4 sites), and wetland ditching, draining, tiling and

stream channelization (13 sites) (Smith, *in litt.* 1994). Succession, exotic plants, pollution, and beaver activity also pose a threat to many of the remaining populations. In addition, at least five wetlands known or suspected to support bog turtle populations are threatened by proposed highway bypass projects and residential developments (Jeffrey Trulick, *in litt.* 1997).

In Massachusetts, the bog turtle has a limited range, limited available habitat, and small populations (Thomas French, Massachusetts Division of Fisheries and Wildlife, *in litt.* 1997). There are four recorded bog turtle sites for the State; three extant and one historical. The historical population was lost when the fen was inundated after dam construction. One extant site supports a healthy bog turtle population but faces encroachment by giant reed, succession by alders, and the drying of several large channels feeding the fen (possibly due to diversion of water for agricultural purposes). Another site is threatened by residential development and by invasion of giant reed and alder (Klemens 1988). Although there are conservation agreements in place to protect the above two sites, they do not address the threats to habitat quality. In 1986, the fen at the third site was ditched and most of the water was diverted for cattle use. The water supply has subsequently been restored to the fen and the habitat partially restored. However, much of the suitable bog turtle habitat continues to be threatened by annual burning, severe overgrazing, and nutrient enrichment (Klemens 1986, 1988).

Bog turtles have been extirpated from 8 of the 17 New Jersey counties in which they occurred (Bergen, Camden, Cape May, Gloucester, Mercer, Middlesex, Passaic, and Salem). Surveys conducted in 1988 and 1989, revealed that 44 of the 75 known sites (recent and historical) had been lost due to natural succession (17 sites), wetland alteration (9 sites), and development (18 sites). In addition, bog turtles were located at only 12 of the 31 remaining sites (Zappalorti, *in litt.* 1997). By 1994, a total of at least 53 sites had been lost—33 to urban, commercial, and residential development and wetland alteration and the remainder to plant community succession and the invasion of exotic plants (Sciascia and Zappalorti 1989; Sciascia and Zappalorti, *in litt.* 1994). Many of the remaining populations are small, isolated, and threatened by development, collection, agricultural pollution, and vegetative succession (Michael Torocco, *in litt.* 1997; Zappalorti, *in litt.* 1997); these threats are exacerbated by the proximity of the sites to urban and suburban areas (e.g., Philadelphia, Camden, Trenton, and New York City). As of 1996, there were 53 known extant bog turtle sites in New Jersey (Sciascia and Zappalorti, *in litt.* 1994; Sciascia, *in litt.* 1997). Eight are considered good, 21 fair, and 18 poor, and 6 are of unknown status. Based on recent surveys, the suitability of three of these sites declined since they were originally ranked in 1993 and 1994 (Sciascia, *in litt.* 1997).

Bog turtles were reported from 17 counties in New York, but have been eliminated from 12 counties (Albany, Genessee, Onondaga, Oswego, Otsego, Rockland, Sullivan, Tompkins, Ulster, Warren, Wayne, and Westchester) (Breisch *et al., in litt.* 1994). Of New York's 24 remaining sites, only 18 populations are extant; of the 18 occupied sites, 5 are considered good, 6 fair, and 7 poor. This represents a significant reduction in range and reflects the loss of at least 33 of 57 bog turtle sites.

The bog turtle's range in New York is now limited to the Lower Hudson River and Housatonic River drainages in the southeastern corner of the State, and to one site in western New York. In western New York, six of the seven historical bog turtle sites have been lost. Two sites were eliminated due to plant community succession; one was destroyed by a sand and gravel mining operation and dumping of concrete rubble; and two were eliminated due to plant succession and hydrological alteration (due to agricultural activities at one site and construction of the Erie Canal at another) (Breisch *et al., in litt,* 1994; Collins 1990). Loss of the disjunct population in the Lake George watershed is attributed to plant succession, while the loss of the Susquehanna River drainage population was caused by the construction of an interstate highway (Breisch *et al., in litt.* 1994).

At least 26 known bog turtle sites have been lost in southeastern New York due primarily to road construction, impoundments, plant succession, and development. In addition, the historical bog turtle sites on Staten Island were eliminated by development (Nemuras 1967). In western New York, the viability of the Seneca County site is questionable, since it is threatened by collecting, plant succession and construction of an interstate highway through the wetland within 200 feet of bog turtle habitat (Breisch *et al., in litt.* 1994).

Of the remaining 24 bog turtle sites in New York, most are of poor quality. The presence of bog turtles at six sites is highly questionable since turtles have not been reported from these sites for 15 to 25 years, and habitat conditions at most of these sites have deteriorated. Most of the known extant sites are threatened by habitat loss and degradation due to residential and commercial development, road construction, and vegetative succession. The New York Natural Heritage Program recently reported that, based on additional surveys conducted since 1994, "there are no sites in New York whose status has improved since the 1994 assessment, whereas several sites have declined" (Novak, *in litt.* 1997). At least 99 percent of bog turtle habitat in New York occurs on private lands and all but two of the remaining populations are found in areas of high human population density. One researcher noted that even State acquisition does not necessarily ensure the protection of bog turtle habitat, as one site acquired by New York has been negatively affected by subdivisions, exotic plant species, and collection (Behler, *in litt.* 1997).

In Pennsylvania, 28 of the 71 known bog turtle occurrences are considered extirpated. Bog turtles have been extirpated from Mercer, Crawford, Delaware, and Philadelphia counties. The reasons for the loss of a disjunct population, represented by three historical locations, in the northwestern counties are unknown. However, much of the historical bog turtle habitat at Pymatuning Swamp was destroyed after a dam was constructed to create Pymatuning Lake.

In Pennsylvania, most bog turtle habitat is concentrated in the southeastern corner of the State, within portions of the Delaware and Susquehanna River drainages. Land use in southeastern Pennsylvania is primarily urban (several large cities, including Philadelphia, Harrisburg, Reading, Lancaster, and York are located there), residential, and agricultural. Agricultural areas are intensively farmed and are facing increasing threats from residential development. Development, urbanization, road construction, and agriculture are largely responsible for the loss of bog turtle habitat in southeastern Pennsylvania, and continue to pose threats to the species. Extirpation of bog turtle populations was noted by Robotham (*in* Nemuras 1967), who documented the destruction of two bog turtle sites in the West Chester-Downington area of Chester County in the early 1960s. One site was destroyed after a housing development company constructed a road through the center of the marsh and drained the marsh for development. The other site was destroyed by a bypass road, commercial development, and excavation for a lake.

Due to prevalent habitat fragmentation, many remaining extant sites in Pennsylvania are small, isolated, and support few bog turtles; these sites are at great risk from collection, agricultural pollution, and vegetative succession (Torocco, *in litt.* 1997). Some sites are in the process of being encircled by residential developments; these developments often encroach to the very edge of delineated wetlands, and it is not unusual for lot boundaries to extend well into wetlands. Ground water withdrawal also poses a threat to some sites; a site in Berks County is threatened by a proposal to withdraw over 250,000 gallons of groundwater per day to market as spring water.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The bog turtle is a target for pet collectors due to its rarity in the wild, distinctive coloration, and small size. Take (primarily illegal) both for the national and international commercial pet trade industry has occurred for many years. Collecting is a significant factor in the species decline and is an ongoing threat to its continued existence in the wild (Anon. 1991; Earley 1993; David Flemming, U.S. Fish and Wildlife Service, *in litt.* 1991; Herman 1990; Klemens *in press*; Stearns *et al.* 1990; Tryon 1990; Tryon and Herman 1990). During the last 5 to 10 years, an increasing number of bog turtles have been advertised for sale, and prices have increased substantially. The increase in price most likely reflects the increase in demand for the turtles; the increase in demand increases the threats to the wild populations (Tryon and Herman 1990).

Atlanta Zoo personnel reported that from 1989 to early 1991, over 1000 bog turtles were exported to Japan. These figures differ significantly from CITES data and represent a significant amount of unreported illegal trade (Anon. 1991). The World Wildlife Fund recently listed bog turtles as among the world's top 10 "most wanted" endangered species (Earley 1993). According to Alan Salzburg, President of the American Turtle and Tortoise Society, the bog turtle is considered the most prized turtle in the United States, and when bog turtle locations become publicly known, they are exploited by collectors within 1 year (Laura Hood, Defenders of Wildlife, *in litt.* 1997).

Due to the threats facing bog turtle populations, the Society for the Study of Amphibians and Reptiles adopted a resolution calling for the prohibition of collection from wild populations (Stearns *et al.* 1990). Due to the small size of existing populations, and the low reproductive and recruitment potential of this species, the removal of even a few breeding adults can do irrevocable damage to a population (Tryon 1990). Collecting has been a factor in the reduction or extirpation of several bog turtle populations in Delaware (Anon. 1991), Maryland (Anon. 1991; Smith, *in litt.* 1994), Massachusetts (Anon. 1991), New Jersey (Farrell and Zappalorti 1989; Zappalorti, pers. comm. 1994; Zappalorti, *in litt.* 1997), New York (Breisch, *in litt.* 1993; Breisch *et al., in litt.* 1994; Collins 1990; Behler, *in litt.* 1997), and Pennsylvania (Ralph Pisapia, U.S. Fish and Wildlife Service, *in litt.* 1992; Zappalorti, *in litt.* 1997). Many sites in these States have suitable habitat, but have much-reduced bog turtle populations, probably due to collecting.

Throughout the bog turtle's entire range, States regulate take through classification of the species as endangered (in Connecticut, Delaware, Massachusetts, New Jersey, New York, Pennsylvania, and Virginia) or threatened (in Georgia, Maryland, North Carolina, South Caroline and Tennessee), yet trade continues.

Illegal trade is difficult to detect due to the questionable origin of turtles being offered for sale. Bog turtles are often "laundered" through States which either do not have native populations (e.g., West Virginia, Florida, California), or through States which have inadequate protection of their own bog turtle populations (Charles Bepler, U.S. Fish and Wildlife Service, *in litt.* 1993; Breisch, *in litt.* 1993; Michael Klemens, in *litt.* 1990). For example, in recent years dealers have claimed West Virginia as the State of origin for bog turtles; however, there is no evidence to support the contention that the bog turtle occurs in that State (Dennis Herman, Project Bog Turtle Coordinator, *in litt.* 1997; Tom Thorp, North Caroline Herpetological Society, *in litt.* 1997). Hatchling and juvenile turtles marketed as "captive-born" are usually offspring from gravid adult females illegally brought into captivity and held until they deposit eggs. The eggs are then hatched in captivity, and the captive-born (but not captive-bred) offspring are then marketed or retained (Bepler, *in litt.* 1993).

A few specific instances of illegal bog turtle collecting and trade are reported below:

(1) An undercover officer purchased eight bog turtles from a person who had collected them near Lancaster, Pennsylvania. Also, two additional bog turtles were recovered from persons who had gotten them from friends allegedly in the New York area (Bepler, *in litt.* 1993);

(2) An individual from New Jersey was arrested for bringing bog turtles from New Jersey to Florida and selling them as captive-born. It is suspected that he collected about six turtles per year over a period of several years (Bepler, *in litt.* 1993);

(3) A reliable source in New York reported that over 2000 wild-caught bog turtles were shipped to Japan in a 2-year period (Murdock, *in litt.* 1990);

(4) Researchers found several turtle traps and a much-diminished bog turtle population at an important bog turtle site in Pennsylvania (Pisapia, *in litt.* 1992);

(5) In 1993, a New Jersey resident purchased 47 bog turtles in Florida, and since 1984 had also bought 20 additional bog turtles. This individual supposedly has an active breeding program for bog turtles (Terry Tarr, U.S. Fish and Wildlife Service, *in litt.* 1993);

(6) When confronted in a New York wetland, an individual claiming to be a birdwatcher revealed the contents of the cloth bag he was carrying—a bog turtle and spotted turtle (Paul Novak, New York Natural Heritage Program, *in litt.* 1990);

(7) A reliable source reported seeing approximately 60 bog turtles at the Ohio residence of a person who frequents reptile shows. Based on the physical appearance of the bog turtles, they were not captive-bred (Scott Smith, Maryland Department of Natural Resources, *in litt.* 1996);

(8) Bog turtles have been available at the major Herpetological Expo in Orlando, Florida for the last 2 years (Herman, *in litt.* 1997; Thorp, *in litt.* 1997); and

(9) Bog turtles were observed in several Florida dealerships in 1996, although they have not been openly advertised for sale (Herman, *in litt.* 1997).

The general consensus among bog turtle researchers, nongame biologists, and law enforcement officials is that illegal collecting is occurring at a much greater rate than detected or reported (Anon. 1991; Breisch, *in litt.* 1993; Flemming, *in litt.* 1991). Bog turtles are already extremely low in numbers throughout much of their range, and any additional take could eliminate marginal populations and hamper survival and recovery efforts.

Protecting existing sites for bog turtles can pose a threat when these specific sites are revealed and publicized. In addition to the threat of collection for the pet trade industry, collection of bog

turtles for exhibition at nature centers is also a threat (Anon. 1991).

C. Disease or Predation

Bog turtles (particularly the eggs and young) are preyed upon by raccoons, opossums, skunks, foxes, snapping turtles, water snakes, and large birds (Herman and George 1988). Predation by raccoons appears to increase in areas with high human density, since raccoons favor fragmented areas consisting of farmland, forests, and residential development (Klemens 1989).

In some cases, predation contributes to population declines by impairing reproductive recruitment so that the population age structure is skewed toward older individuals (Zappalorti and Rocco 1993). Zappalorti (*in litt.* 1997) reported that one of his Pennsylvania study sites has undergone a dramatic population decline in the past 25 years. Although 14 different nests containing 52 eggs were located at this site, the only non-adults found during the 3-year study were an empty shell of a dead juvenile and 3 hatchlings. Also, 93 percent of the population structure was strongly skewed towards old adults, in favor of females. In monitoring the fate of 21 eggs, he documented that 6 hatched, 10 were taken by predators, 2 were broken by nesting females, and 3 failed to hatch. Predation of eggs and/or hatchlings, therefore, may play a significant role in reducing the size of the population and skewing its age structure.

Of additional concern is the recent discovery of *Mycoplasma* (the bacterium that adversely affects the desert tortoise (*Gopherus agassizii*)) at a bog turtle site in New York (Behler, *in litt.* 1997; Paul Novak, New York Natural Heritage Program, *in litt.* 1997). This disease has the potential to cause significant declines in bog turtle populations. The site where *Mycoplasma* has been discovered "has been identified as one of the best remaining New York sites and lies in a valley with additional, extant sites leading to the possibility of spread of the disease through a significant portion of the remaining bog turtle range in New York State" (Novak, *in litt.* 1997).

D. The Inadequacy of Existing Regulatory Mechanisms

Bog turtles receive some degree of protection through State listings as endangered or threatened species, and take from the wild within all range States requires a valid permit.

In Connecticut, the bog turtle is listed as endangered and the take of endangered species is prohibited. Regulations require that any person owning or possessing a bog turtle must register with the Wildlife Bureau of the Department of Environmental Protection. There are no special provisions for the protection of species of special concern under Connecticut's wetland laws and regulations and only about 10 percent of the wetland permits issued by townships are checked for species of special concern (Doug Cooper, Connecticut Department of Environmental Protection, pers. comm. 1994).

In Delaware, the bog turtle is listed as endangered and, except under permit, it is unlawful to import, transport, possess, or sell this species. Currently, there is no regulatory mechanism to protect wetland habitat, since Delaware's wetland laws only address tidal wetlands.

In Maryland, the bog turtle was listed as endangered in 1972 when bog turtle populations were extant at only 5 of the 23 then known historical occurrence locations. However, it was removed from the State endangered species list in 1982 after 173 new occurrence locations were discovered during surveys conducted between 1976 and 1978 (Smith 1994, Taylor *et al.* 1984). In 1992 and 1993, the Maryland Department of Natural Resources conducted follow-up surveys of the 178 occurrence locations documented by Taylor *et al.* (1984) to support bog turtles. Of the 159 occurrence locations surveyed, bog turtles were found at 91 occurrence locations; this represents a 43 percent reduction of bog turtle occurrence locations over a 15-year period (Smith 1994). Based on the results of these surveys, bog turtles are now classified as threatened in Maryland. Bog turtles also receive additional protection under the State's Reptile and Amphibian Possession and Permit Regulations which regulate the possession, breeding, sale, and trade of certain native reptiles and amphibians. Under these regulations, it is illegal to take bog turtles from the wild or to breed them in captivity. In addition, the regulations prohibit the possession, sale, offering for sale, trade, or barter of any turtle with a carapace length less than 4 inches (which applies to most bog turtles due to their small size).

A portion of bog turtle habitat in Maryland receives some degree of protection under the Nontidal Wetlands Protection Act. Habitat in agricultural areas receives little or no protection due to the Act's exemption of agricultural activities from permit requirements.

In Massachusetts, the species is classified as endangered, and it is unlawful to take or possess bog turtles without a permit. Currently no person in the State has a valid permit to possess bog turtles (Tom French, Massachusetts Department of Fisheries and Wildlife, pers. comm. 1994). Its habitat receives some degree of protection under the Massachusetts Wetlands Protection Act which prohibits permitted projects from having an adverse effect on wetland habitat that supports endangered and threatened species or species of special concern. This law also allows for a 100-foot buffer zone around such wetlands when activities in the buffer zone could result in the alteration of adjacent wetlands (Melvin and Roble 1990).

In New Jersey, the bog turtle is listed as endangered. It is unlawful to take, possess, transport, export, process, sell, offer for sale, or ship bog turtles without a permit. Bog turtle habitat receives some protection under the Exceptional Resource Value Wetland provision of New Jersey's Freshwater Wetland Protection Act. This law allows for a 150-foot buffer zone around wetlands, includes a stringent permit review process, and prohibits activities that would likely jeopardize or destroy bog turtles habitat (Torok, pers. comm., 1994). Many agricultural activities are exempt from these regulations.

In New York, the bog turtle has been listed as endangered since 1971, and the animal and its parts (including eggs) are protected from unauthorized take, import, transport, possession, or sale. Wetlands occupied by an endangered or threatened species are considered Class 1 Wetlands, which receive some added protection from filling and excavation. Certain activities, such as draining of wetlands for agriculture, are exempted from permitting requirements as long as no excavations are required to accomplish the draining.

In Pennsylvania, the bog turtle is listed as endangered. It is illegal to catch, take, kill, possess, import, export, sell, offer for sale, or purchase any individual of this species, alive or dead, or any part thereof, without a special permit. Bog turtle habitat receives some degree of protection under State wetland regulations which categorize wetlands that serve as habitat for endangered or threatened flora or fauna as "exceptional value wetlands." Issuance of permits to alter such wetlands is contingent upon meeting specific requirements.

Section 404 of the Clean Water Act (33 U.S.C. 1344 *et seq.*) (CWA) regulates the discharge of dredged or fill material into the waters of the United States. The phrase "waters of the United States" reaches to the farthest extent permissible under the Commerce Clause and includes rivers, lakes, streams, ponds and wetlands. It does not include prior converted cropland. The U.S. Army Corps of Engineers (Corps) and the U.S. Environmental Protection Agency (EPA) are responsible for administering section 404. The Corps is responsible for program administration; the EPA has an important oversight role. Section 404 requires that project proponents obtain a CWA section 404 permit from the Corps before undertaking activities in waters of the United States involving a discharge of dredged or fill material. These regulatory agencies are also required to consult with the Service and State resource agencies regarding potential impacts of these projects on fish and wildlife.

The Corps authorizes projects involving the discharge of dredged or fill material into waters of the United States using either individual permits or general permits. Individual permits are carefully evaluated through the Corps' public interest review and its analysis of compliance with the EPA's 404(b)(1) guidelines. The EPA's 404(b)(1) guidelines require a rigorous examination of the availability of practicable alternatives, and prohibit the authorization of any project that would result in significant adverse impacts, among other requirements. General permits are issued for activities which are similar in nature and which result in no more than minimal environmental effects on a single project and cumulative adverse impact basis. General permits also take several forms, including nationwide permits, which are available for the entire country, and State Programmatic General Permits, which are linked to State wetland regulatory programs, and which attempt to integrate State and Federal programs for authorizing minor impact activities. The purposes of all general permits are to provide workload relief for the Corps for projects which should not require a lot of analysis and to provide some measure of relief for the public for activities which are similar in nature and result in only minor impacts.

The regulatory relief and expedited permit review associated with general permit authorization is based on a one-time only determination that the general permit itself will meet the 404(b)(1) guidelines and thus would not allow authorization of projects with more than minimal impacts. Following adoption of a general permit, projects which fit the terms and conditions of the general permit are authorized with little scrutiny. Some require that the applicant notify the Corps before using the permit; others do not require any notification as long as they meet the permit conditions.

The Corps currently utilizes 39 nationwide permits, including Nationwide Permit 26, which addresses the discharge of dredged or fill material for any purpose in isolated waters or headwaters. Nationwide Permit 26, until 1996, was available for use for projects up to 10 acres. It has now been modified for use for fills of up to no more than 3 acres. When the fill activity is larger than ⅓ acre, the permit applicant must notify the Corps prior to permit use. For projects less than ⅓ acre, the permittee must submit a report within 30 days to the Corps providing basic information about the permit's use. The Corps plans to phase out Nationwide Permit 26 as there is a high likelihood that the permit has resulted in more than minimal single project and cumulative adverse impacts. In its place, however, will be an additional unknown number of nationwide permits which will be designed for activities which are similar in nature. The potential adverse impacts of these additional nationwide permits are unknown at this time.

The Corps can take discretionary authority and require an applicant to undergo a full individual permit process, if the Corps believes that the resource issues are significant, and if the Corps believes that the project requires additional consideration. For workload management reasons, this authority is not invoked frequently.

Many of the States in the Northeast have eliminated many or most of the nationwide permits and replaced them with a single programmatic general permit which combines the State and Federal programs and sets thresholds and conditions for its use tailored to the aquatic resources and threats to those resources in their areas of jurisdiction.

The bog turtle could potentially be affected by projects requiring 404 permits, especially projects which would appear to meet the terms and conditions of nationwide permits such as Nationwide Permit 26. The Corps is planning to initiate a programmatic consultation on the impacts of nationwide permits on endangered species, and it is our expectation that listed species will receive adequate consideration following completion of the consultation process. However, under the CWA section 404 program, destruction of bog turtle habitat continues to be authorized.

Furthermore, the bog turtle is affected by agricultural practices which are entirely exempt from regulation under section 404. Such activities take place without Corps or EPA oversight or review. In addition to an agricultural exemption for maintenance of existing agricultural drainage systems, other exempted activities include plowing, planting and harvesting in existing cropped wetlands, and construction or maintenance of farm roads and stock ponds as long as the activity is part of an ongoing farming operation.

On July 1, 1975, the bog turtle was added to Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), and on June 11, 1992 (57 FR 20443), it was transferred from Appendix II to Appendix I. Both import and export permits are required from the importing and exporting countries before an Appendix I species can be transported, and an Appendix I species can not be exported for primarily commercial purposes. These CITES permits are not issued if the export will be detrimental to the survival of the species or if the specimens were not legally acquired.

E. Other Natural or Manmade Factors Affecting its Continued Existence

Plant community succession and the invasion of wetland systems by exotic plant species have also contributed to the decline of the bog turtle (Behler, *in litt.* 1997; Zappalorti, *in litt.* 1997). Unless set back by fire, beaver activity, light to moderate grazing, or periodic wet years, some bog turtle habitats succeed into wooded swampland and become unsuitable for the species. Various human activities, such as fire suppression, beaver control, fertilizer and sediment runoff, and wetland draining, ditching and filling accelerate both natural succession and the invasion of exotic plants (Gelvin-Innvaer and Stetzar 1992, Klemens 1984).

Development and agriculture adjacent to bog turtle habitat can result in soil disturbance and increases in the nutrient and sediment load, thus allowing for the invasion of exotic species such as multiflora rose (*Rosa multiflora*), purple loosestrife (*Lithrum salicaria*), giant reed (*Phragmites australis*), and reed canary grass (*Phalaris arundinacea*), as well as native species such as red maple and alder (Klemens 1984, 1989, and *in press*).

Beavers pose a threat to those bog turtle populations that are isolated and/or occur within the only remaining suitable habitat within a watershed. Smith (*in litt.* 1994) reported that flooding caused by beavers now poses a threat to three bog turtle populations in Maryland.

Thick deposits of iron bacteria, suggesting possible contamination from pollutants, have been found at three bog

turtle sites in Maryland. Reptile and amphibian populations at these sites are much smaller in size than one would expect based on the habitat characteristics (Smith, *in litt.* 1994). Wetland habitats are also vulnerable to pollutants (oil and grease) carried by storm water runoff. Farrell and Zappalorti (1989) reported that one New Jersey wetland occupied by bog turtles was degraded by trash and motor oil that was carried through a storm drain.

The bog turtle is also vulnerable to local extirpation and range-wide reduction due to—(1) the small size of many populations; (2) the isolation of existing populations; (3) the delay in reaching sexual maturity; (4) low juvenile recruitment rates; and (5) relatively low mobility and small home ranges (Arndt 1977, Chase *et al.* 1989). Isolation of populations prevents gene flow which can result in an inbred population with low fecundity. Further, isolation and habitat fragmentation prevent recolonization of existing habitat or expansion and colonization into newly created habitats.

Vehicles and livestock pose a direct threat to bog turtles because they can kill and injure individuals. Roads near occupied bog turtle sites contribute significantly to mortality as is evidenced by the number of dead turtles found along roadsides. Roads that are adjacent to or within wetlands pose the greatest threat to bog turtles (Arndt 1977). Because livestock can trample bog turtles, a large number of livestock within a wetland can pose a threat to the turtle population (M. Klemens, pers. comm. 1994; S. Smith, pers. comm. 1994).

The Tortoise and Freshwater Turtle Specialist Group of the IUCN recently evaluated the status of the bog turtle. Based on the species' precipitous decline and threats to its continued existence, the bog turtle was included as an endangered species on their 1996 IUCN Red List (Behler, *in litt.* 1997).

The Service has carefully assessed the best scientific and commercial information available regarding the past, present and future threats faced by the species in determining to make this rule final. Based on this evaluation, the preferred action is to list the northern population of the bog turtle as threatened, and the southern population as threatened due to similarity of appearance. In spite of existing State protective regulations, the northern population has declined by approximately 50 percent (primarily over the past 20 years) and has experienced a significant decrease in its known range. Currently, less than 200 extant sites remain in the north, and only 33 of these sites are likely to be able to support viable bog turtle populations over the long term. Most of the extant sites consist of small wetlands isolated from one another and often in close proximity to human habitation. Although the northern population of the bog turtle faces serious ongoing and potential threats, it is not currently in imminent danger of extinction. The northern population is, however, likely to become endangered throughout all or a significant portion of its range in the foreseeable future; therefore, classification of the northern population of the bog turtle as threatened is appropriate. Critical habitat is not being designated for the reasons described below.

Although final listing determinations are usually not effective until 30 days after their publication in the **Federal Register**, such a delay would pose an additional, unacceptable risk to the bog turtle. Several persons and State agencies have expressed a concern about the heightened risk of illegal collection due to the proposed listing, and requested that the final listing be implemented as soon as possible to reduce this risk. One of the peer reviewers of the proposed rule noted that he had "received reliable reports of increased interest in the location of bog turtle sites by well-known collectors. There is a heightened threat of take right now as collectors are stockpiling bog turtles in anticipation of a federal listing." Therefore, due to the significant ongoing threats of illegal collection and trade, the Service has determined that the bog turtle will receive full protection under the Act effective upon publication of this rule in the **Federal Register**.

Critical Habitat

Critical habitat is defined in section 3 of the Act as—(i) the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. Conservation means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer required.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat for the bog turtle is not prudent. Service regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist, (1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species; or (2) such designation of critical habitat would not be beneficial to the species.

Listing of the bog turtle as threatened elevates the awareness of the rarity of the species, thereby increasing the likelihood of take by private and commercial collectors. The listing could lead to increased illegal take and the risk of eggs being accidentally destroyed by collectors searching for adult turtles. The publication of precise maps and descriptions of critical habitat in the **Federal Register** would increase the vulnerability of the bog turtle to the threats of collection and accidental destruction of its eggs.

Designation of critical habitat could also increase the vulnerability of bog turtle habitat to intentional destruction by landowners who do not want a protected species on their property. Tryon and Herman (1990) report that on more than one occasion, landowners, fearing involvement from State or Federal authorities, have drained (ditched) bog turtle habitat after researchers visited the site.

Furthermore, designation of critical habitat for the bog turtle would provide little or no benefit to the species or its habitat. Critical habitat receives consideration under section 7 of the Act with regard to actions carried out, authorized, or funded by a Federal agency. Critical habitat designation serves as notification to Federal agencies of the habitats which are essential for the conservation of the species; the Act requires Federal agencies to ensure that their actions do not result in destruction or adverse modification of critical habitat. The Service believes that notification to Federal agencies of the habitats which are essential for the conservation of the species can be accomplished informally through periodic coordination meetings, project-specific meetings, and other contacts; the Service believes that notification through these means ensures that other Federal agencies receive the most recent and reliable information concerning habitats important for the conservation of the species. In addition, the Service believes that, because the "jeopardy" and "adverse modification" standards are similar, any project which would cause destruction or adverse modification of critical habitat would also jeopardize the continued existence of the species. In fact, biological opinions that conclude that a Federal agency action is likely to adversely modify critical habitat but not jeopardize the species are extremely rare.

Because any benefit potentially provided by designation of critical habitat for the bog turtle would be outweighed by the increase in threats to the species and its habitat from illegal collecting and vandalism caused by such designation, the Service has determined that designation of critical habitat is not prudent. Protection of bog turtle habitat will be addressed through the section 7 consultation process and through recovery actions.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery action, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Act provides for possible land acquisition and cooperation with the States, and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is listed as endangered or threatened. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of any species listed as endangered or threatened, or destroy or adversely modify its critical habitat. If a Federal action could affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service.

Federal agency actions that may require consultation as described in the preceding paragraph include—Corps involvement in projects such as the construction of roads and bridges; Corps permitting of wetland filling and dredging projects subject to section 404 of the CWA and section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 401 *et seq.*); Natural Resources Conservation Service projects; EPA authorization of discharges under the National Pollutant Discharge Elimination System; and U.S. Housing and Urban Development projects. In addition, Federal involvement under section 7 would be expected for management and other land use activities on Federal lands with bog turtle populations.

The Act and implementing regulations set forth a series of general prohibitions and exceptions that apply to all threatened wildlife. The prohibitions, codified at 50 CFR 17.21, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving threatened wildlife under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in the course of otherwise lawful activities. For threatened species, permits also are available for zoological exhibition, educational purposes, or special purposes consistent with the purposes of the Act.

It is the policy of the Service (59 FR 34272; July 1, 1994) to identify to the maximum extent practicable at the time a species is listed those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of the listing on proposed and ongoing activities within a species' range. The Service believes, based on the best available information, that the following actions will not result in a violation of section 9:

(1) Transferring individual turtles from roads to immediately adjacent habitat;

(2) Light to moderate livestock grazing that prevents or minimizes the encroachment of invasive native and exotic plant species;

(3) Possession of bog turtles legally acquired prior to the effective date of this rule and consistent with 50 CFR 17.4; and

(4) Actions that may affect bog turtles and are authorized, funded or carried out by a Federal agency when the action is conducted in accordance with section 7 of the Act.

With respect to both the northern and southern populations of the bog turtle, the following actions would be considered a violation of section 9:

(1) Take of bog turtles without a permit (this includes harassing, harming, pursuing, hunting, shooting, wounding, killing, trapping, capturing, or collecting, or attempting any of these actions). However, with respect solely to the southern population, incidental take (see special rule below) would not be considered a violation of section 9;

(2) Possess, sell, deliver, carry, transport, or ship illegally taken bog turtles;

(3) Interstate and foreign commerce (commerce across State and international boundaries) and import/export (as discussed earlier in this section) without prior obtaining a threatened species, similarity of appearance, or CITES permit.

With respect solely to the northern population, activities that the Service believes could result in the take of bog turtles include, but are not limited to:

(1) Destruction or alteration of the species' habitat by activities that include, but are not limited to, draining, ditching, discharging fill material, excavation, impoundment, or water diversion, except as outlined in (4) above;

(2) Destruction or degradation of wetland vegetation used by the turtles for nesting, basking, foraging, or cover; and

(3) Discharging or dumping of toxic chemicals or other pollutants into wetlands occupied by the species.

Questions regarding whether specific activities may constitute a violation of section 9 should be directed to the Field Supervisor of the appropriate Service Field Office as follows: in Pennsylvania, the Pennsylvania Field Office, 315 S. Allen Street, Suite 322, State College, PA 16801 (814/234–4090); in Maryland and Delaware, the Chesapeake Bay Field Office, 177 Admiral Cochrane Drive, Annapolis, MD 21401 (410/224–2732); in New York, the New York Field Office, 3817 Luker Road, Cortland, NY 13045 (607/758–9334); in Massachusetts and Connecticut, the New England Field Office, 22 Bridge Street, Concord, NH 03301–4986 (603/225–1411); and, in New Jersey, the New Jersey Field Office, 927 North Main Street, Building D1, Pleasantville, NJ 08232 (609/747–0620). Requests for copies of the regulations

regarding listed wildlife and inquiries about prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, Massachusetts 01035 (telephone 413/253–8200; facsimile 413/253–8482).

Similarity of Appearance

Section 4(e) of the Act authorizes the treatment of a species (subspecies or population segment) as endangered or threatened even though it is not otherwise listed as endangered or threatened if—(a) the species so closely resembles in appearance an endangered or threatened species that enforcement personnel would have substantial difficulty in differentiating between the listed and unlisted species; (b) the effect of this substantial difficulty is an additional threat to an endangered or threatened species; and (3) such treatment of an unlisted species will substantially facilitate the enforcement and further the policy of the Act.

There are only slight morphological differences in this species throughout its range (Amato *et al.* 1993; Nemuras 1967), making it extremely difficult to differentiate the location from where bog turtles are taken. Presently, the origin and legality of a specimen (specific wetland, locality, or State) cannot be determined. This poses a problem for Federal and State law enforcement agents trying to stem illegal trade in the threatened northern population. The listing of the southern population as threatened due to similarity of appearance eliminates the ability of commercial collectors to commingle northern bog turtles with southern ones or to misrepresent them as southern bog turtles for commercial purposes. For these reasons, the Service is listing the southern population (occurring in the States of Georgia, North Carolina, South Carolina, Tennessee and Virginia) as threatened due to similarity of appearance to the northern population.

The special rule exempts incidental take of the southern population of bog turtles. Incidental take is take that results from, but is not the purpose of, carrying out an otherwise lawful activity. For example, legal application of pesticides and fertilizers, livestock grazing and other farming activities, mowing, burning, water diversion, and any other legally undertaken actions that result in the accidental take of a bog turtle will not be considered a violation of section 9 of the Act in the States of Georgia, North Carolina, South Carolina, Tennessee, and Virginia. The Service believes that listing the southern population under the similarity of appearance provision of the Act, coupled with the special rule, minimizes enforcement problems and helps to conserve the northern population. It is the intent of the special rule to treat bog turtles from the southern population in the same way as the threatened northern population with regard to permit requirements for pre-Act wildlife (50 CFR 17.4).

The Service believes that the provision to allow incidental take for the southern population (i.e., for land alteration activities in Georgia, North Carolina, South Carolina, Tennessee, and Virginia) will not pose a threat to the northern population because—(1) the two populations are sufficiently separate that incidental take of southern specimens will not inadvertently be applicable to members of the northern population, and (2) the primary threat to the northern population from activities involving the southern population stem from commingling of specimens in commercial trade.

National Environmental Policy Act

The Service has determined that Environmental Assessments and Environmental Impact Statements, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of all references cited herein is available upon request from the U.S. Fish and Wildlife Service, Pennsylvania Field Office (see **ADDRESSES** section).

Author

The primary author of this document is Carole K. Copeyon (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, the Service amends part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat 3500, unless otherwise noted.

2. Amend section 17.11(h) by adding the following, in alphabetical order under "Reptiles," to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
REPTILES							
*	*	*	*	*	*		*
Turtle, bog (=Muhlenberg).	*Clemmys muhlenbergii.*	U.S.A. (CT, DE, GA, MD, MA, NC, NJ, NY, PA, SC, TN, VA).	Entire, except GA, NC, SC, TN, VA.	T	626	NA	NA
Do	....do	....do	U.S.A. (GA, NC, SC, TN, VA).	T(S/A)		NA	17.42(f)
*	*	*	*	*	*		*

3. Amend section 17.42 by adding paragraph (f) as follows:

§ 17.42 Special rules—reptiles.

* * * * *

(f) Bog turtle (*Clemmys muhlenbergii*), southern population—(1) *Definitions of terms.* For the purposes of this paragraph (f): *Bog turtle* of the southern population means any member of the species *Clemmys muhlenbergii*, within Georgia, North Carolina, South Carolina, Tennessee and Virginia, regardless of whether in the wild or captivity, and also applies to the progeny of any such turtle.

(2) *Prohibitions.* Except as provided in paragraph (f)(3) of this section, the provisions of Sec. 17.31 (a) and (b) of this part applies to bog turtles of the southern population (see also 50 CFR part 23).

(3) *Take.* Incidental take, that is, take that results from, but is not the purpose of, carrying out an otherwise lawful activity, does not apply to bog turtles of the southern population.

Dated: October 23, 1997.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 97–29088 Filed 11–3–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 961128334–7025–02; I.D. 102997B]

Fisheries of the Exclusive Economic Zone Off Alaska; Sablefish in the Central Regulatory Area of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting retention of sablefish by vessels using trawl gear in the Central Regulatory Area in the Gulf of Alaska (GOA). NMFS is requiring that catches of sablefish by vessels using trawl gear in this area be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the allocation of the sablefish 1997 total allowable catch (TAC) assigned to trawl gear in the Central Regulatory Area of the GOA has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), October 30, 1997, until 2400 hrs, A.l.t., December 31, 1997.

FOR FURTHER INFORMATION CONTACT: Thomas Pearson, 907–486–6919.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and 50 CFR part 679.

The allocation of the sablefish TAC assigned to trawl gear in the Central Regulatory Area of the GOA was established by the Final 1997 Harvest Specifications of Groundfish for the GOA (62 FR 8179, February 24, 1997) as 1,282 metric tons (mt). (See § 679.20(a)(4)(ii)(B).)

In accordance with § 679.20 (d)(2), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the allocation of the sablefish TAC assigned to trawl gear in the Central Regulatory Area of the GOA has been reached. Therefore, the Regional Administrator is requiring that further catches of sablefish by vessels using trawl gear in the Central Regulatory Area be treated as prohibited species in accordance with § 679.21 (b).

Classification

This action responds to the best available information from the fishery. It must be implemented immediately to prevent overharvesting the 1997 TAC for sablefish assigned to trawl gear in the Central Regulatory Area of the GOA. A delay in the effective date is impracticable and contrary to public interest. The trawl fleet will soon take the assigned TAC for sablefish. Further delay would only result in overharvest and disrupt the FMP's objective of limiting the harvest of sablefish by vessels using trawl gear. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by 50 CFR 679.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 29, 1997.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–29158 Filed 10–30–97; 3:36 pm]

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Proposed Rules

Federal Register
Vol. 62, No. 213
Tuesday, November 4, 1997

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 3, 32, and 33

Trade Options on the Enumerated Agricultural Commodities

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Generally, the offer or sale of commodity options is prohibited except on designated contract markets. One of several specified exceptions to the general prohibition on off-exchange options is for "trade options." Trade options are defined as off-exchange options "offered by a person having a reasonable basis to believe that the option is offered to" a person or entity within the categories of commercial users specified in the rule, where such commercial user "is offered or enters into the transaction solely for purposes related to its business as such." Trade options, however, are not permitted on the agricultural commodities which are enumerated in the Commodity Exchange Act (Act).

The Commodity Futures Trading Commission (Commission or CFTC) is proposing to remove the prohibition on off-exchange trade options on the enumerated agricultural commodities pursuant to a three-year pilot program. The Commission is proposing initially to permit agricultural trade options which, if exercised, will result in delivery of the commodity and which may not be resold, repurchased, or otherwise cancelled other than through the exercise or natural expiration of the contract. The Commission is also proposing to permit only those entities which handle the commodity in normal cash market channels to offer to buy or sell such options. Such entities, in order to sell agricultural trade options (puts and calls), would be required to become registered as agricultural trade option merchants, to report to the Commission on their transactions, to provide their customers with disclosure statements, and to safeguard their customers' premiums. The Commission is also proposing to exempt from the prohibition and these proposed rules individuals or entities which meet a substantial financial requirement. Finally, the Commission is proposing to remove the prohibition on the offer or sale of exchange-traded options on physicals on these commodities.

DATES: Comments must be received by December 4, 1997.

ADDRESSES: Comments should be mailed to the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581, attention: Office of the Secretariat; transmitted by facsimile at (202) 418–5521; or transmitted electronically at [secretary@cftc.gov]. Reference should be made to "Agricultural Trade Options."

FOR FURTHER INFORMATION CONTACT: Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581, (202) 418–5280, or transmitted electronically at [PArchitzel@cftc.gov].

SUPPLEMENTARY INFORMATION:

I. Background

A. The Prohibition of Agricultural Trade Options

In 1936, responding to a history of large price movements and disruptions in the futures markets attributed to speculative trading in options, Congress completely prohibited the offer or sale of option contracts both on and off exchange in all commodities then under regulation.[1] Over the years, this statutory bar continued to apply only to the commodities originally regulated under the 1936 Act. The specific agricultural commodities originally regulated under the 1936 Act included, among others, grains, cotton, butter, eggs, and potatoes. Later, fats and oils, soybeans and livestock, as well as others, were added to the list of enumerated agricultural commodities. Any commodity not so enumerated, whether agricultural or not, was not subject to regulation. Thus, options on such nonenumerated commodities were unaffected by the prohibition.[2]

A history of abusive practices and fraud in the offer and sale of off-exchange options in the nonenumerated commodities was one of the catalysts leading to enactment of the Commodity Futures Trading Commission Act of 1974 (1974 Act), which substantially strengthened the Commodity Exchange Act and broadened its scope by bringing all commodities under regulation for the first time.[3] Under the 1974 amendments, the newly-created CFTC was vested with plenary authority to regulate the offer and sale of commodity options on the previously unregulated, nonenumerated commodities.[4] The Act's statutory prohibition on the offer and sale of options on the enumerated agricultural commodities was retained.

Shortly after its creation, the Commission promulgated a comprehensive regulatory framework applicable to off-exchange commodity option transactions in the nonenumerated commodities.[5] This comprehensive framework exempted "trade options" from most of its provisions except for a rule prohibiting fraud (rule 32.9).[6] In contrast, commodity options on the enumerated commodities—the domestic agricultural commodities listed in the Act—were prohibited both as a consequence of the continuing statutory bar as well as Commission rule 32.2, 17 CFR 32.2. This prohibition made no exceptions and applied equally to trade options.

The attempt to create a regulatory framework to govern the offer and sale of off-exchange commodity options was unsuccessful. Because of continuing, persistent, and widespread abuse and fraud in their offer and sale, the Commission in 1978 suspended all trading in commodity options, except for trade options.[7] Congress later codified the Commission's options ban, establishing a general prohibition against commodity option transactions other than trade and dealer options.[8]

The Commission subsequently permitted the introduction of exchange-traded options on the nonenumerated commodities by means of a three-year pilot program.[9] Based on that successful experience, Congress, in the Futures Trading Act of 1982, eliminated the statutory bar to transactions in options on the enumerated commodities, permitting the Commission to establish a similar pilot program to reintroduce exchange-traded options on those agricultural commodities.[10] When establishing the pilot program, the Commission declined to relax the prohibition on off-exchange trade options on these commodities.[11]

The Commission has reconsidered the issue of whether to remove the prohibition on the offer and sale of trade options on the enumerated commodities several times.[12] On December 19, 1995, the Commission hosted a public roundtable (December Roundtable) to consider this issue once again and to provide a forum for members of the public to provide their views. Subsequently, the Commission instructed the staff to study this issue and to forward its analysis to the Commission.

B. The Advance Notice of Proposed Rulemaking

On June 9, 1997, the Commission published an advance notice of proposed rulemaking (advance notice) in the **Federal Register** seeking comment on whether it should propose rules to lift the prohibition on trade options on the enumerated agricultural options subject to conditions and, if so, what conditions would be appropriate (62 FR 31375). The Commission based the advance notice on a study by the Commission's Division of Economic Analysis (Division).[13]

The advance notice discussed the potential benefits and risks that may result from lifting the prohibition on agricultural trade options. The benefits include greater customization, a known cost of the instrument at the outset, and an increase in possible types of vendors, permitting greater convenience and more flexible financing arrangements. The risks identified in the study include fraud, credit risk, liquidity risk, operational risk, systemic risk, and legal risk.

In addition, the advance notice offered a variety of regulatory protections or conditions which could be used to address many of the risks identified in the study. These conditions included possible restrictions on the parties permitted to enter into these transactions, restrictions on the instruments or their use, and/or regulation of their marketing. The advance notice noted that several of the risks could be reduced by imposing eligibility limitations, such as to restrict the availability of agricultural trade options to sophisticated individuals or entities; to require that those marketing these instruments be registered with, or identify themselves to, the Commission or be commercial users themselves; and/or to impose an education requirement on either buyers or agricultural trade option vendors or both.

The advance notice also discussed possible restrictions on the types of options permitted as a possible means of ensuring that commercials enter into such transactions "solely for purposes related to (their) business as such." Moreover, the possible regulation of marketing, including disclosure requirements and account confirmation requirements, was considered. Additional issues addressed by the advance notice included possible requirements for cover or other methods for limiting the risk of possible default and requirements regarding the establishment of appropriate internal controls. In order to focus comment on these issues, the advance notice invited commenters to respond to 30 specific questions relating to the above topics.

II. Comments Received

In response to its request for public comment, the Commission received a total of 76 comment letters from 82 commenters. The commenters were almost evenly divided with 35 commenters in favor and 36 opposed to lifting the ban.[14] Those favoring lifting the prohibition on agricultural trade options included a futures exchange (with qualifications); a futures industry association; a derivatives industry association; five risk management firms; a commodity trading advisor; a bank; six agriculture-related businesses; 15 trade and farm associations, including both

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[1] Commodity Exchange Act of 1936, Pub. L. No. 74–675, 49 Stat. 1491 (1936). *See*, H. Rep. No. 421, 74th Cong., 1st Sess. 1, 2 (1934); H. Rep. No. 1551, 72d Cong., 1st Sess. 3 (1932).

[2] Examples of nonenumerated commodities would include coffee, sugar, gold, and foreign currencies. Before 1974, the Act covered only those commodities enumerated by name. The 1936 Act regulated transactions in wheat, cotton, rice, corn, oats, barley, rye, flaxseed, grain sorghums, mill feeds, butter, eggs, and Solanum tuberosum (Irish potatoes). Act of June 15, 1936, Pub. L. 74–675, 49 Stat. 1491 (1936). Subsequent amendments to the Act added additional agricultural commodities to the list of enumerated commodities. Wool tops were added in 1938. Commodity Exchange Act Amendment of 1938, Pub. L. 471, 52 Stat. 205 (1938). Fats and oils, cottonseed meal, cottonseed, peanuts, soybeans, and soybean meal were added in 1940. Commodity Exchange Act Amendment of 1940, Pub. L. 818, 54 Stat. 1059 (1940). Livestock, livestock products, and frozen concentrated orange juice were added in 1968. Commodity Exchange Act Amendment of 1968, Pub. L. 90–258, 82 Stat. 26 (1968) (livestock and livestock products); Act of July 23, 1968, Pub. L. 90–418, 82 Stat. 413 (1968) (frozen concentrated orange juice). Trading in onion futures on United States exchanges was prohibited in 1958. Commodity Exchange Act Amendment of 1958, Pub. L. 85–839, 72 Stat. 1013 (1958).

[3] Congress accomplished this by adding to the list of enumerated commodities an expansive catch-all definition of "commodity" which included all "services, rights, or interests in which contracts for future delivery are presently or in the future dealt in." The definition of commodity is currently codified in section 1a(3) of the Act.

[4] Section 4c(b) of the Act provides that no person "shall offer to enter into, or confirm the execution of, any transaction involving any commodity regulated under this Act" which is in the nature of an option "contrary to any rule, regulation, or order of the Commission prohibiting any such transaction or allowing any such transaction under such terms and conditions as the Commission shall prescribe." 7 U.S.C. 6c(b).

[5] 17 CFR part 32. *See*, 41 FR 51808 (Nov. 24, 1976) (Adoption of Rules Concerning Regulation and Fraud in Connection with Commodity Option Transactions). *See also*, 41 FR 7774 (February 20, 1976) (Notice of Proposed Rules on Regulation of Commodity Option Transactions); 41 FR 44560 (October 8, 1976) (Notice of Proposed Regulation of Commodity Options).

[6] As noted above, trade options are defined as off-exchange options "offered by a person having a reasonable basis to believe that the option is offered to the categories of commercial users specified in the rule, where such commercial user is offered or enters into the transaction solely for purposes related to its business as such." *Id.* at 51815; rule 32.4(a) (1976). This exemption was promulgated based upon an understanding that commercial users of the underlying commodity had sufficient information concerning commodity markets insofar as transactions related to their business as such, so that application of the full range of regulatory requirements was unnecessary for business-related transactions in options on the nonenumerated commodities. *See*, 41 FR 44563, "Report of the Advisory Committee on Definition and Regulation of Market Instruments," appendix A–4, p. 7 (January 22, 1976).

[7] 43 FR 16153 (April 17, 1978). Subsequently, the Commission also exempted dealer options from the general suspension of transactions in commodity options. 43 FR 23704 (June 1, 1978).

[8] Pub. L. No. 95–405, 92 Stat. 865 (1978). Pursuant to the 1978 statutory amendments, option transactions prohibited by new section 4c(c) could not be lawfully effected until the Commission transmitted to its congressional oversight committees documentation of its ability to regulate successfully such transactions, including its proposed regulations, and 30 calendar days of continuous session of Congress after such transmittal had passed.

[9] 46 FR 54500 (November 3, 1981).

[10] Pub.L. No. 97–444, 96 Stat. 2294, 2301 (1983).

[11] Although the Commission noted that "there may be possible benefits to commercials and to producers from the trading of these 'trade' options in domestic agricultural commodities," it determined that "in light of the lack of recent experience with agricultural options and because the trading of exchange-traded options is subject to more comprehensive oversight," "proceeding in a gradual fashion by initially permitting only exchange-traded agricultural options" was the prudent course. 46 FR 46797, 46800 (October 14, 1983).

[12] For example, in 1991 the Commission proposed deleting the prohibition on trade options on the enumerated commodities and including them under the same exemption applicable to all other commodities. 56 FR 43560 (September 3, 1991). The Commission never promulgated the proposed deletion as a final rule.

[13] The complete text of that study, entitled "Policy Alternatives Relating to Agricultural Trade Options and Other Agricultural Risk-Shifting Contracts," was forwarded to the Commission by the Division on May 14, 1997. It is available through the Commission's Internet site at http://www.cftc.gov/ag8.htm.

[14] Five letters offered commentary on the issue without taking a position on the overall wisdom of lifting the prohibition.

national organizations and state-level affiliates; three individuals; and an accounting firm. Those opposed included two futures exchanges; a futures industry trade association; ten futures professionals; two producer associations; a grower-owned marketing cooperative; a country elevator; an academician; and 16 individuals, eight of whom were producers.

Commenters opposed to lifting the ban generally expressed the view that existing exchange-traded products are adequate to manage agricultural risk and that agricultural trade options are likely merely to replicate those existing products but in a less safe environment. In this regard, the commenters stressed the higher likelihood of fraud occasioned by the unsophisticated nature of the possible counterparties to agricultural trade option transactions, the decentralized nature of the market, and the lack of regulatory oversight of possible agricultural trade option vendors. Several commenters also opined that, as a result of operating in a less regulated environment, agricultural trade options would enjoy an unfair competitive advantage over exchange-traded instruments, thereby adversely affecting exchange liquidity. Others expressed the concern that problems arising as a consequence of the less regulated environment for the trading of agricultural trade options could damage public confidence in all risk management products, including exchange-traded instruments. A final concern expressed by several commenters was that lifting the prohibition on agricultural trade options will advantage larger, more sophisticated agricultural companies over smaller, independent businesses, hastening a trend toward greater consolidation and concentration in agricultural markets.

Those commenters favoring lifting the prohibition on agricultural trade options generally expressed the view that recent developments in domestic and foreign agricultural markets have increased the need for agricultural trade options. In particular, several commenters noted that agricultural trade options already are being offered outside of the United States to the competitive advantage of foreign producers and agricultural businesses.

Other commenters noted that the recent removal of many of the long-standing government support programs may result in increased price uncertainty and volatility, thereby increasing the need for a variety of risk-management and marketing tools. In this regard, the Division staff in its study noted that the overall impact of the Federal Agricultural Improvement and Reform Act of 1996 likely will be to leave farm incomes more exposed to changes in market prices and that in response to these changes "new risk management tools are being developed, a trend which is likely to continue." [15]

The greater interest by some segments of the agricultural sector in managing risks that was noted in the Division's study is also reflected in many of the comments. Several commenters who favor lifting the ban generally noted that the increasing size and complexity of producers' operations also have given rise to the need for more innovative and flexible risk management products. For example, one commenter noted that:

> All facets of agricultural production whether grain, cotton, fruits, vegetables or livestock are becoming more specialized and targeted toward niche markets. Producing for these markets often requires a greater degree of coordination and long-term commitment between the producer and processor. Having the flexibility to write marketing contracts that are now banned would be of great benefit in facilitating the coordination required.

These rapid and profound changes taking place in these markets are a key factor in the Commission's determination to propose these rules. [16]

In addition to the written comments, the Commission received oral comments during two public field meetings at which members of the public had an opportunity to address the Commission and to answer its questions regarding these issues. One of the meetings was held in Bloomington, IL, and the other was held in Memphis, TN. A third informational meeting was held in conjunction with a general membership meeting of the National Cattlemen's Beef Association. Transcripts of the proceedings at all three events were included in the Commission's comment file and are available through the Commission's internet web site. Generally, the participants in these meetings reflected the range of views expressed in the written comments and were likewise equally divided in their support or opposition to lifting the prohibition on agricultural trade options.

III. The Proposed Rules

A. Three-Year Pilot Program

Based upon the analysis in the Division's study and the comments filed in response to the advance notice, including the comments presented to the Commission during its field meetings, the Commission is proposing to promulgate rules establishing a pilot program to permit the offer and sale of trade options subject to a number of strict regulatory conditions. Many commenters expressed the view that the potential risk of permitting trade options clearly outweighed any benefit which they might provide. These commenters, however, typically assumed that agricultural trade options would be offered under the same level of regulation currently applicable to other trade options. [17] An approximately equal number of commenters expressed the view that the prohibition on trade options should be lifted, particularly in response to the new challenges agriculture faces as a result of changes in government programs. Nevertheless, the vast majority of commenters, both those favoring and opposing lifting the prohibition of agricultural trade options, urged caution.

The Commission successfully permitted the reintroduction of exchange-traded options under a three-year pilot program after their nearly half-century ban. *See*, 46 FR 54500 (November 13, 1981). Many at that time expressed concerns similar to those expressed in connection with the Commission's consideration of lifting the prohibition on agricultural trade options. The Commission determined that a pilot program best addressed those concerns, permitting the introduction of exchange-traded options subject to strict regulatory controls. By structuring its action as a pilot program, the Commission was able to test the efficacy of its regulations and to adjust them as experience warranted. The use of a pilot program proved to be a highly successful means of reintroducing exchange-traded options. Today, those markets constitute an important part of the futures industry. [18]

Based upon that successful experience, the Commission is proposing to lift the ban on agricultural trade options under a similarly structured pilot program. As under the previous pilot options program, the program being proposed for agricultural trade options will run for three years. During that time the Commission will closely monitor the efficacy of its rules and their implementation by the industry. Although the Commission currently intends that the rules promulgated by the Commission under the pilot program will remain in effect at the termination of the pilot program, it will amend them as experience warrants. [19]

During the course of the pilot program, the Commission anticipates that it will direct the Division to conduct at least two reviews of trading experience. The conduct of such reviews may require the issuance by the Division of industry-wide special calls for information from agricultural trade option vendors. Such information requests, although used sparingly, were an integral part of the Commission's successful monitoring of the prior pilot program and can be expected in connection with the Commission's evaluation of the relative success of this pilot program as well.

B. Overall Structure of Proposed Rules

The advance notice identified a number of risks associated with lifting the prohibition on options on the enumerated agricultural commodities and the possible regulatory responses to those risks, ranging from little or few regulatory protections to the full panoply of protections mirroring those that are applicable to exchange-traded options. It also identified likely immediate uses for trade options on these commodities and a number of more theoretical possible uses. In proposing the structure for this pilot program, the Commission determined to include within the pilot program initially those forms of trade options the terms of which are likely to be most widely understood and which are closest to current cash market practices. Accordingly, the Commission is proposing to lift the trade option ban on enumerated agricultural commodities for physically-settled contracts between commercial parties in the normal merchandising chain for the underlying commodity. Exercise of an option between these parties would involve the delivery of the underlying commodity from one party to the other either by immediate transfer of title to the commodity or by transfer of a forward contract commitment.

Since at least 1985, when the Commission's General Counsel issued an interpretative statement entitled, "Characteristics Distinguishing Cash and Forward Contracts and 'Trade' Options," 50 FR 39656 (September 30, 1985) (1985 OGC Interpretation), there has been wide understanding that one form of trade option prohibited by the ban involved a transaction whereby a producer, in return for payment of a premium, would have the right but not the obligation to deliver his crop to an elevator at the specified price. The producer would have the choice to deliver the commodity elsewhere or at the original elevator for a higher price. [20] In addition to being commonly understood, this form of trade option is a logical extension of other, permitted cash market practices. [21]

Option contracts can be used for a variety of purposes depending on the structure and settlement characteristics of a particular contract and the nature of the option customer's cash market commitments or position. Upon exercise, options can settle either by physical delivery of the underlying commodity or by cash payment. Cash-settled options upon exercise result only in the exchange of cash; a separate marketing arrangement is necessary to merchandize the underlying commodity. In this respect, because they are distinct from marketing contracts, cash-settled options bear a resemblance to exchange-traded contracts. In contrast, upon exercise of a physical delivery option, the purchaser of a put or the seller of a call actually delivers the underlying commodity to the counterparty. Thus, like a forward contract, a physical delivery trade option can be used as a means of merchandizing the commodity. [22]

Commenters suggested a number of additional reasons for inclusion of physical delivery options within the pilot program. Several commenters opined that one of the primary benefits of agricultural trade options will be to permit producers to enter into such agreements directly with those with whom they share trusted cash market business relationships. A second often suggested benefit of agricultural trade options is the producer's ability to enter into enhanced forms of merchandizing agreements. Several commenters, for example, expressed the desirability of being able to enter into option contracts that would give them the right but not the obligation to deliver on the contract. Such individual could "walk away" from delivery to avoid the purchase or sale of the commodity at too high or low a price during a production shortfall or for any other reason. The ability to avoid delivery in the case of a production shortfall, in the view of these commenters, would allow producers to contract (through options) for a higher percentage of their expected production. Including first handlers of the commodity underlying agricultural trade options within the pilot program and including all physical delivery agricultural trade options as eligible for the pilot program would allow producers to achieve these benefits.

Several commenters registered their concern that, if permitted, trade options would merely replicate exchange-traded options in all respects, but in a less-regulated environment. They argued that on that basis the risks associated with trade options do not outweigh their potential benefits. Physical delivery trade options, however, will not simply replicate exchange-traded instruments. As noted above, physically-settled trade options offer the opportunity to combine a marketing and risk management tool. In this respect, physical delivery trade options on the enumerated commodities would be similar in character to forward contracts in that each would be an individually

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[15] *See* the Division's study at pp. 23–24, 28.

[16] *Id.* at p. 31.

[17] Currently, trade options and those offering them are subject only to regulations regarding fraud. *See*, 17 CFR 32.4.

[18] Overall year-to-date volume through July 1997 for exchange-traded futures and option contracts is 314,088,673 contracts. Of the total number of contracts traded, approximately 20 percent are option contracts.

[19] In this regard, the Commission anticipates that, if it promulgates final rules, it will promulgate them as "interim final rules," denoting its intention to revisit them three years after implementation. It is not proposing to limit the time during which the rules will remain effective in order to avoid issues of contracts extending beyond the three-year period. Instead, it will evaluate the efficacy of the interim final rules at the conclusion of the pilot program and reissue them if amendments are needed. Any such amendments would not affect the validity of contracts entered into prior to the issuance of such amendments.

[20] The 1985 OGC Interpretation described this form of trade option as a contract that "establishes a minimum contract price determined when the contract is written, and [for which] a premium is collected, either at the initiation of the contract, during the life of the contract or, together with interest accumulated over the life of the contract, at the time of settlement. In return for the premium, the producer has the right to require the merchant to accept delivery of and pay a minimum contract price for the crop. However, the producer may forfeit the premium and seek a higher price for, and deliver, the crop elsewhere." 50 FR 39656, 39660.

[21] For example, the same 1985 OGC interpretation discussed two other examples of delivery contracts having minimum price characteristics, finding them to be within the forward contract exclusion of the Act. Section 1a(11) of the Act, the forward contract exclusion, provides that futures contracts which are regulated under the Act do "not include any sale of any cash commodity for deferred shipment or delivery." These two contracts, although having some option pricing characteristics, were determined to be forward contracts because, unlike option contracts, they were intended to be a means of merchandizing the commodity, obligating the parties to the contract to make or take delivery. 50 FR 39660.

[22] This is not to suggest that the pay-out characteristics of forwards and futures resemble those of physically-delivered or cash-settled options, respectively. To the contrary, futures and forwards share a similar risk/return profile which differs markedly from the risk/return profile shared by all options. Rather, the resemblance between forwards and physical-delivery options is the ease of their use as a form of marketing arrangement that can also be used to hedge price risk.

For those not wishing to combine a merchandizing arrangement with a risk-management function, cash-settled options offer greater settlement ease. This is true whether settlement is a result of the option's offset or its exercise.

negotiated contract involving, if exercised, the merchandising of the commodity through normal marketing channels. This potential additional cash market function [23] of physical delivery trade options argues in favor of their inclusion under the pilot program.

After having determined, for the above reasons, that trade options between counterparties in normal cash market channels requiring physical delivery are appropriate for inclusion within the pilot option program, the Commission has matched the level of regulation being proposed to the risks associated with those instruments. Not only is this approach intended to strike the appropriate balance of regulation of the instruments included within the pilot program, but it provides a solid foundation for analyzing and comparing the regulatory approaches which should be applied in the future when considering other possible uses of trade options. Accordingly, were the Commission to propose to permit additional forms of trade options, it would re-examine the adequacy of the proposed regulatory provisions of the pilot program. The major components of the proposed regulations governing the pilot option program are as follows: regulation of agricultural trade option vendors, including net capital, recordkeeping and streamlined registration, and proficiency testing requirements; required risk disclosure to option customers; and several restrictions on the market strategies or contract structure. These proposed components of the pilot regulations are discussed below.

C. Regulation of Agricultural Trade Option Merchants

A primary regulatory protection of the pilot program is its restriction of option counterparties to agricultural commercial participants. Thus, agricultural trade option vendors—those persons or entities engaged in the business of the offer or sale of agricultural trade options—as a matter of course, will be businesses active in agricultural cash markets. Agricultural trade option vendors, by virtue of their cash market operations, should have achieved some level of financial soundness and proficiency with respect to risk management strategies. In addition, the Commission is proposing streamlined or targeted requirements relating to agricultural trade option vendors' financial soundness, competency, and probity, including the requirement that such vendors be registered with the Commission under the new registration category of "agricultural trade option merchant."

1. Net Asset and Other Financial Requirements

By their nature, agricultural trade options, like all commodity futures or option instruments, involve risk, particularly the risk arising from the need for performance at a future date by the counterparty to the contract. Typically, the greatest financial risk assumed by an option purchaser is credit risk. Credit risk is the risk that the seller of the option may fail to perform on the obligation if the purchaser chooses to exercise the option contract. In the event of such nonperformance, the option purchaser stands to lose the option premium if it has already been paid plus any opportunity gain that would have been achieved if the option were exercised.[24]

In an exchange environment, the clearinghouse and regulations requiring minimum net capital for market intermediaries reduce counterparty credit risk. Off-exchange transactions do not have the safety of the clearinghouse to reduce credit risk. In an off-exchange environment, counterparties can take a variety of steps to help assure that a counterparty is able to perform and performs on its obligation. Sophisticated counterparties may have the means formally to evaluate the creditworthiness of their counterparties. They also may require the posting of collateral or a third party guarantee. Less sophisticated counterparties may simply rely on trust, choosing to deal only with known counterparties with whom they have ongoing business relationships. Another approach to enhancing an agricultural trade option merchant's ability to perform on a trade option is to require the merchant to manage the market risk of trade options through exchange-traded options.

Because many agricultural trade option customers will not have the resources to conduct formal creditworthiness evaluations of their counterparties, some degree of regulatory financial protections are desirable. Accordingly, the Commission is proposing a requirement that agricultural trade option merchants maintain a minimum level of net worth. In addition, the Commission is proposing that agricultural trade option merchants segregate from their own funds premiums paid by customers at initiation of an option contract. The Commission, however, is not proposing specific forms of covering the agricultural trade option merchant's market exposure.

a. Net Worth. Minimum financial requirements have been used by government regulators to establish a base level for entry or access to a market by individuals and companies. Such requirements are intended to assure that companies or entities conducting business offer some assurance of having the financial wherewithal to perform on their obligations. The Commission places minimum financial requirements on futures commission merchants (FCMs) and introducing brokers (IBs) as a condition of registration with the Commission. The United States Department of Agriculture (USDA) and various states impose minimum financial requirements in the cash grain markets on federally-licensed grain warehouses.[25]

Although many commenters favored minimum financial requirements,[26] others opposed them on the grounds that such minimum financial requirements would exclude smaller entities from the agricultural trade option business, possibly accelerating a trend to greater concentration in cash grain markets. Some commenters argued that the financial requirements currently imposed by the various states would be sufficient to foster financial integrity in the trade option markets. However, not all states have minimum financial requirements for those involved in the cash trade, and the requirements of those that do vary widely. Accordingly, the Commission believes that a common federal minimum standard should apply to all those involved in the business of offering agricultural trade options, regardless of geographic location or the agricultural commodity.

Accordingly, the Commission is proposing that agricultural trade option merchants, as a condition for offering such contracts, have and maintain a minimum of $50,000 of net worth.[27] This requirement corresponds to the overall minimum financial requirement established by USDA as a condition of obtaining a federal grain warehouse license. The Commission is proposing this minimum net asset level based upon the observation that these warehouses already enter into forward contracts as part of their cash business and that the USDA requirement appears to have been adequate. As noted above, the physical delivery agricultural trade options being included under the pilot program are similar in nature to forward contracts, including the financial risk to the warehouse or other first handler.[28]

As noted above, the proposed net asset requirement is ongoing in nature. Accordingly, agricultural trade option merchants would be required to maintain the specified level of net worth in order to enter into new trade option contracts and to notify the Commission at any time if they have fallen below prescribed levels. The Commission is also proposing that agricultural trade option merchants be required to perform a reconciliation of their financial position at least monthly to determine compliance with this requirement.[29]

Because agricultural trade option merchants are primarily engaged in a cash market business, this proposed rule does not require them to change accounting procedures to conform to specific Commission accounting requirements, provided they use "fair value" accounting under generally-accepted accounting principles.[30] It is the Commission's understanding that this accounting method is used by most firms in the cash market business.

b. Segregation of Customer Premiums. The Commission is proposing an additional financial protection—requiring that agricultural trade option merchants segregate customer premiums from their own capital. The advance notice noted the potential financial and regulatory concerns which arise from the asymmetric credit risk of option contracts. That asymmetry exists when the party purchasing the option pays the cost of the option—the option premium—in advance of the counterparty's having to perform on its obligation.[31] The purchaser then faces the risk that the seller of the option might fail to perform on the contract, if exercised. Under such circumstances, not only does the option purchaser lose the opportunity gain that would have been realized through the exercise of the option, but also would be subject to the out-of-pocket loss of the option premium. This is in contrast to forward contracts, where both parties have reciprocal obligations and neither makes a payment in advance of performance. The ability to collect an up-front payment of premiums may also give merchants an incentive to sell options in order to generate option premiums for immediate use as operating funds.

In order better to safeguard customers' up-front premium payments and to discourage the writing of trade options in order to generate immediate operating funds by a firm experiencing financial difficulties, the Commission is proposing that option premiums be held in segregation while an option contract is open, and that option premiums not be available to the agricultural trade option merchant for use in its business during the period an option is open. The Commission is proposing that the premium associated with an option must be separately accounted for and segregated in an account held for the benefit of option customers. Such funds, when deposited in a bank, trust company, or other financial institution, must be deposited under an account name which clearly identifies them as segregated customer funds and shows that they are segregated as required by Commission regulations.

c. Cover of Market Risk. The advance notice posed several specific questions relating to whether the Commission should require that agricultural trade option merchants cover the market risk of the agricultural trade options which

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[23] Although, as discussed below, the Commission also is proposing to permit exchanges greater flexibility in offering agricultural options, physical-delivery trade options entered into between those who have a cash-market relationship are apt to be different in nature than exchange-traded contracts—that is, they are more likely to be more highly customized, including calling for delivery at widely scattered facilities.

[24] For example, consider the case of a producer who had paid a premium of $.10 per bushel for a put option giving him the right to sell corn at a price of $2.80 per bushel. At harvest the price of corn is $2.70 per bushel, and the producer decides to exercise the option. If the option seller defaults on the contract, the producer stands to lose the $.10 per bushel paid for the option. In addition the producer loses the opportunity to sell corn at $2.80 per bushel, instead having to accept the market price of corn at $2.70 per bushel.

[25] A number of states require entities to meet a specified net worth requirement as a condition of obtaining a state grain warehouse's or grain dealer's license. The minimum net worth requirements range up to a minimum of $50,000 in Illinois. Some states also require that grain warehouses obtain a surety bond and have established indemnity funds to offset producer losses on grain stored in warehouses. Such indemnity funds, depending upon the state, are funded either by the producers or the elevators. For example, the indemnity fund in Illinois is funded by grain elevator contributions, while in Indiana producers contribute to the fund.

[26] Of those favoring minimum financial requirements, some specifically suggested that trade option vendors be required to meet the same financial requirements currently applicable to FCMs and IBs.

[27] The minimum net worth requirement, as proposed, is a continuing requirement. If an agricultural trade option merchant's net worth falls below this amount, the merchant would not be permitted to offer to buy or to sell additional trade options until coming into compliance with the requirement. Moreover, in such a situation the agricultural trade option merchant must immediately cease offering or entering into new option transactions and must notify customers having premiums which the agricultural trade option merchant is holding under § 32.13(a)(4) of the proposed rules that such customers can obtain an immediate refund of that premium amount, thereby closing the option position.

[28] That is not to suggest that the risks to the first handler are precisely the same between trade options and forward contracts. In the case of options, the first handler is not assured of actually receiving delivery of the commodity in contrast to a forward contract. However, the means available to the first handler to cover the financial risk of the transactions are similar.

[29] At least three commenters urged that daily mark-to-market of all positions should be required. The Commission is not proposing this requirement at the current time, although that is certainly the best practice and should be encouraged.

Under the proposed rules, agricultural trade option contracts can be exercised only by delivery and cannot be purchased back, resold or otherwise offset before the expiration of the contracts. While the net value of an agricultural trade option merchant's option position will fluctuate on a daily basis, the option contracts themselves will tend to be long term commitments similar to forward contracts. In this respect, an agricultural trade option merchant will not be faced with the daily potential of large shifts in its option position due to rapid changes in market prices. Moreover, the price risk to the agricultural trade option merchant of an unhedged option position will be similar to that of an unhedged forward contract position. For example, elevators selling unhedged put options to producers face the risk that prices fall, thereby resulting in the elevator purchasing a commodity at a relatively high price when producers exercise their options. This is the same risk faced by an elevator entering into unhedged forward contracts.

Because of the similarities in long-term price risk between the options which can be offered under the proposed rule and forward contracts, the availability of hedging tools and the expectation that agricultural trade option merchants will hedge their option positions in a manner similar to their forward contract positions and because of varying levels of sophistication among those who may be involved in offering agricultural trade options, the Commission is not now proposing a daily net worth calculation. Nonetheless, the Commission seeks comments on this issue, asking commenters to focus in particular on the needed sophistication of potential agricultural trade option merchants to mark assets and liabilities to market on a daily basis, whether daily marking-to-market is desirable or necessary in light of the long-term nature of the option positions and whether current standards used by these entities in operating in forward markets are sufficient for operating in the market for physical options given the similarity in the risks faced by the merchants.

[30] The Commission believes that the guidance provided in the American Institute of Certified Public Accountant's Audit and Accounting Guide, entitled, "Brokers and Dealers in Securities," provides the relevant guidance which should be followed in connection with assigning a fair value to agricultural trade options. It states: "Under generally accepted accounting principles, fair value is measured in a variety of ways depending on the nature of the instrument and the manner in which it is traded. Many financial instruments are publicly traded, and end-of-day market quotations are readily available. Quoted market prices, if available, are the best evidence of the fair value of a financial instrument. If quoted market prices are not available, management's best estimate of fair value should be based on the consistent application of a variety of factors available to management." A complete discussion of the factors is provided in the audit guide.

[31] Generally producers have used forward contracts as a means of hedging price risk (in addition to merchandising the commodity), obviating the need for the producer to maintain a futures position or incur out-of-pocket expenses. Under this arrangement, the elevator generally covers the price risk of the forward contract by entering into a futures position and paying the required margin obligations on the position. The elevator may then recoup this cost implicitly. To the extent first handlers structure agricultural trade options in this manner as well, there will be no up-front payment, and no funds will be segregated. Of course, because under a trade option a producer may elect not to deliver the commodity, the elevator would be expected to establish some other means of recovering the cost of the option premium if it is not paid up front.

they write. One commenter, a futures exchange, suggested that the Commission require that agricultural trade option merchants be required to cover the market risk of their trade options one-for-one with exchange-traded options. Other commenters, however, disagreed, pointing out that agricultural trade options may be offered for commodities in which there is no actively-traded exchange market or may be written for a form, grade, expiration, or delivery location not provided under exchange-traded instruments. In such instances, a one-to-one cover requirement using exchange-traded instruments may be economically inefficient or impossible.

In general, it is the Commission's view that the market risks faced by entities offering trade option contracts will be similar to those currently associated with the offer of forward contracts. For example, an elevator entering into a forward contract to purchase grain from a producer faces the risk that the price of grain at the time of delivery will be lower than the contract price, requiring the elevator to pay the producer a higher price than the elevator can obtain when it resells that grain. Balancing this risk is the possibility that prices will rise making the contract price relatively cheap. Elevators may choose to bear this risk, chancing the fall in cash prices against the opportunity to profit if cash prices rise, or they may offset the market exposure of rising prices by selling a futures contract on one of the futures exchanges.

An elevator selling a put option to a producer faces similar market risk as one entering a forward contract; that is, that spot market prices will be lower than the price at which the option is exercised. As with forward contracts, the elevator may choose to bear the market risk or to cover the market risk by purchasing an exchange-traded put option. Whether or not the elevator chooses to bear the market risk associated with the trade option, however, it always receives the premium from the producer regardless of whether prices rise or fall.

The Commission assumes that current cover practices common to forward contracting will be applied to agricultural trade options. The Commission is aware of no reason why those offering trade option contracts would be any less likely to cover market exposure on trade option contracts than is currently the case with those offering forward contracts. In light of the similarities of such option contracts to forward contracts as discussed above, the Commission is of the view that elevators can determine individually the manner in which they will cover their exposure to market risk, if at all.

2. Probity and Competency Requirements for Agricultural Trade Option Merchants

a. Registration. Registration of commodity professionals is an important means by which the Commission polices the futures and option industry and is the primary mechanism for reassuring the public of the futures professional's probity and proficiency.[32] Registration is an indisputably important safeguard to the public and will be critically important in the decentralized market permitted under the pilot program. However, the offer and sale of trade options will be a complement to the first-handler's existing cash market businesses, to some extent offsetting the need for extensive registration requirements. Accordingly, the Commission is proposing that those engaged in the business of the offer and sale of agricultural trade options must register under the new registration category of "agricultural trade option merchant." The Commission is proposing a streamlined form of registration covering both the agricultural trade option merchant as an entity and its authorized sales force.[33]

The streamlined registration requirement being proposed consists of the single filing of a form identifying the agricultural trade option merchant, its principals (if the agricultural trade option merchant is an entity), and on separate pages, information identifying its sales agents, a certification that none of the individuals is statutorily disqualified from engaging in a commodity-related business under the statutory disqualification provisions of section 8a(2) or 8a(3) of the Act, a set of fingerprints for each individual, a copy of the entity's certified financial statements completed within the prior 12 months, and evidence that individuals have completed successfully a proficiency test specifically geared toward agricultural trade options. Amendments of such registration applications for new associated persons can be filed as necessary.

The Commission is seeking comment on whether this registration function should be delegated to the National Futures Association (NFA). NFA has been delegated responsibility by the Commission to administer the registration procedures for all futures industry professionals. The possible delegation to NFA of responsibility for processing the registration applications of agricultural trade option merchants would be consistent with this practice and, should NFA agree to accept this responsibility, this delegation would conserve Commission resources, as well.

b. Competency Testing. A second important customer protection is competency testing of futures professionals. Because agricultural trade option merchants will not be engaged in other facets of futures and option sales, the series 3 examination which is generally required for futures professionals would not be necessary. Accordingly, the Commission is proposing that a specialized examination targeted at agricultural trade options be developed.[34] The Commission, as it has with all other similar testing programs, proposes to delegate this testing function to the NFA. In light of the proposed competency test for agricultural trade option merchants, the Commission is not proposing an explicit educational requirement. Successful completion of this targeted examination would evidence proficiency in those areas relevant to the offer and sale of agricultural trade options.[35]

[32] In this regard, by virtue of the required registration of their counterparty as agricultural trade option merchants, customers will have available to them under section 14 of the Act the Commission's reparations program for the resolution of disputes arising under agricultural trade option contracts. As proposed, customers will be apprised of this right in the disclosure document.

[33] The Commission has not proposed to permit FCMs to substitute FCM registration for registration as an agricultural trade option merchant based on the assumption that few, if any, FCMs would qualify to be an agricultural trade option merchant by virtue of the requirement that such entities also be a commercial user of the underlying commodity. The Commission requests comment on whether this assumption is not correct and, if so, whether registration as an FCM should be permitted in lieu of registration as an agricultural trade option merchant. The Commission also requests comment on whether Commission rule 1.10 should be amended to permit FCMs to conduct such a business.

[34] Although agricultural trade option merchants would only be required to pass the more specialized agricultural trade option examination, passing the series 3 examination would also be acceptable as a condition of registration.

[35] Many commenters opposed mandatory educational requirements for either agricultural trade option merchants or customers. The Commission is of the view that customers have the right to expect that such merchants and their sales forces will have successfully demonstrated mastery of the issues relevant to the offer or sale of these instruments. Although the Commission is not proposing an educational requirement for customers, it strongly urges private sector organizations to provide a variety of means of fulfilling this need. The success of the pilot program will depend, in part, on the success of various organizations in educating potential trade option customers. In this regard, a participant at the Commission's open meeting in Memphis, Tennessee, representing the National Grain and Feed Association stressed her organization's commitment to these efforts.

c. Ethics Training Requirement. The final protection relating to both probity and competency is the ethics training requirement applicable to all Commission registrants. A few commenters expressed concern that without this requirement, if the prohibition on agricultural trade options were lifted, regulatory oversight of agricultural trade option merchants could be inadequate. The Commission carefully considered what degree of ethical instruction would be necessary and appropriate for registered agricultural trade option merchants and is proposing to apply to agricultural trade option merchants the same mandatory ethical training requirements currently required by the Act for all other registrants. See, 17 CFR 3.34.[36]

Under this requirement, Commission registrants are required to attend ethics training within six months of being granted registration and, thereafter, every three years. This ethics training must be at least four hours in duration for the initial session and one hour in duration for subsequent periodic sessions. Training is available from a variety of sources and can be undertaken through videotape, computer programs, or other similar means, in addition to attendance in person. See, 17 CFR 3.34(b)(3)(iii). These requirements apply equally to all Commission registrants and are being proposed to apply to agricultural trade option merchants as well.[37]

D. Restrictions on the Instruments or Market Strategies

The Commission posed a series of questions in the advance notice related to restrictions on the use of option contracts by various parties. In particular, the Commission asked whether it would be appropriate under a trade option exemption for producers to write covered calls and whether agricultural trade options should be permitted to be bundled to create risk-return payouts different from a simple put or call.

Several commenters expressed the opinion that option customers should have unfettered freedom over the types of options available and the manner of their use, ceding only the restriction that trade options should be related to a business purpose. Others, however, expressed concern that more complex instruments or trading strategies might lead to high levels of fraud and abuse. Although many of these commenters favored a continuance of the prohibition as the remedy, their concern over fraud and abuse was shared by many commenters who favored lifting the prohibition. These commenters accepted the wisdom of some limitations or conditions on the types of options and trading strategies that might be used, particularly in connection with a pilot program.

The Commission remains concerned that, in lifting the prohibition on agricultural trade options, it not also open the door to fraudulent dealing. Although additional risk management instruments may assist the agricultural sector in meeting the new challenges which it faces, opening up this long-restricted market to all types of options may unnecessarily expose participants to abuse. In order to balance these concerns, the Commission is proposing several limitations on the structure of option contracts and on permitted trading strategies or uses. First, the Commission is proposing a prohibition on the writing of covered call options by producers. Covered call options are short call positions written by an individual who has a long position in the underlying commodity. The option is covered in the sense that, if the option is exercised, the writer of the option has the commodity in his or her possession to deliver on the contract. While an individual writing a covered call has limited risk in the sense that he or she possesses a commodity which can be delivered against the option contract, the call does not provide downside price risk protection on the long commodity position except to the extent that a premium has been paid by the purchaser. Moreover, the short call caps any gains that the producer might earn on the long commodity position. Although such a strategy may be appropriate in certain instances, it is susceptible to abuse to the extent that producers do not appreciate the extent to which downside price protection and upside pricing potential is surrendered for a premium payment and is not appropriate for inclusion in the pilot program. It is also the Commission's opinion that the writing of put options by agricultural producers is not an appropriate business-related use of options. The Commission, therefore, is proposing a prohibition on the writing of such options.

However, trade option customers would be permitted to enter into options that simultaneously combine long put and short call option positions only to the extent that the size of the delivery quantity associated with the short call option position does not exceed the size of the delivery quantity associated with the long put option position. Thus, for example, an agricultural trade option could give the producer the right to deliver 5,000 bushels of corn at harvest time at a price of $2.50 per bushel and the elevator the right to call for the delivery of 5,000 bushels at $3.00 per bushel. Under such an option, if at harvest time the price of corn was below $2.50, the producer would exercise the option to deliver the 5,000 bushels of corn at $2.50 per bushel. If, however, the price of corn was above $3.00 per bushel, the elevator would exercise its option to call for the delivery of 5,000 bushels of corn at $3.00 per bushel. If the price of corn was between $2.50 and $3.00, it would not be economically rational for either party to call for or to make delivery of corn. In this example, the producer has purchased a put option from the elevator for 5,000 bushels of corn with a strike price of $2.50 per bushel. The producer has also sold a call option to the elevator for 5,000 bushels of corn at a strike price of $3.00. This transaction would be permissible under the proposed restriction that the delivery amount of the short call option portion of the contract cannot exceed the delivery amount of the long put option. However, the elevator could not obtain the right to call for the delivery of more than 5,000 bushels of corn. Moreover, the Commission is proposing that under no circumstances would a producer be permitted to write a put option, even if such option was combined with a long call option.

In addition, the Commission is proposing to limit the termination and reestablishment of agricultural trade option positions. Some commenters expressed the view that agricultural trade options should not be used as a means to speculate in commodities. One manner in which speculation might be possible would be to move into and out of trade option positions based on updated predictions of expected price moves. Although some commenters argued that such strategies could enhance the price of the commodity being merchandised, the ultimate success of such a strategy would depend upon one's ability accurately to foresee

[36] In 1992, section 210 of the Futures Trading Practice Act of 1992 (FTPA) amended section 4p of the Act to mandate ethics training for persons required to be registered under the Act. On April 15, 1993, the Commission adopted regulation 3.34 to implement the requirements of FTPA section 210. 58 FR 19575. Commission regulation 3.34 requires natural persons registered under the Act to attend ethics training to ensure that they understand their responsibilities to the public under the Act.

[37] Those functions relating to ethics training delegated to NFA for all Commission registrants will also be proposed to be delegated to NFA for agricultural trade option merchants.

futura price movements. Limiting the ability to enter and exit trade option contracts is consistent with the Commission's desire to include within the pilot program those trade options which are closest in nature to forward contracts, contracts for which offset is not permitted. Thus, the Commission is proposing that, once a trade option contract is purchased or sold, that position cannot be offset prior to expiration.

E. Risk Disclosure, Required Contract Terms and Required Account Information

1. Risk Disclosure Statements

The Commission in its advance notice noted that required risk disclosures are a customer protection generally used in the regulation of futures and option trading and requested comment on whether, and in what form, risk disclosure should be required if the prohibition on agricultural trade options were lifted. The majority of the commenters responding to these questions agreed that mandated written risk disclosure would be appropriate, but varied in their view of the degree of detail which should be required. Some commenters suggested that the mandated risk disclosure statement should disclose all financial risks, including a description of worst possible scenarios. Others were of the view that a more general statement of risk would be sufficient.

The Commission is of the view that a mandatory written risk disclosure statement for agricultural trade options is necessary and appropriate. Such a written statement is essential to ensuring that trade option customers receive knowledge of and understand the risks involved in entering into such transactions. Because of the current ban on agricultural trade options, customers initially will have had no experience using such instruments. Moreover, agricultural trade options may attract customers with little or no experience trading on designated futures or option markets. In light of this, the risk disclosure statement being proposed by the Commission addresses the full range of risks that were identified in the Division's study. This disclosure statement has two parts. The general disclosure is brief and is intended to cause a customer to ask additional questions of the agricultural trade option merchant or to seek additional information from other sources, as necessary. For example, the Commission is proposing that the disclosure statement include mandatory language regarding the requirement that trade options must be entered into in connection with the conduct of the business of the agricultural trade option merchant and its customers. This discussion would also provide producers in particular with guidance regarding prudent, business-related uses of trade options.

In addition, a transaction-specific portion of the disclosure is designed to provide specific information relating to the terms of a particular transaction. In this portion of the disclosure statement, the Commission is proposing to require that, where the full option premium or purchase price of the option is not collected up front or where through amendments to the option contract it is possible to lose more than the amount of the initial premium, the agricultural trade option merchant must disclose the worst possible financial outcome that could be suffered by the customer. In this regard, the provision of the mandatory risk disclosure statement will not relieve the agricultural trade option merchant of the responsibility to avoid material misstatements or omissions or any other form of fraudulent misconduct. This Commission and the courts have repeatedly stated that provision of a mandatory risk disclosure statement will not necessarily cure what is otherwise fraud. *See, e.g., Clayton Brokerage Co.* v. *Commodity Futures Trading Commission*, 794 F.2d 573, 580–581 (11th Cir. 1986). In particular, agricultural trade option merchants may need to make such additional disclosures as necessary in light of all the particular circumstances, including the nature of the instrument and the customer.

The Commission is proposing that the full disclosure statement must be delivered to the customer prior to the customer's first transaction with the particular agricultural trade option merchant, as is customary with respect to current practice in futures and option trading. In subsequent transactions, only the transaction-specific portion need be provided. The Commission is requesting comment on whether this requirement should allow its fulfillment through electronic media. Moreover, the agricultural trade option merchant must retain a written acknowledgment which has been signed and dated by the customer evidencing receipt of the disclosure statement by the customer.

2. Required Contract Terms

In addition to delivery of the required disclosure statement, the Commission is also proposing to require that the option contract itself (a) be written and (b) contain certain specified provisions. Generally, the terms of designated futures and option contracts are contained in the rules of an exchange, which under the Act are required to be approved by the Commission. In the case of trade options, like forward contracts, the particular terms are left to individual negotiation between the counterparties. However, in connection with its issuance of guidance relating to "hedge-to-arrive" contracts, CFTC Interpretative Letter No. 96–41, Comm. Fut. L. Rep. ¶ 26,091 (May 15, 1996), the Division observed that such contracts often contained few or insufficiently expressed terms and conditions. The lack of written terms and conditions in these contracts led to widespread disagreement among parties over the terms of the instruments, complicating the resolution of various issues. To reduce the chance for disputes over vaguely defined contract terms in connection with agricultural trade options, the Commission is proposing to require that the trade option contracts be written and include a number of specified terms. In particular, the Commission is proposing that such contracts must include terms specifying the procedure for exercise of the option contract, including the expiration date and latest time on that date for exercise; total quantity and grade of commodity to be delivered if the contract is exercised and any adjustments to price for deviations from stated quality or grade; listing of elements comprising the purchase price to be charged, including the premium, mark-ups on the premium, costs, fees, and other charges; the strike price(s) of the option contract; additional costs, if any, which may be incurred if the commodity option is exercised; and delivery location, if the contract is exercised.

An important means of safeguarding the public from abusive transactions is the requirement that transactions be confirmed in writing at the time of contract initiation. This provides the customer effective notice of the terms of the agreement, permitting the customer to object to transactions. Moreover, such a requirement likely would be beneficial to the merchant as well by providing an effective means of avoiding disputes over the terms initiating the transaction. The Commission, therefore, is proposing that agricultural trade option merchants provide trade confirmation and verification of information relating to specified contract terms within 24 hours of executing a contract. *See*, proposed § 32.13(a)(6).

3. Report of Account Information to Customers

The Commission is proposing that agricultural trade option merchants be required to furnish a monthly account statement to all customers with open option positions. This statement would include a complete listing of all individual agricultural trade option transactions entered into by the customer, all outstanding requests to enter into an agricultural trade option at the time of issuance of the statement, a current commodity price related to all open option positions or open orders held by the customer and the amounts of any funds owed by or to the customer related to the purchase or sale of option contracts or to the delivery of physical commodity related to the exercise of an option.

Agricultural trade option merchants will also be required to indicate clearly expiration dates of options and to highlight those options which will expire within the next month. This may be done by highlighting the expiration information on such account statements, by using boldface type for such information, by separating these contracts from other contracts on the account statement, or by listing contracts chronologically by expiration date or by some similar method. The Commission is proposing this requirement as a means to assist agricultural trade option customers in managing their option accounts. Even though agricultural trade options cannot be offset, it is important for customers to know the current status of their option contracts with respect to which options may be approaching expiration and whether options are in or out of the money.

In addition, the Commission is proposing to require that agricultural trade option merchants supply current commodity price quotes or other information relevant to an option customer's positions within 24 hours of a request. In the case of options that may be exercised at any time, it is important that customers obtain timely commodity price quotes in order to be able to make decisions regarding exercise of the options. Although the Commission anticipates that price information typically would be available immediately, other information might require the agricultural trade option merchant to search its records to obtain the requested information. The Commission believes that a 24-hour period should be sufficient to enable agricultural trade option merchants to retrieve the information and to respond to the customer.

F. Recordkeeping and Reporting Requirements

1. Required Books and Recordkeeping

The maintenance of full, complete, and systematic books and records by agricultural trade option merchants is crucial to the Commission's ability to respond to complaints of customer abuse arising from such transactions and is necessary to the agricultural trade option merchant's establishment of appropriate internal controls of their financial operations. Although most merchants will already have recordkeeping systems in place, the proposed pilot program for agricultural trade options involves a number of regulatory protections, such as furnishing customers with disclosure statements, which may require records which have not been customary for first handlers as part of their cash market businesses. Accordingly, the Commission is proposing to require that records relating to agricultural trade options including covering transactions must be kept and maintained for a period of five years and must be readily accessible during the first two years of that five-year period. *See*, 17 CFR 1.31.

Specifically, the Commission is proposing that trade option merchants be required to maintain full, complete, and systematic records of all agricultural trade option transactions. Such books and records should include all orders (filled, unfilled, or cancelled), books of record, journals, ledgers, cancelled checks, copies of all statements of purchase, exercise or lapse, and reports, letters, disclosure statements required by proposed § 32.13(a)(7), solicitation or advertising material or other such communications with agricultural trade option customers or potential customers. All such books and records must be kept for a period of five years from the date of their creation and must be readily accessible during the first two years of the five-year period. All such books and records must be open to inspection by any representative of the Commission or the U.S. Department of Justice or the NFA in connection with functions delegated to it.

2. Routine Reports

In addition to the maintenance of books and records, the Commission is proposing to require quarterly reporting by all agricultural trade option merchants of information relating to their agricultural trade option transactions. These reports are intended to enable the Commission to evaluate the success of the pilot program on an ongoing basis. The information required to be reported will enable the Commission to determine the overall size of the market, the types of contracts being offered, the costs to customers, the amount of commodity being merchandized through options, and the number of customers using trade options. Routine quarterly reporting from all agricultural trade option merchants also will permit the Commission to construct a more complete picture of the market and will better allow the Commission to evaluate the impact of activity in the trade option market on that in the cash and exchange-traded markets.

Specifically, the Commission is proposing that reports shall be filed quarterly by any registered agricultural trade option merchant having an open trade option contract during the reporting period. The Commission is proposing to delegate to the NFA responsibility for receiving and maintaining these reports. NFA will make the information in this data base available to the Commission upon request. Initially, the Commission anticipates that such reports may be filed manually, including by facsimile or electronically, by dial-up transmission or via the Internet. Commenters are requested specifically to address issues relating to the means of filing reports and their capability to file electronically.

3. Special Calls for Information

During the course of the pilot program, in addition to routine quarterly reports, the Commission anticipates that it will direct the Division to conduct two special calls for information from agricultural trade option merchants during the course of the pilot program. The Commission will use the information it gathers through these special calls to conduct a study to evaluate the success of the pilot program.

Under a special call, every agricultural trade option merchant will be required to provide the Commission with the information specified in the special call. Such information may include: (a) Positions and transactions in agricultural trade options; (b) positions and transactions in commodity options and/or futures on all contract markets entered to cover agricultural trade options; (c) positions and transactions in cash commodities, their products, and by-products and; (d) customer identification information. Such information may include the name, address, and position of each

customer of the agricultural trade option merchant. All agricultural trade option merchants should maintain a current listing of such customer identification information.[38]

G. Internal Controls

The Commission noted in the advance notice that generally requirements regarding internal controls are a condition of registration. These include the requirement that FCMs provide audited financial statements, have in place a system of internal controls, and supervise the conduct of all employees. The Commission also noted that many country elevators and others at the first-handler level of the marketing chain do not now have in place adequate internal controls to engage in a variety of off-exchange transactions nor are they subject to a regulatory scheme requiring such controls.[39]

The Commission posed a series of questions on this issue in the advance notice, asking specifically for comment on the minimum types of internal controls that an agricultural trade option merchant should have in place; the regulatory oversight mechanisms that would be necessary to assure implementation of such minimum levels of internal controls; and the most cost-effective means by which such internal controls could be implemented. Of the 13 commenters responding to these questions, the majority were of the opinion that, although prudent business practice necessitates use of internal controls, the Commission should not require them. Several commenters, however, supported Commission-mandated audits of agricultural trade option merchants. In this regard, one commenter, noting that state grain warehousing agencies may already require annual audits and that state and Federal warehouse regulators already visit every licensed grain dealer, suggested that the Commission consider developing audit procedures which existing agencies can implement on the Commission's behalf.

The Commission is proposing to mandate an internal controls requirement for agricultural trade option merchants similar to that applicable to FCMs. In mandating such a requirement, the Commission believes that agricultural trade option merchants will be made aware of the importance of maintaining internal controls without being subjected to regulations that are unduly burdensome. As proposed, agricultural trade option merchants will be required to be audited on a yearly basis in accordance with generally-accepted accounting principles and to inform the Commission within three business days of the discovery by a certified public accountant of any material inadequacies in the agricultural trade option merchant's internal controls. As proposed, the agricultural trade option merchant must file a written report with the Commission stating what steps have been taken or are being taken to correct the material inadequacy within five days of such a notification.

In addition, the Commission is proposing to require that the agricultural trade option merchant must maintain and preserve a written record of internal trading and supervisory controls. Such internal controls must include any systems and policies that the agricultural trade option merchant has for supervising, monitoring, reporting and reviewing trading activities in agricultural trade options, any policies it has for covering, hedging or managing risk created by trading activities, including a description of the reviews it conducts to monitor positions, and policies that relate to restrictions or limitations on trading activities.

H. Regulatory Oversight

Several commenters expressed the concern that the Commission would not be able to provide adequate regulatory oversight of trading in agricultural trade options. Specifically, commenters questioned whether the Commission's existing staff and financial resources would be sufficient to monitor trading activity effectively in such a decentralized market.

The Commission is proposing this three-year pilot program based, in part, on its belief that it will be joined in its efforts to promote a safe and responsible trading environment by many sectors of agriculture. During the Commission's public hearings, several producer associations and other agriculture industry associations pledged their assistance in promoting sound practices by both merchants and producers. The Commission has also determined to seek the assistance of NFA in undertaking responsibility for performing certain specified functions. These delegations should do much to aid the Commission in maintaining adequate levels of oversight, given its resource limitations. In addition, the various states and USDA conduct oversight of warehouses, and the Commission will cooperate with them in those efforts. The Commission will also devote an appropriate level of its resources to the conduct of sales practice audits and other forms of oversight.

In this regard, the Commission is seeking comment on the number of entities which may offer such contracts under the rules as proposed. Should this potentially create too large a burden on Commission resources, the Commission will explore additional delegations of oversight or other means of conserving its resources while providing adequate oversight coverage. The Commission is optimistic that, with these cooperative efforts, it will be able to foster the growth of responsible trading of agricultural trade options using its available resources and without harming existing programs or compromising its ability to achieve its overall regulatory mission. It would not proceed with the pilot program if it thought otherwise.

I. Exemption for Sophisticated Entities

Some commenters expressed the opinion that the prohibition on agricultural trade options should be lifted with few or no constraints. These commenters maintained that participants in these markets possess sufficient sophistication with respect to contracting so as not to require regulatory oversight. The agricultural sector, however, includes a diverse group of entities with different levels of sophistication, ranging from the small family farmer to highly sophisticated multinational corporations. Although any one of these individuals or entities might be entirely capable of understanding and managing the risks associated with entering into a trade option contract, only the larger and better financed entities will consistently have available the legal and financial resources needed to protect their interests in an unregulated environment. The Commission is of the view that an exemption from regulatory conditions similar to that available for trade options on other commodities may be appropriate for those entities having a very high net worth.[40] However, a greater level of regulatory protection is appropriate for transactions involving less well-financed entities. Congress adopted a similar approach for Commission determinations of the availability of exemptive relief under section 4(c) of the Act.

In setting the eligibility requirements for exemption from these rules, the Commission considered the current levels of net worth or total worth required of eligible participants under parts 35 and 36 of its rules. Under parts 35 and 36, corporations or partnerships having total assets exceeding $10 million or net worth of $1 million in cases where the transaction was entered into in connection with the conduct of its business or to manage the risk of an asset or liability, are considered eligible for the exemption. Some have observed, however, that these qualifying amounts when applied to entities in agriculture are too low given the relatively large investment in land and equipment needed to operate a farm. The concern is that a relatively large number of individuals engaged in agriculture might meet these financial criteria based not so much on their investment sophistication and ability to gather and manage a sizable asset portfolio, but rather simply reflecting the need to acquire a threshold level of land and machinery to operate successfully a farm or agricultural enterprise. Accordingly, the Commission is proposing that, to qualify for this exemption, individuals or entities should have a net worth of at least $10 million.

In order to qualify for this proposed exemption, both counterparties must meet the eligibility requirements. If any one counterparty is not eligible for this exemptive relief, the counterparties must comply with all of the regulatory requirements.

J. Relief for Exchange-Traded Instruments

Representatives of several futures and option exchanges have expressed the concern that lifting the ban on agricultural trade options would put the exchanges at a competitive disadvantage. They note that exchanges are currently prohibited from offering options on physicals for these same commodities.[41] They further maintain that the current prohibition on exchange trading of options on physicals for the enumerated commodities restricts their ability to offer more flexible exchange-traded instruments that would be competitive with agricultural trade options.[42]

The Commission agrees that the restriction on options on physicals in these commodities can be removed. At the time of the pilot program for exchange-traded options on agricultural commodities, based on comments received from industry participants and the U.S. Department of Justice and taking into consideration the history of abuse in option markets, the Commission followed a cautious approach by not allowing options on physicals for agricultural commodities.[43] The Commission, however, did express its willingness to revisit the possibility of allowing exchange-traded options on physicals for agricultural commodities after gaining experience in the trading of options on agricultural futures. Given the success of exchange-traded options on futures, the lack of widespread abuse in these markets, the permissible flexibility of many option terms under current rules, and the exchanges' desire to experiment with offering new forms of more flexible, physical delivery option contracts, the Commission is proposing to amend § 33.4 to permit exchanges to trade options on physicals on the enumerated agricultural commodities.

IV. Other Matters

A. Paperwork Reduction Act (PRA)

When publishing proposed rules, the PRA of 1995 (Pub. L. 104–13 (May 13, 1996)) imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. In compliance with the Act, the Commission, through this rule proposal, solicits comments to:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including the validity of the methodology and assumptions used.

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used.

3. Enhance the quality, utility, and clarity of the information to be collected.

4. Minimize the burden of the collection of the information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.*, permitting electronic submission of responses.

The Commission has submitted the proposed rule and its associated information collection requirements to the Office of Management and Budget. The burden associated with this new collection, including these proposed rules, is as follows:

Average burden hours per response—5.359
Number of respondents—5105
Frequency of response—Daily

Persons wishing to comment on the information which would be required by this proposed/amended rule should contact the Desk Officer, CFTC, Office of Management and Budget, Room 10202, NEOB, Washington, DC 20503, (202) 395–7340. Copies of the information collection submission to OMB are available from the CFTC Clearance Officer, 1155 21st Street, NW, Washington, DC 20581, (202) 418–5160.

B. Regulatory Flexibility Act (RFA)

The RFA, 5 U.S.C. 601 *et seq.*, requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The Commission has not previously determined whether all or some agricultural trade option merchants should be considered "small entities" for purposes of the RFA and, if so, to analyze the economic impact on such entities. However, the Commission is proposing that one of the conditions for registration as an agricultural trade option merchant is maintenance of a minimum level of net worth. The Commission previously found that other entities which were required to maintain minimum levels of net capital were not small entities for purposes of the RFA. *See*, 47 FR 18618, 18619 (April 30, 1982).[44] The Commission has also found, however, that one category of Commission registrant—introducing brokers (IBs)—which is required to maintain a minimum level of net capital may include small entities for purposes of the RFA.[45] Nevertheless, in addition

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[38] Of course, such information is a routine business record and is required to be maintained as such by the agricultural trade option merchant. This information would be available to the Commission by special call for information or through inspection on an as needed basis. The separate listing would be encouraged as a means of responding to a request for a total enumeration of this information relating to an in-depth analysis in connection with evaluating the pilot program.

[39] 62 FR 31381.

[40] Such an exemption would be from the requirements relating to agricultural trade options being proposed. Any such transaction, however, would not be exempt from the prohibition of fraud contained in 17 CFR 32.9.

[41] Commission rule 33.4 provides in part that "The Commission may designate any board of trade located in the United States as a contract market for the trading of * * * options on physicals in any commodity regulated under the Act other than those commodities which are specifically enumerated in section 1a(3) of the Act * * * *".

[42] Flex options on futures on the enumerated agriculture commodities have recently been proposed by exchanges and approved by the Commission under current rules. These options are flexible in terms of strike prices, last trading days, the underlying futures months, and the style of exercise—American or European. Additional types of flexible terms involving physical delivery would be permitted if the Commission's rule is amended.

[43] *See*, 49 FR 2752 (January 23, 1984).

[44] Specifically, in April 1982 the Commission found that FCMs were required to have a minimum net capital of $50,000.

[45] IBs are required to maintain minimum levels of net capital in the amount of $30,000. *See*, 61 FR 19177 (May 1, 1996).

to the $50,000 minimum net worth required for registration as an agricultural trade option merchant, such registrants must be in business in the underlying cash commodity so that they are able to take physical delivery on those option contracts. This will require that they have additional resources invested in order to qualify as an agricultural trade option merchant, in contrast to an IB whose additional investment beyond the minimum net capital may be relatively small. For this reason, the Commission believes that agricultural trade option merchants are more appropriately treated as not being small entities under the RFA. The Chairperson, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the action taken herein will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that the proposed rules will remove a complete ban on the offer or sale of trade options on the agricultural commodities enumerated under the Act. The proposed rules permitting such transactions subject to the specified conditions therefore remove a burden for all entities, regardless of size.

List of Subjects

17 CFR Part 3

Administrative practice and procedure, Brokers, Commodity futures.

17 CFR Part 32

Commodity futures, Commodity options, Prohibited transactions and trade options.

17 CFR Part 33

Commodity futures, Consumer protection, Fraud.

In consideration of the foregoing, and pursuant to the authority contained in the Act, and in particular sections 2(a)(1)(A), 4c, and 8a, 7 U.S.C. 2, 6c, and 12a, as amended, the Commission hereby proposes to amend parts 3, 32, and 33 of chapter I of title 17 of the Code of Federal Regulations as follows:

PART 3—REGISTRATION

1. The authority citation for part 3 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 4, 4a, 6, 6b, 6c, 6e, 6f, 6g, 6h, 6i, 6k, 6m, 6n, 60, 6p, 8, 9, 9a, 12, 12a, 13b, 13c, 16a, 18, 19, 21, 23; 5 U.S.C. 552, 552b.

2. New § 3.13 is proposed to be added to read as follows:

§ 3.13 Registration of agricultural trade option merchants and their associated persons.

(a) *Registration required.* It shall be unlawful for any person in the business of offering or selling the instruments listed in § 32.2 of this chapter to offer or to enter into transactions in such instruments except if registered as an agricultural trade option merchant or a person associated with such a registered agricultural trade option merchant under this section.

(b) *Duration of registration.* A person registered in accordance with the provisions of this section shall continue to be registered until the revocation or withdrawal of registration.

(c) *Conditions for registration.* Applicants for registration as an agricultural trade option merchant and its associated persons must meet the following conditions:

(1) The agricultural trade option merchant must have and maintain at all times net worth of at least $50,000 computed in accordance with generally accepted accounting principles.

(2) The agricultural trade option merchant must certify:

(i) That none of the natural persons who are principals of the agricultural trade option merchant, directly or indirectly through the beneficial ownership of ten percent or more of a principal which is a non-natural person, nor any of the natural persons who are associated persons is disqualified for the reasons listed in section 8a(2) and (3) of the Act; and

(ii) That such natural persons successfully complete the series 3 examination or another proficiency test administered by the National Futures Association.

(3) Provide access to any representative of the Commission, the U.S. Department of Justice, or the National Futures Association for the purpose of inspecting books and records.

(d) *Application for registration.* Application for registration as an agricultural trade option merchant and its associated persons must be made on the appropriate form specified by the NFA, in accordance with the instructions thereto. Such application:

(1) Must include the agricultural trade option merchant's most recent annual financial statements certified by an independent certified public accountant in accordance with generally accepted auditing standards prepared within the prior 12 months.

(2) Must include the fingerprints, on a fingerprint card obtained from the National Futures Association, of all natural persons who are principals, or the beneficial owners of ten percent or more of a principal which is a non-natural person, of the applicant, and of all natural persons who are to be associated persons of the agricultural trade option merchant and such other identifying background information as specified.

(3) Must include separate certification from each natural person that the person is not disqualified for any of the reasons listed in section 8a(2) and 8a(3) of the Act.

(4) Must include such other information as may be specified on the application form.

(5) This application must be supplemented to include changes in associated persons, a principal, or other required information or conditions.

(e) *Temporary licensing.* Notwithstanding any other provision of this part, the National Futures Association may grant a temporary license to any applicant for registration under this section upon filing of a complete application meeting all of the requirements of paragraph (d) of this section, subject to termination provisions of section 3.60 of this part, *Provided however*, that such temporary license shall terminate:

(1) Immediately upon failure by an applicant to respond to a written request by the Commission or the National Futures Association for clarification or supplementation of any information set forth in the application or for the resubmission of fingerprints.

(2) Immediately upon failure to comply with an order to pay a civil monetary penalty within the time permitted under sections 6(e), 6b, or 6c(d) of the Act.

(3) Immediately upon failure to pay the full amount of a reparation order within the time permitted under section 14(f) of the Act.

(4) Five days after service upon the applicant of a notice by the Commission or the National Futures Association that the applicant may be found subject to a statutory disqualification from registration.

3. Section 3.34 is proposed to be amended by revising paragraphs (a), (d)(1), and (e)(1) to read as follows:

§ 3.34 Mandatory ethics training for registrants.

(a) Any individual registered as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator, leverage trading merchant, associated person, floor broker, floor trader, or agricultural trade option merchant under the Act must attend ethics training to ensure that he or she understands his or her responsibilities to the public under the Act, including responsibilities to observe just and equitable principles of trade, rules, or regulations of the Commission, rules of any appropriate contract market, registered futures association, or other self-regulatory organization, or any other applicable federal or state law, rule or regulation.

* * * * *

(d) * * *

(1) Any individual granted registration under the Act as a futures commission merchant, introducing broker, commodity trading advisory, commodity pool operator, leverage transaction merchant, associated person, floor broker, floor trader or agricultural trade option merchant after April 26, 1993, who has not been duly registered under the Act at any time during the two year period immediately preceding the date such individual's application for registration was received by the National Futures Association, must attend training referred to in this section within six months after being granted registration, and thereafter every three years.

* * * * *

(e) Evidence of attendance at ethics training, including evidence of completion of videotape or electronic training, must be maintained in accordance with § 1.31 of this chapter by:

(1) An individual registered as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator, leverage transaction merchant, or agricultural trade option merchant;

* * * * *

PART 32—REGULATION OF COMMODITY OPTION TRANSACTIONS

4. The authority citation for part 32 continues to read as follows:

Authority: 7 U.S.C. 2, 6c and 12a.

5. Section 32.2 is proposed to be revised to read as follows:

§ 32.2 Prohibited transactions.

Notwithstanding the provisions of § 32.11, no person may offer to enter into, confirm the execution of, or maintain a position in, any transaction in interstate commerce involving wheat, cotton, rice, corn, oats, barley, rye, flaxseed, grain sorghums, mill feeds, butter, eggs, solanum tuberosum (Irish potatoes), wool, wool tops, fats and oils (including lard, tallow, cottonseed oil, peanut oil, soybean oil and all other fats and oils), cottonseed meal, cottonseed, peanuts, soybeans, soybean meal, livestock, livestock products, and frozen concentrated orange juice if the transaction is or is held out to be of the character of, or is commonly known to the trade as an "option," "privilege," "indemnity," "bid," "offer," "put," "call," "advance guarantee," or "decline guarantee," except as provided under § 32.13 of this part.

6. New § 32.13 is proposed to be added to part 32 to read as follows:

§ 32.13 Exemption from prohibition of commodity option transactions for trade options on certain agricultural commodities.

(a) The provisions of § 32.11 shall not apply to the solicitation or acceptance of orders for, or the acceptance of money, securities or property in connection with the purchase or sale of any commodity option on a physical commodity listed in § 32.2 by a person who is a producer, processor, or commercial user of, or a merchant handling, the commodity which is the subject of the commodity option transaction, or the products or byproducts thereof, if all of the following conditions are met at the time of the solicitation or acceptance:

(1) That person is registered with the Commission under § 3.13 of this chapter as an agricultural trade option merchant.

(2) The option offered by the agricultural trade option merchant is offered to a producer, processor, or commercial user of, or a merchant handling, the commodity which is the subject of the commodity option transaction, or the products or byproducts thereof, and such producer, processor, or commercial user of, or merchant is offered or enters into the commodity option transaction solely for purposes related to its business as such.

(3) The option can only be settled through physical delivery of the underlying commodity.

(4) To the extent that payment by the customer of the purchase price is made to the agricultural trade option merchant prior to option expiration or exercise, that amount shall be treated as belonging to the customer until option expiration or exercise as provided under § 32.6, *provided however*, that notwithstanding the last sentence of § 32.6(a), the full amount of such payment shall be treated as belonging to the option customer.

(5) Producers may not:

(i) Grant or sell a put option; or

(ii) Grant or sell a call option, except to the extent that such a call option is purchased or combined with a purchased or long put option position, and only to the extent that the customer's call option position does not exceed the customer's put option position in the amount of delivery quantity. *Provided, however*, that the options must be entered into simultaneously and expire simultaneously or at any time that one or the other option is exercised.

(6) All option contracts, including all terms and conditions, offered or sold pursuant to this section shall be in writing and shall contain terms relating to the following:

(i) The procedure for exercise of the option contract, including the expiration date and latest time on that date for exercise;

(ii) The strike price(s) of the option contract;

(iii) The total quantity of commodity underlying the option contract;

(iv) The quality or grade of commodity to be delivered if the contract is exercised and any adjustments to price for deviations from stated quality or grade;

(v) The delivery location if the contract is exercised;

(vi) The separate elements comprising the purchase price to be charged, including the premium, markups on the premium, costs, fees and other charges; and

(vii) The additional costs, if any, in addition to the purchase price which may be incurred by an option customer if the commodity option is exercised, including, but not limited to, the amount of storage, interest, commissions (whether denominated as sales commissions or otherwise) and all similar fees and charges which may be incurred.

(7) Prior to the entry by a customer into the first option transaction with an agricultural trade option merchant, the agricultural trade option merchant shall furnish a summary disclosure statement to the option customer. The summary disclosure statement shall include:

(i) The following statements in boldface type on the first page(s) of the disclosure statement:

This brief statement does not disclose all of the risks and other significant aspects of trading in commodity trade options. You are encouraged to seek out as much information as possible from sources other than the person selling you this option about the use and risks of using option contracts before entering into this contract. The issuer of your option should be willing and able to answer clearly any of your questions. If this is not the case, contact someone else to find answers to your questions before entering into a contract. Sources of information include the Commodity Futures Trading Commission (a U.S. Government agency), the U.S. Department of Agriculture, the National Futures Association (a self-regulatory

association in the commodity futures industry), your state extension service, and various agricultural associations.

APPROPRIATENESS OF OPTION CONTRACTS

Option contracts may subject the user to a high degree of price risk including total loss of any funds you pay to the issuer of your option. You should carefully consider whether trading in such instruments is appropriate for you in light of your experience, objectives, financial resources and other relevant circumstances. The issuer of your option contract should be willing and able to explain the financial outcome of your option contract under all market conditions.

COSTS AND FEES ASSOCIATED WITH AN OPTION CONTRACT

All costs and obligations associated with your option contract including the premium, commissions, fees, costs associated with delivery if the option is exercised and any other charges which may be incurred should be specified in the terms of your option contract and are explained in this disclosure statement. Before entering into an option contract, you should obtain a clear explanation of all of these costs and fees and understand them.

BUSINESS USE OF TRADE OPTIONS

In order to comply with the law, you must be buying this option for business-related purposes. As such, the terms and structure of the contracts should relate to your activity or commitments in the underlying cash market. If a trade option is exercised, delivery of the commodity must occur. Delivery dates, grades, quantities, and delivery locations, which are specified in the contract, should relate to your ability to make or take delivery of the commodity. Any amendments allowed to the option contract must reflect changes to your activity or commitments in the underlying cash market or to reflect the carrying of inventory. Producers are not permitted to sell call options unless the producer is also entering into a put option contract at the same time with the same expiration date. In those situations, the contracts cannot give the person buying the call option the right to call for the delivery of an amount of commodity greater than the producer would have the right to deliver if he or she exercises the delivery option. Producers are also not permitted to sell put options, whether alone or in combination with a call option.

RISK OF FRAUD

You should be aware that trade options are offered in a relatively unregulated and decentralized environment, which may allow for a higher incidence of fraud than in a more regulated and restricted market. You should be aware that you may be able to obtain a similar contract or execute a similar strategy using an instrument offered on a more highly regulated futures exchange. Moreover, exchange products will likely be more transparent and the current prices on which are likely to be reported on a more regular basis. In addition, exchange options are highly liquid and may be offset at any time. In contrast, trade options legally may only be satisfied if exercised through physical delivery.

COUNTERPARTY PERFORMANCE RISK

If you are purchasing an option contract (*i.e., acquiring the right* to sell or purchase the commodity), be aware that you face the risk that the other party to the contract may not perform on its obligation to purchase or sell the commodity. If this occurs, you may lose any price protection the option contract would have offered you. You should take this risk into account in selecting an agricultural trade option merchant.

DISPUTE RESOLUTION

If a dispute should arise under the terms of this trade option contract, you may be able to use the reparations program run by the Commission in addition to any other dispute resolution forums provided to you under law or under the terms of your customer agreement. For more information on the Commission's Reparations Program contact: Office of Proceedings, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, (202) 418–5250.

ACKNOWLEDGEMENT OF RECEIPT

The Commodity Futures Trading Commission requires that all customers receive and acknowledge receipt of a copy of this disclosure statement. The Commodity Futures Trading Commission does not intend this statement as a recommendation or endorsement of agricultural trade options. These commodity options have not been approved or disapproved by the Commodity Futures Trading Commission, nor has the Commission passed upon the accuracy or adequacy of this disclosure statement. Any representation to the contrary is a violation of the Commodity Exchange Act and Federal regulations;

(ii) The following additional information must be provided prior to entry by a customer into every option transaction with an agricultural trade option merchant:

(A) The procedure for exercise of the option contract, including the expiration date and latest time on that date for exercise;

(B) A description of the elements comprising the purchase price to be charged, including the premium, mark-ups on the premium, costs, fees and other charges, and the services to be provided for the separate elements comprising the purchase price;

(C) A description of any and all costs in addition to the purchase price which may be incurred by an option customer if the commodity option is exercised, including, but not limited to, the amount of storage, interest, commissions (whether denominated as sales commissions or otherwise) and all similar fees and charges which may be incurred;

(D) Where the full option premium or purchase price of the option is not collected up front or where through amendments to the option contract it is possible to lose more than the amount of the initial purchase price, a description of the worst possible financial outcome that could be suffered by the customer; and

(E) The following acknowledgment section:

I hereby acknowledge that I have received and understood this risk disclosure statement.

Date _____

Signature of Customer _____

(b) *Report of account information.* Registered agricultural trade option merchants must provide in writing to customers with open positions the following information:

(1) Within 24 hours of execution of an agricultural trade option confirmation of the transaction, including a copy of the written contract and all information required in paragraph (a)(6) of this section;

(2) Within 24 hours of a request by the customer, current commodity price quotes or other information relevant to the customer's position and account; and

(3) Monthly, a current account statement including a complete listing of all individual agricultural trade option transactions which clearly states the expiration date of each option and clearly distinguishes and draws attention to those options which will expire within the next month, all orders to enter into such transactions not yet filled, a current commodity price related to all open option positions or open orders, and the amount of any funds owed by, or to, the customer.

(c) *Recordkeeping.* Registered agricultural trade option merchants shall keep full, complete and systematic books and records together with all pertinent data and memoranda of or relating to such transactions, including customer solicitation and covering transactions, maintain such books and records for the period specified in § 1.31 of this chapter, and make such reports to the Commission as provided for in paragraphs (c) and (d) of this section and as the Commission may otherwise require by rule, regulation, or order. Such books and records shall be open at all times to inspection by any representative of the Commission, the Department of Justice, or the National Futures Association.

(d) *Reports.* Registered agricultural trade option merchants must file reports quarterly with the National Futures Association, in the form and manner specified by the National Futures Association and approved by the Commission, which shall contain the following information:

(1) By commodity and put, call or combined option:

(i) Total number of new contracts entered into during the reporting period;

(ii) Total quantity of commodity underlying new contracts entered into during the reporting period;

(iii) Total number of contracts outstanding at the end of the reporting period;

(iv) Total quantity of underlying commodity outstanding under option contracts at the end of the reporting period;

(v) Total premiums collected on options during the reporting period;

(vi) The value of all fees, commissions, or other charges other than option premiums, collected on trade options during the reporting period;

(vii) Total number of options exercised during the reporting period;

(viii) Total quantity of commodity underlying the exercise of options during the reporting period.

(2) Total number of customers by commodity with open option contracts at the end of the reporting period.

(e) *Special calls.* Upon special call by the Commission for information relating to agricultural trade options offered or sold on the dates specified in the call, each agricultural trade option merchant shall furnish to the Commission within the time specified the following information as specified in the call:

(1) All positions and transactions in agricultural trade options including information on the identity of agricultural trade option customers.

(2) All positions and transactions for future delivery or options on contracts for future delivery or on physicals on all contract markets.

(3) All positions and transactions in cash commodities, their products, and by-products.

(f) *Internal controls.* (1) Each agricultural trade option merchant registered with the Commission shall prepare, maintain and preserve information relating to its written policies, procedures, or systems concerning the agricultural trade option merchant's internal controls with respect to market risk, credit risk, and other risks created by the agricultural trade option merchant's activities, including systems and policies for supervising, monitoring, reporting and reviewing trading activities in agricultural trade options; policies for hedging or managing risk created by trading activities in agricultural trade options, including a description of the types of reviews conducted to monitor positions; and policies relating to restrictions or limitations on trading activities.

(2) The financial statements of the agricultural trade option merchant must on an annual basis be audited by a certified public accountant in accordance with generally accepted auditing standards.

(3) The agricultural trade option merchant must file with the Commission a copy of its certified financial statements within 90 days after the close of the agricultural trade option merchant's fiscal year.

(4) The agricultural trade option merchant must perform a reconciliation of its books at least monthly.

(5) The agricultural trade option merchant:

(i) Must report immediately if its net worth falls below the level prescribed in § 3.13 of this chapter, and must report within three days discovery of a material inadequacy in its financial statements by the independent public accountant or any state or federal agency performing an audit of its financial statements promptly to the Commission and National Futures Association by facsimile, telegraphic or other similar electronic notice; and

(ii) Within five business days after giving such notice, the agricultural trade option merchant must file a written report with the Commission stating what steps have been taken or are being taken to correct the material inadequacy.

(6) If the agricultural trade option merchant's net worth falls below the level prescribed in § 3.13(c)(1) of this chapter, it must immediately cease offering or entering into new option transactions and must notify customers having premiums which the agricultural trade option merchant is holding under paragraph (a)(4) of this section that such customers can obtain an immediate refund of that premium amount, thereby closing the option position.

(g) *Exemption.* (1) The provisions of this section shall not apply to a commodity option offered by a person which has a reasonable basis to believe that the option is offered to a producer, processor, or commercial user of, or a merchant handling, the commodity which is the subject of the commodity option transaction, or the products or by products thereof, and that such producer processor, commercial user or merchant is offered or enters into the commodity option transaction solely for purposes related to its business as such, and that both parties to the contract have a net worth of not less than 10 million dollars.

(2) *Provided, however,* that § 32.9 of this part continues to apply to such option transactions.

PART 33—REGULATION OF DOMESTIC EXCHANGE-TRADED COMMODITY OPTION TRANSACTIONS

7. The authority citation for part 33 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 4, 6, 6a, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 7, 7a, 7b, 8, 9, 11, 12a, 13a, 13a–1, 13b, 19, and 21.

8. The first sentence of the introductory text of § 33.4 is proposed to be revised to read as follows:

§ 33.4 Designation as a contract market for the trading of commodity options.

The Commission may designate any board of trade located in the United States as a contract market for the trading of options on contracts of sale for future delivery or for options on physicals in any commodity regulated under the Act, when the applicant complies with and carries out the requirements of the Act (as provided in § 33.2), these regulations, and the following conditions and requirements with respect to the commodity option for which the designation is sought:

* * * * *

Issued this 29th day of October 1997, in Washington, DC, by the Commodity Futures Trading Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 97–29037 Filed 11–3–97; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 787 and 874

RIN 1029–AB94

Enhancing Abandoned Mine Land (AML) Reclamation

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Advanced notice of proposed rulemaking; notice of public meetings.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing times and locations of meetings open to the public to discuss its early draft of a proposal for adding to the reclamation of abandoned mine lands already being accomplished under Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA). OSM is seeking to involve the public in the development of a proposed rule

through a request for written comments to the draft proposal as well as discussions and exchange of information at meetings such as are being announced here. OSM has sent the draft proposal to State and Tribal representatives and to industry, local and national citizen and environmental groups.

DATES: OSM will hold meetings on: November 13 from 4:00 to 8:00 p.m. in Charleston, WV and from 1:00 to 8:00 p.m. in Denver, CO; November 17 at 6:00 p.m. in Madisonville, KY and at 7:00 p.m. in St. Clairsville, OH; November 18 at 6:00 p.m. in Hazard, KY; November 19 from 8:00 to 10:00 p.m. in Johnstown, PA and from 5:30 to 7:30 p.m. in St. Paul, VA; and November 24 at 6:30 p.m. in Crossville, TN.

ADDRESSES: The meetings will be held at the Heart o'Town Hotel, 1000 Washington Street East in Charleston, WV; at the Executive Tower Hotel (Adams Room), 1405 Curtis Street in Denver, CO; at the Days Inn, 1900 Lantaff Blvd. in Madisonville, KY; at the Hampton Inn (Pinto Room), 51130 National Road in St. Clairsville, OH; at the Hazard City Hall, 700 Main Street in Hazard, KY; at the Holiday Inn, 250 Market Street in Johnstown, PA; at the Oxbow Center, 16620 East Riverside Drive in St. Paul, VA; and at the Ramada Inn, Highway 27 at I–40 in Crossville, TN. Any individual who requires special accommodation to attend a meeting should contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: D.J. Growitz, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW, Washington, D.C. 20240; telephone (202) 208–2634. E-mail: dgrowitz@osmre.gov.

SUPPLEMENTARY INFORMATION: OSM is seeking to increase reclamation under Title IV of SMCRA. In a **Federal Register** notice published on October 24, 1997, (62 FR 55365) OSM announced the availability of the early draft of a proposal to enhance reclamation under the abandoned mine land (AML) program. OSM also announced in that notice that it would hold meetings with interested persons to discuss the draft proposal and publish a schedule for those meetings in the **Federal Register**. When a proposed rule is developed, it will be published in the **Federal Register** for public comment in accordance with the requirements of the Administrative Procedure Act, and public hearings will be held on request.

The proposal may be obtained from FAX ON DEMAND by calling 202–219–1703 and following the instructions on the recorded message. The October 24 **Federal Register** notice contains additional background information.

Dated: October 30, 1997.

Ruth E. Stokes,

Acting Assistant Director, Program Support.

[FR Doc. 97–29133 Filed 11–3–97; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 2 and 3

[Docket No. 970428100–7256–02]

RIN 0651–AA87

Miscellaneous Changes to Trademark Trial and Appeal Board Rules

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Proposed rule; notice of hearing and reopening of comment period.

SUMMARY: The Patent and Trademark Office (PTO) will hold a public hearing, and reopen the comment period, on changes to certain rules and practices of the Trademark Trial and Appeal Board that were proposed in June of 1997 (62 FR 30802, June 5, 1997). Interested members of the public are invited to testify at the public hearing and to submit written comments on these proposed changes.

DATES: The public hearing will be held on Wednesday, December 10, 1997, beginning at 9:00 a.m.

Those wishing to present oral testimony at the hearing must request an opportunity to do so no later than Friday, December 5, 1997.

Speakers may provide a written copy of their testimony for inclusion in the record of the proceedings no later than Wednesday, December 17, 1997.

Written comments will be accepted by the PTO until December 10, 1997.

Written comments and transcripts of the hearing will be available for public inspection on or about Wednesday, January 7, 1998.

ADDRESSES: The hearing will be held on Wednesday, December 10, 1997, beginning at 9:00 a.m. in the Commissioner's Conference Room, located on the 9th floor of Crystal Park 2, 2121 Crystal Drive, Arlington, Virginia 22202.

Requests to testify should be sent to Ellen Seeherman by telephone at (703) 308–9300, ext. 206, by facsimile transmission at (703) 308–9333, or by mail marked to her attention and addressed to Assistant Commissioner for Trademarks, Box TTAB–No Fee, 2900 Crystal Drive, Arlington, Virginia 22202–3513.

Written comments may be sent by mail addressed to Assistant Commissioner for Trademarks, Box TTAB–No Fee, 2900 Crystal Drive, Arlington, Virginia 22202–3513, marked to the attention of Ellen J. Seeherman. Written comments may also be sent by facsimile transmission to (703) 308–9333, marked to the attention of Ellen J. Seeherman.

Written comments and transcripts of the hearing will be maintained for public inspection in Suite 900, on the 9th Floor of the South Tower Building, 2900 Crystal Drive, Arlington, Virginia 22202–3513.

FOR FURTHER INFORMATION CONTACT: Ellen J. Seeherman, Administrative Trademark Judge, Trademark Trial and Appeal Board, by telephone at (703) 308–9300, ext. 206, or by mail marked to her attention and addressed to Assistant Commissioner for Trademarks, Box TTAB–No Fee, 2900 Crystal Drive, Arlington, Virginia 22202–3513 or by facsimile transmission marked to her attention and sent to (703) 308–9333.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking to amend certain rules governing practice before the Trademark Trial and Appeal Board was published in the **Federal Register** on June 5, 1997 (62 FR 30802) and in the Official Gazette on June 24, 1997 (1199 TMOG 88). A number of the comments made in response to that notice suggested that a public hearing be held on the proposed rules changes. Accordingly, the PTO has decided to hold a public hearing on the proposed rules changes on December 10, 1997. Moreover, some trade organizations expressed the concern that, because the comment period occurred during the summer months, some practitioners and other interested parties and entities were not aware of the proposed amendments. Accordingly, the PTO has decided to reopen the comment period. All comments previously submitted will be considered together with any additional written comments which are submitted by December 10, 1997.

It should be noted that, in view of the comments already received, the PTO has determined that it will not adopt the proposed changes to Sections 2.120(d) and 2.120(h) regarding limiting the number of requests for production of documents and the requests for admission which may be served.

Dated: October 29, 1997.

Bruce A. Lehman,

Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.

[FR Doc. 97–29161 Filed 11–3–97; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

48 CFR Parts 225 and 252

[DFARS Case 97–D028]

Defense Federal Acquisition Regulation Supplement; Commercial Ball or Roller Bearings—Components of Noncommercial Items

AGENCY: Department of Defense (DOD).

ACTION: Proposed rule with request for comments.

SUMMARY: The Director of Defense Procurement is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to remove domestic source restrictions on commercial ball or roller bearings that are components of noncommercial end items.

DATES: Comment date: Comments on the proposed rule should be submitted in writing to the address shown below on or before January 5, 1998, to be considered in the formulation of the final rule.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, PDUSD (A&T)DP(DAR): IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax number (703) 602–0350.

E-mail comments submitted over the Internet should be addressed to: dfars@acq.osd.mil.

Please cite DFARS Case 97–D028 in all correspondence related to this issue. E-mail comments should cite DFARS Case 97–D028 in the subject line.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, (703) 602–0131.

SUPPLEMENTARY INFORMATION:

A. Background

This rule proposes amendments to DFARS 225.7019–2 and the associated clause at 252.225–7016, Restriction on Acquisition of Ball and Roller Bearings, to remove domestic source restrictions on commercial ball or roller bearings that are components of noncommercial end items. This is consistent with the existing language at DFARS 212.504(a)(xviii), which provides that 10 U.S.C. 2534, Miscellaneous Limitations on the Procurement of Goods Other Than United States Goods, is not applicable to subcontracts at any tier for the acquisition of commercial items or commercial components. The language at 212.504(a)(xviii) was added to the DFARS as part of the implementation of Section 8003 of the Federal Acquisition Streamlining Act of 1994 (41 U.S.C. 430), which provides that the Federal Acquisition Regulation shall include a list of provisions of law that are inapplicable to contracts for commercial items.

B. Regulatory Flexibility Act

The proposed rule may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* An initial regulatory flexibility analysis has been prepared and is summarized as follows: The objective of this rule is to be consistent with the existing regulations relating to the acquisition of commercial items and commercial components. The rule will apply to all offerors and contractors offering noncommercial end items that contain commercial ball or roller bearings as components, and all suppliers of such commercial bearings, but will have no effect if another exception to 10 U.S.C. 2534 already applies. There is no data available to estimate the number of small entities involved, because DD Form 350 data does not provide information regarding components. However, the rule will not affect acquisitions using simplified acquisition procedures, as an exception covering such acquisitions already exists. Furthermore, the restriction has already been waived for bearings from qualifying countries. The proposed rule will remove the requirement for offerors and contractors to track the origin of commercial ball or roller bearings used as components in noncommercial end items. The proposed rule may increase competition from manufacturers of foreign, nonqualifying country commercial ball or roller bearings in affected acquisitions.

Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected DFARS subparts also will be considered in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 97–D028 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 225 and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR parts 225 and 252 are proposed to be amended as follows:

1. The authority citation for 48 CFR parts 225 and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 225—FOREIGN ACQUISITION

2. Section 225.7019–2 is amended by revising paragraph (a)(2) to read as follows:

225.7019–2 Exceptions.

(a) * * *

(2) Purchases of commercial items (end items or components) incorporating ball or roller bearings or purchases of ball or roller bearings that are commercial components of noncommercial items.

* * * * *

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 252.225–7016 is amended by revising the clause date and paragraphs (c)(1)(i) and (f) to read as follows:

252.225–7016 Restriction on acquisition of ball and roller bearings.

* * * * *

RESTRICTION ON ACQUISITION OF BALL AND ROLLER BEARINGS (XXX 19XX)

* * * * *

(c)(1) * * *

(i) The end items or components containing ball or roller bearings are commercial items or the bearings are commercial components of noncommercial items; or

* * * * *

(f) The Contractor agrees to insert this clause, including this paragraph (f), in every subcontract and purchase order issued in performance of this contract, unless items acquired in the subcontract or purchase order are—

(1) Commercial items; or

(2) Items that do not contain ball or roller bearings.

(End of clause)

[FR Doc. 97–29122 Filed 11–3–97; 8:45 am]

BILLING CODE 5000–04–M

Notices

Federal Register
Vol. 62, No. 213
Tuesday, November 4, 1997

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Consumer Service

Food Stamp Program: Agency Information Collection Activities: Proposed Collection; Comment Request; Waivers Under Section 6(o) of the Food Stamp Act

AGENCY: Food and Consumer Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on proposed information collections. Section 6(o) of the Food Stamp Act of 1977, as amended by Section 824 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, establishes a time limit for the receipt of food stamp benefits for certain able-bodied adults who are not working. The provision authorizes the Secretary of Agriculture, upon a State agency's request, to waive the provision for any group of individuals if the Secretary determines "that the area in which the individuals reside has an unemployment rate of over 10 percent, or does not have a sufficient number of jobs to provide employment for the individuals." As required in the statute, in order to receive a waiver the State agency must submit sufficient supporting information so that the United States Department of Agriculture (USDA) can make the required determination as to the area's unemployment rate or sufficiency of available jobs. This collection of information is therefore necessary in order to obtain waivers of the food stamp time limit.

DATES: Written comments must be received on or before January 5, 1998.

ADDRESSES: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Margaret Batko, Assistant Branch Chief, Certification Policy Branch, Program Development Division, Food and Consumer Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302. Comments may also be faxed to the attention of Ms. Batko at (703) 305–2486. The internet address is: Margaret_Batko@FCS.USDA.GOV. All written comments will be open for public inspection at the office of the Food and Consumer Service during regular business hours (8:30 a.m. to 5 p.m., Monday through Friday) at 3101 Park Center Drive, Room 720, Alexandria, VA 22302.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Ms. Batko at (703) 305–2516.

SUPPLEMENTARY INFORMATION:

Title: Waiver Guidance for Food Stamp Time Limits.

OMB Number: 0584–0479.

Form Number: Not a form.

Expiration Date: 6/30/97.

Type of Request: Reinstatement with change of a previously approved information collection for which approval has expired.

Abstract: Section 824 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104–193, 110 Stat. 2323 (7 U.S.C. 2015) (PRWORA) establishes a time limit for the receipt of food stamp benefits for certain able-bodied adults who are not working. The provision authorizes the Secretary of Agriculture, upon a State agency's request, to waive the provision for any group of individuals if the Secretary determines "that the area in which the individuals reside has an unemployment rate of over 10 percent; or (ii) does not have a sufficient number of jobs to provide employment for the individuals." As required in the statute, in order to receive a waiver the State agency must submit sufficient supporting information so that USDA can make the required determination as to the area's unemployment rate or sufficiency of available jobs. This collection of information is therefore necessary in order to obtain waivers of the food stamp time limit. Since the provision was implemented (the effective date of the legislation was August 22, 1996), the Food and Consumer Service (FCS) has received requests for waivers from 44 State agencies. A total of 102 separate waiver requests have been received by FCS through September 19, 1997. Each request submitted by a State agency to exempt individuals residing in specified areas is considered by FCS to be a separate request, since the requested exemptions may be based on different criteria, are submitted at different times, and require separate analysis. A significant number of State agencies have submitted multiple requests. Since these waivers must be renewed on an annual basis and new ones may be submitted to reflect changing labor market conditions, FCS anticipates receipt of approximately the same number of waiver requests every year.

Affected Public: State and Local governments.

Estimated Number of Respondents: 44.

Estimated Number of Responses: 100.

Estimated Time per Response: 20 hours.

Estimated Total Burden: 2000 hours.

Dated: October 23, 1997.

Yvette Jackson,

Acting Administrator, Food and Consumer Service.

[FR Doc. 97–29129 Filed 11–3–97; 8:45 am]
BILLING CODE 3410–30–U

DEPARTMENT OF AGRICULTURE

Rural Telephone Bank

Determination of the 1997 Fiscal Year Interest Rates on Rural Telephone Bank Loans

AGENCY: Rural Telephone Bank, USDA.

ACTION: Notice of 1997 fiscal year interest rates determination.

SUMMARY: In accordance with 7 CFR 1610.10, the Rural Telephone Bank (Bank) fiscal year 1997 cost of money rates have been established as follows: 5.98% and 6.54% for advances from the liquidating account and financing account, respectively (fiscal year is the period beginning October 1 and ending September 30).

Except for loans approved from October 1, 1987, through December 21, 1987, where borrowers elected to remain at interest rates set at loan approval, all loan advances made during fiscal year 1997 under Bank loans approved in fiscal years 1988 through 1991 shall bear interest at the rate of 5.98% (the liquidating account rate). All loan advances made during fiscal year 1997 under Bank loans approved during or after fiscal year 1992 shall bear interest at the rate of 6.54% (the financing account rate).

The calculation of the Bank's cost of money rates for fiscal year 1997 for the liquidating account and the financing account are provided in Tables 1a and 1b. Since the calculated rates are greater than the minimum rate (5.00%) allowed under 7 U.S.C. 948(b)(3)(A), the cost of money rates for the liquidating account and financing account are set at 5.98% and 6.54%, respectively. The methodology required to calculate the cost of money rates is established in 7 CFR 1610.10(c).

FOR FURTHER INFORMATION CONTACT: Jonathan P. Claffey, Acting Director, Advanced Telecommunications Services Staff, Rural Utilities Service, room 2919, South Building, U.S. Department of Agriculture, Washington, DC 20250, telephone number (202) 720–0530.

SUPPLEMENTARY INFORMATION: The Federal Credit Reform Act of 1990 ("Credit Reform") (2 U.S.C. 661a, *et seq.*) implemented a system to reform the budgetary accounting and management of Federal credit programs. Bank loans approved on or after October 1, 1991, are accounted for in a different manner than Bank loans approved prior to fiscal year 1992. As a result, the Bank must calculate two cost of money rates: (1) The cost of money rate for advances made from the liquidating account (advances made during fiscal year 1997 on loans approved prior to fiscal year 1992) and (2) the cost of money rate for advances made during fiscal year 1997 on loans approved on or after October 1, 1991 (otherwise referred to as loans from the financing account).

The cost of money rate methodology is the same for both accounts. It develops a weighted average rate for the Bank's cost of money considering total fiscal year loan advances; the excess of fiscal year loan advances over amounts received in the fiscal year from the issuance of Class A, B, and C stocks, debentures and other obligations; and the costs to the Bank of obtaining funds from these sources.

During fiscal year 1997, the Bank was authorized to pay the following dividends: The dividend on Class A stock was 2.00% as established in amended section 406(c) of the Rural Electrification Act (RE Act); no dividends were payable on Class B stock as specified in 7 CFR 1610.10(c); and the dividend on Class C stock was established by the Bank at 7.25%.

Sources and Costs of Funds—Liquidating Account

In accordance with Section 406(a) of the RE Act, the Bank did not issue Class A stock in fiscal year 1997. Advances for the purchase of Class B stock and cash purchases for Class B stock were $1,415,341. Rescissions of loan funds advanced for Class B stock amounted to $229,765. Thus, the amount received by the Bank from the issuance of Class B stock, per 7 CFR 1610.10(c), was $1,185,576 ($1,415,341–229,765). The amount received by the Bank in fiscal year 1997 from the issuance of Class C stock was $13,840.

The Bank did not issue debentures or any other obligations related to the liquidating account in fiscal year 1997. Consequently, no cost was incurred related to the issuance of debentures subject to 7 U.S.C. 948(b)(3)(D).

The excess of fiscal year 1997 loan advances from the liquidating account over amounts received from issuance of stocks, debentures, and other obligations amounted to $31,403,171. The cost associated with this excess is the historical cost of money rate as defined in 7 U.S.C. 948(b)(3)(D)(v). The calculation of the Bank's historical cost of money rate for advances from the liquidating account is provided in Table 2a. The methodology required to perform this calculation is described in 7 CFR 1610.10(c). The cost for money rates for fiscal years 1974 through 1987 are defined in section 408(b) of the RE Act, as amended by Pub. L. 100–203, and are listed in 7 CFR 1610.10(c) and Table 2a herein.

Sources and Costs of Funds—Financing Account

In accordance with Section 406(a) of the RE Act, the Bank did not issue Class A stock in fiscal year 1997. Advances for the purchase of Class B stock and cash purchases for Class B stock were $1,754,106. Since there were no rescissions of loan funds advanced for Class B stock, the amount received by the Bank from the issuance of Class B stock, per 7 CFR 1610.10(c), was $1,754,108. The amount received by the Bank in fiscal year 1997 from the issuance of Class C stock was $74.

During fiscal year 1997, issuance of debentures or any other obligations related to the financing account were $32,575,943 at an interest rate of 6.89%.

The excess of fiscal year 1997 loan advances from the financing account over amounts received from issuance of stocks, debentures, and other obligations amounted to $38,601. The cost associated with this excess is the historical cost of money rate as defined in 7 U.S.C. 948(b)(3)(D)(v). The calculation of the Bank's historical cost of money rate for advances from the financing account is provided in Table 2b. The methodology required to perform this calculation is described in 7 CFR 1610.10(c).

Dated: October 27, 1997.

Adam Goldaser,

Deputy Governor, Rural Telephone Bank.

BILLING CODE 3410–15–P

TABLE 1a – LIQUIDATING ACCOUNT
RURAL TELEPHONE BANK
COST OF MONEY RATE

Source of Bank Funds	Amount	Cost Rate	Amount X Cost Rate	(Amount X Rate) / Advances
FY 1997 Issuance of Class A Stock	$0	2.00%	$0	0.0000%
FY 1997 Issuance of Class B Stock	$1,185,576	0.00%	$0	0.0000%
FY 1997 Issuance of Class C Stock	$13,840	7.25%	$1,003	0.0031%
FY 1997 Issuance of Debentures and Other Obligations	$0	—	$0	0.0000%
Excess of Total Advances Over FY 1997 Issuance	$31,403,171	6.20%	$1,946,997	5.9719%
Total FY 1997 Advances	$32,602,587	CALCULATED COST OF MONEY RATE		5.99%
		MINIMUM COST RATE ALLOWABLE		5.00%

TABLE 1b – FINANCING ACCOUNT
RURAL TELEPHONE BANK
COST OF MONEY RATE

Source of Bank Funds	Amount	Cost Rate	Amount X Cost Rate	(Amount X Rate) / Advances
FY 1997 Issuance of Class A Stock	$0	2.00%	$0	0.0000%
FY 1997 Issuance of Class B Stock	$1,754,106	0.00%	$0	0.0000%
FY 1997 Issuance of Class C Stock	$74	7.25%	$5	0.0000%
FY 1997 Issuance of Debentures and Other Obligations:	$32,575,943	6.89%	$2,244,483	6.5306%
Excess of Total Advances Over FY 1997 Issuance	$38,601	6.53%	$2,521	0.0073%
Total FY 1997 Advances	$34,368,726	CALCULATED COST OF MONEY RATE		6.54%
		MINIMUM COST RATE ALLOWABLE		5.00%

TABLE 2a
RURAL TELEPHONE BANK
HISTORICAL COST OF MONEY
LIQUIDATING ACCOUNT

Fiscal Year	Bank Cost of Money	Bank Loan Advances	Advances X Cost Rate	(Advances X Cost Rate) / Total Advances
1974	5.01%	$111,022,574	$5,562,231	0.240%
1975	5.85%	$130,663,197	$7,643,797	0.330%
1976	5.33%	$99,915,068	$5,325,473	0.230%
1977	5.00%	$80,907,425	$4,046,371	0.175%
1978	5.87%	$142,297,190	$8,352,845	0.361%
1979	5.93%	$130,540,067	$7,741,026	0.334%
1980	8.10%	$199,944,235	$16,195,483	0.700%
1981	9.46%	$148,589,372	$14,057,501	0.607%
1982	8.39%	$112,232,127	$9,416,275	0.407%
1983	6.99%	$93,402,636	$6,526,858	0.282%
1984	6.55%	$90,450,549	$5,924,511	0.256%
1985	5.00%	$72,583,394	$3,629,170	0.157%
1986	5.00%	$71,852,383	$3,592,619	0.155%
1987	5.00%	$51,974,938	$2,598,747	0.112%
1988	5.00%	$119,488,367	$5,974,418	0.258%
1989	5.00%	$97,048,947	$4,852,347	0.210%
1990	5.00%	$107,894,991	$5,394,750	0.233%
1991	5.43%	$163,143,075	$8,858,669	0.383%
1992	6.14%	$84,940,822	$5,215,366	0.225%
1993	6.05%	$84,605,366	$5,118,625	0.221%
1994	6.15%	$54,530,897	$3,353,650	0.145%
1995	6.04%	$35,967,133	$2,172,415	0.094%
1996	6.05%	$30,965,187	$1,873,394	0.081%
TOTAL ADVANCES		$2,314,766,136	COST OF MONEY RATE	6.20%

TABLE 2b
RURAL TELEPHONE BANK
HISTORICAL COST OF MONEY
FINANCING ACCOUNT

Fiscal Year	Bank Cost of Money	Bank Loan Advances	Advances X Cost Rate	(Advances X Cost Rate) / Total Advances
1992	7.38%	$4,056,250	$299,351	0.180%
1993	6.35%	$23,839,200	$1,513,789	0.910%
1994	6.40%	$56,838,902	$3,637,690	2.186%
1995	6.88%	$37,161,517	$2,556,712	1.536%
1996	6.42%	$44,536,621	$2,859,251	1.718%
TOTAL ADVANCES		$166,432,490	COST OF MONEY RATE	6.53%

[FR Doc. 97–29697 Filed 11–3–97; 8:45 am]
BILLING CODE 3410–15–C

ASSASSINATION RECORDS REVIEW BOARD

Formal Determinations, Additional Releases, and Corrections

AGENCY: Assassination Records Review Board.

ACTION: Notice.

SUMMARY: The Assassination Records Review Board (Review Board) met in a closed meeting on October 14, 1997, and made formal determinations on the release of records under the President John F. Kennedy Assassination Records Collection Act of 1992 (JFK Act). By issuing this notice, the Review Board complies with the section of the JFK Act that requires the Review Board to publish the results of its decisions on a document-by-document basis in the **Federal Register** within 14 days of the date of the decision.

FOR FURTHER INFORMATION CONTACT: Kevin G. Tiernan, Assassination Records Review Board, Second Floor, Washington, D.C. 20530, (202) 724–0088, fax (202) 724–0457.

SUPPLEMENTARY INFORMATION: This notice complies with the requirements of the President John F. Kennedy Assassination Records Collection Act of 1992, 44 U.S.C. § 2107.9(c)(4)(A) (1992). On October 14, 1997, the Review Board made formal determinations on records it reviewed under the JFK Act. These determinations are listed below. The assassination records are identified by the record identification number assigned in the President John F. Kennedy Assassination Records Collection database maintained by the National Archives.

Notice of Formal Determinations

For each document, the number of postponements sustained immediately follows the record identification number, followed, where appropriate, by the date the document is scheduled to be released or re-reviewed.

FBI Documents: Postponed in Part

124–10073–10252; 2; 10/2017
124–10148–10013; 2; 10/2017
124–10163–10123; 2; 10/2017
124–10173–10395; 13; 10/2017
124–10200–10415; 3; 10/2017
124–10200–10421; 6; 10/2017
124–10200–10422; 1; 10/2017
124–10208–10468; 4; 10/2017
124–10208–10469; 8; 10/2017
124–10208–10473; 2; 10/2017
124–10208–10480; 15; 10/2017
124–10208–10482; 5; 10/2017
124–10211–10280; 20; 10/2017
124–10212–10476; 1; 10/2017
124–10212–10490; 1; 10/2017
124–10212–10493; 11; 10/2017
124–10215–10202; 1; 10/2017
124–10215–10204; 1; 10/2017
124–10215–10207; 1; 10/2017
124–10215–10213; 1; 10/2017
124–10215–10218; 1; 10/2017
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180–10141–10228; 3; 05/2001
180–10141–10229; 1; 05/2001
180–10141–10312; 2; 10/2017
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Notice of Formal Determinations on Records Re-Reviewed

The following documents were reviewed previously and released with postponements by the Review Board. The Review Board has re-reviewed the records and has made new formal determinations as follows.

CIA Documents: Opened in Full

104–10014–10016; 5; 0; n/a

HSCA Documents: Opened in Full

180–10078–10463; 1; 0; n/a
180–10080–10433; 3; 0; n/a
180–10086–10012; 1; 0; n/a

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104–10006–10220; 1; 1; 10/2017
104–10006–10121; 87; 56; 06/2006
104–10006–10284; 2; 7; 10/2017
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180–10070–10404; 3; 4; 10/2017
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Notice of Additional Releases

After consultation with appropriate Federal agencies, the Review Board announces that the following Federal Bureau of Investigation records are now being opened in full:

124–10196–10451; 124–10196–10452; 124–10196–10453; 124–10196–10454; 124–10200–10416; 124–10200–10417; 124–10200–10418; 124–10200–10420; 124–10200–10423; 124–10200–10424; 124–10208–10470; 124–10208–10471; 124–10208–10472; 124–10208–10474; 124–10208–10475; 124–10208–10476; 124–10208–10477; 124–10208–10478; 124–10208–10479; 124–10208–10485; 124–10212–10477; 124–10212–10478; 124–10212–10480; 124–10212–10481; 124–10212–10459; 124–10212–10494; 124–10215–10198; 124–10215–10200; 124–10215–10201; 124–10215–10203; 124–10215–10206; 124–10215–10208; 124–10215–10209; 124–10215–10210; 124–10215–10211; 124–10215–10212; 124–10215–10214; 124–10215–10215; 124–10215–10217; 124–10215–10218; 124–10215–10219; 124–10215–10220; 124–10215–10406; 124–10215–10409; 124–10215–10411; 124–10215–10412; 124–10215–10416; 124–10215–10417; 124–10215–10418; 124–10215–10419; 124–10215–10420; 124–10215–10421; 124–10215–10422; 124–10215–10423; 124–10215–10426; 124–10215–10428; 124–10215–10429; 124–10215–10430; 124–10215–10431; 124–10215–10436; 124–10215–10437; 124–10215–10438; 124–10215–10439; 124–10215–10440; 124–10215–10441; 124–10215–10443; 124–10215–10444; 124–10215–10445; 124–10215–10447; 124–10215–10448; 124–10215–10449; 124–10215–10454; 124–10215–10456; 124–10215–10457; 124–10215–10458; 124–10215–10459; 124–10215–10460; 124–10215–10461; 124–10215–10462; 124–10215–10463; 124–10215–10464; 124–10215–10465; 124–10215–10466; 124–10215–10467; 124–10215–10468; 124–10215–10469; 124–10215–10470; 124–10215–10471; 124–10215–10472; 124–10215–10473; 124–10215–10474; 124–10215–10475; 124–10215–10476; 124–10215–10477; 124–10215–10478; 124–10215–10479; 124–10215–10480; 124–10215–10481; 124–10215–10482; 124–10215–10484; 124–10215–10485; 124–10215–10486; 124–10215–10487; 124–10215–10488; 124–10215–10489; 124–10215–10490; 124–10215–10491; 124–10215–10492; 124–10215–10493; 124–10215–10494; 124–10215–10495; 124–10215–10498; 124–10217–10410; 124–10217–10411; 124–10217–10412; 124–10217–10413; 124–10217–10414; 124–10217–10415; 124–10217–10417; 124–10217–10418; 124–10218–10132; 124–10218–10136; 124–10218–10145; 124–10218–10321; 124–10218–10323; 124–10218–10327; 124–10218–10328; 124–10218–10330; 124–10218–10333; 124–10218–10334; 124–10218–10336; 124–10218–10337; 124–10218–10338; 124–10218–10339; 124–10218–10344; 124–10218–10346; 124–10218–10347; 124–10218–10387; 124–10218–10388; 124–10218–10389; 124–10218–10392; 124–10218–10394; 124–10218–10395; 124–10218–10405; 124–10218–10406; 124–10218–10407; 124–10218–10410; 124–10218–10411; 124–10218–10432; 124–10218–10443; 124–10219–10138; 124–10219–10139; 124–10219–10140; 124–10219–10145; 124–10219–10146; 124–10219–10147; 124–10219–10149; 124–10219–10150; 124–10219–10151; 124–10219–10152; 124–10219–10154; 124–10219–10156; 124–10219–10158; 124–10219–10159; 124–10219–10160; 124–10219–10161; 124–10219–10162; 124–10219–10164; 124–10219–10165; 124–10219–10261; 124–10219–10262; 124–10219–10283; 124–10219–10284; 124–10219–10285; 124–10219–10286; 124–10219–10288; 124–10219–10270; 124–10219–10271; 124–10219–10272;

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124–10225–10060; 124–10225–10061; 124–10225–10062; 124–10225–10063; 124–10225–10064; 124–10225–10065; 124–10225–10066; 124–10225–10067; 124–10225–10069; 124–10225–10070; 124–10225–10071; 124–10225–10072; 124–10225–10073; 124–10225–10074; 124–10225–10075; 124–10225–10209; 124–10225–10210; 124–10225–10213; 124–10225–10215; 124–10226–10001; 124–10226–10003; 124–10226–10004; 124–10226–10005; 124–10226–10006; 124–10226–10007; 124–10226–10008; 124–10226–10009; 124–10226–10010; 124–10226–10011; 124–10226–10012; 124–10226–10013; 124–10226–10014; 124–10226–10015; 124–10226–10016; 124–10226–10017; 124–10226–10018; 124–10226–10020; 124–10226–10021; 124–10226–10022; 124–10226–10023; 124–10226–10024; 124–10226–10025; 124–10226–10028; 124–10226–10027; 124–10226–10028; 124–10226–10029; 124–10226–10031; 124–10226–10032; 124–10226–10034; 124–10226–10036; 124–10226–10037; 124–10226–10038; 124–10226–10039; 124–10226–10040; 124–10226–10042; 124–10226–10044; 124–10226–10045; 124–10226–10046; 124–10226–10047; 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After consultation with appropriate Federal agencies, the Review Board announces that the following Central Intelligence Agency records are now being opened in full:

104–10059–10081; 104–10059–10225; 104–10061–10001; 104–10061–10011; 104–10061–10014; 104–10061–10018; 104–10061–10019; 104–10061–10020; 104–10061–10028; 104–10061–10031; 104–10061–10050; 104–10061–10052; 104–10061–10056; 104–10061–10062; 104–10061–10067; 104–10061–10068; 104–10061–10069; 104–10061–10070; 104–10061–10071; 104–10061–10073; 104–10061–10077; 104–10061–10078; 104–10061–10086; 104–10061–10123; 104–10061–10136; 104–10061–10200; 104–10061–10212; 104–10061–10213; 104–10061–10215; 104–10061–10220; 104–10061–10232; 104–10061–10238; 104–10061–10275; 104–10061–10301; 104–10061–10306; 104–10061–10314; 104–10061–10318; 104–10061–10322; 104–10061–10323; 104–10061–10326; 104–10061–10341; 104–10061–10374; 104–10061–10378; 104–10061–10389; 104–10061–10444; 104–10061–10445; 104–10062–10007; 104–10062–10009; 104–10062–10014; 104–10062–10018; 104–10062–10017; 104–10062–10018; 104–10062–10022; 104–10062–10029; 104–10062–10033; 104–10062–10035; 104–10062–10037; 104–10062–10045; 104–10062–10049; 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104–10092–10312; 104–10092–10313; 104–10092–10314; 104–10092–10315; 104–10092–10316; 104–10092–10317; 104–10092–10319; 104–10092–10320; 104–10092–10322; 104–10092–10323; 104–10092–10325; 104–10092–10326; 104–10092–10327; 104–10092–10328; 104–10092–10329; 104–10092–10330; 104–10092–10331; 104–10092–10332; 104–10092–10333; 104–10092–10334; 104–10092–10335; 104–10092–10336; 104–10092–10337; 104–10092–10338; 104–10092–10343; 104–10092–10346; 104–10092–10347; 104–10092–10348; 104–10092–10349; 104–10092–10351; 104–10092–10352; 104–10092–10353; 104–10092–10357; 104–10092–10358; 104–10092–10359; 104–10092–10360; 104–10092–10362; 104–10092–10363; 104–10092–10364; 104–10092–10365; 104–10092–10367; 104–10092–10368; 104–10092–10370; 104–10092–10371; 104–10092–10372; 104–10092–10380; 104–10092–10381; 104–10092–10383; 104–10092–10384; 104–10092–10385; 104–10092–10386; 104–10092–10389; 104–10092–10390; 104–10092–10391; 104–10092–10393; 104–10092–10395; 104–10092–10396; 104–10092–10397; 104–10092–10398; 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104–10093–10019; 104–10093–10021; 104–10093–10022; 104–10093–10023; 104–10093–10427; 104–10095–10315; 104–10095–10322; 104–10096–10023; 104–10096–10042; 104–10096–10064; 104–10096–10068; 104–10096–10070; 104–10096–10103; 104–10096–10110; 104–10096–10159; 104–10096–10301; 104–10097–10269; 104–10097–10270; 104–10097–10271; 104–10097–10272; 104–10097–10288; 104–10097–10370; 104–10097–10375; 104–10097–10380; 104–10097–10383; 104–10097–10385; 104–10097–10386; 104–10097–10387; 104–10097–10389; 104–10097–10391; 104–10097–10392; 104–10097–10393; 104–10097–10395; 104–10097–10396; 104–10097–10397; 104–10097–10398; 104–10097–10399; 104–10097–10400; 104–10097–10404; 104–10097–10405; 104–10097–10408; 104–10097–10409; 104–10097–10410; 104–10097–10411; 104–10097–10415; 104–10097–10417; 104–10097–10418; 104–10097–10420; 104–10097–10421; 104–10097–10422; 104–10097–10424; 104–10097–10427; 104–10097–10428; 104–10097–10429; 104–10097–10431; 104–10097–10432; 104–10097–10433; 104–10097–10438; 104–10097–10437; 104–10097–10438; 104–10097–10439; 104–10097–10441; 104–10097–10442; 104–10097–10446; 104–10098–10000; 104–10098–10001; 104–10098–10002; 104–10098–10003; 104–10098–10004; 104–10098–10005; 104–10098–10006; 104–10098–10008; 104–10098–10013; 104–10098–10015; 104–10098–10016; 104–10098–10017; 104–10098–10018; 104–10098–10019; 104–10098–10020; 104–10098–10021; 104–10098–10023; 104–10098–10024; 104–10098–10025; 104–10098–10028; 104–10098–10027; 104–10098–10028; 104–10098–10029; 104–10098–10032; 104–10098–10035; 104–10098–10037; 104–10098–10038; 104–10098–10039; 104–10098–10040; 104–10098–10041; 104–10098–10042; 104–10098–10043; 104–10098–10044; 104–10098–10045; 104–10098–10047; 104–10098–10048; 104–10098–10050; 104–10102–10018; 104–10102–10019; 104–10102–10020; 104–10102–10022; 104–10102–10023; 104–10102–10024; 104–10102–10026; 104–10102–10027; 104–10102–10029; 104–10102–10030; 104–10102–10031; 104–10102–10033; 104–10102–10034; 104–10102–10035; 104–10102–10036; 104–10102–10041; 104–10102–10042; 104–10102–10044; 104–10102–10046; 104–10102–10048; 104–10102–10052; 104–10102–10065; 104–10102–10056; 104–10102–10059; 104–10102–10060; 104–10102–10062; 104–10102–10064; 104–10102–10066; 104–10102–10083; 104–10102–10094; 104–10102–10134; 104–10102–10135; 104–10102–10153; 104–10102–10190; 104–10102–10225; 104–10102–10242; 104–10102–10249; 104–10102–10250; 104–10106–10001; 104–10106–10003; 104–10106–10005; 104–10106–10008; 104–10106–10240; 104–10106–10254; 104–10107–10188

After consultation with appropriate Federal agencies, the Review Board announces that the following House Select Committee on Assassinations records are now being opened in full:

180–10071–10074; 180–10071–10328; 180–10080–10057; 180–10080–10166; 180–10080–10183; 180–10092–10191; 180–10094–10372; 180–10095–10358; 180–10095–10360; 180–10095–10363; 180–10095–10364; 180–10095–10367; 180–10095–10369; 180–10095–10372; 180–10095–10373; 180–10095–10377; 180–10095–10378; 180–10095–10379; 180–10095–10380; 180–10095–10382; 180–10095–10385; 180–10097–10108; 180–10100–10497; 180–10100–10498; 180–10102–10371; 180–10104–10461; 180–10105–10076; 180–10105–10274; 180–10108–10323; 180–10111–10028; 180–10113–10008; 180–10115–10033; 180–10115–10041; 180–10118–10070; 180–10118–10097; 180–10127–10001; 180–10127–10002; 180–10128–10000; 180–10131–10019; 180–10131–10321; 180–10131–10333

After consultation with appropriate Federal agencies, the Review Board announces that the following Army records are now being opened in full:

198–10004–10000; 198–10004–10001; 198–10004–10002; 198–10004–10003; 198–10004–10004; 198–10004–10005; 198–10004–10006; 198–10004–10007; 198–10004–10008; 198–10004–10009; 198–10004–10010; 198–10004–10011; 198–10004–10012; 198–10004–10013; 198–10004–10014; 198–10004–10015; 198–10004–10016; 198–10004–10017; 198–10004–10018; 198–10004–10019; and 198–10004–10020

After consultation with appropriate Federal agencies, the Review Board announces that the following Joint Chiefs of Staff records are now being opened in full:

202–10002–10000; 202–10002–10001; 202–10002–10002; 202–10002–10003; 202–10002–10004; 202–10002–10005; 202–10002–10006; 202–10002–10007; 202–10002–10008; 202–10002–10009; 202–10002–10010; 202–10002–10011; 202–10002–10012; 202–10002–10013; 202–10002–10014; 202–10002–10015; 202–10002–10016; 202–10002–10017; 202–10002–10018; 202–10002–10019; 202–10002–10020; 202–10002–10021; 202–10002–10022; 202–10002–10023; 202–10002–10025; 202–10002–10026; 202–10002–10027; 202–10002–10028; 202–10002–10029; 202–10002–10030; 202–10002–10031; 202–10002–10032; 202–10002–10033; 202–10002–10034; 202–10002–10035; 202–10002–10036; 202–10002–10037; 202–10002–10038; 202–10002–10039; 202–10002–10040; 202–10002–10041; 202–10002–10042; 202–10002–10043; 202–10002–10044; 202–10002–10045; 202–10002–10046; 202–10003–10047; 202–10003–10048; 202–10002–10051; 202–10002–10052; 202–10002–10053; 202–10002–10054; 202–10002–10055; 202–10002–10056; 202–10002–10057; 202–10002–10058; 202–10002–10059; 202–10002–10060; 202–10003–10061; 202–10002–10062; 202–10002–10063; 202–10002–10064; 202–10002–10065; 202–10002–10066; 202–10002–10067; 202–10002–10068; 202–10002–10069; 202–10002–10070; 202–10002–10071; 202–10002–10072; 202–10002–10074; 202–10002–10075; 202–10002–10076; 202–10002–10077; 202–10002–10078; 202–10002–10079; 202–10002–10080; 202–10002–10081; 202–10002–10082; 202–10002–10083; 202–10002–10084; 202–10002–10085; 202–10002–10086; 202–10002–10087; 202–10002–10088; 202–10002–10089; 202–10002–10090; 202–10002–10091; 202–10002–10092; 202–10002–10093; 202–10002–10094; 202–10002–10095; 202–10002–10098; 202–10002–10099; 202–10002–10100; 202–10002–10101; 202–10002–10102; 202–10002–10103; 202–10002–10105; 202–10002–10106; 202–10002–10107; 202–10002–10108; 202–10002–10109; 202–10002–10110; 202–10002–10111; 202–10002–10112; 202–10002–10113; 202–10002–10114; 202–10002–10115; 202–10002–10116; 202–10002–10117

Notice of Corrections

On December 16–17, 1996, the Review Board made formal determinations that were published in the January 9, 1997 **Federal Register** (FR Doc. 97–492, 62 FR 1311). For that notice make the following corrections:

Record number	Previously published	Correct data
104–10068–10187	18; 8; 05/1997	17, 9, 12/2006.

On January 29–30, 1997, the Review Board made formal determinations that were published in the February 21, 1997 **Federal Register** (FR Doc. 97–4226, 62 FR 7998). For that notice make the following corrections:

Record number	Previously published	Correct data
104–10068–10166	22; 8; 01/2007	22; 9; 01/2007.
180–10110–10121	3; 4; 10/2017	3; 6; 10/2017.

The Review Board action of January 30, 1997 (published in the February 21 **Federal Register**, FR Doc. 97–4226, 62 FR 7998) on a record incorrectly identified as 104–10066–10226 was vacated at this meeting. It has been properly identified as 104–10066–10232. The Board decisions for 104–10066–10226 and 104–10066–10232 have been included with the Board's formal determinations in this Notice.

On March 13–14, 1997, the Review Board made formal determinations that were published in the April 2, 1997 **Federal Register** (FR Doc. 97–8406, 62 FR 15650). For that notice make the following corrections:

Record number	Previously published	Correct data
104–10065–10126	7; 8; 03/2007	7; 19; 03/2007.

On June 10, 1997, the Review Board made formal determinations that were published in the June 30, 1997 **Federal Register** (FR Doc. 97–16979, 62 FR 35147). For that notice make the following corrections:

Record number	Previously published	Correct data
104–10072–10123	27; 10/2017	28; 10/2017.
180–10143–10164	31; 10/2017	5; 10/2017.
180–10143–10176	5; 10/2017	6; 10/2017.
180–10144–10211	13; 10/2017	14; 10/2017.

On July 9, 1997, the Review Board made formal determinations that were published in the August 5, 1997 **Federal Register** (FR Doc. 97–20542, 62 FR 42095). For that notice make the following corrections:

Record number	Previously published	Correct data
104–10068–10164	8; 08/2008	10; 08/2008.

On August 5, 1997, the Review Board made formal determinations that were published in the August 26, 1997 **Federal Register** (FR Doc. 97–22606, 62 FR 45221). For that notice make the following corrections:

Record number	Previously published	Correct data
104–10092–10033	4; 10/2017	5; 10/2017.
104–10098–10377	18; 10/2017	20; 10/2017.
180–10143–10473	3; 10/2017	4; 10/2017.

On September 17, 1997, the Review Board made formal determinations that were published in the October 7, 1997 **Federal Register** (FR Doc. 97–26462, 62 FR 52321). For that notice make the following corrections:

Record number	Previously published	Correct data
104–10098–10377	20; 10/2017	21; 10/2017.

In the October 7, 1997 **Federal Register** (FR Doc. 97–26462, 62 FR 52321) record number 104–10054–10130 was incorrectly published as an additional release-in-full. This document will be processed at a future meeting.

Dated: October 28, 1997.

T. Jeremy Gunn,

Executive Director.

[FR Doc. 97–29040 Filed 11–3–97; 8:45 am]

BILLING CODE 6116–01–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

In the Matter of: Ben H. Attia, also known as Adnan Attia, individually with an address at 1614 Nine Island Boulevard, Miami Beach, FL 33134 and doing business as General Polyphase, Inc., with an address at 15 Rue de Kamel Attaturk 1001 Tunis, Tunisia, (Respondents).

Recommended Decision and Order

Decision and Order

The Administrative Law Judge (ALJ) has entered a Recommended Decision and Order in the above-referenced matter. As provided by Section 766.22 of the Export Administration Regulations (15 CFR Parts 730–774 (1997)) (the Regulations),[1] issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. App. 2401–2420 (1991 & Supp. 1997)) (the Act),[2] the Recommended Decision and Order has been referred to me for final action.

On April 16, 1996, the Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), issued a charging letter initiating an administrative proceeding against Ben H. Attia, also known as Adnan Attia, individually and doing business as General Polyphase, Inc. (hereinafter collectively referred to as Attia). The charging letter alleged that Attia committed three violations of the former Regulations.[3]

Specifically, the charging letter alleged that, on or about July 31, 1992, Attia exported 22 ballistic shields from the United States to Tunisia without obtaining from BXA the validated license Attia knew or had reason to know was required, in violation of Sections 787.4(a) and 787.6 of the former Regulations, and that in connection with the unauthorized export described above, Attia made false or misleading statements of material fact to a U.S. Government agency in connection with the preparation, submission, issuance, use or maintenance of a Shipper's Export Declaration, defined by the former Regulations as an export control document, in violation of Section 787.5(a) of the former Regulations.

The charging letter was served on Attia on April 20, 1996. Attia failed to answer or otherwise respond to the charging letter within 30 days, as required by Section 787.2 of the former Regulations.[4] Pursuant to the default procedures set forth in Section 766.7 of the Regulations, BXA moved that the ALJ find the facts to be as alleged in the charging letter and render a Recommended Decision and Order.

Following BXA's motion, the ALJ issued a Recommended Decision and Order in which he found the facts to be as alleged in the charging letter served on Attia. The ALJ also found, based on those facts, that Attia violated Sections 787.4(a), 787.5(a), and 787.6 of the former Regulations by exporting ballistic shields from the United States to Tunisia without obtaining from the Department the validated license Attia knew or had reason to know was required by the Regulations, and by making false or misleading statements of material fact to a U.S. government agency in connection with the preparation, submission, issuance, use or maintenance of an export control document.

The ALJ also recommended that the appropriate penalty to be imposed against Attia for these violations is a denial, for a period of 15 years, of all of Attia's privileges of participating, directly or indirectly, in any manner or capacity, in any transaction in the United States or abroad involving commodities, software or technology exported or to be exported from the United States and subject to the Regulations.

Based on my review of the entire record, I affirm the findings of fact and conclusions of law in the Recommended Decision and Order of the Administrative Law Judge.

Accordingly, it is therefore ordered:

First, that, for a period of 15 years from the date of this Order, Ben H. Attia, also known as Adnan Attia, individually with an address at 1614 Nine Island Boulevard, Miami Beach, FL 33134, and doing business as General Polyphase, Inc., with an address at 15 rue de Kamel Attaturk, 1001 Tunis, Tunisia, and all successors, assignees, officers, representatives, agents and employees, may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

Second, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the denied person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the denied person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the denied person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and that is owned, possessed or controlled by the denied person, or service any item, of whatever origin, that is owned, possessed or controlled by the denied person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, that, after notice and opportunity for comment as provided in

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[1] The Regulations were restructured and reorganized effective April 24, 1996 (61 FR 12714, March 25, 1996). These Regulations, now codified at 15 CFR Parts 730–774, establish the procedures that apply to this matter.

[2] The Act expired on August 20, 1994. Executive Order 12924 (3 CFR, 1994 Comp., p. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 CFR, 1995 Comp. 501 (1996)), August 14, 1996 (3 CFR, 1996 Comp. 298 (1997)), and August 13, 1997 (62 FR 43629, August 15, 1997) continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701–1706 (1991 & Supp. 1997)).

[3] The Regulations governing the violations at issue are found in the 1992 version of the Code of Federal Regulations (15 CFR Parts 768–799 (1992)). Those Regulations define the violations that BXA alleges occurred and are referred to hereinafter as the former Regulations.

[4] At the time BXA issued its charging letter against Attia, the former Regulations applied to administrative proceedings. Since that time, as noted in footnote 1, BXA published revised regulations, effective April 24, 1996, which govern the procedures now applicable to the matters set forth in the charging letter.

Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to the denied person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

Fourth, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

Fifth, that a copy of this Order shall be served on Attia and on BXA, and shall be published in the **Federal Register**.

This Order, which constitutes the final agency action in this matter, is effective immediately.

Dated: October 30, 1997.

William A. Reinsch,

Under Secretary for Export Administration.

[FR Doc. 97–29144 Filed 11–3–97; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

Minority Business Development Agency

Minority Business Development Center Applications: Atlanta, GA

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice; revised dates.

SUMMARY: The Minority Business Development Agency is revising the announcement to solicit competitive applications to operate its Atlanta, GA Minority Business Development Center program to change the closing and start dates. The solicitation was originally published in the **Federal Register** on Wednesday, October 1, 1997, 62 FR 51454.

DATES: The revised closing is December 31, 1997, and the revised start date is April 1, 1998.

PRE-APPLICATION CONFERENCE: For the exact date, time and place, contact the Atlanta Regional Office at (404) 730–3300.

ADDRESSES: Mail applications to the U.S. Department of Commerce, Minority Business Development Agency, MBDA Executive Secretariat, 14th & Constitution Avenue, NW, Room 5073, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Robert Henderson at (404) 730–3300.

(Catalog of Federal Domestic Assistance: 11.800 Minority Business Development Center Program)

Dated: October 28, 1997.

Donald L. Powers,

Federal Register Liaison Officer, Minority Business Development Agency.

[FR Doc. 97–29106 Filed 11–3–97; 8:45 am]

BILLING CODE 3510–21–M

DEPARTMENT OF COMMERCE

Minority Business Development Agency

Native American Business Development Center Applications: Cherokee

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice; revised dates.

SUMMARY: The Minority Business Development Agency is revising the announcement to solicit competitive applications to operate its Cherokee Native American Business Development Center program to change the closing and start dates. The solicitation was originally published in the **Federal Register** on Wednesday, October 1, 1997, 62 FR 51457.

DATES: The revised closing is December 31, 1997, and the revised start date is April 1, 1998.

PRE-APPLICATION CONFERENCE: For the exact date, time and location contact the Atlanta Regional Office at (404) 730–3300.

ADDRESSES: Mail applications to the U.S. Department of Commerce, Minority Business Development Agency, MBDA Executive Secretariat, 14th & Constitution Avenue, NW, Room 5073, Washington, DC. 20230.

FOR FURTHER INFORMATION CONTACT: Robert Henderson at (404) 730–3300.

(Catalog of Federal Domestic Assistance: (11.801 Native American Program)

Dated: October 28, 1997.

Donald L. Powers,

Federal Register Liaison Officer, Minority Business Development Agency.

[FR Doc. 97–29108 Filed 11–3–97; 8:45 am]

BILLING CODE 3510–21–M

DEPARTMENT OF COMMERCE

Minority Business Development Agency

Native American Business Consultant Applications: Nationwide

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice; revised dates.

SUMMARY: The Minority Business Development Agency is revising the announcement to solicit competitive applications to operate its Native American Business Consultant program to change the closing and start dates and to notify interested parties of a pre-application conference. The solicitation was originally published in the **Federal Register** on Wednesday, October 1, 1997, 62 FR 51456.

DATES: The revised closing is December 31, 1997, an the revised start date is April 1, 1998. The date of the pre-application conference is November 20, 1997, at 10:00 a.m.

ADDRESSES: The pre-application conference will be held at the U.S. Department of Commerce, Minority Business Development Agency, 14th & Constitution Avenue, NW, Room 5045, Washington, D.C. 20230. Mail applications to the U.S. Department of Commerce, Minority Business Development Agency, MBDA Executive Secretariat, 14th & Constitution Avenue, NW, Room 5073, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Joe Hardy at (202) 482–2366.

(Catalog of Federal Domestic Assistance: 11.801 Native American Program)

Dated: October 28, 1997.

Donald L. Powers,

Federal Register Liaison Officer, Minority Business Development Agency.

[FR Doc. 97–29105 Filed 11–3–97; 8:45 am]

BILLING CODE 3510–21–M

DEPARTMENT OF COMMERCE

Minority Business Development Agency

Native American Business Development Center Applications: Northwest

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice; revised dates.

SUMMARY: The Minority Business Development Agency is revising the announcement to solicit competitive applications to operate its Northwest Native American Business Development Center program to change the closing and start dates The solicitation was originally published in the **Federal Register** on Wednesday, October 1, 1997, 62 FR 51438.

DATES: The revised closing is January 2, 1998, and the revised start date is April 1, 1998.

PRE-APPLICATION CONFERENCE: For the exact date, time and pece, contact the

San Francisco Regional Office at (415) 744–3001.

ADDRESSES: Mail applications to the U.S. Department of Commerce, Minority Business Development Agency, MBDA Executive Secretariat, 14th & Constitution Avenue, NW, Room 5073, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Melda Cabrera at (415) 744–3001.

(Catalog of Federal Domestic Assistance: 11.801 Native American Program)

Dated: October 28, 1997.

Donald L. Powers,

Federal Register Liaison Officer, Minority Business Development Agency.

[FR Doc. 97–29107 Filed 11–3–97; 8:45 am]

BILLING CODE 3510–21–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 101497D]

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Offshore Cetacean Take Reduction Plan Environmental Assessment

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability; request for comments.

SUMMARY: NMFS has prepared an Environmental Assessment (EA) on the alternatives being considered for implementation of the Atlantic Offshore Cetacean Take Reduction Plan. NMFS is requesting comments on the EA before it is finalized.

DATES: Written comments must be received on or before December 4, 1997.

ADDRESSES: Copies of the EA or the draft Atlantic Offshore Cetacean Take Reduction Plan may be obtained from Chief, Marine Mammal Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910, or by calling (301) 713-2322.

Written comments should be submitted to Chief, Marine Mammal Division, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Victoria Cornish, Office of Protected Resources, (301) 713-2322.

SUPPLEMENTARY INFORMATION: Section 118(f) of the Marine Mammal Protection Act (MMPA) requires NMFS to establish a Take Reduction Team (TRT) to prepare a draft Take Reduction Plan (TRP) designed to assist in the recovery or to prevent the depletion of each strategic marine mammal stock that interacts with certain fisheries. The immediate goal of a TRP is to reduce, within 6 months of its implementation, the mortality and serious injury of strategic stocks incidentally taken in the course of commercial fishing operations to below the Potential Biological Removal (PBR) levels established for such stocks.

The U.S. Atlantic, Caribbean, Gulf of Mexico pelagic drift gillnet fishery for swordfish, tuna, and shark interacts with several strategic marine mammal stocks, including long-finned and short-finned pilot whales, common dolphins, Atlantic spotted dolphins, the offshore stock of bottlenose dolphin, humpback whales, northern right whales, and sperm whales. The U.S. Atlantic, Caribbean, Gulf of Mexico pelagic longline fishery for swordfish, tuna, and shark interacts with two strategic marine mammal stocks: Pilot whales and Atlantic spotted dolphins (62 FR 3005, January 21, 1997). These stocks are considered strategic under the MMPA because they are listed as either an endangered or threatened species under the Endangered Species Act or because the level of human-caused mortality is greater than their PBR levels.

NMFS established the Atlantic Offshore Cetacean TRT on May 23, 1996 (61 FR 25846) to prepare a draft plan aimed at reducing bycatch of the strategic marine mammals stocks taken as bycatch in the U.S. Atlantic pelagic drift gillnet and longline fisheries. The Team submitted a draft Atlantic Offshore Cetacean Take Reduction Plan to NMFS on November 25, 1996.

NMFS has prepared an EA on the alternatives being considered for implementation of the final Plan. The EA addresses four alternatives: (1) A no-action alternative, (2) adoption of the draft plan as submitted by the Team, (3) adoption of a modified plan, with a marine mammal bycatch limit for drift gillnets, and (4) adoption of a modified plan, with a drift gillnet gear prohibition.

This assessment considers information that was not available to the Team at the time of their deliberations. This new information has resulted in the development of Alternatives 3 and 4, which are based on take reduction strategies discussed by the team while they were developing their draft plan. NMFS is making this EA available to the public, with a discussion of the new information and the rationale for the development of Alternatives 3 and 4, to provide an opportunity for public consideration and comment before regulations to implement a TRP for the drift gillnet and longline fisheries are proposed. As a result, this EA does not indicate a preferred alternative or identify a proposed action for implementation of the plan. After the close of the public comment period on this EA, NMFS will identify the preferred alternative for reducing incidental takes of marine mammals in these fisheries and request public comments on these proposed regulations.

A brief description of the take reduction strategies in each alternative is as follows:

Alternative 1: Status Quo, or No Action, Alternative

The no-action alternative would maintain existing regulations for both the pelagic drift gillnet and longline fisheries. This alternative would allow continued mortality and serious injury of strategic marine mammal stocks in these fisheries at a level above each stock's PBR level, which is in violation of section 118 of the MMPA.

Alternative 2: Take Reduction Plan, as Drafted by the Atlantic Offshore Cetacean Take Reduction Team

This alternative would adopt the Team's draft plan as submitted to NMFS on November 25, 1997. This plan would prohibit fishing in right whale critical habitat areas by both the drift gillnet and longline fisheries. This plan would regulate the drift gillnet fishery using the following strategies: (1) 100 percent marine mammal observer coverage, (2) limited entry for the swordfish drift gillnet fishery, (3) prohibition of drift gillnet gear south of Hudson Canyon from December 1 through May 31, and (4) a set allocation designed to reduce the derby nature of the fishery. In the longline fishery, the following regulatory strategies would be implemented: (1) Length-of-gear limit on pelagic longline gear from August to November in the Mid-Atlantic Bight, (2) reduction in maximum soak time in the Mid-Atlantic Bight during August-November by hauling gear in the order it was set, and (3) a requirement that longliners move after one entanglement with a marine mammal. In addition to these regulatory changes, the Team's draft plan included several non-regulatory strategies which were not considered in the preparation of the EA. Non-regulatory measures recommended by the team primarily focus on NMFS' long-term research, monitoring, and management objectives which would not be implemented by regulation in the near future and are an extension of actions currently underway to

implement the broad management goals of the MMPA, Magnuson-Stevens Fishery Conservation and Management Act, and the Atlantic Tunas Convention Act.

Alternative 3: Modified Plan, with Marine Mammal Bycatch Limit for the Drift Gillnet Fishery

This alternative would modify the Team's draft plan to include a marine mammal bycatch limit for the drift gillnet fishery. Under this alternative, the following combination of measures are proposed for the drift gillnet fishery: (1) Limited entry to the drift gillnet fishery, (2) prohibition of drift gillnet gear south of Hudson Canyon year-round, (3) prohibition on the use of drift gillnet gear from November 1 through July 31, (4) 100 percent marine mammal observer coverage, (5) mandatory education workshops for all vessel operators, and (6) a per-vessel marine mammal bycatch limit. The longline fishery would be subject to the same regulations specified in Alternative 2, with the following exceptions: (1) The areas subject to regulation would be expanded to include the Northeast Coastal area and (2) educational workshops would be mandatory for all vessel operators.

Alternative 4: Modified Plan, with Prohibition of Drift Gillnet Gear

This alternative would modify the team's draft plan to include a ban on the use of drift gillnet gear to target swordfish, tuna, and shark, except where otherwise authorized (i.e., the southeast U.S. shark gillnet fishery). This alternative would adopt the longline fishery take reduction strategies outlined in Alternative 3.

Dated: October 29, 1997.

Patricia A. Montanio,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–29160 Filed 11–3–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 102797C]

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene a public meeting of the Florida/Alabama Habitat Protection Advisory Panel (AP).

DATES: The meeting will be held on Thursday, November 20, 1997, and is scheduled to begin at 9:00 a.m. and adjourn at 3:00 p.m.

ADDRESSES: The meetings will be held at the at the Radisson Bay Harbor Inn, 7700 Courtney Campbell Causeway, Tampa, FL 33609; telephone: 813–281–8900.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Jeff Rester, Habitat Specialist, Gulf States Marine Fisheries Commission; telephone: 601–875–5912.

SUPPLEMENTARY INFORMATION: At this meeting, the AP will discuss an update on the Fenholloway River, and the expansion of U.S. 1 in Monroe County. The AP will also hear reports on the status of completion of the Essential Fish Habitat (EFH) guidelines being developed by NMFS; and of completion of a generic amendment by the Council which describes EFH as required by the Sustainable Fisheries Act. An overview of the Florida Marine Research Institute's mapping of fisheries habitat, and an update of the status of artificial reefs in Florida will also be presented.

A copy of the agenda can be obtained by calling 813–228–2815. Although other issues not on the agenda may come before the AP for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal AP action during this meeting. AP action will be restricted to those issues specifically identified in the agenda listed as available by this notice.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by November 13, 1997.

Dated: October 29, 1997.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–29159 Filed 11–3–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 102497D]

South Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a meeting of its Habitat Committee and Habitat Research and Monitoring Subgroup, Joint Habitat Committee and Habitat Advisory Panel chairmen and agency representatives to the Habitat Advisory Panel, Marine Reserves Committee, Information and Education (I & E) Committee, Mackerel Committee, Scientific and Statistical Selection Committee (CLOSED SESSION), Advisory Panel Selection Committee (CLOSED SESSION), Personnel Committee (CLOSED SESSION), Snapper Grouper Committee, and a Scoping Meeting of the Atlantic Coastal Cooperative Statistics Program. A Council Session will also be held.

DATES: The meetings will be held from November 17-21, 1997. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held at the Duke University Nicholas School of the Environment Marine Laboratory, 135 Duke Marine Lab Road, Beaufort, NC 28516; telephone: (919) 504-7504.

Council address: South Atlantic Fishery Management Council, One Southpark Circle, Suite 306; Charleston, SC 29407-4699.

FOR FURTHER INFORMATION CONTACT: Susan Buchanan, Public Information Officer; telephone: (803) 571-4366; fax: (803) 769-4520; email: susan.buchanan@noaa.gov

SUPPLEMENTARY INFORMATION:

Meeting Dates

November 17, 1997, 1:30 p.m. to 5:00 p.m.—Habitat Committee/Habitat Research and Monitoring Subgroup;

The Committee will observe the Subgroup workshop. The Subgroup will review present research efforts to identify and describe essential fish habitat and determine fishery and non-fishery impacts on these habitats and discuss the structure of the research section of the Habitat Fishery Management Plan (FMP).

November 17, 1997, 5:00 p.m. until all business is complete —Atlantic Coastal Cooperative Statistics Program Scoping Meeting;

The purpose of this scoping meeting is to provide the public an opportunity to express their views on ways to improve commercial and recreational fisheries data collection.

November 18, 1997, 8:30 a.m. to 12:00 noon—Joint Habitat Committee and Habitat Advisory Panel chairmen and state & Federal representatives to the Habitat Advisory Panel;

The Committee, chairmen and representatives will review the status of the Habitat FMP and comprehensive Habitat Amendment, review fishing threats to essential fish habitat, determine fishery impacts on habitat, and develop management options for the Habitat FMP.

November 18, 1997, 1:30 p.m. to 3:30 p.m.—Marine Reserves Committee;

The Committee will review recent activities in the country that have focused on marine reserves, such as meetings, workshops and research, review the status of the Oculina Bank closed area, hear a report from NMFS law enforcement on fishing vessel monitoring systems and the potential for enforcing marine reserves, and discuss a Council approach for addressing marine reserves in the South Atlantic.

November 18, 1997, 3:30 p.m. to 5:30 p.m.—Information and Education (I & E) Committee;

The Committee will review current Council I & E activities, hear an overview of the NMFS Southeast Regional Office plan for fishery I & E activities, and discuss additional and/or future I & E activities.

November 19, 1997, 8:30 a.m. to 12:00 noon—Mackeral Committee;

The Committee will review items for Amendment 9 to the Coastal Migratory Pelagics FMP proposed by the Gulf of Mexico Fishery Management Council, discuss the Gulf Council's response to the South Atlantic Council's request for true lead in dolphin and wahoo management, and hear the status of Amendment 8 to the Coastal Migratory Pelagics FMP and the 1997-98 framework seasonal adjustments.

November 19, 1997, 1:30 p.m. to 2:30 p.m.—Scientific and Statistical Selection (SSC) Committee (CLOSED SESSION);

The Committee will review resumes and develop recommendations for appointment to SSC.

November 19, 1997, 2:30 p.m. to 4:00 p.m.—Advisory Panel Selection Committee (CLOSED SESSION);

The Committee will review applications and develop recommendations for appointments to advisory panels.

November 19, 1997, 4:00 p.m. to 5:00 p.m.—Personnel Committee (CLOSED SESSION);

The Committee will discuss Council personnel issues.

November 20, 1997, 8:30 a.m. to 12:00 noon—Snapper Grouper Committee;

The Committee will hear status reports on Amendments 8 and 9 to the Snapper Grouper FMP, hear stock assessment reports on scamp and vermilion snapper species, hear the snapper grouper logbook report, a report on the economic survey results, and review special management zone requests and develop recommendations.

November 20, 1997, 1:30 p.m. to 2:30 p.m.—Snapper Grouper Committee continued;

November 20, 1997, 3:00 p.m. to 5:30 p.m.—Council Session;

The full Council will convene to hear comments from Rear Admiral Norman T. Saunders, Commander of the 7th Coast Guard District, and to begin development of the Magnuson-Stevens Act Generic Amendment (the Council will review definitions of overfishing and rebuilding timeframes for each FMP, develop new definitions and rebuilding timeframes where required, and review other Magnuson-Stevens Act requirements).

November 21, 1997, 8:30 a.m. to 5:00 p.m.—Council Session;

The full Council will convene to hear committee reports at the following times.

8:30 a.m. to 9:00 a.m.—Habitat Committee report;

The Council will approve Habitat Amendment management options.

9:00 a.m. to 9:30 a.m.—Snapper Grouper Committee report;

The Council will take action on special management zone requests.

9:30 a.m. to 10:00 a.m.—Marine Reserves Committee report;

10:00 a.m. to 10:45 a.m.—Mackerel Committee report;

The Council will take action on Gulf Council proposed actions for Coastal Migratory Pelagics Amendment 9.

10:45 a.m. to 11:00 a.m.—I & E Committee report;

11:00 a.m. to 11:15 a.m.—SSC Selection Committee report (CLOSED SESSION);

The Council will approve new SSC members.

11:15 a.m. to 11:45 a.m.—Advisory Panel Selection Committee report (CLOSED SESSION);

The Council will approve new advisory panel members.

11:45 a.m. to 12:00 noon—Personnel Committee report (CLOSED SESSION);

1:30 p.m. to 5:00 p.m., the Council will hear a report from the U.S. Fish and Wildlife Service on the Federal aid program and the South Florida restoration project; modify the Bycatch Reduction Device Protocol; hear reports on the status of the investigation of the four golden crab permits; the golden crab framework action; the Operations Plan meeting, the Dolphin/Wahoo FMP request; progress of the Calico Scallop FMP development; the Highly Migratory Species longline Advisory Panel meeting; the Highly Migratory Species billfish advisory Panel meeting; and the Atlantic Coastal Cooperative Statistics Program before making Council recommendations. The Council will also hear agency and liaison reports and discuss other business.

Although other issues not contained in this agenda may come before this Council/Committee for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Council/Committee action during this meeting. Council/Committee action will be restricted to those issues specifically identified in the agenda listed in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) by November 10, 1997.

Dated: October 29, 1997.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–29098 Filed 10–30–97; 10:28 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Macau

October 29, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: November 5, 1997.

FOR FURTHER INFORMATION CONTACT: Helen L. LeGrande, International Trade Specialist, Office of Textiles and

Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The current limits for certain categories are being increased for carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 61 FR 66263, published on December 17, 1996). Also see 61 FR 68244, published on December 27, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 29, 1997.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 20, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Macau and exported during the twelve-month period which began on January 1, 1997 and extends through December 31, 1997.

Effective on November 5, 1997, you are directed to increase the current limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
336/636	73,429 dozen.
338	384,567 dozen.
339	1,605,326 dozen.
340	860,182 dozen.
341	227,016 dozen.
342	105,410 dozen.
345	64,942 dozen.
347/348/847	877,233 dozen.
351/651	83,364 dozen.
359–C/659–C [2]	424,824 kilograms.
359–V [3]	141,606 kilograms.
633/634/635	854,765 dozen.
638/639/838	2,027,771 dozen.
659–S [4]	147,834 kilograms.
Group II	
400–469, as a group	1,713,865 square metre equivalent.
445/446	94,004 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1996.

[2] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8036, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[3] Category 359–V: only HTS numbers 6103.19.2030, 6103.19.9030, 6104.12.0040, 6104.19.8040, 6110.20.1022, 6110.20.1024, 6110.20.2030, 6110.20.2035, 6110.90.9044, 6110.90.9046, 6201.92.2010, 6202.92.2020, 6203.19.1030, 6203.19.9030, 6204.12.0040, 6204.19.8040, 6211.32.0070 and 6211.42.0070.

[4] Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 97–29119 Filed 11–3–97; 8:45 am]

BILLING CODE 3510–DR–F

COMMODITY FUTURES TRADING COMMISSION

Applications of the Chicago Board of Trade for Designation as a Contract Market in PCS Catastrophe Single-Event Insurance Options for the Entire U.S. (National) Plus Eight Regional and State-Based Contracts Covering the Northeast, West, California, Texas, East, Southeast, Midwest, and Florida

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity option contracts.

SUMMARY: The Chicago Board of Trade (CBT or Exchange) has applied for designation as a contract market in nine options on PCS catastrophe single-event insurance. The options include a national contract plus eight regional and state-based contracts representing the Northeast, West, California, Texas, East, Southeast, Midwest, and Florida. The applications were submitted under the Commission's 45-day Fast Track procedures. The Acting Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purpose of the Commodity Exchange Act.

DATES: Comments must be received on or before November 19, 1997.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street, NW Washington, DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521, or by electronic mail to secretary@cftc.gov. Reference should be made to the CBT PCS catastrophe single event insurance options.

FOR FURTHER INFORMATION CONTACT: Please contact Mike Penick of the Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street NW, Washington, 20581, telephone (202) 418–5279. Facsimile number: (202) 418–5527. Electronic mail: mpenick@cftc.gov

SUPPLEMENTARY INFORMATION: The contracts were submitted pursuant to the Commission's Fast Track procedures for streamlining the review of applications for contract market designation (62 FR 10434). Under those procedures, the contracts, absent any contrary action by the Commission, may be deemed approved at the close of business on December 11, 1997, 45 days after receipt of the applications. In view of the limited review period provided under the Fast Track procedures, the Commission has determined to publish for public comment notice of the availability of the terms and conditions for 15 days, rather than 30 days as provided for applications submitted under the regular review procedures.

Copies of the terms and conditions will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street NW, Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address, by phone at (202) 418–5100, or via the internet on the CFTC website at www.cftc.gov under "What's Pending".

Other materials submitted by the CBT in support of the applications for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed terms and conditions, or with respect to other materials submitted by the CBT, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street NW, Washington, DC 20581 by the specified date.

Issued in Washington, DC, on October 29, 1997.

John R. Mielke,

Acting Director.

[FR Doc. 97–29134 Filed 11–3–97; 8:45 am]

BILLING CODE 6351–01–P

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 98–1]

Black & Decker Corporation; Complaint

AGENCY: Consumer Product Safety Commission.

ACTION: Publication of a complaint under the Consumer Product Safety Act.

SUMMARY: Under Provisions of its Rules of Practice for Adjudicative Proceedings (16 CFR part 1025), the Consumer Product Safety Commission must publish in the **Federal Register** complaints which it issues. Published below is a complaint in the matter of Black & Decker Corporation.

SUPPLEMENTARY INFORMATION: The text of the Complaint appears below.

Dated: October 29, 1997.

Sadye E. Dunn,

Secretary.

[CPSC Docket No. 98–1]

In the Matter of Black & Decker Co.; Complaint

Nature of Proceedings

1. This is an administrative proceeding pursuant to Section 15 of the Consumer Product Safety Act (CPSA), 15 U.S.C. § 2064, for public notification and remedial action to protect the public from substantial risks of injury presented by a toaster. This proceeding is governed by the Rules of Practice for Adjudicative Proceedings before the Consumer Product Safety Commission, 16 C.F.R. part 1025.

Jurisdiction

2. This proceeding is instituted pursuant to the authority contained in sections 15 (c), (d), and (f) of the CPSA, 15 U.S.C. §§ 2064 (c), (d), and (f).

Parties

3. Complaint Counsel is the staff of the Division of Administrative Litigation of the Office of Compliance of the U.S. Consumer Product Safety Commission, an independent regulatory commission established by Section 4 of the CPSA. 15 U.S.C. § 2053.

4. Respondent Black & Decker Corporation is a Maryland corporation with its principal place of business located at 701 E. Joppa Road, Baltimore, Maryland 21286–5559.

5. Black & Decker is a "manufacturer" of consumer products as that term is defined in the CPSA, 15 U.S.C. § 2052(a)(4).

The Consumer Product

6. The Black & Decker Spacemaker Optima Toaster, Model T1000, Type 1 ("Spacemaker Toaster") is a toaster designed, produced and distributed specifically to be installed directly under kitchen cabinets and is a consumer product. 15 U.S.C. § 2052.

Substantial Risks of Injury

7. Paragraphs 1 through 6 are hereby realleged.

8. The Spacemaker Toaster is designed to be mounted underneath kitchen cabinets. There is a glass door on the front of the toaster. The consumer inserts the food item in the front of the toaster, horizontally, onto a rack.

9. An electronic timer in the Spacemaker Toaster with thermal compensation controls the temperature.

10. When a toasting cycle is complete, a glass door on the front of the Spacemaker Toaster automatically opens and the rack containing the food item extends out—also automatically—approximately 1½ inches.

11. The Spacemaker Toaster sets food items on fire because the electronic timer does not adequately control temperature within the product.

12. If food items ignite, the Spacemaker Toaster releases the flames at the end of the toasting cycle when the glass door automatically opens and the rack containing the burning food automatically extends.

13. The features of the Spacemaker Toaster set forth in paragraphs 9 through 11 above constitute design defects under 15 U.S.C. § 2064.

14. When the Spacemaker Toaster releases flames, the flames may impinge directly on the kitchen cabinets and combustibles in the cabinet, igniting the cabinet and/or its contents. The fires may spread, exposing consumers to the risk of bodily injury or death by burning or smoke inhalation.

15. All of the approximately 224,000 Spacemaker Toasters purchased by the public carry the risk of severe injury or death because all units are of the same design.

16. The defects in the Spacemaker Toasters create a substantial risk of injury to consumers within the meaning of Section 15(a)(2) of the CPSA, 15 U.S.C. § 2064(a)(2).

17. The Spacemaker Toaster presents a substantial product hazard as described in sections 15(a)(2), (c) and (d) of the CPSA, 15 U.S.C. §§ 2064 (a)(2), (c) and (d).

Relief Sought

Wherefore, in the public interest, Complaint Counsel requests that the Commission:

A. Determine that Respondent's Spacemaker Toasters present a "substantial product hazard" within the meaning of section 15 (a)(2) of the CPSA, 15 U.S.C. § 2064(a)(2).

B. Determine that public notification under section 15(c) of the CPSA, 15 U.S.C. § 2064(c) is required to protect the public adequately from the substantial product hazard presented by the T1000 Toasters which have been distributed and order that the Respondent:

(1) Give prompt public notice that the Spacemaker Toaster presents a fire hazard to consumers and of the remedies available to remove the risk of injury;

(2) Mail notice to each person who is or has been a distributor or retailer of the Spacemaker Toaster;

(3) Mail notice to every person to whom Respondent knows the Spacemaker Toaster was delivered or sold; and

(4) Include in the notice required by (1), (2) and (3) above a complete description of the hazard presented, a warning to stop using the Spacemaker Toaster immediately; and clear instructions for returning the Spacemaker Toasters to Respondent. The form and content of the notice will be specified by the Commission.

C. Determine that action under section 15(d) of the CPSA, 15 U.S.C. § 2064(d), is in the public interest and order Respondent:

(1) To cease manufacturing for sale, offering for sale, and distributing in commerce Spacemaker Toasters;

(2) To elect to repair all Spacemaker Toasters so they will not create a fire hazard; to replace all Spacemaker Toasters with a like or equivalent product which will not create a fire hazard; or to refund to consumers the purchase price of the Spacemaker Toasters;

(3) To make no charge to consumers and to reimburse them for any foreseeable expenses incurred in availing themselves of any remedy provided under any order issued in this matter;

(4) To reimburse distributors and dealers for expenses in connection with carrying our any Commission Order issued in this matter;

(5) To submit a plan satisfactory to the Commission, within ten (10) days of service of the final Order, directing that actions specified in paragraphs C(1) through C(4) above be taken in a timely manner;

(6) To keep records of its actions taken to comply with paragraphs C(1) through C(5) above; and to supply these records to the Commission for a period of three (3) years after entry of a Final Order issued by the Commission requiring notice and remedial action, for the purpose of monitoring compliance with the Final Order;

(7) To notify the Commission at least 60 days prior to any change in their business (such as incorporation, dissolution, assignment, sale, or petition for bankruptcy) that results in, or is intended to result in, the emergence of successor ownership, the creation or dissolution of subsidiaries, going out of business, or any other change that might affect;

(8) To take such other and further actions as the Commission deems necessary to protect the public health and safety and to comply with the CPSA.

Issued by Order of the Commission.

Dated: October 29, 1997.

Alan H. Schoem,

Assistant Executive Director, Office of Compliance.

Eric Stone,

Director, Division of Administrative Litigation, Office of Compliance.

William J. Moore, Jr.,

Complaint Counsel, Division of Administrative Litigation, Office of Compliance.

Deborah J. Lewis,

Complaint Counsel, Division of Administrative Litigation, Office of Compliance.

List and Summary of Documentary Evidence Supporting the Complaint

Pursuant to 16 CFR 1025.11(b)(3) of the Commission's Rules of Practice for Adjudicative Proceedings, the following is a list and summary of documentary evidence supporting the Complaint in this matter. Complaint Counsel reserves the right to offer additional evidence during the course of the proceedings.

1. A photograph of a Spacemaker Optima Horizontal Toaster, Model T1000, Type 1.

2. A Consumer Product Safety Commission (CPSC) report dated September 21, 1995, by Terry Van Houten, Division of Human Factors. This report analyzes how consumers may engage in normal use of the Spacemaker Toaster in a manner that increases the risk of fire.

3. CPSC memorandum dated January 23, 1997 from Julie Ayers, Electrical Engineer, Office of Hazard Identification and Reduction to Renae Rauchschwalbe, Office of Corrective Actions. This memorandum explains the fire hazard posed by the Spacemaker Toaster.

4. Photographs and videotape of testing conducted by CPSC Office of Hazard Identification and Reduction on April 9, 1997. These tests show that the spread of a fire originating from food in a Spacemaker Toaster mounted underneath an open kitchen cabinet can result in a catastrophic household fire.

5. Photographs of testing conducted by CPSC Office of Hazard Identification and Reduction on June 18, 1997. These tests show that the spread of a fire originating from food in a Spacemaker Toaster mounted underneath a closed kitchen cabinet can result in a catastrophic household fire.

[FR Doc. 97–29150 Filed 11–3–97; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Associated Form, and OMB Number: Request for Family Member Educational Information; AF Form 1466A; OMB Number 0701–0122.

Type of Request: Reinstatement.

Number of Respondents: 31,656.

Responses Per Respondent: 1.

Annual Responses: 31,656.

average Burden Per Response: 15 minutes.

Annual Burden Hours: 7,914.

Needs and Uses: The information collection requirement is necessary to evaluate family members' needs for any special medical or educational services; to assist in making CONUS/OCONUS assignment recommendations; and to code and re-enroll eligible family members into the Exceptional Family Member Program. Respondents are dependents and students who may require medical or education services. Information is collected prior to new assignments. Data is needed to ensure proper medical and educational needs are available at new assignments.

Affected Public: Individuals or Households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: October 29, 1997.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–29068 Filed 11–3–97; 8:45 am]

BILLING CODE 5000–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission of OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Associated Form, and OMB Number: Commercial Airlift Review; AMC Form 207; OMB Number 0701–0137.

Type of Request: Revision.

Number of Respondents: 30.

Responses Per Respondent: 1.

Annual Responses: 30.

Average Burden Per Response: 20 hours.

Annual Burden Hours: 600.

Needs and Uses: The information collection requirement is necessary to assist the overall evaluation of commercial aircraft to provide quality, safe, and reliable aircraft service when procured by the Department of Defense. Respondents are commercial air carriers desiring to supply airlift services to the Department of Defense. AMC Form 207 provides vital information from the carriers needed to determine their eligibility to participate in the DoD Air Transportation Program.

Affected Public: Business or Other For-Profit.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: October 29, 1997.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–29069 Filed 11–3–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 98–02]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Assistance Agency, DOD.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Pub. L. 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSAA/COMPT/RM, (703) 604–6575

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 98–02, with attached transmittal, policy justification and sensitivity of technology pages.

Dated: October 29, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5000–04–M

DEFENSE SECURITY ASSISTANCE AGENCY

WASHINGTON, DC 20301-2800

20 OCT 1997

In reply refer to:
I-54057/97

Honorable Newt Gingrich
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 98-02, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance (LOA) to Korea for defense articles and services estimated to cost $90 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

MICHAEL S. DAVISON, JR.
LIEUTENANT GENERAL, USA
DIRECTOR

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 98-02

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) Prospective Purchaser: Korea

(ii) Total Estimated Value:

Major Defense Equipment*	$ 35 million
Other	$ 55 million
TOTAL	$ 90 million

(iii) Description of Articles or Services Offered:
One MK 41 Vertical Launch System, MK 41 Weapon Direction System, OT-134 transmitter, MK 13 MOD 0 canisters, shipboard checkout and operation of launch system hardware, U.S. Government and contractor engineering and logistics personnel services, personnel training and training equipment, support and test equipment, spare and repair parts, publications and technical documentation, launch system software development and maintenance and other related elements of logistics support.

(iv) Military Department: Navy (LOP)

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None

(vi) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:
See Annex attached.

(vii) Date Report Delivered to Congress: 20 OCT 1997

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Korea - MK 41 Vertical Launch System

The Government of Korea has requested the possible sale of one MK 41 Vertical Launch System, MK 41 Weapon Direction System, OT-134 transmitter, MK 13 MOD 0 canisters, shipboard checkout and operation of launch system hardware, U.S. Government and contractor engineering and logistics personnel services, personnel training and training equipment, support and test equipment, spare and repair parts, publications and technical documentation, launch system software development and maintenance and other related elements of logistics support. The estimated cost is $90 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in Northeast Asia.

The missile launcher system will be installed on a new construction frigate and is intended for use with STANDARD missiles as the principal air defense armament of these new vessels. Korea will have no difficulty absorbing this missile launch system into its armed forces. It is anticipated that Korea will purchase several additional launch systems.

The proposed sale of this shipboard missile launch system and support will not affect the basic military balance in the region.

The prime contractor will be Lockheed Martin Aero and Naval Systems, Baltimore, Maryland. One or more proposed offset agreements may be related to this proposed sale.

Implementation of this sale will not require the assignment of any contractor representatives in Korea; however, there will be three U.S. Government personnel for approximately 13 months during the preparation, equipment installations, and equipment test and checkout of the MK 41 Vertical Launch System on the ship.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 98-02

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vi

(vi) Sensitivity of Technology:

1. The MK-41 Vertical Launch System (VLS) contains sensitive technology and is Unclassified. The launch control computer program, which also contains missile launch rates, is classified Confidential. Sections of the MK-41 technical documentation, which disclose launcher vulnerabilities, are classified Confidential.

2. If a technologically advanced adversary were to obtain knowledge of this system, it is possible that countermeasures could be developed to reduce its effectiveness.

3. A determination has been made that Korea can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This proposed sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

[FR Doc. 97-29084 Filed 11-3-97; 8:45 am]
BILLING CODE 5000-04-C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 98–03]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Assistance Agency, DOD.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Pub. L. 104–164 dated, July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSAA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 98–03, with attached transmittal, policy justification and sensitivity of technology pages.

Dated: October 29, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5000–04–M

DEFENSE SECURITY ASSISTANCE AGENCY

WASHINGTON, DC 20301-2800

20 OCT 1997

In reply refer to:
I-54059/97

Honorable Newt Gingrich
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 98-03, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to Israel for defense articles and services estimated to cost $30 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

MS Davison

MICHAEL S. DAVISON, JR.
LIEUTENANT GENERAL, USA
DIRECTOR

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Attachments

Transmittal No. 98-03

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) Prospective Purchaser: Israel

(ii) Total Estimated Value:

Major Defense Equipment*	$ 27 million
Other	$ 3 million
TOTAL	$ 30 million

(iii) Description of Articles or Services Offered:
Three hundred one Multiple Launch Rocket System (MLRS) tactical rocket pods and other related elements of program support.

(iv) Military Department: Army (YPU)

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None

(vi) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:
See Annex attached.

(vii) Date Report Delivered to Congress: 20 OCT 1997

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Israel - Multiple Launch Rocket System Tactical Rocket Pods

The Government of Israel has requested the possible sale of 301 Multiple Launch Rocket System (MLRS) tactical rocket pods and other related elements of program support. The estimated cost is $30 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in the Middle East.

Israel will use the MLRS tactical rocket pods to enhance its current area fire system for use against hostile artillery, air defense and maneuver elements. Israel, which already operates the MLRS system, will have no difficulty absorbing these additional rocket pods.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be Lockheed Martin Vought Systems, Dallas, Texas. There are no offset agreements proposed to be entered into in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government personnel or contractor representatives to Israel.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 98-03

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vi

(vi) Sensitivity of Technology:

1. The highest level of classified information required to be released for training, operation and maintenance of the MLRS is Confidential. The highest level which could be revealed through reverse engineering or testing of the end item is Confidential. This information includes Confidential reports and test data, as well as performance and capability data, classified Confidential/Secret.

2. If a technologically advanced potential adversary gained access to this information, countermeasures could be developed which would reduce the effectiveness of the missile system.

3. A determination has been made that the recipient country can provide substantially the same degree of protection for the technology being released as the U.S. Government. This proposed sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

[FR Doc. 97-29065 Filed 11-3-97; 8:45 am]
BILLING CODE 5000-04-C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 97-27]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Assistance Agency, DoD.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Pub. L. 104-164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSAA/COMPT/CPD, (703) 604-6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 97-27, with attached transmittal and policy justification.

Dated: October 28, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5000-04-M

DEFENSE SECURITY ASSISTANCE AGENCY

WASHINGTON, DC 20301-2800

21 JUL 1997

In reply refer to:
I-50566/97

Honorable Newt Gingrich
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 97-27, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to Saudi Arabia for defense articles and services estimated to cost $53 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

H. Diehl McKalip
Acting Director

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Attachments

Transmittal No. 97-27

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) Prospective Purchaser: Saudi Arabia

(ii) Total Estimated Value:

Major Defense Equipment*	$30 million
Other	$23 million
TOTAL	$53 million

(iii) Description of Articles or Services Offered:
Communications equipment including 465 AN/VRC-90, 355 AN/VRC-92 and 404 AN/VRC-119 radios, 42 RT-1702C receiver transmitter, high frequency radios, installation kits, spare and repair parts, support equipment, publications and technical documentation, contractor engineering and technical assistance, personnel training and other related elements of logistics support for the Saudi Arabian National Guard (SANG).

(iv) Military Department: Army (WFW, Amendment 2)

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None

(vi) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:
None

(vii) Date Report Delivered to Congress: 21 JUL 1997

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Saudi Arabia - Communications Equipment

The Saudi Arabian Government requested the purchase of communications equipment including 465 AN/VRC-90, 355 AN/VRC-92 and 404 AN/VRC-119 radios, 42 RT-1702C receiver transmitter, high frequency radios, installation kits, spare and repair parts, support equipment, publications and technical documentation, contractor engineering and technical assistance, personnel training and other related elements of logistics support for the Saudi Arabian National Guard (SANG). The estimated cost is $53 million.

This sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in the Middle East.

This equipment will provide common hardware down to the platoon level within the SANG light brigades. It will augment SANG strategic communications between the light armored brigades, light brigades and headquarters components. Saudi Arabia will have no difficulty absorbing this communications equipment.

The sale of this equipment and support will not affect the basic military balance in the region.

The principal contractors will be ITT, Fort Wayne, Indiana and Harris Corporation, Rochester, New York. There are no offset agreements proposed to be entered into in connection with this potential sale.

Implementation of this sale will not require the assignment of any additional U.S. Government personnel; however, there will be four field service representatives for two years in-country.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

[FR Doc. 97-29087 Filed 11-3-97; 8:45 am]
BILLING CODE 5000-04-C

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP-97-355-003]

CNG Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

October 29, 1997.

Take notice that on October 24, 1997, CNG Transmission Corporation (CNG), tendered for filing as part for its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets:

Third Sub. Original Sheet No. 209
Second Sub. Original Sheet No. 211

CNG requests an effective date of June 1, 1997, for its proposed tariff sheets.

CNG states that the purposes of this filing is to correct the inadvertent reference to Sheet No. 38 in Section 4.1.A of Rate Schedule MPS, on Sheets No. 209. CNG has also corrected the effective date and docket number reference in the footer of that sheet, and has corrected identical errors that were also found in the footer of Sheet No. 211.

CNG states that copies of this letter of transmittal and enclosures are being mailed to parties to the captioned proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 97-29092 Filed 11-3-97; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97-105-005]

Nora Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

October 29, 1997.

Take notice that on October 24, 1997, Nora Transmission Company (Nora) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheet to become effective November 1, 1997:

Substitute Second Revised Sheet No. 135

Nora states that the proposed tariff sheet is submitted in compliance with the Letter Order issued by the Commission on October 17, 1997 in Docket No. RP97-105-005. In the Order, the Commission accepted the tariff sheet effective November 1, 1997, subject to conditions.

Nora states that Tariff Sheet No. 135 has been corrected to properly state reference cites for Section 16.3 of Nora's General Terms and Conditions as required by the Commission.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests should be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.
Acting Secretary.

[FR Doc. 97-29091 Filed 11-3-97; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98-48-000]

Northern Natural Gas Company; Notice of Request Under Blanket Authorization

October 29, 1997.

Take notice that on October 24, 1997, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124-1000, filed in Docket No CP98-48-000 a request pursuant to Sections 157.205, 157.212 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212 and 157.216) for authorization to upgrade two existing delivery points located in LaCrosse and Monroe Counties, Wisconsin, to accommodate natural gas deliveries to Northern States Power Company—Wisconsin (NSP), under Northern's blanket certificate issued in Docket No. CP82-401-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northern proposes to upgrade these delivery points to accommodate natural gas deliveries to NSP under currently effective throughput service agreements.

Northern asserts that NSP has requested the upgrade of the existing delivery points to provide increased natural gas service to the Fort McCoy #1 and LaCrosse #2 town border stations. The estimated incremental volumes proposed to be delivered to NSP at these delivery points are 3,663 MMBtu on a peak day and 330,284 MMBtu on an annual basis. Northern states that the estimated cost to install the delivery points is $210,000.

In addition to the authorization requested herein, Northern states that it will construct certain branchline compression on its LaCrosse branchline pursuant to the automatic authorization of the blanket certificate and Section 157.208(a) of the Commission's Regulations.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.
Acting Secretary.

[FR Doc. 97-29090 Filed 11-3-97; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97-519-001]

Tennessee Gas Pipeline Company; Notice of Compliance Filing

October 29, 1997.

Take notice that on October 24, 1997, Tennessee Gas Pipeline Company (Tennessee), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, with an effective date of October 9, 1997:

Sub Second Revised Sheet No. 351A
Sub Second Revised Sheet No. 352
Sub Second Revised Sheet No. 524
Sub Original Sheet No. 676

Tennessee states that these sheets are filed in compliance with the Commission's October 9, 1997 Letter Order in the above-referenced docket (October 9 Order). Tennessee Gas Pipeline Company, 81 FERC ¶61,006 (1997). Tennessee further states that the revised tariff sheets effect certain clarifications to its Agency Arrangement tariff provision and its pro forma Agency Authorization Agreement and Agency Authorization Agreement for Electronic Data Interchange as directed by the October 9 Order.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street N.E., Washington, D.C. 20426, in accordance with 18 CFR 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to this proceeding. Copies of this filing are on file with the Commission and available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 97-29093 Filed 11-3-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98-12-001]

Williams Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

October 29, 1997.

Take notice that on October 24, 1997, Williams Natural Gas Company (WNG), tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, with the proposed effective date of November 1, 1997.

Substitute Second Revised Sheet Nos. 8E and 8F

WNG states that it made a filing in Docket Nos. RP98-12, *et al.*, on October 1, 1997 to submit its fourth quarter 1997 report of take-or-pay buyout, buydown and contract reformation costs and gas supply related transition costs, and the application or distribution of those costs and refunds. The instant filing is being made to revise Schedule 4 of the original filing to reflect revision of certain customers' October MDTQ's which were not finalized until after October 1, 1997. All other aspects of WNG's October 1 filing are unchanged.

WNG states that a copy of its filing was served on all participants listed on the service lists maintained by the Commission in the dockets referenced above and on all of WNG's jurisdictional customers and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97-29094 Filed 11-3-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98-45-000]

Williston Basin Interstate Pipeline Company; Notice of Request Under Blanket Authorization

October 29, 1997.

Take notice that on October 22, 1997, Williston Basin Interstate Pipeline Company (Williston Basin), 200 North Third Street, Suite 300, Bismarck, North Dakota 58501, filed in Docket No. CP98-45-000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to utilize an existing tap to effectuate natural gas transportation deliveries to Montana-Dakota Utilities Co. (Montana-Dakota) for ultimate use by additional residential customers in South Dakota, under Williston Basin's blanket certificate issued in Docket No. CP82-487-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Williston Basin states that it recently received a request from Montana-Dakota for authorization to add additional residential customers to an existing transmission line tap at Station 9059+59 on Williston Basin's Belle Fourche to Rapid City line, located in Section 36, T5N, R5E, Meade County, South Dakota. The estimated additional volume to be delivered is 2,500 Dkt per year.

Williston Basin states that this proposal will have no significant effect on its peak day or annual requirements, that the total volumes delivered will not exceed total volumes authorized prior to this request, that its existing tariff does not prohibit the addition of new delivery points and that there is sufficient capacity to accomplish deliveries without detriment or disadvantage to its other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 97-29069 Filed 11-3-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98-10-000]

Williston Basin Interstate Pipeline Company; Notice of Section 4 Filing

October 29, 1997.

Take notice that on October 22, 1997, Williston Basin Interstate Pipeline Company (Williston Basin) tendered for filing pursuant to Section 4 of the Natural Gas Act, a notice of termination of gathering services which are currently being provided through facilities authorized to be abandoned by sale to Constitution Gas Transport Company, Inc.[1] Williston Basin requests that the proposed termination of service be effective December 1, 1997. Williston Basin maintains that the proposed termination of service will not adversely affect its ability to render certificated transportation service to its customers or its ability to meet fully its currently contractual obligations.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. Under section 154.210 of the Commission's Regulation, all such motions or protests should be filed on or before November 3, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97-29095 Filed 11-3-97; 8:45 am]

BILLING CODE 6717-01-M

[1] See Williston Basin Interstate Pipeline Co., 81 FERC ¶62,006 (1997).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER96-2709-000, et al.]

Entergy Services, Inc., et al.; Electric Rate and Corporate Regulation Filings

October 29, 1997.

Take notice that the following filings have been made with the Commission:

1. Entergy Services, Inc.

[Docket No. ER96-2709-000]

Take notice that on October 22, 1997, Entergy Services, Inc., as agent for Entergy Arkansas, Inc. (Entergy Arkansas), Entergy Gulf States Utilities Company (Entergy Gulf States), Entergy Louisiana, Inc. (Entergy Louisiana), Entergy Mississippi, Inc. (Entergy Mississippi), and Entergy New Orleans, Inc. (Entergy New Orleans) (collectively, the Entergy Operating Companies) filed additional information in the above referenced docket.

Comment date: November 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. NESI Power Marketing, Inc.

[Docket No. ER97-841-003]

Take notice that on October 24, 1997, NESI Power Marketing, Inc., tendered for filing their Transaction Reports for short-term transactions for the second quarter of 1997, pursuant to the Commission's order in *Northern Indiana Public Service Company and NIPSCO Energy Services, Inc.*, 75 FERC ¶ 61,213 (1996) and the Commission's March 13, 1997, letter order in *NESI Power Marketing, Inc.*, Docket No. ER97-841-000.

Comment date: November 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. American Electric Power Corporation

[Docket No. ER97-2769-000]

Take notice that on October 24, 1997, the American Power Service Corporation (AEPSC), on behalf of Indiana Michigan Company, amended its filing in the referenced docket, providing new exhibits showing the extent of rate reductions proposed under two agreements and revising an exhibit filed previously regarding unbundled cost components requested by the Commission's Staff. AEPSC renewed its requests for waiver of notice regarding effective dates.

A copy of the filing was served upon the Parties and the State Utility Regulatory Commission of Indiana and Michigan.

Comment date: November 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Minnesota Power & Light Company

[Docket No. ER98-131-000]

Take notice that on October 10, 1997, Minnesota Power & Light Company (MP), tendered for filing signed Service Agreements with Central Minnesota Municipal Power Agency and Union Electric Company under MP's cost-based Wholesale Coordination Sales Tariff WCS-1 to satisfy its filing requirements under this tariff.

Comment date: November 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. South Carolina Electric & Gas Company

[Docket No. ER98-132-000]

Take notice that on October 10, 1997, South Carolina Electric & Gas Company, tendered for filing proposed cancellation of Rate Schedule T1.S8(FPC), between South Carolina Electric & Gas Company and South Carolina Public Service Authority.

Under the proposed cancellation the contract which expired effective December 31, 1995, will be canceled.

Copies of this filing were served upon South Carolina Public Service Authority.

Comment date: November 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Ohio Valley Electric Corporation Indiana-Kentucky Electric Corporation

[Docket No. ER98-133-000]

Take notice that on October 10, 1997, Ohio Valley Electric Corporation (including its wholly-owned subsidiary, Indiana-Kentucky Electric Corporation) (OVEC) tendered for filing a Service Agreement for Non-Firm Point-To-Point Transmission Service, dated September 30, 1997, (the Service Agreement) between Pennsylvania Power & Light Company (PP&L) and OVEC. OVEC proposes an effective date of September 30, 1997, and requests waiver of the Commission's notice requirement to allow the requested effective date. The Service Agreement provides for non-firm transmission service by OVEC to PP&L.

In its filing, OVEC states that the rates and charges included in the Service Agreement are the rates and charges set forth in OVEC's Open Access Transmission Tariff.

Copies of this filing were served upon Pennsylvania Public Utility Commission and PP&L.

Comment date: November 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Montaup Electric Company

[Docket No. ER98–134–000]

Take notice that on October 10, 1997, Montaup Electric Company (Montaup) filed a Consent and Agreement by Montaup in favor of Toronto Dominion (Texas), Inc., under which Montaup consents to the assignment by Dighton Power Associates Limited Partnership (Dighton) of certain of Dighton's rights under the Interconnection Agreement between Montaup and Dighton dated as of April 10, 1997, and accepted for filing by letter order of August 4, 1997 in Docket No. ER97–2703–000.

Montaup requests that the Commission issue its order by the expiration of the 60-day notice period on December 10, 1997.

Comment date: November 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Commonwealth Electric Company, Cambridge Electric Light Company

[Docket No. ER98–135–000]

Take notice that on October 10, 1997, Commonwealth Electric Company (Commonwealth) and Cambridge Electric Light Company (Cambridge), collectively referred to as the Companies, tendered for filing with the Federal Energy Regulatory Commission their quarterly reports under Commonwealth's Market-Based Power Sales Tariff (FERC Electric Tariff Original Volume No. 7) and Cambridge's Market-Based Power Sales Tariff (FERC Electric Tariff Original Volume No. 9) for the period of July 1, 1997 to September 30, 1997.

Comment date: November 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. New England Power Company

[Docket No. ER98–136–000]

Take notice that on October 14, 1997, New England Power Company (NEP) filed a Service Agreement with New York State Electric & Gas Corporation for non-firm, point-to-point transmission service under NEP's open access transmission tariff, FERC Electric Tariff, Original Volume No. 9.

Comment date: November 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. PP&L, Inc.

[Docket No. ER98–137–000]

Take notice that on October 14, 1997, PP&L, Inc., formerly known as Pennsylvania Power & Light Company (PP&L), tendered for filing with the Federal Energy Regulatory Commission one Borderline Service Agreement (Agreement) between PP&L and Pennsylvania Electric Company, d/b/a GPU Energy, dated September 11, 1997. The Agreement supplements a borderline service umbrella tariff approved by the Commission in Docket No. ER93–847–000 by establishing the precise point of delivery, metering arrangements, and transmission losses associated with a new point of delivery under the umbrella tariff.

In accordance with the policy announced in *Prior Notice and Filing Requirements Under Part II of the Federal Power Act*, 64 FERC ¶ 61,139, *clarified and reh'g granted in part and denied in part*, 65 FERC ¶ 61,081 (1993), PP&L requests the Commission to make the Agreement effective as of September 11, 1997 because service will be provided under an umbrella tariff and the service agreement is filed within 30 days after the commencement of service. In accordance with 18 CFR 35.11, PP&L has requested waiver of the sixty-day notice period in 18 CFR 35.2(e). PP&L has also requested waiver of certain filing requirements for information previously filed with the Commission in Docket No. ER93–847–008.

PP&L states that a copy of its filing was provided to Pennsylvania Electric Company, d/b/a GPU Energy, and to Pennsylvania Public Utility Commission.

Comment date: November 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Wisconsin Electric Power Company

[Docket No. ER98–138–000]

Take notice that on October 14, 1997, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing a Short Term Firm Transmission Service Agreement between itself and NIPSCO Energy Services, Inc. (NESI). The Transmission Service Agreement allows NESI to receive transmission service under Wisconsin Electric's FERC Electric Tariff, Volume No. 7, which is pending Commission consideration in Docket No. OA97–578.

Wisconsin Electric requests an effective date coincident with its filing and waiver of the Commission's notice requirements in order to allow for economic transactions as they appear. Copies of the filing have been served on NESI, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: November 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Western Resources, Inc.

[Docket No. ER98–139–000]

Take notice that on October 14, 1997, Western Resources, Inc., tendered for filing a firm transmission agreement between Western Resources and Western Resources Generation Services. Western Resources states that the purpose of the agreement is to permit non-discriminatory access to the transmission facilities owned or controlled by Western Resources in accordance with Western Resources' open access transmission tariff on file with the Commission. The agreement is proposed to become effective October 9, 1997.

Copies of the filing were served upon Western Resources Generation Services and the Kansas Corporation Commission.

Comment date: November 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Northern States Power Company (Minnesota Company)

[Docket No. ER98–140–000]

Take notice that on October 14, 1997, Northern States Power Company (Minnesota)(NSP), tendered for filing the Short-Term Firm Point-to-Point Transmission Service Agreement between NSP and Madison Gas & Electric Company.

NSP requests that the Commission accept the agreement effective September 18, 1997, and requests waiver of the Commission's notice requirements in order for the agreement to be accepted for filing on the date requested.

Comment date: November 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Washington Water Power

[Docket No. ER98–141–000]

Take notice that on October 14, 1997, Washington Water Power tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations a Notice of Termination of the Restated Agreement For The Sale Of Firm Capacity And Firm Energy between The Washington Water Power Company (WWP) And Public Utility District No. 1 of Clark County Washington, previously filed with the Commission under Docket No. ER96–2607–000 (which has not yet been accepted for filing), has been terminated by mutual agreement, effective September 30, 1997. This termination is contingent upon effectiveness of a new long-term agreement under WWP's FERC Electric Tariff Volume No. 9.

Notice of the proposed cancellation has been served upon the following: Mr. Wayne Nelson, General Manager, Public Utility District No. 1 of Clark County, Washington, PO Box 8900, Vancouver, Washington 98668.

Comment date: November 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Washington Water Power

[Docket No. ER98–142–000]

Take notice that on October 14, 1997, Washington Water Power, tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR Part 35 of the Commission Rules and Regulations, an executed Long Term Service Agreement under WWP's FERC Electric Tariff First Revised Volume No. 9 with Public Utility District No. 1 of Clark County, Washington. WWP requests waiver of the prior notice requirement and requests an effective date of October 1, 1997.

Notice of the filing has been served upon the following: Mr. Wayne Nelson, General Manager, Public Utility District No. 1 of Clark County, Washington, PO Box 8900, Vancouver, Washington 98668.

Comment date: November 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Kansas City Power & Light Company

[Docket No. ER98–143–000]

Take notice that on October 14, 1997, Kansas City Power & Light Company (KCPL), tendered for filing a Service Agreement dated September 29, 1997, between KCPL and Avista Energy, Inc., KCPL proposes an effective date of October 6, 1997, and requests waiver of the Commission's notice requirement.

This Agreement provides for the rates and charges for Non-Firm Transmission Service.

In its filing, KCPL states that the rates included in the above-mentioned Service Agreement are KCPL's rates and charges in the compliance filing to FERC Order No. 888–A in Docket No. OA97–636.

Comment date: November 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Duke Energy Corporation

[Docket No. ER98–144–000]

Take notice that on October 14, 1997, Duke Power, a division of Duke Energy Corporation (Duke), tendered for filing Transmission Service Agreements between Duke, on its own behalf and acting as agent for its wholly-owned subsidiary, Nantahala Power and Light Company, and the following customers:

Customer	Type of serv. agreement	Date of serv. agreement	Requested effective date
Dayton Power & Light Company	Non-Firm	September 23, 1997	September 23, 1997.
The Energy Authority, Inc	Non-Firm	September 18, 1997	September 18, 1997.
Progress Power Marketing, Inc	Non-Firm	October 2, 1997	October 2, 1997.

Duke requests that the TSAs be made effective as rate schedules as of the dates set forth above.

Comment date: November 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Wisconsin Electric Power Company

[Docket No. ER98–145–000]

Take notice that on October 14, 1997, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing an electric service agreement under its Coordination Sales Tariff (FERC Electric Tariff, Original Volume No. 2). Wisconsin Electric respectfully requests an effective date November 1, 1997. Wisconsin Electric is authorized to state that Williams Energy Services Company joins in the requested effective date.

Copies of the filing have been served on Williams Energy Services Company, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: November 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. Central Louisiana Electric Company, Inc.

[Docket No. ER98–146–000]

Take notice that on October 14, 1997, Central Louisiana Electric Company, Inc., (CLECO), tendered for filing a service agreement under which CLECO, Transmission Services (CLECO–TS) will provide Umbrella Short Term Firm point-to-point transmission service to CLECO, Wholesale Merchant Operations (CLECO-WMO) under its point-to-point transmission tariff.

CLECO states that a copy of the filing has been served on CLECO–WMO.

Comment date: November 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. Central Louisiana Electric Company, Inc.

[Docket No. ER98–147–000]

Take notice that on October 14, 1997, Central Louisiana Electric Company, Inc., (CLECO), tendered for filing two service agreements under which CLECO will provide non-firm and short term firm point-to-point transmission services to Tenaska Power Services Company under its point-to-point transmission tariff.

CLECO states that a copy of the filing has been served on Tenaska Power Services Co.

Comment date: November 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. Central Louisiana Electric Company, Inc.

[Docket No. ER98–148–000]

Take notice that on October 14, 1997, Central Louisiana Electric Company, Inc., (CLECO), tendered for filing an umbrella service agreement under which CLECO will make market based power sales under its MR–1 tariff with Minnesota Power and Light Company.

CLECO states that a copy of the filing has been served on Minnesota Power & Light Company.

Comment date: November 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. Tapoco, Inc.

[Docket No. ER98–149–000]

Take notice that on October 14, 1997, Tapoco, Inc. (Tapoco), filed with the Commission the Amendatory Agreement Between Tennessee Valley Authority and Tapoco, Inc., dated March 1, 1997, (Agreement). The Agreement is submitted as a supplement to Tapoco Rate Schedule No. 6 and supplements to Rate Schedule No. 6. Tapoco states that the effect of the Agreement is to extend the term of an earlier Amendatory Agreement, dated October 24, 1994, and to provide the Tennessee Valley Authority (TVA) with a right of first refusal to purchase Tapoco's transmission facilities should Tapoco decide to sell. Tapoco requests that the Agreement be made effective as of March 1, 1997.

Copies of this filing were served on TVA, the Tennessee Public Service Commission, and the North Carolina

Utilities Commission. A courtesy copy of the filing was also served on Nantahala Power & Light Company, an adjoining, interconnected public utility that is a wholly-owned subsidiary of Duke Power Company.

Comment date: November 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. Rochester Gas and Electric Corporation

[Docket No. ER98–150–000]

Take notice that on October 14, 1997, Rochester Gas and Electric Corporation (RG&E) filed a Service Agreement between RG&E and the Entergy Power Marketing Corp., (Customer). This Service Agreement specifies that the Customer has agreed to the rates, terms and conditions of the RG&E open access transmission tariff filing on July 9, 1996, in Docket No. OA96–141–000.

RG&E requests waiver of the Commission's sixty (60) day notice requirements and an effective date of September 29, 1997, for the Entergy Power Marketing Corp., Service Agreement. RG&E has served copies of the filing on the New York State Public Service commission and on the Customer.

Comment date: November 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29128 Filed 11–3–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–117–000, et al.]

Kansas City Power & Light Company, et al.; Electric Rate and Corporate Regulation Filings

October 28, 1997.

Take notice that the following filings have been made with the Commission:

1. Kansas City Power & Light Company

[Docket No. ER98–117–000]

Take notice that on October 10, 1997, Kansas City Power & Light Company (KCPL), tendered for filing a Service Agreement dated October 6, 1997, between KCPL and Federal Energy Sales Inc. KCPL proposes an effective date of October 6, 1997, and requests waiver of the Commission's notice requirement. This Agreement provides for Non-Firm Power Sales Service.

In its filing, KCPL states that the rates included in the above-mentioned Service Agreement are pursuant to KCPL's compliance filing in Docket No. ER94–1045.

Comment date: November 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. Louisville Gas and Electric Company, Kentucky Utilities Company

[Docket No. ER98–114–000]

Take notice that on October 9, 1997, Louisville Gas and Electric Company (LG&E) and Kentucky Utilities Company (KU), tendered for filing, pursuant to 18 CFR 35.13, a proposed change to a rate schedule titled Open Access Transmission Tariff of Lquisville Gas and Electric Company/Kentucky Utilities Co. (OATT) and a Joint Code of Conduct. The OATT will govern the provision of transmission service on the combined transmission systems of LG&E and KU as a single control area. The Joint Code of Conduct provides for the separation of transmission functions from wholesale energy merchant functions.

Copies of the filing were served upon LG&E's and KU's jurisdictional customers, the Kentucky Public Service Commission, the Virginia State Corporation Commission, and the Tennessee Regulatory Authority.

Comment date: November 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Northern States Power Company (Minnesota Company)

[Docket No. ER98–115–000]

Take notice that on October 10, 1997, Northern States Power Company (Minnesota)(NSP), tendered for filing a Non-Firm Point-to-Point Transmission Service Agreement and a Short-Term Firm Transmission Service Agreement between NSP and MidAmerican Energy Company.

NSP requests that the Commission accept both the agreements effective September 10, 1997, and requests waiver of the Commission's notice requirements in order for the agreements to be accepted for filing on the date requested.

Comment date: November 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Northern States Power Company (Minnesota Company)

[Docket No. ER98–116–000]

Take notice that on October 10, 1997, Northern States Power Company (Minnesota)(NSP), tendered for filing a Reserved Transmission Service Agreement between NSP and Wisconsin Power and Light.

NSP requests that the Commission accept the agreement effective January 1, 1998, and requests waiver of the Commission's notice requirements in order for the agreement to be accepted for filing on the date requested.

Comment date: November 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Cinergy Services, Inc.

[Docket No. ER98–118–000]

Take notice that on October 10, 1997, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Open Access Transmission Service Tariff (the Tariff) entered into between Cinergy and QST Energy Trading (QST).

Cinergy and QST are requesting an effective date of October 1, 1997.

Comment date: November 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Arizona Public Service Company

[Docket No. ER98–119–000]

Take notice that on October 10, 1997, Arizona Public Service Company (APS), tendered for filing Service Agreements under APS' FERC Electric Tariff, Original Volume No. 3 with Williams Energy Services Company and PG&E Energy Services.

A copy of this filing has been served on the Arizona Corporation Commission, Williams Energy Services Company and PG&E Energy Services.

Comment date: November 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Ohio Edison Company and Pennsylvania Power Company

[Docket No. ER98–120–000]

Take notice that on October 10, 1997, Ohio Edison Company tendered for filing on behalf of itself and Pennsylvania Power Company, a Service Agreement with PP&L, Inc., under Ohio Edison's Power Sales Tariff. This filing is made pursuant to § 205 of the Federal Power Act.

Comment date: November 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Kansas City Power & Light Co.

[Docket No. ER98–121–000]

Take notice that on October 10, 1997, Kansas City Power & Light Company (KCPL), tendered for filing a Service Agreement dated October 6, 1997, between KCPL and Union Electric Company. KCPL proposes an effective date of October 6, 1997, and requests waiver of the Commission's notice requirement. This Agreement provides for Non-Firm Power Sales Service.

In its filing, KCPL states that the rates included in the above-mentioned Service Agreement are pursuant to KCPL's compliance filing in Docket No. ER94–1045.

Comment date: November 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Maine Electric Power Company

[Docket No. ER98–122–000]

Take notice that on October 10, 1997, Maine Electric Power Company (MEPCO), tendered for filing a service agreement for Non-Firm Point-to-Point Transmission service entered into with New York State Electric & Gas Corporation. Service will be provided pursuant to MEPCO's Open Access Transmission Tariff, designated rate schedule MEPCO—FERC Electric Tariff, Original Volume No. 1, as supplemented.

Comment date: November 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. The Montana Power Company

[Docket No. ER98–123–000]

Take notice that on October 10, 1997, The Montana Power Company (Montana), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13 a Non-Firm Point-To-Point Transmission Service Agreements with Aquila Power Corporation (Aquila) under Montana's FERC Electric Tariff, Second Revised Volume No. 5 (Open Access Transmission Tariff).

A copy of the filing was served upon Aquila.

Comment date: November 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Philadelphia Gas Works

[Docket No. ER98–124–000]

Take notice that on October 10, 1997, Philadelphia Gas Works tendered for filing, pursuant to Rules 205 and 207 of the Commission's Rules of Practice and Procedure, 18 CFR 385.205 and 385.207, an application requesting acceptance of its proposed FERC Electric Rate Schedule No.1, authorizing market-based rates, granting certain blanket approvals and waivers of certain Commission regulations.

Comment date: November 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Idaho Power Company

[Docket No. ER98–125–000]

Take notice that on October 10, 1997, Idaho Power Company (IPC), tendered for filing with the Federal Energy Regulatory Commission Service Agreements under Idaho Power Company FERC Electric Tariff No. 5, Open Access Transmission Tariff, between Idaho Power Company and Cook Inlet Energy Supply.

Comment date: November 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Northern Indiana Public Service Company

[Docket No. ER98–126–000]

Take notice that on October 10, 1997, Northern Indiana Public Service Company, tendered for filing an executed Sales Service Agreement and an executed Standard Transmission Service Agreement for Non-Firm Point-to-Point Transmission Service between Northern Indiana Public Service Company and E Prime, Inc.

Under the Service Agreement, Northern Indiana Public Service Company will provide Point-to-Point Transmission Service to E Prime, Inc., pursuant to the Transmission Service Tariff filed by Northern Indiana Public Service Company in Docket No. OA96–47–000 and allowed to become effective by the Commission. Under the Sales Service Agreement, Northern Indiana Public Service Company will provide general purpose energy and negotiated capacity to E Prime, pursuant to the Wholesale Sales Tariff field by Northern Indiana Public Service Company in Docket No. ER95–1222–000 as amended by the Commission's order in Docket No.ER97–458–000 and allowed to become effective by the Commission. Northern Indiana Public Service Company has requested that the Service Agreements be allowed to become effective as of October 15, 1997.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: November 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. The Dayton Power and Light Company

[Docket No. ER98–127–000]

Take notice that on October 10, 1997, The Dayton Power and Light Company (Dayton) submitted service agreements establishing LG&E Energy marketing Inc., as customers under the terms of Dayton's Open Access Transmission Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements. Copies of this filing were served upon LG&E Energy Marketing Inc., and the Public Utilities Commission of Ohio.

Comment date: November 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Washington Water Power

[Docket No. ER98–128–000]

Take notice that on October 10, 1997, the Washington Water Power Company (WWP), tendered for filing a Termination of Agreement For Purchase and Sale of Firm Capacity and Energy with PacifiCorp under FERC Rate Schedule 160.

WWP requests that this termination become effective December 31, 1997.

Comment date: November 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Cinergy Services, Inc.

[Docket No. ER98–129–000]

Take notice that on October 10, 1997, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Open Access Transmission Service Tariff (the Tariff) entered into between Cinergy and QST Energy Trading (QST).

Cinergy and QST are requesting an effective date of October 1, 1997.

Comment date: November 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Minnesota Power & Light Company

[Docket No. ER98–130–000]

Take notice that on October 10, 1997, Minnesota Power & Light Company, tendered for filing a signed Service Agreement with Central Minnesota Municipal Power Agency and Union Electric Company, under its market-based Wholesale Coordination Sales Tariff (WCS–2) to satisfy its filing requirements under this tariff.

Comment date: November 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. UtiliCorp United Inc.

[Docket No. ES98–3–000]

Take notice that on October 24, 1997, UtiliCorp United Inc. (UtiliCorp), filed an application seeking authorization to enter into five-year corporate guaranties in support of borrowings to be made by a UtiliCorp subsidiary or subsidiaries in connection with the acquisition of interests in an Australian electric distribution company. The sum of the amount guaranteed pursuant to the request in this docket plus previous guaranties shall not exceed $270 million, at any one time.

Comment date: November 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29127 Filed 11–3–97; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5916–8]

Agency Information Collection Activities Under OMB Review; NSPS for Petroleum Refinery Wastewater Systems

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: NSPS for Petroleum Refinery Wastewater Systems,OMB Control Number 2060–0172, expiration date 12/31/97. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before December 4, 1997.

FOR FURTHER INFORMATION CONTACT: For information or a copy of the ICR, call Sandy Farmer at EPA, (202) 260–2740, or download off the Internet at http://www.epa.gov/icr/icr.htm and refer to EPA ICR No. 1136.05

SUPPLEMENTARY INFORMATION:

Title: NSPS Petroleum Refinery Wastewater Systems (OMB Number 2060–0172; EPA ICR Number 1136.05,expiring 12/31/97). This is a request for extension of a currently approved collection.

Abstract: The promulgated standards require record keeping to document information relating to equipment specifications, work practices, and design criteria. Information must be recorded in sufficient detail to enable owners or operators to demonstrate compliance with the standards. Owners or operators are required to keep records of design and operating specifications of all equipment installed to comply with the promulgated standards, such as traps, covers, roof seals, control devices, and other equipment. This information is used to ensure that equipment design and operating specifications are attained. Generally, this information will be readily available because it is needed for construction purposes. As a result, there should be no specific burden from this requirement.

The standards also require the owner or operator to design and operate the closed vent and control device systems in a manner which will ensure at least an overall 95 percent control efficiency. Owners or operators will ensure compliance by monitoring operational or process parameters associated with the control devices. A semiannual report must be submitted to document compliance with the standards. This requirement results in a small burden to the plant, but this requirement is the minimum needed to ensure compliance with the standards. For refineries using a flare as a control device, an initial performance test is required, which includes notification of the test date and reporting of test results to EPA. Apart from flares, no performance tests are required under these standards.

The standards do not include control requirements for air flotation systems. As a result, no inspections or associated record keeping must be performed for these facilities. The standards do require semiannual visual inspections of the roofs and access doors for oil-water separators. Semiannual visual inspection of junction box covers must also be conducted. A portable hydrocarbon analyzer is required to detect VOC emission where an oil-water separator or closed drain system is vented to a control device. The standards require records of these inspections. In addition, process drains must be periodically inspected for the presence of water in p-leg traps and seal pots. The standards require monthly inspections of drains in active service, and weekly inspections of inactive drains, or alternatively, semiannual inspections of inactive drains that are tightly capped or plugged. Records of these inspections are required where a water seal is dry or otherwise breached or a problem is identified. These records are needed to ensure continuing proper use of the required equipment (Clean Air Act section 111(h)(1)).

Additional reports are required by the General Provisions of 40 CFR 60.7. These initial reports include notification of construction or modification, reconstruction, and start-up, shutdown, or malfunction.

The standards also require a semiannual certification that all of the required inspections are being carried out in accordance with the installation of the equipment required by the standards. Semiannual reports include a summary of the information required by the record keeping requirements, such as inspection dates, inspection results, and remedial action taken.

Under the rule, the data collected by the affected industry is retained at the facility for a minimum of 2 years and made available for inspection as requested by the Administrator. Owners or operators are also required to submit semiannual certification reports to enforcement personnel indicating that all emission detection tests and visual inspections are carried out. When excess emissions are detected or a problem is identified, the appropriate corrective action taken by the plant must be documented in the report.

The information generated by the monitoring, record keeping and reporting requirements described above is used by the Agency to ensure that facilities affected by the NSPS continue to implement their work practices and procedures used to achieve compliance with the NSPS. Specifically, after start-up, a certification that the equipment necessary to comply with the standards has been installed will ensure the use of best demonstrated technology. Notification of construction and start-up will indicate to enforcement personnel when a new affected facility has been constructed and is therefore subject to the standards.

The semiannual summary of visual inspections and emission detection tests will be used as an indication that the work practices and procedures called for by these standards are being followed on a regular basis. This is especially important in the case of water seal controls where a drop in water levels can result in increased emissions unless checked regularly.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on June 18, 1997 (62 FR 33069).

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 47 hours per response including a performance test and 18 hours per response not including the performance test. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners/Operators of Petroleum Refinery Wastewater Systems

Estimated Number of Respondents: 114.

Frequency of Response: Semiannual.

Estimated Total Annual Hour Burden: 14,269 hours.

Estimated Total Annualized Cost Burden: $65,000.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1136.05 and OMB Control No. 2060–0172 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460. (or E-Mail Farmer.Sandy@epamail.epa.gov)

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA 725 17th Street, NW, Washington, DC 20503.

Dated: October 29, 1997.

Richard T. Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 97–29151 Filed 11–3–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–00227; FRL–5753–9]

Armstrong Data Services; Access to Confidential Business Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, Armstrong Data Services (ADS), of Vienna, VA to retain temporary employees, via a temporary employment agency, to perform an audit of EPA's collection of Confidential Business Information submitted to EPA under all sections of the Toxic Substances Control Act located in EPA's Confidential Business Information Center. ADS has retained Telesec Incorporated of Wheaton, MD to identify these temporary employees. All temporary employees have been TSCA CBI cleared in accordance with the provisions of EPA's "TSCA Confidential Business Information Security Manual."

DATES: Access to TSCA CBI occurred on October 23, 1997.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554–1404, TDD: (202) 554–0551, e-mail: TSCA-Hotline@epa.mail.gov.

SUPPLEMENTARY INFORMATION: Under contract number 68–W5–0025, ADS was retained to maintain EPA's collection of Confidential Business Information (CBI) submitted to EPA under all sections of the Toxic Substances Control Act (TSCA) located in EPA's Confidential Business Information Center (60 FR 50579, September 29, 1995) (FRL–4980–4). The "TSCA Confidential Business Information Security Manual" (Manual) provides that the TSCA CBI collection will be audited on an annual basis. In accordance with its contract with EPA, ADS sought the approval of EPA to retain temporary employees to perform the required audit. Subsequently, ADS retained Telesec Incorporated of Wheaton, MD to identify temporary employees. These persons have been cleared for access to TSCA CBI in accordance with the provisions of the Manual. The Manual provisions require that contractor employees, including temporary employees, sign nondisclosure agreements, be subject to background checks and be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

EPA is issuing this notice to inform all submitters of information under all sections of TSCA that ADS's temporary employees may have access to these CBI materials on a need-to-know basis only. All access to TSCA CBI for the performance of the audit is taking place at EPA Headquarters. It is expected that the audit will be completed no later than March of 1998.

Dated: October 29, 1997.

Allen S. Abramson,

Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 97–29154 Filed 11–3–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00512; FRL–5753–6]

FIFRA Scientific Advisory Panel; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of open meeting.

SUMMARY: There will be a 2–day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and Food Quality Protection Act (FQPA) Scientific Advisory Panel (SAP) to review a set of scientific issues being considered by the Agency in connection with Estimating Drinking Water Exposure as a Component of the Dietary Risk Assessment and a Review of the Spray-Drift Task Force Aerial Data-Base. The session concerning estimating drinking water exposure will include presentations on SCI-GROW: groundwater screening model for predicting pesticide concentrations in water, percentage crop based dilution factors for run-off and surface water models, description of the screening model GENEEC for estimating pesticide concentrations in surface water and the run-off model PRZM, screening model for predicting pesticide concentrations in flowing surface water and drinking water reservoirs and use of water monitoring data for drinking water exposure assessments. The Spray-Drift Task Force Aerial Data Base review will include presentations on aerial field data, review of atomization and physical properties data, a model for predicting downwind deposition for agricultural spray-drift and the model validation process for agricultural spray-drift.

DATES: The meeting will be held on Wednesday and Thursday, December 10 and 11, 1997, from 8:30 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at: Crystal City Gateway Marriott Hotel, 1700 Jefferson Davis Highway, Arlington, VA. The telephone number for the hotel is: (703) 920–3230.

By mail, submit written comments (one original and 20 copies) to: Larry Dorsey, Designated Federal Official for the FIFRA/Scientific Advisory Panel, (7509C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person or by delivery service, bring comments to: Rm. 819B, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under SUPPLEMENTARY INFORMATION of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docket is available for public inspection in Rm. 1132 at the Virginia address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Larry C. Dorsey, Designated Federal Official, FIFRA Scientific Advisory Panel (7509C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 819B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5369, e-mail: dorsey.larry@epamail.epa.gov.

A meeting agenda is currently available and copies of EPA primary background documents for the meeting will be available no later than November 10 and may be obtained by contacting: By mail: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, In person: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, telephone: (703) 305–5805.

SUPPLEMENTARY INFORMATION: Any member of the public wishing to submit written comments should contact Larry C. Dorsey at the address or the telephone number given above to confirm that the meeting is still scheduled and that the agenda has not been modified or changed. Interested persons are permitted to file written statements before the meeting. To the extent that time permits and upon advanced written request to the Designated Federal Official, interested persons may be permitted by the Chair of the Scientific Advisory Panel to present oral statements at the meeting. There is no limit on the length of written comments for consideration by the Panel, but oral statements before the Panel are limited to approximately 5 minutes. As oral statements only will be permitted as time permits, the Agency urges the public to submit written comments in lieu of oral presentations. Persons wishing to make oral and/or written statements should notify the Designated Federal Official and submit 20 copies of the summary information. Please note that comments received by December 1, 1997, ensure that the Panel Members will have the time necessary to consider and review the comments.

Copies of the Panel's report of their recommendations will be available approximately 30 working days after the meeting and may be obtained by contacting the Public Information and Records Integrity Branch, at the address or telephone number given above.

The official record for this document, as well as the public version, has been established for this document under docket control number "OPP–00512" (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the Virginia address in "ADDRESSES" at the beginning of this document.

Electronic comments can be sent directly to EPA at:
opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number "OPP–00512." Electronic comments on this document may be filed online at many Federal Depository Libraries.

Dated: October 29, 1997.

Stephen L. Johnson,

Acting Director, Office of Pesticide Programs.

[FR Doc. 97–29155 Filed 11–3–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5816–6]

Final NPDES General Permit for Discharge From New and Existing Sources in the Offshore Subcategory of the Oil and Gas Extraction Category for the Territorial Seas of Louisiana (LAG260000)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final issuance of NPDES general permit.

SUMMARY: Region 6 of the United States Environmental Protection Agency (EPA) today issues a National Pollutant Discharge Elimination System (NPDES) General Permit for the Oil and Gas Extraction Point Source Category, in the Territorial Seas of Louisiana. The permit authorizes discharges from New Sources and Existing Sources in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category (40 CFR part 435, subpart A) located in and discharging pollutants to the territorial seas of Louisiana. The discharge of produced water to the Territorial Seas of Louisiana from Offshore Subcategory facilities located in the Outer Continental Shelf (OCS) waters off Louisiana is also covered by this permit.

DATES: All limits and monitoring requirements except the water quality based limits and monitoring for toxicity, benzene, lead, total phenols, and thallium shall become effective December 4, 1997. The water quality based limits and monitoring shall become effective May 4, 1998.

FOR FURTHER INFORMATION CONTACT: Ms. Wilma Turner, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202, Telephone: (214) 665 7516.

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially regulated by this action are those which operate offshore oil and gas extraction facilities located in the territorial seas offshore of Louisiana.

Category	Examples of regulated entities
Industry	Offshore Oil and Gas Extraction Platforms.

This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your [facility, company, business, organization, etc.] is regulated by this action, you should carefully examine the applicability criteria in Part I. Section A.1. of the general permit. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding FOR FURTHER INFORMATION CONTACT section.

Pursuant to section 402 of the Clean Water Act (CWA), 33 U.S.C. 1342, EPA proposed and solicited public comment on NPDES General Permit LAG260000 at 61 FR 37746 (July 19, 1996). This permit was proposed to address national effluent limitations guidelines promulgated March 4, 1993 and to reissue the general permit covering facilities located in the territorial seas off the State of Louisiana which expired June 30, 1984. Notice of this proposed permit was also published in the New Orleans Times Picayune on July 27, 1996. The comment period closed on September 17, 1996.

Region 6 received comments from the Offshore Operators Committee, American Petroleum Institute, Louisiana Department of Environmental Quality, Willie R. Taylor—United States Department of Interior, Abraham E. Haspel—United States Department of Energy, Flores & Rucks, Inc., Exxon Company, U.S.A., and the Louisiana Mid-Continent Oil and Gas Association.

EPA Region 6 has considered all comments received. In some instances minor wording changes were made in the final permit in order to clarify some points as a result of comments or to correct typographical errors. In response to the comments received on the proposed permit, the following substantive changes were made in the final permit. Language showing that new sources are covered was added. The critical dilution tables for toxicity limitations were recalculated and expanded to account for additional discharge rates and pipe diameters. Equations were added in place of the tables for determining the limitations for benzene, lead, phenols, and thallium. A period of six months was given to come into compliance with the water quality based limits for produced water. Model input parameters for diffuser modeling were updated based on site specific data. The table specifying vertical separation between discharge ports has been updated to account for greater volume discharges. Produced water discharges are prohibited in some instances in accordance with State regulations (LAC 33:IX.708.C.2.c.iii, iv, and v.). Biochemical oxygen demand and total suspended solids limitations and monitoring were added for sanitary waste water discharges under 2,500 gallons per day, and chlorine limitations were added for sanitary waste water discharges from platforms which are manned by nine or fewer persons. 24-hour reporting requirements and unauthorized discharge requirements were changed to reflect State regulations. The permit requires operators to submit notification of intent to be covered and discharge monitoring reports to the State instead of EPA. The State's field designation is also required to be included in notifications of intent to be covered. The permit also no longer requires permittees to apply for the reissued permit six months prior to the expiration date.

A copy of the Response to Comments may be obtained from Wilma Turner at the address listed above.

Other Legal Requirements

Oil Spill Requirements

CWA section 311 prohibits the discharge of oil and hazardous materials in harmful quantities. Discharges in compliance with NPDES permit limits are excluded from this prohibition, but the final permit neither precludes enforcement action for violations of CWA section 311 nor relieves permittees from any responsibilities, liabilities, or penalties for other unauthorized discharges of oil or hazardous materials subject to CWA section 311.

Endangered Species Act

As explained at 61 FR 37746, EPA has found that issuance of the General Permit for the territorial seas off Louisiana will not adversely affect any listed threatened or endangered species or designated critical habitat and requested written concurrence on that determination from the Department of Interior, Fish and Wildlife Service. The Fish and Wildlife Service and National Marine Fisheries Service provided such concurrence on the proposed General Permit for Discharges from the Offshore Subcategory of the Oil and Gas Extraction Point Source Category to the Territorial Seas of Louisiana (LAG260000).

Ocean Discharge Criteria Evaluation

At 61 FR 37746, EPA Region 6 determined that discharges in compliance with the proposed general permit for the territorial seas of Louisiana (LAG260000) would not cause unreasonable degradation of the marine environment. No comments have been received which disagree with that determination.

Environmental Impact Statement

EPA determined that issuance of the NPDES General Permit for Discharges

from the Offshore subcategory of the Oil and Gas Extraction Category to the Territorial Seas of Louisiana was a major Federal action significantly affecting the quality of the human environment. Thus, pursuant to the National Environmental Policy Act of 1969 (NEPA) evaluation of the potential environmental consequences of the permit action in the form of an Environmental Impact Statement (EIS) was required.

On February 12, 1993, the U.S. Environmental Protection Agency (EPA), Region 6, published a Notice of Intent in the **Federal Register**, to prepare an Environmental Impact Statement (EIS) on its proposed New Source NPDES General Permit for the Offshore Subcategory of the Oil & Gas Extraction Category to the Territorial Seas of the Gulf of Mexico off Texas and Louisiana. The 45-day public review and comment period ended on March 16, 1994. A public hearing to receive comments on the Draft EIS and NPDES permit was held March 16, 1994.

Although the Draft EIS evaluated the NPDES general permits for oil and gas operations in the Territorial Seas of Texas and Louisiana, EPA has not proposed a permit for the Territorial Seas of Texas; therefore, the Final EIS only covers the Louisiana NPDES general permit. The Draft EIS and Final EIS have been completed. EPA considered all information gathered during the NEPA review including the impact analysis, comments received on the Draft EIS and Final EIS, input received from the scoping meeting and public hearing on the draft EIS, and other information provided by interested parties during the EIS process. Additionally, to address impacts relative to Federal and State statutes, programs, and regulations, consultation was undertaken with the Advisory Council on Historic Preservation, the U.S. Fish and Wildlife Service, and the Louisiana Department of Environmental Resources. Through this process EPA found no predicted unacceptable or potentially significant adverse impacts, individually or cumulatively, that were not subject to control through regulation or mitigation. The record of Decision for that process was prepared and is planned to be publicly noticed along with this final permit. Based on that Record of Decision, EPA is issuing the General Permit for Discharges from the Offshore Subcategory of the Oil and Gas Extraction Point Source Category to the Territorial Seas of Louisiana.

Coastal Zone Management Act

The Region found the proposed general permit consistent with Louisiana's approved Coastal Zone Management Plan and submitted that determination and a copy of the proposed permit to the Coastal Management Division of the Louisiana Department of Natural Resources for certification. The Department of Natural Resources provided such certification on August 22, 1996.

Marine Protection and Sanctuaries Act

The Marine Protection, Research and Sanctuaries Act (MPRSA) of 1972 regulates the dumping of all types of materials into ocean waters and establishes a permit program for ocean dumping. In addition the MPRSA establishes the Marine Sanctuaries Program, implemented by the National Oceanographic and Atmospheric Administration (NOAA), which requires NOAA to designate ocean waters as marine sanctuaries for the purpose of preserving or restoring their conservation, recreational, ecological or aesthetic values. No marine sanctuaries designated under the Marine Research and Sanctuaries Act exist in the area to which this permit applies.

State Water Quality Certification

Under section 401(a)(1) of the Act, EPA may not issue an NPDES permit until the State in which the discharge will originate grants or waives certification to ensure compliance with appropriate requirements of the Act and State law. Section 301(b)(1)(C) of the Act requires that NPDES permits contain conditions that ensure compliance with applicable State water quality standards or limitations. The proposed permit contains limitations intended to ensure compliance with State water quality standards and has been determined by EPA Region 6 to be consistent with Louisiana's water quality standards and the corresponding implementation plan. The Region solicited certification of the permit from the Louisiana Department of Environmental Quality at the time it was proposed.

On September 25, 1996 the State submitted a conditional letter certifying that discharges in accordance with the permit will not violate water quality standards. That certification was modified with a letter the State submitted on September 19, 1997. The four conditions of certification LDEQ included in those letters are:

1. The discharge of produced water onto any intermittently exposed sediment surface is prohibited (LAC 33:IX.708.C.2.c.iii).

2. Produced water shall not be discharged within the boundaries of any State or Federal wildlife management area, refuge or park or into any water body determined by the Water Pollution Control Division to be of special ecological significance (LAC 33:IX.708.C.2.c.iv).

3. Produced water shall not be discharged within 1,300 feet (via water) of an active oyster lease, live natural oyster or other molluscan reef, designated oyster seed bed, or sea grass bed. No produced water shall be discharged in a manner that, at any time, facilitates the incorporation of significant quantities of hydrocarbons or radio nuclides into sediment or biota (LAC 33:IX.708.C.2.c.v).

4. Sanitary waste discharges with an average daily flow of less than 2,500 gallons per day shall not exceed a weekly average of 45 mg/l for a five day biochemical oxygen demand and for total suspended solids (LAC 33:IX.709.B & LAC 33:IX.711.C).

Those changes have been incorporated in the final permit as required.

Executive Order 12866

The Office of Management and Budget (OMB) has exempted this action from the review requirements of Executive Order 12291 pursuant to section 8(b) of that order. Guidance on Executive Order 12866 contains the same exemptions on OMB review as existed under Executive Order 12291. In fact, however, EPA prepared a regulatory impact analysis in connection with its promulgation of the guidelines on which a number of the permit's provisions are based and submitted it to OMB for review. (See 58 FR 12494, March 4, 1993.)

Paperwork Reduction Act

The information collection required by this permit has been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, in submission made for the NPDES permit program and assigned OMB control numbers 2040–0086 (NPDES permit application) and 2040–0004 (discharge monitoring reports).

Since this permit is very similar in reporting and application requirements and in discharges which are required to be monitored as the Western Gulf of Mexico Outer Continental Shelf (OCS) general permit (GMG290000) the paperwork burdens are expected to be nearly identical. When it issued the OCS general permit, EPA estimated it would take an affected facility three hours to prepare the request for coverage and 38 hours per year to prepare discharge monitoring reports. It is estimated that the time required to prepare the request for coverage and discharge monitoring reports for this permit will be the same.

Regulatory Flexibility Act

The Regulatory Flexibility Act, 5. U.S.C. 601 *et seq.*, requires that EPA prepare a regulatory flexibility analysis for regulations that have a significant impact on a substantial number of small entities. As indicated below, the permit issued today is not a "rule" subject to the Regulatory Flexibility Act. EPA prepared a regulatory flexibility analysis, however, on the promulgation of the Offshore Subcategory guidelines on which many of the permit's effluent limitations are based. That analysis shows that issuance of this permit will not have a significant impact on a substantial number of small entities.

Unfunded Mandates Reform Act

Section 201 of the Unfunded Mandates Reform Act (UMRA), P.L. 104–4, generally requires Federal agencies to assess the effects of their "regulatory actions" on State, local, and tribal governments and the private sector. UMRA uses the term "regulatory actions" to refer to regulations. (*See*, e.g., UMRA section 201, "Each agency shall * * * assess the effects of Federal regulatory actions * * *(other than to the extent that such regulations incorporate requirements specifically set forth in law)" (emphasis added).) UMRA section 102 defines "regulation" by reference to section 658 of Title 2 of the U.S. Code, which in turn defines "regulation" and "rule" by reference to section 601(2) of the Regulatory Flexibility Act (RFA). That section of the RFA defines "rule" as "any rule for which the agency publishes a notice of proposed rulemaking pursuant to section 553(b) of [the Administrative Procedure Act (APA)], or any other law. * * *"

NPDES general permits are not "rules" under the APA and thus not subject to the APA requirement to publish a notice of proposed rulemaking. NPDES general permits are also not subject to such a requirement under the CWA. While EPA publishes a notice to solicit public comment on draft general permits, it does so pursuant to the CWA section 402(a) requirement to provide "an opportunity for a hearing." Thus, NPDES general permits are not "rules" for RFA or UMRA purposes.

EPA has determined that the final permit would not contain a Federal requirement that may result in expenditures of $100 million or more for State, local and tribal governments, in the aggregate, or the private sector in any one year.

The Agency also believes that the permit would not significantly nor uniquely affect small governments. For UMRA purposes, "small governments" is defined by reference to the definition of "small governmental jurisdiction" under the RFA. (*See* UMRA section 102(1), referencing 2 U.S.C. 658, which references section 601(5) of the RFA.) "Small governmental jurisdiction" means governments of cities, counties, towns, etc., with a population of less than 50,000, unless the agency establishes an alternative definition.

The final permit also would not uniquely affect small governments because compliance with the proposed permit conditions affects small governments in the same manner as any other entities seeking coverage under the permit.

NPDES Permit LAG260000 is hereby issued as it appears below.

Authorization To Discharge Under the National Pollutant Discharge Elimination System

In compliance with the Clean Water Act, as amended (33 U.S.C. 1251 et. seq., the "Act"), operators of New Sources and existing sources in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category which are located in lease blocks in the territorial seas of Louisiana are authorized to discharge to the territorial seas of Louisiana in accordance with effluent limitations, monitoring requirements, and other conditions set forth in Parts I, II, and III hereof. Also, operators of New Sources and existing sources in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category which are located in lease blocks in the Outer Continental Shelf off Louisiana are authorized to discharge produced water from those lease blocks to the territorial seas of Louisiana in accordance with effluent limitations, monitoring requirements, and other conditions set forth in Parts I, II, and III hereof.

Operators of lease blocks discharging within the area covered by this general permit must submit written notification to the Director that they intend to be covered (See Part I.A.2). Unless otherwise notified in writing by the Director after submission of the notification, owners or operators requesting coverage are authorized to discharge under this general permit. Operators of lease blocks discharging within the general permit area who fail to notify the Director of intent to be covered by this general permit are not authorized under this general permit to discharge pollutants from those facilities.

Facilities which adversely affect properties listed or eligible for listing in the National Register of Historic Places are also not authorized to discharge under this permit.

This permit shall become effective at Midnight Central Daylight Savings Time December 4, 1997.

This permit and the authorization to discharge shall expire at midnight, Central Daylight Savings Time, December 4, 2002.

William B. Hathaway,

Director, Water Quality Protection Division, EPA Region 6.

Part I. Requirements for NPDES Permits

Section A. Permit Applicability and Coverage Conditions

1. Operations Covered

This permit establishes effluent limitations, prohibitions, reporting requirements, and other conditions on discharges from oil and gas facilities engaged in production, field exploration, developmental drilling, well completion, and well treatment operations.

The permit coverage area consists of New Source and existing source discharges in lease blocks located in the territorial seas of Louisiana, which discharge to the territorial seas of Louisiana. In addition, permit coverage consists of discharges of produced water from lease blocks in the Outer Continental Shelf offshore of Louisiana which are made to the territorial seas of Louisiana. This permit does not authorize discharges from facilities defined as "coastal", "onshore", or "stripper" (see 40 CFR part 435, subparts C, D, and E).

2. Notification Requirements

Written notification of intent to be covered including the legal name and address of the operator, the lease block number assigned by the state or the Department of Interior or, if none, the name commonly assigned to the lease area, and the number and type of facilities located within the lease block shall be submitted at least fourteen days prior to the commencement of discharge. New Source facilities shall be clearly identified as such in the notification. Operators discharging within the area of coverage of this permit prior to permit issuance shall submit notification of intent to be covered within 30 days after such issuance. If an application for an individual NPDES permit has been previously submitted for the lease, the

notification shall include the application/permit number or the permit number of any individual NPDES permit issued by EPA Region 6 for this activity.

All notifications of intent to be covered and any subsequent reports under this permit shall be sent to the following address: Louisiana Department of Environmental Quality, Office of Water Resources, Attn: Oil and Gas Permits Unit, 7290 Bluebonnet, P.O. Box 82215, Baton Rouge, Louisiana 70884–2215.

3. Termination of Operations

Lease block operators shall notify the Director within 60 days after the permanent termination of discharges from their facilities within the lease block.

4. Application for NPDES Individual Permit

a. Any operator authorized by this permit may request to be excluded from the coverage of this general permit by applying for an individual permit. The operator shall submit an application together with the reasons supporting the request to the Director.

b. When an individual NPDES permit is issued to an operator otherwise subject to this general permit, the applicability of this permit to the owner or operator is automatically terminated on the effective date of the individual permit.

Section B. Effluent Limitations and Monitoring Requirements

1. Drilling Fluids and Drill Cuttings

There shall be no discharge of drilling fluids or drill cuttings.

2. Deck Drainage

(a) Limitations

Free Oil. No free oil shall be discharged, as determined by the visual sheen method on the surface of the receiving water. Monitoring shall be performed once per day when discharging, during conditions when an observation of a visual sheen on the surface of the receiving water is possible in the vicinity of the discharge, and the facility is manned. The number of days a sheen is observed must be recorded.

3. Produced Water

(a) Limitations

Oil and Grease. Produced water discharges must meet both a daily maximum of 42 mg/l and a monthly average of 29 mg/l for oil and grease. The sample type shall be either grab, or a 24-hour composite which consists of the arithmetic average of the results of 4 grab samples taken over a 24-hour period. If only one sample is taken for any one month, it must meet both the daily and monthly limits. Samples shall be collected prior to the addition of any seawater to the produced water waste stream. The analytical method is that specified at 40 CFR part 136.

Benzene, Lead, Thallium, and Total Phenol. Produced water discharges must meet the limits for benzene, lead, thallium, and total phenol calculated using the following equations and the produced water critical dilution shown in Appendix A, Table 1 of this permit.

Benzene

Daily Max.=(220.8 µg/l / Critical Dilution) * 100
Monthly Avg.=(93 µg/l / Critical Dilution) * 100

Total Lead

Daily Max.=(36.7 µg/l / Critical Dilution) * 100
Monthly Avg.=(15.5 µg/l / Critical Dilution) * 100

Total Thallium

Daily Max.=(19.6 µg/l / Critical Dilution) * 100
Monthly Avg.=(8.3 µg/l / Critical Dilution) * 100

Total Phenol

Daily Max.=(478 µg/l / Critical Dilution) * 100
Monthly Avg.=(201 µg/l / Critical Dilution) * 100

These limits and the associated monitoring requirements for benzene, total lead, total thallium, and total phenol shall become effective six months after the effective date of the permit.

The flow used to determine the critical dilution from the table shall be the flow most recently reported on the discharge monitoring report for the facility. Facilities which have not previously reported produced water flow on the discharge monitoring report shall use the most recent monthly average flow. The depth used to determine the limits shall be the difference in water depth between the discharge pipe and the sea floor or between the water's surface and the seafloor if the produced water is discharged above the surface. The sample type shall be grab. The analytical method is that specified at 40 CFR part 136. When seawater is added to the produced water waste stream prior to discharge, the total produced water flow, including the added seawater, shall be used in determining the critical dilution from Appendix A, Table 1. Limitations for benzene, total lead, total phenol, and total thallium shall become effective six months after the effective date of this permit.

If any individual analytical test result is less than the minimum quantification level listed below, a value of zero (0) may be used for that individual result for the Discharge Monitoring Report (DMR) calculations and reporting requirements.

Total Phenol (4AAP Method): 5 µg/l
Thallium (Total): 10 µg/l
Lead (Total): 5 µg/l
Benzene: 10 µg/l

Toxicity. Produced water discharges must show no observed effect for the survival endpoint portion of the tests on a 7-day average minimum and monthly average minimum basis as measured by the 7-day chronic toxicity test. The No Observable Effect Concentration (NOEC) must be equal to or greater than the critical dilution concentration specified in Appendix A, Table 1 of this permit. Critical dilution shall be determined using Table 1 of this permit and is based on the discharge rate most recently reported on the discharge monitoring report and the water depth between the discharge pipe and the seafloor or between the surface and the seafloor if the discharge is made above the water's surface. Facilities which have not previously reported produced water flow on the discharge monitoring report shall use the most recent monthly average flow for determining the critical dilution from Table 1 of this permit. The monthly average minimum NOEC value is defined as the arithmetic average of all 7-day average NOEC values determined during the month. These limits and the associated monitoring requirements for toxicity shall become effective six months after the effective date of the permit.

Methods to Increase Dilution for Compliance with Limits for Toxicity and Benzene, Lead, thallium, and Phenol. Permittees wishing to increase mixing may use a horizontal diffuser, multiple port discharges, or add seawater as follows:

Permittees using a horizontal diffuser shall install the diffuser designed using CORMIX2. Both the numeric water quality-based limits and the critical dilution for chronic toxicity testing shall be based on the modeled dilution for the diffuser. The following input parameters shall be used in modeling the critical dilution:

Density Gradient=0.182 sigma-t/m
Ambient seawater density at diffuser depth = 1017 kg/m^3
Produced water density = 1070 kg/m^3
Current speed = 10 cm/sec.

When the water at the discharge site is of sufficient depth that the plume does not impinge the bottom, the Brooks equation shall be applied to the CORMIX2 results as follows:

1. Calculate the near field dilution factor (S) at the end of the impingement region, collapsed plume width (H), and downstream distance where the impingement region ends (x) using the CORMIX2 model.

2. Using the input conditions cited above and calculated factors from Step 1, above, calculate the far field dilution factor, C_t/C, using the Brooks equation:

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Where:

C_t = concentration at end of impingement
C = concentration at edge of 100 m mixing zone
H = collapsed plume width, in meters
A = 4/3 power law dispersion parameter = 0.000453 m$^{2/3}$/sec
u = current speed
x = downstream distance where impingement region ends (from step 1, above)
t = travel time from end of impingement to 100 m, = (100m − x)/u
erf = the error function

3. The total dilution at the 100 m mixing zone is defined as the product of the near-field dilution factor, S, found in step 1 and the far-field dilution factor, C_t/C, calculated in Step 2.

Permittees shall state the calculated critical dilution corresponding to that diffuser on the annual Discharge Monitoring Report (DMR) with a certification that the diffuser is installed. The CORMIX2 model runs shall be retained by the permittee as part of its NPDES records.

Permittees using vertically aligned multiple discharge ports shall provide vertical separation between ports which is consistent with Table 2 of this permit. When multiple discharge ports are installed, the depth difference between the discharge port closest to the sea floor and the sea floor shall be the depth difference used to determine the critical dilution from Table 1 of this permit. The critical dilution value shall be based on the port flow rate (total flow rate divided by the number of discharge ports) and based on the diameter of the discharge port (or smallest discharge port if they are of different styles).

When seawater is added to the produced water waste stream prior to discharge, the total produced water flow, including the added seawater, shall be used in determining the critical dilution from Table 1.

(b) Prohibitions

The discharge of produced water is prohibited onto any intermittently exposed sediment surface, within the boundaries of any state or Federal wildlife management area, refuge, or park or into any water body determined to be of special ecological significance, within 1,300 feet of an active oyster lease, live natural oyster or other molluscan reef, designated oyster seed bed, or sea grass bed, or which facilitates the incorporation of significant quantities of hydrocarbons or radio nuclides into sediment or biota.

(c) Monitoring Requirements

Flow. Once per month, an estimate of the flow in the units of millions of gallons per day (MGD) must be recorded.

Oil and Grease. The required frequency of sampling shall be once per month by grab sample.

Benzene, Lead, Phenol, and Thallium. The required frequency of monitoring shall be determined from the limits calculated from Appendix A, Table 1 as follows:

Parameter	Monthly avg. limit (ug/l)	Frequency
Thallium	>1,044	Once/Quarter.
	≤1,044 and >490	Once/Month.
	≤490	Once/2 Weeks.
Benzene	>12,600	Once/Quarter.
	≤12,600 and >5,900	Once/Month.
	≤5,900	Once/2 Weeks.
Total Lead	>65,000	Once/Quarter.
	≤65,000 and >30,600	Once/Month.
	≤30,600	Once/2 Weeks.
Total Phenol	>26,400	Once/Quarter.
	≤26,400 and >12,400	Once/Month.
	≤12,400	Once/2 Weeks.

These monitoring requirements for benzene, total lead, total thallium, and total phenol shall become effective six months after the effective date of the permit.

Samples for monitoring these parameters shall be collected after addition of any substances, including seawater that is added prior to discharge.

If the permittee has been compliant with limits for benzene, lead, total phenol or thallium for one full year (twelve consecutive months), the required testing frequency shall be reduced to once per quarter for the parameter or parameters in compliance as long as the discharge remains in compliance.

For permittees required to monitor once per quarter or once per month as stated above, the monitoring frequency shall increase to once per two weeks for any of these parameters when the discharge has been found to exceed a limit for that parameter.

If the operator adds a diffuser, multiple discharge ports, or seawater to increase dilution to ensure compliance with the limits as described above, the operator may decrease the monitoring frequency to once per quarter after they have taken the action to increase dilution and have demonstrated compliance with the limits for three consecutive months.

Toxicity. The required frequency of toxicity testing shall be determined using the toxicity limits as follows:

Toxicity limit (critical dilution)	Monitoring frequency
<1%	Once per year.
≥1 and <2.25%	Once per quarter.
≥2.25%	Once per month.

The toxicity monitoring requirements shall become effective six months after the effective date of this permit.

Samples for monitoring produced water toxicity shall be collected after addition of any added substances, including seawater that is added prior to discharge. Samples also shall be representative of produced water discharges when scale inhibitors, corrosion inhibitors, biocides, paraffin inhibitors, well completion fluids, workover fluids, and/or well treatment fluids are used in operations.

If the permittee has been compliant with this toxicity limit for one continuous year (12 consecutive months), the required testing frequency shall be reduced to once per year.

For permittees required to monitor once per year or once per quarter as stated above, the monitoring frequency shall increase to once per month when the discharge has been found to exceed the limits for toxicity.

If the operator adds a diffuser, multiple discharge ports, or seawater to increase dilution to ensure compliance with the limits as described above, the operator may decrease the monitoring frequency to once per year after they have taken the action to increase dilution and have demonstrated compliance with the limits for three consecutive months.

Radioactivity. Produced water discharges shall be monitored for Radium 226 and Radium 228 (See Part I.D.4). The required frequency of monitoring shall be obtain using the critical dilution from Appendix A, Table 1 based on the water depth, discharge rate, and pipe diameter as also required for the toxicity limits. The required monitoring frequencies are as follows:

Critical dilution	Monitoring frequency
< 1%	Once per year.
≤ 1 and < 2.25%	Once per quarter.
≤ 2.25%	Once per month.

When the permittee has monitored radioactivity for one continuous year the required monitoring frequency shall be reduced to once per year.

4. Produced Sand

There shall be no discharge of produced sand.

5. Well Treatment, Completion, and Workover Fluids

(a) Limitations

Free Oil. No free oil shall be discharged.

Oil and Grease. Well treatment fluids must meet both a daily maximum of 42 mg/l and a monthly average of 29 mg/l limitation for oil and grease.

Priority Pollutants. For well treatment, completion, and workover fluids the discharge of priority pollutants is prohibited except in trace amounts. Information on the specific chemical composition of any additives containing priority pollutants shall be recorded.

Note: If materials added downhole as well treatment, completion, or workover fluids contain no priority pollutants, the discharge is assumed not to contain priority pollutants except possibly in trace amounts.

(b) Monitoring Requirements

This discharge shall be considered produced water for monitoring purposes when commingled with produced water.

Free Oil. Monitoring shall be performed using the static sheen test method once per day when discharging and the facility is manned. The number of days a sheen is observed must be recorded.

Oil and Grease. Monitoring shall be performed once per month. The sample type may be either grab or a 24-hour composite consisting of the arithmetic average of the results of 4 grab samples taken within the 24-hour period. If only one sample is taken for any one month, it must meet both the daily and monthly limits. The analytical method is that specified at 40 CFR part 136.

6. Sanitary Waste

(a) Prohibitions

Solids. No floating solids may be discharged. Observations must be made once per day, during daylight in the vicinity of sanitary waste outfalls, following either the morning or midday meals and at the time during maximum estimated discharge.

(b) Limitations

Residual Chlorine. Total residual chlorine is a surrogate parameter for fecal coliform. Discharge of total residual chlorine must meet a minimum of 1 mg/l and shall be maintained as close to this concentration as possible. A grab sample must be taken once per month and the concentration recorded (approved method, Hach CN–66–DPD).

Biochemical Oxygen Demand (BOD5) and Total Suspended Solids (TSS) Sanitary waste water discharges of less than 2,500 gallons per day shall not exceed a daily maximum and monthly average concentration of 45 mg/l for BOD5 and 45 mg/l for TSS. The monitoring frequency shall be once per six months.

7. Domestic Waste

(a) Prohibitions

Solids. No floating solids or foam shall be discharged.

(b) Monitoring Requirements

An observation shall be made once per day during daylight in the vicinity of domestic waste outfalls following the morning or midday meal and at a time during maximum estimated discharge. The number of days solids are observed must be recorded.

8. Miscellaneous Discharges

Desalination Unit Discharge
Diatomaceous Earth Filter Media
Blowout Preventer Fluid
Uncontaminated Ballast Water
Uncontaminated Bilge Water
Mud, Cuttings, and Cement at the Sea floor
Uncontaminated Freshwater
Uncontaminated Seawater
Boiler Blowdown
Source Water and Sand
Excess Cement Slurry

(a) Limitations

Free Oil. No free oil shall be discharged. Discharge is limited to those times that a visual sheen observation is possible unless the operator uses the static sheen method. Monitoring shall be performed using the visual sheen method on the surface of the receiving water once per week when discharging, or the static sheen method at the operator's option. The number of days a sheen is observed must be recorded.

Floating Solids or Visible Foam. There shall be no discharge of floating solids or visible foam.

[Exceptions] Uncontaminated seawater, uncontaminated freshwater, source water and source sand, uncontaminated bilge water, and uncontaminated ballast water may be discharged from platforms that are on automatic purge systems without monitoring for free oil when the facilities are not manned. Additionally, discharges at the sea floor of: muds and cuttings prior to installation of the marine riser, cement, and blowout preventer fluid may be discharged without monitoring with the static sheen test when conditions make observation of a sheen on the surface of the receiving water impossible.

9. Miscellaneous Discharges of Seawater and Freshwater Which Have Been Chemically Treated

Excess seawater which permits the continuous operation of fire control and utility lift pumps

Excess seawater from pressure maintenance and secondary recovery projects
Water released during training of personnel in fire protection
Seawater used to pressure test new piping and new pipelines
Ballast water
Once Through Non-contact cooling water
Desalinization unit discharge

(a) Limitations

Treatment Chemicals. The concentration of treatment chemicals in discharged seawater or freshwater shall not exceed the most stringent of the following three constraints:

(1) the maximum concentrations and any other conditions specified in the EPA product registration labeling if the chemical is an EPA registered product
(2) the maximum manufacturer's recommended concentration
(3) 500 mg/l

Free Oil. No free oil shall be discharged. Discharge is limited to those times that a visible sheen observation is possible unless the operator uses the static sheen method. Monitoring shall be performed using the visual sheen method on the surface of the receiving water once per week when discharging, or by use of the static sheen method at the operator's option. The number of days a sheen is observed must be recorded.

Toxicity. The 48-hour minimum and monthly average minimum No Observable Effect Concentration (NOEC) must be equal to or greater than the critical dilution concentration specified in Table 3 of this permit. Critical dilution shall be determined using Table 3 of this permit and is based on the discharge rate, discharge pipe diameter, and water depth between the discharge pipe and the bottom. The monthly average minimum NOEC value is defined as the arithmetic average of all 48-hour average NOEC values determined during the month.

(b) Monitoring Requirements

Flow. Once per month, an estimate of the flow (MGD) must be recorded.

Toxicity. The required frequency of testing for continuous discharges shall be determined as follows:

Discharge rate	Toxicity testing frequency
0–499 bbl/day	Once per year.
500–4,599 bbl/day	Once per quarter.
4,600 bbl/day and above.	Once per month.

Intermittent or batch discharges shall be monitored once per discharge but are required to be monitored no more frequently than the corresponding frequencies shown above for continuous discharges.

Samples shall be collected after addition of any added substances, including seawater that is added prior to discharge, and before the flow is split for multiple discharge ports. Samples also shall be representative of the discharge. Methods to increase dilution previously described for produced water in Part I.B.3.a also apply to seawater and freshwater discharges which have been chemically treated.

If the permittee has been compliant with this toxicity limit for one full year (12 consecutive months) for a continuous discharge of chemically treated seawater or freshwater, the required testing frequency shall be reduced to once per year for that discharge.

Section C. Other Discharge Limitations

1. Halogenated Phenolic Compounds

There shall be no discharge of halogenated phenolic compounds as a part of any waste stream authorized in this permit.

2. Dispersants, Surfactants, and Detergents

The facility operator shall minimize the discharge of dispersants, surfactants, and detergents except as necessary to comply with the safety requirements of the Occupational Safety and Health Administration. This restriction applies to tank cleaning and other operations which do not directly involve the safety of workers.

3. Garbage

The discharge of garbage is prohibited (See Part II.G.30).

5. Area of Biological Concern

There shall be no discharge in Areas of Biological Concern, including marine sanctuaries.

Section D. Other Conditions

1. Samples of Wastes

If requested, the permittee shall provide EPA with a sample of any waste in a manner specified by the Agency.

2. Produced Water Toxicity Testing Requirements (7-Day Chronic NOEC Marine Limits)

The approved test methods for permit compliance are identified in 40 CFR part 136 and published at 60 *FR* 53528.

(a) The permittee shall utilize the *Mysidopsis bahia* (Mysid shrimp) chronic static renewal 7-day survival and growth test using Method 1007.0.

(b) The permittee shall utilize the *Menidia beryllina* (Inland Silverside minnow) chronic static renewal 7-day larval survival and growth test (Method 1006.0).

(c) When the testing frequency stated above is less than monthly and the effluent fails the survival endpoint at the low-flow effluent concentration (critical dilution), the permittee shall be considered in violation of this permit limit and the frequency for the affected species will increase to monthly until such time compliance with the Lethal No Observed Effect Concentration (NOEC) effluent limitation is demonstrated for a period of three consecutive months, at which time the permittee may return to the testing frequency stated in Part I.B.3.c of this permit. During the period the permittee is out of compliance, test results shall be reported on the DMR for that reporting period.

(d) This permit may be reopened to require chemical specific effluent limits, additional testing, and/or other appropriate actions to address toxicity.

(e) The permittee shall prepare a full report of the results of all tests conducted pursuant to this section in accordance with the Report Preparation Section of "Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms," EPA/600/4–91/003, or the most current publication, for every valid or invalid toxicity test initiated whether carried to completion or not. The permittee shall retain each full report pursuant to the provisions of Part II.C.3 of this permit. The permittee shall submit full reports only upon the specific request of the Agency.

(f) In accordance with Part II.D.4 of this permit, the permittee shall report on the DMR for the reporting period the lowest Whole Effluent Lethality values determined for either species for the 30-Day Average Minimum and 7-Day Minimum under Parameter No. 22414, and the permittee shall report the results of the valid toxicity test as follows:

1. *Menidia Beryllina* (Inland Silverside Minnow)

(A) If the Inland Silverside minnow No Observed Effect Concentration (NOEC) for survival is less than the critical effluent dilution, enter a "1"; otherwise, enter a "0". Parameter No. TLP6B on the Discharge Monitoring Report.

(B) Report the Inland Silverside minnow NOEC value for survival,

Parameter No. TOP6B on the Discharge Monitoring Report.

(C) Report the Inland Silverside minnow NOEC value for growth, Parameter No. TPP6B on the Discharge Monitoring Report.

(D) Report the % coefficient of variation (larger of critical dilution and control), Parameter No. TQP6B on the Discharge Monitoring Report.

2. *Mysidopsis Bahia* (Mysid Shrimp)

(A) If the Mysid shrimp NOEC for survival is less than the critical effluent dilution, enter a "1"; otherwise, enter a "0". Parameter No. TLP3E on the Discharge Monitoring Report.

(B) Report the Mysid shrimp NOEC value for survival, Parameter No. TOP3E on the Discharge Monitoring Report.

(C) Report the Mysid shrimp NOEC value for growth, Parameter No. TPP3E on the Discharge Monitoring Report.

(D) Report the % coefficient of variation (larger of critical dilution and control), Parameter No. TQP3E on the Discharge Monitoring Report.

3. Chemically Treated Seawater and Freshwater Toxicity Testing Requirements (48-Hour Acute NEOC Marine Limits)

The approved test methods for permit compliance are identified in 40 CFR part 136 and published at 60 FR 53528.

(a) The permittee shall utilize the *Mysidopsis bahia* (Mysid shrimp) acute static renewal 48-hour definitive toxicity test using EPA/600/4–90/027F.

(b) *Menidia beryllina* (Inland Silverside minnow) acute static renewal 48-hour definitive toxicity test using EPA/600/4–90/027F.

(c) When the testing frequency stated above is less than monthly and the effluent fails the survival endpoint at the low-flow effluent concentration (critical dilution), the permittee shall be considered in violation of this permit limit and the frequency for the affected species will increase to monthly until such time compliance with the Lethal No Observed Effluent Concentration (NOEC) effluent limitation is demonstrated for a period of three consecutive months, at which time the permittee may return to the testing frequency stated in Part I.B.9.b of this permit. During the period the permittee is out of compliance, test results shall be reported on the DMR for that reporting period.

(d) This permit may be reopened to require chemical specific effluent limits, additional testing, and/or other appropriate actions to address toxicity.

(e) The permittee shall prepare a full report of the results of all tests conducted pursuant to this section in accordance with the Report Preparation Section of "Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms," EPA/600/4–90/027F, or the most current publication, for every valid or invalid toxicity test initiated whether carried to completion or not. The permittee shall retain each full report pursuant to the provisions of Part II.C.3 of this permit. The permittee shall submit full reports only upon the specific request of the Agency.

(f) In accordance with Part II.D.4 of this permit, the permittee shall report on the DMR for the reporting period the lowest Whole Effluent Lethality values determined for either species for the 30-Day Average Minimum and 48-Hour Minimum under Parameter No. 22414, and the permittee shall report the results of the valid toxicity test as follows:

1. *Menidia Beryllina* (Inland Silverside Minnow)

(A) If the Inland Silverside minnow No Observed Effect Concentration (NOEC) for survival is less than the critical effluent dilution, enter a "1"; otherwise, enter a "0". Parameter No. TEM6B on the Discharge Monitoring Report.

(B) Report the Inland Silverside minnow NOEC value for survival, Parameter No. TOM6B on the Discharge Monitoring Report.

2. *Mysidopsis Bahia* (Mysid Shrimp)

(A) If the Mysid shrimp NOEC for survival is less than the critical effluent dilution, enter a "1"; otherwise, enter a "0". Parameter No. TEM3E on the Discharge Monitoring Report.

(B) Report the Mysid shrimp NOEC value for survival, Parameter No. TOM3E on the Discharge Monitoring Report.

4. Radionuclide Test

The approved test methods for monitoring produced water for radionuclides are:

Radium 226: Method Number 7500–Ra C, Standard Methods for the Examination of Water and Wastewater, Eighteenth Edition, APHA, AWWA, and WPCF.

Radium 228: Method Number 7500–Ra D, Standard Methods for the Examination of Water and Wastewater, Eighteenth Edition, APHA, AWWA, and WPCF.

Part II. Standard Conditions for NPDES Permits

Section A. General Conditions

1. Introduction

In accordance with the provisions of 40 CFR Part 122.41, et. seq., this permit incorporates by reference ALL conditions and requirements applicable to NPDES permits set forth in the Clean Water Act, as amended, (herein-after known as the "Act") as well as ALL applicable regulations.

2. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action or for requiring a permittee to apply and obtain an individual NPDES permit.

3. Toxic Pollutants

a. Notwithstanding Part II.A.5, if any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under section 307(a) of the Act for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition.

b. The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Act for toxic pollutants within the time provided in the regulations that established those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

4. Duty To Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. Continuation of expiring permits shall be governed by regulations promulgated at 40 CFR part 122.6 and any subsequent amendments.

5. Permit Flexibility

This permit may be modified, revoked and reissued, or terminated for cause in accordance with 40 CFR part 122.62–64. The filing of a request for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

6. Property Rights

This permit does not convey any property rights of any sort, or any exclusive privilege.

7. Duty to Provide Information

The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.

8. Criminal and Civil Liability

Except as provided in permit conditions on "Bypassing" and "Upsets," nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance. Any false or materially misleading representation or concealment of information required to be reported by the provisions of the permit, the Act, or applicable regulations, which avoids or effectively defeats the regulatory purpose of the permit may subject the permittee to criminal enforcement pursuant to 18 U.S.C. 1001.

9. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under section 311 of the Act.

10. State Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State Law or regulation under authority preserved by section 510 of the Act.

11. Severability

The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

Section B. Proper Operation and Maintenance

1. Need To Halt or Reduce Not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. The permittee is responsible for maintaining adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failure either by means of alternate power sources, standby generators or retention of inadequately treated effluent.

2. Duty To Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

3. Proper Operation and Maintenance

a. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by permittee as efficiently as possible and in a manner which will minimize upsets and discharges of excessive pollutants and will achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

b. The permittee shall provide an adequate operating staff which is duly qualified to carry out operation, maintenance and testing functions required to insure compliance with the conditions of this permit.

4. Bypass of Treatment Facilities

a. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Parts II.B.4.b and 4.c.

b. Notice.

(1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

(2) Unanticipated bypass. The permittee shall, within 24 hours, submit notice of an unanticipated bypass as required in Part II.D.7.

c. Prohibition of Bypass.

(1) Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:

(a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and,

(c) The permittee submitted notices as required by Part II.B.4.b.

(2) The Director may allow an anticipated bypass after considering its adverse effects, if the Director determines that it will meet the three conditions listed at Part II.B.4.c(1).

5. Upset Conditions

a. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of Part II.B.5.b. are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

b. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and that the permittee can identify the cause(s) of the upset;

(2) The permitted facility was at the time being properly operated;

(3) The permittee submitted notice of the upset as required by Part II.D.7; and,

(4) The permittee complied with any remedial measures required by Part II.B.2.

c. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

6. Removed Substances

Solids, sewage sludges, filter backwash, or other pollutants removed

in the course of treatment or wastewater control shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters. Any substance specifically listed within this permit may be discharged in accordance with specified conditions, terms, or limitations.

Section C. Monitoring and Records

1. Inspection and Entry

The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by the law to:

a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices or operations regulated or required under this permit; and

d. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

2. Representative Sampling

Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

3. Retention of Records

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report, or application. This period may be extended by request of the Director at any time.

The operator shall maintain records at development and production facilities for 3 years, wherever practicable and at a specific shore-based site whenever not practicable. The operator is responsible for maintaining records at exploratory facilities while they are discharging under the operators control and at a specific shore-based site for the remainder of the 3-year retention period.

4. Record Contents

Records of monitoring information shall include:

a. The date, exact place, and time of sampling or measurements;

b. The individual(s) who performed the sampling or measurements;

c. The date(s) and time(s) analyses were performed;

d. The individual(s) who performed the analyses;

e. The analytical techniques or methods used; and

f. The results of such analyses.

5. Monitoring Procedures

a. Monitoring must be conducted according to test procedures approved under 40 CFR part 136, unless other test procedures have been specified in this permit or approved by the Director.

b. The permittee shall calibrate and perform maintenance procedures on all monitoring and analytical instruments at intervals frequent enough to insure accuracy of measurements and shall maintain appropriate records of such activities.

c. An adequate analytical quality control program, including the analyses of sufficient standards, spikes, and duplicate samples to insure the accuracy of all required analytical results shall be maintained by the permittee or designated commercial laboratory.

6. Flow Measurements

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated, and maintained to insure that the accuracy of the measurements is consistent with the accepted capability of that type of device. Devices selected shall be capable of measuring flows with a maximum deviation of less than 10% from true discharge rates throughout the range of expected discharge volumes.

Section D. Reporting Requirements

1. Planned Changes

The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

(1) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR part 122.29(b); or,

(2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are not subject to effluent limitations in the permit.

2. Anticipated Noncompliance

The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

3. Transfers

This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and to incorporate such requirements as may be necessary under the Act.

4. Discharge Monitoring Reports and Other Reports

The operator of each lease block shall be responsible for submitting monitoring results for all facilities within each lease block. The monitoring results for the facilities (platform, drilling ship, or semisubmersible) within the particular lease block shall be summarized on the annual Discharge Monitoring Report for that lease block.

Monitoring results obtained during the previous 12 months shall be summarized and reported on a Discharge Monitoring Report (DMR) form (EPA No. 3320–1). In addition, the highest monthly average for all activity within each lease block shall be reported. The highest daily maximum sample taken during the reporting period shall be reported as the daily maximum concentration.

If any category of waste (discharge) is not applicable for all facilities within the lease block, due to the type of operations (e.g., drilling, production) no reporting is required; however, "no discharge" must be recorded for those categories on the DMR. If all facilities within a lease block have had no activity during the reporting period then "no activity" must be written on the DMR. Operators may list a summary of all lease blocks where there is no activity on one DMR. All pages of the DMR must be signed and certified as required by Part II.D.11 and returned when due.

5. Additional Monitoring by the Permittee

If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR part 136 or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report (DMR). Such increased monitoring frequency shall also be indicated on the DMP.

6. Averaging of Measurements

Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified.

7. One Hour and Twenty-Four Hour Reporting

a. The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 1 hour from the time the permittee becomes aware of the circumstances. A written submission shall be provided within 5 days of the time the permittee becomes aware of the circumstances. As required by LAC33.I.3915, in the event of an unauthorized discharge that does cause an emergency condition, the discharger shall notify the DEQ hotline by telephone at (504) 925–6595 (collect calls accepted 24 hours a day) immediately (a reasonable period of time after taking prompt measures to determine the nature, quantity, and potential off-site impact of a release, considering the exigency of the circumstances), but in no case later than one hour after learning of the discharge. (An emergency condition is any condition which could reasonably be expected to endanger the health, safety of the public, cause significant adverse impact to the land, water, or air environment, or cause severe damage to property.) Notification required by this section will be made regardless of the amount of discharge. The report shall contain the following information:

(1) A description of the noncompliance and its cause;

(2) The period of noncompliance including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and,

(3) Steps being taken to reduce, eliminate, and prevent recurrence of the noncomplying discharge.

b. The following shall be included as information which must be reported within 24 hours:

(1) Any unanticipated bypass which exceeds any effluent limitation in the permit;

(2) Any upset which exceeds any effluent limitation in the permit; and,

(3) Any discharge containing a pollutant in a quantity which exceeds any reportable quantity specified in the "Notification Regulations and Procedures for Unauthorized Discharges", LAC 33: I. Subchapter (E), unless specifically authorized in this permit.

c. The Director may waive the written report on a case-by-case basis if the oral report has been received within the time constraints stipulated by Part II.D.7.a and b.

8. Other Noncompliance

The permittee shall report all instances of noncompliance not reported under Parts II.D.4 and D.7 at the time monitoring reports are submitted. The reports shall contain the information listed at Part II.D.7.

9. Other Information

Where the permittee becomes aware that he failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, he shall promptly submit such facts or information.

10. Signatory Requirements

All applications, reports, or information submitted to the Director shall be signed and certified.

a. All permit applications shall be signed as follows:

(1) For a corporation—by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:

(a) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or,

(b) The manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) For a partnership or sole proprietorship—by a general partner or the proprietor, respectively.

(3) For a municipality, State, Federal, or other public agency—by either a principal executive officer or ranking elected official. For purposes of this election, a principal executive officer of a Federal agency includes:

(a) The chief executive officer of the agency, or

(b) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

b. All reports required by the permit and other information requested by the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(1) The authorization is made in writing by a person described above;

(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or an individual occupying a named position; and,

(3) The written authorization is submitted to the Director.

c. Certification. Any person signing a document under this section shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

11. Availability of Reports

Except for applications, effluent data, permits, and other data specified in 40 CFR part 122.7, any information submitted pursuant to this permit may be claimed as confidential by the submitter. If no claim is made at the time of submission, information may be made available to the public without further notice.

Section E. Penalties for Violations of Permit Conditions

1. Criminal

a. Negligent Violations. The Act provides that any person who negligently violates permit conditions implementing section 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

b. Knowing Violations. The Act provides that any person who knowingly violates permit conditions implementing sections 301, 302, 306, 307, 308, 318 or 405 of the Act is subject

to a fine of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than 3 years, or both.

c. Knowing Endangerment. The Act provides that any person who knowingly violates permit conditions implementing sections 301, 302, 303, 306, 307, 308, 318, or 405 of the Act and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than $250,000, or by imprisonment for not more than 15 years, or both.

d. False Statements. The Act provides that any person who knowingly makes any false material statement, representation, or certification in any application, record report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act, shall upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or by both. (See section 309.c.4 of the Clean Water Act)

2. Civil Penalties

The Act provides that any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed $25,000 per day for each violation.

3. Administrative Penalties

The Act provides that any person who violates a permit conditions implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to an administrative penalty, as follows:

a. Class I Penalty. Not to exceed $10,000 per violation nor shall the maximum amount exceed $25,000.

b. Class II penalty. Not to exceed $10,000 per day for each day during which the violation continues nor shall the maximum amount exceed $125,000.

Section F. Additional General Permit Conditions

1. When the Director May Require Application for an Individual NPDES Permit

The Director may require any person authorized by this permit to apply for and obtain an individual NPDES permit when:

(a) The discharge(s) is a significant contributor of pollution;

(b) The discharger is not in compliance with the conditions of this permit;

(c) A change has occurred in the availability of the demonstrated technology or practices for the control or abatement of pollutants applicable to the point sources;

(d) Effluent limitations guidelines are promulgated for point sources covered by this permit;

(e) A Water Quality Management Plan containing requirements applicable to such point source is approved;

(f) The point source(s) covered by this permit no longer:

(1) Involve the same or substantially similar types of operations;

(2) Discharge the same types of wastes;

(3) Require the same effluent limitations or operating conditions;

(4) Require the same or similar monitoring; and

(5) In the opinion of the Director, are more appropriately controlled under an individual permit than under a general permit.

(g) The bioaccumulation monitoring results show concentrations of the listed pollutants in excess of levels safe for human consumption.

The Director may require any operator authorized by this permit to apply for an individual NPDES permit only if the operator has been notified in writing that a permit application is required.

2. When an Individual NPDES Permit May Be Requested

(a) Any operator authorized by this permit may request to be excluded from the coverage of this general permit by applying for an individual permit.

(b) When an individual NPDES permit is issued to an operator otherwise subject to this general permit, the applicability of this permit to the owner or operator is automatically terminated on the effective date of this individual permit.

(c) A source excluded from coverage under this general permit solely because it already has an individual permit may request that its individual permit be revoked, and that it be covered by this general permit. Upon revocation of the individual permit, this general permit shall apply to the source.

3. Permit Reopener Clause

If applicable new or revised effluent limitations guidelines or New Source Performance Standards covering the Offshore Subcategory of the Oil and Gas Extraction Point Source Category (40 CFR part 435) are promulgated in accordance with sections 301(b), 304(b)(2), and 307(a)(2), and the new or revised effluent limitations guidelines or New Source Performance Standards are more stringent than any effluent limitations in this permit or control a pollutant not limited in this permit, the permit may, at the Director's discretion, be modified to conform to the new or revised effluent limitations guidelines.

Notwithstanding the above, if an offshore oil and gas extraction point source discharge facility is subject to the ten year protection period for new source performance standards under the Clean Water Act section 306(d), this reopener clause may not be used to modify the permit to conform to more stringent new source performance standards or technology based standards developed under section 301(b)(2) during the ten year period specified in 40 CFR part 122.29(d).

The Director may modify this permit upon meeting the conditions set forth in this reopener clause.

Section G. Definitions

All definitions contained in section 502 of the Act shall apply to this permit and are incorporated herein by references. Unless otherwise specified in this permit, additional definitions of words or phrases used in this permit are as follows:

1. "Act" means the Clean Water Act (33 U.S.C. 1251 et. seq.), as amended.

2. "Administrator" means the Administrator of the U.S. Environmental Protection Agency.

3. "Annual Average" means the average of all discharges sampled and/or measured during a calendar year in which daily discharges are sampled and/or measured, divided by the number of discharges sampled and/or measured during such year.

4. "Applicable effluent standards and limitations" means all state and Federal effluent standards and limitations to which a discharge is subject under the Act, including, but not limited to, effluent limitations, standards of performance, toxic effluent standards and prohibitions, and pretreatment standards.

5. "Applicable water quality standards" means all water quality standards to which a discharge is subject under the Act.

6. "Areas of Biological Concern" means a portion of the territorial seas identified by EPA, in consultation with the Department of Interior as containing potentially productive or unique biological communities or as being potentially sensitive to discharges associated with oil and gas activities.

7. "Blow-Out Preventer Control Fluid" means fluid used to actuate the hydraulic equipment on the blow-out preventer or subsea production wellhead assembly.

8. "Boiler Blowdown" means discharges from boilers necessary to minimize solids build-up in the boilers, including vents from boilers and other heating systems.

9. "Bulk Discharge" any discharge of a discrete volume or mass of effluent from a pit tank or similar container that occurs on a one-time, infrequent or irregular basis.

10. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

11. "Completion Fluids" means salt solutions, weighted brines, polymers and various additives used to prevent damage to the well bore during operations which prepare the drilled well for hydrocarbon production. These fluids move into the formation and return to the surface as a slug with the produced water. Drilling muds remaining in the wellbore during logging, casing, and cementing operations or during temporary abandonment of the well are not considered completion fluids and are regulated by drilling fluids requirements.

12. "Daily Discharge" means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in terms of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the sampling day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the sampling day. Daily discharge determination of concentration made using a composite sample shall be the concentration of the composite sample. When grab samples are used, the daily discharge determination of concentration shall be arithmetic average (weighted by flow value) of all samples collected during that sampling day.

13. "Daily Average" (also known as monthly average) discharge limitations means the highest allowable average of daily discharge(s) over a calendar month, calculated as the sum of all daily discharge(s) measured during a calendar month divided by the number of daily discharge(s) measured during that month. When the permit establishes daily average concentration effluent limitations or conditions, the daily average concentration means the arithmetic average (weighted by flow) of all daily discharge(s) of concentration determined during the calendar month where C=daily concentration, F=daily flow, and n=number of daily samples; daily average discharge=

$$\frac{C_1F_1+C_2F_2+\cdots+C_nF_n}{F_1+F_2+\cdots+F_n}.$$

14. "Daily Maximum" discharge limitations means the highest allowable "daily discharge" during the calendar month.

15. "Desalinization Unit Discharge" means wastewater associated with the process of creating freshwater from seawater.

16. "Deck Drainage" means any waste resulting from deck washings, spillage, rainwater, and runoff from gutters and drains including drip pans and work areas within facilities covered under this permit.

17. "Development Drilling" means the drilling of wells required to efficiently produce a hydrocarbon formation or formations.

18. "Development Facility" means any fixed or mobile structure that is engaged in the drilling of productive wells.

19. "Diatomaceous Earth Filter Media" means filter media used to filter seawater or other authorized completion fluids and subsequently washed from the filter.

20. "Diesel Oil" means the grade of distillate fuel oil, as specified in the American Society for Testing and Materials Standard Specification D975–81, that is typically used as the continuous phase in conventional oil-based drilling fluids.

21. "Director" means the State Director or an authorized representative.

22. "Domestic Waste" means material discharged from galleys, sinks, showers and baths, safety showers, eye wash stations, hand washing stations, fish cleaning stations, and laundries. Domestic Waste does not include drainage from toilets, urinals, hospitals, and cargo spaces.

23. "Drill Cuttings" means particles generated by drilling into the subsurface geological formations including cured cement carried to the surface with the drilling fluid.

24. "Drilling Fluids" means the circulating fluid (mud) used in the rotary drilling of wells to clean and condition the hole and to counterbalance formation pressure. A water-based drilling fluid is the conventional drilling mud in which water is the continuous phase and the suspending medium for solids, whether or not oil is present. An oil based drilling fluids has diesel oil, mineral oil, or some other oil as its continuous phase with water as the dispersed phase.

25. "Environmental Protection Agency" (EPA) means the U.S. Environmental Protection Agency.

26. "Excess Cement Slurry" means the excess mixed cement, including additives and wastes from equipment wash down, after a cementing operation.

27. "Exploratory Facility" means any fixed or mobile structure that is engaged in the drilling of wells to determine the nature of potential hydrocarbon reservoirs.

28. "Fecal Coliform Bacteria Sample" consists of one effluent grab portion collected during a 24-hour period at peak loads.

29. "Grab sample" means an individual sample collected in less than 15 minutes.

30. "Garbage" means all kinds of food waste, wastes generated in living areas on the facility, and operational waste, excluding fresh fish and parts thereof, generated during the normal operation of the facility and liable to be disposed of continuously or periodically, except domestic waste water such as dishwater, and those substances that are defined or listed in other Annexes to MARPOL 73/78

31. "Inverse Emulsion Drilling Fluids" means an oil-based drilling fluid which also contains a large amount of water.

32. "Live bottom areas" means those areas which contain biological assemblages consisting of such sessile invertebrates as seas fans, sea whips, hydroids, anemones, ascideians sponges, bryozoans, seagrasses, or corals living upon and attached to naturally occurring hard or rocky formations with fishes and other fauna.

33. "Maintenance waste" means materials collected while maintaining and operating the facility, including, but not limited to, soot, machinery deposits, scraped paint, deck sweepings, wiping wastes, and rags.

34. "Muds, Cuttings, and Cement at the Sea floor" means discharges that occur at the sea floor prior to installation of the marine riser and during marine riser disconnect, well abandonment and plugging operations.

35. "National Pollutant Discharge Elimination System" (NPDES) means the national program for issuing, modifying, revoking, and reissuing, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment requirements, under

section 307, 318, 402, and 405 of the Act.

38. "New Source" means any facility or activity that meets the definition of "new source" under 40 CFR part 122.2 and meets the criteria for determination of new sources under 40 CFR part 122.29(b) applied consistently with all of the following definitions:

(a) The term "water area" as used in the term "site" in 40 CFR parts 122.29 and 122.2 shall mean the water area and ocean floor beneath any exploratory, development, or production facility where such facility is conducting its exploratory, development, or production activities.

(b) The term "significant site preparation work" as used in 40 CFR part 122.29 shall mean the process of surveying, clearing, or preparing an area of the ocean floor for the purpose of constructing or placing a development or production facility on or over the site.

37. "Operational waste" means all cargo associated waste, maintenance waste, cargo residues, and ashes and clinkers from incinerators and coal burning boilers.

38. "Packer Fluid" means low solids fluids between the packer, production string and well casing. They are considered to be workover fluids.

39. "Priority Pollutants" means those chemicals or elements identified by EPA, pursuant to section 307 of the Clean Water Act and 40 CFR part 401.15.

40. "Produced Sand" means slurried particles used in hydraulic fracturing, the accumulated formation sands, and scale particles generated during production. Produced sand also includes desander discharge from produced water waste stream and blowdown of water phase from the produced water treating system.

41. "Produced Water" means the water (brine) brought up from the hydrocarbon-bearing strata during the extraction of oil and gas, and can include formation water, injection water, and any chemicals added downhole or during the oil/water separation process.

42. "Production Facility" means any fixed or mobile structure that is either engaged in well completion or used for active recovery of hydrocarbons from producing formations.

43. "Sanitary Waste" means human body waste discharged from toilets and urinals.

44. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which cause them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

45. "Sheen" means a silvery or metallic sheen, gloss, or increased reflectivity, visual color or iridescence on the water surface.

46. "Source Water and Sand" means water from non-hydrocarbon bearing formations for the purpose of pressure maintenance or secondary recovery including the entrained solids.

47. "Spotting" means the process of adding a lubricant (spot) downhole to free stuck pipe.

48. "Territorial Seas" means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles.

49. "Trace Amounts" means that if materials added downhole as well treatment, completion, or workover fluids do not contain priority pollutants then the discharge is assumed not to contain priority pollutants, except possibly in trace amounts.

50. "Uncontaminated Ballast/Bilge Water" means seawater added or removed to maintain proper draft.

51. "Uncontaminated Freshwater" means freshwater which is discharged without the addition of chemicals; included are (1) discharges of excess freshwater that permit the continuous operation of fire control and utility lift pumps, (2) excess freshwater from pressure maintenance and secondary recovery projects, (3) water released during training and testing of personnel in fire protection, and (4) water used to pressure test new piping.

52. "Uncontaminated Seawater" means seawater which is returned to the sea without the addition of chemicals. Included are (1) discharges of excess seawater which permit the continuous operation of fire control and utility lift pumps (2) excess seawater from pressure maintenance and secondary recovery projects (3) water released during the training and testing of personnel in fire protection (4) seawater used to pressure test new piping, and (5) once through noncontact cooling water which has not been treated with biocides.

53. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

54. "Weekly Average" means the highest allowable average of daily discharge(s) over a calendar week, calculated as the sum of all daily discharge(s) measured during a calendar week divided by the number of daily discharge(s) measured during that week. When the permit establishes daily average concentration effluent limitations or conditions, the daily average concentration means the arithmetic average (weighted by flow) of all daily discharge(s) of concentration determined during the calendar week where C=daily concentration, F=daily flow, and n=number of daily samples; daily average discharge=

$$\frac{C_1F_1+C_2F_2+\cdots+C_nF_n}{F_1+F_2+\cdots+F_n}.$$

55. "Well Treatment Fluids" mean any fluid used to restore or improve productivity by chemically or physically altering hydrocarbon-bearing strata after a well has been drilled. These fluids move into the formation and return to the surface as a slug with the produced water. Stimulation fluids include substances such as acids, solvents, and propping agents.

56. "Workover Fluids" mean salt solutions, weighted brines, polymers, and other specialty additives used in a producing well to allow safe repair and maintenance or abandonment procedures. High solids drilling fluids used during work over operations are not considered work over fluids by definition and therefore discharge is prohibited. Packer fluids, low solids fluids between the packer, production string and well casing, are considered to be workover fluids and must meet only the effluent requirements imposed on workover fluids.

57. The term "MGD" shall mean million gallons per day.

58. The term "mg/l" shall mean milligrams per liter or parts per million (ppm).

59. The term "ug/l" shall mean micrograms per liter or parts per billion (ppb).

Appendix A

TABLE 1–A.—PRODUCED WATER CRITICAL DILUTION (PERCENT EFFLUENT) DEPTH DIFFERENCE BETWEEN THE DISCHARGE PIPE AND THE SEA FLOOR 2 METERS AND LESS

Discharge rate (bbl/day)	Pipe diameter (inches)					
	>0" to 5"	≥5" to 7"	≥7" to 9"	≥9" to 11"	≥11" to 15"	≥15"
≥500	0.26	0.26	0.26	0.11	0.1	0.09
501 to 1,000	0.66	0.66	0.66	0.66	0.66	0.66
1,001 to 2,000	1.44	1.44	1.44	1.44	1.44	1.44
2,001 to 3,000	2.63	2.2	2.2	2.2	2.2	2.2
3,001 to 4,000	4.2	3.0	3.0	3.0	3.0	3.0
4,001 to 5,000	5.8	3.6	3.6	3.6	3.6	3.6
5,001 to 7,500	7.8	6.4	5.3	5.3	5.3	5.3
7,501 to 10,000	8.8	9.4	6.8	6.8	6.8	6.8
10,001 to 15,000	10.5	12.25	10.8	9.1	9.1	9.1
15,001 to 20,000	11.5	13.6	14.8	10.9	10.9	10.1
20,001 to 35,000	13.0	15.6	17.4	18.7	15.4	14.4
35,001 to 50,000	13.7	16.5	18.5	20.0	21.1	16.6
50,001 to 75,000	16.7	17.3	19.5	21.0	22.25	19.0

bbl/day means barrels per day.

TABLE 1–B.—PRODUCED WATER CRITICAL DILUTION (PERCENT EFFLUENT) DEPTH DIFFERENCE BETWEEN THE DISCHARGE PIPE AND THE SEA FLOOR GREATER THAN 2 METERS TO 4 METERS

Discharge rate (bbl/day)	Pipe diameter (inches)					
	>0" to 5"	≥5" to 7"	≥7" to 9"	≥9" to 11"	≥11" to 15"	≥15"
≥500	0.1	0.1	0.1	0.1	0.1	0.1
501 to 1,000	0.2	0.2	0.2	0.2	0.2	0.2
1,001 to 2,000	0.36	0.36	0.36	0.36	0.36	0.36
2,001 to 3,000	0.74	0.65	0.65	0.65	0.65	0.65
3,001 to 4,000	1.1	0.86	0.86	0.86	0.86	0.86
4,001 to 5,000	1.56	1.05	1.05	1.05	1.05	1.05
5,001 to 7,500	3.0	1.74	1.5	1.5	1.5	1.5
7,501 to 10,000	4.6	2.6	2.0	2.0	2.0	2.0
10,001 to 15,000	5.8	4.9	3.2	2.8	2.8	2.8
15,001 to 20,000	6.2	7.6	5.0	3.6	3.5	3.5
20,001 to 35,000	6.7	8.8	9.8	7.5	5.9	5.6
35,001 to 50,000	7.0	9.2	11.0	11.2	8.9	6.9
50,001 to 75,000	7.15	9.5	11.4	13.0	13.5	8.5

bbl/day means barrels per day.

TABLE 1–C.—PRODUCED WATER CRITICAL DILUTION (PERCENT EFFLUENT) DEPTH DIFFERENCE BETWEEN THE DISCHARGE PIPE AND THE SEA FLOOR GREATER THAN 4 METERS TO 6 METERS

Discharge rate (bbl/day)	Pipe diameter (inches)					
	>0" to 5"	≥5" to 7"	≥7" to 9"	≥9" to 11"	≥11" to 15"	≥15"
≥500	0.04	0.04	0.04	0.04	0.04	0.04
501 to 1,000	0.09	0.09	0.09	0.09	0.09	0.09
1,001 to 2,000	0.17	0.17	0.17	0.17	0.17	0.17
2,001 to 3,000	0.26	0.24	0.24	0.24	0.24	0.24
3,001 to 4,000	0.37	0.31	0.31	0.31	0.31	0.31
4,001 to 5,000	0.6	0.5	0.5	0.5	0.5	0.5
5,001 to 7,500	1.14	0.8	0.7	0.7	0.7	0.7
7,501 to 10,000	1.8	1.1	0.9	0.9	0.9	0.9
10,001 to 15,000	3.5	2.0	1.4	1.3	1.3	1.3
15,001 to 20,000	4.3	3.1	2.1	1.7	1.7	1.7
20,001 to 35,000	4.6	6.2	4.8	3.6	2.8	2.7
35,001 to 50,000	4.8	6.5	7.2	5.7	4.6	3.6
50,001 to 75,000	4.9	6.6	8.2	8.8	7.3	4.8

bbl/day means barrels per day.

TABLE 1–D. PRODUCED WATER CRITICAL DILUTION (PERCENT EFFLUENT) DEPTH DIFFERENCE BETWEEN THE DISCHARGE PIPE AND THE SEA FLOOR GREATER THAN 6 METERS TO 9 METERS

Discharge rate (bbl/day)	Pipe diameter (inches)					
	>0" to 5"	≥5" to 7"	≥7" to 9"	≥9" to 11"	≥11' to 15"	≥15"
≤500	0.04	0.04	0.04	0.04	0.04	0.04
501 to 1,000	0.06	0.06	0.06	0.06	0.06	0.06
1,001 to 2,000	0.1	0.1	0.1	0.1	0.1	0.1
2,001 to 3,000	0.15	0.14	0.14	0.14	0.14	0.14
3,001 to 4,000	0.21	0.18	0.18	0.18	0.18	0.18
4,001 to 5,000	0.27	0.22	0.22	0.22	0.22	0.22
5,001 to 7,500	0.6	0.43	0.41	0.41	0.41	0.41
7,501 to 10,000	0.9	0.62	0.53	0.53	0.53	0.56
10,001 to 15,000	1.8	1.1	0.83	0.76	0.76	0.76
15,001 to 20,000	2.8	1.8	1.2	1.0	1.0	1.0
20,001 to 35,000	3.6	3.7	2.6	2.0	1.7	1.8
35,001 to 50,000	3.7	5.0	4.3	3.3	2.6	2.2
50,001 to 75,000	3.7	5.1	6.4	5.4	4.4	3.1

bbl/day means barrels per day.

TABLE 1–E.—PRODUCED WATER CRITICAL DILUTION (PERCENT EFFLUENT) DEPTH DIFFERENCE BETWEEN THE DISCHARGE PIPE AND THE SEA FLOOR GREATER THAN 9 METERS

Discharge rate (bbl/day)	Pipe diameter (inches)					
	>0" to 5"	≥5" to 7"	≥7" to 9"	≥9" to 11"	≥11' to 15"	≥15"
≤500	0.04	0.04	0.04	0.04	0.04	0.04
501 to 1,000	0.06	0.06	0.06	0.06	0.06	0.06
1,001 to 2,000	0.09	0.09	0.09	0.09	0.09	0.09
2,001 to 3,000	0.11	0.1	0.1	0.1	0.1	0.1
3,001 to 4,000	0.13	0.12	0.12	0.12	0.12	0.12
4,001 to 5,000	0.15	0.13	0.13	0.13	0.13	0.13
5,001 to 7,500	0.22	0.18	0.18	0.18	0.18	0.18
7,501 to 10,000	0.42	0.32	0.3	0.3	0.3	0.3
10,001 to 15,000	0.8	0.53	0.44	0.42	0.42	0.42
15,001 to 20,000	1.3	0.8	0.62	0.54	0.54	0.54
20,001 to 35,000	2.7	1.8	1.3	1.0	0.9	0.9
35,001 to 50,000	2.7	3.0	2.2	1.7	1.4	1.2
50,001 to 75,000	2.8	3.9	3.7	3.0	2.4	1.7

bbl/day means barrels per day.

TABLE 2.—MINIMUM VERTICAL PORT SEPARATION DISTANCE TO AVOID INTERFERENCE

Port flow rate (bbl/day)	Minimum separation distance (m)
0–500	2.2
501–1000	2.7
1001–2000	4.7
2001–5000	4.8
5001 and Greater	6.6

TABLE 3.—CRITICAL DILUTIONS (PERCENT EFFLUENT) FOR TOXICITY LIMITATIONS FOR SEAWATER AND FRESHWATER TO WHICH TREATMENT CHEMICALS HAVE BEEN ADDED

Depth difference** (meters)	Discharge rate (bbl/day)	Pipe diameter			
		>0" to 2"	>2" to 4"	>4" to 6"	>6"
0 to 3	0 to 1,000	11.4	5.1	5.1	6.3
	1,001 to 10,000	36	53	62	67
	Greater than 10,000	49	66	74	77
>3 to 5	0 to 1,000	4.0	4.8	6.6	6.2
	1,001 to 10,000	16.1	25	30	23
	Greater than 10,000	23.6	33.3	39	49
>5 to 7	0 to 1,000	4.0	4.8	5.6	6.2
	1,001 to 10,000	12.8	21	18.1	18.8
	Greater than 10,000	16.7	25.4	31.2	34.4
Greater than 7	0 to 1,000	4.0	4.8	5.6	6.2

TABLE 3.—CRITICAL DILUTIONS (PERCENT EFFLUENT) FOR TOXICITY LIMITATIONS FOR SEAWATER AND FRESHWATER TO WHICH TREATMENT CHEMICALS HAVE BEEN ADDED—Continued

Depth difference** (meters)	Discharge rate (bbl/day)	Pipe diameter			
		>0" to 2"	>2" to 4"	>4" to 6"	>6"
	1,001 to 10,000	9.8	16.3	18.1	18.8
	Greater than 10,000	12.4	18.8	25.2	26.3

Depth Difference means the distance in water depth between the discharge pipe and the seafloor.

TABLE 3.—EFFLUENT LIMITATIONS, PROHIBITIONS AND MONITORING REQUIREMENTS

Discharge	Regulated and monitored discharged parameter	Discharge limitation/prohibition	Monitoring requirement		
			Measurement frequency	Sample type/method	Recorded value(s)
Drilling fluid		No Discharge			
Drill cuttings		No Discharge			
Deck drainage	Free Oil	No free oil	Once/day(*2)	Visual sheen	Number of days sheen observed.
Produced water	Oil and grease	42 mg/l daily max. 29 mg/l monthly average	One/month	Grab (*3)	Dail max., monthly average.
	Toxicity	7-day average min. NOEC (*10) and monthly average min. NOEC (*10).	Dilution Dependent (*9).	Grab	Lowest NOEC for either of the two species.
	Benzene, Lead, Total Phenols, and Thallium.	See Part I.B.3.a	Dilution Dependent (*9).	Grab	Daily max., monthly average.
	Radium 226 and 228.	Monitor	Dilution Dependent (*9).	Grab	pCi/liter.
	Flow (MGD)	Monitor	Once/month	Estimate	Monthly Average.
Produced Sand		No Discharge			
Well treatment fluids (*4) completion fluids (*4), and workover fluids (*4) (includes packer fluids).	Free oil	No free oil	Once day (*1)	Statics sheen	Number of days sheen observed.
	Oil and Grease	42 mg/l daily maxo., 29 mg/l monthly avg.	Once/month	Grab (*3)	Daily max., monthly average.
Sanitary waste	Residual chlorine	1 mg/l (minimum)	Once/month	Grab	Concentration.
	Solids	No Floating Solids	Once/day	Observation (*8)	Number days solids observed.
	BOD5 (*6)	45 mg/l	Once/six months	Grab	Concentration.
	TSS (*6)	45 mg/l	Once/six month	Grap	Concentration
Domestic waste	Solids	No floating solids or foam.	Once/day	Observation (*8)	Number of days observed.
Miscellaneous discharges. Desalinization unit discharge; blowout preventer fluid; uncontaminated ballast water; uncontaminated bilge water; uncontaminated freshwater; mud, cuttings and cement to sea floor; uncontaminted seawater; boiler blowdown; source water and sand; diatomaceous earth filter media; excess cement slurry.	Free oil	No free oil	Once/week (*5)	Visual sheen	Number of days sheen observed.

TABLE 3.—EFFLUENT LIMITATIONS, PROHIBITIONS AND MONITORING REQUIREMENTS—Continued

Discharge	Regulated and monitored discharged parameter	Discharge limitation/prohibition	Monitoring requirement		
			Measurement frequency	Sample type/method	Recorded value(s)
Miscellaneous discharges of seawater and freshwater to which treatment chemicals have been added: excess seawater which permits the continuous operation of fire control and utility lift pumps, excess seawater from pressure maintenance and secondary recovery projects, water released during training of personnel in fire protection, seawater used to pressure test new piping and new pipelines, ballast water, once-through non-contact cooling water, desalinization unit discharge.	Treatment chemicals.	Most stringent of: EPA label registration, maximum manufacturers recommended dose, or 500 mg/l			
	Free oil	No free oil	1/week	Visible sheen	Number of days sheen observed.
	Toxicity	48-hour average min. NOEC and monthly avg minimum NOEC (*12).	Rate Dependent (*11).	Grab	Lowest NOEC observed for either of the two species.

Footnotes
*1 When discharging.
*2 When discharging and facility is manned. Monitoring shall be accomplished during times when observation of a visual sheen on the surface of the receiving water is possible in the vicinity of the discharge.
*3 May be based on a single grab sample or the arithmetic average of four grab sample results collected in the 24 hr. period.
*4 No discharge of priority pollutants except in trace amounts. Information on the specific chemical composition shall be recorded but not reported unless requested by EPA.
*5 When discharging for cement at the seafloor and blowout preventer fluid. All other miscellaneous discharges: when discharging, discharge is authorized only during times when visual sheen observation is possible, unless the static sheen method is used. Uncontaminated seawater uncontaminated freshwater, source water and source sand, uncontaminated bilge water, and uncontaminated ballast water from platforms on automatic purge systems may be discharged without monitoring from platforms which are not manned.
*6 BOD5 and TSS limits only apply to discharges less than 2,500 gallons per day.
*7 Hach method CN–66 DPD approved. Minimum of 1 mg/l and maintained as close to this concentration as possible.
*8 Monitoring shall be accomplished during daylight by visual observation of the surface of the receiving water in the vicinity of sanitary and domestic waste outfalls. Observations shall be made following either the morning or midday meals at a time of maximum estimated discharge.
*9 See Part I, section B.3.c. of this permit.
*10 See Table 1, Appendix A.
*11 Once/year for discharges from 0 bbl/day to 499 bbl/day, once/quarter for discharges from 500 bbl/day to 4,599 bbl/day, and once/month for discharges of 4,600 bbl/day and greater.
*12 See Table 3, Appendix A.

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FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Board of Governors of the Federal Reserve System (Board)
ACTION: Notice and request for comment.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Board, the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) (the "Agencies") may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid Office of Management and Budget (OMB) control number. Proposed revisions to the following currently approved collection of information have received approval from the Federal Financial Institutions Examination Council (FFIEC), of which the Agencies are members, and are hereby published for comment by the Board on behalf of the Agencies. At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the proposed revisions should be modified prior to the Board's submission of them to OMB for review and approval. Comments are invited on:

(a) Whether the proposed revisions to the following collection of information are necessary for the proper performance of the Agencies' functions, including whether the information has practical utility;

(b) The accuracy of the Agencies' estimate of the burden of the information collection as it is proposed to be revised, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before January 5, 1998.

ADDRESSES: Interested parties are invited to submit written comments to the agency listed below. All comments, which should refer to the OMB control number, will be shared among the Agencies.

Written comments should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551, or delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments received may be inspected in room M-P-500 between 9:00 a.m. and 5:00 p.m., except as provided in section 261.8 of the Board's Rules Regarding Availability of Information, 12 CFR 261.8(a).

A copy of the comments may also be submitted to the OMB desk officer for the Agencies: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed revisions to the collection of information may be requested from the agency clearance officer whose name appears below.

Mary M. McLaughlin, Board Clearance Officer, (202) 452-3829, Division of Research and Statistics, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551. Telecommunications Device for the Deaf (TDD) users may contact Diane Jenkins, (202) 452-3544, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION:

Proposal to revise the following currently approved collection of information:

Title: Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks
Form Number: FFIEC 002
OMB Number: 7100-0032.
Frequency of Response: Quarterly.
Affected Public: U.S. branches and agencies of foreign banks.
Number of Respondents: 513
Total Annual Responses: 2,052
Estimated Time per Response: 23.25 burden hours.
Total Annual Burden: 47,709 burden hours.

General Description of Report: This information collection is mandatory: 12 U.S.C. 3105(b)(2), 1817(a)(1) and (3), and 3102(b). Except for select sensitive items, this information collection is not given confidential treatment (5 U.S.C. 552(b)(8)).

Small businesses (that is, small U.S. branches and agencies of foreign banks) are affected.

Abstract: On a quarterly basis, all U.S. branches and agencies of foreign banks (U.S. branches) are required to file detailed schedules of assets and liabilities in the form of a condition report and a variety of supporting schedules. This balance sheet information is used to fulfill the supervisory and regulatory requirements of the International Banking Act of 1978. The data are also used to augment the bank credit, loan, and deposit information needed for monetary policy and other public policy purposes. The report is collected and processed by the Federal Reserve on behalf of all three Agencies.

CURRENT ACTIONS:

The proposed revisions to the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002) that are the subject of this notice have been approved by the FFIEC for implementation as of the March 31, 1998, report date. Nonetheless, as is customary for FFIEC 002 reporting changes, U.S. branches are advised that, for the March 31, 1998, report date, reasonable estimates may be provided for any new or revised item for which the requested information is not readily available.

The proposed revisions are summarized as follows:

INVESTMENT SECURITIES WITH HIGH PRICE VOLATILITY

In December 1991, the FFIEC approved and the Agencies adopted a Supervisory Policy Statement on Securities Activities which became effective on February 10, 1992 (57 FR 4029, February 3, 1992). Under this policy statement, prior to purchase and at subsequent testing dates, U.S. branches must test mortgage derivative products to determine whether they are "high-risk" or "non high-risk." These tests measure the expected weighted average life, average life sensitivity, and price sensitivity of mortgage derivative securities for specified changes in interest rates. During 1994, the Agencies issued supervisory guidance concerning U.S. branch investments in "structured notes" which, in general, are debt securities (other than mortgage-backed securities) whose cash flow characteristics (coupon rate, redemption amount, or stated maturity) depend upon one or more indices and/or that have embedded forwards or options. Beginning in 1995, U.S. branches began to report the fair value and the amortized cost of their investment portfolio holdings of high-risk mortgage securities (Schedule RAL, Memoranda items 5 and 6) and structured notes (Schedule RAL, Memoranda items 7 and 8).

With regard to structured notes, supervisory attention has primarily focused on ensuring that institutions understand and evaluate the market risks associated with these instruments. Instruments that have high market value or fair value sensitivity to changes in interest rates or other appropriate market risk factors, such as foreign exchange rates, have been the primary targets of such attention. However, some of the structured notes currently reported in Schedule RAL, Memoranda items 7 and 8, may not have high market risk profiles and, in some cases, may have lower market risk volatility profiles than generic U.S. Treasury and U.S. Government agency securities. As a consequence, the Agencies are considering revising the information collected on these instruments for supervisory purposes to reflect information based on significant price volatility under specific interest rate or major factor scenarios, e.g., an estimated change in value of 20 percent or more due to an immediate and sustained parallel shift in the yield curve of plus or minus 300 basis points. When the Agencies develop the specific tests for significant price volatility, existing Memorandum items 7 and 8 on Schedule RAL would be replaced with revised items requesting the amortized cost and fair value of securities (other than mortgage-backed securities backed by closed-end first lien 1-4 family residential mortgages) whose price volatility exceeds the specified threshold level under the specified interest rate or major factor scenario.

For consistency, Schedule RAL, Memoranda items 5 and 6, which currently collect information on "high-risk" mortgage securities would be similarly replaced with items requesting the amortized cost and fair value of mortgage-backed securities backed by closed-end first lien 1-4 family residential mortgages whose price volatility exceeds a specified threshold level under a specified interest rate or major factor scenario. These mortgage-backed securities would be either the same as, or a subset of, the mortgage-backed securities currently reported in Schedule RAL, Memorandum items 5 and 6.

If the Agencies' specific tests for significant price volatility have not been developed in time to implement this proposed reporting change as of the March 31, 1998, report date, this FFIEC 002 revision would take effect at a report date later in 1998 (or thereafter) after the volatility tests have been devised.

BALANCES DUE FROM BANKS IN HOME COUNTRY AND HOME COUNTRY CENTRAL BANK

The Agencies use various quantitative screens to identify U.S. branches with potentially significant liquidity risk exposure. These screens primarily rely on data collected in the FFIEC 002. The Agencies have determined that the existing data collected on Schedule A, item 4.b, for balances due from banks in foreign countries and foreign central banks is not adequate for assessing U.S. branches liquidity exposure associated with their involvement with home country banks. The Agencies are therefore proposing to breakout balances due from banks in the U.S. branches home country from balances due from banks in other foreign countries.

The existing data collected in item 4.b. on balances due from Other banks in foreign countries and foreign central banks would be modified to exclude data on balances due from banks in the U.S. branches home country. This modified data would be collected in renumbered item 4.c. A new item 4.b. for balances due from Banks in home country and home country central bank would be added to collect the information needed for liquidity analysis. The Agencies believe that the proposed break out will improve their ability to assess significant liquidity exposures without adding undue reporting burden on U.S. branches.

PLEDGED SECURITIES

The Agencies are also proposing to add a new memorandum item to Schedule RAL for pledged securities. The new item would identify the amount of U.S. government securities included in Schedule RAL items 1.b.(1), U.S. Treasury securities, and 1.b.(2), U.S. Government agency obligations, that are pledged to secure deposits, repurchase transactions, borrowings, or for any other purpose. Based on a review of the manner in which information on pledged securities collected in the domestic bank Call Report has been used, the Agencies believe that this data would assist in determining whether securities held by a U.S. branch represent an actual source of liquidity to pay depositors or creditors or are already pledged to secure other branch obligations. The Agencies believe that the proposed item will improve their ability to assess significant liquidity exposures without adding undue reporting burden on U.S. branches.

REQUEST FOR COMMENT

Comments submitted in response to this Notice will be summarized or included in the Board's request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology as well as other relevant aspects of the information collection request.

Comments also are requested on the expected effects on information currently reported in the FFIEC 002 report resulting from the implementation of those portions of Financial Accounting Standards Board Statement No. 125, "Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities," that have had their effective date delayed until after December 31, 1997. The agencies are evaluating the need for additional data in this area. These portions of Statement No. 125 address collateral and secured borrowings, repurchase agreements, dollar-rolls, securities lending, and similar transactions.

In addition, comments are requested on the extent to which U.S. branches are engaged in guaranteed certificate of deposit and confirmation certificate of deposit transactions. Guaranteed certificates of deposit are certificates of deposit issued by non-U.S. branches that are guaranteed payable by U.S. branches. In contrast, confirmation certificates of deposit are certificates of deposit issued by U.S. branches that are guaranteed payable by the non-U.S. branches. The agencies are interested in obtaining information on the volume and prevalence of such transactions among U.S. branches.

Insured U.S. branches should note that the FDIC is considering amendments to its regulations on the deposit insurance assessment base (12 CFR Part 327) which may require certain changes to the FFIEC 002. Should the FDIC adopt amendments that necessitate changes to the FFIEC 002 in 1998, those changes will be separately published for public comment as required under the Paperwork Reduction Act of 1995.

Board of Governors of the Federal Reserve System, October 30, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–29148 Filed 11–3–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 18, 1997.

A. Federal Reserve Bank of San Francisco (Pat Marshall, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. Eugene Dale Fortner, Dolores Fortner, and the Eugene D. and Dolores Fortner Family Trust, Glendale, California; to acquire additional voting shares of Verdugo Banking Company, Glendale, California.

Board of Governors of the Federal Reserve System, October 29, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–29084 Filed 11–4–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 19, 1997.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Annie Ruth Williams, Covington, Georgia; to retain voting shares of Newton Financial Management Company, LLC, Atlanta, Georgia, and thereby indirectly retain Williams Partners, L.P., Atlanta, Georgia; FNB Newton Bancshares, Inc., Covington, Georgia; and First Newton Bank, Covington, Georgia.

2. The 1997 Williams Family Trust, Covington, Georgia; to retain voting shares of Williams Partners L.P., Atlanta, Georgia, and FNB Newton Bancshares, Inc., Covington, Georgia, and thereby indirectly retain First Newton Bank, Covington, Georgia.

B. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480-2171:

1. Jon Allan Saxen, Welcome, Minnesota; to acquire additional voting shares of Welcome Bancshares, Inc., Welcome, Minnesota, and thereby indirectly acquire Welcome State Bank, Welcome, Minnesota.

Board of Governors of the Federal Reserve System, October 30, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–29146 Filed 11–3–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 28, 1997.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Horizon Bank of Florida Employee Stock Ownership Plan, Pensacola, Florida; to become a bank holding company by acquiring 29.96 percent of the voting shares of Horizon Bancshares, Inc., Pensacola, Florida, and thereby indirectly acquire Horizon Bank of Florida, Pensacola, Florida.

B. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Bank of Montreal, Montreal, Ontario, Canada; Bankmont Financial Corp., New York, New York; and Harris Bankcorp, Inc., Chicago, Illinois; to acquire 100 percent of the voting shares of Harris Trust Company of Florida, West Palm Beach, Florida.

2. Wintrust Financial Corporation, Lake Forest, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Crystal Lake Bank & Trust Company, National Association, Crystal Lake, Illinois.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Tennessee Central Bancshares, Inc., Adamsville, Tennessee; to acquire 9.92 percent of the voting shares of Premier Bank of Brentwood, a *de novo bank*, Brentwood, Tennessee.

D. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Commercial Guaranty Bancshares, Inc., and Commercial Guaranty Bancshares Acquisition Corp., both of Overland Park, Kansas; to acquire 100 percent of the voting shares of Humboldt Bancshares, Inc., Humboldt, Kansas, and thereby indirectly acquire Humboldt Bank, Humboldt, Kansas.

In connection with this application, Commercial Guaranty Bancshares Acquisition Corporation also has applied to become a bank holding company.

2. Republic Bancshares, Inc., Natoma, Kansas; to become a bank holding company by acquiring 99.6 percent of the voting shares of United National Bank of Natoma, Natoma, Kansas.

Board of Governors of the Federal Reserve System, October 29, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–29083 Filed 11–3–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 28, 1997.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Williams Partners, L.P., Atlanta, Georgia; to become a bank holding company by acquiring 79.27 percent of the voting shares of FNB Newton Bancshares, Inc., Covington, Georgia, and thereby indirectly acquire First Newton Bank, Covington, Georgia.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. BOR Bancshares, Inc., Rogers, Arkansas; to become a bank holding company by acquiring 100 percent of

the voting shares of Bank of Rogers, Rogers, Arkansas.

Board of Governors of the Federal Reserve System, October 30, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–29147 Filed 11–3–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Privacy Act of 1974; Systems of Records

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Technical amendment.

SUMMARY: The Executive Director of the Federal Retirement Thrift Investment Board (Board) is amending the Board's Privacy Act systems of records to show a change of address for Board offices. The Board relocated from 805 Fifteenth Street, NW., Washington, DC 20005 to its current address at 1250 H Street, NW., Washington, DC 20005 effective December 20, 1992. The address change was made to Board regulations in a November 7, 1994, publication of the **Federal Register** (59 FR 55331).

EFFECTIVE DATE: November 4, 1997.

FOR FURTHER INFORMATION CONTACT: Thomas L. Gray, Assistant General Counsel for Administration, (202) 942–1662. FAX (202) 942–1676.

SUPPLEMENTARY INFORMATION: Under the authority of 5 U.S.C. 8474 (1994), the Board hereby amends Systems of Records FRTIB–2, 3, 4, 6, 7, 8, 9, 10, and 11. The systems notice was originally published in the **Federal Register** at 52 FR 12065, April 14, 1987, and finalized at 55 FR 18949, May 7, 1990. The amendment to the systems of records to change the Board's address is set forth below.

SYSTEMS OF RECORDS FRTIB–2, 3, 4, 6, 7, 8, 9, 10, AND 11 [AMENDED]:

Remove the address "805 Fifteenth Street" and add in its place the address "1250 H Street" in the System Location and System Manager and Address sections for each of these systems of records.

Dated: October 29, 1997.

Roger W. Mehle,

Executive Director.

[FR Doc. 97–29099 Filed 11–3–97; 8:45 am]

BILLING CODE 6760–01–M

FEDERAL TRADE COMMISSION

[File No. 9723128]

Beylen Telecom, Ltd., Niteline Media, Inc., and Ron Tan; Analysis To Aid Public Comment and Agreement Containing Consent Order

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement (which is also attached)—that would settle these allegations.

DATES: Comments must be received on or before January 5, 1998.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Eileen Harrington, Federal Trade Commission, H–238, 6th St. and Pennsylvania Ave., NW., Washington, DC 20580. (202) 326–3127. Paul Luehr, Federal Trade Commission, H–238, 6th St. and Pennsylvania Ave., NW., Washington, DC 20580. (202) 326–2236.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement (which is also attached) and the allegations in the accompanying complaint. An electronic copy of the full text of the consent agreement package can be obtained from the Commission Actions section of the FTC Home Page, on the World Wide Web, at "http://www.ftc.gov/os/actions97.htm." A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Ave., NW., Washington, DC 20580 either in person or by calling (202) 326–3627.

Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from Beylen Telecom, Inc. ("Beylen"), NiteLine Media, Inc. ("NiteLine"), and Ron Tan ("Tan"). NiteLine and Tan have solicited consumers to download viewer software over the Internet in order to view computer images. Beylen has provided telecommunications and other services to NiteLine and other "audiotext" entities that use telephone calls to provide information to, and collect money from, consumers.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter concerns allegations about the manner in which respondents solicited and billed consumers to use a software program to view adult images on the Internet. The Commission has issued a proposed draft complaint that sets forth the allegations to be resolved by the proposed administrative consent order. The draft complaint closely parallels the Commission's federal court complaint and amended complaint filed in *FTC* v. *Audiotex Connection, Inc.* CV–97 0726 (DRH) (E.D.N.Y. filed Feb. 13, 1997) against defendants allegedly engaged in activities similar or related to those of the respondents. The proposed draft complaint challenges three practices of the respondents. First, the draft complaint alleges that respondents NiteLine and Tan misrepresented that consumers could view adult images at no cost if consumers downloaded and used the respondents' purported "viewer" software. Second, the draft complaint alleges that respondents NiteLine and Tan failed to disclose or adequately disclose material aspects of the "viewer" program, including that the program would shut off a consumer's modem speakers, cut off the consumer's modem connection to his local Internet service provider, and automatically place an international telephone call from the consumer's modem to a remote Internet site. The draft complaint alleges that Beylen violated the law by providing the "means and instrumentalities" to carry out the two types of practices just described. Finally, the draft complaint alleges that respondents Beylen, NiteLine, and Tan caused consumers to receive deceptive telephone bills for calls that purportedly went to Moldova in Eastern Europe, when they actually only went to Canada.

The proposed administrative consent order, published for comment with this notice, again closely parallels the consent order proposed in *FTC* v. *Audiotex Connection, Inc.* CV–97 0726 (DRH) (E.D.N.Y.). The proposed administrative consent order contains prohibitions designed to prevent respondents from engaging in similar acts and practices in the future. The proposed administrative consent order also contains monetary provisions designed to redress injury to consumers.

Sections I and IIA of the proposed order prohibit respondents from engaging in the types of activity alleged in the draft complaint. Part IIB of the proposed order requires the respondents to obtain written or contractual assurances from third parties that calls will go to the destination for which charges are assessed on a consumer's telephone bill.

Section III requires the respondents to contribute to a redress fund established pursuant to the consent order proposed in *FTC* v. *Audiotex Connection, Inc.* CV–97 0726 (DRH) (E.D.N.Y.). Money from this fund is to be paid to long-distance carriers so that they can issue credits to consumers through their telephone bills. A portion of the redress fund also is be paid to the FTC so that the Commission or its agent can refund some consumers directly.

Sections IV, VI, and VIII require the respondents to maintain copies of business records related to using the Internet to place international long-distance telephone calls; to provide copies of the order to certain of the company's personnel; to notify the Commission of any change in employment or corporate structure that might affect compliance with the order; and to file compliance reports with the Commission. Section VII forbids the defendants from distributing any version of their "viewer" program to third parties.

The proposed administrative consent order does not contain a "sunset" provision that would terminate the order twenty years after it is issued or after a complaint is filed in federal court.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Beylen Telecom, Ltd. and Niteline Media, Inc., corporations, and Ron Tan, individually and as an officer of Niteline Media, Inc.

Agreement Containing Consent Order

The Federal Trade Commission has conducted an investigation of certain acts and practices of Beylen Telecom, Ltd., NiteLine Media, Inc., corporations, and Ron Tan, individually and as an officer of NiteLine Media, Inc. ("proposed respondents"). Proposed respondents, having been represented by counsel, are willing to enter into an agreement containing an order resolving the allegations contained in the attached draft complaint. Therefore,

It is hereby agreed by and between Beylen Telecom, Ltd. and NiteLine Media, Inc., by their duly authorized officers, and Ron Tan, individually and as an officer of NiteLine Media, Inc., and counsel for the Federal Trade Commission that:

1a. Proposed respondent Beylen Telecom, Ltd., is a corporation organized, existing and doing business under and by virtue of the laws of the Cayman Islands with its principal office or place of business at Genesis Building, PS Box 2097, Grand Cayman, Cayman Islands, British West Indies.

1b. Proposed respondent NiteLine Media, Inc. is a New York corporation with its principal office or place of business at 7302 19th Avenue, Brooklyn, New York 11204.

1c. Proposed respondent Ron Tan is an individual residing within the State of New York and is an officer and shareholder of NiteLine Media, Inc. Individually or in concert with others he formulates, direct, or controls the policies, acts, or practices of NiteLine Media. His principal office or place of business is the same as that of NiteLine Media, Inc.

2. For the purpose of this Order, proposed respondents admit all the jurisdictional facts set forth in the draft complaint.

3. The proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusion of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this agreement; and

(d) Any claim under the Equal Access To Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft complaint, will be placed on the public record for a period of sixty (60) days and information about it publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by any of the proposed respondents that the law has been violated as alleged in the draft complaint, or of any wrongdoing whatsoever, or that the facts as alleged in the draft complaint, other than the jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the attached draft complaint and its decision containing the following Order in disposition of the proceeding, and (2) make information about it public. When so entered, the Order shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The Order shall become final upon service. Delivery of the complaint and the decision and Order to proposed respondents' attorneys as stated in this agreement by any means specified in Section 4.4(a) of the Commission's Rules shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the Order. No agreement, understanding, representation, or interpretation not contained in the Order or in the agreement may be used to vary or contradict the terms of the Order.

7. Proposed respondents have read the draft complaint and the following Order. They understand that they may be liable for civil penalties in the amount provided by law and other appropriate relief for each violation of the Order that occurs after it becomes final.

Definitions

For purposes of this Order, the following definitions shall apply:

1. "Beylen" means Beylen Telecom, Ltd. and its successors, assigns, shareholders, officers, agents, servants, employees, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting through any corporation, subsidiary, division, or other device.

2. "NiteLine" means NiteLine Media, Inc. and its successors, assigns, shareholders, officers, agents, servants, employees, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting through any corporation, subsidiary, division, or other device.

3. "Ron Tan" means Ron Tan a/k/a Roeun Tan, individually, and in his capacity as an officer and shareholder of NiteLine Media, Inc., and his successors, assigns, officers, agents, servants, employees, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting through any corporation, subsidiary, division, or other device.

4. Unless otherwise specified, "respondents" shall mean Beylen and NiteLine, corporations, their successors and their officers; Ron Tan, individually and as an officer of NiteLine; and each of the above's agents, representatives and employees. Unless otherwise specified, "respondent" shall mean NiteLine, Ron Tan or Beylen.

5. "Commerce" shall mean "commerce" as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

6. "Clearly and Conspicuously" shall mean as follows:

In an advertisement communicated through an electronic medium (such as television, video, radio, and interactive media such as the Internet and online services), the disclosure shall be presented simultaneously in both the audio and video portions of the advertisement. *Provided, however,* that in any advertisement presented solely through video or audio means, the disclosure may be made through the same means in which the ad is presented. The audio disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it. The video disclosure shall be of a size and shade, and shall appear on the screen for a duration, sufficient for an ordinary consumer to read and comprehend it. In addition to the foregoing, in interactive media the disclosure shall also be unavoidable and shall be presented prior to the consumer incurring any financial obligation. The disclosure shall be in understandable language and syntax. Nothing contrary to, inconsistent with, or in mitigation of the disclosure shall be used in any advertisement.

7. "Document" is synonymous in meaning and equal in scope to the usage of the term in Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs, charts, photographs, audio and video recordings, computer records, and other data compilations from which information can be obtained. A draft or non-identical copy is a separate document within the meaning of the term.

8. "David.exe" means a software program that, as alleged in the Commission's draft complaint, a respondent has promoted, offered, distributed, or provided on web sites as a "viewer," which consumers may download, install, and execute, and which dials an international long-distance telephone number for which a fee is charged.

9. "Eligible Consumer" means a telephone subscriber that was billed for international long distance calls to Moldova from December, 1996 through February, 1997 to one of the telephone numbers listed in Schedule A, annexed hereto.

10. "Relevant Charges" means the dollar amount billed by AT&T, MCI, Sprint or another long distance carrier to an Eligible Consumer for international long distance calls to Moldova from December 1996 through February 1997, to one of the telephone numbers listed in Schedule A, annexed hereto.

I.

It is therefore ordered that, in connection with using the Internet to place international long distance telephone calls, each respondent shall not violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a) by:

A. Representing, either directly or by implication, that consumers may download, install, activate or use a computer software program to view computer-stored images without cost, unless there are no costs to consumers arising from such activity.

B. Representing, either directly or by implication, that a consumer may view computer-stored images by downloading, installing and activating a software program known as "David.exe" or any other substantially similar software, unless such respondent clearly and conspicuously discloses, in close proximity to the representation, any material facts concerning costs and consequences to a consumer that result from downloading, installing, and activating such software, including, but not limited to, the following:

1. That the consumer's computer will terminate its modem connection to the consumer's usual Internet service provider;

2. That the consumer's modem will dial an international long-distance telephone number and establish a long-distance telephone connection with some remote location outside the United States;

3. (a) A statement that "International long distance telephone charges to [*insert country of call termination*] apply"; and

(b) Either:

(i) a statement that "This call may cost you as much as [*insert the maximum estimate of possible per-minute tariffed charge available through one of the three largest U.S. long-distance carriers (e.g. MCI, Sprint or AT&T; hereafter "a major U.S. carrier")*] per minute"; or

(ii) a stated range of possible costs-per-minute for the call, where the maximum possible per-minute charge available through a major U.S. carrier is disclosed at least as prominently as any lower estimate of possible charges, and the lower estimate is based on a non-promotional standard tariffed charge available through a major carrier, and there is a clear and conspicuous disclosure of the following statement: "To determine your exact per-minute charges, contact your long distance carrier."; and,

4. That, once connected, the consumer's computer modem will not terminate the international long-distance telephone connection to the remote service provider unless and until: (a) the consumer terminates the connection by using a "disconnect" feature that is displayed on the screen throughout the connection; OR (b) the call is terminated automatically after some specific, stated period of time (e.g. after 5 minutes); OR (c) the consumer turns off the power switch to his computer or modem, or takes other drastic and unusual action to terminate the telephone connection, if neither (a) nor (b) above are applicable.

II.

It is further ordered that:

A. Each respondent shall not violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a) by directly causing international long-distance charges to appear on the telephone billing statement of any consumer when such call does not, in fact, go to the international destination for which charges are assessed; and

B. Each respondent, when contracting with any entity for international call charges to appear on any consumer's telephone bill, shall include written terms in such contract requiring calls to go to the destination for which charges are assessed on a consumer's telephone bill. If, at the time of the entry of this Order, a respondent has an existing contract with another entity that arranges call charges to appear on any consumer's telephone bill, the respondent may satisfy the requirements of this Section by obtaining from that entity a letter or other written assurance that calls go to the destination for which charges are assessed on a consumer's telephone bill.

III.

It is further ordered that:

A. Pursuant to the Consent Decree and Order proposed in *FTC* v. *Audiotex Connection, Inc.*, CV–97 0726 (DRH) (EDNY) ("the Consent Decree"), and after the entry of such Consent Decree, Eligible Consumers charged by AT&T or MCI for telephone calls involving David.exe shall, to the extent possible, receive a credit on their monthly telephone bill equal to the amount of the Relevant Charges. To the extent an Eligible Consumer has already been credited such an amount in full, no additional credit shall be extended. To the extent an Eligible Consumer has received a partial credit, only the remaining balance of the original Relevant Charge shall be credited. The process for issuing the credits to Eligible Consumers will be administered by AT&T and MCI, respectively, and monitored and/or audited by the FTC. The reasonable costs of the two carriers arising from the issuance of credits for the Relevant Charges and from such administration of credits shall be reimbursed by the escrow agent by deducting and paying to AT&T and MCI, respectively, the amounts stated below.

B. Pursuant to the Consent Decree and Order proposed in *FTC* v. *Audiotex Connection, Inc.*, CV–97 0726 (DRH) (EDNY), and after the entry of such Consent Decree, a Redress Escrow Account shall be established at a bank with a branch located in the State of New York, and Joel Dichter, Esq., shall be designated as the sole escrow agent and signatory to this Redress Escrow Account. In addition to the funds deposited by the defendants in *FTC* v. *Audiotex Connection, Inc.*, the respondents shall deposit sufficient funds into the Redress Escrow Account as are necessary to enable the escrow agent to distribute the funds, consisting of a total deposit of all sums provided by Section IIIB(1) and (2), below, contemporaneously with a deposit of the $80,000 provided by Section IIIB(3), in the following manner:

1. AT&T shall be distributed the sum of $860,000 toward the cost of administering the credit to consumers provided by Section IIIA, above, and toward reimbursement of out-of-pocket expenses associated with calls to the Moldova telephone numbers;

2. MCI shall be distributed the sum of $99,302.57 toward the cost of administering the credit to consumers provided by Section IIIA above and toward reimbursement of out-of-pocket expenses associated with calls to the Moldova telephone numbers;

3. Forty Thousand Dollars ($40,000) shall be distributed to the Federal Trade Commission and shall be used, where practicable, to provide redress to Eligible Consumers charged by an international long-distance carrier other than AT&T or MCI (hereinafter referred to as "Eligible Non-AT&T/MCI Consumers"). The Commission, in its sole discretion, may use a designated agent to administer redress for Eligible Non-AT&T/MCI Consumers. If the Commission, in its sole discretion, determines that redress to consumers is wholly or partially impractical, any funds up to Forty Thousand Dollars ($40,000.00) not so used shall be paid to the United States Treasury. The respondents shall be notified as to how such funds are disbursed, but shall have no right to contest the manner of distribution. Eligible Non-AT&T/MCI Consumers shall have 90 days from the Court's entry of the Consent Decree to request a refund. If the Commission or its designated agent determine within 120 days from the entry of the Consent Decree that the cost of issuing and administering refunds to Eligible Non-AT&T/MCI Consumers exceeds Forty Thousand Dollars ($40,000.00), the Commission or its designated agent shall so notify the escrow agent, and an additional sum of money not to exceed Twenty Thousand Dollars ($20,000.00) shall be distributed by the escrow agent to the Commission for redress to Eligible Non-AT&T/MCI Consumers. To the extent that the escrow agent is not notified in writing by the Commission within such 120 day period that all or a portion of the additional Twenty Thousand Dollars ($20,000.00) is required by the Commission for redress purposes, the $20,000.00 or remaining portion thereof not required by the Commission for redress purposes shall be released from the Redress Escrow Account and distributed promptly by the escrow agent to any contributing defendant in *FTC* v. *Audiotex Connection, Inc.* and/or any contributing respondent.

C. The respondents unilaterally agree to comply with this administrative Order after the Commission votes to accept it and during the 60-day comment period before the Order becomes final. Should the respondents distribute funds during that period to the Redress Escrow Account, in amounts sufficient to commence the redress program under the Consent Decree in *FTC* v. *Audiotex Connection, Inc.*, such payment shall fulfill the respondents' redress obligations under Section IIIB above.

IV.

It is further ordered that for a period of three years after the date of entry of this Order, each respondent shall maintain, and make available to the FTC upon reasonable notice, documents that, in reasonable detail, accurately, fairly, and completely reflect such respondent's activities related to using the Internet to place international long distance telephone calls including:

A. 1. Representative written and, if distributed in audio format, audiotaped copies of all solicitations, advertisements, or other marketing materials actually used;

2. The number, frequency, and average duration of calls to any international, tolled telephone numbers advertised or promoted directly or indirectly by such respondent, as well as the payments received and payments made for such calls;

3. The portion of the contract or the other written assurance referenced in Section IIB of this Order; and,

Records that reflect, for every consumer complaint or refund request received from any consumer to whom such respondent has sold, billed or sent any goods or services, or from whom such respondent accepted money for such goods or services, whether received directly or indirectly or through any third party:

1. the consumer's name, address, telephone number and the dollar amount paid by the consumer;

2. the written complaint or refund request, if any, and the date of the complaint or refund request;

3. the basis of the complaint and the nature and result of any investigation conducted concerning the validity of the complaint;

4. each response from the respondent(s) and the date of the response;

5. any final resolution and the date of the resolution; and

6. In the event of a denial of a refund request, the reason for such denial.

V.

It is further ordered that, to enable the Commission to monitor compliance with the provisions of this Order, for a period of three years after the date of entry of this Order:

A. Each corporate respondent shall notify the FTC in writing, within thirty (30) days of: (1) any reorganization, name change, dissolution, change in majority ownership, or any corporate change that may affect compliance obligations arising under this Order; and (2) any affiliation with any new business entity (including but not limited to, any partnership, limited partnership, joint venture, sole proprietorship or corporation) in connection with using the Internet to place international long distance telephone calls, such notification to include: (a) the name of the business entity; (b) the address and telephone number of the business entity; (c) the names of the business entity's officers, directors, principals and managers; and (d) a summary description of the business entity's intended activities; and

B. Each individual respondent shall notify the FTC in writing, within thirty (30) days of the discontinuance of his current business affiliation or employment with a corporate respondent, or of his affiliation or employment with any new business entity (including but not limited to, any partnership, limited partnership, joint venture, sole proprietorship or corporation) in connection with using the Internet to place international long distance telephone calls, in the latter case such notification to include: (a) the name of the business entity; (b) the address and telephone number of the business entity; (c) the names of the business entity's officers, directors, principals and managers; and (d) a summary description of the business entity's intended activities; and

C. Each respondent shall designate its counsel as authorized to accept service of all documents related to this Order.

VI.

It is further ordered that each respondent shall not provide or distribute to any person, except for a court, counsel for the respondents, counsel's consultants, agents of the Commission or other law enforcement authorities, or others as ordered by a court of competent jurisdiction, copies of "David.exe" or "david7.exe" or any substantially similar software.

VII.

It is further ordered that for a period of three years after the date of entry of this Order, each respondent shall in connection with any business using the Internet to place international long distance telephone calls:

A. Provide a copy of this Order once to, and obtain a signed and dated acknowledgment of receipt of the same from, each affiliate, subsidiary, division, sales entity, successor, officer, director, shareholder, employee, agent or representative of such respondent; and

B. Maintain, and upon reasonable notice make available to representatives of the Commission, the original and dated acknowledgments of the receipts of copies of this Order required by Section VIIA above.

VIII.

It is further ordered that where required by this Order, written notice to:

A. The Commission shall be effected by serving papers, by personal delivery or certified mail, addressed to: Associate Director, Federal Trade Commission, Division of Marketing Practices, Sixth Street and Pennsylvania Avenue, N.W., Room 238, Washington, DC 20580; and

B. The respondents shall be effected by serving papers, by personal delivery or certified mail, addressed to: Joel R. Dichter, Klein, Zelman, Rothermel & Dichter, L.L.P., 485 Madison Avenue, New York, NY 10022.

IX.

It is further ordered that each respondent shall, within 180 days after the date of entry to this Order, file with the Commission a report, in writing, setting forth the manner and form of compliance with this Order.

X.

It is further ordered that, to the extent that this Order may conflict with any federal law or regulation which is later enacted or amended, such law and not this Order shall apply where such a conflict exists. For the purposes of this Order, a conflict exists if the conduct prohibited by this Order is required by such federal law or if conduct required by this Order is prohibited by such federal law.

Attachment A—List of Moldova Phone Numbers

373–955–1100
373–955–1111
373–955–1200
373–955–1300
373–955–1400
373–955–1500
373–955–1600
373–955–2000
373–955–2010
373–955–2020
373–955–2030
373–955–2222
373–955–2400
373–955–2401
373–955–2402
373–955–2403
373–955–2404
373–955–2405
373–955–2406
373–955–2407
373–955–2408
373–955–2409
373–955–2410
373–955–2411
373–955–2419

Donald S. Clark,

Secretary.

[FR Doc. 97–29298 Filed 11–3–97; 8:45 am]

BILLING CODE 6750–01–P

GENERAL SERVICES ADMINISTRATION

Proposed Collection Application/ Permit for Use of Space in Public Buildings and Grounds

AGENCY: Office of Equal Employment Opportunity, GSA.

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (3090–0044).

SUMMARY: The GSA hereby gives notice under the Paperwork Reduction Act of 1995 that it is requesting the Office of Management and Budget (OMB) to reinstate information collection, 3090–0044, "Application/Permit for Use of Space in Public Buildings and Grounds." This GSA Form is used by the general public to request the use of public space in Federal buildings for cultural, recreational or educational activities. A copy, sample, or description of any material or item proposed for distribution or display must also accompany the request.

DATES: January 5, 1998.

ADDRESSES: Send comments to Edward Springer, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Marjorie Ashby, General Services Administration (MVP), 18th & F Streets, NW, Washington, DC 20405.

ANNUAL REPORTING BURDEN:
Respondents: 8000; *annual responses:* 1; *average hours per response:* 0.05; *burden hours:* 666.

FOR FURTHER INFORMATION CONTACT: Charlene Hester, Public Building Service (202) 208–0214.

COPY OF PROPOSAL: A copy of this proposal may be obtained from the GSA Acquisition Policy Division (MVP), Room 4011, GSA Building, 18th and F Streets NW, Washington, DC 20405, or by telephone (202) 501–3822, or by faxing your request to (202) 501–3341.

Dated: October 28, 1997.

Ida M. Ustad,

Deputy Associate Administrator, Office of Acquisition Policy.

[FR Doc. 97–29055 Filed 11–3–97; 8:45 am]

BILLING CODE 6820–61–M

GENERAL SERVICES ADMINISTRATION

Proposed Collection; Comment Request Entitled Nondiscrimination in Federal Financial Assistance Programs

AGENCY: Office of Equal Employment Opportunity, GSA.

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (3090–0228).

SUMMARY: The GSA hereby gives notice under the Paperwork Reduction Act of 1995 that it is requesting the Office of Management and Budget (OMB) to reinstate information collection, 3090–0228, "Nondiscrimination in Federal Financial Assistance Programs." This information is needed to ensure that recipients of Federal financial assistance distribute Federal surplus property in a nondiscriminatory manner.

DATES: Comment Due Date: January 5, 1998.

ADDRESSES: Send comments to Edward Springer, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Marjorie Ashby, General Services Administration (MVP), 18th & F Streets, NW, Washington, DC 20405.

ANNUAL REPORTING BURDEN:
Respondents: 55; annual responses: 1; average hours per response: 16; burden hours: 16,200.

FOR FURTHER INFORMATION CONTACT: William Conley, Office of Equal Employment Opportunity, (202) 501–0767.

COPY OF PROPOSAL: A copy of this proposal may be obtained from the GSA Acquisition Policy Division (MVP), Room 4011, GSA Building, 18th & F Streets NW, Washington, DC 20405, or by telephoning (202) 501–3822, or by faxing your request to (202) 501–3341.

Dated: October 28, 1998.

Ida M. Ustad,

Deputy Associate Administrator, Office of Acquisition Policy.

[FR Doc. 97–29057 Filed 11–3–97; 8:45 am]

BILLING CODE 6820–61–M

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0007]

Proposed Collection; Comment Request Entitled Contractor's Qualifications and Financial Information

AGENCY: Office of Chief Financial Officer (B), GSA.

ACTION: Notice of request for public comments regarding reinstatement to a previously approved OMB clearance (3090–0007).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Office of Acquisition Policy has submitted to the Office of Management and Budget (OMB) a request to review and approve a reinstatement of a previously approved information collection requirement concerning Contractor's Qualifications and Financial Information. A request for public comments was published at 62 FR 43332 on August 13, 1997. No comments were received.

DATES: *Comment Due Date:* December 4, 1997.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: Edward Springer, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Marjorie Ashby, General Services Administration (MVP), 1800 F Street NW, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Ronald Smeltzer, (202) 501–1676.

SUPPLEMENTARY INFORMATION:

A. Purpose

The GSA is requesting the Office of Management and Budget (OMB) to reinstate information collection, 3090–0007, Contractor's Qualifications and Financial Information. This form is used to determine the financial capability of prospective contractors as to whether they meet the financial responsibility standards in accordance with the Federal Acquisition Regulation (FAR) and the General Services Administration Acquisition Regulation (GSAR).

B. Annual Reporting Burden

Respondents: 5,822; *annual responses:* 6,986; *average hours per response:* 2.5; *burden hours:* 17,465.

Copy of Proposal

A copy of this proposal may be obtained from the GSA Acquisition Policy Division (MVP), Room 4011, GSA Building, 1800 F Street NW, Washington, DC 20405, or by telephoning (202) 501–3822, or by faxing your request to (202) 501–3341.

Dated: October 28, 1997.

Ida M. Ustad,

Deputy Associate Administrator, Office of Acquisition Policy.

[FR Doc. 97–29058 Filed 11–3–97; 8:45 am]

BILLING CODE 6820–61–M

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0262]

Proposed Collection; Comment Request Entitled Identification of Products With Environmental Attributes

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Notice of request for public comments regarding reinstatement to a previously approved OMB clearance (3090–0262).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Office of Acquisition Policy has submitted to the Office of Management and Budget (OMB) a request to review and approve a reinstatement of a previously approved information collection requirement concerning Identification of Products with Environmental Attributes. A request for public comments was published at 62 FR 4427, August 20, 1997. No comments were received.

DATES: *Comments Due Date:* December 4, 1997.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: Edward Springer, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Marjorie Ashby, General Services Administration (MVP), 1800 F Street NW, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Al Matera, Office of GSA Acquisition Policy (202) 501–1224.

SUPPLEMENTARY INFORMATION:

A. Purpose

The GSA is requesting the Office of Management and Budget (OMB) to reinstate information collection 3090–

0262, concerning Identification of Products with Environmental Attributes. This information collection will be used to assist Federal agencies in deciding whether such products will meet their needs and consistent with Federal acquisition law will order such products in preference to other products that may meet their needs, but do not have environmental benefits.

B. Annual Reporting Burden

Respondents: 3,200; *annual responses:* 3,200; *average hours per response:* .5; *burden hours:* 16,000.

Copy of Proposal

A copy of this proposal may be obtained from the GSA Acquisition Policy Division (MVP), Room 4011, GSA Building, 1800 F Street NW, Washington, DC 20405, or by telephoning (202) 501–3822, or by faxing your request to (202) 501–3341.

Dated: October 28, 1997.

Ida M. Ustad,

Deputy Associate Administrator, Office of Acquisition Policy.

[FR Doc. 97–29058 Filed 11–3–97; 8:45 am]

BILLING CODE 6820–61–M

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0023]

Proposed Collection; Comment Request Entitled Surplus Personal Property Mailing List Application

AGENCY: Property Management Division (FBP), GSA.

ACTION: Notice of request for public comments regarding reinstatement to a previously approved OMB clearance (3090–0023).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Office of Acquisition Policy has submitted to the Office of Management and Budget (OMB) a request to review and approve a reinstatement of a previously approved information collection requirement concerning Surplus Personal Property Mailing List. A request for public comments was published at 62 FR 43332, August 13, 1997. No comments were received.

DATES: *Comment Due Date:* December 4, 1997.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: Edward Springer, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Marjorie Ashby, General Services Administration (MVP), 1800 F Street NW, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Lynne Price, (703) 308–0643.

SUPPLEMENTARY INFORMATION:

A. Purpose

The GSA is requesting the Office of Management and Budget (OMB) to reinstate information collection, 3090–0023, concerning Surplus Personal Property Mailing List. The GSA Form 2170 is completed by persons who wish to have their names placed on the Surplus Personal Property Mailing List maintained by GSA Regional Sales Offices. Mailing labels are produced based on the type of property and geographical area indicated by the prospective bidder on the mailing list application.

B. Annual Reporting Burden

Respondents: 35,000; *annual responses:* 35,000; *average hours per response:* .083; *burden hours:* 2905.

Copy of Proposals

A copy of this proposal may be obtained from the GSA Acquisition Policy Division (MVP), Room 4011, GSA Building, 1800 F Street NW, Washington, DC 20405, or by telephoning (202) 501–3822, or by faxing your request to (202) 501–3341.

Dated: October 28, 1997.

Ida M. Ustad,

Deputy Associate Administrator, Office of Acquisition Policy.

[FR Doc. 97–29060 Filed 11–3–97; 8:45 am]

BILLING CODE 6820–61–M

GENERAL SERVICES ADMINISTRATION

Interagency Committee for Medical Records (ICMR) Cancellation of Medical Standard Form and Establishment of a New Medical Form

AGENCY: General Services Administration.

ACTION: Notice.

SUMMARY: Standard Form 517, Clinical Record—Anesthesia is cancelled. This form will now be Optional Form 517. Each anesthesia unit collects information differently; so a single standard form will not meet their needs. Therefore, this form is being changed to an optional form giving the agencies leaway to collect this data as they see fit.

The new optional form reflects a major revision of the SF 517. The new Optional Form 517 collects in greater detail the administration of anesthesia.

The OF 517 will be authorized for local reproduction. You can request a camera copy of SF 517 from General Services Administration (CARM), Attn.: Barbara Williams, (202) 501–0581.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Williams, GSA (202) 501–0581.

DATES: Effective November 4, 1997.

Dated: October 27, 1997.

Barbara M. Williams,

Deputy Standard and Optional Forms Management Officer.

[FR Doc. 97–29056 Filed 11–3–97; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–9044]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Provider Reimbursement Manual, Part 1—Chapter 27, Section 2721, 2722 and 2725, Request for Exception to ESRD Composite Rates and Supporting Regulations in 42 CFR 413.170; *Form No.:* HCFA–9044 (OMB #0938–0296); *Use:* Sections 2721, 2722 and 2525 of the Provider Reimbursement Manual describe the information ESRD facilities must submit in justifying an exception request to their composite rate for outpatient dialysis services.; *Frequency:* On occasion; *Affected Public:* Business or other for-profit, Not-for-profit institutions and Federal Government; *Number of Respondents:* 275; *Total Annual Responses:* 275; *Total Annual Hours:* 13,200.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards, Attention: Louis Blank, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: October 28, 1997.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards.

[FR Doc. 97–29143 Filed 11–3–97; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[OACT–065–N]

RIN 0938–AI03

Medicare Program; Monthly Actuarial Rates and Monthly Supplementary Medical Insurance Premium Rate Beginning January 1, 1998

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: As required by section 1839 of the Social Security Act, this notice announces the monthly actuarial rates for aged (age 65 or over) and disabled (under age 65) enrollees in the Medicare Supplementary Medical Insurance (SMI) program for 1998. It also announces the monthly SMI premium rate to be paid by all enrollees during 1998. The monthly actuarial rates for 1998 are $87.90 for aged enrollees and $97.10 for disabled enrollees. The monthly SMI premium rate for 1998 is $43.80.

EFFECTIVE DATE: January 1, 1998.

FOR FURTHER INFORMATION CONTACT: Carter S. Warfield, (410) 786–6396.

SUPPLEMENTARY INFORMATION:

I. Background

The Medicare Supplementary Medical Insurance (SMI) program is the voluntary Medicare Part B program that pays all or part of the costs for physicians' services, outpatient hospital services, home health services, services furnished by rural health clinics, ambulatory surgical centers, comprehensive outpatient rehabilitation facilities, and certain other medical and health services not covered by hospital insurance (HI) (Medicare Part A). The SMI program is available to individuals who are entitled to HI and to U.S. residents who have attained age 65 and are citizens, or aliens who were lawfully admitted for permanent residence and have resided in the United States for 5 consecutive years. This program requires enrollment and payment of monthly premiums, as provided in 42 CFR part 407, subpart B, and part 408, respectively. The difference between the premiums paid by all enrollees and total incurred costs is met from the general revenues of the Federal government.

The Secretary of Health and Human Services is required by section 1839 of the Social Security Act (the Act) to issue two annual notices relating to the SMI program.

One notice announces two amounts that, according to actuarial estimates, will equal respectively, one-half the expected average monthly cost of SMI for each aged enrollee (age 65 or over) and one-half the expected average monthly cost of SMI for each disabled enrollee (under age 65) during the year beginning the following January. These amounts are called "monthly actuarial rates."

The second notice announces the monthly SMI premium rate to be paid by aged and disabled enrollees for the year beginning the following January. (Although the costs to the program per disabled enrollee are different than for the aged, the law provides that they pay the same premium amount.) Beginning with the passage of section 203 of the Social Security Amendments of 1972 (Public Law 92–603), the premium rate, which was determined on a fiscal year basis, was limited to the lesser of the actuarial rate for aged enrollees, or the current monthly premium rate increased by the same percentage as the most recent general increase in monthly title II social security benefits.

However, the passage of section 124 of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) (Public Law 97–248) suspended this premium determination process. Section 124 of TEFRA changed the premium basis to 50 percent of the monthly actuarial rate for aged enrollees (that is, 25 percent of program costs for aged enrollees). Section 606 of the Social Security Amendments of 1983 (Public Law 98–21), section 2302 of the Deficit Reduction Act of 1984 (DRA 1984) (Public Law 98–369), section 9313 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA 1985) (Public Law 99–272), section 4080 of the Omnibus Budget Reconciliation Act of 1987 (OBRA 1987) (Public Law 100–203), and section 6301 of the Omnibus Budget Reconciliation Act of 1989 (OBRA 1989) (Public Law 101–239) extended the provision that the premium be based on 50 percent of the monthly actuarial rate for aged enrollees (that is, 25 percent of program costs for aged enrollees). This extension expired at the end of 1990.

The premium rate for 1991 through 1995 was legislated by section 1839(e)(1)(B) of the Act, as added by section 4301 of the Omnibus Budget Reconciliation Act of 1990 (OBRA 1990) (Public Law 101–508). In January 1996, the premium determination basis would have reverted to the method established by the 1972 Social Security Act Amendments. However, section 13571 of the Omnibus Budget Reconciliation Act of 1993 (OBRA 1993) (Public Law 103–66) changed the premium basis to 50 percent of the monthly actuarial rate for aged enrollees (that is, 25 percent of program costs for aged enrollees) for 1996 through 1998.

Section 4571 of the Balanced Budget Act of 1997 (BBA 1997) (Public Law 105–33) permanently extended the provision that the premium be based on 50 percent of the monthly actuarial rate for aged enrollees (that is, 25 percent of program costs for aged enrollees).

BBA 1997 included a further provision affecting the calculation of the SMI actuarial rates and premiums for 1998 though 2003. Section 4611 of BBA 1997 modified the home health benefit payable under the HI program for individuals enrolled in the SMI program. In doing so, expenditures for home health services not considered "post-institutional" will be payable under the SMI program rather than the HI program beginning in 1998. However, section 4611(e)(1) of BBA 1997 requires there be a transition from 1998 through 2002 for the aggregate amount of the expenditures transferred from the HI program to the SMI

program. Section 4611(e)(2) also provides a specific yearly proportion for the transferred funds. The proportions are 1/6 for 1998, 1/3 for 1999, 1/2 for 2000, 2/3 for 2001, and 5/6 for 2002. For purposes of determining the correct amount of financing from general revenues of the federal government, it is necessary to include only these transitional amounts in the monthly actuarial rates for both aged and disabled enrollees, rather than the total cost of the home health services being transferred. Accordingly, the actuarial rates shown in this announcement reflect the net transitional cost only.

Section 4611(e)(3) of BBA 1997 also specifies, for the purposes of determining the premium, that the monthly actuarial rate for aged enrollees shall be computed as though the transition would occur for 1998 through 2003 and that 1/7 of the cost would transferred in 1998, 2/7 in 1999, 3/7 in 2000, 4/7 in 2001, 5/7 in 2002, and 6/7 in 2003. Therefore, the transition period for incorporating this home health transfer into the premium is 7 years while the transition period for including these services in the actuarial rate is 6 years. As a result, the premium rate for this year and each of the next 5 years, through 2003, will be less than 50 percent of the actuarial rate for aged enrollees announced by the Secretary.

New section 1933(c)(2) of the Act, as added by section 4732(c) of BBA 1997, requires the Secretary to allocate money from the SMI trust fund to the state Medicaid programs for the purpose of paying the SMI premiums from 1998 through 2002 for the section 1933 low-income Medicaid beneficiaries. This allocation, while not a benefit expenditure, will be an expenditure of the trust fund and has been included in calculating the SMI actuarial rates for this year. The allocation will be included in calculating the SMI actuarial rates through 2002.

As determined according to section 1839(a)(3) of the Act and section 4611(e)(3) of BBA 1997, the premium rate for 1998 is $43.80.

A further provision affecting the calculation of the SMI premium is section 1839(f) of the Act, as amended by section 211 of the Medicare Catastrophic Coverage Act of 1988 (Public Law 100–360). (The Medicare Catastrophic Coverage Repeal Act of 1989 (Public Law 101–234) did not repeal the revisions to section 1839(f) made by Public Law 100–360.) Section 1839(f) provides that if an individual is entitled to benefits under section 202 or 223 of the Act (the Old-Age and Survivors Insurance Benefit and the Disability Insurance Benefit, respectively) and has the SMI premiums deducted from these benefit payments, the premium increase will be reduced to avoid causing a decrease in the individual's net monthly payment. This occurs if the increase in the individual's social security benefit due to the cost-of-living adjustment under section 215(i) of the Act is less than the increase in the premium. Specifically, the reduction in the premium amount applies if the individual is entitled to benefits under section 202 or 223 of the Act for November and December of a particular year and the individual's SMI premiums for December and the following January are deducted from the respective month's section 202 or 223 benefits. (A check for benefits under section 202 or 223 is received in the month following the month for which the benefits are due. The SMI premium that is deducted from a particular check is the SMI payment for the month in which the check is received. Therefore, a benefit check for November is not received until December, but has the December's SMI premium deducted from it.) (This change, in effect, perpetuates former amendments that prohibited SMI premium increases from reducing an individual's benefits in years in which the dollar amount of the individual's cost-of-living increase in benefits was not at least as great as the dollar amount of the individual's SMI premium increase.)

Generally, if a beneficiary qualifies for this protection (that is, the beneficiary must have been in current payment status for November and December of the previous year), the reduced premium for the individual for that January and for each of the succeeding 11 months for which he or she is entitled to benefits under section 202 or 223 of the Act is the greater of the following:

(1) The monthly premium for January reduced as necessary to make the December monthly benefits, after the deduction of the SMI premium for January, at least equal to the preceding November's monthly benefits, after the deduction of the SMI premium for December; or

(2) The monthly premium for that individual for that December.

In determining the premium limitations under section 1839(f) of the Act, the monthly benefits to which an individual is entitled under section 202 or 223 do not include retroactive adjustments or payments and deductions on account of work. Also, once the monthly premium amount has been established under section 1839(f) of the Act, it will not be changed during the year even if there are retroactive adjustments or payments and deductions on account of work that apply to the individual's monthly benefits.

Individuals who have enrolled in the SMI program late or have enrolled after the termination of a coverage period are subject to an increased premium under section 1839(b) of the Act. That increase is a percentage of the premium and is based on the new premium rate before any reductions under section 1839(f) are made.

II. Notice of Monthly Actuarial Rates and Monthly Premium Rate

The monthly actuarial rates applicable for 1998 are $87.90 for enrollees age 65 and over, and $97.10 for disabled enrollees under age 65. Section III of this notice gives the actuarial assumptions and bases from which these rates are derived. The monthly premium rate will be $43.80 during 1998.

III. Statement of Actuarial Assumptions and Bases Employed in Determining the Monthly Actuarial Rates and the Monthly Premium Rate for the Supplementary Medical Insurance Program Beginning January 1998

A. Actuarial Status of the Supplementary Medical Insurance Trust Fund

Under the law, the starting point for determining the monthly premium is the amount that would be necessary to finance the SMI program on an incurred basis; that is, the amount of income that would be sufficient to pay for services furnished during that year (including associated administrative costs) even though payment for some of these services will not be made until after the close of the year. The portion of income required to cover benefits not paid until after the close of the year is added to the trust fund and used when needed.

The rates are established prospectively and are, therefore, subject to projection error. Additionally, legislation enacted after the financing has been established, but effective for the period for which the financing has been set, may affect program costs. As a result, the income to the program may not equal incurred costs. Therefore, trust fund assets should be maintained at a level that is adequate to cover a moderate degree of variation between actual and projected costs (in addition to the amount of incurred but unpaid expenses). An appropriate level for assets to cover a moderate degree of variation between actual and projected costs depends on numerous factors. The most important of these factors are: (1) The difference from prior years between the actual performance of the program and estimates made at the time financing was established, and (2) the expected relationship between incurred and cash expenditures. Ongoing analysis is made of both factors as the trends vary over time.

Table 1 summarizes the estimated actuarial status of the trust fund as of the end of the financing period for 1998 and 1997.

TABLE 1.—ESTIMATED ACTUARIAL STATUS OF THE SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND AS OF THE END OF THE FINANCING PERIOD

[In billions of dollars]

Financing period ending	Assets	Liabilities	Assets less liabilities
Dec. 31, 1998	$28.332	$1.350	$26.982
Dec. 31, 1997	37.502	1.397	36.105

B. Monthly Actuarial Rate for Enrollees Age 65 and Older

The monthly actuarial rate for enrollees age 65 and older is one-half of the monthly projected cost of benefits, the Medicaid transfer (for 1998 through 2002), and administrative expenses for each enrollee age 65 and older, adjusted to allow for interest earnings on assets in the trust fund and a contingency margin. The contingency margin is an amount appropriate to provide for a moderate degree of variation between actual and projected costs and to amortize any surplus or unfunded liabilities. As noted in section I. of this announcement, section 4611(e)(2) of BBA 1997 requires that only 1/6 of the cost of the home health services being transferred be included in the actuarial rate for 1998, rather than the full cost of such benefits.

The monthly actuarial rate for enrollees age 65 and older for 1998 was determined by first establishing per-enrollee cost by type of service from program data through 1995 and then projecting these costs for subsequent years. Although the actuarial rates are now applicable for calendar years, projections of per-enrollee costs were determined on a July to June period, consistent with the July annual fee screen update used for benefits before the passage of section 2306(b) of DRA 1984. Accordingly, the values for the 12-month period ending June 30, 1995 were established from program data, and subsequent periods were projected using a combination of program data and data from external sources. The projection factors used are shown in Table 2. Those per-enrollee values are then adjusted to apply to a calendar year period. The projected values for financing periods from January 1, 1995, through December 31, 1998, are shown in Table 3.

The projected monthly rate required to pay for one-half of the total of benefits, the transfer to Medicaid, and administrative costs for enrollees age 65 and over for 1998 is $106.46. Included in the total of $106.46 is $15.44 for home health services. The amount of $15.44 includes (i) the full cost of the home health services being transferred from the HI program as a result of BBA 1997 as if the transition did not apply ($14.99) as well as (ii) the cost of furnishing all home health services to those individuals enrolled in SMI only ($0.45). Since section 4611(e)(2) of BBA 1997 requires that only 1/6 of the cost for those services being transferred be included in the actuarial rate for 1998, the monthly actuarial rate provides for an adjustment of −$12.49, representing 5/6 of the full cost of such services. The monthly actuarial rate of $87.90 also provides an adjustment of −$4.13 for interest earnings and −$1.94 for a contingency margin. Based on current estimates, it appears that the assets are more than sufficient to cover the amount of incurred but unpaid expenses and to provide for a moderate degree of variation between actual and projected costs. Thus, a negative contingency margin is needed to reduce assets to a more appropriate level.

C. Monthly Actuarial Rate for Disabled Enrollees

Disabled enrollees are those persons enrolled in SMI because of entitlement (before age 65) to disability benefits for more than 24 months or because of entitlement to Medicare under the end-stage renal disease program. Projected monthly costs for disabled enrollees (other than those suffering from end-stage renal disease) are prepared in a fashion exactly parallel to the projection for the aged, using appropriate actuarial assumptions (see Table 2). Costs for the end-stage renal disease program are projected differently because of the different nature of services offered by the program. The combined results for all disabled enrollees are shown in Table 4.

The projected monthly rate required to pay for one-half of the total of benefits, the transfer to Medicaid, and administrative costs for disabled enrollees for 1998 is $116.64. Included in the total of $116.64 is $16.98 for home health services. The amount of $16.98 is the full cost of the home health services being transferred from the HI program as a result of BBA 1997 as if the transition did not apply. Since section 4611(e)(2) of BBA 1997 requires that only 1/6 of the cost for those services being transferred be included in the actuarial rate for 1998, the monthly actuarial rate provides for an adjustment of −$14.17, representing 5/6 of the full cost of such services. The monthly actuarial rate of $97.10 also provides an adjustment of −$2.27 for interest earnings and −$3.10 for a contingency margin. Based on current estimates, it appears that the assets are more than sufficient to cover the amount of incurred but unpaid expenses and to provide for a moderate degree of variation between actual and projected costs. Thus, a negative contingency margin is needed to reduce assets to a more appropriate level.

D. Sensitivity Testing

Several factors contribute to uncertainty about future trends in medical care costs. In view of this, it is appropriate to test the adequacy of the rates announced here using alternative assumptions. The most unpredictable factors that contribute significantly to future costs are outpatient hospital costs, physician residual (as defined in Table 2), and increases in physician fees as governed by the program's physician fee schedule. Two alternative sets of assumptions and the results of those assumptions are shown in Table 5. One set represents increases that are lower and is, therefore, more optimistic than the current estimate. The other set represents increases that are higher and is, therefore, more pessimistic than the current version. The values for the alternative assumptions were determined by studying the average historical variation between actual and projected increases in the respective

increase factors. All assumptions not shown in Table 5 are the same as in Table 2.

Table 5 indicates that, under the assumptions used in preparing this report, the monthly actuarial rates would result in an excess of assets over liabilities of $32.371 billion by the end of December 1998. This amounts to 31.3 percent of the estimated total incurred expenditures for the following year. Assumptions that are somewhat more pessimistic (and, therefore, test the adequacy of the assets to accommodate projection errors) produce a surplus of $22.836 billion by the end of December 1998, which amounts to 20.6 percent of the estimated total incurred expenditures for the following year. Under fairly optimistic assumptions, the monthly actuarial rates would result in a surplus of $41.762 billion by the end of December 1998, which amounts to 43.2 percent of the estimated total incurred expenditures for the following year.

E. Premium Rate

As determined by section 1839(a)(3) of the Act and section 4611(e)(3) of BBA 1997, the monthly premium rate for 1998, for both aged and disabled enrollees, is $43.80.

TABLE 2.—PROJECTION FACTORS [1] 12-MONTH PERIODS ENDING JUNE 30 OF 1995–1999

[In Percent]

12-month period ending June 30	Physicians' services		Outpatient hospital services	Home health agency services [4]	Group practice prepayment plans	Independent lab services
	Fees [2]	Residual [3]				
Aged:						
1995	5.7	2.0	17.7	91.0	17.4	1.2
1996	2.2	−1.6	3.3	30.6	24.2	−3.6
1997	0.5	2.2	3.2	15.3	22.1	−0.9
1998	1.7	2.4	4.7	([6])	33.9	7.1
1999	0.4	1.9	8.2	[5]88.2	36.8	5.7
Disabled:						
1995	5.7	6.6	2.7	0.0	15.0	10.7
1996	2.2	−3.2	0.0	0.0	14.4	2.7
1997	0.5	1.1	4.3	0.0	15.9	1.9
1998	1.7	0.6	1.2	([6])	34.8	8.7
1999	0.4	−1.0	8.3	[5]97.1	37.5	6.2

[1] All values are per enrollee.
[2] As recognized for payment under the program.
[3] Increase in the number of services received per enrollee and greater relative use of more expensive services.
[4] From July 1, 1981 to December 31, 1997, home health agency services have been provided by the SMI program only for those SMI enrollees not entitled to HI. Otherwise these services were provided by the HI program. Since all SMI disabled enrollees are entitled to HI, their coverage of these services has been provided by the HI program during this period.
[5] Effective January 1, 1998, the coverage of home health agency services not considered "post-institutional" for those individuals entitled to HI and enrolled in SMI will be transferred from the HI program to the SMI program. As a result, as of January 1, 1998, there will be a large increase in SMI expenditures for these services for the aged enrollees, and SMI coverage for these services will resume for disabled enrollees.

TABLE 3.—DERIVATION OF MONTHLY ACTUARIAL RATE FOR ENROLLEES AGE 65 AND OVER FINANCING PERIODS ENDING DECEMBER 31, 1995 THROUGH DECEMBER 31, 1998

	Financing periods			
	CY 1995	CY 1996	CY 1997	CY 1998
Covered services (at level recognized):				
Physicians' reasonable charges	$58.88	$59.82	$61.82	$63.55
Outpatient hospital and other institutions	21.26	21.95	22.85	24.06
Home health agencies	0.33	0.40	0.43	15.44 [1]
Group practice prepayment plans	11.55	14.21	18.29	23.76
Independent lab	2.44	2.38	2.46	2.51
Total services	94.46	98.76	105.85	129.32
Cost-sharing:				
Deductible	−3.71	−3.73	−3.74	−3.75
Coinsurance	−17.36	−18.24	−19.62	−21.61
Total benefits	73.39	76.79	82.49	103.96
Transfer to Medicaid	0.00	0.00	0.00	0.30 [2]
Administrative expenses	1.86	2.05	2.11	2.20
Incurred expenditures	75.25	78.84	84.60	106.46
Value of interest	−2.04	−2.40	−3.94	−4.13
Adjustment for home health agency services transferred from HI	0.00	0.00	0.00	−12.49 [3]
Contingency margin for projection error and to amortize the surplus or deficit	−0.11	8.46	6.94	−1.94
Monthly actuarial rate	73.10	84.90	87.60	87.90

[1] This amount includes the full cost of the home health services being transferred from the HI program as a result of BBA 1997 as if the transition did not apply, as well as the cost of furnishing all home health services to those individuals enrolled in SMI only.

[2] Section 1933(c)(2) of the Act, as added by section 4732(c) of BBA 1997, allocates an amount to be transferred from the SMI trust fund to the state Medicaid programs. This transfer is for the purpose of paying the SMI premiums for certain low-income beneficiaries. It is not a benefit expenditure but is used in determining the SMI actuarial rates since it is an expenditure of the trust fund.
[3] Section 4611 of BBA 1997 specifies that expenditures for home health services not considered "post-institutional" will be payable under the SMI program rather than the HI program beginning in 1998. However, section 4611(e)(1) requires there be a transition from 1998 through 2002 for the aggregate amount of the expenditures transferred from the HI program to the SMI program. For 1998 the amount transferred is 1/5 of the full cost for such services. Therefore, the adjustment for 1998 represents 1/5 of the full cost. This amount adjusts the actuarial rate to reflect the correct amount attributable to home health services.

TABLE 4.—DERIVATION OF MONTHLY ACTUARIAL RATE FOR DISABLED ENROLLEES FINANCING PERIODS ENDING DECEMBER 31, 1995 THROUGH DECEMBER 31, 1998

	Financing periods			
	CY 1995	CY 1996	CY 1997	CY 1998
Covered services (at level recognized):				
Physicians' reasonable charges	$64.43	$65.21	$67.08	[1]$67.98
Outpatient hospital and other institutions	42.61	43.89	45.45	47.26
Home health agencies	0.00	0.00	0.00	16.98
Group practice prepayment plans	2.70	3.10	3.92	5.31
Independent lab	3.00	3.09	3.27	3.44
Total services	112.74	115.29	119.72	140.95
Cost-sharing:				
Deductible	−3.55	−3.57	−3.58	−3.60
Coinsurance	−21.17	−21.69	−22.50	−23.40
Total benefits	88.02	90.03	93.64	113.95
Transfer to Medicaid	0.00	0.00	0.00	[2]0.29
Administrative expenses	2.23	2.40	2.41	2.40
Incurred expenditures	90.25	92.43	96.05	116.64
Value of interest	−0.31	−0.29	−1.84	−2.27
Adjustment for home health agency services transferred from HI	0.00	0.00	0.00	[3]−14.17
Contingency margin for projection error and to amortize the surplus or deficit	15.86	12.96	16.19	−3.10
Monthly actuarial rate	105.80	105.10	110.40	97.10

[1] This amount includes the full cost of the home health services being transferred from the HI program as a result of BBA 1997 as if the transition did not apply.
[2] Section 1933(c)(2) of the Act, as added by section 4732(c) of BBA 1997, allocates an amount to be transferred from the SMI trust fund to the state Medicaid programs. This transfer is for the purpose of paying the SMI premiums for certain low-income beneficiaries. It is not a benefit expenditure but is used in determining the SMI actuarial rates since it is an expenditure of the trust fund.
[3] Section 4611 of BBA 1997 specifies that expenditures for home health services not considered "post-institutional" will be payable under the SMI program rather than the HI program beginning in 1998. However, section 4611(e)(1) requires there be a transition from 1998 through 2002 for the aggregate amount of the expenditures transferred from the HI program to the SMI program. For 1998 the amount transferred is 1/5 of the full cost for such services. Therefore, the adjustment for 1998 represents 1/5 of the full cost. This amount adjusts the actuarial rate to reflect the correct amount attributable to home health services.

TABLE 5.—ACTUARIAL STATUS OF THE SMI TRUST FUND UNDER THREE SETS OF ASSUMPTIONS FOR FINANCING PERIODS THROUGH DECEMBER 31, 1998

Projection	This projection			Low cost projection			High cost		
	12-month period ending June 30			12-month period ending June 30			12-month period ending June 30		
	1997	1998	1999	1997	1998	1999	1997	1998	1999
Projection factors (in percent):									
Physician fees [1]									
Aged	0.5	1.7	0.4	0.2	0.5	−1.4	0.8	2.9	2.2
Disabled	0.5	1.7	0.4	0.2	0.5	−1.4	0.8	2.9	2.2
Utilization of physician services [2]									
Aged	2.2	2.4	1.9	0.4	0.2	−0.5	4.0	4.6	4.4
Disabled	1.1	0.6	−1.0	−1.8	−2.4	−4.0	4.0	3.6	2.1
Outpatient hospital services per enrollee									
Aged	3.2	4.7	8.2	−1.2	0.1	3.3	7.6	9.3	13.2
Disabled	4.3	1.2	8.3	−1.0	−4.4	2.7	9.6	6.7	14.0
	As of December 31			As of December 31			As of December 31		
	1996	1997	1998	1996	1997	1998	1996	1997	1998
Actuarial status (in billions):									
Assets	$28.332	$37.502	$34.274	$28.332	$40.265	$42.540	$28.332	$34.753	$25.756
Liabilities	1.350	1.397	1.903	.441	.399	.778	2.134	2.275	2.920
Assets less liabilities	$26.982	$36.105	$32.371	$27.891	$39.866	$41.762	$26.198	$32.478	$22.836

	As of December 31			As of December 31			As of December 31		
	1996	1997	1998	1996	1997	1998	1996	1997	1998
Ratio of assets less liabilities to expenditures (in percent) [3]	35.8	38.0	31.3	38.4	44.5	43.2	33.5	32.3	20.6

[1] As recognized for payment under the program.
[2] Increase in the number of services received per enrollee and greater relative use of more expensive services.
[3] Ratio of assets less liabilities at the end of the year to total incurred expenditures during the following year, expressed as a percent.

IV. Waiver of Notice of Proposed Rulemaking

The Medicare statute, as discussed previously, requires publication of the monthly actuarial rates and the Part B premium amount in September. The amounts are determined according to the statute. As has been our custom, we use general notices, rather than formal notice and comment rulemaking procedures, to make such announcements. In doing so, we acknowledge that, under the Administrative Procedure Act, interpretive rules, general statements of policy, and rules of agency organization, procedure, or practice are excepted from the requirements of notice and comment rulemaking.

We considered publishing a proposed notice to provide a period for public comment. However, we may waive that procedure if we find good cause that prior notice and comment are impracticable, unnecessary, or contrary to the public interest. We find that the procedure for notice and comment is unnecessary because the formula used to calculate the SMI premium is statutorily directed, and we can exercise no discretion in following that formula. Moreover, the statute establishes the time period for which the premium rates will apply, and delaying publication of the SMI premium rate would be contrary to the public interest. Therefore, we find good cause to waive publication of a proposed notice and solicitation of public comments.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

(Section 1839 of the Social Security Act; 42 U.S.C. 1395r)

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance)

Dated: October 13, 1997.

Nancy-Ann Min DeParle,

Deputy Administrator, Health Care Financing Administration.

Dated: October 21, 1997.

Donna E. Shalala,

Secretary.

[FR Doc. 97–29031 Filed 11–3–97; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notice of Availability of Environmental Assessment and Finding of No Significant Impact for Actions to be Taken Under the NIH Guidelines for Research Involving Recombinant DNA Molecules

Notice is hereby given of the availability of an Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for public review. The EA is for actions to be taken under the NIH Guidelines for Research Involving Recombinant DNA Molecules (59 FR 34496, amended 59 FR 40170, 60 FR 20726, 61 FR 1482, 61 FR 10004, 62 FR 4782). Under the actions, the National Institutes of Health (NIH) will relinquish its approval of individual human gene transfer protocols to the Food and Drug Administration, which has statutory authority for such approvals. Instead, the NIH will emphasize its role as the focal point for policy discussion and review of scientific, safety, social, and ethical issues arising from human gene transfer research. The EA finds that these actions will not significantly affect the quality of the human environment.

Copies of the EA and FONSI can be viewed in the NIH Environmental Reading Room, Building 31, Room 2B04, 9000 Rockville Pike, Bethesda, MD 20892. Additional copies of the EA and FONSI are available for viewing in the NIH Office of Recombinant DNA Activities (ORDA), 6000 Executive Boulevard, Suite 302, Bethesda, MD 20892–7010.

For further information, contact Debra Knorr, Deputy Director, Office of Recombinant DNA Activities, National Institutes of Health, MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892–7010, Phone 301–496–9838, FAX 301–496–9839.

Dated: October 28, 1997.

Lana Skirboll,

Associate Director for Science Policy, National Institutes of Health.

[FR Doc. 97–29072 Filed 11–3–97; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Eye Institute Special Emphasis Panel (SEP) meeting:

Name of SEP: Clinical Research.
Date: November 24, 1997.
Time: 8:30 a.m.
Place: National Eye Institute, Executive Plaza South, Suite 350, 6120 Executive Blvd., Bethesda, MD 20892–7164.
Contact Person: Andrew P. Mariani, Ph.D., Executive Plaza South, Room 350, 6120 Executive Blvd., Bethesda, MD 20892–7164, (303) 496–5561.
Purpose/Agenda: Review of Grant Applications.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.867, Vision Research: National Institutes of Health)

Dated: October 28, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–29076 Filed 11–3–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute, Notice of Meeting of Board of Scientific Counselors

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Heart, Lung, and Blood Institute at 8:00 a.m. on December 11–12, 1997, National Institutes of Health, 9000 Rockville Pike, Building 10, Room 7C101, Bethesda, Maryland 20892.

In accordance with the provisions set forth in sec. 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the entire meeting will be closed to the public for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Edward D. Korn, Executive Secretary and Director, Division of Intramural Research, NHLBI, NIH, Building 10, Room 7N214, (301) 496–2116, will furnish substantive program information.

Dated: October 28, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–29074 Filed 11–3–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 United States Code Appendix 2), notice is hereby given of the following meeting:

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel.
Date: November 10, 1997.
Time: 1:00 pm to adjournment.
Place: 6120 Executive Blvd., Rockville MD 20892 (telephone conference call).
Contact Person: Craig A. Jordan, Ph.D., Acting Director, NIDCD/DEA/SRB, EPS ROOM 400C, 6120 Executive Boulevard, Bethesda MD 20892–7180, 301–496–8693.
Purpose/Agenda: To review and evaluate grant applications.

The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code. The applications, and/or proposals and the discussion could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related to Deafness and Communication Disorders)

Dated: October 28, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–29073 Filed 11–3–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Center for Scientific Review Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.
Name of SEP: Biological and Physiological Sciences.
Date: November 21, 1997.
Time: 2:00 p.m.
Place: NIH, Rockledge 2, Room 6154, Telephone Conference.
Contact Person: Dr. David Remondini, Scientific Review, Administrator, 6701 Rockledge Drive, Room 6154, Bethesda, Maryland 20892, (301) 435–1038.

Name of SEP: Biological and Physiological Sciences.
Date: November 24, 1997.
Time: 1:00 p.m.
Place: NIH, Rockledge 2, Room 4202, Telephone Conference.
Contact Person: Dr. Eugene Zimmerman, Scientific Review Administrator, 6701 Rockledge Drive, Room 4202, Bethesda, Maryland 20892, (301) 435–1220.

Name of SEP: Chemistry and Related Sciences.
Date: November 25, 1997.
Time: 1:00 p.m.
Place: NIH, Rockledge 2, Room 4151, Telephone Conference.
Contact Person: Dr. Gopa Rakhit, Scientific Review Administrator, 6701 Rockledge Drive, Room 4154, Bethesda, Maryland 20892, (301) 435–1721.

Name of SEP: Microbiological and Immunological Sciences.
Date: December 4, 1997.
Time: 9:55 a.m.
Place: NIH, Rockledge 2, Room 5106, Telephone Conference.
Contact Person: Dr. Sami Mayyasi, Scientific Review Administrator, 6701 Rockledge Drive, Room 5106, Bethesda, Maryland 20892, (301) 435–1216.

Purpose/Agenda: To review Small Business Innovation Research.
Name of SEP: Biological and Physiological Sciences.
Date: November 20–21, 1997.
Time: 9:00 a.m.
Place: One Washington Circle, Washington, DC.
Contact Person: Dr. Anita Miller Sostek, Scientific Review Administrator, 6701 Rockledge Drive, Room 5202, Bethesda, Maryland 20892, (301) 435–1260.

Name of SEP: Chemistry and Related Sciences.
Date: December 3–4, 1997.
Time: 8:00 p.m.
Place: Doubletree Hotel, Rockville, MD.
Contact Person: Dr. Donald Schneider, Scientific Review Administrator, 6701 Rockledge Drive, Room 4172, Bethesda, Maryland 20892, (301) 435–1727.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 28, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–29075 Filed 11–3–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4293–N–60]

Submission for OMB Review: Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: December 4, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Office, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepared the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: October 29, 1997.

David S. Cristy,

Director, Information Resources, Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Title of Proposal: Contractor's Requisition Project Mortgages.

Office: Housing.

OMB Approval Number: 2502–0028.

Description of the Need for the Information and Its Proposed Use: Form HUD–92448 is used by the contractor to obtain distribution of insured mortgage proceeds when construction costs are involved. The form is needed by HUD to monitor construction progress and ensure compliance with the Davis-Bacon wage rates.

Form Number: HUD–92448.

Respondents: Business or Other For-Profit.

Frequency of Submission: On Occasion and Recordkeeping.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–92448	1,000		10		6		60,000

Total Estimated Burden Hours: 60,000.

Status: Extension, without changes.

Contact: Roger M. Kramer, HUD, (202) 708–0624 ×2569; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: October 29, 1997.

[FR Doc. 97–29100 Filed 11–3–97; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4283–N–01]

Submission for OMB Review: Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comment due date: December 4, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained form Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: October 29, 1997.

David S. Cristy,

Director, Information Resources, Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Title of Proposal: Campus of Learners Semi-Annual Report.

Office: Public and Indian Housing.

OMB Approval Number: None.

Description of the Need for the Information and Its Proposed Use: To appropriately monitor the Campus of Learners program and to ensure that Federal monies are spent accordingly, HUD needs this information on the number of families include in the program, the budget supporting the program, the number of residents in classes and training, and other opportunities made available to residents under this program.

Form Number: HUD–52350.

Respondents: State, Local, or Tribal Government.

Frequency of Submission: Semi-annually.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–52350	25		2		36		1,800

Total Estimated Burden Hours: 1,800.

Status: New.

Contact: Beverly Hardy, HUD, (202) 708–4214 x4254; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: October 29, 1997.

[FR Doc. 97–29102 Filed 11–3–97; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4032–N–05]

Submission for OMB Review: Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: December 4, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: October 29, 1997.

David S. Cristy,

Director, Information Resources, Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Title of Proposal: Loss Mitigation Evaluation.

Office: Housing.

OMB Approval Number: None.

Description of the Need for the Information and Its Proposed Use: The new section 24 CFR 203.605, "Loss Mitigation Evaluation," requires mortgagees to perform an evaluation of each defaulting mortgagor's circumstances to determine which if any of the available loss mitigation techniques are appropriate in order to assist the mortgagor. This information is needed to ascertain whether adequate and prudent loan servicing was performed by the mortgagee. The information the lender submitted for a claim for FHA insurance benefits will be subject to post claim review under the Department's lender monitoring activities.

Form Number: None.

Respondents: Business or other for-profit.

Frequency of Submission: Annually and recordkeeping.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Evaluation	650,000		1		.25		156,250

Total Estimated Burden Hours: 156,250.

Status: New.

Contact: Leslie Bromer, HUD, (202) 708–1719; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: October 29, 1997.

[FR Doc. 97–29103 Filed 11–3–97; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR4283–N–46]

Submission for OMB Review: Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: December 4, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–2374. This is not a toll/free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: October 28, 1997.

David S. Cristy,

Director, Information Resources, Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Issuer Eligibility and Integrity Reform.

Offics: Government National Mortgage Association (GNMA).

OMB Approval Number: 2503–0027.

Description of the Need for the Information and Its Proposed Use: The information collection is needed to enable GNMA to properly screen new applicants, approve commitment request, and determine continuing issuer eligibility. The information collected will continue to enable GNMA to hold issuers to higher eligibility and integrity standards.

Form Number: None.

Respondents: Business or other for-profit and the Federal Government.

Frequency of Submission: Annually.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information Collection	620		1		8.25		5,113

Total Estimated Burden Hours: 5,113.

Status: Reinstatement, with changes.

Contact: Sonya K. Suarez, HUD, (202) 708–2772 X4975; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: October 28, 1997.

[FR Doc. 97–29104 Filed 11–3–97; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–067–5101–01–B001); CACA–30448]

Proposed Plan Amendment

AGENCY: Bureau of Land Management.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the Bureau of Land Management (BLM) has proposed a plan amendment to the California Desert Conservation Area Plan to partially exempt a proposed fiber optic cable right-of-way from a utility corridor for a portion of the proposed alignment.

DATES: Written scoping comments must be received no later than December 3, 1997.

ADDRESSES: Written scoping comments should be addressed to the District Manager, Attn: Plan Amendment, California Desert District, 6221 Box Springs Blvd., California 92507.

FOR FURTHER INFORMATION CONTACT: James L. Williams (909) 697–5390.

SUPPLEMENTARY INFORMATION: A proposed fiber optic cable from Las Vegas, Nevada, utilizes a conduit along Highway 95 to near the Nevada-California State line. In California, it would continue down Highway 95 and then within Goffs road. This alignment is not designated as a utility corridor by the California Desert Plan. The proposed right-of-way is within utility corridors H, G, and O until near the city of Adelanto where the proposed right-of-way leaves corridor O and continues within county roads which are not a designated utility corridor to Palmdale.

Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or business, and from individuals identifying themselves as representatives or officials of organization or business, will be made available for public inspection in their entirety.

Dated: October 29, 1997.

Alan Stein,

Acting District Manager.

[FR Doc. 97–29115 Filed 11–3–97; 8:45 am]

BILLING CODE 4310–40–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–300–1220–00]

Interlakes Special Recreation Management Area Plan and Final Environmental Impact Statement (FEIS)

AGENCY: Bureau of Land Management (BLM), Redding Resource Area, NORCAL District, California.

ACTION: Notice of availability of a plan and FEIS.

SUMMARY: BLM has released a plan and FEIS covering land management options and anticipated consequences regarding the Interlakes Special Recreation Management Area. Preparation of this plan and FEIS is a joint effort between the BLM, U.S. Forest Service, National Park Service, and Bureau of Reclamation. BLM was directed to lead this planning effort under BLM's Record of Decision for the Redding Resource Management Plan and EIS which was prepared under the authority of the Federal Land Policy and Management Act of 1976 (section 202). This plan and FEIS is prepared under the authority of the National Environmental Policy Act of 1969.

SUPPLEMENTARY INFORMATION: The Interlakes Special Recreation Management Area is a 74,850 acre region which encompasses lands administered through the United States Department of the Interior's BLM, National Park Service, Bureau of Reclamation, and the Department of Agriculture's Forest Service. Once approved, this plan will guide management activities for the BLM for the next 10 to 15 years. The National Park Service, Bureau of Reclamation and U.S. Forest Service may approve this plan by continuing with this joint planning effort and approving a Record of Decision, or may implement portions of this plan by tiering to this document within their own planning documents.

DATES: Comments on this plan and FEIS should be submitted in writing by December 1, 1997.

FOR FURTHER INFORMATION CONTACT: Charles M. Schultz, Area Manager, Bureau of Land Management, 355 Hemsted Drive, Redding, CA 96002.

Dated: October 27, 1997.

Francis Berg,

Acting Area Manager.

[FR Doc. 97–29111 Filed 11–03–97; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

National Park Service

Record of Decision

AGENCY: National Park Service, Interior.

ACTION: Record of Decision.

SUMMARY: Pursuant to regulations promulgated by the Council on Environmental Quality (40 CFR Section 1505.2) and the implementing procedures of the National Park Service (NPS) for the National Environmental Policy Act of 1969 (40 U.S.C. 1501 *et seq.*), the NPS has prepared this Record of Decision with respect to the general management plan and final environmental impact statement, Missouri/Niobrara/Verdigre Creek National Recreational Rivers, Nebraska and South Dakota. This Record of Decision describes the recreational river management alternatives considered, mitigating measures adopted to avoid or minimize environmental impacts, and the reasoning behind the decisions reached.

FOR FURTHER INFORMATION CONTACT: Superintendent, Niobrara/Missouri National Scenic Riverways, 114 North Sixth Street, O'Neill, Nebraska 68763–0591, or 402–336–3970.

SUPPLEMENTARY INFORMATION: Pub. L. 102–50, the Niobrara Scenic River Designation Act of 1991, amended section 3(a) of the Wild and Scenic Rivers Act of 1968 to designate as recreational rivers sections of the Missouri River, Niobrara River, and Verdigre Creek as listed below:

Missouri River: The 39-mile section from the headwaters of Lewis and Clark Lake to the Fort Randall Dam.

Niobrara River: The segment from the western boundary of Knox County to its confluence with the Missouri River (20 miles).

Verdigre Creek: The segment from the north municipal boundary of Verdigre, Nebraska, to its confluence with the Niobrara River (8 miles).

The Act states these segments shall be administered by the Secretary of the Interior, who has delegated the task of planning and operation to the NPS. As such, the three segments have become a unit of the National Park System.

The Wild and Scenic Rivers Act directs the administering agency to prepare a management plan and establish final boundaries for protection of important resources along designated rivers. The Act requires the managing agency to emphasize the protection of scenic, historic, archeological, and scientific features. It states that recreational use may be permitted as long as these values are not jeopardized. Under the Act, the boundary is 0.25 mile from the ordinary high water mark on both sides of the rivers until a final boundary is established.

Decisions for management and boundary: The NPS selects Alternative 5, the Preferred Alternative, for management of the National Recreational Rivers. The Preferred Alternative was developed by the planning team by combining aspects of two other action alternatives. It includes resource protection and a boundary similar to alternative 3 and a management philosophy similar to alternative 2. This alternative neither encourages nor discourages increased visitor use. It also does not encourage additional or expanded agricultural practices. It strongly discourages construction of residences or other private development. Boundaries were delineated to include important river-related habitat. Implementation of natural resource objectives would take precedence over other objectives where possible without loss of significant cultural resources. Management actions would be accomplished through cooperative associations with landowners, county governments, state and federal agencies, and private interest groups.

The NPS will remain the administrator of the recreational rivers as authorized by Congress. The degree of NPS presence will depend on the success of local governments in maintaining existing landscapes and providing for recreational uses. To fulfill its river management responsibilities, the NPS will continue to have staff on or near the river to manage inherently federal requirements of the law, administer cooperative agreements, and monitor ongoing water, land and visitor use activities along the designated rivers.

Alternative 5 emphasizes management for conserving, protecting, and restoring riverine biological diversity on public land and includes potential for technical assistance and incentives for private property owners to do the same. Implementation on private land would take place through local protection and restoration efforts, including federal standards for minimum protection requirements and the use of regulations and a flexible package of financial incentives, funding options, and technical assistance.

Local concerns were expressed during public meetings regarding: an unwanted influx of visitors on the river; dangers the dynamic nature of the river presents to novice users; and increased river bank erosion caused by additional power boat use. Because of those concerns this alternative allows only for the replacement of river access sites lost to sedimentation and the improvement (not expansion) of existing facilities. Present recreational uses will continue (fishing, boating, hunting, etc.) and there could be expansion of visitor services and facilities as long as they did not add significant numbers of people to the river.

The Alternative 5 boundary for the 39-mile stretch of the Missouri River includes the river, its islands, and a minimum setback of 200 feet from the 1991 ordinary high water mark (32,000 cfs). Also included is the Karl Mundt National Wildlife Refuge and all other federal and state fee land within 0.25 mile of the river. In addition, significant cottonwood stands and land that would be covered by a U.S. Army Corps of Engineers (COE) high release of 60,000 cfs is included within the boundary. All fee and easement lands included in the boundary will continue to be managed by the present land managers.

For the Niobrara and Verdigre Creek National Recreational Rivers the boundary includes the rivers, its islands, a minimum setback of 200 feet from the ordinary high water mark, and significant natural areas as identified by the Nebraska Game and Parks Commission. The Niobrara National Recreational River boundary includes land that would be affected by a rise in the groundwater table as projected by the COE.

Other management alternative considered:

Alternative 1, No Action: In the no-action alternative the river area would continue to evolve without benefit of a coordinated, comprehensive effort by the NPS and its partners and generally would continue current trends. The current conditions include a mix of private property with some local, state, U.S. Fish and Wildlife Service, and COE management. Existing conditions would continue with varied management under federal, state, and local laws and by property owners with minimal coordination. The NPS would assign an individual to provide minimal monitoring of conditions along the rivers and limited coordination and review among federal, state, and local agencies. Other managing agencies, whether federal, state, or local, would work from existing offices and NPS staff would work at an undetermined location.

The designation act established an interim boundary during the planning period. The boundary includes the three rivers, their islands, and land within 0.25 mile of the 1991 ordinary high water mark on each side of the rivers (see alternative 1 maps). The 0.25-mile boundary would remain in place under this alternative.

Protection of the scenery and natural features would depend on existing or developing programs including county zoning, voluntary landowner covenants, and other private land strategies. It would be unrealistic to believe any of these controls or strategies would have as their primary goal the maintenance of wild and scenic river values. Therefore, the no action alternative was determined not to implement the Wild and Scenic Rivers Act on these rivers as Congress has directed and intended. The long-term protection of the river and adjacent land and provision of a good quality visitor experience could not be ensured under this alternative.

Alternative 2, Rural Landscape Integrity and Character: This alternative would emphasize the rural landscape. It would maintain patterns of land use while protecting significant natural and cultural resources. This alternative seeks to stabilize visitor use at or near current levels. It allows for limited construction of new residences or other private development. Implementation of rural landscape objectives would be emphasized as long as significant natural and cultural resources were not compromised.

Alternative 2 would rely heavily on the cooperation of local property owners and officials. Private land would be managed through local means such as zoning, land use management plans, or property owner agreements. The alternative would rely on counties and property owner agreements to develop standards for protecting private land and meeting the objectives and goals of this plan and the Wild and Scenic Rivers Act. Local plans consistent with the recreational river legislation incorporating voluntary practices that preserve the landscape and river values would be developed in cooperation with the NPS.

The visitor experience under alternative 2 would be similar to the activities, orientation, and interpretation presently available. Interpretation and information would emphasize safety and preservation of the recreational rivers' values. Additional interpretation emphasizing land stewardship and the integrity of the landscape could be offered through cooperative efforts.

The boundaries for the Missouri and Niobrara river segments under this alternative would include the river and its islands and be established as a 200-foot setback from the 1991 ordinary high water mark. COE land within 0.25 mile of the river is within the boundary. Along the Missouri River segment the Fort Randall historic site, Niobrara State Park, Verdel Landing, and Karl Mundt National Wildlife Refuge would be included to help depict the rural agrarian, natural, and historic character of the landscape. The Verdigre Creek boundary would be established as a 200-foot setback from the riverbank. All fee and easement lands included within the boundary would continue to be managed by the present land managers.

Total land area above the 1991 ordinary high water mark for the Missouri National Recreational River would be 4,718 acres. Total land area above the 1991 ordinary high water mark for the Niobrara National Recreational River and Verdigre Creek would be 1,559 acres.

Although NPS actions under this alternative would have minimal negative impacts to any of the resources, the boundary would not include some significant bottomland and periodically flooded areas that contribute to the biologic integrity of the river. The NPS has determined that alternative 2 is minimally acceptable in meeting the intent of the Wild and Scenic Rivers Act.

Alternative 3, Riverine Biological Management: This alternative would emphasize the recreational rivers' biological diversity. It would improve the quantity, quality, and diversity of native plant and animal (primarily aquatic) habitat. A meandering river, eroding banks, sandbars, backwater areas, cottonwood forests, and instream snag habitat were characteristics of the pre-dam river that would be recreated where feasible.

This alternative neither encourages nor discourages increased visitor use. It also does not encourage additional or expanded agricultural practices. It strongly discourages construction of residences or other private development. Boundaries were delineated to include important river-related habitat. Implementation of natural resource objectives would take precedence over other objectives where possible without loss of significant cultural resources.

The primary goal of this alternative would be to protect and restore the Missouri River and the lower stretches of the Niobrara River and Verdigre Creek as a nearly natural ecosystem.

The boundary for the Missouri National Recreational River under this alternative would include the river, its islands, and a minimum setback of 200 feet from the 1991 ordinary high water mark. Also included is the Karl Mundt National Wildlife Refuge and all other federal and state land within 0.25 mile of the river. Other criteria used in determining the remaining land inside the boundary include significant biological bottomland as defined by the Nebraska Game and Parks Commission and land that would be covered by a COE release of 60,000 cfs. All fee and easement lands included within the boundary will continue to be managed by the present land managers.

The boundary for the Niobrara National Recreational River would include a minimum setback of 200 feet from the riverbank plus significant biological bottomland areas as identified by the Nebraska Game and Parks Commission. Also included are COE projections for areas that might be affected by a rise in the water table. The Verdigre Creek boundary would include a minimum setback of 200 feet from the riverbank plus significant biological bottomland as identified by the Nebraska Game and Parks Commission. Total land area above the 1991 ordinary high water mark for the Missouri National Recreational River would be 10,463 acres. Total land area above the 1991 ordinary high water mark for the Niobrara National Recreational River and Verdigre Creek would be 5,962 acres.

The NPS has determined that this alternative would be fully acceptable and would meet the intent of the Wild and Scenic Rivers Act.

Alternative 4, Visitor Use Balanced with Resources Protection: Consistent with resource protection and goals and objectives of the general management plan, implementation of recreational uses would be emphasized in this alternative. The NPS and its partners would be actively involved in day-to-day management of the rivers. Private and public recreational development (including river access points, scenic roads, trails, and structures) would remain, and some future expansion is envisioned. Land needed for visitor facilities would be acquired from willing sellers. Additional sites or improvements are proposed in Nebraska near the Pishelville Bridge, Sunshine Bottom, and Verdigre Creek. Additional locations for primitive camping along the river could be developed if warranted by increased recreation demand. Interpretation of cultural and natural resources would be important for resource protection as well as for visitor education and enjoyment.

Natural features of the landscape would be maintained, such as sandbars and beaches, backwater areas for recreational fishing, and open spaces. Cooperative efforts to enhance backwater areas, sandbars, and other habitats would be encouraged to preserve resources and increase recreational fishery and wildlife viewing opportunities. Significant resources would be inventoried and monitored to protect river-related resources from visitor use and other recreational stresses.

This alternative encourages the continuation of agricultural practices and landscapes as important elements of pastoral scenes that visitors can enjoy. It encourages compatible agricultural practices, and it allows for an increase in construction of residences within the residential and other private development land class.

The boundary would include a minimum setback of 200 feet from the riverbank, plus significant resource areas and potential public use areas on the rivers. Karl Mundt National Wildlife Refuge, Niobrara State Park, and Fort Randall historic site are included within the boundary in this alternative because they are public facilities that contribute to the goals of the alternative. Other state land and COE fee land within 0.25 mile of the 1991 ordinary high water mark would also be included. All fee and easement land included within the boundary would continue to be managed by the present land managers.

Total land area above the 1991 ordinary high water mark for the Missouri National Recreational River is 6,443 acres. Total land area above the 1991 ordinary high water mark for the Niobrara National Recreational River and Verdigre Creek is 1,492 acres.

The NPS feels this alternative allows for the protection of sufficient bottomlands and other biologically important lands to fully comply with the Wild and Scenic Rivers Act. Because of local concerns regarding increased river traffic this alternative was not selected.

Measures to Minimize Harm: Because few specific land purchase or construction projects are proposed and the alternatives are general strategies for long-term management, the consequences are assessed in general terms. Foreseeable short term impacts are identified along with long-term impacts and potential mitigating measures. The impacts of all the action alternatives are similar.

Recreational use of the river has been relatively stable but with no coordinated management. The selected alternative provides for increased visitor management and for controls to be placed on visitor use if resources are threatened by that use or if negative visitor experiences result from increased use of the rivers.

New boat access areas are permitted to replace access areas lost to sedimentation. The selected sites could cover several acres each. Some habitat would be lost, temporary construction induced siltation could occur, but would be minimized through appropriate construction techniques. Public access sites would be checked for fossils or cultural artifacts before and during construction. If either were found the state historical society and/or appropriate Indian tribes would be consulted.

Suggested guidelines for development are available in each alternative. Recreational home developments have been occurring along the Missouri River. The selected alternative acts to control these developments. Currently there is no zoning in any of the counties. Along with the guidelines, cooperative land owner agreements, voluntary easements, and deed restrictions could be used to control development. If the guidelines and other methods of control are not successful and continued development threatens river resources the plan states that the current policy of no-condemnation will have to be revisited.

Farming and ranching are recognized as valuable tools in maintaining the rural nature of the area. Current levels of use and methods have not been detrimental to the rivers and no controls are foreseen. The NPS would encourage best management practices be in place and for good land stewardship to continue.

Specific impacts and measures that would be taken to mitigate potential negative impacts are described in the Final Environmental Impact Statement on pages 144–187. Compliance with existing laws and executive orders is described on pages 188–193.

Comments on the draft and final general management plan and environmental impact statement (GMP/EIS): The draft GMP/EIS was released to the public on July 12, 1996. Approximately 1,100 copies of the draft plan were mailed to federal, state, and local officials, organizations, and individuals. Public meetings were held between August 13–21 in Yankton, Pickstown, Springfield, and Wagner, South Dakota; and Norfolk, Niobrara, Verdigre, Verdel, and Spencer, Nebraska. The public comment period ended September 14, 1996.

A total of 75 written comments were received during the public review period. A majority of the comments came from the local area and suggested the rivers be deauthorized as a component of the Wild and Scenic Rivers System. Because this would require an additional act of Congress, the NPS cannot comply with these suggestions, and would not support such a proposal.

Some comments were directed towards the silt aggradation occurring in the Missouri and Niobrara rivers. The siltation is a result of decreased water flow velocity as it enters Lewis and Clark Lake. The reduced water velocity decreases the silt load carrying capacity of the river and causes deposition (aggradation). This is not a result of the recreational river designation or the general management plan. The NPS has agreed to work cooperatively with the COE to explore viable solutions to the problem.

In July 1997 the final GMP/EIS was printed and distributed to more than 300 individuals, agencies, and organizations. In the document the NPS named the preferred alternative and boundary. There were seven comments received on the final plan, one from a federal agency, two from private organizations, and four from landowners. To the extent possible comments and concerns therein have

been addressed in the following section and/or other sections of this document.

Clarifications requested through written comments: The NPS would consider boat access areas inside and outside the boundary that serve the recreational rivers as replaceable if substantial access was lost as a result of sediment aggradation in the river. Ramps lost outside the recreational river boundary could be replaced within the boundary. Examples of access areas serving the recreational rivers that are lost, or threatened are the Missouri River access areas at Springfield and Running Water, South Dakota, and Niobrara, Nebraska.

The NPS decision to not actively promote recreational use on the river was based on input of the Federal Advisory Commission in consultation with the Secretary of the Interior during the development of the plan, by local representatives on the planning team, and by comments received from the general public during the planning process. The Wild and Scenic Rivers Act, Section 10(a) allows for "management plans for any such component" to "establish varying degrees of intensity for its protection and development, based on the special attributes of the area." In this case the NPS feels there are legitimate safety concerns resulting from shifting sand bars and a significant increase in power boat use on the Missouri National Recreational River. Canoeing danger exists from the high winds that frequent the area and the width of the river. While the NPS has agreed not to actively promote increased use there is recognition in the plan that increased use may occur as the result of actions taken by others. As long as those actions do not threaten river resources or add significant visitor numbers to the river NPS will act to guide such growth rather than restrict it.

While local governments clearly have existing local law enforcement responsibilities and cooperative relations will be sought, all references to law enforcement in the final plan should be understood to mean that the NPS will not delegate Federal law enforcement responsibilities with respect to the water surfaces and on lands it owns, or other inherently Federal responsibilities as described in the statutes related to the administration of the National Park System, the Wild and Scenic Rivers Act, and the Act establishing the Missouri/Niobrara/Verdigre Creek National Recreational Rivers.

The COE has purchased flood easements on some of the periodically flooded land along the Missouri and Niobrara rivers. This land remains in private landownership but the COE possesses the right to flood the land. The NPS would not affect the easement relationship between private landowners and the COE. Neither would the NPS boundary alter the payments under the Payment in Lieu of Taxes Act. The periodically flooded land is included within the boundary not because it is COE easement land but because of its contribution to fish and wildlife habitat.

Currently the Yankton Sioux Tribe is challenging the size and location of its reservation boundary. When a final outcome is determined the NPS will honor the final court decision. Until that time any NPS management actions within the disputed area will be minimal and dependent on cooperative agreement with private landowners and the Yankton Sioux Tribe.

The recreational river boundary maps depicted in the final GMP include public lands such as the USFWS Karl Mundt National Wildlife Refuge, as well as easement lands. The Vicinity/Study Area map on page 5 inadvertently portrayed USFWS easement land as a part of the refuge. That easement is not part of the Karl Mundt Refuge and should not have been portrayed as such on that map. The maps on pages 29, 49, 61, 73, and 87 accurately portray the easement land but the arrow points to it as a part of the Karl Mundt Refuge. That arrow should have been pointing to the lower section that is a part of the refuge and not to the easement land. The maps in the final GMP/EIS are designed to be general and for orientation purposes only, and have no formal standing. When the official boundary map for this unit is published the above mentioned errors will be corrected.

Selection of the preferred alternative: All of the action alternatives for management of the rivers are considered acceptable from an environmental standpoint. The boundaries vary with each alternative and preference was placed on the alternatives that included significant wetlands and bottomlands. The preferred alternative was selected because it is considered the most effective alternative for meeting the legislative intent of protecting river values and maintaining the existing economic uses along the river. This alternative will require a minimum of Federal land acquisition, which is consistent with legislative intent. The selected alternative is not expected to have any significant adverse effects on natural or cultural values in the recreational river boundaries.

Dated: October 27, 1997.

David N. Given,

Deputy Regional Director, Midwest Region.

[FR Doc. 97–28131 Filed 11–3–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Dayton Aviation Heritage Commission; Notice of Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets the schedule for the forthcoming meeting of the Dayton Aviation Heritage Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463).

DATE, TIME, AND ADDRESS: Tuesday, December 2, 1997, 5:15 p.m. to 6:30 p.m., Innerwest Priority Board conference room, 1024 West Third Street, Dayton, Ohio 45407.

This business meeting will be open to the public. Space and facilities to accommodate members of the public are limited and persons accommodated on a first-come, first-served basis. The Chairman will permit attendees to address the Commission, but may restrict the length of presentations. An agenda will be available from the Superintendent, Dayton Aviation, 1 week prior to the meeting.

FOR FURTHER INFORMATION CONTACT: William Gibson, Superintendent, Dayton Aviation, National Park Service, P.O. Box 9280, Wright Brothers Station, Dayton, Ohio 45409, or telephone 513–225–7705.

SUPPLEMENTARY INFORMATION: The Dayton Aviation Heritage Commission was established by Public Law 102–419, October 16, 1992.

Dated: October 24, 1997.

William W. Schenk,

Regional Director, Midwest Region.

[FR Doc. 97–29130 Filed 11–3–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 25, 1997. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, D.C. 20013–7127. Written comments should be submitted by November 19, 1997.

Carol D. Shull,

Keeper of the National Register.

CALIFORNIA

San Benito County

McCallum, eRoy D., House (Hollister MPS) 1401 San Benito St., Hollister, 97001445

San Diego County

Santa Fe Land Improvement Company House, 6036 La Flecha, Rancho Santa Fe, 97001460

CONNECTICUT

New Haven County

Southern New England Telephone Company Administrative Building, 227 Church St., New Haven, 97001447

Windham County

Canterbury Center Historic District, Roughly along Elmdale, Library, N. Canterbury, S. Canterbury, and Westminster Rds., Canterbury, 97001446

FLORIDA

Orange County

Knowles Memorial Chapel, 1000 Holt Ave., Winter Park, 97001448

MARYLAND

Charles County

Pleasant Hill, 9206 Marshall's Corner Rd., Pomfret vicinity, 97001449

MASSACHUSETTS

Worcester County

Gay, Rev. Samuel, House, 10 Williamsville Rd., Hubbardston, 97001450

MONTANA

McCone County

Lewis and Clark Bridge, Over the Missouri R., MT 13, Wolf Point vicinity, 97001451

Phillips County

Saco Mercantile, 201 Taylor St., Saco, 97001452

Ravalli County

Methodist Episcopal Church South, Jct. of First St. and Eastside Hwy., Corvallis, 97001453

NEW YORK

Monroe County

Maplewood Historic District, Roughly along Lakeview Park, Lake Ave., Seneca Pkwy., and Maplewood Ave., Rochester, 97001454

Orleans County

Main Street Historic District Boundary Increase, 530 West Ave., Medina, 97001457

Otsego County

All Saints Chapel and Morris Family Burial Ground, NY 51, 3 mi. S of Morris, Morris vicinity, 97001455

Zion Episcopal Church Complex and Harmony Cemetery, E of Morris, NY 51, Morris vicinity, 97001456

Steuben County

US Post Office—Hornell (US Post Offices in New York State MPS) 50 Seneca St., Hornell, 97001458

Wayne County

Methodist Episcopal Church of Butler, Butler Center Rd., jct. with Washburn Rd., Butler Center, 97001459

OHIO

Columbiana County

Harris, Franklin, Farmstead, 3525 Depot Rd., Salem vicinity, 97001462

Franklin County

Kahiki, The, 3583 E. Broad St., Columbus, 97001461

TENNESSEE

Knox County

Wilder, Gen. John T., House, 2027 Riverside Dr., Knoxville, 97001463

UTAH

Sanpete County

Oberg—Metcalf House, 12 N 100 E, Gunnison, 97001464

Uintah County

Gibson—Sowards House, 3110 N 250 W, Vernal, 97001465

[FR Doc. 97–29109 Filed 11–3–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

[DES97–40]

Bureau of Reclamation

East Bay Municipal Utility District Supplemental Water Supply Project, California

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability and notice of public hearing of the Draft Environmental Impact Report/Draft Environmental Impact Statement (DEIR/DEIS).

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA) of 1969 (as amended) and the California Environmental Policy Act (CEQA), the East Bay Municipal Utility District (EBMUD) and the Bureau of Reclamation (Reclamation) have prepared a DEIR/DEIS for the proposed Supplemental Water Supply Project in Sacramento and the Bay Area service areas. Public hearings will be held in a number of sessions to receive oral or written comments on the DEIR/DEIS by interested parties, organizations, and individuals.

DATES: Public comments on the DEIR/DEIS should be submitted on or before January 5, 1998. See Supplementary Information section for public hearing dates and addresses.

ADDRESSES: Written comments on the DEIR/DEIS, requests for copies of the DEIR/DEIS, and requests to speak at the hearing should be addressed to Ms. Ann Reis, EBMUD P.O. Box 24055, Oakland, CA 94623–1055.

FOR FURTHER INFORMATION CONTACT: For additional information, please contact Mr. Kurt Ledenseck, EBMUD, (510) 287–1197; or Mr. Roderick Hall, Reclamation, (916) 989–7279.

SUPPLEMENTARY INFORMATION: EBMUD currently holds a contract with Reclamation, signed in 1970, for delivery of up to 150,000 acre-feet per year from the existing Folsom South Canal (FSC). The existing contract specifies a delivery location at an existing turnout structure near Grant Line Road in Sacramento County. The proposed action is for EBMUD to obtain a supplemental water supply to assist in reducing customer deficiencies during droughts, and providing system reliability and to allow EBMUD to make use of its existing contract with Reclamation for delivery of water from the American River. Two primary alternatives are under consideration, and alternate project configurations of one of these primary alternatives also are being considered.

The first alternative is an EBMUD-only project that involves deliveries from the American River via FSC to a new pipeline connection between FSC in south Sacramento County and EBMUD's Mokelumne Aqueducts in San Joaquin County. Alternate project alternatives under consideration involve pipeline connections from the turnout location described above, which would not require an amendment of the existing water service contract, and from the terminus of FSC, which would require an amendment of the water service contract.

The second alternative involves a joint project between EBMUD, the City of Sacramento (City), and the County of Sacramento (County). Under this project alternative, water for EBMUD and the County would be delivered through a new intake location on the American River near its confluence with the Sacramento River. Water for the City would be diverted under existing entitlements through an expansion of existing diversion and treatment

facilities on the American and Sacramento rivers. A new pipeline would be constructed to convey the water to the City's E.A. Fairbairn Water Treatment Plant and to a point on FSC. Water for EBMUD would then be conveyed from that point through FSC to its terminus, where a new pipeline would be constructed to convey the water to EBMUD's Mokelumne Aqueducts.

The DEIR/DEIS describes the environmental effects of taking delivery of water under EBMUD's contract from the FSC and from the lower American River near its confluence with the Sacramento River. Emphasis is directed toward potential effects related to American River fisheries, endangered species, Central Valley Project water users, pipeline construction, and biological resources in the EBMUD service area.

Public Hearings

Public hearings to receive comments on the DEIR/DEIS will be held as follows:

- December 1, 1997, from 6:00 to 8:00 p.m. at the EBMUD Training Room, 375 Eleventh Street, Oakland, California
- December 3, 1997, from 6:00 to 8:00 p.m. at the Littleton Community Center, 420 Civic Drive, Galt, California
- December 4, 1997, from 6:00 to 8:00 p.m. at the Loel Senior Center, 105 South Washington Street, Lodi, California
- December 9, 1997, from 6:30 to 8:30 p.m. at the Sequoia Elementary School, 3333 Rosemont Drive, Sacramento, California
- December 11, 1997, from 7:00 to 9:00 p.m. at the Hart Senior Center, 915 27th Street, Sacramento, California

Requests to speak may be made at the hearing; these speakers will be called upon in order at the meeting. Oral comments/presentations will be limited to 10 minutes per individual.

The hearing facilities have disabled access, but there are no facilities for the deaf. A telephone device for the hearing impaired (TDD) is not available.

DEIR/DEIS Public Inspection and Review

Copies of the DEIR/DEIS are available for public inspection and review at the following locations:

1. East Bay Municipal Utility District, 375 Eleventh Street, Oakland, CA 94607–4240.
2. Sacramento County Water Agency, 827 Seventh Street, Room 301, Sacramento, CA 95814.
3. City of Sacramento Utilities Department, 5770 Freeport Boulevard, Suite 100, Sacramento CA 95822.
4. Sacramento County Clerk-Recorder's Office, 600 Eighth Street, Sacramento, CA 95814.
5. Bureau of Reclamation, 2800 Cottage Way, Room E–1704, Sacramento, CA 95825.
6. Bureau of Reclamation, Folsom Area Office, 7794 Folsom Dam Road, Folsom, CA 95630.
7. Library, Bureau of Reclamation, 6th Avenue and Kipling, Room 167, Building 67, Denver Federal Center, Denver, CO 80225–0007.
8. Natural Resources Library, U.S. Department of the Interior, 1849 C Street NW, Main Interior Building, Washington DC 20240–0001.
9. Sacramento Central Library, 828 I Street, Sacramento, CA.
10. Lodi Public Library, 201 W. Locust Street, Lodi CA 95240
11. Caesar Chavez Central Library, 605 N. El Dorado Street, Stockton CA 95202.
12. Science, Social Science & Government Documents Department, Oakland Public Library, 125 14th Street, Oakland CA 94612.
13. Contra Costa County Clerk's Office, 730 Las Juntas, Martinez CA 94553.
14. Alameda County Clerk's Office, 1225 Fallon Street, Oakland CA 94612.
15. San Joaquin County Clerk's Office, 24 S. Hunter, Room 304, Stockton CA 95202.

Dated: October 29, 1997.

Kirk C. Rodgers,

Deputy Regional Director.

[FR Doc. 97–29137 Filed 11–3–97; 8:45 am]

BILLING CODE 4310–94–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Proposed Orange County Regional Water Reclamation Project (OCR Project), Orange County, California

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent (NOI) to prepare a draft environmental impact statement (EIS) and notice of scoping meetings.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Bureau of Reclamation (Reclamation) intends to prepare a draft EIS on the proposed Orange County Regional Water Reclamation Project, Orange County, California. Reclamation proposes to partially fund this joint project with the Orange County Water District (OCWD) and County Sanitation Districts of Orange County (CSDOC).

DATES AND ADDRESSES: Two formal scoping meetings in connection with preparation of the draft EIS are scheduled to be held as follows:

November 18, 1997–3:00 to 4:30 p.m. and 7:00 to 8:30 p.m., Orange County Water District, 10500 Ellis Avenue, Fountain Valley, California.

FOR FURTHER INFORMATION CONTACT: Mr. Del Kidd, Environmental Protection Specialist, Bureau of Reclamation, (Mail Stop LC–2511), Environmental Compliance Group, P.O. Box 61470, Boulder City, NV, 89006–1470, Telephone: (702) 293–8698 or Ms. Tama Snow, Senior Engineer, Orange County Water District, Advance Planning Group, P.O. Box 8300, Fountain Valley, CA 92728–8300, Telephone: (714) 378–3200.

SUPPLEMENTARY INFORMATION: The Orange County Water District (OCWD) and the County Sanitation Districts of Orange County (CSDOC) propose to develop an advanced water treatment plant, pipeline and related facilities within the Cities of Fountain Valley, Santa Ana, Orange, Garden Grove, and Anaheim. The OCR Project will further process water from the County Sanitation Districts of Orange County. The water from CSDOC, which is typically discharged into the ocean, will be treated through a sophisticated, advanced water treatment process that will include microfiltration, reverse osmosis and disinfection. The microfiltration process uses a series of microscopically fine filters to remove fine particles, nitrogen, salts, and organic matter that might be in the water. The water from this advanced treatment process will be of better quality than the current water that is infiltrated into the groundwater basin from the Santa Ana River and will surpass (be cleaner and better than) the drinking water standards set by the U.S. Environmental Protection Agency, the California Department of Health Services and other healths and regulatory agencies.

The water from this process will be piped to injection wells to create a barrier against saltwater intrusion and to spreading fields for infiltration into the groundwater basin. The OCR Project will provide a new, reliable water supply to meet increased demands for potable water within the OCWD service area and continue to protect the existing groundwater from further contamination from seawater intrusion. OCR Project water will also be used to supplement the existing Green Acres Project which uses recycled water for landscape irrigation and industrial applications. The project will help reduce the dependency on the uncertain water supplies currently received from

northern California and the Colorado River.

Extensive evaluations have been conducted over the past seven years to define and determine the feasibility of a reclamation project. A study was performed by OCWD to evaluate the water supply alternatives to meet the future needs of Orange County Water District's customers. The OCR Project was identified to be one of the most reliable and cost effective project alternatives to providing a new local water supply to Orange County. The project is proposed to be implemented in three phases. Phase I is proposed to be implemented by the year 2003 and would supply 50,000 acre-feet per year (afy) (one afy is enough water to supply two families of four for an entire year). Phases II and III would supply an additional 25,000 afy by the years 2010 and 2020 respectively, or sooner if required.

An EIS will be prepared and a full environmental analysis will be completed to address any significant impacts the project may have on the surrounding environment. The draft EIS is expected to be completed and available for review and comment by April, 1998.

The present investigation began in 1994. Since that time, OCWD and CSDOC have held public meetings to discuss study progress with interested individuals and affected agencies. Additional public meetings will be scheduled to encourage public and agency involvement in the study and the environmental analysis.

Dated: October 21, 1997.

John A. Johnson,

Deputy Director, Resource Management Office.

[FR Doc. 97–29142 Filed 11–3–97; 8:45 am]

BILLING CODE 4310–94–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Ecosystem Roundtable Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of meetings.

SUMMARY: The Ecosystem Rountable (a subcommittee of the Bay-Delta Advisory Council) (BDAC) will meet in November to discuss the following issues: an update on restoration coordination and the CVPIA FY 98 annual workplans. The Ecosystem Rountable will also meet in December to discuss the following issues: the planning and decision making process for the 1998 funding cycle. Interested persons may make oral statements to the Ecosystem Rountable or may file written statements for consideration.

DATES: The Ecosystem Rountable will meet from 9:30 a.m. to 12:30 p.m. on Friday, November 14, and 9:30 a.m. to 12:30 p.m. on Thursday, December 4, 1997.

ADDRESSES: The Ecosystem Rountable will meet in Room 1412, 1416 Ninth Street, Sacramento, CA for the November meeting and Room 1131, 1416 Ninth Street, Sacramento, CA for the December meeting.

CONTACT PERSON FOR MORE INFORMATION: For the Ecosystem Rountable meeting contact Kate Hansel, CALFED Bay-Delta Program, at (916) 657–2666. If reasonable accommodation is needed due to a disability, please contact the Equal Employment Opportunity Office at (916) 653–6952 or TDD (916) 653–6934 at least one week prior to the meeting.

SUPPLEMENTARY INFORMATION: The San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta system) is a critically important part of California's natural environment and economy. In recognition of the serious problems facing the region and the complex resource management desicions that must be made, the state of California and the Federal government are working together to stabilize, protect, restore, and enhance the Bay-Delta system. The State and Federal agencies with management and regulatory responsibilities in the Bay-Delta system are working together as CALFED to provide policy direction and oversight for the process.

One area of Bay-Delta management includes the establishment of a joint State-Federal process to develop long-term solutions to problems in the Bay-Delta system related to fish and wildlife, water supply reliability, natural disasters, and water quality. The intent is to develop a comprehensive and balanced plan which addresses all of the resource problems. This effort, the CALFED Bay-Delta Program (Program), is being carried out under the policy direction of CALFED. The CALFED Bay-Delta Program is exploring and developing a long-term solution for a cooperative planning process that will determine the most appropriate strategy and actions necessary to improve water quality, restore health to the Bay-Delta ecosystem, provide for a variety of beneficial uses, and minimize Bay-Delta system vulnerability. A group of citizen advisors representing California's agricultural, environmental, urban, business, fishing, and other interests who have a stake in finding long term solutions for the problems affecting the Bay-Delta system has been chartered under the Federal Advisory Committee Act (FACA) as the BDAC to advise CALFED on the program mission, problems to be addressed, and objectives for the CALFED Bay-Delta Program. BDAC provides a forum to help ensure pubic participation, and will review reports and other materials prepared by CALFED staff. BDAC has established a subcommittee called the Ecosystem Rountable to provide input on annual work plans to implement ecosystem restoration projects and programs.

Minutes of the meetings will be maintained by the CALFED Bay-Delta Program, Suite 1155, 1416 Ninth Street, Sacramento, CA 95814, and will be available for public inspection during regular business hours, Monday through Friday within 30 days following the meeting.

Dated: October 29, 1997.

Roger Patterson,

Regional Director, Mid-Pacific Region.

[FR Doc. 97–29112 Filed 11–3–97; 8:45 am]

BILLING CODE 4310–94–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Request for Determination of Valid Existing Rights Within the Monongahela National Forest

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of request for determination of valid existing rights, reopening and extension of the comment period.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is in the process of determining whether Mr. Walter D. Helmick has valid existing rights (VER) to surface mine coal on Federal lands within the Monongahela National Forest in Pocahontas County, West Virginia. By this notice, OSM is reopening and extending the comment period during which interested persons may submit relevant factual material on the matter.

DATES: OSM will accept written materials on this request for a VER determination until 5 p.m. local time on November 12, 1997.

ADDRESSES: Hand deliver or mail written materials to: Peter R. Michael, Office of Surface Mining Reclamation and Enforcement, Appalachian Regional Coordinating Center, room 218, Three Parkway Center, Pittsburgh, PA 15200.

Documents contained in the Administrative Record are available for public review at the locations listed below during normal business hours, Monday through Friday, excluding holidays.

Office of Surface Mining Reclamation and Enforcement Appalachian Regional Coordinating Center, Room 218, Three Parkway Center, Pittsburgh, PA 15200, Telephone: (412) 937–2867.

Office of Surface Mining Reclamation and Enforcement Charleston Field Office, 1027 Virginia Street E, Charleston, WV 25301, Telephone: (304) 347–7158.

FOR FURTHER INFORMATION CONTACT: Peter R. Michael, Office of Surface Mining Reclamation and Enforcement, Appalachian Regional Coordinating Center, Room 218, Three Parkway Center, Pittsburgh, PA 15200, Telephone: (412) 937–2867.

SUPPLEMENTARY INFORMATION: On October 16, 1997 (62 FR 53798) OSM published a notice soliciting factual material for consideration in determining whether Mr. Walter D. Helmick has VER to surface mine coal on Federal lands within the Monongahela National Forest in Pocahontas County, West Virginia. If OSM determines that Mr. Helmick has VER, he may apply to the West Virginia Department of Energy for a permit authorizing the surface and auger mining of coal on the land in question. If it is determined that Mr. Helmick does not have VER, no surface of auger mining will be permitted.

The original comment period closed on October 31, 1997. During the comment period. OSM received a request for a 7 day extension. By this notice, OSM is extending the comment period during which interested persons may submit relevant factual material on the matter. The **Federal Register** notice published on October 16, 1997, contains additional background information.

Dated: October 29, 1997.

Michael K. Robinson,

Acting Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 97–29110 Filed 11–03–97; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decrees Pursuant to the Comprehensive, Environmental Response, Compensation, and Liability Act (CERCLA)

In accordance with the Departmental policy, 28 CFR § 50.7, and 42 U.S.C. 9622(d), notice is hereby given that on October 16, 1997, the trustees for natural resources at the Tulalip Landfill Superfund Site on Ebey Island in Puget Sound, Washington ("the Site") lodged with the United States District Court for the Western District of Washington a civil natural resource damages complaint against defendants the Boeing Company, Kaiser Cement Corporation, Safeway Inc., Richard Halffman, Washington Iron Works, Seattle Goodwill Industries, Manson Construction Co., Inc. and R.W. Rhine, Inc. in the civil action styled *United States* v. *The Boeing Company, et al.*, Civil Action No. 97–1648–WD. On the same day, the trustees lodged two consent decrees resolving the trustees claims against all defendants except R.W. Rhine and Seattle Goodwill Industries.

The consent decrees require the defendants to compensate the trustees for natural resource damages resulting from the release of hazardous substances at the Site. The trustees consist of the State of Washington Department of Ecology, the Tulalip Tribes of Washington, the National Oceanic and Atmospheric Administration of the United States Department of Commerce, and the United States Department of Interior. Under the consent decrees, the settling defendants will pay a total of $183,068 for natural resource damages.

The Department of justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decrees. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC. 20530, and should refer to *United States* v. *The Boeing Company, et al.*, DOJ Ref. #90–11–3–1412D.

The proposed consent decrees may be examined at the office of the United States Attorney, 1010 Fifth Avenue, Seattle, WA 98104, and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC. 20005, (202) 624–0892. A copy of the proposed consent decrees may be obtained in person or by mail from the Consent Decree Library. In requesting copies please refer to the referenced case, specify which decree or decrees you would like to receive, and enclose a check payable to the Consent Decree Library in the amount of $12.00 for the decree with Boeing, Kaiser, Safeway, Halffman and Washington Iron Works (48 pages), and/or $8.50 for the decree with Manson Construction Co., Inc. (34 pages) (25 cents per page reproduction costs).

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–29082 Filed 11–3–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 144–97]

Privacy Act of 1974; Modified Systems of Records

Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), the Immigration and Naturalization Service (INS), Department of Justice, proposes to modify the following systems of records—previously published October 10, 1995 (60 FR 52698), and March 13, 1997 (62 FR 11920), respectively:

Deportable Alien Control System (DACS), Justice/INS–012

Computer Linked Application Information Management System (CLAIMS), Justice/INS–013

INS proposes to add one new routine use disclosure, identified as L, to Justice/INS–012, and seven routine uses disclosures to Justice/INS–013, identified as A. through G. The two systems of records are printed below.

Title 5 U.S.C. 552a(e) (4) and (11) provide that the public be given a 30-day period in which to comment on proposed new routine use disclosures. The Office of Management and Budget (OMB), which has oversight responsibilities under the Act, requires a 40-day period in which to conclude its review of the new routine uses.

Therefore, please submit any comments by December 4, 1997. The public, OMB, and the Congress are invited to send written comments to Patricia E. Neely, Program Analyst, Information Management and Security Staff, Justice Management Division, Department of justice, Washington, D.C. 20530 (Room 850, WCTR Building).

In accordance with 5 U.S.C. 552a(r), the Department has provided a report to OMB and the Congress on the proposed modification.

Dated: October 21, 1997.

Stephen R. Colgate,

Assistant Attorney General for Administration.

JUSTICE/INS–012

SYSTEM NAME:

Deportable Alien Control System (DACS).

SYSTEM LOCATION:

Headquarters, Regional, District, and other offices of the Immigration and Naturalization Service (INS) in the United States as detailed in JUSTICE/INS–999.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Aliens deported and alleged to be deportable by INS.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system is a computer data base that contains biographic information about deportable aliens such as name, date and country of birth; United States and foreign addresses; file number, charge, amount of bond, hearing date, case assignment, scheduling date, section(s) of law under which deportability/excludability is alleged; data collected to support the INS position on deportability/excludability, including information on any criminal or subversive activities; date, place, and type of last entry into the United States; attorney/representative's identification number; family data, and other case-related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

8 U.S.C. 1103, 1251, and 1252.

PURPOSE(S):

The system provides INS with an automated data base which assists in the deportation or detention of aliens in accordance with immigration and nationality laws. It also serves as a docket and control system by providing management with information concerning the status and/or disposition of deportable aliens.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND PURPOSE OF SUCH USES:

Relevant information contained in this system of records may be disclosed as follows:

A. To clerks and judges of Federal courts exercising jurisdiction over the deportable aliens in determining grounds for deportation.

B. To other Federal, State, and local government law enforcement and regulatory agencies and foreign governments, including the Department of Defense and all components thereof, the Department of State, the Department of the Treasury, the Central Intelligence Agency, the Selective Service System, the United States Coast Guard, the United Nations, and INTERPOL, and individuals and organizations during the course of investigation in the processing of a matter or during a proceeding within the purview of the immigration and nationality laws to elicit information required by INS to carry out its functions and statutory mandates.

C. Where there is an indication of a violation or potential violation of law (whether civil, criminal or regulatory in nature), to the appropriate agency (whether Federal, State, local or foreign), charged with the responsibility of investigating or prosecuting such violations, or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

D. Where there is an indication of a violation or potential violation of the immigration and nationality laws, or of a general statute within INS jurisdiction or of a regulation, rule, or order issued pursuant thereto, to a court, magistrate, or administrative tribunal in the course of presenting evidence, and to opposing counsel during discovery.

E. Where there is an indication of a violation or potential violation of the law of another nation (whether civil or criminal), to the appropriate foreign government agency charged with enforcing or implementing such laws and to international organizations engaged in the collection and dissemination of intelligence concerning criminal activity.

F. To other Federal agencies for the purpose of conducting national intelligence and security investigations.

G. To a Member of Congress or staff acting on the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

H. To the General Services Administration and the National Archives and Records Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

I. To any Federal agency, where appropriate, to enable such agency to make determinations regarding the payment of Federal benefits to the record subject in accordance with that agency's statutory responsibilities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are stored in a data base on magnetic disks.

RETRIEVABILITY:

These records are retrieved by name and/or date of birth, A-file number, or by alien's Bureau of Prisons number, when applicable.

SAFEGUARDS:

INS offices are located in buildings under security guard, and access to premises is by official identification. Access to terminals is limited to INS employees with user identification numbers. Access to records in this system is by restricted password and is further protected by secondary passwords.

RETENTION AND DISPOSAL:

Deportable alien case control and detention records are marked closed and retained for statistical purposes through the end of the fiscal year. Closed cases are archived and stored in the data base separate from the active cases. A retention and disposition schedule for the case summary and detention history records is currently being negotiated and will be submitted to the Archivist of the United States for approval.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner, Detention and Deportation, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536.

NOTIFICAITON PROCEDURE:

Address inquiries to the system manager identified above.

RECORDS ACCESS PROCEDURE:

Make all requests for access in writing to the Freedom of Information Act/Privacy Act (FOIA/PA) Officer at the nearest INS office, or the INS office maintaining the desired records (if known) by using the list of Principal Offices of the Immigration and Naturalization Service Appendix, JUSTICE/INS–999, published in the **Federal Register**. Clearly mark the envelope and letter "Privacy Act Request." Provide the A-file number and/or the full name and date of birth, with a notarized signature of the individual who is the subject of the record, and a return address.

CONTESTING RECORDS PROCEDURES:

Direct all requests to contest or amend information in the record to the FOIA/PA Officer at one of the addresses identified above. State clearly and concisely the information being contested, the reason for contesting it, and the proposed amendment thereof. Clearly mark the envelope "Privacy Act Request." The record must be identified in the same manner as described for making a request for access.

RECORD SOURCE CATEGORIES:

Basic information is obtained from "The Immigration and Naturalization Service (INS) Alien File (A–File) and Central Index System (CIS), JUSTICE/

INS–001A." Information may also come from the alien, the alien's attorney/representative, INS official, other Federal, State, local, and foreign agencies and the courts.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/INS–013

SYSTEM NAME:

Computer Linked Application Information Management System (CLAIMS)

SYSTEM LOCATION:

Immigration and Naturalization Service (INS) Headquarters, Regional Service Centers, District Offices and sub-offices as detailed in Justice/INS–999.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have filed applications or petitions for benefits under the Immigration and Nationality Act, as amended, and/or who have submitted fee payments with such applications or petitions; individuals who have paid fees for access to records under the Freedom of Information/Privacy Acts (FOIA/PA); individuals who have posted a bond and related fees with INS; and individuals who have refunded money to INS.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information *which* identifies individuals named above, e.g., name and address, date of birth, and alien registration number. Records in the system may also include such information as date documents were filed or received in INS, status, location of record, FOIA/PA or other control number when applicable, fee receipt data, and posted bond data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

8 U.S.C. 1103; 8 U.S.C. 1363; and 31 U.S.C. 3512.

PURPOSE:

This system will enable INS to determine the status of pending applications and petitions for benefits; to account for and control the receipt and disposition of any fees or refunds collected, including those which accompany applications, petitions, posted bonds, and FOIA/PA requests; and to locate related files and respond to inquiries about these records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES

A. To any Federal agency, where appropriate, to enable such agency to make determinations regarding the payment of Federal benefits to the record subject in accordance with that agency's statutory responsibilities.

B. In a proceeding before a court or adjudicative body before which INS or the Department of Justice (DOJ) is authorized to appear when any of the following is a party to litigation or has an interest in litigation and such records are determined by INS or DOJ to be arguably relevant to the litigation: the DOJ, or any DOJ component or subdivision thereof; any DOJ employee in his/her official capacity; any DOJ employee in his/her individual capacity where the DOJ has agreed to represent the employee; or the United States where INS or the DOJ determines that the litigation is likely to affect it or any of its subdivisions.

C. To an actual or potential party or to his or her attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, or informal discovery proceedings.

D. To the news media and the public pursuant to 28 CFR 50.2 unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

E. To a Member of Congress, or staff acting upon the Member's behalf, when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

F. To General Services Administration and National Archives and Records Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

G. To an obligor who has posted a bond with the INS for the subject. INS may provide only such information, (e.g. address), as may aid the obligor in locating the subject to insure his or her presence when required by INS.

POLICIES AND PRACTICES FOR STORING RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is stored on magnetic disks and tape.

RETRIEVABILITY:

Records may be retrieved by the name of the individuals covered by the system; and by fee receipt number.

SAFEGUARDS:

Records are safeguarded in accordance with Department of justice rules and procedures. INS offices are located in buildings under security guard, and access to premises is by official identification. Offices are locked during non-duty hours. Access to this system is obtained through remote terminals which require the use of restricted passwords and a user ID.

RETENTION AND DISPOSAL:

Records are archived off-line for an indefinite period one year after the final action. A disposition schedule for archived records is pending.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Service Center Operation, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the system manager.

RECORD ACCESS PROCEDURE:

Make all requests for access in writing to the FOIA/PA Officer at any INS office. Clearly mark the envelope and letter "Privacy Act Request." Depending on the type of record, provide the name and date of birth of the applicant, name of petitioner or FOIA/PA requester, alien registration number of beneficiary and receipt number to assist in locating and/or verifying the identify of the record. For your convenience, INS Form G–639, Freedom of Information Act Privacy Act Request, may be obtained from the nearest INS office and used to submit a request.

CONTESTING RECORDS PROCEDURE:

Direct all requests to contest or amend information to the FOIA/PA Officer at any INS office. State clearly and concisely the information being contested, the reason for contesting it, and the proposed amendment thereof. Clearly mark the envelope "Privacy Act Amendment Request." The record must be identified in the same manner as described for making a request for access.

RECORD SOURCE CATEGORIES:

Information contained in this system of records is obtained from the individuals covered by the system.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 97–29080 Filed 11–3–97; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 143–97]

Privacy Act of 1974; Removal of a System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), the Immigration and Naturalization Service (INS), Department of Justice, is removing Subsystem B., entitled "Alien Enemy Index and Records System," from its Immigration and Naturalization Service Index System, Justice/INS–001." (Justice/INS–001 was most recently published on October 5, 1993 (58 FR 51847).)

Subsystem B. is being removed because these records have been accepted by the National Archives and Records Administration (NARA) for permanent retention pursuant to 5 U.S.C. 552a(1)(3) of the Privacy Act. On July 11, 1996 (61 FR 36573), NARA published notice of these records pursuant to 5 U.S.C. 552a(e)(4)(A) through (G). The former INS records are identified in that notice as System No. 11 and are part of NARA's "Group 85." Any requests for access to these records should now be directed to NARA.

Dated: October 15, 1997.

Stephen R. Colgate,

Assistant Attorney General for Administration.

[FR Doc. 97–29081 Filed 11–3–97; 8:45 am]

BILLING CODE 4410–05–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on August 18, 1997, Guilford Pharmaceuticals, Inc., 6611 Tributary Street, Baltimore, Maryland 21224, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of cocaine (9041) a basic class of controlled substance listed in Schedule II.

The firm plans to manufacture a cocaine derivative which is an intermediate for the production of dopaecan injection. Cocaine derivatives are Schedule II controlled substances in the cocaine basic class.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, *Attention:* DEA Federal Register Representative (CCR), and must be filed no later than January 5, 1997.

Dated: October 22, 1997.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 97–29062 Filed 11–3–97; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 1775–98; AG Order No. 2124–97]

RIN 1115–AE26

Designation of Burundi Under Temporary Protected Status

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: Under section 244 of the Immigration and Nationality Act, as amended, (the Act), the Attorney General is authorized to grant Temporary Protected Status (TPS) in the United States to eligible nationals of designated foreign states (and to eligible aliens who have no nationality and who last habitually resided in a designated state) upon a finding that such states are experiencing ongoing civil strife, environmental disaster, or certain other extraordinary and temporary conditions. This notice designates Burundi for TPS pursuant to section 244(b)(1) of the Act.

EFFECTIVE DATES: This designation is effective on November 4, 1997 and will remain in effect until November 3, 1998.

FOR FURTHER INFORMATION CONTACT: Ronald Chirlin, Adjudications Officer, Immigration and Naturalization Service, 425 I Street, NW., Room 3214, Washington, DC 20536, telephone (202) 514–5014.

SUPPLEMENTARY INFORMATION:

Burundians desiring safe haven in the United States should apply for Temporary Protected Status during the initial registration period being announced now, unless they would be eligible for late initial registration under 8 CFR 244.2(f)(2) (formerly § 240.2(f)(2)) and they choose to wait. This recommendation applies to any Burundian who has already applied for, or plans to apply for, asylum but whose asylum application has not yet been approved.

An application for Temporary Protected Status does not preclude or adversely affect an application for asylum or any other immigration benefit. Burundians who apply for TPS during the initial registration period will remain eligible to re-register if the designation of TPS is extended, even if an application for asylum or another immigration benefit is denied. However, without a TPS application during the initial registration period, only those Burundians who satisfy the requirements for late initial registration under 8 CFR 244.2(f)(2) (formerly § 240.2(f)(2)) would be eligible for TPS registration during any extension of designation.

Burundians who already have employment authorization, including some asylum applicants, and Burundians who have no need for employment authorization, including minor children, may register for TPS by filing an Application for Temporary Protected Status, Form I–821, which requires a filing fee. The Application for Temporary Protected Status, Form I–821, must always be accompanied by an Application for Employment Authorization, Form I–765, which is required for data-gathering purposes. The appropriate filing fee must accompany Form I–765, unless a properly documented fee waiver request is submitted under 8 CFR 244.20 (formerly § 240.20) to the Immigration and Naturalization Service or the applicant does not request employment authorization.

Notice of Designation of Burundi Under Temporary Protected Status Program

By the authority vested in me as Attorney General under section 244 of the Immigration and Nationality Act, as amended (8 U.S.C.A. 1254 (West Supp. 1997)), I find, after consultation with the appropriate agencies of the Government, that:

(1) There exists an ongoing armed conflict in Burundi and a return of aliens who are nationals of Burundi (and aliens having no nationality who last habitually resided in Burundi) would pose a serious threat to their personal safety as a result of the armed conflict in that nation;

There exist extraordinary and temporary conditions in Burundi that prevent aliens who are nationals of Burundi (and aliens having no nationality who last habitually resided in Burundi) from returning to Burundi in safety; and

(3) Permitting nationals of Burundi (and aliens having no nationality who last habitually resided in Burundi) to remain temporarily in the United States is not contrary to the national interest of the United States.

Accordingly, it is ordered as follows:

(1) Burundi is designated under sections 244(b)(1)(A) and (C) of the Act. Nationals of Burundi (and aliens having no nationality who last habitually resided in Burundi) who have been "continuously physically present" and have "continuously resided in the United States" since November 4, 1997 may apply for Temporary Protected Status within the registration period which begins on November 4, 1997 and ends on November 3, 1998.

(2) I estimate that there are no more than 500 nationals of Burundi (and aliens having no nationality who last habitually resided in Burundi) who are currently in nonimmigrant or unlawful status and therefore eligible for Temporary Protected Status.

(3) Except as specifically provided in this notice, applications for TPS by nationals of Burundi (and aliens having no nationality who last habitually resided in Burundi) must be filed pursuant to the provisions of 8 CFR part 244. Aliens who wish to apply for TPS must file an Application for Temporary Protected Status, Form I–821, together with an Application for Employment Authorization, Form I–765, during the registration period, which begins on November 4, 1997 and will remain in effect until November 3, 1998.

(4) A fee of fifty dollars ($50) will be charged for each Application for Temporary Protected Status, Form I–821, filed during the registration period.

(5) The fee prescribed in 8 CFR 103.7(b)(1), which is currently seventy dollars ($70), will be charged for each Application for Employment Authorization, Form I–765, filed by an alien requesting employment authorization. An alien who does not request employment authorization must nevertheless file Form I–765, together with Form I–821, for informational purposes, but in such cases Form I–765 will be without fee.

(6) Pursuant to section 244(b)(3)(A) of the Act, the Attorney General will review, at least 60 days before November 3, 1998, the designation of Burundi under the TPS program to determine whether the conditions for designation continue to exist. Notice of that determination, including the basis for the determination, will be published in the **Federal Register**. If there is an extension of designation, late initial registration for TPS shall only be allowed pursuant to the requirements of 8 CFR 244.2(f)(2).

(7) Information concerning the TPS program for nationals of Burundi (and aliens having no nationality who last habitually resided in Burundi) will be available at local Immigration and Naturalization Service offices upon publication of this notice.

Dated: October 28, 1997.

Janet Reno,

Attorney General.

[FR Doc. 97–29079 Filed 11–3–97; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 1877–97; AG Order No. 2125–97]

RIN 1115–AE28

Designation of Sierra Leone Under Temporary Protected Status

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: Under section 244 of the Immigration and Nationality Act, as amended, (the Act), the Attorney General is authorized to grant Temporary Protected Status (TPS) in the United States to eligible nationals of designated foreign states (or to eligible aliens who have no nationality and who last habitually resided in a designated state) upon a finding that such states are experiencing ongoing civil strife, environmental disaster, or certain other extraordinary and temporary conditions. This notice designates Sierra Leone for TPS pursuant to section 244(b)(1) of the Act.

EFFECTIVE DATES: This designation is effective on November 4, 1997 and will remain in effect until November 3, 1998.

FOR FURTHER INFORMATION CONTACT: Ronald Chirlin, Adjudications Officer, Immigration and Naturalization Service, 425 I Street, NW., Room 3214, Washington, DC 20536, telephone (202) 514–5014.

SUPPLEMENTARY INFORMATION: Sierra Leoneans who wish to remain in the United States under Temporary Protected Status should apply during the initial registration period announced in this notice, unless they would be eligible for late initial registration under 8 CFR 244.2(f)(2) (formerly § 240.2(f)(2)) and they choose to wait. This recommendation applies to any Sierra Leonean who has already applied for, or plans to apply for, asylum but whose asylum application has not yet been approved.

An application for Temporary Protected Status does not preclude or adversely affect an application for asylum or any other immigration benefit. Sierra Leoneans who apply for TPS during the initial registration period will remain eligible to re-register if the designation of TPS is extended, even if an application for asylum or another immigration benefit is denied. However, without a TPS application during the initial registration period, only those Sierra Leoneans who satisfy the requirements for late initial registration under 8 CFR 244.2(f)(2) (formerly § 240.2(f)(2)) would be eligible for TPS registration during any extension of this designation.

Sierra Leoneans who already have employment authorization, including some asylum applicants, and Sierra Leoneans who have no need for employment authorization, including minor children, may register for TPS by filing an Application for Temporary Protected Status, Form I–821, which requires a filing fee. The Application for Temporary Protected Status, Form I–821, must always be accompanied by an Application for Employment Authorization, Form I–765, which is required for data-gathering purposes. The appropriate filing fee must accompany Form I–765, unless a properly documented fee waiver request is submitted under 8 CFR 244.20 (formerly § 240.20) to the Immigration and Naturalization Service or the applicant does not wish to obtain employment authorization.

Notice of Designation of Sierra Leone Under Temporary Protected Status Program

By the authority vested in me as Attorney General under section 244 of the Immigration and Nationality Act, as amended (8 U.S.C.A. 1254 (West Supp. 1997)), I find, after consultation with the appropriate agencies of the Government, that:

(1) There exists an ongoing armed conflict in Sierra Leone and a return of aliens who are nationals of Sierra Leone (and aliens having no nationality who last habitually resided in Sierra Leone) would pose a serious threat to their personal safety as a result of the armed conflict in that nation;

(2) There exist extraordinary and temporary conditions in Sierra Leone that prevent aliens who are nationals of Sierra Leone (and aliens having no nationality who last habitually resided in Sierra Leone) from returning to Sierra Leone in safety; and

(3) Permitting nationals of Sierra Leone (and aliens having no nationality who last habitually resided in Sierra Leone) to remain temporarily in the United States is not contrary to the national interest of the United States.

Accordingly, it is ordered as follows:

(1) Sierra Leone is designated under sections 244(b)(1) (A) and (C) of the Act. Nationals of Sierra Leone (and aliens having no nationality who last habitually resided in Sierra Leone) who have been "continuously physically present" and have "continuously resided in the United States" since November 4, 1997 may apply for Temporary Protected Status within the registration period which begins on November 4, 1997.

(2) I estimate that there are no more than 4,000 nationals of Sierra Leone (and aliens having no nationality who last habitually resided in Sierra Leone) who are currently in nonimmigrant or unlawful status and therefore eligible for Temporary Protected Status.

(3) Applications for TPS by nationals of Sierra Leone (and aliens having no nationality who last habitually resided in Sierra Leone) must be filed pursuant to the provisions of 8 CFR part 244. Aliens who wish to apply for TPS must file an Application for Temporary Protected Status, Form I–821, together with an Application for Employment Authorization, Form I–765, during the registration period, which begins on November 4, 1997 and will remain in effect until November 13, 1998.

(4) A fee of fifty dollars ($50) will be charged for each Application for Temporary Protected Status, Form I–821, filed during the registration period.

(5) The fee prescribed in 8 CFR 103.7(b)(1), which is currently seventy dollars ($70), will be charged for each Application for Employment Authorization, Form I–765, filed by an alien requesting employment authorization. An alien who does not request employment authorization must nevertheless file Form I–765, together with Form I–821, for informational purposes, but in such cases Form I–765 will be without fee.

(6) Pursuant to section 244(b)(3)(A) of the Act, the Attorney General will review, at least 60 days before November 3, 1998, the designation of Sierra Leone under the TPS program to determine whether the conditions for designation continue to exist. Notice of that determination, including the basis for the determination, will be published in the **Federal Register**. If there is an extension of designation, late initial registration for TPS shall only be allowed pursuant to the requirements of 8 CFR 244.2(f)(2).

(7) Information concerning the TPS program for nationals of Sierra Leone (and aliens having no nationality who last habitually resided in Sierra Leone) will be available at local Immigration and Naturalization Service offices upon publication of this notice.

Dated: October 28, 1997.

Janet Reno,

Attorney General.

[FR Doc. 97–29078 Filed 11–3–97; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 1780–97; AG Order No. 2126–97]

RIN 1115–AE26

Designation of Sudan Under Temporary Protected Status

AGENCY: Immigration and Naturalization Service, Justice

ACTION: Notice.

SUMMARY: Under section 244 of the Immigration and Naturalization Service, as amended, (the Act), the Attorney General is authorized to grant Temporary Protected Status (TPS) in the United States to eligible nationals of designated foreign states (or to eligible aliens who have no nationality and who last habitually resided in a designated state) upon a finding that such states are experiencing ongoing civil strife, environmental disaster, or certain other extraordinary and temporary conditions. This notice designates Sudan for TPS pursuant to section 244(b)(1) of the Act.

EFFECTIVE DATES: This designation is effective on November 4, 1997. and will remain in effect until November 3, 1998.

FOR FURTHER INFORMATION CONTACT: Ronald Chirlin, Adjudications Officer, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536, telephone (202) 5t14–5014.

SUPPLEMENTARY INFORMATION: Sudanese desiring safe haven in the United States should apply for Temporary Protected Status during the initial registration period being announced now, unless they would be eligible for late initial registration under 8 CFR 244.2(f)(2) (formerly § 240.2(f)(2)) and they choose to wait. This recommendation applies to any Sudanese who has already applied for, or plans to apply for, asylum but whose asylum application has not yet been approved.

An application for Temporary Protected Status does not preclude or adversely effect an application for asylum or any other immigration benefit. Sudanese who apply for TPS during the initial registration period will remain eligible to re-register if the designation of TPS is extended, even if an application for asylum or another immigration benefit is denied. However, without a TPS application during the initial registration period, only those Sudanese who satisfy the requirements for late initial registration under 8 CFR 244.2(f)(2) (formerly § 240.2(f)(2)) would be eligible for TPS registration during any extension of designation.

Sudanese who already have employment authorization, including some asylum applicants, and Sudanese who have no need for employment authorization, including minor children, may register for TPS by filing a Application for Temporary Protected Status, Form I–821, which requires a filing fee. The Application for Temporary Protected Status, Form I–821, must always be accompanied by an Application for Employment Authorization, Form I–765, which is required for data-gathering purposes. The appropriate filing fee must accompany Form I–765, unless a properly documented fee waiver request is submitted under 8 CFR 244.20 (formerly § 240.20) to the Immigration and Naturalization Service or the applicant does not wish to obtain employment authorization.

Notice of designation of Sudan Under Temporary Protected Status Program

By the authority vested in me as Attorney General under section 244 of the Immigration and Nationality Act, as amended (8 U.S.C.A. 1254 (West Supp. 1997)), I find, after consultation with the appropriate agencies of the Government, that:

(1) There exists an ongoing armed conflict in Sudan and a return of aliens who are nationals of Sudan (and aliens having no nationality who last habitually resided in Sudan) would pose a serious threat to their personal safety as a result of the armed conflict in that nation;

(2) There exist extraordinary and temporary conditions in Sudan that prevent aliens who are nationals of Sudan (and aliens having no nationality who last habitually resided in Sudan) from returning the Sudan in Safety; and

(3) Permitting nationals of Sudan (and aliens having no nationality who last habitually resided in Sudan) to remain temporarily in the United States is not contrary to the national interest of the United States.

Accordingly, it is ordered as follows:

(1) Sudan is designated under sections 244(b)(1) (A) and (C) of the Act. Nationals of Sudan (and aliens having

no nationality who last habitually resided in Sudan) who have been "continuously physically present" and have "continuously resided in the United States" since November 4, 1997 may apply for Temporary Protected Status within the registration period which begins on November 4, 1997 and ends on November 3, 1998.

(2) I estimate that there are no more than 4,000 nationals of Sudan (and aliens having no nationality who last habitually resided in Sudan) who are currently in nonimmigrant or unlawful status and therefore eligible for Temporary Protected Status.

(3) Except as specifically provided in this notice, applications for TPS by nationals of Sudan (and aliens having no nationality who last habitually resided in Sudan) must be filed pursuant to the provisions of 8 CFR part 244. Aliens who wish to apply for TPS must file an Application for Temporary Protected Status, Form I–821, together with an Application for Employment Authorization, Form I–765, during the registration period, which begins on November 4, 1997 and will remain in effect until November 3, 1998.

(4) A fee of fifty dollars ($50) will be charged for each Application for Temporary Protected Status, Form I–821, filed during the registration period.

(5) The fee prescribed in 8 CFR 103.7(b)(1), which is currently seventy dollars ($70), will be charged for each Application for Employment Authorization, Form I–765, filed by an alien requesting employment authorization. An alien who does not request employment authorization must nevertheless file Form I–765, together with Form I–821, for informational purposes, but in such cases Form I–765 will be without fee.

(6) Pursuant to section 244(b)(3)(A) of the Act, the Attorney General will review, at least 60 days before November 3, 1998, the designation of Sudan under the TPS program to determine whether the conditions for designation continue to exist. Notice of that determination, including the basis for the determination, will be published in the **Federal Register**. If there is an extension of designation, late initial registration for TPS shall only be allowed pursuant to the requirements of 8 CFR 244.2(f)(2).

(7) Information concerning the TPS program for nationals of Sudan (and aliens having no nationality who last habitually resided in Sudan) will be available at local Immigration and Naturalization Service offices upon publication of this notice.

Dated: October 28, 1997.

Janet Reno,

Attorney General.

[FR Doc. 97–29077 Filed 11–3–97; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

October 29, 1997.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Theresa M. O'Malley (202) 219–5096 ext. 143) or by E-Mail to OMalley-Theresa@dol.gov. Individuals who use a telecommunications device for the deaf (TTY/TDd) may call (202) 219–4720 between 1:00 p.m. and 4:00 p.m. Eastern time, Monday—Friday.

Comments should be sent to Office of Information and Regulatory Affairs, Attn.: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and budget, room 10235, Washington, DC 20503 (202) 395–7316), on or before December 4, 1997.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment and Training Administration.

Title: Labor Condition Application for H–1B Nonmigrants.

OMB Number: 1205–0310 (extension).

Frequency: Other.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions; State, Local or Tribal Government; Federal Government.

Number of Respondents: 200,000.

Estimated Time Per Respondent: 1 hour 15 minutes.

Total Burden Hours: 200,500.

Total Annualized capital/startup costs: -0-.

Total annual costs (operating/maintaining systems or purchasing services): -0-.

Description: The application form and other requirements in these regulations for employers seeking to use H–1B nonimmigrants in speciality occupations and as fashion models will permit the Department of Labor to meet its statutory responsibilities for program administration, management, and oversight.

Agency: Employment Standards Administration.

Title: OFCCP Recordkeeping/ Reporting: Construction.

OMB Number: 1215–0163 (extension).

Frequency: Quarterly.

Affected Public: Business or other for-profit; Not-for-profit institutions.

Number of Respondents: 100,000.

Estimated Time Per Respondent: 46.70 hours.

Total Burden Hours: 4,842,187.

Total Annualized capital/startup costs: -0-.

Total annual costs (operating/maintaining systems or purchasing services): -0-.

Description: Recordkeeping and reporting by Federal and federally-assisted construction contractors and subcontractors is necessary to substantiate their compliance with nondiscrimination and affirmative action contractual obligations.

Agency: Departmental Management.

Title: Applicant Background Survey.

OMB Number: 1225–0000 (new collection).

Frequency: On occasion.

Affected Public: Individuals or households; Federal Government.

Number of Respondents: 5,000.

Estimated time Per Respondent: 5 minutes.

Total Burden Hours: 417.

Total Annualized capital/startup costs: -0-.

Total annual costs (operating/maintaining systems or purchasing services): -0-.

Description: This voluntary survey will provide information on the applicants' gender, race or ethnicity, disability, and the applicants' source of information on the job vacancy. This data will be used to evaluate the effectiveness of various recruitment methods employed by the Department of Labor and to tailor recruitment to meet equal employment opportunity objectives, by ensuring a diverse pool of applicants.

Theresa M. O'Malley,

Departmental Clearance Officer.

[FR Doc. 97–29164 Filed 11–3–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(a)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments on the survey that has been developed to collect customer satisfaction information from service delivery areas who operate Summer Youth Employment and Training Programs.

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before January 5, 1998.

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: LaSharn Youngblood, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, DC 20210; Telephone (202) 219–7533 ext. 167 (this is not a toll-free number); internet address—youngbloodl@doleta.gov; fax number (202) 219–7190.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Job Training Partnership Act Program, title IIB, the Department of Labor has established the Summer Youth Employment and Training Program to: (1) Enhance the basic education skills of youth; (2) encourage school completion or enrollment in supplementary or alternative school programs; provide eligible youth with exposure to the world of work; and (3) enhance the citizenship skills of youth. The Department of Labor is responsible for overseeing these programs. As a part of the Department's oversight responsibilities, ETA will conduct a uniform survey of a representative sample of service delivery areas (ADA's) to determine how the Department can effectively measure customer satisfaction. The result of this survey will be used to assist in the development of a comprehensive system for assessing customer satisfaction with the summer program.

II. Current Actions

ETA has revised its monitoring instrument to collect more information on customer satisfaction. This data will be used to determine satisfaction experiences of program participants, work site supervisors/employers and educational instructors. The information obtained will permit the Department to fulfill requests from the U.S. Congress, the Administration, the media and the public.

Type of Review: New.

Agency: Employment and Training Administration, U.S. Department of Labor.

Title: Summer Youth Employment and Training Program.

OMB Number: 1205–XXXX.

Recordkeeping: 0.

Affected Public: SDA's.

Cite/Reference/Form/etc.: Monitoring.

Total Respondents: 64.

Frequency: one time.

Total Responses: 64.

Average Time per Response: 45 minutes per response.

Estimated Total Burden Hours: 29.

Total Burden Cost (operating/maintaining): $580.00.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management And Budget approval of the information collection request; they will also become a matter of public record.

Dated: October 28, 1997.

Charles L. Atkinson,

Deputy Administrator, Office of Job Training Programs.

[FR Doc. 97–29182 Filed 11–3–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning the information collection: Request from Claimant for Information on Earnings, Dual Benefits, Dependents, and Third Party Settlements, Form CA–1032. Copies of the proposed information collection requests can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the

ADDRESSES section below on or before January 5, 1998. The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of response.

ADDRESSES: Contact Ms. Margaret Sherrill at the U. S. Department of Labor, 200 Constitution Avenue, N.W., Room S–3201, Washington, D.C. 20210, telephone (202) 219–7601. The Fax number is (202) 219–6592. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Employees' Compensation Act (FECA) provides for the collection of information from claimants, receiving continuing compensation on the periodic disability rolls. The FECA states the following: Compensation must be adjusted to reflect a claimant's earning while in receipt of benefits (5 U.S.C. 8106); Compensation is payable at the augmented rate of 75 percent only if the claimant has one or more dependents (5 U.S.C. 8110); Compensation may not be paid concurrently with certain benefits from other Federal agencies, e.g., Social Security (5 U.S.C. 8116); and, Compensation must be adjusted to reflect any settlement from a third party responsible for the injury for which the claimant is being paid compensation (5 U.S.C. 8132). Completion of Form CA–1032 is requested annually and is used to ensure that compensation being paid on the periodic roll is correct.

II. Current Actions

The Department of labor (DOL) seeks extension of approval to collect this information in order to carry out its responsibility to meet the statutory requirements of FECA to obtain information for determining claimants' entitlement to ongoing compensation. The information on Form CA–1032 enables the Director, Office of Worker's Compensation Programs to ensure that the correct compensation is being paid to claimants on the periodic roll.

Type of Review: Extension.

Agency: Employment Standards Administration.

Title: Request from Claimant for Information on Earnings, Dual Benefits, Dependents, and Third Party Settlements.

OMB Number: 1215–0151.

Agency Numbers: CA–1032.

Affected Public: Individuals or households.

Total Respondents: 50,000.

Frequency: Annually.

Total Responses: 50,000.

Average Time Per Response for Reporting: 20 minutes.

Estimated Total Burden Hours: 16,667.

Total Burden Cost (capital/startup): 0.

Total Burden Cost (Operating/maintenance): 95,163.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: October 28, 1997.

Cecily A. Rayburn,

Director, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. 97–29163 Filed 11–3–97; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D–10471, et al.]

Proposed Exemptions; First Bank System Personal Retirement Account (the Plan)

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

Unless otherwise stated in the Notice of Proposed Exemption, all interested persons are invited to submit written comments, and with respect to exemptions involving the fiduciary prohibitions of section 406(b) of the Act, requests for hearing within 45 days from the date of publication of this **Federal Register** notice. Comments and requests for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

First Bank System, Personal Retirement Account (the Plan), Located in Minneapolis, Minnesota

[Application No. D–10471]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 C.F.R. part 2570, subpart B (55 F.R. 32836, 32847, August 10, 1990). If the exemption is granted the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to (1) the proposed contribution to the Plan by U.S. Bancorp (the Employer), formerly First Bank System, Inc., the sponsor of the Plan, of the Employer's interests in two limited partnership funds (the Interests) organized and managed by Kohlberg Kravis Roberts & Co. (KKR); and (2) the grant by the Employer to the Plan of an option (the Put) under which the Plan is empowered at any time to require the Employer to repurchase the Interests from the Plan at any time; provided that the following conditions are satisfied:

(a) The Interests are valued at their fair market value as of the date of contribution by a qualified, independent appraiser;

(b) The sum of the fair market value of the Interests plus the fair market value of any other KKR-related investments held by the Plan does not exceed ten percent of the fair market value of the Plan's total assets at the time of the contribution of the Interests to the Plan;

(c) The Plan is represented for all purposes with respect to the Interests by a qualified independent fiduciary (the Fiduciary), as described below, for the duration of the Plan's holding of any of the Interests;

(d) The Fiduciary takes whatever action is necessary, as determined by the Fiduciary in its sole discretion, to enforce the conditions of this exemption and to protect the Plan's investment in the Interests, including, but not limited to the exercise of the Put;

(e) The Fiduciary retains the right under the Put to require the Employer, at any time, to purchase some or all of the Interests from the Plan for the greater of (1) the Interests' fair market value as of the contribution date, or (2) the fair market value of the Interests as of the date of such sale pursuant to the Put; and

(f) For the duration of the Plan's investment in the Interests, the Employer's obligations under the Put are secured by the Collateral (as described below) in escrow representing no less than one third of the fair market value of the Interests at the time of their contribution to the Plan, and the Fiduciary requires additional Collateral to be deposited in the escrow whenever the value of the Interests increases.

Summary of Facts and Representations

1. The Plan is a defined benefit pension plan with approximately 21,000 participants and assets of approximately $382,392,832 as of June 30, 1997. The Plan is sponsored by the Employer, which was known as First Bank System, Inc. until August 1, 1997. The Employer is a Delaware public corporation functioning as a bank holding company with banks, brokerage, insurance, and credit card operations conducted through subsidiaries in 14 states. Numerous corporate subsidiaries of the Employer are also sponsors of the Plan. The trustee of the Plan is the First Trust National Association (the Trustee), a wholly-owned subsidiary of the Employer. Under the Plan document, the Employer has the authority, directly or through a committee of appointed officers of the Employer, to determine investment policy of the Plan and to appoint investment managers. The investment manager of the assets of the Plan is First Asset Management, a division of a wholly-owned subsidiary of the Employer.

2. The Employer currently has investments in two investment funds (the KKR Funds) sponsored and managed by KKR designated as the Kohlberg Kravis Roberts and Co. 1986 Fund and the Kohlberg Kravis Roberts and Co. 1987 Fund. KKR, established in 1976, serves as manager and general partner, as well as management and planning services provider, for investment enterprises and limited partnerships, including the KKR Funds which are the subject of this proposed exemption. Each of the KKR Funds invests in, and consists solely of, holdings in five businesses which are publicly-traded and three business which are privately held. The Employer represents that its investments in the Interests were acquired by the Employer over time for general investment purposes. The Interests are not publicly traded. The Employer represents that the Interests have increased in value substantially since acquisition by the Employer, and the Employer represents that continued increases in value are expected. The Employer represents that investors in the KKR Funds include individuals, institutions and employee benefit plans. Because the Interests have proven to be favorable investments with likely future increases in value and continued favorable performance, the Employer desires to contribute the Interests to the Plan. Accordingly, the Employer proposes to contribute the Interests to the Plan and is requesting an exemption to permit such contribution transaction under the terms and conditions described herein.

3. The Employer proposes to contribute the Interests to the Plan at their fair market value as of the date of the contribution transaction and to grant the Plan the Put, an option empowering the Plan to require the Employer to purchase the Interests back from the Plan in the event such repurchase is directed by the independent fiduciary, discussed below, which represents the Plan's interests with respect to the Interests. The fair market value of the Interests upon their contribution to the Plan will be determined by Piper Jaffray Inc. (the Appraiser), an independent investment banking services provider located in Minneapolis, Minnesota engaged in, among other activities, the valuation of securities. The Appraiser represents that as of September 3, 1997, the Interests had a fair market value of $25.5 million. The Employer represents that the Plan does not yet own any interests in either of the KKR Funds, although the Plan does own interests in two other entities of which KKR is either the general partner or an investment advisor.[1] The Employer represents that the total fair market value of the Plan's interests in these other KKR-related enterprises was $6.2 million as of the most recent valuation of Plan assets on June 30, 1997.

4. The Put, which has already been executed by the Employer, enables the Plan, represented by the Fiduciary (discussed below), to sell the Interests back to the Employer at any time. The Put requires the Employer, upon notification by the Fiduciary, to purchase all or any portion of the Interests from the Plan as directed by the Fiduciary for a purchase price to be

[1] The Employer represents that the other KKR-related investments held by the Plan consist of interests in a limited partnership designated as Union Texas-UTH and another limited partnership designated as Auto Zone Pittco Assoc. Ltd.

the greater of (a) the fair market value of such portion of the Interests as of the date of its initial contribution to the Plan, as determined by the Appraiser, or (b) the fair market value of such portion of the Interests as of the date of the exercise of the Put as determined by the mutual agreement of the Fiduciary and the Employer or, if the Fiduciary and Employer are unable to agree, as determined by an appraiser selected by the Fiduciary. Under the terms of the Put, the Employer grants the Plan a first security interest in collateral in escrow which secures the Employer's obligations under the Put. The Collateral consists of debt obligations of the United States having an initial fair market value of not less than one third of the fair market value of the Interests upon their contribution to the Plan. The Put requires the escrow agent to execute such other instruments and perform such acts as the Fiduciary may reasonably request to establish and maintain the Plan's security interest in the Collateral.

5. The interests of the Plan and its participants and beneficiaries with respect to the proposed contribution transaction, including the Put, are represented by the Fiduciary, which is the First State Bank of Bayport. The Fiduciary is a Minnesota state-chartered bank which represents itself to be independent of and unrelated to the Employer. The Fiduciary will oversee and monitor the Plan's investment in the Interests and the Plan's rights under the Put for the duration of the Plan's investment in the Interests. The Fiduciary will require an appraisal of the Interests for their fair market value by the Appraiser upon their contribution to the Plan, and will continue to require annual valuations of the Interests as long as the Plan remains invested in the Interests or any portion thereof. The Fiduciary will ensure that the Collateral required to secure the Employer's obligations under the Put is deposited in escrow in the appropriate amount, and the Fiduciary will require additional collateral to be deposited in the escrow from time to time if the value of the Interests increases. The Fiduciary represents that it has reviewed and evaluated the proposed contribution of the Interests to the Plan, including the terms of the Put, and has determined that the Plan's acquisition of the Interests by the Employer's contribution would be prudent and would add diversification to the Plan's assets. The Fiduciary states that due to the Put, the Plan will have little or no investment risk with respect to the Interests while the Interests offer the potential for considerable gain. The Fiduciary states that the contribution of the Interests to the Plan will comply with the Plan's investment objectives and policies and would not adversely affect the Plan's liquidity needs with respect to current and projected benefit obligations. The Fiduciary concludes that the contribution of the Interests to the Plan will be in the best interests and protective of the participants and beneficiaries of the Plan. The Fiduciary states that its duties with respect to the Plan's investment in the Interests include ongoing monitoring of the investment performance of the KKR Funds in comparison to performance of other investment alternatives to determine if continued investment in the Interests by the Plan is warranted, and to ensure that the investment objectives and strategies of the KKR Funds remain consistent with the needs of the Plan. The Fiduciary also states that it will continue to review the Plan's liquidity needs to determine they are consistent with continued investment in the Interests. The Fiduciary represents that if, at any time, it determines that the Interests constitute an inappropriate investment for the Plan, it will exercise the Put in order to protect the Plan's participants and beneficiaries from adverse effects.

5. In summary, the applicant represents that the proposed transactions satisfy the criteria of section 408(a) of the Act for the following reasons:

(a) The Plan's investment in the Interests will be protected by the Put, which will require the Employer to purchase the Interests from the Plan at any time for a price of no less than the greater of the fair market value of the Interests upon exercise of the Put or the fair market value of the Interests at the time of their contribution to the Plan;

(b) The Employer's obligations under the Put will be secured by the Collateral, consisting of debt obligations of the United States having an initial fair market value of not less than one third of the fair market value of the Interests upon their contribution to the Plan;

(c) The interests of the Plan with respect to the contribution of the Interests and under the terms of the Put will be represented by an independent fiduciary who will require annual valuations of the Interests and additional deposits of Collateral by the Employer whenever the value of the Interests increases; and

(d) After an evaluation of the proposed transactions, the Fiduciary has determined that the Plan's investment in the Interests, protected by the Put, will be in the best interests and protective of the participants and beneficiaries of the Plan.

FOR FURTHER INFORMATION CONTACT: Ron Willett of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Profit Sharing Keogh Plan of Richard D. Wickerham, Esq. (the Plan) Located in Schenectady, New York

[Application No. D–10505]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to: (1) Two proposed loans (the Loans) totaling $50,000 by the Plan to Mr. Richard D. Wickerham (Mr. Wickerham), a disqualified person with respect to the Plan, and (2) the personal guarantee of the Loans by Mr. Wickerham, provided the following conditions are satisfied: (a) The terms of the Loans are at least as favorable to the Plan as those obtainable in arm's-length transactions with an unrelated party; (b) the Loans do not exceed 25% of the assets of the Plan; (c) the first Loan (Loan 1) is secured by a second mortgage on certain real property (the Property) which has been appraised by a qualified independent appraiser to have a fair market value not less than 150% of the amount of Loan 1 plus the balance of the first mortgage which it secures; (d) the second Loan (Loan 2) is secured by certain personal property (the Personalty) which has a fair market value, as determined by a qualified independent appraiser, of not less than 200% of Loan 2; (e) the fair market value of the collateral remains at least equal to the percentages described in conditions (c) and (d), above, throughout the duration of the Loans; and (f) Mr. Wickerham is the only Plan participant to be affected by the Loan transactions.[2]

Summary of Facts and Representations

1. Richard D. Wickerham, Attorney and Counsellor at Law (the Firm), is a law firm located in Schenectady, New York. The Plan is a defined contribution plan with one participant, Mr. Wickerham, who is also the Plan's trustee. Mr. Wickerham is also the sole owner of the Firm. As of July 31, 1997, the fair market value of the assets in the Plan was approximately $343,088.

2. Mr. Wickerham wishes to borrow $50,000 from the Plan, which represents approximately 15% of the current fair market value of the Plan. The money will be loaned to Mr. Wickerham in two separate Loans. The Loans will each be amortized over a 5 year period, with equal monthly payments of principal and interest over the 5 year term. The interest rate for each Loan will be 9.5% per annum. The total monthly payments for the Loans will be $1,050.10 per month. Mr. Anthony J. Lanzillo, Vice President of KeyBank (the Bank) of Clifton Park, New York, has represented in a letter dated October 1, 1997 that the Bank would lend money to Mr. Wickerham at the same terms as those of the Loans.

3. Loan 1 will be secured by the Property, which consists of Mr. and Mrs. Wickerham's residence, which is located at 6 Delaware Bay Drive, Villas, Cape May County, New Jersey. The Property has been appraised by Ms. Dolores K. Lanzalotti of Jersey Cape Realty, Inc., an independent real estate broker in Cape May, New Jersey, to have a fair market value of $140,000 as of August 9, 1997. The Property has a first mortgage in the amount of $75,986. Loan 1 would be secured by a second mortgage on the Property in the amount of $17,000. Thus, the appraised fair market value of the Property would represent not less than 150% of the total outstanding principal amount of debt secured by the Property. The applicant represents that the mortgage to the Plan will be duly recorded in the Office of the County Clerk, Cape May County, New Jersey.

4. Loan 2, which will be in the principal amount of $33,000, will be secured by the Personalty. The Personalty consists of eighteenth century antique period furniture and artifacts which are owned by Mr. and Mrs. Wickerham. The Personalty has been appraised by Ms. Ona Curran, AAA, Certified Appraiser of Personal Property, an independent appraiser in Esperance, New York, as having a fair market value of $69,190 as of August 1, 1997. This amount represents approximately 210% of the principal amount of Loan 2. The applicant represents that the Plan's security interest in the Personalty will be duly recorded in the appropriate County Clerk office.

5. Mr. Wickerham represents that in addition to the collateral described above, he will also be giving his personal guarantee for each of the Loans. Mr. Wickerham further states that should the collateral-to-loan ratio described above for either Loan fall below the described percentages, he will add additional collateral such that the 150% ratio will be maintained for Loan 1 and the 200% ratio will be maintained for Loan 2 throughout the five year period of the Loans.

6. In summary, the applicant represents that the proposed transactions satisfy the criteria contained in section 4975(c)(2) of the Code for the following reasons: (a) The Loans represent approximately 15% of the assets of the Plan; (b) the terms of the Loans will be at least as favorable to the Plan as those obtainable in arm's-length transactions with an unrelated party, as demonstrated by the letter from the Bank; (c) Loan 1 will be secured by a second mortgage on the Property, which has been determined by a qualified, independent appraiser to have a fair market value of not less than 150% of the total principal amount of the loans that it will secure; (d) Loan 2 will be secured by the Personalty, which consists of eighteenth century antique period furniture and artifacts with a current fair market value of approximately 210% of Loan 2, as determined by a qualified, independent appraiser; and (e) Mr. Wickerham is the only participant in the Plan to be affected by the transactions, and he desires that the transactions be consummated.

Notice to Interested Persons

Since Mr. Wickerham is the only Plan participant to be affected by the proposed transactions, the Department has determined that there is no need to distribute the notice of proposed exemption to interested persons. Comments and requests for a hearing are due within 30 days from the date of publication of this notice of proposed exemption in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, DC, this 30th day of October, 1997.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

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BILLING CODE 4510–29–P

[2] Since Mr. Wickerham is the sole owner of the Plan sponsor and the only participant in the Plan, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3–3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 97–60; Exemption Application No. D–10319]

Grant of Individual Exemptions; TCW Group, Inc., Trust Company of the West, TCW Funds Management, Inc., TCW Galileo Funds, (Collectively; TCW)

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

TCW Group, Inc., Trust Company of the West, TCW Funds Management, Inc., TCW Galileo Funds, Inc. (Collectively; TCW), Located in Los Angeles, California

[Prohibited Transaction Exemption 97–60; Exemption Application No. D–10319]

Exemption

Section I. Covered Transactions

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to the acquisition or redemption of units (the Units) in the TCW Life Cycle Trusts (the Trusts, as defined in Section III) by individual account plans described in section 3(34) of the Act (the Plans), including Plans sponsored by TCW, in connection with such Plans' participation in the TCW Portfolio Solutions Program (the Program), and the acquisition or redemption of shares (the Shares) in the TCW Galileo Funds (the Funds, as defined in Section III) by the Trusts.

In addition, the restrictions of section 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(E) and (F) of the Code, shall not apply to the receipt of fees by TCW as a result of the provision of advice in connection with the investment by the Plans in the Trusts, a Money Market Fund, a Guaranteed Investment Contract (GIC) or similar investment vehicle, under the Program.

This exemption is subject to the following conditions set forth below in Section II.

Section II. General Conditions

A. The terms of each purchase or redemption of the Units in the Trusts are at least as favorable to an investing Plan as those obtainable in an arm's length transaction with an unrelated party.

B. The participation of a Plan in the Program will be expressly authorized in writing by a fiduciary of the Plan who is independent of TCW.[1] With respect to the Plans sponsored by TCW, this condition will be deemed satisfied for purposes of the purchase or redemption of Units in the Trusts, if the purchase and redemption of Shares in the Funds by the Trusts meets the conditions of Prohibited Transaction Exemption (PTE) 77–3 (42 FR 18743, April 8, 1977).

C. Participation in the Program will be limited to Plans which have a minimum of $5,000,000 in plan assets as of the end of the most recent plan year.

D. No Plan will pay a fee or commission by reason of the acquisition or redemption of Units in the Trusts or Shares in the Funds.

E. The price paid or received by the Plans for the Units in the Trusts is the "net asset value" per Unit, at the time of the transaction. The Trusts will buy and sell shares in the Funds on the same basis as other shareholders.

F. The total fees paid to TCW and its affiliates by each Plan for the provision of services in connection with its investment in the Units of the Trusts under the Program does not exceed "reasonable compensation" within the meaning of section 408(b)(2) of the Act. In this regard, the total amount paid by a Trust to TCW or unaffiliated third persons for services necessary to operate the Trusts, and for TCW to provide what may be considered investment advice, will not exceed 1% per annum of the average daily "net asset value" of the shares of the Funds and cash held by such Trust.

G. TCW will not receive any fees from the Plans whose participants (the Participants) receive recommendations concerning investment in a Trust, nor from the Trusts in which the Plans invest. Notwithstanding the foregoing, TCW will not be precluded from receiving: (i) fees from the Funds which are paid by other investors in the Funds, and which are permissible under the Investment Company Act of 1940, as amended (the 1940 Act); (ii) reimbursement for "direct expenses" within the meaning of 29 CFR 2550.408c–2 in connection with the operation of the Program; or (iii) reimbursement for direct expenses which TCW pays to unaffiliated third persons for goods and services provided to the Trusts and/or Plans under the Program.

H. Any investment advice given to the Participants by TCW under the Program will be based on the responses provided by the Participants to worksheet questions which are developed and designed by an independent financial expert (the Financial Expert, as defined in Section III (F)) and the independent behavioral expert (the Behavioral Expert as defined in Section III (G), collectively; the Experts).

[1] In the case of a Plan sponsored by TCW, such fiduciary need not be independent of TCW.

I. Any investment advice given to the Participant will be implemented only at the express direction of the Participant.

J. Under the Program, TCW will give investment advice to the Participants that is limited to the Trusts, a Money Market Fund, a GIC or a similar investment vehicle that may or may not be affiliated with TCW.[2]

K. The compensation of neither Expert is affected by the decisions made by the participants and beneficiaries regarding investment of the assets of their accounts among the Trusts.

L. To the extent any assistance is provided by TCW, or unaffiliated third persons, to the Participants in completing the worksheets and questions designed by the Experts, such assistance is provided by individuals whose compensation is not affected by the investment by the participants and beneficiaries of the assets of their accounts among the Trusts.

M. With respect to its participation in the Program, an independent Plan fiduciary must receive, prior to the Plan's investment in any of the Trusts, complete and detailed written information regarding the Trusts and the Funds which will include, but may not be limited to:

(1) A description of the Program;

(2) The allocation of the Funds in each Trust specified by the Financial Expert, and the basis upon which the Funds in each Trust will be rebalanced so that the Funds' proportionate value in each Trust equals that specified by the Financial Expert;

(3) Upon request by the Plan fiduciary, the current basis upon which the asset allocation of the Trusts was derived;

(4) Full disclosure of all the expenses charged to the Trusts, and how such expenses are allocated;

(5) Full disclosure of all the fees charged by the Funds, which may be accomplished by providing the current prospectus for each of the Funds comprising a Trust; and

(6) A copy of the proposed exemption and the final exemption, as published in the **Federal Register**.

N. (1) Prior to investing in a Trust, each Participant will receive full disclosures which will include, but may not be limited to:

(a) Disclosure regarding composition of the Trusts, and a description of the underlying Funds;

(b) Upon request, a Participant will also receive a copy of the Funds' prospectus[3]; and

(c) The Participant can meet with a facilitator familiar with the Program, or contact such a facilitator using a toll-free number.

(2) Subsequent to his participation in the Program, each Participant will receive the following disclosures which will include, but may not be limited to:

(a) Written confirmations of purchase and redemption transactions for each Participant within 10 days of each such transaction;

(b) Telephone access to the quotations of the Participant's account balance; and

(c) A periodic newsletter describing the Trusts' performance during the preceding period, market conditions and economic outlook and, if applicable, prospective changes in the asset allocation model and the reasons for the change.

O. Each Plan fiduciary will receive the following written disclosures with respect to its ongoing participation in the Program which will include, but may not be limited to:

(1) A quantitative annual report which will include—

(a) Performance Summary for each Fund;

(b) Schedule of Investments for each Fund;

(c) Statements of Assets and Liabilities for each Fund;

(d) Statements of Operations for each Fund;

(e) Statements of Changes in Net Assets for each Fund;

(f) Notes to Financial Statements, which include but are not limited to, primary investment objective of each Fund;

(g) The performance and rate of return achieved for each Trust and the Funds in which the Trust is invested; and

(h) A breakdown of all expenses and fees at the Fund and Trust levels.

P. (1) Except as provided in Section II (P)(2) below, the independent Plan fiduciary will receive, at least 30 days advance notice of any material change in the information described in Section II (M)(2) or (3) regarding the composition of the Trusts or the basis on which the Trusts' assets are rebalanced, and will receive at least 30 days advance notice of any material increase in expenses at the Trust level described in Section II (M)(4);

(2) The Financial Expert will have the sole responsibility for determining the materiality of any changes in the information in Section II (M)(2) or (3). TCW will determine the materiality of any changes described in Section II (M)(4) regarding the expenses charged to the Trusts. For any changes in the information in Section II (M)(2) or (3) which are not material, the independent Plan fiduciaries will be notified within 10 days of such change. For any changes in the information in Section II (M)(4) which are not material the independent Plan fiduciary will be notified at least quarterly. Independent Plan fiduciaries will be afforded, at all times, a reasonable opportunity to terminate their Plans' participation in the Program as described in Section II (Q)(2) below; and

(3) Under extraordinary circumstances outside the control of TCW, the independent Plan fiduciary may not be provided advance notice by TCW of material changes in the information listed in Section II (M)(2) or (3) regarding the composition of the Trusts or the basis on which the Trusts' assets are rebalanced. Under such circumstances, the Plan fiduciaries will be notified within 10 days of any such change. The Financial Expert will determine whether the circumstance is extraordinary and if the change in the composition of the Trusts or in the basis for rebalancing is material.

Q. (1) The Units in the Trusts will be redeemed by TCW, at no charge. Redemption requests received in proper form prior to the close of trading on the New York Stock Exchange (NYSE) will be effected at the net asset value per Unit determined on that day. Redemption requests received after the close of regular trading on the NYSE will be effected at the net asset value at the close of business of the next business day; and

(2) The Plans can redeem their Units in the Trusts on five business days (or less) notice.

R. The Trusts permit participants and beneficiaries to purchase or redeem an interest in the Trust on any day that the shares of the Funds contained within the Trust can be purchased or redeemed. This paragraph (R) does not preclude any Plan from restricting such purchases and redemptions to a less frequent basis.

S. All transactions involving securities owned by the Funds will be executed through brokers in which TCW has no interest and who are unrelated to TCW. TCW will not receive any consideration from such brokers in connection with their selection, or for effecting or executing such transactions

[2] TCW will not receive any fees or other compensation with respect to recommendations regarding investments in an unrelated Money Market Fund, GIC or similar investment vehicle.

[3] TCW anticipates that most Plans which participate in the Program will comply with section 404(c) of the Act. Section 404(c) of the Act requires, in part, that specific disclosures be provided by the Plans to the participants and beneficiaries. See 29 C.F.R. 2550.404c–1(b)(2)(i)(A) and (b)(2)(i)(B)(2)(iv) and (v).

other than research which will benefit the shareholders of the Funds, including the Trusts. TCW brokerage practices will reasonably comply with the requirements of section 28(e) of the Securities Exchange Act of 1934.

T. (1) The independent fiduciaries of Plans participating in the Program will receive full written disclosure, in a statement separate from a Fund prospectus, of any proposed increases in the rates of advisory or other fees charged by TCW to the Funds for services (or of any material increase in expenses charged by TCW to the Funds or fees charged by TCW for internal accounting services for the Funds) at least 30 days prior to the effective date of such increase, accompanied by a termination form (the Termination Form, as described in (2) below) and shall receive full written disclosure in a Fund prospectus, or otherwise, of any such increases in the rate of fees charged by TCW to the Funds; and

(2) The Termination Form shall provide an election to terminate participation in the Program and shall contain instructions on the use of the form that includes the following information: (a) the authorization to participate in the Program is terminable at will by the Plan, without penalty to the Plan, upon receipt by TCW of written notice from the Plan; and (b) failure to return the Termination Form will result in the continued authorization of the Plan's participation in the Program, including investment in the Trusts.

U. TCW maintains, for a period of six years, the records necessary to enable the persons described in paragraph (V) of this Section II to determine whether the conditions of this exemption have been met, including a record of each recommendation made to the participants and beneficiaries, and their subsequent investment choices, except that—

(1) A prohibited transaction will not be considered to have occurred if, due to the circumstances beyond the control of TCW and/or its affiliates, the records are lost or destroyed prior to the end of the six-year period; and

(2) no party in interest, other than TCW, shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code if the records are not maintained or not available for examination as required by paragraph (V)(1) of this Section II below.

V. (1) Except as provided in subparagraph (2) of this paragraph (V) and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (U) of this Section II are unconditionally available at their customary location for examination during normal business hours by—

(a) Any duly authorized employee or representative of the Department, the Internal Revenue Service, or the Securities and Exchange Commission,

(b) Any fiduciary of a participating Plan or any duly authorized representative of such fiduciary,

(c) Any contributing employer to any participating Plan, or any duly authorized employee or representative of such employer, and

(d) Any participant or beneficiary of any participating Plan, or any duly authorized representative of such participant or beneficiary.

(2) None of the persons described in paragraphs (1)(b)–(d) of this paragraph (V) shall be authorized to examine trade secrets of TCW, or commercial or financial information which is privileged or confidential.

Section III. Definitions

A. The term "Trust" or "Trusts" means a commingled trust or trusts which satisfy the requirements of IRS Revenue Ruling 81–100, 1981–1 C.B. 326 which invest exclusively in one or more of the portfolios of TCW Galileo Funds, Inc., cash or cash equivalents.

B. The term "Fund" or "Funds" means one or more of the portfolios of TCW Galileo Funds, Inc., an open-end investment company registered under the 1940 Act.

C. The term "TCW" means the TCW Group, Inc., and any affiliates thereof as defined below in paragraph (D) of this Section III.

D. The term "affiliate" of a person includes:

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person;

(2) Any officer, director, employee, relative, or partner in any such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

E. The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

F. The term "Financial Expert" means Professor Jeffrey F. Jaffe, Ph.D., or a successor Financial Expert. Less than 5 percent (5%) of Professor Jaffe's gross income, for federal income tax purposes, in his prior tax year, will be paid by TCW in the immediately subsequent tax year. If the Financial Expert has any income which is not included in the gross income (e.g., interest income which is exempt from federal income taxes), such income may be added to his gross income for his purpose. In the event TCW determines to replace Professor Jaffee or any of his successors, TCW will send a letter to the Department 60 days prior to such replacement. The letter will specify that the successor Financial Expert has responsibilities, experience and independence similar to those of Professor Jaffee. If the Department does not object to the successor, the new appointment will become effective on the 60th day after the Department receives such letter.

G. The term "Behavioral Expert" means Professor Shlomo Benartzi, or a successor Behavioral Expert. In the event TCW determines to replace Professor Benartzi or any of his successors, TCW will send a letter to the Department 60 days prior to such replacement. The letter will specify that the successor has responsibilities, experience and independence similar to that of Professor Benartzi. If the Department does not object to the successor, the new appointment will become effective on the 60th day after the Department receives such letter.

H. The term "net asset value" of a Trust is defined to mean the fair market value of shares in the Funds and cash and cash equivalents, minus the accrued expenses of a Trust.

EFFECTIVE DATE: This exemption is effective as of August 1, 1997, the date the notice of proposed exemption was published in the **Federal Register**.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption (the Notice) published on August 1, 1997 at 62 FR 41433.

Written Comments

The Department received two written comments with respect to the Notice and no requests for a public hearing. The first comment was filed by TCW and generally requests clarifications and modifications to the Notice. Set forth below in paragraph 1 are the relevant points of the TCW comment.

The second comment was filed by a representative of the 401(k) Association. This comment generally raises issues about certain aspects of the Notice, and was subsequently sent by the Department to TCW for their response. Set forth below in paragraph 2 is a list of the issues raised by the commenter (the Commenter) together with the responses to those points by TCW.

1. Discussion of TCW's Comment

Section I of the Notice exempts, in relevant part, the provision of advice, and the receipt of fees as a result thereof, in connection with the investment by the Plans in the Trusts under the Program.

TCW states that the Notice makes clear in Condition J of Section II of the General Conditions and in the Summary of Facts and Representations (Summary) that, in addition to the Trusts, the Program will also make available non-Trust investment vehicles, *i.e.*, "a Money Market Fund, a Guaranteed Investment Contract (GIC) or a similar investment vehicle that may or may not be affiliated with TCW." While it is anticipated that the Program will normally produce a recommendation for a single Trust, there could be instances in which a non-Trust investment vehicle is recommended. TCW suggests that the last part of the second paragraph of Section I of the Notice be modified to take into account the potential investment by the Plans in the Trusts, a Money Market Fund, a Guaranteed Investment Contract (GIC) or a similar investment vehicle under the Program.

In addition, the Department has determined to modify the above-referenced language in Section I in order to clarify that relief from the prohibited transaction restrictions of section 406(b) of the Act is provided only for the receipt of fees by TCW as a result of the provision of advice by TCW to participants of plans who participate in the Program. Nothing contained in this exemption provides relief from the general standards of fiduciary conduct described in section 404 of the Act for the investment advice provided to participants. Thus, TCW remains fully responsible under the Act for its fiduciary actions. We also note that the plan fiduciary (usually the employer/sponsor) is responsible under the Act for the decision to retain TCW, as well as for periodically monitoring TCW's performance.

Therefore, the Department has modified the above language of Section I of the final exemption to read as follows:

"In addition, the restrictions of section 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(E) and (F) of the Code, shall not apply to the receipt of fees by TCW as a result of the provision of advice in connection with the investment by the Plans in the Trusts, a Money Market Fund, a Guaranteed Investment Contract (GIC) or similar investment vehicle, under the Program."

TCW also suggests that a new sentence should be added at the end of section 13 (Section) of the Summary. The new sentence should read:

"References to Trust or Trusts in this paragraph also encompass the other investment options available under the Program." The Department concurs with this comment.

2. TCW suggests that Condition C of Section II and Section 16(f) of the Summary be modified to provide that the amount of plan assets referred to in those provisions be measured, "* * * as of the end of the most recent plan year."

The Department concurs with this comment and has modified Condition C of Section II of the final exemption.

3. TCW requests clarification regarding Condition L of Section II. Although Condition L of Section II is intended to preclude individuals who provide assistance to Participants from receiving compensation which is affected by the specific investments made by such Participants among the Trusts, such individuals may receive enhanced compensation based on the amount invested in the entire Program by all Participants, or by the Participants which they or their teams assist.

4. TCW notes that Condition Q (1) of Section II should indicate more clearly when the net asset value is measured for the purpose of effecting redemption requests received after the close of regular trading on the NYSE when NYSE is closed the next day. TCW suggests that the last phrase in the third sentence in Condition Q(1) "* * * except on weekends or holidays when the NYSE is closed" be deleted and that the word "business" be inserted between the words "next" and "day" such that the phrase reads, in relevant part, "* * * the close of business of the next business day."

The Department concurs with this comment and has modified Condition Q (1) of Section II of the final exemption.

5. TCW also suggests that in the definition of "net asset value" contained in Paragraph H of Section III, the words "and cash equivalents" should be added in the third line after the word "cash", such that the definition reads as follows:

"The term 'net asset value' of a Trust is defined to mean the fair market value of shares in the Funds and cash and cash equivalents, minus the accrued expenses of a Trust."

The same change should be made in the next-to-last sentence in Section 4 of the Summary such that the sentence reads as follows:

"The Trusts trade at the net asset value of the amalgam of the Funds in which they are invested, plus any cash and cash equivalents they hold."

The Department concurs with this comment and has modified Paragraph H of Section III of the final exemption.

6. TCW represents that Continental Asset Management Corp. referenced in Section 1 of the Summary is now named TCW Advisors Inc. and still remains an SEC registered advisor.

7. TCW suggests that to be consistent with footnote 6 of the Notice, the third sentence in Paragraph 2 of the Summary should begin with "It is anticipated that * * *" such that the sentence should read:

"It is anticipated that virtually all of the Plans participating in the Program will be designed to comply with the provisions of section 404(c) of the Act." The Department concurs with this comment.

Additionally, TCW comments that to more accurately reflect the Worksheet process, the sixth and following sentences in Paragraph 2 of the Summary should read as follows:

"The Worksheets consist of a series of questions designed to assess the Participants' retirement needs and levels of risk tolerance, including his or her current Plan and non-Plan investments, anticipated future savings and retirement goals. Upon completion of the Worksheets, a Participant's response will be analyzed and each Participant will receive a written recommendation from TCW of an appropriate Trust (or other investment vehicle under the Program) for investment. Matching the Worksheet responses to projections of the risk and return characteristics of portfolios available under the Program will allow the selection of a portfolio consistent with that Participant's retirement needs and risk tolerance."

The Department concurs with this comment.

8. TCW suggests that to describe more accurately the quantitative annual report to be provided by TCW to the Plan Fiduciaries, the second sentence of the second paragraph in Paragraph 10 of the Summary should read as follows:

"The annual report will enable the Plan Fiduciaries to determine whether the Program has increased or maintained Plan participation, has increased or maintained the level of Participants' investment or deferrals under the Plan, or has achieved more appropriate asset allocation for the investment of the Plan Participants' accounts."

The Department concurs with this comment.

9. TCW also states that to make clear that approval by the Financial Expert is necessary for the creation of any Separate Trust, the word "only" should be inserted between the words "utilized" and "if" in the second sentence of subsection (b) of Paragraph 16 of the Summary such that the modified sentence reads as follows:

"A Separate Trust may be utilized only if the Financial Expert approves such modification."

The Department concurs with this comment.

2. Discussion of the Second Comment

A. Independence of the Financial Expert

In this regard, the Commenter is concerned that TCW will have little or no control over the results of investment recommendations under the Program. Further, the Commenter suggests that Professor Jaffe, the Financial Expert, will be insufficiently involved in the Program due to the 5% overall limit on the amount of income derived from TCW. In addition, the Commenter questions whether the Financial expert will be assuming any personal responsibility for the provision of advice. In response, TCW maintains that TCW will *not* control the results of investment recommendation under the Program; rather, as stated throughout the Notice and as a specific condition in Section II of the Notice and this exemption, those recommendations will be based on responses to the worksheet questions developed and designed by the independent Experts.

As to Professor Jaffe, TCW responds that the 5% limit on his compensation is designed to ensure that he does not depend too heavily on TCW for compensation, but remains independent of TCW.

The Commenter further suggests that Professor Jaffe should not be permitted to be contractually indemnified by TCW. TCW responds by stating that if Professor Jaffe is so indemnified, it will not make him any less independent of TCW. To the contrary, a contractual indemnity would give him rights in dealing with TCW that he might otherwise lack. Also, the amount of indemnification offered to Professor Jaffe by TCW will not be dependent on the nature of the advice provided the Participant. Further, as TCW points out, the Department recognizes that even indemnities relating to breaches of statutory fiduciary duties are permissible under the Act, provided that they are not paid from plan assets, or do not attempt to induce a breach of fiduciary duty. (See 29 CFR section 2509.75–4). TCW also maintains that it has every incentive to respect the professional independence of Professor Jaffe because he is central to the operation of the Program, and intends to structure any agreement with Professor Jaffe so as to ensure his independence.

The Commenter also raises similar questions regarding the independence of persons who will do computer programming in connection with the Program in as much as such programmers are hired by TCW. TCW notes that the Commenter has misunderstood the role of the programmers. The programmers will perform a ministerial function, *i.e.*, to handle the technical aspects of programming. The substantive aspects of the computer programs will be controlled by the Financial Expert and the Behavioral Expert. Therefore, TCW maintains that concerns about compensation or indemnification of the programmers is misplaced. In any event, TCW believes that preclusion of any indemnity of the programmers would be inappropriate for the same reasons expressed as to Professor Jaffe.

b. The Fee Arrangements

A second concern of the Commenter appears to be fee arrangements associated with the Program. The Commenter appears to question the reasonableness of the fee arrangements and what the Commenter refers to as the 1% fee on a participant's account balance. TCW notes that there is no such fee; rather, the 1% figure refers to a cap that limits the amount of direct expenses payable from the Trusts for the services necessary to operate the Program. The only fees that TCW will receive are the normal fees charged for advisory services to the underlying Funds. These fees are paid from the Funds and would affect Participants investing in the Funds through the Program in exactly the same manner as any other investor in the Funds.

There will be no fees paid to TCW by the Trusts or by any Plan for advisory services or for any other services necessary for the operation of the Program. The Commenter apparently misinterpreted a reference in the Notice to a cap of 1% of a Trust's net asset value per annum on amounts payable by a Trust for services necessary to operate the Program. This cap is discussed in more detail in Section 19 of the Summary in the Notice. As Section 19 states, these expenses will include reimbursement to TCW for direct expense payments to third parties unaffiliated with TCW. As stated in the last paragraph of Section 18 of the Summary, to the extent that TCW itself receives reimbursement of any expenses, it will be limited to reimbursement of "direct expenses" within the meaning of 29 CFR section 2550.408c–2.

In short, TCW will receive no fees in connection with the Program other than normal advisory fees in connection with the mutual funds. The 1% cap on direct expenses paid by the Trusts is a safeguard to ensure that the Trusts do not pay excessive expenses; it is not intended to, and would not, authorize any payment of fees to TCW from a Trust. TCW expressly states that the Plan Participants' accounts will not be charged fees by TCW in connection with the Program. Furthermore, Plan Participants will have complete discretion whether to invest in any Trusts and will be free to accept or reject any investment recommendations made in connection with the Program.

c. Recommendations

To address his concerns, the Commenter recommends that the following six specific recommendations be adopted in any final grant of the exemption by the Department:

1. Require those individuals/entities that are providing the advisory-related services to assume the liability exposure for the services they are providing. Prohibit TCW or any other entity from indemnifying them.

2. Limit the compensation that is paid for this service to a maximum amount per participant, such as $250.00.

3. Require each participant to decide whether he/she wants this additional service. The participant also should be able to discontinue the service at any time.

4. Require an independent audit by one of the major auditing firms at least annually of the process and the entities involved to certify that there is in fact independence.

5. Require the submission to DOL of a signed disclosure form for each employer that buys this service.

6. Require TCW to submit to DOL annually a confirmation that the disclosure conditions have been satisfied. This notice should include a list of all employers in the program, and it should be signed by the CEO of the TCW Group.

In response to these recommendations, TCW maintains the following.

The first recommendation regarding indemnity has been addressed above. TCW maintains that this recommendation is unnecessary and unreasonable.

The second and third recommendations appear to be based on the misunderstanding relating to the 1% fee discussed above. TCW maintains that because there is no such fee, there is no reason to change its form or limit it. A Participant is, as noted above, already completely free to decide whether to begin or to discontinue investments under the Program.

The last three recommendations do not appear to be otherwise discussed in the comment letter. TCW's general response to these recommendations is that they will likely add unnecessary expense to the Program without any corresponding benefit. To the extent that these recommendations arise from the Commenter's misunderstanding of the fee arrangement and other aspects of the Program, they should be rejected by the Department on that basis.

Specifically, it is not clear to TCW exactly how an auditing firm would perform an audit to verify independence; as a practical matter, because the independence of the Experts is central to the Program and this exemption, TCW would have every incentive to ensure that independence is maintained. Similarly, if the Department wishes to audit the Program, or to monitor compliance with the conditions of the exemption, it will exercise its statutory powers under section 504 of the Act. Alternatively, the Department can access the relevant records pursuant to Condition V of Section II of the Notice and of this exemption. Imposing an additional requirement that the names of the plan sponsors who have selected the Program be submitted to the Department along with the signed disclosure forms may act as a deterrent to the plan sponsors' selection of the Program. Furthermore, TCW is fully committed to complying with the substantive disclosures requirement contained in the Notice and in this exemption because such a requirement will provide meaningful information to the Plan Participants and fiduciaries. TCW states that imposing additional requirements would be detrimental to the Program while offering no additional protection to the Participants.

The Department has considered the comments and the responses set forth by TCW and has determined that no modification of this exemption is necessary regarding the points raised by the Commenter. With respect to the recommendations of the Commenter, the Department notes that each exemption is subject to the explicit condition that the material facts and representations submitted in support of an application are true and accurate. The exemption application contains the representations of the applicant. Many such representations are reflected in the terms and conditions of the exemption. These terms and conditions provide for the independence of the Experts and the disclosures to be provided by TCW. Thus, to the extent that TCW does not comply with the terms and conditions of the exemption, the exemption would be void.

After giving full consideration to the entire record, including the written comments, the Department has decided to grant the exemption subject to the modifications or clarifications described above. The two comment letters have been included as part of the public record of the exemption application. The complete exemption file is available for public inspection in the Public Disclosure Room of the Pension and Benefits Administration, Room N–5638, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington DC 20210.

FOR FURTHER INFORMATION CONTACT: Ekaterina A. Uzlyan, U.S. Department of Labor, telephone (202) 219–8883. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, D.C., this 30th day of October, 1997.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 97–29175 Filed 11–3–97; 8:45 am]

BILLING CODE 4510–29–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting

Sunshine Act Meeting of the Board of Directors

CORRECTION: As published on Oct. 28, 1997 (62 FR 55833), the agenda for the meeting scheduled for Nov. 15, 1997, is incorrect. The publication is corrected as follows:

9. Consider and act on the report of the Ad Hoc Committee on Performance Reviews of the President and Inspector General.

a. Consider and act on procedural matters, including personal performance plans for the President and the Inspector General, written submissions prior to interviews, and interview protocols.

Dated: October 31, 1997

Victor M. Fortuno,

General Counsel.

[FR Doc. 97–29280 Filed 10–31–97; 12:50 pm]

BILLING CODE 7050–01–P

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Notice of Availability

AGENCY: Office of Management and Budget, Office of Federal Procurement Policy.

ACTION: Notice of availability of the *Procurement Regulatory Activity Report, Number 14.*

SUMMARY: Subsections 25(g) (1) and (2) of the Office of Federal Procurement Policy (OFPP) Act, as amended by Pub. L. 100–679, codified at 41 U.S.C. 421(g), require the Administrator for Federal Procurement Policy to publish a report within six months after the date of

enactment and every six months thereafter relating to the development of procurement regulations.

Accordingly, OFPP has prepared this report, which is designed to satisfy all aspects of subsections 25(g) (1) and (2) of the OFPP Act, and includes information on the status of each regulation; a description of those regulations required by statute; a description of the methods by which public comment was sought; regulations, policies, procedures, and forms under review by the OFPP; whether the regulations have paperwork requirements; the progress made in promulgating and implementing the Federal Acquisition Regulation; and such other matters as the Administrator determines to be useful.

ADDRESSES: Those persons interested in obtaining a copy of the Procurement Regulatory Activity Report may contact the Executive Office of the President Publications Service, Room 2200, 725 17th Street, NW, Washington, DC 20503, or call 202–395–7332.

ADDITIONAL INFORMATION: For additional information write the Office of Federal Procurement Policy, 725 17th Street, NW, Washington, DC 20503 or call 202–395–6803.

Allan E. Brown,

Acting Administrator.

[FR Doc. 97–29157 Filed 11–3–97; 8:45 am]

BILLING CODE 3110–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

Public Hearing on Trans World Airlines (TWA) Flight 800 Accident

In connection with its investigation of the accident involving Trans World Airlines (TWA) flight 800, a Boeing 747–100, N93119, in the Atlantic Ocean near East Moriches, NY, July 17, 1996, the National Transportation Safety Board will convene a public hearing beginning at 9:00 a.m., on Monday, December 8, 1997, at the Baltimore Convention Center, Halls A and B, One West Pratt Street, Baltimore, MD. For more information, contact Shelly Hazle, Office of Public Affairs, Washington, D.C. 20594, telephone (202) 314–6100.

Dated: October 30, 1997.

Ray Smith,

Alternate Federal Register Liaison Officer.

[FR Doc. 97–29145 Filed 11–3–97; 8:45 am]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–302]

Florida Power Corporation; Crystal River Nuclear Generating Plant Unit 3, Exemption

I.

Florida Power Corporation (the licensee) is the holder of Facility Operating License No. DPR–72, which authorizes operation of the Crystal River Nuclear Generating Plant Unit 3 (CR3). The license provides, among other things, that the licensee is subject to all rules, regulations, and orders of the Commission now or hereafter in effect.

The facility is of a pressurized water reactor type and is located in Citrus County, Florida.

II.

In its letter dated June 21, as supplemented November 22, 1996, the licensee requested an exemption from the Commission's regulations.

Title 10 of the *Code of Federal Regulations*, part 50, Appendix A, "General Design Criteria for Nuclear Power Plants," Criterion 3, "Fire Protection," specifies that "Structures, systems, and components important to safety shall be designed and located to minimize, consistent with other safety requirements, the probability and effect of fires and explosions." 10 CFR part 50, Appendix R sets forth the fire protection features required to satisfy the general design Criterion 3 of the Commission's regulations. Pursuant to 10 CFR part 50, Appendix R, Section III, Paragraph G, design features shall be established that are capable of limiting fire damage so that one train of systems necessary to achieve and maintain hot shutdown conditions is free of fire damage. Specifically, 10 CFR part 50, Appendix R, Paragraph III.G.2.c requires (if Paragraphs III.G.2.a or b are not applicable) enclosure of cable and equipment and associated non-safety circuits of one redundant train in a fire barrier having a 1-hour rating; in addition, fire detectors and an automatic fire suppression system shall be installed in the fire area.

The current CR3 design includes Thermo-Lag fire barriers which do not provide the level of fire resistance required by NRC regulations. As part of its program for resolving Thermo-Lag issues, the licensee has determined that the Thermo-Lag material used as a fire barrier for the protection of certain safe shutdown cables located in certain elevations of the auxiliary and intermediate buildings does not qualify as 1-hour fire rated barriers. In lieu of upgrading the existing Thermo-Lag fire barriers to satisfy the 1-hour fire rating requirement, the licensee proposes to implement an enhanced automatic fire suppression system coverage for these specific fire zones. The licensee indicates that its proposed enhanced automatic fire suppression system coverage coupled with the existing Thermo-Lag barriers and other defense-in-depth features will ensure that one train of equipment necessary to achieve hot shutdown remains free of fire damage. An exemption from 10 CFR Part 50, Appendix R, Section III, Paragraph G.2.c., is required to allow the use of the existing Thermo-Lag material that has less than a 1-hour fire rating, for the specific cables and equipment located in certain elevations of the auxiliary and intermediate buildings. By letter dated June 21, as supplemented November 22, 1996, the licensee submitted the exemption request.

This exemption does not address the licensee's request relating to the requirements for battery powered lighting in areas for the operation of safe shutdown equipment.

III.

Discussion

The exemption request is for the following fire zones: auxiliary building fire area AB–95–3B and G, AB–119–6A (elevations 95 and 119) and the intermediate building fire area IB–119–201A (elevation 119). Automatic sprinkler protection and automatic fire detection designed and installed in accordance with the applicable National Fire Protection Association (NFPA) codes and standards are provided in these fire zones. The licensee, in its response to the U.S. Nuclear Regulatory Commission (NRC) staff's request for additional information (RAI) dated September 24, 1996, identified no significant deviations from the applicable NFPA codes and standards that would adversely affect system performance. The licensee has proposed upgrading the existing automatic sprinkler protection in each of these zones to compensate for the existing Thermo-Lag fire barriers. The licensee has determined that the existing Thermo-Lag fire barriers, coupled with the enhanced sprinkler protection and administrative controls, provide an adequate level of fire protection. The staff's evaluation of the licensee's exemption request is discussed below.

Auxiliary Building Hallway AB–95–3BA

This zone is the main east/west corridor for this elevation of the auxiliary building. The corridor is approximately 9 feet wide and the ceiling is approximately 26 feet above the floor level. An open stairway at the east end of this fire zone leads up to elevation 119 of the auxiliary building (AB 119–6A) and is open to adjacent fire zones at each end. The remainder of the zone is bounded by 3-hour fire walls on the north, east, and west. The ceiling and floor are also 3-hour fire rated barriers. The south wall is a non-fire rated concrete barrier with unsealed penetrations. The fire hazards in this zone include cables, electrical cabinets and an air conditioning unit. The safe shutdown circuits located in this zone are associated with the makeup system and battery charging. The unprotected redundant circuits are within 5 feet of the Thermo-Lag protected cables. The fire protection features provided for this zone include a wet pipe sprinkler system, hose station, and smoke detection. The licensee has performed an engineering evaluation that concluded that the Thermo-Lag fire barriers in this zone have an equivalent fire rating of 23 to 48 minutes.

Auxiliary Building Hallway AB–95–3G

This is a north/south corridor providing access to the make-up pump cubicles. This zone is enclosed by non-fire rated concrete walls ranging from 24 to 36 inches thick. The floor and ceiling are 3-hour rated fire barriers. The fire hazards in this zone include cables and electrical cabinets. The safe shutdown circuits located in this zone are associated with the makeup system and battery charging. The unprotected redundant circuits are within 1 foot of the Thermo-Lag protected cables. The fire protection features provided for this zone include a wet pipe sprinkler system, hose station, and smoke detection. The licensee has performed an engineering evaluation that concluded that the Thermo-Lag fire barriers in this zone have an equivalent fire rating of 23 to 48 minutes.

Auxiliary Building Hallway AB–95–3G

This zone is the main east/west corridor for this elevation of the auxiliary building. The corridor is approximately 9 feet wide and 40 feet high. An open stairway at the east end of this fire zone leads down to elevation 95 of the auxiliary building (AB–95–3B) and is open to adjacent fire zones at each end. The remainder of the zone is enclosed by 3-hour fire walls on the north, east and west side, a 3-hour fire rated floor and a 36-inch thick concrete non-fire rated ceiling and south wall. The fire hazards in this zone include cables and fan motors. The safe shutdown circuits located in this area are associated with the makeup system, heating ventilation and air conditioning (HVAC), instrumentation, battery charging and essential power supplies. The unprotected redundant circuits are greater than 20 feet from the Thermo-Lag protected cables; however, intervening combustibles are present. The fire protection features provided for this zone include a wet pipe sprinkler system, hose station, and smoke detection. The licensee has performed an engineering evaluation that concluded that the Thermo-Lag fire barriers in this zone have an equivalent fire rating of 23 to 39 minutes.

Intermediate Building Industrial Cooler Room IB–119–201A

This zone connects the industrial room cooler to the auxiliary building and is located between the turbine building and the reactor building. The corridor is a narrow hallway with a ceiling approximately 26 feet high. This zone is separated from the turbine building by a 3-hour rated wall. The zone is also separated from the reactor building by a non-fire rated concrete wall approximately 42 inches thick. The east side of this zone is adjacent to fire zone IB–119–201B, separated by a "jailbar" door. The fire hazards in this zone include cables and electrical cabinets. The safe shutdown circuits located in this zone are associated with instrumentation. The unprotected redundant circuits are within 3 feet of the Thermo-Lag protected cables. The fire protection features provided for this zone include a wet pipe sprinkler system, hose station, and smoke detection. The licensee has performed an engineering evaluation that concluded that the Thermo-Lag fire barriers in this zone have an equivalent fire rating of 22 to 36 minutes.

Intermediate Building Personnel Hatch IB–119–201B

This zone connects the industrial cooler room with the auxiliary building. The floor area is approximately 1100 square feet. The north, east and part of the south wall have a 3-hour fire rating. The remaining portion of the south wall is the reactor building non-fire rated concrete wall approximately 42 inches thick. The fire hazards in this zone are cables and protective clothing storage. The safe shutdown circuits located in this zone are associated with instrumentation. The unprotected redundant circuits are within 20 feet of the Thermo-Lag protected cables. The fire protection features provided for this zone include a wet pipe sprinkler system, hose station, and smoke detection. The licensee has performed an engineering evaluation that concluded that the Thermo-Lag fire barriers in this zone have an equivalent fire rating of 22 to 36 minutes.

IV.

Evaluation

A fire on the 95 or 119 elevations of the auxiliary building could cause the loss of the redundant divisions of the makeup system, HVAC, instrumentation, battery charging or essential power supplies. A fire on the 119 elevation of the intermediate building could cause the loss of redundant divisions of instrumentation needed to achieve and maintain safe shutdown following a fire.

The licensee has committed to upgrade the existing sprinkler protection on elevations 95 and 119 of the auxiliary building and on elevation 119 of the intermediate building in the vicinity of the Thermo-Lag fire barriers that are the subject of this exemption request. The additional sprinkler protection, coupled with the existing automatic detection and suppression, and manual fire suppression capability provided in these fire zones, would provide reasonable assurance that an exposure fire from in situ or transient combustible materials in the vicinity of the Thermo-Lag fire barriers will not challenge the barriers, such that damage to redundant divisions of systems and instrumentation needed to achieve and maintain safe shutdown following a fire will not occur. Due to variations in the important parameters of the installed Thermo-Lag barriers from the tested barriers, and deviations in the conduct of the industry-sponsored fire endurance tests from the guidance provided in Supplement 1 to Generic Letter 86–10, the equivalent fire resistance rating of the Thermo-Lag fire barriers at Crystal River Unit 3, that are the subject of this exemption request, is indeterminate. However, based on data obtained from industry-sponsored fire test programs, the staff estimates that the existing Thermo-Lag barriers would provide a minimum of 20 minutes of fire resistance. The licensee has committed to maintain the Thermo-Lag fire barriers that are the subject of this request in place. Automatic wet pipe sprinkler protection that is designed, installed and maintained in accordance with NFPA 13, "Installation of Sprinkler Systems," have historically

demonstrated a high reliability in controlling fires during the incipient stage, thereby limiting fire damage and propagation until extinguishment can be achieved through manual actions. The licensee has stated that an upgrade of the existing Thermo-Lag fire barriers to achieve literal compliance with the regulation is not feasible due to the locations of the raceways; however, the protection provided by the existing Thermo-Lag and supplemented with fire suppression capability by the additional sprinkler heads would protect one train of safe shutdown cables and satisfy the underlying purpose of the rule. On the basis of its review and evaluation of the technical information provided in the licensee's exemption request and the licensee's response to the request for additional information, the NRC staff concludes that the licensee's proposed alternative means of protection coupling the existing barriers with enhanced suppression capability provides a level of safety equivalent to that prescribed by the regulation.

V.

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50 when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. Special circumstances are present whenever, according to 10 CFR 50.12(a)(2)(ii), "Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule."

The underlying purpose of 10 CFR part 50, Appendix R, Section III.G, Fire Protection of Safe Shutdown Capability, is to ensure the capability to achieve and maintain safe shutdown conditions during and after any postulated fire in the plant. The staff has concluded that the licensee's proposed alternative means of protection, as described in its request for exemption from the technical requirements of Section III.G.2.c for auxiliary building fire area AB–95–3B and G, AB–119–6A (elevations 95 and 119) and the intermediate building fire area IB–119–201A (elevation 119), would provide reasonable assurance that a level of safety equivalent to that specified by the regulation would be met. Therefore, application of the one hour barrier requirement under the above circumstances is not necessary to achieve the underlying purpose of the rule.

VI.

In consideration of the foregoing, the NRC staff has concluded that the licensee's proposed use of an enhanced automatic fire suppression system coverage for these specific areas in lieu of upgrading the existing Thermo-Lag fire barriers to satisfy the 1-hour fire rating requirement, is authorized by law, will not present an undue risk to public health and safety and is consistent with the common defense and security. The NRC staff has determined that there are special circumstances present, as specified in 10 CFR 50.12(a)(2)(ii), in that application of 10 CFR 50, Appendix R, Section III G.2.c, is not necessary in order to achieve the underlying purpose of this regulation.

Accordingly, the Commission hereby grants, pursuant to 10 CFR 50.12(a), the requested exemption. The granting of this exemption is contingent upon (1) the installation of the enhanced fire suppression capability as described in the licensee's request, and (2) maintaining in place the existing fire barriers that are the subject of this exemption.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (62 FR 56207).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 29th day of October 1997.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 97–29140 Filed 11–3–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–302]

Florida Power Corporation; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission or NRC) is considering issuance of an exemption from certain requirements of its regulations to Florida Power Corporation (the licensee), holder of Facility Operating License No. DPR–72 for operation of the Crystal River Unit 3 Nuclear Generating Plant (CR3) located in Citrus County, Florida.

Environmental Assessment

Identification of Proposed

The proposed action is in accordance with the licensee's application dated September 5, 1997, for exemption from certain requirements of Appendix R, "Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979," to Title 10 of the *Code of Federal Regulations* part 50 (10 CFR part 50), Section III, Paragraph O, "Oil Collection System for Reactor Coolant Pump." Specifically, the licensee requests an exemption from the Appendix R, Section III.O technical requirements for an oil collection system capable of collecting all potential leakage for the CR3 Reactor Coolant (RCP) Motor Remote Oil Addition Lines (ROALs).

The Need for the Proposed

10 CFR part 50, Appendix A, "General Design Criteria for Nuclear Power Plants," Criterion 3 "Fire Protection," specifies that "Structures, systems, and components important to safety shall be designed and located to minimize, consistent with other safety requirements, the probability and effect of fires and explosions." 10 CFR part 50, Appendix R, sets forth the fire protection features required to satisfy the General Design Criterion 3 of the Commission's regulations. Pursuant to 10 CFR part 50, Appendix R, Section III, Paragraph O, "Oil Collection System for Reactor Coolant Pump," the RCP shall be equipped with an oil collection system which "* * * shall be capable of collecting lube oil from all potential pressurized and unpressurized leakage sites in the reactor coolant pump lube oil systems."

In 1985, CR3 added ROALs to the original RCP oil fill lines in order to eliminate the need to shutdown the reactor, and to reduce personnel radiation and heat stress exposure during periodic RCP oil additions. At that time, the licensee did not consider the ROALs as a part of the RCP lube oil systems and as a result, did not provide a lube oil collection system to collect potential leakages. As part of its current Appendix R design review project, the licensee has now determined the ROALs to be a part of the RCP lube oil systems, therefore, requiring a lube oil collection system.

The licensee states that because the ROALs are of a rugged leak tight design and used only periodically in accordance with controlled plant procedures, the ROALs do not impact post fire safe shutdown capability. As a result, the licensee believes that a lube oil collection system for the ROALs is not necessary to achieve the underlying purpose of the rule. Exemption from Appendix R, Paragraph O, requirements is needed for the licensee to have ROALs without a lube oil collection system for collecting oil from potential leak sites.

Environmental Impacts of the Proposed Action

With regard to environmental impact, the Commission has evaluated the proposed action as described below.

The proposed action will not result in an increase in the probability or consequences of accidents or result in a change in occupational or offsite dose. Therefore, there are no radiological impacts associated with the proposed action.

The proposed action will not result in a change in nonradiological plant effluents and will have no other nonradiological environmental impact.

Accordingly, the Commission concludes that there are no environmental impacts associated with this action.

Alternative to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action did not involve the use of any resources not previously considered in the Final Environmental Statements related to operation of CR3, dated May 1973.

Agencies and Persons Consulted

In accordance with its stated policy, on October 29, 1997 the staff consulted with the Florida State Official, Mr. Bill Passetti of the Florida Department of Health and Rehabilitative Services, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption. Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the request for exemption dated September 5, 1997, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC and at the local public document room located at Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida.

Dated at Rockville, Maryland, this 29th day of October 1997.

For the Nuclear Regulatory Commission.

Leonard A. Wiens,

Acting Director, Project Directorate II–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 97–29141 Filed 11–3–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–315 and 50–316]

Indiana Michigan Power Company; Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of its regulations for Facility Operating License Nos. DPR–58 and DPR–74, issued to Indiana Michigan Power Company (the licensee), for operation of the Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, located in Berrien County, Michigan.

Environmental Assessment

Identification of the Proposed Action

The proposed action is in response to the licensee's application dated August 5, 1997, for exemption from the requirements of 10 CFR 50.71(e)(4) regarding submission of revisions to the Final Safety Analysis Report (FSAR) and design change reports for facility changes made under 10 CFR 50.59 for the Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2. Under the proposed exemption, the licensee would schedule updates to the single, unified FSAR for the two units that comprise the Donald C. Cook Nuclear Plant once per Unit 1 fuel cycle.

The Need for the Proposed Action

Section 50.71(e)(4) of Title 10 of the Code of Federal Regulations requires licensees to submit updates to their UFSAR within 6 months after each refueling outage providing that the interval between successive updates does not exceed 24 months. Since the Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, share a common FSAR, the licensee must update the same document within 6 months after a refueling outage for either unit. Because the Donald C. Cook Nuclear Plant units have alternating refueling outages, the regulatory requirement to submit an update after the completion of one unit's refueling outage when the other unit is scheduled for a refueling outage within 6 to 12 months results in an administrative burden which does not significantly enhance safety. The proposed exemption is needed to permit a single update of the unified FSAR for the two Donald C. Cook Nuclear Plant units per each Unit 1 fuel cycle.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that it will not alter or affect plant operation. Allowing the exemption would maintain the Donald C. Cook Nuclear Plant FSAR current within 24 months of the last revision and would not exceed the 24-month interval for submission of the 10 CFR 50.59 design change report for either unit.

No changes are being made in the types or amounts of any radiological effluent that may be released offsite and there is no increase in the allowable individual or cumulative occupational exposure. Therefore, there are no significant radiological impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action will not change nonradiological plant effluents and will have no other nonradiological environmental impact. Therefore, there are no significant nonradiological impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded that there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the NRC staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental

Statement for the Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, dated August 1973.

Agencies and Persons Consulted

In accordance with its stated policy, on September 30, 1997, the NRC staff consulted with the Michigan State official, Dennis Hahn of the Michigan Department of Public Health, Nuclear Facilities and Environmental Monitoring, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon its environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated August 5, 1997, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, MI 49085.

Dated at Rockville, MD, this 29th day of October 1997.

For the Nuclear Regulatory Commission.

John B. Hickman,

Project Manager, Project Directorate III–3, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 97–29139 Filed 11–3–97; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

SES Performance Review Board

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: Notice is hereby given of the membership of the OPM SES Performance Review Board.

FOR FURTHER INFORMATION CONTACT: Mary Lynn Horst, Office of Human Resources and EEO, Office of Personnel Management, 1900 E Street, NW, Washington, DC 20415, (202) 606–2165.

SUPPLEMENTARY INFORMATION: Section 4314 (c) (1) through (5) of Title 5, U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more SES performance review boards. The board reviews and evaluates the initial appraisal of a senior executive's performance by the supervisor, along with any recommendations to the appointment authority relative to the performance of the senior executive.

Office of Personnel Management.

Janice R. Lachance,

Acting Director.

Following are the regular members of the SES Performance Review Board for the Office of Personnel Management:

William F. Flynn, III, Associate Director, Retirement and Insurance Service
Richard A. Ferris, Associate Director, Investigations Service
Mary Lou Lindholm, Associate Director, Employment Service
Carol Okin, Associate Director, Office of Merit Systems Oversight and Effectiveness
Leigh M. Shein, Acting Chief of Staff
Rose M. Gwin, Director, Office of Human Resources and EEO

[FR Doc. 97–29121 Filed 11–3–97; 8:45 am]

BILLING CODE 6325–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Intent To Prepare an Environmental Impact Statement and To Conduct a Scoping Meeting for the Proposed Expansion of Flying Cloud Airport, Eden Prairie, MN

AGENCY: Department of Transportation, Federal Aviation Administration.

ACTION: Notice of intent to prepare an Environmental Impact Statement and to conduct public scoping.

SUMMARY: The Federal Aviation Administration (FAA) is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared on the proposed expansion of the Flying Cloud Airport. The expansion consists of the extension of two parallel runways. The longer of the two runways (Runway 09R–27L) would be extended 1,100 feet to 5,000 feet from its current length of 3,900 feet. The other runway to be extended, (Runway 09L–27R) would be extended 300 feet to 3,900 feet from its current length of 3,600 feet. Two alternatives on the aircraft weight limitations currently in place at Flying Cloud Airport also are under consideration. The first alternative would retain the current limitation of 20,000 pounds maximum gross weight. The second alternative would allow aircraft up to 30,000 pounds maximum gross weight. Land would be acquired for the expansion of State Safety Zones A and B at the west end of the parallel runways and for navigational aids and lights in the Runway Protection Zone. In addition, land would be acquired for the eventual construction of additional hangars south of the parallel runways and for an access road which would connect County Road 4 to the building area. To ensure that all significant issues related to the proposed action are identified, the FAA is soliciting information and comments from the public concerning this project and is advising Federal, State and local agencies and the public of the scoping process and scheduled meetings that will be conducted as a part of this process.

FOR FURTHER INFORMATION CONTACT: Mr. Glen Orcutt, Airports District Office, Federal Aviation Administration, 6020–28th Avenue South, Room 102, Minneapolis, Minnesota 55450 (612) 713–4354.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA, in cooperation with the Minneapolis Metropolitan Airports Commission (MAC) will prepare a joint Federal/State EIS for the proposed expansion of Flying Cloud Airport. The EIS will evaluate a No-Action alternative, the proposed actions and other reasonable alternatives that may be identified during the agency and public scoping meetings. The EIS will compare all feasible alternatives, and will ensure that mitigating measures are considered to minimize adverse environmental consequences.

The Minnesota scoping process requires the preparation of an Environmental Assessment Worksheet (EAW) and Draft Scoping Decision (DSD), combined in one document. The format for the EAW is the Minnesota Environmental Quality Board's Environmental Assessment Worksheet. A Scoping EAW and DSD has been prepared by the MAC and will be circulated to Federal, State and Local agencies for their review and comment. The Scoping EAW and DSD addresses the alternatives and potential impacts and issues to be addressed in the Federal/State EIS.

The environmental review of the project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amendment (42 U.S.C. 4371, *et seq.*), CEQ regulations (40 CFR 1500–1508), FAA Orders 5050.4A and 1050.1D and all applicable Federal and State regulations and local ordinances.

Public Scoping

To ensure that the full range of issues related to the proposed project are addressed and that all significant issues are identified, comments and suggestions are invited from all interested parties. In order to facilitate public input at the scoping meeting, the Scoping EAW and DSD is being sent to Federal, State and Local agencies, and to known interested parties.

A public scoping meeting is scheduled for December 4, 1997, at the Pax Christi Catholic Community, 12100 Pioneer Trail, Eden Prairie, Minnesota, at 8:00 p.m. to allow for public input. Copies of the Scoping EAW and DSD are available to the public at the Metropolitan Airports Commission, FAA Airports District Office, at the Bloomington, Chanhassen, Eden Prairie and Shakopee City Halls and for public review at the following libraries: Bloomington Penn Lake Public Library, 8800 Penn Avenue South; Chanhassen Public Library, 690 Coulter Drive; Eden Prairie Public Library, 479 Prairie Center Drive; and, the Shakopee Public Library, 235 South Lewis Street.

Written comments will be accepted until December 19, 1997 and may be directed to the FAA at the following address.

ADDRESSES: Federal Aviation Administration, Airports District Office, MSP–ADO–600, 6020–28th Avenue South, Room 102, Minneapolis, Minnesota 55450.

Issued in Minneapolis, Minnesota on October 23, 1997.

Gordon Nelson,

Acting Manager, Airports Division, FAA, Great Lakes Region.

[FR Doc. 97–29124 Filed 11–03–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 97–070; Notice 1]

Uniroyal Goodrich Tire Manufacturing; Receipt of Application for Decision of Inconsequential Noncompliance

Uniroyal Goodrich Tire Manufacturing (Uniroyal) of Greenville, South Carolina, which is an operating unit of Michelin North America, Inc., has determined that some of its tires fail to comply with the labeling requirements of 49 CFR § 571.109, Federal Motor Vehicle Safety Standard (FMVSS) No. 109, "New Pneumatic Tires," and has filed an appropriate report pursuant to 49 CFR part § 573, "Defect and Noncompliance Reports." Uniroyal has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—"Motor Vehicle Safety" on the basis that the noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of an application is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the application.

In FMVSS No. 109, Paragraph S4.3.5 requires that "If the maximum inflation pressure of a tire is 420 kPa (60 psi), the tire shall have permanently molded into or onto both sidewalls, in letters and numerals not less than ½ inch high, the words "Inflate to 60 psi" or "Inflate to 420 kPa (60 psi)."

From the 30th through the 37th week of 1975, the Uniroyal plant located in Woodburn, Indiana, produced approximately 4,800 temporary spare tires (T115/70D14 Uniroyal Hideaway tires) with a minor omission of the markings required by 49 CFR § 571.109 S4.3.5 on one side of the tire. Instead of "INFLATE TO 60 PSI" these tires were marked "NFLATE TO 60 PSI." A total of 2,750 of the 4,800 tires were delivered to Original Equipment Manufacturers (OEM) customers, the remaining 2,050 have been isolated in Uniroyal's warehouses and will be brought into full compliance with the marking requirements of FMVSS No. 109 or scrapped.

Uniroyal supports its application for inconsequential noncompliance with the following statements:

1. All performance requirements of FMVSS No. 109 are met or exceeded.

2. The correct marking appears on one side of the tire.

3. It is reasonable to expect that the consumer will interpret "NFLATE TO 60 PSI" as "INFLATE TO 60 PSI," especially when it is used in reference to a pressure of 60 PSI.

4. The vehicle placard, as required by 49 CFR § 571.110 S4.3, [specifies] the proper inflation pressure to use.

Interested persons are invited to submit written data, views, and arguments on the application of Uniroyal described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, D.C., 20590. It is requested that ten copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. When the application is granted or denied, the notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: December 4, 1997.

(49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: October 29, 1997.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 97–29123 Filed 11–3–97; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for the Survey for the Electronic Tax Administration Tracking Study

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning the Survey for the Electronic Tax Administration Tracking Study.

DATES: Written comments should be received on or before January 5, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Survey for the Electronic Tax Administration Tracking Study.

OMB Number: To be assigned later.

Abstract: This is a survey for quantitative research to establish

baseline measures of public knowledge and acceptance of Electronic Tax Administration (ETA) programs. The data developed in this research will be used as a guide when making decisions on the development of future ETA products and effective marketing techniques. The survey will provide the level of detail needed to focus product development efforts and enhance current products. This information will be used to make quality improvements to products and services.

Current Actions: This is a new collection of information.

Type of Review: New OMB approval.

Affected Public: Individuals.

Estimated Number of Respondents: 10,000.

Estimated Time Per Respondent: 7 minutes.

Estimated Total Annual Burden Hours: 1,166.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 30, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–29165 Filed 11–3–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 3520

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

Currently, the IRS is soliciting comments concerning Form 3520, Annual Return To Report Transactions With Foreign Trusts and Receipt of Certain Foreign Gifts.

DATES: Written comments should be received on or before January 5, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Annual Return To Report Transactions With Foreign Trusts and Receipt of Certain Foreign Gifts.

OMB Number: 1545–0159.

Form Number: Form 3520.

Abstract: Form 3520 is filed by U.S. persons who create a foreign trust, transfer property to a foreign trust, receive a distribution from a foreign trust, or receive large gifts from a foreign source. IRS uses the form to identify U.S. persons who have transactions that may trigger a taxable event in the future.

Current Actions: The following changes were made:

Form 3520 was revised to reflect the expanded reporting requirements added to Code sections 6048 and 6039F by the Small Business Job Protection Act for foreign trusts that have a U.S. grantor, transferor, or executor. The revised form is divided into four parts:

Part I of the form reflects the expanded reporting requirements for U.S. persons who directly or indirectly transfer money or property to a foreign trust. This includes a transfer by reason of death of a U.S. citizen or resident, if any portion of a foreign trust was included in the gross estate of the decedent.

Part II of the form is used to report the annual income information required for U.S. persons that are treated as owners 3 of any portion of a foreign trust for U.S. income tax purposes under Code sections 671 through 679.

Part III of the form is used by U.S. beneficiaries of a foreign trust to report any distributions they received from the foreign trust after August 20, 1996.

Part IV of the form is used by any U.S. person to report large gifts or bequests received after August 20, 1996, from foreign sources.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 2,000.

Estimated Time Per Respondent: 61 hr., 46 min.

Estimated Total Annual Burden Hours: 123,520.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 28, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–29170 Filed 11–3–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 2439

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 2439, Notice to Shareholder of Undistributed Long-Term Capital Gains.

DATES: Written comments should be received on or before January 5, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Notice to Shareholder of Undistributed Long-Term Capital Gains.

OMB Number: 1545–0145.

Form Number: Form 2439.

Abstract: Form 2439 is used by regulated investment companies (RICs) and real estate investment trusts (REITs) to report undistributed capital gains and the amount of tax paid on these gains designated under Internal Revenue Code section 852(b)(3)(D) or 857(b)(3)(D). The company, the trust, and the shareholder file copies of Form 2439 with the IRS. The IRS uses the information to verify that the shareholder has included the capital gains in income.

Current Actions: The following changes were made:

The Tax Relief Act of 1997 (Act) made the following changes in law affecting Form 2439.

1. For tax years beginning after August 5, 1997, section 1254 of the Act adds section 857(b)(3)(D) to the Code, which allows a REIT to elect to retain, rather than distribute, its net long-term capital gains and pay tax on these gains. As a result, REITs and their shareholders are now added to Form 2439. Shareholders include in income their proportionate share of the undistributed capital gains and take a credit for their share of the tax paid by the REIT.

2. Section 311 of the Act changed the capital gains rate for individuals. The Act requires that pass-through entities, such as RICs and REITs, must now provide the necessary information so shareholders can identify the components of their undistributed capital gains to complete Schedule D (Form 1040).

New box 1b is added to report the "28% rate gain".

New box 1c is added to report the "Unrecaptured section 1250 gain".

New box 1d is added to report the "Section 1202 gain".

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 8,000.

Estimated Time Per Respondent: 3 hr., 31 min.

Estimated Total Annual Burden Hours: 28,160.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 28, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–29171 Filed 11–3–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1310

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1310, Statement of Person Claiming Refund Due a Deceased Taxpayer.

DATES: Written comments should be received on or before January 5, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Statement of Person Claiming Refund Due a Deceased Taxpayer.

OMB Number: 1545–0073.

Form Number: Form 1310.

Abstract: Form 1310 is used by a claimant to secure payment of a refund on behalf of a deceased taxpayer. The information requested on the form

enables the IRS to send the refund to the correct person.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 7,500.

Estimated Time Per Respondent: 43 min.

Estimated Total Annual Burden Hours: 5,325.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 29, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–29172 Filed 11–3–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 8275 & 8275–R

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8275, Disclosure Statement and Form 8275–R, Regulation Disclosure Statement.

DATES: Written comments should be received on or before January 5, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Disclosure Statement (8275) and Regulation Disclosure Statement (8275–R).

OMB Number: 1545–0889.

Form Number: Forms 8275 and 8275–R.

Abstract: Internal Revenue Code section 6662 imposes accuracy-related penalties on taxpayers for substantial understatement of tax liability or negligence or disregard of rules and regulations. Code section 6694 imposes similar penalties on return preparers. Regulations sections 1.6662–4(e) and (f) provide for reduction of these penalties if adequate disclosure of the tax treatment is made on Form 8275 or, if the position is contrary to a regulation, on Form 8275–R.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, not-for-profit institutions and farms.

Estimated Number of Responses: 1,000,000.

Estimated Time Per Respondent: 3 hr., 34 min.

Estimated Total Annual Burden Hours: 3,560,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 29, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–29173 Filed 11–3–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Quarterly Publication of Individuals, Who Have Chosen To Expatriate, as Required by Section 6039(f)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This notice is provided in accordance with IRC section 6039F, as amended, by the Health Insurance Portability and Accountability Act (HIPPA) of 1996. This listing contains the name of each individual losing United States citizenship (within the meaning of section 6039F) with respect to whom the Secretary received information during the quarter ending September 30, 1997.

Last name	Middle name	First name
AIYASAMI		BALACHANDLER
AMGWERD	D	JOSEF
AMSTEL		NIEUWER
ARMBRUSTER	MARTIN	KLAUS
BAI	HWAN	WILLIAM II
BARBER	HUNT	STEPHEN
BATRA	BALDEV	PAUL
BEARE		DERRICK
BELTRAN	ARTHUR	PAUL
BERRIDGE	HERMINE-EVA	CHRISTEL
BLUM	DONALD	KENNETH
BOGDANOVICH	J	JOSEPH
BONNICI		PATRICIA
BYRD	EUNICE	ANDREINA
CAAN	MARIA	DURIETTA
CALHOUN	KELLY	BRIAN
CAMILLERI	SAM	ANGEL
CARR	PAULUS	GISLIND
CARR	RENALDO	RAYMOND
CARTER	LEON	RUSSELL
CASEY	MARIE	CYNTHIA
CHA	JA	JUNG
CHAD	ROBERT	STANLEY
CHAMBERS	BYRON	GORDON
CHAMPLIN	ALLEN	RAYMOND
CHEAH		SOO-LING
CHELEDNIK	HERMANN	HARTMUT
CHEN	LIN	YEN-TSENG
CHEN	LIN	YEN-TSENG
CHEUNG	WING-CHOI	FRANKI
CHING	PUI-SUEN	GENEVA
CHRONES	PETER	JAMES
CHU		YU
CHUNG		WONHEE
CHUNG		RA ELIZABETH
CLAY	THOMAS	WILLIAM
CLOPPENBURG		NINA
COLLINS	ADAM	JASON
CONNER 3RD	PAUL	WILLIAM
CYMOREX	ANDREW	MICHAEL
CZAE	AUDREY	SONGWHA
DAHL		MARGRETHE
DALOMIAS	C	CECILLIO
DANI		GYULA
DART	BRYAN	KENNETH
DAVIS	HENRY	PAUL
DAVIS	J	LEONARD
DEMBO	SAMUEL	RON
DOWELL	CLAY	JAMES
DRISCOLL	JAMES	MARK
DUMAS	RANDOLPH	JAMES
EEG-ENRIKSEN		KAI
ELTERMAN	MORRIS	COLIN
FARIS	ANNETTE	CAROLE
FARIS JR	DALE	GERALD
FEINNINGER		TOMAS
FESTEJO	MILES	PETER
FORBES	B. E	CHARLES
FRANK	LEE	JAROLD
FRIEDMAN	STUART	ROBERT
FROESCH	ANDREW	THOMAS
FULGHUM	PATRICK	BERNDT
GANOTIZI		DURO
GAZIN	LEWIS	CHESTER
GESKE	ANITA	RAMONA
GETZENDANNER	EDWARDS	MARTIN
GILLESPIE	EDWARD	JAMES
GIRILLOVITCH	PAUL	VARVARA
GLASBEND-GOLD	JAY	ISADOR
GOERLICH		VINCENT

Last name	Middle name	First name
GOLDSMITH	MARKS	MAURICE
GOLMOHAMMADI		HALEH
GOUDSMIT	ANN	SARAH
GREENE	BASIL	AUDREY
GROTJOHANN	WERNER	STEPHEN
GUENIN	KIM	HEMMY
GUENTHER	RICHARD	WOLFRAM
GUTWEIN	PAULA	KUNIGUNDE
HALEY	EDITH	MICHELLE
HAN	HEI-YOUNG	GRACE
HAN	SONHUI	SUSAN
HARRIS	CHRISTOPHER	PETER
HATTON	KIM	SEHWA
HEINTZ	JOSEPH	ROBERT
HELLSTROM	OLOF	GUNNAR
HENLEY	GRACE	MICHELLE
HIGGINS	WINRIA-WAYNE-KEVIN	JOHN
HOFFMAN		MICHAEL
HONG	KYU	YOUNG
HORRY	MICHAEL	JOHN
HU	K	WENDELL
HUENNIGER	LYNN	LISA
HYDE	CARRIE	DELLA
HYON	HUI	KYONG
HYUN	GIL	DOON
JACKSON	HUI	POK
JOHNSON-HAMBLEY	KAY	BONNIE
JUN		GILJA
KAE	YOUNG	SUZIE
KANG		DONGSOO
KEAT	W	DAVID
KIM	AL-RHAN	ELLEN
KIM	INSOOK	SUSIE
KIM	SANGHYUN	PAUL
KIM	KHO	SI-MON
KIM	JUNGHO	JONATHAN
KIM	M	JENNIFER
KIM	SUNG-TAK	BRIAN
KIM	RYO	HAI
KIM	JAE	DANIEL
KIM		CHOON-WOO
KIM		SOO
KIM	YOU	SANG
KIM		DAVID
KIM		JEANNIE
KIM	YOUNG	HELEN
KIM	JAMES	JIMIN
KIM	EUI	JOHN
KIM	OK	HYON
KINDER	SUN	PYONG
KLONARIS	HELEN	KATHRYN
KNOWLES	ANN	MARGARET
KORPONAY-BALLA	MARIA	MARTA
KRAFT		SIBYL
KRAWZOW		ERICH
KWAK	MISON	
KWON		O'DAE
LAULA	PAULA	MATHILDE
LEE	WING-HONG	VINCENT
LEE	HO	SEEK
LEE	HEE-BONG	SUSAN
LEE	SAN	SANG
LEE		JOON
LEE	HUNG	SANG
LEE	KU	CHANG
LEE	HO	YOUN
LEE	KYUN	SANG
LEE		SAM
LEE	JUNG-EA	ERICA
LEE	RO	WON
LESKO	PAUL	CHRISTIAN
LEVOY	SUSANNE	CARLIN
LEWIS	ERROL	KENNETH
LEWIS	ROSE	MARILYN

Last name	Middle name	First name
LI	LAN	WEN
LII		SHENG-YANN
LIM		MICHAEL
LIN		SHOU-HUI
LOGAN	JOHANNA	HERTA
LUCYK	VERA	SOPHIA
LUGO	MARTIN	REINHOLD
LUNDBERG	CHRISTER-ERNSTSON	ULF
MAASO	HELGE	JAN
MAGGE JR.	ANTHONY	JOHN
MAHONEY	YOUNG	ANDREW
MANKAD	NARENDRA	SHARVARI
MANN	KATHERINA	EMMA
MARYCZ	ANNE	ELIZABETH
MASON JR.	VALENTINE	EDWARD
MATHYSEN-GERST	LEONORA	ALEXANDRA
MC COLLOUGH	LYNN	SHARON
MC EWEN	THERESE	GEORGETTE
MCVEEN	HILDEGARD	SANDRA
MIAU	HSU	AHCHEN
MOON	IM	JUNG
MOREL	ANN	LEIGH
MORRIS	SUE	DONNA
MOULTRIE JR.		LEROY
NADEL	LISE	BARBARA
NADEL		SARAH
NAUSSED		MARGARETE
NIASSE	YVETTE	MICHELLE
NIENHUYS	JOYCE	DOREEN
NISSINEN	KETIE	KERTTU
OBERHARDT	BRANDYN	K.
OH	WHAN	SEUNG
OLEJAK	MARIE	HELGA
OLSON	ALAN	RICHARD
OR	WAI-HUNG	KENNIETH
ORTIZ	COLON	ALBERTO
ORTIZ	MARIA	ANGELA
OYE	JOHAN	EGIL
PACKAN	MARIE	HEIDI
PAHNKE	HERBERT	HORST
PAK	SUK	JAE
PARK	HYON	DONG
PARK		JONGSEI
PARK	EUN	KEE
PARK	OK	HYE
PERINCHIEF	NORTON	PETER
PIVIN	HENRY	LAURENT
POTTS	FREDERICK	FRANCIS
POWLES	BIGNOLD	PETER
RANDOLPH	F.	HILDEGARD
RANSOM	ELLEN	VIRGINIA
RASTALL	JOGE	RICHARD
REICHERT		HELEN
RIGGS	ROBERT	GEORGE
RINGROSE	JANE	JO ANN
ROENGOITHYA		VIPHANDH
ROETHLISBERGER	IDA	MARIE
ROLFE	DAPINE-ANDREE	KRISTINE
ROSE		SILKE
ROUX	PIERRE	DOMINIQUE
ROUX	HENRIETTE	VIVIANE
SCHMIDT	LOU	MARY
SEIDEL	HEINZ	HANS
SEINE	SUR	NEUILLY
SERAMEK	JEANETTE	DEBORAH
SHIM	CHUL	JAE
SHIN	JUNG	SU
SHIU	HEI	MAN
SHORTER	SU	OK
SNATIC	EDGAR	HARRY
SO	CHONGWAN	JAMES
SON		NICK
SRAMEK		JOSEPH
STECHER	FREDERIC	HENRY

Last name	Middle name	First name
STEGMANN		BERND
STE-MARIE	MARIE R	LUMINA
STEWART	MARIE	URSULA
STRATMANN	LYNN	TAMRA
SUTHERLAND	MILNE	DOUGLAS
SUTHERLAND	KAY	DORIS
TANG-TRICKETT	MUN YIN	JUDY
THOUIN	DREW	GUY
TIDWELL	FRANKLIN	WILLIAM
TO	CHA	KIL
TOGAN	ZEHRA	INCI
TOJIB	IWAN-PADMAWIDJAJA	OKKY
TRIPPE	EDWARD	GEORGE
TSAI	MING-CHUNG	DANIEL
TSE	CHO-CHE	EDWARD
TURNER	MARK	LARRY
UNTERLASS	MARIE	ALETA
WACZEK-ZAPF	MARY	MARGARET
WANG	MINGLONG	ANDREW
WEST	MARIA	EVA
WEST	ENALDE	MILTON
WHEELER	MYRTLE	KRISTIN
WHITAKER	ALICIA	CYNTHIA
WONG	YU-HONG	PHILIP
WOOD	EDWARD	ROBERT
YEAGER	EMERSON	JOHN
YI		SUMI
YOON	JIN	CHRISTOPHER
YOON	ILL	KYUNG
YOON	SOOYOUNG	CHARLES
YOUNG	J.	ERIC
YU	MYUNG	JOUNG
YUN	DAVID	HEEDO
ZIEGLER		EVELYN
ZIEGLER	REITAN	TOR HAROLD
ZUNSTEIN	WILLIAM	MARK

Approved: October 21, 1997.

Doug Rogers,

Project Manager, International District.

[FR Doc. 97–29085 Filed 10–31–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service, Treasury

Performance Review Board

AGENCY: Internal Revenue Service.

ACTION: Notice of Members of Senior Executive Service Performance Review Board.

EFFECTIVE DATE: Performance Review Board effective October 1, 1997.

FOR FURTHER INFORMATION CONTACT: DiAnn Kiebler, M:ES, Room 3515, 1111 Constitution Avenue, NW, Washington, DC 20224, Telephone No. (202) 622–6320, (not a toll free number)

SUPPLEMENTARY INFORMATION: Pursuant to section 4314(c)(4) of the Civil Service Reform Act of 1978, the members of the Internal Revenue Service's Senior Executive Service Performance Review Board for Regional Commissioners are as follows:

James Donelson, Chief Compliance Officer
Arthur Gross, Associate Commissioner for Modernization/Chief Information Officer
David Mader, Chief, Management and Administration

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978 (43FR52122).

Michael P. Dolan,

Acting Commissioner of Internal Revenue.

[FR Doc. 97–29166 Filed 11–3–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service, Treasury

Performance Review Board

AGENCY: Internal Revenue Service.

ACTION: Notice of Members of Senior Executive Service Performance Review Board.

EFFECTIVE DATE: Performance Review Board effective October 1, 1997.

FOR FURTHER INFORMATION CONTACT: DiAnn Kiebler, M:ES, Room 3515, 1111 Constitution Avenue, NW, Washington, DC 20224, Telephone No. (202) 622–6320, (not a toll free number).

SUPPLEMENTARY INFORMATION: Pursuant to section 4314(c)(4) of the Civil Service Reform Act of 1978, the members of the Internal Revenue Service s Senior Executive Service Performance Review Board for senior executives in the National Office are as follows:

James Donelson, Chief Compliance Officer
Herma Hightower, Regional Commissioner, Northeast Region
Arthur Gross, Associate Commissioner for Modernization/Chief Information Officer
David Mader, Chief, Management and Administration
Anthony Musick, Chief Financial Officer

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978 (43FR52122).

Michael P. Dolan,

Acting Commissioner of Internal Revenue.

[FR Doc. 97–29167 Filed 11–3–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service, Treasury

Performance Review Board

AGENCY: Internal Revenue Service.

ACTION: Notice of members of Senior Executive Service Performance Review Board.

EFFECTIVE DATE: Performance Review Board effective October 1, 1997.

FOR FURTHER INFORMATION CONTACT: DiAnn Kiebler, M:ES, Room 3515, 1111 Constitution Avenue, NW, Washington, DC 20224, Telephone No. (202) 622–6320, (not a toll free number)

SUPPLEMENTARY INFORMATION: Pursuant to section 4314(c)(4) of the Civil Service Reform Act of 1978, the members of the Internal Revenue Service s Senior Executive Service Performance Review Board for senior executives in Field Offices are as follows:

Gary Booth, Regional Commissioner, Midstates Region
John Dalrymple, Deputy Chief, Taxpayer Service
Marilyn Day, Regional Commissioner, Western Region
Herma Hightower, Regional Commissioner, Northeast Region
Robert Johnson, Regional Commissioner, Southeast Region
John Ressler, Executive Officer for Service Center Operations

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978 (43FR52122).

Michael P. Dolan,

Acting Commissioner of Internal Revenue.

[FR Doc. 97–29168 Filed 11–3–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service, Treasury

Performance Review Board

AGENCY: Internal Revenue Service.

ACTION: Notice of members of Senior Executive Service Performance Review Board.

EFFECTIVE DATE: Performance Review Board effective October 1, 1997.

FOR FURTHER INFORMATION CONTACT: DiAnn Kiebler, M:ES, Room 3515, 1111 Constitution Avenue, NW, Washington, DC 20224, Telephone No. (202) 622–6320, (not a toll free number).

SUPPLEMENTARY INFORMATION: Pursuant to section 4314(c)(4) of the Civil Service Reform Act of 1978, the members of the Internal Revenue Service's Senior Executive Service Performance Review Board for senior executives in the Office of the Chief Inspector are as follows:

John Balakos, Associate Inspector General for Program Audits, Department of the Treasury
John Dalrymple, Deputy Chief, Taxpayer Service
Anthony Musick, Chief Financial Officer

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978 (43FR52122).

Michael P. Dolan,

Acting Commissioner of Internal Revenue.

[FR Doc. 97–29169 Filed 11–3–97; 8:45 am]

BILLING CODE 4830–01–U

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federal register

Tuesday
November 4, 1997

Part II

Office of Management and Budget

Cancellation Pursuant to Line Item Veto Act; Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998, and Department of Transportation and Related Agencies Appropriations Act, 1998; Notices

OFFICE OF MANAGEMENT AND BUDGET

Cancellation Pursuant to Line Item Veto Act; Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998, and Department of Transportation and Related Agencies Appropriations Act, 1998

November 1, 1997.

Two Special Messages from the President under the Line Item Veto Act are published below. The President signed these messages on November 1, 1997. Under the Act, the messages are required to be printed in the **Federal Register** (2 U.S.C. 691a(c)(2)).

Clarence C. Crawford,

Associate Director for Administration.

TO THE CONGRESS OF THE UNITED STATES:

In accordance with the Line Item Veto Act, I hereby cancel the dollar amounts of discretionary budget authority, as specified in the attached reports, contained in the "Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998" (Public Law 105–65; H.R. 2158). I have determined that the cancellation of these amounts will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

William J. Clinton

THE WHITE HOUSE,
November 1, 1997.

Cancellation No. 97–65

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: "Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998" (H.R. 2158).

1(A). Dollar Amount of Discretionary Budget Authority: $900 thousand for planning a new national cemetery in Oklahoma City, Oklahoma on page 90 of House Report 105–297, dated October 6, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C), (E). Reasons for Cancellations; Facts, Circumstances, and Considerations Relating to or Bearing Upon the Cancellations; and Estimated Effect of Cancellation on Objects, Purposes, and Programs: This item would provide funding for the design of a new Department of Veterans Affairs (VA) national cemetery at Fort Sill, Oklahoma. The Department just opened one new cemetery and will open four more in the next two years —unprecedented since the Civil War. Activation of these cemeteries is a top priority. As a result of this recent expansion, the FY 1998 President's Budget and VA's Strategic Plan call for no new construction of national cemeteries over the next five years. This will give VA time to assess the adequacy of these new presences and to determine what, if any, further construction is warranted. Should future construction be needed, several other sites would be higher priority than Fort Sill in terms of veterans served. The estimated cost for the first phase of constructing this cemetery is $9.1 million, but $1.0 million a year would be needed for increased operating costs in the system.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In thousands of dollars]

Fiscal Year:	
1998	−39
1999	−242
2000	−292
2001	−216
2002	−82
Total	−871

1(F). Adjustments to Non-Defense Discretionary Spending Limits:

Budget authority: −$900 thousand in FY 1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Veterans Affairs

2(A). Bureau: National Cemetery System

2(A). Governmental Function/Project (Account): Veterans Cemetery System (Construction, Major Projects).

2(B). States and Congressional Districts Affected: Oklahoma, 4th Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: Oklahoma: one; 4th District: one.

Cancellation No. 97–66

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: "Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998" (H.R. 2158).

1(A). Dollar Amount of Discretionary Budget Authority: $15 thousand for an Economic Development Initiative project "Arab Police Department," on page 96 of House Report 105–297, dated October 6, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Goverament functions, and will not harm the national interest.

1(C), (E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing Upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs: This project would develop a multidepartmental police training complex on city property in Arab, Alabama. This project is being canceled because: (1) funding for facilities used in the general conduct of government is not an eligible use of Community Development Block grant funding; and (2) routine police training is considered to be part of the general conduct of government.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay Changes

[In thousands of dollars]

Fiscal Year:	
1998	
1999	−5
2000	−7
2001	−2
2002	−1
Total	−15

1(F). Adjustments to Non-Defense Discretionary Spending Limits

Budget authority: $15 thousand in FY 1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Housing and Urban Development.

2(A). Bureau: Community Planning and Development.

2(A). Governmental Function/Project (Account): Economic Development Initiative (Community Development Block Grants).

2(B). States and Congressional Districts Affected: Alabama, 4th Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: Alabama: one; 4th District: one.

Cancellation No. 97–67

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: "Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998" (H.R. 2158).

1(A). Dollar Amount of Discretionary Budget Authority: $1,000 thousand for Carter County Chamber of Commerce for trade and development activities on page 99 of the House Report 105–297, dated October 6, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C), (E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing Upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs: These funds would be used to provide a grant to the Carter County Chamber of Commerce to search for ways to enhance their economic standing. Carter County plans to increase revenue for the County by examining possible trade and development activities in the region. The project is being canceled because: (1) it was not requested by the President; and (2) promotional and business outreach activities are not eligible uses of Community Development Block Grants.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In thousands of dollars]

Fiscal Year:	
1998	−20
1999	−340
2000	−460
2001	−130
2002	−40
Total	−990

1(F). Adjustments to Non-Defense Discretionary Spending Limits

Budget authority: −$1,000 thousand in FY 1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Housing and Urban Development

2(A). Bureau: Community Planning and Development

2(A). Governmental Function/Project (Account): Economic Development Initiative (Community Development Block Grants).

2(B). States and Congressional Districts Affected: Montana, At large.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: Montana: three.

Cancellation No. 97–68

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: "Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998" (H.R. 2158).

1(A). Dollar Amount of Discretionary Budget Authority: $600 thousand for a Solar Aquatic Wastewater Treatment Demonstration Project on page 117 of House Report 105–297, dated October 6, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C), (E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing Upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs: Solar Aquatic Wastewater Treatment is a demonstration project of an alternative wastewater treatment approach. The Congress has earmarked a total of $7.2 million from FY 1992 to FY 1997 to fund this project. In Senate Report 104–318 dated July 11, 1996, the Senate Committee on Appropriations notes that the "solar aquatic wastewater treatment demonstration projects have received funding for several years". The Report further directs EPA to report on (1) what has been achieved, (2) the viability of applying this technology widely, (3) an assessment of the costs and benefits, and (4) the amount of future Federal funding required. EPA's report, which was sent to the Congress on April 30, 1997, concludes that the project "has not yet demonstrated reliable attainment of all of its process goals". The project "does not appear to offer any economic advantages over conventional technologies, and appears to be clearly more costly than conventional processes at flow rates more than 100,000 gallons per day. In view of these conclusions, the continuation of Federal funding support for these demonstration projects is not warranted."

This project is being canceled because it: (1) was not requested in the President's FY 1998 Budget; (2) is earmarked for a specific project, thereby avoiding prioritization against other environmental research needs or be competitively awarded; and (3) has been evaluated by EPA, at the request of Congress, and found to not warrant additional funding.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In thousands of dollars]

Fiscal Year:	
1998	−168
1999	−312
2000	−96
2001	−18
2002	−6
Total	−600

1(F). Adjustments to Non-Defense Discretionary Spending Limits

Budget authority: −$600 thousand in FY 1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Environmental Protection Agency.

2(A). Bureau: N/A.

2(A). Governmental Function/Project (Account): Wastewater Treatment Demonstration (Environmental Programs and Management).

2(B). States and Congressional Districts Affected: Vermont, At large.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: Vermont: one.

Cancellation No. 97–69

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: "Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998" (H.R. 2158).

1(A). Dollar Amount of Discretionary Budget Authority: $1,000 thousand for the Alabama Water and Wastewater Institute on page 117 of House Report 105–297, dated October 6, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C), (E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing Upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs: The Alabama Water and Wastewater Institute is a collective of personnel from 13 or 14 wastewater treatment plants in Alabama. In FY 1997, they received an earmark of $200,000 to conduct on-site operator training over a three year period. The $1 million earmark for FY 1998 is to be given to the Alabama Department of Environmental Management to build a central facility for the Institute in Montgomery, Alabama in which to conduct both wastewater and drinking water operator training. This project is being canceled because: (1) it was not requested in the President's FY 1998 Budget; (2) it is earmarked for a specific activity, thereby avoiding prioritization against other environmental needs; (3) it is earmarked to a specific group, avoiding competitive evaluation; and (4) construction of non-Federal buildings is outside the scope of EPA's mission and an extraordinary use of the Agency's authority.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In thousands of dollars]

Fiscal Year:	
1998	–280
1999	–520
2000	–160
2001	–30
2002	–10
Total	–1,000

1(F). Adjustments to Non-Defense Discretionary Spending Limits

Budget authority: –$1,000 thousand in FY 1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Environmental Protection Agency.

2(A). Bureau: N/A.

2(A). Governmental Function/Project (Account): Construction of Training Facility (Environmental Programs and Management).

2(B). States and Congressional Districts Affected: Alabama, 2nd and 7th Congressional Districts.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: Alabama: two; 2nd District: one; 7th District: one.

Cancellation No. 97–70

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: "Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998" (H.R. 2158).

1(A). Dollar Amount of Discretionary Budget Authority: $500 thousand for McConnellsburg, Pennsylvania Wastewater and Drinking Water System Needs on page 124 of House Report 105–297, dated October 6, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C), (E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing Upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs: This project would provide $500,000 to fund new water and sewer lines to a new industrial park in Ayr Township. As a by-product of constructing the water and sewer lines for the industrial park, it would also provide the potential for a limited number of residences with existing working wells and septic systems to be hooked up to the central water and sewer systems. The project is being canceled because: (1) it was not requested in the FY 1998 President's Budget; (2) it primarily provides benefits to a private entity; (3) the water line funding is outside the scope of EPA's usual mission; (4) the sewer line funding is outside the normal process for allocating funds to States who determine the environmental priority of projects, and (5) it is a low priority use of environmental funds primarily intended to help municipalities pay for Clean Water and Safe Drinking Water Act requirements.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In thousands of dollars]

Fiscal Year:	
1998	–20
1999	–100
2000	–150
2001	–100
2002	–50
Total	–420

1(F). Adjustments to Non-Defense Discretionary Spending Limits

Budget authority: $500 thousand in FY 1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Environmental Protection Agency.

2(A). Bureau: N/A.

2(A). Governmental Function/Project (Account): Wastewater and Drinking Water Infrastructure (State and Tribal Assistance Grants).

2(B). States and Congressional Districts Affected: Pennsylvania, 9th Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: Pennsylvania: five; 9th District: one.

Cancellation No. 97–71

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: "Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998" (H.R. 2158).

1(A). Dollar Amount of Discretionary Budget Authority: $10,000 thousand for optical astronomy testbeds on page 131 of House Report 105–297, dated October 6, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C), (E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing Upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs: This line item includes two optical telescope projects, neither of which is appropriate for NASA to fund. Both projects are augmentations of ground-based, optical telescopes—one in Arizona, and one in Chile. The Arizona project, at the Steward Observatory at the University of Arizona, Tucson, duplicates of an on-going project at the Keck Observatory in Mauna Kea, Hawaii—a project in which NASA shares funding. While the Arizona experiment could enable a space-based, NASA facility in the future, similar to that being pursued at Keck, the Keck project, due to its configuration, would produce technical results superior to those of the Arizona project. Given that NASA is already investing in a superior capability in the Keck II facility, NASA should not fund the Arizona project.

The Chile project is not within NASA's mission, since the project has no implications for space-based astronomy—the only type of astronomy within NASA's mission. NASA engages in ground-based astronomy only if such activities enable future, space-based missions.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In thousands of dollars]

Fiscal Year:	
1998	–3,600
1999	–5,500
2000	–900
2001.	
2002.	
Total	–10,000

1(F). Adjustments to Non-Defense Discretionary Spending Limits

Budget authority: –$10,000 thousand.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: National Aeronautics and Space Administration.

2(A). Bureau: N/A

2(A). Governmental Function/Project (Account): Science (Science, Aeronautics and Technology).

2(B). States and Congressional Districts Affected: Arizona, 5th Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District Identified Above: Arizona: two; 5th District: two.

TO THE CONGRESS OF THE UNITED STATES:

In accordance with the Line Item Veto Act, I hereby cancel the dollar amounts of discretionary budget authority, as specified in the attached reports, contained in the "Department of Transportation and Related Agencies Appropriations Act, 1998" (Public Law 105–66; H.R. 2169). I have determined that the cancellation of these amounts will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

William J. Clinton

THE WHITE HOUSE,
November 1, 1997.

Cancellation No. 97–72

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: "Department of Transportation and Related Agencies Appropriations Act, 1998" (H.R. 2169).

1(A). Dollar Amount of Discretionary Budget Authority: $5,280 thousand for improvements to Seward dock on page 72 of House Report 105–313, dated October 7, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C), (E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing Upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs: Senate Report 105–55 provided $7,000,000 funding to "be utilized to expand and improve the Seward Dock, the southernmost terminus of the [Alaska] railroad and an important intermodal transfer point on the Alaska Marine Highway System. The State of Alaska, the city of Seward, the Alaska Railroad, and cruise ship lines that utilize the port will provide significant cost-share funding toward completion of the project this fiscal year."

The Conference Report, House Report 105–313 "reduced the amount for improvements to the Seward dock from $7,000,000 in the Senate bill to $5,280,000. Such reduction will result in increased local participation in the project, particularly by the city of Seward. Therefore, the conferees direct the department to provide funding for the dock improvements directly to the city to complete the intermodal improvements on behalf of the Alaska Railroad."

The Alaska Railroad, a state owned railroad, owns the Seward dock and certain surrounding port facilities. The dock was built by the Federal government following the 1964 Alaska earthquake and was designed to handle conventional and containerized cargo, logs, petroleum, and steel and serves as a cruise ship terminal.

The funding would rehabilitate the current dock, dredge, relocate a fishery dock, pave adjacent areas, build a new bulkhead on the current dock, and improve facilities for passenger movement off the docks. The enhanced dock would be able to handle additional freight and passenger ship capacity. The

total project cost is over $8 million. The balance of the project costs not covered by this appropriation would be financed by the City and the Alaska Railroad.

The project is being canceled for the following reasons:

1. The Federal Railroad Administration is charged with overseeing the safety of the Nation's railroads. This project is primarily an economic development project which, while involving a railroad, will primarily benefit to the City of Seward, the State of Alaska and private cargo haulers and passenger ships. Funding of such mixed-use projects would set an unfortunate precedent for spending Federal Railroad Administration funding.

2. The Senate and Conference reports do not cite any independent investment analysis concerning the potential return of the project. No analysis has been done to quantify the safety or economic benefits of this project.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In thousands of dollars]

Fiscal Year:	
1998	−2,112
1999	−3,168
2000	
2001	
2002	
Total	−5,280

1(F). Adjustments to Non-Defense Discretionary Spending Limits

Budget authority: −$5,280 thousand in FY 1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Transportation.

2(A). Bureau: Federal Railroad Administration.

2(A). Governmental Function/Project (Account): Seward Dock (Alaska Railroad Rehabilitation).

2(B). States and Congressional Districts Affected: Alaska, At Large.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: Alaska: two.

Cancellation No. 97–73

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: "Department of Transportation and Related Agencies Appropriations Act, 1998" (H.R. 2169).

1(A). Dollar Amount of Discretionary Budget Authority: $500 thousand for an Electronic Distribution Center for Surplus Transit-Related Equipment on page 75 of House Report 105–313, dated October 7, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C), (E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing Upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs: This item provides funds to private companies for start up costs associated with an electronic "bulletin board" service for surplus transit equipment. The companies involved have indicated that they have a proprietary package that could be used for transit, and would sell subscriptions to fund ongoing operating costs. The merits of this proposal and need for this service have not been demonstrated. It is inappropriate to use federal funds to assist private companies that are not serving a demonstrated, well-defined public need.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In thousands of dollars]

Fiscal Year	
1998	−100
1999	−150
2000	−100
2001	−100
2002	−50
Total	−500

1(F). Adjustments to Non-Defense Discretionary Spending Limits

Budget authority: −$500 thousand in FY 1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Transportation.

2(A). Bureau: Federal Transit Administration.

2(A). Governmental Function/Project (Account): Transit Research and Development (Transit Planning and Research).

2(B). States and Congressional Districts Affected: Georgia, 3rd Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: Georgia: two; 3rd District: one.

Cancellation No. 97–74

CANCELLATION OF DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY

Report Pursuant to the Line Item Veto Act, P.L. 104–130

Bill Citation: "Department of Transportation and Related Agencies Appropriations Act, 1998" (H.R. 2169).

1(A). Dollar Amount of Discretionary Budget Authority: $450 thousand for a transportation emergency preparedness and response demonstration project and evaluation on page 84 of House Report 105–313, dated October 7, 1997.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C), (E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing Upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs: The majority of the earmarked funds ($400 thousand) would be used to assist in the establishment of an underground emergency transportation management center utilizing satellite communications. The center (to be located in Arab, Alabama) would be used by local, State and Federal emergency management agencies to coordinate assistance during emergency situations and as a disaster field office to coordinate long-term recovery programs. The remaining funds ($50 thousand) would be used: (1) to evaluate and report on the demonstration project in order to share information with other communities to help them to improve their emergency preparedness and response capabilities; and (2) to support administrative expenses incurred by the Department in carrying out the demonstration project. This project is being canceled for several reasons. The first is that the project is outside the scope of the Department's mission. Second, even if the funds were earmarked in a more appropriate agency, the project would not merit funding. Alabama already has an Emergency Operations Center (EOC) that serves the entire State. This EOC was built just five years ago, with half of the cost funded by the Federal Government. An additional emergency response center in Arab or elsewhere in the State would be duplicative and unnecessary. Third, a disaster field office is typically established at a central point within the disaster area. A disaster field office at a fixed location such as Arab may not always provide a desirable point from which to carry out long-term recovery efforts.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay changes

[In thousands of dollars]

Fiscal Year:	
1998	−306
1999	−144
2000	
2001	
2002	
Total	−450

1(F). Adjustments to Non-Defense Discretionary Spending Limits

Budget authority: −$450 thousand in FY 1998.

Outlays: The estimated outlay effect for each year is shown above.

Evaluation of Effects of These Adjustments upon Sequestration Procedures: If a sequestration were required, such sequestration would occur at levels that are reduced by the amounts above.

2(A). Agency: Department of Transportation.

2(A). Bureau: Research and Special Programs Administration.

2(A). Governmental Function/Project (Account): Emergency Preparedness and Response (Research and Special Programs).

2(B). States and Congressional Districts Affected: Alabama, 4th Congressional District.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: Alabama: three; 4th District: two.

[FR Doc. 97–29340 Filed 11–3–97; 10:20 am]

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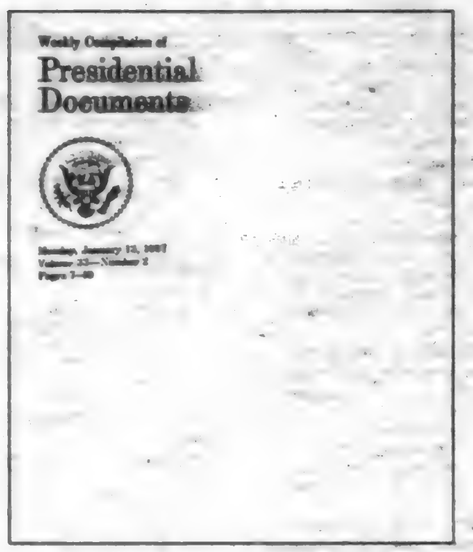

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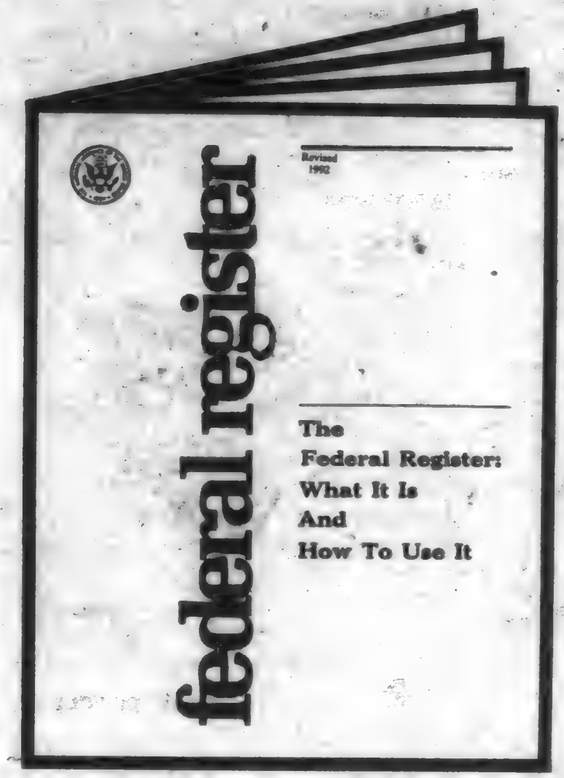

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Presidential Documents

Title 3—

The President

Proclamation 7047 of November 1, 1997

National American Indian Heritage Month, 1997

By the President of the United States of America

A Proclamation

American Indians and Alaska Natives have played a vital role in the life of our country, and their many contributions have enhanced the freedom, prosperity, and greatness of America today. In celebrating National American Indian Heritage Month, we reaffirm our country's commitment to remember those contributions and to honor the unique heritage of our continent's first inhabitants.

This special observance also reflects our continuing commitment to American Indian and Alaska Native tribal governments as an integral part of the social, political, and economic fabric of the United States. The framers of our Constitution incorporated Indian nations into the political and legal framework of this country, forever joining the destiny of the tribal nations with that of the American people. By this action, our founders charged themselves and future generations with the moral obligation to guard the rights and fundamental liberties of our country's tribal peoples as zealously as we protect the rights of all Americans.

As we enter the next millennium, we have an exciting opportunity to open a new era of understanding, cooperation, and respect among all of America's people. We must work together to tear down the walls of separation and mistrust and build a strong foundation for the future. To accomplish this, we must strengthen tribal governments, improve the quality of education for American Indian and Alaska Native youth, build stable, diversified economies in tribal communities, create high-wage jobs, and ensure that all our citizens have the skills, education, and opportunities they need to reach their full potential.

The government-to-government relationship between the tribes and the United States embodies the fundamental American belief that people of widely varied and diverse cultural backgrounds can join together to build a great country. Such greatness can be sustained, however, only so long as we honor the ideals and principles upon which America is founded and abide by our commitments to all our people. In recognition of America's moral and legal obligations to American Indians and Alaska Natives, and in light of the special trust relationship between tribal governments and the Government of the United States, we celebrate National American Indian Heritage Month.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 1997 as National American Indian Heritage Month. I urge all Americans, as well as their elected representatives at the Federal, State, local, and tribal levels, to observe this month with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of November, in the year of our Lord nineteen hundred and ninety-seven, and of the Independence of the United States of America the two hundred and twenty-second.

William J. Clinton

[FR Doc. 97-29393
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Billing code 3195-01-P

Rules and Regulations

Federal Register
Vol. 62, No. 214
Wednesday, November 5, 1997

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Regulation D; Docket No. R-0960]

Reserve Requirements of Depository Institutions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is amending its Regulation D, Reserve Requirements of Depository Institutions, to allow U.S. branches and agencies of foreign banks and Edge and Agreement corporations to choose whether to aggregate reserve balances on a nationwide basis with a single pass-through correspondent or to continue to maintain reserve balances on a same-state/same-District basis as they do today. The amendments will also update and clarify the pass-through rules in Regulation D for all institutions. These amendments will facilitate interstate banking and branching and eliminate certain restrictions applicable to pass-through arrangements.

EFFECTIVE DATE: January 1, 1998.

FOR FURTHER INFORMATION CONTACT: Oliver Ireland, Associate General Counsel, (202/452-3625) or Stephanie Martin, Senior Attorney (202/452-3198), Legal Division. For the hearing impaired only, contact Diane Jenkins, Telecommunications Device for the Deaf (TDD) (202/452-3544), Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: To facilitate interstate banking and branching, the Federal Reserve Banks will begin to implement a new account structure in January 1998 that will provide a single Federal Reserve account for each domestic depository institution. This structure will enable the Federal Reserve Banks to establish a single debtor-creditor relationship with each chartered entity, thereby providing an effective means for Reserve Banks to carry out their risk management responsibilities, and will improve the efficiency of account management for depository institutions.[1] In August 1997, the Board proposed amendments to its Regulation D (12 CFR Part 204) that would allow U.S. branches and agencies of the same foreign bank and Edge and Agreement corporations[2] to hold all of their required reserve balances in a single account held by a pass-through correspondent or to continue to have separate accounts on a same-state/same-District basis as they do today (62 FR 42708, August 8, 1997). The proposal also would have allowed foreign bank offices and Edge corporations to choose whether to aggregate their deposit reports on a nationwide basis or to continue to report on a same-state/same-District basis.

To permit this choice for foreign bank offices and Edge corporations, the Board proposed changes to the pass-through rules in Regulation D, which would liberalize those rules for all domestic depository institutions as well as for foreign bank offices and Edge corporations. The Board also requested comment on issues relating to where all institutions should file their reports of deposit, as well as other reports.

The Board is adopting a revised version of its proposal. Under the final rule, foreign bank offices and Edge corporations will have a choice whether to aggregate required reserve balances on a nationwide basis through a pass-through arrangement or to maintain separate same-state/same-District accounts. All institutions, however, including foreign bank offices and Edge corporations, will continue to file reports of deposits and other reports with the Federal Reserve Bank in whose District they are located.

[1] To determine the Federal Reserve Bank at which a bank with interstate branches will hold an account, the Board adopted rules earlier this year to define a domestic depository institution's location for purposes of Federal Reserve membership and reserve account maintenance (62 FR 34613, June 27, 1997).

[2] Edge corporations are organized under section 25A of the Federal Reserve Act (12 U.S.C. 611-631), and Agreement corporations have an agreement or undertaking with the Board under section 25 of the Federal Reserve Act (12 U.S.C. 601-604a). For purposes of this docket, the term "Edge corporation" includes Agreement corporations.

General Comments

The Board received twelve comments on the proposed amendments to Regulation D, five from Federal Reserve Banks, three from U.S. offices of foreign banks, two from trade associations, one from a commercial bank parent of an Edge corporation, and one from a state banking supervisor. The commenters overwhelmingly supported allowing foreign bank offices and Edge corporations the option of aggregating their required reserve balances nationally or locally. The foreign bank commenters, the Edge corporation parent, and a foreign bank trade association noted that retaining the option is important to foreign banks because some offices operate independently and are not equipped to consolidate reserve balances, while other foreign bank families could operate more efficiently if reserve balances were maintained at a central location.

A state banking supervisor expressed concern that the aggregation of a foreign bank's reserve balances may appear to conflict with the separate legal status of each branch of the foreign bank and should not be allowed to affect the responsibilities of each branch to comply with any requirements under state law. The Board believes that the treatment of the reserve balances of a foreign bank family under Regulation D does not change in any way the responsibility of any individual foreign bank branch or agency to continue to meet any relevant state law requirements imposed by a state regulator, such as asset pledge, maintenance, or reserve requirements.

Section-By-Section Analysis

Section 204.3(a) Computation and Maintenance of Required Reserves

Maintenance of required reserves. Section 204.3(a) of Regulation D requires every depository institution, U.S. branch or agency of a foreign bank, and Edge or Agreement Corporation to maintain reserves against its deposits and Eurocurrency liabilities and file reports in accordance with the ratios and procedures described in the regulation. The Board proposed no amendments to this provision but, as discussed below, has removed the reference to filing reports and has consolidated all reporting provisions in a single paragraph.

Reporting. Section 204.3(a) also requires foreign bank offices and Edge corporations located in the same state and same Federal Reserve District to file a single aggregated report of deposits with the Federal Reserve Bank in whose District the offices are located. The Board solicited comment on an amendment to this section to allow a foreign bank or Edge corporation family to submit an aggregated report of deposits for all U.S. offices, in the event that those foreign banks or Edge corporations chose to aggregate required reserve balances in a single account held by a pass-through correspondent.

The Board also requested comment on whether reporting changes are necessary for all depository institutions that hold their reserve balances with pass-through correspondents. Regulation D (former § 204.3(i)(2), now relocated to § 204.3(a)(2)) requires a depository institution to file its report of deposits with the Reserve Bank in whose District the institution is located, regardless of whether the institution maintains reserve balances in its own account or with a pass-through correspondent. The Reserve Bank notifies the reporting institution of its reserve requirements and also notifies the pass-through correspondent, if one exists. Each respondent is responsible for reporting; the pass-through correspondent is not responsible for reporting errors made by the respondent, but it *is* responsible for maintaining the required reserve balances in accordance with the reports. Under the proposed pass-through rules, a depository institution located in one Federal Reserve District could hold reserve balances with a pass-through correspondent whose Federal Reserve account is located in another District. (The Board has adopted this proposal, as discussed below.) In this situation, the Board noted that it may be appropriate for that depository institution's deposit reports to "follow the money," that is, for the depository institution to send its deposit report to the Reserve Bank that holds the account, rather than the Reserve Bank of the institution's District. In addition, the Board requested comment on whether it is appropriate for all reports of all institutions (depository institutions as well as foreign bank offices and Edge corporations), including both supervisory and monetary reports, to go to the Reserve Bank that holds the account where that institution's reserve balances are held.

Nine of the eleven commenters discussed reporting issues. Five commenters pointed out practical problems associated with requiring reports to "follow the money" rather than be filed with the institution's local Reserve Bank. A trade association for foreign banks stated that, for foreign bank offices that maintained reserve balances with a single pass-through correspondent account, the effect of requiring all reports to go to the Reserve Bank that holds the account is not clear. The commenter was concerned, for example, about how the Reserve Bank receiving the reports would coordinate with the Reserve Bank that supervises the local office, as well as the effect the unified reporting system would have on coordinated supervision between federal and state regulators. A foreign bank commenter stated that consolidation of all reports could result in a lack of understanding of the foreign bank office's condition by its supervising Reserve Bank and *de facto* double reporting requirements for the office. A Reserve Bank noted that allowing aggregate reporting for these foreign bank offices would make it difficult to verify reports on a timely basis, would require close coordination between Reserve Banks, and could affect the accuracy of data on the various separately chartered offices. One bank trade association, one Edge corporation parent, and two Reserve Banks supported the proposal to allow foreign bank offices and Edge corporations to file a single aggregated report of deposits, although one of those Reserve Banks argued against requiring domestic pass-through respondents to file deposit reports with their out-of-District correspondent's Reserve Bank.

The commenters also identified problems with the "follow the money" approach for domestic institutions that hold reserve balances with a pass-through correspondent. For example, one commenter stated that, although requiring all reports to go to the Federal Reserve Bank that holds the correspondent's account could provide an efficient means of administering reserve requirements, it would also require Reserve Banks to dedicate resources to analyzing nonlocal banks' structure, operations, and financial statements. The commenter stated that the alternative of "split reporting" (sending deposit reports to the account-holding Reserve Bank and all other reports to the local Reserve Bank) could lead to confusion and inefficiencies and that another alternative, filing all reports with multiple Reserve Banks, would place additional burden on depository institutions. Two other commenters stated that another reason the reporting location should not be based on the location of a pass-through correspondent is because pass-through arrangements can change frequently.

Although the Board believes that requiring reports to follow the money might provide an efficient means of administering reserve requirements, any potential efficiencies appear to be outweighed by the practical difficulties involved when deposit (or all) reports are submitted to a Reserve Bank other than the reporting institution's local Reserve Bank. If the Reserve Bank in whose District the institution is located is responsible for supervising the institution, submitting supervisory reports to another Reserve Bank could affect the depth and timeliness of the supervising Reserve Bank's knowledge of the institution's condition. Split reporting would lead to inefficiencies in other areas for both the institution and the Federal Reserve Banks. The reporting institution would have to deal with more than one Reserve Bank on reporting and data editing issues. For the Federal Reserve, each Reserve Bank collecting data from a particular institution would have to become knowledgeable about that institution's structure, operations, and balance sheet in order to perform effective data editing and analysis.

In light of these problems, the Board is retaining the current reporting requirements for domestic institutions as well as foreign bank offices and Edge corporations. The Board has consolidated the reporting provisions in new § 204.3(a)(2). All reporting institutions will file deposit and other reports with the Federal Reserve Bank in whose District the institution is located. Foreign bank and Edge corporation offices operating in the same state and same District will file an aggregated report as they do today. The reporting rule does not affect an institution's ability to pass its reserve balances through a correspondent, which may be located in the same or another District. For example, a foreign bank family will be able to consolidate required reserve balances with a single pass-through correspondent while still reporting deposits on a same-state same-District basis.

One commenter asked the Board to clarify that, in the case of Edge corporations, the reporting aggregation applies to the offices of a single Edge corporation and not the offices of all Edge corporations owned by a single parent that operate in the same state and same District. The provisions of § 204.3(a)(2) on aggregated reporting apply to all offices of a single Edge corporation operating in the same state and same District, not to all offices owned by a common parent.

Low Reserve Tranche and Exemption Amounts. Regulation D provides that foreign bank and Edge corporation families share one low reserve tranche and exemption amount among all related offices.[3] The pre-amendment Regulation D set out separate provisions (§ 204.3(a)(1) and (a)(2)) for foreign banks and Edge corporations covering allocation of the low reserve tranche and contained a separate provision (§ 204.3(a)(3)) on allocation of the reserve exemption, which applied to depository institutions as well as foreign bank offices and Edge corporations. The Board proposed a new § 204.3(a)(2) to combine the existing provisions on allocation of the low reserve tranche and the reserve exemption among branches of depository institutions, foreign bank offices, and Edge corporations.

The Board received one comment on this proposed amendment, in favor of the revision. The Board has adopted the amendment as proposed. Under the amendment, a depository institution and its branches, foreign bank families, and offices of an Edge corporation will continue to share one low reserve tranche and one reserve exemption and can allocate the tranche and exemption among offices or groups of offices that file separate deposit reports.[4]

Section 204.3(b) Form and Location of Reserves

In June 1997, the Board amended § 204.3(b) to set forth where a domestic depository institution is located for purposes of determining the Federal Reserve Bank where the institution will maintain its reserve balances (see footnote 1). Specifically, an institution is considered to be located in the Federal Reserve District specified in its charter or organizing certificate, or, if no such location is specified, the location of its head office. The Board can make exceptions to the general rule for a particular institution after considering certain criteria. The Board proposed to apply the same rule to foreign bank offices and Edge corporations. For foreign banks and Edge corporations that pass all reserve balances through a single correspondent, the location of the pass-through correspondent would determine which Reserve Bank holds the account. The Board also proposed to remove the sentence in § 204.3(b)(1) that stated that reserves that were held on a pass-through basis were considered to be a balance maintained with a Reserve Bank. This sentence could be read to conflict with the Board's proposed revisions to the pass-through rules clarifying that the balances held in the account of the pass-through correspondent were the property of the correspondent.

The Board received one comment on these provisions, supporting the proposal. The Board has adopted the proposed amendments and has also revised the language in § 204.3(b)(1) to clarify that only non-member institutions may hold reserves with a pass-through correspondent.[5]

Section 204.3(i) Pass-Through Rules

Eligible Pass-Through Correspondents. Former § 204.3(i)(1) stated that foreign bank offices and Edge corporations could pass their reserve balances through an account of another office of the same institution, subject to the pass-through rules applicable to all depository institutions. This provision could have been interpreted to preclude these institutions from using an unaffiliated pass-through correspondent. The Board proposed to clarify that a foreign bank or Edge corporation family may choose any eligible institution as a pass-through correspondent, such as a domestic depository institution or a office of another foreign bank, in addition to an office of its own family. Although the Board believes that these entities will generally choose one of their own offices as the pass-through correspondent, allowing the choice is comparable to the treatment of domestic depository institutions under Regulation D. The Board received two comments on this amendment, both in support, and has adopted it as proposed. The Board has also revised § 204.3(i)(1) to provide that a Reserve Bank may make exceptions to the requirement that an institution can choose only one pass-through correspondent. Such an exception may be necessary, for example, during a transition period after the merger of two respondents with two different pass-through correspondents.

Account Maintenance. Former § 204.3(i) required a pass-through correspondent to maintain accounts at each Federal Reserve Bank in whose District the respondent institutions were located. The Board proposed to remove the requirement that pass-through reserve balances must be held in the District where the respondent is located. This proposal was necessary to enable foreign bank families and Edge corporations to aggregate their required reserve balances in a single account held by a pass-through correspondent. The proposed amendment applied to pass-through arrangements for all domestic depository institutions as well. The Board received two comments that specifically discussed this amendment; both supported the change, citing improved efficiency and removal of impediments to interstate banking. The Board has adopted the amendment as proposed.

Former Regulation D also provided that, when respondents are located in the same District as the pass-through correspondent, the correspondent may choose to maintain its own reserve balances and the pass-through reserve balances in a single commingled account or in two separate accounts. Under the Board's proposal, correspondents would hold pass-through balances in a single commingled account, along with the pass-through correspondent's own reserve balances (if any) at the Reserve Bank in whose District the pass-through correspondent is located. The Board requested comment on whether correspondents should continue to have the option of separate accounts for their own reserve balances and the reserve balances they hold on a pass-through basis. The Board received two comments on this issue, both from Federal Reserve Banks. One commenter suggested that the Board allow correspondents to retain the option to have a separate account for pass-through reserve balances because the Federal Reserve Banks' subaccount structure does not provide account-holders with a daily ending balance for each subaccount. The other commenter stated that there is no need for a correspondent to maintain pass-through reserve balances in separate account from its own reserve balances and that the subaccount structure will provide the correspondent with sufficient information to segregate its own reserve balances from pass-through balances. The Board continues to believe the subaccount will suffice for tracking respondent activity and that correspondents will be able to calculate the ending balance for subaccounts based on the information they receive. The Board, therefore, has adopted the proposed provision that a correspondent maintain a single account for its own reserve balances (if any) and the pass-

[3] The amount of an institution's net transaction accounts in the low reserve tranche ($0 to $49.3 million) carries a lower reserve requirement (3 percent) than the amount above the tranche (which carries a 10 percent requirement). The first $4.4 million of any institution's reservable liabilities are exempt from reserve requirements.

[4] Ordinarily, branches of a domestic depository institution would not file separate deposit reports unless they are in transition (for example, after a merger or other consolidation) from a multiple to a single reporting and account structure.

[5] This limitation is set forth in section 19(c)(1) of the Federal Reserve Act, 12 U.S.C. 461(c).

through reserve balances of respondents. The Board has, however, added a provision to allow a Reserve Bank to make an exception to this rule. The Board anticipates that a Reserve Bank might permit an exception in cases where, for example, the correspondent is involved in a merger and holds a separate transition account at the same or another Reserve Bank.

Former Regulation D was unclear as to whose money is in the account that contains the pass-through reserve balances, that is, whether the account is a Reserve Bank liability to the pass-through correspondent or to the respondent.[6] The Board proposed amendments to § 204.3(i) to clarify that the balances held by the pass-through correspondent are the property of the correspondent and represent a liability of the Reserve Bank solely to the correspondent, regardless of whether the funds represent the reserve balances of another office or institution that have been passed through the correspondent. The Board received two comments on this proposal, both in favor, and has adopted the amendment as proposed.

Services. Former § 204.3(i)(5) contained provisions regarding the services available to pass-through correspondents and respondents. The Board proposed to remove these provisions from Regulation D. The terms of services offered by the Reserve Banks are covered in Regulation J (12 CFR part 210) and the Reserve Banks' operating circulars. The Board received one comment on this proposal, in support of the change. The Board has eliminated this provision, as proposed.

Technical Changes

The Board also proposed editorial and conforming amendments to §§ 204.3(i) and 204.9(b) of Regulation D. The Board received no comments on these changes. Because of the addition of the consolidated reporting provision in § 204.3(a), the technical amendment to a cross-reference in § 204.9(b) is no longer necessary. The Board has adopted the editorial changes to § 204.3(i) as proposed.

Final Regulatory Flexibility Analysis

Two of the three requirements of a final regulatory flexibility analysis (5 U.S.C. 604), (1) a succinct statement of the need for and the objectives of the rule and (2) a summary of the issues raised by the public comments, the agency's assessment of the issues, and a statement of the changes made in the final rule in response to the comments, are discussed above. The third requirement of a final regulatory flexibility analysis is a description of significant alternatives to the rule that would minimize the rule's economic impact on small entities and reasons why the alternatives were rejected.

The final amendments will apply to all depository institutions, U.S. branches and agencies of foreign banks, and Edge and Agreement corporations, regardless of size, and represent changes to the existing rules that should reduce burden for those institutions that are part of a pass-through arrangement for the purpose of maintaining required reserve balances. The amendments would increase flexibility for those institutions by eliminating restrictions on where pass-through correspondents must maintain accounts. The amendments should not have a negative economic impact on small institutions, and, therefore, there were no significant alternatives that would have minimized the economic impact on those institutions.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR 1320 Appendix A.1), the Board reviewed the final rule under the authority delegated to the Board by the Office of Management and Budget. The proposed rule contained no new collections of information and proposed no substantive changes to existing collections of information pursuant to the Paperwork Reduction Act. However, one of the changes in the proposed rule had the potential to reduce reporting burden for a subset of respondents on existing information collections by allowing fewer reports. The change would have granted Edge corporations and U.S. branches and agencies of foreign banks the option to file single reports of deposits and Eurocurrency data aggregated nationwide. Currently these respondents file deposits and Eurocurrency reports aggregated by each state and Federal Reserve District in which their offices are located.

None of the comments received specifically addressed reporting burden. However, as discussed earlier in this notice, several commenters raised problems associated with not filing the reports with each individual respondent's Federal Reserve District. The Board believes that these problems outweigh any potential efficiencies afforded by such changes. The final rule does not contain any of the proposed elective changes in reporting. Therefore, no collections of information pursuant to the Paperwork Reduction Act are revised by the final rule.

List of Subjects in 12 CFR Part 204

Banks, Banking, Federal Reserve System, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, 12 CFR part 204 is amended as set forth below.

PART 204—RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS (REGULATION D)

1. The authority citation for part 204 continues to read as follows:

Authority: 12 U.S.C. 248(a), 248(c), 371a, 461, 601, 611, and 3105.

2. In § 204.3, paragraphs (a), (b)(1), (b)(2)(i), and (i) are revised to read as follows:

§ 204.3 Computation and maintenance.

(a) *Maintenance and reporting of required reserves.* (1) *Maintenance.* A depository institution, a U.S. branch or agency of a foreign bank, and an Edge or Agreement corporation shall maintain reserves against its deposits and Eurocurrency liabilities in accordance with the procedures prescribed in this section and § 204.4 and the ratios prescribed in § 204.9. Reserve-deficiency charges shall be assessed for deficiencies in required reserves in accordance with the provisions of § 204.7. For purposes of this part, the obligations of a majority-*owned* (50 percent or more) U.S. subsidiary (except an Edge or Agreement corporation) of a depository institution shall be regarded as obligations of the parent depository institution.

(2) *Reporting.* (i) Every depository institution, U.S. branch or agency of a foreign bank, and Edge or Agreement corporation shall file a report of deposits (or any other required form or statement) directly with the Federal Reserve Bank of its District, regardless of the manner in which it chooses to maintain required reserve balances. A foreign bank's U.S. branches and agencies and an Edge or Agreement corporation's offices operating within the same state and the same Federal Reserve District shall prepare and file a report of deposits on an aggregated basis.

(ii) A Federal Reserve Bank shall notify the reporting institution of its reserve requirements. Where a pass-through arrangement exists, the Reserve Bank will also notify the pass-through correspondent of its respondent's required reserve balances.

(iii) The Board and the Federal Reserve Banks will not hold a pass-through correspondent responsible for guaranteeing the accuracy of the reports of deposits submitted by its respondents.

(3) *Allocation of low reserve tranche and exemption from reserve requirements.* A depository institution, a foreign bank, or an Edge or Agreement corporation shall, if possible, assign the low reserve tranche and reserve requirement exemption prescribed in § 204.9(a) to only one office or to a group of offices filing a single aggregated report of deposits. The amount of the reserve requirement exemption allocated to an office or group of offices may not exceed the amount of the low reserve tranche allocated to such office or offices. If the low reserve tranche or reserve requirement exemption cannot be fully utilized by a single office or by a group of offices filing a single report of deposits, the unused portion of the tranche or exemption may be assigned to other offices or groups of offices of the same institution until the amount of the tranche (or net transaction accounts) or exemption (or reservable liabilities) is exhausted. The tranche or exemption may be reallocated each year concurrent with implementation of the indexed tranche and exemption, or, if necessary during the course of the year to avoid underutilization of the tranche or exemption, at the beginning of a reserve computation period.

(b) *Form and location of reserves.* (1) A depository institution, a U.S. branch or agency of a foreign bank, and an Edge or Agreement corporation shall hold reserves in the form of vault cash, a balance maintained directly with the Federal Reserve Bank in the Federal Reserve District in which it is located, or, in the case of nonmember institutions, with a pass-through correspondent in accordance with § 204.3(i).

(2) (i) For purposes of this section, a depository institution, a U.S. branch or agency of a foreign bank, or an Edge or Agreement corporation is located in the Federal Reserve District that contains the location specified in the institution's charter, organizing certificate, or license or, if no such location is specified, the location of its head office, unless otherwise determined by the Board under paragraph (b)(2)(ii) of this section.

* * * * *

(i) *Pass-through rules.* (1) *Procedure.* (i) A nonmember depository institution, a U.S. branch or agency of a foreign bank, or an Edge or Agreement corporation required to maintain reserve balances (respondent) may select only one institution to pass through its required reserve balances, unless otherwise permitted by Federal Reserve Bank in whose district the respondent is located. Eligible institutions through which respondent required reserve balances may be passed (correspondents) are Federal Home Loan Banks, the National Credit Union Administration Central Liquidity Facility, and depository institutions, U.S. branches or agencies of foreign banks, and Edge and Agreement corporations that maintain required reserve balances at a Federal Reserve office. In addition, the Board reserves the right to permit other institutions, on a case-by-case basis, to serve as pass-through correspondents. The correspondent chosen must subsequently pass through the required reserve balances of its respondents directly to a Federal Reserve Bank. The correspondent placing funds with a Federal Reserve Bank on behalf of respondents will be responsible for account maintenance as described in paragraphs (i)(2) and (i)(3) of this section.

(ii) Respondents or correspondents may institute, terminate, or change pass-through arrangements for the maintenance of required reserve balances by providing all documentation required for the establishment of the new arrangement or termination of the existing arrangement to the Federal Reserve Banks involved within the time period provided for such a change by those Reserve Banks.

(2) *Account maintenance.* A correspondent that passes through required reserve balances of respondents shall maintain such balances, along with the correspondent's own required reserve balances (if any), in a single commingled account at the Federal Reserve Bank in whose District the correspondent is located, unless otherwise permitted by the Reserve Bank. The balances held by the correspondent in an account at a Reserve Bank are the property of the correspondent and represent a liability of the Reserve Bank solely to the correspondent, regardless of whether the funds represent the reserve balances of another institution that have been passed through the correspondent.

(3) *Responsibilities of parties.* (i) Each individual depository institution, U.S. branch or agency of a foreign bank, or Edge or Agreement corporation is responsible for maintaining its required reserve balance either directly with a Federal Reserve Bank or through a pass-through correspondent.

(ii) A pass-through correspondent shall be responsible for assuring the maintenance of the appropriate aggregate level of its respondents' required reserve balances. A Federal Reserve Bank will compare the total reserve balance required to be maintained in each account with the total actual reserve balance held in such account for purposes of determining required reserve deficiencies, imposing or waiving charges for deficiencies in required reserves, and for other reserve maintenance purposes. A charge for a deficiency in the aggregate level of the required reserve balance will be imposed by the Reserve Bank on the correspondent maintaining the account.

(iii) Each correspondent is required to maintain detailed records for each of its respondents in a manner that permits Federal Reserve Banks to determine whether the respondent has provided a sufficient required reserve balance to the correspondent. A correspondent passing through a respondent's reserve balance shall maintain records and make such reports as the Board or Reserve Bank requires in order to insure the correspondent's compliance with its responsibilities for the maintenance of a respondent's reserve balance. Such records shall be available to the Reserve Banks as required.

(iv) The Federal Reserve Bank may terminate any pass-through relationship in which the correspondent is deficient in its recordkeeping or other responsibilities.

(v) Interest paid on supplemental reserves (if such reserves are required under § 204.6) held by a respondent will be credited to the account maintained by the correspondent.

By order of the Board of Governors of the Federal Reserve System, October 30, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–29203 Filed 11–4–97; 8:45 am]

BILLING CODE 6210–01–P

[6] The call report instructions are more clear, stating that, from the perspective of the Federal Reserve Bank, pass-through balances are treated as balances due to the correspondent, not to the respondent.

FARM CREDIT ADMINISTRATION

12 CFR Parts 614 and 619

RIN 3052–AB64

Loan Policies and Operations; Definitions; Loan Underwriting; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration (FCA) published a final rule under parts 614 and 619 on

September 30, 1997 (62 FR 51007). The final rule amends the regulations relating to loan underwriting in response to comments received from the FCA Board's initiative to reduce regulatory burden and in an effort to streamline the regulations and set clear minimum regulatory standards where appropriate. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is November 5, 1997.

EFFECTIVE DATE: The regulation amending 12 CFR parts 614 and 619 published on September 30, 1997 (62 FR 51007) is effective November 5, 1997.

FOR FURTHER INFORMATION CONTACT:

John J. Hays, Policy Analyst, Policy Development and Risk Control, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498;

or

Joy E. Strickland, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090, (703) 883–4020, TDD (703) 883–4444.

(12 U.S.C. 2252(a)(9) and (10))

Dated: October 31, 1997.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 97–29272 Filed 11–4–97; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–SW–23–AD; Amendment 39–10195; AD 97–23–07]

RIN 2120–AA64

Airworthiness Directives; Eurocopter Deutschland GmbH Model MBB–BK 117 A–1, A–3, A–4, B–1, B–2 and C–1 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Eurocopter Deutschland GmbH (Eurocopter) Model MBB–BK 117 A–1, A–3, A–4, B–1, B–2, and C–1 helicopters, that establishes a new retirement life for the clutch and requires an entry into the Accessory Replacement Record indicating the new life limit. This amendment is prompted by a recalculation of life limitations by the part manufacturer, Warner Electric. The clutch manufacturer used the airframe load spectrum to establish the new life limit of 3,600 hours time-in-service (TIS). The actions specified by this AD are intended to prevent failure of the clutch, loss of power to the main rotor and a subsequent forced landing of the helicopter.

EFFECTIVE DATE: December 10, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Lance T. Gant, Aerospace Engineer, FAA, Rotorcraft Standards Staff, Rotorcraft Directorate, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5114, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to Eurocopter Deutschland GmbH (Eurocopter) Model MBB-BK 117 A-1, A–3, A–4, B–1, B–2, and C–1 helicopters was published in the **Federal Register** on February 4, 1997 (62 FR 5186). That action proposed to establish a new retirement life for the clutch and to require an entry into the Accessory Replacement Record indicating the new life limit.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comment received.

The one commenter asked for a delay in the issuance of this AD until Warner Electric established a new retirement life on the affected clutch. The commenter indicated that an extended retirement life would be prepared by the clutch manufacturer by the end of May, 1997. To date, the FAA has received no further information about an extension to the retirement life of the clutch.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for some non-substantive word changes, insertion of Note 3 referencing the Luftfahrt-Bundesamt (LBA) AD, and correction of the part number in paragraph (b). The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of this AD.

The FAA estimates that 130 helicopters of U.S. registry will be affected by this AD, that it will take approximately 12 work hours per helicopter to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $6,000 per helicopter. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $873,600.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

AD 97–23–07 Eurocopter Deutschland GmbH: Amendment 39–10195. Docket No. 96–SW–23–AD.

Applicability: Model MBB–BK 117 A–1, A–3, A–4, B–1, and B–2 helicopters, serial numbers (S/N) 7001 through 7250, and Model MBB–BK 117 C–1 helicopters, S/N 7500 through 7520, with clutch, part number (P/N) 4639302044 or P/N CL42067–1, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the clutch, loss of power to the main rotor and a subsequent forced landing of the helicopter, accomplish the following:

(a) Within 30 hours time-in-service (TIS) after the effective date of this AD, make an entry into the Accessory Replacement Record to reflect a new life limit of 3,600 hours TIS for the clutch, P/N 4639302044 or P/N CL42067–1.

(b) Remove the clutch, P/N 4639302044 or P/N CL42067–1, from service on or before reaching 3,600 hours TIS. This AD revises the Airworthiness Limitations section of the maintenance manual by establishing a new retirement life for the clutch, P/N 4639302044 or P/N CL42067–1, of 3,600 hours TIS.

(c) Replacement of the clutch, P/N 4639302044 or P/N CL42067–1, with a clutch, P/N 4639202011, constitutes a terminating action for the requirements of this AD.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Rotorcraft Standards Staff, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Standards Staff.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Standards Staff.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

(f) This amendment becomes effective on December 10, 1997.

Note 3: The subject of this AD is addressed in Luftfahrt-Bundesamt (Germany) AD 95–242, dated June 13, 1995.

Issued in Fort Worth, Texas, on October 30, 1997.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 97–29238 Filed 11–4–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–SW–06–AD; Amendment 39–10194; AD 97–23–06]

RIN 2120–AA64

Airworthiness Directives; Schweizer Aircraft Corporation Model 269A, A–1, B, and C, and TH–55A Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Schweizer Aircraft Corporation Model 269A, A–1, B, and C, and TH–55A helicopters, with a certain main rotor transmission ring gear (ring gear) installed, that requires inspections of the ring gear teeth for surface deterioration which includes pitting, excessive wearing, cracking or corrosion, and replacement of the ring gear if such ring gear teeth surface deterioration is found; and also requires creating a main rotor transmission component log card (log card), if none is available, and making a notation on the log card if a ring gear is changed. This amendment is prompted by reports of failures of the ring gear due to single tooth distress as a result of improper gear tooth spacing during the manufacturing of the ring gear. The actions specified by this AD are intended to prevent failure of the ring gear, loss of drive to the main rotor gearbox, and a subsequent forced landing.

DATES: Effective December 10, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 10, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from Schweizer Aircraft Corporation, P.O. Box 147, Elmira, NY 14902, ATTN: Publications Dept. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond Reinhardt, Aerospace Engineer, New York Aircraft Certification Office, FAA, 10 Fifth Street, 3rd Floor, Valley Stream, New York 11581, telephone (516) 256–7532, fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to Schweizer Aircraft Corporation Model 269A, A–1, B, and C, and TH–55A helicopters was published in the **Federal Register** on November 4, 1996 (61 FR 56840). That action proposed to require inspections of the ring gear teeth for pitting, wearing, cracking or corrosion, and replacement of the ring gear if such ring gear teeth surface deterioration is found. The proposed inspections would be accomplished before further flight if clicking, tapping, or other unusual noises, or unusual vibration is detected while operating the helicopter, or if metal particles are found on the magnetic drain plug during routine maintenance; or, upon installation of replacement transmissions with the affected ring gear; and within the next 50 hours time-in-service (TIS) or at the next annual inspection, whichever occurs first. Thereafter, the notice proposes repetitive inspections at intervals not to exceed 50 hours TIS in accordance with the manufacturer's service bulletin.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

The one commenter states that all ring gears, P/N 269A5104–005, should not be affected by the AD, but that only ring gears, P/N 269A5104–005, manufactured by Eastern Gear Corporation (EGC) and ACR Industries (ACR), should be affected. The same commenter also states that the use of the term "wearing" in the proposed AD needs further amplification because all gear teeth will exhibit wear after some time in service. This wear is normally very minor, but the inference of the proposed AD could lead one to believe that ANY wear is unacceptable. The FAA concurs with both comments and the requirements of this AD are changed accordingly. The applicability paragraph has been revised to specify only those gears manufactured by EGS and ACR. The word "excessive" has been added before the word "wearing" since all gears will experience some wear after some time in service. The inspection for wear, including what constitutes "excessive wear", is contained in the Basic Helicopter Maintenance Instructions, Section 10, which is referenced in Schweizer

Service Bulletin B–244.2, dated February 19, 1996.

Additionally, since the issuance of the proposal, the manufacturer received a report of a failure of a ring gear, P/N 269A5104–7, which is the same part-numbered ring gear specified in the proposal as an airworthy replacement. Since that report, the manufacturer has changed the material properties in the manufacturing of ring gears beginning with serial number S2100 or higher. Therefore, the AD is changed to specify that only ring gears, P/N 269A5104–7, S/N S2100 or higher, are acceptable as replacements.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously and with other non-substantive changes. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that 87 helicopters of U.S. registry will be affected by this AD, that it will take approximately 2 work hours per helicopter to accomplish the initial inspections, 0.5 hours to create a main rotor transmission component log card, and 28 work hours if removal and replacement of the ring gear is required, and that the average labor rate is $60 per work hour. Required parts will cost approximately $6,400 per ring gear and $1,219 per overhaul kit. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $822,063, assuming creation of a component log card and replacement of the ring gear in the entire fleet is necessary.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

AD 97–23–06 Schweizer Aircraft Corporation: Amendment 39–10194. Docket No. 96–SW–05–AD.

Applicability: Model 269A, A–1, B, and C, and TH–55A helicopters, with main rotor transmission ring gear (ring gear), part number (P/N) 269A5104–5, identified by the letters EGC (Eastern Gear Corporation), ACR (ACR Industries), or the manufacturer code number 23751 (EGC) or 57152 (ACR), installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (f) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the ring gear, loss of drive to the main rotor gearbox, and a subsequent forced landing, accomplish the following:

(a) Inspect the ring gear teeth for surface deterioration which includes pitting, excessive wearing, cracking or corrosion in accordance with Schweizer Service Bulletin B–244.2, dated February 19, 1996, as follows:

(1) Before further flight, if a clicking or tapping sound or other unusual noise or unusual vibration is detected while operating the helicopter, or if a metal particle is found on the magnetic drain plug during routine maintenance;

(2) Before installing a main rotor transmission which contains an affected ring gear on the helicopter;

(3) Within the next 50 hours time-in-service (TIS) after the effective date of this AD, or at the next annual inspection, whichever occurs first.

(b) Thereafter, inspect the ring gear teeth at intervals not to exceed 50 hours TIS in accordance with Schweizer Service Bulletin B–244.2, dated February 19, 1996.

(c) If surface deterioration which includes pitting, excessive wearing, cracking or corrosion is discovered, before further flight, remove the transmission from service and replace the ring gear with a ring gear, P/N 269A5104–7, serial number (S/N) S2100 or higher number.

(d) At the next main rotor transmission overhaul, remove and replace the ring gear, P/N 269A5104–5, identified on the face of the ring gear by the letters EGC, ACR, or the manufacturer code number 23751 (EGC) or 57152 (ACR) and replace it with a ring gear, P/N 269A5104–7, S/N S2100 or higher number.

(e) Installation of a ring gear, P/N 269A5104–7, S/N S2100 or higher number constitutes a terminating action for the requirements of this AD and must be annotated on a component log card. A new component log card must be created if a component log card is not in the applicable maintenance records.

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, New York Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York Aircraft Certification Office.

(g) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished, provided no clicking or tapping sound or other unusual noise or unusual vibration was detected on any previous flight.

(h) The inspections shall be done in accordance with Schweizer Service Bulletin B–244.2, dated February 19, 1996. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Schweizer Aircraft Corporation, P.O. Box 147, Elmira, NY 14902, ATTN: Publications Dept. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) This amendment becomes effective on December 10, 1997.

Issued in Fort Worth, Texas, on October 30, 1997.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 97–29237 Filed 11–4–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

14 CFR Part 71

[Airspace Docket No. 97–AGL–56]

Modification of Class D Airspace; Minot, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action reinstates controlled airspace extending upward from the surface at Minot Air Force Base (AFB), ND. The airspace areas are necessary to accommodate precision standard instrument approach procedures (SIAP) serving Minot AFB. The affected airspace, formerly surface area extensions to the Minot AFB Control Zone, was inadvertently omitted from United States controlled airspace during Airspace Reclassification in 1993. This action corrects that omission.

DATES: Effective date: November 5, 1997.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7573.

SUPPLEMENTARY INFORMATION:

The Rule

This action amends 14 CFR part 71 by reinstating controlled airspace extending upward from the surface at Minot AFB, ND. The affected airspace, formerly surface area extensions to the Minot AFB Control Zone, was inadvertently omitted from United States controlled airspace during Airspace Reclassification in 1993. This action corrects that error.

Federal Aviation Administration (FAA) Order 7400.6G, dated September 4, 1990, and now obsolete, described a Control Zone serving Minot AFB which consisted of a circle with a 5 Statute Mile (SM) radius and two extensions, one to the southeast and one to the northwest, each of which was 5 SM wide and extended from the radius to 7 SM southeast and northwest respectively of the Deering Tactical Air Navigation (TACAN) facility. The Deering TACAN is located near the center of the 5 SM radius circle. The Minot AFB Control Zone, as described in FAA Order 7400.6G, was established by a final rule published in the **Federal Register** on August 12, 1970 (35 FR 12751).

In accordance with the Airspace Reclassification final rule published December 17, 1991, and effective September 16, 1993 (56 FR 65638), distances were converted from SM to Nautical Miles (NM), and Control Zones were generally redesignated as Class D airspace areas, and most Control Zone extensions were redesignated as Class E airspace areas.

In preparation for Airspace Reclassification, the FAA redrafted the legal descriptions of all airspace areas under United States jurisdiction. Part of this process involved dividing Control Zones into Class D and E airspace areas where necessary. In redrafting the legal description for the Minot AFB Control Zone, the FAA redesignated the 5 SM-radius circle as a 4.5 NM-radius Class D airspace area. The FAA did not, however, redesignate the Control Zone extensions as Class E airspace areas. This omission was unintentional as the surface area extensions remained, and continue to be, necessary to accommodate SIAP's serving Minot AFB. The FAA has never purposely and affirmatively acted to revoke the controlled airspace.

The fact that the Control Zone extensions were not redesignated as Class E airspace, and that consequently the affected areas are currently Class G airspace, was discovered in a recent joint FAA/Air Force review of the airspace requirements for Minot AFB. As a result of the discovery, the FAA and the Air Force have been forced to discontinue use of all precision SIAP's serving Minot AFB pending reinstatement of the controlled airspace areas.

The precision SIAP's at Minot AFB serve important flight safety and national security interests. Airspace standards, however, require that the SIAP's be contained entirely within controlled airspace. The FAA finds that the safety and national security concerns created by the lack of a precision SIAP at Minot AFB, combined with the fact that the agency did not intend to permit the affected airspace to revert to uncontrolled status, makes notice and public procedure under 5 U.S.C 553(b) impractical and contrary to the public interest. Furthermore, for the reasons listed above, the FAA finds that good cause exists, pursuant to 5 U.S.C. 553(d), to make this amendment effective in less than 30 days.

The coordinates for this airspace docket are based on North American Datum 83. Class D airspace designations are published in Paragraph 5000 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1 The Class D airspace designations listed in this document will be published subsequently in the Order. Under the circumstances presented, the FAA concludes that there is an immediate need to modify these Class D airspace areas in order to promote the safe and efficient handling of air traffic in these areas.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 5000 Class D Airspace

* * * * *

AGL ND D Minot AFB, ND [Revised]

Minot AFB, ND
(lat. 48°24'56"N, long. 101°21'28"W)
Deering TACAN
(lat. 48°24'54"N, long. 101°21'54"W)

That airspace extending upward from the surface to and including 4,200 feet MSL within a 4.5-mile radius of Minot AFB, and within 2.2 miles each side of the Deering TACAN 113° radial extending from the 4.5-mile radius to 6.1 miles southeast of the TACAN, and within 2.2 miles each side of the Deering TACAN 303° radial, extending from the 4.5-mile radius to 6.1 miles northwest of the TACAN. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Des Plaines Illinois on October 14, 1997.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–29195 Filed 11–4–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 255

[Docket OST–96–1145 [40612]]

RIN 2105–AC35

Computer Reservations System (CRS) Regulations

AGENCY: Office of the Secretary (DOT).

ACTION: Final rule.

SUMMARY: The Department is adopting a rule that will prohibit each computer reservations system (CRS) from adopting or enforcing contract clauses that bar a carrier from choosing a level of participation in that system that would be lower than the carrier's level of participation in any other system, if neither the carrier nor any affiliate of the carrier owns or markets a CRS. The Department believes that this rule is necessary to promote competition in the CRS and airline industries, since the contract clauses at issue unreasonably limit the ability of airlines without CRS interests to choose how to distribute their services through travel agencies. This rule will allow a CRS to enforce such a contract clause against an airline that owns or markets a competing CRS or that has an affiliate that owns or markets a CRS. The Department is acting on a rulemaking petition filed by Alaska Airlines.

DATES: This rule is effective December 5, 1997.

FOR FURTHER INFORMATION CONTACT: Thomas Ray, Office of the General Counsel, 400 Seventh St. SW., Washington, DC 20590, (202) 366–4731.

SUPPLEMENTARY INFORMATION:

Introduction

Almost all airlines in the United States depend heavily on travel agencies for the distribution of their services, and travel agencies in turn rely heavily on computer reservations systems (CRSs) in responding to their customers' requests for information on airline services and for booking seats. The large majority of travel agencies use only one CRS (the agencies using a system are called "subscribers"). As a result, virtually every airline must make its services available through each of the four CRSs operating in the United States in order to distribute its services through the travel agencies using each system (the airlines that make their services available through a system are called "participating airlines"). Because each airline must participate in each system, the systems do not compete with each other for airline participants and have long been able to dictate the terms for participation (in contrast, the systems compete for travel agency users). Each of the systems is controlled by one or more airlines or airline affiliates, which can use their market power over airline participants to distort airline competition. We therefore have rules regulating CRS operations. 14 CFR Part 255, adopted by 57 FR 43780, September 22, 1992, after publication of a notice of proposed rulemaking, 56 FR 12586, March 26, 1991.

Alaska Airlines asked us to amend those rules by adding a prohibition of parity clauses—contract terms imposed by three of the four CRSs operating in the United States that require a participating airline to purchase at least as high a level of service from it as the airline does from any other system. We issued a notice of proposed rulemaking that tentatively determined to adopt such a rule. 61 FR 42197, August 14, 1996. Our proposed rule stated: "No system may require a carrier to maintain any particular level of participation in its system on the basis of participation levels selected by that carrier in any other system." We tentatively determined that the proposed rule would make airline operations more efficient and promote competition in the CRS and airline industries.

However, airlines that own or market a CRS (or have an affiliate that does so) may limit their participation in a competing system in order to frustrate that system's ability to obtain travel agency subscribers. Our notice therefore asked whether we should allow a system to enforce a parity clause against an airline that owned or marketed a competing system.

After considering the comments and reply comments, we have determined to prohibit parity clauses, subject to an exception allowing a system to impose such a clause on an airline that owns or markets a competing system (this reference to airlines that own or market a system, and other such references in this document, include airlines with affiliates that own or market a system). Since the parity clauses are currently injuring some carriers, we are making a final decision now on Alaska's rulemaking petition rather than waiting for the completion of other pending CRS proceedings.

As explained in more detail below, parity clauses cause airlines either to buy more CRS services than they wish to buy from some systems or to stop buying services from other systems that they would like to buy, which creates economic inefficiencies and injures airline competition. In addition, the clauses eliminate competition between the systems for higher levels of participation. Without the clauses, such competition would exist, since the airlines' need to participate in systems does not compel them to buy the higher levels of service from each system. For these reasons the Department of Justice, several smaller airlines, and the CRS that does not use a parity clause, Galileo, support our proposal.

We have considered the arguments made by the parties opposing the proposal, but we have determined that the rule would benefit competition and airline efficiency. None of the opponents denies that the parity clauses compel airlines to buy services that they do not want and that the clauses provide no significant benefit to airlines. We also conclude that our rule will not adversely affect travel agencies. Each airline's interest in facilitating travel agency sales of its services should ensure that no important airline will reduce its participation in any system by enough to seriously interfere with the efficiency of travel agency operations.

By adopting this rule we are following our long-standing policy of promoting the ability of airlines to choose how they will distribute information on their services and enable travel agencies to carry out booking and ticketing transactions through electronic means. Parity clauses unreasonably interfere with the ability of individual airlines without CRS ties to choose the level of CRS service they will buy and to choose how best to communicate with travel

agencies in distributing their services, and this harm is not offset by any competitive benefits. Our prohibition of airline parity clauses, moreover, is consistent with our existing rule prohibiting the use of parity clauses in travel agency CRS contracts, 14 CFR 255.8(b). We prohibited parity clauses in travel agency contracts in order to eliminate unreasonable restrictions on the travel agencies' ability to change systems and use more than one system.

We have concluded, however, that entirely banning the use of parity clauses would be unreasonable, since an airline that owns or markets a CRS may limit its participation in other systems in order to compel travel agencies in areas where it is the dominant airline to subscribe to its own system. The apparent use of such tactics by some U.S. airlines caused us to adopt a rule requiring significant owners of a CRS to participate at equivalent levels in competing systems, 14 CFR 255.7 ("the mandatory participation rule"), and some foreign airlines have apparently reduced their participation in a U.S. system in order to frustrate that system's marketing efforts in the foreign carriers' homelands. Our rule will therefore allow systems to enforce parity clauses against airlines that own or market a competing system.

Finally, several parties have proposed other changes in our mandatory participation rule and other CRS rules. We will consider their proposals in our next major CRS rulemaking, not here.

Background

The Systems' Role in Airline Distribution

As we explained in the notice of proposed rulemaking, each CRS is able to dictate its terms for airline participation because virtually all airlines must participate in each system due to the role of travel agencies in airline distribution and the agencies' reliance on CRSs. 61 FR at 42198. Almost all airlines depend heavily on travel agencies for the sale of their services, and travel agencies sell about seventy percent of all airline tickets. Travel agents primarily rely upon CRSs to determine what airline services and fares are available, to book seats, and to issue tickets for their customers. Travel agents use CRSs for these tasks because the systems are the most efficient method of carrying out these tasks. *Ibid.*

Travel agencies typically use only one CRS for obtaining airline information and making bookings. As a result, an airline that wants its services sold by a travel agency must make its services available for sale in the CRS used by that agency. If the airline does not participate in that system, that system's subscribers are likely to make significantly fewer bookings on the airline, which will substantially undermine the airline's ability to compete with other airlines that do participate in the system. Given the importance of marginal revenues in the airline industry, an airline's loss of a few passengers on each flight will substantially reduce, and perhaps eliminate, the airline's ability to operate profitably. 61 FR at 42198.

Because most airlines are therefore compelled to participate in each system, the systems do not compete for airline participation and their prices and terms for participation are not disciplined by market forces. 61 FR at 42198. In contrast, the systems do compete for travel agency subscribers, and travel agencies do not pay supracompetitive prices for CRS services (indeed many agencies receive CRS services and equipment for free). Saber Reply at 1, n. 1; Justice Dept. Comments at 5.

Some airlines, particularly Southwest, compete successfully without participating in all of the systems. Southwest, for example, participates only in Saber. As explained below, most airlines could not duplicate Southwest's ability to avoid full CARS participation, so Southwest's experience does not invalidate our finding that each system has market power over almost all airlines. *See* 61 FR at 42198. We note, moreover, that some airlines like Western Pacific and ValuJet have recently decided to participate in CRSs.

The Systems' Different Participation Levels and the Parity Clauses

Each system offers several levels of participation in its system and various enhancements to the different levels of participation. When an airline uses a higher level of service, it must pay higher fees. When an airline participates at the "full availability" level in a system, the travel agents subscribing to that system can obtain a display of the airline's schedules and fares, learn whether seats are available, book a seat, and issue a ticket. However, if the airline participates at a higher level, the travel agent can obtain realtime availability information and make a booking in the airline's internal reservations system. If the airline chooses to purchase the enhancements offered by a system, travel agents can also issue boarding passes and select specific seats on the basis of seat maps. Southwest, on the other hand, uses a level of service offered by Saber called Basic Booking Request. Saber does not display Southwest's availability, so the travel agent must send Southwest an electronic message to find out whether seats are available. 61 FR at 42199.

While almost all airlines must participate in each system at the full availability level, participation at the higher levels does not appear to be essential for many airlines. Moreover, higher-level participation increases an airline's CARS fees. Many airlines accordingly choose not to participate at higher levels, and, but for the parity clauses, many would consider participating at a higher level in some systems but not in other systems. The parity clauses, however, deny airlines the ability to participate at different levels in different systems. Three CRSs—Saber, Worldspan, and System One—impose parity clauses on their airline participants, while the fourth system—Galileo—does not. 61 FR at 42199.

The History of CARS Regulation

Each of the four systems is owned by or affiliated with one or more airlines. American Airlines' parent corporation, AMR, controls Saber, the largest system. United Air Lines, US Airways, several European airlines, and Air Canada own most of Galileo, the second-largest system, which is sold under the name Apollo in North America. Galileo and Saber also have public shareholders. Delta Air Lines, Northwest Airlines, Trans World Airlines, and Abacus, a partnership of several Asian airlines, own Worldspan. System One is owned by Amadeus, which is owned by Lufthansa, Air France, Iberia, and Continental Air Lines. 61 FR at 42198.

Each of the airlines that owns a system has the incentive to use its control of a system to prejudice the competitive position of other airlines. We therefore regulate CARS operations in order to protect competition in the airline industry and help ensure that consumers obtain accurate and complete information on airline services. 61 FR at 42198. Our current rules, adopted in 1992, modified the rules originally adopted by the Civil Aeronautics Board ("the Board"), the agency that had been responsible for the economic regulation of airlines. 49 FR 32540, August 15, 1984, *afield, United Air Lines*, 766 F.2d 1107 (7th Cir. 1985). Both we and the Board adopted the CARS rules under our authority to prevent unfair methods of competition and unfair and deceptive practices in the marketing of airline transportation. 49 U.S.C. 41712, formerly section 411 of the Federal Aviation Act, codified then as 49 U.S.C. 1381. 57 FR at 43789–43791. Since our rules by their terms will expire at the end of 1997, 14 CAR

255.12, we will begin a major reexamination of the rules in 1997.

Two features of our 1992 rulemaking are relevant here. First, we revised the rules to give airlines and travel agencies a greater ability to use alternative electronic methods for communicating information and conducting transactions. In particular, we stated that a system could not bar a travel agency from using CARS terminals to access other systems and databases with airline information, unless the system owned the terminals. We intended this rule to make possible direct links between the airlines' internal reservations systems and individual travel agencies. 57 FR at 43796–43800. We had hoped that this rule would avoid the need for more intrusive regulation. 57 FR at 43781. In addition, we prohibited several types of restrictive contract clauses imposed by systems on subscribers—minimum use clauses, roll-over clauses, and parity clauses—that unreasonably limited the travel agencies' ability to switch systems or use multiple systems. 57 FR at 43822–43826.

Secondly, we found that some U.S. airlines with an ownership interest in a CARS appeared to be limiting their participation in competing systems to prejudice competition in the CARS business. If an owner airline limited its participation in competing systems, travel agencies in areas where that airline was the major airline would be compelled to subscribe to its system in order to obtain the best information and transactional capabilities on the airline. 56 FR at 12606; 57 FR at 43800–43801. We therefore adopted the mandatory participation rule, which requires each airline deemed a "system owner" to participate in other systems at the same level in which it participates in its own system as long as the terms for such participation are commercially reasonable. 14 CFR 255.7. An airline is a system owner if it and its affiliates hold five percent or more of a system's equity interest. 14 CFR 255.3. Since we focused on the domestic CARS market in adopting the mandatory participation rule, we excluded carriers with a small CARS ownership interest from the rule's coverage, since those airlines appeared unlikely to have an incentive to distort CARS competition within the United States. 57 FR at 43795.

We have also addressed CARS issues in other contexts. First, we found in several proceedings under the International Air Transportation Fair Competitive Practices Act ("IATFCPA"), 49 U.S.C. 41310(c), that a foreign airline was apparently refusing to participate in a U.S. system at an adequate level (or at all) in order to give a marketing advantage to the system owned by that airline or an affiliate in the airline's homeland. *Complaint of American Airlines against British Airways*, Order 88–7–11 (July 8, 1988); *Complaint of United Air Lines* v. *Japan Air Lines*, Order 88–9–33 (September 15, 1988); *Complaint of American Airlines* v. *Iberia, Lineas Aereas de España*, Order 90–6–21 (June 8, 1990). We concluded in those orders that a foreign airline would be engaging in unreasonably discriminatory conduct if it refused to participate in a U.S. system in order to frustrate that system's ability to compete with the foreign airline's own system, since that would interfere with the right of U.S. airlines to a fair and equal opportunity to compete. *See also Complaint of American Airlines* v. *Iberia, Lineas Aereas de España et al.*, Order 93–2–37 (February 17, 1993).

In addition, we have completed two studies of the CARS business and its impact on airlines. *Airline Marketing Practices: Travel Agencies, Frequent-Flyer Programs, and Computer Reservation Systems*, prepared by the Secretary's Task Force on Competition in the Domestic Airline Industry (February 1990) (*Airline Marketing Practices*); and *Study of Airline Computer Reservation Systems* (May 1988). We are currently conducting another study, begun by Order 94–9–35 (September 26, 1994), which will provide information for our review of the CARS rules.

History of This Proceeding

As we explained in detail in the notice of proposed rulemaking, Alaska had been considering lowering its level of participation in Saber while maintaining a higher level of participation in other systems. When Saber learned of this, it told Alaska that any such action would violate the parity clause in Alaska's CARS contract with Saber. Saber also sued Alaska to enforce the parity clause. 61 FR at 42199–42200. After we issued our notice of proposed rulemaking, the court dismissed Saber's suit on the ground that Saber's claims, all based on state contract law, were preempted by federal law, particularly in light of our tentative decision that parity clauses should be prohibited as unfair methods of competition. *American Airlines* v. *Alaska Airlines*, N.D. Tex. Civ. No. 4–94CV–595–Y (September 18, 1996 memorandum opinion).

In addition to defending itself in the litigation, Alaska petitioned us for a rule prohibiting parity clauses. We published a notice inviting comments on Alaska's petition. 59 FR 63736, December 9, 1994. American, Worldspan, and System One filed comments opposing Alaska's petition, as did the two major travel agency trade associations, the American Society of Travel Agents (ASTA) and the Association of Retail Travel Agents (ARTA), and three travel agencies. Galileo International Partnership submitted comments supporting Alaska's petition.

While Alaska's rulemaking petition was pending, Saber told Alaska, Midwest Express, and a number of other airlines that they were participating in another system at a higher level than they were in Saber, that each of them was therefore violating the parity clause in its Saber contract, and that their continued participation in Saber required each of them to either upgrade its participation in Saber or downgrade its participation in the other systems. December 8, 1995, Letter of Scott Alvis, included as Attachment D to Alaska's Reply. At our request, Saber agreed to postpone enforcing this demand against Alaska and Midwest Express for a short time to give us an opportunity to rule on Alaska's petition. See 61 FR at 42201. We have not asked System One or Worldspan to suspend enforcement of their clauses, which to our knowledge have not recently generated as much controversy as Sabre's clause.

We then issued a notice proposing to adopt the rule sought by Alaska. 61 FR 42197, August 14, 1996. The basis for our proposal was our tentative finding that parity clauses unreasonably interfered with each airline's ability to choose the level of CRS services that it would buy and injured competition in both the CRS and airline industries. We recognized, however, that parity clauses could be a legitimate tool against discriminatory conduct by airlines that own or market a competing system. We therefore specifically requested comment on whether we should include an exception in the prohibition so that a system could enforce a parity clause against an airline that owned or marketed a competing CRS. 61 FR at 42197, 42198, 42206.

In proposing the ban on parity clauses, we summarized our reasoning as follows, 61 FR at 42198:

> [T]he vendor contract clauses at issue appear to us to be fundamentally inconsistent with our goals of eliminating unreasonably restrictive practices in the CRS business that limit competition. By denying each non-vendor airline an opportunity to change its level of participation in a system in response to the quality and price of the services offered by each vendor and the airline's own marketing and operating needs, the contract clauses unreasonably restrict competition in the CRS and airline businesses.

Thus, despite our reluctance to regulate CRS contracts, we proposed to ban parity clauses because they "substantially—and unfairly—restrict a non-vendor airline's ability to choose the level at which it is willing to participate in a system." 61 FR at 42201.

We further noted that the parity clauses injured CRS competition: "[A] system offering more attractive prices and services may obtain less business than it otherwise would, because some airlines will be unwilling to purchase a higher level of that system's services when doing so will force them to increase their purchases from other systems, even if the latter offer lower quality services or charge higher fees." 61 FR at 42202. Galileo in fact had alleged that four airlines had already lowered their participation level in Galileo due to Sabre's threat to enforce the parity clause and that Galileo expected more airlines would take such action. 61 FR at 42201.

Furthermore, the parity clauses could drive up a non-vendor airline's costs by forcing it to buy more services from some systems than it would otherwise purchase, without the offsetting benefit of precluding a CARS vendor from compromising CARS competition. Alaska and Midwest Express, for example, stated that Saber's demands that they upgrade their level of participation would increase their CARS costs by more than ten percent. 61 FR at 42201.

We tentatively determined that we could adopt the proposed rule under our power to prohibit unfair methods of competition in the airline industry, a power which authorizes us to prohibit conduct which violates the letter or the spirit of the antitrust laws. 61 FR at 42202. We based that determination on our finding that each CARS has market power over the airlines. Each system had market power because the economics of the airline and travel agency businesses forced airlines (with few exceptions) to participate in each system, no matter how onerous the terms of participation. Because the systems have market power, the parity clauses appeared to be analogous to conduct prohibited by the antitrust laws, such as tying arrangements. 61 FR at 42203.

While we concluded that parity clauses appeared to unreasonably restrict competition as to airlines that did not own or market a CARS, we recognized that an airline that owned or marketed a CARS could choose to lower its participation in competing systems in order to give its own system a competitive advantage. In the past several foreign airlines had lowered their participation in Saber or another U.S. system in order to cause travel agencies in the foreign airline's homeland to subscribe to its system. Saber represented that it had recently used the parity clause against some Latin American carriers in order to ensure that they participated in Saber at the same level that they participated in the CARS they were marketing. 61 FR at 42206. We therefore asked for comments on whether we should modify the proposed rule to prevent unfair competition by barring airline parity clauses except when enforced against a carrier owning or marketing another system. 61 FR at 42197, 42198, 42206.

The Comments and Reply Comments

The Department of Justice; Galileo; several smaller airlines—Alaska, America West, Midwest Express, and Reno; an association consisting of smaller airlines, the National Air Carrier Association; the American Automobile Association; and the European Civil Aviation Conference filed comments supporting the proposed rule. Saber, American, Worldspan, Delta, Northwest, TWA, Continental and System One, the American Society of Travel Agents (ASTA), the Association of Retail Travel Agents, and the United States Travel Agent Registry opposed the proposal. In addition, several hundred travel agencies filed letters opposing the prohibition against parity clauses (most of these letters, however, followed form letters prepared by Saber).

We will discuss the arguments made by the commenters in the following explanation of our decision to adopt a rule generally prohibiting parity clauses but allowing their enforcement against airlines that own or market a competing CARS.

Introduction to Our Decision

We have determined to adopt the proposed rule barring parity clauses, subject to an exception allowing a system to enforce such a clause against an airline that owns or markets a competing CARS. We agree with the Justice Department's findings that the clauses injure airline competition by making airline distribution less efficient and by eliminating the possibility of competition among the CRSs for higher-level participation by airline participants. We further find that, subject to the exception for airlines owning or marketing a competing system, prohibiting parity clauses will promote rather than injure CARS competition and will not significantly injure travel agencies. We are relying on the facts, undisputed by any party in this proceeding, that parity clauses force airlines to buy CARS services that they do not want, that airline participants in CRSs are compelled to accept parity clauses, and that airlines receive no benefit in return for the burdens imposed on them by the clauses.

The parties opposing our proposal base their position in large part on the claim that an airline choosing to buy more service from one system than from another is improperly "discriminating" against the latter system. This claim has no merit as to airlines that neither own nor market the favored system. If an airline without such CARS ties chooses to favor one system over another, the airline is only "exercis[ing] the normal freedom of a purchaser in a competitive market to choose its suppliers and the quantity of goods or services that it will buy from each," as we stated in our notice of proposed rulemaking. 61 FR at 42204. In that case the airline has decided that the higher level of service offered by the favored system is more desirable in terms of price, quality, or value than the comparable services offered by other systems. If another system wants that airline to upgrade its participation level, it should do what firms in competitive industries do to win customers—lower its price or otherwise make its service more attractive.

Moreover, while Saber has legitimately complained about foreign airlines that discriminated against it in order to promote the system they own, Saber's position in this rulemaking—that any airline's participation in one system at a higher level than in other systems is unreasonable discrimination—is inconsistent with Saber's own conduct. Saber has established a marketing arrangement with Southwest Airlines, a major U.S. airline that has long refused to participate in any other system. Since Southwest does not participate at all in other systems, those systems' parity clauses cannot affect Southwest. Southwest's participation in Saber (and the airline's refusal to participate in any other system) surely handicaps the other systems' ability to market themselves in areas where Southwest is a major airline. Yet in response to the other systems' argument that we should expand the mandatory participation rule to cover airlines that market a CARS, not just airlines deemed "system owners," Saber says, "[If a carrier elects not to participate in a system at all, it should be allowed to act as it deems appropriate, including marketing another system." Saber Reply at 25.

In this proceeding we are not taking any steps to expand the coverage of the mandatory participation rule, as

explained below, or finding Southwest's conduct improper. Southwest, after all, refused to participate in the other systems long before it agreed to market Saber. However, in our view Saber has not reconciled its position that any airline's decision to participate at a lower level in one system rather than another is discrimination with its position that it is entirely proper for an airline marketing one system to refuse to participate at all in other systems.

Saber wrongly complains that the proposed rule amounts to "micro management" of the CARS business and is inconsistent with the Administration's goal of eliminating unnecessary regulation. Saber Comments at 2. Our rule is necessary—market forces do not significantly discipline the systems' treatment of participating airlines, and the systems have used their market power to impose contract terms that reduce competition in the CARS and airline industries and make airline distribution less efficient. This rule is consistent with other actions we have taken to restrict the business choices of CASS and their airline owners when doing so is necessary to keep them from using a dominant market position to frustrate competition. See, *e.g., Complaint of American Airlines* v. *Iberia, Lines Aereas de España*, Order 90–6–21 (June 8, 1990) at 9–10; *Complaint of United Air Lines* v. *Japan Air Lines*, Order 88–9–33 (September 15, 1988) at 11–12.

Before setting forth the basis for our rule in detail, we will explain why we are acting now rather than delaying our decision until the completion of other pending CRS matters.

The Need to Resolve the Parity Clause Issue

Given the harm caused by parity clauses, and the lack of any justification for their continuation as to airlines without CRS ties, our decision to adopt a final rule prohibiting the clauses now is clearly reasonable. Nonetheless, several of the opponents argue that we should delay a decision on the parity clause issue, either because the issue allegedly cannot be rationally resolved until the completion of our pending CRS study and our planned consideration of all CRS regulatory issues in our reexamination of the CRS rules, or because the rule proposed by us would have no significant practical consequences. We cannot agree that any delay is warranted.

First, all of the parties have had an ample opportunity to address the issues in this proceeding, both by filing comments on Alaska's petition and by filing comments and reply comments on our notice of proposed rulemaking. The record in this proceeding, coupled with our earlier analyses of CRS issues (which parties were free to dispute in their comments here), provides more than an adequate basis for resolving the issues in this rulemaking. Thus there is no need for us to delay our decision here until the completion of our pending CRS study.

Worldspan and others argue that the requests by several commenters for changes in other rules, primarily the mandatory participation rule, necessarily mean that this rulemaking should be postponed until we can consider all of the commenters' requests for rule changes. *See, e.g.*, Worldspan Reply at 2–3. Despite these arguments, we conclude that we can rationally and fairly decide the parity clause issue without deciding other issues or changing other CRS rules.

Several parties have urged us to reexamine the mandatory participation rule applicable to airlines with a significant CRS ownership interest, either by limiting the rule or by broadening its scope, and we recognize that the mandatory participation rule involves competitive and economic efficiency issues like those presented by the parity clause issue. Even so, the relationship between the two rules is not close enough to require them to be decided together. No one, for example, has claimed that our adoption of the proposed rule on parity clauses will make compliance with the mandatory participation rule more burdensome for the airlines subject to that rule.

We disagree with ASTA's position that it would be unfair to travel agencies for us to act on Alaska's petition without addressing the travel agencies' contention that their CRS contracts will not allow them to switch to a different system if the quality of a system's service declines during the contract term because some airlines reduce their participation levels in that system as a result of our rule. Assertedly the travel agencies entered into contracts with systems in the expectation that no airline participant could lower its level of participation in one system while maintaining a higher level in other systems. ASTA Comments at 2–3. However, travel agencies have never had any implied guarantee that a system will not become less useful during the term of the subscriber contract. For example, Galileo, Worldspan, and System One changed their rules on non-participant airlines with the result that their subscribers could no longer ticket Southwest through the CRS. That change immediately made those systems less attractive for agencies in areas where Southwest was an important airline. Similarly, after a travel agency chooses a system because its owner is the major airline in the agency's area, that airline may decide to drastically reduce its operations in the area. See, *e.g., Marketing Practices Report* at 24, n. 50. Moreover, travel agencies have more bargaining leverage with the systems than the airlines do. That travel agencies benefit from the systems' competition for their subscriptions is shown by the systems' reliance on the suppliers of travel services for almost all of their revenues; subscribers, in contrast, contribute only about ten percent of CRS revenues. Justice Dept. Comments at 2, 5.

Deferring this proceeding until the completion of the major rulemaking could also lead to a significant delay in remedying the competitive harm addressed by this rule. While the reexamination of all of the CRS rules is scheduled to be completed by the end of 1997, that will probably not happen. Our last major reexamination of the CRS rules took much longer than expected. We did not publish our revised rules until September 1992, almost two years after the original deadline of December 1990.

Furthermore, delaying the completion of this rulemaking would postpone the beginning of potential competition among the systems for airline purchasers of higher levels of CRS service. Equally importantly, it could create substantial risks for Alaska and Midwest Express, since Sabre has told them that it considered them in violation of the parity clause and that they would be excluded from Sabre if they did not upgrade their level of participation in Sabre (or reduce their level of participation in other systems). Sabre agreed not to enforce the parity clause against them only for a short period, not indefinitely. 61 FR at 42201; Alaska Reply at 5.

Sabre has argued that the parity clause issue is too insignificant to warrant prompt action. Sabre bases this argument in part on its contention that its clause only applies when the fees and quality of service offered by Sabre are comparable to those offered by the system in which the airline is participating at a higher level. Sabre Comments at 3–4. Sabre's contention, however, does not accurately characterize the contract clause, as explained below. But even if the characterization were accurate, the clause should still be prohibited due to the competitive harm it causes.

Sabre asserts that the parity clauses cannot have any significant impact, since the airlines operating the great

majority of domestic service are subject to the mandatory participation clause and since the amount of revenue obtained by Sabre as a result of the parity clause is so small that a prohibition of parity clauses would have no significant impact on U.S. airlines. Sabre Reply at 2–3. We disagree. Even though this rulemaking will not change the applicability of our mandatory participation rule to airlines with CRS ownership interests, Alaska and Midwest Express have estimated that Sabre's most recent threat to enforce the clause against them would have increased their CRS expenses by more than ten percent. 61 FR at 42201. Galileo has stated that at least four airlines reduced their participation levels in Galileo as a result of Saber's recent threats to enforce the parity clause and that other airlines are likely to do so if we do not issue a final rule in this proceeding. Galileo Comments at 2–3. And, as shown by the Justice Department's comments, the systems' recent enforcement of the parity clauses has thwarted efforts by Reno Air and at least one other airline to improve the efficiency of the distribution of their services. Justice Dept. Comments at 6–7, 8–9. While the increased CRS expenses imposed on an airline by the parity clause may be small, even small expenses are important because of the thin margins in the airline business. 57 FR at 43783. In addition, airlines like Alaska must lower their expenses since they increasingly face competition from Southwest and other low-fare carriers that have lower distribution costs. See 61 FR at 42199; United Comments at 6–7.

The Systems' Market Power

Airlines must accept parity clauses as part of the price for obtaining any services from three of the systems. The systems can compel airlines to accept the clauses because each system has market power over airline participants, as we have found in our past rulemakings and CRS studies. 56 FR at 12591–12600; 57 FR at 43783–43784; *Airline Marketing Practices* at 44, 76–77, 83–84, and 91–93. The Justice Department thus states, Justice Dept. Comments at 2–3 (footnote omitted):

> Each CRS provides access to a large, discrete group of travel agents, and unless a carrier is willing to forego access to those travel agents, it must participate in every CRS. Thus, from an airline's perspective, each CRS constitutes a separate market and each system possesses market power over any carrier that wants travel agents subscribing to that CRS to sell its airline tickets.

See also Midwest Express Comments at 4; Alaska Reply at 16.

Our conclusion that each system has market power is consistent with the Supreme Court's analysis in *Eastman Kodak Co.* v. *Image Technical Services*, 504 U.S. 451 (1992). There the Court explained that market power is the power "to force a purchaser to do something that he would not do in a competitive market," 504 U.S. at 464, quoting *Jefferson Parish Hospital* v. *Hyde*, 466 U.S. 2, 14 (1984), and "the ability of a single seller to raise price and restrict output." 504 U.S. at 464, quoting *Fortner Enterprises, Inc.* v. *United States Steel Corp.*, 394 U.S. 495, 503 (1969).

The Court's definition of market power fits the systems' imposition of parity clauses, since there is no evidence that an airline would accept an obligation like the parity clause in a competitive market. We noted in the notice of proposed rulemaking that no one had given us an example of any comparable practice by a seller in a competitive industry (while Sabre cites the most favored nations clauses imposed by buyers in some markets, those clauses are different from the parity clauses imposed on buyers by the systems, as discussed below). 61 FR at 42202.

In addition, the clauses demonstrate the systems' ability to raise prices or restrict output by forcing airlines to choose between paying higher CRS fees for unwanted services or reducing their purchase of services from a competing system.

In *Eastman Kodak* the Court also noted that market power is usually inferred from the seller's possession of "a predominant share of the market." 504 U.S. at 464. Insofar as electronic access to travel agency subscribers is concerned, each system effectively holds a monopoly market share. Justice Dept. Comments at 2–3. See also 57 FR at 43783–43784, quoting the Department of Justice's analysis in the last comprehensive CRS rulemaking.

Sabre nonetheless contends that no system has market power. Sabre, however, does not argue that any airline has an alternative means for electronically giving travel agencies the ability to obtain information on its services and conduct booking and ticketing transactions. Sabre similarly offers no analysis showing that market forces limit in any way a system's ability to raise the fees charged participating airlines. While Sabre submitted an affidavit from Dr. Gary Dorman, an economist, in an attempt to refute our findings of market power, his affidavit is unpersuasive. He claims that the relationships between airlines and CRSs "closely resemble those found between suppliers and distributors throughout the economy." Dorman Affidavit at 1. He provides no support for this assertion. He suggests that the Justice Department's rationale—that each system has a monopoly over electronic access to its subscribers—would be irrational if applied to grocery stores. *Id.* at 2–3. We agree—the grocery store business is quite competitive. The Justice Department, however, based its rationale on its analysis of the airline and CRS businesses, and Dr. Dorman submitted no analysis of his own. While he asserts that the Justice Department has failed to show that the CRS fees charged participating airlines are at supracompetitive levels, *id.* at 3, he has presented no analysis indicating that Sabre's booking fees do not exceed the system's costs. The Justice Department's conclusion, on the other hand, is consistent with our past findings on the systems' ability to charge airlines fees that are unrelated to their costs. 57 FR at 43785.

While Sabre additionally argues that the systems cannot have market power since Southwest has prospered while participating only in Sabre, Sabre Comments at 23, we think Southwest's experience does not disprove the systems' possession of market power over airline participants. Southwest itself has chosen to participate in Sabre, the system with the largest market share in the United States. More importantly, Southwest's operations are substantially different from those of other airlines. Southwest operates as a low-fare carrier relying heavily on direct sales to consumers, not on travel agency sales. For these and other reasons, few other airlines can copy Southwest's experience and thereby avoid depending on CRSs for the distribution of their services. Alaska Reply at 16; Midwest Express Comments at 7. As the Justice Department points out, while some new entrant airlines have tried to bypass CRSs by creating alternative methods for bookings, "the vast majority of tickets are still booked through travel agents using a traditional CRS, and airlines that desire access to consumers who purchase through such channels must participate in each CRS." Justice Dept. Comments at 3, n. 2.

While Sabre claims that airlines can avoid depending on CRSs due to the growth in use of the Internet for airline bookings, Sabre Comments at 23, the Internet cannot enable airlines to avoid CRS participation, at least not in the near future. ASTA Comments at 3–4. The great majority of airline tickets are

still sold by travel agents, not through direct purchases by consumers.

Thus, despite the existence of some alternative means of distribution, most airlines depend on travel agencies for distribution, so the systems have market power over those airlines. The systems have used that power to impose parity clauses on airline participants which reduce competition in the airline and CRS businesses and make airline operations more inefficient, as explained next.

The Inefficiency and Reduced Competition Caused by the Parity Clauses

Because of the parity clauses, the systems need not compete on price and service quality to obtain higher-level participation by airlines. Such competition might well exist otherwise (although somewhat limited for airlines subject to our mandatory participation rule). While virtually all airlines must participate in each system at the full availability level, the competitive demands of the airline business do not compel them to participate in the highest levels of CRS service. Alaska and Midwest Express, for example, have chosen not to purchase some of the enhancements offered by Sabre, a decision that led to Sabre's threats to exclude them entirely from the system. Alaska Reply at 5.

In a competitive market, each system would compete to obtain higher levels of participation by airlines, in order to make the system more attractive to the travel agencies doing business in regions where those airlines have a significant market share. See, *e.g.*, Justice Dept. Comments at 2. Systems would also compete for higher levels of participation in order to increase revenues, since airlines pay higher fees for higher levels of participation.

The parity clause, however, reduces or eliminates the systems' competition for higher level participation by airlines, as the Justice Department has explained, Justice Dept. Comments at 5:

> Without the parity provision, each CRS would likely have to respond competitively to a large booking fee decrease offered by one of its competitors to airlines. With the parity provision, however, each CRS knows that a participating carrier cannot be induced by price to upgrade its service level in a competing CRS without also upgrading in its own. Thus, there is little reason for any CRS to lower booking fees to induce participating carriers to upgrade their service levels. [footnote omitted]

In addition, the Justice Department states that the parity clauses have kept the systems from working with airlines to create levels of service that will meet their needs. The Justice Department cites Reno Air's experience as an example. When Reno Air, which participates in all four systems, wanted a system to develop a level of service that would meet its distribution needs, none of the systems would work with it. In contrast, when Southwest wanted Sabre to develop a participation level that suited Southwest's needs, Sabre was willing to create such a product. Southwest, unlike Reno, is not bound by the parity clauses since it participates in only one system, Sabre. Justice Dept. Comments at 6–7.

Furthermore, as shown by the Justice Department, the parity clauses reduce the systems' incentive to provide satisfactory service to participating airlines. Because each airline must participate in each CRS, the airline's only credible response to poor service would be a threat to lower its participation level. The parity clause, however, prevents an airline from taking such action, unless it simultaneously lowers its participation level in the other systems. Justice Dept. Comments at 7–8.

Finally, of course, parity clauses create inefficiency by compelling non-vendor airlines, which have no incentive to skew CRS competition, to buy a higher level of service from the systems than they would otherwise choose. Without the clauses an airline might well decide that participation at a higher level in some systems but not others would be the most efficient method for distributing its services. Justice Dept. Comments at 8–9; Midwest Express Comments at 3–5; Alaska Reply at 19–20; America West Reply at 2–4.

The parties opposing our proposal argue that the parity clauses do not injure airlines and, even if airlines were injured, the clauses provide competitive benefits that outweigh any possible injury. We find those arguments unpersuasive.

According to Sabre, parity clauses do not give it the power to increase airline fees due to the impact of our rules. One rule, 14 CFR 255.6(a), requires fees to be nondiscriminatory, while the mandatory participation rule requires system owners to participate in competing systems only if the terms for participation are commercially reasonable. Sabre contends that these two rules in combination "severely" restrict a system's ability to raise prices. Sabre Comments at 16–18. Sabre's contention is contradicted by the systems' ability to impose fees on airlines for CRS services that are unrelated to the costs of providing CRS services. 57 FR at 43785. We doubt that the systems' fees would be so high if our rules had the effect suggested by Sabre. Moreover, airlines have increasingly complained about the continuing series of fee increases imposed by the systems in recent years. See, *e.g.*, Justice Dept. Comments at 5.

Sabre further contends that a rule allowing airlines to "discriminate" against one or more systems will lead to higher levels of concentration in the U.S. CRS market. Assertedly the United States CRS market is one of the most competitive in the world "largely because airline discrimination against CRSs is rare," whereas in foreign markets discrimination is much more likely. Sabre Reply at 17. We think that the U.S. market is more competitive than foreign markets primarily because the United States had five large airlines (American, United, TWA, Eastern, and Delta) that each had the resources to create a CRS when the CRS business was developing. However, even if Sabre's analysis were correct, our mandatory participation rule already prevents any of the largest airlines in the United States from selectively lowering its participation in competing systems because each of those airlines holds a significant CRS ownership interest and is covered by that rule.

Sabre argues that parity clauses are essential for ensuring competition in the CRS market, since otherwise carriers could discriminate against one or more systems, as shown by past experience. Sabre Comments at 9–10, 19–20. As discussed below at greater length, however, the anticompetitive discrimination that has occurred has involved decisions to reduce or end participation in competing systems by an airline that either itself or through an affiliate owned or marketed a system. Those kind of abuses should be prevented by our mandatory participation rule and the exception included in this rule that allows a system to enforce a parity clause against an airline that directly or indirectly owns or markets a competing system.

Sabre also repeats the argument made by others earlier in this proceeding that eliminating the parity clauses will make it more difficult for the smaller CRSs to survive. Sabre Comments at 14. We concluded that this claim was unpersuasive—a smaller system can obtain higher-level participation by airlines if it offers attractive prices and service. 61 FR at 42205. Moreover, System One, previously the smallest U.S. system, is now part of Amadeus, one of the largest systems in the world. In addition, as we explained earlier, the smaller systems' past conduct indicates that they do not view the ability to offer competitive functionality on all

significant airlines as crucial to their ability to survive in the U.S. market, since they changed their policies on the treatment of non-participating airlines and thereby ended their subscribers' ability to issue tickets on Southwest through the CRS. 61 FR at 42205. Although Southwest had never been willing to pay for CRS services in those systems—Worldspan and System One—or in Galileo, each of those systems nonetheless had displayed some information on Southwest's flights and allowed travel agents to write Southwest tickets using the system until 1994. Because of Southwest's continuing refusal to pay for CRS services, each of those systems then decided to change its policies on the treatment of non-participating airlines and thus to remove Southwest flight information from its displays and to bar the system's use for writing Southwest tickets. These steps greatly reduced the efficiency of travel agencies subscribing to one of those systems when they were located in regions where Southwest is an important airline. 61 FR at 42198. We recognize the claims that each system's action was a rational response to Southwest's continuing refusal to pay CRS fees, Worldspan Comments at 9–10, but their action still undermines Sabre's argument that a system must provide functionality on all important airlines that is comparable to the functionality available from competing systems.

Sabre additionally disputes our competitive analysis by arguing that the elimination of parity clauses could cause the systems to limit the number of different levels of service offered participating airlines because the systems "might find it necessary" to phase out the lower levels of service or to reduce the price differentials between the various levels of service in order to limit the airline participants' ability to discriminate against the system. Sabre Comments at 16–17; Sabre Reply, Dorman Affidavit at 4. Sabre does not explain why the systems would reduce the number of options available to airline participants when airlines have a greater ability to choose the level of service they wish to purchase. Sabre also does not explain why eliminating the lower levels of service would solve its alleged discrimination problems. If Sabre eliminates the less costly levels of service, it might also discourage smaller airlines from participating at all in Sabre. If Sabre's arguments were accurate, that could hamper the system's ability to obtain subscribers. But if Sabre in fact reacted to our decision by reducing the levels of service available to participating airlines, that would seem to confirm that it believes that it has the power to control the distribution choices of the airlines that used the eliminated service levels.

The Broad Applicability of the Parity Clauses

In concluding that the parity clauses unreasonably deny airlines the ability to choose how much CRS service they wish to purchase, we read the clauses as requiring an airline to upgrade its participation in a system if it is already participating at a higher level in another system, even if the system requiring the upgraded participation offers inferior service or charges higher prices than the system whose higher-level service is already being used by the airline. 61 FR at 42201–44202.

Sabre and Worldspan now contend that we mischaracterized their parity clauses. Sabre claims that its parity clause requires upgraded participation only when Sabre offers the higher-level service at a price and on terms comparable to those offered by the system in which the airline is already participating at the higher level. Sabre Comment at 18. Worldspan similarly contends that it enforces its parity clause only when Worldspan's service is comparable in price and quality to the higher-level service purchased by the airline participant from a competing system. Worldspan Reply at 5–7. The record does not support these claims.

Sabre's clause states, "[A]ny improvements, enhancements, or additional functions to Participating Carrier's reservations services offered to end users of any [CRS] will be offered by Participating Carrier to SABRE Subscribers on the same terms and conditions as are agreed to with such [CRS]." Alaska Reply at 22. Alaska contends that the clause appears to impose an obligation on the participating airline, not on Sabre, to use the same terms and conditions; the clause does not imply that the airline is excused from the higher level of Sabre participation if Sabre's terms and conditions are different. In addition, Alaska points out that Sabre's current interpretation is very new: Sabre did not interpret the clause as requiring a higher level of participation only when Sabre offered comparable price and terms until after we issued our notice of proposed rulemaking. Neither Sabre's comments on Alaska's rulemaking petition nor its pleadings in its suit against Alaska stated that Sabre's price and terms for higher-level participation had to be comparable to those offered by the system in which the airline was already participating at a higher level. Alaska Reply at 22–23. See also Galileo Reply at 4–5.

We also note that Sabre's reading of its clause would make the clause difficult to implement, since different systems use different pricing methods and do not offer the same levels of service.

Sabre, for example, makes much less use of transaction pricing than the other systems. As Alaska notes, Sabre has had to read the word "same" in its contract clause as "comparable" in order to make its interpretation plausible, but the resulting interpretation is inconsistent with the contract's literal language. Alaska Reply at 22, n. 7.

Worldspan, unlike Sabre, does not contend that the language of its clause requires an airline to increase its participation in Worldspan only when Worldspan's prices and services are comparable to the higher-level service already being purchased by the airline from another system. Worldspan instead claims only that it does not enforce its clause against airlines unless Worldspan's price and quality are comparable. However, Worldspan's parity clause in no way limits Worldspan's ability to enforce the clause, whether or not its price and quality are comparable. Worldspan's clause, included as an attachment to Alaska's rulemaking petition, reads as follows, "Participating Carrier will provide Worldspan users with any improvements, enhancements, or functions related to Participating Carrier's reservations services as offered to users of any other CRS." The clause would not block Worldspan from changing its enforcement policy in the future.

As a result, we conclude that our notice of proposed rulemaking correctly interpreted the scope of the parity clauses. Moreover, even if the interpretation now offered by Sabre and Worldspan were correct, airline participants would have little protection, since Sabre or Worldspan would decide whether the price and quality of the competing system's service were comparable to the service offered by itself. Midwest Express Reply at 5.

More importantly, even if the parity clauses were limited as claimed by Sabre and Worldspan, allowing systems to enforce them against airlines with no CRS ownership or marketing interest would still be contrary to the public interest. Parity clauses eliminate price and service competition among the systems for higher levels of CRS service and make airline distribution less efficient. If the clauses were limited as proposed by Sabre and Worldspan, the

systems would still have no need to improve their prices and services relative to their competitors. For example, parity clauses of the type proposed by Sabre and Worldspan would still eliminate any need by a system to respond to Reno Air's request for a new level of service that would match Reno's distribution needs. And airlines would still be forced to either buy more CRS services than they wanted or reduce their purchase of services from some systems in order to avoid violation of the parity clauses imposed by other systems. Midwest Express Reply at 4–5.

For these reasons, we also find unacceptable Sabre's proposal that we modify our rule to allow a system to enforce a parity clause against an airline as long as the system's price and other terms for participation are comparable to those offered by the system in which the airline already participates at a higher level.

The Systems' Claims of Discrimination by Airline Participants

In arguing that parity clauses are essential for fair CRS competition, Sabre characterizes an airline's decision to participate at a higher level in one system than in another as "discrimination." We cannot agree with Sabre's view with respect to airlines that do not own or market a system. An airline is not engaging in "discrimination" when it decides to participate at a higher level in one system than in other systems. 61 FR at 42204. When a firm in a competitive industry chooses to buy more service from one supplier than another, no one characterizes that choice as "discrimination."

In arguing the contrary with respect to airline choices on their levels of CRS participation, Sabre complains that an airline's decision to participate at a lower level in one system than in other systems will handicap the former system's ability to compete in regions where the airline is a major carrier. For example, Sabre alleges that it might be forced to withdraw from the Pacific Northwest and State of Alaska CRS markets if Alaska Airlines downgraded its participation in Sabre. Sabre contends that Alaska's choice of a lower participation level would make using Sabre less efficient for travel agencies in those regions, where Alaska is a principal airline, and thus end Sabre's ability to obtain subscribers in those regions. Sabre Comments at 7–8.

If Sabre's claims were true, however, Southwest's participation in Sabre and refusal to participate at all in other systems should have eliminated those systems from regions like California where Southwest is a major airline. We have no evidence that Sabre has driven Galileo, Worldspan, and System One from those regions. And the continuing policy of those systems not to allow their subscribers to use the CRS to issue tickets on Southwest further suggests that a system's failure to provide as much information and booking capability on a significant airline as do other systems is not a fatal competitive handicap. 61 FR at 42205.

In any event, if Alaska participates in Sabre at at least the full availability level, as is its stated intent, Alaska Comments at 4, Sabre agencies could obtain schedule, fare, and availability information on Alaska's services, make bookings on Alaska, and issue Alaska tickets through Sabre. We doubt that Alaska's choice of a lower participation level in Sabre than in other systems would drastically reduce Sabre's competitiveness in Alaska and the Pacific Northwest.

Even if Sabre were correct in claiming that a regionally-important airline's decision to participate at a lower level in one system than in other systems is a substantial competitive handicap, the proper remedy would not be the system's use of market power to compel the airline to buy a higher level of service than it wanted, when the airline neither owns nor markets a competing system. The system instead should make its price and service more attractive so that the airline will determine that the system's higher level of service is economically worthwhile. Midwest Express Reply at 3.

We note, moreover, that Galileo believes that it can obtain an adequate number of airline users of its higher-level services by offering better service. Galileo, whose contracts contain no parity clause, asserts that airlines are willing to participate in its higher-level features because of their superiority. Galileo Comments at 2.

Sabre suggests that an airline that neither holds a CRS ownership stake nor has a contract compensating it for marketing another system may still choose to lower its participation level in a system in order to distort competition in the CRS business. Sabre Comments at 10–11. Sabre has provided no evidence of such conduct, and we consider such a scenario unlikely. Given the importance of CRS participation to an airline's ability to distribute its services efficiently and the significant differences in fees between different levels of CRS participation, we see no reason why an airline that neither owns nor markets a competing system would base its decision on extraneous factors instead of an assessment of its distribution needs and costs. Even if such an airline might choose a lower level of participation in one system for illegitimate reasons, the slight possibility of such an occurrence cannot justify the systems' elimination of the ability of all other non-owner airlines to choose their level of participation in each system. We will, however, add an exception to the rule so that a system can enforce a parity clause against airlines that own or market another system.

Finally, in an effort to bolster its discrimination claims, Sabre asserts that Alaska's motive for lowering its participation level in Sabre was Alaska's interest in obtaining payments from Galileo under an arrangement between Alaska and Galileo for switching travel agencies from Sabre to Galileo. Sabre Comments at 11. Alaska, Galileo, and Galileo's marketing affiliate, Apollo Travel Services, have each denied that any such arrangement ever existed or was considered.

Alaska Reply at 12–13; Galileo Reply at 4; Apollo Travel Services Reply. Sabre's charge seems implausible—Sabre only made the charge at a late stage in this proceeding, and the affidavits submitted by Sabre largely rely on speculation and hearsay. But if Sabre's charge were true, our rule would allow Sabre to enforce the parity clause against Alaska—or any other participating airline—that had a marketing arrangement with another system.

Impact on Travel Agencies

In proposing the rule prohibiting parity clauses, we tentatively determined that such a rule would not significantly harm travel agencies. We noted that airlines like Alaska rely on travel agencies for their distribution and so would not likely take steps that would deny travel agencies the ability to obtain information and make bookings electronically. 61 FR at 42205–42206. In addition, travel agencies using any system other than Sabre were already handicapped, since they could not use their system to issue tickets on Southwest, a major airline in many domestic markets, since 1994. 61 FR at 42206.

We find unpersuasive the arguments by Sabre, ASTA, and several other parties that the rule will harm U.S. travel agencies, although we recognize that most travel agencies use only one system and thus largely depend on that system to electronically obtain airline information and conduct booking and ticketing transactions.

First, the largest airlines are CRS owners and thus subject to the mandatory participation rule. Secondly, the claims that U.S. travel agencies will be injured essentially assume that one or more important airlines without CRS ownership or marketing ties will reduce their participation in some systems below the full availability level, with the result that travel agents using that system could neither obtain availability information nor make bookings and issue tickets on those airlines through the CRS. No one has shown that airlines are likely to use the rule to do that. Airlines participate in the systems, after all, to make their services readily saleable by the agents using each system, and no airline (other than Southwest and some other low-fare airlines) is likely to reduce its participation level in any system to an extent that would keep the airline from being booked through the system. See, e.g., Alaska Comments at 5–6.

We assume that airlines without CRS ownership or marketing ties would use the rule to avoid buying higher levels of participation from one or more systems—in other words, those airlines will participate at the full availability level but may choose not to participate in direct access or all of the enhancements offered by a system. While an airline's non-participation in these features may cause some inconvenience to the travel agents using that system, the amount of inconvenience should not cause substantial inefficiencies. Furthermore, if the systems could maintain parity clauses, airlines could respond by lowering their participation in systems that they would otherwise participate in at a higher level. Galileo thus states that some airlines have lowered their participation in its system as a result of Sabre's threats to enforce its parity clause. Galileo Comments at 2–3. The Justice Department states that Reno Air reduced its participation level in the systems as a result of the systems' enforcement of the parity clause. Justice Dept. Comments at 7. And the American Automobile Association believes that our rule will lead to a greater degree of airline participation in CRSs, not less participation.

In addition, while each airline must participate in every system, most travel agencies can choose between systems. The systems compete for travel agency subscribers—indeed, according to Sabre, some agencies receive cash bonuses in exchange for agreeing to use a system. Sabre Reply at 1, n. 1. Thus travel agencies should have some ability to influence systems to make higher levels of functionality attractive to non-owner airlines.

Furthermore, our CRS rules include several provisions that give travel agencies the ability to use two or more systems. In 1992, for example, we prohibited parity clauses and minimum use clauses in travel agency contracts, gave travel agencies the right to use their own equipment, stated that equipment owned by a travel agency could be used to access any database, CRS, or internal reservations system of any airline, and required systems to offer travel agencies three-year contracts. 57 FR at 43822–43826. Thus, a travel agency should have some ability to protect itself if one system offers unsatisfactory information and booking capability on an airline important to the agency.

ASTA further contends that our proposed rule is unfair, since travel agencies will have no protection if their chosen system becomes less efficient due to an important airline's reduction in its participation level. As noted, we doubt that airlines will use the rule to drastically downgrade their participation in any system. Travel agencies, moreover, have never had a guarantee that all important airlines not covered by the mandatory participation rule will participate in each system. Indeed, as shown, Southwest has only participated in Sabre, so agencies using one of the other three systems have never been able to obtain availability information on Southwest's flights or to book Southwest through their CRS. Nonetheless, many travel agencies were willing to subscribe to one of those systems.

We have also received a large number of letters from travel agencies opposing our proposal. We recognize, as shown by these letters, that travel agencies would prefer to obtain the best possible information and functionality on all airlines from each of the systems. However, that result would require us to allow the systems to continue using their market power to force some participating airlines to buy a higher level of service than they wish, a result that would be inconsistent with our policy of enabling airlines (and travel agencies) to benefit from CRS competition.

In addition, a large portion of the travel agency letters are form letters solicited by Sabre, according to Alaska's reply comments. Alaska Reply at 8–9. Moreover, the letters using Sabre's suggested form predict that airlines will lower their participation in a system in order to injure travel agencies. Given the airlines' reliance on the agencies for distribution, we do not believe that an airline will be taking steps just to injure travel agencies; an airline will only change its level of participation if it decides that doing so is cost-effective. We also note, as explained by Alaska, that the material used by Sabre to obtain the letters did not accurately describe the CRS business. Alaska Reply at 8–9.

Worldspan contends that the rule would hurt travel agencies by reducing the systems' ability to compete for subscribers in areas where an important airline lowered its participation level in some systems but not others. Worldspan Comments at 7. As discussed, a system can compete for higher-level participation by airlines. And Worldspan's prediction, even if correct, could not justify the continuation of a regime where the systems use their market power to force airlines to buy more services than they want. Furthermore, our ban on airline parity clauses essentially duplicates our ban on parity clauses in subscriber contracts. 57 FR at 43826.

Legal Authority for Adopting the Proposed Rule

The adoption of the rule prohibiting parity clauses is clearly within our statutory authority. As we explained in our notice of proposed rulemaking, 61 FR at 42202–42203, we may investigate and determine whether any air carrier or ticket agent has been or is engaged in unfair methods of competition in the sale of air transportation. 49 U.S.C. 41712, formerly section 411 of the Federal Aviation Act (and codified then as 49 U.S.C. 1381). Our authority, modelled on section 5 of the Federal Trade Commission Act, 15 U.S.C. 45, allows us to define and prohibit as unfair methods of competition practices that do not violate the antitrust laws. See, *e.g., United Air Lines*, 766 F.2d 1107, 1114 (7th Cir. 1985). We may not prohibit a practice as an unfair method of competition, however, if the practice does not violate the letter or the spirit of the antitrust laws. See, *e.g., E.I. Du Pont de Nemours & Co.* v. *FTC*, 729 F.2d 128 (2d Cir. 1984).

In the notice of proposed rulemaking, we tentatively concluded that the parity clauses were comparable to antitrust violations on several grounds, based on our finding that each of the systems had market power over airline participants. We reasoned that the parity clauses were analogous to impermissible tying arrangements, violations of the essential facility doctrine, and attempts to monopolize the electronic distribution of information on airline services to travel agencies. 61 FR at 42203.

Sabre's parity clause—and the similar clauses used by Worldspan and System

One—violate antitrust principles because they deny an airline the ability to choose for itself the level of service it will buy from each system. As the Supreme Court has stated, "A restraint that has the effect of reducing the importance of consumer preference in setting price and output is not consistent with [the] fundamental goal of antitrust law" that price and output should respond to consumer preference. *NCAA* v. *Board of Regents*, 468 U.S. 85, 107 (1984). *NCAA* also undermines Sabre's contention that the parity clause merely allows Sabre to compete on an equal footing with other systems, for the Court rejected a similar defense by the NCAA. The NCAA had argued that its restraints were necessary since its preferred product—tickets for college football games—would not attract enough consumers without limits on televised games. The Court reasoned this justification was inconsistent with the basic policy of the Sherman Act. 468 U.S. at 116–117.

Only Sabre objected to our tentative conclusion that our legal authority enables us to adopt a rule prohibiting parity clauses, and Sabre has not shown that our analysis was invalid.

Significantly, Sabre has not challenged several key points in our reasoning. We stated our doubt that firms in any competitive industry could unilaterally impose a requirement like the parity clauses on their customers. We noted that purchasers typically obtained offsetting benefits, such as a guaranteed supply or a lower price, when they agreed with suppliers in competitive industries to requirements contracts or contracts requiring purchases in large quantities or over long periods of time. *Cf. Barry Wright Corp.* v. *ITT Grinnell Corp.*, 724 F.2d 227, 237 (1st Cir. 1983) (Breyer, J.). As we pointed out, no one in this proceeding had claimed that participating airlines obtained any benefit from the clauses or obtained other benefits in exchange for accepting the clauses. 61 FR at 42202. Neither Sabre nor any other party argues the contrary, nor has Sabre or any other party cited comparable business practices in competitive industries (while Sabre contends that the most favored nation clauses used by some health insurers are comparable, we find that they are not, as explained below).

In arguing that we have no legal authority to prohibit parity clauses, Sabre disputes our finding that each system has market power over airline participants, but, as discussed above, after reviewing the comments, we have determined that the systems do have market power.

Sabre further contends that we may not prohibit parity clauses, because the clauses allegedly have no impact on airline competition and our authority to prohibit unfair methods of competition runs only to practices that reduce airline competition. Sabre is mistaken in arguing that the clauses have no impact on airline competition. The clauses force airlines with no CRS ownership interest to buy a higher level of service than they would buy if they had the freedom to choose what level of service to buy from each system. The clauses thereby increase the costs of the airlines competing with the system owners and injure those airlines' ability to compete effectively. See, e.g., Midwest Express Comments at 6; National Air Carrier Ass'n Comments at 2–3. See also Justice Dept. Comments at 6–7, 8–9.

Sabre in any event errs in contending that our authority is limited to practices that interfere with airline competition. The statute expressly authorizes us to prohibit "an unfair method of competition in * * * the sale of air transportation." 49 U.S.C. 41712. Parity clauses clearly affect "the sale of air transportation" and affect competition among the systems in distributing airline information and booking capabilities. The clauses thus are within our authority over unfair methods of competition. By requiring airlines to purchase services they do not want (or to avoid the purchase of services they do want), the clauses drive up airline costs and thus increase airfares.

Judicial Rulings on Most Favored Nation Clauses

Sabre's principal challenge to our legal analysis is its argument that the courts have approved practices that allegedly resemble the parity clauses—most favored nation clauses imposed by buyers—as pro-competitive. Sabre cites such cases as *Ocean State Physicians Health Plan* v. *Blue Cross*, 883 F.2d 1101 (1st Cir. 1989), *cert. denied*, 494 U.S. 1027; and *Blue Cross & Blue Shield* v. *Marshfield Clinic*, 65 F.3d 1406, 1415 (7th Cir. 1995), *cert. denied*, 64 U.S.L.W. 3624 (March 19, 1996). Sabre analogizes the most favored nation clauses imposed by buyers with its clause, which protects a seller against a buyer's decision to buy more service from another supplier. As a result, Sabre argues, we cannot conclude that the clauses are an unfair method of competition.

Sabre made this same argument in its response to Alaska's rulemaking petition, and we found it unpersuasive. As we explained, in the cases cited by Sabre, the courts upheld a buyer's insistence on a most favored nation clause which assured the buyer that its supplier would not give any other customer a lower price. The courts reasoned that a most favored nation clause imposed by a buyer represented the buyer's insistence on obtaining the lowest price and thus was a practice which tended to promote competition on the merits. Such a clause benefited consumers by giving them lower prices. 61 FR at 42204.

We concluded that the most favored nation clause cases did not support Sabre's position. Unlike the most favored nation clauses imposed by buyers, the parity clauses imposed by the CRSs on their airline customers do not promote efficiency, do not lead to lower prices for airline participants, and cause consumers to pay higher prices, as we explained in our notice of proposed rulemaking. 61 FR at 42204. And we pointed out that the Justice Department believed that most favored nation clauses imposed by buyers could violate the antitrust laws. *Ibid.*, citing the proposed consent decrees in *United States* v. *Vision Service Plan* and *United States* v. *Delta Dental Plan of Arizona*, published respectively at 60 FR 5210, January 26, 1995, and 59 FR 47349, September 15, 1994.

Sabre has not shown that our earlier analysis of the most favored nation clause cases was incorrect. Sabre again cites the court cases that held that a health insurer's insistence on "most favored nation" clauses did not violate the antitrust laws, *e.g., Ocean State Physicians Health Plan and Blue Cross & Blue Shield*, and additionally cites *E.I. Du Pont de Nemours & Co.* v. *FTC*, 729 F.2d 128 (2d Cir. 1984). In *Du Pont* the Second Circuit reversed an FTC order that held unlawful several practices used by the major suppliers of lead additives for gasoline, one of which was a "most favored nation" clause given purchasers. Sabre Comments at 21–22.

Sabre has again failed to show that the health insurer clauses upheld by the courts are equivalent to the parity clauses imposed by the systems on their airline customers. In particular, Sabre has not shown that the parity clauses provide consumer benefits like the "most favored nation" clauses used by health insurers. In *Ocean State Physicians* the First Circuit held that Blue Cross' conduct benefited consumers by giving them lower prices. 883 F.2d at 1111. *Cf. Blue Cross & Blue Shield, supra*, 65 F.3d at 1415 ("the antitrust laws seek to encourage" a buyer's efforts to minimize its costs). Unlike the health insurer clauses, the parity clauses do not enable any consumers to receive lower prices. The clauses instead force airlines to buy

services they neither need nor want, and the resulting increase in airline costs can cause consumers to pay higher fares or receive less service. Furthermore, one court has indicated that most favored nation clauses may injure competition. *Willamette Dental Group P.C.* v. *Oregon Dental Service Corp.*, 882 P.2d 637, 642–643 (Or. App. 1994).

Sabre does not attempt to show that parity clauses result in lower costs for airline participants or their customers, the travelling public. Instead, Sabre initially claims that a most favored nation clause has the same effect whether imposed by a seller or a buyer. Sabre Comments at 21. But a seller's insistence on most favored nation treatment, unlike a buyer's demand for such treatment, is unlikely to result in lower prices. Sellers, after all, are typically interested in obtaining higher revenues, which typically does not result in lower prices.

Equally unavailing is Sabre's theory that its parity clause is comparable to the health insurer clauses, because the parity clause ensures that Sabre receives the same information as competing CRSs. Sabre Comments at 22. This theory again ignores Sabre's position as a seller of the service, not a buyer. Significantly, Sabre has made no showing that its airline participants benefit as a result. Sabre's parity clause operates as a means of saving Sabre the trouble of competing to entice airlines to purchase a higher level of CRS service—the clause enables Sabre to compel such participation if an airline participating in Sabre chooses to participate at the higher level in another system without regard for the price and quality of Sabre's service or the airline's need for the increased functionality in Sabre.

Sabre argues that we may not rely on the Justice Department's position, reflected in the consent decrees cited in our notice of proposed rulemaking, that the "most favored nation" clauses unreasonably restrain competition. Allegedly we cannot prefer the Justice Department's position to the holdings of the courts. Sabre Comments at 22–23. This argument misconstrues the scope of our authority to prohibit unfair methods of competition. We may outlaw conduct that the courts would find permissible under the antitrust laws. *United Air Lines*, 766 F.2d at 1114. And Sabre wrongly implies that the courts necessarily disagree with the Justice Department's position. The Seventh Circuit, for example, amended its opinion in *Blue Cross & Blue Shield* to state that it had not rejected the Justice Department's view that "most favored nation" clauses may be anti-competitive in some cases—the court noted instead that there was no evidence of an anti-competitive effect in the case before it. 65 F.3d at 1415. And one district court recently refused to dismiss a Justice Department suit against a most favored nation clause imposed by a health insurer. *United States* v. *Delta Dental of Rhode Island*, 943 F.Supp. 172 (D.C. R.I. 1996).

The *Du Pont* case cited by Sabre is also consistent with our analysis. That case involved an FTC decision that invalidated several pricing practices used by manufacturers of lead additives for gasoline; one of the practices was a most favored nation clause protecting the manufacturer's customers against other customers obtaining lower prices. In reversing the FTC's decision, the Second Circuit found that the competitive conditions in the gasoline additive industry, which were far different from those in the CRS business, did not support the FTC's conclusion. Although the gasoline additive industry was an oligopoly, its participants did not have monopoly power and competed with each other: "Notwithstanding the highly concentrated structure of the industry, there was substantial price and non-price competition during the 1974–1979 period that is the subject of the [FTC's] complaint." 729 F.2d at 132. In the CRS business, on the other hand, there has been no price or non-price competition on providing services to airlines. Furthermore, the Court held that the FTC could invalidate a business practice as unfair on "proof of a violation of the antitrust laws or evidence of collusive, coercive, predatory, or exclusionary conduct * * *." 729 F.2d at 140. The Court reversed the FTC in part because there was no evidence of coercive conduct. *Ibid.* Here, in contrast, there is such evidence—the system refuses to provide any CRS services to an airline unless the airline agrees to buy at least as high a level of service from the system as the airline buys from any other system.

We therefore conclude that the most favored nation clause cases cited by Sabre do not support its argument that we may not prohibit parity clauses. We will instead make final our tentative conclusion that we may define the parity clauses as unfair methods of competition, since a parity clause is equivalent to an unlawful tying agreement, a denial of access to an essential facility on reasonable terms, and an attempt to maintain monopoly control over electronic access to each system's subscribers. We will begin with our conclusion that the parity clauses are equivalent to a tying arrangement prohibited by the Sherman Act.

Tying Arrangements

We viewed parity clauses as analogous to the tying arrangements prohibited by the antitrust laws, since the parity clauses result from a system's use of its market power to force each participating airline to purchase services that it may not want as a condition to obtaining any service. A tying arrangement—a seller's agreement to sell one product only on condition that the buyer purchase a second product from the seller (or promise not to buy the product from another seller)—is a *per se* violation of the Sherman Act if the seller has appreciable market power in the tying product and if the arrangement affects a substantial volume of commerce in the tied product. *Eastman Kodak Co., supra*, 504 U.S. at 461–462 (1992). Tying arrangements are objectionable because they force buyers to accept conditions that they would not accept in a competitive market. See, *e.g., Jefferson Parish Hospital*, 466 U.S. at 12–15. As the Court has explained, "The essential characteristic of an invalid tying arrangement lies in the seller's exploitation of its control over the tying product to force the buyer into the purchase of a tied product that the buyer either did not want at all, or might have preferred to purchase elsewhere on different terms." When a seller imposes a tying arrangement on a buyer, "competition on the merits in the market for the tied item is restrained * * *." *Jefferson Parish Hospital*, 466 U.S. at 12. A tying arrangement can well cause consumers to pay higher prices, a result that violates the goals of the antitrust laws. *Eastman Kodak Co.*, 504 U.S. at 478.

A parity clause is like a tying arrangement, because the clause represents the system's use of its market power to force each airline participant to buy at least as much service from the system as it buys from any other system. Like the tying arrangements proscribed by the Sherman Act, the CRS clauses restrict competition on the merits for the tied service—the higher levels of service offered by each system—and cause the systems' airline participants to pay higher prices. Since each system offers several different levels of participation, as well as various enhancements, the parity clause is akin to a tie, since the system will not sell an airline any service unless the airline buys a specified level of services.

Sabre does not challenge our reasoning that the parity clauses have the effect of a tying arrangement. Instead, Sabre objects that there is no tie, since each level of service is

mutually exclusive and thus each level of service is being sold separately rather than in combination. Sabre Comments at 24.

Sabre's position is obviously flawed—even if each level of service is mutually exclusive, Sabre's parity clause operates in practice like a prohibited tying arrangement. An airline can not obtain the services included within the lower level of service if it buys a higher level of service from any other system, even though Sabre otherwise offers the lower level of service as a separate product to airline participants. As explained above, the parity clause has the same effects as an unlawful tying arrangement—the parity clause restrains competition in the tied product, the higher levels of service, and the clause causes airlines to pay higher fees.

In addition, while Sabre sells different levels of service as separate items, Sabre also sells enhancements as additions to the various levels of service. Alaska Comments at 2, n. 1. Enhancements also operate as tied products. Indeed the pending dispute between Sabre, on the one hand, and Alaska and Midwest Express, on the other hand, involved the two airlines' failure to buy enhancements. Midwest Express Comments at 11.

The Essential Facility Doctrine

Secondly, we tentatively determined that the parity clauses are comparable to a violation of the essential facility doctrine. That doctrine requires a firm that controls a facility essential for competition to give its competitors access to the facility on reasonable terms. The firm will violate section 2 of the Sherman Act if it denies access (or imposes unreasonable conditions on access). A facility is essential if it cannot be feasibly duplicated by a competitor and if the competitor's inability to use it will severely handicap its ability to compete. 61 FR 42203, citing *Aspen Skiing Co.* v. *Aspen Highlands Skiing Corp.*, 472 U.S. 585 (1985); and *Delaware & Hudson Ry.* v. *Consolidated Rail Corp.*, 902 F.2d 174 (2d Cir. 1990), *cert. denied*, 111 S. Ct. 2041.

In our last major rulemaking we determined that each of the systems is comparable to an essential facility and must therefore offer airlines access to its services on reasonable terms. 57 FR at 43790. We tentatively concluded in this proceeding that a system is denying access on reasonable terms if it makes a non-owner airline's participation contingent on the airline's agreement to purchase at least as high a level of services from that system as it does from any other system, without regard for the price or quality of the system's services. 61 FR 42203.

Sabre objects on several grounds to our reliance on the essential facility doctrine. According to Sabre, we may not consider a CRS to be an essential facility because the Ninth Circuit held in a private antitrust case, *Alaska Airlines* v. *United Air Lines*, 948 F.2d 536 (9th Cir. 1991), that CRSs were not essential facilities. As we explained in both the notice of proposed rulemaking in this proceeding and in our last major CRS rulemaking, the Ninth Circuit's decision does not preclude us from basing our CRS rules on an analogy with the essential facility doctrine. 57 FR at 43791; 61 FR at 42203.

Sabre further claims that, if anything is "essential", it is the information provided by important airlines, since otherwise the CRS cannot provide adequate information to travel agents and so cannot obtain subscribers. Sabre Comments at 25. But the relationship between the systems and airline participants indicates that an airline's control over its information does not give it any power over the systems. Participating airlines have had little or no ability to bargain over a system's terms for participation. The systems instead have been able to impose terms on airlines that are not disciplined by market forces.

Sabre's primary defense is its argument that the essential facility doctrine allows the owners of essential facilities to impose reasonable non-discriminatory conditions on access to the facility and that the parity clause is such a reasonable non-discriminatory condition. Sabre Reply at 21–22. We disagree—the clause is not a reasonable condition. The clause forces airlines to either buy more service than they want from some systems or less service than they would like from other systems. The airlines, moreover, obtain no benefits in return.

In arguing that the clause is a reasonable condition for access, Sabre alleges that the clause carries out the same goal as our mandatory participation rule, which requires system owners to participate in competing systems at the same level that they participate in their own system. Sabre Reply at 21. However, as shown, the parity clauses, unlike our rule, do not require that the service be offered on commercially reasonable terms. More importantly, we adopted the mandatory participation rule to keep system owners from distorting CRS competition by unreasonably limiting their participation in competing systems. Airlines like Alaska have no incentive to distort CRS competition, since they have nothing to gain from doing so if they neither own nor market a system.

Monopolization

Finally, since, as shown, most travel agencies subscribe to only one CRS, the system used by those agencies will essentially hold a monopoly over the electronic provision of information to the agencies and the agencies' ability to carry out booking and ticketing transactions electronically. If an airline established a direct link between its internal reservations system and a travel agency, the agency could obtain some information and conduct some transactions without using the CRS. A parity clause, however, requires an airline to participate in a system at a higher level than it prefers (and to pay higher fees than it would otherwise pay for CRS services). The parity clause thereby reduces the travel agencies' incentive to accept and use an alternative channel and the airline's ability to fund an alternative channel. Establishing direct links is costly, and an airline will have little incentive to incur that cost if it must still participate in every system at a high level (and pay the higher CRS fees). Alaska Reply at 27–28; Midwest Express Reply at 5–6.

By discouraging the creation and use of alternative methods of electronically providing travel agencies with information and booking capabilities, the parity clause helps to maintain the system's existing monopoly over electronic access to its subscribers. We found that the clause is comparable to conduct designed to maintain or create a monopoly, which would be unlawful under section 2 of the Sherman Act. 61 FR at 42203.

Sabre asserts that the parity clauses cannot be comparable to unlawful monopolization since the systems have a legitimate business reason for adopting the clauses—preventing exclusionary tactics by other systems. Sabre Comments at 26. The clauses, however, apply to all airline participants, not just those with ties to a CRS, and thus are not legitimate insofar as they restrict the choices of non-owner airlines.

Sabre and Worldspan also attack our analysis of an airline's incentives for creating a direct link with travel agencies. They claim that an airline will have a greater incentive to find alternatives for CRSs if its costs go up, so the systems' enforcement of the parity clauses will give airlines the incentive to find alternatives such as direct links, since the clauses increase their CRS costs. See, *e.g.*, Sabre Comments at 26; Worldspan Comments at 6. We disagree—while airlines always have an incentive to avoid higher CRS fees, the parity clause in practice seems likely to discourage airlines from creating such links, given the cost of doing so and the agencies' reduced incentive for using them.

The Exception for Owners and Sellers of Other Systems

While we have determined that parity clauses are an unfair method of competition when imposed on airlines that have no CRS affiliation, we agree with the Justice Department, Sabre, Worldspan, Delta, TWA, and System One/Continental that parity clauses can provide an effective means of countering some forms of discriminatory conduct by airlines that own or market a competing CRS. As suggested in our notice of proposed rulemaking, we will therefore create an exception in our rule allowing a system to enforce a parity clause against an airline that owns or promotes a competing system. We are not adopting the much broader exception sought by Sabre, which would apply to any airline with ties of any kind with a CRS-owning airline, such as a code-sharing relationship. Sabre has not shown that that exception is necessary, and it would virtually destroy the prohibition against parity clauses.

Discriminatory Conduct by Airlines with CRS Affiliations

As we stated in our notice of proposed rulemaking, 61 FR at 42206, in the past we have considered cases where a foreign airline apparently reduced (or ended) its participation in a U.S. system in order to frustrate the U.S. system's ability to market itself in the foreign carrier's homeland. See, *e.g.*, *Complaint of American Airlines against British Airways*, Order 88–7–11 (July 8, 1988). We have been prepared to take countermeasures against foreign airlines that deny U.S. systems a fair chance to compete in the foreign airline's homeland, thereby interfering with the right of the U.S. airlines affiliated with those systems to a fair and equal opportunity to compete. Furthermore, in our last major CRS rulemaking we concluded that there was evidence that U.S. airlines had limited their participation in competing CRSs in order to promote the system that they owned, a conclusion which caused us to adopt the mandatory participation rule. 56 FR at 12608; 57 FR at 43800. That rule requires each airline with a significant ownership interest in a CRS operating in the United States to participate in other systems at at least as high a level as it participates in its own system, assuming the terms for participation are commercially reasonable. 14 CFR 255.7.

Sabre, moreover, has stated that it created its parity clause to keep other airlines from engaging in unfair competition by participating at a high level in their affiliated system while participating at a low level in competing systems like Sabre, and that it has successfully used the parity clause in recent years to stop foreign airlines from discriminating against Sabre and in favor of a system affiliated with the foreign carrier. 61 FR at 42206.

In recognition of the apparent value of the parity clauses in preventing discrimination by airlines affiliated with a competing CRS, we specifically requested parties to comment on whether a rule prohibiting parity clauses should include an exception allowing a system to enforce a parity clause against an airline that owned or marketed a competing CRS. 61 FR at 42197, 42198, 42206.

The Parties' Comments

In response to our request for comments, the Justice Department, Sabre, Worldspan, Delta, TWA, and Continental/System One stated that they supported an exception that would allow a system to use a parity clause against airlines owning or marketing a competing system. Galileo opposes any such exception, while Midwest Express does not object to the enforcement of parity clauses against foreign airlines that own or market a system. Alaska opposes any exception allowing enforcement of a parity clause against an airline without an ownership interest in a system, even if the airline markets a system.

The Need for the Exception

We have determined to allow systems to enforce parity clauses against airlines that own or market a competing system. As shown by our own experience with both U.S. and foreign airlines, an airline that owns a CRS may well decide to limit its participation in other systems in order to encourage travel agencies in areas where it is a major airline to use the system that it owns. While our past experience has involved airlines that either owned or were affiliated with an owner of a system, the same incentive to downgrade participation in competing systems could well exist in an airline that is marketing a system. Sabre has cited cases where some South American airlines reduced their participation in Sabre in order to create a marketing advantage for a system that they marketed but did not own. See 61 FR at 42206.

Galileo claims that discrimination is unlikely, as shown by the decisions of some of Galileo's airline owners and marketers to participate in other systems at a higher level than they participate in Galileo. Galileo Comments at 5–6. While this indicates that many airlines with CRS ties do not discriminate, it does not show that discrimination never occurs or is so unlikely that we should deny a system a useful tool for ending such discrimination. Indeed, Worldspan and its owners complain that Egyptair, which markets Galileo, is discriminating against Worldspan in order to promote Galileo. Worldspan Comments at 8–9; TWA Comments at 3. Continental and System One similarly complain that the TACA carriers in Central America, which are associated with American, are discouraging Central American agencies from using System One. System One/Continental Comments at 4–5.

Galileo and Alaska argue that any potential discrimination problem does not warrant creating an exception from the ban on parity clauses, because there are other means available for preventing discriminatory conduct by a foreign airline, in particular, the complaint procedures established by the International Air Transportation Fair Competitive Practices Act ("IATFCPA"), codified as 49 U.S.C. 41310(c). Sabre and Worldspan, however, point out that the statutory remedy has a number of restrictions that limit its effectiveness, including the requirement that the complaint be filed by a U.S. airline rather than a system. In addition, a system's use of the private contractual remedy has other advantages, including the avoidance of a dispute between the United States and the foreign government. Sabre Reply at 8–10; Worldspan Reply at 8–9. See also 57 FR at 43819.

The Scope of the Exception

Despite our willingness to create an exception in the rule that will protect the legitimate interests of U.S. systems, we do not wish to create an exception that will swallow the rule. We are therefore unwilling to accept Sabre's argument that a system should be entitled to enforce a parity clause against any airline whose reduced participation would arguably harm the system's ability to obtain subscribers. Sabre Comments at 32–33. In addition, as discussed below, Sabre has not shown that a broader exception is essential.

Sabre argues that a system could pay a regionally-important airline without any CRS ownership interest to lower its participation in competing systems and that the airline's discriminatory

lowering of its participation level would prejudice the marketing efforts of the competing systems. According to Sabre, a system owned by the dominant airline in a country has many ways to induce smaller airlines in that country to create a marketing advantage for itself. The system and its owner could secretly compensate a non-owner airline for lowering its participation level by giving it better pro-rates for interline travel, discount ground-handling services, lower prices for reservations services, and slots or space at crowded airports. Sabre Reply at 10–11.

We appreciate Sabre's concerns, but the broad exception urged by Sabre would destroy the ban on parity clauses. We note, for example, that Alaska has a code-sharing relationship with Northwest, one of Worldspan's owners; thus, if we created the broad exception sought by Sabre, we would deny Alaska the benefit of the general prohibition against parity clauses. Similarly, Alaska and Midwest Express are hosted in Sabre, so an exception allowing systems to enforce parity clauses against airlines hosted in another system would deny those two airlines the ability to lower their participation level in any system but Sabre.

At the same time, the expansive exception sought by Sabre seems to be unnecessary, for every case of discrimination cited by Sabre or otherwise known to us has involved either an airline that owned a system (British Airways, Iberia, and Japan Air Lines), an airline that was affiliated with an owner of a system (Air Inter and Iberia's domestic affiliates), or an airline that was marketing a system (Egyptair, the South American airlines cited by Sabre, and the TACA carriers cited by Continental and System One). We are unaware of any case where an airline without any affiliation with the owner or marketer of a system reduced its participation in another system in order to prejudice that system's ability to market itself to travel agencies.

Sabre claims that a number of small airlines hosted in Amadeus have been unwilling voluntarily to participate in Sabre at the same level that they participate in Amadeus. Sabre Reply at 11. However, Sabre has neither named the airlines nor explained how their levels of participation varied or why a small airline's presence in Sabre would significantly affect Sabre's ability to market itself in foreign countries. Our rule will allow Sabre to enforce the parity clause against all airlines that own or market a competing system, such as Amadeus, a category that should include the critical mass of airlines in the countries where Sabre is being marketed. In addition, even if we allowed Sabre to enforce the parity clause against airlines hosted in a system but not otherwise affiliated with that CRS, those airlines, unlike U.S. airlines, might well decide to withdraw entirely from Sabre, which would put them out of reach of the parity clause.

We are at this time also skeptical of Sabre's assertion that a system and its owner airlines could secretly pay an unaffiliated airline to lower its participation level in Sabre. Furthermore, given the importance of CRS use to airlines, it seems doubtful that an airline would change its level of participation in a system in exchange for unrelated benefits. And Sabre would presumably become aware of any efforts by the unaffiliated airline to market the system itself.

However, we are willing to reconsider the issue in our next major CRS rulemaking, if Sabre can show that unaffiliated airlines will change their participation level in order to distort CRS competition and can suggest a rule modification that would alleviate that problem without making the overall prohibition of parity clauses ineffective. In the meantime, we have the ability to address specific issues or problems with our foreign counterparts.

Having determined that systems should be allowed to enforce parity clauses against airlines promoting a different CRS, we must craft a rule that will allow systems to counteract discrimination by airlines owning or marketing a competing system without allowing them to coerce the participation level choices of airlines with no CRS interests. Midwest Express and Alaska have suggested we should give the systems the ability to enforce a parity clause against foreign airlines but not U.S. airlines. Alaska Reply at 11; Midwest Express Comments at 10–11. Because of the United States' international agreements, we may not discriminate against foreign airlines. If we adopted such an exception allowing the enforcement of parity clauses only against foreign airlines, we would be violating our obligation to treat U.S. and foreign airlines the same. See also Continental/System One Reply at 2, n. 3; Galileo Comments at 7, n. 4. Although Midwest Express has noted the CRS market in the United States differs in important respects from the CRS market in many foreign countries, Midwest Express Reply at 13–15, we doubt that those differences would justify a rule allowing systems to enforce parity clauses against all foreign airlines but no U.S. airlines.

The Justice Department has proposed that we allow enforcement of a parity clause against airlines that themselves or through affiliates own or market a system and that we define "market" as "to cause, encourage, or persuade a person or entity to subscribe to a particular foreign or domestic system in return for some material benefit that is conditioned upon the number of subscriptions received." Justice Dept. Comments at 11. Two commenters would accept the Justice Department's proposal if the phrase "that is conditioned upon the number of subscriptions received" is struck, for they believe that a system could easily compensate an airline for marketing on some basis other than the number of subscriptions received. TWA Reply; System One/Continental Reply at 6.

We have decided not to adopt the Justice Department's proposed definition of "to market" or otherwise attempt to define that term in the rules. We are concerned that a system seeking to enforce a parity clause may have difficulty proving that an airline received a "material benefit" for marketing a competing system. We do not, however, intend to give the systems broad authority to assert that an airline participant is marketing a competing system. For example, neither a code-sharing relationship between a non-owner airline and an owner airline nor a hosting agreement between a non-owner airline and a system can cause the non-owner airline to be deemed a marketer of a system, unless the non-owner airline is specifically engaged in promoting the system to travel agencies. We appreciate the concern raised by Alaska that any exception for airlines marketing a system phrased in general language will give the systems too much discretion. Alaska Reply at 10–11. See also Midwest Express Reply at 13–15. But, given past and current problems with discrimination by airlines that market a CRS, some exception to our general ban on parity clauses seems necessary. However, we will reexamine the language of our rule if the systems attempt to use the exception to enforce a parity clause against airlines uninvolved in marketing another system.

Furthermore, we will impose a fourteen days notice requirement on the enforcement of a parity clause. A system may not enforce a parity clause against an airline without first giving us and that airline fourteen days written notice of its intent to take that action. The notice requirement would give the airline time to complain if it considered the system's action unauthorized by our rule and give us time to intervene if necessary. We included a similar requirement in our rule excusing a system from complying with our rules if a foreign airline owns or is affiliated with a system that discriminates against U.S. airlines. Section 255.11; see 57 FR at 43829, 56 FR at 12637.

As provided by the Justice Department's proposed language, the exception in the rule will allow enforcement of a parity clause against an airline that markets a CRS in foreign countries, even if that CRS does not do business in the United States.

Inclusion of Enhancements

We will modify the rule's language to clarify its applicability to enhancements, as requested by Alaska. The language proposed by us would prohibit a system from requiring any airline to maintain "any particular level of participation in its system" on the basis of the airline's level of participation in another system. Alaska and Midwest Express ask us to revise the language to make it clear that a system also cannot use a parity clause to force an airline to purchase enhancements from it on the ground that the airline is purchasing those enhancements from another system. Alaska Comments at 4–5; Midwest Express Comments at 11–12. Galileo supports this proposal, Galileo Reply at 5–6, but Worldspan claims that it was not included in the notice of proposed rulemaking, Worldspan Reply at 4.

Both logic and policy support our inclusion of enhancements within the scope of the prohibition of parity clauses. First, the systems have used parity clauses to require airlines to purchase enhancements, not just to require them to upgrade their level of participation. Indeed, when Sabre at the beginning of 1996 threatened to use the parity clause against Alaska and Midwest Express, Sabre was demanding that the two airlines buy some enhancements from Sabre because their level of participation in one or more other systems allegedly included those enhancements. Alaska Comments at 3; Midwest Express Comments at 11. In addition, according to Alaska, Sabre's lawsuit against Alaska also argued that the parity clause applied to enhancements. March 8, 1995 Alaska Reply at 3–4. And we noted in the notice that Alaska's current interest in the parity clause issue involved its wish to avoid purchasing some enhancements from Sabre that it bought from other airlines. 61 FR at 42207.

Furthermore, the reasons for our findings that parity clauses reduce CRS and airline competition and make airline distribution less efficient are fully applicable to the systems' use of parity clauses to force airlines to buy enhancements. Whether a system is forcing an airline to buy an enhancement or to upgrade its overall level of participation, the system is using its market power to force an airline to buy unwanted services (or to cancel its purchase of services from another system that it did want to buy).

Thus, when we proposed to prohibit parity clauses, we intended to prohibit any use of the clauses, whether the system wanted to force an airline to upgrade to a higher level of participation or to buy enhancements that the airline preferred not to buy. As noted by Alaska, however, the proposed rule did not expressly refer to enhancements. We will therefore modify it to make that clear.

Worldspan opposes Alaska's proposal. It argues that including enhancements in the rule would substantially change the proposal, since enhancements allegedly had not been included in the proposal, and could not be included without a new notice of proposed rulemaking. Worldspan Reply at 4. Worldspan, however, has not explained why a prohibition against the use of parity clauses for enhancements would involve any new or different issues. The analysis of the benefits and harm caused by the clauses is the same in either case. Moreover, this proceeding resulted in large part from Sabre's use of its parity clause to make Alaska and Midwest Express buy enhancements, so the use of parity clauses to require airlines to buy enhancements was inherently at issue when we issued our proposal. Every party in the proceeding should have understood that the use of the clauses as to participation in enhancements would be an issue. We note in that regard that no one else has supported Worldspan's position on enhancements.

The Parties' Proposals for Other Rule Changes

Our request for comments on our proposal to prohibit parity clauses generated a number of requests for changes to other provisions in our CRS rules, especially the mandatory participation rule.

Galileo, Worldspan, Delta, Northwest, TWA, and System One/Continental urge us to amend the mandatory participation rule, 14 CFR 255.7, so that it requires airlines that market a system, not just airlines with a significant CRS ownership interest, to participate in other systems. Such an amendment would require Southwest to participate in Galileo, Worldspan, and System One, if it continues to promote Sabre. Southwest opposes this suggestion, as does Sabre.

United argues that we should eliminate the mandatory participation rule, since CRS owner airlines should be able to choose the level of CRS participation needed for distributing their services. Delta also favors the elimination of the mandatory participation rule if it is not extended to cover airlines marketing a system. TWA, on the other hand, supports extending the mandatory participation rule to airlines that market a system, but asserts that the rule should require only participation at the full availability level, not at higher levels.

Delta suggests that we should bar systems from contractually tying non-travel agency services to participation in agency services. Under Delta's proposal, an airline could choose whether to participate in the information and booking functions provided by a system to Internet sites.

Worldspan asks us to amend the rule authorizing a system to take countermeasures against foreign airlines affiliated with a CRS, 14 CFR 255.11, so that a system would have broader authority to react to discriminatory treatment.

Finally, ASTA and USTAR contend that, if we adopt the parity clause prohibition, we should allow travel agencies to cancel their CRS contracts if the quality of a system's service is greatly reduced by a carrier's decision to lower its participation in that system.

We have decided not to proceed on any of these suggested changes before the next major rulemaking, which is scheduled for this year. We could not in any event adopt any of these proposals without a new notice of proposed rulemaking, since none of them were proposed in our notice of proposed rulemaking. We have issued an advanced notice of proposed rulemaking on the CRS rules, since, as discussed above, those rules will expire at the end of 1997 unless extended. 62 FR 47606, September 10, 1997. The suggestions for additional rule changes made by the parties can be considered in the coming rulemaking.

Procedural Issues

We have considered Alaska's request for a rule barring parity clauses through informal rulemaking procedures. Those procedures, which included the opportunity to file comments and reply comments on our notice of proposed rulemaking, have enabled every party to fully present its position on the legal and factual issues.

Our use of informal rulemaking procedures here follows our consistent past practice. When we reexamined and readopted the Board's rules, we used

informal rulemaking procedures. No one asserted that those procedures were improper or unfair, 57 FR at 43792, although American had initially argued that a formal hearing should be held to resolve factual disputes. *See* 56 FR 12586, 12603, March 26, 1991. In an earlier proceeding we used informal rulemaking procedures to amend the CRS rules as part of a package of rules designed to reduce airline delay problems. 52 FR 34056, September 9, 1987.

Most importantly, when the Board adopted the original CRS rules, it did so in an informal rulemaking proceeding over United's objections, and the Seventh Circuit affirmed the Board's procedural decision in *United Air Lines* v. *CAB*.

Sabre nonetheless argues that we may not adopt the proposed ban on parity clauses without holding a formal hearing. Sabre Reply at 18–20. Sabre's objection has no merit.

Sabre recognizes that the Seventh Circuit held that the Board could adopt comprehensive CRS rules without a formal hearing. Sabre Reply at 19. Sabre, however, suggests that the Court decided the United Air Lines case incorrectly, because the language of the statute authorizing us to define and prohibit unfair methods of competition and unfair and deceptive practices, 49 U.S.C. 41712, allegedly requires the holding of a formal hearing. Sabre Reply at 19, n. 20. We disagree. As the Seventh Circuit explained in rejecting the same contention made by United, the statute clearly authorizes the use of informal rulemaking procedures for prohibiting unfair methods of competition and unfair and deceptive practices. *United Air Lines*, 766 F.2d at 1111–1112.

Sabre wrongly contends that this rulemaking is so different from the rules upheld in *United Air Lines* that the Seventh Circuit's decision is inapplicable here. Sabre argues that we cannot use informal rulemaking procedures since our decision necessarily involves a determination on the "nature and validity of past conduct." Sabre Reply at 19. Most rulemaking decisions made by regulatory agencies, however, involve findings about the reasonableness of the private parties' past conduct, as did the Board's original CRS rulemaking. *Cf. United Air Lines*, 766 F.2d at 1107. Moreover, like the Board's CRS rules, this rule imposes no sanctions on anyone for past conduct.

Sabre similarly errs in arguing that a formal hearing is needed here because the allegations made by the parties are unsupported and "under cross-examination would be exposed as seriously flawed." Sabre Reply at 19. Most rulemaking decisions require the resolution of disputed issues of material fact, but that does not force the agency to hold a formal hearing. The Administrative Procedure Act, after all, expressly authorizes agencies to adopt rules without such a hearing. Indeed we may decide adjudicatory cases without holding a formal hearing, even when there are material factual issues in dispute. See, *e.g., City of St. Louis* v. *DOT*, 936 F.2d 1528, 1534, n. 1 (8th Cir. 1991). We are satisfied, moreover, the record here amply supports our findings in this rule.

According to Sabre, however, this proceeding is also different from the Board's original rulemaking because our proposed rule "may also retroactively alter some expectations," since the rule would allegedly "disrupt" the expectations of the systems and their subscribers. Sabre Reply at 19–20. The Board's rules in fact were much more disruptive. See *Republic Airlines* versus *United Air Lines*, 796 F.2d 526 (D.C. Cir. 1986), where the Court held that a system could require an airline to pay higher fees for CRS participation, since the Board's rules invalidated the contract allowing the airline to pay lower fees. We are not interferring here with any party's reasonable contract expectations. But, even if we were disrupting existing contracts, we could still act by rulemaking. As the Court stated in *Republic*, 796 F.2d at 528, "There is of course no question that the CAB had the power, as a matter of federal law, to render the violative CRS contracts entered into by the airlines unenforceable from the effective date of the rule."

Finally, Sabre alleges that a hearing is necessary since we cannot adopt rules prohibiting unfair methods of competition without first finding that antitrust violations have occurred, a step which would require a formal hearing, according to Sabre. Sabre Reply at 19, n. 20. Sabre's allegation is plainly wrong, for we need not find that anyone has violated the antitrust laws as a condition for prohibiting a practice as an unfair method of competition. 49 FR at 32545. *Cf. United Air Lines*, 766 F.2d at 1119–1120.

Worldspan asserts that we cannot fairly rely on our past analyses of the CRS business and its impact on airlines, both because those findings are now several years old and because we allegedly did not specifically identify which of the past findings are relevant to our proposed rule. Worldspan Comments at 4. Our use here of our earlier rulemakings and studies is neither unfair nor irrational. We relied on our past findings on the basic structure and operation of the CRS and airline businesses, and their structure and operation have not changed significantly since our last rulemaking. The past findings on which we relied were identified in the notice of proposed rulemaking. If Worldspan believed that our past findings were outdated or inaccurate, it had the chance in its comments to argue that those findings were no longer valid, as we specifically said in our notice. 61 FR at 42206. *Cf.* 57 FR at 43793.

The other procedural issues concern the motions by the Department of Justice and America West for leave to file pleadings after the due date for comments or reply comments and the late submission of letters from a number of travel agencies and from the European Civil Aviation Conference (ECAC). The Justice Department filed its comments soon enough to give other parties the ability to address its arguments in their reply comments. While America West filed its reply comments long after the applicable deadline, its reply responds to the points in the initial round of comments and contains no new factual or legal arguments. The late travel agency letters, which were largely generated by Sabre, primarily used Sabre's form response and thus duplicated the views stated in the timely letters. ECAC's comment states its position but does not present new arguments and evidence. Thus the acceptance of the late comments and letters will not prejudice anyone. We will therefore accept the Justice Department's comments, America West's reply comments, ECAC's comments, and the late letters from travel agencies.

Finally, we note that Sabre has tried to persuade the Departments of State and Commerce, the United States Trade Representative, and the Office of Management and Budget to keep us from adopting a rule prohibiting parity clauses. Our ex parte docket contains OMB's outline of Sabre's meeting with OMB officials.

Regulatory Process Matters

Regulatory Assessment

This rule is a significant regulatory action under section 3(f) of Executive Order 12866 and has been reviewed by the Office of Management and Budget under that order. Executive Order 12866 requires each executive agency to prepare an assessment of costs and benefits under section 6(a)(3) of that order. The proposal is also significant under the regulatory policies and procedures of the Department of Transportation, 44 FR 11034.

Our notice of proposed rulemaking stated our tentative conclusions that the rule would benefit competition and innovation and give non-owner participating airlines a greater ability to choose the distribution methods that best meet their needs. We further stated that we did not think the rule would significantly injure travel agencies or affect the systems' operations. Among other things, no airline appeared likely to use the rule to lower its level of participation in any system below the full availability level. We found that the costs and benefits of the proposed rule appeared to be unquantifiable, but we asked interested persons to provide information on the costs and benefits. 61 FR at 42207.

After reviewing the comments and reply comments submitted in response to our notice of proposed rulemaking, we have determined that the rule should provide significantly more benefits than costs. We do not have data, however, that would enable us to accurately quantify the benefits of the rule for airlines and airline passengers and the costs of the rule for systems and travel agencies, although we had asked for such data. We are therefore providing a qualitative assessment of the rule's costs and benefits.

The rule will benefit airlines that do not own or market a CRS because it will allow them to choose the level of service purchased from each system. The rule will thereby enable each such airline to choose the most efficient method for distributing its services. Airlines can also avoid purchasing services they do not need, which may save them significant amounts of money. Alaska and Midwest Express, for example, had estimated that Sabre's most recent threat to enforce the parity clause against them would raise their booking fee expenses by more than ten percent. 61 FR at 42201.

The rule should also cause the systems to compete for airline purchasers of higher-level services. Although virtually all airlines must participate in each system at the full availability level, many non-owner airlines do not need to purchase higher levels of service from each system (our mandatory participation rule generally requires airlines with significant CRS ownership interests to buy an equivalent level of service from each system). Since a system's services will be more attractive to travel agencies if more airlines participate at higher levels, and since higher-level participation by more airlines will produce more revenue for a system, the systems should compete for higher-level participation by offering better service and perhaps lower fees.

In addition, if airlines can operate more efficiently, they can reduce their costs, which should lead to lower fares for airline travellers. However, while CRS costs are relatively large in relation to airline profit margins, they are relatively small in relation to total operating costs, so lower CRS costs are unlikely to result in large fare decreases.

We do not expect the rule to impose a substantial burden on the systems. The rule will not require the systems to change their method of operations. If the systems compete for higher-level airline participation, they are likely to incur additional marketing and developmental expenses, but nothing in the record indicates that those expenses would be significant. The systems may also have to lower their fees for higher-level participation. However, since the fees charged airlines do not currently appear to be disciplined by market forces, any marketplace discipline on the systems' fees would be economically beneficial.

The rule should not significantly affect travel agencies. We doubt that any significant airline that currently participates in CRSs will reduce its level of participation in any system below the full availability level, so travel agents using any system should continue to have the ability electronically to obtain information on the airline's schedules, fares, and availability, to make bookings, and to issue tickets. While some airlines are likely to reduce their level of participation in some systems, the operations of the travel agents using those systems should not become significantly less efficient, since the higher-level participation does not appear to greatly affect the efficiency of agency operations. Furthermore, if the systems could continue to enforce the parity clauses, airlines that would otherwise prefer to buy a higher level of service from one or a few systems would have the option of reducing their level of participation in those systems rather than upgrading their level of participation in the other systems. Thus the rule should not cause a significant reduction in the efficiency of travel agency operations.

Barring the systems from enforcing a parity clause against airlines that own or market a competing system would reduce CRS competition, since some airlines with CRS ties might well choose to discriminate against competing systems in order to create a marketing advantage for the system that they own or promote. Since our rule will allow systems to continue enforcing a parity clause against airlines that own or market a system, our rule should not cause any distortions in CRS competition.

The Department does not believe that there are any alternatives to the rule which would accomplish the goal of giving each participating carrier (other than carriers with a significant ownership interest in a CRS, which remain bound by section § 255.7(a)) the ability to choose its level of participation in each system.

Some parties have suggested that we should adopt a rule allowing a system to enforce parity clauses when the price and quality of its higher level of participation are comparable to those of the systems from which the airline is already purchasing the higher level of service. That proposal, however, would neither promote price and service competition among the systems for higher-level participation nor give participating airlines the ability to choose what service levels were most efficient for them.

This rule does not impose unfunded mandates or requirements that will have any impact on the quality of the human environment.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.*, was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. The act requires agencies to review proposed regulations that may have a significant economic impact on a substantial number of small entities. For purposes of this rule, small entities include smaller airlines and travel agencies. The notice of proposed rulemaking contained our initial regulatory flexibility analysis. This rule and our notice of proposed rulemaking set forth the reasons for our adoption of Alaska's rule proposal and the objectives and legal basis for the rule.

A number of the commenters submitted their views on our proposal's impact on small entities. We considered their comments in deciding whether to make final our proposed ban on parity clauses final.

The rule will primarily affect two types of small entities, smaller airlines and travel agencies. To the extent that airlines can operate more efficiently and reduce their costs, the rule will also affect all small entities that purchase airline tickets, since airline fares may be somewhat lower than they would otherwise be, although the amount may not be large.

The rule, as explained above, will give smaller non-owner airlines the ability to choose the level of service they will buy from each system by barring the use of airline parity clauses. Smaller non-owner airlines will be able to choose how they will distribute their services and thus be better able to operate more efficiently.

The rule will not directly affect travel agencies but may affect the operations of smaller travel agencies. If an airline reduces its level of participation in one or more systems without reducing its level of participation in all of the systems, agencies using a system in which the airline reduced its level of participation would not be able to operate as efficiently as before or as efficiently as some of the agencies' competitors. That loss in efficiency would be significant for an agency only if the airline provided a substantial amount of the airline service in the area where the agency conducts its business and if the reduction in the level of participation made it substantially more difficult for an agent to book the airline's services. We doubt that any significant airline currently participating in the systems will drastically reduce its level of participation in any system, so changes in participation levels are not likely to significantly interfere with the efficiency of travel agency operations. Furthermore, the parity clauses give airlines the option of either reducing their level of participation in the favored system or upgrading their level of participation in other systems. Since a participating airline may well choose to reduce its participation level in the favored system, parity clauses do not ensure that every airline will participate at a high level in all systems. For these reasons, we conclude that the rule will not significantly harm travel agencies.

In addition, the rule should encourage airlines and other firms to develop alternative means of transmitting information on airline services and enabling travel agencies to carry out booking transactions. In the long term these developments would benefit travel agencies.

The only alternative rule suggested by the commenters was Sabre's proposal that we allow each system to enforce a parity clause as long as that system's terms for the higher level of participation or enhancement were comparable to the terms offered by the competing system in which the airline was already participating at a higher level. As discussed above, we decided against adopting this proposal, since it would not promote competition in the CRS and airline industries and would force airlines without any CRS affiliation to buy more services than they considered desirable.

Our rule contains no direct reporting, recordkeeping, or other compliance requirements that would affect small entities. There are no other federal rules that duplicate, overlap, or conflict with our proposed rules.

The Department certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. *et seq.*) that this regulation will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rule contains no collection-of-information requirements subject to the Paperwork Reduction Act, Public Law 96–511, 44 U.S.C. Chapter 35.

Federalism Implications

The rule we are adopting will have no substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12812, we have determined that the rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

This rule does not impose unfunded mandates or requirements that will have any impact on the quality of the human environment.

List of Subjects for 14 CFR Part 255

Air carriers, Antitrust, Reporting and recordkeeping requirements.

Accordingly, the Department of Transportation amends 14 CFR Part 255, Carrier-owned Computer Reservations Systems, as follows:

PART 255—[AMENDED]

1. The authority citation for part 255 is revised to read as follows:

Authority: 49 U.S.C. 40101, 40102, 40105, 40113, 41712, recodifying 49 U.S.C. 1301, 1302, 1324, 1381, 1502 (1992 ed.).

2. Section 255.6 is amended by adding paragraph (e) to read as follows:

§ 255.6 Contracts with participating carriers.

* * * * *

(e) No system may require a carrier (other than a carrier that owns or markets, or is an affiliate of a person that owns or markets, a foreign or domestic computerized reservations system) to maintain any particular level of participation or buy any enhancements in its system on the basis of participation levels or enhancements selected by that carrier in any other foreign or domestic computerized reservations system. A system may not compel a carrier that owns or markets, or is an affiliate of a person that owns or markets, a foreign or domestic computerized reservations system, to maintain a particular level of participation or buy an enhancements in its system on the basis of participation levels or enhancements selected by that carrier in another foreign or domestic computerized reservations system, until 14 days after it has given the Department and such carrier written notice of its intent to take such action.

Issued in Washington, D.C. on October 28, 1997.

Rodney E. Slater,

Secretary of Transportation.

[FR Doc. 97–29295 Filed 11–4–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 4 and 375

[Docket No. RM96–16–000; Order No. 596]

Regulations for the Licensing of Hydroelectric Projects; Final Rule

Issued October 29, 1997.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is revising its procedural regulations governing applications for licenses and exemptions for hydroelectric projects. The regulations offer an alternative administrative process whereby in appropriate circumstances the pre-filing consultation process and the environmental review process will be combined. This alternative process is designed to improve communication among affected entities and to be flexible and tailored to the facts and circumstances of the particular proceeding. The final rule does not delete or replace any existing regulations.

EFFECTIVE DATE: December 5, 1997.

FOR FURTHER INFORMATION CONTACT:

Edward Abrams, Office of Hydropower Licensing, 888 First Street, N.E., Washington, DC 20426, (202) 219–2773

Merrill Hathaway, Office of the General Counsel, 888 First Street, N.E., Washington, DC 20426, (202) 208–0825

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in Room 2A, 888 First Street, N.E., Washington DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing 202–208–1397 if dialing locally or 1–800–856–3920 if dialing long distance. To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400, or 1200 bps, full duplex, no parity, 8 data bits and 1 stop bit. The full text of this order will be available on CIPS in ASCII and WordPerfect 6.1 format. CIPS user assistance is available at 202–208–2474.

CIPS is also available on the Internet. Telnet software is required. To access CIPS via the Internet, point your browser to the URL address: http://www.ferc.fed.us and select the Bulletin Board System. Read instructions on the next page, select FedWorld Dialup/Telnet. A screen will appear presenting you with several options, select option 1. There will be a welcome message from FedWorld and a log on prompt. Enter your user ID and password (if you already have an account). To establish an account, type the word NEW and answer the questions which follow. Upon establishing an account, the FedWorld Main Menu will appear. From the Main Menu, type /go ferc.

Finally, the complete text on diskette in WordPerfect format may be purchased from the Commission's copy contractor, La Dorn Systems Corporation. La Dorn Systems Corporation is also located in the Public Reference Room at 888 First Street, N.E., Washington, DC 20426.

Before Commissioners: James J. Hoecker, Chairman; Vicky A. Bailey, and William L. Massey.

I. Introduction

On November 26, 1996, the Federal Energy Regulatory Commission (Commission) issued a Notice of Proposed Rulemaking (NOPR) to revise its procedural regulations governing applications for licenses for hydroelectric projects.[1] In response to the comments received,[2] the Commission adopts a final rule in this proceeding which offers an alternative administrative process in which the pre-filing consultation and the environmental review processes will be combined. This alternative process is designed to improve communication between affected entities and to be flexible and tailored to the facts and circumstances of the particular proceeding. The final rule does not delete or replace any existing regulations.

II. Purpose of the Final Rule

The NOPR was issued in response to a petition by the National Hydropower Association (NHA), seeking completely new Commission regulations to improve the licensing process for hydropower applicants. The Commission agreed with commenters on NHA's petition, that adoption of its proposed rules would not be fair to other entities interested in the licensing process, such as resource agencies, Indian tribes and citizens' groups, and would not in fact expedite licensing proceedings. The Commission noted, however, that the collaborative option in NHA's proposal resembled the alternative procedures that the Commission had been developing for use on a case-by-case basis as requested by the applicant, pursuant to waivers granted by the Office of Hydropower Licensing. The Commission determined that the experience with the alternative procedures had been positive, that many applicants and interested entities appeared to be interested in pursuing the alternative procedures, and that it would be helpful to refine, clarify, and codify the procedures in the regulations.

A wide range of entities, representing the hydropower industry, state and federal resource agencies, citizens' groups, and an Indian tribe, filed comments generally supporting adoption of the rule proposed in the NOPR. The commenters made a number of recommendations for improving the proposed rule, many of which are adopted in the final rule, as discussed in detail below.

The final rule offers alternative administrative procedures for the processing of applications for licenses to construct, operate, and maintain hydropower projects, including applications for certain major amendments to such licenses, and for applications for exemption. Under the final rule, in appropriate circumstances pre-filing consultation and environmental review can be combined into a single process. This alternative process can be used only if there is a consensus among the interested entities to make use of it (consent of the applicant is required but agreement of everyone interested is not), and is designed to be flexible and tailored to the facts and circumstances of the particular proceeding. The final rule does not delete or replace any existing regulations, but would supplement the existing regulations by offering applicants an opportunity to use the alternative procedures.

The present regulations require applicants for a license to engage in consultation with federal and state resource agencies and Indian tribes during the preparation of the application for the license and prior to filing it. Thereafter the Commission performs an environmental review of the application pursuant to the National Environmental Policy Act (NEPA)[3] and related statutes. The final rule is intended to simplify and expedite the licensing process by combining the pre-filing consultation and environmental review processes into a single process, and by improving communication among the participants in the licensing process. We hope that adoption and use of the alternative procedures, on a voluntary basis by applicants, will result in expedited licensing proceedings before the Commission, including the narrowing of contested issues and the submission of offers of settlement that can be used as a basis for licensing orders.

III. Discussion

A. Application for and Scope of Alternative Procedures

In proposed § 4.34(i)(1) we set forth the scope of the alternative procedures and who could request them. The proposed regulatory text stated that the applicant could submit a request to the Commission to use the alternative procedures where it intended to file an application for a hydropower license or for the amendment of a license subject to the provisions of the pre-filing consultation regulations at § 4.38.

Some commenters pointed out that the title of the rule in the notice in the **Federal Register** indicated it only applied to applications for relicense and that it should be changed to include all applications for license. A commenter recommended that an applicant be required to join with other interested entities, such as resource agencies, in making such a request.[4] Commenters also have asked whether the alternative

[1] 77 FERC ¶ 61,209 (1996).

[2] The commenters are listed in Appendix A.

[3] 42 U.S.C. 4321 *et seq.*

[4] Comments of U.S. Department of Commerce, National Marine Fisheries Service (NMFS), at 5.

procedures apply to applications for preliminary permits or exemption.

We will not require the applicant to obtain the express consent of others in order to submit a request to use alternative procedures in preparing its application. An applicant may voluntarily request to use the alternative procedures. As provided in the final rule and discussed below, the Commission will give public notice of, and interested entities may submit comments on, the applicant's request to use alternative procedures. If an applicant for a hydropower license wishes to use the standard procedures in preparing its application, it may comply with the pre-filing consultation requirements of § 4.38 or § 16.8 of the regulations and need not prepare a preliminary draft NEPA document.

The title of the notice accompanying this final rule in the **Federal Register** accurately describes the application of the new rule, extending to all applications for the licensing of hydroelectric projects. The alternative procedures apply only to applications for license and amendments to licenses that are subject to the pre-filing consultation rules contained in § 4.38 and § 16.8 of the regulations. Since applications for preliminary permit are not subject to such requirements, we see no reason to make the alternative procedures available to such applicants. On the other hand, applications for exemption are subject to the pre-filing consultation requirements of § 4.38, and we conclude that these alternative procedures should be available to applicants for exemption, if they wish to take advantage of them and meet the applicable requirements of the final rule. Accordingly, we are making changes in the rule to clarify that it also applies to applicants for exemption.

B. Objectives of Process

In the proposed regulatory text at § 4.34(i)(2), we set forth the goals of the alternative procedures, which included integrating the pre-filing consultation process and the environmental review process, facilitating greater participation by Commission staff and the public in the pre-filing consultation process, allowing the applicant to prepare an environmental assessment (EA) or a contractor to prepare an environmental impact statement (EIS), encouraging the applicant and interested persons to narrow any areas of disagreement, and promoting settlement of the issues raised by the hydropower proposal.

Commenters have recommended that these statements of objective be broadened in the final rule. They have asked that the interests of Indian tribes be kept in mind.[5] A commenter has also asked that the stated objectives include providing for effective participation in the process by citizens' groups, including the provision of financial assistance where appropriate, and allowing such participants a role in selecting contractors to conduct scientific studies and prepare required documents.[6] Commenters have asked the Commission to keep in mind in regard to the proposed regulations the goal of promoting competition between rival applicants for proposed hydropower facilities.[7] A commenter was concerned that the proposed rule may suggest that under the alternative procedures the Commission would delegate to an outside party its responsibility for NEPA documents.[8]

We believe that the language of the objectives of the alternative procedures should be revised. We have changed proposed § 4.34(i)(2)(i) to reflect the goal of combining into one process not only the pre-filing consultation procedures and the environmental review process under NEPA, but also those administrative processes associated with section 401(a) of the Clean Water Act[9] and other statutes. We are revising proposed § 4.34(i)(2)(ii) to make clear that the goal of the alternative procedures includes greater participation in the process by and improved communication among all concerned entities, including the applicant, resource agencies, Indian tribes, the public and Commission staff. While meeting certain minimum requirements of openness and fairness, the process is designed to be as flexible as possible, tailored to the circumstances of each case.

Section 4.34(i)(2)(iv) is revised to state that the rule is designed to promote cooperative efforts by the applicant and interested entities, including the sharing of pertinent information about the resource impacts of the applicant's hydropower proposal and appropriate mitigation and enhancement measures. The goal of encouraging settlement is not confined to submitting a formal offer of settlement among parties on the application when it is filed, but includes any agreement that can be reached that narrows the range of contested issues, both on necessary studies and on mitigation and enhancement measures.

We decline to modify the goal statement in the regulations as recommended by HRC. We have no objection to an applicant voluntarily deciding to provide financial assistance to citizens' groups to facilitate their effective participation in the alternative process or to allowing such groups an appropriate role in choosing contractors to do necessary studies. We believe that if any participant believes such measures are important and would further the successful completion of the process and the achievement of its other objectives, these questions should be discussed among the participants. But we do not believe it would be appropriate or helpful for the Commission to attempt to force participants to make such arrangements, which should be strictly voluntary and arise from the particular circumstances and dynamics of each case.

The final rule establishing alternative procedures for hydropower applications is neutral in regard to its impact on potential rival applicants for hydropower facilities, such as an applicant seeking to renew its license for such facilities and a municipal competitor seeking a license for the same facilities. No applicant in a competitive proceeding has asked the Commission to use the alternative procedures. However, nothing in the final rule precludes granting such a request. If it is made, we will consider whether it should be granted, considering all the relevant factors presented.

We are changing the language of § 4.34(i)(2)(iii) to state that the applicant or its contractor or consultant will only prepare a preliminary draft EA or a preliminary draft EIS, which after filing (with the related application) will be subject to complete review, revision and issuance for comment by the Commission.

Finally, we are adding a § 4.34(i)(2)(v) to the rules, to make it clear that another objective of the alternative procedures is the orderly and expeditious review by the Commission of any agreement or offer of settlement filed to resolve issues raised by an application for hydropower license, amendment, or exemption. We hope that involvement of the Commission's staff, prior to the filing of an application and agreement or offer of settlement with the Commission, together with the preparation of preliminary draft NEPA documents during the pre-filing consultation process, will result in filings that the Commission can expeditiously review. These filings should include water quality certification under section 401 of the Clean Water Act, with any

[5] Comments of Penobscot Nation (Penobscots), U.S. Dept. of the Interior (Interior) at 4, 10.

[6] Hydropower Reform Coalition (HRC) Comments at 8–10.

[7] Comments of Holyoke Gas & Electric Dept. and the Northern California Power Agency.

[8] Comments of NMFS at 3.

[9] 33 U.S.C. 1341(a)(1).

applicable conditions, and (after filing of the application) a final decision by any land management agency under section 4(e) of the Federal Power Act (FPA),[10] with mandatory conditions, should be submitted to the Commission so that we can make a prompt decision on the license or exemption application.

C. Demonstration Required of Applicant

The NOPR proposed in § 4.34(i)(3)(i) to require that the applicant, in its request to the Commission for use of the alternative procedures, demonstrate that it had made a reasonable effort to contact all resource agencies, Indian tribes, citizens' groups and others affected by the hydropower proposal, and that a "consensus" exists that the use of alternative procedures is appropriate.

This proposed regulatory text generated the most controversy in the rulemaking. Commenters disagreed vigorously as to what "consensus" should mean, with some arguing that it should mean unanimous agreement by all concerned,[11] and others arguing that it should mean the preponderance of views, at least by the major participants in the process.[12] Some commenters have proposed elaborate voting schemes in this regard,[13] while others have claimed that certain entities, such as resource agencies, should have a veto power over use of the alternative procedures.[14] Some commenters have asked the Commission to specify in the rule exactly what the requester should include in its showing.[15]

The term "consensus" in ordinary usage means "general agreement" or "collective opinion: the judgment arrived at by most of those concerned."[16] That is how the Commission employs the term here. While unanimous views obviously reflect consensus, unanimity is not always essential to a fundamentally consensual approach in a multi-party situation. The final rule does not require the applicant, in the request for use of the alternative procedures, to show that everyone concerned supports the use of these procedures. The applicant need only show that the weight of opinions expressed make it reasonable to conclude that under the circumstances it appears that use of the alternative procedures will be productive. We do not require the applicant to make any formal showing, such as a signed agreement

We envision a series of interactions between the applicant and participants that goes beyond an exchange of letters. Such interactions could include teleconferences and meetings involving Commission staff to explore the alternative procedures. In some cases the applicant's showing may rely on a lack of objections raised in such meetings. This situation may arise at the outset of the pre-filing consultation process, when interested entities are unsure of how the alternative procedures may compare to those otherwise required under Commission regulations and are unaware of the relative benefits of the alternative. The Commission believes that in these situations it is worth allowing the applicant and participants to try the alternative process rather than closing the door on this option.

To protect the rights of all interested entities to be advised of the request for alternative procedures and to file comments on the request in order to make their views known directly to the Commission, the final rule specifies, as proposed in the NOPR, that in all cases the Commission will give public notice in the **Federal Register** of the filing by an applicant of a request to use alternative procedures. Comments may be filed in response to this notice, and the Commission will take them into account in deciding whether or not to grant the request. The decision on the request will be final and not subject to interlocutory rehearing or appeal.[17]

D. Required Steps to Follow

In § 4.34(i)(4), the NOPR set forth certain minimum steps that all alternative procedures should include as appropriate: (1) The initial information meeting; (2) the scoping of environmental issues; (3) the analysis of scientific studies and further scoping; and (4) the preparation of a preliminary draft NEPA document and related application. Participants would be free, under the communications protocol to be submitted with the request to use alternative procedures, to describe those steps in greater detail or to agree to steps in addition to those set forth in the proposed rule.

Some commenters objected to the statement that these steps would only be included "as appropriate," and expressed their stongly held views that the steps were the minimum that should be required in any alternative procedure.[18] Others argued in general for more flexibility.[19] Some commenters wanted more requirements in the regulatory text, to make clear that the alternative process must include distribution by the applicant of an initial information package, that the initial information meeting should be open to the public, and that there should be cooperation between the applicant and interested persons on the determination of necessary studies and their design and scope.[20]

Commenters also requested that the Commission specify in detail in the regulations the deadlines that would apply during the alternative process.[21]

We have set forth in the final rule a list of the minimum steps we think should be a part of any alternative process, if it is to serve its objectives of expediting the completion of the administrative process, while at the same time being fair to all participants. The final rule adopted provides for the inclusion of three steps by combining the second and third steps (dealing with the scoping and study processes, as outlined above) that were proposed in the NOPR. We do not believe that the requirement that these three steps be included restricts the flexibility of the alternative process.

We do not, however, make the inclusion of these three steps mandatory in every alternative process, as there may be special circumstances where some of them are not possible or necessary.

The best example of such a case is if the alternative process begins after the applicant has already completed the first step in the standard pre-filing consultation process (the initial information meeting open to the public). The Commission will entertain requests to use the alternative process at any reasonable time, and they need not be submitted before the commencement of the standard pre-filing consultation process. In such a case, if the Commission grants the request, it would make no sense to require by rule that the applicant repeat a step that is the same as or substantially similar to a step it

[10] 16 U.S.C. 791a *et seq.*

[11] *E.g.*, Comments of HRC at 4–5, Interior at 3–4.

[12] *E.g.*, Comments of NHA at 4, 15–18, Alabama Power Co. and Georgia Power Co. at 3–5.

[13] *E.g.*, Comments of Public Generating Pool at 6–8.

[14] Comments of U.S. Dept. of Agriculture, Forest Service, at 2.

[15] Comments of NMFS at 5.

[16] Webster's Third New International Dictionary (1981), or use of a particular voting procedure, to memorialize the consensus on use of the procedures. We do not give any single interested entity a veto power over the applicant's use of alternative procedures.

[17] The Commission will place a copy of the decision (on the request to use alternative procedures) on the Commission Issuance Posting System (CIPS), so that it can readily be found by anyone interested.

[18] *E.g.*, Comments of Interior at 4, Forest Service at 3.

[19] NMFS Comments at 4–5.

[20] HRC Comments at 9–10, 13.

[21] *E.g.*, Comments of Forest Service at 4.

has already taken under the standard process. The Commission is sensitive to the concerns expressed in the comments and will not abridge procedures allowed in the alternative process in a way that would curtail notice to or participatory rights of any interested entity. We wish to be flexible and fair to all concerned.

We agree with the comments asking for changes in the regulatory text to clarify the basic requirements for the completion of these minimum steps in the alternative process. Accordingly, § 4.34(i)(4) of the final rule makes clear that the applicant must distribute an initial information package and conduct an initial information meeting open to the public, as required in the standard process, and that the approved procedures must include provisions for the cooperative scoping of environmental issues with all participants, including the selection and design of required scientific studies and any further scoping. Our goal is to promote as much candid communication as possible among the participants about the applicant's proposal, its resource impacts, and the proposals and views of the other participants.

We do not think it is necessary or appropriate to spell out, in greater detail in the regulations, deadlines for the alternative process. The establishment of these deadlines should be done cooperatively by the participants in a manner that fits the circumstances and needs of each case, with the guidance and support of Commission staff. We believe that the successful use of the alternative procedures is predicated on a climate of cooperation among the applicant and interested entities. Therefore we do not believe that the Commission should mandate by rule exactly how the alternative process may unfold in every case. To do so would unnecessarily repeat requirements in the standard pre-filing consultation process, which remains available for use in appropriate cases, and would undercut the flexibility and spirit of cooperation and open communiciation that lie at the heart of the alternative process.

E. Notice, Filings and Service Requirements

The NOPR proposed in § 4.34(i)(5) that the Commission would give public notice of the filing of the applicant's request to use the alternative procedures, inviting comment on the request. Proposed § 4.34(6)(i) would require the Commission and the applicant to give public notice of each of the four steps required in the alternative process under proposed § 4.34(i)(4). The applicant would be required to give notice of each of these stages to entities on a mailing list approved by the Commission. The proposal required the applicant to file with the Commission quarterly reports on the progress of the alternative process, pursuant to § 4.34(i)(6)(ii), and implied in § 4.34(i)(6)(iii) that the applicant would also have to file with the Commission the critical documents generated in the process, namely the initial information package, scoping documents, and the preliminary draft environmental review document.

Some commenters have urged the Commission to add language to the rule in order to make it clear how the Commission and the applicant would give notice.[22] A commenter urged that, in the case of an applicant seeking a new license, the applicant be required to give notice at the outset to (1) any entity that had contacted the Commission during the period of the previous license about the project in question and (2) published lists of citizens' groups that may have an interest.[23] The Commission was also asked to require that various filings made by the applicant in the course of the alternative process be served on all participants in the process.[24] Resource agencies requested that the Commission require the applicant, at the conclusion of the alternative process, to index its public file (which documents the pre-filing consultation and environmental review processes) and submit all of these documents, together with the index, to the Commission with its application.[25] Commenters also expressed concern that omission of Exhibit E would eliminate important information from the Commission's record.[26]

We agree that revisions should be made in the final rule about the requirements for notice, filings and service of documents. New § 4.34(i)(3)(iii) requires the applicant, when it files its request for alternative procedures with the Commission, to serve copies on all affected resource agencies and Indian tribes and all entities that have expressed an interest in the alternative process. As provided in § 4.34(i)(5), the Commission will give notice in the **Federal Register** of receipt of the request. We believe that these requirements, together with the rule's requirement that the applicant must have made reasonable efforts to contact interested entities prior to the filing of its request (see § 4.34(i)(3)(i)), will be sufficient to put the public on notice of the request. As discussed in section III.C above, the Commission will consider any comments received in determining whether to grant the request.

Section 4.34(6)(i) is also revised from the proposal to make clear that the Commission's public notice of each of the first two stages in the alternative process, described in § 4.34(i)(4), will appear in the **Federal Register**, and that the applicant's public notice of these stages is required to appear in local newspapers in the county or counties in which the project is located. Section 4.34(i)(6)(ii) is revised to make clear that reports to the Commission on the pre-filing consultation process are required only every six months, and that this requirement can be satisfied by the submission of documents already available, such as summaries or minutes of meetings held. This section also clarifies what critical documents in the process the applicant must file with the Commission and provides that copies of these documents must be served on each participant in the process that requests a copy.[27]

When the applicant files its application and preliminary draft environmental review document with the Commission, these filings, and such additional material as will be specified by the Commission in each case, will replace the Exhibit E material that is required in the standard process. We will not permit applicants to omit material necessary for the Commission's review in these filings.

We do not think it necessary to require the applicant to index all of the documents in its public file compiled during the alternative process and to submit those documents, together with the index, to the Commission with its application.[28] Any party to the proceeding before the Commission may file any material it wishes as part of its comments on the application, or the party may request that materials in the possession of the applicant be filed with the Commission. The Commission may order such filings if it believes they would be in the public interest. See the final rule § 4.34(i)(6)(iv).

F. Requests for Scientific Studies

Under the proposed rule § 4.34(i)(6)(v), the procedures approved in the alternative process may require all participants in the process to submit during the pre-filing consultation period their requests for scientific studies by the applicant. The proposal also allowed requests for such studies to be filed with the Commission after the filing of the application for good cause, with an explanation of why it was not possible to request the study during the pre-filing period.

This proposal was controversial. Some commenters pointed out that it was too restrictive, and that any party should be able to file a request for scientific studies by the applicant after the filing of its application, so long as good cause is shown. The Commission was also asked to give examples of situations in which a party would be able to show good cause.[29] Other commenters wanted the rule to be tightened to eliminate in whole or in part the right of any party to request scientific studies after the filing of the application.[30]

We believe that an important result of the alternative process, and the greater participation and communication among participants it encourages, should be the amicable resolution among participants of disputes about necessary scientific studies during the pre-filing consultation period, not after the application is filed with the Commission. With improved communication among the participants and the availability of dispute resolution in the alternative process, we do not expect to receive frequent requests for additional studies after the filing of an application that is subject to the alternative process. We understand, however, that not all such disputes will be so resolved, and that some participants, even though they have participated actively and in good faith in the alternative process, may be unwilling thereby to waive their requests for certain studies, even if the other participants in the process do not think they are necessary. The alternative process does not require such a waiver. We hope that through the alternative process, with the assistance of Commission staff, participants will be able to resolve all important differences about a hydropower proposal, including disputes about necessary studies. If the participants cannot resolve such a dispute, even with the dispute resolution procedure discussed in the next section, a party may raise it to the Commission's attention after the filing of the application. In such a case, the Commission will rule on the request, either by separate order or when issuing a decision on the application.

The requirement of good cause is self-explanatory, and the Commission does not wish to bind by rule the discretion of future Commissions to do justice in a particular case. We will not, therefore, encumber the final rule or include in this preamble additional language that would attempt to explain what would suffice to make a showing of good cause in a particular case.

G. Dispute Resolution

The proposed rule was silent on whether the Commission's provisions for dispute resolution, available in the standard pre-filing consultation process, would apply to the alternative process. Commenters asked whether they could seek resolution of disputes by the Commission in the alternative process, should it be necessary.[31]

We believe that participants should be able to ask the Commission to resolve disputes arising during the alternative process, but only if they have first made reasonable efforts to resolve the disputes with other participants, using any mechanisms established by agreement among the participants and the help of Commission staff, where appropriate. Any such request should be served on all participants and must document what efforts have been made to resolve the dispute.

H. Collapse of Consensus

The NOPR asked the commenters to address what they thought should happen if the consensus that had appeared to exist when the Commission granted an applicant's request for alternative procedures subsequently collapsed.

Many commenters attempted to answer this question. Most seemed to recognize that in certain circumstances it would make no sense to continue with the alternative process,[32] and some asked the Commission to direct what should happen in such circumstances.[33]

Despite the best of intentions of the participants, it is possible in some instances for the consensus supporting the continued use of the alternative procedures to collapse. We do not mean by this loss of consensus a disagreement on what studies should be conducted or what mitigation or enhancement measures should be required in response to the applicant's proposal, or loss of confidence on the part of one participant or a few participants in the process. We believe that a consensus will collapse if the weight of opinion of the applicant and the other participants is that the process has become a waste of their valuable time and resources and that the public interest would be better served under the circumstances by the Commission's directing a completion of the pre-filing process and what further steps are required of the applicant. In such a situation an alternative pre-filing process directed by the Commission would be required in order to clarify what steps the applicant would have to take in the time remaining to file an acceptable application.

Accordingly, the final rule adds § 4.34(i)(7) to allow a participant (including the applicant), in the event that a consensus supporting the alternative process is lost, to file a request that the Commission direct what steps should be taken to complete the pre-filing consultation process.

I. Grandfather Provision

The NOPR asked what should be done about alternative processes already approved by the Commission, pursuant to case-by-case waivers of current regulatory requirements, if the Commission adopts a final rule establishing alternative procedures.

All commenters addressing this question felt that the rule should grandfather such already approved processes.

We agree and are adding § 4.34(i)(9) to the final rule to grandfather existing alternative processes. Steps already taken do not have to be repeated, and applicants are not required to act inconsistently with written agreements already reached by participants in such cases. Other provisions of the new rule, however, such as public file requirements or requirements to file materials with the Commission (consisting of an original and eight copies) and serve copies on other participants, that may be in addition to those already agreed to in cases where waivers have been granted, will apply to all such cases after the effective date of the final rule.

J. Miscellaneous

NHA asked the Commission to improve its public noticing of

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[22] *E.g.*, Comments of Interior at 5.

[23] HRC Comments at 5–6.

[24] Comments of Interior at 6–7.

[25] Comments of Interior at 6–7 and Forest Service at 1.

[26] Comments of Interior at 7.

[27] Applicants should note that in order to have sufficient copies for internal distribution, the Commission requires the submission of an original and eight copies of all filings in hydropower matters. See 18 CFR 4.34(h). The final rule makes clear that this requirement applies to filings with the Commission that are made in the course of the alternative pre-filing process described in § 4.34(i). See § 4.34(i)(6)(ii).

[28] The final rule requires the applicant to maintain a public file of all relevant documents in the pre-filing consultation process. See § 4.34(i)(6)(iii).

[29] HRC Comments at 11–12, U.S. Environmental Protection Agency at 1, Washington Dept. of Fish and Wildlife at 3–4.

[30] Reply Comments of EEI at 4–6.

[31] Comments of Interior at 8.

[32] Comments of Duke Power Co. at 2–3, Pacific Gas & Electric Co. at 4; HRC Comments at 7, Reply Comments at 11–12. asked the Commission to direct what should happen in such circumstances.

[33] Comments of Forest Service at 4, Montana Power Co. at 6–7, EEI Reply Comments at 6.

hydropower applications, by including the licensee name and the name of the project in addition to the project number, and to use public libraries to facilitate notice to the public. NHA also asked the Commission to explain what the NOPR meant in stating that staff could participate in cases where there was no alternative process proposed and approved, pursuant to proposed § 4.34(i)(7).

Resource agencies were concerned about the impact of the alternative procedures on the Commission's obligations under NEPA, section 10(j) of the FPA and the Endangered Species Act (ESA).[34] Federal agencies were concerned about whether the alternative procedures would affect their participation as cooperating agencies for NEPA purposes.[35] A number of commenters asked the Commission to explain how the alternative pre-filing procedures would affect the Commission's conduct of the hearing process on the application when it is filed.[36]

Regarding notices concerning a hydropower project, the Commission agrees with NHA that all public notices of a hydropower application should include not only the project number but also the name of the licensee and the name of the project. Participants in the alternative process may agree to use public libraries to facilitate notice and to provide information to the public, in addition to complying with the notice and public file requirements contained in the final rule.

The final rule contains a provision at § 4.34(i)(8) making it clear that, at the Commission's discretion, its staff may participate not only in the pre-filing consultation process where alternative procedures are in use, but also in other cases where these procedures are not being used. The Commission may commit its staff, upon request and on a case-by-case basis, to limited participation in the pre-filing consultation process in connection with the preparation of any application for license, exemption, or license amendment. The goals of such participation may include exploring whether the participants in the process should consider the use of alternative procedures and, to the extent feasible and appropriate, assisting in the informal resolution of disputes and the combination of the pre-filing consultation process with the NEPA process and related processes, such as the grant of water quality certification under the Clean Water Act and the issuance of mandatory conditions pursuant to section 4(e) of the FPA.

In such cases, on request and at its discretion, the Commission may approve suitable modifications to the procedures otherwise applicable during the pre-filing and post-filing periods, similar to those made for alternative procedures set forth in the proposed rule. If the applicant subsequently requests and is granted permission to use alternative procedures, the Commission may direct how the applicant and interested entities may shift from the standard pre-filing consultation process to the alternative process.

The final rule does not affect the Commision's compliance with NEPA, section 10(j) of the FPA, or the ESA, nor does it in any way deprive a party of the right to contest issues before the Commission and obtain a decision on these issues based on the administrative record before the Commission. The Commission will review the application for adequacy, and if it is accepted for filing the Commission will invite interventions and set a deadline for the submission of final recommendations, prescriptions, mandatory conditions, and comments. Upon receipt of the application the Commission will not issue a notice inviting additional study requests, and the Commission will not issue a notice that the application is ready for environmental analysis, as would occur under the standard procedures. The Commission will review the preliminary draft NEPA document, prepared in the course of the pre-filing consultation period under the alternative procedures, and issue a draft NEPA document for comment. The Commission will take any steps required to examine contested issues and comply in its usual manner with statutory mandates applicable to the case, such as section 10(j) of the FPA and the ESA. The Commission will then issue the NEPA document in final form and an order on the application for license, exemption, or license amendment.

If an agreement or offer of settlement is filed in connection with an application that the Commission grants, the order will address the agreement or offer of settlement. If contested issues remain, as determined by the position of the parties and resource agencies before the Commission, the order will resolve the issues based on the administrative record before the Commission.

Finally, an agency, such as a federal land management agency with authority over the proposed project under FPA section 4(e) or a state agency with responsibility for issuing a certification for the project under the Clean Water Act, is free to participate fully in any alternative procedures under the final rule and subsequently to elect to be a cooperating agency with the Commission for NEPA purposes. The Commission will continue to enforce its policy, however, that such an agency cannot intervene as a party in the proceeding and at the same time be a cooperating agency for NEPA purposes. We believe that allowing an agency to pursue both of these roles simultaneously could raise concerns about compliance by the Commission with its *ex parte* rule.[37]

IV. Environmental Analysis

Commission regulations describe the circumstances where preparation of an environmental assessment or an environmental impact statement will be required.[38] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment.[39] No environmental consideration is necessary for the promulgation of a rule that is clarifying, corrective, or procedural, or that does not substantially change the effect of legislation or regulations being amended.[40]

This final rule is procedural in nature. It proposes alternative procedures that participants to a hydroelectric licensing or exemption proceeding may wish to use. Thus, no environmental assessment or environmental impact statement is necessary for the requirements proposed in the rule.

V. Regulatory Flexibility Certification

The Regulatory Flexibility Act of 1980 (RFA)[41] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. Pursuant to section 605(b) of the RFA, the Commission hereby certifies that the regulations promulgated will not have a significant economic impact on a substantial number of small entities.

The procedures adopted herein are purely voluntary in nature, and are designed to reduce burdens on small entities (as well as large entities) rather than to increase them. More fundamentally, the alternative process we are proposing herein is voluntary. The procedures constitute an alternative to the procedures currently prescribed in our regulations, and will not be available unless it is the consensus of the persons and entities interested in the proceeding, as discussed herein, to use the alternative procedures. Under this approach, each small entity will be able to evaluate for itself whether the alternative procedures are beneficial or burdensome, and oppose their adoption if they appeared to be more burdensome than beneficial. Under these circumstances, the economic impact of the proposed rule will be either neutral or beneficial to the small entities affected by it.

VI. Information Collection Requirements

The Office of Management and Budget (OMB) regulations require OMB to approve certain reporting and recordkeeping requirements (collections of information) imposed by agency rule.[42] OMB has reviewed the NOPR without comment. The final rule adopted herein will impose reporting burdens only on those applicants that voluntarily choose to use the alternate procedures. Respondents subject to the filing requirements of this final rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number. The Final Rule will affect two existing data collections, FERC–500 and FERC–505. Most of the reporting burdens associated with preparing and filing an application for a hydropower license, exemption, or amendment to license are imposed by existing regulations.

Public Reporting Burden

The alternative procedures will only require minor additional filing requirements with the Commission. The other additional burdens of the alternative procedures, as compared to the standard procedures, do not involve filings with the Commission, but will consist of various outreach efforts of the applicant and related interactions with entities interested in its hydropower proposal. An applicant would presumably only incur such additional burdens if it believed that, in the long run, it would save on litigation and other costs incurred to pursue the standard procedures.

The Commission has made approximate estimates of the additional time that may be required of an applicant to comply with the alternative procedures, as compared with the standard procedures. It is difficult to be precise about such estimates, because the time required for one applicant could vary considerably from the time required for other applicants, depending upon the circumstances involved, including the complexity of the issues raised, the total number of participants in the pre-filing process, and how cooperatively those participants worked together. If the alternative procedures were successful and resulted, for example, in the filing of an agreement or offer of settlement with the Commission, the applicant may be able to save substantially more time by avoiding litigation than was invested in the alternative procedures. If an applicant requested and was allowed to use the alternative procedures, the main additional burden, with the estimated hours to comply with each, are estimated to be:

Process	Burden (hours of effort)
(1) Contact interested entities	80
(2) Prepare and submit request, including communications protocol	80
(3) Prepare and distribute scoping and hold related meetings	50
(4) Develop agenda and other documents, including minutes, for all meetings and prepare and distribute them (only additional time as compared to presently required meetings	600
(5) Prepare and publish public notices	24
(6) Prepare and submit semi-annual progress reports and make other required Commission filings	48
(7) Maintain a complete record of the pre-filing consultation proceedings that would be open to the public	250

It is estimated that to prepare and distribute the preliminary draft environmental review document would not take any more time than to prepare Exhibit E under the standard process. Therefore, the estimated additional burden of the tasks required of an applicant if it voluntarily undertakes the alternative process totals 1132 hours.

The OMB regulations require OMB to approve certain information collection requirements imposed by agency rule. Accordingly, pursuant to OMB regulations, the Commission is providing notice of its proposed information collections to OMB.

Title: FERC–500 "Application for License for Water Projects with More than 5MW Capacity"; FERC–505 "Application for Water Projects 5MW or Less Capacity".

Action: Proposed Data Collections.

OMB Control No.: 1902–0058; 1902–0115.

Respondents: Businesses or other for profit.

Frequency of Responses: On Occasion.

Necessity of Information: There are approximately 1,021 hydropower licenses issued by the Commission that are currently outstanding. These licenses all expire at the completion of fixed terms, and at expiration the license holders may apply for a new licenses. Other applicants may apply for exemptions or original licenses to construct and operate new or existing hydropower projects.

The final rule authorizes a potential applicant for a license, exemption or certain major amendments to a license to file a request for alternative procedures if the applicant wants to use such procedures, as authorized by the rule. The rule also requires the filing of a communications protocol with the request for alternative procedures. The applicant will have to do a number of other things in the pre-filing consultation process, including distribution of an initial information package and conduct an initial public meeting, which are required under existing Commission regulations. The applicant, possibly with a contractor's assistance, would have to conduct the scoping of environmental issues; this is a new requirement, not now imposed on applicants, but which is related to currently required pre-filing consultation duties of the applicant and would substitute in part for the environmental review process traditionally done by the Commission after the filing of an application for hydropower license or for certain major license amendments.

The applicant would have to do studies of the resource impacts of its proposal, as it now must do under current Commission regulations governing the pre-filing consultation process. The applicant or the contractor would also have to prepare a preliminary draft NEPA document and submit additional information in lieu of what is now required as Exhibit E to a hydropower application. These two filing requirements—what is now required and what would be required under the regulations for the alternative procedures—are similar.

The applicant would have to file with the Commission semi-annual reports on

[34] 16 U.S.C. 1531–1544. Comments of Interior at 9 and NMFS at 4.

[35] Comments of Forest Service at 4, Interior at 10.

[36] Comments of NMFS at 3, Western Urban Water Coalition at 4, Public Generating Pool at 14–29, Sacramento Municipal Utility District at 18–36, and the City and County of Denver at 2–3.

[37] 18 CFR 385.2201.

[38] Regulations Implementing National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), codified at 18 CFR Part 380.

[39] 18 CFR 380.4(a)(2)(ii).

[40] 18 CFR 380.4.

[41] 5 U.S.C. 601–612.

[42] 5 CFR 1320.11.

the progress of the pre-filing consultation process under the alternative procedures. No such reports are now required, although the filing of these reports under the alternative procedures avoids the requirement in the current regulations for the applicant to document the entire pre-filing consultation process when the application is filed. Under the alternative procedures the applicant would have to maintain a public file of the pre-filing process and to give various public notices during this process, while current regulations do not require maintenance of a public file containing all this information or the issuance of as many such notices during the pre-filing consultation period.

Internal Review: The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the information requirements. The Commission's Office of Hydropower Licensing will upon receipt of the application review it to determine the broad impact of the license application. Commission staff conducts a systematic review of the prepared application with supplemental documentation provided by the solicitation of comments from other agencies and the public. The Commission will take any steps required to examine contested issues and comply with statutory mandates applicable to the case. These reviews ensure that the Federal Power Act as amended by other statutory provisions is formally administered to ensure compliance by the licensee. These requirements conform to the Commission's plan for efficient information collection, communication, and management within the hydroelectric industry.

Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. [Attention: Michael Miller, Division of Information Services Phone: (202) 208–1415, fax: (202) 273–0873, email: mmiller@ferc.fed.us]

Comments are solicited on the Commission's need for this information, whether the information will have practical utility, the accuracy of the provided burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques. For submitting comments concerning the collections of information and the associated burden estimates, please send your comments to the contact listed above and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503. [Attention: Desk Officer for the Federal Energy Regulatory Commission, phone (202) 395–3087, fax: (202) 395–7285]

Estimated Annual Burden (includes burden hours already approved for standard procedures):

Data collection	Number of respondents	Number of responses	Hours per response	Total annual hours
FERC–500	6	6	853	5,120
FERC–505	10	10	182	1,818

Total Annual Hours for collections (Reporting + Recordkeeping, (if appropriate)) = 6,938.

Information Collection Costs: The Commission seeks comments on the costs to comply with these requirements. It has projected the average annualized cost for all respondents to be:

Data collection	Annualized capital/start-up costs	Annualized costs (operations & maintenance)	Total annualized costs
FERC–500	$269,861	$0.00	$269,861.00
FERC–505	95,822	0.00	95,822.00
Total			365,683.00

VII. Effective Date

This rule is effective December 5, 1997. If OMB has not approved the information collection provisions at that time, the Commission will issue a notice delaying the effective date until OMB approval of the final rule.

List of Subjects

18 CFR Part 4

Electric power, Reporting and recordkeeping requirements.

18 CFR Part 375

Authority delegations (Government agencies), Seals and insignia, Sunshine Act.

By the Commission.

Lois D. Cashell,

Secretary.

In consideration of the foregoing, the Commission amends parts 4 and 375 of Chapter I, Title 18, Code of Federal Regulations, as set forth below.

PART 4—LICENSES, PERMITS, EXEMPTIONS, AND DETERMINATION OF PROJECT COSTS

1. The authority citation for part 4 continues to read as follows:

Authority: 16 U.S.C. 791a–825r, 2601–2645; 42 U.S.C. 7101–7352.

2. In § 4.34, the section heading is revised and a new paragraph (i) is added to read as follows:

§ 4.34 Hearings on applications; consultation on terms and conditions; motions to intervene; alternative procedures.

* * * * *

(i) *Alternative procedures.* (1) An applicant may submit to the Commission a request to approve the use of alternative procedures for pre-filing consultation and the filing and processing of an application for an original, new or subsequent hydropower license or exemption that is subject to § 4.38 or § 16.8 of this chapter, or for the amendment of a license that is subject to the provisions of § 4.38.

(2) The goal of such alternative procedures shall be to:

(i) Combine into a single process the pre-filing consultation process, the environmental review process under the National Environmental Policy Act and administrative processes associated with the Clean Water Act and other statutes;

(ii) Facilitate greater participation by and improve communication among the potential applicant, resource agencies, Indian tribes, the public and Commission staff in a flexible pre-filing consultation process tailored to the circumstances of each case;

(iii) Allow for the preparation of a preliminary draft environmental assessment by an applicant or its contractor or consultant, or of a preliminary draft environmental impact statement by a contractor or consultant chosen by the Commission and funded by the applicant;

(iv) Promote cooperative efforts by the potential applicant and interested entities and encourage them to share information about resource impacts and mitigation and enhancement proposals and to narrow any areas of disagreement and reach agreement or settlement of the issues raised by the hydropower proposal; and

(v) Facilitate an orderly and expeditious review of an agreement or offer of settlement of an application for a hydropower license, exemption or amendment to a license.

(3) A potential hydropower applicant requesting the use of alternative procedures must:

(i) Demonstrate that a reasonable effort has been made to contact all resource agencies, Indian tribes, citizens' groups, and others affected by the applicant's proposal, and that a consensus exists that the use of alternative procedures is appropriate under the circumstances;

(ii) Submit a communications protocol, supported by interested entities, governing how the applicant and other participants in the pre-filing consultation process, including the Commission staff, may communicate with each other regarding the merits of the applicant's proposal and proposals and recommendations of interested entities; and

(iii) Serve a copy of the request on all affected resource agencies and Indian tribes and on all entities contacted by the applicant that have expressed an interest in the alternative pre-filing consultation process.

(4) As appropriate under the circumstances of the case, the alternative procedures should include provisions for:

(i) Distribution of an initial information package and conduct of an initial information meeting open to the public;

(ii) The cooperative scoping of environmental issues (including necessary scientific studies), the analysis of completed studies and any further scoping; and

(iii) The preparation of a preliminary draft environmental assessment or preliminary draft environmental impact statement and related application.

(5) The Commission will give public notice in the **Federal Register** inviting comment on the applicant's request to use alternative procedures. The Commission will consider any such comments in determining whether to grant or deny the applicant's request to use alternative procedures. Such a decision will not be subject to interlocutory rehearing or appeal.

(6) If the Commission accepts the use of alternative procedures, the following provisions will apply.

(i) To the extent feasible under the circumstances of the proceeding, the Commission will give notice in the **Federal Register** and the applicant will give notice, in a local newspaper of general circulation in the county or counties in which the project is located, of the initial information meeting and the scoping of environmental issues. The applicant will also send notice of these stages to a mailing list approved by the Commission.

(ii) Every six months, the applicant shall file with the Commission a report summarizing the progress made in the pre-filing consultation process and referencing the applicant's public file, where additional information on that process can be obtained. Summaries or minutes of meetings held in the process may be used to satisfy this filing requirement. The applicant must also file with the Commission a copy of its initial information package, each scoping document, and the preliminary draft environmental review document. All filings with the Commission under this section must include the number of copies required by paragraph (h) of this section, and the applicant shall send a copy of these filings to each participant that requests a copy.

(iii) At a suitable location, the applicant will maintain a public file of all relevant documents, including scientific studies, correspondence, and minutes or summaries of meetings, compiled during the pre-filing consultation process. The Commission will maintain a public file of the applicant's initial information package, scoping documents, periodic reports on the pre-filing consultation process, and the preliminary draft environmental review document.

(iv) An applicant authorized to use alternative procedures may substitute a preliminary draft environmental review document and additional material specified by the Commission instead of Exhibit E to its application and need not supply additional documention of the pre-filing consultation process. The applicant will file with the Commission the results of any studies conducted or other documentation as directed by the Commission, either on its own motion or in response to a motion by a party to the licensing or exemption proceeding.

(v) Pursuant to the procedures approved, the participants will set reasonable deadlines requiring all resource agencies, Indian tribes, citizens' groups, and interested persons to submit to the applicant requests for scientific studies during the pre-filing consultation process, and additional requests for studies may be made to the Commission after the filing of the application only for good cause shown.

(vi) During the pre-filing process the Commission may require the filing of preliminary fish and wildlife recommendations, prescriptions, mandatory conditions, and comments, to be submitted in final form after the filing of the application; no notice that the application is ready for environmental analysis need be given by the Commission after the filing of an application pursuant to these procedures.

(vii) Any potential applicant, resource agency, Indian tribe, citizens' group, or other entity participating in the alternative pre-filing consultation process may file a request with the Commission to resolve a dispute concerning the alternative process (including a dispute over required studies), but only after reasonable efforts have been made to resolve the dispute with other participants in the process. No such request shall be accepted for filing unless the entity submitting it certifies that it has been served on all other participants. The request must document what efforts have been made to resolve the dispute.

(7) If the potential applicant or any resource agency, Indian tribe, citizens' group, or other entity participating in the alternative pre-filing consultation process can show that it has cooperated in the process but a consensus supporting the use of the process no longer exists and that continued use of the alternative process will not be productive, the participant may petition the Commission for an order directing the use by the potential applicant of appropriate procedures to complete its application. No such request shall be accepted for filing unless the entity submitting it certifies that it has been served on all other participants. The

request must recommend specific procedures that are appropriate under the circumstances.

(8) The Commission may participate in the pre-filing consultation process and assist in the integration of this process and the environmental review process in any case, including appropriate cases where the applicant, contractor, or consultant funded by the applicant is not preparing a preliminary draft environmental assessment or preliminary draft environmental impact statement, but where staff assistance is available and could expedite the proceeding.

(9) In all cases where the Commission has approved the use of alternative pre-filing consultation procedures prior to December 5, 1997, during the pre-filing process the potential applicant need not follow any additional requirements imposed by paragraph (i) of this section, if in so doing the applicant would repeat any steps already taken in the preparation of its application and supporting documentation or act inconsistently with any written agreement signed before December 5, 1997 by the applicant and the other participants in the alternative process.

PART 375—THE COMMISSION

3. The authority citation for part 375 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 791–825r, 2601–2645; 42 U.S.C. 7101–7352.

4. In § 375.314, paragraph (u) is added to read as follows:

§ 375.314 Delegations to the Director of the Office of Hydropower Licensing.

* * * * *

(u) Approve, on a case-specific basis, and issue such orders as may be necessary in connection with the use of alternative procedures, under § 4.34(i) of this chapter, for the development of an application for an original, new or subsequent license, exemption, or license amendment subject to the pre-filing consultation process, and assist in the pre-filing consultation and related processes.

Note: The appendix will not appear in the Code of Federal Regulations.

Appendix A

Comments

Citizens' Groups

Adirondack Mountain Club
American Rivers
Appalachian Mountain Club
California Hydropower Reform Coalition
Conservation Law Foundation
Hydropower Reform Coalition
Idaho Rivers United
Michigan Hydro Relicensing Coalition
New England FLOW
New York Rivers United
Trout Unlimited

Federal Agencies

U.S. Department of Agriculture, U.S. Forest Service
U.S. Department of Commerce, National Marine Fisheries Service
U.S. Department of the Interior
U.S. Environmental Protection Agency

Indian Tribes

Penobscot Nation

Industry Associations

American Public Power Association
Edison Electric Institute
National Hydropower Association
Public Generating Pool
Western Urban Water Coalition

State Agencies

Georgia Department of Natural Resources
New York State Department of Environmental Conservation
Washington Department of Fish and Game

Licensees

Adirondack Hydro Development Corporation
Alabama Power Company and Georgia Power Company
Denver Water
Duke Power Company
Holyoke Gas & Electric Company and Northern California Water Power Agency
Minnesota Power & Light Company
Montana Power Company
Pacific Gas and Electric Company
Portland General Electric Company
Sacramento Municipal Utility District
Seattle City Light

Reply Comments

Alabama Power Company and Georgia Power Company
City of Holyoke, Massachusetts Gas & Electric Department
Duke Power Company
Edison Electric Institute
Hydropower Reform Coalition
National Hydropower Association
Sacramento Municipal Utility District

[FR Doc. 97–29196 Filed 11–4–97; 8:45 am]

BILLING CODE 6717–01–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 416

[Regulations No. 16]

RIN 0960–AE05

Definition of United States (U.S.) Resident; Religious Record of Birth or Baptism as Evidence of Citizenship; Plan to Help Blind and Disabled Individuals Achieve Self-Support

AGENCY: Social Security Administration (SSA).

ACTION: Final rules.

SUMMARY: These final regulations clarify SSA's policies on the definition of a U.S. resident and the acceptable types of evidence for proving status as a U.S. citizen or national. They clarify that, for purposes of the Supplemental Security Income (SSI) program, *resident of the U.S.* means the individual has established an actual dwelling place in the U.S. and plans to continue living in the U.S. These final regulations also clarify that, for purposes of the SSI program, a religious record of a birth or baptism in the U.S. must have been recorded in the U.S. within 3 months of the birth, in addition to showing that the individual was born in the U.S., in order to be acceptable evidence that the individual is a U.S. citizen or a national of the U.S. In addition, these final regulations correct a typographical error in the wording regarding income that is used or set aside to be used under a plan to become self-supporting.

EFFECTIVE DATE: These regulations are effective December 5, 1997.

FOR FURTHER INFORMATION CONTACT: Lois Berg, Legal Assistant, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–1713. For information on eligibility, claiming benefits, or coverage of earnings, call our national toll-free number, 1–800–772–1213.

SUPPLEMENTARY INFORMATION:

Background

To be eligible for SSI benefits, an individual must be a resident of the U.S. (one of the 50 States, the District of Columbia, or the Northern Mariana Islands). Generally, a person becomes a resident when he or she arrives in the U.S., establishes an actual dwelling place in the U.S., and plans to continue living in the U.S.

Our regulation at § 416.1603(b) currently defines *resident of the U.S.* as "a person who is living within the geographical limits of the United States." This definition is vague because it could be read to imply that mere presence, such as that of a visitor, is sufficient to establish residency. In addition, it does not fully support the evidence of residency documents required to establish U.S. residency listed in § 416.1603(a).

Section 416.1603(b) of these final regulations specifies that an individual must establish an actual dwelling place in the U.S. and intend to continue living in the U.S. to be considered a U.S. resident. Clarification of this section of the regulations is necessary to address problems that have arisen where individuals have established U.S. residency under current regulations, but do not intend to live in the U.S.

In evaluating evidence of residency for SSI purposes, the term *actual dwelling place* will encompass different types of living situations including the situation of a homeless individual.

Another requirement for eligibility for SSI benefits is that an individual must be either a citizen or national of the U.S. or a qualified alien as defined in 8 U.S.C. 1641(b) who meets one of the exceptions in 8 U.S.C. 1612(a)(2). Section 416.1610 of the regulations lists the various types of evidence that an individual can submit as proof that he or she is a citizen or national. Among the acceptable types of evidence for a U.S. citizen or national is a religious record of birth or baptism which shows the individual was born in the U.S. However, § 416.1610(a)(2) currently does not specify that the place of recordation must be in the U.S., nor does it set any time limits on when the record must have been established.

Prior SSA studies have shown that religious records of birth or baptism recorded in the U.S. within 3 months of birth are generally reliable. Records made after 3 months of birth are more prone to fraud. While not a foolproof fraud deterrent, these final regulations will help to limit fraud by lessening the chance of an individual later coming into the U.S. and using a fraudulent religious record of birth or baptism to obtain SSI benefits.

Explanation of Revisions

In these final regulations, we are revising § 416.1603(b) to define precisely what we mean by "living within the geographical limits of the United States" and to reflect the evidence required by § 416.1603(a). We are also revising § 416.1610(a)(2) to specify that, in addition to showing that the individual was born in the U.S., a religious record of birth or baptism must have been recorded in the U.S. within 3 months of birth.

In addition, we are correcting a typographical error in the wording of the second sentence in § 416.1160 concerning income that is used or set aside to be used under a plan to become self-supporting.

On April 22, 1996, we published proposed rules in the **Federal Register** at 61 FR 17609 and provided a 60-day period for interested individuals to comment. We received no comments. We are, therefore, publishing these final rules unchanged.

Regulatory Procedures

Regulatory Flexibility Act

We certify that these final regulations will not have a significant economic impact on a substantial number of small entities because they only affect individuals who claim benefits under title XVI of the Social Security Act. Therefore, a regulatory flexibility analysis as provided in Public Law 96–354, the Regulatory Flexibility Act, is not required.

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these final regulations do not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, they were not subject to OMB review.

Paperwork Reduction Act

These final regulations impose no reporting/recordkeeping requirements necessitating clearance by OMB.

(Catalog of Federal Domestic Assistance Program No. 96.006, Supplemental Security Income)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

Dated: October 27, 1997.

Kenneth S. Apfel,

Commissioner of Social Security.

For the reasons set forth in the preamble, we are amending subparts K and P of part 416 of chapter III of title 20 of the Code of Federal Regulations as set forth below.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart K—[Amended]

1. The authority citation for subpart K of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383); sec. 211, Pub. L. 93–66, 87 Stat 154 (42 U.S.C. 1382 note).

2. Section 416.1160 is amended by revising the second sentence to read as follows:

§ 416.1160 General.

* * * If you are blind or disabled, we will pay you SSI benefits and will not count the part of your income that you use or set aside to use under a plan to become self-supporting. * * *

Subpart P—[Amended]

3. The authority citation for subpart P of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1614(a)(1)(B) and (e), and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1382c(a)(1)(B) and (e), and 1383); 8 U.S.C. 1254a; sec. 502, Pub. L. 94–241, 90 Stat. 268 (48 U.S.C. 1681 note).

4. Section 416.1603 is amended by revising paragraph (b) to read as follows:

§ 416.1603 How to prove you are a resident of the United States.

* * * * *

(b) *What "resident of the United States" means.* We use the term *resident of the United States* to mean a person who has established an actual dwelling place within the geographical limits of the United States with the intent to continue to live in the United States.

* * * * *

3. Section 416.1610 is amended by revising paragraph (a)(2) to read as follows:

§ 416.1610 How to prove you are a citizen or a national of the United States.

(a) * * *

(2) A certified copy of a religious record of your birth or baptism, recorded in the United States within 3 months of your birth, which shows you were born in the United States;

* * * * *

[FR Doc. 97–29187 Filed 11–4–97; 8:45 am]

BILLING CODE 4190–29–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 58

[AD–FRL–5903–5]

RIN 2060–AF71

Ambient Air Quality Surveillance for Lead

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Lead air pollution levels measured near the Nation's roadways have decreased 97 percent between 1976 and 1995 with the elimination of lead in gasoline used by on-road mobile sources. Because of this historic decrease, EPA is shifting its ambient air monitoring focus from measuring lead air pollutant concentrations emanating from mobile source emissions toward a focus on stationary point sources of lead

air pollution. Today's action revises the part 58 lead air monitoring regulations to allow many lead monitoring stations to be discontinued while maintaining a core lead monitoring network in urban areas to track continued compliance with the lead National Ambient Air Quality Standard (NAAQS). This action also requires lead ambient air monitoring around lead stationary sources. This action is being taken at the direct request of numerous State and local agencies whose on-road mobile source-oriented lead monitors have been reporting peak lead air pollution values that are many times less than the quarterly lead NAAQS of 1.5 $\mu g/m^3$ for many years. Approximately 70 of the National Air Monitoring Stations (NAMS) and a number of the State and Local Air Monitoring Stations (SLAMS) could be discontinued with this action, thus making more resources available to those State and local agencies to deploy lead air quality monitors around heretofore unmonitored lead stationary sources.

DATES: The effective date of this rule is December 22, 1997 unless adverse or critical comments are received by December 5, 1997. If adverse or critical comments are received by December 5, 1997, and the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments should be submitted (in duplicate, if possible) to: Air Docket (LE–131), US Environmental Protection Agency, Attn: Docket No. A–91–22, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Brenda Millar, Emissions, Monitoring, and Analysis Division (MD–14), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Telephone: (919) 541–4036, e-mail: millar, brenda@email.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Authority

Sections 110, 301(a), and 319 of the Clean Air Act as amended 42 U.S.C. 7410, 7601(a), 7619.

II. Background

The current ambient air monitoring regulations that pertain to lead air sampling were written in the 1970's when lead emissions from on-road mobile sources (e.g., automobiles, trucks) were the predominant lead air emission source affecting our communities. As such, the current lead monitoring requirements focus primarily upon the idea of determining the air quality impacts from major roadways and urban traffic arterial highways. Since the 1970's, lead has been removed from gasoline sources for on-road vehicles (on-road vehicles now account for less than 1 percent of total lead emissions), and a 97 percent decrease in lead air pollution levels measured in our neighborhoods and near roadways has occurred nationwide. Because of this historic decrease, EPA is reducing its requirements for measuring lead air pollutant concentrations near major highways, and is focusing on stationary point sources and their impacts on neighboring populations.

The current lead air monitoring regulations require that each urbanized area with a population of 500,000 or more operate at least two lead NAMS, one of which must be a roadway-oriented site and the second must be a neighborhood site with nearby traffic arteries or other major roadways. There are approximately 85 NAMS in operation and reporting data for 1996. This action would reduce this NAMS requirement to include one NAMS site in one of the two largest Metropolitan Statistical Areas (MSA/CMSA) within each of the ten EPA Regions, and one NAMS population-oriented site in each populated area (either a MSA/CMSA, town, or county) where lead violations have been measured over the most recent 8 calendar quarters. This latter requirement is designed to provide information to citizens living in areas that have one or more lead stationary sources that are causing recent air quality violations.

At present, the MSA/CMSAs, cities, or counties that have one or more quarterly Pb NAAQS violations that would be subject to this requirement include:

TABLE 1.—CMSA/MSA'S OR COUNTIES WITH ONE OR MORE LEAD NAAQS VIOLATIONS IN 1995–96

CMSA/MSA or county	Contributing lead source(s)
Philadelphia-Wilmington-Atlantic City CMSA.	Franklin Smelter in Philadelphia County, PA.
Tampa-St. Petersburg-Clearwater MSA.	Gulf Coast Lead in Hillsborough County, FL.
Memphis MSA	Refined Metals in Shelby County, TN.
Nashville MSA	General Smelting in Williamson County, TN.
St. Louis MSA	Chemetco in Madison County, IL, and Doe Run in Jefferson County, MO.
Cleveland-Akron CMSA.	Master Metals in Cuyahoga County, OH.
Iron County, MO	ASARCO in/near Hogan, MO.
Omaha MSA	ASARCO in Douglas County, NE.
Lewis and Clark County, MT.	ASARCO in/near East Helena, MT.

Data from these NAMS will be used to assess national trends in lead ambient air pollution. Figure 1 demonstrates the effect that these monitoring reductions will have on our national lead air pollutant trends.

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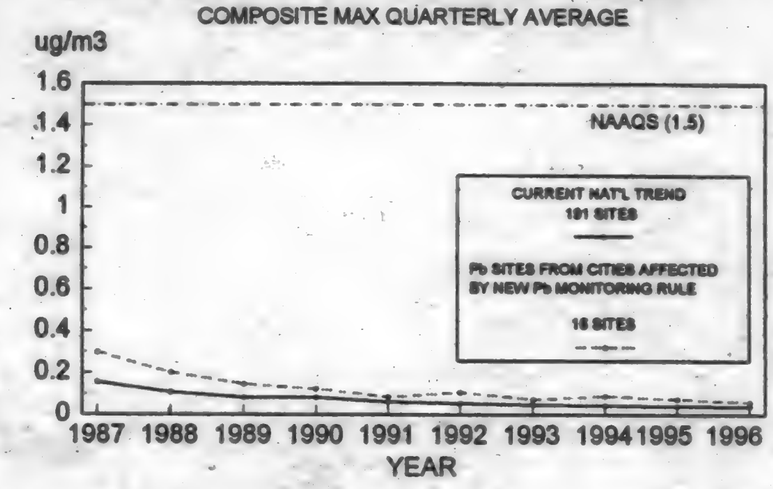
FIGURE 1. LEAD TRENDS: CURRENT U.S. VS SELECTED CITIES



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For other monitoring within the SLAMS network, EPA is requiring State and local agencies to focus their efforts toward establishing air monitoring networks around lead stationary sources which are causing or have a potential to cause exceedances of the quarterly lead NAAQS. Many of these sources have been identified through EPA's ongoing Lead NAAQS Attainment Strategy, and monitoring has already been established. In general, stationary sources emitting five or more tons per year are considered to be candidates for additional lead monitoring, although smaller stationary sources may also be problematic depending upon the facility's size and proximity to neighborhoods. EPA recommends a minimum of two sites per source, one located for stack emission impacts and the other for fugitive emission impacts. Variations of this two-site network are expected as source type, topography, locations of neighboring populations, and other factors play a role in how to most appropriately design such a network. EPA guidance for lead monitoring around point sources has been developed and is available through a variety of sources including the National Technical Information Service (703–487–4650), and electronic forms accessible through EPA's Office of Air Quality Planning & Standards Technology Transfer Network, Ambient Monitoring Technology Information Center (AMTIC) bulletin board system at http://ttnwww.rtpnc.epa.gov.

In addition to the changes to the lead monitoring requirements, EPA is making several minor changes to update and correct regulatory provisions to current practices. Specifically this affects sections 58.31, 58.34, 58.41, Appendix B, Appendix D sections 3.2 and 3.3, and Appendix G, sections 1 and 2b.

III. Administrative Requirements Section

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations or recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this action is not a "significant regulatory action" under the terms of the Executive Order 12866 and is therefore not subject to formal OMB review.

B. Paperwork Reduction Act

Today's action does not impose any new information collection burden. This action revises the part 58 air monitoring regulations for lead to allow many monitoring sites to be discontinued. The Office of Management and Budget (OMB) has previously approved the information collection requirements in the part 58 regulation under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0084 (EPA ICR No. 0940.13 and revised by 0940.14).

C. Impact on Small Entities

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entitites. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions whose jurisdictions are less than 50,000 people. This final rule will not have a significant impact on a substantial number of small entities because it does not impact small entities whose

jurisdictions cover less than 50,000 people. Pursuant to the provision of 5 U.S.C. 605(b), I certify that this action will not have a significant economic impact on a substantial number of small entities.

Since this modification is classified as minor, no additional reviews are required.

D. Unfunded Mandates Reform Act of 1995

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final standards that include a Federal mandate that may result in estimated costs to State, local, or tribal governments, or to the private sector, of, in the aggregate, $100 million or more. Under section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the standard and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the standards. The EPA has determined that this action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments. Therefore, the requirements of the Unfunded Mandates Act of 1995 do not apply to this action.

E. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 58

Environmental protection, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Quality assurance requirements.

Dated: October 30, 1997.

Carol W. Browner,

Administrator.

For the reasons set forth in the preamble, title 40, chapter I, part 58 of the Code of Federal Regulations is amended as follows:

PART 58—[AMENDED]

1. The authority citation for part 58 continues to read as follows:

Authority: 42 U.S.C. 7410, 7601(a), 7613, 7619.

2. Section 58.31(a) is revised to read as follows:

§ 58.31 NAMS network description.

* * * * *

(a) The AIRS site identification number for existing stations.

* * * * *

3. Section 58.34(a) is revised to read as follows:

§ 58.34 NAMS network completion.

* * * * *

(a) Each NAMS must be in operation, be sited in accordance with the criteria in Appendix E to this part, and be located as described in the AIRS database; and

* * * * *

4. Section 58.41(b) is revised to read as follows:

§ 58.41 PAMS network description.

* * * * *

(b) The AIRS site identification number for existing stations.

* * * * *

5. Appendix D is amended by revising the first sentence of paragraph 3 of section 1, revising section 2.7, revising the fifth paragraph of section 3, revising the last sentence of the first paragraph of section 3.2, revising the last sentence of the first paragraph of section 3.3, revising section 3.6, and revising references 6, 7, 10 of section 6 and adding reference 19 to section 6 to read as follows:

Appendix D—Network Design for State and Local Air Monitoring Stations (SLAMS), National Air Monitoring Stations (NAMS), and Photochemical Assessment Monitoring Stations (PAMS)

* * * * *

1. *SLAMS Monitoring Objectives and Spatial Scales*

* * * * *

It should be noted that this appendix contains no criteria for determining the total number of stations in SLAMS networks. * * *

* * * * *

2.7 *Lead (Pb) Design Criteria for SLAMS.* Presently, less than 1 percent of the Nation's Pb air pollution emissions originate from on-road mobile source exhaust. The majority of Pb emissions come from stationary point sources, such as metals processing facilities, waste disposal and recycling, and fuel combustion (reference 19 of this appendix). The SLAMS networks are used to assess the air quality impacts of stationary Pb sources, and to determine the broad population exposure from any Pb source. The most important spatial scales to effectively characterize the emissions from both mobile and stationary sources are the micro, middle, and neighborhood scales. For purposes of establishing monitoring stations to represent large homogeneous areas other than the above scales of representativeness, urban or regional scale stations may also be needed.

Microscale—This scale would typify areas in close proximity to stationary lead sources or downtown street canyons and traffic corridors where the general public would be exposed to maximum concentrations from mobile sources. Because of the very steep ambient Pb gradients resulting from Pb emissions from mobile sources (reference 7 of this appendix), the dimensions of the microscale for Pb generally would not extend beyond 15 meters from the roadway. Emissions from stationary sources such as primary and secondary lead smelters, and primary copper smelters may under fumigation conditions likewise result in high ground level concentrations at the microscale. In the latter case, the microscale would represent an area impacted by the plume with dimensions extending up to approximately 100 meters. Data collected at microscale stations provide information for evaluating and developing "hot-spot" control measures.

Middle Scale—This scale generally represents Pb air quality levels in areas up to several city blocks in size with dimensions on the order of approximately 100 meters to 500 meters. The middle scale may for example, include schools and playgrounds in center city areas which are close to major Pb stationary sources. Pb monitors in such areas are desirable because of the higher sensitivity of children to exposures of elevated Pb concentrations (reference 7 of this appendix). Emissions from point sources frequently impact on areas at which single sites may be located to measure concentrations representing middle spatial scales.

Neighborhood Scale—The neighborhood scale would characterize air quality conditions throughout some relatively uniform land use areas with dimensions in the 0.5 to 4.0 kilometer range. Stations of this scale would provide monitoring data in areas representing conditions where children live and play. Monitoring in such areas is important since this segment of the population is more susceptible to the effects of Pb. Where a neighborhood site is located away from immediate Pb sources, the site may be very useful in representing typical air quality values for a larger residential area, and therefore suitable for population exposure and trends analyses.

Urban Scale—Such stations would be used to present ambient Pb concentrations over an entire metropolitan area with dimensions in the 4 to 50 kilometer range. An urban scale station would be useful for assessing trends in citywide air quality and the effectiveness of larger scale air pollution control strategies.

Regional Scale—Measurements from these stations would characterize air quality levels over areas having dimensions of 50 to hundreds of kilometers. This large scale of representativeness, rarely used in Pb monitoring, would be most applicable to sparsely populated areas and could provide information on background air quality and inter-regional pollutant transport.

Monitoring for ambient Pb levels is required for all major urbanized areas where Pb levels have been shown or are expected to be of significant concern due to the proximity of stationary Pb emissions sources. Sources emitting five tons per year or more of actual point and fugitive Pb emissions would generally be candidates for lead ambient air monitoring. Smaller sources could also pose a potential air quality problem in certain cases, e.g., if the facility is geographically compact and located very close to neighborhoods. Modeling may be needed to determine if a source has the potential to exceed the quarterly lead National Ambient Air Quality Standard (NAAQS). The total number and type of stations for SLAMS are not prescribed but must be determined on a case-by-case basis. As a minimum, there must be two stations in any area where Pb concentrations currently exceed or have exceeded 1.5 $\mu g/m^3$ quarterly arithmetic mean measured during any one quarter of the most recent eight quarters. Where the Pb air quality violations are widespread or the emissions density, topography, or population locations are complex and varied, there may be a need to establish more than two Pb ambient air monitoring stations. The EPA Regional Administrator may specify more than two monitoring stations if it is found that two stations are insufficient to adequately determine if the Pb standard is being attained and maintained. The Regional Administrator may also specify that stations be located in areas outside the boundaries of the urbanized areas.

Concerning the previously discussed required minimum of two stations, at least one of the stations must be a category (a) type station and the second may be either category (a) or (b) depending upon the extent of the stationary source's impact and the existence of residential neighborhoods surrounding the source. When the source is located in an area that is subject to NAMS requirements as in Section 3 of this Appendix, it is preferred that the NAMS site be used to describe the population's exposure and the second SLAMS site be used as a category (a) site. Both of these categories of stations are defined in section 3.

To locate monitoring stations, it will be necessary to obtain background information such as stationary and mobile source emissions inventories, climatological summaries, and local geographical characteristics. Such information should be used to identify areas that are most suitable to the particular monitoring objective and spatial scale of representativeness desired. References 9 & 10 of this appendix provide additional guidance on locating sites to meet specific urban area monitoring objectives and should be used in locating new stations or evaluating the adequacy of existing stations.

After locating each Pb station and, to the extent practicable, taking into consideration the collective impact of all Pb sources and surrounding physical characteristics of the siting area, a spatial scale of representativeness must be assigned to each station.

* * * * *

3. *Network Design for National Air Monitoring Stations (NAMS).*

* * * * *

For each urban area where NAMS are required, both categories of monitoring stations must be established. In the case of Pb and SO_2 if only one NAMS is needed, then category (a) must be used. The analysis and interpretation of data from NAMS should consider the distinction between these types of stations as appropriate.

* * * * *

3.2 *Sulfur Dioxide Design Criteria for NAMS* * * *

The actual number and location of the NAMS must be determined by EPA Regional Offices and the State Agency, subject to the approval of EPA Headquarters, Office of Air Quality Planning and Standards (OAQPS).

* * * * *

3.3 *Carbon Monoxide (CO) Design Criteria for NAMS* * * *

At the national level, EPA will not routinely require data from as many stations as are required for PM–10, and perhaps SO_2, since CO trend stations are principally needed to assess the overall air quality progress resulting from the emission controls required by the Federal motor vehicle control program (FMVCP) and other local controls.

* * * * *

3.6 *Lead (Pb) Design Criteria for NAMS.* In order to achieve the national monitoring objective, one NAMS site must be located in one of the two cities with the greatest population in the following ten regions of the country (the choice of which of the two metropolitan areas should have the lead NAMS requirement is made by the Administrator or the Administrator's designee using the recommendation of the Regional Administrators or the Regional Administrators' designee):

EPA REGIONS & TWO CURRENT LARGEST MSA/CMSAs (USING 1995 CENSUS DATA)

Region (States)	Two largest MSA/CMSAs
I (Connecticut, Massachusetts, Maine, New Hampshire, Rhode Island, Vermont).	Boston-Worcester-Lawrence CMSA, Hartford, CT MSA
II (New Jersey, New York, Puerto Rico, U.S. Virgin Islands)	New York-Northern New Jersey-Long Island, CMSA, San Juan-Caguas-Arecibo, PR CMSA.
III (Delaware, Maryland, Pennsylvania, Virginia, West Virginia, Washington, D.C.).	Washington-Baltimore CMSA, Philadelphia-Wilmington-Atlantic City CMSA.
IV (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee).	Miami-Fort Lauderdale CMSA, Atlanta, GA MSA.
V (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin)	Chicago-Gary-Kenosha CMSA, Detroit-Ann Arbor-Flint CMSA.
VI (Arkansas, Louisiana, New Mexico, Oklahoma, Texas)	Dallas-Fort Worth CMSA, Houston-Galveston-Brazoria CMSA.
VII (Iowa, Kansas, Missouri, Nebraska)	St. Louis MSA, Kansas City MSA
VIII (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming)	Denver-Boulder-Greeley CMSA, Salt Lake City-Ogden MSA.
IX (American Samoa, Arizona, California, Guam, Hawaii, Nevada)	Los Angeles-Riverside-Orange County CMSA, San Francisco-Oakland-San Jose CMSA.
X (Alaska, Idaho, Oregon, Washington)	Seattle-Tacoma-Bremerton CMSA, Portland-Salem CMSA.

In addition, one NAMS site must be located in each of the MSA/CMSAs where one or more violations of the quarterly Pb NAAQS have been recorded over the previous eight quarters. If a violation of the quarterly Pb NAAQS is measured at a monitoring site outside of a MSA/CMSA, one NAMS site must be located within the county in a populated area, apart from the Pb source, to assess area wide Pb air pollution levels. These NAMS sites should represent the maximum Pb concentrations measured within the MSA/CMSA, city, or county that is not directly impacted from a single stationary Pb source. This site may be a microscale or middle scale category (a) station, located adjacent to a major roadway (e.g., >30,000 ADT), or a neighborhood scale category (b) station that is located in a highly populated residential section of the MSA/CMSA or county where the traffic density is high. Data from these sites will be used to assess general conditions for large MSA/CMSAs and other populated areas as a marker for national trends, and to confirm continued attainment of the Pb NAAQS. In some cases, the MSA/CMSA subject to the latter lead NAMS requirement due to a violating stationary source will be the same MSA/CMSA subject to the lead NAMS requirement based upon its population. For

these situations, the total minimum number of required lead NAMS is one.

* * * * *

6. *References.*

* * * * *

6. Lead Guideline Document, U.S. Environmental Protection Agency, Research Triangle Park, NC. EPA–452/R–93–009.

7. Air Quality Criteria for Lead. Office of Research and Development, U.S. Environmental Protection Agency, Washington, DC. EPA–600/8–83–028 aF—dF, 1986, and supplements EPA–600/8–89/049F, August 1990. (NTIS document numbers PB87–142378 and PB91–138420.)

* * * * *

10. "Guidance for Conducting Ambient Air Monitoring for Lead Around Point Sources," Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, NC EPA–454/R–92–009, May 1997.

* * * * *

19. National Air Pollutant Emissions Trends, 1900–1995, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, NC. EPA–454/R96–007, October 1996, updated annually.

* * * * *

6. Appendix E is amended by revising the first paragraph of section 7.1, adding a sentence at the beginning of section 7.3, revising section 7.4, and revising reference 18 in section 13 to read as follows:

Appendix E—Probe and Monitoring Path Siting Criteria for Ambient Air Quality Monitoring

* * * * *

7.1 *Vertical Placement.* Optimal placement of the sampler inlet for Pb monitoring should be at breathing height level. However, practical factors such as prevention of vandalism, security, and safety precautions must also be considered when siting a Pb monitor. Given these considerations, the sampler inlet for microscale Pb monitors must be 2–7 meters above ground level. The lower limit was based on a compromise between ease of servicing the sampler and the desire to avoid unrepresentative conditions due to re-entrainment from dusty surfaces. The upper limit represents a compromise between the desire to have measurements which are most representative of population exposures and a consideration of the practical factors noted above.

* * * * *

7.3. *Spacing from Roadways.* This criteria applies only to those Pb sites designed to assess lead concentrations from mobile sources. Numerous studies have shown that ambient Pb levels near mobile sources are a function of the traffic volume and are most pronounced at ADT >30,000 within the first 15 meters on the downwind side of the roadways. * * *

7.4. *Spacing from trees and other considerations.* Trees can provide surfaces for deposition or adsorption of Pb particles and obstruct normal wind flow patterns. For microscale and middle scale category (a) sites there must not be any tree(s) between the source of the Pb and the sampler. For neighborhood scale category (b) sites, the sampler should be at least 20 meters from the drip line of trees. The sampler must, however, be placed at least 10 meters from the drip line of trees which could be classified as an obstruction, i.e., the distance between the tree(s) and the sampler is less than the height that the tree protrudes above the sampler.

* * * * *

13. *References.*

* * * * *

18. Air Quality Criteria for Lead. Office of Research and Development, U.S. Environmental Protection Agency, Washington, DC EPA–600/8–83–028 aF–dF, 1986, and supplements EPA–600/8–89/049F, August 1990. (NTIS document numbers PB87–142378 and PB91–138420.)

* * * * *

7. Section 1 and section 2b of Appendix G are revised to read as follows:

Appendix G—Uniform Air Quality Index and Daily Reporting

* * * * *

1. *General.* This appendix describes the uniform air quality index to be used by States in reporting the daily air quality index required by § 58.50.

2. *Definitions.*

* * * * *

b. Reporting Agency means the applicable State agency or a local air pollution control agency designated by the State, that will carry out the provisions of § 58.50.

* * * * *

[FR Doc. 97–29294 Filed 11–4–97; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 424

[BPD–875–NC]

Medicare Program; Home Health Agency Physician Certification Regulations

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Decision to reexamine interpretations, with comment.

SUMMARY: This document with comment period announces our decision to reexamine our recent interpretations of the Medicare regulations pertaining to indirect compensation arrangements between home health agencies (HHAs) and physicians who certify or recertify the need for home health services or establish or review the home health plan of care. We are withdrawing recent interpretations regarding indirect compensation arrangements where the physicians are salaried employees of, or have a contractual arrangement to provide services for, an entity that also owns the HHA. This will enable us to evaluate our recent interpretations of these regulations and related provisions of section 1877 of the Social Security Act to ensure consistent application of Medicare policy among providers of services.

DATES: *Effective Date:* This document is effective on December 5, 1997.

Comment Date: Written comments will be considered if we receive them at the appropriate address, as provided below, no later than 5:00 p.m. on January 5, 1998.

ADDRESSES: Mail written comments (an original and three copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BPD–875–NC, P.O. Box 7517, Baltimore, MD 21244–0517.

If you prefer, you may deliver your written comments (an original and three copies) to one of the following addresses:

Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201 or

C5–09–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code BPD–875–NC. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 309–G of the Department's offices at 200 Independence Avenue, SW, Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

Copies: To order copies of the **Federal Register** containing this document, send your request to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954. Specify the date of the issue requested and enclose a check or money order payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration date. Credit card orders can also placed by calling the order desk at (202) 512–1800 or by faxing to (202) 512–2250. The cost of each copy is $8.00. As an alternative, you can view and photocopy the **Federal Register** document at most libraries designated as Federal Depository Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Jennifer Carter, (410) 786–4615.

SUPPLEMENTARY INFORMATION:

I. Background

Section 903 of the Omnibus Reconciliation Act of 1980 amended sections 1814(a) and 1835(a) of the Social Security Act (the Act) to prohibit the certification of need for home healthy services under Medicare, and the establishment and review of a home health plan of care for those services, by a physician who has a significant interest in, or a significant contractual or significant financial relationship with, the HHA that provides those services. These amendments were incorporated into the regulations at 42 CFR 405.1633(d) (which was redesignated as § 424.22(d)), by an interim final rule with comment period that was published in the **Federal Register** on October 26, 1982 (47 FR 47388), and was made effective on November 26, 1992.

On June 30, 1986, we published a final rule in the **Federal Register** (51 FR 23541) that confirmed the provisions of the October 1982 rule, and clarified that under the term, "significant interest or a significant financial or contractual relationship" with the HHA, we intended to include salaried employment. This clarification was made effective on August 29, 1986.

The only exceptions to the home health regulations were uncompensated officers or directors of an HHA, HHAs operated by Federal, State, or local governmental authority, and sole community HHAs. The home health physician certification restrictions of sections 1814(a) and 1835(a) of the Act and § 424.22(d) of the regulations have not been revised or updated since 1986.

On December 19, 1989, section 6204 of the Omnibus Budget Reconciliation Act of 1989 added section 1877, "Limitation on Certain Physician Referrals," to the Act. In general, section 1877 of the Act prohibits a physician who has a financial relationship with an entity that furnishes clinical laboratory services (or a physician with an immediate family member who had such a relationship) from making referrals to the entity for clinical laboratory services for which Medicare may otherwise pay.

On August 10, 1993, section 13562 of the Omnibus Budget Reconciliation Act of 1993 (OBRA '93) revised section 1877 of the Act to cover 10 additional designated health services, including home health services, beginning with referrals made after December 31, 1994. The statute was also revised to provide for certain exceptions to the prohibition, including a bona fide employment exception subject to certain conditions. Additionally, referrals are defined in part to include the request or establishment of a plan of care by a physician which includes the provision of a plan of care by a physician which includes the provision of a designated health service. On August 14, 1995, we published a final rule with comment in the **Federal Register** (60 FR 41914) to implement the amendments of OBRA '93 that apply to referrals for clinical laboratory services and which were effective retroactively to January 1, 1992. In this final rule we indicated our intention to rely on the language and interpretations of the final rule when reviewing referrals in appropriate cases for the 10 designated health services. Appropriate cases were defined as those in which our interpretation of the statute clearly applied equally to clinical laboratory services and other designated health services. We are currently developing a proposed rule to implement the provisions of section 1877 of the Act which were effective January 1, 1995, and relate to the additional designated health services.

It is our intention to reconcile the statutory prohibitions in sections 1814(a) and 1835(a) of the Act concerning physician certification of home health services with the related section 1877 prohibitions as part of the proposed regulations implementing the OBR '93 changes to section 1877. This proposed regulation is in the final stages of development and should be published in the very near future.

In the meantime, we have received numerous inquiries about the applicability of the current home health prohibitions at § 424.22 regarding hospital-employed physicians certifying and recertifying the need for home health services provided by the hospital-owned HHA. We recently released an interpretation of § 424.22(d)(3)(ii) and indirect compensation in the case where a physician is employed by the hospital that also owns the HHA. In that interpretation of § 424.22, we stated that hospital-employed physicians are prohibited from certifying or recertifying the need for home health services for the hospital-owned HHA. Furthermore, we stated that if the HHA is separately incorporated and not included on the hospital's cost report, the hospital-employed physicians are permitted to certify or recertify the need for home health services for the hospital-owned HHA. We also released an interpretation that indicated that payment of compensation to a physician by the HHA's parent or related organization would very likely be considered to be paid by the HHA.

As we begin to reconcile the home health prohibitions with the section 1877 prohibitions, we have concluded that our recent interpretations of this regulation have brought about unintended consequences affecting rural areas, integrated delivery systems, and current medical practice and may be inconsistent with the provisions of section 1877. Therefore, we are going to address "indirect compensation" and the relationship between the HHA regulations and the section 1877 provisions in the separate proposed rule that is in the final stages of development and should be published in the very near future. We will address the scope of an indirect compensation arrangement where the physicians are salaried employees of, or have a contractual arrangement to provide services for, the entity that owns the HHA in that proposed regulation. In the meantime, we withdraw these recent interpretations concerning indirect compensation under § 424.22(d).

II. Purpose of This Notice

We have decided to reexamine appropriate provisions of section 1877 of the Act and the home health regulations as they pertain to indirect compensation arrangements between physicians and home health agencies. We are concerned with the situation in which the physician receives compensation from the same entity that also owns the home health agency. Pending that evaluation, we have decided to withdraw recent interpretations of § 424.22(d)(3)(ii) as it applies to certification and recertification or establishment and review of plans of care by physicians who are salaried employees of, or have a contractual arrangement to provide services for, an entity that also owns the HHA. Instead, we will address the issue of indirect compensation, applicable to the health services specified in section 1877 of the Act, in the proposed rule that is in the final stages of development and should be published in the **Federal Register** in the very near future. In the meantime, we withdraw these recent interpretations concerning indirect compensation under 424.22(d).

We remain concerned about inappropriate physician certification for home health services. However, we are also concerned about the effect that the recent interpretations of the home

health regulation at § 424.22(d)(3)(ii), as it applies to indirect salaried employment or contractual arrangements, may have on rural areas where the hospital or other entity is so pervasive a presence in the community that, in addition to owning the home health agency, it also employs the majority of the physicians.

We have asked the Medicare fiscal intermediaries to cooperate with the Office of Inspector General to look into the referral patterns of hospitals that own facilities providing ancillary services, including home health services.

III. Other Required Information

A. Executive Order 12866 Review

In accordance with provisions of Executive Order 12866, this notice with comment period was received by the Office of Management and Budget.

B. Collection of Information Requirements

This notice with comment period does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget for purposes of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

C. Response to Comments

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this notice, and, if we proceed with a subsequent document, we will respond to the comments in that document.

(Authority: Secs. 1102, 1814(a), 1835(a), 1871, and 1877 of the Social Security Act (42 U.S.C. 1302, 1395f(a), 1395(a), 1395hh, and 1395nn))

(Catalog of Federal Domestic Assistance Program No. 93.773 Medicare—Hospitals Insurance Program; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: October 17, 1997.

Nancy-Ann Min DeParle,

Deputy Administrator, Health Care Financing Administration.

Dated: October 23, 1997.

Donna E. Shalala,

Secretary.

[FR Doc. 97–29071 Filed 11–4–97; 8:45 am]

BILLING CODE 4120–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 1860

[WO–350–1220–00–24 1A]

RIN 1004–AC–58

Patent Preparation and Issuance

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rule amends part 1860 of Title 43 of the Code of Federal Regulations (CFR) to completely remove subpart 1862, which contains internal instructions on preparing and issuing patents. The Bureau of Land Management (BLM) plans to place these procedures in an existing BLM Manual/Handbook, a more appropriate location than the CFR. The public will have access to the material.

EFFECTIVE DATE: December 5, 1997.

FOR FURTHER INFORMATION CONTACT: Vanessa Engle, Lands and Realty Group, Bureau of Land Management, 1849 C Street, N.W., Washington, DC 20240; Telephone (202) 452–7776 (Commercial or FTS).

SUPPLEMENTARY INFORMATION:

I. Background
II. Response to Comments
III. Discussion of Final Rule
IV. Procedural Matters

I. Background

The existing regulation at 43 CFR part 1862 has no requirements with which the public must comply. Instead, it contains internal instructions on preparing and issuing patents, which properly should be in manuals and handbooks. For this reason, BLM published a Notice of Proposed Rulemaking in the August 16, 1996, **Federal Register** (61 FR 42579), to advise the public of its plans to completely remove subpart 1862 from 43 CFR and place the material in the BLM Manual/Handbook. We invited public comments for 30 days and received comments from a mining association. We have considered the association's comments in preparing the final rule.

II. Response to Comments

The commenter opposed the proposed rule because it neither indicated where in BLM's policy manuals and handbooks the regulation would reside nor whether the instructions would remain the same or change.

Changes to the proposed rule, based on this comment, are not necessary. BLM will not make any substantive alterations to the instructions but will update them before they are placed in the existing BLM Manual/Handbook, which currently is being updated to ensure continuity of the subpart 1862 instructions. Under the heading of subpart 1862, the manual/handbook will go into considerable detail on the requirements for preparing and issuing patents. In addition to the information previously contained in subpart 1862, the manual will include sections on different types of patents, specific language to be included in patents, directions on how to correctly format and number patents and other particulars. BLM will not remove any of the requirements previously found in 43 CFR part 1862.

III. Discussion of Final Rule

This final rule completely removes Subpart 1862 of Title 43 CFR, which provides internal instructions on preparing and issuing patents. BLM is issuing the rule without change from the August 16, 1996, Notice of Proposed Rulemaking. This action meets one of the objectives of President Clinton's Government-wide regulatory reform initiative—to eliminate unnecessary regulations from the CFR.

IV. Procedural Matters

National Environmental Policy Act of 1969

BLM has prepared an environmental assessment (EA), and has found that the final rule would not constitute a major Federal action significantly affecting the quality of the human environment under section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 432(2)(C). BLM has placed the EA and the Finding of No Significant Impact (FONSI) on file in the BLM Administrative Record, 1620 L Street, NW, Room 401, Washington, DC, during regular business hours, 7:45 a.m. to 4:15 p.m. Monday through Friday.

Paperwork Reduction Act

This final rule does not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act, 44 U.S.C. 3501.

Regulatory Flexibility Act

BLM has determined that the final rule, which merely removes unnecessary regulations, will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*)

Unfunded Mandates Reform Act of 1995

This final rule does not include any Federal mandate that may result in increased expenditures of $100 million in any one year by State, local, or tribal governments, or by the private sector. Therefore, a Section 202 statement under the Unfunded Mandates Reform Act is not required.

Executive Order 12612

BLM has analyzed this final rule under the principles and criteria in Executive Order 12612 and has determined that the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12630

This final rule does not represent a government action that interferes with constitutionally protected property rights. Thus, a Taking Implication Assessment need not be prepared under Executive Order 12630, "Government Action and Interference with Constitutionally Protected Property Rights."

Executive Order 12866

This final rule does not meet the criteria for a significant rule requiring review by the Office of Management and Budget under Executive Order 12866, Regulatory Planning and Review.

Executive Order 12988

The Department has determined that this final rule meets the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform.

Report to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, BLM submitted a report containing this rule and other required information to the U.S. Senate, U.S. House of Representatives, and the Comptroller General of the General Accounting Office before publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

Author: The principal author of this final rule is Frances Watson, Regulatory Affairs Group, Bureau of Land Management, 1849 C Street, NW, Room 401 LS, Washington, D.C. 20240; Telephone 202/452–5006 (Commercial or FTS).

List of Subjects in 43 CFR Part 1860

Administrative practice and procedure, Public lands.

For the reasons stated in the preamble, and under the authority of 43 U.S.C. 1740, part 1860 of Title 43 of the Code of Federal Regulations is amended as set forth below:

PART 1860—[AMENDED]

1. The authority citation for part 1860 continues to read as follows:

Authority: R.S. 2450, as amended; 43 U.S.C. 1161.

Subpart 1862—[Removed and Reserved]

2. Subpart 1862 is removed and reserved.

Dated: October 28, 1997.

Sylvia V. Baca,

Acting Assistant Secretary, Land and Minerals Management.

[FR Doc. 97–29273 Filed 11–4–97; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3710

[WO–320–4130–02–24 1A]

RIN 1004–AC39

Use and Occupancy Under the Mining Laws

AGENCY: Bureau of Land Management, Interior.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the final regulations published in the **Federal Register** on Tuesday, July 16, 1996 (61 FR 37116). The regulations addressed the unlawful use and occupancy of unpatented mining claims for non-mining purposes.

DATES: The corrections are effective on November 5, 1997.

FOR FURTHER INFORMATION CONTACT: Richard E. Deery, (202) 452-0353.

SUPPLEMENTARY INFORMATION: On July 16, 1996, BLM published a final rule addressing the unlawful use and occupancy of unpatented mining claims for non-mining purposes. The definitions section of the final rule and its accompanying preamble contain the undefined phrases "hardrock mining" and "hardrock mineral development." Another section of the final rule and its accompanying preamble contain an erroneous cross reference. BLM must clarify the undefined phrases and correct the cross-referencing errors to avoid confusing those people whose activities are subject to the regulations.

Final § 3715.0–5 defines the term "mining laws" to mean, in pertinent part, "all laws that apply to *hardrock mining* on public lands and which make public lands available for *hardrock mineral development*. This includes, but is not limited to, the general authorities relating to *hardrock mining* or to the public lands on which this rule is based and case law which interprets those authorities." (Emphasis added.) Since the final rule became effective, BLM has learned from its field staff that use of the undefined terms, "hardrock mining" and "hardrock mineral development" in the definition of "mining laws" is causing confusion among some people whose activities are subject to the regulations. These people are arguing that BLM used these terms to exclude activities associated with mining of placer claims from the scope of these regulations. BLM does not agree with this position. Final § 3715.0–1 states in pertinent part that, "The purpose of this subpart is to manage the use and occupancy of the public lands for the development of *locatable mineral deposits* by limiting such use or occupancy to that which is reasonably incident. (Emphasis added.) It is well settled that the framework for locating valuable mineral deposits set up by the mining laws applies to claims both to minerals in veins or lodes (hardrock) and to minerals in alluvial, glacial, or marine deposits (placer). See 30 U.S.C. 23 and 35 respectively. However, to alleviate any possible confusion, both now and in the future, BLM is removing the undefined "hardrock" phrases and replacing them with phrases incorporating the concept of locatable minerals. This action will ensure consistency between the purpose and definitions sections and eliminate any confusion over the scope of the regulations.

The final rule also contains a provision that describes the four kinds of enforcement actions BLM can take if an occupant of an unpatented mining

claim does not meet the requirements of the use and occupancy regulations. See 43 CFR 3715.7–1.

Paragraph (a)(2) of the cited section provides, in pertinent part, that BLM may order an immediate, temporary suspension of a use or occupancy if necessary to protect health, safety, or the environment. Paragraph (a)(2)(ii) specifies that failure to meet any of the standards in 43 CFR 3715.3–1(b) or 3715.5(b), (c), or (d) will result in a presumption that a risk to health, safety, or the environment exists and issuance of an immediate, temporary suspension. (Emphasis added.). See 61 FR 37129, third column. The reference to 43 CFR 3715.5(d) is incorrect. The reference should be to 43 CFR 3715.5(e). The preamble to final section 3715.7–1 contains the same error. See 61 FR 37123, third column, third paragraph.

The effect of this correction is to provide that if a permanent or temporary structure placed on public lands fails to conform with the applicable State or local building, fire, or electrical codes; occupational safety and health standards; or mine safety standards, BLM will presume that health, safety, or the environment is at risk and will order the user or occupant of the structure to immediately suspend use or occupancy.

Under the Administrative Procedure Act, an agency does not have to issue a notice of proposed rulemaking when the agency for good cause finds that notice and public procedure are "impracticable, unnecessary, or contrary to the public interest." See 5 U.S.C. 553(b). Because the amendments adopted today are technical corrections to clarify the applicability of the final rule, BLM finds that publishing the amendments for comment would be unnecessary. BLM adopted the rules being amended after notice and the opportunity for public comment. The proposed rule did not contain the cross-reference error. See proposed § 3715.6(b) (57 FR 41846, Sept. 11, 1992). The changes are responsive to concerns raised with BLM relating to ambiguity in the current language of the rules created by use of the undefined "hardrock" phrases and the erroneous cross reference. If BLM delayed making these changes so as to allow notice and the opportunity for comment, there is the danger of confusion regarding the applicability of regulations and the type of enforcement action BLM will take if a person fails to comply with State and local building, fire, and electrical codes; occupational safety and health standards; or mine safety standards for permanent and temporary structures placed on public lands.

Under the Administrative Procedure Act, an agency must publish a substantive rule not less than 30 days before its effective date, except as otherwise provided by the agency for good cause. See 5 U.S.C. 553(d). For the same reasons described above with respect to notice and opportunity for comment, BLM finds that there is good cause for having these correcting amendments become effective immediately on publication in the **Federal Register**.

List of Subjects in 43 CFR Part 3710

Administrative practice and procedure, Mines, Public lands-mineral resources.

Dated: October 28, 1997.

Sylvia V. Baca,

Deputy Assistant Secretary, Land and Minerals Management.

Accordingly, BLM is correcting 43 CFR 3710 by making the following correcting amendments:

PART 3710—PUBLIC LAW 167; ACT OF JULY 23, 1955

Subpart 3715—Use and Occupancy under the Mining Laws

1. The authority citation for subpart 3715 continues to read as follows:

Authority: 16 U.S.C. 1001, 3571 *et seq.*; 30 U.S.C. 22, 42, 612; and 43 U.S.C. 1061 *et seq.*, 1201, 1457, 1732(b) and (c), 1733(a) and (g).

2. In § 3715.0–5, revise the definition of "Mining laws" to read as follows:

§ 3715.0–5 How are certain terms in this subpart defined?

* * * * *

Mining laws means all laws that apply to mining of locatable minerals on public lands and which make public lands available for development of locatable minerals. This includes, but is not limited to, the general authorities relating to mining of locatable minerals or to the public lands on which this subpart is based and case law which interprets those authorities.

* * * * *

3. In § 3715.7–1, revise paragraph (a)(2)(ii) to read as follows:

§ 3715.7–1 What types of enforcement action can BLM take if I do not meet the requirements of this subpart?

(a) * * *

(2) * * *

(ii) You fail at any time to meet any of the standards in § 3715.3–1(b) or § 3715.5(b), (c), or (e).

* * * * *

[FR Doc. 97–29281 Filed 11–4–97; 8:45 am]

BILLING CODE 4310–84–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[MD Docket No. 96–186; FCC 97–384]

Assessment and Collection of Regulatory Fees for Fiscal Year 1997

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission is revising its collection procedures for regulatory fees in order to help assure increased accuracy and timeliness of regulatory fee payments. First, permittees, licensees or other entities subject to a regulatory fee and claiming an exemption from regulatory fees based upon its status as a nonprofit entity, shall make a one-time filing with the Secretary of the Commission written documentation establishing the basis for its exemption with 60 days of its coming under the regulatory jurisdiction of the Commission or at the time its fee payment would otherwise be due, whichever is sooner, or at such other time as required by the Managing Director. Second, for-profit purchasers or assignees of licenses, stations or facilities previously owned by non-profit entities not subject to regulatory fees must notify the Secretary of the Commission of such purchase or reassignment within 60 days of the effective date of the purchase or assignment. Third, the Commission is requiring licensees of Commercial Mobile Radio Service (CMRS) stations to retain for two years, and submit to the Commission upon request, documentation used in calculating their fee payments. Finally, the Commission is delegating authority to the Managing Director to publish annually in the **Federal Register** lists of those commercial communications firms and businesses for commercial purposes that have paid a regulatory fee for the preceding fiscal year.

EFFECTIVE DATE: November 5, 1997.

ADDRESSES: Federal Communications Commission, Room 222, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Regina W. Dorsey, Chief, Billings & Collections Branch, (202) 418–1995.

SUPPLEMENTARY INFORMATION:

1. In the *Further Notice of Proposed Rulemaking* in this proceeding, the Commission proposed to adopt several new procedures in order to more efficiently and equitably collect the annual regulatory fees required by Section 9 of the Communications Act, 47 U.S.C. 159. See Further Notice of Proposed Rulemaking in the Matter of Assessment and Collection of Regulatory Fees for Fiscal Year 1997, 62 FR 40036 (July 25, 1997)(*FNPRM*). We address below the comments filed in this proceeding and adopt the proposed new procedures with some modifications.[1]

2. Specifically, we adopt a requirement that non-profit entities claiming an exemption from regulatory fees make a one-time filing of documentation establishing their exempt status. We also adopt a requirement that for-profit purchasers or assignees of stations or facilities previously owned by non-profit entities notify the Commission of such reassignment or sale. Additionally, we adopt a requirement that licensees of Commercial Mobile Radio Services (CMRS) maintain, and submit upon request, documentation supporting the calculations of their fee payments. Finally, the amendments will authorize the Managing Director to publish annually in the **Federal Register** the names of all fee payers.

Documentation for Non-Profit Entities

3. Section 1.1162(c) of the Commission's Rules currently exempts from payment of regulatory fees those entities possessing non-profit status under section 501 of the Internal Revenue Code, 26 U.S.C. 501, or certification as a non-profit corporation or other non-profit entity by a state or other governmental authority. See 47 CFR 1.1162(c). The *FNPRM* proposed a one-time requirement that non-profit entities claiming exemptions from the regulatory fee requirement submit documentation establishing their non-profit status. Currently, non-profit entities are required to file such documentation only when requested by the Commission. In its comments, the National Telephone Cooperative Association (NTCA) opposed this proposed requirement, arguing that the *FNPRM* failed to demonstrate a need for the filing requirement.

4. We are adopting the requirement for filing non-profit documentation as proposed. We believe this requirement will substantially assist us in administering the fee program. Development of a comprehensive data base of exempt entities will enable us to assure that only those entities entitled to the exemption benefit from it. It will also help assure that we calculate fees based upon a more accurate assessment of the number of entities expected to pay fees. The one-time filing requirement will thus enable us to more equitably establish appropriate fees for all payers. Further, although NTCA expresses concern regarding the burden of the filing requirement, we believe that duplication and mailing of a document already retained in the ordinary course of an entity's business for tax and other purposes results in only a minimal administrative burden. We will thus require that all entities claiming an exemption from payment of regulatory fees file a copy of the documentation supporting their non-profit status. These documents must be submitted to the Secretary of the Commission at a time to be established in a public notice which will be published in the **Federal Register**. Entities claiming non-profit status must also notify the Secretary within sixty days of any change in their non-profit status; and for-profit purchasers or assignees of stations or facilities previously owned or operated by non-profit entities must also notify the Secretary of the purchase or reassignment within 60 days of the purchase or assignment.

5. NTCA also requested that we permit entities claiming exemption from payment of a regulatory fee to establish their non-profit status using types of documentation other than their current IRS determination letters or certification from a state or other governmental authority. Specifically, NTCA argues that an entity's Articles of Incorporation are the best evidence of its non-profit status and the Commission should also accept the Articles, annual state reports or similar documents. NTCA believes that its proposal will lessen the administrative burden on small entities. We note that IRS determination letters and state or government certifications are generally one or two page documents maintained as part of an entity's business files, which can easily be copied and filed with the Commission. Nevertheless, if for some reason an entity is unable to produce governmental certification, the amended rules also permit submission of other documents establishing non-profit status, as long as the documents bear evidence that non-profit status has been approved by a state or other governmental authority, consistent with the laws or regulations of the jurisdiction.

Documentation of CMRS Fees

6. The *FNPRM* proposed to require Commercial Mobile Radio Service (CMRS) licensees to retain documents used in the calculation of their regulatory fees for a period of three years. A number of commentors argued that the Commission should not specify a format for those documents; that CMRS licensees should continue to retain flexibility in maintaining record keeping systems; that they should not be required to generate new or additional paperwork; and that they should not be required to substantiate fees in a manner not required for other services. *See* Comments filed by Bell Atlantic, NYNEX Mobile, Inc., Rural Cellular Association, Rural Telecommunications Group and GTE Service Corporation (GTE).

7. We agree that CMRS licensees should have maximum flexibility to determine what documents they will use to calculate fees and that they should not be required to generate new or additional paperwork. Our proposal required only that CMRS entities retain the work papers used or developed in the course of calculating their fees. Thus, we were not requiring that CMRS licensees undertake new or additional paperwork, or utilize any particular format for calculating their fees. Also to the extent this proposal imposed somewhat different requirements on CMRS licensees, we believe those differences were justified. We have identified several discrepancies between projected and actual CMRS regulatory fees which are of concern. For example, for FY 1996 the actual number of units for which regulatory fees were paid was 18.1% below the total that was used to formulate the CMRS fees. While this disparity may result from errors in estimating the overall number of subscribers in the CMRS services, we believe that closer oversight of CMRS fee payments is prudent. Assessing more accurate fees would also benefit, without any significant burden, all CMRS licensees by helping to ensure that all CMRS fee payers fully comply with their obligation to contribute to the recovery of our costs of regulating CMRS. Thus, we will require CMRS licensees to retain, and submit to the Commission upon request, those documents which were actually used in the calculation of their fee payments and that demonstrate the accuracy of the payment. This will enable the Commission to efficiently audit the fee payments of CMRS licensees without creating any undue additional burden.

8. GTE and United States Cellular Corporation (USCC) also argue that our proposed requirement that CMRS regulatees maintain their payment records for a three year period is unreasonable. GTE notes that our rules require telephone companies to retain their billing records for only eighteen

[1] See Attachment for a list of commenters who responded to the *FNPRM*.

months. See 47 CFR 42.6. We agree that requiring CMRS licensees to retain these records for three years is unnecessary. We expect that any verification of fee payments would be accomplished within two years from the time that the fee payments are made. Thus, we are modifying our proposal and will require only a two year retention period for this documentation. Southwestern Bell Mobile Systems, Inc. also asserts that the fee documentation may contain highly confidential customer information. In this regard, CMRS licensees with concerns about the disclosure of sensitive information in any submissions to the Commission may request confidential treatment pursuant to § 0.459 of the Rules. See 47 CFR 0.459.

Publication of Fee Data

9. In the *FNPRM*, we proposed to publish in the **Federal Register** a list of all commercial regulatees that have paid their regulatory fees, along with the amount of the fee paid by each fee payor, and the volume or number of units upon which the fee payment was based.[2] Many commenters opposed our proposal, contending that publication of fee payments and units would require regulatees to disclose highly confidential business information.

10. We agree that the proposal to publish payment data could result in the disclosure of sensitive marketing information in some instances. We also conclude that there is an insufficient basis at this time to warrant disclosure of such information. Thus, we will not publish either fee payment information or the unit totals upon which a fee payment is calculated. We believe, however, that publication of the names of commercial fee payers may serve as a deterrent to non-payment. Thus, we delegate to the Managing Director authority to issue annually a public notice setting forth the names of commercial regulatory fee payers and to publish the public notice in the **Federal Register**.

Final Regulatory Flexibility Analysis

11. As required by the Regulatory Flexibility Act (RFA),[3] an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Further Notice of Proposed Rulemaking In the Matter of Assessment and Collection of Regulatory Fees for Fiscal Year 1997, 62 FR 40036 (July 25, 1997). The Commission sought written public comments on the proposals in its *FNPRM*, including on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA, as amended.[4]

I. Need for and Objectives of this Report and Order

12. This rulemaking proceeding was initiated in order to modify our collection procedures for regulatory fees in order to help assure increased accuracy and timeliness of regulatory fee payments.

II. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

13. None.

III. Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

14. Under the RFA, small entities may include small organizations, small businesses, and small governmental jurisdictions. 5 U.S.C. 601(6). The RFA, 5 U.S.C. 601(3), generally defines the term "small business" as having the same meaning as the term "small business concern" under the Small Business Act, 15 U.S.C. 632. A small business concern is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA).

15. The proposals adopted in this *Report and Order* affect a very broad array of small entities, including small entities described as cable services or systems, common carrier services and related entities, international services, mass media services, and wireless and commercial mobile services. In the rulemaking proceeding in this docket preceding the *FNPRM*, we extensively described the small entities that might be affected by this action, and have also described the numbers of such entities. (See "Final Regulatory Flexibility Analysis," Attachment A of *Report and Order*, MD Docket No. 96–186, FCC 97–215, released June 26, 1997, 62 FR 37408 (July 11, 1997).) We hereby incorporate into this FRFA, by reference, those descriptive sections from the previous *Report and Order*.

IV. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

16. With certain exceptions, the Commission's Schedule of Regulatory Fees applies to all Commission licensees and regulatees. In the rulemaking proceeding in this docket preceding the *FNPRM*, we described the methodology used by affected entities to determine required fee amounts, the procedures for calculating and filing fee payments, the skills necessary to file, and the results of not filing in accordance with the rules. (See *Report and Order*, FCC 97–215 supra. at Attachment H and § 1.1157 through 1.1167 of the Commission's Rules, 47 CFR 1.1157 through 1.1167.) We hereby incorporate into this FRFA, by reference, those descriptions. In addition, we note that the proposals adopted here require Commercial Mobile Radio Service (CMRS) licensees to maintain and make available to the FCC, upon request, documentation concerning the basis for their fee payments and that these documents be retained by the payer for two years; require that non-profit entities exempt from the regulatory fee requirement submit documentation of their non-profit status; that for-profit entities purchasing a station from a non-profit entity notify the Commission of the sale or reassignment; and authorize the Commission to publish annually, in the **Federal Register**, a list of those firms and individuals who paid a fee for the preceding fiscal year and who engaged in the provision of communications for commercial purposes.

V. Steps Taken To Minimize Any Significant Economic Impact on Small Entities, and Significant Alternatives Considered

17. As described in the Paragraph 16, the Commission proposed certain modifications to the collection procedures for regulatory fees in order to help assure increased accuracy and timeliness of regulatory fee payments. Each of the above-described proposals that require compliance would entail some level of economic impact, and this impact would fall on some small entities. We believe, however, that these proposals, if adopted, would help ensure the integrity of the regulatory fees program. We have reduced the impact as a result of public comments. Documentation concerning the basis for CMRS fees must be retained for only two years rather than three, and need not be submitted to the Commission unless requested. Further, this *Report and Order* authorizes the Managing Director the option to publish only the names of fee payers and not fee amounts and unit counts objected to by commenters.

Report to Congress: The Commission shall include a copy of this Final Regulatory Flexibility Analysis, along with this *Report and Order*, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 601(a)(1)(A). A copy of this FRFA (or summary thereof) will also be published in the **Federal Register**, along with this *Report and Order*.

Ordering Clauses

18. *Accordingly, it is ordered*, That the rule changes as specified above and as set forth in the Attachment *are adopted*.

19. *It is further ordered* that the rule changes made herein will become effective November 5, 1997. This action is taken pursuant to Sections 4(i), 4(j), 9 and 303(r) of the Communications Act as amended, 47 U.S.C. 154(i), 154(j), 159 and 303(r).

Federal Communications Commission.
William F. Caton,
Acting Secretary.

Rule Changes

Part 1 of title 47 of the Code of Federal Regulations is amended as follows:

PART 1—PRACTICE AND PROCEDURE

1. The authority citation for part 1 continues to read as follows:

Authority: 47 U.S.C. 151, 154, 207, 303 and 309(j) unless otherwise noted.

2. Section 1.1157 is amended by adding a new paragraph (d) to read as follows:

§ 1.1157 Payment of charges for regulatory fees.

* * * * *

(d) Any Commercial Mobile Radio Service (CMRS) licensee subject to payment of an annual regulatory fee shall retain for a period of two (2) years from the date on which the regulatory fee is paid, those business records which were used to calculate the amount of the regulatory fee.

3. Section 1.1159 is amended by adding a new paragraph (e) to read as follows:

§ 1.1159 Filing locations and receipts for regulatory fees.

* * * * *

(e) The Managing Director may issue annually, at his discretion, a Public Notice setting forth the names of all commercial regulatees that have paid a regulatory fee and shall publish the Public Notice in the **Federal Register**.

4. Section 1.1162 is amended by adding new paragraphs (c)(1) and (c)(2) to read as follows:

§ 1.1162 General exemptions from regulatory fees.

* * * * *

(c) * * *

(1) Any permittee, licensee or other entity subject to a regulatory fee and claiming an exemption from a regulatory fee based upon its status as a nonprofit entity, as described above, shall file with the Secretary of the Commission (Attn: Managing Director) written documentation establishing the basis for its exemption within 60 days of its coming under the regulatory jurisdiction of the Commission or at the time its fee payment would otherwise be due, whichever is sooner, or at such other time as required by the Managing Director. Acceptable documentation may include Internal Revenue Service determination letters, state or government certifications or other documentation that non-profit status has been approved by a state or other governmental authority. Applicants, permittees and licensees are required to file documentation of their nonprofit status only once, except upon request of the Managing Director.

(2) Within sixty (60) days of a change in nonprofit status, a licensee or permittee previously claiming a 501(C) exemption is required to file with the Secretary of the Commission (Attn: Managing Director) written notice of such change in its nonprofit status or ownership. Additionally, for-profit purchasers or assignees of a license, station or facility previously licensed or operated by a non-profit entity not subject to regulatory fees must notify the Secretary of the Commission (Attn: Managing Director) of such purchase or reassignment within 60 days of the effective date of the purchase or assignment.

* * * * *

Note: The following attachment will not appear in the Code of Federal Regulations.

Attachment

Comments were filed by the following parties:

GTE Service Corporation
United States Cellular Corporation
Saco River Cellular Corporation
Citizens Utilities Company
Cellular XL Associates
Cellular Telecommunications Industry Association
American Mobile Telecommunications Association
BellSouth Corporation
PrimCo Personal Communications
Rural Cellular Association
Bell Atlantic NYNEX Mobile, Inc.
Rural Telecommunications Group
National Telephone Cooperative Association
Southwestern Bell Mobile Systems, Inc., et. al.
Personal Communications Industry Association

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BILLING CODE 6712–01–P

[2] Southwestern Bell Mobil Systems also contends that the *FNPRM*'s statement that regulatory fee payments by CMRS licensees shall be calculated on the "number of pagers, cellular telephones, or PCS units" is inconsistent with the fee payment requirements set forth in the *Report and Order*. We disagree. The *Report and Order* established fees for cellular telephone and PCS units in the CMRS Mobile Services and a fee for paging units in the CMRS Messaging Service.

[3] 5 U.S.C. § 603.

[4] *See* 5 U.S.C. § 604. The RFA, *see* 5 U.S.C. 601 *et seq.*, has been amended by the Contract with America Advancement Act (CWAAA), Public Law 104–121, 110 Stat. 847 (1996). Title II of the CWAAA is "The Small Business Regulatory Enforcement Fairness Act of 1996" (SBREFA).

Proposed Rules

Federal Register
Vol. 62, No. 214
Wednesday, November 5, 1997

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–85–AD]

RIN 2120–AA64

Airworthiness Directives; EXTRA Flugzeugbau GmbH Models EA–300 and EA–300/S Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain EXTRA Flugzeugbau GmbH (EXTRA) Models EA–300 and EA–300/S airplanes. The proposed AD would require inspecting the upper longeron cutout bridge for cracks, repairing any cracks found, and modifying this area. The proposed AD is the result of mandatory continued airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by the proposed AD are intended to prevent structural damage to the fuselage caused by cracks in the upper longeron cutout bridge, which, if not detected and corrected, could result in loss of control of the airplane.

DATES: Comments must be received on or before December 8, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–85–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from EXTRA Flugzeugbau GmbH, Flugplatz Dinslaken, 46569 Hunxe, Germany. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut Street, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6934; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 97–CE–85–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–85–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, recently notified the FAA that an unsafe condition may exist on certain EXTRA Models EA–300 and EA–300/S airplanes. The LBA reports that life-cycle testing of the referenced airplanes revealed a potential for cracking on the upper longeron cutout bridge. These conditions, if not detected and corrected, could result in structural damage to the fuselage and eventual loss of control of the airplane.

Relevant Service Information

EXTRA has issued Service Bulletin No. 300–3–93, dated January 12, 1994, which specifies procedures for inspecting the upper longeron cutout bridge for cracks, repairing any cracks found, and modifying this area.

The LBA classified this service bulletin as mandatory and issued German AD No. 94–043, dated October 21, 1994, in order to assure the continued airworthiness of these airplanes in Germany.

The FAA's Determination

This airplane model is manufactured in Germany and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA for Germany has kept the FAA informed of the situation described above.

The FAA has examined the findings of the LBA for Germany; reviewed all available information, including the service information referenced above; and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other EXTRA Models EA–300 and EA–300/S airplanes of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require inspecting the upper longeron cutout bridge for cracks, repairing any cracks found, and modifying this area. Accomplishment of the proposed actions would be in accordance with EXTRA Service Bulletin No. 300–3–93, dated January 12, 1994.

Cost Impact

The FAA estimates that 68 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 13 workhours (inspection: 3 workhours; Modification: 10 workhours) per airplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $200 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $66,640, or $980 per airplane.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

Extra Flugzeugbau GMBH: Docket No. 97–CE–85–AD.

Applicability: The following models and serial number airplanes, certificated in any category:

Model	Serial numbers
EA–300	V1 and 01 through 50.
EA–300/S	01 through 17.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent structural damage to the fuselage caused by cracks in the upper longeron cutout bridge, which, if not detected and corrected, could result in loss of control of the airplane, accomplish the following:

(a) Upon accumulating 1,000 hours time-in-service (TIS) on the upper longeron or within the next 100 hours TIS after the effective date of this AD, whichever occurs later, inspect the upper longeron cutout bridge for cracks in accordance with the *Instructions* section of EXTRA Service Bulletin No. 300–3–93, dated January 12, 1994.

(b) Prior to further flight after the inspection required by paragraph (a) of this AD, accomplish the following in accordance with the *Instructions* section of EXTRA Service Bulletin No. 300–3–93, dated January 12, 1994:

(1) Repair any cracks found in the upper longeron cut-out bridge; and

(2) Modify the upper longeron cut-out bridge.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(e) All persons affected by this directive may obtain copies of the document referred to herein upon request to EXTRA Flugzeugbau GmbH, Flugplatz Dinslaken, 46569 Hunxe, Germany; or may examine this document at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Note 3: The subject of this AD is addressed in German AD No. 94–043, dated October 21, 1994.

Issued in Kansas City, Missouri, on October 29, 1997.

Mary Ellen A. Schutt,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–29231 Filed 11–4–97; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–83–AD]

RIN 2120–AA64

Airworthiness Directives; EXTRA Flugzeugbau GmbH Model EA–300/S Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain EXTRA Flugzeugbau GmbH (EXTRA) Model EA–300/S airplanes. The proposed AD would require modifying the canopy latches or replacing the canopy latches with parts of improved design. The proposed AD is the result of mandatory continued airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by the proposed AD are intended to prevent failure of the canopy while the airplane is in flight due to cracked canopy latches, which could result in loss of the canopy and possible loss of control of the airplane.

DATES: Comments must be received on or before December 8, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–83–

AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from EXTRA Flugzeugbau GmbH, Flugplatz Dinslaken, 46569 Hunxe, Germany. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut Street, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6934; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 97–CE–93–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–93–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, recently notified the FAA that an unsafe condition may exist on certain EXTRA Model EA–300/S airplanes. The LBA reports cracks in the canopy front latches on the above-referenced airplanes. This condition, if not corrected, could result in failure of the canopy and eventual loss of the canopy and possible loss of control of the airplane.

Relevant Service Information

EXTRA has issued Service Bulletin No. 300–3–94, dated August 3, 1994, which specifies procedures for inspecting, repairing, and replacing the canopy latches on the affected airplanes.

The LBA classified this service bulletin as mandatory and issued German AD No. 94–258, dated August 25, 1994, in order to assure the continued airworthiness of these airplanes in Germany.

The FAA's Determination

This airplane model is manufactured in Germany and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA for Germany has kept the FAA informed of the situation described above.

The FAA has examined the findings of the LBA for Germany; reviewed all available information, including the referenced service information; and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other EXTRA Model EA–300/S airplanes of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require modifying the canopy latches or replacing the canopy latches with parts of improved design, part number (P/N) PC–23303.8P1 for both front latches and the rear right; and P/N PC–23303.8P2 for the rear left. Accomplishment of the proposed actions would be in accordance with EXTRA Service Bulletin No. 300–3–94, dated August 3, 1994.

Cost Impact

The FAA estimates that 25 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 3 workhours per airplane to accomplish the proposed modifications or replacements, and that the average labor rate is approximately $60 an hour. Parts cost approximately $100 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $7,000, or $280 per airplane.

Differences Between the German AD, the Service Bulletin, and This Proposed AD

German AD 94–258, dated August 25, 1994, and EXTRA Service Bulletin No. 300–3–94, dated August 3, 1994, both give the owners/operators of certain Model EA–300/S airplanes the option of (1) repetitively inspecting the canopy latches until cracks are found, and then modifying or replacing (with parts of improved design) any cracked latches; or (2) immediately modifying the existing latches or replacing the latches with parts of improved design.

The FAA's policy is to provide corrective action that will eliminate the need for repetitive inspections. The FAA has determined that long-term operational safety will be better assured by design changes that remove the source of the problem, rather than by repetitive inspections or other special procedures.

Because the modification or replacement (with parts of improved design) of the canopy latches eliminates the need for repetitive inspections, the proposed AD differs from the service bulletin and the German AD in that it would mandate either modification or replacement of the canopy latches regardless of condition.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

Extra Flugzeugbau GMBH: Docket No. 97–CE–93–AD.

Applicability: Models EA–300/S airplanes, serial numbers 01 through 24, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 100 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

To prevent failure of the canopy while the airplane is in flight due to cracked canopy latches, which could result in loss of the canopy and possible loss of control of the airplane, accomplish the following:

(a) Modify all canopy latches or replace all canopy latches with parts of improved design, part number (P/N) PC–23303.8P1 for both front latches and the rear right; and P/N PC–23303.8P2 for the rear left. Accomplish the modifications or replacements in accordance with the *Instructions* section of EXTRA Service Bulletin No. 300–3–94, dated August 3, 1994.

(b) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(d) All persons affected by this directive may obtain copies of the document referred to herein upon request to EXTRA Flugzeugbau GmbH, Flugplatz Dinslaken, 46569 Hunxe, Germany; or may examine this document at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Note 3: The subject of this AD is addressed in German AD No. 94–258, dated August 25, 1994.

Issued in Kansas City, Missouri, on October 29, 1997.

Mary Ellen A. Schutt,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–29239 Filed 11–4–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 303

DEPARTMENT OF THE INTERIOR

Office of Insular Affairs

[Docket No. 971021249–7249–01]

RIN 0625–AA50

Proposed Limit on Duty-Free Insular Watches in Calendar Year 1998

AGENCIES: Import Administration, International Trade Administration, Department of Commerce; Office of Insular Affairs, Department of the Interior.

ACTION: Proposed rule and request for comments.

SUMMARY: This action invites public comment on a proposal to amend the ITA regulations, which govern duty-exemption allocations and duty-refund entitlements for watch producers in the United States' insular possessions (the Virgin Islands, Guam and American Samoa) and the Northern Mariana Islands. The proposed amendments would establish the total quantity and respective territorial shares of insular watches and watch movements which would be allowed to enter the United States free of duty during calendar year 1998 and make a minor adjustment to the verification of shipments.

DATES: Comments must be received on or before December 5, 1997.

ADDRESSES: Address written comments to Faye Robinson, Program Manager, Statutory Import Programs Staff, Room 4211, U.S. Department of Commerce, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Faye Robinson, (202) 482–3526, same address as above.

SUPPLEMENTARY INFORMATION: The insular possessions watch industry provision in Section 110 of Public Law 97–446 (96 Stat. 2331) (1983) as amended by Section 602 of Public Law 103–465 (108 Stat. 4991) (1994) additional U.S. Note 5 to chapter 91 of the HTS requires the Secretary of Commerce and the Secretary of the Interior, acting jointly, to establish a limit on the quantity of watches and watch movements which may be entered free of duty during each calendar year. The law also requires the Secretaries to establish the shares of this limited quantity which may be entered from the Virgin Islands, Guam, American Samoa and the Northern Marianas Islands. Regulations on the establishment of these quantities and shares are contained in §§ 303.3 and 303.4 of title 15, Code of Federal Regulations (15 CFR 303.3 and 303.4). The Departments propose to establish for calendar year 1998 a total quantity and respective territorial shares as shown in the following table:

Virgin Islands	2,600,000
Guam	500,000
American Samoa	500,000
Northern Mariana Islands	500,000

Compared to the total quantity established for 1997 (61 FR 55863; October 30, 1996), this amount would be a decrease of 500,000 units. The proposed Virgin Islands territorial share would be reduced by 500,000 and the shares for Guam, American Samoa and the Northern Mariana Islands would not change. The amount we proposed for the Virgin Islands is more than sufficient for the anticipated needs of all the existing producers.

The proposed rule would also modify § 303.6(a). Currently, the Departments are able to verify shipments through the U.S. Customs Service. However, due to informal entry procedures on some shipments or other problems, Commerce is occasionally unable to verify an entry. We propose allowing producers to

provide other means of verification satisfactory to the Secretaries in these situations.

The proposed rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

Regulatory Flexibility Act. In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, the Assistant General Counsel for Legislation and Regulation has certified to the Chief Counsel, Small Business Administration, that the proposed rule will not have a significant economic impact on a substantial number of small entities. This is because the rulemaking is primarily to make technical changes.

Paperwork Reduction Act. This rulemaking involves information collection activities subject to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* which is currently approved by the Office of Management and Budget under control number 0625–0134. The amendments would have no effect on the information burden on the public.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information unless it displays a currently valid OMB Control Number.

It has been determined that the proposed rulemaking is not significant for purposes of Executive Order 12866.

List of Subjects in 15 CFR Part 303

Administrative practice and procedure, American Samoa, Customs duties and inspection, Guam, Imports, Marketing quotas, Northern Mariana Islands, Reporting and recordkeeping requirements, Virgin Islands, Watches and jewelry.

For reasons set forth above, we propose to amend 15 CFR Part 303 as follows:

PART 303—[AMENDED]

§ 303.6 [Amended]

1. Section 303.6(a) is amended by adding to the second to last sentence ", or verified by other means satisfactory to the Secretaries," after the words U.S. Customs Service.

§ 303.14 [Amended]

2. Section 303.14(e) is amended by removing "3,100,000" and adding "2,600,000" in its place.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

Allen Stayman,

Director, Office of Insular Affairs.

[FR Doc. 97–29198 Filed 11–4–97; 8:45 am]

BILLING CODE 3510–DS–M and 4510–33–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 514

[Docket No. 97N–0435]

Substantial Evidence of Effectiveness of New Animal Drugs

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA), as directed by the Animal Drug Availability Act of 1996 (ADAA), is proposing to amend its new animal drug regulations to further define the term "substantial evidence." The purpose of this proposed regulation is to encourage the submission of new animal drug applications (NADA's) and supplemental NADA's for single ingredient and combination new animal drugs. The proposal also encourages dose range labeling.

DATES: Submit written comments on the proposed rule by February 3, 1998. Submit written comments on the information collection requirements by December 5, 1997.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Submit written comments on the information collection requirements to the Office of Management and Budget (OMB), New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn.: Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Herman M. Schoenemann, Center for Veterinary Medicine (HFV–126), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1638.

SUPPLEMENTARY INFORMATION:

I. Background

Congress enacted the ADAA (Pub. L. 104–250) on October 9, 1996. The purpose of the ADAA is to facilitate the approval and marketing of new animal drugs and medicated feeds. In furtherance of this purpose, section 2(a) of the ADAA amended section 512(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360b(d)(3)) to revise the definition of "substantial evidence." Section 2(e) of the ADAA directs FDA to issue proposed regulations to further define the term "substantial evidence" in a manner that encourages the submission of NADA's and supplemental NADA's. Section 2(e) also directs FDA to issue proposed regulations to encourage dose range labeling. This proposed regulation further defines substantial evidence and encourages dose range labeling.

Before FDA can approve a new animal drug, FDA must find, among other things, that there is substantial evidence that the new animal drug is effective. The demonstration of effectiveness represents a significant component of drug development time and cost such that the amount and nature of the evidence needed can be an important determinant of whether and when new animal drugs become available to the public. The availability of certain approved new animal drugs for use in livestock, poultry, pets, and other animals is vital to protecting the health of animals and the health of humans who consume the products of food producing animals. The availability of other approved new animal drugs is vital to increasing the efficiency of food production in the United States. Thus, animal and human health and food production are best served by the development of substantial evidence of effectiveness in an efficient manner. The changes made to the definition of "substantial evidence" by the ADAA and by the further definition of that term in this proposed rule give FDA greater flexibility to make case-specific scientific determinations regarding the number and types of adequate and well-controlled studies that will provide, in an efficient manner, substantial evidence that a new animal drug is effective.

II. The Statutory Definition of Substantial Evidence

The term "substantial evidence" as defined in section 512(d)(3) of the act refers to the number and types of adequate and well-controlled studies needed for a new animal drug to be determined to be effective for the intended uses under the conditions of use prescribed, recommended, or suggested (hereinafter suggested) in its labeling or proposed labeling.

Prior to the enactment of the ADAA, section 512(d)(3) of the act defined substantial evidence as:

[e]vidence consisting of adequate and well-controlled investigations, including field investigation, by experts qualified by scientific training and experience to evaluate the effectiveness of the drug involved, on the basis of which it could fairly and reasonably be concluded by such experts that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling or proposed labeling thereof.

Under section 512(d)(3), as amended by the ADAA, substantial evidence is defined as:

[e]vidence consisting of one or more adequate and well-controlled investigations, such as,

(A) a study in a target species;

(B) a study in laboratory animals;

(C) any field investigation that may be required under this section and that meets the requirements of [section 512 (b)(3) of the act] if a presubmission conference is requested by the applicant;

(D) a bioequivalence study; or

(E) an in vitro study;

by experts qualified by scientific training and experience to evaluate the effectiveness of the drug involved on the basis of which it could fairly and reasonably be concluded by such experts that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling or proposed labeling thereof.

Under the old definition, at least two adequate and well-controlled studies were necessary to demonstrate by substantial evidence the effectiveness of a new animal drug and at least one of those adequate and well-controlled studies was required to be a field study. Under the revised definition of substantial evidence it is possible that a minimum of one adequate and well-controlled study [1] may provide substantial evidence of the effectiveness of a new animal drug for its intended uses and associated conditions of use.

Furthermore, the statutory requirement for a field study has been eliminated, but FDA continues to have the authority to require field studies when necessary (H. Rept. 104–823, at 13 (1996)). Elimination of the requirement for a field study recognizes that while a field study (because it assesses the effectiveness of a new animal drug under conditions of use that approximate actual use conditions) remains an important element of many new animal drug approvals, there will be some instances in which a field study would yield no more useful information with regard to the new animal drugs effectiveness than can be obtained through laboratory studies. Thus, the new definition of substantial evidence specifically identifies types of adequate and well-controlled studies that may be used in lieu of, or in addition to, field studies to provide evidence of the effectiveness of a new animal drug.

III. Description of the Proposed Rule

FDA is proposing to amend part 514 (21 CFR part 514) by adding § 514.4 Substantial evidence to further define substantial evidence. Proposed § 514.4 describes the characteristics of substantial evidence that permit qualified experts to fairly and reasonably conclude that the drug will have the effect it purports or is represented to have under the conditions of use suggested in the proposed labeling. The proposed regulation would give FDA flexibility to determine, in light of the current state of relevant scientific knowledge, the minimum number of adequate and well-controlled studies needed, dependent upon the quality and persuasiveness of such studies, to permit qualified experts to conclude that a new animal drug is effective. Substantial evidence must include a sufficient number of studies of sufficient quality to permit experts qualified by scientific training and experience to fairly and reasonably conclude that the new animal drug is effective for each of the intended uses and associated conditions of use suggested in the proposed labeling.

A. Characteristics of Substantial Evidence (§ 514.4(b))

1. Intended Uses and Conditions of Use (§ 514.4(b)(2))

Proposed § 514.4(b)(2) requires that the sponsor demonstrate that a new animal drug is effective for each proposed intended use and associated conditions of use. A critical step in deciding the number and types of adequate and well-controlled studies needed to demonstrate effectiveness is to clearly define the intended uses and the associated conditions of use. Intended use refers to the structure or function of the body to be affected or the disease or condition to be treated, prevented, mitigated, or cured. Conditions of use that may be suggested in the proposed labeling for each intended use include, but are not limited to: The dose or dose range, frequency, duration, timing (e.g., in relation to the onset of clinical signs), and route of administration or application of the new animal drug; the withdrawal period (if any); the preparation of the new animal drug for use; the species, age, gender, class, and breed of animal for which the new animal drug is intended for use; and, restriction to use under the supervision of a licensed veterinarian.

The specific number and types of adequate and well-controlled studies needed to provide substantial evidence of effectiveness of a new animal drug will vary depending upon the number of intended uses, how narrowly or broadly each intended use is defined, and, further, upon the conditions of use associated with each intended use suggested in the proposed labeling. Intended uses are the determining factors in selecting the parameters to be measured under the conditions of use proposed for the new animal drug. Because a new animal drug must be shown to be effective for each intended use under the conditions of use suggested in the proposed labeling, the greater the number of intended uses and the more varied the associated conditions of use, the less likely it is that a single study can be designed and conducted to measure all relevant parameters. Likewise, the broader an intended use, e.g., the new animal drug is intended to treat a disease with multiple clinical presentations, the more likely it is that multiple studies will be needed.

One of the most important conditions of use for any new animal drug is the dosage. Dosage includes the dose or dose range, dosing frequency, and the dosing duration. Thus, a sponsor must demonstrate by substantial evidence that a new animal drug is effective for its intended use at the dose or dose range and the associated conditions of use suggested in the proposed labeling for that intended use. The studies needed to make such a demonstration will depend, in part, upon whether the new animal drug is labeled for use at a single fixed dose or over a dose range.

The substantial evidence necessary to support a dose range will further vary with the nature of the new animal drug and its intended uses. Proposed § 514.4(b)(2) provides that substantial evidence to support dose range labeling for a new animal drug intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease must consist of at least one adequate and well-controlled study on the basis of which qualified experts could fairly and reasonably conclude that the new animal drug will be effective for at least one intended use at the lower dose limit

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[1] The ADAA requires FDA to issue a proposed regulation to further define the term "adequate and well-controlled" to require that field investigations be designed and conducted in a scientifically sound manner, taking into account practical conditions in the field and differences between field conditions and laboratory conditions. FDA published a proposed regulation further defining the term "adequate and well-controlled" in the **Federal Register** of May 8, 1997 (62 FR 25183).

prescribed in the proposed labeling and will be effective for each intended use at the dose suggested in the proposed labeling for that intended use. The proposed regulation also provides that substantial evidence to support a dose range for a new animal drug intended to affect the structure or function of the body of an animal for the purpose of enhancing production must consist of at least one adequate and well-controlled study on the basis of which qualified experts could fairly and reasonably conclude that the new animal drug will be effective for each intended use at all the doses within the range prescribed for the intended use. In either instance, the upper limit of a dose range for any new animal drug will be set based on safety, both to the the target animal and to humans consuming products from animals treated with the new animal drug, as well as practicality, e.g., volume of injection or length of withdrawal period.

The agency notes that a conclusion that a new animal drug is effective for its intended uses no longer requires dose optimization. Prior to enactment of the ADAA in 1996, FDA was required under section 512(d)(1)(F) of the act to refuse to approve a new animal drug if, on the basis of any information before FDA, the tolerance limitation proposed, if any, exceeded that reasonably required to accomplish the physical or other technical effect for which the new animal drug is intended. In order to demonstrate by substantial evidence the minimal amount of a new animal drug reasonably required to accomplish the physical or technical effect, dose optimization, typically supported by adequate and well-controlled dose titration studies that characterize the critical aspects of the dose response relationship, was required. This characterization of the dose-response relationship permitted FDA to make a risk-benefit assessment of the new animal drug. That is, FDA could determine whether the effectiveness of a new animal drug outweighed the risks to the target animal at the dose or over the dose range prescribed in the proposed labeling.

With the enactment of the ADAA, the requirement for dose optimization has been eliminated. It is no longer necessary that the dose or dose range prescribed in the proposed labeling of a new animal drug be limited to that required to accomplish the physical or other technical effect. Therefore, a sponsor is now required to demonstrate by substantial evidence that a new animal drug is effective for each intended use at the associated dose or over the associated dose range prescribed in the proposed labeling. And, the sponsor must demonstrate that such dose or dose range is safe for the target animal and, at the labeled withdrawal time(s), does not result in a residue of such drug in excess of a tolerance found by FDA to be safe.

Although the requirement for dose optimization has been eliminated, sponsors will still need to characterize the critical aspects of the dose response relationship so that qualified experts can make an informed risk-benefit assessment of the new animal drug and assure that the proposed labeling is not false or misleading in any particular. Thus, a sponsor must characterize for an intended use and associated conditions of use the critical aspects of the dose-response relationship relevant to the dose or dose range selected. For example, for new animal drugs intended to affect the structure or function of the body of an animal for the purpose of enhancing production, generally a sponsor should characterize whether the dose or dose range prescribed in the proposed labeling for the new animal drug falls on the part of the dose-response curve at which there is increasing effectiveness or on the part of the dose-response curve at which effectiveness is essentially static, i.e., the plateau. This characterization does not, however, have to be demonstrated by substantial evidence.

FDA encourages the use of dose range labeling. The use of dose range labeling, particularly professional flexible labeling, enhances the ability of users to safely, effectively, and economically treat animals without using the new animal drug in an extra-label manner. As discussed previously, the critical aspects of the dose-response relationship must generally be characterized to support labeling, including dose range labeling. Although many drugs have increasing effectiveness over a definable dose range, most reach a point at which effectiveness is not measurably improved by increased dosing. Without a sufficient characterization of the dose-response relationship, qualified experts cannot determine whether dose range labeling is false or misleading in any particular and the user cannot be adequately informed regarding the appropriate use of the new animal drug.

2. Number of Studies (§ 514.4(b)(3)(i))

Whether substantial evidence for a particular new animal drug consists of a single adequate and well-controlled study of sufficient quality or one adequate and well-controlled study corroborated by additional adequate and well-controlled studies will depend on the new animal drug involved. Proposed § 514.4(b)(3)(i) provides that studies intended to provide substantial evidence of effectiveness shall consist of a sufficient number of studies of sufficient quality and persuasiveness to permit qualified experts in determining that the parameters reflect the effectiveness of the new animal drug; that the results obtained are likely to be repeatable, and that valid inferences can be drawn to the target animal[2] population; and, that the new animal drug is effective for the intended use at the dose or dose range and associated conditions of use suggested in the proposed labeling.

For each study that is part of substantial evidence, the critical characteristics of identity, strength, quality, purity, and physical form of the new animal drug used must be sufficiently documented to permit meaningful evaluation of the study and comparison with other studies conducted with the new animal drug (proposed § 514.117(b)(3) (62 FR 25153, May 8, 1997)).

For qualified experts to fairly and reasonably conclude that a new animal drug is effective for an intended use under the conditions of use suggested in the proposed labeling for the new animal drug, the study parameters selected for measurement must reliably reflect the effectiveness of the new animal drug for the intended use (selection of study parameters (§ 514.117(b)(3)(i)(A))). A new animal drug cannot be shown to be effective for an intended use without eliciting a measurable response with respect to parameters highly correlated to that intended use of the drug. Generally, a sponsor should evaluate parameters that provide direct evidence of effectiveness with respect to the intended use, but, where appropriate, a sponsor may measure effects on an established surrogate endpoint.

The studies that provide substantial evidence must provide reasonable assurance that the results obtained from the use of the new animal drug are repeatable when the new animal drug is applied or administered under conditions of use suggested in the proposed labeling (repeatability of study results (§ 514.4(b)(3)(i)(B)). The definition of substantial evidence in section 512 of the act prior to its amendment by the ADAA and its requirement for more than one adequate and well-controlled study were based on the principle of independent substantiation. The goal of independent substantiation of experimental results is to ensure that an experimental finding of effectiveness is not the result of: Unanticipated, undetected, or systematic biases; study site-or investigator-specific factors that prevent generalization of the finding to the intended target animal population; or chance. Independent substantiation also provides a safeguard against those rare instances in which the results of a study are the product of fraudulent reporting of scientific studies. Independent substantiation continues to be a primary scientific principle upon which qualified experts can make a determination whether a new animal drug is effective.

Historically, the need for independent substantiation was frequently equated with the need for replication, i.e., replication of an identical study. While replication is usually a highly reliable way to independently substantiate experimental results, it is not the only way. Results obtained from studies that are different in design or execution or both may provide support for a conclusion of effectiveness that is at least as convincing as a repeat of the same study. Under the revised definition of substantial evidence, substantial evidence supporting the effectiveness of a new animal drug for an intended use may be achieved by carefully and properly designing and conducting a single adequate and well-controlled study or by conducting multiple adequate and well-controlled studies that need not replicate one another.

The number of studies needed to provide independent substantiation and support a finding by qualified experts that a new animal drug is effective will depend upon the quality of the studies and the inferential value of the studies. Whatever scientific evidence is needed to demonstrate the effectiveness of a new animal drug, the quality of that scientific evidence is of comparable importance to its quantity. Quality of a study includes factors such as the rigor, power, and scope of the design and conduct of a study, and the sufficiency of the study documentation. As the quality of an effectiveness study improves, the study's reliability, inferential value, and capacity to substantiate effectiveness improves.

Even when intended uses and conditions of use are narrowly defined and there is relevant scientific knowledge to inform qualified experts about the chemical entity, the disease or condition to be treated, or the structure or function to be affected, a single adequate and well-controlled study frequently will not suffice to establish the effectiveness of a new animal drug without the corroboration (independent substantiation) provided by other adequate and well-controlled studies. When considering whether to rely on a single adequate and well-controlled study, it is critical that the possibility of an incorrect outcome be considered and that all available data be examined for their potential to either support or undercut reliance on a single study. In those limited instances in which reliance is placed on a single adequate and well-controlled study that has the characteristics described in § 514.111(a)(5)(ii) (proposed § 514.117 (62 FR 25153, May 8, 1997)), such a study will need to be of sufficient quality, as well as persuasiveness in outcome, to enable qualified experts to make valid inferences from study results to the target animal population. The presence of the following characteristics in a study can contribute to a conclusion by qualified experts that a single adequate and well-controlled study provides substantial evidence of effectiveness: The study is a multicenter study in which no single study site provides an unusually large fraction of the target animals and no single investigator or site is disproportionately responsible for the effects seen; the study involves prospective randomized stratifications or identified analytic subsets that each show a significant effect; the study includes multiple endpoints involving different events; and, the study provides highly reliable and statistically strong evidence of effectiveness. The likelihood that qualified experts can rely on a single adequate and well-controlled study as establishing the effectiveness of a new animal drug increases with the number of these and similar characteristics displayed in the single study.

Inferential value of data (sometimes referred to as generalizability) relates to the confidence with which the data relating to effectiveness of a new animal drug for an intended use under the conditions tested can be used to conclude that the new animal drug will be effective in the target animal population for the intended use and associated conditions of use suggested in the proposed labeling (§ 514.4(b)(3)(i)(B)) . The inferential value of data may depend upon, among other things, how closely the test animals approximate the characteristics of the target animal population. Time, how recently a particular set of data has been collected, may also affect its inferential value. Animal research data has an effective life span during which time-dependent factors such as genetics of the target animal and the target organism, husbandry practices, and diets remain sufficiently static to assure the continued relevance of the data. Beyond this period, changes in target animal genetics, target organism genetics, husbandry practices, and diets may affect the ability of the new animal drug to achieve the effect demonstrated under prevailing conditions at the time of testing. Time is particularly meaningful in terms of the inferences that can be drawn from data relating to therapeutic uses of antimicrobial animal drugs because of the development of resistant microbes.

Substantial evidence must permit qualified experts to conclude that a new animal drug will have the effect it purports or is represented to have under the conditions of use suggested in the proposed labeling (concluding a new animal drug is effective (§ 514.4(b)(3)(i)(C)). Section 512 of the act requires that FDA issue an order refusing to approve an NADA if there is a lack of substantial evidence that the new animal drug will have the effect it purports or is represented to have under the conditions of use suggested in the proposed labeling. Similarly, the statute requires that FDA issue an order refusing to approve an NADA if, based on a fair evaluation of all the material facts, the proposed labeling is false or misleading in any particular, including as it relates to the demonstrated effectiveness of the new animal drug for its intended uses under associated conditions of use. Thus, sponsors should remember that it may be necessary to provide, in addition to or as part of substantial evidence, evidence that explicit or implicit claims relating to effectiveness made on the label of a new animal drug are neither false nor misleading.

3. Types of Studies (§ 514.4(b)(3)(ii))

Proposed § 514.4(b)(3)(ii) specifies that the types of adequate and well-controlled studies needed to provide substantial evidence may include, but are not limited to, published studies, foreign studies, studies using models, and studies conducted by or on behalf of the sponsor. Isolated case reports, random experience, and reports lacking the details which permit scientific evaluation will not be considered as part of substantial evidence (§ 514.111; proposed § 514.117 (62 FR 25153, May 8, 1997)), and will not contribute to the current state of scientific knowledge that informs qualified experts.

The utility of published studies, foreign studies, and studies using

[2] Target animal and target animal population as used throughout this document refer to the animal or animal population for which the new animal drug is intended for use.

models as adequate and well-controlled studies to support a finding of effectiveness may vary. The use of published studies raises at least two questions: (1) How reliable are the data? and, (2) do the data represent a skewed subset of information?

Published literature, even in peer-reviewed journals, may not be free from error, omission, misinterpretation, or even outright fraud. Peer reviewers of articles submitted for publication in journals vary in the relevant experience and expertise they may have to review particular journal articles and, typically, only have access to a limited data set and analyses. As noted by Dr. Richard Horton, editor of *The Lancet*, an international biomedical journal, "* * * the review process will only rarely detect misconduct and it may well miss critical flaws in a research article" (Ref. 1). Dr. Horton further noted that in instances where legitimate questions are raised about the validity of research methods and data analyses, "[i]t is possible that the only way to settle the dispute is to provide access to raw data or to invite the institution where the research was conducted to assist in the ongoing investigations" (Ref. 1). In many instances, published literature is intended to advance science by stimulating further analysis and interpretation. In that sense, some amount of error is not necessarily bad; disputes over analyses and interpretation can drive scientific research and progress (Ref. 1). However, if a sponsor of a new animal drug uses a published study to provide evidence that a new animal drug is effective, use of invalid research methods or invalid data analyses in the study will make the study unacceptable.

FDA's ability to rely on a published study as an adequate and well-controlled study that is part of substantial evidence is enhanced, and in many cases is only possible, if FDA can obtain additional critical study details. The level of scrutiny for such a published study should not be less rigorous than that given to studies conducted by or on behalf of the sponsor that are intended to be adequate and well-controlled studies to support a determination of effectiveness.

Providing as much of the following types of information about a study, in conjunction with the published report, can increase the likelihood that the study can be relied upon as an adequate and well-controlled study: A statement describing the extent, if any, to which the study was funded or supported by the sponsor; the qualifications of the expert who conducted the study; a copy of the protocol, as amended, used for the study, of sufficient detail to permit the study to be reconstructed or repeated; access to written documentation describing the practices followed in the conduct of the study (including identification of animals omitted from analysis, and an analysis of results using all subjects with on-study data); the prospective statistical analysis plan and any changes from the original plan that occurred during or after the study; a full accounting of all investigational animals; an adequate characterization of the new animal drug used in the study; assay data for the new animal drug; and, complete study records including pertinent baseline characteristics for each animal or experimental unit of animals.

In addition to the public debate concerning the reliability of peer-reviewed published data, there has been expressed in recent years concern that published studies represent a skewed subset of all existing information available on a particular subject. While it may not be possible to determine the extent to which the published studies represent a skewed subset of all existing information, the likelihood of reliance on published literature is increased not only by full knowledge about how the studies were conducted but by the availability of a balanced discussion of the published studies listed in the bibliography that both support and raise questions relating to the safety and effectiveness of the new animal drug. The current regulations already require a sponsor to provide as part of its NADA a complete bibliography and a summary of each published study relevant to the intended uses of the new animal drug for which approval is sought (§ 514.1(b)(7)(iv)).

An adequate and well-controlled foreign study may also be relied upon to support a finding by substantial evidence that a new animal drug is effective. The utility of such studies depends upon whether the potential differences such as animal breeds, genetic composition within a breed, diseases, nutrition, and husbandry practices between the foreign country and the United States are sufficiently addressed. There will be instances in which such differences will scientifically limit the applicability of results of foreign studies.

In some instances, model study designs may be appropriate for use in proving the effectiveness of a new animal drug. In order for a model study to be an adequate and well-controlled study that supports a finding that a new animal drug is effective, the model must be validated to establish an adequate relationship of parameters measured and effects observed in the model with one or more significant effects of treatment in the target animal population under actual conditions of use. Proposed § 514.4(b)(3)(ii) requires such validation. If the correlation of parameters measured and effects observed in the model with one or more significant effects of treatment has not been established as part of general scientific knowledge, such correlation must be established scientifically.

The number and types of new studies that need to be conducted by or on behalf of a sponsor to demonstrate by substantial evidence the effectiveness of a new animal drug for a particular intended use will depend upon factors such as: the availability (either publicly or through right of reference) of information about the drug or the active ingredient, and, in some cases, the chemical class to which it belongs, information derived from studies of other approved or unapproved uses of the active ingredient or drug, and information derived from foreign studies if applicable to the proposed use and the target animal population in the United States; whether the nature of the new animal drug or active ingredient, or the proposed claims, makes the new animal drug conducive to in vitro testing or data extrapolation via pharmacokinetic studies; the availability of published studies involving the new animal drug (as discussed previously); and, concern for animal welfare. The science and practice of drug research and development have significantly evolved since the effectiveness requirement for drugs was established in 1962, and this evolution has implications for the number and type of data needed to demonstrate effectiveness of a particular new animal drug. Today, for many disease conditions, there is a greater understanding of pathogenesis, disease stages, treatment modalities and their characteristics, and, frequently, an increased general understanding regarding the activity of a particular chemical entity or related chemical entities in humans or other animals.

Thus, if there is a significant amount of existing relevant scientific knowledge available to inform qualified experts about a chemical entity, such as the effectiveness of a chemical entity in a condition closely related to that for which the new animal drug is intended, about the pathogenesis and stages of the disease or condition to be treated, or the production function (e.g., weight gain or feed efficiency) to be affected, by the chemical entity, fewer new studies may need to be conducted to support FDA's determination of the effectiveness of the drug for its intended use. Conversely, the less information known about the nature of the chemical entity or about the disease or condition to be treated or the production effect to be achieved, the greater the need for new studies to support a determination of the effectiveness of the new animal drug. If new studies need to be conducted, existing relevant scientific knowledge may, at least, be helpful in designing studies which provide highly reliable and statistically strong evidence of effectiveness.

B. Substantial Evidence for Combination New Animal Drugs (§ 514.4(c))

Under the ADAA, a streamlined approval process was established for certain combination new animal drugs. Section 512(d)(4) of the act provides that, except in the case of a combination new animal drug that is intended for use other than in animal feed or drinking water (hereinafter referred to as "dosage form combination new animal drugs")[3] and contains a nontopical antibacterial ingredient or animal drug, FDA will not refuse to approve an application for a dosage form combination new animal drug that contains active ingredients or animal drugs that have previously been separately approved on grounds that there is a lack of evidence of effectiveness if the sponsor: (1) Demonstrates by substantial evidence that each active ingredient or animal drug intended only for the same use as another active ingredient or animal drug in the combination makes a contribution to effectiveness, and (2) demonstrates (a) that each active ingredient or animal drug intended for at least one use that is different from all other active ingredients or animal drugs used in the combination provides appropriate concurrent use for the intended target animal population, and (b) if FDA has a scientific basis to believe the active ingredients or animal drugs may be incompatible or have disparate dosing regimens, that the active ingredients or animal drugs are physically compatible and do not have disparate dosing regimens (section 512(d)(4)(C) of the act). FDA will not refuse to approve an application for a combination new animal drug that is intended for use in animal feed or drinking water and contains active ingredients or animal drugs that have previously been separately approved on grounds that there is a lack of evidence of effectiveness if the sponsor: (1) Demonstrates by substantial evidence that each active ingredient or animal drug intended only for the same use as another active ingredient or animal drug in the combination, and, if there is more than one than one antibacterial ingredient or animal drug, each antibacterial ingredient or animal drug, makes a contribution to labeled effectiveness, and (2) demonstrates (a) that each active ingredient or animal drug that is intended for at least one use that is different from all other active ingredients or animal drugs in the combination provides appropriate concurrent use for the intended target animal population, and (b) if FDA has a scientific basis to believe the active ingredients or animal drugs intended for use in drinking water may be incompatible, that the active ingredients or animal drugs are physically compatible (section 512(d)(4)(D) of the act). For all other combination new animal drugs, FDA will not refuse to approve an application on the grounds that there is a lack of evidence of effectiveness if the sponsor demonstrates by substantial evidence that the combination new animal drug will have the effect it purports or is represented to have under the conditions of use suggested in the proposed labeling for the combination new animal drug and that each active ingredient or animal drug contributes to the effectiveness of the combination new animal drug.

To implement these statutory provisions, proposed § 514.4(c)(1)(i) defines a combination new animal drug as a new animal drug that contains more than one active ingredient or animal drug that is applied or administered simultaneously in a single dosage form or simultaneously in or on animal feed or drinking water. The substantial evidence necessary to support a conclusion by qualified experts that a combination new animal drug is effective will vary depending upon the active ingredients or animal drugs used in the combination.

Proposed § 514.4(c)(2) provides that for combination new animal drugs that contain active ingredients or animal drugs that have previously been separately approved for the particular uses and conditions of use for which they are intended in combination (hereinafter "previously been separately approved"), except in the case of a combination new animal drug that is intended for use other than in animal feed or drinking water that contains a nontopical antibacterial ingredient or animal drug, a sponsor must demonstrate by substantial evidence, as defined in section 512(d)(3) of the act and this proposed regulation, that any active ingredient or animal drug intended only for the same use as another active ingredient or animal drug in the combination makes a contribution to the effectiveness of the combination new animal drug. For combination new animal drugs that contain active ingredients or animal drugs that have previously been separately approved for use in animal feed or drinking water and contain more than one antibacterial ingredient or animal drug, the sponsor must also demonstrate by substantial evidence, as defined in section 512(d)(3) of the act and this proposed regulation, that each antibacterial makes a contribution to labeled effectiveness.

Proposed § 514.4(c)(3) provides that for all other combination new animal drugs (i.e., those that contain active ingredients or animal drugs that have not previously been separately approved and those that are dosage form combination new animal drugs that contain an active ingredient or animal drug that is a nontopical antibacterial), the sponsor must demonstrate by substantial evidence, as defined in section 512(d)(3) of the act and this proposed regulation, that: (1) The combination new animal drug will have the effect it purports or is represented to have under the conditions of use suggested in the proposed labeling, and (2) each active ingredient or animal drug contributes to the effectiveness of the combination new animal drug.

On occasion, FDA may have a substantiated scientific basis for believing that the use in combination of active ingredients or animal drugs that have previously been separately approved will result in a decrease in the effectiveness of one or more of the active ingredients or animal drugs. Although section 512(d)(4) of the act generally provides for a modified approval process for combination new animal drugs containing active ingredients or animal drugs that have previously been separately approved, FDA will, to the extent necessary, require additional testing to characterize the effectiveness of such a combination new animal drug to assure that the labeling will not be false or misleading in any particular, consistent with section 512(d)(1)(H) of the act.

For purposes of determining the substantial evidence necessary to demonstrate the effectiveness of a combination of animal drugs that have

[3] Use of the phrase "dosage form combination new animal drugs" as used in this preamble is a shorthand reference to combination new animal drugs "intended for use other than in animal feed or drinking water," the purpose of which is to make the complex preamble discussion relating to combination new animal drugs more readable. The term "dosage form," outside of the discussion in this preamble relating to the combination new animal drug provisions of the act, includes and will continue to include new animal drugs intended for use in drinking water.

previously been separately approved, each animal drug brings with it to the combination each intended use for which it was previously separately approved under the conditions of use proposed for the combination new animal drug. If an active ingredient or animal drug has previously been separately approved as a prescription animal drug or a veterinary feed directive drug for any of the intended uses and conditions of use suggested in the proposed labeling for the combination new animal drug, the combination new animal drug, if approved, would usually need to be approved as a prescription animal drug or veterinary feed directive drug, respectively.

1. Antibacterial Active Ingredient or Animal Drug

The approval process provided by section 512(d)(4) of the act does not apply to dosage form combination new animal drugs if any of the active ingredients or animal drugs is a nontopical antibacterial. And, for combination new animal drugs intended for use in animal feed and drinking water that contain more than one antibacterial and qualify for approval under the process provided by section 512(d)(4), a sponsor must demonstrate by substantial evidence that each antibacterial ingredient or animal drug contributes to the effectiveness of the combination new animal drug. The act, as amended by the ADAA, treats antibacterial ingredients and animal drugs differently from other active ingredients and animal drugs because increasingly there are concerns that overuse or improper use of antibacterials may contribute unnecessarily to the development of antibacterial resistance.

Proposed § 514.4(c)(1)(ii) defines an "antibacterial" with respect to a particular target animal species as an active ingredient or animal drug: (1) That is approved for use in that species for the diagnosis, cure, mitigation, treatment, or prevention of bacterial disease; or (2) that is approved in that species for any other use that is attributable to its antibacterial properties.

2. Appropriate Concurrent Use and Compatibility

Section 512(d)(4)(C) and (d)(4)(D) of the act requires that in certain cases appropriate concurrent use and compatibility must be demonstrated. The demonstration need not be by substantial evidence but sponsors must provide a scientifically sound basis for qualified experts to reach these conclusions. Proposed § 514.4(c)(2)(iii) sets out the requirement for sponsors to establish appropriate concurrent use for the target species in cases in which each active ingredient or animal drug is intended for at least one use that is different from all the other active ingredients or animal drugs in the combination. To determine whether a combination new animal drug provides "appropriate concurrent use" the agency will consider factors such as whether the conditions to be treated by the combination are likely to occur simultaneously with sufficient frequency in the intended target animal population.

Proposed § 514.4(c)(2)(iv) and (c)(2)(v) sets out the requirements in section 512(d)(4)(C)(iii) and (d)(4)(D)(iv) of the act regarding compatibility. These requirements apply where, based on scientific information, FDA has reason to believe that for dosage form combination new animal drugs the active ingredients or animal drugs may be physically incompatible or have disparate dosing regimens or that for active ingredients or animal drugs intended for use in drinking water the active ingredients or animal drugs may be physically incompatible. The legislative history of ADAA describes the purpose of these provisions as "authoriz[ing] FDA to deny approval of a combination animal drug if the physical compatibility or compatibility of the dosing regimens may affect the effectiveness of the combination animal drug and such compatibility is not demonstrated" (H. Rept. 104–823 at 14 (1996)).

Scientific information exists that gives FDA reason to believe that dosage form combinations and combinations intended for use in drinking water may be physically incompatible and/or have disparate dosing regimens. With the enactment of the Generic Animal Drug Patent Term Restoration Act of 1988 (GADPTRA), it was well-recognized that, based on scientific information, the bioavailability of active ingredients may be affected by changes relating to the formulation or manufacture of a generic new animal drug and, therefore, the statute, rather than assuming bioequivalence based on the use of the same active ingredient, requires a demonstration of bioequivalence. Similarly, the bioavailability of an active ingredient or animal drug as part of a combination new animal drug may be affected by changes relating to the formulation or manufacture of the active ingredient or animal drug for use in the combination or to the formulation and manufacture of the combination new animal drug. Thus, FDA has scientific information that gives it reason to generally believe that active ingredients or animal drugs intended for use in a dosage form combination new animal drug may not be physically compatible and may have disparate dosing regimens or that for active ingredients or animal drugs intended for use in drinking water the active ingredients or animal drugs may not be physically compatible. Therefore, proposed § 514.4(c)(2)(iv) and (c)(2)(v) requires the sponsor to demonstrate the comparable bioavailability of the active ingredients or animal drugs in combination relative to the active ingredients or animal drugs singly. However, as with FDA's implementation of GADPTRA, certain classes of products are recognized to be of less concern with respect to potential differences in bioavailability, e.g., true solutions, inhalant anesthetics and some topicals. In such cases, some or all of the demonstration of comparable in vivo bioavailability may be waived. The proposed rule provides for such waivers where appropriate.

C. Conclusion

The basic premise underlying the modified requirement for demonstrating the effectiveness of particular combination new animal drugs is that there exists knowledge about the individual active ingredients or animal drugs contained in that combination. This knowledge exists in the approved applications in the form of substantial evidence of effectiveness of the individual active ingredients or animal drugs. The substantial evidence supporting the effectiveness of an approved active ingredient or animal drug generally is not publicly available but is usually owned by the sponsor of the approved application for the active ingredient or animal drug. Thus, the sponsor submitting an application for a combination new animal drug must either own the underlying applications or obtain a right of reference from the owners of such applications if FDA is to rely upon the substantial evidence contained in those applications.

Sponsors may submit supplemental NADA's and receive supplemental approval of new animal drugs for new intended uses. The approval of a new intended use for a single active ingredient new animal drug that has already been approved for use in a combination new animal drug may necessitate the submission of a new or supplemental application for the combination new animal drug. Such new or supplemental NADA for the combination new animal drug must contain substantial evidence of effectiveness in accordance with this proposed regulation. Sponsors cannot circumvent approval requirements relating to the effectiveness of a combination new animal drug by adding or deleting intended uses to or from any of the new animal drugs approved for use in the combination subsequent to the approval of the combination new animal drug. Section 512(e)(1)(F) of the act would require withdrawal of an existing approval for the combination new animal drug unless the sponsor submits and FDA approves a supplement to the combination NADA that provides adequate information supporting any changes affecting its safety or effectiveness beyond the variations provided for in the approved application.

FDA recognizes that the requirements for obtaining approval of combination new animal drugs are complex. Following the Good Guidance Practices established in the Federal Register of February 27, 1997 (62 FR 8961), FDA's Center for Veterinary Medicine (CVM) intends to develop, for public comment, one or more draft guidance documents representing the agency's current thinking on what information should be included in NADA's to support combination new animal drugs.

In all instances, FDA encourages sponsors to meet with CVM to discuss the development of evidence of safety and effectiveness to support approval of an NADA for single ingredient or combination new animal drugs. In considering the number and types of the adequate and well-controlled studies needed to demonstrate the effectiveness of a new animal drug, the sponsor may also want to discuss with FDA any possible later expansion or extension of the claims for the new animal drug so that the studies conducted in support of the initially proposed intended uses will, to the extent possible, facilitate later approvals.

FDA has chosen to define substantial evidence, consistent with the spirit of the ADAA, in a manner that permits the maximum flexibility in determining what studies are necessary to demonstrate by substantial evidence that a new animal drug is effective. While specificity brings with it consistency and predictability, the spirit of the ADAA is flexibility, efficiency, and greater animal drug availability. FDA believes that consistency and predictability can be maintained by the application of sound science.

IV. Conforming Changes

This proposed rule would make necessary conforming changes to §§ 514.1(b)(8) and 514.111 of the current regulations.

V. Environmental Impact

FDA has carefully considered the potential environmental impacts of this proposed rule. The agency has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VI. Analysis of Economic Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866 and under the Regulatory Flexibility Act (5 U.S.C. 601–612). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). FDA believes that this proposed rule is consistent with the regulatory philosophy and principles identified in the Executive Order. The proposed rule is not a significant regulatory action as defined by the Executive Order.

FDA, as directed by the ADAA, is further defining "substantial evidence," the standard by which a new animal drug is determined to be effective for its intended uses under the conditions of use represented in its proposed labeling. The purpose of the proposed rule further defining substantial evidence is to encourage the submission of NADA's, the submission of supplemental NADA's, and the use of dose range labeling. Accordingly, the proposed definition of substantial evidence, while not changing the standard of effectiveness, recognizes that "substantial evidence," as redefined under the ADAA, gives FDA greater flexibility to determine the number and types of studies that FDA would find demonstrate the effectiveness of any particular new animal drug. For example, under the new statutory definition, sponsor companies are no longer required, in every instance, to submit a field study to establish the effectiveness of a new animal drug under investigation. Because the new definition gives FDA greater flexibility to work with sponsors to tailor the evidence needed to demonstrate effectiveness, this proposed rule is not expected to impose any new marginal costs on the industry. Furthermore, because sponsors will have more options under this revised definition to design and conduct studies to demonstrate effectiveness, and because sponsors can be expected to choose the most efficient and cost effective option, the net effect of this provision is expected to be a small benefit to sponsors.

Further, the revised definition allows for the submission of as few as one adequate and well-controlled study, whereas the previous statutory language required at least two studies. While FDA expects that the instances in which a single study will be sufficient to demonstrate effectiveness will be limited, those sponsors who are able to demonstrate effectiveness by a single adequate and well-controlled study are likely to realize lower drug development costs.

The proposed rule also provides for the submission and review of NADA's for new animal drugs intended for use over a dose range. The ADAA eliminated the statutory requirement to limit the use of a new animal drug to an amount no greater than that reasonably required to accomplish the physical or other technical effect of the drug for its intended use; the act, as amended by the ADAA, permits the use of a new animal drug at any level that is safe for the target animal, effective, and will not result in a residue of such drug in excess of a tolerance found to be safe. Because dose optimization is no longer required, sponsors are no longer required to conduct adequate and well-controlled in vivo dose titration studies, but need only conduct such studies as may be needed to characterize the dose or dose range so that FDA can make a risk-benefit assessment and assure that the labeling for a new animal drug is not false or misleading. Because there will be greater flexibility in determining the studies needed to characterize the dose-response relationship, sponsors are expected to realize a small cost savings.

Finally, the proposed rule further defines substantial evidence as it relates to combination new animal drugs. For certain combination new animal drugs that contain active ingredients or animal drugs that have previously been separately approved, sponsors will not be required to conduct additional studies to demonstrate that the combination new animal drug is effective. This change is expected to provide a cost savings to the sponsors of NADA's that meet the criteria for the streamlined approval process.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities unless the rule is not expected to have a significant economic impact

on a substantial number of small entities. As this proposed regulation will not impose significant new costs on any firms, under the Regulatory Flexibility Act (5 U.S.C. 605(b)), the agency certifies that the proposed rule will not have a significant impact on a substantial number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

VII. Unfunded Mandates Act of 1995

The Unfunded Mandates Act of 1995 (2 U.S.C. 1532) requires that agencies prepare an assessment of the anticipated costs and benefits before proposing any rule that may result in annual expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $160,000,000 or more (adjusted annually for inflation). This proposed rule does not impose any mandates on State, local, or tribal governments, or the private sector that will result in an annual expenditure of $100,000,000 or more.

VIII. Paperwork Reduction Act of 1995

This proposed rule contains information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA of 1995) (44 U.S.C. 3501–3520). A description of the information collection provisions and an estimate of the annual collection of information burden follow.

FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the validity of the methodology and assumptions used.

Title: Substantial Evidence of Effectiveness of New Animal Drugs.

Description: As directed by the ADAA, FDA is publishing a proposed regulation to further define substantial evidence in a manner that encourages the submission of NADA's and supplemental NADA's and encourages dose range labeling. The proposed regulation implements the definition of "substantial evidence" in 21 U.S.C. 360b(d)(3) as amended by the ADAA. Substantial evidence is the standard that a sponsor must meet to demonstrate the effectiveness of a new animal drug for its intended uses under the conditions of use suggested in its proposed labeling. The proposed regulation, § 514.4(a), gives FDA greater flexibility to make case-specific scientific determinations regarding the number and types of adequate and well-controlled studies that will provide, in an efficient manner, substantial evidence that a new animal drug is effective. The proposed regulation will reduce the number of adequate and well-controlled studies necessary to demonstrate the effectiveness of certain combination new animal drugs, will eliminate the need for an adequate and well-controlled dose titration study, and may, in limited instances, reduce or eliminate the number of adequate and well-controlled field investigations necessary to demonstrate by substantial evidence the effectiveness of a new animal drug.

Table 1 below represents the estimated burden of meeting the new substantial evidence standard. The numbers in the chart are based on recent consultation with several of the major research and development firms that conduct the majority of studies submitted to establish substantial evidence of effectiveness of new animal drugs. Because of the more flexible requirements for demonstrating substantial evidence of effectiveness, FDA estimates that the proposed regulation would reduce by approximately 10 percent the total annual burden associated with demonstrating the effectiveness of a new animal drug as part of an NADA or supplemental NADA submission.

Description of Respondents: Persons and businesses, including small businesses.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN

21 CFR	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
514.4(a)	190	4.5	860	632.6	544,036

There are no capital costs or operating and maintenance costs associated with this collection.

In compliance with section 3507(d) of the PRA of 1995, the agency has submitted the information collection provisions of this proposed rule to OMB for review. Interested persons are requested to send comments regarding information collection by December 5, 1997 to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn.: Desk Officer for FDA.

IX. References

The following information has been placed on display in the Dockets Management Branch and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Horton, Richard, "Revising the Research Record," *The Lancet*, vol. 346, p. 1610–11, 1995.

List of Subjects in 21 CFR part 514

Administrative practice and procedure, Animal drugs, Confidential business information, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 514 is amended as follows:

PART 514—NEW ANIMAL DRUG APPLICATIONS

1. The authority citation for 21 CFR part 514 continues to read as follows:

Authority: 21 U.S.C. 351, 352, 360b, 371, 379e, 381.

2. Section 514.1 is amended by revising paragraphs (b)(8)(ii) and (b)(8)(v) to read as follows:

§ 514.1 Applications.

* * * * *

(b) * * *

(8) * * *

(ii) An application may be refused unless it includes substantial evidence of the effectiveness of the new animal drug as defined in § 514.4.

* * * * *

(v) If the new animal drug is a combination of active ingredients or animal drugs, an application may be refused unless it includes substantial evidence of the effectiveness of the combination new animal drug as required in § 514.4.

* * * * *

3. Section 514.4 is added to subpart A to read as follows:

§ 514.4 Substantial evidence.

(a) *Definition of substantial evidence.* Substantial evidence means evidence consisting of one or more adequate and well-controlled studies, such as a study in a target species, study in laboratory animals, field study, bioequivalence study, or an in vitro study, on the basis of which it could fairly and reasonably be concluded by experts qualified by scientific training and experience to evaluate the effectiveness of the new animal drug involved that the new animal drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling or proposed labeling thereof. Substantial evidence shall include such adequate and well-controlled studies that are, as a matter of sound scientific judgment, necessary to establish that a new animal drug will have its intended effect.

(b) *Characteristics of substantial evidence*—(1) *Qualifications of experts.* Studies that are intended to provide substantial evidence of the effectiveness of a new animal drug shall be conducted by experts qualified by scientific training and experience.

(2) *Intended uses and conditions of use.* Studies that are intended to provide substantial evidence of the effectiveness of a new animal drug shall demonstrate that the new animal drug is effective for each intended use and associated conditions of use for and under which approval is sought. Substantial evidence to support dose range labeling for a new animal drug intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease must consist of at least one adequate and well-controlled study on the basis of which qualified experts could fairly and reasonably conclude that the new animal drug will be effective for at least one intended use at the lower dose limit prescribed in the proposed labeling and will be effective for each intended use at the dose suggested in the proposed labeling for that intended use. Substantial evidence to support a dose range for a new animal drug intended to affect the structure or function of the body of an animal for the purpose of enhancing production must consist of at least one adequate and well-controlled study on the basis of which qualified experts could fairly and reasonably conclude that the new animal drug will be effective for each intended use at all the doses within the range prescribed for the intended use. Sponsors should, to the extent possible, provide for a dose range because it increases the utility of the new animal drug by providing the user flexibility in the selection of a safe and effective dose.

(3) *Studies*—(i) *Number.* Substantial evidence of the effectiveness of a new animal drug for an intended use and associated conditions of use shall consist of a sufficient number of current adequate and well-controlled studies of sufficient quality and persuasiveness to permit qualified experts:

(A) To determine that the parameters selected for measurement and the measured responses reliably reflect the effectiveness of the new animal drug;

(B) To determine that the results obtained are likely to be repeatable, and that valid inferences can be drawn to the target animal population; and

(C) To conclude that the new animal drug is effective for the intended use at the dose or dose range and associated conditions of use prescribed, recommended, or suggested in the proposed labeling.

(ii) *Types.* Adequate and well-controlled studies that are intended to provide substantial evidence of the effectiveness of a new animal drug may include, but are not limited to, published studies, foreign studies, studies using models, and studies conducted by or on behalf of the sponsor. Studies using models shall be validated to establish an adequate relationship of parameters measured and effects observed in the model with one or more significant effects of treatment.

(c) *Substantial evidence for combination new animal drugs*—(1) *Definitions*—(i) Combination new animal drug means a new animal drug that contains more than one active ingredient or animal drug that is applied or administered simultaneously in a single dosage form or simultaneously in or on animal feed or drinking water.

(ii) For purposes of this section, antibacterial with respect to a particular target animal species means an active ingredient or animal drug:

(A) That is approved in that species for the diagnosis, cure, mitigation, treatment, or prevention of bacterial disease; or

(B) That is approved for use in that species for any other use that is attributable to its antibacterial properties.

(2) *Combinations with active ingredients or animal drugs that have previously been separately approved.* Except in the case of a combination new animal drug intended for use other than in animal feed or drinking water that contains a nontopical antibacterial ingredient or animal drug, for combination new animal drugs that contain active ingredients or animal drugs that have previously been separately approved for the particular uses and conditions of use for which they are intended in combination, a sponsor shall incorporate into the application for the combination new animal drug substantial evidence of the effectiveness of each active ingredient or animal drug previously approved and shall demonstrate:

(i) By substantial evidence, as defined in this section, that any active ingredient or animal drug intended only for the same use as another active ingredient or animal drug in the combination makes a contribution to the effectiveness of the combination new animal drug;

(ii) For such combination new animal drugs that are intended for use in animal feed or drinking water and contain more than one antibacterial ingredient or animal drug, by substantial evidence, as defined in this section, that each antibacterial makes a contribution to labeled effectiveness;

(iii) That each active ingredient or animal drug intended for at least one use that is different from all the other active ingredients or animal drugs used in the combination provides appropriate concurrent use for the intended target animal population;

(iv) Unless waived in specific cases, that the active ingredients or animal drugs intended for use other than in animal feed or drinking water are physically compatible and do not have disparate dosing regimens by demonstrating bioavailability of the active ingredients or animal drugs in combination relative to the bioavailability of active ingredients or animal drugs singly; and,

(v) Unless waived in specific cases, that the active ingredients or animal drugs intended for use in drinking water are physically compatible by demonstrating bioavailability of the active ingredients or animal drugs in combination relative to the bioavailability of active ingredients or animal drugs singly;

(3) *Other combination new animal drugs.* For all other combination new

animal drugs, the sponsor shall demonstrate by substantial evidence, as defined in this section, that the combination new animal drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the proposed labeling and that each active ingredient or animal drug contributes to the effectiveness of the combination new animal drug.

4. Section 514.111 is amended by revising paragraph (a)(5) to read as follows:

§ 514.111 Refusal to approve an application.

(a) * * *

(5) Evaluated on the basis of information submitted as part of the application and any other information before the Food and Drug Administration with respect to such drug, there is lack of substantial evidence as defined in § 514.4.

* * * * *

Dated: October 30, 1997.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 97–29275 Filed 10–31–97; 2:48 pm]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 58

[AD–FRL–5903–6]

RIN 2060–AF71

Ambient Air Quality Surveillance for Lead

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Lead air pollution levels measured near the Nation's roadways have decreased 97 percent between 1976 and 1995 with the elimination of lead in gasoline used by on-road mobile sources. Because of this historic decrease, EPA is shifting its ambient air monitoring focus from measuring lead air pollutant concentrations emanating from mobile source emissions toward a focus on stationary point sources of lead air pollution. Today's action proposes to revise the part 58 lead air monitoring regulations to allow many lead monitoring stations to be discontinued while maintaining a core lead monitoring network in urban areas to track continued compliance with the lead National Ambient Air Quality Standards (NAAQS). This action also requires lead ambient air monitoring around lead stationary sources. This action is being taken at the direct request of numerous State and local agencies whose on-road mobile source-oriented lead monitors have been reporting peak lead air pollution values that are many times less than the quarterly lead NAAQS of 1.5μg/m³ for many years. Approximately 70 of the National Air Monitoring Stations (NAMS) and a number of the State and Local Air Monitoring Stations (SLAMS) could be discontinued with this action, thus making more resources available to those State and local agencies to deploy lead air quality monitors around heretofore unmonitored lead stationary sources.

DATES: Comments must be submitted on or before December 5, 1997.

ADDRESSES: Comments should be submitted (in duplicate, if possible) to: Air Docket (LE–131), US Environmental Protection Agency, Attn. Docket No. A–91–22, 401 M Street, SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Brenda Millar, Emissions, Monitoring, and Analysis Division (MD–14), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Telephone: (919) 541–4036, e-mail:millar.brenda@email.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Authority

Sections 110, 301(a), and 319 of the Clean Air Act as amended 42 U.S.C. 7410, 7601(a), 7619.

II. Background

The current ambient air monitoring regulations that pertain to lead air sampling were written in the 1970's when lead emissions from on-road mobile sources (e.g., automobiles, trucks) were the predominant lead air emission source affecting our communities. As such, the current lead monitoring requirements focus primarily upon the idea of determining the air quality impacts from major roadways and urban traffic arterial highways. Since the 1970's, lead has been removed from gasoline sources for on-road vehicles (on-oad vehicles now account for less than 1 percent of total lead emissions), and a 97 percent decrease in lead air pollution levels measured in our neighborhoods and near roadways has occurred nationwide. Because of this historic decrease, EPA is reducing its requirements for measuring lead air pollutant concentrations near major highways, and is focusing on stationary point sources and their impacts on neighboring populations.

The current lead air monitoring regulations require that each urbanized area with a population of 500,000 or more operate at least two lead NAMS, one of which must be a roadway-oriented site and the second must be a neighborhood site with nearby traffic arteries or other major roadways. There are approximately 85 NAMS in operation and reporting data for 1996. This action would reduce this NAMS requirement to include one NAMS site in one of the two largest Metropolitan Statistical Areas (MSA/CMSA) within each of the ten EPA Regions, and one NAMS population-oriented site in each populated area (either a MSA/CMSA, town, or county) where lead violations have been measured over the most recent 8 calendar quarters. This latter requirement is designed to provide information to citizens living in areas that have one or more lead stationary sources that are causing recent air quality violations. At present, the MSA/CMSAs, cities, or counties that have one or more quarterly Pb NAAQS violations that would be subject to this requirement include:

TABLE 1.—CMSA/MSA'S OR COUNTIES WITH ONE OR MORE LEAD NAAQS VIOLATIONS IN 1995–1996

CMSA/MSA or county	Contributing lead source(s)
Philadelphia-Wilmington-Atlantic City CMSA	Franklin Smelter in Philadelphia County, PA.
Tampa-St. Petersburg-Clearwater MSA	Gulf Coast Lead in Hillsborough County, FL.
Memphis MSA	Refined Metals in Shelby County, TN.
Nashville MSA	General Smelting in Williamson County, TN.
St. Louis MSA	Chemetco in Madison County, IL, and Doe Run in Jefferson County, MO.
Cleveland-Akron CMSA	Master Metals in Cuyahoga County, OH.
Iron County, MO	ASARCO in/near Hogan, MO.

TABLE 1.—CMSA/MSA'S OR COUNTIES WITH ONE OR MORE LEAD NAAQS VIOLATIONS IN 1995–1996—Continued

CMSA/MSA or county	Contributing lead source(s)
Omaha MSA	ASARCO in Douglas County, NE.
Lewis and Clark County, MT	ASARCO in/near East Helena, MT.

Data from these NAMS will be used to assess national trends in lead ambient air pollution. Figure 1 demonstrates the effect that these monitoring reductions will have on our national lead air pollutant trends.

For other monitoring within the SLAMS network, EPA is proposing to require, State and local agencies to focus their efforts toward establishing air monitoring networks around lead stationary sources which are causing or have a potential to cause exceedances of the quarterly lead NAAQS. Many of these sources have been identified through EPA's ongoing Lead NAAQS Attainment Strategy, and monitoring has already been established. In general, stationary sources emitting five or more tons per year are considered to be candidates for additional lead monitoring, although smaller stationary sources may also be problematic depending upon the facility's size and proximity to neighborhoods. EPA recommends a minimum of two sites per source, one located for stack emission impacts and the other for fugitive emission impacts. Variations of this two-site network are expected as source type, topography, locations of neighboring populations, and other factors play a role in how to most appropriately design such a network. EPA guidance for lead monitoring around point sources has been developed and is available through a variety of sources including the National Technical Information Service (703–487–4650), and electronic forms accessible through EPA's Office of Air Quality Planning & Standards Technology Transfer Network, Ambient Monitoring Technology Information Center (AMTIC) bulletin board system at http://ttnwww.rtpnc.epa.gov.

In addition to the changes to the lead monitoring requirements, EPA proposes several minor changes to update and correct regulatory provisions to current practices. Specifically this affects 40 CFR part 58 sections 58.31, 58.34, 58.41, Appendix B, Appendix D sections 3.2 and 3.3, and Appendix G sections 1 and 2b.

III. Administrative Requirements Section

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations or recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a "significant regulatory action" under the terms of the Executive Order 12866 and is therefore not subject to formal OMB review.

B. Paperwork Reduction Act

Today's action does not impose any new information collection burden. This action proposes to revise the part 58 air monitoring regulations for lead to allow many monitoring sites to be discontinued. The Office of Management and Budget (OMB) has previously approved the information collection requirements in the part 58 regulation under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0084 (EPA ICR No. 0940.13 and revised by 0940.14).

C. Impact on Small Entities

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entitites. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions whose jurisdictions are less than 50,000 people. This proposal will not have a significant impact on a substantial number of small entities because it does not impact small entities whose jurisdictions cover less than 50,000 people. Pursuant to the provision of 5 USC 605(b), I certify that this action will not have a significant economic impact on a substantial number of small entities.

Since this modification is classified as minor, no additional reviews are required.

D. Unfunded Mandates Reform Act of 1995

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final standards that include a Federal mandate that may result in estimated costs to State, local, or tribal governments, or to the private sector, of, in the aggregate, $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the standard and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the standards. The EPA has determined that this action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments. Therefore, the requirements of the Unfunded Mandates Act of 1995 do not apply to this action.

List of Subjects in 40 CFR Part 58

Environmental protection, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Quality assurance requirements.

Carol W. Browner,
Administrator.
[FR Doc. 97–29293 Filed 11–4–97; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 36

[CC Docket No. 80–286; FCC 97–354]

Jurisdictional Separations Reform and Referral to the Federal-State Joint Board

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: On October 2, 1997, the Commission adopted a Notice of Proposed Rulemaking (NPRM), that initiates a proceeding with the goal of reviewing comprehensively the Part 36 jurisdictional separations procedures to ensure that they meet the objectives of the Telecommunication Act of 1996 (1996 Act), and to consider changes that may need to be made to the jurisdictional separations process in light of changes in the law, technology, and market structure of the telecommunications industry. Pursuant to section 410(c) of the Communications Act, the Commission refers the issues raised in the NPRM to the Federal-State Joint Board established in CC Docket No. 80–286 (Separations Joint Board) for preparation of a recommended decision.

This NPRM contains proposed or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed or modified information collections contained in this proceeding.

DATES: Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before December 10, 1997, and reply comments on or before January 26, 1998. Written comments by the public on the proposed and/or modified information collections are due December 10, 1997. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before January 5, 1998.

ADDRESSES: Parties should send their comments or reply comments to Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554. Parties should also send a paper copy, and a copy on 3.5 inch diskette formatted in an IBM compatible form using, if possible, WordPerfect 5.1 for Windows software, to Connie Chapman of the Common Carrier Bureau's Accounting and Audits Division, 2000 L Street, N.W., room 258H, Washington, D.C. 20554. Parties also must serve comments on the Federal-State Joint Board in accordance with the service list (See Attachment). Commenters should also provide one copy of any documents filed in this proceeding to the Commission's copy contractor, International Transcription Service, 1231 20th Street, N.W., Washington, D.C. 20036.

In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to jboley@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725–17th Street, N.W., Washington, DC 20503 or via the Internet to fain_t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: Lynn Vermillera, Accounting and Audits Division, Common Carrier Bureau, (202) 418–7120. Alternate contact, Connie Chapman (202) 418–0885. For additional information concerning the information collections contained in this Notice contact Judy Boley at 202–418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking adopted October 2, 1997, and released October 7, 1997 The full text of this Commission NPRM is available for inspection and copying during normal business hours in the FCC Public Reference Room (Room 239), 1919 M St., N.W., Washington, D.C. The complete text of this NPRM may also be purchased from the Commission's copy contractor, International Transcription Service, 1231 20th Street, N.W., Washington, D.C. 20036.

Summary of Notice of Proposed Rulemaking

1. The NPRM seeks comment on the changes in law, technology, and market structure of the telecommunications industry that affect the separations process. It then seeks comment on the criteria that should be used to evaluate the existing separations process and proposals to reform the process in light of the goals of our comprehensive review.

2. In addition, the NPRM seeks comment on whether separations rules are still needed during the transition period from a regulated to a competitive marketplace. In this section, the Commission seeks comment on whether some form of separations must exist under the 1930 *Smith* v. *Illinois* decision, or whether statutory, regulatory and market changes since that decision have been so pronounced and persuasive as to make its holding inapplicable in the new deregulatory environment.

3. The NPRM then seeks comment on industry proposals to replace the existing Part 36 separations rules. In particular, the NPRM seeks comment on three industry proposals. The NPRM first seeks comment on NYNEX's proposal to separate costs for individual incumbent local exchange carriers (ILECs) in a given study area based on a single, frozen, interstate allocation factor. It then seeks comment on Bell South's proposal to separate costs in each study area based on two factors, one for investment and one for expenses. It then seeks comment on Southwestern Bell's proposal to consolidate the several dozen plant and service categories in the existing separations rules into four cost categories.

4. The NPRM then evaluates the existing separations rules and seeks comment on how various separations reform options would affect prices and revenue requirements. In this section, the NPRM seeks comment on revisions to the definition of "study area." It also seeks comment on whether the existing set of plant, expense, and service categories should be revised. The NPRM also seeks comment on whether there is a need to revise the way in which costs are apportioned to each category and the way in which those costs are then apportioned to the interstate and intrastate jurisdiction.

5. The NPRM also seeks comment on whether and how to separate the costs associated with interconnection. In this section, the Commission proposes two alternatives for allocating the costs of providing interconnection between the state and federal jurisdiction. The first alternative is for the costs, once identified in part 32 as proposed in the companion NPRM on accounting for interconnection, to be removed entirely from the separations process and allocated through a process designed to apply exclusively to these costs. The second alternative is that the costs, once identified in part 32, be separated through the current separations process and allocated directly to the state jurisdiction. In this section, the NPRM also seeks comment on whether the 8th Circuit holding in *Iowa Utilities Board* v. *FCC* requires the assignment of all costs associated with the provision of local exchange service to the intrastate jurisdiction.

6. Finally, the NPRM requests comment regarding changes to the separations rules that may be necessary as a result of the *Universal Service Order* and the Communications Assistance for Law Enforcement Act (CALEA).

Paperwork Reduction Act

7. This NPRM contains either a proposed or modified information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this NPRM, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due at the same time as other comments on this Notice; OMB notification of action is due January 5, 1998. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: 3060–0233.
Title: Part 36—Separations.
Form No.: N/A.
Type of Review: Revision.
Respondents: Businesses or other for profit.
Number of Respondents: 100.
Estimated Time Per Response: 20 hours.
Total Annual Burden: 2000 hours for proposal only. 63,800 burden hours for all Part 36 requirements.
Estimated costs per respondent: $0.
Needs and Uses: In the Notice of Proposed Rulemaking issued in CC Docket No. 80–286, the Commission initiates a proceeding with the goal of reviewing comprehensively our Part 36 jurisdictional separations procedures to ensure that they meet the objectives of the 1996 Act and to consider changes that may need to be made to the jurisdictional separations process in light of changes in the law, technology, and market structure of the telecommunications industry. The Commission seeks comment on a proposal allowing incumbent LECs to separate joint and common costs on an individual basis. The Commission also seeks comment on whether this proposal should be contingent on an ILEC's showing that competition exists in the local markets for which they seek relaxed separations rules. If such a showing is required, the Commission also seeks comment on what level of competition would be required and what indicators should be used to measure the levels of competition in local markets to ensure that joint and common costs are allocated in a manner that produces just and reasonable rates. The proposed requirement will be used to determine whether competition exists in local markets.

Regulatory Flexibility Analysis

8. This NPRM seeks comment on the extent to which separations rules are required, what standards should be used to evaluate separations proposals, and what changes should be made to our existing separations rules. The NPRM states that we want to adopt rules that are easily interpreted and that will minimize any regulatory burdens on affected parties. Section 603 of the Regulatory Flexibility Act (RFA), as amended,[1] requires an initial Regulatory Flexibility Act Analysis in notice-and-comment rulemaking proceedings unless we certify that "the rule will not, if promulgated, have a significant economic impact on a significant number of small entities."[2]

9. Section 603 of the Regulatory Flexibility Act ("RFA")[3] requires an initial regulatory flexibility analysis that describes the impact of the proposed rule on small entities for rulemakings that are required to have public notice and comment. We have determined that the RFA is inapplicable to this proceeding insofar as it pertains to the Bell Operating Companies and other incumbent local exchange carriers. The RFA defines a "small business" to be the same as a "small business concern" under the Small Business Act.[4] Under the Small Business Act, a "small business concern" is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration ("SBA").[5] Section 121.201 of the Small Business Administration regulations defines a small telecommunications entity in SIC code 4813 (Telephone Companies Except Radio Telephone) as any entity with 1,500 or fewer employees at the holding company level.[6] Because our proposals concerning the Part 36 separations process will affect all incumbent local exchange carriers providing interstate services, some entities employing fewer than 1500 employees at the holding company level may be affected by the proposals made in this NPRM. However, we do not consider such entities to be "small entities" under the RFA because they are either affiliates of large corporations or dominant in their field of operations. Therefore, we do not believe that the proposed rules will affect a substantial number of small entities. Even if small ILECs were "small entities" under the SBA, however, we would still certify that no regulatory flexibility analysis is necessary here because none of the proposals in this NPRM, if adopted, would have a significant economic impact (as such term is used in the RFA) on the carriers which must comply with our accounting rules. One of the primary objectives of this proceeding is to seek comment on proposals to simplify the current separations process in an effort to lessen the regulatory burden on carriers in furtherance of a deregulatory national policy framework.

10. We therefore certify, pursuant to section 605(b) of the RFA, that the rules proposed in this NPRM will not have a significant economic impact on a substantial number of small entities. The Commission will publish this certification in the **Federal Register** and will provide a copy of the certification to the Chief Counsel for Advocacy of the SBA. The Commission will also include this certification in the report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act.[7]

Ordering Clause

11. Accordingly, *It Is Ordered* that, pursuant to sections 1, 2, 4, 201–205, 215, 218, 220, 229, 254, and 410 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154, 201–205, 215, 218, 220, 229, 254 and 410 that *Notice Is Hereby Given* of proposed amendments to Part 36 of the Commission's rules, 47 CFR Part 36, as

[1] 5 U.S.C. § 603.
[2] *Id.* at § 605(b).
[3] *See id.* § 603.
[4] *Id.* § 601(6) (adopting 15 U.S.C. § 632(a)(1)).
[5] *Id.* § 632. *See, e.g., Brown Transport Trucklood, Inc.* v. *Southern Wipers, Inc.*, 176 B.R. 82 (N.D. Ga. 1994).
[6] 13 CFR 121.201.
[7] 5 U.S.C. § 801(a)(1)(A).

described in this *Notice of Proposed Rulemaking*.

12. *It Is Further Ordered* that, pursuant to section 410(c) of the Communications Act of 1934, 47 U.S.C. 410(c), the proposals set forth in the Notice of Proposed Rulemaking are hereby referred to the Federal-State Joint Board established in CC Docket No. 80–286 for preparation of a recommended decision.

13. *It Is Further Ordered*, that a copy of all filings in this proceeding shall be served on each of the appointees and staff personnel on the attached service list.

List of Subjects in 47 CFR Part 36

Jurisdictional Separations Procedures; Standard Procedures for Separating Telecommunications Property, Costs, Revenues, Expenses, Taxes and Reserves for Telecommunications Companies.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Attachment—Service List: 80–286 Separations Federal-State Joint Board

The Honorable Reed E. Hundt, Chairman, Federal Communications Commission, 1919 M Street N.W.—Room 814, Washington, D.C. 20554, 202–418–1000

The Honorable Rachelle B. Chong, Commissioner, Federal Communications Commission, 1919 M Street N.W.—Room 844, Washington, D.C. 20554, 202–418–2200

The Honorable Susan Ness, Commissioner, Federal Communications Commission, 1919 M Street N.W.—Room 832, Washington, D.C. 20554, 202–418–2100

The Honorable Cheryl L. Parrino, Chair, Wisconsin Public Service Commission, Post Office Box 7854, Madison, WI 53707–7854

The Honorable David W. Rolka, Commissioner, Pennsylvania Public Utility Commission, North Office Building—Room 110, Commonwealth Avenue and North Street, Harrisburg, PA 17105

The Honorable Joan H. Smith, Commissioner, Oregon Public Utility Commission, 550 Capitol Street, N.E., Salem, OR 97310

The Honorable Thomas L. Welch, Chairman, Maine Public Utilities Commission, 242 State Street, State House Station 18, Augusta, ME 04333

Joint Board Staff

Debra M. Kriete, Pennsylvania Public Utility Commission, North Office Building—Room 110, Commonwealth Avenue and North Street, Harrisburg, PA 17105–3265

Steve Burnett, Federal Communications Commission, Common Carrier Bureau—Accounting & Audits Div., 2000 L Street, N.W.—Room 257, Washington, D.C. 20036

Connie Chapman, Federal Communications Commission, Common Carrier Bureau—Accounting & Audits Div., 2000 L Street, N.W.—Room 258H, Washington, D.C. 20036

Sandy Ibaugh, Indiana Utility Regulatory Commission, 302 W. Washington, Suite E–306, Indianapolis, IN 46204

Jonathon Lakritz, California Public Utilities Commission, California State Building 505 Van Ness Avenue, San Francisco, California 94102

Samuel Loudenslager, Arkansas Public Service Commission, 1000 Center Street, Little Rock, AR 72203

Chuck Needy, Federal Communications Commission, Common Carrier Bureau—Accounting & Audits Div., 2000 L Street, N.W.—Room 812, Washington, D.C. 20036

Paul Pederson, Missouri Public Service Commission, Post Office Box 360, Jefferson City, MO 65102

Scott Potter, Public Utilities Commission of Ohio, 180 E. Broad St., 3rd Fl., Columbus, OH 43215

James Bradford Ramsay, Assistant General Counsel, National Association of Regulatory Utility Commissioners, 1102 ICC Building, Constitution Avenue & 12th Street, N.W., Post Office Box 684, Washington, D.C. 20044–0684

Jeffrey J. Richter, Public Service Commission of Wisconsin, P.O. Box 7854, Madison, WI 53707–7854

Mike Sheard, Montana Public Utilities Commission, 1701 Prospect Ave., P.O. Box 202601, Helena, MT 59620

Kaylene Shannon, Federal Communications Commission, Common Carrier Bureau—Accounting & Audits Div., 2000 L Street, N.W.—Room 200H, Washington, D.C. 20036

Joel B. Shifman, Maine Public Utilities Commission, State House Station #18, Augusta, ME 04333

Fred Sistarenik, State Joint Board Staff Chair, New York State Department of Public Service, Communications Division, Three Empire State Plaza, Albany, New York 12223–1350

Cynthia Van Landuyt, Oregon Public Utility Commission, 550 Capitol St. NE, Salem, OR 97310

Lynn Vermillera, Federal Communications Commission, Common Carrier Bureau—Accounting & Audits Div., 2000 L Street, N.W.—Room 200E, Washington, D.C. 20036

John Wobbleton, Federal Communications Commission, Common Carrier Bureau—Accounting & Audits Div., 2000 L Street, N.W.—Room 257, Washington, D.C. 20036

[FR Doc. 97–29246 Filed 11–4–97; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 102997A]

RIN 0648–AK13

Fisheries of the Exclusive Economic Zone Off Alaska; Revise Management Authority of Pelagic Shelf Rockfish; Notice of Availability

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability; request for comments.

SUMMARY: The North Pacific Fishery Management Council (Council) has submitted Amendment 46 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) for Secretarial review. This amendment would remove black and blue rockfish from the FMP. The State of Alaska would then assume management of those species. This action is necessary to allow the State of Alaska to implement more responsive, regionally based, management of these species than is currently possible under the FMP. NMFS is requesting comments from the public on the proposed amendment, copies of which may be obtained from the Council (see **ADDRESSES**).

DATES: Comments on Amendment 46 must be submitted by January 5, 1998.

ADDRESSES: Comments on the FMP amendment should be submitted to Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK. Copies of Amendment 46 and the Environmental Assessment/Regulatory Impact Review (EA/RIR) and related economic analysis prepared for the proposed action are available from the North Pacific Fishery Management Council, 605 West 4th Ave., Suite 306, Anchorage, AK 99501–2252; telephone: 907–271–2809.

FOR FURTHER INFORMATION CONTACT: Alan Kinsolving, 907–586–7228.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that each Regional Fishery Management Council submit any fishery management plan amendment it prepares to NMFS for review and approval, disapproval, or partial disapproval. The Magnuson-Stevens Act also requires that NMFS, after receiving a fishery management plan or amendment, immediately publish a document in the **Federal Register** that the fishery management plan or amendment is available for public review and comment. This action constitutes such notice for Amendment 46 to the FMP.

Amendment 46 was adopted by the Council at its June 1997 meeting. It would remove black rockfish (*Sebastes melanops*) and blue rockfish (*Sebastes mystinus*) from the FMP and allow the State of Alaska to extend its management authority for these species into Federal waters. This action would allow the State of Alaska to implement small area harvest guidelines, developed by using more appropriate sampling methodologies than are currently used under Federal management. This action is necessary to prevent possible overexploitation and localized depletion of black and blue rockfish resources.

NMFS will consider the public comments received during the comment period in determining whether to approve the proposed amendment. A proposed rule to implement Amendment 46 has been submitted for Secretarial review and approval. The proposed rule to implement this amendment is scheduled to be published within 15 days of this document.

Comments received by January 5, 1998, whether specifically directed to the amendment or the proposed rule, will be considered in the approval/disapproval decision on Amendment 46. Comments received after that date will not be considered in the approval/disapproval decision. All comments received on Amendment 46 or on the proposed rule during their respective comment periods will be addressed in the final rule.

Dated: October 30, 1997.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–29284 Filed 11–4–97; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 62, No. 214
Wednesday, November 5, 1997

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doclist No. TB–97–15]

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request an extension for and revision to a currently approved information collection in support of the Dairy and Tobacco Adjustment Act of 1983 and the Tobacco Inspection Act and the Regulations Governing the Tobacco Standards.

DATES: Comments on this notice must be received by January 5, 1997 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact John W. Foster, Chief, Standardization and Review Branch, Tobacco Programs, Agricultural Marketing Service, U.S. Department of Agriculture, Room 511 Annex Building, P.O. Box 96456, Washington, D.C. 20090–6456, Telephone (202) 205–0744 and Fax (202) 205–1191.

SUPPLEMENTARY INFORMATION:

Title: Reporting and Recordkeeping Requirements for 7 CFR part 29.

OMB Number: 0581–0056.

Expiration Date of Approval: April 30, 1998.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: The Tobacco Inspection Act (7 U.S.C. 511 *et seq.*) requires that all tobacco sold at designated auction markets in the U.S. be inspected and graded. Provision is also made for interested parties to request inspection and grading services on an as needed basis. Also, the Dairy and Tobacco Adjustment Act of 1983 (7 U.S.C. 511r) authorizes the Secretary to inspect all tobacco offered for importation into the United States for grade and quality except cigar and oriental tobacco which must be certified by the importer as to kind and type, and in the case of cigar tobacco, that such tobacco will be used solely in the manufacture of cigars.

The information collection requirements authorized for the programs under the Tobacco Inspection Act and the Dairy and Tobacco Adjustment Act of 1983 include: applications for inspection of tobacco, applications and other information used in the approval of new auction markets or the extension of services to designated tobacco markets, and information required to be provided in connection with auction sales.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.40 hours per response.

Respondents: Primarily tobacco companies, tobacco manufactures, import inspectors, and small businesses or organizations.

Estimated Number of Respondents: 13,504.

Estimated Number of Responses per Respondent: 4.

Estimated Total Annual Burden on Respondents: 5,569.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to John W. Foster, Chief, Standardization and Review Branch, Tobacco Programs, Agricultural Marketing Service, U.S. Department of Agriculture, Room 511 Annex Building, P.O. Box 96456, Washington, D.C. 20090–6456 and will be available for the public inspection in Room 511 Annex Building, USDA, AMS, Tobacco Programs, Standardization and Review Branch, 300 12th Street, S.W., Washington, D.C. 20250. All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: October 30, 1997.

William O. Coats,

Acting Deputy Administrator, Tobacco Programs.

[FR Doc. 97–29314 Filed 10–31–97; 4:52 pm]

BILLING CODE 3410–02–M

DEPARTMENT OF AGRICULTURE

Forest Service

Southwest Oregon Provincial Interagency Executive Committee (PIEC), Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Southwest Oregon PIEC Advisory Committee will meet on November 20 at the Douglas County Library, at 1409 NE Diamond Lake Blvd. in Roseburg, Oregon. The meeting will begin at 9:00 a.m. and continue until 5:00 p.m. Agenda items to be covered include: (1) Survey and Manage requirements of the Northwest Forest Plan; (2) Province monitoring priorities; (3) Forest health issues; (4) Report from Aquatic Conservation Subcommittee; (5) Report from local BLM and Forest Service on local issues; and (6) Public comment. All Province Advisory Committee meetings are open to the public.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Chuck Anderson, Province Advisory Committee staff, USDA, Forest Service, Rogue River National Forest, 333 W. 8th Street, Medford, Oregon 97501, phone 541–858–2322.

Dated: October 27, 1997.

James T. Gladen,

Forest Supervisor, Designated Federal Official.

[FR Doc. 97–29186 Filed 11–4–97; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Patent and Trademark Office (PTO).

Title: Deposit of Biological Materials.

Form Number(s): None.

Agency Approval Number: 0651–0022.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 3,301 hours.

Number of Respondents: Approximately 3,300.

Avg. Hours Per Response: 1 hour for deposits of biological material and 5 hours for depositories seeking PTO recognition.

Needs and Uses: Every patent must include a written description of the invention sufficient to enable a person to make and use the invention. When the invention involves a biological material, sometimes words cannot sufficiently describe how to make and use the invention in a reproducible manner. In such cases, the biological material must be deposited in a depository so that the public can obtain samples. Also, the patent rules contain a provision on how to be designated as a depository. PTO determines the suitability of a depository based on its administrative and technical competence.

Affected Public: Individuals, businesses or other for-profit organizations, non-profit institutions, and Federal agencies or employees.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a patent.

OMB Desk Officer: Maya A. Bernstein, (202) 395–3785.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication to Maya A. Bernstein, OMB Desk Officer, Room 10236, New Executive Office Building, 725 17th Street, N.W., Washington, D.C. 20503.

Dated: October 27, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–29204 Filed 11–4–97; 8:45 am]

BILLING CODE: 3510–16–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 930]

Approval of Manufacturing Activity Within Foreign-Trade Zone 147, York, Pennsylvania; Precision Components Corporation (Inc.) (Nuclear Fuel Containment Vessels)

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, § 400.28(a)(2) of the Board's regulations, requires approval of the Board prior to commencement of new manufacturing/processing activity within existing zone facilities;

Whereas, the Foreign-Trade Zone Corporation of Southeastern Pennsylvania, grantee of FTZ 147, has requested authority under § 400.28(a)(2) of the Board's regulations on behalf of Precision Components Corporation (Inc.), to manufacture nuclear fuel containment vessels under zone procedures within FTZ 147, York, Pennsylvania (filed 9–24–96; FTZ Doc. 69–96, 61 FR 51405, 10–2–96);

Whereas, the Board adopts the findings and recommendation of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied and that the proposal is in the public interest;

Now, Therefore, the Board hereby approves the request subject to the Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 28th day of October 1997.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

John J. Da Ponte, Jr.

Executive Secretary.

[FR Doc. 97–29297 Filed 11–4–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 102197C]

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of modification 1 to permit 992.

SUMMARY: Notice is hereby given that NMFS has issued a modification to a permit to California State University at Chico, CA (CSU) that authorizes a take of an endangered anadromous fish species for the purpose of scientific research, subject to certain conditions set forth therein.

ADDRESSES: The application and related documents are available for review in the following offices, by appointment:

Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401); and

Protected Species Division, 777 Sonoma Avenue, Room 325, Santa Rosa, CA 95404 (707–575–6050).

FOR FURTHER INFORMATION CONTACT: Lisa Holsinger, Protected Species Division, Santa Rosa, CA (707–575–6064).

SUPPLEMENTARY INFORMATION: The modification to a permit was issued under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531-1543) and the NMFS regulations governing ESA-listed fish and wildlife permits (50 CFR parts 217–222).

Modification 1 to permit 992 was issued to CSU on October 3, 1997. Permit 992 authorizes CSU an annual take of juvenile, endangered, Sacramento River winter-run chinook salmon (*Oncorhynchus tshawytscha*) associated with scientific research. For modification 1, CSU is authorized to use electrofishing gear in sampling activities aimed at capturing juvenile salmon in six non-natal rearing streams in the Central Valley. In addition, CSU is

authorized to collect non-lethal, caudal fin tissue samples from ESA-listed fish and to conduct genetic analyses of the fin tissue. Issuance of the permit modification will not result in an increase in the number of ESA-listed winter-run chinook salmon authorized to be captured and handled by permit 992. Modification 1 is valid for the duration of permit 992. Permit 992 expires on June 30, 1999.

The modification to a permit, as required by the ESA, was based on a finding that the action: (1) Was requested/proposed in good faith, (2) will not operate to the disadvantage of the endangered species that is the subject of the permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA and the NMFS regulations governing ESA-listed species permits.

Dated: October 29, 1997.

Nancy Chu,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–29282 Filed 11–4–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 102397A]

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of applications for scientific research permits (1061, 1062, 1065).

SUMMARY: Notice is hereby given that the California Department of Forestry and Fire Protection (CDF), in Santa Rosa, CA, Georgia-Pacific West Inc. (GPWI), in Fort Bragg, CA, and ENTRIX, in Walnut Creek, CA, have applied in due form for permits authorizing takes of a threatened species for scientific research purposes.

DATES: Written comments or requests for a public hearing on any of these applications must be received on or before December 5, 1997.

ADDRESSES: The applications and related documents are available for review in the following offices, by appointment:

Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401); and

Protected Species Division, NMFS, 777 Sonoma Avenue, Room 325, Santa Rosa, CA 95404–6528 (707–575–6066).

Written comments or requests for a public hearing should be submitted to the Protected Species Division in Santa Rosa, CA.

FOR FURTHER INFORMATION CONTACT: Thomas Hablett, Protected Resources Division (707–575–6066).

SUPPLEMENTARY INFORMATION: CDF, GPWI and ENTRIX request permits under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and the NMFS regulations governing ESA-listed fish and wildlife permits (50 CFR parts 217–227).

CDF (1061) requests a five-year permit for takes of juvenile, threatened, southern Oregon/northern California coast coho salmon (*Oncorhynchus kisutch*) associated with monitoring projects in coastal streams within the Evolutionarily Significant Unit (ESU). The studies consist of coho salmon distribution and abundance surveys for which ESA-listed fish are proposed to be taken. ESA-listed fish will be captured, anesthetized, handled (identified and measured), allowed to recover from the anesthetic, and released. ESA-listed salmon indirect mortalities associated with the research are also requested.

GPWI (1062) requests a five-year permit for takes of juvenile, threatened, southern Oregon/northern California coast coho salmon (*Oncorhynchus kisutch*) associated with fish population studies on GPWI properties in drainages of the south fork of the Eel River within the ESU. The studies consist of coho salmon distribution and abundance surveys for which ESA-listed fish are proposed to be taken. ESA-listed fish will be captured, anesthetized, handled (identified and measured), allowed to recover from the anesthetic, and released. ESA-listed salmon indirect mortalities associated with the research are also requested.

ENTRIX (1065) requests a five-year permit for takes of adult and juvenile, threatened, southern Oregon/northern California coast coho salmon (*Oncorhynchus kisutch*) associated with fish population and habitat studies on the Klamath and Trinity Rivers within the ESU. The studies consist of five assessment tasks for which ESA-listed fish are proposed to be taken: (1) Presence/absence, (2) population estimates, (3) habitat quality evaluation, (4) spawner surveys, and (5) tissue removal for genetic analysis. ESA-listed fish are proposed to be observed or captured, anesthetized, handled (measured and tissue samples taken), allowed to recover from the anesthetic, and released. ESA-listed salmon indirect mortalities associated with the research are also requested.

Those individuals requesting a hearing on these requests for permits should set out the specific reasons why a hearing would be appropriate (see **ADDRESSES**). The holding of such a hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the above application summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Dated: October 27, 1997.

Nancy Chu,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–29283 Filed 11–4–97; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Wool Textile Products Produced or Manufactured in Poland

October 30, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: November 5, 1997.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The current limit for Category 435 is being increased for swing and carryover. The limit for Category 410 is being reduced to account for the swing being applied.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 61 FR 66263, published on December 17, 1996). Also see 61 FR 55974, published on October 30, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 30, 1997.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 25, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Poland and exported during the twelve-month period which began on January 1, 1997 and extends through December 31, 1997.

Effective on November 5, 1997, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
410	2,604,962 square meters.
435	14,769 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1996.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 97–29247 Filed 11–4–97; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Associated Form, And OMB Number: Air Force Academy Request for Secondary School Transcript; USAFA Form 148; OMB Number 0701–0066.

Type of Request: Reinstatement.

Number of Respondents: 3,874.

Responses Per Respondent: 1.

Annual Responses: 3,874.

Average Burden Per Response: 27 minutes.

Annual Burden Hours: 1,743.

Needs and Uses: The information collection requirement is necessary to obtain data on a candidate's family and personal background for use in determining eligibility and selection to the Air Force Academy. The information collected under the authority of 10 U.S.C. 9346. The respondents are students applying for admission to the U.S. Air Force Academy. Each student's high school athletic, nonathletic, and extracurricular activities are reviewed to determine eligibility. If the information on this form is not collected, the individual cannot be considered for admittance to the Air Force Academy.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DOD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: October 30, 1997.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–29177 Filed 11–4–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Associated Form, and OMB Number: Air Force Academy Candidate Personal Data Record; USAFA Form 146; OMB Number 0701–0064.

Type of Request: Reinstatement.

Number of Respondents: 4,176.

Responses per Respondent: 1.

Annual Responses: 4,176.

Average Burden per Response: 30 minutes.

Annual Burden Hours: 2,088.

Needs and Uses: The information collection requirement is necessary to obtain data on a candidate's family and personal background for use in determining eligibility and selection to the Air Force Academy. The information collected under the authority of 10 U.S.C. 9346. The respondents are students applying for admission to the U.S. Air Force Academy. Each student's high school athletic, nonathletic, and extracurricular activities are reviewed to determine eligibility. If the information on this form is not collected, the individual cannot be considered for admittance to the Air Force Academy.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DOD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: October 30, 1997.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–29178 Filed 11–4–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review, Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Associated Form, and OMB Number: Air Force Academy Candidate Activities Record; USAFA Form 147; OMB Number 0701–0063.

Type of Request: Reinstatement.

Number of Respondents: 4,004.

Responses Per Respondent: 1.

Annual Responses: 4,004.

Average Burden Per Response: 45 minutes.

Annual Burden Hours: 3,003.

Needs and Uses: The information collection requirement is necessary to obtain data on a candidate's family and personal background for use in determining eligibility and selection to the Air Force Academy. The information collected under the authority of 10 U.S.C. 9346. The respondents are students applying for admission to the U.S. Air Force Academy. Each student's high school athletic, nonathletic, and extracurricular activities are reviewed to determine eligibility. If the information on this form is not collected, the individual cannot be considered for admittance to the Air Force Academy.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DOD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: October 30, 1997.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–29179 Filed 11–4–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Meeting of the DOD Advisory Group on Electron Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices.

ACTION: Notice.

SUMMARY: Working Group A (Microwave Devices) of the DOD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Tuesday, December 9, 1997.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Eric Carr, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, VA 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director of Defense Research and Engineering (DDR&E), and through the DDR&E to the Director, Defense Advanced Research Projects Agency (ARPA) and the Military Departments in planning and managing an effective and economical research and development program in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave devices, electronic warfare devices, millimeter wave devices, and passive devices. The review will include details of classified defense programs throughout.

In accordance with Section 10(d) of Public Law 92–463, as amended, (5 U.S.C. App. section 10(d)(1994)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1994), and that accordingly, this meeting will be closed to the public.

Dated: October 30, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–29180 Filed 11–4–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Meeting of the DOD Advisory Group on Electron Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices.

ACTION: Notice.

SUMMARY: Working Group B (Microelectronics) of the DOD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Friday, December 12, 1997.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Timothy Doyle, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, VA 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director Defense Research and Engineering (DDR&E), and through the DDR&E, to the Director Defense Advanced Research Projects Agency and the Military Departments in planning and managing an effective research and development program in the field of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military proposes to initiate with industry, universities or in their laboratories. The microelectronics area includes such programs on semiconductor materials, integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with Section 10(d) of Public Law 92–463, as amended, (5 U.S.C. App. section 10(d) (1994)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1994), and that accordingly, this meeting will be closed to the public.

Dated: October 30, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–29181 Filed 11–04–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Meeting of the DOD Advisory Group on Electron Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices.

ACTION: Notice.

SUMMARY: Working Group C (Electro-Optics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Tuesday, November 18, 1997.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Elise Rabin, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director of Defense Research and Engineering (DDR&E), and through the DDR&E to the Director, Defense Advanced Research Projects Agency and the Military Departments in planning and managing an effective and economical research and development program in the area of electron devices

The Working Group C meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This opto-electronic device area includes such programs as imaging device, infrared detectors and lasers. The review will include details of classified defense programs throughout.

In accordance with Section 10(d) of Public Law 92–463, as amended, (5 U.S.C. App. section 10(d)(1994)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1994), and that accordingly, this meeting will be closed to the public.

Dated: October 30, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–29182 Filed 11–4–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Meeting of the DOD Advisory Group on Election Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices.

ACTION: Notice.

SUMMARY: The DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Wednesday, December 10, 1997.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Mr. Eliot Cohen, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, VA 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director of Defense Research and Engineering (DDR&E), and through the DDR&E to the Director, Defense Advanced Research Projects Agency and the Military Department in planning and managing an effective and economical research and development program in the area of electron devices.

The AGED meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The agenda for this meeting will include programs on Radiation Hardened Devices, Microwave Tubes, Displays and Lasers. The review will include details of classified defense programs throughout.

In accordance with Section 10(d) of Public Law 92–463, as amended, (5 U.S.C. App. section 10(d) (1994)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1994), and that accordingly, this meeting will be closed to the public.

Dated: October 30, 1997.

L.M. Bynum,

Alternate, OSD Federal Register Liaison Officer Department of Defense.

[FR Doc. 97–29183 Filed 11–4–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

National Defense Panel Meeting

AGENCY: DOD, National Defense Panel.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and summary agenda for the meeting of the National Defense Panel on November 3, 1997, In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended [5 U.S.C. App. II, (1982)], it has been determined that this National Defense Panel meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public from 0900–1700, November 3, 1997 in order for the Panel to discuss classified material.

DATES: November 3, 1997.

ADDRESSES: Suite 532, 1931 Jefferson Davis Hwy, Arlington VA.

SUPPLEMENTARY INFORMATION: The National Defense Panel was established on January 14, 1997 in accordance with the Military Force Structure Review Act of 1996, Public Law 104–201. The mission of the National Defense Panel is to provide the Secretary of Defense and Congress with an independent, non-partisan assessment of the Secretary's Quadrennial Defense Review and an Alternative Force Structure Analysis. This analysis will explore innovative ways to meet the national security challenges of the twenty-first century.

PROPOSED SCHEDULE AND AGENDA: The National Defense Panel will meet in closed session from 0900–1700 on November 3. During the closed session the Panel will hear the NDP staff presentations on Cost & Budget Issues, Reserves, Alliances and Report Outline Review on Infrastructure at the Crystal Mall 3 office.

The determination to close the meeting is based on the consideration that it is expected that discussion will involve classified matters of national security concern throughout.

This Notification also is written verification that the Panel was unable to provide notice of this meeting 15 days prior to the date of the meeting, due to the scheduling conflicts with the Program Managers who will brief the Panel.

FOR FURTHER INFORMATION CONTACT: Please contact the National Defense Panel at (703) 602–4175/6.

Dated: October 30, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–29184 Filed 11–4–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

National Defense Panel Meeting

AGENCY: DoD, National Defense Panel.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and summary agenda for the meeting of the National Defense Panel on November 13 and 14, 1997. In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended [5 U.S.C. App. II, (1982)], it has been determined that this National Defense Panel meeting concerns matters listed in 5 U.S.C. 552b (c)(1)(1982), and that accordingly this meeting will be closed to the public from 0900–1700, November 13 and 14, 1997 in order for the Panel to discuss classified material.

DATES: November 13 and 14, 1997.

ADDRESSES: Suite 532, 1931 Jefferson Davis Hwy, Arlington VA.

SUPPLEMENTARY INFORMATION: The National Defense Panel was established on January 14, 1997 in accordance with the Military Force Structure Review Act of 1996, Public Law 104–201. The mission of the National Defense Panel is to provide the Secretary of Defense and Congress with an independent, non-partisan assessment of the Secretary's Quadrennial Defense Review and an Alternative Force Structure Analysis. This analysis will explore innovative ways to meet the national security challenges of the twenty-first century.

Proposed Schedule and Agenda

The National Defense Panel will meet in closed session from 0900–1700 on November 13 and 14. During the closed session on November 13th from 0900–1700 the NDP staff will present the Panel with status updates on Counterproliferation, WMD Deterrence, and Humint at the Crystal Mall 3 office. On November 14th from 0900 to 1700 the NDP will hear staff presentations on Nuclear Policy, Issue Brief on Industrial Base and the Rollout Update at the Crystal Mall 3 office.

The determination to close the meeting is based on the consideration that it is expected that discussion will involve classified matters of national security concern throughout.

FOR FURTHER INFORMATION: Please contact the National Defense Panel at (703) 602–4176/6.

Dated: October 30, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–29185 Filed 11–4–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF EDUCATION

Direct Grant Programs and Fellowship Programs

AGENCY: Department of Education.

ACTION: Correction; Notice.

SUMMARY: On October 7, 1997, the Education Department published in the **Federal Register** (62 FR 52429) a notice announcing direct grant programs and fellowship programs under which the Secretary has invited or expects to invite applications for new awards for fiscal year 1998. This notice corrects a telephone number listed in Chart 5 of the October 7 notice. On page 52441, the telephone number (202) 205–9182 for the Grants and Contracts Services Team, Office of Special Education and Rehabilitative Services, Office of Special Education Programs is corrected to (202) 260–9182.

FOR FURTHER INFORMATION CONTACT: Art Stewart, U. S. Department of Education, 600 Independence Avenue, S.W., Room 3652, ROB–3, Washington, DC 20202–4248. Telephone: (202) 708–8515. Internet: (Arthur—Stewart@ed.gov). Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number, if any, listed in the individual application notices. If a TDD number is not listed for a given program, individuals who use a TDD may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Dated: October 30, 1997.

Donald Rappaport,

Chief Financial and Chief Information Officer.

[FR Doc. 97–29199 Filed 11–4–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Arbitration Panel Decision Under the Randolph-Sheppard Act

AGENCY: Department of Education.

ACTION: Notice of arbitration panel decision under the Randolph-Sheppard Act.

SUMMARY: Notice is hereby given that on June 6, 1997, an arbitration panel rendered a decision in the matter of *Richard Fracasso* v. *Rhode Island Department of Human Services, Office of Rehabilitation Services (Docket No. R–S/94–2)*. This panel was convened by the U. S. Department of Education pursuant to 20 U.S.C. 107d–1(a), upon receipt of a complaint filed by petitioner, Richard Fracasso.

FOR FURTHER INFORMATION CONTACT: A copy of the full text of the arbitration panel decision may be obtained from George F. Arsnow, U. S. Department of Education, 600 Independence Avenue, S.W., Room 3230, Mary E. Switzer Building, Washington D.C. 20202–2738. Telephone: (202) 205–9317. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–8298.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Electronic Access to This Document

Anyone may also view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://gcs.ed.gov//fedreg.htm
http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

SUPPLEMENTARY INFORMATION: Pursuant to the Randolph-Sheppard Act (20 U.S.C. 107d–2(c)), the Secretary publishes in the **Federal Register** a synopsis of each arbitration panel decision affecting the administration of vending facilities on Federal and other property.

Background

Mr. Richard Fracasso, a blind licensee, completed the Randolph-Sheppard vending facility training program under the auspices of the Rhode Island Department of Human Services, Office of Rehabilitation Services, the State licensing agency (SLA).

Mr. Fracasso was placed on the Graduate Permanent Transfer Seniority List, effective November 22, 1991. The SLA, according to section IX of its Rules and Regulations governing the Randolph-Sheppard vending program in Rhode Island, maintains two lists regarding vendor transfer and promotions. One list is a Vendor Permanent Transfer Seniority List, which ranks licensed operators based on the length of time the licensee actually has operated a vending facility. The other is a Graduate Permanent Transfer Seniority List, which ranks graduate licensees awaiting a vending facility location by seniority, based upon each person's graduation date from the vending facility training program.

In May 1993, the Woonsocket Post Office vending facility became open for bid, and complainant decided not to submit a bid for this location. Also, no other licensed operator or licensee awaiting a vending assignment submitted a bid at the time of the bid closing. Subsequently, the SLA assigned another recent licensee to this location, which placed the new graduate on the Vendor Permanent Transfer Seniority List.

In July 1993 the Providence Health Lab came up for bid, and Mr. Fracasso submitted his bid for this location. The official bidding period closed, and the SLA notified complainant that the Providence Health Lab had been awarded to the licensee who had been assigned to operate the Woonsocket Post Office.

Mr. Fracasso requested and received on December 16, 1993, a State fair hearing regarding the placement of the other new licensee at the Providence Health Lab. The complainant alleged that the SLA illegally awarded that location to the other vendor since the other new vendor never actually operated the Woonsocket Post Office vending facility. Mr. Fracasso further alleged that the SLA's action in placing the new graduate on the Vendor Permanent Transfer Seniority List gave that vendor an unfair advantage over complainant in his bid on the Providence Health Lab.

On March 4, 1994, the Hearing Officer issued his opinion affirming the SLA's decision to place the other new graduate at the Woonsocket Post Office since no one else from either of the two transfer seniority lists had placed a bid on the facility. The Hearing Officer also concluded that "when the health laboratory vending facility became subject to a bid solicitation, the award was granted to the most senior vendor who bid. The most senior vendor who bid was the recent graduate from the training activity who had been awarded the vending facility in Woonsocket, R.I. on July 12, 1993."

The SLA adopted the Hearing Officer's decision as final agency action, and it was this decision that Mr. Fracasso sought to have reviewed by a Federal arbitration panel. A Federal arbitration hearing was held on December 4, 1995, concerning this complaint. On December 20, 1996, the panel reconvened, one panel member dissenting, at the request of the complainant to hear additional evidence.

The issues heard by the arbitration panel were—(1) Whether the SLA violated its bidding procedures in a manner that adversely affected Mr. Fracasso; (2) If the SLA were found in violation of its bidding procedures, whether an arbitration panel convened by an administrative agency of the Executive branch of government could order a State to pay money damages to a private individual under the Randolph-Sheppard Act; and (3) If the SLA were found in violation of its bidding procedures, what other remedies, if any, would be appropriate to redress the deprivation caused by the SLA of the complainant's enforceable rights.

Arbitration Panel Decision

Based upon the evidence presented at the hearing on this matter, the majority of the arbitration panel concurred with the SLA's acknowledgement that it had violated its own bidding procedures in awarding the Providence Health Lab vending facility to another vendor.

While admitting the violation, the SLA stated that the violation was not intentional and was a result of a bureaucratic error. The complainant, on the other hand, argued that the violation was intentional and was specifically directed in favor of the other vendor. On this point, the majority of the panel ruled that there was no compelling evidence presented to support the complainant's contention that the SLA intentionally favored the other vendor.

The panel next took up the issue of what remedies, if any, exist once a finding has been made that the SLA violated its bidding procedures.

The majority of the panel ruled, after extensive review of case law, that any award that required the State of Rhode Island to compensate Mr. Fracasso for misdeeds committed against him is barred by the sovereign immunity principle contained in the Eleventh Amendment to the United States Constitution despite the fact that the SLA had violated its own bidding procedures.

The panel noted further that the United States Court of Appeals for the Eighth Circuit in *McNabb* v. *U.S. Department of Education*, 862 F.2d 681 (8th Cir. 1988), has allowed prospective damages—those that accrue after initiation of the arbitration—but not retrospective damages. However, the panel found that the complainant did not continue to incur damages as a result of the SLA's violation of the Act. In addition, the panel found that, while the complainant could be awarded costs under section 107d–2(d) of the Act, these costs did not include attorney's fees.

Concerning the remedy for the SLA's violation affecting complainant's seniority rights, the majority of the arbitration panel ruled that the Eleventh Amendment presented no bar because payment of money damages was not involved. The majority of the panel found that complainant was entitled to be reinstated to his appropriate place on the SLA's seniority list, and the SLA was directed to take any and all steps necessary to reinstate him.

One panel member dissented from the majority opinion.

The views and opinions expressed by the panel do not necessarily represent the views and opinions of the U.S. Department of Education.

Dated: October 31, 1997.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 97–29270 Filed 11–4–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Kirtland Area Office (Sandia)

AGENCY: Department of Energy

ACTION: Notice of open meeting

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board, Kirtland Area Office (Sandia).

DATE: Wednesday, November 19, 1997: 6:00 p.m.–8:56 p.m. (Mountain Daylight Time).

ADDRESSES: Los Duranes Community Center, 2920 Leopoldo NW, Albuquerque, NM.

FOR FURTHER INFORMATION CONTACT: Mike Zamorski, Acting Manager,

Department of Energy Kirtland Area Office, P.O. Box 5400, Albuquerque, NM 87185 (505) 845–4094.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

6:00 p.m.—Call to Order/Roll Call—Jamie Wells, Chair
6:02 p.m.—Public Comments
6:12 p.m.—Approval of Agenda
6:14 p.m.—Approval of 10/15/97 Minutes
6:19 p.m.—Chair's Report—Jamie Wells
6:24 p.m.—1. DOE Quarterly Meeting
7:24 p.m.—Break
7:34 p.m.—2. Self-evaluation Committee Report—Yugal Behl, Committee Chair
8:34 p.m.—3. 501(c)3 Non-Profit Status Report—Paul Catacosinos
8:39 p.m.—4. New/Other Business
8:49 p.m. Public Comments
8:54 p.m.—Announcement of Next Meeting—January 21, 1998

A final agenda will be available at the meeting Wednesday, November 19, 1997.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Mike Zamorski's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. This notice is being published less than 15 days before the date meeting due to programmatic issues that needed to be resolved prior to publication.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Mike Zamorski, Department of Energy Kirtland Area Office, P.O. Box 5400, Albuquerque, NM 87185, or by calling (505) 845–4094.

Issued at Washington, DC on October 31, 1997.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 97–29260 Filed 11–4–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Rocky Flats

Notice of Open Meeting

AGENCY: Department of Energy.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub.L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Rocky Flats.

DATES: Thursday, November 6, 1997: 6 p.m.–9:30 p.m.

ADDRESSES: Westminster City Hall, Lower-level Multi-purpose Room, 4800 West 92nd Avenue, Westminster, CO.

FOR FURTHER INFORMATION CONTACT: Ken Korkia, Board/Staff Coordinator, EM SSAB-Rocky Flats, 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021, phone: (303) 420–7855, fax: (303) 420–7579.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

1. How plutonium moves in the natural environment at Rocky Flats. Scientists are currently studying this subject and hope to be able to provide answers about the likelihood of radioactive materials migrating into the community from the Rocky Flats site.
2. Highlight the proposed decommissioning plan for the first plutonium-contaminated building to be taken down at Rocky Flats. The cleanup and demolition process for this building is scheduled to begin early in 1998.
3. Administrative Business.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ken Korkia at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments at the beginning of the meeting. This notice is being published less than 15 days in advance of the meeting due to programmatic issues that needed to be resolved.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available at the Public Reading Room located at the Board's office at 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021; telephone (303) 420–7855. Hours of operation for the Public Reading Room are 9:00 a.m. and 4:00 p.m. on Monday through Friday. Minutes will also be made available by writing or calling Deb Thompson at the Board's office address or telephone number listed above.

Issued at Washington, DC on October 31, 1997.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 97–29261 Filed 11–4–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

International Energy Agency Meetings

AGENCY: Department of Energy.

ACTION: Notice of meetings.

SUMMARY: Subject to timely enactment of legislation to reinstate the antitrust defense under section 252 of the Energy Policy and Conservation Act, the Industry Advisory Board to the International Energy Agency (IEA) will meet November 12–13, 1997, at the IEA's headquarters in Paris, France to permit attendance by representatives of U.S. company members of the IAB at a joint meeting of the IEA's Standing Group on Emergency Questions (SEQ) and the Standing Group on the Oil Market and at a meeting of the SEQ.

FOR FURTHER INFORMATION CONTACT: Samuel M. Bradley, Acting Assistant General Counsel for International and Legal Policy, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, 202–586–6738.

SUPPLEMENTARY INFORMATION: Subject to timely enactment of legislation to reinstate the antitrust defense under section 252 of the Energy Policy and Conservation Act (EPCA), the following meeting notices are provided, in accordance with section 252(c)(1)(A)(i) of the EPCA:

I. A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on November 12, 1997, at the headquarters of the IEA, 9, rue de la Fédération, Paris, France, beginning at 2:30 p.m. The purpose of this meeting is to permit attendance by representatives of U.S. company members of the IAB at a joint meeting of the IEA's Standing Group on Emergency Questions (SEQ) and Standing Group on the Oil Market (SOM) which is scheduled to be held at the aforesaid location on the aforesaid date. The agenda for the meeting is under the control of the SEQ and the SOM. It is expected that they will adopt the following agenda:

1. Current Oil Market Situation
2. The 50th Anniversary of the Marshall Plan and Evolution of Oil Markets
   —Introduction
   —The Effect of the Marshall Plan on Oil Prices: Has the Oil Market Really Changed?
   —50 Years Dealing with Cycles of Optimism and Pessimism
3. The Next 50 Years? Report on the IEA Workshop on Long-Term Oil Supply
4. Oil Market Dynamics in Supply Emergencies

II. A meeting of the IAB will be held on November 13, 1997, at the headquarters of the IEA, beginning at approximately 9:30 a.m. The purpose of this meeting is to permit attendance by representatives of U.S. company members of the IAB at a meeting of the SEQ which is scheduled to be held at the IEA headquarters on November 13, including a preparatory encounter among company representatives from approximately 9:15 a.m. to 9:30 a.m. The agenda for the preparatory encounter among company representatives is to elicit views regarding items on the SEQ's agenda. The agenda for the SEQ meeting is under the control of the SEQ. It is expected that the SEQ will adopt the following agenda:

1. Adoption of the Agenda
2. Approval of Summary Record of the 90th Meeting
3. SEQ Work Program
   —The 1998 SEQ Work Program
   —Organization of Emergency Response Exercise 1998
4. Policy and Legislative Developments in Member Countries
   —Energy Policy and Conservation Act (EPCA)
   —Report on DOE Strategic Petroleum Reserve Study
   —Sales by some Member Countries of Government-held stocks
   —Other Country Developments
5. Industry Advisory Board
   —Current and Planned IAB Activities
6. Long Term Strategy Issues
   —Agenda of Seminar on IEA Emergency Reserve Strategy
   —Future Strategies for IEA Emergency Reserves
7. Emergency Response Reviews of IEA Countries
   —Belgium
   —Netherlands
   —Norway
   —Sweden
   —Hungary
   —Updated Schedule of Reviews
8. Review of SEQ Work Procedures
   —Results of Survey
   —Summary and Implementation
9. Emergency Reserve Situation of IEA Countries
   —Emergency Reserve and Net Import Situation of IEA Countries on July 1, 1997
   —Report to the Governing Board on the IEA Emergency Reserve Issues
10. Emergency Response Issues in IEA Candidate Countries
    —The Emergency Reserve Situation of IEA Candidate Countries
11. Emergency Data System and Related Questions
    —Monthly Oil Statistics (MOS) June 1997
    —MOS July 1997
    —Base Period Final Consumption (PFC)—Q396–Q297
    —Quarterly Oil Forecast—Q397–Q298
12. Emergency Reference Guide
    —Update of Emergency Contact Points List
13. Any Other Business
    —1998 Non-Member Countries/SEQ Joint Activities relating to Emergency Response Issues
    —Report by Mr. Masuda on Japan National Oil Company 30th Anniversary Seminar
    —Other issues

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(ii)), these meetings are open only to representatives of members of the IAB and their counsel, representatives of members of the SEQ and the SOM, representatives of the Departments of Energy, Justice, and State, the Federal Trade Commission, the General Accounting Office, Committees of the Congress, the IEA, and the European Commission, and invitees of the IAB, the SEQ, the SOM or the IEA.

Issued in Washington, DC, October 30, 1997.

Eric J. Fygi,

Acting General Counsel.

[FR Doc. 97–29263 Filed 11–4–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Submission for OMB review; Comment request.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3507(d)(1)(A) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) Collection number and title; (2) summary of the collection of information (includes sponsor (the DOE component)), current OMB document number (if applicable), type of request (new, revision, extension, or reinstatement); response obligation (mandatory, voluntary, or required to obtain or retain benefits); (3) a description of the need and proposed use of the information; (4) description of the likely respondents; and (5) estimate of total annual reporting burden (average hours per response x proposed frequency of response per year x estimated number of likely respondents.)

DATES: Comments must be filed on or before December 5, 1997. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory

Affairs, Office of Management and Budget, 726 Jackson Place N.W., Washington, D.C. 20503. (Comments should also be addressed to the Statistics and Methods Group at the address below.)

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Herbert Miller, Statistics and Methods Group, (EI–70), Forrestal Building, U.S. Department of Energy, Washington, D.C. 20585. Mr. Miller may be telephoned at (202) 426–1103, FAX (202) 426–1081, or e-mail at hmiller@eia.doe.gov.

SUPPLEMENTARY INFORMATION:

The energy information collection submitted to OMB for review was:

1. EIA–767, "Steam-Electric Plant Operation and Design Report"

2. Energy Information Administration, Office of Coal, Nuclear, Electric and Alternate Fuels (additional sponsors are the Environmental Protection Agency and DOE's Office of Fossil Energy); OMB Nos. 1901–0298, and 2060–0018; Reinstatement of a Previously Approved Collection; Mandatory

3. The Form EIA–767 is a consolidation of data requirements of EPA and DOE. Data are collected annually from steam-electric power plants of 10 (MW) or more. Data on air emission and water quality are used for economic, regulatory, and environmental analysis. Power plants between 10 MW and 100 MW file only pages 6, 13, and 14 fuel and flue gas desulfurization data.

4. Business or other for-profit; Federal Government; State, Local or Tribal Government

5. 52,148 hours (60.85 hrs. × 1 response per year × 857 respondents)

Authority: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

Issued in Washington, D.C., October 29, 1997.

Jay H. Casselberry,

Agency Clearance Officer, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 97–29262 Filed 11–4–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–4273–000]

Cargill-IEC, L.L.C.; Notice of Issuance of Order

October 31, 1997.

Cargill-IEC, L.L.C. (Cargill-IEC) filed an application for authorization to sell electric capacity and energy at market-based rates, and for certain waivers and authorizations. In particular, Cargill-IEC requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by Cargill-IEC. On October 17, 1997, the Commission issued an Order Conditionally Accepting for Filing Proposed Market-Based Rates (Order), in the above-docketed proceeding.

The Commission's October 17, 1997 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (D), (E), and (G):

(D) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Cargill-IEC should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(E) Absent a request to be heard within the period set forth in Ordering Paragraph (D) above, Cargill-IEC is hereby authorized to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Cargill-IEC, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(G) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of Cargill-IEC's issuances of securities or assumptions of liabilities* * *.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is November 17, 1997.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29251 Filed 11–4–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–4336–000]

GEN–SYS Energy; Notice of Issuance of Order

October 31, 1997.

GEN–SYS Energy (GEN–SYS) filed an application for authorization to engage in the wholesale sale of electric capacity and energy at market-based rates, and for certain waivers and authorizations. In particular, GEN–SYS requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by GEN–SYS. On October 17, 1997, the Commission issued an Order Conditionally Accepting for Filing Proposed Market-Based Rates (Order), in the above-docketed proceeding.

The Commission's October 17, 1997 Order granted the request for blanket approval under part 34, subject to the conditions found in Ordering Paragraphs (D), (E), and (G):

(D) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by GEN–SYS should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(E) Absent a request to be heard within the period set forth in Ordering Paragraph (D) above, GEN–SYS is hereby authorized to issue securities and to assume obligations or liabilities as guarantor, indorser, surety or otherwise in respect to any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of GEN–SYS, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(G) The Commission reserves the right to modify this order to require a further showing that neither public nor private interest will be adversely affected by continued Commission approval of

GEN–SYS' issuances of securities or assumptions of liabilities* * *.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is November 17, 1997.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29256 Filed 11–4–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER97–3583–000 and ER97–4084–000]

GS Electric Generating Cooperative, Inc.; Denver City Energy Associates, L.P.; Notice of Issuance of Order

October 31, 1997.

GS Electric Generating Cooperative, Inc. (GS Electric) and Denver City Energy Associates, L.P. (Denver City) filed respective applications for authorization to sell power at market-based rates, and for certain waivers and authorizations. In particular, GS Electric and Denver City requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by GS Electric and Denver City. On October 17, 1997, the Commission issued an Order Accepting for Filing Proposed Market-Based Rates (Order), in the above-docketed proceedings.

The Commission's October 17, 1997 Order granted the request for blanket approval under part 34, subject to the conditions found in Ordering Paragraphs (E), (F), and (H):

(E) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by GS Electric and Denver City should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(F) Absent a request to be heard within the period set forth in Ordering Paragraph (E) above, GS Electric and Denver City are hereby authorized, pursuant to section 204 of the FPA, to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of GS Electric and Denver City, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(H) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of GS Electric's and Denver City's issuances of securities or assumptions of liabilities * * *.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is November 17, 1997.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29250 Filed 11–4–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–4222–000]

Iowa Power Partners I, L.L.C.; Notice of Issuance of Order

October 31, 1997.

Iowa Power Partners I, L.L.C. (Iowa Partners) filed an application for authorization to engage in wholesale power sales at market-based rates, and for certain waivers and authorizations. In particular, Iowa Partners requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by Iowa Partners. On October 20, 1997, the Commission issued an Order Accepting for Filing Proposed Market-Based Rates (Order), in the above-docketed proceeding.

The Commission's October 20, 1997 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (E), (F), and (H):

(E) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Iowa Partners should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(F) Absent a request to be heard within the period set forth in Ordering Paragraph (E) above, Iowa Partners is hereby authorized, pursuant to section 204 of the FPA, to issue securities and to assume obligations or liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Iowa Partners, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(H) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of Iowa Partners' issuances of securities or assumptions of liabilities * * *.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is November 19, 1997.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29254 Filed 11–4–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EP96–218–000]

Jersey Central Power & Light Company; Metropolitan Edison Company; Pennsylvania Electric Company; Notice of Filing

Take notice that on October 16, 1997, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (collectively and each doing business as GPU Energy) filed amendments to the GPU Energy Operating Capacity and/or Energy Sales Tariff, FERC Electric Tariff, Original Volume No. 1. GPU Energy requests an effective date of November 1, 1997, for the amendments.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Rules 211 and 214 of the Commission's Rules of

Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before November 10, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–29191 Filed 11–4–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–51–000]

Koch Gateway Pipeline Company; Notice of Request Under Blanket Authorization

October 30, 1997.

Take notice that on October 28, 1997, Koch Gateway Pipeline Company, (Applicant), P.O. Box 1478, Houston, Texas 77251–1478, filed under Sections 157.205 and 157.216(b) of the Commission's Regulations to abandon one 2-inch delivery tap on its index 276 at station No. 3193+44 in Harrison County, Mississippi all as more fully described in the request which is on file with the Commission and open to public inspection. The affected end-user is a customer of Entex, Inc., (Entex) a local distribution company. Entex and the end user have agreed to the proposed abandonment of facilities and service.

Applicant states that it is taking this action to implement the Order issued in Docket No. CP94–75–000 in which Applicant was directed to abandon by sale, in place to Koch Pipeline, Inc. its transmission and looping facilities referred to as Index 276. Applicant will make prior notice filings to abandon delivery taps on Index 276. This application is one of those filings.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–29190 Filed 11–4–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–4345–000]

OGE Energy Resources, Inc.; Notice of Issuance of Order

October 31, 1997.

OGE Energy Resources, Inc. (OGE Energy) filed an application for authorization to sell power at market-based rates, and for certain waivers and authorizations. In particular, OGE Energy requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by OGE Energy. On October 17, 1997, the Commission issued an Order Conditionally Accepting for Filing Proposed Market-Based Rates (Order), in the above-docketed proceeding.

The Commission's October 17, 1997 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (D), (E), and (G):

(D) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by OGE Energy should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(E) Absent a request to be heard within the period set forth in Ordering Paragraph (D) above, OGE Energy is hereby authorized, pursuant to section 204 of the FPA, to issue securities and assume obligations or liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of OGE Energy, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(G) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of OGE Energy's issuances of securities or assumptions of liabilities * * *.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is November 17, 1997.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29253 Filed 11–4–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2687–014]

Pacific Gas & Electric Company; Notice of Site Visit

October 30, 1997.

Take notice that the Commission staff will hold a site visit with Pacific Gas & Electric Company (PG&E), the licensee for the Pit 1 Hydroelectric Project No. 2687. The project is located near the towns of Fall River Mills, McArthur, and Burney, California. The site visit will be held on Thursday, November 19, 1997, from 8:00 a.m. to 4:00 p.m.

The purpose of the site visit is to observe the project area and project facilities related to the relicensing issues of the project. All interested individuals, organizations, and agencies are invited to attend the site visit.

Participants will meet at 8:00 a.m. at the PG&E headquarters in Burney, on Black Ranch Road, off of Route 299. Participants should provide their own transportation for the site visit. Further, participants should bring their own lunches for the day-long site visit.

For further information, please contact Doug Hjorth at (617) 444–3330 ext. 283.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–29192 Filed 11–4–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3066–000]

R. Hadler and Company, Inc.; Notice of Issuance of Order

October 31, 1997.

R. Hadler and Company, Inc. (Hadler) filed an application for authorization to engage in the wholesale sale and brokering of capacity and energy at market-based rates, and for certain waivers and authorizations. In particular, Hadler requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by Hadler. On October 17, 1997, the Commission issued an Order Conditionally Accepting for Filing Proposed Market-Based Rates (Order), in the above-docketed proceeding.

The Commission's October 17, 1997 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (D), (E), and (G):

(D) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Hadler should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(E) Absent a request to be heard within the period set forth in Ordering Paragraph (D) above, Hadler is hereby authorized to issue securities and assume obligations or liabilities as guarantor, endorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Hadler, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(G) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of Hadler's issuances of securities or assumptions of liabilities. * * *

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is November 17, 1997.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29255 Filed 11–4–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3054–000]

Unicom Power Marketing, Inc.; Notice of Issuance of Order

October 31, 1997.

Unicom Power Marketing, Inc. (Unicom) filed an application for authorization to engage in the wholesale sale of electric capacity and energy at market-based rates, and for certain waivers and authorizations. In particular, Unicom requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by Unicom. On October 17, 1997, the Commission issued an Order Accepting for Filing Proposed Market-Based Rates (Order), in the above-docketed proceeding.

The Commission's October 17, 1997 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (D), (E), and (G):

(D) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Unicom should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(E) Absent a request to be heard within the period set forth in Ordering Paragraph (D) above, Unicom is hereby authorized to issue securities and assume obligations and liabilities as guarantor, endorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Unicom, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(G) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of Unicom's issuances of securities or assumptions of liabilities * * *.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is November 17, 1997.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29252 Filed 11–4–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–151–000, et al.]

Bangor Hydro-Electric Company, et al.; Electric Rate and Corporate Regulation Filings

October 30, 1997.

Take notice that the following filings have been made with the Commission:

1. Bangor Hydro-Electric Company

[Docket No. ER98–151–000]

Take notice that on October 14, 1997, Bangor Hydro-Electric Company filed an executed service agreement for non-firm point-to-point transmission service with the New York State Electric & Gas Corporation.

Comment date: November 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. Old Dominion Electric Cooperative v. Public Service Electric and Gas Company

[Docket No. EL98–6–000]

Take notice that on October 27, 1997, Old Dominion Electric Cooperative (ODEC) filed a Complaint against Public Service Electric and Gas Company (PSE&G). ODEC requests that the Commission: (1) modify the 1992 Agreement for a bundled ten year sale of 150 MW by PSE&G to ODEC in order to unbundle and remove the transmission cost component in PSE&G's bundled capacity rates; (2) transfer delivery of the sale transaction from the 1992 Agreement on a bundled basis to the presently-effective and applicable PJM open access Tariff; (3) order a reduction in PSE&G's capacity rates to ODEC to reflect a change in circumstances in PSE&G's cost of service to ODEC; and (4) grant ODEC's motion to summarily reject a surcharge billed to ODEC by PSE&G under the 1992 Agreement that is unauthorized by such.

Comment date: December 1, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Central Vermont Public Service Corporation

[Docket No. ER98–152–000]

Take notice that on October 14, 1997, Central Vermont Public Service Corporation (Central Vermont), tendered for filing a Service Agreement with Aquila Power Corporation under its FERC Electric Tariff No. 5. The tariff provides for the sale by Central Vermont of power, energy, and/or resold transmission capacity at or below Central Vermont's fully allocated costs.

Central Vermont requests waiver of the Commission's Regulations to permit the service agreement to become effective on October 13, 1997.

Comment date: November 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Duquesne Light Company

[Docket No. ER98–153–000]

Take notice that on October 15, 1997, Duquesne Light Company (DLC) filed a Service Agreement dated October 1, 1997, with NP Energy under DLC's FERC Coordination Sales Tariff (Tariff). The Service Agreement adds NP Energy as a customer under the Tariff. DLC requests an effective date of October 1, 1997, for the Service Agreement.

Comment date: November 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Arizona Public Service Company

[Docket No. ER98–154–000]

Take notice that on October 15, 1997, Arizona Public Service Company (APS or Company) tendered for filing Cancellation of Wholesale Power Agreement between and the Arizona Power Authority (APA) (APS–FPC Rate Schedule No. 59).

APS requests that this cancellation become effective September 30, 1997.

Comment date: November 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Arizona Public Service Company

[Docket No. ER98–155–000]

Take notice that on October 15, 1997, Arizona Public Service Company (APS), tendered for filing Service Agreements under APS' FERC Electric Tariff, Original Volume No. 3, with Koch Energy Trading Inc., (Koch).

A copy of this filing has been served on the Arizona Corporation Commission and Koch.

Comment date: November 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Arizona Public Service Company

[Docket No. ER98–156–000]

Take notice that on October 15, 1997, Arizona Public Service Company (APS), tendered for filing a Service Agreement to provide Non-Firm Point-to-Point Transmission Service under APS' Open Access Transmission Tariff with Pacific Gas & Electric Company, Cook Inlet Energy Supply LP, Entergy Power Marketing Corp., and Tractebel Energy Marketing, Inc.

A copy of this filing has been served on Pacific Gas & Electric Company, Cook Inlet Energy Supply LP, Entergy Power Marketing Corp., Tractebel Energy Marketing, Inc., the California Public Utilities Commission and the Arizona Corporation Commission.

Comment date: November 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. The Detroit Edison Company

[Docket No. ER98–157–000]

Take notice that on October 15, 1997, The Detroit Edison Company (Detroit Edison), tendered for filing Service Agreements for wholesale power sales transactions (the Service Agreements) under Detroit Edison's Wholesale Power Sales Tariff (WPS–1), FERC Electric Tariff No. 4, together with 1997 Electric Supply Agreements detailing the terms and conditions (the Electric Supply Agreements) under which such transactions will take place, between Detroit Edison and the following Customers:

Customer	Date of service agreement
City of Croswell, Michigan	Aug. 26, 1997.
Village of Sebewaing, Michigan.	Mar. 12, 1997.
Thumb Electric Cooperative.	May 21, 1997.

The parties have not engaged in any transactions under the Service Agreements as of the date of this filing. The Electric Supply Agreements provide that service will commence on November 1, 1997. Detroit Edison requests that the Service Agreements be made effective as of November 1, 1997.

Comment date: November 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Arizona Public Service Company

[Docket No. ER98–159–000]

Take notice that on October 15, 1997, Arizona Public Service Company (APS), tendered for filing Service Agreements to provide umbrella short-term Firm Point-to-Point Transmission Service under APS' Open Access Transmission Tariff with Pacific Gas & Electric Company, Cook Inlet Energy Supply, LP, and Salt River Project.

A copy of this filing has been served on Pacific Gas & Electric Company, Cook Inlet Energy Supply, LP, and Salt River Project, the California Public Utilities Commission and the Arizona Corporation Commission.

Comment date: November 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Public Service Electric and Gas Company

[Docket No. ER98–160–000]

Take notice that on October 15, 1997, Public Service Electric and Gas Company (PSE&G) of Newark, New Jersey, tendered for filing an agreement for the sale of capacity and energy to NUI Energy Brokers, Inc. (NUI) pursuant to the PSE&G Wholesale Power Market Based Sales Tariff, presently on file with the Commission.

PSE&G further requests waiver of the Commission's Regulations such that the agreement can be made effective as of September 16, 1997.

Copies of the filing have been served upon NUI and the New Jersey Board of Public Utilities.

Comment date: November 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. The Dayton Power and Light Company

[Docket No. ER98–161–000]

Take notice that on October 15, 1997, The Dayton Power and Light Company (Dayton), submitted a service agreement and supplement to the service agreement establishing Constellation Power Source as a customer under the terms of Dayton's Market-Based Sales Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreement. Accordingly, Dayton requests waiver of the Commission's notice requirements. Copies of the filing were served upon CPS and the Public Utilities Commission of Ohio.

Comment date: November 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Virginia Electric and Power Company

[Docket No. ER98–163–000]

Take notice that on October 15, 1997, Virginia Electric and Power Company (Virginia Power), tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service with Western Resources, Inc., under the Open Access Transmission Tariff to Eligible Purchasers dated July 9, 1996. Under the tendered Service Agreement, Virginia Power will provide non-firm point-to-point service to the Transmission Customer under the rates, terms and conditions of the Open Access Transmission Tariff.

Copies of the filing were served upon Western Resources, Inc., the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: November 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Virginia Electric and Power Company

[Docket No. ER98–164–000]

Take notice that on October 15, 1997, Virginia Electric and Power Company (Virginia Power), tendered for filing Service Agreements for Firm Point-to-Point Transmission Service with Carolina Power and Light, Western Resources, Inc., PECO Energy Company and Citizens Power Sales under the Open Access Transmission Tariff to Eligible Purchasers dated July 9, 1996. Under the tendered Service Agreement, Virginia Power will provide firm point-to-point service to the Transmission Customers under the rates, terms and conditions of the Open Access Transmission Tariff.

Copies of the filing were served upon Carolina Power and Light, Western Resources, Inc., PECO Energy Company and Citizens Power Sales, the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: November 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. PacifiCorp

[Docket No. ER98–165–000]

Take notice that on October 15, 1997, PacifiCorp, tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, Non-Firm Point-To-Point Transmission Service Agreements with Kansas City Power & Light Company and Western Resources (Western) and Short-Term Firm Point-To-Point Transmission Service Agreements with Western and PacifiCorp's Merchant Function under PacifiCorp's FERC Electric Tariff, First Revised Volume No. 11.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

A copy of this filing may be obtained from PacifiCorp's Regulatory Administration Department's Bulletin Board System through a personal computer by calling (503) 464–6122 (9600 baud, 8 bits, no parity, 1 stop bit).

Comment date: November 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Southern Indiana Gas and Electric Company

[Docket No. ER98–166–000]

Take notice that on October 15, 1997, Southern Indiana Gas and Electric Company (SIGECO), tendered for filing three (3) service agreements for market based rate power sales under its Market Based Rate Tariff with the following entities:

1. Proliance Energy, LLC
2. QST Energy Trading, Inc.
3. Southern Illinois Power Cooperative

Copies of the filing were served upon each of the parties to the service agreements.

Comment date: November 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Public Service Electric and Gas Company

[Docket No. ER98–167–000]

Take notice that on October 15, 1997, Public Service Electric and Gas Company (PSE&G), of Newark, New Jersey, tendered for filing an agreement for the sale of capacity and energy to EnerZ Corporation (EnerZ), pursuant to the PSE&G Wholesale Power Market Based Sales Tariff, presently on file with the Commission.

PSE&G further requests waiver of the Commission's Regulations such that the agreement can be made effective as of September 16, 1997.

Copies of the filing have been served upon EnerZ and the New Jersey Board of Public Utilities.

Comment date: November 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Public Service Electric and Gas Company

[Docket No. ER98–168–000]

Take notice that on October 15, 1997, Public Service Electric and Gas Company (PSE&G), of Newark, New Jersey, tendered for filing an agreement for the sale of capacity and energy to Sonat Power Marketing L.P. (Sonat), pursuant to the PSE&G Wholesale Power Market Based Sales Tariff, presently on file with the Commission.

PSE&G further requests waiver of the Commission's Regulations such that the agreement can be made effective as of September 16, 1997.

Copies of the filing have been served upon Sonat and the New Jersey Board of Public Utilities.

Comment date: November 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Southern Indiana Gas and Electric Company

[Docket No. ER98–169–000]

Take notice that on October 15, 1997, Southern Indiana Gas and Electric Company (SIGECO), tendered for filing three (3) service agreements for non-firm transmission service under Part II of its Transmission Services Tariff with the following entities:

1. Proliance Energy, LLC
2. QST Energy Trading, Inc.
3. Southern Illinois Power Cooperative

Copies of the filing were served upon each of the parties to the service agreements.

Comment date: November 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company

[Docket No. ER98–170–000]

Take notice that on October 15, 1997, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (d/b/a GPU Energy), filed an executed Service Agreement between GPU Energy and CNG Retail Services Corporation (Peoples Plus) (CRS), dated October 14, 1997. This Service Agreement specifies that CRS has agreed to the rates, terms and conditions of GPU Energy's Operating Capacity and/or Energy Sales Tariff (Sales Tariff) designated as FERC Electric Tariff, Original Volume No. 1. The Sales Tariff was accepted by the Commission by letter order issued on February 10, 1995, in *Jersey Central Power & Light Co., Metropolitan Edison Co. and Pennsylvania Electric Co.*, Docket No. ER95–276–000 and allows GPU Energy and CRS to enter into separately scheduled transactions under which GPU Energy will make available for sale, surplus operating capacity and/or energy at negotiated rates that are no higher than GPU Energy's cost of service.

GPU Energy requests a waiver of the Commission's notice requirements for good cause shown and an effective date of October 14, 1997, for the Service Agreement.

GPU Energy has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: November 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the

Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29249 Filed 11–4–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Major License

October 30, 1997.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Major License.

b. *Project No.:* 11157–001.

c. *Dated filed:* October 28, 1994, and amended on October 25, 1996.

d. *Applicant:* Rugraw, Inc.

e. *Name of Project:* Lassen Lodge.

f. *Location:* On the South Fork Battle Creek, in Tehama County, CA.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. James B. Tompkins, Tompkins and Associates, 16464 Plateau Circle, Redding, CA 96001, (916) 243–0103.

i. *FERC Contact:* Héctor M. Pérez at (202) 219–2843.

j. The project would consist of: (1) A new 5-foot-high, 80-foot-long reinforced concrete with existing natural features (large boulders, etc.) diversion structure about 1,800 feet upstream of the Old Highway No. 36 bridge, with an overflow crest elevation of 4,310.5 feet mean sea level (msl) impounding a small pool with negligible capacity with an operating surface elevation of 4,310 feet msl; (2) an intake structure with trashracks, fish screens, and fish passage facilities at the south embankment; (3) a 19,200-foot-long underground penstock composed of a low pressure polyethylene 42-inch-diameter section and high-pressure steel 36-inch-diameter section; (4) a powerhouse with an installed capacity of 7 megawatts; (5) a 10-mile-long, 60-kilovolt transmission line; (6) a 55-foot-long reinforced concrete box culvert tailrace; and (7) other appurtenances.

k. Deadline for protests, interventions, competing applications and notices of intent: January 20, 1998.

l. *Status of Environmental Analysis:* This application is not ready for environmental analysis at this time—see attached paragraph D6.

m. With this notice, we are initiating consultation with the State Historic Preservation Officer (SHPO), as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

n. This notice also consists of the following standard paragraph: A2, A9, B1, and D8.

o. *Available Locations of Application:* A copy of the application, as amended, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 First Street N.E., Washington D.C. 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at the address shown in item h above.

A2. Development Application—Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified deadline date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified deadline date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

B1. Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

D8. Filing and Service of Responsive Documents—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," or "COMPETING APPLICATION"" (2) set forth in the heading the name of the applicant and the project forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–29193 Filed 11–4–97; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5916–6]

Toxic Chemicals; Request for Contractor Access to TSCA CBI; Submission of ICR No. 1250.05 to OMB; Agency Information Collection Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of submission to OMB.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) entitled: Request for Contractor Access to TSCA Confidential Business Information (CBI) (EPA ICR No. 1250.05; OMB Control No. 2070–0075) has been forwarded to the Office of Management and Budget (OMB) for review and approval pursuant to the OMB procedures in 5 CFR 1320.12. The ICR, which is abstracted below, describes the nature of the information collection and its estimated cost and burden.

The Agency is requesting that OMB renew for 3 years the existing approval for this ICR, which is scheduled to expire on November 30, 1997. A **Federal Register** notice announcing the Agency's intent to seek the renewal of this ICR and the 60-day public comment opportunity, requesting comments on the request and the contents of the ICR, was issued on August 19, 1997 (62 FR 44125). EPA did not receive any comments on this ICR during the comment period.

DATES: Additional comments may be submitted on or before December 5, 1997.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA by phone on (202) 260–2740, by e-mail: *"farmer.sandy@epamail.epa.gov,"* or download off the Internet at http://www.epa.gov/icr/icr.htm and refer to EPA ICR No. 1250.05.

ADDRESSES: Send comments, referencing EPA ICR No. 1250.05 and OMB Control No. 2070–0075, to the following addresses: Ms. Sandy Farmer, U.S. Environmental Protection Agency, Regulatory Information Division (Mailcode: 2137), 401 M Street, S.W., Washington, DC 20460, and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, N.W., Washington, DC 20503.

SUPPLEMENTARY INFORMATION:

Review Requested: This is a request to renew a currently approved information collection pursuant to 5 CFR 1320.12.

ICR Numbers: EPA ICR No. 1250.05; OMB Control No. 2070–0075.

Current Expiration Date: Current OMB approval expires on November 30, 1997.

Title: Request for Contractor Access to TSCA CBI.

Abstract: Certain employees of companies working under contract to EPA require access to confidential business information collected under TSCA authority ("TSCA CBI") in order to perform their official duties. The Office of Pollution Prevention and Toxics (OPPT), which is responsible for maintaining the security of TSCA confidential business information, requires that all individuals desiring access to TSCA CBI obtain and annually renew their official clearance to TSCA CBI. As part of the process for obtaining TSCA CBI clearance, OPPT requires certain information about the contracting company and about each contractor employee requesting TSCA CBI clearance, primarily the name, Social Security Number and EPA identification badge number of the employee, the type of TSCA CBI clearance requested and the justification for such clearance, and the signature of the employee to an agreement with respect to access to and use of TSCA CBI.

Responses to the collection of information are voluntary, but failure to provide the requested information will prevent a contractor employee from obtaining clearance to TSCA CBI. EPA will observe strict confidentiality precautions with respect to the information collected on individual employees, based on the Privacy Act of 1974, as outlined in the ICR and in the collection instrument.

Burden Statement: The annual public reporting burden for this collection of information is estimated to be approximately 31 hours per response for an estimated 26 respondents making one or more submissions of information annually. These estimates include the time needed to review instructions; develop, acquire, install and utilize technology and systems for the purposes of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. No person is required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for these regulations are displayed in 40 CFR part 9.

Respondents/Affected Entities: Entities potentially affected by this action are those companies working under contract for EPA whose employees need access to TSCA confidential business information to carry out their duties.

Estimated No. of Respondents: 26.

Estimated Total Annual Burden on Respondents: 814 hours.

Frequency of Collection: On occasion.

Changes in Burden Estimates: There is an increase of 234 hours in the total estimated respondent burden as compared with that identified in the information collection request most recently approved by OMB, from 580 hours currently to an estimated 814 hours. This increase accounts for time that is required to view the TSCA CBI security videotape that was not included in the previous ICR.

According to the procedures prescribed in 5 CFR 1320.12, EPA has submitted this ICR to OMB for review and approval. Any comments related to the renewal of this ICR should be submitted within 30 days of this document, as described above.

Dated: October 30, 1997.

Richard T. Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 97–29289 Filed 11–4–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5917–2]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Clean Water Needs Survey

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Clean Water Needs Survey, OMB Control Number 2040–0050, expiration date November 30, 1997. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before December 5, 1997.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA by phone at (202) 260-2740, by email: farmer.sandy@epamail.epa.gov, or download off the Internet at http://www.epa.gov/icr/icr.htm and refer to EPA ICR No. 318.07.

SUPPLEMENTARY INFORMATION:

Title: Clean Water Needs Survey (OMB Control No. 2040–0050; EPA ICR No. 318.07.) expiring 11/30/97. This is a request for extension of a currently approved collection for an inventory and cost estimate of those capital improvements needed to be made to new and existing wastewater treatment plants and collector systems eligible for funding under the Clean Water Act, to meet the requirements under the Clean Water Act. In addition, data collection on abandoned mine runoff is planned as a pilot partial survey for 7 States.

Abstract: The data base for the Clean Water Needs Survey (CWNS) data on Publicly Owned Treatment Works (POTWs, wastewater treatment plants) which is collected by the 50 States and Puerto Rico is being modernized. It has been designed and tested and will be made available to the States to start entering their data and training their staff on the use of the new data base so that the States will be ready in time for the 2000 Clean Water Needs Survey. In addition, data will be collected on the runoff from abandoned mines as a pilot partial survey of 7 States, by those 7 States, to improve the quality of the 2000 CWNS. The States are required to supply this information in order to be eligible for funding for the POTW facilities surveyed under the Clean Water Act and State Revolving Fund. The data is compiled and published every 4 years in a Clean Water Needs Survey, and FOIA requests are answered and extracts of data will be placed on the Internet. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 5/13/97 (62 FR 26303); no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 59 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: The 50 States and Puerto Rico..

Estimated Number of Respondents: 51.

Frequency of Response: Once in two years.

Estimated Total Annual Hour Burden: 3,025 hours.

Estimated Total Annualized Cost Burden: $90,750.00.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No 318.07 and OMB Control No. 2040–0050 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460. (or E-Mail Farmer.Sandy@epamail.epa.gov)
and
Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: October 30, 1997.

Richard Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 97–29290 Filed 11–4–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5917–1]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; National Emission Standards for Hazardous Air Pollutants for Source Categories: Gasoline Distribution (Stage I)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: National Emission Standards for Hazardous Air Pollutants for Source Categories: Gasoline Distribution (Stage I), 40 CFR part 63, subpart R, OMB Control Number 2060–0325, expiring on December 31, 1997. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before December 5, 1997.

FOR FURTHER INFORMATION CONTACT: For information or a copy of the ICR, call Sandy Farmer at EPA, (202) 260–2740, or download off the Internet at http://www.epa.gov/icr/icr.htm and refer to EPA ICR No. 1659.03.

SUPPLEMENTARY INFORMATION:

Title: National Emission Standards for Hazardous Air Pollutants for Source Categories: Gasoline Distribution (Stage I), 40 CFR part 63, subpart R, (OMB Control Number 2060–0325; EPA ICR No. 1659.03) expiring on December 31, 1997. This is a request for extension of a currently approved collection.

Abstract: Effective enforcement of this rule is necessary due to the hazardous nature of benzene (a known human carcinogen) and the toxic nature of the other 10 Hazardous Air Pollutants emitted from gasoline distribution facilities. The EPA is charged under section 112 of the Clean Air Act (CAA or Act), as amended, to establish national emission standards for hazardous air pollutants (NESHAP). Section 114 of the Act allows the Administrator to require inspections, monitoring, and entry into facilities to ensure compliance with a section 112 emission standard. Records and reports are necessary to enable the EPA to identify facilities that may not be in compliance with the standards. The information will be used by agency personnel to: (1) identify sources subject to the standards; (2) ensure that leakage emissions from cargo tanks and process piping equipment components (both liquid and vapor) during loading are being minimized; (3) ensure that emission control devices are being properly operated and maintained; and (4) ensure that emissions from storage vessels are minimized and rim seal and fitting defects are repaired on a timely basis. An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

The **Federal Register** notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on June 18, 1997 (62 FR 33068); no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 62 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: New and existing bulk gasoline terminals and pipeline breakout stations

Estimated Number of Respondents: 263.

Frequency of Response: 2 plus on occasion.

Estimated Total Annual Hour Burden: 32,575 hours.

Estimated Total Annualized Cost Burden: $850,500.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1659.03 and OMB Control No. 2060–0325 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460. (or E-Mail Farmer.Sandy@epamail.epa.gov)
and
Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA 725 17th Street, NW, Washington, DC 20503.

Dated: October 30, 1997.

Richard T. Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 97–29291 Filed 11–4–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–00219; FRL–5734–8]

Grants to Assist States in Implementing a Lead-based Paint Accreditation and Certification Program After Passing Enabling Legislation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Funding Availability (NOFA); solicitation of applications for financial assistance.

SUMMARY: EPA has entered into a Memorandum of Agreement (MOA), and has entered into an interagency agreement, with HUD to administer the remaining funds authorized under section 1011(g) of Title X of the Housing and Community Development Act of 1992. EPA will award grants from these funds under its authority in section 404(g) of the Toxics Substances Control Act (TSCA). This notice announces the availability of $3,548,910 to provide financial assistance to States for purposes of establishing training, accreditation, and certification programs for professionals engaged in lead-based paint activities listed under section 402 of TSCA, as promulgated on August 29, 1996. These grants are restricted to States seeking assistance in establishing a State training, accreditation, and certification program after passing enabling legislation. Although there is no deadline in submitting an application, applicants should note that the funds are limited to $3,548,910. These funds will be awarded to States, Territories and the District of Columbia on a first-come first-served basis. Agency receipt of the application will be logged by recording the date and hour of the day that the appropriate EPA Regional Office receives the application. Applications must be sent by certified mail, return receipt requested.

FOR FURTHER INFORMATION CONTACT: For general information, contact: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm E-543B, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD: (202) 554–0551, e-mail: TSCA-Hotline@epamail.epa.gov. For technical information, contact the appropriate Regional Primary Lead Contact person listed in Unit IX. of this document.

SUPPLEMENTARY INFORMATION: Title X of the Housing and Community Development Act of 1992, otherwise known as the Residential Lead-based Paint Hazard Reduction Act of 1992, authorized the Secretary of the Department of Housing and Urban Development to provide grants of up to $200,000 to State governments to develop the capacity to carry out the requirements of section 105(b)(16) of the Cranston-Gonzales National Affordable Housing Act and to carry out activities under this section. Section 1011(g) of Title X set aside $3,000,000 for each fiscal year of 1993 and 1994 for the purpose of establishing State training, certification, or accreditation programs that meet the requirements of section 402 of the Toxic Substances Control Act (TSCA) once the State has enacted enabling legislation. HUD identified this money as Category II grants and announced the availability of the first year of the $3,000,000 set aside in the **Federal Register** of June 4, 1993 (58 FR 31848).

HUD had originally estimated that between 15 and 18 grants would be awarded with the FY93 funds. Under that grant cycle, HUD awarded only $2,451,090 to the following 13 States: Arkansas, California, Connecticut, Louisiana, Maryland, Massachusetts, Minnesota, Missouri, New Jersey, Ohio, Rhode Island, Vermont, and Virginia. The resulting balance of $548,910 from FY93 combined with $3,000,000 appropriated by Congress in FY94, provides for the total of $3,548,910 in grant dollars to be awarded by EPA under this notification.

Approximately 18 grants of up to $200,000 each will be awarded. Any State that has previously received a Category II Grant from the Department of Housing and Urban Development (HUD) is not eligible to apply for these funds. These States include: Arkansas, California, Connecticut, Louisiana, Maryland, Massachusetts, Minnesota, Missouri, New Jersey, Ohio, Rhode Island, Vermont, and Virginia. States that have passed enabling legislation prior to August 29, 1996 may apply after they meet the program elements listed under Appendix E of HUD's Notice of Funding Availability document (58 FR 31848, June 4, 1993.) States that passed enabling legislation after August 29, 1996 must, at a minimum, meet the requirements set forth under the TSCA section 402 final rule which was published on that date.

I. Eligibility

1. *Eligible applicants.* Eligible applicants are the governments of all remaining 37 States that have not already received a grant under this program from HUD, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States that has passed enabling legislation for a State certification program, and that have a currently approved consolidated plan. States will become eligible to apply for Stage One of these grants upon enactment of State certification legislation.

Awards shall be made on a first-come first-served basis in the order of the date an acceptable application is received by the appropriate EPA Regional Office until the money is exhausted. In the event of a tie between two or more States competing for the last grant money to be awarded, the State which passed acceptable legislation first by date will receive the funds.

2. *Eligible activities*—a. All necessary and reasonable costs that directly support the purpose of a Category II Grant will be considered by EPA in the applicant's Stage-One proposal plan and budget. Funds may be used for start-up expenses such as salaries, renting space, and supplies. The funds may also be used for start-up capital expenditures such as office furniture or equipment. However, purchase or rehabilitation of real property is not an eligible activity. Capital acquisitions occurring under this grant shall become and remain the property of the grantee, subject to the limitations of 40 CFR part 31.

b. At least 90 percent of the grant sum shall be for the use of the State agency established or designated to implement the State certification program. The remainder may be used by any other part of the administrative costs of the grant (see Unit X. of this document for a full definition of administrative costs) applicable to this grant program.

c. EPA reserves the right, in negotiating the grant agreement, to delete budget items that, in its judgement, are not necessary for the direct support of program purposes, and to request the grantee to redirect the deleted sums to other acceptable purposes or make a corresponding reduction in the grant request.

3. *Limitations on use of assistance.* The Grant shall be used solely for the purpose described in the applicant's approved implementation plan and the budget, including any changes that may be negotiated and adopted in the grant agreement.

4. *Threshold requirements-applicant's matching contribution.* At a minimum, the applicant shall provide a matching contribution of at least 10 percent of the requested grant sum. That contribution may be in cash or in-kind. In-kind contributions shall be given a monetary value.

II. Purpose and Authority

Section 1021 of Title X of the Housing and Community Development Act of 1992 amended TSCA to add Title IV. TSCA Title IV, at section 404(g), provides authority for EPA to award these grants. However, because the funds for these grants were originally appropriated to HUD for award pursuant to HUD's section 1011(g) grant authority, EPA will impose the statutory restrictions relating to 1011(g) grants, such as the 10 percent match requirement of section 1011(h); the 10 percent limit on administrative expenses imposed by section 1011(j); and the section 1011(n) prohibition on award more than 2 years after the promulgation of section 402 regulations unless the State has an authorized program.

These grants are intended to assist applicant State governments seeking EPA authorization under Title IV of TSCA to develop and carry out State Training, Accreditation and Certification Programs, once States have enacted enabling legislation. To achieve authorization under Title IV, programs must: (1) Be as protective of human health and the environment as the federal program established under TSCA Title IV sections 402 (as promulgated in final on August 29, 1996) or 406, or both, and (2) provide adequate enforcement.

Just as many building inspection departments are wholly or partially self-supporting from permits and license fees, it is expected that State lead-based paint certification programs, under TSCA section 402 - 404 rules, can become at least partially self-supporting. During the startup of such efforts, however, there may be a period before potential revenues achieve expected levels. These grants are intended to help States bridge that gap, by providing the initial seed money for the implementation and staffing of a certification program.

III. Background

1. *Policy.* The purpose of this program is to implement a national strategy, as defined in the Residential Lead-Based Paint Hazard Reduction Act of 1992 (Title X), to build the infrastructure necessary to eliminate lead-based paint hazards in all housing as widely and expeditiously as possible. Lead-based paint hazard-reduction activities present potentially substantial hazards to workers and supervisors, occupants and neighboring residents (particularly children under the age of 6 and pregnant women), and inspectors and others who must visit the site during the course of work. If improperly carried out, the work may result in substantially greater exposure to hazards than previously existed; therefore, this work should be performed only by thoroughly trained and licensed or certified workers, supervisors, contractors, inspectors and risk assessors. To meet this need, EPA promulgated the final TSCA Title IV, section 402 rule on August 29, 1996 to establish Model State Programs that set minimum standards for a qualified and properly trained workforce to assist in the prevention, detection and elimination of hazards associated with lead-based paint. This rule helps ensure that individuals and firms conducting lead-based paint activities in target housing and child-occupied facilities will do so in a way that safeguards the environment and protects the health of building occupants, especially children under the age of 6.

Traditionally, States and local governments have provided oversight and protection for the public against the general hazards of construction and chemical hazards. It is thus the Federal government's policy to draw upon this State source of knowledge and expertise in providing the needed oversight and protection for the public against the hazards of lead-based paint and the work of reducing those hazards.

2. *Development of EPA requirements.* To assure safe and effective performance of the work, Congress required that performance of lead-hazard testing and lead-hazard reduction activities under this Grant program shall be performed by certified contractors, supervisors, workers, inspectors and risk assessors. Sections 402 and 404 of TSCA Title IV were promulgated in final on August 29, 1996, establishing the requirements of a Model State Program that contains certification and accreditation requirements, and regulations on certification. Subpart Q of the 402 Rule provides a description of the minimum basic elements that need to be included in State legislation. Under section 1011(n) of Title X, any State that does not have an EPA-approved certification program by August 31, 1998, will not receive further funding through these grants.

For further information on this subject, including technical assistance, interested States may contact their EPA Regional Lead Coordinator. A list of current Regional Lead Contacts can be found in Unit IX. of this document.

3. *Deadline for State enabling legislation.* There are no time limitations associated with these grant funds; rather, the grant program will cease when the funds are exhausted. States, however, are reminded that they have until August 31, 1998, to receive EPA authorization or the Agency will begin to administer and enforce the regulations in any non-authorized State.

IV. Allocation Amounts

This Grant program is making available $3,548,910 for approximately 16 grants, not to exceed $200,000 each.

V. Selection Criteria and Process

1. *Generally.* For many States, the enactment of an acceptable certification program and the implementation of an acceptable agency plan will be several months to a year or more after the publication of this document. Publication of detailed regulations applicable to the State program are likely to take up to an additional 6 months. For these reasons, this grants program has been divided into two stages to ease the application burden on interested States. Stage One, described in paragraph 2 of this unit, will be the initial application for a grant, after satisfactory enabling legislation has been signed into State law. That application will include the text of the State legislation, a program implementation plan, a budget, and a request for one-half of the total grant sum shown in the budget. Stage Two, described in paragraph 3 of this unit, includes the text of promulgated regulations, detailing the functions of the Agency, and a request for the balance of the grant sum. If requested, EPA will provide technical assistance to an applicant or grantee on legislation, regulations, the implementation plan, or budget elements, before funding either Stage One or Stage Two.

2. *Stage One.* A State that was not previously awarded a HUD Category II grant may file a formal grant application at any time after an enabling statute, or amendment to the existing legislation, is signed into law, but not sooner. States that have existing enabling legislation may file a formal Stage One Grant application at any time. Upon acceptance by EPA of the statutory language, the implementation plan, and the budget, the State will receive one-half its total grant sum requested in its application. States that passed enabling legislation prior to promulgation of the TSCA Title IV section 402 final rule (August 29, 1996) will be eligible to apply for Stage One grant funding, even though their enabling legislation may not be consistent with the TSCA Title IV section 402 requirements. These States, however, do need to meet the program elements discussed in Appendix E of HUD's Notification of Funding Availability document published in the June 4, 1993 Federal Register. EPA does not want to withhold partial funding from States that enacted their enabling legislation more rapidly than EPA could promulgate its rule. However, States in this situation will be ineligible for Stage Two funding under this grant program until they pass additional legislation consistent with TSCA section 402 requirements. The application shall include:

a. The text of the statute.

b. An implementation plan that establishes or designates an agency, or agencies, to carry out the training and certification functions, and to promulgate or revise the detailed regulations, if necessary, including:

(i) A proposed schedule for regulation development, if applicable.

(ii) The plan to address potential conflicts in overall State program design if enabling statutes are significantly prescriptive.

(iii) Delineation of agency responsibilities.

(iv) Key contacts.

c. A proposed budget.

3. *Stage Two.* States that have filed an acceptable application under Stage One may file either the enabling regulations or the amended regulations, and request the final half of the grant sum at any time.

VI. EPA Review of the Applications

EPA will provide a prompt response to the State applicant at each stage of the application cycle. If the grant is disapproved, EPA will provide comments on why the application is not acceptable. The State may then resubmit a new application for reconsideration with a new corresponding receipt date.

Upon completion of the review and acceptance of a Stage One application, EPA will schedule an appointment for negotiating and signing of the Grant Agreement. Upon completion of the review and acceptance of a Stage Two request for funds, EPA will make the balance of the grant sum available to the grantee.

Approval of a State's Stage One or Stage Two application under this program does not equate to Federal approval of the State's Certification Program: approval of this grant only constitutes approval for funding. TSCA section 404 lists the procedure for the approval of State programs.

VII. Application Requirements

1. *Contents.* To be considered for funding, a Stage One application shall, at a minimum, include the following forms and certifications which are contained in EPA's "Application Kit for Assistance":

- Standard Form 424 (Application for Federal Assistance).
- EPA Form 5700-48 (Procurement Certification).
- Drug-Free Workplace Certification.
- Debarment and Suspension Certification.
- Disclosure of Lobbying Activities.
- A return mailing address.
- A copy of the enacted or amended State legislation.
- A detailed implementation plan including staffing for carrying out the implementation described in this document.
- A detailed line-item budget with sufficient information to clearly justify costs. The budget shall be by task and subtask.
- The application shall be in compliance with Federal civil rights laws and requirements.
- The application shall include assurances of nondiscrimination on the basis of age or handicap, in compliance with the Age discrimination Act of 1975, section 504 of the Rehabilitation Act of 1973, and all regulations issued pursuant to these authorities.

2. *Environmental review.* The activities to be supported under this grant program do not involve physical intervention at any real properties, and therefore do not require an environmental review. However, the use of these grants to assist in the purchase of equipment for use in a building in special flood hazard area can only be undertaken where the community participates in the National Flood Insurance Program and flood insurance is purchased in accordance with the applicable regulations (44 CFR parts 59 through 79), or less than a year has passed since FEMA notification regarding these hazards; and flood insurance on the property is obtained in accordance with section 102(a) of the Flood Disaster Protection Act (42 U.S.C. 4012a(a)). Applicants are responsible for assuring that flood insurance is obtained and maintained for the appropriate amount and term, unless the property is covered by a FEMA-approved State policy of self-insurance.

VIII. Reports

Grantees shall submit quarterly progress reports to their EPA Regional Office's Lead Contact that reflect the grantee's expenditures and technical progress to date, compared with the original plan, and a narrative describing important events and problems encountered during the period.

IX. Application Procedures and Schedule

Applications must be submitted to the appropriate EPA regional office in duplicate; one copy to the regional lead program branch and the other to the regional grants management branch. Early consultations are recommended between prospective applicants and their EPA regional offices. Because TSCA section 404(g) grants will be administered at the regional level, these consultations can be critical to the ultimate success of a State's project or program. Work programs are to be negotiated between applicants and their EPA regional offices to ensure that both EPA and State priorities can be addressed. Any application from a State, Territory, or the District of Columbia without an authorized program must demonstrate how the proposed activities will lead to that State's pursuit of authorization. Also, any applicant proposing the collection of environmentally related measurements or data generation must adequately address the requirements of 40 CFR 31.45 relating to quality assurance/quality control.

For more information about this financial assistance program, or for technical assistance in preparing an application for funding, interested parties should contact the Regional Primary Lead Contact person in the appropriate EPA regional office. The mailing addresses and contact telephone numbers for these offices are listed below.

Region I: (Connecticut, Massachusetts, Maine, New Hampshire, Rhode Island, Vermont), JFK Federal Building, One Congress St., Boston, MA 02203. Telephone: (617) 565–3836 (Jim Bryson)

Region II: (New York, New Jersey, Puerto Rico, Virgin Islands), Building 5, SDPTSB, 2890 Woodbridge Ave., Edison, NJ 08837–3679. Telephone: (908) 321–6671 (Lou Bevilacqua)

Region III: (Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia), 841 Chestnut Bldg., Philadelphia, PA 19107. Telephone: (215) 566–2084 (Gerallyn Valls)

Region IV: (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee), 100 Alabama St., SW, Atlanta, GA 30303. Telephone: (404) 562–8998 (Rose Anne Rudd)

Region V: (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin), SP-14J, 77 W. Jackson St., Chicago, IL 60604. Telephone: (312) 886–7836 (David Turpin)

Region VI: (Arkansas, Louisiana, New Mexico, Oklahoma, Texas), 12th Floor, Suite 2000, 1445 Ross Ave., Dallas, TX 75202. Telephone: (214) 665–7577 (Jeff Robinson)

Region VII: (Iowa, Kansas, Missouri, Nebraska), ARTD/RENV, 726 Minnesota Ave., Kansas City, KS 66101. Telephone: (913) 551–7518 (Mazzie Talley)

Region VIII: (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming), 999 18th St., Suite 500, Denver, CO 80202. Telephone: (303) 312–6021 (David Combs)

Region IX: (Arizona, California, Hawaii, Nevada, American Samoa, Guam), 75 Hawthorne St., San Francisco, CA 94105. Telephone: (415) 744–1094 (Harold Rush)

Region X: (Alaska, Idaho, Oregon, Washington), Solid Waste and Toxics Unit (WCM-128), 1200 Sixth Ave., Seattle, WA 98101. Telephone: (206) 553–1985 (Barbara Ross)

X. Explanation of Administrative Costs

A. Purpose

The intent of this EPA Grant program is to allow the grantee to be reimbursed for the reasonable direct and indirect costs, subject to a top limit, for overall management of developing a State accreditation and certification program for professionals engaged in lead-based paint activities. Congress set a top limit of 10 percent of the total grant sum for the grantee to perform the function of overall management of the grant program. The cost of that function, for the purpose of this grant, is defined as the "administrative cost" of the grant, and is limited to 10 percent of the total grant amount. The balance of 90 percent or more of the total grant sum is reserved for the development of the program.

B. Administrative Costs: What They Are Not

For the purposes of this EPA grant program for the State government, the term "administrative costs" should not be confused with the terms of "general and administrative cost," "indirect cost," and "overhead." These are accounting terms usually represented by a government-accepted standard percentage rate. The percentage rate allocates a fair share of an organization's costs that cannot be attributed to a particular project or department (such as the chief executive's salary or the costs of the organization's headquarters building) to all projects and operating departments (such as the Fire Department, the Police Department, the Community Development Department, the Health Department or this program). Such allocated costs are added to those projects' or departments' direct costs to determine their total costs to the organization.

C. Administrative Costs: What They Are

For the purposes of this EPA grant program, "Administrative Costs" are the grantee's allowable direct costs for the overall management of the grant program plus the allocated indirect costs. The allowable limit of such costs that can be reimbursed under this program is 10 percent of the total grant sum. Should the grantee's actual costs for overall management of the grant program exceed 10 percent of the total grant sum, those excess costs shall be paid for by the grantee. However, excess costs paid for by the grantee may be shown as part of the requirement for cost-sharing funds to support the grant.

D. Administrative Costs: Definition

1. *General.* Administrative costs are the allowable, reasonable, and allocable direct and indirect costs related to the overall management of the EPA grant. Those costs shall be segregated in a separate cost center within the grantee's accounting system, and are eligible for reimbursement as part of the grant, subject to the 10 percent limit. Administrative costs do not include any of the staff and overhead costs directly arising from developing and implementing an authorized State accreditation and certification program for professionals engaged in lead-based paint activities.

2. *Specific.* Reasonable costs for the grantee's overall grant management, coordination, monitoring and evaluation are eligible administrative costs. Subject to the 10 percent limit, such costs include, but are not limited to necessary expenditures for the following goods, activities, and services:

a. Salaries, wages, and related costs of the grantee's staff, the staff of affiliated public agencies, or other staff engaged in the grantee's overall grant management activities: In charging costs to this category the recipient may either include the entire salary, wages, and related costs allocated to the program for each person whose primary responsibility (more than 65 percent of their time) with regard to the grant program involved direct overall grant management assignments, or the pro rate share of the salary, wages, and related costs of each person whose job includes any overall grant management assignments. The grantee may have one of these two methods during the program. Overall grant management includes the following kinds of activities:

(i) Preparing grantee program budgets and schedules, and amendments thereto.

(ii) Preparing presentations, reports, and other documents related to the program to EPA.

(iii) Developing systems for assuring compliance with program requirements.

(iv) Evaluating program results against stated objectives.

(v) Managing or supervising persons whose responsibilities with regard to the program include such assignments as those described in paragraphs (i) through (iv) of this unit.

b. Travel costs incurred for official business in carrying out the overall grant management.

c. Administrative services performed under third party contract or agreement, for services directly allocable to overall grant management such as overall-grant legal services, overall-grant accounting services, and overall-grant audit services;

d. Other costs for goods and services required for and directly related to the overall management of the grant program, including such goods and services as telephone, postage, rental of equipment, renter's insurance for the program management space, utilities, office supplies, and rental and maintenance (but not purchase) of office space for the program.

To repeat, all of the above activities, goods and services (Items a. (i.–v.), b., c., and d. in Unit X.D.2. of this document) are subject to the 10 percent limit.

List of Subjects

Environmental protection, Grants, Lead, Training and accreditation.

Dated: October 28, 1997.

William H. Sanders III,

Director, Office of Pollution Prevention and Toxic Substances.

[FR Doc. 97–29206 Filed 11–4–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5817–3]

EPA's Unregulated Contaminant Monitoring Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Announcement of a stakeholder meeting on the development of Unregulated Contaminant Monitoring Regulations and a List.

SUMMARY: The U.S. Environmental Protection Agency (EPA) has scheduled a two-day public meeting on EPA's development of Unregulated Contaminant Monitoring Regulations and a List. The focus of this meeting will be the development of the Unregulated Contaminant Monitoring Regulation and List of unregulated contaminants to be monitored by public water systems as required by the Safe Drinking Water Act (SDWA) as amended in 1996. The meeting will be open to any interested parties. EPA encourages the full participation of stakeholders throughout this process.

DATES: The stakeholder meeting on the Unregulated Contaminant Monitoring Program will be held on December 2–3, 1997, from 9:00 a.m. to 4:00 p.m. EST.

ADDRESSES: Resolve, Inc. (an EPA contractor) will provide logistical support for the stakeholders meeting. The meeting will be held at Resolve, Inc., 1255 23rd Street, N.W., Suite 275, Washington, D.C. 20037.

FOR FURTHER INFORMATION CONTACT: For general information about the meeting, please contact Mr. Jeff Citrin at Resolve, Inc., 1255 23rd Street, N.W., Suite 275, Washington, D.C. 20037; phone: (202) 965–6388; fax: (202)338–1264, or e-mail at jcitrin@resolv.org.

For other information on Unregulated Contaminant Monitoring Regulations and a List, please contact Charles Job, at the U.S. Environmental Protection Agency, Phone: 202–260–7084, Fax: 202–260–3762.

Members of the public wishing to attend the meeting may register by phone by contacting Mr. Jeff Citrin by November 15, 1997. Those registered for the meeting will receive background materials prior to the meeting.

SUPPLEMENTARY INFORMATION:

A. Background on the Unregulated Contaminant Monitoring Regulation

EPA must issue regulations establishing criteria for the monitoring of unregulated contaminants. Monitoring shall vary based on system size, source water, and contaminants likely to be found. Only a representative sample of systems serving 10,000 persons or fewer must be monitored. Within 3 years after enactment, and every 5 years thereafter, EPA shall issue a list of not more than 30 unregulated contaminants to be monitored by public water systems. Results of the monitoring are to be included in the national contaminant occurrence data base. Each state may develop an unregulated contaminant monitoring plan for small and medium systems (serving fewer than 10,000 persons). EPA is required to cover the reasonable costs of testing and laboratory analysis for such plans, using funds authorized by Congress for unregulated contaminant monitoring or a $2 million Drinking Water State Revolving Fund (DWSRF) reservation. EPA shall waive the requirement for monitoring of unregulated contaminants in a state if the state demonstrates that the criteria for listing are not applicable in the state. Water systems must provide the results of unregulated contaminant monitoring to the primacy agency (state/EPA) and must notify persons served by the system of the availability of results [section 1445(a)(2)].

B. Request for Stakeholder Involvement

The upcoming meeting deals specifically with EPA's efforts to develop Unregulated Contaminant Monitoring Regulations and a List. EPA believes that the initial list of unregulated contaminants for which monitoring will be required will largely come from the first Contaminant Candidate List (CCL) to be published in final form by February 1998. EPA will use the CCL to establish priorities for additional occurrence data gathering, health effects research, and regulation development. One of EPA's goals is to obtain monitoring data on certain unregulated contaminants to determine whether any of the contaminants should be regulated in the future to protect drinking water used by consumers from public water systems. These unregulated contaminant data will also be used to support the development of future CCL and to guide future research. These data will be reported to the National Contaminant Occurrence Data Base and to the users of the selected water systems, as required by law.

The EPA Office of Ground Water and Drinking Water (OGWDW) sees the involvement of interested parties, representing a variety of perspectives and expertise, as critical to the development of a credible, effective and implementable regulation and list. This stakeholder meeting will provide an important opportunity for such involvement. Some anticipated issues

for discussion include the following questions:

1. Is the objective of unregulated contaminant monitoring to identify the occurrence of contaminants in the environment or to assess exposure from the finished water?

2. What should be the criteria for an unregulated contaminant monitoring program?

3. What is a "representative sample" of small and medium systems?

4. What should be the protocols for representative sampling?

5. What monitoring data should be reported and how?

6. What should be the criteria for determining which of the unregulated contaminants on the CCL should be a candidate for required monitoring?

7. What analytical methods should apply to unregulated contaminants?

8. How should the results of unregulated contaminant monitoring be used?

9. What steps need to be taken and what process should be used to complete this effort?

EPA has convened this public meeting to hear the views of stakeholders on the development of Unregulated Contaminant Monitoring Regulations and a List. The public is invited to provide comments on the issues listed above or other issues related to the Unregulated Contaminant Monitoring Regulations and a List during the December 2–3, 1997 meeting.

Dated: October 29, 1997.

William R. Diamond,

Acting Director, Office of Ground Water and Drinking Water.

[FR Doc. 97–29292 Filed 11–4–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2236]

Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings

October 30, 1997.

Petitions for reconsideration and clarification have been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, N.W., Washington, D.C. or may be purchase from the Commission's copy contractor, ITS, Inc. (202) 857–3800. Oppositions to these petitions must be filed by November 20, 1997. See § 1.4(b)(1) of the Commission's rule (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Rulemaking to Amend Parts 1, 2, 21, and 25 of the Commission's Rules to Redesignate the 27.5–29.5 GHz Frequency Band, to Reallocate the 29.5–30.0 GHz Frequency Band, To Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services (CC Docket No. 92–297).

Number of Petitions Filed: 1.

Subject: Dismissal of all Pending Pioneer's Request (CC Docket No. 92–297, RM–7872, PP–22 ET Docket No. 94–124, RM–8784 GEN Docket No. 90–314, PP–68 GEN Docket No. 90–357, PP–25 IB Docket No. 97–95, RM–8811 RM–7784, PP–23 RM–7912, PP–34 et. al.).

Review of the Pioneer's Preference Rules (ET Docket No. 93–266) Docket Terminated

Number of Petitions Filed: 1.

Subject: Closed Captioning and Video Description of Video Programming Implementation of Section 305 of the Telecommunications Act of 1996 Video Programming Accessibility (MM Docket No. 95–176).

Number of Petitions Filed: 8.

Subject: Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Station (Bainbridge, Georgia) (MM Docket No. 96–253, RM–8962).

Number of Petitions Filed: 1.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–29248 Filed 11–4–97; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Ben Federico Freight Consolidator, Inc., 8045 N.W. 67th Street, Miami, FL 33166, Officers: Cathy M. Federico, President, Carol A. Federico, Vice President

EconoQuality Freight Forwarders, Inc., 3201 N.W. 116 Street, Suite B, Miami, FL 33167–2917, Officers; Mandell Pomeranc, President, Bryan Pomeranc, Vice President

TSJ Consolidators, Inc., 13737 Artesia Blvd., #107, Cerritos, CA 90703, Officers: Joseph Chao-Hua Chen, President, Clemencia Tizon Hilvano, Vice President

Cordaro Shipping Co., Inc., 80 River Street, Hoboken, NJ 07030, Officer: Francesco Cordaro, President

Gamma Freight Forwarders, Inc., 8500 N.W. 30th Terrace, Miami, FL 33122, Officers: Roberto A. Guedes, President, Antonio Guedes, Vice President

All-Links Freight Co., 5250 W. Century Blvd., #434, Los Angeles, CA 90045, Yung Hoon Kim, Sole Proprietor

Hansa U.S.A. Corp., 2654 N.W. 112th Avenue, Miami, FL 33172, Officer: Marcus Kadur, President, William R. Fulford, Vice President

Dated: October 31, 1997.

Joseph C. Polking,

Secretary.

[FR Doc. 97–29257 Filed 11–4–97; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Federal Maritime Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 62 FR 55810.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 5:00 a.m.—October 23, 1997.

CHANGE IN THE MEETING: Correction in the time and date of the meeting—Should be October 23, 1997—5:00 p.m.

CONTACT PERSON FOR MORE INFORMATION: Joseph C. Polking, Secretary, (202) 523–5725.

Joseph C. Polking,

Secretary.

[FR Doc. 97–29358 Filed 11–3–97; 11:29 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 20, 1997.

A. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480-2171:

1. Michael Buckner Owens, Onida, South Dakota; to acquire additional voting shares of The Adino Company, Onida, South Dakota, and thereby indirectly acquire The Onida Bank, Onida, South Dakota.

Board of Governors of the Federal Reserve System, October 31, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–29286 Filed 11–4–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 1, 1997.

A. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. Commercial BancShares, Incorporated, Parkersburg, West Virginia; to merge with Gateway Bancshares, Inc., McMechen, West Virginia, and thereby indirectly acquire The Bank of McMechen, McMechen, West Virginia.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Independent Southern Bancshares, Inc. Employee Stock Ownership Trust, Brownsville, Tennessee; to acquire up to 35 percent of the voting shares of Independent Southern Bancshares, Inc., Brownsville, Tennessee, and thereby indirectly acquire Brownsville Bank, Brownsville, Tennessee, Bank of Commerce, Trenton, Tennessee, Tennessee Bank and Trust, Memphis, Tennessee, and Union Savings Bank, Covington, Tennessee.

C. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Woodforest Bancshares, Inc., Houston, Texas, and Sun Belt Bancshares, Corporation, Wilmington, Delaware; to acquire 35 percent of the voting shares of Main Street National Bank, Cleveland, Texas.

Board of Governors of the Federal Reserve System, October 31, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–29285 Filed 11–4–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 12:00 noon, Monday, November 10, 1997.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any matters carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Joseph R. Coyne, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.bog.frb.fed.us for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: October 31, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–29316 Filed 10–31–97; 4:34 pm]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

[File No. 962–3215]

Venegas Inc.; Angel Venegas; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before January 5, 1998.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Michael J. Bloom, Federal Trade Commission, New York Regional Office, 150 William Street, Suite 1300, New York, NY 10038. (212) 264–1207.

Donald. G. D'Amato, Federal Trade Commission, New York Regional Office, 150 William Street, Suite 1300, New York, NY 10038. (212) 264–1207.

Denise Tighe, Federal Trade Commission, New York Regional

Office, 150 William Street, Suite 1300, New York, NY 10038. (212) 264–1207.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the accompanying complaint. An electronic copy of the full text of the consent agreement package can be obtained from the Commission Actions section of the FTC Home Page (for October 29, 1997), on the World Wide Web, at "http://www.ftc.gov/os/actions97.htm." A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326–3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed consent order from Venegas Inc. ("Venegas") and Angel Venegas.

The proposed consent order has been placed on the public record for sixty (60) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter concerns print advertisements for proposed respondents' Alen, a powdered nutritional supplement that contains wheat germ, wheat bran, soybean extract, and seaweed extract. The Commission's complaint alleges that the proposed respondents made unsubstantiated representations that Alen: increases life expectancy; delays the aging process; eliminates anemia; increases the immune system's defenses; increases memory or scholastic performance; helps diabetics naturally produce insulin; reduces the pain of rheumatism or migraines; lowers blood pressure; helps heal ulcers; increases muscle bulk; controls addictions to excess fat and sweets; and protects against infections and increases and enhances the healing process.

The proposed order contains provisions designed to remedy the violations charged and to prevent proposed respondents from engaging in similar acts in the future.

Paragraph I of the proposed order prohibits proposed respondents from representing that Alen or any other product: Increases life expectancy; delays the aging process; eliminates anemia; increases the immune system's defenses; increases memory or scholastic performance; helps diabetics naturally produce insulin; reduces the pain of rheumatism or migraines; lowers blood pressure; helps heal ulcers, increases muscle bulk; controls addictions to excess fat and sweets; or protects against infections and increases and enhances the healing process, unless at the time the representation is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

Paragraph II of the proposed order prohibits proposed respondents from making any representation about the benefits, performance, or efficacy of Alen, or any food, dietary supplement, or drug, unless, at the time the representation is made, proposed respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

Paragraph III of the proposed order provides that nothing in this order shall prohibit proposed respondents from making any representation for any product permitted by the Food and Drug Administration. Paragraph IV of the proposed order provides that nothing in this order shall prohibit proposed respondent from making any representation for any drug permitted by the Food and Drug Administration.

Paragraph V of the proposed order requires the proposed respondents to keep and maintain all advertisements and promotional materials containing any representation, and all materials that were relied upon in disseminating the representations, covered by the proposed order. Additionally, Paragraph VI requires distribution of a copy of the consent order to current and future officers and agents. Further, Paragraph VII provides for Commission notification upon a change in the corporate respondent, and Paragraph VIII requires Commission notification when the individual respondent changes his present business or employment. Paragraph IX requires proposed respondents to file compliance reports with the Commission. Lastly, Paragraph X provides for the termination of the order after twenty (20) years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 97–29279 Filed 11–4–97; 8:45 am]

BILLING CODE 6750–01–M

GENERAL ACCOUNTING OFFICE

Federal Accounting Standards Advisory Board

AGENCY: General Accounting Office.

ACTION: Cancellation of November Meeting.

Cancellation

The previously announced meeting (**Federal Register** of October 30) on Friday, November 7, 1997, is hereby cancelled. Due notice will be given for the next meeting, to be held on December 19.

FOR FURTHER INFORMATION CONTACT: Wendy Comes, Executive Director, 441 G St., N.W., Room 3B18, Washington, D.C. 20548, or call (202) 512–7350.

Authority: Federal Advisory Committee Act. Pub. L. No. 92–463, Section 10(a)(2), 86 Stat. 770, 774 (1972) (Current version at 5 U.S.C. app. section 10(a)(2) (1988); 41 CFR 101–6.1015 (1990).

Dated: October 31, 1997.

Wendy M. Comes,

Executive Director.

[FR Doc. 97–29299 Filed 11–4–97; 8:45 am]

BILLING CODE 1610–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Advisory Commission on Consumer Protection and Quality in the Health Care Industry's Ad Hoc Work Group on Respect and Nondiscrimination; Notice of Public Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given of the meeting of the Advisory Commission on Consumer Protection and Quality in the Health Care Industry's Ad Hoc Work Group on Respect and Nondiscrimination. This meeting will be open to the public, limited only by the space available.

Place of meeting: Hubert H. Humphrey Building, Room 800; 200 Independence Avenue, S.W. Washington, D.C. 20201.

Time and Dates: 10:00 a.m.–2:00 p.m., Monday, November 3, 1997.

Purpose/Agenda: To discuss issues related to a draft Consumer Bill of Rights and Responsibilities. Agenda items are subject to change as priorities dictate.

Contact Person: For more information, including substantive program information and summaries of the meeting, please contact: Edward (Chip) Malin, Hubert H. Humphrey Building, Room 118F, 200 Independence Avenue, S.W., Washington, DC 20201; [202/205–3038].

Dated: October 29, 1997.

Janet Corrigan,

Executive Director, Advisory Commission on Consumer Protection and Quality in the Health Care Industry.

[FR Doc. 97–29205 Filed 10–31–97; 10:05 am]

BILLING CODE 4110–03–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301)–443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: Evaluation of the National Health Service Corps —New— The National Health Service Corps (NHSC) was established in 1971 to help correct the maldistribution of health care personnel and to improve the delivery of services in areas with shortages of health care professionals. Through the Scholarship and Loan Repayment Programs the NHSC recruits health clinicians and places them in areas designated as health professional shortage areas.

The evaluation of this program will include three mail surveys, two directed at scholarship and loan repayment program clinicians (physicians, dentists, physician assistants, nurse practitioners and nurse midwives), and one directed at site administrators currently employing NHSC clinicians. The Survey of NHSC Alumni (clinicians who began service on January 1, 1980 and terminated their service before March 14, 1997) will assess alumni attitudes about the NHSC experience including recruitment, placement, and service contributions to the site and community (for example, expanding clinical services, serving in clinical leadership positions, participating in quality improvement activities and initiating community primary care initiatives). In addition, the survey will examine various measures of clinician retention in underserved areas. The Survey of NHSC Clinicians (current) will also assess attitudes about the NHSC experience including recruitment, placement and service contribution to the site and community. The Survey of Administrators in Sites with NHSC Clinicians will assess sites' experiences with NHSC clinicians and will provide an assessment of their service contributions to the site and community. The data collected through the surveys will be used to formulate programmatic and policy recommendations designed to strengthen the NHSC program and increase its effectiveness.

The estimated burden is as follows:

Type of respondent	Number of respondents	Response per respondent	Hours per response	Total burden hours
Eligible Alumni Clinicians	1,555	1	.50	778
Ineligible Alumni Clinicians	173	1	.07	12
Eligible Current Clinicians	965	1	.50	483
Ineligible Current Clinicians	51	1	.07	4
Eligible Site Administrators	251	1	.50	126
Ineligible Site Administrators	13	1	.07	1
Total	3,008			1404

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Laura Oliven, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: October 30, 1997.

Jane Harrison,

Acting Director, Division of Policy Review and Coordination.

[FR Doc. 97–29259 Filed 11–4–97; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; Gila River Indian Community Demographic Information

SUMMARY: Under the provisions of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the National Institute of Diabetes and Digestive and Kidney Diseases, the National Institutes of Health has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the **Federal Register** on July 11, 1997, on page number 37269 and allowed 60 days for public comment. No public comments were received during the comment period. The purposes of this notice is to allow an additional 30 days for public comment. the National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1,

1995, unless it displays a currently valid OMB control number.

Proposed Collection

Title: Gila River Indian Community Demographic Information.

Type of Information Collection Request: NEW.

Need and Use of Information Collection: This study will identify current residents of the Gila River Indian Community of Arizona, including place of residence, name and date of birth of each individual, familial relationships, degree of Indian blood and tribal heritage. The findings will facilitate current research into the causes of diabetes mellitus in Indians of the southwestern United States, particularly with respect to the genetic determinants of the disease.

Frequency of Response: One-time collection.

Affected Public: Individuals or households.

Type of Respondents: Individuals, Parents, or Guardians. The annual reporting burden is as follows:

Estimated Number of Respondents: 11,500;

Estimated Number of Responses per Respondent: 1;

Average Burden Hours Per Response: .25; and

Estimated Total Annual Burden Hours Requested: 958. The annualized cost to respondents is estimated at: $9,538. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Type of respondents	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual burden hours requested
Individuals and Families	11,500	1	0.25	958

Request for Comments

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, D.C. 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Richard M. Bryan, Administrative Officer, Phoenix Epidemiology & Clinical Research Branch, DIR, NIDDK, NIH, Building 1, 4212 North Sixteenth Street, Phoenix, AZ 85014, or call non-toll-free number (602) 200–5221 or E-mail your request, including your address to: mbryan@phx.niddk.nih.gov

Comments Due Date

Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

Dated: October 21, 1997.

Clifford Moss, Jr.,

Executive Officer, NIDDK.

[FR Doc. 97–29228 Filed 11–4–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix), notice is hereby given of the following meetings:

Agenda/Purpose: To review and evaluate grant applications and/or contract proposals.

Name of Committee: National Human Genome Research Institute Initial Review Group, Genome Research Review Subcommittee.

Date: November 5, 1997.

Time: 8:30 am.

Place: Georgetown Suites Hotel—Harbor Building.

Contact Person: Kenji Nakamura, Ph.d., Office of Scientific Review, National Human Genome Research Institute, National Institutes of health, Building 38A, Room 604, Bethesda, Maryland 20892, (301) 402–0838.

The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. The applications and/or contract proposals, and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to the meetings due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance program No. 93,172, Human Genome Research)

Dated: October 27, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–29229 Filed 11–4–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4283–N–53]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: January 5, 1998.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing & Urban Development, 451 7th Street, SW, Room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Carissa Janis, telephone number (202) 708–3291 x2487; (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: "Service Coordinator Database Information".

This is a one-page form.

OMB Control Number: 2502–xxxx.

Description of the need for the information and proposed use:

The proposed form will be used to gather information about HUD subsidized housing projects that employ a Service Coordinator. The information will be placed in a national Service Coordinator database and will supplement existing data.

The completion of this form is completely voluntary. Receipt of benefits will in no way be dependant on the completion of this form.

The database is for primary use by the public. It will enable Service Coordinators to find, network with, and obtain information from their colleagues across the country. This ability will help to enhance their job, thereby providing a better service to residents.

HUD will also use the database for reference and information for funding purposes.

HUD currently does not have a comprehensive list or database of all such projects. This form will assist HUD in furthering this goal.

Agency forms, if applicable: Subject of this notice: "Service Coordinator Database Information".

Members of affected public: Owners, managers, or Service Coordinators of HUD assisted housing projects; Public Housing Authority or State housing finance agency staff or Service Coordinators serving their residents, and HUD staff.

Status of the proposed information collection: The information collection form is being submitted to obtain OMB approval for use by the public.

Authority: Section 236 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: October 30, 1997.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 97–29284 Filed 11–4–97; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4283–N–52]

Submission for OMB Review: Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comment due date:* December 5, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: October 28, 1997.

David S. Cristy,

Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Title of Proposal: Insurance of Adjustable Rate Mortgages.

Office: Housing.

OMB Approval Number: 2502–0322.

Description of the Need For the Information and its Proposed Use: This information is part of a disclosure statement lenders must furnish to borrowers stating that the interest rate on the mortgage may change, identifying the index used and the frequency of adjustments, and providing a hypothetical payment schedule showing increases over the first five years.

Form Number: None.

Respondents: Business or other for-profit.

Frequency of Submission: On occasion and third party disclosure.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Disclosure Statement	20,000		1		.07		1,400

Total Estimated Burden Hours: 1,400.
Status: Reinstatement, without changes.
Contact: Diane Lobasso, HUD, (202) 708–2700 x2191; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: October 29, 1997.

[FR Doc. 97–29286 Filed 11–4–97; 8:45 am]
BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT–834413

Applicant: Audobon Park & Zoological Garden, New Orleans, LA.

The applicant requests a permit to import one male and one female jaguar (*Panthera onca*) born in captivity at the Guadalajara Zoo, Mexico for the purpose of enhancemeitt of the species through conservation education.

PRT–835695

Applicant: San Diego Wild Animal Park, San Diego, CA.

The applicant requests a permit to export one male and 2 female captive-bred ocelots *(Leopardus pardalis)* to the Tsuzuki Nature Park, Japan for the purpose of enhancement to the survival of the species through captive breeding.

PRT–834794

Applicant: George Brimhall, Paradise Valley, AZ.

The applicant requests a permit to import a sport-hunted cheetah *(Acinonyx jubatus)* taken in Zimbabwe for the purpose of enhancement of the survival of the species.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, VA 22203 and must be received by the Director within 30 days of the date of this publication.

The public is invited to comment on the following application for permits to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

PRT–835187

Applicant: Point Defiance Zoo, Tacoma, WA.

Permit Type: Public Display.
Name and Number of Animals: Walrus *(Odobenus rosmarus)*, 1.
Summary of Activity to be Authorized: The applicant has requested a permit for public display of a walrus calf found orphaned near Barrow, AK.
Source of Marine Mammals: Orphaned animal recovered by the U.S. Fish and Wildlife Service near Barrow, AK and placed with the Pt. Defiance Zoo for immediate care.
Period of Activity: Up to five years from issuance date of the permit, if issued.

RT–833153

Applicant: The WyoBraska Natural History Museum, Gering, NE.

Permit Type: Public Display.
Name and Number of Animals: Walrus *(Odobenus rosmarus)*, 1.
Summary of Activity to be Authorized: The applicant has requested a permit to import a sport-hunted trophy of a male walrus taken in the Northwest Territories, Canada and donated to the facility for the purpose of public display at the WyoBraska Natural History Museum.
Source of Marine Mammals: Sport hunted in Canada.
Period of Activity: Up to five years from issuance date of the permit, if issued.

PRT–835771

Applicant: Gary Joal Ganz, Beverly Shores, IN.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population, Northwest Territories, Canada for personal use.

PRT–835730

Applicant: Peter M. Leech, Kansasville, WI.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population, Northwest Territories, Canada for personal use.

PRT–835807

Applicant: Madleine Kay, Juniper Hills, CA.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Foxe Basin polar bear population, Northwest Territories, Canada for personal use.

PRT–835809

Applicant: Clifford Senter, Plaistow, NH.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population, Northwest Territories, Canada for personal use.

PRT–836101

Applicant: Everal G. Gilbertson, Rochester, MN.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted prior to April 30, 1994, from the Lancaster Sound polar bear population, Northwest Territories, Canada for personal use.

PRT–836090

Applicant: Robert Moose, Worthington, IN.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted prior to April 30, 1994, from the Lancaster Sound polar bear population, Northwest Territories, Canada for personal use.

Written data or comments, requests for copies of any of these complete applications, or requests for a public hearing on these applications should be sent to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, Room 700, Arlington, VA 22203, telephone 703/358–2104 or fax 703/358–2281 and must be received within 30 days of the date of publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Documents and other information submitted with the application are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the above address within 30 days of the date of publication of this notice.

Dated: October 30, 1997.

MaryEllen Amtower,
Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 97–29200 Filed 11–4–97; 8:45 am]
BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Extension of Comment Period on Draft Supplemental Information Regarding the Recovery Plan for the Grizzly Bear (Ursus Arctos horribilis)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice: extension of comment period.

SUMMARY: The Fish and Wildlife Service provides notice that the comment period is being extended for commenting on draft supplemental information to the recovery plan for the grizzly bear (*Ursus arctos horribilis*). All interested parties that have not done so are invited to submit comments on this information.

DATES: Comments on the draft supplemental information must be received on or before December 1, 1997, to ensure they receive consideration by the Service.

ADDRESSES: Written comments and materials regarding this information should be sent to the Grizzly Bear Recovery Coordinator, U.S. Fish and Wildlife Service, University Hall, Room 309, University of Montana, Missoula, MT 59812.

FOR FURTHER INFORMATION CONTACT: Dr. Christopher Servheen, Grizzly Bear Recovery Coordinator (see **ADDRESSES** above), at telephone (406) 243–4903.

SUPPLEMENTARY INFORMATION:

Background

Under the provisions of the Endangered Species Act of 1973 (Act) as amended (16 U.S.C. 1531 *et seq.*), the Service approved the revised Grizzly Bear Recovery Plan on September 10, 1993. In May 1994 The Fund For Animals, Inc., and 22 other organizations and individuals filed suit in the U.S. District Court for the District of Columbia over the adequacy of the Plan approved in 1993. Later in May 1994 the National Audubon Society and 19 other organizations and individuals also filed suit in the same court. The two cases were eventually consolidated. In September 1995 the court issued an opinion. The motions for summary judgment of both the plaintiffs and the defendants were granted in part and denied in part. The court ordered the Service to reconsider certain portions of the Plan, and to provide supplemental information. The information presented in the document being made available for review includes supplemental information that the Service was to provide and the results of its reconsideration.

Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies also will take these comments into account in the course of implementing approved recovery plans.

Public Comments Solicited

The Service solicits written comments on the supplemental information described above. All comments received by December 1, 1997, will be considered prior to finalization of the information. Appropriate portions of the information will be appended to, and become part of, the Plan.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: October 29, 1997.

Terry T. Terrell,
Deputy Regional Director, Denver, CO.

[FR Doc. 97–29240 Filed 11–4–97; 8:45 am]
BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permit for Marine Mammals

On August 28, 1997, a notice was published in the **Federal Register**, Vol. 62, No. 167, Page 45674, that an application had been filed with the Fish and Wildlife Service by Bobbie F. McLawhorn, New Bern, NC, for a permit (PRT 833590) to import a sport-hunted polar bear (*Ursus maritimus*) trophy, taken from the McClintock Channel population, Canada, for personal use.

Notice is hereby given that on October 9, 1997, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On August 28, 1997, a notice was published in the **Federal Register**, Vol. 62, No. 167, Page 45674, that an application had been filed with the Fish and Wildlife Service by John C. Bryam, Jr., Mission, KS, for a permit (PRT–833352) to import a sport-hunted polar bear (*Ursus maritimus*) trophy taken from the McClintock Channel population, Canada, for personal use.

Notice is hereby given that on October 9, 1997, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On August 28, 1997, a notice was published in the **Federal Register**, Vol. 62, No. 167, Page 45674, that an application had been filed with the Fish and Wildlife Service by Arlo Speiss, El macero, CA for a permit (PRT–833156) to import a sport-hunted polar bear (*Ursus maritimus*) trophy taken prior to April 30, 1994 from the Lancaster Sound population, Canada, for personal use.

Notice is hereby given that on October 10, 1997, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On April 24, 1997, a notice was published in the **Federal Register**, Vol. 62, No. 79, Page 20019, that an application had been filed with the Fish and Wildlife Service by the Alaska Science Center for amendment of a permit (PRT–786818) to lethally take up to 10 Alaskan sea otters (Enhydra lutris lutris) for the purpose of scientific research. On June 26, 1997, a second notice was published in the **Federal Register**, Vol. 62, No. 123, Page 34482, to announce the availability of additional information in reference to the amendment request.

Notice is hereby given that on October 16, 1997, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service denied the requested permit amendment.

On August 28, 1997, a notice was published in the **Federal Register**, Vol. 62, No. 167, Page 45674, that an application had been filed with the Fish and Wildlife Service by Robert Johnson, Millwood, NY, for a permit (PRT–833623) to import a sport-hunted polar bear (*Ursus maritimus*) trophy, taken from the Southern Beaufort Sea population, Northwest Territories, Canada for personal use.

Notice is hereby given that on October 15, 1997, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

Documents and other information submitted for these applications are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Rm 700, Arlington, Virginia 22203. Phone (703) 358–2104 or Fax (703) 358–2281.

Dated: October 30, 1997.

MaryEllen Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 97–29201 Filed 11–4–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Notice of Tribal-State Gaming Compact Taking Effect

SUMMARY: Pursuant to Section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA) Public Law 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary-Indian Affairs, Department of the Interior, through her delegated authority, is publishing the Tribal-State Compacts between the Pueblo of Picuris, the Pueblo of Santa Ana, the Jicarilla Apache Tribe and the State of New Mexico executed on August 20, 1997, and the Pueblo of Nambe and the State of New Mexico executed on September 5, 1997. By the terms of IGRA these Compacts are considered approved, but only to the extent the Compacts are consistent with the provision of IGRA.

SUPPLEMENTARY INFORMATION: The Department believes that the decision to let the 45-day statutory deadline for approval or disapproval of the Compacts expire without taking action is the most appropriate course of action given the unique history of state and federal court cases and legislative actions that have shaped the course of Indian gaming in New Mexico. A letter further explaining the Department's decision is available from the Bureau of Indian Affairs, Indian Gaming Management Staff at the address below.

DATES: This action is effective November 5, 1997.

FOR FURTHER INFORMATION CONTACT: Paula L. Hart, Acting Director, Indian Gaming Management Staff, Bureau of Indian Affairs, 1849 C Street NW, MS 2070–MIB, Washington, D.C. 20240, (202) 219–4068.

Dated: October 23, 1997.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

James H. McDivitt,

Certifying Officer.

[FR Doc. 97–29300 Filed 11–4–97; 8:45 am]

BILLING CODE 4310–02–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Submitted for Office of Management and Budget Review; Comment Request

TITLE: Gas Processing and Transportation Allowances.

COMMENTS: This collection of information has been submitted to the Office of Management and Budget (OMB) for approval. In compliance with the Paperwork Reduction Act of 1995, Section 3506(c)(2)(A), we are notifying you, members of the public and affected agencies, of this collection of information, and are inviting your comments. Is this information collection necessary for us to properly do our job? Have we accurately estimated the public's burden for responding to this collection? Can we enhance the quality, utility, and clarity of the information we collect? Can we lessen the burden of this information collection on the respondents by using automated collection techniques or other forms of information technology?

Comments should be made directly to the Attention: Desk Officer for the Interior Department, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; telephone (202) 395–7340. Copies of these comments should also be sent to us. The U.S. Postal Service address is Minerals Management Service, Royalty Management Program, Rules and Publications Staff, P.O. Box 25165, MS 3021, Denver, Colorado 80225–0165; the courier address is Building 85, Room A–613, Denver Federal Center, Denver, Colorado 80225; and the e-Mail address is David_Guzy@mms.gov. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days; therefore, public comments should be submitted to OMB within 30 days in order to assure their maximum consideration.

Copies of the proposed information collection and related explanatory material may be obtained by contacting Dennis C. Jones, Rules and Publications Staff, telephone (303) 231–3046, FAX (303) 231–3385, e-Mail Dennis_Jones@mms.gov.

DATES: Written comments should be received on or before December 5, 1997.

SUMMARY: The Secretary of the Interior is responsible for the collection of royalties from leases who produce minerals from leased Indian lands. The Secretary is required by various laws to manage the production of mineral resources on Indian lands, to collect the royalties due, and to distribute royalty funds in accordance with those laws. The product valuation and allowance determination process is essential to assure that the Indians receive payment on the proper value of the minerals being removed. In order to determine whether the amount of royalty tendered represents the proper royalty due, it is first necessary to establish the proper value of the gas and gas plant products being sold, or otherwise disposed of, as well as the proper costs associated with the allowable deductions from the value of gas and gas plant products.

Under certain circumstances lessees are authorized to deduct from royalty payments, the reasonable actual costs of transporting the royalty portion of produced minerals from the lease to a processing or sales point not in the immediate lease area. Transportation allowances are a part of the product valuation process which the Minerals Management Service (MMS) uses to determine if the lessee is reporting and paying the proper royalty amount.

When gas is processed for the recovery of gas plant products, lessees may claim a processing allowance. MMS normally will accept the cost as stated in the lessee's arm's-length processing contract as being representative of the cost of the processing allowance. In those instances where gas is being processed through a lessee owned plant, the processing costs shall be based upon the actual plant operating and maintenance expenses, depreciation, and a reasonable return on investment. The allowance is expressed as a cost per unit of individual plant products. Processing allowances may be taken as a deduction from royalty payments.

Failure to collect the data described could result in the undervaluation of leased minerals. Regulations at 30 CFR 206 establish uniform product valuation and allowance policies for all Indian leases. These regulations require information in support of the product valuation or allowances being claimed. Without such information, MMS cannot evaluate the correctness of values or allowances reported and claimed.

Description of Respondents: Lessees of Indian leases.

Frequency of Response: Annually.

Estimated Reporting and Recordkeeping Burden: 15 minutes.

Annual Responses: 3,000 responses.

Annual Burden Hours: 750 hours.

Bureau Clearance Officer: Jo Ann Lauterbach, (202) 208–7744.

Dated: October 21, 1997.

R. Dale Fazio,

Acting Associate Director for Royalty Management.

[FR Doc. 97–29271 Filed 11–4–97; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Gulf of Mexico Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the availability of Environmental Documents prepared for OCS mineral proposals on the Gulf of Mexico OCS.

SUMMARY: The Minerals Management Service (MMS), in accordance with Federal Regulations (40 CFR 1501.4 and 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related Site-Specific Environmental Assessments (SEA's) and Findings of No Significant Impact (FONSI's), prepared by the MMS for the following oil and gas activities proposed on the Gulf of Mexico OCS. This listing includes all proposals for which the FONSI's were prepared by the Gulf of Mexico OCS Region in the period subsequent to publication of the preceding notice. The acronym "NORM" means Naturally Occurring Radioactive Materials.

Activity/Operator	Location	Date
Chevron U.S.A., NORM Disposal Operations, NORM No. 160 ...	West Delta Area, Block 24, Lease OCS 0891, 4 miles south of Plaquemines Parish, Louisiana.	05/28/97
Dauphin Island Gathering Partners, Pipeline Activity, SEA No. G–17720.	Main Pass Area, Blocks 225, 217, 194, and 192; Viosca Knoll Area, Blocks 428, 384, 340, 296, 252, 253, 208, 209, 165, 121, 77, 33, and 32; Mobile Area, Blocks 1000, 999, 955, 954, 910, 866, 822, and 821; Lease G–17720; 6.5 miles offshore of Dauphin Island, Alabama.	07/10/97
Shell Oil Company, Pipeline Activity, SEA No. G–17730	Main Pass Area, Blocks 146, 147, 73, 72, 71, and 70; Main Pass Area South and East Addition, Blocks 289, 290, 291, 307, 306, 308, 309, 310, 303, 302, 301, and 300; Viosca Knoll Area, Blocks 815 and 814; Lease G–17730; 34 miles east of the Louisiana coastline.	08/21/97
Dauphin Island Gathering Partners, Pipeline Activity, SEA No. G–18822.	Main Pass Area, South and East Addition, Blocks 223, 224, and 225, Lease OCS–G 18822, 54 miles from the Louisiana coastline.	09/19/97
ATP Oil and Gas Corporation, Development Activity, SEA No. N–5678A.	Garden Banks Area, Block 134, Lease OCS–G 13366, 135 miles southeast of Galveston Island, Texas.	08/25/97
Amerada Hess Corporation, Exploration Activity, SEA No. N–5708A.	High Island Area, East Addition, South Extension, Blocks 135, 136, and 180, Leases OCS–G 14203, 14217, 14218, and 14222, 130 miles south of Cameron Parish, Louisiana.	07/16/97
ORYX Energy Company, Development Activity, SEA No. S–4333UA.	High Island Area, East Addition, South Extension, Lease OCS–G 13806, 115 miles from the Texas coastline.	08/12/97
Chevron U.S.A., Development Activity, SEA No. S–4354U	Mobile Area, Block 864, Lease OCS–G 5064, 8.5 miles offshore of Dauphin Island, Alabama.	07/11/97
Oryx Energy Company, Exploration Activity, SEA No. S–4406A	High Island Area, East Addition, South Extension, Block A–397, Lease OCS–G 13809, 116 miles southeast of the nearest coastline on Galveston Island, Texas.	08/15/97
Chevron U.S.A., Structure Removal Operations, SEA No. ES/SR 97–035A.	South Timbalier Area, Block 35, Lease OCS–G 3336, 10 miles from the Louisiana coastline.	05/19/97
Amoco Exploration and Production, Structure Removal Operations, SEA Nos. ES/SR 97–064A and 97–071.	West Delta Area, Block 140, Lease OCS–G 5682, 27 miles southeast of Plaquemines Parish, Louisiana.	04/18/97
Chevron U.S.A., Structure Removal Operations, SEA No. ES/SR 97–096.	South Timbalier Area, Block 35, Lease OCS–G 3336, 10 miles from the Louisiana coastline.	07/08/97
Amerada Hess Corporation, Structure Removal Operations, SEA No. ES/SR 97–099.	Main Pass Area, Block 273, Lease OCS–G 4918, 32 miles from the Louisiana coastline.	07/08/97
Enron Oil & Gas Company, Structure Removal Operations, SEA No. ES/SR 97–103.	Mustang Island Area, Block 783, Lease OCS–G 14104, 26 miles from the Texas coastline.	07/10/97
Enron Oil & Gas Company, Structure Removal Operations, SEA No. ES/SR 97–106.	Mobile Area, Block 914, Lease OCS–G 7846, 10 miles from the Alabama coastline.	07/11/97
CNG Producing Company, Structure Removal Operations, SEA No. ES/SR 97–113.	South Marsh Island Area, Block 61, Lease OCS–G 6692, 68 miles from the Louisiana coastline.	07/18/97
Chevron U.S.A., Structure Removal Operations, SEA No. ES/SR 97–114.	West Cameron Area, Block 48, Lease OCS–G 1351, 4 miles south of Cameron Parish, Louisiana.	07/24/97
UNOCAL Corporation, Structure Removal Operations, SEA Nos. ES/SR 97–137 through 97–140.	Eugene Island Area, Block 44, Lease OCS–G 3990, 13 miles southwest of St. Mary Parish, Louisiana.	08/11/97
UNOCAL Corporation, Structure Removal Operations, SEA No. ES/SR 97–141 & 97–142.	Vermilion Area, Block 28, Lease OCS 0297, 6 miles from the Louisiana coastline.	08/26/97
Mobil Exploration and Producing U.S. Inc., Structure Removal Operations, SEA Nos. ES/SR 97–144 & 97–145.	Main Pass Area, Block 91, Lease OCS–G 1499, 3 miles east of St. Bernard Parish, Louisiana.	09/10/97
Forest Oil Corporation, Structure Removal Operations, SEA No. ES/SR 97–146.	Vermilion Area, Block 275, Lease OCS–G 10678, 73 miles from the Louisiana coastline.	08/11/97
Forest Oil Corporation, Structure Removal Operations, SEA Nos. ES/SR 97–147 through 97–149.	West Cameron Area, Block 44, Lease OCS–G 6566, 7 miles from the Louisiana coastline.	08/15/97

Activity/Operator	Location	Date
Kerr McGee Corporation, Structure Removal Operations, SEA Nos. ES/SR 97–150 through 97–154.	Ship Shoal Area, Blocks 14, 28, 29, 30 and 32; Leases OCS–G 1359, OCS 0346, 0345, 0335, and 033; 3–8 miles south of Terrebonne Parish, Louisiana.	08/07/97
Texaco Inc., Structure Removal Operations, SEA Nos. 97–157 through 97–166 and 97–171.	South Marsh Island Area, Blocks 207, 211, 217, 221, and 218, Lease OCS 0310, 4 to 12 miles from the Louisiana coastline.	09/03/97
Stone Energy, Structure Removal Operations, SEA No. ES/SR 97–167.	Vermilion Area, Block 46, Lease OCS 0079; 19 miles south of Vermilion Parish, Louisiana.	08/26/97
Pogo Producing Company, Structure Removal Operations, SEA No. ES/SR 97–168.	Eugene Island Area, Block 295, Lease OCS–G 2104, 64 miles from the Louisiana coastline.	09/09/97
Forest Oil Company, Structure Removal Operations, SEA No. ES/SR 97–169.	High Island Area, Block A–274, Lease OCS–G 15806, 94 miles south of Cameron Parish, Louisiana.	08/07/97
Chevron U.S.A., Structure Removal Operations, SEA No. ES/SR 97–172.	Main Pass Area, Block 38, Lease OCS–G 1623, 16 miles northeast of Plaquemines Parish, Louisiana.	08/28/97
Chevron U.S.A., Structure Removal Operations, SEA Nos. ES/SR 97–173 through 97–175.	South Timbalier Area, Blocks 22 and 27, Leases OCS 0165 and OCS–G 1443, 3–8 miles south of Lafourche Parish, Louisiana.	08/22/97
Cockrell Oil Corporation, Structure Removal Operations, SEA No. ES/SR 97–176.	Eugene Island Area, Block 33, Lease OCS–G 3560, 3 miles south of St. Mary Parish, Louisiana.	08/21/97
Enserch Exploration, Inc., Structure Removal Operations, SEA No. ES/SR 97–178.	Brazos Area, Lease OCS–G 10214, 10 miles south of Matagorda County, Texas.	08/29/97
Santa Fe Resources, Inc., Structure Removal Operations, SEA Nos. ES/SR 97–186 and 97–187.	Vermilion Area, Blocks 107 and 117, Leases OCS–G 5411 and 5415, 30 miles south of Vermilion Parish, Louisiana.	09/11/97

Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about EA's and FONSI's prepared for activities on the Gulf of Mexico OCS are encouraged to contact the MMS office in the Gulf of Mexico OCS Region.

FOR FURTHER INFORMATION CONTACT: Public Information Unit, Information Services Section, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, Telephone (504) 736–2519.

SUPPLEMENTARY INFORMATION: The MMS prepares EA's and FONSI's for proposals which relate to exploration for and the development/production of oil and gas resources on the Gulf of Mexico OCS. The EA's examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. Environmental Assessments are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA Section 102(2)(C). A FONSI is prepared in those instances where the MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA. This notice constitutes the public notice of availability of environmental documents required under the NEPA Regulations.

Dated: October 29, 1997.

Chris C. Oynes,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 97–29330 Filed 11–4–97; 8:45 am]

BILLING CODE 4310–MR–M

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–402]

Certain Integrated Circuits and Products Containing Same; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on September 30, 1997, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Fujitsu Limited, 6–1, Marunouchi 1-chome, Chiyoda-ku, Tokyo 100, Japan, and Fujitsu Microelectronics, Inc., 3545 North First Street, San Jose, California 95134. A supplement to the complaint was filed on October 15, 1997. The complaint, as supplemented, alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain integrated circuits and products containing same by reason of infringement of claims 1, 2, 3, 8, 9, and 10 of U.S. Letters Patent 4,641,166 and claims 1, 6, 14, 15, 18, 27, and 37 of U.S. Letters Patent B1 4,352,724. The complaint further alleges that there exists an industry in the United States as required by subsection (a)(2) of section 337.

The complainants request that the Commission institute an investigation and, after a hearing, issue a permanent exclusion order and permanent cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Room 112, Washington, D.C. 20436, telephone 202–205–2000. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

FOR FURTHER INFORMATION CONTACT: Smith R. Brittingham IV, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2576. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov or ftp://ftp.usitc.gov).

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in § 210.10 of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.10 (1997).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on September 29, 1997, *ordered*, That

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain integrated circuits or products containing same by reason of infringement of claims 1, 2, 3, 8, 9, or 10 of U.S. Letters Patent 4,641,166 or claims 1, 6, 14, 15, 18, 27, or 37 of U.S. Letters Patent B1 4,352,724, and whether there exists an industry in the United States as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

Fujitsu Limited, 6–1, Marunouchi 1-chome, Chiyoda-ku, Tokyo 100, Japan

Fujitsu Microelectronics, Inc., 3545 North First Street, San Jose, California 95134.

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Samsung Electronics Co., Ltd., Samsung Main Building 250, 2–Ka, Taepyung-Ro, Chung-Ku, Seoul, 100–742 Korea

Samsung Semiconductor, Inc., 3655 North First Street, San Jose, California 95134.

(c) Smith R. Brittingham IV, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Room 401-M, Washington, D.C. 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the purpose of the investigation so instituted, the Honorable Paul J. Luckern is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.13. Pursuant to 19 C.F.R. 201.16(d) and 210.13(a) of the Commission's Rules, such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against such respondent.

Issued: October 30, 1997.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 97–29289 Filed 11–4–97; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–394]

Certain Screen Printing Machines, Vision Alignment Devices Used Therein, and Component Parts Thereof; Notice of Commission Determination Not To Review an Initial Determination Terminating the Investigation on the Basis of a Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (ALJ's) initial determination (ID) in the above-captioned investigation terminating the investigation on the basis of a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Gail Usher, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3152.

SUPPLEMENTARY INFORMATION: This patent-based section 337 investigation was instituted by the Commission on February 27, 1997, on behalf of complainant MPM Corporation (MPM) of Franklin, Massachusetts. 62 FR 10072 (March 5, 1997). The complaint alleged violations of section 337 of the Tariff Act of 1930 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain screen printing machines, vision alignment devices used therein, and component parts thereof by reason of infringement of claims 1, 2, 3, 4, 11, 18, and 21 of U.S. Letters Patent 5,060,063, and claims 1 and 7 of U.S. Letters Patent Re. 34,615. The Commission named DEK Printing Machines Limited and DEK USA Inc. (collectively, DEK) as respondents.

On October 3, 1997, complainant and respondents filed a joint motion to terminate the investigation based on a settlement agreement. On October 6, 1997, the presiding ALJ granted the motion and issued an ID (Order No. 13) terminating the investigation on the basis of the settlement agreement. The ALJ found that there was no indication that termination of the investigation would have an adverse impact on the public interest and that termination based on settlement is generally in the public interest. No petitions for review of the ID were filed.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and Commission rule 210.42, 19 CFR 210.42.

Copies of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

Issued: October 28, 1997.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 97–29268 Filed 11–4–97; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Office of the Secretary

Senior Executive Service; Appointment of a Member to the Performance Review Board

Title 5 U.S.C. 4314(c)(4) provides that Notice of the appointment of an individual to serve as a member of the Performance Review Board of the Senior Executive Service shall be published in the **Federal Register.**

The following individuals are hereby appointed to a three-year term on the Department's Performance Review Board:

Kathryn Higgins
Joseph Juarez

FOR FURTHER INFORMATION CONTACT: Mr. Larry K. Goodwin, Director of Human Resources, Room C5526, U.S. Department of Labor, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, telephone: (202) 219–6551.

Signed at Washington, D.C., this 28th day of October, 1997.

Alexis M. Herman,

Secretary of Labor.

[FR Doc. 97–29207 Filed 11–4–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of October, 1997.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–33,772; CW Sportswear, Inc., Tellico Plains, TN

TA–W–33,766; Versa Technologies, Inc., Moxness Products Div., Wausau, WI

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W–33,829; Trans World Airlines, Kansas City Overhaul Base, Kansas City, MO

TA–W–33,856; Echo Bay Management Corp., Englewood CO

TA–W–33,843; Lummi Casino, A Div. of Lummi Indian Business Council, Bellingham, WA

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–33,813; BASF Corp., Coatings and Colorants Div., Morganton, NC

TA–W–33,479; G.E. Medical Systems, Milwaukee, WI

TA–W–33,720; Editorial America, Virginia Gardens, FL

The investigation revealed that criteria (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–33,519; Hays Wheels International, Inc., Romulus, MI

The investigation revealed that criteria (2) and criteria (3) have not been met. Sales or production did not decline during the relevant period as required for certification. Increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have not contributed importantly to the separations or threat thereof, and the absolute decline in sale or production.

TA–W–33,760; The Coleman Co., Inc., Coleman Powermate Div., Hastings, NE

TA–W–33,842; Applied Molded Products Corp., Watertown, WI

TA–W–33,631; Comsat RSI Plersys, Corinth, MS

Increased imports did not contribute importantly to worker separations at the firm.

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name & location for each determination references the impact date for all workers for such determination.

TA–W–33,771; Tara Lee Sportswear, New Berlin, PA: August 18, 1996.

TA–W–33,714; Norway Footwear Corp., Norway, ME: July 25, 1996.

TA–W–33,631; Flexel, Inc., Covington, IN: June 23, 1996.

TA–W–33,446, TA–W–33,447, TA–W–33,448 & TA–W–33,449; Quarles Drilling Corp., Headquartered in Tulsa, OK, Oklahoma City, OK, Houston, TX and Houma, LA: April 15, 1996.

TA–W–33,808; Magnetek, Inc., Huntington, IN: July 7, 1996.

All workers of Magnetek, Inc., Huntington, IN engaged in the production of electronic and electrical power conversion devices are eligible to apply for trade adjustment assistance.

TA–W–33,679; Devil Dog Manufacturing, Bunn Manufacturing Co. Div., Newton Grove, NC: July 18, 1996.

TA–W–33,809; 3C Alliance L.L.P., Mebane, NC: August 21, 1996.

TA–W–33,699; General Cable Corp., Montoursville, PA: June 17, 1996.

TA–W–33,836; Arnold Palmer Golf Bag Div. a Div. of Arnold Palmer Golf Co., Pocahontas, AR: September 5, 1996.

TA–W–33,537; Binder Bos., Inc., Ridgefield, NJ: May 12, 1996.

TA–W–33,599; H.H. Cutler Col, Statesboro, GA: June 19, 1996.

TA–W–33,695; Magna Interior Systems, Del Rio, TX: May 22, 1996.

TA–W–33,822; A, B, C; Dana Design Limited, Bozeman, MT, Livingston, MT, and Belgrade, MT: August 26, 1996.

TA–W–33,709; N.G.N., Inc., Reading, PA: July 21, 1996.

TA–W–33,816; Seymour Housewares Corp., Mooresville, NC: August 28, 1996.

TA–W–33,864 & A; Sweetheart Cup Co., Springfield MO & Riverside, CA: September 22, 1996.

TA–W–33,790; Bassett-Walker, Inc., North Wilkesboro Div., North Wilkesboro, NC: August 20, 1996.

TA–W–33,877; Electrohome, Inc., Display Technologies Div., Carthage, MO: September 30, 1996.

TA–W–33,499; Thypin Steel Corp., Blasdell, NY: May 2, 1996.

TA–W–33,850; Todd Uniform, Inc., Bernice, LA: September 19, 1996.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub.L. 103–182) concerning transitional adjustment assistance hereinafter called NAFTA–TAA) and in accordance with Section 250(a) Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of October, 1997.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases in imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–01899; Remington Apparel Co., Inc., Graham, TX

NAFTA–TAA–01705; Best Power, Div. of General Signal Power Systems, Inc., Necedah, WI

NAFTA–TAA–01718; Jet Farms, Loxahatchee, FL

NAFTA–TAA–01760; Brooks Tropicals, Inc., Homestead, FL

NAFTA–TAA–01789; Barnett Farms, Immokalee, FL

NAFTA–TAA–01781; RCM Converters, Inc., El Paso, TX

NAFTA–TAA–01729; J.E.M., West Palm Beach, FL

NAFTA–TAA–01757; Richard Miller, d.b.a. Miller Contracting & Management Belle Glade, FL

NAFTA–TAA–01885; Ramsay Fabrics, Inc., New York, New York

NAFTA–TAA–01930; Anvil Knitwear, Inc., Gibson Plant, Gibson, NC

NAFTA–TAA–01859; Stanwood Mills, Inc., Slatington, PA

NAFTA–TAA–01732; Pero Family Farms, Del Ray Beach, FL

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

NAFTA–TAA–01932; Trans World Airlines, Inc., Kansas City Overhaul Base, Kansas City, MO

NAFTA–TAA–01924; Echo Bay Management Corp., Englewood, CO

NAFTA–TAA–01911; Doran Texiles, Inc., Fox Wells Sales Div., New York, NY

NAFTA–TAA–01836; McCrory Corp., York, PA

NAFTA–TAA–01872; Philips Components, A Div. of Philips Electronics North America Corp., Jupiter, FL

NAFTA–TAA–01964; Payless Cashways, Inc., Wichita Falls, TX

NAFTA–TAA–01928; Lummi Casino, A Div. of Lummi Indian Business Council, Bellingham, WA

The investigation revealed that the workers of the subject firm did not produce an article within the meaning of Section 250(a) of the Trade Act, as amended.

NAFTA–TAA–01874; Wyeth-Ayerst Laboratories, American Home Products Corp., Bound Brook, NJ

A significant number or proportion of the workers (including workers in any agricultural firm or appropriate subdivision) did not become totally or partially separated as required for certification.

NAFTA–TAA–01731; Mecca Farms, Inc., Lantana, FL

A significant number or proportion of the workers (including workers in any agricultural firm or appropriate subdivision) did not become totally or partially separated as required for certification. Sales or production did not decline during the relevant period as required for certification.

Affirmative Determinations NAFTA–TAA

The following certifications have been issued; the date following the company name & location for each determination references the impact date for all workers for such determination.

NAFTA–TAA–01910; Heinz Bakery Products, Buffalo, NY: August 26, 1996.

NAFTA–TAA–01775; General Cable Corp. Montoursville, PA: June 17, 1996.

NAFTA–TAA–01782; Flexel, Inc., Covington, IN: June 23, 1996.

NAFTA–TAA–01841; Norton Co., Coated Abrasives, Watervliet, NY: July 22, 1996.

NAFTA–TAA–01907 & A,B,C,D; Dana Design Limited, Bozeman, MT, Livingston, MT, Lewistown, MT, and Belgrade, MT: August 26, 1996.

NAFTA–TAA–01832; Magna Interior Systems, Del Rio, TX: May 22, 1996.

NAFTA–TAA–01917; Seymour Housewares Corp., Mooresville, NC: August 28, 1996.

NAFTA–TAA–01864; Chase Packaging Corp., Portland, OR: July 31, 1996.

NAFTA–TAA–01870; Editorial America, Virginia Gardens, FL: July 24, 1996.

NAFTA–TAA–01865; SSF Building Materials, Inc., Northport, WA: August 11, 1996.

NAFTA–TAA–01937 & A; Sweetheart Cup Co., Springfield , MO and Riverside, CA: September 22, 1996.

NAFTA–TAA–01912; Collegiate Sportswear, Inc., Kingston, TN: August 27, 1996.

NAFTA–TAA–01903; Bassett-Walker, Inc., North Wilkesboro Div., North Wilkesboro, NC: August 26, 1996.

NAFTA–TAA–01925; Nukote International, Inc., Franklin, TN: September 17, 1996.

NAFTA–TAA–01882; Target Components, Inc., Kentwood, MI: August 5, 1996.

NAFTA–TAA–01908; Malone Manufacturing, Inc., Malone, NY: August 22, 1996.

NAFTA–TAA–01814; Chesterfield Manufacturing, Chesterfield, SC: August 9, 1996.

NAFTA–TAA–01223; Johnson & Johnson Medical, Inc., El Paso, TX: August 29, 1995.

I hereby certify that the aforementioned determinations were issued during the month of October, 1997. Copies of these determinations are available for inspection in Room C–4318, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: October 21, 1997.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 97–29227 Filed 11–4–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–33,005; TA–W–33,005A]

Anvil Knitwear, Incorporated; Aynor, SC and Gibson, NC; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for

Worker Adjustment Assistance on July 24, 1997, applicable to all workers of Anvil Knitwear, Incorporated, Aynor, South Carolina. The notice was published in the **Federal Register** on September 4, 1997 (62 FR 46775).

At the request of the petitioners, the Department reviewed the certification for workers on the subject firm. The workers are engaged in employment related to the production of T-shirts and tank tops. New information provided by the company shows that worker separations occurred at the subject firm's Gibson, North Carolina facility when it closed in September, 1997. The workers are engaged in employment related to the production of T-shirts. Accordingly, the Department is amending the certification to cover workers of Anvil Knitwear, Incorporated, Gibson, North Carolina.

The intent of the Department's certification is to include all workers of Anvil Knitwear, Incorporated adversely affected by increased imports.

The amended notice applicable to TA–W–33,665 is hereby issued as follows:

All workers of Anvil Knitwear, Incorporated, Aynor, South Carolina (TA–W–33,665) and Gibson, North Carolina (TA–W–33,665A) who became totally or partially separated from employment on or after May 24, 1996 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 14th day of October, 1997.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 97–29220 Filed 11–4–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–32,949; TA–W–32,950]

Barclay Home Products; Cherokee, North Carolina and Robbinsville, North Carolina; Notice of Revised Determination on Reconsideration

On June 13, 1997, the Department issued an Affirmative Determination Regarding Application for Reconsideration, applicable to workers and former workers of Barclay Home Products located in Cherokee and Robbinsville, North Carolina. The notice was published in the **Federal Register** on June 27, 1997 (62 FR 34712).

The petitioner presented evidence that the Department's survey of the subject firm's customers was incomplete.

The initial determination reported that the workers at the subject firm produced quilted comforters. New information provided to the Department on reconsideration reveals that the workers at the subject firm plants in Cherokee and Robbinsville, North Carolina were also producing quilts and quilt ensembles. The workers producing quilted comforters, quilts and quilt ensembles are not separately identifiable by product.

New information provided by the subject firm show that sales and production of quilts and quilt ensembles declined during the time period relevant to the investigation. Employment declined to zero when the subject firm plants closed in December 1996.

The quantity of aggregate U.S. imports of quilts increased from 1995 to 1996 and in the twelve month time period of July through June 1997 compared to the same twelve month time period of 1996. The value of aggregate U.S. imports of quilts declined from 1995 to 1996, but increased in the twelve month time period of July through June 1997 compared to the same twelve month time period of 1996.

On reconsideration, the Department conducted a survey of the subject firm's major declining customers. Survey findings show that from 1995 to 1996, a major customer stopped purchasing quilts and quilt ensembles from Barclay Home Products in favor of increased purchases of quilts and quilt ensembles from other domestic sources that were wholly manufactured in other foreign countries.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with quilts and quilt ensembles contributed importantly to the declines in sales or production and to the total or partial separation of workers of Barclay Home Products, Cherokee and Robbinsville, North Carolina.

In accordance with the provisions of the Act, I make the following certification:

All workers of Barclay Home Products, Cherokee, North Carolina (TA–W–32,949) and Robbinsville, North Carolina (TA–W–32,950), who became totally or partially separated from employment on or after November 7, 1995, are eligible to apply for worker adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC, this 16th day of October 1997.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 97–29222 Filed 11–4–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–33,430]

Bijur Lubricating Corporation, a Subsidiary of Vesper Corporation, Bennington, Vermont; Notice of Revised Determination on Reopening

On June 24, 1997, the Department issued a Negative Determination Regarding Eligibility to apply for worker adjustment assistance, applicable to workers and former workers of Bijur Lubricating Corporation, a subsidiary of Vesper Corporation, located in Bennington, Vermont. The notice was published in the **Federal Register** on July 18, 1997 (62 FR 38584).

By letter of August 1, 1997, the United Electrical, Radio and Machine Workers of America (UE) Local 295, requested administrative reconsideration regarding the Department's denial of trade adjustment assistance for workers of the subject firm.

Workers at the subject firm were engaged in employment related to the production of automotive drive shafts, and lubrication equipment and accessories. The workers are separately identifiable by produce line.

New information provided by Bijur Lubricating Corporation shows that company sales of lubrication equipment and accessories decreased from May through June 1997 compared to May through June 1996. During this same time period, company imports of lubrication equipment and accessories increased relative to sales.

Conclusion

After careful review of the additional facts obtained on reopening, I conclude that increased imports of articles like or directly competitive with lubrication equipment and accessories contributed importantly to the declines in sales or production and to the total or partial separation of workers of Bijur Lubricating Corporation, Bennington, Vermont. In accordance with the provisions of the Act, I make the following certification:

All workers of Bijur Lubricating Corporation, a subsidiary of Vesper Corporation, Bennington, Vermont, engaged in employment related to the production of lubrication equipment and accessories, who became totally or partially separated from employment on or after March 27, 1996 are eligible to apply for worker adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC, this 21st day of October 1997.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 97–29217 Filed 11–4–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Acting Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 17, 1997.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 17, 1997.

The petitions filed in this case are available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 14th day of October, 1997.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 10/14/97]

TA–W	Subject firm (Petitioners)	Location	Date of petition	Product(s)
33,880	Braden Manufacturing (Wkrs)	Ft. Smith, AR	09/19/97	Duct Work for Gas Turbines.
33,881	Corning, Inc. (AFGWU)	Erwin, NY	09/01/97	Catalytic Convertors.
33,882	Rockwell Automation (IUE)	Ashtabula, OH	09/26/97	Large AC Electric Motors.
33,883	Fleetwood Metal Ind. (USWA)	Tecumseh, MI	09/25/97	Metal Stampings.
33,884	Manhattan Shirt Co. (Co.)	Andalusia, AL	09/26/97	Men's Shirts.
33,885	R.G. Thomas Corp (Co.)	Palisades Park, NJ	09/15/97	Wire Forms for Semi-Conductors.
33,886	Lexington Apparel (Wkrs)	Lexington, TN	09/24/97	Men's Dress Slacks.
33,887	General Electric Co (IUE)	New Comerstown, OH	09/22/97	Coils for Motors.
33,888	Crown Pacific (Wkrs)	Redmond, OR	09/08/97	Wood components for windows, doors.
33,889	Elf Atochem North America (ICWU)	Tacoma, WA	09/29/97	Sodium Chlorate.
33,890	Wolverine World Wide (Wkrs)	Kirksville, MO	09/25/97	Men's Dress Shoes.
33,891	MCD International (WKRS)	Anniston, AL	09/22/97	Microwave Ovens.
33,892	Port Clyde Canning Co (Wkrs)	Rockland, ME	09/16/97	Canned Sardines.
33,893	Simpson Industries (IAM)	Jackson, MI	09/24/97	Machined Castings.
33,894	Payless Cashways (Wkrs)	Wichita Falls, TX	09/11/97	Pine Lumber.
33,895	Donnkenny Apparel (Wkrs)	Hayel, VA	09/30/97	Ladies' Apparel.
33,896	Applied Materials (Wkrs)	Austin, TX	10/11/97	Semi-Conductor Water Fabrication Equip.
33,897	Beloit Corp (UE)	Dalton, MA	09/29/97	Capital Equipment for Paper Industry.
33,898	Weyerhaeuser Wood Product (Co.)	Philadelphia, MS	10/03/97	Plywood Panels.
33,899	Gandalf Systems (Wkrs)	Delran, NJ	09/05/97	Networking Equipment.
33,900	Whirlpool Corporation (IUE)	Evansville, IN	10/03/97	Refrigerators.
33,901	Oregon Woodworking (Co.)	Bend, OR	10/03/97	Interior Flat Jambs.
33,902	Lehigh Furniture Co (Co.)	Marianna, FL	10/01/97	Bedroom Furniture.
33,903	Taylor Togs (Co.)	Micaville, NC	10/02/97	Blue Jeans.
33,904	Youngone America (Wkrs)	Miami, FL	09/10/97	Base Ball Jackets.
33,905	Loralie Originals (Co.)	Redding, CA	10/03/97	Wedding Gowns, Bridesmaids, & Prom Dress.

[FR Doc. 97–29223 Filed 11–4–97; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–33,491]

Coats American Roesville Plant, Roesville, Georgia; Notice of Negative Determination Regarding Application for Reconsideration

By application of September 27, 1997, a petitioner requested administrative reconsideration of the Department's negative determination regarding worker eligibility to apply for trade adjustment assistance, applicable to workers of the subject firm. The denial notice was signed on September 9, 1997 and will soon be published in the Federal Register.

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The request for reconsideration claims that equipment was shipped to Mexico to be used to produce like and directly competitive sewing threads which has affected the employment at Coats American in Roesville, Georgia.

In order for the Department to issue a worker group certification, all of the group eligibility requirements of Section 222 of the Trade Act must be met. Review of the investigation findings show that criterion (3) was not met. Imports of sewing threads did not contribute to the decline in sales, production, and employment at the Roesville, Georgia facility. Coats American did move production of sewing threads to Mexico, but the sewing threads being produced in Mexico are not being imported into the United States.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 16th day of October 1997.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 97–29223 Filed 11–4–97; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–33,550 and TA–W–33,550A]

Elbeco, Incorporated; City Shirt Company, Frackville, PA and Meyersdale Manufacturing, Meyersdale, Pennsylvania; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on July 30, 1997 applicable to all workers of City Shirt Company, Frackville, Pennsylvania. The notice was published in the Federal Register on September 4, 1997 (62 FR 46775).

At the request of the petitioner, the Department reviewed the certification for workers of the subject firm. The investigation findings show that Elbeco, Incorporated of Reading, Pennsylvania is the parent firm of City Shirt Company, Frackville, Pennsylvania and Meyersdale Manufacturing, Meyersdale, Pennsylvania. The company reports that worker separation have occurred at Meyersdale Manufacturing, Meyersdale, Pennsylvania. The workers are engaged in employment related to the production of men's and women's uniform shirts.

Accordingly, the Department is amending the certification to cover workers at Meyersdale Manufacturing, Meyersdale, Pennsylvania.

The intent of the Department's certification is to include all workers of Elbeco, Incorporated adversely affected by increased imports.

The amended notice applicable to TA–W–33,550 is hereby issued as follows:

All workers of Elbeco, Incorporated, City Shirt Company, Frackville, Pennsylvania (TA–W–33,550), and Meyersdale Manufacturing, Meyersdale, Pennsylvania (TA–W–33,550A) who became totally or partially separated from employment on or after May 22, 1996, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 24th day of October, 1997.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 97–29210 Filed 11–4–97; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–33,644]

Gulton Graphic Instruments, East Greenwich, Rhode Island; Notice of Revised Determination on Reopening

On August 25, 1997, the Department issued a Negative Determination Regarding Eligibility to apply for worker adjustment assistance, applicable to workers and former workers of Gulton Graphic Instruments located in East Greenwich, Rhode Island. The notice was published in the Federal Register on September 17, 1997 (62 FR 48887).

By letter of September 17, 1997, the company requested administrative reconsideration regarding the Department's denial. New information provided by Gulton Graphic shows that company imports of temperature controllers increased during the time period relevant to the investigation.

Workers at the subject firm are engaged in employment related to the production of data measuring and recording devices. The workers are not separately identifiable by product line.

Sales, production and employment at the East Greenwich production facility declined during the relevant time period.

Conclusion

After careful review of the additional facts obtained on reopening, I conclude that increased imports of articles like or directly competitive with data measuring and recording devices, contributed importantly to the declines in sales or production and to the total or partial separation of workers of Gulton Graphic Instruments, East Greenwich, Rhode Island. In accordance with the provisions of the Act, I make the following certification:

All workers of Gulton Graphic Instruments, East Greenwich, Rhode Island, who became totally or partially separated from employment on or after June 28, 1996 are eligible to apply for worker adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC, this 22nd day of October 1997.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 97–29212 Filed 11–4–97; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–33,411; TA–W–33,411A]

J.R. Simplot Company; Food Group, Caldwell, Idaho and J.R. Simplot Company; Food Division—Grand Rapids Plant, Wyoming, Michigan; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on June 30, 1997 applicable to all workers of the Food Group of J.R. Simplot Company in Caldwell, Idaho. The notice was published in the Federal Register on July 18, 1997 (62 FR 38584).

At the request of the company, the Department reviewed the certification for workers of the subject firm. New findings show that worker separations are expected to occur on October 31, 1997 at the J.R. Simplot's Food Division-Grand Rapids plant, Wyoming, Michigan. The workers are engaged in employment related to the production of frozen potato products.

Accordingly, the Department is amending the certification to cover workers at the subject firm's Food Division-Grand Rapids plant, Wyoming, Michigan location.

The intent of the Department's certification is to include all workers of J.R. Simplot Company adversely affected by increased imports.

The amended notice applicable to TA–W–33, 411 is hereby issued as follows:

All workers of the Food Group of J.R. Simplot Company, Caldwell, Idaho (TA–W–33,441), and the Food Division-Grand Rapids Plant, of J.R. Simplot Company, Wyoming, Michigan (TA–W–33,411A) who became totally or partially separated from employment on or after March 24, 1996, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 10th day of October, 1997.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 97–29221 Filed 11–4–97; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–32,496]

Lucent Technologies, Incorporated, Berg Electronics, Inc., Lee's Summit, Missouri; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on August 20, 1996, applicable to workers of Lucent Technologies, Incorporated located in Lee's Summit, Missouri. The notice was published in the Federal Register on September 13, 1996 (610 FR 48504).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. Review of the certification shows that the name of the parent company, Berg Electronics, Inc., was inadvertently excluded from the certification. Accordingly, the Department is amending the worker certification to reflect this matter.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by increased imports.

The amended notice applicable to TA–W–32,496 is hereby issued as follows:

All workers of Lucent Technologies, Incorporated and Berg Electronics, Inc., Lee's Summit, Missouri, who became totally or partially separated from employment on or after June 19, 1995 through August 20, 1998, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 28th day of October 1997.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 97–29211 Filed 11–4–97; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–33,452]

Precision Scientific Division of Jouan Incorporated, Chicago, Illinois, Notice of Negative Determination Regarding Application for Reconsideration

By application dated July 9, 1997, one of the petitioners requested administrative reconsideration of the Department's negative determination regarding worker eligibility to apply for trade adjustment assistance. The denial notice applicable to workers of the subject firm located in Chicago, Illinois was signed on June 2, 1997 and published in the Federal Register on June 27, 1997 (62 FR 34711).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

Findings of the initial investigation showed that workers of Precision Scientific of Chicago, Illinois were engaged in employment related to the manufacture of CO–2 incubators, Thelco Ovens, vacuum pumps, and water baths. The Department's denial of TAA for workers of the subject firm was based on the fact that increases of imports of like and directly competitive did not contribute importantly to the worker separations and that the subject firm shifted production performed at the Chicago facility to a new facility in Winchester, Virginia.

The petitioner claims that all equipment used in the production of CO–2 incubators and vacuum pumps at the Chicago facility was not transferred to the Winchester facility but shipped to Europe and that this equipment will be used to manufacture like and directly competitive articles for import into the United States.

The company official reports that the equipment was not shipped to Europe but sold at auction in Chicago on August 7, 1997. The sale was confirmed by the company handling the auction.

Further, the shipment of equipment to another country is not a sufficient reason to conclude that the products

produced on that equipment will be imported into the United States at some point in the future and, thus, be a significant reason to conclude that potential future imports contributed significantly to the previous employment declines at Precision Scientific.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 27th day of October 1997.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 97–29214 Filed 11–4–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–33, 446; TA–W–33, 447; TA–W–33, 448; TA–W–33, 449]

Quarles Drilling Corporation Headquartered in Tulsa, Oklahoma and Quarles Drilling Corporation Operating at Various Locations in the Following States: Oklahoma (Except Tulsa); Texas; Louisiana; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on June 12, 1997, applicable to workers of Quarles Drilling Corporation, headquartered in Tulsa, Oklahoma, Oklahoma City, Oklahoma, Houston, Texas and Houma, Louisiana. The notice will soon be published in the **Federal Register**.

At the request of the State agency, the Department reviewed the certification for workers of the subject firm location in Houston, Texas. All workers at Quarles Drilling Corporation are engaged in employment related to the production of crude oil and natural gas. Findings on review show that the Department inadvertently limited the certification to workers at the subject firm locations in Tulsa and Oklahoma City, Oklahoma, Houston, Texas, and Houma, Louisiana. It was the intent of the Department's certification to include all workers of Quarles Drilling at various locations within the States of Oklahoma, Texas and Louisiana. Accordingly, the Department is amending the worker certification to reflect this matter.

The amended notice applicable to TA–W–33, 446 is hereby issued as follows:

All workers of Quarles Drilling Corporation, headquartered in Tulsa, Oklahoma (TA–W–33, 446), and operating at various locations in the following States: Oklahoma, except Tulsa, (TA–W–33, 447), Texas (TA–W–33, 448), and Louisiana (TA–W–33, 449) engaged in employment related to the production of crude oil and natural gas, who became totally or partially separated from employment on or after April 15, 1996, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 27th day of October 1997.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 97–29215 Filed 11–4–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–33,654]

Webster Lens Company, Webster, Massachusetts; Notice of Revised Determination on Reopening

On August 8, 1997, the Department issued a Negative Determination Regarding Eligibility to apply for worker adjustment assistance, applicable to workers and former workers of Webster Lens Company located in Webster, Massachusetts. The notice was published in the **Federal Register** on August 8,1997 (62 FR 48887).

By letter of August 14, 1997, Mr. Mauno A. Petajasoja, a petitioner, requested administrative reconsideration regarding the Department's denial of trade adjustment assistance for workers of the subject firm. Workers at the subject firm were engaged in employment related to the production of eyeglass lenses. The workers are not separately identifiable by product line.

New information provided by Webster Lens Company and one of its suppliers shows that company was purchasing through a broker eyeglass lenses which were manufactured overseas and being imported into the U.S.

Conclusion

After careful review of the additional facts obtained on reopening, I conclude that increased imports of articles like or directly competitive with eyeglass lenses contributed importantly to the declines in sales or production and to the total or partial separation of workers of Webster Lens Company, Webster, Massachusetts. In accordance with the provisions of the Act, I make the following certification:

All workers of Webster Lens Company of Webster, Massachusetts engaged in employment related to the production of eyeglass lenses, who became totally or partially separated from employment on or after June 24, 1996 are eligible to apply for worker adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC, this 22nd day of October 1997.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 97–29216 Filed 11–4–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–33,654]

Webster Lens Company Webster, Massachusetts; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of August 14, 1997, Mr. Mauno A. Petajasoja, a petitioner, requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to petition number TA–W–33,654. The denial notice was signed on August 8, 1997 and published in the **Federal Register** on September 17, 1997 (62 FR 48887).

The Petitioner asserts that there are imports of like and directly competitive articles from foreign sources and that these imported products are being obtained by the subject company from another domestic source.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C. this 9th day of October 1997.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 97–29226 Filed 11–4–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–33,655]

White Cap, Incorporated, Hayward, California; Notice of Negative Determination Regarding Application for Reconsideration

By application of September 17, 1997, the Glass, Molders, Pottery, Plastics & Allied Workers International Union requested administrative reconsideration of the Department's negative determination regarding worker eligibility to apply for trade adjustment assistance, applicable to workers of the subject firm. The denial notice was signed on August 25, 1997 and was published in the **Federal Register** on September 17, 1997 (62 FR 48887).

Pursuant to 29 CFR 90.18(c) reconsideration may be grated under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The request for reconsideration claims that customers of the subject firm were being serviced by products made in Mexico.

In order for the Department to issue a worker group certification, all of the group eligibility requirements of Section 222 of the Trade Act must be met. Review of the investigation findings show that criterion (3) was not met. Layoffs at the subject firm were the result of the consolidation of metal bottle and jar cap production from the subject firm into two other company-owned plants located domestically.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC this 27th day of October 1997.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 97–29213 Filed 11–4–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Extension Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden will be approximately 10 hours per annual response and we anticipate 56 responses with no capital/start-up costs, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed extension collection of the Planning Guidance and Instructions for Submission of Annual State Plans for the Welfare-to-Work Formula Grants.

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before January 5, 1998.

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: U.S. Department of Labor, Employment and Training Administration, ATTENTION: Janice Davis, 200 Constitution Avenue, N.W., Room S–5513, Washington, D.C. 20210, 202–219–0181 extension 155 (this is not a toll free number) and/or via e-mail davisj@doleta.gov; fax number is 202–219–0376.

SUPPLEMENTARY INFORMATION:

I. Background

The Balanced Budget Act of 1997, signed by the President on August 5, 1997, authorized the U.S. Department of Labor to provide Welfare-to-Work (WtW) Grants to States and local communities to provide transitional employment assistance to move Temporary Assistance for Needy Families (TANF) recipients with significant employment barriers into unsubsidized jobs providing long-term employment opportunities. In order to receive formula grant funds, the statute provides that the State must submit a plan for the administration of the WtW grant. This Planning Guidance and Instructions for Submission of Annual State Plans addresses the information required from States which will enable them to qualify for the formula grant funds. Separate guidance will be issued for both the grants to the Indian tribes and the competitive grants.

II. Current Actions

This request has currently been approved under an emergency clearance not to exceed March 31, 1998, this extension is needed in order to complete the collection of this information.

Type of Review: Extension.

Agency: Employment and Training Administration.

Title: Planning Guidance and Instructions for Submission of Annual State Plans for Welfare-to-Work Formula Grants.

OMB Number: 1205–0382.

Affected Public: State and local governments.

Total Respondents: 56.
Frequency: Annually.
Total Responses: 56.
Average Time per Response: 10 hours.
Estimated Total Burden Hours: 560.
Total Burden Cost (capital/startup): 0.
Total Burden Cost (operating/maintaining): 0.

Comments submitted in response to this comment request will be summarized and/or included in the request for the Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: October 30, 1997.

Peter E. Rell,

Director, Welfare-to-Work Grant Program Implementation Team.

[FR Doc. 97-29208 Filed 11-4-97; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA-01663]

Baroid Drilling Fluids, Incorporated, a Subsidiary of Cimber Performance Materials, Potosi, Missouri; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182) concerning transitional adjustment assistance, hereinafter called NAFTA-TAA and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), an investigation was initiated on June 3, 1997 in response to a petition filed on behalf of workers at Baroid Drilling Fluids, Incorporated in Potosi, Missouri.

The petitioning organization requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 28th day of October 1997.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 97-29209 Filed 11-4-97; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for NAFTA Transitional Adjustment Assistance

Petitions for transitional adjustment assistance under the North American Free Trade Agreement-Transitional Adjustment Assistance Implementation Act (Pub. L. 103-182), hereinafter called (NAFTA-TAA), have been filed with State Governors under Section 250(b)(1) of Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended, are identified in the Appendix to this Notice. Upon notice from a Governor that a NAFTA-TAA petition has been received, the Acting Director of the Office Trade Adjustment Assistance (OTAA), Employment and Training Administration (ETA), Department of Labor (DOL), announced the filing of the petition and takes actions pursuant to paragraphs (c) and (e) of Section 250 of the Trade Act.

The purpose of the Governor's actions and the Labor Department's investigations are to determine whether the workers separated from employment of after December 8, 1993 (date of enactment of Pub. L. 103-182) are eligible to apply for NAFTA-TAA under Subchapter D of the Trade Act because of increased imports from or the shift in production to Mexico or Canada.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing with the Acting Director of OTAA at the U.S. Department of Labor (DOL) in Washington, D.C. provided such request is filed in writing with the Acting Director of OTAA not later than November 17, 1997.

Also, interested persons are invited to submit written comments regarding the subject matter of the petitions to the Acting Director of OTAA at the address shown below not later than November 17, 1997.

Petitions filed with the Governors are available for inspection at the Office of the Acting Director, OTAA, ETA, DOL, Room C-4318, 200 Constitution Avenue, N.W. Washington, D.C. 20210.

Signed at Washington, DC, this 24th day of October, 1997.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

Subject firm	Location	Date received at Governor's office	Petition No.	Articles produced
Frolic Footwear (Wkrs)	Jonesboro, AR	08/22/97	NAFTA-1,898	Footwear.
Remington Apparel (Co.)	Graham, TX	08/27/97	NAFTA-1,899	Men's neckwear.
Perfect Circle—Sealed Power Division (UAW).	Rochester, IN	08/11/97	NAFTA-1,900	Cylinder liners (piston sleeves).
Ergodyne Corporation (Wkrs)	Pence, WI	08/27/97	NAFTA-1,901	Gloves, tennis elbows and wrist braces.
General Electric (IUE)	Ft. Wayne, IN	08/25/97	NAFTA-1,902	Motors, battery track, transformer.
Bassett Walker (Co.)	North Wilkesboro, NC	08/26/97	NAFTA-1,903	T-shirts, sweatsuits.
Thomson Consumer Electronics (IBEW)	St. Bloomington, IN	08/11/97	NAFTA-1,904	Television assembly.
Thomas and Betts (Wkrs)	Sanford, ME	08/26/97	NAFTA-1,905	Terminal blocks and plastic molds.
Prewash and Pressing Services (Co.)	El Paso, TX	09/02/97	NAFTA-1,906	Prewash, stone wash and press jeans.
Dana Design Limited (Co.)	Bozeman, MT	09/02/97	NAFTA-1,907	Backpacks.
Dana Design Limited (Co.)	Livingston, MT	09/02/97	NAFTA-1,907	Backpacks.
Dana Design Limited (Co.)	Lowistown, MT	09/02/97	NAFTA-1,907	Backpacks.
Dana Design Limited (Co.)	Belgrade, MT	09/02/97	NAFTA-1,907	Backpacks.
Malone Manufacturing (Wkrs)	Malone, NY	09/03/97	NAFTA-1,908	T-shirts and sweat pants.
Union City Body (UAW)	Union City, IN	09/03/97	NAFTA-1,909	Delivery vans.
Heinz Bakery Products (BCTW)	Buffalo, NY	09/03/97	NAFTA-1,910	Frozen unbaked sweet goods.
Dorn Textiles (Wkrs)	New York, NY	09/03/97	NAFTA-1,911	Woven fabric.
Collegiate Sportswear (Wkrs)	Kingston, TN	09/03/97	NAFTA-1,912	Sports jerseys.
Fisher Rosemount Petroleum (Co.)	Statesboro, GA	09/04/97	NAFTA-1,913	Magnetic flow meters.

APPENDIX—Continued

Subject firm	Location	Date received at Governor's office	Petition No.	Articles produced
Forsyth Sales (Co.)	Greensboro, NC	09/05/97	NAFTA-1,914	Supplied and repaired sewing machines.
Whisper Soft Mills (Wkrs)	Wallace, NC	09/04/97	NAFTA-1,915	Sheet sets, wall borders, tablecloths.
Irwin Manufacturing (Co.)	Alma, GA	09/05/97	NAFTA-1,916	Infant bedding.
Seymour Housewares (Wkrs)	Mooresville, NC	09/05/97	NAFTA-1,917	Laundry sorters, ironing board covers.
Elkin Valley Apparel (Wkrs)	Elkins, NC	09/15/97	NAFTA-1,918	Ladies sportswear.
Applied Molded Products (UBC)	Watertown, WI	09/09/97	NAFTA-1,919	Fiberglass reinforced plastics.
Hillsboro Glass (GMP)	Hillsboro, IL	09/05/97	NAFTA-1,920	Amber glass bottles.
Kimberly Clark (UPIU)	Oconto Falls, WI	07/09/97	NAFTA-1,921	Pulp.
Solomon Company (The) (Co.)	Leede, AL	09/11/97	NAFTA-1,922	Men's dress slacks.
Sew More (Wkrs)	Albemarle, NC	09/05/97	NAFTA-1,923	T-shirts, sweatshirts.
Echo Bay Management (Wkrs)	Englewood, CO	09/17/97	NAFTA-1,924	Administrative duties supporting mining.
Nukote International (Wkrs)	Franklin, TN	09/17/97	NAFTA-1,925	Ink ribbon & ink jet cartridges.
General Electric Company (Wkrs)	Salem, VA	09/18/97	NAFTA-1,926	Material handling production.
Dana Corporation (Wkrs)	Reading, PA	09/19/97	NAFTA-1,927	Truck side rails, Ford pick-up frames.
Lummi Casino (Wkrs)	Bellingham, WA	09/10/97	NAFTA-1,928	Gambling services.
Trutom (US) Limited (Wkrs)	Albany, NY	09/15/97	NAFTA-1,929	Specialized testing service.
Anvil Knitwear (Wkrs)	Gibson, NC	09/12/97	NAFTA-1,930	T-shirts and tanktops.
Stanley Works (The) (USWA)	York, PA	09/17/97	NAFTA-1,931	Hand saws, hacks saws, hand tools.
Trans World Airlines (IAMAW)	Kansas City, MO	09/22/97	NAFTA-1,932	Repair and maintenance on aircraft.
CAE Screenplates (Co.)	Glens Falls, NY	09/22/97	NAFTA-1,933	Stainless steel screen plates.
Great American Products (Wkrs)	Broadview, IL	09/22/97	NAFTA-1,934	Belt buckles.
Jansport (Wkrs)	Burlington, WA	09/23/97	NAFTA-1,935	Sporting goods.
Ace Metal Fabricators (IBT)	Bronx, NY	09/22/97	NAFTA-1,936	Alarm doors, brackets to hold motors.
Sweetheart Cup (IBEW)	Springfield, MO	09/24/97	NAFTA-1,937	Paper Cups.
Sweetheart Cup (IBEW)	Riverside, CA	09/24/97	NAFTA-1,937	Paper cups.
California Curves (Wkrs)	Temecula, CA	09/29/97	NAFTA-1,939	Wooden Cabinets.
Cabot Oil and Gas (Co.)	Carlton, PA	09/29/97	NAFTA-1,939	Oil and gas.
Elf Atochem North America (ICWU)	Tacoma, WA	09/29/97	NAFTA-1,940	Industrial chemicals (sodium chlorate).
F.W. Woolworth (Wkrs)	Berwyn, IL	09/30/97	NAFTA-1,941	Retail business.
General Motors (UAW)	Danville, IL	09/30/97	NAFTA-1,942	Castings.
IDE Interstate (Wkrs)	Jamaica, NY	10/03/97	NAFTA-1,943	Genevic.
Fleetwood Metals Industries (USWA)	Tecumseh, MI	09/30/97	NAFTA-1,944	Metal stamping.
Simpeon Industries (IAM)	Jackson, MI	09/24/97	NAFTA-1,945	Automotive components, brake drums, etc.
Braden Manufacturing (Wkrs)	Ft. Smith, AR	10/04/97	NAFTA-1,946	Gas turbine.
Simpeon Industries (Co.)	Gladwin, MI	9/22/97	NAFTA-1,947	Isolators and dampers.
Texas Instruments (Wkrs)	Central Lake, MI	10/02/97	NAFTA-1,948	Thermal overlad devices.
Almark Mills (Co.)	Dawson, GA	10/03/97	NAFTA-1,949	T-shirts, boxers, shorts.
Fiskars (Wkrs)	Fergus Falls, MN	10/06/97	NAFTA-1,950	Surge protection products.
Wolverine World Wide (Wkrs)	Kirksville, MO	10/07/97	NAFTA-1,951	Men's & women's work boots & shoes.
JLG Industries (Wkrs)	McConnellsburg, PA	10/06/97	NAFTA-1,952	Harnesses.
General Binding (Co.)	Sparks, NV	10/03/97	NAFTA-1,953	Bates rotary, flat files.
Taylor Togs (Co.)	Micaville, NC	10/07/97	NAFTA-1,954	Cut, sew and finishing of bottoms.
Best Manufacturing (Co.)	Salisbury, NC	10/07/97	NAFTA-1,955	Tee shirts and sweatshirts.
Stroh Brewery (IAM)	St. Paul, MN	10/08/97	NAFTA-1,956	Beer and beverages.
Lees Manufacturing (Co.)	Cannon Falls, MN	10/09/97	NAFTA-1,957	Children's sleepwear and sportswear.
Oregon Woodworking (Co.)	Bend, OR	10/08/97	NAFTA-1,958	Door jambs.
Bourns (Wkrs)	Riverside, CA	10/01/97	NAFTA-1,959	Electronic assemblies.
Loralie Originals (Wkrs)	Redding, CA	09/25/97	NAFTA-1,960	Bridal, prom and formal ladies wear.
DQ Investment Corporation (Co.)	San Diego, CA	10/01/97	NAFTA-1,961	Data base information.
Basler Electric (Wkrs)	Corning, AR	10/09/97	NAFTA-1,962	Class II transformer.
Apparel Brands (Co.)	Wrightsville, GA	10/10/97	NAFTA-1,963	Men's and ladies uniform pants & shorts.
Paylees Cashways (Wkrs)	Wichita Falls, TX	10/08/97	NAFTA-1,964	Retail sales of building materials.
Robinson (Wkrs)	Parsons, TN	10/13/97	NAFTA-1,965	Sportswear.
Hamburg Shirt—Bernstein and Sons (Co.).	Hamburg, AR	10/08/97	NAFTA-1,966	Knit and woven shirts.
University Energy (Wkrs)	San Diego, CA	10/10/97	NAFTA-1,967	Hydro electric power.
Frolic Footwear (Wkrs)	Walnut Ridge, AR	10/13/97	NAFTA-1,968	Footwear.
Timberline Lumber (Wkrs)	Kalispell, MT	10/02/97	NAFTA-1,969	Studs.
Tru Stitch Footwear (UFCW)	Malone, NY	10/14/97	NAFTA-1,970	Soft moccasin and boot style slippers.
Reel Gear (Wkrs)	Marine City, MI	10/14/97	NAFTA-1,971	Output and input gear.
Fedco Automotive Components (Wkrs)	Buffalo, NY	10/15/97	NAFTA-1,972	Car heaters, heater cores.
Oneita Industries (Co.)	Fayette, AL	10/16/97	NAFTA-1,973	T-Shirts.
Dana Corporation (USWA)	Reading, PA	10/08/97	NAFTA-1,974	Truck frame.
Lehigh Furniture (Co.)	Marianna, FL	10/16/97	NAFTA-1,975	Wooden bedroom furniture.
International Paper (UPIU)	Erie, PA	10/17/97	NAFTA-1,976	Paper products.

APPENDIX—Continued

Subject firm	Location	Date received at Governor's office	Petition No.	Articles produced
Rockwell Automation (IUE)	Ashtabula, OH	10/21/97	NAFTA–1,977	AC electric motors.
Bonita Packing (Wkrs)	Bonita Spring, FL	10/21/97	NAFTA–1,978	Tomatoes.
Kysor Michigan Fleet—Scott (UAW)	Scottsburg, IN	10/21/97	NAFTA–1,979	Auxiliary fuel tanks.
Woodgrain Millwork (Wkrs)	Lakeview, OR	10/20/97	NAFTA–1,980	Moulding.
Carolyn of Virginia (Co.)	Bristol, VA	10/20/97	NAFTA–1,981	Women's clothing.
Ellen B. Sport (Co.)	Whitehall, I:	10/17/97	NAFTA–1,982	Nightwear and dresses.

[FR Doc. 97–29224 Filed 11–4–97; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–01747]

John F. Spooner Farms Belle Glade, Florida; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), an investigation was initiated on May 27, 1997 in response to a petition filed on behalf of workers at John F. Spooner Farms, located in Belle Glade, Florida (NAFTA–01747).

The Florida Department of Labor and Employment Security has been unable to locate the company official at the subject firm. Consequently, the Department of Labor cannot conduct an investigation to render a determination as to whether the workers are eligible for adjustment assistance benefits under the Trade Act of 1974.

Therefore, further investigation in this matter would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 19th day of October 1997.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 97–29218 Filed 11–4–97; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–01092]

Lucent Technologies, Incorporated, Berg Electronics, Inc., Lee's Summit, Missouri; Amended Certification Regarding Eligibility To Apply for NAFTA-Transitional Adjustment Assistance

In accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), the Department of Labor issued a Certification of Eligibility to Apply for NAFTA Transitional Adjustment Assistance on August 9, 1996, applicable to all workers of Lucent Technologies, Incorporated located in Lee's Summit, Missouri. The notice was published in the **Federal Register** on March 12, 1996 (61 FR 11474).

At the request of petitioners, the Department reviewed the certification for workers of the subject firm. The petitioners, are employees of Berg Electronics, Inc., producing paddle board connectors and cable assemblies at Lee's Summit. The workers at the subject plant are not separately identifiable by product line. Review of the certification shows that the name of the parent company, Berg Electronics, Inc., was inadvertently excluded from the certification. Based on this information, the Department is amending the worker certification to include workers of Berg Electronics, Inc., Lee's Summit, Missouri.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by the shift in production to Mexico.

The amended notice applicable to NAFTA–01092 is hereby issued as follows:

All workers of Lucent Technologies, Incorporated and Berg Electronics, Inc., Lee's Summit, Missouri, who became totally or partially separated from employment on or after June 19, 1995 through August 9, 1998, are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed in Washington, DC, this 8th day of October 1997.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 97–29219 Filed 11–4–97; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of mandatory safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. McElroy Coal Company

[Docket No. M–97–112–C]

McElroy Coal Company, Consol Plaza, 1800 Washington Road, Pittsburgh, Pennsylvania 15241–1421 has filed a petition to modify the application of 30 CFR 75.312(d) (main mine fan examinations and records) to its McElroy Mine (I.D. No. 46–01437) located in Marshall County, West Virginia. The petitioner requests a variance to permit the testing of the function of an automatic closing door without stopping the fan. The petitioner proposes to test the operation of the fan closing door at least every 31 days, by rotating the test frame outward from its normal resting position until it contacts the flow reversal prevention door, by rotating the test frame in order to test the function of the bearings supporting the flow reversal prevention door, and to have the persons conducting the test visually observe the movement of the test frame and the contact between the test frame and the flow reversal prevention door, and to visually observe the general maintenance of the approved design. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

2. Freeman United Coal Mining Company

[Docket No. M–97–113–C]

Freeman United Coal Mining Company, 1999 Wabash Avenue, Suite 200B, Springfield, Illinois 62704–5364 has filed a petition to modify the application of 30 CFR 75.332 (working sections and working places) to its Crown II Mine (I.D. No. 11–02238) located in Macoupin County, Illinois. The petitioner requests a variance to allow one continuous miner on a super section to cleanup the previously mined working face while the other continuous miner starts to cut and load coal from another working face on the same working section, on the same split of air. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

3. Roberts Bros. Coal Co., Inc.

[Docket No. M–97–114–C]

Roberts Bros. Coal Co., Inc., P.O. Box 397, Mortons Gap, Kentucky 42440 filed a petition to modify the application of 30 CFR 75.503 (preshift examination) to its Cardinal #2 Underground Mine (I.D. No. 15–17216) located in Hopkins County, Kentucky. The petitioner proposes to use a spring-loaded device with specific fastening characteristics instead of a padlock to secure plugs and electrical type connectors to batteries and to the permissible mobile powered equipment, to prevent accidental separation of the battery plugs from their receptacles during normal operation of the battery equipment. The petitioner asserts that in the event of a battery fire, the spring-loaded device can be disconnected much faster and safer than a padlock; and that application of the mandatory standard would result in a diminution of safety to the miners. In addition, the petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

4. BJM Coal Company

[Docket No. M–97–115–C and M–97–110–C]

BJM Coal Company, 158 Turnpike Road, Summersville, West Virginia 26651 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Camp Creek Deep Mine (I.D. No. 46–08288), and its No. 9B Mine (I.D. No. 46–08284) both located in Webster County, West Virginia. The petitioner requests a variance to allow the use of a spring-loaded locking device instead of padlocks to secure battery plugs to machine mounted receptacles which would prevent the threaded lock ring on a plug from turning and coming loose unintentionally. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

5. Cobre Mining Company

[Docket No. M–97–06–M]

Cobre Mining Company, P.O. Box 424, Hanover, New Mexico 88041 has filed a petition to modify the application of 30 CFR 57.11055 (inclined escapeways) to its Continental Underground Complex (I.D. No. 29–00233) located in Grant County, New Mexico. The petitioner proposes to modify a distance of 326 feet in the #2 Shaft between the 1000 foot level and the 1300 foot level to provide a secondary escapeway. An interim level at the 1200 foot level of the #2 Shaft would break the portion of the escapeway into 200 feet and 126 feet portions, which would be well under the 300 foot limit. The petitioner requests a variance to allow 326 feet of vertical extent versus 300 feet, or a decision that the 1200 foot level of the #2 Shaft portions the 326 feet into smaller, legal portions. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

6. Stillwater Mining Company

[Docket No. M–97–07–M]

Stillwater Mining Company, HC 54, Box 385, Nye, Montana 59061 has filed a petition to modify the application of 30 CFR 57.14107(a) (moving machine parts) to its Stillwater Mine (I.D. No. 24–01490) located in Stillwater County, Montana. The petitioner proposes to fence around the magnetic belt located on the end of the feed conveyor of the 3100 level crusher station to prevent persons from coming into direct contact with the belt pulleys or the flying tramp iron ejected from the conveyor; to post signs for use by "Authorized Personnel Only", and only such persons would be allowed to enter the area when the belt is locked out. The petitioner states that it proposed alternative method would not cause a diminution of the safety to the operators. In addition, petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

7. Morton International, Inc.

[Docket No. M–97–08–M]

Morton International, Inc., P.O. Box 1496, New Iberia, Louisiana 70562–1496 has filed a petition to modify the application of 30 CFR 57.11050 (escapeways and refuges) to its Weeks Island Mine (I.D. No. 16–00970) located in Iberia County, Louisiana. The petitioner proposes to use a man cage where personnel are transported through the service shaft during a mine evacuation and through the production shaft on inserts placed in the production skips during secondary evacuation. The petitioner proposes to extend the concrete liner within the service shaft and the concrete liner within the production shaft upon completion of the service shaft to provide additional safety; to stop all work and evacuate the mine if either escapeway becomes disabled for more than one hour during shaft construction and resume work when both escapeways become available; to install an underground refuge chamber in the main intake airway at the 1200 Level shaft station for additional evacuation protection. The petitioner states that the refuge chamber would be large enough to accommodate at least ten persons and would be reachable from any mine workplace within thirty minutes; that the entire 1200 Level shaft station would be isolated from exhaust air by closing the ventilation doors if necessary; and that backup power source would be on the surface for mine ventilation in the event of incoming utility power loss. The petitioner asserts that application of the mandatory standard would result in a diminution of safety to the miners. In addition, the petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

8. Morton International, Inc. and Miners, Inc.

[Docket No. M–97–09–M]

Morton International, Inc., and Miners, Inc., P.O. Box 1496, New Iberia, Louisiana 70562–1496 has filed a petition to modify the application of 30 CFR 57.11050 (escapeways and refuges) to its Markel Mine (I.D. No.16–00512) located in Iberia County, Louisiana. Miners, Inc., is an independent contractor (MSHA I.D. No. M2C), performing work in the abandoned Markel Mine, owned by Morton Salt. The petitioners, Morton Salt and Miners, Inc., request a variance to allow a 6-foot wide secondary escapeway in the center of the Diamond Drift of the mine; a barricade consisting of ⅛ inch

diameter steel cable and suspended on steel posts on each side of the travelway to mark the route; and "Keep Out" signs to be posted on the boundary of the 6-foot wide escapeway every 250 feet along the travelway. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

9. North American Salt Company

[Docket No. M–97–10–M]

North American Salt Company, P.O. Box 10, Lydia, Louisiana 70569 has filed a petition to modify the application of 30 CFR 57.15031 (location of self-rescue devices) to its Cote Blanche Underground Salt Mine (I.D. No. 16–00358) located in St. Mary County, Louisiana. The petitioner requests a variance to allow supplies of self-rescue devices to be stored underground in strategic locations and readily accessible to the miners. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

10. ZCA Mines, Inc.

[Docket No. M–97–11–M]

ZCA Mines, Inc., P.O. Box 226, Hailesboro, New York 13645 has filed a petition to modify the application of 30 CFR 57.11050 (escapeways and refuges) to its Balmat Mine No. 4 (I.D. No. 30–01185) located in St. Lawrence County, New York. The petitioner requests a variance to allow the underground employees to report to the refuge chamber when one of the hoist becomes inoperable for more than one hour instead of evacuating the mine. The petitioner states that the No. 4 Mine personnel can evacuate from the hoisting facility at the No. 4 Mine and the No. 2 Mine. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

11. North American Salt Company

[Docket No. M–97–12–M]

North American Salt Company, P.O. Box 10, Lydia, Louisiana 70569 has filed a petition to modify the application of 30 CFR 57.22603 (blasting from the surface II–A mines) to its Cote Blanche Underground Salt Mine (I.D. No. 16–00358) located in St. Mary County, Louisiana. The petitioner requests a modification of the mandatory standard to allow specially prepared and limited shots of a shaft segment to be taken while men are underground. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

Request for Comments

Persons interested in these petitions may furnish written comments. These comments must be filed with the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 5, 1997. Copies of these petitions are available for inspection at that address.

Dated: October 24, 1997.

Patricia W. Silvey,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 97–29189 Filed 11–3–97; 8:45 am]

BILLING CODE 4510–43–P

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

International Boundary and Water Commission Notice

AGENCY: Border Environment Cooperation Commission (BECC).

ACTION: Notice of public meeting.

SUMMARY: This notice announces the 14th public meeting of the BECC Board of Directors on Friday, December 5, 1997, from 9:00 am – 2:00 pm, at the Cibeles Convention Center, located at Blvd. Tomás Fernández No. 8450, in Cd. Juarez, Chihuahua.

FOR FURTHER INFORMATION CONTACT: M.R. Ybarra, Secretary, United States Section, International Boundary and Water Commission, telephone: (915) 534–6698; or Mr. Gonzalo Bravo, Public Participation Coordinator, Border Environment Cooperation Commission, P.O. Box 221648, El Paso, Texas 79913, telephone: (011–52–16) 29–23–95; fax: (011–52–16) 29–23–97; e-mail: becc@cocef.interjuarez.com.

SUPPLEMENTARY INFORMATION: The U.S. Section, International Boundary and Water Commission, on behalf of the Border Environment Cooperation Commission (BECC), cordially invites the public to attend the 14th Public Meeting of the BECC Board of Directors, on Friday, December 5th, from 9:00 am–2:00 pm, at the Cibeles Convention Center, located at Blvd. Tomás Fernández NO. 8450, in Cd, Juarez, Chihuahua.

Proposed Agenda

1. Approval of Agenda (Action)
2. Approval of Minutes (Action)
3. Executive Committee Report (Information)
4. Manager's Report (Information)
5. 1997 Status Report
6. Technical Assistance Program Update
7. Consideration of Projects for Certification
   - Mexicali I and II
   —Public Comments
   —Certification Consideration (Action)
   - Jonathon Rogers
   —Public Comments
   —Certification Consideration (Action)
8. Complaints Procedures (Action)
9. General Public Comments

Anyone intersted in submitting written comments to the Board of Directors on any agenda item should send them to the BECC 15 days prior to the public meeting. Anyone interested in making a brief statement to the Board may do so during the public meeting.

Dated: October 30, 1997.

M.R. Ybarra,

Secretary, U.S. IBWC.

[FR Doc. 97–29235 Filed 11–4–97; 8:45 am]

BILLING CODE 4710–08–M

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meeting

AGENCY HOLDING MEETING: National Science Foundation, National Science Board.

DATE AND TIME: November 13, 1997, 1:30 p.m., Closed Session. November 13, 1997, 2:20 p.m., Open Session. November 14, 1997, 8:30 a.m., Open Session.

PLACE: National Science Foundation, 4201 Wilson Boulevard, Room 1225, Arlington, VA 22230.

STATUS: Part of this meeting will be open to the public. Part of this meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Thursday, November 13, 1997

Closed Session (1:30 p.m.–2:20 p.m.)

- Minutes, August 1997 Meeting.
- Personnel.
- NSB Public Service Award.
- Awards and Agreements.

Thursday, November 13, 1997

Open Session (2:20 p.m.–5:45 p.m.)

- Minutes, August 1997.
- Minutes, October 1997.
- Closed Session Agenda Items for February 1998.
- Chairman's Report.
- Director's Report.
- Reports from Committees.

- Important Notice 91.
- NSB Report on Graduate Education.
- Science and Engineering Indicators.
- Working Paper: "Federal Funding of Scientific Research."
- NSF Recompetition Policy.

Friday, November 14, 1997

Open Session (8:30 a.m.–11:30 p.m.)

- NSF Long Range Planning Review.
- Issues for Operating in Constrained Fiscal Environments.
- NSB Occasional Paper "Publicly Funded Research."
- Other Business.
- Adjourn.

Marta Cehelsky,

Executive Officer.

[FR Doc. 97–29357 Filed 11–3–97; 11:28 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Privacy Act of 1974: Revisions to NSF Systems of Records: New Systems

SUMMARY: Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), the National Science Foundation (NSF) is providing notice of revisions to 13 existing systems and the planned creation of two new systems. These revisions to current systems are being made to include altered and new routine uses, and to more accurately reflect the records contained therein. They are reprinted in their entirety. System NSF–7, "Earnings and Tax Statement (W–2)" is being deleted. The records described therein are covered by a more comprehensive system, NSF–22, "NSF Payroll System." System NSF–41, "Dissertation Advisors File" is also being deleted. It is not longer being maintained.

The two new systems are:

NSF–65, "NSF Vendor File," covers banking information used for direct deposit as required in the Debt Collection Improvement Act of 1996 to implement mandatory electronic payments for all obligations.

NSF–67, "Invention, Patent and Licensing Documents," covers invention disclosures, applications, and licenses submitted by NSF employees, grantees, and contractors.

In accordance with the requirements of the Privacy Act, NSF has provided a report on the proposed systems of records to the Director of OMB; the Chairman, Senate Committee on Governmental Affairs; and the Chairman, House Committee Government Reform and Oversight.

DATES: Sections 552a(e)(4) and (11) of Title 5 of the U.S. Code require that the public have thirty days to comment on the routine uses of systems of records. The new routine uses that are the subject of this notice will take effect on December 5, 1997, unless modified by a subsequent notice to incorporate comments received from the public.

COMMENTS: Written comments should be submitted to Herman G. Fleming, NSF Privacy Act Officer, National Science Foundation, Division of Contracts, Policy and Oversight, 4201 Wilson Boulevard, Room 485, Arlington, VA 22230.

Dated: October 31, 1997.

Herman G. Fleming,

Privacy Act Officer.

NSF–3

SYSTEM NAME:

Application and Account for Advance of Funds.

SYSTEM LOCATION:

National Science Foundation, Division of Financial Management, Voucher Unit, 4201 Wilson Boulevard, Arlington, VA 22230.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NSF current and former employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and address, amount requested, and voucher number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC, Chapter 57; 31 USC 1512; Department of the Treasury Fiscal Requirements Manual.

PURPOSE(S):

Establish and maintain Foundation records on administrative control of funds relating to requests for advance of funds.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from this system may be disclosed to:

1. The Department of Treasury for payment of advance of funds.

2. Another Federal agency, a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency when the Government is a party to the judicial or administrative proceeding.

3. The Department of Justice, to the extent disclosure is compatible with the purpose for which the record was collected, and is relevant and necessary to litigation or anticipated litigation in which one of the following is a party or has interest: (a) NSF or any of its components; (b) an NSF employee in his/her official capacity; (c) an NSF employee in his/her individual capacity when the Department of Justice is representing or considering representing the employee; or (d) the United States, when NSF determines that litigation is likely to affect the Agency.

4. Contractors, grantees, volunteers, experts, advisors, and other individuals who perform a service to or work on or under a contract, grant, cooperative agreement, or other arrangement with or for the Federal government, as necessary to carry out their duties.

5. Representatives of the General Services Administration and the National Archives and Records Administration who are conducting records management inspections under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained electronically.

RETRIEVABILITY:

The records are retrieved by Social Security Number.

SAFEGUARDS:

NSF employs security guards. Building is locked during non-business hours when guard is not on duty. Room in which records are kept is locked during non-business hours. A password is needed for access to the computer system.

RETENTION AND DISPOSAL:

Destroyed four years after settlement of advance.

SYSTEM MANAGER(S) AND ADDRESS:

Director Division of Financial Management, National Science Foundation, 201 Wilson Boulevard, Arlington, VA 22230.

NOTIFICATION PROCEDURE:

The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR part 613.

RECORD ACCESS PROCEDURES:

See "Notification," above.

CONTESTING RECORD PROCEDURES:

See "Notification" above.

RECORD SOURCE CATEGORIES:

Information is received from individual and his/her office.

SYSTEM EXEMPTIONS FROM CERTAIN PROVISIONS OF THE ACT:

None.

NSF–10

SYSTEM NAME:

Employee's Payroll Jacket.

SYSTEM LOCATION:

National Science Foundation, Division of Financial Management, Payroll Section, 4201 Wilson Boulevard, Arlington, VA 22230.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NSF current and former employees (including consultants).

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel actions, Federal and State Withholding Certificates, Bond Authorizations, Health Benefit Forms, Life Insurance Forms, Allotment Forms, and other similar items related to an employee's pay and deductions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Part III, Government Organization and Employees; Department of the Treasury Fiscal Requirements Manual; GAO manual, Title 6—Pay, Leave and Allowances

PURPOSE(S):

This system enables the NSF to maintain all data which apply to the salary, taxes, benefits and withholdings of each NSF employee and consultant in a single location, and ensures that appropriate salary adjustments are made.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from this system may be disclosed to:

1. Health insurance carriers for identifying employees covered by plan.

2. Other agencies upon transfer of employee to identify charitable allotments.

3. Financial institutions for the purpose of direct deposit.

4. The Department of Treasury for the purpose of locating missing bonds or paychecks.

5. The Department of Treasury and to the taxing authorities in the employee's state of residence (W–4 Forms).

6. The NSF Payroll System, which is described in NSF–22. The routine uses listed there are also applicable to this record system.

7. Another Federal agency, a court, or a party in liitgaiton before a court or in an administrative proceeding being conducted by a Federal agency when the Government is a party to the judicial or administrative proceeding.

8. The Department of Justice, to the extent disclosure is compatible with the purpose for which the record was collected and is relevant and necessary to litigation or anticipated litigation, in which one of the following is a party or has an interest: (a) NSF or any of its components; (b) an NSF employee in his/her official capacity; (c) an NSF employee in his/her individual capacity when the Department of Justice is representing or considering representing the employee; or (d) the United States, when NSF determines that litigation is likely to affect the Agency.

9. Contractors, grantees, volunteers, experts, advisors, and other individuals who perform a service to or work on or under a contract, grant, cooperative agreement, or other arrangement with or for the Federal government, as necessary to carry out their duties.

10. The Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services Federal Parent Locator System (FPLS) and Federal Tax Offset system:

For use in locating individuals and identifying their income sources to establish paternity, establish and modify orders of support and for enforcement.

For release to the Social Security Administration for verifying social security numbers in connection with the operation of the FPLS by the Office of Child Support Enforcement.

For release to the Department of Treasury for purposes of administering the Earned Income Tax Credit Program (Section 12, Internal Revenue Code of 1986) and verifying a claim with respect to employment in a tax return.

11. Representatives of the General Services Administration and the National Archives and Records Administration who are conducting records management inspections under the authority of 44 U.S.C. 2904 and 2906.

12. Officials of labor organizations recognized under 5 U.S.C. chapter 71, when relevant and necessary to their duties of exclusive representation.

13. The Merit Systems Protection Board or the Office of the Special Counsel in connection with appeals, investigation of alleged or possible prohibited personnel practices, and such other function's promulgated in 5 U.S.C. 1205 and 1206 or as may be authorized by law.

14. The Department of Labor in connection with an employee claim for compensation or an injury or illness.

15. The American Federation of Government Employees and Local 3403 in connection with union dues paid by members.

16. To the extent any of these records are duplicative of those described in OPM/GOVT–1 (General Personnel Records), the routine uses described therein are also applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained in file folder.

RETRIEVABILITY:

Alphabetically by last name of employee.

SAFEGUARDS:

NSF employs security guards. Building is locked during non-business hours when guard is not on duty. Room in which records are kept is locked during non-business hours.

RETENTION AND DISPOSAL:

Destroyed five years after termination of employment.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Financial Management, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

NOTIFICATION PROCEDURE:

The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR part 613.

RECORD ACCESS PROCEDURES:

See "Notification" above.

CONTESTING RECORD PROCEDURES:

See "Notification" above.

RECORD SOURCE CATEGORIES:

NSF Personnel Office, and forms prepared by individual employees.

SYSTEM EXEMPTIONS FROM CERTAIN PROVISIONS OF THE ACT:

None.

NSF–13

SYSTEM NAME:

Fellowship Payroll.

SYSTEM LOCATION:

National Science Foundation, Division of Financial Management, Payroll Section, 4201 Wilson Boulevard, Arlington, VA 22230.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Fellows under certain NSF Fellowship Programs being paid directly by the Government.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of fellowship award letter, acceptance form, starting certificates, and records of payments of stipends.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 1861; Department of the Treasury Fiscal Requirements Manual; GAO Manual, Title 6—Pay, Leave and Allowances.

PURPOSES:

This system enables the NSF to maintain all data that apply to the payment of fellowship payroll in a single location and ensures that appropriate payments are made.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from this system may be disclosed to:

1. The Department of Treasury for the purpose of issuing the payment directly to the financial account of the payee.

2. Financial institutions for purpose of direct deposit.

3. Another Federal agency, a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency when the Government is a party to the judicial or administrative proceeding.

4. The Department of Justice, to the extent disclosure is compatible with the purpose for which the record was collected and is relevant and necessary to litigation or anticipated litigation, in which one of the following is a party or has an interest: (a) NSF or any of its components; (b) an NSF employee in his/her official capacity; (c) an NSF employee in his/her individual capacity when the Department of Justice is representing or considering representing the employee; or (d) the United States, when NSF determines that litigation is likely to affect the Agency.

5. Contractors, grantees, volunteers, experts, advisors, and other individuals who perform a service to or work on or under a contract, grant, cooperative agreement, or other arrangement with or for the Federal government, as necessary to carry out their duties.

6. Representatives of the General Services Administration and the National Archives and Records Administration who are conducting records management inspections under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE

Paper records maintained in file folders. Records are also maintained electronically.

RETRIEVABILITY:

Alphabetically by last name of Fellow.

SAFEGUARDS:

NSF employs security guards. Building is locked during non-business hours when guard is not on duty. Room in which records are kept is locked during non-business hours.

RETENTION AND DISPOSAL:

Destroyed four years after termination of fellowship.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Financial Management, National Science Foundation; 4201 Wilson Boulevard, Arlington VA 22230.

NOTIFICATION PROCEDURE:

The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR part 613.

RECORD ACCESS PROCEDURES:

See "Notification" above.

CONTESTING RECORD PROCEDURES:

See "Notification" above.

RECORD SOURCE CATEGORIES:

Information obtained from Fellow.

SYSTEM EXEMPTIONS FROM CERTAIN PROVISIONS OF THE ACT:

None.

NSF–16

SYSTEM NAME:

Individual Retirement Record (SF–2806.

SYSTEM LOCATION:

National Science Foundation, Division of Financial Management, Payroll Section, 4201 Wilson Boulevard, Arlington, VA 22230.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current NSF employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Salary, grade, status changes, yearly and year to date retirement deductions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 8401. Government Organization and Employees; Department of the Treasury Fiscal Requirements Manual; GAO Manual, Title 6—Pay, Leave and Allowances

PURPOSE(S):

This system enables the NSF to maintain all data that apply to the salary, and retirement withholdings of each NSF employee.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from the system may be disclosed to:

1. The Office of Personnel Management annually or when employee separates from NSF to update employee retirements records. Personnel Management when employee separates from NSF.

2. Another Federal agency, a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency when the Government is a party to the judicial or administrative proceeding.

3. The Department of Justice, to the extent disclosure is compatible with the purpose for which the record was collected and is relevant and necessary to litigation or anticipated litigation, in which one of the following is a party or has an interest: (a) NSF or any of its component; (b) an NSF employee in his/her official capacity; (c) an NSF employee in his/her individual capacity when the Department of Justice is representing or considering representing the employee; or (d) the United States, when NSF determines that litigation is likely to affect the Agency.

4. The contractors, grantees, volunteers, experts, advisors, and other individuals who perform a service to or work on or under a contract, grant, cooperative agreement, or other arrangement with or for the Federal government, as necessary to carry out their duties.

5. Representatives of the General Services Administration and the National Archives and Records Administration who are conducting records management inspections under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained in file folders.

RETRIEVABILITY:

Employee's payroll number.

SAFEGUARDS:

NSF employs security guards. Building is locked during non-business hours when guard is not on duty. Room in which records are kept is locked during non-business hours.

RETENTION AND DISPOSAL:

Retained until employee is separated then transferred to OPM.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Financial Management.

NOTIFICATION PROCEDURE:

The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR part 613.

RECORD ACCESS PROCEDURES:

See "Notification" above.

CONTESTING RECORD PROCEDURES:

See "Notification" above.

RECORD SOURCE CATEGORIES:

Information obtained from the Personnel Office on Payroll Summaries prepared every two weeks showing year-to-date amounts.

SYSTEM EXEMPTIONS FORM CERTAIN PROVISIONS OF THE ACT:

None.

NSF–19

SYSTEM NAME:

Medical Examination Records for Service in the Polar Regions.

SYSTEM LOCATION:

National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230; Antarctic Support Associates (ASA) and subcontractors, 61 Inverness Drive East, Suite 300, Englewood, CO 80112; U.S. Antarctic facilities; Polar Ice Coring Office (PICO), University of Nebraska, Lincoln, Nebraska.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system covers all individuals being considered for Antarctic assignment (under the auspices of the USAP), or for assignment to selected, isolated locations in the Arctic region. Individuals covered may include NSF and other government agency employees, civilian contract employees, personnel conducting the research supported by NSF or other entities, and members of the uniformed services supporting NSF's polar research programs.

Note: Records concerning current and former federal employees are also covered by OPM/GOVT–10.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents relating to pre-deployment physicals: Medical history, clinical test results (e.g., blood, urine analyses, EKGs); physical exam notes; dental exams, X-rays, dentist's notes; and notes by medical reviewers determining medical qualifications. Includes psychological screening records when performed on winter-over candidates, and any additional tests/evaluation associated with requests for medical waivers. Medical files, clinic notes, and associated records created in the course of providing medical treatment or consultation by any of the medical care providers in the Arctic or Antarctia.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

16 U.S.C. 2401, *et seq.*, 42 U.S.C. 1870, 44 U.S.C. 3101.

PURPOSE(S)

The National Science Foundation's Office of Polar Programs is responsible for ensuring that personnel traveling to Antarctia under the auspices of the United States Antarctic Program (USAP) meet certain medical standards, as outlined in 45 CFR part 675 (62 FR 31521 (June 10, 1997). Those traveling to selected, isolated locations in the Arctic region must meet similar standards. Candidates for deployment must undergo a medical and dental examination to determine whether they are physically qualified for deployment. Candidates who anticipate spending the austral winter in Antarctica (where evacuation may be impossible) are subject to additional evaluation, including a determination of psychological adaptability to such an isolated environment. This medical screening process requires that certain medical records be generated on individuals participating in the USAP.

The records are used primarily for three purposes: (1) To determine the individual's fitness for Arctic/Antarctic assignment; (2) to assist in determining an appropriate course of medical/dental treatment should the individual seek medical care with any medical care provider while in the Arctic or Antarctica; and (3) to provide documentation for addressing quality of care issues associated with these medical functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from this system may be disclosed to:

1. Individuals involved in determining an individual's fitness for deployment, or in providing medical services or treatment. Such individuals include (a) designated medical care practitioners and their administrative support personnel involved in determining an individual's fitness for Arctic/Antarctic assignment, including waiver requests; and (b) medical care providers in NSF-supported stations and field camps in the polar regions where the individual is assigned;

2. The personal physician or examining physician of the individual about whom the records pertain when disclosure is necessary to obtain additional information necessary to make a determination on fitness, or provide medical treatment;

3. Medical experts either individually or as a panel to provide expertise and advice on quality of medical care issues in the polar regions;

4. Representatives of employing organizations, including academic institutions, and investigators on a grant (if a prospective field team member has requested a waiver) to inform them whether an individual is approved for deployment or not.

5. An emergency point of contact designated by the individual when the individual seeking deployment is unreachable and additional information is needed to order to make a determination on a waiver request before deployment deadlines, or when necessary to provide medical treatment during deployment;

6. Federal, state, or local agencies, or foreign governments when disclosure is necessary to obtain records in connection with an investigation by the NSF;

7. Information from the system may be given to another Federal agency, a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency when the Government is a party to the judicial or administrative proceeding, or when NSF determines that the litigation or proceeding is likely to affect the Agency.

8. The Department of Justice, to the extent disclosure is compatible with the purpose for which the record was collected and is relevant and necessary to litigation or anticipated litigation, in which one of the following is a party or has an interest: (a) NSF or any of its components; (b) an NSF employee in his/her official capacity; (c) an NSF employee in his/her individual capacity when the Department of Justice is representing or considering representing the employee; or (d) the United States, when NSF determines that litigation is likely to affect the Agency.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are kept in locked file cabinets or area with limited access. Records may also be prepared and maintained in electronic format with password protection.

RETRIEVABILITY:

The records are retrieved by the name of the individual or by the individual's social security number.

SAFEGUARDS:

These records are available only to those persons whose official duties require such access. They are kept in locked file cabinets or locations with limited access. Electronic records are password protected.

RETENTION AND DISPOSAL:

Except for those records covered by OPM/GOVT–10, records are destroyed approximately eight years after the individual's last Antarctic or Arctic deployment.

SYSTEM MANAGER(S) AND ADDRESS:

Safety and Health Officer, Office of Polar Programs. Point of contact: Associate Program Manager for Safety and Health, Polar Research Support Section, Office of Polar Programs, Office of the Director, National Science Foundation, 4201 Wilson Boulevard, Room 755, Arlington, VA 22230.

NOTIFICATION PROCEDURE:

To determine whether this system of records contains a record pertaining to the requesting individual, write to the system manager at the above address.

RECORD ACCESS PROCEDURES:

See notification procedure.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in this system of records should write to the system manager at the above address.

RECORD SOURCE CATEGORIES:

Information in these records is obtained from individuals who intend to deploy to the Arctic or Antarctica and from personal physicians and medical examiners of the deploying individuals; from NSF staff and NSF records; and from non-NSF persons and records, to the extent necessary to carry out the duties described in the NSF Medical Examination procedures. All individuals desiring to deploy to the Arctic or Antarctica under the auspices of the National Science Foundation must provide the requested information.

SYSTEM EXEMPTIONS FROM CERTAIN PROVISIONS OF THE ACT:

None.

NSF–22

SYSTEM NAME:

NSF Payroll System.

SYSTEM LOCATION:

National Science Foundation, Division of Financial Management, Payroll Section, 4201 Wilson Boulevard, Arlington, VA 22230. Backup files are maintained at off-site location- First Federal Corporation, 4010 Massachusetts Avenue, NW, Suite 18, Washington DC 20016.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NSF current and former employees (including consultants).

CATEGORIES OF RECORDS IN THE SYSTEM:

Salary, grade, Social Security Number, home address, time and attendance and other related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Chapters 55 and 63; Department of the Treasury Fiscal Requirements Manual; GAO Manual, Title 6—Pay, Leave and Allowances.

PURPOSE(S):

Computer System consisting of data base with all information necessary to prepare NSF payroll, purchase of savings bonds, compute leave balances, prepare W–2s, and other similar uses.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from this system may be disclosed to:

1. The Internal Revenue Service and the Social Security Administration, and other taxing authorities (including such authorities as the employees state of residence.)

2. The Department of Treasury for issuance of salary payments.

3. Financial organizations for the purpose of direct deposit.

4. The Department of Justice, to the extent disclosure is compatible with the purpose for which the record was collected, and is relevant and necessary to litigation or anticipated litigation, in which one of the following is a party or has an interest: (a) NSF or any of its components; (b) an NSF employee in his/her official capacity; (c) an NSF employee in his/her individual capacity when the Department of Justice is representing or considering representing the employee; or (d) the United States, when NSF determines that litigation is likely to affect the Agency.

5. Another Federal agency, a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency when the Government is a party to the judicial or administrative proceeding

6. Contractors, grantees, volunteers, experts, advisors, and other individuals who perform a service to or work on or under a contract, grant, cooperative agreement, or other arrangement with or for the Federal government, as necessary to carry out their duties.

7. Representatives of the General Services Administration and the National Archives and Records Administration who are conducting records management inspections under the authority of 44 U.S.C. 2904 and 2906.

8. Officials of labor organizations recognized under 5 U.S.C. chapter 71, when relevant and necessary to their duties of exclusive representation.

9. The Merit Systems Protection Board or the Office of the Special Counsel in connection with appeals, investigation of alleged or possible prohibited personnel practices, and such other function's promulgated in 5 U.S.C. 1205 and 1206 or as may be authorized by law.

10. The Department of Labor in connection with an employee claim for compensation or an injury or illness.

11. The American Federation of Government Employees and Local 3403 in connection with union dues paid by members.

12. The Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services Federal Parent Locator System (FPLS) and Federal Tax Offset system:

For use in locating individuals and identifying their income sources to establish paternity, establish and modify orders of support and for enforcement.

For release to the Social Security Administration for verifying social security numbers in connection with the operation of the FPLS by the Office of Child Support Enforcement.

For release to the Department of Treasury for purposes of administering the Earned Income Tax Credit Program (Section 12, Internal Revenue Code of 1986) and verifying a claim with respect to employment in a tax return.

13. To state unemployment agencies in connection with claims for unemployment benefits.

14. To the extent any of these records are duplicative of those described in OPM/GOVT–1 (General Personnel Records), the routine uses described therein are also applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained electronically. Individual folders are also maintained on each employee.

RETRIEVABILITY:

May be retrieved by employee number, Social Security Number or last name.

SAFEGUARDS:

NSF security guards. Building is locked during non-business hours when guard is not on duty. Room in which

records are kept is locked during non-business hours. A password is needed to access the computer system.

RETENTION AND DISPOSAL:

Employee information is deleted at the end of the year in which employee leaves the Foundation. Cumulative information is kept on master tapes and maintained in NSF and at off-site location and destroyed after five years.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Financial Management, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

NOTIFICATION PROCEDURE:

The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR part 613.

RECORD ACCESS PROCEDURES:

See "Notification" above.

CONTESTING RECORD PROCEDURES:

See "Notification" above.

RECORD SOURCE CATEGORIES:

Information is taken from forms prepared by individuals, the Personnel Office and Integrated Time and Attendance System (ITAS).

SYSTEM EXEMPTIONS FROM CERTAIN PROVISIONS OF THE ACT:

None.

NSF–23

SYSTEM NAME:

NSF Staff Biography.

SYSTEM LOCATION:

National Science Foundation, Office of Legislative and Public Affairs, 4201 Wilson Boulevard, Arlington, VA 22230.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Executive NSF staff (Division Directors and above).

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical information, position held, education, memberships, and publications.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101; 42 U.S.C. 1870

PURPOSE(S):

To disseminate senior level officials biographical information when requested.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from this system may be disclosed to newspapers, magazines, professional journals, and others.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained in file folders.

RETRIEVABILITY:

Alphabetically by last name of employee.

SAFEGUARDS:

Building employs security guard. Building is locked during non-business hours when guard is not on duty. Room in which records are kept is locked during non-business hours.

RETENTION AND DISPOSAL:

Records on individuals destroyed when they leave Foundation except in cases of extremely high level staff.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Public Affairs, Office of Legislative and Public Affairs, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA, 22230.

NOTIFICATION PROCEDURES:

The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR part 613.

RECORD ACCESS PROCEDURES:

See "Notification" above.

CONTESTING RECORD PROCEDURES:

See "Notification" above.

RECORD SOURCE CATEGORIES:

Information is received from individual.

SYSTEM EXEMPTIONS FROM CERTAIN PROVISIONS OF THE ACT:

None.

NSF–24

SYSTEM NAME:

Official Passports.

SYSTEM LOCATION:

National Science Foundation, Professional Travel Corporation (NSF Contractor) Room 275, 4201 Wilson Boulevard, Arlington VA 22230.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current NSF employees, consultants and invited guests.

CATEGORIES OF RECORDS IN THE SYSTEM:

Date and place of birth, nationality, next of kin, height, color of hair and eyes, and photograph.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 1870; 44 U.S.C. 3101.

PURPOSE(S):

To support official international visits by NSF staff, consultants and visitors.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from this system may be disclosed to:

1. Embassy for purpose of issuing visas.

2. The State Department for disposition when the passport expires or the employee leaves the Foundation.

3. Another Federal agency, a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency when the Government is a party to the judicial or administration proceeding.

4. The Department of Justice, to the extent disclosure is compatible with the purpose for which the record was collected, and is relevant and necessary to litigation or anticipated litigation, in which one of the following is a party or has an interest: (a) NSF or of its components; (b) and NSF employee in his/her official capacity; (c) an NSF employee is his/her individual capacity when the Department of Justice is Representing or considering representing the employee; or (d) the United States, when NSF determines that litigation is likely the Agency.

5. Representatives of the General Services Administration and the National Archives and Records Administration who are conducting records management inspections under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and on diskettes and/or magnetic tapes.

RETRIEVABILITY:

Alphabetically by last name.

SAFEGUARDS:

NSF employs security guards. Building is locked during non-business hours when guard is not on duty. Room in which records are kept is locked during non-business hours. Passports are kept in locked filing cabinet.

RETENTION AND DISPOSAL:

Passports expire after five years and are then sent to the State Department for disposition. Should employee retire or leave the Foundation before passport expiration, the passport are, passports are returned to the State Department for proper disposition.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Financial Management, Nation Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

NOTIFICATION PROCEDURE:

The NSF Privacy Act Officer should be notified in accordance with procedures found at 45 CFR part 613.

RECORD ACCESS PROCEDURES:

See "Notification" above.

CONTESTING RECORD PROCEDURES:

See "Notification" above.

RECORD SOURCE CATEGORIES:

Information is received from individual.

SYSTEM EXEMPTIONS FROM CERTAIN PROVISIONS OF THE ACT:

None.

NFS–34

SYSTEM NAME:

Integrated Time and Attendance System (ITAS).

SYSTEM LOCATION:

National Science Foundation, Division of Financial Management, Payroll Section, 4201 Wilson Boulevard, Arlington, VA 22230. Paper copies may be maintained in individual offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NSF current and former employees (including consultants).

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include documents related to employee's attendance, leave, and overtime. It also includes Social Security Number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C., Chapters 61 and 63; Department of the Treasury Requirements Manual; GAO manual, Title 6—Pay, Leave and Allowances

PURPOSE(S):

This system enables the NSF to maintain all data which apply to the time and attendance of each NSF employee. Information incorporated into the "NSF Payroll System," NSF–22.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from this systems may be disclosed to:

Information from this system is incorporated into the "NSF Payroll System" described in NSF–22. The routine uses listed in that system are also applicable to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained electronically.

RETRIEVABILITY:

Filed by NSF employee identification number during current pay year and alphabetically by last name, thereafter.

SAFEGUARDS:

NSF employs security guards. Building is locked during non-business hours when guard is not on duty. Room in which records are kept is locked during non-business hours. A password is needed to access the computer system.

RETENTION AND DISPOSAL:

Employee information is deleted at the end of the year in which employee leaves the Foundation. Cumulative information is kept on master tapes and maintained in NSF and at off-site location and destroyed after five years.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Financial Management, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

NOTIFICATION PROCEDURES:

The Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR part 613.

RECORD ACCESS PROCEDURES:

See "Notification" above.

CONTESTING RECORD PROCEDURES:

See "Notification" above.

RECORD SOURCES CATEGORIES:

Information input by employee, verified by timekeeper and approved by supervisor in individual offices.

SYSTEM EXEMPTIONS FROM CERTAIN PROVISIONS OF THE ACT:

None.

NSF–38

SYSTEM NAME:

Visa Applications and Alien Application for Consideration of Waiver of Two-Year Foreign Residence Requirements—NSF.

SYSTEM LOCATION:

National Science Foundation, Division of International Programs, 4201 Wilson Boulevard, Arlington, VA 22230.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Aliens subject to conditions of section 212(e) of the Immigration and Nationality Act, seeking waiver of two-year foreign residence requirements, in order to apply for immigrant or temporary worker status.

CATEGORIES OF RECORDS IN THE SYSTEM:

Curriculum vitae, next of kin, correspondence and employment data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 212(e) of the Immigration and Nationality Act.

PURPOSE:

To determine whether NSF supports the waiver request.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from this system may be released to:

1. The U.S. Information Agency, the agency responsible for issuing the visas.

2. The institution or organization requesting the waiver.

3. Contractors, grantees, volunteers and other individuals who perform a service to or perform on or under a contract, grant, cooperative agreement, or other arrangement for the Federal government, as necessary to carry out their duties.

4. Another Federal agency, a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency when the Government is a party to the judicial or administrative proceeding.

5. The Department of Justice, to the extent disclosure is compatible with the purpose for which the record was collected, and is relevant and necessary to litigation or anticipated litigation, in which one of the following is a party or has an interest: (a) NSF or any of its components; (b) an NSF employee in his/her official capacity; (c) an NSF employee in his/her individual capacity when the Department of justice is representing or considering representing the employee; or (d) the United States, when NSF determines that litigation is likely to affect the Agency.

6. Representatives of the General Services Administration and the National Archives and Records Administration who are conducting records management inspections under the authority of 44 U.S.C. 2904 and 2906.

7. NSF analysis and recommendation is released to the organization/institution requesting the waiver.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Alphabetically by last name of alien.

SAFEGUARDS:

NSF employs security guards. Building is locked during non-business hours when guard is not on duty. Records are in locked rooms after business hours. Access is limited to persons whose official duties require their use.

RETENTION AND DISPOSAL:

Records are held at NSF approximately two years after close out of case.

Records are destroyed 10 years after close of alien case folder.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of International Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

NOTIFICATION PROCEDURES:

The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR part 613.

RECORD ACCESS PROCEDURES:

See "Notification" above.

CONTESTING RECORD PROCEDURES:

See "Notification" above.

RECORD SOURCE CATEGORIES:

The individual and U.S. host institution (employer).

SYSTEM EXEMPTIONS FROM CERTAIN PROVISIONS OF THE ACT:

None.

NSF–49

SYSTEM NAME:

Frequent Traveler Profile.

SYSTEM LOCATION:

National Science Foundation, Professional Travel Corporation (NSF contractor) Room 275, 4201 Wilson Boulevard, Arlington, VA 22230.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

National Science Foundation frequent travelers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Home telephone numbers, credit card information, special accommodation requirements, passport numbers and issue dates, and travel preference information, including frequent flyer numbers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 1870; 44 U.S.C. 3101.

PURPOSE(S):

To assist travelers in their travel arrangements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from this system may be disclosed to:

1. Airlines for contacting traveler after hours or on weekends when there are schedule changes.

2. Airlines and hotels for meeting special requirements (wheelchair, etc.)

3. Credit card information will be given to hotels to guarantee room reservations, when approved by traveler.

4. Another Federal agency, a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency when the Government is a party to the judicial or administrative proceeding.

5. The Department of Justice, to the extent disclosure is compatible with the purpose for which the record was collected, and is relevant and necessary to litigation or anticipated litigation, in which one of the following is a party or has an interest: (a) NSF or any of its components; (b) an NSF employee in his/her official capacity; (c) an NSF employee in his/her individual capacity when the Department of Justice is representing or considering representing the employee; or (d) the United States, when NSF determines that litigation is likely to affect the Agency.

6. Contractors, grantees, volunteers, experts, advisors, and other individuals who perform a service to or work on or under a contract, grant, cooperative agreement, or other arrangement with or for the Federal government, as necessary to carry out their duties.

7. Representatives of the General Services Administration and the National Archives and Records Administration who are conducting records management inspections under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN SYSTEM:

STORAGE:

Records are maintained in contractor file folders. Also maintained on computer files.

RETRIEVABILITY:

Records are filed alphabetically by last name.

SAFEGUARDS:

NSF employs security guards. Building is locked during non-business hours when the guard is not on duty. Rooms in which records are kept are locked during non-business hours.

RETENTION AND DISPOSAL:

Profiles are destroyed when employees retire or leave the Foundation.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Administrative Services, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

NOTIFICATION PROCEDURES:

The NSF Privacy Act Officer should be contracted in accordance with procedures found at 45 CFR part 613.

RECORD ACCESS PROCEDURES:

See "Notification Procedures" above.

CONTESTING RECORD PROCEDURES:

See "Notification Procedures" above.

RECORD SOURCE CATEGORIES:

Information is received from individuals.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

NSF–53

SYSTEM NAME:

Public Transportation Subsidy Program.

SYSTEM LOCATION:

National Science Foundation, Office of Information and Resource Management, Division of Administrative Services, Arlington, VA 22230.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

National Science Foundation full-time permanent employees, grades GS–10 and below, who participate in the program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, social security numbers, grade level, issue dates and METRO vouchers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 1870: 44 U.S.C. 3101.

PURPOSE(S):

To assist in administration of the public transportation subsidy program. Serves as record of who received subsidy.

ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from this system may be disclosed to:

1. Other Federal agencies for use in evaluating the overall effectiveness of public transportation programs.

2. Another Federal agency, a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency when the Government is a party to the judicial or administrative proceeding.

3. The Department of Justice, to the extent disclosure is compatible with the purpose for which the record was collected, and is relevant and necessary to litigation or anticipated litigation, in which one of the following is a party or has an interest: (a) NSF or any of its components; (b) an NSF employee in his/her official capacity; (c) an NSF employee in his/her individual capacity when the Department of Justice is representing or considering representing the employee; or (d) the United States, when NSF determines that litigation is likely to affect the Agency.

4. Contractors, grantees, volunteers, experts, advisors, and other individuals who perform a service to or work on or under a contract, grant, cooperative agreement, or other arrangement with or for the Federal government, as necessary to carry out their duties.

5. Representatives of the General Services Administration and the National Archives and Records Administration who are conducting records management inspections under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN SYSTEM:

STORAGE:

Records are maintained in file folders and in a computer system at NSF.

RETRIEVABILITY:

Records are retrieved alphabetically by last name or by Social Security Number.

SAFEGUARDS:

NSF employs security guards. Building is locked during non-business hours when the guard is not on duty. Rooms in which records are kept are locked during non-business hours. Passwords are needed to access information in computer system.

RETENTION AND DISPOSAL:

Profiles used to determine eligibility will be deleted from the system when employee retires, leaves the Foundation, or is no longer eligible for the program. Records of distribution are kept for six years.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Administrative Services, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

NOTIFICATION PROCEDURES:

The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR part 613.

RECORD ACCESS PROCEDURES:

See "Notification Procedures" above.

CONTESTING RECORD PROCEDURES:

See "Notification Procedures" above.

RECORD SOURCE CATEGORIES:

Information is gathered from the individual and from the NSF Personnel Data Base System.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

NSF–57

SYSTEM NAME:

NSF Delinquent Debtors' File.

SYSTEM LOCATION:

National Science Foundation, Division of Financial Management, Financial Statements Section, 4201 Wilson Boulevard, Arlington, VA 22230.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, former employees, panelists, recipients of fellowship stipends and others owing money to the National Science Foundation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information varies depending on individual debtor. Normally, the name, Social Security Number, address, amount of debt or delinquent amount, basis of the debt, office referring debts, agency collection efforts, credit reports, debt collection letters, correspondence to or from the debtor relating to the debt and correspondence with employing agencies of debtors.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Claims Collection Act of 1966, Public Law 89–508; Debt Collection Act of 1982, Public Law 97–365, and E.O. 9397.

PURPOSE(S):

Information is used for the purpose of collecting moneys owed NSF arising out of any administrative or program activities or service administered by NSF. The file represents the basis for the debt and amount of debt and actions taken by NSF to collect the moneys owed under the debt. The credit report or financial statement provides an understanding of the individual's financial condition with respect to requests for deferments of payment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from this system may be disclosed to:

1. The U.S. General Accounting Office (GAO), Department of Justice, United States Attorney, or other Federal agencies for further collection action on any delinquent account when circumstances warrant.

2. A commercial credit reporting agency for the purpose of either adding to a credit history file or obtaining a credit history file for use in the administration of debt collection.

3. A debt collection agency for the purpose of collection services to recover indebtedness owed to NSF.

4. Debtor's name, Social Security Number, the amount of debt owed, and the history of the debt may be disclosed to any Federal agency where the individual debtor is employed or receiving some form of remuneration for the purpose of enabling that agency to collect debts on NSF's behalf by administrative or salary offset procedures under the provisions of the Debt Collection Act of 1982 (Pub. L. 97–365).

5. Any other federal agency including but limited to, the Internal Revenue Service (IRS) pursuant to 31 U.S.C. 3720A, for the purpose of effecting an administrative offset against the debtor of a delinquent debt owed to NSF by the debtor.

6. The Internal Revenue Service by computer matching to obtain the mailing address of a taxpayer for the purpose of locating such taxpayer to collect or to compromise a Federal claim by NSF against the taxpayer pursuant to 26 U.S.C. 6103 (m)(20) and in accordance with 31 U.S.C. 3711, 3217 and 3718.

Note: Redisclosures of a mailing address from the IRS may be made only for the purpose of debt collection, including to a debt collection agency in order to facilitate the collection or compromise of a Federal claim under the Debt Collection Act of 1982, except that a mailing address to a consumer reporting agency is for the limited purpose of obtaining a commercial credit report on the particular taxpayer. Any such address information obtained from the IRS will not be used or shared for any other NSF purpose or disclosed to another Federal, state, or local agency which seeks to locate the same individual for its own debt collection purpose.

7. Data base information consisting of debtor's name, Social Security Number, and amount owed may be disclosed to the Defense Manpower Data Center

(DMDC). Department of Defense, the U.S. Postal Service or to any other Federal, state, or local agency for the purpose of conducting an authorized computer matching program in compliance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended, to identify and locate delinquent debtors in order to start a recoupment process on an individual basis of any debt owed NSF by the debtor arising out of any administrative or program activities or services administered by NSF.

8. Any creditor Federal agency seeking assistance in implementing administrative or salary offset procedures in the collection of unpaid financial obligations owed the United States government from an individual. An exception to this routine use is an individual's mailing address obtained from the IRS pursuant to 26 U.S.C. 6103(m)(2).

9. Another Federal agency, a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency when the Government is a party to the judicial or administrative proceeding.

10. The Department of Justice, to the extent disclosure is compatible with the purpose for which the record was collected, and is relevant and necessary to litigation or anticipated litigation, in which one of the following is a party or has an interest: (a) NSF or any of its components; (b) an NSF employee in his/her official capacity; (c) an NSF employee in his/her individual capacity when the Department of Justice is representing or considering representing the employee; or (d) the United States, when NSF determines that litigation is likely to affect the Agency.

11. Contractors, grantees, volunteers, experts, advisors, and other individuals who perform a service to or work on or under a contract, grant, cooperative agreement, or other arrangement with or for the Federal government, as necessary to carry out their duties.

12. Representatives of the General Services Administration and the National Archives and Records Administration who are conducting records management inspections under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained electronically. Records are also maintained in file folders.

RETRIEVABILITY:

Records are retrieved by name or Social Security Number.

SAFEGUARDS:

These records are available only to those persons whose official duties require such access. Records are kept in limited access during duty hours and in locked cabinets at all other times.

RETENTION AND DISPOSAL:

Records are disposed of after ten years unless needed for an ongoing investigation in which case the record will be retained until no longer needed in the investigation.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Financial Management, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

NOTIFICATION PROCEDURE:

The Privacy Act Officer should be contacted in accordance with procedures fount at 45 CFR part 613.

RECORD ACCESS PROCEDURES:

See "Notification" above.

CONTESTING RECORD PROCEDURES:

See "Notification" above.

RECORD SOURCE CATEGORIES:

Information in this system of records obtained from the individual, institution, award records, collection agencies, and other appropriate agencies, i.e., DMDC, IRS, GAO, USPS.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NSF–66

SYSTEM NAME:

NSF Vendor File

SYSTEM LOCATION:

National Science Foundation, Division of Financial Management, 4201 Wilson Boulevard, Arlington, VA 22230

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, former employees, other individuals and vendors who will receive electronic payment from the National Science Foundation for goods or services.

CATEGORIES OF RECORD IN THE SYSTEM:

Name, address, Social Security Number, and the banking information of the payee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Debt Collection Improvement Act of 1996 provides authority for the National Science Foundation to implement mandatory electronic payments for all obligations.

PURPOSE(S):

This system enables NSF to comply with the electronic payment provision of the Debt Collection Act of 1996.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from this system records may be released to:

1. The Department of Treasury for the purpose of issuing the payment directly to the financial account of the payee.

2. Financial organizations for the purpose of direct deposit.

3. The Department of Justice, to the extent disclosure is compatible with the purpose for which the record was collected, and is relevant and necessary to litigation or anticipated litigation, in which one of the following is a party or has an interest: (a) NSF or any of its components; (b) an NSF employee in his/her official capacity; (c) an NSF employee in his/her individual capacity when the Department of Justice is representing or considering representing the employee; or (d) the United States, when NSF determines that litigation is likely to affect the Agency.

4. Contractors, grantees, volunteers, experts, advisors, and other individuals who perform a service to or work on or under a contract, grant, cooperative agreement, or other arrangement with or for the Federal government, as necessary to carry out their duties.

5. Another Federal agency, a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency when the Government is a party to the judicial or administrative proceeding.

6. Representatives of the General Services Administration and the National Archives and Records administration who are conducting records management inspections under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained electronically.

RETRIEVABILITY:

These records are retrieved by name, Social Security Number or employee identification number.

SAFEGUARDS:

These records are available only to those persons whose official duties require such access. A password is

required for access to the computer system. Printed reports of the data have restricted access and are treated as confidential information.

RETENTION AND DISPOSAL:

Updated information automatically replaces the old information. File is accumulative and maintained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Financial Management.

NOTIFICATION PROCEDURE:

The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR part 613.

RECORD ACCESS PROCEDURES:

See "Notification" procedures above.

CONTESTING RECORD PROCEDURES:

See "Notification" procedures above.

RECORD SOURCE CATEGORIES:

Information in this system of records obtained from the individual or payees.

SYSTEM EXEMPTIONS FROM CERTAIN PROVISIONS OF THE ACT:

None.

NSF–67

SYSTEM NAME:

Invention, patent and licensing documents.

SYSTEM LOCATION:

Office of the General Counsel, National Science Foundation, 4201 Wilson Boulevard, Room 1285, Arlington, VA 22230.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the National Science Foundation or its grantees or contractors who made inventions while employed by the Foundation or while performing NSF–assisted research.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains invention disclosures, patents and patent applications, and licenses submitted to NSF by its employees, grantees, and contractors, including inventor(s) name(s), identification of grantee or contractor, title and description of the invention, inventor(s) address(es) (if rights were waived to the inventor(s), associated patent prosecution and licensing documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

45 CFR part 650 Patents. Executive Order No. 9865, as amended, 35 U.S.C. 266 note, "Patent protection abroad of inventions resulting from research financed by the Government," describing the Government-wide policy for obtaining foreign patent protection for inventions resulting from research conducted or financed by the Government; and Executive Order No. 10096, as amended, 35 U.S.C. 266 note, "Uniform Government Patent Policy for Inventions by Government Employees," describing Government-wide policy pertaining to inventions made by Government employees.

PURPOSE(S):

Records in this system are used to administer governmental rights to inventions made by NSF employees or during FSF-assisted research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

Information from this system may be disclosed to:

1. The Department of Justice and the Office of Management and Budget for consultation in processing Freedom of Information or Privacy Act requests.

2. The Department of Justice, to the extent disclosure is compatible with the purpose for which the record was collected and is relevant and necessary to litigation or anticipated litigation, in which one of the following is a party or has an interest: (a) NSF or any of its components; (b) an NSF employee in his/her official capacity; (c) an NSF employee in his/her individual capacity when the Department of Justice is representing or considering representing the employee; or (d) the United States, when NSF determines that litigation is likely to affect the Agency.

3. Federal Government contractors, grantees, consultants, volunteers, or other personal who have been engaged to assist the Government in the performance of a contract, grant, cooperative agreement, or other activity related to this system of records and who need to have access to the records in order to perform the activity.

4. Appropriate Federal, State, local or foreign agencies responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation or order, where there is an indication of a violation or potential violation of the statute, rule, regulation or order and the information disclosed is relevant to the matter.

5. For the purpose of obtaining patent protection for NSF-owned inventions and granting licenses for these patents, to: (a) Scientific personnel, both in NSF and other Government agencies and in non-Governmental organizations such as universities, who possess the expertise to understand the invention and evaluate its importance as a scientific advance; (b) contract patent counsel and their employees and foreign contract personnel retained by the Foundation for patent searching and prosecution in both the United States and foreign patent offices; (c) all other Government agencies whom NSF contacts regarding the possible use, interest in, or ownership rights in NSF inventions; (d) prospective licensees or technology finders who may further make the invention available to the public through sale or use; (e) parties, such as supervisors of inventors, whom NSF contacts to determine ownership rights, and those parties contacting NSF to determine the Government's ownership; and (f) the United States and foreign patent offices involved in the filing of NSF patent applications.

6. Representatives of the General Services Administration and the National Archives and Records Administration who are conducting records management inspections under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are stored in file folders, computer tapes, and computer discs.

RETRIEVABILITY:

Records are retrieved by name of the inventor, invention-disclosure number, NSF program, and institution.

SAFEGUARDS:

Data on computer files is accessed by password known only to authorized users, who are NSF or contractor employees involved in patenting and licensing of NSF-owned inventions or administering rights to inventions made with NSF assistance to which grantees, contractors, or inventors have retained principal rights. Access to information is thus limited to those with a need to know. Records are stored in a locked room or in locking file cabinets in file folders. During normal business hours, Office of General Counsel personnel regulate availability of the files. During evening and weekend the offices are locked and the building is closed.

RETENTION AND DISPOSAL:

Records will be retained and disposed of under the authority of Foundation procedures currently under development.

SYSTEM MANAGER(S) AND ADDRESS:

Patent Assistant, Office of General Counsel, National Science Foundation,

4201 Wilson Boulevard, Arlington, VA 22230

NOTIFICATION PROCEDURES:

The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR part 613.

RECORD ACCESS PROCEDURES:

See "Notification Procedures" above.

CONTESTING RECORD PROCEDURES:

See "Notification Procedures" above.

RECORD SOURCE CATEGORIES:

Inventors and other collaborating persons, grantees, contractors; other Federal agencies; scientific experts from non-Government organizations; contract patent counsel and their employees and foreign contract personnel; United States and foreign patent offices; prospective licensees; and third parties whom NSF contacts to determine individual invention ownership or Government ownership.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 97–29267 Filed 11–4–97; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 150–00005; License No. Colorado 580–1; EA 96–459]

Western Colorado Testing, Inc., Grand Junction, CO; Order Imposing Civil Monetary Penalty

I

Western Colorado Testing, Inc., (WCTI or Licensee) is the holder of a General License pursuant to the provisions of 10 CFR 150.20(a). This authorizes any person who holds a specific license from an Agreement State to conduct the same activity in non-Agreement States subject to the provisions of 150.20(b). WCTI holds a specific license from the state of Colorado, an Agreement State, License No. 580–1.

II

An inspection of the Licensee's activities was conducted from October 11, 1996, through February 3, 1997, and an investigation was conducted from August 14, 1996, through January 8, 1997. The results of the inspection and investigation indicated that the Licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the Licensee by letter dated June 13, 1997. The notice states the nature of the violation, the provisions of NRC requirements that the Licensee had violated, and the amount of the civil penalty proposed for the violation.

The Licensee responded to the Notice in a letter dated July 16, 1997. In its response, the Licensee stated that facts of the case warrant a reconsideration of both the characterization of the violation (as willful) and the proposed civil penalty.

III

After consideration of the Licensee's response and the arguments for mitigation or reconsideration of the civil penalty contained therein, the NRC staff has determined, as set forth in the Appendix to this Order, that the violation occurred as stated and that the penalty proposed for the violation designated in the Notice should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, it is hereby ordered That:

The Licensee pay a civil penalty in the amount of $2,500 within 30 days of the date of this Order, by check, draft, money order, or electronic transfer, payable to the Treasurer of the United States and mailed to Mr. James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738.

V

The Licensee may request a hearing within 30 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, with a copy to the Commission's Document Control Desk, Washington, DC 20555. Copies also shall be sent to the Assistant General Counsel for Hearings and Enforcement at the same address and to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, TX 76011.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the Licensee fails to request a hearing within 30 days of the date of this Order (or if written approval of an extension of time in which to request a hearing has not been granted), the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the Licensee requests a hearing as provided above, the issue to be considered at such hearing shall be:

Whether on the basis of the violation admitted by the Licensee, this Order should be sustained.

Dated at Rockville, Maryland this 28th day of October 1997.

For the Nuclear Regulatory Commission.

James Lieberman,

Director, Office of Enforcement.

Appendix—Evaluation and Conclusions

On June 13, 1997, a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was issued for the violation identified during an NRC inspection and investigation. Western Colorado Testing, Inc., (WCTI or Licensee) responded to the Notice in a letter dated July 16, 1997. In its response, the Licensee stated that facts of the case warrant a reconsideration of both the characterization of the violation (as willful) and the proposed civil penalty. However, the Licensee did not dispute the violation in its response and, in its April 1, 1997 letter responding to the inspection report, admitted the violation. The NRC's evaluation of the Licensee's request and conclusion regarding the Licensee's requests are as follows:

Summary of Licensee's Request for Mitigation

WCTI stated that, although management was aware of the requirement to inform the NRC prior to working in areas under NRC jurisdiction, this fact alone does not justify designation of the violation as willful, and the corresponding penalty of $2,500. In support of its position, the Licensee stated that the Radiation Safety Officer (RSO), who was "not as honest and forthright" as WCTI's president, had represented to WCTI's president that he filed the required Form 241; and that WCTI's president made every effort to ensure compliance with NRC requirements. WCTI also noted that its compliance efforts are reflected by the fact that there has never been any previous escalated enforcement action against it. WCTI pointed out that, according to the NRC's Enforcement Policy, previous escalated enforcement is a factor that is considered in assessing a civil penalty, and that this factor was not considered in the proposed assessment of the civil penalty.

WCTI noted that, in cases where the NRC concludes that no willful violation has occurred, and no escalated enforcement action has been taken within the two prior years or during the two prior inspections, generally no penalty assessment is even proposed. WCTI maintained that its situation was distinguishable from that of other testing companies that had been "fined" by the NRC for willful violations of the same regulations. In this regard, WCTI claimed that it should not be classified together with these testing firms in which the principals were deliberately ignoring compliance requirements.

Finally, the Licensee argued that, upon being notified that Form 241 had not been filed, WCTI took prompt corrective action to ensure compliance and effective comprehensive action to prevent recurrence of the violation.

NRC Evaluation of Licensee's Request for Mitigation

Section VI.A. of the Enforcement Policy provides that, in general, licensees are held responsible for the acts of their employees. The Commission formally considered the responsibility issue between a licensee and its employees in its decision concerning the Atlantic Research Corporation case, CLI–80–7, dated March 14, 1980. In that case, the Commission stated, in part, that "a division of responsibility between a licensee and its employees has no place in the NRC regulatory regime which is designed to implement our obligation to provide adequate protection to the health and safety of the public in the commercial nuclear field."

Not holding the licensee responsible for the actions of its employees, whether such actions result from negligence or willful misconduct, is tantamount to not holding the licensee responsible for the use or possession of licensed material. If the NRC adopted this position, there would be less incentive for licensees to monitor their own activities to assure compliance because licensees could attribute noncompliance to employee negligence or misconduct. Therefore, notwithstanding WCTI's argument that the blame for the violation rests with the former company RSO, under long-established Commission Policy and case law, the company is still responsible for the actions of its former RSO. Further, the NRC notes that the violation continued to exist in 1996, after the assignment of a newly trained RSO. This detracts from the Licensee's argument that the blame lay with one particular former RSO.

As WCTI noted, Section VI.B.2 of the NRC's Enforcement Policy provides for consideration of previous escalated enforcement in the civil penalty assessment process. However, the civil penalty assessment process considers several factors, including whether the violation is willful. If any one of these considerations applies, the policy states that the NRC should normally consider identification in addition to corrective action in the civil penalty assessment process (regardless of the licensee's previous escalated enforcement). In this case, the NRC considered both identification and corrective action in determining the civil penalty because the NRC concluded that the violation was willful.

The term "willfulness," as defined by Section IV.C. of the NRC Enforcement Policy embraces a spectrum of violations ranging from deliberate intent to violate or falsify, to and *including careless disregard for requirements* (emphasis added). In this case, as described in the NRC's Notice, the NRC concluded that WCTI (not its president), through the action of one or more of its representatives, committed a violation with careless disregard for NRC regulations, a condition that clearly meets the NRC's definition of a willful violation. As described in the Notice, the NRC's conclusion was based on several grounds, including the fact that WCTI had knowledge of the requirement to file NRC Form 241 (which WCTI admits in its response).

As to Licensee's discussion of the NRC Enforcement Policy, civil penalties are not normally proposed in cases where the NRC concludes that no willful violation has occurred and no escalated enforcement action has been taken within the two prior years or two prior inspections, provided that prompt and comprehensive corrective action is taken. However, the policy provides for consideration of civil penalties in cases involving willfulness.

The NRC reviews each case being considered for enforcement action on its own merits to ensure that the severity of a violation and enforcement sanction are best suited to the significance of the particular violation. In this case, as noted above, the NRC concluded that the violation was willful. Therefore, in accordance with Section VI.B of the Enforcement Policy, the NRC concluded that: (1) No credit was warranted for identification because the NRC identified the violation; and (2) credit was warranted for WCTI's prompt and comprehensive corrective action (had the NRC concluded otherwise, a civil penalty of $5,000 would have been proposed).

In its response, WCTI claimed that its case was "readily distinguishable" from other similar enforcement actions such as EA 95–270, "Foley Construction Services," EA 95–101, "Testco, Inc.," and EA 93–241, "S.K. McBryde, Inc." The NRC agrees that WCTI's case is distinguishable from the cases cited by WCTI in that the cases cited involved deliberate violations, not violations involving careless disregard. However, WCTI's comparison of the civil penalty in this case to that in the cases cited is flawed in that: (1) The civil penalty in the Foley Construction Services case was based on the civil penalty assessment process described in an earlier Enforcement Policy;[1] (2) the enforcement action taken against Testco, Inc., involved an Order Prohibiting Involvement in NRC-Licensed Activities to President of the company, as well as a civil penalty to the licensee, which was initially based on enforcement discretion and subsequently reduced from $5,000 to $1,000; and (3) the S. K. McBryde case did not involve an NRC Form-241 violation, it involved a Severity Level IV violation for failure to maintain complete and accurate records and a civil penalty that was based on the civil penalty assessment process described in the earlier Enforcement Policy.[1] Furthermore, the enforcement action against WCTI is consistent with other recent cases involving careless disregard by testing companies to submit Form-241 where corrective action credit was warranted. For example, penalties of $2,500 were assessed in enforcement actions involving EA 96–382, "Energy Technologies, Inc.," EA 96–382, "Grandin Testing Lab, Inc.," and EA 96–447, "Testing Laboratories, Inc."[2]

NRC Conclusion

The NRC concludes that the violation occurred as stated and that the Licensee has not provided adequate justification for reconsideration of the characterization of the violation as "willful" or for mitigation of the civil penalty. Consequently, the proposed civil penalty in the amount of $2,500 should be imposed.

[FR Doc. 97–29242 Filed 11–4–97; 8:45 am]

BILLING CODE 7590–01–P

[1] In this earlier Enforcement Policy, the base amount for a Severity Level III was $400 and the civil penalty assessment process involved consideration of 6 factors. Under the current Enforcement Policy, the base amount for a Severity Level III is $2,500 and the civil penalty assessment process involves consideration of 2 factors.

[2] These cases are available on the NRC web site at "http://www.nrc.gov/oe/", which is maintained by the Office of Enforcement.

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–275 AND 50–323]

Pacific Gas and Electric Company; Diablo Canyon Power Plant Units 1 and 2, Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of its regulations for Facility Operating License Nos. DPR–80 and DPR–82, issued to Pacific Gas and Electric Company (the licensee), for operation of the Diablo Canyon Power Plant (DCPP), Units 1 and 2, located in San Luis Obispo County, California.

Environmental Assessment

Identification of Proposed Action

The proposed action would exempt Pacific Gas and Electric Company from the requirements of 10 CFR 70.24, which requires in each area in which special nuclear material is handled, used, or stored, a monitoring system that will energize clear audible alarms if accidental criticality occurs. The proposed action would also exempt the licensee from the requirements to maintain emergency procedures for each area in which this licensed special nuclear material is handled, used, or stored to ensure that all personnel withdraw to an area of safety upon the

sounding of the alarm, to familiarize personnel with the evacuation plan, and to designate responsible individuals for determining the cause of the alarm, and to place radiation survey instruments in accessible locations for use in such an emergency.

The proposed action is in accordance with the licensee's application for exemption dated April 3, 1997, as supplemented by letter dated August 4, 1997.

The Need for the Proposed Action

The purpose of 10 CFR 70.24 is to ensure that if a criticality were to occur during the handling of special nuclear material, personnel would be alerted to that fact and would take appropriate action. At a commercial nuclear power plant the inadvertent criticality with which 10 CFR 70.24 is concerned could occur during fuel handling operations. The special nuclear material that could be assembled into a critical mass at a commercial nuclear power plant is in the form of nuclear fuel; the quantity of other forms of special nuclear material that is stored on site in any given location is small enough to preclude achieving a critical mass. Because the fuel is not enriched beyond 5.0 weight percent uranium-235 and because commercial nuclear plant licensees have procedures and design features that prevent inadvertent criticality, the staff has determined that it is unlikely that an inadvertent criticality could occur due to the handling of special nuclear material at a commercial power reactor. The requirements of 10 CFR 70.24, therefore, are not necessary to ensure the safety of personnel during the handling of special nuclear materials at commercial power reactors.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that inadvertent or accidental criticality will be precluded through compliance with the Diablo Canyon Power Plant, Units 1 and 2 Technical Specifications, the design of the fuel storage racks providing geometric spacing of fuel assemblies in their storage locations, and administrative controls imposed on fuel handling procedures.

The proposed exemption would not result in an increase in the probability or consequences of accidents, affect radiological plant effluents, or cause any significant occupational exposures. Therefore, there are no radiological impacts associated with the proposed exemption.

The proposed exemption does not result in a change in non-radiological effluents and will have no other non-radiological environmental impact.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded that there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed exemption, the staff considered denial of the requested exemption. Denial of the request would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statements for the Diablo Canyon Power Plant dated May 1973.

Agencies and Persons Consulted

In accordance with its stated policy, on October 6, 1997, the staff consulted with the California State official, Mr. Steve Hsu of the Radiologic Health Branch of the State Department of Health Services, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated April 3, 1997, and supplemental letter dated August 3, 1997, which are available for public inspection at the Commission's Public Document Room, which is located at The Gelman Building, 2120 L Street, NW., Washington, DC., and at the local public document room located at the California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Dated at Rockville, Maryland, this 30th day of October 1997.

For the Nuclear Regulatory Commission.

Steven D. Bloom,

Project Manager, Project Directorate IV–2, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 97–29245 Filed 11–4–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–346]

Toledo Edison Company; Centerior Service Company and The Cleveland Electric Illuminating Company; Davis-Besse Nuclear Power Station, Unit 1; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of its regulations to Facility Operating License No. NPF–3, issued to Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company (the licensees), for operation of the Davis-Besse Nuclear Power Station, Unit 1, located in Ottawa County, Ohio.

Environmental Assessment

Identification of the Proposed Action

The proposed action would exempt the licensees from the requirements of 10 CFR 70.24, which requires in each area in which special nuclear material is handled, used, or stored a monitoring system that will energize clear audible alarms if accidental criticality occurs. The proposed action would also exempt the licensees from the requirements to maintain emergency procedures for each area in which this licensed special nuclear material is handled, used, or stored to ensure that all personnel withdraw to an area of safety upon the sounding of the alarm, to familiarize personnel with the evacuation plan, to designate responsible individuals for determining the cause of the alarm; and to place radiation survey instruments in accessible locations for use in such an emergency.

The proposed action is in accordance with the licensees' application for exemption dated January 30, 1997, as supplemented May 28 and October 3, 1997.

The Need for the Proposed Action

The purpose of 10 CFR 70.24 is to ensure that if a criticality were to occur during the handling of special nuclear material, personnel would be alerted to that fact and would take appropriate action. At a commercial nuclear power plant, the inadvertent criticality with which 10 CFR 70.24 is concerned could occur during fuel handling operations. The special nuclear material that could be assembled into a critical mass at a commercial nuclear power plant is in the form of nuclear fuel; the quantity of other forms of special nuclear material that is stored onsite in any given location is small enough to preclude achieving a critical mass. Because the fuel is not enriched beyond 5.0 weight percent uranium-235, and because commercial nuclear plant licensees have procedures and design features that prevent inadvertent criticality, the staff has determined that it is unlikely that an inadvertent criticality could occur due to the handling of special nuclear material at a commercial power reactor. Therefore, the requirements of 10 CFR 70.24 are not necessary to ensure the safety of personnel during the handling of special nuclear materials at commercial power reactors.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that inadvertent or accidental criticality will be precluded through compliance with the Davis-Besse Technical Specifications, the design of the fuel storage racks providing geometric spacing of fuel assemblies in their storage locations, and administrative controls imposed on fuel handling procedures.

The proposed exemption would not result in an increase in the probability or consequences of accidents, affect radiological plant effluents, or cause any significant occupational exposures. Therefore, there are no radiological impacts associated with the proposed exemption.

The proposed exemption does not result in a change in nonradiological effluents and will have no other nonradiological environmental impact.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded that there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed exemption, the staff considered denial of the requested exemption. Denial of the request would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement related to the operation of Davis-Besse dated October 1975.

Agencies and Persons Consulted

In accordance with its stated policy, on July 30, 1997, the staff consulted with the Ohio State official, Carol O'Claire, of the Ohio Emergency Management Agency, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensees' letters dated January 30, May 28, and October 3, 1997, which are available for public inspection at the Commission's Public Document Room located at the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the University of Toledo, William Carlson Library, Government Documents Collection, 2801 West Bancroft Avenue, Toledo, OH 43606.

Dated at Rockville, Maryland, this 30th day of October 1997.

For the Nuclear Regulatory Commission.

Gail H. Marcus,

Director, Project Directorate III–3, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 97–29243 Filed 11–4–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste; Notice of Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 96th meeting on November 20–22, 1997, in Room T–2B3, at 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The schedule for this meeting is as follows:

Thursday, November 20, 1997—8:30 a.m. until 6 p.m.

Friday, November 21, 1997—8:30 a.m. until 6 p.m.

Saturday, November 22, 1997—8:30 a.m. until 4 p.m.

A. *Meeting with NRC's Director, Division of Waste Management, Office of Nuclear Material Safety and Safeguards*—The Committee will meet with the Director to discuss developments at the Yucca Mountain project, resources, rules under development, and other items of mutual interest.

B. *Waste Classification at West Valley, Hanford and Savannah River*—The NRC staff will brief the Committee on its evaluation of the DOE methodology for classification of waste resulting from treatment, bulk high-level waste removal and cleaning of tanks. Background and history will be discussed along with current status, review schedules and criteria for the classification of wastes as incidental.

C. *Standard Review Plan on Dry Cask Storage Facility*—The Committee will review and provide comments on this Standard Review Plan.

D. *HLW Issue Resolution Status Reports and Acceptance Criteria*—The NRC staff will update the Committee on the progress of staff reviews related to the high-level waste key technical issues. (Tentative)

E. *NRC's Division of Waste Management Priorities*—The Committee will review the Division of Waste Management's priorities and planned interactions with the ACNW for the coming year.

F. *Prepare for Next Meeting with the Commission*—The Committee will prepare for its next formal meeting with the Commission. The Committee is scheduled to discuss items of mutual interest with the Commission on December 17, 1997.

G. *Preparation of ACNW Reports*—The Committee will discuss planned reports, including comments on the Standard Review Plan for Spent Fuel Dry Storage Facilities, comments on NRC Waste Related Research, ACNW Priorities, and other topics discussed during the meeting as the need arises.

H. *Committee Activities/Future Agenda*—The Committee will consider topics proposed for future consideration by the full Committee and Working Groups. The Committee will discuss ACNW-related activities of individual members.

I. *Miscellaneous*—The Committee will discuss miscellaneous matters related to the conduct of Committee activities and organizational activities and complete

discussion of matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACNW meetings were published in the **Federal Register** on September 2, 1997 (62 FR 46382). In accordance with these procedures, oral or written statements may be presented by members of the public, electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the Chief, Nuclear Waste Branch, Mr. Richard K. Major, as far in advance as practicable so that appropriate arrangements can be made to schedule the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting will be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the Chief, Nuclear Waste Branch, prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should notify Mr. Major as to their particular needs.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting Mr. Richard K. Major, Chief, Nuclear Waste Branch (telephone 301/415–7366), between 8:00 A.M. and 5:00 P.M. EST.

ACNW meeting notices, meeting transcripts, and letter reports are now available on FedWorld from the "NRC MAIN MENU." Direct Dial Access number to FedWorld is (800) 303–9672; the local direct dial number is 703–321–3339.

Dated: October 30, 1997.

John C. Hoyle,

Acting, Advisory Committee Management Officer.

[FR Doc. 97–29241 Filed 11–4–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 70–7001; 70–7002]

Memorandum of Understanding Between the Nuclear Regulatory Commission and the Department of Energy on Cooperation Regarding the Gaseous Diffusion Plants

AGENCIES: Nuclear Regulatory Commission and Department of Energy.

ACTION: Memorandum of Understanding between the Nuclear Regulatory Commission and the Department of Energy.

SUMMARY: The Nuclear Regulatory Commission (NRC) and the Department of Energy (DOE) have entered into a Memorandum of Understanding (MOU) on cooperation regarding the gaseous diffusion plants. The MOU is intended to describe the various responsibilities with respect to continued cooperation between NRC and DOE, and to set forth a framework for coordination of issues now that NRC has assumed regulatory oversight. The text of the MOU is set forth below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert C. Pierson, telephone 301–415–7192, Office of Nuclear Material Safety and Safeguards, MS T–8A–33, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Dated at Rockville, Maryland, this 30th day of October 1997.

For the Nuclear Regulatory Commission.

Elizabeth Q. Ten Eyck,

Director, Division of Fuel Cycle Safety, and Safeguards, NMSS.

Memorandum of Understanding Between the Department of Energy and the Nuclear Regulatory Commission; Cooperation Regarding the Gaseous Diffusion Plants

I. Background

The Atomic Energy Act of 1954 (the Act), as amended by the Energy Policy Act of 1992 (42 U.S.C. 2297 *et seq.*), created the United States Enrichment Corporation (USEC), a government corporation, for the purpose of managing and operating the uranium enrichment enterprise owned and previously operated by the Department of Energy (DOE). USEC leased those portions of the plants related to gaseous diffusion plant (GDP) operations from DOE. Certain portions of the plants, such as waste storage areas and burial grounds, are not leased by USEC and remain under DOE's jurisdiction. The Act also required that the Nuclear Regulatory Commission (NRC) establish standards for regulation of the GDPs located in Paducah, Kentucky, and Piketon, Ohio, in order to protect the worker and public health and safety and to provide for the common defense and security. NRC published its final standards, 10 CFR part 76, "Certification of Gaseous Diffusion Plants," on September 23, 1994 (59 FR 48944). The Act also directed NRC to establish and implement an annual certification process by which the gaseous diffusion plants would be certified by NRC for compliance with these standards. For areas where plant operations are not yet in compliance, the Act provided that DOE will prepare compliance plans. Based upon a review of the certification applications and the DOE-prepared compliance plans submitted by USEC, on September 18, 1996, a Notice of Certification Decision for the USEC to operate the GDPs and a Finding of No Significant Impact (the notice) was issued by NRC, 61 FR 49360 (September 19, 1996). After disposition of public comments received in response to NRC's Notice of Certification Decision, NRC issued a Certificate of Compliance and a compliance plan approval for each plant on November 26, 1996. The Certificates of Compliance became effective and NRC assumed regulatory oversight of the GDPs on March 3, 1997.

This Memorandum of Understanding (MOU) is designed to supplement the "Agreement Defining Security Responsibilities at the Paducah and Portsmouth Gaseous Diffusion Plants Between the Department of Energy's Office of Safeguards and Security and the Nuclear Regulatory Commission's Division of Security," dated March 10, 1995, and replace the "Agreement Establishing Guidance for NRC Inspection Activities at the Paducah and Portsmouth Gaseous Diffusion Plants between Department of Energy Regulatory Oversight Manager and Nuclear Regulatory Commission," dated August 11, 1994.

II. Authority and Scope

Pursuant to the Atomic Energy Act of 1954, as amended, including in particular the provisions of the Energy Policy Act of 1992 on regulation and certification as generally described above, NRC and DOE are issuing this MOU to describe the various responsibilities with respect to continued cooperation between NRC and DOE, and to set forth a framework for coordination of issues now that NRC has assumed regulatory oversight.

A. NRC assumed regulatory oversight for nuclear safety, safeguards, and security at the leased portions of the GDPs on March 3, 1997, with the exception of the Highly Enriched Uranium (HEU) Refeed activity in Buildings X–326 and X–705 at the Portsmouth Gaseous Diffusion Plant.

B. The Regulatory Oversight Agreement (ROA), Exhibit D to the Lease Agreement between DOE and USEC, sets forth the requirements and safety basis for the operation of DOE activities in the leased areas of the GDPs. The activities governed by the ROA consist of HEU Refeed activity in Buildings X–326 and X–705 at the Portsmouth Gaseous Diffusion Plant. Nothing in this MOU is intended to restrict or expand the authority of DOE or to effect or otherwise alter the terms of the ROA until by its terms it ceases to apply to facilities or activities for which NRC assumes regulatory oversight.

C. NRC certification of the GDPs is in part conditioned upon USEC adherence to a Compliance Plan prepared and approved by DOE for each GDP in accordance with the Atomic Energy Act of 1954, as amended, and 10 CFR Part 76. Modification(s) to the Compliance Plan requires DOE approval prior to submittal to NRC for final approval.

D. NRC re-certification of the GDPs is in part conditioned upon USEC compliance with all terms and conditions of the NRC certificate of compliance.

E. Nothing in this MOU is intended to restrict or otherwise limit the authority of NRC to exercise its full regulatory authority, including both inspection and enforcement authority.

[1] The USEC Privatization Act, Pub. L. 104–134, amends 1701(c)(2) of the Atomic Energy Act, by replacing the requirement for an annual application for a certificate of compliance with a requirement for an application to be filed "periodically, as determined by the Commission, but not less than every five years."

III. Interfaces Between DOE and NRC

A. Exchange of Information and Technical Staff Support

1. DOE and NRC agree to make available to each other information and technical support concerning matters of common interest.[2] DOE and NRC agree to meet, as necessary, at mutually agreeable times and locations to exchange information on matters of common interest.

2. DOE agrees to notify NRC of the following:

a. Substantial proposed changes to the GDP site involving matters of common interest.

b. Substantial proposed changes to the Lease Agreement between the Department of Energy and the United States Enrichment Corporation, dated July 1, 1993.

c. Substantial proposed changes to the DOE Regulatory Oversight Agreement between DOE and USEC.

d. Substantial proposed changes to "USEC AND DOE Resolution of Shared Site Issues at the Gaseous Diffusion Plants," dated January 24, 1996.

e. Substantial proposed changes to the HEU Refeed Program.

3. NRC agrees to notify DOE of the following:

a. Substantial proposed changes in USEC's operations potentially impacting safety, safeguards and/or security on site.

b. Substantial changes to the conditions or terms of the NRC certificate of compliance issued to USEC.

c. Substantial changes to USEC's compliance with the conditions or terms of the certificate of compliance issued to USEC.

4. NRC will consult with DOE on health, safety and environmental issues at the GDPs when preparing the required annual report to Congress on the GDPs.

5. NRC and DOE will share all audit, assessment, and inspection reports on shared systems or areas.

6. DOE and NRC will coordinate with each other for proposed enforcement actions involving those shared systems or areas in Buildings X–326 and X–705 at the Portsmouth GDP where there is HEU activity. USEC is responsible for all system components required for USEC LEU/GDP operability. These components are subject to NRC inspection and enforcement, although they may be physically located in DOE controlled space.

7. Each agency recognizes that it is responsible for the identification, protection, control and accounting of information used or otherwise furnished in connection with this MOU in accordance with its established procedures. This information consists of classified, proprietary, Safeguards Information (SGI) and Unclassified Controlled Nuclear Information (UCNI).

B. Emergency Response

1. In accordance with the Federal Radiological Emergency Response Plan (FRERP), the NRC is the Lead Federal Agency (LFA) for an emergency involving DOE-owned GDPs operating under NRC regulatory oversight. If the origin of the emergency is determined to be in the DOE portion of the plant, then the LFA would be transferred to DOE. DOE and NRC will develop appropriate joint procedures which will ensure compatibility in response to emergencies in leased areas under NRC regulatory oversight.

2. The emergency planning requirements for GDPs, including offsite notifications and emergency classification levels and their corresponding emergency action levels, will be in accordance with the site emergency plans and procedures which will be coordinated among shared site regulators and tenants before and during implementation.

C. Referrals

1. DOE will not conduct inspections of nuclear safety, safeguards, and security in leased areas, except where there is shared safety, safeguards, or security features in USEC leased space, or as related to the HEU Refeed Program and DOE nuclear material and activities in USEC leased space. However, DOE personnel may, during the course of performing DOE activities, identify nuclear safety, safeguards or security concerns within the area of NRC responsibility. In such instances these and any other nuclear safety, safeguards or security concerns within NRC's purview identified by DOE will be referred to the NRC Resident Inspector for appropriate action. If DOE identifies situations with immediate safety, safeguards, or security significance, it will immediately communicate this information to USEC and the NRC Resident Inspector.

2. Similarly, although NRC will not conduct nuclear safety, safeguards, and security inspections in non-leased areas, NRC personnel may, during the course of performing NRC activities, identify nuclear safety, safeguards or security concerns within the area of DOE responsibility. NRC will refer these concerns to the DOE Site Manager for appropriate disposition. If the NRC identifies situations with immediate safety, safeguards, or security significance, it will immediately communicate this information to USEC and the DOE Site Manager.

3. Each agency will be responsible for processing, under its established program(s), allegations—declarations, statements or assertions of impropriety or inadequacy whose validity has not been established—and employee complaints or concerns of regulatory significance. Each agency will keep the other agency informed, as appropriate, of the existence, status and resolution of such allegations, complaints, or concerns. Each agency will assure that each allegation, complaint, or concern is promptly referred to the agency or entity that has jurisdiction over the allegation, complaint, or concern.

D. Coordinations

1. DOE will coordinate with USEC to inform NRC of reportable events, under DOE's occurrence reporting system, for which DOE is responsible.

2. DOE and NRC shall consult with each other before disclosure of information related to this MOU to preclude dissemination of information which may be exempt from disclosure under the Freedom of Information Act. It is NRC's practice to place all docket related DOE correspondence that is not classified or proprietary in the Public Document Room, unless DOE specifically requests, with appropriate justification, that the information be withheld.

3. On occasion, DOE may need to move its nuclear materials not in process through USEC areas to another location. NRC will not require DOE to fill out Forms 741 and/or 742 if the nuclear materials not in process only pass through USEC areas, i.e., not normally involving more than one shift, and remaining under DOE's continuous custody.

IV. Points of Contact

A. The principal senior management contacts for this MOU will be the DOE Assistant Manager for Enrichment Facilities, Oak Ridge Operations Office, and the Director, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, NRC. These individuals may designate appropriate staff representatives for the purpose of administering this MOU.

B. Identification of these contacts is not intended to restrict communication between DOE and NRC staff members on technical and other day-to-day activities.

V. Resolution of Disputes

A. If disagreements or conflicts about matters within the scope of this MOU arise, DOE and NRC will work together to resolve these differences.

B. Resolution of differences between DOE and NRC staff will be the initial responsibility of the DOE Site Manager, Portsmouth Site Office, or the DOE Site Manager, Paducah Site Office, and the Chief of the responsible Branch within the Office of Nuclear Material Safety and Safeguards, NRC.

C. If the issue can not be resolved at the staff level, the NRC and DOE agree to refer the matter within 30 days to the Assistant

[2] Matters of common interest concern modifications to GDP site areas, railways, roadways, structures, systems, components, hazards, activities, tenant mix, population, etc., which can impact safety, safeguards or security risks (likelihood or consequence) under DOE or NRC jurisdiction during normal, off-normal or emergency conditions. The tenant mix includes multiple organizations other than DOE and USEC with GDP site space leased from DOE. These organizations are not staffed with GDP workers, i.e. National Guard, Defense Logistic Agency, etc.

Manager for Enrichment Facilities, Oak Ridge Operations Office, DOE, and the Director, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, NRC.

VI. Effective Date and Modification

This MOU shall become effective upon signing by the DOE Assistant Manager for Enrichment Facilities, Oak Ridge Operations, and the Director, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, NRC, and will be subject to periodic reviews and may be amended or modified upon written agreement by the parties. This MOU may be terminated by mutual agreement or by written notice of either party submitted six months in advance of termination.

VII. Separability

If any provision(s) of this MOU, or the application of any provision(s) to any person or circumstances, is held invalid, the remainder of this MOU and the application of such provision(s) to other persons or circumstances shall not be affected.

For the Nuclear Regulatory Commission.

Dated: October 27, 1997.

Elizabeth Q. Ten Eyck,

Director Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission.

For the Department of Energy.

Dated: October 28, 1997.

Joseph W. Parks,

Assistant Manager for Enrichment Facilities, Oak Ridge Operations Office, Department of Energy.

[FR Doc. 97–29244 Filed 11–4–97; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from October 10, 1997, through October 24, 1997. The last biweekly notice was published on October 22, 1997 (62 FR 54866).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, MD from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By December 5, 1997, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Baltimore Gas and Electric Company, Docket No. 50–317, Calvert Cliffs Nuclear Power Plant, Unit No. 1, Calvert County, MD

Date of amendment request: October 2, 1997.

Description of amendment request: The amendment request would change the Technical Specifications to identify a proposed upgrade of the electrical capacity of the No. 1B emergency diesel generator.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The Engineered Safety Features (ESF) electrical system provides a reliable source of electrical power to the 4.16 kV ESF busses to operate the necessary accident mitigation equipment, should offsite power be lost. The proposed change to the Technical Specifications was prompted by the upgrade of the electrical and mechanical capacity of the No. 1B Fairbanks Morse Emergency Diesel Generator (EDG). The increased electrical capacity of the No. 1B Fairbanks Morse EDG will give the operators greater flexibility in the choice of discretionary loads for the mitigation of accidents. This modification necessitates changes to the Technical Specifications.

The ESF electrical system, including the four EDGs, is used to mitigate the consequences of an accident. The modification to upgrade the capacity of No. 1B EDG will increase the electrical output of the EDG, but will not change the configuration of the ESF electrical system or any support systems such that the EDGs would become an accident initiator. Therefore, the proposed change would not increase the probability of an accident previously evaluated.

The proposed Technical Specifications will continue to demonstrate the reliability and capability of the upgraded No. 1B EDG to perform its accident mitigation function. The proposed changes to the surveillance requirements do not alter the intent or performance of the surveillance. Only the electrical loadings changed, reflecting the change in the EDG's electrical capacity. Implementation of the proposed Technical Specifications will not reduce the ability of No. 1B EDG to perform its safety functions. Any auxiliary systems that required modification or analysis to support the upgraded ratings of the 1B Fairbanks Morse EDG have been determined not to adversely impact operation of any other plant systems necessary to mitigate the consequences of an accident. Therefore, the proposed change would not increase the consequences of an accident previously evaluated.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Would not create the possibility of a new or different type of accident from any accident previously evaluated.

The proposed change increases the electrical loading for surveillance requirements to reflect the upgrade to the electrical capacity of the No. 1B Fairbanks Morse EDG. This change does not add any new equipment, modify any interfaces with any existing equipment, change the equipment's function, or the method of operating the equipment to be modified. The system will continue to operate in the same manner as before the capacity upgrades were implemented. The modified No. 1B EDG will continue to function as an accident

mitigator, and will not become an initiator of any accident.

Therefore, the proposed change does not create the possibility of a new or different type of accident from any accident previously evaluated.

3. Would not involve a significant reduction in a margin of safety.

The safety function of the EDG is to provide a reliable source of electrical power to the ESF electrical system sufficient to power the necessary accident mitigation equipment, should offsite power be lost. This safety function is demonstrated by performing the required surveillance tests. The proposed changes do not alter the intent or method of performance of any of the surveillance tests.

The proposed change to the Technical Specifications was prompted by the upgrade of the electrical and mechanical capacity of the No. 1B Fairbanks Morse EDG. The higher electrical capacity will result in an increase in the margin between No. 1B EDG's electrical capacities and the electrical power required to operate safety-related equipment required for safe shutdown or accident mitigation. The increased electrical capacity results in the need to increase the electrical loadings used in the surveillance tests. The changes in the surveillance tests will continue to ensure that the EDG is tested appropriately and will continue to perform its safety function. In addition, it should be noted that upgrades on identical Fairbanks Morse EDGs have already been performed on Unit 2 and have resulted in identical changes to the Unit 2 Technical Specifications. Because of the increased electrical margin afforded by the upgraded EDG, these modifications may be considered an increase in the margin of safety.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Calvert County Library, Prince Frederick, MD 20678.

Attorney for licensee: Jay E. Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: S. Singh Bajwa, Director.

Commonwealth Edison Company, Docket Nos. STN 50–454 and STN 50–455, Byron Station, Unit Nos. 1 and 2, Ogle County, IL; Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Unit Nos. 1 and 2, Will County, IL

Date of amendment request: September 8, 1997.

Description of amendment request: The proposed amendment would revise Byron and Braidwood Technical Specification (TS) 4.5.2.b and associated bases as they relate to the requirement to vent the Emergency Core Cooling System (ECCS) pump casings and discharge piping high points outside containment. The change will revise the Unit 1 requirement for ultrasonic examinations every 31 days to also include ultrasonic examination of the piping at the 1CV206 valve for Byron (1CV207 valve for Braidwood) if the 1B Chemical and Volume Control (CV) pump is idle. These changes are required to align the surveillance requirements for Unit 1 with those of Unit 2. In addition, the condition that the Unit 1 requirements will be applicable only until the end of the current cycle is deleted consistent with the Unit 2 requirements. With these changes there will no longer be the need to maintain separate pages for Unit 1 and Unit 2 requirements.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes will align the surveillance requirements for both Units 1 and 2 with the installed system design and normal operating conditions. No increase in the probability of an accident will occur as a result of this change. The conduct of surveillances required by the Technical Specifications is not postulated to initiate an accident. The level of surveillance performed to date has provided confidence that the objective of the current surveillance requirement has been met. As such, the proposed change does not result in a significant increase in the probability of occurrence of a previously analyzed accident.

The consequences of a previously analyzed accident are not increased. Operating experience has shown that the level of surveillance performed to date is sufficient to provide confidence that no significant voiding has occurred in the effected piping. Ultrasonic examinations have confirmed the water solid condition of the piping. Although voiding is not expected, evaluation of postulated voided conditions confirm that unacceptable dynamic loading would not occur, and, therefore, the integrity of the ECCS piping is not compromised. Thus, the ECCS will be capable of performing its design function of cooling the reactor core and providing shutdown capability following initiation of the certain accidents. This will ensure that the consequences of a previously analyzed accident are not significantly increased.

Therefore, these proposed revisions do not result in a significant increase in the probability or consequences of an accident previously analyzed.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not create the possibility of a new or different kind of accident. ComEd has evaluated the piping configuration for the ECCS discharge piping of the ECCS subsystems. A specific engineering evaluation of both a voided 2-inch and 8-inch RH [Residual Heat Removal] line was performed. This evaluation concluded that the piping can withstand the dynamic loads caused by the maximum credible air void. Due to the higher-pressure rating and smaller size of the SI [Safety Injection] and CV discharge piping, this evaluation is considered bounding for the ECCS subsystems. The results of the evaluation were submitted for staff review in a letter dated March 12, 1990, in support of Amendments 47 and 36 to the Operating Licenses for Byron and Braidwood, respectively. The proposed changes will not result in new failure modes because no new equipment is installed, and installed equipment is not operated in a new or different manner. Manual venting operations have been performed as permitted by system operation and piping configuration. This venting surveillance does not apply to subsystems in communication with operating systems because the flows and/or pressures prevalent in these systems are sufficient to provide confidence that water hammer which could occur from voiding would not result in unacceptable dynamic loads from water hammer will not occur. Accordingly, this change will not create the possibility of a new or different kind of accident.

3. The proposed change does not involve a significant reduction in a margin of safety.

The margin of safety is not significantly reduced because the proposed change will provide sufficient assurance that excessive voiding will not occur. This will assure proper system functioning. Venting of the idle subsystems, in conjunction with the operating conditions of the subsystems in operation, provides confidence that voiding is not present. This has been confirmed by the performance of ultrasonic examinations of the piping of interest. This meets the objective of the surveillance requirement and thus preserves the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Local Public Document Room location: For Byron, the Byron Public Library District, 109 N. Franklin, P.O. Box 434, Byron, IL 61010; for Braidwood, the Wilmington Public Library, 201 S. Kankakee Street, Wilmington, IL 60481.

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, IL 60603.

NRC Project Director: Robert A. Capra.

Consumers Energy Company, Docket No. 50–255, Palisades Plant, Van Buren County, MI

Date of amendment request: January 18, 1996, as revised October 1, 1997.

Description of amendment request: The original proposed amendment (January 18, 1996) would have deleted the requirement in Section 6.5.6 of the Technical Specifications (TS) to perform inservice inspections of the primary coolant pump (PCP) flywheels. The October 1, 1997, submittal would revise Section 6.5.6 of the TS to lengthen the flywheel inspection period to 10 years rather than delete it entirely. The note added by Amendment 175 for the deletion of the inspection at the end of Cycle 12 would also be deleted. The original submittal was previously noticed in the **Federal Register** on September 11, 1996 (61 FR 47976).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee provided its analysis of the issue of no significant hazards consideration in its original submittal. In its revised submittal the licensee stated that the conclusions reached in the original no significant hazards consideration determination were still valid because the revised submittal just reduces the frequency of the test as opposed to deleting it. The original no significant hazards consideration discussion is presented below:

The following evaluation supports the finding that operation of the facility in accordance with the proposed change to the Technical Specifications would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change to the Technical Specifications would delete the requirement to perform non-destructive examination of the upper flywheel on the PCPs. The fracture mechanics analyses conducted to support the change show that a preexisting crack sized just below detection level will not grow to the flaw size necessary to result in flywheel failure within the life of the plant. This analysis conservatively assumes minimum material properties, maximum flywheel accident speed, location of the flaw in the highest stress area and a number of startup/shutdown cycles eight times greater than expected. Since an existing flaw in the flywheel will not grow to the allowable flaw size under normal operating conditions or to the critical flaw size under LOCA [loss-of-coolant accident] conditions over the life of the plant, elimination of inservice inspection for such cracks during the plant's life will not involve a significant increase in the probability of an accident previously considered.

The proposed changes do not increase the amount of radioactive material available for release or modify any systems used for mitigation of such releases during accident conditions. Therefore, operation of the facility in accordance with the proposed change to the Technical Specifications would not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any previously evaluated.

The proposed change to the Technical Specifications would not change the design, configuration, or method of operation of the plant and therefore, operation of the facility in accordance with the proposed change to the Technical Specifications would not create the possibility of a new or different kind of accident from any previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed change to the Technical Specifications would not result in a significant reduction in the margin of safety. Significant conservatisms have been used for calculating the allowable flaw size, critical flaw size and crack growth rate in the PCP flywheels. These include minimum material properties, maximum flywheel accident speed, location of the postulated flaw in highest stress area and a number of startup/shutdown cycles eight times greater than expected. Since an existing flaw in the flywheel will not grow to the maximum allowable flaw size under normal operating conditions or to the critical flaw size under LOCA conditions over the life of the plant, elimination of inservice inspections for such cracks during the plant's life will not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. In addition, the staff agrees that this analysis bounds the conditions in the revised submittal. The editorial change to delete an obsolete note has no effect on plant operation or safety and also satisfies the three standards of 10 CFR 50.92(c). Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Van Wylen Library, Hope College, Holland, MI 49423.

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Energy Company, 212 West Michigan Avenue, Jackson, MI 49201.

NRC Project Director: John N. Hannon.

GPU Nuclear Corporation, et al., Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, NJ

Date of amendment request: October 10, 1997.

Description of amendment request: The proposed change (TSCR 253) would reflect the registered trade name of "GPU Nuclear" in the operating license for the Oyster Creek Nuclear Generating Station (OCNGS) and change the legal name of the operator of OCNGS from GPU Nuclear Corporation to GPU Nuclear, Inc. In addition, two minor editorial corrections are included.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability of occurrence or the consequences of an accident previously evaluated. The proposed amendment adds to the license and the technical specifications the trade name of the

Owner of Oyster Creek. The change in the legal name of the operator of Oyster Creek is an administrative change made to reflect the name changes made throughout the GPU family of companies. The name change has no impact on plant design or operation.

Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated because no new failure modes are created by the proposed changes. The use of a trade name for the Owner of Oyster Creek and the change in the legal name of the operator of Oyster Creek has no impact on plant design or operation. Thus, there is no creation of the possibility of a new or different kind of accident from those previously evaluated.

Operation of the facility in accordance with the proposed amendment will not involve a significant reduction in a margin of safety. The proposed amendment does not change any operating limits for reactor operation.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. In addition, the staff has reviewed the licensee's proposed editorial changes and determined that they do not effect the conclusions of the analysis. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Ocean County Library, Reference Department, 101 Washington Street, Toms River, NJ 08753.

Attorney for licensee: Ernest L. Blake, Jr., Esquire. Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Ronald B. Eaton, Acting Director.

Niagara Mohawk Power Corporation, Docket No. 50–410, Nine Mile Point Nuclear Station, Unit 1, Oswego County, NY

Date of amendment request: October 21, 1997. This notice supersedes a previous notice, (62 FR 30625), published June 4, 1997, which was based upon the licensee's application for amendment dated May 16, 1997. The licensee's application dated October 21, 1997, supersedes the May 16, 1997, submittal in its entirety.

Description of amendment request: The proposed amendment would change the administrative section of the Technical Specifications (TS) regarding the Operations organization. Specifically, TS 6.2.2i currently states that "The Manager Operations, Station Shift Supervisor Nuclear and Assistant Station Shift Supervisor Nuclear shall hold senior reactor operator licenses." This would be changed to state "As a minimum, either the Manager Operations or the General Supervisor Operations shall hold a senior reactor operator license. The Station Shift Supervisor Nuclear and Assistant Station Shift Supervisor Nuclear shall hold senior reactor operator licenses." In addition TS 6.3.1 would be revised to indicate an additional exception to the operating staff's qualification requirements set forth in American National Standard Institute (ANSI) N18.1–1971, "Selection and Training of Nuclear Power Plant Personnel." Specifically, this change would require that the Manager Operation, in lieu of meeting the senior reactor operator (SRO) requirements of ANSI N18.1–1971, shall (1) hold an SRO license at the time of appointment, or (2) have held an SRO license at Nine Mile Point Nuclear Station Unit 1 or a similar unit, or (3) have been certified for equivalent SRO knowledge.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The operation of Nine Mile Point Unit 1 [NMP1], in accordance with the proposed amendment, will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The addition of the position of GSO and the requirement for either the GSO or the Manager Operations to have an SRO license is a restructuring of the Operations department. The proposed changes are administrative changes that provide additional Operations management oversight capabilities. Additional restrictions placed on the Manager Operations minimum qualification requirements for experience and SRO level knowledge for the resulting organization meet the intent of ANSI N18.1–1971 and SRP [Standard Review Plan, NUREG–0800] 13.1.1–13.1.3. No physical modification of the plant is involved and no changes to the methods in which plant systems are operated are required.

None of the precursors of previously evaluated accidents are affected, and no new failure modes are introduced. Therefore, this change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The operation of Nine Mile Point Unit 1, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The addition of the position of GSO and the requirement for either the GSO or the Manager Operations to have an SRO license is a restructuring of the Operations department. The proposed changes are administrative changes that provide additional Operations management oversight capabilities. Additional restrictions placed on the Manager Operations minimum qualification requirements for experience and SRO level knowledge ensure the resulting organization meets the intent of ANSI N18.1–1971 and SRP 13.1.1–13.1.3. No physical modification of the plant is involved and no changes to the methods in which plant systems are operated are required. As such, the change does not introduce any new failure modes or conditions that may create a new or different accident. Therefore, this change does not itself create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The operation of Nine Mile Point Unit 1, in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.

The addition of the position of GSO and the requirement for either the GSO or the Manager Operations to have an SRO license is a restructuring of the Operations department. The proposed changes are administrative changes that provide additional Operations management oversight capabilities. Additional restrictions placed on the Manager Operations minimum qualification requirements for experience and SRO level knowledge ensure the resulting organization meets the intent of ANSI N18.1–1971 and SRP 13.1.1–13.1.3. No physical modification of the plant is involved and no changes to the methods in which plant systems are operated are required. As such, this change does not in itself adversely affect any physical barrier to the release of radiation to plant personnel or to the public. Therefore, the change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, NY 13126.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston & Strawn, 400 L Street, NW., Washington, DC 20005–3502.

NRC Project Director: S. Singh Bajwa.

Northeast Nuclear Energy Company (NNECO), et al., Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London County, CT

Date of amendment request: October 7, 1997.

Description of amendment request: Technical Specifications 4.6.1.1, 3/4.6.1.2, and 3/4.6.1.3 require the testing of the containment to verify leakage limits at a specified test pressure. The proposed amendment would (1) modify the list of valves that can be opened in Modes 1 through 4, (2) remove a footnote on Type A testing, and (3) make editorial changes to the Technical Specifications and associated Bases sections.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

NNECO has reviewed the proposed revision in accordance with 10 CFR 50.92 and has concluded that the revision does not involve a significant hazards consideration (SHC). The basis for this conclusion is that the three criteria of 10 CFR 50.92(c) are not satisfied. The proposed revision does not involve [an] SHC because the revision would not:

1. Involve a significant increase in the probability or consequence of an accident previously evaluated.

The proposed change to Technical Specification Surveillance 4.6.1.1 deletes valves from the list of containment isolation valves that may be opened under administrative control. Deleting the valves, which means that they are not allowed to be opened under the Limiting Condition of Operation, [cannot] cause an accident. The valves being added in the steam lines to the steam-driven auxiliary feedwater pump can be used to heat the steam lines prior to testing the steam-driven auxiliary feed water pump. Heating the steam lines prior to testing the steam-driven auxiliary feedwater pump does not increase the likelihood of a steam line break.

The administrative change of replacing the "–" with an "*" in the valve designation can neither cause [an] accident nor affect the consequences of any accident.

The addition of the RHR [residual heat removal] system containment isolation valves reflects the fact that these valves can be opened during Mode 4 to allow plant heatup and cooldown. Plant heatup and cooldown, in accordance with normal plant operation and the Technical Specifications, does not increase the likelihood of the above accidents.

The administrative controls include the appropriate considerations that containment integrity will be established, when required. By establishing containment integrity, the assumptions in the design basis analyses are assured. This means that for LOCA [loss-of-coolant accident], steam line break and feed line break accidents inside containment, there is no effect on their consequences.

Valves in the steam lines to the steam-driven auxiliary feedwater pump are being added to the list of valves allowed to be opened under administrative control. This means that these could be open at the initiation of an accident. The administrative controls under which these valves are opened provides assurance that containment integrity will be established, when required. Similarly, for an SGTR [steam generator tube rupture], Locked Rotor or Control Rod Ejection event, the administrative controls provides assurance that these valves will be closed and, therefore, allowing them to be opened will not adversely impact the consequences of these events. If failure to close is postulated as a single failure for these events, the results would be bounded by the analyses described in the FSAR [final safety analysis report]. For example, the Locked Rotor accident assumes a stuck open steam generator power-operated pressure relief valve (SG PORV). The steam released by the assumed single failure of the SG PORV, for the twenty minutes until the valve is isolated, would exceed the expected releases as a result of failure to close valve 3MSS*V885, 3MSS*V886, or 3MSS*V887, which are in ¼ inch lines. Therefore, allowing these valves to be opened under administrative control does not effect the consequences of the previously evaluated accidents.

The FSAR, Section 15.1.5, provides the assumptions on steam releases for the consequences of the steam line break accident. The steam generator with the broken steam line is assumed to be open to the atmosphere for the duration of the event and, therefore, these valves being open would not impact that assumption. For the unaffected steam generators, steam is assumed released to the atmosphere to remove decay heat. These valves are in ¼ inch lines which means that any steam released via this path would only be a small fraction of decay heat and will not adversely affect control of decay heat removal. Therefore, whether these valves are open or not will not affect the consequences of a steam line break outside containment.

Allowing the RHR system containment isolation valves to be open, under administrative control in Mode 4, does not change the way the system is operated. This proposed change to the footnote does not change the operators response to an accident in Mode 4. Therefore, the addition of these valves does not affect the consequences of the previously evaluated accidents.

The proposed change to Technical Specification Surveillance 4.6.1.2.a will delete footnote "*" which referred to an exemption granted by the NRC to permit the Type A test to be delayed until RFO6 [refueling outage 6]. However, the current extended shutdown has significantly delayed RFO6 and NNECO intends to perform the Type A test during this midcycle shutdown. The deletion of the footnote does not alter the operation of any system or the containment or containment airlocks, as assumed for accident analyses.

Additionally, Technical Specifications 4.6.1.1, 3/4.6.1.2, and 3/4.6.1.3, and Bases Sections 3/4.6.1.1, 3/4.6.1.2, and 3/4.6.1.3 are reworded to provide clarity and consistency. These proposed changes do not alter the operation of any system or the containment or containment airlocks during accident analyses.

Therefore, the proposed revision does not involve a significant increase in the probability or consequence of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes to Technical Specifications 4.6.1.1, 3/4.6.1.2, and 3/4.6.1.3 and Bases Sections 3/4.6.1.1, 3/4.6.1.2, and 3/4.6.1.3 do not alter the operation of any system or the containment or containment airlocks, during normal operation or as assumed in accident analyses.

Deleting containment isolation valves from the list of those that are allowed to be opened under administrative control can not modify plant response to an accident. Adding administrative control when the RHR system containment isolation valves are opened in Mode 4 for normal plant cooldown and heatup can not create a new or different accident. Allowing valves to be opened

to heat the steam lines to the steam-driven auxiliary feedwater pump prior to testing does not create the possibility of a new or different accident. The administrative change to the valve designation can not modify plant response.

Therefore, the proposed revision does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed changes to Technical Specifications 4.6.1.1, 3/4.6.1.2, and 3/4.6.1.3, and Bases Sections 3/4.6.1.1, 3/4.6.1.2, and 3/4.6.1.3 do not alter the design, maintenance or function of any system or the containment or the containment airlocks. Additionally, the proposed changes do not alter the testing of any system or the containment or containment airlocks, or alter any assumption used in the accident analyses.

The considerations associated with administrative control are being added to the bases of the technical specification. These considerations are identical to those provided in GL 91–08 [Generic Letter 91–08]. This means that the changes will maintain the margin of safety. The valves that are allowed to be open in the steam lines to the steam-driven auxiliary feedwater [pump] do not impact the accident analyses and therefore do not reduce the margin of safety. The addition of the RHR system containment isolation valves reflects the fact that these valves are opened for heatup and cooldown in Mode 4. The change adds the requirements of administrative controls to these RHR system valves in Mode 4, but does not modify the use of these valves. The administrative change to the valve designation can not affect the margin of safety.

Therefore, the proposed revision does not involve a significant reduction in a margin of safety.

In conclusion, based on the information provided, it is determined that the proposed revision does not involve an SHC.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, CT, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, CT.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT.

NRC Deputy Director: Phillip F. McKee.

Northeast Nuclear Energy Company (NNECO), et al., Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London County, CT

Date of amendment request: October 15, 1997.

Description of amendment request: Technical Specification Surveillances 4.1.2.3.1, 4.1.2.4.1, 4.5.2, 4.6.2.1, and 4.6.2.2 require the recirculation spray, quench spray, residual heat removal, centrifugal charging, and safety injection pumps to be tested on a periodic basis and after modifications that alter subsystem flow characteristics. The proposed changes to these surveillances would include replacing the specific surveillance pump pressure with a statement that the test be conducted in accordance with Specification 4.0.5, Inservice Testing Program. The proposed changes would also include a decrease in the required individual safety injection and centrifugal charging pump injection line flow rates, an increase in the allowed individual safety injection pump runout flow rate, and editorial changes to the surveillances.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

NNECO has reviewed the proposed revision in accordance with 10 CFR 50.92 and has concluded that the revision does not involve a significant hazards consideration (SHC). The basis for this conclusion is that the three criteria of 10 CFR 50.92(c) are not satisfied. The proposed revision does not involve an SHC because the revision would not:

1. Involve a significant increase in the probability or consequence of an accident previously evaluated.

The Technical Specification changes transfer control of the pump developed head requirements for the Centrifugal Charging, Safety Injection, Quench Spray, Residual Heat Removal, and Recirculation Spray pumps from the Technical Specifications to the Inservice Test program. The acceptance criteria will still assure that the safety analysis assumptions are valid. The Technical Specification changes reduce the minimum flow requirements for the Charging and Safety Injection pumps and increase the maximum allowed flow for the Safety Injection pumps. Modifying the surveillance requirements [cannot] cause an accident and, therefore, [cannot] increase the probability of an accident. The revised minimum required flows are consistent with the flows used in the accident analyses and, therefore, the change [cannot] increase the consequences of any accident. The safety injection pumps are disabled such that they [cannot] be a source of mass addition to the RCS [reactor coolant system] whenever the cold overpressure system is required to be operable. Therefore, the increase in the allowed maximum safety injection pump flow has no effect on the cold overpressure accident analysis.

Therefore, the proposed revision does not involve a significant increase in the probability or consequence of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes transfer control of the pump developed head requirements from the Technical Specifications to the Inservice Test program and modify the required flow surveillance values. The surveillance values that are used in the Inservice Test program and the Technical Specification are consistent with the accident analysis. The increase in the allowed maximum safety injection pump flow does not impact the cold overpressure accident analysis. The changes do not involve any changes to the way that the pumps are operated. The pumps will be used post-accident the same way as they are used prior to the change.

Therefore, the proposed revision does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The control of the pump developed head acceptance criteria is being transferred from the Technical Specification to the Inservice Test program. The acceptance criteria, at a minimum, will assure that the design basis analyses are valid. The minimum pump flow surveillance requirements in Specification 4.5.2.h are consistent with the assumptions of the accident analysis. The maximum allowed Safety Injection flow does not exceed the vendor recommendation for maximum continuous runout flow. The NPSH [net positive suction head] available to the pumps during both the injection and recirculation phases post-accident exceeds the NPSH required at the higher allowed flow. Also, the safety injection pumps are disabled so that they [cannot] be an injection source when the cold overpressure system is required to be operable which means that the increase in maximum flow does not affect the cold overpressure accident analysis. Restricting orifices are being installed in the injection lines from the safety injection and charging pumps to the Reactor Coolant System as required. The restricting orifices and the changes to the required flows will allow for resetting the throttle position of the existing throttle valves. The sizing of the restricting orifices and the associated re-throttling of the throttle valves will be in accordance with Regulatory Guide 1.82. The proposed changes allow for the setting of the throttle valve positions so that the openings will be larger than the sump screen mesh opening size while assuring that the design basis flow values are valid.

Therefore, the proposed revision does not involve a significant reduction in a margin of safety.

In conclusion, based on the information provided, it is determined that the proposed revision does not involve an SHC.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, CT, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, CT.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141–0270.

NRC Deputy Director: Phillip F. McKee.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, NE

Date of amendment request: July 25, 1997.

Description of amendment request: The proposed amendment request would revise the Technical Specifications (TS) to implement 10 CFR Part 50 Appendix J, Option B by referring to Regulatory Guide 1.163, "Performance-Based Containment Leakage-Test Program," with certain exceptions detailed in the licensee's application. This revision supersedes the staff's description of amendment request that was published on October 8, 1997 (62 FR 52586).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change implements Option B of 10 CFR Part 50 Appendix J on performance-based containment leakage testing. The proposed change does not involve a change to the plant design or operation. As a result, the proposed change does not affect any parameters or conditions that contribute to the initiation of any accidents previously evaluated. The proposed change potentially affects the leak-tight integrity of the containment structure designed to mitigate the consequences of a Loss-of-Coolant Accident (LOCA). The function of the containment is to maintain functional integrity during and following the peak transient pressures and temperatures and limit fission product leakage following the design basis LOCA. Because the proposed change does not alter the plant design, only the frequency of measuring Type A, B, and C leakage, the proposed change does not directly result in an increase in containment leakage.

Test intervals will be established based on the performance history of components being tested. The frequency of monitoring the relatively few containment isolation valves and/or containment penetrations subject to above normal leakage will not decrease by implementing Option B of Appendix J. A performance based program will identify those valves and penetrations which must continue to be tested each refueling outage.

The risk resulting from the proposed changes is characterized as follows, based primarily on the results contained in NUREG–1493 "Performance-Based Containment Leakage Test Program," the principal Technical Support Document used by the NRC as the basis for the Appendix J Final Rule:

Type A Testing

NUREG–1493 found that the effect of containment leakage on overall accident risk is minimal since risk is dominated by accident sequences that result in failure or bypass of the containment. Industry wide, Integrated Leak Rate Tests (ILRTs) have only found a small fraction of the leaks that exceed current acceptance criteria. Only three percent of all leaks are detectable only by ILRTs, and therefore, by extending the Type A testing intervals, only three percent of all leaks have a potential for remaining undetected for longer periods of time. In addition, when leakage has been detected by ILRTs, the leakage rate has been only marginally above existing requirements. The Fort Calhoun Station Unit No. 1 Type A testing confirms the industry-wide experience that a majority of the leakage experienced during Type A testing is through components tested by Type B and C tests.

NUREG–1493 found that these observations, together with the insensitivity of reactor accident risk to the containment leakage rate, show that increasing the Type A leakage test intervals would have a minimal impact on public risk.

Type B and C Testing

NUREG–1493 found that while Type B and C tests can identify the vast majority (greater than 95 percent) of all potential leakage paths, performance-based alternatives to current local leakage-testing requirements are feasible without significant risk impacts. The risk model used in NUREG–1493 suggests that the number of components tested would be reduced by about 60 percent with less than a three-fold increase in the incremental risk due to containment leakage. Since, under existing requirements, leakage contributes less than 0.1 percent of overall accident risk, the overall impact is very small. In addition, the NRC's Final Regulatory Impact Analysis concluded that while the extended testing intervals for Type B and C tests led to minor increases in potential offsite dose consequences, the beneficial expected decrease in onsite worker dose received during ILRT and local leak rate testing exceeds (by at least an order of magnitude) the potential off-site dose consequences.

Therefore, the proposed change will not result in a significant increase in the probability or consequences of any accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

There will be no physical alterations to the plant configuration, changes to setpoint values, or changes to the implementation of setpoints or limits as a result of this proposed change. As a result, the proposed change does not affect any of the parameters or conditions that could contribute to initiation of any accidents.

This change involves the reduction of Type A, B, and C test frequency. Except for the method of defining the test frequency, the methods for performing the actual tests are not changed. No new accident modes are created by extending the testing intervals. No safety-related equipment or safety functions are altered as a result of this change. Extending the test frequency has no influence on, nor does it contribute to, the possibility of a new or different kind of accident or malfunction from those previously analyzed. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed change only affects the frequency of Type A, B, and C testing. Except for the method of defining the test frequency, the methods for performing the actual tests are not changed.

The frequency of monitoring the relatively few containment isolation valves and/or containment penetrations subject to above normal leakage will not decrease by implementing Option B of Appendix J. A performance based program will identify those valves and penetrations which must continue to be tested each refueling outage. NUREG–1493 has determined that, under several different accident scenarios, the increased risk of radioactivity release from containment is negligible with the implementation of these proposed changes.

The margin of safety that has the potential of being impacted by the proposed change involves the offsite dose consequences of postulated accidents which are directly related to containment leakage rate. The containment isolation system is designed to limit leakage to La, which is stated in the Fort Calhoun Station Unit No. 1 Technical Specifications to be 0.1 percent by weight of the containment air per 24 hours at 60 psig.

The limitation on containment leakage rate is designed to ensure that total leakage volume will not exceed the value assumed in the accident analyses at the peak accident pressure. The margin to safety for the offsite dose consequences of postulated accidents directly related to the containment leakage rate is maintained by meeting the 1.0 La acceptance criteria. The La value is not being modified by this proposed change.

Except for the method of defining the test frequency, no change in the method of testing is being proposed. The Type B and C tests will continue to be done at 60 psig or greater. Other programs are in place to ensure that proper maintenance and repairs are performed during the service life of the primary containment and systems and components penetrating the primary containment.

Therefore, the proposed change will not result in a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, NE 68102.

Attorney for licensee: Perry D. Robinson, Winston & Strawn, 1400 L Street, N.W., Washington, DC 20005–3502.

NRC Project Director: William H. Bateman.

Power Authority of the State of New York, Docket No. 50–286, Indian Point Nuclear Generating Unit No. 3, Westchester County, NY

Date of amendment request: September 3, 1997.

Description of amendment request: The proposed amendment would change the Technical Specifications (TSs) to revise the number of hours operating personnel can work in a normal shift. The proposed amendment also contains some administrative changes to the TSs.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

A. Establishing operating personnel work hours at, "an 8 to 12 hour day, nominal 40 hour week," allows normal plant operations to be managed more effectively and does not adversely effect performance of operating personnel. If 8 hour shifts are maintained in part or whole, then acceptable levels of performance from operating personnel is assured through effective control of shift turnovers and plant activities. No physical plant modifications are involved and none of the precursors of previously evaluated accidents are affected. Therefore, this change will not involve a significant increase in the probability or consequence of an accident previously evaluated.

B. Editorial changes clarify section 6.2.2.g without changing the intent or meaning. The proposed change meets the intent of the NRC Policy Statement on working hours (Generic Letter 82–12).

C. Changes to sections 3.10.6.1.a and 3.10.9 do not change the intent or meaning of the technical specification sections. Clarification to the table notation in section 4.1 related to the definition of shift checks to monitor plant conditions will continue as intended but are allowed to increase up to at least once per 12 hours. This increase is consistent with standard industry practice as represented by the Standard Technical Specifications (STS), Reference 1.

2. Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

A. Establishing operating personnel work hours at, "an 8 to 12 hour day, nominal 40 hour week," allows normal plant operations to be managed more effectively and does not adversely effect performance of operating personnel. If 8 hour shifts are maintained in part or whole, then acceptable levels of performance from operating personnel is assured through effective control of shift turnovers and plant activities. Overtime remains controlled by site administrative procedures in accordance with the NRC Policy Statement on working hours (Generic Letter 82–12). No physical modification of the plant is involved. As such, the change does not introduce any new failure modes or conditions that may create a new or different accident. Therefore, operation in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any previously evaluated.

B. Editorial changes clarify section 6.2.2.g without changing the intent or meaning. The proposed change meets the intent of the NRC Policy Statement on working hours (Generic Letter 82–12).

C. Changes to sections 3.10.6.1.a and 3.10.9 do not change the intent or meaning of the technical specification sections. Clarification to the table notation in section 4.1 related to the definition of shift checks to monitor plant conditions will continue as intended but are allowed to increase up to at least once per 12 hours. This increase is consistent with standard industry practice as represented by the Standard Technical Specifications (STS), Reference 1.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

A. Establishing operating personnel work hours at, "an 8 to 12 hour day, nominal 40 hour week," allows normal plant operations to be managed more effectively and does not adversely effect performance of operating personnel. If 8 hour shifts are maintained in part or whole, then acceptable levels of performance from operating personnel is assured through effective control of shift turnovers and plant activities. Overtime remains controlled by site administrative procedures in accordance with the NRC Policy Statement on working hours (Generic Letter 82–12) and is consistent with the Standard Technical Specifications. The proposed change involves no physical modification of the plant, or alterations to any accident or transient analysis. There is no Basis to section 6 of the Technical Specifications, and the changes are administrative in nature. Therefore, the change does not involve any significant reduction in a margin of safety.

B. Editorial changes clarify section 6.2.2.g without changing the intent or meaning. The proposed change meets the intent of the NRC Policy Statement on working hours (Generic Letter 82–12).

C. Changes to sections 3.10.6.1.a and 3.10.9 do not change the intent or meaning of the technical specification sections. Clarification to the table notation in section 4.1 related to the definition of shift checks to monitor plant conditions will continue as intended but are allowed to increase up to at least once per 12 hours. This increase is consistent with standard industry practice as represented by the Standard Technical Specifications (STS), Reference 1.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, NY 10601.

Attorney for licensee: Mr. David Blabey, 10 Columbus Circle, New York, NY 10019.

NRC Project Director: S. Singh Bajwa, Director.

Rochester Gas and Electric Corporation, Docket No. 50–244, R. E. Ginna Nuclear Power Plant, Wayne County, NY

Date of amendment request: September 29, 1997, as supplemented October 8, 1997. The September 29 application and October 8, 1997, supplement supersede the September 13, 1996, application and its April 24, 1997, supplement. This notice supersedes the notice published on October 9, 1996 (61 FR 197) in its entirety.

Description of amendment request: The proposed amendment would change the Ginna Station Technical Specifications (TSs) which would allow referencing of revision of the Ginna Station pressure and temperature limits report (PTLR) for the reactor coolant system (RCS) pressure and temperature (P/T) limits and low temperature overpressure protection (LTOP) limits. The proposed amendment would correct some typographical errors in the TSs.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Operation of Ginna Station in accordance with the proposed changes does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes revise Administrative Controls Section 5.6.6.c to update the reference to the NRC's approval of the first use of the PTLR methodology, update the RCS P/T methodology to the final NRC approved version, allow use of ASME Code Case N–514 for LTOP enable temperature methodology, and to correct a typographical error. These changes complete implementation of Generic Letter 96–03 by referencing NRC approved methodology within the Administrative Controls. The updated RCS P/T methodology has been generically approved by the NRC while the use of ASME Code Case N–514 for LTOP enable temperature methodology was previously approved for use at Ginna Station by the NRC. As such, these changes are administrative in nature and do not impact initiators or analyzed events or assumed mitigation of accident or transient events. Therefore, these changes do not involve a significant increase in the probability or consequences of an accident previously analyzed.

2. Operation of Ginna Station in accordance with the proposed changes does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed changes do not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed) or changes in the methods governing normal plant operation. The proposed changes will not impose any new or different requirements. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Operation of Ginna Station in accordance with the proposed changes does not involve a significant reduction in a margin of safety. The proposed changes will not reduce a margin of plant safety because the methodology have been shown to ensure that the P/T and LTOP limits in the PTLR continue to meet all necessary requirements for reactor vessel integrity. These changes are administrative in nature since the limits were previously relocated to the PTLR under a separate LAR [License Amendment Request]. As such, no question of safety is involved, and the change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: Rochester Public Library, 115 South Avenue, Rochester, NY 14610.

Attorney for licensee: Nicholas S. Reynolds, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005.

NRC Project Director: S. Singh Bajwa, Director.

Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, CA

Date of amendment requests: December 22, 1995.

Description of amendment requests: The licensee proposes to delete the physical protection program reporting requirement from License Condition 2.G, and to clarify in License Condition 2.E that all the documents composing the physical protection program plans may not contain safeguards information.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the

issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

This proposed change is considered an administrative change. It has no impact on the probability or consequences of any of the accidents previously evaluated. This change revises license conditions for clarification and removes the burden of duplicate reporting requirements. This change does not affect the physical protection program as previously approved by the Nuclear Regulatory Commission (NRC). License Condition 2.E is being revised to clarify that the physical security, security force training and qualification, and safeguards contingency plans may or may not contain safeguards information. The security force training and qualification plan does not currently contain safeguards information.

A reporting requirement in License Condition 2.G is being revised to remove the reference to License Condition 2.E for the physical protection program. The reporting requirements for the physical protection program are located in the regulations, 10 CFR 73.71 and 10 CFR 73 part, Appendix G.

Therefore, the probability and consequences of an accident previously evaluated are not affected by these proposed changes.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

This proposed change is considered an administrative change. It has no impact on equipment, systems, or structures such that a new or different kind of accident is created. This change revises license conditions to clarify that safeguards information may be located in the physical protection program plans and to remove duplicate and unnecessary reporting requirements for the physical protection program. There is no change associated with the implementation and maintenance of the physical protection program as previously approved by the NRC.

Therefore, the possibility of a new or different kind of accident from an accident previously evaluated is not created.

3. The proposed change does not involve a significant reduction in a margin of safety.

This proposed change is considered an administrative change only. It has no impact on the margin of safety associated with the physical protection program. This change revises license conditions to clarify the location of safeguards information in the physical protection program plans and removes duplicative and unnecessary reporting requirements for the physical protection program. The maintenance and implementation of the physical protection program is not affected by this change.

Therefore, there will not be a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, CA 92713.

Attorney for licensee: T.E. Oubre, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, CA 91770.

NRC Project Director: William H. Bateman.

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50–440, Perry Nuclear Power Plant, Unit 1, Lake County, OH

Date of amendment request: October 22, 1997.

Description of amendment request: The amendment would change the Perry Nuclear Power Plant design basis as described in the Updated Safety Analysis Report. The change will add a description of the temperature control valves and associated bypass lines around the Emergency Closed Cooling System heat exchangers. These features are designed to ensure operability of the Control Complex Chilled Water System under post-accident load conditions, without the need for compensatory actions.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment is requesting Nuclear Regulatory Commission (NRC) review and approval of changes to the Perry Nuclear Power Plant (PNPP) Updated Safety Analysis Report (USAR) to incorporate descriptions (in the form of text, tables and drawings) of a modification to the plant involving two temperature control valves and associated temperature elements, and piping segments that have been installed in the Emergency Closed Cooling Water (ECC) System. These valves, temperature elements, and piping segments were installed to increase the overall reliability of the ECC System and the other safety related plant systems that it serves, to help ensure that they perform their specified safety functions without reliance on manual throttling actions.

The probability of occurrence and the consequences of an accident previously evaluated in the USAR are not considered to be increased as a result of the temperature control valve modification.

Based on conformance with the original system design criteria, the fact that the ECC System is an accident mitigation system, and that this modification does not introduce any new initiators to a previously postulated accident, the addition of this temperature control function can not increase the probability of occurrence of an accident previously evaluated in the USAR. Accidents reviewed involve the Loss of Coolant Accident applications described in USAR Chapter 6 with their corresponding consequence postulations shown in USAR Chapter 15, accident and transient scenarios as described in USAR Chapter 15, flooding and rupture postulations as described in USAR Chapter 3, and fire protection analyses as described in USAR Chapter 9.

The modification has been designed, procured, and installed to the original design codes and standards. The modification also satisfies single failure criteria and does not adversely affect the mitigation function of the ECC System. Therefore, the ability to mitigate accidents previously evaluated in the USAR is maintained and the radiological consequences of such accidents remain unaffected.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of previously evaluated accidents.

2. The proposed change would not create the possibility of a new or different kind of accident from any previously evaluated.

The modification has been designed to satisfy the requirements of the original ECC System. A single failure of the new configuration will not result in more than the loss of one respective ECC System loop as already analyzed. Analysis of flooding shows no scenario greater than the currently bounding event. Missile generation is not a concern since no mechanisms conducive to that potential have been introduced. From the electrical analysis perspective, analysis has shown no adverse effects on the Emergency Diesel Generator loadings or other system applications.

Based on the above discussions, the proposed change would not create the possibility of a new or different kind of accident than those previously evaluated.

3. The proposed change will not involve a significant reduction in the margin of safety.

This request does not involve a significant reduction in a margin of safety. The modification, including design, procurement, and installation, has been performed in accordance with the applicable codes, standards, and installation specifications. The modification does not change the heat removal capabilities or any previously designed parameters of the ECC System. Hence, the ECC System margin of safety with respect to safety classification, protection, redundancy, heat removal capability, and seismic classification remains unaffected.

The margins of safety contained in the Technical Specifications and the associated Bases also remain unaffected by this modification due to conformance with the applicable codes, standards, and installation specifications. Specifically, Technical Specification 3.7.10, "Emergency Closed Cooling Water (ECCW) System" and the description in the Bases remain unchanged and fully applicable. The following Technical Specifications also remain unaffected and applicable: 3.3.3.2, "Remote Shutdown System"; 3.7.1, "Emergency Service Water (ESW) System—Divisions 1 and 2"; 3.7.4, "Control Room Heating, Ventilation, and Air Conditioning (HVAC) System"; and the Technical Specifications related to Sections 3.8 (Electrical Power Systems), 3.5 (Emergency Core Cooling Systems (ECCS) and Reactor Core Isolation Cooling (RCIC) System) and 3.6 (Containment Systems). On this basis, the margins of safety defined in the Technical Specifications remain unchanged.

Therefore, the changes associated with this license amendment request do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, OH 44081,

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Gail H. Marcus.

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the Federal Register on the day and page cited. This notice does not extend the notice period of the original notice.

Carolina Power & Light Company, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, SC

Date of application for amendment: August 27, 1996, as supplemented December 18, 1996, January 17, February 18, March 27, April 4, April 25, April 29, May 30, June 2, June 13, June 18, August 4, August 8, September 10, October 2 (RNP RA/97–0216), October 2, (RNP RA/97–0207), October 13, and October 21, 1997.

Brief description of amendment: This amendment addresses a more restrictive change proposed by the licensee in minimum allowable containment pressure.

Date of publication of individual notice in Federal Register: October 7, 1997 (62 FR 52362).

Expiration date of individual notice: October 21, 1997.

Local Public Document Room location: Hartsville Memorial Library, 147 West College Avenue, Hartsville, SC 29550.

Public Service Electric & Gas Company, Docket No. 50–354, Hope Creek Generating Station, Salem County, NJ

Date of amendment request: September 24, 1997.

Brief description of amendment request: The proposed amendment would add a surveillance requirement in Section 3/4.5.1 to perform a monthly valve position verification for each of the four residual heat removal crosstie valves.

Date of publication of individual notice in Federal Register: October 6, 1997 (62 FR 52162).

Expiration date of individual notice: November 5, 1997.

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, NJ 08070.

Public Service Electric & Gas Company, Docket No. 50–354, Hope Creek Generating Station, Salem County, NJ

Date of amendment request: September 29, 1997.

Brief description of amendment request: The proposed amendment would change Technical Specification 3/4.11.1, "Liquid Effluents—Concentration." The proposed change adds a requirement to perform weekly sampling and monthly and quarterly composite analyses of the Station Service Water System when the Reactor Auxiliaries Cooling System is contaminated.

Date of publication of individual notice in Federal Register: October 6, 1997 (62 FR 52161).

Expiration date of individual notice: November 5, 1997.

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, NJ 08070.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in

connection with these actions was published in the Federal Register as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved.

Carolina Power & Light Company, et al., Docket Nos. 50–325 & 50–324, Brunswick Steam Electric Plant, Units 1 & 2, Brunswick County, NC

Date of amendment request: January 7, 1997, as supplemented on July 25, 1997, August 27, 1997, and September 15, 1997.

Brief description of amendment: The amendments correct an error involving the transposition of two of the reactor pressure vessel (RPV) pressure-temperature (P–T) limits curves between the Technical Specifications for the Brunswick Steam Electric Plant, Units 1 and 2 and update the hydrostatic pressure test limits curves for both units.

Date of issuance: October 7, 1997.

Effective date: October 7, 1997.

Amendment No.: 189 and 220.

Facility Operating License Nos. DPR–71 and DPR–62: Amendments revise the Technical Specifications.

Date of initial notice in Federal Register: March 12, 1997 (62 FR 11485). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 7, 1997.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, NC 28403–3297.

Carolina Power & Light Company, Docket No. 50–261, H.B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, SC

Date of application for amendment: August 27, 1996, as supplemented December 18, 1996, January 17, February 18, March 27, April 4, April 25, April 29, May 30, June 2, June 13, June 18, August 4, August 8, September 10, October 2 (RNP RA/97–0216), October 2, (RNP RA/97–0207), October 13, and October 21, 1997.

Brief description of amendment: This amendment addresses a more restrictive change proposed by the licensee in minimum allowable containment pressure.

Date of issuance: October 24, 1997.

Effective date: October 24, 1997.

Amendment No.: 176.

Facility Operating License No. DPR–23: Amendment revises the License and Technical Specifications.

Public comments requested as to proposed no significant hazards consideration (NSHC): Yes (62 FR 52362 dated October 7, 1997). The notice provided an opportunity to submit comments on the Commission's proposed NSHC determination. No comments have been received. The notice also provided for an opportunity to request a hearing by November 6, 1997, but indicated that if the Commission makes a final NSHC determination, any such hearing would take place after issuance of the amendment.

The Commission's related evaluation of the amendment, finding of exigent circumstances, and final determination of NSHC are contained in a Safety Evaluation dated October 24, 1997.

Attorney for licensee: William D. Johnson, Vice President and Senior Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

Local Public Document Room location: Hartsville Memorial Library, 147 West College Avenue, Hartsville, SC 29550.

Carolina Power & Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, NC

Date of application for amendment: February 21, 1997.

Brief description of amendment: This amendment adds a specific time limit to Technical Specification Table 3.3–3 to place an inoperable refueling water storage tank level channel in a bypassed condition.

Date of issuance: September 30, 1997.

Effective date: September 30, 1997.

Amendment No: 74.

Facility Operating License No. NPF–63: Amendment revises the Technical Specifications.

Date of initial notice in Federal Register: April 9, 1997 (62 FR 17225). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 30, 1997.

No significant hazards consideration comments received: No.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, NC 27605.

Commonwealth Edison Company, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, IL

Date of application for amendments: March 5, 1997 as supplemented October 3, 1997.

Brief description of amendments: The amendments would revise the Technical Specifications by removing the main steamline radiation monitor reactor scram function and the main steamline tunnel radiation isolation function.

Date of issuance: October 24, 1997.

Effective date: Immediately, to be implemented within 60 days.

Amendment Nos.: 163, 158.

Facility Operating License Nos. DPR–19 and DPR–25: The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: April 16, 1997 (62 FR 19141). The October 3, 1997, submittal provided additional clarifying information that did not change the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 24, 1997.

No significant hazards consideration comments received: No.

Local Public Document Room location: Morris Area Public Library District, 604 Liberty Street, Morris, IL 60450.

Entergy Gulf States, Inc., Cajun Electric Power Cooperative, and Entergy Operations, Inc., Docket No. 50–458, River Bend Station, Unit 1, West Feliciana Parish, LA

Date of amendment request: August 29, 1996, supplemented August 29, 1996 (proprietary), September 5, and October 8, 1997.

Brief description of amendment: The amendment eliminates the Average Power Range Monitor (APRM) setpoint T-Factor setdown requirements and provides for reactivity anomaly calculation improvements. The request to decrease the local power range monitor (LPRM) calibration frequency will be handled by separate review and action.

Date of issuance: October 10, 1997.

Effective date: October 10, 1997.

Amendment No.: 100.

Facility Operating License No. NPF–47: The amendment revised the Technical Specifications.

Date of initial notice in Federal Register: October 23, 1997 (61 FR 55032). The Licensee's letters dated August 29, 1996 (proprietary), September 5, and October 8, 1997, provided additional clarification and corrections to other TSs that would have erroneously referenced the TSs being eliminated and did not change the staff's initial no significant hazards determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 10, 1997.

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, LA 70803.

GPU Nuclear Corporation, et al., Docket No. 50–289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, PA

Date of application for amendment: July 30, 1997, as supplemented September 19, and September 24, 1997.

Brief description of amendment: The amendment reduces current technical specification leakage limit from the decay heat removal system from 6.0 gallons per hour (gph) to 0.6 gph.

Date of issuance: October 15, 1997.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 205.

Facility Operating License No. DPR–50: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: August 27, 1997 (62 FR 45458). The September 19, and September 24, 1997, submittals did not affect the initial no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 15, 1997.

No significant hazards consideration comments received: No.

Local Public Document Room location: Law/Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, PA 17105.

GPU Nuclear Corporation, et al., Docket No. 50–289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, PA

Date of application for amendment: August 12, 1997, as supplemented August 28, September 15, October 3, 9, and 10, 1997.

Brief description of amendment: The amendment changes the technical specifications surveillance requirements for once-through steam generator inservice inspection for Cycle 12 operation.

Date of issuance: October 16, 1997.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 206.

Facility Operating License No. DPR–50: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: August 27, 1997 (62 FR 45458). The supplemental letters did not affect the initial no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 16, 1997.

No significant hazards consideration comments received: No.

Local Public Document Room location: Law/Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, PA 17105.

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, TX, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, TX

Date of amendment request: August 14, 1997, as supplemented September 23, 1997. The supplement provided clarifying information within the scope of the amendment request and did not change the initial no significant hazards consideration determination.

Brief description of amendments: The amendments revise the allowed tolerance of the reactor coolant system volume provided in Technical Specification 5.4.2 to account for steam generator tube plugging.

Date of issuance: October 20, 1997.

Effective date: October 20, 1997.

Amendment Nos.: Unit 1—Amendment No. 92; Unit 2—Amendment No. 79.

Facility Operating License Nos. NPF–76 and NPF–80: The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: August 28, 1997 (62 FR 45278). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 20, 1997.

No significant hazards consideration comments received: No.

Local Public Document Room location: Wharton County Junior College, J.M. Hodges Learning Center, 911 Boling Highway, Wharton, TX 77488.

Northeast Nuclear Energy Company, Docket No. 50–245, Millstone Nuclear Power Station, Unit 1, New London County, CT

Date of application for amendment: February 7, 1997, as supplemented April 3 and September 19, 1997.

Brief description of amendment: The amendment clarifies the requirement for calibration of instrument channels that use resistance temperature detectors or thermocouples.

Date of issuance: October 22, 1997.

Effective date: As of the date of issuance, to be implemented within 90 days.

Amendment No.: 102.

Facility Operating License No. DPR–21: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: April 9, 1997 (62 FR 17236). The April 3 and September 19, 1997, letters provided additional and clarifying information that did not change the scope of the February 7, 1997, application and the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 22, 1997.

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, CT, and at the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, CT.

Northeast Nuclear Energy Company, et al., Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London County, CT

Date of application for amendment: June 19, 1997.

Brief description of amendment: Technical Specification Table 2.2–1 NOTES 1 and 3 define the values for the constants used in the Overtemperature Delta-T and Overpower Delta-T reactor trip system instrumentation setpoint calculators. The amendment makes changes to the NOTES as well as the associated Bases section.

Date of issuance: October 22, 1997.
Effective date: As of the date of issuance, to be implemented within 60 days.
Amendment No.: 152.
Facility Operating License No. NPF–49: Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** July 30, 1997 (62 FR 40852).
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 22, 1997.
No significant hazards consideration comments received: No.
Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, CT, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, CT.

Northern States Power Company, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2, Goodhue County, MI

Date of application for amendments: November 6, 1996, as supplemented April 10 and October 1, 1997.
Brief description of amendments: The amendments revise Technical Specifications governing the cooling water system and are a partial response to the licensee's application. The changes improve plant operation based on operational experience with the vertical motor-driven cooling water pump. The changes also incorporate information gathered by the licensee during its self-assessment Service Water System Operational Performance Inspection (SWSOPI) completed in late 1995. The remainder of the licensee's application will be addressed in a separate licensing action.
Date of issuance: October 21, 1997.
Effective date: October 21, 1997, with full implementation within 90 days.
Amendment Nos.: 131 and 123.
Facility Operating License Nos. DPR–42 and DPR–60: Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** January 29, 1997 (62 FR 4338) The April 10 and October 1, 1997, letters provided clarifying information within the scope of the original application and did not change the staff's initial proposed no significant hazards considerations determination.
The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 21, 1997.
No significant hazards consideration comments received: No.
Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, MI 55401.

PECO Energy Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket No. 50–278, Peach Bottom Atomic Power Station, Unit No. 3, York County, PA

Date of application for amendment: June 30, 1997, as supplemented by letter dated September 26, 1997.
Brief description of amendment: Revises the minimum critical power ratio (MCPR) safety limit in Section 2.1 of the Technical Specifications from 1.07 to 1.11 for two recirculation loops in operation. For a single loop in operation, the MCPR will change from 1.08 to 1.12. The new MCPR safety limits reflect the effect of the new General Electric—13 part length fuel design and other Peach Bottom core-specific parameters.
Date of issuance: October 9, 1997.
Effective date: As of the date of issuance, to be implemented prior to startup from Unit 3 refueling outage 3R11.
Amendment No.: 225.
Facility Operating License No. DPR–56: The amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** August 13, 1997 (62 FR 43373).
The supplemental letter provided clarifying information that did not change the original no significant hazards consideration determination.
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 9, 1997.
No significant hazards consideration comments received: No.
Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, PA 17105.

Philadelphia Electric Company, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, PA

Date of application for amendments: April 9, 1997.
Brief description of amendments: These amendments revise the TSs to clarify existing battery-specific gravity requirements, delete the requirement to correct specific gravity values based on electrolyte level, and allow the use of charging current measurements to verify the battery's state of charge.
Date of issuance: October 8, 1997.
Effective date: Both units, as of date of issuance and shall be implemented within 30 days.
Amendment Nos.: 123 and 88.
Facility Operating License Nos. NPF–39 and NPF–85: The amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** June 4, 1997 (62 FR 30643).
The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 8, 1997.
No significant hazards consideration comments received: No.
Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, PA 19464.

Southern Nuclear Operating Company, Inc., Docket Nos. 50–348 and 50–364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, AL

Date of amendments request: March 7, 1997.
Brief Description of amendments: The amendments change the Technical Specifications for both Farley units to allow operability testing for certain containment isolation valves during defueled status.
Date of issuance: October 17, 1997.
Effective date: As of the date of issuance to be implemented within 30 days.
Amendment Nos.: Unit 1—130; Unit 2—123.
Facility Operating License Nos. NPF–2 and NPF–8: Amendments revise the Technical Specifications.
Date of initial notice in **Federal Register:** April 23, 1997 (62 FR 19834).
The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 17, 1997.
No significant hazards consideration comments received: No.
Local Public Document Room location: Houston-Love Memorial Library, 212 W. Burdeshaw Street, Post Office Box 1369, Dothan, AL 36302.

Southern Nuclear Operating Company, Inc., Docket No. 50–348, Joseph M. Farley Nuclear Plant, Unit 1, Houston County, AL

Date of amendment request: September 3, 1997.
Brief Description of amendment: The changes reduce the number of required incore detectors necessary for continued operation for the remainder of Cycle 15 only.
Date of issuance: October 23, 1997.
Effective date: As of the date of issuance to be implemented within 30 days.
Amendment No.: 131.

Facility Operating License No. NPF–2: Amendment revises the Technical Specifications.
Date of initial notice in **Federal Register:** September 10, 1997 (62 FR 47695).
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 23, 1997.
No significant hazards consideration comments received: No
Local Public Document Room location: Houston-Love Memorial Library, 212 W. Burdeshaw Street, Post Office Box 1369, Dothan, AL.

Tennessee Valley Authority, Docket No. 50–390 Watts Bar Nuclear Plant, Unit 1, Rhea County, TN

Date of application for amendment: June 20, 1997.
Brief description of amendment: Modify the Watts Bar Technical Specifications (TS) to incorporate the use of Code Case N–514 into the methodology for the Pressure-Temperature Limits Report.
Date of issuance: October 21, 1997.
Effective date: October 21, 1997.
Amendment No.: 9.
Facility Operating License No. NPF–90: Amendment revises the TS.
Date of initial notice in **Federal Register:** September 10, 1997 (62 FR 47700).
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 21, 1997.
No significant hazards consideration comments received: None
Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, TN 37402.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, KS

Date of amendment request: July 3, 1997, as supplemented by letter dated August 20, 1997.
Brief description of amendment: The amendment revises Surveillance Requirements 4.3.1.2 and 4.3.2.2, and Technical Specifications 3/4.3.1 and 3/4.3.2, and associated Bases Sections B 3/4.3.1 and B 3/4.3.2 to eliminate periodic response time testing requirements for selected pressure and differential pressure sensors in the reactor trip system and engineered safety features actuation system instrumentation channels.
Date of issuance: October 20, 1997.
Effective date: October 20, 1997, to be implemented prior to restart from the ninth refueling outage currently scheduled to start on October 4, 1997.
Amendment No.: 113.
Facility Operating License No. NPF–42: The amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** July 30, 1997 (62 FR 40862).
The August 20, 1997, supplemental letter provided additional clarifying information and did not change the initial no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 20, 1997.
No significant hazards consideration comments received: No.
Local Public Document Room locations: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, KS 66801 and Washburn University School of Law Library, Topeka, KS 66621.

Dated at Rockville, Maryland, this 29th day of October 1997.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Acting Director, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 97–29130 Filed 11–4–97; 8:45 am]

BILLING CODE 7590–01–P

THE PRESIDENT'S COUNCIL ON SUSTAINABLE DEVELOPMENT

The Eighteenth Meeting of the President's Council on Sustainable Development (PCSD) in Atlanta, Georgia

Summary: The President's Council on Sustainable Development (PCSD), a Presidential Commission with representation from industry, government, environmental, and Native American organizations, will convene its eighteenth meeting in Atlanta, Georgia on Thursday, November 20, 1997.
Under its current charter, the Administration asked the Council to continue its work by continuing to forge consensus on policy, demonstrating implementation, getting the word out about sustainable development, and evaluating progress. The Council will advise the President in four specific areas: domestic implementation of policy options to reduce greenhouse gas emissions, next steps in building the new environmental management system of the 21st century, promoting multi-jurisdictional and community cooperation in metropolitan and rural areas, and policies that fosters the United States' leadership role in sustainable development internationally.
At the Council's last meeting in Tulsa, Oklahoma on September 22, 1997, members were briefed on the science impacts, technology impacts, and economics related to climate change. The Council also heard from Tulsa's community about ways in which the climate change issue affects their lives.
At this next meeting, the Council will receive input from a community forum on climate change, focus on technology options to reduce greenhouse gas emissions and hear from a series of experts in the field. Specifically, the discussion will address the following agenda items:
- Current sources of greenhouse gas emissions; and
- Technology opportunities in a variety of sectors within the United States economy to reduce greenhouse gas emissions.

Public comment period: The Council will seek public comment on potential Council activities to implement the Administration's directive.
Specifically, the Council is interested in hearing from the public on the following questions:
- How might climate change affect the quality of life in the Atlanta region?
- Are there local opportunities in Atlanta, Georgia and surrounding regions to reduce greenhouse gas emissions?
- What policy recommendations should the Council give to President Clinton to more quickly develop and deploy energy efficient technologies?

The Council's previous recommendations to the President may be found in two reports: Sustainable America: A New Consensus for Prosperity, Opportunity, and a Healthy Environment for the Future (March 1996) and Building on Consensus: A Progress Report on Sustainable America (January 1997). Copies of both reports can be ordered by calling 1–800–363–3732 or downloaded off the Internet at "http://www.whitehouse.gov/PCSD".
Dates/Times: Thursday, November 20, 1997 from 9:00 a.m. to 1:00 p.m.
Place: Georgia Public Broadcasting Building, 206 14th Street in the main floor television studio, Atlanta, Georgia, 30318. PH: 404–685–2253; FAX: 404–758–2417.
Status: Open to the public. Public comments are welcome and may be submitted orally on November 20 or in writing any time prior to or during the meeting. Please submit written comments prior to meeting to: PCSD, Public Comments, 730 Jackson Place, NW, Washington, D.C. 20503, or fax to:

202/408–6839, E-mail: "infopcsd@aol.com".

Contact: Paul Flaim, Administrative Assistant, at 202/408–5298.

Sign Language Interpreter: Please call the contact if you will need a sign language interpreter.

Martin A. Spitzer,

Executive Director, President's Council on Sustainable Development.

[FR Doc. 97–29288 Filed 11–4–97; 8:45 am]

BILLING CODE 3125–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Orlando Super Card, Inc.; Order of Suspension of Trading

November 3, 1997.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Orlando Super Card, Inc. ("Orlando Super Card") because of questions regarding (1) the trading and true value of the common stock of Orlando Super Card; and (2) the accuracy and adequacy of publicly disseminated information concerning Orlando Super Card's financial prospects.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the above-listed company is suspended for the period from 9:30 a.m. EST, November 3, 1997 through 11:59 p.m. EST, on November 14, 1997.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 97–29353 Filed 11–3–97; 11:15 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38264; File No. SR–NASD–97–39]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Approval to Proposed Rule Change, and Amendment No. 1 thereto, Relating to the Application of the NASD Corporate Financing Requirements To Exchange Offers, Mergers and Acquisitions, and Other Similar Transactions

October 29, 1997.

On May 23, 1997, the National Association of Securities Dealers, Inc. ("NASD" or "Association") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to clarify the application of Rules 2710 and 2720 to exchange offers, merger and acquisition transactions, and other similar corporate reorganizations. On June 19, 1997, the NASD submitted Amendment No. 1 to the proposed rule change.[3]

The proposed rule change and Amendment No. 1 were published for comment in Securities Exchange Act Release No. 38822 (July 8, 1997), 62 FR 38150 (July 16, 1997). No comments were received on the proposal. This order approves the proposed rule change as amended.

I. Introduction

Rule 2710 of the Conduct Rules of the NASD ("Corporate Financing Rule") requires that members file with the Corporate Financing Department of the NASD public offerings of securities for review of the proposed underwriting terms and arrangements, which terms and arrangements must comply with that rule. Rule 2720 of the Conduct Rules ("Conflicts Rule") establishes standards in addition to those in Rule 2710 to address the conflicts-of-interest that occur in connection with a public offering of the securities of a member, the parent of a member, an affiliate of a member, or other issuer with whom the member has a conflict-of-interest. For an offering to be subject to filing under the Corporate Financing and Conflicts Rules, a member must be considered to be "participating" in the offering and the offering must be one that is subject to the filing requirements. Paragraph (a)(5) of Rule 2710 defines "participation or participating in a public offering" to include participation in the preparation of the offering or other documents, participation in the distribution of the offering on an underwritten, non-underwritten, or any other basis, furnishing of customer and/or broker lists for solicitation, or participation in any advisory or consulting capacity to the issuer related to the offering, but not the preparation of an appraisal in a savings and loan conversion or a bank offering or the preparation of a fairness opinion pursuant to Rule 13e–3 under the Act.[4]

With respect to offerings subject to compliance with the Rules, the Corporate Financing and Conflict Rules apply to most "public offerings" of securities, which is defined in Rule 2720(b)(14) to include, among other things, "offerings made pursuant to a merger or acquisition." Neither the Corporate Financing Rule nor the Conflicts Rule currently identifies the types of mergers and acquisitions subject to filing and compliance with those rules. The NASD has, therefore, determined to amend Rules 2710 and 2720 to clarify the application of the requirements of the Corporate Financing and Conflicts Rules to exchange offers, mergers and acquisitions, and similar corporate reorganizations and make other related amendments. In view of the increasing amount of merger and acquisition activity, the NASD believes that the proposed amendments to Rule 2710 and 2720 will provide certainty and eliminate confusion regarding their application to such transactions.

With respect to the time-sensitive nature of many mergers and acquisitions, exchange offers, and similar corporate reorganizations that would become subject to filing as a result of approval of the proposed rule change, the NASD previously announced a policy to expedite the review of such offerings by the Corporate Financing Department.[5] In general, it is anticipated that a comment letter will be issued by the Corporate Financing Department of the NASD within 48 hours of receipt of the filing of the documents related to such a transaction, so long as the documentation and related information submitted meet the requirements set forth in subparagraphs (b) (5) and (6) of Rule 2710 and the appropriate filing fee is included.

II. Description of the Proposal

The NASD is proposing to amend the Corporate Financing and Conflicts Rules to clarify their application to exchange offers, merger and acquisition transactions, and other similar corporate reorganizations and make other related changes. The amendments limit the application of the rules to narrow situations where pre-offering review under the Corporate Financing Rule or the application of the Conflicts Rule is believed necessary to protect investors. Thus, in general, an exchange offer will be subject to the Conflicts Rule and required to be filed with the Corporate Financing Department for review when a member is participating in solicitation activities related to an offer involving securities that are exempt from SEC registration. In addition, exchange offers, merger and acquisition transactions, and other similar corporate reorganizations will be subject to the Conflicts Rule, and required to be filed for review, if there is an issuance of securities that results in the direct or indirect public ownership of a member.

Description of Proposed Rule Change to Rule 2710

The filing requirements of the Corporate Financing Rule subject an offering to compliance with that rule and, if the offering consists of securities issued by a member, the parent of a member, an affiliate of a member, or an issuer with which the member has a conflict-of-interest (as that latter term is defined in Rule 2720), to compliance with the Conflicts rule. Paragraph (b)(9) of Rule 2710 is intended to provide clarification of certain types of public offerings required to be filed with the Corporate Financing Department of the NASD for review. Paragraph (b)(9) is proposed to be amended to add new subparagraph (H) that would require the filing of exchange offers exempt from registration under Sections 3(a)(4), 3(a)(9), and 3(a)(11) of the Securities Act of 1933 ("Securities Act"),[6] where the member engages in active solicitation, and exchange offers registered with the Commission if a member acts as a dealer manager.[7] Active solicitation occurs when a member directly solicits or contacts securityholders, acts as a dealer manager, performs tasks that are performed by investor relations firms (*i.e.*, contacts securityholders to determine the action they intend to take), contacts securityholders to determine whether they have received the offering materials, answers unsolicited contacts, and participates in meetings with securityholders or their advisors before or after an exchange offer begins.[8] In contrast, active solicitation does not encompass the delivery of a "fairness opinion," advice as to the structure and terms of the exchange offer, assistance in the preparation of the offering documents to be sent to securityholders, nor any other functions that do not involve direct solicitation or direct contact with securityholders.

The NASD is not extending the filing requirement to other public exchange offers exempt from registration because such offerings are either subject to the oversight of a court or of another review authority, such as the Comptroller of the Currency or the Federal Deposit Insurance Corporation.[9]

With respect to exchange offers registered on Forms S–4 or F–4, filing is expressly limited to those distributions where the member is engaged by the company to act as dealer manager and solicits consents on behalf of the company to the proposed reorganization and to otherwise facilitate the exchange of securities. In such exchange offers, the member generally acts as a financial advisor to help structure the transaction and will receive a fee, as well as distribution-related compensation for services rendered.

To the extent an exchange offer exempt under Sections 3(a) (4), (9), and (11) of the Securities Act or registered with the SEC does not fall within the filing requirement in new subparagraph (b)(9)(H) to Rule 2710 because the member is not engaging in solicitation activities or is not acting as dealer manager, respectively, the exchange offer is considered exempt from compliance with the Corporate Financing and Conflicts Rules because the member is not considered to be "participating in the offering."

The NASD, however, is also proposing to add subparagraph (b)(7)(F) to Rule 2710 to exempt from filing exchange offers where the securities to be issued or the securities of the company to be acquired are designated as a Nasdaq National Market security or listed on the New York Stock Exchange ("NYSE") or American Stock Exchange ("Amex") or where the company issuing securities qualifies to register securities on SEC Registration Form S–3, F–3 or F–10.

The exemption for companies qualified to register securities on SEC Registration Form S–3, F–3, or F–10 applies to those companies that meet the standards for the Forms in subparagraphs (C) (i) and (ii) of paragraph (b)(7) of Rule 2710 in order to restrict the exemption to domestic companies that meet the standards for Forms S–3 and F–3 prior to October 21, 1992 and to Canadian-incorporated foreign private issuers that meet the standards for Form F–10 approved in Release No. 34–29354.[10] This provision would require, in general, that a domestic company have a three-year history as a public reporting company, and be in compliance with the current year's periodic reporting requirements of the Act (with respect to the timely filing of Forms 10–Qs and 10–Ks). In addition, the minimum required market value of a company's common stock must be as follows: Form S–3, $150 million (or $100 million market value of voting stock and three million shares annual trading volume); and Form F–3, $300 million held world-wide. For Form F–10, Canadian private issuers must have (CN) $360 aggregate value of voting stock and a public float of (CN) $754 million.

Paragraph (b)(7) of the Corporate Financing Rule, which includes the two filing exemptions for exchange offers discussed above, lists those public offerings not required to be filed for review with the Corporate Financing Department. However, the underwriting terms and arrangements of such exempt offerings must be in compliance with the requirements of Rule 2710 or 2810,

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the NASD amended Rule 2710(b)(7)(F)(i) to replace the phrase "listed on the Nasdaq National Market, the New York Stock Exchange, or American Stock Exchange" with "designated as a Nasdaq National Market security or listed on the New York Stock Exchange or American Stock Exchange." Letter from Suzanne E. Rothwell, Chief Counsel, Corporate Financing, NASD Regulation, to Kathy England, Assistant Director, Division of Market Regulation, SEC (June 18, 1997).

[4] 17 CFR 240.13e–3.

[5] See Notice to Members 95–73 (September 1995) ("NTM 95–73"). A copy of NTM 95–73 was submitted as Exhibit 2 to the NASD's proposal and is available for inspection and copying in the Commission's Public Reference Room.

[6] 15 U.S.C. 77c(a)(4), 77c(a)(9), and 77c(a)(11).

[7] In this context, the term "exchange offer" is intended to refer to transactions where one security is issued in exchange for another security of the issuer or another entity, and is distinguished from mergers, acquisitions and other corporate reorganizations (except if accomplished through an exchange offer) registered on a Form S–4 or F–4.

[8] The concept of "solicitation" in rules 2710 and 2720 is different than in Section 3(a)(9) of the Securities Act. For example, activities by a broker/dealer that would not be "soliciting" for purposes of Section 3(a)(9) may nonetheless come within the concept of "solicitation" for purposes of the requirement to file an offering with NASD Regulation for review under Rules 2710 and 2720. See applicable SEC no-action letters on Section 3(a)(9). Further, the application of the filing requirements of Rule 2710 does not depend upon whether remuneration is paid to the member. Thus, regardless of whether a member is paid for soliciting the exchange, an exchange offer would be subject to filing if the member engages in solicitation activities as described in this rule filing.

[9] See 15 U.S.C. 3(a)(5), 3(a)(9), 3(a)(10), and 3(a)(12).

[10] See Securities Exchange Act Rel. No. 29354 (June 21, 1991), 56 FR 30036 (July 1, 1991); and Notice to Members 93–69 (December 1993), which includes a copy of Forms S–3 and F–3 as those Forms existed prior to October 21, 1992 and Form F–10 as approved by the SEC on June 21, 1991.

as applicable. Moreover, any offering exempt from filing under paragraph (b)(7) must nonetheless be filed if the offering is subject to Rule 2720, the Conflicts Rule, and is subject to review by the Corporate Financing Department for compliance with Rules 2710 and 2720.[11]

Paragraph (b)(9) of the Corporate Financing Rule is also proposed to be amended to add subparagraph (I) to require the filing of any exchange offer, merger or acquisition transaction, and similar corporate reorganization that involves an issuance of securities that results in the direct or indirect public ownership of a member.[12] Such offerings would be subject to compliance with Rule 2710 and Rule 2720.[13] The NASD has long held the view that pre-offering review is vital to protect investors when the member and the issuer are in a control relationship that is addressed through the application of Rule 2720. The NASD has previously clarified that mergers or acquisitions involving an issuer and a member or its parent that result in the direct or indirect public ownership of a member are subject to compliance with Rule 2720, regardless of whether the merger or acquisition occurs subsequent to the issuer's initial public offering.[14]

Paragraph (b)(8) of Rule 2710 lists those offerings that, although within the definition of "public offering," are exempted from compliance with Rule 2710 and 2720. The NASD is proposing to add subparagraphs (I) and (J) to paragraph (b)(8) to provide an exemption from filing and compliance with Rules 2710 and 2720 for:

1. Spin-off and reverse spin-off transactions involving a subsidiary or affiliate of the issuer, where the securities are issued as a dividend or distribution to current shareholders; and

2. Securities registered with the SEC in connection with a merger, acquisition, or other similar business combination, except if the offering would be filed under subparagraph (b)(9)(I), described above, because it involves a transaction that results in the direct or indirect public ownership of a member.

In addition, the NASD is proposing to add subparagraph (c)(6)(B)(v) to Rule 2710 to provide that it is an unreasonable term and arrangement for a member to receive a right to receive a "tail fee' arrangement that has a duration of more than two years from the date the member's services are terminated, in the event an offering is not completed and the issuer subsequently consummates a similar transaction. Such arrangements are currently only provided in connection with exchange offers. It is believed that the real benefit derived by a company that grants a "tail fee' arrangement is the creativity of the strategic advice given by the member for the particular transaction that may include, among other things, assisting the company in defining objectives, performing valuation analyses, formulating restructuring alternatives, and structuring the offering. In particular, in the case of an exchange offer, a member providing financial advance will generally have provided considerable ongoing financial advisory services to the company.

The proposed "tail fee" prohibition also, however, would permit a member to demonstrate on the basis of information satisfactory to the NASD that an arrangement of more than two years is not unfair or unreasonable under the circumstances. The ability of the staff of the Corporate Financing Department to grant exceptions upon request is intended to be used where the member can demonstrate that the creativity of the strategic advice provided by the member has a potential benefit to the company for more than two years. In the case of exchange offers exempt from filing but subject to compliance with the Rule under subparagraph (b)(7)(F), where the "tail fee" arrangement is proposed to have a duration of longer than two years, a member would be required to request an opinion of the staff as to whether the arrangement is permissible under the Rule. In the case of any other offering exempt from filing under subparagraph (b)(7), a member is required to request an opinion of the staff as to whether it has "no objections" as to any proposed "tail fee" arrangement.

As set forth above, although "tail fee" arrangements are currently granted only in connection with exchange offers, the provision is written to regulate such an arrangement in connection with any type of public offering subject to compliance with the Corporate Financing Rule. Where a "tail fee" arrangement is proposed in connection with public offerings that are not exchange offers, the NASD staff will consider whether the arrangement is justified by the services provided by the member to the issuer. Where the member does not appear to have provided the type of substantial structuring and/or advisory services to the issuer similar to those that are described above, other than those services traditionally provided in connection with a distribution of a public offering, a proposed "tail fee" arrangement will be considered to be unfair and unreasonable on the basis that the arrangement would violate Rule 2110 (the Association's basic ethical rule) and Rule 2430 since the member is proposing to be paid for services that the member has not provided to the issuer. This position is consistent with subparagraph (c)(6)(B)(iv) of Rule 2710, which prohibits a member from receiving compensation in connection with an offering of securities that is not completed, except for compensation received in connection with a transaction (*i.e.*, a merger transaction) that occurs in lieu of the proposed offering as a result of the member's efforts and the reimbursement of the member's reasonable out-of-pocket accountable expenses.

Description of Proposed Rule Change to Rule 2720

The NASD is proposing to amend the Conflicts Rule to conform the scope section of the Rule to the amendments to the filing requirements of Rule 2710 and to clarify the responsibilities of a qualified independent underwriter in an exchange offer subject to compliance with rule 2720. Paragraph (a) of Rule 2720 is proposed to be amended to add subparagraph (3) to provide that in the case of an exchange offer, merger and acquisition transaction, or similar corporate reorganization, compliance with Rule 2720 is required only if the offering comes within subparagraph (b)(9)(h) of Rule 2710, where the issuance of securities is by a member or the parent of a member or if the offering comes within subparagraph (b)(9)(I). As set forth above, proposed subparagraph (b)(9)(H) would require the filing of exchange offers exempt under Section 3(a)(4), 3(a)(9), and 3(a)(11) of the Securities Act, if the member's participation involves active solicitation activities, and of exchange offers registered with the SEC, if the member is acting as dealer manager. Thus, the exemption from filing for such exchange offers provided by proposed subparagraph (b)(7)(F), where the securities are designated as a Nasdaq National Market security or listed on the NYSE or Amex or the issuer qualifies to register the securities on Form S–3, F–3, or F–10, is not available if the exchange offer is by a member or parent of a member.[15] As further set forth above, proposed subparagraph(b)(9)(I) would require the filing of any exchange offer, merger and acquisition transaction, or similar corporate reorganization involving an issuance of securities that results in the direct or indirect public ownership of a member.[16]

The NASD is also proposing to amend Rule 2720 to clarify the obligations of a qualified independent underwriter[17] that would be required by subparagraph (c)(3) of Rule 2720 to perform due diligence with respect to the offering document and provide a recommendation with respect to the exchange value of an exchange offer, merger and acquisition transaction, or similar corporate reorganization. Currently, the Conflicts Rule requires that the price at which an equity issue or the yield at which a debt issue is to be distributed to the public be established at a price no higher or yield no lower than that recommended by a qualified independent underwriter (who shall also participate in the preparation of the registration statement and shall exercise the usual standards of "due diligence" in respect thereto). The NASD is proposing to amend subparagraph (c)(3)(A) of Rule 2720 by adding a new exception to state that in any exchange offer, merger and acquisition transaction or corporate reorganization subject to Rule 2720, the provision which requires that the price or yield of the securities be established based on the recommendation of a qualified independent underwriter shall not apply and instead, the exchange value of the securities being offered in the transaction shall not be less than that recommended by a qualified independent underwriter.

Finally, in order to make clear that the offerings that are exempt under subparagraph (b)(8) of Rule 2710 (that include exemptions for offerings of securities issued in a spin-off or in a merger registered with the SEC on Form S–4 or F–4) are also exempt from Rule 2720, paragraph (o) of Rule 2720 is being amended to reference the exemptions from Rule 2720 that are provided in subparagraph (b)(8) of Rule 2710.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the Association, and, in particular, with the requirements of Section 15A(b) of the Act.[18] Among other things, Section 15A(b)(6) of the Act requires that the rules of a national securities association be designed to foster cooperation and coordination with persons engaged in regulation, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest.[19]

Specifically, the Commission believes that the proposed amendments to Rules 2710 and 2720 should reduce confusion regarding the application of the NASD's Corporate Financing and Conflicts Rules to exchange offers, mergers and acquisitions, and other similar corporate reorganizations. The Commission supports efforts by the NASD to streamline the process for participation by members in public offerings by clarifying when pre-offering review is necessary and in the public interest.

A. Amendment to Rule 2710

The Commission believes that it is appropriate to amend Rule 2710 to require filing of exchange offers exempt from registration under Sections 3(a)(4), 3(a)(9), and 3(a)(11) of the Securities Act,[20] where the member engages in active solicitation, and exchange offers registered with the Commission if a member acts as a dealer manager. When a member actively solicits securityholders with respect to exempted exchange offers, or acts as a dealer manager with respect to exchange offers registered on Form S–4 or F–4, pre-offering review is necessary to prevent fraudulent and manipulative acts and practices, and protect investors.

The Commission believes that it is appropriate to amend Rule 2710 to exempt from filing exchange offers where securities to be issued or the securities of the company to be acquired are designated as a Nasdaq National Market security or listed on the NYSE or Amex or where the company issuing securities qualifies to register securities on SEC registration Form S–3, F–3 or F–10. The Commission notes that the listing standards of the three markets require a minimum number of independent directors on the Board of Directors. This requirement should ensure that the independent directors of the acquiror or target will evaluate the offer and that sufficient information will be distributed to shareholders and markets, so that investors can make an informed decision regarding whether to sell or hold securities.

The Commission also believes that it is appropriate to amend Rule 2710 to exempt from filing spin-off and reverse spin-off transactions involving a subsidiary of affiliate of the issuer, where the securities are issued as a dividend or distribution to current shareholders, and securities registered with the SEC in connection with a merger, acquisition, or other similar business combination. The Commission agrees that spin-off transactions to existing securityholders as a dividend or other distribution may not involve an investment decision by shareholders and, consequently, any member acting as a financial advisor to the parent company is not generally involved in any public solicitation in connection with the transaction.[21] Further, merger transactions and similar business combinations registered with the SEC generally only involve a member in providing financial advice to the Board of Directors of the acquiror or target, that may include an obligation that the

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[11] See *infra* note 14.

[12] This latter filing requirement does not, it is important to note, require the filing of exchange offers, mergers, acquisitions, and corporate reorganizations involving an offering of securities of an affiliate of a member other than a parent or of an issuer that otherwise has a conflict-of-interest with a member.

[13] Paragraph (n) of Rule 2720 provides that all offerings of securities included within the scope of that Rule are also subject to the provisions of Rule 2710, even though an exemption from filing may be available under Rule 2720.

[14] See Notice to Members 88–100 (December 1988). In that notice, the Association expressed its special concerns regarding the merger of blank check companies in the penny stock market with privately held holding companies of members, indirectly creating a publicly-held NASD member without having to comply with Rule 2720.

[15] *See supra* note 13.

[16] This filing requirement is consistent with the position announced in Notice to Members 88–100 (December 1988) and paragraph (i) of Rule 2720 which states: "° ° ° if an issuer proposes to engage in any offering which results in the public ownership of a member ° ° ° the offering shall be subject to the provisions of this Rule to the same extent as if the transaction had occurred prior to the filing of the offering."

[17] A member must meet a number of requirements in order to be qualified independent underwriter under subparagraph (b)(15) of Rule 2720, including the requirement that the member "has agreed in acting as a qualified independent underwriter to undertake the legal responsibilities and liabilities of an underwriter under the Securities Act of 1933, specifically including those inherent in Section 11 thereof." Participation of a qualified independent underwriter is not required by Rule 2720 if the offering is of equity securities that meet the test of having a "bona fide independent market" or is of debt that is rated investment grade.

[18] 15 U.S.C. 78f(b).

[19] In approving this rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[20] 15 U.S.C. 77c(a)(4), 77c(a)(9), and 77c(a)(11).

[21] It should be noted, however, that where a spin-off is followed by a traditional public offering by the spun-off company to raise capital, the company's initial public offering would be subject to the Corporate Financing Rule's filing requirements and to compliance with Rule 2720. This analysis would require the filing of any public offering to raise capital that follows a merger, acquisition, exchange offer or other corporate reorganization that would be exempt from filing under Rule 2710 or exempt from compliance with Rules 2710 and 2720. In the latter case, the offering may fall within another exemption from filing, such as the filing exemptions provided by subparagraphs (b)(7) (A), (C) or (D) of Rule 2710.

member issue a fairness opinion regarding the acquisition price.

B. Amendment to Rule 2720

The Commission believes that it is appropriate to amend Rule 2720 to state that in any exchange offer, merger and acquisition transaction or corporate reorganization subject to Rule 2720, the provision which requires that the price or yield of the securities be established based on the recommendation of a qualified independent underwriter shall not apply and, instead, the exchange values of the securities being offered in the transaction shall not be less than that recommended by a qualified independent underwriter. The Commission believes that the proposed new provision would clarify that the obligation of the qualified independent underwriter is to ensure that the recipient of the exchange offer, which is the party intended to be protected by the participation of a qualified independent underwriter, shall not receive fewer of the securities being issued in exchange for each security held by the recipient than is recommended by the qualified independent underwriter.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[22] that the proposed rule change (SR–NASD–97–38) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[23]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–29197 Filed 11–4–97; 8:45 am]

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[22] 15 U.S.C. 78s(b)(2).

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39285; File No. SR–NASD–97–38]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approved to Amendment No. 3 Relating to an Extension and Expansion of the Pilot for the NASD's Rule Permitting Market Makers To Display Their Actual Quotation Size

October 29, 1997.

I. Background

On April 11, 1997, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act"),[1] and Rule 19b–4 thereunder,[2] to amend NASD Rule 4613(a)(1)(C) by (a) expanding from 50 to 150 the number of securities in a pilot program for which market makers may quote their actual size by reducing the minimum quotation size requirement for market makers in certain securities listed on the Nasdaq Stock Market ("Nasdaq") to one normal unit of trading ("Actual Size Rule"), and (b) extending the pilot through December 31, 1997.[3]

On July 10, 1997, the NASD filed Amendment No. 1 to the proposed rule change proposing to extend the pilot through March 27, 1998 and expand it to 150 stocks.[4] On July 17, 1997, the NASD filed with the Commission Amendment No. 2, to correct a technical deficiency in Amendment No. 1.[5] The proposal was noticed for comment on July 24, 1998.[6]

On September 15, 1997, the NASD filed Amendment No. 3,[7] proposing to extend the pilot as previously noted and to expand the pilot by adding a different group of 100 securities to those 50 currently subject to the Actual Size Rule ("First 50") than was proposed in Amendment Nos. 1 and 2. The NASD believes that this second group of securities will provide a better basis for comparison and economic analysis comparing the Actual Size Rule's effect on pilot and non-pilot Nasdaq securities. In addition, Nasdaq proposes to replace some of securities in the initial 50 stock pilot that are no longer listed on Nasdaq. Amendment No. 3 also proposed extending the pilot through March 27, 1998.

For the reasons discussed below, the Commission has determined to approve the proposed rule change.

II. Proposed Rule Change

The NASD proposes to amend NASD Rule 4613(a)(1)(C) to allow market makers to quote their actual size by reducing the minimum quotation size requirement for market makers in certain securities listed on Nasdaq to one normal unit of trading. As discussed below, the Actual Size Rule presently applies to a group of 50 Nasdaq securities on a pilot basis. The proposed rule change would expand the pilot group to 150 stocks and extend the pilot until March 27, 1998. The text of the proposed rule change is as follows. (Additions are italicized; deletions are bracketed.)

* * * * *

4613. Character of Quotations

(a) Two-Sided quotations

(1) No Change

(A)–(B) No Change

(C) As part of a pilot program implemented by the Nasdaq Stock Market, during the period January 20, 1997 through at least [December 31, 1997] *March 27, 1998,* a registered market maker in a security listed on the Nasdaq Stock Market that became subject to mandatory compliance with SEC Rule 11Ac1–4 on January 20, 1997 *or identified by Nasdaq as being otherwise subject to the pilot program as expanded and approved by the Commission,* must display a quotation size for at least one normal unit of trading (or a larger multiple thereof) when it is not displaying a limit order in compliance with SEC Rule 11Ac1–4, provided, however, that a registered market maker may augment its displayed quotation size to display limit orders priced at the market maker's quotation.

* * * * *

III. Comments[8]

The Commission received over 350 comment letters.[9] A separate summary of comments has been prepared and is available in the public file. The relevant issues addressed by commenters are discussed in the appropriate sections of this order.

IV. Discussion

On August 29, 1996, the Commission promulgated a new rule, the Limit Order Display Rule [10] and adopted amendments to the Quote Rule,[11] which together are designed to enhance the quality of published quotations for securities and promote competition and pricing efficiency in U.S. securities markets (collectively, the "Order Execution Rules").[12] With respect to securities included on Nasdaq, the Order Execution Rules were implemented according to a phased-in implementation schedule: 50 Nasdaq securities became subject to the rules on June 20, 1997 ("first 50"), 50 more securities became subject to the rules on February 10, 1977 ("second 50"); and an additional 50 securities became subject to the rules on February 24, 1997. The remaining Nasdaq securities were phased in on October 13, 1997.[13]

The SEC's Limit Order Display Rule requires the display of customer limit orders, that: (1) Are priced better than a market maker's quote,[14] or (2) add to the size associated with a market maker's quote when the market maker is at the best price in the market.[15] By virtue of the Limit Order Display Rule, investors now have the ability to directly advertise their trading interest to the marketplace, thereby allowing them to compete with market maker quotations and affect the size of bid-ask spreads.[16] The Order Execution Rules also included amendments to the SEC's Quote Rule, the most significant of which requires a market maker to display in its quote any better priced orders that it places into an electronic communications network ("ECN") such as SelectNet or Instinet ("ECN Rule"). Alternatively, instead of updating its quote to reflect better priced orders entered into an ECN, a market maker may comply with the display requirements of the ECN Rule through the ECN itself, provided the ECN: (1) Ensures that the best priced orders entered by market makers into the ECN are included in the public quotation; and (2) provides brokers and dealers access to orders entered by market makers into the ECN, so that brokers and dealers who do not subscribe to the ECN can trade with those orders ("ECN Display Alternative").

In order to facilitate implementation of the SEC's Order Execution Rules and reflect the change in the Nasdaq market that was to be brought about by the implementation of these rules, the Commission approved, on January 10, 1997, a variety of amendments to NASD Rules pertaining to Nasdaq's Small Order Execution System ("SOES") and the SelectNet Service ("SelectNet").[17] In particular, one of the NASD Rule changes approved by the Commission provides on a temporary basis that Nasdaq market makers in the first 50 securities subject to the Commission's Limit Order Display Rule are only required to displayed a minimum quotation size of one normal unit of trading when quoting solely for their own proprietary account (*i.e.,* the Actual Size Rule).[18] They can display a greater quotation size if they so choose (or if required by the Limit Order Display Rule). For Nasdaq securities outside of the first 50, the minimum quotation size requirements of 1,000, 500, or 200 shares remained the same.[19]

The NASD submitted the proposal for the Actual Size Rule because it believed, and continues to believe, that the changes in Nasdaq brought about by the Limit Order Display Rule obviates the regulatory justification for minimum quote size requirements because investors now have the capability to display their orders on Nasdaq. The NASD originally imposed the Mandatory Quote Size Requirements to ensure an acceptable level of market liquidity and depth in an environment where Nasdaq market markers were the only market participants who could affect quotation prices. Now that the Limit Order Display Rule permits investors to enter orders as part of the quote, the NASD believes it is appropriate to treat Nasdaq market makers in a manner equivalent to exchange specialists and not subject them to minimum quote size requirements when they are not representing customer orders. In sum, with the successful implementation of the SEC's Order Execution Rules, the NASD believes that Mandatory Quote Size Requirements impose unnecessary regulatory burdens on market makers.

At the same time, the NASD does not believe that implementation of the Actual Size Rule in an environment where limit orders are displayed has or will compromise the quality of the Nasdaq market. First, the NASD believes that display of customer limit orders enhances the depth, liquidity, and stability of the market and contributes to narrower quoted spreads, thereby mitigating the effects of the loss of displayed trading interest, if any, by

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] November 18, 1996, the NASD filed with the Commission a proposed rule change to implement the Actual Size Rule on a pilot basis. (SR–NASD–96–43). Among other things, the filing and subsequent amendments proposed to allow market makers to quote in minimum sizes of 100 shares for a three-month pilot Program in the 50 Nasdaq securities subject to mandatory compliance with Exchange Act Rule 11Ac1–4 ("Limit Order Display Rule") on January 20, 1997. The remaining securities were still subject to the existing minimum quotation display requirements for proprietary quotes. The proposed rule change was intended by the NASD to facilitate the display of customer limit orders in accordance with the Limit Order Display Rule. The Commission approved the pilot through April 18, 1997. Securities Exchange Act Release 38512 (April 15, 1997) 62 FR 18373 (April 21, 1997) (SR–NASD–97–25).

On April 15, 1997, the Commission issued an order granting accelerated approval to a NASD proposed rule change that extended the pilot from April 18, 1997, to July 18, 1997. Securities Exchange Act Release 38512 (April 15, 1997) 62 FR 19373 (April 21, 1997) (SR–NASD–97–25).

On July 18, 1997, the Commission approved a rule change proposed by the NASD to extend the pilot from July 18, 1997 to December 31, 1997. Securities Exchange Act Release No. 38851 (July 18, 1997) 62 FR 38665 (July 23, 1997) (SR–NASD–97–40). The Commission did so to give it additional time to evaluate the economic studies and review the public's comments on the NASD's June 3, 1997, study. In addition, the Commission stated that it believed that extending the pilot would benefit the markets by providing more experience with the Actual Size Rule before a decision is made regarding approval.

[4] See Letter from Robert E. Aber, Vice President and General Counsel, the Nasdaq Stock Market, Inc., to Katherine England, Assistant Director, Office of Market Supervision, Division of Market Regulation, Commission, dated July 10, 1997.

[5] See Letter from Robert E. Aber, Vice President and General Counsel, the Nasdaq Stock Market, Inc., to Katherine England, Assistant Director, Office of Market Supervision, Division of Market Regulation, Commission, dated July 17, 1997.

[6] Securities Exchange Act Release No. 38872 (July 24, 1997) 62 FR 40079 (July 30, 1997) (SR–NASD–97–38).

[7] See Letter from Robert E. Aber, Vice President and General Counsel, the Nasdaq Stock Market, Inc., to Katherine England, Assistant Director, Office of Market Supervision, Division of Market Regulation, Commission, dated September 15, 1997.

[8] In order to give the public additional time to comment on the economic analysis of the pilot that the NASD filed with the Commission on June 3, 1997, the Commission extended the comment period to July 3, 1997. Securities Exchange Act Release No. 38720 (June 5, 1997) 62 FR 30150 (June 11, 1997) (SR–NASD–97–28).

[9] The Commission received comment letters from numerous broker-dealer firms, some of which are market makers and others that are order entry firms. The Commission received comment letters from a large number of individuals who could be identified as SOES traders. The Commission also received comment letters from several academicians, individual investors, and professional associations.

[10] 17 CFR 240.11Ac1–4.

[11] 17 CFR 240.11Ac1–1.

[12] See Securities Exchange Act Release No. 37619A (September 6, 1997) 61 FR 48290 (September 12, 1996) ("Order Execution Rules Adopting Release").

[13] See, e.g., Securities Exchange Act Release No. 38493 (April 9, 1997); Securities Exchange Act Release No. 38870 (July 24, 1997).

[14] For example, if a market maker's quote in stock ABCD is 10–10¼ (1000x1000) and the market maker receives a customer limit order to buy 200 shares at 10¼, the market maker must update its quote to 10¼–10¼ (200x1000).

[15] For example, if a market maker receives a customer limit order to buy 200 shares of ABCD at 10 when its quote in ABCD is 10–10¼ (1000x1000) and the National Best Bid or Offer ("NBBO") for ABCD is 10–10¼, the market maker must update its quote to 10–10¼ (1200x1000).

[16] There are eight exceptions to the immediate display requirement of the Limit Order Display Rule: (1) Customer limit orders executed upon receipt; (2) limit orders placed by customers who request that they not be displayed; (3) limit orders for odd-lots; (4) limit orders of block size (10,000 shares or $200,000); (5) limit orders routed to a Nasdaq or exchange system for display; (6) limit orders routed to a qualified electronic communications network for display; (7) limit orders routed to another member for display; and (8) limit orders that are all-or-none orders. See Rule 11Ac1–4(c).

[17] See Actual Size Rule Approval Order.

[18] Thus, the Actual Size Rule does not effect a market maker's obligation to display the full size of a customer limit order. If a market maker is required to display a customer limit order for 200 or more shares, it must display a quote size reflecting the size of the customer's order, absent an exception from the Limit Order Display Rule.

[19] In particular, NASD Rule 4613(a)(2) requires each market maker in a Nasdaq issue other than those in the first 50 to enter and maintain two-sided quotations with a minimum size equal or greater than the applicable SOES tier size for the security (e.g., 1000, 500 or 200 shares for Nasdaq National Market issues and 500 or 100 shares for Nasdaq SmallCap Market issues ("Mandatory Quote Size Requirement").

market makers. Second, it also believes that removing artificial quote size requirements may lead to narrower market spreads, thereby reducing investors' transaction costs. Third, the NASD asserts that permitting market makers to quote in size commensurate with their own freely-determined trading interest will enhance the pricing efficiency of the Nasdaq market and the independence and competitiveness of dealers quotations. Fourth, the NASD suggests that removing quotation size requirements will allowing greater quote size changes, thereby increasing the information content of market maker quotes by facilitating different quote sizes from dealers who have a substantial interest in the stock at a particular time and those who do not.

Indeed, in its order approving the Actual Size Rule on a pilot basis, the Commission noted that it "preliminary believes that the proposal will not adversely affect market quality and liquidity"[20] and that it "believes there are substantial reasons * * * to expect that reducing market makers' proprietary quotation size requirements in light of the shift to a more order-driven market would be beneficial to investors."[21] In addition, the Commission stated that, "based on its experience with the markets and discussions with market participants, [it] believes that decreasing the required quote size will not result in a reduction in liquidity that will hurt investors."[22]

Nevertheless, in light of concerns raised by commentators opposed to the Actual Size Rule regarding the potential adverse impacts of the rule on market liquidity and volatility, the Commission originally determined to approve the rule on a three-month pilot basis to afford to the Commission and the NASD an opportunity to gain practical experience with the rule and evaluate its effects. The factors identified by the Commission to be considered in this evaluation include, among others, the impact of reduced quotation sizes on liquidity, volatility and quotation spreads.[23]

As detailed below, the NASD has concluded that implementation of the SEC's Order Execution Rules has significantly improve the quality of the Nasdaq market by creating a market structure where customer limit orders provide liquidity and effectively compete with market maker quotations. In this type of environment, the NASD believes that regulatory necessity for the Mandatory Quote Size Requirements no longer exists. Nonetheless, the NASD determined to extend and broaden the pilot to gain greater experience with voluntary quotation size. The NASD is proposing the pilot be expanded to include an additional 100 securities and extended until March 27, 1998.

To evaluate that pilot, the NASD's Economic Research Department conducted an economic analysis of the pilot's operation and of the impact of the Commission's Order Handling Rules.[24] The analyses thus far indicates three general findings concerning implementation of the SEC's Order Execution Rules and the Actual Size Rule: (1) The SEC's Order Execution Rules have dramatically improved the quality of the Nasdaq market, particularly with respect to the size of spreads: (2) among those securities subject to the SEC's Order Execution Rules, there is no appreciable difference in market quality between those securities subject to the Actual Size Rule and those securities subject to Mandatory Quote Size Requirements;[25] and (3) implementation of the Actual Size Rule has not resulted in any significant diminution of the ability of investors to receive automated executions through SOES, SelectNet, or proprietary systems operated by broker-dealers. Accordingly, as is the case with 100-share minimum quotation size requirements applicable to exchange specialists in order-driven markets, the NASD believes that the Actual Size Rule has not harmed investors or the quality of the Nasdaq market.

In the June Study, the NASD found that pilot and non-pilot stocks experienced virtually the same improvements in market quality since the implementation of the Order Handling Rules. Specifically, the NASD found that investors in pilot stocks continued to have substantial and reasonable access to market maker capital through both SOES and market makers' proprietary automatic execution systems.[26]

A. Implementation of the SEC's Order Execution Rules Has Resulted in Significant Benefits to Investors and Enhanced the Quality of the Nasdaq Market

NASD Economic Research evaluated measures of market quality in four main areas: spread, volatility, quoted depth, and liquidity. The Pilot Stocks and the second tranche of 50 stocks to become subject to the Order Handling Rules both include 40 stocks selected from the first through fifth deciles of the 1,000 most active Nasdaq stocks. Therefore, those from the Pilot Stocks ("First 40") are reasonable peers of those from the February 10 tranche ("Second 40").[27] The NASD believes that, as shown below, the similar performance of the First 40 and Second 40 indicates that the Actual Size Rule did not impair the markets for these securities.

1. Spreads[28]

The NASD looked at mean spreads for the First and Second 40 and found that mean spreads declined by about $0.12 for both the First 40 and the Second 40, or by about 33%. For the First 40, the mean spread declined from $0.41 to $0.28, and for the Second 40 the mean spread declined from $0.36 to $0.24. The results in the NASD's study indicate an equivalent spread effect across the two groups. These results provide no statistically significant evidence of a differential change in quoted spreads between the First 40 and Second 40. Therefore, the NASD believes there is no effect on quoted spreads associated with removal of the 1,000-Share Quote Size Rule.

[20] *See* Actual Size Approval Order, 62 FR at 2425.
[21] *Id.* 62 FR at 2423.
[22] *Id.* 62 FR at 2424.
[23] *See* 62 FR 2415 at 2425.
[24] On June 3, 1997, the NASD published an economic analysis entitled "Effects of the Removal of Minimum Sizes for Proprietary Quotes in the Nasdaq Stock Market, Inc." (June Study). On September 10, 1997, the NASD published a related study entitled "Implementation of the SEC Order Handling Rules" (September Study). Both studies are available to the public at Nasdaq's World Wide Web sit at "http://www.nasdaq.com".
[25] The first 50 securities includes Nasdaq's top ten issues by dollar volume plus 40 issues chosen from Nasdaq's top 500 issues: 8 ranked between 11 and 100; 8 ranked between 101 and 200; 8 ranked between 201 and 300; 8 ranked between 301 and 400; 8 ranked between 401 and 500. The second 50 securities include the ten Nasdaq stocks and ranked between 11 and 20 by dollar volume plus 40 stocks chosen from Nasdaq's top 500 stocks in the same manner explained above. The ten largest Nasdaq stocks in the first 50 have no comperable peer group among Nasdaq stocks and the next ten largest Nasdaq stocks (*i.e.*, Nasdaq stocks ranked 11–20 in size) included in the second 50 are also not comparable to the "bottom 40" of either the first 50 or second 50. The Nasdaq stocks ranked 1–20, therefore, have been excluded from the analysis comparing the first 50 and the second 50. Accordingly, the "first forty" stocks are those stocks that are the "bottom 40" within the first 50 stocks and the "second forty" stocks are those stocks that are the "bottom 40" within the second 50 stocks.
[26] June Study at 2.
[27] The remaining 10 stocks in the first tranche were roughly the top 10 stocks ("First 10"), and the remaining 10 from the second tranche were roughly stocks 11 through 20 ("Second 10"). Consistent with the Commission's request for a "matched pairs analysis," the First 10 and Second 10 are excluded from this analysis, because these groups do not demonstrate similar trading characteristics and hence cannot be properly compared. See Actual Size Approval Order, 62 FR at 2425. Indeed, inclusion of the First 10 and Second 10 would likely produce skewed results. The market quality improvements induced by the Order Handling Rules, however, are apparent in both the First and Second 10.
[28] See also Summary of Comments, Section B.6.

2. Volatility[29]

The NASD looked at the volatility of the First and Second 40 and found that volatility slightly increased following the imposition of the Order Handling Rules for both the First 40 and the Second 40. For the First 40, average volatility rose from 1.16% to 1.25%, an increase of 7.8%. For the Second 40, volatility rose from 0.98% to 1.24%. It also found that the increase in volatility does not, however, appear to be attributable to the Order Handling Rules, because volatility also increased for other stocks in the top 500 that had not become subject to the Order Handling Rules during the sample period.

On the surface, the results indicate a general increase in volatility, in particular for the Second 40 stock group. In order to correct for stock-specific characteristics such as price, volume, and interday volatility, the NASD used a multivariate regression analysis. The multivariate regression results show that the differential increase in volatility for the Second 40 can be attributed to volume, price, and interday volatility.[30] In the presence of these factors, the differential volatility effect on the Second 40 is statistically insignificant. The NASD found that those results demonstrate that there is no statistically significant evidence of a differential change in intraday volatility between the First 40 and Second 40.

3. Quoted Depth Measures

The NASD examined the impact of the Actual Size Rule on quoted depth. First the NASD studied the percentage change in number of market makers and the percentage change in number of market makers at the market maker inside market. After performing a regression analysis, it found no statistically significant difference between the First 40 and the Second 40.[31] For both measures, the marginal impact of the removal of the 1,000-Share Quote Size Rule is negligible. The NASD also studied the distribution of the sizes of all dealer quote updates. It found that quote updates for 100 and 1,000 share stocks were similar for the First 40 and the Second 40.[32]

Based on this evidence, the NASD concluded that the changes in quoting behavior induced by the implementation of the Order Handling Rules have been qualitatively similar for both the First 40 and Second 40.

4. Liquidity[33]

The NASD looked at effective depth in order to measure liquidity. Similar to the sections on spread, volatility, and quoted depth measures above, the change in normalized effective depth[34] after implementation of the Order Handling Rules was calculated for the First 40 and Second 40. Effective depth is calculated for each Bid-Ask Midpoint ("BAM") movement category, and mean values across all stocks and days in the sample for each category were calculated. The NASD applied multivariate regression analysis and found that there is no statistically significant association between the removal of the 1,000-Share Quote Size Rule and any change in normalized effective depth.

After accounting for changes in stock price, trading volume, and interday volatility, the NASD found no evidence of a statistically significant association between the removal of the regulatory minimum size for proprietary quotes and a change in liquidity.

B. Implementation of the Actual Size Rule Has Not Resulted in any Diminution in the Ability of Investors To Receive Automated Executions Through SOES, SelectNet, or Other Proprietary Systems Operated by Broker Dealers[35]

For some market participants, Nasdaq's SOES system is the primary means they use to obtain executions. Use of the SOES system has increased over the past few years. SOES executions accounted for 8.3% of all Nasdaq share volume in 1996, up from 5.6% in 1995 and 3.0% in 1993. Much of the SOES activity is derived from day traders. The majority of SOES-orders are for 1,000 shares, the maximum tier size for stocks.

As detailed above, the SOES system was changed on January 20 to execute orders based on market maker quoted size. The NASD examined SOES activity to determine if the removal of the 1,000-Share Quote Size Rule diminished the ability of the SOES system to provide executions.

First, the NASD examined whether the incidence of ECNs alone at the inside market was different for the First 40 and Second 40 stocks. When an ECN is alone at the inside, SOES is unavailable. The NASD found that ECNs were alone at the inside market only 9.2% of the time after implementation of the Order Handling Rules for the First 40 stocks, and only 9.4% of the time for the Second 40.[36] Second, the NASD examined how often all market makers at the inside market were quoting a size of 100. The NASD found that this occurred only 1.6% of the time in the First 40 stocks and only 0.8% of the time in the Second 40.

Both measures provide evidence from which the NASD concluded that times during which SOES is unavailable are uncommon and that the degree of any degradation of the effectiveness of SOES due to the Actual Size Rule is statistically insignificant. Moreover, the NASD concluded that only certain measures of SOES performance (*e.g.*, multiple price SOES executions, average SOES trade size) have experienced any marginal change between the First 40 and the Second 40.[37] To the extent a marginal difference exists, the NASD found it to be slight and therefore concluded that the removal of the 1,000-Share Quote Size Rule has had no meaningful effect on the SOES system's ability to provide reasonable access to executions.

C. Response to Electronic Traders Association ("ETA") Study[38]

The ETA is an association representing SOES order entry firms whose customers use SOES for day trading. The ETA conducted its own study of the Actual Size Rule. Its study found that SOES orders in pilot stocks are less likely to be executed than for non-pilot stocks; that the mean time between entry and execution of a SOES order is longer for pilot than for non-pilot stocks; and that the mean price concession is larger for pilot stocks than for non-pilot stocks.

The NASD examined the ETA study and found it seriously flawed. The NASD noted that the ETA study is based on a small sample of data from three of

[29] See also Summary of Comments, Section B.5.
[30] June Study at 31.
[31] June Study at 35 and Table B.5 of Appendix B.
[32] June Study at 34.
[33] See also Summary of Comments, Section B.4.
[34] Normalized effective depth is defined as the dollar volume required to move the BAM one percentage point, calculated for BAM moves of the following percentage movements; all movements, 0.5%, 1%, 1.5%, 2%, 2.5%, and 3%.
[35] See also Summary of Comments, Section B.9.
[36] The NASD also found that between August 11 and 29, 1997, SOES access was restricted to 100 shares only 1.2% of the time. That is, only 1.2% of the trading day was it the case that there was no market maker at the inside quoting an amount greater than 100 shares. September Study at 4.
[37] See June Study at 42–46. For example, for the First 40, average SOES trade size fell by 15.0% and by 6.0% for the Second 40. It is important to note, however, that given that the mean price of stocks in the First 40 was roughly $35, the average SOES trade size of 753 shares represents a trade of approximately $26,000. Compared to most retail activity, the average SOES trade in the First 40 continues to be quite large. Given that the average SOES trade size is still large and that SOES continues to account for a substantial proportion of Nasdaq dollar volume, it is unlikely that the decrease in average trade size of SOES executions has negatively impacted the ability of the SOES system to provide executions for retail-size orders.
[38] See also Summary of Comments, Section B. 10.

the 425 firms that enter orders through SOES; the ETA does not distinguish between SOES orders that were actively canceled by the order entry firm and those that were returned to the order entry firm; and the ETA report does not account for considerable differences in the average trading characteristics (*e.g.*, price, volume) between pilot and non-pilot stocks. The NASD found that the ETA study provides "no basis to conclude that the Actual Size Rule has adversely affected the ability of the SOES system to provide investors with reasonable access to market maker capital."[39]

D. The Pilot Justifies an Expansion and Extension of the Actual Size Rule

While some market participants may maintain that the Actual Size Rule should be abandoned because it has not had a demonstrably positive market impact, the NASD believes, in light of the pilot experience and its economic research, that the Rule should be retained. The NASD believes it eliminates an unnecessary regulatory requirement and, moreover, it has not had any adverse market impacts. In particular, with respect to the first 50 securities, the NASD believes that competitive forces in the marketplace, be they the result of displaying customer limit orders, ECN quote display, or market maker competition for order flow, have driven the Nasdaq market to perform at least as well, if not better, than if the artificial 1,000 share minimum quotation size requirement was in place.[40] As a result, given the conclusion that the market performs the same with or without the Actual Size Rule, the NASD believes it is far preferable for the protection of investors and the efficiency of the capital formation process to promote a regulatory environment for Nasdaq that achieves its results through aggressive competition rather than artificial regulatory fiat. In sum, in light of the performance of the first 50 securities, the NASD believes there is no regulatory basis to justify the retention of artificial quotation size requirements for Nasdaq market makers.

The NASD is proposing to expand the pilot to 150 stocks in order to provide a better sample of stocks to use in studying the effects of the Actual Size Rule upon the Nasdaq Market. Further, to address criticism by several commentators that the group of stocks making up the pilot (both currently and as the NASD initially proposed to expand it) is not an ideal sample of Nasdaq stocks upon which to base a decision on the future of the Actual Size Rule, the NASD altered the group of 100 stocks it is proposing to add to the current pilot.

The NASD has selected stocks that are representative of the entire Nasdaq market by sampling across dollar volume categories. Within dollar volume categories, it sought variation across SOES tier sizes of 1,000 and 500 shares. The NASD then randomly chose 100 stocks.[41]

V. Conclusion

The Commission approved the Actual Size Rule on a pilot basis so that the effects of the rule could be assessed. In doing so, the Commission stated that it believed that a reduction in the quotation size requirement could reduce the risks that market makers must take, produce accurate and informative quotations, and encourage market makers to maintain competitive prices even in the changing market conditions resulting from the Order Execution Rules.

As discussed above, the NASD has produced an extensive economic analysis of the pilot, and several commentators have provided their own economic analysis as well. These economic analyses have proved useful in assessing the pilot Program's impact on the Nasdaq market. Although the economic studies arrive at conflicting results on the value of the Actual Size Rule, the Commission preliminarily believes that the data indicates that the pilot has not resulted in harm to the Nasdaq market. Indeed, as discussed above, the Actual Size Rule appears to be a reasonable means to provide market making obligations that reflect the new market dynamics produced by the Order Execution Rules. Nevertheless, as several commenters noted, the pilot Program was limited to 50 out of over 5,000 securities. Moreover, the Commission had decided that it would be appropriate to gather further data before reaching a final decision as to whether or not to extend the Actual Size Rule to the entire Nasdaq market. The Commission notes that there has been some disagreement as to how to interpret the data the NASD and others have published concerning the pilot Program. This is due in part to the limited nature of the pilot Program and the need for commenters to extrapolate data concerning these 50 securities to the entire Nasdaq market. These problems can be reduced if the pilot is expanded as proposed. An extension and expansion of the pilot will provide the Commission, the NASD, and market participants with additional data and time to study the Order Execution Rules' effects on the Nasdaq market. Based upon the expanded pilot, the Commission will be in a better position to evaluate the impact of the Actual Size Rule upon the Nasdaq market.

The NASD initially proposed to expand the pilot Program by adding the 100 securities that were next to be phased-in under the Order Execution Rules earlier this year. Although the first 50 securities were chosen to provide a broad cross section of the most liquid Nasdaq securities,[42] the NASD filed Amendment No. 3 to select an additional 110 securities[43] from an enhanced sample more representative of the entire Nasdaq market. This was done in response to a number of the comment letters which suggested that the First 50 securities were not representative of the Nasdaq Market. Specifically, it was suggested that, because all 30 of the largest Nasdaq stocks were subject to the 100 share minimum, it was impossible to gauge the Actual Size Rule's effect on large Nasdaq stocks, since there were no sufficiently large non-pilot stocks with which to compare.

These additional 100 securities were chosen from those domestic Nasdaq National Market ("NNM") stocks with a SOES tier size of either 1,000 or 500 shares that were not included in the First 50. These stocks were ranked by average (mean) daily dollar volume over the first seven months of 1997, and then divided into deciles, each containing approximately the same number of stocks. Eleven stocks were chosen at random from each decile, for a total of 110 stocks. Ten extra stocks were chosen to make up for four stocks of the First 50 that no longer trade on Nasdaq, and as reserves should any delist in the interim. This ensures that a total of 150 stocks will be ultimately subject to the Actual Size Rule is approved. The chosen stocks will be identified in a fax or Notice to Members published after SEC approval of the proposed rule change.

The Commission believes that the proposed amendment is consistent with the Exchange Act because it will provide for a more representative group of securities under an expanded Actual Size Rule pilot. The next 100 stocks include securities with significantly different trading volumes, so the NASD will be better able to assess the impact of the Actual Size Rule on the full panoply of Nasdaq stocks. This will further the evaluation of the Actual Size Rule and will assist the SEC in its determination as to whether to expand the pilot ultimately to all Nasdaq securities or to end it. In addition, Amendment No. 3 responds to the commentators who expressed concern that an expansion of the pilot to 150 stocks would capture stocks that account for a large majority of Nasdaq trading volume and SOES activity, and thus act as a *de facto* implementation of the Actual Size Rule. Regardless of the validity of this concern, the modified additional 100 stocks no longer contain only the next 100 most active stocks.

The Commission requests that the NASD continue to evaluate the effects of the reduction in the minimum quotation size for those Nasdaq stocks included in the pilot. Specifically, the NASD should continue its analysis of: (1) The number and composition of the market makers in each of the 50 securities, and any change over time; (2) the average aggregate dealer and inside spread by stock over time; (3) the average spread for each market maker by stock; (4) the average depth by market maker (including limit orders), and any change in the depth over time; (5) the fraction of volume executed by a market maker who is at the inside quote per stock; and (6) a measure of volume required to move the price of each security one increment (to determine the overall liquidity and volatility in the market for each stock). Finally, the NASD should compare data for each decile of securities, focusing particular attention on relatively active versus inactive securities that are among the lower tier of NNM securities, by daily dollar trading volume.

VI. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to Amendment No. 3 to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR–NASD–97–26 and should be submitted by November 26, 1997.

VII. Commission's Findings and Order Granting Accelerated Approval of Amendment No. 3 to the Proposed Rule Change

For the reasons discussed above, the Commission finds that the NASD's proposal is consistent with the Exchange Act and the rules and regulations thereunder applicable to a national securities association and has determined to approve the expansion of the pilot to 150 Nasdaq securities and to extend the pilot through March 27, 1998.[44]

The Commission also is approving Amendment No. 3 on an accelerated basis. In Amendment No. 3, the NASD has addressed criticism by several commentators who believe that the current pilot is not well designed to study effects of the Actual Size Rule. These commentators believe that the 50 stock pilot is not sufficiently representative of the entire Nasdaq Market and cannot form the basis for an adequate economic study. In particular, the commenters stated that most of the 20 largest Nasdaq stocks are subject to Actual Size Rule and that very few small stocks are subject to rule, and thus it is impossible to gauge the rule's effect on the largest and smallest stocks without similar groups of nonpilot stocks to use in comparison.

The Commission finds that the 150 stock pilot the NASD is now proposing is a reasonable sampling of the Nasdaq market, calculated to allow the NASD and others to study the effects of the Actual Size Rule. The Commission also believes that approving Amendment No. 3 to the proposed rule change will provide it with additional data for use in determining whether to expand the Actual Size Rule to cover the entire Nasdaq market or to take another course of action. The Commission finds good cause in approving the extension element of Amendment No. 3 to the proposed rule change on an accelerated basis in order to give the NASD sufficient time to collect data on the expanded pilot, analyze that data, and publish a report on its findings. By allowing the NASD to begin its analysis quickly so that it may publish its findings promptly, commentators will have more time to examine the study and the Commission will be in a better position to make a determination on the future of the Actual Size Rule in a timely manner. An additional three months is designed to provide the Commission and the public time to fully consider the results of the NASD's economic study and is merely a technical change to prevent a rushed study and comment period. The Commission therefore finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof.

Accordingly, the Commission believes that the proposed rule change (SR–NASD–97–26) is consistent with Sections 15A(b)(6) and (b)(9) of the Exchange Act[45] and

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[46] that the proposed rule change, SR–NASD–97–26, be and hereby is approved through March 28, 1998.

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[39] September study at 3.

[40] Some market participants have asserted that the lack of difference in performance between the First 40 and the Second 40 is attributable to the operation of several features of SOES. Specifically, these market participants claim that the SOES Auto-Refresh Feature, which refreshes a market maker quote to the applicable SOES tier size once its quote has been completely decremented, along with the "No Decrementation" and "Supplemental Size" features of SOES, artificially increase the number of 1000-share quotes in the first 50 securities. The "No Decrementation" feature of SOES allows a market maker to provide that its quote shall not be decremented after the execution of SOES orders. To use this feature, a market maker's quote size must be equal to the applicable SOES tier size. The "Supplemental Size" feature of SOES allows a market maker to establish a "supplemental size" that is used to automatically replenish a market maker's quote once it has been completely decremented. When a market maker's quote is replenished from the supplemental size, it is replenished to 1000 shares. In order to use this feature, a market maker must initially enter a quote size equal to or greater than the applicable SOES tier size. The NASD notes that market maker's use of each of these system features is completely voluntary and they are available for all Nasdaq securities. Accordingly, the NASD believes it would be inaccurate to assert that these SOES features have obfuscated the impact of the Actual Size Rule. *Id.* 62 FR at 19371.

[41] Ten additional stocks were chosen to make up for delistings within the first 50 stocks in the pilot and as reserves in case other pilot stocks delist. Only domestic common stocks were chosen.

[42] Actual Size Approval Order, 62 FR 2415.

[43] As discussed above, ten additional stocks were chosen to replace those pilot stocks that have already delisted or that may delist in the future. The proposal still calls for the pilot to expand from 50 to 150 stocks.

[44] The Commission also has determined to approve the replacement of those securities in the pilot that are no longer listed on Nasdaq with others from the list of securities provided by the NASD.

[45] In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. The proposed rule likely will produce more accurate and informative quotations and encourage market makers to maintain competitive prices. It will also provide the Commission with additional data, enabling it to evaluate better the impact of the Actual Size Rule on the Nasdaq market and market participants. Since the Commission believes that the data discussed above indicates that the pilot has not resulted in harm to the Nasdaq market thus far, the net effect of approving the proposed rule change will be positive. 15 U.S.C. 78c(f).

[46] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[47]

Jonathan G. Katz,

Secretary.

[FR Doc. 97–29290 Filed 11–4–97; 8:45 am]

BILLING CODE 8010–01–M

SOCIAL SECURITY ADMINISTRATION

Statement of Organization, Functions and Delegations of Authority

This statement amends part S of the Statement of the Organization, Functions and Delegations of Authority which covers the Social Security Administration (SSA). Chapter S7 covers the Deputy Commissioner for Human Resources. Notice is given that Chapter S7 is being amended throughout to reflect organizational and functional changes. Notice is further given to reflect that Subchapter S7C, the Office of Labor-Management Relations is being retitled as the Office of Labor-Management and Employee Relations (S7C). The changes are as follows:

Section S7.10 The Office of the Deputy Commissioner, Human Resources—(Organization)

Retitle:

E. The Office of Labor-Management Relations (S7C) to the Office of Labor-Management and Employee Relations (S7C).

Section S7.20 The Office of the Deputy Commissioner, Human Resources—(Functions):

Amend to read as follows:

A. The Deputy Commissioner, Human Resources (DCHR) (S7) is directly responsible to the Commissioner for carrying out the ODCHR mission and providing general supervision to major components of ODCHR as well as guidance, support and technical assistance to the SSA regional personnel administration operation and policy and direct service support to the Agency's executive personnel activities and other high level special categories.

C. The Immediate Office of the Deputy Commissioner, Human Resources (S7A).

Change to read as follows:

1. Provides the Deputy Commissioner and the Assistant Deputy Commissioner with staff assistance on the full range of their responsibilities.

2. Develops and implements all SSA policies and activities relating to the Agency's executive level personnel management program.

3. Recruits for and places individuals in positions in the Senior Executive Service (SES) in accordance with OPM regulations.

4. Provides staff support to the Executive Resources Board in administering a systematic program to manage SSA's executive and professional resources and ensuring the appropriate selection of candidates to participate in official executive development programs.

5. Provides staff support to the Performance Review Board in reviewing performance plans and subsequent appraisals of career and non-career executives in SES and employees in equivalent level positions.

D. The Office of Personnel (OPE) (S7B).

Delete from the fourth sentence "executive personnel services."

Retitle:

E. The Office of Labor-Management Relations (S7C) to the Office of Labor-Management and Employee Relations (S7C).

Retitle:

Existing Subchapter S7C, "The Office of Labor-Management Relations" (S7C) to "The Office of Labor-Management and Employee Relations" (S7C). Change all references to "The Office of Labor-Management Relations" to "The Office of Labor-Management and Employee Relations" and all references to "OLMR" to"OLMER".

Section S7B.00 The Office of Personnel—(Mission)

Delete from the first sentence "executive personnel services."

Section S7B.20 The Office of Personnel—(Functions)

D. The Project Management Staff (S7BH).

Amend as follows:

4. Develops and implements SSA-wide program of Personnel security. Directs personnel security activities having SSA-wide significance.

5. Designs national policies for the SSA Drug-Free Workplace Program. Manages the day-to-day operations of the Agency's drug program.

6. Directs the development and operation of SSA's Workers' Compensation services program. Provides assistance to employees regarding claims for loss of wages, settlement awards, notices of injury and required medical reports.

F. The Center for Personnel Operations (S7BK).

Delete the following from Item 1, sentence 1: "including policies and guidelines for SSA administration of the Senior Executive Service (SES)."

Change to read as follows:

2. Develops and implements SSA-wide programs of position classification and position management within SSA headquarters. Directs position classification and position management activities having SSA-wide significance.

Add a last sentence to Item 8:

Serves as the focal point for unemployment compensation activities.

Delete Items 10 through 13.

Section S7C.00 The Office of Labor-Management and Employee Relations—(Mission)

Amend to read as follows:

The Office of Labor-Management and Employee Relations (OLMER) provides overall management of an SSA-wide program of labor-management and employee relations. The mission includes the development and evaluation of the programs and the formulation of SSA-wide labor-management relations policy. The office provides services to SSA components on labor relations issues and on employee relations issues relating to disciplinary and adverse actions and employee grievances.

Section S7C.20 The Office of Labor-Management and Employee Relations—(Functions):

Amend to read as follows:

C. The Immediate Office of the Director, Office of Labor-Management and Employee Relations (S7C) provides the Director and the Human Resources Manager with staff assistance on the full range of their responsibilities. The functions of the office include the following:

1. The formulation and promulgation of Agency policy, guidance and direction for exercising management's rights and discharging the Agency's obligations under labor and employee relations law, executive orders, regulation, and negotiated agreements. The research of policy questions in these areas for management at various levels of the organization. Coordinating with the Office of the General Counsel (OGC) on matters impacting on law or requiring legal opinions.

2. The negotiation, implementation and administration of master agreements nationwide, which involves pre-negotiated activities, team preparation, advisory services and problem resolution.

3. Negotiating agreements on behalf of the Agency with unions having exclusive recognition at the level of the Agency, advising and assisting management representatives in negotiating labor-management agreements at other levels of the Agency.

4. Representing management in labor and employee relations cases that establish or impact on national level labor-management policy before arbitrators or such administrative bodies as the Merit Systems Protection Board, the Federal Labor Relations Authority and the Federal Service Impasses Panel. Administering and maintaining a panel of arbitrators, who can be assigned to rule on grievances under the negotiated agreements.

5. Providing Agency-head review of labor-management agreements for compliance with law, rule and regulation, coordinating with cognizant offices as appropriate and approving or disapproving those agreements pursuant to 5 U.S.C. 71 (the Federal Service Labor-Management Relations Statute).

6. Coordinating with components and organizations planning to design, develop, modify or implement plans, policies or operations that impact on employees and providing advice to ensure that labor-management implications and obligations are identified, incorporated and discharged.

7. The development, implementation and evaluation of SSA policies and programs involving disciplinary actions, performance-based actions, grievances, appeals and serious misconduct cases. Providing advise to SSA management on nonbargaining unit grievances.

8. Providing training, advice and direction to supervisors, managers and other management personnel in SSA components on the proper interpretation and application of negotiated agreements, 5 U.S.C. 71, and employee relations law and regulation.

9. Development and distribution of manuals, guides and written instructions or aids to assist management personnel in developing the knowledge and skills necessary to properly administer the Agency's labor and employee relations rights and obligations.

10. Working with managers, labor organizations and union officials to develop and maintain plans, programs and procedures necessary to institutionalize sound labor-management relations and more effective and efficient dealings between the parties. Providing support to SSA partnership activities.

11. Serving as the central depository/clearinghouse for all labor-management agreements (including partnership agreements), grievances, final grievance or arbitrator decisions and labor or employee relations cases and decisions before administrative bodies involving the Agency. Maintaining databases and technical references, as necessary, to monitor emerging trends and to research and analyze agreements and case decisions in order to plan and prepare to represent the interest of the Agency in labor and employee relations.

12. Serving as a liaison with other Federal government agencies to identify emerging trends in labor and employee relations, representing the Agency on interagency committees, workgroups and panels on labor and employee relations matters and helping ensure that the interests of the Agency are fully considered in developing government-wide labor and employee relations policy.

Section S7E.20 The Office of Civil Rights and Equal Opportunity—(Functions)

Amend as follows:

1. Directs implementation and evaluation of the SSA Equal Employment Opportunity Discrimination Complaint Program for both Headquarters and the field. Provides advice, guidance and assistance to SSA officials concerning the discrimination complaint program area and related management matters.

2. Provides leadership, guidance and direction in implementing SSA policies, regulations and procedures pertaining to the timely, accurate, fair and impartial processing of discrimination complaints throughout the Headquarters and field organizations. Formulates SSA policies, regulations and procedures pertaining to the EEO discrimination process.

3. Provides overall direction regarding all aspects of SSA's complaint system in order to ensure uniformity in complaint handling, resolution and disposition. Directs the preparation of guidelines on all complaint matters.

4. Receives and conducts inquiries and attempts resolution of informal complaints of discrimination. Advises complainants of their rights regarding the discrimination complaints process and other related processes.

5. Receives and acknowledges formal complaints of discrimination and makes a determination whether to accept or dismiss the complaint/issue(s). Issues decisions on certification of class complaints. Conducts investigations and oversees the process.

6. Prepares final Agency decisions on complaints of discrimination against SSA. Ensures compliance with any corrective or remedial action directed by SSA, Equal Employment Opportunity Commission (EEOC) or any other agency having authority to so direct.

7. Develops litigation information and documentation for the Office of the General Counsel and the United States Attorney's Office in employment discrimination court suits filed against SSA. Prepares the Agency's brief for complaints appealed to EEOC. Also, responds to interrogatories submitted in class complaints. Analyzes new and recent court decisions, public laws and Federal regulations for their impact on SSA complaint processing.

8. Directs special projects and studies of the various aspects of SSA's nationwide discrimination complaint process to evaluate the overall effectiveness of the equal opportunity program. Directs the analysis of trends observed during projects and studies and implements new procedures as required.

9. Provides the authoritative interpretations on legal, regulatory and technical discrimination complaint matters to SSA management nationwide.

10. Implements policies, regulations and affirmative action programs and develops and implements special needs placement programs related to the Disabled program.

11. Directs the development and monitoring of SSA's equal opportunity and civil rights programs.

12. Provides leadership, direction and guidance throughout the Headquarters and field organizations in the formulating and implementing of SSA policies, regulations and procedures pertaining to the development of sound affirmative civil rights and equal opportunity programs. Approves, on behalf of the Deputy Commissioner, affirmative employment program plans prepared by components and regions. Develops the overall SSA affirmative employment program plan.

13. Develops guidelines and procedures for effective affirmative employment program planning and monitoring throughout SSA. Develops recommendations on affirmative employment policy and operations for the Director, OCREO.

14. Reviews non-SSA equal opportunity and civil rights issuances, EEOC and court decisions for applicability to SSA policy statements. Develops instructions and guidelines to transmit or implement equal opportunity and civil rights policy decisions in SSA.

15. Conducts and coordinates studies or analyses of SSA's human resources and operating policies and procedures to assess their equal opportunity and civil rights impact.

16. Directs the development and maintenance of minority and disabled persons employment information system(s) for SSA employees and applicants for employment.

[47] 17 CFR 200.30–3(a)(12).

17. Develops and tracks SSA's major initiatives that relate to civil rights and equal opportunity and oversees their implementation.

18. Plans, directs and implements special programs for all minorities, women and employees with disabilities.

19. Develops, implements, monitors and evaluates special recruitment plans, programs and projects for targeted equal opportunity groups.

20. Develops, monitors and evaluates SSA compliance program(s) under civil rights statutes.

Section S7G.10 The Office of Training—(Organization)

Abolish:

C. The Administrative Staff (S7GC).

D. The Human Resources Planning Staff (S7GE).

E. The Center for Technology and Employee Development (S7GG).

F. The Center for Program Initiatives and Management Education (S7GH).

G. The Center for Educational Research and Evaluation (S7GJ).

Section S7G.20 The Office of Training—(Functions)

Abolish in their entirety:

C. The Administrative Staff (S7GC).

D. The Human Resources Planning Staff (S7GE).

E. The Center for Technology and Employee Development (S7GG).

F. The Center for Program Initiatives and Management Education (S7GH).

G. The Center for Educational Research and Evaluation (S7GJ).

Add:

B. The Immediate Office of the Director, Office of Training (OT) (S7G) provides the Director with staff assistance on the full range of his/her responsibilities.

1. The immediate office of the Director, OT, provides the Director with administrative and technical staff assistance on the full range of his/her responsibilities.

2. The Office of the Director's immediate administrative and technical staff plan direct, coordinate and administer the activities relative to developing and executing budget activities; represent OT on interagency human resource/training groups; interpret OPM training policies, purchase of training policies, and promulgate SSA training policy; maintain the Administration Instructions Manual System related to training policy; act as OT liaison with Personnel on such personnel matters as classification, position management, staffing and recruitment; plan, formulate and implement SSA training policies; and provide overall support and coordination to the training function. Coordinate travel, training and conference attendance for office staff.

3. The Director's immediate staff is also responsible for the development and updating of SSA's Training Plan. This plan provides for the training of SSA employees and for providing the means for employee development beyond training.

4. Directs, designs, develops, implements, conducts and evaluates all SSA supervisory, managerial and executive-level training development activities.

5. Has Agencywide responsibility for common needs and general skills training, including related developmental activities for nonsupervisory personnel.

6. Directs, designs, develops and implements Agency-level career development programs from the highest executive levels (SES) to programs for nonmanagement employees.

7. Directs, designs, develops and implements training to support Agencywide computer software acquisitions, and administrative initiatives.

8. Conducts ongoing research to identify the best approaches to training in the areas of management, general and systems-support training and in the area of career development programs.

9. Conducts ongoing research to identify automated technologies (e.g., Interactive Video Teletraining, multimedia, computer-based training, internet and intranet, etc.) and instructional methodologies for application to training throughout SSA.

10. Directs, designs, develops and manages SSA's Interactive Video Teletraining System.

11. Monitors and evaluates Agency training and developmental activities to ensure desired results and effects through the SSA Training Evaluation System.

12. Manages SSA's National Training Center, Individualized Learning Center and the Training Information Center.

13. Provides office automation support and consultant services for all of OT.

14. Directs the design, development, implementation and evaluation of disability related programmatic/technical training to meet the needs of SSA direct-service employees and components Agencywide, as well as programmatic employees in the States' Disability Determination Services, including entry-level training. This includes support for all Agencywide disability reengineering initiatives.

15. Directs the design, development, implementation and evaluation of Title II Retirement, Survivors and Auxiliary, and Medicare related programmatic/technical training to meet the needs of SSA direct-service employees and components Agencywide, including entry-level and advanced programs, programmatic systems training.

16. Directs the design, development, implementation and evaluation of Title XVI Supplemental Security Income related programmatic/technical training to meet the needs of SSA direct-service employees and components Agencywide, including entry-level and advanced programs, programmatic systems training.

17. Develops guidelines and procedures to determine technical/programmatic training needs in all areas of responsibility, and reviews technical training programs Agencywide.

18. Initiates independent studies and analyses to anticipate and identify new or changing programmatic or other training approaches in a dynamic organizational environment, and designs, develops and implements programs geared to new training delivery technologies and approaches.

Dated: October 20, 1997.

Paul D. Barnes,

Deputy Commissioner for Human Resources.

[FR Doc. 97–29258 Filed 11–4–97; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. RSAC–96–1, Notice No. 7]

Railroad Safety Advisory Committee ("RSAC"); Working Group Activity Update

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Announcement of Railroad Safety Advisory Committee (RSAC) working group activities and new tasks accepted.

SUMMARY: FRA is updating its announcement of RSAC's working group activities, last published in early August of this year, to reflect additional working group activities, and new tasks presented and accepted during the RSACs September 30th meeting.

FOR FURTHER INFORMATION CONTACT: Vicky McCully, FRA, 400 7th Street, S.W. Washington, D.C. 20590, (202) 632–3330, Grady Cothen, Deputy Associate Administrator for Safety Standards Program Development, FRA 400 7th Street, S.W., Washington, D.C. 20590, (202) 632–3309, or Lisa Levine, Office of Chief Counsel, FRA, 400 7th Street, S.W., Washington, D.C. 20590, (202) 632–3189.

SUPPLEMENTARY INFORMATION: This notice serves to update FRA's last announcement of working group activities and status reports. See 62 FR 41992, August 4, 1997. The most recent full RSAC meeting was held September 30, 1997.

Since its first meeting in April of 1996, the RSAC has been presented with, and accepted, fourteen tasks. Detailed status and contact information for each of the tasks currently pending within the RSAC is provided below (new tasks appear in bold):

- (1) Reviewing and recommending revisions to the Track Safety Standards (49 CFR Part 213) (Task accepted April 2, 1996. Working Group established. Six meetings held. Consensus reached on recommended revisions. NPRM incorporating these recommendations published in the **Federal Register** on 7/3/97. "Track Safety Standards; Miscellaneous Revisions," 62 FR 36138);
- (2) Reviewing and recommending revisions to the Radio Standards and Procedures (49 CFR Part 220) (Task accepted April 2, 1996. Working Group established. Ten (10) meetings held. Consensus reached on recommended revisions. NPRM incorporating these recommendations published in the **Federal Register** on 6/26/97. "Railroad Communications; Notice of Proposed Rulemaking," 62 FR 34544);
- (3) Reviewing the appropriateness of the agency's current policy regarding the applicability of existing and proposed regulations to tourist, excursion, scenic, and historic railroads (Task accepted April 2, 1996. Working Group established. Two (2) meetings held.);
- (4) Reviewing and recommending revisions to Steam Locomotive Inspection standards (49 CFR Part 230) (Tasked to existing Tourist and Historic Working Group (THWG) on July 24, 1996. Five (5) Task Force meetings held. Working Group consensus reached on proposed rule text).;
- (5) Reviewing and recommending revisions to miscellaneous aspects of the regulations addressing Locomotive Engineer Certification (49 CFR Part 240) (Task accepted October 31, 1996. Working Group established. The working group has met 7 times. The working group decided during a recent meeting to create a task force to address medical issues; this group has met once).
- (6) Developing On-Track Equipment Safety Standards (new regulation) (This was tasked to the existing Track Standards Working Group Group on October 31, 1996. The Task Force has met 4 times since this task was assigned);
- (7) Developing Crashworthiness Specifications to promote the integrity of the locomotive cab in accidents resulting from collisions. (New regulation) (Task accepted June 24, 1997. A working group has been established. The group has met once.);
- (8) Evaluating the extent to which environmental, sanitary, and other working conditions in locomotive cabs affect the crew's health and the safe operation of locomotives, proposing standards where appropriate. (New regulation) (Task accepted June 24, 1997. A working group has been established and has met twice.)
- (9) Developing Event Recorder Data Survivability standards (New regulation (Task accepted June 24, 1997. A working group has been established, has met once, and is scheduled to meet again November 12, 1997);
- *(10) Facilitating Understanding of Current Positive Train Control (PTC) Technologies, Definitions, and Capabilities* (Task accepted September 30, 1997. A working group has been established. The initial meeting of the working group is scheduled for November 19, 27, 1997);
- *(11) Addressing any remaining issues regarding the feasibility of implementing fully integrated PTC systems* (Task accepted September 30, 1997. A working group has been established and will meet November 19, 1997);
- *(12) Discussing possible revisions to the Rules, Standards and Instructions Governing the Installation, Inspection, Maintenance, and Repair of Signal and Train Control Systems, Devices and Appliances (49 CFR Part 236) to facilitating the implementation of software based signal and operating systems* (Task accepted September 30, 1997. A working group has been established and will meet November 19, 1997);
- *(13) Reviewing the current concept of a reportable "train accident" (Rail Equipment Accident/Incident) and assessing whether it is an appropriate way to structure and administer detailed reporting requirements for collisions, derailments and similar events involving moving equipment on the rails (49 CFR Part 225)* (Task accepted September 30, 1997. A working group has been established to begin the work required to execute this task).

If you have any questions about any of these working groups please refer to the following list of FRA contacts who can assist you with questions regarding any of the above-listed tasks:

(1) *Track Safety Standards Working Group*—Al McDowell (202) 632–3344 or Nancy Lewis (202) 632–3174;

(2) *Radio Communications Working Group*—Gene Cox (202) 632–3504 or Pettie Sun (202) 632–3183;

(3) *Tourist and Historic Working Group*—Grady Cothen (202) 632–3306 or Lisa Levine (202) 632–3189;

(4) *Steam Inspection Standards Task Force*—George Scerbo (202) 632–3363 or Lisa Levine (202) 632–3189;

(5) *Locomotive Engineer Certification Working Group*—John Conklin (202) 632–3372 or Alan Nagler (202) 632–3187;

(6) *On-Track Equipment Safety Standards Task Force*—Al McDowell (202) 632–3344 or Nancy Lewis (202) 632–3174;

(7) *Locomotive Crashworthiness Working Group*—Sean Mehrvazi (202) 632–3364 or Lisa Levine (202) 632–3189;

(8) *Locomotive Crew Working Conditions Working Group*—Brenda Hattery (202) 632–3366 or Christine Beyer (202) 632–3177; and

(9) *Event Recorder Data Survivability Working Group*—Ron Newman (202) 632–3365 or Tom Phemister (202) 632–3161.

(10) *Positive Train Control Technologies, Definitions, and Capabilities*—Grady Cothen (202) 632–3306 or Cynthia Walters (202) 632–3188.

(11) *Positive Train Control Implementation Issues*—Grady Cothen (202) 632–3306 or Cynthia Walters (202) 632–3188.

(12) *Standards for New Train Control Systems*—Grady Cothen (202) 632–3306 or Cynthia Walters (202) 632–3188; and

(13) *Definition of Reportable "Train Accident"*—Robert Finkelstein (202) 632–3386 or Nancy Goldman (202) 632–3190.

Please refer to the notice published in the **Federal Register** on March 11, 1996 (61 F.R. 9740) for more information about the RSAC.

Donald M. Itzkoff,

Deputy Administrator.

[FR Doc. 97–29188 Filed 11–4–97; 8:45 am]

BILLING CODE 4910–06–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

International Standards on the Transport of Dangerous Goods; Public Meeting

AGENCY: Research and Special Programs Administration (RSPA), Department of Transportation.

ACTION: Notice of public meeting.

SUMMARY: This notice is to advise interested persons that RSPA will conduct a public meeting in preparation for the fourteenth session of the United Nation's Sub-Committee of Experts on the Transport of Dangerous Goods (UNSCOE) to be held December 8–18, 1997 in Geneva, Switzerland.

ADDRESSES: Room 9230–9234, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Frits Wybenga, International Standards Coordinator, Office of Hazardous Materials Safety, Department of Transportation, Washington, DC 20590; (202) 366–0656.

SUPPLEMENTARY INFORMATION: The primary purpose of this meeting will be to prepare for the fourteenth session of the UNSCOE and to discuss U.S. positions on UNSCOE proposals. Topics to be covered during the public meeting include matters related to restructuring the UN Recommendations on the Transport of Dangerous Goods into a model rule, international harmonization of classification criteria and labeling, review of intermodal portable tank requirements, review of the requirements applicable to small quantities of hazardous materials in transport (limited quantities), classification of individual substances, requirements for packagings used to transport hazardous materials and requirements for toxic by inhalation substances.

The public is invited to attend without prior notification.

Documents

Copies of documents submitted to the fourteenth session of the UNSCOE meeting may be obtained from the RSPA Dockets Division (202–366–5046) or by downloading them from the U Transport Division's web site at *http://www.itu.int/itudoc/un/editrans/dgdb/dgcomm.html*. This site may also be accessed through the RSPA Hazardous Materials Safety Homepage at http://www.volpe.dot.gov/ohm/.

Issued in Washington, DC, on October 30, 1997.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 97–29194 Filed 11–4–97; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Release of Waybill Data

The Surface Transportation Board has received a request from Rail-Way, Inc. (WB533—10/20/97), for permission to use certain data from the Board's Carload Waybill Samples. A copy of the request may be obtained from the Office of Economics, Environmental Analysis, and Administration.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics, Environmental Analysis, and Administration within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.8.

Contact: James A. Nash, (202) 565–1542.

Vernon A. Williams,

Secretary.

[FR Doc. 97–29278 Filed 11–4–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–29; OTS Nos. H–2965 and 02096]

Guaranty Federal Bancshares, M.H.C., Springfield, Missouri; Approval of Conversion Application

Notice is hereby given that on October 27, 1997, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Guaranty Federal Bancshares, M.H.C., Springfield, Missouri, to convert to the stock form of Organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552, and the Midwest Regional Office, 122 W. John Carpenter Freeway, Suite 600, Irving, Texas 75039–2010.

Dated: October 31, 1997.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 97–29276 Filed 11–4–97; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–30; OTS No. 2982]

Newport Federal Savings and Loan Association, Newport, Tennessee; Approval of Conversion Application

Notice is hereby given that on October 30, 1997, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Newport Federal Savings and Loan Association, Newport, Tennessee, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552, and the Central Regional Office, Office of Thrift Supervision, 200 West Madison Street, Suite 1300, Chicago, Illinois 60606.

Dated: October 31, 1997.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 97–29277 Filed 11–4–97; 8:45 am]

BILLING CODE 6720–01–M

federal register

Wednesday
November 5, 1997

Part II

Department of the Treasury
Office of the Comptroller of the Currency
12 CFR Part 3

Federal Reserve System
12 CFR Parts 208 and 225

Federal Deposit Insurance Corporation
12 CFR Part 325

Department of the Treasury
Office of Thrift Supervision
12 CFR Part 567

Risk-Based Capital Standards; Recourse and Direct Credit Substitutes; Proposed Rule

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 3

[Docket No. 97–22]

RIN 1557–AB14

FEDERAL RESERVE SYSTEM

12 CFR Parts 208 and 225

[Regulations H and Y; Docket No. R–0985]

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 325

RIN 3064–AB31

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 567

[Docket No. 97–86]

RIN 1550–AB11

Risk-Based Capital Standards; Recourse and Direct Credit Substitutes

AGENCIES: Office of the Comptroller of the Currency, Treasury; Board of Governors of the Federal Reserve System; Federal Deposit Insurance Corporation; and Office of Thrift Supervision, Treasury.

ACTION: Joint notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency (OCC), Board of Governors of the Federal Reserve System (Board), Federal Deposit Insurance Corporation (FDIC), and Office of Thrift Supervision (OTS), (collectively, the agencies) are proposing revisions to their risk-based capital standards to address the regulatory capital treatment of recourse obligations and direct credit substitutes that expose banks, bank holding companies, and thrifts (collectively, banking organizations) to credit risk. The proposal would treat direct credit substitutes and recourse obligations consistently and would use credit ratings and possibly certain other alternative approaches to match the risk-based capital assessment more closely to a banking organization's relative risk of loss in asset securitizations.

The agencies intend that any final rules adopted in connection with this proposal that result in increased risk-based capital requirements for banking organizations apply only to transactions consummated after the effective date of the final rules.

DATES: Comments must be received on or before February 3, 1998.

ADDRESSES: Comments should be directed to:

OCC: Written comments may be submitted electronically to regs.comments@occ.treas.gov or by mail to Docket No. 97–22, Communications Division, Third Floor, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219. Comments will be available for inspection and photocopying at that address.

Board: Comments, which should refer to Docket No. R–0985, may be mailed to the Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551, to the attention of Mr. William Wiles, Secretary. Comments addressed to the attention of Mr. Wiles may be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments may be inspected in Room MP500 between 9 a.m. and 5 p.m. weekdays, except as provided in § 261.8 of the FRB's Rules Regarding Availability of Information, 12 CFR 261.8.

FDIC: Written comments should be addressed to Robert E. Feldman, Executive Secretary, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429. Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m. (Fax number: (202) 898–3838; Internet address: comments@fdic.gov). Comments may be inspected and photocopied in the FDIC Public Information Center, Room 100, 801 17th Street, N.W., Washington, D.C., between 9:00 a.m. and 4:30 p.m. on business days.

OTS: Send comments to Manager, Dissemination Branch, Records Management and Information Policy, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, Attention Docket No. 97–86. These submissions may be hand-delivered to 1700 G Street, N.W., from 9:00 a.m. to 5:00 p.m. on business days or may be sent by facsimile transmission to FAX number (202) 906–7755; or by e-mail: public.info@ots.treas.gov. Those commenting by e-mail should include their name and telephone number. Comments will be available for inspection at 1700 G Street, N.W., from 9:00 to 4:00 p.m. on business days.

FOR FURTHER INFORMATION CONTACT:

OCC: David Thede, Senior Attorney, Securities and Corporate Practices Division (202/874–5210); Dennis Glennon, Financial Economist, Risk Analysis Division (202/874–5700); or Steve Jackson, National Bank Examiner, Treasury and Market Risk (202/874–5070).

Board: Thomas R. Boemio, Senior Supervisory Financial Analyst (202/452–2982); or Norah Barger, Assistant Director (202/452–2402), Division of Banking Supervision and Regulation. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), Diane Jenkins (202/452–3544), Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551.

FDIC: Robert F. Storch, Chief, Accounting Section, Division of Supervision, (202/898–8906), or Jamey G. Basham, Counsel, Legal Division (202/898–7265).

OTS: John F. Connolly, Senior Program Manager for Capital Policy (202/906–6465), Supervision Policy; Michael D. Solomon, Senior Policy Advisor (202/906–5654), Supervision Policy; Fred Phillips-Patrick, Senior Financial Economist (202/906–7295), Research and Analysis; Robert Kazdin, Senior Project Manager (202/906–5759), Research and Analysis; Karen Osterloh, Assistant Chief Counsel (202/906–6639), Regulation and Legislation Division, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552.

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I. Introduction and Background

A. Overview

The agencies are proposing to amend their risk-based capital standards to clarify and change the treatment of certain recourse obligations, direct credit substitutes, and securitized transactions that expose banking organizations to credit risk.

This proposal would amend the agencies' risk-based capital standards to:

- Define "recourse" and revise the definition of "direct credit substitute";[1]
- Treat recourse obligations and direct credit substitutes consistently for risk-based capital purposes; and
- Vary the capital requirements for traded and non-traded[2] positions in securitized transactions according to their relative risk exposure, using credit ratings from nationally-recognized statistical rating organizations[3] (rating agencies) to measure the level of risk.

Additionally, this proposal discusses and requests comment on two possible alternatives to the use of credit ratings for non-traded positions in securitized transactions, either or both of which may be adopted, in whole or in part, in the final rule. These alternatives would:

- Use criteria developed by the agencies, based on the criteria of the rating agencies, to determine the capital requirements; or
- Permit institutions to use historical loss information to determine the capital requirement for direct credit substitutes and recourse obligations.

The agencies request comment on all aspects of this proposal.

B. Purpose and Effect

Implementation of all aspects of this proposal would result in more consistent treatment of recourse obligations and similar transactions among the agencies, more consistent risk-based capital treatment for transactions involving similar risk, and capital requirements that more closely reflect a banking organization's relative exposure to credit risk.

The agencies intend that any final rules adopted in connection with this proposal that result in increased risk-based capital requirements for banking organizations apply only to transactions that are consummated after the effective date of those final rules. The agencies intend that any final rules adopted in connection with this proposal that result in reduced risk-based capital requirements for banking organizations apply to all transactions outstanding as of the effective date of those final rules and to all subsequent transactions. Because some ongoing securitization conduits may need additional time to adapt to any new capital treatments, the agencies intend to permit asset securitizations with no fixed term, *e.g.*, asset-backed commercial paper conduits, to apply the existing capital rules for up to two years after the effective date of any final rule.

C. Background

1. Recourse and Direct Credit Substitutes

Asset securitization is the process by which loans and other receivables are pooled, reconstituted into one or more classes or positions, and then sold. Securitization provides an efficient mechanism for institutions to buy and sell loan assets and thereby to make them more liquid.

Securitizations typically carve up the risk of credit losses from the underlying assets and distribute it to different parties. The "first dollar" loss or subordinate position is first to absorb credit losses; the "senior" investor position is last; and there may be one or more loss positions in between ("second dollar" loss positions). Each loss position functions as a credit enhancement for the more senior loss positions in the structure.

For residential mortgages sold through certain Federally-sponsored mortgage programs, a Federal government agency or Federally-sponsored agency guarantees the securities sold to investors. However, many of today's asset securitization programs involve nonmortgage assets or are not supported in any way by the Federal government or a Federally-sponsored agency. Sellers of these privately securitized assets therefore often provide other forms of credit enhancement—first and second dollar loss positions—to reduce investors' risk of credit loss.

Sellers may provide this credit enhancement themselves through recourse arrangements. For purposes of this proposal, "recourse" refers to any risk of credit loss that an institution retains in connection with the transfer of its assets. While banking organizations have long provided recourse in connection with sales of whole loans or loan participations, recourse arrangements today are frequently associated with asset securitization programs.

Sellers may also arrange for a third party to provide credit enhancement in an asset securitization. If the third-party enhancement is provided by another banking organization, that organization assumes some portion of the assets' credit risk. For purposes of this proposal, all forms of third-party enhancements, *i.e.*, all arrangements in which an institution assumes risk of credit loss from third-party assets or other claims that it has not transferred, are referred to as "direct credit substitutes."[4] The economic substance of an institution's risk of credit loss from providing a direct credit substitute can be identical to its risk of credit loss from transferring an asset with recourse.

Depending on the type of securitization transaction, a portion of the total credit enhancement may also be provided internally, as part of the securitization structure, through the use of spread accounts, overcollateralization, or other forms of self-enhancement. Many asset securitizations use a combination of internal enhancement, recourse, and third-party enhancement to protect investors from risk of credit loss.

2. Prior History

On June 29, 1990, the Federal Financial Institutions Examination Council (FFIEC) published a request for comment on recourse arrangements. See

[1] The OTS is adding a definition of "standby-type letter of credit" to be consistent with the other agencies.

[2] See section II.C.3 of this preamble for a discussion of the distinction between "traded" and "non-traded" positions.

[3] "Nationally recognized statistical rating organization" means an entity recognized by the Division of Market Regulation of the Securities and Exchange Commission as a nationally recognized statistical rating organization for various purposes, including the capital rules for broker-dealers. See SEC Rule 15c3–1(c)(2)(vi)(E), (F) and (H) (17 CFR 240.15c3–1(c)(2)(vi)(E), (F), and (H).

[4] As used in this proposal, the terms "credit enhancement" and "enhancement" refer to both recourse arrangements and direct credit substitutes.

55 FR 26766 (June 29, 1990). The publication announced the agencies' intent to review the regulatory capital, reporting, and lending limit treatment of assets transferred with recourse and similar transactions, and set out a broad range of issues for public comment. The FFIEC received approximately 150 comment letters. The FFIEC then narrowed the scope of the review to the reporting and capital treatment of recourse arrangements and direct credit substitutes that expose banking organizations to credit-related risks. The OTS implemented some of the FFIEC's proposals (including the definition of recourse) on July 29, 1992 (57 FR 33432).

In July 1992, after receiving preliminary recommendations from an interagency staff working group, the FFIEC directed the working group to carry out a study of the likely impact of those recommendations on banking organizations, financial markets, and other affected parties. As part of that study, the working group held a series of meetings with representatives from 13 organizations active in the securitization and credit enhancement markets. Summaries of the information provided to the working group and a copy of the working group's letter sent to participants prior to the meetings are in the FFIEC's public file on recourse arrangements and are available for public inspection and photocopying. Additional material provided to the agencies from financial institutions and others since these meetings has also been placed in the FFIEC's public file. The FFIEC's offices are located at 2100 Pennsylvania Avenue, NW., Suite 200, Washington, DC 20037.

On May 25, 1994, the agencies published a **Federal Register** notice (1994 Notice) containing a proposal to reduce the capital requirement for banks for low-level recourse transactions (transactions in which the capital requirement would otherwise exceed an institution's maximum contractual exposure); to treat first-loss (but not second-loss) direct credit substitutes like recourse; and to implement definitions of "recourse," "direct credit substitute," and related terms. 59 FR 27116 (May 25, 1994). The 1994 Notice also contained, in an advance notice of proposed rulemaking, a proposal to use credit ratings to determine the capital treatment of certain recourse obligations and direct credit substitutes. The OCC, Board, and FDIC (the Banking Agencies) have since implemented the capital reduction for low-level recourse transactions required by section 350 of the Riegle Community Development and Regulatory Improvement Act, Public Law 103–325, 12 U.S.C. 4808. 60 FR 17986 (OCC, April 10, 1995), 60 FR 8177 (Board, February 13, 1995); 60 FR 15858 (FDIC, March 28, 1995). (The OTS risk-based capital regulation already included the low-level recourse treatment required by 12 U.S.C. 4808. See 60 FR 45618, August 31, 1995.) The other portions of the 1994 Notice will be addressed in this proposal.

The agencies have also implemented section 208 of the Riegle Community Development and Regulatory Improvement Act of 1994, Public Law 103–325, 108 Stat. 2160, 12 U.S.C. 1835, which made available an alternative risk-based capital treatment for qualifying transfers of small business obligations with recourse. 60 FR 45811(Board final rule, August 31, 1995); 60 FR 45605 (FDIC interim rule, August 31, 1995); 60 FR 45617 (OTS interim rule, August 31, 1995); 60 FR 47455 (OCC interim rule, September 13, 1995).

D. Current Risk-based Capital Treatment of Recourse and Direct Credit Substitutes

Currently, the agencies' risk-based capital standards apply different treatments to recourse arrangements and direct credit substitutes. As a result, capital requirements applicable to credit enhancements do not consistently reflect credit risk. The Banking Agencies' current rules are also not entirely consistent with those of the OTS.

1. Recourse

The agencies' risk-based capital guidelines prescribe a single treatment for assets transferred with recourse regardless of whether the transaction is reported as a financing or a sale of assets in a bank's Consolidated Reports of Condition and Income (Call Report). Assets transferred with any amount of recourse in a transaction reported as a financing remain on the balance sheet. Assets transferred with recourse in a transaction that is reported as a sale create off-balance sheet exposures. The entire outstanding amount of the assets sold (not just the amount of the recourse) is converted into an on-balance sheet credit equivalent amount using a 100% credit conversion factor, and this credit equivalent amount is risk-weighted.[5] In either case, risk-based capital is held against the full, risk-weighted amount of the transferred assets, subject to the low-level recourse rule which limits the maximum risk-based capital requirement to the bank's maximum contractual obligation.

For leverage capital ratio purposes, if a sale with recourse is reported as a financing, then the assets sold with recourse remain on the selling bank's balance sheet. If a sale with recourse is reported as a sale, the assets sold do not remain on the selling bank's balance sheet.

2. Direct Credit Substitutes

a. Banking Agencies. Direct credit substitutes are treated differently from recourse under the current risk-based capital standards. Under the Banking Agencies' standards, off-balance sheet direct credit substitutes, such as financial standby letters of credit provided for third-party assets, carry a 100% credit conversion factor. However, only the dollar amount of the direct credit substitute is converted into an on-balance sheet credit equivalent so that capital is held only against the face amount of the direct credit substitute. The capital requirement for a recourse arrangement, in contrast, is generally based on the full amount of the assets enhanced.

If a direct credit substitute covers less than 100% of the potential losses on the assets enhanced, the current capital treatment results in a lower capital charge for a direct credit substitute than for a comparable recourse arrangement. For example, if a direct credit substitute covers losses up to the first 20% of the assets enhanced, then the on-balance sheet credit equivalent amount equals that 20% amount and risk-based capital is held against only the 20% amount. In contrast, required capital for a first-loss 20% recourse arrangement is higher because capital is held against the full outstanding amount of the assets enhanced.

Banking organizations are taking advantage of this anomaly, for example, by providing first loss letters of credit to asset-backed commercial paper conduits that lend directly to corporate customers. This results in a significantly lower capital requirement than if the loans were on the banking organizations' balance sheets.

Under the proposal, the definition of direct credit substitute is expanded to include some items that already are partially reflected on the balance sheet, such as purchased subordinated interests. Currently, under the Banking Agencies' guidelines, these interests receive the same capital treatment as off-balance sheet direct credit substitutes. Purchased subordinated interests are placed in the appropriate risk-weight category. In contrast, if a banking organization retains a subordinated interest in connection with the transfer of its own assets, this is considered recourse. As a result, the institution must hold capital against the carrying amount of the retained subordinated interest as well as the outstanding amount of all senior interests that it supports.

b. OTS. The OTS risk-based capital regulation treats some forms of direct credit substitutes (*e.g.*, financial standby letters of credit) in the same manner as the Banking Agencies' guidelines. However, unlike the Banking Agencies, the OTS treats purchased subordinated interests under its general recourse provisions (except for certain high quality subordinated mortgage-related securities). The risk-based capital requirement is based on the carrying amount of the subordinated interest plus all senior interests, as though the thrift owned the full outstanding amount of the assets enhanced.

3. Problems With Existing Risk-based Capital Treatments of Recourse Arrangements and Direct Credit Substitutes.

The agencies are proposing changes to the risk-based capital standards to address the following major concerns with the current treatments of recourse and direct credit substitutes:

- Different amounts of capital can be required for recourse arrangements and direct credit substitutes that expose a banking organization to equivalent risk of credit loss.
- The capital treatment does not recognize differences in risk associated with different loss positions in asset securitizations.
- The current standards do not provide uniform definitions of recourse, direct credit substitute, and associated terms.

E. GAAP Accounting Treatment of Recourse Arrangements

The Banking Agencies' regulatory capital treatment of asset transfers with recourse differs from the accounting treatment of asset transfers with recourse under generally accepted accounting principles (GAAP). Under GAAP, an institution that transferred an asset with recourse before January 1, 1997, must reserve in a recourse liability account the probable expected losses under the recourse obligation and meet certain other criteria in order to treat the asset as sold. An institution that transfers an asset with recourse after December 31, 1996, must surrender control over the asset and receive consideration other than a beneficial interest in the transferred asset in order to treat the asset as sold. The institution must recognize a liability for its recourse obligation, measuring this liability at its fair value or by alternative means. Although the Banking Agencies have adopted GAAP for reporting sales of assets with recourse in 1997,[6] the agencies continue to require risk-based capital in addition to the GAAP recourse liability account for recourse obligations.

The agencies have considered the arguments that several commenters (responding to the 1994 Notice) made for adopting for regulatory capital purposes the GAAP treatment for all assets sold with recourse, including those sold with low levels of recourse. Under such a treatment, assets sold with recourse in accordance with GAAP would have no capital requirement, but the GAAP recourse liability account would provide some level of protection against losses.

One of the principal purposes of regulatory capital is to provide a cushion against unexpected losses. In contrast, the GAAP recourse liability account is, in effect, a specific reserve that primarily takes into account the probable expected losses under the recourse provision. The capital guidelines explicitly state that specific reserves may not be included in regulatory capital.

Even though a transferring institution may reduce its exposure to potential catastrophic losses by limiting the amount of recourse it provides, it may still retain, in many cases, the bulk of the credit risk inherent in the assets. For example, an institution transferring high quality assets with a reasonably estimated expected loss rate of one percent that retains ten percent recourse in the normal course of business will sustain the same amount of losses it would have had the assets not been transferred. This occurs because the amount of exposure under the recourse provision is very high relative to the amount of expected losses. In such transactions the transferor has not significantly reduced its risk for purposes of assessing regulatory capital and should continue to be assessed regulatory capital as though the assets had not been transferred.

Further, the agencies are concerned that an institution transferring assets with recourse might significantly underestimate its losses under the recourse provision or the fair value of its recourse obligation, in which case it would not establish an appropriate GAAP recourse liability account for the exposure. If the transferor recorded an inappropriately small liability in the GAAP recourse liability account for a succession of asset transfers, it could accumulate large amounts of credit risk that would be only partially reflected on the balance sheet.

For these reasons, the agencies have not proposed to adopt for regulatory capital purposes the GAAP treatment for assets sold with recourse. The agencies invite additional comments on this issue.

II. Notice of Proposed Rulemaking

This proposal would amend the agencies' risk-based capital standards as follows:

- Define recourse and revise the definition of direct credit substitute (See section II.A of this preamble);
- Treat recourse obligations and direct credit substitutes consistently for risk-based capital purposes (See section II.B of this preamble); and
- Vary the capital requirements for traded and non-traded positions in securitized asset transactions according to their relative risk exposure, using credit ratings from rating agencies to measure the level of risk (See sections II.C and II.D of this preamble).

Additionally, this notice discusses and requests comment on two possible alternatives to the use of credit ratings for non-traded positions in securitized transactions, either or both of which may be adopted, in whole or in part, in the final rule (See section II.E of this preamble). These alternatives would:

- Use criteria developed by the agencies, based on the criteria of the rating agencies, to determine the capital requirements; or
- Permit institutions to use historical loss information to determine the capital requirements for direct credit substitutes and recourse obligations.

A. Definitions

1. Recourse

The proposal defines recourse to mean any arrangement in which an institution retains risk of credit loss in connection with an asset transfer, if the risk of credit loss exceeds a *pro rata* share of the institution's claim on the assets. The proposed definition of recourse is consistent with the Banking Agencies' longstanding use of this term, and is intended to incorporate into the risk-based capital standards existing agency practices regarding retention of risk in asset transfers.[7]

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[5] Current rules also provide for special treatment of sales of small business loan obligations with recourse. See 12 U.S.C. 1835.

[6] The OTS has followed GAAP since 1989 for reporting purposes and for computation of the capital leverage ratio.

[7] The OTS currently defines the term "recourse" more broadly than the proposal to include arrangements involving credit risk that a thrift

Continued

Currently, the term "recourse" is not explicitly defined in the Banking Agencies' risk-based capital guidelines. Instead, the guidelines use the term "sale of assets with recourse," which is defined by reference to the Call Report Instructions. *See* Call Report Instructions, Glossary (entry for "Sales of Assets"). Once a definition of recourse is adopted in the risk-based capital guidelines, the Banking Agencies would remove the cross-reference to the Call Report instructions from the guidelines. The OTS capital regulation currently provides a definition of the term "recourse," which would also be replaced once a final definition of recourse is adopted.

2. Direct Credit Substitute

The proposed definition of "direct credit substitute" is intended to mirror the definition of recourse. The term "direct credit substitute" would refer to any arrangement in which an institution assumes risk of credit-related losses from assets or other claims it has not transferred, if the risk of credit loss exceeds the institution's *pro rata* share of the assets or other claims. Currently, under the Banking Agencies' guidelines, this term covers guarantees and guarantee-type arrangements. As revised, it would also explicitly include items such as purchased subordinated interests, agreements to cover credit losses that arise from purchased loan servicing rights, and subordinated extensions of credit that provide credit enhancement.

3. Risks Other than Credit Risks

A capital charge would be assessed only against arrangements that create exposure to credit or credit-related risks. This continues the agencies' current practice and is consistent with the risk-based capital standards' traditional focus on credit risk. The agencies have undertaken other initiatives to ensure that the risk-based capital standards take interest rate risk and other non-credit related market risks into account.

4. Implicit Recourse

The definitions cover all arrangements that are recourse or direct credit substitutes in form or in substance. Recourse may also exist when an institution assumes risk of loss without an explicit contractual agreement or, if there is a contractual limit, when the institution assumes risk of loss in amounts exceeding the limit. The existence of implicit recourse is often a complex and fact-specific issue, usually demonstrated by an institution's actions beyond any contractual obligation. Actions that may constitute implicit recourse include: (a) Providing voluntary support for a securitization by selling assets to a trust at a discount from book value; (b) exchanging performing for non-performing assets; or (c) other actions that result in a significant transfer of value in response to deterioration in the credit quality of a securitized asset pool.

To date, the agencies have taken the position that when an institution provides implicit recourse, it should generally hold capital in the same manner as for assets sold with recourse. However, because of the complexity and fact-specific nature of many implicit recourse arrangements, questions have been raised as to how much risk the institution has effectively retained as a result of its actions and whether a different capital treatment would be warranted in some circumstances. To assist the agencies in assessing various types of implicit recourse arrangements, comment is requested on the following:

(*Question 1*) What types of actions should be considered implicit recourse, and how should the agencies treat these actions for regulatory capital purposes? Should the agencies establish different capital requirements for various types of implicit recourse arrangements? If so, how should appropriate capital requirements be determined for different types of implicit recourse arrangements? Please provide relevant data to support any recommended capital treatment.

The agencies may issue additional interpretive guidance as needed to further clarify the circumstances in which an institution will be considered to have provided implicit recourse.

One commenter responding to the 1994 Notice asked for clarification that a repurchase triggered by a breach of a standard representation or warranty (as defined below) would not be considered implicit recourse. Such a repurchase would not constitute implicit recourse because the repurchase is required by a contractual obligation created at the time of the sale.

5. Subordinated Interests in Loans or Pools of Loans

The definitions of recourse and direct credit substitute explicitly cover an institution's ownership of subordinated interests in loans or pools of loans. This continues the Banking Agencies' longstanding treatment of retained subordinated interests as recourse and recognizes that *purchased* subordinated interests can also function as credit enhancements. (The OTS currently treats both retained and purchased subordinated securities as recourse obligations.) Subordinated interests generally absorb more than their *pro rata* share of losses (principal or interest) from the underlying assets in the event of default. For example, a multi-class asset securitization may have several classes of subordinated securities, each of which provides credit enhancement for the more senior classes. Generally, the holder of any class that absorbs more than its *pro rata* share of losses from the total underlying assets is providing credit protection for all more senior classes.[8]

Two commenters questioned the treatment of purchased subordinated interests as recourse. Subordinated interests expose holders to comparable risk regardless of whether the interests are retained or purchased. If purchased subordinated interests were not treated as recourse, institutions could avoid recourse treatment by swapping retained subordinated interests with other institutions or by purchasing subordinated interests in assets originated by a conduit. The proposal would mitigate the effect of treating purchased subordinated interests as recourse by reducing the capital requirement on interests that qualify under the multi-level approach described in sections II.C, D, and E of this preamble.

6. Second Mortgages

Second mortgages or home equity loans would generally not be considered recourse or direct credit substitutes, unless they actually function as credit enhancements by facilitating the sale of the first mortgage. For example, this may occur if a lender has a program of originating first and second mortgages contemporaneously on the same property and then selling the first mortgage and retaining the second. In such a program, a second mortgage can function as a substitute for a recourse arrangement because it is intended that the holder of the second mortgage will absorb losses before the holder of the first mortgage does if the borrower fails to make all payments due on both loans.

The preamble to the 1994 Notice stated that a second mortgage originated contemporaneously with the first mortgage would be presumed to be recourse. Many commenters criticized this position as overly broad. The agencies agree and do not propose to retain the presumption.

However, the agencies expect institutions to follow prudent underwriting practices in making combined extensions of credit (*i.e.*, a contemporaneous first and second mortgage loan) or other second mortgages to a single borrower. If an institution does not apply prudent underwriting standards in making combined loans, the agencies will consider this practice in determining whether the institution is using such mortgages to retain recourse and generally in evaluating the soundness of the institution's underwriting standards and in determining the adequacy of the institution's capital.

7. Representations and Warranties

When a banking organization transfers assets, including servicing rights, it customarily makes representations and warranties concerning those assets. When a banking organization purchases loan servicing rights, it may also assume representations and warranties made by the seller or a prior servicer. These representations and warranties give certain rights to other parties and impose obligations upon the seller or servicer of the assets. The definitions in this proposal would treat as recourse or direct credit substitutes any representations or warranties that create exposure to default risk or any other form of open-ended, credit-related risk from the assets that is not controllable by the seller or servicer. This reflects the agencies' current practice with respect to recourse arising out of representations and warranties, and explicitly recognizes that a servicer with purchased loan servicing rights can also take on risk through servicer representations and warranties.

The agencies recognize, however, that the market requires asset transferors and servicers to make certain representations and warranties, and that most of these present only normal operational risk. Currently, the agencies have no formal definitions distinguishing between these types of standard representations and warranties and those that create recourse or direct credit substitutes. The proposal therefore defines the term "standard representations and warranties" and provides that seller or servicer representations or warranties that meet this definition are not considered to be recourse obligations or direct credit substitutes.

Under the proposal, "standard representations and warranties" are those that refer to an existing state of facts that the seller or servicer can either control or verify with reasonable due diligence at the time the assets are sold or the servicing rights are transferred. These representations and warranties will not be considered recourse or direct credit substitutes, provided that the seller or servicer performs due diligence prior to the transfer of the assets or servicing rights to ensure that it has a reasonable basis for making the representation or warranty. The term "standard representations and warranties" also covers contractual provisions that permit the return of transferred assets in the event of fraud or documentation deficiencies, (*i.e.*, if the assets are not what the seller represented them to be), consistent with the current Call Report Instructions governing the reporting of asset transfers. After a final definition of "standard representations and warranties" is adopted for the risk-based capital standards, the Banking Agencies would recommend to the FFIEC that the Call Report Instructions be changed to conform to the capital guidelines and the OTS would similarly amend the instructions for the Thrift Financial Report (TFR).

Examples of "standard representations and warranties" include seller representations that the transferred assets are current (*i.e.*, not past due) at the time of sale; that the assets meet specific, agreed-upon credit standards at the time of sale; or that the assets are free and clear of any liens (provided that the seller has exercised due diligence to verify these facts). An example of a nonstandard representation and warranty is an agreement by the seller to buy back any assets that become more than 30 days past due or default within a designated time period after the sale. Another example of a nonstandard representation and warranty is a representation that all properties underlying a pool of transferred mortgages are free of environmental hazards. This representation is not verifiable by the seller or servicer with reasonable due diligence because it is not possible to absolutely verify that a property is, in fact, free of all environmental hazards. Such an open-ended guarantee against the risk that unknown but currently existing hazards might be discovered in the future would be considered recourse or a direct credit substitute. However, a seller's representation that all properties underlying a pool of transferred mortgages have undergone environmental studies and that the studies revealed no known environmental hazards would be a "standard representation and warranty" (assuming that the seller performed the requisite due diligence). This is a verifiable statement of facts that would not be considered recourse or a direct credit substitute.

Some commenters responding to the 1994 Notice supported this proposed definition. Many commenters addressing the definition opposed it. Commenters objected to the definition for the following reasons: treating representations and warranties as recourse would place banks at a competitive disadvantage with other institutions; representations and warranties are not equivalent to recourse because the risk involved may be considerably less than the risk of borrower default; and representations and warranties that relate to operational risk should not be recourse because recourse is supposed to address only credit risks. Some commenters suggested the agencies replace the due diligence requirement with a "not known to be false" standard.

The agencies have decided to retain the proposed definition of standard representations and warranties for purposes of this proposal. Where a representation or warranty functions as recourse, failure to recognize the recourse obligation and to require appropriate capital would create a loophole that would defeat the purposes of the proposal.

The definitions of "recourse," "direct credit substitute," and "standard representations and warranties" are intended to treat as recourse or a direct credit substitute only those representations or warranties that create exposure to default risk or any other form of open-ended, credit-related risk from the assets that is not controllable by the seller or servicer. The agencies wish to clarify that only those representations and warranties that expose an institution to credit risk (as opposed to interest rate risk) will be classified as recourse or direct credit substitutes.

The proposal would treat as recourse a representation or warranty that functions as recourse but that is guaranteed by a third party. The agencies request comment on whether the recourse rules should place assets subject to a representation or warranty that constitutes recourse in the 20 percent risk weight category if a third party guarantees the representation or warranty and has unsecured debt that is rated in the highest rating category.

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assumes or accepts from third-party assets as well as risk that it retains in an asset transfer. Under the proposal, as explained below, credit risk that an institution assumes from third-party assets would fall under the definition of "direct credit substitute" rather than "recourse."

[8] Current OTS risk-based capital guidelines exclude certain high-quality subordinated mortgage-related securities from treatment as recourse arrangements due to their credit quality. Consistent with these capital guidelines, the proposed OTS rule text includes the face value of high-quality subordinated mortgage-related securities in the 20% risk weight category.

8. Loan Servicing Arrangements

The proposed definitions of "recourse" and "direct credit substitute" cover loan servicing arrangements if the servicer is responsible for credit losses associated with the loans being serviced. However, cash advances made by residential mortgage servicers to ensure an uninterrupted flow of payments to investors or the timely collection of the mortgage loans are specifically excluded from the definitions of recourse and direct credit substitute, provided that the residential mortgage servicer is entitled to reimbursement for any significant advances.[9] Such advances are assessed risk-based capital only against the amount of the cash advance, and are assigned to the risk-weight category appropriate to the party obligated to reimburse the servicer.

If the residential mortgage servicer is not entitled to full reimbursement, then the maximum possible amount of any nonreimbursed advances on any one loan must be contractually limited to an insignificant amount of the outstanding principal on that loan in order for the obligation to make cash advances to be excluded from the definitions of recourse and direct credit substitute. This treatment reflects the agencies' traditional view that servicer cash advances meeting these criteria are part of the normal mortgage servicing function and do not constitute credit enhancements.

Commenters generally supported the proposed definition of servicer cash advances. Some commenters asked for clarification of the terms "insignificant" and whether "reimbursement" includes reimbursement payable out of subsequent collections or reimbursement in the form of a general claim on the party obligated to reimburse the servicer. Nonreimbursed advances contractually limited to no more than one percent of the amount of the outstanding principal would be considered insignificant. Reimbursement includes reimbursement payable from subsequent collections and reimbursement in the form of a general claim on the party obligated to reimburse the servicer, provided that the claim is not subordinated to other claims on the cash flows from the underlying asset pool.

[9] Servicer cash advances include disbursements made to cover foreclosure costs or other expenses arising from a loan in order to facilitate its timely collection (but not to protect investors from incurring these expenses).

9. Spread Accounts and Overcollateralization

Several commenters requested that the agencies state in their rules that spread accounts and overcollateralization do not impose a risk of loss on an institution and are not recourse. By its terms, the definition of recourse covers only the retention of risk in a sale of assets. Neither a spread account (unless reflected on an institution's balance sheet) nor overcollateralization ordinarily impose a risk of loss on an institution, so neither would fall within the proposed definition of recourse. However, a spread account reflected as an asset on an institution's balance sheet would be a form of recourse or direct credit substitute and would be treated accordingly for risk-based capital purposes.

B. Treatment of Direct Credit Substitutes

The agencies are proposing to extend the current risk-based capital treatment of asset transfers with recourse, including the low-level recourse rule, to direct credit substitutes. As previously explained, the current risk-based capital assessment for a direct credit substitute such as a standby letter of credit may be dramatically lower than the assessment for a recourse provision that creates an identical exposure to risk. As noted previously, the OTS capital rule already treats most direct credit substitutes (other than financial standby letters of credit) in the same manner as recourse obligations.

Currently, an institution that sells assets with 10 percent recourse must hold capital against the full amount of the assets transferred. On the other hand, an institution that extends a letter of credit covering the first 10 percent of losses on the same pool of assets must hold capital against only the face amount of the letter of credit. Banking organizations are taking advantage of this anomaly by providing first loss letters of credit to asset-backed commercial paper conduits that lend directly to corporate customers, which results in a significantly lower capital requirement than if the loans had been on the organizations' balance sheets and were sold with recourse.

In the 1994 Notice, the agencies proposed to change only the treatment of direct credit substitutes that absorb the first dollars of losses from the assets enhanced. The agencies proposed to delay changing the treatment of other direct credit substitutes until a multi-level approach could be implemented. Some commenters suggested that the agencies adopt a comprehensive approach, implementing a change in the treatment of direct credit substitutes only in the context of a multi-level approach, and observed that a piecemeal approach would be unduly disruptive. The agencies agree and now propose to implement the change in the treatment of direct credit substitutes in combination with the multi-level approach. As proposed, the multi-level approach applies to direct credit substitutes and recourse obligations related to asset securitizations. The agencies request comment on how the final rule could prudently and effectively apply the multi-level approach to direct credit substitutes and recourse obligations not related to asset securitizations.

Several commenters objected to the proposed treatment of direct credit substitutes as recourse. Commenters objected that the proposed capital treatment would impair the competitive position of U.S. banks and thrifts and that the business of providing third-party credit enhancements has historically been safe and profitable for banks. Notwithstanding these concerns, the agencies believe that the current treatment of direct credit substitutes is not consistent with the treatment of recourse obligations, and that the difference in treatment between the two forms of credit enhancement invites institutions to convert recourse obligations into direct credit substitutes in order to avoid the capital requirement applicable to recourse obligations and balance-sheet assets. The agencies request comment on the proposed treatment of direct credit substitutes and on the effect of the proposed treatment on the competitive position of U.S. banks.

The Banking Agencies have raised the issue of increasing the capital requirement for direct credit substitutes and lowering the capital requirement for highly-rated senior securities with the bank supervisory authorities from the other countries represented on a subgroup of the Basle Committee on Banking Supervision in an effort to eliminate competitive inequities.

C. Multi-level Ratings-based Approach

Many asset securitizations carve up the risk of credit losses from the underlying assets and distribute it to different parties. A credit enhancement (that is, a recourse arrangement or direct credit substitute) that has no prior loss protection is a "first dollar" loss position. There may be one or more layers of additional credit enhancement after the first dollar loss position. Each loss position functions as a credit enhancement for the more senior loss positions in the structure. Currently, the risk-based capital standards do not vary the rate of capital assessment with differences in credit risk represented by different credit enhancement or loss positions.

To address this issue, the agencies are proposing a "multi-level" approach to assessing capital requirements on recourse obligations, direct credit substitutes, and senior securities in asset-securitizations based on their relative exposure to credit risk. The agencies are proposing a ratings-based approach that would use credit ratings from the rating agencies to measure relative exposure to credit risk and to determine the associated risk-based capital requirement. The use of credit ratings would provide a way for the agencies to use market determinations of credit quality to identify different loss positions for capital purposes in an asset securitization structure. This may permit the agencies to give more equitable treatment to a wide variety of transactions and structures in administering the risk-based capital system.

Under the ratings-based approach, the capital requirement for a recourse obligation, direct credit substitute, or senior security would be determined as follows: [10]

- A position rated in the highest investment grade rating category would receive a 20 percent risk weight.
- A position rated investment grade but not in the highest rating category would receive one of two alternative treatments the agencies are considering: (1) The "face value" option would apply a 100 percent risk weight to the book value or face amount of the position; or (2) the "modified gross-up" option would apply a 50 percent risk weight to the amount of the position plus all more senior positions. (Section II.D of this preamble discusses and provides examples of these two alternatives.)
- Recourse obligations and direct credit substitutes not qualifying for a reduced capital charge and positions rated below investment grade would receive "gross-up" treatment—the institution holding the position would hold capital against the amount of the position plus all more senior positions, subject to the low-level recourse rule.[11]

If a recourse obligation, direct credit substitute, or senior security receives different ratings from the rating agencies, the highest ratings would determine the capital treatment. For traded positions, the single highest rating would apply. For positions that require two ratings (see section II.C.3 of this preamble), the lower of the two highest ratings would apply.

1. 1994 Notice

The 1994 Notice described, in an advance notice of proposed rulemaking, a ratings-based approach under which investment grade positions rated in the highest rating category would receive a 20 percent risk weight and other investment grade positions would receive a 100 percent risk weight. Some commenters responding to the 1994 Notice supported the ratings-based approach described in that notice as a flexible, efficient, market-oriented way to measure risk in securitizations. Many commenters also noted that a ratings-based approach was not a perfect or complete solution, especially for non-traded positions that would otherwise not need to be rated. The agencies recognize additional options for non-traded positions could be useful in conjunction with or in lieu of the ratings-based approach and are considering other approaches, which are described in section II.E of this preamble.

In the 1994 Notice the agencies suggested that a ratings-based, multi-level approach should be restricted to transactions involving the securitization of large, diversified asset pools in which all forms of first dollar loss credit enhancement are either completely free of third-party performance risk or are provided internally as part of the securitization structure. Additionally, the agencies had suggested that the ratings-based approach be available only for positions other than first-loss positions. Many commenters pointed out that credit ratings incorporate this information and that the threshold criteria were redundant. The agencies agree and have not included these criteria in the proposal.

2. Effect of Ratings Downgrades

The ratings-based approach would be based on current ratings, so that a rating downgrade or withdrawal of a rating could change the treatment of a position under the proposal. However, a downgrade by a single rating agency rating would not affect the capital treatment of a position if the position still qualified for the treatment under another rating from a different rating agency.

3. Non-traded Positions

In response to the 1994 Notice, one rating agency expressed concern that regulatory use of ratings could undermine the integrity of the rating process.[12] Ordinarily, according to the commenter, there is a tension between the interests of the investors who rely on ratings and the interests of the issuers who pay rating agencies to generate ratings. Under the ratings-based approach, the holder of a recourse obligation or direct credit substitute that is not traded or sold may, in some cases, ask for a rating just to qualify for a favorable risk weight. The rating agency expressed a strong concern that, without the counterbalancing interest of investors who will be relying on the rating, rating agencies may have an incentive to issue inflated ratings.

In response to this concern, the agencies have developed proposed criteria to reduce the possibility of inflated ratings and inappropriate risk weights if ratings are used for a position that is not traded. The agencies are proposing that such a position could qualify for the ratings-based approach if: (1) It qualifies under ratings from two different rating agencies; (2) the ratings are publicly available; (3) the ratings are based on the same criteria used to rate securities sold to the public; and (4) at least one position in the securitization is traded.

For purposes of this proposal a position is considered "traded" if, at the time it is rated, there is a reasonable expectation that in the near future: (1) The position may be sold to investors relying on the rating or (2) a third party may enter into a transaction such as a loan or repurchase agreement involving the position in which the third party relies on the rating of the position.

In Section II.E of this preamble, the agencies describe two alternative approaches to the ratings-based approach for non-traded securitization positions: the "ratings benchmark" approach and the "historical loss" approach. The agencies may decide to adopt either or both of these approaches, or portions of them, to either replace or supplement the ratings-

[10] In this preamble, "AAA" refers to the highest investment-grade rating, and "AA", "A", and "BBB" refer to other investment-grade ratings. These rating designations are illustrative and do not indicate any preference or endorsement of any particular rating agency designation system.

[11] Under the "gross-up" treatment, a position is combined with all more senior positions in the transaction. The result is then risk-weighted based on the nature of the underlying assets. For example, if an institution retains a first-loss position in a pool of mortgage loans that qualify for a 50 percent risk weight, the institution would include the full amount of the assets in the pool, risk-weighted at 50 percent, in its risk-weighted assets for purposes of determining its risk-based capital ratio. The "low level" recourse rule limits the capital requirement for recourse obligations to the institution's maximum contractual obligation. 12 U.S.C. 4808.

[12] See T. McGuire, Moody's Investors Service, Ratings in Regulation: A Petition to the Gorillas (1995).

based approach for non-traded positions.

(*Question 2*) How could the agencies prudently and effectively apply the multi-level approach to direct credit substitutes and recourse obligations not related to asset securitizations?

(*Question 3*) What would be the most appropriate oversight mechanism for verifying ratings on nontraded positions? For instance, should an institution be required to obtain a detailed explanation from the rating agency of the basis for the rating on the non-traded position? Should the institution be required to make this substantiating information available to the regulatory agencies for review purposes?

(*Question 4*) How can the agencies determine if a rating on a non-traded position is inappropriately high? Does any available evidence show that regulatory rules based on ratings for traded positions have led to inappropriately high ratings?

(*Question 5*). For a rated position to be considered traded, an institution must have a reasonable expectation when the position is rated that a sale or other transaction involving the position will take place in the near future. The agencies request comment on this definition and on the time period that is appropriate to use for defining the "near future."

D. Face Value and Modified Gross-up Alternatives for Investment Grade Positions Below the Highest Investment Grade Rating

1. Description of Approaches

The agencies are seeking comment on two alternative approaches for calculating the capital requirement for investment grade positions rated below the highest investment grade level (*i.e.*, AAA).[13] One alternative, the "face value" approach, would apply a 100 percent risk weight to the book value or face amount of all investment grade positions below the highest investment grade level, regardless of their position within a securitization structure. The other alternative, the "modified gross-up" approach, would gross-up all investment grade positions below the highest investment grade level and then apply a 50 percent risk weight to the grossed-up amount. For senior investment grade positions below the highest investment grade level, this approach would have the effect of applying a 50 percent risk weight to these positions.[14] The agencies seek comment on which of these two alternative approaches should be adopted or on possible alternatives to the two described here.

a. Rationale for the Modified Gross-Up Proposal.—The modified gross-up approach is being proposed because of a concern that junior positions that represent only a small portion of a securitization (so-called "thin-strip" mezzanine positions) may qualify for an investment grade rating despite a concentration of risk on the position that makes them substantially more risky than investment grade whole securities with the same underlying collateral. Some rating agencies do not take into account the severity of loss posed by this risk concentration when rating these mezzanine positions. Other rating agencies do so in a way that may be insufficient for risk-based capital purposes. (*See* detailed explanations in subsections b and c).

An underlying premise of the modified gross-up approach is that an investment grade thin-strip mezzanine piece likely poses more risk of a larger percentage loss than a similarly rated whole asset-backed security. This additional risk is related to the variability of losses on the mezzanine position.[15]

Additionally, there is some evidence that investors account for the additional concentration of credit risk in thin-strip mezzanine positions by demanding higher yields for these positions. This is especially the case for ratings that do not account for severity of loss on the mezzanine position.

The modified gross-up capital treatment is designed to account for the fact that a thin-strip mezzanine position and whole security with the same credit ratings have similar credit risks and should, therefore, have similar dollar capital requirements. Relative to the "face value" treatment, it would more fully account for the concentration risk in these positions as it relates to the current risk-based capital framework.

The modified gross-up proposal would gross-up mezzanine positions to take into account any additional credit risk concentration that may not be fully captured by the ratings. However, if such positions are rated investment grade, but are below the highest investment grade level, this proposal would place their grossed-up amounts in the 50 percent risk weight category. In addition, senior investment grade positions below the highest investment grade level would be placed in the 50 percent risk weight category. The 50 percent risk weight was selected because it lies between the agencies' proposed 20 percent risk weight for the highest investment grade level and the 100 percent risk weight that applies to most positions below investment grade that would be fully grossed-up in this proposed rule.

b. Concerns with Ratings Based on Probability of Default. The agencies understand that certain rating agencies base their ratings on the probability that the position will experience any losses, regardless of the severity of loss on the position. These types of ratings will be referred to as "probability of default" ratings.

If a rating for a security is based solely on the probability of default (*i.e.*, the probability of any losses), both a whole asset-backed security and a junior security carved out of that whole security will receive exactly the same rating. Both securities have the same probability of default. Since the junior piece is smaller than the whole security, any losses on the security's underlying loan pool will create a larger loss as a percentage of the junior piece (*i.e.*, a higher loss severity) than the percentage loss on the larger whole security.

Consider the following: Assume that $1,050 in commercial loans are used to create a $1,000 whole security, Security 1, and a $50 credit enhancement supporting Security 1. The $1,000 security receives the lowest investment grade rating (BBB), based on the $50 credit enhancement (the C piece). The $1,000 security is subsequently divided into two pieces, a $900 senior piece, Security 2A (the A piece), and a $100 junior piece, Security 2B (the B piece, which is the mezzanine position between the A and C pieces). The senior piece receives a AAA rating because its probability of default has decreased. The junior piece, on its own, will still receive a BBB rating because its probability of default is the same as the $1,000 whole security prior to dividing the whole security into two pieces. The percentage impact of any unexpected losses on the junior piece, though, can be many times greater than that on the whole security because any losses on the underlying pool of loans will be absorbed by the smaller principal amount of the junior security. (*See* Figure 1.)

Assume that most of the risk of credit loss for the $1,050 pool of commercial loans described previously is concentrated in the bottom $150 portion of the loans. The credit enhancement (the C piece) would absorb the first $50 of losses. The $100 junior piece (*i.e.*, Security 2B, the mezzanine position) would, therefore, contain the balance of the credit risk of the $1,000 whole security. Since most of the credit risk of the $1,000 whole security is concentrated in this junior piece, for capital adequacy purposes, the appropriate dollar capital charge on the $100 junior piece and the $1,000 security should, in theory, be approximately the same. This would produce an equal capital buffer for positions with approximately equal credit risk. On a percentage basis, applying the same dollar capital charge against this mezzanine position and the whole security results in a ten-times higher percentage requirement on the mezzanine position than the "face value" option because its face value is one-tenth the size of the whole security ($100 versus $1,000).

c. Concerns with Ratings Based on Expected Losses. The agencies understand that some ratings are provided based on expected losses (*i.e.*, the sum of all the possible losses weighted by the probabilities of their occurrence) rather than just the probability of default. This approach takes into account both the severity and likelihood of losses, and therefore addresses some of the problems presented by the probability of default approach. Rating agencies that use the expected loss approach require a small increase in the credit enhancement (the C piece) supporting the junior piece (Security 2B) in order for this piece to obtain the same credit rating as the whole security (Security 1). While this additional credit enhancement is required to account for the concentration of credit risk in the junior piece, for risk-based capital purposes, the enhancement may not fully compensate for this concentration risk. (Figure 2)

d. Concerns About Modified Gross-up Proposal. There is some concern that the additional capital that the modified gross-up approach requires for certain situations may be disproportionate to the extent to which ratings, in fact, fail to capture the concentration of risk in mezzanine positions. In particular, for multi-tier securitizations that have several investment grade tiers below the highest investment grade rating, the modified gross-up approach may require too much capital when all tiers are held in the banking system because each tier would be grossed up and placed in the 50 percent risk weight category. Example 4 illustrates this concern.

(Question 6). The agencies request comments comparing the face value treatment with the modified gross-up treatment, and on other refinements the agencies could consider to address their concerns regarding the capital charge that would apply to thin-strip mezzanine positions under the ratings-based approach.

(Question 7). For the modified gross-up approach, the agencies have some concern that a 50 percent risk-weighting may be inappropriate to apply to the grossed-up positions of securitizations. If this is the case, what should the alternative risk weight be for the grossed-up security and what data are available to support this alternative risk weight?

(Question 8). For a thin-strip mezzanine position, a rating agency that uses the expected losses approach requires a higher credit enhancement to obtain a specified rating than a rating agency that uses the probability of loss approach because the former takes into account the loss severity of the position. Should the agencies have different capital standards based on which of the two approaches is used for determining the rating for the position?

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[13] The option that is chosen would be applicable to the ratings benchmark and historical loss approaches discussed later in this preamble.

[14] If a subordinated position receives the highest investment grade rating, it would not be grossed up under the modified gross-up approach. This is due to the relatively low risk implied by the rating.

[15] The variability of loss can be characterized by its variance, which measures the distribution of potential losses around the expected loss. The larger the variance, the more likely that the actual outcome will be further away from the expected loss. For example, consider two securities with the same expected loss. The first security has two possible loss scenarios, $7 and $13, that each have a probability of 50 percent. The expected loss on this security is $10, but its variance is 9 and its standard deviation is 3. A second security has two possible loss scenarios, $0 and $20, that also have probabilities of 50 percent. The expected loss on this security is also $10, but its variance is 100 and its standard deviation is 10. The variances and standard deviations for the two securities are very different. From a capital adequacy standpoint, the second security poses a greater risk of loss than the first security. Hence, the second security should have a larger capital cushion, even though the expected loss on both positions is the same.

Figure 1 -- Probability of Loss Approach
(Security 1 and Security 2B are Rated BBB, Security 2A is Rated AAA)

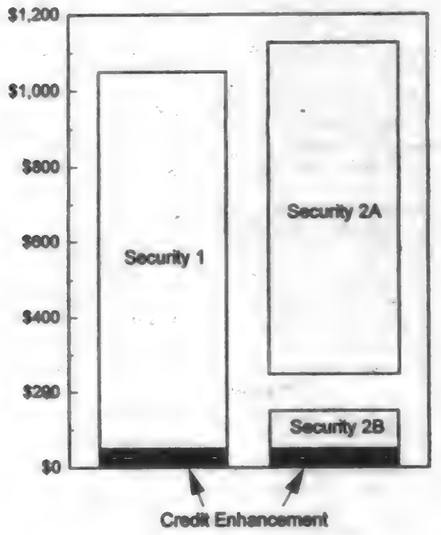
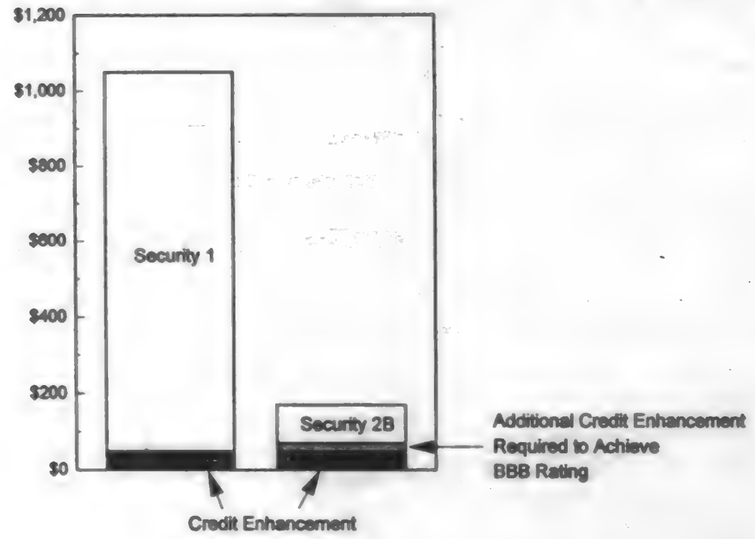


Figure 2 -- Expected Value Approach
(Security 1 and Security 2B are Rated BBB)



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2. Examples of Face Value and Modified Gross-up Approaches

The capital requirements under the modified gross-up approach would differ substantially from a face-value treatment. The modified gross-up approach results in a higher capital requirement for thin-strip BBB-rated mezzanine positions than the face value approach. On the other hand, for senior BBB-rated positions, the modified gross-up approach results in a lower capital requirement than the face value approach.

For instance, based on the example cited previously, the modified gross-up approach for the $100 BBB-rated mezzanine position (Security 2B) would produce a capital charge of $40 (the grossed-up amount which is equal to Security 2A plus Security 2B, $1,000, times 50 percent times 8 percent) while the face value approach would produce a capital requirement of $8 (the face amount of Security 2B, $100, times 100 percent times 8 percent). For the $1,000 senior BBB-rated position (Security 1, the whole security), the modified gross-up approach would produce a capital requirement of $40 ($1,000 times 50 percent times 8 percent) while the face value approach would produce a capital requirement of $80 ($1,000 times 100 percent times 8 percent).

The four following examples illustrate, for various types of securitization structures, the capital requirements for thrifts and banks under current rules and under the proposed face value and modified gross-up alternatives.

Example 1

Bank A issues three classes of securities that are backed by a $100 million pool of loans. These classes include a bottom-level (first-loss) subordinated class of $11 million, a publicly-traded middle-level subordinated class of $9 million, and a publicly-traded senior class of $80 million. Bank A retains the bottom-level class and sells the other two classes to other banks or thrifts.

Under the face value and modified gross-up approaches, Bank A, retaining the bottom-level subordinated class, would be required to hold risk-based capital equal to 8 percent of the $100 million pool or $8 million (the full effective risk-based capital requirement for the outstanding amount of the assets enhanced). Assume that because the subordinated class provides sufficient first dollar loss enhancement, a nationally recognized statistical rating organization gives the $9 million publicly-traded middle class the lowest investment grade rating. Under the face value approach, the capital requirement for an institution holding the position would be 8 percent of $9 million or $720 thousand. Under the modified gross-up approach the capital requirement is 4 percent (50 percent times 8 percent) of the grossed-up amount of $80 million ($9 million plus $80 million) or $3.56 million. Finally, assume that the $80 million senior class receives the highest credit rating, which qualifies it for a 20 percent risk weight under both approaches. The capital requirement for an institution holding this piece would be 1.6 percent (20 percent times 8 percent) of $80 million or $1.28 million. Table 1 summarizes this example.

TABLE 1.—A–B–C STRUCTURE
[Underlying Assets—$100 million of Non-Mortgage Loans]

Position	Size ($ mil)	Credit rating	Current capital requirement for thrifts ($ mil)	Current capital requirement for banks ($ mil)	Face value approach ($ mil)	Modified gross-up approach ($ mil)
A	$80	AAA	$6.40	$6.40	$1.28	$1.28
B	9	BBB	7.12	0.72	0.72	3.56
C	11	Unrated	8.00	8.00	8.00	8.00
Total Capital			21.52	15.12	10.00	12.84

Example 2

Bank A issues two classes of securities that are backed by a $100 million pool of loans. These classes include a bottom-level (first-loss) subordinated class of $20 million and a publicly-traded senior class of $80 million. Bank A retains the bottom-level class and sells the senior class to other banks or thrifts.

Under both the face value and the modified gross-up approaches, Bank A, retaining the bottom-level subordinated class, would be required to hold risk-based capital equal to 8 percent of the $100 million pool or $8 million (the full effective risk-based capital requirement for the outstanding amount of the assets enhanced). Assume that because the subordinated class provides sufficient first dollar loss enhancement, a nationally recognized statistical rating organization gives the $80 million publicly-traded senior class an A rating. Under the face value approach, the capital requirement for an institution holding position would be 8 percent of $80 million or $6.4 million. Under the modified gross-up approach, the capital requirement is 4 percent (50 percent times 8 percent) of the grossed-up amount of $80 million (which, in this case, is the senior piece) or $3.2 million. Table 2 summarizes this example.

TABLE 2.—A–B STRUCTURE
[Underlying Assets—$100 million of Non-Mortgage Loans]

Position	Size ($ mil)	Credit rating	Current capital requirement for thrifts ($ mil)	Current capital requirement for banks ($ mil)	Face value approach ($ mil)	Modified gross-up approach ($ mil)
A	$80	A	$6.40	$6.40	$6.40	$3.20
B	20	Unrated	8.00	8.00	8.00	8.00
Total Capital			14.40	14.40	14.40	11.20

Example 3

Bank A issues four classes of securities that are backed by a $160 million pool of mortgage loans. These classes include a bottom-level (first-loss) subordinated class of $0.75 million (the D position), two thin publicly-traded middle-level subordinated classes (the B and C positions, $1.5 and $0.75 million, respectively), and a senior class of $97 million which meets the requirements for a SMMEA security. Bank A retains the bottom-level class and sells the other three

classes to banks or thrifts. (Under current rules, the Banking Agencies apply a 100 percent risk weight to the B and C positions, even though the underlying assets have a 50 percent risk weight, because the B and C positions are subordinated.)

Under both the face value and the modified gross-up approaches, Bank A, retaining the bottom-level subordinated class, would be required to hold risk-based capital equal to 4 percent of the $100 million pool, limited to its $0.75 million maximum exposure (low-level recourse). Assume that because the subordinated class provides sufficient prior credit enhancement to the classes above it, a nationally recognized statistical rating organization gives the two publicly-traded middle classes ratings of BBB and A and the senior class a rating of AAA. The capital requirements for the various tranches are as follows. The current treatment for banks holding the $87 million AAA-rated senior mortgage position is to apply a 50 percent risk weight to the position resulting in a capital requirement of $3.66 million ($87 million times 50 percent times 8 percent). The current treatment for thrifts holding this $87 million position is to apply a 20 percent risk weight to the position resulting in a capital requirement of $1.552 million ($87 million times 20 percent times 8 percent). Under both the face value and modified gross-up approaches, the 20 percent risk weight would apply to the $87 million position. For the two investment grade positions below AAA (the B and C positions), the current thrift rules require full gross-up of the positions and the resulting capital requirement is subject to the low-level recourse rule that limits the requirement to the size of the position. The modified gross-up approach results in a capital requirement exceeding the size of the position and would also be subject to the low-level rule. The current bank rules, which use the face value approach, would apply a 100 percent risk weight to the position. Table 3 summarizes this example.

TABLE 3—MULTI-TRANCHE STRUCTURE

[Underlying Assets—$100 million of 50 percent Risk-Weight Mortgage Loans]

Position	Size ($ mil)	Credit rating	Current capital requirement for thrifts ($ mil)	Current capital requirement for banks ($ mil)	Face value approach ($ mil)	Modified gross-up approach ($ mil)
A	$97.0	AAA	$1.552	$3.680	$1.552	$1.552
B	1.5	A	1.500	0.120	0.120	1.500
C	0.75	BBB	0.750	0.060	0.060	0.750
D	10.75	Unrated	0.750	0.750	0.750	0.750
Total Capital			4.552	4.810	2.482	4.552

Example 4

A bank issues seven classes of securities (A through G) backed by a $100 million pool of loans and retains a junior $6 million subordinated interest. Additional credit enhancement available to the class G securities enables those securities to obtain an A rating. The other positions are rated as indicated in Table 4.

TABLE 4—MULTI-TRANCHE STRUCTURE

[Underlying Assets—$100 million of Non-Mortgage Loans]

Position	Size ($ mil)	Credit rating	Current capital requirement for thrifts ($ mil)	Current capital requirement for banks ($ mil)	Face value approach ($ mil)	Modified-gross-up approach ($ mil)
A	$32	AAA	$2.56	$2.56	0.51	0.51
B	21	AAA	4.24	1.68	0.34	0.34
C	17	AAA	5.60	1.36	0.27	0.27
D	6	AA	6.00	0.48	0.48	3.04
E	6	A	6.00	0.48	0.48	3.28
F	6	BBB	6.00	0.48	0.48	3.52
G	6	A	6.00	0.48	0.48	3.76
Retained	6	Unrated	6.00	6.00	6.00	6.00
Total Capital			42.40	13.52	9.04	20.72

E. Alternative Approaches

1. Ratings Benchmark Approach

a. Description of Approach. Because of some concerns with the use of the ratings-based approach for non-traded positions, the agencies are considering another alternative—the ratings benchmark approach. Under this alternative, the agencies would issue benchmark guidelines that would be used in assessing the relative credit risk of non-traded positions in specified standardized securitization structures. The ratings benchmarks would set credit enhancement requirements and other pool standards for such securitizations. If a non-traded position in such a securitization fulfills the applicable standards, and the securitization structure includes at least one traded position, the non-traded position will be eligible for the same capital treatment as investment-grade positions under the ratings-based approach.

The agencies are considering this approach: (1) To recognize and build on consensus in the market regarding the amount of prior credit enhancement and pool standards necessary to obtain an "A" rating from the rating agencies; (2) To reduce the cost and regulatory burden of requiring institutions to obtain ratings on non-traded positions in such securitizations; and (3) To ensure that the agencies retain supervisory discretion to supplement the rating agencies' standards by adding criteria that the agencies consider essential to protect the safe operation of insured institutions.

b. Development and Application of Ratings Benchmarks. The credit enhancement requirements and other pool standards for each type of securitization would be based on information available from the rating agencies regarding the relative credit risk of various types of asset pools. The ratings benchmark for each type of pool would be based on the rating agencies' requirements for credit enhancement and other pool standards necessary for the assignment of an "A" rating. Relying on the "A" rating standard provides assurance of a level of credit quality and permits the use of a relatively simple benchmark, while ensuring that the noninvestment-grade positions are not given preferential capital treatment.

The agencies would limit the application of the ratings benchmark approach to positions in a securitization structure in which there is at least one traded position. This limitation is intended to ensure that the pool standards imposed on securitizations by the rating agency selected to rate the traded position would provide an extra measure of protection reinforcing the agencies' benchmark standards.

To be eligible for the capital treatment under the ratings benchmark approach, the benchmarks would require a specified amount of prior credit enhancement based on the type of asset securitization involved. Recourse arrangements and direct credit substitutes that fail to satisfy the applicable benchmarks would be grossed-up.[16]

Under the ratings benchmark approach, qualifying prior credit enhancements include: cash collateral accounts,[17] subordinated interests or classes of securities; spread accounts,[18] including those funded initially with a loan repaid from excess cash flow; and other forms of overcollateralization involving excess cash flows (e.g., placing excess receivables into the pool so that total cash flows expected to be received exceed cash flows required to pay investors). These forms of credit enhancement are consistent with the proposal contained in the 1994 Notice which defined prior credit enhancement for the purposes of applying the multi-level ratings based approach.

Consistent with comments received on the 1994 Notice and the types of credit enhancement generally relied on by the ratings agencies in rating asset pools, the agencies would also permit forms of prior credit enhancement involving third-party performance risk. Specifically, the agencies would permit: pool insurance, financial guarantees, and standby letters of credit issued or guaranteed by companies rated or whose debt is rated, in the highest two investment categories by two rating agencies or similar rating organizations. Third party credit enhancements would qualify under the ratings benchmark approach if: (1) the credit enhancement absorbs credit losses before an institution's non-traded position absorbs losses; and (2) the credit enhancement represents an unconditional obligation of the third party providing the enhancement.

c. Computation of Capital Requirements under the Ratings Benchmark Approach. Non-traded positions in asset securitizations meeting the benchmark standards would receive the same capital treatment as investment grade positions under the ratings-based approach (*i.e.*, either the face value treatment or the modified gross-up treatment). Eligible positions would not be subject to the full gross-up treatment.

If the agencies have not developed a ratings benchmark for a specific type of transaction, or if a position in a securitization structure does not qualify under an established benchmark, the non-traded position will be subject to the full gross-up approach, unless it otherwise qualifies for the multi-level treatment under some other approach for non-traded positions ultimately adopted in this rulemaking.

d. Publication of Benchmarks. Initial benchmarks are provided for securitizations backed by residential mortgages, credit cards, auto loans, trade receivables, and commercial real estate. The prior credit enhancement requirements and other pool standards contained in these initial benchmarks have been based on discussions with rating agencies and public information submitted to the agencies in this rulemaking.[19] Public comment is solicited on all aspects of the ratings benchmark approach, including the standards contained in the benchmarks.

If the ratings benchmark approach is adopted, the agencies would update the benchmarks at least once every two years based on a survey of rating agencies. The revisions to the benchmarks for each asset type would be based on the average of the two highest enhancement requirements of the rating agencies responding to a survey.

Additionally, if this approach is adopted, the agencies would establish new benchmarks for additional types of securitizations based on continuing discussions with insured institutions and rating agencies regarding appropriate pool standards and market developments. New benchmarks would be issued only for types of securitizations for which the agencies believe there is a market consensus on: (1) The amount of prior credit enhancement; and (2) the pool standards that such securitization positions generally must satisfy to obtain the equivalent of an "A" rating from rating agencies.

The biennial changes to established benchmarks and the addition of new benchmarks would be published for notice and comment in the Federal Register. The publication would indicate the amount of credit enhancement required for the type of securitization, and set forth other pool standards and restrictions. After considering any comments, the agencies would publish the revised benchmarks in the Federal Register.

e. Implementation. The agencies may adopt all or part of this approach without reproposal, as modified based on comments, in the final rule issued in this rulemaking. In addition, if the agencies adopt this approach in the final rule, they may initially implement the approach on a smaller scale. For example, the approach may initially be limited to use with securitizations backed by residential mortgages, credit card or trade receivables. Non-traded positions in other types of securitizations would either have to qualify for some other approach adopted in the final rule or be subject to the full gross-up approach.

f. Benchmarks. Following are draft initial ratings benchmarks for securitizations backed by residential mortgages, credit cards, automobile loans, trade receivables, and commercial real estate.

[16] If a non-traded position failed to comply with any revised benchmark standards for the specific asset type, the position would be subject to the gross-up approach.

[17] A cash collateral account is a separate account funded with a loan from the provider of the credit enhancement. Funds in the account are available to cover potential losses.

[18] A spread account is typically a trust or special account that the issuer establishes to retain interest rate payments in excess of the sum of the amounts due investors from the underlying assets, plus a normal servicing fee rate. The excess spread serves as a cushion to cover potential losses on the underlying loans.

[19] See Duff and Phelps Credit Rating Company Presentation to Federal Financial Institutions Examinations Council (April 18, 1995). This document is available for public review in the FFIEC public reference room at 2100 Pennsylvania Avenue, NW., Suite 200 Washington, DC. The benchmarks in this document, however, do not purport to reflect the current standards of that company or any specific rating agency.

RESIDENTIAL MORTGAGE-BACKED SECURITIES

Pool Type[1, 2]	"Rating Benchmark" prior credit enhancement required for "A" rating	Pool standards
30-year loans	1.6 percent	Pools include at least 400 loans for each pool type.
15-year loans	0.8 percent	No borrower concentration over 3 percent for each pool type.
Adjustable Rate Mortgages (ARMs) (1,5), (2,6).	2.4 percent	
Hybrid loans (fixed-to-variable).	2.4 percent	
Balloon loans	2.0 percent For no documentation and reduced documentation loans, multiply the above enhancements by 2. For condominiums, two-to-four family, and cooperative apartments, multiply the above enhancements by 2. For B and C loans, multiply the above enhancements by 3. For loan-to-value (LTV) ratios equal to or below 80 percent: —Use above enhancements. —Multiply above enhancements by 2, if there is purchase mortgage insurance (PMI) that brings loans below 80 percent. For LTV ratios above 80 percent, multiply the above enhancements by 4. For the first five years of the securitization, the above enhancement requirement, as a percentage of the outstanding principal, remains fixed. For years six through ten, the enhancement requirement would be multiplied by 0.75. Beyond ten years, the enhancement would be multiplied by 0.5[3, 4].	

[1] For positions that represent less than 10 percent of the size of the underlying pool of loans, add 20 percent to the enhancement level.
[2] For closed-end second mortgage securities, determine the LTV ratio of the loans in the security and apply the enhancement requirements for the underlying collateral. In addition, change the 15-year enhancement requirement to 1.6 percent due to increased risk of security.
[3] The reduction in the multiplier over time reflects the reduced risk of the mortgage portfolio due to seasoning.
[4] For a six-year old 15-year mortgage-backed security backed by B and C loans that have LTV ratios above 80 percent, the enhancement would be 0.8 percent x 3 x 4 x 0.75 = 7.2 percent.

ASSET-BACKED SECURITIES

Pool Type[1]	"Rating Benchmark" prior credit enhancement required for "A" rating	Pool standards
Credit cards[2]	The higher of 6 percent or 1.2 times lagged charge-off rate[3]	Enhancement has access to excess spread.
Auto Loans:		
Prime (A type)	7.0 percent	Sellers of automobile loans must have at least three years of historical information.
Sub-prime (B, C, and D types).	The higher of 15.0 percent or 3 times net expected loss rate[4]	Enhancement has access to excess spread.
Trade Receivables	12.0 percent per loan pool[5] (if all sellers of trade receivables are rated 1 or 2) 18.0 percent per loan pool[5] (if any seller of trade receivables is rated 3 or 4 and no lower than 4).	Pools may not have seller concentrations above 5 percent of pool amount. Based on Federal Reserve Board rating criteria for trade receivables, each seller must be rated between 1 and 4. For credit cards and auto loans, pool must be randomly selected and nationally-diversified.
	The above enhancements will remain fixed as a percentage of outstanding principal, with a floor of 3 percent of original principal.	

[1] For positions that represent less than 10 percent of the size of the underlying pool of loans, add 20 percent to the credit enhancement level.
[2] Credit cards include home equity lines of credit that are similar to credit card loans.
[3] Lagged charge-off rate is based on the monthly average of past six month's charge-offs, multiplied by twelve, then divided by the average outstanding balance from a year ago.
[4] Net expected loss rate is the monthly average of last quarter's gross default amount netted against recoveries, multiplied by twelve, then divided by the average outstanding loan balance for the last quarter.
[5] Overcollateralization amount would count toward credit enhancement.

COMMERCIAL MORTGAGE-BACKED SECURITIES

Pool type[1]	"Rating Benchmark" prior credit enhancement required for "A" rating	Pool standards
Office	26.0 percent	Debt-service coverage at least 1.25

COMMERCIAL MORTGAGE-BACKED SECURITIES—Continued

Pool type[1]	"Rating Benchmark" prior credit enhancement required for "A" rating	Pool standards
Regional Mall	10.0 percent	Debt-service coverage at least 1.35
Industrial/Anchored Retail	13.0 percent	Debt-service coverage at least 1.35
Multifamily	17.0 percent	Debt-service coverage at least 1.25
	The above enhancements are for pools of loans with loan-to-value ratios less than or equal to 70 percent. For pools of loans with greater than 70 percent loan-to-value ratio, multiply the above enhancements by 1.5.	For each type of pool above: —No borrower concentration over 5 percent of pool amount. —The amortization schedule does not exceed 25 years.
	For pools with property quality below the B level, multiply the above enhancements by 1.5. The above enhancements will remain fixed as a percentage of outstanding principal, with a floor of 3 percent of original principal[2].	

[1] For positions that represent less than 10 percent of the underlying pool of loans, add 20 percent to the credit enhancement level.
[2] For example, the enhancement for a security containing regional mall loans with an 80 percent LTV ratio and B quality property would be 10 percent x 1.5 x 1.5 = 22.5 percent.

g. Examples. To determine the dollar amount of prior credit enhancement required for a non-traded position of a securitization, the percentages shown in the benchmarks would be applied to the outstanding amount of the underlying loans in the securitization and monitored regularly by the regulatory agencies and by institutions. For example, for residential mortgage loans, the credit enhancement for a non-traded securitization position must be maintained at the outstanding principal level multiplied by 100 percent of the benchmark level for years one through five. For years six through ten, the required enhancement would be set at 75 percent of the benchmark level. For years eleven and beyond the enhancement requirement would be set at 50 percent of the benchmark level.[20]

Example of a Residential Mortgage Securitization. Assume an institution has provided a 3 percent guarantee on a $6 million mezzanine position of a $200 million residential mortgage securitization. The junior position is a $10 million piece held by a second institution. The underlying mortgages are 15-year fixed-rate "B" and "C" residential mortgage loans with no greater than 70 percent loan-to-value ratios (LTV), with no private mortgage insurance. The benchmark requirement would be 0.6 percent (15-year mortgages) times 1 (70 percent LTV ratio) times 3 ("B" and "C" loans) or 2.4 percent of the securitization amount of $200 million, which equals $4.8 million. Since the $10 million junior position exceeds $4.8 million, the guarantee would not be subject to the gross-up approach.

After one year, losses on the pool are $2 million and the size of the pool decreases to $190 million. The benchmark requirement would be 2.4 percent of $190 million or $4.5 million. Since the junior piece of $8 million still exceeds $4.5 million, the guarantee would still not be subject to the gross-up approach.

Example of a Credit Card Securitization. Assume an institution has provided a guarantee for the bottom 15 percent of a $100 million credit card securitization. This bottom position is unrated. A third party provides a cash collateral account of 7 percent or $7 million in front of the unrated position. Because the pool is new, the institution must project the annual loss experience on the pool.[21] In this case, it projects 4 percent. Based on the benchmarks, the 4 percent should be multiplied by 1.2 and then compared with 6 percent to determine which of the two numbers is higher. Since 6 percent is higher, the benchmark requirement becomes 6 percent of $100 million or $6 million. Since the cash collateral account of $7 million exceeds 6 percent of $100 million, the guarantee would receive a risk weight that is lower than under the gross-up approach.

After one year, the pool of credit card loans decreases to $80 million. The experience on these credit card loans indicates that the lagged loss rate of the loans is 7 percent of the pool, not 4 percent as projected. In addition, assume the cash collateral account provided by the third party decreases to $5 million net of excess cash flows and pool losses. The benchmark is the higher of 6 percent or 8.4 percent (1.2 times 7 percent). The 8.4 percent benchmark is applied to the $80 million pool resulting in a required enhancement of $6.7 million. Since this exceeds the $5 million cash collateral account, the gross-up approach would be applied to the guarantee. To avoid the fully-grossed-up treatment, the third party would need to increase the cash collateral account by $1.7 million to $6.7 million.

Example of a Trade Receivable Securitization. Assume an institution has provided a guarantee on the bottom 12 percent portion of an asset-backed commercial paper program. All of the seller programs within the structure are rated 1 or 2 by the regulator. No program within the structure represents more than 5 percent of the pool and each program within the pool has 15 percent overcollateralization. The guarantee on this commercial paper program would not be grossed up because it is well-diversified, all programs are rated 1 or 2, and the overcollateralization exceeds 12 percent.

Assume that after six months, two of the pool's overcollateralization levels decrease to 10 percent and one of the seller programs is rated 3. The guarantee would be subject to the gross-up

[20] The reduction in the required credit enhancement amount over time is due to the reduced credit risk of seasoned mortgage loan pools.

[21] If the institution has experience with this type of pool, then this historical experience should be used to determine the loss rate required to determine the benchmark.

approach for either of two reasons. First, none of the seller programs have 18 percent collateral, which is the new requirement based on the one program that is rated 3. Second, even if the one program was not rated 3, the two programs with 10 percent collateral do not meet the 12 percent collateral requirement for 1- and 2-rated seller programs.

(*Question 9*) What changes, if any, should be made to the amounts of prior credit enhancement and the pool standards required by the agencies' benchmarks? Please provide supporting information, if available.

(*Question 10*) Can the benchmark standards be simplified without unduly relaxing the protection afforded to institutions by these standards?

(*Question 11*) What additional types of pools and securitization transactions are sufficiently standardized and homogenous to permit the agencies to develop reliable benchmarks? Would it be reasonable to handle these securitizations on a case-by-case basis using the best available data from the rating agencies at the time of the securitization?

(*Question 12*) Is the biennial review and update of the benchmarks appropriate?

(*Question 13*) Please comment on ways the agencies could most effectively evaluate and monitor institutions' use of ratings benchmarks in the examination process with the least possible burden on institutions and examiners.

(*Question 14*) Should the agencies adopt both the ratings-based approach and ratings benchmark approach for non-traded positions? Alternatively, should the agencies adopt only one of these approaches for non-traded positions in rated securitizations?

(*Question 15*) If the agencies decide to adopt both approaches, should institutions be given the discretion to elect which of these approaches to use for their non-traded positions? On the other hand, if the agencies adopt the ratings benchmark approach, should the ratings-based approach be used for non-traded positions in securitizations for which a benchmark has not been developed?

(*Question 16*) Please compare the relative financial and operational burdens that would be imposed on institutions by the ratings-based approach and ratings benchmark approach for non-traded positions.

2. Internal Information Approaches

In response to the 1994 Notice, the agencies also received several comments proposing approaches under which an institution would use credit information it has about the underlying assets to set the capital requirement for a position. These commenters observed that evaluating credit risks is a traditional area of bank expertise and that an institution knows its own assets better than anyone else.

The agencies agree that using the information that institutions have about the credit quality of assets underlying a position could, if feasible, be more efficient than any of the ratings-based approaches for assessing capital requirements on non-traded positions. Therefore, the agencies are considering two approaches based on this type of information: the "historical loss" approach and the "bank model" approach. The agencies may adopt all or part of this historical loss approach in the final rule adopted in this rulemaking without reproposal. Accordingly, the agencies solicit comments and supporting information to aid in their development of the historical loss and bank model approaches.

a. Historical Loss Approach. A principal purpose of regulatory capital is to provide a cushion against unexpected losses. The historical loss approach being considered by the agencies would take unexpected losses over the life of the asset pool into account. These losses may not be taken into account fully in the ratings-based approaches. The historical loss approach, however, bases the risk-based capital treatment for a position in a securitization on the characteristics of the underlying pool of assets, including the variance of losses. This variance is the source of unexpected losses. While the historical loss approach could, in theory, be used for all recourse obligations and direct credit substitutes, the agencies are proposing that the approach initially be applied only to non-traded positions in securitizations with at least one traded position.

To measure the variance of losses on a pool of assets, an institution would have to project the probability distribution of the cumulative losses on the underlying assets over the life of the pool based on historical loss information for assets comparable to those in the pool. Comparability would encompass such factors as credit quality, collateral, and repayment terms. The cumulative losses would be the portion of the assets in the pool that would not be recovered over the life of the pool.

Under this approach, the risk-based capital treatment for a non-traded position would depend on the expected value of losses on the underlying pool, plus a specified number of standard deviations. As a general rule, at the inception of a securitization, the holder or issuer of a non-traded position would determine whether the holder would incur a loss if the cumulative losses on the underlying assets in the pool reached the expected value of losses plus the designated number of standard deviations (e.g., expected loss plus five standard deviations for normal distributions). This determination would consider any available qualifying credit enhancements providing support to the position and the existence of any more junior positions in the securitization.

Thus, the expected value of losses plus the designated number of standard deviations would serve as a boundary. If the holder of a non-traded position would suffer a loss when the level of cumulative losses on the underlying assets in the pool reached this boundary, then the position would receive the gross-up treatment. The institution's capital requirement, however, would be subject to the low-level rule. Otherwise, the position would qualify to be treated in the same manner as traded positions with ratings below "AAA" under the multi-level, ratings-based approach. In short, the non-traded position would qualify to use either the face value treatment or the "modified gross-up" approach, depending upon which of these proposed alternatives the agencies adopt in their final rules (see sections II.C and II.D of this preamble). An institution's estimate of the probability distribution, measurement of the variance, assessment of the support provided by credit enhancements, and determination of the loss exposure on a non-traded position, as well as the resulting risk-based capital treatment of the position, would be subject to review by examiners.

In projecting the probability distribution of the losses on a pool's underlying assets, an institution would need to compile and analyze historical loss information for individual assets that are comparable to those in the pool. This would include considering the size of the losses on individual assets and, depending on the type of credit enhancement supporting the securitization, the amount of time after the origination of the type of assets being securitized when losses generally occur on that asset type. This information may be available from the information the issuer supplies to the rating agencies for their use in rating the securitization's traded positions.

The agencies are proposing that the types of credit enhancement that would qualify to be considered when determining whether the holder of a non-traded position would incur any losses be the same as those proposed under the ratings benchmark approach. The size or availability of one or more of the credit enhancements in a securitization (e.g., a spread account), however, may vary over time based on the performance of the pool's underlying assets. If such a credit enhancement supports one or more of the positions in a securitization, the institution also would need to consider the shape of the loss curve over the life of the pool that produces cumulative losses over that period equal to the expected value of losses, plus the designated number of standard deviations. In this situation, as a supplement to the general rule cited previously, the size of the credit enhancement that would be available at any point over the life of the pool given the loss curve's indicated level of losses would need to be sufficient to prevent the holder of a non-traded position from suffering a loss in order for the non-traded position to avoid application of the gross-up approach.

As an example of the application of this historical loss approach, assume an institution owns a non-traded $100 subordinated piece of a $1,000 securitized asset pool. A qualifying standby letter of credit issued by a bank will absorb the first $20 of losses for the pool, thereby providing partial protection to the institution's subordinated position. For asset pools of this type, the institution determines that the expected value of losses plus the designated number of standard deviations over the life of the pool is $80. Given the size of the credit enhancement, the institution will sustain a loss of $60 on its subordinated interest if pool losses reach the expected value of losses, plus the designated number of standard deviations. Therefore, the institution's position would be subject to the gross-up approach. Capital would be held for the institution's position plus all more senior positions. After considering the $20 qualifying standby letter of credit (which would be treated as a bank guarantee on part of the pool) and assuming the assets in the pool are risk-weighted at 100 percent, the risk-based capital charge for the subordinated piece would be $78.72 [($20 x 20 percent x 8 percent) + ($980 x 100 percent x 8 percent)].

In contrast, if the expected value of losses plus the designated number of standard deviations over the life of the pool in the preceding example were only $19, the $20 credit enhancement would fully absorb those losses and the institution would not expect to incur any losses on its subordinated position. The institution's position would qualify for the capital treatment applicable to traded investment-grade positions rated below "AAA."

Based on discussions with market participants, the agencies believe that those institutions that are active in the securitization business will normally possess historical loss data for assets comparable to those they are securitizing. In this regard, these institutions must be capable of measuring and monitoring the credit risk they have retained or assumed in securitizations to conduct their securitization activities in a safe and sound manner. If an institution were unable to do the statistical analysis necessary to implement this proposed historical loss approach, however, its non-traded positions would be subject to the gross-up approach.

(*Question 17*) Given the varying number of years in the life of a pool for different types of assets, what is the minimum number of years of historical loss data that should be used to project the probability distribution of the cumulative losses on each type of underlying asset pool over the pool's life? If information for the minimum number of years is not available, is it reasonable for institutions to be required to apply the gross-up approach to non-traded positions?

(*Question 18*) How should institutions determine whether the capital requirement for a non-traded position should be changed over time? Should institutions periodically adjust the loss distribution that they used to set their initial capital requirement to reflect actual losses on pool assets over the life of the pool?

(*Question 19*) Is it reasonable for the agencies to use a log normal curve to describe the distribution of losses on a pool of assets? Would another approach be preferable and, if so, why would it be preferable?

(Question 20) Would this approach be applicable to all asset types or are there some asset types with unusual characteristics for which this approach would be inappropriate?

(Question 21) How burdensome would this historical loss approach be for institutions? To what extent is the necessary loss data available? What modifications should the agencies consider making as they develop this approach?

b. Bank Model Approach. Commenters on the 1994 Notice suggested that the capital requirements for recourse obligations and direct credit substitutes also could be based on internal risk-assessments made by banks holding those positions. Over the past decade, some banking organizations have developed, for their own internal risk management purposes, statistical techniques for quantifying the credit risk in sub-portfolios of credit instruments such as direct credit substitutes. In principle, these "internal models" for measuring credit risk could be used in setting capital requirements for direct credit substitutes and possibly other credit positions. Such a system would be broadly consistent with both the internal models approach to capital now being implemented for market risks associated with bank trading activities, as well as with current supervisory policies for evaluating the adequacy of the allowance for loan and lease losses.

Currently, the agencies are uncertain whether an internal model approach is feasible. However, the agencies recognize that the development of an internal model approach to capital for direct credit substitutes, and perhaps for other credit instruments, could have significant benefits. For example, under the ratings approach, a bank's internal risk assessment—if acceptable to supervisors—might substitute for a credit rating, thus reducing costs and delays associated with obtaining credit ratings. Alternatively, an acceptable internal model for measuring credit risk might form the basis for assessing capital requirements on a portfolio basis rather than on an asset-by-asset basis, thus better reflecting a bank's diversification and hedging activities.

The agencies note that securitization activities can create positions that add significantly to the volatility, appropriately measured, of an institution's credit losses. Banks for which such activities are significant should have in place appropriate policies and practices to quantify and manage the credit risk associated with securitization. The agencies, as always, will review the quality of such policies and practices within the context of evaluating the overall quality of a bank's risk management processes.

(Question 22) Is an internal model approach to setting capital requirements for recourse, direct credit substitutes, and other credit instruments currently feasible and, if so, how might it be structured?

(Question 23) Which types of credit activities would be amenable to such an approach?

(Question 24) How could the agencies validate such internal models and their credit risk assessments?

III. Regulatory Flexibility Act

OCC: Pursuant to section 605(b) of the Regulatory Flexibility Act, the OCC

certifies that this proposal will not have a significant impact on a substantial number of small entities. 5 U.S.C. 601 *et seq.* The provisions of this proposal that increase capital requirements are likely to affect large banks almost exclusively. (Small banks are unlikely to be in a position to provide direct credit substitutes in asset securitizations.) Accordingly, a regulatory flexibility analysis is not required.

Board: Pursuant to section 605(b) of the Regulatory Flexibility Act, the Board does not believe this proposal will have a significant impact on a substantial number of small business entities in accord with the spirit and purposes of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The Board's comparison of the applicability section of this proposal with Call Report Data on all existing banks shows that application of the rule to small entities will be the rare exception. Accordingly, a regulatory flexibility analysis is not required. In addition, because the risk-based capital standards generally do not apply to bank holding companies with consolidated assets of less than $150 million, this rule will not affect such companies.

FDIC: Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.*), the FDIC certifies that the proposed rule will not have a significant impact on a substantial number of small entities. Comparison of Call Report data on FDIC-supervised banks to the items covered by the proposal that result in increased capital requirements shows that application of the rule to small entities will be the infrequent exception.

OTS: Pursuant to section 605(b) of the Regulatory Flexibility Act, the OTS certifies that this proposal will not have a significant impact on a substantial number of small entities. The proposal is likely to reduce slightly the risk-based capital requirements for recourse obligations and direct credit substitutes, except for some standby letters of credit. Thrifts currently issue few, if any, standby letters of credit. Accordingly, a regulatory flexibility analysis is not required.

IV. Paperwork Reduction Act

Board: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Ch. 3506; 5 CFR 1320 Appendix A.1), the Board reviewed the proposed rule under the authority delegated to the Board by the Office of Management and Budget. No collections of information pursuant to the Paperwork Reduction Act are contained in the proposed rule.

V. Executive Order 12866

OCC: On the basis of the best information available, the OCC has determined that this proposal is not a significant regulatory action for purposes of Executive Order 12866. However, the impact of any final rule resulting from this proposal will depend on factors for which the agencies do not currently collect industry-wide information, such as the proportion of bank-provided direct credit substitutes that would be rated below investment grade. The OCC therefore welcomes any quantitative information national banks wish to provide about the impact they expect the various portions of this proposal to have if issued in final form.

OTS: The Director of the OTS has determined that this proposal does not constitute a "significant regulatory action" under Executive Order 12866. The proposal is likely to reduce slightly the risk-based capital requirements for recourse obligations and direct credit substitutes, except for some standby letters of credit. Thrifts currently issue few, if any, standby letters of credit. As a result, the OTS has concluded that the proposal will have only minor effects on the thrift industry.

VI. OCC and OTS—Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act), requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The OCC and OTS have determined that this proposal will not result in expenditures by state, local, and tribal governments, or by the private sector, of more than $100 million or more in any one year. Therefore, the OCC and OTS have not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered. As discussed in the preamble, this proposal rule will correct certain inconsistencies in the agencies' risk-based capital standards and will allow banking organizations to maintain lower amounts of capital against certain rated recourse obligations and direct credit substitutes.

List of Subjects

12 CFR Part 3

Administrative practice and procedure, Capital, National banks, Reporting and recordkeeping requirements, Risk.

12 CFR Part 208

Accounting, Agriculture, Banks, banking, Confidential business information, Crime, Currency, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements, Securities.

12 CFR Part 225

Administrative practice and procedure, Banks, banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities.

12 CFR Part 325

Administrative practice and procedure, Banks, banking, Capital adequacy, Reporting and recordkeeping requirements, Savings associations, State non-member banks.

12 CFR Part 567

Capital, Reporting and recordkeeping requirements, Savings associations.

Office of the Comptroller of the Currency

12 CFR Chapter I

Authority and Issuance

For the reasons set out in the preamble, appendix A of part 3 of chapter I of title 12 of the Code of Federal Regulations is proposed to be amended as follows:

PART 3—MINIMUM CAPITAL RATIOS; ISSUANCE OF DIRECTIVES

1. The authority citation for part 3 continues to read as follows:

Authority: 12 U.S.C. 93a, 161, 1818, 1828(n), 1828 note, 1831n note, 1835, 3907 and 3909.

2. In part 3, appendix A, section 3, paragraph (b) is amended by adding a new sentence at the end of the introductory text; paragraph (b)(1)(i) and footnote 13 are removed and reserved; paragraph (b)(1)(ii) is revised; paragraph (b)(1)(iii) and footnote 14 are removed and reserved; footnote 16 in paragraph (b)(2)(i) and footnote 17 in paragraph (b)(2)(ii) are revised; and paragraph (d) is revised to read as follows:

Appendix A to Part 3—Risk-Based Capital Guidelines

* * * * *

Section 3. Risk Categories/Weights for On-Balance Sheet Assets and Off-Balance Sheet Items

* * * * *

(b) * * * However, direct credit substitutes, recourse obligations, and securities issued in connection with asset securitizations are treated as described in section 3(d) of this appendix A.

(1) * * *

(ii) Risk participations purchased in bankers' acceptances.

* * * * *

(2) * * *

(i) * * * [reserved] * *

(ii) * * * [reserved] * *

* * * * *

(d) *Recourse obligations, direct credit substitutes, and asset- and mortgage-backed securities.* (1) *Definitions.* For purposes of this section 3 of this appendix A:

(i) *Direct credit substitute* means an arrangement in which a national bank assumes, in form or in substance, any risk of credit loss directly or indirectly associated with a third-party asset or other financial claim, that exceeds the national bank's *pro rata* share of the asset or claim. If a national bank has no claim on the asset, then the assumption of any risk of credit loss is a direct credit substitute. Direct credit substitutes include, but are not limited to:

(A) Financial guarantee-type standby letters of credit that support financial claims on the account party;

(B) Guarantees, surety arrangements, and irrevocable guarantee-type instruments backing financial claims;

(C) Purchased subordinated interests or securities that absorb more than their *pro rata* share of losses from the underlying assets;

(D) Loans or lines of credit that provide credit enhancement for the financial obligations of an account party; and

(E) Purchased loan servicing assets if the servicer is responsible for credit losses associated with the loans being serviced (other than servicer cash advances as defined in section 3(d)(1)(v) of this appendix A), or if the servicer makes or assumes representations and warranties on the loans (other than standard representations and warranties as defined in section 3(d)(1)(vi) of this appendix A).

(ii) *Financial guarantee-type standby letter of credit* means any letter of credit or similar arrangement, however named or described, which represents an irrevocable obligation to the beneficiary on the part of the issuer:

(A) To repay money borrowed by, or advanced to, or for the account of, an account party; or

(B) To make payment on account of any indebtedness undertaken by an account party, in the event that the account party fails to fulfill its obligation to the beneficiary.

(iii) *Rated* means, with respect to an instrument or obligation, that the instrument or obligation has received a credit rating from a nationally-recognized statistical rating organization. An instrument or obligation is rated investment grade if it has received a credit rating that falls within one of the four highest rating categories used by the nationally-recognized statistical rating organization. An instrument or obligation is rated in the highest investment grade category if it has received a credit rating that falls within the highest investment grade category used by the nationally-recognized statistical rating organization.

(iv) *Recourse* means the retention in form or substance of any risk of credit loss directly or indirectly associated with a transferred asset that exceeds a *pro rata* share of a national bank's claim on the asset. If a national bank has no claim on a transferred asset, then the retention of any risk of credit loss is recourse. A recourse obligation typically arises when an institution transfers assets and retains an obligation to repurchase the assets or to absorb losses due to a default of principal or interest or any other deficiency in the performance of the underlying obligor or some other party. Recourse may exist implicitly where a bank provides credit enhancement beyond any contractual obligation to support assets it has sold. Recourse obligations include, but are not limited to:

(A) Representations and warranties on the transferred assets (other than standard representations and warranties as defined in section 3(d)(1)(vi) of this appendix A);

(B) Retained loan servicing assets if the servicer is responsible for losses associated with the loans serviced (other than a servicer cash advance as defined in section 3(d)(1)(v) of this appendix A);

(C) Retained subordinated interests or securities that absorb more than their *pro rata* share of losses from the underlying assets;

(D) Assets sold under an agreement to repurchase; and

(E) Loan strips sold without direct recourse where the maturity of the transferred loan is shorter than the maturity of the commitment.

(v) *Servicer cash advance* means funds that a residential mortgage loan servicer advances to ensure an uninterrupted flow of payments or the timely collection of residential mortgage loans, including disbursements made to cover foreclosure costs or other expenses arising from a mortgage loan to facilitate its timely collection. A servicer cash advance is not a recourse obligation or a direct credit substitute if:

(A) The mortgage servicer is entitled to full reimbursement; or

(B) For any one mortgage loan, nonreimbursable advances are contractually limited to an insignificant amount of the outstanding principal on that loan.

(vi) *Standard representations and warranties* means contractual provisions that a national bank extends when it transfers assets (including loan servicing assets), or assumes when it purchases loan servicing assets. To qualify as a standard representation or warranty, a contractual provision must:

(A) Refer to facts that the seller or servicer can verify, and has verified with reasonable due diligence, prior to the time that assets are transferred (or servicing assets are acquired);

(B) Refer to a condition that is within the control of the seller or servicer; or

(C) Provide for the return of assets in the event of fraud or documentation deficiencies.

(vii) *Traded position* means a recourse obligation, direct credit substitute, or asset- or mortgage-backed security that is retained, assumed, or issued in connection with an asset securitization and that was rated with a reasonable expectation that, in the near future:

(A) The position would be sold to investors relying on the rating; or

(B) A third party would, in reliance on the rating, enter into a transaction such as a purchase, loan or repurchase agreement involving the position.

(2) *Risk-weighted asset amount.* Except as otherwise provided in sections 3(d)(3) and (4) of this appendix A, to calculate the risk-weighted asset amount for a recourse obligation or direct credit substitute, multiply the amount of assets from which risk of credit loss is directly or indirectly retained or assumed, by the appropriate risk weight using the criteria regarding obligors, guarantors, and collateral listed in section 3(a) of this appendix A. For purposes of this section 3(d) of this appendix A, the amount of assets from which risk of credit loss is directly or indirectly retained or assumed means:

(i) For a financial guarantee-type standby letter of credit, surety arrangement, guarantee, or irrevocable guarantee-type instrument, the amount of the assets that the direct credit substitute fully or partially supports;

(ii) For a subordinated interest or security, the amount of the subordinated interest or security plus all more senior interests or securities;

(iii) For mortgage servicing rights that are recourse obligations or direct credit substitutes, the outstanding amount of the loans serviced;

(iv) For representations and warranties (other than standard representations and warranties), the amount of the assets subject to the representations or warranties;

(v) For loans on lines of credit that provide credit enhancement for the financial obligations of an account party, the amount of the enhanced financial obligations;

(vi) For loans strips, the amount of the loans; and

(vii) For assets sold with recourse, the amount of assets from which risk of credit loss is directly or indirectly retained or assumed, less any applicable recourse liability account established in accordance with generally accepted accounting principles.

(3) *Investment grade recourse obligations, direct credit substitutes, and asset-and mortgage-backed securities.* (i) *Eligibility.* A traded position is eligible for the treatment described in this section 3(d)(3) of this appendix A if it has been rated investment grade by a nationally-recognized statistical rating organization. A recourse obligation or direct credit substitute that is not a traded position is eligible for the treatment described in this section 3(d)(3) of this

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[16] Participations in performance-based standby letters of credit are treated in accordance with section 3(d) of this appendix A.

[17] Participations in commitments are treated in accordance with section 3(d) of this appendix A.

appendix A if it has been rated investment grade by two nationally-recognized statistical rating organizations, the ratings are publicly available, the ratings are based on the same criteria used to rate securities sold to the public, and the recourse obligation or direct credit substitute provide credit enhancement to a securitization in which at least one position is traded.

(ii) *Highest investment grade.* To calculate the risk-weighted asset amount for a recourse obligation, direct credit substitute, or asset-or mortgage-backed security that is rated in the highest investment grade category, multiply the face amount of the position by a risk weight of 20 percent.

(iii) *Other investment grade.*

[Option 1—Face Value Treatment] To calculate the risk-weighted asset amount for a recourse obligation, direct credit substitute, or asset- or mortgage-backed security that is rated investment grade, multiply the face amount of the position by a risk weight of 100 percent.

[Option 2—Modified Gross-Up] To calculate the risk-weighted asset amount for a recourse obligation, direct credit substitute, or asset- or mortgage-backed security that is rated investment grade, multiply the amount of assets from which risk of credit loss is directly or indirectly retained or assumed by a risk weight of 50 percent.

(4) *Participations.* The risk-weighted asset amount for a participation interest in a direct credit substitute is calculated as follows:

(i) Determine the risk-weighted asset amount for the direct credit substitute as if the bank held all of the interests in the participation.

(ii) Multiply the risk-weighted asset amount determined under section 3(d)(4)(i) of this appendix A by the percentage of the bank's participation interest.

(iii) If the bank is exposed to more than its *pro rata* share of the risk of credit loss on the direct credit substitute (*e.g.*, the bank remains secondarily liable on participations held by others), add to the amount computed under section 3(d)(4)(ii) of this appendix A an amount computed as follows: multiply the amount of the direct credit substitute by the percentage of the direct credit substitute held by others and then multiply the result by the lesser of the risk-weight appropriate for the holders of those interests or the risk weight appropriate for the direct credit substitute.

(5) *Limitations on risk-based capital requirements.* (i) *Low-level recourse.* If the maximum contractual liability or exposure to credit loss retained or assumed by a bank in connection with a recourse obligation or a direct credit substitute is less than the effective risk-based capital requirement for the enhanced assets, the risk-based capital requirement is limited to the maximum contractual liability or exposure to loss, less any recourse liability account established in accordance with generally accepted accounting principles. This limitation does not apply to assets sold with implicit recourse.

(ii) *Mortgage-related securities or participation certificates retained in a mortgage loan swap.* If a bank holds a mortgage-related security or a participation certificate as a result of a mortgage loan swap with recourse, capital is required to support the recourse obligation plus the percentage of the mortgage-related security or participation certificate that is not protected against risk of loss by the recourse obligation. The total amount of capital required for the on-balance sheet asset and the recourse obligation, however, is limited to the capital requirement for the underlying loans, calculated as if the bank continued to hold these loans as an on-balance sheet asset.

(iii) *Related on-balance sheet assets.* To the extent that an asset is included in the calculation of the risk-based capital requirement under this section 3(d) of this appendix A and may also be included as an on-balance sheet asset, the asset is risk-weighted only under this section 3(d) of this appendix A except that mortgage servicing assets and similar arrangements with embedded recourse obligations or direct credit substitutes are risk-weighted as on-balance sheet assets and related recourse obligations and direct credit substitutes are risk-weighted under this section 3(d) of this appendix A.

* * * * *

3. In appendix A, Table 2, item 1 under "100 Percent Conversion Factor" is revised to read as follows:

* * * * *

Table 2—Credit Conversion Factors For Off-Balance Sheet Items

	100 Percent Conversion Factor
1. [Reserved]	

* * * * *

Dated: October 22, 1997.

Eugene A. Ludwig,

Comptroller of the Currency.

Federal Reserve System

12 CFR Chapter II

For the reasons set forth in the joint preamble, parts 208 and 225 of chapter II of title 12 of the Code of Federal Regulations are proposed to be amended as follows:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (REGULATION H)

1. The authority citation for part 208 continues to read as follows:

Authority: 12 U.S.C. 24, 36, 92a, 93a, 248(a), 248(c), 321–338a, 371d, 461, 481–486, 601, 611, 1814, 1816, 1818, 1820(d)(9), 1823(j), 1828(o), 1831o, 1831p-1,1831 r-1, 1835a, 1882, 2901–2907, 3105, 3310, 3331–3351, and 3906–3909; 15 U.S.C. 78b, 78l(b), 78l(g), 78l(i), 78o-4(c)(5), 78q, 78q-1, and 78w; 31 U.S.C. 5318; 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128.

2. In appendix A to part 208, section *III.*B. is amended by revising paragraph 3. and in paragraph 4., footnote 24 is redesignated as footnote 28. The revision reads as follows:

Appendix A to Part 208—Capital Adequacy Guidelines for State Member Banks: Risk-Based Measure

* * * * *

III. * * *

B. * * *

3. *Recourse obligations, direct credit substitutes, and asset -and mortgage-backed securities.* Direct credit substitutes, assets transferred with recourse, and securities issued in connection with asset securitizations are treated as described below.

(a) *Definitions*—(1) *Direct credit substitute means an arrangement in which a bank assumes,* in form or in substance, any risk of credit loss directly or indirectly associated with a *third-party* asset or other financial claim, that exceeds the bank's *pro rata* share of the asset or claim. If the bank has no claim on the asset, then the assumption of *any* risk of loss is a direct credit substitute. Direct credit substitutes include, but are not limited to:

(i) Financial guarantee-type standby letters of credit that support financial claims on the account party;

(ii) Guarantees, surety arrangements, and irrevocable guarantee-type instruments backing financial claims such as outstanding securities, loans, or other financial liabilities, or that back off-balance-sheet items against which risk-based capital must be maintained;

(iii) Purchased subordinated interests or securities that absorb more than their *pro rata* share of losses from the underlying assets;

(iv) Loans or lines of credit that provide credit enhancement for the financial obligations of an account party; and

(v) Purchased loan servicing assets if the servicer is responsible for credit losses associated with the loans being serviced (other than mortgage servicer cash advances as defined in paragraph *III.*B.3.(a)(3) of this appendix A), or if the servicer makes or assumes representations and warranties on the loans other than standard representations and warranties as defined in paragraph *III.*B.3.(a)(6) of this appendix A.

(2) *Financial guarantee-type standby letter of credit* means any letter of credit or similar arrangement, however named or described, that represents an irrevocable obligation to the beneficiary on the part of the issuer:

(i) To repay money borrowed by, advanced to, or for the account of, the account party; or

(ii) To make payment on account of any indebtedness undertaken by the account party in the event that the account party fails to fulfill its obligation to the beneficiary.

(3) *Mortgage servicer cash advance* means funds that a residential mortgage loan servicer advances to ensure an uninterrupted flow of payments or the timely collection of residential mortgage loans, including disbursements made to cover foreclosure costs or other expenses arising from a mortgage loan to facilitate its timely collection. A servicer cash advance is not a recourse obligation or a direct credit substitute if the mortgage servicer is entitled to full reimbursement or, for any one residential mortgage loan, nonreimbursable

advances are contractually limited to an insignificant amount of the outstanding principal on that loan.

(4) *Rated* means, with respect to an instrument or obligation, that the instrument or obligation has received a credit rating from a nationally-recognized statistical rating organization. An instrument or obligation is rated investment grade if it has received a credit rating that falls within one of the four highest rating categories used by the organization, e.g., at least BBB or its equivalent. An instrument or obligation is rated in the highest investment grade if it has received a credit rating that falls within the highest rating category used by the organization.

(5) *Recourse* means an arrangement in which a bank *retains,* in form or in substance, any risk of credit loss directly or indirectly associated with a transferred asset that exceeds a *pro rata* share of the bank's claim on the asset. If a bank has no claim on a transferred asset, then the retention of any risk of loss is recourse. A recourse obligation typically arises when an institution transfers assets and retains an obligation to repurchase the assets or absorb losses due to a default of principal or interest or any other deficiency in the performance of the underlying obligor or some other party. Recourse may exist implicitly where a bank provides credit enhancement beyond any contractual obligation to support assets it has sold. Recourse obligations include, but are not limited to:

(i) Representations and warranties on the transferred assets other than standard representations and warranties as defined in paragraph *III.*B.3.(a)(6) of this appendix A;

(ii) Retained loan servicing assets if the servicer is responsible for losses associated with the loans being serviced other than mortgage servicer cash advances as defined in paragraph *III.*B.3.(a)(3) of this appendix A;

(iii) Retained subordinated interests or securities that absorb more than their *pro rata* share of losses from the underlying assets;

(iv) Assets sold under an agreement to repurchase; and

(v) Loan strips sold without direct recourse where the maturity of the transferred loan that is drawn is shorter than the maturity of the commitment.

(6) *Standard representations and warranties* means contractual provisions that a bank extends when it transfers assets (including loan servicing assets) or assumes when it purchases loan servicing assets. To qualify as a standard representation or warranty, a contractual provision must:

(i) Refer to facts that the seller or servicer can verify, and has verified with reasonable due diligence, prior to the time that assets are transferred (or servicing assets are acquired);

(ii) Refer to a condition that is within the control of the seller or servicer; or

(iii) Provide for the return of assets in the event of fraud or documentation deficiencies.

(7) *Traded position* means a recourse obligation, direct credit substitute, or asset- or mortgage-backed security that is retained, assumed, or issued in connection with an asset securitization and that is rated with a reasonable expectation that, in the near future:

(i) The position would be sold to investors relying on the rating; or

(ii) A third party would, in reliance on the rating, enter into a transaction such as a purchase, loan, or repurchase agreement involving the position.

(b) *Amount of position to be included in risk-weighted assets*—(1) *Determining the credit equivalent amount of recourse obligations and direct credit substitutes.* The credit equivalent amount for a recourse obligation or direct credit substitute (except as otherwise provided in paragraph *III.*B.3.(b)(2) of this appendix A) is the full amount of the credit enhanced assets from which risk of credit loss is directly or indirectly retained or assumed. This credit equivalent amount is assigned to the risk weight appropriate to the obligor, or if relevant, the guarantor or nature of any collateral. Thus, a bank that extends a partial direct credit substitute, e.g., a standby letter of credit that absorbs the first 10 percent of loss on a transaction, must maintain capital against the full amount of the assets being supported. Furthermore, for direct credit substitutes that are on-balance sheet, e.g., purchased subordinated securities, banks must maintain capital against the amount of the direct credit substitutes and the full amounts of the assets being supported, *i.e.*, all more senior positions. This treatment is subject to the low-level recourse rule discussed in section *III.*B.3.(c)(1) of this appendix A. For purposes of this appendix A, the full amount of the credit enhanced assets from which risk of credit loss is directly or indirectly retained or assumed means for:

(i) A financial guarantee-type standby letter of credit, surety arrangement, guarantee, or irrevocable guarantee-type instruments, the full amount of the assets that the direct credit substitute fully or partially supports;

(ii) A subordinated interest or security, the amount of the subordinated interest or security plus all more senior interests or securities;

(iii) Mortgage servicing assets that are recourse obligations or direct credit substitutes, the outstanding amount of the loans serviced;

(iv) Representations and warranties (other than standard representations and warranties), the amount of the assets subject to the representations or warranties;

(v) Loans or lines of credit that provide credit enhancement for the financial obligations of an account party, the full amount of the enhanced financial obligations;

(vi) Loans strips, the amount of the loans;

(vii) For assets sold with recourse, the amount of assets from which risk of loss is directly or indirectly retained, less any applicable recourse liability account established in accordance with generally accepted accounting principles; and

(viii) Other types of recourse obligations or direct credit substitutes should be treated in accordance with the principles contained in section *III.*B.3. of this appendix A.

(2) *Determining the credit risk weight of investment grade recourse obligations, direct credit substitutes, and asset- and mortgage-backed securities.* A traded position is eligible for the risk-based capital treatment described in this paragraph if it has been rated at least investment grade by a nationally-recognized statistical rating organization. A recourse obligation or direct credit substitute that is not a traded position is eligible for the treatment described in this paragraph if it has been rated at least investment grade by two nationally-recognized statistical rating organizations, the ratings are publicly available, the ratings are based on the same criteria used to rate securities sold to the public, and the recourse obligation or direct credit substitute provides credit enhancement to a securitization in which at least one position is traded.

(i) *Highest investment grade.* Except as otherwise provided in this section *III.* of this appendix A, the face amount of a recourse obligation, direct credit substitute, or an asset- or mortgage-backed security that is rated in the highest investment grade category is assigned to the 20 percent risk category.

(ii) *Other investment grade.* [Option 1—Face Value Treatment] Except as otherwise provided in this section III. of this appendix A, the face amount of a recourse obligation, direct credit substitute, or an asset- or mortgage-backed security that is rated investment grade is assigned to the 100 percent risk category.

[Option 2—Modified Gross-Up] Except as otherwise provided in this section III. of this appendix A, for a recourse obligation, direct credit substitute, or an asset- or mortgage-backed security that is rated investment grade, the full amount of the credit enhanced assets from which risk of credit loss is directly or indirectly retained or assumed by the bank is assigned to the 50 percent risk category, regardless of the face amount of the bank's risk position.

(3) *Risk participations and syndications in direct credit substitutes*—(i) In the case of direct credit substitutes in which a risk participation[23] has been conveyed, the full amount of the assets that are supported, in whole or in part, by the credit enhancement are converted to a credit equivalent amount at 100 percent. However, the *pro rata* share of the credit equivalent amount that has been conveyed through a risk participation is assigned to whichever risk category is lower: the risk category appropriate to the obligor, after considering any relevant guarantees or collateral, or the risk category appropriate to the institution acquiring the participation.[24] Any remainder is assigned to the risk category appropriate to the obligor, guarantor, or collateral. For example, the *pro rata* share of the full amount of the assets supported, in whole or in part, by a direct credit substitute conveyed as a risk participation to a U.S. domestic depository

[23] That is, a participation in which the originating bank remains liable to the beneficiary for the full amount of the direct credit substitute if the party that has acquired the participation fails to pay when the instrument is drawn.

[24] A risk participation in bankers acceptances conveyed to other institutions is also assigned to the risk category appropriate to the institution acquiring the participation or, if relevant, the guarantor or nature of the collateral.

institution or foreign bank is assigned to the 20 percent risk category.[25]

(ii) The capital treatment for risk participations, either conveyed or acquired, and syndications in direct credit substitutes that are associated with an asset securitization and are rated at least investment grade is set forth in paragraph III.B.3.(b)(2) of this appendix A. A lower risk category may be applicable depending upon the obligor or nature of the institution acquiring the participation.

(iii) In the case of direct credit substitutes in which a risk participation has been acquired, the acquiring bank's percentage share of the direct credit substitute is multiplied by the full amount of the assets that are supported, in whole or in part, by the credit enhancement and converted to a credit equivalent amount at 100 percent. The credit equivalent amount of an acquisition of a risk participation in a direct credit substitute is assigned to the risk category appropriate to the account party obligor or, if relevant, the nature of the collateral or guarantees.

(iv) In the case of direct credit substitutes that take the form of a syndication where each bank is obligated only for its *pro rata* share of the risk and there is no recourse to the originating bank, each bank will only include its pro rata share of the assets supported, in whole or in part, by the direct credit substitute in its risk-based capital calculation.[26]

(c) *Limitations on risk-based capital requirements*—(1) *Low-level recourse.* If the maximum contractual liability or exposure to loss retained or assumed by a bank in connection with a recourse obligation or a direct credit substitute is less than the effective risk-based capital requirement for the enhanced assets, the risk-based capital requirement is limited to the maximum contractual liability or exposure to loss, less any recourse liability account established in accordance with generally accepted accounting principles. This limitation does not apply to assets sold with implicit recourse.

(2) *Mortgage-related securities or participation certificates retained in a mortgage loan swap.* If a bank holds a mortgage-related security or a participation certificate as a result of a mortgage loan swap with recourse, capital is required to support the recourse obligation plus the percentage of the mortgage-related security or participation certificate that is not covered by the recourse obligation. The total amount of capital required for the on-balance sheet asset and the recourse obligation, however, is limited to the capital requirement for the underlying loans, calculated as if the bank continued to hold these loans as an on-balance sheet asset.

(3) *Related on-balance sheet assets.* If a recourse obligation or direct credit substitute subject to this section III.B.3. of this appendix A also appears as a balance sheet asset, the balance sheet asset is not included in a bank's risk-weighted assets, except in the case of mortgage servicing assets and similar arrangements with embedded recourse obligations or direct credit substitutes. In such cases, both the on-balance sheet assets and the related recourse obligations and direct credit substitutes are incorporated into the risk-based capital calculation.

(d) *Privately-issued mortgage-backed securities.* Generally, a privately-issued mortgage-backed security meeting certain criteria, set forth in the accompanying footnote,[27] is essentially treated as an indirect holding of the underlying assets, and assigned to the same risk category as the underlying assets, but in no case to the zero percent risk category. However, any class of a privately-issued mortgage-backed security whose structure does not qualify it to be regarded as an indirect holding of the underlying assets or that can absorb more than its *pro rata* share of loss without the whole issue being in default (for example, a so-called subordinated class) is treated in accordance with section III.B.3.(b) of this appendix A. Furthermore, all stripped mortgage-backed securities, including interest-only strips (IOs), principal-only strips (POs), and similar instruments, are assigned to the 100 percent risk weight category, regardless of the issuer or guarantor.

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3. In appendix A to part 208, sections III.C.1. through 3., footnotes 25 through 37 are redesignated as footnotes 29 through 41 and newly redesignated footnote 39 and section III.C.4. are revised to read as follows:

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III. * * *

C. * * *

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4. *Category 4: 100 percent.* (a) All assets not included in the categories above are assigned to this category, which comprises standard risk assets. The bulk of the assets typically found in a loan portfolio would be assigned to the 100 percent category.

(b) This category includes long-term claims on, and the portions of long-term claims that are guaranteed by, non-OECD banks, and all claims on non-OECD central governments that entail some degree of transfer risk.[42] This category includes all claims on foreign and domestic private-sector obligors not included in the categories above (including loans to nondepository financial institutions and bank holding companies); claims on commercial firms owned by the public sector; customer liabilities to the bank on acceptances outstanding involving standard risk claims;[43] investments in fixed assets, premises, and other real estate owned; common and preferred stock of corporations, including stock acquired for debts previously contracted; commercial and consumer loans (except those assigned to lower risk categories due to recognized guarantees or collateral and loans secured by residential property that qualify for a lower risk weight); and all stripped mortgage-backed securities and similar instruments.

(c) Also included in this category are industrial-development bonds and similar obligations issued under the auspices of state or political subdivisions of the OECD-based

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[25] Risk participations with a remaining maturity of over one year that are conveyed to non-OECD banks are to be assigned to the 100 percent risk category, unless a lower risk category is appropriate to the obligor, guarantor, or collateral.

[26] For example, if a bank has a 10 percent share of a $10 syndicated direct credit substitute that provides credit support to a $100 loan, then the bank's $1 *pro rata* share in the enhancement means that a $10 *pro rata* share of the loan is included in risk weighted assets.

[27] A privately-issued mortgage-backed security may be treated as an indirect holding of the underlying assets provided that: (1) The underlying assets are held by an independent trustee and the trustee has a first priority, perfected security interest in the underlying assets on behalf of the holders of the security; (2) either the holder of the security has an undivided *pro rata* ownership interest in the underlying mortgage assets or the trust or single purpose entity (or conduit) that issues the security has no liabilities unrelated to the issued securities; (3) the security is structured such that the cash flow from the underlying assets in all cases fully meets the cash flow requirements of the security without undue reliance on any reinvestment income; and (4) there is no material reinvestment risk associated with any funds awaiting distribution to the holders of the security. In addition, if the underlying assets of a mortgage-backed security are composed of more than one type of assets, for example, U.S. Government-sponsored agency securities and privately-issued pass-through securities that qualify for the 50 percent risk category, the entire mortgage-backed security is generally assigned to the category appropriate to the highest risk-weighted asset underlying the issue. Thus, in this example, the security would receive the 50 percent risk weight appropriate to the privately-issued pass-through securities.

[39] a. Loans that qualify as loans secured by one- to four-family residential properties or multifamily residential properties are listed in the instructions to the commercial bank call report. In addition, for risk-based capital purposes, loans secured by one- to four-family residential properties include loans to builders with substantial project equity for the construction of one-to four-family residences that have been presold under firm contracts to purchasers who have obtained firm commitments for permanent qualifying mortgage loans and have made substantial earnest-money deposits. b. The instructions to the call report also discuss the treatment of loans, including multifamily housing loans, that are sold subject to a *pro rata* loss-sharing arrangement. Such an arrangement should be treated by the selling bank as sold to the extent that the sales agreement provides for the purchaser of the loan to share in any loss incurred on the loan on a *pro rata* basis with the selling bank. In such a transaction, from the stand-point of the selling bank, the portion of the loan that is treated as sold is not subject to the risk-based capital standards. In connection with sales of multifamily housing loans in which the purchaser of a loan shares in any loss incurred on the loan with the selling institution on other than a *pro rata* basis, the selling bank must treat these other loss-sharing arrangements in accordance with section III.B.3. of this appendix A.

[42] Such assets include all nonlocal-currency claims on, and the portions of claims that are guaranteed by, non-OECD central governments and those portions of local-currency claims on, or guaranteed by, non-OECD central governments that exceed the local-currency liabilities held by subsidiary depository institutions.

[43] Customer liabilities on acceptances outstanding involving nonstandard risk claims, such as claims on U.S. depository institutions, are assigned to the risk category appropriate to the identity of the obligor or, if relevant, the nature of the collateral or guarantees backing the claims. Portions of acceptances conveyed as risk participations to U.S. depository institutions or foreign banks are assigned to the 20 percent risk category appropriate to short-term claims guaranteed by U.S. depository institutions and foreign banks.

group of countries for the benefit of a private party or enterprise where that party or enterprise, not the government entity, is obligated to pay the principal and interest, and all obligations of states or political subdivisions of countries that do not belong to the OECD-based group.

(d) The following assets also are assigned a risk weight of 100 percent if they have not been deducted from capital: investments in unconsolidated companies, joint ventures, or associated companies; instruments that qualify as capital issued by other banking organizations; and any intangibles, including those that may have been grandfathered into capital.

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4. In appendix A to part 208, the introductory paragraph in section III.D. and section III.D.1. are revised to read as follows:

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III. * * *

D. Off-Balance Sheet Items

The face amount of an off-balance sheet item is generally incorporated into risk-weighted assets in two steps. The face amount is first multiplied by a credit conversion factor, except for direct credit substitutes and recourse obligations as discussed in section III.D.1. of this appendix A. The resultant credit equivalent amount is assigned to the appropriate risk category according to the obligor or, if relevant, the guarantor or the nature of the collateral.[44] Attachment IV to this appendix A sets forth the conversion factors for various types of off-balance-sheet items.

1. *Items with a 100 percent conversion factor.* (a) Except as otherwise provided in section III.B.3. of this appendix A, the full amount of an asset or transaction supported, in whole or in part, by a direct credit substitute or a recourse obligation. Direct credit substitutes and recourse obligations are defined in section III.B.3. of this appendix A.

(b) Sale and repurchase agreements, if not already included on the balance sheet, and forward agreements. Forward agreements are legally binding contractual obligations to purchase assets with certain drawdown at a specified future date. Such obligations include forward purchases, forward forward deposits placed,[45] and partly-paid shares and securities; they do not include commitments to make residential mortgage loans or forward foreign exchange contracts.

(c) Securities lent by a bank are treated in one of two ways, depending upon whether the lender is at risk of loss. If a bank, as agent for a customer, lends the customer's securities and does not indemnify the customer against loss, then the transaction is excluded from the risk-based capital calculation. If, alternatively, a bank lends its own securities or, acting as agent for a customer, lends the customer's securities and indemnifies the customer against loss, the transaction is converted at 100 percent and assigned to the risk weight category appropriate to the obligor or, if applicable to any collateral delivered to the lending bank the independent custodian acting on the lending bank's behalf. Where a bank is acting as agent for a customer in a transaction involving the lending or sale of securities that is collateralized by cash delivered to the bank, the transaction is deemed to be collateralized by cash on deposit in the bank for purposes of determining the appropriate risk-weight category, provided that any indemnification is limited to no more than the difference between the market value of the securities and the cash collateral received and any reinvestment risk associated with that cash collateral is borne by the customer.

* * * * *

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)

1. The authority citation for part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1828(o), 1831i, 1831p–1, 1843(c)(8), 1844(b), 1972(1), 3106, 3108, 3310, 3331–3351, 3907, and 3909.

2. In appendix A to part 225, section III.B. is amended by revising paragraph 3. and in paragraph 4., footnote 27 is redesignated as footnote 31. The revision reads as follows:

Appendix A to Part 225—Capital Adequacy Guidelines for Bank Holding Companies: Risk-Based Measure

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III. * * *

B. * * *

3. *Recourse obligations, direct credit substitutes, and asset- and mortgage-backed securities.* Direct credit substitutes, assets transferred with recourse, and securities issued in connection with asset securitizations are treated as described below.

(a) *Definitions*—(1) *Direct credit substitute* means an arrangement in which a banking organization *assumes*, in form or in substance, any risk of credit loss directly or indirectly associated with a *third-party* asset or other financial claim, that exceeds the banking organization's *pro rata* share of the asset or claim. If the banking organization has no claim on the asset, then the assumption of *any* risk of loss is a direct credit substitute. Direct credit substitutes include, but are not limited to:

(i) Financial guarantee-type standby letters of credit that support financial claims on the account party;

(ii) Guarantees, surety arrangements, and irrevocable guarantee-type instruments backing financial claims such as outstanding securities, loans, or other financial liabilities, or that back off-balance-sheet items against which risk-based capital must be maintained;

(iii) Purchased subordinated interests or securities that absorb more than their *pro rata* share of losses from the underlying assets;

(iv) Loans or lines of credit that provide credit enhancement for the financial obligations of an account party; and

(v) Purchased loan servicing assets if the servicer is responsible for credit losses associated with the loans being serviced (other than mortgage servicer cash advances as defined in paragraph III.B.3.(a)(3) of this appendix A), or if the servicer makes or assumes representations and warranties on the loans other than standard representations and warranties as defined in paragraph III.B.3.(a)(8) of this appendix A.

(2) *Financial guarantee-type standby letter of credit* means any letter of credit or similar arrangement, however named or described, that represents an irrevocable obligation to the beneficiary on the part of the issuer:

(i) To repay money borrowed by, advanced to, or for the account of, the account party; or

(ii) To make payment on account of any indebtedness undertaken by the account party in the event that the account party fails to fulfill its obligation to the beneficiary.

(3) *Mortgage servicer cash advance* means funds that a residential mortgage loan servicer advances to ensure an uninterrupted flow of payments or the timely collection of residential mortgage loans, including disbursements made to cover foreclosure costs or other expenses arising from a mortgage loan to facilitate its timely collection. A servicer cash advance is not a recourse obligation or a direct credit substitute if the mortgage servicer is entitled to full reimbursement or, for any one residential mortgage loan, nonreimbursable advances are contractually limited to an insignificant advances of the outstanding principal on that loan.

(4) *Rated* means, with respect to an instrument or obligation, that the instrument or obligation has received a credit rating from a nationally-recognized statistical rating organization. An instrument or obligation is rated investment grade if it has received a credit rating that falls within one of the four highest rating categories used by the organization. An instrument or obligation is rated in the highest investment grade if it has received a credit rating that falls within the highest rating category used by the organization.

(5) *Recourse* means an arrangement in which a banking organization *retains*, in form or in substance, any risk of credit loss directly or indirectly associated with a transferred asset that exceeds a *pro rata* share of the banking organization's claim on the asset. If a banking organization has no claim on a transferred asset, then the retention of any risk of loss is recourse. A recourse obligation typically arises when an institution transfers assets and retains an obligation to repurchase the assets or absorb losses due to a default of principal or interest or any other deficiency in the performance of the underlying obligor or some other party. Recourse may exist implicitly where a banking organization provides credit enhancement beyond any contractual

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[44] The sufficiency of collateral and guarantees for off-balance-sheet items is determined by the market value of the collateral of the amount of the guarantee in relation to the face amount of the item, except for derivative contracts, for which this determination is generally made in relation to the credit equivalent amount. Collateral and guarantees are subject to the same provisions noted under section III.B. of this appendix A.

[45] Forward forward deposits accepted are treated as interest rate contracts.

obligation to support assets it has sold. Recourse obligations include, but are not limited to:

(i) Representations and warranties on the transferred assets other than standard representations and warranties as defined in paragraph III.*B*.3.(a)(6) of this appendix A;

(ii) Retained loan servicing assets if the servicer is responsible for losses associated with the loans being serviced other than mortgage servicer cash advances as defined in paragraph III.*B*.3.(a)(3) of this appendix A;

(iii) Retained subordinated interests or securities that absorb more than their *pro rata* share of losses from the underlying assets;

(iv) Assets sold under an agreement to repurchase; and

(v) Loan strips sold without direct recourse where the maturity of the transferred loan that is drawn is shorter than the maturity of the commitment.

(6) *Standard representations and warranties* means contractual provisions that a banking organization extends when it transfers assets (including loan servicing assets) or assumes when it purchases loan servicing assets. To qualify as a standard representation or warranty, a contractual provision must:

(i) Refer to facts that the seller or servicer can verify, and has verified with reasonable due diligence, prior to the time that assets are transferred (or servicing assets are acquired);

(ii) Refer to a condition that is within the control of the seller or servicer; or

(iii) Provide for the return of assets in the event of fraud or documentation deficiencies.

(7) *Traded position* means a recourse obligation, direct credit substitute, or asset- or mortgage-backed security that is retained, assumed, or issued in connection with an asset securitization and that is rated with a reasonable expectation that, in the near future:

(i) The position would be sold to investors relying on the rating; or

(ii) A third party would, in reliance on the rating, enter into a transaction such as a purchase, loan, or repurchase agreement involving the position.

(b) *Amount of position to be included in risk-weighted assets*—(1) *Determining the credit equivalent amount of recourse obligations and direct credit substitutes.* The credit equivalent amount for a recourse obligation or direct credit substitute (except as otherwise provided in paragraph III.*B*.3.(b)(2) of this appendix A) is the full amount of the credit enhanced assets from which risk of credit loss is directly or indirectly retained or assumed. This credit equivalent amount is assigned to the risk weight appropriate to the obligor, or if relevant, the guarantor or nature of any collateral. Thus, a banking organization that extends a partial direct credit substitute, e.g., a standby letter of credit that absorbs the first 10 percent of loss on a transaction, must maintain capital against the full amount of the assets being supported. Furthermore, for direct credit substitutes that are on-balance sheet, e.g., purchased subordinated securities, banking organizations must maintain capital against the amount of the direct credit substitutes and the full amounts of the assets being supported, i.e., all more senior positions. This treatment is subject to the low-level recourse rule discussed in paragraph III.*B*.3.(c)(1) of this appendix A. For purposes of this appendix A, the full amount of the credit enhanced assets from which risk of credit loss is directly or indirectly retained or assumed means for:

(i) A financial guarantee-type standby letter of credit, surety arrangement, guarantee, or irrevocable guarantee-type instruments, the full amount of the assets that the direct credit substitute fully or partially supports;

(ii) A subordinated interest or security, the amount of the subordinated interest or security plus all more senior interests or securities;

(iii) Mortgage servicing assets that are recourse obligations or direct credit substitutes, the outstanding amount of the loans serviced;

(iv) Representations and warranties (other than standard representations and warranties), the amount of the assets subject to the representations or warranties;

(v) Loans or lines of credit that provide credit enhancement for the financial obligations of an account party, the full amount of the enhanced financial obligations;

(vi) Loans strips, the amount of the loans;

(vii) For assets sold with recourse, the amount of assets from which risk of loss is directly or indirectly retained, less any applicable recourse liability account established in accordance with generally accepted accounting principles; and

(viii) Other types of recourse obligations or direct credit substitutes should be treated in accordance with the principles contained in paragraph III.*B*.3.(b)(3) of this appendix A.

(2) *Determining the credit risk weight of investment grade recourse obligations, direct credit substitutes, and asset- and mortgage-backed securities.* A traded position is eligible for the risk-based capital treatment described in this paragraph if it has been rated at least investment grade by a nationally-recognized statistical rating organization. A recourse obligation or direct credit substitute that is not a traded position is eligible for the treatment described in this paragraph if it has been rated at least investment grade by two nationally-recognized statistical rating organizations, the ratings are publicly available, the ratings are based on the same criteria used to rate securities sold to the public, and the recourse obligation or direct credit substitute provides credit enhancement to a securitization in which at least one position is traded.

(i) *Highest investment grade.* Except as otherwise provided in section III. of this appendix A, the face amount of a recourse obligation, direct credit substitute, or an asset- or mortgage-backed security that is rated in the highest investment grade category is assigned to the 20 percent risk category.

(ii) *Other investment grade.* [Option 1—Face Value Treatment] Except as otherwise provided in this section III. of this appendix A, the face amount of a recourse obligation, direct credit substitute, or an asset- or mortgage-backed security that is rated investment grade is assigned to the 100 percent risk category.

[Option 2—Modified Gross-Up] Except as otherwise provided in section III. of this appendix A, for a recourse obligation, direct credit substitute, or an asset or mortgage-backed security that is rated investment grade, the *full* amount of the credit enhanced assets from which risk of credit loss is directly or indirectly retained or assumed by the banking organization is assigned to the 50 percent risk category, regardless of the face amount of the banking organization's risk position.

(3) *Risk participations and syndications in direct credit substitutes*—(i) In the case of direct credit substitutes in which a risk participation [26] has been conveyed, the full amount of the assets that are supported, in whole or in part, by the credit enhancement are converted to a credit equivalent amount at 100 percent. However, the *pro rata* share of the credit equivalent amount that has been conveyed through a risk participation is assigned to whichever risk category is lower: the risk category appropriate to the obligor, after considering any relevant guarantees or collateral, or the risk category appropriate to the institution acquiring the participation.[27] Any remainder is assigned to the risk category appropriate to the obligor, guarantor, or collateral. For example, the *pro rata* share of the full amount of the assets supported, in whole or in part, by a direct credit substitute conveyed as a risk participation to a U.S. domestic depository institution or foreign bank is assigned to the 20 percent risk category.[28]

(ii) The capital treatment for risk participations, either conveyed or acquired, and syndications in direct credit substitutes that are associated with an asset securitization and are rated at least investment grade is set forth in paragraph III.*B*.3.(b)(2) of this appendix A. A lower risk category may be applicable depending upon the obligor or nature of the institution acquiring the participation.

(iii) In the case of direct credit substitutes in which a risk participation has been acquired, the acquiring banking organization's percentage share of the direct credit substitute is multiplied by the full amount of the assets that are supported, in whole or in part, by the credit enhancement and converted to a credit equivalent amount at 100 percent. The credit equivalent amount of an acquisition of a risk participation in a direct credit substitute is assigned to the risk category appropriate to the account party obligor or, if relevant, the nature of the collateral or guarantee.

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[26] That is, a participation in which the originating banking organization remains liable to the beneficiary for the full amount of the direct credit substitute if the party that has acquired the participation fails to pay when the instrument is drawn.

[27] A risk participation in bankers acceptances conveyed to other institutions is also assigned to the risk category appropriate to the institution acquiring the participation or, if relevant, the guarantor or nature of the collateral.

[28] Risk participations with a remaining maturity of over one year that are conveyed to non-OECD banks are to be assigned to the 100 percent risk category, unless a lower risk category is appropriate to the obligor, guarantor, or collateral.

(iv) In the case of direct credit substitutes that take the form of a syndication where each banking organization is obligated only for its *pro rata* share of the risk and there is no recourse to the originating banking organization, each banking organization will only include its *pro rata* share of the assets supported, in whole or in part, by the direct credit substitute in its risk-based capital calculation.[29]

(c) *Limitations on risk-based capital requirements*—(1) *Low-level recourse.* If the maximum contractual liability or exposure to loss retained or assumed by a banking organization in connection with a recourse obligation or a direct credit substitute is less than the effective risk-based capital requirement for the enhanced assets, the risk-based capital requirement is limited to the maximum contractual liability or exposure to loss, less any recourse liability account established in accordance with generally accepted accounting principles. This limitation does not apply to assets sold with implicit recourse.

(2) *Mortgage-related securities or participation certificates retained in a mortgage loan swap.* If a banking organization holds a mortgage-related security or a participation certificate as a result of a mortgage loan swap with recourse, capital is required to support the recourse obligation plus the percentage of the mortgage-related security or participation certificate that is not covered by the recourse obligation. The total amount of capital required for the on-balance sheet asset and the recourse obligation, however, is limited to the capital requirement for the underlying loans, calculated as if the banking organization continued to hold these loans as an on-balance sheet asset.

(3) *Related on-balance sheet assets.* If a recourse obligation or direct credit substitute subject to section III.B.3. of this appendix A also appears as a balance sheet asset, the balance sheet asset is not included in a banking organization's risk-weighted assets, except in the case of mortgage servicing assets and similar arrangements with embedded recourse obligations or direct credit substitutes. In such cases, both the on-balance sheet assets and the related recourse obligations and direct credit substitutes are incorporated into the risk-based capital calculation.

(d) *Privately-issued mortgage-backed securities.* Generally, a privately-issued mortgage-backed security meeting certain criteria, set forth in the accompanying footnote,[30] is essentially treated as an indirect holding of the underlying assets, and assigned to the same risk category as the underlying assets, but in no case to the zero percent risk category. However, any class of a privately-issued mortgage-backed security whose structure does not qualify it to be regarded as an indirect holding of the underlying assets or that can absorb more than its *pro rata* share of loss without the whole issue being in default (for example, a so-called subordinated class) is treated in accordance with section III.*B*.3.(b) of this appendix A. Furthermore, all stripped mortgage-backed securities, including (IOs), principal-only strips (POs), and similar instruments, are assigned to the 100 percent risk weight category, regardless of the issuer or guarantor.

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3. In appendix A to part 225, sections III.*C*.1. through 3., footnotes 28 through 40 are redesignated as footnotes 32 through 44 and section III.*C*.4. is revised to read as follows:

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III. * * *

C. * * *

4. *Category 4: 100 percent.* (a) All assets not included in the categories above are assigned to this category, which comprises standard risk assets. The bulk of the assets typically found in a loan portfolio would be assigned to the 100 percent category.

(b) This category includes long-term claims on, and the portions of long-term claims that are guaranteed by, non-OECD banks, and all claims on non-OECD central governments that entail some degree of transfer risk.[45] This category includes all claims on foreign and domestic private-sector obligors not included in the categories above (including loans to nondepository financial institutions and bank holding companies); claims on commercial firms owned by the public sector; customer liabilities to the bank on acceptances outstanding involving standard risk claims; [46] investments in fixed assets, premises, and other real estate owned; common and preferred stock of corporations, including stock acquired for debts previously contracted; commercial and consumer loans (except those assigned to lower risk categories due to recognized guarantees or collateral and loans secured by residential property that qualify for a lower risk weight); and all stripped mortgage-backed securities and similar instruments.

(c) Also included in this category are industrial-development bonds and similar obligations issued under the auspices of state or political subdivisions of the OECD-based group of countries for the benefit of a private-party or enterprise where that party or enterprise, not the government entity, is obligated to pay the principal and interest, and all obligations of states or political subdivisions of countries that do not belong to the OECD-based group.

(d) The following assets also are assigned a risk weight of 100 percent if they have not been deducted from capital: investments in unconsolidated companies, joint ventures, or associated companies; instruments that qualify as capital issued by other banking organizations; and any intangibles, including those that may have been grandfathered into capital.

* * * * *

4. In appendix A to part 225, the introductory paragraph and paragraph 1. in section III.*D*. are revised and footnote 49 is added and reserved to read as follows:

* * * * *

III. * * *

D. Off-Balance Sheet Items

The face amount of an off-balance sheet item is generally incorporated into the risk-weighted assets in two steps. The face amount is first multiplied by a credit conversion factor, except for direct credit substitutes and recourse obligations as discussed in paragraph III.*D*.1. of this appendix A. The resultant credit equivalent amount is assigned to the appropriate risk category according to the obligor or, if relevant, the guarantor or the nature of the collateral.[47] Attachment IV to this appendix A sets forth the conversion factors for various types of off-balance-sheet items.

1. *Items with a 100 percent conversion factor.* (a) Except as otherwise provided in paragraph III.*B*.3. of this appendix A, the full amount of an asset or transaction supported, in whole or in part, by a direct credit

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[29] For example, if a banking organization has a 10 percent share of a $10 syndicated direct credit substitute that provides credit support to a $100 loan, then the banking organization $1 *pro rata* share in the enhancement means that a $10 *pro rata* share of the loan is included in risk-weighted assets.

[30] A privately-issued mortgage-backed security may be treated as an indirect holding of the underlying assets provided that: (1) the underlying assets are held by an independent trustee and the trustee has a first priority, perfected security interest in the underlying assets on behalf of the holders of the security; (2) either the holder of the security has an undivided *pro rata* ownership interest in the underlying mortgage assets or the trust or single purpose entity (or conduit) that issues the security has no liabilities unrelated to the issued securities; (3) the security is structured such that the cash flow from the underlying assets in all cases fully meets the cash flow requirements of the security without undue reliance on any reinvestment income; and (4) there is no material reinvestment risk associated with any funds awaiting distribution to the holders of the security. In addition, if the underlying assets of a mortgage-backed security are composed of more than one type of assets, for example, U.S. Government-sponsored agency securities and privately-issued pass-through securities that qualify for the 50 percent risk category, the entire mortgage-backed security is generally assigned to the category appropriate to the highest risk-weighted asset underlying the issue. Thus, in this example, the security would receive the 50 percent risk weight appropriate to the privately-issued pass-through securities.

[45] Such assets include all nonlocal currency claims on, and the portions of claims that are guaranteed by, non-OECD central governments and those portions of local currency claims on, or guaranteed by, non-OECD central governments that exceed the local currency liabilities held by subsidiary depository institutions.

[46] Customer liabilities on acceptances outstanding involving nonstandard risk claims, such as claims on U.S. depository institutions, are assigned to the risk category appropriate to the identity of the obligor or, if relevant, the nature of the collateral or guarantee backing the claims. Portions of acceptances conveyed as risk participations to U.S. depository institutions or foreign banks are assigned to the 20 percent risk category appropriate to short-term claims guaranteed by U.S. depository institutions and foreign banks.

[47] The sufficiency of collateral and guarantees for off-balance-sheet items is determined by the market value of the collateral of the amount of the guarantee in relation to the face amount of the item, except for derivative contracts, for which this determination is generally made in relation to the credit equivalent amount. Collateral and guarantees are subject to the same provisions noted under section III.*B*. of this appendix A.

substitute or a recourse obligation. Direct credit substitutes and recourse obligations are defined in paragraph III.B.3. of this appendix A.

(b) Sale and repurchase agreements, if not already included on the balance sheet, and forward agreements. Forward agreements are legally binding contractual obligations to purchase assets with certain drawdown at a specified future date. Such obligations include forward purchases, forward forward deposits placed,[48] and partly-paid shares and securities; they do not include commitments to make residential mortgage loans or forward foreign exchange contracts.

(c) Securities lent by a banking organization are treated in one of two ways, depending upon whether the lender is at risk of loss. If a banking organization, as agent for a customer, lends the customer's securities and does not indemnify the customer against loss, then the transaction is excluded from the risk-based capital calculation. If, alternatively, a bank lends its own securities or, acting as agent for a customer, lends the customer's securities and indemnifies the customer against loss, the transaction is converted at 100 percent and assigned to the risk weight category appropriate to the obligor or, if applicable, to any collateral delivered to the lending banking organization or the independent custodian acting on the lending banking organization's behalf. Where a banking organization is acting as agent for a customer in a transaction involving the lending or sale of securities that is collateralized by cash delivered to the banking organization, the transaction is deemed to be collateralized by cash on deposit in the banking organization for purposes of determining the appropriate risk-weight category, provided that any indemnification is limited to no more than the difference between the market value of the securities and the cash collateral received and any reinvestment risk associated with that cash collateral is borne by the customer.

* * * * *

By order of the Board of Governors of the Federal Reserve System, October 21, 1997.

William W. Wiles,

Secretary of the Board.

Federal Deposit Insurance Corporation

12 CFR CHAPTER III

Authority and Issuance

For the reasons set forth in the joint preamble, part 325 of chapter III of title 12 of the Code of Federal Regulations is proposed to be amended as follows:

PART 325—CAPITAL MAINTENANCE

1. The authority citation for part 325 continues to read as follows:

Authority: 12 U.S.C. 1815(a), 1815(b), 1816, 1818(a), 1818(b), 1818(c), 1818(t), 1819(Tenth), 1828(c), 1828(d), 1828(i), 1828(n), 1828(o), 1831o, 3907, 3909, 4808; Pub. L. 102–233, 105 Stat. 1761, 1789, 1790 (12 U.S.C. 1831n note); Pub. L. 102-242, 105 Stat. 2236, 2355, 2386 (12 U.S.C. 1828 note).

2. In appendix A to part 325, section II.B. is amended by revising paragraph 5. to read as follows:

Appendix A to Part 325—Statement of Policy on Risk-Based Capital

* * * * *

II. Procedures for Computing Risk-Weighted Assets

* * * * *

B. * * *

5. Recourse obligations, direct credit substitutes, and asset-and mortgage-backed securities. Direct credit substitutes, assets transferred with recourse, and securities issued in connection with asset securitizations are treated as described in paragraphs B.5.(b) through (e) of this section.

(a) *Definitions.* (i) *Direct credit substitute* means an arrangement in which a bank assumes, in form or in substance, any risk of credit loss directly or indirectly associated with a third-party asset or other financial claim, that exceeds the bank's *pro rata* share of the asset or claim. If the bank has no claim on the asset, then the assumption of any risk of loss is a direct credit substitute. Direct credit substitutes include, but are not limited to:

(1) Financial guarantee-type standby letters of credit that support financial claims on the account party;

(2) Guarantees, surety arrangements, and irrevocable guarantee-type instruments backing financial claims such as outstanding securities, loans, or other financial liabilities, or that back off-balance-sheet items against which risk-based capital must be maintained;

(3) Purchased subordinated interests or securities that absorb more than their pro rata share of losses from the underlying assets;

(4) Loans or lines of credit that provide credit enhancement for the financial obligations of an account party; and

(5) Purchased loan servicing assets if the servicer is responsible for credit losses associated with the loans being serviced (other than mortgage servicer cash advances as defined in paragraph B.5.(a)(iii) of this section), or if the servicer makes or assumes representations and warranties on the loans other than standard representations and warranties as defined in paragraph B.5.(a)(vii) of this section.

(ii) *Financial guarantee-type standby letter of credit* means any letter of credit or similar arrangement, however named or described, that represents an irrevocable obligation to the beneficiary on the part of the issuer:

(1) To repay money borrowed by, advanced to, or for the account of, the account party; or

(2) To make payment on account of any indebtedness undertaken by the account party in the event that the account party fails to fulfill its obligation to the beneficiary.

(iii) *Mortgage servicer cash advance* means funds that a residential mortgage loan servicer advances to ensure an uninterrupted flow of payments or the timely collection of residential mortgage loans, including disbursements made to cover foreclosure costs or other expenses arising from a mortgage loan to facilitate its timely collection. A servicer cash advance is not a recourse obligation or a direct credit substitute if the mortgage servicer is entitled to full reimbursement or, for any one residential mortgage loan, nonreimbursable advances are contractually limited to an insignificant amount of the outstanding principal on that loan.

(iv) *Nationally recognized statistical rating organization* means an entity recognized by the Division of Market Regulation of the Securities and Exchange Commission as a nationally recognized statistical rating organization for various purposes, including the Commission's uniform net capital requirements for brokers or dealers (17 CFR 240.15c3–1(c)(2)(vi)(E), (F), and (H)).

(v) *Rated* means a recourse obligation, direct credit substitute, or asset-or mortgage-backed security that is retained, assumed, or issued in connection with an asset securitization and that has received a credit rating from a nationally recognized statistical rating organization. A position is rated investment grade if it has received a credit rating that falls within one of the four highest rating categories used by the organization (e.g., at least "BBB" or its equivalent). A position is rated in the highest investment grade if it has received a credit rating that falls within the highest rating category used by the organization.

(vi) *Recourse* means an arrangement in which a bank retains, in form or in substance, any risk of credit loss directly or indirectly associated with a transferred asset that exceeds a pro rata share of the bank's claim on the asset. If a bank has no claim on a transferred asset, then the retention of any risk of loss is recourse. A recourse obligation typically arises when an institution transfers assets and retains an obligation to repurchase the assets or absorb losses due to a default of principal or interest or any other deficiency in the performance of the underlying obligor or some other party. Recourse may exist implicitly where a bank provides credit enhancement beyond any contractual obligation to support assets it has sold. Recourse obligations include, but are not limited to:

(1) Representations and warranties on the transferred assets other than standard representations and warranties as defined in paragraph B.5.(a)(vii) of this section;

(2) Retained loan servicing assets if the servicer is responsible for losses associated with the loans being serviced other than mortgage servicer cash advances as defined in paragraph B.5.(a)(iii) of this section;

(3) Retained subordinated interests or securities that absorb more than their *pro rata* share of losses from the underlying assets;

(4) Assets sold under an agreement to repurchase; and

(5) Loan strips sold without direct recourse where the maturity of the transferred loan that is drawn is shorter than the maturity of the commitment.

(vii) *Standard representations and warranties* means contractual assurances regarding the nature, quality, and condition of assets that a bank extends when it transfers assets (including loan servicing assets) or assumes when it purchases loan servicing assets, but only to the extent that the assurances:

(1) Refer to facts that the seller or servicer can verify, and has verified with reasonable due diligence, prior to the time that assets are transferred (or servicing assets are acquired);

(2) Refer to a condition that is within the control of the seller or servicer; or

(3) Provide for the return of assets in the event of fraud or documentation deficiencies.

(viii) *Traded position* means a recourse obligation, direct credit substitute, or asset-or mortgage-backed security that is retained, assumed, or issued in connection with an asset securitization and that is rated with a reasonable expectation that, in the near future:

(1) The position would be sold to investors relying on the rating; or

(2) A third party would, in reliance on the rating, enter into a transaction such as a purchase, loan, or repurchase agreement involving the position.

(b) *Amount of position to be included in risk-weighted assets.* (i) *General rule.* The credit equivalent amount for a recourse obligation or direct credit substitute is the full amount of the credit enhanced assets from which risk of credit loss is directly or indirectly retained or assumed. This credit equivalent amount is assigned to the risk weight appropriate to the obligor or, if relevant, the guarantor or nature of any collateral. For purposes of this appendix A, the full amount of the credit enhanced assets from which risk of credit loss is directly or indirectly retained or assumed means for:

(1) A financial guarantee-type standby letter of credit, surety arrangement, guarantee, or irrevocable guarantee-type instruments, the full amount of the assets that the direct credit substitute fully or partially supports;

(2) A subordinated interest or security, the amount of the subordinated interest or security plus all more senior interests or securities;

(3) Mortgage servicing assets that are recourse obligations or direct credit substitutes, the outstanding amount of the loans serviced;

(4) Representations and warranties (other than standard representations and warranties), the amount of the assets subject to the representations or warranties;

(5) Loans or lines of credit that provide credit enhancement for the financial obligations of an account party, the full amount of the enhanced financial obligations;

(6) Loans strips, the amount of the loans; and

(7) For assets sold with recourse, the amount of assets from which risk of loss is directly or indirectly retained, less any applicable recourse liability account established in accordance with generally accepted accounting principles.

For example, a bank that extends a partial direct credit substitute, e.g., a financial guarantee-type standby letter of credit that absorbs the first 10 percent of loss on a transaction, must maintain capital against the full amount of the assets being supported. Furthermore, for a recourse obligation or a direct credit substitute that is an on-balance sheet asset, e.g., a retained or purchased subordinated security, a bank must maintain capital against the amount of the on-balance sheet asset plus the full amount of the assets not on the bank's balance sheet that are being supported, *i.e.*, all more senior positions.

(ii) *Determining the credit risk weight of investment grade recourse obligations, direct credit substitutes, and asset- and mortgage-backed securities.* Notwithstanding paragraph B.5.(b)(i) of this section, a traded position is eligible for the following risk-based capital treatment. A recourse obligation or direct credit substitute that is not a traded position also is eligible for the following treatment if it has been rated at least investment grade by two nationally recognized statistical rating organizations, the ratings are publicly available, the ratings are based on the same criteria used to rate securities sold to the public, and the recourse obligation or direct credit substitute provides credit enhancement to a securitization in which there is at least one traded position.

(1) Highest investment grade. The face amount of a recourse obligation, direct credit substitute, or an asset- or mortgage-backed security that is rated in the highest investment grade category is assigned to the 20 percent risk category.

(2) Other investment grade. [Option 1—Face Value Treatment] The face amount of a recourse obligation, direct credit substitute, or an asset- or mortgage-backed security that is rated investment grade (but not in the highest investment grade category) is assigned to the 100 percent risk category.

[Option 2—Modified Gross-Up] For a recourse obligation, direct credit substitute, or an asset- or mortgage-backed security that is rated investment grade (but not in the highest investment grade category), the full amount of the credit enhanced assets from which risk of credit loss is directly or indirectly retained or assumed by the bank is assigned to the 50 percent risk category, regardless of the face amount of the bank's risk position. For a senior asset-or mortgage-backed security which provides no credit enhancement, this means that the face amount of the security is assigned to the 50 percent risk category.

(iii) *Risk participations and syndications in direct credit substitutes. (1)* In the case of a direct credit substitute in which a risk participation [14] has been conveyed, the full amount of the credit enhanced assets from which risk of credit loss is directly or indirectly retained or assumed, in whole or in part, by the direct credit substitute is converted to a credit equivalent amount at 100 percent. However, the *pro rata* share of the credit equivalent amount that has been conveyed through a risk participation is assigned to whichever risk category is lower: The risk category appropriate to the obligor, after considering any relevant guarantees or collateral, or the risk category appropriate to the institution acquiring the participation.[15] Any remainder of the credit equivalent amount is assigned to the risk category appropriate to the obligor, guarantor, or collateral. For example, the *pro rata* share of the full amount of the assets supported, in whole or in part, by a direct credit substitute conveyed as a risk participation to a U.S. domestic depository institution or foreign bank is assigned to the 20 percent risk category.[16]

(2) The capital treatment for risk participations, either conveyed or acquired, and syndications in direct credit substitutes that are associated with an asset securitization and are rated at least investment grade is set forth in paragraph B.5.(b)(ii) of this section. A lower risk category may be applicable depending on the obligor or nature of the institution acquiring the participation.

(3) In the case of a direct credit substitute in which a risk participation has been acquired, the acquiring bank's percentage share of the direct credit substitute is multiplied by the full amount of the credit enhanced assets from which risk of credit loss is directly or indirectly retained or assumed, in whole or in part, by the direct credit substitute and is converted to a credit equivalent amount at 100 percent. The credit equivalent amount of an acquisition of a risk participation in a direct credit substitute is assigned to the risk category appropriate to the account party obligor or, if relevant, the nature of the collateral or guarantees.

(4) In the case of a direct credit substitute that takes the form of a syndication where each bank is obligated only for its *pro rata* share of the risk and there is no recourse to the originating bank, each bank will only include in its risk-based capital calculation only its *pro rata* share of the credit enhanced assets from which risk of credit loss is directly or indirectly retained or assumed, in whole or in part, by the direct credit substitute.[17]

(c) *Limitations on risk-based capital requirements.* (i) *Low-level recourse.* If the maximum contractual liability or exposure to loss retained or assumed by a bank in connection with a recourse

[48] Forward forward deposits accepted are treated as interest rate contracts.

[14] That is, a participation in which the originating bank remains liable to the beneficiary for the full amount of the direct credit substitute if the party that has acquired the participation fails to pay when the instrument is drawn.

[15] A risk participation in a bankers acceptance conveyed to another institution is also assigned to the risk category appropriate to the institution acquiring the participation or, if relevant, the guarantor or nature of the collateral.

[16] A risk participation with a remaining maturity of over one year that is conveyed to a non-OECD bank is to be assigned to the 100 percent risk category, unless a lower risk category is appropriate to the obligor, guarantor, or collateral.

[17] For example, if a bank has a 10 percent share of a $10 syndicated direct credit substitute that provides credit support to a $100 loan, then the bank's $1 *pro rata* share in the enhancement means that a $10 *pro rata* share of the loan is included in risk-weighted assets.

obligation or a direct credit substitute is less than the amount of capital which would be held under the applicable risk-based capital requirement for the enhanced assets, the bank need only hold capital equal to the maximum contractual liability or exposure to loss, less any recourse liability account established in accordance with generally accepted accounting principles. This exception does not apply to assets sold with implicit recourse.

(ii) *Mortgage-related securities or participation certificates retained in a mortgage loan swap.* If a bank holds a mortgage-related security or a participation certificate as a result of a mortgage loan swap with recourse, capital is required to support the recourse obligation plus the percentage of the mortgage-related security or participation certificate that is not covered by the recourse obligation. The total amount of capital required for the on-balance sheet asset and the recourse obligation, however, is limited to the capital requirement for the underlying loans, calculated as if the bank continued to hold these loans as an on-balance sheet asset.

(iii) *Related on-balance sheet assets.* If a recourse obligation or direct credit substitute subject to section II.B.5. of this appendix A also appears as an on-balance sheet asset, the credit equivalent amount of the recourse obligation or direct credit substitute is determined in accordance with paragraph B.5.(b) of this section and the balance sheet asset is not separately included in a bank's risk-weighted assets, except in the case of mortgage servicing assets and similar arrangements with embedded recourse obligations or direct credit substitutes. In such cases, both the on-balance sheet assets and the related recourse obligations and direct credit substitutes are incorporated into the risk-based capital calculation.

(d) *Privately-issued mortgage-backed securities.* Generally, a privately-issued mortgage-backed security meeting certain criteria, set forth in the accompanying footnote, [18] is essentially treated as an indirect holding of the underlying assets, and assigned to the same risk category as the underlying assets, but in no case to the zero percent risk category. However, any class of a privately-issued mortgage-backed security whose structure does not qualify it to be regarded as an indirect holding of the underlying assets or that can absorb more than its *pro rata* share of loss without the whole issue being in default (for example, a so-called subordinated class) is treated in accordance with paragraph B.5.(b) of this section. Furthermore, all privately-issued stripped mortgage-backed securities, including interest-only strips (IOs), principal-only strips (POs), and similar instruments, are assigned to the 100 percent risk weight category, regardless of the issuer or guarantor.

(e) *Other stripped mortgage-backed securities.* All other stripped mortgage-backed securities, including interest-only strips (IOs), principal-only strips (POs), and similar instruments, are assigned to the 100 percent risk weight category, regardless of the issuer or guarantor.

* * * * *

3. In appendix A to part 325, section II.C., *Category 1* through *Category 3*, footnotes 15 through 32 are redesignated as footnotes 19 through 36, the four undesignated paragraphs under *Category 3—50 Percent Risk Weight* are designated as paragraphs a. through d., respectively, and newly redesignated footnote 33 is revised to read as follows:

* * * * *

II. * * *
C. * * *
Category 3—50 Percent Risk Weight. * * *
b. * * * [33] * * *

* * * * *

4. In appendix A to part 325, section II.C., *Category 4—100 Percent Risk Weight* is revised to read as follows:

* * * * *

II. * * *
C. * * *
Category 4—100 Percent Risk Weight. a. All assets not included in the categories above are assigned to this category, which comprises standard risk assets. The bulk of the assets typically found in a loan portfolio would be assigned to the 100 percent category.

b. This category includes:

(1) Long-term claims on, and the portions of long-term claims that are guaranteed by, non-OECD banks, and all claims on non-OECD central governments that entail some degree of transfer risk; [37]

(2) All claims on foreign and domestic private-sector obligors not included in the categories above (including loans to nondepository financial institutions and bank holding companies);

(3) Claims on commercial firms owned by the public sector;

(4) Customer liabilities to the bank on acceptances outstanding involving standard risk claims; [38]

(5) Investments in fixed assets, premises, and other real estate owned;

(6) Common and preferred stock of corporations, including stock acquired for debts previously contracted;

(7) Commercial and consumer loans (except (a) those assigned to lower risk categories due to recognized guarantees or collateral and (b) loans secured by residential property that qualify for a lower risk weight);

(8) All stripped mortgage-backed securities and similar instruments;

(9) Industrial-development bonds and similar obligations issued under the auspices of state or political subdivisions of the OECD-based group of countries for the benefit of a private party or enterprise where that party or enterprise, not the government entity, is obligated to pay the principal and interest; and

(10) All obligations of states or political subdivisions of countries that do not belong to the OECD-based group of countries.

c. The following assets also are assigned a risk weight of 100 percent if they have not been deducted from capital: investments in unconsolidated subsidiaries, joint ventures, or associated companies; instruments that qualify as capital issued by other banking organizations; and servicing assets and intangible assets.

* * * * *

5. In appendix A to part 325, section II.D. is amended by redesignating footnotes 38 through 42 as footnotes 41 through 45 and by revising the undesignated introductory paragraph of section II.D. and section II.D.1. to read as follows:

* * * * *

II. * * *
D. * * *

The face amount of an off-balance sheet item is generally incorporated into risk-weighted assets in two steps. The face amount is first multiplied by a credit conversion factor, except for direct credit substitutes and recourse obligations as discussed in section II.D.1. of this appendix A. The resultant credit equivalent amount is assigned to the appropriate risk category according to the obligor or, if relevant, the guarantor or the nature of the collateral. [39]

1. *Items With a 100 Percent Conversion Factor.* a. Except as otherwise provided in section II.B.5. of this appendix A, the full amount of an asset or transaction supported, in whole or in part, by a direct credit substitute or a recourse obligation. Direct credit substitutes and recourse obligations are defined in section II.B.5. of this appendix A.

b. Sale and repurchase agreements, if not already included on the balance sheet, and forward agreements. Forward agreements are legally binding contractual obligations to purchase assets with drawdown which is certain at a specified future date. These obligations include forward purchases, forward forward deposits placed, [40] and partly-paid shares and securities, but they do not include commitments to make residential mortgage loans or forward foreign exchange contracts.

c. Securities lent by a bank are treated in one of two ways, depending on whether the lender is exposed to risk of loss. If a bank, as agent for a customer, lends the customer's securities and does not indemnify the customer against loss, then the securities lending transaction is excluded from the risk-based capital calculation. On the other hand, if a bank lends its own securities or, acting as agent for a customer, lends the customer's securities and indemnifies the customer against loss, the transaction is converted at 100 percent and assigned to the risk weight category appropriate to the obligor or, if applicable, to any collateral delivered to the lending bank or the independent custodian acting on the lending bank's behalf. When a bank is acting as a customer's agent in a transaction involving the loan or sale of the customer's securities that is collateralized by cash delivered to the lending bank, the transaction is deemed to be collateralized by cash on deposit with the bank for purposes of determining the appropriate risk-weight category, provided that any indemnification is limited to no more than the difference between the market value of the securities lent or sold and the cash collateral received, and any reinvestment risk associated with the cash collateral is borne by the customer.

* * * * *

6. In appendix A to part 325, Table II—Summary of Risk Weights and Risk Categories is amended under Category 2—20 Percent Risk Weight by adding a new paragraph (13) to read as follows:

* * * * *

Table II—Summary of Risk Weights and Risk Categories

* * * * *

Category 2—20 Percent Risk Weight

* * * * *

(13) The face amount of a recourse obligation, direct credit substitute, or asset- or mortgage-backed security that is rated in the highest investment grade category.

* * * * *

7. In appendix A to part 325, Table II—Summary of Risk Weights and Risk Categories is amended under Category 3—50 Percent Risk Weight by adding a new paragraph (6) to read as follows:

* * * * *

Table II—Summary of Risk Weights and Risk Categories

* * * * *

Category 3—50 Percent Risk Weight

* * * * *

[Option 2—Modified Gross-Up] (6) The full amount of the credit enhanced assets from which risk of credit loss is directly or indirectly retained or assumed through a recourse obligation, direct credit substitute, or asset- or mortgage-backed security that is rated investment grade (but below the highest investment grade category).

* * * * *

8. In appendix A to part 325, Table III—Credit Conversion Factors for Off-Balance Sheet Items, the item "100 Percent Conversion Factor" is revised and a new item "Credit Conversion for Recourse Obligations and Direct Credit Substitutes" is added after the item "Zero Percent Conversion Factor" to read as follows:

* * * * *

Table III—Credit Conversion Factors for Off-Balance Sheet Items 100 Percent Conversion Factor

100 Percent Conversion Factor

(1) Sale and repurchase agreements, if not already included on the balance sheet.

(2) Forward agreements representing contractual obligations to purchase assets, including financing facilities, with drawdown *certain* at a specified future date.

(3) Securities lent, if the lending bank is exposed to risk of loss.

* * * * *

Credit Conversion for Recourse Obligations and Direct Credit Substitutes

The credit equivalent amount for an off-balance sheet recourse obligation or direct credit subetitute:

(1) That is not rated at least investment grade is the full amount of the credit enhanced assets from which risk of loss is directly or indirectly retained or assumed, subject to the low-level recourse rule.

(2) That is rated in the highest investment grade category is its face amount.

(3) That is rated investment grade, but below the highest investment grade category, is [Option 1—Face Value Treatment] its face amount.

[Option 2—Modified Gross-Up] the full amount of the credit enhanced assets from which risk of credit loss is directly or indirectly retained or assumed.

* * * * *

Dated at Washington, D.C., this 16th day of September, 1997. Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Robert E. Feldman,
Executive Secretary.

Office of Thrift Supervision

12 CFR CHAPTER V

Authority and Issuance

For the reasons set out in the preamble, part 567 of chapter V of title 12 of the Code of Federal Regulations is proposed to be amended as follows:

PART 567—CAPITAL

1. The authority citation for part 567 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1828(note).

2. Section 567.1 is amended by removing and reserving paragraph (f), by removing in paragraph (i)(2) including text the phrase "§ 567.6(a)(vi)" and adding in lieu thereof the phrase "§ 567.6(a)(1)(vi)" and by revising paragraph (kk), to read as follows:

§ 567.1 Definitions.

* * * * *

(kk) *Standby letter of credit.* (1) *Financial guarantee-type standby letter of credit* means any letter of credit or similar arrangement, however named or described, that represents an irrevocable obligation to the beneficiary on the part of the issuer:

(i) To repay money borrowed by, advanced to, or for the account of an account party; or

(ii) To make payment on account of any indebtedness undertaken by an account party, in the event that the account party fails to fulfill its obligation to the beneficiary.

(2) *Performance-based standby letter of credit* means any letter of credit, or similar arrangement, however named or described, which represents an irrevocable obligation to the beneficiary on the part of the issuer to make payment on account of any default by a

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[18] A privately-issued mortgage-backed security may be treated as an indirect holding of the underlying assets provided that: (1) The underlying assets are held by an independent trustee and the trustee has a first priority, perfected security interest in the underlying assets on behalf of the holders of the security; (2) either the holder of the security has an undivided *pro rata* ownership interest in the underlying mortgage assets or the trust or single purpose entity (or conduit) that issues the security has no liabilities unrelated to the issued securities; (3) the security is structured such that the cash flow from the underlying assets in all cases fully meets the cash flow requirements of the security without undue reliance on any reinvestment income; and (4) there is no material reinvestment risk associated with any funds awaiting distribution to the holders of the security. In addition, if the underlying assets of a mortgage-backed security are composed of more than one type of asset, the entire mortgage-backed security is generally assigned to the category appropriate to the highest risk-weighted asset underlying the issue.

[33] The types of loans that qualify as loans secured by multifamily residential properties are listed in the instructions for preparation of the Consolidated Reports of Condition and Income. In addition, from the standpoint of the selling bank, when a multifamily residential property loan is sold subject to a *pro rata* loss sharing arrangement which provides for the purchaser of the loan to share in any loss incurred on the loan on a pro rata basis with the selling bank, that portion of the loan is not subject to the risk-based capital standards. In connection with sales of multifamily residential property loans in which the purchaser of the loan shares in any loss incurred on the loan with the selling institution on other than a *pro rata* basis, the selling bank must treat these other loss sharing arrangements in accordance with section II.B.5. of this appendix A.

[37] Such assets include all nonlocal-currency claims on, and the portions of claims that are guaranteed by, non-OECD central governments and those portions of local-currency claims on, or guaranteed by, non-OECD central governments that exceed the local-currency liabilities held by subsidiary depository institutions.

[38] Customer liabilities on acceptances outstanding involving nonstandard risk claims, such as claims on U.S. depository institutions, are assigned to the risk category appropriate to the identity of the obligor or, if relevant, the nature of the collateral or guarantees backing the claims. Portions of acceptances conveyed as risk participations to U.S. depository institutions or foreign banks are assigned to the 20 percent risk category appropriate to short-term claims guaranteed by U.S. depository institutions and foreign banks.

[39] The sufficiency of collateral and guarantees for off-balance-sheet items is determined by the market value of the collateral of the amount of the guarantee in relation to the face amount of the item, except for derivative contracts, for which this determination is generally made in relation to the credit equivalent amount. Collateral and guarantees are subject to the same provisions noted under section II.B. of this appendix A.

[40] Forward forward deposits accepted are treated as interest rate contracts.

third party in the performance of a nonfinancial or commercial obligation.

* * * * *

3. Section 567.6 is amended by revising paragraphs (a) heading and introductory text, (a)(1) introductory text, and (a)(2) introductory text, removing and reserving paragraphs (a)(2)(i)(A) and (C), revising paragraphs (a)(2)(i)(B) and (a)(3), and adding paragraph (b) to read as follows:

§ 567.6 Risk-based capital credit risk-weight categories.

(a) *Risk-weighted assets.* Risk-weighted assets equal risk-weighted on-balance sheet assets (as computed under paragraph (a)(1) of this section), plus risk-weighted off-balance sheet items (as computed under paragraph (a)(2) of this section), plus risk-weighted recourse obligations, direct credit substitutes, and asset-and mortgage-backed securities (as computed under paragraph (a)(3) of this section). Assets not included for purposes of calculating capital pursuant to § 567.5 are not included in calculating risk-weighted assets.

(1) *On-balance sheet assets.* Except as provided in paragraph (a)(3) of this section, risk-weighted on-balance sheet assets are computed by multiplying the on-balance sheet asset amount times the appropriate risk weight categories. The risk weight categories for on-balance sheet assets are:

* * * * *

(2) *Off-balance sheet activities.* Except as provided in paragraph (a)(3) of this section, risk-weights for off-balance sheet items are determined by the following two-step process. First, the face amount of the off-balance sheet item must be multiplied by the appropriate credit conversion factor listed in this paragraph (a)(2). This calculation translates the face amount of an off-balance sheet exposure into an on-balance sheet credit-equivalent amount. Second, the credit-equivalent amount must be assigned to the appropriate risk weight category using the criteria regarding obligors, guarantors, and collateral listed in paragraph (a)(1) of this section, *provided* that the maximum risk weight assigned to the credit-equivalent amount of an interest-rate or exchange-rate contract is 50 percent. The following are the credit conversion factors and the off-balance sheet items to which they apply:

(i) * * *

(B) Risk participations purchased in bank acceptances;

* * * * *

(3) *Recourse obligations, direct credit substitutes, and asset- and mortgage-backed securities*—(i) *Risk-weighted asset amount.* Except as otherwise provided in this paragraph (a)(3), to calculate the risk-weighted asset amount for a recourse obligation or a direct credit substitute, multiply the amount of assets from which risk of credit loss is directly or indirectly retained or assumed, by the appropriate risk weight using the criteria regarding obligors, guarantors, and collateral listed in paragraph (a)(1) of this section. For purposes of this paragraph (a)(3), the amount of assets from which risk of credit loss is directly or indirectly retained or assumed means:

(A) For a financial guarantee-type standby letter of credit, surety arrangement, guarantee, or irrevocable guarantee-type instrument, the amount of assets that the direct credit substitute fully or partially supports;

(B) For a subordinated interest or security, the amount of the subordinated interest or security, plus all more senior interests or securities;

(C) For mortgage servicing rights that are recourse obligations or direct credit substitutes, the outstanding amount of the loans serviced;

(D) For representations and warranties (other than standard representations and warranties), the amount of the assets subject to the representations or warranties;

(E) For loans on lines of credit that provide credit enhancement for the financial obligations of the financial obligations of an account party, the amount of the enhanced financial obligations;

(F) For loans strips, the amount of the loans; and

(G) For assets sold with recourse, the amount of assets from which risk of credit loss is directly or indirectly retained, less any applicable recourse liability account established in accordance with generally accepted accounting principles. Other types of recourse obligations or direct credit substitutes should be treated in accordance with the principles contained in this paragraph (a)(3)(i).

(ii) *Investment grade recourse obligations, direct credit substitutes, and asset-and mortgage-backed securities.*—(A) *Eligibility.* A traded position in an asset-or mortgage-backed securitization is eligible for the treatment described in this paragraph (a)(3)(ii), if it has been rated investment grade by a nationally recognized statistical rating organization. A recourse obligation or direct credit substitute that is not a traded position is eligible for the treatment described in this paragraph (a)(3)(ii) if it has been rated investment grade by two nationally recognized statistical rating organizations, the ratings are publicly available, the ratings are based on the same criteria used to rate securities sold to the public, and the recourse obligation or direct credit substitute provide credit enhancement to a securitization in which at least one position is traded.

(B) *Highest investment grade.* To calculate the risk-weighted asset amount for a recourse obligation, direct credit substitute, or asset-or mortgage-backed security that is rated in the highest investment grade category, multiply the face amount of the position by a risk weight of 20 percent.

(C) *Other investment grade.* [Option I—Face Value Treatment] To calculate the risk-weighted asset amount for a recourse obligation, direct credit substitute, or asset-or mortgage-backed security that is rated investment grade, multiply the face amount of the position by a risk weight of 100 percent.

[Option II—Modified Gross-Up Treatment] To calculate the risk-weighted asset amount for a recourse obligation, direct credit substitute, or asset-or mortgage backed security that is rated investment grade, multiply the amount of assets from which risk of credit loss is directly or indirectly retained or assumed (*see* paragraphs (a)(3)(i)(A) through (F) of this section), by a risk weight of 50 percent.

(iii) *Participations.* The risk-weighted asset amount for a participation interest in a recourse obligation or direct credit substitute is calculated as follows:

(A) Determine the risk-weighted asset amount for the recourse obligation or direct credit substitute as if the savings association held all of the interests in the participation;

(B) Multiply this amount by the percentage of the savings association's participation interest; and

(C) If the savings association is exposed to more than its *pro rata* share of the risk of credit loss on the recourse obligation or direct credit substitute (*e.g.*, the savings association remains secondarily liable on participations held by others), add to the amount computed under paragraph (a)(3)(iii)(B) of this section, an amount computed as follows: Multiply the amount of the recourse obligation or direct credit substitute by the percentage of the recourse obligation or direct credit substitute held by others and then multiply the result by the lesser of the risk weight appropriate for the holders of those interests or the risk weight appropriate to the recourse obligation or direct credit substitute.

(iv) *Alternative capital computation for small business obligations.*

(A) *Definitions.* For the purposes of this paragraph (a)(3)(iv):

(*1*) *Qualified savings association* means a savings association that:

(*i*) Is well capitalized as defined in § 565.4 of this chapter without applying the capital treatment described in paragraph (a)(3)(iv)(B) of this section; or

(*ii*) Is adequately capitalized as defined in § 565.4 of this chapter without applying the capital treatment described in paragraph (a)(3)(iv)(B) of this section and has received written permission from the OTS to apply that capital calculation.

(*2*) *Small business* means a business that meets the criteria for a small business concern established by the Small Business Administration in 12 CFR part 121 pursuant to 15 U.S.C. 632.

(B) *Capital requirement.* With respect to a transfer of a small business loan or lease of personal property with recourse that is a sale under generally accepted accounting principles, a qualified savings association may elect to include only the amount of its retained recourse in its risk-weighted assets for the purposes of this paragraph (a)(3). To qualify for this election, the savings association must establish and maintain a reserve under generally accepted accounting principles sufficient to meet the reasonable estimated liability of the savings association under the recourse obligation.

(C) *Aggregate amount of recourse.* The total outstanding amount of recourse retained by a qualified savings association with respect to transfers of small business loans and leases of personal property and included in the risk-weighted assets of the savings association as described in this paragraph (a)(3), may not exceed 15 percent of the association's total capital computed under § 567.5(c)(4).

(D) *Savings association that ceases to be a qualified savings association or that exceeds aggregate limits.* If a savings association ceases to be a qualified savings association or exceeds the aggregate limit described in paragraph (a)(3)(iv)(C) of this section, the savings association may continue to apply the capital treatment described in paragraph (a)(3)(iv)(B) of this section to transfers of small business loans and leases of personal property that occurred when the association was a qualified savings association and did not exceed the limit.

(E) *Prompt corrective action not affected.* (*1*) A savings association shall compute its capital without regard to this paragraph (a)(3)(iv) of this section for purposes of prompt corrective action (12 U.S.C. 1831o), unless the savings association is adequately or well capitalized without applying the capital treatment described in this paragraph (a)(3)(iv) and would be well capitalized after applying that capital treatment.

(*2*) A savings association shall compute its capital requirement without regard to this paragraph (a)(3)(iv) for the purposes of applying 12 U.S.C. 1381o(g), regardless of the association's capital level.

(v) *Limitations on risk-based capital requirements.*—(A) *Low level recourse.* (*1*) If the maximum contractual liability or exposure to credit loss retained or assumed by a savings association in connection with a recourse obligation or a direct credit substitute is less than the effective risk-based capital requirement for the enhanced asset, the risk based capital requirement is limited to the maximum contractual liability or exposure to credit loss. For assets sold with recourse, the amount of capital required to support the recourse obligation is limited to the maximum contractual liability or exposure to credit loss less the amount of the recourse liability account established in accordance with generally accepted accounting principles.

(*2*) The low level recourse limitation does not apply to assets sold with implicit recourse.

(B) *Mortgage-related securities or participation certificates retained in a mortgage loan swap.* If a savings association holds a mortgage-related security or a participation certificate as a result of a mortgage loan swap with recourse, capital is required to support the recourse obligation (including consideration of any low level recourse limitation described at paragraph (a)(3)(v)(A) of this section), plus the percentage of the mortgage-related security or participation certificate that is not protected against risk of loss by the recourse obligation. The total amount of capital required for the on-balance sheet asset and the recourse obligation, however, is limited to the capital requirement for the underlying loans, calculated as if the savings association continued to hold these loans as an on-balance sheet asset.

(C) *Related on-balance sheet assets.* To the extent that an asset is included in the calculation of the risk-based capital requirement under this paragraph (a)(3), and may also be included as an on-balance sheet asset under paragraph (a)(1) of this section, the asset shall be risk-weighted only under this paragraph (a)(3) except:

(*1*) Mortgage servicing assets and similar arrangements with embedded recourse obligations or direct credit substitutes are risk weighted as on-balance sheet assets under paragraph (a)(1) of this section, and the related recourse obligations and direct credit substitutes are risk-weighted under this paragraph (a)(3); and

(*2*) Purchased subordinated interests that are high quality mortgage-related securities are not subject to risk weighting under this paragraph (a)(3). Rather, the face values of these assets are risk-weighted as on-balance sheet assets under paragraph (a)(1)(ii)(H) of this section.

(vi) *Obligations of subsidiaries.* If a savings association retains a recourse obligation or assumes a direct credit substitute on the obligation of a subsidiary that is not an includable subsidiary, and the recourse obligation or direct credit substitute is an equity or debt investment in that subsidiary under generally accepted accounting principles, the face amount of the recourse obligation or direct credit substitute is deducted for capital under §§ 567.5(a)(2) and 567.9(c). All other recourse obligations and direct credit substitutes retained or assumed by a savings association on the obligations of an entity in which the savings association has an equity investment are risk-weighted in accordance with paragraphs (a)(3)(i) through (v) of this section.

(b) *Definitions.* For the purposes of this section:

(1) *Direct credit substitute* means an arrangement in which a savings association assumes, in form or in substance, any risk of credit loss directly or indirectly associated with a third party asset or other financial claim, that exceeds the savings association's *pro rata* share of the asset or claim. If a savings association has no claim on an asset, then the assumption of any risk of credit loss is a direct credit substitute. Direct credit substitutes include, but are not limited to:

(i) Financial guarantee-type standby letters of credit that support financial claims on the account party;

(ii) Guarantees, surety arrangements, and irrevocable guarantee-type instruments backing financial claims;

(iii) Purchased subordinated interests or securities that absorb more than their *pro rata* share of losses from the underlying assets;

(iv) Loans or lines of credit that provide credit enhancement for the financial obligations of an account party; and

(v) Purchased loan servicing assets if the servicer is responsible for credit losses associated with the loans being serviced (other than a servicer cash advance as defined in this section), or if the servicer makes or assumes

representations and warranties on the loans other than standard representation and warranties as defined in this section.

(2) *Rated* means, with respect to an instrument or obligation, that the instrument or obligation has received a credit rating from a nationally-recognized statistical rating organization. An instrument or obligation is rated investment grade if it has received a credit rating that falls within one of the four highest rating categories used by the organization. An instrument or obligation is rated in the highest investment grade if it has received a credit rating that falls within the highest rating category used by the organization.

(3) *Recourse* means the retention, in form or in substance, of any risk of credit loss directly or indirectly associated with a transferred asset, that exceeds a *pro rata* share of the savings association's claim on the asset. If a savings association has no claim on a transferred asset, then the retention of any risk of credit loss is recourse. A recourse obligation typically arises when an institution transfers its assets and retains an obligation to repurchase the assets, or to absorb losses due to a default of principal or interest or any other deficiency in the performance of the underlying obligor or some other party. Recourse may exist implicitly where a savings association provides credit enhancement beyond any contractual obligation to support the assets it has sold. Recourse obligations include, but are not limited to:

(i) Representations and warranties on the transferred assets other than standard representations and warranties as defined in this section;

(ii) Retained loan servicing assets if the servicer is responsible for losses associated with the loans serviced (other than a servicer cash advance as defined in this section);

(iii) Retained subordinated interests or securities that absorb more than their *pro rata* share of losses from the underlying assets;

(iv) Assets sold under an agreement to repurchase; and

(v) Loan strips sold without direct recourse where the maturity of the transferred loan is shorter than the maturity of the commitment.

(4) *Servicer cash advance* means funds that a residential mortgage loan servicer advances to ensure an uninterrupted flow of payments or the timely collection of residential mortgage loans, including disbursements made to cover foreclosure costs or other expenses arising from a mortgage loan to facilitate its timely collection. A servicer cash advance is not a recourse obligation or a direct credit substitute if:

(i) The mortgage servicer is entitled to full reimbursement; or

(ii) For any one residential mortgage loan, nonreimbursed advances are contractually limited to an insignificant amount of the outstanding principal on that loan.

(5) *Standard representations and warranties* mean contractual provisions that a savings association extends when it transfers assets (including loan servicing assets) or assumes when it purchases loan servicing assets. To qualify as a standard representation or warranty, a contractual provision must:

(i) Refer to facts that the seller or servicer can verify, and has verified with reasonable due diligence, prior to the time that assets are transferred (or servicing assets are acquired);

(ii) Refer to a condition that is within the control of the seller or servicer; or

(iii) Provide for the return of assets in the event of fraud or documentation deficiencies.

(6) *Traded position* means a recourse obligation, direct credit substitute, or asset- or mortgage-backed security that is retained, assumed or issued in connection with an asset securitization, and that was rated with a reasonable expectation that, in the near future:

(i) The position would be sold to investors relying on the rating; or

(ii) A third party would, in reliance on the rating, enter into a transaction such as a loan or repurchase agreement involving the position.

Dated: September 3, 1997.

By the Office of Thrift Supervision.

Nicolas P. Retsinas,

Director.

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Part III

Department of Energy

Office of Energy Efficiency and Renewable Energy

10 CFR Part 431

Policies on Coverage and Enforcement of Energy Efficiency Requirements for Electric Motors; Final Rule

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 431

RIN 1904–AA82

Policies on Coverage and Enforcement of Energy Efficiency Requirements for Electric Motors

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Policy Statement.

SUMMARY: The Department of Energy is publishing a statement of policy which provides guidance concerning compliance with provisions of the Energy Policy and Conservation Act (EPCA), as amended, which establishes energy efficiency standards and test procedures for certain commercial and industrial electric motors.

DATES: Effective: September 17, 1997.

ADDRESSES: Any comments or suggestions with respect to this policy statement, as well as requests for further information, should be addressed to the Director, Office of Codes and Standards, EE–43, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0121.

FOR FURTHER INFORMATION CONTACT: James Raba, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE–43, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–8654.

SUPPLEMENTARY INFORMATION: The following policy statement provides guidance concerning compliance with provisions of the Energy Policy and Conservation Act (EPCA), as amended, which establishes energy efficiency standards and test procedures for certain commercial and industrial electric motors.

Section 340(13)(A) of EPCA defines the term "electric motor," and a rule proposed by the Department of Energy (Department) at 61 FR 60440, November 27, 1996, clarifies this definition. Notwithstanding the definition in EPCA and the proposed clarification, motor manufacturers have expressed residual uncertainty as to whether motors with certain modifications are "electric motors" covered under the statute. Consequently, motor manufacturers have requested that the Department provide guidance as to which types of motors are covered under EPCA. Motor manufacturers have also expressed concern about their ability to comply with the statute by October 25, 1997, for some such covered motors, and the impact of compliance on manufacturers of some equipment that incorporates electric motors. Hence, they have requested that the Department delay enforcement of EPCA as to certain motors.

The policy statement that follows addresses these concerns. It is based upon recommendations from motor manufacturers, original equipment manufacturers, energy efficiency advocates, trade associations, testing laboratories, and other government officials, and provides such guidance.

Issued in Washington, DC, on September 17, 1997.

Joseph J. Romm,

Acting Assistant Secretary, Energy Efficiency and Renewable Energy.

Policy Statement:

Policy Statement for Electric Motors Covered Under the Energy Policy and Conservation Act

I. Introduction

The Energy Policy and Conservation Act (EPCA), 42 U.S.C. 6311, *et seq.*, establishes energy efficiency standards and test procedures for certain commercial and industrial electric motors manufactured (alone or as a component of another piece of equipment) after October 24, 1997, or, in the case of an electric motor which requires listing or certification by a nationally recognized safety testing laboratory, after October 24, 1999.[1] EPCA also directs the Department of Energy (DOE or Department) to implement the statutory test procedures prescribed for motors, and to require efficiency labeling of motors and certification that covered motors comply with the standards.

Section 340(13)(A) of EPCA defines the term "electric motor" based essentially on the construction and rating system in the National Electrical Manufacturers Association (NEMA) Standards Publication MG1. Sections 340(13)(B) and (C) of EPCA define the terms "definite purpose motor" and "special purpose motor," respectively, for which the statute prescribes no efficiency standards.

In its proposed rule to implement the EPCA provisions that apply to motors (61 FR 60440, November 27, 1996), DOE has proposed to clarify the statutory definition of "electric motor," to mean a machine which converts electrical power into rotational mechanical power and which: (1) is a general purpose motor, including motors with explosion-proof construction;[2] (2) is a single speed, induction motor; (3) is rated for continuous duty operation, or is rated duty type S–1 (IEC),[3] (4) contains a squirrel-cage or cage (IEC) rotor; (5) has foot-mounting, including foot-mounting with flanges or detachable feet; (6) is built in accordance with NEMA T-frame dimensions, or IEC metric equivalents (IEC); (7) has performance in accordance with NEMA Design A or B characteristics, or equivalent designs such as IEC Design N (IEC); and (8) operates on polyphase alternating current 60-Hertz sinusoidal power, and is (i) rated 230 volts or 460 volts, or both, including any motor that is rated at multi-voltages that include 230 volts or 460 volts, or (ii) can be operated on 230 volts or 460 volts, or both.

Notwithstanding the clarification provided in the proposed rule, there still appears to be uncertainty as to which motors EPCA covers. It is widely understood that the statute covers "general purpose" motors that are manufactured for a variety of applications, and that meet EPCA's definition of "electric motor." Many modifications, however, can be made to such generic motors. Motor manufacturers have expressed concern as to precisely which motors with such modifications are covered under the statute, and as to whether manufacturers will be able to comply with the statute by October 25, 1997 with respect to all of these covered motors. Consequently, motor manufacturers have requested that the Department provide additional guidance as to which types of motors are "electric motors," "definite purpose motors," and "special purpose motors" under EPCA. The policy statement that follows is based upon input from motor manufacturers and energy efficiency advocates, and provides such guidance.

[1] The term *manufacture* means "to manufacture, produce, assemble or import." EPCA § 321(10). Thus, the standards apply to motors produced, assembled, imported or manufactured after these statutory deadlines.

[2] Section 342(b)(1) of EPCA recognizes that EPCA's efficiency standards cover "motors which require listing or certification by a nationally recognized safety testing laboratory." This applies, for example, to explosion-proof motors which are otherwise general purpose motors.

[3] Terms followed by the parenthetical "IEC" are referred to in the International Electrotechnical Commission (IEC) Standard 34–1. Such terms are included in DOE's proposed definition of "electric motor" because DOE believes EPCA's efficiency requirements apply to metric system motors that conform to IEC Standard 34, and that are identical or equivalent to motors constructed in accordance with NEMA MG1 and covered by the statute.

II. Guidelines for Determining Whether a Motor is Covered by EPCA

A. General

EPCA specifies minimum nominal full-load energy efficiency standards for 1 to 200 horsepower electric motors, and, to measure compliance with those standards, prescribes use of the test procedures in NEMA Standard MG1 and Institute of Electrical and Electronics Engineers (IEEE) Standard 112. In DOE's view, as stated in Assistant Secretary Ervin's letter of May 9, 1996, to NEMA's Malcolm O'Hagan, until DOE's regulations become effective, manufacturers can establish compliance with these EPCA requirements through use of competent and reliable procedures or methods that give reasonable assurance of such compliance. So long as these criteria are met, manufacturers may conduct required testing in their own laboratories or in independent laboratories, and may employ alternative correlation methods (in lieu of actual testing) for some motors. Manufacturers may also establish their compliance with EPCA standards and test procedures through use of third party certification or verification programs such as those recognized by Natural Resources Canada. Labeling and certification requirements will become effective only after DOE has promulgated a final rule prescribing such requirements.

Motors with features or characteristics that do not meet the statutory definition of "electric motor" are not covered, and therefore are not required to meet EPCA requirements. Examples include motors without feet and without provisions for feet, and variable speed motors operated on a variable frequency power supply. Similarly, multispeed motors and variable speed motors, such as inverter duty motors, are not covered equipment, based on their intrinsic design for use at variable speeds. However, NEMA Design A or B motors that are single speed, meet all other criteria under the definitions in EPCA for covered equipment, and can be used with an inverter in variable speed applications as an additional feature, are covered equipment under EPCA. In other words, being suitable for use on an inverter by itself does not exempt a motor from EPCA requirements.

Section 340(13)(F) of EPCA, defines a "small electric motor" as "a NEMA general purpose alternating current single-speed induction motor, built in a two-digit frame number series in accordance with NEMA Standards Publication MG 1–1997." Section 346 of EPCA requires DOE to prescribe testing requirements and efficiency standards only for those small electric motors for which the Secretary determines that standards are warranted. The Department has not yet made such a determination.

B. Electrical Features

As noted above, the Department's proposed definition of "electric motor" provides in part that it is a motor that "operates on polyphase alternating current 60-Hertz sinusoidal power, and . . . can be operated on 230 volts or 460 volts, or both." In DOE's view, "can be operated" implicitly means that the motor can be operated successfully. According to NEMA Standards Publication MG1–1993, section 12.44, "Variations from Rated Voltage and Rated Frequency," alternating-current motors must operate successfully under running conditions at rated load with a variation in the voltage or the frequency up to the following: plus or minus 10 percent of rated voltage, with rated frequency for induction motors; [4] plus or minus 5 percent of rated frequency, with rated voltage; and a combined variation in voltage and frequency of 10 percent (sum of absolute values) of the rated values, provided the frequency variation does not exceed plus or minus 5 percent of rated frequency. DOE believes that, for purposes of determining whether a motor meets EPCA's definition of "electric motor," these criteria should be used to determine when a motor that is not rated at 230 or 460 volts or 60 Hertz can be operated at such voltage and frequency.[5]

NEMA Standards Publication MG1 categorizes electrical modifications to motors according to performance characteristics that include locked rotor torque, breakdown torque, pull-up torque, locked rotor current, and slip at rated load, and assigns design letters, such as Design A, B, C, D, or E, to identify various combinations of such electrical performance characteristics. Under section 340(13)(A) of EPCA, electric motors subject to EPCA efficiency requirements include only motors that fall within NEMA "Design A and B . . . as defined in [NEMA] Standards Publication MG1–1987." As to locked rotor torque, for example, MG1 specifies a minimum performance value for a Design A or B motor of a given speed and horsepower, and somewhat higher minimum values for Design C and D motors of the same speed and horsepower. The Department understands that, under MG1, the industry classifies a motor as Design A or B if it has a locked rotor torque at or above the minimum for A and B but below the minimum for Design C, so long as it otherwise meets the criteria for Design A or B. Therefore, in the Department's view, such a motor is covered by EPCA's requirements for electric motors. By contrast a motor that meets or exceeds the minimum locked rotor torque for Design C or D is not covered by EPCA. In sum, if a motor has electrical modifications that meet Design A or B performance requirements it is covered by EPCA, and if its characteristics meet Design C, D or E it is not covered.

C. Size

Motors designed for use on a particular type of application which are in a frame size that is one or more frame series larger than the frame size assigned to that rating by sections 1.2 and 1.3 of NEMA Standards Publication MG 13–1984 (R1990), "Frame Assignments for Alternating Current Integral-Horsepower Induction Motors," are not, in the Department's view, usable in most general purpose applications. This is due to the physical size increase associated with a frame series change. A frame series is defined as the first two digits of the frame size designation. For example, 324T and 326T are both in the same frame series, while 364T is in the next larger frame series. Hence, in the Department's view, a motor that is of a larger frame series than normally assigned to that standard rating of motor is not covered by EPCA. A physically larger motor within the same frame series would be covered, however, because it would be usable in most general purpose applications.

Motors built in a T-frame series or a T-frame size *smaller* than that assigned by MG 13–1984 (R1990) are also considered usable in most general purpose applications. This is because simple modifications can generally be made to fit a smaller motor in place of a motor with a larger frame size assigned in conformity with NEMA MG

[4] For example, a motor that is rated at 220 volts should operate successfully on 230 volts, since 220 + .10(220) = 242 volts. A 208 volt motor, however, would not be expected to operate successfully on 230 volts, since 208 + .10(208) = 228.8 volts.

[5] The Department understands that a motor that can operate at such voltage and frequency, based on variations defined for successful operation, will not necessarily perform in accordance with the industry standards established for operation at the motor's rated voltage and frequency. In addition, under the test procedures prescribed by EPCA, motors are to be tested at their rated values. Therefore, in DOE's view a motor that is not rated for 230 or 460 volts, or 60 Hertz, but that can be successfully operated at these levels, must meet the energy efficiency requirements at its rated voltage(s) and frequency. DOE also notes that when a motor is rated to include a wider voltage range that includes 230/460 volts, the motor should meet the energy efficiency requirements at 230 volts or 460 volts.

13. Therefore, DOE believes that such smaller motors are covered by EPCA.

D. Motors With Seals

Some electric motors have seals to prevent ingress of water, dust, oil, and other foreign materials into the motor. DOE understands that, typically, a manufacturer will add seals to a motor that it manufactures, so that it will sell two motors that are identical except that one has seals and the other does not. In such a situation, if the motor without seals is "general purpose" and covered by EPCA's efficiency requirements, then the motor with seals will also be covered because it can still be used in most general purpose applications. DOE understands, however, that manufacturers previously believed motors with seals were not covered under EPCA, in part because IEEE Standard 112, "Test Procedure for Polyphase Induction Motors and Generators," prescribed by EPCA, does not address how to test a motor with seals installed.

The efficiency rating of such a motor, if determined with seals installed and when the motor is new, apparently would significantly understate the efficiency of the motor as operated. New seals are stiff, and provide friction that is absent after their initial break-in period. DOE understands that, after this initial period, the efficiency ratings determined for the same motor with and without seals would be virtually identical. To construe EPCA, therefore, as requiring such separate efficiency determinations would impose an unnecessary burden on manufacturers.

In light of the foregoing, the Department believes that EPCA generally permits the efficiency of a motor with seals to be determined without the seals installed. Furthermore, notwithstanding the prior belief that such motors are not covered by EPCA, use of this approach to determining efficiency will enable manufacturers to meet EPCA's standards with respect to covered motors with seals by the date the standards go into effect on October 25, 1997.

III. Discussion of How DOE Would Apply EPCA Definitions, Using the Foregoing Guidelines

Using the foregoing guidelines, the attached matrix provides DOE's view as to which motors with common features are covered by EPCA. Because manufacturers produce many basic models that have many modifications of generic general purpose motors, the Department does not represent that the matrix is all-inclusive. Rather it is a set of examples demonstrating how DOE would apply EPCA definitions, as construed by the above guidelines, to various motor types. By extension of these examples, most motors currently in production, or to be designed in the future, could probably be classified. The matrix classifies motors into five categories, which are discussed in the following passages.

Category I—For "electric motors" (manufactured alone or as a component of another piece of equipment) in Category I, DOE will enforce EPCA efficiency standards and test procedures beginning on October 25, 1997.

The Department understands that some motors essentially are relatively simple modifications of generic general purpose motors. Modifications could consist, for example, of minor changes such as the addition of temperature sensors or a heater, the addition of a shaft extension and a brake disk from a kit, or changes in exterior features such as the motor housing. Such motors can still be used for most general purpose applications, and the modifications have little or no effect on motor performance. Nor do the modifications affect energy efficiency.

Category II—For certain motors that are "definite purpose" according to present industry practice, but that can be used in most general purpose applications; DOE will generally enforce EPCA efficiency standards and test procedures beginning no later than October 25, 1999.

General Statement

EPCA does not prescribe standards and test procedures for "definite purpose motors." Section 340(13)(B) of EPCA defines the term *definite purpose motor* as "any motor designed in standard ratings with standard operating characteristics or standard mechanical construction for use under service conditions other than usual or for use on a particular type of application *and which cannot be used in most general purpose applications.*" [Emphasis added.] Except, significantly, for exclusion of the italicized language, the industry definition of "definite purpose motor," set forth in NEMA MG1, is identical to the foregoing.

Category II consists of electric motors with horsepower ratings that fall between the horsepower ratings in section 342(b)(1) of EPCA, thermally protected motors, and motors with roller bearings. As with motors in Category I, these motors are essentially modifications of generic general purpose motors. Generally, however, the modifications contained in these motors are more extensive and complex than the modifications in Category I motors. These Category II motors have been considered "definite purpose" in common industry parlance, but are covered equipment under EPCA because they can be used in most general purpose applications.

According to statements provided during the January 15, 1997, Public Hearing, Tr. pgs. 238–239, Category II motors were, until recently, viewed by most manufacturers as definite purpose motors, consistent with the industry definition that did not contain the clause "which cannot be used in most general purpose applications." Hence, DOE understands that many manufacturers assumed these motors were not subject to EPCA's efficiency standards. During the period prior and subsequent to the hearing, discussions among manufacturers resulted in a new understanding that such motors are general purpose under EPCA, since they can be used in most general purpose applications. Thus, the industry only recently recognized that such motors are covered under EPCA. Although the statutory definition adopted in 1992 contained the above-quoted definition of "definite purpose," the delay in issuing regulations which embody this definition may have contributed to industry's delay in recognizing that these motors are covered.

The Department understands that redesign and testing these motors in order to meet the efficiency standards in the statute may require a substantial amount of time. Given the recent recognition that they are covered, it is not realistic to expect these motors will be able to comply by October 25, 1997. A substantial period beyond that will be required. Moreover, the Department believes different manufacturers will need to take different approaches to achieving compliance with respect to these motors, and that, for a particular type of motor, some manufacturers will be able to comply sooner than others. Thus, the Department intends to refrain from taking enforcement action for two years, until October 25, 1999, with respect to motors with horsepower ratings that fall between the horsepower ratings in section 342(b)(1) of EPCA, thermally protected motors, and motors with roller bearings. Manufacturers are encouraged, however, to manufacture these motors in compliance with EPCA at the earliest possible date.

The following sets forth in greater detail, for each of these types of motors, the basis for the Department's policy to refrain from enforcement for two years. Also set forth is additional explanation of the Department's understanding as to why manufacturers previously believed intermediate horsepower motors were not covered by EPCA.

Intermediate Horsepower Ratings

Section 342(b)(1) of EPCA specifies efficiency standards for electric motors with 19 specific horsepower ratings, ranging from one through 200 horsepower. Each is a preferred or standardized horsepower rating as reflected in the table in NEMA Standards Publication MG1–1993, paragraph 10.32.4, *Polyphase Medium Induction Motors.* However, an "electric motor," as defined by EPCA, can be built at other horsepower ratings, such as 6 horsepower, 65 horsepower, or 175 horsepower. Such motors, rated at horsepower levels between any two adjacent horsepower ratings identified in section 342(b)(1) of EPCA will be referred to as "intermediate horsepower motors." In the Department's view, efficiency standards apply to every motor that has a rating from one through 200 horsepower (or kilowatt equivalents), and that otherwise meets the criteria for an "electric motor" under EPCA, including an electric motor with an intermediate horsepower (or kw) rating.

To date, these motors have typically been designed in conjunction with and supplied to a specific customer to fulfill certain performance and design requirements of a particular application, as for example to run a certain type of equipment. See the discussion in Section IV below on "original equipment" and "original equipment manufacturers." In large part for these reasons, manufacturers believed intermediate horsepower motors to be "definite purpose motors" that were not covered by EPCA. Despite their specific uses, however, these motors are electric motors under EPCA when they are capable of being used in most general purpose applications.

Features of a motor that are directly related to its horsepower rating include its physical size, and the ratings of its controller and protective devices. These aspects of a 175 horsepower motor, for example, which is an intermediate horsepower motor, must be appropriate to that horsepower, and would generally differ from the same aspects of 150 and 200 horsepower motors, the two standard horsepower ratings closest to 175. To re-design an existing intermediate horsepower electric motor so that it complies with EPCA could involve all of these elements of a motor's design. For example, the addition of material necessary to achieve EPCA's prescribed level of efficiency could cause the size of the motor to increase. The addition of magnetic material would invite higher inrush current that could cause an incorrectly sized motor controller to malfunction, or the circuit breaker with a standard rating to trip unnecessarily, or both. The Department believes motor manufacturers will require a substantial amount of time to redesign and retest each intermediate horsepower electric motor they manufacture.

To the extent such intermediate horsepower electric motors become unavailable because motor manufacturers have recognized only recently that they are covered by EPCA, equipment in which they are incorporated would temporarily become unavailable also. Moreover, re-design of such a motor to comply with EPCA could cause changes in the motor that require re-design of the equipment in which the motor is used. For example, if an intermediate horsepower electric motor becomes larger, it might no longer fit in the equipment for which it was designed. In such instances, the equipment would have to be re-designed. Because these motors were previously thought not to be covered, equipment manufacturers may not have had sufficient lead time to make the necessary changes to the equipment without interrupting its production.

With respect to intermediate horsepower motors, the Department intends to refrain from enforcing EPCA for a period of 24 months only as to such motor designs that were being manufactured prior to the date this Policy Statement was issued. The Department is concerned that small adjustments could be made to the horsepower rating of an existing electric motor, in an effort to delay compliance with EPCA, if it delayed enforcement as to all intermediate horsepower motors produced during the 24 month period. For example, a 50 horsepower motor that has a service factor of 1.15 could be renameplated as a 57" horsepower motor that has a 1.0 service factor. By making this delay in enforcement applicable only to pre-existing designs of intermediate horsepower motors, the Department believes it has made adequate provision for the manufacture of bona fide intermediate horsepower motor designs that cannot be changed to be in compliance with EPCA by October 25, 1997.

Thermally Protected Motors

The Department understands that in order to redesign a thermally protected motor to improve its efficiency so that it complies with EPCA, various changes in the windings must be made which will require the thermal protector to be re-selected. Such devices sense the inrush and running current of the motor, as well as the operating temperature. Any changes to a motor that affect these characteristics will prevent the protector from operating correctly. When a new protector is selected, the motor must be tested to verify proper operation of the device in the motor. The motor manufacturer would test the locked rotor and overload conditions, which could take several days, and the results may dictate that a second selection is needed with additional testing. When the manufacturer has finished testing, typically the manufacturer will have a third party conduct additional testing. This testing may include cycling the motor in a locked-rotor condition to verify that the protector functions properly. This testing may take days or even weeks to perform for a particular model of motor.

Since it was only recently recognized by industry that these motors are covered by EPCA, in the Department's view the total testing program makes it impossible for manufacturers to comply with the EPCA efficiency levels in thermally protected motors by October 25, 1997, especially since each different motor winding must be tested and motor winding/thermal protector combinations number in the thousands.

Motors With Roller Bearings

Motors with roller bearings fit within the definition of electric motor under the statute. However, because the IEEE Standard 112 Test Method B does not provide measures to test motors with roller bearings installed, manufacturers mistakenly believed such motors were not covered. Under IEEE 112, a motor with roller bearings could only be tested for efficiency with the roller bearings removed and standard ball bearings installed as temporary substitutes. Then on the basis of the energy efficiency information gained from that test, the manufacturer may need to redesign the motor in order to comply with the statute. In this situation, the Department understands that testing, redesigning, and retesting lines of motors with roller bearings, to establish compliance, would be difficult and time consuming.

Categories III, IV and V—Motors not within EPCA's definition of "electric motor," and not covered by EPCA.

Close-Coupled Pump Motors

NEMA Standards Publication MG1–1993, with revisions one through three, Part 18, "Definite-Purpose Machines," defines "a face-mounting close-coupled pump motor" as "a medium alternating-current squirrel-cage induction open or totally enclosed motor, with or without feet, having a shaft suitable for mounting an impeller and sealing

device." Paragraphs MG1–18.601–18.614 specify its performance, face and shaft mounting dimensions, and frame assignments that replace the suffix letters T and TS with the suffix letters JM and JP.

The Department understands that such motors are designed in standard ratings with standard operating characteristics for use in certain close-coupled pumps and pumping applications, but cannot be used in non-pumping applications, such as, for example, conveyors. Consequently, the Department believes close-coupled pump motors are definite-purpose motors not covered by EPCA. However, a motor that meets EPCA's definition of "electric motor," and which can be coupled to a pump, for example by means of a C-face or D-flange endshield, as depicted in NEMA Standards Publication MG1, Part 4, "Dimensions, Tolerances, and Mounting," is covered.

Totally-Enclosed Non-Ventilated (TENV) and Totally-Enclosed Air-Over (TEAO) Motors

A motor designated in NEMA MG1–1993, paragraph MG1–1.26.1, as "totally-enclosed non-ventilated (IP54, IC410)"[6] is "not equipped for cooling by means external to the enclosing parts." This means that the motor, when properly applied, does not require the use of any additional means of cooling installed external to the motor enclosure. The TENV motor is cooled by natural conduction and natural convection of the motor heat into the surrounding environment. As stated in NEMA MG1–1993, Suggested Standard for Future Design, paragraph MG1–1.26.1a, a TENV motor "is only equipped for cooling by free convection." The general requirement for the installation of the TENV motor is that it not be placed in a restricted space that would inhibit this natural dissipation of the motor heat. Most general purpose applications use motors which include a means for forcing air flow through or around the motor and usually through the enclosed space and, therefore, can be used in spaces that are more restrictive than those required for TENV motors. Placing a TENV motor in such common restricted areas is likely to cause the motor to overheat. The TENV motor may also be larger than the motors used in most general purpose applications, and would take up more of the available space, thus reducing the size of the open area surrounding the motor. Installation of a TENV motor might require, therefore, an additional means of ventilation to continually exchange the ambient around the motor.

A motor designated in NEMA MG1–1993 as "totally-enclosed air-over (IP54, IC417)" is intended to be cooled by ventilation means external to (i.e., separate and independent from) the motor, such as a fan. The motor must be provided with the additional ventilation to prevent it from overheating.

Consequently, neither the TENV motor nor the TEAO motor would be suitable for most general purpose applications, and, DOE believes they are definite-purpose motors not covered by EPCA.

Integral Gearmotors

An "integral gearmotor" is an assembly of a motor and a specific gear drive or assembly of gears, such as a gear reducer, as a unified package. The motor portion of an integral gearmotor is not necessarily a complete motor, since the end bracket or mounting flange of the motor portion is also part of the gear assembly and cannot be operated when separated from the complete gear assembly. Typically, an integral gearmotor is not manufactured to standard T-frame dimensions specified in NEMA MG1. Moreover, neither the motor portion, nor the entire integral gearmotor, are capable of being used in most general purpose applications without significant modifications. An integral gearmotor is also designed for a specific purpose and can have unique performance characteristics, physical dimensions, and casing, flange and shafting configurations. Consequently, integral gearmotors are outside the scope of the EPCA definition of "electric motor" and are not covered under EPCA.

However, an "electric motor," as defined by EPCA, which is connected to a stand alone mechanical gear drive or an assembly of gears, such as a gear reducer connected by direct coupling, belts, bolts, a kit, or other means, is covered equipment under EPCA.

IV. Electric Motors That Are Components in Certain Equipment

The primary function of an electric motor is to convert electrical energy to mechanical energy which then directly drives machinery such as pumps, fans, or compressors. Thus, an electric motor is always connected to a driven machine or apparatus. Typically the motor is incorporated into a finished product such as an air conditioner, a refrigerator, a machine tool, food processing equipment, or other commercial or industrial machinery. These products are commonly known as "original equipment" or "end-use equipment," and are manufactured by firms known as "original equipment manufacturers" (OEMs).

Many types of motors used in original equipment are covered under EPCA. As noted above, EPCA prescribes efficiency standards to be met by all covered electric motors manufactured after October 24, 1997, except that covered motors which require listing or certification by a nationally recognized safety testing laboratory need not meet the standards until after October 24, 1999. Thus, for motors that must comply after October 24, 1997, once inventories of motors manufactured before the deadline have been exhausted, only complying motors would be available for purchase and use by OEMs in manufacturing original equipment. Any non-complying motors previously included in such equipment would no longer be available.

The physical, and sometimes operational, characteristics of motors that meet EPCA efficiency standards normally differ from the characteristics of comparable existing motors that do not meet those standards. In part because of such differences, the Department is aware of two types of situations where strict application of the October 24, 1997 deadline could temporarily prevent the manufacture of, and remove from the marketplace, currently available original equipment.

One such situation is where an original equipment manufacturer uses an electric motor as a component in end-use equipment that requires listing or certification by a nationally recognized safety testing laboratory, even though the motor itself does not require listing or certification. In some of these instances, the file for listing or certification specifies the particular motor to be used. No substitution could be made for the motor without review and approval of the new motor and the entire system by the safety testing laboratory. Consequently, a specified motor that does not meet EPCA standards could not be replaced by a complying motor without such review and approval.

This re-listing or re-certification process is subject to substantial variation from one piece of original equipment to the next. For some equipment, it could be a simple paperwork transaction between the safety listing or certification organization and the OEM, taking approximately four to eight weeks to complete. But the process could raise more complex system issues involving redesign of the motor or piece of equipment, or both, and actual testing to assure that safety and performance criteria are met, and could take several months to complete. The completion time could also vary depending on the response time of the particular safety approval agency. Moreover, in the period immediately after October 24, the Department believes wholesale changes could occur in equipment lines when OEMs must begin using motors that comply with EPCA. These changes are likely to be concentrated in the period immediately after EPCA goes into effect on October 24, and if many OEMs seek to re-list or re-certify equipment at the same time, substantial delays in the review and approval process at the safety approval agencies could occur. For these reasons, the Department is concerned that certain end-user equipment that requires safety listing or certification could become unavailable in the marketplace, because an electric motor specifically identified in a listing or certification is covered by EPCA and will become unavailable, and the steps have not been completed to obtain safety approval of the equipment when manufactured with a complying motor.

Second, a situation could exist where an electric motor covered by EPCA is constructed in a T-frame series or T-frame size that is smaller (but still standard) than that assigned by NEMA Standards Publication MG 13–1984 (R1990), sections 1.2 and 1.3, in order to fit into a restricted mounting space that is within certain end-use equipment. (Motors in IEC metric frame sizes and kilowatt ratings could also be involved in this type of situation.) In such cases, the manufacturer of the end-use equipment might need to redesign the equipment containing the mounting space to accommodate a larger motor that complies with EPCA. These circumstances as well could result in certain currently available equipment becoming temporarily unavailable in the market, since the smaller size motor would become unavailable before the original equipment had been re-designed to accommodate the larger, complying motor.

The Department understands that many motor manufacturers and OEMs became aware only recently that the electric motors addressed in the preceding paragraphs were covered by EPCA. This is largely for the same reasons, discussed above, that EPCA coverage of Category II motors was only recently recognized. In addition, the Department understands that some motor manufacturers and original equipment manufacturers confused motors that themselves require safety listing or certification, which need not comply until October 25, 1999, with motors that, while not subject to such requirements, are included in original equipment that requires safety listing or certification. Consequently, motor manufacturers and original equipment manufacturers took insufficient action to assure that appropriate complying motors would be available for the original equipment involved, and that the equipment could accommodate such motors. OEMs involved in such situations may often be unable to switch to motors that meet EPCA standards in the period immediately following October 24. To mitigate any hardship to purchasers of the original equipment, the Department intends to refrain from enforcing EPCA in certain limited circumstances, under the conditions described below.

Where a particular electric motor is specified in an approved safety listing or certification for a piece of original equipment, and the motor does not meet the applicable efficiency standard in EPCA, the Department's policy will be as follows: For the period of time necessary for the OEM to obtain a revised safety listing or certification for that piece of equipment, with a motor specified that complies with EPCA, but in no event beyond October 24, 1999, the Department would refrain from taking enforcement action under EPCA with respect to manufacture of the motor for installation in such original equipment. This policy would apply only where the motor has been manufactured and specified in the approved safety listing or certification prior to October 25, 1997.

Where a particular electric motor is used in a piece of original equipment and manufactured in a smaller than assigned frame size or series, and the motor does not meet the applicable efficiency standard in EPCA, the Department's policy will be as follows: For the period of time necessary for the OEM to re-design the piece of equipment to accommodate a motor that complies with EPCA, but in no event beyond October 24, 1999, the Department would refrain from enforcing the standard with respect to manufacture of the motor for installation in such original equipment. This policy would apply only to a model of motor that has been manufactured and included in the original equipment prior to October 25, 1997.

To allow the Department to monitor application of the policy set forth in the prior two paragraphs, the Department needs to be informed as to the motors being manufactured under the policy. Therefore, each motor manufacturer and OEM should jointly notify the Department as to each motor they will be manufacturing and using, respectively, after October 24, 1997, in the belief that it is covered by the policy. The notification should set forth: (1) The name of the motor manufacturer, and a description of the motor by type, model number, and date of design or production; (2) the name of the original equipment manufacturer, and a description of the application where the motor is to be used; (3) the safety listing or safety certification organization and the existing listing or certification file or document number for which re-listing or re-certification will be requested, if applicable; (4) the reason and amount of time required for continued production of the motor, with a statement that a substitute electric motor that complies with EPCA could not be obtained by an earlier date; and (5) the name, address, and telephone number of the person to contact for further information. The joint request should be signed by a responsible official of each requesting company, and sent to: U.S. Department of Energy, Assistant Secretary for Energy Efficiency and Renewable Energy, Office of Codes and Standards, EE–43, Forrestal Building, 1000 Independence Avenue, SW, Room 1J–018, Washington, DC 20585–0121. The Department does not intend to apply this policy to any motor for which it does not receive such a notification. Moreover, the Department may use the notification, and make further inquiries, to be sure motors listed in the notification meet the criteria for application of the policy.

This part of the Policy Statement will not apply to a motor in Category II, discussed above in section III. Because up to 24 months is contemplated for compliance by Category II motors, the Department believes any issues that might warrant a delay of enforcement for such motors can be addressed during that time period.

V. Further Information

The Department intends to incorporate this Policy Statement into an appendix to its final rule to implement the EPCA provisions that apply to motors. Any comments or suggestions with respect to this Policy Statement, as well as requests for further information, should be addressed to the Director, Office of Codes and Standards, EE–43, U.S. Department of Energy, 1000

[6] IP refers to the IEC Standard 34–5: Classification of degrees of protection provided by enclosures for rotating machines. IC refers to the IEC Standard 34–6: Methods of rotating machinery. The IP and IC codes are referenced in the NEMA designations for TENV and TEAO motors in MG1–1993 Part 1, "Classification According to Environmental Protection and Methods of Cooling," as a Suggested Standard for Future Design, since the TENV and TEAO motors conform to IEC Standards. Details of protection (IP) and methods of cooling (IC) are defined in MG1 Part 5 and Part 6, respectively.

Independence Avenue, SW,
Washington, DC 20585–0121.

EXAMPLES OF MANY COMMON FEATURES OR MOTOR MODIFICATIONS TO ILLUSTRATE HOW THE EPCA DEFINITIONS AND DOE GUIDELINES WOULD BE APPLIED TO MOTOR CATEGORIES: GENERAL PURPOSE; DEFINITE PURPOSE; AND SPECIAL PURPOSE

Motor modification	Category [7]					Explanation
	I	II	III	IV	V	
A. Electrical Modifications						
1 Altitude	X					General purpose up to a frame series change larger.
2 Ambient	X					General purpose up to a frame series change larger.
3 Multispeed					X	EPCA applies to single speed only.
4 Special Leads	X					
5 Special Insulation	X					
6 Encapsulation				X		Due to special construction.
7 High Service Factor	X					General purpose up to a frame series change larger.
8 Space Heaters	X					
9 WYE Delta Start	X					
10 Part Winding Start	X					
11 Temperature Rise	X					General purpose up to a frame series change larger.
12 Thermally Protected		X				Requires retesting and third party agency approval.
13 Thermostat/Thermistor	X					
14 Special Voltages					X	EPCA applies to motors operating on 230/460 voltages at 60 Hertz.
15 Intermediate Horsepowers		X				Round horsepower according to 10 CFR 431.42 for efficiency.
16 Frequency					X	EPCA applies to motors operating on 230/460 voltages at 60 Hertz.
17 Fungus/Trop Insulation	X					
B. Mechanical Modifications						
18 Special Balance	X					
19 Bearing Temp. Detector	X					
20 Special Base/Feet					X	Does not meet definition of T-frame.
21 Special Conduit Box	X					
22 Auxiliary Conduit Box	X					
23 Special Paint/Coating	X					
24 Drains	X					
25 Drip Cover	X					
26 Ground Lug/Hole	X					
27 Screens on ODP Enclosure	X					
28 Mounting F1, F2; W1–4; C1, 2.	X					Foot-mounting, rigid base, and resilient base.
C. Bearings						
29 Bearing Caps	X					
30 Roller Bearings		X				Test with a standard bearing.
31 Shielded Bearings	X					
32 Sealed Bearings	X					Test with a standard bearing.
33 Thrust Bearings				X		Special mechanical construction.
34 Clamped Bearings	X					
35 Sleeve Bearings				X		Special mechanical construction.
D. Special Endshields						
36 C Face	X					As defined in NEMA MG–1.
37 D Flange	X					As defined in NEMA MG–1.
38 Customer Defined				X		Special design for a particular application.
E. Seals						
39 Contact Seals	X					Includes lip seals and taconite seals—test with seals removed.
40 Non-Contact Seal	X					Includes labyrinth and slinger seals—test with seals installed.
F. Shafts						
41 Standard Shafts/NEMA MG–1.	X					Includes single and double, cylindrical, tapered, and short shafts.
42 Non Standard Material	X					

EXAMPLES OF MANY COMMON FEATURES OR MOTOR MODIFICATIONS TO ILLUSTRATE HOW THE EPCA DEFINITIONS AND DOE GUIDELINES WOULD BE APPLIED TO MOTOR CATEGORIES: GENERAL PURPOSE; DEFINITE PURPOSE; AND SPECIAL PURPOSE—Continued

Motor modification	Category [7]					Explanation
	I	II	III	IV	V	
G. Fans						
43 Special Material	X					
44 Quiet Design	X					
H. Other Motors						
45 Washdown	X					Test with seals removed.
46 Close-Coupled Pump			X			JM and JP frame assignments.
47 Integral Gear Motor					X	Typically special mechanical design, and not a T-frame; motor and gearbox inseparable and operate as one system.
48 Vertical—Normal Thrust					X	EPCA covers foot-mounting.
49 Saw Arbor				X		Special electrical/mechanical design.
50 TENV			X			Totally-enclosed non-ventilated not equipped for cooling (IP54, IC410).
51 TEAO			X			Totally-enclosed air-over requires airflow from external source (IP54, IC417).
52 Fire Pump	X					When safety certification is not required. See also EPCA § 342(b)(1).
53 Non-Continuous					X	EPCA covers continuous ratings.
54 Integral Brake Motor				X		Integral brake design factory built within the motor.

[7] Category I—General purpose electric motors as defined in EPCA.
Category II—Definite purpose electric motors that can be used in most general purpose applications as defined in EPCA.
Category III—Definite purpose motors as defined in EPCA.
Category IV—Special purpose motors as defined in EPCA.
Category V—Outside the scope of "electric motor" as defined in EPCA.

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federal register

Wednesday
November 5, 1997

Part IV

The President

Executive Order 13067—Blocking Sudanese Government Property and Prohibiting Transactions With Sudan

Federal Register
Vol. 62, No. 214
Wednesday, November 5, 1997

Presidential Documents

Title 3—

The President

Executive Order 13067 of November 3, 1997

Blocking Sudanese Government Property and Prohibiting Transactions With Sudan

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), and section 301 of title 3, United States Code;

I, WILLIAM J. CLINTON, President of the United States of America, find that the policies and actions of the Government of Sudan, including continued support for international terrorism; ongoing efforts to destabilize neighboring governments; and the prevalence of human rights violations, including slavery and the denial of religious freedom, constitute an unusual and extraordinary threat to the national security and foreign policy of the United States, and hereby declare a national emergency to deal with that threat. I hereby order:

Section 1. Except to the extent provided in section 203(b) of IEEPA (50 U.S.C. 1702(b)) and in regulations, orders, directives, or licenses that may be issued pursuant to this order, all property and interests in property of the Government of Sudan that are in the United States, that hereafter come within the United States, or that hereafter come within the possession or control of United States persons, including their overseas branches, are blocked.

Sec. 2. The following are prohibited, except to the extent provided in section 203(b) of IEEPA (50 U.S.C. 1702(b)) and in regulations, orders, directives, or licenses that may be issued pursuant to this order:

(a) the importation into the United States of any goods or services of Sudanese origin, other than information or informational materials;

(b) the exportation or reexportation, directly or indirectly, to Sudan of any goods, technology (including technical data, software, or other information), or services from the United States or by a United States person, wherever located, or requiring the issuance of a license by a Federal agency, except for donations of articles intended to relieve human suffering, such as food, clothing, and medicine;

(c) the facilitation by a United States person, including but not limited to brokering activities, of the exportation or reexportation of goods, technology, or services from Sudan to any destination, or to Sudan from any location;

(d) the performance by any United States person of any contract, including a financing contract, in support of an industrial, commercial, public utility, or governmental project in Sudan;

(e) the grant or extension of credits or loans by any United States person to the Government of Sudan;

(f) any transaction by a United States person relating to transportation of cargo to or from Sudan; the provision of transportation of cargo to or from the United States by any Sudanese person or any vessel or aircraft of Sudanese registration; or the sale in the United States by any person holding authority under subtitle 7 of title 49, United States Code, of any transportation of cargo by air that includes any stop in Sudan; and

(g) any transaction by any United States person or within the United States that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in this order.

Sec. 3. Nothing in this order shall prohibit:

(a) transactions for the conduct of the official business of the Federal Government or the United Nations by employees thereof; or

(b) transactions in Sudan for journalistic activity by persons regularly employed in such capacity by a news-gathering organization.

Sec. 4. For the purposes of this order:

(a) the term "person" means an individual or entity;

(b) the term "entity" means a partnership, association, trust, joint venture, corporation, or other organization;

(c) the term "United States person" means any United States citizen, permanent resident alien, entity organized under the laws of the United States (including foreign branches), or any person in the United States; and

(d) the term "Government of Sudan" includes the Government of Sudan, its agencies, instrumentalities and controlled entities, and the Central Bank of Sudan.

Sec. 5. The Secretary of the Treasury, in consultation with the Secretary of State and, as appropriate, other agencies, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to me by IEEPA, as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government. All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order.

Sec. 6. Nothing contained in this order shall create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

Sec. 7. (a) This order shall take effect at 12:01 a.m. eastern standard time on November 4, 1997, except that trade transactions under contracts in force as of the effective date of this order may be performed pursuant to their terms through 12:01 a.m. eastern standard time on December 4, 1997, and letters of credit and other financing agreements for such underlying trade transactions may be performed pursuant to their terms.

(b) This order shall be transmitted to the Congress and published in the **Federal Register**.

William J. Clinton

THE WHITE HOUSE,
November 3, 1997.

[FR Doc. 97–29464
Filed 11–4–97; 11:22 am]
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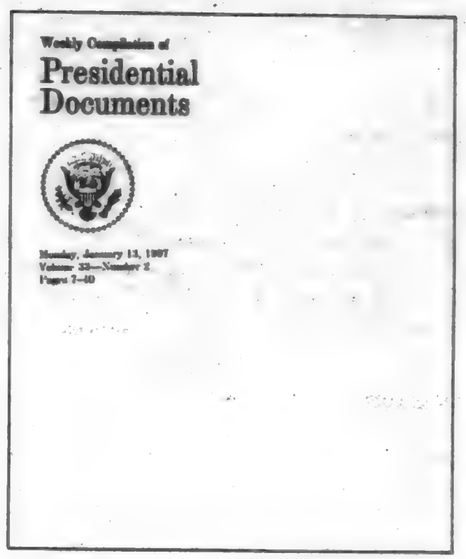

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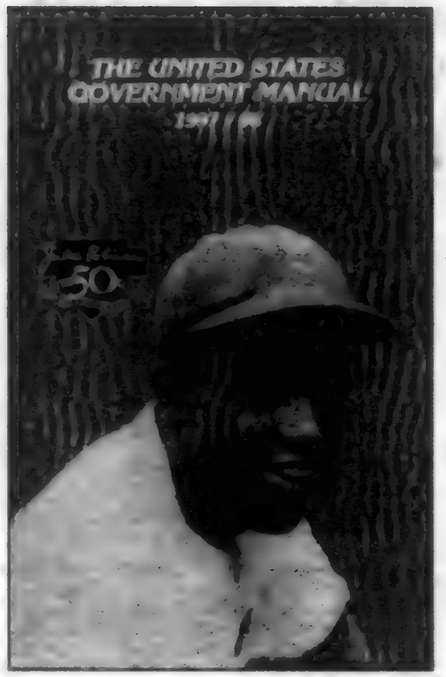

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Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

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Rules and Regulations

Federal Register
Vol. 62, No. 215
Thursday, November 6, 1997

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1201

Practices and Procedures

AGENCY: Merit Systems Protection Board.

ACTION: Final rule.

SUMMARY: The Merit Systems Protection Board is amending its rules of practice and procedure to change its time limits for filing appeals and petitions for review of initial decisions issued by MSPB judges. The amendments to the time limits for filing appeals are intended to ensure that an appellant has a full 30 days to file after the event from which the time period begins to run. The amendment to the time limit for filing a petition for review is intended to ensure that a petitioner has a full 30 days to file after the date of receipt of the initial decision issued by the judge. The purpose of these amendments is to provide guidance to the parties to MSPB cases and their representatives regarding filing requirements. The Board is simultaneously amending its rules at 5 CFR part 1209 with respect to the time limits for filing whistleblower appeals.

EFFECTIVE DATE: November 6, 1997.

FOR FURTHER INFORMATION CONTACT: Robert E. Taylor, Clerk of the Board, (202) 653–7200.

SUPPLEMENTARY INFORMATION: The Board is authorized by 5 U.S.C. 1204(h) to promulgate regulations to carry out its functions and has used this authority since its inception to prescribe time limits for filing appeals with the Board. Prior to this amendment, the regulation at 5 CFR 1201.22(b), prescribing time limits for filing an appeal, required that an appeal of an agency action be filed no later than 30 days after the effective date of the action or, where the appeal is from a final or reconsideration decision that does not set an effective date, no later than 35 days after the date of issuance of the agency's decision. In establishing the 35-day time limit where the appeal is from a final or reconsideration decision that does not set an effective date, the Board, in effect, was providing the same 30-day time period for filing as in an appeal of an action with an effective date by allowing 5 additional days after the date of issuance of the decision for it to be mailed and received.

Where the 35-day time limit applies and there is a delay by the agency in mailing the decision after it is issued, and/or a delay by the U.S. Postal Service that results in more than 5 days elapsing between issuance of the decision and receipt by the appellant, an appellant could have less than 30 days to file an appeal with MSPB. Should an appellant not receive the agency's decision until after the 35-day time period for filing has expired, any appeal may be dismissed as untimely.

In order to ensure that each appellant, regardless of the nature of the action or decision being appealed, has a full 30 days to file after the event from which the time period begins to run, the Board is amending its regulation at 5 CFR 1201.22(b) to require that an appeal be filed no later than 30 days after the effective date, if any, of the action being appealed, or 30 days after the date of receipt of the agency's decision, whichever is later.

The Board is making corresponding amendments to 5 CFR 1201.27(b), regarding the time limit for filing individual appeals after a judge has denied a request for hearing as a class appeal, and 5 CFR 1201.154(a), regarding the time limit for filing an appeal in which discrimination is alleged (a mixed case appeal).

Prior to this amendment, the regulation at 5 CFR 1201.114(d), prescribing the time limit for filing a petition for review of a judge's initial decision, required that the petition for review be filed with the Clerk of the Board within 35 days after the initial decision is issued. This regulation was based on the statutory requirement at 5 U.S.C. 7701(e)(1)(A) that a petition for review be filed no later than 30 days after the party's receipt of the initial decision. Again, the Board was allowing in its regulation an additional 5 days from the date of issuance of the initial decision for mailing and receipt by the parties.

To ensure that every party has a full 30 days from the date of receipt of an initial decision to file a petition for review of that decision, the Board is amending its regulation at 5 CFR 1201.114(d) to require that a petition for review be filed within 35 days after the initial decision is issued or, if the petitioner shows that the initial decision was received more than 5 days after the date of issuance, within 30 days after the date the petitioner received the initial decision. The Board is making conforming amendments to 5 CFR 1201.113(a) and (d) by removing the references to a 35-day time limit for filing.

The Board is *not* amending 5 CFR 1201.113 in the material that precedes paragraph (a), which states that the initial decision of the judge will become final 35 days after issuance. Where no petition for review of an initial decision is filed, and the Board does not reopen on its own motion, there must be a date certain when the case is closed and the initial decision becomes the final decision of the Board. Such a finality date is also needed, for example, to determine when the time starts running for the filing of a petition for review of a final Board decision in a mixed case by the Equal Employment Opportunity Commission under 5 U.S.C. 7702, a petition for judicial review of a final Board decision under 5 U.S.C. 7703, or a motion for attorney fees under 5 CFR 1201.203(d).

As a result of these amendments to the petition for review provisions, initial decisions issued by MSPB judges will continue to show a finality date, which will be the date 35 days after the date of issuance of the initial decision. That date, however, will no longer be the last day on which a petition for review can be filed if the petitioner can show that the initial decision was received more than 5 days after the date it was issued. In that event, the time limit of 30 days after the date of receipt will apply.

The Board is making a corresponding amendment to the regulation at 5 CFR 1201.154(d), regarding the time limit for filing a petition for review of a final decision on a grievance in which discrimination is alleged.

The Board is publishing this rule as a final rule pursuant to 5 U.S.C. 1204(h).

List of Subjects in 5 CFR Part 1201

Administrative practice and procedure, Civil rights, Government employees.

Accordingly, the Board amends 5 CFR part 1201 as follows:

PART 1201—[AMENDED]

1. The authority citation for part 1201 continues to read as follows:

Authority: 5 U.S.C. 1204 and 7701, and 38 U.S.C. 4331, unless otherwise noted.

§ 1201.22 [Amended]

2. Section 1201.22 is amended by revising paragraph (b) to read as follows:

* * * * *

(b) *Time of filing.* An appeal must be filed no later than 30 days after the effective date, if any, of the action being appealed, or 30 days after the date of receipt of the agency's decision, whichever is later. The time for filing is computed in accordance with §1201.23 of this part. A response to an appeal must be filed within 20 days of the date of the Board's acknowledgment order.

* * * * *

§ 1201.27 [Amended]

3. Section 1201.27 is amended at paragraph (b) by revising the second sentence to read as follows:

* * * * *

(b) * * * If the judge denies the request, the appellants affected by the decision may file individual appeals within 30 days after the date of receipt of the decision denying the request to be heard as a class appeal. * * *

* * * * *

§ 1201.113 [Amended]

4. Section 1201.113 is amended by revising paragraphs (a) and (d) to read as follows:

* * * * *

(a) *Exceptions.* The initial decision will not become final if any party files a petition for review within the time limit for filing specified in § 1201.114 of this part, or if the Board reopens the case on its own motion.

* * * * *

(d) *Extensions.* The Board may extend the time limit for filing a petition for good cause shown as specified in § 1201.114 of this part.

* * * * *

§ 1201.114 [Amended]

5. Section 1201.114 is amended at paragraph (d) by revising the first sentence to read as follows:

* * * * *

(d) * * * Any petition for review must be filed within 35 days after the date of issuance of the initial decision or, if the petitioner shows that the initial decision was received more than 5 days after the date of issuance, within 30 days after the date the petitioner received the initial decision. * * *

* * * * *

§ 1201.154 [Amended]

6. Section 1201.154 is amended by revising paragraph (a) and the first sentence of paragraph (d) to read as follows:

* * * * *

(a) Where the appellant has been subject to an action appealable to the Board, he or she may either file a timely complaint of discrimination with the agency or file an appeal with the Board no later than 30 days after the effective date, if any, of the action being appealed, or 30 days after the date of receipt of the agency's decision on the appealable action, whichever is later.

* * * * *

(d) If the appellant has filed a grievance with the agency under its negotiated grievance procedure in accordance with 5 U.S.C. 7121, he or she may ask the Board to review the final decision under 5 U.S.C. 7702 within 35 days after the date of issuance of the decision or, if the appellant shows that the decision was received more than 5 days after the date of issuance, within 30 days after the date the appellant received the decision.

* * *

* * * * *

Dated: October 31, 1997.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 97–29311 Filed 11–5–97; 8:45 am]

BILLING CODE 7400–01–U

MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1209

Practices and Procedures for Appeals and Stay Requests of Personnel Actions Allegedly Based on Whistleblowing

AGENCY: Merit Systems Protection Board.

ACTION: Final rule.

SUMMARY: The Merit Systems Protection Board is amending its rules of practice and procedure for whistleblower appeals to change the time limits for filing. The amendment to the time limit for filing an individual right of action (IRA) appeal is intended to ensure that an appellant has the full 60 days required by law to file after being provided notification by the Special Counsel that an investigation has been terminated. The amendment to the time limit for filing a whistleblower appeal after a judge's ruling on a stay request is intended to ensure that an appellant has a full 30 days to file after receipt of the ruling. The purpose of these amendments is to provide guidance to the parties to MSPB cases and their representatives regarding filing requirements. The Board is simultaneously amending its rules at 5 CFR part 1201 with respect to the time limits for filing other appeals and petitions for review.

EFFECTIVE DATE: November 6, 1997.

FOR FURTHER INFORMATION CONTACT: Robert E. Taylor, Clerk of the Board, (202) 653–7200.

SUPPLEMENTARY INFORMATION: The provisions of the Whistleblower Protection Act of 1989 (Pub. L. 101–12) governing a whistleblower's filing of an individual right of action (IRA) appeal with the Board require that such an appeal be filed no more than 60 days after notification by the Special Counsel that an investigation into the whistleblower's allegations has been terminated. 5 U.S.C. 1214(a)(3)(A)(ii) and 1221(a). The statutory language does not specify whether the 60-day period begins to run from the date of the Special Counsel's notice or the date of the whistleblower's receipt of that notice.

Prior to this amendment, the Board's implementing regulation at 5 CFR 1209.5(a) required that an IRA appeal be filed no later than 65 days after the date of issuance of the Office of Special Counsel's written notification that it was terminating its investigation of the appellant's allegations. This established a clear date on which the time for filing began to run and allowed an additional 5 days for the notice to be mailed and received by an appellant before the 60-day statutory period began.

Delay by the Office of Special Counsel in mailing the notice and/or a delay by the U.S. Postal Service could result in an appellant having less than 60 days to file an appeal with MSPB. If an appellant did not receive the Special Counsel's notice until after the 65-day time period for filing expired, an IRA appeal might be dismissed as untimely.

To ensure that each IRA appellant has a full 60 days for filing with the Board after receipt of a notice from the Special Counsel, the Board is amending its regulation at 5 CFR 1209.5(a)(1) to require that an IRA appeal be filed no later than 65 days after the date of issuance of the Office of Special Counsel's written notification or, if the appellant shows that the Special Counsel's notification was received more than 5 days after the date of issuance, within 60 days after the date the appellant received the Special Counsel's notification.

This regulatory action does not affect the provisions of law and regulation permitting an appellant to file an IRA appeal with the Board anytime after 120 days have passed since filing with the Special Counsel if he or she has not received notification that the Special Counsel will seek corrective action from the Board. 5 U.S.C. 1214(a)(3)(B) and 5 CFR 1209.5(a)(2).

A whistleblower affected by an action that is directly appealable to the Board may choose to seek corrective action from the Special Counsel first or may file an otherwise appealable action (OAA) appeal directly with the Board. 5 U.S.C. 1221(b) and 5 CFR 1209.5(b). An appellant who chooses to go to the Special Counsel first is subject to the same time limit for filing as an IRA appellant under the amended 5 CFR 1209.5(a)(1). An appellant who appeals directly to the Board is subject to the same time limit that applies to other appeals under the Board's regulation at 5 CFR 1201.22(b), which is being amended simultaneously with this amendment. Under the amended 5 CFR 1201.22(b), an appellant must file no later than 30 days after the effective date, if any, of the action being appealed, or 30 days after the date of receipt of the agency's decision, whichever is later.

The Board is also amending its regulation at 5 CFR 1209.5(c) to ensure that an appellant who has filed a stay request before filing a whistleblower appeal (IRA or OAA) has a full 30 days to file after the date the appellant receives the judge's ruling on the stay request. This amendment corresponds to the amendments being made simultaneously to various filing requirements in 5 CFR part 1201.

The Board is publishing this rule as a final rule pursuant to 5 U.S.C. 1204(h).

List of Subjects in 5 CFR Part 1209

Administrative practice and procedure, Civil rights, Government employees.

Accordingly, the Board amends 5 CFR part 1209 as follows:

PART 1209—[AMENDED]

1. The authority citation for part 1209 continues to read as follows:

Authority: 5 U.S.C. 1204, 1221, 2302(b)(8), and 7701.

§1209.5 [Amended]

2. Section 1209.5 is amended by revising paragraph (a)(1) and the first sentence of paragraph (c) to read as follows:

* * * * *

(a) * * *

(1) No later than 65 days after the date of issuance of the Office of Special Counsel's written notification to the appellant that it was terminating its investigation of the appellant's allegations or, if the appellant shows that the Special Counsel's notification was received more than 5 days after the date of issuance, within 60 days after the date the appellant received the Special Counsel's notification; or,

* * * * *

(c) * * * Where an appellant has filed a request for a stay with the Board without first filing an appeal of the action, the appeal must be filed within 30 days after the date the appellant receives the order ruling on the stay request. * * *

Dated: October 31, 1997.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 97–29312 Filed 11–5–97; 8:45 am]

BILLING CODE 7400–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–95–AD; Amendment 39–10192; AD 97–23–04]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Models PC–12 and PC–12/45 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to Pilatus Aircraft Ltd. (Pilatus) Models PC–12 and PC–12/45 airplanes. This AD requires replacing the fuel tank vent valves with modified fuel tank vent valves. This AD is the result of mandatory continued airworthiness information (MCAI) issued by the airworthiness authority for Switzerland. The actions specified by this AD are intended to prevent the fuel tank inward vent valve from freezing, which, if followed by a cold soak at altitude, could result in wing airfoil distortion and structural damage with consequent degradation of the airplane's handling qualities.

DATES: Effective December 1, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 1, 1997.

Comments for inclusion in the Rules Docket must be received on or before December 8, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket 97–CE–95–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Service information that applies to this AD may be obtained from Pilatus Aircraft Ltd., CH–6370 Stans, Switzerland. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket 97–CE–95–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Roman T. Gabrys, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6934; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Discussion

The Federal Office for Civil Aviation (FOCA), which is the airworthiness authority for Switzerland, recently notified the FAA that an unsafe condition may exist on Pilatus Models PC–12 and PC–12/45 airplanes. The FOCA reports an instance of abnormal automatic engagement of the fuel booster pumps during normal operation of a Pilatus Model PC–12 airplane. The FOCA's investigation reveals that the fuel tank inward vent valves may fail in the closed position under certain conditions. Moisture ingestion, followed by cold soak, can lead to the fuel tank inward vent valve freezing. This condition, if not corrected, could result in wing airfoil distortion and structural damage with consequent degradation of the airplane's handling qualities.

Relevant Service Information

Pilatus issued Service Bulletin No. 28–003, Revision 1, dated September 30, 1997, which specifies procedures for replacing the fuel tank vent valves with modified fuel tank vent valves.

The FOCA of Switzerland classified this service bulletin as mandatory and

issued Swiss AD HB 97–432A, dated October 3, 1997, in order to assure the continued airworthiness of these airplanes in Switzerland.

The FAA's Determination

This airplane model is manufactured in Switzerland and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the FOCA of Switzerland has kept the FAA informed of the situation described above.

The FAA has examined the findings of the FOCA of Switzerland; reviewed all available information, including the service bulletin referenced in this document; and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of the Provisions of This AD

Since an unsafe condition has been identified that is likely to exist or develop in other Pilatus Models PC–12 and PC–12/45 airplanes of the same type design registered for operation in the United States, the FAA is issuing an AD. This AD requires replacing the fuel tank vent valves with modified fuel tank vent valves. Accomplishment of the replacement is required in accordance with Pilatus Service Bulletin No. 28–003, Revision 1, dated September 30, 1997.

Determination of the Effective Date of the AD

Since a situation exists (possible wing airfoil distortion and structural damage with consequent degradation of the airplane's handling qualities) that requires the immediate adoption of this regulation, it is found that notice and opportunity for public prior comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting immediate flight safety and, thus, was not preceded by notice and opportunity to comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 97–CE–95–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a significant regulatory action under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

97–23–04 Pilatus Aircraft, LTD.: Amendment 39–10192; Docket No. 97–CE–95–AD.

Applicability: Models PC–12 and PC–12/45 airplanes; serial numbers 101 through 186, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 10 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

To prevent the fuel tank inward vent valve from freezing, which, if followed by a cold soak at altitude, could result in wing airfoil distortion and structural damage with consequent degradation of the airplane's handling qualities, accomplish the following:

(a) Replace the fuel tank vent valves with modified fuel tank vent valves in accordance with the Accomplishment Instructions section of Pilatus Service Bulletin No. 28–003, Revision 1, dated September 30, 1997.

(b) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(d) The replacement required by this AD shall be done in accordance with Pilatus Service Bulletin No. 28–003, Revision 1, dated September 30, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Pilatus Aircraft Ltd., CH–6370 Stans, Switzerland. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Swiss AD HB 97–432A, dated October 3, 1997.

(e) This amendment (39–10192) becomes effective on December 1, 1997. Issued in Kansas City, Missouri, on October 29, 1997.

Mary Ellen A. Schutt,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–29236 Filed 11–5–97; 8:45 am]

BILLING CODE 4910–13–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MI38–01–6734; FRL–5884–1]

Approval and Promulgation of Implementation Plans; Michigan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving requested State Implementation Plan (SIP) revisions submitted by the State of Michigan for the purpose of transferring the authority of the Michigan Air Pollution Control Commission (Commission) to the Director of the Michigan Department of Natural Resources (MDNR) and subsequently transferring the authority of the Director of MDNR to the Director of the Michigan Department of Environmental Quality (MDEQ). Nothing in this action should be construed as permitting, allowing, or establishing a precedent for any future request for revision to any SIP. The EPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

DATES: This rule is effective: December 8, 1997.

ADDRESSES: Copies of the Michigan SIP revision request and EPA's analysis are available for inspection during normal business hours at the following location: EPA Region 5, Air and Radiation Division (AR–18J), 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Laura Gerleman, Air Programs Branch, Permits and Grants Section (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–5703.

Copies of the State of Michigan's final authorization revision application are available during normal business hours at the following addresses for inspection and copying: Library of Michigan, Government Documents Section, 717 West Allegan, Lansing, Michigan; Olson Library, Northern Michigan University, Harden Circle Drive, Marquette, Michigan; Detroit Public Library Main Branch, Sociology and Economics Department, 5201 Woodward Avenue, Detroit, Michigan. To arrange for access to the materials in Lansing, call (517) 373–0489 between 9 a.m. and 6 p.m. on Mondays through Saturdays and between 12 p.m. and 4 p.m. on Sundays (Eastern time); in Marquette, call (906) 227–2260 between 8 a.m. and 12 a.m. on Mondays through Thursdays, between 8 a.m. and 9 p.m. on Fridays, and between 10 a.m. and 6 p.m. on Sundays (Eastern time); in Detroit, call (313) 833–1440 between 9:30 a.m. and 5:30 p.m. on Tuesdays and Thursdays through Saturdays, and between 1 p.m. and 9 p.m. on Wednesdays (Eastern time).

SUPPLEMENTARY INFORMATION:

A. Executive Order 1991–31

On November 8, 1991, Governor John Engler of Michigan signed Executive Order 1991–31 which, inter alia, abolished the Commission and transferred the authority of the Commission to the Director of MDNR. The State of Michigan submitted to EPA under a December 13, 1994 cover letter, a SIP revision request containing the transfer of authority of the Commission to the Director of MDNR. The EPA deemed the submittal complete in a February 16, 1995 letter to Roland Harmes, Director, MDNR.

B. Executive Order 1995–18

On July 31, 1995, Governor Engler signed Executive Order 1995–18 which, *inter alia*, elevated eight program divisions and two program offices from within MDNR to the MDEQ, effective October 1, 1995. The authority given to the Director of MDNR in Executive Order 1991–31 was conferred upon the Director of MDEQ in Executive Order 1995–18, with the exception of administrative appeals decisions.

The State of Michigan submitted Executive Order 1995–18 to EPA under a January 19, 1996 cover letter as a supplement to the December 13, 1994 SIP revision.

C. Authority

On March 28, 1997, EPA proposed to approve Michigan's requested SIP revisions as reorganizations of Michigan's environmental agencies wherein the authorities of the Director of the Commission under the SIP have been conferred upon the Director of MDEQ by Executive Order. See 62 FR 14843. The EPA did not receive any public comment on the proposal. In this notice, EPA is taking final action to approve these transfers of authority for the State of Michigan.

The EPA notes that it is currently reviewing the Michigan Environmental Audit Privilege and Immunity Law, Public Act 132 of 1996, and its potential impact on Michigan's federally delegated and authorized programs, including programs under the Federal Clean Air Act (CAA). The EPA's approval only addresses the requested SIP revisions submitted by Michigan that result from Executive Order 1991–31 and Executive Order 1995–18. The EPA's approval of requested revisions to Michigan's SIP arising out of these two Executive Orders does not express any viewpoint on the question of whether there are legal deficiencies in Michigan's SIP resulting from Public Act 132 of 1996.

Administrative Requirements

A. Executive Order (E.O.) 12866

The Office of Management and Budget has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Delegation of the Governor's authority under the CAA does not impose any new requirements on small entities. EPA certifies that this delegation will not affect a substantial number of small entities.

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in this **Federal Register**. This rule is not a "major rule" as defined by section 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 5, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations.

Dated: August 13, 1997.

Michelle D. Jordan,

Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642(q).

Subpart X—Michigan

2. Section 52.1170 is amended by adding paragraph (c)(109) to read as follows:

§ 52.1170 Identification of plan.

* * * * *

(c) * * *

(109) On December 13, 1994 and January 19, 1996, Michigan submitted correspondence and Executive Orders 1991–31 and 1995–18 which indicated that the executive branch of government had been reorganized. As a result of the reorganization, delegation of the Governor's authority under the Clean Air Act was revised. The Environmental Protection Agency's approval of these Executive Orders is limited to those provisions affecting air pollution control. The Air Pollution Control Commission was abolished and its authority was initially transferred to the Director of the Michigan Department of Natural Resources (DNR). Subsequently, the Michigan Department of Natural Resources of Environmental Quality (DEQ) was created by elevating eight program divisions and two program offices previously located within the DNR. The authority then earlier vested to the Director of the Michigan DNR was then transferred to the Director of the Michigan DEQ with the exception of some administrative appeals decisions.

(i) Incorporation by reference.

(A) State of Michigan Executive Order 1991–31 Commission of Natural Resources, Department of Natural Resources, Michigan Department of Natural Resources Executive Reorganization. Introductory and concluding words of issuance and Title I: General; Part A: Sections 1, 2, 4 and 5, Part B. Title III: Environmental Protection; Part A: Sections 1 and 2, Part B. Title IV: Miscellaneous; Parts A and B, Part C: Sections 1, 2, 4, Part D. Signed by John Engler, Governor, November 6, 1991. Filed with the Secretary of State November 8, 1991. Effective January 7, 1992.

(B) State of Michigan Executive Order No. 1995–18 Michigan Department of Environmental Quality, Michigan Department of Natural Resources Executive Reorganization. Introductory and concluding words of issuance. Paragraphs 1, 2, 3(a) and (g), 4, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18. Signed by John Engler, Governor, July 31, 1995. Filed with the Secretary of State on August 1, 1995. Effective September 30, 1995.

[FR Doc. 97–29395 Filed 11–5–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA 091–4050a; FRL–5918–2]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Enhanced Motor Vehicle Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; correcting amendment.

SUMMARY: This action corrects an interim final rule, which was published on January 28, 1997, regarding EPA conditional approval of Pennsylvania's enhanced inspection and maintenance (I/M) program. This action pertains to the consequences in the event that the Pennsylvania enhanced I/M program failed to commence per the deadlines set forth in EPA's interim final rule. EPA is taking this action for the purposes of consistency with rulemaking actions EPA has since taken on other states' inspection and maintenance programs. EPA is correcting its January 28 final rule through a direct final rule, without prior proposal, because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comment from the public. A detailed description of the correction is set forth in the **SUPPLEMENTARY INFORMATION** section, below. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on a parallel proposed rule, published elsewhere in this **Federal Register**. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by December 8, 1997. If no adverse comments to this action is received, the action will become effective January 5, 1998. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments on this action should be addressed to David L. Arnold, Chief, Ozone/CO and Mobile Sources Section (Mailcode 3AT21), U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Relevant documents are also available at the Pennsylvania Department of Environmental Resources Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Brian Rehn, (215) 566–2176.

SUPPLEMENTARY INFORMATION:

Background

On January 28, 1997 (62 FR 4004), EPA published an interim final rule approving a State Implementation Plan (SIP) revision submitted by Pennsylvania for an enhanced inspection and maintenance program for all subject areas in the Commonwealth.

Need for Correction

As published, the direct final rule contains an error, which may prove to be misleading. Therefore, EPA's action today serves to clarify that rulemaking, as described in the January 28, 1997 document, the National Highway Safety Designation Act (NHSDA) directs EPA to grant interim approval for a period of 18 months to approvable decentralized I/M submittals. The NHSDA requires such a state to gather data on the program during that time, and to assess the effectiveness of the program at the end of the 18-month period. Therefore, EPA believes that Congress intended for programs to be implemented as soon as possible, and that these programs must commence testing by November 15, 1997, so that at least six months worth of operational data can be collected for the purpose of evaluating the program.

Therefore, EPA set a strict timetable for states to begin testing under the NHSDA, and conditioned approval of Pennsylvania's I/M plan upon start up by November 15, 1997. EPA's January 28, 1997 (62 FR 4004) interim approval of Pennsylvania's plan was conditioned upon five major deficiencies—including start up of the program. In the Background section of the January 1997 rulemaking for Pennsylvania, EPA stated that if the Commonwealth failed to start its program according to schedule, the conditional interim approval would convert to a disapproval after a finding letter was sent by EPA to the state. However, in the Public Comments/Response to Comments section of EPA's January 1997 rule, EPA conversely stated that all conditions of the conditional approval automatically convert to disapprovals, by operation of law, if a state fails to remedy a deficiency upon which the plan is conditioned (by the date certain established under the conditional approval). EPA further added that in the event any condition is not fulfilled in a timely fashion, conversion to a disapproval is automatic. EPA would subsequently send a letter to the state notifying the state and the public that the approval had converted to a disapproval. These two sections seem to be inconsistent, and their meaning could be easily misinterpreted, if the responses in the Public Comments/Response to Comments section are applied to the start condition, in addition to the other noted major deficiencies.

Correction of Publication

Although it is unclear in the January 28, 1997 rulemaking, EPA did not intend for I/M program implementation (or start up) to be a condition, the failure of which would automatically convert the Commonwealth's SIP approval to a disapproval. The I/M program start up condition is not imposed pursuant to a commitment to correct a deficient SIP under section 110(k)(4) of the Clean Air Act. Instead, EPA is imposing the start date condition under its general SIP approval authority under section 110(k)(3) of the Clean Air Act, which does not require automatic conversion in the event the condition is not satisfied in a timely manner [see EPA's Interim Final Rule approving Virginia's enhanced I/M program (62 FR 26746)] .

Unlike the other specified conditions of Pennsylvania's interim approval, which are explicit conditions under section 110(k)(4) of the Clean Air Act, and which will trigger an automatic disapproval should the Commonwealth fail to meet its commitments, the start date provision will trigger a disapproval upon EPA's notification to the Commonwealth via letter that the program did not start per the specified deadlines imposed by EPA in its final rule—by no later than November 15, 1997 for the five-county Philadelphia area and no later than November 15, 1999 for the remaining 16 counties in Pennsylvania. In the event the program did not start in a timely manner, such a letter would notify the Commonwealth that this rulemaking action has been converted to a disapproval and that the first sanction associated with such a disapproval has been triggered, per the proposed interim final determination document published on October 3, 1996 (61 FR 31598). As explained in that document, the 18-month sanctions clock for Pennsylvania's I/M program SIP has already expired, with sanctions suspended while EPA undertook SIP rulemaking action.

Although the January 28, 1997 final rule does not make the distinction clear between program start up and the other conditions placed upon the interim SIP approval, EPA intended to distinguish the failure for timely start up from all other major deficiencies, as explained above. Accordingly, the publication on January 28, 1997 (62 FR 4004) of 40 CFR 52.2026 is being amended by revising paragraph (a) and (a)(1) to address the start date condition.

Final Action

EPA is today correcting an error in its January 28, 1997 interim conditional approval of Pennsylvania's enhanced I/M program SIP revision. EPA is taking this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse public comments on this action. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective January 5, 1998 unless, within 30 days of publication, adverse or critical comments are received.

If EPA receives such comments, this correction action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the parallel proposal action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on January 5, 1998.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action"

and, is therefore not subject to review by the Office of Management and Budget. In addition, this correction action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), or require prior consultation with state officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

However, conditional approvals of SIP submittals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that a state is already imposing. Therefore, because the federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

If the conditional approval is converted to a disapproval under section 110(k), based on the State's failure to meet the commitment, it will not affect any existing state requirements applicable to small entities. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose a new Federal requirement. Therefore, EPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor does it substitute a new Federal requirement.

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of this rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this correction action must be filed in the United States Court of Appeals for the appropriate circuit by January 5, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: October 29, 1997.

William T. Wisniewski,

Acting Regional Administrator, Region III.

Part 52, Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart NN—Pennsylvania

2. Section 52.2026 is amended by revising paragraphs (a) introductory text and (a)(1) to read as follows:

§ 52.2026 Conditional Approval.

* * * * *

(a) If the Commonwealth fails to start its program according to the schedule it provided (i.e., by no later than November 15, 1997 for the five-county Philadelphia area and no later than November 15, 1999 for the remaining sixteen counties), this conditional approval will convert to a disapproval after EPA sends a letter to the state. If the Commonwealth fails to satisfy the following conditions per the deadlines listed within each condition, this conditional approval will automatically convert to a disapproval as explained under section 110(k) of the Clean Air Act. The conditions for approvability are as follows:

(1) By no later than September 15, 1997, a notice must be published in the *Pennsylvania Bulletin* by the Secretary of the Pennsylvania Department of Transportation which certifies that the enhanced I/M program is required in order to comply with Federal law and also certifies the geographic areas which are subject to the enhanced I/M program (the geographic coverage must be identical to that listed in Appendix A–1 of the March 22, 1996 SIP submittal), and certifies the commencement date of the enhanced I/M program.

* * * * *

[FR Doc. 97–29388 Filed 11–5–97; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[FRL–5917–9]

Removal of Requirement in Gasoline Deposit Control Additives Rule Regarding the Identification of the Oxygenate Content of Transferred Gasoline

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is amending the gasoline deposit control additives program, (the "detergent rule") to remove the requirement that certain information on the oxygenate content of transferred gasoline must be included in the gasoline's product transfer document. EPA is taking this action to avoid unnecessary disruption to the gasoline distribution system and because the Agency believes that it will result in no negative environmental impact.

In the proposed rules section of today's **Federal Register**, EPA is proposing the same action covered by this direct final rule (*i.e.*, to amend the detergent rule to remove the requirement that certain information on the oxygenate content of transferred gasoline must be included in the gasoline's product transfer document), as well as several other actions impacting the detergent rule. If adverse comment or a request for a public hearing is received on this direct final rule, EPA will withdraw the direct final rule and address the comments received in a subsequent final rule on the related proposed rule. No additional opportunity for public comment on this removal of certain detergent rule product transfer document oxygenate information will be provided.

DATES: This action will become effective on January 5, 1998, unless notice is received by December 8, 1997 from someone who wishes to submit adverse comment or requests an opportunity for a public hearing. If such notice is received, EPA will withdraw this direct final rule, and a timely notice will be published in the **Federal Register** to indicate the withdrawal.

ADDRESSES: Interested parties may submit written comments (in duplicate if possible) to Public Docket No. A–91–77, at the following address: Air Docket Section (LE–131), room M–1500, 401 M Street SW, Washington, DC 20460; phone (202) 260–7548; fax (202) 260–4000. The Agency also requests that a separate copy be sent to the contact person listed below. The docket is open for public inspection from 8:00 a.m. until 5:30 p.m. Monday through Friday, except on government holidays. As provided in 40 CFR part 2, a reasonable fee may be charged for copying docket materials.

This direct final rule is also available electronically on the day of publication from the Office of the Federal Register internet Web site listed below. A prepublication electronic copy of this notice is also available from the EPA Office of Mobile Sources Web site listed below. This service is free of charge, except for any cost that you already incur for internet connectivity.

Federal Register Web Site:
http://www.epa.gov/docs/fedrgstr/EPA–AIR/ (Either select desired date or use Search feature.)

Office of Mobile Sources Web Site:
http://www.epa.gov/OMSWWW/ (Look in "What's New" or under the specific rulemaking topic.)

Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc. may occur.

FOR FURTHER INFORMATION CONTACT: Judith Lubow, U.S. EPA, Office of Enforcement and Compliance Assurance, Western Field Office, 12345 West Alameda Parkway, Suite 214, Lakewood, CO 80228; Telephone: (303) 969–6483, FAX (303) 969–6490.

SUPPLEMENTARY INFORMATION:

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I. Regulated Entities

Entities potentially regulated by this action are those involved with the production, distribution, and sale of gasoline and gasoline detergent additives. Regulated categories and entities include:

Category	Examples of regulated entities
Industry	Gasoline refiners and importers, Gasoline terminals, Detergent blenders, Gasoline truckers, Gasoline retailers and wholesale purchaser-consumers, and Detergent manufacturers.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your organization is regulated by this action, you should carefully examine the applicability requirements in § 80.161(a), the detergent certification requirements in § 80.161(b), the program controls and prohibitions in § 80.168, and other related program requirements in Subpart G, title 40, of the Code of Federal Regulations (CFR). If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

II. Introduction

Section 211(l) of the Clean Air Act ("CAA") requires that, by January 1, 1995, all gasoline must contain detergent additives to prevent the accumulation of deposits in motor vehicle engines and fuel supply systems. This CAA section also requires EPA to promulgate specifications for the detergent additives. Detergent additives prevent the accumulation of engine and fuel supply system deposits that have adverse effects on vehicle emissions as well as on fuel economy and driveability.

In response to section 211(l)'s requirements, EPA published a Notice of Proposed Rulemaking ("NPRM") on December 6, 1993 (59 FR 64213) proposing a detergent additives regulatory program. The detergent program was finalized in two parts. Final regulations for the interim detergent program, requiring the use of detergent additives in gasoline but not mandating specific detergent efficiency testing, were published on October 14, 1994 (59 FR 54678). Final regulations for the detergent certification program, mandating the use of certified detergents with specified detergent efficiency testing, were published on July 5, 1996 (61 FR 35310).

One important implementation issue that has arisen since the publication of the detergent certification rule concerns the requirement that the product transfer documents (PTDs) for gasoline transfers must identify all oxygenates found in the gasoline. 40 CFR 80.158(a)(5) and 80.171(a)(5). Members of the gasoline refining and distribution industry informed EPA that this requirement would, as an unintended consequence, significantly disrupt gasoline distribution. [1]

For the reasons described below, EPA exercised its enforcement discretion and announced by letter to the American Petroleum Institute ("API") that it would temporarily not enforce the PTD oxygenate identification requirement pending resolution of the issue through a rulemaking or until September 3, 1997, whichever occurrence came first. [2] The Agency reserved the right to rescind the exercise of this enforcement discretion if it determined that restricted-use detergents were actually being certified or that the PTD oxygenate identification requirements otherwise became appropriate. The Agency further advised that if violations involving the improper use of oxygenate-restricted detergents occurred, parties wishing to successfully assert an affirmative defense to liability for such violations might need to provide information establishing the appropriate oxygenate content of the gasoline in question. Subsequently, EPA extended this exercise of enforcement discretion until implementation of this Direct Final Rule which removes the specified PTD

[1] Letter to Judith Lubow, Office of Enforcement and Compliance Assurance (OECA), EPA, from C.J. Krambuhl, Director, Manufacturing, Distribution, and Marketing, American Petroleum Institute (API), August 14, 1996, Docket item VI—D–01.

[2] Letter to C.J. Krambuhl, API, from Steven A. Herman, Assistant Administrator, OECA, EPA, August 28, 1996, Docket item VII–C–01.

oxygenate requirement, or until December 31, 1997, whichever comes first.[3]

III. Removal of Identification Requirement of Specific Oxygenate Content on Gasoline Product Transfer Documents (PTDs)

A. Background

The gasoline detergent additive program requires all regulated parties transferring products controlled under the program to provide to the transferee PTDs giving pertinent information about the products transferred. (40 CFR 80.158 and 80.171) The products subject to the detergent program PTD requirements are gasoline, detergent additives, and additized components, such as ethanol, which are blended into gasoline after the refinery process (additized post-refinery components, or "PRC"). For transfers of these regulated products, the PTDs must identify the parties to the transfer, the product being transferred, and other information about the product's regulatory status.

One such requirement is that PTDs for transferred gasoline must identify all oxygenates and PRCs contained in the gasoline. Further, if the gasoline is comprised of commingled fuels, all oxygenates and PRCs in the fuels comprising the commingled product must be identified. (40 CFR 80.158(a)(5) and 80.171(a)(5)) The purpose of this identification requirement is to alert the parties receiving the gasoline about the oxygenates and PRCs in the received product. This information would be useful to the recipient because, under the detergent certification program, parties may choose to additize gasoline with a detergent whose certification is restricted for use only with a specific oxygenate or with no oxygenate, or, in the case of fuel-specific certified detergents, for use in gasoline without PRCs. Thus, parties choosing to use such restricted-use detergents must know the oxygenate or PRC ("oxygenate") content of the gasoline they intend to additize with these detergents. The PTD oxygenate identification requirement was intended to provide such information for the transferred gasoline.

In creating this identification requirement, the Agency was not aware that many parties did not know the specific oxygenate content of the gasoline they were transferring. EPA has since learned that, under typical industry practice prior to this requirement, parties commingled gasolines without knowledge of what (if any) specific ethers (a type of oxygenate) were present. Under the interim detergent rule's PTD requirements, no information about the oxygenate content of base gasoline was required. Parties were thus typically unaware of the specific ether content (in type and concentration) of commingled gasoline they received or possessed themselves. To comply with this new oxygenate identification requirement and to become knowledgeable about the ether status of their gasoline, parties would have to ascertain the ether content of received gasoline, stop commingling gasolines with different ether contents, or start testing all batches to determine such content. In any of these scenarios, gasoline distribution as presently practiced would be significantly disrupted.

It was never EPA's intention to disrupt gasoline distribution practices through the imposition of this PTD oxygenate identification requirement. Consequently, on August 28, 1996, the Agency issued its first enforcement discretion letter temporarily suspending enforcement of this PTD requirement.

B. Rule Amendment

EPA does not believe that the benefits from the PTD requirement of providing oxygenate information to those parties who might choose to use oxygenate-restricted certified detergents warrants the resulting disruption to the gasoline distribution system. Therefore, the Agency is now amending the detergent program through this direct final rule to eliminate the requirement that PTDs for gasoline must identify the oxygenates found in the transferred product. At the same time, an NPRM is being published to address this issue with full notice and comment. Under the proposal, a new requirement would take the place of the deleted PTD identification requirement. The proposed requirement would mandate that those detergent-blending parties wishing to use oxygenate-restricted detergents must maintain documentation fully identifying the oxygenate content of the fuel into which the detergent was blended, as evidence that the fuel complied with the detergent's oxygenate use restriction. This direct final rule, however, is merely deleting the PTD oxygenate identification requirement. The Agency believes this is appropriate because no oxygenate-restricted detergents have been certified to date, so there is presently no potential for misadditization based on inappropriate use of oxygenate-restricted detergents through the deletion of this PTD requirement. Further, the deletion of this requirement until the issue is resolved through the NPRM process does not in any way affect the detergent rule's requirement of proper additization of gasoline in full compliance with all certification restrictions of the detergent being used.

IV. Environmental Impact

This rule is expected to have no negative environmental impact. Controls on proper gasoline additization are not affected by this rule. Further, no oxygenate-restricted detergents have been certified yet, so the absence of the specific PTD oxygenate information on transferred gasoline will have no impact on the proper additization of such gasoline.

V. Economic Impact and Impact on Small Entities

EPA has determined that this final rule will not have a significant impact on a substantial number of small entities because it removes a regulatory requirement with which parties would otherwise have to comply. This rule is not expected to result in any additional compliance cost to regulated parties and may be expected to reduce compliance cost. Therefore, a regulatory flexibility analysis has not been prepared.

VI. Public Participation and Effective Date

The Agency is publishing this action as a direct final rule because it views it as non-controversial and anticipates no adverse comments. However, in a separate Notice of Proposed Rulemaking (NPRM) in today's **Federal Register**, the Agency is proposing, among other things, to eliminate the PTD requirement should adverse or critical comments be filed. Thus, today's direct final action will be effective January 5, 1998 unless the Agency receives notice by December 8, 1997 that adverse or critical comments will be submitted or that a party requests the opportunity to submit such oral comments pursuant to section 307(d)(5) of the Clean Air Act, as amended.

If the Agency receives such comments, EPA will withdraw this action before the effective date by publishing a subsequent document. All public comments received will then be addressed in a subsequent final rule based on the NPRM published elsewhere in today's **Federal Register**. The Agency will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective January 5, 1998.

[3] Letter to C.J. Krambuhl, API, from Steven A. Herman, Assistant Administrator, OECA, EPA, September 4, 1997, Docket item VII–C–02.

VII. Executive Order 12866

Under Executive Order 12866,[4] the Agency must determine whether a regulation is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments of communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof, or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.[5]

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

VIII. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("UMRA"), Public Law 104–4, EPA must prepare a budgetary impact statement to accompany any general notice of proposed rulemaking or final rule that includes a federal mandate which may result in estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more. Under Section 205, for any rule subject to Section 202 EPA generally must select the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Under Section 203, before establishing any regulatory requirements that may significantly or uniquely affect small governments, EPA must take steps to inform and advise small governments of the requirements and enable them to provide input.

EPA has determined that the final rule promulgated today does not include a federal mandate as defined in UMRA. The rule does not include a federal mandate that may result in estimated annual costs to State, local or tribal governments in the aggregate, or to the private sector, of $100 million or more, and it does not establish regulatory requirements that may significantly or uniquely affect small governments.

[4] 58 FR 51736 (October 4, 1993).

[5] *Id.* at section 3(f)(1)–(4).

IX. Paperwork Reduction Act

The action in today's notice does not impose any new information collection burden. Implementation of this action would eliminate the existing requirement that product transfer documents (PTDs) for gasoline must identify the oxygenates present. No new information collection requirements would result from the implementation of the regulatory amendment which is the subject of this action. To the contrary, its implementation would eliminate a compliance burden from the majority of regulated parties.

The Office of Management and Budget (OMB) has previously approved the information collection requirements of the Regulation of Deposit Control Additives contained in 40 CFR Part 80 under the provisions of the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0275 (EPA ICR Numbers 1655–01, 1655–02, and 1655–03).

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Copies of the ICR documents may be obtained from Sandy Farmer, Information Policy Branch; EPA; 401 M St., SW. (mail code 2136); Washington, DC 20460 or by calling (202) 260–2740. Include the ICR and/or OMB number in any correspondence.

X. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

XI. Statutory Authority

The statutory authority for the proposed action in this rule is granted to EPA by sections 114, 211(a), (b), (c), and (l), and 301 of the Clean Air Act as amended: 42 U.S.C. 7414, 7545(a), (b), (c) and (l), and 7601.

List of Subjects in 40 CFR Part 80

Environmental protection, Fuel additives, Gasoline detergent additives, Gasoline, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: October 30, 1997.

Carol M. Browner,

Administrator.

For the reasons set forth in the preamble, part 80 of title 40 of the Code of Federal Regulations is amended as follows:

PART 80—[AMENDED]

1. The authority citation for part 80 continues to read as follows:

Authority: Sections 114, 211 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7414, 7545, and 7601(a)).

§ 80.158 [Amended]

2. Section 80.158(a) is amended as follows:

a. Paragraph (a)(5) is removed.

b. Paragraphs (a)(6) through (a)(10) are redesignated as paragraphs (a)(5) through (a)(9).

§ 80.171 [Amended]

3. Section 80.171(a) is amended as follows:

a. Paragraph (a)(5) is removed.

b. Paragraphs (a)(6) through (12) are redesignated as paragraphs (a)(5) through (a)(11).

[FR Doc. 97–29391 Filed 11–5–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[AZ–001–BU; FRL–5917–4]

Clean Air Act Reclassification; Arizona-Phoenix Nonattainment Area; Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finding that the Phoenix nonattainment area (Maricopa

County, Arizona) has not attained the 1-hour ozone national ambient air quality standard (NAAQS) by the applicable attainment date in the Clean Air Act (CAA) for moderate ozone nonattainment areas, November 15, 1996. EPA is also denying Arizona's application for a one-year extension of the November 15, 1996 attainment date for the Phoenix area. The finding and denial are based on EPA's review of monitored air quality data from 1994 through 1996 for compliance with the 1-hour ozone NAAQS. As a result of the finding and denial, the Phoenix ozone nonattainment area will be reclassified by operation of law as a serious ozone nonattainment area on the effective date of this action. The effect of the reclassification will be to continue progress toward attainment of the 1-hour ozone NAAQS through the development of a new State implementation plan (SIP), due 12 months from the effective date of this action, addressing attainment of that standard by November 15, 1999.

EFFECTIVE DATE: December 8, 1997.

FOR FURTHER INFORMATION CONTACT: Frances Wicher, Office of Air Planning, AIR–2, Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105, (415) 744–1248.

SUPPLEMENTARY INFORMATION:

I. Background

Under sections 107(d)(1)(C) and 181(a) of the Clean Air Act (CAA), the Phoenix metropolitan area was designated nonattainment for the 1-hour ozone NAAQS and classified as "moderate." See 56 FR 56694 (November 6, 1991). Moderate nonattainment areas were required to show attainment by November 15, 1996. CAA section 181(a)(1).

Pursuant to section 181(b)(2)(A) of the CAA, EPA has the responsibility for determining, within six months of an area's applicable attainment date, whether the area has attained the 1-hour ozone NAAQS.[1] Under section 181(b)(2)(A), if EPA finds that an area has not attained the 1-hour ozone NAAQS, it is reclassified by operation of law to the higher of the next higher classification or to the classification applicable to the area's design value at the time of the finding. CAA section 181(b)(2)(B) of the Act requires EPA to publish a notice in the **Federal Register** identifying areas which failed to attain the standard and therefore must be reclassified by operation of law.

If a state does not have the clean data necessary to show attainment of the NAAQS, it may apply, under CAA section 181(a)(5) of the CAA, for a one-year attainment date extension. Issuance of an extension is discretionary, but EPA can exercise that discretion only if the state has: (1) complied with the requirements and commitments pertaining to the applicable implementation plan for the area, and (2) the area has measured no more than one exceedance of the ozone NAAQS at any monitoring site in the nonattainment area in the year preceding the extension year.

A complete discussion of the statutory provisions and EPA policies governing findings of whether an area failed to attain the ozone NAAQS and extensions of the attainment date can be found in the proposal for this action at 62 FR 46229 (September 2, 1997).

II. Proposed Action

On September 2, 1997, EPA proposed to find that the Phoenix ozone nonattainment area failed to attain the 1-hour ozone NAAQS by the applicable attainment date. 62 FR 46229. The proposed finding was based upon ambient air quality data from the years 1994, 1995, and 1996. These data showed that the 1-hour ozone NAAQS of 0.12 parts per million had been exceeded on average more than one day per year over this three-year period. Attainment of the 1-hour NAAQS is demonstrated when an area averages one or less days per year over the standard during a three-year period. 40 CFR 50.9 and Appendix H. EPA also proposed that the appropriate reclassification of the area was to serious, based on the area's 1994–1996 design value of 0.132 ppm. For a complete discussion of the Phoenix ozone data and method of calculating both the average number of days over the ozone standard and the design value, see 62 FR 46230.

EPA also proposed to deny the State of Arizona's application for a one-year extension of the moderate area ozone attainment date for the Phoenix nonattainment area. The proposed denial was based, in part, on evidence that the Phoenix area is not close to attainment of the 1-hour ozone standard and will need additional controls to attain, and, in part, on the area's failure to meet the second statutory criterion for granting an extension. That criterion requires that the area have no more than one exceedance of the ozone NAAQS in 1996. CAA section 181(a)(5)(B). The Fountain Hills special purpose monitor in the eastern part of the Phoenix nonattainment area recorded 4 exceedances of the 1-hour ozone NAAQS in 1996. For a complete discussion of the basis for the proposed denial of the extension, including EPA's policies related to the use of special purpose monitoring data, see 62 FR 46231.

Finally, EPA proposed to require submittal of the serious area SIP revisions no later than 12 months from the effective date of the area's reclassification.

III. Response to Comments

EPA received twenty-one comment letters in response to its September 2, 1997 proposal. Comments were received from Arizona Governor Jane Dee Hull, the Arizona legislative leadership, U.S. Senator Jon Kyl and U.S. Representative John Shadegg, the Arizona Department of Environmental Quality (ADEQ), the Maricopa County Environmental Services Department (MCESD), several local elected officials, numerous business groups, and one environmental group.

EPA wishes to express its appreciation to each of these individuals and organizations for taking the time to comment on the proposal. Each raised important issues to which EPA welcomes the opportunity to respond.

As described above, EPA's proposal was composed of three elements: (1) a finding of failure to attain by the statutory deadline of November 15, 1996; (2) a denial of the State's application for a one-year extension of the attainment date; and (3) a 12-month schedule for submittal of the revised SIP.

Most commenters emphasized Arizona's leadership in the development and implementation of effective ozone controls (many of which are only mandated for serious or severe ozone nonattainment areas) and its demonstrated commitment to making real improvements in air quality. Among the controls cited are: the State's premier vehicle emissions inspection program (which includes the only regulatory use of remote sensing), Maricopa County's Travel Reduction Program, the extension of the Federal Reformulated Gasoline (RFG) program to the Phoenix area, the State's adoption of its own, more stringent "Clean Burning Gasoline" program as well as numerous other control programs such as the voluntary lawnmower replacement program, mandatory conversion of government fleets to alternative fuels, and incentives for conversion of private fleets to alternative fuels and for the construction of public fueling facilities. The City of Phoenix also listed a number of innovative air quality measures that it has implemented, and finally, APS noted the voluntary efforts of business and community groups including the Business for Clean Air Challenge program.

EPA is very aware of Arizona's leadership and noted the State's dedicated efforts to adopt and implement controls to attain the ozone standard in its proposal. See 62 FR 46232. The Agency would like to make clear that in taking this action it is neither ignoring Arizona's exemplary efforts to adopt controls to improve its air quality nor minimizing Arizona's commitment to clean air. Both are evidenced by the numerous controls listed above and the State's continuing efforts to evaluate its ozone situation.

As stated above, neither the determination of attainment/nonattainment nor the determination of whether an area met the statutory extension criterion relating to exceedances of the ozone NAAQS in 1996 allows for reviewing an area's efforts to adopt controls. This exercise involves little more than a rote review of available ambient air quality data. While EPA may desire more flexibility in this situation to reward Arizona for its demonstrated leadership, the Agency has not been granted that flexibility under the Clean Air Act.

For the most part, commenters made similar, and frequently identical, comments. The issues raised relate principally to (1) the adverse impacts of the reclassification to serious, (2) the retention of the 1-hour ozone NAAQS in EPA's recent action revising the ozone NAAQS, (3) the denial of the request for a one-year attainment date extension, (4) EPA's compliance with the Regulatory Flexibility Act, and (5) proposed measures to mitigate the impact of the reclassification. Many of the comments received did not directly address EPA's proposals and instead focused on issues that have been the subject of earlier EPA rulemakings (*e.g.*, retention of 1-hour ozone standard), outside of EPA's regulatory authority in this action (*e.g.*, the reclassification to serious), or unrelated to the action (*e.g.*, approval of Arizona's excess emissions rule).

In this preamble, EPA is responding to the most significant comments received and has provided more detailed and complete answers to all comments received in the Response to Comments (RTC) document which is part of the technical support document (TSD) for this rulemaking. Copies of the TSD as well as other documents in the docket for this rulemaking may be obtained from the contact listed at the beginning of this notice.

A. Comments Related to the Proposed Finding of Failure to Attain Comment

ADEQ and others note that Arizona has implemented most of the mandatory control programs for both serious and severe ozone nonattainment areas and the only remaining requirements are for more stringent new source review (NSR) and the federal clean fleets program. Because the imposition of these serious area requirements will do little to improve air quality in the Phoenix metropolitan area, the commenters contend that the reclassification is effectively punitive.

Response: Serious ozone nonattainment areas (like all other classifications) are subject to both specific requirements for mandatory control programs and more general requirements for attainment and reasonable further progress. EPA agrees that the Maricopa area already has in place most of the mandatory control programs required for serious area. The State, however, has yet to address the requirements for attainment by 1999 in CAA section 181(c)(2)(A) or the 9 percent rate-of-progress requirement in section 181(c)(2)(B). Both these requirements are very likely to require measures beyond the specific control programs mandated by a serious area classification, resulting in improved air quality for the Phoenix area.

The classification structure of the Act is a clear statement of Congress's belief that the later attainment deadlines afforded higher-classified and reclassified areas require compensating increases in the stringency of controls. The reclassification provisions of the Clean Air Act are a reasonable mechanism to assure continued progress toward attainment of the health-based ambient air quality standards when areas miss their attainment deadlines and are not punitive.

Comment: ADEQ, MCESD, and others asserted that the schedules for planning and attainment under a reclassification almost certainly guarantee failure because it would be difficult to complete the needed technical analysis within the proposed 12-month SIP submittal schedule and then to implement any additional controls needed before the 1999 ozone season.

Response: EPA agrees that the short time available for planning and attainment between the moderate area deadline of November 15, 1996 and the serious area deadline of November 15, 1999 makes completing the required technical analysis and adopting additional controls difficult. The State, however, has already adopted or is in the process of adopting a number of controls that will contribute substantial emission reductions in 1997 or beyond. These controls include the federal reformulated gasoline program for 1997, Arizona's Clean Burning Gasoline program for 1998 and later, improvements to the vehicle emission inspection program, and an industrial solvent cleaning rule (currently schedule for adoption in early 1998). In addition, ADEQ continues to evaluate and refine the Urban Airshed modeling performed for the draft Voluntary Early Ozone Plan (VEOP). All these actions give Arizona a head start in meeting the serious area requirements.

In proposing a 12-month schedule for submittal of the revised plan, EPA understood that this was an ambitious schedule but stated that it believed "a 12-month schedule is appropriate because the attainment date for serious areas, November 15, 1999, is little more than 2 years away and the State will need to expedite adoption and implementation of controls to meet that deadline." See 62 FR 42633. EPA is therefore retaining the 12-month schedule for submittal of the SIP revisions needed to meet the serious area requirements.

Comment: Commenters argue that because stationary sources are not the cause of the ozone problem in Phoenix, the more stringent new source review (NSR) requirements that come with the serious area classification will do little to improve the air quality and are thus merely punitive.

Response: Phoenix is not being singled out for more stringent NSR requirements than any other similarly-classified area in the Country such as Atlanta, Washington, D.C. and San Diego. The more stringent NSR provisions (which principally affect which sources are subject to major source NSR) are required by statute of all serious areas without exception. This tightening of control requirements as areas move up the classification ladder and are given more time to attain is part of the basic Clean Air Act scheme for ozone attainment. In establishing this scheme, Congress determined that the more stringent NSR provision were reasonable for serious areas and, since

[1] On July 18, 1997 (62 FR 38856), EPA revised the ozone NAAQS to establish a 8-hour standard; however, in order to ensure an effective transition to the new 8-hour standard, EPA also retained the 1-hour NAAQS for an area until such time as it determines that the area meets the 1-hour standard. See revised 40 CFR 50.9 at 62 FR 38894. As a result of retaining the 1-hour standard, CAA part D, subpart 2, *Additional Provisions for Ozone Nonattainment Areas*, including the reclassification provisions of section 181(b), remain applicable to areas that are not attaining the 1-hour standard. Unless otherwise indicated, all references in this notice are to the 1-hour ozone NAAQS.

Congress did not provide relief from these requirements for reclassified areas, it also determined that they were reasonable without exception for moderate areas being reclassified to serious.

B. Comments Related to Retention of the 1-Hour Ozone Standard Comment

A number of comments were received on the legality of EPA's decision, having promulgated an 8-hour NAAQS, to defer revocation of the 1-hour ozone NAAQS.

Response: The continued applicability of the 1-hour standard until EPA determines that the applicable area is meeting that standard is not the subject of this rulemaking. This rulemaking only concerns the finding that the Phoenix area failed to attain the 1-hour standard and the denial of the State's request for an extension of the attainment deadline for that standard. The issue of the continued applicability of the 1-hour standard was part of the rulemaking in which EPA promulgated an 8-hour ozone standard. 62 FR 38856 (July 18, 1997). That rulemaking proceeding, not this one concerning Phoenix, was the appropriate forum in which to raise issues concerning the continued applicability of the 1-hour standard.

C. Comments Related to the Proposal to Deny Arizona's Application for a One-Year Extension of the Attainment Date

Almost all comments received opposed EPA's proposed denial of the State's application for a one-year extension of the November 15, 1996 attainment date. Before responding to the specific comments raised with regard to this issue, some introductory remarks are in order. In general, the commenters misperceive the nature of section 181(a)(5) of the CAA that provides:

> Upon application of any State, the Administrator *may* extend for 1 additional year (hereinafter referred to as the "Extension Year") the [attainment deadline] if—
>
> (A) the State has complied with all requirements and commitments pertaining to the area in the applicable implementation plan, and
>
> (B) no more than 1 exceedance of the national ambient air quality standard level for ozone has occurred in the area in the year preceding the Extension Year.
>
> No more than 2 one-year extensions may be issued under this paragraph for a single nonattainment area. Emphasis added.

Many commenters erroneously assume that if the conditions in subparagraphs A and B above are met, then EPA must automatically grant the extension. However, by its terms, section 181(a)(5) is ultimately discretionary. See 62 FR 46230. While EPA cannot grant an extension request if the conditions are not met, it is not required to do so even if they are.

While EPA believes, as discussed at length below, that the second condition has not been met, the Agency has ample justification for denying the request even if that were not the case. In its proposal, EPA articulated two reasons to deny the extension request. The first—the failure to meet the second extension criterion—will be discussed further below. The second—that the Phoenix area was not close to attainment—went virtually unaddressed by most the commenters. As EPA stated in its notice:

> [T]he underlying premise of an extension is that an area is close to attainment and already has in place the control strategy needed for attainment. All evidence in front of the Agency indicates that the Phoenix area is not close to attainment of the 1-hour ozone standard and that, despite the State's dedicated efforts to adopt and implement controls, the area will need to continue its on going planning and control efforts. Thus, even if the Phoenix area met the statutory requirements for granting an extension, *EPA believes that such an extension would not be appropriate at this time.* Emphasis added. 62 FR 46232.

While several commenters questioned EPA's conclusion that the Phoenix area was not close to attainment, their comments (which are addressed later) did not persuade EPA that its conclusion was wrong. In fact, an equal number of commenters tacitly agreed with EPA's position by arguing the need for long-term measures to solve Phoenix's ozone problem and the impossibility of showing attainment by 1999.

The central thrust of the comments EPA received on the extension issue is that EPA improperly included data from special purpose monitors (SPMs)[2] in its calculation of whether the Phoenix area experienced no more than one exceedance of the ozone NAAQS in 1996, the year preceding the extension year, and had EPA properly excluded the data, then the Phoenix area would have been granted an extension. For the reasons discussed below, EPA believes that it was entitled to rely on that data in making this assessment. However, even if the SPM data were excluded from the calculation, the Agency believes that it can properly exercise its discretion to deny the State's extension request.

As documented below and in Appendix B to the TSD, since at least 1989, Arizona has maintained an inadequate official monitoring network and has consistently declined to convert the SPMs (which meet all of EPA's technical criteria) to cure those deficiencies. If it had to rely solely on this inadequate monitoring network, it would be impossible for EPA to determine whether the Phoenix area had one or fewer exceedances of the ozone standard in 1996 because the official network does not adequately represent Phoenix's air quality. Only when the data from the SPMs are combined with those of the official network is it possible to make this determination and with the SPM data it is clear that the Phoenix area is not close to attaining the ozone 1-hour NAAQS. Modeling conducted by the State confirms this conclusion. Thus the underlying intent of the statute's extension provision has not been met. In acknowledging this reality, EPA can appropriately exercise its discretion to deny the extension request.

Comment: ADEQ contends that in a letter dated June 6, 1997, to the Clerk of the United States Court of Appeals for the Third Circuit, EPA's legal counsel noted that EPA was not required to consider non-network (i.e., not part of the SLAMS/NAMS network) data showing violations of the NAAQS. Letter, June 6, 1997, from Lois J. Schiffer, Assistant Attorney General, Environmental Natural Resources Division (by Greer S. Goldman), U.S. Department of Justice (DOJ) to P. Douglas Sisk, Clerk, United States Court of Appeals for the Third Circuit ("3rd Circuit letter"). ADEQ also cites *Southwestern Pennsylvania Growth Alliance* v. *Browner*, 121 F.3d 106 (3rd Cir. 1997), to support its position that EPA in the past has excluded exceedance data from its evaluation of a redesignation request because the data came from monitors that were not part of the SLAMS network.

Response: In the 3rd Circuit letter, EPA actually concluded that the Agency's regulation on the use of SPM data, 40 CFR 58.14, does not authorize it to take into account the State's intended use of SPM data that otherwise meet that regulation's requirements when deciding whether to use it in an ozone redesignation action.[3] As a result, under EPA's regulation, all available SPM data that meet the minimum federal siting and quality assurance requirements in 40 CFR Part 58 must be used in making regulatory decisions

[2] In the Phoenix area, MCESD operates eight ozone monitors in its official or state or local air monitoring station/national air monitoring station (SLAMS/NAMS) network. ADEQ and MCESD operate a total of nine ozone special purpose monitors in the area.

[3] This letter was signed by DOJ on behalf of EPA and accurately reflects the Agency's position on the use of SPM data.

such as redesignations and reclassifications.

Southwestern Pennsylvania Growth Alliance involves EPA's disapproval of the Commonwealth of Pennsylvania's request to redesignate the Pittsburgh-Beaver Valley nonattainment area to attainment for ozone. The disapproval was based on 1995 violations of the ozone standard recorded on the area's SLAMS/NAMS network. 61 FR 19193 (May 1, 1996) The Southwestern Pennsylvania Growth Alliance (SWPGA), an organization of major manufacturers and local governments in the Pittsburgh-Beaver Valley region, sought review of EPA's disapproval by the Third Circuit Court of Appeals. A full history of EPA's actions on Pennsylvania's redesignation request can be found in the TSD for today's notice.

Among the issues raised by SWPGA was the use of the 1995 SLAMS/NAMS data. SWPGA argued that EPA acted contrary to the Act by considering the 1995 ozone exceedances because they occurred after the EPA's 18 month deadline to act on the State's redesignation request which had been submitted in November, 1993. In an effort to clarify certain statements made in its brief, EPA identified certain instances where it had not used available data when acting on a redesignation request. In one instance, the San Francisco-Bay Area redesignation to attainment for ozone, EPA had excluded SPM data from its redesignation evaluation. The other instance, LaFourche Parish, Louisiana, involved only SLAMS/NAMS data. 121 F.3d at 115.

The court then directed EPA to address a number of questions, including why it is lawful for EPA to exclude consideration of data from monitors that are not part of the SLAMS network. The 3rd Circuit letter cited by ADEQ is EPA's response to the court on this issue. As stated in this letter (p. 4):

> For data from monitors that are not part of the SLAMS network required by [40 CFR] Part 58 [EPA's monitoring regulation], EPA regulations provide that EPA will exclude the data when they do not meet the terms of 40 CFR 58.14. That section provides, in relevant part:
>
> Any ambient air quality monitoring station other than a SLAMS or [prevention of significant deterioration] station from which the State intends to use the data as part of a demonstration of attainment or nonattainment or in computing a design value for control purposes of the [NAAQS] must meet the requirements for SLAMS described in section 58.22 and, after January 1, 1983, must also meet the requirements for SLAMS as described in section 58.13 and appendices A and E to this part.
>
> * * * In at least one case, EPA has interpreted section 58.14 to make a state's intent a factor in determining whether data from special purpose monitors that otherwise meet the requirements of section 58.14 may be excluded from consideration in an ozone redesignation action. However, EPA has recently evaluated that interpretation and concluded that it is not authorized by section 58.14.

The passage supports the conclusion that the only circumstance under which SPM data may be excluded is if the data do not meet the siting and quality assurance requirements of Part 58.

The statement that ADEQ cites from the 3rd Circuit letter comes from the letter's concluding paragraph which discusses the specific facts of *Southwestern Pennsylvania Growth Alliance*. All monitoring data under consideration in that case came from SLAMs monitors; there were no SPM data at issue in EPA's decision to deny the redesignation request. In this context, it is clear that the 3rd Circuit letter does not indicate that EPA may ignore SPM data:

> It should be noted, however, that the issue of whether EPA has discretion to decide if data from outside the official monitoring network should be used in redesignation decisions is not at issue in this case, where all monitored violations of the ozone standard were recorded at official network monitors. And even if EPA were required to consider non-network data showing violations, EPA would not be authorized to ignore violations at official network monitors when determining whether an area has attained the standard and is entitled to redesignation. 3rd Circuit letter (p. 4).

ADEQ also cites the court's opinion to support its contention that EPA has excluded SPM data in the past. While the court noted that "[i]n at least one case, the EPA has excluded exceedance data from its evaluation of a redesignation request because the data came from monitors that were not part of the [SLAMS] network * * *," it went on to state in the same paragraph:

> Assuming arguendo that the EPA's exclusion of non-SLAMS exceedance data violates the EPA's duty not to redesignate an area that fails to attain the NAAQS, *the EPA's prior disregard of this duty did not relieve the EPA of its obligation to act correctly in other cases.* Emphasis added. 121 F.3d at 115.

Based on its interpretation of Section 58.14, and the facts of the Phoenix air quality situation discussed below, EPA believes that it is acting correctly in not excluding the SPM data from consideration in the Phoenix extension decision.

Comment: Numerous commenters questioned the timing of EPA's issuance of the *Memorandum*, "Agency Policy on the Use of Special Purpose Monitoring Data," dated August 22, 1997, by John Seitz, EPA Director of the Office of Air Quality Planning and Standards ("SPM policy" or "SPM memo"), noting that it was issued just 3 days in advance of EPA's announcement that it was proposing to find that the Phoenix area had failed to attain the ozone standard and to deny the State's extension request. The commenters contend that, absent this "ad hoc policy," EPA would not have been able to propose to deny Arizona's one-year extension request based upon the use of the special purpose monitor data that EPA has heretofore rejected.

Commenters state that the information submitted to EPA's AIRS and additional data submitted to EPA by ADEQ demonstrate that, had the Fountain Hills special purpose monitor data properly been excluded, the criterion in section 181(a)(5)(B) would have been satisfied. Commenters note that during the year preceding the extension year (1996), there was only one exceedance of the ozone NAAQS at a SLAMS or NAMS monitor (the exceedance at the Mesa SLAMS monitor on July 23, 1996, when a reading of 0.127 ppm ozone was recorded) and that this was the only ozone exceedance recorded during the entire calendar year of 1996 on any official SLAMS or NAMS monitor.

Response: The proper treatment of SPM data has been growing national interest for some time, increasing the need for EPA to issue national guidance. As noted in the SPM memo (p. 1):

> [OAQPS] has received several inquiries from Regional Offices into how special purpose monitoring data can be used in making a variety of regulatory decisions such as designations, classifications, and attainment date extensions. [It] also [has] a final ruling from the U.S. Court of Appeals for the Third Circuit which supports the U.S. EPA denial of Pennsylvania's redesignation request for the Pittsburgh-Beaver Valley ozone nonattainment area. In light of these questions, legal developments, and the new [NAAQS] implementation directives, [OAQPS] believe[s] it is necessary to discuss the use of all publicly available special purpose monitoring data for all regulatory applications.

Further impetus for the SPM policy was the revised ozone NAAQS under which EPA must determine within 90 days of their July 18, 1997 publication which areas of the Country are attaining the 1-hour standard. National guidance is clearly essential to assure consistency in the use of SPM data for these determinations.

The interest in and the need for a clear statement of the Agency's policy on SPM data was thus far broader than the Phoenix situation. The Agency did not, as the commenters imply, create an

"ad hoc" policy simply to justify its proposed denial of Arizona's request for an extension but rather it articulated a national policy applicable to all areas of the Country.

The commenters, however, wrongly assert that EPA needed the August 22, 1997 SPM policy to justify its denial of Arizona's extension request. Even without a formal written policy statement, EPA believes that it has sound reasons to use the SPM data in this case, including the inadequate SLAMS/NAMS network in Phoenix, the discrepancies in measured air quality between the official monitors and the SPMs, and its long-established regulations governing the use of SPM data.

Moreover, the June 6, 1997 letter to the Third Circuit and the Court's subsequent July 28, 1997 decision *in Southwestern Pennsylvania Growth Alliance*, both available long before EPA's announcement, may be read to imply that EPA must consider available SPM data in making regulatory decisions such as granting extension requests. As noted in the SPM memo (p. 2):

> The Third Circuit Court decision supports the view that the EPA may not redesignate an area from nonattainment to attainment if the EPA knows that the area is not meeting the ozone NAAQS. Specifically, if the U.S. EPA knows of a violation or violations of the ozone NAAQS by either examining information within the AIRS or data from other sources and these data meet all 40 CFR Part 58 requirements, the U.S. EPA cannot determine that an area is attaining the NAAQS.

This logic applies equally to extension requests: if EPA knows of more than one exceedance in an area in the year preceding the extension year by either examining information within AIRS or data from other sources and these data meet all 40 CFR part 58 requirements, EPA cannot grant an extension of the attainment date.

Finally, EPA notes that it informed Arizona of its intention to use the SPM data in advance of its August 25, 1997 announcement. In a presentation to the May 19, 1997 meeting of the Arizona air quality monitoring network stakeholders,[4] EPA stated that the current Maricopa SLAM network was deficient and that it could not, without inclusion of the SPM sites, support the granting of an extension. At the June 9, 1997 meeting, EPA distributed the 3rd Circuit letter and noted that EPA would soon be formally clarifying its use of SPM data. EPA also made a series of courtesy calls to state and local agencies the week before its announcement to inform them that it would be proposing to find that Phoenix had failed to attain and that it was proposing to deny the extension request based in part on the SPM data.

Comment: Several commenters contend that the use of the SPM data in this instance is inconsistent with actions taken in other nonattainment areas where SPM data were excluded for the purposes of making similar determinations and conclude that if EPA had followed its earlier precedents then data from the Fountain Hills special purpose monitor would not have been used to deny the extension request. ADEQ also notes that the SPM memo implicitly concedes that Agency policy up to the date of the memorandum had been to reject exactly the kind of monitoring data on which EPA based its decisions to propose to deny the one-year extension. Commenters view EPA's refusal to follow prior precedent and disregard special purpose monitor data in this situation as a simple case of disparate treatment.

Response: EPA's previous record on the use of SPM data contains numerous examples of instances where the Agency has used SPM data in making designation and classification decisions. While commenters note one instance where EPA did not use available SPM data (the Beaumont-Port Arthur reclassification), and the SPM memo notes one other (the San Francisco-Bay Area redesignation), there are many more instances where the Agency has used SPM data to either designate or classify an area, including the original classification of the Phoenix area as moderate for ozone and the PM–10 nonattainment designations for the Bullhead City and Payson, Arizona areas. See 56 FR 56694, 56703 (November 6, 1991) and 58 FR 67334, 67336 (December 21, 1993), respectively. Outside of Arizona, EPA has used SPM data to redesignate to nonattainment portions of White Top Mountain in New York and Smyth County, Virginia. See 56 FR 56694, 56704.

Many commenters cited EPA's 1996 action to correct the Beaumont/Port Arthur, Texas area ozone classification from serious to moderate as an example of EPA's inconsistent use of SPM data. 61 FR 14496 (April 2, 1996). In this case, data from an SPM had originally been utilized to classify the Beaumont/Port Arthur area as a serious ozone nonattainment area. Based on additional information provided by Texas, EPA corrected the reclassification under CAA section 110(k)(6) from serious to moderate, stating that the data from the SPM should not have been used for classification purposes because, among other reasons, the SPM was not a part of the state monitoring network, the data from the monitor were utilized for research purposes, and the data were not reported to EPA's Aerometric Information Retrieval System (AIRS).

Commenters contend that in these three circumstances the Phoenix situation closely parallels Beaumont-Port Arthur's; therefore, EPA should treat the Phoenix SPM data in a like manner by excluding it. In response, EPA notes that it has clarified its policy on the treatment of SPM data since the April 2, 1996 action on Beaumont-Port Arthur, resulting in all three of these circumstances no longer being grounds for excluding SPM data.[5]

Even if EPA's regulations and policy were that valid SPM data could be excluded in some cases (which they are not), EPA believes that there are two compelling reasons to use the SPM data in the Phoenix case. These reasons are (1) the inadequacy of the Maricopa ozone monitoring network and (2) the large discrepancy between air quality when measured on Maricopa's SLAMS/NAMS network and when measured on the SLAMS/NAMS/SPM network.

Since 1989, EPA has consistently found that Maricopa's existing ozone SLAMS/NAMS network is inadequate to meet the monitoring objectives of Part 58, more specifically the requirement for a site measuring maximum concentration. A complete history of EPA's evaluations of the Maricopa County monitoring network can be found in Appendix D to the TSD. Numerous evaluations, including the recent VEOP, have indicated that maximum ozone concentrations are occurring in the rapidly-developing eastern-northeastern portion of Maricopa County.[6] While there are SLAMS sites located throughout the central part of the Phoenix metropolitan area, there are no SLAMS sites on the eastern edge of the Phoenix area. EPA has been urging the County for nearly a decade to locate an ozone SLAMS monitor in this area. The County has responded by locating numerous SPM sites there (including the Fountain Hills SPM site) but has yet to convert any of those sites into SLAMS or NAMS.

Based solely on this inadequate network, it is not possible for EPA to accurately determine the area's compliance with the second statutory criterion for extensions. Such a determination can only be made based on data from a complete network that accurately reflects air quality in the area; therefore, even if the SPM data were excluded from the calculation, the Agency believes that it can properly exercise its discretion to deny the State's extension request.

The inadequate SLAMS network has led to a troubling discrepancy between the air quality measured on the SLAMS/NAMS network and that network when augmented by the SPM sites. This is illustrated by Table 1 below.

TABLE 1.—AIR QUALITY COMPARISON BETWEEN THE SLAMS/NAMS NETWORK AND SLAMS/NAMS/SPM NETWORK

[Maricopa County, 1994–1996]

	SLAMS/NAMS network	SLAMS/NAMS/SPM network (w/o Mt. Ord or Blue Point)
Number of Ozone Exceedance	10	44
Number of Ozone Violations	2	13
Number of Days over the Ozone Standard	6	21

Clearly had EPA ignored the SPM data in Maricopa County, it would have greatly underestimated the severity of the area's air quality and inappropriately downplayed the impact of that air quality on public health.

Given the significant probability that the Phoenix area would eventually face reclassification to serious even if it were granted an extension, EPA questions the actual benefit of an extension to the area. The commenters have made extensive comments on the adverse impacts of reclassification, among them the short-term planning and attainment deadlines facing newly serious areas and the imposition of the more stringent NSR provisions. An extension would only compound the problem of the short time frames while simply deferring the more stringent NSR provisions for a short time. Hence, even if it were within its discretion to grant an extension, EPA stands by its belief that an extension is not appropriate at this time.

Comment: A number of commenters noted that the Phoenix area had not experienced any ozone exceedances in 1997 and asserted that this indicates that the area's ozone problem has been solved. Noting that the number of ozone exceedances peaked in 1995 and decreased in 1996, the County stated that the "reality check" provided by the ambient data indicates a trend contradictory to EPA's contention that the Phoenix area is not close to attainment.

Response: The clean ozone air quality that the Phoenix area has experienced this year is very good news. These lower ozone readings are due in some part to the introduction of reformulated gasoline and the continuing implementation of other control programs such as the State's premier vehicle emission inspection program.

Unfortunately, a single year of ozone data cannot be used to conclude that an area is close to attaining the 1-hour ozone standard. The Phoenix area has experienced another year (1989) in which ozone exceedances were not recorded, only to have the subsequent years show widespread violations.

Ozone levels are related to both emission levels and meteorology. As a result of this meteorological component, ozone levels can vary greatly from year to year. The 1-hour ozone standard accounts for the weather's effect by evaluating compliance over a three-year period (that is, an area can average no more than 1 exceedance per year over a three-year period). 40 CFR 50.9 and part 50, Appendix H.

There is some reason to believe that favorable weather patterns this year have also contributed to Phoenix's low ozone readings. In fact, 1997 has been an unusually good year for air quality throughout the West. All areas in EPA Region 9 (with the exception of San Diego and the Imperial Valley) have shown decreases in second-high ozone levels from 1996 to 1997, many greater than Phoenix's. None of these areas has introduced substantial new emission reduction programs, like Phoenix, that would account for these decreases.

D. Comments Related to the Regulatory Flexibility Act Requirements

Comment: A number of commenters claimed that EPA failed to comply with the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) in its proposal.[7] The commenters claim that EPA's certification that its action would not have a significant economic impact on a substantial number of small entities is incorrect.

In support of their argument, the commenters state that small businesses that emit 50 tpy or more of VOC will become subject to reasonably available control technology (RACT) requirements, more stringent NSR requirements, and the Title V operating permit program as a result of the reclassification to serious and describe in more detail the potential adverse impacts of these requirements on small businesses.[8]

The commenters further assert that EPA's reliance on *Mid-Tex Electric Cooperative, Inc.* v. *FERC*, 773 F.2d 327 (D.C. Cir. 1985) for not preparing a regulatory flexibility analysis is misplaced. Finally, as an aside, the commenters note that *Mid-Tex* was decided a decade before Congress enacted SBREFA and more significantly,

[4] ADEQ convened a series of facilitated stakeholder meetings in May through July, 1997 to discuss the ambient air quality monitoring network in Maricopa County. Participants included MCESD, other local agencies, industry representatives, and environmental groups. EPA also participated in the meetings.

[5] This policy clarification is clearly permissible. Moreover, even if it were a change or revision in policy, rather than a clarification, it would also clearly be permissible. It is well established that an agency may modify or reverse its interpretation over time provided the agency supplies a reasoned basis for the change. See *e.g., Chevron U.S.A., Inc.* v. *NRDC*, 467 U.S. 837, 863 (1984); *Motor Vehicle Manufacturers Assoc. of the U.S., Inc.* v. *State Farm Mutual Automobile Insurance Co.*, 463 U.S. 29, 42 (1983)("we fully recognize that "'[regulatory] agencies do not establish rules of conduct to last forever' * * * and that an agency must be given ample latitude to "adapt their rules and policies to the demands of changing circumstances.' "); *Good Samaritan Hospital* v. *Shalala*, 113 S. Ct. 2151, 2161 (1993) ("[A]n administrative agency is not disqualified from changing its mind * * *"). EPA provided that reasonable basis in the SPM memo.

[6] This is borne out by the fact that all but one of the 1996 exceedances (the one at the Mesa SLAMS monitor) occurred at monitors to the east or northeast of the metropolitan area.

[7] SBREFA amended the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*

[8] EPA notes that businesses that emit 100 tpy or more are already subject to some of these requirements under the moderate area classification.

SBREFA imposes outreach requirements on EPA and OSHA which are imposed on no other government agencies (citing 5 U.S.C. 609(b) and (d)).

Response: The Regulatory Flexibility Act provides that, whenever an agency is required to publish a general notice of rulemaking for a proposed rule, the agency must prepare an initial regulatory flexibility analysis for the proposed rule unless the head of the agency certifies that the rule "will not, if promulgated, have a significant economic impact on a substantial number of small entities" (section 605(b)). EPA certified the proposed determination that the Phoenix area did not attain the 1-hour ozone standard by the attainment date and the proposed denial of the attainment date extension request,[9] based on its conclusion that the rule would not establish requirements applicable to small entities and therefore would not have a significant economic impact on small entities within the meaning of the RFA. EPA is reaffirming that certification in this final action.

As described elsewhere in this notice, CAA section 181(b) requires EPA to determine whether an area has attained a NAAQS by the applicable attainment deadline. If EPA finds that the area has not attained, the section generally provides that the area "shall be reclassified by operation of law" (section 181(b)(2)(A)). The section requires EPA to publish a notice in the **Federal Register** identifying each area the Agency has determined to be in nonattainment and "identifying" the resulting reclassification of the area (section 181(b)(2)(B)).

While determinations that trigger a reclassification do not themselves establish regulatory requirements applicable to small (or large) entities, they may, as noted by the commenters, trigger the application to small entities of regulatory requirements established by other rulemakings under the Clean Air Act (and conceivably other statutes). EPA, however, has concluded that the word "impact" as used in the RFA does *not* include regulatory requirements that the rule does not establish, but may trigger under the terms of other rules or statutory provisions. For the reasons discussed at length in the TSD, EPA believes that the RFA's text, legislative history and case law, including *Mid-Tex*, all make clear that RFA analysis is limited to the requirements of the rule being promulgated.

A more detailed discussion of this issue may be found in the TSD for this rulemaking.

E. Comments Related to Mitigating the Adverse Impacts of Reclassification

Many commenters suggested several steps that could be taken to mitigate the adverse impacts of the reclassification to serious. While EPA will briefly respond to most of the suggestions here, many involve issues that are being dealt with in forums other than this action. EPA will continue to work with interested parties in Arizona to address these issues in those other forums. EPA also received questions regarding the implementation of NSR and Title V requirements. Those questions are addressed in the TSD.

Comment: Commenters requested that EPA suspend further enforcement of the 1-hour ozone NAAQS in the Phoenix Metropolitan area by amending its "implementation policy" for the revised 8-hour ozone NAAQS. Commenters contend that EPA has the flexibility and authority to do so under the "implementation policy" by citing the policy's statements that implementation of the new 8-hour ozone NAAQS should be "carried out to maximize common sense, flexibility, and cost effectiveness." 62 FR 38421 (July 18, 1997).

Response: The document referred to and cited by the commenters as the "Implementation Policy," 62 FR 38421 (July 18, 1997) is a memorandum to the EPA Administrator entitled "Implementation of Revised Air Quality Standards for Ozone and Particulate Matter" ("President's Memorandum") signed by President Clinton for the implementation of the revised ozone and particulate matter standards. Attached to that memorandum is a strategy, "Implementation Plan for Revised Air Quality Standards" ("Implementation Plan") outlining the steps for implementing these standards. EPA is currently developing guidance and proposed rules consistent with the President's Memorandum. EPA is committed to the goals of maximizing common sense, flexibility, and cost effectiveness in implementing the revised NAAQS.

EPA's action reclassifying Phoenix as a serious ozone nonattainment area is in no way inconsistent with those goals. Furthermore, it is consistent with the continued applicability of the 1-hour standard and subpart 2 as provided for in EPA's rulemaking on the ozone NAAQS. See 62 FR 38856, 38873. To the extent that the comments concern that issue, they are not appropriately raised in this rulemaking.

Neither the provisions of 40 CFR 50.9, as revised (62 FR 38856, 38894), nor any other statutory or regulatory provisions, provide EPA with the authority to suspend enforcement of the 1-hour NAAQS in Phoenix. Moreover, as noted earlier, the Phoenix area has not complied with some of the most significant serious area requirements (e.g., the 9 percent rate of progress requirement). Finally EPA believes that complying with those requirements will have a positive, not detrimental, effect on the ability of Phoenix to comply with the 8-hour standard. Additional comments related to this point are addressed in the TSD.

Comment: The commenters requested that EPA execute an agreement with the State of Arizona to act upon submitted SIP revisions within a fixed period of time based upon priorities identified by the State and to set a schedule for acting on future SIP revisions.

Response: EPA Region 9 receives hundreds of requests each year to revise federally-enforceable SIPs from over 40 different state and local air pollution agencies. These include requests to modify inventories, attainment demonstrations, and administrative, permit, and prohibitory regulations. Given the available resources, Region 9 is unable to review and act on each of these requests as quickly as it would like. As a result, the Agency relies on the state and local agencies to prioritize submittals so that the most important ones to the state and local agencies can be acted on first. Region 9 does expect to take final action soon on several revisions submitted by Maricopa County and has recently contacted the Arizona air pollution agencies to request that they identify those submittals that need to be acted quickly in order to issue Title V permits or for other purposes. Region 9 will process submittals in the priority order requested by these agencies.

Comment: Commenters requested that EPA approve EPA Arizona Administrative Code (A.A.C.) R18–2–310 (The Arizona Excess Emissions Rule) as a revision to the SIP.

Response: This comment is closely related to a lawsuit brought by the Arizona Mining Association with regard to EPA's interim approval of Arizona's Title V operating permit program on October 30, 1996 (61 FR 55910). The parties involved in the suit have had constructive exchanges, which EPA expects to continue, on the appropriate treatment of the Arizona Excess Emissions Rule during the settlement discussions.

[9] Commenters only addressed the potential impact on small businesses of the reclassification (which is based on the determination of nonattainment and the denial of the extension request), and not the potential impacts of the SIP submittal schedule. Therefore, the latter action is not discussed further in response to this comment.

Comment: Commenters request that EPA adopt realistic, streamlined national Prevention of Significant Deterioration (PSD) and New Source Review (NSR) regulations.

Response: EPA recognizes that its current regulations governing the new source review programs mandated by both parts C (PSD) and D (NSR) of Title I of the Clean Air Act are a source of concern for many people. On July 23, 1996, EPA proposed major revisions (known as the NSR reform proposal) to its PSD and NSR regulations. 61 FR 38250. EPA has received many comments on its proposal and is currently carefully reviewing and considering these comments as it develops the final rule. EPA's goal for this final rule is to simplify its NSR and PSD regulations consistent with the Clean Air Act requirements for those programs.

Comment: Commenters request that EPA adopt a regulatory affirmative defense for sources with potential VOC emissions of from 50 to 100 tons per year that will apply to enforcement of the NSR requirements in ozone nonattainment areas that meet certain criteria.

Response: It appears that the commenters are attempting to ease the perceived regulatory burden that will be imposed on sources that emit between 50 and 100 tons of VOC per year as a result of the reclassification. EPA will study the proposal, but its initial response is that the commenters' suggested approach is not the most effective means for addressing their underlying concerns. EPA believes it may be constructive to engage in a dialogue regarding possible mechanisms for limiting sources' potential to emit to below the thresholds that trigger NSR. However, where a source's actual emissions exceed the major source threshold or the source is unable to reduce its potential to emit below the major source threshold, the source is subject to major NSR.

Comment: Commenters request that EPA continue to expeditiously act to approve the Arizona Clean Burning Gasoline Program.

Response: EPA has been very pleased to support Arizona's efforts to bring reformulated gasoline to the Phoenix area. In addition to approving the Governor's request to join the federal program and the State's request for lower RVP limits, the Agency participated in the development of the new CBG rules in order to correct any approval problems early in the process. EPA is now working closely with ADEQ to act on the recent submittal of the CBG rules. This work is among EPA's highest priorities.

F. Other Comments

Comment: Senator Kyl and Representative Shadegg commented that by using data collected from 1994 through 1996 as the basis for its decision, EPA has not taken into account the significant and positive effects of the RFG program and other actions taken by the State of Arizona to reduce ozone pollution and that this results in an inaccurate and unwarranted reclassification of Phoenix to serious. They comment further that this violates principles in President's July 18, 1997 memorandum that "implementation of the air quality standards is to be carried out to maximize common sense, flexibility, and cost effectiveness."

Response: EPA agrees that the 1994–1996 data do not reflect the 1997 implementation of the RFG program and that this program will have a continuing positive effect on ozone levels in the Phoenix area. EPA, however, is constrained by statute from considering 1997 data in its finding of failure to attain and denial of the extension request.

CAA section 181(b)(4) requires EPA to determine if an area has attained "as of the attainment date." For Phoenix, the attainment date is November 15, 1996, and under long-established procedures, determining attainment as of that date requires reviewing data from the three years immediately preceding that date or 1994 through 1996. 40 CFR 50.9 and part 50, Appendix H.

The criterion for extensions in CAA section 181(a)(5)(B) is that "no more than one exceedance of the [ozone standard] has occurred in the area in the year preceding the Extension Year." The extension year is 1997, thus the "year preceding" is 1996.

VI. Final Action

EPA is finding that the Phoenix ozone nonattainment area did not attain the ozone NAAQS by November 15, 1996, the CAA attainment date for moderate ozone nonattainment areas. EPA is also denying Arizona's application for a one-year extension of the attainment date. As a result of this finding and denial, the Phoenix ozone nonattainment area is reclassified by operation of law as a serious ozone nonattainment area on the effective date of today's action and the submittal of the serious area SIP revisions will be due no later than 12 months from this effective date. The requirements for this SIP submittal are established in CAA section 182(c) and applicable EPA guidance.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future action. Each finding of failure to attain, request for an extension of an attainment date, and establishment of a SIP submittal date shall be considered separately and shall be based on the factual situation of the area under consideration and in relation to relevant statutory and regulatory requirements.

VII. Administrative Requirements

A. Executive Order (E.O.) 12866

Under E.O. 12866, (58 FR 51735, October 4, 1993), EPA is required to determine whether today's action is a "significant regulatory action" within the meaning of the E.O., and therefore should be subject to OMB review, economic analysis, and the requirements of the E.O. *See* E.O. 12866, sec. 6(a)(3). The E.O. defines, in sec. 3(f), a "significant regulatory action" as a regulatory action that is likely to result in a rule that may meet at least one of four criteria identified in section 3(f), including,

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

EPA has determined that neither the finding of failure to attain it is making today, the denial of Arizona's request for a one-year extension of the attainment data, nor the establishment of SIP submittal schedule would result in any of the effects identified in E.O. 12866 sec. 3(f). As discussed in the response to comments above and in more detail in the TSD, findings of failure to attain under section 181(b)(2) of the Act are based upon air quality considerations, and reclassifications must occur by operation of law in light of certain air quality conditions. These findings do not, in and of themselves, impose any new requirements on any sectors of the economy. In addition, because the statutory requirements are clearly defined with respect to the differently classified areas, and because

those requirements are automatically triggered by classifications that, in turn, are triggered by air quality values, findings of failure to attain and reclassification cannot be said to impose a materially adverse impact on State, local, or tribal governments or communities. The same is true of the determination not to grant a one-year extension, in light of the fact that this determination is also based in part on air quality values. Similarly, the establishment of new SIP submittal schedules merely establishes the dates by which SIPs must be submitted, and does not adversely affect entities.

B. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

As discussed in the response to comments above and in more detail in the TSD, a finding of failure to attain (and the consequent reclassification by operation of law of the nonattainment area) under section 181(b)(2) of the Act, a denial of a one-year extension request, and the establishment of a SIP submittal schedule for a reclassified area, do not, in-and-of-themselves, directly impose any new requirements on small entities. *See Mid-Tex Electric Cooperative, Inc.* v. *FERC*, 773 F.2d 327 (D.C. Cir. 1985) (agency's certification need only consider the rule's impact on entities subject to the requirements of the rule). Instead, this rulemaking simply makes a factual determination and establishes a schedule to require States to submit SIP revisions, and does not directly regulate any entities. Therefore, pursuant to 5 U.S.C. 605(b), EPA reaffirms its certification made in the proposal (62 FR 46233) that today's final action will not have a significant impact on a substantial number of small entities within the meaning of those terms for RFA purposes.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, when EPA promulgates "any general notice of proposed rulemaking that is likely to result in promulgation of any rule that includes any Federal mandate that may result in the expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more" in any one year. A "Federal mandate" is defined, under section 101 of UMRA, as a provision that "would impose an enforceable duty" upon the private sector or State, local, or tribal governments", with certain exceptions not here relevant. Under section 203 of UMRA, EPA must develop a small government agency plan before EPA "establish[es] any regulatory requirements that might significantly or uniquely affect small governments". Under section 204 of UMRA, EPA is required to develop a process to facilitate input by elected officers of State, local, and tribal governments for EPA's "regulatory proposals" that contain significant Federal intergovernmental mandates. Under section 205 of UMRA, before EPA promulgates "any rule for which a written statement is required under [UMRA sec.] 202", EPA must identify and consider a reasonable number of regulatory alternatives and either adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule, or explain why a different alternative was selected.

Generally, EPA has determined that the provisions of sections 202 and 205 of UMRA do not apply to this decision. Under section 202, EPA is to prepare a written statement that is to contain assessments and estimates of the costs and benefits of a rule containing a Federal Mandate "unless otherwise prohibited by law." Congress clarified that "unless otherwise prohibited by law" referred to whether an agency was prohibited from considering the information in the rulemaking process, not to whether an agency was prohibited from collecting the information. The Conference Report on UMRA states, "This section [202] does not require the preparation of any estimate or analysis if the agency is prohibited by law from considering the estimate or analysis in adopting the rule." 141 Cong. Rec. H3063 (Daily ed. March 13, 1995). Because the Clean Air Act prohibits, when determining whether an area attained the ozone standard or met the criteria for an extension, from considering the types of estimates and assessments described in section 202, UMRA does not require EPA to prepare a written statement under section 202. Although the establishment of a SIP submission schedule may impose a federal mandate, this mandate would not create costs of $100 million or more, and therefore, no analysis is required under section 202. The requirements in section 205 do not apply because those requirements for rules "for which a written statement is required under section 202 * * *."

With regard to the outreach described in UMRA section 204, EPA discussed its proposed action in advance of the proposal with State officials.

Finally, section 203 of UMRA does not apply to today's action because the regulatory requirements finalized today—the SIP submittal schedule—affect only the State of Arizona, which is not a small government under UMRA.

D. Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) of the Administrative Procedures Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by section 804(2) of the APA as amended.

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 5, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Intergovernmental relations, Ozone.

Dated: October 27, 1997.

Harry Seraydarian,

Acting Regional Administrator.

Part 81, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. Section 81.303 is amended by revising the table for Arizona— Ozone, for the Phoenix Area to read as follows:

§ 81.303 Arizona

* * * * *

ARIZONA-OZONE

Designated area	Designation		Classification	
	Date	Type	Date	Type
Phoenix Area:				
Maricopa County (part)	11/15/90	Nonattainment	12/8/97	Serious.
The Urban Planning Area of the Maricopa Association of Governments is bounded as follows:				
1. Commencing at a point which is at the intersection of the eastern line of Range 7 East, Gila and Salt River Baseline and Meridian, and the southern line of Township 2 South, said point is the southeastern corner of the Maricopa Association of Governments Urban Planning Area, which is the point of beginning;				
2. Thence, proceed northerly along the eastern line of Range 7 East which is the common boundary between Maricopa and Pinal Counties, as described in Arizona Revised Statute Section 11–109, to a point where the eastern line of Range 7 East intersects the northern line of Township 1 North, said point is also the intersection of the Maricopa County Line and the Tonto National Forest Boundary, as established by Executive Order 869 dated July 1, 1908, as amended and showed on the U.S. Forest Service 1989 Planimetric Maps;				
3. Thence, westerly along the northern line of Township 1 North to approximately the southwest corner of the southeast quarter of Section 35, Township 2 North, Range 7 East, said point being the boundary of the Tonto National Forest and Usery Mountain Semi-Regional Park;				
4. Thence, northerly along the Tonto National Forest Boundary, which is generally the western line of the east half of Sections 26 and 35 of Township 2 North, Range 7 East, to a point which is where the quarter section line intersects with the northern line of Section 26, Township 2 North, Range 7 East, said point also being the northeast corner of the Usery Mountain Semi-Regional Park;				
5. Thence, westerly along the Tonto National Forest Boundary, which is generally the south line of Section 19, 20, 21 and 22 and the southern line of the west half of Section 23, Township 2 North, Range 7 East, to a point which is the southwest corner of Section 19, Township 2 North, Range 7 East;				
6. Thence, northerly along the Tonto National Forest Boundary to a point where the Tonto National Forest Boundary intersects with the eastern boundary of the Salt River Indian Reservation, generally described as the center line of the Salt River Channel;				
7. Thence, northeasterly and northerly along the common boundary of the Tonto National Forest and the Salt River Indian Reservation to a point which is the northeast corner of the Salt River Indian Reservation and the southeast corner of the Fort McDowell Indian Reservation, as shown on the plat dated July 22, 1902, and recorded with the U.S. Government on June 15, 1902;				

ARIZONA-OZONE—Continued

Designated area	Designation		Classification	
	Date	Type	Date	Type
8. Thence, northeasterly along the common boundary between the Tonto National Forest and the Fort McDowell Indian Reservation to a point which is the northeast corner of the Fort McDowell Indian Reservation;				
9. Thence, southwesterly along the northern boundary of the Fort McDowell Indian Reservation, which line is a common boundary with the Tonto National Forest, to a point where the boundary intersects with the eastern line of Section 12, Township 4 North, Range 6 East;				
10. Thence, northerly along the eastern line of Range 6 East to a point where the eastern line of Range 6 East intersects with the southern line of Township 5 North, said line is the boundary between the Tonto National Forest and the east boundary of McDowell Mountain Regional Park;				
11. Thence, westerly along the southern line of Township 5 North to a point where the southern line intersects with the eastern line of Range 5 East which line is the boundary of Tonto National Forest and the north boundary of McDowell Mountain Regional Park;				
12. Thence, northerly along the eastern line of Range 5 East to a point where the eastern line of Range 5 East intersects with the northern line of Township 5 North, which line is the boundary of the Tonto National Forest;				
13. Thence, westerly along the northern line of Township 5 North to a point where the northern line of Township 5 North intersects with the easterly line of Range 4 East, said line is the boundary of Tonto National Forest;				
14. Thence, northerly along the eastern line of Range 4 East to a point where the eastern line of Range 4 East intersects with the northern line of Township 6 North, which line is the boundary of the Tonto National Forest;				
15. Thence, westerly along the northern line of Township 6 North to a point of intersection with the Maricopa-Yavapai County line, which is generally described in Arizona Revised Statute Section 11–109 as the center line of the Aqua Fria River (Also the north end of Lake Pleasant);				
16. Thence, southwesterly and southerly along the Maricopa-Yavapai County line to a point which is described by Arizona Revised Statute Section 11–109 as being on the center line of the Aqua Fria River, two miles southerly and below the mouth of Humbug Creek;				
17. Thence, southerly along the center line of Aqua Fria River to the intersection of the center line of the Aqua Fria River and the center line of Beardsley Canal, said point is generally in the northeast quarter of Section 17, Township 5 North, Range 1 East, as shown on the U.S. Geological Survey's Baldy Mountain, Arizona Quadrangle Map, 7.5 Minute series (Topographic), dated 1964;				
18. Thence, southwesterly and southerly along the center line of Beardsley Canal to a point which is the center line of Beardsley Canal where it intersects with the center line of Indian School Road;				

ARIZONA-OZONE—Continued

Designated area	Designation		Classification	
	Date	Type	Date	Type
19. Thence, westerly along the center line of West Indian School Road to a point where the center line of West Indian School Road intersects with the center line of North Jackrabbit Trail;				
20. Thence, southerly along the center line of Jackrabbit Trail approximately nine and three-quarter miles to a point where the center line of Jackrabbit Trail intersects with the Gila River, said point is generally on the north-south quarter section line of Section 8, Township 1 South, Range 2 West;				
21. Thence, northeasterly and easterly up the Gila River to a point where the Gila River intersects with the northern extension of the western boundary of Estrella Mountain Regional Park, which point is generally the quarter corner of the northern line of Section 31, Township 1 North, Range 1 West;				
22. Thence, southerly along the extension of the western boundary and along the western boundary of Estrella Mountain Regional Park to a point where the southern extension of the western boundary of Estrella Mountain Regional Park intersects with the southern line of Township 1 South;				
23. Thence, easterly along the southern line of Township 1 South to a point where the south line of Township 1 South intersects with the western line of Range 1 East, which line is generally the southern boundary of Estrella Mountain Regional Park;				
24. Thence, southerly along the western line of Range 1 East to the southwest corner of Section 18, Township 2 South, Range 1 East, said line is the western boundary of the Gila River Indian Reservation;				
25. Thence, easterly along the southern boundary of the Gila River Indian Reservation which is the southern line of Sections 13, 14, 15, 16, 17, and 18, Township 2 South, Range 1 East, to the boundary between Maricopa and Pinal Counties as described in Arizona Revised Statues Section 11–109 and 11–113, which is the eastern line of Range 1 East;				
26. Thence, northerly along the eastern boundary of Range 1 East, which is the common boundary between Maricopa and Pinal Counties, to a point where the eastern line of Range 1 East intersects the Gila River;				
27. Thence, southerly up the Gila River to a point where the Gila River intersects with the southern line of Township 2 South; and				
28. Thence, easterly along the southern line of Township 2 South to the point of beginning which is a point where the southern line of Township 2 South intersects with the eastern line Range 7 East				

* * * * *

[FR Doc. 97–29306 Filed 11–5–97; 8:45 am]
BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 105–60

RIN 3090–AG16

Public Availability of Agency Records and Information Materials

AGENCY: Office of Management and Workplace Programs, (GSA).

ACTION: Final rule.

SUMMARY: The General Services Administration, GSA is revising its regulations that implement the Freedom of Information Act (FOIA), to incorporate changes since publication in 1988 of GSA's last final rule implementing the FOIA. This rule also issues instructions to current and former GSA employees concerning the response to subpoenas and other demands in litigation before judicial and administrative tribunals.

DATES: This rule is effective December 8, 1997.

FOR FURTHER INFORMATION CONTACT: Mary Cunningham, GSA Freedom of Information Act (FOIA) Officer (202–501–3415); or Helen C. Maus, Office of General Counsel (202–501–1460).

SUPPLEMENTARY INFORMATION: A proposal to revise GSA's regulations that implement FOIA were published in the **Federal Register** on March 25, 1997, 62 FR 14081. This rule was not submitted to the Office of Management and Budget pursuant to Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, because it is not a significant regulatory action as defined in Executive Order 12866. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for and the consequences of this rule, particularly the subpart that governs responses to subpoenas and other judicially enforceable demands for material or information. Specifically, the increase in the number of subpoenas and other demands to its employees in judicial or administrative proceedings, particularly in cases in which neither GSA nor the United States is a party, necessitates detailed and uniform instructions to be followed by current and former GSA employees.

The Paperwork Reduction Act does not apply because the rule does not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

The principles of Executive Order 12988 of February 5, 1996, Civil Justice Reform, have been incorporated where applicable.

The Administrator certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b) this rule is therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

Interested persons have been afforded an opportunity to participate in the making of this rule. Due consideration has been given to the comments received.

Comprehensive Summary

I. Implementation of the FOIA

These regulations implement the FOIA, which codified Pub. L. 89–487 and amended section 3 of the Administrative Procedure Act, formerly 5 U.S.C. 1002 (1964 ed.). These regulations also implement Pub. L. 93–502, popularly known as the Freedom of Information Act Amendments of 1974, as amended by Pub. L. 99–570, the Freedom of Information Reform Act of 1986; and Executive Order 12600, Predisclosure Notification Procedures for Confidential Commercial Information, of June 23, 1987.

The revisions incorporate predisclosure notification procedures for confidential commercial information. The revisions also:

(a) Update organizational reference;

(b) Clarify the definition of available records to include electronic records;

(c) Revise fees for manual searches by clerical staff from $9 to $13 per hour or fraction of an hour and for manual searches and review by professional staff from $18 to $29 per hour or fraction of an hour, to more accurately reflect the full cost of searches and document review.

(d) Clarify GSA policy with regard to: (1) reconstructing records and providing incomplete records; (2) explaining compelling reasons for denial of access to records; and (3) requiring assurance of payment;

(e) Provide instructions on submission of FOIA requests via Telefax and fee payment by credit card;

(f) Extend the time limit for administrative appeal within GSA from 30 to 120 days; and

(g) Clarify GSA policy with respect to the availability of records from other sources that have statutory authority to provide information to the public at set fees.

(h) Incorporate, as appropriate, policies in Executive Order 12988 of February 5, 1996 on Civil Justice Reform.

II. Response to Demands in Judicial or Administrative Proceedings

This rule also amends 41 CFR 105–60.6, which pertains to production of information pursuant to demands in judicial or administrative proceedings. 41 CFR 105–60.6 is amended to prescribe instructions and procedures to be followed by current and former GSA employees with respect to the production and disclosure of material or information acquired as a result of performance of the person's official duties or because of the person's official status in response to judicially enforceable subpoenas or demands in judicial or administrative proceedings, except demands from the Congress or in Federal grand jury proceedings. Included are detailed factors to be considered by the appropriate authority within the General Services Administration in determining the Agency's response to a subpoena or other judicially enforceable demand, including widely acknowledged areas of privilege that may render disclosure or production inappropriate. Instructions concerning the appropriate response by employees and former employees to courts and other authorities are included.

The rules governing responses to subpoenas and demands in judicial or administrative proceedings provide instructions and procedures for employees and former employees regarding the internal operations of GSA and is not intended to be relied upon to create any right or benefit, substantive or procedural, enforceable at law by a party against the General Services Administration.

(a) GSA is amending this subpart to set forth uniform prescribed instructions and procedures to be complied with by current and former GSA employees concerning disclosure or production of agency materials or information in judicial or administrative proceedings in response to a judicially enforceable subpoena or demand. These instructions establish policy, assign responsibilities and prescribe procedures for responding to demands for GSA materials or testimony of current and former GSA employees in judicial and administrative proceedings. The instructions in 41 CFR subpart 105–60.6 do not apply to requests unrelated to litigation before judicial or administrative tribunals, to requests

made pursuant to the FOIA or Privacy Act, 5 U.S.C. 552 and 552a, respectively, to demands from the Congress, or to demands in Federal grand jury proceedings.

(b) These instructions are intended solely to provide an orderly means by which current and former GSA employees respond to demands for material and information covered by this rule, and to protect the interests of the United States, including the safeguarding of privileged or otherwise sensitive information. This rule is consistent with the decision in the landmark case of *United States ex rel. Touhy* v. *Ragen*, 340 U.S. 462 (1951) in which the Supreme Court upheld the ability of an agency head to issue regulations for the preservation of agency records, determined that an agency employee, acting pursuant to such instructions, could not be held in contempt of court for declining to produce records in response to a subpoena duces tecum. Accordingly, current and former GSA employees shall respond to the party on whose behalf the demand is issued only in accordance with the instructions and procedures required by 41 CFR subpart 105–60.6. Furthermore, the GSA can refuse to disclose materials or make information available based on the factors set forth in 41 CFR 105–60.605. These instructions and procedures are not intended to preclude disclosures or productions in compliance with court orders except where disclosure would be inappropriate even if required by a court, e.g., where disclosure would be legally prohibited or would be contrary to a recognized privilege.

Summary of Comments

GSA received two comments in response to its proposed rule. One comment was from an internal agency component and the other was external.

I. Comments on FOIA-Related Sections of the Rule

Both commenters indicated that the proposed rule does not address amendments to the FOIA required by the Electronic Freedom of Information Act Amendments of 1996, Pub. L. 104–231. The intent of the proposed rule was to amend GSA's current FOIA regulations to address changes occasioned by reorganizations within GSA, to incorporate formally procedures for notifying submitters of commercial or financial information of a request, entertain reasons for nondisclosure, and to provide procedures, for responding to subpoenas for GSA materials or information. This rule is not intended to address the recent amendments to the FOIA. Changes required by the amendments will be the subject of a subsequent proposed rule.

The internal GSA comment raised a number of issues—some nonsubstantive/editorial comments have been adopted. For the reasons which follow, substantive internal and external comments have or have not been adopted.

Subsection. 105–60.103–1. It is suggested that the FOIA does not require that GSA perform "minor reprogramming" when doing so is not costly or burdensome. We have adopted this suggestion and amended this subsection to read that GSA "may perform minor reprogramming" when doing so is not costly or burdensome.

Subsection. 105–60.103–2. It is recommended that the final rule modify or eliminate the requirement that a denial of information requested under the FOIA cite the compelling reason for denying access. The reason being that the current FOIA statutory exemptions already describe the basis for nondisclosure.

We have adopted this suggestion by eliminating the "compelling reason" language because other provisions of the rule encompass the intent. GSA's existing FOIA procedures state that the reasons for withholding will be clearly described in the letter to the requester, and GSA will not invoke an exemption if disclosure will cause no demonstrable harm to any governmental or private interest. 41 CFR 150–60.501(b), (c). We consider a demonstrable harm to any governmental or private interest to be a compelling reason for invoking a FOIA exemption. We have therefore eliminated the "compelling reason" language and substituted language stating that the harm to a Governmental or private interest will be specifically described in the denial letter to the requester.

Subsection. 105–60.305–1(d). As proposed, this subsection stated that GSA "will" provide a copy of the material in a form usable by the requester unless administratively burdensome to do so. It is recommended that this language be changed to read that to the extent "practicable" GSA will provide a copy of the material in the form specified by the requester. We have adopted this suggestion because the phrase "to the extent practicable" is deemed to encompass the concept of "administratively burdensome."

Subsection. 105–60.305–4(b). This subsection, as proposed, includes a provision that GSA will make copies of voluminous records available to a requester as quickly as possible and provide a number of "additional" copies of requested material when commercial reproduction services are not available to a requester. It is suggested that the first sentence of this provision be deleted because it is inconsistent with a provision in § 105–60.305–4(a) which allows GSA discretion to provide a requester the opportunity to receive copies or to review originals for inspection and copying. These subsections were not intended to be inconsistent or mutually exclusive. We have therefore made the following adjustments. Subsections 60.105–305–4(a) and (b) are amended to provide that GSA may offer a requester who seeks voluminous records not subject to exemption an option to review them at a mutually agreeable place and time and thereby avoid duplication fees for records not desired by the requester.

II. Comments on Subpoena-Related Section of the Proposed Rule

One commenter stated that so-called *"Touhy"* regulations of this kind are not separate authority to withhold information. It is not the intent of the proposed rule to confer such authority. Authority to withhold information in a litigative context is typically predicated on grounds and privileges recognized in statute, judicial interpretation, rules applicable to a particular forum or the Common Law. We have therefore added language to clarify that this regulation is not an independent authority to withhold information.

A commenter indicated that in cases where the agency/U.S. Government is a party a *Touhy* regulation cannot interfere with the application of the Federal Rules of Civil Procedure. It is not the intent of these regulations to do so. We have therefore added introductory language that states that where GSA is a party to a proceeding, nothing in these regulations shall operate or be interpreted to supersede or circumvent rules of procedures applicable to the forum in which the matter is pending. We have also made a conforming adjustment to the language in § 105–60.605(b). We have not, however, altered the language in § 105–60.105(b) which provides that the appropriate authority may, at the request of the U.S. Department of Justice, waive the requirements in this rule where the United States is a party. Because the U.S. Department of Justice typically represents the United States and its departments and agencies in litigation, we believe the extent to which a waiver in such cases is or is not appropriate in a particular case should be the result of a collaborative effort between our agencies.

Subsection 105–60.605(a). Both commenters questioned GSA's authority and/or ability to control the testimony of former employees. For reasons which follow, we have not adopted any suggestion that the regulations should not apply to former employees. A primary purpose behind the *Touhy* regulations is the establishment of a systematic means by which an agency can evaluate requests for production of official agency information and determine the extent to which there are legally defensible reasons for objection to production. These legitimate agency interests exist regardless of whether the requested information is in the possession for current or former agency employees.

When GSA becomes aware of a subpoena to a former employee for production of official GSA information through testimony or document production, it intends to use legally available means to ensure that agency interests are protected.

Subsection 105–60.605(b). A commenter suggested that an appropriate basis for waiver of the requirements in this rule are cases in which the United States has an interest in addition to cases in which the United States is a party. The situation may arise in so-called "qui tam" suits. We have added language to this section that recognizes this type of litigation which may, in coordination with the U.S. Department of Justice, be a situation in which a waiver may be appropriate.

Subsection 105–60.605(e). A commenter recommended that the list of factors to be considered by the appropriate authority in responding to demands contain the language "include, but are but are not limited to:." The factors in §105–60.605(e) already contemplate "[A]ny additional factors unique to a particular demand for proceeding." Because this provision already incorporates the commenter's suggestion it has not been adopted.

List of Subjects in 41 Part 105–60

Freedom of information.

For the reasons set out in the preamble, 41 CFR part 105–60 is revised to read as follows:

PART 105–60—PUBLIC AVAILABILITY OF AGENCY RECORDS AND INFORMATIONAL MATERIALS

Sec.

105–60.000 Scope of part.

Subpart 105.60.1—General Provisions

105–60.101 Purpose.
105–60.102 Application.
105–60.103 Policy.
105–60.103–1 Availability of records.
105–60.103–2 Applying exemptions.
105–60.104 Records of other agencies.

Subpart 105–60.2—Publication of General Agency Information and Rules in the Federal Register

105–60.201 Published information and rules.
105–60.202 Published materials available for sale to the public.

Subpart 105–60.3—Availability of Opinions, Orders, Policies, Interpretations, Manuals, and Instructions

105–60.301 General.
105–60.302 Available materials.
105–60.303 Rules for public inspection and copying.
105–60.304 Index.
105–60.305 Fees.
105–60.305–1 Definitions.
105–60.305–2 Scope of this subpart.
105–60.305–3 GSA records available without charge.
105–60.305–4 GSA records available at a fee.
105–60.305–5 Searches.
105–60.305–6 Reviews.
105–60.305–7 Assurance of payment.
105–60.305–8 Prepayment of fees.
105–60.305–9 Form of payment.
105–60.305–10 Fee schedule.
105–60.305–11 Fees for authenticated and attested copies.
105–60.305–12 Administrative actions to improve assessment and collection of fees.
105–60.305–13 Waiver of fee.

Subaprt 105–60.4—Described Records

105–60.401 General.
105–60.402 Procedures for making records available.
105–60.402–1 Submission of requests.
105–60.402–2 Response to initial requests.
105–60.403 Appeal within GSA.
105–60.404 Extension of time limits.
105–60.405 Processing requests for confidential commercial information.

Subpart 105–60.5—Exemptions

105–60.501 Categories of records exempt from disclosure under the FOIA.

Subpart 105–60.6—Production or Disclosure by Present or Former General Services Administration Employees in Response to Subpoenas or Similar Demands in Judicial or Administrative Proceedings.

105–60.601 Purpose and scope of subpart.
105–60.602 Definitions.
105–60.603 Acceptance of service of a subpoena duces tecum or other legal demand on behalf of the General Services Administration.
105–60.604 Production or disclosure prohibited unless approved by the Appropriate Authority.
105–60.605 Procedure in the event of a demand for production or disclosure.
105–60.606 Procedure where response to demand is required prior to receiving instructions.
105–60.607 Procedure in the event of an adverse ruling.
105–60.608 Fees, expenses, and costs.

Authority: 5 U.S.C. 301 and 552; 40 U.S.C. 486(c).

§ 105–60.000 Scope of part.

(a) This part sets forth policies and procedures of the General Services Administration (GSA) regarding public access to records documenting:

(1) Agency organization, functions, decisionmaking channels, and rules and regulations of general applicability;

(2) Agency final opinions and orders, including policy statements and staff manuals;

(3) Operational and other appropriate agency records; and

(4) Agency proceedings.

(b) This part also covers exemptions from disclosure of these records, procedures for the public to inspect or obtain copies of GSA records, and instructions to current and former GSA employees on the response to a subpoena or other legal demand for material or information received or generated in the performance of official duty or because of the person's official status.

(c) Any policies and procedures in any GSA internal or external directive inconsistent with the policies and procedures set forth in this part are superseded to the extent of that inconsistency.

Subpart 105–60.1—General Provisions

§ 105–60.101 Purpose.

This part 105–60 implements the provisions of the Freedom of Information Act (FOIA), as amended, 5 U.S.C. 552. The regulations in this part also implement Executive Order 12600, Predisclosure Notification Procedures for Confidential Commercial Information, of June 23, 1987 (3 CFR, 1987 Comp., p. 235). This part prescribes procedures by which the public may inspect and obtain copies of GSA records under the FOIA, including administrative procedures that must be exhausted before a requester invokes the jurisdiction of an appropriate United States District Court for GSA's failure to respond to a proper request within the statutory time limits, for a denial of agency records or challenge to the adequacy of a search, or for a denial of a fee waiver.

§ 105–60.102 Application.

This part applies to all records and informational materials generated, maintained, and controlled by GSA that come within the scope of 5 U.S.C. 552.

§ 105–60.103 Policy.

§ 105–60.103–1 Availability of records.

The policies of GSA with regard to the availability of records to the public are:

(a) GSA records are available to the greatest extent possible in keeping with the spirit and intent of the FOIA. GSA will disclose information in any existing GSA record, with noted exceptions, regardless of the form or format of the record. For example, records maintained in an electronic form, as part of a data base, will be provided on request using existing programming. GSA will provide the record in the form or format requested if the record is readily reproducible by the agency in that form or format. GSA will make reasonable efforts to maintain its records in forms or formats that are reproducible for purposes of this section.

(b) the person making the request does not need to demonstrate an interest in the records or justify the request.

(c) The FOIA does not give the public the right to demand that GSA compile a record that does not already exist. For example, FOIA does not require GSA to collect and compile information from multiple sources to create a new record or to develop a new computer program to extract requested records. GSA may compile records or perform minor reprogramming when doing so will not significantly interfere with the operation of the automated system already in existence.

(d) Similarly, FOIA does not require GSA to reconstruct records that have been destroyed in compliance with disposition schedules approved by the Archivist of the United States. However, GSA will not destroy records after a member of the public has requested access to them and will process the request even if destruction has already been scheduled.

(e) If the record requested is not complete at the time of the request, GSA may, at its discretion, inform the requester that the complete record will be provided when it is available, with no additional request required, if the record is not exempt from disclosure.

(f) Requests must be addressed to the office identified in § 105–60.402–1.

(g) Fee for locating and duplicating records are listed in § 105–60.305–10.

§ 105–60.103–2 Applying exemptions.

GSA may deny a request for a GSA record if it falls within an exemption under the FOIA outlined in subpart 105–60.5 of this part. Except when a record is classified or when disclosure would violate any Federal statute, the authority to withhold a record from disclosure will likely cause harm to a Governmental or private interest. GSA will explain the harm to requesters when a record is denied under FOIA.

§ 105–60.104 Records of other agencies.

If GSA receives a request for access to records that are known to be the primary responsibility of another agency, GSA will refer the request to the agency concerned for appropriate action. For example, GSA will refer requests to the appropriate agency in cases in which GSA does not have sufficient knowledge of the action or matter that is the subject of the requested records to determine whether the records must be released or may be withheld under one of the exemptions listed in § 105–60.5. If GSA does not have the requested records, the agency will attempt to determine whether the requested records exist at another agency and, if possible, will forward the request to that agency. GSA will inform the requester that GSA has forwarded the request to another agency.

Subpart 105–60.2—Publication of General Agency Information and Rules in the Federal Register

§ 105–60.201 Published information and rules.

In accordance with 5 U.S.C. 552(a)(1), GSA publishes in the **Federal Register**, for the guidance of the public, the following general information concerning GSA:

(a) Description of the organization of the Central Office and regional offices and the established places at which, the employees from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(b) Statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(c) Rules of procedure, descriptions of forms available or the places where forms may be obtained, and instructions on the scope and contents of all papers, reports, or examinations;

(d) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by GSA; and

(e) Each amendment, revision, or repeal of the materials described in this section.

§ 105–60.202 Published materials available for sale to the public.

(a) Substantive rules of general applicability adopted by GSA as authorized by law which this agency publishes in the **Federal Register** and which are available for sale to the public by the Superintendent of Documents at pre-established prices are: The General Services Administration Acquisition Regulation (48 CFR Ch. 5), the Federal Acquisition Regulation (48 CFR Ch. 1), the Federal Property Management Regulations (41 CFR Ch. 101), and the Federal Travel Regulation (41 CFR Ch. 301–304).

(b) GSA also provides technical information, including manuals and handbooks, to other Federal entities, *e.g.*, the National Technical Information Service, with separate statutory authority to make information available to the public at pre-established fees.

(c) Requests for information available through the sources in paragraphs (a) and (b) of this section will be referred to those sources.

Subpart 105–60.3—Availability of Opinions, Orders, Policies, Interpretations, Manuals, and Instructions

§ 105–60.301 General.

GSA makes available to the public the materials described under 5 U.S.C. 552(a)(2), which are listed in § 105–60.302, at the locations listed in § 105–60.303. An Index of those materials as described in § 105–60.304 is available at GSA's Central Office in Washington, DC. Reasonable copying services are provided at the fees specified in § 105–60.305.

§ 105–60.302 Available materials.

GSA materials available under this subpart 105–60.3 are as follows:

(a) Final opinions, including concurring and dissenting opinions and orders, made in the adjudication of cases.

(b) Those statements of policy and interpretations that have been adopted by GSA and are not published in the **Federal Register**.

(c) Administrative staff manuals and instructions to staff affecting a member of the public unless these materials are promptly published and copies offered for sale.

§ 105–60.303 Rules for public inspection and copying.

(a) *Locations.* Selected areas containing the materials available for public inspection and copying, described in § 105–60.302, are located in the following places:

Central Office (GSA Headquarters)

General Services Administration, Washington, DC, Telephone: 202–501–2262 or 202–501–1659, FAX: 202–501–2727, 1800 F Street, NW. (CAI), Washington, DC 20405

Office of the Inspector General

FOIA Officer, Office of Inspector General (J), General Services Administration, 1800 F Street NW., Room 5324, Washington, DC 20405

New England Region

General Services Administration (1AB) (Comprised of the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont), Thomas P. O'Neill, Jr., Federal Building, 10 Causeway Street, Boston, MA 02222, Telephone: 617–565–8100, FAX: 617–565–8101

Northeast and Caribbean Region

(Comprised of the States of New Jersey, New York, the Commonwealth of Puerto Rico, and the Virgin Islands), General Services Administration (2AR), 26 Federal Plaza, New York, NY 10278, Telephone: 212–264–1234, FAX: 212–264–2760.

Mid-Atlantic Region

(Comprised of the States of Delaware, Maryland, Pennsylvania, Virginia, and West Virginia, excluding the Washington, D.C. metropolitan area), General Services Administration (3ADS), 100 Penn Square East, Philadelphia, PA 19107, Telephone: 215–656–5530, FAX: 215–656–5590

Southeast Sunbelt Region

(Comprised of the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee), General Services Administration (4E), 401 West Peachtree Street, Atlanta, GA, 30365, Telephone: 404–331–5103, FAX: 404–331–1813

Great Lakes Region

(Comprised of the States of Illinois, Indiana, Ohio, Minnesota, Michigan, and Wisconsin), General Services Administration (5ADB), 230 South Dearborn Street, Chicago, IL 60604, Telephone: 312–353–5383, FAX: 312–886–9693

Heartland Region

(Comprised of the States of Iowa, Kansas, Missouri, and Nebraska), General Services Administration (6ADB), 1500 East Bannister Road, Kansas City, MO 64131, Telephone: 816–926–7203, FAX: 816–823–1167

Greater Southwest Region

(Comprised of the States of Arkansas, Louisiana, New Mexico, Texas, and Oklahoma), General Services Administration (7CPA), 819 Taylor Street, Fort Worth, TX 76102, Telephone: 817–978–3902, FAX: 817–978–4867

Rocky Mountain Region

(Comprised of the States of Colorado, North Dakota, South Dakota, Montana, Utah, and Wyoming), Business Service Center, General Services Administration (8PB–B), Building 41, Denver Federal Center, Denver, CO 80225, Telephone: 303–236–7406, FAX: 303–236–7403

Pacific Rim Region

(Comprised of the States of Hawaii, California, Nevada, Arizona, Guam, and Trust Territory of the Pacific), Business Service Center, General Services Administration (9ADB), 525 Market Street, San Francisco, CA 94105, Telephone: 415–522–2715, FAX: 415–522–2705

Northwest/Arctic Region

(Comprised of the States of Alaska, Idaho, Oregon, and Washington), General Services Administration (10L), GSA Center, 15th and C Streets, SW, Auburn, WA 98002, Telephone: 206–931–7007, FAX: 206–931–7195

National Capital Region

(Comprised of the District of Columbia and the surrounding metropolitan area), General Services Administration, (WPFA–L), 7th and D Streets SW., Washington, DC 20407, Telephone: 202–708–5854, FAX: 202–205–2478

(b) *Time.* The reading rooms or selected areas will be open to the public during the business hours of the GSA office where they are located.

(c) *Reading room and selected area rules.*—(1) *Handling of materials.* The removal or mutilation of materials is forbidden by law and is punishable by fine or imprisonment or both. When requested by a reading room or selected area attendant, a person inspecting materials must present for examination any briefcase, handbag, notebook, package, envelope, book or other article that could contain GSA informational materials.

(2) *Reproduction services.* The GSA Central Office or the Regional Business Service Centers will furnish reasonable copying and reproduction services for available materials at the fees specified in § 105–60.305.

§ 105–60.304 Index.

GSA will make available to any member of the public who requests it a current index identifying information for the public regarding any matter described in § 105–60.302.

§ 105–60.305 Fees.

§ 105–60.305–1 Definitions.

For the purpose of this part:

(a) A statute specifically providing for setting the level of fees for particular types of records (5 U.S.C. 552(a)(4)(A)(vii)) means any statute that specifically requires a Government agency to set the level of fees for particular types of records, as opposed to a statute that generally discusses such fees. Fees are required by statute to:

(1) Make Government information conveniently available to the public and to private sector organizations;

(2) Ensure that groups and individuals pay the cost of publications and other services that are for their special use so that these costs are not borne by the general taxpaying public;

(3) Operate an information dissemination activity on self-sustaining basis to the maximum extent possible; or

(4) Return revenue to the Treasury for defraying, wholly or in part, appropriated funds used to pay the cost of disseminating Government information.

(b) The term *direct costs* means those expenditures that GSA actually incurs in searching for and duplicating (and in the case of commercial requesters, reviewing and redacting) documents to respond to a FOIA request. Direct costs include, for example, the salary of the employee performing the work (the basic rate of pay for the employee plus 16 percent of that rate to cover benefits), and the cost of operating duplicating machinery. Overhead expenses such as costs of space, and heating or lighting the facility where the records are stored are not included in direct costs.

(c) The term *search* includes all time spent looking for material that is responsive to a request, including line-by-line identification of material within documents. Searches will be performed in the most efficient and least expensive manner so as to minimize costs for both the agency and the requester. Line-by-line searchers will not be undertaken when it would be more efficient to duplicate the entire document. "Search" for responsive material is not the same as "review" of a record to determine whether it is exempt from disclosure in whole or in part (see paragraph (e) of this section). Searches may be done manually or by computer using existing programming.

(d) The term *duplication* means the process of making a copy of a document in response to a FOIA request. Copies can take the form of paper, microfilm, audiovisual materials, or magnetic tapes or disks. To the extent practicable, GSA will provide a copy of the material in the form specified by the requester.

(e) The term *review* means the process of examining documents located in response to a request to determine if any portion of that document is permitted to be withheld and processing any documents for disclosure. See § 105–60.305–6.

(f) The term *commercial-use request* means a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or person on whose behalf the request is made. GSA will determine whether a requester properly belongs in this

category by determining how the requester will use the documents.

(g) The term *educational institution* means a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, or an institution of vocational education that operates a program or programs of scholarly research.

(h) The term *noncommercial scientific institution* means an institution that is not operated on a "commercial" basis as that term is used in paragraph (f) of this section and which is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

(i) The term *representative of the news media* means any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term "news" means information that is about current events or that would be of current interest to the public. Examples of news media include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminators of "news") who make their products available for purchase or subscription by the general public. "Freelance" journalists will be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization even though they are not actually employed by it.

§ 105–60.305–2 Scope of this subpart.

This subpart sets forth policies and procedures to be followed in the assessment and collection of fees from a requester for the search, review, and reproduction of GSA records.

§ 105–60.305–3 GSA records available without charge.

GSA records available to the public are displayed in the Business Service Center for each GSA region. The address and phone number of the Business Service Centers are listed in § 105–60.303. Certain material related to bids (excluding construction plans and specifications) and any material displayed are available without charge upon request.

§ 105–60.305–4 GSA records available at a fee.

(a) GSA will make a record not subject to exemption available at a time and place mutually agreed upon by GSA and the requester at fees shown in § 105–60.305–10. Waivers of these fees are available under the conditions described in § 105–60.305–13. GSA will agree to:

(1) Show the originals to the requester; or

(2) Make one copy available at a fee; or

(3) A combination of these alternatives.

(b) GSA will make copies of voluminous records as quickly as possible. GSA may, in its discretion, make a reasonable number of additional copies for a fee when commercial reproduction services are not available to the requester.

§ 105–60.305–5 Searches.

(a) GSA may charge for the time spent in the following activities in determining "search time" subject to applicable fees as provided in § 105–60.305–10:

(1) Time spent in trying to locate GSA records that come within the scope of the request;

(2) Time spent in either transporting a necessary agency searcher to a place of record storage, or in transporting records to the locations of a necessary agency searcher; and

(3) Direct costs of the use of computer time to locate and extract requested records.

(b) GSA will not charge for the time spent in monitoring a requester's inspection of disclosed agency records.

(c) GSA may assess fees for search time even if the search proves unsuccessful or if the records located are exempt from disclosure.

§ 105–60.305–6 Reviews.

(a) GSA will charge only commercial-use requesters for review time.

(b) GSA will charge for the time spent in the following activities in determining "review time" subject to applicable fees as provided in § 105–60.305–10:

(1) Time spent in examining a requested record to determine whether any or all of the record is exempt from disclosure, including time spent consulting with submitters of requested information; and

(2) Time spent in deleting exempt matter being withheld from records otherwise made available.

(c) GSA will not charge for:

(1) Time spent in resolving issues of law or policy regarding the application of exemptions; or

(2) Review at the administrative appeal level of an exemption already applied. However, records or portions of records withheld in full under an exemption that is subsequently determined not to apply may be reviewed again to determine the applicability of other exemptions not previously considered. GSA will charge for such subsequent review.

§ 105–60.305–7 Assurance of payment.

If fees for search, review, and reproduction will exceed $25 but will be less than $250, the requester must provide written assurance of payment before GSA will process the request. If this assurance is not included in the initial request, GSA will notify the requester that assurance of payment is required before the request is processed. GSA will offer requesters an opportunity to modify the request to reduce the fee.

§ 105–60.305–8 Prepayment of fees.

(a) *Fees over $250.* GSA will require prepayment of fees for search, review, and reproduction that are likely to exceed $250. When the anticipated total fee exceeds $250, the requester will receive notice to prepay and at the time will be given an opportunity to modify his or her request to reduce the fee. When it is anticipated that fees will exceed $250, GSA will notify the requester that it will not start processing a request until payment is received.

(b) *Delinquent payments.* As noted in § 105–60.305–12(d), requesters who are delinquent in paying for previous requests will be required to repay the old debt and to prepay for any subsequent request. GSA will inform the requester that it will process no additional requests until all fees are paid.

§ 105–60.305–9 Form of payment.

Requesters should pay fees by check or money order made out to the General Services Administration and addressed to the official named by GSA in its correspondence. Payment may also be made by means of Mastercard or Visa. For information concerning payment by credit cards, call 816–926–7551.

§ 105–60.305–10 Fee schedule.

(a) When GSA is aware that documents responsive to a request are maintained for distribution by an agency operating a statutory fee based program, GSA will inform the requester of the procedures for obtaining records from those sources.

(b) GSA will consider only the following costs in fees charged to requesters of GSA records:

(1) Review and search fees.

Manual searches by clerical staff: $13 per hour or fraction of an hour.

Manual searches and reviews by professional staff in cases in which clerical

staff would be unable to locate the requested records: $29 per hour or fraction of an hour.

Computer searches: Direct cost to GSA.

Transporation or special handling of records: Direct cost to GSA.

(2) Reproduction fees.

Pages no larger than 8½ by 14 inches, when reproduced by routine electrostatic copying: $0.10 per page.

Pages over 8½ by 14 inches: Direct cost of reproduction to GSA.

Pages requiring reduction, enlargement, or other special services: Direct cost of reproduction to GSA.

Reproduction by other than routine electrostatic copying:

Direct cost of reproduction to GSA.

(c) Any fees not provided for under paragraph (b) of this section, shall be calculated as direct costs, in accordance with § 105–60.305–1(b).

(d) GSA will assess fees based on the category of the requester as defined in § 105–60.305–1(f)–(i); i.e., commercial-use, educational and noncommercial scientific institutions, news media, and all other. The fees listed in paragraph (b) of this section apply with the following exceptions:

(1) GSA will not charge the requested if the fee is $25 or less as the cost of collection would be greater than the fee.

(2) Educational and noncommercial scientific institutions and the news media will be charged for the cost of reproduction alone. These requesters are entitled to the first 100 pages (paper copies) of duplication at no cost. The following are examples of how these fees are calculated:

(i) A request that results in 150 pages of material. No fee would be assessed for duplication of 150 pages. The reason is that these requesters are entitled to the first 100 pages at no charge. The charge for the remaining 50 pages would be $7.50. This amount would not be billed under the preceding section.

(ii) A request that results in 450 pages of material. The requester in this case would be charged $35. The reason is that the requester is entitled to the first 100 pages at no charge. The charge for the remaining 350 pages would be $35.

(3) Noncommercial requesters who are not included under paragraph (d)(2) of this section will be entitled to the first 100 pages (paper copies) of duplication at no cost and two hours of search without charge. The term "search time" generally refers to manual search. To apply this term to searchers made by computer, GSA will determine the hourly cost of operating the central processing unit and the operator's hourly salary plus 16 percent. When the cost of search (including the operator time and the cost of operating the computer to process a request) equals the equivalent dollar amount of two hours of the salary of the person performing a manual search, GSA will begin assessing charges for computer search.

(4) GSA will charge commercial-use requesters fees which recover the full direct costs of searching for, reviewing for release, and duplicating the records sought. Commercial-use requester are not entitled to two hours of free search time.

(e) Determining the category of a requester. GSA may ask any requester to provide additional information at any time to determine his or her fee category.

§ 105–60.305–11 Fees for authenticated and attested copies.

The fees set forth in § 105–60.305–10 apply to requests for authenticated and attested copies of GSA records.

§ 105–60.306–12 Administrative actions to improve assessment and collection of fees.

(a) *Charging interest.* GSA may charge requesters who fail to pay fees interest on the amount billed starting on the 31st day following the month on which the billing was sent. Interest will be at the rate prescribed in 31 U.S.C. 3717.

(b) *Effect of the Debt Collection Act of 1982.* GSA will take any action authorized by the Debt Collection Act of 1982 (Pub. L. 97–365, 96 Stat. 1749), including disclosure to consumer reporting agencies, use of collection agencies, and assessment of penalties and administrative costs, where appropriate, to encourage payment.

(c) *Aggregating requests.* When the GSA reasonably believes that a requester, or group of requesters acting in concert, is attempting to break down a request into a series of requests related to the same subject for the purpose of evading the assessment of fees, GSA will combine any such requests and charges accordingly, including fees for previous requests where charges were not assessed. GSA will presume that multiple requests of this type within a 30-day period are made to avoid fees.

(d) *Advance payments.* Whenever a requester is delinquent in paying the fee for a previous request (i.e., within 30 days of the date of the billing), GSA will require the requester to pay the full amount owed plus any applicable interest penalties and administrative costs as provided in paragraph (a) of this section or to demonstrate that he or she has, in fact, paid the fee. In such cases, GSA will also require advance payment of the full amount of the estimated fee before the agency begins to process a new request or a pending request from that requester. When advance payment is required under this section, the administrative time limits in subsection (a)(6) of the FOIA (i.e., 10 working days from receipt of appeals from initial denial plus permissible time extensions) will begin only after GSA has received the fee payments described in § 105–60.305–8.

§ 105–60.306–13 Waiver of fee.

(a) Any request for waiver or reduction of a fee should be included in the initial letter requesting access to GSA records under § 105–60.402–1. The waiver request should explain how disclosure of the information would contribute significantly to public understanding of the operations or activities of the Government and would not be primarily in the commercial interest of the requester. In responding to a request, GSA will consider the following factors:

(1) Whether the subject of the requested records concerns "the operations or activities of the Government." The subject matter of the requested records must specifically concern identifiable operations or activities of the Federal Government. The connection between the records and the operations or activities must be direct and clear, not remote or attenuated.

(2) Whether the disclosure is "likely to contribute" to an understanding of Government operations or activities. In this connection, GSA will consider whether the requested information is already in the public domain. If it is, then disclosure of the information would not be likely to contribute to an understanding of Government operations or activities, as nothing new would be added to the public record.

(3) Whether disclosure of the requested information will contribute to "public understanding." The focus here must be on the contribution to public understanding rather than personal benefit to be derived by the requester. For purposes of this analysis, the identity and qualifications of the requester should be considered, to determine whether the requester is in a position to contribute to public understanding through the requested disclosure.

(4) Whether the requester has a commercial interest that would be furthered by the requested disclosure; and if so: whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is "primarily in the commercial interest of the requester."

(b) GSA will ask the requester to furnish additional information if the initial request is insufficient to evaluate the merits of the request. GSA will not start processing a request until the fee waiver issue has been resolved unless the requester has provided written assurance of payment in full if the fee waiver is denied by the agency.

Subpart 105–60.4—Described Records

§ 105–60.401 General.

(a) Except for records made available in accordance with subparts 105–60.2 and 105–60.3 of this part, GSA will make records available to a requester promptly when the request reasonably describes the records unless GSA invokes an exemption in accordance with Subpart 105–60.5 of this part. Although the burden of reasonable description of the records rests with the requester, whenever practical GSA will assist requesters to describe records more specifically.

(b) Whenever a request does not reasonably describe the records requested, GSA may contact the requester to seek a more specific description. The 10-workday time limit set forth in § 105–60.402–2 will not start until the official identified in § 105–60.402–1 or other responding official receives a request reasonably describing the records.

§ 105–60.402 Procedures for making records available.

This subpart sets forth initial procedures for making records available when they are requested, including administrative procedures to be exhausted prior to seeking judicial review by an appropriate United States District Court.

§ 105–60.402–1 Submission of requests.

For records located in the GSA Central Office, the requester must submit a request in writing to the GSA FOIA Officer, General Services Administration (CAIR), Washington, DC 20405. Requesters may FAX requests to (202) 501–2727, or submit a request by e-mail to gsa.foi@gsa.gov. For records located in the Office of Inspector General, the requester must submit a request to the FOIA Officer, Office of Inspector General, General Services Administration, 1800 F Street NW., Room 5324, Washington, DC 20405. For records located in the GSA regional offices, the requester must submit a request to the FOIA Officer for the relevant region, at the address listed in § 105–60.303(a). Requests should include the words "Freedom of Information Act Request" prominently marked on both the face of the request letter and the envelop. The 10-workday time limit for agency decisions set forth in § 105–60.402–2 begins with receipt of a request in the office of the official identified in this section, unless the provisions under §§ 105–60.305–8 and 105–60.305–12(d) apply. Failure to include the words "Freedom of Information Act Request" or to submit a request to the official identified in this section will result in processing delays. A requester with questions concerning a FOIA request should contact the GSA FOIA Office, General Services Administration (CAI), 1800 F Street, NW, Washington, DC 20405, (202) 501–2262 or (202) 501–1659.

§ 105–60.402–2 Response to initial requests.

GSA will respond to an initial FOIA request which reasonably describes requested records, including a fee waiver request, within 10 workdays (that is, excluding Saturdays, Sundays, and legal holidays) after receipt of a request by the office of the appropriate official specified in § 105–60.402–1. This letter will provide the agency's decision with respect to disclosure or nondisclosure of the requested records, or, if appropriate, a decision on a request for a fee waiver. If the records to be disclosed are not provided with the initial letter, the records will be sent as soon as possible thereafter. In unusual circumstances, as described in § 105–60.404, GSA will inform the requester of the agency's need to take an extension of time, not to exceed and additional 10 workdays.

§ 105–60.403 Appeal within GSA.

(a) A requester who receives a denial of a request, in whole or in part, or a denial of a fee waiver request, may appeal that decision within GSA. A requester may also appeal the adequacy of the search if GSA determines that it has searched for but has no requested records. The requester must send the appeal to the GSA FOIA Officer, General Services Administration (CAI), 1800 F Street NW, Washington, DC 20405, regardless of whether the denial being appealed was made in the Central Office or in a regional office. For denials that originate in the Office of Inspector General, the requester must send the appeal to the Inspector General, General Services Administration, 1800 F Street NW., Washington, DC 20405.

(b) The GSA FOIA Officer must receive an appeal no later than 120 calendar days after receipt by the requester of the initial denial of access or fee waiver.

(c) An appeal must be in writing, include a brief statement of the reasons the requester thinks GSA should release the records, and enclose copies of the initial request and denial.

The appeal letter must include the words "Freedom of Information Act Appeal" on both the face of the appeal letter and on the envelope. Failure to follow these procedures will delay processing of the appeal. GSA has 20 workdays after receipt of a proper appeal to issue a determination of the appeal. The 20-workday time limit shall not begin until the GSA FOIA Officer receives the appeal. As noted in § 105–60.404, the GSA FOIA Officer may extend this time limit in unusual circumstances.

(d) A requester who receives a denial of an appeal, or who has not received a response to an appeal or initial request within the statutory timeframe may seek judicial review in the United States District Court in the district in which the requester resides or has a principal place of business, or where the records are situated, or in the United States District Court for the District of Columbia.

§ 105–60.404 Extension of time limits.

(a) In unusual circumstances, the GSA Central Office FOIA Officer or the regional FOIA Officer may extend the time limits prescribed in §§ 105–60.402 and 105–60.403. For purposes of this section, the term *unusual circumstances* means:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are described in a single request;

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of GSA having substantial subject-matter interest therein; or

(4) The need to consult with the submitter of the requested information.

(b) If necessary, GSA may take more than one extension of time. However, the total extension of time to respond to any single request shall not exceed 10 workdays. The extension may be divided between the initial and appeal stages or within a single stage. GSA will provide written notice to the requester of any extension of time limits.

§ 105–60.406 Processing requests for confidential commercial information.

(a) *General.* The following additional procedures apply when processing

requests for confidential commercial information.

(b) *Definitions.* For the purposes of this section, the following definitions apply:

(1) *Confidential commercial information* means records provided to the government by a submitter that contain material arguably exempt from release under 5 U.S.C. 552(b)(4), because disclosure could reasonably be expected to cause substantial competitive harm.

(2) *Submitter* means a person or entity that provides to the Government information that may constitute confidential commercial information. The term "submitter" includes, but is not limited to, individuals, partnerships, corporations, State governments, and foreign governments.

(c) *Designating confidential commercial information.* Since January 1, 1988, submitters must designate confidential commercial information as such when it is submitted to GSA or at a reasonable time thereafter. For information submitted in connection with negotiated procurements, the requirements of Federal Acquisition Regulation 48 CFR 15.407(c)(8) and 52.215–12 also apply.

(d) *Procedural requirements—consultation with the submitter.* (1) If GSA receives a FOIA request for potentially confidential commercial information, it will notify the submitter immediately by telephone and invite an opinion whether disclosure will or will not cause substantial competitive harm.

(2) GSA will follow up the telephonic notice promptly in writing before releasing any records unless paragraph (f) of this section applies.

(3) If the submitter indicates an objection to disclosure, GSA will give the submitter seven workdays from receipt of the letter to provide GSA with a detailed written explanation of how disclosure of any specified portion of the records would be competitively harmful.

(4) If the submitter verbally states that there is no objection to disclosure, GSA will confirm this fact in writing before disclosing any records.

(5) At the same time GSA notifies the submitter, it will also advise the requester that there will be a delay in responding to the request due to the need to consult with the submitter.

(6) GSA will review the reasons for nondisclosure before independently deciding whether the information must be released or should be withheld. If GSA decides to release the requested information, it will provide the submitter with a written statement explaining why his or her objections are not sustained. The letter to the submitter will contain a copy of the material to be disclosed or will offer the submitter an opportunity to review the material in one of GSA's offices. If GSA decides not to release the material, it will notify the submitter orally or in writing.

(7) If GSA determines to disclose information over a submitter's objections, it will inform the submitter that GSA will delay disclosure for five workdays from the estimated date the submitter receives GSA's decision before it releases the information. The decision letter to the requester shall state that GSA delay disclosure of material it has determined to disclose to allow for the notification of the submitter.

(e) *When notice is required.* (1) For confidential commercial information submitted prior to January 1, 1988, GSA will notify a submitter whenever it receives a FOIA request for such information:

(i) If the records are less than 10 years old and the information has been designated by the submitter as confidential commercial information; or

(ii) If GSA has reason to believe that disclosure of the information could reasonably be expected to cause substantial competitive harm.

(2) For confidential commercial information submitted on or after January 1, 1988, GSA will notify a submitter whenever it determines that the agency may be required to disclose records:

(i) That the submitter has previously designated as privileged or confidential; or

(ii) That GSA believes could reasonably be expected to cause substantial competitive harm if disclosed.

(3) GSA will provide notice to a submitter for a period of up to 10 years after the date of submission.

(f) *When notice is not required.* The notice requirements of this section will not apply if:

(1) GSA determines that the information should not be disclosed;

(2) The information has been published or has been officially made available to the public;

(3) Disclosure of the information is required by a law other than the FIOA;

(4) Disclosure is required by an agency rule that—

(i) Was adopted pursuant to notice and public comment;

(ii) Specifies narrow classes of records submitted to the agency that are to be released under FIOA; and

(iii) Provides in exceptional circumstances for notice when the submitter provides written justification, at the time the information is submitted or a reasonable time thereafter, that disclosure of the information could reasonably be expected to cause substantial competitive harm;

(5) The information is not designated by the submitter as exempt from disclosure under paragraph (c) of this section, unless GSA has substantial reason to believe that the disclosure of the information would be competitively harmful; or

(6) The designation made by the submitter in accordance with paragraph (c) of this section appears obviously frivolous; except that, in such cases, the agency must provide the submitter with written notice of any final administrative decision five workdays prior to disclosing the information.

(g) *Lawsuits.* If a FIOA requester sues the agency to compel disclosure of confidential commercial information, GSA will notify the submitter as soon as possible. If the submitter sues GSA to enjoin disclosure of the records, GSA will notify the requester.

Subpart 105–60.5—Exemptions

§ 105–60.501 Categories of records exempt from disclosure under the FIOA.

(a) 5 U.S.C. 552(b) provides that the requirements of the FIOA do not apply to matters that are:

(1) Specifically authorized under the criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order;

(2) Related solely to the internal personnel rules and practices of an agency;

(3) Specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute:

(i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or

(ii) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Interagency or intra-agency memorandums or letters that would not be available by law to a party other than an agency in litigation with the agency;

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Records or information compiled for law enforcement purposes, but only

to the extent that the production of such law enforcement records or information:

(i) Could reasonably be expected to interfere with enforcement proceedings;

(ii) Would deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution that furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful natural security intelligence investigation, information furnished by a confidential source;

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions; or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual;

(8) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps, concerning wells.

(b) GSA will provide any reasonably segregable portion of a record to a requester after deletion of the portions that are exempt under this section. If GSA must delete information from a record before disclosing it, this information, and the reasons for withholding it, will be clearly described in the cover letter to the requester or in an attachment.

(c) GSA will invoke no exemption under this section to deny access to records that would be available pursuant to a request made under the Privacy Act of 1974 (5 U.S.C. 522a) and implementing regulations, 41 CFR part 105–64, or if disclosure would cause no demonstrable harm to any governmental or private interest.

(d) Whenever a request is made that involves access to records described in § 105–60.501(a)(7)(i) and the investigation or proceeding involves a possible violation of criminal law, and there is reason to believe that the subject of the investigation or proceeding is not aware of it, and disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings, the agency may, during only such time as that circumstance continues, treat the records as not subject to the requirements of this section.

(e) Whenever informant records maintained by a criminal law enforcement agency under an informant's name or personal identifier are requested by a third party according to the informant's name or personal identifier, the agency may treat the records as not subject to the requirements of this section unless the informant's status as an informant has been officially confirmed.

(f) Whenever a request is made that involves access to records maintained by the Federal Bureau of Investigation pertaining to foreign intelligence or counterintelligence, or international terrorism, and the existence of the records is classified information as provided in paragraph (a)(1) of this section, the Bureau may, as long as the existence of the records remains classified information, treat the records as not subject to the requirements of this section.

Subpart 105–60.6—Production or Disclosure by Present or Former General Services Administration Employees in Response to Subpoenas or Similar Demands in Judicial or Administrative Proceedings

§ 105–60.601 Purpose and scope of subpart.

(a) By virtue of the authority vested in the Administrator of General Services by 5 U.S.C. 301 and 40 U.S.C. 486(c) this subpart establishes instructions and procedures to be followed by current and former employees of the General Services Administration in response to subpoenas or similar demands issued in judicial or administrative proceedings for production or disclosure of material or information obtained as part of the performance of a person's official duties or because of the person's official status. Nothing in these instructions applies to responses to subpoenas or demands issued by the Congress or in Federal grand jury proceedings.

(b) This subpart provides instructions regarding the internal operations of GSA and the conduct of its employees, and is not intended and does not, and may not, be relied upon to create any right or benefit, substantive or procedural, enforceable at law by a party against GSA.

(c) These regulations provide for procedures and a systematic means by which GSA can evaluate whether it should comply with a demand for official GSA information or whether applicable privileges or statutes provide a legitimate basis for withholding the demanded information. These regulations do not provide independent authority to withhold information. In proceedings to which GSA is a party, these regulations shall not be interpreted or applied to supersede or frustrate established rules of procedure applicable to the forum in which the matter is pending.

§ 105–60.602 Definitions.

For purposes of this subpart, the following definitions apply:

(a) *Material* means any document, record, file or data, regardless of the physical form or the media by or through that it is maintained or recorded, that was generated or acquired by a current or former GSA employee by reason of the performance of that person's official duties or because of the person's official status, or any other tangible item, *e.g.*, personal property possessed or controlled by GSA.

(b) *Information* means any knowledge or facts contained in material, and any knowledge or facts acquired by current or former GSA employee as part of the performance of that person's official duties or because of that person's official status.

(c) *Demand* means any subpoena, order, or similar demand for the production or disclosure of material, information or testimony regarding such material or information, issued by a court or other authority in a judicial or administrative proceeding, excluding congressional subpoenas or demands in Federal Grand Jury proceedings, and served upon a present or former GSA employee.

(d) *Appropriate Authority* means the following officials who are delegated authority to approve or deny responses to demands for material, information or testimony:

(1) The Counsel to the Inspector General for material and information that is the responsibility of the GSA Office of Inspector General or testimony of current or former employees of the Office of the Inspector General;

(2) The Counsel to the GSA Board of Contract Appeals for material and information that is the responsibility of the Board of Contract Appeals or testimony of current or former Board of Contract Appeals employees;

(3) The GSA General Counsel, Associate General Counsel(s) or Regional Counsel(s) for all material, information, or testimony not covered by paragraphs (d)(1) and (2) of this section.

§ 105–60.603 Acceptance of service of a subpoena duces tecum or other legal demand on behalf of the General Services Administration.

(a) The Administrator of General Services Administration and the following officials are the only GSA personnel authorized to accept service of a subpoena or other legal demand on behalf of GSA: The GSA General Counsel and Associate General Counsel(s) and, with respect to material or information that is the responsibility of a regional office, the Regional Administrator and the Regional Counsel. The Inspector General and Counsel to the Inspector General, as well as the Chairman and Vice Chairman of the Board of Contract Appeals, are authorized to accept service for material or information which is the responsibility of their respective organizations.

(b) A present or former GSA employee not authorized to accept service of a subpoena or other demand for material, information or testimony obtained in an official capacity shall respectfully inform the process serve that he or she is not authorized to accept service on behalf of GSA and refer the process server to an appropriate official listed in paragraph (a) of this section.

(c) A Regional Administrator or Regional Counsel shall notify the General Counsel of a demand that may raise policy concerns or affect multiple regions.

§ 105–60.604 Production or disclosure prohibited unless approved by the Appropriate Authority.

No current or former GSA employee shall, in response to a demand, produce any material or disclose, through testimony or other means, any information covered by this subpart, without prior approval of the Appropriate Authority.

§ 105–60.605 Procedure in the event of a demand for production or disclosure.

(a) Whenever service of demand is attempted in person or via mail upon a current or former GSA employee for the production of material or the disclosure of information covered by this subpart, the employee or former employee shall immediately notify the Appropriate Authority through his or her supervisor or his or her former service, staff, or regional office. The supervisor shall notify the Appropriate Authority. For current or former employees of the Office of Inspector General located in regional offices, Counsel to the Inspector General shall be notified through the immediate supervisor or former employing field office.

(b) The Appropriate Authority shall require that the party seeking material or testimony provide the Appropriate Authority with an affidavit, declaration, statement, and/or a plan as described in paragraphs (c)(1), (2) and (3) of this section if not included with or described in the demand. The Appropriate Authority may in his or her discretion waive this requirement for a demand arising out of proceedings to which GSA or the United States is a party and in proceedings in which the United States or GSA is not a party but has an interest such as so-called Qui Tam proceedings, or where the Appropriate Authority has independent knowledge of facts relevant to the matter upon which an informed determination can be made. Any waiver will be coordinated with the United States Department of Justice (DOJ) in proceedings in which GSA, its current or former employees, or the United States are represented by DOJ.

(c)(1) Oral testimony. If oral testimony is sought by a demand, the Appropriate Authority shall require the party seeking the testimony or the party's attorney to provide, by affidavit or other statement, a detailed summary of the testimony sought and its relevance to the proceedings. Any authorization for the testimony of a current or former GSA employee shall be limited to the scope of the demand as summarized in such statement or affidavit.

(2) Production of material. When information other than oral testimony is sought by a demand, the Appropriate Authority shall require the party seeking production or the party's attorney to provide a detailed summary, by affidavit or other statement, of the information sought and its relevance to the proceeding.

(3) The Appropriate Authority may require a plan or other information from the party seeking testimony or production of material of all demands reasonably foreseeable, including, but not limited to, names of all current and former GSA and employees from whom testimony or production is or will likely be sought, areas of inquiry, for current employees the length of time away from duty anticipated, and identification of documents to be used in each deposition or other testimony, where appropriate.

(d) The Appropriate Authority will notify the current or former employee, the appropriate supervisor, and such other persons as circumstances may warrant, whether disclosure or production is authorized, and of any conditions or limitations to disclosure or production.

(e) Factors to be considered by the Appropriate Authority in responding to demands:

(1) Whether disclosure or production is appropriate under rules of procedure governing the proceeding out of which the demand arose;

(2) The relevance of the testimony or documents to the proceedings;

(3) The impact of the relevant substantive law concerning applicable privileges recognized by statute, common law; judicial interpretation or similar authority;

(4) The information provided by the issuer of the demand in response to requests by the Appropriate Authority pursuant to paragraphs (b) and (c) of this section;

(5) The steps taken by the issuer of the demand to minimize the burden of disclosure or production on GSA, including but not limited to willingness to accept authenticated copies of material in lieu of personal appearance by GSA employees;

(6) The impact on pending or potential litigation involving GSA or the United States as a party;

(7) In consultation with the head of the GSA organizational component affected, the burden to GSA that disclosure or production would entail; and

(8) Any additional factors unique to a particular demand or proceeding.

(f) Examples of situations in which authority for production will likely be denied by the Appropriate Authority are those in which production would:

(1) Violate a statute or a specific regulation;

(2) Reveal classified information, unless appropriately declassified by the originating agency;

(3) Reveal a confidential source or informant, unless the investigative agency and the source or informant consent;

(4) Reveal records or information compiled for law enforcement purposes that would interfere with enforcement proceedings or disclose investigative techniques and procedures the effectiveness of which would be impaired;

(5) Reveal trade secrets or commercial or financial information that is privileged or confidential without prior consultation with the person from whom it was obtained; or

(6) Be contrary to a recognized privilege.

(g) The Appropriate Authority's determination, including any reasons for denial or limitations on disclosure or production, shall be made as expeditiously as possible and shall be communicated in writing to the issuer of the demand and appropriate current or former GSA employee(s). In proceedings in which GSA, its current or former employees, or the United States are represented by DOJ the determination shall be coordinated with DOJ, which may respond to the issuer of the subpoenas or demand in lieu of the Appropriate Authority.

§ 105–60.606 Procedure where response to demand is required prior to receiving instructions.

(a) If a response to a demand is required before the Appropriate Authority's decision is issued, a GSA attorney designated by the Appropriate Authority for the purpose shall appear with the employee or former employee upon whom the demand has been made, and shall furnish the judicial or other authority with a copy of the instructions contained in this subpart. The attorney shall inform the court or other authority that the demand has been or is being referred for the prompt consideration by the Appropriate Authority. The attorney shall respectfully request the judicial or administrative authority to stay the demand pending receipt of the requested instructions.

(b) The designated GSA attorney shall coordinate GSA's response with DOJ's Civil Division or the relevant Office of the United States Attorney and may request that a DOJ or Assistant United States Attorney appear with the employee in addition to or in lieu of a designated GSA attorney.

(c) If an immediate demand for production or disclosure is made in circumstances which preclude the appearance of a GSA or DOJ attorney on the behalf of the employee or the former employee, the employee or former employee shall respectfully make a request to the demanding authority for sufficient time to obtain advice of counsel.

§ 105–60.607 Procedure in the event of an adverse ruling.

If the court or other authority declines to stay the effect of the demand in response to a request made in accordance with § 105–60.606 pending receipt of instructions, or if the court or other authority rules that the demand must be complied with irrespective of instructions by the Appropriate Authority not to produce the material or disclosure the information sought, the employee or former employee upon whom the demand has been made shall respectfully decline to comply, citing these instructions and the decision of the United States Supreme Court in *United States ex rel. Touhy* v. *Ragen*, 340 U.S. 462 (1951).

§ 105–60.608 Fees, expenses, and costs.

(a) In consultation with the Appropriate Authority, a current employee who appears as a witness pursuant to a demand shall ensure that he or she receives all fees and expenses, including travel expenses, to which witnesses are entitled pursuant to rules applicable to the judicial or administrative proceedings out of which the demand arose.

(b) Witness fees and reimbursement for expenses received by a GSA employee shall be disposed of in accordance with rules applicable to Federal employees in effect at the time.

(c) Reimbursement to the GSA for costs associated with producing material pursuant to a demand shall be determined in accordance with rules applicable to the proceedings out of which the demand arose.

Dated: October 28, 1997.

David J. Barram,

Administrator.

[FR Doc. 97–29061 Filed 11–5–97; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 21 and 74

[MM Docket No. 97–217; FCC 97–360]

MDS and ITFS Two-Way Transmissions

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this Notice of Proposed Rulemaking ("*NPRM*"), the Commission seeks comment on the proposed amendment of its rules to enable Multipoint Distribution Service ("MDS") and Instructional Television Fixed Service ("ITFS") licensees to engage in fixed two-way transmissions. The Commission seeks comment on its proposals to enhance the flexibility of MDS and ITFS operations through facilitated use of response stations, use of booster stations with program origination capability in a cellular configuration, and use of variable bandwidth ("subchanneling" or "superchanneling"). Comment is sought regarding the technical, procedural and economic effects of implementing the proposed rule changes.

DATES: Comments must be filed on or before December 9, 1997, and reply comments on or before January 8, 1998. Written comments by the public on the Initial Regulatory Flexibility Analysis are due December 9, 1997.

ADDRESSES: Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Michael J. Jacobs, (202) 418–7066 or Dave Roberts, (202) 418–1600, Video Services Division, Mass Media Bureau.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rulemaking*, MM Docket No. 97–217, adopted October 7, 1997, and released October 10, 1997. The full text of this *NPRM* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, N.W., Washington, D.C. 20036.

Synopsis of Notice of Proposed Rulemaking on MDS and ITFS Two-Way Transmissions

1. This *NPRM* was issued in response to a petition for rulemaking filed by a group of 111 educators and participants in the wireless cable industry (collectively, "Petitioners"), comprised of MDS and ITFS licensees, wireless cable operators, equipment manufacturers, and industry consultants and associations. In this proceeding, Petitioners are asking that we implement a series of technical rule changes that would give MDS and ITFS licensees the needed flexibility to fully exploit digital technology in delivering two-way communications services. Currently, MDS and ITFS licensees are authorized to use digital technology in order to increase the number of usable one-way channels available to them, leased ITFS frequencies and MDS channels may be used for asymmetrical high speed digital data applications so long as such usage complies with the Commission's technical rules and its declaratory ruling on the use of digital modulation by MDS and ITFS stations ("*Digital Declaratory Ruling*," 11 FCC Rcd 18839 (1996)), and MDS licensees have been permitted to provide two-way service on a limited basis. While 125 kHz response channels are currently allocated for use in association with most MDS and ITFS stations, Petitioners anticipate that many MDS and ITFS licensees and wireless cable operators engaging in two-way transmissions will require more capacity for return paths than is available through such 125 kHz channels. Moreover, because these 125 kHz response channels must be individually licensed under the

Commission's existing rules, Petitioners argue that the existing rules are too cumbersome and impose too great a financial burden on licensees seeking to implement two-way wireless services. Instead, Petitioners propose a system under which MDS and ITFS licensees would be permitted to utilize all or part of a 6 MHz channel for return path transmissions from subscriber premises, to cellularize their transmission systems to take advantage of spectrally efficient frequency reuse techniques, and to employ modulation schemes consistent with bandwidths either larger or smaller than 6 MHz, all while providing incumbent MDS and ITFS licensees interference protection equivalent to what they currently receive.

2. Petitioners emphasized that they are not seeking a reallocation of spectrum, but instead are seeking to modify the technical rules governing the spectrum already allotted to MDS and ITFS. We placed the petition for rulemaking on public notice, and received comments and reply comments from wireless cable industry participants that generally supported Petitioners' proposals. While many ITFS commenters expressed concern over the details of Petitioners' proposals, the comments and reply comments reflected a consensus in the MDS and ITFS communities that the concept of two-way offerings would greatly aid both services. We believe that several of Petitioners' proposals may be in the public interest in that they would enhance the MDS and ITFS services by providing licensees additional flexibility in order to implement two-way services. Such flexibility would be facilitated by changing certain of our technical rules, amending some of our programming rules, and modifying some of our current application procedures for MDS and ITFS facilities. The *NPRM* seeks comment on the various issues raised by these proposals, and puts forth some counter-proposals to those proffered by Petitioners.

3. *Revised Definitions of Service.* The ITFS/MDS spectrum is used primarily for the provision of either one-way video service to students, in the ITFS context, or, in the MDS context, wireless cable service to subscribers, which likewise historically has constituted primarily the provision of one-way video services. While our Rules already permit MDS licensees to provide non-video services, under our current regulatory scheme, MDS operators typically only provide two-way service to subscribers using telephone return links or individually licensed subscriber premises stations. This is an outgrowth of the basic one-way approach to MDS transmission from which our current rules originated.

4. We propose changes to MDS and ITFS service definitions to fully incorporate the concept of two-way transmission and which reflect the reorientation of the regulatory approach to a flexible service, from that of an essentially one-way service. A regulatory system would be created authorizing the use of response stations and response station hubs to enable the two-way operation of wireless cable systems. We solicit comment on this new service paradigm.

5. Specifically, we propose to amend the definition of a "response station" to indicate that licensees may use all or part of any of their 6 MHz channels as a response channel. Response stations would be the means of transmission from a subscriber's premises, and could use either separate transmitting antennas for return paths or combined transmitting/receiving antennas. The concept of a response station hub is added, and these hubs would serve as the collection points for signals from the response stations in a multipoint-to-point configuration for upstream signal flow. Thus, response stations would not need to be licensed individually, and they could operate at lower power because the response station hubs would be located closer to subscriber premises than are current transmitter sites. Commenter Caritas Telecommunications, Inc. ("Caritas") proposed that we limit the availability of response channels to MDS channels 1, 2 and 2A, converting those channels from their current use for point-to-multipoint transmissions to subscribers' homes to use for transmission return paths. We tentatively decline to adopt this counter-proposal and agree with Petitioners that it would both artificially limit the amount of spectrum that could be used for return paths and unnecessarily prevent ITFS licensees from using their own channels for return paths. We solicit comment on the response station hub concept and its implications. We also solicit comments on our proposals regarding the expanded definition of response stations, including provision for transmissions on all available MDS and ITFS channels, and on Caritas' counter-proposal.

6. We further propose to amend the definition for "signal booster stations" to allow such stations to originate transmissions, as well as to relay transmissions from other stations. Booster stations would be used to cellularize wireless cable operations, which now may operate in areas too large to be served by a single station. Permitting boosters to originate as well as relay programming would facilitate frequency reuse cellular configurations and two-way high speed Internet access and other services. We seek comment on the proposal to expand the role of booster stations in this manner. Flexible subchannelization (*i.e.*, the division of a channel of a particular bandwidth into multiple channels of smaller bandwidth) also would be permitted to allow more efficient channel reuse within a given service area, and superchannelization (*i.e.*, the combining of more than one channel into a single, wider channel) would be allowed and could be used for the transmission of high data rates and/or the use of spread spectrum emissions. Superchannels also would be licensed to multiple entities in many instances, due to the fact that the interleaved, non-contiguous channels in this band generally are licensed to different entities.

Subchannels and superchannels would be limited to digital transmissions with uniform spectral power density across the bandwidth, in order to make possible the use of spectral density analysis as part of the interference analysis process. We seek comment on these channelization proposals.

7. Finally, as noted above, 125 kHz channels are currently allocated as response channels for use in association with most MDS and ITFS stations, and as such they would provide further capacity as return paths in the cellularized two-way scheme. In their Comments, Petitioners add that the Commission should also permit the use of the 125 kHz channels for point-to-multipoint transmissions. Petitioners explain that for systems using digital technologies, there is a need to transmit downstream control signals over side channels that require less than a full 6 MHz channel, for instance for control over digital set top decoders or control over two-way communication systems. Petitioners maintain that use of the 125 kHz channels for such applications is beneficial in that it preserves the 6 MHz channels for transmissions that require greater bandwidth, and it can lead to reduced equipment costs. Petitioners also propound that to further offer flexibility to create channels with bandwidths exceeding 125 kHz, the Commission should remove the current rule provisions which require that the 125 kHz channels only be used in conjunction with their associated 6 MHz channels. While also proposing that the 125 kHz channels be used for additional point-to-multipoint spectrum, Caritas goes a step further than Petitioners, advancing that the Commission should reallocate the 125 kHz channels to be combined into one continuous piece of spectrum to be used for such purposes. We are proposing rules in accordance with the most flexible framework ultimately requested by Petitioners for use of the 125 kHz channels, including allowing superchannelization or subchannelization of these stations regardless of whether they are used as response stations or for point-to-multipoint transmissions. We believe that these changes are sufficient to derive the benefits explained by Petitioners, and that a reallocation and the complications associated with that is not necessary. We solicit comment on these proposals regarding use of the 125 kHz channels.

8. *Interference Considerations.* In the *Digital Declaratory Ruling*, we waived our rules with respect to out-of-band emissions and permitted the use of a somewhat relaxed spectral mask for digital transmission modes. This action was taken because the Commission concluded that the application of the current analog emission mask to digital emissions would be unnecessarily restrictive and could increase the cost of digital equipment while providing no benefit. In addition, the results of laboratory tests submitted in connection with the Commission's consideration of this issue demonstrated that a digital station using the relaxed mask is less likely to cause interference than an analog station using the existing, more restrictive, mask.

9. In the *NPRM*, we propose to permanently incorporate into the Rules the spectral mask waiver provisions of the *Digital Declaratory Ruling*, specifically for primary system transmitters and single channel booster transmitters with a power greater than −9 dBW EIRP; masks are further specified, albeit with certain modifications, for sub-and superchannels, response stations, and booster stations transmitting on multiple non-contiguous channels carrying separate signals and with an EIRP greater than −9 dBW ("broadband boosters"). As an exception to the spectral masks for the 125 kHz channels, discrete spurious emissions above the upper and below the lower authorized channel edges would be permitted under certain conditions. And Petitioners request that no spectral mask whatsoever be applicable to booster stations with an EIRP of −9 dBW or less. Petitioners argue that such low power stations have only a very limited potential for interference, and that applying strict emission limitations to them would significantly increase the price of equipment with no benefit to the user or nearby licensees in terms of added interference protection. We seek comment on whether the degree of attenuation proposed for these various schemes is sufficient to provide adequate adjacent channel interference protection. We also request comment on whether eliminating a spectral mask for low power boosters presents an undue interference risk, and, if so, which additional interference safeguards should be adopted.

10. As in the *Digital Declaratory Ruling*, all spectral mask calculations involving digital emissions will use the average power of the emission across its bandwidth, and steps must be taken to ensure substantially uniform power density across the bandwidth in use, including constant power per unit of bandwidth for sub-and superchannels. We also propose to place a limit of 18 dBW EIRP on response station transmitters in cellularized systems, and that higher power facilities be authorized separately and require a site specific interference analysis. Given the extremely complex interference situation attendant to cellularized operations and the heavily encumbered nature of MDS and ITFS environments, we do not believe that it would be prudent to permit essentially unlimited numbers of response station transmitters with 2000 watts (33 dBW EIRP) of radiated power, as Petitioners requested. However, while current MDS and ITFS rules limit booster power to 18 dBW EIRP, we propose to allow boosters to operate up to 33 dBW EIRP, the maximum power level for MDS and ITFS. We seek comment on this approach to transmitter power within the two-way scheme. We also seek comment on rule proposals with respect to frequency tolerance requirements for digital transmissions, type acceptance of response station transmitters and boosters, and radio frequency ("RF") emissions for MDS/ITFS return path transmissions.

11. The Commission's current regulations in ITFS and MDS for interference protection were designed to minimize the potential for destructive cochannel and adjacent channel interference between systems located in proximity to each other. The specific criteria for protection are of two forms, namely, (1) cochannel and adjacent channel desired-to-undesired signal (D/U) ratios and (2) limits on the magnitude of a station's free space field as measured at the edge of the station's protected service area. For cochannel interference protection, an applicant must configure its system so that the signals from each of its transmitters are at least 45 dB weaker than the signals of the existing licensee's transmitters within the licensee's protected service area and/or, in the case of ITFS licensees, at the licensee's protected receiver sites. For adjacent channel protection, the ratio must be at least 0 dB. In order to meet the second form of protection, an applicant generally must be able to demonstrate that the magnitude of the free space radiated field from each transmitter does not exceed a particular limit (*i.e.*, a power flux density −73 dBW/m²) at the boundary of the applicant's service area.

12. Petitioners propose to apply the existing interference criteria in essentially unchanged form, and to supplement them with similar new criteria to be applied to hub, booster, and response stations. Petitioners further propose to aggregate the power from a primary station and all associated booster stations for one set of interference calculations, and that a separate set of interference calculations be performed using the aggregated power from response stations. However, we counter-propose that a calculation of the combined field produced by the primary station transmitter, all boosters, and the aggregated power from response stations within a system be utilized to determine compliance with interference standards. We seek comment on the relative merits of Petitioners' proposed approach and our counter-proposal. We also emphasize that where an interfered-with receive antenna meets the antenna characteristics set forth in our MDS and ITFS rules, the station causing the harmful interference is responsible for curing it.

13. *Interference Prediction Methodology.* In order to predict the interference potential of response stations in the proposed cellularized scheme, Petitioners seek to employ a three-step process using statistical analysis and worst-case assumptions. In step one, the hub station response service area ("RSA") is defined and a grid of points is located within this area representative of the expected actual distribution of response station transmitters within the area. Regions within the area are defined so that an adequate population uniformity exists for purposes of predicting interference from a distribution of response station transmitters. Population uniformity is determined using a complex formula involving evaluation of the population density within each ZIP Code within the planned boundaries of a region. Population uniformity is an important facet of each region because Petitioners assume, *a priori*, that the distribution of response station transmitters will be

closely matched to population distribution within each region.

14. In step two, Petitioners propose to identify the technical characteristics of response stations which will be associated with each point in the RSA grid. One or more classes of response stations would be identified within the RSA and its regions, with each class being a function of several variables, such as transmitted power (EIRP), antenna height, frequency, bandwidth, and maximum number of assumed simultaneously operated response stations in the regional class; these characteristics and others would be specified in the response hub application. Differentiating between classes is asserted by Petitioners to be essential for accurately calculating the interference potential of the response stations within an RSA, because differentiable technical characteristics between classes likely will lead to differentiable potentials for causing interference to neighboring systems.

15. The final step in calculating response station interference would require combining the radiated fields of all response stations of all classes, regions and RSAs within the primary station's protected service area. In order to simplify this calculation, the statistical population uniformity within each region would be used as a basis for grouping response stations of all classes in proximity at the grid points laid out within each RSA; multiple classes could share the same grid points. For each class of response stations assigned to a grid point, a set of worst-case assumptions would be made concerning the transmitting antenna radiation pattern, transmitter power (EIRP) and antenna height. Several complex calculations, including procedures for checking the initial calculations, combining the radiated field for all of the transmitters for each class of response station at each grid point from all RSAs would then be used to evaluate compliance with the interference criteria. Thus, whereas under current rules such compliance is calculated on a per-transmitter basis, Petitioners' proposed system would necessitate that it be calculated on an aggregated basis, covering hundreds or thousands of transmitters and their combined interference potential to neighboring systems. Petitioners argue that licensees should be free, upon notification to the Commission, to continue adding response station transmitters within their systems until calculations indicate that permissible interference values would be exceeded, and that using worst-case assumptions in their methodology has built in an interference protection buffer for situations where more stations or a different mix of stations than anticipated are activated in an RSA.

16. In the *NPRM*, we caution that the interference prediction methodology is based solely on assumptions, thus leading to a statistical picture of response station interference potential which gives an uncertain approximation of the operating environment, although Petitioners also claim that this approximation is conservative. In addition, we discuss how the small scale test conducted by Petitioners in the flat and relatively unimpeded terrain of Tucson, AZ, while useful, may not be generally applicable to the very diverse geographical and interference environments in which MDS and ITFS systems operate. We also express concern that the proposed methodology is so complex that it may be very difficult to implement and enforce, and may lead to numerous filings updating system configurations, which would present severe burdens upon existing licensees and operators needing to analyze these filings in order to verify that no harmful interference will result to their systems. Notwithstanding these reservations, however, we express our belief that Petitioners' overall goal of facilitating cellularization of the services is very forward-looking, and warrants an opportunity to proceed despite the complications and uncertainties which could arise. Thus, we propose to adopt the methodology and seek comment on it, but we also specifically solicit suggestions for alternative methods for prediction of interference to and from cellularized systems. For example, we ask to what extent "worst case" analysis could serve a sufficient approximation to a more exact analysis, such as a determination of noninterference based solely on terrain shadowing, and to what geographical extent individual response station areas should be aggregated in large BTAs.

17. *Modulation Methods.* In the *Digital Declaratory Ruling*, we authorized the use of Quadrature Amplitude Modulation ("QAM") and Vestigial Sideband ("VSB") modulation. While we declined to consider the use of other digital modulation methods in the context of that proceeding, we stated that we would consider future requests for declaratory rulings where the requesters submit appropriate data to demonstrate that other modulation techniques could be used in a manner that would not interfere with MDS and ITFS analog and digital operations. In the current rulemaking proceeding, Pace Telecommunications Consortium ("Pace") commented that the Commission should immediately grant ITFS and MDS licensees the flexibility to use whatever digital techniques best serve their needs, with interference controlled through the use of power spectral density limits and spectral masks.

18. As in the *Digital Declaratory Ruling*, in the *NPRM* we decline to adopt one or more "standard" digital technologies. We will retain or add provisions for accommodating the use of different modulation types, as requested by Petitioners. In addition, because we wish to encourage parties to continue to identify different digital modulation schemes that could be useful in MDS and ITFS, we emphasize that we remain open to considering future requests for declaratory rulings in accordance with the *Digital Declaratory Ruling*, upon submission of appropriate data. We further invite comment on whether there is a basis for concluding that use of particular digital modulation types by MDS and ITFS stations other than VSB and QAM would not be prone to interference, based on the current 45 dB/0 dB protection ratios for cochannel and adjacent channel interference respectively, *i.e.* that such modulation formats should be permitted without requiring test data. For example, one modulation type may be a subset of VSB and QAM and, therefore, is covered under the industry tests used to support the *Digital Declaratory Ruling*.

19. *Application Procedures.* Petitioners set forth an application processing scheme, governing the filing of applications for new or modified response station hubs or boosters, that would substantially shift review of applications from Commission staff and leave much of the interference environment to be worked out among licensees. Petitioners propose that we adopt a rolling, one-day filing window system. While each applicant would be required to demonstrate protection of existing or previously proposed facilities, all acceptable applications filed on the same day would be granted and the filers left to resolve incompatibilities amongst themselves with little or no intervention by Commission staff. Specifically, Petitioners propose that applications would be placed on public notice without prior staff review of interference studies, and that the applications would be automatically granted on the 61st day after that notice unless a petition to deny was filed or the Commission notified the applicant prior to that date that a grant would not be made.

20. Petitioners speculate that a large number of applications are likely to be filed once the new rules become effective and that many of the applications submitted at that time will conflict with others filed simultaneously. In order to smooth the transition to the rolling one-day filing window application processing system, Petitioners propose that a special one-week window be employed when the new rules first go into effect, and that all applications filed during this window be deemed filed as of the same day. Following the publication of a public notice announcing the tendering for filing of applications submitted during that window, applicants would have a period of 60 days to amend their applications to resolve conflicts. During this 60-day period, no additional applications could be filed, affording those who filed during the one-week window an opportunity to resolve any conflicts without fear that, during the pendency of settlement discussions, third parties will propose facilities that will have to be protected if the original applicants amend their applications. After this initial 60 day period, public notice and automatic grant procedures akin to those proposed by Petitioners for the rolling one-day filing windows would be implemented. Following Petitioners' plan, on the 61st day after the publication of the second public notice, applications for authorizations for response station hubs and for booster stations henceforth would be accepted and processed under the rolling one-day filing window approach.

21. Although we tentatively accept Petitioners' proposal to place the applications on public notice without prior staff review of the interference studies, we tentatively reject their proposal for automatic grant of the applications. We believe that placing the applications on public notice without prior interference analysis will serve to speed the review process by making the relevant data available to all interested parties as quickly as possible. However, we believe that an automatic grant at the end of the proposed 60 day public notice period will not provide an adequate opportunity for interested parties or, where necessary, for Commission staff, to review the interference studies or for the Commission to make a reasoned determination in complex cases. We solicit comment on our conclusions.

22. In addition, while Petitioners' proposal in this area presents a promising start, it still leaves a number of concerns and questions unresolved. Commenter Catholic Television Network ("CTN") raised the concern that the one-day rolling filing window will create an undue burden on ITFS licensees, who may find themselves required to evaluate a continuing stream of applications. We solicit comment on how such a concern could be resolved in the context of the one-day rolling filing window. We also solicit comment on whether we should retain our current periodic filing window system used for ITFS applications and what advantages and disadvantages exist between the existing system and the proposed system. Furthermore, Petitioners' proposal leaves a number of significant questions unresolved regarding the processing of conflicting applications. For example what should be the result in the event that same-day filers of closely-spaced conflicting applications cannot resolve their differences? Should the applicants be ordered into binding arbitration for which they will assume the cost and whose outcome will be finally subject to Commission approval? Should the Commission simply freeze the applications until the parties are able to resolve their differences? Should the Commission's staff function as a referee in such cases and, if so, should it adopt any sort of comparative criteria to guide its decisions? Should the staff adopt some type of point system to rate competing applicants? We seek comment on these questions.

23. We tentatively propose the following processing rules, taking into consideration the concerns of the various commenters. Under these rules, applicants would file an original and two copies of their system proposal and serve a copy of the proposal on any party whose MDS/ITFS interests may be affected by the proposal. A complete application would then be placed on public notice for a 60-day initial comment period. Prior to the expiration of the 60-day period, interested parties could file comments, petitions to deny or requests for extension of time to file comments or petitions to deny. Although it is our policy that requests for extension of time shall not be granted, and we do not propose to change that policy, we anticipate that the limited resources available to an ITFS party to review a potentially complex two-way service proposal will be a factor considered in whether we grant a request for extension of time. In the alternative, we would consider adopting a 120-day initial comment period, with requests for extensions of time considered only in extraordinary circumstances. We seek comment on these proposals and solicit detailed alternate proposals. We especially seek comment on what time period parties believe would be necessary to adequately review a service proposal without unduly delaying the processing of such a proposal.

24. We believe that the adoption of the one-week initial filing window will lessen the burden on all affected parties, including the Commission's staff, during the first round of application filing. We also believe that providing parties with an initial 60-day period during which they can resolve any apparent conflicts and then amend their applications without prejudice will provide for quicker and easier processing. We believe that issuing a public notice announcing the acceptance for filing of all applications as amended will serve an important notice function for all potentially affected parties. As discussed above, however, we do not propose to accept Petitioners' automatic grant proposal. Rather than adopt Petitioners' proposed automatic grant, we tentatively conclude that, at the end of any comment period that we may adopt and following any further staff review, the Commission staff, pursuant to delegated authority, would issue a grant or denial of any authorization pursuant to the revised rules. If no oppositions have been filed in a particular proceeding and the Commission staff has determined that a service proposal would not cause interference in violation of our Rules, we anticipate that such a grant would be accomplished quickly. We seek comment on both our proposed approach and on Petitioners' proposed automatic grant.

25. We also solicit comment on ways to make information on actual system operating parameters available to third-party applicants who need such information for analysis of the interference environment, and on how to conform our MDS and ITFS rules to provide for amendment of booster station and response station hub applications. Finally, in their Comments, Petitioners urge that we adopt a system whereby an applicant, once authorization for service has been granted, may switch from common carrier to non-common carrier service and back without seeking subsequent authorization. We seek comment on this aspect of Petitioners' proposal, and on whether operators should be required to give the Commission notice when they are switching back and forth between common carrier and non-common carrier service, even if prior approval is not required.

26. *Issues Specific to ITFS.* Under § 74.931 of the Commission's Rules, ITFS stations are operated by

educational organizations and are "intended primarily to provide a formal educational and cultural development in aural and visual form," to students enrolled for credit in accredited secondary schools, colleges and universities. An ITFS licensee who leases excess channel capacity to a wireless cable operator must provide a total average of at least 20 hours per channel per week of ITFS programming on its authorized channels. ITFS licensees in such lease arrangements also retain the right to recapture "an average of an additional 20 hours per channel per week for simultaneous programming on the number of channels for which it is authorized." In addition, an ITFS licensee may shift its required educational programming onto fewer than its authorized number of channels via channel loading or channel mapping. The licensee may further agree to transmission of recapture time on channels not authorized to it but which are included in the wireless cable system of which it is a part.

27. Petitioners propose changes which would revise the absolute 20 hours per channel per week recapture time requirement to provide that the ITFS programming requirements constitute a total of 40 hours per channel per week, including both actual programming and recapture time. The Petition does not contemplate any changes to the required minimum of 20 hours per channel per week of actual ITFS programming. Thus, under the proposed changes, if an ITFS licensee actually provides more than an average of 20 hours per channel per week of ITFS programming, reserved recapture time would only need to make up the difference to achieve a total of 40 hours per channel per week. CTN commented that retaining the 20 hour minimum actual programming requirement is inadequate, and insisted that as digital compression increases the number of channel paths, there must be a proportionate increase in the number of paths available for education, including data services. In their reply, Petitioners claimed that many ITFS licensees are finding it difficult to satisfy the existing ITFS minimum programming requirements. Petitioners further posed that adoption of CTN's proposal would create a disincentive for ITFS licensees to introduce the new technologies contemplated by the Petition. We solicit comment from ITFS licensees on these comments. In the *NPRM*, we find no grounds for retreat from the absolute 20 hour recapture time requirement, especially at this juncture when several wireless cable systems currently enjoy or imminently stand to reap the benefits of increased spectrum capacity through use of digital compression techniques. While we acknowledge the great value to wireless cable operators of maximization of spectrum available for leasing, we also emphasize the primary educational purpose of ITFS and the importance of maintaining sufficient capacity for programming by ITFS licensees which fulfills that purpose.

28. In the *NPRM*, we specifically seek comment on several issues related to the question of whether to change our ITFS programming requirements in light of the use of digital technology by ITFS licensees. Should there be different rules depending on whether the wireless cable system employs digital transmissions? Should a change take the form of an increase in required levels of actual ITFS programming, an increase in ready recapture time, or both? How should any increased requirements be measured, *e.g.*, additional hours or additional paths? With the flexibility in implementation of ITFS programming requirements currently allowed or proposed, such as channel loading and shifting of required programming onto other channels within a wireless cable system, should we retain our existing program content requirements and, if not, how should they be modified? For example, should data transmission count towards minimum ITFS programming requirements? Should voice transmission count? If data and/or voice transmission were to count, how would they be measured with respect to fulfillment of minimum ITFS programming requirements? Should time-of-day requirements be instituted for these uses to help ensure that they are really being put towards ITFS programming? Furthermore, should counting one or both of them have an effect on the amount of actual programming or ready recapture time required? We also invite comment on whether education-related uplink transmissions should be applied towards satisfaction of minimum ITFS programming requirements. While we note our initial impression that counting uplink transmissions will be overly complicated and impractical, given the anticipated multitudes of response stations and the difficulty in predicting or tracking exactly when they are being used for educational purposes, we nonetheless welcome suggestions on how they would be measured with respect to fulfillment of minimum ITFS programming requirements.

29. Petitioners anticipate that system developers will attempt to utilize contiguous 6 MHz channels for two-way services in order to minimize the amount of spectrum that would be lost to the proposed spectral mask whenever a return path is adjacent to a downlink channel. Furthermore, entire ITFS channel groups may need to be devoted for return paths. Thus, Petitioners propose that we allow ITFS licensees to satisfy their programming requirements on other channels within the wireless cable system. This proposal would be the next step in a progression of rule changes, following our allowance of channel mapping and channel loading, that have afforded ITFS licensees increased flexibility in the implementation of their minimum programming requirements. Because this proposal would enhance the two-way scheme, and because it would not call for any dilution or elimination of minimum ITFS programming requirements, we are considering implementing it. The flexibility that the suggested changes would accord to ITFS licensees to lease their channel capacity, along with the maintenance of minimum ITFS programming requirements, could also encourage educators to apply for new ITFS stations and lead to more educational programming. Several commenters put forth ideas for refinements to this proposal. Arizona State Board of Regents, *et al.* ("Arizona") suggested that each ITFS licensee be required to preserve at least one downstream video channel, and that the Commission institute a procedure whereby it would routinely grant applications by ITFS licensees to exchange individual ITFS channels between channel groups. Instructional Telecommunications Foundation, Inc. ("Foundation") would require that each ITFS licensee devote at least half of its capacity for downstream use. Schwartz, Woods & Miller ("SWM") prompted the Commission to facilitate the "trading" of channels between the ITFS and MDS bands.

30. Several of the ITFS commenting parties expressed concern that the proposed two-way scheme presents threats to the independence of ITFS licensees and their future ability to use spectrum capacity for instructional purposes. Pace, for instance, cautioned that because the Petition proposes a massive shift towards industry control over ITFS applications, the Commission must ensure that individual ITFS licensees "do not lose their freedom of choice" over the use of their channels, through coercion by neighboring licensees or strong wireless cable operators. However, Charlotte-Mecklenburg Public Broadcasting Authority ("CMPBA"), an ITFS licensee, took the view that the proposed rules

adequately protect the interests of ITFS entities, primarily because the rules do not obligate ITFS licensees to take part in the two-way system, enter into a lease agreement, file FCC applications, or accept harmful signal levels. Some of the concerned ITFS commenting parties focused on the effect that the proposed rules may have on the engineering autonomy of ITFS licensees. Arizona posed the question of what would happen if an excess capacity agreement comes to an end, and the ITFS licensee has previously converted its channels to two-way use and has shifted some or all of its programming onto other channels in the wireless cable system. Similarly, CTN asked what the impact of cellularization of a market would be on one or more ITFS licensees within it who elect not to cellularize, as well as whether a single ITFS licensee who strives to cellularize its operations would be dependent on other licensees in the market.

31. In the *NPRM*, we emphasize that cellularization by ITFS licensees would be permissive only, and not mandatory. We particularly seek comment on the effects of allowing complete flexibility in the number of channels "turned around" for return paths, and in the shifting of required ITFS programming onto other channels in the wireless cable system and what restrictions, if any, should be adopted. We also seek comment on whether we should require ITFS licensees to retain one or more channels for downstream transmissions and the ramifications of such a requirement. Further, we seek comment on whether ITFS channel swaps should only be just between ITFS channels, or whether ITFS licensees should be able to swap their spectrum for channels in the MDS band. We seek additional comment on specific potential threats to the engineering autonomy of ITFS licensees which could result from institution of the proposed two-way framework; in conjunction with such comment, we further seek proposed solutions. Some proposed solutions include channel swapping and reimbursement of costs of channel changes, upholding that participation of ITFS licensees in cellularization is not mandatory, and potentially increasing reservation of ready recapture time for ITFS programming. Do any of these ideas individually, or a combination of them, provide a sufficient foundation for meeting the expanding needs of some ITFS licensees? Commenters are also encouraged to address the general question of whether the Commission should establish solutions by rule, or whether solutions should be achieved by contract, as advocated by Petitioners.

32. Several commenters also addressed the degree of oversight the Commission should maintain in regulating the wireless cable industry and ITFS. In the past, the Commission has adopted rules and procedures to accommodate and protect the special needs of educational institutions and organizations, believing that educational institutions should be treated differently from commercial entities in many situations due to limited financial and staff resources. In addition, ITFS licensees and applicants are required to file their excess capacity lease agreements, which are reviewed by the staff for overly restrictive provisions affecting the licensee's rights and obligations, and compliance with the Commission's leasing policies.

33. In order to ensure that educators retain control of their facilities and to protect their interests, the Foundation proposed that the Commission require that two-way digital applications and interference consents be reviewed by legal and engineering counsel that do not represent commercial interests, and that these independent advisors "certify that in their professional opinion the submission will not be harmful to future instructional service." We have declined in the past to require all leasing parties to hire separate counsel, finding this "safeguard" unnecessary and relying instead on the staff's review and monitoring of leases. We see no reason to change our position on this issue and seek comment on this issue. SWM also proposed that in order to protect the rights of incumbent ITFS licensees, the Commission require that leases approved or submitted under the previous rules "be amended to make clear that the wireless cable lessee and the ITFS licensee have together considered the rule changes adopted and made any appropriate changes to lease terms, prior to the commencement of commercial operations on the frequencies using cellularization, sectorization or differing channelization plans." Petitioners opposed this proposal, stating that the parties to the excess capacity lease agreements, and not the Commission, are best positioned to determine whether proposed system changes require contract revisions. Accordingly, we seek comment on SWM's proposal.

34. We also seek comment on what impact the proposed rule changes would have on our requirements regarding excess capacity lease agreements. For example, the Commission consistently has maintained that an ITFS licensee should be permitted to purchase the ITFS equipment necessary to maintain its operation in the event the lease is terminated. In addition, we also require that the licensee maintain ultimate control over its licensed facilities. Several commenters have expressed concern that given the complexity and cost of Petitioner's proposal, ITFS licensees will be unable to sever their relationship with the wireless cable operator and acquire the equipment to either continue cellular operations or return to non-two-way transmissions. We particularly seek comment on this matter and on what type of equipment MDS lessees of ITFS channels should be required to make available to the ITFS licensees upon termination of a lease. For example, should it only be digital equipment comparable to that in use on the system at the time the lease is terminated or should it be equipment that would make it possible for the ITFS licensee to restore analog video operation, if necessary? Furthermore, with respect to Petitioners' proposal that ITFS licensees be allowed to utilize their entire channel for return paths and shift their ITFS programming to other channels, we request comment on whether the parties should be required to file written agreements governing the ITFS licensee's lease of an ITFS programming channel, and whether our present requirements for excess capacity leases, including those dealing with control issues, length of lease, and rights on termination, should apply.

35. We also revisit our channel loading rules, and propose to retain them. We request that interested parties comment on whether these rules have been beneficial to ITFS licensees and wireless cable operators, or whether they have been detrimental. Because we believe that they have provided additional much-needed flexibility to ITFS licensees and wireless cable operators, any parties commenting that these rules have been detrimental should also focus on solutions to permit the continued application of them while rendering them more universally beneficial. Finally, we also consider issues related to retention of ITFS call sign transmission requirements and accountability of ITFS licensees.

36. In this *NPRM*, we propose to amend our rules to give MDS and ITFS licensees the needed flexibility to fully exploit digital technology in delivering two-way communications services. Growth in the wireless cable industry has remained slow despite the increased channel capacity offered by digital compression and facilitated by the *Digital Declaratory Ruling*. Meanwhile, convergence of different information

delivery systems, including video and Internet access, is occurring in other industries, such as cable and DBS. Thus, one of our primary goals in instituting this proceeding is to enhance the competitiveness of the wireless cable industry. Another of our chief underlying goals in this proceeding is to provide benefits to the educational community through the use of two-way services, such as high speed Internet service. Besides proposing to amend our technical rules to facilitate such usage over ITFS frequencies, we note that the growth of wireless cable has led to the continued development of ITFS by supporting and funding approximately 95 percent of all new ITFS applicants. Thus, we believe that enhancing the competitive viability of wireless cable service through maximization of flexibility and service offerings promotes the underlying educational purpose of ITFS.

37. This is a permit-but-disclose notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's Rules. *See generally* 47 CFR 1.1202, 1.1203, and 1.1206(a).

38. For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.419. To file formally in this proceeding, participants must file an original and five copies of all comments, reply comments, and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original plus ten copies must be filed. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239) at the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

39. *Authority.* This *NPRM* is issued pursuant to authority contained in Sections 4(i) and (j), 301, 303(g) and (r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 301, 303(g), 303(r), and 403.

Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act (RFA),[1] the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the expected significant economic impact on small entities by the policies and rules proposed in this *Notice of Proposed Rulemaking* in MM Docket No. 97–217 ("*NPRM*"). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *NPRM* provided above. The Commission will send a copy of the *NPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). *See* 5 U.S.C. § 603(a). In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**. *See id.*

Need for, and Objectives of, the Proposed Rules

The Commission is instituting this rulemaking to determine whether, and if so, how, to amend its rules to promote the ability of MDS and ITFS licensees to provide two-way digital services. The objective of this proceeding is to encourage the efficient use of the spectrum allotted to MDS and ITFS by simplifying our current two-way licensing system and providing greater flexibility in the use of the allotted spectrum where such flexibility would best serve the needs of the public. In addition, we intend to enhance the competitiveness of the wireless cable industry and the resultant choices available to consumers, and to increase Internet access for educational institutions and their students via ITFS frequencies.

Legal Basis

Authority for the action proposed in this proceeding may be found in Sections 4(i) and (j), 301, 303(g) and (r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 154(j), 301, 303(g), 303(r), and 403.

Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small business concern."[2] In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.[3] A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.[4]

MDS

The Commission has defined "small entity" for the auction of MDS as an entity that, together with its affiliates, has average gross annual revenues that are not more than $40 million for the preceding three calendar years.[5] This definition of a small entity in the context of MDS auctions has been approved by the SBA.[6] The Commission completed its MDS auction in March 1996 for authorizations in 493 basic trading areas (BTAs). Of 67 winning bidders, 61 qualified as small entities.[7]

MDS is also heavily encumbered with licensees of stations authorized prior to the auction. The SBA has developed a definition of small entities for pay television services, which includes all such companies generating $11 million or less in annual receipts.[8] This definition includes multipoint distribution systems, and thus applies to MDS licensees and wireless cable operators which did not participate in the MDS auction. Information available to us indicates that there are 832 of these licensees and operators that do not generate revenue in excess of $11 million annually. We tentatively conclude that for purposes of this IRFA, there are approximately 892 small MDS providers as defined by the SBA and the Commission's auction rules, and some of these providers may be impacted by the outcome of this *NPRM*. We seek comment on this tentative conclusion.

ITFS

There are presently 2032 ITFS licensees. All but 100 of these licenses are held by educational institutions (these 100 fall in the MDS category, above). Educational institutions may be included in the definition of a small entity.[9] ITFS is a non-pay, non-commercial broadcast service that, depending on SBA categorization, has, as small entities, entities generating either $10.5 million or less, or $11.0 million or less, in annual receipts.[10] However, we do not collect, nor are we aware of other collections of, annual revenue data for ITFS licensees. Thus, we tentatively conclude that up to 1932 of these educational institutions are small entities. We seek comment on this conclusion.

Description of Reporting, Recordkeeping and Other Compliance Requirements

The Commission seeks comment on proposals to amend its rules to promote the ability of MDS and ITFS licensees to provide two-way digital services, including implementation of simplified procedures governing application for, and authorization of, booster stations and response station hubs. Because the proposed rule changes would enable licensees to apply for and receive authorizations for new types of booster stations and for response station hubs, certain commensurate new reporting and recordkeeping obligations would follow as part of this process, though the nature of the obligations and the MDS and ITFS rules directly addressing them[11] would remain the same. At the same time, however, the proposed rule changes would make the overall licensing process for two-way digital services much less cumbersome than the current process, which requires individual licensing of each response station and booster station. In the *NPRM*, we request comment on whether we should increase ITFS programming requirements, and if so, in which way and to what degree. While the proposed two-way scheme would result in more complicated interference analysis requirements for MDS and ITFS entities seeking to establish or modify service, regardless of whether the entities themselves choose to engage in fixed two-way transmissions, these interference safeguards are necessary to promote the objectives of this proceeding. We seek comment on these conclusions and how we can modify any proposed new requirements so as to reduce the burden on small entities and still meet the objectives of this proceeding.

Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

As described in the *NPRM*, in response to a March 31, 1997 *Public Notice* soliciting comment on the Petition, several of the ITFS commenting parties express concern that the proposed two-way scheme presents threats to the independence of ITFS licensees and their future ability to use spectrum capacity for instructional purposes. Pace, for instance, cautions that because the Petition proposes a massive shift towards industry control over ITFS applications, the Commission must ensure that individual ITFS licensees "do not lose their freedom of choice" over the use of their channels, through coercion by neighboring licensees or strong wireless cable operators. Other commenting ITFS parties, however, do not perceive such a threat. For instance, CMPBA believes that the proposed rules adequately protect the interests of ITFS entities, primarily because the rules do not obligate ITFS licensees to take part in the two-way system, enter into a lease agreement, file FCC applications, or accept harmful signal levels. Nevertheless, in order to find solutions that would allay the concerns of some ITFS licensees, in the *NPRM* we seek suggestions on ways to provide maximum flexibility in usage of ITFS channels while ensuring that capacity is reserved for downstream ITFS programming, pose the question of whether solutions should be established by rule or by contract and what role the Commission or other third parties should play in reviewing excess capacity lease agreements, and confirm that cellularization by ITFS licensees would be permissive only, and not mandatory.

CTN raises the concern that Petitioners' one-day rolling application filing window plan and automatic grant proposal will create an undue burden on ITFS licensees who may find themselves required to evaluate a continuing stream of applications. We solicit comment on how such a concern could be resolved in the context of a one-day rolling filing window or whether we should retain a periodic filing window system. Furthermore, we tentatively reject the automatic grant component of Petitioners' application processing proposal, and instead propose a "comment period" of 60 or 120 days, after which applications would be processed pursuant to current procedures. In proposing the comment period alternative, we acknowledge the complexity of the engineering information in the response hub or booster station applications, and the substantial number of affected parties, particularly ITFS licensees, that frequently have very limited resources and that often would not be able to file a petition against an application before the application is automatically granted. Thus, in the *NPRM*, we particularly solicit comment from small ITFS operators. Similarly, we express concern that the proposed interference prediction methodology is so complex that it may lead to numerous filings updating system configurations, which would present considerable burdens upon existing licensees and operators needing to analyze these filings. We therefore solicit suggestions for other possible prediction methbdologies.

In some instances, a proposed rule will impact different classes of small entities in different ways. For instance, in considering whether to increase ITFS programming requirements, including ready recapture time, we acknowledge in the *NPRM* the balance which underlies the existence and substance of the ready recapture provisions of 47 CFR 74.931(e): the great value to wireless cable operators of maximization of spectrum available for leasing, and the importance of maintaining sufficient capacity for programming by ITFS licensees which fulfills the primary educational purpose of ITFS. We decline to retreat from the current recapture time requirements of § 74.931(e), but we solicit comment in the *NPRM* on whether we should adopt any changes to the number of hours required for ready recapture by ITFS licensees.

Other proposals, tentative conclusions, or questions that we pose in the *NPRM* are designed to minimize the impact on all small entities involved. For example, we tentatively reject Caritas' proposal to limit the availability of response channels to MDS channels 1, 2, and 2A, because it would both artificially limit the amount of spectrum that could be used for return paths and unnecessarily prevent ITFS licensees from using their own channels for return paths, while providing no interference protection benefits that cannot be derived in other ways.

CTN and SWM both put forth procedural suggestions for this proceeding. CTN proposes that rather than proceeding with the instant rulemaking, we pursue a negotiated rulemaking procedure and convene a federal advisory committee to evaluate Petitioners' proposals and work out the most effective method to implement them. CTN asserts that this would provide substantial, useful information and facilitate the process initiated by Petitioners. We believe that the instant rulemaking process will provide us with sufficient information to adequately

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[1] *See* 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. § 601 *et seq.*, has been amended by the Contract With America Advancement Act of 1996, Public Law 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

[2] 5 U.S.C. § 601(6).

[3] 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of small business applies unless an agency after consultation with the Office of Advocacy of the Small Business Administration and after an opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes definitions in the **Federal Register**.

[4] Small Business Act, 15 USC § 632.

[5] 47 CFR 21.961(b)(1).

[6] *See Amendment of Parts 21 and 74 of the Commission's Rules With Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service and Implementation of Section 309(j) of the Communications Act—Competitive Bidding*, MM Docket No. 94–31 and PP Docket No. 93–253, Report and Order, 10 FCC Rcd 9589 (1995), 60 FR 36524 (July 17, 1995).

[7] One of these small entities, O'ahu Wireless Cable, Inc., was subsequently acquired by GTE Media Ventures, Inc., which did not qualify as a small entity for purposes of the MDS auction.

[8] 13 CFR 121.201.

[9] *See* 5 U.S.C. §§ 601 (3)–(5).

[10] *See* 13 CFR 121.210 (SIC 4833, 4841, and 4899).

[11] *See, e.g.*, 47 CFR 21.911.

evaluate Petitioners' proposals. In addition, the need for swift consideration of these proposals, in order to enhance the competitiveness of the wireless cable industry and expedite educational institutions' access to the Internet via ITFS frequencies, may be defeated by implementing a potentially lengthy negotiated rulemaking procedure. Thus, we reject CTN's proposal for a negotiated rulemaking at this time. Should circumstances warrant, however, we reserve the option to revisit our decision on this issue at a later date. Conversely, SWM requests the issuance of an NPRM in this proceeding, and noting that many of the parties which filed comments in the initial round of this proceeding are ITFS entities, requests an early Fall comment date in light of the academic schedules which predominate amongst these entities. The comment period that we establish here, therefore, should enhance the ability of ITFS entities to file carefully considered comments and reply comments. We solicit comment in the *NPRM* on other substantive and procedural alternatives to adoption of the proposed two-way digital transmission scheme.

Federal Rules that Overlap, Duplicate or Conflict With the Proposed Rule

None.

List of Subjects

47 CFR Part 1

Environmental impact statements

47 CFR Part 21

Communications common carriers, Communications equipment, Reporting and recordkeeping requirements, Television.

47 CFR Part 74

Communications equipment, Education, Reporting and recordkeeping requirements, Television.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–29346 Filed 11–5–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket 96–128; DA 97–2162]

Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for waiver.

SUMMARY: On October 7, 1997, the Common Carrier Bureau granted, on its own motion, a limited waiver of five months, until March 9, 1998, to those local exchange carriers and payphone service providers that cannot provide payphone-specific digits as required by orders in this proceeding. This limited waiver applied to the requirement that local exchange carriers provide payphone-specific coding digits to payphone service providers, and that payphone service providers provide coding digits from their payphones before they can receive per-call compensation from interexchange carriers for subscriber 800 and access code calls, and 0+ and inmate calls. The limited waiver recognized that three parties had filed petitions for waiver of the payphone-specific coding digit requirements.

EFFECTIVE DATE: October 7, 1997.

FOR FURTHER INFORMATION CONTACT: Rose Crellin or Greg Lipscomb, Formal Complaints and Information Branch, Enforcement Division, Common Carrier Bureau. (202) 418–0960.

SUPPLEMENTARY INFORMATION: A toll-free call transmitted by a local exchange carrier (LEC) to an interexchange carrier (IXC) carries with it billing information codes, called automatic number identification (ANI), supplied by the LEC that assist the IXC in properly billing the call. Currently, however, not all payphone calls carry the payphone-specific coding digits necessary to identify the calls as payphone calls, making per-call tracking and blocking more difficult.

In the *Payphone Orders*,[1] we imposed a requirement that LECs provide payphone-specific coding digits to payphone service providers (PSPs), and that PSPs provide those digits from their payphones before the PSPs can receive per-call compensation from IXCs for subscriber 800 and access code calls.[2] In the *Order on Reconsideration*, we clarified that, to be eligible for per-call compensation beginning October 7, 1997, payphones are required to transmit specific payphone coding digits as a part of their ANI, which will assist in identifying payphones to compensation payers.[3] Each payphone must transmit coding digits that specifically identify it as a payphone, and not merely as a restricted line.[4] We also clarified that by October 7, 1997, LECs must make available to PSPs, on a tariffed basis, such coding digits as a part of the ANI for each payphone.

We have received three requests for a waiver of the payphone-specific coding digit requirements.[5] Meanwhile, we have granted, on our own motion, pursuant to § 1.3 of our rules, a limited waiver, until March 9, 1998, of the payphone-specific coding requirement for those LECs and PSPs not yet able to provide transmission of such digits. Those LECs and PSPs that are able to transmit the required coding digits by October 7, 1997, remain obligated to do so. Similarly, the remaining LECs and PSPs are obligated to transmit the required coding digits as soon as they are technically capable, but in any event no later than March 9, 1998.

During the period between October 7, 1997, and March 9, 1998, payphones appearing on the LEC-provided lists of payphones will be eligible for per-call compensation even if they do not transmit payphone-specific codes. This waiver of the requirements applicable to LECs and PSPs will provide LECs, IXCs, and PSPs with additional time that the record indicates is necessary to implement the procedures needed to transmit payphone-specific coding digits, without further delaying the payment of per-call compensation required by section 276 of the Act.[6]

We also include LECs that have non-equal-access switches in the general coverage of this waiver. We do not address in this order the special problems presented by non-equal-access switches that were raised in the USTA Petition.[7] We will be addressing in a separate order the issues raised by parties regarding the provision of payphone-specific coding digits by non-equal-access switches.

This waiver is effective immediately in order to ensure that all PSPs receive per-call compensation effective October 7, 1997, as required by the *Payphones Orders*.

This waiver is appropriate because special circumstances warrant a deviation from the general rule, and such a deviation will serve the public interest.[8] The special circumstances are that transmission of payphone-specific coding digits is not yet ready for implementation for certain payphones. The industry is, however, working on an expeditious resolution of this situation. The public interest is served by this waiver because it allows the Commission to move forward in implementing the statutory requirement[9] that PSPs receive fair compensation for calls placed from their payphones. Refusal to waive this requirement would lead to the inequitable result that many payphone providers, particularly independent providers who do not control the network modifications necessary to permit payphone-specific coding digits to be transmitted, would be denied any compensation while implementation issues are being resolved by the industry. This limited waiver, moreover, will not significantly harm any parties. The unavailability of these coding digits, for instance, will not preclude IXCs from identifying payphone calls for the purpose of determining the number of calls for which compensation is owned. Nor will the waiver interefere with the possibly sixty percent of payphones that currently are able to transmit payphone-specific coding digits.

Accordingly, pursuant to authority contained in sections 1, 4, 201–205, 218, 226, and 276 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 201–205, 218, 226, and 276, and §§ 0.91, 0.291 and 1.3 of the Commission's rules, 47 CFR 0.91, 0.291 and 1.3, *it is ordered* on the Commission's own motion that the time before payphone-specific coding digits are required for per-call compensation is extended until March 9, 1998, to the extent described herein.

It is further ordered that this order is effective upon release thereof, and that the waiver included in this order is effective October 7, 1997.

List of Subjects in 47 CFR Part 64

Communications common carriers, Operator service access, Payphone compensation, Telephone.

Federal Communications Commission.

A. Richard Metzger, Jr.,

Acting Chief, Common Carrier Bureau.

[FR Doc. 97–29305 Filed 11–5–97; 8:45 am]

BILLING CODE 6712–01–P

[1] *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96–128, Report and Order, 61 FR 52307 (October 7, 1996), 11 FCC Rcd 20,541 (1996), (*"Report and Order"*); Order on Reconsideration, 61 FR 65341 (December 12, 1996), 11 FCC Rcd 21,233 (1996)(*"Order on Reconsideration"*) (together the *"Payphone Orders"*).

[2] *See Report and Order*, 11 FCC Rcd at 20,591, paras. 98–99; *Order on Reconsideration*, 11 FCC Rcd at 21285–86, para. 64, and 21,278–80, paras. 93–99.

[3] *See Order on Reconsideration*, 11 FCC Rcd at 21285–86, para. 64, and 21,278–80, paras. 93–99.

[4] *See id.*

[5] Requests were received from the United States Telephone Association (USTA), the LEC ANI Coalition and TDS Communications Corporation. Those petitions have been placed on public notice for comments. *See* DA 97–2214, Pleading Cycle Established for Petitions to Waive Payphone Coding Digits Requirements, October 20, 1997.

[6] This waiver does not change the obligations of LECs pursuant to our requirements in *Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation, Third Report and Order*, CC Docket No. 91–35, 61 FR 28466 (May 28, 1996), 11 FCC Rcd 17,021 (1996).

[7] USTA Petition at 9, 11.

[8] *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

[9] 47 U.S.C. 276(b)(A).

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 385

[FHWA Docket Nos. MC–94–22 and MC–96–18; FHWA–97–2252]

RIN 2125–AC 71

Safety Fitness Procedure; Safety Ratings

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This document incorporates a Safety Fitness Rating Methodology (SFRM) as an appendix to the Motor Carrier Safety Fitness Procedures regulations. The SFRM will be used to measure the safety fitness of motor carriers against the safety fitness standard contained in 49 CFR Part 385. By this action the FHWA will supersede the interim final rule promulgated on May 28, 1997, effective May 28, 1997 until November 28, 1997 (62 FR 28807). That rule incorporated an SFRM to calculate the safety fitness of motor carriers transporting hazardous materials in quantities for which vehicle placarding is required, or transporting 15 or more passengers including the driver. The rule also includes a procedure which provides a notice period of 45 days during which a proposed rating can be challenged before it becomes effective.

DATES: The effective date of this regulation is November 28,1997.

FOR FURTHER INFORMATION CONTACT: Mr. William C. Hill, Vehicle and Operations Division, Office of Motor Carrier Research and Standards, (202) 366–4009, or Mr. Charles Medalen, Office of the Chief Counsel, (202) 366–1354, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Introduction

The FHWA is taking this action largely in response to a finding of the District of Columbia Circuit Court of Appeals, *infra*. This final rule is required to meet the FHWA's responsibility to maintain a system to determine the safety fitness of motor carriers operating in interstate commerce, but the agency is considering other means to achieve that goal.

Some commenters to this docket argued that a performance-based system modeled on SafeStat would be fair, and perhaps preferable to the system proposed in the FHWA's May 28 NPRM, *infra*, but that improvements are needed in the generation and use of data.

The FHWA's goal is to create a more performance-based means of determining when carriers are not fit to conduct commercial motor vehicle (CMV) operations safely in interstate commerce. A future rating system using a pass-fail test is conceivable. The FHWA will publish an advanced notice of proposed rulemaking shortly in the **Federal Register** requesting comments and supporting data on the future of a rating system that can be used both in making safety fitness determinations and in meeting the demands of shippers, insurers and other present and potential users interested in evaluating motor carrier performance.

Background

The U.S. Court of Appeals for the District of Columbia Circuit ruled on March 19, 1997, that the FHWA's procedures for assigning safety ratings were adopted contrary to law. *MST Express and Truckers United for Safety v. Department of Transportation and Federal Highway Administration*, 108 F.3d 401 (D.C. Cir. 1997). The court found the FHWA had failed to carry out its statutory obligation to establish, by regulation, a means of determining whether a motor carrier has complied with the safety fitness requirements of the Motor Carrier Safety Act of 1984 (MCSA) (codified at 49 U.S.C. 31144) because the SFRM had not been adopted pursuant to notice and comment rulemaking, as 49 U.S.C. 31144(a) requires. The safety rating of MST Express was determined using the SFRM, and the petitioner's *conditional* safety rating was therefore vacated and the matter remanded to the FHWA "for such further action as it may wish to take, consistent with the decision."

In response to the court's decision the FHWA issued an interim final rule (62 FR 28807) effective May 28, 1997, adopting the challenged SFRM but only to rate motor carriers transporting hazardous materials or passengers pending the development of a permanent rule. This step was necessary in order to enable the agency to comply with the mandate of the MCSA of 1990 (49 U.S.C. 5113), which requires that passenger and hazardous materials carriers cease operations within 45 days of being rated *unsatisfactory*.

In a notice of proposed rulemaking (NPRM) (62 FR 28826), also published on May 28, 1997, the FHWA proposed to modify the SFRM, incorporate it as Appendix B to Part 385, and use it in the process of deciding whether all motor carriers meet the safety fitness requirements.

The FHWA had been using an SFRM, comprised of six rating factors, since October 1, 1989, as the mechanism for calculating how well motor carriers adhere to 49 CFR 385.5, Safety fitness standard. In addition to making the detailed explanation of the SFRM publicly available since August 16, 1991, the FHWA issued notices seeking comments from the public in FHWA Docket Nos. MC–91–8 and MC–94–22.

In the first docket, the FHWA solicited public comment on an interim final rule (56 FR 40801) (August 16, 1991) implementing the provision of the MCSA of 1990 prohibiting a motor carrier with an *unsatisfactory* safety rating from operating CMVs to transport: (1) Hazardous materials in quantities for which vehicle placarding is required, or (2) more than 15 passengers including the driver. This prohibition becomes effective after 45 days have elapsed following receipt of an *unsatisfactory* safety rating issued by the FHWA. During the 45-day period, the motor carrier should take such action as may be necessary to improve its safety rating to *conditional* or *satisfactory* or be subject to the prohibition. Fourteen comments were received in response to the 1991 interim final rule, and those which provided information relevant to the May 28, 1997, NPRM were discussed in that document.

In the second docket, initiated by a notice published in the **Federal Register** on September 14, 1994 (59 FR 47203), the FHWA requested comments on changes made to the SFRM in 1993. Additional changes to the SFRM, which were to become effective on October 1, 1994, were also explained and comments were invited. These changes initiated the use of violations of the safety regulations designated as "acute" or "critical" to rate each of the five regulatory factors evaluated when performing a compliance review (CR) at a carrier's place of business.

The FHWA also solicited comments concerning: (1) The direction that future modifications to the SFRM should take, and (2) how best to disseminate information to the industry about new regulations and the FHWA programs that encourage "voluntary compliance."

The 17 comments received in response to the second docket were discussed in the May 28, 1997, NPRM to the extent they provided relevant information.

On April 29, 1996, the FHWA proposed to reorganize and revise its procedural rules, including those related to the assignment of ratings (61 FR 18866). Among the revisions proposed was a procedure for the issuance of a notice of proposed rating which provided a 45-day period within which a motor carrier could challenge a proposed rating before it became effective. The procedure also provided relief from an adverse rating to carriers that were willing to make credible, effective and verifiable commitments to improved management and performance.

Discussion of Comments

Thirty two comments were received in response to the May 28, 1997, interim final rule (62 FR 28807) and NPRM (62 FR 28826). Only a few of the 125 comments received in response to the April 29, 1996 NPRM on procedural rules addressed the notice of proposed rating provision.

Purpose of Safety Ratings

The Transportation Lawyers Association (TLA) suggested that the FHWA undertake a thorough evaluation of its entire program by first recognizing that the current rating system serves two purposes, information (i.e., the rating) and enforcement. It recommended the FHWA separate the rating from enforcement as it believes that combining them is unworkable.

The American Trucking Associations (ATA) stated that the current SFRM is based on the premise that a lack of "safety management controls" is indicative of an unsafe carrier, yet it does not believe the FHWA has demonstrated that a lack of compliance will cause a carrier to be unsafe.

The safety rating provides information, both to the rated carrier and anyone else inquiring about the rating, concerning the degree of adherence by the motor carrier to the Part 385 safety fitness standard. Enforcement is an aspect of the rating only in the sense that a motor carrier with an *unsatisfactory* rating is prohibited from transporting hazardous materials requiring placarding or 15 or more passengers including the driver. Congress, however, mandated this result by enacting the prohibition against transportation by such carriers in the MCSA of 1990. The FHWA, moreover, believes that sufficient data exists to conclude that motor carriers with inadequate safety management controls, i.e., less than *satisfactory* compliance with the safety fitness standard, are more likely to have higher accident rates. In addition, the FHWA has commissioned research by the Volpe National Transportation Systems Center, part of the Research and Special Programs Administration, to assess the performance of the CR program through the development of an Impact Assessment Model. Preliminary indications are that CR activity, due to its educational, safety awareness and sanction aspects, has substantial crash reduction benefits.

Accident Factor

The National Tank Truck Carriers (NTTC), Rocor Transportation (RT), Truckload Carriers Association (TCA), American Movers Conference (AMC), the ATA, Oregon Department of Transportation, Motor Carrier Transportation Branch (ODOT/MCTB), and Ryder System, Inc. (RS) supported the proposal to adopt a recordable accident rate for the accident factor of the SFRM. The Advocates for Highway and Auto Safety (AHAS) questioned the statement in the NPRM that "The data indicate that the vast majority of all accidents have been determined to be preventable."

Santee Carriers (SC) , Vertex Chemical Corporation (VC), and the Owner Operator Independent Drivers Association, Inc. (OOIDA) wanted to retain the recordable preventable accident criteria for the accident factor, as this would measure accidents within the carrier's control, and OOIDA would like the "preventability" determination made more objective. The TCA stated that the FHWA has yet to define the criteria to be used in determining preventability.

The Association of Waste Hazardous Materials Transporters (AWHMT), Distribution & LTL Carrier Association (DLCA), the VC, Petroleum Marketers Association of America (PMAA) and the ATA recommended determining accident rates on a multi-year basis. They believe a multi-year standard is more reflective of the average accident rate. The TCA and the NPTC recommended that there be a midpoint between accident rates of 1.6 and 2.1 to define an *unsatisfactory* rating in the accident factor for carriers with some specified significant portion, though not all, of their mileage in urban areas.

The TCA, the AMC, Agricultural Transporters Conference (ATC), California Highway Patrol (CHP) and the RS recommended adopting different accident rates for particular industry segments and types of operations. The PMAA believes that the proposed 2.1 accident rate is unfair for its short haul carriers because most of their mileage occurs in heavy traffic environments. A similar concern was expressed by the VC and the OOIDA.

The RI and the NPTC opposed removing the *conditional* level in the accident factor rating. The AHAS opposed a single tier rating for the accident factor as motor carriers not assigned an *unsatisfactory* factor rating could not be distinguished from unrated carriers. They also opposed continuation of the exception for carriers with less than 20 drivers (these carriers could not be rated less than *conditional* for the accident factor) as they believe some of these carriers could have very high accident rates.

The DLCA, the TCA, the AWMT, the VC, the NADA, the ATA, New Mexico Motor Carrier's Association (NMMCA), and the CHP wanted the FHWA to use only "at fault" accidents, those determined by law enforcement officers to be the fault of the CMV driver or those otherwise clearly attributable to the fault of the CMV driver or carrier, for rating the accident factor.

The NPTC, the ATA and the AHAS questioned whether doubling the national average is appropriate, as poor mileage information undermines accurate calculation of accident rates. The NPTC stated that the FHWA presented no statistical data for doubling the accident rate, and that a more appropriate reference would be the median accident rate.

The FHWA has carefully considered all of the comments and for the following reasons believes it is reasonable to use the recordable accident rate for evaluating the accident factor. The data from Fiscal Years 1994, 1995 and 1996 in Recordable Rate (RR) and Recordable Preventable Rate (RPR) is as follows: 1994: RR=.804; RPR=.553; 1995: RR=.724; RPR=.528; 1996: RR=.713; RPR=.503. The FHWA has increasingly focused CRs on carriers most likely to have accidents, thus, the rates for reviewed carriers are higher than the rates would be for all carriers subject to the Federal Motor Carrier Safety Regulations (FMCSRs). The recordable accident rates used were taken from all CRs performed in Fiscal Years 1994, 1995 and 1996, which addresses the concern that the average accident rate should be on a multi-year basis. The average recordable rate was .747, and the average recordable rate for carriers operating entirely within a 100 air mile radius was .839 per million miles. Recent analysis of accident rates for all carriers showed only small differences in rates by fleet size, and the differential between recordable and recordable preventable accidents was consistent by fleet size. The FHWA will rate the accident factor only when a carrier has two or more accidents in the 12 months prior to the CR. A single accident could easily place a small carrier, or a larger carrier operating very few miles, over the threshold for the *unsatisfactory* factor rating, which is not a reliable outcome. By using only the *unsatisfactory* rating the FHWA believes it is sending a message that any accident is unacceptable; however, only those carriers that are over the threshold will be identified in the factor rating. A motor carrier with an accident rate twice the average rate for all similarly situated carriers is most likely to have inadequate or improperly functioning safety management controls.

An urban carrier (a carrier operating entirely within the 100 air mile radius) with a recordable accident rate over 1.7 (approximately twice the 1994–96 average of .839) will receive an *unsatisfactory* factor rating. All other carriers with a recordable accident rate greater than 1.5 (approximately double the 1994–96 average of .747) will receive an *unsatisfactory* factor rating.

The FHWA stated in the NPRM, "If a driver, who exercises normal judgment and foresight could have foreseen the possibility of the accident that in fact occurred, and avoided it by taking steps within his/her control which would not have risked causing another kind of mishap, the accident was preventable." The FHWA reviewed the data relative to the statement in the NPRM that "the *vast* majority of all accidents have been determined to be preventable." The statement should have said simply that the *majority* of all accidents are preventable, as approximately two thirds of recordable accidents are preventable.

The SFRM is the means by which the FHWA calculates a motor carrier's adherence to the § 385.5 safety fitness standard. As it is a method and not an absolute criterion, the FHWA will continue to consider non-preventability of accidents when a motor carrier contests a rating by presenting compelling evidence that the recordable rate, as applied to its particular circumstances, is not a fair means of evaluating its accident factor. An example would be a motor carrier that had two recordable accidents in the 12 months prior to the CR and in both accidents its' CMVs were rear-ended when stopped for a signal light. The FHWA believes there will be relatively few instances where a motor carrier will be able to avail itself of the non-preventability defense to an adverse rating based on the accident factor. Retaining the non-preventability exception provides motor carriers the ability to present information that their accident factor should undergo a second-level evaluation. Adopting the 45-day notice of proposed rating procedure will allow for such second-level review in a meaningful manner.

The FHWA is continuing to evaluate the possibility of setting different accident-rate thresholds for different types of transportation, extending the urban carrier threshold to carriers that are not exclusively urban, and establishing a different threshold for an *unsatisfactory* accident factor rating for carriers with very few accidents, as opposed to those with many accidents. No such changes are included in this final rule, however.

The FHWA will continue to examine the accident data in the Motor Carrier Management Information System (MCMIS) as a means to evaluate all carriers' accident rates. This source of information is increasingly reliable. The states and their subdivisions have uploaded their accident data more timely and accurately with each year since the National Governors Association accident reporting system was inaugurated in 1992.

Objectivity of Ratings

The DLCA and the ATA argued that there is too much variance by regions in the rating process. Further, the ATA stated that CRs must be performed uniformly throughout the country, and the "findings of the CR must accurately reflect the overall safety posture of the motor carrier." It also commented that "the CR and rating processes should not be overly influenced by the attitude of individual investigators and the results should not be different depending on a motor carrier's geographical location."

The FHWA believes that, having modified the SFRM to rate motor carriers on the basis of actual violations of "acute" regulations and patterns of violations of "critical" regulations and to measure performance by recordable accidents and vehicle out-of-service (OOS) rates from roadside driver/vehicle inspections, the safety rating process has been made more objective. The regulations identified as "acute"

and "critical" enable the motor carriers with adequate safety management controls to direct their initial compliance efforts toward these regulations. There should not be a pattern, i.e., a 10 percent violation rate, of 'critical' regulations by motor carriers exercising due diligence in their efforts to comply with the regulations. The FHWA continues to work toward making the CR process as fair and as uniform as possible. The agency believes that an important aspect of national uniformity in the performance of CRs is the review of a relatively constant number of vehicles, drivers, and records which varies with the number of vehicles and drivers performing transportation for the carrier. The minimum number of vehicles, drivers, and records to review is derived from a sampling chart, which provides guidance to the individual performing the CR. It is relevant that motor carriers are required to comply with all applicable FMCSRs and Hazardous Materials Regulations (HMRs). Thus, to perform a CR based on a random sample of a carrier's drivers, vehicles and records would be counter-productive in determining if the carrier was complying with regulatory requirements and meeting the Safety fitness standard in § 385.5.

"Acute" and "Critical" Regulations

The AHAS and the AWHMT believe that the FHWA has not explained why regulations are categorized as "acute" or "critical." The AWHMT questioned the designation of certain regulations as "critical" and argued that they should be "acute" regulations. The AWHMT also wanted to know the FHWA's rationale for the "10 percent threshold when assessing points to carriers for a pattern of violations of a "critical" regulation," and also asked what is meant by "large numbers" concerning the pattern of violations when "critical" regulations were discussed. The AHAS is concerned with FHWA's comment that "even a carrier with effective safety management controls will likely violate some of the 'critical' regulations." The AHAS also wanted violations of "acute" regulations to be cited even when the motor carrier did not have knowledge or could not reasonably be expected to have knowledge of the violation.

The FHWA has categorized certain regulations as "acute" or "critical" based on the experience of the Federal field staff and State enforcement officials. As the terms imply, such regulations have a potential or actual impact on operational safety, and a carrier's compliance with them is a direct indication of its ability effectively to manage the complex operations needed to make it a responsible user of the public highways. The FHWA believes that even motor carriers with effective safety management controls may incur some violations of "critical" regulations, notwithstanding systematic review of their compliance with the regulations. This is so because of the necessity for remote and often post hoc monitoring by a safety manager. A motor carrier that reviews drivers records of duty status (RODS) and discovers three instances out of 100 RODS reviewed where drivers exceeded the 10-hour driving limitation in § 395.3(a)(1), may take appropriate actions to discipline the drivers, but the violations have still occurred. The carrier is not in total compliance, but the 97 instances where compliance was found indicates the carrier's safety management controls are effective. A violation rate over the "10 percent threshold" is used as an indication that a pattern of noncompliance is detectable and tolerated.

The FHWA has reviewed the reference in the SFRM to "large numbers of documents" found in (62 FR 28832). The agency was attempting to convey the principle that a pattern of violations is more than an isolated instance of noncompliance. There was no intent to imply a specific number of documents. To clarify its intent the sentence now reads: "When a number of documents are reviewed, the number of violations required to meet a pattern is equal to at least 10 percent of those examined." The preceding sentence remains "A pattern is more than one violation." Concerning the AHAS recommendation that the FHWA should cite the carrier for all violations of "acute " regulations, the FHWA believes its proposed policy was and is correct. Violations of "acute" regulations will not be cited on the CR or used in the SFRM if, under the circumstances, the carrier did not know, and could not reasonably be expected to have known, of a violation that the driver deliberately concealed from the carrier. Because of the nature of "acute" regulations, however, such omissions are expected to be rare.

Vehicle Factor

The AWHMT wanted to know if the FHWA plans to adjust the 34 percent OOS rate for the vehicle factor. The NTTC, the TCA and the AMC recommended that the FHWA consider not assigning any weight to OOS violations in the vehicle factor until the NTTC's petition to incorporate into the FMCSRs the current OOS criteria published by the Commercial Vehicle Safety Alliance and maintained in concert with the FHWA, is finally disposed of. One association noted that good roadside inspections are often not documented. Rocor Transportation found the current criteria for the vehicle factor acceptable.

The FHWA will continue to rate the vehicle factor as proposed in the NPRM as it believes this is an appropriately objective way to evaluate the carrier's performance. Whether the OOS criteria should be incorporated into the FMCSRs is an issue unrelated to the validity of those criteria as a measure of vehicle safety. The OOS criteria are essentially enforcement tolerances, as § 396.3(a)(1) requires that parts and accessories be in safe and proper operating condition at all times.

The 34 percent OOS rate is the first indicator in evaluating the vehicle factor when a motor carrier has three or more roadside inspections in the 12 months prior to the review, or three vehicles inspected at the time of the CR, or a combination of the two. If the OOS rate is 34 percent or greater, the initial factor rating is conditional. The reason for the three inspections is that the agency wanted the vehicle OOS rates to be an aspect of the factor rating for as many carriers as possible, but did not want one OOS vehicle inspection to impact the factor rating. The vehicle OOS rate for Level I (full) inspections has been between 27.9 percent and 36.2 percent for the last five fiscal years. Generally, roadside inspections are not random. Vehicles that appear to have defects are sometimes selected from the traffic stream at scales, or vehicles of carriers that have no or few inspections in the MCMIS are selected for inspection. Therefore, the average OOS rate based on selected sampling is approximately one-third of the vehicles inspected. The FHWA believes setting the rate at 34 per cent for the initial factor rating of conditional is appropriate, as a carrier with only one vehicle out of three inspected placed OOS will not have the factor rating affected. The FHWA is aware that some vehicles receive a cursory inspection at a scale facility, which does not produce an inspection report when no defects are discovered. The FHWA will consider adjusting the 34 percent first indicator should there be a significant change in the Level I vehicle OOS rate.

The second indicator in the vehicle factor is the compliance with the Part 396 regulatory requirements. If noncompliance with an "acute" regulation or a pattern of noncompliance with a "critical" regulation is discovered, the initial conditional factor rating will be lowered to unsatisfactory.

For carriers with fewer than three inspections in the 12 months prior to the CR, or three vehicles inspected at the time of the review, or a combination of the two totaling three, the vehicle factor will be evaluated on the basis of compliance with "acute" and "critical" regulations. This is the same method for evaluating the other regulatory factors.

Selection of Records for Review

A number of the commenters reiterated that the FHWA should sample records randomly for safety rating purposes, although they agreed that targeted selection of records is appropriate for enforcement purposes. They cited studies of the way the FHWA selects records for CRs, and concluded that the selection method "does not yield a representative picture of the state of the carrier's safety record." They suggest that for rating purposes the information should be generated by a review in which motor carrier records would be examined on a purely random basis, according to generally accepted statistical practices, in order to present a fair picture of the carrier's safety compliance in a broad context. One commenter believes this will remove some of the alleged subjectivity from the current system. Another commenter suggests the FHWA go beyond a random sample requirement for CRs and give the carrier the option of substituting a 100 percent universal sample, probably in the form of electronic records.

One commenter quoted a recent memorandum from OMC's Office of Field Operations to the Regional Directors which indicates that "all references to the 'International Standard of Sampling' have been removed from the *Field Operations Manual*." The commenter's concern was that this action "is inconsistent with both the interim final rule and the notice of proposed rulemaking," which indicated that the FHWA currently uses and proposes this standard.

The International Brotherhood of Teamsters (IBT) noted that the May 28,1997, NPRM did address the sampling issues, and it found the reasons supporting the current sampling methodology persuasive. The IBT also stated that the proper objective is to focus scarce enforcement resources where the problems are most likely to occur.

The FHWA has carefully considered these comments and believes it is in the best interest of public safety to continue to focus its limited resources on drivers and vehicles most likely to be in violation of the regulations. The overall safety posture of the motor carrier is not being measured during the CR, rather the "adequacy of the carrier's safety management controls" is being assessed pursuant to § 385.5. The references to the International Standard of Sampling have been removed from the *Field Operations Training Manual*, as the FHWA is making it very clear that the sampling chart, which has not been changed, is intended only for purposes of determining the minimum number of records to be reviewed, depending on the size of the carrier. The agency does not want to give the false impression that full-scale random sampling procedures are being used. Motor carriers are equally able to use the same indicators the FHWA uses when the carriers are monitoring the performance of their drivers and vehicles to assure compliance with the FMCSRs and HMRs. It is important to note that a *satisfactory* safety rating is only a passing grade and that full compliance with all of the safety regulations should be the objective of every carrier and every driver. It is also the best way to avoid a rating with adverse consequences to the carrier's operations.

Opportunity To Challenge a Rating

A registered practitioner and regulatory analyst recommended that there should be a procedure to enable a motor carrier that challenges a safety rating to obtain a stay of the effectiveness of that rating until the challenge has been heard and decided. The TLA recommended that the carrier have a means of correcting inaccurate information before the safety rating is issued. These recommendations are consistent with proposals made in response to the April 29,1996, NPRM to amend the FHWA's rules of practice for motor carrier proceedings. The NPRM proposed that motor carriers receive a "Notice of Proposed Rating" before a safety rating was issued (61 FR 18866,18884). The comments overwhelmingly supported that proposal.

One State enforcement agency argued that, "in the interest of the traveling public," the 45-day grace period for passenger and hazardous material carriers that receive an *unsatisfactory* safety rating should be waived and the rating should become effective immediately. The MCSA of 1990 requires that motor carriers be afforded 45 days after receipt of an *unsatisfactory* safety rating before the prohibition against transportation becomes effective. The National Automobile Dealers Association (NADA) was satisfied that carriers are afforded reasonable due process. The AHAS strenuously opposed the suppression of the rating results during the 45-day challenge period, which, of course, would defeat the purpose of the provision, i.e., to afford the opportunity to be heard before a potentially damaging judgment is rendered.

The FHWA has considered these comments and is amending § 385.11, Notification of a safety rating, to incorporate a notice-of-rating procedure for all less than satisfactory ratings. A proposed safety rating of unsatisfactory or conditional will become the final rating 45 days after the date the notice of proposed safety rating is received by the motor carrier, unless the carrier petitions for a review and the petition is granted. The proposed-rating procedure parallels the requirement in the MCSA of 1990 that a motor carrier receiving an unsatisfactory safety rating be given 45 days to improve its rating before the ban on the transportation of hazardous materials and passengers takes effect. It eliminates a distinction between carriers based on type of operation by giving advance notice of the proposed adverse rating in all cases. This will afford all carriers the opportunity to be heard during that period before consequences attach. This provision was published for notice and comment on April 29, 1996 (61 FR 18866, 18884) and was welcomed by virtually all of those who commented on it. Under the circumstances, the agency believes that a supplemental notice of proposed rulemaking to republish the proposal under this docket would be superfluous and is therefore unnecessary under the Administrative Procedure Act.

As a result of amending § 385.11, related sections in Part 385 were also revised to incorporate those changes.

Point Assessment for Violations of "Acute" and "Critical" Regulations

One commenter wanted all of the factor 3 (Hours of Service) "critical" regulations to be aggregated to meet the 10 percent pattern definition when violations are discovered. For example, violations of the 10-hour rule and the 70-hour rule would be treated as part of the same pattern. Another commenter agreed with the higher weighting of patterns of factor 3 "critical" regulations. Another commenter stated that the motor carrier should not be penalized for willful hours of service violations by its drivers.

A number of commenters argued that patterns of violations of "critical" hours of service regulations should not be assessed two points, as they did not believe existing research establishes a causal relationship between those

violations and accidents. Another commenter stated that the current policy of two points for hours of service violations is one of "absolute liability for hours of service violations" and is irrational.

The ODOT/MCTB stated that although "recent studies indicate time of day and the amount and quality of rest may be more critical factors than driving hours, and we are still obligated to enforce the current regulation to ensure an optimum level of performance." The commenter does not believe that doubling the points for factor 3 is appropriate unless there is a violation of cumulative on-duty time and falsification of records for the purpose of concealing excessive on-duty time. The ATA noted that several fatigue related studies which were placed in the docket as supplemental information, show that there is no simple way to measure fatigue. This is further evidence, the ATA wrote, that the connection between hours of service violations, fatigue and accidents is extremely complex and not fully understood. Thus, the ATA believes it would be inappropriate to give twice the weight to hours of service violations. The IBT agreed with the FHWA's proposal to retain a higher weighting factor for violations of Part 395 "critical" regulations.

After careful consideration of the comments, the FHWA remains convinced that the current regulations do have an impact in preventing the risks of driver fatigue and that they must be enforced until new regulations are developed. There have not been any studies that have discounted time on task as a significant contributor to fatigue. The observations of the ODOT/MCTB and the ATA about the complexity of the connection between hours of service violations, fatigue, and accidents, do not provide a rational basis for rulemaking changes. Moreover, there are no "acute" regulations in Part 395 (Hours of Service). Thus, to have a rating of less than satisfactory in factor 3, a motor carrier must have demonstrated a pattern of noncompliance with a "critical" regulation. The FHWA believes that motor carriers with effective safety management controls should be able to maintain a noncompliance rate of less than 10 percent for any of the Part 395 "critical" regulations. Therefore, until the ongoing rulemaking efforts to better regulate fatigue are concluded, the FHWA believes it is important to continue to assign two points for a pattern of violations of a Part 395 "critical" regulation.

Rating Factors

One commenter suggested that the accident factor have more weight than the other factors. Another commenter believes that until research is conclusive that one factor has a more significant impact on safety compared to the others, equal weight should be given to each factor. This difference in the commenters' responses is indicative of the problem the FHWA faces. While an accident is unquestionably a more serious event than any particular regulatory violation, there is good reason to believe that regulatory violations are causally related to accidents. The 1988 workgroup which developed the six factors in the SFRM was unable to determine that any of the six factors was more important to safety fitness than any other, and each factor was therefore given equal weight. (Although the Operations factor includes a double-weighting of patterns of violations of Part 395 "critical" regulations, a pattern requires that at least ten percent of the records of duty reviewed be in violation. During virtually all CRs a minimum of at least one hundred fifty RODS are reviewed for compliance with Part 395 "critical" regulations. Carriers with adequate safety management controls will be able to keep the rate of noncompliance under ten percent for any of these "critical" regulations. The only regulatory control on fatigue is the current hours of service requirements. The fact that a "pattern" of violations cannot occur unless at least ten percent of the RODS checked fail to comply with the regulations; that Part 395 includes no "acute" regulations; and that at least 150 RODS are typically reviewed, virtually eliminating the possibility of statistical accidents—all of these tend to balance the double weighting of patterns of violations of Part 395, resulting in a factor with roughly the same weight as any other. In the absence of clear evidence that one or more of the rating factors has a greater impact on safety or is a better index of the carrier's safety management controls, the FHWA has concluded that it must continue to place equal weight on each of the factors.

Safety Profiles

A number of the commenters were concerned about the accuracy of the information in the carrier profiles. Two commenters wanted the carrier to be presented in advance of the CR with "a record of violations upon which an auditor intends to rely, so that the carrier has an opportunity to protect and defend its record and identify any inaccuracies before its safety performance is judged." They also were concerned about the timeliness of the data and wanted stale violations removed from the carrier's record. Two commenters suggested that carriers be provided a continuing opportunity to challenge the accuracy of the entries in their carrier profiles, and a process to correct the profiles when errors are discovered. They stated that it is "virtually impossible to get a profile corrected under the current system."

Motor carriers have access to their carrier profiles in the MCMIS, thus, there is little justification for presenting motor carriers in advance of the CR with the information in their carrier profile. The FHWA has consistently recommended that when errors from a State source are discovered in a motor carrier's safety profile, they should be brought to the attention of the State that performed the inspection or entered invalid or incorrect information into Safetynet. The FHWA is aware of only several instances where a State, when apprised of an error by a motor carrier, was unable or unwilling to correct the error. If motor carriers are unable to resolve the discrepancy with the State, they should contact the OMC Office of Motor Carrier Information Analysis (telephone (202) 366–4039). This office will work with the State, or if appropriate, correct the error in the safety profile on its own initiative. The FHWA continues to work with its State partners to improve the quality of the data in motor carrier safety profiles.

Implementation of Proposed SFRM

A number of the commenters opposed the implementation of the proposed SFRM, which they viewed as a ministerial task to comply with the findings of the Court in the *MST Express case*. Several of these commenters referred to the June 18, 1997, Motor Carrier Safety Audit and Rating Forum sponsored by the ATA, which they stated was held to build a consensus on the future of the safety rating process. It concluded that the current system must be replaced with a fairer, more uniform performance-based system.

The ATA wanted the "new era" concept of safety performance to be based less on regulatory compliance and more on "performance measurements," e.g., accident rates, driver and vehicle OOS rates, driver traffic convictions, and violations of OOS orders. Other commenters agreed.

The ODOT/MCTB commented that, "as proposed, the MCSFR [motor carrier safety fitness rating] methodology represents the best collection of safety information for a motor carrier currently available." It stated that "the fact that only 'acute' and 'critical' regulations affect the safety rating adds further credibility to the safety rating process. It is Oregon's opinion that the dreaded 'paper work' violations are not included in either the 'acute' or 'critical' regulations." The IBT also recommended that the FHWA adopt the SFRM as proposed.

The FHWA believes that the proposed SFRM establishes a fair and reasonable procedure to decide the safety fitness of owners and operators of CMVs. It also meets the statutory mandate (49 U.S.C. 31144) because it includes:

(a) specific, initial and continuing requirements to be met by the owners, operators, and other persons to prove safety fitness;

(b) a means of deciding whether the owners, operators, and other persons meet the safety fitness requirements in (a); and

(c) specific time deadlines for action by the FHWA in making fitness determinations.

Miscellaneous

Several sections in Part 385 are amended to correct previous technical errors. The definition of "Safety review" in § 385.3 is removed since Safety Reviews were discontinued as of October 1, 1994. The definitions of *Conditional safety rating* and *Unsatisfactory safety rating* in § 385.3 are revised to include references to § 385.5 (i) through (k), dealing with hazardous materials and accidents. These subsections were inadvertently omitted when the final rule was published on December 19, 1988 (53 FR 50961). Section 385.9 is revised to include a subsection (b) to meet the requirement in 49 U.S.C. 31144(a)(1)(C) that there be specific time deadlines for action by the Secretary in making fitness decisions.

Section 385.17 is revised in a number of ways. The FHWA published a proposed revision of § 385.17 for notice and comment under FHWA Docket No. MC–96–18 on April 29, 1996 (61 FR 18866, 18884), where it was designated as § 362.107. In addition to explaining more clearly the process to request a safety rating change based on corrective actions taken, that provision would have given carriers whose request was denied new rights to administrative review. Commenters favored this change almost unanimously. In order to make these rights available to motor carriers as soon as possible, the proposed provision designated as § 362.107 in the April 29 NPRM has been incorporated into this final rule, with minor changes, as § 385.17. Many parties concerned about the safety rating system submitted comments in response to the April 29, 1996, NPRM and the May 28, 1997, NPRM that opened this docket. Because the amended version of § 385.17 has already been published for notice and comment, though under a different docket and with a different section number, the FHWA finds good cause (pursuant to 5 U.S.C. 553(b)(B)) to adopt § 385.17, and the related amendments to §§ 385.11, and 385.15, which were also published in the April 29 NPRM, without re-publishing them under this docket as a Supplemental NPRM.

The current appendix to Part 385 is redesignated as appendix A. The Explanation of Safety Rating Process is added as appendix B. Changes to appendix B from the appendix in the NPRM are a result of using several years accident rates instead of one year for the accident rates in the accident rating factor, and editorial changes for clarity. Appendix B is further changed by substituting "proposed rating" for "anticipated rating", to conform with the procedure in § 385.11(b).

Rulemaking Analyses and Notices

For the reasons given below, the FHWA finds good cause to make this final rule effective less than 30 days after the date of publication. The interim final rule adopting a Safety Fitness Rating Methodology (SFRM) was promulgated on May 28, 1997 (62 FR 22807), and will expire on November 28, 1997. That rule allows the FHWA to assign safety ratings to motor carriers which use CMVs to transport 15 or more passengers, including the driver, or hazardous materials in quantities that require placarding under DOT regulations. The final rule published today does not change the existing motor carrier safety requirements or impose new obligations on motor carriers. It merely sets forth an SFRM the FHWA will use to evaluate motor carriers' compliance with the standards and factors specified in 49 C.F.R. 385.5 and 385.7. Furthermore, it gives carriers 45 days after notification of a proposed *conditional* or *unsatisfactory* rating before the rating takes effect. During that time, motor carriers will have an opportunity to correct deficiencies in their compliance with Part 385 or to point out to the agency any material factual issues in dispute. No such grace period is available under the current interim final rule. Carriers rated less than *satisfactory* under the SFRM will therefore have at least 45 days after the effective date of this rule before the rating takes effect. In view of these facts, and because the demands of public safety and a specific statutory mandate (49 U.S.C. 5113) require the agency to continue rating passenger and hazardous materials carriers without interruption, the FHWA hereby finds good cause pursuant to 5 U.S.C. 553(d)(3) to make this rule effective on November 28, 1997.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866. No serious inconsistency or interference with another agency's actions or plans is likely to result, and it is unlikely that this regulatory action will have an annual effect on the economy of $100 million or more. This final rule is administrative in nature in that it neither imposes new requirements upon the motor carrier industry nor alters the August 16, 1991, interim final rule implementing the provisions of 49 U.S.C. 5113. The FHWA does not anticipate any new economic impacts as a result of this rulemaking. This rule would not impose any costs on motor carriers in addition to those assessed in the Regulatory Evaluation and Regulatory Flexibility Analysis prepared in support of the 1988 final rule. (The 1991 interim final amended the 1988 rule in ways that the FHWA believes had minimal economic impact on motor carriers.)

The existing rating factors are used to evaluate the degree to which the motor carrier complies with the regulations and add no costs because the carrier is already required to comply. Compliance with regulations, however, is only a surrogate for actual safety performance. The addition of the accident factor introduces a direct measure of performance into the equation. In 1988, this factor was not considered as having a cost consequence because the effect of a negative rating resulting from substantially higher accidents than the norm would be virtually identical to the impact on the carrier's business that would flow from public knowledge of its poor safety performance.

The impact resulting from a negative rating generally relates to knowledge of the rating by shipper or insurer. If those same entities know of the unusually high accident rate, the FHWA believes the consequences would or should be approximately the same.

Considering all recordable accidents instead of only preventable recordable accidents will have the same sort of impact. Nevertheless, the FHWA believes that this is a significant regulatory action within the meaning of the Department of Transportation's

regulatory policies and procedures because there is significant public interest in this action.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FHWA has evaluated the effects of this rule on small entities and has determined that it will not have a significant economic impact on a substantial number of small entities. The motor carriers economically impacted by this rulemaking will be those who are rated as *unsatisfactory* and fail to take appropriate actions to have their rating upgraded. In the past, relatively few small motor carriers had been affected by the statutory consequences of an *unsatisfactory*, and there is no reason to believe that those impacts will increase in any way by this action.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this rulemaking does not have sufficient Federalism implications to warrant the preparation of a Federalism assessment. These safety requirements do not directly preempt any State law or regulation, and no additional costs or burdens would be imposed on the States as a result of this action.

Furthermore, the State's ability to discharge traditional State governmental functions would not be affected by this rulemaking.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

This action does not contain a collection of information requirement for the purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

National Environmental Policy Act

The agency has analyzed this rulemaking for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) and has determined that this action would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 385

Highway safety, Highways and roads, Motor carriers, Motor vehicle safety, and Safety fitness procedures.

Issued on: October 31, 1997.

Gloria Jeff,

Acting Administrator.

In consideration of the foregoing, the FHWA is amending title 49, Code of Federal Regulations, Chapter III, Part 385 as set forth below:

PART 385—SAFETY FITNESS PROCEDURES

1. The authority citation for part 385 continues to read as follows:

Authority: 49 U.S.C. 104, 504, 521(b)(5)(A), 5113, 31136, 31144, and 31502; 49 CFR 1.48.

2. In § 385.3, under the definition "reviews", remove and reserve paragraph (2) "safety review"; and under the definition "safety ratings", revise paragraphs (2) "conditional safety rating" and (3) "unsatisfactory safety rating" to read as follows:

§ 385.3 Definitions.

* * * * *

Reviews. * * *

(1) * * *

(2) [Reserved]

(3) * * *

Safety ratings: (1) * * *

(2) *Conditional safety rating* means a motor carrier does not have adequate safety management controls in place to ensure compliance with the safety fitness standard that could result in occurrences listed in § 385.5 (a) through (k).

(3) *Unsatisfactory safety rating* means a motor carrier does not have adequate safety management controls in place to ensure compliance with the safety fitness standard which has resulted in occurrences listed in § 385.5 (a) through (k).

* * * * *

3. Section 385.9 is revised to read as follows:

§ 385.9 Determination of a safety rating.

(a) Following a compliance review of a motor carrier operation, the FHWA, using the factors prescribed in § 385.7 as computed under the Safety Fitness Rating Methodology set forth in appendix B of this part, shall determine whether the present operations of the motor carrier are consistent with the safety fitness standard set forth in § 385.5, and assign a safety rating accordingly.

(b) Unless otherwise specifically provided in this part, a safety rating will be issued to a motor carrier within 30 days following the completion of a compliance review.

4. Section 385.11 is revised to read as follows:

§ 385.11 Notification of a safety rating.

(a) Except as provided elsewhere in this section, written notification of the safety rating will be provided to a motor carrier as soon as practicable after assignment of the rating, but not later than 30 days after the review that produced the rating.

(b) Before a safety rating of *unsatisfactory* or *conditional*, is assigned to any motor carrier, the FHWA will issue a notice of proposed safety rating. The notice of proposed safety rating will list the deficiencies discovered during the review of the motor carrier's operations, for which corrective actions must be taken. A proposed *conditional* safety rating (which is an improvement of an existing *unsatisfactory* safety rating) becomes effective as soon as it issued from Washington, D.C., and the carrier may also avail itself of relief under the § 385.15, Administrative Review and § 385.17, Change to safety rating based on corrective actions.

(c) A notice of a proposed safety rating of *unsatisfactory* will indicate that, if the *unsatisfactory* rating becomes final, the motor carrier will be subject to the provisions of § 385.13, which prohibit motor carriers rated *unsatisfactory* from transporting hazardous materials or passengers, and other consequences that may result from such rating.

(d) Except as provided in § 385.17, a proposed safety rating issued pursuant to paragraph (b) of this section will become the motor carrier's final safety rating 45 days after the date the notice of proposed safety rating is received by the motor carrier.

5. Section 385.13 is revised to read as follows:

§ 385.13 Unsatisfactory rated motor carriers—prohibition on transportation of hazardous materials and passengers; ineligibility for Federal contracts.

(a) A motor carrier rated *unsatisfactory* is prohibited from operating a commercial motor vehicle to transport—

(1) Hazardous materials for which vehicle placarding is required pursuant to part 172 of chapter 1 of this title; or

(2) More than 15 passengers, including the driver.

(b) A motor carrier subject to the provisions of paragraph (a) of this section is ineligible to contract or subcontract with any Federal agency for transportation of the property or passengers referred to in paragraphs (a)(1) and (a)(2) of this section.

(c) *Penalties.* When a carrier subject to the prohibitions in paragraph (a) of this section is known to transport the property or passengers referred to therein, an order will be issued placing those operations out of service. Any motor carrier that operates commercial motor vehicles in violation of this section will be subject to the penalty provisions listed in part 386 of this chapter.

6. Section 385.15 is revised to read as follows:

§ 385.15 Administrative review.

(a) Within the 45 day notice period provided in § 385.11(d), or within 45 days after denial of a request for a change in rating as provided in § 385.17(g), the motor carrier may petition the FHWA for administrative review of a proposed or final safety rating by submitting a written request to the Director, Office of Motor Carrier Field Operations, 400 Seventh Street, SW., Washington DC 20590.

(b) The petition must state why the proposed safety rating is believed to be in error and list all factual and procedural issues in dispute. The petition may be accompanied by any information or documents the motor carrier is relying upon as the basis for its petition.

(c) The Director, Office of Motor Carrier Field Operations, may request the petitioner to submit additional data and attend a conference to discuss the safety rating. Failure to provide the information requested or attend the conference may result in dismissal of the petition.

(d) The petitioner shall be notified in writing of the decision on administrative review. The notification will occur within 30 days after receipt of a petition from a hazardous materials or passenger motor carrier.

(e) If the decision on administrative review results in a final rating of *unsatisfactory* for a hazardous materials or passenger motor carrier, the decision shall be accompanied by an appropriate out-of-service order.

(f) All other decisions on administrative review of ratings constitute final agency action. Thereafter, improvement in the rating may be obtained under § 385.17 of this part.

7. Section 385.17 is revised to read as follows:

§ 385.17 Change to safety rating based on corrective actions.

(a) Within the 45-day period specified in § 385.11(d), or at any time after a rating has become final, a motor carrier may request a change to a proposed or final safety rating based on evidence that corrective actions have been taken and that its operations currently meet the safety standard and factors specified in § 385.9.

(b) A request for a change must be made, in writing, to the Regional Director, Office of Motor Carriers, for the FHWA Region in which the carrier maintains its principal place of business, and must include a written description of corrective actions taken and other documentation that may be relied upon as a basis for the requested change to the proposed rating.

(c) The final determination on the request for change will be based upon the documentation submitted and any additional investigation deemed necessary.

(d) The filing of a request for change to a proposed rating under this section does not stay the 45-day period established in § 385.11(d), after which a proposed safety rating becomes final. If the motor carrier has submitted evidence that corrective actions have been taken pursuant to this section and a final determination cannot be made within the 45-day period, the period before the proposed safety rating becomes effective may be extended for up to 10 days at the discretion of the Regional Director.

(e) If it is determined that the motor carrier has taken the corrective actions required and that its operations currently meet the safety standard and factors specified in § 385.9, the motor carrier will be provided with written notification that the proposed rating will not be assigned, or, if already assigned, rescinded.

(f) If it is determined that the motor carrier has not taken all the corrective actions required or that its operations still fail to meet the safety standards and factors specified in § § 385.5 and 385.7, the motor carrier shall be provided with written notification that its request has been denied and that the proposed safety rating will become final pursuant to § 385.11(d), or that a safety rating currently in effect will not be changed.

(g) Any motor carrier whose request for change is denied pursuant to paragraph (f) of this section may petition for administrative review pursuant to § 385.15 within 45 days of the denial of the request for rating change. If the proposed rating has become final, it shall remain in effect during the period of any administrative review unless stayed by the reviewing official.

8. Section 385.19 is revised to read as follows:

§ 385.19 Safety fitness information.

(a) Final ratings will be made available to other Federal and State agencies in writing, telephonically or by remote computer access.

(b) The final safety rating assigned to a motor carrier will be made available to the public upon request. Any person requesting the assigned rating of a motor carrier shall provide the FHWA with the motor carrier's name, principal office address, and, if known, the DOT number or the ICC docket number, if any.

(c) Requests shall be addressed to the Office of Motor Carrier Information Management and Analysis, HIA–1, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590.

(d) Oral requests by telephone to (800) 832–5660 will be given an oral response.

9. Part 385 is amended by revising appendix B to read as follows:

Appendix B TO Part 385—Explanation of Safety Rating Process

(a) Section 215 of the Motor Carrier Safety Act of 1984 (49 U.S.C. 31144) directed the Secretary of Transportation to establish a procedure to determine the safety fitness of owners and operators of commercial motor vehicles operating in interstate or foreign commerce. The Secretary, in turn, delegated this responsibility to the Federal Highway Administration (FHWA).

(b) As directed, FHWA promulgated a safety fitness regulation, entitled "Safety Fitness Procedures," which established a procedure to determine the safety fitness of motor carriers through the assignment of safety ratings and established a "safety fitness standard" which a motor carrier must meet to obtain a *satisfactory* safety rating.

(c) To meet the safety fitness standard, a motor carrier must demonstrate to the FHWA that it has adequate safety management controls in place which function effectively to ensure acceptable compliance with the applicable safety requirements. A "safety fitness rating methodology" (SFRM) was developed by the FHWA, which uses data from compliance reviews (CRs) and roadside inspections to rate motor carriers.

(d) The safety rating process developed by FHWA's Office of Motor Carriers is used to:

1. Evaluate safety fitness and assign one of three safety ratings (*satisfactory*, *conditional* or *unsatisfactory*) to motor carriers operating in interstate commerce. This process conforms to 49 CFR 385.5, Safety fitness

standard, and § 385.7, Factors to be considered in determining a safety rating.

2. Identify motor carriers needing improvement in their compliance with the Federal Motor Carrier Safety Regulations (FMCSRs) and applicable Hazardous Material Regulations (HMRs). These are carriers rated *unsatisfactory* or *conditional*.

I. Source of Data for Rating Methodology

(a) The FHWA's rating process is built upon the operational tool known as the CR. This tool was developed to assist Federal and State safety specialists in gathering pertinent motor carrier compliance and accident information.

(b) The CR is an in-depth examination of a motor carrier's operations and is used (1) to rate unrated motor carriers, (2) to conduct a follow-up investigation on motor carriers rated *unsatisfactory* or *conditional* as a result of a previous review, (3) to investigate complaints, or (4) in response to a request by a motor carrier to reevaluate its safety rating. Documents such as those contained in driver qualification files, records of duty status, vehicle maintenance records, and other records are thoroughly examined for compliance with the FMCSRs and HMRs. Violations are cited on the CR document. Performance-based information, when available, is utilized to evaluate the carrier's compliance with the vehicle regulations. Recordable accident information is also collected.

II. Converting CR Information Into a Safety Rating

(a) The FHWA gathers information through an in-depth examination of the motor carrier's compliance with identified "acute" or "critical" regulations of the FMCSRs and HMRs.

(b) Acute regulations are those identified as such where noncompliance is so severe as to require immediate corrective actions by a motor carrier regardless of the overall safety posture of the motor carrier. An example of an acute regulation is § 383.37(b), allowing, requiring, permitting, or authorizing an employee with more than one Commercial Driver's License (CDL) to operate a commercial motor vehicle. Noncompliance with § 383.37(b) is usually discovered when the motor carrier's driver qualification file reflects that the motor carrier had knowledge of a driver with more than one CDL, and still permitted the driver to operate a commercial motor vehicle. If the motor carrier did not have such knowledge or could not reasonably be expected to have such knowledge, then a violation would not be cited.

(c) Critical regulations are those identified as such where noncompliance relates to management and/or operational controls. These are indicative of breakdowns in a carrier's management controls. An example of a critical regulation is § 395.3(a)(1), requiring or permitting a driver to drive more than 10 hours.

(d) The list of the acute and critical regulations which are used in determining safety ratings is included at the end of this document.

(e) Noncompliance with acute regulations and patterns of non-compliance with critical regulations are quantitatively linked to inadequate safety management controls and usually higher than average accident rates. The FHWA has used noncompliance with acute regulations and patterns of noncompliance with critical regulations since 1989 to determine motor carriers' adherence to the Safety fitness standard in § 385.5.

(f) The regulatory factors, evaluated on the basis of the adequacy of the carrier's safety management controls, are (1) Parts 387 and 390; (2) Parts 382, 383 and 391; (3) Parts 392 and 395; (4) Parts 393 and 396 when there are less than three vehicle inspections in the last 12 months to evaluate; and (5) Parts 397, 171, 177 and 180.

(g) For each instance of noncompliance with an acute regulation or each pattern of noncompliance with a critical regulation during the CR, one point will be assessed. A pattern is more than one violation. When a number of documents are reviewed, the number of violations required to meet a pattern is equal to at least 10 percent of those examined.

(h) However, each pattern of noncompliance with a critical regulation relative to Part 395, Hours of Service of Drivers, will be assessed two points.

A. Vehicle Factor

(a) When a total of *three or more inspections are recorded in the Motor Carrier Management Information System (MCMIS) during the twelve months prior to the CR or performed at the time of the review*, the Vehicle Factor (Parts 393 and 396) will be evaluated on the basis of the Out-of-Service (OOS) rates and noncompliance with acute regulations and/or a pattern of noncompliance with critical regulations. The results of the review of the OOS rate will affect the Vehicle Factor rating as follows:

1. If a motor carrier has three or more roadside vehicle inspections in the twelve months prior to the carrier review, or three vehicles inspected at the time of the review, or a combination of the two totaling three or more, and the vehicle OOS rate is 34 percent or greater, the initial factor rating will be *conditional*. The requirements of Part 396, Inspection, Repair, and Maintenance, will be examined during each review. The results of the examination could lower the factor rating to *unsatisfactory* if noncompliance with an acute regulation or a pattern of noncompliance with a critical regulation is discovered. If the examination of the Part 396 requirements reveals no such problems with the systems the motor carrier is required to maintain for compliance, the Vehicle Factor remains *conditional*.

2. If a carrier's vehicle OOS rate is less than percent, the initial factor rating will be *satisfactory*. If noncompliance with an acute regulation or a pattern of noncompliance with a critical regulation is discovered during the examination of Part 396 requirements, the factor rating will be lowered to *conditional*. If the examination of Part 396 requirements discovers no such problems with the systems the motor carrier is required to maintain for compliance, the Vehicle Factor remains *satisfactory*.

(b) Nearly two million vehicle inspections occur on the roadside each year. This vehicle inspection information is retained in the MCMIS and is integral to evaluating motor carriers' ability to successfully maintain their vehicles, thus preventing them from being placed OOS during roadside inspections. Since many of the roadside inspections are targeted to visibly defective vehicles and since there are a limited number of inspections for many motor carriers, the use of that data is limited. Each CR will continue to have the requirements of Part 396, Inspection, Repair, and Maintenance, reviewed as indicated by the above explanation.

B. Accident Factor

(a) In addition to the five regulatory rating factors, a sixth factor is included in the process to address the accident history of the motor carrier. This factor is the recordable accident rate which the carrier has experienced during the past 12 months. *Recordable* accident, as defined in 49 CFR 390.5, means an accident involving a commercial motor vehicle operating on a public road in interstate or intrastate commerce which results in a fatality; bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; one or more motor vehicles incurring disabling damage as a result of the accident requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

(b) Recordable accidents per million miles were computed for each CR performed in Fiscal Years 1994,1995 and 1996. The national average for all carriers rated was 0.747, and .839 for carriers operating entirely within the 100 air mile radius.

(c) Experience has shown that urban carriers, those motor carriers operating primarily within a radius of less than 100 air miles (normally in urban areas) have a higher exposure to accident situations because of their environment and normally have higher accident rates.

(d) The recordable accident rate will be used to rate Factor 6, Accident. It will be used only when a motor carrier incurs two or more recordable accidents occurred within the 12 months prior to the CR. An urban carrier (a carrier operating entirely within a radius of 100 air miles) with a recordable accident rate greater than 1.7 will receive an *unsatisfactory* rating for the accident factor. All other carriers with a recordable accident rate greater than 1.5 will receive an *unsatisfactory* factor rating. The rates are a result of roughly doubling the national average accident rate for each type of carrier rated in Fiscal Years 1994, 1995 and 1996.

(e) The FHWA will continue to consider preventability when a motor carrier contests a rating by presenting compelling evidence that the recordable rate is not a fair means of evaluating its accident factor. Preventability will be determined according to the following standard: "If a driver, who exercises normal judgment and foresight could have foreseen the possibility of the accident that in fact occurred, and avoided it by taking steps within his/her control which would not have risked causing another kind of mishap, the accident was preventable."

C. Factor Ratings

(a) Parts of the FMCSRs and the HMRs having similar characteristics are combined together into five regulatory areas called "factors."

(b) The following table shows the five regulatory factors, parts of the FMCSRs and HMRs associated with each factor, and the accident factor. Factor Ratings are determined as follows:

Factors

Factor 1 General=Parts 387 and 390
Factor 2 Driver=Parts 382, 383 and 391
Factor 3 Operational=Parts 392 and 395
Factor 4 Vehicle=Parts 393 and 396
Factor 5 Haz. Mat.=Parts 397, 171, 177 and 180
Factor 6 Accident Factor=Recordable Rate

"Satisfactory"—if the acute and/or critical=0 points
"Conditional"—if the acute and/or critical=1 point
"Unsatisfactory"—if the acute and/or critical=2 or more points

III. Safety Rating

A. Rating Table

(a) The ratings for the six factors are then entered into a rating table which establishes the motor carrier's safety rating.

(b) The FHWA has developed a computerized rating formula for assessing the information obtained from the CR document and is using that formula in assigning a safety rating.

MOTOR CARRIER SAFETY RATING TABLE

Factor ratings		Overall safety rating
Unsatisfactory	Conditional	
0	2 or less.	SATISFACTORY.
0	more than 2.	CONDITIONAL.
0	2 or less.	CONDITIONAL.
1	more than 2.	UNSATISFACTORY.
2 or more.	0 or more.	UNSATISFACTORY.

B. Proposed Safety Rating

(a) The proposed safety rating will appear on the CR. The following appropriate information will appear after the last entry on the CR, MCS–151, Part B.

"Your proposed safety rating is SATISFACTORY."

Your proposed safety rating is CONDITIONAL." The proposed rating will become the final rating 45 after you receive this notice.

OR

"Your proposed safety rating is UNSATISFACTORY." The safety rating will become the final safety rating 45 days after you receive this notice.

(b) Proposed safety ratings of *conditional* or *unsatisfactory* will list the deficiencies discovered during the CR for which corrective actions must be taken.

(c) Proposed *unsatisfactory* safety ratings will indicate that, if the *unsatisfactory* rating becomes final, the motor carrier will be subject to the provision of § 385.13, which prohibits motor carriers rated *unsatisfactory* from transporting hazardous materials requiring placarding or 15 passengers or more including the driver.

IV. Assignment of Final Rating/Motor Carrier Notification

When the official rating is determined in Washington, D.C., the FHWA notifies the motor carrier in writing of its safety rating as prescribed in § 385.11. A proposed *conditional* safety rating (which is an improvement of an existing *unsatisfactory* rating) becomes effective as soon as the official safety rating from Washington, D.C. is issued, and the carrier may also avail itself of relief under the § 385.15, Administrative Review and § 385.17, Change to safety rating based on corrective actions.

V. Motor Carrier Rights to a Change in the Safety Rating

Under §§ 385.15 and 385.17, motor carriers have the right to petition for a review of their ratings *if there are factual or procedural disputes*, and to request another review after corrective actions have been taken. They are the procedural avenues a motor carrier which believes its safety rating to be in error may exercise, and the means to request another review after corrective action has been taken.

VI. Conclusion

(a) The FHWA believes this "safety fitness rating methodology" is a reasonable approach for assigning a safety rating which best describes the current safety fitness posture of a motor carrier as required by the safety fitness regulations (§ 385.9). This methodology has the capability to incorporate regulatory changes as they occur.

(b) Improved compliance with the regulations leads to an improved rating, which in turn increases safety. This increased safety is our regulatory goal.

VII. List of Acute and Critical Regulations

§ 382.115(c) Failing to implement an alcohol and/or controlled substance testing program. (acute)
§ 382.201 Using a driver who has an alcohol concentration of 0.04 or greater. (acute)
§ 382.211 Using a driver who has refused to submit to an alcohol controlled substances test required under Part 382. (acute)
§ 382.213(b) Using a driver who has used a controlled substance. (acute)
§ 382.215 Using a driver who has tested positive for a controlled substance. (acute)
§ 382.301(a) Using a driver before the motor carrier has received negative pre-employment controlled substance test results. (critical)
§ 382.303(a) Failing to conduct post accident testing on driver for alcohol and/or controlled substances. (critical)
§ 382.305 Failing to implement a random controlled substances and/or an alcohol testing program. (acute)
§ 382.305(b)(1) Failing to conduct random alcohol testing at an annual rate of not less than 25 percent of the average number of driver positions. (critical)
§ 382.305(b)(2) Failing to conduct random controlled substances testing at an annual rate of not less than 50 percent of the average number of driver positions. (critical)
§ 382.309(a) Using a driver who has not undergone a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02. (acute)
§ 382.309(b) Using a driver who has not undergone a return-to-duty controlled substances test with a result indicating a verified negative result for controlled substances. (acute)
§ 382.503 Driver performing safety sensitive function, after engaging in conduct prohibited by Subpart B, without being evaluated by substance abuse professional, as required by § 382.605. (critical)
§ 382.505(a) Using a driver within 24 hours after being found to have an alcohol concentration of 0.02 or greater but less than 0.04. (acute)
§ 382.605(c)(1) Using a driver who has not undergone a return-to-duty alcohol test with a result indicating an alcohol concentration of less than .02 or with verified negative test result, after engaging in conduct prohibited by Part 382 Subpart B. (acute)
§ 382.605(c)(2)(ii) Failing to subject a driver who has been identified as needing assistance to at least six unannounced follow-up alcohol and controlled substance tests in the first 12 months following the driver's return to duty. (critical)
§ 383.23(a) Operating a commercial motor vehicle without a valid commercial driver's license. (critical)
§ 383.37(a) Allowing, requiring, permitting, or authorizing an employee with a Commercial Driver's License which is suspended, revoked, or canceled by a state or who is disqualified to operate a commercial motor vehicle. (acute)
§ 383.37(b) Allowing, requiring, permitting, or authorizing an employee with more than one Commercial Driver's License to operate a commercial motor vehicle. (acute)
§ 383.51(a) Allowing, requiring, permitting, or authorizing a driver to drive who is disqualified to drive a commercial motor vehicle. (acute)
§ 387.7(a) Operating a motor vehicle without having in effect the required minimum levels of financial responsibility coverage. (acute)
§ 387.7(d) Failing to maintain at principal place of business required proof of financial responsibility. (critical)
§ 387.31(a) Operating a passenger carrying vehicle without having in effect the required minimum levels of financial responsibility. (acute)
§ 387.31(d) Failing to maintain at principal place of business required proof of financial responsibility for passenger vehicles. (critical)
§ 390.15(b)(2) Failing to maintain copies of all accident reports required by State or

other governmental entities or insurers. (critical)
§ 390.35 Making, or causing to make fraudulent or intentionally false statements or records and/or reproducing fraudulent records. (acute)
§ 391.11(a)/391.95 Using an unqualified driver, a driver who has tested positive for controlled substances, or refused to be tested as required. (acute)
§ 391.11(b)(6) Using a physically unqualified driver. (acute)
§ 391.15(a) Using a disqualified driver. (acute)
§ 391.45(a) Using a driver not medically examined and certified. (critical)
§ 391.45(b) Using a driver not medically examined and certified each 24 months. (critical)
§ 391.51(a) Failing to maintain driver qualification file on each driver employed. (critical)
§ 391.51(b)(1) Failing to maintain medical examiner's certificate in driver's qualification file. (critical)
§ 391.51(c)(1) Failing to maintain medical examiner's certificate in driver's qualification file. (critical)
§ 391.51(c)(3) Failing to maintain inquiries into driver's driving record in driver's qualification file. (critical)
§ 391.51(d)(1) Failing to maintain medical examiner's certificate in driver's qualification file. (critical)
§ 391.87(f)(5) Failing to retain in the driver's qualification file test finding, either "Negative" and, if "Positive", the controlled substances identified. (critical)
§ 391.93(a) Failing to implement a controlled substances testing program. (acute)
§ 391.99(a) Failing to require a driver to be tested for the use of controlled substances, upon reasonable cause. (acute)
§ 391.103(a) Failing to require a driver-applicant whom the motor carrier intends to hire or use to be tested for the use of controlled substances as a pre-qualification condition. (critical)
§ 391.109(a) Failing to conduct controlled substance testing at a 50% annualized rate. (critical)
§ 391.115(c) Failing to ensure post-accident controlled substances testing is conducted and conforms with 49 CFR Part 40. (critical)
§ 392.2 Operating a motor vehicle not in accordance with the laws, ordinances, and regulations of the jurisdiction in which it is being operated. (critical)
§ 392.4(b) Requiring or permitting a driver to drive while under the influence of, or in possession of, a narcotic drug, amphetamine, or any other substance capable of rendering the driver incapable of safely operating a motor vehicle. (acute)
§ 392.5(b)(1) Requiring or permitting a driver to drive a motor vehicle while under the influence of, or in possession of, an intoxicating beverage. (acute)
§ 392.5(b)(2) Requiring or permitting a driver who has consumed an intoxicating beverage within 4 hours to operate a motor vehicle. (acute)
§ 392.6 Scheduling a run which would necessitate the vehicle being operated at speeds in excess of those prescribed. (critical)
§ 392.9(a)(1) Requiring or permitting a driver to drive without the vehicle's cargo being properly distributed and adequately secured. (critical)
§ 395.1(i)(1)(i) Requiring or permitting a driver to drive more than 15 hours. (Driving in Alaska.) (critical)
§ 395.1(i)(1)(ii) Requiring or permitting a driver to drive after having been on duty 20 hours. (Driving in Alaska.) (critical)
§ 395.1(i)(1)(iii) Requiring or permitting driver to drive after having been on duty more than 70 hours in 7 consecutive days. (Driving in Alaska.) (critical)
§ 395.1(i)(1)(iv) Requiring or permitting driver to drive after having been § on duty more than 80 hours in 8 consecutive days. (Driving in Alaska.) (critical)
§ 395.3(a)(1) Requiring or permitting driver to drive more than 10 hours. (critical)
§ 395.3(a)(2) Requiring or permitting driver to drive after having been on duty 15 hours. (critical)
§ 395.3(b) Requiring or permitting driver to drive after having been on duty more than 60 hours in 7 consecutive days. (critical)
§ 395.3(b) Requiring or permitting driver to drive after having been on duty more than 70 hours in 8 consecutive days. (critical)
§ 395.8(a) Failing to require driver to make a record of duty status. (critical)
§ 395.8(e) False reports of records of duty status. (critical)
§ 395.8(i) Failing to require driver to forward within 13 days of completion, the original of the record of duty status. (critical)
§ 395.8(k)(1) Failing to preserve driver's record of duty status for 6 months. (critical)
§ 395.8(k)(1) Failing to preserve driver's records of duty status supporting documents for 6 months. (critical)
§ 396.3(b) Failing to keep minimum records of inspection and vehicle maintenance. (critical)
§ 396.9(c)(2) Requiring or permitting the operation of a motor vehicle declared "out-of-service" before repairs were made. (acute)
§ 396.11(a) Failing to require driver to prepare driver vehicle inspection report. (critical)
§ 396.11(c) Failing to correct Out-of-Service defects listed by driver in a driver vehicle inspection report. (acute)
§ 396.17(a) Using a commercial motor vehicle not periodically inspected. (critical)
§ 396.17(g) Failing to promptly repair parts and accessories not meeting minimum periodic inspection standards. (acute)
§ 397.5(a) Failing to ensure a motor vehicle containing Class A or B explosives, (Class 1.1, 1.2, or 1.3) is attended at all times by its driver or a qualified representative. (acute)
§ 397.7(a)(1) Parking a motor vehicle containing Class A or B explosives (1.1, 1.2, 1.3) within 5 feet of traveled portion of highway. (critical)
§ 397.7(b) Parking a motor vehicle containing hazardous material(s) within 5 feet of traveled portion of highway or street. (critical)
§ 397.13(a) Permitting a person to smoke or carry a lighted cigarette, cigar or pipe within 25 feet of a motor vehicle containing explosives, oxidizing materials, or flammable materials. (critical)
§ 397.19(a) Failing to furnish driver of motor vehicle transporting Class A or B explosives (Class 1.1, 1.2, 1.3) with a copy of the rules of Part 397 and/or emergency response instructions. (critical)
§ 397.67(d) Requiring or permitting the operation of a motor vehicle containing Division 1.1, 1.2, or 1.3 (explosive) material that is not accompanied by a written route plan. (critical)
§ 171.15 Carrier failing to give immediate telephone notice of an incident involving hazardous materials. (critical)
§ 171.16 Carrier failing to make a written report of an incident involving hazardous materials. (critical)
§ 177.800(c) Failing to instruct a category of employees in hazardous materials regulations. (critical)
§ 177.817(a) Transporting a shipment of hazardous materials not accompanied by a properly prepared shipping paper. (critical)
§ 177.817(e) Failing to maintain proper accessibility of shipping papers. (critical)
§ 177.823(a) Moving a transport vehicle containing hazardous material that is not properly marked or placarded. (critical)
§ 177.841(e) Transporting a package bearing a poison label in the same transport vehicle with material marked or known to be foodstuff, feed, or any edible material intended for consumption by humans or animals. (acute)
§ 180.407(a) Transporting a shipment of hazardous material in cargo tank that has not been inspected or retested in accordance with § 180.407. (critical)
§ 180.407(c) Failing to periodically test and inspect a cargo tank. (critical)
§ 180.415 Failing to mark a cargo tank which passed an inspection or test required by § 180.407. (critical)
§ 180.417(a)(1) Failing to retain cargo tank manufacturer's data report certificate and related papers, as required. (critical)
§ 180.417(a)(2) Failing to retain copies of cargo tank manufacturer's certificate and related papers (or alternative report) as required. (critical)

[FR Doc. 97–29380 Filed 11–5–97; 8:45 am]
BILLING CODE 4910–22–P

Proposed Rules

Federal Register
Vol. 62, No. 215
Thursday, November 6, 1997

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL ELECTION COMMISSION

11 CFR Part 100

[Notice 1997–15]

Rulemaking Petition: Definition of "Express Advocacy"; Notice of Availability

AGENCY: Federal Election Commission.

ACTION: Rulemaking petition: Notice of availability.

SUMMARY: On October 20, 1997, the Commission received a Petition for Rulemaking from James Bopp, Jr., on behalf of the James Madison Center for Free Speech. The Petition urges the Commission to revise its rules defining "express advocacy" to conform with a recent court decision. The Petition is available for inspection in the Commission's Public Records Office, through its FAXLINE service, and on its Internet home page.

DATES: Statements in support of or in opposition to the Petition must be filed on or before December 8, 1997.

ADDRESSES: All comments should be addressed to Susan E. Propper, Assistant General Counsel, and must be submitted in either written or electronic form. Written comments should be sent to the Federal Election Commission, 999 E Street, N.W., Washington, DC 20463. Faxed comments should be sent to (202) 219–3923, with printed copy follow-up. Electronic mail comments should be sent to expressad@fec.gov. Commenters sending comments by electronic mail should include their full name and postal service address within the text of their comments. Electronic comments that do not contain the full name, electronic mail address and postal service address of the commenter will not be considered.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, or Ms. Rita A. Reimer, Attorney, 999 E Street, N.W., Washington, D.C. 20463, (202) 219–3690 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The petitioner is requesting the Commission to revise the definition of "express advocacy" set forth in its rules at 11 CFR 100.22 to reflect the decision in *Maine Right to Life Committee* v. *FEC*, 914 F.Supp. 8 (D.Me. 1995), *aff'd per curiam*, 98 F.3d 1 (1st Cir. 1996), *cert. denied*, No. 96–1818 (U.S. 1997). Specifically, the Petition urges repeal of 11 CFR 100.22(b), which was held invalid in that case. The challenged paragraph defines "express advocacy" to include communications in which the electoral portion is "unmistakable, unambiguous, and suggestive of only one meaning, and reasonable minds could not differ as to whether it encourages actions to elect or defeat one or more clearly identified candidate(s) or encourages some other kind of action."

The "express advocacy" standard is used to determine if a disbursement qualifies as a reportable independent expenditure or membership communication for purposes of the Federal Election Campaign Act; if independent communications by corporations and labor organizations are prohibited under the Act; and if campaign communications require a disclaimer. *See* 2 U.S.C. 431(17) and (9)(B)(iii); 434(b)(4) and (c); 441b, 441d; *Federal Election Commission* v. *Massachusetts Citizens for Life, Inc.*, 479 U.S. 238 (1986).

Copies of the Petition for Rulemaking are available for public inspection at the Commission's Public Records Office, 999 E Street, N.W., Washington, DC 20463, Monday through Friday between the hours of 9:00 a.m. and 5:00 p.m. Interested persons may also obtain a copy of the Petition by dialing the Commission's FAXLINE service at (202) 501–3413 and following its instructions, at any time of the day and week. Request document #232. The text of the petition is available on the Internet at the Commission's home page, www.fec.gov.

Consideration of the merits of the Petition will be deferred until the close of the comment period. If the Commission decides that the Petition has merit, it may begin a rulemaking proceeding. Any subsequent action taken by the Commission will be announced in the Federal Register.

Dated: November 3, 1997.
Joan D. Aikens,
Vice Chairman.
[FR Doc. 97–29375 Filed 11–5–97; 8:45 am]
BILLING CODE 6715–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–240–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 and A300–600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Airbus Model A300 and A300–600 series airplanes. This proposal would require repetitive inspections for cracking of the lugs of hinge brackets of inner airbrakes (spoilers) No. 1 and No. 2, and corrective action, if necessary. This proposal is prompted by the issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent detachment of the spoilers and consequent reduced controllability of the airplane.

DATES: Comments must be received by December 8, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–240–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Charles D. Huber, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2589; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97–NM–240–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–240–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on all Airbus Model A300 and A300–600 series airplanes. The DGAC advises that it received four reports indicating that, during routine maintenance, fatigue cracking was detected in lugs of the center hinge bracket of an inner airbrake (spoiler) No. 1. Fatigue cracking and failure of center hinge brackets due to increased loading could result in propagation of cracks of the inner and outer hinge brackets. Such fatigue cracking, if not detected and corrected in a timely manner, could result in detachment of the spoilers and consequent reduced controllability of the airplane.

Explanation of Relevant Service Information

Airbus has issued Service Bulletins A300–57–0229 (for Model A300 series airplanes) and A300–57–6074 (for Model A300–600 series airplanes), both dated October 16, 1996. These service bulletins describe procedures for repetitive high frequency eddy current (HFEC) inspections for cracking of the lugs of hinge brackets of spoilers No. 1 and No. 2 of both wings; and replacement, with a serviceable bracket, of any bracket having a cracked lug. The DGAC classified these service bulletins as mandatory and issued French airworthiness directive 97–080–211(B)R1, dated May 21, 1997, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletins described previously, except as described below.

Differences Between the Proposed AD and the Service Bulletins

Airbus Service Bulletins A300–57–6074 and A300–57–0229, both dated October 16, 1996, specify that the corrective actions required by this proposed AD may be accomplished in accordance with a method "left to the operator's discretion." However, operators would use a discretionary method only if that method has been approved by the FAA. Therefore, this AD requires that the actions be accomplished in accordance with the procedures specified in Repair Drawing R57240205 (for a center hinge bracket) and/or R57240206 (for an inner or outer hinge bracket), as applicable.

Cost Impact

The FAA estimates that 102 Airbus Model A300 and A300–600 series airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $24,480, or $240 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Docket 97–NM–240–AD.

Applicability: All Model A300 and A300–600 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct cracking of the lugs of hinge brackets of inner airbrakes (spoilers) No. 1 and No. 2 of both wings, which could result in detachment of the spoilers and consequent reduced controllability of the airplane, accomplish the following:

(a) Perform a high frequency eddy current (HFEC) inspection for cracking of the lugs of the center hinge brackets of spoilers No. 1 and No. 2, in accordance with Airbus Service Bulletin A300–57–0229 (for Model A300 series airplanes) or A300–57–6074 (for Model A300–600 series airplanes), both dated October 16, 1996, as applicable. Accomplish the inspection at the time specified in paragraph (a)(1), (a)(2), or (a)(3), as applicable, of this AD. If any discrepancy is found, prior to further flight, perform the follow-on actions specified in the Accomplishment Instructions of the applicable service bulletin. Repeat the HFEC inspection thereafter at intervals not to exceed 8,200 flight cycles.

(1) For airplanes that have accumulated less than 23,200 total flight cycles as of the effective date of this AD: Inspect prior to the accumulation of 16,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later.

(2) For airplanes that have accumulated 23,200 total flight cycles or more, but less than 36,500 total flight cycles as of the effective date of this AD: Inspect within 500 flight cycles after the effective date of this AD.

(3) For airplanes that have accumulated 36,500 total flight cycles or more as of the effective date of this AD: Inspect within 50 flight cycles after the effective date of this AD.

(b) Airbus Service Bulletins A300–57–6074 and A300–57–0229, both dated October 16, 1996, specify that the actions required by paragraph (a) of this AD may be accomplished in accordance with a method "left to the operator's discretion." [Operators may use a discretionary method only if that method has been approved as an alternative method of compliance in accordance with paragraph (c) of this AD.] Therefore, this AD requires that the replacement of a bracket as required by paragraph (a) be accomplished in accordance with the procedures specified in Repair Drawing R57240205 (for a center hinge bracket) and/or R57240206 (for an inner or outer hinge bracket), as applicable.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in French airworthiness directive 97–080–211(B)R1, dated May 21, 1997.

Issued in Renton, Washington, on October 30, 1997.

Darrell M. Pederson,
Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–29342 Filed 11–5–97; 8:45 am]
BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–205–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A310 and A300–600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Airbus Model A310 and A300–600 series airplanes. This proposal would require a one-time visual inspection to determine the accuracy of the outer placards of the static ports. This proposal also would require a one-time inspection to detect crossed connections of the air data static system and the static probe heating system, and correction of any discrepancies. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent erroneous display of altitude information to the flight crew, and consequent reduced operational safety during all phases of flight.

DATES: Comments must be received by December 8, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–205–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of

the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97–NM–205–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–205–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on all Airbus Model A310 and A300–600 series airplanes. The DGAC advises that, during a routine inspection, one operator found that the tubings of the air data static system connected to the captain and first officer's static probes were inverted (i.e., cross-connected) on both the left-hand and right-hand side of the aircraft. The heating circuit wires of the static probe heating system to the captain and first officer's static probes on the left-hand side of the airplane were also found to be inverted. The cross connections of the air data tubings and probe heat wiring apparently resulted from an inappropriate installation process on the assembly line. This condition, if not corrected, could result in erroneous display of altitude information to the flight crew, and consequent reduced operational safety during all phases of flight.

Explanation of Relevant Service Information

Airbus has issued All Operators Telex (AOT) 34–04, dated July 16, 1996, which describes procedures to perform a one-time visual inspection to determine the accuracy of the outer placards. The AOT also describes procedures to perform a one-time visual inspection to detect crossed connections of the air data static system and the static probe heating system, and correction of any discrepancies. Accomplishment of the actions specified in the AOT are intended to adequately address the identified unsafe condition. The DGAC classified this AOT as mandatory and issued French airworthiness directive 97–098–216 (B), dated March 26, 1997, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the AOT described previously.

Cost Impact

The FAA estimates that 94 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 5 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $28,200, or $300 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Docket 97–NM–205–AD.

Applicability: All Model A310 and A300–600 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent erroneous display of altitude information to the flight crew, and consequent reduced operational safety during all phases of flight, accomplish the following:

(a) Within 600 flight hours after the effective date of this AD, perform a one-time visual inspection of the outer placards of the static ports to determine that the identification of the static port corresponds with the specified position on the aircraft, in accordance with Airbus All Operators Telex (AOT) 34–04, dated July 16, 1996.

(b) Within 600 flight hours after the effective date of this AD, perform a one-time visual inspection of the pneumatic connections of the captain, first officer, and standby air data static systems to detect cross-connected tubing, and conduct an operational check of each of the static probe heating systems to detect cross-connected wiring, in accordance with Airbus All Operators Telex (AOT) 34–04, dated July 16, 1996.

(c) If any discrepancy is found, prior to further flight, correct the discrepancy in accordance with Airbus AOT 34–04, dated July 16, 1996.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in French airworthiness directive 97–098–216 (B), dated March 26, 1997.

Issued in Renton, Washington, on October 30, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–28341 Filed 11–5–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AEA–42]

Proposed Amendment to Class E Airspace; Allentown, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Class E airspace area at Allentown,, PA. The development of a new Standard Instrument Approach Procedure (SIAP) based on the Global Positioning System (GPS) at Allentown Queen City Airport has made this proposal necessary. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAP and for Instrument Flight Rules (IFR) operations at the airport.

DATES: Comments must be received on or before December 8, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, AEA–520, Docket No. 97–AEA–42, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430.

The official docket may be examined in the Office of the Assistant Chief Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours in the Airspace Branch, AEA–520, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430.

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace Specialist, Airspace Branch, AEA–520 F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone (718) 553–4521.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 97–AEA–42." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Assistant Chief Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR Part 71 to amend the Class E airspace area at Allentown, PA. A GPS RWY 7 SIAP has been developed for the Allentown Queen City Airport. Additional controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAP and for IFR operations at the airport. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that would only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have significant economic impact on a substantial number of small

entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is proposed to be amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AEA PA E5 Allentown, PA [Revised]

Lehigh Valley International Airport, PA
(lat. 40°39'11" N., long. 75°26'24" W.)
LEEHI LOM
(lat. 40°35'09" N., long. 75°32'58" W.)
Allentown Queen City Municipal Airport, PA
(lat. 40°34'13" N., long. 75°29'18" W.)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of Lehigh Valley International Airport and within 7.5-mile radius of Allentown Queen City Airport and within 3.1 miles north and 5 miles south of the Lehigh Valley International Airport localizer southwest course extending from the LEEHI LOM to 10 miles southwest of the LOM, excluding that portion that coincides with the Easton, PA, and Quakertown, PA, Class E airspace areas.

* * * * *

Issued in Jamaica, New York, on October 7, 1997.

Franklin D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 97–29350 Filed 11–5–97; 8:45 am]

BILLING CODE 4910–13–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA 001–4050b ; FRL–5918–5]

Air Quality Implementation Plans; Approval and Promulgation: Pennsylvania

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes to correct an interim final rule, which was published on January 28, 1997, regarding EPA conditional approval of Pennsylvania's enhanced inspection and maintenance (I/M) program. This action pertains to the consequences in the event that the Pennsylvania enhanced I/M program failed to commence per the deadlines set forth in EPA's interim final rule. EPA is taking this action for the purposes of consistency with rulemaking actions EPA has since taken on other states' inspection and maintenance programs. In the Final Rules section of this **Federal Register**, EPA is making this correction to the Commonwealth's January 28, 1996 conditional SIP approval by issuing a direct final rule without prior proposal because the Agency views this correction as a noncontroversial SIP revision. Thus, EPA anticipates no adverse comments. A detailed explanation of this correction is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by December 8, 1997.

ADDRESSES: Written comments on this action should be addressed to David L. Arnold, Chief, Ozone/CO and Mobile Sources Section (Mailcode 3AT21), U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Relevant documents are also available at the Pennsylvania Department of Environmental Resources Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Brian Rehn, at (215) 566–2176, or in writing at the EPA Region III address above.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final action of the same title which is located in the Rules and Regulations section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: October 28, 1997.

William T. Wisniewski,

Acting Regional Administrator, Region III.

[FR Doc. 97–29389 Filed 11–5–97; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[AMS–FRL–5917–8]

Regulation of Fuels and Fuel Additives: Proposed Minor Revisions to Selected Recordkeeping and Enforcement Provisions Under the Regulation of Deposit Control Gasoline Additives

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: EPA is proposing to revise certain requirements in its program for the use of detergent additives in gasoline. Under the current regulations, information on the oxygenate content of the gasoline must always be included in the required product transfer documents. To avoid unnecessary disruption to the gasoline distribution system, EPA is proposing to remove this requirement. A party who wants to use a detergent additive that is restricted in use with respect to oxygenates would be responsible for determining the oxygenate content of the gasoline involved. This proposal would continue to ensure that detergents with oxygenate restrictions are used in compliance with such restrictions, and would avoid the unnecessary disruption to the gasoline distribution system which would occur under the current regulations. For certain transfers of base gasoline, EPA is also proposing to allow the use of product codes in lieu of regulatory warning language concerning applicable limitations on the sale and use of such gasolines.

These proposals are expected to provide industry additional flexibility, while ensuring the proper use of use-restricted detergents and base gasoline. There are no new information collection requirements accompanying these proposed changes. These proposals will not affect the air quality benefits from EPA's detergent additive program.

In the final rules section of this **Federal Register**, EPA is also promulgating a direct final rule without prior proposal, which will remove the requirement addressed in this NPRM, that mandates that information on the oxygenate content of transferred gasoline must be included in the required product transfer documents. It is not expected that the deletion of this requirement through the direct final rule will be controversial or that it will elicit negative comments. No detergents are presently certified with restricted oxygenate-use that would require the knowledge of gasoline oxygenate content for proper use. Further, the issue of the best means of acquiring oxygenate information to ensure proper additization is being addressed with notice and an opportunity to comment within the context of this NPRM. However, if EPA does receive adverse comments or a request for a public hearing on the direct final rule, it will be withdrawn and all comments received on it will be addressed in the subsequent final rule to be based on this NPRM. EPA will not institute a second comment period on this NPRM if the direct final rule is withdrawn. Any parties interested in commenting on this issue should do so at this time.

DATES: Comments on this NPRM will be accepted until December 8, 1997. Additional information on the comments procedure can be found under "Public Participation" in the **SUPPLEMENTARY INFORMATION** Section of this document.

ADDRESSES: Interested parties may submit written comments (in duplicate if possible) to Public Docket No. A–91–77, at the following address: Air Docket Section (LE–131), room M–1500, 401 M Street SW, Washington, DC 20460; phone (202) 260–7548; fax (202) 260–4000. The Agency also requests that a separate copy be sent to the contact person listed below. The docket is open for public inspection from 8:00 a.m. until 5:30 p.m. Monday through Friday, except on government holidays. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying docket materials.

This NPRM is also available electronically on the day of publication from the Office of the Federal Register internet Web site listed below. A prepublication electronic copy of this notice is also available from the EPA Office of Mobile Sources Web site listed below. This service is free of charge, except for any cost that you already incur for internet connectivity.

Federal Register Web Site:

http://www.epa.gov/docs/fedrgstr/EPA–AIR/

(Either select desired date or use Search feature.)

Office of Mobile Sources Web Site:

http://www.epa.gov/OMSWWW/

(Look in "What's New" or under the specific rulemaking topic.)

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FOR FURTHER INFORMATION CONTACT: Judith Lubow, U.S. EPA, Office of Enforcement and Compliance Assurance, Western Field Office, 12345 West Alameda Parkway, Suite 214, Lakewood, CO 80228; Telephone: (303) 969–6483, FAX (303) 969–6490.

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I. Regulated Entities

Entities potentially regulated by this action are those involved with the production, distribution, and sale of gasoline and gasoline detergent additives. Regulated categories and entities include:

Category	Examples of regulated entities
Industry	Gasoline refiners and importers, Gasoline terminals, Detergent blenders, Gasoline truckers, Gasoline retailers and wholesale purchaser-consumers, and Detergent manufacturers.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your organization is regulated by this action, you should carefully examine the applicability requirements in § 80.161(a), the detergent certification requirements in § 80.161(b), the program controls and prohibitions in § 80.168, and other related program requirements in Subpart G, title 40, of the Code of Federal Regulations (CFR). If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

II. Introduction

Section 211(i) of the Clean Air Act ("CAA") requires that, by January 1, 1995, all gasoline must contain detergent additives to prevent the accumulation of deposits in motor vehicle engines and fuel supply systems. This CAA section also requires EPA to promulgate specifications for the detergent additives. Detergent additives prevent the accumulation of engine and fuel supply system deposits that have adverse effects on vehicle emissions as well as on fuel economy and driveability.

In response to section 211(i)'s requirements, EPA published a Notice of Proposed Rulemaking ("NPRM") on December 6, 1993 (59 FR 64213) proposing a detergent additives regulatory program. The detergent program was finalized in two parts. Regulations for the interim detergent program, requiring the use of detergent additives in gasoline but not mandating specific detergent efficiency testing, were published on October 14, 1994 (59 FR 54678). Regulations for the detergent certification program, mandating the use of certified detergents with specified detergent efficiency testing, were published on July 5, 1996 (61 FR 35310).

One important implementation issue that has arisen since the publication of the detergent certification rule concerns

the requirement that the product transfer documents (PTDs) for gasoline transfers must identify all oxygenates found in the gasoline. Members of the gasoline refining and distribution industry informed EPA that this requirement's implementation would, as an unintended consequence, significantly disrupt gasoline distribution.[1]

For the reasons described below, EPA exercised its enforcement discretion and announced by letter to the American Petroleum Institute ("API") that it would temporarily not enforce the PTD oxygenate identification requirement pending resolution of the issue through a rulemaking or until September 3, 1997, whichever occurrence came first.[2] The Agency reserved the right to rescind the exercise of this enforcement discretion if it determined that restricted-use detergents were actually being certified or that the PTD oxygenate identification requirements otherwise became appropriate. The Agency further advised that if violations involving the improper use of oxygenate-restricted detergents occurred, parties wishing to successfully assert an affirmative defense to liability for such violations might need to provide information establishing the appropriate oxygenate content of the gasoline in question. Subsequently, EPA extended this exercise of enforcement discretion until implementation of the direct final rule removing the PTD oxygenate requirement (which is associated with this NPRM), or until December 31, 1997, whichever occurrence came first.[3]

A second issue about the detergent program's PTD requirements, concerning the use of product codes, also arose since publication of the certification rule. The detergent program's two PTD implementation issues, plus the Agency's proposed regulatory solutions to these issues, will be discussed below.

III. Identification of Specific Oxygenate Content on Gasoline Product Transfer Documents (PTDs)

A. Background

The gasoline detergent additive program requires all regulated parties transferring products controlled under the program to provide to the transferee PTDs giving pertinent information about the products transferred. (40 CFR 80.158 and 80.171) The products subject to the detergent program PTD requirements are gasoline, detergent additives, and additized components, such as ethanol, which are blended into gasoline after the refinery process (additized post-refinery components, or "PRC"). For transfers of these regulated products, the PTDs must identify the parties to the transfer, the product being transferred, and appropriate warning information about regulatory requirements.

One requirement is that PTDs for transferred gasoline must identify all oxygenates and PRCs contained in the gasoline. Further, if the gasoline is comprised of commingled fuels, all oxygenates and PRCs in the fuels comprising the commingled product must be identified. (40 CFR 80.158(a)(5) and 80.171(a)(5)) The purpose of this identification requirement is to alert the parties receiving the gasoline about the oxygenates and PRCs in the received product. This information would be useful to the recipient because, under the detergent certification program, parties may choose to additize gasoline with a detergent whose certification is restricted for use only with a specific oxygenate or no oxygenate, or, in the case of fuel-specific certified detergents, for use in gasoline without PRCs. Thus, parties choosing to use such restricted-use detergents must know the oxygenate or PRC ("oxygenate") content of the gasoline they intend to additize with these detergents. The PTD oxygenate identification requirement was intended to provide such information for the transferred gasoline.

In creating this identification requirement, the Agency was not aware that many parties did not know the specific oxygenate content of the gasoline they were transferring. EPA has since learned that, under typical industry practice prior to this requirement, parties could and did commingle gasolines without knowledge of what (if any) specific ethers (a type of oxygenate) were present. Under the interim detergent rule's PTD requirements, no information about the oxygenate content of base gasoline was required. Parties were thus typically unaware of the specific ether content (in type(s) and concentration) of commingled gasoline they received or possessed themselves. To comply with this new oxygenate identification requirement and to become knowledgeable about the ether status of their gasoline, parties would have to ascertain the ether content of received gasoline (which would be the imposition of a new practice), stop commingling gasolines with different ether contents, or start testing all batches to determine such content. In any of these scenarios, gasoline distribution as presently practiced would be significantly disrupted.

It was never EPA's intention to disrupt gasoline distribution practices through the imposition of this PTD oxygenate identification requirement. Consequently, the Agency temporarily suspended enforcement of this PTD requirement.

B. Proposal

EPA does not believe that the benefits from the PTD requirement of providing oxygenate information to those parties who might choose to use oxygenate-restricted certified detergents warrants the resulting disruption to the gasoline distribution system. Therefore, the Agency is now proposing a regulatory change in the detergent program which would eliminate the requirement that PTDs for gasoline must identify the oxygenates found in the transferred product. Instead, a new requirement would take its place, that those detergent-blending parties wishing to use oxygenate-restricted detergents must maintain documentation fully identifying the oxygenate content of the fuel into which the detergent was blended, as evidence that the fuel complied with the detergent's oxygenate use restriction.

Under this proposal, a detergent blender could use different types of documentation to comply with this new requirement. Examples of such documentation would be PTDs or other written statements from suppliers fully identifying the oxygenate content of the received fuel; test results of oxygenate content, either of its own or from suppliers; or contractual agreements with suppliers establishing the oxygenate content of the received fuel.

The proposed modification of the PTD requirement would not change the existing requirement that detergent blenders use oxygenate-restricted detergents only in fuel which complies with the restriction. The new requirement would merely substitute a range of alternative documentation for the formerly required PTD information provided by the supplier, that could be used to help a party establish proper usage of oxygenate-restricted detergent. Therefore, adoption of this proposal would not impose an additional information collection requirement, but rather would refocus the existing requirement only on those parties who have need of information on gasoline oxygenate content.

[1] Letter to Judith Lubow, Office of Enforcement and Compliance Assurance (OECA), EPA, from C.J. Krambuhl, Director, Manufacturing, Distribution, and Marketing, American Petroleum Institute (API), August 14, 1996, Docket item VII–D–01.

[2] Letter to C.J. Krambuhl, API, from Steven A. Herman, Assistant Administrator, OECA, EPA, August 28, 1996, Docket item VII–C–01.

[3] Letter to C.J. Krambuhl, API, from Steven A. Herman, Assistant Administrator, OECA, EPA, September 4, 1997, Docket item VII–C–02.

EPA was advised by the Independent Fuel Terminal Operators Association (IFTOA) of a concern about this proposed amendment.[4] According to IFTOA, if suppliers will no longer be required to identify on PTDs the oxygenate content of transferred gasoline, then detergent blenders wishing to use potentially less expensive oxygenate-restricted detergents might be forced to test each batch of gasoline. IFTOA believed that such testing would be necessary to establish compliance with the detergent's oxygenate restriction. According to this commenter, these tests might be prohibitively expensive for small detergent blenders. This party asserted it was inequitable to place the entire burden of establishing oxygenate content on the fuel's end-user.

The Agency believes that its proposal, as stated, is the most appropriate and equitable means of ensuring proper oxygenate content of product blended with oxygenate-restricted detergents, while limiting disruption to the gasoline distribution system. The Agency's proposal places the burden of procuring oxygenate information only on those parties, self-selected, who will choose to use these restricted detergents, not on the entire industry. In addition, although existing data indicates that oxygenates increase gasoline deposit forming tendency (severity) and that different oxygenates types might differ in the magnitude of their impact on fuel severity, EPA has no specific information on whether this will result in the use of oxygenate restricted detergents. Since there are many generic detergents available that are not oxygenate use-restricted, parties not wishing to meet the documentation burden by performing oxygenate testing could also choose to use non-oxygenate restricted detergents.

In addition, self-performed oxygenate testing is only one of several ways that a detergent blender could use to comply with the proposed oxygenate identification requirement. Other means specifically approved by the proposed regulation include obtaining full information about oxygenate content from the gasoline supplier, and having a contract with the supplier which establishes the oxygenate content of the supplied gasoline. Use of these alternative methods would generally preclude the need for oxygenate testing by the detergent blender itself.

For these reasons, the Agency does not believe that the proposed removal of the PTD oxygenate identification requirement puts an unfair burden on end-users of oxygenate-restricted detergents. On the contrary, the proposed oxygenate documentation requirement regarding the volumetric accounting reconciliation records (VAR) maintained by detergent blenders, which would only be triggered when an oxygenate-restricted detergent is being used by the blender, seems the most equitable means of identifying oxygenates while ensuring proper additization with oxygenate-restricted detergents. However, the Agency is interested in receiving comments from interested parties on any other reasonable procedure that would equitably ensure proper oxygenate identification and resultant additization compliance for oxygenate-restricted detergents, while limiting disruption to the gasoline distribution system.

IV. Product Codes as Substitutes for Warning Language on Certain Base Gasoline PTDs

A. Background

It is common practice in the petroleum industry to use product codes on commercially prepared transfer documents to provide information about the product being transferred. Industry uses these product codes to save space on the transfer documents, which typically provide a great deal of information. The interim detergent rule did not address the use of product codes or other non-regulatory language as substitutes for required regulatory language in fulfilling PTD requirements. In response to industry comments, the interim program was amended to include a provision similar to one in the certification program which addresses this issue. In most instances, the requirements under both the certification and interim programs permit the use of product codes or other non-regulatory language to be substituted for required product identification information, provided certain accuracy safeguards are met, such as that the codes are clear, standardized, and have been explained to downstream parties. (40 CFR 80.158(c) and 80.171(b))

The requirements under interim and certification programs do not, however, permit the use of product codes or other non-regulatory language to be used in place of required warning language about non-additized, base gasoline. The required warning language, found in 40 CFR 80.158(a)(6) and 80.171(a)(6), informs the transferee in specified language that the base gasoline either is not for sale to the ultimate consumer, or is for research and development purposes only. At the time the certification rule was published, the Agency believed that these warnings were too important to be the subject of coded language substitutions.

After the issuance of the final certification rule, the Agency was notified by Colonial Pipeline that the regulatory prohibition against using product codes to substitute for the base gasoline language warning against the sale of the product to the ultimate consumer was burdensome and was not necessary for transfers between upstream parties.[5] This commenter stated that its upstream customers were familiar with product code usage and would not be confused by the substitution of product codes for the base gasoline warning language. This commenter believed that providing the warning language in addition to providing the base gasoline product code was redundant and unnecessarily wasteful of needed PTD space.

B. Proposal

Upon consideration of this comment, the Agency now agrees that the prohibition against substituting a product code for the required base gasoline warning language is not necessary for upstream bulk transfers of ordinary base gasoline which is not subject to the research and development exemption. The Agency agrees that upstream parties, long accustomed to the use of product codes to identify product information, should find such codes satisfactory conveyors of the needed base gasoline information. This is especially true since gasoline is almost always unadditized before it reaches the truck rack terminal, so confusion about its status is unlikely.

However, the Agency is still concerned that the lack of such clear warning language on PTDs for downstream custody transfers of unadditized product to truck carriers, retail outlets, or wholesale purchaser-consumer facilities (WPCs), might cause confusion about product transfers and might result in mis-use of the unadditized product. Agency enforcement experience has also shown that such downstream parties are not always knowledgeable about the meaning of product codes on received PTDs. Further, the Agency continues to believe that base gasoline being used for

[4] Memorandum to the Air Docket from Judith Lubow, OECA, entitled, "8/28/1996 EPA Phone Conversation with Andrea Grant of the Independent Fuel Terminal Operators Association", Docket Item VII–E–01.

[5] Memorandum to the Air Docket from Judith Lubow, OECA, entitled, "10/24/1996 and 12/2/1996 Phone Conversations with J.E. Brown of Colonial Pipeline", Docket Item VII–E–02.

research and development purposes, being a special category of product exempt from the ordinary requirements of the detergent program, must continue to be identified as such in clear language.

Therefore, the Agency is today proposing that product codes and other non-regulatory language may be used to substitute on PTDs for the required base gasoline warning language, with two exceptions: (1) transferors must continue to provide the regulatory warning language against sale to the ultimate consumer on PTDs for product custody transfers to truck carriers, retail outlets, or WPCs; and (2) the warning language as to exclusive research use must continue to be provided on PTDs for all transfers of research base gasoline. The Agency believes that this proposal will lessen paperwork burdens on the upstream parties who would not be confused by the product codes, and will maintain the specific warning language requirement for downstream parties most in need of seeing the exact language, and for all transfers of base gasoline for research purposes.

V. Public Participation

EPA seeks full public participation in arriving at its final decisions, and strongly encourages comments on all aspects of this proposal from all interested parties, including small businesses. Whenever applicable, full supporting data and detailed analysis should be submitted to allow EPA to make maximum use of the comments. All comments should be directed to the EPA Air Docket, Docket No. A–91–77 (see **ADDRESSES**). Comments on this notice will be accepted until the date specified in **DATES**. EPA has not planned a public hearing to discuss the issues raised in this proposal.

Commenters wishing to submit proprietary information for consideration should clearly distinguish such information from other comments, and clearly label it "Confidential Business Information". Submissions containing such proprietary information should be sent directly to the contact person listed above, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket. Information covered by such a claim of confidentiality will be disclosed by EPA only to the extent allowed and by the procedures set forth in 40 CFR Part 2. If no claim of confidentiality accompanies the submission when it is received by EPA, it may be made available to the public without further notice to the commenter.

VI. Environmental and Economic Impacts

The proposed revisions to the product transfer document (PTD) requirements would provide an equal degree of assurance to the current requirements that specially-certified detergent additives would only be used in gasoline stocks for which these detergents are certified for use. Therefore, the proposed requirements are not expected to impact the environmental benefits of the detergent program.

Under the first proposal, documentation on the specific oxygenate content of gasolines is only required to be maintained by those parties who have a direct interest in such information to support their voluntary use of specially-certified oxygenate-restricted detergents in that gasoline. It would no longer be required that all regulated parties transferring gasoline must indicate gasoline oxygenate content on the PTD for the product. Adoption of this proposal would avoid the potentially significant disruption of the current gasoline distribution system which might result from the current regulatory requirement of PTD oxygenate identification for all transfers of gasoline.

Establishing the oxygenate information as proposed is not expected to result in significant economic hardship to downstream parties who wish to voluntarily use oxygenate-restricted detergents. Placing the responsibility of establishing information on the specific oxygenate content of gasoline only on such detergent blending parties will eliminate unnecessary costs that would otherwise be incurred by others in the distribution system.

The second proposed change to the PTD requirements would provide industry additional flexibility by permitting the use of product codes rather than the currently-required regulatory warning language on PTDs for certain transfers of base gasoline. EPA expects that adoption of this proposal would decrease the cost of producing and maintaining PTDs. Based on the above discussion, EPA expects that adoption of the proposed requirements would result in an overall reduction in the economic burden of the regulation.

VII. Administrative Requirements

A. Administrative Designation

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether this regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The order defines "significant regulatory action" as any regulatory action that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or,

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, EPA has determined that the proposed modifications to the regulation of deposit control additives contained in today's notice do not meet any of the criteria listed above, and therefore do not constitute a "significant regulatory action".

B. Impact on Small Entities

EPA has determined that the proposed modifications to the regulation of deposit control additives contained in today's notice would not have a significant economic impact on a substantial number of small entities, and that it is therefore not necessary to prepare a regulatory flexibility analysis in conjunction with this proposal.

Under the proposed requirements in today's notice, rather than requiring all parties in the gasoline distribution system to report the specific oxygenate content of gasoline on product transfer documents as under the current requirements (which would typically require testing for oxygenates and would disrupt current gasoline commingling practices), only those parties who wish to voluntarily take advantage of the potential cost savings from the use of specially-certified oxygenate-restricted detergents would be required to produce such information. A detergent blender who does not wish to incur this requirement could use any generic-certified detergent (i.e., detergents that do not have use restrictions).

Other proposed changes to the product transfer document (PTD) requirements would provide industry more flexibility by allowing the use of product codes rather than regulatory warning language for certain upstream transfers of base gasoline not used for research purposes. This added flexibility is expected to decrease the cost of producing and maintaining PTDs for most regulated parties who transfer base gasoline. Based on the above discussion, EPA expects that adoption of the proposed requirements in today's notice would result in a reduction of the economic burden of the regulation for many parties and would not significantly increase the economic burden of compliance for any regulated party, including small entities.

C. Paperwork Reduction Act

The proposed actions in today's notice do not impose any new information collection burden. The first proposal would eliminate the existing requirement that product transfer documents (PTDs) for gasoline must identify the oxygenates present. Under the proposal, a range of alternative documentation could be used by the detergent blender to help establish the specific oxygenate content of gasoline in order to allow the optional use of oxygenate-restricted detergents rather than generic detergents (which do not have oxygenate restrictions). No new information collection requirements would result from implementation of this proposal. To the contrary, the proposed change would eliminate a compliance burden from the majority of regulated parties, while continuing to allow blenders to choose to use oxygenate-restricted detergents.

The second proposal would allow greater flexibility to industry by allowing the use of product codes on certain non-research base gasoline PTDs rather than the currently required warning language. The information collection requirements associated with this provision would not change. The increased flexibility is expected to result in a reduced compliance burden.

The Office of Management and Budget (OMB) has previously approved the information collection requirements of the Regulation of Deposit Control Additives contained in 40 CFR Part 80 under the provisions of the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0275(EPA ICR Numbers 1655–01, 1655–02, and 1655–03).

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Copies of the ICR documents may be obtained from Sandy Farmer, Information Policy Branch; EPA; 401 M St., SW. (mail code 2136); Washington, DC 20460 or by calling (202) 260–2740. Include the ICR and/or OMB number in any correspondence.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to state, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more for any one year.

Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation of why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's proposed revisions to the Regulation of Gasoline Deposit Control Additives contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments. The proposed revisions impose no enforceable duties on any of these governmental entities. Nothing in the proposal would significantly or uniquely affect small governments. EPA has determined that the provisions in today's proposal do not contain Federal mandates that will result in expenditures of $100 million or more in any one year for the private sector. To the contrary, EPA expects the proposed changes would result in reduced compliance costs. EPA believes that the proposed regulatory changes represent the least costly, most cost-effective approach to addressing implementation concerns expressed by industry, while achieving the air quality goals of the gasoline detergent program.

VIII. Statutory Authority

The statutory authority for the proposed actions in this notice is granted to EPA by sections 114, 211(a), (b), (c), and (l), and 301 of the Clean Air Act as amended: 42 U.S.C. 7414, 7545 (a), (b), (c) and (l), and 7601.

List of Subjects in 40 CFR Part 80

Environmental protection, Fuel additives, Gasoline detergent additives, Gasoline, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: October 30, 1997.

Carol M. Browner,

Administrator.

For the reasons set forth in the preamble, part 80 of title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 80—[AMENDED]

1. The authority citation for part 80 continues to read as follows:

Authority: Sections 114, 211 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7414, 7545, and 7601(a)).

2. Section 80.158 is amended as follows:

a. Paragraph (a)(5) is removed.

b. Paragraphs (a)(6) through (a)(10) are redesignated as paragraphs (a)(5) through (a)(9).

c. Paragraph (c)(1) is revised to read as follows:

§ 80.158 Product Transfer Documents (PTDs)

* * * * *

(c) Use of product codes and other non-regulatory language.

(1) Product codes and other non-regulatory language may not be used as a substitute for the specified PTD warning language specified in paragraph (a)(6) of this section for custody transfers of base gasoline to truck carriers, retail outlets, and wholesale purchaser-consumer facilities or for transfers of exempt base gasoline to be used for research, development, or test purposes.

* * * * *

3. Section 80.170 is amended by adding a new paragraph (f)(7) to read as follows:

§ 80.170 Volumetric additive reconciliation (VAR), equipment calibration, and recordkeeping requirements.

* * * * *

(f) * * *

(7) If a detergent blender uses an oxygenate or PRC-restricted certified detergent to additize fuel, documentation must be maintained by that blender fully identifying the oxygenate and/or PRC (as applicable) content of the fuel into which the oxygenate or PRC-restricted detergent was blended, so as to confirm or to substantially confirm that the fuel into which the restricted detergent was blended complied with the use restriction. Documentation which may be used to fulfill this requirement includes, but is not limited to: PTD(s) from the fuel supplier identifying all the oxygenates or PRC (as appropriate) in the fuel; test results identifying all the oxygenates or PRC (as appropriate) in the fuel; written contract language between the supplier and the blender establishing the complete oxygenate and/or PRC (as appropriate) content of the supplied fuel.

* * * * *

4. Section 80.171 is amended as follows:

a. Paragraph (a)(5) is removed.

b. Paragraphs (a)(6) through (12) are redesignated as paragraphs (a)(5) through (a)(11).

c. Paragraph(b)(1) is revised to read as follows:

§ 80.171 Product Transfer Documents (PTDs)

* * * * *

(b) Use of product codes and other non-regulatory language.

(1) Product codes and other non-regulatory language may not be used as a substitute for the PTD warning language specified in paragraph (a)(6) of this section for custody transfers of base gasoline to truck carriers, retail outlets, and wholesale purchaser-consumer facilities, or for transfers of exempt base gasoline to be used for research, development, or test purposes.

* * * * *

[FR Doc. 97-29390 Filed 11-5-97; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-5916-7]

National Oil and Hazardous Substances Pollution Contingency Plan National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to delete the Browning-Ferris Industries—South Brunswick Landfill Site from the National Priorities List; request for comments.

SUMMARY: The Environmental Protection Agency (EPA) Region II announces its intent to delete the Browning-Ferris Industries—South Brunswick Landfill Site (Site) from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, 42 U.S.C 9601 *et seq.* EPA and the New Jersey Department of Environmental Protection (NJDEP) have determined that the Site poses no significant threat to public health or the environment and, therefore, further remedial measures pursuant to CERCLA are not appropriate.

DATES: Comments concerning this Site may be submitted on or before December 8, 1997.

ADDRESSES: Comments may be mailed to: Mary Anne Rose, Remedial Project Manager, U.S. Environmental Protection Agency, Region II, 290 Broadway-19th Floor, New York, NY 10007-1866.

The deletion docket and other comprehensive information on this Site is available for viewing at the Browning-Ferris Industries—South Brunswick Landfill Site information repository at the following location: Town of South Brunswick Municipal Building, P.O. Box 190, Monmouth Junction, New Jersey 08852, (908) 329-4000.

FOR FURTHER INFORMATION CONTACT: Mary Anne Rose, Remedial Project Manager, U.S. Environmental Protection Agency, Region II, 290 Broadway—19th Floor, New York, New York 10007-1866, (212) 637-4407.

SUPPLEMENTARY INFORMATION:

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I. Introduction

EPA Region II announces its intent to delete the Browning-Ferris Industries—South Brunswick Landfill Site, which is located in South Brunswick Township, Middlesex County, New Jersey, from the NPL, which constitutes Appendix B of the NCP, 40 CFR part 300, and requests comments on this deletion. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of these sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions in the unlikely event that conditions at the site warrant such action.

EPA will accept comments on the proposal to delete this Site until December 8, 1997.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses the procedures that EPA is using for this action. Section IV discusses the Site and explains how the Site meets the deletion criteria.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that sites may be deleted from the NPL where no further response is appropriate. In making a determination to delete a site from the NPL, EPA in consultation with NJDEP, shall consider whether any of the following criteria have been met:

(i) Responsible parties or other parties have implemented all appropriate response actions required; or

(ii) All appropriate responses under CERCLA have been implemented, and no further action by responsible parties is appropriate; or

(iii)The remedial investigation has shown that the release of hazardous substances poses no significant threat to public health or the environment and, therefore, remedial measures are not appropriate.

III. Deletion Procedures

The following procedures were used for the intended deletion of this Site: (1) EPA Region II issued a Record of Decision (ROD) which documented the remedial action activities; (2) all appropriate responses under CERCLA have been implemented as documented in the Final Close-Out Report dated September 1997; (3) the NJDEP concurred with the proposed deletion; (4) a notice has been published in the local newspaper and has been distributed to appropriate Federal, State and local officials and other interested parties announcing the commencement of a 30-day public comment period on EPA's Notice of Intent to Delete; and (5) all relevant documents have been made available for public review in the local Site information repository.

Deletion of sites from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for informational purposes and to assist Agency management of Superfund sites. As mentioned in section II of this document, § 300.425 (e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions.

For deletion of this Site, EPA's Regional Office will accept and evaluate public comments before making a final decision to delete. If necessary, the Agency will prepare a Responsiveness Summary to address any significant public comments received.

A deletion occurs when the Regional Administrator places a final notice in the **Federal Register**. Generally, the NPL will reflect deletions in the final update following the notice. Public notices and copies of the Responsiveness Summary will be made available to local residents by the Regional Office.

IV. Basis for Intended Site Deletion

The following summary provides the Agency's rationale for the proposal to delete this Site from the NPL.

A. Site Background

The Site is located along New Road, approximately one-half mile northwest of U.S. Route 1, in Middlesex County, New Jersey. The landfill occupies an area of approximately 68 acres. A significant portion of the land surrounding the Site is wooded. It is owned by Browning-Ferris Industries (BFI) of South Jersey. The Site, which operated for more than 20 years as a solid waste landfill, accepted municipal refuse, pesticides, chemical wastes and hazardous wastes.

B. History

In June 1980, EPA conducted an investigation of the Site. The sampling results revealed elevated levels of volatile organic compounds in several on-site monitoring wells, as well as on-site surface water sampling locations.

The data from this sampling effort resulted in the Site being proposed for the Superfund NPL on December 1, 1982, and the Site was included on the NPL on November 1, 1983.

In April 1982, BFI and EPA entered into an agreement concerning the remedial efforts to be performed. The agreement was in the form of a Resource Conservation and Recovery Act (RCRA) Administrative Order on Consent (Index No. RCRA-700320101) which outlined the remedial approach.

C. Characterization

The remedial action activities, initiated in February 1983, consisted of the construction of a leachate collection/treatment system, slurry wall, multi-layer cap and gas venting system. The remedial action was completed in September 1985. EPA issued a Record of Decision on September 30, 1987, which affirmed that the remedial action undertaken was consistent with CERCLA, as amended, and to the extent practicable, the NCP.

A public availability session was conducted by EPA in August 1987 to discuss with the community the remedial actions implemented and the post-remedial environmental monitoring program. Public comments were received and addressed in the Responsiveness Summary portion of the September 30, 1987, Record of Decision.

D. Monitoring

The May 1993 EPA-approved Post-Remedial Environmental Monitoring Program (PREMP) Work Plan was designed to assess the effectiveness of the completed Remedial Action and evaluate off-Site migration of contaminants. The PREMP was conducted from May 1993 to January 1994 and included the collection of twenty-seven groundwater samples, thirty-four soil samples, eight surface water samples and twelve sediment samples. Post-remedial environmental monitoring indicated that volatile organic compounds (VOCs), semi-VOCs, and inorganic contaminant concentrations have decreased in surface water, groundwater, sediment and soil samples. Therefore, the results from this investigation document the effectiveness of the remedy and indicate there is no significant off-Site migration of contaminants. Although minimal groundwater contamination was detected in the southeastern portion of the Site in the area of monitoring well R-10, regulating the leachate collection system to induce inward gradients appears to have significantly reduced contamination. As part of the overall Site Operation and Maintenance Plan activities, EPA has required BFI to periodically evaluate the effectiveness of the leachate collection system and routinely monitor well R-10 and downgradient surface water quality to ensure the effectiveness of the remedy. The multi-layered cap has effectively reduced infiltration, as indicated by the significant reduction in the amount of leachate generation over time. The leachate collection system and slurry wall have reduced leachate levels within the landfill, resulting in inward hydraulic gradients over much of the Site. Historically, leachate was pre-treated to reduce iron concentrations in the effluent. BFI has been notified by the Stony Brook Regional Sewerage Authority (SBRSA) of a change in BFI's license classification from a Class 1 to Restricted Industrial User. BFI is no longer required to treat for iron. BFI discharges directly to the sanitary sewer line while still monitoring monthly per the requirements of the license issued by the SBRSA. Also, the gas venting system is operating in accordance with the existing NJDEP Air Pollution Control Program permit and a series of perimeter gas monitoring probes are periodically monitored. Project Managers from EPA and BFI conducted a Site inspection on September 12, 1995. The purpose of this inspection was to determine the current status of the Site and the adequacy of the Site cleanup. The remedial action, completed since September 1985, remains in place and is operating and functioning as designed.

E. Operation and Maintenance

The cleanup of the Site was performed in compliance with "clean closure" requirements and consistent with the Resource Conservation and Recovery Act of 1976, as amended, CERCLA, as amended, and to the extent practicable, the NCP. Pursuant to the 1989 Administrative Order, BFI has committed to performing Operation and Maintenance (O&M) activities at the Site. In August 1997, EPA approved the Site O&M Plan, which defines the long-term O&M activities for the Site. The O&M Plan addresses those activities required for controlling the groundwater gradient in the area of monitoring well R-10, maintaining the effectiveness of the response action, and monitoring Site conditions to determine the occurrence of any environmental threat. O&M activities include periodic inspections and maintenance of waste containment measures, periodic air, groundwater and surface water monitoring, certain institutional controls, periodic leachate collection and treatment measures, or any other activities necessary to ensure

the continued protection of public health and the environment.

F. Protectiveness

All the completion requirements for this Site have been met as described in the Final Close-Out Report (COR) dated September 1997. The Final COR documents the effectiveness of the post-remedial environmental monitoring and that the remedy (slurry wall, multi-layered cap, leachate collection system, gas venting system and installation of a Site security fence) remains protective. Site O&M activities will be performed by BFI, with EPA oversight.

EPA and NJDEP have determined that all appropriate Fund-financed responses under CERCLA at the Site have been completed, and that no further construction activities by responsible parties is necessary except for operation and maintenance requirements. EPA will be providing oversight of all operation and maintenance activities. Consequently, EPA is proposing deletion of this Site from the NPL. Documents supporting this action are available in the docket.

Dated: September 29, 1997.

William J. Muszynski,

Acting Regional Administrator.

[FR Doc. 97–29150 Filed 11–5–97; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration (NOAA)

50 CFR Part 679

[Docket No. 971015247–7247–01; I.D. 091597D]

RIN 0648–AK19

Fisheries in the Exclusive Economic Zone Off Alaska; Modify IFQ Survivorship Transfer Provisions

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: NMFS proposes a regulatory amendment to the Individual Fishing Quota (IFQ) Program for fixed gear Pacific halibut and sablefish fisheries in and off of Alaska. This action would modify the survivorship transfer provisions to allow heirs of deceased quota share (QS) or IFQ holders to receive such QS or IFQ by transfer and to transfer the resulting IFQs to any person eligible to receive IFQ for up to 3 years following the date of a QS holder's death. This action is necessary to extend survivorship privileges to other heirs in addition to surviving spouses and to allow such heirs to obtain pecuniary benefit from such IFQ. The intended effect of this action is to provide temporary financial relief for the heirs of QS holders.

DATES: Comments on the proposed rule and Regulatory Impact Review (RIR) must be received December 8, 1997.

ADDRESSES: Comments must be sent to the Chief, Fisheries Management Division, Alaska Region, NMFS, Room 453, 709 West 9th Street, Juneau, AK 99801, or P.O. Box 21668, Juneau, AK 99802, Attention: Lori J. Gravel.

FOR FURTHER INFORMATION CONTACT: James Hale, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

The fixed gear halibut and sablefish fisheries are managed by the IFQ Program, a limited access system for fixed gear Pacific halibut (*Hippoglossus stenolepis*) and sablefish (*Anoplopoma fimbria*) fisheries in and off of Alaska. Under authority of the Magnuson-Stevens Fishery Conservation and Management Act and the Northern Pacific Halibut Act of 1982 (Halibut Act), NMFS implemented the IFQ Program in 1995, on the recommendation of the North Pacific Fishery Management Council (Council), to reduce excessive fishing capacity in the fixed gear Pacific halibut and sablefish fisheries, while maintaining the social and economic character of these fisheries and the Alaskan coastal communities where many of these fishermen are based.

Restrictions in the IFQ Program foster the transfer of QS among fishermen qualified to fish the annual allocations of IFQ that QS generate. These restrictions are intended to discourage excessive consolidation and the acquisition of QS by investment speculators. Persons who are not qualified to receive IFQ may receive QS by transfer, but such QS would be restricted from generating IFQ that may be used to harvest IFQ halibut or sablefish.

The Council's approved IFQ Program authorizes temporary exceptions to the transfer restrictions. In 1996, on the authority of the transfer provisions in the Fishery Management Plan for the Gulf of Alaska Groundfish Fishery and the Fishery Management Plan for the Bering Sea/Aleutian Islands Groundfish, NMFS implemented an exception to the transfer restrictions that grants temporary transfer privileges to the spouse of a deceased QS holder who receives QS by right of survivorship, but is otherwise unqualified to harvest IFQ (61 FR 41523, August 9, 1996). The exception allows the surviving spouse who receives QS or IFQ, first, to transfer any of the current year's IFQ for the duration of the allocation year and, second, to lease the total annual allocations of IFQ resulting from the QS transferred by right of survivorship for 3 calendar years from the date of the death of the deceased holder of QS or IFQ (§ 679.41(k)(2)).

In October 1996, the IFQ Industry Implementation Team recommended a proposal to extend the survivorship transfer provisions to heirs in a deceased QS holder's immediate family, in addition to a surviving spouse. In June 1997, the Council took final action to extend the survivorship transfer provisions to any individual who receives QS by right of survivorship.

This action would benefit heirs who were not initially issued QS or who are not IFQ crew members. Without meeting those criteria, individuals who receive QS by right of survivorship would be otherwise ineligible to receive IFQ. The new provision would allow an individual who receives QS by right of survivorship to transfer, for up to 3 years, the total IFQ resulting from that QS to anyone eligible to receive IFQ and thereby obtain pecuniary benefit from the QS for that period. The Council determined that 3 years would provide an heir with adequate time to resolve permanently any issues that may arise due to receiving QS or IFQ by right of survivorship, including subsequent transfers. Upon the death of a QS or IFQ holder, the Regional Administrator, upon application for transfer, would transfer QS or IFQ to an individual who demonstrates a right of succession to such QS or IFQ, through intestate or testate succession. The Regional Administrator, upon application for transfer, would transfer, for up to 3 calendar years following the date of death of an individual QS holder, IFQ from an individual who received the originating QS through intestate or testate succession to any person eligible to receive IFQ.

This action would also correct an error in the survivorship transfer regulations that resulted from the consolidation of regulations governing the EEZ off Alaska in 61 FR 31228 (June 19, 1997). In the consolidation of the regulations, the reference to paragraph (g)(2) in § 679.41(k) should have been revised to read (h)(2). This action would make the necessary revision to correct the oversight.

Classification

This proposed rule contains a collection-of-information requirement subject to the Paperwork Reduction Act, clarifying a requirement that has previously been approved by OMB under Control Number 0648-0272. The proposed clarification states that a death certificate is one of the forms of substantiating evidence required upon the death of a quota share holder in order to transfer that quota share to an estate. The estimated response time for providing the substantiating evidence is 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS/Alaska Region (see **ADDRESSES**), and to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attn: NOAA Desk Officer).

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

The proposed rule has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities:

The proposed change constitutes a minor regulatory amendment needed to extend the survivorship transfer provision (currently applicable to surviving spouses only) to heirs generally of a deceased quota share (QS) holder. This action would allow heirs who receive QS of Individual Fishing Quota (IFQ) by right of survivorship to transfer IFQ resulting from the inherited QS for 3 years from the date of the deceased QS holder's death, notwithstanding the IFQ Program's restrictions on transfers of IFQ.

This rule could potentially affect any small entity able to fish IFQ in the Alaska fisheries. Currently, 4,187 persons are eligible to fish IFQ in Alaska. Most of these are believed to be small entities. In addition, this rule could affect heirs of deceased QS holders. It is not possible to predict the extent to which such heirs might be considered small entities. Likewise, it is impossible to quantify the economic impact this proposed rule could have on small entities, because the impacts are speculative and depend on a variety of factors including the death of one or more current QS holders and the decision by one or more heirs to lease IFQ. However, to the extent that the proposed rule could impact small entities, the impact would be beneficial in that the result would be increased opportunity for leasing IFQ shares. Eligible fishermen who wanted to fish more shares would have increased opportunity to lease more shares, and heirs who otherwise would not be eligible to fish the IFQ would be able to recognize economic gain.

As a result, a regulatory flexibility analysis was not prepared.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: October 31, 1997.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR Part 679 is proposed to be amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*

2. In § 679.41, paragraph (k) is revised to read as follows:

§ 679.41 Transfer of QS and IFQ

* * * * *

(k) Transfer to an heir.

(1) Upon the death of a QS or IFQ holder, the Regional Administrator, upon application for transfer, will transfer QS or IFQ to an individual who demonstrates a right of succession to such QS or IFQ, through intestate or testate succession.

(2) The Regional Administrator, upon application for transfer, will transfer, for up to 3 calendar years following the date of death of an individual QS holder, IFQ from an individual who received the originating QS through intestate or testate succession to a person eligible to receive IFQ under the provisions of this section, notwithstanding the limitations on the transfer of IFQ in paragraph (h)(2) of this section.

* * * * *

[FR Doc. 97–29382 Filed 11–3–97; 2:24 pm]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 62, No. 215
Thursday, November 6, 1997

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

October 31, 1997.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 *and* to Department Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–6746.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

- **Farm Service Agency**

Title: Request for FSA County Committee Ballot and Declaration of Eligibility to Vote.

OMB Control Number : 0560—New.

Summary of Collection: Information will be collected from persons requesting eligibility to vote in county committee elections.

Need and Use of the Information: The information will be used to ensure as many eligible voters as possible receive an FSA County Committee election ballot.

Description of Respondents: Farms.

Number of Respondents: 5,000.

Frequency of Responses: Reporting: Once.

Total Burden Hours: 400.

Emergency processing of this submission has been requested.

- **Food and Consumer Service**

Title: Quality Control Review Schedule.

OMB Control Number : 0584–0299.

Summary of Collection: The Quality Control Review Schedule collects both quality control and case characteristic data. The information needed to complete this form is obtained from the Food Stamp case record and State quality control findings.

Need and use of the Information: The information is used to monitor and reduce errors, develop policy strategies, and analyze household characteristic data.

Description of Respondents: State, Local or Tribal Government; Individuals or households; Federal Government.

Number of Respondents: 57,236.

Frequency of Responses: Recordkeeping; Recording: Weekly; Monthly.

Total Burden Hours: 61,499.

Donald Hulcher,

Departmental Clearance Officer.

[FR Doc. 97–29315 Filed 11–5–97; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 95–078–5]

Agency Information Collection Activities; OMB Approval Received

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Office of Management and Budget's approval of a collection of information contained in the Animal and Plant Health Inspection Service final rule amending the regulations for the humane treatment of dogs under the Animal Welfare Act by removing the provisions for tethering dogs as a means of primary enclosure.

FOR FURTHER INFORMATION CONTACT: Mr. Gregg Ramsey, APHIS Information Collection Coordinator, AIM, APHIS, suite 2C11, 4700 River Road Unit 103, Riverdale, MD 20737–1235, (301) 734–5682.

SUPPLEMENTARY INFORMATION:

Background

On August 13, 1997, we published in the **Federal Register** (62 FR 43272-43275, Docket No. 95–078–2) a final rule amending the regulations at 9 CFR parts 1 and 3, "Humane Treatment of Dogs; Tethering." This rule contains information collection requirements. On October 3, 1997, the Office of Management and Budget (OMB) approved the collection of information requirements with respect to this final rule under OMB control number 0579-0093 (expires April 30, 2000).

Done in Washington, DC, this 30th day of October 1997.

Craig A. Reed,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–29322 Filed 11–5–97; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: The Rural Housing Service, USDA.

ACTION: Proposed collection; comments request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Housing Service's (RHS) intention to request an extension for a currently approved information collection in support of the program for Rural Housing Site Loans Policies, Procedures and Authorizations.

DATES: Comments on this notice must be received by January 5, 1998 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Carrie Schmidt, Loan Specialist, Single Family Housing Processing Division, RHS, U.S. Department of Agriculture, STOP 0783, 1400 Independence Ave., S.W., Washington, DC 20250–0783, Telephone (202) 690–0510.

SUPPLEMENTARY INFORMATION:

Title: 7 CFR 1822–G, Rural Housing Site Loans, Policies, Procedures and Authorizations.

OMB Number: 0575–0071.

Expiration Date of Approval: March 31, 1998.

Type of Request: Extension of currently approved information collection.

Abstract: Section 523 of the Housing Act of 1949 as amended (Public Law 90–448) authorizes the Secretary of Agriculture to establish the Self-Help Land Development Fund to be used by the Secretary as a revolving fund for making loans on such terms and conditions and in such amounts as deemed necessary to public or private nonprofit organizations for the acquisition and development of the land as building sites to be subdivided and sold to families, nonprofit organizations and cooperatives eligible for assistance.

Section 524 authorizes the Secretary to make loans on such terms and conditions and in such amounts as deemed necessary to public or private nonprofit organizations for the acquisition and development of land as building sites to be subdivided and sold to families, nonprofit organizations, public agencies and cooperatives eligible for assistance under any section of this title, or under any other law which provides financial assistance for housing low and moderate income families.

RHS will be collecting information from participating organizations to insure they are program eligible entities. This information will be collected at the RHS field office. If not collected, RHS would be unable to determine if the organization would qualify for loan assistance.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 6 hours per response.

Respondents: Public or private nonprofit organizations, State, Local or Tribal Governments.

Estimated Number of Respondents: 6.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 36.

Copies of this information collection can be obtained from the Barbara Williams, Regulations and Paperwork Management Branch, Support Services Division at (202) 720–9734.

Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of RHS, including whether the information will have practical utility; (b) the accuracy of RHS's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Barbara Williams, Regulations and Paperwork Management Branch, Support Services Division, U.S. Department of Agriculture, Rural Development, STOP 0743, Washington, DC 20250–0743. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: October 28, 1997.

Jan E. Shadburn,

Administrator, Rural Housing Service.

[FR Doc. 97–29323 Filed 11–5–97; 8:45 am]

BILLING CODE 3410–XV–U

COMMISSION ON CIVIL RIGHTS

Sunshine Act Notice

AGENCY: U.S. Commission on Civil Rights.

DATE AND TIME: Friday, November 14, 1997, 9:30 a.m.

PLACE: U.S. Commission on Civil Rights, 624 Ninth Street, N.W., Room 540, Washington, DC 20425.

STATUS:

Agenda

I. Approval of Agenda
II. Approval of Minutes of October 10, 1997 Meeting
III. Announcements
IV. Staff Director's Report
V. Regional Director's Discussion
VI. Future Agenda Items

CONTACT PERSON FOR FURTHER INFORMATION: Barbara Brooks, Press and Communications (202) 376–8312.

Stephanie Y. Moore,

General Counsel.

[FR Doc. 97–29485 Filed 11–4–97; 12:23 pm]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

[No. 97–BXA–6]

Decision and Order on Renewal of Temporary Denial Order

In the Matters of: Thane-Coat, Inc. 12725 Royal Drive, Stafford, Texas 77477; Jerry Vernon Ford, President, Thane-Coat, Inc., 12725 Royal Drive, Stafford, Texas 77477; and with an address at 7707 Augustine Drive, Houston, Texas 77036; Preston John Engebretson, Vice-President, Thane-Coat, Inc., 12725 Royal Drive, Stafford, Texas 77477; and with an address at 8903 Bonhomme Road, Houston, Texas 77074; Export Materials, Inc., 3727 Greenbrier Drive, No. 108, Stafford, Texas 77477; and Thane-Coat International, LTD., Suite C, Regent Centre, Explorers Way, P.O. Box F–40775, Freeport, The Bahamas, Respondents.

Background

On May 5, 1997, I entered an Order temporarily denying all United States export privileges to Thane-Coat, Inc.; Jerry Vernon Ford, president, Thane-Coat, Inc.; Preston John Engebretson, vice-president, Thane-Coat, Inc. (hereinafter collectively referred to as "T–CF&E"), located in the State of Texas; Export Materials, Inc. (hereinafter referred to as "EMI"), located in the State of Texas; and Thane-Coat International, Ltd. (hereinafter referred to as "TCIL"), located in Freeport, the Bahamas.

T–CF&E, EMI and TCIL appealed the Temporary Denial Order hereinafter "TDO") to an Administrative Law Judge (hereinafter the "ALJ"). On June 11, 1997, the ALJ recommended to the Under Secretary for Export Administration that the TDO be affirmed. The Under Secretary affirmed the TDO on June 20, 1997. T–CF&E, EMI and TCIL appealed the issuance of the TDO in the U.S. District Court in the Southern District of Texas.

The TDO will expire on November 1, 1997. Pursuant to Section 766.24 of the Export Administration Regulations (15 C.F.R. parts 730–774 (1997)) (hereinafter the "Regulations"), issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app §§ 2401–2420 (1991 & Supp. 1997)) (hereinafter the "Act"),[1] the Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (hereinafter "BXA") has requested that I renew the TDO against T–CF&E, EMI and TCIL for an additional 180 days.

T–CF&E, through its attorneys, opposed the Department's request and sought a hearing as authorized by Section 766.24(d)(3)(i) of the Regulations. The hearing was held on October 28, 1997.

Neither EMI nor TCIL filed written submissions opposing renewal of the TDO.

Discussion

The sole issue presented is whether the TDO should be renewed to prevent an imminent violation of the Regulations. A violation may be "imminent" either in time or likelihood. To establish grounds for a temporary denial order, BXA may show either that a violation is about to occur or that the general circumstances of the matter under investigation demonstrate a likelihood of future violations. BXA may show that the violation under investigation or charges is significant, deliberate, covert and/or likely to occur again, rather than technical or negligent. BXA may show that it is appropriate to give notice to companies in the United States and abroad to cease dealing with the persons in U.S.-origin goods and technology in order to reduce the likelihood that the persons under investigation or charges continue to export or acquire abroad such goods and technology, risking subsequent disposition contrary to export control requirements. Lack of information establishing the precise time a violation may occur does not preclude a finding that a violation is imminent, so long as there is sufficient reason to believe the likelihood of a violation. BXA may request renewal of a TDO if BXA believes the TDO is necessary in the public interest to prevent an imminent violation. 15 CFR 766.24.

In its request, BXA states that, as a result of an ongoing investigation, it has reason to believe that, during the period from approximately June 1994 through approximately July 1996, Thane-Coat, Inc., through Ford and Engebretson, and using its affiliated companies, TCIL and EMI, made approximately 100 shipments of U.S.-origin pipe coating materials, machines and parts to the Dong Ah Consortium in Benghazi, Libya. BXA asserts the approximate value of these shipments was $35 million. These items were used in coating the internal surface of prestressed concrete cylinder pipe for the Government of Libya's Great Man-Made River Project, which is ongoing. BXA's investigation gives it reason to believe that T–CF&E, EMI and TCIL employed a scheme to export U.S.-origin products from the United States, through the United Kingdom or Italy, to Libya, a country subject to a comprehensive economic sanctions program, without the authorizations required under U.S. law and regulations, including the Regulations.

BXA believes that the violations T–CF&E, EMI and TCIL are suspected of having committed were significant, deliberate, covert and/or likely to occur again unless a temporary denial order naming T–CF&E, EMI and TCIL is issued. Additionally, BXA believes that a temporary denial order is necessary to give notice to companies in the United States and abroad that they should cease dealing with T–CF&E, EMI and TCIL in export-related transactions involving U.S.-origin goods.

Counsel for T–CF&E argues that BXA has not shown that a TDO is needed to prevent an imminent violation of law and that evidence of past alleged violations of the Act do not show that a future violation is imminent.[2] Counsel's arguments are not persuasive.

Counsel argues that the TDO is void and should not be renewed because the Act has expired. I do not accept Counsel's argument.

Counsel argues that evidence of the violations upon which BXA bases its request is contained in privileged communications. Counsel further argues that privileged communications may not be considered in deciding whether to renew the TDO. The showing by BXA, that renewal of the TDO is appropriate, is compelling even without the communications to which counsel claims privilege. I do not concur in Counsel's argument.

Counsel argues that the TDO is overbroad and, if renewed, should be narrowed. In its showing, BXA described an elaborate international scheme put in place by T–CF&E, EMI and TCIL. BXA argues that, if the TDO is not renewed, T–CF&E can establish a similar scheme and commit additional violations. Based on the showing by BXA, the scope of the TDO is in the public interest to prevent additional violations. BXA's argument is persuasive.

Counsel offers declarations by Jerry Vernon Ford, president of Thane-Coat, Inc., and Preston John Engebretson, vice-president of Thane-Coat, Inc. Each certified, under penalty of perjury, that neither he nor Thane-Coat, Inc. will enter into any contract, agreement, understanding, or arrangement with any other party to sell, export, ship or transmit any coating products, of any kind, to any entity in any country subject to a general embargo, as indicated in Section 746.1(a) of the Regulations. Messrs. Ford and Engebretson, on behalf of themselves and Thane-Coat, Inc., also consent to pre-export and post-export monitoring by BXA of all export transactions entered into by Thane-Coat.

The pledge by Messrs. Ford and Engebretson, to comply with Section 746.1(a) of the Regulations, is not persuasive in light of the showing by BXA.

Counsel requests that BXA produce documents related to the matters associated with transactions to Libya involving T–CF&E, EMI and TCIL. At this point, this matter is not ripe for discovery.

Findings

Based on the record in this matter, including the submissions of the parties and the oral arguments at the hearing held on October 28, 1997, I find that it is necessary to renew the order temporarily denying the export privileges of Thane-Coat, Inc.; Jerry Vernon Ford; Preston John Engebretson; Export Materials, Inc.; and Thane-Coat International, Ltd. I find such renewal is in the public interest to prevent an imminent violation of the Regulations and to give notice to companies in the United States and abroad to cease dealing with these entities in goods and technical data subject to the Regulations. I find such renewal is in the public interest in order to reduce the substantial likelihood that they will engage in activities which are in violation of the Regulations.

[1] The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), and August 14, 1996 (3 C.F.R., Comp. 298 (1997)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701–1706 (1991 & Supp. 1997)).

[2] "Opposition To Request for Renewal of Order Temporarily Denying Export Privileges", dated October 24, 1997.

Order

Accordingly, it is hereby ordered that:

All outstanding validated export licenses in which Thane-Coat, Inc., 12725 Royal Drive, Stafford, Texas; Jerry Vernon Ford, president, Thane-Coat, Inc., 12725 Royal Drive, Stafford, Texas 77477, with an address at 7707 Augustine Drive, Houston, Texas 77036; Preston John Engebretson, vice-president, Thane-Coat, Inc., 12725 Royal Drive, Stafford, Texas 77477, with an address at 8903 Bonhomme Road, Houston, Texas 77074; Export Materials, Inc., 3727 Greenbrier Drive, No. 108, Stafford, Texas 77477; and/or Thane-Coat International, Ltd., Suite C, Regent Center, Explorers Way, P.O. Box F–40775, Freeport, The Bahamas, appear or participate, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all privileges of T–CF&E, EMI and TCIL of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

Thane-Coat, Inc., and all of its successors or assigns, officers, representatives, agents, and employees when acting on its behalf; Jerry Vernon Ford; Preston John Engebretson; Export Materials, Inc., and all of its successors or assigns, officers, representatives, agents, and employees when acting on its behalf; and Thane-Coat International, Ltd., and all of its successors or assigns, officers, representatives, agents, and employees when acting on its behalf, may not directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefiting in any way from any transaction involving any item exported, or to be exported, from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

No person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of any of the denied persons any item subject to the Regulations;

B. Take any action that facilitates the acquisition, or attempted acquisition, by any of the denied persons of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby any of the denied persons acquires, or attempts to acquire, such ownership, possession or control;

C. Take any action to acquire from, or to facilitate the acquisition or attempted acquisition from, any of the denied persons of any item subject to the Regulations that has been exported from the United States;

D. Obtain from any of the denied persons in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States;

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by any of the denied persons, or service any item, of whatever origin, that is owned, possessed or controlled by any of the denied persons if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

After notice and opportunity for comment, as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to any of the denied persons by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services, may also be made subject to the provisions of this Order.

This order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

In accordance with the provisions of Section 766.24(e) of the Regulations, T–CF&E, EMI, and/or TCIL may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202–4022.

This order is effective immediately and shall remain in effect for 180 days.

In accordance with Section 766.24 of the Regulations, the Department may seek renewal of this TDO by filing a written request not later than 20 days before the expiration date. Any respondent may oppose a request to renew this TDO by filing a written submission with the Assistant Secretary for Export Enforcement, which must be received no later than seven days before the expiration of this order.

A copy of this order shall be served on each respondent and this order shall be published in the **Federal Register**.

Entered this 31st day of October 1997.

Frank W. Deliberti,

Acting Assistant Secretary for Export Enforcement.

[FR Doc. 97–29377 Filed 11–5–97; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Visiting Committee on Advanced Technology

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of partially closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that the Visiting Committee on Advanced Technology, National Institute of Standards and Technology (NIST), will meet on Tuesday, December 2 from 8:30 a.m. to 5:00 p.m. The Visiting Committee on Advanced Technology is composed of fifteen members appointed by the Director of NIST who are eminent in such fields as business, research, new product development, engineering, labor, education, management consulting, environment, and international relations. The purpose of this meeting is to review and make recommendations regarding general policy for the Institute, its organization,

its budget, and its programs within the framework of applicable national policies as set forth by the President and the Congress. On December 2, 1997, the agenda will include an update on NIST programs; presentations on the NIST Advanced Technology Program (ATP), the Manufacturing Extension Partnership (MEP); a laboratory tour; and discussions on the Institute budget and staffing of management positions. Discussions on the NIST budget, including funding levels of the MEP and ATP programs scheduled to begin at 8:30 a.m. and to end at 9:00 a.m. on December 2, 1997; and staffing of management positions at NIST scheduled to begin at 4:30 p.m. and to end at 5:00 p.m. on December 2, 1997, will be closed.

DATES: The meeting will convene on December 2, 1997 at 8:30 a.m. and will adjourn at 5:00 p.m. on December 2, 1997.

ADDRESSES: The meeting will be held in the Employees Lounge (seating capacity 80, includes 38 participants), Administration Building, at NIST, Gaithersburg, Maryland.

FOR FURTHER INFORMATION CONTACT: Chris E. Kuyatt, Visiting Committee Executive Director, National Institute of Standards and Technology, Gaithersburg, MD 20899, telephone number (301) 975–6090.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on July 25, 1997, that portions of the meeting of the Visiting Committee on Advanced Technology which involve discussion of proposed funding of the Manufacturing Extension Partnership and the Advanced Technology Program may be closed in accordance with 5 U.S.C. 552b(c)(9)(B), because those portions of the meetings will divulge matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency actions; and that portions of meetings which involve discussion of the staffing issues of management and other positions at NIST may be closed in accordance with 5 U.S.C. 552b(c)(6), because divulging information discussed in those portions of the meetings is likely to reveal information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Dated: October 30, 1997.

Elaine Bunten-Mines,

Director, Program Office.

[FR Doc. 97–29381 Filed 11–5–97; 8:45 am]

BILLING CODE 3510-13-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Brazil

October 31, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: November 7, 1997.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The current limits for certain categories are being adjusted, variously, for swing and carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66263, published on December 17, 1996). Also see 61 FR 59420, published on November 22, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 31, 1997.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 18, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Brazil and exported during the twelve-month period which began on January 1, 1997 and extends through December 31, 1997.

Effective on November 7, 1997, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC):

Category	Adjusted twelve-month limit [1]
Sublevels in the aggregate	
218	6,352,800 square meters.
225	11,718,341 square meters.
300/301	8,615,858 kilograms.
338/339/638/639	1,801,932 dozen.
347/348	1,234,657 dozen.
410/624	11,446,488 square meters of which not more than 2,950,336 square meters shall be in Category 410.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1996.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 97–29376 Filed 11–5–97; 8:45 am]

BILLING CODE 3510-DR-F

COMMODITY FUTURES TRADING COMMISSION

Chicago Mercantile Exchange Proposed Amendments to the Termination of Trading Provision for Expiring E-Mini Standard & Poor's 500 Stock Price Index Futures and Futures Option Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of proposed amendments to the termination of trading provision for expiring E-Mini Standard & Poor's 500 Stock Price Index futures and futures option contracts.

SUMMARY: The Chicago Mercantile Exchange (CME) has submitted proposed amendments to the termination of trading provision for expiring the E-Mani Standard & Poor's 500 Stock Price Index (E-Mini S&P 500) futures and futures option contracts. The Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before November 21, 1997.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 1155 21st Street NW, Washington, DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521 or by electronic mail to secretary@cftc.gov. Reference should be made to the proposed amendments to the termination of trading provision of the E-Mini S&P 500 futures and futures option contracts.

FOR FURTHER INFORMATION CONTACT: Please contact Michael Penick of the Division of Economic Analysis, Commodity Futures Trading Commission, 1155 21st Street NW, Washington, DC 20581, telephone 202–418–5279. Facsimile number: (202) 418–5527. Electronic mail: mpenick@cftc.gov.

SUPPLEMENTARY INFORMATION: Under current rules, trading in expiring CME E-Mini S&P 500 futures and options terminates at the close of the regular trading session (*i.e.*, 4:15 p.m. Eastern time) on the business day immediately preceding the day scheduled for determination of the final settlement price.[1] That is, trading in expiring futures contracts ceases on the business day before the third Friday of the contract month. Under the proposal, trading in expiring futures and options would terminate on the following day—*i.e.*, at the opening of trading at the New York Stock Exchange (9:30 a.m. Eastern time) on the third Friday of the contract month, which is the day scheduled for determination of the final settlement price. The Division requests comment on this proposed change to the termination of trading provision.

Copies of the proposed amendments will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 1155 21st Street, N.W., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 418–5100.

Other materials submitted by the CME in support of the proposals may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed amendments, or with respect to other materials submitted by the CME should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 1155 21st Street, NW, Washington, DC 20581 by the specified date.

Issued in Washington, DC, on October 31, 1997.

John R. Mielke,

Acting Director.

[FR Doc. 97–29356 Filed 11–5–97; 8:45 am]

BILLING CODE 6351-01-M

[1] The final settlement price is a special opening quotation of the S&P 500 index and reflects the opening prices of the component stocks.

COMMODITY FUTURES TRADING COMMISSION

Proposed Amendments to Minneapolis Grain Exchange Barley Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of proposed amendments.

SUMMARY: The Minneapolis Grain Exchange (MGE or Exchange) has proposed amendments to Minneapolis Grain Exchange barley futures contract. The primary amendment will change the par delivery location for barley from Tulare, California, to Portland, Oregon. Another amendment will provide the issuers of barley shipping certificates the opportunity to declare unit train delivery. The proposal was submitted under the Commission's 45-day Fast Track procedures. The Acting Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purpose of the Commodity Exchange Act.

DATES: Comments must be received on or before November 21, 1997.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street NW, Washington, DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521, or by electronic mail to secretary@cftc.gov. Reference should be made to the MGE barley.

FOR FURTHER INFORMATION CONTACT: Please contact John Bird of the Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street NW, Washington, 20581, telephone (202) 418–5274. Facsimile number: (202) 418–5527. Electronic mail: jbird@cftc.gov.

SUPPLEMENTARY INFORMATION: The proposed amendments were submitted pursuant to the Commission's Fast Track procedures for streamlining the review of futures contract rule amendments (62 FR 10434). Under those procedures, the proposal, absent any contrary action by the Commission, may be deemed approved at the close of business on December 15, 1997, 45 days after receipt of the proposal. In view of the limited review period provided under the Fast Track procedures, the Commission has determined to publish for public comment notice of the availability of the terms and conditions for 15 days, rather than 30 days as provided for proposals submitted under the regular review procedures.

Copies of the proposed amendments will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street NW, Washington, DC 20581. Copies of the proposed amendments can be obtained through the Office of the Secretariat by mail at the above address, by phone at (202) 418–5100, or via the internet on the CFTC website at www.cftc.gov under "What's Pending".

Other materials submitted by the MGE in support of the proposal may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of

Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed amendments, or with respect to other materials submitted by the MGE, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street NW, Washington, DC 20581 by the specified date.

Issued in Washington, DC, on October 31, 1997.

John R. Mielke,

Acting Director.

[FR Doc. 97–29355 Filed 11–5–97; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs, DOD.

ACTION: Notice.

In accordance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Assistant Secretary of Defense for Health Affairs announces the proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by January 5, 1998.

ADDRESSES: Written comments and recommendations on the information collection should be sent to TRICARE Support Office, Program Development Branch, U.S. Army Garrison, Fitzsimons, ATTN: Tariq Shahid, Aurora, CO 80045–6900.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection, please write to the above address or call TRICARE Support Office, Program Development Branch, at (303) 361–1401.

Title; Associated Form; and OMB Number: Reimbursement Information, Psychiatric Residential Treatment Centers Serving Children and Adolescents, TRICARE Form 771, OMB Number 0704–0295.

Needs and Uses: The information collection requirement is necessary to obtain individual residential treatment center (RTC) data that will be used in calculating the prospective per diem rates for new RTCs seeking certifications under the TRICARE program.

Affected Public: Business or other for-profit; non-profit institutions.

Annual Burden Hours: 240.

Number of Respondents: 20.

Responses per Respondents: 1.

Average Burden per Response: 12 hours.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Respondents are psychiatric residential treatment centers (RTCs) seeking certification under the TRICARE program to provide needed services to eligible children and adolescents. The data collection instrument, i.e., TRICARE Form 771, will collect the necessary reimbursement information that will be used in calculating prospective all-inclusive per diem rates for new RTCs under the TRICARE program. Based on current trends, it is estimated that about 20 forms will be completed and submitted to the TRICARE program per fiscal year for RTCs seeking certification under the program.

The TRICARE Support Office (TSO), formerly known as OCHAMPUS, published a proposed rule on 4 December 1987, (52 FR 46098), and final rule on 1 August 1988, (53 FR 28873), in the **Federal Register** clarifying participation requirements and establishing a new reimbursement system for payment of RTCs. These amendments outlined the methodology used in calculating the individual RTC rates along with the capped amount. The amendments also described the data collection elements and responded to 23 distinct categories of comments.

The TRICARE program will be responsible for: (1) sending out the data collection instrument (TRICARE Form 771) to all RTCs seeking certification under the TRICARE program; (2) answering all inquiries regarding the data collection; (3) compiling and analyzing the submitted data; (4) following up on missing or incomplete data; (5) calculating the individual prospective all-inclusive per diem rates; and (6) sending out RTC participation agreements with the calculated rates.

The TRICARE's failure to collect the information will jeopardize fulfillment of the program requirements and would result in the agency's inability to collect the necessary data for establishment of RTC rates. The agency's inability to establish prospective per diem rates could also result in a reduction in availability of RTCs for TRICARE beneficiaries.

The prospective payment methodology: (1) provides the potential for control over rapidly increasing costs for mental health care within the Department of Defense; (2) ensures that TRICARE beneficiaries are not subject to exaggerated or unjustified costs for RTC care solely because of the TRICARE entitlement; and (3) provides for a rate of reimbursement for all participating RTCs which reflects a reasonable amount consistent with rates charged by their peers nationally and with reimbursement they are accepting from other third-party payers.

The use of improved information technology has been a consideration in capturing RTC charge data necessary to calculate new rates; however, this would create an excessive administrative burden on the agency for the relatively small number of providers affected by the request. RTCs represent less than 0.13 percent of TRICARE institutional providers and less than 0.04 percent of TRICARE individual professional providers. The agency would have to make major modifications to its payment records and data files in order to retrieve this information.

In the data collection form design, we have made every effort to eliminate any duplication. The form consists of two major categories of data collection: (1) institutional per diem rates; and (2) additional ancillary or professional charges not included in the per diem rates. All data information systems have been queried to determine if there was any duplication of data collection elements. None of the routine data collection reports maintained by the agency have the information formatted in a way that can be used to calculate the new RTC rates.

While TSO generates RTC reports, these reports do not include professional claims which are billed separately from the institutional component. Since the professional charges aremot married up with institutional charges, an all-inclusive rate cannot be determined under the existing reposting system. The marrying up of claims would require extensive reprogramming of the current payment system reports and would probably result in questionable data. Even if TSO could modify its current reporting system, it would only provide one of the data components necessary for establishing the RTC rates. The rates for other third-party payers would remain inaccessible under the TSO reporting system. Other third-party information is critical in establishing the most favorable rate for the RTC. The RTC is the only one that can provide other third-party information.

The data collection form is simplistic in design to minimize administrative burden on the RTCs. The requested information should already be maintained by the facility for normal operation. It is anticipated that it should take one person 8 to 10 hours to prepare the data, and an additional 2 to 4 hours if TRICARE should have follow-up inquiries regarding their data submission. TSO or the TRICARE contractor staff will be available to answer any questions that the RTCs may have regarding completion of the form.

The issue of confidentiality has been considered. The data submitted by RTCs will be kept in strict confidence and will not be accessible to competitors. The only information accessible to the general public will be the TRICARE all-inclusive rates calculated for each RTC. These rates will appear in the TRICARE/CHAMPUS Policy Manual and may be released under the Freedom of Information Act.

The information requested is financial in nature and may be considered private or confidential in a business sense. Specific knowledge of a RTC's financial position may create an unfair advantage for its competitors. However, the information requested is necessary for calculating the individual prospective all-inclusive per diem rates. The RTCs are only being asked to provide those data (financial) elements used directly in the reimbursement formula. They have also been assured that facility specific information will be kept confidential. The instruction sheet and cover letter will justify collection of the information and give a detailed explanation of the data element requirements.

The number of one-time respondents is 20. It is estimated that a maximum of 12 hours will be required to complete the form since the requested information should already be maintained by the facility for normal operation. Most of the administrative burden will be associated with the reformatting of existing financial information. The burden of collecting the data will be dependent on the type of reporting system in use. Facilities which maintain their financial records on computers will be able to retrieve the requested information faster than those with manual systems. The use of computerized data may cut the reporting time in half (6 hours). Larger RTCs are more likely to have sophisticated reporting systems than smaller facilities. However, this is probably more the exception than the rule with the advent of more reasonably priced ADP systems for small businesses. The total one-time reporting burden is estimated to be 240 hours.

Dated: October 31, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–29309 Filed 11–5–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 96–04]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Assistance Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSAA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 96–04, with attached transmittal and policy justification pages.

Dated: October 31, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5000–04–M

DEFENSE SECURITY ASSISTANCE AGENCY

WASHINGTON, DC 20301-2800

24 OCT 1997
In reply refer to:
I-54191/97

Honorable Newt Gingrich
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 98-04, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to the Netherlands for defense articles and services estimated to cost $71 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

H. Diehl McKalip
Acting Director

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 98-04

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) Prospective Purchaser: The Netherlands

(ii) Total Estimated Value:

Major Defense Equipment*	$ 0 million
Other	$ 71 million
TOTAL	$ 71 million

(iii) Description of Articles or Services Offered:
Basic F-16 pilot training in CONUS to include professional classroom training, simulator testing, and flight training and other related program requirements necessary to sustain a three year CONUS training.

(iv) Military Department: Air Force (THH)

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none

(vi) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:
none

(vii) Date Report Delivered to Congress:

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Netherlands - Basic F-16 Pilot Training

The Government of Netherlands has requested a possible sale of basic F-16 pilot training in CONUS to include professional classroom training, simulator testing, and flight training and other related program requirements necessary to sustain three years of CONUS training. The estimated cost is $71 million.

This proposed sale will contribute to the foreign policy and national security objectives of the United States by helping to improve the military capabilities of the Netherlands and furthering standardization and interoperability of the Dutch and U.S. Air Forces.

This training will enable the Netherlands to ensure a well trained cadre of personnel will be available in the future to operate and maintain military equipment of U.S. origin.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The pilot training will be provided by U.S. Government and U.S. contractor instructor personnel who provide similar services to the U.S. forces. There are no offset agreements proposed to be entered into in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government personnel or contractor representatives to the Netherlands.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 97-29308 Filed 11-5-97; 8:45 am]
BILLING CODE 5000-04-C

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DOD.

ACTION: Notice to amend a system of records.

SUMMARY: The Department of the Army is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on December 8, 1997, unless comments are received which result in a contrary determination.

ADDRESSES: Privacy Act Officer, Records Management Program Division, U.S. Total Army Personnel Command, ATTN: TAPC-PDR-P, Stop C55, Ft. Belvoir, VA 22060-5576.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806-4390 or DSN 656-4390.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the Federal Register and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: October 31, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0725-1 AMC

SYSTEM NAME:

Small Arms Sales Record Files *(February 22, 1993, 58 FR 10180).*

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'U.S. Army Armament and Chemical Acquisition and Logistics Activity, ATTN: AMSTA-AC-MMDL, Rock Island, IL 62199-7630.'

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'U.S. Army Armament and Chemical Acquisition and Logistics Activity, ATTN: AMSTA-AC-MMDL, Rock Island, IL 62199-7630.'

* * * * *

A0725-1 AMC

SYSTEM NAME:

Small Arms Sales Record Files.

SYSTEM LOCATION:

U.S. Army Armament and Chemical Acquisition andLogistics Activity, ATTN: AMSTA-AC-MMDL, Rock Island, IL 62199-7630.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any U.S. citizen considered eligible under Federal regulations who purchased a firearm from the U.S. Government for personal use.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, mailing address, application for purchase of firearm, date purchased, DA Form 3535 (Weapon Sales Record), information concerning weapon caliber, model, type and serial number of firearm, relevant correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 2574.

PURPOSE(S):

To respond to individual citizen requests to purchase firearms from the U.S. Government for personal use.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Federal, state and local law enforcement investigative agencies may be furnished information from this system of records to determine last known firearm ownership, to trace recovered or confiscated firearms, and to assist in criminal prosecution or civil court actions.

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file cabinets.

RETRIEVABILITY:

By purchaser's surname; type of weapon; and serial number.

SAFEGUARDS:

Records are maintained in areas accessible only to designated persons having official need therefor in the performance of their duties. Building housing records are protected by security guards.

RETENTION AND DISPOSAL:

Records are permanent.

SYSTEM MANAGER(S) AND ADDRESS:

U.S. Army Armament and Chemical Acquisition and Logistics Activity, ATTN: AMSTA-AC-MMDL, Rock Island, IL 62199-7630.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the U.S. Army Armament and Chemical Acquisition andLogistics Activity, ATTN: AMSTA-AC-MMDL, Rock Island, IL 62199-7630.

Individual should provide their full name; current address as well as address at time of firearm purchase, if different; type, caliber, and serial number of firearm(s) purchases; and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the U.S. Army Armament and Chemical Acquisition and Logistics Activity, ATTN: AMSTA-AC-MMDL, Rock Island, IL 62199-7630.

Individual should provide their full name; current address as well as address at time of firearm purchase, if different; type, caliber, and serial number of firearm(s) purchases; and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340-21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual; Army records and reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 97-29307 Filed 11-5-97; 8:45 am]
BILLING CODE 5000-04-F

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–47–000]

ANR Pipeline Company; Notice of Request Under Blanket Authorization

October 31, 1997.

Take notice that on October 24, 1997, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP98–47–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to install and operate a turbine meter at its St. Henry Meter Station, located in Mercer County, Ohio, under ANR's blanket certificate issued in Docket No. CP82–480–000, pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

ANR proposes to install one 3-inch turbine meter at its existing St. Henry Meter Station, located in Mercer County, Ohio. ANR states the St. Henry Meter Station currently consists of one 4-inch turbine meter. ANR declares it provides deliveries to West Ohio Gas Company at this location. ANR asserts it is proposing to add the turbine meter at the St. Henry Meter Station in order to meet customer demand that sometimes exceeds the capability of the existing meter when gas pressure at the station is low (less than 400 psig).

ANR states the total cost of the proposed facility is estimated to be approximately $57,500.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29339 Filed 11–5–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–310–004]

Garden Banks Gas Pipeline, LLC; Notice of Proposed Changes in FERC Gas Tariff

October 31, 1997.

Take notice that on October 28, 1997, Garden Banks Gas Pipeline, LLC (GBGP), tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Substitute First Revised Sheet Nos. 89 and 90 to reflect to correct Index Price as approved in Docket No. RP97–487–000 on September 24, 1997, with an effective date of November 1, 1997.

GBGP states the purpose of the filing is to properly state the Index Price being equal to the spot price as published in Natural Gas Intelligence Gas Price Index for South Louisiana Region, Tennessee Line 500, effective November 1, 1997.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make Protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29330 Filed 11–5–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–181–000]

Howard/Avista Energy, LLC; Notice of Filing

October 31, 1997.

Take notice that on October 16, 1997, Howard/Avista Energy, LLC (Howard/Avista), petitioned the Commission for acceptance of its FERC Rate Schedule No. 1, and an order authorizing Howard/Avista to sell energy at market-based rates, and for certain blanket approvals, and the waiver of certain Commission Regulations.

Howard/Avista intends to engage in wholesale electric power and energy purchases and sales as a marketer. Howard/Avista is a Washington limited liability company formed by Avista Energy, Inc., a wholly-owned subsidiary of The Washington Water Power Company, and Howard Energy Marketing, Inc., a wholly-owned affiliate of Howard Publications, Inc. Howard/Avista is not in the business of generating, transmitting, or distributing electric power.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before November 14, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29335 Filed 11–5–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–68–000]

Illinois Power Company; Notice of Filing

October 31, 1997.

Take notice that on October 6, 1997, Illinois Power Company (Illinois Power) tendered for filing firm transmission agreements under which Illinois State University will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of September 15, 1997.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before November 14, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29336 Filed 11–5–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3200–001]

Montaup Electric Company; Notice of Filing

October 31, 1997.

Take notice that on October 10, 1997, Montaup Electric Company filed amendments to its open access transmission tariff to comply with the Commission's order of September 12, 1997, in this docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before November 10, 1997. Protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29338 Filed 11–5–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–466–002]

Natural Gas Pipeline Company of America; Notice of Compliance Filing

October 31, 1997.

Take notice that on October 27, 1997, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, proposed tariff sheets to the effective on October 1, 1997, and others on December 1, 1997.

Natural states that the purpose of this filing is to comply with the Commission's order issued September 26, 1997, in Docket No. RP97–466–000, which required Natural to submit tariff changes relating to the recovery of gas supply realignment costs.

Natural requested any waivers which may be required to permit the tendered tariff sheets to become effective October 1, 1997 and December 1, 1997, as indicated in the filing.

On October 28, 1997, Natural filed a letter with the Commission requesting that the three tariff sheets proposed to be effective December 1, 1997, be deemed withdrawn. Natural further stated that Natural will refile the three sheets in a separate filing within 30 days of the proposed effective date.

Natural states that copies of the filing have been mailed to Natural's customers, interested state regulatory agencies and all parties set out on the official service list in Docket No. RP97–466–000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29327 Filed 11–5–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–8–000]

New York State Electric & Gas Corporation; Notice of Application

October 31, 1997.

Take notice that on October 14, 1997, New York State Electric & Gas Corporation (NYSE&G) filed an application, under § 204 of the Federal Power Act, seeking authorization to issue a short-term debt in the amount of $275,000,000 and funds necessary to release its coal-fired generation assets from the lien of NYSE&G's mortgage.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before November 24, 1997. Protests will be considered by

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–488–000]

Indeck Pepperell Power Associates, Inc.; Notice of Filing

October 31, 1997.

Take notice that on October 14, 1997, Indeck Pepperell Power Associates, Inc., tendered for filing a summary of its activity for the quarter ending September 30, 1997.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before November 14, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29337 Filed 11–5–97; 8:45 am]

BILLING CODE 6717–01–M

the Commission in determining the appropriate action to be taken, but will not serve to make the protestsants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29334 Filed 11–5–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–208–004]

Tennessee Gas Pipeline Company; Notice of Compliance Filing

October 31, 1997.

Take notice that on October 27, 1997, Tennessee Gas Pipeline Company (Tennessee), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the tariff sheets identified in Appendix A to the filing. Tennessee requests an effective date of December 1, 1997.

Tennessee states that these sheets are filed in compliance with the Commission's September 25, 1997, Order Granting Rehearing in Part, Accepting Compliance Filing, and Rejecting Tariff Filing issued in the above-referenced dockets (September 25, Order). Tennessee Gas Pipeline Company, 80 FERC ¶61,359 (1997).

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make Protestants parties to this proceeding. Copies of this filing are on file with the Commission and available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29332 Filed 11–5–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–21–000]

Texas Eastern Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

October 31, 1997.

Take notice that on October 29, 1997, Texas Eastern Transmission Corporation (Texas Eastern), tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1 and Original Volume No. 2, the tariff sheets listed on Appendix A to the filing to become effective December 1, 1997.

Texas Eastern asserts that the purpose of this filing is to comply with the Stipulation and Agreement filed by Texas Eastern in Docket Nos. RP88–67, et al. (Phase II/PCBs) and with Section 26 of Texas Eastern's FERC Gas Tariff, Sixth Revised Volume No. 1.

Texas Eastern states that such tariff sheets reflect a small increase in the PCB-Related Cost component of Texas Eastern's currently effective rates. For example, the increase in the 100% load factor average cost of long-haul service under Rate Schedule FT–1 to Market Zone 3 is $0.0015/dth.

Texas Eastern states that copies of the filing were served on firm customers of Texas Eastern and interested state commissions. Copies of this filing have also been mailed to all parties on the service list in Docket Nos. RP88–67, *et al.* (Phase II/PCBs) and to all current interruptible shippers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29325 Filed 11–5–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TQ98–1–35–000]

West Texas Gas, Inc.; Notice of Proposed Changes in FERC Gas Tariff

October 31, 1997.

Take notice that on October 29, 1997, West Texas Gas, Inc. (WTG), submitted for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet, to be effective November 1, 1997:

Twenty-Fifth Revised Sheet No. 4

WTG states that the tariff sheet and the accompanying explanatory schedules constitute an out-of-cycle PGA filing submitted pursuant to the purchased gas adjustment provisions of Section 19, of the General Terms and Conditions of its tariff. WYG states that copies of the filing were served upon its customers and affected state commissions.

WTG request the Commission to accept the proposed tariff sheet, which reflects an increase of $1.2399 per Mcf in its cost of gas, to be effective November 1, 1997. According to WTG, its gas costs have increased sharply due to substantial recent increases in the spot price of gas. To prevent the accumulation of a significant level of costs in its deferred account, WTG requests the Commission to shorten or waive the 30-day notice period to permit a prompt adjustment to is sales rates.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29324 Filed 11–5–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–20–000]

Wyoming Interstate Company Ltd.; Notice in Proposed Changes in FERC Gas Tariff

October 31, 1997.

Take notice that on October 28, 1997, Wyoming Interstate Company Ltd. (WIC), tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed in Appendix A to the filing, to be effective November 1, 1997.

WIC states the purposes of this filing is to conform WIC's Volume No. 1 tariff (individually cartificated services) to the changes made to WIC's Volume No. 2 Tariff (open access service) to comply with Order No. 587–C requirements.

WIC states that copies of this filing have been served on WIC's jurisdictional customers and public bodies.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.214 and Section 385.211 of the Commission's Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29328 Filed 11–5–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–375–000]

Wyoming Interstate Company, Ltd.; Notice of Informal Settlement Conference

October 31, 1997.

Take notice that an informal settlement conference in this proceeding will be convened on November 13, 1997, at 10:00 a.m. The settlement conference will be held at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, for the purpose of exploring the possible settlement of the above referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Arnold Meltz at (202) 208–2161 or John Roddy at (202) 208–0053.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29328 Filed 11–5–97; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5918–4]

Retrofit/Rebuild Requirements for 1993 and Earlier Model Year Urban Buses; Public Review of a Notification of Intent to Certify Equipment

AGENCY: Environmental Protection Agency.

ACTION: Notice of Agency receipt of a notification of intent to certify equipment and initiation of 45-day public review and comment period.

SUMMARY: Detroit Diesel Corporation (DDC) has submitted to the Agency a notification of intent to certify urban bus retrofit/rebuild equipment to a 0.1 gram per brake-horsepower-hr(g/bhp-hr) particulate matter (PM) standard pursuant to 40 CFR Part 85, Subpart O. The equipment, referred to by DDC consists of the base engine components used on the 25% reduction retrofit/rebuild kit certified by DDC (October 2, 1995), components from the 25% retrofit catalyst kit previously certified under the program by Engine Control Systems, Ltd. (January 6, 1997), and a TurboPac supercharger system supplied by Turbodyne Systems, Inc. which supplies additional charge air during engine acceleration. The candidate kit is applicable to all 6V–92TA MUI engine models made by DDC for model years 1979 to 1989 and equipped with mechanical unit injectors (MUI).

DDC intends this equipment to be certified to the particulate matter level of 0.10 g/bhp-hr. If the Agency certifies that this equipment complies with the 0.10 g/bhp-hr level, then operators with affected engines will have the choice of using this equipment or other equipment that is already required for use and certified to the 0.10 g/bhp-hr standard within the cost limitation.

Pursuant to § 85.1407(a)(7), today's **Federal Register** notice summarizes the notification, announces that the notification is available for public review and comment, and initiates a 45-day period during which comments can be submitted. The Agency will review this notification of intent to certify, as well as any comments it receives, to determine whether the equipment described in the notification of intent to certify should be certified. If certified, the equipment can be used by urban bus operators to reduce the particulate matter of urban bus engines.

The notification of intent to certify, as well as other materials specifically relevant to it, are contained in Category XX–A of Public Docket A–93–42, entitled "Certification of Urban Bus Retrofit/Rebuild Equipment". This docket is located at the address listed below.

Today's notice initiates a 45-day period during which the Agency will accept written comments relevant to whether or not the equipment included in this notification of intent to certify should be certified. Comments should be provided in writing to the addresses below.

DATES: Comments must be submitted on or before December 22, 1997.

ADDRESSES: Submit separate copies of comments to each of the two following addresses:

1. U.S. Environmental Protection Agency, Public Air Docket A–93–42 (Category XX–A), Room M–1500, 401 M Street S.W., Washington, DC 20460.

2. Anthony Erb, Engine Compliance Programs Group, Engine Programs and Compliance Division (6403J), U.S. Environmental Protection Agency, 401 "M" Street S.W., Washington, DC 20460.

The DDC notification of intent to certify, as well as other materials specifically relevant to it, are contained in the public docket indicated above. Docket items may be inspected from 8:00 a.m. until 5:30 p.m., Monday through Friday. As provided in 40 CFR Part 2, a reasonable fee may be charged by the Agency for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Anthony Erb, Engine Programs and Compliance Division (6403J), U.S. Environmental Protection Agency, 401 M St. SW, Washington, D.C. 20460. Telephone: (202) 233–9259.

SUPPLEMENTARY INFORMATION:

I. Background

On April 21, 1993, the Agency published final Retrofit/Rebuild Requirements for 1993 and Earlier Model Year Urban Buses (58 FR 21359). The retrofit/rebuild program is intended to reduce the ambient levels of particulate matter (PM) in urban areas and is limited to 1993 and earlier model year (MY) urban buses operating in metropolitan areas with 1980 populations of 750,000 or more, whose engines are rebuilt or replaced after January 1, 1995. Operators of the affected buses are required to choose between two compliance options: Option 1 establishes particulate matter emissions requirements for each urban bus engine in an operator's fleet which is rebuilt or replaced; Option 2 is a fleet averaging program that establishes a specific annual target level for average PM emissions from urban buses in an operator's fleet.

A key aspect of the program is certification of retrofit/rebuild equipment, which begins when an equipment manufacturer submits an application for certification (referred to in the rule as a notification of intent to certify). To meet either of the two compliance options, operators of the affected buses must use equipment that has been certified by EPA. Emissions requirements under either of the two options depend on the availability of retrofit/rebuild equipment certified for each engine model. To be used for Option 1, equipment must be certified as meeting a 0.10 g/bhp-hr PM standard or as achieving a 25 percent reduction in PM. Equipment used for Option 2 must be certified as providing some level of PM reduction that would in turn be claimed by urban bus operators when calculating their average fleet PM levels attained under the program.

Under Option 1, additional information regarding cost must be submitted in the notification, in order for certification of that equipment to initiate (or trigger) program requirements for a particular engine model. In order for the equipment to serve as a trigger, the certifier must guarantee that the equipment will be offered to affected operators for $7,940 or less at the 0.10 g/bhp-hr PM level, or for $2,000 or less for the 25 percent or greater reduction in PM. Both of the above amounts are based on 1992 dollars and include life cycle costs incremental to the cost of a standard rebuild.

II. Notification of Intent To Certify

In a notification of intent to certify equipment signed July 16, 1997, DDC has applied for certification of equipment under the Environmental Protection Agency's (the Agency) Urban Bus Retrofit/Rebuild Program. The candidate kit is applicable to all 6V–92TA, urban bus engine models made by DDC from model year 1979 to 1989 and equipped with mechanical unit injectors (MUI). The equipment, consists of the base engine components used on the 25% reduction retrofit/rebuild kit certified by DDC , components from the 25% retrofit catalyst kit certified by Engine Control Systems, Ltd.(ECS) and a TurboPac supercharger system supplied by Turbodyne Systems, Inc. that supplies additional charge air during engine acceleration. The kit would be available in three horsepower levels (253, 277, and 294) for 6V–92TA engines.

The equipment to be certified includes three distinct hardware sets. The three sets included are as follows:

Base engine components include the equipment certified by DDC to provide a 25% reduction in PM (60 FR 51472; October 2, 1995. These components are provided in two separate sets of parts. The first set of components is comprised of newly manufactured parts, including a gasket kit, air inlet hose, cylinder kits (piston assemblies and cylinder liners) a by-pass valve and a truck type throttle delay. The second set of components includes Reliabilt™ remanufactured parts, including the fuel injectors, camshafts, blower assembly, turbocharger, and head assemblies. Kit usage is based on engine rotation (righthand (RH) or lefthand (LH)), engine orientation, right bank cam gear mounting (bolt or nut), and engine power output based on injector size. The only differences from the previously certified equipment according to DDC is the inclusion of a truck style throttle delay, adjustment to the throttle delay and injector timing settings to improve driveability. The cylinder kit components were modified to improve durability.

The converter/muffler supplied by ECS was certified by EPA (see 62 FR 746; January 6, 1997) to provide a 25% reductionn in PM emssions. The kit consists of an oxidation converter/muffler (CM) which was developed specifically for diesel applications, and is packaged as a direct replacement for the vehicle's muffler. Several kits will be provided to accommodate the installation requirements of the various engine and vehicle configurations.

The third component set consists of an electrically powered supercharger system which is supplied by Turbodyne Systems, Inc. This component set, referred to as the TurboPac™ supplies additional intake air during engine acceleration from low engine speeds. DDC states that in addition to decreasing PM emissions and visible smoke during engine acceleration, the supercharger also improves engine response and vehicle driveability by reducing the fuel modulation during acceleration. The basic kit consists of a blower, a diverter valve, a boost pressure sensor, an electrical control box and power cables, and a throttle switch for detecting the start of the engine acceleration mode. The equipment will be supplied in two kits, one includes those components common to all installations and a second kit to accommodate the installation requirements of the various engine and vehicle configurations.

To complete an engine rebuild two (2) base engine component kits, one (1) converter muffler kit, and two (2) supercharger kits would be required. The specific kits used will depend on the engine/vehicle combination.

DDC states there are no differences in the service intervals or maintenance practices for the base engine associated with the installlation of the upgrade kit. The converter/muffler requires no regularly scheduled maintenance, only an occasional cleaning if the maximum backpressure of the exhaust system is exceeded according to DDC. The supercharger does not require scheduled maintenance: however, a visual inspection for air leaks is recommended whenever the engine is serviced.

Standard procedures as described in the service manual for 92 Series engines are to be used when rebuilding the base engines using the candidate equipment. No unique rebuild procedures are required.

Use of the candidate kit is restricted to 6V–92TA Detroit Diesel engines manufactured from January 1979 through December 1989, equipped with mechanical unit fuel injectors (MUI), and originally certified to meet Federal emission standards. The required fuel is low sulfur (0.05% max by weight) diesel fuel, either number 1 or number 2.

The notification states that the candidate equipment achieves a particulate matter (PM) level of 0.10 g/bhp-hr. DDC has not supplied life cycle cost information and is not requesting certification based on cost to operators. The use of the equipment by transit operators to meet program requirements is discussed below.

DDC presents exhaust emissions data from testing a Detroit Diesel Corporation (DDC) engine in accordance with procedures set forth at 40 CFR Part 86, Subparts N and I. A 1994 model year DDC 6V92TA MUI model engine (277 HP) was rebuilt to the 1989 urban bus configuration as per the previously certified DDC kit and was retrofit with the specified components of the 0.1 g/bhp-hr kit prior to testing. In the rebuild process, all parts not included in the rebuild kit were inspected. Prior to testing the engine was tuned with the injector timing set at 1.460 in. The throttle delay was set for optimum vehicle driveability according to DDC. The data is summarized in Table A below.

TABLE A.—EXHAUST EMISSIONS SUMMARY

	g/bhp-hr	
	1989 HDDE standards	6V92TA MUI with kit
Gaseous and particulate test:		
HC	1.3	0.1
CO	15.5	0.4
NO_x	10.7	9.8
PM	0.60	0.091
BSFC[1]	—	0.464
Standards		
Smoke test:		
ACCEL	20%	3.3%
LUG	15%	2.5%
PEAK	50%	4.2%

[1] Brake Specific Fuel Consumption (BSFC) is measured in units of lb/bhp-hr.

The data of Table A indicate that, when rebuilt with the kit, PM emissions of the test engine are less than 0.10 g/bhp-hr, and emissions of hydrocarbon (HC), carbon monoxide (CO), and smoke opacity are within applicable Federal standards. The Agency requests comments on whether the emissions test data presented by DDC demonstrate that all engines for which certification is requested will meet applicable Federal standards with the candidate kit installed.

Applicability of the candidate is restricted to 6V92TA, urban bus engine models made by Detroit Diesel Corporation (DDC) from model years 1979 to 1989 and equipped with mechanical unit injectors (MUI). The Agency requests comments on whether the emissions data presented by DDC demonstrate that all engines for which certification is intended will meet the 0.10 g/bhp-hr PM standard. The part numbers of the specified rebuild components are provided in DDC's notification.

DDC's notification does not provide life cycle cost information for the candidate kit. Therefore, this kit will not be certified to comply with the life-cycle cost requirements of the program. The 0.10 g/bhp-hr PM level has already been triggered for all the engines covered by this notification. If certified as proposed in the notification, this equipment may be used by operators who are required to use equipment that meets the 0.10 g/bhp-hr PM level based on earlier trigger certification.

DDC indicates that the engine is to be rebuilt according to the engine manufacturer's standard written rebuild procedures and specifications except where amended by DDC written instructions. The incremental maintenance cost and fuel economy impact are not provided in DDC's notification and are not necessary for certification as the cost limitation is not being certified to by DDC.

The DDC notification provides a product warranty that references the emissions performance and emissions defect warranties required in accordance with section 85.1409 of the program regulations.

Even if ultimately certified by the Agency, the equipment described in DDC's notification may require additional review by the California Air Resources Board (CARB) before use in California. The Agency recognizes that special situations may exist in California that are reflected in the unique emissions standards, engine calibrations, and fuel specifications of the State. While requirements of the Federal urban bus program apply to several metropolitan areas in California, the Agency understands the view of CARB that equipment certified under the urban bus program, to be used in California, must be provided with an executive order exempting it from the anti-tampering prohibitions of that State. Those interested in additional information should contact the Aftermarket Part Section of CARB, at (818) 575–6848.

If the Agency certifies the candidate equipment, then urban bus operators who choose to comply with compliance Option 1 of this regulation will have the option to use this equipment or other equipment which has previously been certified to the 0.10 g/bhp-hr standard when applicable engines are rebuilt or replaced. If certified, then operators using Option 2 will use the 0.10 g/bhp-hr certification level in calculations for fleet level attained (FLA).

The date of this notice initiates a 45-day period during which the Agency will accept written comments relevant to whether the equipment described in the DDC notification of intent to certify should be certified pursuant to the urban bus retrofit/rebuild regulations. Interested parties are encouraged to review this notification, and provide written comments during the 45-day review period. Separate comments should be provided in writing to each of the addresses listed under the ADDRESSES section of this notice.

At a minimum, the Agency expects to evaluate this notification of intent to certify, and other materials submitted as applicable, to determine whether there is adequate demonstration of compliance with: (1) the certification requirements of § 85.1408, including whether the testing accurately substantiates the claimed emission reduction or emission levels; and, (2) the requirements of § 85.1407 for a notification of intent to certify.

The Agency requests that those commenting also consider these regulatory requirements, plus provide comments on any experience or knowledge concerning: (a) problems with installing, maintaining, and/or using the equipment on applicable engines; and, (b) whether the equipment is compatible with affected vehicles.

The Agency will review this notification of intent to certify, along with comments received from the interested parties, and attempt to resolve or clarify issues as necessary. During the review process, the Agency may add additional documents to the docket as a result of the review process. These documents will also be available for public review and comment within the 45-day period.

Dated: October 29, 1997.

Richard D. Wilson,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 97–29394 Filed 11–5–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5918–6]

Retrofit/Rebuild Requirements for 1993 and Earlier Model Year Urban Buses; Certification of Equipment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of EPA certification of equipment provided by Johnson Matthey Incorporated.

SUMMARY: Today's Federal Register notice announces EPA's decision to

certify equipment to the 0.10 g/bhp-hr standard for the Urban Bus Retrofit/Rebuild Program. The equipment is provided by Johnson Matthey Incorporated (JMI).

JMI submitted to EPA a notification of intent to certify equipment, in materials signed December 9, 1996, pursuant to the program regulations at 40 CFR part 85, subpart O. On January 30, 1997, EPA published a notice in the **Federal Register** that the JMI notification had been received and made the notification available for public review and comment for a period of 45 days (62 FR 4528). EPA has completed its review and the Director of the Engine Programs and Compliance Division has determined that it meets all requirements for certification. Therefore, EPA certified this equipment in a letter to JMI dated September 8, 1997.

The certified equipment, initially referred to by JMI as the Catalytic Reduction Technology-Cam kit, is a kit consisting of proprietary camshafts, CEM II catalytic exhaust muffler, and specific engine rebuild parts and certain engine settings. The nomenclature of the kit, Catalytic Reduction Technology-Cam, has been discontinued by JMI. The kit will be marketed by JMI under the name, Cam Converter Technology (CCT™) upgrade kit. Therefore, today's notice will refer to the equipment as the CCT™ kit.

The kit is applicable to 6V92TA urban bus engine models made by Detroit Diesel Corporation (DDC) from model years 1979 to 1989 and equipped with mechanical unit injectors (MUI), and may be used immediately by transit operators in compliance with program requirements. The kit is available in four horsepower ratings (253, 277, 294, and 325 horsepower).

EPA has determined that the CCT™ kit complies with the 0.10 gram per brake horsepower-hour (g/bhp-hr) particulate matter (PM) standard for the applicable engines. In addition, because JMI will offer the kit to all parties for $7,940 (in 1992 dollars) or less, incremental to the cost of a standard rebuild, EPA has determined that JMI's notification complies with the life cycle cost requirements of the program regulations. JMI may make an alternative supply option available to purchasers.

Today's **Federal Register** notice triggers requirements for transit operators utilizing compliance Program 1 that have engines rated above 294 horsepower in their fleet covered by this certification (excluding engines certified to meet California emissions standards).

The notification of intent to certify, as well as other materials specifically relevant to it, are contained in Category XV–A of Public Docket A–93–42, entitled "Certification of Urban Bus Retrofit/Rebuild Equipment". This docket is located at the address listed below.

Additional details concerning this certification, the JMI CCT™ kit, and responsibilities of transit operators, are provided below.

DATES: EPA certified this equipment in a letter to JMI dated September 8, 1997. Today's **Federal Register** notice announces this certification, and triggers the 0.10 g/bhp-hr standard for applicable engines above 294 hp. The 0.10 g/bhp-hr standard was triggered on March 14, 1997 (62 FR 12166) for applicable engines rated at 294 hp and below.

ADDRESSES: The JMI notification, as well as other material specifically relevant to it, are contained at the U.S. Environmental Protection Agency's Public Air Docket A–93–42 (Category XV–A), Room M–1500, 401 "M" Street SW, Washington, DC 20460.

The JMI notification of intent to certify, as well as other materials specifically relevant to it, are contained in the public docket indicated above. Docket items may be inspected from 8:00 a.m. until 5:30 p.m., Monday through Friday. As provided in 40 CFR part 2, a reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT: William Rutledge, Engine Programs and Compliance Division (6403J), U.S. Environmental Protection Agency, 401 "M" St. SW, Washington, D.C. 20460. Telephone: (202) 233–9297.

SUPPLEMENTARY INFORMATION:

I. Description of the Certified CCT™ Kit

The certified CCT™ kit described in today's **Federal Register** notice, the Cam Converter Technology (CCT™) upgrade kit, is provided by Johnson Matthey Incorporated (JMI). It is certified to the 0.10 g/bhp-hr standard, and complies with the applicable life cycle cost requirements.

The certification described in today's notice applies to 1979 though 1989 model year DDC 6V92TA engines that are equipped with mechanical unit injectors (MUI) and certified to federal emissions standards. It does not apply to engines certified to California emissions standards. The impact of this decision on transit operators is discussed in more detail in the "Transit Operator Requirements" section below.

The CCT™ kit, described further below, consists of a CEM II catalytic exhaust muffler, proprietary cam shafts, specified emissions-related engine rebuild parts, and specified engine settings. The kit is available in four horsepower (hp) ratings (253, 277, 294 and 325 horsepower).

The CEM II is the same size and shape as the CEM catalytic exhaust muffler (certified for the Urban Bus Program as described in the **Federal Register** on April 17, 1996, at 61 FR 16773), is a direct, bolt-on replacement for the original equipment muffler, and is designed to fit the specific bus/engine combination.

The camshafts, a proprietary JMI design, change exhaust valve lift and duration. The CCT™ kit includes a timing height gauge for the unique timing height of the fuel injectors. The procedure and specifications for setting the exhaust valve clearance is unchanged from the DDC recommended procedure.

For retrofit with the CCT™ kit, an engine is rebuilt in accordance with standard DDC rebuild procedures, using specified engine parts that produce unique engine configurations. The specified emissions-related engine parts consist of the following DDC components: turbocharger, fuel modulator, piston dome kit, piston skirt, piston ring set, cylinder liner, blower drive gear, blower assembly, fuel injectors, blower by-pass valve, and governor assembly. The specified engine settings apply to the fuel injector height and fuel modulator setting. The specified settings and part numbers for the emissions related DDC parts are provided in letters from JMI dated July 16, 1997 and August 21, 1997.

For service of a CCT™-equipped engine, the DDC compression check procedure remains applicable and JMI will provide compression specifications with the kit instructions. Other DDC service procedures remain applicable.

All configurations of the CCT™ include a fuel modulator to limit throttle advance during acceleration, as replacement of the standard throttle delay of the original coach engine configuration. The CCT™ kit includes instructions for installation of the fuel modulator, and adjustment settings for the fuel modulator.

All affected transit operators may purchase the specified emissions-related parts from JMI as part of a CCT™ kit. Additionally, JMI may make available a second supply option whereby the kit consists of the CEM II, proprietary camshafts, and a list of the specified emissions-related parts and engine settings. With the second supply option, an operator is responsible for acquiring the specified parts from sources of its own choosing, as discussed further below. Neither option includes parts that are rebuilt by transit operators.

All of the testing presented by JMI for this certification was conducted using OE parts, except for the CEM II and camshafts. As a result, EPA has no assurance that engines rebuilt using parts that are not original equipment (OE) would comply with the 0.10 g/bhp-hr standard. Therefore, use of engine parts that are not the specified OE parts, or engine parts rebuilt in-house, are not covered by the certification described in today's **Federal Register** notice.

Pursuant to 40 CFR 85.1409, JMI will provide a 100,000-mile defect warranty and a 150,000-mile emissions performance warranty for the CCT™ kit, and all of its components regardless of which of the two supply options is used by a transit operator.

JMI states that the maximum cost of the CCT™ kit for 6V92TA MUI engines is $11,495.00 (in 1997 dollars), which includes the CEM II, proprietary camshafts, specified emissions-related parts, and specified engine settings. JMI indicates that installation of the whole CCT™ kit requires an additional two hours (for installation of the CEM II) beyond the labor associated with a standard rebuild.

EPA's certification of the Engelhard Corporation's ETX™ kit (62 FR 12166; March 14, 1997) triggered the 0.10 g/bhp-hr standard for 1979—1989 6V92TA MUI engines. That kit provided three power ratings: 253, 277, and 294 horsepower (hp). JMI will offer the CCT™ kit in four power ratings: 253, 277, 294, and 325 hp. Certification of the CCT™ kit described in today's **Federal Register** notice, which includes compliance with life cycle cost requirements, triggers the 0.10 g/bhp-hr standard for engines rated above 294 hp. This topic is discussed further below.

II. Background and Bases for Certification

In a notification of intent to certify equipment, composed of an initial document signed December 9, 1996 and subsequent documents, Johnson Matthey (JMI) applied for certification of the CCT™ kit under the Environmental Protection Agency's (EPA) Urban Bus Retrofit/Rebuild Program. Engines applicable to the certified kit are 6V92TA urban bus engine models made by Detroit Diesel Corporation (DDC) from model years 1979 to 1989 that are equipped with mechanical unit injectors (MUI) and certified to comply with federal emissions standards.

The equipment, referred to in initial documents as the Catalytic Reduction Technology—Cam kit, was renamed by JMI to the Cam Converter Technology (CCT™) upgrade kit. The certifier's principal place of business is: Johnson Matthey Incorporated, Environamental Products, Catalytic Systems Division, 460 East Swedesford Road, Wayne, Pennsylvania 19087–1880.

Using engine dynamometer (transient) testing in accordance with the Federal Test Procedure for heavy-duty diesel engines, JMI demonstrated compliance with the 0.10 g/bhp-hr particulate matter (PM) emissions standard. Engine dynamometer data, shown below in Table 1, are the bases for the certification approval of the CCT™ kit when used on applicable engines. The emissions test data are part of JMI's notification of intent to certify, which is available in the public docket located at the above-mentioned address. All testing was conducted using #2 low-sulfur diesel fuel.

TABLE 1.—SUMMARY OF JMI TESTING

Gaseous and particulate test	g/bhp–hr	1988 HDDE standards				
		1984 6V92TA MUI baseline[1]	1984 6V92TA MUI baseline[1]	6V92TA MUI with CCT™[1]	1993 6V71TA MUI baseline	6V71TA MUI with CCT™
HC	1.3	0.7	0.5	0.3	0.6	0.2
CO	15.5	1.1	0.9	0.5	1.7	0.8
NO_x	10.7	9.5	13.0	10.2	10.4	10.2
PM	0.6	0.56	0.251	0.08	0.329	0.096
BSFC[2]		0.475	0.456	0.470	0.468	0.464
Hp (R/O)[3]		253/249	277/269	277/274	225/211	285/254
Smoke Test	**Standards (%)**	**Percent Opacity**				
ACCEL	20	3.1	1.3	2.9	2.0	2.3
LUG	15	2.0	0.5	2.0	2.6	1.3
PEAK	50	4.8	3.3	3.6	3.0	2.9

[1] All 6V92TA testing was performed on engine identification number 6VF–118287.
[2] Brake Specific Fuel Consumption (BSFC) is measured in units of lb/bhp–hr.
[3] Horsepower (Rated/Observed during testing).

The exhaust emissions data presented by JMI are from testing Detroit Diesel Corporation (DDC) engine models 6V71TA and 6V92TA, in accordance with procedures set forth at 40 CFR part 86, Subparts N and I. The two engine models were tested in baseline configurations and equipped with the CCT™ kit. The baseline 6V92 engine was tested in two horsepower ratings: 253 and 277.

The data of Table 1 demonstrate that for both test engines, when rebuilt with the CCT™ kit, PM emissions are less than 0.10 g/bhp–hr and, emissions of hydrocarbon (HC), carbon monoxide (CO), and smoke opacity are within applicable federal standards. The data for the 6V92TA engine indicate that the kit increases NO_x emissions roughly seven (7) percent above the level of the baseline 6V92TA rated at 253 hp. The data for the 6V71TA engine indicate that the CCT™ kit does not increase NOx emissions. With CCT_x kits installed, the NO_x levels for both the 6V92 and 6V71 certification engines are less than the federal standard for model years 1985—1989 (10.7 g/bhp–hr).

To facilitate the review process, JMI requested in a letter dated August 6, 1997, that EPA temporarily restrict its review to 6V92TA engine models. Therefore, today's **Federal Register** notice describes certification of equipment only for 6V92TA MUI engine models. The emissions data for the 6V71TA engine is included in today's notice to support the demonstration of compliance of the CCT™ kit with the 0.10 g/bhp–hr standard. Further action

taken with regard to 6V71 engines would be done by subsequent Federal Register notice.

This action applies a PM emissions level of 0.10 g/bhp–hr to all 1979 through 1989 DDC 6V92TA MUI urban bus engines, when properly equipped with the CCT™ kit and when using either diesel fuel #1 or #2. Table 2 lists the applicable engine models and certification levels associated with the certification announced in today's Federal Register.

TABLE 2.—CERTIFICATION LEVEL OF CCT™ KIT

Engine models	Engine codes	Certification PM level
1979–1989 DDC 6V92TA MUI	All certified to meet federal emissions standards	0.10 g/bhp–hr.

All engines for which the CCT™ kit is intended to apply are expected to meet the 0.10 g/bhp–hr PM standard because the kit instructs the rebuilder to replace all emissions-related parts during the rebuild with JMI-specified parts, and install a CEM II. The engine-out emissions level (upstream of the CEM–II catalyst) is expected to be predictable because all emission-related parts are replaced using the JMI specified emissions-related parts and settings of the kit. As demonstrated by the two test engines, the combination of the specified parts, proprietary camshafts, specified settings of the kit, and CEM–II, results in a PM level less than 0.10 g/bhp–hr.

Summarized below in Table 3 is a life cycle cost analysis presented by JMI for the CCT™ kit. A cost analysis is necessary only for certification of equipment that is meant to trigger a program emissions standard. Certification of Engelhard Corporation's ETX™ kit triggered the 0.10 g/bhp–hr standard for 6V92TA MUI engines, and made available kits rated at 253, 277, and 294 hp. The Engelhard certification does not provide a kit rated above 294 horsepower. JMI's emissions demonstration and cost analysis applies to engines rated at 253, 277, 294, and 325 hp. Therefore, the certification described in today's notice triggers the 0.10 g/bhp–hr standard for engines rated above 294 horsepower.

JMI's initial notification presented a life cycle cost analysis based on the CCT™ kit containing the CEM II, the proprietary cam shafts, and a list of specified emissions related parts and settings. In a letter dated June 2, 1997, JMI stated its intent to market the CCT™ kit to include all emissions related parts. In a letter dated July 3, 1997, JMI presented a cost analysis in accordance with section 85.1403, for the supply option where JMI provides all components of the CCT™ kit, including the specified engine parts. EPA determines that, based on this information, the notification meets life cycle cost requirements. The analysis is discussed below.

As shown in the summary of Table 3, total life cycle costs are less than the life cycle cost ceiling specified in the program regulations ($7,940 in 1992 dollars). The life cycle cost ceiling, updated to May 1997, is to $9,060.54.

TABLE 3.—LIFE CYCLE COST ANALYSIS OF CCT™ Kit for 6V92TA ENGINES

	1997 dollars
CCT™ Upgrade Kit Maximum Cost	$11,495.00
Cost Offset (for Kit parts normally replaced during standard rebuild)	[1] (3,978.58)
Installation Labor for CEM II (2 hours)	79.88
3% Fuel penalty	964.30
Total Life Cycle Costs	8,560.60
LCC Ceiling[2] ($7,940 x 160.1÷ 140.3)	9,060.54

[1] Weighted Rebuild Costs for parts, normally replaced during a standard rebuild, are from 62 FR 12166, March 14, 1997, and adjusted to 1997 dollars using a base CPI of 158.3 for October 1996, and the CPI of 160.1 for May 1997.
[2] CPI for 1992=140.3. CPI for May 1997=160.1.

As shown above in Table 3, JMI states that the maximum cost of the CCT™ kit, including all specified engine parts, is $11,495.

The proprietary camshafts and other specified engine components provided with the CCT™ kit result in an "offset" for parts which otherwise are replaced during a standard engine rebuild. The costs for the individual rebuild parts that are offset by the kit parts, as shown in Table 4 below, were determined by EPA in (1996 dollars) for certification of Engelhard Corporation's ETX™ kit (see 62 FR 12166; March 14, 1997). JMI updates the costs to May 1997 based on a ratio of the Consumer Price Indexes (CPI) noted in Table 4. These "offset" costs are subtracted from the maximum purchase cost of the CCT™ kit, as shown above in the summary of Table 3.

TABLE 4.—CCT™ UPGRADE KIT PARTS LIST FOR 6V92TA MUI ENGINES

	No. Part	Part of standard rebuild?	October 1996 cost (CPI=158.3)	May 1997 cost (CPI=160.1)
1	CEM II	No		
2	Cam RB	Yes	$607.45	$614.363
3	Cam LB	Yes	607.45	614.364
4	Modulator	No		

TABLE 4.—CCT™ UPGRADE KIT PARTS LIST FOR 6V92TA MUI ENGINES—Continued

	No. Part	Part of standard rebuild?	October 1996 cost (CPI=158.3)	May 1997 cost (CPI=160.1)
5	Blower drive gear 40T.	No		
6	Blower bypass valve.	No		
7	Governor Ass'y	No		
8	Governor cover ass'y.	No		
9	Turbocharger	Yes	464.43	469.71
10	Fuel Injectors	Yes	420.50	425.28
11	Dome kit or crown.	Yes	1,522.74	1,540.05
12	Piston Skirt	Yes	With #11	With #11
13	Ring Set	Yes	With #11	With #11
14	Cylinder Liner	Yes	With #11	With #11
15	Blower Ass'y	Yes	311.28	314.82
Offset Total				3,978.58

Except where amended by JMI written instructions, an engine is to be rebuilt according to the engine manufacturer's standard written rebuild procedures and specifications. Therefore, installation of the CCT™ kit is essentially identical to a standard engine rebuild plus the installation of the CEM II catalyst exhaust muffler. Therefore, the labor cost for installation of the kit, incremental to a standard rebuild, is based on an additional two hours for installation of the CEM II. The two hours additional installation time is added to the life cycle costs of the kit, as shown above in Table 3. In accordance with section 85.1403, the labor rate specified in the regulation, $35/hour (in 1992 dollars), when updated to May 1997, is $39.94/hour.

JMI states that engines equipped with the CCT™ kit will have no additional maintenance or service requirements. Therefore, incremental maintenance costs for engines equipped with the CCT™ kit is zero.

JMI presents baseline data from testing two standard 1984 model year configurations rated at 253 and 277 horsepower. Based on comparison with the testing of the baseline 277 hp engine, fuel consumption when the CCT™ kit is installed is determined to be three (3) percent higher. Based on this 3 percent penalty, the incremental fuel cost for the kit is calculated in accordance with section 85.1403(b)(1)(ii)(c)(1), and added to the life cycle costs as shown above in Table 3.

The total life cycle costs for the CCT™ kit, as shown above in Table 3, is determined to be $8,560.60. The life cycle cost ceiling ($7,940 in 1992 dollars), when updated to May 1997 using a ratio of the CPIs noted in Table 3, is $9,060.54. In conclusion, based on the above analysis, EPA determines that the CCT™ kit for 6V92TA MUI engines complies with the life cycle cost requirements of the urban bus program.

In a letter dated August 6, 1997, JMI requested the ability to supply transits under two supply option scenarios. Under supply option 1, JMI would supply the CCT™ kit including the CEM II, the proprietary camshafts, and all of the specified emissions related engine parts. Under supply option 2, the CCT™ kit would include the CEM II, the proprietary camshafts, and a list of specified parts with certain fuel injector and fuel modulator settings. JMI indicated that supply option 2 might include specific parts that could be rebuilt by transits to JMI specifications and subject to strict controls by JMI.

EPA approves supply option 1 and part of supply option 2. For supply option 1, transit operators purchase the entire CCT™ kit from JMI or its distributors. This supply option is the option upon which life cycle costs have been determined, and upon which the 0.10 g/bhp-hr standard is triggered for engines having ratings above 294 horsepower. Therefore, the supply option 1 is required to be available to any and all operators. Supply option 2, described below, may be made available at JMI's discretion. Operators that choose the supply option 2, do so voluntarily, and EPA makes no representation concerning the impact of this supply option on life cycle costs. The certification of today's Federal Register notice does not include use of parts that are rebuilt by transit operators because EPA lacks assurance that parts rebuilt by transit operators would have the same emissions performance.

For supply option 2, JMI will provide the list of specified DDC emissions-related engine parts and engine settings to transit operators upon purchase of the CEM II and proprietary camshafts. Transit operators will then purchase the specified emissions-related parts (excluding the CEM II and proprietary camshafts, which must be obtained from JMI) through supply channels of the operator's choosing. The certification of today's Federal Register notice does not include use of parts that are rebuilt by transit operators.

III. Summary and Analysis of Comments and Concerns

Comments were received from three parties in response to the Federal Register notice of January 30, 1997 (62 FR 4528). The commenters are Detroit Diesel Corporation (DDC), Engelhard Corporation, and New York City Transit Authority (NYCTA). DDC and Engelhard, provided extensive comment. DDC is the original manufacturer of the engine models to which the CCT™ kit applies, and has applied for certification of equipment to comply with the 0.10 g/bhp-hr standard. Engelhard is the manufacturer of equipment certified under the urban bus program that triggered the 0.10 g/bhp-hr standard for the 1979–1989 6V92TA MUI engines (see 62 FR 12166; March 14, 1997). NYCTA, as a large transit bus operator in a major metropolitan area, is subject to requirements of the urban bus program.

Comments or issues fell into the following general categories: (A) applicability of the kit; (B) description of the kit; (C) testing demonstration and documentation; (D) life cycle cost

analysis; and, (E) warranty. All correspondence, comments, and other documentation are located in the public docket at the address above.

(A) Applicability

In the January 30, 1997, **Federal Register** notice, EPA stated that the information provided in JMI's initial notification did not support certification of engines beyond model year 1989, because the federal new engine standard for NO_X dropped in 1990 to 6.0 g/bhp-hr and in 1991 to 5.0 g/bhp-hr. (The NO_X level of either certification test engine, when rebuilt with the kit, is greater than 10 g/bhp-hr.) Additionally, EPA noted that the JMI notification lacked support for certification of DDC's "DDEC" engines, because neither test engine is equipped with electronically-controlled fuel injection.

In comments dated March 14, 1997, DDC stated that the CCT™ kit should not be certified for numerous types of DDC two stroke/cycle engines including all California engine models. In general, DDC indicated that the JMI notification lacked support of testing demonstration and/or documentation, and because the test data showed that the kit exceeds the California NO_X standards. DDC also noted that engines rated at 325 and 340 hp are beyond the range normally used in urban bus applications.

In a letter dated December 17, 1996, JMI restricted its notification to DDC 6V92TA, 6V71T, and 6V71TA MUI engines of model years 1979 through 1989. Furthermore, in a letter dated August 6, 1997, JMI requested that EPA temporarily restrict its review to 6V92TA MUI engines in order to expedited the certification process. Therefore, today's **Federal Register** notice pertains only to EPA's certification of the CCT™ kit as applicable to 6V92TA MUI engine models. EPA also notes that documentation from Dallas Area Rapid Transit indicates that it has buses equipped with 325 hp 6V92TA MUI engines. EPA therefore believes it appropriate to include the 325 hp rating in the certification described in today's notice.

In a letter to JMI dated March 17, 1997, the California Air Resources Board (CARB) indicated that, without further test data showing that California-certified engines are not adversely affected by the CCT™ kit, CARB cannot allow use of the CCT™ kit. EPA recognizes that special situations may exist in California that are reflected in the unique emissions standards, engine calibrations, and fuel specifications of the State. While requirements of the federal urban bus program apply to several metropolitan areas in California, EPA understands the view of CARB that equipment certified under the urban bus program, to be used in California, must be provided with an executive order exempting it from the anti-tampering prohibitions of that State. Those interested in additional information should contact the Aftermarket Part Section of CARB, at (818) 575–6848.

(B) Description of the CCT™ Kit

Engelhard commented that the CCT™ kit specifies use of a fuel modulator, and notes that it is not standard on 6V92TA coach engines. Standard equipment on such coach engines is a throttle delay. Engelhard claims that the fuel modulator will cause serious bus driveability problems if not properly set and used in combination with the appropriate engine configuration. DDC states that it has no experience with the hardware combinations for which JMI has requested certification. Both DDC and Engelhard indicate that the effect of the CCT™ kit on bus driveability needs to be determined before the kit is certified.

EPA notes that field experience to date, although limited, does not indicate driveability problems. (Field experience is discussed further below.) The basis for Engelhard's claim concerning driveability problems appear to be conjecture based on theory of how an improperly set fuel modulator would function in conjunction with an engine operating on "low" boost pressure. Given the field experience presented by JMI, EPA does not believe there is justification for a delay in certification.

DDC questions JMI's original proposal to allow operators to use aftermarket parts equivalent to original equipment, noting that DDC's design and manufacturing specifications and tolerances are proprietary and not available to aftermarket part suppliers. Relatedly, NYCTA questions the use of non-DDC components, and expresses concern regarding the maintenance, durability, emissions levels, and warranty coverage associated with such parts.

In response, JMI modified its notification in a letter dated June 2, 1997, to restrict the specified parts of the CCT™ kit to DDC-supplied original equipment. EPA notes that JMI's 6V92TA certification engines were equipped with DDC components.

DDC questions the applicability of its procedures for checking cylinder compression and camshaft timing, given the unique combination of parts in the CCT™ kit. JMI states that the injector cam maintains a standard profile, and the exhaust valves open less and for a shorter time. JMI states that the DDC service method for checking camshaft timing by measuring cam lift versus crank angle remains applicable. JMI indicates that the procedure for checking cylinder compression remains appropriate, but that the compression specifications are different as a result of the lower compression ratio of the CCT™ engine. JMI will provide cylinder compression specifications with the CCT™ kit.

DDC references section 85.1406(d) of the program regulations, which includes the requirement that "* * * installation of any certified retrofit/rebuild equipment shall not * * * result in any additional range of parameter adjustability or accessibility to adjustment than that of the vehicle manufacturer's emission related part", and notes that the JMI injector height setting of 1.420 inches is outside the range of 1.460 to 1.520 inches which DDC allows and supports with gauges for service adjustment.

EPA notes that the purpose of the cited passage of section 85.1406(d) is to prevent retrofit/rebuild equipment from increasing the likelihood or potential for tampering. Although the CCT™ kit requires a unique fuel injector timing height, the kit does not change the inherent "range of adjustability" or "accessibility to adjustment" of DDC's basic fuel injector system. The height setting of the CCT™ kit is not tampering, indeed it is a requirement of the kit to ensure compliance with emissions levels demonstrated by JMI's testing. JMI will provide a gauge, for setting fuel injector height, with the CCT™ kit.

Both Engelhard and DDC provide numerous comment on the unique components and settings in the CCT™ kit, and are concerned that there is not sufficient field or in-use experience. DDC notes that the JMI fuel injection height specification (1.420 inches) is less than the minimum DDC allows (1.460 inches), and states that a potential unfavorable stack-up of component and adjustment tolerances may cause engine problems due to injector follower bottoming in real-world operating conditions. DDC notes that its minimum timing height specification takes into consideration such unfavorable stack-up plus the potential separation of the injector actuation linkage which can occur under engine overspeed (over-revving) conditions. Engelhard notes that JMI's 277 and 294 hp ratings use the same injector, asks how much power the JMI 325 hp rating actually produces, and asks for explanation of why the CCT™ kit use larger injectors than the corresponding original DDC ratings.

JMI acknowledges that the fuel injector height setting (1.420 inches) of the CCT™ kit is outside DDC's normal range. However, JMI states that testing performed on injectors at Southwest Research Institute and JMI distributors indicate that the injectors bottom-out between 1.380 and 1.390, and that successful operation has been sustained at a setting of 1.400. JMI believes that the specified injector setting will present no risk to the correct operation of the engine. JMI notes that the CCT™ technology, including the 1.420 setting, has been used extensively in other industry applications, as described further below. JMI will provide a gauge for setting injector height with the CCT™ kit.

EPA does not know whether or how prevalent engine over-speed conditions occur in transit operation (for example, whether it may occur during long downhill conditions when a bus might drive its engine to high speeds), or how significant of a problem it presents to the JMI settings for the injectors. Consequently, EPA does not know whether there is an adequate margin of safety in the injector height setting of the CCT™ kit to preclude any engine problems under all potential bus engine operating conditions. JMI, however, has demonstrated engine-dynamometer experience, some in-use transit bus operation (discussed further below), and in-use experience in other industries with no noted problems. Additionally, an emissions defect warranty, pursuant to section 85.1409 of the program regulations, is provided by JMI for all components of the CCT™ kit, which include the fuel injectors and proprietary camshaft. The warranty may leave other parts of the injector actuating mechanism without coverage. However, EPA does not believe such coverage to be necessary at present. EPA may take additional action, if significant in-use problem develop. For example, EPA has authority under section 85.1413 of the program regulations to decertify equipment if, for example, use of certified equipment severely degrades driveability, operation, or function.

EPA does not believe it necessary for JMI to explain why injectors in the CCT™ kit are larger than those typically used in corresponding DDC ratings. EPA recognizes that the CCT™-equipped engine is a unique combination of components, and fuel injectors are clearly emissions-related components.

Engelhard comments that the severe injection advance plus lower compression ratio of the CCT™ kit will result in problems, including cold weather starting problems, shorter engine life, reduction in low speed performance and higher fuel consumption, and calls for JMI to demonstrate the need for the injection advance and the affect on durability, fuel economy and performance. Engelhard states that JMI should use a non-biased third party test facility to demonstrate that the kit does not degrade performance. DDC notes that the kit differs from DDC configurations and that they have no experience with it.

Engelhard and DDC also comment on the design of the proprietary camshaft, indicating that a change in camshaft design can impact engine performance and durability. Engelhard's concerns range from the dynamics of the valve train, which might affect durability of valve train parts, to increased internal exhaust gas recirculation (EGR), which might increase wear of cylinder liners and rings due to increased oil contamination with soot. Engelhard calls for durability data to verify that the valve train will not fail prematurely, and to ensure that the CCT™ kit will not cause additional maintenance and/or engine failure.

JMI has presented information in support of the durability and performance of the CCT™ kit. JMI states that it has two field trials underway. One is a 1983 Gillig powered by a 6V92TA MUI at Kitsap Transit in Bremerton, Washington. No problems have been reported as of July, with 16,000 miles of routine transit service. A second transit trial on a 6V92TA DDEC II engine has been initiated in an un-named northern city. JMI presents three routine analyses of the lubrication oil from the Kitsap transit bus, and indicates that the analyses show typical, normal patterns of engine break-in with no unusual results. Soot is unmeasurable in the oil at 4,451 miles. In a letter to EPA dated June 10, 1997, the Kitsap Director of Vehicle Maintenance, acknowledging that six weeks and 12,000 miles of accumulated service is a relatively short period of time, notes that the bus is responsive to driver demands in a fashion that is in keeping with this engine (somewhat more powerful), and no increase in fuel or oil consumption.

Additionally, JMI presents information that the engine components of the CCT™ kit have been used on several engines in the oil and water pumping industries in stationary source locations, with no reported problems. In general, these stationary engines operate in a cyclic mode from low speed to wide-open-throttle, full load, to supply power for drilling and pumping rigs. One such engine, a 6V92TA, has been run for more than 3,500 hours with no reported problems. Another diesel engine has been run more than 13,000 hours with no reported problems.

In comments dated July 21, 1997, DDC states that the differences in fuel modulator and throttle delay response characteristics may also be observed in real world driving conditions. DDC further notes that, although the Kitsap tests may not be representative of all engine, bus, and driving pattern combinations, it suggests that the CCT™ kit can be employed without serious loss of vehicle performance and the tests go a long way to allaying the concern expressed in DDC's original comments.

Regarding its proprietary camshaft, JMI states that the injector cam profile of its proprietary cam is identical to the original equipment (OE) cam profile, and the ramps and acceleration of the exhaust cam are the same as the original equipment (OE) camshaft. Additionally, the transition from the cam base circle to the first rise is slightly more gradual than the OE camshaft. JMI states that the dynamics of the CCT™ camshaft (exhaust valves open less and for a shorter time) may result in improved mechanical durability compared to the OE camshaft. While noting that the CCT™ technology slightly increases the amount of internal EGR, JMI notes the above-described long-term experience in the oil and pumping industry. Further, oil analyses being conducted in the Kitsap field trial, described above, indicates no additional soot contamination of the lubrication oil.

JMI presented the above-discussed information in support of the operability and durability of the CCT™ kit. No evidence has been presented that indicates a specific problem with the design, operability, or durability of the CCT™ kit. While there is no requirement under the program regulations for a certifier to demonstrate operability or durability of equipment, EPA remains concerned about the long-term performance of all certified equipment. However, any conclusions regarding decreased performance, durability, or operability of CCT™-equipped engines are speculative at present, and the in-use information presented by JMI does not indicate concern with the CCT™ kit. As noted above, EPA has authority under section 85.1413 to decertify equipment that fails to comply with requirements of the regulations.

EPA notes that JMI is required to cover the fuel injectors, camshaft, cylinder liners, pistons, piston rings, and other components of the CCT™ kit.

regardless of supply option, under the emissions defect warranty required pursuant to section 85.1409.

DDC notes that its maximum back pressure limit for the 6V92TA MUI bus engines is typically 3 inches of mercury, and expresses concern that the addition of the CEM II catalytic muffler could cause DDC exhaust back pressure limits to be exceeded in many bus installations. DDC also is concerned about the JMI's field service procedure for checking exhaust back pressure, which states that it should be measured at full stall conditions. DDC indicates that the only way to check back pressure for conformance with DDC back pressure limits is with an engine operating at rated speed and wide-open-throttle. Back-pressure measurements made at any other condition will under-represent the full engine exhaust back pressure, and checking back pressure under these conditions may lead to excessive back pressure when the engine is operated in service. DDC calls for assurances that the CEM II will not cause DDC back pressure limits to be exceeded for any affected bus application. Verification must account for not only for the restriction of a clean catalyst core, but must also account for restrictions imposed by other exhaust system components, and the effects of core aging and ash accumulation over time.

JMI states that the CEM II is physically identical to the design of the original CEM, and its back pressure performance will be identical to the back pressure performance of the CEM under the same conditions. JMI notes that back pressure due to standard commercial mufflers vary, and may range from less than 0.5" mercury (Hg) to more than 1.0" Hg. Additionally, total back pressure may vary according to exhaust system design, engine speed or horsepower. JMI states that back pressure testing was conducted, as standard production practice, on CEM and CEM II units, using a 6V92TA of 322 hp, to ensure compliance with the 3.0" Hg maximum set by DDC. All CEM models tested had back pressure values between 1.0" to 1.5" mercury.

EPA, in general, is concerned with in-use problems resulting from excessive back pressure. However, no information presented by commentors substantiate a concern for excessive back pressure with the CEM II. More specifically, EPA has not received comments from transit operators or others indicating significant problems with high back pressure from the CEM catalyst muffler, which JMI indicates is physically identical to the CEM II.

Regarding the "full stall" method of checking back pressure, JMI states that it is a common, practical tool used by transit operators to measure exhaust backpressure. JMI notes that conducting measurements at rated speed and wide-open-throttle is difficult because transit operators typically do not have chassis dynamometers available to permit such measurements. EPA notes that, as a general diagnostic tool, such measurement of back pressure could be useful with any exhaust system (catalyst or muffler). While the full transmission stall test may under represent full back pressure, it appears to provide some usefulness as a back pressure check. As with other CCT™ kit components, JMI is required to warrant the CEM II under the warranties required pursuant to section 85.1409. As noted previously, EPA can take action in the event of significant in-use problems and, ultimately, has authority to decertify equipment.

Few certifiers have extensive experience from in-use transit service to comprehensively demonstrate the durability and performance of equipment certified for the urban bus retrofit/rebuild program. Nor does the program regulation require such comprehensive demonstration. JMI has presented information of in-use experience in support of these characteristics of the CCT™ kit, and EPA knows of no reason at this time to oppose certification.

(C) Testing Demonstration and Documentation

NYCTA comments that the PM emissions levels of the certification engines are close to the 0.10 g/bhp-hr standard, expresses concern that CCT™ equipped engines will emit above the standard after in-use operation, and asks whether deterioration factors have been included in the certification levels. NYCTA also notes that the emissions data for the 6V92TA engine indicates that NO_X emissions increase, and NYCTA believes that some buses equipped with the CCT™ kit will emit above the 1988 emissions standard (10.7 g/bhp-hr).

The urban bus program regulations do not specifically require manufacturers to demonstrate the durability of their candidate equipment. Similarly, there is no requirement for certifiers to develop an empirical basis for determining a deterioration factor. During the initial design of the urban bus program, EPA recognized that durability demonstration would impose a significant burden on certifiers, and expected that such burden would prevent technologies from coming forward. A program without certified technology would provide minimal emission reductions. Instead of requiring a durability demonstration, the program is based on the requirement for certifiers to warrant their equipment for defects and emissions performance (as specified in section 85.1409), on EPA's authority to perform in-use testing of certified equipment, and on EPA's authority to decertify noncompliant equipment (as specified in section 85.1413). As stated in the preamble to the final rule of April 21, 1993 (58 FR 21379): "EPA believes that, therefore, it is sufficient to hold manufacturers responsible for the emissions performance of their equipment through an emissions performance warranty * * *" and "Manufacturers will want to evaluate the durability of their equipment before selling it under this program to minimize their liability risk." Section 85.1413 provides authority to EPA to decertify equipment that EPA determines does not meet emissions requirements in-use. These emissions requirements include the HC, CO, NO_X, and smoke standards of a particular engine, in addition to the PM standards of the urban bus regulation.

The JMI notification indicates that the test engines were selected as "worst case" based on Table 3 of 58 FR 21373 (April 23, 1993). Engelhard comments that the test engine is not worst case for emissions from a catalyst-equipped engine, basically because the exhaust flow from higher horsepower engines would increase engine exhaust back pressure and reduce residence time of the exhaust within the catalyst, lowering catalyst effectiveness. Engelhard also claims that the CEM II, subject to higher exhaust temperatures from the higher horsepower engines, will have a greater tendency to make sulfate. DDC comments that the exhaust flow from higher hp engines is expected to be greater, but the 277 hp engine is the most popular for transit usage and therefore makes it the proper choice for certifying equipment for use on engines rated at 253, 277, and 294 horsepower.

For several reasons, EPA believes that the 6V92TA test engine equipped with the CCT™ kit, and rated by JMI at 277 hp, is acceptable to demonstrate compliance for 253, 277, 294, and 325 hp ratings. First, the test engine is clearly the engine model for which JMI is claiming applicability of the CCT™ kit. Further, the rating of the certification test engine is the most popular power rating according to the engine manufacturer. It therefore is the most representative power rating. Second, JMI has also presented

emissions testing data from a 6V71TA engine model, which also demonstrates compliance of the CCT™ kit with the 0.10 g/bhp-hr standard.

Regarding Engelhard's concern for higher exhaust flow with higher horsepower, no information is presented for the potential increase in sulfate emissions and that contribution to the total particulate emissions of any of the engine ratings. Additionally, it is not clear that an engine of the JMI-rated 294 hp or 325 hp, would have significantly different exhaust emissions or flow rate from the certification test engine. This is because, as DDC notes, higher horsepower ratings generally produce higher exhaust temperatures which may compensate for lower catalyst residence time (that is, higher temperatures are generally conducive to higher catalytic conversion efficiency). Furthermore, JMI analyzed data published for DDC engine configurations, to show that exhaust flow rates of higher horsepower engines may increase only in the order of a few percent over the flow rate of a 277 hp engine. JMI notes that one 330 hp 6V92TA has a standardized flow rate that is 4.4 percent greater, and another 330 hp 6V92TA has a standardized flow rate that is 3.7 percent less, than the published flow rate for a 277 hp 6V92TA coach engine. JMI states that this increase in flow rate is well within the margin of safety that is engineered into the CEM II and will represent no loss in conversion. In summary, EPA is not convinced that exhaust flow is clearly related to engine horsepower rating, or that a higher horsepower test engine would necessarily be worst case. EPA is not aware of evidence suggesting a problem with back pressure from this catalytic muffler design. Also, JMI has more than one catalyst biscuit size, and the emissions testing on the 6V92TA was performed on its smallest biscuit. JMI bears the burden of the emission performance warranty required by program regulations.

In its letter of August 11, 1997, Engelhard comments that the same fuel injectors are used in the CCT™ kit for the 277 hp rating and 294 hp rating, and concludes that there is no 294 hp kit. Engelhard indicates that JMI needs to provide an explanation regarding the injector specifications.

EPA is aware that typical industry practice is to use larger fuel injectors for higher horsepower, because, as Engelhard notes in its comments, larger injectors result in higher horsepower. JMI has not provided EPA with torque curves for its power ratings other than the certification test engine rated at 277 hp. The requirements of the urban bus program were designed to minimize testing burden, while demonstrating emissions compliance, but not to verify performance of every engine rating. While JMI has demonstrated compliance with the 0.10 g/bhp-hr standard, operators should be aware that EPA has not verified the power output of ratings other than that which JMI tested for exhaust emissions.

Engelhard compares the engine torque curves developed during JMI's testing of the CCT™ kit and baseline engine, and comments that the CCT™ kit results in an significant loss of low torque and horsepower compared to a standard urban bus engine. Engelhard concludes that this will cause significant performance, acceleration, and fuel economy problems for users of the CCT™ kit. In its initial comments of March 14, 1997, DDC also notes the low torque developed at low engine speeds. DDC and Engelhard call for demonstration of in-use performance and durability evaluation.

In response, JMI states that low speed acceleration of a bus equipped with the CCT™ kit is improved, because the kit includes replacement of the throttle delay (standard equipment on bus engines) with a fuel modulator. JMI states that a bus equipped with a standard throttle delay experiences a limit on the full fuel acceleration. The throttle delay is designed to make full engine torque developed available in 4 to 7 seconds. An engine equipped with the CCT™ kit will immediately have all the torque developed available to the driver for acceleration. Therefore, low speed acceleration is improved.

Comments from Kitsap Transit, reflecting limited experience with the CCT™-equipped engine, state that "* * * our drivers believe that on board power has been improved." In its comments of July 21, 1997, DDC notes that, although the Kitsap tests may not be representative of all engine, bus, and driving pattern combinations, it suggests that the CCT™ kit can be employed without serious loss of vehicle performance and the tests go a long way to allaying the concern expressed in DDC's original comments.

EPA recognizes differences between the torque maps generated for the baseline and the certification engine. However, EPA believes that the torque curve (that is, the torque map) generated for transient emissions testing can be a misleading representation of the torque that would be available at any instant from a similar engine during in-use service. This is due to the manner in which the torque map is generated for the transient emissions test and the particular fuel control means (such as throttle delay or fuel modulator) used on an engine. As DDC notes in its comments, the torque map is generated with the throttle delay fully discharged and the fuel rack in the full fuel position. Therefore, the influence of the throttle delay on fuel control is not reflected in the torque reported for the torque map. DDC states that the differences in fuel modulator and throttle delay response characteristics may also be observed in real world driving conditions. EPA therefore believes that conclusions based solely on comparison of torque maps may be misleading.

In summary, regarding the relative performance of CCT™-equipped engines, EPA is not aware of any clear evidence indicating a performance concern. Actual in-use experience, although limited, suggests that the CCT™ kit provides performance comparable to an original configuration.

DDC notes that during certification testing the CEM II was installed at a distance of six feet from the exhaust outlet of the turbocharger turbine, and comments that if the CEM II is installed in a location on a bus which is more than 6 feet from the turbine outlet, then the exhaust gases will be cooler and the effectiveness of the catalyst in oxidizing soot emissions will be less than was observed in the certification testing.

JMI presents exhaust temperature data from testing performed during certification of the CEM, which indicate a reduction of 10 degrees in exhaust gas temperature (from 627 degrees F to 617 degrees F) over a six-foot length between the turbine outlet and CEM. JMI states that if the CEM II is located an additional three or even six feet away from the outlet, then the exhaust temperature would decline by only an additional 5 to 10 degrees, which would have no effect on catalyst activity.

The temperature of the exhaust gases from a bus engine is continually changing during in-use operation due to variations in engine speed and load. EPA has no information that an additional few degrees drop in exhaust gas temperature is of significant concern regarding catalyst effectiveness. EPA has accepted in the past, as demonstration of compliance with emissions requirement of the urban bus program, emissions data developed from testing catalysts at a distance of six feet from the turbine outlet.

(D) Life Cycle Cost Analysis

NYCTA comments that the power ratings of the JMI certification test engine is above the range normally used in urban bus applications, and this should be included in the incremental life cycle cost analysis because of

implications related to higher wear on driveline components and higher fuel consumption. Also, NYCTA states that it is not clear what power ratings are being offered by JMI.

JMI states that it will offer the CCT™ kit for the 6V92TA models in four horsepower ratings (253, 277, 294, and 325) that are for the most part, typical to the transit industry. (JMI has asked EPA to temporarily restrict its review to CCT™ kits applicable to 6V92TA engine models.) While JMI has not provided EPA with torque curves for its ratings other than the certification test engine rated at 277 hp, EPA notes that the certification engine produced a maximum power of 274 hp during the torque map, which is within roughly 1 percent of the JMI rating (277 hp). Therefore, EPA believes that JMI's nomenclature (that is, the "rating") for the CCT™ kit configuration it tested, 277 hp, is consistent with the actual power produced for the emissions test. EPA believes that operators having engines originally rated at 277 hp will most likely choose a retrofit kit of the same horsepower rating.

NYCTA also comments that data is needed, such as periodic catalyst inspection or replacement, in order to estimate the incremental maintenance cost component of the life-cycle costs. NYCTA also indicates that field testing experience in transit service is needed in order to estimate incremental life cycle costs.

JMI states that there is no incremental maintenance costs associated with the CCT™ kit—the maintenance checks required for a standard DDC engine also apply, at the same interval, to a CCT™-equipped engine. There is no scheduled replacement of the CEM II catalyst.

NYCTA notes the significant difference in the torque characteristics of the CCT™ equipped engine compared to the original configuration. NYCTA comments that modifications to the drive train may be required to maintain acceptable acceleration, and this should be included in the life-cycle estimates.

The need for drive train modifications appear to be speculative at present. EPA believes that comparing the torque maps of the baseline and CCT™ equipped engine as discussed above, may be misleading for purposes of predicting vehicle acceleration. Additionally, JMI states that the field trial being conducted at Kitsap Transit indicate that the performance, power and acceleration of the CCT™ equipped engine is not impaired.

The JMI cost analysis includes incremental costs for 2 hours of labor for installation of the CEM II catalytic muffler. Both DDC and Engelhard question this cost. Engelhard comments that an installation time of 4 to 6 hours is more appropriate. DDC questions the appropriateness of the time estimate for installation of the CEM II, given that the installation time budgeted for the converter muffler of the Engelhard ETX™ kit (see 62 FR 12166; March 14, 1997) is 6 hours, and installation of the two converters are "* * * seemingly similar activities * * *". DDC also states that installation time should include time to check that back pressure limits are not exceeded, and should account for installation of the water drainage device required for some applications of the kit, and incremental maintenance costs associated with routine vehicle maintenance.

JMI indicates that over 54 designs of CEMs have been engineered to cover the broad range of coach and engine combinations. The initial application for the CEM estimated a maximum installation time of 6.5 hours as a best estimate. JMI's installation time for the CEM II of 2 hours is based on field experience with actual installation of the CEM. JMI also has provided data and statements from operators supporting the accuracy of the two-hour installation time.

EPA believes that 2 hour installation time is appropriate for the cost analysis, and is included above in Table 3. JMI states that the water drainage device is not necessary on any vertical exhaust stack, and is therefore not included in the LCC analysis. JMI provides an emissions defect warranty, pursuant to section 85.1409 of the program regulations, which includes coverage of the CEM II. JMI also states that the CCT™ kit does not have additional routine maintenance requirements, incremental to standard DDC maintenance, service or installation procedures, including routine checks of the CEM II.

Engelhard comments that JMI's initial baseline engine, a DDC 6V92TA engine configured to a 253 hp rating, is invalid for comparison because of the specific parts used in the JMI certification engine. Engelhard claims that the turbocharger and fuel injectors of JMI's certification engine are from a 294 hp configuration and, therefore, for an accurate comparison of fuel economy and emissions, the CCT™ kit of 277 rating needs to be compared with a baseline engine of 294 hp. Engelhard claims that comparing the JMI engine with a 294 hp baseline engine from a previous Engelhard test program shows a 12 percent loss in fuel economy for the CCT™ kit.

In response, JMI subsequently tested a second baseline engine, a DDC configuration rated at 277 hp as shown above in Table 1. Engelhard comments that this baseline engine is not performing properly because the NOx emissions (13.0 g/bhp-hr) are significantly higher than the federal standard (10.7 g/bhp-hr) applicable to 1985 through 1989 model year.

EPA notes that JMI's 6V92TA certification engine produced a maximum power of 274 hp during the torque map, which is within roughly 1 percent of the JMI rating (277 hp). Therefore, EPA believes that JMI's nomenclature (that is, the "rating") for the CCT™ kit configuration it tested, 277 hp, is consistent with the actual power produced for the emissions test. The actual combination of parts developed by JMI for its 277 hp rating, while perhaps unique, is not relevant to choice of baseline engine for fuel consumption comparison. EPA believes that operators having engines originally rated at 277 hp will most likely choose a retrofit kit of the same horsepower rating. Therefore, for comparison of fuel consumption, engines of the samerating should be compared.

Regarding the NO_X emission level of the 277 hp baseline engine, the measured value (13.0 g/bhp-hr) may be higher than typical for this rating. However, EPA believes that the test of the 277 hp baseline engine is adequate for its sole purpose—to determine the impact of the CCT™ kit on fuel consumption.

DDC comments that the only proper way to make fuel economy comparisons is at equivalent power ratings, and Engelhard in its comments notes the potential for significant cell-to-cell variations that make correlating data between test cells unreliable.

DDC also comments that comparison made at maximum hp and maximum torque with DDC's published values suggests that the CCT™ kit imposes a 6 to 7 percent fuel economy penalty.

EPA believes that a typical operating cycle for urban buses cannot be characterized by fuel consumption determined at steady state, full power output, as DDC has suggested. EPA notes that a comparison of the 253 hp baseline engine with the certification engine (JMI-rated at 277 hp) indicates a one percent improvement with the kit. Additionally, JMI references preliminary in-service experience from the Kitsap field trial that indicates a 20 percent improvement in fuel economy, and states that JMI's position is that no fuel penalty should apply. Section 85.1407 of the program regulations require that incremental fuel cost be determined based on testing performed over the heavy-duty engine federal test procedure, or an approved alternative test procedure. EPA believes that it is appropriate to compare data from engines of the same horsepower and from the same test cell, when available, for determining the fuel economy impact. This data is available from the JMI testing and such comparison is consistent with the requirements of the regulations. Comparison of the baseline DDC-rated 277 hp engine to the JMI-rated 277 hp certification engine indicates a fuel penalty of 3 percent for the CCT™ kit. Using the calculations required for this determination, as set forth at section 85.1403(b)(1), the impact on the life cycle cost analysis of the CCT™ kit, as shown above in Table 3, is determined to be a penalty of $964.30.

Engelhard states that fuel modulators are not standard on 6V92TA coach engines. The standard throttle delay will have to be removed and the fuel modulator installed and the additional labor associated with this should be included in the LCC analysis. JMI indicates that a standard rebuild would include the removal, and reinstallation and re-calibration of the throttle delay. This is necessary in order to remove and replace the fuel injectors and other key engine components. When an engine is rebuilt with the CCT™ kit, the fuel modulator is installed in place of the throttle delay. EPA believes that use of the fuel modulator in a CCT™ kit presents no costs, incremental to the costs of a standard rebuild.

In its comments of July 21, 1997, DDC indicates that it is in fundamental agreement with the JMJ life cycle cost analysis, except for the cost offset of the proprietary cam of the CCT™ kit. The cost offset in the analysis is $1229, and DDC believes that the offset should be $320, which is the cost for remanufactured camshafts available from DDC. DDC believes that most operators would be expected to use remanufactured parts when replacing camshafts at the time of rebuild.

EPA determined the cost of a "weighted" rebuild for the cost evaluation of DDC's upgrade kit for the 6V92TA MUI (61 FR 37734; July 19, 1996), and later updated that cost for certification of the Engelhard ETX™ kit (62 FR 12166; March 14 1997), both using cost information provided by DDC, and others, at those times. For the evaluation of the CCT™ kit, EPA relies on the cost determination for a "weighted" rebuild published in the Federal Register on March 14, 1997, updated to May 1997. EPA has not modified its March 14th determination of the cost because it has no data on the fraction of operators which are expected to use remanufactured camshafts.

(E) Warranty

DDC commented that the JMI warranty does not provide coverage for non-JMI parts that are used in conjunction with a CCT™ kit in rebuilding an engine, and does not cover any liability for labor costs or for any incidental or consequential damages. DDC also noted that use of standard DDC parts in conjunction with the CCT™ kit could result in the parts being subjected to unduly harsh operating environments, and DDC's parts warranty does not extend to parts that have been misapplied or misused. DDC noted that the warranty applies coverage only if an engine is operated with "unadulterated" diesel fuel, yet it is common practice for many operators to use fuel additives.

During the review process, JMI's warranty language underwent changes, as did the description of the CCT™ kit of today's notice. As noted previously, JMI restricted the specified emissions-related parts of the kit to DDC-supplied parts. Also, JMI changed its warranty language to make clear that it covers the emissions-related parts that JMI specifies to be used with the CCT™ kit. Warranty coverage applies to both supply options. The JMI warranty was also modified so that coverage is not conditioned on the use of "unadulterated" fuel. JMI states that additives are permissible, but requests to review the constituents of any additives used by transit operators before they are used by the transit.

With regard to labor costs, JMI is not required to cover labor costs associated with warranty repair because labor associated with equipment installation and maintenance is the responsibility of the transit operator. (Maintenance includes warranty repair.) This point is stated in the preamble to the final rule of April 21, 1993 (58 FR 21361): "Bus operators will be responsible for the proper installation and maintenance of the equipment." Additionally, incidental or consequential damages, or non-JMI parts used in conjunction with retrofitting with a CCT™ kit, are not required to be covered pursuant to the warranty requirements of the program regulations (section 85,1409). EPA is not aware of any evidence that incidental or consequential damages will occur. If significant in-use problems develop, then EPA may take action.

IV. Certification

The Agency has reviewed the notification of intent to certify and other information provided by JMI, along with comments received from interested parties, and finds that the CCT™ kit described above:

(1) Complies with the particulate matter exhaust emissions standard of 0.10 g/bhp-hr, without causing the applicable engine families to exceed other exhaust emissions standards;

(2) Complies with the life cycle cost requirements pursuant to section 85.1403(b)(1);

(3) Will not cause an unreasonable risk to the public health, welfare, or safety;

(4) Will not result in any additional range of parameter adjustability; and,

(5) Meets other requirements necessary for certification under the Retrofit/Rebuild Requirements for 1993 and Earlier Model Year Urban Buses (40 CFR Sections 85.1401 through 85.1415).

Therefore, today's Federal Register notice announces certification of the above-described Johnson Matthey CCT™ kit for use in the urban bus retrofit/rebuild program as discussed below in section V.

V. Transit Operator Responsibilities

Today's Federal Register notice announces certification of the above-described CCT™ kit, when properly applied, as meeting the 0.10 g/bhp-hr particulate matter standard of the Urban Bus Retrofit/Rebuild Program.

In a Federal Register notice dated March 14, 1997 (62 FR 12166), EPA announced certification of a retrofit/rebuild kit produced by the Engelhard Corporation (the ETX™ kit). That certification means that urban bus operators using compliance program 1 must use equipment certified to the 0.10 g/bhp-hr standard when rebuilding or replacing applicable 1979 through 1988 model year DDC 6V92TA MUI model engines after September 14, 1997. The certified JMI equipment described in today's notice may be used by operators in compliance with the 0.10 g/bhp-hr standard. Operators using compliance program 2 having applicable engines may use the certified CCT™ kit and claim the certification PM level from Table 2 above, when calculating their Fleet Level Attained (FLA). Under program 2, an operator must use sufficient certified equipment so that its actual fleet emission level complies with the target level for its fleet.

As mentioned above, certification of the Engelhard ETX™ kit triggered the 0.10 g/bhp-hr standard for applicable 1979–1988 6V92TA MUI engines. That kit provides three power ratings: 253, 277, and 294 horsepower. JMI will offer the CCT™ kit in four power ratings: 253, 277, 294, and 325 hp. Certification of the CCT™ kit described in today's

Federal Register notice triggers the 0.10 g/bhp-hr standard for engines rated above 294 hp. This means that urban bus operators using compliance program 1 must use equipment certified to the 0.10 g/bhp-hr standard when rebuilding or replacing applicable engines above 294 hp after May 6, 1998.

Urban bus engines certified to meet California emissions standards are not applicable to the CCT™ kit discussed in today's Federal Register notice. Additionally, the 0.10 g/bhp-hr PM standard is not triggered for engines certified to meet California emission standards. Operators of such urban buses, who choose to comply with program 1, are not required to use equipment certified to the 0.10 g/bhp-hr PM standard until the standard has been triggered for such engines. Operators of urban buses having engines certified to meet California emission standards, and who choose to comply with program 2, may not use the CCT™ kit described in today's notice to meet program requirements.

As stated in the program regulations (40 CFR 85.1401 through 85.1415), operators must, beginning January 1, 1995, maintain records for each engine in their fleet to demonstrate that they are in compliance with the requirements of the Urban Bus Retrofit/Rebuild Program. These records include purchase records, receipts, and part numbers for the parts and components used in the rebuilding of urban bus engines. Urban bus operators using the supply option 2, as described previously in today's Federal Register notice, must be aware of their responsibility for maintenance of records pursuant to 40 CFR Sections 85.1403 through 85.1404, because they do not purchase the complete CCT™ kit from JMI. Urban bus operators using supply option 2 must be able demonstrate that all parts used in the rebuilding of engines are in compliance with program requirements. In other words, such urban bus operators must be able to demonstrate that all components of the kit certified in today's Federal Register notice are installed on applicable engines.

Dated: October 29, 1997.

Richard D. Wilson,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 97–29397 Filed 11–5–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5917–6]

Underground Injection Control Program; Hazardous Waste Injection Restrictions; Petition for Exemption—Class I Hazardous Waste Injection; CECOS International, Inc. (CECOS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final decision on petition modification.

SUMMARY: Notice is hereby given that modification of an exemption to the land disposal restrictions under the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act has been granted to CECOS, for the Class I injection well located at Sulphur, Louisiana. As required by 40 CFR part 148, the company has adequately demonstrated to the satisfaction of the Environmental Protection Agency by petition and supporting documentation that, to a reasonable degree of certainty, there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. This final decision allows the underground injection by CECOS, of the specific restricted hazardous waste identified in the exemption modification, into the Class I hazardous waste injection well at the Sulphur, Louisiana facility specifically identified in the modified exemption, for as long as the basis for granting an approval of this exemption remains valid, under provisions of 40 CFR 148.24. As required by 40 CFR 124.10, a public document was issued July 31, 1997, and closed on September 15, 1997. No comments were received. This decision constitutes final Agency action and there is no Administrative appeal.

DATES: This action is effective as of October 28,1997.

ADDRESSES: Copies of the modified petition and all pertinent information relating thereto are on file at the following location: Environmental Protection Agency, Region 6, Water Quality Protection Division, Source Water Protection Branch (6WQ–S), 1445 Ross Avenue, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Philip Dellinger, Chief, Ground Water/UIC Section, EPA—Region 6, telephone (214) 665–7165.

Oscar Ramirez, Jr.,

Acting Director, Water Quality Protection Division (6WQ).

[FR Doc. 97–29387 Filed 11–5–97; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5918–6]

National Environmental Justice Advisory Council; Notification of Meeting Public Comment Period(s) and Environmental Justice Enforcement Roundtable Open Meetings

Pursuant to the Federal Advisory Committee Act (FACA), Public Law 92–463, we now give notice that the National Environmental Justice Advisory Council (NEJAC) along with the subcommittees will meet on the dates and times described below in conjunction with a NEJAC and EPA-sponsored Environmental Justice Enforcement Roundtable. All times noted are Eastern Standard Time. All meetings are open to the public. Due to limited space, seating at the NEJAC meeting will be on a first-come basis. Documents that are the subject of NEJAC reviews are normally available from the originating EPA office and are not available from the NEJAC. The NEJAC and subcommittee meetings will occur at the Regal University Hotel, 2800 Campus Walk Avenue, Durham, NC 27705–4479, telephone number: 919/383–8575. The NEJAC and EPA-sponsored Environmental Justice Enforcement Roundtable will occur at North Carolina Central University in Durham, NC.

The full NEJAC will convene Monday, December 8 from 9:00 a.m. to 10:30 a.m. and from 6:30 p.m. to 9:00 p.m., and Wednesday, December 10 from 9:00 a.m. to 5:00 p.m. and from 6:45 p.m. to 9:00 p.m. to follow-up on pending items from the May 1997 meeting, to hear a presentation from the newly created EPA's Office of Children Health Protection, and several NEJAC new business interest items. NEJAC will have a break in the meeting schedule Monday, December 8 at 10:30 a.m. to conduct a bus tour of local environmental justice sites. There will be public comment periods scheduled from 7:00 p.m.—9:00 p.m. on Monday, December 8 and on Wednesday, December 10.

The six subcommittees will meet Tuesday, December 9 from 9:00 a.m. to 6:30 p.m. Any member of the public wishing additional information on the subcommittee meetings should contact the specific Designated Federal Official at the telephone number listed below.

Subcommittee	Federal official and telephone number
Enforcement	Ms. Sherry Milan—202/564–2619.
Health & Research	Mr. Lawrence Martin—202/564–6497. Ms. Carol Christensen—202/260–2301.
International	Ms. Doña Canales—202/564–6442.
Indigenous Peoples	Ms. Elizabeth Bell—202/260–8106.
Public Participation	Ms. Renee Goins—202/564–2598.
Waste/Facility Siting	Mr. Kent Benjamin—202/260–2822.

The NEJAC and EPA-sponsored Environmental Justice Enforcement Roundtable will meet December 11–13, 1997 at North Carolina Central University in Durham, North Carolina. The public comment session is from 6:00 p.m.—9:00 p.m. on Thursday, December 11 and the Roundtable sessions are from 9:00 a.m.—5:00 p.m. on Friday, December 12 and Saturday, December 13.

Members of the public who wish to make a brief oral presentation should contact Tama Clare of Tetra Tech EM Inc. by November 28 to have time reserved on the agenda. Individuals or groups making oral presentations will be limited to a total time of five minutes. We should receive written comments of any length (at least 35 copies) by November 28, comments received after that date will be provided to the Council as logistics allow. Send your written comments to Tetra Tech EM Inc., 1593 Spring Hill Road, Suite 300, Vienna, VA 22182. NEJAC Registration Toll-Free Hotline Telephone number is 888/335–4299 or FAX: 703/287–8843. Internet E-mail address is Claret@ttemi.com.

FOR FURTHER INFORMATION CONTACT: For hearing impaired individuals or non-English speaking attendees wishing to arrange for a sign language or foreign language interpreter, please call or fax Tama Clare of Tetra Tech EM Inc. at Phone: 703/287–8880 or Fax: 703/287–8843.

Registration for all events can be done through the Internet at our World Wide Web's home page via the following address: *http://www.ttemi.com/nejac* or through the NEJAC Registration Toll-free Hotline at 888/335–4299.

Dated: October 31, 1997.

Robert J. Knox,

Designated Federal Official, National Environmental Justice Advisory Council.

[FR Doc. 97–29398 Filed 11–5–97; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority 5 CFR 1320 Authority; Comments Requested

October 30, 1997.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Persons wishing to comment on this information collection should submit comments January 5, 1998.

ADDRESSES: Direct all comments to Jerry Cowden, Federal Communications Commission, Room 240–B, 2000 M St., N.W., Washington, DC 20554, or via internet to jcowden@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection contact Jerry Cowden at 202–418–0447 or via internet at jcowden@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0308.

Title: Section 90.505 Developmental operation, showing required.

Form No.: N/A.

Type of Review: Extension of existing collection.

Respondents: Businesses or other for-profit, state, local or tribal government, not-for-profit institutions.

Number of Respondents: 100.

Estimated Time Per Response: 2 hours.

Total Annual Burden: 200 hours.

Needs and Uses: The information collection requirement contained in Section 90.505 is needed to gather data on developmental programs for which a developmental authorization is sought. The information is used to evaluate the desirability of issuing such an authorization from spectrum use and interference potential considerations. If the information was not collected the value of developmental programs would be severely limited.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–29302 Filed 11–5–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

October 30, 1997.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before January 5, 1998. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0004.

Title: Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation (Second Memorandum Opinion and Order, ET Docket No. 93–2).

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Not-for-profit institutions; businesses or other for profit; small businesses and organizations.

Number of Respondents: 126,108.

Estimated Time Per Response: 2 hours per response (avg.). This time will vary with the number of transmitters considered; e.g., a site with a single transmitter might require one hour to determine compliance, while a site with many co-located transmitters may require considerably more time.

Frequency of Response: On occasion reporting requirement and third party disclosure.

Total Annual Burden: 223,376 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: The estimated cost to respondents to perform the environmental evaluations per service varies. For example, complex situations that require a consulting engineer @ $100 per hour may require additional time to perform an evaluation; portable devices authorized under Part 2 of the Rules require a specific absorption rate of RF energy test with an average cost of approximately $5,000 per test; and other applicants will use OET Bulletin No. 65 to perform environmental evaluations, and will have no financial burden associated with the evaluation.

Needs and Uses: The National Environmental Policy Act of 1969 (NEPA) requires agencies of the Federal Government to evaluate the effects of their actions on the quality of the human environment. To meet its responsibilities under NEPA, the Commission has adopted revised RF exposure guidelines for purposes of evaluating potential environmental effects of RF electromagnetic fields produced by FCC-regulated facilities. The new guidelines reflect more recent scientific studies of the biological effects of RF electromagnetic fields. The use of these new guidelines will ensure that the public and workers receive adequate protection from exposure to potentially harmful RF electromagnetic fields. This Second Memorandum Opinion and Order addresses a number of concerns that were raised in petitions and comments received in response to the Report and Order.

The collections of environmental information required by Section 1.1307 of the Rules will be used by the Commission staff to determine whether the environmental evaluation is sufficiently complete and in compliance with the Commission's Rules to be acceptable for filing. The collection of this information is necessary to ensure compliance with NEPA, specifically, to minimize the potential for significant environmental impact from radiofrequency (RF) radiation from FCC-regulated transmitters and facilities.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–29303 Filed 11–5–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Submitted to OMB for Review and Approval

October 29, 1997.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before December 8, 1997. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s) contact Judy Boley at 202–418–0214 or via internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0589.

Title: FCC Remittance Advice and Continuation Sheet.

Form Number: FCC Form 159/159–C.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households; business or other for-profit; not-for-profit institutions.

Number of Respondents: 635,738.

Estimated Time Per Response: 0.5 hours.

Cost to Respondents: N/A.

Total Annual Burden: 317,869 hours.

Needs and Uses: FCC Form 159/159–C is required for payment of regulatory fees and for use when paying for multiple filings with a single payment instrument, or when paying by credit card. The forms require specific information to track payment history, to facilitate the efficient and expeditious processing of collections by a lockbox bank. The forms were revised to include Taxpayer Identification Number (TIN) which is used for anyone who requests services from the FCC. The Taxpayer Identification Number is required by the Debt Collection Improvement Act of 1996.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–29301 Filed 11–5–97; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL HOUSING FINANCE BOARD

[No. 97–N–8]

Proposed Collection; Comment Request

AGENCY: Federal Housing Finance Board.

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995, the Federal Housing Finance Board (Finance Board) hereby gives notice that it is seeking public comments concerning a three-year extension by the Office of Management and Budget (OMB) of the previously approved information collection entitled "Personal Certification and Disclosure Forms."

DATES: Interested persons may submit comments on or before January 5, 1998.

ADDRESSES: Address written comments and requests for copies of the information collection to Elaine L. Baker, Secretary to the Board, 202/408–2837, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: Patricia L. Sweeney, Program Analyst, Compliance Assistance Division, Office of Policy, 202/408–2872, or Janice A. Kaye, Attorney-Advisor, Office of General Counsel, 202/408–2505, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

SUPPLEMENTARY INFORMATION:

A. Need For and Use of Information Collection

Section 7 of the Federal Home Loan Bank Act (Bank Act) and parts 931 and 932 of the Finance Board's regulations establish eligibility and reporting requirements and the procedures for electing and appointing Federal Home Loan Bank (FHLBank) directors. *See* 12 U.S.C. 1427; 12 CFR parts 931 and 932. The information collection contained in the FHLBank director personal certification and disclosure forms and §§ 932.18 and 932.21 of the Finance Board's regulations is necessary to enable the Finance Board to determine whether prospective and incumbent FHLBank directors satisfy the statutory and regulatory eligibility and reporting requirements. *See* Finance Board Forms E–1, E–2, A–1, and A–2; 12 CFR 932.18 (appointive directors) and 932.21 (elective directors). Finance Board staff uses the information collection to determine whether such individuals meet the statutory and regulatory eligibility and reporting requirements.

The likely respondents include only prospective and incumbent FHLBank directors. Currently, there are 109 elective directors and 72 appointive directors serving on the boards of directors of the FHLBanks. The information collection requires each respondent to complete and submit to the Finance Board for review a personal certification and disclosure form prior to election or appointment and, once elected or appointed, annually during the term of service. *See* 12 CFR 932.18(f)(1), (3) and 932.21(g)(1), (3). Incumbent directors also have a continuing obligation promptly to notify the Finance Board of any known or suspected ineligibility. *Id.* §§ 932.18(f)(2) and 932.21(g)(2).

The OMB number for the information collection is 3069–0002. The OMB clearance for the information collection expires on January 31, 1997.

B. Burden Estimate

The Finance Board estimates the total annual average number of respondents at 286, with one response per respondent. The estimate for the average hours per response is 1.3 hours. The estimate for the total annual hour burden is 376 hours (286 respondents x 1 response/respondent x approximately 1.3 hours). The estimated annualized cost to respondents of the information collection is $35,175.00.

C. Comment Request

The Finance Board requests written comments on the following: (1) whether the collection of information is necessary for the proper performance of Finance Board functions, including whether the information has practical utility; (2) the accuracy of the Finance Board's estimates of the burdens of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

By the Federal Housing Finance Board.

Dated: October 31, 1997.

William W Ginsberg,

Managing Director.

[FR Doc. 97–29368 Filed 11–5–97; 8:45 am]

BILLING CODE 6725–01–U

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 232–011539–001.

Title: CMN/Ivaran/TMM Space Charter and Sailing Agreement.

Parties:

Companhia Maritima Nacional ("CMN")

Ivaran Lines AS ("Ivaran")

Transportacion Maritima Mexicana S.A. De C.V. ("TMM").

Synopsis: The proposed modification changes the identity of A/S Ivarans Rederi to Ivaran Lines AS, changes the contact person for TMM, and clarifies that the geographic scope of the Agreement includes Venezuela.

Agreement No.: 203–011593.

Title: N.S. Inman Chassis Program L.L.C. Limited Liability Company Operating Agreement.

Parties:

COSCO Americas, Inc.

"K" Line America

NYK Line (North America), Inc.

Yang Ming Line

Synopsis: The proposed Agreement would establish a container chassis pool which would primarily service the Norfolk Southern Railway facility at Atlanta, Georgia.

Dated: October 31, 1997.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 97–29329 Filed 11–5–97; 8:45 am]

BILLING CODE 6730–01–M

OFFICE OF GOVERNMENT ETHICS

Notice of Planned Termination of the Ethics Bulletin Board System

AGENCY: Office of Government Ethics (OGE).

ACTION: Notice.

SUMMARY: The Office of Government Ethics is planning to terminate The Ethics Bulletin Board System (TEBBS), its electronic bulletin board service for executive branch Government ethics information, effective January 1, 1998. In its place, OGE will continue to enhance its Internet World Wide Web

site, established last year, which contains most of the same electronic materials as well as additional informational resources and links to other pertinent Internet sites.

DATES: Comments by the agencies and the public are invited and should be submitted to OGE by December 8, 1997.

ADDRESSES: Send comments to the Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005–3917, Attention: James V. Parle.

FOR FURTHER INFORMATION CONTACT: James V. Parle, Chief, Office of Information Resources Management, Office of Government Ethics; telephone: 202–208–8000; TDD: 202–208–8025; FAX: 202–208–8037; Internet E-mail address: usoge@oge.gov (for E-mail messages, the subject line should include the following reference—Comment on planned TEBBS termination).

SUPPLEMENTARY INFORMATION: Notice is hereby given that, effective January 1, 1998, the Office of Government Ethics is planning to terminate the operation of its "The Ethics Bulletin Board System" (TEBBS). This notice is also being posted on TEBBS and OGE's Web site. In light of the creation last year of OGE's new Web site on the Internet, OGE has initially determined that TEBBS is no longer needed for electronic dissemination of OGE Government ethics information to the agencies and the public. Nonetheless, OGE invites comments from the agencies and the public on this planned termination of TEBBS, to be received by December 8, 1997, and will carefully consider any comments received before reaching a final decision. If OGE does decide to delay or reverse the planned termination of TEBBS, OGE will publish a further notice to this effect in the **Federal Register**, as well as posting it on both TEBBS and the OGE Web site.

The Office of Government Ethics introduced TEBBS to the executive branch ethics community at the September 1992 Government Ethics Conference. Since then, TEBBS has been used to disseminate electronic copies of OGE's executive branchwide ethics regulations, along with its advisory memoranda and letters. The TEBBS bulletin board also electronically provides access to various ethics program administration aids, such as ethics reporting forms, training materials, and OGE publications.

When OGE introduced the TEBBS service in 1992, electronic bulletin boards were the principal means for the Government to disseminate information electronically. However, since that time, information technology has changed significantly. Today, the World Wide Web on the Internet has become the primary electronic means of disseminating information. The Office of Government Ethics introduced its own Web site at the September 1996 Government Ethics Conference.

The current uniform resource locator (URL) address for OGE's Internet World Wide Web site is http://www.usoge.gov. The OGE Web site contains, either on-site or via links to other Web sites, most of the same electronic information that is available on TEBBS as noted above, as well as that on OGE's ethics CD-ROM, which OGE will continue to publish twice a year. The Web site also provides access to additional informational resources, such as electronic copies of pertinent Government ethics laws and Executive orders. Further, the Web site includes all the current OGE forms and publications in Adobe Acrobat portable document format (PDF) files that can be downloaded and used as needed by agencies and their employees. The Office of Government Ethics continually updates its Web site as new material becomes available for electronic dissemination.

Response to OGE's Web site has been better than expected. Since OGE put its Web site into service a year ago, the number of "hits" (visits to a page or downloading of a document) has grown steadily. The volume now averages some 34,000 "hits" a month. The Office of Government Ethics expects this number to continue to grow as it adds additional functionality and information to the site. Not surprisingly, there has been a corresponding decrease in the use of TEBBS. With OGE's limited resources, the largely redundant and less flexible capabilities offered by TEBBS has become too expensive to operate and maintain. The additional resources and capabilities of OGE's Web site should more than compensate for the termination of the TEBBS electronic bulletin board service.

Approved: October 31, 1997.

Stephen D. Potts,

Director, Office of Government Ethics.

[FR Doc. 97–29333 Filed 11–5–97; 8:45 am]

BILLING CODE 6345–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Program Support Center; Agency Information Collection Activities: Proposed Collections; Comment Request

The Department of Health and Human Services, Program Support Center (PSC), will periodically publish summaries of proposed information collections projects and solicit public comments in compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995. To request more information on the project or to obtain a copy of the information collection plans and instruments, call the PSC Reports Clearance Officer on (301) 443–2045.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

1. Application Packets for Real Property for Public Health Purposes—0937–0191—Revision

The Department of Health and Human Services Administers a program to convey or lease surplus real property to States and their political subdivisions and instrumentalities, to tax-supported institutions, and to nonprofit institutions to be used for health purposes. State and local governments and nonprofit organizations use these applications to apply for excess/surplus, underutilized/unutilized and off-site Government real property. Information in the application is used to determine eligibility to purchase, lease, or use property under the provisions of the surplus property program. The instructions have been reduced from six (6) packets to three (3) to streamline and consolidate the health and homeless application processes. The Environmental information form, used to evaluate potential environmental effects of a proposal as required by the National Environmental Policy Act of 1969, is being revised to provide factual data to support the response to each question and to leave no doubt about what conditions or adverse effects are being considered as well as to make it more user friendly. *Respondents:* State, Local or Tribal Governments; not-for-profit institutions; *Total Number of Respondents:* 114 per calendar year; *Number of Responses per Respondent:* One response per request; Average *Burden per Response:* 200 hours; Estimated *Annual Burden:* 22,800 hours.

Send comments to Douglas F. Mortl, PSC Reports Clearance Officer, Room 17A08, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: October 30, 1997.

Lynnda M. Regan,

Director, Program Support Center.

[FR Doc. 97–29349 Filed 11–5–97; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97F-0440]

Cytec Industries, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Cytec Industries, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 1,6-hexanediamine, *N,N'*-bis(2,2,6,6-tetramethyl-4-piperidinyl)-, polymers with morpholine-2,4,6-trichloro-1,3,5-triazine reaction products, methylated, as a stabilizer for olefin polymers intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS-216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-418-3081.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 8B4562) has been filed by Cytec Industries, Inc., c/o Keller and Heckman, 1001 G St. NW., suite 500 West, Washington, DC 20001. The petition proposes to amend the food additive regulations in § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) to provide for the safe use of 1,6-hexanediamine, *N,N'*-bis(2,2,6,6-tetramethyl-4-piperidinyl)-, polymers with morpholine-2,4,6-trichloro-1,3,5-triazine reaction products, methylated, as a stabilizer for olefin polymers complying with 21 CFR 177.1520 intended for use in contact with food.

The agency has determined under 21 CFR 25.32(i) that this action is of the type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: October 16, 1997.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 97–29347 Filed 11–5–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Peripheral and Central Nervous System Drugs Advisory Committee Meeting; Cancellation

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is canceling the meeting of the Peripheral and Central Nervous System Drugs Advisory Committee scheduled for November 18 and 19, 1997. The meeting was announced in the **Federal Register** of October 17, 1997 (62 FR 54118).

FOR FURTHER INFORMATION CONTACT: Ermona B. McGoodwin or Danyiel D'Antonio, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12543.

Dated: October 30, 1997.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 97–29348 Filed 11–5–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Cancer Institute Special Emphasis Panel (SEP) meetings:

Name of SEP: Phase II Clinical Trails of New Chemopreventive Agents.

Date: November 18, 1997.

Time: 9:00 a.m. to adjournment.

Place: Double Tree Hotel-Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Wilna Woods, Ph.D., Scientific Review Administrator, National Cancer Institute, NIH, Executive Plaza North, Room 622B, 6130 Executive Boulevard, MSC 7405, Bethesda, MD 20892–7405, Telephone: 301/496–7903.

Purpose/Agenda: To review, discuss and evaluate responses to Request for Proposal.

Name of SEP: Phase I Clinical Studies of Chemopreventive Agents.

Date: November 19–20, 1997.

Time: November 19–9:00 a.m. to recess; November 20–9:00 a.m. to adjournment.

Place: Double Tree Hotel-Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Wilna Woods, Ph.D., Scientific Review Administrator, National Cancer Institute, NIH, Executive Plaza North, Room 622B, 6130 Executive Boulevard, MSC 7405, Bethesda, MD 20892–7405, Telephone: 301/496–7903.

Purpose/Agenda: To review, discuss and evaluate responses to Request for Proposal.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

The meetings will be closed in accordance with the provisions set for in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: October 30, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–29359 Filed 11–5–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice

is hereby given of the following National Cancer Institute Special Emphasis Panel (SEP) meeting:

Name of SEP: Preclinical Toxicology Studies of Chemopreventive Agents.

Date: November 14, 1997.

Time: 9:00 a.m. to Adjournment.

Place: Executive Plaza North, Conference Room J, 6130 Executive Boulevard, Bethesda, MD 20892.

Contact Person: Lalita Palekar, Ph.D., Scientific Review Administrator, National Cancer Institute, NIH, 6130 Executive Boulevard, EPN, Room 622B, Bethesda, MD 20892–7405, Telephone: 301/496–7575.

Purpose/Agenda: To review, discuss and evaluate responses to a Request for Proposal.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. Proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394; Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: October 30, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–29360 Filed 11–5–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Cancer Institute Special Emphasis Panel (SEP) meeting:

Name of SEP: Phase III Science Enrichment Program (Telephone Conference Call).

Date: November 17, 1997.

Time: 8:00 a.m. to Adjournment.

Place: National Cancer Institute, Executive Plaza North, Conference Room C, 6130 Executive Boulevard, Bethesda, MD 20892.

Contact Person: Wilna Woods, Ph.D., Scientific Review Administrator, National Cancer Institute, NIH, Executive Plaza North, Room 622B, 6130 Executive Boulevard, MSC 7405, Bethesda, MD 20892–7405, Telephone: 301/496–7903.

Purpose/Agenda: To review, discuss and evaluate responses to Request for Proposal.

This notice is being published less than 15 days to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: October 30, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–29363 Filed 11–5–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to Section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Cancer Institute (NCI) Board of Scientific Advisors on November 13–14, 1997 in Conference Room 10, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland.

This meeting will be open on November 13 from 8 a.m. to recess and on November 14 from 8:00 a.m. to adjournment. Agenda items will include the following: NCI Director's Report; Deputy Director of Extramural Science's Reports; Legislative Update; Scientific Presentation(s); Concept Reviews; program review updates and reports, and discussions pertaining to new and ongoing Board business. Attendance by the public will be limited to space available.

Individuals who plan to attend and need special assistance such as sign language interpretation or other reasonable accommodations and additional information pertaining to the meeting should contact Dr. Paulette S. Gray, Executive Secretary, NCI Board of Scientific Advisors, 6130 Executive Blvd., EPN, Rm. 600C, Bethesda, MD 20892 (301–496–4218).

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Dated: October 30, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–29364 Filed 11–5–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Purusant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting of the National Cancer Institute, Frederick Cancer Research and Development Center Advisory Committee.

The open portion of the meeting will be limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the contact person in advance of the meeting.

Committee Name: Frederick Cancer Research and Development Center Advisory Committee.

Date: December 11–12, 1997.

Place: Frederick Cancer Research and Development Center, Building 549, Executive Board Room, Frederick, Maryland 21702–1201.

Open: December 11—8:30 a.m.–10:00 a.m..

Agenda: Discussion of administrative matters such as future meetings, budget, and information items related to the operation of the NCI Frederick Cancer Research and Development Center.

Closed: December 11—10 a.m. to recess, December 12–8:30 a.m. to adjournment.

Agenda/Purpose: Discussion of previous site visit report and response for the Gene Regulation and Chromosome Biology Laboratory and Molecular Aspects of Drug Design Section both under contract with ABL—Basic Research Program review held June 9–10, 1997. The majority of the closed session will be devoted to a site review of the Molecular Basis of Carcinogenesis Laboratory with ABL—Basic Research Program contract.

Contact Person: Donald F. Summers, M.D., Acting Executive Secretary, Frederick Cancer Research and Development Center, P.O. Box B, Frederick, MD 21702–1201, Telephone: 301–846–5096.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. The

report and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individual associated with the programs, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog Of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research, 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research, 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: October 30, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–29365 Filed 11–5–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Acrylonitrile Study Advisory Panel, National Cancer Institute, National Institutes of Health, on Thursday, December 11, 1997. The meeting will be held in Conference Room G, Executive Plaza North, 6130 Executive Boulevard, Rockville, Maryland 20892.

This meeting will be open to the public from 10:00 a.m. to adjournment to discuss results of the epidemiologic study of workers exposed to acrylonitrile, describe plans for worker notification of the results, and present plans for future mortality follow-up of the cohort. Attendance by the public will be limited to space available.

Mrs. Linda Quick-Cameron, Committee Management Officer, National Cancer Institute, Executive Plaza North, Room 601, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Aaron Blair, Executive Secretary, Division of Cancer Etiology, National Cancer Institute, National Institutes of Health, Executive Plaza North, Room 415, 6130 Executive Boulevard, Rockville, Maryland 20892–7364 (301/496–9093) will furnish substantive program information.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other special accommodations, should contact Dr. Aaron Blair, (301) 496–9093, in advance of the meeting.

Dated: October 30, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–29366 Filed 11–5–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Heart, Lung, and Blood Institute Special Emphasis Panel (SEP) meetings in conjunction with the National Institute of Dental Research and the National Institute of Arthritis and Musculoskeletal and Skin Diseases:

Name of SEP: Tissue Engineering, Biomimetics, and Medical Implant Science Session I, NHLBI/NIDR/NIAMS.

Date: January 28–29, 1998.

Time: 7:00 p.m. EST.

Place: Bestheda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

Contact Person: Diane M. Reid, M.D., Two Rockledge Center, Room 7182, 6701 Rockledge Drive, Bethesda, MD 20892–7924, (301) 435–0277.

Purpose/Agenda: To review and evaluate grant applications.

Name of SEP: Tissue Engineering, Biomimetics, and Medical Implant Science Session II, NHLBI/NIDR/NIAMS.

Date: January 29–30, 1998.

Time: 7:00 p.m. EST.

Place: Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

Contact Person: Diane M. Reid, M.D., Two Rockledge Center, Room 7182, 6701 Rockledge Drive, Bethesda, MD 20892–7924, (301) 435–0277.

Purpose/Agenda: To review and evaluate grant applications.

These meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: October 30, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–29361 Filed 11–5–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Heart, Lung, and Blood Institute Special Emphasis Panel (SEP) meeting:

Name of SEP: Sarcoidosis Genetic Linkage Consortium.

Dates: December 12, 1997.

Time: 8:30 a.m. EST.

Place: Sheraton Crystal City Hotel, 1800 Jefferson Davis Highway, Arlington, Virginia 22202.

Contact Person: C. James Scheirer, Ph.D., Two Rockledge Center, Room 7220, 6701 Rockledge Drive, Bethesda, MD 20892–7924, (301) 435–0266.

Purpose/Agenda: To review and evaluate grant applications.

This meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: October 30, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–29362 Filed 11–5–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel meeting:

Name of SEP: ZDK1–GRB–6–J–1.

Date: December 3, 1997.

Time: 11:30 AM.

Place: Room 6a–25E, Natcher Building, NIH (Telephone Conference Call).

Contact Person: Sharee Pepper, Ph.D., Scientific Review Administrator, Review Branch, DEA, NIDDK, Natcher Building, Room 6as–25E, National Institutes of Health, Bethesda, Maryland 20892–6600, Phone: (301) 594–7798.

Purpose/Agenda: To review and evaluate grant applications.

This meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personnel information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.847–849, Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health)

Dated: October 28, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–29367 Filed 11–5–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies, and Laboratories That Have Withdrawn From the Program

AGENCY: Substance Abuse and Mental Health Services Administration, HHS (Formerly: National Institute on Drug Abuse, ADAMHA, HHS)

ACTION: Notice.

SUMMARY: The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of Subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (59 FR 29916, 29925). A similar notice listing all currently certified laboratories will be published during the first week of each month, and updated to include laboratories which subsequently apply for and complete the certification process. If any listed laboratory's certification is totally suspended or revoked, the laboratory will be omitted from updated lists until such time as it is restored to full certification under the Guidelines.

If any laboratory has withdrawn from the National Laboratory Certification Program during the past month, it will be identified as such at the end of the current list of certified laboratories, and will be omitted from the monthly listing thereafter.

This Notice is now available on the internet at the following website: http://www.health.org

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh or Dr. Walter Vogl, Division of Workplace Programs, Room 13A–54, 5600 Fishers Lane, Rockville, Maryland 20857; Tel.: (301) 443–6014.

SUPPLEMENTARY INFORMATION:

Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Pub. L. 100–71. Subpart C of the Guidelines, "Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies," sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification a laboratory must participate in a quarterly performance testing program plus periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are not to be considered as meeting the minimum requirements expressed in the HHS Guidelines. A laboratory must have its letter of certification from SAMHSA, HHS (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Guidelines, the following laboratories meet the minimum standards set forth in the Guidelines:

ACL Laboratory, 8901 W. Lincoln Ave., West Allis, WI 53227, 414–328–7840 (formerly: Bayshore Clinical Laboratory).

Aegis Analytical Laboratories, Inc., 345 Hill Ave., Nashville, TN 37210, 615–255–2400

Alabama Reference Laboratories, Inc., 543 South Hull St., Montgomery, AL 36103, 800–541–4931/334–263–5745

American Medical Laboratories, Inc., 14225 Newbrook Dr., Chantilly, VA 22021, 703–802–6900

Associated Pathologists Laboratories, Inc., 4230 South Burnham Ave., Suite 250, Las Vegas, NV 89119–5412, 702–733–7866/800–433–2750

Associated Regional and University Pathologists, Inc. (ARUP), 500 Chipeta Way, Salt Lake City, UT 84108, 801–583–2787/800–242–2787

Baptist Medical Center—Toxicology Laboratory, 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–202–2783 (formerly: Forensic Toxicology Laboratory Baptist Medical Center)

Cedars Medical Center, Department of Pathology, 1400 Northwest 12th Ave., Miami, FL 33136, 305–325–5784

Clinical Reference Lab, 8433 Quivira Rd., Lenexa, KS 66215–2802, 800–445–6917

CompuChem Laboratories, Inc., 1904 Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900 / 800–833–3984 (formerly: CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory, Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

Cox Health Systems, Department of Toxicology, 1423 North jefferson Ave., Springfield, MO 65802, 800–876–3652 / 417–269–3093 (formerly: Cox Medical Centers)

Dept. of the Navy, Navy Drug Screening Laboratory, Great Lakes, IL, P.O. Box 88–6819, Great Lakes, IL 60088–6819, 847–688–2045 / 847–688–4171

Diagnostic Services Inc., dba DSI, 4048 Evans Ave., Suite 301, Fort Myers, FL 33901, 941–418–1700 / 800–735–5416

Doctors Laboratory, Inc., P.O. Box 2658, 2906 Julia Dr., Valdosta, GA 31604, 912–244–4468

DrugProof, Division of Dynacare/Laboratory of Pathology, LLC, 1229 Madison St., Suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 800–898–0180 / 206–386–2672 (formerly: Laboratory of Pathology of Seattle, Inc., DrugProof, Division of Laboratory of Pathology of Seattle, Inc.)

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Rd., Warminster, PA 18974, 215–674–9310

ElSohly Laboratories, Inc., 5 Industrial Park Dr., Oxford, MS 38655, 601–236–2609

General Medical Laboratories, 36 South Brooks St., Madison, WI 53715, 608–267–6267

Harrison Laboratories, Inc., 9930 W. Highway 80, Midland, TX 79706, 800–725–3784 / 915–563–3300 (formerly: Harrison & Associates Forensic Laboratories)

Jewish Hospital of Cincinnati, Inc., 3200 Burnet Ave., Cincinnati, OH 45229, 513–569–2051

LabOne, Inc., 8915 Lenexa Dr., Overland Park, Kansas 66214, 913–888–3927 / 800–728–4064 (formerly: Center for Laboratory Seryices, a Division of LabOne, Inc.)

Laboratory Corporation of America, 888 Willow St., Reno, NV 89502, 702–334–3400 (formerly: Sierra Nevada Laboratories, Inc.)

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 800–437–4986 / 908–526–2400

(formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Specialists, Inc., 1111 Newton St., Gretna, LA 70053, 504–361–8989 / 800–433–3823

Marshfield Laboratories, Forensic Toxicology Laboratory, 1000 North Oak Ave., Marshfield, WI 54449, 715–389–3734 / 800–331–3734

MedExpress/National Laboratory Center, 4022 Willow Lake Blvd., Memphis, TN 38118, 901–795–1515 / 800–526–6339

Medical College Hospitals Toxicology Laboratory, Department of Pathology, 3000 Arlington Ave., Toledo, OH 43614, 419–381–5213

Medlab Clinical Testing, Inc., 212 Cherry Lane, New Castle, DE 19720, 302–655–5227

MedTox Laboratories, Inc., 402 W. County Rd. D, St. Paul, MN 55112, 800–832–3244 / 612–636–7466

Methodist Hospital Toxicology Services of Clarian Health Partners, Inc., Department of Pathology and Laboratory Medicine, 1701 N. Senate Blvd., Indianapolis, IN 46202, 317–929–3587

Methodist Medical Center Toxicology Laboratory, 221 N.E. Glen Oak Ave., Peoria, IL 61636, 800–752–1835 / 309–671–5199

MetroLab-Legacy Laboratory Services, 235 N. Graham St., Portland, OR 97227, 503–413–4512, 800–237–7808 (x4512)

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, Minnesota 55417, 612–725–2088

National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 805–322–4250

Northwest Toxicology, Inc., 1141 E. 3900 South, Salt Lake City, UT 84124, 800–322–3361 / 801–268–2431

Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Ave., Eugene, OR 97440–0972, 541–341–8092

Pacific Toxicology Laboratories, 1518 Pontius Ave., Los Angeles, CA 90025, 310–312–0056, (Formerly: Centinela Hospital Airport Toxicology Laboratory

Pathology Associates Medical Laboratories, 11604 E. Indiana, Spokane, WA 99206, 509–926–2400 / 800–541–7891

PharmChem Laboratories, Inc., 1505-A O'Brien Dr., Menlo Park, CA 94025, 415–328–6200 / 800–446–5177

PharmChem Laboratories, Inc., Texas Division, 7606 Pebble Dr., Fort Worth, TX 76118, 817–595–0294 (formerly: Harris Medical Laboratory)

Physicians Reference Laboratory, 7800 West 110th St., Overland Park, KS 66210, 913–339–0372 / 800–821–3627

Poisonlab, Inc., 7272 Clairemont Mesa Blvd., San Diego, CA 92111, 619–279–2600 / 800–882–7272

Premier Analytical Laboratories, 15201 East I–10 Freeway, Suite 125, Channelview, TX 77530, 713–457–3784 / 800–888–4063 (formerly: Drug Labs of Texas)

Presbyterian Laboratory Services, 1851 East Third Street, Charlotte, NC 28204, 800–473–6640

Quest Diagnostics Incorporated, 4444 Giddings Road, Auburn Hills, MI 48326, 810–373–9120/800–444–0106, (formerly: HealthCare/Preferred Laboratories, HealthCare/MetPath, CORNING Clinical Laboratories)

Quest Diagnostics Incorporated, National Center for Forensic Science, 1901 Sulphur Spring Rd., Baltimore, MD 21227, 410–536–1485, (formerly: Maryland Medical Laboratory, Inc., National Center for Forensic Science, CORNING National Center for Forensic Science)

Quest Diagnostics Incorporated, 4770 Regent Blvd., Irving, TX 75063, 800–526–0947/972–916–3376, (formerly: Damon Clinical Laboratories, Damon/MetPath, CORNING Clinical Laboratories)

Quest Diagnostics Incorporated, 875 Greentree Rd., 4 Parkway Ctr., Pittsburgh, PA 15220–3610, 800–574–2474/412–920–7733, (formerly: Med-Chek Laboratories, Inc., Med-Chek/Damon, MetPath Laboratories, CORNING Clinical Laboratories)

Quest Diagnostics Incorporated, 2320 Schuetz Rd., St. Louis, MO 63146, 800–288–7293/314–991–1311, (formerly: Metropolitan Reference Laboratories, Inc., CORNING Clinical Laboratories, South Central Division)

Quest Diagnostics Incorporated, 7470 Mission Valley Rd., San Diego, CA 92108–4406, 800–446–4728/619–686–3200, (formerly: Nichols Institute, Nichols Institute Substance Abuse Testing (NISAT), CORNING Nichols Institute, CORNING Clinical Laboratories)

Quest Diagnostics Incorporated, One Malcolm Ave., Teterboro, NJ 07608, 201–393–5590 , (formerly: MetPath, Inc., CORNING MetPath Clinical Laboratories, CORNING Clinical Laboratory)

Quest Diagnostics Incorporated, 1355 Mittel Blvd., Wood Dale, IL 60191, 630–595–3888, (formerly: MetPath, Inc., CORNING MetPath Clinical Laboratories, CORNING Clinical Laboratories Inc.)

Scientific Testing Laboratories, Inc. 463 Southlake Blvd., Richmond, VA 23236, 804–378–9130

Scott & White Drug Testing Laboratory, 600 S. 25th St., Temple, TX 76504, 800–749–3788/254–771–6379

S.E.D. Medical Laboratories, 500 Walter NE, Suite 500, Albuquerque, NM 87102, 505–727–6300/800–999–LABS

SmithKline Beecham Clinical Laboratories, 3175 Presidential Dr., Atlanta, GA 30340, 770–452–1590, (formerly: SmithKline Bio-Science Laboratories)

SmithKline Beecham Clinical Laboratories, 8000 Sovereign Row, Dallas, TX 75247, 214–637–7236, (formerly: SmithKline Bio-Science Laboratories)

SmithKline Beecham Clinical Laboratories, 801 East Dixie Ave., Leesburg, FL 34748, 352–787–9006, (formerly: Doctors & Physicians Laboratory)

SmithKline Beecham Clinical Laboratories, 400 Egypt Rd., Norristown, PA 19403, 800–877–7484/610–631–4600, (formerly: SmithKline Bio-Science Laboratories)

SmithKline Beecham Clinical Laboratories, 506 E. State Pkwy., Schaumburg, IL 60173, 847–447–4379/800–447–4379, (formerly: International Toxicology Laboratories)

SmithKline Beecham Clinical Laboratories, 7600 Tyrone Ave., Van Nuys, CA 91405, 818–989–2520/800–877–2520

South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 219–234–4176

Southwest Laboratories, 2727 W. Baseline Rd., Tempe, AZ 85283, 602–438–8507

St. Anthony Hospital Toxicology Laboratory, P.O. Box 205, 1000 N. Lee St., Oklahoma City, OK 73101, 405–272–7052

Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 2703 Clark Lane, Suite B, Lower Level, Columbia, MO 65202, 573–882–1273

Toxicology Testing Service, Inc., 5426 N.W. 79th Ave., Miami, FL 33166, 305–593–2260

TOXWORX Laboratories, Inc., 6160 Variel Ave., Woodland Hills, CA 91367, 818–226–4373 / 800–966–2211, (formerly: Laboratory Specialists, Inc.; Abused Drug Laboratories; MedTox Bio-Analytical, a Division of MedTox Laboratories, Inc.)

UNILAB, 18408 Oxnard St., Tarzana, CA 91356, 800–492–0800 / 818–996–7300, (formerly: MetWest-BPL Toxicology Laboratory)

Universal Toxicology Laboratories, LLC, 10210 W. Highway 80, Midland, Texas 79706, 915–561–8851 / 888–953–8851

UTMB Pathology-Toxicology Laboratory, University of Texas Medical Branch, Clinical Chemistry Division, 301 University Boulevard, Room 5.158, Old John Sealy, Galveston, Texas 77555–0551, 409–772–3197

The Standards Council of Canada (SCC) Laboratory Accreditation Program for Substances of Abuse (LAPSA) has been given deemed status by the Department of Transportation. The SCC has accredited the following Canadian laboratories for the conduct of forensic urine drug testing required by Department of Transportation regulations:

Dynacare Kasper Medical Laboratories, 14940–123 Ave., Edmonton, Alberta, Canada T5V 1B4, 800–661–9876 / 403–451–3702

MAXXAM Analytics Inc., 5540 McAdam Rd., Mississauga, ON, Canada L4Z 1P1, 905–890–2555 (formerly: NOVAMANN (Ontario) Inc.)

Richard Kopanda,

Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 97–29414 Filed 11–5–97; 8:45 am]

BILLING CODE 4160–20–U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Notice of Availability and Public Comment Period on Draft Protocols for Scientific Studies To Be Performed at Ward Valley, California

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice of 30 day public comment period.

SUMMARY: The Department of Interior (DOI) and Bureau of Land Management (BLM) announce the availability of draft Sampling Protocols for scientific studies to be performed at the Ward Valley site, The draft Sampling Protocols have been prepared pursuant to a contract with BLM by two scientists who served on a National Academy of Sciences (NAS) panel on Ward Valley. The NAS panel made recommendations in 1995 that provide the basis for testing and analysis of tritium and related substances. The testing is intended to investigate the extent to which tritium released into the atmosphere in the 1950's and 1960's has migrated below the surface of the soil at the Ward Valley site.

DATES: Public comments on the draft Sampling Protocols must be received by December 8, 1997.

ADDRESSES: Copies of the draft Sampling Protocols may be obtained upon request. Submit requests to: Ward Valley Project Coordinator, 2135 Butano Drive, Sacramento. CA 95825–0451. The draft Sampling Protocols are available on the Internet at: www.ca.blm.gov.

FOR FURTHER INFORMATION CONTACT: Jack Mills, Contract Officer Representative, U.S.D.I., Bureau of Land Management, California State Office, 2135 Butano Drive, Sacramento, California 95825, tel: (916) 978–4636.

SUPPLEMENTARY INFORMATION: DOI and BLM are preparing a Supplemental Environmental Impact Statement (SEIS) on a proposed land transfer to the State of California for the purpose of developing a low-level radioactive waste facility at Ward Valley. The site of the proposed federal transfer is located in San Bernardino County, California, approximately 20 miles west of the City of Needles. Following receipt and consideration of comments, it is intended that Sampling Protocols will be finalized and testing carried out pursuant to the final Sampling Protocols. The proposed testing is subject is subject to an environmental assessment (EA) prepared pursuant to the National Environmental Policy Act. The EA is being released for public review and comment on this date. In addition to this opportunity to review the draft protocol and comment under this notice, the public will also have the opportunity to review and comment on the results of the tritium, and related materials testing and analysis in the draft SEIS.

Dasso A. Marti,

Acting Deputy State Director for Natural Resource.

[FR Doc. 97–29233 Filed 11–5–97; 8:45 am]

BILLING CODE 4310–40–P–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Notice of Availability and Public Comment Period on Environmental Assessment (EA) of Tritium and Related Materials Testing on Public Lands in Ward Valley, San Bernardino County, California

AGENCY: California State Office, Bureau of Land Management, DOI.

ACTION: Notice of 30 day public comment period.

SUMMARY: The Department of the Interior (DOI), Bureau of Land Management (BLM) has prepared an EA of proposed plans regarding tritium and related materials testing in Ward Valley. The proposed plans were separately prepared by DOI/BLM and the State of California, Department of Health Services.

EFFECTIVE DATE: Public comments on the EA must be received by December 8, 1997.

SUPPLEMENTARY INFORMATION: The purpose of this comment period is to ensure that the public has sufficient opportunity to review and comment on all pertinent information on the impacts associated with separate federal and state proposals for testing for tritium and related materials in Ward Valley. The testing for tritium and related materials will be carried out to effectuate the recommendations of a National Academy of Sciences panel. Data obtained from the federal sampling and analysis, and from the State's if available, will be included in a draft Supplemental Environmental Impact Statement (SEIS), analyzing the proposed transfer of federal land to the State of California for construction of a Low-Level Radioactive Waste Disposal Facility.

ADDRESSES: Copies of the EA may be obtained upon request. Submit requests to: Ward Valley Project Coordinator, 2135 Butano Drive, Sacramento, CA 95825–0451. The EA is available on the Internet at: www.ca.blm.gov.

FOR FURTHER INFORMATION CONTACT: Jack Mills, Contract Officer Representative, U.S.D.I., Bureau of Land Management, California State Office, 2135 Butano Drive, Sacramento, California 95825, tel: (916) 978–4636.

Dasso A. Marti,

Acting Deputy State Director for Natural Resources.

[FR Doc. 97–29234 Filed 11–5–97; 8:45 am]

BILLING CODE 4310–40–P–M

INTERNATIONAL TRADE COMMISSION

[Investigation 332–387]

North American Free Trade Agreement: Probable Economic Effect on U.S. Industries and Consumers of Accelerated Elimination of U.S. Tariffs on Certain Articles From Mexico, Round Two

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of public hearing.

EFFECTIVE DATE: October 30, 1997.

SUMMARY: Following receipt on October 20, 1997, of a request from the Office of the United States Trade Representative (USTR), the Commission instituted investigation No. 332–387, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332 (g)), to advise the President, with respect to each dutiable article listed in Annex I of the USTR's notice published in the **Federal Register** of October 21, 1997 (62 FR 54671), of its judgment as to the probable economic effect of the immediate elimination of the U.S. tariff under the North American Free Trade Agreement (NAFTA) on domestic industries producing like or directly competitive articles and on consumers. Annex I is available from the USTR Internet home page at http://www.ustr.gov and from the Commission Internet home page at http://www.usitc.gov.

The USTR asked that the Commission provide its advice not later than 120 days following the Commission's receipt of the request, or by February 17, 1998, and has indicated that it may classify all or part of the Commission's report as Confidential.

FOR FURTHER INFORMATION CONTACT: General information may be obtained from the project leader, Carl Seastrum (202–205–3493), Minerals, Metals, Machinery, and Miscellaneous Manufactures Division, Office of Industries, U.S. International Trade Commission, Washington, DC 20436. For information on the legal aspects of this investigation contact William Gearhart of the Office of the General Counsel (202–205–3091). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819). Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on (202) 205–1810. For information on a product basis, contact the appropriate member of the Commission's Office of Industries as follows:

- Agriculture and Forest Products Division, Stacey Linn (202–205–3317).
- Energy, Chemicals, and Textiles Division, Elizabeth Howlett (202–205–3365).
- Minerals, Metals, Machinery, and Miscellaneous Manufactures Division, Josephine Spalding (202–205–3498).
- Services, Electronics, and Transportation Division, Heidi Colby (202–205–3391).

Background: As stated by the USTR in a letter dated October 20, 1997, the Governments of the United States, Mexico, and Canada have agreed to enter into consultations to consider the acceleration of the elimination of the import duty on certain articles. The USTR further stated that the President is authorized by section 201(b) of the North American Free Trade Agreement Implementation Act, subject to the consultation and lay-over requirements of section 103(a) of the Act, to proclaim any accelerated schedule for duty elimination that may be agreed to by the United States, Mexico, and Canada under Article 302(3) of the NAFTA. Section 103(a) requires that the President obtain advice regarding the proposed action from the United States International Trade Commission. The accelerated elimination of tariffs in this second round of negotiations between the United States and Mexico will be pursued on a reciprocal basis in response to petitions submitted to the Governments of Canada, Mexico, and the United States. The USTR included with its request a list of products to be considered for immediate reciprocal elimination of tariffs.

Public Hearing: A public hearing in connection with the investigation will be held at the U.S. International Trade Commission Building, 500 E Street SW, Washington, DC, beginning at 9:30 a.m. on January 7, 1998, and continuing on January 8 if an additional day is needed. All persons will have the right to appear, by counsel or in person, to present information and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 500 E Street SW, Washington, DC 20436, not later than 5:15 p.m., December 11, 1997. Any prehearing briefs (original and 14 copies) should be filed not later than 5:15 p.m., December 12, 1997; the deadline for filing post-hearing briefs or statements is 5:15 p.m., January 14, 1998.

In the event that, as of the close of business on December 16, 1997, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or non-participant may call the Secretary to the Commission (202–205–1816) after December 16, to determine whether the hearing will be held.

Written Submissions: In lieu of or in addition to participating in the hearing, interested parties are invited to submit written statements concerning the matters to be addressed by the Commission in its report on this investigation. Commercial or financial information that a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available in the Office of the Secretary to the Commission for inspection by the public. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted at the earliest practical date and should be received no later than the close of business on January 14, 1998. All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW, Washington, DC 20436.

Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (http://www.usitc.gov).

Issued: October 31, 1997.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 97–29378 Filed 11–5–97; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

DNA Advisory Board Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given that the DNA Advisory Board (DAB) will meet on December 8, 1997, from 10:00 a.m. until 4:00 p.m. at The University of Chicago Conference Center, 450 North Cityfront Plaza Drive, Chicago, Illinois 60611. All attendees will be admitted only after displaying personal identification which bears a photograph of the attendee.

The DAB's scope of authority is: To develop, and if appropriate, periodically revise, recommended standards for quality assurance to the Director of the FBI, including standards for testing the proficiency of forensic laboratories, and forensic analysts, in conducting analysis of DNA; To recommend standards to the Director of the FBI which specify criteria for quality assurance and proficiency tests to be applied to the various types of DNA analysis used by forensic laboratories, including statistical and population genetics issues affecting the evaluation of the frequency of occurrence of DNA profiles calculated from pertinent population database(s); To recommend standards

for acceptance of DNA profiles in the FBI's Combined DNA Index System (CODIS) which take account of relevant privacy, law enforcement and technical issues; and, To make recommendations for a system for grading proficiency testing performance to determine whether a laboratory is performing acceptably.

The topics to be discussed at this meeting include: a review of minutes from the September 23, 1997, meeting; discussion of comments on the Quality Assurance Standards for DNA Testing Laboratories, as approved at the February 22, 1997 meeting; and a discussion of topics for the next DNA Advisory Board meeting.

The meeting is open to the public on a first-come, first seated basis. Anyone wishing to address the DAB must notify the Designated Federal Employee (DFE) in writing at least twenty-four hours before the DAB meets. The notification must include the requestor's name, organizational affiliation, a short statement describing the topic to be addressed, and the amount of time requested. Oral statements to the DAB will be limited to five minutes and limited to subject matter directly related to the DAB's agenda, unless otherwise permitted by the Chairman.

Any member of the public may file a written statement for the record concerning the DAB and its work before or after the meeting. Written statements for the record will be furnished to each DAB member for their consideration and will be included in the official minutes of a DAB meeting. Written statements must be type-written on 8½" x 11" xerographic weight paper, one side only, and bound only by a paper clip (not stapled). All pages must be numbered. Statements should include the Name, Organizational Affiliation, Address, and Telephone number of the author(s). Written statements for the record will be included in minutes of the meeting immediately following the receipt of the written statement, unless the statement is received within three weeks of the meeting. Under this circumstance, the written statement will be included with the minutes of the following meeting. Written statements for the record should be submitted to the DFE.

Inquiries may be addressed to the DFE, Dr. Dwight E. Adams, Chief, Scientific Analysis Section, Laboratory Division—Room 3266, Federal Bureau of Investigation, 935 Pennsylvania Avenue, NW., Washington, DC 20535–0001, (202) 324–4416, FAX (202) 324–1462.

Dated: November 3, 1997.

Dwight E. Adams,

Chief, Scientific Analysis Section, Federal Bureau of Investigation.

[FR Doc. 97–29379 Filed 11–5–97; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Emergency Review; Comment Request

Date: November 3, 1997.

The Department of Labor has submitted the Work Opportunity Tax Credit (WOTC) and Welfare-to-Work (W-to-W) Tax Credit Addendum to the first edition of ETA Handbook No. 408, July 1997, administrative forms and information collection request (ICR), utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (P.L. 104–13, 44 U.S.C. Chapter 35). OMB approval has been requested by November 10, 1997. A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor Departmental Clearance Officer, Theresa O'Malley ((202) 219–5096 x 166).

Comments and questions about the WOTC/W-to-W ICR should be forwarded to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employment and Training Administration, Office of Management and Budget, Room 10235, Washington, D.C. 20503 ((202) 395–7316).

The Office of Management and Budget is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection, and including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarification of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological, e.g., permitting submissions of responses.

Agency: Employment and Training Administration.

Title: Work Opportunity Tax Credit (WOTC) and Welfare-to-Work Tax Credit.

OMB Number: 1205–0371.

Agency Number: ETA 9057–59; 9061–9063 and 9065.

Number of Respondents: 52.

Estimated Time per Response: 20 minutes.

Total Burden Hours: 2,600.

Frequency: Quarterly.

Affected Public: State, Local or Tribal Government.

Total Burden Cost (capital/startup): 0.

Total Burden Cost (operating/maintaining): 0.

Description: The Employment and Training Administration (ETA) has oversight responsibilities for the Work Opportunity Tax Credit (WOTC) under the Small Business Jobs Protection Act of 1996 (P.L. 104–188) and the Welfare-to-Work Tax Credit under the Taxpayer Relief Act of 1997 (P.L. 105–34). Data collected on the WOTC and the W-to-W will be collected by the State Employment Security Agencies and provided to the U.S. Employment Service, Division of Planning and Operations, Washington, DC, through the appropriate Department of Labor regional office. The data will be use, primarily, to supplement IRS Form 8850, help expedite the processing of, either, employer requests for Certifications generated through IRS From 8850 or issuance of Conditional Certifications (CCs) and processing of employer requests for Certifications as a result of individuals' bearing SESAs or participating agencies' generated CCs, help streamline SESAs verification mandated activities, aid and expedite the preparation of the quarterly reports, and provide a significant source of information for the Secretary's Annual Report to Congress on the WOTC program and the W-to-W Tax Credit. The data recorded through the use of these forms will also help in the preparation of an annual report to the Committee House Ways and Means of the U.S. House of Representatives.

John Saracco,

Project Manager, Office of Internet Services and Information Management.

[FR Doc. 97–29372 Filed 11–5–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Office of the Secretary

Senior Executive Service; Appointment of a Member to the Performance Review Board

Title 5 U.S.C. 4314(c)(4) provides that Notice of the appointment of an individual to serve as a member of the Performance Review Board of the Senior Executive Service shall be published in the **Federal Register**.

The following individuals are hereby appointed to a three-year term on the Department's Performance Review Board: David C. Zeigler.

FOR FURTHER INFORMATION CONTACT: Mr. Larry K. Goodwin, Director of Human Resources, Room C5526, U.S. Department of Labor, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, telephone: (202) 219–6551.

Signed at Washington, D.C., this 31st day of October, 1997.

Alexis M. Herman,

Secretary of Labor.

[FR Doc. 97–29369 Filed 11–5–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Federal-State Unemployment Compensation Program: Certifications Under the Federal Unemployment Tax Act of 1997

On October 31, 1997, the Secretary of Labor signed the annual certifications under the Federal Unemployment Tax Act, 26 U.S.C. 3301 *et seq.*, thereby enabling employers who make contributions to State unemployment funds to obtain certain credits for their liability for the Federal unemployment tax. By letter of the same date the certifications were transmitted to the Secretary of the Treasury. The letter and certifications are printed below.

Dated: November 3, 1997.

Raymond J. Uhalde,

Acting Assistant Secretary of Labor.

U.S. Department of Labor

Secretary of Labor

Washington, D.C.

October 31, 1997.

The Honorable Robert E. Rubin,
Secretary of the Treasury, Washington, D.C. 20220

Dear Secretary Rubin: Transmitted herewith are an original and one copy of the certifications of the States and their unemployment compensation laws for the 12-month period ending on October 31, 1997. One is required with respect to normal Federal unemployment tax credit by Section 3304 of the Internal Revenue Code of 1986 (IRC), and the other is required with respect to additional tax credit by Section 3303 of the Code. Both certifications list all jurisdictions except the State of Washington. Washington is omitted from both certifications because we have not yet exhausted the administrative process regarding issues arising in that State under the requirements of Section 3304(a) of the IRC. These omissions, therefore, do not constitute final denials of certification. If these issues are resolved satisfactorily, I will forward to you the certifications with respect to Washington.

Sincerely,

Alexis M. Herman,

Enclosures

United States Department of Labor

Office of the Secretary

Washington, D.C.

Certification of State Unemployment Compensation Laws to the Secretary of the Treasury Pursuant to Section 3303(b)(1) of the Internal Revenue Code of 1986

In accordance with the provisions of paragraph (1) of Section 3303(b) of the Internal Revenue Code of 1986 (26 U.S.C. 3303(b)(1)), I hereby certify the unemployment compensation laws of the following named States, which heretofore have been certified pursuant to paragraph (3) of Section 3303(b) of the Code, to the Secretary of the Treasury for the 12-month period ending on October 31, 1997:

Alabama
Alaska
Arizona
Arkansas
California
Colorado
Connecticut
Delaware
District of Columbia
Florida
Georgia
Hawaii
Idaho
Illinois
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maine
Maryland
Massachusetts
Michigan
Minnesota
Mississippi
Missouri
Montana
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
New York
North Carolina
North Dakota
Ohio
Oklahoma
Oregon
Pennsylvania
Puerto Rico
Rhode Island
South Carolina
South Dakota
Tennessee
Texas
Utah
Vermont
Virginia
Virgin Islands
West Virginia
Wisconsin
Wyoming

This certification is for the maximum additional credit allowable under Section 3302(b) of the Code.

Signed at Washington, D.C., on October 31, 1997.

Alexis M. Herman,

Secretary of Labor.

United States Department of Labor

Office of the Secretary

Washington, D.C.

Certification of States to the Secretary of the Treasury Pursuant to Section 3304 of the Internal Revenue Code of 1986

In accordance with the provisions of Section 3304(c) of the International Revenue Code of 1986 (26 U.S.C. 3304(c)), I hereby certify the following named States to the Secretary of the Treasury for the 12-month period ending on October 31, 1997, in regard to the unemployment compensation laws of those States which heretofore have been approved under the Federal Unemployment Tax Act:

Alabama
Alaska
Arizona
Arkansas
California
Colorado
Connecticut
Delaware
District of Columbia
Florida
Georgia
Hawaii
Idaho
Illinois
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maine

Maryland
Massachusetts
Michigan
Minnesota
Mississippi
Missouri
Montana
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
New York
North Carolina
North Dakota
Ohio
Oklahoma
Oregon
Pennsylvania
Puerto Rico
Rhode Island
South Carolina
South Dakota
Tennessee
Texas
Utah
Vermont
Virginia
Virgin Islands
West Virginia
Wisconsin
Wyoming

This certification is for the maximum normal credit allowable under Section 3302(a) of the Code.

Signed at Washington, DC, on October 31, 1997.

Alexis M. Herman,
Secretary of Labor.

[FR Doc. 97–29371 Filed 11–5–97; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Federal-State Unemployment Compensation Program: Unemployment Insurance Program Letters Interpreting Federal Unemployment Insurance Law

The Employment and Training Administration interprets Federal law requirements pertaining to unemployment compensation (UC) as part of its role in the administration of the Federal-State UC program. These interpretations are issued in Unemployment Insurance Program Letters (UIPLs) to the State Employment Security Agencies. The UIPLs described below are published in the **Federal Register** in order to inform the public.

UIPL 41–97

UIPL 40–79, dated August 3, 1979, set forth the Department of Labor's position on whether Head Start agencies are "educational institutions" for purposes of the "between and within terms denial" provisions of Section 3304(a)(6)(A) of the Federal Unemployment Tax Act (FUTA). This section of FUTA has been amended since that time. As such, questions have been raised as to whether the treatment of Head Start services has changed as a result of the amendments. UIPL 41–97 reiterates the Department's position regarding Head Start agencies and provides specific discussion of the application of the between and within terms denial to Head Start program personnal.

UIPL 44–97

The Balanced Budget Act of 1997 (BBA) and the Taxpayer Relief Act of 1997 (TPRA), both enacted on August 6, 1997, made several changes affecting the UC program. UIPL 44–97 provides information on the amendments made by the BBA and the TPRA. This UIPL also discusses whether States are required to amend their UC laws regarding disclosure of UC information, Reed Act transfers, and levy on payments of UC as a result of the amendments to these Acts.

Dated: October 31, 1997.

Raymond J. Uhalde,
Acting Assistant Secretary of Labor.

U.S. Department of Labor, Employment and Training Administration, Washington, D.C. 20210
Classification: UI
Correspondence Symbol: TEUL
Date: 09/30/97
Rescissions: None
Expiration Date: Continuing
Directive: Unemployment Insurance Program Letter No. 41–97
To: All State Employment Security Agencies
From: Grace A. Kilbane, Director, Unemployment Insurance Service
Subject: Application of Between and Within Terms Denial to Head Start Program Personnel

1. *Purpose.* To clarify the application of the between and within terms denial provisions of Section 3304(a)(6)(A) of the Federal Unemployment Tax Act (FUTA) to Head Start program personnel.

2. *References.* Section 3304(a)(6)(A), FUTA; P.L. 94–566; P.L. 95–19, *Draft Language and Commentary to Implement the Unemployment Compensation Amendments of 1976—P.L. 94–566* and Supplement 4, *1976 Draft Legislation*, dated August 28, 1977; Unemployment Insurance Program Letter (UIPL) No. 40–79, dated August 3, 1979; UIPL No. 41–83, dated September 13, 1983; UIPL No. 30–85, dated July 12, 1985; UIPL No. 15–92, dated January 27, 1992; and UIPL No. 43–93, dated September 13, 1993.

3. *Background.* UIPL No. 40–79 set forth the Department's position on whether Head Start agencies are "educational institutions" for purposes of the "between and within terms denial" provisions required and/or allowed by Section 3304(a)(6)(A), FUTA. Subsequent amendments to the "between and within terms denial" provisions have raised questions about whether the treatment of Head Start services has changed. This UIPL reiterates the Department's position and provides specific discussion of the amendments made following the issuance of UIPL 40–79.

4. *Discussion.* Section 3304(a)(6)(A), FUTA, requires, as a condition for employers in a State to receive credit against the Federal unemployment tax, that the State law provide that unemployment compensation (UC) be payable based on services to which Section 3309(a)(1), FUTA, applies, in the same amount, on the same terms, and subject to the same conditions as UC payable on the basis of other service subject to State law. The major mandates of this Section are: (1) coverage of services performed for State and local governments and their instrumentalities and nonprofit organizations as defined under Section 3309(a)(1), FUTA; (2) equal treatment in the payment of UC to employees of such entities; and (3) denial of UC based on certain educational services performed for such entities between and within academic terms. These conditions are required for employers in a State to receive credit against the Federal unemployment tax. UIPL No. 43–93 describes the optional and required denial provisions in clauses (i) through (vi) of Section 3304(a)(6)(A), FUTA. The six clauses are described below:

- Clause (i) requires, unless the specified conditions are met, the denial between two successive academic years or terms based on instructional, research, and principal administrative services performed for an educational institution.
- Clause (ii) permits, under specified conditions, the between years or terms denial based on all other (i.e., "nonprofessional") services performed for an educational institution, and retroactive payment based on those services, if no work is available in the second term, and the individuals have otherwise met the eligibility requirements.
- Clause (iii) requires the within terms denial of benefits during an established and customary vacation period or holiday recess based on all services performed for an educational institution.
- Clause (iv) requires the between and within terms denial of benefits based on all services performed in an educational institution while in the employ of an educational service agency (ESA).
- Clause (v) permits the State to implement the denial provisions of (i) through (iv) for services performed by governmental entities or nonprofit organizations if such services are provided to or on behalf of an educational institution.
- Clause (vi) permits the State to make the between and within terms denial provisions of clauses (iii) and (iv) optional based on the "nonprofessional" services described in clause (ii).

5. *Interpretation and Application.* The between and within terms denial provisions apply only to services performed (1) for an educational institution, (2) in an educational institution while employed by an ESA, or (3) to or on behalf of an educational institution by a governmental entity or nonprofit organization.

Whether Head Start Agencies are Educational Institutions under Clauses (i) and (ii) of Section 3304(a)(6)(A), FUTA. Head Start programs are comprehensive developmental programs designed to meet children's needs in the health (medical, dental, mental, nutritional), social, and education areas. The goal is child adjustment and development at the emotional and social levels, rather than school-type training.

Whether Head Start agencies are "educational institutions" was discussed in UIPL 40–79. That UIPL stated that Head Start programs operated by Community Action Groups do not meet the criteria of "educational institutions," and the between and within terms denial does not, therefore, apply to services performed for such groups. UIPL 40–79 stated, however, that when a local board of education operates a Head Start program as an integral part of the school system in facilities of an educational institution, with Head Start workers as employees of the board and the schools in every respect, subject to all employing policies, such as hiring, firing, working conditions, as other employees performing services for the educational institution, then such workers are considered to be employed by an educational institution. As such, these workers are subject to the denial provisions in the same manner as are all other educational institution employees. This remains the Department's position.

Application of Clauses (iv) and (v), Section 3304(a)(6)(A), FUTA to Head Start Services. UIPL 40–79 did not address clauses (iv) and (v), as these provisions were not added until 1983. UIPL 41–83 advised the States of the addition of these clauses to Federal law, but did not discuss Head Start agencies.

Clause (iv) applies to services performed for an ESA. Clause (iv) defines an ESA as "a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing such services to one or more educational institutions." Since Head Start agencies do not exist exclusively for the purpose of providing services to educational institutions, they are not ESAs.

Clause (v) permits States to apply the between and within terms denial to services "provided to or on behalf of" an educational institution by a governmental entity or nonprofit organization to which Section 3309(a)(1), FUTA, applies. UIPL 41–83 states that the words "provided to" require only that the services provided to the educational institution give some benefit or support to the institution. The words "on behalf of" are more restrictive. They apply—

to those employees of a governmental entity or nonprofit organization who perform services as an agent of or on the part of an educational institution. This situation could arise, therefore, only where an employee of a governmental entity or nonprofit organization performed services as an agent of or on the part of an educational institution in such a representative capacity.

Whether services are "provided to or performed on behalf" of an educational institution depends on the facts present in each individual case. Thus, if State law contains a provision implementing optional clause (v), a case-by-case determination must be made to determine if Head Start services are "provided to or on behalf of an educational institution," assuming that the Head Start agency is a governmental entity or nonprofit organization to which Section 3309(a)(1), FUTA, applies.

If a State law implements optional clause (v), the application to Head Start programs may be limited as to scope and/or time by a State, but, as discussed in UIPL 43–93, the limitation must be uniformly applied throughout the State. A State may not treat Head Start services "provided to or on behalf of" one school district differently from Head Start services "provided to or on behalf of" those performed for another school district. Also, a State may not treat the services performed for a governmental entity differently from services performed for a nonprofit organization.

6. *Action Required.* Administrators are to provide this information to appropriate staff.

7. *Inquiries.* Inquiries should be directed to the appropriate Regional Office.

U.S. Department of Labor, Employment and Training Administration, Washington, D.C. 20210
Classification: UI
Correspondence School: TEUL
Date: October 9, 1997
Rescissions: None
Expiration Date: Continuing
Directive: Unemployment Insurance Program Letter No. 44–97
To: All State Employment Security Agencies
From: Grace A. Kilbane, Director, Unemployment Insurance Service
Subject: The Balanced Budget Act of 1997 and the Taxpayer Relief Act of 1997

1. *Purpose.* To advise the States of amendments made to Federal law by the Balanced Budget Act of 1997 and the Taxpayer Relief Act of 1997 affecting the Federal-State Unemployment Compensation (UC) program.

2. *References.* The Balanced Budget Act of 1997 (BBA), P.L. 105–33; the Taxpayer Relief Act of 1997 (TPRA), P.L. 105–34; the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), P.L. 104–193; the Internal Revenue Code of 1986 (IRC), including the Federal Unemployment Tax Act (FUTA); the Social Security Act (SSA); and Unemployment Insurance Program Letters (UIPLs) Nos. 28–87, 45–89, 12–91, 11–92 and 37–96.

3. *Background.* The BBA and the TPRA, both enacted on August 6, 1997, made several changes affecting the UC program. This UIPL provides information on eleven amendments made by the BBA and four amendments made by the TPRA. The amendment discussed in item 4.a., related to disclosure of UC information, may require States to amend their laws to meet Federal UC law requirements. In addition, States will need to amend their laws to implement the special Reed Act transfers discussed in item 8.b. Finally, States will need to determine whether they need to amend their laws to permit the continuous levy discussed in item 12.

4. *Sections 5201 and 5533, BBA: National Directory of New Hires ("National Directory").*

a. *Section 5201, BBA, Disclosure to National Directory.* Section 303(h)(1), SSA, as amended by the PRWORA, requires States, as a condition of receiving UC administrative grants, to disclose wage and claim information to the Secretary of Health and Human Services for purposes of the National Directory. Section 303(h)(1)(C), as amended by the PRWORA, also required States to establish such safeguards as the Secretary of Labor determines are necessary to insure that such information is used "only for purposes of *section 453(i)(1) [SSA] in carrying out the child support enforcement program under title IV*" of the SSA. (Emphasis added.) The BBA deleted the underscored language and substituted "subsections (i)(1), (i)(3) and (j) of section 453." This amendment makes clear that States must authorize the disclosure of UC information to the National Director for:

- Use by programs funded under the Transitional Assistance to Needy Families program, the child support enforcement program, and any "other purposes" specified in Section 453. (Section 453(i)(1), SSA.) The "other purposes" are specified in Section 453(i)(3) and (j), SSA, described below.
- Use in the administration of the earned income tax credit by the Internal Revenue Service (IRS). (Section 453(i)(3), SSA.)
- Verification of information in the National Directory by the Social Security Administration; comparisons with the Federal Case Registry of Child Support Orders and other child support enforcement purposes; use by the Social Security Administration; and research related to Transitional Assistance to Needy Families or child support enforcement. In the case of research, personal identifiers may not be used. (Section 453(j), SSA.)

As no effective date is provided, this amendment is effective as of the date of enactment of the BBA. However, as discussed in UIPL 37–96, pages 6 and 7, the effective date of the disclosure requirements in Section 303(h), SSA, for UC conformity purposes is either October 1, 1997, or, if the State qualifies for a grace period, January 1, 1998.

States will need to review their UC laws and regulations to determine if their laws permit disclosure in view of the above requirement concerning redisclosures of information provided to the National Directory. Each State must take all actions necessary to ensure that it will make such disclosures by the effective date discussed in the previous paragraph.

b. *Section 5533, BBA: Technical Amendment.* Section 453A, SSA, requires each State to establish a Directory of New Hires. Section 453A(g)(2)(B), SSA, as added by PRWORA, specifically cited a provision of Federal UC law:

Wage and Unemployment Compensation Information.—The State Directory of New Hires shall, on a quarterly basis, furnish to the National Directory of New Hires *extracts of the reports required under section 303(a)(6) [SSA] to be made to the Secretary of Labor* concerning the wages and unemployment compensation paid to

individuals, by such dates, in such format, and containing such information as the Secretary of Health and Human Services shall specify in regulations. [Emphasis added.]

Since the Secretary of Labor does not require the submittal of data on individuals under Section 303(a)(6), SSA, this provision created a technical problem. The BBA deleted the underscored language and substituted "information." This amendment does not affect what information must be provided to the Secretary of Health and Human Services. Nor does it change the fact that both the FUTA and the SSA continue to require UC agencies to provide wage and claim information to the State directory. *See* UIPL 37–96.

5. *Section 5401, BBA: Base Periods and the Pennington Case.* In 1994 and 1997, the U.S. Court of Appeals for the Seventh Circuit issued two opinions in litigation commonly known as *Pennington*. 22 F.3d 1376 (7th Cir. 1994), 110 F.3d. 502 (7th Cir. 1997). In its 1994 decision, the Court decided that a State's base period was not an eligibility requirement, but instead was a "method of administration" under Section 303(a)(1), SSA, and, therefore, subject to Federal jurisdiction. In its 1997 decision, the Court ruled that Illinois' base period, consisting of the first four of the last five completed calendar quarters, was not consistent with the "methods of administration" requirement. This was because the existence of the lag period between the base period and benefit year meant some claimants had to wait for their recent wages to fall within the based period to qualify for UC. As a result of these decisions, States anticipated that they might be required to provide for alternative base periods to reduce the lag.

The BBA clarifies that the base period is not subject to the "methods of administration" requirement. Therefore, in the Department's view, this legislation frees States to determine their base periods without regard to the "methods of administration" requirement. Section 5401, BBA, provides as follows:

(a) In General. No provision of a State law under which the base period for such State is defined or otherwise determined shall, for purposes of section 303(a)(1) of the Social Security Act (42 U.S.C. 503(a)(1)), be considered a provision for a method of administration.

(b) Definitions. For purposes of this section, the terms "State law", "base period", and "State" shall have the meanings given them under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 [EUCA] (26 U.S.C. 3304 note.)

(c) Effective Date. This section shall apply for purposes of any period beginning before, on, or after the date of the enactment of this Act.

"State law," as defined in Section 205(10), EUCA, "means the unemployment compensation law of the State, approved by the Secretary under section 3304" of the FUTA. "Base period," as defined in Section 205(6), EUCA, "means the base period as determined under applicable State law for the benefit year." "State," as defined in Section 205(8), EUCA, includes the 50 States, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands.

This amendment does not require States to amend their laws.

6. *Sections 5402 and 5403, BBA: Increase in Federal Unemployment Account (FUA) Ceiling and Special Distribution to States from the Unemployment Trust Fund.* Section 903, SSA, provides that when, among other things, three accounts in the Unemployment Trust Fund reach their statutory limits, the excess amounts will be transferred to the States. These are called "Reed Act" distributions. The three accounts are the Employment Security Administration Account (ESAA), which pays for the administration of the UC and employment service programs; the Extended Unemployment Compensation Account, which pays for the Federal share of extended benefits; and the FUA, which provides for advances to States for the payment of UC.

a. *Section 5402, BBA: Increase in FUC Ceiling.* Prior to amendment, the balance in the FUA as of the end of any Federal fiscal year (September 30) could not exceed 0.25 percent of the total wages subject to contributions under all State UC laws. The BBA changes this maximum balance to 0.5 percent effective October 1, 2001.

b. *Sections 5403, BBA: Special Distribution to States from the Unemployment Trust Fund.* The BBA amended Section 903 of the SSA to cap the amount of Reed Act transfers made with respect to the Federal fiscal years ending in 1999, 2000 and 2001 at $100,000,000 per year. Each State's share of these transfers will be based on the ratio of the amount of "funds to be allocated to such State for such fiscal year pursuant to the base allocation formula under title III", SSA, to "the total amount of funds to be allocated to all States for such fiscal year pursuant to the base allocation formula under title III." Any amounts in excess of the $100,000,000 which, but for the BBA amendments, would have been transferred to the States "shall, as of the beginning of the succeeding fiscal year, accrue to the Federal unemployment account, without regard" to its statutory limit.

Reed Act moneys transferred with respect to these fiscal years may be used "only to pay expenses incurred by [the State] for the administration of its" UC law. Unlike previous Reed Act transfers, States are prohibited from using the amounts transferred with respect to these three years for the payment of UC or the administration of State public employment offices. However, among other uses, States may, as in the past, use these Reed Act moneys for purchasing real property for UC purposes. These purchases could be amortized against UC grant funds consistent with the UC grant agreement.

Finally, the restrictions applicable to Reed Act transfers in Section 903(c)(2), SSA, are not applicable to the transfers made with respect to fiscal years 1999, 2000 and 2001. This means the amounts transferred to the States may be used without obtaining an appropriation from the State's legislative body.

State UC laws usually contain provisions addressing the use of Reed Act moneys transferred under Section 903, SSA. These laws usually mirror the requirements of Section 903(c)2), SSA, including a requirement that the moneys be used for the payment of UC unless appropriated by the legislative body. States must amend these provisions to prohibit the use of transfers made with respect to fiscal years 1999, 2900, and 2001 for the payment of UC. States may further amend these provisions to authorize use for administrative purposes without a specific appropriation from the State legislature. Nothing prohibits a State legislature from appropriating such money or from attaching conditions to the use of such money, provided the money is used for UC administration.

Draft language for State Reed Act provisions was provided in UIPL 12–01. We recommend that, using that language as a basis, States insert the following language in State law:

(4) Notwithstanding paragraph (1), money credited with respect to Federal fiscal years 1999, 2000 and 2001, shall be used solely for the administration of the UC program *and are not subject to appropriation by the legislature.* [Emphasis added.]

The underscored language is necessary only if the State chooses to avoid the appropriation process. As an alternative, a State could appropriate the moneys without subjecting them to the various restrictions found in Section 901(c)(3), SSA. (For example, under Section 901(c)(2), SSA, Reed Act moneys may be used only for expenses incurred after the date of enactment of the State appropriation.) In this case, the following language is recommended:

(4) Notwithstanding paragraph (1), money credited with respect to Federal fiscal years 1999, 2000 and 2001, shall be used solely for the administration of the UC program, and such money shall not otherwise be subject to the requirements of paragraph (1) when appropriated by the legislature.

c. *Reasons for Change.* The House Report describes the reason for increasing the FUA ceiling and providing for the special transfers:

The provision has two main effects: (1) raising the ceiling in the Federal Unemployment Account whole [sic] limiting Reed Act transfers allows for further buildup of funds pending a future recession requiring increased administrative resources; and (2) allowing $100 million in Reed Act transfers will assist States in the administration of their UI programs. (H. Rep. No. 105–149, 104th Cong. 1st Sess. 108 (1997).)

7. *Section 5404, BBA: Interest-Free Advances from the Unemployment Trust Fund.* Under Section 1202(b)(2), SSA, advances made from the FUA during a calendar year are interest free if the following conditions are met:

- The advance is repaid in full before the close of September 30 of the calendar year in which the advances were made, and
- Following this repayment, no other advance was made to the State during the calendar year.

The BBA adds a third condition to Section 1202(b)(2). States must now meet "funding goals, established under regulations issued by the Secretary of Labor, relating to the

accounts of the States in the Unemployment Trust Fund." The amendment applies to calendar years beginning after the date of enactment of the BBA. The Department is commencing work on the required regulations.

According to the House Committee report, this amendment is intended to encourage solvency of State unemployment funds:

Should a State account become insolvent during an economic downturn, adverse conditions can result for the State and its employers. Borrowing Federal funds imposes a cost on the State at a time when it may face other financial difficulties. The State may react by raising taxes on its employers, thereby discouraging economic activity during a period when its economy is already in decline * * *. The provision would encourage States to maintain sufficient unemployment trust fund balances to cover the needs of unemployed workers in the event of a recession. (H. Rep. No. 105–149, 104th Cong. 1st Sess. 108 (1997).)

8. *Sections 5405 and 5407, BBA: Election Workers and Employees of Schools Operated Primarily for Religious Purposes.* Section 3304(a)(6)(A), FUTA, requires, as a condition for employers in a State to receive credit against the Federal unemployment tax, that UC be payable based on services performed for State and local governmental entities, their instrumentalities, and certain nonprofit organizations. The BBA amended FUTA to provide for two new exceptions to this required coverage.

Section 5405 of the BBA added new subparagraph (F) to Section 3309(b)(3), FUTA, to permit States to exclude services performed:

as an election official or election worker if the amount of remuneration received by the individual during the calendar year for services as an election official or election worker is less than $1,000.

Section 5407 of the BBA added new subparagraph (C) to Section 3309(b)(1) to permit States to exclude services performed for:

(C) an elementary or secondary school which is operated primarily for religious purposes, which is described in section 501(c)(3), and which is exempt from tax under section 501(a).

States were not previously permitted to exclude services performed for a religiously-oriented school from coverage where the school was not operated, supervised, controlled, or principally supported by a church or convention or association of churches. *See* UIPL 28–87. Since the new exclusion is limited to elementary and secondary schools, services performed by employees of other nonaffiliated religiously-oriented entities are still required to be covered. (For example, day-care centers, post-secondary schools or cemetery associations.) Both exclusions "apply with respect to service performed after the date of the enactment of" the BBA. With respect to election workers, this means that, if the individual earned less than $1,000 in calendar year 1997, the services are not required to be covered after August 6, 1997.

States are not required to exclude these services. The Department recommends that States choosing to do so follow the language in Federal law verbatim. However, the language following "religious purposes" in subparagraph (C) of Section 3309(b)(1) may be omitted if, as is commonly the case, State law provisions relating to coverage of nonprofit organizations are already limited to those organizations described in Section 501(c)(3), IRC, which are exempt from tax under Section 501(a), IRC.

9. *Section 5406, BBA: Coverage of Services Performed by Inmates.* The BBA added an exclusion to the definition of employment in Section 3306(c), FUTA, for:

"(21) service performed by a person committed to a penal institution.

This exclusion applies only for purposes of the FUTA tax. However, as a result of this new exclusion, States may elect to amend their laws to exclude these services without the employers for whom the services are performed losing credit against the FUTA tax.

The effective date of this amendment applies "with respect to service performed after January 1, 1994." Should State law be amended retroactively, amounts previously paid into the State's unemployment fund with respect to these services under the State law in effect at that time may not be refunded to employers. This prohibition is explained in UIPL 11–92.

10. *Section 5608, BBA: State Program Integrity Activities for Unemployment Compensation.* Section 901(c)(1)(A), SSA, authorizes appropriations from the ESAA for assisting States in the administration of their UC laws. (Henceforth, these amounts will be called the "regular" grant.) The BBA amended this section to create a special authorization for State program integrity activities. Specifically, a new paragraph was added to Section 901(c):

(5)(A) There are authorized to be appropriated out of the employment security administration account to carry out program integrity activities, in addition to any amounts available under paragraph (1)(A)(i)—

(i) $80,000,000 for fiscal year 1998;
(ii) $91,000,000 for fiscal year 1999;
(iii) $93,000,000 for fiscal year 2000;
(iv) $96,000,000 for fiscal year 2001; and
(v) $98,000,000 for fiscal year 2002.

(B) In any fiscal year in which a State receives funds appropriated pursuant to this paragraph, the State shall expend a proportion of the funds appropriated pursuant to paragraph (1)(A)(i) to carry out program integrity activities that is not less than the proportion of the funds appropriated under such paragraph that was expended by the State to carry out program integrity activities in fiscal year 1997.

(C) For purposes of this paragraph, the term "program integrity activities" means initial claims review activities, eligibility review activities, benefit payments control activities, and employer liability auditing activities.

This amendment merely authorizes amounts for appropriation for integrity purposes; Congress must still appropriate the amounts. If and when "integrity" moneys are received by the States, their use is limited to the integrity activities described in 901 (c)(5)(C), SSA.

Since Section 901(c)(5)(B), SSA, provides that the State must expend the same proportion of "regular" granted funds on integrity activities as was expended in fiscal year 1997, States may not use these integrity moneys to reduce integrity costs to the "regular" grant as determined by fiscal year 1997 expenditures.

11. *Section 221, TPRA: Employer-Provided Educational Assistance.* Section 3306(b)(13), FUTA, excludes from the definition of wages "any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under section 127 * * *" of the IRC. Section 127, IRC, excludes from gross income of the employee certain amounts paid, or expenses incurred, up to $5,250 in a calendar year, by the employer for educational assistance to the employee. Section 127 did not apply to taxable years beginning after May 31, 1997. In the case of tax year 1997, only expenses paid with respect to courses beginning before July 1, 1997, could be taken into account.

The TPRA extends this exclusion. It now applies to expenses paid with respect to courses beginning through May 31, 2000. The amendment applies to taxable years beginning after December 31, 1996. The IRS is responsible for administering this provision.

12. *Section 921, TPRA: Securities Brokers.* For purposes of determining whether an individual is an "employee," Section 3306(i), FUTA, references Section 3121(d), IRC. That section provides that, among other things, an "employee" is "any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of employee."

The TPRA provides a clarification concerning the employment tax status of registered representatives of a securities broker-dealer. It provides that "no weight shall be given to instructions from the service recipient which are imposed only in compliance with investor protection standards imposed by the Federal Government, any State government, or a governing body pursuant to a delegation by a Federal or State agency." The IRS is responsible for administering this provision.

The provision is effective for "services performed after December 31, 1997."

13. *Section 1024, TPRA: Continuous Levy on Payments of UC.* Federal UC law provides that payments of UC may not be subjected to levy. *See* UIPL 45–88. (A levy is the seizure of a person's property or rights to property to pay a debt.) Although the TPRA did not amend these UC provisions, it authorized the IRS to impose a continuous levy on certain payments, including UC, until the levy is released. This continuous levy may be imposed on any individual who is liable for an internal revenue tax and who does not pay such tax within 10 days of notice and demand by the IRS. Specifically, the TPRA added new subsection (h) to Section 6331, IRC—

(1) In General.—The effect of a levy on specified payments to or received by a taxpayer shall be continuous from the date

such levy is first made until such levy is released. Notwithstanding section 6334, such continuous levy shall attach to up to 15 percent of any specified payment due to the taxpayer.

(2) Specified Payment.—For the purposes of paragraph (1), the term "specified payment" means—

(A) any Federal payment other than a payment for which eligibility is based on the income or assets (or both) of a payee,

(B) any payment described in paragraph (4) [pertaining to unemployment benefits], (7) [workers compensation], (9) [wages, salary and other income], or (11) [certain public assistance] of section 6334(a), and

(C) any annuity or pension payment under the Railroad Retirement Act or benefit under the Railroad Unemployment Insurance Act.

Under new Section 6331(h)(2)(C), any payment described in paragraph (4) of Section 6334(a), IRC, may be continuously levied up to 15 percent. Paragraph (4) applies to any "amount payable to an individual with respect to his unemployment (including any portion thereof payable with respect to dependents) under an unemployment compensation law of the United States, or any State, or of the District of Columbia or of the Commonwealth of Puerto Rico." Under this authority, the IRS may levy any payment under State or Federal UC law, including payments under the UC for Federal employees (UCFE), UC for Ex-servicemembers (UCX) and the Disaster Unemployment Assistance (DUA) programs as well as trade readjustment allowances (TRA) under the Trade Adjustment Assistance and NAFTA-Transitional Adjustment Assistance programs.

The IRS may continuously levy up to 15 percent of "any specified payment." The amendment applies to levies issued after the August 6, 1997, date of the enactment of the TPRA.

The continuous levy is administered by the IRS. The IRS may implement the continuous levy through computer crossmatches with State UC agencies. The UC agencies will be responsible for deducting amounts levied from UC, UCFE, UCX, DUA, and TRA and for forwarding such amounts to the IRS. As the IRS does not pay for costs of levies, the Department is examining the funding implications for the UC system.

Since, in accordance with Federal UC law, all State laws currently prohibit the levy of UC, the Department recommends that States amend their laws to specifically authorize continuous levy in accordance with Section 6331, IRC. Alternatively, States may view Section 6331, IRC, as superseding State law.

14. *Section 1035, TPRA: Extension of Temporary Tax.* Section 3301, FUTA, imposes a tax of 6.2 percent on wages paid in employment by employers. This tax was to have dropped to 6.0 percent beginning in calendar year 1999.

Under the TPRA amendments, the 6.2 percent tax will remain in effect through calendar year 2007. The tax is now scheduled to drop to 6.0 percent beginning with calendar year 2008.

15 *Action.* Appropriate staff should be advised of these amendments.

16. *Inquiries:* Please direct inquiries to the appropriate Regional Office.

[FR Doc. 97–29370 Filed 11–5–97; 8:45 am]

BILLING CODE 4510–30–M

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors

CORRECTION: As published on Oct. 28, 1997 (62 FR 55833) and on Nov. 4, 1997 (62 FR 59749), the agenda for the meeting scheduled for Nov. 15, 1997, is incorrect. The agenda is corrected as follows:

OPEN SESSION:

1. Approval of agenda.
2. Approval of minutes of the Board's meeting of Sept. 20, 1997.
3. Approval of minutes of the Board's executive session meeting of Sept. 20, 1997.
4. Chairman's and Members' Reports.
5. President's Report.
6. Appointment of an ad hoc committee for annual performance evaluations of the President and Inspector General.
7. Consider and act on the report of the Board's Operations and Regulations Committee.
   a. Consideration of public comment and action on final revisions to 45 CFR Part 1630, Costs Standards and Procedures.
   b. Consideration of public comment and action on final rule 45 CFR Part 1643, Restriction on Assisted Suicide, Euthanasia and Mercy killing.
   c. Consider and act on proposed changes to the structure of the Corporation's management.
8. Consider and act on the report of the Board's Finance Committee.
9. Consider and act on the report of the Ad Hoc Committee on Performance Reviews of the President and Inspector General.
   a. Consider and act on procedural matters, including personal performance plans for the President and the Inspector General, written submissions prior to interviews, and interview protocols.
10. Consider and act on report on development of a strategic planning process.
11. Inspector General's Report.
12. Consider and act on proposed Report of the Board of Directors to accompany the Inspector General's Semi-annual Report to the Congress for the period of April 1, 1997–September 30, 1997.

CLOSED SESSION:

13. Briefing[1] by the Inspector General on the activities of the OIG.
14. Consider and act on an internal personnel issue relating to the Corporation's employee pension plan.
15. Consider and act on the General Counsel's report on potential and pending litigation involving the Corporation.

OPEN SESSION:

16. Consider and act on whether to change the date of the next annual meeting and, if so, to what date.
17. Public comment.
18. Consider and act on other business.

Dated: November 4, 1997.

Victor M. Fortuno,

General Counsel.

[FR Doc. 97–29488 Filed 11–4–97; 12:41 pm]

BILLING CODE 7050–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy, Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

SUPPLEMENTARY INFORMATION: On October 2, 1997, the National Science Foundation published a notice in the **Federal Register** of permit applications received. Permits were issued on October 31, 1997 to the following applicants:

Brenda Hall & George Denton—Permit No. 98–014

Frederick W. Taylor, Sr.—Permit No. 98–015

Nadene G. Kennedy,

Permit Officer.

[FR Doc. 97–29383 Filed 11–5–97; 8:45 am]

BILLING CODE 7555–01–M

[1] Any portion of the closed session consisting solely of staff briefings does not fall within the Sunshine Act's definition of the term "meeting" and, therefore, the requirements of the Sunshine Act do not apply to any such portion of the closed session. 5 U.S.C. 552(b)(a)(2) and (b). *See* also 45 CFR § 1622.2 & 1622.3.

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meetings:

Name and Committee Code: Special Emphasis Panel in Materials Research #1203.

Date & Time: November 25, 1997; 9:00 am–5:00 pm.

Place: NSF Conference Room 1060, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Carmen Huber, Program Director, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1996.

Purpose of Meeting: To provide advice and recommendations concerning support for the 1998 Research Experience for Undergraduates (REU) Site competition in the area of materials research.

Agenda: To review and evaluate proposals submitted to NSF as a part of the selection process for awards.

Reason for Closing: The activity being evaluated may include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b.(c) (4) and (6) of the Government in the Sunshine Act.

Dated: October 31, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–29320 Filed 11–5–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Social and Political Science; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, and amended), the National Science Foundation announces the following meetings:

Name: Advisory Panel for Social and Political Science (#1761).

Date and Time: November 20–21, 1997; 9:00 a.m. to 5:00 p.m.

Place: Department of Political Science, University of California, Los Angeles, CA 90095–1472.

Contact Person: Dr. Frank Scioli and Dr. Rick Wilson, Program Directors for Political Science, National Science Foundation. Telephone: (703) 306–1761.

Agenda: To review and evaluate the political science proposals as part of the selection process for awards.

Date & Time: December 8–9, 1997; 9:00 a.m. to 5:00 p.m.

Place: National Science Foundation, Stafford Place, 4201 Wilson Boulevard, Room 970, Arlington, VA 22230.

Contact Person: Dr. Harmon Hosch, Program Director, Law and Social Science, National Science Foundation. Telephone (703) 306–1782.

Agenda: To review and evaluate the Law and Social Science Proposals as a part of the selection process for awards.

Date & Time: December 11–12, 1997 9:00 a.m. to 5:00 p.m.

Place: National Science Foundation, Stafford Place, 4201 Wilson Boulevard, Room 380, Arlington, VA 22230

Contact Person: Dr. William S. Bainbridge, National Science Foundation, Telephone (703) 306–1756

Agenda: To review and evaluate the Sociology proposals as a part of the selection process for awards.

Type of Meetings: Closed

Purpose of Meeting: To provide advice and recommendations concerning support for research proposals submitted to the NSF for financial support.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: October 31, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–29321 Filed 11–5–97; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–416]

Exemption

In the matter of Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, Entergy Mississippi, Inc.; (Grand Gulf Nuclear Station, Unit 1)

I

Entergy Operations, Inc. (the licensee) is the holder of Facility Operating License No. NPF–29, which authorizes operation of Grand Gulf Nuclear Station, Unit 1 (GGNS). The operating license provides, among other things, that the licensee is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (NRC or the Commission) now and hereafter in effect.

The facility is a General Electric boiling water reactor at the licensee's site in Claiborne County, Mississippi.

II

Title 10 CFR 70.24, "Criticality Accident Requirements," paragraph (a) states, in part, that "Each licensee authorized to possess special nuclear material [SNM] in a quantity exceeding 700 grams of contained uranium-235, 520 grams of contained uranium-233, 450 grams of plutonium, 1,500 grams of contained uranium-235 if no uranium enriched to more than 4 percent by weight of uranium-235 is present, 450 grams of any combination thereof, or one-half such quantities if massive moderators or reflectors made of graphite, heavy water or beryllium may be present, shall maintain in each area in which such licensed special nuclear material is handled, used, or stored, a monitoring system meeting the requirements of [10 CFR 70.24](a)(1) or (a)(2), as appropriate, and using gamma- or neutron-sensitive radiation detectors which will energize clearly audible alarm signals if accidental criticality occurs. This section is not intended to require underwater monitoring when special nuclear material is handled or stored beneath water shielding or to require monitoring systems when special nuclear material is being transported when packaged in accordance with the requirements of Part 71 [(i.e., 10 CFR Part 71, "Packaging and Transportation of Radioactive Material,")] of this chapter."

The licensee meets the quantity criteria in 10 CFR 70.24(a) and is, therefore, required to have a criticality accident monitoring system in each area in which SNM in any form is handled, used, or stored. The licensee has proposed an exemption to this requirement for the storage of two forms of SNM at the site: (1) not-in-use in-core nuclear instrumentation (e.g., source range monitors) and (2) onsite unirradiated fuel. For the unirradiated fuel, the exemption is requested for the following cases:

- The interval when the fuel, packaged for shipment to the site in accordance with 10 CFR Part 71, is taken from the shipping truck to the plant area where the Part 71 packaging is removed.
- The storage of the unirradiated fuel in the new fuel vault (NFV), instead of the spent fuel pool, after the packaging is removed.

The very small quantity of SNM present in the nuclear instrumentation is in the form of thin coatings within the instrumentation and the unirradiated fuel assemblies would only be removed from the NRC-approved packaging in areas where criticality monitors are in use, and stored in either the NFV or the

spent fuel pool. The unirradiated fuel that is stored in the spent fuel pool would be monitored in accordance with 10 CFR 70.24(a), whereas there is not a criticality accident monitor in the NFV.

An exemption from 10 CFR 70.24(a) is required for the licensee to store SNM at the site and not have a criticality accident monitoring system for the storage areas.

III

Pursuant to 10 CFR 70.14, "Specific exemptions," the Commission may, upon application of any interested person or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property or the common defense and security, and are otherwise in the public interest.

Pursuant to 10 CFR 70.24(d), any licensee who believes that good cause exists why it should be granted ar exemption in whole or in part from the requirements of this section may apply to the Commission for such an exemption. Such application shall specify the reason for the relief requested.

By letter dated July 15, 1996, as supplemented by letters dated March 7 and April 29, 1997, the licensee requested an exemption from the monitoring requirements of 10 CFR 70.24(a) for the storage of these two forms of SNM at the site. In those letters, the licensee provided the justification and reasons for requesting the exemption. The licensee did not request an exemption to the performance requirements of a criticality accident monitoring system that are specified in 10 CFR 70.24(a)(1) or (a)(2).

A previous exemption from the provisions of 10 CFR 70.24 for the storage of SNM was granted for GGNS in the July 15, 1981, SNM License No. 1882. This exemption expired with the SNM license when the operating license was issued for GGNS because the exemption was not reissued at that time. Therefore, the licensee has requested an exemption from the criticality accident monitoring requirements of 10 CFR 70.24(a) specifically for the areas containing in-core instrumentation detectors (which are not in use) and unirradiated (fresh) fuel. For unirradiated fuel, the exemption is requested for the unirradiated fuel that is in NRC-approved packaging while the fuel is taken from the shipping trucks to the spent fuel pool area to be removed from the packaging, and for the unirradiated fuel that is stored in the NFV, instead of the spent fuel pool.

The principal form of SNM at GGNS is in the form of nuclear fuel. Other quantities of SNM are also used or stored at the facility in the form of fissile material incorporated into in-core nuclear instrumentation (e.g., source range monitors, intermediate range monitors, local power range monitors, and traversing in-core probes). The instrumentation is being stored at the site within the security fence in different plant areas.

The SNM in the nuclear instrumentation is in small quantities in thin coatings applied to the inside of sealed fission chambers contained within the instruments. The licensee has stated that the total amount of SNM contained in the nuclear instruments meets the "forms not sufficient to form a critical mass" in Section 1.1 of Regulatory Guide 10.3, "Guide for the Preparation of Applications for Special Nuclear Material Licenses of Less Than Critical Mass Quantities," Revision 1, dated April 1977. Thus, the licensee has committed that the total amount of SNM contained within in-core nuclear instrumentation will be less than a critical mass. Therefore, the small quantity of SNM in the nuclear instrumentation precludes inadvertent criticality.

Unirradiated nuclear fuel is received at the site only in NRC-approved Part 71 packaging. The entire Part 71 packaging consists of two right rectangular boxes consisting of an outer wooden container surrounding a inner metal container housing the unirradiated fuel. There is only cushioning material between the two boxes. The containers are designed in accordance with a certificate of compliance for radioactive materials packages issued by the NRC, in this case for the shipment of unirradiated fuel assemblies. It is the inner metal container that ensures that a geometrically safe configuration of the fuel is maintained during transport, handling, storage, and accident conditions, and that the introduction of any moderating agents to the fuel is precluded due to its leak-tight construction. Criticality is precluded due to the construction of the package and the storage configuration of the fuel in the package. This is based on a criticality analysis of the Part 71 packaging which limits the number of such packages on a shipping truck.

The handling of unirradiated fuel at the site is governed by administrative and departmental procedures that specify New Fuel Processing and Criticality Rules to ensure that fuel is not inadvertently removed from the inner metal container until it is positioned in the fuel inspection area near the spent fuel pool of the auxiliary building where a criticality accident monitoring system meeting 70.24(a) is present. It is the metal container that is referred to when the licensee stated that the unirradiated fuel will only be removed from the NRC-approved packaging in the presence of a criticality accident monitoring system meeting 70.24(a).

The unirradiated fuel is brought onsite on shipping trucks. The wooden containers are removed from the inner metal containers, and the unirradiated fuel is lifted in the metal container to the 208-foot level of the auxiliary building, and adjacent to the cask washdown pit and NFV of the spent fuel pool area. Only one metal container is lifted at a time, and the crane and lifting equipment used for the lift are certified. The plant areas that the metal containers would be moved through were inspected during a visit to the site and it was determined that the areas have drains to prevent the possibility of submerging the metal containers under water and creating a possible criticality condition. The only practical plant area where the new fuel could be submerged in water to introduce moderation is the spent fuel pool and there are 70.24(a) monitors in that area.

In the spent fuel pool area, the fuel is removed from the containers, inspected and channeled, and then placed either in the spent fuel pool or the NFV. Currently the unirradiated fuel is placed only in the spent fuel pool and, while the fuel is in the spent fuel pool, it is monitored by a 70.24(a) monitoring system; however unirradiated fuel may be stored inside the NFV and there is not a criticality accident monitor in the NFV. The design basis criticality margin requirements for the NFV is to maintain the unirradiated fuel in the vault at a subcriticality margin of at least 0.05 (i.e., a k effective no more than 0.95). The new fuel would be stored in racks that are designed to withstand all credible static and dynamic loadings to prevent damage and distortion of the racks, and to maintain the design subcriticality margin of 0.05 whether the vault is dry or flooded with unborated water, because unborated water would moderate the fuel and reduce the subcriticality margin. The racks are constructed in accordance with the quality assurance requirements of Appendix B to 10 CFR Part 50 and are categorized as Safety Class 2 and Seismic Category I. The vault is in a concrete, Seismic Category I building that is designed to Regulatory Guides 1.13 and 1.29 which precludes the deleterious effects on the fuel in the NFV by natural phenomena such as earthquakes, tornados, hurricanes, tornado missiles, and floods. To prevent water moderation, there is a drain at the low point of the vault to remove water in the vault to prevent accumulation of water within the NFV and no fuel is placed in the vault if there is water in the vault. The licensee also has procedures to prevent the introduction of an optimum moderation inside the vault (e.g., using pressurized water fire extinguishers instead of foam for combating fires around fuel) which could decrease the subcriticality margin to a value greater than the design value of 0.05. Although the Technical Specifications for Grand Gulf do not specifically limit the enrichment of the fuel onsite including the NFV, the k-effective for spent fuel or new fuel in the fuel racks and submerged in water is limited to 0.95 by the Technical Specifications and the enrichment of the fuel onsite is limited because the k-effective for the NFV is not allowed to be greater than 0.95. The fuel enrichment is a contributor to the value of k-effective. Therefore, the design of the NFV will preclude inadvertent criticality of the new fuel in the vault.

Therefore, based on the licensee's letters and the staff's evaluation, the Commission concludes that good cause exists for granting an exemption to the criticality monitoring requirements of 10 CFR 70.24(a) in storage areas for (1) in-core instrumentation detectors which are not in use and (2) unirradiated fuel stored in the NFV. Based on the information provided by the licensee, there is reasonable assurance that the nuclear instrumentation and unirradiated fuel will remain subcritical during handling and storage in areas where critically accident monitors required by 10 CFR 70.24(a) are not present. Additionally, all fuel storage and handling areas will continue to be monitored to detect conditions that may result in excessive radiation levels as required by General Design Criterion 63.

IV

For the foregoing reasons, pursuant to 10 CFR 70.24(d), the NRC staff has determined that good cause has been shown for granting an exemption to the criticality monitoring requirements of 10 CFR 70.24(a).

Accordingly, the Commission has determined that, pursuant to 10 CFR 70.14, an exemption is authorized by law, will not endanger life or property or common defense and security, and is otherwise in the public interest. Therefore, with the total amount of SNM contained in the in-core nuclear instruments less than a critical mass, as defined by Section 1.1 of Regulatory Guide 10.3 (Revision 1, dated April 1977), with the unirradiated fuel assemblies only removed from the NRC-approved metal containers in areas where criticality monitors are present, and with administrative controls to prevent optimum moderation of the unirradiated fuel in the NFV, the Commission hereby grants Entergy Operations, Inc. an exemption from the criticality monitoring requirements of 10 CFR 70.24(a) for the storage of not-in-use in-core nuclear instrumentation and of unirradiated fuel in the NFV.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment (62 FR 55837). This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 31st day of October 1997.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 97–29343 Filed 11–5–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Correction to Biweekly Notice; Applications and Amendments to Operating Licenses Involving No Significant Hazards Consideration

On October 22, 1997, the Federal Register published a Biweekly Notice of Applications and Amendments to Operating Licenses Involving No Significant Hazards Consideration. On page 54881, under Baltimore Gas and Electric Company, information from another notice was electronically merged with this notice causing an inaccurate publication. A copy of the notice, in its entirety, as it should have appeared follows:

Baltimore Gas and Electric Company, Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland.

Date of application for amendments: March 28, 1996, as supplemented November 20, 1996, and July 31, 1997.

Brief description of amendments: The amendments reduce the moderator temperature coefficient limit shown on Technical Specification Figure 3.1.1–1. This proposed change is necessary to support changes in the safety analyses made to accommodate a larger number of plugged steam generator tubes for future operating cycles.

Date of issuance: October 2, 1997.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment Nos.: 222 and 198.

Facility Operating License Nos. DPR–53 and DPR–69: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: May 8, 1996 (61 FR 20843).

The November 20, 1996, and July 31, 1997, letters provided clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated October 2, 1997.

No significant hazards consideration comments received: No.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland 20678.

Dated at Rockville, Maryland, this 31st day of October 1997.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Acting Director, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 97–29345 Filed 11–5–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Consolidated Guidance About Materials Licenses: Applications for Sealed Sealed Source and Device Evaluation and Registration, Availability of Draft NUREG

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability and request for comments.

SUMMARY: The Nuclear Regulatory Commission is announcing the availability of and requesting comment on draft NUREG–1556, Vol. 3, "Consolidated Guidance about Materials Licenses: Applications for Sealed Sealed Source and Device Evaluation and Registration," dated September 1997.

NRC is consolidating and updating numerous guidance documents into a series of program specific guidance documents to be published in a NUREG format. All NUREGs in the series will carry the number and title: NUREG 1556, Volume X, "Consolidated Guidance About Materials Licenses." Each specific guidance document will have an identifying volume number, and the title of the specific guidance will appear as the sub-title of the NUREG. This draft NUREG is the third guidance document to be published in

this series; therefore it is listed as Volume 3.

The guidance NUREG is intended for use by applicants, licensees, registration certificate holders, NRC license reviewers, and other NRC personnel. It combines and updates the guidance for applicants and licensees previously found in draft Regulatory Guides 10.10, "Guide for the Preparation of Applications for Radiation Safety Evaluation and Registration of Devices Containing Byproduct Material," and Regulatory Guide 10.11, "Guide for the Preparation of Applications for Radiation Safety Evaluation and Registration of Sealed Sources Containing Byproduct Material," and guidance for persons reviewing such applications found in NUREG–1550, "Standard Review Plan for Applications for Sealed Source and Device Evaluations and Registrations." In addition, this draft report also contains information found in pertinent Policy and Guidance Directives, Technical Assistance Requests, and Information Notices.

This draft NUREG report has been distributed for comment to encourage public participation in its development. It represents the current position of the NRC staff, which is subject to change after the review of public comments. Comments received will be considered in developing the final NUREG report that represents the official NRC staff position. Once the final NUREG report is published, NRC staff will use it in its review of applications for registrations.

DATES: The comment period ends December 17, 1997. Comments received after that time will be considered if practicable.

ADDRESSES: Submit written comments to: Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U. S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Hand deliver comments to 11545 Rockville Pike, Rockville, Maryland, between 7:15 a.m. and 4:30 p.m. on Federal workdays. Comments may also be submitted through the Internet by addressing electronic mail to DLM1@NRC.GOV.

Those considering public comment may request a free single copy of draft NUREG–1556, Volume 3, by writing to the U.S. Nuclear Regulatory Commission, ATTN: John W. Lubinski, Mail Stop TWFN 8–F5, Washington, DC 20555–0001. Alternatively, submit requests through the Internet by addressing electronic mail to JWL@NRC.GOV. A copy of draft NUREG–1556, Volume 3, is also available for inspection and/or copying for a fee in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC 20555–0001.

FOR FURTHER INFORMATION CONTACT: John W. Lubinski, Mail Stop TWFN 8-F5, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Materials Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–7868; electronic mail address: JWL@NRC.GOV.

Electronic Access

Draft NUREG–1556, Vol. 3 is also available electronically by visiting NRC's Home Page (http://www.nrc.gov/NRC/NUREGS/SR1556/V3/index.html).

Dated at Rockville, Maryland, this 30th day of October, 1997.

For the Nuclear Regulatory Commission.

Frederick C. Combs,

Acting Director, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 97–29344 Filed 11–5–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR WASTE TECHNICAL REVIEW BOARD

Field trip: December 3–4, 1997—Amargosa Valley, Nevada, Ground-Water Discharge, Yucca Mountain Area Geology, Volcanism, and Tour of Yucca Mountain

Pursuant to its authority under section 5051 of Public Law 100–203, the Nuclear Waste Policy Amendments Act of 1987, the Nuclear Waste Technical Review Board (Board) will conduct two field trips, December 3 and 4, 1997, beginning at 8:30 a.m. both days. The field trips, which are open to the public, will focus on ground-water discharge, geology, and volcanism in the vicinity of Yucca Mountain on December 3 and the Yucca Mountain site on December 4.

During the morning of December 3, participants on the first field trip will stop at and hear presentations on Franklin Lake Playa (alkali flats where water beneath Yucca Mountain is likely to discharge), Ash Meadows (an oasis formed by discharging groundwater), and Devil's Hole (a site where much climate data has been gathered). Participants will return to the Longstreet Inn for lunch. In the afternoon, participants will stop and hear presentations at Steves Pass (with a view of Crater Flat and other geologic surroundings of Yucca Mountain), the Lathrop Wells volcanic cone (a possible site of evidence for predicting the likelihood of future volcanic activity), Lathrop Wells diatomite (a past discharge area near Yucca Mountain), an Amargosa Valley farming area (the likely basis for defining the future Yucca Mountain biosphere), Travetine Point (another past discharge area), and, time permitting, Death Valley.

Participants on the second field trip (December 4) will visit the Yucca Mountain site. Visits and presentations will include the crest of Yucca Mountain and the view of surrounding volcanic cones, geologic features, and the exploratory studies facility portals. Other stops will include well pad UZ 7a, which offers a view of the Ghost Dance Fault, and the large block test facility. Following a break for lunch, the field trip will split. One portion will go undergound to tour the exploratory studies facility, including the thermal response test alcove. Due to health and safety requirements at the site, the number participating in this portion of the tour will be extremely limited. The other portion will visit the C-well complex, the sample-management facility, or other sites at Yucca Mountain.

The Board will provide bus transportation for both field trips, which will begin and end at the Longstreet Inn & Casino, HCR 70, Box 559, Amargosa Valley, Nevada 89020; telephone (702) 372–1777; fax (702) 372–1280. Rooms are available. You must mention that you are attending the Nuclear Waste Technical Review Board's field trip to receive the preferred rate.

You may register for either field trip by telephoning Davonya Barnes or Frank Randall at (703) 235–4473. You will be required to provide your full name, social security number, date of birth, place of birth, current address, and telephone number. To prevent potential reservation errors, FAX and EMAIL requests will not be honored. As seating is limited, spaces will be filled on a first-come/first-served basis. If there are more requests than space available, a waiting list will be maintained in case there are cancellations.

Itineraries for both field trips will be available on or about November 19 at the Board's website, www.nwtrb.gov or by fax or first class mail upon request. For further information, contact Frank Randall, External Affairs, 2300 Clarendon Blvd., Suite 1300, Arlington, Virginia 22201–3367; (Tel) 703–235–4473; (Fax) 703–235–4495; (E-mail) info@nwtrb.gov.

The Nuclear Waste Technical Review Board was created by Congress in the Nuclear Waste Policy Amendments Act of 1987 to evaluate the technical and scientific validity of activities undertaken by the DOE in its program to manage the disposal of the nation's high-level radioactive waste and commercial spent nuclear fuel. In that same legislation, Congress directed the DOE to characterize a site at Yucca Mountain, Nevada, for its suitability as a potential location for a permanent repository for the disposal of that waste.

Dated: October 31, 1997.

William Barnard,

Executive Director, Nuclear Waste Technical Review Board.

[FR Doc. 97–29331 Filed 11–5–97; 8:45 am]

BILLING CODE 6820–AM–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 22868; 812–10726]

First American Investment Funds, Inc., et al.; Notice of Application

October 30, 1997.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application under section 17(b) of the Investment Company Act of 1940 (the "Act") for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Order requested to allow certain series of three registered open-end investment companies to acquire all of the assets and liabilities of the series of another registered open-end investment company. Because of certain affiliations, applicants may not rely on rule 17a–8 under the Act.

APPLICANTS: First American Investment Funds, Inc. ("FAIF"), First American Funds, Inc. ("FAF"), First American Strategy Funds, Inc. ("FASF"), First Bank National Association (the "Adviser"), First Trust National Association ("First Trust"), The Qualivest Funds (the "Trust"), Qualivest Capital Management, Inc. ("Qualivest"), and United States National Bank of Oregon ("U.S. Bank").

FILING DATES: The application was filed on July 18, 1997. Applicants have agreed to file an amendment, the substance of which is included in this notice, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 20, 1997 and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants: FAIF, FAF, and FASF, Oaks, PA 19546; First Bank National Association, First Bank Place, 601 Second Avenue South, Minneapolis, MN 55480; First Trust National Association, 180 East Fifth Street, St. Paul, MN 55101; The Qualivest Funds, 3435 Stelzer Road, Columbus, OH 43219–3035; Qualivest, P.O. Box 2758, Portland, OR 97208; and U.S. Bank, 111 S.W. Fifth Avenue, Suite T–2, Portland, OR 97204.

FOR FURTHER INFORMATION CONTACT: Mary T. Geffroy, Senior Counsel, at (202) 942–0553, or Christine Y. Greenlees, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549 (tel. 202–942–8090).

Applicants' Representations

1. The Trust, a Massachusetts business trust, is an open-end management investment company registered under the Act. The Trust currently consists or thirteen series (the "Acquired Funds"), Qualivest is a subsidiary of U.S. Bank, and is the investment adviser to the Acquired Funds. U.S. Bank is a wholly-owned subsidiary of U.S. Bancorp. U.S. Bank and certain of its affiliates hold of record more than 5% of the outstanding shares of certain Acquired Funds. In addition, defined benefits plans for which Qualivest, U.S. Bank, or their affiliates have funding obligations own more than 5% of the outstanding shares of certain Acquired Funds.

2. FAIF, FAF, and FASF are open-end investment companies registered under the Act and each offers shares in certain series (some of which constitute the "Acquiring Funds"). FAIF[1], a Maryland corporation, offers shares in 20 series, four of which are Acquiring Funds.[2] FAF[3], a Minnesota corporation, currently consists of three series, two of which are Acquiring Funds.[4] FASF, a Minnesota corporation, offers shares in four series, each of which is an Acquiring Fund.

3. The Adviser is registered under the Investment Advisers Act of 1940 and is the investment adviser for each of the Acquiring Funds. The Adviser and First Trust are wholly-owned subsidiaries of First Bank System, Inc. ("FBS"). First Trust and certain of its affiliates hold of record more than 5% of the outstanding shares of certain Acquiring Funds. In addition, defined benefit plans for which FBS, the Adviser, First Trust, or their affiliates have funding obligations own more than 5% of the outstanding shares of certain Acquiring Funds.

4. FBS and U.S. Bancorp entered into an Agreement and Plan of Merger on March 19, 1997, which provided that U.S. Bancorp would merge with and into FBS, with FBS continuing as the surviving corporation (the "Merger"). The Merger was consummated on or about September 2, 1997. At that time, the Adviser and First Trust became affiliated with Qualivest and U.S. Bank, and all of those entities became part of a common control group.

5. On June 4, 1997, the boards of directors of FAIF, FAF, and FASF (the "First American Boards"), including their disinterested directors, unanimously approved the reorganization (the "Reorganization"), and on June 17, 1997, the Board of Trustees of the Trust (the "Trustees") unanimously approved the Reorganization, including a draft Agreement and Plan of Reorganization (the "Reorganization Agreement"). Pursuant to the Reorganization Agreement, each Acquiring Fund proposes to acquire all of the assets and assume all of the liabilities of its corresponding Acquired Fund in exchange for shares of the Acquiring Fund based on the Funds' relative net asset values. The number of Acquiring Fund shares to be issued in exchange for each Acquired Fund share of each class will be determined by dividing the net asset values of one Acquiring Fund share of the appropriate corresponding class by the net asset value of one Acquired Fund share of such class, computed as of the close of trading on

[1] FAIF was incorporated in 1987 as "SECURAL Mutual Funds, Inc." an changed its name to "First American Investment Funds, Inc." in 1991.

[2] In addition, 2 new shell series are being created in FAIF and will constitute Acquiring Funds.

[3] FAF was incorporated under the name "First American Money Fund, Inc." and changed its name to "First American Funds, Inc." in 1990.

[4] A new series, the "Tax Free Obligations Fund," is being created in FAF and will be an Acquiring Fund.

the New York Stock Exchange on the date that the conditions to closing are satisfied or on a later date as the parties may agree (the "Effective Time").

6. The Acquiring Funds generally offer shares in three classes (Classes A, B, and C). Only Class A and Class C shares will be issued in the Reorganization. Class A shares generally are sold with a front-end sales charge. Purchases of $1 million or more of Class A shares that are sold within 24 months after purchase are subject to a contingent deferred sales charge. Class A shares are not subject to any other contingent deferred sales charge, other sale charge, or any redemption fee. Class A shares are subject to shareholder servicing fees under a rule 12b–1 plan. Class C shares are not subject to a front-end, contingent deferred, or other sales charge, a redemption fee, or rule 12b–1 distribution or shareholder servicing fees.

7. The Acquired Funds offer shares in four classes (Classes A, C, Y, and Q). Class A shares generally are subject to a front-end sales charge, and under certain circumstances, a contingent deferred sales charge is imposed. Class A shares are subject to distribution fees under a rule 12b–1 plan. Class C shares of certain of the Acquired Funds may be subject to a contingent deferred sales charge, or distribution and shareholder services fees under a rule 12b–1 plan. Class Y shares are not subject to a contingent deferred sales charge or any other sales charge. These shares are offered only through trust departments of banks and other institutional investors for monies that are held in a fiduciary, agency, custodial, or similar capacity. Class Q shares are offered with no sales charge and no contingent deferred sales charge. Class Q shares generally are subject to rule 12b–1 fees. As a result of the Reorganization, holders of Class A shares and Class C shares of the Acquired Funds will become holders of Class A shares of the Acquiring Funds, and holders of Class Q shares and Class Y shares of the Acquired Funds will become holders of Class C shares of the Acquiring Funds, and will be subject to the sales charges, and the rule 12b–1 distribution and shareholder servicing fees applicable to the class of Acquiring Fund shares issued to them (as well as fund level expenses, such as investment advisory fees, of the relevant Acquiring Fund). In applying the deferred sales charge applicable to purchases of Class A shares with respect to which the front-end sales charge was waived, and applicable purchases of Class C shares, credit will be given for the period an Acquired Fund shareholder who is subject to the deferred sales charge held his or her shares of the Acquired Fund.

8. Each Fund pays the Adviser an investment advisory fee annually, which the Adviser currently is waiving to the extent that total fund expenses exceed the average daily net assets of the respective Acquiring Funds. In addition, certain classes of each Fund pay annual distribution fees based on a percentage of the Fund's average daily net assets.

9. The investment objectives of each Acquired Fund and its corresponding Acquiring Fund are similar. The investment restrictions and limitations of each Acquired Fund and corresponding Acquiring Fund are substantially similar, but in some cases involve differences that reflect the differences in the general investment strategies utilized by the Funds.

10. On or before the Effective Time, the Acquired Fund will have declared a dividend and/or other distribution so that it will have distributed all of its investment company taxable income, exempt-interest income, and realized net capital gain, if any, for the taxable year ending on or prior to the Effective Time.

11. The Reorganization Agreement provides that, at the Effective Time of the Reorganization, each Acquiring Fund will issue and distribute to its corresponding Acquired Fund's shareholders of record, determined as of the Effective Time, the Acquiring Fund shares issued in exchange for the Acquired Fund shares. Afterwards, no additional shares representing interests in the Acquired Fund will be issued, and the Acquired Fund will be liquidated. The distribution will be accomplished by the issuance of the Acquiring Fund shares to open accounts on the share records of the Acquiring Fund in the names of the Acquired Fund shareholders representing the number of Acquiring Fund shares due each shareholder pursuant to the Reorganization Agreement. Simultaneously, all issued and outstanding shares of the Acquired Fund will be canceled on the books of the Acquired Fund. No sales charge will be incurred by Acquired Fund shareholders in connection with their acquisition of Acquiring Fund shares pursuant to the Reorganization Agreement.

12. In considering the Reorganization, the First American Boards, including the disinterested directors, and the Trustees, including the disinterested trustees, found that participation in the Reorganization is in the best interests of each Acquired Fund and Acquiring Fund, and that the interests of existing shareholders of the Funds will not be diluted as a result of the Reorganization.

13. The First American Boards and the Trustees considered a number of factors in making their findings, including: (a) the terms and conditions of the Reorganization; (b) the tax-free nature of the Reorganization; (c) the costs of the Reorganization to the Funds; (d) the compatibility of the objectives, policies, and restrictions of the Funds; (e) the investment advisory fees, rule 12b–1 fees, and the sales charges that would become applicable to former shareholders of the Acquired Funds; and (f) the potential benefits to the Adviser. The First American Boards and the Trustees noted also that the larger size of the Acquiring Funds enables the Acquired Funds to achieve certain economies of scale, and potentially may increase operating efficiencies and facilitate portfolio management.

14. The Adviser will be responsible for the expenses incurred in connection with the Reorganization and any unamortized organizational expenses of the Acquired Funds existing at the Effective Time.

15. The Reorganization Agreement may be terminated by the mutual consent of the relevant First American Boards and the Trustees at any time prior to the Effective Time.

16. On August 8, 1997, applicants filed with the SEC a registration statement on Form N–14 containing a combined prospectus/proxy statement. Applicants sent the prospectus/proxy statement to shareholders of each Acquired Fund on or about September 15, 1997.

17. The consummation of the Reorganization is subject to the following conditions set forth in the Reorganization Agreement: (a) the shareholders of the Acquired Fund will have approved the Reorganization Agreement; (b) applicants will have received exemptive relief from the SEC with respect to the issues that are the subject of the application; (c) an opinion of counsel with respect to the federal income tax aspects of the Reorganization will have been received by applicants; and (d) the Adviser, or an affiliate of the Adviser, will have paid any unamortized organizational expenses on the books of the relevant Acquired Fund, and those expenses will not be reflected in the net asset value calculations made in connection with the Reorganization. Applicants agree not to make any material changes to the Reorganization Agreement that affect the application without prior SEC approval.

Applicants' Legal Analysis

1. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or any affiliated person of that person, acting as principal, from selling any security to, or purchasing any security from the company. Section 2(a)(3) of the Act defines an "affiliated person" of another person to include any person that owns 5% or more of the outstanding voting securities of the other person, and any person directly or indirectly controlling, controlled by, or under common control with the other person; or, if the other person is an investment company, any investment adviser of the investment company.

2. Rule 17a–8 under the Act exempts from the prohibitions of section 17(a) mergers, consolidations, or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons solely by reason of having a common investment adviser, common directors/trustees, and/or common officers, provided that certain conditions are satisfied.

3. Applicants believe that they may not rely upon rule 17a–8 because the Funds may be affiliated for reasons other than those set forth in the rule. First Trust and its affiliates hold of record more than 5% of the outstanding shares of certain Acquiring Funds and hold or share voting power and/or investment discretion with respect to a portion of those shares.[5] In addition, U.S. Bank and its affiliates hold of record more than 5% of the outstanding shares of certain Acquired Funds and hold or share voting power and/or investment discretion with respect to a portion of those shares.[6] Because of these ownership interests, the Acquiring Fund may be deemed an affiliated person of an affiliated person of the Acquired Fund, and vice versa, for reasons not based solely on their common adviser. Consequently, applicants are requesting an order pursuant to section 17(b) of the Act exempting them from section 17(a) to the extent necessary to consummate the Reorganization.

4. Section 17(b) of the act provides that the SEC may exempt a transaction from the provisions of section 17(a) if the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned; the proposed transaction is consistent with the policy of each registered investment company concerned; and the proposed transaction is consistent with the general purposes of the Act.

5. Applicants submit that the terms of the Reorganization satisfy the standards set forth in section 17(b), in that the terms are fair and reasonable and do not involve overreaching on the part of any person concerned. Applicants note that the First American Boards and the Trustees, including the disinterested directors and trustees, found that participation in the Reorganization is in the best interests of each Fund and that the interests of the existing shareholders of each Fund will not be diluted as a result of the Reorganization. Applicants also note that the exchange of the Acquired Funds' shares for the Acquiring Funds' shares will be based on the Funds' relative net asset values.

For the SEC, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 97–29354 Filed 11–5–97; 8:45 am]

BILLING CODE 8010–01–M

[5] Applicants state that the Acquiring Funds in which First Trust does not hold of record more than 5% of the outstanding shares also are unable to rely on rule 17a–8 because they are affiliated with the Acquired Funds for reasons other than those set forth in the rule. Applicants state that these Funds are affiliated with the Acquired Funds because they are affiliated with the Adviser under section 2(a)(3)(E) and, after the Merger (in which U.S. Bank and the Adviser will be merged), the Adviser will be an affiliate of the Acquired Funds under section 2(a)(3)(A) by virtue of U.S. Bank's ownership of more than 5% of the outstanding shares of certain of the Acquired Funds.

[6] Applicants state that the one Acquired Fund (the U.S. Treasury Money Market Fund) that U.S. Bank does not hold of record 5% or more of the outstanding shares also is unable to rely on rule 17a–8 because it is affiliated with the Acquiring Fund for reasons other than those set forth in rule 17a–8. Applicants state that the Acquired Fund is affiliated with the Adviser under section 2(a)(3)(E) and, after the Merger, the Adviser will be an affiliate of the Acquiring Funds under section 2(a)(3)(C).

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on April 9, 1997, (62 FR 17276–17277).

DATES: Comments must be submitted on or before December 8, 1997.

FOR FURTHER INFORMATION CONTACT: Judith Street, ABC–100; Federal Aviation Administration; 800 Independence Avenue, SW.; Washington, DC 20591; Telephone number (202) 267–9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Representatives of the Administrator, FAR 183.

OMB control number: 2120–0033.

Type of request: Extension of currently approved collection.

Affected Public: Individuals seeking to represent the Administrator in examining, testing, and certifying airmen for the purpose of issuing them airmen certificates.

Abstract: Title 49, U.S.C., Section 44702, authorizes appointment of properly qualified private persons to be representatives of the Administrator for examining, testing, and certifying airmen for the purpose of issuing them airmen certificates. The information collected is used to determine eligibility of the representatives. This submission will no longer cover the application for airmen medical examiners since that reporting burden now has its own OMB control number of 2120–0604.

Annual Estimated Burden Hours: 3,114.

Number of Respondents: 7,152.

Addressee: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention FAA Desk Officer.

Comments are Invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC on October 31, 1997.

Vanester M. Williams,

Clearance Officer, United States Department of Transportation.

[FR Doc. 97–29318 Filed 11–5–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Minority Business Resource Center Advisory Committee

AGENCY: Office of the Secretary, (DOT).

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1), notice is hereby given of a meeting of the Minority Business Resource Center Advisory Committee to be held Wednesday, December 10, 1997, from 9:30–11:30 a.m. at the Department of Transportation, 400 7th Street, SW., Conference Room 8236–8240, Washington, DC 20590. The agenda for the meeting is as follows:

—Advocacy

—DOT DBE Program (SNPRM)

—Affirmative Action Issues

—Outreach

—Financial Services

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify the Office of Small and Disadvantaged Business Utilization, Minority Business Resource Center by 4:00 p.m. on Monday, December 8, 1997. Information pertaining to the meeting may be obtained from Mrs. Marie A. Hendricks, Office of Small and Disadvantaged Business Utilization, 400 7th Street, SW., Washington, DC 20590, telephone (202) 366–1930 or (800) 532–1169. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C. on October 31, 1997.

Luz A. Hopewell,

Director, Office of Small and Disadvantaged Business Utilization.

[FR Doc. 97–29317 Filed 11–5–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Technical Standard Orders: Aircraft Bearings

AGENCY: Federal Aviation Administration.

ACTION: Notice of availability for public comment.

SUMMARY: This notice announces the availability of and requests comments on a proposed Technical Standard Order (TSO) pertaining to aircraft bearings. The proposed TSO prescribes the regulatory performance standards that manufacturer-specified parts and appliances must meet to be identified with the marking "TSO–C149."

DATES: Comments must identify the TSO file number and be received on or before January 5, 1998.

ADDRESSES: Send all comments on the proposed technical standard order to: Technical Programs and Continued Airworthiness Branch, AIR–120, Aircraft Engineering Division, Aircraft Certification Service—File No. TSO–C149, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. Or deliver comments to: Federal Aviation Administration, Room 815, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Ms. Bobbie J. Smith, Technical Programs and Continued Airworthiness Branch, AIR–120, Aircraft Engineering Division, Aircraft Certification Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, FAX No. (202) 267–5340.

Comments Invited

Interested persons are invited to comment on the proposed TSO listed in this notice by submitting such written data, views, or arguments as they desire to the above specified address. Comments received on the proposed technical standard order may be examined, before and after the comment closing date, in Room 815, FAA Headquarters Building (FOB–10A), 800 Independence Avenue, SW., Washington, DC 20591, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m. All communications received on or before the closing date for comments specified above will be considered by the Director of the Aircraft Certification Service before issuing the final TSO.

Background

The FAA established the Aviation Rulemaking Advisory Committee (ARAC) in January 1991 to provide an ongoing mechanism to accept recommendations from the aviation industry in the regulatory process (56 FR 2190; January 22, 1991; and 58 FR 9230; February 19, 1993). In March 1993, the FAA established the Parts Working Group as part of ARAC (58 FR 16572; March 29, 1993). The Parts Working Group was tasked with recommending to ARAC new regulations and guidance material, as appropriate, pertaining to the issuance and administration of approvals of replacement and modification parts for civil aircraft. The proposed TSO in this notice is based on a draft proposed TSO developed by the Parts Working Group and recommended to the FAA by the ARAC.

The standards or proposed TSO–C149 apply to aircraft bearings intended for anti-friction rotation and/or oscillatory applications in the manufacture and maintenance of aircraft products. Proposed TSO–C149 provides alternative requirements for making each individual bearing. Each bearing must be marked with at least the name or symbol of the manufacturer, the manufacturer's part number, and the TSO number. When this is not practical, marking may be accomplished in a manner approved by the Administrator. Also, in addition to the marking specified in 14 CFR 607(d), the seal type, the lubrication date (if applicable), and the manufacturer's inspection lot number shall be marked on each package and container.

How to Obtain Copies

A copy of the proposed TSO–C149 may be obtained via Internet (http://www.faa.gov/avr/air/100home.htm) or on request from the office listed under FOR FURTHER INFORMATION CONTACT.

Issued in Washington, DC, on October 27, 1997.

Abbas A. Rizvi,

Acting Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 97–29351 Filed 11–5–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Technical Standard Orders: Aircraft Seats

AGENCY: Federal Aviation Administration.

ACTION: Notice of availability for public comment.

SUMMARY: This notice announces the availability of and requests comments on a proposed Technical Standard Order (TSO) pertaining to aircraft seals. The proposed TSO prescribes the regulatory performance standards that manufacturer-specified parts and appliances must meet to be identified with the marking "TSO–C150."

DATES: Comments must identify the TSO file number and be received on or before January 5, 1998.

ADDRESSES: Send all comments on the proposed technical standard order to: Technical Programs and Continued Airworthiness Branch, AIR–120, Aircraft Engineering Division, Aircraft Certification Service—File No. TSO–C150, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. Or deliver comments to: Federal Aviation Administration, Room 815, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Ms. Bobbie J. Smith, Technical Programs and Continued Airworthiness Branch, AIR–120, Aircraft Engineering Division, Aircraft Certification Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, FAX No. (202) 267–5340.

Comments Invited

Interested persons are invited to comment on the proposed TSO listed in this notice by submitting such written data, views, or arguments as they desire to the above specified address. Comments received on the proposed technical standard order may be examined, before and after the comment closing date, in Room 815, FAA Headquarters Building (FOB–10A), 800 Independence Avenue, SW., Washington, DC 20591, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m. All communications received on or before the closing date for comments specified above will be considered by the Director of the Aircraft Certification Service before issuing the final TSO.

Background

The FAA established the Aviation Rulemaking Advisory Committee (ARAC) in January 1991 to provide an ongoing mechanism to accept recommendations from the aviation industry in the regulatory process (56 FR 2190; January 22, 1991; and 58 FR 9230; February 19, 1993). In March 1993, the FAA established the Parts Working Group as part of ARAC (58 FR 16572; March 29, 1993). The Parts Working Group was tasked with recommending to ARAC new regulations and guidance material, as appropriate, pertaining to the issuance and administration of approvals of replacement and modification parts for civil aircraft. The proposed TSO in this notice is based on a draft proposed TSO developed by the Parts Working Group and recommended to the FAA by the ARAC.

The standards of proposed TSO–C150 apply to aircraft seals intended for static and dynamic applications in the manufacture and maintenance of aircraft products. Proposed TSO–C150 provides alternative requirements for marking each individual seal. Each seal must be marked with at least the name or symbol of the manufacturer, the manufacturer's part number, and the TSO number. When this is not practical, marking may be accomplished in a manner approved by the Administrator. Also, in addition to the marking specified in 14 CFR 607(d), the seal type, the manufacturer's inspection lot number, and the expected shelf life shall be marked on each package and container.

How To Obtain Copies

A copy of the proposed TSO–C150 may be obtained via Internet (http://www.faa.gov/avr/air/100home.htm) or on request from the office listed under FOR FURTHER INFORMATION CONTACT.

Issued in Washington, DC, on October 29, 1997.

Brain A. Yanez,

Acting Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 97–29352 Filed 11–5–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

Notice of Request for Reinstatement, Without Change, of a Previously Approved Collection for Which Approval Is Scheduled To Expire

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), this notice announces the Saint Lawrence Seaway Development Corporation's (SLSDC's) intention to request the reinstatement, without change, of a previously approved collection for which approval is scheduled to expire.

DATES: Comments on this notice must be received by January 5, 1998.

ADDRESSES: Send comments to Marc C. Owen, Chief Counsel, Saint Lawrence Seaway Development Corporation, 400 Seventh Street, S.W., Suite 5424, Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Scott A. Poyer, Chief Economist, Saint Lawrence Seaway Development Corporation, Office of Great Lakes Pilotage, United States Department of Transportation, 400 7th Street SW., Suite 5424, Washington, DC 20590, (800) 785–2779, or Marc C. Owen, Chief Counsel, Saint Lawrence Seaway Development Corporation, 400 Seventh Street, S.W., Suite 5424, Washington, D.C. 20590, (800) 785–2779.

SUPPLEMENTARY INFORMATION:

Title: Great Lakes Pilotage Rate Methodology.

OMB Control Number: 2135–0501.

Expiration Date: February 28, 1998.

Type of Request: Reinstatement without change, of a previously approved collection for which approval is scheduled to expire.

Abstract: The Great Lakes Pilotage Act of 1960 authorizes the Director of Great Lakes Pilotage to prescribe a uniform system of accounts and to perform audits and inspections of Great Lakes pilot associations. The Director uses this information to carry out financial oversight of the Great Lakes pilot associations and to set pilotage rates. The specific information to be filed by respondents is set forth in 33 CFR Parts 404–407.

Respondents: Great Lakes Pilot Associations.

Estimated Number of Respondents: 3.

Average Annual Burden Per Respondent: 6 hours.

Estimated Total Burden on Respondents: 18 hours.

This information collection is available for inspection at the Saint Lawrence Seaway Development Corporation, 400 Seventh Street, S.W., Suite 5424, Washington, D.C. 20590. Copies of 33 CFR Parts 404–407 can be obtained from Mr. Scott Poyer at the address and telephone number shown above.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the SLSDC, including whether the information will have practical utility; (b) the accuracy of the SLSDC's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and

clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Issued at Washington, D.C. on November 3, 1997.

Saint Lawrence Seaway Development Corporation.

David G. Sanders,

Acting Administrator.

[FR Doc. 97–29384 Filed 11–5–97; 8:45 am]

BILLING CODE 4910–61–U

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

October 23, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0794.

Form Number: IRS Form 8554.

Type of Review: Revision.

Title: Application for Renewal of Enrollment to Practice Before the Internal Revenue Service.

Description: This information related to the approval of continuing professional education programs and the renewal of the enrollment status for those individuals admitted (enrolled) by the Internal Revenue Service.

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 39,500.

Estimated Burden Hours Per Respondent/Recordkeeper: 1 hour, 12 minutes.

Frequency of Response: Other (One-time filing).

Estimated Total Reporting/Recordkeeping Burden: 47,400 hours.

OMB Number: 1545–1096.

Form Number: Form 9117.

Type of Review: Revision.

Title: Excise Tax Program Order Blank for Forms and Publications.

Description: Form 9117 allows taxpayers who must file Form 720 returns a systemic way to order additional tax forms and informational publications.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 15,000.

Estimated Burden Hours Per Respondent: 3 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 500 hours.

OMB Number: 1545–1271.

Regulation Project Number: REG–208165 (formerly INTL–54–91) and REG–209035–86 (formerly INTL–178–86) NPRM.

Type of Review: Extension.

Title: Transfers of Stock or Securities by U.S. Persons to Foreign Corporations, and Foreign Liquidations and Reorganizations.

Description: A U.S. person must generally file a gain recognition agreement with the Service in order to defer gain on a section 367(a) transfer of stock to a foreign corporation, and must file a notice with the Service if it realizes any income in a section 367(b) exchange. These requirements ensure compliance with the respective sections.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 600.

Estimated Burden Hours Per Respondent: 4 hours.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 2,400 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 97–29313 Filed 11–5–97; 8:45 am]

BILLING CODE 4830–01–P

UNITED STATES INFORMATION AGENCY

Summer Institute for the Study of the United States for Foreign Secondary School Teachers and Teacher Trainers

ACTION: Notice—Request for Proposals.

SUMMARY: The Branch for the Study of the U.S. of the Office of Academic Programs of the United States Information Agency's Bureau of Educational and Cultural Affairs announces an open competition for an assistance award program entitled "Summer Institute for the Study of the United States for Foreign Secondary School Teachers and Teacher Trainers." Public and private non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501(c) may apply to develop a six-week graduate-level program designed for a multinational group of up to 30 secondary school teachers and teacher trainers. The program is intended to provide participants with a deeper understanding of the United States so that textbooks, curricula and teaching about U.S. society, culture and institutions in foreign secondary schools and teacher training institutions will be improved. Tentative program dates are June 20 through July 31, 1998.

USIA is seeking detailed proposals from colleges, universities, consortia of colleges and universities, and other not-for-profit academic organizations that have an established reputation in the disciplines and sub-disciplines that comprise American Studies, and that can demonstrate expertise in conducting graduate-level programs for foreign educators. *Applicant institutions must have a minimum of four years' experience in conducting international exchange programs.* The project director or one of the key program staff responsible for the academic program must have a doctoral degree in American studies or a related discipline. Staff escorts traveling under the USIA cooperative agreement support must be U.S. citizens with demonstrated qualifications for this service.

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Pub. L. 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world."

Programs and projects must conform with Agency requirements and guidelines outlined in the Solicitation Package. USIA projects and programs are subject to the availability of funds.

Announcement Name and Number: All communications with USIA concerning this announcement should refer to the above title and reference number E/AAS–98–10.

Deadline For Proposals: All copies must be received at the U.S. Information Agency by 5:00 p.m. Washington D.C. time on Friday, January 16, 1998. Faxed documents will not be accepted, nor will documents postmarked January 16, 1998 but received at a later date. It is the responsibility of each applicant to ensure that proposal submissions arrive by the deadline.

FOR FURTHER INFORMATION CONTACT: U.S. Information Agency, Office of Academic Programs, Branch of the Study of the United States (E/AAS), 301 4th Street, S.W., Room 256, Washington, D.C. 20547, Attn: Program Officer Susan Zapotoczny, Telephone number (202) 619–4557, Fax number (202) 619–6790, Email address: szapotoc@usia.gov.

Please use the above information to request a Solicitation Package, which contains more detailed award criteria; required application forms; and standard guidelines for preparing proposals (including specific information on budget preparation).

Please specify USIA Program Officer Susan Zapotoczny on all inquiries and correspondence. Interested applicants should read the complete **Federal Register** announcement before addressing inquiries to the office listed above or submitting their proposals. Once the RFP deadline has passed, USIA staff may not discuss this competition in any way with applicants until after the Bureau proposal review process has been completed.

To Download a Solicitation Package Via Internet: The Solicitation Package may be downloaded from USIA's website at http://www.usia.gov/education/rfps. Please read all information before downloading.

To receive a solicitation Package Via Fax On Demand: The entire Solicitation Package may be received via the Bureau's "Grants Information Fax on Demand System," which is accessed by calling 202/401–7616. Please request a "Catalog" of available documents and order numbers when first entering system.

Submissions: Applicants must follow all instructions given in the Solicitation Package. The original and 13 copies of the complete application should be sent to: U.S. Information Agency, Ref.: E/AAS–98–10, Office of Grants Management, E/XE, Room 326, 301 4th Street, S.W., Washington, D.C. 20547.

Applicants must also submit the "Executive Summary" and "Proposal Narrative" section of the proposal on a 3.5 inch diskette formatted for DOS. This material must be provided in ascii text (DOS) format with a maximum line length of 65 characters.

Diversity, Freedom and Democracy Guidelines: Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. *Diversity* should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the "Support for Diversity" section for specific suggestions on incorporating diversity into the total proposal. Pub. L. 104–319 provides that "in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy," USIA "shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries." Proposals should account for advancement of this goal in their program contents, to the full extent deemed feasible.

SUPPLEMENTARY INFORMATION:

Overview

The Summer Institute for the Study of the U.S. for Foreign Secondary School Teachers and Teacher Trainers aims to provide a deeper understanding of U.S. civilization among foreign educators who are concerned professionally with teaching about the United States. It is further intended to encourage and support their efforts to improve the quality of teaching, textbooks, and curricular materials about the United States at secondary schools and teacher training institutions abroad.

The program should offer participants a specially-designed series of lecutures, presentations, discussions, site visits, and curricular research opportunities. All activities should be related to a central theme in U.S. civilization, and the program as a whole should examine various aspects of U.S. society, culture, values and institutions, past and present, providing a good overview for participants.

The program should be six weeks in length, including a residency segment at a U.S. college or university campus (a minimum of four weeks in length), and a study tour segment (a maximum of two weeks in length) to up to three additional regions of the U.S., including a visit to Washington, D.C. at the conclusion of the program.

Institute Objectives

—to present an intensive, academically stimulating program that presents a multi-dimensional view of the United States through an integrated series of lectures, readings, interactive discussions, individual research and study opportunities, and site visits.

—to draw from a variety of academic disciplines in order to deepen the participants' understanding of the unity, diversity, and complexity of U.S. society, culture, and institutions. Major issues, debates, and conflicts in U.S. society, past and present, including their origins and the role they have played in the development of U.S. civilization, should also be examined.

—to enhance teaching about the U.S. in foreign secondary schools and teacher training institutions by making appropriate scholarly resources, pedagogical materials and ideas available to participants. Participants should return home with an ability to communicate a deeper and more informed view of the U.S. to students and colleagues.

Program Dates

Tentative program dates are June 20 through July 31, 1998. Participants would arrive on June 19 and depart August 1. USIA will make every effort to award the grant by March 1, 1998.

Participants

The program should be designed for a total of 30 highly-motivated foreign secondary school teacher trainers, textbook writers, curriculum developers, education ministry officials and classroom teachers, whose professional assignments require significant knowledge of U.S. civilization, and who have broad responsibility for curriculum design and improvement. Participants will be involved in the teaching of English language, American literature, U.S. government, history, geography, social studies, or other courses that include U.S. studies content. Participants will be drawn from all regions of the world, and will be fluent in the English language.

Participants will be nominated by Fulbright Commissions abroad, and

selected by the staff of USIA's Branch of the Study of the United States in Washington, D.C. USIA and the Commissions will cover all international travel costs directly.

Guidelines

The conception, design, structure, and, ultimately, the content of the institute program is entirely the responsibility of the organizers. However, given the many possible approaches to a program on U.S. civilization, organizers are expected to submit proposals that articulate in concrete detail how they intend to organize and implement the institute.

Consistent with the institute's overall thematic organization, the program should engage the constituent disciplines that make up American studies (e.g., literature, history, political science, economics, geography, sociology, etc.) as vehicles for helping foreign educators understand, teach, and write about the United States.

The selected grant organizations will be responsible for most arrangements associated with this program. This includes the organization and implementation of all presentations and program activities, arrangement of all domestic travel, provision of appropriate lodging, subsistence, and ground transportation for participants, orientation and briefing of participants, preparation of any necessary support materials (including a pre-program mailing to participants), and working with program presenters to achieve maximum program coordination and effectiveness.

Please refer to the Solicitation Package for further details on program design and implementation, as well as additional information on all other requirements.

Proposed Budget

Unless special circumstances warrant, based on a group of 30 participants, the total USIA-funded budget (program and administrative) should not exceed $236,000, and USIA-funded administrative costs as defined in the budget details section of the solicitation package should not exceed $56,000. Justification for any costs above these amounts must be clearly indicated in the proposal submission. Any grants awarded to eligible organizations will less than four years of experience in conducting international exchange programs will be limited to $60,000. Applicant proposals should try to maximize cost-sharing in all facets of the program and to stimulate U.S. private sector, including foundation and corporate, support. Applicants must submit a comprehensive line item budget for the entire program, based on the specific guidance provided in the Solicitation Package. The Agency reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program, and availability of U.S. Government funding.

Please refer to the "FOGI" in the Solicitation Package for complete budget guidelines and formatting instructions for the institute program.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. Eligible proposals will be forwarded to panels of USIA officers for advisory review. All eligible proposals will also be reviewed by the program office, as well as the USIA Georgraphic Area Offices. Proposals may also be reviewed by the Office of the General Counsel or by other Agency elements. Funding decisions are at the discretion of the USIA Associate Director for Educational and Cultural Affairs. Final technical authority for assistance awards (grants or cooperative agreements) resides with the USIA grants officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered, and all carry equal weight in the proposal evaluation:

1. *Overall Quality:* Proposals should exhibit originality and substance, consonant with the highest standards of American teaching and scholarship. Program should reflect an overall design whose various elements are coherently and thoughtfully integrated. Lectures, panels, field visits and readings, taken as a whole, should offer a balanced presentation of issues, reflecting both the continuity of the American experience as well as the diversity and dynamism inherent in it.

2. *Program Planning:* Proposals should demonstrate careful and detailed planning. The organization and structure of the Institute should be clearly delineated and be fully responsive to all program objectives. The travel component should not simply be a tour, but should be an integral and substantive part of the program, reinforcing and complementing the academic segment.

3. *Institutional Capacity:* Proposed personnel, including faculty and administrative staff as well as outside presenters, should be fully qualified to achieve the project's goals. Library and media resources should be accessible to participants; housing, transportation and other logistical arrangements should be fully adequate to the needs of participants and should be conducive to a collegial atmosphere.

4. *Diversity:* Proposals should demonstrate the recipient's commitment to promoting the awareness and understanding of diversity throughout the program. This can be accomplished through documentation, such as a written statement, summarizing past and/or on-going activities and efforts that further the principle of diversity within the organization and its activities. Program activities that address this issue should be highlighted.

5. *Experience:* The proposal should demonstrate an institutional record of successful exchange program activity, indicating the experience that the organization and its professional staff have had in working with foreign educators.

6. *Evaluation and Follow-up:* The proposal should include a plan for evaluating activities during the Institute and at its conclusion. Proposals should detail the provisions made for follow-up with returned grantees as a means of establishing longer-term individual and institutional linkages.

7. *Administration and Management:* The proposals should indicate evidence of continuous on-site administrative and managerial capacity as well as the means by which program activities will be implemented.

8. *Cost Effectiveness:* The proposals should maximize cost-sharing through direct institutional contributions, in-kind support, and other private sector support. Overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible.

Notice

The terms and conditions published in this RFP are binding and may not be modified by an USIA representative. Explanatory information provided by the Agency that contradicts publishec language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The Agency reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funding. Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal USIA procedures.

Notification

Final awards cannot be made until funds have been appropriated by Congress, and allocated and committed through internal USIA procedures.

Dated: October 31, 1997.

Robert L. Earle,

Deputy Associate Director for Educational and Cultural Affairs.

[FR Doc. 97–29373 Filed 11–5–97; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0396]

Proposed Information Collection Activity: Proposed Collection; Comment Request; Extension

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on certification of training under the Service Members Occupational Conversion and Training Act.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 5, 1998.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to "OMB Control No. 2900–0396" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–8310 or FAX (202) 273–5981.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title and Form Number: Certification of Training (Under the Service Members Occupational Conversion and Training Act), VA Form 22–8929.

OMB Control Number: 2900–0396.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: Public Law 102–484 established the Service Members Occupational Conversion and Training Act (SMOCTA). Section 4467 requires monthly or quarterly certification of training under SMOCTA. An employer uses VA Form 22–8929 to advise VA of: (1) the number of hours a veteran has worked in an approved program during each month; (2) the amount and date of payment the employer has made to the veteran for the purchase of any tools and work-related equipment; and (3) the training status of the veteran (e.g., currently training, satisfactorily completed training, quit, laid off, etc.). Continued use of VA Form 22–8929 is necessary to authorize reimbursement to an employer.

Affected Public: Business or other for-profit, Individuals or households, State, Local or Tribal Government, and Not-for-profit institutions.

Estimated Annual Burden: 500 hours.

Estimated Average Burden Per Respondent: 30 minutes per application.

Estimated Annual Recordkeeping Burden: 85 hours.

Estimated Average Burden Per Recordkeeper: 1 hour.

Frequency of Response: Monthly or Quarterly.

Estimated Number of Respondents: 1,000.

Estimated Number of Recordkeepers: 85.

Dated: October 27, 1997.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 97–29310 Filed 11–5–97; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register
Vol. 62, No. 215
Thursday, November 6, 1997

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 213a and 299

[INS No. 1807–96]

RIN 1115–AE58

Affidavits of Support on Behalf of Immigrants

Correction

In rule document 97–27605, beginning on page 54346, in the issue of Monday, October 20, 1997, make the following corrections:

1. On page 54348, in the third column, in the third line, "obliagion" should read "obligation".

§ 213a.2 [Corrected]

2. On page 54353, in § 213a.2, in the third column, the paragraph designation "(C)(1)" should read "(C)(*1*)".

3. On page 54354, in § 213a.2, in the first column, the paragraph designation "(2)" should read "(*2*)".

4. On the same page, in the second column, in § 213a.2, in the third full paragraph, "B." should read "(B)".

5. On page 54356, in the first column, in the signature line, "*Immigrant*", should read "*Immigration*".

BILLING CODE 1505-01-D

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 214

[INS 1427-83]

RIN 1115-AC51

Nonimmigrant Classes; Treaty Aliens; E Classification

Correction

In rule document 97–22314, beginning on page 48138, in the issue of Friday, September 12, 1997, make the following correction:

§ 214.2 [Corrected]

On page 48146, in the second column, in § 214.2(e)(4), in the last line, "101(a)(15)(e)" should read "101(a)(15)(E)".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 10 and 15

[CGD 94-055]

RIN 2115-AF23

Licensing and Manning for Officers of Towing Vessels

Correction

In proposed rule document 97–28409 beginning on page 55548 in the issue of Monday, October 27, 1997 make the following corrections:

(1) On page 55548, in the third column:

(a) Under the heading **SUMMARY**, in the next to the last line "the" should read "and".

(b) Under the same heading, in the last line "requirement" should read "requirements".

(c) Under the heading **ADDRESSES**, in the second paragraph, in the fourth line "the" should read "this".

(2) On page 55549, in the first column:

(a) Under the heading **Request for Comments**, in the third paragraph, in the ninth line "late" should read "later".

(b) In the next to the last line "improvement" should read "improvements".

(3) On the same page, in the second column, in the fourth full paragraph, in the third line "matters" should read "mariners".

(4) On page 55552, in the first column, under the heading *12.Title Terminology*, eight lines from the bottom "mater" should read "mate".

(5) On the same page, in the third column, in the fourth line "two" should read "tow".

(6) On page 55556, in the first column, in the fourth line "2.B2.e (34)" should read "2.B.2.e.(34)(c)".

BILLING CODE 1505-01-D

federal register

Thursday
November 6, 1997

Part II

Department of Housing and Urban Development

24 CFR Parts 203 and 206

Single Family Mortgage Insurance—Loss Mitigation Procedures; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 203 and 206

[Docket No. FR–4032–F–04]

RIN 2502–AG72

Single Family Mortgage Insurance—Loss Mitigation Procedures

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This rule implements as final an interim rule that amends 24 CFR part 203 to eliminate the Mortgage Assignment Program and to provide that HUD may: Recompense mortgagees for using mortgage foreclosure alternatives, such as special forbearance, loan modifications, and deeds in lieu of foreclosure; pay the mortgagee a partial claim which would be applied to the arrearage of a defaulted mortgage; and accept assignment of a mortgage which the mortgagee has modified to cure the default.

EFFECTIVE DATE: February 1, 1998.

FOR FURTHER INFORMATION CONTACT: Joseph McCloskey, Director, Single Family Servicing Division, Room 9178, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, (202) 708–1672, or, TTY for hearing and speech impaired, (202) 708–4594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act Statement

This rule's information collection requirements have been submitted for approval to the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). An OMB control number, when assigned, will be published in the **Federal Register**. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

II. Background

On July 3, 1996 (61 FR 35014) the Department published an interim rule to implement loss mitigation procedures under section 407 of The Balanced Budget Downpayment Act, I (Pub. L. 104–99, approved January 26, 1996) (Downpayment Act). Public comments on the interim rule were invited for a period of 60 days, until September 3, 1996. Delayed implementation dates of March 1, 1997, were included for provisions in two sections of the interim rule (24 CFR 203.355(a) and 203.402(f)) so that the Department would be able to consider any public comments on these provisions before making them effective in a final rule. The March 1, 1997 implementation date for these sections was suspended until the issuance of a final rule by an amendment published on March 5, 1997 (62 FR 9930). On November 12, 1996, HUD issued Mortgagee Letter 96–61. This letter provides information regarding changes to special forbearance, mortgage modification, pre-foreclosure sales procedures and deeds-in-lieu of foreclosure, and introduces the use of partial claims, measurement of lender performance and provisions for incentive payments and reimbursements. Included as attachments to the mortgagee letter are a checklist of eligibility criteria for each of the loss mitigation procedures and instructions required to file a claim. HUD also issued Mortgagee Letter 97–17, May 1, 1997, regarding loss mitigation clarification of procedures, and Mortgagee Letter 97–21, May 16, 1997, regarding Performance Scores.

III. Changes in the Final Rule

A number of changes from the interim rule are made in this final rule. They are described briefly below in this section, and more fully in section IV. of this preamble, in the discussion of the public comments received on the interim rule.

—The final rule has added a new § 203.341 to explicitly state that mortgage insurance remains in force after payment of a partial claim.

—The titles of §§ 203.342 and 203.616 are changed from "Recasting of mortgage" to "Mortgage modifications."

—HUD has amended the final rule at § 203.355(a) to clarify that the loss mitigation provisions may be used in combination.

—HUD has rewritten § 203.355(g), (h) and (i) to provide 90 days for the lender to try another loss mitigation tool or to proceed to foreclosure after the failure of any loss mitigation tool.

—The effective dates of the foreclosure timing and cost reimbursement provisions in §§ 203.355 and 203.402, respectively, are changed to February 1, 1998.

—To be consistent with the other paragraphs under § 203.371(b), the reference to "The mortgage" in paragraph (b)(1) is changed to read "the mortgagor". The reference in paragraph (b)(5) to "financially able" is clarified to "financially qualified" to reflect more accurately instances in which a mortgagor may have the funds but not the equity to support a modification.

—The words "accumulated during the forbearance period" are deleted from § 203.414(a) to more accurately reflect the authorizing statute and avoid a potential technical limit on the amount recoverable under a partial claim.

—Section 203.552 is also clarified to provide that mortgagees may collect fees from mortgagors to the extent not reimbursed by HUD.

IV. Response to Public Comments

Thirteen comments were received in response to the July 3, 1996 interim rule. Four of the comments were from mortgagees; four were from public interest groups; two were from State housing finance agencies; two were from individuals; and one was from an industry association. HUD has reviewed the comments received in response to the interim rule and decided that some changes should be made in the final rule. The following discussion addresses the changes or additions to the rule and the administrative issuances, in response to the public comments received on the Loss Mitigation ("LM") interim rule. The discussion is organized by the section of the interim rule that is being commented on, with specific subject headings under each rule section, as warranted.

Section 203.342 Recasting of Mortgage

One comment observed the rule does not define, here and in § 203.471, "circumstances beyond the control."

Response: Please note the response to this comment in the discussion under § 203.471, below.

Section 203.350 Assignment of Mortgage

Assignment Program Grace Period. Two comments stated a grace period needs to be implemented between the termination of the Assignment Program on April 26, 1996, and the implementation of alternative procedures.

Response: The statute established April 26, 1996 as the ending date for the Assignment Program and provided for processing of applications submitted before that date. HUD continues to process all assignment applications received prior to April 26, 1996.

Assignment of modified mortgage. One comment stated HUD should positively commit to accepting assignment of a mortgage upon fulfillment of the requirements of § 203.350.

Response: The statement that HUD "may" accept an assignment in paragraph (a) of this section repeats the statutory language, which establishes the circumstances under which HUD is permitted to accept the assignment of a mortgage. Since HUD has worked with GNMA to change the repooling requirements (*see* Mortgagee Letter 96–32, June 28, 1996) HUD foresees no occasion when a mortgage will not be able to be repooled or when assignment to HUD will be necessary. Nevertheless, the authority to accept assignments in rare and unforeseen circumstances remains available.

Section 203.355 Acquisition of Property

Lender's Final Determination and Needs of Mortgagors. One comment stated that the over-arching flaw of these alternatives is that their use is left entirely to the discretion of lenders. Another comment argued that lenders who hold HUD-insured mortgages have no significant incentives to work with homeowners to avoid foreclosure, and they do not do so. This comment went on to say the regulations fall short in designing a reasonable response to the needs of low-income homeowners for foreclosure prevention and relief.

Response: Under the Loss Mitigation program the lender will have the final determination on the use of LM measures and will have incentives to try to use them where appropriate. Unlike the Assignment Program, none of these LM measures is an entitlement, and thus the lender has more discretion with regard to administering these measures. Lenders must use their judgement in deciding which LM measure is appropriate for a particular mortgagor. The language that the interim rule adds to § 203.501 and Mortgagee Letter 96–61 provides a process through which a borrower's eligibility for loss mitigation is determined. The statute provides that the lender will be given the discretion to decide which LM measures will be used in a particular case.

FHA programs are meant to be self-sustaining, and an essential element of these loss mitigation measures is that they must decrease the insurance funds' prospective losses (or at least not increase the funds' prospective losses). Thus, HUD must balance the needs of mortgagors with the need to mitigate losses to the mortgage insurance funds. These measures are designed for mortgagors who prospectively can recover from their financial difficulties. If the mortgagor has not recovered financially within 18 months, HUD analysis and experience indicate that the prospects for recovery are poor. Two reasons for a cap on the term of forbearance are to limit the level of losses to the insurance fund and to prevent borrowers from getting too deeply into arrears.

Training Lenders and Housing Counseling Agencies in LM Program. One comment noted that without better training programs, manuals, and instructions, coupled with meaningful FHA oversight, the benefits of these alternatives will not be realized by either HUD or homeowners. Another comment strongly recommended that, with HUD implementing these changes, more training be provided to Housing Counselors across the country.

Response: HUD will promote mortgagee participation in LM, and provide training to lenders and monitor their performance. HUD has already provided Loss Mitigation training to some lenders and housing counseling agencies and will provide additional training in the near future.

Shorter Foreclosure Initiation Period. Three comments supported the reduction of the foreclosure initiation period from nine to six months as realistic and consistent with conventional loan servicing procedures. One of these comments was pleased that the implementation of the reduced period was delayed in the interim rule. Three other comments opposed reducing the time frame of foreclosure to six months as too short to allow mortgagors to work out plans with mortgagees and resolve circumstances.

One comment argued the requirement in § 203.355(h) to initiate foreclosure within 90 days of a borrower's failure to meet the terms of a special forbearance agreement is not a sufficient time period, given that mortgagees may not proceed with foreclosure until a borrower's failure has continued for 60 days. Sixty days from the 60-day failure, a total of 120 days, would be more workable. Another comment on this section recommended § 203.355(h) should clarify that foreclosure must be initiated within the time period of paragraph (a)—nine or six months from the date of default—or within 90 (or 120) after the borrower's failure to meet the special forbearance requirements, whichever is later.

Response: HUD considers the six-month period for initiating foreclosure to be adequate. The industry standard is four months. If HUD continues to use a nine-month period, the Department will incur additional expense. Also, the longer foreclosure is delayed, the less likely it is that a mortgage will be cured. The final rule is being amended by adding a new paragraph (i) at § 203.355 to clarify that if a lender enters into a loss mitigation relief measure and it fails, the six-month requirement is extended by an additional ninety days to allow the lender to try another loss mitigation tool or go to foreclosure. It is also to be expected that if after six months no loss mitigation measure is workable, then foreclosure is inevitable.

HUD believes that the "window" for initiating foreclosure provides the lender with adequate time in special forbearance cases. The lender determines when LM fails or no other LM tool is applicable. In each instance, the lender must initiate foreclosure within 90 days. There is no need to expand this 90-day deadline in the rule, since the lender is able, in any case where additional time would facilitate mitigating loss, to request an extension from HUD.

Simultaneously Considering LM and Pursuing Foreclosure. The preamble to the interim rule states that HUD will "generally" permit mortgagees simultaneously to consider loss mitigation actions and to proceed with foreclosure to meet the new six-month time period. One comment requested HUD to clarify its use of the term "generally," because mortgagees need to understand the specific circumstances under which HUD would find it appropriate and acceptable to stop or delay foreclosure for mortgagors who are actively negotiating or paying under a loss mitigation plan.

Response: The final rule at § 203.355 has clarified that lenders may use loss mitigation tools and take foreclosure action in combination. The prospect of foreclosure is an effective incentive to borrowers in negotiating workouts and the rule is intended to allow flexibility in this interrelationship. As stated in the preamble to the interim rule (at 61 FR 35015, column 2 and 3), HUD believes that early intervention—before six months of delinquent payments—is necessary for effective LM, and the lender may make timely preparations for initiation of foreclosure while pursuing LM actions. In addition, on a case-by-case basis, the lender may request an extension to the 6-month deadline from the field office.

HUD has rewritten § 203.355(g) and (h) to provide 90 days to try another loss mitigation tool or to proceed to foreclosure after the failure of any loss mitigation tool.

Using LM tools in combination. One comment requested that the regulation be explicit in informing lenders and homeowners that the loss mitigation tools may be used singly or in combination. Although the preamble explains that the servicing actions or strategies may be used in combination, § 203.355(a) implies just the opposite by

saying that "the mortgagee shall take one of the following actions within [nine or] six months of the date of default . . ."

Response: The LM provisions may be used in combination and HUD has amended the final rule at § 203.355(a) accordingly. This is discussed on page 2 of Mortgagee Letter 96–61, where HUD says that the LM strategies "may be used singly or in combination, as required on a case-by-case basis." In accordance with the explicit legislative intent, HUD will defer to the discretion of the lender in applying loss mitigation measures.

Section 203.371 Partial claim

Partial Claim and Special Forbearance. One comment asked if the forbearance agreement at § 203.371(a) must meet the requirements of a "special" forbearance agreement.

Response: The forbearance discussed in § 203.371(a) need not be "special forbearance" under § 203.471 to qualify for a partial claim.

Special Forbearance Period of 18 Months. One comment argued the planned 18 month limit on special forbearance is an arbitrary period of time and is too short. HUD has put all authority to provide assistance in the hands of the mortgagee. Only if the mortgagee decides to provide special forbearance (which HUD intends to limit to 18 months), and the homeowner is then able to make full mortgage payments, will HUD provide a partial claim to the mortgagee at the end of the special forbearance period.

Response: HUD has determined that an 18-month period for special forbearance is sufficient to allow the mortgagor to recover financially. In addition, this limit is reasonable in view of the statutory limit (amended § 230(a) of the National Housing Act, 12 U.S.C. 1715u(a)) that partial claims may not exceed 12 monthly mortgage payments (PITI) and any costs related to default that are approved by HUD.

Partial Claim Filing. A comment asked if the mortgagee may choose when to file a partial claim under § 203.371(b)(1) after the mandated default period has passed.

Response: Mortgagee Letter 96–61, in the claims instructions for partial claims, specifies the window of time for filing the claim, namely, between the time the subordinate lien to HUD has been executed and 60 days after it has been recorded.

Repooling Modified Loans. One comment stated the rule does not indicate whether GNMA or non-GNMA investors have approved or considered the requirement that to file a partial claim, the mortgagor must not be able to support monthly mortgage payments for a modified loan in which the total arrearage is included. If investors prohibit loan modification under circumstances in which the rule requires such activity, servicers could be caught in the middle. HUD should establish underwriting criteria for eligibility of mortgagors for the proposed loan modification program. Another comment asked if HUD will provide definitive guidelines for making determinations of a borrower's financial capacity under § 203.371(b) (4) and (5) to refinance or support a modified mortgage.

Response: HUD has worked out an understanding with GNMA for revised pooling requirements to assure repooling and minimize this problem. HUD expects that in almost all cases, mortgage modifications can be effected in such a way as to be repoolable, that is, at an interest rate and with a new term (*e.g.*, 360 months) that will meet GNMA pooling requirements. Nevertheless, in the limited circumstances where a modified mortgage cannot be repooled, HUD will establish criteria for accepting a modified mortgage for assignment, and provide guidance in a future Mortgagee Letter.

Servicing the HUD-held Second Mortgage. Three comments recommended the rule should state that a mortgagee is entitled to a fee for servicing when HUD accepts assignment and requires a mortgagee to continue servicing the loan under § 203.371(d). One of these comments argued that given the low balances, a percentage based servicing fee would not be sufficient. Another comment stated the vast majority of mortgagees are not experienced in servicing "soft seconds," the subordinate lien arising from payment of a partial claim, and most computer systems are not programmed to handle such unique debt instruments. This comment recommended that HUD solicit a limited number of servicers to service the subordinate liens on behalf of HUD. On a related issue, one comment recommended that the guidelines should make clear that the subordinate mortgage may call for repayment of the partial claim amount at a future date or at the time of transfer of property or payoff of the insured mortgage. HUD should also specify that subordinate mortgages will be at zero percent interest.

Response: HUD intends to continue to reserve the right to require lenders to service second mortgages executed in connection with partial claims. However, as noted in Mortgagee Letter 96–61, since the subordinate mortgage carries no interest or monthly payments and is due only when the first mortgage is paid in full, foreclosed, or when the borrower no longer occupies the property, HUD has decided to hold and service these mortgages at this time.

Mortgagee Advances—Reimbursement in the settlement of the Partial Claim. One comment asked if a partial claim payment will include mortgagee advances on behalf of the borrower.

Response: Mortgagees will be reimbursed, in accordance with Mortgagee Letter 96–61 instructions for Item 107 in the claims instructions for a Partial Claim. Item 107 provides for reimbursement of the total arrearage that accumulated during the forbearance period, including PITI and necessary advances for assessments, but excluding late fees and foreclosure costs.

Loan Insurance After a Partial Claim. One comment stated the rule should clarify that if a default occurs after payment of a partial claim, the full amount of remaining principal, advances and accrued debenture interest with applicable costs is payable in a subsequent foreclosure and conveyance claim.

Response: After a partial claim, the remaining loan remains insured. The final rule has added a new § 203.341 to explicitly state that mortgage insurance remains in force after payment of a partial claim, as is already done in existing LM actions such as special forbearance and loan modification.

Using the Partial Claim Procedure to Erase Excess of Debt Over Current Market Value. One comment suggested HUD might consider using the partial claim process to pay out insurance coverage on any gap between the loan balance and the market value. This would pay down the debt to a market value, make the lender whole, and allow the mortgage payments to be reduced to a lower amount on the net balance of the remaining rate and term.

Response: FHA mortgages, even when LM is to be considered, are not meant to be "shared-depreciation mortgages." While the Pre-Foreclosure Sale procedure accomplishes something similar to this (although the mortgagor necessarily loses the property), the negative equity position is not an appropriate reason for using the Partial Claims procedure. The mortgagor remains liable for the full amount of the debt even if there is negative equity, just as the mortgagor would benefit if the property were to appreciate in value.

Section 203.402 Items Included in Payment

Tying Reimbursement to LM Success Rates. A number of comments stated they were opposed to the change that would permit HUD to vary the percentage of foreclosure and acquisition expenses through an administrative issuance rather than through the rulemaking process. Setting the reimbursement levels for these costs is important enough to be addressed through a notice and comment rulemaking process rather than administrative issuance. One comment suggested that the rule should specify a level of reimbursement (*e.g.*, up to 100 percent and not less than 50 percent) for foreclosure costs or costs of acquiring the property, rather than state that the percentage reimbursed will be determined by HUD. Another comment argued HUD should not tie the reimbursement of foreclosure fees and costs to loss mitigation performance, because loss mitigation success is influenced by a number of factors, such as the age of the portfolio, geography, and whether the loan was acquired, that are independent of mortgagee efforts. The level of reimbursement should take into consideration the percentage of loss mitigation cures versus the percentage of foreclosures, reinstatements, servicing acquisitions and peer performance. HUD should work with the mortgage industry to develop a fair and equitable performance model. Another comment also questioned the ability to develop a fair and equitable calculation methodology that would accurately measure mortgagee performance without incorporating factors over which mortgagees have little or no control. The comment concluded that even the best of loss mitigators cannot overcome origination and underwriting deficiencies.

Response: In the interim rule, HUD specifically requested public comment and provided for a delayed implementation date to allow for consideration of comments received for both the foreclosure timing and cost reimbursement provisions in §§ 203.355 and 203.402, respectively. With the March 5, 1997 publication of the suspension of these provisions, they will not take effect until a minimum of sixty days after publication of this final rule in the **Federal Register**. The rule satisfies the concerns expressed in relation to reimbursement reductions, since the lowered rate of reimbursement for foreclosure costs at § 203.402(f), will apply only to mortgages endorsed on or after February 1, 1998. Lenders have had an opportunity to comment on this point, and these provisions are not going into effect without the opportunity for prior notice and comment. The other changes to § 203.402 do not constitute reductions.

HUD has undertaken an effort to streamline its rules, and that policy is being followed in this rule. Minimizing the detail put into the rule will give HUD the flexibility to make appropriate amendments in a timely manner in response to the experience of lenders and HUD with LM procedures, and to vary the reimbursement for LM measures according to lender performance. HUD will address the reimbursement of foreclosure costs in future mortgagee letters.

HUD's ranking model was announced in Mortgagee Letter 97–21, May 16, 1997. In developing this model, HUD considered these comments, met with industry representatives, and adopted some of the comments. As a result, HUD believes the model provides a fair basis for ranking lenders.

HUD contends that LM has a significant impact upon losses to FHA insurance funds based on foreclosure avoidance. HUD has and will continue to work with industry to provide equitable performance measurements. HUD is creating an incentive for lenders to intervene early in the default cycle to address delinquencies.

Tying the foreclosure cost reimbursement to lender performance is part of the LM incentive structure. Not only do lenders receive cash incentives for performing LM, but lenders must accept some risk, in the form of absorbing foreclosure costs, for their LM decisions or failure to use LM tools. Mortgagee Letter 97–21, on page 2, provides that lenders in the top 25% of each of the performance groups (high, medium and low volume) will receive 75% reimbursement of foreclosure costs.

HUD believes that LM is a win-win-win proposition for borrowers, lenders and HUD. Borrowers get an opportunity to retain home ownership; lenders can better manage their inventory losses through early default intervention; and HUD can better protect the insurance funds to continue providing affordable housing opportunities.

How Reimbursement for LM Will be Made. One comment stated the rule needs to clarify if HUD will reimburse for loss mitigation efforts in the event a mortgage insurance claim is filed or whether a separate transaction driven claim process is envisioned.

Response: Mortgagee Letter 96–61 and the claims instructions attachments explain how the reimbursement is accomplished. Generally, lenders may submit a claim for each LM tool when it is put in place. Should the loan go to foreclosure despite the lender's LM efforts, the lender may file a claim for the insurance benefits.

Mortgagee Monitoring by HUD. One comment recommended that in reimbursing mortgagees for foreclosure and acquisition costs, and in the payment of partial claims, HUD should closely monitor mortgagees to make sure they are making good faith efforts to bring accounts current before initiating foreclosure on mortgagors.

Response: HUD realizes that mortgagees will need to be monitored on their implementation of LM, and HUD has allocated staff and modified automated procedures to accomplish this. HUD is monitoring lenders' performance and will take necessary enforcement actions to assure compliance with servicing requirements.

Section 203.412 Payment for Foreclosure Alternative Actions

Lender Incentives. One comment stated payment of insurance benefits for loss mitigation activities, if adequate, will provide a near-term benefit that could balance the cost of employing loss mitigation techniques. If HUD wishes to avoid the costs associated with default and foreclosures, it must be willing to pay a reasonable amount to the lender and the borrower.

Response: HUD believes that lenders will have sufficient incentive to employ LM measures. While the reimbursements and incentives provided by HUD may not by themselves be decisive, lenders and servicers are in business to make money holding and servicing loans that perform. To the extent that LM actions result in mortgagors' retention of their homes, mortgagees retain their business. In addition, when a lender conveys a property to HUD, the lender, under the final rule, has to absorb one third or more of the foreclosure costs and forego substantial interest revenue. Thus, if the lender refuses to consider loss mitigation, the lender will certainly lose. Mortgage insurance continues after the LM is undertaken, whether successfully or not. The authorizing statute is explicit in directing HUD to give the mortgagee latitude to exercise their discretion in deciding upon using Loss Mitigation measures. The rule requires mortgagees to review each case monthly and determine which LM tool to utilize.

Fees (including attorney fees) Incurred in LM Actions. One comment suggested that in addition to reimbursement for any title examination

and/or title insurance policy endorsement, mortgagees should be reimbursed for their legal costs incurred in connection with a mortgage modification or recasting.

Response: The claims instructions issued in Mortgagee Letter 96–61 provide for payments to partially offset "administrative fees" (Item 129 on the claim) for special forbearance, loan modification, deed in lieu and partial claim to offset the lender's costs and thereby provide an incentive to undertake LM measures. The Department considers these fees adequate. In addition, HUD provides a payment for consideration to mortgagors in pre-foreclosure sale and deed-in-lieu cases.

Section 203.414 Amount of Payment—Partial Claims

Arrearage. Two comments recommended the rule should clarify that arrearage includes principal, interest, late charges, taxes, and other fees (inspection fees, attorney's fees, bankruptcy and foreclosure fees, insufficient check fees, late charges) necessary to bring the loan current.

Response: Mortgagee Letter 96–61 clarified "mortgage payment" to consist of PITI. The arrearage includes only PITI; no other costs are eligible for reimbursement under a partial claim, although the lender will also receive a flat administrative fee and will be reimbursed recordation costs.

Section 203.471 Special Forbearance

Circumstances Beyond the Mortgagor's Control. One comment observed HUD has not defined, here and in § 203.342, "circumstances beyond the control." This leaves servicers open to being second-guessed.

Response: HUD does not intend to second-guess lenders who reasonably provide for the use of LM tools. HUD defined "circumstances" in an objective manner in Mortgagee Letter 96–61 to address a broad audience of homeowners. The Letter indicates that "Homeowners may be considered for special forbearance provided they have recently experienced (1) an involuntary reduction in income or an increase in living expenses and (2) the lender determines the borrower has a reasonable ability to pay under the terms of the forbearance plan to eliminate the arrearage."

Non-hardship Forbearance. One comment claimed the concept of penalizing the lender by not reimbursing those forbearance delinquencies which are not caused by hardship will stifle the incentive of the lenders to forbear.

Response: HUD's loss mitigation program does not have a "hardship" test. As noted immediately above, FHA has broadened the basis for when special forbearance and mortgage modification may be considered as available loss mitigation tools. The lender must now confirm that the homeowner has experienced a loss of income or an increase of expenses to qualify for special forbearance.

Section 203.552 Fees and Charges after Endorsement

Elimination of Regulatory Control of Post-endorsement Fees and Charges. One comment stated HUD needs to be moving towards eliminating regulatory control over post endorsement fees and charges.

Response: The setting of post endorsement fees and charges by the Department provides consistency where needed and allows regional differences where HUD deems appropriate. Releasing or withdrawing any oversight in setting those fees would lead to far more disparate treatment of mortgagors than is done currently.

Section 203.605 Loss Mitigation Evaluation

When the Mortgagor Does Not Qualify or is Uncooperative. One comment recommended no further evaluations should be necessary once a determination is made that the mortgagor does not qualify or is uncooperative. Another comment requested that to help assure that lenders are not at risk for allegations of fair lending violations, HUD should establish specific standards for actions that mortgagees should take to determine a defaulted borrower's eligibility for loss mitigation measures. Such standards would address the issue of borrowers whose circumstances would qualify them for loss mitigation, but who do not seek out the mortgagee for such assistance.

Response: Mortgagee Letter 96–61 and the checklists in Attachment A to the Letter describe the qualifications for LM and also state that LM should be used where "appropriate." After review and consideration of all LM tools and all the facts of the case, the lender can decide to decline to grant LM to an uncooperative mortgagor in accordance with this general principle of appropriateness.

Under the pre-foreclosure sale (PFS) procedure, the mortgagor's good-faith efforts are required and monitored. Besides PFS, the cooperativeness of the mortgagor would be relevant to special forbearance, partial claim and loan modification. Mortgagee Letter 96–61 requires that, in these cases, the mortgagor should have "a commitment to remain in" the home (see checklists in Attachment A). The cooperative participation of the borrower is implicit in this criterion.

Loss mitigation does not add new requirements related to Fair Housing. HUD expects lenders will comply fully with existing fair lending laws and will continue to ensure compliance with those laws. The object of LM is to avoid foreclosure, and lenders must justify use or non-use of all LM tools and reevaluate monthly. In this respect, lenders are directed to HUD's Mortgagee Letter 96–61, page 3, and § 203.605 of this final rule.

Section 203.606 Pre-Foreclosure Review

Notice to the Mortgagor of the Consequences of Default. One comment stated that although the rule states the required notification to the mortgagor of default and the mortgagee's intent to foreclose will be in "a format prescribed by the Secretary," the industry would welcome the opportunity to comment on the content of the notice. The notice should be firm in explaining the consequences of inaction, while also being informative and consumer-friendly to encourage communication with the mortgagee.

Response: HUD will seek comments relative to possible modifications of mortgagor notification required by § 203.606.

Use of HUD-approved Housing Counseling Agencies. One comment suggested that the use of Housing Counseling Agencies should be a part of all mortgagee letters to mortgagors when requesting payments and/or information. Another comment stated that HUD should strongly recommend that mortgagees provide donations to counseling agencies in their communities.

Response: Regarding the use of housing counseling agencies, HUD's current practice, in accordance with the requirements of § 203.602, is that the lender must send the mortgagor a delinquency notice (currently in the form of the "Avoiding foreclosure" pamphlet) during the second month of delinquency (see Handbook 4330.1 REV–5, Par. 7–7G and Appendix 19). This notice includes a recommendation to contact a HUD-approved housing counseling agency.

Some lenders already sponsor or form partnerships with counseling agencies. However, it would be inappropriate for HUD to recommend that mortgagees make donations to counseling agencies.

Section 203.616 Recasting of Mortgage

Time for lenders to implement the recasting requirement. One comment noted that mortgagees generally do not have established procedures and documents for modifications and recasting of insured loans. Mortgagees will have to establish such procedures after reviewing detailed underwriting standards yet to be set by HUD. March 1, 1997, is too soon to implement the recasting requirement.

Response: HUD believes that with the issuance of Mortgagee Letter 96–61, November 12, 1996, and Mortgagee Letter 97–17, May 1, 1997, the lenders have sufficient time to gear up for this procedure.

Scope of recasting. One comment noted the regulation is currently written as if recasting the unpaid amount due over the remaining term of the mortgage is the only option available. Language should be added to allow specifically for modification such as an interest rate reduction, or conversion from an ARM to a fixed rate mortgage. In addition, the comment recommended the heading for this section should read: *Modifying/Recasting of mortgage.*

Response: HUD acknowledges the potential ambiguity of the rule language pointed out by this comment and has clarified the rule to indicate that adjustments to both term and interest rate are permitted. There is no prohibition of reduction of interest rate or conversion from ARM to fixed. In addition, HUD is changing the titles of §§ 203.342 and 203.616 to "Mortgage Modifications."

Recasting Current Loans and Fair-lending Complaints. HUD should reconsider whether to provide for recasting of a current loan, because of the small population of loans that would be served by this provision, which may, nonetheless, give rise to complaints based on fair housing or other grounds.

Response: The LM tools represent a spectrum of foreclosure-avoidance techniques, not all of which can be applied to particular buyers, but which as a whole represent substantial opportunities for FHA borrowers to maintain home ownership. As stated in the response under § 203.605, above, loss mitigation does not add new requirements related to Fair Housing; HUD expects lenders will comply fully with existing fair lending laws and will continue to ensure compliance with those laws.

V. Findings and Certifications

Environmental Impact

At the time of publication of the interim rule, a Finding of No Significant Impact with respect to the environment was made in accordance with HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The interim rule is adopted by this final rule without significant change. Accordingly, the initial Finding of No Significant Impact remains applicable, and is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the office of the Rules Docket Clerk at the above address.

Congressional Review of Major Final Rules

This rule is a "major rule" as defined in the Administrative Procedure Act (5 U.S.C. 804(2)), and will be submitted to the Congress for review in accordance with the statutory procedure.

Regulatory Flexibility Act

The Secretary, in accordance with provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that it will not have a significant economic impact on a substantial number of small entities. Most of the economic impact of the rule will affect the Department, which stands to benefit from the successful implementation of the loss mitigation techniques addressed by the rule.

Executive Order 12612, Federalism

HUD has determined, in accordance with Executive Order 12612, *Federalism*, that this rule will not have a substantial, direct effect on the States or on the relationship between the Federal government and the States, or on the distribution of power or responsibilities among the various levels of government, since the rule involves primarily relationships between the Department and private entities.

Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks

This rule will not pose an environmental health risk or safety risk on children.

The Catalog of Federal Domestic Assistance Number for Single Family HOME Insurance is 14.117.

List of Subjects

24 CFR Part 203

Hawaiian Natives, Home improvement, Indians—lands, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

24 CFR Part 206

Aged, Condominiums, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the preamble, parts 203 and 206 of title 24 of the Code of Federal Regulations are amended by adopting the interim rule published in the **Federal Register** on July 3, 1996 (61 FR 35014) as final with the following changes:

PART 203—SINGLE FAMILY MORTGAGE INSURANCE

1. The authority citation for part 203 continues to read as follows:

Authority: 12 U.S.C. 1709, 1710, 1715b, and 1715u; 42 U.S.C. 3535(d).

2. A new § 203.341 is added to read as follows:

§ 203.341 Partial claim.

If the conditions of § 203.371 are met and a partial claim is paid pursuant to that section, the contract of insurance shall continue in force, except as otherwise provided in this subpart.

3. Section 203.342 is revised to read as follows:

§ 203.342 Mortgage modification.

If a mortgage is recast pursuant to § 203.616, the principal amount of the mortgage, as modified, shall be considered to be the "original principal balance of the mortgage" as that term is used in § 203.401.

4. In § 203.355, paragraphs (a), (c), (g) introductory text, and (h) are revised and a new paragraph (i) is added to read as follows:

§ 203.355 Acquisition of property.

(a) *In general.* Upon default of a mortgage, except as provided in paragraphs (b) through (i) of this section, the mortgagee shall take one of the following actions within nine months from the date of default, or within any additional time approved by the Secretary or authorized by §§ 203.345 or 203.346. For mortgages where the date of default is on or after February 1, 1998, the mortgagee shall take one or a combination of the following actions within six months of the date of default or within such additional time approved by HUD or authorized by §§ 203.345 or 203.346:

(1) Obtain a deed-in-lieu of foreclosure (see §§ 203.357, 203.389 and

203.402(f) of this part) with title being taken in the name of the mortgagee or the Secretary;

(2) Commence foreclosure;

(3) Enter into a special forbearance agreement under § 203.614;

(4) Complete a modification of the mortgage under § 203.616;

(5) Complete a refinance of the mortgage under § 203.43(c);

(6) Complete an assumption under § 203.512;

(7) File a partial claim under § 203.371; or

(8) Initiate a pre-foreclosure sale under § 203.370.

* * * * *

(c) *Prohibition of foreclosure within time limits.* If the laws of the State in which the mortgaged property is located, or Federal bankruptcy law:

(1) Do not permit the commencement of foreclosure within the time limits described in paragraphs (a), (b), (g), (h) and (i) of this section, the mortgagee must commence foreclosure within 90 days after the expiration of the time during which foreclosure is prohibited; or

(2) Require the prosecution of a foreclosure to be discontinued, the mortgagee must recommence the foreclosure within 90 days after the expiration of the time during which foreclosure is prohibited.

* * * * *

(g) *Pre-foreclosure sale procedure.* Within 90 days of the end of a mortgagor's participation in the pre-foreclosure sale procedure, *or* within the time limit described in paragraph (a) of this section, whichever is later, if no closing of an approved pre-foreclosure sale has occurred, the mortgagee must obtain a deed in lieu of foreclosure, with title being taken in the name of the mortgagee or the Secretary, or undertake one of the actions listed at § 203.355(a). The end-of-participation date is defined as:

* * * * *

(h) *Special forbearance.* If the mortgagor fails to meet the requirements of a special forbearance under § 203.614 and the failure continues for 60 days, the mortgagee must undertake one of the actions listed at § 203.355(a) within the time limit described in paragraph (a) of this section or 90 days after the mortgagor's failure to meet the special forbearance requirements, whichever is later.

(i) *Modification under § 203.616, refinance under § 203.43(c), or assumption under § 203.512.* Provided that the mortgagee has established the mortgagor's eligibility within the time frame provided in § 203.355(a), if a mortgagee enters into a loss mitigation relief measure (*i.e.*, modification under § 203.616, refinance under § 203.43(c), or assumption under § 203.512) and it fails, the six-month period provided in § 203.355(a) is extended by an additional 90 days to allow the mortgagee to try another loss mitigation tool or go to foreclosure.

5. In § 203.371, paragraphs (b)(1) and (b)(5) are revised to read as follows:

§ 203.371 Partial claim.

* * * * *

(b) * * *

(1) The mortgagor has been delinquent for at least 4 months or such other time prescribed by HUD;

* * * * *

(5) The mortgagor is not financially qualified to support monthly mortgage payments on a modified mortgage or on a refinanced mortgage in which the total arrearage is included.

* * * * *

6. In § 203.402, paragraph (f) is revised to read as follows:

§ 203.402 Items included in payment—conveyed and non-conveyed properties.

* * * * *

(f) Foreclosure costs or costs of acquiring the property otherwise (including costs of acquiring the property by the mortgagee and of conveying and evidencing title to the property to HUD, but not including any costs borne by the mortgagee to correct title defects) actually paid by the mortgagee and approved by HUD, in an amount not in excess of two-thirds of such costs or $75, whichever is the greater. For mortgages insured on or after February 1, 1998, the Secretary will reimburse a percentage of foreclosure costs or costs of acquiring the property, which percentage shall be determined in accordance with such conditions as the Secretary shall prescribe. Where the foreclosure involves a mortgage sold by the Secretary on or after August 1, 1969, or a mortgage executed in connection with the sale of property by the Secretary on or after such date, the mortgagee shall be reimbursed (in addition to the amount determined under the foregoing) for any extra costs incurred in the foreclosure as a result of a defect in the mortgage instrument, or a defect in the mortgage transaction or a defect in title which existed at or prior to the time the mortgage (or its assignment by the Secretary) was filed for record, if the mortgagee establishes to the satisfaction of the Commissioner that such extra costs are over and above those customarily incurred in the area.

* * * * *

7. In § 203.414, paragraph (a) is revised to read as follows:

§ 203.414 Amount of payment—partial claims.

(a) *Claim Amount.* Where a claim for partial insurance benefits is filed in accordance with § 203.371, the amount of the insurance benefits shall consist of the arrearage not to exceed an amount equivalent to 12 monthly mortgage payments, and any costs prescribed by HUD related to the default.

* * * * *

8. In § 203.552, paragraph (a) introductory text is revised to read as follows:

§ 203.552 Fees and charges after endorsement.

(a) The mortgagee may collect reasonable and customary fees and charges from the mortgagor after insurance endorsement only as provided below. The mortgagee may collect these fees or charges from the mortgagor only to the extent that the mortgagee is not reimbursed for such fees by HUD.

* * * * *

9. Section 203.616 is revised to read as follows:

§ 203.616 Mortgage modification.

The mortgagee may modify a mortgage for the purpose of changing the amortization provisions by recasting the total unpaid amount due for a term not exceeding 360 months. The mortgagee must notify HUD of such modification in a format prescribed by HUD within 30 days of the execution of the modification agreement.

Dated: September 16, 1997.

Stephanie A. Smith,

General Deputy Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 97–29374 Filed 11–5–97; 8:45 am]

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federal register

Thursday
November 6, 1997

Part III

Environmental Protection Agency

40 CFR Part 80

Fuels and Fuel Additives; Elimination of Oxygenated Fuels Program Reformulated Gasoline (OPRG) Category From the Reformulated Gasoline Regulations; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[FRL–5817–7]

RIN 2060–AH43

Fuels and Fuel Additives; Elimination of Oxygenated Fuels Program Reformulated Gasoline (OPRG) Category From the Reformulated Gasoline Regulations

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: In this action, the reformulated gasoline (RFG) regulations are amended to eliminate the separate treatment for a category of gasoline used in oxygen averaging. This category, oxygenated fuels program reformulated gasoline (OPRG), includes reformulated gasoline intended for use in a state oxygenated fuels program during the winter time. Under the current RFG regulations, a refiner must meet the oxygen content standards on average for the entire pool of gasoline they produce, and for the pool of gasoline they produce that is non-OPRG. EPA is taking this action because it no longer believes a distinction between OPRG and RFG that is not intended for oxygenated fuels program areas (i.e., non-OPRG) is necessary and because removal of the OPRG category would add flexibility and reduce compliance costs for regulated parties, without producing a negative environmental impact. Today's rule also removes a prohibition on adding oxygen to finished RFG, which will provide parties in RFG/oxygenated fuels program overlap areas with added flexibility in meeting both programs' standards.

EFFECTIVE DATE: November 3, 1997.

FOR FURTHER INFORMATION CONTACT: Anne-Marie C. Pastorkovich at (202) 233–9013.

SUPPLEMENTARY INFORMATION:

I. Regulatory Entities

Regulatory categories and entities potentially affected by this action include:

Category	Examples of regulated entities
Industry	Refiners, importers, oxygenate blenders of reformulated gasoline.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could be potentially regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your entity is regulated by this action, you should carefully examine the existing provisions at 40 CFR 80.2, 80.65, 80.67, 80.69, 80.75, 80.77, 80.78, and 80.128, dealing specifically with OPRG. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding FOR FURTHER INFORMATION CONTACT section.

II. Background

On March 17, 1997, EPA proposed amendments to the reformulated gasoline (RFG) regulations that would eliminate the oxygenate program reformulated gasoline (OPRG) category.[1] As explained in that notice, EPA issued the proposed rule for several reasons. First, between 1993, when the final RFG rule was issued, and 1995, when the RFG program was implemented, the number of overlapping oxygenated fuels program and RFG areas significantly decreased. Although EPA is concerned that the statutory mandate for 2.0 weight percent oxygen for RFG is met,[2] the Agency feels that the specific risk of uneven RFG quality due to overlapping oxygenated fuels/RFG program areas is significantly less than was expected when the RFG regulations were promulgated. There is still some risk that an area might receive relatively low oxygen RFG because of averaging, but the risk is no longer as likely to be specifically caused by program overlap as in 1993 and 1994.

Second, based upon EPA estimates made prior to the beginning of the first year of the RFG program, approximately one-third (33%) of all gasoline nationwide was predicted to be RFG. Oxygenated fuels program overlap areas outside of California accounted for approximately one-third (33%) of the total RFG pool, with approximately 19% going to the New York CMSA.[3] EPA believes that any risk that an area might receive low oxygen RFG is significantly less than it appeared in 1993 and 1994. As discussed in great detail in the proposed rule,[4] in 1994, roughly one-third of RFG was expected to be destined for several oxygenated fuels overlap cities outside of California. Today, the New York City CMSA is the only remaining overlap area outside California, although the Phoenix, Arizona moderate ozone nonattainment area opted into the RFG program[5] and is also an oxygenated fuels area. EPA continues to believe that the risk that an area might receive low oxygen RFG can be adequately addressed through another existing compliance mechanism—the RFG surveys required by 40 CFR 80.68.

III. Response to Comments

Effective Date: Three commenters wanted the rule to go into effect by the November 1, 1997, the start date for the 1997–1998 winter oxygenated fuels program. A fourth commenter wanted the rule to go into effect "as expeditiously as due process considerations allow." The rationale for the earliest effective date is to allow regulated parties to take advantage of maximum flexibility.

However, another commenter urged EPA to implement the change effective January 1, 1998, in order to alleviate financial burdens on certain regulated parties. Specifically, companies may have entered into contracts under which they have already paid for credits needed this year. An implementation date earlier than January 1, 1998 would, according to the commenter, devalue those purchased credits without the possibility of a refund to the purchaser.

EPA believes that the rule should go into effect by November 1, 1997, concurrent with the start of the oxygenated fuels program, in order to allow regulated parties maximum flexibility. A January 1, 1998 start date falling in the middle of the state oxygenated fuels programs, would likely add unnecessary confusion. Delaying the start date until after the 1997–1998 oxygenated fuels season, e.g. until March 1, 1998 or later, would impose an unnecessary burden on the majority of parties. Today's rule removes burdens associated with the maintenance of separate recordkeeping, reporting, and product transfer documentation for OPRG and non-OPRG categories, resulting in a general reduction in compliance costs. A greater cost benefit would be realized by the vast majority of parties if the rule is effective on November 1, 1997, the start date of the oxygenated fuels program. Today's rule eliminates the prohibition on adding oxygen to finished RFG, which provides regulated parties in overlap areas with added flexibility in meeting both RFG and oxygenated fuels program standards.

Although there may be an adverse effect on a few parties, the vast majority will benefit from the earliest implementation of today's rule.

EPA has provided guidance on submitting 1997 RFG reports elsewhere in this notice.

Effects on Compliance Burdens and Recordkeeping

Five commenters agreed that the rule to do away with the distinction between OPRG/non-OPRG will help add flexibility and reduce compliance burdens. Three of these five also agreed that this will also reduce compliance costs. EPA concurs with these statements. A sixth commenter was concerned that this rule will increase refiner's compliance burdens, but did not elaborate on how these burdens will increase. EPA believes that the reduction of the recordkeeping and reporting burdens associated with the OPRG category results in a positive impact in terms of cost, burden, and time for the vast majority of regulated parties.

Reporting

Some commenters who were supportive of the proposal also noted that they might not have sufficient lead time to redesign their accounting methods and reporting software. These commenters asked for flexibility in reporting. One commenter asked that reporting parties should be given the option of reporting the OPRG/non-OPRG categories for reports covering calendar year 1997.

EPA understands that this change may require alterations to some parties' accounting methods and software. For annual reports covering calendar year 1997 and for batch reports after November 1, 1997, a reporting party may choose to report using the OPRG/non-OPRG categories (i.e., to report "as usual") or to report all OPRG in the appropriate non-OPRG categories.

For 1997 and subsequent years, EPA will look to the refiner's entire RFG production in order to determine compliance with the annual average for oxygen and will no longer recognize any distinction between OPRG and non-OPRG. The same approach will apply for compliance with the oxygen average for VOC-controlled RFG under the simple model.

EPA plans to amend its reporting forms as soon as practicable in order to reflect the elimination of the OPRG/non-OPRG distinction.

The RFG reports affected by this rule are: "Reformulated Gasoline Program Oxygen Content Averaging Report" (Simple Model & Complex Model), "Reformulated Gasoline Program Credit Transfer Summary Report," and the "Reformulated Gasoline and Anti-Dumping Batch Reports."

Product Transfer Documentation

Some commenters have asked whether they must eliminate the OPRG/non-OPRG distinction on their product transfer documentation. Redesigned documentation and forms may not be ready by the effective date.

Today's action removes all OPRG/non-OPRG distinctions in the regulations as of the November 1, 1997 effective date. Although parties may continue to use product transfer documentation differentiating OPRG from non-OPRG, such distinction is not required by EPA because it no longer holds any importance. However, regulated parties may wish to phase-out their use of OPRG category reporting, in order to reduce confusion.

Effects on Oxygenate Use/Toxic Increase

One commenter stated that removal of the OPRG category will cause refiners to use less oxygenate and more aromatics in their gasoline. The addition of aromatics would substitute for lost octane. This effect was not quantified by the commenter, who stated that today's rule will cause the gasoline to emit more toxics.

It is important to remember that EPA has not altered the standards applicable to refiners for oxygen content and toxics under either the reformulated gasoline or oxygenated fuels programs. Furthermore, the gasoline quality survey program for oxygenates and toxics, and other enforcement mechanisms still exist to ensure that the full environmental benefits of the oxygenate content and toxics standards are realized.

It is possible that elimination of the OPRG/non-OPRG distinction may result in some decrease in the use of oxygenates, since credits generated in RFG areas that are also oxygenated fuels program areas (i.e. areas requiring a relatively high oxygen content of least 2.7 weight % oxygen during the winter months) may be used in RFG areas that are not oxygenated fuels program areas (i.e. areas requiring at least 2.0 weight % oxygen all year round). If oxygenate use decreases in some RFG/non-oxygenated fuels program areas, it is possible that toxics may increase in those areas. Nevertheless, EPA believes that the survey mechanism (discussed in greater detail for the following comment) is adequately designed to ensure the gasoline quality in each covered area will meet the standards on average for toxics.

Effects on Oxygenate Use/Survey Failures

EPA received comments pertaining to the oxygenate use and survey failures. The commenters all agreed that EPA's enforcement mechanisms, including gasoline quality surveys, provide a means to ensure compliance with RFG program requirements. Two commenters thought that there may be a marginal increase in risk, but this would be discovered through the surveys and corrected.

One commenter was concerned that blenders will take advantage of the elimination of the OPRG/non-OPRG distinction to minimize oxygenate use and this will cause areas to fail the surveys. A commenter felt that survey failures result from "refiners [who] are learning to use the [credit trading] program."[6]

EPA agrees that the risk of survey failures may increase in the absence of the OPRG/non-OPRG distinction, because more credits from RFG areas with wintertime oxygenated fuels program may be used by refiners to show compliance with the annual oxygen average applicable to the refiner, with less reliance on use of oxygen in RFG destined for RFG areas that are not

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[1] 62 FR 12586 (March 17, 1997).

[2] In oxygenated fuels program areas implemented by states as required by section 211(m) of the Act, the minimum oxygen content during the winter control period is 2.7 weight % oxygen. This minimum for oxygenated fuels control periods is unaffected by today's rule and remains in force. Nothing in today's rule changes the applicable oxygen standards under the Federal RFG or state oxygenated fuels programs.

[3] It should be noted that, since these estimates were made in 1994, some areas have opted out of the RFG program and Sacramento, California joined the program as a required covered area, and comparative volume totals will have changed somewhat as a result. These estimates are not based upon the comparative volume of OPRG to RFG. Rather, they are "straight" estimates of a program area's share of the total RFG "pool" and are not broken down into compliance categories. The reader should be aware that OPRG gasoline likely represents a smaller, subset of the total volume represented for each area. The untitled document from which the volume estimates were taken has been placed in the public docket, docket # A–97–01, Category II(B). The docket is located at the Air Docket Section, 401 M Street, SW, Room M–1500 Washington, DC and is open Monday through Friday from 8:00 a.m. to 5:30 p.m.

[4] 62 FR 12596, 12598.

[5] "Regulation of Fuels and Fuel Additives: Extension of the Reformulated Gasoline Program to the Phoenix, Arizona Moderate Ozone Nonattainment Area," 62 FR 30260 (June 3, 1997). The Arizona opt-in became effective on July 3, 1997 for all persons other than retailers and wholesale purchaser-consumers and August 4, 1997 for retailers and wholesale purchaser-consumers.

[6] The commenter also urged EPA to ratchet the minimum oxygen standard from 1.5 weight % to 1.6 weight % for areas that failed the oxygen survey series in 1996. On July 31, 1997, EPA published a notice in the Federal Register announcing a ratchet for several covered areas. Please refer to "Change in Minimum Oxygen Content for Reformulated Gasoline—Notice," 62 FR 41047 (July 31, 1997) for further information.

wintertime oxygenated fuels program areas. (See the preceding comment.)

The existence of the credit trading program was required by section 211(k)(7) of the Clean Air Act as amended in 1990, 42 U.S.C. § 7545. Compliance with the RFG oxygen standards is shown over the course of a calendar year averaging period. Credits may be traded within and between all covered areas. A general risk always exists, even in the absence of the OPRG/non-OPRG distinction, that one area may receive RFG with a slightly higher oxygen content than another area. The compliance survey provisions, with ratchets upon survey failures, were adopted by the Agency to address this risk. In 1993 and 1994, the specific risk of uneven RFG quality due to overlapping RFG and oxygenated fuels program areas was significantly greater than it is today. Since 1993 and 1994, many areas have redesignated to attainment for carbon monoxide (CO) and were able to drop the oxygenated fuels program. The specific risk that an area might receive relatively low oxygen RFG because of program overlap has lessened, and EPA believes that the existing survey and enforcement mechanisms are adequate to address any additional risks there might be from eliminating the OPRG/non-OPRG category.

Phoenix, AZ

Phoenix, AZ recently opted in to the Federal RFG program. One commenter stated that this should not affect the decision to remove the OPRG reporting category. EPA agrees with this comment. Overall, the number of non-California RFG/oxygenated fuels program overlap areas has decreased significantly since the RFG program regulations were finalized in 1993. EPA does not believe that the addition of Phoenix to the program warrants the burden and expense associated with retention of the OPRG category.

Economic Impact

EPA received one comment from a party who claimed that today's rule might have an unspecified negative economic impact on one sector of the oxygenate industry (i.e., the sector that deals with oxygen credit contracts). Another commenter stated that the effort of eliminating the OPRG/non-OPRG distinction may be a great one compared to the benefit received. All other commenters endorsed the proposed changes as economically beneficial.

EPA believes that the vast majority of regulated entities, including small businesses, are reasonably expected to experience significant cost savings as a result of today's regulation. EPA does not believe that today's action will, in and of itself, have any significant impact on oxygenate markets.

EPA disagrees with the characterization that the elimination of removing the OPRG/non-OPRG distinction would require great effort. The Agency has designed the regulatory changes to permit great flexibility for all affected parties. For example, EPA has permitted flexibility in reporting for all RFG and anti-dumping reports covering calendar year 1997 and due to be submitted on or after November 1, 1997.

III. Today's Rule

EPA is amending the Federal RFG regulations to remove the use of a separate OPRG category and to eliminate the distinction between OPRG and non-OPRG. The following sections would be affected by today's proposal. In most cases, the changes are minor and would remove references to, and distinctions between, the eliminated OPRG category and RFG which is non-OPRG.

40 CFR Part 80, Section	Description of change
Section 80.2—Definitions. 80.2(nn)	Definition of "Oxygenated fuels program reformulated gasoline," or "OPRG" is deleted.
Section 80.65—General requirements for refiners, importers, and oxygenate blenders. 80.65(d)(2)(iii) (A) and (B).	Requirements for designation of gasoline as OPRG or non-OPRG are deleted.
Section 80.67—Compliance on average. 80.67(f)(2)(ii), 80.67(h)(1)(v) (A) and (B).	Deletes requirements to meet oxygen average separately and to segregate credits for non-OPRG, since the OPRG versus non-OPRG distinction is eliminated.
Section 80.69—Requirements for downstream oxygen blending. 80.69(f) (1) and (2).	These sections are deleted, to reflect that there would no longer be a category known as "OPRG." [7]
Section 80.75—Reporting requirements. 80.75(f)(2)(ii)(A) (1) through (4) and (B) (1) and (2); 80.75(f)(2)(iii)(B); 80.75(h)(2) (i) and (ii) 80.75(p).	For 80.75(f)(2)(ii)(A) (1) through (4), the OPRG and non-OPRG distinction is eliminated. Thus, the only categories remaining are VOC-controlled (divided into subcategories 1 and 2) and non-VOC-controlled RFG. Section 80.75(f)(2)(ii)(B) (1) and (2) is deleted in order to eliminate to OPRG and non-OPRG distinction. Section 80.75(f)(2)(iii)(B), which refers to gasoline designated as non-OPRG, is deleted.
Section 80.77—Product transfer documentation. 80.77(g)(1)(ii)	Requirement to identify gasoline as OPRG or non-OPRG is deleted.
Section 80.78—Controls and prohibitions on reformulated gasoline. 80.78(a)(6).	Before today's rule, this section prohibits addition of oxygen to finished RFG, unless such RFG is designated as OPRG used in an oxygenated fuels control area during the oxygenated fuels control period. This OPRG "exception" is amended to allow for elimination of the OPRG/non-OPRG categories. Specifically, the amended section allows for addition of oxygenate to RFG intended for and used in an oxygenate gasoline program area.
Sections 80.128 and 80.129—Agreed upon procedures for refiners and importers and Agreed upon procedures for oxygenate blenders. 80.128(d)(2) and 80.129(d)(3)(iv).	Requirement to compare PTD designation consistency for OPRG versus non-OPRG is removed. Similar requirement for downstream oxygenate blenders is removed.

[7] Note the change to section 80.78(a)(6).

IV. Statutory Authority

Sections 114, 211, and 301(a) of the Clean Air Act as amended (42 U.S.C. 7414, 7545, and 7601(a)).

V. Environmental Impact

This rule is expected to have no environmental impact. The original reason for the OPRG category was concern that RFG quality might suffer in areas that were not both oxygenated fuels program and RFG areas. There were several such areas when the RFG rules were promulgated. However, there are now only two areas, the New York/New Jersey/Connecticut CMSA and Phoenix, Arizona, which currently have overlapping programs during the winter months. EPA is aware of no data indicating that today's regulation will encourage the use of lower oxygen content RFG. The oxygenated fuels program and RFG program oxygen standards remain in place. The RFG standards are Federally enforced through a variety of enforcement mechanisms, including the oxygen survey program, which is specifically designed to ensure that oxygen standards are met on average in all RFG cities.

VI. Economic Impact and Impact on Small Entities

EPA has determined that this final rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. Today's regulation would have a positive economic impact on the great majority of entities regulated by the RFG regulation, including small businesses. The elimination of the OPRG/non-OPRG distinction would result in increased flexibility for regulated parties, including refiners, importers, and blenders. Specifically, elimination of this distinction from the RFG regulations alleviates the burden and cost associated with maintenance of separate recordkeeping, reporting, and product transfer documentation category for OPRG and non-OPRG gasoline. Elimination of the OPRG/non-OPRG distinction should also result in a general reduction of compliance costs associated with the need to meet the oxygen average separately for two classes of RFG. A regulatory flexibility analysis has therefore not been prepared.

VII. Paperwork Reduction Act

Per the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and implementing regulations, 5 CFR Part 1320, this action does not involve the addition of any collection of information as defined therein.

VIII. Executive Order 12866

Under Executive Order 12866,[8] the Agency must determine whether a regulation is "significant" and therefore subject to interagency review under the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments of communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof, or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.[9]

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to interagency review under the Order.

IX. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("UMRA"), Pub. L. 104–4, EPA must prepare a budgetary impact statement to accompany any general notice of proposed rulemaking or final rule that includes a Federal mandate which may result in estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more. Under Section 205, for any rule subject to Section 202 EPA generally must select the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Under Section 203, before establishing any regulatory requirements that may significantly or uniquely affect small governments, EPA must take steps to inform and advise small governments of the requirements and enable them to provide input.

EPA has determined that this rule does not include a federal mandate as defined in UMRA. The rule does not include a Federal mandate that may result in estimated annual costs to State, local or tribal governments in the aggregate, or to the private sector, of $100 million or more, and it does not establish regulatory requirements that may significantly or uniquely affect small governments.

X. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) of the Regulatory Flexibility Act as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 80

Environmental protection, Air pollution control, Gasoline, Reformulated gasoline, Motor vehicle pollution.

Dated: October 31, 1997.

Carol M. Browner,

Administrator.

40 CFR part 80 is amended as follows:

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

1. The authority citation for part 80 continues to read as follows:

Authority: Secs. 114, 211, and 301(a) of the Clean Air Act as amended (42 U.S.C. 7414, 7545, and 7601(a)).

§ 80.2 [Amended]

2. Section 80.2 is amended by removing and reserving paragraph (nn).

§ 80.65 [Amended]

3. Section 80.65 is amended by removing and reserving paragraph (d)(2)(iii).

4. Section 80.67 is amended by removing and reserving paragraph (f)(2)(ii) and by revising paragraphs (h)(1)(v)(A)*(1)* and (h)(1)(v)(A)*(2)* and by removing and reserving paragraph (h)(1)(v)(B) and by removing paragraphs (h)(1)(v)(A)*(3)* and (h)(1)(v)(A)*(4)* to read as follows:

§ 80.67 Compliance on average.

* * * * *

(h) * * *

(1) * * *

(v) * * *

(A) * * *

(1) VOC controlled; and

(2) Non-VOC controlled.

(B) [Reserved]

* * * * *

§ 80.69 [Amended]

5. Section 80.69 is amended by removing paragraph (f).

6. Section 80.75 is amended by revising paragraphs (f)(2)(ii)(A)*(1)*, (f)(2)(ii)(A)*(2)*, (h)(2)(i)(A) and (h)(2)(i)(B) and by removing paragraphs (f)(2)(ii)(A)*(3)*, (f)(2)(ii)(A)*(4)*, (h)(2)(i)(C), (h)(2)(i)(D) and by removing and reserving (h)(2)(ii) to read as follows:

§ 80.75 Reporting requirements.

* * * * *

(f) * * *

(2) * * *

(ii) * * *

[8] 58 FR 51735 (October 4, 1993).

[9] Id. at section 3(f)(1)–(4).

(A) * * *

(1) Gasoline designated as VOC-controlled; and

(2) Gasoline designated as non-VOC-controlled.

* * * * * *

(h) * * *

(2) * * *

(i) * * *

(A) VOC-controlled; and

(B) Non-VOC-controlled.

* * * * * *

7. Section 80.77 is amended by removing and reserving paragraph (g)(1)(ii).

8. Section 80.78 is amended by revising paragraph (a)(6) to read as follows:

§ 80.78 Controls and prohibitions on reformulated gasoline.

(a) * * *

(6) No person may add any oxygenate to reformulated gasoline, except that such oxygenate may be added to reformulated gasoline provided that such gasoline is used in an oxygenated fuels program control area during an oxygenated fuels control period.

* * * * * *

9. Section 80.128 is amended by revising paragraph (d)(2) to read as follows:

§ 80.128 Agreed upon procedures for refiners and importers.

* * * * * *

(d) * * *

(2) Compare the product transfer documents designation for consistency with the time and place, and compliance model designations for the tender (VOC-controlled or non-VOC-controlled, VOC region for VOC-controlled, summer or winter gasoline, and simple or complex model certified); and

* * * * * *

10. Section 80.129 is amended by revising paragraph (d)(3)(v) to read as follows:

§ 80.129 Agreed upon procedures for downstream oxygenate blenders.

* * * * * *

(d) * * *

(3) * * *

(v) Review the time and place designations in the product transfer documents prepared for the batch by the blender, for consistency with the time and place designations in the product transfer documents for the RBOB (e.g. VOC-controlled or non-VOC-controlled, VOC region for VOC-controlled, and simple or complex model).

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[FR Doc. 97-29385 Filed 11-5-97; 8:45 am]

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federal register

Thursday
November 6, 1997

Part IV

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 870

Coal Moisture; Republication; Final Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 870

RIN 1029–AB78

Coal Moisture; Republication

Editorial Note: FR Doc. 97–22903 was originally published as Part II in the issue of Tuesday, August 29, 1997. The corrected document is republished below in its entirety at the request of the agency, due to the omission of the Table numbers.

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is amending its regulations governing how the excess moisture allowance is determined for reclamation fee purposes. This action defines terms and phrases related to the collection and testing of coal samples used to determine the inherent and total moisture of coal; identifies acceptable American Society for Testing and Materials (ASTM) standard sampling and testing methods for high and low-rank coals; prescribes frequencies for collecting and testing coal samples; and provides the coal industry with formulas for use in calculating an excess moisture tonnage allowance for the purpose of reducing the weight of coal subject to the abandoned mine land reclamation fee.

The regulatory revision clarifies and simplifies technical guidance for all users, and provides the coal industry with standard criteria for calculating an excess moisture allowance on all coals subject to reclamation fee payment. The intended effect of this revision is to enhance compliance with the provisions of section 402 of the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The prescribed criteria will ensure that all tonnage reductions for excess moisture are taken on comparable bases.

EFFECTIVE DATE: This regulation is effective October 1, 1997. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Dr. Kewal Kohli, Office of Surface Mining Reclamation and Enforcement, 3 Parkway Center, Pittsburgh, PA 15220; telephone (412) 937–2175.

SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion of Final Rule and Responses to Comments
A. Section 870.5—Definitions.
B. Section 870.18—General rules for calculating excess moisture.
C. Section 870.19—How to calculate excess moisture in HIGH-rank coals.
D. Section 870.20—How to calculate excess moisture in LOW-rank coals.
III. Procedural Matters

I. Background

Section 402(a) of the SMCRA requires all operators of coal mining operations subject to its provisions to pay a reclamation fee on each ton of coal produced. In December 1977, OSM first promulgated regulations to implement this provision (42 FR 62714, December 13, 1977). Briefly, the regulations require that the Abandoned Mine Land (AML) fees must be paid on the actual gross weight of the coal, at the time of the first transaction (sale, transfer of ownership, or use) involving the coal. This regulation has been in effect basically unchanged since 1977. In 1982, OSM revised the regulatory language to clarify the point in time of fee determination and to stress that the actual gross weight of the coal must be used for fee calculation. At that time OSM also specifically noted that no fees were owed on impurities physically removed before the sale, transfer of ownership, or use. In 1988, OSM again revised this regulation to allow an operator who mined coal after July 1, 1988, to elect to take an allowance for moisture contained in the coal at the time of sale that is determined to be in excess of the inherent, or natural bed, moisture in the coal.

Initially, OSM adopted the excess moisture allowance to address an inconsistency in the methods of determining coal weight under various Federal taxation requirements. At the time OSM proposed to amend its regulation to allow a deduction for excess moisture, the ASTM Committee on Coal and Coke, whose membership included representatives of the Internal Revenue Service (IRS) and OSM, was conducting a study to develop and/or confirm precision statements for the ASTM standard test method used to estimate the bed moisture in high-rank coals, ASTM D1412–85, as it applied to all coals. In a letter of November 16, 1987, the IRS submitted the following comment in response to the OSM proposal, "the results of the ASTM or a similar study should be received before one test is prescribed for use by all taxpayers."

As an interim measure, until adequate and fully reliable testing procedures became available for coals of all ranks, OSM's 1988 adopted regulation incorporated a suggestion made by the IRS. OSM decided to rely on a facts and circumstances test to allow an operator to elect to take an allowance for excess moisture provided the operator could demonstrate, through competent evidence, that there was a reasonable basis for determining the existence and amount of excess moisture. OSM's standard of reasonableness required an operator to provide sufficient documentation to sustain the weight reduction. Although no specific time periods were given for testing, an operator was also required to prove that time frames chosen to measure the existence and amount of excess moisture were reasonable.

The preamble to the 1988 rule discussed OSM's willingness to accept the ASTM standard test methods to determine inherent moisture, ASTM D1412–85, and total moisture, ASTM D3302–82, pending the availability of more suitable alternatives. OSM recognized that these tests were not always reliable for this purpose and acknowledged its willingness to accept other testing methods for some subbituminous and lignite coals. OSM also stated its intent to develop technical guidance to assist operators and to assure uniform application of the excess moisture allowance throughout the industry.

The final rule which OSM adopted in 1988, at 30 CFR 870.18, allowed an operator to elect to reduce the weight of coal tonnage subject to reclamation fee payment by a percentage of excess moisture estimated to be contained in the coal at the time of fee assessment. OSM subsequently issued five AML Payer Letters to provide technical guidance to the coal industry and assist with the application of this regulation. OSM also published the guidance in the OSM Payer Handbooks.

OSM's audits of excess moisture reduced tonnages find that operators frequently fail to conform to inherent moisture test procedures described in AML Payer Letters, and do not provide adequate support for procedures they do use. Some operators mining large volumes of low-rank coal base tonnage reductions on test data that is known to be unreliable.

On December 3, 1996 (61 FR 64220), OSM published its proposal for revising the rule in the **Federal Register**. The public comment period closed on February 3, 1997.

II. Discussion of the Final Rule and Responses to Comments

Five commenters commented on the proposed rule revision: two coal companies, a trade association, a law firm representing a coal company, and an industry consulting firm. The majority of the commenters supported the intent of consolidating previous guidance into a single rulemaking, but expressed various concerns on specific issues.

Based on the comments received, OSM is revising its regulations governing the excess moisture allowance to codify regulatory technical requirements as proposed, with some changes. The proposal incorporates by reference ASTM standards used for collecting and testing a coal sample as specified in 30 CFR 870.19(a), Table 1 and Table 2, and 30 CFR 870.20(a), Tables 1, 2, and 3. The ASTM standards were published in the 1994 Annual Book of ASTM Standards, Volume 05.05. A copy of the ASTM standards is available for inspection at the OSM Headquarters Office, Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 101, 1951 Constitution Avenue, NW., Washington, DC, and at the Office of the Federal Register, 800 North Capitol St., Washington, DC. The rule establishes a frequency for using ASTM standard test methods on coals of all ranks, and adopts the method approved by the ASTM to establish inherent moisture in low-rank coal, the ASTM D1412–93, Appendix X1. Use of this procedure for low-rank coal will ensure excess moisture allowances taken on low-rank coals are on a comparable basis to those taken on high-rank coal, and all excess moisture allowances are fair and equitable. Definitions for high and low rank coal are provided. The rule also includes an option that provides operators with a method to calculate an allowance for the excess moisture present in as-shipped coal. This is of particular benefit when an operator sells large volumes of coal, and/or sells coal with a substantial variance between the total and inherent moisture.

A. Section 870.5—Definitions

None of the commenters addressed this section, and the revised definitions for excess, inherent, and total moisture are being adopted as proposed. The definition for excess moisture is revised by including, by reference, a formula for use in calculating excess moisture in high and low-rank coals. The formula to be used for high-rank coals is found in a new section 870.19 and the formula for low-rank coals is found in a new section 870.20. The existing definition of inherent moisture is expanded to incorporate by reference the specific ASTM methods of sample collection and test procedures shown in section 870.19, Table 2, Calculating INHERENT moisture percentage in HIGH-rank coals, and section 870.20, Table 2, and Table 3, Calculating INHERENT moisture percentage in LOW-rank coals. The existing definition of total moisture is expanded to incorporate by reference ASTM criteria in section 870.19, Table 1, for Calculating the TOTAL moisture percentage in HIGH-rank coals, and section 870.20, Table 1, for Calculating the TOTAL moisture percentage in LOW-rank coals. The expansion of the existing definitions to incorporate by reference specific ASTM sample collection methods and test procedures provides precise technical standards to facilitate operater compliance with OSM's requirements, and provides a consistent basis to calculate all excess moisture allowances.

B. Section 870.18—General Rules for Calculating Excess Moisture

The modifications to 30 CFR 870.18, excess moisture content allowance at section 870.18(a), (b), and (c) are adopted as proposed. The previous section 870.18(a) required an operator to demonstrate through competent evidence that the basis for determining the existence and amount of excess moisture is reasonable. Section 870.18(b) required standard laboratory analyses for testing inherent and total moisture. Section 870.18(c) required an operator who blended coal mined from multiple seams prior to the initial sale, transfer, or use of the coal to test for variations in the inherent moisture amounts from different seams.

This revision replaces the reasonableness standard found at section 870.18(a), the generic laboratory test requirement at section 870.18(b), and the requirement for a separate test of coal from each seam mined prior to blending the coal for sale, transfer of ownership or use at section 870.18(c). The revision also recognizes the distinct differences in high and low-rank coals in sections 870.19 and 870.20. Section 870.19 provides acceptable standards for collecting and testing a sample of high-rank coals to establish the percentage of inherent and total moisture contained in the coal, and calculate the excess moisture allowance. Section 870.20 provides like standards for calculating the excess moisture allowance for low-rank coals.

Revised section 870.18(c) adds definitions to further explain the meaning of terms as they are used in new sections 870.19 and 870.20. "As-shipped coal" and "tipple coal" is defined as the coal found at the mine or loading facility. A precise meaning for a "channal sample" and "core sample" is given and the definitions incorporate by reference the specific ASTM procedure used to take the particular kind of sample. The "correction factor" is added as the method used to establish the difference between the equilibrium moisture and inherent moisture in low-rank coals under section 870.20. "Equilibrium moisture" is defined as the method used to estimate the inherent moisture in all coals, and ASTM D1412 and ASTM D1412, Appendix X1, are incorporated by reference. Types of "high-rank coals" and "low-rank coals" are defined to explain how these terms are used throughout sections 870.5 and 870.18–20.

C. Section 870.19—How To Calculate Excess Moisture in HIGH-Rank Coals

The new section 870.19, which provides standard criteria for an operator to use to establish excess moisture in high-rank coals, is being adopted as proposed. Table 1 includes the ASTM standard sample collection method, ASTM D2234–89, *Standard Test Methods for Collection of a Gross Sample of Coal*, that OSM will accept for use as the basis for calculating the percentage of total moisture in as-shipped high-rank coals each day the coal is either shipped or used. Table 1 also provides the test procedure, ASTM D3302–91, *Standard Test Method for Total Moisture in Coal*, that would be acceptable for that purpose.

Two commenters suggested that more than one test method be accepted for determining total moisture in high-rank coals. The prescribed test methodology is designed to provide operators with the most reliable means of determining the total moisture in the coals. While other methods are available, the results produced may be less accurate, and they are not incorporated as being acceptable in all cases. Operators wishing to use other methodologies should obtain prior OSM approval to avoid possible disallowance of their excess moisture amounts. The operator must demonstrate that the test used yields accurate results.

One commenter opposed the requirement to test for total moisture each day coal is shipped or used because:

—It would represent an excessive burden for small to medium-sized operators who do not now test for total moisture every day they ship coal;

—The cost involved with testing for total moisture every day in many cases will either exceed or substantially diminish the value of the coal moisture deduction; and
—The previous regulation did not require it.

The commenter recommended that one analysis of each stockpile of coal be allowed as an alternative to daily testing. OSM has considered these comments, but is retaining the daily testing requirement. The basis for the coal moisture deduction is to recognize that coal operators generally are not compensated for the weight of excess moisture in the coal they ship, and therefore, should not be required to pay fees on that weight. The total moisture of the coal can vary significantly from day to day based on weather and other conditions. The commenter stated that a single test of each stockpile, if depleted in 10 days or less, would provide an average value of the total moisture percentage for the stockpile for each day that the coal was used or shipped. In OSM's view, such an approach will not adequately recognize the variations in day-to-day moisture amounts and tonnages shipped. The more this relationship is obscured, the less relevant it becomes in recognizing the weight of excess moisture for which the operator may not be compensated.

OSM also recognizes that the cost of daily moisture tests could exceed the value of the excess moisture fee deduction that would be derived. For that reason, OSM emphasizes in section 870.16(a) that the operator may use the customer's test results on the shipped coal in support of an excess moisture deduction. It has been OSM's experience that the majority of buyers conduct such tests as part of their efforts to ensure quality. By obtaining copies of the test results and related records, the seller could avoid the expense of testing.

The daily total moisture test results must be converted to quarterly figures to be reported to OSM on the OSM–1 Form, Coal Reclamation Fee Report. To calculate the quarterly total moisture percentage an operator should: (1) Multiply the daily total moisture percentage by the tonnage shipped or used that day, to find the daily total moisture tonnage; and, (2) add the daily total moisture tonnage for each day in the quarter; and, (3) add the daily tonnage shipped or used in the quarter, to find the total tonnage shipped or used during the quarter. Then, divide the sum of the daily total moisture tonnage, step (2), by the sum of the daily tonnage shipped or used in the quarter, step (3). This will result in the total moisture percentage in high-rank coals for the quarter which is reported on the Coal Reclamation Fee Report.

Table 2 provides three methods for sampling high-rank coals, and testing the sample to determine the inherent moisture percentage that will be acceptable to OSM. To collect a coal sample directly from a coal seam an operator could use either a core or a channel sample method. If a core sample is collected the operator is required to collect the sample using procedures in ASTM D5192–91, *Standard Practice for Collection of Coal Samples from Core* and to test by ASTM D1412–93, *Standard Test Method for Equilibrium Moisture of Coal at 96 to 97 Percent Relative Humidity and 30°C.* If a channel sample is used, the operator is required to collect the sample using procedures in ASTM D4596–93, *Standard Practice for Collection of Channel Samples of Coal in a Mine* and to test by either ASTM D1412–93, *Standard Test Method for Equilibrium Moisture of Coal at 96 to 97 Percent Relative Humidity and 30°C,* or ASTM D3302–91, *Standard Test Method for Total Moisture in Coal.* To collect a sample of blended coal, as-shipped coal, tipple coal, commingled coal, or coal from slurry ponds an operator will use procedures in ASTM D2234–89, *Standard Test Methods for Collection of a Gross Sample of Coal* and test by ASTM D1412–93, *Standard Test Method for Equilibrium Moisture of Coal at 96 to 97 Percent Relative Humidity and 30°C* to estimate the inherent moisture.

An operator may select one of two options for timing inherent moisture tests, either quarterly or monthly. If a quarterly inherent moisture test is chosen, the operator must report the results of one inherent moisture test taken at any time during the quarter on the OSM–1 form for the quarter in which the test was taken. If monthly inherent moisture testing is preferred, the operator must create a 24-month inherent moisture baseline during the first 24-months a coal seam is in continuous operation. To create the 24-month inherent moisture baseline, an operator must collect and test one sample in each month of the calendar quarter. The quarterly inherent moisture percentage reported to OSM for each of the first 8 quarters a seam is in continuous operation is then based on a weighted average of the 3-monthly inherent moisture tests results from each quarter. To determine the quarterly weighted average inherent moisture percentage an operator would then: (1) Multiply the inherent moisture percentage for one month by the number of tons produced or shipped in that month to find the monthly inherent moisture tonnage; (2) add the inherent moisture tonnage determined in (1) for each of the 3 months to find the quarterly inherent moisture tonnage; (3) divide the inherent moisture tonnage found in (2) by the total number of tons produced or shipped during the three months of the quarter; and, (4) report the weighted average percentage determined in (3) for the quarter to OSM on the OSM–1 form. After the first 24-months, an operator would use an updated rolling average percentage to report inherent moisture percentages for all subsequent quarters in which a coal seam is continuously mined. The rolling average percentage would be calculated by: Adding the results of one inherent moisture test of one coal sample collected during every 12-month period to the inherent moisture percentages for the preceding 23 tests, and dividing the sum of these tests by 24.

Section 870.19(a) provides instruction on how an operator would calculate the excess moisture in high-rank coals by using one of two methods. One method involves the simple subtraction of the inherent moisture percentage from the total moisture percentage as it is found in the existing rule. OSM expects that most operators of small to medium size mines would likely prefer to continue to use this method. A new alternative formula is added as a second method in section 870.19(a) that allows an adjustment in the excess moisture calculation for a percentage of inherent moisture contained in the as-shipped coal. Some operators who either mine a large volume of coal, or mine coal with a significant variance in total and inherent moisture, have requested OSM's approval to use this formula for calculating a tonnage reduction for excess moisture. OSM is now providing this option as an alternative to the existing formula used to determine the excess moisture percentage. The excess moisture percentage found in section 870.19(a) is multiplied by the tonnage sold, transferred, or used during the quarter to determine the excess moisture reduced tonnage for the quarter under section 870.19(b).

D. Section 870.20—How To Calculate Excess Moisture in LOW-Rank Coals

A new section 870.20, which provides standard criteria for an operator to use to establish excess moisture in low-rank coals, is being adopted with changes. Table 1 includes the ASTM standard sample collection procedure, ASTM D2234–89, *Standard Test Methods for Collection of a Gross Sample,* and test procedure, ASTM D3302–91, *Standard Test Method for Total Moisture in Coal,* OSM will accept for use as the basis for calculating the percentage of total moisture in as shipped low-rank coals each day the coal is either shipped or used.

The daily total moisture test results must be converted to quarterly figures to be reported to OSM on the OSM–1, Coal Reclamation Fee Report. To calculate the quarterly total moisture percentage an operator must: (1) Multiply the daily total moisture percentage by the tonnage shipped or used that day, to find the daily total moisture tonnage; (2) add the daily total moisture tonnage for each day in the quarter; and, (3) add the daily tonnage shipped or used in the quarter, to find the total tonnage shipped or used during the quarter. Then, divide the sum of the daily total moisture tonnage, step (2), by the sum of the daily tonnage shipped or used in the quarter, step (3). This will result in the total moisture percentage in low-rank coal for the quarter which would be reported by the OSM–1, Coal Reclamation Fee Report.

Table 2 provides instructions on how an operator will determine the inherent moisture percentage of coal mined from one or more benches of low-rank coals by: collecting one sample of as-shipped coal each month of the calendar quarter using procedure ASTM D2234–89, *Standard Test Methods for Collection of a Gross Sample of Coal;* and testing each sample for equilibrium moisture by ASTM D1412–93, *Standard Test Method for Equilibrium Moisture of Coal at 96 to 97 Percent Relative Humidity and 30°C.*

The operator would calculate the inherent moisture percentage to report to OSM for the quarter by averaging the results from the 3 monthly equilibrium moisture tests, and adding the correction factor.

Table 3 provides the method an operator is required to use to establish the correction factor during the first quarter an excess moisture allowance is taken on low-rank coals mined from a bench or multiple benches. The correction factor is found by using procedures in ASTM D1412–93 Appendix X1, *Standard Test Method for Equilibrium Moisture of Coal at 96 to 97 Percent Relative Humidity and 30°C* to collect 15 samples of coal from a freshly exposed, unweathered coal seam face during the quarter. All 15 samples would be tested for inherent moisture and equilibrium moisture as required by ASTM D1412–93 Appendix X1, *Standard Test Method for Equilibrium Moisture of Coal at 96 to 97 Percent Relative Humidity and 30°C.*

In the proposed rule, we stated that 5 samples had to be taken in each month of the first quarter for a total of 15 samples. Three commenters suggested a variety of alternatives, including allowing companies to:

—Perform a single annual collection of 20 samples;
—Collect all 15 samples in a single month; or
—Take 20 to 30 samples annually.

The OSM–1 forms reporting tonnage and moisture amounts are to be filed for each calendar quarter. The purpose of the samples is to help determine the appropriate moisture amount for the coal shipped or used in the calendar quarter being reported. As a result, it is not feasible to delay the sampling and testing beyond that quarter. In response to the commenters, however, we have revised the final rule to state that the sampling and testing need not be done until the first quarter a deduction is taken, and that all 15 samples may be taken anytime during the quarter rather than 5 each month. This is also designed to address some commenters' concerns that sampling on some days during the quarter may be difficult due to harsh weather.

The operator is required to establish the correction factor for the first quarter and all later quarters by: averaging the 15 inherent moisture test results; averaging the 15 equilibrium moisture test results; and, subtracting the average inherent moisture from the average equilibrium moisture.

Three commenters also suggested that a regression formula be allowed to determine the correction factor rather than simple subtraction of the average equilibrium moisture from the average inherent moisture. Generally, regression analysis is a statistical approach which can be used to determine inherent moisture based on its relationship to possibly several other variables of coal content, such as ash, Btu, and equilibrium moisture. We examined this approach and found that it would require sampling for every variable used in the analysis and a substantially greater number of tests to produce reliable results. We also found it difficult to specify all the different variables that should be considered in every situation. As a result, we are not incorporating a regression approach into the final rule. If an operator elects to use a method other than that provided in the rule, the operator should obtain prior OSM approval to avoid having to revert to the simple subtraction method.

One commenter objected to calculating a correction factor for each bench as we originally proposed, pointing out that multiple benches may be mined simultaneously. We have revised the requirement in the final rule to allow an average correction factor to be calculated and applied when such situations exist. The correction factor could be changed at any time provided new samples are taken and all procedures shown in Table 3 are repeated.

III. Procedural Matters

Federal Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, OSM requested comments from the public and the Office of Management and Budget (OMB) on the information collections contained in the proposed rulemaking. Commenters were asked to address: (a) Whether the proposed collection of information is necessary for the proper performance of OSM, including whether the information will have practical utility; (b) the accuracy of OSM's estimate of the burdens of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of collection on the respondents, including the use of automated collection techniques or other forms of information technology. Comments received on the information collection requirements in the proposed rule have been addressed in the preamble above:

Title: Abandoned mine reclamation fund—fee collection and coal production reporting: 30 CFR part 870.

OMB Control Number: 1029–0090.

Abstract: Section 402 of the Surface Mining Control and Reclamation Act of 1977 requires operators of coal mining operations to pay a reclamation fee to the Secretary for deposit in the Abandoned Mine Reclamation Fund for the purpose of reclaiming lands mined and left abandoned, or inadequately reclaimed, prior to the Act's effective date. Reclamation fees are to be paid on each ton of coal produced.

Sections 870.18, 870.19, and 870.20 of the regulations allow an operator to take an excess moisture content allowance when calculating the amount of reclamation fees that are owed. To substantiate the calculated moisture deduction claimed, an operator (or other entity responsible for the payment of the reclamation fee) is required to document by standard laboratory analysis the excess moisture content for each coal seam mined. This documentation must be updated as necessary to establish the continuing validity of the excess moisture content allowance taken by the operator.

Need For and Use: The information submitted will be used by OSM auditors to verify an operator's compliance with Section 402 of the Act and the requirements of the regulation at 30 CFR 870.18, 870.19, and 870.20. During an audit, operators must substantiate how the calculation for excess moisture was determined. Response to this collection of information is required to obtain a benefit and is held confidential under the Freedom of Information Act.

Operators must retain their records for a 6-year period to allow for the audit of tax records. Courts have ruled that the AML fee is an excise tax. The applicable provision of the Energy Policy Act of 1992 (Section 2515) extended the fee through 2004.

Respondents: Approximately 1,050 coal mining operators who take the coal moisture deduction allowance.

Total Annual Burden: OSM estimates that 2 hours will be required to prepare and maintain the documentation for audit purposes per respondent. The total annual burden is estimated to be 2,100 hours.

Executive Order 12988 on Civil Justice Reform

The Department of the Interior has determined that this rule meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform.

Executive Order 12866

This rule has been determined to be significant under Executive Order 12866 and has been reviewed by the Office of Management and Budget.

The rule is not considered economically significant under section 3(f)(1) of Executive Order 12866 and will not have a significant economic effect on the coal mining industry, or on regional or national economies. OSM is providing a viable methodology that will enable coal mine operators to calculate the correct allowance for excess moisture. OSM is not attempting to specify any given amount, or percentage, as an excess moisture allowance. For that reason it is not possible to predict the cost that this revision will have in terms of the amount of the additional AML fees that the industry will pay and the government collect or the industry save and the government not collect. Based on AML tonnages reported, and the total moisture allowances taken for 1996, the industry saved approximately $5,729,000 in terms of the tonnage reported. With regard to benefits, the rule revision will ensure that all excess moisture allowances are fair and equitable. OSM's revision also includes an option that will provide operators with a method to calculate an allowance for the inherent moisture present in as-shipped coal. This will be of particular benefit when an operator sells large volumes of coal, and/or sells coal with a substantial variance between the total and inherent moisture.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, the Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities for the following reason. The rule will provide two methods for operators to calculate the excess moisture in high-rank coal. OSM expects that most operators of small to medium size mines will likely prefer to continue to use the current method of calculation while operators who either mine a large volume of coal, or mine coal with a significant variance in total and inherent moisture, will use the other option as an alternative to the existing formula used to determine the excess moisture percentage. Thus, for small operators any change from current practices is optional.

Unfunded Mandates Reform Act

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

National Environmental Policy Act

OSM has prepared an environmental assessment (EA) of this rule and has made a Finding of No Significant Impact (FONSI) on the quality of the human environment under section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C). The EA and FONSI are on file in the OSM Administrative Record.

Author: The principal author of this rule is Dr. Kewal Kohli, Mining Engineer, Office of Surface Mining, U.S. Department of the Interior, 3 Parkway Center, Pittsburgh, PA 15220. Inquiries with respect to the rule should be directed to Dr. Kohli at the address and telephone specified under FOR FURTHER INFORMATION CONTACT.

List of Subjects in 30 CFR Part 870

Incorporation by reference, Reporting and recordkeeping requirements, Surface mining, Underground mining.

Dated: July 2, 1997.

Bob Armstrong,

Assistant Secretary, Land and Minerals Management.

Accordingly, 30 CFR part 870 is amended as set forth below:

PART 870—ABANDONED MINE RECLAMATION FUND—FEE COLLECTION AND COAL PRODUCTION REPORTING

1. The authority citation for part 870 is revised to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 870.5 is amended by revising definitions of "excess moisture," "inherent moisture" and "total moisture" to read as follows:

§ 870.5 Definitions.

* * * * *

Excess moisture means the difference between total moisture and inherent moisture, calculated according to § 870.19 for high-rank coals or the difference between total moisture and inherent moisture calculated according to § 870.20 for low-rank coals.

* * * * *

Inherent moisture means moisture that exists as an integral part of the coal seam in its natural state, including water in pores, but excluding that present in macroscopically visible fractures, as determined according to § 870.19(a) or § 870.20(a).

* * * * *

Total moisture means the measure of weight loss in an air atmosphere under rigidly controlled conditions of temperature, time and air flow, as determined according to either § 870.19(a) or § 870.20(a).

3. Section 870.18 is revised to read as follows:

§ 870.18 General rules for calculating excess moisture.

If you are an operator who mined coal after June 1988, you may deduct the weight of excess moisture in the coal to determine reclamation fees you owe under 30 CFR 870.12(b)(3)(i). Excess moisture is the difference between total moisture and inherent moisture. To calculate excess moisture in HIGH-rank coal, follow § 870.19. To calculate excess moisture in LOW-rank coal, follow § 870.20. Report your calculations on the OSM–1 form, Coal Reclamation Fee Report, for every calendar quarter in which you claim a deduction. Some cautions:

(a) You or your customer may do any test required by §§ 870.19 and 870.20. But whoever does a test, you are to keep test results and all related records for at least six years after the test date.

(b) If OSM disallows any or all of an allowance for excess moisture, you must submit an additional fee plus interest computed according to § 870.15(c) and penalties computed according to § 870.15(f).

(c) The following definitions are applicable to §§ 870.19 and 870.20. ASTM standards D4596–93, *Standard Practice for Collection of Channel Samples of Coal in a Mine;* D5192–91, *Standard Practice for Collection of Coal Samples from Core;* and, D1412–93, *Standard Test Method for Equilibrium Moisture of Coal at 96 to 97 Percent Relative Humidity and 30°C* are incorporated by reference as published in the 1994 Annual Book of ASTM Standards, Volume 05.05. The Director of the Federal Register approved this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Each applicable ASTM standard is incorporated as it exists on the date of the approval, and a notice of any change in it will be published in the Federal Register. You may obtain copies from the ASTM, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428. A copy of the ASTM standards is available for inspection at the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 101, 1951 Constitution Avenue, NW., Washington, DC, or at the Office of the Federal Register, 800 North Capitol St., NW., Suite 700, Washington, DC.

(1) *As-shipped coal* means raw or prepared coal that is loaded for shipment from the mine or loading facility.

(2) *Blended coal* means coals of various qualities and predetermined quantities mixed to control the final product.

(3) *Channel sample* means a sample of coal collected according to ASTM standard D4596–93 from a channel extending from the top to the bottom of a coal seam.

(4) *Commingled coal* means coal from different sources and/or types combined prior to shipment or use.

(5) *Core sample* means a cylindrical sample of coal that represents the thickness of a coal seam penetrated by drilling according to ASTM standard D5192–91.

(6) *Correction factor* means the difference between the equilibrium moisture and the inherent moisture in low rank coals for the purpose of § 870.20(a).

(7) *Equilibrium moisture* means the moisture in the coal as determined through ASTM standard D1412–93.

(8) *High-rank coals* means anthracite, bituminous, and subbituminous A and B coals.

(9) *Low-rank coals* means subbituminous C and lignite coals.

(10) *Slurry pond* means any natural or artificial pond or lagoon used for the settlement and draining of the solids from the slurry resulting from the coal washing process.

(11) *Tipple coal* means coal from a mine or loading facility that is ready for shipment.

4. Sections 870.19 and 870.20 are added to read as follows:

§ 870.19 How to calculate excess moisture in HIGH-rank coals.

Here are the requirements for calculating the excess moisture in high-rank coals for a calendar quarter. ASTM standards D2234–89, *Standard Test Methods for Collection of a Gross Sample of Coal;* D3302–91, *Standard Test Method for Total Moisture in Coal;* D5192–91, *Standard Practice for Collection of Coal Samples from Core;* D1412–93, *Standard Test Method for Equilibrium Moisture of Coal at 96 to 97 Percent Relative Humidity and 30°C;* and, D4596–93, *Standard Practice for Collection of Channel Samples of Coal in a Mine* are incorporated by reference as published in the 1994 Annual Book of ASTM Standards, Volume 05.05. The Director of the Federal Register approved this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Each applicable ASTM standard is incorporated as it exists on the date of the approval, and a notice of any change in it will be published in the Federal Register. You may obtain copies from the ASTM, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428. A copy of the ASTM standards is available for inspection at the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 101, 1951 Constitution Avenue, NW., Washington, DC, or at the Office of the Federal Register, 800 North Capitol St., NW., Suite 700, Washington, DC.

(a)(1) Calculate the excess moisture percentage using one of these equations:

$$EM = TM - IM$$

or

$$EM = TM - \left(IM \times \frac{100 - TM}{100 - IM} \right)$$

(2) EM equals excess moisture percentage. TM equals total as-shipped moisture percentage calculated according to Table 1 of this section. IM equals inherent moisture percentage calculated according to Table 2 of this section.

(b) Multiply the excess moisture percentage by the tonnage from the bonafide sales, transfers of ownership, or uses by the operator during the quarter.

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Table 1

Calculating TOTAL moisture percentage in HIGH-rank coals [1]

Collect and test each day you ship or use coal ▼	Convert daily test results to quarterly figures and report them ▼
Collect a sample of as-shipped or used coal. Follow procedures in ASTM D2234-89. Test the sample for daily total moisture percentage. Follow laboratory procedures in ASTM D3302-91. Obtain prior OSM approval for use of other procedures.	1. Multiply daily total moisture percentage by daily tonnage shipped or used. You now have daily total moisture tonnage. 2. Add up daily total moisture tonnage for the quarter. 3. Add up daily tonnage shipped or used in the quarter. 4. Divide 2 by 3. Report this total moisture percentage in high-rank coal for the quarter on OSM-1, Coal Reclamation Fee Report.

[1] See §870.19 for the incorporation by reference of the ASTM standards.

Table 2

Calculating INHERENT moisture percentage in HIGH-rank coals [1]

Choose from 3 ways to collect and test ▼	Choose from 2 ways to time the tests and convert the results for quarterly reporting ▼
First Collect a core sample[2]. Follow procedures in ASTM D5192-91. Test the sample to estimate inherent moisture. Follow laboratory procedures in ASTM D1412-93. **Or second** Collect a channel sample. Follow procedures in ASTM D4596-93. Test the sample to estimate inherent moisture. Follow laboratory procedures in ASTM D1412-93 or ASTM D3302-91. **Or third** Collect a sample of blended coal, as-shipped coal, tipple coal, commingled coal, or coal from slurry ponds. Follow procedures in ASTM D2234-89. Test the sample to estimate inherent moisture. Follow laboratory procedures in ASTM D1412-93.	**First** Collect and test once each quarter. Report test results for that quarter on OSM-1. Test results need no converting; they are in quarterly units already. **Or second** Create a 24-month baseline and update as follows: *For reporting months 1-24 . . .* Collect and test one sample each month. Each quarter, calculate a weighted average percentage of inherent moisture: • Multiply a month's inherent moisture percentage by tons produced or shipped. You now have the month's inherent moisture tonnage. • Add up 3 months of that inherent moisture tonnage. • Divide by tons produced or shipped in those 3 months. Report the quarter's weighted average percentage on OSM-1. *For all subsequent months . . .* Collect and test one sample for inherent moisture every 12 months. Calculate—and report in the following 4 quarters—one updated rolling average percentage: • Add to the annual sample percentage the inherent moisture percentages for the preceding 23 tests. • Divide by 24. Report the weighted average percentage on OSM-1.

[1] See §870.19 for the incorporation by reference of the ASTM standards.
[2] Core sampling was approved by the ASTM effective January 1, 1992.

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§ 870.20 How to calculate excess moisture in LOW-rank coals.

Here are the requirements for calculating the excess moisture in low-rank coals for a calendar quarter. ASTM standards D2234–89, *Standard Test Methods for Collection of a Gross Sample of Coal;* D3302–91, *Standard Test Method for Total Moisture in Coal;* and, D1412–93, *Standard Test Method for Equilibrium Moisture of Coal at 96 to 97 Percent Relative Humidity and 30°C* are incorporated by reference as published in the 1994 Annual Book of ASTM Standards, Volume 05.05. The Director of the Federal Register approved this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Each applicable ASTM standard is incorporated as it exists on the date of the approval, and a notice of any change in it will be published in the **Federal Register**. You may obtain copies from the ASTM, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428. A copy of the ASTM standards is available for inspection at the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 120, 1951 Constitution Avenue, NW., Washington, DC, or at the Office of the Federal Register, 800 North Capitol St., NW., Suite 700, Washington, DC.

(a)(1) Calculate the excess moisture percentage using one of these equations:

$$EM = TM - IM$$

or

$$EM = TM - \left(IM \times \frac{100 - TM}{100 - IM} \right)$$

(2) EM equals excess moisture percentage. TM equals total as-shipped moisture percentage calculated according to Table 1 of this section. IM equals inherent moisture percentage calculated according to Tables 2 and 3 of this section.

(b) Multiply the excess moisture percentage by the tonnage from the bona fide sales, transfers of ownership, or uses by the operator during the quarter.

BILLING CODE 4310-01-P

Table 1

Calculating TOTAL moisture percentage in LOW-rank coals [1]

Collect and test each day you ship or use coal ▼	Convert test results to quarterly figures and report them ▼
Collect a sample of as-shipped or used coal. Follow procedures in ASTM D2234-89.	Convert daily total moisture percentage to quarterly total moisture percentage: 1. Multiply daily total moisture percentage by daily tonnage shipped or used. You now have daily total moisture tonnage. 2. Add up daily total moisture tonnage for the quarter. 3. Add up daily tonnage shipped or used in the quarter. 4. Divide 2 by 3.
Test the sample for daily total moisture percentage. Follow laboratory procedures in ASTM D3302-91.	Report this total moisture percentage in low-rank coal for the quarter on OSM-1, Coal Reclamation Fee Report.
Obtain prior OSM approval for use of other procedures.	

[1] See §870.20 for the incorporation by reference of the ASTM standards.

Table 2

Calculating INHERENT moisture percentage in LOW-rank coals [1]

Collect and test once a month ▼	Convert test results to quarterly figures and report them ▼
Collect 1 sample of as-shipped coal. Follow procedures in ASTM D2234-89.	Calculate inherent moisture percentage for the quarter: • Average the 3 equilibrium moisture results from your monthly tests. • Add to this average a Correction Factor that you calculate for the first quarter according to Table 3 below.
Test the sample for equilibrium moisture. Follow laboratory procedures in ASTM D1412-93.	Report this inherent moisture percentage for the quarter on OSM-1.

[1] See §870.20 for the incorporation by reference of the ASTM standards.

Table 3

Calculating the Correction Factor for Table 2 [1]

Collect and test in the first quarter a deduction is taken ▼	Convert test results into a correction factor for all quarterly reports ▼
Collect 15 samples that are representative of the entire seam from a freshly exposed, unweathered coal seam face. Follow procedures in ASTM D1412-93 Appendix X1.	Use the test results to calculate a correction factor: • Average the 15 inherent moisture results from your tests. • Average the 15 equilibrium moisture results from your tests. • Subtract the average equilibrium moisture from the average inherent moisture.
Test each sample for two things: • Inherent moisture • Equilibrium moisture. Follow laboratory procedures in ASTM D1412-93 Appendix X1.	You now have a correction factor for the first quarter the deduction is taken, and all later quarters. Use it in Table 2 above. You may change the correction factor at any time by repeating the steps in this table. A correction factor applies to only the bench you sample. If you mine multiple benches or seams simultaneously, you may combine the sample results from the different benches or seams to calculate an average correction factor. You may update the correction factor by repeating the procedures or incorporating new test results with the initial result.

[1] See §870.20 for the incorporation by reference of the ASTM standards.

Editorial Note: FR Doc. 97–22903 was originally published as Part II in the issue of Tuesday, August 29, 1997. The corrected document is republished in its entirety at the request of the agency, due to the omission of the Table numbers.

[FR Doc. 97–22903 Filed 8–28–97; 8:45 am]

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federal register

Thursday
November 6, 1997

Part V

The President

Proclamation 7048—National Adoption Month, 1997

Federal Register
Vol. 62, No. 215
Thursday, November 6, 1997

Presidential Documents

Title 3—

The President

Proclamation 7048 of November 3, 1997

National Adoption Month, 1997

By the President of the United States

A Proclamation

Most American children are blessed with loving, stable families. But, tragically, in our country today there are too many children whose parents are unwilling or unable to care for them. While foster care offers these children a safe and nurturing temporary haven in their time of greatest need, as many as 100,000 foster care kids will need permanent homes in the next few years. Many of these children have special needs and require the security and stability of an adoptive family to develop their full potential. Adoption allows these and other children to have the permanent homes they deserve, and it enables many dedicated adults to experience the joys and rewards of parenting.

My Administration is working hard to find ways to help encourage adoption. On December 14, 1996, I issued a Memorandum to the Secretaries of Health and Human Services, the Treasury, Labor, and Commerce and to the Director of the Office of Personnel Management, directing them to promote efforts to both increase the number of children who are adopted or permanently placed each year and to move children more rapidly from foster care to permanent homes. I also urged them to increase public awareness about the children waiting for permanent families and to encourage all Americans to consider the rewards of adoption.

I challenged the members of my Administration to work with States, communities, and civic leaders to create a plan for doubling the number of adoptions and permanent placements for children to 54,000 by the year 2002. And on February 14, 1997, the *Adoption 2002* report, outlining changes in policies and practices necessary to reach this goal, was released. Since then, we have been actively implementing the recommendations included in the report, and States are reviewing data and submitting numerical targets for adoption and guardianships to be completed by the year 2002. The Office of Personnel Management has published a guide for Federal workers interested in adopting, and the Department of Health and Human Services is preparing to make the first annual Adoption 2002 Excellence awards later this year. Finally, the Congress is considering historic legislation that would provide the resources and statutory authority for financial incentives, technical assistance, and improved judicial decision-making for children in foster care.

As a Nation, we have before us an opportunity to make a real difference in the lives of our most vulnerable children. We must continue to promote public awareness of the need for adoptive families and to help families make the choice to provide loving, permanent homes for the many children who otherwise must continue to wait. We must also strengthen our support of those families who do choose to adopt. As we observe National Adoption Month, we reaffirm our commitment to adoption as a new beginning for thousands of children, and we celebrate the many American families who have embraced these children by accepting the rewards and responsibilities of adoption.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 1997 as National Adoption Month. I urge all Americans to observe this month with appropriate programs and activities to honor adoptive families and to participate in efforts to find permanent homes for waiting children.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of November, in the year of our Lord nineteen hundred and ninety-seven, and of the Independence of the United States of America the two hundred and twenty-second.

William J. Clinton

[FR Doc. 97–29567
Filed 11–5–97; 8:49 am]
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Electronic Bulletin Board
Free Electronic Bulletin Board service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 29

[Docket No. TB–97–05]

Tobacco Inspection: Subpart C—Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is revising the regulations under the Official Standard Grades for Burley Tobacco to remove from the definition of "Rework" the reference to a lot of tobacco exceeding an average bale weight of 100 pounds. This action is being taken because average bale weight is not a significant factor for determining the quality of tobacco, and classifying tobacco as "No Grade" solely because the average bale weight exceeds 100 pounds precludes producers from receiving an accurate description of their product at the marketplace.

EFFECTIVE DATE: November 10, 1997.

FOR FURTHER INFORMATION CONTACT: John P. Duncan III, (202) 205–0567.

SUPPLEMENTARY INFORMATION: Notice was given (62 FR 35452, Tuesday, July 1, 1997) that the Department proposed to revise the Official Standard Grades for Burley Tobacco, U.S. Type 31 and Foreign Type 93, to delete the reference to a lot of tobacco exceeding an average bale weight of 100 pounds from the definition of "Rework." That provision had been added to the regulations in 1995 in response to a request from the tobacco industry. The basis of that request was that those bales within a lot exceeding 100 pounds had a higher potential for deterioration affecting the quality and value of the tobacco.

During the grading process, the USDA inspector looks at the total weight of the lot listed on the inspection certificate and divides by the number of bales to ascertain the average bale weight. When a lot is identified as exceeding the average bale weight, it is classified as needing to be reworked and given the grademark "NO-G" meaning No Grade. The No Grade designation is also used to classify lots that are nested, offtype, semicured, damaged 20 percent or more, abnormally dirty, extremely wet or watered, contain foreign matter, or have an odor foreign to the type. A lot of tobacco that otherwise meets the specifications of a standard grade, but exceeds the 100 pound average bale weight criterion, is classified in a category of less desirable tobacco. This one factor precludes the producer from receiving an accurate description of their product at the marketplace.

After reviewing the average bale weight provision for two marketing seasons, the agency believes that it reduces the accuracy of applying the grade standards.

Interested parties were given an opportunity to comment on the proposed rule. A total of 16 separate comments were received. Those comments in favor of the proposal consisted of six separate comments and seven other comments signed by more than one individual (344 individuals signed these comments). The favorable comments stated that they were either opposed to AMS enforcing the 100 pound average bale weight provision or that they did not believe that the grading service should be involved in restrictions of weight of an individual bale of burley tobacco.

Three responses were in opposition to the proposal and stated they were in favor of AMS continuing to regulate bale weight, citing the desirability of uniform packaging and expressing concerns that bales of excessive weight increase the risk of damage to the tobacco, injuries to workers, and shipping problems. With regard to uniform packaging, the existing regulation provided for an average bale weight and did not assure uniformity between and among individual bales. With regard to the other concerns raised by the three commenters, the provisions for rework made final in this rule are the same as those provisions that originally existed for rework prior to the last two seasons. Again, the 100 pound average bale provision did not assure uniformity nor did it necessarily eliminate any of the concerns raised by the comments. After consideration of all available information, we are eliminating the 100 pound average bale weight provisions and making this rule final as proposed.

After consideration of comments on the proposal and other relevant information, the Department hereby adopts the regulations as proposed.

This final rule has been determined not significant for the purpose of Executive Order 12866, and therefore has not been reviewed by the Office of Management and Budget.

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. This final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to this final rule.

Additionally, in conformance with the provision of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), full consideration has been given to the potential economic impact upon small business. All tobacco warehouses and producers fall within the confines of "small business" which are defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. There are approximately 160 tobacco warehouses and approximately 250,000 producers.

The Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities. This revision will amend the regulations to delete from the definition of "Rework" the reference to a lot of tobacco exceeding an average bale weight of 100 pounds. This action is being taken because average bale weight is not a significant factor for determining the quality of tobacco. Classifying tobacco as "No Grade" solely because the average bale weight exceeds 100 pounds precludes producers from receiving an accurate description of their product at the marketplace. This final rule will not substantially affect the normal movement of the commodity in the

marketplace. Compliance with this rule will not impose substantial direct economic cost, recordkeeping, or personnel workload changes on small entities, and will not alter the market share or competitive positions of small entities relative to the large entities and will no way affect normal competition in the marketplace.

In addition, under 5 U.S.C. 553, good cause has been found to make this rule effective less than 30 days after publication because it is necessary that the regulation be effective at the beginning of the marketing season which begins in November. Therefore, in order to treat all marketing areas on an equal basis, this final rule is made effective the day following the date of publication in the **Federal Register**.

List of Subjects in 7 CFR Part 29

Administrative practice and procedure, Advisory committees, Government publications, Imports, Pesticides and pests, Reporting and recordkeeping requirements, Tobacco.

For the reasons set forth in the preamble, 7 CFR part 29 is amended as follows:

PART 29—TOBACCO INSPECTION

1. The authority citation for 7 CFR part 29, subpart C, continues to read as follows:

Authority: 7 U.S.C. 511b, 511m, and 511r.

Subpart C—Standards

2. In § 29.3053, paragraph (b) is revised to read as follows:

§ 29.3053 Rework.

* * * * *

(b) Tobacco not properly tied in hands, not packed in bales approximately 1 x 2 x 3 feet, not oriented, not packed straight, bales not opened for inspection when chosen by a grader, or otherwise not properly prepared for market.

Dated: November 4, 1997.

Thomas A. O'Brien,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 97–29498 Filed 11–6–97; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 920

[Docket No. FV97–920–3 FIR]

Kiwifruit Grown in California; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting, as a final rule, without change, the provisions of an interim final rule which increased the assessment rate for the Kiwifruit Administrative Committee (Committee) under Marketing Order No. 920 for the 1997–98 and subsequent fiscal periods. The Committee is responsible for local administration of the marketing order which regulates the handling of kiwifruit grown in California. Authorization to assess kiwifruit handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The 1997–98 fiscal period covers the period August 1 through July 31. The assessment rate will continue in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: December 8, 1997.

FOR FURTHER INFORMATION CONTACT: Diane Purvis, Marketing Assistant, or Rose Aguayo, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone: (209) 487–5901, Fax: (209) 487–5906; or George Kelhart, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 920, as amended (7 CFR part 920), regulating the handling of kiwifruit grown in California, hereinafter referred to as the "order." The marketing order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department is issuing this rule in conformance with Executive Order 12866.

This final rule was reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California kiwifruit handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable kiwifruit beginning August 1, 1997, and continuing until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule continues in effect the assessment rate of $0.0225 per tray or tray equivalents of assessable kiwifruit for the Committee for the 1997–98 and subsequent fiscal periods.

The kiwifruit marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. Section 920.41 authorizes the Committee to borrow funds. The members of the Committee are producers of California kiwifruit and one non-industry member. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 1996–97 and subsequent fiscal periods, the Committee recommended,

and the Department approved, an assessment rate that would continue in effect from season to season indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee met on June 25, 1997, and unanimously recommended 1997–98 expenditures of $161,286 and an assessment rate of $0.0225 per tray or tray equivalent of kiwifruit. In comparison, last year's budgeted expenditures were $178,598. The assessment rate of $0.0225 per tray or tray equivalent is $0.0050 higher than last year's established rate. The 1996–97 kiwifruit crop was short 3.3 million trays or tray equivalents of the quantity projected in the crop estimate. The Committee met in February 1997 and approved the borrowing of funds to cover expenses for the remainder of the 1996–97 season. The Committee borrowed $11,052 as of May 31, 1997, and estimated that an additional $22,401 might be needed to cover expenses through the end of the fiscal period. Because the Committee's reserve has been depleted, the Committee voted to increase its assessment rate to cover the budgeted expenses, to reimburse the borrowed funds, and to establish an adequate reserve. The order provides authority for a maximum reserve equal to approximately one fiscal period's expenses.

The Committee discussed alternatives to this rule, including alternative expenditure levels and alternative assessment rates. An assessment rate of $0.0200 was considered but not recommended because it would not generate the income necessary to administer the program with an adequate reserve. The major expenditure levels recommended by the Committee for the 1997–98 year include $102,200 for administrative staff and field salaries, $13,825 for travel, food, and lodging; and $12,200 for accident and health insurance. Budgeted expenses for these items in 1996–97 were $108,500, $20,398, and $13,000, respectively.

The assessment rate recommended by the Committee was derived by considering anticipated expenses, expected shipments of California kiwifruit, and additional pertinent factors. Kiwifruit shipments for the year are estimated at 10 million trays or tray equivalents of kiwifruit which should provide $225,000 in assessment income. Income derived from handler assessments, along with interest income, will be adequate to cover budgeted expenses, reimbursement of borrowed funds, and to fund an adequate reserve. Future reserve funds will be kept within the maximum permitted by the order.

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 1997–98 budget was approved by the Department on August 18, 1997; and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 450 producers of kiwifruit in the production area and approximately 60 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. One of the 60 handlers subject to regulation has annual kiwifruit sales of at least $5,000,000; and the remaining 59 handlers have sales less than $5,000,000, excluding receipts from any other sources. Ten of the 450 producers subject to regulation have annual sales of at least $500,000; and the remaining 440 producers have sales less than $500,000, excluding receipts from any other sources. Therefore, a majority of California kiwifruit producers and handlers may be classified as small entities.

This rule continues the assessment rate of $0.0225 per tray or tray equivalents of assessable kiwifruit for the 1997–98 and subsequent fiscal periods. The Committee unanimously recommended 1997–98 expenditures of $161,286 and an assessment rate of $0.0225 per tray or tray equivalent of kiwifruit. The 1996–97 kiwifruit crop was short 3.3 million trays or tray equivalents of the estimated crop. The Committee met in February 1997 and approved borrowing funds to cover expenses for the remainder of the 1996–97 season. The Committee has borrowed $11,052 as of May 31, 1997, and estimates that an additional $22,401 may be needed to cover expenses through the end of the fiscal period. As the Committee's reserve is depleted and funds have been borrowed to meet the remaining 1996–97 expenses, the Committee voted to increase its assessment rate to cover the budgeted expenses, to reimburse the borrowed funds, and to establish an adequate reserve.

The Committee discussed alternatives to this rule, including alternative expenditure levels and alternative assessment rates. An assessment rate of $0.0200 was considered but not recommended because it would not generate the income necessary to administer the program with an adequate reserve. The Committee also considered reducing the compliance staff by two personnel, but determined that one part-time position would be eliminated. The major expenditure levels recommended by the Committee for the 1997–98 year include $102,200 for administrative staff and field salaries, $13,825 for travel, food, and lodging; and $12,200 for accident and health insurance. Budgeted expenses for these items in 1996–97 were $108,500, $20,398, and $13,000, respectively.

Kiwifruit shipments for the year are estimated at 10 million trays or tray equivalents which should provide $225,000 in assessment income. Income derived from handler assessments, along with interest income, will be adequate to cover the budgeted expenses and the shortage of funds resulting from the 1996–97 crop shortage. As the Committee's reserve is depleted, the Committee voted to increase its

assessment rate to cover the budgeted expenses, to reimburse the borrowed funds, and to establish an adequate reserve. Reserve funds will be kept within the maximum permitted by the order.

A review of historical information and preliminary information pertaining to the crop year indicates that the grower price for the 1997–98 season is estimated to be approximately $1.62 per tray or tray equivalent of kiwifruit. Therefore, the estimated assessment revenue for the 1997–98 crop year as a percentage of total grower revenue will be approximately 1.4 percent.

This rule continues in effect the assessment obligation imposed on handlers. While the assessment rate this fiscal period is higher than that of last year, the additional costs upon handlers are minimal and in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the California kiwifruit industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the June 25, 1997, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This action will not impose any additional reporting or recordkeeping requirements on either small or large California kiwifruit handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this final rule.

An interim final rule concerning this action was published in the **Federal Register** on August 26, 1997 (62 FR 45146). Copies of the rule were mailed or sent via facsimile to all Committee members and kiwifruit handlers. Finally, the rule was made available through the Internet by the Office of the Federal Register. A 30-day comment period was provided. No comments were received.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 920

Kiwifruit, Marketing agreements.

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

Accordingly, the interim final rule amending 7 CFR part 920 which was published at 62 FR 45146 on August 26, 1997, is adopted as a final rule without change.

Dated: November 3, 1997.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 97–29479 Filed 11–6–97; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 922, 923, and 924

[Docket No. FV97–922–2 FIR]

Reduced Assessment Rates for Specified Marketing Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule which decreased the assessment rates established for the Washington Apricot Marketing Committee, Washington Cherry Marketing Committee, and Washington-Oregon Fresh Prune Committee (Committees) under Marketing Orders Nos. 922, 923, and 924 for the 1997–98, and subsequent fiscal periods. Authorization to assess apricot, cherry, and prune handlers enables the Committees to incur expenses that are reasonable and necessary to administer the program. The 1997–98 fiscal periods for these marketing orders began April 1 and end March 31. The assessment rates will continue in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: December 8, 1997.

FOR FURTHER INFORMATION CONTACT: Jadean L. Williams, Northwest Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, Room 369, Portland, OR 97204; telephone: (503) 326–2724, Fax: (503) 326–7440 or George J. Kelhart, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreements and Order No. 922 (7 CFR part 922), regulating the handling of apricots grown in designated counties in Washington; Marketing Order No. 923 (7 CFR part 923) regulating the handling of sweet cherries grown in designated counties in Washington; and Marketing Order No. 924 (7 CFR part 924) regulating the handling of fresh prunes grown in designated counties in Washington and Umatilla County, Oregon, hereinafter referred to as the "orders." The marketing agreements and orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing orders now in effect, handlers in the designated areas are subject to assessments. Funds to administer the orders are derived from such assessments. It is intended that the assessment rates as issued herein will be applicable to all assessable Washington apricots, Washington sweet cherries, and Washington-Oregon fresh prunes beginning April 1, 1997, and continuing until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule continues in effect the assessment rates established for the Committees for the 1997–98 and subsequent fiscal periods of $2.00 per ton for Washington apricots, and $0.75 per ton for Washington sweet cherries and Washington-Oregon fresh prunes.

The orders provide authority for each of the Committees, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the programs. The members of the Committees are producers and handlers in designated counties in Washington and in Umatilla County, Oregon. They are familiar with the Committees' needs and with the costs for goods and services in their local area and are thus in a position to formulate appropriate budgets and assessment rates. The assessment rates are formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 1996–97 and subsequent fiscal periods, the Committees recommended, and the Department approved, assessment rates that would continue in effect from fiscal period to fiscal period indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committees or other information available to the Secretary.

The Washington Apricot Marketing Committee met on May 13, 1997, and unanimously recommended 1997–98 expenditures of $9,917 and an assessment rate of $2.00 per ton of apricots. In comparison, last year's budgeted expenditures were $9,385. The assessment rate of $2.00 is $1.00 less than the rate previously in effect. At the former rate of $3.00 per ton and an estimated 1997 fresh apricot production of 5,300 tons, the projected reserve on March 31, 1998, would exceed the maximum level authorized by the order of one fiscal period's operational expenses. The Committee discussed assessment rates of $1.00 and $1.50, but decided that an assessment rate of less than $2.00 would not generate the income necessary to administer the program with an adequate reserve.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of apricots grown in designated counties in Washington. Applying the $2.00 per ton rate of assessment to the Committee's 5,300 ton shipment estimate should provide $10,600 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve will be kept within the maximum permitted by the order.

The Washington Cherry Marketing Committee met on May 12, 1997, and unanimously recommended 1997–98 expenditures of $57,545 and an assessment rate of $0.75 per ton of cherries. In comparison, last year's budgeted expenditures were $56,665. The assessment rate of $0.75 is $0.25 less than the rate previously in effect. At the former rate of $1.00 per ton and an estimated 1997 sweet cherry production of 54,000 tons, the projected reserve on March 31, 1998, would exceed the maximum level authorized by the order of one fiscal period's operational expenses. The Committee discussed an assessment rate of $0.50, but decided that an assessment rate of less than $0.75 would not generate the income necessary to administer the program with an adequate reserve.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of sweet cherries grown in designated counties in Washington. With cherry shipments for the year estimated at 54,000 tons, the assessment rate of $0.75 should provide $40,500 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve will be kept within the maximum permitted by the order.

The Oregon-Washington Fresh Prune Marketing Committee met on May 28, 1997, and unanimously recommended 1997–98 expenditures of $7,233 and an assessment rate of $0.75 per ton of prunes. In comparison, last year's budgeted expenditures were $6,645. The assessment rate of $0.75 is $0.25 less than the rate previously in effect. At the former rate of $1.00 per ton and an estimated 1997 fresh prune production of 6,000 tons, the projected reserve on March 31, 1998, would exceed the maximum level authorized by the order of one fiscal period's operational expenses. The Committee discussed an assessment rate of $0.50, but decided that an assessment rate of less than $0.75 would not generate the income necessary to administer the program with an adequate reserve.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of fresh prunes grown in designated counties in Washington, and Umatilla County, Oregon. With fresh prune shipments for the year estimated at 6,000 tons, the $0.75 per ton assessment rate should provide $4,500 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve will be kept within the maximum permitted by the order.

Major expenses recommended by the Committees for the 1997–98 year include manager's salary, office rent and maintenance, Committee travel, and compliance officer.

The assessment rates established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committees or other available information.

Although these assessment rates are effective for an indefinite period, the Committees will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rates. The dates and times of Committee meetings are available from the Committees or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rates is needed. Further rulemaking will be undertaken as necessary. The Committees' 1997–98 budgets and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 190 Washington apricot producers, 1,100 Washington sweet cherry producers,

and 350 Washington-Oregon fresh prune producers in the respective production areas. In addition, there are approximately 55 Washington apricot handlers, 55 Washington sweet cherry handlers, and 30 Washington-Oregon fresh prune handlers subject to regulation under the respective marketing orders. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The majority of Washington apricot, Washington sweet cherry, and Washington-Oregon fresh prune producers and handlers may be classified as small entities.

This rule continues in effect decreased assessment rates established for the Committees and collected from handlers for the 1997–98 and subsequent fiscal periods. The Committees unanimously recommended 1997–98 expenditures of $9,917 for apricots, $57,545 for cherries, and $7,233 for prunes and an assessment rate of $2.00 per ton for apricots, $0.75 per ton for cherries, and $0.75 per ton for prunes. The assessment rate of $2.00 for apricots is $1.00 less than the rate previously in effect. The assessment rates of $0.75 for cherries and prunes are $0.25 less than the rates previously in effect. At the former assessment rates, the Committees' reserves were projected to exceed the amount authorized in the orders of approximately one fiscal period's operational expenses. Therefore, the Committees voted to lower their respective assessment rates and use more of their reserves to cover expenses.

The Committees discussed alternatives to this rule, including alternative expenditure levels. Lower assessment rates were considered, but not recommended because they would not generate the income necessary to administer the programs with adequate reserves. Major expenses recommended by the Committees for the 1997–98 year include manager's salary, office rent and maintenance, Committee travel, and compliance officer.

Apricot shipments for 1997 are estimated at 5,300 tons, which should provide $10,600 in assessment income. Income derived from handler assessments, along with funds from the authorized reserve will be adequate to cover budgeted expenses. Funds in the reserve will be kept within the maximum permitted by the order.

Sweet cherry shipments for 1997 are estimated at 54,000 tons, which should provide $40,500 in assessment income. Income derived from handler assessments, along with funds from the authorized reserve will be adequate to cover budgeted expenses. Funds in the reserve will be kept within the maximum permitted by the order.

Fresh prune shipments for 1997 are estimated at 6,000 tons, which should provide $4,500 in assessment income. Income derived from handler assessments, along with funds from the authorized reserve will be adequate to cover budgeted expenses. Funds in the reserve will be kept within the maximum permitted by the order.

Recent price information indicates that the producer price for the 1997–98 season will range between $600 and $1,400 per ton for Washington apricots, between $1,500 and $2,200 per ton for Washington sweet cherries, and between $200 and $500 per ton for Washington-Oregon fresh prunes. Therefore, the estimated assessment revenue for the 1997–98 fiscal period as a percentage of total grower revenue will range between 0.14 and 0.33 percent for Washington apricots, between 0.03 and 0.05 percent for Washington sweet cherries, and between 0.15 and 0.38 for Washington-Oregon fresh prunes.

This action will reduce the assessment obligation imposed on handlers. While this rule will impose some additional costs on handlers, the costs are minimal and in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing orders. In addition, the Committees' meetings were widely publicized throughout the Washington apricot, Washington sweet cherry, and Washington-Oregon fresh prune industries and all interested persons were invited to attend and participate in the Committees' deliberations on all issues. Like all meetings of these Committees, the May 12, 13, and 28 meetings were public meetings and all entities, both large and small, were able to express views on the issues.

This action will not impose any additional reporting or recordkeeping requirements on either small or large Washington apricot, Washington sweet cherry, or Washington-Oregon fresh prune handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this final rule.

The interim final rule published in the **Federal Register** (62 FR 41805) on August 4, 1997, requested comments to be received by September 3, 1997. A copy of the interim final rule was also made available on the Internet by the U.S. Government Printing Office. No comments were received.

After consideration of all relevant material presented, including the information and recommendations submitted by the Committees and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects

7 CFR Part 922

Apricots, Marketing agreements, Reporting and recordkeeping requirements.

7 CFR Part 923

Cherries, Marketing agreements, Reporting and recordkeeping requirements.

7 CFR Part 924

Plums, Prunes, Marketing agreements, Reporting and recordkeeping requirements.

PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

PART 923—SWEET CHERRIES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

PART 924—FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN WASHINGTON AND IN UMATILLA COUNTY, OREGON

Accordingly, the interim final rule amending 7 CFR parts 922, 923, and 924 which was published at 62 FR 41805 on August 4, 1997, is adopted as a final rule without change.

Dated: November 3, 1997.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 97–29478 Filed 11–6–97; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 92, 93, 94, 95, 96, 97, 98, and 130

[Docket No. 94–106–10]

RIN 0579–AA71

Importation of Animals and Animal Products; Public Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service will host a public meeting to discuss the agency's plans for implementing a final rule and policy statement on the importation of animals and animal products that were published in the **Federal Register** on October 28, 1997.

DATES: The public meeting will be held on November 21, 1997, from 9:00 a.m. to noon.

ADDRESSES: The public meeting will be held at the USDA Center at Riverside, Conference Room D, 4700 River Road, Riverdale, MD. Parking is available next to the building for a $2.00 fee (have quarters or $1.00 bills). The nearest Metro station is the College Park station on the Green Line, and it is within walking distance.

FOR FURTHER INFORMATION CONTACT: Dr. Gary Colgrove, Chief Staff Veterinarian, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231, (301) 734–8590.

SUPPLEMENTARY INFORMATION:

Background

On October 28, 1997, the Animal and Plant Health Inspection Service (APHIS) published a final rule in the **Federal Register** (62 FR 56000–56026, Docket No. 94–106–9) that establishes procedures and a regulatory framework for recognizing regions, rather than only countries, for the purpose of importing animals and animal products into the United States. The final rule also establishes procedures by which regions may request permission to export animals and animal products to the United States under specified conditions, based on the regions' disease status. The final rule is scheduled to become effective on November 28, 1997. A notice published in the same issue of the **Federal Register** (62 FR 56027–56033, Docket No. 94–106–8) sets forth our policy on regionalization. The policy statement and regulations are in accordance with international trade agreements entered into by the United States.

The public meeting on November 21, 1997, in Riverdale, MD, will provide an opportunity for APHIS to discuss its plans for implementing the final rule and policy on regionalization. All interested persons are invited to attend.

Done in Washington, DC, this 5th day of November 1997.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–29644 Filed 11–6–97; 8:45 am]

BILLING CODE 3410–34–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 325

Capital Maintenance

CFR Correction

In Title 12 of the Code of Federal Regulations, parts 300 to 499, revised as of Jan. 1, 1997, page 174, Part 325, Appendix A, section II. C is corrected by adding paragraphs 1 through 4 after the first paragraph under Category 3 as follows:

Appendix A to Part 325—Statement of Policy on Risk-Based Capital

* * * * *

II. * * *

C. * * *

Category 3-50 Percent Risk Weight. * * *

(1) The purchaser is an individual(s) who intends to occupy the residence and is not a partnership, joint venture, trust, corporation, or any other entity (including an entity acting as a sole proprietorship) that is purchasing one or more of the homes for speculative purposes;

(2) The builder must incur at least the first ten percent of the direct costs (i.e., actual costs of the land, labor, and material) before any drawdown is made under the construction loan and the construction loan may not exceed 80 percent of the sales price of the presold home;

(3) The purchaser has made a substantial "earnest money deposit" of no less than three percent of the sales price of the home and the deposit must be subject to forfeiture if the purchaser terminates the sales contract; and

(4) The earnest money deposit must be held in escrow by the bank financing the builder or by an independent party in a fiduciary capacity and the escrow agreement must provide that, in the event of default arising from the cancellation of the sales contract by the buyer, the escrow funds must first be used to defray any costs incurred by the bank.

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BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–87–AD; Amendment 39–10193; AD 97–23–05]

RIN 2120–AA64

Airworthiness Directives; Avions Pierre Robin Model R3000 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all Avions Pierre Robin Model R3600 airplanes. This AD requires replacing the attachment bolt between the pitch control cables and control column lever with a bolt of improved design. This AD is the result of mandatory continued airworthiness information (MCAI) issued by the airworthiness authority for France. The actions specified in this AD are intended to prevent the pitch control cables on the control column from becoming jammed due to failure of the attachment bolt, which could result in a reduction in the directional controllability of the airplane.

DATES: Effective December 1, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 1, 1997.

Comments for inclusion in the Rules Docket must be received on or before December 8, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket 97–CE–87–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Service information that applies to this AD may be obtained from Avions Pierre Robin, 1, route de Troyes, 21121 Darois-France; telephone: 03 80 44 20 50; facsimile: 03 80 35 60 80. This information may also be examined at the Federal Aviation Administration

(FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–87–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Karl M. Schletzbaum, Aerospace Engineer, Small Airplane Directorate, Airplane Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6932; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Events Leading to Issuance of the Proposed AD

The Direction Generale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on all Avion Pierre Robin Model R3000 airplanes. The DGAC reports an incident where the operator of one of these airplanes discovered unusual wear of the pitch control cables to the control column. Further examination revealed that the attachment bolt between the pitch control cables and control column lever had failed. This condition, if not corrected in a timely manner, could cause the pitch control cables on the control column to jam and result in a reduction in the directional controllability of the airplane.

Relevant Service Information

Avions Pierre Robin has issued Service Bulletin No.146, Revision 1, dated September 26, 1996, which specifies procedures for replacing the attachment bolt between the pitch control cables and control column lever, part number (P/N) 95.13.19.000, with a bolt of improved design, P/N 27.36.03.140.

The DGAC classified this service bulletin as mandatory and issued French AD 96–167(A)R1, dated December 4, 1996, in order to assure the continued airworthiness of these airplanes in France.

The FAA's Determination

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above.

The FAA has examined the findings of the DGAC; reviewed all available information, including the service information referenced above; and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of the Provisions of This AD

Since an unsafe condition has been identified that is likely to exist or develop on other Pierre Robin Model R3000 airplanes of the same type design registered in the United States, the FAA is issuing an AD. This AD requires replacing the attachment bolt between the pitch control cables and control column lever, part number (P/N) 95.13.19.000, with a bolt of improved design, P/N 27.36.03.140. Accomplishment of the replacement required by this AD is in accordance with the previously referenced service bulletin.

Cost Impact

None of the Avions Pierre Robin airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers this rule necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register.

Should an affected airplane be imported and placed on the U.S. Register, accomplishment of the required actions would take approximately 3 workhours at an average labor charge of $60 per workhour. Parts to accomplish the replacement cost $20. Based on these figures, the total cost impact of this AD would be $200 per airplane that would become registered in the United States.

The Effective Date of This AD

Since this AD action does not affect any airplane that is currently on the U.S. register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register**.

Comments Invited

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption ADDRESSES. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 97–CE–87–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

97–23–06 Avions Pierre Robin: Amendment 39–10193; Docket No. 97–CE–87–AD.

Applicability: Model R3000 airplanes, all serial numbers, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required prior to further flight after the effective date of this AD, unless already accomplished.

To prevent the pitch control cables on the control column from becoming jammed due to failure of the attachment bolt, which could result in a reduction in the directional controllability of the airplane, accomplish the following:

(a) Replace the attachment bolt between the pitch control cables and control column lever, part number (P/N) 95.13.19.000 (or FAA-approved equivalent part number), with a bolt of improved design, P/N 27.36.03.140 (or FAA-approved equivalent part number), in accordance with Avions Pierre Robin Service Bulletin No. 146, Revision 1, dated September 26, 1996.

(b) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(d) The replacement required by this AD shall be done in accordance with Avions Pierre Robin Service Bulletin No. 146, Revision 1, dated September 26, 1996. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Avions Pierre Robin, 1, route de Troyes, 21121 Daxois-France. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in French AD 96–167(A)R1, dated December 4, 1996.

(e) This amendment (39–10193) becomes effective on December 1, 1997.

Issued in Kansas City, Missouri, on October 29, 1997.

Mary Ellen A. Schutt,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–29232 Filed 11–6–97; 8:45 am]

BILLING CODE 4910–13–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1615 and 1616

Standards for Flammability of Children's Sleepwear: Sizes 0 Through 6X and 7 Through 14; Stay of Enforcement; Extension

AGENCY: Consumer Product Safety Commission.

ACTION: Extension of Stay of Enforcement.

SUMMARY: This document announces the Commission's decision to extend the stay of enforcement of sleepwear requirements involving garments currently used or likely to be used as sleepwear if these garments are skin-tight or nearly skin-tight, similar in design, material, and fit to underwear, and are labeled as "underwear."

DATES: The stay which first became effective on January 13, 1993 (published at 58 FR 4178, January 13, 1993), and was extended at 59 FR 53584, October 25, 1994, and 61 FR 47412, September 9, 1996, will continue in effect until June 9, 1998.

FOR FURTHER INFORMATION CONTACT: Patricia A. Fairall, Office of Compliance and Enforcement, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0400, extension 1369.

SUPPLEMENTARY INFORMATION: On January 13, 1993, the Commission published a document announcing that for certain garments it would stay enforcement of its Standard for the Flammability of Children's Sleepwear: Sizes 0–6x (16 CFR part 1615) and the Standard for the Flammability of Children's Sleepwear Sizes 7–14 (16 CFR part 1616). The Commission stated that it would not enforce the sleepwear flammability standards against garments used by children for sleeping that are: (1) Skin-tight or nearly skin-tight; (2) manufactured from fabrics such as rib knit, interlock knit, or waffle knit; (3) relatively free of ornamentation; and (4) labeled and marketed as "underwear."

The stay was part of the Commission's effort to amend its sleepwear regulations to exempt certain tight-fitting garments and infant garments from the sleepwear standards. The stay was published on the same day as an advance notice of proposed rulemaking beginning the proceeding to exempt these garments. See 58 FR 4111. The Commission has since published a proposed rule (59 FR 53616) and a final rule (61 FR 47634) exempting certain tight-fitting and infant garments from the sleepwear flammability standards.

While the Commission was considering amending the standard and to allow time for the industry to adjust to the exemption, the Commission extended the stay of enforcement when it issued the proposed rule (59 FR 53584) and the final rule (61 FR 47412). The Commission is extending the stay 3 months, from March 9, 1998 to June 9, 1998 for the garments described above. The Commission is taking this action because the March 9 date falls in the middle of a retail cycle. Without the extension, retailers and manufacturers believe that in the same selling season they would need to offer and make garments that are acceptable under the stay for the first half of the season and garments that meet the tight fitting requirements for the second half. This could be burdensome for some companies and make it more difficult to insure compliance of manufactured/marketed garments. The Commission does not believe that extending the stay 3 months will adversely affect the industry or consumer safety.

Garments covered by the stay must meet applicable requirements of the Standard for the Flammability of

Clothing Textiles, 16 CFR part 1610, and the Standard for the Flammability of Vinyl Plastic Film, 16 CFR part 1611.

After the stay expires, children's sleepwear must either pass the flammability tests described in the regulations at 16 CFR parts 1615 and 1616 or meet the definition of "tight-fitting garments" described in 16 CFR 1615.1(o) and 1616.1(m), or be in infant sizes 9 months or smaller.

Dated: October 31, 1997.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 97-29306 Filed 11-6-97; 8:45 am]

BILLING CODE 6355-01-P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 97-88]

19 CFR Parts 101 and 122

Customs Service Field Organization; Establishment of Sanford Port of Entry

AGENCY: Customs Service, Treasury.

ACTION: Interim rule; solicitation of comments.

SUMMARY: This document delays the effective date for implementation of a final rule document published in the **Federal Register** July 11, 1997, as T.D. 97-64, which would establish a new port of entry at Orlando-Sanford Airport in Sanford, Florida effective November 10, 1997. Since publication of the final rule document, the Airport Operator has brought to Customs attention that the date chosen by Customs significantly impairs its agreements with air carriers that were signed prior to Customs announcement of its decision. In addition, the Airport Operator claims that cargo and warehousing space currently available at the airport must be expanded to accommodate projected needs. Because of these factors, Customs is delaying the effective date to May 1, 1998 for the port of entry designation. The user-fee status of the airport will continue until the new effective date.

DATES: Effective date of November 10, 1997, of the amendments of §§ 101.3(b)(1) and 122.15(b), Customs Regulations, published in the **Federal Register** (62 FR 37131) on July 11, 1997, is delayed until May 1, 1998. Comments must be received on or before December 8, 1997.

ADDRESSES: Written comments (preferably in triplicate) may be addressed to the U.S. Customs Service, Office of Regulations and Rulings—ATTN: Regulations Branch, The Ronald Reagan Building, 1300 Pennsylvania Avenue, NW., Washington, D.C. 20229. Comments submitted may be inspected at the Regulations Branch, Office of Regulations and Rulings, The Ronald Reagan Building, 1300 Pennsylvania Avenue, NW, Suite 3000, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Harry Denning, Office of Field Operations, Resource Management Division (202) 927-0196.

SUPPLEMENTARY INFORMATION:

Background

On July 11, 1997, Customs published in the **Federal Register** (62 FR 37131) T.D. 97-64 which amended § 101.3(b), Customs Regulations (19 CFR 101.3), to establish a new port of entry at Orlando-Sanford Airport in Sanford, Florida, and § 122.15(b), Customs Regulations (19 CFR 122.15(b)), to remove the Sanford Regional Airport from the list of user-fee airports.

That action was taken by Customs based on analysis of a report prepared for the Central Florida Regional Airport Board that manages the airport at Sanford. The report showed that the Sanford Regional Airport was becoming the fastest growing airport for international passenger clearance services in Florida. In response to this growth, the report indicated that the Airport Board had decided to make substantial and long term investment in new international arrival facilities to serve this growing Central Florida market. Applying the criteria used by Customs since 1973 for the establishment of ports of entry (see Treasury Decision (T.D.) 82-37 (47 FR 10137), as revised by T.D. 86-14 (51 FR 4559) and T.D. 87-65 (52 FR 18328)), to the figures projected by the Central Florida Regional Airport Board, Customs believed that sufficient justification existed for redesignating the airport facility from its user-fee status to that of a port of entry. Customs announced this decision on July 11, 1997, and designated November 10, 1997 as the effective date.

Since publication of the final rule document, it has come to Customs attention that agreements currently in force between the Orlando-Sanford Airport and the air carriers it serves effectively requires the Airport to absorb additional Customs fees through the end of April 1998. Moreover, the facilities for cargo processing and warehousing at Orlando-Sanford Airport need to be expanded and that construction will not be completed until late Spring of 1998.

Delayed Effective Date

For the reasons set forth in the above discussion, Customs has determined that the effective date for the establishment of the new port of entry at Sanford, Florida shall be delayed for approximately 6 months—until May 1, 1998—to afford the airport facility time to complete projected facilities. Until that time, the airport may continue to operate as a user-fee facility.

Public Comment Requirements

Customs establishes, expands, and consolidates Customs ports of entry throughout the United States to accommodate the volume of Customs-related activity in various parts of the country. Because the establishment, expansion or consolidation of a port of entry relates to agency management and organization, a regulatory change involving such an action is not subject to the notice and public procedure requirements of the Administrative Procedure Act (APA) (5 U.S.C. 553).

In addition, pursuant to 5 U.S.C. 553(b)(B), Customs finds for good cause in this instance that notice and public procedure are impracticable, unnecessary and contrary to public interest. It would be impracticable for Customs to issue a proposal in this instance as the rulemaking process could not be completed timely.

If a proposal were to be issued, it would be unlikely that a final decision could be published before November 10, causing possible unforeseen consequences for the airport operator and other members of the public. Also the temporary postponement of the effective date of a rule is a technical change for which it is unnecessary to provide notice and comment. The substantive decision to create a port of entry at Sanford has already been made; the only question is when that port of entry will open.

Notwithstanding the above, Customs generally provides the public with an opportunity to comment on the establishment of ports of entry. Even though notice and public comment are not required in this instance pursuant to 5 U.S.C. 553(a)(2) because this is a matter relating to agency management, and pursuant to 5 U.S.C. 553(b)(B) for good cause, Customs is requesting the public to submit comments regarding the delayed effective date. If comments submitted within the next 30 days demonstrate that there exist sufficient grounds for not delaying the effective date of the establishment of a port of entry in Sanford until May 1, 1998, Customs will issue another document.

Comments submitted will be available for public inspection in accordance with

the Freedom of Information Act (5 U.S.C. 552), § 1.4 of the Treasury Department Regulations (31 CFR 1.4), and § 103.11(b) of the Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, Suite 3000, The Ronald Reagan Building, 1300 Pennsylvania Avenue, N.W., Washington, D.C.

Amendments to the Regulations

For the reasons stated above, the effective date of final rule document FR Doc. 97-18206, published in the **Federal Register** on July 11, 1997 is delayed until May 1, 1998.

The Regulatory Flexibility Act, and Executive Order 12866

Because this document is not subject to the notice and public procedure requirements of 5 U.S.C. 553, this document is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This amendment does not meet the criteria for a "significant regulatory action" as specified in Executive Order 12866.

Approved: October 9, 1997.

Samuel H. Banks,

Acting Commissioner of Customs.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 97-29599 Filed 11-5-97; 2:01 pm]

BILLING CODE 4820-02-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8736]

RIN 1545-AV43

Tax Treatment of Cafeteria Plans

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations that clarify the circumstances under which an employer may permit a cafeteria plan participant to revoke an existing election and make a new election during a period of coverage. The text of these temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the proposed rules section of this issue of the **Federal Register**.

DATES: These regulations are effective on December 31, 1998.

FOR FURTHER INFORMATION CONTACT: Sharon Cohen, (202) 622-6080 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1) under section 125. These temporary regulations provide guidance relating to the circumstances under which a cafeteria plan participant may revoke an existing election and make a new election during a period of coverage.

Explanation of Provisions

A "cafeteria plan" under section 125 allows an employee to choose between cash and certain nontaxable benefits, such as accident or health coverage. Section 125 generally permits the employee to choose the nontaxable benefit (rather than the available cash) without the employee having to include the available cash in gross income. The temporary regulations:

- Permit a cafeteria plan to allow an employee, during a plan year, to change his or her health coverage election to conform with the new special enrollment rights provided under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and
- Permit a cafeteria plan to allow a change in coverage election for a variety of other changes in status.

These regulations are designed to provide clear, administrable guidelines for determining when changes can be made in cafeteria plan elections during a plan year.

These regulations are effective for plan years beginning after December 31, 1998. However, taxpayers may rely on the guidance in the temporary regulations (or on the existing proposed regulations) for prior periods.

Summary

Section 125 generally provides that an employee in a cafeteria plan will not have an amount included in gross income solely because the employee may choose among two or more benefits consisting of cash and "qualified benefits." A qualified benefit generally is any benefit that is excludable from gross income because of an express provision of the Code, including coverage under an employer-provided accident or health plan under sections 105 and 106, group-term life insurance under section 79, elective contributions under a qualified cash or deferred arrangement within the meaning of section 401(k), dependent care assistance under section 129, and adoption assistance under section 137.[1] Under §§ 1.125-1 and 1.125-2 of the existing proposed regulations,[2] an employee is permitted to make an election between cash and qualified benefits before the beginning of the period of coverage (which generally is the plan year of the cafeteria plan); changes in the election during the plan year are permitted only in limited circumstances.

The temporary regulations clarify the circumstances under which a cafeteria plan may permit an employee to change his or her cafeteria plan election with respect to accident or health coverage or group-term life insurance coverage during the plan year. Proposed regulations are also being published that cross-reference these temporary regulations, and that replace the change in family status provisions in Q&A-6 of proposed § 1.125-2 with respect to accident or health plans and group-term life insurance.

HIPAA Special Enrollment Rules

The temporary regulations conform the cafeteria plan rules to the new special enrollment rights provided under HIPAA (which generally require group health plans to permit individuals to be enrolled for coverage following the loss of other health coverage, or if a person becomes the spouse or dependent of an employee through birth, marriage, adoption, or placement for adoption).[3] Under the regulations, if an employee has a right to enroll in an employer's group health plan or to add coverage for a family member under HIPAA, the employee can make a conforming election under the cafeteria plan. This allows required contributions for such health coverage to be paid on a pre-tax basis.

Changes in Status

The temporary regulations include rules for other events, called "changes in status," under which a cafeteria plan may allow an employee to change his or

[1] The following are not qualified benefits: products advertised, marketed, or offered as long-term care insurance; medical savings accounts under section 106(b); qualified scholarships under section 117; educational assistance programs under section 127; and fringe benefits under section 132.

[2] Published as proposed rules at 40 FR 19321 (May 7, 1984) and 54 FR 9460 (March 7, 1989), respectively.

[3] See section 9801(f). Similar provisions are set forth in section 701(f) of the Employee Retirement Income Security Act of 1974 (ERISA), and section 2701(f) of the Public Health Service Act. Regulations under these provisions are set forth in Treas. Reg. § 54.9801-6T; 29 C.F.R. § 2590.701-6; and 45 C.F.R. § 146.117.

her election during the plan year. The events that constitute changes in status under the regulations are changes in legal marital status, number of dependents, employment status, work schedule, and residence or worksite, and cases where the dependent satisfies or ceases to satisfy the requirements for unmarried dependents.

The regulations permit a cafeteria plan to allow a change of election during the plan year if a change in status occurs that affects eligibility for coverage and the election change corresponds with the effect on eligibility. For example, if under the terms of an accident or health plan a child of an employee loses eligibility for coverage upon graduation from college, the cafeteria plan may allow the employee to cease payment for the child's coverage when the child graduates and coverage ceases.

Certain of these changes in status (marriage, birth, adoption, and placement for adoption) overlap with the special enrollment events under HIPAA. The regulations include examples that clarify the relationship between HIPAA's special enrollment rights and these change in status rules. In addition, if a change in status occurs that entitles an employee or family member to "COBRA" continuation coverage (or coverage under a similar State program) with respect to the employer's plan, the regulations permit payments for the continuation coverage to be made on a pre-tax basis under a cafeteria plan.

Other Events

The regulations allow a corresponding cafeteria plan change if a plan receives a court order, such as a qualified medical child support order under section 609 of ERISA. In addition, if an employee, spouse, or dependent becomes entitled to Medicare or Medicaid, a cafeteria plan can permit a corresponding election change.

Elective Contributions Under a Qualified Cash or Deferred Arrangement

The temporary regulations, in provisions similar to those of the existing proposed regulations (proposed § 1.125–2(f)), make clear that the rules of section 401(k) and (m), rather than the rules in these temporary regulations (which apply to other qualified benefits), govern changes in elections under a qualified cash or deferred arrangement (within the meaning of section 401(k)) or with respect to employee after-tax contributions subject to section 401(m).

Scope of Temporary Regulations and Reliance on Proposed Regulations

The temporary regulations do not address certain provisions concerning cafeteria plan election changes that are included in the existing proposed regulations. Guidance on these provisions is reserved at paragraphs (f)–(i) of the temporary regulations.

For example, future guidance under the significant cost change provision (reserved at paragraph (g) of the temporary regulations), rather than the change in status rules, would determine whether an employee who switches from full-time to part-time employment and who remains eligible under the employer's health plan could make an election change if the part-time employee is required to pay significantly higher amounts for the coverage. The temporary regulations also reserve guidance with respect to provisions set forth in the existing proposed regulations that permit an election change in the case of a significant change in coverage (which includes a significant change in the health coverage of the employee or spouse attributable to the spouse's employment).[4] Other matters not addressed in the temporary regulations include the application of the cafeteria plan election change rules to qualified benefits other than accident or health coverage and group-term life insurance coverage (for example, dependent care assistance programs), and special rules concerning changes in elections by employees taking leave under the Family and Medical Leave Act of 1993 (Pub. L. 103–3).[5] Pending further guidance, taxpayers can continue to rely on the existing proposed regulations[6] concerning these and other matters not addressed in the temporary regulations.[7]

The temporary regulations are effective for plan years beginning after December 31, 1996. Prior to that date, however, taxpayers can rely on the guidance provided in the temporary regulations (as well as on the guidance provided in the existing proposed regulations that relates to matters addressed in the temporary regulations) in order to comply with the provisions of section 125.

[4] See the second-to-last sentence in Q&A–6(c) of proposed § 1.125–2.

[5] See § 1.125.3, published as a proposed rule at 60 FR 66229 (December 21, 1995).

[6] See also § 1.125–2T, published at 51 FR 4312 (January 29, 1986), which describes benefits that may be offered under a cafeteria plan.

[7] See the preambles to proposed §§ 1.125–1 and 1.125–2 and Q&A–8 of proposed § 1.125–3.

Special Analyses

It has been determined that this Treasury Decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal authors of these regulations are Catherine Fuller and Sharon Cohen, Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. § 1.125–4T is added to read as follows:

§ 1.125–4T Permitted election changes (temporary).

(a) *Election changes.* A cafeteria plan may permit an employee to revoke an election during a period of coverage and to make a new election only as provided in paragraphs (b) through (i) of this section. See paragraph (j) of this section for special provisions relating to qualified cash or deferred arrangements.

(b) *Special enrollment rights.* A cafeteria plan may permit an employee to revoke an election for accident or health coverage during a period of coverage and make a new election that corresponds with the special enrollment rights provided in section 9801(f), whether or not the change in election is permitted under paragraph (c) of this section.

(c) *Changes in status for accident or health coverage and group-term life.* (1) *In general.* A cafeteria plan may permit an employee to revoke an election for accident or health coverage or group-term life insurance coverage during a period of coverage and make a new election for the remaining portion of the period if, under the facts and circumstances —

(i) A change in status occurs; and

(ii) The election change satisfies the consistency requirement in paragraph (c)(3) of this section (consistency rule for accident or health coverage) or (c)(4) of this section (consistency rule for group-term life insurance coverage).

(2) *Change in status events.* The following events are changes in status for purposes of this paragraph (c):

(i) *Legal marital status.* Events that change an employee's legal marital status, including marriage, death of spouse, divorce, legal separation, or annulment;

(ii) *Number of dependents.* Events that change an employee's number of dependents (as defined in section 152), including birth, adoption, placement for adoption (as defined in regulations under section 9801), or death of a dependent;

(iii) *Employment status.* A termination or commencement of employment by the employee, spouse, or dependent;

(iv) *Work schedule.* A reduction or increase in hours of employment by the employee, spouse, or dependent, including a switch between part-time and full-time, a strike or lockout, or commencement or return from an unpaid leave of absence;

(v) *Dependent satisfies or ceases to satisfy the requirements for unmarried dependents.* An event that causes an employee's dependent to satisfy or cease to satisfy the requirements for coverage due to attainment of age, student status, or any similar circumstance as provided in the accident or health plan under which the employee receives coverage; and

(vi) *Residence or Worksite.* A change in the place of residence or work of the employee, spouse, or dependent.

(3) *Consistency rule for accident or health coverage.* (i) *General rule.* (A) An employee's revocation of a cafeteria plan election during a period of coverage and new election for the remaining portion of the period (referred to below as an "election change") is consistent with a change in status if, and only if—

(1) The change in status results in the employee, spouse, or dependent gaining or losing eligibility for accident or health coverage under either the cafeteria plan or an accident or health plan of the spouse's or dependent's employer; and

(2) The election change corresponds with that gain or loss of coverage.

(B) A change in status results in an employee, spouse, or dependent gaining (or losing) eligibility for coverage under a plan only if the individual becomes eligible (or ineligible) to participate in the plan. A cafeteria plan may treat an individual as gaining (or losing) eligibility for coverage if the individual becomes eligible (or ineligible) for a particular benefit package option under a plan (e.g., a change in status results in an individual becoming eligible for a managed care option or an indemnity option). If, as a result of a change in status, the individual gains eligibility for elective coverage under a plan of the spouse's or dependent's employer, the consistency rule of this paragraph (c)(3)(i) is satisfied only if the individual elects the coverage under the spouse's or dependent's employer. See the *Examples* in paragraph (k) of this section for illustrations of the consistency rule.

(ii) *Exception for COBRA.* Notwithstanding paragraph (c)(3)(i) of this section, if the employee, spouse, or dependent becomes eligible for continuation coverage under the employer's group health plan as provided in section 4980B or any similar State law, the employee may elect to increase payments under the employer's cafeteria plan in order to pay for the continuation coverage.

(4) *Consistency rule for group-term life insurance coverage.* Except as provided in this paragraph (c)(4), the provisions of paragraph (c)(3)(i) of this section apply to group-term life insurance coverage. In the case of marriage, birth, adoption, or placement for adoption, a cafeteria plan can allow an election change to increase (but not to reduce) the amount of the employee's life insurance coverage. In the case of divorce, legal separation, annulment, or death of a spouse or dependent, a cafeteria plan may allow an election change to reduce (but not to increase) the amount of the employee's life insurance coverage.

(d) *Judgment, decree, or order.* This paragraph (d) applies to a judgment, decree, or order ("order") resulting from a divorce, legal separation, annulment, or change in legal custody (including a qualified medical child support order defined in section 609 of the Employee Retirement Income Security Act of 1974) that requires accident or health coverage for an employee's child. Notwithstanding the provisions of paragraph (c) of this section, a cafeteria plan may—

(1) Change the employee's election to provide coverage for the child if the order requires coverage under the employee's plan; or

(2) Permit the employee to make an election change to cancel coverage for the child if the order requires the former spouse to provide coverage.

(e) *Entitlement to Medicare or Medicaid.* If an employee, spouse, or dependent who is enrolled in an accident or health plan of the employer becomes entitled to coverage (i.e., enrolled) under Part A or Part B of Title XVIII of the Social Security Act (Medicare) or Title XIX of the Social Security Act (Medicaid), other than coverage consisting solely of benefits under section 1928 of the Social Security Act (the program for distribution of pediatric vaccines), a cafeteria plan may permit the employee to make an election change to cancel coverage of that employee, spouse or dependent under the accident or health plan.

(f) *Changes in status for other qualified benefits.* [Reserved].

(g) *Significant coverage or cost changes.* [Reserved].

(1) *Employer's plan.* [Reserved].

(2) *Plan of spouse's or dependent's employer.* [Reserved].

(h) *Cessation of required contributions.* [Reserved].

(i) *Special requirements concerning the Family and Medical Leave Act.* [Reserved].

(j) *Elective contributions under a qualified cash or deferred arrangement.* The provisions of this section do not apply with respect to elective contributions under a qualified cash or deferred arrangement (within the meaning of section 401(k)) or employee contributions subject to section 401(m). Thus, a cafeteria plan may permit an employee to modify or revoke elections in accordance with sections 401(k) and 401(m) and the regulations thereunder.

(k) *Examples.* The following examples illustrate the rules of this section. In each case involving an accident or health plan, assume that the plan is subject to section 9801(f) (providing for special enrollment rights under certain group health plans).

Example 1. (i) Employer M provides health coverage for its employees under which employees may elect either employee-only coverage or family coverage. M also maintains a calendar year cafeteria plan under which qualified benefits, including health coverage, are funded through salary reduction. M's employee, A, elects employee-only health coverage before the beginning of the calendar year. During the year, A adopts

a child, C. Within 30 days thereafter, A wants to revoke A's election for employee-only health coverage and obtain family health coverage, as of the date of C's adoption. A satisfies the conditions for special enrollment of an employee with a new dependent under section 9801(f)(2), so that A may enroll in family coverage under M's accident or health plan in order to provide coverage for C, effective as of the date of C's adoption.

(ii) In this *Example 1*, M's cafeteria plan may permit A to change the employee's salary reduction election to family coverage for salary not yet currently available. The increased salary reduction could reflect the cost of family coverage from the date of adoption. (The adoption of C is also a change in status, and the election of family coverage is consistent with that change in status. Thus, under the change in status provisions of paragraph (c) of this section, M's cafeteria plan could permit A to elect family coverage prospectively in order to cover C for the remaining portion of the coverage period.)

Example 2. (i) The employer plans and permissible coverage are the same as in *Example 1*. Before the beginning of the calendar year, Employee A elects employee-only health coverage under M's cafeteria plan. A marries B during the plan year. B's employer, N, offers health coverage to N's employees, and, prior to the marriage, B had elected employee-only coverage. A wants to revoke the election for employee-only coverage, and is considering electing family health coverage under M's plan or obtaining family health coverage under N's plan.

(ii) In this *Example 2*, A's marriage to B is a change in status. Two possible election changes by A would be consistent with the change in status: to cover A and B by electing family health coverage under M's plan, or to cancel coverage under M's plan (with B electing family health coverage under N's plan in order to cover A and B). Thus, M's cafeteria plan may permit A to make either change in election. (M's cafeteria plan could also permit A to change A's salary reduction election to reflect the change to family coverage under M's group health plan in accordance with paragraph (b) of this section because the marriage would also create special enrollment rights under section 9801(f), pursuant to which an election of family coverage under M's plan would be required to be effective no later than the first day of the first calendar month beginning after the completed request for enrollment is received by the plan.)

Example 3. (i) Employee G, a single parent, elects family health coverage under a calendar year cafeteria plan maintained by Employer O. G and G's 21-year old child, H, are covered under O's health plan. During the year, H graduates from college. Under the terms of the health plan, dependents over the age of 19 must be full-time students to receive coverage. G wants to revoke G's election for family health coverage and obtain employee-only coverage under O's cafeteria plan.

(ii) In this *Example 3*, H's loss of eligibility for coverage under the terms of the health plan is a change in status. A revocation of G's election for family coverage and new election of employee-only coverage is consistent with the change in status. Thus, O's cafeteria plan may permit G to elect employee-only coverage.

Example 4. (i) Employee J is married to K and they have one child, S. A calendar year cafeteria plan maintained by Employer P allows employees to elect no health coverage, employee-only coverage, employee-plus-one-dependent coverage, or family coverage. Under the plan, before the beginning of the calendar year, J elects family health coverage for J, K, and S. J and K divorce during the year and, under the terms of P's accident or health plan, K loses eligibility for P's health coverage. S does not lose eligibility for health coverage under P's plan upon the divorce. J now wants to revoke J's election under the cafeteria plan and elect no coverage.

(ii) In this *Example 4*, the divorce is a change in status. A change in the cafeteria plan election to cancel health coverage for K is consistent with that change in status. However, the divorce does not affect J's or S's eligibility for health coverage. Therefore, an election change to cancel J's or S's health coverage is not consistent with the change in status. The cafeteria plan, however, may permit J to elect employee-plus-one-dependent health coverage.

Example 5. (i) The facts are the same as *Example 4*, except that, before the beginning of the year, Employee J elected employee-only health coverage (rather than family coverage). Pursuant to J's divorce agreement with K, P's health plan receives a qualified medical child support order (as defined in section 609 of the Employee Retirement Income Security Act) during the plan year. The order requires P's health plan to cover S.

(ii) In this *Example 5*, P's cafeteria plan may change J's election from employee-only health coverage to employee-plus-one-dependent coverage in order to cover S.

Example 6. (i) Before the beginning of the coverage period, Employee L elects to participate in a cafeteria plan maintained by L's Employer, Q. However, in order to change the election during the coverage period so as to cancel coverage, and by prior understanding with Q, L terminates employment and resumes employment one week later.

(ii) In this *Example 6*, under the facts and circumstances, in which a principal purpose of the termination of employment was to alter the election and reinstatement of employment was understood at the time of termination, L does not have a change in status. However, L's termination of employment would constitute a change in status, permitting a cancellation of coverage during the period of unemployment, if L's original cafeteria plan election was reinstated upon resumption of employment (for example, because of a cafeteria plan provision requiring an employee who resumes employment within 30 days, without any other intervening event that would permit a change in election, to return to the election in effect prior to termination of employment).

Example 7. (i) Employer R maintains a calendar year cafeteria plan under which full-time employees may elect coverage under one of three benefit package options provided under an accident or health plan: an indemnity option or either of two HMO options for employees that work in the respective service areas of the two HMOs. Employee T, who works in the service area of HMO #1, elects the HMO #1 option. During the year, T is transferred to another work location which is outside the HMO #1 service area and inside the HMO #2 service area.

(ii) In this *Example 7*, the transfer is a change in status and, under the consistency rule, the cafeteria plan may permit T to make an election change to either the indemnity option or HMO #2, or to cancel accident or health coverage.

Example 8. (i) A calendar year cafeteria plan maintained by Employer S allows employees to elect coverage under an accident or health plan providing indemnity coverage and under a flexible spending arrangement (FSA). Prior to the beginning of the calendar year, Employee U elects employee-only indemnity coverage, and coverage under the FSA for up to $600 of reimbursements for the year to be funded by salary reduction contributions of $600 during the year. U's spouse, V, has employee-only coverage under an accident or health plan maintained by V's employer. During the year, V terminates employment and loses coverage under that plan. U now wants to elect family coverage under S's accident or health plan and increase U's FSA election.

(ii) In this *Example 8*, V's termination of employment is a change in status. The cafeteria plan may permit U to elect family coverage under S's accident or health plan, and to increase U's FSA coverage.

Example 9. (i) Employer T provides group-term life insurance coverage as described under section 79. Under T's plan, an employee may elect life insurance coverage in an amount up to the lesser of his or her salary or $50,000. T also maintains a calendar year cafeteria plan under which qualified benefits, including the group-term life insurance coverage, are funded through salary reduction. Before the beginning of the calendar year, Employee W elects $10,000 of life insurance coverage, with W's spouse, X, as the beneficiary. During the year, a child is placed for adoption with W and X. W wants to increase W's election for life insurance coverage to $50,000 (without changing the designation of X as the beneficiary).

(ii) In this *Example 9*, the placement of a child for adoption with W is a change in status. The increase in coverage is consistent with the change in status. Thus, W's cafeteria plan may permit W to increase W's life insurance coverage.

(l) *Effective Date.* This section is effective for plan years beginning after December 31, 1998.

Michael P. Dolan,

Acting Commissioner of Internal Revenue.

Dated: October 10, 1997.

Donald C. Lubick,

Acting Assistant Secretary of the Treasury.

[FR Doc. 97–29087 Filed 11–6–97; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

[PA–113–FOR]

Pennsylvania Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving, with certain exceptions, a proposed amendment to the Pennsylvania regulatory program (hereinafter referred to as the "Pennsylvania program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Pennsylvania proposed revisions and additions to its rules pertain to: surface and underground mining definitions, incidental coal extraction, permit approval, permit renewal, coal exploration, bonding, permit applications, operation and reclamation plans, environmental protection standards, anthracite bank removal and reclamation standards, refuse removal standards, coal preparation facilities, underground mining erosion and sedimentation control standards, impoundments, subsidence control, and coal refuse disposal permit applications and performance standards. The amendment is intended to revise the Pennsylvania program to be consistent with the corresponding Federal regulations.

EFFECTIVE DATE: November 7, 1997.

FOR FURTHER INFORMATION CONTACT: Robert J. Biggi, Director, Harrisburg Field Office, Harrisburg Transportation Center, Third Floor, Suite 3C, 4th and Market Streets, Harrisburg, PA 17101. Telephone: (717) 782–4036.

SUPPLEMENTARY INFORMATION:

I. Background on the Pennsylvania Program
II. Submission of the Proposed Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background on the Pennsylvania Program

On July 31, 1982, the Secretary of the Interior conditionally approved the Pennsylvania program. Background information on the Pennsylvania program, including the Secretary's findings, and the disposition of comments, and the conditions of approval can be found in the July 31, 1982, **Federal Register** (47 FR 33050). Subsequent actions concerning conditions of approval and program amendments can be found at 30 CFR 938.11, 938.12, 938,15, and 938.16.

II. Submission of the Proposed Amendment

By letter dated January 23, 1996 (Administrative Record No. PA–838.00), Pennsylvania submitted a proposed amendment to its program pursuant to SMCRA in response to the required program amendments at 30 CFR 938.16 (g) through (ii), with the exception of (h). Pennsylvania proposed to revise sections 86–90 of its Coal Mining Regulations (Regulatory Reform III).

OSM announced receipt of the proposed amendment in the February 28, 1996 **Federal Register** (61 FR 7446), and in the same document opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on March 29, 1996.

During its review of the amendment, OSM identified concerns relating to the following sections of Pennsylvania's regulations:

Section	Topic
86.5(l)3	Administrative Review.
86.5(m)	Notification.
No PA Counterpart	Public Comment Period, Inspections, Administrative Review.
86.55(j)	Permit Renewal Applications.
87.108(c), 89.24(c), 90.108(c).	Siltation Structures.
88.105(b), 88.106(a), 88.201(b), 88.202(a), 88.305(b), 88.306(a).	Water Monitoring.
88.321, 90.133	Noncoal Waste Disposal.
87.125(a)	Preblast Survey.
87.127(i)	Vibration Limit.
No PA Counterpart	Blast Monitoring.
87.124(b)	Blasting Schedule.
No PA Counterpart	Blast Design.
87.127(f)	Flyrock
87.129(4)	Blasting.

OSM notified Pennsylvania of these concerns by letter dated February 21, 1997. By letter dated March 28, 1997, Pennsylvania responded to OSM's concerns by submitting additional explanatory information and by proposing to make certain revisions to its regulations during its submission of Regulatory Reform IV. Because the additional information was explanatory in nature and did not constitute a major revision of the original submission, OSM did not reopen the comment period.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment. Revisions not specifically discussed below concern nonsubstantive wording changes, or revised cross-references and paragraph notations to reflect organizational changes resulting from this amendment.

A. Revisions to Pennsylvania's Regulations That Are Substantively Identical to the Corresponding Provisions of the Federal Regulations

State regulation	Subject	Federal counterpart
86.1	Definition—"MSHA"	30 CFR 701.5.
86.1	Definitions—"Cumulative Measurement Period," "Cumulative Production," "Cumulative Revenue," "Mining Area," "Other Minerals.".	30 CFR 702.5.
86.5(a)–(e)	Extraction of Coal	30 CFR 702.11 (a), (b), (d).
86.5(f)	Public Availability of Information	30 CFR 702.13.
86.5(g)	Application Requirements	30 CFR 702.12.
86.5(h) (excluding (h)(2))	Exemption Requirements	30 CFR 702.11(c), 702.14.
86.5(i)(1), (2)	Exemption Determination	30 CFR 702.11(e)(1), (2).
86.5(j)(1)–(3)	Conditions of Exemption	30 CFR 702.15(a)–(c).
86.5(j)(4)	Reports	30 CFR 702.5(a)(2), 702.18.
86.5(k)	Stockpiling	30 CFR 702.16.

State regulation	Subject	Federal counterpart
86.5(l)	Compliance Review	30 CFR 702.17(a).
86.5(n)	Revocation	30 CFR 702.17(c)(3).
86.5(o)	Enforcement	30 CFR 702.17(c)(2).
86.55(g)(6)	Permit Renewal	30 CFR 774.15(c)(iv).
86.133(g)	Coal Exploration	30 CFR 815.15(g).
86.156(b)	Bonds	30 CFR 800.16(e)(1).
86.175(b)(3)	Bond Release	30 CFR 800.40(c)(2).
86.182(e)	Bond Forfeiture	30 CFR 800.50(b)(2).
86.182(f)(1)	Bond Forfeiture	30 CFR 800.50(d)(1).
87.46(b)(3)(i)	Surface Mines—Surface Water	30 CFR 780.21(b)(2).
87.69(b)(4)	Hydrologic Balance	30 CFR 780.21(i), (j).
87.127(e)(2)	Explosives—Surface Blasting	30 CFR 816.67(b)(1).
87.127(j)	Explosives—Surface Blasting	30 CFR 816.67(d)(3).
87.127(n)	Explosives—Surface Blasting	30 CFR 816.67(d)(2)(i).
87.127(p)	Explosives—Surface Blasting	30 CFR 816.67(d)(4).
87.131(n)	Disposal of Excess Spoil	30 CFR 816.71(h)(2).
87.135(a)	Protection of Underground Mining	30 CFR 816.79.
87.138(c)	Protection of Fish, Wildlife and Related Environmental Values	30 CFR 816.97(c).
88.24(b)(4)(i)	Anthracite Coal Mining	30 CFR 780.22(b)(2)(ii), (iii).
88.24(b)(4)(ii)	Anthracite Coal Mining	30 CFR 780.22(d).
88.26(b)(2)(i)	Anthracite—Surface Water	30 CFR 780.21(b)(2).
88.49(b)(2)	Anthracite—Hydrologic Balance	30 CFR 780.21(i).
88.54	Anthracite-Protection of Underground Mining	30 CFR 816.79.
88.61(b)(1)	Anthracite-Prime Farmlands	30 CFR 785.17(c)(1).
88.284	Anthracite-Sealing of Drilled Holes and Exploratory Openings	30 CFR 816.14.
88.491(d)(2)(A)	Anthracite—Surface Water	30 CFR 780.21(b)(2).
88.491(j)	Anthracite—Permit Applications	30 CFR 780.15(c).
88.492(d)(2)(iii)	Anthracite-Ground and Surface Water Monitoring Plans	30 CFR 780.21(i)(1), (j)(2).
89.34(a)(1)(iii), (2)(i), (2)(ii)	Hydrology-Underground Mining And Coal Preparation Facilities	30 CFR 784.14(h), (b)(2), (i).
89.82(d)	Performance Standards	30 CFR 817.97(c).
89.172(b)	Coal Preparation	30 CFR 785.21(c).
90.14(b)(3)(i)	Coal Refuse—Surface Water	30 CFR 780.21(b)(2).
90.35(b)(3)	Ground and Surface Water Monitoring Plans	30 CFR 780.21(i)(1), (j)(2).
90.150(c)	Protection of Fish, Wildlife and Related Environmental Values	30 CFR 816.97(c).

Because the above proposed revisions re identical in meaning to the corresponding Federal regulations, the Director finds that Pennsylvania's proposed rules are no less effective than the Federal rules.

B. Revisions to Pennsylvania's Regulations That Are Not Substantively Identical to the Corresponding Provisions of the Federal Regulations

1. 86.1/87.1—Definitions

Pennsylvania is proposing to amend the definition of "surface mining activities" to include the construction of a road or similar disturbance for any purpose related to a surface mining activity, including that of a moving or walking dragline or other equipment, or for the assembly or disassembly or staging of equipment. The Director finds that definition proposed by Pennsylvania is no less effective than the Federal definition at 30 CFR 700.5. The proposed revision also satisfies the required amendment at 30 CFR 938.16(g) which required Pennsylvania to amend its definition to make it clear that the construction of any road, or similar disturbance, shall be deemed a surface mining activity and will be regulated.

2. 86.5(h)(2)—Extraction of Coal

Pennsylvania is proposing to require in this subsection that no request for an exemption will be approved unless the applicant can show that the coal to be produced will be from the geological stratum above the deepest stratum from which other minerals are extracted for purposes of bona fide sale or reasonable commercial use. The corresponding Federal regulation, at 30 CFR 702.14(a)(2), contains the same requirement, except that it allows the exemption to be approved if the coal to be produced is in the geological stratum lying above or below the deepest stratum from which other minerals are extracted. Because Pennsylvania limits the exemption allowance to where the coal is produced above the deepest stratum from which other minerals are extracted, it is more restrictive, and therefore more stringent, than its Federal counterpart. In accordance with section 505(b) of SMCRA (30 U.S.C. 1255(b)) and 30 CFR 730.11(b), therefore, subsection 86.5(h)(2) is not inconsistent with SMCRA.

3. 86.5(l)(3)—Exemption Determinations

Pennsylvania is proposing to permit a person who is adversely affected by the determination of exemption to file an appeal as provided by Chapter 21 of the regulations. The proposed regulation is substantively identical to the Federal regulations at 30 CFR 702.11(f)(1). However, the Federal regulations at 30 CFR 702.11(f)(2) specify that such appeals shall not suspend the effect of that determination. In its letter dated March 28, 1997, Pennsylvania stated that appeals to the Environmental Hearing Board (EHB) under the provisions of Chapter 21 do not stay the effect of the Department of Environmental Protection's (Department) actions. If an appellant wishes to stay the effect of such an action, the appellant must petition the EHB which, in turn, must issue a supersedeas. The Director finds the proposed Pennsylvania regulation no less effective than the Federal regulations, since Pennsylvania law provides, generally, that an appeal does not, by itself, suspend the effect of the decision appealed from.

4. 86.5(m)—Notification

Pennsylvania is proposing to require that if the Department believes that a specific mining area was not exempt at the end of the previous reporting period, or is not exempt or cannot satisfy the exemption criteria at the end of the current reporting period, it will notify the operator that the exemption may be revoked and explain the reasons. The exemption will be revoked unless the operator demonstrates within 30 days that the area in question should continue to be exempt. The operator and interested parties will be notified immediately of the revocation. The Federal regulations at 30 CFR 702.17(b) and (c)(1) have the same requirements. However, the Federal regulations also specify that if a decision is made not to revoke an exemption, the regulatory authority shall immediately notify the operator and intervenors. The Director finds that the proposed Pennsylvania regulation is less effective than the Federal regulations because it lacks this notification requirement. He is, therefore, requiring that Pennsylvania amend its program to include the notification requirement to operators and intervenors of a Department's decision not to revoke an exemption.

5. 86.55(i),(j)—Permit Renewals

Pennsylvania is proposing at subsection (i) to allow a permittee to provide a written notice to the Department in lieu of a complete application if, after the permit expiration date, the remaining surface mining activities will consist solely of reclamation. The Department may renew the permit conditioned upon only reclamation activities occurring. A new permit is required if the permittee resumes coal extraction, preparation, or refuse disposal. At subsection (j), Pennsylvania is proposing to require that a permittee submit a renewal application in accordance with the terms of subsection (i) and determines prior to the permit expiration date that coal extraction, preparation, or refuse disposal will occur or treatment facilities will be required after the permit expiration date. The Federal regulations at 30 CFR 773.11(a) allow a permittee to forego permit renewal where only reclamation activities remain to be performed, but require that permit obligations continue until reclamation is complete. Subsection (i), as proposed, contains a similar provision, in that it provides that the permit will be renewed even where only reclamation obligations remain, but requires only a notice of renewal in such instances, rather than a complete renewal application, with public notice. Therefore, subsection (i) is no less effective than 30 CFR 773.11(a). However, the Federal regulations at 30 CFR 774.15(b)(1) require that an application for permit renewal be submitted at least 120 days before expiration of the existing permit term. Pennsylvania's proposed revision at subsection (j) does not contain this provision. Therefore, the Director finds that it is less effective than the Federal regulations, and he is requiring that Pennsylvania amend its regulation to include the 120 day submittal requirement.

6. 86.134(8)—Coal Exploration

Pennsylvania proposes to require that each coal exploration hole, borehole, well, or other underground opening created or encountered by exploration must meet the requirements of its program relating to preventing discharges from underground mines, and closing of underground mine openings. The Federal counterpart regulation, at 30 CFR 815.15(g), contains these same requirements, except that it applies only to holes, etc., which are created during coal exploration, and not to holes encountered during coal exploration. As such, Pennsylvania's proposal is more inclusive, and therefore more stringent, than its Federal counterpart. In accordance with section 505(b) of SMCRA (30 U.S.C. 1255(b)) and 30 CFR 730.11(b), therefore, subsection 86.134(8) is not inconsistent with SMCRA.

7. 86.182(f)(2)—Bond Forfeiture

Pennsylvania is proposing to require that if the bond amount forfeited by the permittee is more than the amount necessary to complete the reclamation, the excess funds shall be used by the Department for certain prescribed purposes specified in subsection 18(a) of the Pennsylvania Surface Mining Act. The Federal regulations at 30 CFR 800.50(d)(2) require the regulatory authority to return any unused funds to the party from whom they were collected. However, Pennsylvania considers the excess funds to be a penal bond and reserves the right to apply the funds to approved purposes. The Director finds that the proposed Pennsylvania revision is, in effect, more stringent than the Federal regulations. Therefore, in accordance with section 505(b) of SMCRA (30 U.S.C. 1255(b)) and 30 CFR 730.11(b), subsection 86.182(f)(2) is not inconsistent with SMCRA.

8. 88.193(h)—Civil Penalties

Pennsylvania is proposing to delete the provision that the Department may, when appropriate, assess a penalty against corporate officers, directors, or agents as an alternative to, or in combination with, other penalty actions. This provision currently appears in Pennsylvania's regulations at 86.195(a). The Director finds that the proposed deletion will not render the Pennsylvania program less effective than the Federal regulations at 30 CFR 848.12(a). However, the Director notes that Pennsylvania must still amend subsections 86.195(a) and (b), or otherwise amend its program, as directed at 30 CFR 938.16(eee).

9. 87.45(a)(4), 88.25(a)(4), 88.491(c)(1)(iv), 89.34(a)(1)(i), 90.131(1)—Surface Coal Mines, Anthracite (General Provisions), Anthracite (Coal Preparation Facilities), Underground Coal Mines, Coal Refuse Disposal: Groundwater

Pennsylvania is proposing to require that a permit applicant supply certain baseline information pertaining to groundwater, including water quality descriptions of total dissolved solids or specific conductance corrected to 25 degrees centigrade, pH, total iron, total manganese, alkalinity, acidity, and sulfates. The counterpart Federal regulations, at 30 CFR 780.21/784.14(b)(1), also require water quality descriptions, but do not specifically require descriptions of alkalinity, acidity or sulfates. As such, the Pennsylvania proposals are more stringent than their Federal counterparts. Therefore, in accordance with section 505(b) of SMCRA (30 U.S.C. 1255(b)) and 30 CFR 730.11(b), these Pennsylvania proposed amendments are not inconsistent with SMCRA.

10. 87.46(b)(c)(ix)—Surface Water Information: Surface Coal Mines/ 88.26(b)(2)(ix)—Surface Water Information: Anthracite Surface Mines/ 88.491(d)(2)(ii)(I), (J)—Surface Water Information: Anthracite Underground Mines/90.14(b)(3)(ix)—Surface Water Information—Coal Refuse Disposal

Pennsylvania is proposing to require that a permit application include surface water information that specifies total aluminum in milligrams per liter. The Federal regulations at 30 CFR 780.21/784.14(b)(2) do not include this provision but rather require minimum water quality descriptions which Pennsylvania's program already requires. Also, Pennsylvania is requiring other surface water information, as appropriate. The Federal regulations at 30 CFR 780.21/784.14(b)(2) also do not include this provision. As such, the Pennsylvania proposals are more stringent than their Federal counterparts. Therefore, in accordance with section 505(b) of SMCRA (30 U.S.C. 1255(b)) and 30 CFR 730.11(b), these Pennsylvania proposed

amendments are not inconsistent with SMCRA.

11. 87.54(b)/87.65(b)—Maps, Cross Sections and Related Information: Surface Mines/88.31/88.44(b)—Maps and Plans: Anthracite Surface Mines/88.492(j)(3)—Maps and Plans: Anthracite Underground Mines/90.21(b), 90.46(3)—Maps and Plans: Coal Refuse Disposal

Pennsylvania is proposing to require that qualified professional geologists also be registered in order to prepare and certify maps, plans, and cross sections. The corresponding Federal regulations, at 30 CFR 779.25(b) (for 87.54(b) and 88.31(b)), 780.14(c) (for 87.65(b) and 88.44(b)), and 784.23(c) (for 88.492(j)(3)), require only that the geologist be a professional. However, Pennsylvania may require, additionally, that the geologist be a registered professional. As such, the Pennsylvania proposals are more stringent than their Federal counterparts. Therefore, in accordance with section 505(b) of SMCRA (30 U.S.C. 1255(b)) and 30 CFR 730.11(b), these Pennsylvania proposed amendments are not inconsistent with SMCRA.

12. 87.69(b)(5)—Hydrologic Balance: Surface Mines/88.49(b)(3)—Hydrologic Balance: Anthracite Surface Mines/88.492—Reclamation and Operation Plan: Anthracite

Pennsylvania is proposing to require that the determination of probable hydrologic consequences (PHC) address the parameters measured in accordance with subsections 87.45, 87.46, 88.25, 88.26, and 88.491. The Federal regulations at 30 CFR 780.21(f)(2) require the PHC to be based upon baseline hydrologic information contained in the permit application. This baseline information is collected for the same ground and surface water parameters which are required to be measured pursuant to subsection 87.45, 87.46, 88.25 and 88.26. Therefore, the Director finds that the proposed Pennsylvania regulations are no less effective than the Federal regulations at 30 CFR 780.21(f).

13. 87.73—Dams, Ponds, Embankments, and Impoundments: Surface Mines/90.111(7), 90.113(i), 90.120—Impoundments: Coal Refuse Disposal

At subsection 87.73(c)(1), Pennsylvania is proposing to revise its requirements for detailed design plans for dams, ponds, embankments and impoundments. Engineers, when necessary, will obtain assistance from experts in related fields when preparing design plans for impoundments meeting or exceeding MSHA size classification or other specified criteria. For those impoundments not meeting the size classification or other criteria, the plan shall be prepared by a qualified engineer or land surveyor. The Federal regulations at 30 CFR 780.25(a) (2) and (3) have the same requirements. Therefore, the Director finds that the proposed Pennsylvania regulation is no less effective than the Federal regulations. The proposed revision also satisfies the required amendment at 30 CFR 938.16(s) which required Pennsylvania to clarify that all impoundments with a storage volume of 20 acre-feet or more must be designed by or under the direction of, and certified by, a qualified registered professional engineer with assistance from experts in related fields.

At subsections 87.73(c)(4), 90.111(7) and 90.113(i), and at section 90.120, Pennsylvania is proposing to prohibit the permanent retention of an impounding structure constructed of coal refuse or used to impound coal refuse unless it develops into a fill meeting the coal refuse disposal requirements of section 90.122. The Federal regulations at 30 CFR 816.84(b)(1) also prohibit permanent impoundments on coal refuse or coal refuse impounding structures, but contain no exceptions for the development of a fill. However, subsection 90.122(j) of Pennsylvania's regulations does prohibit the retention of permanent impoundments on a completed fill. By cross-referencing subsection 90.122(j), these provisions contain the necessary prohibition of permanent impoundments. Therefore, the Director finds that the proposed Pennsylvania regulations are no less effective than the Federal regulations at 30 CFR 816.84(b)(1).

14. 87.102(a)—Effluent Standards: Surface Mines/88.92(a)—Effluent Standards: Anthracite Surface Mines/88.187(a)—Effluent Standards: Anthracite Bank Removal/88.292(a)—Effluent Standards: Anthracite Refuse Disposal/89.52(c)—Effluent Standards: Underground Mining and Coal Preparation Facilities/90.102(a)—Effluent Standards: Coal Refuse Disposal

Pennsylvania is proposing to revise the instantaneous maximum level for manganese to 5.0 mg/l for its Group "B" effluent limitations, and to add instantaneous maximum discharge levels for manganese (5.0 mg/l) and suspended solids (90 mg/l) to its Group "A" effluent limitations. (Group "A" effluent limitations apply to pit water discharges in all types of weather, and to all other discharges in dry weather or during very low precipitation events. Group "B" effluent limitations apply to discharges, other than pit water, during precipitation events of up to 10 years and 24 hours.) The Director notes that the Clean Water Act effluent limitations applicable to coal mining operations, at 40 CFR Part 434, do not contain instantaneous maximum limits for manganese or suspended solids. Therefore, Pennsylvania's proposals are in addition to the requirements of the Clean Water ACt regulations. Also, the Director notes that the Environmental Protection Agency, in its letter of concurrence with this program amendment, stated that the addition of these instantaneous maximum limits will "provide inspectors an enforceable compliance measure without the necessity of obtaining time consuming composite samples." (Administrative Record No. 838.08). There are no Federal counterparts in SMCRA or the Federal regulations promulgated thereunder to these proposed revisions. However, 30 CFR 816/817.42 require that discharges of water from surface mining operations be made in compliance with, among other things, the effluent limitations contained in 40 CFR Part 434. Because the Environmental Protection Agency has concurred in the approval of this amendment, the Director finds that the proposed Pennsylvania revisions are consistent with the Federal regulations at 30 CFR 816/817.42.

15. 87.108(c)—Sedimentation Ponds: Surface Coal Mines/89.24(c)—Sedimentation Ponds: Underground Mines and Coal Preparation Facilities/90.108(c)—Sedimentation Ponds: Coal Refuse Disposal

Pennsylvania is proposing to require that sedimentation ponds be maintained until the disturbed area has been stabilized and revegetated and removal is approved by the Department. The ponds may not be removed sooner than 2 years after the last augmented seeding, unless the Department finds that the disturbed area has been sufficiently revegetated and stabilized. Pennsylvania is also proposing to delete the references to "other treatment facilities." This deletion is presumably proposed because the Pennsylvania regulations, at sections 87.108, 89.24 and 90.108, require all drainage to be passed through sedimentation ponds, rather than through "other treatment facilities." Therefore, the deletion is approved to the extent that "other treatment facilities" are not permitted to be used to treat surface drainage. However, the Federal regulations at 30 CFR 816/817.46(b)(5) prohibit the removal of siltation structures sooner than 2 years after the last augmented seeding.

Because Pennsylvania's proposal includes an exception to this requirement, the Director finds that the proposed Pennsylvania revision is less effective than the Federal regulations. He is also requiring that Pennsylvania amend its regulation to require, without exception, that sedimentation ponds, where used, and other treatment facilities, if used, cannot be removed sooner than 2 years after the last augmented seeding.

16. 87.112—Hydrologic Balance: Surface Mines/88.102—Hydrologic Balance: Anthracite Surface Mines/88.197—Hydrologic Balance: Anthracite Bank Removal/88.302—Hydrologic Balance: Anthracite Refuse Disposal/89.101 and 112—Impoundments: Underground Mines/90.112—Hydrologic Balance: Coal Refuse Disposal

At subsections 87.112(b), 88.102(b), 88.197(b), 88.302(b), 89.112, and 90.112(b), Pennsylvania is proposing to require a minimum static safety factor of 1.3 for dams, ponds, embankments, and impoundments. At subsections 87.112(b)(1) and 89.101(a), Pennsylvania is proposing to require that impoundments that meet or exceed MSHA size classification of 30 CFR 77.216(a) be designed and certified by a qualified registered professional engineer with assistance, as necessary, from experts in related fields. Impoundments not meeting or exceeding MSHA size classification are to be designed and certified by a qualified registered professional engineer or land surveyor. Each impoundment shall be certified that it has been constructed and is being maintained as designed in accordance with the approved plan and performance standards. At subsection 90.112(b)(1), Pennsylvania is proposing to require that each impoundment be certified that it has been constructed or is being maintained as designed in accordance with applicable performance standards. The Federal regulations at 30 CFR 780.25/784.16(a)(2), and (3) specify the design, certification, and stability requirements for impoundments. The Federal regulations at 816/817.49(a)(4)(ii) contain the 1.3 static safety factor requirement for impoundments not meeting the size or other criteria of 30 CFR 77.216(a). The Director finds that the proposed Pennsylvania revisions are substantively identical to these requirements in the Federal regulations. The proposed revision also satisfies two required amendments. At 30 CFR 938.16(t), Pennsylvania was required to ensure that all impoundments which meet or exceed the MSHA size classification are designed and certified by or under the direction of a qualified registered professional engineer. At 30 CFR 938.16(u), Pennsylvania was required to ensure that all impoundments be certified that they have been constructed and are being maintained as designed in accordance with the approved plan and performance standards.

At subsections 87.112(d) and 89.101(b), Pennsylvania is proposing to require that impoundments that meet or exceed the MSHA size classification or other criteria of 30 CFR 77.216(a) be inspected and certified by a qualified registered professional engineer. Impoundments not meeting or exceeding the MSHA size classification or criteria are to be inspected during construction and certified after construction and annually thereafter by a qualified registered professional engineer or land surveyor until removal of the structure or release of the performance bond. The engineer or surveyor must be experienced in the construction of impoundments. The Federal regulations at 30 CFR 816/817.49(a)(11) contain these same inspection requirements for impoundments. Therefore, the Director finds that the proposed Pennsylvania revisions are substantively identical to these requirements in the Federal regulations.

At subsections 87.112(f), 89.101(d), and 90.112(f), Pennsylvania is proposing to clarify that it will consider MSHA's review for impoundments. It will, however, review impoundments as required under subsection (a). The Director finds that the proposed Pennsylvania revision is substantively identical to the Federal regulations at 30 CFR 780.25/784.16(c)(2), pertaining to reclamation plans for impoundments. The proposed revision also satisfies the required amendment at 30 CFR 938.16(v) which allows Pennsylvania to consider MSHA's action on plans for impoundments but requires it to make its own findings with respect thereto.

17. 87.116—Hydrologic Balance: Groundwater Monitoring—Surface Mines/87.117—Hydrologic Balance: Surface Water Monitoring—Surface Mines/88.105—Hydrologic Balance: Groundwater Monitoring—Anthracite Mines/88.106—Hydrologic Balance: Surface Water Monitoring—Anthracite Surface Mines/88.201—Hydrologic Balance: Groundwater Monitoring—Anthracite Bank Removal/88.202—Hydrologic Balance: Surface Water Monitoring—Anthracite Bank Removal/88.305—Hydrologic Balance: Groundwater Monitoring—Anthracite Refuse Disposal/88.306—Hydrologic Balance: Surface Water Monitoring—Anthracite Refuse Disposal/90.115—Hydrologic Balance: Groundwater Information—Coal Refuse Disposal Performance Standards/90.116—Hydrologic Balance: Surface Water Monitoring—Coal Refuse Disposal Performance Standards

At subsections 87.116(b), 88.105(b), 88.201(b), 88.305(b), 90.115(b), 87.117(a), 88.106(a), 88.202(a), 88.306(a), and 90.116(a); Pennsylvania is proposing to identify the minimum monitoring requirements for groundwater and surface water. These monitoring requirements include: total dissolved solids or specific conductance corrected to 25 degrees C, pH, acidity, alkalinity, total iron, total manganese, sulfates, and water levels. The information is to be reported to the Department every 3 months for each location. At 87.116(d), 88.105(d), 88.201(d), 88.305(d), 90.115(d), 87.117(b), 88.106(b), 88.202(b), 88.306(b), and 90.116(b), the Department is authorized to require monitoring and reporting more frequently than every 3 months and to monitor additional parameters beyond the minimum specified in this section. The Director finds that Pennsylvania's revisions contain the same requirements, and are therefore substantively identical to, the Federal regulations at 30 CFR 780.21 (i) and (j), pertaining to ground and surface water monitoring, except that the Federal regulations do not require the monitoring of acidity, alkalinity, or sulfates. As such, the Pennsylvania proposals are more stringent than their Federal counterparts. Therefore, in accordance with section 505(b) of SMCRA (30 U.S.C. 1255(b)) and 30 CFR 730.11(b), these Pennsylvania proposed amendments are not inconsistent with SMCRA.

18. 87.127—Use of Explosives: Blasting

At subsection (h), Pennsylvania is proposing to require that maximum

peak particle velocity may not exceed the values approved in the blast plan. It also includes frequency of vibration as a factor that the Department may consider in reducing the maximum peak particle velocity allowed. The Director finds that the proposed revision is no less effective than the Federal regulations at 30 CFR 816.67(d)(1) and (d)(5) pertaining to ground vibrations. The proposed revision also satisfies the required amendment at 30 CFR 938.16(y) which required Pennsylvania to ensure that all structures in the vicinity of the blasting area be protected from damage by establishing maximum allowable limits on the ground vibration.

At subsection (i)(2), Pennsylvania is proposing to exempt from maximum peak particle velocity limitations those structures located on the permit area when the owner and lessee, if leased to another party, of the structure have each signed a waiver releasing the vibration limit. The Federal regulations at 30 CFR 816.67(e)(1) and (2) exempt those structures outside the permit area owned by the permittee and not leased, or owned and leased with a written wavier by the lessee. The Federal peak particle velocity limitations do not apply, however, to structures inside the permit area. In its letter dated March 28, 1997, Pennsylvania states that while OSM's general provisions pertaining to the prevention of the adverse effects of explosives apply only to damage outside the permit area, Pennsylvania allows a waiver of vibration limits inside the permit area only, where the Federal peak particle velocity limitations do not apply anyway. Pennsylvania does not permit waivers outside the permit area and, as such, provides additional protection against damage. Therefore, the Director finds that the proposed revision is not inconsistent with SMCRA.

At subsection (k), Pennsylvania is proposing to require that a seismograph record become part of the blast record within 30 days after it obtained. It shall be analyzed by a qualified independent party. The Director notes that the proposed revisions adds requirements not contained in the Federal regulations at 30 CFR 816.67(d)(2) which require seismograph records for each blast. However, these additional provisions are consistent with the Federal requirement to keep a seismographic record and, therefore, can be approved.

19. 87.129(4)—Use of Explosives: Blasting Records

Pennsylvania is proposing to require that the blast record include the direction and distance, in feet, to the nearest public building and other structures. The Federal regulations at 30 CFR 816.68(d) require only that the blast record include the direction and distance, in feet, from the nearest blasting hole to the nearest dwelling, public building, school, church, community or institutional building outside the permit area. However, as noted in Finding 18, above, Pennsylvania applies its air blast and ground vibration standards to buildings within the permit area as well as outside the permit area. As such, Pennsylvania's program is more stringent than the Federal regulations. In order to be consistent with its own requirements, Pennsylvania has amended its blast record provisions to include the direction and distance to the nearest building, regardless of whether the building is located within or outside of the permit area. In accordance with section 505(b) of SMCRA (30 U.S.C. 1255(b)) and 30 CFR 730.11(b), this proposed amendment is not inconsistent with SMCRA.

20. 87.136—Disposal of Noncoal Wastes: Surface Mines/88.321—Disposal of Noncoal Wastes: Anthracite Refuse Disposal/89.63—Disposal of Noncoal Wastes: Underground Mining and Coal Preparation Facilities/90.133—Disposal of Noncoal Wastes: Coal Refuse Disposal

Pennsylvania is proposing to require that noncoal wastes be disposed of or temporarily stored in accordance with the Solid Waste Management Act and related regulations. This requirement is no less effective than the Federal regulations at 30 CFR 816/817.89(b), which provides for final disposal of noncoal wastes in a State approved solid waste disposal area. However, sections 88.321 and 90.133 state that waste materials with low ignition points may not be deposited on or near a coal refuse disposal pile. The Federal regulation at 30 CFR 816.89(c) does not permit any noncoal waste to be deposited in a refuse pile or impounding structure. Pennsylvania's prohibition applies only to its listed materials and other waste materials with low ignition points. Therefore, the Director finds that the proposed Pennsylvania revisions to sections 88.321 and 90.133 are less effective than the Federal regulation. He is also requiring that Pennsylvania amend its program to prohibit any noncoal waste from being deposited in a refuse pile or impounding structure.

21. 88.105(c)—Groundwater Monitoring: Anthracite Mines/88.201(c)—Groundwater Monitoring: Anthracite Bank Removal/88.305(c)—Groundwater Monitoring: Anthracite Refuse Disposal

Pennsylvania is proposing to permit the Department to require the operator to conduct additional hydrologic tests to demonstrate compliance with the groundwater monitoring sections of the regulations. The Federal regulations at 30 CFR 780.21(b)(3) require this additional testing where the PHC determination indicates that adverse impacts may occur to the hydrologic balance, or that acid-forming or toxic-forming material is present that may result in the contamination of surface or ground water supplies. Therefore, subsections 88.105(c), 88.201(c) and 88.305(c) are less effective in that they merely allow, but do not require, additional testing as appropriate, and the Director is requiring Pennsylvania to amend its program to require such additional hydrologic testing whenever the PHC determination indicates that adverse impacts may occur to the hydrologic balance, or that acid-forming or toxic-forming material is present that may result in the contamination of surface or ground water supplies.

22. 88.381(c)(7)—Coal Preparation Facilities

Pennsylvania is proposing to require that an application include monitoring plans and that surface and ground water information, as well as monitoring plans, be presented in accordance with its regulations pertaining to ground and surface water information. There is no direct Federal counterpart to this proposed amendment. However, the Director finds that the proposed Pennsylvania revision is consistent with the Federal regulation at 30 CFR 785.21, which requires that an operator obtain a permit to operate a coal preparation plant outside the permit area for a specific mine, and that the permit demonstrate that the applicant will comply with the performance standards at 30 CFR Part 827, which standards include the requirement to comply with the Federal regulations at 30 CFR 816.41, pertaining to protection of the hydrologic balance.

23. 89.142(a)(6)(vii)—Maps: Underground Mines and Coal Preparation Facilities

Pennsylvania is proposing to require that maps identify major electric transmission lines by name or numerical reference. While there is no direct Federal counterpart to this requirement, the Director finds that the proposed Pennsylvania revision is consistent with the Federal regulations at 30 CFR 783.24(e), pertaining to permit application maps, which requires that such maps show the location of major electric transmission lines and pipelines.

24. 89.143(b)(3)(i)(B)—Performance Standards: Underground Mines and Coal Preparation Facilities

Pennsylvania is proposing to require that a pillar lying partially within the support area be considered part of the support area and be consistent with the other support pillars in size and pattern. While this provision has no direct Federal counterpart, the Director finds that it is consistent with the Federal regulations at 30 CFR 784.20(b)(5), pertaining to subsidence control plans, which allows operators the option of leaving pillars of coal in order to prevent or minimize subsidence.

25. 90.39(e)—Impoundments: Coal Refuse Disposal

Pennsylvania is proposing to require that permit application plans provide for the removal of impoundments constructed of or used to impound coal refuse as part of site reclamation. The Director finds that the proposed Pennsylvania revision is no less effective than the Federal regulations at 30 CFR 816/817.84(b)(1) which prohibit the permanent retention of such structures.

26. 90.122—Coal Refuse Disposal

Pennsylvania is proposing, at subsection (j), to delete all exceptions to the prohibition against retaining permanent impoundments or depressions in a completed coal refuse disposal fill. The Director finds that this deletion renders subsection 90.122(j) no less effective than the Federal regulations at 30 CFR 816.84(b)(1), which prohibits the retention of permanent impounding structures constructed of coal mine waste or intended to impound coal mine waste.

27. 90.130—Coal Refuse Dams: Coal Refuse Disposal

Pennsylvania is proposing to delete the provision prohibiting the permanent retention of coal refuse dams as part of the approved postmining landuse. However, because the structures must comply with subsection 90.122(j), which contains the prohibition, the Director finds that the proposed Pennsylvania revision is no less effective than the Federal regulation at 30 CFR 816.84(b)(1).

C. Revisions to Pennsylvania's Regulations With No Corresponding Federal Regulations

1. 77.3(b)—Relationship to Coal Mining

Pennsylvania is proposing to add the provision that the incidental extraction of coal under subsection (a) will conform to section 86.5 pertaining to extraction of coal incidental to noncoal surface mining. There is no Federal counterpart to this provision. However, the Director finds that the proposed regulation is not inconsistent with the requirements of SMCRA and the Federal regulations, which do contain counterparts to the requirements of section 86.5.

2. 86.37(b)—Permits

Pennsylvania is proposing to prohibit an incremental phase approval of a permit if the Department has already issued an incremental phases approval for the area to another permittee, except for an area used for access or haul roads. There is no Federal counterpart to this provision. However, incremental phase approvals of permits are already included in Pennsylvania's approved program, in this same subsection. Therefore, the Director finds that the proposed revision does not render the Pennsylvania program inconsistent with the requirements of SMCRA or the Federal regulations.

3. 86.55(c)—Permit Renewals

Pennsylvania is proposing to require that if a permittee provides a written notice under section (i) pertaining to permits conditioned upon only reclamation activity being performed, the notice shall be filed with the Department at least 180 days before the expiration date of the permit. There is no direct Federal counterpart to this provision. However, the Director finds that the proposed revision is consistent with the Federal regulations at 30 CFR 773.11(a), which allows permittees to forego obtaining permit renewals where only reclamation activities remain to be performed.

4. 87.92(g)—Signs and Markers: Surface Mines/88.82(c)—Signs and Markers: Anthracite Mines/88.182(b)—Signs and Markers: Anthracite Bank Removal/88.282(c)—Signs and Markers: Anthracite Refuse Removal/89.51(h)—Signs and Markers: Underground Mining and Coal Preparation Plans/90.92(g)—Signs and Markers: Coal Refuse Disposal

Pennsylvania is proposing to require that ground and surface water monitoring locations and sampling points used to obtain background information be clearly marked and identified. The requirement may be waived if the monitoring locations or sampling points are obvious or if marking would be objectionable for aesthetic reasons. The Federal regulations at 30 CFR 816/817.11 do not contain this requirement. However, the Director finds that the proposed revisions, which are in addition to the requirements of the Federal regulations, are not inconsistent with SMCRA, in accordance with SMCRA section 505(b) (30 U.S.C. 1255(b)), and 30 CFR 730.11(b).

5. 87.93(d)—Casing and Sealing of Drilled Holes: Surface Mines/88.83(d)—Sealing of Drilled Holes: Anthracite Mines/88.283(d)—Sealing of Drilled Holes—Anthracite Refuse Removal/89.141(d)(4)(ii)—Subsidence Control: Underground Mines

Pennsylvania is proposing to require that gas and oil wells be sealed in accordance with the *Oil and Gas Act (58 P.S.sections 601.101–601.605)*. The Federal regulations at 30 CFR 816/817.13 do not contain this requirement. However, the Director finds that the proposed revisions are in addition to those requirements, and are therefore not inconsistent with SMCRA, in accordance with SMCRA section 505(b) (30 U.S.C. 1255(b)), and 30 CFR 730.11(b).

6. 89.144(a)—Public Notice: Underground Mines and Coal Preparation Facilities

Pennsylvania is proposing to require that coal operators provide the Department with a copy of the required notice of intention to mine and return receipt or, if applicable, evidence that the notice was not accepted or deliverable. The Federal regulations contain no direct counterpart requirement. However, the Director finds that the proposed revision is consistent with the Federal regulations at 30 CFR 817.122, which requires notification to all owners of surface property overlying the proposed underground mining operation of the intent to mine.

IV. Summary and Disposition of Comments

Public Comments

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. No public comments were received, and because no one requested an opportunity to speak at a public hearing, no hearing was held.

Federal Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), the Director solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Pennsylvania program. The U.S. Department of Labor, Mine Safety and Health Administration (District 1) and the U.S. Department of the Interior, Fish and Wildlife Service concurred without comment. The U.S. Department of Labor, Mine Safety and Health Administration (District 2) commented that while Pennsylvania's proposed regulations do not permit impounding structures constructed of coal refuse or used to impound coal refuse to be retained permanently, 30 CFR Parts 75 and 77 do not have the same prohibition. The Director notes that Pennsylvania's revisions comply with and are no less effective than the Federal regulations at 30 CFR 816/817.84(b)(1).

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*).

On January 25, 1996, OSM solicited EPA's concurrence with the proposed amendment. On March 14, 1996, EPA gave its written concurrence (Administrative Record No. PA–838.08).

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Pursuant to 30 CFR 732.17(h)(4), OSM solicited comments on the proposed amendment from the SHPO and ACHP. None were received.

V. Director's Decision

Based on the above findings, the Director approves with certain exceptions and additional requirements, the proposed amendment as submitted by Pennsylvania on January 23, 1996. He is also requiring that Pennsylvania amend its program to make the following changes. At 86.5(m), Pennsylvania must provide for notification of the operator and any intervenors of a decision not to revoke an exemption. At 86.55(j), Pennsylvania must require that any applications for permit renewal be submitted at least 120 days before the permit expiration date. At 87.108(c), 89.24(c), and 90.108(c), Pennsylvania must require, without exception, that sedimentation ponds cannot be removed sooner than two years after the last augmented seeding. If sedimentation ponds are not always deemed to be the best technology currently available, any "other treatment facilities" used must also remain in place for at least two years after the last augmented seeding. At 88.105(c), 88.201(c), and 88.305(c), Pennsylvania must require additional hydrologic testing whenever the PHC determination indicates that adverse impacts may occur to the hydrologic balance, or that acid-forming or toxic-forming material is present that may result in the contamination of surface or ground water supplies. At 88.321 and 90.133, Pennsylvania must require that no noncoal waste be deposited in a coal refuse pile or impounding structure. Pennsylvania must also provide counterparts to the Federal regulations at 30 CFR 702.15(d),(e),(f), and 702.17(c)(2), and (c)(3). The Federal regulations require that authorized representatives have the right to enter operations conducting incidental coal extraction and that administrative reviews of the State's determinations be provided.

The Director is removing the following required amendments at 30 CFR 938.16 because they have been satisfied by revisions contained in this submission.

Required Amendment Removed/State Regulation That Satisfies Requirement	
30 CFR 938.16(g)	86/87.1.
30 CFR 938.16(l)	86.156(b).
30 CFR 938.16(q)	86.182(e).
30 CFR 938.16(s)	87.73(c)(1).
30 CFR 938.16(t)	87.112(b)(1), 90.101(a).
30 CFR 938.16(u)	87.112(b)(1), 90.112(b)(1).
30 CFR 938.16(v)	87.112(f), 90.101(d), 90.112(f).
30 CFR 938.16(x)	87.127(e)(2).
30 CFR 938.16(y)	87.127(h).
30 CFR 938.16(z)	87.127(j).
30 CFR 938.16(aa)	87.127(n).
30 CFR 938.16(bb)	87.131(n).
30 CFR 938.16(cc)	87.135(a).
30 CFR 938.16(dd)	87.138(c), 89.82(d), 90.150(c).
30 CFR 938.16(ee)	88.24(b)(4)(i).
30 CFR 938.16(ff)	88.61(b)(1).
30 CFR 938.16(gg)	88.491(j).
30 CFR 938.16(ii)	89.34(a)(2)(ii).
30 CFR 938.16(jj)	86.172(b).
30 CFR 938.16(ddd)	86.133(g).

In accordance with 30 CFR 732.17(f)(1), the Director is also taking this opportunity to clarify in the required amendment section at 30 CFR 938.16 that, within 60 days of the publication of this final rule, Pennsylvania must either submit a proposed written amendment, or a description of an amendment to be proposed that meets the requirements of SMCRA and 30 CFR Chapter VII and a timetable for enactment that is consistent with Pennsylvania's established administrative or legislative procedures.

The Federal regulations at 30 CFR Part 938, codifying decisions concerning the Pennsylvania program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

Effect of Director's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any alteration of an approved State program be submitted to OSM for review as a program amendment. Thus, any changes to the State program are not enforceable until approved by OSM. The Federal regulations at 30 CFR 732.17(g) prohibit any unilateral changes to approved State programs. In the oversight of the Pennsylvania program, the Director will recognize only the statutes, regulations other materials approved by OSM, together with any consistent implementing policies, directives and other materials, and will require the enforcement by Pennsylvania of only such provisions.

VI. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 938

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 15, 1997.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 938—PENNSYLVANIA

1. The authority citation for Part 938 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 938.15 is amended in the table by adding a new entry in chronological order by "Date of Final Publication" to read as follows:

§ 938.15 Approval of Pennsylvania regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
.	.	.
January 23, 1995.	November 7, 1997.	Chapters 86 through 90.

3. Section 938.16 is amended by removing and reserving paragraphs (g), (l), (q), (s), (t), (u), (v), (x), (y), (z), (aa), (bb), (cc), (dd), (ee), (ff), (gg), (ii), (jj), and (ddd); and by adding paragraphs (ppp) through (uuu) to read as follows:

§ 938.16 Required regulatory program amendments.

* * * * *

(ppp) By January 6, 1998, Pennsylvania shall submit a proposed amendment to section 86.5(m), or otherwise amend its program, to provide for notification of the operator and any intervenors of a decision not to revoke an exemption.

(qqq) By January 6, 1998, Pennsylvania shall submit a proposed amendment to subsection 86.55(j), or otherwise amend its program, to require that any applications for permit renewal be submitted at least 120 days before the permit expiration date.

(rrr) By January 6, 1998, Pennsylvania shall submit a proposed amendment to subsections 87.108(c), 89.24(c), and 90.108(c), or otherwise amend its program, to require, without exception, that sedimentation ponds cannot be removed sooner than two years after the last augmented seeding.

(sss) By January 6, 1998, Pennsylvania shall submit proposed amendments to subsections 88.105(c), 88.201(c) and 88.305(c), or otherwise amend its program, to require additional hydrologic testing whenever the PHC determination indicates that adverse impacts may occur to the hydrologic balance, or that acid-forming or toxic-forming material is present that may result in the contamination of surface or ground water supplies.

(ttt) By January 6, 1998, Pennsylvania shall submit a proposed amendment to sections 88.321 and 90.133, or otherwise amend its program, to require that no noncoal waste be deposited in a coal refuse pile or impounding structure.

(uuu) By January 6, 1998, Pennsylvania shall submit a proposed amendment to provide counterparts to the Federal regulations at 30 CFR 702.15 (d), (e), (f) and 702.17 (c)(2) and (c)(3) to require that authorized representatives have the right to enter operations conducting incidental coal extraction and that administrative reviews of the State's determinations be conducted.

[FR Doc. 97–29475 Filed 11–6–97; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD07–97–047]

RIN 2115–AE46

Special Local Regulations; City of Augusta, GA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Temporary special local regulations are being adopted for the Augusta Port Authority's Head of the South Rowing Regatta. The event will be held from 7 a.m. to 6 p.m. Eastern Standard Time (EST) on November 7 and 8, 1997, on the Savannah River at Augusta, GA.

DATES: This rule becomes effective from 6:30 a.m. to 6:30 p.m. EST on November 7 and 8, 1997.

FOR FURTHER INFORMATION CONTACT: LTJG M.J. DaPonte, Project Manager, Coast Guard Group Charleston at (803) 724–7621.

SUPPLEMENTARY INFORMATION:

Regulatory History

On September 26, 1997, the Coast Guard published a notice of proposed rulemaking entitled Head of the South Rowing Regatta, in the **Federal Register** (62 FR 50544). The Coast Guard received no comments during the notice of proposed rulemaking. A public hearing was not requested, and none was held.

Background and Purpose

These regulations are needed to provide for the safety of life during the Head of the South Rowing Regatta. The regulations are intended to promote safe navigation on the Savannah River

immediately before, during, and after the race by controlling the traffic entering, exiting, and traveling within the regulated area.

In accordance with 5 U.S.C. 553, good cause exists for making these regulations effective in less than 30 days after **Federal Register** publication. Delaying its effective date would be contrary to national safety interests since immediate action is needed to minimize potential danger to the public. The permit request to hold this event was received by the Coast Guard in late September, leaving insufficient time for a full comment period and delayed effective data. The anticipated number of participants and spectator vessels poses a safety concern which is addressed in these special local regulations. There will be approximately 6000 participants racing singles, doubles, four, and eight person rowing shells on a fixed course. The event will take place on the Savannah River at Augusta, GA between mile marker 200.20 and marker 197.0.

In accordance with 5 U.S.C. 553, good cause exists for making these regulations effective in less than 30 days after **Federal Register** publication. Delaying its effective date would be contrary to national safety interests since immediate action is needed to minimize potential danger to the public. The permit request to hold this event was received by the Coast Guard in late September, leaving insufficient time for a full comment period and delayed effective date.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of executive order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. The regulated area encompasses less than 3 nautical miles on the Savannah River between mile markers 200.2 and 197.0, entry into which is prohibited for only twelve hours on each day of the event.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their field and governmental jurisdictions with populations of less than 50,000. For the reasons stated above in the Regulatory Evaluation, the believes this rule not have a significant effect upon a substantial number of small entities. Therefore, the Coast Guard certifies under section 605(b) that this rule will not have a significant effect upon a substantial number of small entities, because these regulations will only be in effect for two days in a limited area of the Savannah River that is seldom used for commerce.

Collection of Information

These regulations contain no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

This action has analyzed in accordance with the principals and criteria contained in Executive Order 12612 and it has been determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this action, and has determined pursuant to Section 2.B.2.e(34)(h) of Commandant Instruction M16475.1B, that it is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis Checklist has been prepared and are available in the docket for inspection or copying.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Temporary Regulations:

In consideration of the foregoing, the Coast Guard amends Part 100 of Title 33, Code of Federal Regulations, as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary section 100.35T–07–047 is added to read as follows:

§ 100.35T–07–047 Head of the South Rowing Regatta; Savannah River, Augusta, GA.

(a) *Definitions:*

(1) *Regulated area.* A regulated area is established on that portion of the Savannah River at Augusta, GA, between mile markers 200.2 and 197.0. The regulated area encompasses the width of the Savannah River between these two points.

(2) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Group Charleston, SC.

(b) *Special Local Regulations.* Entry into the regulated area by other than event participations is prohibited, unless otherwise authorized by the Coast Guard Commander. After termination of the Head of the South Rowing Regatta on November 7–8, 1997, all vessels may resume normal operations.

(c) *Effective Date.* This section is effective from 6:30 a.m. to 6:30 p.m. EST on November 7 and 8, 1997.

Dated: October 27, 1997.

Norman T. Saunders,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 97–29509 Filed 11–6–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 100 and 165

[CGD 97–071]

Safety Zones, Security Zones, and Special Local Regulations

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary rules issued.

SUMMARY: This document provides required notice of substantive rules adopted by the Coast Guard and temporarily effective between July 1, 1997 and September 30, 1997, which was not published in the **Federal Register**. This quarterly notice lists temporary local regulations, security zones, and safety zones, which were of limited duration and for which timely publication in the **Federal Register** may not have been possible.

DATES: This notice lists temporary Coast Guard regulations that became effective and were terminated between July 1, 1997 and September 30, 1997, as well as several regulations which were not included in the previous quarterly list.

ADDRESSES: The complete text of these temporary regulations may be examined at, and is available on request, from Executive Secretary, Marine Safety Council (G–LRA), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001.

FOR FURTHER INFORMATION CONTACT: Lieutenant Christopher S. Keane at (202) 267–6004 between the hours of 8 a.m. and 3 p.m., Monday through Friday.

SUPPLEMENTARY INFORMATION: District Commanders and Captains of the Port (COT) must be immediately responsive to the safety needs of the waters within their jurisdiction; therefore, District Commanders and COTPs have been delegated the authority to issue certain local regulations. Safety zones may be established for safety or environmental purposes. A safety zone may be stationary and described by fixed limits or it may be described as a zone around a vessel in motion. Security zones limit access to vessels, ports, or waterfront facilities to prevent injury or damages. Special local regulations are issued to enhance the safety of participants and spectators at regattas and other marine events. Timely publication of these regulations in the **Federal Register** is often precluded when a regulation responds to an emergency, or when an event occurs without sufficient advance notice. However, the affected public is informed of these regulations through Local Notices to Mariners, press releases, and other means. Moreover, actual notification is provided by Coast Guard patrol vessels enforcing the restrictions imposed by the regulation. Because mariners are notified by Coast Guard officials on-scene prior to enforcement action, **Federal Register** notice is not required to place the special local regulation, security zone, or safety zone in effect. However, the Coast Guard, by law, must publish in the **Federal Register** notice of substantive rules adopted. To discharge this legal obligation without imposing undue expense on the public, the Coast Guard periodically publishes a list of these temporary special local regulations, security zones, and safety zones. Permanent regulations are not included in this list because they are published in their entirety in the **Federal Register**. Temporary regulations may also be published in their entirety if sufficient time is available to do so before they are placed in effect or terminated. These safety zones, special local regulations and security zones have been exempted from review under E.O. 12866 because of their emergency nature, or limited scope and temporary effectiveness.

The following regulations were placed in effect temporarily during the period July 1, 1997 and September 30, 1997, unless otherwise indicated.

Date: October 31, 1997.

Michael L. Emge,

Commander, U.S. Coast Guard, Executive Security, Marine Safety Council.

QUARTERLY REPORT

District docket	Location	Type	Effective date
01–97–008	Massachusetts Bay, MA	Safety Zone	7/20/97
01–97–046	West Haven, CT	Safety Zone	7/3/97
01–97–049	Subtest Fireworks, Groton, CT	Safety Zone	7/5/97
01–97–050	Point Lookout, NY	Safety Zone	7/6/97
01–97–060	Jones Beach, Wantagh, NY	Safety Zone	7/4/97
01–97–061	Madison, CT	Safety Zone	7/5/97
01–97–062	South Beach, Staten Island, NY	Safety Zone	7/12/97
01–97–065	Hudson River, Kingston, NY	Safety Zone	7/13/97
01–97–066	Upper Bay, New York Harbor	Safety Zone	7/19.97
01–97–067	Wantagh, NY	Safety Zone	7/9/97
01–97–068	Wantagh, NY	Safety Zone	7/10/97
01–97–069	Smith Beach, Mastic Beach, NY	Safety Zone	7/17/97
01–97–072	Hudson River, New York	Safety Zone	8/8/97
01–97–073	Boston, MA	Security Zone	7/22/97
01–97–074	Old Saybrook, CT	Safety Zone	8/3/97
01–97–075	Greenwich, CT	Safety Zone	8/3/97
01–97–076	Brooklyn, NY	Safety Zone	8/22/97
01–97–077	East River, NY	Safety Zone	8/30/97
01–97–078	Staten Island, NY	Safety Zone	9/6/97
01–97–079	Narragansett Bay, Narragansett, RI	Special Local	7/26/97
01–97–084	Rockaway, NY	Safety Zone	8/6/97
01–97–087	New York Super Boat Race, New York	Safety Zone	7/7/97
01–97–088	Stamford, CT	Safety Zone	8/21/97
01–97–089	Block Island, RI	Safety Zone	8/17/97
01–97–093	Portland, ME	Safety Zone	9/3/97
01–97–094	Portland, ME	Safety Zone	8/30/97
01–97–095	Upper Bay, NY	Safety Zone	9/7/97
01–97–099	Indian Point, NY	Security Zone	9/6/97
01–97–100	Battery Park, NY	Security Zone	9/11/97
01–97–103	East River, NY	Security Zone	9/21/97
01–97–112	Northport Village, NY	Safety Zone	7/16/97
01–97–113	Boston, MA	Safety Zone	8/6/97
05–97–054	Hampton Roads, VA	Safety Zone	7/7/97
05–97–056	Delaware Bay, Delaware River	Safety Zone	7/6/97
05–97–059	Camp Lejeune, NC	Safety Zone	7/12/97
05–97–061	Delaware Bay, Delaware River	Safety Zone	7/22/97
05–97–062	Elizabeth River, VA	Safety Zone	7/28/97
05–97–066	Delaware Bay, Delaware River	Safety Zone	8/8/97
05–97–070	Camp Lejeune, NC	Safety Zone	9/4/97
05–97–073	Elizabeth River, VA	Safety Zone	9/22/97
07–97–042	Bahia De Mayageuz, Puerto Rico	Safety Zone	9/14/97
08–97–017	Ohio River, M. 461 to M. 462	Reg Nav Area	7/2/97

QUARTERLY REPORT—Continued

District docket	Location	Type	Effective date
08–97–023	Oakmont, PA	Special Local	7/26/97
08–97–036	Kaskaskia River, M. 28 to M. 29	Special Local	9/8/97
09–97–017	Tonawanda, NY	Safety Zone	7/4/97
09–97–022	Tonawanda, NY	Safety Zone	7/27/97
09–97–024	Lake Michigan	Safety Zone	7/19/97
09–97–025	Lake Michigan	Security Zone	7/21/97
09–97–026	Lake Michigan	Security Zone	7/23/97
09–97–027	Lake Michigan and Chicago River	Security Zone	8/1/97
13–97–020	Portland, OR	Safety Zone	8/15/97
13–97–021	Tacoma, WA	Safety Zone	8/15/97
13–97–024	Willamette River, Portland, OR	Safety Zone	9/8/97
13–97–025	Bremerton, WA	Safety Zone	8/30/97
17–97–001	Beaufort Sea	Safety Zone	8/13/97

QUARTERLY REPORT

COTP docket	Location	Type	Effective date
Honolulu 97–001	Honolulu, HI	Safety Zone	7/2/97
Honolulu 97–004	Waimanalo Bay, Waimanalo, HI	Safety Zone	9/7/97
Houston-Galveston 97–006	Clear Lake, Houston, TX	Safety Zone	7/4/97
Houston-Galveston MSU 97–005	Galveston, TX	Safety Zone	7/15/97
Huntington 97–003	Ohio River, M. 175.5 to M. 176.5	Safety Zone	8/24/97
Huntington 97–005	Ohio River, M. 163 to M. 164	Safety Zone	9/14/97
LA/LB 97–006	Purisima Point, CA	Safety Zone	9/29/97
Mobile 97–012	Gulf of Mexico, FL	Safety Zone	7/9/97
Mobile 97–17	Destin, FL	Safety Zone	8/30/97
New Orleans 97–014	Mississippi River, M. 94 to M. 95	Safety Zone	7/4/97
New Orleans 97–015	Lake Pontchartrain, Kenner, LA	Safety Zone	7/4/97
New Orleans 97–016	LWR Mississippi River, M. 92 to M. 83.5	Safety Zone	7/25/97
New Orleans 97–017	LWR Mississippi River, M. 94 to M. 95	Safety Zone	7/26/97
Port Arthur 97–002	Neches River, Beaumont, TX	Safety Zone	7/4/97
San Diego Bay 97–002	Copper Canyon, Lake Havasu, Colorado River	Safety Zone	7/3/97
San Diego Bay 97–003	San Diego Bay, CA	Safety Zone	7/25/97
San Francisco Bay 97–009	San Francisco Bay, CA	Safety Zone	7/13/97
San Francisco Bay 97–010	Sacramento River, CA	Safety Zone	9/7/97
San Juan 97–034	San Juan, Puerto Rico	Safety Zone	7/7/97
San Juan 97–036	San Juan, Puerto Rico	Safety Zone	7/23/97
San Juan 97–037	San Juan, Puerto Rico	Safety Zone	7/24/97
San Juan 97–038	Mona Island, Puerto Rico	Safety Zone	7/26/97
San Juan 97–044	San Juan, Puerto Rico	Safety Zone	9/4/97
San Juan 97–049	San Juan, Puerto Rico	Safety Zone	9/26/97
Western Alaska 97–003	Resurrection Bay, Seward, AK	Safety Zone	7/24/97
Western Alaska 97–005	Beaufort Sea	Safety Zone	8/13/97

[FR Doc. 97–29511 Filed 11–6–97; 8:45 am]
BILLING CODE 4910–14–M

POSTAL SERVICE

39 CFR Part 111

Ancillary Service Endorsements for Perishable Contents

AGENCY: Postal Service.

ACTION: Final rule; request for comments.

SUMMARY: This final rule extends the use of the endorsement "Change Service Requested" to Priority Mail pieces containing perishable articles (excluding live animals) under two conditions: the mail participates in Address Change Service (ACS) and the pieces bear the proper ACS codes, and the pieces bear the appropriate endorsement for change service and the endorsement "Perishable." This final rule also precludes use of the endorsement "Change Service Requested" with matter mailed at First-Class rates that contains live animals.

DATES: This final rule is effective on November 7, 1997. Comments must be received on or before December 8, 1997.

ADDRESSES: Mail or deliver written comments to the Manager, Address Management, National Customer Support Center, 6060 Primacy Pkwy STE 201, Memphis TN 38188–0001. Copies of all written comments will be available at the above address for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Audrey Conley, (901) 681–4474.

SUPPLEMENTARY INFORMATION: Under Domestic Mail Manual (DMM) F010.5.1, electronic Address Change Service (ACS) mailers may opt to receive a notice of new address or reason for nondelivery by placing the endorsement "Change Service Requested" on prescribed subclasses of First-Class Mail. Consistent with DMM F010.5.1, undeliverable as addressed (UAA) pieces bearing this endorsement are disposed of by the Postal Service. Under present standards, the "Change Service Requested" endorsement is available only for First-Class Mail letters and sealed parcels and stamped and postcard subclass mail for which electronic ACS service has been elected. DMM F010.5.1 expressly provides that this endorsement option is not available in conjunction with Priority Mail.

Since the implementation of the "Change Service Requested" option on July 1, 1997, the Postal Service has received requests from mailers of perishable articles, such as fruits, to have the "Change Service Requested" endorsement apply to Priority Mail pieces. Some mailers of such items indicate that they would prefer that UAA pieces whose contents include perishables be destroyed, rather than returned or forwarded, because such items may spoil before reaching the addressee at a new address or the sender if returned. This measure would, moreover, improve customer satisfaction for these mailers, in that they would acquire the information that they need to send a fresh replacement to an addressee at a new address, if appropriate, in lieu of having spoiled contents forwarded to the addressee or returned to sender. This measure also benefits the Postal Service by eliminating the need to forward or return pieces containing perishable items which would be of no use or value to either the sender or the recipient.

To accommodate mailers of perishable items, the Postal Service has determined to extend the availability of the "Change Service Requested" endorsement option to Priority Mail pieces that also bear the marking "Perishable" and for which electronic ACS service has been elected. Since this option is available only to ACS mailers and only for Priority Mail pieces bearing the additional "perishable" marking, and given that the use of this endorsement is already permitted for pieces sent via letters and sealed parcels, it is reasonable to conclude that all mailers who elect this option will be aware of the nature of the service provided and the consequences in the event a piece bearing the endorsement is undeliverable as addressed. This change is accordingly effective immediately.

The Postal Service is also amending DMM F010.5.1 for consistency with DMM C022.3.10 and C022.3.12, which establish procedures for acceptance and handling of mail-pieces containing mailable live animals. The Postal Service does not intend that the handling procedures for the endorsement "Change Service Requested" replace those established for accepting, marking, and handling, of mail containing live animals; consequently, DMM F010.5.1 is amended to preclude mailers from electing the "Change Service Requested" option for mail pieces containing live, mailable animals.

The Postal Service is soliciting comments on this final rule.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites comments on the following revisions of the Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations. See 39 CFR part 111.

List of Subjects in 39 CFR Part 111

Postal service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Revise the following sections of the Domestic Mail Manual as set forth below:

F FORWARDING AND RELATED SERVICES

F010 Basic Information

* * * * *

5.0 CLASS TREATMENT FOR ANCILLARY SERVICES

5.1 Priority Mail and First-Class Mail

[Revise the "Change Service Requested" portion of the table in 5.1 to read as follows:]

* * * * *

"Change Service Requested"	Separate notice of new address or reason for nondelivery provided; in either case, address correction fee charged, piece disposed of by USPS. Use of this endorsement is limited to mail participating in electronic Address Change Service (ACS). It may be used only for: (1) pieces mailed at First-Class rates (excluding live animals) that bear the proper ACS codes, and (2) mail pieces mailed at Priority Mail rates that contain perishable matter (excluding live animals), bear the proper ACS codes, and that bear the endorsement "Perishable." This endorsement must not be used for mail with special services (e.g., certified or registered mail) or for Priority Mail containing non-perishable matter, or for any mail that contains live animals.

* * * * *

F030 Address Correction, Address Change, FASTforward SM, and Return Services

* * * * *

5.0 RETURNING MAIL

* * * * *

5.3 Express Mail, Priority Mail, First-Class Mail

[Amend 5.3 to read as follows:]

Undeliverable-as-addressed mail pieces sent as Express Mail, Priority Mail, and First-Class Mail (including stamped cards and postcards) that cannot be forwarded or delivered as addressed are returned when possible to the sender at no additional charge. Exception: First-Class Mail pieces, and Priority Mail pieces containing perishable contents, that bear the endorsement "Change Service Requested" and that cannot be forwarded or delivered as addressed and that do not contain live animals are disposed of by the USPS. Mail of all other classes may be returned to the sender if appropriately endorsed to guarantee return postage.

* * * * *

An appropriate amendment to 39 CFR 111.3 will be published to reflect these changes.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 97–29405 Filed 11–6–97; 8:45 am]
BILLING CODE 7710–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 960717195–7255–03; I.D. 100897E]

RIN 0648–AI95

Fisheries of the Exclusive Economic Zone Off Alaska; Insurance Coverage Provisions for Observer Contractors under the North Pacific Interim Groundfish Observer Program

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues regulations that clarify an insurance coverage provision for observer contractors who provide observer services to vessels and shoreside processors participating in the groundfish fisheries of the Gulf of Alaska (GOA) and the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to respond to the North Pacific Fishery Management Council's (Council's) Insurance Technical Committee (ITC) recommendation to correct the terminology used to delineate required insurance coverages, by changing the references to "Contractual General Liability" to read "Commercial General Liability."

DATES: Effective November 7, 1997.

FOR FURTHER INFORMATION CONTACT: Kim S. Rivera, 907–586–7228.

SUPPLEMENTARY INFORMATION: In 1994, the ITC recommended that standardized insurance coverage provisions be required of

observer contractors who provide observer services to vessels and shoreside processors participating in the groundfish fisheries of the GOA and the BSAI. In 1996, NMFS implemented regulations (61 FR 56425, November 1, 1996) reflecting the ITC's recommendation and required observer contractors to provide NMFS with copies of "certificates of insurance" that verified the following coverage provisions: (1) Maritime Liability to cover "seamen's" claims under the Merchant Marine Act (Jones Act) and General Maritime Law, (2) coverage under the U.S. Longshore and Harbor Workers' Compensation Act, (3) States Workers' Compensation as required, and (4) Contractual General Liability.

At its June 4, 1997, meeting, the ITC clarified that its 1994 recommendation for standardized insurance provisions was intended to include a requirement for Comprehensive General Liability, not Contractual General Liability. Contractual General Liability refers to an endorsement to a Comprehensive General Liability policy, and extends the liability coverage to an additional party, for example, the vessel owner. In this instance, a contractual endorsement represents a shift in the responsibility of certain liabilities from the vessel owner to the observer contractor. While the observer contractor may offer this endorsement as an opinion in their contracts with vessel owners, the ITC intended that this shift of liability responsibilities be optional, not mandatory.

After the June Council meeting, the ITC clarified further that due to a recent change in the use of the standard liability coverage form used by insurance brokers, Commercial General Liability is the correct term to use, not Comprehensive General Liability.

Therefore, in consultation with the Council's ITC, NMFS clarifies regulations requiring standardized insurance provisions for observer contractors to accurately reflect the original intent of the ITC. Accordingly, NMFS revises the regulation at § 679.50(i) (2) (xiv) (E) *(4)* to clarify that observer contractors are required to provide a certificate of insurance that, in addition to other listed requirements, verifies Commercial General Liability coverage. This change means that observer contractors are not required to carry a contractual endorsement on their Commercial General Liability policy but they could offer the contractual endorsement as an option to the entities with whom they have contracts.

Classification

Pursuant to 5 U.S.C. 553 (b) (B), a rule may be issued without prior notice and opportunity for public comment if providing such notice and comment would be impractical, unnecessary, or contrary to the public interest. Additionally, a rule may be made effective prior to 30 days after its issuance if the rule relieves a restriction pursuant to 5 U.S.C. 553 (d) (1).

This final rule accurately implements the original intent of the ITC and NMFS concerning standardized insurance coverage provisions for observer contractors. The Assistant Administrator for Fisheries, NOAA, (Assistant Administrator) finds that providing an opportunity for prior notice and comment on this rule is unnecessary. This rule does not eliminate the basic insurance requirement. Rather, by using the correct terminology, it merely clarifies the original intent to allow vessel owners and observer contractors to choose who pays for a particular type of endorsement. Furthermore, for parties who were previously required to purchase the endorsement, and who opt not to purchase that endorsement in the future, this rule will relieve a restriction. Accordingly, for the reasons set forth above, the Assistant Administrator finds good cause to dispense with prior notice and opportunity for public comment and to make this rule effective immediately upon publication in the **Federal Register**.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

This rule has been determined to be not significant for purposes of E.O. 12866.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: October 30, 1997.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set out in the preamble, 50 CFR part 679 is amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*

2. In § 679.50, paragraph (i)(2)(xiv)(E)(*4*) is revised to read as follows:

§ 679.50 Groundfish Observer Program applicable through December 31, 1997.

* * * * *

(i) * * *

(2) * * *

(xiv) * * *

(E) * * *

(*4*) Commercial General Liability.

* * * * *

[FR Doc. 97–29507 Filed 11–6–97; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register

Vol. 62, No. 216

Friday, November 7, 1997

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–84–AD]

RIN 2120–AA64

Airworthiness Directives; HOAC Austria Model DV–20 Katana Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain HOAC Austria Model DV–20 Katana airplanes. The proposed AD would require replacing the nose wheel leg of the nose landing gear (NLG) with a part of improved design. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Austria. The actions specified by the proposed AD are intended to prevent NLG collapse caused by cracks in the welding of the nose wheel tappet of the NLG, which could result in the inability to control the airplane during landing, takeoff, and other ground operations.

DATES: Comments must be received on or before December 8, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–84–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Diamond Aircraft Industries, G.m.b.H., N.A. Otto-Strabe 5, A–2700, Wiener Neustadt, Austria. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Roger P. Chudy, Aerospace Engineer, Small Airplane Directorate, Aircraft Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–5688; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 97–CE–84–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–84–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Austro Control GmbH, which is the airworthiness authority for Austria, recently notified the FAA that an unsafe condition may exist on certain HOAC Austria Model DV–20 Katana airplanes. The Austro Control GmbH reports that an incident of defective welding on the nose wheel tappet of the nose landing gear (NLG) caused the NLG to collapse during a hard landing on one of the referenced airplanes. These conditions, if not corrected, could result in NLG collapse and the inability to control the airplane during landing, takeoff, and other ground operations.

Explanation of the Relevant Service Information

HOAC Austria has issued Diamond Aircraft Industries Service Bulletin No. 20–32, dated April 5, 1996, which specifies procedures for inspecting the weld on the nose wheel tappet of the NLG for cracks. This service bulletin specifies replacement of the nose wheel leg of the NLG with a part of improved design, leg version "B", in accordance with the applicable maintenance manual.

The Austro Control GmbH classified this service bulletin as mandatory and issued Austrian AD No. 86, dated May 29, 1996, in order to assure the continued airworthiness of these airplanes in Austria.

FAA's Determination

This airplane model is manufactured in Austria and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the Austro Control GmbH has kept the FAA informed of the situation described above.

The FAA has examined the findings of the Austro Control GmbH; reviewed all available information, including the service information referenced above; and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of the Provisions of the Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop in other HOAC Austria Model DV–20 Katana airplanes of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require replacing the nose wheel leg of the NLG with a part of improved design, nose

wheel leg version "B", in accordance with the applicable maintenance manual.

Cost Impact

The FAA estimates that 20 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 1 workhour per airplane to accomplish the proposed replacement, and that the average labor rate is approximately $60 per hour. Parts cost approximately $900 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $19,200 or $960 per airplane.

Differences Between the Austrian AD, the Service Bulletin, and This Proposed AD

Austrian AD No. 86, dated May 29, 1996, and Diamond Aircraft Industries Service Bulletin N. 20–32, dated April 5, 1996, both give the owners/operators of certain HOAC Austria Model DV–20 Katana airplanes the option of either (1) repetitively inspecting the weld of the nose wheel tappet in the NLG until cracks are found, at which time immediate modification or replacement (with parts of improved design) would be required; or (2) immediately replacing the weld of the nose wheel tappet in the NLG with parts of improved design.

The FAA's policy is to provide corrective action that will eliminate the need for repetitive inspections. The FAA has determined that long-term operational safety will be better assured by design changes that remove the source of the problem, rather than by repetitive inspections or other special procedures.

Because replacing the nose wheel leg (with parts of improved design) eliminates the need for repetitive inspections, the proposed AD differs from the service bulletin and the Austrian AD in that it would mandate the replacement.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

HOAC Austria: Docket No. 97–CE–84–AD.

Applicability: Model DV–20 Katana airplanes, serial numbers 20005 through 20160, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 100 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

To prevent nose landing gear (NLG) collapse caused by cracks in the welding of the nose wheel tappet of the NLG, which could result in the inability to control the airplane during landing, takeoff, and other ground operations, accomplish the following:

(a) Replace the nose wheel leg of the NLG with a part of improved design, nose wheel leg version "B", in accordance with the applicable maintenance manual.

Note 2: Diamond Aircraft Industries Service Bulletin No. 20–32, dated April 5, 1996, specifies the replacement required by this AD.

(b) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(d) All persons affected by this directive may obtain copies of the document referred to herein upon request to HOAC Austria Ges.m.b.H., N.A. Otto-Strabe 5, A–2700, Wiener Neustadt, Austria; or may examine this document at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Note 4: The subject of this AD is addressed in Austrian AD No. 86, dated May 29, 1996.

Issued in Kansas City, Missouri, on October 31, 1997.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–29406 Filed 11–6–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–43–AD]

RIN 2120–AA64

Airworthiness Directives; SOCATA—Groupe AEROSPATIALE Model TBM 700 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain SOCATA—Groupe AEROSPATIALE (Socata) Model TBM 700 airplanes. The proposed AD would require replacing the starter generator mounting adapter with a part of improved design. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for France. The actions specified by the proposed AD are intended to prevent loss of the starter generator caused by failure of the starter generator mounting adapter, which could result in loss of electrical power.

DATES: Comments must be received on or before December 15, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–43–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from the SOCATA-Groupe AEROSPATIALE, Socata Product Support, Aeroport Tarbes-Ossun-Lourdes, B P 930, 65009 Tarbes Cedex, France; telephone 62.41.74.26; facsimile 62.41.74.32; or the Product Support Manager, SOCATA-Groupe AEROSPATIALE, North Perry Airport, 7501 Pembroke Road, Pembroke Pines, Florida 33023; telephone (954) 964–6877; facsimile (954) 964–1668. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut Street, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6934; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 97–CE–43–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–43–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Socata Model TBM 700 airplanes. The DGAC reports four incidents of cracked starter generator mounting adapters and one incident of a broken adapter. These conditions, if not detected and corrected, could result in loss of electrical power.

Relevant Service Information

Socata has issued Service Bulletin No. SB 70–072, dated January 1996, which specifies procedures for replacing the starter generator mounting adapter with a part of new design. The parts necessary for this replacement are included in Socata Kit No. OPT70K0058–24.

The DGAC classified this service bulletin as mandatory and issued French AD 95–242(B)R1, dated February 28, 1996, in order to assure the continued airworthiness of these airplanes in France.

The FAA's Determination

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above.

The FAA has examined the findings of the DGAC; reviewed all available information, including the service information referenced above; and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Socata Model TBM 700 airplanes of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require replacing the starter generator mounting adapter with a part of improved design by incorporating Socata Kit No. OPT70K0058–24. Accomplishment of the proposed replacement would be in accordance with Socata Service Bulletin No. SB 70–072, dated January 1996.

Cost Impact

The FAA estimates that 55 airplanes in the U.S. registry would be affected by the proposed AD.

The proposed replacement would take approximately 2 workhours per airplane to accomplish, at an average labor rate of approximately $60 an hour. Parts to accomplish the proposed AD will be provided by the manufacturer at no cost to the owners/operators of the affected airplanes. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $5,600 or $120 per airplane.

Differences Between the French AD, the Service Bulletin, and This Proposed AD

French AD 95–242(B)R1, dated February 28, 1996, and Socata Service Bulletin No. SB 70–072, dated January 1996, both give the owners/operators of certain Model TBM 700 airplanes the option of replacing the starter generator mounting adapter immediately or inspecting this adapter for cracks every 25 hours time-in-service (TIS) up to 100 hours TIS, at which time the replacement is mandatory. This allows the owners/operators the option of having their airplanes inspected up to three times before mandatory replacement, provided no cracked adapters were found, which, if found cracked, would require immediate replacement.

The FAA has determined that, since the parts for the replacement are free; the parts are available; and the action takes less than 2 workhours to accomplish, 25 hours TIS would be adequate time to incorporate the replacement. If followed with a final rule, the proposed AD would require replacing the starter generator mounting adapter within 25 hours TIS, and would not allow the option of repetitively

inspecting every 25 hours TIS up to 100 hours TIS.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

SOCATA—Groupe Aerospatiale: Docket No. 97–CE–43–AD.

Applicability: Model TBM 700 airplanes, serial numbers 1 through 109, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 25 hours time-in-service (TIS), unless already accomplished.

To prevent loss of the starter generator caused by failure of the starter generator mounting adapter, which could result in loss of electrical power, accomplish the following:

(a) Replace the starter generator mounting adapter with a part of improved design by incorporating Socata Kit No. OPT70K0058–24. This replacement shall be accomplished in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Socata Service Bulletin No. SB 70–072, dated January 1996.

(b) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(d) All persons affected by this directive may obtain copies of the document(s) referred to herein upon request to SOCATA—Groupe AEROSPATIALE, Socata Product Support, Aeroport Tarbes-Ossun-Lourdes, B P 930, 65009 Tarbes Cedex, France; or Perry Airport, 7501 Pembroke Road, Pembroke Pines, Florida 33023. These documents may also be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Note 3: The subject of this AD is addressed in French AD 95–242(B)R1, dated February 28, 1996.

Issued in Kansas City, Missouri, on October 31, 1997.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–29411 Filed 11–6–97; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–109–AD]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Dornier Model 328–100 series airplanes. This proposal would require replacement of the main landing gear (MLG) uplocks with new or modified MLG uplocks. This proposal is prompted by the issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent failure of the MLG to lock in the stowed position due to ice accumulation on the uplock hook and roller assembly, which could result in the inadvertent deployment of the MLG during flight.

DATES: Comments must be received by December 8, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–109–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Dornier Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97–NM–109–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–109–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, notified the FAA that an unsafe condition may exist on certain Dornier Model 328–100 series airplanes equipped with particular main landing gear (MLG) uplocks. The LBA advises that it has received a report of an in-flight event in which the MLG failed to lock in the stowed position. This locking failure was attributed to ice accumulation on the uplock hook and roller assembly. This condition, if not corrected, could result in the inadvertent deployment of the MLG during flight.

Explanation of Relevant Service Information

Dornier has issued Service Bulletin SB–328–32–183, dated October 9, 1996, which describes procedures for replacement of the uplocks of the right- and left-hand MLG with new or modified uplocks. The new and modified uplocks have a chamfer added in the inside part of the hook, and a relocated radius center in the inside part of the hook to increase the gap with the gear roller. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The LBA classified this service bulletin as mandatory and issued German airworthiness directive 96–322, dated December 5, 1996, in order to assure the continued airworthiness of these airplanes in Germany.

FAA's Conclusions

This airplane model is manufactured in Germany and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above. The FAA has examined the findings of the LBA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 50 Dornier Model 328–100 series airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would be provided by the manufacturer at no charge to the operators. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $12,000, or $240 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Dornier: Docket 97–NM–109–AD.

Applicability: Model 328–100 airplanes equipped with main landing gear (MLG) uplocks having part number 22405–000–03, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not

been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the MLG to lock in the stowed position, and consequent inadvertent deployment of the MLG during flight, accomplish the following:

(a) Within 30 days after the effective date of this AD, replace the right- and left-hand MLG uplocks with new or modified uplocks, in accordance with Dornier Service Bulletin SB–328–32–183, dated October 9, 1996.

(b) As of the effective date of this AD, no person shall install an MLG uplock having part number 22405–000–03 on the landing gear of any airplane.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in German airworthiness directive 96–322, dated December 5, 1996.

Issued in Renton, Washington, on October 31, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–29412 Filed 11–6–97; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–113–AD]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Dornier Model 328–100 series airplanes. This proposal would require replacement of certain electrical terminals with new electrical terminals. This proposal is prompted by the issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent loose electrical connections from causing an increase in electrical resistance, which could result in overheating at the electrical terminals and consequent smoke/fire in the airplane passenger cabin.

DATES: Comments must be received by December 8, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–113-AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Dornier Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97–NM–113–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–113–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, notified the FAA that an unsafe condition may exist on certain Dornier 328–100 series airplanes. The LBA advises that, during a failed startup of an engine, the flight crew detected a smell of burned cables. This failure was attributed to loose electrical connections in the passenger cabin, which caused an increase in the electrical resistance. This condition, if not corrected, could result in overheating at the electrical terminals and consequent smoke/fire in the airplane passenger cabin.

Explanation of Relevant Service Information

Dornier has issued Service Bulletin SB–328–24–188, dated September 11, 1996, which describes procedures for replacement of certain electrical terminals in the passenger cabin with new electrical terminals. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The LBA classified this service bulletin as mandatory and issued German airworthiness directive 96–291, dated November 7, 1996, in order to assure the continued airworthiness of these airplanes in Germany.

FAA's Conclusions

This airplane model is manufactured in Germany and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above. The FAA has examined the findings of the LBA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 7 Dornier Model 328–100 series airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would be provided by the manufacturer at no cost to operators. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $840, or $120 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Dornier: Docket 97–NM–113–AD.

Applicability: Model 328–100 series airplanes, serial numbers 3005 through 3015 inclusive, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent loose electrical connections from causing an increase in electrical resistance, which could result in overheating at the electrical terminals and consequent smoke/fire in the airplane passenger cabin, accomplish the following:

(a) Within 100 flight hours after the effective date of this AD, replace the electrical terminals in the passenger cabin with new electrical terminals, in accordance with Dornier Service Bulletin SB–328–24–188, dated September 11, 1996.

(b) As of the effective date of this AD, no person shall install an electrical terminal having part number 001A903A8010002, 001A903A8020002, or 001A903A8030002 on any airplane.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116, FAA.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in German airworthiness directive 96–291, dated November 7, 1996.

Issued in Renton, Washington, on October 31, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–29413 Filed 11–6–97; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–77–AD]

RIN 2120–AA64

Airworthiness Directives; SOCATA—Groupe AEROSPATIALE Models TB9, TB10, TB20, TB21, and TB200 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain SOCATA—Groupe AEROSPATIALE (Socata) Models TB9, TB10, TB20, TB21, and TB200 airplanes. The proposed AD would require inspecting the bolts and spacers of the upper attachments of the front belts for cracks, dents, etc. (damage); replacing any damaged bolts or spacers; incorporating a front belts upper attachment reinforcement kit; and reconditioning the belts. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for France. The actions specified by the proposed AD are intended to prevent failure of the upper seat belt attachment caused by excessive loads on the upper attachment of the belt, which could result in bodily injury to the occupants during landing.

DATES: Comments must be received on or before December 15, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–77–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from the SOCATA—Groupe AEROSPATIALE, Socata Product Support, Aeroport Tarbes-Ossun-Lourdes, B P 930, 65009 Tarbes Cedex, France; telephone 62.41.74.26; facsimile 62.41.74.32; or the Product Support Manager, SOCATA—Groupe AEROSPATIALE, North Perry Airport, 7501 Pembroke Road, Pembroke Pines, Florida 33023; telephone (954) 964–6877; facsimile (954) 964–1668. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut Street, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6934; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 97–CE–77–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–77–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Socata Models TB9, TB10, TB20, TB21, and TB200 airplanes. The DGAC advises that the upper attachment of the seat belts could exceed maximum load requirements during an emergency landing condition, causing failure of these seat belt upper attachments. This condition, if not detected and corrected, could result in bodily injury to the occupants during landing.

Relevant Service Information

Socata has issued Service Bulletin No. SB 10–103 and Service Bulletin No. SB 10–104, both dated June 1996. These service bulletins specify procedures for inspecting the bolts and spacers of the upper attachments of the front belts for cracks, dents, etc. (damage); replacing any damaged bolts or spacers; incorporating a front belts upper attachment reinforcement kit; and reconditioning the belts. Service Bulletin No. SB 10–103 applies to Socata Models TB10, TB20, TB21, and TB200 airplanes, and Model TB9 airplanes equipped with upholstering on the upper duct posts. Service Bulletin No. SB 10–104 applies to Socata Model TB9 airplanes not equipped with upholstering on the upper duct posts.

The DGAC classified these service bulletins as mandatory and issued French AD 96–142(A) and French AD 96–143(A), both dated July 17, 1996, in order to assure the continued airworthiness of these airplanes in France.

The FAA's Determination

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above.

The FAA has examined the findings of the DGAC; reviewed all available information, including the service information referenced above; and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Socata Models TB9, TB10, TB20, TB21, and TB200 airplanes of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require inspecting the bolts and spacers of the upper attachments of the front belts for cracks, dents, etc. (damage); replacing any damaged bolts or spacers; incorporating a front belts upper attachment reinforcement kit; and reconditioning the belts. Accomplishment of the proposed actions would be in accordance with the service bulletins previously referenced.

Cost Impact

The FAA estimates that 320 airplanes in the U.S. registry would be affected by the proposed AD.

Accomplishing the proposed replacement would take approximately 3 workhours per airplane, at an average labor rate of approximately $60 an hour. Parts to accomplish the proposed AD cost approximately $300. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $153,600 or $480 per airplane.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

SOCATA—Groupe Aerospatiale: Docket No. 97–CE–77–AD.

Applicability: Models TB9, TB10, TB20, TB21, and TB200 airplanes, serial numbers 1 through 1701; 1707 to 1750; 1758 to 1763; 1767, 1768, and 1769, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent failure of the upper seat belt attachment caused by excessive loads on the upper attachment of the belt, which could result in bodily injury to the occupants during landing, accomplish the following:

(a) Within the next 50 hours time-in-service (TIS) after the effective date of this AD, inspect the bolts and spacers of the upper attachments of the front belts for cracks, dents, etc. (damage), in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of one of the following service bulletins, as applicable:

(1) Socata Service Bulletin No. SB 10–103, dated June 1996, which applies to Socata Models TB10, TB20, TB21, and TB200 airplanes, and Model TB9 airplanes equipped with upholstering on the upper duct posts.

(2) Socata Service Bulletin No. SB 10–104, dated June 1996, which applies to Socata Model TB9 airplanes not equipped with upholstering on the upper duct posts.

(b) Prior to further flight, replace any damaged bolts or spacers found during the inspection required by paragraph (a) of this AD.

(c) Within the next 50 hours TIS after the effective date of this AD, incorporate either front belts upper attachment reinforcement kit No. OPT10 921000 or OPT10 920900 and recondition the belts in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of the applicable service bulletin referenced in paragraph (a)(1) or (a)(2) of this AD.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(f) All persons affected by this directive may obtain copies of the documents referred to herein upon request to SOCATA—Groupe AEROSPATIALE, Socata Product Support, Aeroport Tarbes-Ossun-Lourdes, B P 930, 65009 Tarbes Cedex, France; or Perry Airport, 7501 Pembroke Road, Pembroke Pines, Florida 33023. These documents may also be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Note 3: The subject of this AD is addressed in French AD 96–142(A) and French AD 96–143(A), both dated July 17, 1996.

Issued in Kansas City, Missouri, on October 31, 1997.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–29422 Filed 11–6–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–236–AD]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB SF340A and SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Saab Model SAAB SF340A and SAAB 340B series airplanes. This proposal would require inspections to detect discrepancies of the support straps of the flaps and adjacent areas, and corrective action, if necessary; It would also require replacement of the support straps with new straps made of steel. This proposal is prompted by the issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent fatigue cracking of the support straps of the flaps, which could result in further damage to the flap structure, and consequently lead to reduced controllability of the airplane.

DATES: Comments must be received by December 8, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–236–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from SAAB Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97–NM–236–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No.97–NM–236–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfartsverket (LFV), which is the airworthiness authority for Sweden, notified the FAA that an unsafe condition may exist on certain Saab Model SAAB SF340A and SAAB 340B series airplanes. The LFV advises that it received a report indicating that, during a scheduled inspection, fatigue cracks were found in flap support straps. Such fatigue cracking, if not detected and corrected in a timely manner, could result in damage to the flap structure, and consequently lead to reduced controllability of the airplane.

Explanation of Relevant Service Information

Saab has issued Service Bulletin 340–57–033, dated May 29, 1997, Revision 1, dated August 18, 1997, which describes procedures for visual and detailed inspections to detect discrepancies of the flap support straps and adjacent areas, and corrective action, if necessary. The service bulletin also describes procedures for replacement of the support straps of the flaps with new straps made of steel. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The LFV classified this service bulletin as mandatory and issued Swedish airworthiness directive SAD No. 1–117, dated June 9, 1997, in order to assure the continued airworthiness of these airplanes in Sweden.

FAA's Conclusions

These airplane models are manufactured in Sweden and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LFV has kept the FAA informed of the situation described above. The FAA has examined the findings of the LFV, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in Revision 1 of the service bulletin described previously, except as specified below.

Differences Between the Proposed AD and the Related Service Information

This proposed AD would differ from Saab Service Bulletin 340–57–033, Revision 1, dated August 18, 1997, in that the service bulletin recommends that any crack detected during an inspection be repaired in accordance with instructions that would be provided by the manufacturer. However, the FAA has determined that the repair of any crack would be required to be accomplished in accordance with a method approved by the FAA.

Cost Impact

The FAA estimates that 252 Saab Model SAAB SF340A and SAAB 340B series airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 30 work hours per airplane to accomplish the proposed visual inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the visual inspection proposed by this AD on U.S. operators is estimated to be a total of $1,800 per airplane.

It would take approximately 180 work hours per airplane to accomplish the proposed detailed visual inspection and concurrent replacement, at an average labor rate of $60 per work hour. Required parts would cost approximately $4,580 per airplane. Based on these figures, the cost impact of the detailed visual inspection and replacement proposed by this AD on U.S. operators is estimated to be $3,875,760, or $15,380 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Saab Aircraft AB: Docket 97–NM–236–AD.

Applicability: Model SAAB SF340A and SAAB 340B series airplanes, as listed in Saab Service Bulletin 340–57–033, Revision 1, dated August 18, 1997; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking of the flap support straps, which could result in further damage to the flap structure and reduced controllability of the airplane, accomplish the following:

(a) Except as provided by paragraph (b) of this AD: Prior to the accumulation of 16,000 total flight cycles, or within 1,500 flight cycles after the effective date of this AD, whichever occurs later, perform a visual inspection to detect discrepancies (i.e., cracking and/or damage) of the support straps of the left-and right-hand flaps and adjacent areas, in accordance with Saab Service Bulletin 340–57–033, Revision 1, dated August 18, 1997. If any discrepancy is detected, prior to further flight, repair it in accordance with a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate.

(b) At the next scheduled structural inspection of the flaps, but not later than the accumulation of 3,000 flight cycles after the effective date of this AD, accomplish paragraphs (b)(1) and (b)(2) of this AD, in accordance with Saab Service Bulletin 340–57–033, Revision 1, dated August 18, 1997. Accomplishment of the inspection and replacement specified in paragraphs (b)(1) and (b)(2) of this AD constitutes terminating action for the requirements of paragraph (a) of this AD.

(1) Perform a detailed inspection to detect discrepancies (i.e., cracking and/or damage) of the support straps of the left-and right-hand flaps and adjacent areas, in accordance with the service bulletin. If any discrepancy is detected, prior to further flight, repair it in accordance with a method approved by the Manager, International Branch, ANM–116. And,

(2) Replace the support straps of the left-and right-hand flaps with new straps made of steel, in accordance with the service bulletin.

(c) As of the effective date of this AD, no person shall install a flap assembly having part number 7257800–501 through –508 inclusive, –571, –572, or –851 through –858 inclusive, on any airplane, unless that flap assembly has been modified in accordance with Saab Service Bulletin 340–57–033, Revision 1, dated August 18, 1997.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in Swedish airworthiness directive SAD No. 1–117, dated June 9, 1997.

Issued in Renton, Washington, on October 31, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–29421 Filed 11–6–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–179–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A320 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A320 series airplanes. This proposal would require replacement of a capacitor of the main landing gear (MLG) circuitry with a new electrolytic capacitor having a tantalum casing. This proposal is prompted by the issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent the failure of the landing gear to retract properly as a result of failure of a capacitor in the MLG circuitry and subsequent power interruption.

DATES: Comments must be received by December 8, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–179–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule.

The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact

concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97–NM–179–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–179–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A320 series airplanes. The DGAC advises that it has received reports that, during functional tests of the landing gear safety valve, the main landing gear (MLG) retraction cycle was interrupted. Investigation revealed that the interruption was attributed to the rupture of a capacitor; this capacitor normally enables the continuation of the gear retraction cycle in the event of power interruption. Failure of this capacitor in the MLG circuitry combined with electrical power interruption, if not corrected, could result in failure of the MLG to retract properly.

Explanation of Relevant Service Information

Airbus has issued Service Bulletin A320–32–1139, Revision 1, dated December 30, 1994, which describes procedures for replacement of a capacitor of the MLG circuitry with a new electrolytic capacitor having a tantalum casing. Replacement with the new capacitor would eliminate the possibility and consequences of its rupture. The DGAC classified this service bulletin as mandatory and issued French airworthiness directive 96–187–085(B)R2, dated January 29, 1997, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 31 Airbus Model A320 series airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. The cost for required parts would be minimal. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $3,720, or $120 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Docket 97–NM–179–AD.

Applicability: Model A320 series airplanes on which Airbus Modification 21574 (Airbus Service Bulletin A320–32–1139, Revision 1, dated December 30, 1994) or 21999 has not been installed, castificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the main landing gear (MLG) to retract properly as a result of failure of a capacitor in the landing gear circuitry and subsequent electrical power interruption, accomplish the following:

(a) Within 6 months after the effective date of this AD, replace capacitor 57GA installed in electronic rack 90VU with a new electrolytic capacitor having a tantalum casing, in accordance with Airbus Service Bulletin A320–32–1139, Reviston 1, dated December 30, 1994.

(b) As of the effective date of this AD, no person shall install a capacitor having part number 57GA (without a tantalum casing) in the main landing gear circuitry on any airplane.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in French airworthiness directive 96–187–065(B)R2, dated January 29, 1997.

Issued in Renton, Washington, on October 31, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–29420 Filed 11–6–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 255

[Dockets Nos. OST–97–3014 and OST–97–2881]

Computer Reservations System (CRS) Regulations

AGENCY: Office of the Secretary, (DOT).

ACTION: Request for comments, petition for rulemaking on rules governing computer reservations systems.

SUMMARY: The Department is inviting interested persons to comment on a petition for rulemaking filed by American West Airlines that requests two new rules governing computer reservations systems (CRSs). America West asks the Department to amend its CRS rules (14 CFR Part 255) to include a prohibition against certain CRS practices that allegedly impose higher booking fee costs on airlines and enable travels agents to make transactions that damage an airline's ability to control its inventory. The Department invites persons wishing to comment on America West's proposal to include those comments in their responses to the Department's advance notice of proposed rulemaking in Docket OST–97–2881.

DATES: Comments and reply comments must be submitted on or before December 9, 1997, and January 23, 1998, respectively, the due dates for comments and reply comments in Docket No. OST–97–2881.

ADDRESSES: Comments must be filed in Room PL401, Docket OST–97–2881, U.S. Department of Transportation, 400 7th St., SW., Washington, DC 20590. Late filed comments will be considered to the extent possible. To facilitate consideration of comments, each commenter should file six copies of its comments. The comments should state that they are filed in Docket OST–97–2881.

FOR FURTHER INFORMATION CONTACT: Thomas Ray, Office of the General Counsel, 400 Seventh St., SW., Washington, DC 20590, (202) 366–4731.

SUPPLEMENTARY INFORMATION: The Department adopted its regulations governing CRSs, 14 CFR Part 255, because, if CRS firms were unregulated, they could use the systems to injure airline competition and deny consumers and travel agents access to accurate and complete information on airline services. We recently began a proceeding to reexamine our regulations to see whether they are still necessary and, if so, whether they should be changed, by publishing an advance notice of proposed rulemaking. 62 FR 47606, September 10, 1997. The comments and reply comments on that advance notice will be due on December 9, 1997, and January 23, 1998, under the revised comment schedule established by us.

We note that the rules will expire on December 31, 1997, unless we change the termination date. We are holding an expedited rulemaking proceeding to consider amending the rules' sunset provision so that the rules will remain in effect during our overall examination of them, as we noted in the advance notice, 62 FR at 47610–47611.

The advance notice summarizes our findings in earlier proceedings on the need for CRS rules and lists a number of issues that parties should address in their comments. 62 FR at 47607, 47609–47610. Among other things, the advance notice describes our past findings that market forces do not discipline the prices and quality of service offered by systems to participating airlines (participating airlines are the airlines whose services are sold through a system). 62 FR at 47608. *See also* 61 FR 42197, 42198, 42201–42202, August 14, 1996. Whether these findings are still valid is one of the issues that will be considered in our reexamination of the rules.

After we published the advance notice, America West filed a petition for proposed rulemaking that asks up to adopt two rules to stop CRS practices that allegedly impose unreasonable costs on participating airlines. America West alleges that each system offers incentive programs to travel agencies that encourage travel agents to make unnecessary and abusive airline transactions. A travel agency typically pays a much lower fee (or no fee) for CRS services if it makes a certain number of booking transactions each month. According to America West, a travel agency may have an incentive to make illegitimate booking transactions because doing so will enable it to receive CRS services at lower cost, even though the agency's legitimate transactions are too few to make the agency eligible for the discounted fees. America West asserts that travel agencies also make illegitimate or unnecessary books transactions for other reasons. Whatever the reason, all booking transactions generally impose a booking fee liability on a participating airline.

America West contends that, since each system uses a transactional methodology for calculating booking fees (the fees charged participating airlines), an airline must pay fees whenever travel agents conduct transactions involving its services, whether or not the transaction benefits the airline or results in the airline's carrying revenue passengers. According to America West, a participating airline like itself therefore must pay fees for many booking transactions that allegedly provide it no benefit. America West further asserts that the systems refuse to make any real effort to stop illegitimate travel agent transactions that create booking fee revenue for the systems. America West additionally charges that Sabre and Apollo, the two largest systems, each protects its major airline affiliate, respectively American and United, from similar abuses by denying travel agents the ability to conduct certain types of transactions that often lead to illegitimate bookings. America West alleges that the systems, however, have been unwilling to provide similar protection for participating airlines. Finally, America West alleges that the Internet has made matters worse, for the Internet booking sites created by travel agencies and other firms use a CRS as the booking engine.

America West therefore asks us to adopt rules allowing systems to charge booking fees only for a transaction involving actual travel and requiring each system to deny its travel agency

users the ability to create a passive booking on an airline if that airline asks the system to terminate that capability (a passive booking is a booking transaction that is not sent to the airline's internal reservations system).

We believe that the issues raised by America West's petition warrant further consideration. We are aware of complaints from other participating airlines raising similar concerns. Our advance notice of proposed rulemaking in Docket OST–97–2881 therefore included this among the specific issues that we asked commenters to address. 62 FR at 47610 (para. 12). We thus intended to consider this issue in our overall reexamination of the rules.

To facilitate our consideration of the issues presented by the America West petition, commenters should include their responses to the petition in their comments and reply comments on our advance notice of proposed rulemaking. America West itself is filing its petition as a response to the advance notice. Petition at 2, n. 2. Considering America West's proposals in that proceeding, Docket OST–97–2881, will be more efficient than considering them in a separate docket. Commenters therefore should not file comments on the petition in the docket for America West's petition.

Issued in Washington, DC on October 31, 1997, under authority delegated by 49 CFR § 1.56a(h)2.

Patrick V. Murphy,

Deputy Assistant Secretary for Aviation and International Affairs.

[FR Doc. 97–29467 Filed 11–6–97; 8:45 am]

BILLING CODE 4910–62–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–243025–96]

RIN 1545–AU61

Tax Treatment of Cafeteria Plans

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Partial withdrawal of notice of proposed rulemaking, amendment to notice of proposed rulemaking, and notice of proposed rulemaking by cross reference to temporary regulations.

SUMMARY: This document withdraws portions of the notice of proposed rulemaking published in the **Federal Register** (54 FR 9460) on March 7, 1989 and amends proposed regulations relating to changes in family status. In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations that provide guidance on the circumstances under which a cafeteria plan participant may revoke an existing election and make a new election during a period of coverage. The text of those temporary regulations also serves as the text of these proposed regulations.

DATES: Written comments and requests for a public hearing must be received by February 5, 1998.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG–243025–96), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG–243025–96), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC. Alternatively, taxpayers may submit comments electronically via the internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to the IRS internet site at http://www.irs.ustreas.gov/prod/tax regs/comments.html.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Sharon Cohen, (202) 622–6080; concerning submissions or to request a public hearing, Evangelista Lee, (202) 622–7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Q&A–8 of § 1.125–1 [1] and Q&A–6(c) and (d) of § 1.125–2 [2] provide that a participant may make benefit election changes pursuant to changes in family status and separation from service. The temporary regulations set forth the standards under which a cafeteria plan can allow an employee to change his or her health coverage election during a period of coverage to conform with the special enrollment rights under the Health Insurance Portability and Accountability Act of 1996, and to change his or her health coverage or group-term life insurance coverage in a variety of other "change in status" situations. Thus, these proposed regulations modify Q&A–8 of § 1.125–1 and Q&A–6(c) and (d) of § 1.125–2, and clarify that the "change in family status rules" in the existing proposed regulations continue to apply to qualified benefits (including dependent care assistance under section 129 and adoption assistance under section 137) other than accident or health coverage and group-term life insurance coverage. Election changes continue to be permitted where there has been a significant change in the health coverage of the employee or spouse attributable to the spouses's employment.

In addition, the temporary regulations provide that the rules of section 401(k) and (m), rather than the rules in the temporary regulations that apply to other qualified benefits, govern election changes under a qualified cash or deferred arrangement (within the meaning of section 401(k)) or with respect to employee contributions under section 401(m). Therefore, the proposed regulations withdraw Q&A–6(f) of § 1.125–2.

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 125. The temporary regulations contain rules relating to the circumstances under which a cafeteria plan participant may revoke an existing election and make a new election during a period of coverage.

The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations.

Special Analyses

It has been determined that this Treasury Decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) do not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, proposed regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal authors of these regulations are Catherine Fuller and Sharon Cohen, Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations). However, other personnel from the IRS and Treasury Department participated in their development.

Partial Withdrawal of Notice of Proposed Rulemaking

Accordingly, under the authority of 26 U.S.C. 7805, § 1.125–2 Q&A–6(f) in the notice of proposed rulemaking that was published on March 7, 1989 (54 FR 9460) is withdrawn.

List of Subjects in 26 CFR Part 1

Income taxes, reporting and recordkeeping requirements.

Amendments to Previously Proposed Rules

Accordingly, the proposed rules published on May 7, 1984 (49 FR 19321) and March 7, 1989 (54 FR 9460) are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. In § 1.125–1, as proposed May 7, 1984 (49 FR 19321), in Q&A–8, Q–8 is republished and A–8 is amended by revising the last sentence to read as follows:

§ 1.125–1 Questions and answers relating to cafeteria plan.

* * * * *

Q–8: What requirements apply to participants' elections under a cafeteria plan?

A–8: * * * However, except for benefit elections relating to accident or health plans and group-term life insurance coverage, a cafeteria plan may permit a participant to revoke a benefit election after the period of coverage has commenced and to make a new election with respect to the remainder of the period of coverage if both the revocation and the new election are on account of and consistent with a change in family status (e.g., marriage, divorce, death of spouse or child, birth or adoption of child, and termination of employment of spouse).

* * * * *

Par. 2. In § 1.125–2, as proposed March 7, 1989 (54 FR 9460), in Q&A–6, Q–6 is republished and A–6 is amended by revising A–6(c) and (d) to read as follows:

§ 1.125–2 Miscellaneous cafeteria plan questions and answers.

* * * * *

Q–6: In what circumstance may participants revoke existing elections and make new elections under a cafeteria plan?

A–6: * * *

(c) *Certain Changes in Family Status.* Except as otherwise provided, in the case of benefits other than accident or health plan coverage and group-term life insurance coverage, a cafeteria plan may permit a participant to revoke a benefit election during a period of coverage and to make a new election for the remaining portion of the period if the revocation and new election are both on account of a change in family status and are consistent with such change in family status. For purposes of this paragraph (c) of Q&A–6, examples of changes in family status for which a benefit election change may be permitted include the marriage or divorce of the employee, the death of the employee's spouse or a dependent, the birth or adoption of a child of the employee, the termination of employment (or the commencement of employment) of the employee's spouse, the switching from part-time to full-time employment status or from full-time to part-time status by the employee or the employee's spouse, and the taking of an unpaid leave of absence by the employee or the employee's spouse. Benefit election changes are consistent with family status changes only if the election changes are necessary or appropriate as a result of the family status changes. In the case of accident or health plans, election changes are permitted where there has been a significant change in the health coverage of the employee or spouse attributable to the spouse's employment. For additional rules governing cafeteria plan election changes with respect to accident or health plan coverage and group-term life insurance coverage, see § 1.125–1T.

(d) *Separation from Service.* Except with respect to accident or health plan coverage and group-term life insurance coverage, a cafeteria plan may permit an employee who separates from the service of the employer during a period of coverage to revoke existing benefit elections and terminate the receipt of benefits for the remaining portion for the coverage period. The plan must prohibit the employee, if the employee should return to service for the employer, from making new benefit elections for the remaining portion of the period of coverage. For rules governing cafeteria plan election changes with respect to accident or health plan coverage and group-term life insurance coverage, see § 1.125–4T.

* * * * *

Proposed Amendments to the Regulations

In addition, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAX

Paragraph 1. The authority for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.125–4 is added to read as follows:

[The text of this proposed section is the same as the text of § 1.125–4T published elsewhere in this issue of the **Federal Register**.]

Michael P. Dolan,

Acting Commissioner of Internal Revenue.

[FR Doc. 97–29086 Filed 11–6–97; 8:45 am]

BILLING CODE 4830–01–U

[1] Published as a proposed rule at 49 FR 19321 (May 7, 1984).

[2] Published as a proposed rule at 54 FR 9460 (March 7, 1989).

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD07–97–060]

RIN 2115–AE46

Special Local Regulations: BellSouth Winterfest Boat Parade, Broward County, Florida

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish permanent special local regulations for the BellSouth Winterfest Boat Parade which will be held annually during the second Saturday of December on the waters of the Port Everglades turning basin and the intracoastal waterway from Dania Sound light to the Pompano Beach daybeacon.

DATES: Comments must be received on or before December 8, 1997.

ADDRESSES: Comments may be mailed to U.S. Coast Guard Group Miami, 100 MacArthur Cswy Miami Beach, Florida 33139, or may be delivered to the Operations Department at the same address between 7 a.m. and 3:30 p.m., Monday through Friday, except federal holidays. The telephone number is (305) 535–4448. Comments will become a part of the public docket and will be available for copying and inspection at the same address.

FOR FURTHER INFORMATION CONTACT: LTJG J. Delgado, Coast Guard Group Miami, FL at (305) 535–4409.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names, addresses, identify this rulemaking (CGD07–97–050), and the specific section of this proposal to which their comments apply, and give reasons for each comment.

The Coast Guard will consider all comments received during the comment period. The regulations may be changed in view of the comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned. Persons may request a public hearing by writing to the address under ADDRESSES and stating why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a notice in the Federal Register.

Background and Purpose

The BellSouth Winterfest Boat Parade is a nighttime parade of approximately 110 pleasure and fishing boats ranging in length from 20 feet to 200 feet decorated with holiday lights. There will be approximately 1000 spectator craft. The parade will form in the staging area at the Port Everglades turning basin then proceed north up the Intracoastal Waterway (ICW) to Lake Santa Barbara where the parade will disband. The regulated area will include the Port Everglades turning basin and the intracoastal waterway from Dania Sound light 35 LLNR 47575 to Pompano Beach daybeacon 74 LLNR 47230.

The regulated area also includes the staging area which is the Port Everglades Turning Basin and that portion of the Intracoastal Waterway extending from Port Everglades Turning Basin to Dania Sound light 35 LLNR 42865. The regulations establish the staging area as a no anchoring area. The regulations also establish no anchorage areas in the vicinity of the viewing area which extends from the Sunrise Blvd Bridge south to New River Sound Day light 3 (LLNR 47240) west of the ICW. While the parade is transiting, these regulations will prohibit nonparticipating vessels from approaching within 500 feet ahead of the lead vessel in the parade to 500 feet astern of the last participating vessel in the parade to within 50 feet on either side of the parade unless authorized by the patrol commander. After the passage of the parade participants, all vessels will be allowed to resume normal operations.

Regulatory Evaluation

This proposal is not a significant regulatory action under Section 3(f) of the Executive Order 12866 and does not require an assessment of the potential costs and benefits under Section 6(a)(3) of that Order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Entry into the regulated area is prohibited for only 5 hours on the day of the event.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposed rule, if adopted, will have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as the regulations would only be in effect for approximately five hours each day for one day each year. If, however, you think that your business or organization qualifies as a small entity and that this proposed rule will have a significant economic impact on your business or organization, please submit a comment (see ADDRESSES) explaining why you think it qualifies and in what way and to what degree this proposed rule will economically affect it.

Collection of Information

These proposed regulations contain no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rulemaking does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this proposal consistent with Section 2.B.2 of Commandant Instruction M16475.1B. In accordance with that section, this proposed action has been environmentally assessed (EA completed), and the Coast Guard has concluded that it will not significantly affect the quality of the human environment. An Environmental Assessment and a Finding of No Significant Impact have been prepared and are available in the docket for inspection or copying where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Proposed Regulations: In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of Title 33, Code of Federal Regulations, as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A new section 100.729 is added to read as follows:

§ 100.729 BellSouth Winterfest Boat Parade; Broward County, FL.

(a) *Regulated Area:* The regulated area will include the Port Everglades turning basin and the intracoastal waterway from Dania Sound light 35 LLNR 47575 to Pompano Beach daybeacon 74 LLNR 47230. The regulated area also includes the staging area which is the Port Everglades Turning Basin and that portion of the Intracoastal Waterway extending from Port Everglades Turning Basin to Dania Sound light 35 LLNR 42865. The regulations establish the staging area as a no anchoring area. The regulations also establish no anchorage areas in the vicinity of the viewing area which extends from the Sunrise Blvd Bridge south to New River Sound Day light 3 (LLNR 47240) west of the ICW.

(b) *Special Local Regulations:*

(1) While the parade is transiting, nonparticipating vessels are prohibited from approaching within 500 feet ahead of the lead vessel in the parade to 500 feet astern of the last participating vessel in the parade to within 50 feet on either side of the parade unless authorized by the patrol commander. Anchoring in the viewing area is prohibited unless authorized by the Patrol Commander. Entry or anchoring in the staging area is prohibited, unless authorized by the Patrol Commander. After the passage of the parade participants, all vessels may resume normal operations.

(2) A succession of not fewer than 5 short whistle or horn blasts from a patrol vessel will be the signal for any non-participating vessel to stop immediately. The display of an orange distress smoke signal from a patrol vessel will be the signal for any and all vessels to stop immediately.

(c) *Effective Date:* This section is effective annually on the second Saturday in December from 5 p.m. to 10 p.m. EST.

Dated: October 27, 1997.

Norman T. Saunders,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 97–29508 Filed 11–6–97; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5919–3]

Notice of Extension of Comment Period for the GE-Housatonic Site Included in National Priorities List for Uncontrolled Hazardous Waste Sites, Proposed Rule No. 23

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; notice of extension of comment period for GE-Housatonic site.

SUMMARY: The Environmental Protection Agency (EPA) is extending the comment period for the GE-Housatonic site in Pittsfield, Massachusetts which was proposed to be added to the National Priorities List (NPL) on September 25, 1997 (62 FR 50450). The comment period was scheduled to end on November 24, 1997. However, due to the unique circumstances surrounding the GE-Housatonic site, the comment period will be extended until March 1, 1998.

The Environmental Protection Agency (EPA) has formed a partnership with several state and federal agencies (intergovernmental team) in order to achieve a comprehensive solution to the environmental problems at the GE/Housatonic River Site in Pittsfield, MA. The Intergovernmental Team is comprised of representatives from EPA, the Massachusetts Department of Environmental Protection, the Massachusetts Executive Office of Environmental Affairs, the Massachusetts Attorney General's Office, the Connecticut Department of Environmental Protection, the Connecticut Attorney General's Office, the US Department of Interior, the US Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, and the United States Department of Justice. The Intergovernmental Team is attempting to negotiate, with General Electric, a comprehensive solution in lieu of final listing of the General Electric/Housatonic River Site on the National Priorities list. In order to facilitate this intensive and comprehensive negotiation, the EPA has decided to extend the public comment period until March 1, 1998.

Numerous parties, including the public, are directly or indirectly participating in these negotiations. These parties include the City of Pittsfield and other cities and towns downstream of the GE facility, environmental and business groups.

DATES: Comments regarding the GE-Housatonic site must be submitted (postmarked) on or before March 1, 1998.

ADDRESSES:

By Mail: Mail original and three copies of comments (no facsimiles or tapes) to Docket Coordinator, Headquarters; U.S. EPA; CERCLA Docket Office; (Mail Code 5201G); 401 M Street, SW; Washington, DC 20460; 703/603–9232.

By Federal Express: Send original and three copies of comments (no facsimiles or tapes) to Docket Coordinator, Headquarters; U.S. EPA; CERCLA Docket Office; 1235 Jefferson Davis Highway; Crystal Gateway #1, First Floor; Arlington, VA 22202.

By E-Mail: Comments in ASCII format only may be mailed directly to Superfund.Docket@EPAMAIL.EPA.GOV.

E-mailed comments must be followed up by an original and three copies sent by mail or Federal Express.

FOR FURTHER INFORMATION CONTACT: Terry Keidan, State and Site Identification Center, Office of Emergency and Remedial Response (Mail Code 5204G), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC, 20460.

Dated: October 27, 1997.

Stephen D. Luftig,

Director, Office of Emergency and Remedial Response.

[FR Doc. 97–29481 Filed 11–6–97; 8:45 am]

BILLING CODE 6560–60–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 20 and 90

[WT Docket No. 96–86; FCC 97–373]

The Development of Technical and Spectrum Requirements for Meeting Public Safety Agency Communication Requirements, Establishment of Rules and Requirements for Priority Access Service

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission adopts a *Second Notice of Proposed Rulemaking (Second NPRM)* which makes a range of proposals relating to public safety communications in the 746–806 MHz band and in general. The *Second NPRM* discusses goals for establishing a plan to ensure the efficient and effective use of spectrum to meet critical public safety communications needs, proposes and seeks comment on service rules for the 24 megahertz of spectrum that the Commission has proposed to allocate for public safety needs, seeks comment relating to the establishment of wireless priority access services by commercial systems for use in meeting communications needs in emergency and disaster situations, and proposes technical requirements to protect broadcast licensees operating in the 746–806 MHz band from interference. This action is taken as part of the Commission's compliance with its mandate under the Balanced Budget Act of 1997.

DATES: Comments are due on or before December 22, 1997, and reply comments are due on or before January 12, 1998. Written comments by the public on the proposed information collections are due January 6, 1998. Written comments on the proposed information collections must be submitted by the Office of Management and Budget (OMB) on or before January 6, 1998.

ADDRESSES: Federal Communications Commission, Office of the Secretary, Room 222, Washington, D.C. 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy

Boley, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to jboley@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725–17th Street, N.W., Washington, D.C. 20503, or via the internet to fain_t@eop.gov.

FOR FURTHER INFORMATION CONTACT: Marty Liebman, Mary Woytek, David Siehl, or Jon Reel, Policy Division, (202) 418–1310. For additional information concerning the information collections contained in this *Second NPRM*, contact Judy Boley at (202) 418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a synopsis of the *Second NPRM* in WT Docket No. 96–86, FCC 97–373, adopted October 9, 1997, and released October 24, 1997. The complete text of this notice is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Services, (202) 857–3800, 1231 20th Street, N.W., Washington, DC 20036. This *Second NPRM* contains new information collections subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed information collections contained in this proceeding.

Paperwork Reduction Act

This *Second NPRM* contains a proposed information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this *Second NPRM*, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13. Public and agency comments are due January 6, 1998. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: 3060–XXXX.
Title: Development of Operational, Technical, and Spectrum Requirements For Meeting Federal, State and Local Public Safety Agency Communication Requirements Through the Year 2010, Establishment of Rules and Requirements for Priority Access Service (*Second NPRM*, WT Docket No. 96–86).
Form No.: N/A.
Type of Review: New Collection.
Respondents: Primary: 55 regional planning committees + 1 national planning committee + 1 standards committee + 2,000 entities applying for extended implementation = 2,057.
Third Party: 6,600 eligible entities (estimate based on 120 per regional committee). (This figure includes 2,000 eligible entities already included as primary respondents that may apply to the Commission for extended implementation.)
Number of Respondents: 6,657.
Estimated Time Per Response: Primary: Regional planning committee: 10,270 hours; National planning committee: 10,000 hours; Standards committee: 10,000 hours; Entity seeking extended implementation: 10 hours;
Third Party: Eligible entity—6 hours.
Total Annual Burden: 644,450 hours.
Total Annual Cost: $0 . There are no capital/startup or operational and maintainance cost associated with this collection. The Commission estimates the respondents will not hire contract staff to prepare the material.
Needs and Uses: In the Balanced Budget Act of 1997, Congress directed the Commission to dedicate 24 megahertz of spectrum in the 746–806 MHz band for public safety services. The enclosed Second Notice of Proposed Rulemaking, FCC 97–393, in WT Docket No. 96–86 proposes service rules to make the spectrum available for licensing.

In order to satisfy local and regional needs and preferences, the Commission proposes that regional planning committees made up of representatives from the public safety community draft and submit of regional plans. The regional plans may include plans for both spectrum reserved for interoperability and spectrum available for general public safety use. Creation of these plans will necessarily impose some burden, both on the eligible entities that make their needs known, and on the planners who seek to accommodate them. In addition, the Commission proposes that a planning committee convene to develop nationwide interoperability policies and procedures, and mentions the possibility that an entity may be formed to assist the Commission in formulating technical standards. Commission personnel will use the information to assign licenses, and may also use the information to determine regional spectrum requirements and to develop technical standards. The information will also be used to determine whether prospective licensees will operate in compliance with the Commission's rules. Without such information, the Commission could not accommodate regional requirements or provide for the optimal use of the available frequencies.

Synopsis of the Second Notice of Proposed Rulemaking

1. In this *Second Notice of Proposed Rulemaking (Second NPRM)* the Commission makes a range of proposals relating to public safety communications in the 746–806 MHz spectrum band. The proposals include service rules for the 24 megahertz of spectrum that Congress, in the Balanced Budget Act of 1997, has committed to public safety services;[1] the establishment of wireless priority access services by commercial systems for use in meeting communications needs in emergencies; and technical requirements to protect broadcast licensees operating in the 746–806 MHz band from interference. The Commission notes that this *Second NPRM* does not address all the issues raised in the Notice of Proposed Rulemaking in this proceeding (61 FR 25185, May 20, 1996) (*Public Safety NPRM*) or in the Final Report of the Public Safety Wireless Advisory Committee.[2] To the extent that important issues remain, they will be addressed in future proceedings.

I. Public Safety Communications

A. Interoperability Service Rules

2. The *Second NPRM* first considers service rules in the 746–806 MHz band for public safety interoperability, and discusses the following issues that arise in the context of interoperability: location and amount of interoperability spectrum; types of communication; transmission technology; channel spacing; channel requirements; equipment standards; eligibility, use, and licensing; and trunking and

[1] Reallocation of Television Channels 60–69, the 746–806 MHz Band, ET Docket No. 97–157, *Notice of Proposed Rulemaking*, FCC 97–245, 62 FR 41012 (July 31, 1997) (*Allocation NPRM*). Balanced Budget Act of 1997, Public Law 105–33, 111 Stat, 251 (1997).

[2] Final Report of the Public Safety Wireless Advisory Committee to the Federal Communications Commission and the National Telecommunications and Information Administration, September 11, 1996 (PSWAC Final Report).

technical standards. The *Second NPRM* then discusses similar issues for the spectrum that is not reserved for interoperability, *i.e.*, those frequencies to be made available for the use of individual public safety entities.

3. The *Public Safety NPRM* proposed a formal definition of interoperability and related definitions of Infrastructure-independent and Infrastructure-dependent interoperability, and Multi-jurisdictional and Multi-disciplinary interoperability. The PSWAC Final Report adopted these definitions, and additionally proposed that "mission critical" communications be defined as that which must be immediate, ubiquitous, reliable and, in most cases, secure. The Commission seeks further comment on these definitions and on any proposals for different definitions.

1. Interoperability Spectrum

Location and Amount of Interoperability Spectrum

4. The Commission proposes to dedicate a significant amount of spectrum in the 746–806 MHz band solely for interoperability communications. The Commission seeks comment on the amount of spectrum that should be dedicated for interoperability communications. The precise amount adopted by the Commission will also reflect the comments and suggestions received in regard to the spacing and number of channels required.

5. The *Second NPRM* also asks commenters who believe that the Commission should attempt to allocate spectrum for interoperability from other public safety bands or elsewhere to indicate which bands should be used to provide such spectrum, and how channels within those bands might be cleared throughout the Nation in order to realize the Commission's goal of nationwide interoperable communications. If commenters believe that interoperability channels should be designated in more than one band, the Commission asks that they indicate how nationwide interoperability can be achieved using channels in different bands.

Types of Communication

6. The *Second NPRM* tentatively concludes that it would be useful to categorize public safety communications into four separate types: voice, data, image/high speed data (image/HSD), and video. In order to determine whether and how each of these types of potential interoperability communications could or should be accommodated in the Commission's designation of interoperability spectrum, comment is solicited on whether the Commission should designate interoperability spectrum for:

- Voice channels only (with data capability on such channels).
- Voice and data channels only.
- Voice, data, image/HSD, slow motion video, and full motion video channels.
- Channels that would accommodate some other combination of uses.

Transmission Technology

7. In order to ensure interoperability among all public safety agencies, an important factor to consider is whether to specify the modulation technology for interoperability channels. Because the Commission's goal is to provide for nationwide interoperability, the Commission tentatively concludes that at a minimum the Commission must specify whether analog FM or digital modulation technologies should be used for interoperability channels. The *Second NPRM* addresses these issues in the context of the various types of interoperability communications the Commission is considering.

Voice

8. The *Second NPRM* invites comment on whether the achievement of interoperability on analog or digital modulation for voice interoperability channels should be specified. In addition, the *Second NPRM* seeks comment regarding whether standards on these channels, whether analog or digital, should be adopted. The Commission asks commenters how long it would take to develop digital standards and whether the time associated with the development process offsets the advantages of digital technology. The Commission also seeks comment regarding whether adopting a digital standard would result in all interoperability equipment being tied to today's digital technology for many years, even if that technology experiences great advances in the next century.

Data, Image/HSD, and Video

9. Given that technical standards will have to be developed regardless of whether analog or digital technology is used for data channels, the Commission proposes to adopt the use of digital modulation on such channels, in order to benefit from the throughput advantages of digital technology. Because image/HSD and video communications also involve the transmission of digital information, the Commission proposes to adopt the use of digital modulation on these channels. The same considerations allotted to data communications would apply to image/HSD and video communications. The *Second NPRM* seeks comment on these proposals.

10. As a related issue, the *Second NPRM* seeks comment regarding whether technical standards should be mandated for data, image/HSD, or video equipment used for interoperability. If so, the *Second NPRM* also asks what technical standards would be necessary on data, image/HSD, and video channels to achieve interoperability if digital systems, or analog-based systems, are employed? In addition, the Commission asks commenters to indicate the data rates they believe are desirable or necessary for each type of digital communication (*i.e.*, data, image/HSD, and video).

Channel Spacing

11. An important consideration in deciding how spectrum should be designated for different types of interoperable communications is the spacing of the channels needed to support such communications. The *Second NPRM* therefore explores this issue with respect to each of the four categories of interoperable communications discussed above, and requests comment on any other categories that may be appropriate.

12. The Commission seeks comment regarding the following issues relating to channel spacing for interoperability channels:

- What channel spacing is needed to ensure appropriate voice quality and clarity for voice interoperability channels?
- Should the interoperability channels be spaced 25 kilohertz apart to more easily enable these channels to be incorporated into equipment operating in the 806–821 MHz band? Or should the Commission consider a transition to 12.5 kHz channels for the 806–821 MHz band?
- What channel spacing is needed to ensure appropriate data capacity for data interoperability channels?
- To what extent might voice channels also be used by public safety personnel to carry data?

13. The *Second NPRM* seeks comment on what channel spacings should be adopted for voice, data, image/hsd, and video interoperability channels. The Commission requests that commenters consider issues such as the use of analog or digital technology and the appropriate data rates for different types of communications, and discuss their rationale in suggesting appropriate channel spacings for voice, data, image/HSD, slow motion video, and full

motion video channels. The Commission also asks commenters to indicate whether the channel spacings they suggest are based on current or future state-of-the-art technology in digital efficiency, as measured in bits/second/Hertz.

Channel Requirements

14. The *Second NPRM* seeks input regarding the number of interoperability channels that should be designated for each type of communication described above, and with regard to additional factors related to channelization, such as the number of paired or unpaired channels needed for the various types of communications.

15. Specifically, the *Second NPRM* seeks comment on the number of channels that commenters believe should be dedicated for interoperability uses for: voice transmissions (mobile-only, or base and mobile channel pairs); data transmissions (base-only, or base and mobile channel pairs); image/HSD transmissions (base-only, or base and mobile channel pairs); slow motion video transmissions (mobile-only, or base and mobile channel pairs); and full motion video transmissions (mobile-only, or base and mobile channel pairs). In commenting on the number of interoperability channels that should be designated, the Commission asks interested parties to indicate the channel spacing they assume for each type of channel.

Equipment Standards

16. The Commission recognizes that poor quality receivers could impede communications on the interoperability channels, and so invites comment as to whether to establish receiver standards for the interoperability channels. The Commission observes that its authority to regulate receiver standards may be limited. It notes, for example, that § 302(a) of the Communications Act grants the Commission specific authority to regulate the susceptibility to interference of home electronic equipment such as TV receivers. The Commission therefore asks those commenters recommending mandatory receiver standards to indicate the technical parameters to be standardized and to address the Commission's legal authority to adopt such standards.

17. The *Second NPRM* also seeks comment regarding whether the Commission should require that all public safety mobile and portable radios operating in the 746–806 MHz band be capable of operating on all voice and data interoperability channels in that band. In addition, the *Second NPRM* invites comment regarding whether it is technically feasible to incorporate the 746–806 MHz interoperability channels into mobile and portable radios operating in the 806–824/851–869 MHz band, and whether doing so is dependent on whether the Commission employs television Channels 68 and 69 for mobile-to-base transmissions or whether the Commission decides instead to use television Channels 63 and 64 for some or all mobile-to-base transmissions. If incorporating 746–806 MHz interoperability channels into 806–824/851–869 MHz mobile and portable radios is technically feasible, commenters are asked to address whether the Commission should require that all public safety mobile and portable radios operating in 806–824/851–869 MHz band manufactured or imported beginning one year after the effective date of the Report and Order adopted in this proceeding, be capable of operating on the interoperability channels in the 746–806 MHz band.

18. On the other hand, the Commission suggests that the best and easiest way to provide for mobile and portable radio equipment on these channels might be for equipment manufacturers to build "interoperability radios" (*i.e.*, radios that transmit and receive only on voice and data interoperability channels). The *Second NPRM* seeks comment on this option, and on the trade-offs between this and the previous option (of requiring all radios to operate on the interoperability channels).

2. Eligibility, Use, and Licensing

Definitions

19. The *Public Safety NPRM* tentatively concluded that the Commission should adopt formal definitions relating to public safety. The Commission does not intend to take further action on the definitions it proposed, however, since in directing the Commission to assign 24 megahertz of spectrum in the 746–806 MHz band for public safety services, Congress defined "public safety services" to mean services: [3]

(A) the sole or principal purpose of which is to protect the safety of life, health, or property;

(B) that are provided—

(i) By State or local government entities; or

(ii) By nongovernmental organizations that are authorized by a governmental entity whose primary mission is the provision of such services; and

(C) that are not made commercially available to the public by the provider.

20. The *Second NPRM* tentatively concludes that a definition of a public safety service provider can be based upon the statutory definition of public safety services, and that such a definition would be helpful in developing service rules for the 746–806 MHz band. The *Second NPRM* proposes to define the term as follows:

Public Safety Service Provider: (1) A State or local government entity that provides public safety services; or (2) a non-governmental organization that is authorized to provide public safety services by a governmental entity pursuant to § 337(f)(1)(B)(ii) of the Communications Act.

21. The Commission notes that two broad groups fall within this definition—governmental public safety services providers, and authorized non-governmental public safety services providers. The Commission also notes that many entities with public safety interests, and with which public safety service providers may need to communicate by radio, do not fall within the statutory definition. Eligibility issues regarding use of the interoperability channels and for channels from the non-interoperability (general use) public safety spectrum are discussed under separate headings below.

National and Regional Planning

22. The *Second NPRM* addresses how interoperability spectrum may best be managed for effective interoperable communications. As a threshold question, however, the Commission asks commenters to discuss which policies it should set at the national level, and which should be set by those in closer proximity to State and local public safety users. In the *NPSPAC Proceeding*, the Commission established 55 regions and directed each to develop plans for use of both the interoperability and the non-interoperability channels.[4] The regions were to establish procedures for interoperability that best suited their individual requirements. The Commission could adopt a similar process for the interoperable channels in the 746–806 MHz band. The *Second NPRM* tentatively concludes that the Commission's primary goal with respect to interoperability should be seamless interoperability on a nationwide basis.

23. The *Second NPRM* requests comment regarding four alternative approaches to managing the interoperability channels in the 746–806 MHz band. First, the Commission asks commenters to consider whether the individual NPSPAC regional planning committees should develop plans for the operation and use of the interoperability channels in the 746–806 MHz band. Second, as a variation on this approach, commenters should consider whether the Commission should create parallel regional organizations devoted entirely to developing plans and procedures for use of the interoperability channels. Commenters favoring either of these two options should discuss how these channels could be entrusted to the individual regions without compromising the goal of seamless nationwide interoperability.

24. As a third alternative, the *Second NPRM* asks whether a national planning process to develop nationwide plans and procedures for the interoperability channels should be adopted. Finally, the *Second NPRM* asks commenters to discuss a fourth option in which specific nationwide guidelines and procedures for the use of the interoperability channels would be developed.

Categories of Interoperability Uses

25. In the *Public Safety NPRM*, the Commission discussed public safety interoperability in three general contexts: day-to-day, mutual aid, and emergency preparedness or task force operations. The *Second NPRM* asks whether it is necessary or advisable to provide specific amounts of spectrum for each of these uses, or whether the Commission should instead provide spectrum for general interoperability use. If commenters believe that interoperability channels should be designated for specific uses, the Commission asks them to suggest how many of each type of channel should be designated for each category.

26. The *Second NPRM* also asks commenters to consider whether in an emergency all voice, data, image/HSD, and video interoperability channels should become mutual aid channels. The Commission invites comment regarding the alternative approaches of allowing the regions, either individually or as participants in a national planning committee, to decide how many channels, and what kind of channels, should be used for each category of interoperability. If the Commission permits the regions to decide these questions, commenters should discuss whether the Commission should designate a minimum number of the interoperability channels for mutual aid and set their location. The Commission's tentative view is that this would ensure that immediately identifiable channels would be available for mutual aid nationwide.

Eligibility and Use of Interoperability Channels

27. The Commission tentatively concludes that all public safety service providers should be eligible to use all of the interoperability channels. The Commission also tentatively concludes, however, that eligibility alone should not guarantee unlimited access to these channels, but rather that their use should only be permitted in accordance with the plan for interoperability. The Commission also believes that it would be consistent with the new § 337 of the Communications Act and the intent of Congress to broaden the eligibility for interoperability channels, because public safety service providers may need to interact with entities which provide services that do not fall within the definition of public safety services established by Congress in § 337. The Commission tentatively concludes that public safety service providers will need to communicate with their Federal counterparts, and seeks comment regarding how the interoperability channels should be made available to Federal users, and how the Table of Allocations may need to be revised to permit Federal use. The *Second NPRM* also seeks comment regarding whether such use would be consistent with congressional objectives in amending § 337 of the Communications Act.

28. The *Second NPRM* next proposes that authorized non-governmental providers are among the public safety service providers for whom the interoperability channels are specifically intended, but that orderly and effective use of these channels requires that all users use the interoperability channels only in accordance with the interoperability plan. The Commission further tentatively concludes that, in formulating such plans, the planners should have full latitude to restrict the use of the interoperability channels as they judge necessary to ensure that these channels are put to effective use. The *Second NPRM* seeks comment on these tentative conclusions.

29. The *Second NPRM* further asks commenters whether the plans governing access to the interoperability channels should be designed by the individual regions, either through the regional planning committees or through regional committees established specifically to address interoperability, or whether at least some of these rules should be prescribed at the national level, either by the Commission or through a national interoperability planning committee. The Commission asks commenters to consider the possibility that some rules for the interoperability channels, such as the mutual aid channels or the task force channels, might be formulated by the Commission, while regional committees or other regional groups might formulate the rules governing access to the channels designated for day-to-day use. The Commission also asks commenters whether access by Federal agencies should be regulated at the national level, with the rules governing access by other entities to be set at the regional level. Finally, the *Second NPRM* asks whether standards and procedures should be adopted to ensure that the interoperability plans are reasonable, effective, and fair.

30. The *Second NPRM* also solicits comment regarding whether some channels should be designated for particular services nationwide, or whether all eligible entities should have access to all the channels within a given category. Commenters are again asked whether these decisions should be made by the regions individually, either through the regional planning committees or through regional committees established specifically to address interoperability, or by a national interoperability planning committee; or by the Commission. Commenters should consider the option of the Commission deciding these issues for some, but not all, of the interoperability channels.

31. The *Second NPRM* also invites comment regarding how the voice, data, image/HSD, and video interoperability channels should be assigned to licensees. Specifically the *Second NPRM* asks whether authorizations for base and control transmitters operating on the interoperability channels should be obtained from the Commission, or whether the Commission should adopt an alternative approach, such as giving the regions more authority for the interoperability channels and allowing each region to authorize individual agencies to operate base stations without the need for separate station authorizations. In either case, public safety entities could operate mobile units and portables on the interoperability channels without separate authorization as long as they were operating in accordance with the approved regional plan.

[3] § 337(f)(1) of the Communications Act, 47 U.S.C. 337(f)(1), as added by the Balanced Budget Act of 1997, 3004.

[4] Development and Implementation of a Public Safety National Plan and Amendment of Part 90 to Establish Service Rules and Technical Standards for Use of the 821–824/866–869 MHz Bands by the Public Safety Services, GEN Docket No. 87–112, (*NPSPAC Proceeding*), *Memorandum Opinion and Order*, 53 FR 11849 (April 11, 1988). *See Report and Order*, GEN Docket Nos. 87–112, 53 FR 1022 (January 15, 1988) (*NPSPAC Report and Order*).

3. Trunking on Interoperability Spectrum

32. The *Second NPRM* notes that in a large-scale emergency, wireless communication among many personnel from different agencies and regions must be rapidly coordinated. It tentatively concludes that a trunked system is the best, and possibly the only practicable, method by which this goal can be achieved.

33. The Commission has not required use of specific trunking standards for public safety communications services, nor has it specified such standards for private or commercial mobile radio services. However, the Commission states that interoperability among public safety users could be thwarted absent a trunking standard. It also states that it is vitally important that the public safety spectrum be used in the most efficient way feasible. For these reasons, as well as the operational benefits that trunking technology can provide, the *Second NPRM* asks whether the Commission should adopt a trunking standard for communications on the interoperability channels. Because the Commission's goal is to promote the ability of public safety users to communicate across regional as well as across agency lines, the Commission asks whether it should mandate a single nationwide trunking standard, rather than leave to the individual regions the decision of whether to employ conventional or trunked operations, or of selecting regional trunking standards.

4. Technical Standards for Interoperability Spectrum

34. The *Second NPRM* suggests various approaches for developing digital or trunking standards for interoperability channels and invites comment regarding these approaches. The Commission is particularly interested in views concerning the option that would have the greatest likelihood of successfully meeting the needs of the public safety community. Because the Commission intends to initiate licensing of the public safety spectrum as soon as practicable, it also requests comments as to the approach to development of standards for interoperability spectrum that is likely to be the most expeditious. Finally, the Commission indicates that in addition to a basic trunking standard for interoperability channels, related technical standards may be required to enable effective interoperability. Therefore, the *Second NPRM* invites comments as to the scope of any such additional standards that may be needed to ensure effective interoperability, how such standards should be developed, and what elements these standards should encompass.

B. General Service Rules

35. The *Second NPRM* turns from the service rules for the portion of the public safety spectrum designed to promote interoperability to similar issues related to service rules for the remainder of the public safety spectrum in the 746–806 MHz band. For these general service rules, the Commission's primary concerns are to alleviate the shortage of channels available to public safety agencies for their internal use and to provide spectrum for new types of communications, such as image and video.

1. Regional Planning Committees

36. The *Second NPRM* proposed to use the regional planning approach taken an earlier allocation of spectrum, the allocation of the 821–824/866–869 MHz bands for public safety use. In that instance, the Commission used a National Plan created by the National Public Safety Planning Advisory Committee (NPSPAC).[5] This plan comprised both national and regional elements, which allowed the Commission to establish nationwide rules where appropriate, but still provided sufficient flexibility for regional planners to tailor solutions to local public safety problems. The Commission tentatively concludes that this dichotomy between national and regional elements has been successful and thus proposes to use the regional planning approach again for that portion of the public safety spectrum that is not devoted to interoperability. The *Second NPRM* seeks comment regarding this proposal, as well as any other alternatives for the administration of the spectrum, and encourages suggestions regarding the organization and operation of the regions and the regional planning committees. Commenters should consider the Commission goals of equitable distribution of frequencies, efficient use of spectrum, and minimizing the burden on both public safety service providers and the regional planning committees.

37. The *Second NPRM* proposes to retain the boundaries of current regions. Minor modifications may be needed depending upon the comments received. The Commission asks whether the boundaries of the multi-state regions that serve metropolitan areas are drawn along optimal lines, and whether other multi-state metropolitan regions should be created. The *Second NPRM* proposes to retain the existing committees, with at most minor modifications to their boundaries, and to add the 746–806 MHz band to the 821–824/866–869 MHz bands that the planning committees have been using to create regional plans. The Commission seeks comment regarding this proposal.

38. The *Second NPRM* invites commenters to address the procedures for ensuring the equitable distribution of frequencies among eligible entities, and to evaluate any need for procedural guidelines for the committees. The *Second NPRM* also proposes that regional plans be required to include the same minimum elements as required by the *NPSPAC Report and Order*. These include:

- A cover page that clearly identified the document as the regional plan for the defined region.
- The name of the regional planning chairperson, including mailing address and telephone number.
- The names of the members of the regional planning committee, including organizational affiliations, mailing addresses, and telephone numbers.
- A summary of the major elements of the plan.
- A general description of how the spectrum would be allotted among the various eligible users within the region.
- An explanation of how the requirements of all eligible entities within the region were considered and, to the degree possible, met.
- An explanation as to how needs were assigned priorities in areas where not all eligible entities could receive licenses.
- An explanation of how the plan had been coordinated with adjacent regions.
- A detailed description of how the plan put the spectrum to the best possible use by requiring system design with minimum coverage areas, by assigning frequencies so that maximum frequency reuse and offset channel use may be made, by using trunking, and by requiring small entities with minimal requirements to join together in using a single system where possible.
- The signature of the regional planning chairperson.

The Commission invites comment regarding whether these listed elements should be amended to include any additional provisions, or whether the current elements require clarification or reformulation.

The *Second NPRM* proposes to utilize the same review and modification procedures as followed under the National Plan. These procedures include public notice and opportunity for comment. The Commission notes that this proceeding presents an opportunity to revise the process, and invites comment regarding ways that the modification procedures could be improved. The Commission invites commenters to address the requirement that regions wishing to modify their plans must obtain the express concurrence of adjacent regional planning committees to the proposed modifications prior to submitting them for Commission approval.

[5] *See NPSPAC Report and Order.*

2. Eligibility and Licensing of General Use Channels

40. Regarding the channels in the 746–806 MHz band public safety spectrum that are not reserved for interoperability, the *Second NPRM* tentatively concludes that the Commission should limit eligibility to entities that provide public safety services, as defined for this spectrum in § 337(f)(1) of the Communications Act. The Commission further tentatively concludes that the regional planning committees should, as an element of their regional plans, specify precisely which groups within the broad categories of the statutory definition they suggest should receive frequencies within their regions. The *Second NPRM* seeks comment on these tentative conclusions.

41. The *Second NPRM* also asks whether the Commission should prescribe rules or guidelines for determining if a service meets the statutory definition of a public safety service, and whether the Commission should prescribe substantive or procedural rules for the authorization of non-governmental organizations by governmental public safety service providers, as provided in § 337(f)(1)(B)(ii) of the Communications Act.

3. Provision and Use of Public Safety Channels

42. The following is a discussion of various issues relating to the provision and use of the general public safety spectrum. The goal with respect to the assignment of the general use spectrum is to provide a regulatory framework that will enable a variety of types of communications, and to facilitate utilization of an array of innovative technologies for the public safety community. The *Second NPRM* seeks comment on various matters that will assist us in developing such a framework.

Types of Communication

43. The *Second NPRM* seeks comment regarding what types of public safety communications should be reserved for the new band:

- Voice channels only (with data capability on such channels).
- Voice channels and data channels only.
- Voice, data, image/HSD, slow motion video, and full motion video channels.
- Channels that would accommodate some other combination of uses.

Channel Spacing

44. The *Second NPRM* next considers the matter of channel spacing for the general use channels. In so doing, it considers whether the Commission should decide on appropriate spacings for the channels designated in the 746–806 MHz band, or whether to employ a different approach to channelizing the band. The Commission suggests three such methods, each of which would give the regions various degrees of latitude in deciding on the spacings for channels licensed in their region, and seeks comments on these approaches.

45. If the Commission decides to play a role in determining the spacing of channels in the band, it seeks input from commenters regarding what those channel spacings should be for voice, data, image/HSD, slow motion video, and full motion video channels.

Channel Requirements

46. The *Second NPRM* next explores the issue of how many of each type of channel—e.g., voice, data, image/HSD, or video—should be designated for assignment. It again suggests various methods that would give the regions different degrees of flexibility to decide how many of each type of channel should be made available for assignment in the respective regions. The *Second NPRM* seeks comment on these different approaches to determining how many channels will be made available for assignment to public safety licensees.

47. If it is decided that the Commission will devise the band plan to be used by all regions, comment is requested on the number of channels that should be designated for each of the following proposed uses:

- Voice transmissions (mobile-only, or base and mobile channel pairs).
- Data transmissions (base-only, or base and mobile channel pairs).
- Image/HSD transmissions (base-only, or base and mobile channel pairs).
- Slow motion video transmissions (mobile-only, or base and mobile channel pairs).
- Full motion video transmissions (mobile-only, or base and mobile channel pairs).

Finally, the *Second NPRM* invites comment as to whether voice, data, image/HSD, or video channels could or should be shared among public safety entities within a given area, or whether all assignments should be made on an exclusive basis.

Transmission Technology

48. The *Second NPRM* examines the issue of whether there is a need to mandate a particular transmission technology on the regularly assigned public safety channels. The Commission believes it would be preferable to give public safety licensees the ability to choose among available analog or digital technologies on their own authorized channels, and it is therefore not inclined to require any particular transmission technology to be mandated for voice, data, image/HSD, or video transmissions in the portion of the public safety spectrum in the 746–806 MHz band not used for interoperability. The *Second NPRM* seeks comment on this approach.

Equipment Standards

49. The *Second NPRM* tentatively concludes that there is no need to mandate receiver standards on the non-interoperability public safety channels. It also seeks comment on the issue of whether, if technically feasible, the Commission should require all public safety mobile and portable radios operating in the 746–806 MHz band to be capable of operating on all public safety and commercial channels in the band. The Commission indicates that the use of equipment capable of operating on the entire 746–806 MHz band could enable public safety users to employ commercial spectrum when and where such spectrum is available from commercial providers.

C. Technical Parameters for all Public Safety Channels and Operations in 746–806 MHz Band

50. In this section, the *Second NPRM* discusses various technical parameters that are associated with the operation and use of both the interoperable and general public safety channels. These parameters must be quantified in order to ensure the effective, efficient, and interference-free operation of these channels.

1. Bandwidth

51. The *Second NPRM* seeks comment as to the maximum authorized bandwidths that should be specified for different types of general and interoperability communications—*i.e.*, voice data, image/HSD and video. Also, if the Commission decides to permit regions to determine the spacings of their channels, it proposes to require the regions to identify the maximum authorized bandwidths that would be

associated with those channels. The *Second NPRM* seeks comment on these proposals.

2. Emission Mask; Frequency Stability; Power and Antenna Height

52. Part 90 of the Commission's rules specifies the required frequency stability, emission mask, and authorized power and antenna height for channels used in the various private land mobile bands. As with the authorization of maximum bandwidth, the Commission seeks comment regarding these parameters for the channels used for the four types of general and interoperability public safety communications.

53. Also, if the Commission permits regions to determine the spacings of their general use channels, it proposes to require the regions to identify the emission masks and frequency stabilities that would be associated with those channels. The *Second NPRM* seeks comment on these proposals.

3. Base Station Protection

54. The *Second NPRM* solicits comment on whether the Commission should specify the protection criteria that would apply to all exclusively assigned base stations operating on the public safety channels in the 746–806 MHz band, or whether the Commission should allow base stations to be assigned in accordance with protection criteria established in the regional plans. The Commission asks commenters supporting the establishment of uniform protection criteria to indicate whether they believe that the existing protection criteria for the 800 MHz and 900 MHz bands are appropriate, or whether some other standards should be applied.

D. Construction Requirements

55. The *Second NPRM* seeks comment on the appropriate construction deadline for licensees operating on the public safety spectrum in the 746–806 MHz band, including comment on factors that the Commission should consider in establishing construction deadlines that will best promote the timely deployment of public safety facilities.

E. Use of Television Channels 63, 64, 68, and 69 for Public Safety

56. In the *Allocation NPRM*, the Commission proposed the use of television Channels 63, 64, 68, and 69 for public safety. If the Commission decides in that proceeding to dedicate these particular television channels to public safety, then, to facilitate two-way, base/mobile communications, the *Second NPRM* proposes that: (1) the frequencies in Channels 63 and 64 (764–776 MHz) be used for all base-to-mobile transmissions; (2) the frequencies in Channels 68 and 69 (794–806 MHz) be used for all mobile-to-base transmissions; and (3) when providing for paired base-to-mobile and mobile-to-base communications, any base frequencies in Channel 63 should be paired with mobile frequencies in Channel 68 and any base frequencies in Channel 64 should be paired with mobile frequencies in Channel 69. The *Second NPRM* seeks comment on these proposals and, in particular, asks commenters who may utilize signals from the glonass satellites to discuss any concerns they may have about the possible use of Channels 68 and 69 for mobile-to-base public safety communications.

II. Priority Access Service

A. Background

57. The Department of Defense, as executive agent of the National Communications System (NCS), filed on October 19, 1995, a Petition for Rulemaking (Petition) on behalf of NCS, requesting the Commission to initiate a rulemaking proceeding to implement Cellular Priority Access Service (CPAS). According to NCS, the term "priority access" means that in emergencies, when cellular spectrum is congested, authorized priority users would gain access to the next available cellular channel before subscribers not engaged in national security and emergency preparedness (NSEP) functions.

58. Following the Commission's issuance of the *Public Safety NPRM*, the Wireless Telecommunications Bureau (Wireless Bureau) released a Public Notice seeking comment on the NCS Petition and asking interested parties to address the extent to which the issues raised in the NCS Petition are related to the public safety rulemaking proceeding.[6] The Commission received 20 comments and five reply comments in response to the *CPAS Public Notice*. Subsequent to the receipt of those comments, the Defense Information Systems Agency (DISA) filed a letter on behalf of NCS, submitting additional information concerning the CPAS proposal.

1. NCS Petition for Rulemaking

59. NCS asserts that priority access to cellular spectrum is essential in conducting response and recovery efforts of NSEP personnel at Federal, State, and local levels. The NCS Petition proposes that CPAS would be a voluntary offering of cellular carriers who would then be subject to mandatory CPAS rules should they elect to provide the service. Under the NCS proposal, cellular carriers would be permitted to charge for the service, determine the amount of spectrum available to CPAS, and discontinue the CPAS service offering at any time.

60. NCS also submits that the proposed CPAS rules would be consistent with the priority access rules that the Executive Office of the President will adopt concurrently for situations in which the President invokes war emergency powers pursuant to § 706 of the Communications Act. For implementation of CPAS, NCS submits that Priority Access Channel Assignment (PACA) technology, a cellular features description, should be used. The PACA feature permits the subscriber to obtain priority access to voice or traffic channels by queuing the originating calls of subscribers when channels are not available. Under the PACA queuing scheme, as proposed by NCS, there would be five levels of priority.

61. NCS proposes that State and local emergency providers would have the same priority level as Federal defense and law enforcement agencies and urges a uniform, nationwide cellular priority access scheme for effective implementation of CPAS. The rules advocated by NCS would (1) authorize cellular service providers to provide priority access; (2) ensure that such providers, when doing so, are not in violation of Communications Act provisions barring unreasonable discrimination or undue preference; and (3) override any existing contractual provisions inconsistent with the rules adopted.

2. PSWAC Final Report

62. The PSWAC Final Report also addresses the role of commercial services in supporting public safety communications. Among its recommendations, PSWAC states that "[t]he use of commercial services and private contracts should be facilitated, provided the essential requirements for coverage, priority access and system restoration, security, and reliability are met."[7] Further, the PSWAC Interoperability Subcommittee (PSWAC ISC) finds that, although commercial systems could be used to achieve interoperability, they currently do not meet the requirements addressed in the PSWAC Final Report. Although the PSWAC ISC recommends that the Commission adopt rules to make commercial systems more responsive to public safety needs, including a requirement to offer a priority access option, it contends that there are many shortcomings to the NCS CPAS proposal. The PSWAC ISC concludes that those shortcomings flow from market forces and are not readily susceptible to regulatory cures.

B. Discussion of NCS Proposed Rules and Related Issues

1. Priority Access and Public Safety Communications Generally

63. The *Second NPRM* concludes that it is advisable to consider the issues raised by the NCS Petition in the context of this proceeding and therefore seeks comment on those issues. In the view of the Commission, based in part on the conclusions of the PSWAC Final Report, there is a substantial nexus between considerations of priority access and the needs of the public safety community. The *Second NPRM* maintains that the need for expedition regarding disposition of the wide range of public safety issues mitigates any concern that linking Commission consideration of these issues with Commission consideration of the NCS priority access proposal will delay resolution of the issues raised by the NCS Petition.

64. The *Second NPRM* specifically asks commenters to address the NCS contention that, although the public safety rulemaking might ultimately mitigate the need for priority access, there could be no harm in having rules to address the current situation.

65. The Commission believes that the record developed thus far regarding the NCS Petition does not furnish an adequate basis at this time for making more comprehensive proposals on issues relating to priority access. Based on the comments the Commission receives with respect to various priority access issues discussed in the *Second NPRM* and other related issues, it will determine how to proceed further in establishing priority access rules.

2. Priority Levels

66. The *Second NPRM* finds that it is premature to propose specific levels for priority based on the NCS proposal, and seeks more comment on the issue of priority levels that should be included in priority access.

67. The Commission believes that in the context of issues and problems raised in this *Second NPRM*, there are significant questions regarding how a priority access structure can best be formulated and applied. In this respect, the *Second NPRM* seeks comment on how the Commission should examine and resolve this issue. Interested parties may comment, for example, on whether it is better to require a formal prioritization structure or whether a less formal, more flexible approach should evolve. In terms of what is the most effective means to allow and encourage the marketplace to respond to the kinds of demand for this service offering, the *Second NPRM* seeks comment regarding whether the Commission should prescribe rules for priority levels, rely on industry and governmental agency groups to establish uniformly applied priority levels, or leave to carriers the decision to offer individual or customized priority levels, consistent with a single set of principles and criteria, to the subscribers who demand priority access.

68. The *Second NPRM* also seeks further comment on what priority access structure or structures would be most suitable to the commercial wireless environment as it continues to develop. Commenters should address what scheme of priority levels would provide the optimal service to meet the needs of NSEP users and associated public safety personnel while not interfering with the needs of citizens in emergencies. The Commission also seeks comment on what role should be played by commercial wireless providers, manufacturers of the equipment required, regional planning committees, Public Safety Answering Point (PSAP) personnel, trade associations, standard setting bodies such as the Telecommunications Industry Association (TIA), and other potential participants in going forward in the development of priority access.

3. Spectrum Capacity of Commercial Carrier Networks

69. The *Second NPRM* addresses contentions that a key consideration supporting the need for priority access is the current lack of sufficient capacity in the commercial wireless network. With a shortage of capacity, the flooding of the network by a high incidence of attempted calls in emergency situations could lead to increased blocking of a portion of those calls. Consequently, factors that affect capacity are also likely to affect the ability and incentive of commercial wireless service providers to furnish priority access services, as well as the need of the public safety community to obtain and utilize such services.

70. The amount of spectrum available for dedicated public safety communications uses is being substantially increased by the availability of 24 megahertz of spectrum in the 746–806 MHz band. One question in examining the NCS proposal is whether this increased spectrum for public safety communications lessens the need for priority access arrangements regardless of the status of capacity on commercial wireless networks. Thus, the Commission seeks comment regarding the relationship between the availability of this new public safety spectrum and the need for priority access arrangements.

71. Finally, the *Second NPRM* seeks comment regarding whether other recent developments in the utilization of spectrum for public safety communications may diminish the need for priority access services.

4. Liability Under § 202 of Communications Act

Adequacy of Current Provisions

72. The *Second NPRM* tentatively finds that, to the extent the provision of priority access service is a voluntary offering made by a carrier and to the extent the Commission refrains from establishing detailed rules regarding various levels of priority access, it would be prudent for the Commission to provide specifically for limitations on liability under § 202. Thus, the *Second NPRM* proposes that it will be sufficient for a Commercial Mobile Radio Service (CMRS) provider, in responding to any complaint alleging an unreasonable discrimination or undue preference under § 202 of the Communications Act, to demonstrate that the service provided by the carrier is exclusively designed to enable authorized priority users, in emergency situations when spectrum used by the carrier is congested, to gain access to the next available channel on the service network of the carrier, before subscribers not engaged in public safety or NSEP functions. The Commission seeks comment on this proposal.

73. Further, the Commission tentatively concludes that the types of priority access services that will qualify for limitation of liability under § 202 should be limited to CMRS services providing priority access to NSEP personnel, including Federal Government entities, in addition to State and local governmental entities performing public safety functions. Thus, the Commission also tentatively concludes that priority access services provided by commercial carriers to corporate or other business or private subscribers on a private contractual

[6] *Public Notice*, Petition for Rulemaking Filed, Commission Seeks Comment on Petition for Rulemaking filed by National Communications System, WT Docket No. 96–86, 61 FR 18538 (April 18, 1996) (*CPAS Public Notice*).

[7] PSWAC Final Report at 4.

basis would not constitute the type of priority access service that would qualify for any limitation of liability under § 202. The Commission tentatively concludes that this approach is consistent with the objective to serve the national defense and to meet the needs of public safety entities to improve their ability to respond to emergencies and disasters, and seeks comment on these tentative conclusions.

74. The *Second NPRM* also seeks comment regarding types of actions and conduct by carriers, in providing priority access service to authorized priority users, that would qualify for limitation of liability under § 202 of the Communications Act, as proposed in the *Second NPRM*.

Exercise of Forbearance Authority

75. The *Second NPRM*, in addition to the liability proposals discussed above, additionally seeks comment on alternative measures that the Commission could employ to ensure providers of priority access that they are excluded from potential liability under § 202. Such measures might include, for example, the exercise of the Commission's forbearance authority under § 10 of the Communications Act.

76. § 10 gives the Commission authority to forbear from applying any provision of the Communications Act, including § 202 and notwithstanding § 332(c)(1)(A), to a telecommunications service or class of telecommunications services, provided that the Commission makes certain determinations established in the statute.

77. § 10(a) of the Communications Act sets forth three prerequisite determinations for the Commission to make. The statute requires that, before forbearing from applying any section of Title II, the Commission must find that each of the following conditions applies:

(1) Enforcement of such regulation or provision is not necessary in order to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory;

(2) Enforcement of such regulation or provision is not necessary for the protection of consumers; and

(3) Forbearance from applying such provision or regulation is consistent with the public interest.

78. The Commission seeks comment regarding whether it would be appropriate to forbear from applying § 202(a) of the Communications Act to the extent a carrier offers priority access service to NSEP personnel or to State or local governmental entities performing public safety functions. The Commission also asks for comment on the definition of consumers, what factors should be considered, what problems may arise in making those determinations, and examples of applying these tests in evaluating whether forbearance is appropriate.

79. Moreover, § 10(b) of the Communications Act requires weighing competitive effects in determining whether forbearance is consistent with the public interest under § 10(a)(3). With regard to this requirement of § 10(b), the *Second NPRM* asks what the potential competitive effects of commercially provided priority access service would be among CMRS providers, what the relevance of those competitive effects is regarding forbearance, and what the impact of those competitive effects would be on whether priority access is voluntary or mandatory.

5. Voluntary or Mandatory Provision of Priority Access

80. The *Second NPRM* seeks comment regarding whether CMRS providers should be permitted to provide priority access services on a voluntary basis. As a general matter, the Commission believes it is sound public policy to pursue market solutions to communications needs. The *Second NPRM* asks commenters to address whether, in this case, it is reasonable to expect that competitive forces will prompt CMRS providers to respond to market demand by developing and offering priority access services that meet the needs of Federal, State, and local government agencies.

81. In addition, whether CPAS is voluntary or mandatory may dictate the necessity for cost recovery or funding mechanisms. The *Second NPRM* seeks further comment concerning the means of funding that would result in the most effective implementation of priority access. The *Second NPRM* also invites comment on whether a flexible, non-prescriptive approach to funding would be advisable in order to allow carriers and government officials the latitude to develop cost recovery solutions that address particular needs for priority access.

6. Potential Limitations of Priority Access Service

82. NCS recognizes current technical constraints in the implementation of CPAS, because the standards for CPAS are still in the developmental stage. The *Second NPRM* seeks comment regarding the potential technical limitations summarized in this section. In particular, the *Second NPRM* asks commenters to address the extent of these potential limitations, efforts underway to reduce or overcome the limitations, and the implications of these potential problems for the viability and effectiveness of priority access systems.

Technical Standards; Operational Limitations

83. The NCS Petition suggests that priority access should be implemented using a PACA queuing scheme. The record indicates that the standard for the PACA feature, IS–53 A, is applicable only to cellular systems that use a Time Division Multiple Access (TDMA) air interface. Despite ongoing improvements, current analog phones still will not work with the CPAS scheme, because they have a five-second "timeout" feature.

84. In addition, implementation of the PACA standard requires the use of a switch-to-switch protocol, for intersystem interoperability (roaming). The Commission's understanding is that this protocol, IS–41 Rev. C, is final for cellular service and available for broadband PCS, and is currently implemented throughout a substantial part of the wireless industry. The IS–41 Rev. C protocol, however, is not compatible with all digital systems. Thus, the *Second NPRM* seeks comment regarding the progress of the development of priority access standards for digital cellular systems, and for wireless systems in general.

85. A further potential problem is that, although current protocols may provide intersystem capability for newly initiated calls, there appears to be no capability to provide for roaming between different systems while there is a pending request in the queue. The *Second NPRM* seeks comment regarding the significance of this technical issue. In particular, the Commission seeks comment regarding whether public safety users intend to use priority access while moving from place to place, or whether they contemplate that priority access will more likely be used at relatively confined emergency scenes.

86. Finally, the *Second NPRM* notes that CPAS, as proposed in the NCS Petition, does not have dispatch capability with immediate communications access. The Commission seeks comment regarding this issue, and regarding whether priority access will meet the needs of public safety personnel.

Equipment and Hardware Limitations

87. The record indicates that the PACA feature can be installed only in new phones, and thus is not "backward compatible." Therefore, existing CMRS phones would not allow deployment of a priority access service.

88. Moreover, the CPAS feature is designed for implementation only by NSEP users who will have to acquire a commercial off-the-shelf or dual-mode handset built in accordance with the digital interface standards necessary to allow "queuing" operation. The record also indicates that for the CPAS proposal to work with analog handsets, cellular providers would have to implement the CPAS scheme differently than proposed, or implement two different CPAS schemes. The Second NPRM seeks comment regarding these priority access implementation issues.

Security Limitations

89. Consideration of the NCS CPAS proposal for NSEP users also entails recognition of the need for secure communications. Lack of security regarding analog-based cellular systems has been considered to be a problem, and digital communications may not be as secure as once thought, even with encryption codes. Additionally, there is comment that the proposed 3-digit code, "*xx," to acquire access into the queue could be easily tampered with by computer "hackers." The *Second NPRM* seeks comment regarding these security issues.

7. Other Issues

Types of Commercial Wireless Carriers Offering Priority Access

90. In view of the proposal for additional dedicated spectrum for public safety and increased capacity of existing and new CMRS providers, the *Second NPRM* tentatively concludes that all CMRS carriers, including cellular carriers, should be considered as potential providers of priority access service. The *Second NPRM* seeks comment on this tentative conclusion. The *Second NPRM* also seeks comment on whether priority access should be applicable to Mobile Satellite Systems (MSS) that are treated as CMRS under part 20 of the Commission's rules. Generally in this regard, the Commission also seeks comment on whether the applicability of priority access rules to CMRS carriers should parallel the same CMRS services as are subject to E911 requirements.

91. The *Second NPRM* further requests that commenters address the role of resellers of CMRS in offering priority access, particularly focussing on the issue of non-discrimination in resale. Finally, the *Second NPRM* seeks comment on whether priority access should be applied in the case of any newly reallocated spectrum that is made available to CMRS providers who may desire to provide priority access as part of their new service offerings.

Administration of Priority Access

92. In view of the scope of the Commission's proposal concerning priority access, the Commission finds it unnecessary at this time to address issues concerning aspects of administering priority access that were raised by the commenters. Those issues include the assignment of priority levels and safeguarding against potential abuses of priority access systems. Another issue the Commission is deferring is who should have or share responsibility in the administration of priority access, whether administrators of the regional planning committees and Public Safety Answering Points should have a role. While the Commission has decided to defer consideration of these issues, government entities, public safety agencies, and commercial providers of wireless service are encouraged to continue to work together to resolve them.

III. Protection of Television Services

93. In this section of the *Second NPRM*, the Commission discusses technical requirements for protecting incumbent channel 60–69 broadcast licensees and planned channel 60–69 digital television (DTV) allotments against interference. The Commission notes that its previous sharing criteria and analyses, which provided for the land mobile and television sharing of the 470–512 MHz band (TV channels 14–20), were based upon use of "traditional" private land mobile technology that typically employed a high powered base station to provide wide area coverage. The Commission anticipates that public safety users will employ such systems to a significant degree. At this juncture, however, it is not clear what types of services, technologies, or system architectures may be used for new types of public safety services. Accordingly, the Commission believes it is appropriate to consider in this proceeding a variety of approaches and criteria for protecting TV broadcasting from the services that will occupy channels 60–69.

Geographic Spacing Requirements Based on 55-Mile Reference Grade B Contour

94. The Commission indicates that it could protect co-channel analog TV stations on channels 60–69 during the DTV transition period by adopting geographical spacing requirements based on a 40 dB D/U signal ratio at the 55-mile Grade B contour of the protected TV station,[8] and could protect adjacent channel TV operations by adopting geographical spacing requirements based on a 0 dB D/U signal ratio.[9] The Commission states that if it were to adopt this approach, it would favor development of a table permitting operation at distances based on particular powers and antenna heights, similar to that in the current geographic separation standards in subpart L of part 90 of the Commission's rules. The Commission recognizes, however, that a table that permits operation at closer distances based on reduced power and antenna height may still be unnecessarily restrictive. The Commission therefore requests comment on whether adopting uniform geographic spacings based on the use of separation tables would be appropriate, and if so, what separation distances should be used in such tables.

95. The Commission also invites comment as to whether it should establish different separation distances to protect TV operations from interference from fixed and mobile operations in the 746–806 MHz band, and whether it should use different spacing requirements depending on the technology employed, location in the TV channel, or any other factor. Also, the Commission tentatively concludes that it would be appropriate to allow new licensees and TV licensees privately to negotiate shorter geographic separations than those the Commission has proposed.

96. Finally, the Commission recognizes that, in addition to addressing protection of analog TV stations, it must also address protection criteria for DTV stations operating on channels 60–69 during the transition period. It therefore seeks comment on the appropriate D/U ratios that should be applied for the protection of DTV stations.

Other Approaches

97. The Commission also requests comment on whether approaches other than the use of geographic separation tables based on the assumption of a 55-mile reference Grade B contour should be employed for the protection of TV operations. For example, since TV broadcast stations are authorized with

[8] *See* § 90.309 of the Commission's rules, 47 CFR 90.309.

[9] The adjacent channel separation requirement would also apply to protection of analog television operations on Channel 59.

effective radiated power (ERP) levels up to 5 megawatts, at an antenna HAAT of 610 meters (2,000 feet), it requests comment on whether the size of the reference contour should be increased accordingly. The Commission also seeks comment on whether the use of tables based on a particular reference Grade B contour could unnecessarily inhibit innovative or case-specific solutions to potential interference problems, and it therefore seeks comment on whether protection criteria should instead be based on requiring that a predicted D/U signal ratio be met based on a TV licensee's authorized facilities.

Other Issues

98. In the *DTV Proceeding*,[10] the Commission raised the possibility that, in negotiating among themselves for changes in allotments and assignments, TV licensees could include agreements for compensation. The Commission proposes to permit new licensees in this spectrum similarly to reach agreements with licensees of protected TV stations, including holders of construction permits, compensating them for converting to DTV transmission only before the end of the DTV transition period, accepting higher levels of interference than those allowed by the protection standards, or otherwise accommodating new licensees in these bands. The Commission believes that these measures would benefit the public by accelerating the transition to DTV and clearing the 746–806 MHz band for public safety services.

Administrative Matters

99. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before December 22, 1997, and reply comments on or before January 12, 1998. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. To file formally in this proceeding, you must file an original plus five copies of all comments, reply comments, and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C. 20554. Copies of comments and reply comments are available through the Commission's duplicating contractor: International Transcription Services, Inc. (ITS, Inc.), 1231 20th Street, N.W., Washington, D.C. 20036 (202) 857–3800.

100. This *Second NPRM* is a permit-but-disclose notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, provided they are disclosed as provided in the Commission rules. *See generally* 47 CFR 1.1202, 1.1203, and 1.1206(a). *Initial Regulatory Flexibility Analysis*

101. As required by § 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in this document. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of this *Second NPRM*, but they must have a separate and distinct heading designating them as responses to the IRFA.

Initial Regulatory Flexibility Act Statement

Initial Regulatory Flexibility Analysis

102. As required by the Regulatory Flexibility Act (RFA),[11] the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the expected significant economic impact on small entities by the policies and rules proposed in this *Second Notice of Proposed Rulemaking* (*Second NPRM*). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *Second NPRM* provided above in paragraph 248 of the *Second NPRM*. The Commission will send a copy of the *Second NPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).[12] In addition, the *Second NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.[13]

A. Need for, and Objectives of, the Proposed Action

103. This rulemaking proceeding was initiated to propose service rules for 24 megahertz of spectrum in the 746–806 MHz band. The spectrum, which is currently used by television (TV) Channels 60–69, is being made available to meet various public safety communications needs.

104. This rulemaking proceeding was also initiated to seek comment regarding whether certain commercial mobile radio service (CMRS) providers should be authorized to offer priority access service on a voluntary basis for purposes of enhancing national security and emergency preparedness (NSEP) functions. Priority access service will enable NSEP personnel and other public safety users to receive priority to available channels during emergencies. The rulemaking proceeding is also initiated to secure comment on other issues concerning such priority access.

105. The Commission endeavors to (1) provide for modern and innovative communications at high levels of efficiency and effectiveness required by the Nation's public safety entities; (2) explore the possibility of certain commercial services being used for public safety applications; and (3) protect TV stations on Channels 60–69 during the transition to digital television (DTV).

B. Legal Basis

106. The proposed action is authorized under §§ 1, 4(i), 10, 201, 202, 303(b), 303(g), 303(j), 303(r), and 403 of the Communications Act, 47 U.S.C. 151, 154(i), 160, 201, 202, 303(b), 303(g), 303(j), 303(r), 403.

C. Reporting, Recordkeeping, and Other Compliance Requirements

107. The Commission proposes the filing of regional plans drafted by planning committees made up of representatives of the public safety community. Applicants for public safety licenses may be required to make submissions to the planning committees justifying their requests for spectrum, and will be required to submit applications for spectrum licenses on Form 601. The proposals under consideration in the *Second NPRM* include the possibility of imposing recordkeeping and reporting requirements on individuals or organizations involved in establishing a national planning process to develop a nationwide interoperability plan, on individuals or organizations that may assist us in developing technical standards, and on small government agencies who may request extended implementation. The Commission requests comment on how these requirements can be modified to reduce the burden on small entities and still meet the objectives of this proceeding.

108. With respect to priority access service, the proposals of the Commission in this *Second NPRM* do not entail reporting, recordkeeping, or other compliance requirements. If, however, there are matters pertaining to such requirements that relate to those issues on which the Commission also seeks comment in this *Second NPRM*, the Commission invites commenters to address how those matters may affect small entities who may be potential providers of priority access service.

D. Description and Number of Small Entities Involved

109. This *Second NPRM* will affect TV station licenses on Channels 60–69, public safety entities, and commercial mobile radio service (CMRS) providers. Commenters are requested to provide information regarding how many entities (overall) and how many small entities would be affected by the proposed rules in the *Second NPRM*.

(a) Television Stations

(1) Television Station Estimates Based on Census Data

110. The *Second NPRM* will affect full service TV stations, TV translator facilities, and low power TV (LPTV) stations. The Small Business Administration defines a TV broadcasting station that has no more than $10.5 million in annual receipts as a small business.[14] TV broadcasting stations consist of establishments primarily engaged in broadcasting visual programs by TV to the public, except cable and other pay TV services.[15] Included in this industry are commercial, religious, educational, and other TV stations.[16] Also included are establishments primarily engaged in TV broadcasting and which produce taped TV program materials.[17] Separate establishments primarily engaged in producing taped TV program materials are classified under another SIC number.[18]

111. There were 1,509 TV stations operating in the Nation in 1992.[19] That number has remained fairly constant as indicated by the approximately 1,551 operating TV broadcasting stations in the Nation as of February 28, 1997.[20] For 1992[21] the number of TV stations that produced less than $10.0 million in revenue was 1,155 establishments, or approximately 77 percent of the 1,509 establishments.[22] There are currently 95 full service analog TV stations, either operating or with approved construction permits on channels 60–69.[23] In the *DTV Proceeding*, the Commission adopted a DTV Table which provides only 15 allotments for DTV stations on channels 60–69 in the continental United States.[24] There are seven DTV allotments in channels 60–69 outside the continental United States.[25] Thus, the rules will affect approximately 117 TV stations; approximately 90 of those stations may be considered small businesses.[26] These estimates may overstate the number of small entities since the revenue figures on which they are based do not include or aggregate revenues from non-TV affiliated companies. The Commission recognizes that the rules may also impact minority-owned and women-owned stations, some of which may be small entities. In 1995, minorities owned and controlled 37 (3.0 percent) of 1,221 commercial TV stations in the United States.[27] According to the U.S. Bureau of the Census, in 1987 women owned and controlled 27 (1.9 percent) of 1,342 commercial and non-commercial TV stations in the United States.[28]

112. There are currently 4,977 TV translator stations and 1,952 LPTV stations.[29] Approximately 1,309 low power TV and TV translator stations are on channels 60–69[30] which could be affected by policies in this proceeding. The Commission does not collect financial information of any broadcast facility and the Department of Commerce does not collect financial information on these broadcast facilities. The Commission will assume for present purposes, however, that most of these broadcast facilities, including LPTV stations, could be classified as small businesses. As indicated earlier, approximately 77 percent of TV stations are designated under this analysis as potentially small businesses. Given this, LPTV and TV translator stations would not likely have revenues that exceed the SBA maximum to be designated as small businesses.

(2) Alternative Classification of Small TV Stations

113. An alternative way to classify small TV stations is by the number of employees. The Commission currently applies a standard based on the number of employees in administering its Equal Employment Opportunity (EEO) rule for broadcasting.[31] Thus, radio or TV

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[10] Advanced Television Systems and their Impact upon the Existing Television Broadcast Service, MM Docket No. 87–268 (*DTV Proceeding*), *Sixth Report and Order*, 62 FR 26684 (May 14, 1997) (*DTV Sixth Report and Order*), *recon. pending*.

[11] *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601–612, has been amended by the Contract with America Advancement Act of 1996, Pub. L. 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

[12] *See* 5 U.S.C. 603(a).

[13] *See id.*

[14] 13 CFR 121.201, Standard Industrial Code (SIC) 4833 (1996).

[15] Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications and Utilities, Establishment and Firm Size, Series UC92–S–1, App. A–9 (1995) (ESA 1992 Census).

[16] *Id. See* Executive Office of the President, Office of Management and Budget, Standard Industrial Classification Manual (1987), at 283, which describes TV Broadcasting Station (SIC Code 4833) as:

Establishments primarily engaged in broadcasting visual programs by television to the public, except cable and other pay television services. Included in this industry are commercial, religious, educational and other television stations. Also included here are establishments primarily engaged in television broadcasting and which produce taped television program materials.

[17] ESA 1992 Census at App. A–9.

[18] *Id.*; SIC 7812 (Motion Picture and Video Tape Production); SIC 7922 (Theatrical Producers and Miscellaneous Theatrical Services (producers of live radio and TV programs).

[19] *Allocation NPRM*, at App. C; ESA 1992 Census at App. A–9.

[20] *Allocation NPRM*, at App. C.

[21] A census for communications establishments is performed every five years ending with a "2" or "7." *See* ESA 1992 Census at III.

[22] The amount of $10 million was used to estimate the number of small business establishments because the relevant Census categories stopped at $9,999,999 and began at $10,000,000. No category for $10.5 million existed. Thus, the number is as accurate as it is possible to calculate with the available information.

[23] *See Allocation NPRM* at para. 2.

[24] *See DTV Proceeding, Sixth Report and Order*, App.B.

[25] *Allocation NPRM* at para. 2 n.5.

[26] The Commission uses the 77 percent figure of TV stations operating at less than $10 million for 1992 and apply it to the 117 TV stations to arrive at 90 stations categorized as small businesses.

[27] *Minority Commercial Broadcast Ownership in the United States*, U.S. Dep't of Commerce, National Telecommunications and Information Administration, The Minority Telecommunications Development Program ("MTDP") (April 1996).

[28] *See* Comments of American Women in Radio and TV, Inc. in MM Docket No. 94–149 and MM Docket No. 91–140, at 4 n.4 (filed May 17, 1995), *citing* 1987 Economic Censuses, *Women-Owned Business*, WB87–1, U.S. Dep't of Commerce, Bureau of the Census, August 1990 (based on 1987 Census). After the 1987 Census report, the Census Bureau did not provide data by particular communications services (four-digit SIC Code), but rather by the general two-digit SIC Code for communications (48). Consequently, since 1987, the Census Bureau has not updated data on ownership of broadcast facilities by women, nor does the Commission collect such data. However, the Commission sought comment on whether the Annual Ownership Report Form 323 should be amended to include information on the gender and race of broadcast license owners. Policies and Rules Regarding Minority and Female Ownership of Mass Media Facilities, *Notice of Proposed Rulemaking*, 60 FR 35058 (February 1, 1995).

[29] *Allocation NPRM*, at App. C.

[30] *Allocation NPRM* at para. 2 n.3.

[31] The Commission's definition of a small broadcast station for purposes of applying its EEO rule was adopted prior to the requirement of approval by the Small Business Administration pursuant to section 3(a) of the Small Business Act,

Continued

MTDP considers minority ownership as ownership of more than 50 percent of a broadcast corporation's stock, voting control in a broadcast partnership, or ownership of a broadcasting property as an individual proprietor. *Id.* The minority groups included in this report are Black, Hispanic, Asian, and Native American.

stations with fewer than five full-time employees are exempted from certain EEO reporting and recordkeeping requirements.[32] The Commission estimates that the total number of commercial TV stations with four or fewer employees is 132 and that the total number of non-commercial educational TV stations with four or fewer employees is 136.[33] The Commission does not know how many of these stations operate on Channels 60–69.

(b) Public Safety Entities

114. The public safety entities that will be affected by this *Second NPRM* are governmental entities. The definition of a small governmental entity is one with a population of fewer than 50,000.[34] There are approximately 85,006 governmental entities in the Nation.[35] This number includes such entities as States, counties, cities, utility districts, and school districts. There are no figures available on what portion of this number have populations of fewer than 50,000. However, this number includes 38,978 counties, cities, and towns, and, of those, 37,566, or 96 percent, have populations of fewer than 50,000.[36] The Census Bureau estimates that this ratio is approximately accurate for all government entities. Thus, of the approximately 85,006 governmental entities, the Commission estimates that 96 percent, or 81,600, are small entities that may be affected by our rules. The Commission solicits comment on this estimate.

(c) Entities With Regard to Priority Access Service

115. Concerning the provision of priority access service, commenters are requested to provide information regarding how many providers of CMRS, existing and potential, will be considered small businesses. "Small business" is defined as having the same meaning as the term "small business concern" under the Small Business Act.[37] A small business concern is one which (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by SBA. The Commission seeks comment as to whether this definition is appropriate in this context. Additionally, the Commission requests each commenter to identify whether it is a small business under this definition. If the commenter is a subsidiary of another entity, this information should be provided for both the subsidiary and the parent corporation or entity.

116. The Commission has not yet developed a definition of small entities which respect to the provision of a CMRS service offering of priority access. Therefore, for entities not falling within other established SBA categories, the applicable definition of small entity is the definition under the SBA applicable to the "Communications Services, Not Elsewhere Classified" category. This definition provides that a small entity is one with $11.0 million or less in annual receipts.[38] The Census Bureau estimates indicate that of the 848 firms in the "Communications Services, Not Elsewhere Classified" category, 775 are small businesses. While the Commission anticipates some CMRS providers would elect to provide priority access service, it is not possible to predict either how many, or what percentage, of these providers would be small entities.

(1) Cellular Radio Telephone Service

117. The Commission has not developed a definition of small entities applicable to cellular licensees. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone companies. This definition provides that a small entity is a radiotelephone company employing no more than 1,500 persons.[39] The size data provided by the SBA does not enable the Commission to make a meaningful estimate of the number of cellular providers which are small entities because it combines all radiotelephone companies with 500 or more employees.[40] The Commission therefore used the 1992 Census of Transportation, Communications, and Utilities, conducted by the Bureau of the Census, which is the most recent information available. That census shows that only 12 radiotelephone firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees.[41] Therefore, even if all 12 of these large firms were cellular telephone companies, all of the remainder were small businesses under the SBA's definition. The Commission assumes that, for purposes of its evaluations and conclusions in this IRFA, all of the current cellular licensees are small entities, as that term is defined by the SBA. Although there are 1,758 cellular licenses, the Commission does not know the number of cellular licensees, since a cellular licensee may own several licenses.

(2) Broadband Personal Communications Service

118. The broadband PCS spectrum is divided into six frequency blocks designated A through F. Pursuant to § 24.720(b) of the Commission's rules,[42] the Commission has defined "small entity" for Block C and Block F licensees as firms that had average gross revenues of less than $40 million in the three previous calendar years. This regulation defining "small entity" in the context of broadband PCS auctions has been approved by the SBA.[43]

119. The Commission has auctioned broadband PCS licenses in all of its spectrum blocks A through F. The Commission does not have sufficient data to determine how many small businesses under the Commission's definition bid successfully for licenses in Blocks A and B. As of now, there are 90 non-defaulting winning bidders that qualify as small entities in the Block C auction and 93 non-defaulting winning bidders that qualify as small entities in the D, E, and F Block auctions. Based on this information, the Commission concludes that the number of broadband PCS licensees that would be affected by the proposals in this *Second NPRM* includes the 183 non-defaulting winning bidders that qualify as small entities in the C, D, E, and F Block broadband PCS auctions.

(3) Specialized Mobile Radio

120. Pursuant to § 90.814(b)(1) of the Commission's rules,[44] the Commission has defined "small entity" for geographic area 800 MHz and 900 MHz SMR licenses as firms that had average gross revenues of less than $15 million in the three previous calendar years. This regulation defining "small entity" in the context of 800 MHz and 900 MHz SMR has been approved by the SBA.[45]

121. The proposals set forth in the *Second NPRM* may apply to SMR providers in the 800 MHz and 900 MHz bands. The Commission does not know how many firms provide 800 MHz or 900 MHz geographic area SMR service, nor how many of these providers have annual revenues of less than $15 million.

122. The Commission recently held auctions for geographic area licenses in the 900 MHz SMR band. There were 60 winning bidders who qualified as small entities under the Commission's definition in the 900 MHz auction. Based on this information, the Commission concludes that the number of geographic area SMR licensees affected by the proposals set forth in this *Second NPRM* includes these 60 small entities.

123. No auctions have been held for 800 MHz geographic area SMR licenses. Therefore, no small entities currently hold these licenses. A total of 525 licenses will be awarded for the upper 200 channels in the 800 MHz geographic area SMR auction. However, the Commission has not yet determined how many licenses will be awarded for the lower 230 channels in the 800 MHz geographic area SMR auction. There is no basis to estimate, moreover, how many small entities within the SBA's definition will win these licenses. Given the facts that nearly all radiotelephone companies have fewer than 1,000 employees and that no reliable estimate of the number of prospective 800 MHz SMR licensees can be made, the Commission assumes, for purposes of our evaluations and conclusions in this IRFA, that all of the licenses will be awarded to small entities, as that term is defined by the SBA.

(4) 220 MHz Service

124. Licensees for 220 MHz services that meet the definition of CMRS may be providers of priority access service if there is a demand for these services during emergencies and disasters. The Commission has classified providers of 220 MHz service into Phase I and Phase II licensees. There are approximately 2,800 non-nationwide Phase I licensees and 4 nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has estimated that there are approximately 900 potential Phase II licensees.

125. At this time, however, there is no basis upon which to estimate definitively the number of 220 MHz service licensees, either current or potential, that are small businesses. To estimate the number of such entities that are small businesses, the Commission applies the definition of a small entity under SBA rules applicable to radiotelephone companies. This definition provides that a small entity is a radiotelephone company employing no more than 1,500 persons.[46] However, the size data provided by the SBA do not allow the Commission to make a meaningful estimate of the number of 220 MHz providers that are small entities because they combine all radiotelephone companies with 500 or more employees.[47] The Commission therefore uses the 1992 Census of Transportation, Communications, and Utilities, conducted by the Bureau of the Census, which is the most recent information available. Data from the Bureau of the Census' 1992 study indicate that only 12 out of a total 1,178 radiotelephone firms which operated during 1992 had 1,000 or more employees—and these may or may not be small entities, depending on whether they employed more or less than 1,500 employees.[48] But 1,166 radiotelephone firms had fewer than 1,000 employees and therefore, under the SBA definition, are small entities. However, the Commission does not know how many of these 1,166 firms are likely to be involved in the 220 MHz service.

126. To assist the Commission in this analysis, commenters are requested to provide information regarding how many total 220 MHz service entities, existing and potential, may offer a priority access service. In particular, the Commission seeks estimates of how many 220 MHz service entities, existing or potential, will be considered small businesses.

(5) Mobile Satellite Services (MSS)

127. The Commission has not developed a definition of small entities applicable to licensees in the international services. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to Communications Services, Not Elsewhere Classified (NEC). This definition provides that a small entity is expressed as one with $11.0 million or less in annual receipts.[49] According to the Census Bureau, there were a total of 848 communications services, NEC in operation in 1992, and a total of 775 had annual receipts of less than $9,999 million.[50]

128. Mobile Satellite Services or Mobile Satellite Earth Stations are intended to be used while in motion or during halts at unspecified points. These stations operate as part of a network that includes a fixed hub or stations. The stations that are capable of transmitting while a platform is moving are included under § 20.7(c) of the Commission's rules[51] as mobile services within the meaning of §§ 3(27) and 332 of the Communications Act.[52] Those MSS services are treated as CMRS if they connect to the Public Switched Network (PSN) and also satisfy other criteria of § 332. Facilities provided

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15 U.S.C. 632(a). However, this definition was adopted after public notice and an opportunity for comment. *See* Petition for Rulemaking To Require Broadcast Licensees To Show Non-Discrimination in Their Employment Practices, Docket No. 18244, RM–1144, *Report and Order*, 35 FR 8925 (June 6, 1970).

32 *See, e.g.*, 47 CFR 73.3612 (requirement to file annual employment reports on Form 395 applies to licensees with five or more full-time employees); Amendment of Broadcast Equal Employment Opportunity Rules and FCC Form 395, Docket No. 21474, *First Report and Order*, 44 FR 6722 (February 2, 1979). The Commission is currently considering how to decrease the administrative burdens imposed by the EEO rule on small stations while maintaining the effectiveness of our broadcast EEO enforcement. *See* Streamlining Broadcast EEO Rule and Policies, Vacating the EEO Forfeiture Policy Statement and Amending Section 1.80 of the Commission's Rules to Include EEO Forfeiture Guidelines, MM Docket No. 96–16, *Order and Notice of Proposed Rulemaking*, 61 FR 9964 (March 12, 1996). One option under consideration is whether to define a small station for purposes of affording such relief as one with ten or fewer full-time employees.

33 The Commission bases this estimate on a compilation of 1995 Broadcast Station Annual Employment Reports (FCC Form 395–B), performed by staff of the Equal Opportunity Employment Branch, Mass Media Bureau, FCC.

34 5 U.S.C. 601(5).

35 1992 Census of Governments, U.S. Bureau of the Census, U.S. Department of Commerce.

36 *Id.*

37 15 U.S.C. 601(3) (incorporating by reference the definition of "small business concern" in 15 U.S.C. 632).

38 13 CFR 120.21, SIC Code 4899.

39 13 CFR 121.201, Standard Industrial Classification (SIC) Code 4812.

40 U.S. Small Business Administration 1992 Economic Census Employment Report, Bureau of the Census, U.S. Department of Commerce, SIC Code 4812 (radiotelephone communications industry data adopted by the SBA Office of Advocacy).

41 U.S. Bureau of the Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications, and Utilities, UC92–S–1, Subject Series, Establishment and Firm Size, Table 5, Employment Size of Firms: 1992, SIC Code 4812 (issued May 1995).

42 47 CFR 24.720(b).

43 *See* Implementation of Section 309(j) of the Communications Act—Competitive Bidding, PP Docket No. 93–253, *Fifth Report and Order*, 59 FR 37566 (July 22, 1994).

44 47 CFR 90.814(b)(1).

45 *See* Amendment of Parts 2 and 90 of the Commission's Rules to Provide for the Use of 200 Channels Outside the Designated Filing Areas in the 896–901 MHz and the 935–940 MHz Bands Allotted to the Specialized Mobile Radio Pool, PR Docket No. 89–553, *Second Order on Reconsideration and Seventh Report and Order*, 60 FR 48913 (September 21, 1995); Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band, PR Docket No. 93–144, Implementation of Sections 3(n) and 322 of the Communications Act—Regulatory Treatment of Mobile Services, GN Docket No. 93–252, Implementation of Section 309(j) of the Communications Act—Competitive Bidding, PP Docket No. 93–253, *First Report and Order, Eighth Report and Order, and Second Further Notice of Proposed Rulemaking*, 61 FR 6212 (February 16, 1996).

46 13 CFR 121.201, Standard Industrial Classification (SIC) Code 4812.

47 1992 Economic Census Employment Report, Bureau of the Census, U.S. Department of Commerce, Table 3, SIC Code 4812 (industry data adapted by the Office of Advocacy for the U.S. Small Business Administration).

48 U.S. Bureau of the Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications, and Utilities, UC92–S–1, Subject Series, Establishment and Firm Size, Table 5, Employment Size of Firms: 1992, SIC Code 4812 (issued May 1995).

49 13 CFR 120.121, SIC Code 4899.

50 1992 Economic Census Industry and Enterprise Receipts Size Report, Table 2D, SIC 4899 (U.S. Bureau of the Census data under contract to the Office of Advocacy of the U.S. Small Business Administration).

51 47 CFR 20.7(c).

52 47 U.S.C. 153(27), 332.

through a transportable platform that cannot move when the communications service is offered are excluded from § 20.7(c).[53]

129. The MSS networks may provide a variety of land, maritime and aeronautical voice and data services. There are eight mobile satellite licensees. At this time, the Commission is unable to make a precise estimate of the number of small businesses that are mobile satellite earth station licensees and could be considered CMRS providers of priority access service.

(5) Other Commercial Mobile Radio Services

130. Other CMRS services may potentially be providers of priority access service if there is a demand for the transmission of voice, data, or text messages during emergencies and disasters.

a. Paging and Radiotelephone Service, and Paging Operations

131. The Commission has proposed a two-tier definition of small businesses in the context of auctioning licenses in the paging service. Under the proposal, a small business will be defined as either (1) a entity that, together with its affiliates and controlling principals, has average gross revenues for the three preceding years of not more than $3 million; or (2) an entity that, together with affiliates and controlling principals, has average gross revenues for the three preceding calendar years of not more than $15 million. Since the SBA has not yet approved this definition for paging companies, we utilize the SBA's definition applicable to radiotelephone companies, i.e., an entity employing no more than 1,500 persons.[54]

132. The Commission estimates that the total current number of paging carriers is approximately 600. In addition, the Commission anticipates that a total of 16,630 non-nationwide geographic area licenses will be granted or auctioned. The geographic area licenses will consist of 2,550 Major Trading Area (MTA) licenses and 14,080 Economic Area (EA) licenses. In addition to the 47 Rand McNally MTAs, the Commission is licensing Alaska as a separate MTA and adding three MTAs for the U.S. territories, for a total of 51 MTAs. No auctions of paging licenses have been held yet, and there is no basis to determine the number of licenses that will be awarded to small entities. Given the fact that nearly all radiotelephone companies have fewer than 1,000 employees, and that no reliable estimate of the number of paging licensees can be made, the Commission assumes, for purposes of this IRFA, that all of the current licensees and the 16,630 geographic area paging licensees either are or will consist of small entities, as that term is defined by the SBA.

133. Although the *Second NPRM* requests comment concerning all CMRS providers, the number of paging licensees that elect to provide some form of priority access service may depend on whether there is a market for wireless data or message text transmissions in emergency and disaster environments. The number may also depend on whether two-way paging providers, rather than providers of traditionally one-way service, are eventually included under any priority access rules.

b. Narrowband PCS

134. The Commission has auctioned nationwide and regional licenses for narrowband PCS. The Commission does not have sufficient information to determine whether any of these licensees are small businesses within the SBA-approved definition. At present, there have been no auctions held for the MTA and Basic Trading Area (BTA) narrowband PCS licenses. The Commission anticipates a total of 561 MTA licensees and 2,958 BTA licensees will be awarded in the auctions. Those auctions, however, have not yet been scheduled. Given that nearly all radiotelephone companies have fewer than 1,500 employees and that no reliable estimate of the number of prospective MTA and BTA narrowband licensees can be made, the Commission assumes, that all of the licensees will be awarded to small entities, as that term is defined by the SBA.[55]

c. Air-Ground Radiotelephone Service

135. The Commission has not adopted a definition of small business specific to the Air-Ground Radiotelephone Service, which is defined in § 22.99 of the Commission's rules.[56] Accordingly, the Commission will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons.[57] There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and the Commission estimates that almost all of them qualify as small under the SBA definition.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

136. The Commission has reduced burdens wherever possible. To minimize any negative impact, however, we propose certain incentives for small entities, which will redound to their benefit. While public safety entities will be required to submit regional plans (to enable the Commission to accommodate regional needs and preferences), they will be able to pool their resources in developing such plans. The regulatory burdens the Commission has retained, such as filing applications on appropriate forms, are necessary in order to ensure that the public receives the benefits of innovative new services in a prompt and efficient manner. The Commission will continue to examine alternatives in the future with the objectives of eliminating unnecessary regulations and minimizing significant economic impact on small entities. The Commission seeks comment on significant alternatives commenters believe should be adopted.

137. With respect to priority access service, the Commission is seeking comment regarding whether the provision of priority access service by wireless carriers should be on a voluntary basis. Thus, small entities at their option can elect to provide the service should they determine that there is a competitive market opportunity to do so. In addition, the Commission is proposing that in providing priority access service, providers of certain CMRS services are to be insulated from liability under § 202 of the Communications Act.[58] The Commission also seeks comment on alternatives regarding the priority access issues raised in the *Second NPRM*.

F. Federal Rules Which Overlap, Duplicate or Conflict With These Rules

138. None.Insert Reg Flex Here.

Ordering Clauses

139. Accordingly, *it is ordered*, pursuant to §§ 1, 4(i), 10, 201, 202, 303(b), 303(g), 303(j), 303(r), and 403 of the Communications Act, 47 U.S.C. 151, 154(i), 160, 201, 202, 303(b), 303(g), 303(j), 303(r), 403, that notice is hereby given of the proposed regulatory changes described in this *Second Notice of Proposed Rulemaking*, and that comment is sought on these proposals.

140. *It is further ordered* that the Secretary shall send a copy of this *Second Notice of Proposed Rulemaking*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with § 603(a) of the Regulatory Flexibility Act.[59]

141. *It is further ordered* that the Petition for Rulemaking filed on October 19, 1995, on behalf of the National Communications System is granted in part to the extent indicated herein.

List of Subjects

47 CFR Part 20

Communications common carriers.

47 CFR Part 90

Communications equipment, Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–29515 Filed 11–6–97; 8:45 am]

BILLING CODE 6712–01–P

[53] 47 CFR 20.7(c).

[54] 13 CFR 121.201, SIC 4812.

[55] *See id.*

[56] 47 CFR 22.99.

[57] 13 CFR 121.201, SIC 4812.

[58] 47 U.S.C. 202.

[59] Pub. L. 96–354, 94 Stat. 1165, 5 U.S.C. 601–612 (1980).

Notices

Federal Register
Vol. 62, No. 216
Friday, November 7, 1997

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Consumer Service

The Emergency Food Assistance Program Availability of Commodities for Fiscal Year 1998

AGENCY: Food and Consumer Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the surplus and purchased commodities that the Department expects to make available for donation to States for use in providing food assistance to the needy under the Emergency Food Assistance Program (TEFAP) in Fiscal Year (FY) 1998. The commodities made available under this notice shall, at the discretion of the State, be distributed to organizations for use in preparing meals, and/or for distribution to households for home consumption.

EFFECTIVE DATE: October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Lillie Ragan, Assistant Branch Chief, Program Administration Branch, Food Distribution Division, Food and Consumer Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, Virginia 22302–1594 or telephone (703) 305–2662.

SUPPLEMENTARY INFORMATION:

Background and Need for Action

Surplus Commodities

Surplus commodities donated for distribution under TEFAP are Commodity Credit Corporation (CCC) commodities determined to be available for donation by the Secretary of Agriculture under the authority of section 416 of the Agricultural Act of 1949, 7 U.S.C. 1431 (hereinafter referred to as section 416) and commodities purchased under the surplus removal authority of section 32 of the Act of August 24, 1935, 7 U.S.C. 612c (hereinafter referred to as section 32).

The types of commodities typically made available under section 416 include dairy, grains, oils, and peanut products. The types of commodities purchased under section 32 include meat, poultry, fish, vegetables, and fruits. Donations of surplus commodities were initiated in 1981 as part of the Department's efforts to reduce stockpiles of government-owned commodities, such as cheese, flour, butter, and cornmeal, which had been acquired under section 416. These donations responded to concern over the costs to taxpayers of storing large quantities of foods, while at the same time there were persons in need of food assistance. The authority to donate surplus commodities for distribution through TEFAP is currently codified in Section 202 of the Emergency Food Assistance Act (EFAA) of 1983 (7 U.S.C. 7502).

In recent years, the supply of surplus commodities has been drastically reduced. These reductions are the result of changes in the agricultural price-support programs which have brought supply and demand into better balance, and accelerated donations and sales. The Department anticipates that there will be sufficient quantities of nonfat dry milk available for donation under section 416, and dried navy beans and dried prunes purchased under section 32, to support the donation of these commodities for distribution through TEFAP in FY 1998. While sufficient quantities of these commodities are anticipated to be available in FY 1998 to support such donations, the Department would like to point out that commodity acquisitions are based on changing agricultural market conditions; therefore, the above commodities may not be available for donation in FY 1998, or additional types of surplus commodities may become available.

Purchased Commodities

Congress responded to the reduced availability of surplus commodities with section 104 of the Hunger Prevention Act of 1988, Pub. L. 100–435, which added sections 213 and 214 to the EFAA. Those sections required the Secretary to purchase commodities for distribution to States in addition to those surplus commodities which otherwise might be provided to States for distribution under TEFAP. Pursuant to section 671(d) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104–193, Congress repealed the authorization of funds for food purchases under section 214. In addition, section 871(g) added a new section 27 to the Food Stamp Act of 1977 under which the Secretary is required to use $100 million from the funds made available to carry out the Food Stamp Act for each of FYs 1997 through 2002 to purchase a variety of nutritious and useful commodities and distribute the commodities to States for distribution through TEFAP.

For FY 1998, the Department anticipates purchasing for distribution through TEFAP the following commodities: peanut butter, roasted peanuts, rice, macaroni, spaghetti, grits, fortified cereal, bakery mix, nonfat dry milk, egg mix, dehydrated potatoes, dehydrated soup mix, corn syrup, vegetable oil, dry bagged beans, raisins, the following canned foods: apple juice, applesauce, peaches, pears, vegetarian beans, refried beans, green beans, potatoes, tomatoes, tomato sauce, tomato juice, corn, orange juice, grapefruit juice, plums, pineapple, pork, salmon, tuna, beef, and chicken, as well as the following frozen foods: ground beef, ground turkey, cut-up chicken, and turkey roasts. The amounts of each item purchased will depend on the prices USDA must pay, as well as the quantity of each item requested by the States. Changes in agricultural market conditions may result in the availability of additional types of commodities or the non-availability of one or more types listed above. Once USDA has made the commodities available to States, State officials will be responsible for determining how to allocate the State's "fair share" to eligible organizations. States have full discretion in determining the amount of commodities that will be made available to organizations for distribution to needy households for use in home-prepared meals or for providing prepared meals to the needy at congregate feeding sites.

Dated: October 28, 1997.

Yvette S. Jackson,

Acting Administrator.

[FR Doc. 97–29426 Filed 11–6–97; 8:45 am]

BILLING CODE 3410–30–U

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Meeting of Advisory Committee on Emerging Markets

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the provisions of section 10(a)(2) of The Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that the first meeting of the Advisory Committee on Emerging Markets will be held November 18, 1997. The purpose of the committee is to provide information and advice, based upon knowledge and expertise of the members, useful to the U.S. Department of Agriculture (USDA) in implementing the program on sharing agricultural expertise with emerging markets. The committee will also advise USDA on ways to increase the involvement of the U.S. private sector in cooperative work with emerging markets in food and rural business systems.

DATES: The meeting will be held Tuesday, November 18, 1997 from 9:00 a.m. to 5:30 p.m.

ADDRESSES: The meeting will be held at the U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, DC 20250.

SUPPLEMENTARY INFORMATION: The minutes of the meeting announced in this Notice shall be available for review. The meeting is open to the public and members of the public may provide comments in writing to Douglas Freeman, Foreign Agricultural Service, room 6506 South Building, U.S. Department of Agriculture, 14th and Independence Ave. SW., Washington, DC 20250, but should not make any oral comments at the meeting unless invited to do so by the Co-chairpersons.

Signed at Washington, DC, October 31, 1997.

Lon Hatamiya,

Administrator, Foreign Agricultural Service.

[FR Doc. 97–29436 Filed 11–6–97; 8:45 am]

BILLING CODE 3410–10–M

ASSASSINATION RECORDS REVIEW BOARD

Sunshine Act Meeting

DATE: November 17, 1997.

PLACE: ARRB, 600 E Street, NW., Washington, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Review and Accept Minutes of Closed Meeting
2. Review of Assassination Records
3. Other Business

CONTACT PERSON FOR MORE INFORMATION: Eileen Sullivan, Press Officer, 600 E Street, NW, Second Floor, Washington, DC 20530. Telephone: (202) 724–0088; Fax: (202) 724–0457.

T. Jeremy Gunn,

Executive Director.

[FR Doc. 97–29598 Filed 11–5–97; 11:01 am]

BILLING CODE 6118–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the procurement list.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: December 8, 1997.

ADDRESS: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740

SUPPLEMENTARY INFORMATION: On August 29 and September 12, 1997, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (62 F.R. 45792 and 48050) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and services and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

Office and Miscellaneous Supplies
(Requirements for the Naval Support Activity, New Orleans, Louisiana)

Services

Janitorial/Custodial
Veterans Administration Medical Center
2600 M. L. King, Jr. Parkway
Des Moines, Iowa
Janitorial/Custodial
L. W. Stoddard USARC
25 North Lake Avenue
Worcester, Massachusetts

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 97–29459 Filed 11–6–97; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete commodities previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: December 8, 1997.

ADDRESS: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed addition, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46—48c) in connection with the commodities and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information. The following commodities and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodities

Office and Miscellaneous Supplies
(Requirements for the Naval Construction Battalion Center, Gulfport, Mississippi)
NPA: The Lighthouse for the Blind in New Orleans, New Orleans, Louisiana

Office and Miscellaneous Supplies
(Requirements for the Naval Oceanographic Office, Stennis, Mississippi)
NPA: The Lighthouse for the Blind in New Orleans, New Orleans, Louisiana

Services

Grounds Maintenance
Veterans Administration Medical Center
Menlo Park, California
NPA: Rubicon Programs, Inc., Richmond, California

Food Service Attendant for the following locations: Schofield Barracks, Building 3004, Fort Shafter, Hawaii
Building 300
Helemano Military Reservation, Hawaii
NPA: Opportunities for the Retarded, Inc. Wahiawa, Hawaii

Janitorial/Custodial
Albany Research Center
Albany, Oregon
NPA: The Garten Foundation, Salem, Oregon

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action does not appear to have a severe economic impact on future contractors for the commodities.

3. The action will result in authorizing small entities to furnish the commodities to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities proposed for deletion from the Procurement List.

The following commodities have been proposed for deletion from the Procurement List:

Organizer, Day Planner, Travel Size
7530–01–366–5856

Bag, Currency
8105–00–NIB–0006

Beverly L. Milkman,
Executive Director.
[FR Doc. 97–29460 Filed 11–6–97; 8:45 am]
BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Regulations and Procedures Technical Advisory Committee; Notice of Partially Closed Meeting

A meeting of the Regulations and Procedures Technical Advisory Committee will be held December 9, 1997, 9:00 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street between Constitution and Pennsylvania Avenues, N.W., Washington, D.C. The Committee advises the Office of the Assistant Secretary for Export Administration on implementation of the Export Administration Regulations (EAR) and provides for continuing review to update the EAR as needed.

Agenda

Open Session

1. Opening remarks by the Chairperson.
2. Presentation of papers or comments by the public.
3. Update on the encryption regulation.
4. Update on the Wassenaar Arrangement implementation regulation.
5. Discussion on the "deemed export" issue.
6. Discussion on the Enhanced Proliferation Control Initiative and continued publication of Entities of Concern.
7. Update on the Automated Export System.
8. Discussion on efforts to conform the Foreign Trade Statistics Regulations and the Export Administration Regulations on export clearance requirements.

Closed Session

9. Discussion of matters properly classified under Executive Order 12958, dealing with the U.S. export control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials two weeks prior to the meeting date to the following address: Ms. Lee Ann Carpenter, OAS/EA/BXA

MS: 3886C, 14th & Pennsylvania Avenue, N.W., U.S. Department of Commerce, Washington, D.C. 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on December 16, 1996, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public. A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, D.C. For further information, call Lee Ann Carpenter at (202) 482–2583.

Dated: November 3, 1997.

Lee Ann Carpenter,
Director, Technical Advisory Committee Unit.
[FR Doc. 97–29404 Filed 11–6–97; 8:45 am]
BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 78–97]

Foreign-Trade Zone 75—Phoenix, Arizona Application For Foreign-Trade Subzone Status; Microchip Technology Inc. (Semiconductors) Chandler and Tempe, Arizona

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of Phoenix, Arizona, grantee of FTZ 75, requesting special-purpose subzone status for the semiconductor manufacturing facilities of Microchip Technology Inc. (Microchip), located at sites in Chandler and Tempe, Arizona. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on October 30, 1997.

The Microchip facilities are located at two sites in the Phoenix area (Maricopa County): *Site 1*—(242,000 sq. ft. plus 475,000 sq. ft. planned on 80 acres) 2355 West Chandler Boulevard, Chandler, and *Site 2*—(200,000 sq. ft. on 6 acres) 1200 South 52nd Street, Tempe. The facilities (1,100 employees) are used for the manufacture of a range of semiconductor devices and related products, including field programmable microcontrollers, application-specific processors, related memory products, and application development tools. Foreign-sourced materials (some 10% of total) include halides, adhesives, resins, chemical preparations for photographic uses, molybdenum, transformers, convertors and inductors, insulated wire, instruments for measuring or checking electrical quantities, plastic sheets, plastic and paper packaging materials. Other materials that may also be purchased from abroad include glues and adhesives, transformers, resistors, diodes, transistors, integrated circuits, printed circuits, switches, fasteners, recorded media, and other electrical and automatic data processing equipment and components.

Zone procedures would exempt Microchip from Customs duty payments on foreign components used in export production (some 65% of shipments). On its domestic sales, Microchip would be able to choose the lower duty rate that applies to the finished products (duty-free—3%). The duty rates that apply on foreign-sourced items range from duty-free to 12.5 percent (with most in the 2.1%–7.3% range). FTZ procedures would also allow the deferral of duty payments on foreign capital equipment and parts until fully assembled and ready for production. The application indicates that the savings from zone procedures would help improve the plant's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested partiesSubmissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is January 6, 1998. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to January 21, 1998.

A copy of the application and the accompanying exhibits will be available for public inspection at each of the following locations:

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th and Pennsylvania Avenue, N.W., Washington, D.C. 20230.

U.S. Department of Commerce, Export Assistance Center, Phoenix Plaza, 2901 North Central Avenue, Suite 970, Phoenix, Arizona.

Dated: October 31, 1997.

John J. DaPonte, Jr.,
Executive Secretary.
[FR Doc. 97–29406 Filed 11–6–97; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended, may request, in accordance with section 351.213 of the Department of Commerce (the Department) Regulations (19 CFR 351.213 (1997)), that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity To Request A Review: Not later than the last day of November 1997, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in November for the following periods:

Antidumping duty proceedings	Period
Argentina: Barbed Wire & Barbless Fencing Wire	
A–357–405	11/1/96–10/31/97

Antidumping duty proceedings	Period
Argentina: Carbon Steel Wire Rods	
A–357–007	11/1/96–10/31/97
Brazil: Circular Welded Non-Alloy Steel Pipe	
A–351–809	11/1/96–10/31/97
Japan: Bicycle Speedometers	
A–588–038	11/1/96–10/31/97
Japan: Light Scattering Instruments	
A–588–813	11/1/96–10/31/97
Japan: Titanium Sponge	
A–588–020	11/1/96–10/31/97
Mexico: Circular Welded Non-Alloy Steel Pipe	
A–201–805	11/1/96–10/31/97
Singapore: Light-Walled Rectangular Pipe & Tube	
A–559–502	11/1/96–10/31/97
South Korea: Circular Welded Non-Alloy Steel Pipe	
A–580–809	11/1/96–10/31/97
Taiwan: Circular Welded Non-Alloy Steel Pipe	
A–583–814	11/1/96–10/31/97
The People's Republic of China: Fresh Garlic	
A–570–831	11/1/96–10/31/97
The People's Republic of China: Paper Clips	
A–570–826	11/1/96–10/31/97
The People's Republic of China: Tungsten Ore Concentrates	
A–570–811	11/1/96–10/31/97
Venezuela: Circular Welded Non-Alloy Steel Pipe	
A–307–805	11/1/96–10/31/97
Countervailing Duty Proceedings	
None.	
Suspension Agreements	
Japan: Certain Small Electric Motors of 5 to 150 Horsepower	
A–588–090	11/1/96–10/31/97
Mexico: Fresh Tomatoes	
A–201–820	11/1/96–10/31/97
The Ukraine: Silicomanganese	
A–823–805	11/1/96–10/31/97

In accordance with section 351.213 of the regulations, an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. The Department has changed its requirements for requesting reviews for countervailing duty orders. Pursuant to 771(9) of the Act, an interested party must specify the individual producers or exporters covered by the order or suspension agreement for which they are requesting a review (Department of Commerce Regulations, 62 FR 27295,27424 (May 19, 1996)). Therefore, for both antidumping and countervailing duty reviews, the interested party must specify for which individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street & Constitution Avenue, N.W., Washington, D.C. 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Enforcement, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with section 351.303(f)(1)(i) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of "Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation" for requests received by the last day of November 1997. If the Department does not receive, by the last day of November 1997, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is required by statute but is published as a service to the international trading community.

Dated: October 31, 1997.

Richard W. Moreland,

Acting Deputy Assistant Secretary, Group II Import Administration.

[FR Doc. 97–29495 Filed 11–6–97; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–557–806]

Notice of Preliminary Results of Antidumping Duty Administrative Review: Extruded Rubber Thread From Malaysia

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to a request by the petitioner and four producers/exporters of the subject merchandise, the Department of Commerce is conducting an administrative review of the antidumping duty order on extruded rubber thread from Malaysia. The period of review is October 1, 1995, through September 30, 1996.

We have preliminarily determined that sales have been made below the normal value by each of the companies subject to this review. If these preliminary results are adopted in the final results of this administrative review, we will instruct the U.S. Customs Service to assess antidumping duties on all appropriate entries.

We invite interested parties to comment on these preliminary results. Parties who wish to submit comments in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: November 7, 1997.

FOR FURTHER INFORMATION CONTACT: Shawn Thompson or Fabian Rivelis, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–1776 or (202) 482–3853, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 1, 1996, the Department of Commerce (the Department) published in the **Federal Register** a notice of "Opportunity to Request an Administrative Review" of the Antidumping Duty Order on Extruded Rubber Thread from Malaysia (61 FR 51259).

In accordance with 19 CFR 353.22(a)(1), on October 2, 1996, the petitioner, North American Rubber Thread, requested an administrative review of the antidumping order covering the period October 1, 1995, through September 30, 1996, for the following producers and exporters of extruded rubber thread: Filati Lastex Sdn. Bhd. (Filati), Heveafil Sdn. Bhd. (Heveafil), Rubberflex Sdn. Bhd. (Rubberflex), and Rubfil Sdn. Bhd (Rubfil). On October 31, 1996, each of these four companies also requested an administrative review.

On November 15, 1996, the Department initiated an administrative review for Filati, Heveafil, Rubberflex, and Rubfil (61 FR 58513). In December 1996, the Department issued sales questionnaires to these four companies. The Department also issued cost questionnaires to Heveafil and Rubberflex.

On February 13, 1997, Rubfil withdrew its request for administrative review in accordance with 19 CFR 353.22(a)(5). However, we have not terminated the review for Rubfil because the petitioner also requested a review for this company. Because Rubfil did not respond to the Department's questionnaire, we have assigned a margin to Rubfil based on the facts available. (See the "Facts Available" section below, for further discussion.)

Filati, Heveafil, and Rubberflex submitted questionnaire responses in February 1997. In March 1997, petitioner alleged that Filati was selling at prices below the cost of production (COP) in its home market. Based on information submitted by petitioner, the Department found reasonable grounds to believe or suspect that sales in the home market were made at prices below the cost of producing the merchandise, in accordance with section 773(b)(1) of the Tariff Act of 1930, as amended (the Act). As a result, the Department initiated an investigation to determine whether Filati made home market sales during the period of review (POR) at prices below their respective COPs within the meaning of section 773(b) of the Act.

Also in March 1997, we issued supplemental questionnaires to Filati, Heveafil, and Rubberflex. We received responses to these supplemental questionnaires, as well as Filati's initial cost response in April 1997.

In June 1997, we issued additional supplemental questionnaires to these respondents. We received responses to the supplemental questionnaires in June and July 1997.

In July and August 1997, the Department conducted sales and cost verifications of the data submitted by the three respondents participating in this review, in accordance with 19 CFR 353.36(a)(iv).

Scope of the Review

The product covered by this review is extruded rubber thread. Extruded rubber thread is defined as vulcanized rubber thread obtained by extrusion of stable or concentrated natural rubber latex of any cross sectional shape, measuring from 0.18 mm, which is 0.007 inch or 140 gauge, to 1.42 mm, which is 0.056 inch or 18 gauge, in diameter. Extruded rubber thread is currently classifiable under subheading 4007.00.00 of the *Harmonized Tariff Schedule of the United States* (HTSUS). The HTSUS subheadings are provided for convenience and customs purposes. Our written description of the scope of this review is dispositive.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Act are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 353 (April 1, 1997).

Facts Available

In accordance with section 776(a)(2) of the Act, we preliminarily determine that the use of the facts available is appropriate as the basis for Heveafil's and Rubfil's weighted-average dumping margins. Section 776(a)(2) of the Act provides that if an interested party (1) withholds information that has been requested by the Department, (2) fails to provide such information in a timely manner or in the form or manner requested, subject to subsections 782(c)(1) and (e), (3) significantly impedes a determination under the antidumping statute, or (4) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

A. Heveafil

We have used the facts available with regard to Heveafil under section 776(a)(2)(D) of the Act because the Department could not verify the information provided by Heveafil as required under section 782(i) of the Act, despite the Department's attempts to do so.

Specifically, we were unable to verify the COP and constructed value (CV) information provided by Heveafil because we discovered at verification that the company had destroyed the source documents upon which a large portion of its response was based. The destruction of these source documents raises particular concern, as Heveafil should have been well aware of the

necessity of these documents based upon its participation in prior segments of this proceeding. Moreover, there were significant delays in the verification process itself, caused by company difficulties in locating documents and the inability of company officials to link information submitted in the questionnaire response to the accounting system. Our findings at verification are outlined in detail in the public version of the cost verification report from Shawn Thompson and Irina Itkin to Louis Apple, dated October 17, 1997.

Because we were unable to verify the information submitted by Heveafil in this POR and because the company failed to adequately prepare and provide information during the verification, we preliminarily determine that Heveafil did not cooperate to the best of its ability. Thus, pursuant to section 776(b) of the Act, we are using adverse facts available. See Notice of Final Determination of Sales at Less Than Fair Value; Certain Pasta from Italy, 61 FR 30326, 30327–29 (June 14, 1996).

As adverse facts available for Heveafil, we have used the highest rate calculated for any respondent in a prior segment of this proceeding. This rate is 54.31%. We have determined that this rate is sufficiently high to effectuate the purpose of the facts available rule by deterring such non-cooperative actions as the destruction of source documents needed for verification.

B. Rubfil

In accordance with section 776(a)(2)(A) of the Act, we also preliminarily determine that the use of the facts available is appropriate as the basis for Rubfil's weighted-average dumping margin. Specifically, Rubfil did not respond to the Department's questionnaire, issued in December 1996. Because Rubfil did not respond to the Department's questionnaire and because the applicable subsections of section 782 do not apply with respect to this company, we must use facts otherwise available to calculate Rubfil's dumping margin.

Section 776(b) of the Act provides that adverse inferences may be used with respect to a party that has failed to cooperate by not acting to the best of its ability to comply with requests for information. See Statement of Administrative Action accompanying the URAA, H.R. Rep. No., 316, 103rd Cong., 2d. Sess. 870 (SAA). The failure of Rubfil to reply to the Department's questionnaire demonstrates that it has failed to act to the best of its ability in this review, and, therefore, an adverse inference is warranted.

As adverse facts available for Rubfil, we have used the highest rate calculated for Rubfil in a prior segment of this proceeding (see Extruded Rubber Thread from Malaysia, Final Results of Antidumping Duty Administrative Review, 62 FR 33588 (June 20, 1997)), which is considered secondary information within the meaning of section 776(c) of the Act. See SAA at 870. This rate of 54.31 percent is the cash deposit rate currently assigned to Rubfil. In certain other proceedings we have refrained from using a respondent's current cash deposit rate as FA for that respondent. See, e.g., Carbon Steel Pipe and Tube from Thailand; Final Results of Antidumping Duty Administrative Review 62 FR 53821 (Oct. 16, 1997). However, based on the facts of this case, we find that this existing cash deposit rate is sufficiently high as to effectuate the purpose of the facts available rule.

C. Corroboration of Secondary Information

Section 776(c) of the Act provides that the Department shall, to the extent practicable, corroborate secondary information from independent sources reasonably at its disposal. The SAA provides that "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value (see SAA at 870).

To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. However, unlike for other types of information, such as input costs or selling expenses, there are no independent sources for calculated dumping margins. Thus, in an administrative review, if the Department chooses as facts available a calculated dumping margin from a prior segment of this proceeding, it is not necessary to question the reliability of that calculated margin. With respect to relevance, however, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where circumstances indicate that the selected margin may not be appropriate, the Department will attempt to find a more appropriate basis for facts available (see, e.g., Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review, 61 FR 6812, 6814 (February 22, 1996) (Fresh Cut Flowers) (where the Department disregarded the highest margin as adverse best information available because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin)).

For both Heveafil and Rubfil, we examined the rates applicable to extruded rubber thread from Malaysia throughout the course of the proceeding. With regard to their probative value, the rate specified above is reliable and relevant because it is a calculated rate from the 1994–1995 administrative review. There is no information on the record that demonstrates that the rate selected is not an appropriate total adverse facts available rate for Heveafil and Rubfil. Thus, the Department considers these rates to be appropriate adverse facts available.

Normal Value Comparisons

To determine whether sales of extruded rubber thread from Malaysia to the United States were made at less than normal value (NV), we compared the United States price (USP) to the NV for Filati and Rubberflex, as specified in the "United States Price" and "Normal Value" sections of this notice.

Level of Trade and Constructed Export Price (CEP) Offset

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determined NV based on sales in the comparison market at the same level of trade as export price (EP) or CEP. The NV level of trade is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive selling, general and administrative expenses (SG&A) and profit. For EP, it is also the level of the starting-price sale, which is usually from the exporter to importer. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different level of trade than EP or CEP sales, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different level of trade, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the level of trade of the export transaction, we make a level of trade adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV by making a CEP offset, in accordance with section 773(a)(7)(B) of the Act. See Certain Welded Carbon Steel Standard Pipes and Tubes From India: Preliminary Results of New Shipper Antidumping Duty Administrative Review, 62 FR 23760, 23761 (May 1, 1997).

Both Filati and Rubberflex claimed that they made home market sales at only one level of trade (*i.e.*, sales to original equipment manufacturers) and that this level was different, and more remote, than the level of trade at which they made CEP sales.

Because only one level of trade existed in the home market for both respondents, we conducted an analysis to determine whether a CEP offset was warranted for either company. In order to determine whether NV was established at a level of trade which constituted a more advanced state of distribution than the level of trade of the CEP, we compared the selling functions performed for home market sales with those performed with respect to the CEP transaction which excludes economic activities occurring in the United States. We found that both respondents performed essentially the same selling functions in their sales offices in Malaysia for both home market and U.S. sales. Therefore, their sales in Malaysia were not at a more advanced stage of marketing and distribution than the constructed U.S. level of trade, which represents an FOB foreign port price after the deduction of expenses associated with U.S. selling activities. Because we find that no difference in level of trade exists between markets, we have not granted a CEP offset to either Filati or Rubberflex. For a detailed explanation of this analysis, see the concurrence memorandum issued for the preliminary results of this review, dated October 31, 1997.

United States Price

For sales by Filati, we based USP on EP, in accordance with section 772(b) of the Act, when the subject merchandise was sold to unrelated purchasers in the United States prior to importation and when the CEP methodology of section 772(c) of the Act was not otherwise applicable. In addition, for both Filati and Rubberflex, where sales to the first unaffiliated purchaser took place after importation into the United States, we based USP on CEP, in accordance with section 772(c) of the Act. For both companies, we revised the reported data based on our findings at verification.

A. Filati

We based EP on the gross unit price to the first unaffiliated purchaser in the United States. We made deductions from gross unit price, where appropriate, for discounts and rebates. In accordance with section 772(c)(1)(B) of the Act, we added an amount for uncollected import duties in Malaysia (where we made price-to-price comparisons). In addition, where appropriate, we made deductions for foreign inland freight, foreign brokerage and handling expenses, ocean freight, marine insurance, U.S. customs duty, U.S. brokerage and handling expenses, and U.S. inland freight, in accordance with section 772(c)(2)(A) of the Act.

For sales made from the inventory of the U.S. subsidiary, we based USP on CEP, in accordance with section 772(b) of the Act. We calculated CEP based on the gross unit price to the first unaffiliated customer in the United States. We made deductions from gross unit price, where appropriate, for discounts and rebates. In accordance with section 772(c)(1)(B) of the Act, we added an amount for uncollected import duties in Malaysia (where we made price-to-price comparisons). We also made deductions for foreign inland freight, foreign brokerage and handling expenses, ocean freight, marine insurance, U.S. brokerage and handling expenses, U.S. customs duty, and U.S. inland freight, in accordance with section 772(c)(2)(A) of the Act. We made additional deductions, where appropriate, for commissions, credit, U.S. indirect selling expenses, and U.S. inventory carrying costs, in accordance with section 772(d)(1) of the Act. We recalculated U.S. indirect selling expenses to exclude an offset claimed by Filati relating to imputed costs associated with financing antidumping and countervailing duty (CVD) deposits, in accordance the Department's practice (see Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, Germany, Italy, Japan, Romania, Singapore, Sweden and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews, 62 FR 54043, (Oct. 17, 1997) (AFBs)).

Pursuant to section 772(d)(3) of the Act, we further reduced gross unit price by an amount for profit, to arrive at CEP. In accordance with section 772(f) of the Act, we calculated CEP profit rate using the expenses incurred by Filati and its affiliate on their sales of the subject merchandise in the United States and the foreign like product in the home market and the profit associated with those sales.

B. Rubberflex

We based USP on CEP, in accordance with section 772(b) of the Act. We calculated CEP based on the gross unit price to the first unaffiliated customer in the United States. We made deductions from gross unit price, where appropriate, for discounts and rebates. We also made deductions for foreign inland freight, foreign brokerage and handling expenses, ocean freight, marine insurance, U.S. customs duty, and U.S. inland freight, in accordance with section 772(c)(2)(A) of the Act. We made additional deductions, where appropriate, for credit, U.S. indirect selling expenses, and U.S. inventory carrying costs, in accordance with section 772(d)(1) of the Act. We recalculated U.S. indirect selling expenses to exclude an offset claimed by Rubberflex relating to imputed costs associated with financing antidumping and CVD duty deposits, in accordance the Department's practice (see AFBs).

Pursuant to section 772(d)(3) of the Act, we further reduced gross unit price by an amount for profit, to arrive at CEP. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by Rubberflex and its affiliate on their sales of the subject merchandise in the United States and the foreign like product in the home market and the profit associated with those sales.

Normal Value

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared the volume of each of the respondent's home market sales of the foreign like product to the volume of U.S. sales of subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Based on this comparison, we determined that the aggregate volume of home market sales of the foreign like product for both Filati and Rubberflex is greater than five percent of the aggregate volume of U.S. sales for these companies. Thus, we determined that both Filati and Rubberflex had viable home markets during the POR. Consequently, we based NV on home market sales.

Pursuant to section 773(b) of the Act, there were reasonable grounds to believe or suspect that Rubberflex had made home market sales at prices below its COP in this review because the Department had disregarded sales below the COP for Rubberflex in a previous administrative review (see *Notice of Final Results of Antidumping Duty Administrative Review: Extruded Rubber Thread from Malaysia*, 61 FR 54767 (October 22, 1996)) and the petitioner submitted an adequate allegation that there were reasonable grounds to believe or suspect that Filati

had made home market sales at prices below its COP in this review. As a result, the Department initiated an investigation to determine whether the respondents made home market sales during the POR at prices below their respective COPs.

We calculated the COP based on the sum of each respondent's cost of materials and fabrication for the foreign like product, plus amounts for SG&A and packing costs, in accordance with section 773(b)(3) of the Act.

Where possible, we used the respondents' reported COP amounts, adjusted as discussed below, to compute weighted-average COPs during the POR. We compared the COP figures to home market sales of the foreign like product as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP. On a product-specific basis, we compared the COP to home market prices, less any applicable movement charges and discounts.

In determining whether to disregard home market sales made at prices below the COP, we examined (1) whether, within an extended period of time, such sales were made in substantial quantities, and (2) whether such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade.

Pursuant to section 773(b)(2)(C), where less than 20 percent of the respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of the respondent's sales of a given product during the POI were at prices less than the COP, we determined such sales to have been made in substantial quantities within an extended period of time in accordance with section 773(b)(1)(A) of the Act. In such cases, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(1)(B) of the Act. Therefore, we disregarded the below-cost sales. Where all sales of a specific product were at prices below the COP, we disregarded all sales of that product, and calculated NV based on CV, in accordance with section 773(a)(4) of the Act.

In accordance with section 773(e) of the Act, we calculated CV based on the sum of each respondent's cost of materials, fabrication, SG&A, profit, and U.S. packing costs. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by each respondent in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country.

We deducted from CV weighted-average home market direct selling expenses incurred on sales made in the ordinary course of trade.

Company-specific calculations are discussed below.

A. Filati

We made the following adjustments to Filati's reported COP and CV data based on our findings at verification. For the cost of manufacturing (COM), in order to properly value the second quality merchandise and apply the appropriate manufacturing variance, we first valued the second quality merchandise at the standard cost of the first quality product that was intended to be produced. We then calculated the variance between the revised total standard cost and the total actual cost, and applied the variance proportionately to each per-unit standard cost. We also recalculated Filati's reported G&A expense ratio by excluding the direct selling, indirect selling, G&A expense, and financial expenses from the denominator of the ratio. The resulting ratio was applied to the per-unit COM. Finally, we recalculated Filati's reported interest expense to include only short-term interest income as an offset to total financial expense. For further discussion of these adjustments, see the cost calculation memorandum from Michael Martin to Christian Marsh, dated October 31, 1997.

Where NV was based on home market sales, we based NV on the gross unit price to unaffiliated customers. We made adjustments to Filati's reported sales data based on our findings at verification, and where appropriate, we made deductions for rebates.

For home market price-to-EP comparisons, we made deductions, where appropriate, for foreign inland freight, pursuant to section 773(a)(6)(B) of the Act. Pursuant to section 773(a)(6)(C)(iii) of the Act, we made circumstance of sale adjustments, where appropriate, for differences in credit expenses and bank charges. Where applicable, in accordance with 19 CFR 353.56(b)(1), we offset any commission paid on a U.S. sale by reducing the NV by the amount of home market indirect selling expenses and inventory carrying costs, up to the amount of the U.S. commission.

For home market price-to-CEP comparisons, we made deductions for rebates and foreign inland freight, where appropriate, pursuant to section 773(a)(6)(B) of the Act. We also made deductions for credit expenses and bank charges.

For all price-to-price comparisons, we deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6) of the Act. In addition, where appropriate, we made adjustments to NV to account for differences in physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 353.57.

For CV–to–EP comparisons, we made circumstance of sale adjustments, where appropriate, for credit expenses, bank charges, and U.S. commissions, in accordance with section 773(a)(6)(C)(iii) and (a)(8) of the Act. Where applicable, in accordance with 19 CFR 353.56(b)(1), we offset any commission paid on a U.S. sale by reducing the NV by the amount of home market indirect selling expenses and inventory carrying costs, up to the amount of the U.S. commission.

For CV–to–CEP comparisons, we made deductions, where appropriate, for credit expenses and bank charges. We also deducted indirect selling expenses and inventory carrying costs, up to the amount of the U.S. commission deducted from the CEP.

B. Rubberflex

Where NV was based on home market sales, we based NV on the gross unit price to unaffiliated customers. We made adjustments to Rubberflex's reported sales data based on our findings at verification, and, where appropriate, we made deductions for discounts and rebates.

We also made deductions for foreign inland freight, foreign inland insurance and credit expenses. In addition, we deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(1) of the Act. Where appropriate, we made adjustments to NV to account for differences in physical characteristics of the merchandise, in accordance with 19 CFR 353.57.

For CV-to-CEP comparisons, we made deductions, where appropriate, for credit expenses.

Currency Conversion

We made currency conversions into U.S. dollars based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Section 773A(a) directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars unless the daily rate involves a fluctuation. It is the Department's practice to find that a fluctuation exists when the daily exchange rate differs from the benchmark rate by 2.25 percent. The benchmark is defined as the moving average of rates for the past 40 business days. When we determine a fluctuation to have existed, we substitute the benchmark rate for the daily rate, in accordance with established practice. Further, section 773A(b) directs the Department to allow a 60-day adjustment period when a currency has undergone a sustained movement. A sustained movement has occurred when the weekly average of actual daily rates exceeds the weekly average of benchmark rates by more than five percent for eight consecutive weeks. (For an explanation of this method, see Policy Bulletin 96–1: Currency Conversions (61 FR 9434, March 8, 1996).) Such an adjustment period is required only when a foreign currency is appreciating against the U.S. dollar. The use of an adjustment period was not warranted in this case because the Malaysian Ringgit did not undergo a sustained movement.

Verification

As provided in section 782(i) of the Act, we verified information provided by Filati, Heveafil and Rubberflex by using standard verification procedures, including on-site inspection of the manufacturer's facilities, examination of relevant sales and financial records, and selection of original source documentation containing relevant information.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following margins exist for the period October 1, 1995, through September 30, 1996:

Manufacturer/exporter	Review period	Margin (percent)
Filati Sdn. Bhd.	10/01/95–9/30/96	36.36
Heveafil Sdn. Bhd./ Filmax Sdn. Bhd.	10/01/95–9/30/96	54.31
Rubberflex Sdn. Bhd.	10/01/95–9/30/96	4.47
Rubfil Sdn. Bhd.	10/01/95–9/30/96	54.31

Interested parties may request a disclosure within 5 days of publication of this notice and may request a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. The Department will publish a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any such case briefs.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between USP and NV may vary from the percentages stated above. We have calculated an importer-specific duty assessment rate based on the ratio of the total amount of AD duties calculated for the examined sales made during the POR to the total value of subject merchandise entered during the POR. This rate will be assessed uniformly on all entries of that particular importer made during the POR. The Department will issue appraisement instructions directly to the U.S. Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of extruded rubber thread from Malaysia entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for Filati, Heveafil, Rubberflex, and Rubfil will be the rates established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 353.6, the cash deposit will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be the "all others" rate, as set forth below.

On March 25, 1993, the U.S. Court of International Trade (CIT), in *Floral Trade Council* v. *United States*, 822 F.Supp. 766 (CIT 1993), and *Federal-Mogul Corporation* v. *United States*, 822 F.Supp. 782 (CIT 1993), decided that once an "all others" rate is established for a company, it can only be changed through an administrative review. The Department has determined that in order to implement this decision, it is appropriate to reinstate the original "all others" rate from the LTFV investigation (or that rate as amended for correction of clerical errors or as a result of litigation) in proceedings governed by antidumping duty orders. In proceedings governed by antidumping findings, unless we are able to ascertain the "all others" rate from the original investigation, the Department has determined that it is appropriate to adopt the "new shipper" rate established in the first final results of administrative review published by the Department (or that rate as amended for correction of clerical errors or as a result of litigation) as the "all others" rate for the purposes of establishing cash deposits in all current and future administrative reviews. Because this proceeding is governed by an antidumping duty order, the "all others" rate for the purposes of this review will be 15.16 percent, the "all others" rate established in the LTFV investigation.

These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: October 31, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–29400 Filed 11–6–97; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-840]

Manganese Metal From the People's Republic of China; Preliminary Results of Antidumping Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review of manganese metal from the People's Republic of China.

SUMMARY: In response to requests by Elkem Metals Company and Kerr-McGee Chemical Corporation and by China Hunan International Economic Development Corporation, China Metallurgical Import & Export Hunan Corporation/Hunan Nonferrous Metals Import & Export Associated Corporation, Minmetals Precious & Rare Minerals Import & Export Corporation, and China National Electronics Import and Export Hunan Company, the Department of Commerce is conducting an administrative review of the antidumping duty order on manganese metal from the People's Republic of China. The period of review is June 14, 1995 through January 31, 1997.

We have preliminarily determined that sales have been made below normal value. If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs to assess antidumping duties equal to the difference between the export price and NV on all appropriate entries.

We invite interested parties to comment on these preliminary results. Parties who submit comments in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: November 7, 1997.

FOR FURTHER INFORMATION CONTACT: Daniel Lessard or Greg Campbell, Antidumping/Countervailing Duty Enforcement, Office I, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–1778 or (202) 482–2239, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, all references to the Department's regulations are to 19 CFR part 353 (April 1997).

Background

On February 6, 1996, the Department of Commerce (the Department) published in the **Federal Register** (61 FR 4415) the antidumping duty order on manganese metal from the People's Republic of China (PRC). On February 3, 1997, we published a notice of opportunity to request an administrative review of the order for the period June 14, 1995 through January 31, 1997 (62 FR 4978). In accordance with 19 CFR 353.22(a), Elkem Metals Company and Kerr-McGee Chemical Corporation (petitioners) and China Hunan International Economic Development Corporation (HIED), China Metallurgical Import & Export Hunan Corporation/ Hunan Nonferrous Metals Import & Export Associated Corporation (CMIECHN/CNIECHN), and Minmetals Precious & Rare Minerals Import & Export Corporation (Minmetals) requested that we conduct an administrative review. On March 18, 1997, in accordance with 19 CFR 353.22(c), we published a notice of initiation of this antidumping duty administrative review (62 FR 12793) for the period of review (POR).

The Department is now conducting this administrative review in accordance with section 751 of the Act.

Scope of Review

The merchandise covered by this review is manganese metal, which is composed principally of manganese, by weight, but also contains some impurities such as carbon, sulfur, phosphorous, iron and silicon. Manganese metal contains by weight not less than 95 percent manganese. All compositions, forms and sizes of manganese metal are included within the scope of this administrative review, including metal flake, powder, compressed powder, and fines. The subject merchandise is currently classifiable under subheadings 8111.00.45.00 and 8111.00.60.00 of the Harmonized Tariff schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Verification

As provided in section 782(i) of the Act, we verified factor information provided by Xiang Tan Manganese Mine (XTMM) and Hunan Special Metal Material Plant (Special), using standard verification procedures, including on-site inspection of manufacturers' facilities, the examination of relevant sales and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the public versions of the verification reports.

Separate Rates

1. Background and Summary of Findings

It is the Department's standard policy to assign all exporters of the merchandise subject to review in non-market-economy (NME) countries a single rate unless an exporter can demonstrate an absence of government control, both in law and in fact, with respect to exports. To establish whether an exporter is sufficiently independent of government control to be entitled to a separate rate, the Department analyzes the exporter in light of the criteria established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China* (56 FR 20588, May 6, 1991) *(Sparklers)*, as amplified in the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China* (59 FR 22585, May 2, 1994) *(Silicon Carbide)*. Evidence supporting, though not requiring, a finding of *de jure* absence of government control over export activities includes: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. *See Sparklers* at 20589. A *de facto* analysis of absence of government control over exports is based on four factors—whether the respondent: (1) Sets its own export prices independent from the government and other exporters; (2) can retain the proceeds from its export sales; (3) has the authority to negotiate and sign contracts; and (4) has autonomy from the government regarding the selection of management. *See Silicon Carbide* at 22587; *see also Sparklers* at 20589.

In our final determination of sales at less than fair value (LTFV), the Department determined that there was *de jure* and *de facto* absence of government control of each company's export activities and determined that each company warranted a company-specific dumping margin. *See Final Determination of Sales at Less Than Fair Value: Manganese Metal from the People's Republic of China*, 60 FR 56045 *(Manganese Metal)*. For this period of review, HIED and CMIECHN/CNIECHN have responded to the Department's request for information regarding separate rates. We have found that the evidence on the record is consistent with the final determination in the LTFV investigation and continues to demonstrate an absence of government control, both in law and in fact, with respect to their exports, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide*.

For Minmetal and China National Electronics Import and Export Hunan Company (CEIEC), which had no sales during this POR, the company-specific rates of 5.88 percent and 11.77 percent, respectively, from the LTFV investigation remain unchanged.

Export Price

For sales made by HIED and CMIECHN/CNIECHN to the United States, we calculated an export price, in accordance with section 772(a) of the Act, because the subject merchandise was sold to unrelated purchasers in the United States prior to importation into the United States.

We calculated export price based on the price to unrelated purchasers. We deducted an amount, when appropriate, for foreign inland freight, ocean freight, and marine insurance. Generally, the costs for these items were valued in the surrogate country. However, where transportation services were purchased from market economy carriers and paid for in market economy currency, we used the cost actually incurred by the exporter.

Normal Value

For companies located in NME countries, section 773(c)(1) of the Act provides that the Department shall determine normal value (NV) using a factors-of-production methodology if (1) the merchandise is exported from an NME country, and (2) the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act.

The Department has treated the PRC as an NME country in all previous antidumping cases. In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is a NME country shall remain in effect until revoked by the administering authority. None of the parties to this proceeding has contested such treatment in this review. Furthermore, available information does not permit the calculation of NV using home market prices, third country prices or CV under section 773(a) of the Act. Therefore, we treated the PRC as a NME country for purposes of this review and calculated NV by valuing the factors of production in a comparable market economy country which is a significant producer of comparable merchandise. Factors of production include, but are not limited to: (1) Hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital cost, including depreciation.

In accordance with section 773(c)(4) of the Act and section 353.52(c) of our regulations, we determined that India is comparable to the PRC in terms of (1) per capita gross national product (GNP), (2) the growth rate in per capita GNP, and (3) the national distribution of labor. In addition, India is a significant producer of comparable merchandise. Therefore, for this review, we selected India as the surrogate on the basis of the above criteria, and have used publicly available information relating to India, unless otherwise noted, to value the various factors of production. (*See* memorandum to Susan Kuhbach from Jeff May, dated May 28, 1997, "Manganese Metal from the PRC: Nonmarket Economy Status and Surrogate Country Selection" (attached to June 25, 1997 letters to interested parties), and memorandum to Richard W. Moreland from Team, dated October 24, 1997, which are in the file in the Central Records Unit (room B099 of the Main Commerce building).)

For purposes of calculating NV, we valued PRC factors of production, in accordance with section 773(c)(1) of the Act. In examining surrogate values, we selected, where possible, the publicly available value which was: (1) An average non-export value; (2) representative of a range of prices within the POR or most contemporaneous with the POR; (3) product-specific; and (4) tax-exclusive. Where we could not obtain a POR-representative price for an appropriate surrogate value, we selected a value in accordance with the remaining criteria mentioned above and which was the closest in time to the POR. In accordance with this methodology, we valued the factors as follows:

- We valued manganese ore using a September 1993 export price quote from a Brazilian manganese mine for manganese carbonate lump ore. (For a further discussion of this issue, please refer to the October 24, 1997 memorandum to Richard W. Moreland from Team.) While it is our normal practice to apply an inflation adjustment to prices predating the period of review, in this case, we have information which indicates that prices for manganese ore have fallen over time. Therefore, we adjusted the price to account for declining manganese ore prices between September 1993 and the POR.
- For the value of process chemicals used in the production process of manganese metal, we used values obtained from the following Indian sources: *Indian Chemical Weekly* (June 95–May 1996); the *Monthly Trade Statistics of Foreign Trade of India*, Volume II—Imports, February 1996 (*Indian Import Statistics*); and the *Indian Minerals Yearbook: 1995*. Where necessary, we adjusted these values to reflect inflation up to the POR using wholesale price indices (WPI) published by the International Monetary Fund (IMF). Additionally, we adjusted to account for freight costs incurred between the suppliers and manganese metal producers.
- For labor values, we used data from the 1996 *Yearbook of Labor Statistics (YLS)* published by the United Nations. We adjusted these rates to reflect inflation up to the POR using the consumer price indices (CPI) published by the IMF. We used the CPI, rather than the WPI, for calculating the inflation adjustment for labor because the Department views the CPI as more representative of changes in wage rates, while the WPI is more representative of prices for material goods.
- For factory overhead, selling, general, and administrative expenses (SG&A), and profit values, we used information from the January 1997 *Reserve Bank of India Bulletin* for the Indian industry group "Processing and Manufacturing: Metals, Chemicals, and Products Thereof." To value factory overhead, we calculated the ratio of factory overhead expenses to the cost of materials, labor, and energy. From the same source, we were able to calculate the selling, general & administrative (SG&A) expense as a percentage of the cost of manufacturing and profit as a percentage of the cost of production (*i.e.*, the cost of manufacturing plus SG&A).
- For most packing materials values, we used the per kilogram values obtained from the *Indian Import Statistics*. For one packing material, we used a price quote from an Indian manufacturer and adjusted the value to reflect inflation up to the POR using the WPI published by the IMF. We used this price quote rather than the *Indian Import Statistics* because the quoted

price was for the appropriate type of container used, whereas the *Indian Import Statistics* were aggregated over various types of containers. We made further adjustments to account for freight costs incurred between the PRC supplier and manganese metal producers.

- To value electricity, we used the average rate applicable to large industrial users throughout India as reported in the *1995 Confederation of Indian Industries Handbook of Statistics*. We adjusted the March 1, 1995 value to reflect inflation up to the POR using the WPI published by the IMF.
- To value rail freight, we relied upon rates quoted by a manganese mine in India. We adjusted the rate to reflect inflation up to the POR using WPI published by the IMF.
- To value truck freight, we used a rate derived from a newspaper article in the April 20, 1994 issue of The Times of India. We adjusted the rate to reflect inflation up to the POR using WPI published by the IMF.

Preliminary Results of the Review

As a result of our comparison of the EP to NV, we preliminarily determine that the following dumping margins exist for the period June 14, 1995, through January 31, 1997:

Manufacturer exporter	Margin (percent)
HIED	11.00
CMIECHN/CNIECHN	6.43
Minmetals	5.88
CEIEC	11.77
Country-Wide Rate	143.32

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held approximately 44 days after the publication of this notice. Interested parties may submit written comments (case briefs) within 30 days of the date of publication of this notice. Rebuttal comments (rebuttal briefs), which must be limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. The Department will issue a notice of final results of this administrative review, including the results of its analysis of issues raised in any such written comments, within 120 days of publication of these preliminary results.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between EP and NV may vary from the percentages stated above. We have calculated an importer-specific duty assessment rate based on the ratio of the total amount of AD duties calculated for the examined sales made during the POR to the total value of subject merchandise entered during the POR. In order to estimate the entered value, we subtracted international movement expenses (*e.g.*, international freight and marine insurance) from the gross sales value. This rate will be assessed uniformly on all entries of that particular importer made during the POR. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) for the PRC companies that have separate rates and were reviewed (HIED and CMIECN/CNIECN), the cash deposit rates will be the rates for those firms established in the final results of this review; (2) for Minmetals and CEIEC, which we determined to be entitled to a separate rate in the LTFV investigation but which did not have shipments to the United States during the POR, the rates will continue to be 5.88 percent and 11.77 percent, respectively, the rates which currently apply to these companies; and (3) for all other PRC exporters, the cash deposit rate will be 143.32 percent. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: October 31, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97-29494 Filed 11-6-97; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-501]

Natural Bristle Paintbrushes and Brush Heads From The People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of preliminary results of the antidumping duty administrative review of natural bristle paintbrushes and brush heads from the People's Republic of China.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on natural bristle paintbrushes and brush heads (paintbrushes) from the People's Republic of China (PRC) in response to a request by petitioner, the Paint Applicator Division of the American Brush Manufacturers Association (the Paint Applicator Division). This review covers shipments of this merchandise to the United States during the period of February 1, 1996, through January 31, 1997.

We have preliminarily determined that sales have been made below normal value (NV). If these preliminary results are adopted in our final results, we will instruct the U.S. Customs Service to assess antidumping duties equal to the difference between export price and NV.

Interested parties are invited to comment on these preliminary results. Parties who submit argument are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: November 7, 1997.

FOR FURTHER INFORMATION CONTACT: Eric Scheier, Elisabeth Urfer, or Maureen Flannery, Antidumping/Countervailing Duty Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–4733.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the provisions codified at 19 CFR part 353, as of April 1, 1996.

Background

The Department published in the **Federal Register** an antidumping duty order on paintbrushes from the PRC on February 18, 1986 (51 FR 5580). On February 3, 1997, the Department published in the **Federal Register** (62 FR 4978) a notice of opportunity to request an administrative review of the antidumping order on paint brushes from the PRC covering the period February 1, 1996, through January 31, 1997.

On January 29, 1997, in accordance with 19 CFR 353.2(k)(1), Brenner Associates, a U.S. importer of the subject merchandise, requested that we conduct an administrative review of Hebei Animal By-Products I/E Corporation (Hebei). On February 24, 1997, the Hunan Provincial Native Produce & Animal By-Products I/E Corporation (Hunan) submitted a request for a review. We published a notice of initiation of this antidumping duty administrative review on March 18, 1997 (62 FR 12793). The Department is conducting this administrative review in accordance with section 751 of the Act.

Scope of Review

Imports covered by this review are shipments of natural bristle paint brushes and brush heads from the PRC. Excluded from the order are paint brushes and brush heads with a blend of 40% natural bristles and 60% synthetic filaments. The merchandise under review is currently classifiable under item 9603.40.40.40 of the Harmonized tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise is dispositive.

This review covers the period February 1, 1996, through January 31, 1997.

Verification

As provided in section 782(i) of the Act, we verified information provided by Hunan and its supplier by using standard verification procedures, including on-site inspection of the manufacturer's facilities, the examination of relevant sales and financial records, and the selection of original documentation containing relevant information. Our verification results are outlined in the public version of the verification report.

Facts Available

We preliminarily determine that, in accordance with section 776(a) of the Act, the use of facts available is appropriate for Hebei because this firm did not respond to the Department's antidumping questionnaire. Hebei had requested and was granted an extension to file its questionnaire response with the Department. Hebei requested a second extension after the response was due, and was denied its request. (*See* letter from Edward Yang to Perry Gartner, June 10, 1997.) Because necessary information is not available on the record with regard to sales by Hebei, the use of facts available is warranted.

Where a respondant has failed to cooperate to the best of its ability, Section 776(b) of the Act authorizes the Department to use facts available that are adverse to the interests of that respondent, which include information derived from the petition, the final determination, a previous administrative review, or other information placed on the record. As facts available, we are using the rate calculated the Hebei in the review covering the period from February 1, 1994, through January 31, 1995 (1994–1995 review), 351.92 percent.

Because information from prior proceedings constitutes secondary information, section 776(b) provides that the Department shall, to the extent practicable, corroborate that secondary information from independent sources reasonably at its disposal. The Statement of Administration Action (SAA) provides that "corroborate" means simply that the Department will satisfy itself that the secondary information to be used has probative value.

To corroborate secondary information, the Department examines, to the extent practicable, the reliability and relevance of the information to be used. However, unlike other types of information, such as surrogate values, there are no independent sources for calculated dumping margins. The only source for calculated margins is administrative determinations. Thus, in an administrative review, if the Department chooses as total adverse facts available a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin for that time period. With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin. (*See, e.g., Fresh Cut Flowers from Mexico; Preliminary Results of Antidumping Duty Administrative Review*, 60 FR 49567 (September 26, 1995), where the Department disregarded the highest margin as best information available because that margin was based on an uncharacteristic business expense, which resulted in the high margin.) In this case, we have used the highest rate from any prior segment of the proceeding, 351.92 percent, which was the rate calculated for Hebei in the 1994–1995 review. There is no information that indicates that this rate is not appropriate. Because Hebei is a part of the PRC entity, this rate becomes the PRC rate (*see Separate Rates* below).

Separate Rates

To establish whether a company operating in a state-controlled economy is sufficiently independent to be entitled to a separate rate, the Department analyzes each exporting entity under the test established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (*Sparklers*), as amplified by the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*). Under this policy, exporters in non-market economies (NMEs) are entitled to separate, company-specific margins when they can demonstrate an absence of government control, both in law and in fact, with respect to export activities. Evidence supporting, though not requiring, a finding of *de jure* absence of government control over export activities includes: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. *De facto* absence of government control over exports is based on four factors: (1) Whether each exporter sets its own export prices independently of the government and without the approval of

a government authority; (2) whether each exporter retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) whether each exporter has the authority to negotiate and sign contracts and other agreements; and (4) whether each exporter has autonomy from the government regarding the selection of management.

With respect to the absence of *de jure* government control over export activities, evidence on the record indicates that Hunan is a collectively-owned enterprise. The "law of the People's Republic of China on Industrial Enterprises Owned by the Whole People" identify rules and regulations pertaining to collectively-owned enterprises which give rural collective enterprise such rights as the right to act on their own behalf, adopt independent accounting, assume the sole responsibility for their profits and losses, and elect their own management. (*See* Exhibit 3 of Hunan's May 21, 1997, questionnaire response.) Additionally, paintbrushes do not appear on the "Temporary Provisions for Administration of Export Commodities," approved on December 21, 1992, and are not, therefore, subject to the constraints of this provision. (*See* Questionnaire Response of May 21, 1997, at A–6 and *Memorandum to the File* dated October 10, 1997, "Natural Bristle Paintbrushes and Brush Heads: Laws and Regulations Governing . . . Exports from the PRC".) At verification we confirmed that paintbrushes are not subject to export controls. *See* public version of *Verification Repot of Sales for Hunan Provincial Native Produce & Animal By-Products Corp.* dated September 25, 1997.

With respect to the absence of *de facto* control over export activities, Hunan's management is elected by Hunan's staff, and is responsible for all decisions such as the determination of its export prices, profit distribution to employee distributions, employee welfare funds and investments, employment policy, marketing strategy, and for negotiating contracts. At verification we found that the department heads negotiated sales of paint brushes, that Hunan planned to distribute unallocated profit, and that employees could be fired or reassigned, and salaries could be reduced. *See Separate Rate for Hunan Provincial Native Produce and Animal By-Products Im/Ex Corp. in the 1996–1997 Administrative Review of Paintbrushes and Brush Heads from the People's Republic of China* dated October 31, 1997, (*Separate Rates Memorandum*) and public version of *Verificaiton Report* dated September 25, 1997, which is on file in the Central Records Unit (room B099 of the Main Commerce Building).

Because evidence on the record demonstrates an absence of government control, both in law and in fact, over Hunan's export activities, the Department preliminarily grants Hunan a separate rate. For further discussion of the Department's preliminary determination that Hunan is entitled to a separate rate, *see Separate Rates Memorandum.*

In the administrative review covering the period from February 1, 1994 through January 31, 1995 (1994–95 review), we determined that Hebei merited a separate rate. However, because Hebei did not respond to the questionnaire in the present (1996–97) review, it will not be considered for a separate rate in this review.

United States Price

For sales made by Hunan, we based United States Price on export price, in accordance with section 772(a) of the Act, because the subject merchandise was sold to unrelated purchasers in the United States prior to importation into the United States.

We calculated export price based on the price to unrelated purchasers. We deducted an amount for foreign inland freight, insurance, and brokerage and handling. We selected Indonesia for all surrogate values with the exception of inland insurance, for the reasons explained in the "Normal Value" section of this notice.

Normal Value

For companies located in NME countries, section 773(c)(1) of the Act provides that the Department shall determine NV using a factors-of-production methodology if (1) the merchandise is exported from an NME country, and (2) available information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act.

In every case conducted by the Department involving the PRC, the PRC has been treated as an NME country. Pursuant to section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. None of the parties to this proceeding has contested such treatment in this review. Accordingly, we have applied surrogate values to the factors of production to determine NV.

We calculated NV based on factors of production in accordance with section 773(c)(4) of the Act and section 353.52(c) of our regulations. We determined that Indonesia (1) is comparable to the PRC in terms of level of economic development, and (2) is a significant producer of comparable merchandise. *See Memorandum to the File* dated October 24, 1997, "Natural Bristle Paint Brushes from the People's Republic of China—Significant Production in Indonesia of Comparable Merchandise." Therefore, for this review, we used publicly available information relating to Indonesia to value the various factors of production.

Additionally, we used publicly available information relating to India to value inland insurance, where Indonesian surrogate values for insurance were not available. *See Memorandum to the File from Eric Scheier,* dated October 24, 1997, "Factor Values Used for the Final Results of the 1996–1997 Administrative Review of Natural Bristle Paintbrushes and Brush Heads from the People's Republic of China."

We valued the factors of production as follows:

- For brush handles, bristles, epoxy, wood, and packing materials, we used a per kilogram value obtained from the *Foreign Trade Statistical Bulletin* (*Indonesian Import Statistics*). Adjustments for inflation with respect to these four factors of production and with respect to packing materials were not necessary, as statistics were available for the entire POR. For transportation distances used for the calculation of freight expenses on raw materials, we added to surrogate values from Indonesia a surrogate freight cost using the shorter of (a) the distances between the closest PRC port and the factory, or (b) the distance between the domestic supplier and the factory. *See Notice of Final Determination of Sales at Less Than Fair Value: Collated Roofing Nails From the People's Republic of China,* 62 FR 51410 (October 1, 1997) (*Roofing Nails*).
- It is the Department's current policy to value an input purchased from a market economy in a market-economy currency by using the actual price paid for that input. Because the purchase of ferrule was made from a market-economy supplier and paid for in a market-economy currency, we have used the actual price paid by Hunan for ferrule to value ferrule inputs.
- We do not have information on Indonesian insurance rates, nor do we have information on inland insurance rates from any of our five possible surrogate countries. We have therefore used the most recent figure available for Indian marine insurance, as we did in *Final Determination of Sales at Less Than Fair Value: Freshwater Crawfish Tail Meat from the People's Republic of China,* 62 FR 41347 (August 1, 1997). We adjusted this rate to reflect inflation through the end of the period of review (POR) using the Indian Wholesale Price Index (WPI) inflator derived from wholesale price indices published by the International Monetary Fund (IMF).
- For brokerage and handling, we used the publicly available information from a United States shipper that was used in the *Final Determination of Sales at Less Than Fair Value: Saccharin from People's Republic of China,* 59 FR 58818 (November 15, 1994). This value was adjusted to reflect inflation through the end of the POR using the Indonesian WPI published by the IMF.
- For unskilled, skilled and indirect labor, as well as for packing labor, we used the labor rates reported in the 1995 *Statistical Yearbook of Indonesia.* This source provides weekly labor rates and hours worked per week for unskilled labor only. Indonesian skilled labor rates were unavailable. We used this source to value unskilled, skilled and indirect labor. We used unskilled labor rates to value skilled labor in the 1994–1995 administrative review of this case. We adjusted these rates to reflect inflation through the end of the POR using Indonesian WPI published by the IMF.
- For factory overhead, selling, general and administrative expenses (SG&A), and profit, we used data provided by the respondent, from the *Large and Medium Manufacturing Statistics: 1995, Vol. II,* published by the Indonesian Bureau of Statistics. (*See* Hunan's submission dated July 28, 1997.) This source provides a cost breakdown for large and medium sized manufacturers of hand tools and cutlery, and was used in *Roofing Nails.* Petitioner did not contest the use of this data, but argued that we should add certain categories to our calculations, such as "New and Second-Hand Purchases," and "Construction Undertaken by the Establishment and by Others," and that we replace "Value of Gross Output" with "Total Value of Gross Output." We made the petitioner's suggested adjustments because each of these items represent part of the costs incurred to produce the subject merchandise. We also subtracted "Sale of Used Items" from SG&A and "Increase in Stock of Semifinished Goods" from "Total Value of Gross Output." We calculated factory overhead as a percentage of the total cost of manufacture. We calculated an SG&A rate by dividing SG&A expenses by the cost of manufacture. Lastly, we calculated a profit rate by dividing profit by the cost of production.
- To value electricity, we used a value found in *A Brief Guide for Investors: 1995,* published by the Indonesian Government's Investment Coordinating Board. We adjusted this value to reflect inflation through the end of the POR using Indonesian WPI published by the IMF. We then converted that figure to dollars using the exchange rate on the date of sale certified by the Federal Reserve Bank.
- To value truck and rail freight, we used the rates reported in a September 1991 cable from the U.S. Consulate in Indonesia submitted for the *Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China,* 58 FR 47859 (September 20, 1993). More recent information was not available in this review. We adjusted the rates to reflect inflation through the end of the POR using Indonesian WPI published by the IMF.

Currency Conversion

We made currency conversions pursuant to section 353.60 of the Department's regulations at the rates certified by the Federal Reserve Bank.

Preliminary Results of Review

We preliminarily determine that the following dumping margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Hunan Provincial Native Produce & Animal By-Products I/E Corp	02/01/96–01/31/97	0.01
PRC rate	02/01/96–01/31/97	351.92

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice in accordance with 19 CFR 353.22(c)(6). Any interested party may request a hearing within 10 days of publication in accordance with 19 CFR 353.38(b). Any hearing, if requested, will be held 44 days after the publication of this notice, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice in accordance with 19 CFR 353.38(c). Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. The Department will publish a notice of final results of this administrative review, which will include the results of its analysis of issues raised in any such comments.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between export price and NV may vary from the percentage stated above. The Department will issue appraisement instructions directly to the U.S. Customs Service.

Furthermore, the following deposit rate will be effective upon publication of the final results of this administrative review for all shipments of paintbrushes from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For Hunan, which has a separate rate, the cash deposit rate will be zero, because the company-specific rate established in the final results of this administrative review is, in accordance with 19 CFR 353.6, de minimis, i.e., less than 0.5 percent; (2) for all other PRC exporters, the rate will be the PRC country-wide rate; and (3) for non-PRC exporters of subject merchandise from the PRC, the cash deposit rate will be the rate applicable to the PRC supplier of that exporter.

These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1)

of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: October 31, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97-29497 Filed 11-6-97; 8:45 am]

BILLING CODE 3510-DS-M

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of initiation of process to revoke export trade certificate of review No. 92-00005.

SUMMARY: The Secretary of Commerce issued an export trade certificate of review to World International Investments Corp. Because this certificate holder has failed to file an annual report as required by law, the Department is initiating proceedings to revoke the certificate. This notice summarizes the notification letter sent World International Investments Corp.

FOR FURTHER INFORMATION CONTACT: Morton Schnabel, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the Act") (15 U.S.C. 4011-21) authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing Title III ("the Regulations") are found at 15 CFR part 325. Pursuant to this authority, a certificate of review was issued on June 5, 1992 to World International Investments Corp.

A certificate holder is required by law (Section 308 of the Act, 15 U.S.C. 4018) to submit to the Department of Commerce annual reports that update financial and other information relating to business activities covered by its certificate. The annual report is due within 45 days after the anniversary date of the issuance of the certificate of review (Sections 325.14 (a) and (b) of the Regulations). Failure to submit a complete annual report may be the basis for revocation. (Sections 325.10(a) and 325.14(c) of the Regulations).

The Department of Commerce sent to World International Investments Corp. on May 23, 1997, a letter containing annual report questions with a reminder that its annual report was due on July 20, 1997. Additional reminders were sent on August 7, 1997, and on September 12, 1997. The Department has received no written response to any of these letters.

On November 3, 1997, and in accordance with Section 325.10(c)(1) of the Regulations, a letter was sent by certified mail to notify World International Investments Corp. that the Department was formally initiating the process to revoke its certificate. The letter stated that this action is being taken because of the certificate holder's failure to file an annual report.

In accordance with Section 325.10(c)(2) of the Regulations, each certificate holder has thirty days from the day after its receipt of the notification letter in which to respond. The certificate holder is deemed to have received this letter as of the date on which this notice is published in the **Federal Register**. For good cause shown, the Department of Commerce can, at its discretion, grant a thirty-day extension for a response.

If the certificate holder decides to respond, it must specifically address the Department's statement in the notification letter that it has failed to file an annual report. It should state in detail why the facts, conduct, or circumstances described in the notification letter are not true, or if they are, why they do not warrant revoking the certificate. If the certificate holder does not respond within the specified period, it will be considered an admission of the statements contained in the notification letter (Section 325.10(c)(2) of the Regulations).

If the answer demonstrates that the material facts are in dispute, the Department of Commerce and the Department of Justice shall, upon request, meet informally with the certificate holder. Either Department may require the certificate holder to provide the documents or information that are necessary to support its contentions (Section 325.10(c)(3) of the Regulations).

The Department shall publish a notice in the **Federal Register** of the revocation or modification or a decision not to revoke or modify (Section 325.10(c)(4) of the Regulations). If there is a determination to revoke a certificate, any person aggrieved by such final decision may appeal to an appropriate U.S. district court within 30 days from the date on which the Department's final determination is published in the **Federal Register** (Sections 325.10(c)(4) and 325.11 of the Regulations).

Dated: November 3, 1997.

Morton Schnabel,

Acting Director, Office of Export Trading Company Affairs.

[FR Doc. 97-29433 Filed 11-6-97; 8:45 am]

BILLING CODE 3510-DR-P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of issuance of an export trade certificate of review, application No. 97-00002.

SUMMARY: The Department of Commerce has issued an Export Trade Certificate of Review to Goff-Chem, Inc. This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: Morton Schnabel, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, 202-482-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (1997).

The Office of Export Trading Company Affairs ("OETCA") is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

Export Trade

1. *Products*

All products.

2. *Services*

All services.

3. *Technology Rights*

Technology Rights, including, but not limited to, patents, trademarks, copyrights and trade secrets that relate to Products and Services.

4. *Export Trade Facilitation Services (as They Relate to the Export of Products, Services and Technology Rights)*

Export Trade Facilitation Services, including, but not limited to: professional services in the areas of government relations and assistance with state and federal export programs; foreign trade and business protocol; consulting; market research and analysis; collection of information on trade opportunities; marketing; negotiations; joint ventures; shipping and export management; export licensing; advertising; documentation and services related to compliance with customs requirements; insurance and financing; bonding; warehousing; export trade promotion; trade show exhibitions; organizational development; management and labor strategies; transfer of technology; transportation; and facilitating the formation of shippers' associations.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

Goff-Chem, Inc. may:

1. Provide and/or arrange for the provision of Export Trade Facilitation Services;
2. Engage in promotion and marketing activities and collect and distribute information on trade opportunities in the Export Market;
3. Enter into exclusive and/or non-exclusive agreements with distributors, foreign buyers, and/or sales representatives in Export Markets;
4. Enter into exclusive or non-exclusive licensing agreements regarding Products, Services, or Technology Rights with Suppliers, Export Intermediaries, or other persons in Export Markets;
5. Enter into exclusive or non-exclusive sales agreements with Suppliers, Export Intermediaries, or other persons for the transfer of title to Products, Services, and/or Technology Rights in Export Markets;
6. Enter into exclusive or non-exclusive pricing and/or consignment agreements for the sale and shipment of Products and Services to Export Markets;
7. Allocate the sales, export orders and/or divide Export Markets, among Suppliers, Export Intermediaries, or other persons for the sale, licensing and/or transfer of title to Products, Services, and/or Technology Rights;
8. Enter into exclusive or non-exclusive price and/or territorial agreements with U.S. suppliers;
9. Represent U.S. suppliers at trade shows and solicit agents and distributors for their Products in the Export Markets;
10. Enter into exclusive or non-exclusive agreements for the pooling of tangible property and other resources, the tying of Products and Services, the setting of prices, and/or the distribution, shipping or handling of Products or Services in the Export Markets; and
11. Enter into agreements to invest in overseas warehouses for the purpose of storing exported Products until transferred to the foreign purchaser, or to invest in overseas facilities for the purpose of making minor product or packaging modifications necessary to insure compatibility of the Product with the requirements of the foreign market.

Terms and Conditions of Certificate

1. In engaging in Export Trade Activities and Methods of Operation, Goff-Chem, Inc. will not intentionally disclose, directly or indirectly, to any Supplier any information about any other Supplier's costs, production, capacity, inventories, domestic prices, domestic sales, or U.S. business plans, strategies, or methods that is not already generally available to the trade or public.
2. Goff-Chem, Inc. will comply with requests made by the Secretary of Commerce on behalf of the Secretary of Commerce or the Attorney General for information or documents relevant to conduct under the Certificate. The Secretary of Commerce will request such information or documents when either the Attorney General or the Secretary of Commerce believes that the information or documents are required to determine that the Export Trade, Export Trade Activities, and Methods of Operation of a person protected by this Certificate of Review continue to comply with the standards of Section 303(a) of the Act.

Definitions

1. *Export Intermediary* means a person who acts as a distributor, sales representative, sales or marketing agent, or broker, or who performs similar functions, including providing or arranging for the provision of Export Trade Facilitation Services.
2. *Supplier* means a person who produces, provides, or sells a Product and/or Service.

A copy of this certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

Dated: October 31, 1997.

Morton Schnabel,

Acting Director, Office of Export Trading Company Affairs.

[FR Doc. 97-29434 Filed 11-6-97; 8:45 am]

BILLING CODE 3510-DR-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 102997D]

South Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a meeting of its Law Enforcement Committee and Advisory Panel.

DATES: The meeting will be held from December 2-3, 1997. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meeting will be held at the Town & Country Inn, 2008 Savannah Highway, Charleston, SC 29407; telephone: (803) 571-1000.

Council address: South Atlantic Fishery Management Council, One Southpark Circle, Suite 306; Charleston, SC 29407-4699.

FOR FURTHER INFORMATION CONTACT: Susan Buchanan, Public Information Officer; telephone: (803) 571-4366; fax: (803) 769-4520; email: susan.buchanan@noaa.gov

SUPPLEMENTARY INFORMATION:

Meeting Dates

December 2, 1997, 1:30 p.m. to 5:00 p.m.

The Committee and Advisory Panel will hear a report on the status and scope of the NMFS/South Carolina cooperative enforcement agreement and discuss the potential for other states' participation in the future, and hear a report on the NMFS Enforcement fishing vessel monitoring systems.

December 3, 1997, 8:30 a.m. to 5:00 p.m.

The Committee and Advisory Panel will discuss the consolidated

regulations for the Southeast region, specifically the development of an index for the consolidated regulations and recommendations for revisions to the consolidated regulations; discuss standardization of measurements used for enforcement; hear the status of the NOAA General Counsel penalty schedule and summary settlement policy; review proposed management measures in Amendment 9 to the Fishery Management Plan for the Coastal Migratory Pelagics Resource; develop recommendations for targeting areas for recreational violations; discuss potential content and merits of a national marine law enforcement workshop; discuss how implementation of Amendment 8 to the Fishery Management Plan for Coastal Migratory Pelagics Resources will affect enforcement of illegal mackerel netting on the east coast of Florida; and discuss other business.

Although other issues not contained in this agenda may come before this Committee/Panel for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Committee/Panel action during this meeting. Committee/Panel action will be restricted to those issues specifically identified in the agenda listed in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) by November 25, 1997.

Dated: October 31, 1997.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–29505 Filed 11–6–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 102497B]

Coral, Golden Crab, Shrimp, Spiny Lobster, Red Drum, Coastal Migratory Pelagic Resources, and Snapper-Grouper Fisheries of the South Atlantic

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of receipt of an application for an exempted fishing permit; request for comments.

SUMMARY: NMFS announces the receipt of an application for an exempted fishing permit (EFP) from Mr. Bruce Hecker, Director of Husbandry & Operations, South Carolina Aquarium (applicant). If granted, the EFP would authorize, over a period of 2 years, a collection for public display of an average of 25 specimens each of 76 species of marine invertebrates and 221 species of marine fish from Federal waters off South Carolina.

DATES: Written comments must be received on or before December 8, 1997.

ADDRESSES: Comments on the application must be mailed to the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

The application and related documents are available for review upon written request to the address above.

FOR FURTHER INFORMATION CONTACT: Georgia Cranmore, 813–570–5305.

SUPPLEMENTARY INFORMATION: The EFP is requested under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) and regulations at 50 CFR 600.745 concerning "Scientific research activity, exempted fishing permits, and exempted educational activity."

The South Carolina Aquarium (SCA), located in Charleston, is scheduled to open to the public in 1999. According to the applicant, SCA is a public, non-profit, self-supporting institution devoted to the understanding and conservation of South Carolina's natural aquatic habitats and will become a major educational and conservation institution with free admission to school children in groups and extensive field study and outreach programs. While the SCA is being built, specimens will be maintained in an off-site warehouse.

The applicant intends, over a period of 2 years, to collect for public display an average of 25 specimens each of 76 species of marine invertebrates and 221 species of marine fish from Federal waters off South Carolina, using a variety of fishing gears and the immobilizing chemical, quinaldine. A total of 25 specimens per species would be an average, and it may differ from species to species.

The proposed collection for public display involves activities otherwise prohibited by regulations implementing the Fishery Management Plans for Coral, Coral Reefs, and Live/Hard Bottom Habitats, Golden Crab, Shrimp, Spiny Lobster, Red Drum, Coastal Migratory Pelagics, and Snapper-Grouper Fisheries of the South Atlantic region. The applicant requires authorization to harvest and possess corals, live rock, golden crab, rock shrimp, red drum, wreckfish, Nassau grouper, and jewfish taken from Federal waters off South Carolina. In addition, authorization is required to use quinaldine in a coral area and to posses spiny lobster, bluefish, cobia, king and Spanish mackerel, groupers and snappers, greater amberjack, hogfish, and red porgy below the minimum size limit, in excess of established bag limits, or taken with prohibited gear.

The applicant also intends to collect a large number of species that either are not subject to Federal fishery management in the South Atlantic region or are included under a fishery management plan that contains no management measures restricting possession or harvest.

The applicant is also applying to NMFS for a separate authorization to collect highly migratory species, such as sharks and tunas, for public display purposes.

Based on a preliminary review, NMFS finds that this application warrants further consideration and intends to issue an EFP. A final decision on issuance of the EFP will depend on a NMFS review of public comments received on the application, conclusions of environmental analyses conducted pursuant to the National Environmental Policy Act, and consultations with South Carolina, the South Atlantic Fishery Management Council, and the U.S. Coast Guard.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 3, 1997.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–29506 Filed 11–6–97; 8:45 am]

BILLING CODE 3510–22–F

COMMISSION OF FINE ARTS

Notice of Meeting

The next meeting of the Commission of Fine Arts is scheduled for 20 November 1997 at 10:00 a.m. in the Commission's offices at the Pension Building, Suite 312, Judiciary Square, 441 F Street, N.W., Washington, D.C. 20001. The meeting will focus on a variety of projects affecting the appearance of the city.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address or call 202–504–2200. Individuals requiring sign language interpretation for the hearing impaired should contact the Secretary at least 10 days before the meeting date.

Dated in Washington, D.C. on October 30, 1997.

Charles H. Atherton,

Secretary.

[FR Doc. 97–29435 Filed 11–6–97; 8:45 am]

BILLING CODE 6330–01–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Dominican Republic

November 3, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: November 7, 1997.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The current limit for Categories 351/651 is being increased for special shift, reducing the limit for Categories 342/642.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66263, published on December 17, 1996). Also see 61 FR 65375, published on December 12, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 3, 1997.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 6, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Dominican Republic and exported during the twelve-month period which began on January 1, 1997 and extends through December 31, 1997.

Effective on November 7, 1997, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted limit [1]
342/642	206,074 dozen.
351/651	1,125,464 dozen.

The guaranteed access levels for the foregoing categories remain unchanged.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 97–29463 Filed 11–6–97; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment of an Import Limit for Certain Man-Made Fiber Textile Products Produced or Manufactured in Thailand

November 3, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit.

EFFECTIVE DATE: November 12, 1997.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

In a Memorandum of Understanding (MOU) dated October 28, 1997, the Governments of the United States and Thailand agreed, pursuant to Article 6 of the World Trade Organization Agreement on Textiles and Clothing (ATC), to establish limits for Category 603, produced or manufactured in Thailand and exported during the periods October 1, 1997 through December 31, 1997; January 1, 1998 through December 31, 1998; January 1, 1999 through December 31, 1999; and January 1, 2000 through September 30, 2000.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish a limit for Category 603 for the period October 1, 1997 through December 31, 1997.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 61 FR 66263, published on December 17, 1996). Also see 61 FR 58044, published on November 12, 1996; and 62 FR 49207, published on September 19, 1997.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act, the Uruguay Round Agreement on Textiles and Clothing and the MOU, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 3, 1997.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 4, 1996, by the

Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Thailand and exported during the twelve-month period beginning on January 1, 1997 and extending through December 31, 1997.

Effective on November 12, 1997, you are directed to establish a limit for textile products in Category 603 at a level of 550,000 kilograms[1] for the period October 1, 1997 through December 31, 1997, pursuant to the Uruguay Round Agreements Act, the Uruguay Round Agreement on Textiles and Clothing (ATC) and a Memorandum of Understanding dated October 28, 1997 between the Governments of the United States and Thailand.

Textile products in Category 603 which have been exported to the United States prior to October 1, 1997 shall not be subject to this directive.

Textile products in Category 603 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1) prior to the effective date of this directive shall not be denied entry under this directive.

Import charges for Category 603 will be provided as data become available.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 97–29465 Filed 11–6–97; 8:45 am]

BILLING CODE 3510–DR–F

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 98–C0001]

In the Matter of Yongxin International, Inc., a Corporation; Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Provisional acceptance of a settlement agreement under the Consumer Product Safety Act.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 CFR § 1118.20(e)–(h). Published below is a provisionally-accepted Settlement Agreement with Yongxin International, Inc., a corporation, "containing a civil penalty of $50,000."

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by November 22, 1997.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 98–C0001, Office of the Secretary, Consumer Product Safety Commission, Washington D.C. 20207.

FOR FURTHER INFORMATION CONTACT: Dennis C. Kacoyanis, Trial Attorney, Office of Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 504–0626.

SUPPLEMENTARY INFORMATION: The text of the Agreement and Order appears below.

Dated: November 4, 1997.

Sadye E. Dunn,

Secretary.

United States of America: Consumer Product Safety Commission

[CPSC Docket No. 98–C0001]

In the Matter of Yongxin International, Inc., a Corporation

Settlement Agreement and Order

1. Yongxin International, Inc. (hereinafter, "Yongxin" or "Respondent"), a corporation, enters into this Settlement Agreement (hereinafter, "Agreement"), and agrees to the entry of the Order incorporated herein. The purpose of this Agreement and Order is to settle the staff's allegations that Yongxin knowingly imported into the United States for sale and distribution in United States commerce cigarette lighters that are subject to and failed to comply with the Safety Standard For Cigarette Lighters (hereinafter, "Standard"), 16 C.F.R. part 1210, in violation of section 19(a)(1) of the Consumer Product Safety Act (CPSA), 15 U.S.C. § 2068(a)(1).

I. The Parties

2. The "staff" is the staff of the Consumer Product Safety Commission (hereinafter, "Commission" or "CPSC"), an independent regulatory commission of the United States established pursuant to section 4 of the CPSA, 15 U.S.C. § 2053.

3. Since 1992, Yongxin has been a corporation organized and existing under the laws of the State of California. Its principal corporate offices are located at 17870 Castleton Street, Suite 260, City of Industry, CA 91748. Yongxin is an importer, broker, and distributor of various consumer items including cigarette lighters.

II. Allegations of the Staff

4. On three occasions between October 21, 1994, and June 18, 1996, Yongxin knowingly imported into the United States for sale and distribution in United States commerce 83 kinds of disposable and novelty cigarette lighters (141,300 units). These cigarette lighters are identified and described as follows:

Collection date* entry date	Sample No.	Type of lighter, model No.	Number of lighters
10/21/94	T–867–8061	Disposable, No. 1	11,000
10/21/94	T–867–8062	Novelty, No. 5	2,400
10/21/94	T–867–8063	Disposable, No. 8	2,400
10/21/94	T–867–8064	Novelty, No. 9	1,000

[1] The limit has not been adjusted to account for any imports exported after September 30, 1997.

Collection date* entry date	Sample No.	Type of lighter, model No.	Number of lighters
10/21/94	T–867–8065	Novelty, No. 2	1,500
12/09/94*	T–867–8117	Novelty, No. 1	2,500
12/09/94*	T–867–8118	Disposable, No. 3	10,200
12/09/94*	T–867–8119	Disposable, No. 4	2,000
12/09/94*	T–867–8120	Novelty, No. 5	2,000
12/09/94*	T–867–8121	Disposable, No. 6	2,000
12/09/94*	T–867–8123	Disposable, No. 8	10,000
12/09/94*	T–867–8122	Disposable, No. 7	10,000
12/09/94*	T–867–8124	Disposable, No. 37	2,500
12/09/94*	T–867–8125	Novelty, No. 119	18,000
12/09/94*	T–867–8126	Novelty, No. 511	5,000
12/09/94*	T–867–8127	Novelty, No. 1410	8,000
06/18/96	96–860–6126	Novelty	500
06/18/96	96–860–6127	Novelty	500
06/18/96	96–860–6128	Novelty	500
06/18/96	96–860–6129	Novelty	1,000
06/18/96	96–860–6130	Novelty	500
06/18/96	96–860–6131	Novelty	540
06/18/96	96–860–6132	Novelty	3,600
06/18/96	96–860–6133	Novelty	50
06/18/96	96–860–6134	Novelty	20
06/18/96	96–860–6135	Novelty	20
06/18/96	96–860–6136	Disposable	20
06/18/96	96–860–6137	Disposable	20
06/18/96	96–860–6138	Disposable	20
06/18/96	96–860–6139	Disposable	50
06/18/96	96–860–6140	Disposable	7,200
06/18/96	96–860–6141	Disposable	300
06/18/96	96–860–6142	Disposable	55
06/18/96	96–860–6143	Disposable	200
06/18/96	96–860–6144	Disposable	250
06/18/96	96–860–6145	Novelty	500
06/18/96	96–860–6146	Novelty	500
06/18/96	96–860–6147	Novelty	100
06/18/96	96–860–6148	Novelty	2,000
06/18/96	96–860–6149	Novelty	1,200
06/18/96	96–860–6150	Disposable	864
06/18/96	96–860–6151	Novelty	1,056
06/18/96	96–860–6152	Novelty	1,000
06/18/96	96–860–6153	Novelty	2,000
06/18/96	96–860–6154	Novelty	10,000
06/18/96	96–860–6155	Novelty	500
06/18/96	96–860–6156	Novelty	500
06/18/96	96–860–6157	Novelty	1,000
06/18/96	96–860–6158	Disposable	200
06/18/96	96–860–6159	Disposable	200
06/18/96	96–860–6160	Disposable	600
06/18/96	96–860–6161	Disposable	500
06/18/96	96–860–6162	Disposable	500
06/18/96	96–860–6163	Disposable	1,500
06/18/96	96–860–6164	Novelty	500
06/18/96	96–860–6165	Novelty	20
06/18/96	96–860–6166	Novelty	2,000
06/18/96	96–860–6167	Novelty	2,600
06/18/96	96–860–6168	Novelty	100
06/18/96	96–860–6169	Novelty	20
06/18/96	96–860–6170	Novelty	80
06/18/96	96–860–6171	Disposable	500
06/18/96	96–860–6172	Novelty	500
06/18/96	96–860–6173	Novelty	300
06/18/96	96–860–6174	Disposable	300
06/18/96	96–860–6175	Disposable	300
06/18/96	96–860–6176	Disposable	300
06/18/96	96–860–6177	Disposable	300
06/18/96	96–860–6178	Disposable	300
06/18/96	96–860–6179	Disposable	300
06/18/96	96–860–6180	Disposable	500
06/18/96	96–860–6181	Novelty	200
06/18/96	96–860–6182	Disposable	200
06/18/96	96–860–6183	Disposable	500
06/18/96	96–860–6184	Disposable	100
06/18/96	96–860–6185	Disposable	50

Collection date* entry date	Sample No.	Type of lighter, model No.	Number of lighters
06/18/96	96–860–6186	Disposable	50
06/18/96	96–860–6187	Novelty	50
06/18/96	96–860–6188	Novelty	50
06/18/96	96–860–6189	Disposable	200
06/18/96	96–860–6190	Disposable	60
06/18/96	96–860–6191	Disposable	100
06/18/96	96–860–6192	Disposable	255

5. The cigarette lighters identified as disposable cigarette lighters in paragraph 4 above are subject to the Commission's Safety Standard For Cigarette Lighters at 16 CFR Part 1210, issued under section 9 of the CPSA, 15 U.S.C. § 2058 because they are fueled by butane, isobutane, propane, or other liquified hydrocarbon, or a mixture containing any of these, whose vapor pressure at 75°F (24°C) exceeds a gage pressure of 15 psi (103kPA), and they have a customs valuation or ex-factory price under $2.00, as adjusted every 5 years, to the nearest $0.25, in accordance with the percentage changes in the monthly Wholesale Price Index from June 1993.

6. The cigarette lighters identified as novelty cigarette lighters in paragraph 4 above are subject to the Commission's Safety Standard For Cigarette Lighters at 16 CFR Part 1210, issued under section 9 of the CPSA, 15 U.S.C. § 2058 because they have entertaining audio or visual effects, or they depict (logos, decals, art work, etc.) or resemble in physical form or function articles commonly recognized as appealing to or intended for use by children under 5 years of age.

7. The cigarette lighters identified in paragraph 4 above failed to comply with the child resistant requirements of the Standard at 16 CFR § 1210.3 because they lacked a child resistant mechanism.

8. The cigarette lighters identified in paragraph 4 above were not labeled in accordance with the labeling requirements of the Standard at 16 CFR § 1210.12(c).

9. The cigarette lighters identified in paragraph 4 above were not accompanied by a certificate of compliance as required by the Standard at 16 CFR § 1210.12(b).

10. The Respondent failed to submit to the Office of Compliance, Division of Regulatory Management written reports at least 30 days prior to the importation of the cigarette lighters identified in paragraph 4 above as required by the Standard at 16 CFR § 1210.17(b).

11. The Respondent knowingly committed the acts set forth in paragraphs 4 through 10 above, in violation of section 19(a)(1) of the CPSA, 15 U.S.C. § 2068(a)(1), for which a civil penalty may be imposed pursuant to section 20(a)(1) of the CPSA, 15 U.S.C. § 2069(a)(1).

III. Response of Respondent

12. Respondent denies the allegations of the staff set forth in paragraphs 4 through 11 above that it knowingly imported into the United States for sale and distribution in United States commerce disposable and novelty cigarette lighters that are subject to and failed to comply with the requirements of the Commission's Safety Standard For Cigarette Lighters, 16 CFR Part 1210, in violation of section 19(a)(1) of the CPSA, 15 U.S.C. § 2068(a)(1), for which a civil penalty may be imposed pursuant to section 20(a)(1) of the CPSA, 15 U.S.C. § 2069(a)(1).

IV. Agreement of the Parties

13. The Commission has jurisdiction over this matter under the Consumer Product Safety Act, 15 U.S.C. 2051 *et seq.*

14. Upon final acceptance by the Commission of this Settlement Agreement and Order, the Commission shall issue the attached Order incorporated herein by reference.

15. The Commission does not make any determination that the Respondent knowingly violated the CPSA. This Agreement is entered into for the purposes of settlement only.

16. Upon final acceptance of this Settlement Agreement by the Commission and issuance of the Final Order, the Respondent knowingly, voluntarily, and completely waives any rights it may have in this matter (1) to an administrative or judicial hearing, (2) to judicial review or other challenge or contest of the validity of the Commission's actions, (3) to a determination by the Commission as to whether the Respondent failed to comply with the CPSA as aforesaid, (4) to a statement of findings of facts and conclusions of law, and (5) to any claims under the Equal Access to Justice Act.

17. For purposes of section 6(b) of the CPSA, 15 U.S.C. § 2055(b), this matter shall be treated as if a complaint had issued; and the Commission may publicize the terms of this Settlement Agreement and Order.

18. Upon provisional acceptance of this Settlement Agreement and Order by the Commission, this Settlement Agreement and Order shall be placed on the public record and shall be published in the **Federal Register** in accordance with the procedures set forth in 16 C.F.R. §§ 1118.20(e)–(h). If the Commission does not receive any written request not to accept the Settlement Agreement and Order within 15 days, the Settlement Agreement and Order will be deemed finally accepted on the 16th day after the date it is published in the **Federal Register**.

19. The parties further agree that the Commission shall issue the attached Order; and that a violation of the order shall subject the Respondent to appropriate legal action.

20. Agreements, understandings, representations, or interpretations made outside of this Settlement Agreement and Order may not be used to vary or to contradict its terms.

21. The provisions of the Settlement Agreement and Order shall apply to Respondent and each of its successors and assigns.

Dated: September 16, 1997.

Respondent Yongxin International, Inc.

Jian Hong Yang,

Secretary, Yougxin International, Inc., 17870 Castleton Street, Suite 260, City of Industry, CA 91748.

Commission Staff

Eric L. Stone,

Director, Division of Administrative Litigation, Office of Compliance.

David Schmeltzer,

Assistant Executive Director, Office of Compliance, Consumer Product Safety Commission, Washington, DC 20207–0001.

Dated: September 22, 1997.

Dennis C. Kacoyanis,

Trial Attorney, Division of Administrative Litigation, Office of Compliance.

Order

Upon consideration of the Settlement Agreement entered into between Respondent Yongxin International, Inc., a corporation, and the staff of the Consumer Product Safety Commission; and the Commission having jurisdiction over the subject matter and Yongxin International, Inc.; and it appearing that the Settlement Agreement and Order is in the public interest, it is

Ordered, that the Settlement Agreement be and hereby is accepted; and it is

Further Ordered, that upon final acceptance of the Settlement Agreement and Order, Yongxin International, Inc. shall pay the Commission a civil penalty in the amount of fifty thousand and 00/100 dollars ($50,000.00) in three (3) payments. The first payment sixteen thousand six hundred sixty-seven and 00/100 dollars ($16,667.00) shall be due within twenty (20) days after service upon Respondent of the Final Order of the Commission accepting the Settlement Agreement. The second payment of sixteen thousand six hundred sixty-seven and 00/100 dollars ($16,667.00) shall be made within 12 months after service of the Final Order upon Respondent. The third payment of sixteen thousand six hundred and sixty-six and 00/100 dollars ($16,666.00) shall be made within 24 months after service of the Final Order upon Respondent. Payment of the full amount of the civil penalty shall settle fully the staff's allegations set forth in paragraphs 4 through 11 of the Settlement Agreement that Yongxin International, Inc. knowingly violated the CPSA. Upon the failure by Yongxin International, Inc. to make a payment or upon the making of a late payment by Yongxin International, Inc. the entire amount of the civil penalty is due and payable, and the interest on the outstanding balance shall accrue and be paid at the federal legal rate of interest under the provisions of 28 U.S.C. §§ 1961 (a) and (b).

Provisionally accepted and Provisional Order issued on the 4th day of November, 1997.

By Order of the Commission.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 97–29501 Filed 11–6–97; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ID–3062–000]

Ellen V. Futter; Notice of Filing

November 3, 1997.

On October 21, 1997, Ellen V. Futter, (Applicant) tendered for filing an application under Section 305(b) of the Federal Power Act to hold the following positions:

Trustee: Consolidated Edison Company of New York, Inc.

Director: J.P. Morgan & Co. Incorporated and Morgan Guaranty Trust Company of New York

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before November 14, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–29431 Filed 11–6–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 2004–073 and 11607–000]

Holyoke Water Power Company, Ashburnham Municipal Light Plant and Massachusetts Municipal Wholesale Electric Company; Notice of Project Site Visit for the Holyoke Hydroelectric Project on the Connecticut River

November 3, 1997.

The Federal Energy Regulatory Commission (Commission) is reviewing the Holyoke Water Power Company's application for a new license for the continued operation of the Holyoke Project on the Connecticut River, Massachusetts. The Commission is similarly reviewing a competing application for the Holyoke Project by Ashburnham Municipal Light Plant and the Massachusetts Municipal Wholesale Electric Company.

The Commission anticipates conducting public and agency scoping meetings for the Holyoke Project during the upcoming winter months. Given the uncertainty in weather conditions during the winter in Massachusetts, the applicant and Commission staff will conduct a site visit of the Holyoke Project prior to conducting any scoping meetings. The site visit will be held on November 18, 1997, beginning at 9:00 a.m. All interested individuals, organizations, and agencies are invited to attend. All participants are responsible for their own transportation to the site. For more details, interested parties should contact Mr. Jim Kearns of Northeast Utilities Service Company at (860) 665–5936 prior to the site visit date.

For further information, please contact Allan Creamer, at (202/219–0365) Federal Energy Regulatory Commission, Office of Hydropower Licensing, 888 First Street, N.E., Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29483 Filed 11–6–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–49–000]

K N Wattenberg Transmission Limited Liability Company; Notice of Application

November 3, 1997.

Take notice that on October 24, 1997, K N Wattenberg Transmission Limited Liability Company (K N Wattenberg), P.O. Box 281304, Lakewood, Colorado 80228–6304, filed an abbreviated application in Docket No. CP98–49–000,[1] pursuant to Section 7(c) of the Natural Gas Act, as amended, and Part 157 of the Commission's Regulations, for a certificate of public convenience and necessity authorizing it to acquire, construct and operate, as necessary certain pipeline and related facilities designated as the Front Runner Pipeline, all as more fully set forth in the application on file with the

[1] K N Wattenberg states that this application is substantively identical to its application filed on August 25, 1997, in Docket No. CP97–707–000, which was dismissed without prejudice by the Commission on October 15, 1997, due to the lack of sufficient market data as required in Section 157.14 of the Commission's regulations.

Commission and open to public inspection.

In its filing, K N Wattenberg seeks authorization to: (1) Construct certain pipeline facilities, including a 45-mile segment of 24-inch of pipeline extending from the Rockport Hub to a location southwest of Greeley, Colorado, perform any necessary pipeline rerouting, and construct several gas supply receipt and delivery interconnects; (2) acquire from its affiliate, K N Gas Gathering Company (KNGG), approximately 34 miles of existing 16-inch and smaller pipeline which will be converted to interstate transportation service and incorporated into the Front Runner Pipeline; and (3) operate the Front Runner Pipeline. K N Wattenberg states that the Front Runner Pipeline will be approximately 109 miles long, including secondary laterals, and will stretch from the emerging Rockport Hub, located south of Cheyenne, Wyoming, to just north of the Denver metropolitan area near Brighton and the Denver International Airport. Approximately 77 miles of the Front Runner Pipeline will be constructed, with the remainder to be required from KNGG. Upon completion, K N Wattenberg claims that the Front Runner Pipeline will have a design capacity of approximately 254 MMcf per day flowing north to south into the Front Range of the Rocky Mountains in Northern Colorado, thus providing a competitive transportation alternative for growing markets in the area.

The estimated cost of constructing the Front Runner Pipeline is $31 million. K N Wattenberg proposes to charge incremental transportation rates as initial rates for service on the Front Runner Pipeline and is not requesting a pre-determination for authorization to charge rolled-in rates. K N Wattenberg plans to commence construction of the proposed facilities between September and December 1998, so that the system can be placed in interstate service for late winter 1998–99 operation. Thus, K N Wattenberg requests that the Commission approve the requested authorizations by June 1998.

Any person desiring to be heard or to make any protest with reference to said application should, on or before November 24, 1997, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The Commission's Rules require that protestors provide copies of their protests to the party or parties against whom the protests are directed. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by every one of the intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must submit copies of comments or any other filings it makes with the Commission to every other intervenor in the proceeding, as well as an original and 14 copies with the Commission.

A person does not have to intervene, however, in order to have environmental comments considered. A person, instead, may submit two copies of comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for K N Wattenberg to appear or be represented at the hearing.

Linwood W. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–29428 Filed 11–6–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–99–000]

Southern California Edison Company; Notice of Filing

November 3, 1997.

Take notice that on October 8, 1997, Southern California Edison Company (Edison) tendered for filing a Notice of Cancellation of Service Agreement No. 10, under FERC Electric Tariff, Original Volume No. 4, between Edison and San Diego Gas & Electric Company for Firm Point-To-Point Transmission Service under Edison's Open Access Transmission Tariff.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before November 14, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–29429 Filed 11–6–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–98–000]

Southern California Edison Company; Notice of Filing

November 3, 1997.

Take notice that Southern California Edison Company on October 9, 1997, tendered for filing a Notice of Cancellation of FERC Rate Schedule No. 248.38, and all supplements thereto.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before November 14, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–29430 Filed 11–6–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Filed With the Commission

November 3, 1997.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Proposed Recreation Plan.

b. *Project No.:* 1494–148.

c. *Date Filed:* October 3, 1997.

d. *Applicant:* Grand River Dam Authority.

e. *Name of Project:* Pensacola.

f. *Location:* The Pensacola Project is located on the Grand (Neosho) River in Craig, Delaware, Mayes, and Ottawa Counties, Oklahoma.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. § 791(a)–825(r).

h. *Applicant Contact:* Robert W. Sullivan, Jr. Grand River Dam Authority P.O. Box 409 Vinita, OK 74301 (918) 256–5545.

i. *FERC Contact:* Jon Cofrancesco, (202) 219–0079.

j. *Comment Date:* December 08, 1997.

k. *Description of Project:* Grand River Dame Authority, licensee for the Pensacola Project, filed a long-term recreation plan for the project under article 407 of the project license. The proposed recreation plan addresses existing and future recreation use and development, safe recreational boating, and shoreline development. Further, the licensee outlines its proposed management and maintenance practice for recreation uses at the project. As required under article 407, the licensee consulted with the Oklahoma Tourism and Recreation Department, the U.S. Fish and Wildlife Service, and the National Park Service in preparing the proposed plan.

1. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of these documents must be filed by providing the original and 8 copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. Motions to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—The Commission invites Federal, state, and local agencies to file comments on the described application. (Agencies may obtain a copy of the application directly from the applicant). If an agency does not file comments within the time specified for filing comments, the Commission will presume that the agency has none. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–29432 Filed 11–6–97; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5485–6]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 OR (202) 564–7153.

Weekly receipt of Environmental Impact Statements Filed October 27, 1997 Through October 31, 1997 Pursuant to 40 CFR 1506.9.

EIS No. 970416, DRAFT EIS, FHW, HI, Saddle Road (HI–200) Improvements between Mamalahoa Highway HI–190) to Milepost 6 near Hilo, Funding, NPDES and COE Section 404 Permit, Hawaii County, HI, Due: December 22, 1997, Contact: Bert McCauley (303) 969–5924.

EIS No. 970417, FINAL EIS, BLM, CA, Castle Mountain Mine Open Pit Heap Leach Gold Mine Expansion Project, Plan of Operations Modification and Mine and Reclamation Plans Amendment, Approvals, San Bernardino County, CA, Due: December 08, 1997, Contact: George R. Meckfessel (619) 326–7000.

EIS No. 970418, DRAFT EIS, AFS, LA, Kisatchie National Forest Revision Land and Resource Management Plan, Implementation, Claiborne, Grant, Natchitoches, Rapides, Vernon, Webster and Winn Parishes, LA, Due: January 31, 1998, Contact: Danny W. Britt (318) 473–7160.

EIS No. 970419, FINAL EIS, FHW, NY, NY–17 Highway Conversion from a Partial to a Full Access Control Facility, Five-Mile Point to Occanum and NY–17 Rehabilitation or Reconstruction, Funding and COE Section 404 Permit Issuance, Towns of Kirkwood and Windsor, Broome County, NY, Due: December 08, 1997, Contact: Harold J. Brown (518) 431–4127.

EIS No. 970420, FINAL EIS, DOA, HI, Waimea-Paauilo Watershed Project, To Alleviate the Agricultural Water Shortage, Watershed Protection and Flood Prevention, COE Section 404 Permit. Hawaii County, HI, Due: December 08, 1997, Contact: Kenneth M. Kaneshiro (808) 541–2600.

EIS No. 970421, FINAL EIS, FHW, MO, MO–5 Corridor Transportation

Improvement, Funding, NPDES Permit, U.S. Coast Guard Permit, COE Section 10 and 404 Permits, Gravois Mills, Morgan, Camden and Laclede Counties, MO, Due: December 08, 1997, Contact: Don Neumann (573) 636–7104.

EIS No. 970422, FINAL EIS, CGD, NY, NJ, Staten Island Bridges Program—Modernization and Capacity Enhancement Project, Construction and Operation, Funding, Right-of-Way Grant, COE Section 404 Permit and NPDES Permit, Staten Island, NY and Elizabeth, NJ, Due: December 08, 1997, Contact: Gary Kassof (212) 668–7995.

EIS No. 970423, DRAFT EIS, AFS, MI, Porter Creek Recreational Lake and Complex, Implementation, Homochitto National Forest, Homochitto Ranger District, Franklin County, MI, Due: December 22, 1997, Contact: Gary W. Bennett (601) 384–5876.

EIS No. 970424, DRAFT EIS, IBR, CA, East Bay Municipal Utility District, Supplemental Water Supply Project, American River Division of the Central Valley Project (CVP), Sacramento County, CA, Due: January 05, 1998, Contact: Roderick Hall (919) 989–7279.

EIS No. 970425, DRAFT EIS, SFW, MO, Big Muddy National Fish and Wildlife Refuge (Big Muddy Refuge) Expansion and Land Acquisition, Missouri River Basin, Several Counties, MO, Due: January 07, 1998, Contact: Ms. Judy McClendo (1–800) 686–8339.

EIS No. 970426, DRAFT EIS, AFS, KY, Daniel Boone National Forest Off-Highway Vehicle (OHV) Management Policy, Modification, Several Counties, KY, Due: January 05, 1998, Contact: Kevin Lawrence (606) 745–3100.

EIS No. 970427, DRAFT EIS, AFS, AK, Crystal Creek Timber Harvest, Implementation the 1997 Tongass Land Management Plan, Stikine Area, Tongass National Forest, AK, Due: December 23, 1997, Contact: Bruce Sims (907) 772–3841.

Dated: November 4, 1997.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 97–29503 Filed 11–6–97; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5485–9]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared September 29, 1997 through October 03, 1997 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the OFFICE OF FEDERAL ACTIVITIES AT (202) 564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 11, 1997 (62 FR 16154).

Draft EISs

ERP No. D–GSA–K40228–CA Rating EC2, United States Border Facility, Tecate Port of Entry (POE) Realignment and Expansion, NPDES Permit, City of Tecate, San Diego County, CA.

Summary: EPA expressed environmental concerns regarding potential impacts to the Campo-Cottonwood sole source aquifer and impacts relative to traffic increases through Tecate POE. EPA requested that these issues be further addressed in the final EIS.

ERP No. D–IBR–K39028–NV Rating EC2, Clark County Wetlands Park Master Plan, Construction and Operation, Erosion Control Structures in Las Vegas Wash, COE Section 404 Permit, Right-of-Way Permit and Endangered Species Act Section 4, Clark County, NV.

Summary: EPA supported proposal to reduce erosion, restore wetlands and riparian areas to create wildlife habitat. EPA expressed concern over the potential for contaminant accumulation within the sediments and recommended that extensive monitoring should be implemented to track the progress of the project.

ERP No. D–USN–K11081–NV Rating EC2, Fallon Naval Air Station (NAS) Range Training Complex, Withdrawal of Federally Administered Public Lands for Range Safety and Training Purposes, Great Basin, City of Fallon, Churchill County, NV.

Summary: EPA expressed environmental concern regarding potential noise impacts and impacts from chaff and ordnance. EPA also requested that impacts to the Walker River Indian Reservation be more fully analyzed.

Final EISs

ERP No. F–COE–K36114–CA, Magpie Creek Channel Section 205 Flood Control Investigation Project, Improvements, Implementation, National Economic Development Plan and Levee Plan, NPDES Permit Issuance, McClellan Air Force Base, City of Sacramento, Sacramento County, CA.

Summary: EPA expressed environmental concern over the propose project, and requested that the Corps' Record of Decision address EPA's recommendations regarding the practicability of a combination of structural and nonstructural alternatives; provide data on emissions of carbon monoxide from construction equipment address need for mitigation measures to reduce construction-related emissions of carbon monoxide and oxides of nitrogen; integrate pollution prevention features in the project's design, construction and operation; indicate to agencies and the public whether the concerns previously raised by the Interior Department on the project's fish and wildlife impacts were satisfactorily resolved or remain unresolved; and clarify the role of the Air Force in the proposed project.

Dated: November 4, 1997.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 97–29504 Filed 11–6–97; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5819–2]

Announcement of Stakeholder Meeting on Possible Revisions to National Primary Drinking Water Regulations for Radionuclides

AGENCY: United States Environmental Protection Agency.

ACTION: Notice of Public Meeting.

SUMMARY: On December 11 and 12, 1997, the Environmental Protection Agency (EPA) will hold a public meeting in Washington, D.C., to discuss issues concerning development and revisions of National Primary Drinking Water Regulations (NPDWRs) for radionuclides. The radionuclides, for purposes of this meeting, include alpha emitters, beta and photon emitters, radium and uranium, but do not include radon. Under a court order on stipulated agreement by the parties, EPA agreed to publish final regulations for uranium, and revise as necessary the current alpha, beta and photon emitters, and

radium NPDWRs by November 2000. The Agency is in the process of reviewing current scientific information, new technologies, cost factors, implementation issues, and other considerations relating to these contaminants in light of the Safe Drinking Water Act Amendments of 1996. Before deciding on any course of action, EPA is interested in obtaining the views of individuals, agencies, and organizations, who have a stake in possible revisions to the drinking water regulations for radionuclides. The meeting is open to all members of the public at no cost.

DATES AND TIMES: The stakeholder meeting will be held on Thursday, December 11, 1997, from 9:00 a.m to 5:00 p.m. EDT and Friday, December 12, 1997, from 9:00 a.m. to 4:00 p.m EDT.

LOCATION: Washington D.C. area.

REGISTRATION: To register, call the Safe Drinking Water Hotline toll free at 1–800–426–4791 between 9:00 am and 5:30 pm EDT. Individuals who register by December 2, 1997 will receive by mail an agenda, logistics sheet, and background materials prior to the meeting. These materials will also be distributed at the meeting.

ADDITIONAL INFORMATION: For members of the public unable to attend the meeting in person, a limited number of telephone conference lines will be available on a first-reserved, first-served basis. To register for a conference call line, call the Safe Drinking Water Hotline at 1–800–426–4791.

SUPPLEMENTARY INFORMATION:

A. Background

Under the Safe Drinking Water Act (SDWA), EPA established National Interim Primary Drinking Water Regulations (NIPDWRs) for radionuclides in 1976. At that time, the Agency set three different maximum contaminant levels (MCLs): an MCL for radium-226 and radium-228 combined (5pCi/l); an MCL level for all radionuclides that emit alpha particles (15 pCi/l); and an MCL for all radionuclides that emit beta particles and photon radiation, alone or combination in water (4 mrem). Radon and uranium were not included in these regulations.

The 1986 Amendments to the SDWA directed EPA to develop, or revise, regulations for 83 listed contaminants which included all the radionuclides above. The Amendments also finalized the regulations by eliminating the term "interim"; interim rules became National Primary Drinking Water Regulations (NPDWRs). EPA was charged with promulgating health-based maximum contaminent level goals (MCLG) as well as MCLs. When EPA failed to meet the statutory schedules for promulgating the radionuclide NPDWRs, a lawsuit was brought which established a new schedule.

In 1991, the Agency proposed revisions to these regulations which, among other changes, included revised, separate MCLs for radium-226 (20 pCi/l) and radium-228 (20 pCi/l), and revised beta and photon limits (4 mrem-ede). EPA also proposed MCLs for uranium (20 ug/l or 30 pCi/l) and radon (300 pCi/l), and MCLGs for all radionuclides (zero). A final regulation based on the proposal was not promulgated.

The SDWA Amendments of 1996 directed EPA to withdraw the portion of the proposal dealing with radon (which has been done), and adopt the schedule from earlier consent decrees for the major radionuclide groups. The Amendments also direct EPA to review and revise the regulations every six years as appropriate to maintain or provide greater protection of health.

In 1996, the United States District Court for the District of Oregon issued an order on stipulated agreement with plaintiffs concerning uranium, radium, alpha, beta and photon emitters which updated the existing schedule. The Court directed EPA to take final action for uranium within four years (November 2000), and to either take final action on the proposal regarding radium, alpha, beta and photon emitters within four years, or state its reasons for not taking final action, thereby either reaffirming the current standard, or establishing a different one.

B. Meeting Issues and Request for Stakeholder Involvement

EPA intends to base any revisions to the NPDWRs for radionuclides on the best available health effects data, treatment technologies, occurrence data, implementation options and on stakeholder input. To realize these intentions, EPA will cover a broad range of issues at the meeting, including, but not limited to:

- Statutory provisions;
- Options for comprehensive regulation;
- Implementation strategies and considerations;
- Identification of costs and benefits; and
- Environmental equity issues.

EPA has announced this public meeting to hear from stakeholders on EPA's plans to develop the radionuclides rule. EPA invites all interested parties to share their views on this important topic.

Dated: November 4, 1997.

William R. Diamond,

Acting Director, Office of Ground Water and Drinking Water, Environmental Protection Agency.

[FR Doc. 97–29460 Filed 11–6–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 97–2300]

Private Land Mobile Radio

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On November 3, 1997, the Public Safety and Private Wireless Division released a public notice seeking comments on a request made by Amoco Production Company (Amoco) for an advisory opinion. The advisory opinion was requested to determine whether a proposed joint arrangement between Amoco and Shell Offshore Services Company (SOSCO) constitutes a "not-for-profit, cost shared" arrangement.

DATES: Comments are to be filed on or before December 10, 1997, and reply comments on or before December 24, 1997.

ADDRESSES: Federal Communications Commission, 1919 M St., N.W. Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: James Moskowitz, Wireless Telecommunications Bureau, Public Safety & Private Wireless Division, (202) 418–0680, or via E-mail to "jmoskowi@fcc.gov".

SUPPLEMENTARY INFORMATION:

Released: November 3, 1997.

1. On January 8, 1997, Amoco Production Company (Amoco) filed a document captioned "Request for an Advisory Opinion" (Request) on the issue of whether a proposed joint arrangement between Amoco and Shell Offshore Services Company (SOSCO) constitutes a "not-for-profit, cost-shared" arrangement pursuant to § 90.603 of the Commission's Rules. The Commission now invites comment on the Request.

2. Amoco proposes to expand its existing 900 MHz Industrial/Land Transportation trunked two-way mobile communications system in the Gulf of Mexico and integrate that system with SOSCO's existing 6 GHz common carrier, point-to-point microwave network. Amoco states that this project will expand its 900 MHz system

considerably—from its current twelve channels trunked in three-channel groups at thirteen sites, to approximately thirty sites with "a small number" of additional channels. Amoco estimates that this system will serve as many as 200 "participants," employing approximately 8,000 portable units.

3. This system will also incorporate the 6 GHz point-to-point microwave network that SOSCO currently operates in the Gulf of Mexico as a common carrier pursuant to § 101.701 of the Commission's Rules. Under the plan outlined in the Request, SOSCO is to be the principal point-to-point bandwidth provider to transport the 900 MHz traffic between sites in the Gulf to interconnection points with on-shore common carriers. Additionally, Amoco proposes to have SOSCO provide local exchange and long distance service to the "participants" in the 900 MHz system at a profit.

4. Interested parties may file comments on Amoco's Request no later than December 10, 1997. Parties interested in submitting reply comments must do so no later than December 24, 1997. All comments should reference Amoco's Request and the File No. DA 97–2300, and should be filed with the Office of Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, DC 20554. A copy of each filing should be sent to International Transcription Service, Inc. (ITS), 1231 20th Street, N.W.,Washington, DC 20036, (202) 857–3800 and to James Moskowitz, Federal Communications Commission, Wireless Telecommunications Bureau, Public Safety and Private Wireless Division, 2025 M Street, N.W., Room 8010, Washington, D.C. 20554.

5. The full text of the petition, comments, and reply comments may be obtained from International Transcription Service, Inc. (ITS), 1231 20th Street, N.W., Washington, DC 20036, (202) 857–3800.

Federal Communications Commission.

David E. Horowitz,

Division Chief, Public Safety & Private Wireless Division.

[FR Doc. 97–29403 Filed 11–6–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER NUMBER: 97–28967.

PREVIOUSLY ANNOUNCED DATE AND TIME: Wednesday, November 5, 1997, 10:00 a.m., Meeting open to the public. The Public Hearing on Recordkeeping and Reporting Notice of Proposed Rulemaking has been CANCELLED.

DATE AND TIME: Wednesday, November 12, 1997 at 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, November 13, 1997 at 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC (ninth floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.
Advisory Opinion 1997–22: Business Council of Alabama by William F. O'Connor, Jr., President.
Briefing: Status of Systems Development Project.
Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 219–4155.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 97–29662 Filed 11–5–97; 3:06 pm]

BILLING CODE 6715–01–M

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice.

Background:

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act, as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number. Board-approved collections of information will be incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83-Is, supporting statements, and the approved collection of information instruments will be placed into OMB's public docket files. The following information collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collections, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. whether the proposed collections of information are necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. the accuracy of the Federal Reserve's estimates of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. ways to enhance the quality, utility, and clarity of the information to be collected; and d. ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before January 6, 1998.

ADDRESSES: Comments, which should refer to the OMB control number or agency form number, should be addressed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, DC 20551, or delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments received may be inspected in room M-P-500 between 9:00 a.m. and 5:00 p.m., except as provided in section 261.8 of the Board's Rules Regarding Availability of Information, 12 CFR 261.8(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed form and instructions, the Paperwork Reduction Act Submission (OMB 83-I), supporting statement, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below.

Mary M. McLaughlin, Chief, Financial Reports Section (202-452-3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact Diane Jenkins (202-452-3544), Board of Governors of the Federal Reserve System, Washington, DC 20551.

For further information on the proposal concerning the FR Y-9C report, contact Robert T. Maahs, Supervisory Financial Analyst (202-872-4935).

Proposal to approve under OMB delegated authority the extension for three years, with revision, of the following report:

1. Report title: Government Securities Dealers Reports
Agency form number: FR 2004A, FR 2004B, FR 2004C, FR 2004SI, FR 2004WI
OMB control number: 7100-0003
Frequency: weekly and on occasion
Reporters: primary dealers in U.S. government securities
Annual reporting hours: 11,817
Estimated average hours per response: 1.0 (FR 2004A, B, C, SI); 0.25 (FR 2004WI)
Number of respondents: 39
Small businesses are not affected.

General description of report: This information collection is voluntary (12 U.S.C. 248(a)(2), 353-359, and 461) and is given confidential treatment (5 U.S.C. 552(b)(4)).

Abstract:This group of reports is used to collect data on positions, transactions, and financing activity in the government securities market from primary dealers in U.S. government securities. The Federal Reserve uses the data to monitor the condition of the U.S. government securities market in its surveillance of the market and to assist the U.S. Department of the Treasury.

Three revisions are proposed for implementation in January 1998. On the FR 2004A and FR 2004B a line would be added to report position and transaction volumes with respect to Treasury Inflation-Index Securities. On the FR 2004A and FR 2004B four lines would be added to provide greater detail regarding the dealers' federal agency securities positions and transaction volumes. On the FR 2004C, two columns of matched-book financing transactions would be deleted. The revisions, on a net basis, would have no effect on the current annual reporting burden.

Proposal to approve under OMB delegated authority the extension for three years, without revision, of the following reports:

1. Report title: Domestic Branch Notification
Agency form number: FR 4001
OMB control number: 7100-0097
Frequency: On occasion
Reporters: State member banks
Annual reporting hours: 201
Estimated average hours per response: 30 minutes for expedited notifications; 1 hour for nonexpedited notifications
Number of respondents: 316 expedited, 43 nonexpedited
Small businesses are affected.

General description of report: This information collection is mandatory (12 U.S.C. 321) and is not given confidential treatment.

Abstract: The Federal Reserve System requires a state member bank to file a notification whenever it proposes to establish a domestic branch. There is no formal reporting form; banks notify the Federal Reserve by letter prior to making the proposed investment. The Federal Reserve uses the information to fulfill its statutory obligation to obtain public comment on such proposals before acting on them, and to otherwise supervise state member banks.

2. Report title: Investment in Bank Premises Notification
Agency form number: FR 4014
OMB control number: 7100-0139
Frequency: On occasion
Reporters: State member banks
Annual reporting hours: 8
Estimated average hours per response: 30 minutes
Number of respondents: 15
Small businesses are affected.

General description of report: This information collection is mandatory (12 U.S.C. 371d) and is not given confidential treatment.

Abstract: The Federal Reserve System requires a state member bank to file a notification whenever it proposes to make an investment in bank premises that results in its total bank premises investment exceeding its capital stock and surplus or, if the bank is well capitalized and in good condition, exceeding 150 percent of its capital stock and surplus. There is no formal reporting form; banks notify the Federal Reserve by letter prior to making the proposed investment. The Federal Reserve uses the information to fulfill its statutory obligation to supervise state member banks.

3. Report title: Reports Related to Securities of State Member Banks as Required by Regulation H
Agency form number: N/A
OMB control number: 7100-0091
Frequency: On occasion
Reporters: State member banks
Annual reporting hours: 2,146
Estimated average hours per response: 5.11 hours
Number of respondents: 30
Small businesses are not affected.

General description of report: This information collection is mandatory (15 U.S.C. section 78l(i)) and is not given confidential treatment.

Abstract: The Federal Reserve's Regulation H requires certain state member banks to submit information related to their securities to the Board of Governors of the Federal Reserve System on the same forms that bank holding companies and nonbank entities use to submit similar information to the Securities and Exchange Commission. The information is used primarily for public disclosure and is available to the public upon request.

Proposal to approve under OMB delegated authority the elimination of certain requested information, without extension, from the following reports:

1. Report title: Weekly Report of Assets and Liabilities for Large Banks
Agency form number: FR 2416
OMB control number: 7100-0075
Frequency: weekly
Reporters: U.S. commercial banks
Annual reporting hours: The proposal is estimated to reduce the annual reporting burden from 46,592 hours to 44,928 hours.
Estimated average hours per response: The proposal is estimated to reduce the burden per response from 7 hours to 6.75 hours.
Number of respondents: 128
Small businesses are not affected.

General description of report: This information collection is voluntary (12 U.S.C. §§ 225(a) and 248(a)(2)) and is given confidential treatment (5 U.S.C. § 552(b)(4) and (8)).

Abstract: The Board proposes to eliminate two items from the FR 2416, the large domestic bank series of the three voluntary weekly condition/bank credit reports. The FR 2416 is a detailed balance sheet report that is collected as of each Wednesday from a sample of about 128 large U.S.-chartered commercial banks. All three reports, together with data from other sources, are used to construct weekly estimates of bank credit, sources and uses of bank funds, and a balance sheet for the

banking system as a whole. These estimates also are used in constructing the bank credit component of the domestic non-financial debt aggregate monitored by the Federal Open Market Committee.

The Board proposes to eliminate two items, "Commercial paper outstanding issued by related institutions of the reporting bank, issued through commercial paper brokers and dealers" (Memorandum item 7.a) and "Commercial paper outstanding issued by related institutions of the reporting bank, issued directly" (Memorandum item 7.b). The information collected in these two items is now obtained by the Federal Reserve from another source, eliminating the need to maintain them on the FR 2416. The revisions would be effective with data as-of January 7, 1998.

2. Report title: Consolidated Financial Statements for Bank Holding Companies
Agency form number: FR Y-9C
OMB control number: 7100-0128
Frequency: Quarterly
Reporters: Bank holding companies
Annual reporting hours: 196,462
Estimated average hours per response: Ranges from 5 to 1,250 hours
Number of respondents: 1,457
Small businesses are affected.

General Information: Under the Bank Holding Company Act of 1956, as amended, the Board is responsible for the supervision and regulation of all bank holding companies. The FR Y-9 series of reports has historically been, and continues to be, the primary source of financial information on bank holding company activities between on-site inspections. Financial information, as well as ratios developed from these reports, are used to detect emerging financial problems, to review performance for pre-inspection analysis, to evaluate bank holding company mergers and acquisitions, and to analyze holding companies overall financial condition and performance as part of the Federal Reserve System's overall supervisory responsibilities.

General description of report: The information collection is mandatory 12 U.S.C. 1844(b) and (c) and 12 CFR 225.5(b). Confidential treatment is not routinely given to the data in these reports. However, confidential treatment for the reporting information, in whole or in part, can be requested in accordance with the instructions to the form.

Data reported on the FR Y-9C, Schedule HC-H, Column A, requiring information on "assets past due 30 through 89 days and still accruing" and memoranda item 2 are confidential pursuant to Section (b)(8) of the Freedom of Information Act 5 U.S.C. 552(b)(8).

The FR Y-9C consolidated financial statements are currently filed by top-tier bank holding companies with total consolidated assets of $150 million or more and by lower-tier bank holding companies that have total consolidated assets of $1 billion or more. In addition, all multibank bank holding companies with debt outstanding to the general public or engaged in certain nonbank activities, regardless of size, must file the FR Y-9C. The following bank holding companies are exempt from filing the FR Y-9C, unless the Board specifically requires an exempt company to file the report: bank holding companies that are subsidiaries of another bank holding company and have total consolidated assets of less than $1 billion; bank holding companies that have been granted a hardship exemption by the Board under section 4(d) of the Bank Holding Company Act; and foreign banking organizations as defined by section 211.23(b) of Regulation K.

The report includes a balance sheet, income statement, and statement of changes in equity capital with supporting schedules providing information on securities, loans, risk-based capital, deposits, average balances, off-balance sheet activities, past due loans, and loan charge-offs and recoveries.

On August 27, 1997, the Federal Reserve announced in the *Federal Register*[1] modifications to the prudential limits or firewalls that currently apply to bank holding companies engaged in securities underwriting and dealing activities through section 20 subsidiaries. The modifications are effective October 31, 1997.

The Federal Reserve announced that as one of its modifications to the firewalls, it was eliminating the required capital deductions that related to the section 20 subsidiary in determining capital adequacy. The Federal Reserve stated that "the capital deductions (and resulting deconsolidation for regulatory capital purposes) are inconsistent with generally accepted accounting principles (GAAP) and have therefore created confusion and imposed costs by requiring bank holding companies to prepare financial statements on two bases." Therefore, the Federal Reserve is proposing to grant prompt reporting relief to bank holding companies with section 20 subsidiaries by eliminating Schedule HC-J from the FR Y-9C effective with the December 31, 1997, reporting date.

The estimated time per response is an average of all bank holding companies filing this report. The response time for a given bank holding company varies depending on the size and the types of activities in which they are engaged. The time per response for a bank holding company is estimated to range from 5 to 1,250 hours, depending on individual circumstances. Although the proposed revisions will provide significant reporting relief for the 26 bank holding companies with section 20 subsidiaries that must currently complete Schedule HC-J, the effect on the average burden of all FR Y-9C respondents is only an estimated reduction of 15 minutes per response.

Board of Governors of the Federal Reserve System, November 3, 1997.
William W. Wiles,
Secretary of the Board.
[FR Doc. 97–29437 Filed 11–6–97; 8:45AM]
Billing Code 6210–01–F

[1] 62 *FR* 45295 (1997).

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 21, 1997.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Paul H. and Neva M. Johnson, Algona, Iowa; to acquire voting shares of Mid-Iowa Bancshares Company, Algona, Iowa, and thereby indirectly acquire Iowa State Bank, Algona, Iowa.

Board of Governors of the Federal Reserve System, November 3, 1997.
Jennifer J. Johnson,
Deputy Secretary of the Board.
[FR Doc. 97–29406 Filed 11–6–97; 8:45 am]
BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 1, 1997.

A. Federal Reserve Bank of Cleveland (Jeffery Hirsch, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. Citizens Bancshares, Inc., Salineville, Ohio; to acquire 100 percent of the voting shares of UniBank, Steubenville, Ohio.

B. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Community First Banking Company, Carrollton, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Carrollton Federal Bank, FSB, Carrollton, Georgia (following conversion from a thrift to a commercial bank).

C. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Hillister Enterprises II, Inc., Beaumont, Texas; Umphrey II Family Limited Partnership, Beaumont, Texas; Southeast Texas Bancshares, Inc., Beaumont, Texas; and Texas Community Bancshares of Delaware, Inc., Wilmington, Delaware; to acquire 58.64 percent of the voting shares of Silsbee Financial Corporation, Silsbee, Texas, and thereby indirectly acquire Silsbee Delaware Corporation, Wilmington, Delaware, and Silsbee State Bank, Silsbee, Texas.

Board of Governors of the Federal Reserve System, November 3, 1997.
Jennifer J. Johnson,
Deputy Secretary of the Board.
[FR Doc. 97–29407 Filed 11–6–97; 8:45 am]
BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Information Collection Activities: Proposed Collections; Comment Request

The Department of Health and Human Services, Office of the Secretary will periodically publish summaries of proposed information collections projects and solicit public comments in compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995. To request more information on the project or to obtain a copy of the information collection plans and instruments, call the OS Reports Clearance Officer on (202) 690–6207.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project 1

Applicant Background Survey—0990–0208—Extension—This form will be used to ask applicants for employment how they learned about a vacancy, to make sure that recruitment sources yield qualified women, minority and handicapped applicants in compliance with EEOC Management Directives. *Respondents:* Individuals; *Annual Number of Respondents:* 310,000; *Annual Frequency of Response:* one time; *Average Burden per Response:* 2 minutes; *Total Annual Burden:* 10,333 hours.

Proposed Project 2

HHS Procurement—Solicitations and Contracts—Extension—0990–0115—This clearance request covers general information collection requirements of the procurement process such as technical proposals and statements of work.—*Respondents:* State or local governments, businesses or other for-profit, non-profit institutions, small businesses; *Annual Number of Respondents:* 8415; *Frequency of Response:* one time; Average *Burden per Response:* 249.68 hours; *Estimated Annual Burden:* 2,101,005 hours.

OMB Desk Officer: Allison Eydt.

Send comments to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H, Humphrey Building, 200 Independence Avenue S.W., Washington DC, 20201. Written comments should be received within 60 days of this notice.

Dated: October 30, 1997.
Dennis P. Williams,
Deputy Assistant Secretary, Budget.
[FR Doc. 97–29470 Filed 11–6–97; 8:45 am]
BILLING CODE 4168–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Bioethics Advisory Commission; Meetings

Notice of two meetings of the National Bioethics Advisory Commission (NBAC): One each of its genetics and human subjects subcommittees, including a brief joint session of the full Commission.

SUMMARY: Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is given of two meetings of subcommittees of the National Bioethics Advisory Commission and a brief joint session of the full Commission. Commission members will discuss the protection of the rights and welfare of human subjects in research including decisionally and/or cognitively impaired populations and will address the use of genetic information involved in tissue storage. All meetings are open to the public and opportunities for statements by the public will be provided.

Dates/times	Locations
Human Subjects Subcommittee, November 23, 1997, 7:30 am–5:00 pm.	National Institutes of Health, 9000 Rockville Pike, Building 31, 6th Floor, Conference Room 10, Bethesda, Maryland 20892.
11:30 am–1:30 pm	Full Commission Meeting, Conference Room 10.
Genetics Subcommittee, November 23, 1997, 7:30 am–4:30 pm.	National Institutes of Health, 9000 Rockville Pike, Building 31, 6th Floor, Conference Room 9, Bethesda, Maryland 20892.

SUPPLEMENTARY INFORMATION: The President established the National Bioethics Advisory Commission (NBAC) by Executive Order 12975 on October 3, 1995 for an initial two years. An amendment to Executive Order 12975, dated May 16, 1997, extended the term of the Commission for an additional two years. The mission of the NBAC is to advise and make recommendations to the National Science and Technology Council and other entities on bioethical issues arising from the research on human biology and behavior, and in the applications of that research including clinical applications.

Public Participation

All meetings are open to the public with attendance limited by the availability of space. Members of the public who wish to present oral statements should contact Ms. Patricia Norris by telephone, fax machine, or mail as shown below prior to the meeting as soon as possible. Individuals unable to make oral presentations are encouraged to mail or fax their comments to the NBAC staff office for distribution to the subcommittee or Commission members and inclusion in the public record. Persons needing special assistance, such as sign language interpretation or other special accommodations, should contact NBAC staff at the address or telephone number listed below as soon as possible.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Norris, National Bioethics Advisory Commission, MSC–7508, 6100 Executive Boulevard, Suite 5B01, Rockville, Maryland 20892–7508, telephone 301–402–4242, fax number 301–480–6900.

Henrietta D. Hyatt-Knorr,

Deputy Executive Director, Acting, National Bioethics Advisory Commission.

[FR Doc. 97–29493 Filed 11–6–97; 8:45 am]

BILLING CODE 4160–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[INFO–98–03]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques for other forms of information technology. Send comments to Wilma Johnson, CDC Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project

1. Survey of Assisted Reproductive Technology Embryo Laboratory Procedures and Practices—New

In October 1992, Congress passed the Fertility Clinic Success Rate and Certification Act of 1992 (FCSRCA). In accordance with this statute, the CDC has been tasked with developing a model certification program for assisted reproductive technologies (ART) embryo laboratories that are providing services to human fertility specialists in the U.S. This model certification program is to be voluntarily implemented by States or by independent certifying agencies such as the College of American Pathologists (CAP) which are approved by the State. The model certification program is to include a set of quality standards for the performance of laboratory procedures, maintenance of records, qualifications of laboratory personnel, and criteria for the inspection and certification of embryo laboratories. Other than a General Accounting Office Survey conducted in 1988, no current survey of ART laboratory procedures and practices is available. The proposed information collection will use a paper survey to provide an enumeration of these ART laboratory procedures, equipment maintenance practices, and personnel qualifications. This information is required to finalize the development of the model certification program and also provide a baseline study for evaluating its impact and effectiveness.

The intended population is ART laboratory directors at all facilities with human embryo laboratories in the U.S. The estimated time for completion of this survey is expected to be approximately one hour per response. This estimate includes the time needed to review instructions, gather the relevant information, complete the form, and review the collected data. The total estimated cost to respondents is $15,750.

Respondents:

ART Laboratory Directors:	
No. of Respondents	300
No. of Responses/Respondent	1
Average Burden/Response (in hrs.)	1
Total Burden (hrs.)	300

Dated: October 30, 1997.

Wilma G. Johnson,

Acting Associate Director for Policy Planning and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–29438 Filed 11–6–97; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Head Start Program Information Report (PIR).

OMB No.: 0980–0017.

Description: The Head Start Act requires that the Program Information Report (PIR) information is collected from Head Start grantees and delegate agencies. Data elements are primarily in the areas of management, class activity, health profile and home environment. Principle user of the date include local program management, ACF regional management, ACYF central office management, management of services to children with disabilities, and dissemination to other interested parties.

Respondents: Head Start Grantees and Delegate Agencies.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
PIR	2,078	4	3.35	6,691

Estimated Total Annual Burden Hours: 6,691.

Additional Information: Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, N.W., Washington, D.C. 20503, Attn: Ms. Wendy Taylor.

Dated: November 3, 1997.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 97–29468 Filed 11–6–97; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Collection of Child Welfare data under the Voluntary Cooperative Information System (VCIS).

OMB No.: 0970–0129.

Description: The objective of VCIS is to provide current data on the characteristics of children in, and the flow of children through, State foster care and adoption systems. These data also are utilized to identify State and national trends for the types of children in care, the settings in which children receive care, and the outcomes of substitute care episodes.

The VCIS data are used to respond to requests for current data on children in foster care as well as those awaiting adoption and recently adopted. These data are also used for preparing Congressional testimony and reports, proposing policy and legislative changes, determining foster care and adoption trends and projections, and making budget forecasts. In addition, the VCIS data are made available to researchers and evaluators as well as the media. These data also appeared in the 1996 Green Book, which contains background material and data on programs within the jurisdiction of the Congressional Committee on Ways and Means.

Respondents: State Governments, Guam, Virgin Islands, Puerto Rico and District of Columbia.

Annual burden estimates

Instrument:	
VCIS Survey:	
Number of Respondents	54
Number of Responses per Respondent	1
Average Burden Hours per Response	3
Total Burden Hours	162

Estimated Total Annual Burden Hours: 162.

Additional Information: Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW., Washington, DC 20503, Attn: Ms. Wendy Taylor.

Dated: November 3, 1997.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 97–29469 Filed 11–6–97; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 93N–0451]

James Michael Anthony; Final Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order under the Federal Food, Drug, and Cosmetic Act (the act) permanently debarring James Michael Anthony, M.D., 130 North McLean, Memphis, TN 38104, from providing services in any capacity to a person that has an approved or pending drug product application. FDA bases this order on a finding that Dr. Anthony was convicted of a felony under Federal law for

conduct relating to the regulation of a drug product under the act. Dr. Anthony has failed to request a hearing and, therefore, has waived his opportunity for a hearing concerning this action.

EFFECTIVE DATE: Npvember 7, 1997.

ADDRESSES: Application for termination of debarment to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Leanne Cusumano, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION:

I. Background

On July 26, 1993, the U.S. District Court for the Western District of Tennessee accepted Dr. Anthony's plea of guilty and entered judgment against him for, among other counts, one count of trading prescription drug samples, a Federal felony offense under section 503(c)(1) of the act (21 U.S.C. 353(c)(1)). This felony conviction was based on the unlawful trade of a drug sample of Ansaid Tablets, which was not intended to be sold but rather was intended to promote the sale of the drug, in exchange for the drug Rocephin.

As a result of this conviction, FDA served Dr. Anthony by certified mail on October 12, 1994, a notice proposing to permanently debar him from providing services in any capacity to a person that has an approved or pending drug product application, and offered him an opportunity for a hearing on the proposal. The proposal was based on a finding, under section 306(a)(2)(B) of the act (21 U.S.C. 335a(a)(2)(B)), that Dr. Anthony was convicted of a felony under Federal law for conduct relating to the regulation of a drug product. Dr. Anthony was given 30 days to file objections and request a hearing. Dr. Anthony did not file objections or request a hearing. His failure to request a hearing constitutes a waiver of his opportunity for a hearing and a waiver of any contentions concerning his debarment.

II. Findings and Order

Therefore, the Director of the Center for Drug Evaluation and Research, under section 306(a) of the act, and under authority delegated to her (21 CFR 5.99(b)), finds that Dr. James Michael Anthony has been convicted of a felony under Federal law for conduct relating to the regulation of a drug product.

As a result of the foregoing finding, Dr. James Michael Anthony is permanently debarred from providing services in any capacity to a person with an approved or pending drug product application under sections 505, 507, 512, or 802 of the act (21 U.S.C. 355, 357, 360b, or 382), or under section 351 of the Public Health Service Act (42 U.S.C. 262), effective November 7, 1997 (sections 306(c)(1)(B) and (c)(2)(A)(ii) and 201(dd) (21 U.S.C. 321(dd))). Any person with an approved or pending drug product application who knowingly uses the services of Dr. Anthony, in any capacity, during his period of debarment, will be subject to civil money penalties (section 307(a)(6) of the act (21 U.S.C. 335b(a)(6))). If Dr. Anthony, during his period of debarment, provides services in any capacity to a person with an approved or pending drug product application, he will be subject to civil money penalties (section 307(a)(7) of the act). In addition, FDA will not accept or review any abbreviated new drug applications or abbreviated antibiotic drug applications submitted by or with the assistance of Dr. Anthony during his period of debarment.

Any application by Dr. Anthony for termination of debarment under section 306(d)(4) of the act should be identified with Docket No. 93N–0451 and sent to the Dockets Management Branch (address above). All such submissions are to be filed in four copies. The public availability of information in these submissions is governed by 21 CFR 10.20(j). Publicly available submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 29, 1997.

Janet Woodcock,

Director, Center for Drug Evaluation and Research.

[FR Doc. 97–29399 Filed 11–6–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Council; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body are scheduled to meet during the month of December 1997:

Name: HRSA Aids Advisory Committee.

Time: December 2–3, 1997 9:00 a.m.

Place: Loews L'Enfant Hotel, 80 L'Enfant Plaza, S.W., Washington, D.C. 20024.

The meeting is open to the public.

Agenda: The topics to be discussed include the reorganization of the Ryan White CARE Act programs; Clinical Guidelines; and Access to Combination Therapies and Adherence Issues.

Anyone requiring information regarding the subject Committee should contact Joan Holloway, HIV/AIDS Bureau, Health Resources and Services Administration, Room 7–13, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–9530.

Agenda Items are subject to change as priorities dictate.

Dated: November 3, 1997.

Jane M. Harrison,

Advisory Committee Management Office, HRSA.

[FR Doc. 97–29482 Filed 11–6–97; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Child Health and Human Development Special Emphasis Panel (SEP) meeting:

Name of Sep: Initiation of Human Labor: Prevention of Prematurity.

Date: November 6–7, 1997.

Time: November 6—7:30 p.m.–10 p.m.; November 7—8:30 a.m.—adjournment.

Place: University of South West Medical Center/Dallas, 5323 Harry Hines Boulevard, Dallas, Texas 75235.

Contact Person: Gopal M. Bhatnagar, Ph.D., Scientific Review Administrator, NICHD, 6100 Executive Boulevard, Room 5B01, Rockville, MD 20852, Telephone: 301–496–1485.

Purpose/Agenda: To evaluate and review a research grant application.

This meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. The discussion of this application could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the application, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Nos. [93.864, Population Research and No. 93.865, Research for Mothers and Children], National Institute of Health, HHS)

Dated: October 31, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, National Institutes of Health.

[FR Doc. 97–29409 Filed 11–6–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

The meeting will be open to the public to provide concept review of proposed contract solicitations.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should inform the Contact Person listed below in advance of the meeting.

Name of Sep: "A Study on the Evaluation of a Community-Based Intervention to Improve Pregnancy Outcomes and Reduced Perinatal Mortality In a Rural District of Balochistan, Pakistan" (Teleconference).

Date: November 19, 1997.

Time: 1 p.m. (ET)–adjournment.

Place: 6100 Executive Boulevard, Room 5E01 Rockville, Maryland 29852.

Contact Person: Hameed Khan, Ph.D., Scientific Review Administrator, NICHD, 6100 Executive Boulevard, Room 5E01, Telephone: 301–496–1485.

Agenda: To provide concept review of proposed contract solicitations.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Programs Nos. [93.864, Population Research and No. 93.865, Research for Mothers and Children], National Institutes of Health, HHS)

Dated: October 31, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, National Institute of Health.

[FR Doc. 97–29410 Filed 11–16–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4180–N–03]

Announcement of Funding Awards; Community Development Block Grant Program for Indian Tribes and Alaska Native Villages Fiscal Year 1997

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of funding awards for Fiscal Year 1997 for the Community Development Block Grant (CDBG) Program for Indian Tribes and Alaska Native Villages. The purpose of this Notice is to publish the names and addresses of the award winners and the amount of the awards made available by HUD to provide assistance to the Indian Tribes and Alaska Native Villages.

FOR FURTHER INFORMATION CONTACT: Robert Barth, Office of Native American Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, P.O. Box 36003, 450 Golden Gate Avenue, San Francisco, CA 94102; telephone (415) 436–8122 (this is not a toll-free number). Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The CDBG Program for Indian Tribes and Alaska Native Villages is authorized by Title I, Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 *et seq.*); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); 24 CFR part 953.

This Notice announces FY 1997 funding to be used to assist in the development of viable Indian and Alaska Native communities, including decent housing, a suitable living environment, and economic opportunities. The FY 1997 awards announced in this Notice were selected for funding consistent with the provisions in the Notice of Funding Availability (NOFA) published in the **Federal Register** on April 11, 1997 (62 FR 17976) and the amendment notice published on July 21, 1997 (62 FR 39006).

The Catalog of Federal Domestic Assistance number for the CDBG Program for Indian Tribes and Alaska Native Villages is 14.862.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is hereby publishing the names, addresses, and amounts of those awards as shown in Appendix A.

Dated: October 31, 1997.

Kevin Emanuel Marchman,

Acting Assistant Secretary for Public and Indian Housing.

APPENDIX A.—FISCAL YEAR 1997; CDBG PROGRAM FOR INDIAN TRIBES AND ALASKA NATIVE VILLAGES; RECIPIENTS OF FUNDING DECISIONS

Funding recipient (Name and Address)	Amount approved
Eastern/Woodlands ONAP	
Bad River Band of Lake Superior Chippewa Indians, P.O. Box 39, Odanah, WI 54861	$231,888
Boise Forte Band of the Minnesota Chippewa Tribe, P.O. Box 16, Nett Lake, MN 55772	300,000
Eastern Band of Cherokee Indians of North Carolina, P.O. Box 455, Cherokee, NC 28719	600,000
Forest County Potawatomi Community of Wisconsin Potawatomi Indians, P.O. Box 340, Crandon, WI 54520	300,000
Fond du Lac Band of the Minnesota Chippewa Tribe, 1720 Big Lake Road, Cloquet, MN 55720	300,000
Ho-Chunk Nation of Wisconsin, W9814 Airport Road, P.O. Box 667, Black River Falls, WI 54615	300,000
Houlton Band of Maliseet Indians of Maine, RR 33 Box 450, Houlton ME 04730	300,000
La Courte Oreilles Band of Lake Superior Chippewa Indians, Route 2, Box 2700, Hayward, WI 54843	300,000
Lac du Flambeau Band of Lake Superior Chippewa Indians, P.O. Box 667, Lac du Flambeau, WI 54538	600,000
Leech Lake Band of the Minnesota Chippewa Tribe, RR 3 Box 100, Cass Lake, MN 56633	300,000
Oneida Nation of New York, 223 Genesee Street, Oneida, NY 13421	299,904
Passamaquody Indian Tribe at Indian Township, P.O. Box 301, Princeton, ME 04668	300,000

APPENDIX A.—FISCAL YEAR 1997; CDBG PROGRAM FOR INDIAN TRIBES AND ALASKA NATIVE VILLAGES; RECIPIENTS OF FUNDING DECISIONS—Continued

Funding recipient (Name and Address)	Amount approved
Poarch Band of Creek Indians of Alabama, 5811 Jack Springs Road, Atmore, AL 36502	300,000
Red Cliff Band of Lake Superior Chippewa Indians, P.O. Box 529, Bayfield, WI 54814	115,000
St. Croix Chippewa Indians of Wisconsin, P.O. Box 287, Hertel, WI 54845	300,000
Stockbridge-Munsee Community of Mohican Indians of Wisconsin, N8476 Moh He Con Nuck Road, Bowler, WI 54416	300,000
Upper Sioux Indian Community, P.O. Box 147, Granite Falls, MN 56241	300,000
Southern Plains ONAP	
Alabama-Coushatta Tribe of Texas, Rt 3, Box 640, Livingston, TX 77351	286,589
Caddo Tribe, P.O. Box 487, Binger, OK 73009	750,000
Cheyenne-Arapaho Business Committee, P.O. Box 38, Concho, OK 73022	389,255
Chickasaw Nation, P.O. Box 1548, Ada, OK 74820	750,000
Chitimacha Tribe, P.O. Box 661, Charenton, LA 70523	643,595
Choctaw Nation, P.O. Drawer 1210, Durant, OK 74702	750,000
Citizen Potawatomi Nation, 1901 S. Gordon Cooper Drive, Shawnee, OK 74801	750,000
Comanche Tribe, P.O. Box 908, Lawton, OK 73502	736,000
Creek Nation, P.O. Box 580, Okmulgee, OK 74447	256,674
Delaware Tribe, 108 S. Seneca, Bartlesville, OK 74003	170,980
Delaware Tribe of Western Oklahoma, P.O. Box 825, Anadarko, OK 73005	750,000
Iowa Tribe of KS & NE, Rt 1, Box 58–A, White Cloud, KS 66094	375,000
Iowa Tribe of OK, Rt. 1, Box 721, Perkins, OK 74059	399,493
Osage Tribe of Oklahoma, P.O. Box 53, Pawhuska, OK 74056	187,227
Pawnee Business Council, P.O. Box 470, Shawnee, OK 74058	750,000
Ponca Tribal Business Committee, 20 White Eagle Drive, Ponca City, OK 74601	618,208
Prairie Band of Potawatomi, 14880 "K" Road, Mayetta, KS 66509	750,000
Sac & Fox Tribe of MO, RR 1, Box 60, Reserve, KS 66434	750,000
Seneca-Cayuga Tribe, P.O. Box 1283, Miami, OK 74355	388,400
Tunica-Biloxi Indian Tribe, P.O. Box 331, Marksville, LA 71351	750,000
United Keetoowah Band of Cherokees, P.O. Box 746, Tahlequah, OK 74465–0746	240,000
Wyandotte Tribe, P.O. Box 250, Wyandotte, OK 74370	750,000
Northern Plains ONAP	
Arapaho Tribe of the Wind River Reservation, POB 396, Ft. Washakie, WY 82514	800,000
Assiniboine & Sioux Tribes of the Fort Peck Reservation, POB 1027, Poplar, MT 59255	300,000
Blackfeet Tribe, POB 850, Browning, MT 59417	450,000
Cheyenne River Sioux Tribe, POB 590, Eagle Butte, SD 57625	800,000
Confederated Salish & Kootenai Tribes of the Flathead Reservation, POB 278, Pablo, MT 59855	666,592
Crow Creek Sioux Tribe, POB 50, Ft. Thompson, SD 57339	268,449
Ft. Belknap Indian Community, RR 1, POB 66, Harlem, MT 59526	800,000
Paiute Indian Tribe of Utah, 665 North, 100 E. Paiute, Cedar City, UT 84720	273,850
Ponca Tribe of Nebraska, 3610 Dodge, Omaha, NE 68131	612,800
Rosebud Sioux Tribe, POB 430, Rosebud, SD 57570	800,000
Santee Sioux Tribe, Route 2, Box 183, Niobrara, NE 68760	290,864
Shoshone Tribe of the Wind River Reservation, POB 538, Ft. Washakie, WY 82514	800,000
Sisseton-Wahpeton Sioux Tribes, POB 509, Agency Village, SD 57262	800,000
Standing Rock Sioux Tribe, POB D, Fort Yates, ND 58538	800,000
Three Affiliated Tribes of the Ft. Berthold Reservation, HC 3, Box 2, New Town, ND 58763	320,000
Turtle Mountain Band of Chippewa Indians of North Dakota, POB 900, Belcourt, ND 58316	357,007
Ute Mountain Ute Tribe, POB 248, Towaoc, CO 81334	800,000
Southwest ONAP	
Alturas Rancheria, Post Office Box 360, Alturas, CA 96101	449,766
Berry Creek Rancheria, 5 Tyme Way, Oroville, CA 95966	450,000
Big Lagoon Rancheria, Post Office Box 3060, Trinidad, CA 95570	69,698
Blue Lake Rancheria, Post Office Box 428, Blue Lake, CA 95525	202,630
Campo Band of Mission Indians, 36190 Church Road, Campo, CA 91906	450,000
Chemehuevi Indian Tribe, Post Office Box 1976, Havasu Lake, CA 95403	450,000
Cloverdale Rancheria, 2013 Long Leaf Court, Santa Rosa, CA 95403	450,000
Colusa Rancheria, 50 Wintun Road Dept D, Colusa, CA 95932	344,412
Death Valley Timbi-Sha Shoshone Tribe, Post Office Box 748, Death Valley, CA 92328	181,116
Dry Creek Rancheria, Post Office Box 607, Geyserville, CA 95441	450,000
Ely Indian Colony, 16 Shoshone Circle, Ely, NV 89301	295,201
Fort Bidwell Indian Reservation, Post Office Box 129, Fort Bidwell, CA 96112	450,000
Fort Mojave Indian Reservation, 500 Merriman Avenue, Needles, CA 92363	450,000
Gila River Indian Community, Post Office Box 97, Sacaton, AZ 85247	1,500,659
Hopland Band of Pomo Indians, Post Office Box 610, Hopland, CA 95449	405,590
Hualapai Indian Tribe, Post Office Box 179, Peach Springs, AZ 86434	550,000
Kaibab-Paiute Tribe, H.C. 65, Box #2, Fredonia, AZ 86022	450,000

APPENDIX A.—FISCAL YEAR 1997; CDBG PROGRAM FOR INDIAN TRIBES AND ALASKA NATIVE VILLAGES; RECIPIENTS OF FUNDING DECISIONS—Continued

Funding recipient (Name and Address)	Amount approved
Karuk Tribe, Post Office Box 1016, Happy Camp, CA 96039	585,600
LaJolla Band of Mission Indians, Star Route Box 158, Valley Center, CA 92082	450,000
LaPosta Band of Mission Indians, Post Office Box 1048, Boulevard, CA 91905	450,000
Lytton Rancheria, 1250 Coddingtown Center Suite 1, Santa Rosa, CA 95401	450,000
Middletown Rancheria, Post Office Box 1035, Middletown, CA 95461	450,000
Navajo Nation, Post Office Box 9000, Window Rock, AZ 86515	4,834,399
Pala Band of Mission Indians, Post Office Box 43, Pala, CA 92059	442,164
Picuris Pueblo, Post Office Box 127, Penasco, NM 87553	345,585
Pojoaque Pueblo, Route 11 Box 71, Santa Fe, NM 87501	450,000
Pueblo of Acoma, Post Office Box 309, Acoma, NM 87034	550,000
Pueblo de Cochiti, Post Office Box 70, Cochiti, NM 87072	432,693
Pyramid Lake Paiute Tribe, Post Office Box 256, Nixon, NV 87424	450,000
Quechan Indian Tribe, Post Office Box 11352, Yuma, AZ 85366	550,000
Ramona Band of Mission Indians, Post Office Box 391670, Anza, CA 92539	340,620
Redding Rancheria, 2000 Rancheria Road, Redding, CA 96001	450,000
Reno Sparks Indian Colony, 98 Colony Road, Reno, NV 89502	450,000
Robinson Rancheria, Post Office Box 1119, Nice, CA 95464	449,540
Round Valley Indian Tribes, Post Office Box 448, Covelo, CA 95428	450,000
San Carlos Apache Tribe, Post Office Box "O", San Carlos, AZ 85550	400,000
San Pasqual Indian Reservation, Post Office Box 365, Valley Center, CA 92082	448,343
Santa Ysabel Indian Reservation, Post Office Box 130, Santa Ysabel, CA 92070	449,922
Scotts Valley Rancheria 149 N. Main Street, Suite 200, Lakeport, CA 95453	142,992
Sobobe Indian Reservation, Post Office Box 487, San Jacinto, CA 92581	450,000
Susanville Rancheria, Post Office Box "U", Susanville, CA 96130	344,000
Tohono O'odham Nation, Post Office Box 837, Sells, AZ 85634	1,976,694
Trinidad Rancheria, Post Office Box 630, Trinidad, CA 95570	174,982
Tuolumne Band of Me-Wuk Indians, Post Office Box 699, Tuolumne, CA 95379	450,000
Yavapai Apache Tribe, Post Office Box 1188, Camp Verde, AZ 86322	450,000
Ysleta Del Sur Pueblo, 119 S. Old Pueblo Road, Post Office Box 17579—Ysleta Stn., El Paso, TX 79917	450,000
Zuni Pueblo, Post Office Box 339, Zuni, NM 87327	1,999,600
Northwest ONAP	
Confederated Tribes of the Chehalis Reservation, P.O. Box 536, Oakville, WA 98568–9816	320,000
Confederated Tribes of the, Colville Reservation, P.O. Box 150, Nespelem, WA 99155–0150	155,760
Confederated Tribes of Coos Lower Umpqua & Siuslaw Indians, 338 Wallace Ave, Coos Bay, OR 97420	295,126
Confederated Tribes of the Siletz Indian Reservation, P.O. Box 549, Siletz, OR 97380–0549	320,000
Confederated Tribes of the Umatilla Indian Reservation, P.O. Box 638, Pendleton, OR 97801–0638	320,000
Couer d'Alene Tribe of the Couer d'Alene Reservation, 850 A Street, Plummer, ID 83851–9704	164,000
Hoh Indian Tribe of the Hoh Reservation, 2464 Lower Hoh Road, Forks, WA 98550	300,000
Kalispel Indian Community of the Kalispel Reservation, P.O. Box 39, Usk, WA 99180–0039	85,690
Klamath Indian Tribe, P.O. Box 436, Chiloquin, OR 97624–0436	320,000
Muckleshoot Indian Tribe of the Muckleshoot Reservation, 39015—172nd S.E., Auburn, WA 98092–9763	320,000
Nez Perce Tribe, P.O. Box 305, Lapwai, ID 83540–0305	320,000
Port Gamble S'Klallam Tribe of the Port Gamble Reservation, 31912 Little Boston Rd. NE, Kingston, WA 98346	320,000
Puyallup Tribe of the Puyallup Reservation, 2002 E 28th St., Tacoma, WA 998404–4996	320,000
Skokomish Indian Tribe of the Skokomish Reservation, A.B. 80, Tribal Center Road, Shelton, WA 98584–9748	320,000
Squaxin Island Tribe of the Squaxin Island Reservation, SE 70, Squaxin Lane, Shelton, WA 98584–9200	320,000
Alaska ONAP	
Akiachak Native Community, P.O. Box 70, Akiachak, AK 99551	500,000
Akiak Native Community, P.O. Box 52165, Akiak, AK 99552	500,000
Arctic Village Council, P.O. Box 50, Arctic Village, AK 99722	500,000
Chefornak Traditional Council, P.O. Box 110, Chefornak, AK 99561	499,800
Native Village of Eyak Tribal Council, P.O. Box 1388, Cordova, AK 99574	500,000
Native Village of Kwinhagak (Quinhagak), P.O. Box 149, Quinhagak, AK 99655	230,008
Native Village of Napakiak, Pouch 2, Napakiak, AK 99634	318,558
Native Village of Shaktoolik, Box 100, Shaktoolik, AK 99771	500,000
Native Village of St. Michael, P.O. Box 59058, St. Michael, AK 99659	500,000
Nenana Native Association, P.O. Box 356, Nenana, AK 99760	200,000
Nunapitchuk IRA Council, Box 130, Nunapitchuk, AK 99641	500,000
Orutsararmuit Native Council, P.O. Box 927, Bethel, AK 99559	231,660
Tuluksak Native Community, P.O. Box 95, Tuluksak, AK 99679	

[FR Doc. 97–29425 Filed 11–6–97; 8:45 am]
BILLING CODE 4210–33–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4235–N–28]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: November 7, 1997.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, Department of Housing and Urban Development, Room 7256, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1226; TDD number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: October 30, 1997.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 97–29265 Filed 11–6–97; 8:45 am]
BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Notice of Intent To Negotiate a Contract Among Ouray Park Irrigation Company, the Central Utah Water Conservancy District, and the Department of the Interior for Temporary Storage of Project Water in the Proposed Lower Uintah Reservoir as Part of the Uintah Unit Replacement Project of the Central Utah Project Completion Act

AGENCY: Office of the Assistant Secretary—Water and Science, Department of the Interior.

ACTION: Notice of intent to negotiate a contract among Ouray Park Irrigation Company (Ouray Park), the Central Utah Water Conservancy District (District), and Department of the Interior for temporary storage of non-project water in the proposed Lower Uintah Reservoir as part of the Uintah Unit Replacement Project (Uintah Unit) under the Central Utah Project Completion Act.

SUMMARY: Pub. L. 102–575, Central Utah Project Completion Act, Section 201(c), allows for the construction of the Uintah Unit Project as part of the Central Utah Project. As part of this project, the United States plans to temporarily store a portion of the Ouray Park storage right during the non-irrigation season and release it at a flow rate in the Uinta River that will enhance stream fishery. The water will be recaptured in the existing Ouray Park storage facilities through a new diversion and pipeline system to be located lower on the Uinta River and built by the District as part of the Uintah Unit.

The purpose of the negotiation sessions will be to determine the terms of the temporary storage and the release pattern that will provide Ouray Park with the same amount of water they have received historically and at the time they need it for irrigation use. It will also address the responsibility for operation and maintenance for the Lower Uintah Reservoir, the new diversion, and pipeline.

DATES: Dates for public negotiation sessions will be announced in local newspapers.

FOR FURTHER INFORMATION CONTACT: Additional information on matters related to this **Federal Register** notice can be obtained at the address and telephone number set forth below: Mr. Michael Hansen, Program Coordinator, CUP Completion Act Office, Department of the Interior, 302 East 1860 South, Provo UT 84606–6154, Telephone: (801) 379–1194, E-Mail address: mhansen@uc.usbr.gov.

Dated: October 31, 1997.

Ronald Johnston,

CUP Program Director, Department of the Interior.

[FR Doc. 97–29441 Filed 11–6–97; 8:45 am]
BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Notice of Intent To Negotiate a Contract Between the Bureau of Indian Affairs, Uintah and Ouray Agency and the Department of the Interior for Storage of Project Water in the Proposed Lower Uintah Reservoir and Delivery of Project Water to Irrigated Lands Held in Trust for the Ute Tribe, Uintah and Ouray Reservation, and Tribal Members, as Part of the Uintah Unit Replacement Project of the Central Utah Project Completion Act

AGENCY: Office of the Assistant Secretary—Water and Science, Department of the Interior.

ACTION: Notice of intent to negotiate a contract between the Bureau of Indian Affairs, Uintah and Ouray Agency (BIA) and the Department of the Interior for storage of project water in the proposed Lower Uintah Reservoir and delivery of project water to lands held in trust for the Ute Tribe, Uintah and Ouray Reservation (Ute Tribe), and Tribal members, as part of the Uintah Unit Replacement Project (Uintah Unit) under the Central Utah Project Completion Act.

SUMMARY: Pub. L. 102–575, Central Utah Project Completion Act, Section 201(c), allows for the construction of the Uintah Unit as part of the Central Utah Project. As part of the this project, the United States plans to develop water storage for use by the Ute Tribe for irrigation. As the trustee for the Ute Tribe, BIA will contract for the delivery of the project water to the Ute Tribe and Tribal members and will deliver the water through the existing United States developed Uintah Indian Irrigation Project facilities.

The purpose of the negotiation sessions will be to determine the terms of the storage and delivery of Uintah Unit project water to the Ute Tribe and Tribal members for irrigation use. It will also address the responsibility for management, operation and maintenance, repayment, and assessments for the Indian portions of the Uintah Unit.

DATES: Dates for public negotiation sessions will be announced in local newspapers.

FOR FURTHER INFORMATION: Additional information on matters related to this

Federal Register notice can be obtained at the address and telephone number set forth below:

Mr. Michael Hansen, Program Coordinator, CUP Completion Act Office, Department of the Interior, 302 East 1860 South, Provo UT 84606–6154, Telephone: (801) 379–1194, E-Mail address: mhansen@uc.usbr.gov

Dated: October 31, 1997.

Ronald Johnston,

CUP Program Director, Department of the Interior.

[FR Doc. 97–29442 Filed 11–6–97; 8:45 am]
BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Notice of Intent to Negotiate a Contract Among Wasatch County Special Service Area #1, Central Utah Water Conservancy District, and Department of the Interior for Carriage of Non-Project Water Through the Timpanogos Canal as Part of the Wasatch County Water Efficiency Project and Daniel Replacement Project of the Central Utah Project Completion Act

AGENCY: Office of the Assistant Secretary—Water and Science, Department of the Interior.

ACTION: Notice of intent to negotiate a contract among Wasatch County Special Service Area #1 (WCSSA), Central Utah Water Conservancy District (District), and Department of the Interior for carriage of non-project water through the Timpanogos Canal as part of the Wasatch County Water Efficiency Project and Daniel Replacement Project (WCWEP and DRP) under the Central Utah Project Completion Act.

SUMMARY: Pub. L. 102–575, Central Utah Project Completion Act, Sections 202(a)(3), 207(e), and 303(b), allows for the construction of the WCWEP and DRP as part of the Central Utah Project. The WCWEP and DRP Projects provide for increasing irrigation efficiency in the Heber Valley, conserving water, and eliminating the diversion of water from the upper Strawberry River tributaries to Heber Valley. As part of the these projects, the United States plans to acquire, and the District intends to improve, the Timpanogos Canal, a feature which has historically been used to convey Provo River water to irrigators. The canal will be used to convey project water and non-project water for irrigation purposes.

The purpose of the negotiations sessions will be to determine the amount of non-project water which will be conveyed through the Timpanogos Canal and the price to be paid by WCSSA to the Department for conveying the non-project water.

DATES: Dates for public negotiation sessions will be announced in local newspapers.

FOR FURTHER INFORMATION CONTACT: Additional information on matters related to this **Federal Register** notice can be obtained at the address and telephone number set forth below: Mr. Reed Murray, Program Coordinator, CUP Completion Act Office, Department of the Interior, 302 East 1860 South, Provo UT 84606–6154, Telephone: (801) 379–1237, E-Mail address: rmurray@uc.usbr.gov.

Dated: October 31, 1997.

Ronald Johnston,

CUP Program Director, Department of the Interior.

[FR Doc. 97–29440 Filed 11–6–97; 8:45 am]
BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proposed Agency Information Collection Activities; Comment

AGENCY: Bureau of Indian Affairs—Office of Indian Education Programs.

ACTION: Notice.

SUMMARY: This notice announces that the Information Collection Request for Student Transportation Mileage Form OMB # 1076–0134 requires renewal. The proposed information collection requirement, with no appreciable changes, described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. 350 (c) (2) (A). The Bureau is soliciting public comments on the subject proposal.

DATES: Written comments must be submitted on or before January 6, 1998.

ADDRESSES: Comments are to be mailed to Director, Office of Indian Education Programs, Department of the Interior, Bureau of Indian Affairs, 1849 C St. NW, Mail Stop 3512–MIB, Washington, DC 20240, or hand delivered to room 3512 at the above address.

All written comments will be available for public inspection in Room 3543 of the Main Interior Building, 1849 C Street, NW, Washington, D.C. from 9:00 a.m. until 3:00 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Dalton J. Henry or Keener Cobb, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, NW, MS 3512, Washington, D.C. 20240, 202–208–3550.

SUPPLEMENTARY INFORMATION:

I. Abstract

The information collection is needed to collect transportation mileage for Bureau funded schools for the purpose of allocating transportation funds.

II. Method of Collection

The Student Transportation regulations under 25 CFR Subpart H contain the program eligibility and criteria which govern the allocation of transportation funds. Information collected from the schools will be used to determine rate per mile.

III. Data

(1) *Title of the Collection of Information:* Office of Indian Education Programs Indian School Equalization Program—Student Transportation. OMB Number: 1076–0134; Expiration Date: September 31, 1997; Type of Review: Renewal of a currently approved information collection.

(2) *Summary of the Collection of Information:* The collection of information provides pertinent data concerning the schools' bus transportation mileage to determine funding for school transportation.

(3) *Affected Entities:* Contract and Grant Schools and Bureau operated schools.

(4) *Description of the need for the information and proposed use of the information:* Submission of this information is required in order to receive funds for student transportation. The information is collected to determine rate per mile from 185 schools and to allocate funds.

(5) *Description of likely respondents, including the estimated number of likely respondents, and proposed frequency of response to the collection of information:* Description of likely respondents: Tribal schools administrators; Estimated number of respondents: 105; Proposed frequency of responses: Annually, during student count week.

(6) *Estimate of total annual reporting and record keeping burden that will result from the collection of information: 263 hours;* Reporting 2.5 hours/response×105 respondents=263 hours.

Estimated Total Annual Burden Hours=263 hours.

Estimated Annual Costs: $5,450.00 (2.5 hours×105×$20.00).

IV. Request for Comments

The Department of the Interior invites comments on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agencies' estimate of the burden (including the hours and cost) of the proposed collection of information, including the validity of the methodology and assumption used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use,of appropriate automated, electronic, mechanical, or other collection techniques or other forms of information technology. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information, unless it displays a currently valid Office of Management and Budget control number.

Dated: October 17, 1997.

Ada E. Deer,

Assistant Secretary, Indian Affairs.

OMB # 1076–0134
Expiration Date ( )

Office of Indian Education Programs Indian School Equalization Program (ISEP) Student Transportation

Transportation forms must be certified (signed and dated) by the school principal and education line officer. Do not forward to Washington, DC, without the two required signatures. All transportation forms are due in Washington, DC, on or before the first week in November after the count week.

For each School Year, student transportation funds will be allocated to schools based on the following guidelines. Although, all transportation forms are due in Washington, DC, during the first week in November, after the count week, schools are to forward transportation forms to their respective Education Line Officer by Friday the first week in October after the count week. The Education Line Officer will certify the Transportation Program during the certification of the student membership count.

Rates Per Mile

A single rate will be used for all ground transportation miles. Since we are limited by the amount reflected in the Budget Fiscal Year (BFY) budget request, the rate per mile cannot be ascertained until we know the actual total miles reported for the School Year after the count week. The rate in BFY 1996–97 was $1.60 per mile.

Mileage for after school programs such as athletics, band, detention and/or study hall, and extra curricular activities, such as arts and crafts programs, are considered part of the instructional program and not eligible for ISEP transportation funding.

Mileage for all day and boarding students to attend instructional programs less than full time at locations other than the school reporting the transportation mileage are considered part of the instructional program and are not eligible for ISEP transportation funding.

Day School Students

Do not use transportation time as instruction time to meet the minimum required hours for academic funding.

For each vehicle, report the following:

1. The total mileage separately by vehicle number.
2. Mileage from point of origin (school, home of bus driver, etc.) to students' homes or pick up points and return to school.
3. Mileage for vehicles that are used for several routes during one morning or afternoon, with no break in service, by recording only the beginning and ending odometer reading.
4. Mileage for each of the five days of count week, rounded to one decimal point. Funding will be based on the average of the Tuesday, Wednesday, and Thursday mileage.

Funds shall be allocated to each school which provides daily transportation of students between the students' residences (or other traditional pick up points on the reservation) and the school site. The following formula was used for the computation of funds in BFY 1996–97 and will apply for BFY 1997–98 funding computation.

Average number of miles traveled by all buses on one day (including pick up and return, excluding field trips and extra curricular activities).

×*180 days of school*
=Annual student transportation miles.
×*Rate per mile*
=Transportation funding for day school students

A route, is from point of origin (school, home of bus driver, etc.) to students' homes or pick up points and return to school.

A run is one or more routes by a vehicle in the morning or the afternoon when there is no break in the transportation of students to and from school. Vehicle transportation size means the number of passengers the bus holds.

Boarding School Students

Funds shall be allocated to each boarding school to provide for students' arrival at school in the Fall, round trip home at Christmas, and their return home at the end of the school year, using the following formula:

Actual number of miles traveled by all buses or other vehicles to get students to school at the beginning of the year.
×*4 one way trips per year*
= Annual student transportation miles
×*Rate per mile*
= Transportation funding for boarding school students.

Note that the rate is calculated against vehicle miles rather than miles per student. DO NOT REPORT ONE-WAY MILEAGE BY FOUR. To receive funding, a school must transport students.

Peripheral Dormitory Students

If OIEP provides transportation to the public school, the day school student calculation may be used. Additionally, the boarding school student calculation shall be used to provide the student's transportation between home and peripheral dormitory, but the dormitory must transport students to receive funding.

Air Miles

A student may be flown to and from school, at the discretion of the Education Line Officer, and the school will be reimbursed on the following formula:

Actual one way air fare at the most economical rate to the Government
×*Actual one way trips per year (not to exceed four)*
= Transportation funding for air miles

Ground mileage from airport arrival to school may be added to boarding school student mileage.

Schools may be reimbursed for actual chaperon expenses, excluding salaries, during the transportation of students to and from home at the beginning of school year, Christmas, and end of the school year.

Unimproved Roads

Because of road conditions, annual student transportation miles on unimproved roads reported by schools are weighted by a factor of 1.2 before multiplying by the standard rate per mile.

For ISEP funding, unimproved roads are dirt roads that have not had sand, gravel, shale, or other materials applied, and do not have drainage ditches and/or shoulders.

Paper Reduction Act: The Student Transportation information is being collected to obtain a benefit, and will be used to determine funding. Response to this request is required to obtain a benefit in accordance with Public Law 95–531. Public reporting burden for this collection is estimated to average 2.5 hours per response, including the time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form.

Billing Code 4310–02–P

OMB # 1076-0134 Expiration Date ( )

BUREAU OF INDIAN AFFAIRS
OFFICE OF INDIAN EDUCATION PROGRAMS
INDIAN SCHOOL EQUALIZATION PROGRAM (ISEP)
DAY STUDENT TRANSPORTATION

SCHOOL:_____ LOCATION CODE:_____

For each additional vehicle, please photocopy this page. Report mileage for each day. Only mileage on Tuesday, Wednesday, and Thursday will be used for calculation of average. A map to illustrate and document this route must be maintained at the school's Principal's or Transportation Director's Office. Do not submit the maps to Washington, DC.

VEHICLE IDENTIFICATION NO.: _____ VEHICLE TRANSPORTATION SIZE:_____

MORNING BUS ROUTE(S)

---1st Route -- Route Name:				---Additional Route--- Route Name:		
Day Date September	Odometer Begin	End	No. Of Miles	Odometer Begin	End	No. Of Miles
Mon 9/ /						
Tue 9/ /						
Wed 9/ /						
Thu 9/ /						
Fri 9/ /						
Total Miles (Tue Wed, Thu):						

AFTERNOON/EVENING BUS ROUTE(S)

---1st Route -- Route Name:				---Additional Route--- Route Name:		
Day Date September	Odometer Begin	End	No. Of Miles	Odometer Begin	End	No. Of Miles
Mon 9/ /						
Tue 9/ /						
Wed 9/ /						
Thu 9/ /						
Fri 9/ /						
Total Miles (Tue Wed, Thu):						

Total morning and afternoon miles for this vehicle (Tue., Wed., Thur.):__divided by 3 = ____

OMB # 1076-0134 Expiration Date ( )

BUREAU OF INDIAN AFFAIRS
OFFICE OF INDIAN EDUCATION PROGRAMS
INDIAN SCHOOL EQUALIZATION PROGRAM (ISEP)
SUMMARY DAY STUDENT TRANSPORTATION
GRAND TOTAL FOR ALL VEHICLES

If additional pages are required, please photocopy, but all totals must be recorded on a single form/page.

SCHOOL:_____ LOCATION CODE:_____

Vehicle ID. No.	Average Day's Mileage	Road Conditions: Unimproved Miles	Improved Miles
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. _____	_____	_____	_____
6. _____	_____	_____	_____
7. _____	_____	_____	_____
8. _____	_____	_____	_____
9. _____	_____	_____	_____
10. _____	_____	_____	_____
11. _____	_____	_____	_____
12. _____	_____	_____	_____
TOTAL MILES	_____	_____	_____

DAY STUDENT TRANSPORTATION CERTIFICATION

_____ _____
Principal's Signature **Education Line Officer's Signature**

_____ _____
Date **Date**

OMB # 1076-0134 Expiration Date ( )

BUREAU OF INDIAN AFFAIRS
OFFICE OF INDIAN EDUCATION PROGRAMS
INDIAN SCHOOL EQUALIZATION PROGRAM (ISEP)
BOARDING/DORMITORY STUDENT TRANSPORTATION

SCHOOL:_____ LOCATION CODE:_____

If Bureau-owned or leased vehicles are used, report actual miles traveled by each vehicle. If additional pages are required, please photocopy this page, but all totals must be recorded on a single form/page.

Vehicle I.D. No.& Vehicle Transp., Size	Total Miles Traveled	Road Conditions: Unimproved Miles	Improved Miles
1. _____	_____	_____	_____
_____	_____	_____	_____
2. _____	_____	_____	_____
_____	_____	_____	_____
3. _____	_____	_____	_____
_____	_____	_____	_____
4. _____	_____	_____	_____
_____	_____	_____	_____
5. _____	_____	_____	_____
_____	_____	_____	_____
6. _____	_____	_____	_____
_____	_____	_____	_____
TOTAL MILES	_____	_____	_____

BOARDING/DORMITORY STUDENT TRANSPORTATION CERTIFICATION

_____ _____
Principal's Signature **Education Line Officer's Signature**

_____ _____
Date **Date**

OMB # 1076-0134 Expiration Date ( )

BUREAU OF INDIAN AFFAIRS
OFFICE OF INDIAN EDUCATION PROGRAMS
INDIAN SCHOOL EQUALIZATION PROGRAM (ISEP)
BOARDING/DORMITORY STUDENT TRANSPORTATION CONTINUED

CHARTER/COMMERCIAL BUS TRANSPORTATION

If chartered buses are used, report actual cost of each charter. If commercial bus transportation is used, report actual cost of the ticket. If additional pages are required, please photocopy this page, but all totals must be recorded on a single page. Records for vehicles, charters, and air trips need not be submitted, but must be available for an audit.

FROM/TO	COST
1._____	$_____
2._____	_____
3._____	_____
4._____	_____
5._____	_____
TOTAL COST:	$_____

AIR TRANSPORTATION

STUDENT'S NAME, GRADE, FROM/TO	ONE WAY AIR FARE
1._____	$_____
2._____	_____
3._____	_____
4._____	_____
5._____	_____
6._____	_____
7._____	_____
8._____	_____
9._____	_____
10._____	_____
TOTAL COST:	$_____

CHARTER/COMMERCIAL and/or AIR TRANSPORTATION CERTIFICATION

_____ _____
Principal's Signature **Education Line Officer's Signature**

_____ _____
Date **Date**

[FR Doc. 97-29401 Filed 11-6-97; 8:45 am]
BILLING CODE 4310-02-C

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proposed Agency Information Collection Activities; Comment

AGENCY: Bureau of Indian Affairs—Office of Indian Education Programs.

ACTION: Notice.

SUMMARY: This notice announces that the Information Collection Request for Adult Education Annual Report Form OMB #1076–0120 requires renewal. The proposed information collection requirement, with no appreciable changes, described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. 350(c)(2)(A). The Bureau is soliciting public comments on the subject proposal.

DATES: Written comments must be submitted on or before January 6, 1998.

ADDRESSES: Comments are to be mailed to Director, Office of Indian Education Programs, Department of the Interior, Bureau of Indian Affairs, 1849 C St. NW, Mail Stop 3512–MIB, Washington, DC 20240, or hand delivered to room 3512 at the above address. All written comments will be available for public inspection in Room 3543 of the Main Interior Building, 1849 C Street, NW, Washington, D.C. from 9:00 a.m. until 3:00 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Dalton J. Henry or Keener Cobb, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, NW, MS 3512, Washington, D.C. 20240, 202–208–3550.

SUPPLEMENTARY INFORMATION:

I. Abstract

The information collection is necessary to assess the need for adult education programs in accordance with 25 CFR Part 46, Subpart A, Sections 46.20 Program Requirements and 46.30 Records and Reporting Requirements of Adult Education Program.

II. Method of Collection

The Adult Education Program regulations under 25 CFR Part 46 Subpart A contain the program requirements which govern the program. Information collected from the contractors will be used for administrative planning, setting long and short term goals, and analyzing and monitoring the use of funds.

III. Data

(1) *Title of the Collection of Information:* Bureau of Indian Affairs Adult Education Program Annual Report Form. OMB Number: 1076–0120; Expiration Date: October 31, 1997; Type of Review: Renewal of a currently approved information collection.

(2) *Summary of the Collection of Information:* The collection of information provides pertinent data concerning adult education programs.

(3) *Affected Entities:* Tribal adult education contractors.

(4) *Description of the need for the information and proposed use of the information:* Submission of this information is necessary to assess the need for adult education programs. The information is needed for the utilization and management of program resources to provide education opportunities for adult American Indians and Alaska Natives to complete high school requirements, and to gain new skills and knowledge for individual student self enhancement. The information collected with the annual report will be used by the Bureau or tribal programs for fiscal accountability and appropriate direct services documentation. The results of the data are used for administrative planning.

(5) *Description of likely respondents, including the estimated number of likely respondents, and proposed frequency of response to the collection of information:* Description of likely respondents: Tribal adult education program administrators; Estimated number of respondents: 70; Proposed frequency of responses: Annually.

(6) *Estimate of total annual reporting and record keeping burden that will result from the collection of information:* 280 hours; Reporting 4.0 hours/response × 70 respondents = 280 hours.

Estimated Total Annual Burden Hours = 280 hours. Estimated Annual Costs: $5,040.00 (4.0 hours × 70 × $18.00)

IV. Request for Comments

The Department of the Interior invites comments on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) the accuracy of the agency's estimate of the burden (including the hours and cost) of the proposed collection of information, including the validity of the methodology and assumption used;

(c) ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other collection techniques or other forms of information technology.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information, unless it displays a currently valid Office of Management and Budget control number.

Dated: October 17, 1997.

Ada E. Deer,

Assistant Secretary, Indian Affairs.

BILLING CODE 4310-02-P

BIA Form 62123

BUREAU OF INDIAN AFFAIRS
ADULT EDUCATION PROGRAM ANNUAL REPORT FORM
FY _____
(Reporting Period: August 30 - July 1)

ADMINISTERING OFFICE:

Program Site	Contact Person	BIA Area
Mailing Address	Telephone No.	BIA Agency
City, State & ZIP	Fax or E-Mail No	Tribal Contract

SECTION I: GED PROGRAM

1. Number students enrolled in the GED Program.	
2. Number of students receiving the GED Certificate	
3. Number of students enrolled not completing the program	
4. Number of students entering college as a result of completing the GED Program	
5. Number of students entering employment as a result of completing the GED Program.	

SECTION II: ADULT BASIC EDUCATION (ABE)

1. Number of ABE courses offered.	
2. Number of students enrolled in ABE courses	
3. Number of students enrolled completing ABE course work.	
4. Number of students in GED, training or employment resulting from ABE courses.	

SECTION III: PROGRAM COSTS (Administrative Costs + Direct = TPA Allocations)

TRIBAL PRIORITY ALLOCATIONS (TPA)	ADMINISTRATIVE COST	DIRECT PROGRAM COST

SECTION IV: ACCOMPLISHMENTS, NARRATIVES As an attachment, this section can include program accomplishments and other pertinent information about your program (news articles, pictures, video, highlights, etc.)

[FR Doc. 97–29402 Filed 11–6–97; 8:45 am]
BILLING CODE 4310–89–C

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–060–1220–00]

Front Range Resource Advisory Council (Colorado); Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C. Appendix, notice is hereby given that the next meeting of the Front Range Resource Advisory Council (Colorado) will be held on November 20, 1997 in Canon City, Colorado.

The meeting is scheduled to begin at 9:15 a.m. at the Holycross Abbey Community Center, 2951 E. Highway 50, Canon City, Colorado. The meeting will include the election of Officers for the Council, presentation of a Hammer Award to Council members by Colorado State Director Ann Morgan and an update on current issues. The Council will also continue working on the development of recreation guidelines. The Guidelines are intended to help achieve the statewide standards for public land health which were approved earlier this year.

All Resource Advisory Council meetings are open to the public. Interested persons may make oral statements to the Council at 9:30 a.m. or written statements may be submitted for the Council's consideration. The District Manager may limit the length of oral presentations depending on the number of people wishing to speak.

DATES: The meeting is scheduled for Thursday, November 20, 1997, from 9:15 a.m. to 4 p.m.

ADDRESSES: Bureau of Land Management (BLM), Canon City District Office, 3170 East Main Street, Canon City, Colorado 81212; Telephone (719) 269–8500; TDD (719) 269–8597.

FOR FURTHER INFORMATION CONTACT: Ken Smith at (719) 269–8553.

SUPPLEMENTARY INFORMATION: Summary minutes for the Council meeting will be maintained in the Canon City District Office and will be available for public inspection and reproduction during regular business hours within thirty (30) days following the meeting.

Dennis R. Sparks,

District Manager.

[FR Doc. 97–29477 Filed 11–6–97; 8:45 am]
BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

National Park Service

Cuyahoga Valley National Recreation Area

AGENCY: National Park Service, Interior Department.

ACTION: Notice of temporary closure of park.

SUMMARY: For further information contact: Superintendent John P. Debo, Cuyahoga Valley National Recreation Area, 15610 Vaughn Road, Brecksville, Ohio 44141 or call (440) 546–5903.

SUPPLEMENTARY INFORMATION: Cuyahoga Valley National Recreation Area will temporarily close its lands to all public entry and use, for a portion of each week, between November 1, 1997 and March 15, 1998. The closure will apply to all Federal lands held in fee, and all less-than-fee lands where the park has easements for visitor use. The closure days and times each week will be Sunday night through Friday morning, from 5 p.m. to 6 a.m. only. Park lands will remain open during daylight hours seven days a week, plus Friday and Saturday nights. The reason for the closure is for public safety during a necessary wildlife reduction of some of the park's white-tailed deer. Public notice of the closure will be in a variety of ways: news releases, this notice, signs at points of entry, signs on bulletin boards/kiosks, signs on gates, personal contact and other methods as well. Interested persons may obtain a copy of the closure Determination by writing to: Superintendent, Cuyahoga Valley National Recreation Area, 15610 Vaughn Road, Brecksville, Ohio 44141.

Dated: October 30, 1997.

John P. Debo,

Superintendent, Cuyahoga Valley National Recreation Area.

[FR Doc. 97–29454 Filed 11–6–97; 8:45 am]
BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Draft Yosemite Valley Implementation Plan and Draft Supplemental Environmental Impact Statement; Yosemite National Park, California; Notice of Availability

SUMMARY: Pursuant to § 102(2)(C) of the National Environmental Policy Act of 1969 (P.L. 91–190 as amended), the National Park Service, Department of the Interior, has prepared a Draft Supplemental Environmental Impact Statement (DSEIS) assessing the potential impacts of a proposed Yosemite Valley Implementation Plan for Yosemite National Park, California. The DSEIS identifies and analyzes a proposed action and three alternatives for carrying out certain provisions of the 1980 General Management Plan (GMP). Those provisions call for removing unnecessary structures, restoring and protecting recovered land, relocating facilities out of sensitive or hazardous areas, and reducing traffic congestion in Yosemite Valley. This DSEIS also incorporates the 1992 Concession Services Plan and pertinent information from the 1996 Draft Yosemite Valley Housing Plan with the GMP into a comprehensive implementation plan. Each alternative describes a proposal for the management and use of Yosemite Valley and discusses changes in the valley's developed areas, cultural and natural resource management, interpretation and visitor services, and park operations. The environmental consequences of the proposed action and the three alternatives are fully documented in the DSEIS, and appropriate mitigation measures to reduce or eliminate impacts are identified. Once approved, the plan will provide implementation guidance for carrying out provisions of the GMP.

Proposal

Under Alternative 2 (the proposed action), the National Park Service (NPS) would emphasize a comprehensive approach to carrying out the provisions of the GMP and subsequent plans. Implementation of the proposed action would allow for approximately 147 acres in the east end of the valley to be restored to natural conditions, 82 acres redesigned, and 38 acres developed to accommodate relocated facilities or functions. An orientation/transfer facility would be located in the west end of the valley at Taft Toe. Day use visitors and out-of-park transit bus riders would be intercepted there and would use the valley shuttle bus system to access other destinations in Yosemite Valley. Day use vehicles and parking would be removed from the east end of the valley. Changes to circulation and campgrounds are also proposed. Alternative 2 proposes an increase in interpretive and educational programs through partnerships with supporting organizations. Some cultural resources would be affected by the proposed actions.

Alternatives

In addition to the proposed action, three other alternatives are presented and analyzed. Alternative 1 (no action), continues implementation of the GMP, but without a comprehensive approach. Implementing this alternative would allow for approximately 41 acres to be restored to natural conditions and 15 acres redesigned to accommodate relocated facilities or functions. Alternative 3 is similar to the proposed action but provides an orientation/transfer facility with some interpretive functions in the west end of the valley at Pohono Quarry. Implementing this alternative would allow for approximately 143 acres to be reclaimed and restored to natural conditions, 93 acres redesigned, and 38 acres developed to accommodate relocated facilities or functions. Alternative 4 (minimum requirements) would provide for implementation of the GMP in a manner more comprehensive than the no action alternative but with less habitat restoration and fewer improvements than Alternative 2 and Alternative 3. Implementing Alternative 4 would allow for approximately 118 acres to be reclaimed and restored to natural conditions, 95 acres redesigned, and 36 acres developed to accommodate relocated facilities or functions. Under this alternative, there would be no orientation/transfer facility and day use vehicles would continue to park in the east end of the valley.

Public Meetings

A series of informational Open Houses will be held to provide members of the public with an informal opportunity to learn about the Draft Yosemite Valley Implementation Plan, the major issues, and the results of impact and mitigation analyses. NPS staff will be available to discuss the alternatives and answer questions, and exhibits illustrating elements of the proposal and alternatives will be displayed. The Open House sessions have been scheduled as follows:

Nov. 13—Yosemite Valley 3:00–8:00 p.m.
Nov. 17—Fresno area 4:00–9:00 p.m.
Nov. 18—Los Angeles area 2:00–8:00 p.m.
Nov. 20—San Francisco 2:00–8:00 p.m.
Nov. 22—Mammoth Lakes 4:00–9:00 p.m.

In addition, a series of Public Workshops will be held to provide NPS staff an opportunity to hear concerns and suggestions from the public. In contrast to a formal public hearing, the workshops will afford interested individuals and organization representatives the opportunity to verbally offer input and engage in dialog about the range of alternatives, elements of alternatives, and issues involved. This dialog is intended to provide additional guidance to the NPS in preparing a Final Yosemite Valley Implementation Plan. This series of Workshops has been scheduled as follows:

Dec. 1—Fresno area 7:00–9:00 p.m.
Dec. 2—Los Angeles area 7:00–9:00 p.m.
Dec. 4—San Francisco 7:00–9:00 p.m.
Dec. 6—Mammoth Lakes 7:00–9:00 p.m.
Dec. 10—Yosemite Valley 2:00–4:00 p.m.

For directions to public meeting locations or information about other activities (including site visits), please contact the Superintendent's office as noted below.

SUPPLEMENTARY INFORMATION: Copies of the DSEIS will be available for public inspection at the park and area libraries, and at the Office of Public Affairs, National Park Service, Department of the Interior, 1849 C Street NW, Washington DC; and Pacific West Regional Office, 600 Harrison Street, Suite 600, San Francisco, CA. Requests for copies of the document should be directed to: Superintendent, Attn: VIP–PIO, Yosemite National Park, P.O. Box 577, Yosemite, CA 95389, or by telephone at (209) 372–0265. The draft document will also be available on the Internet at http://www.nps.gov/planning. All comments should be directed to the Superintendent at the above address. Written comments must be postmarked no later than January 23, 1998; comments also will be accepted via the Internet (per above) if transmitted no later than January 23, 1998.

Decision

After the formal DSEIS review period has concluded, all comments and suggestions received will be considered in preparing a final plan. Currently the final SEIS and plan are anticipated to be completed during spring or summer, 1998; their availability will be similarly announced in the **Federal Register**. Subsequently a Record of Decision would be executed no sooner than 30 (thirty) days after release of the final SEIS. The responsible officials are John J. Reynolds, Regional Director, Pacific West Region and Stanley T. Albright, Superintendent, Yosemite National Park.

Dated: October 31, 1997.

Patricia L. Neubacher,

Acting Regional Director, Pacific West Region.

[FR Doc. 97–29458 Filed 11–6–97; 8:45 am]
BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Death Valley National Park; Advisory Commission; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the Death Valley National Park Advisory Commission will be held November 20 and 21, 1997; assemble at 9:00 AM at the Furnace Creek Inn, Death Valley, California.

The main agenda will include:

1. General Park Orientation
2. Park Updates on Issues and Projects
3. Commission Organization
4. Northern and Eastern Mojave Planning Update
5. Wilderness and Backcountry Planning Update

The Advisory Commission was established by PL #03–433 to provide for the advice on development and implementation of the General Management Plan.

Members of the Commission include Michael Prather and Michael Doreme of Lone Pine, California; Joan Lolmaugh and Alan Peckham of Las Vegas, Nevada; Gilbert Zimmerman of Rancho Mirage, California; Stanley Haye of Ridgecrest, California; Wayne Schulz of Mariposa, California; Sue Hickman of Yermo, California; Mark Ellis of Santa Clarita, California; Janice Allen of Olancha, California; Calvin Jepson and Pauline Esteves of Death Valley, California; Gary O'Connor of Goldfield, Nevada, Robert Revert of Beatty, Nevada; and Kathy Davis of Apple Valley, California.

This meeting is open to the public.

Richard H. Martin,

Superintendent, Death Valley National Park.

[FR Doc. 97–29457 Filed 11–6–97; 8:45 am]
BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Central Valley Project Improvement Act, California

AGENCY: Bureau of Reclamation, Department of the Interior

ACTION: Notice of availability of the draft programmatic environmental impact statement (DPEIS).

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA) of 1969 (as amended), the Bureau of Reclamation (Reclamation) as lead agency has prepared a DPEIS for the Central Valley Project Improvement Act (CVPIA). The proposed alternatives provide a means for implementing the CVPIA. The proposed alternatives exercise the provisions of several federal laws as applicable to Reclamation. Public hearings will be held in a number of sessions to receive written or verbal comments on the DPEIS from interested organizations and individuals on the environmental impacts of the proposal.

DATES: Public comments on the DPEIS should be submitted on or before February 6, 1998. Public hearings to receive comments on the PDEIS will be held as follows:

- January 7, 1998 at 7:00 p.m. at the Elks Lodge, 355 Gilmore Road, Red Bluff, California.
- January 8, 1998 at 7:00 p.m. at the Tradewinds Lodge, 400 South Main Street, Fort Bragg, California.
- January 13, 1998 at 7:00 p.m. at the Holiday Inn, 2233 Ventura Street, Fresno, California.
- January 14, 1998 at 7:00 p.m. at the Oakland Federal Building, 1301 Clay Street, Oakland, California.
- January 15, 1998 at 7:00 p.m. at the Sacramento Inn, Yosemite Room, 1401 Arden Way, Sacramento, California.

ADDRESSES: Written comments on the DPEIS should be addressed to Mr. Alan Candlish, Bureau of Reclamation, 2800 Cottage Way, MP–120, Sacramento CA 95825. Requests for either a printed copy or a compact disk version of the DPEIS should be addressed to Ms. Alisha Sterud, Bureau of Reclamation, 2800 Cottage Way, MP–120, Sacramento CA 95825, telephone: (916) 978–5190.

Copies of the DPEIS are also available for public inspection and review at the following locations:

- Bureau of Reclamation, Program Analysis Office, Room 7456, 1849 C Street NW, Washington DC 20240; telephone: (202) 208–4662.
- Bureau of Reclamation, Denver Office Library, Building 67, Room 167, Denver Federal Center, 6th and Kipling, Denver CO 80225; telephone: (303) 236–6963.
- Bureau of Reclamation, Regional Director, Attention: MP–140, 2800 Cottage Way, Sacramento, CA 95825–1898; telephone: (916) 978–5100.
- Natural Resources Library, U.S. Department of the Interior, 1849 C Street NW, Main Interior Building, Washington DC 20240–0001.

Copies will also be available for inspections at the following public libraries: Alum Rock Library, Alturas Public Library, Amador County Library, Auburn-Placer County Library, Bakersfield Library, Burbank Public Library, Butte County Library, Calaveras County Library, California State Library, College of the Redwoods, Colusa County Free Library, Concord Library, Contra Costa Library, CSU—Chico, Meriam Library-Government Publications, CSU Long Beach, Library-Government Documents, CSU—Stanislaus, Del Norte County Library District, Dixon Unified School District Library, E.P. Foster and H.P. Wright Library, El Dorado County Library, Fresno County Public Library, Grass Valley-Sierra County Library, Humboldt County Library, Kern County Public Library, Kings County Library, Lake County Library, Lassen County Free Library, Lodi Public Library, Los Angeles Public Library, Los Banos City Library, Madera County Library, Marin County Civic Center Library, Mariposa County Library, Mendocino County Library, Mendota Unified School District, Merced Library, Modesto City Library, Monterey County Free Library, Napa City and County Library, Nevada City Library, Northwestern University, Oakland Public Library, Orange County Public Library, Plumas County Library, Red Bluff City Library, Redwood City-San Mateo County Library, Riverside City and County Library, Sacramento County Library, Sacramento Public Library, San Benito County Free Library, San Bernadino County Library, San Diego Public Library, San Diego State University, San Francisco Public Library, San Jose State University, San Luis Obispo City and County Library, San Rafael Civic Center Library, Santa Barbara Public Library, Santa Cruz Public Library, Shasta County Library, Siskiyou County Library, Solano County Library, Sonoma County Library, Stanford University Libraries, Stanislaus County Free Library, Stockton City Library, Stockton-San Joaquin County Public Library, Sutter County Library, Tehama County Library, Trinity County Library, Tulare County Free Library, Tulare Public Library, Tuolumne County Library, U.C. Berkeley Library, U.C. Davis Library, U.C., Hastings College of Law, U.C. Los Angeles, University Research Library, U.C. San Diego, Government Documents/Maps Department, U.C. Santa Barbara, Library-Government Publications Section, U.C. Water Resources Center, Willows Public Library, Yolo County Library, Yuba County Library.

FOR FURTHER INFORMATION CONTACT: If requesting copies of the DPEIS, contact Ms. Alisha Sterud, Bureau of Reclamation, 2800 Cottage Way, MP–120, Sacramento CA 95825, telephone: (916) 978–5190. For additional information contact Mr. Alan Candlish, Bureau of Reclamation, 2800 Cottage Way, MP–120, Sacramento CA 95825, telephone: (916) 978–5190.

Dated: October 17, 1997.

Kirk C. Rodgers,

Deputy Regional Director.

[FR Doc. 97–28763 Filed 11–06–97; 8:45 am]

BILLING CODE 4310–94–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Westland Irrigation District Boundary Adjustment, Hermiston, OR

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended, the Bureau of Reclamation (Reclamation) intends to prepare an environmental impact statement (EIS) for a proposed boundary adjustment to include additional lands into the Westland Irrigation District. Westland Irrigation District (WID) proposes the addition of 21,100 acres, of which 9,912 acres are currently irrigated, into their boundaries.

The NEPA process was initiated in late 1993 and, as a result of comments received then, has been on hold until additional information was obtained. This notice is to inform the public of the resumption of the NEPA process and the preparation of an EIS.

FOR FURTHER INFORMATION CONTACT: Mr. John Tiedeman, UCA–1607, Upper Columbia Area Office, Bureau of Reclamation, PO Box 1749, Yakima, WA 98907–1749; Telephone (509) 575–5848 extension 238.

SUPPLEMENTARY INFORMATION: WID is one of several districts in the Umatilla basin either served by federally owned facilities or receiving federally controlled water. A Federal repayment contract with WID requires that changes to district boundaries must be approved by the Secretary of the Interior. During studies undertaken to implement the Umatilla Basin Project Act, it became apparent that WID was providing federally supplied water to lands outside of the district boundaries. In 1993, to address this problem, WID requested that Reclamation allow a change in their boundaries so that they may provide irrigation water to lands outside the current boundaries. In the interim Reclamation entered into a series of annual water service contracts with WID so irrigation of lands outside of the district boundaries with federally supplied water could continue while issues surrounding the boundary expansion were resolved.

Reclamation and the National Resources Department of the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) held public meetings on November 4 and December 17, 1993, to gather comments from the public concerning the "Proposed Boundary Changes for Irrigation Districts in the Umatilla Project, Oregon." Key issues identified in the scoping effort included Umatilla River hydrology and passage conditions for anadromous fish, Native American trust resources, and continue viability of irrigated agriculture. Based on the complex and often controversial nature of the issues involved, the high level of public and agency interest, and Reclamation's Native American trust responsibilities, Reclamation concluded that an EIS should be prepared. Since then, a hydrologic model of the Umatilla basin, necessary to complete the assessment of the proposed boundary adjustment, had been developed. Completion of the hydrologic model is anticipated for February 1998.

Four alternatives are proposed, including the no action alternative. Under the no action alternative all deliveries of federally supplied water by WID to lands outside of the current district boundaries would cease. Under the action alternatives some, or all, of these deliveries could continue. The draft EIS is expected to be completed in March of 1999.

At this time, no additional scoping meetings are planned. A summary of scoping issues identified through previous meetings is available upon request. Anyone interested in more information concerning the proposed action or who has information concerning significant environmental issues, should contact Mr. Tiederman as provided under the **FOR FURTHER INFORMATION CONTACT** section.

Dated: November 3, 1997.

John W. Keys, III,

Regional Director, Pacific Northwest Region.

[FR Doc. 97–29448 Filed 11–6–97; 8:45 am]

BILLING CODE 4310–94–M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Change in Discount Rate for Water Resources Planning

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of change.

SUMMARY: The Water Resources Planning Act of 1965 and the Water Resources Development Act of 1974 require an annual determination of a discount rate for Federal water resources planning. The discount rate for Federal water resources planning for fiscal year 1998 is 7.125 percent. Discounting is to be used to convert future monetary values to present values.

DATES: This discount rate is to be used for the period October 1, 1997, through and including September 30, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Schluntz, Economist, Reclamation Law, Contracts, and Repayment Office, Bureau of Reclamation, Attention: D–5200, Building 67, Denver Federal Center, Denver CO 80225–0007; telephone: (303) 236–1061, extension 287.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the interest rate to be used by Federal agencies in the formulation and evaluation of plans for water and related land resources is 7.125 percent for fiscal year 1998.

This rate has been computed in accordance with Section 80(a), Pub. L. 93–251 (88 Stat. 34) and 18 CFR 704.39, which: (1) Specify that the rate shall be based upon the average yield during the preceding fiscal year on interest-bearing marketable securities of the United States which, at the time the computation is made, have terms of 15 years or more remaining to maturity (average yield is rounded to nearest one-eighth percent); and (2) provide that the rate shall not be raised or lowered more than one-quarter of 1 percent for any year. The Treasury Department calculated the specified average to be 6.91 percent. Rounding this average yield to the nearest one-eighth percent is 6.875 percent, which exceeds the permissible one-quarter of 1 percent change from fiscal year 1997 to 1998. Therefore, the change is limited to one-quarter of 1 percent.

The rate of 7.125 percent shall be used by all Federal agencies in the formulation and evaluation of water and related land resources plans for the purpose of discounting future benefits and computing costs or otherwise converting benefits and costs to a common time basis.

Dated: October 31, 1997.

Wayne O. Deason,

Deputy Director, Program Analysis Office.

[FR Doc. 97–29447 Filed 11–6–97; 8:45 am]

BILLING CODE 4310–94–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Raytheon Company, General Motors Corporation, and HE Holdings, Inc.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Stipulation and Order, Hold Separate and Partition Plan Stipulation and Order, and Competitive Impact Statement have been filed with the United States District Court in the District of Columbia, Civil No. 1:97CV02397.

On October 16, 1997, the United States filed a Complaint alleging that the proposed acquisition by Raytheon Company of Hughes Aircraft Company, a wholly owned subsidiary of HE Holdings, Inc. and an indirect subsidiary of General Motors Corporation, would violate Section 7 of the Clayton Act, 15 U.S.C. § 18. The proposed Final Judgment, filed contemporaneously with the Complaint, requires Raytheon to: (1) Divest the second generation and third generation focal plane array business of Raytheon TI Systems ("RTIS") and the second generation ground electro-optical business of Hughes Aircraft Company's Sensors and Communications Segment; (2) establish a firewall that prevents the flow of information concerning the Follow-on-to-TOW ("FOTT") missile program between the RTIS/Lockheed Martin Corp. joint venture FOTT team and the Hughes FOTT team, and between each FOTT team and any other employee of Raytheon; and (3) provide incentives to the RTIS/Lockheed Martin FOTT team to pursue its bid to ensure competition between Raytheon and Hughes in bids for the FOTT missile.

Public comment is invited within the statutory 60-day comment period. Such comments and responses thereto will be published in the **Federal Register** and

filed with the Court. Comments should be directed to J. Robert Kramer II, Chief, Litigation II Section, Antitrust Division, United States Department of Justice, 1401 H Street, NW., Suite 3000, Washington, DC 20530 (telephone: 202/307–0924).

Copies of the Complaint, Stipulation and Order, Hold Separate and Partition Plan Stipulation and Order, Proposed Final Judgment, and Competitive Impact Statement are available for inspection in Room 215 of the U.S. Department of Justice, Antitrust Division, 325 7th Street, NW., Washington, DC 20530, (202) 514–2841. Copies of these materials may be obtained upon request and payment of a copying fee.

Constance K. Robinson,

Director of Operations, Antitrust Division.

United States District Court for the District of Columbia

[Civil No: 97 2397]

United States of America, Plaintiff, v. Raytheon Company, General Motors Corp., and H E Holdings, Inc., Defendants

Stipulation and Order

It is stipulated by and between the undersigned parties, by their respective attorneys, as follows:

(1) The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the United States District Court for the District of Columbia.

(2) The parties stipulate that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

(3) Defendants shall abide by and comply with the provisions of the proposed Final Judgment pending entry of the Final Judgment by the Court, or until expiration of time for all appeals of any Court ruling declining entry of the proposed Final Judgment, and shall, from the date of the signing of this Stipulation by the parties, comply with all the terms and provisions of the proposed Final Judgment as though the same were in full force and effect as an Order of the Court.

(4) This Stipulation shall apply with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the parties and submitted to the Court.

(5) In the event plaintiff withdraws its consent, as provided in paragraph 2 above, or in the event the proposed Final Judgment is not entered pursuant to this Stipulation, the time has expired for all appeals of any Court ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continued compliance with the terms and provisions of the proposed Final Judgment, then the parties are released from all further obligations under this Stipulation, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

(6) Defendants represent that the divestiture ordered in the proposed Final Judgment can and will be made, and that defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained therein.

Dated: October 16, 1997.

For Plaintiff United States of America:

Willie L. Hudgins,

Esquire (D.C. Bar #37127), U.S. Department of Justice, Antitrust Division, Litigation II, Suite 3000, Washington, D.C. 20005, (202) 307–0924.

For Defendant Raytheon Company

Robert D. Paul,

Esquire (D.C. Bar #416314), Michael S. Shuster, Esquire, White & Case, 601 13th St., N.W., Washington, D.C. 20005–3807, (202) 626–3614.

For Defendants H E Holdings, Inc. and General Motors Corp.:

Robert C. Odle, Jr.,

Esquire (D.C. Bar #389845), Peter D. Standish, Esquire, Douglas A. Nave, Esquire, Weil, Gotshal & Manges LLP, 767 Fifth Ave., New York, NY 10153–0119.

It is so Ordered by the Court, this _____ day of _____, 1997.

_____

United States District Judge.

United States District Court for the District Of Columbia

United States of America, Plaintiff. v. Raytheon Company, General Motors Corp., and H E Holdings, Inc., Defendants

Final Judgment

Whereas, plaintiff, the United States of America, filed its Complaint in this action on October 16, 1997, and plaintiff and defendants by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any issue of law or fact herein;

And whereas, defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

And whereas, plaintiff intends defendants to be required to preserve competition by: (1) Promptly divesting the second generation ("2nd Gen.") and third generation ("3rd Gen.") focal plane array ("FPA") business of Raytheon TI Systems ("RTIS") and the 2nd Gen. ground electro-optical ("EO") business of Hughes Aircraft Company's Sensors and Communications System Segment; (2) establishing a firewall that prevents the flow of information concerning the Follow-on-to-TOW ("FOTT") missile program between the RTIS Missile Systems Division ("RTIS Missiles") of Raytheon and any other part of Raytheon and between Hughes Missile Systems and any other part of Raytheon: and (3) incentivizing RTIS Missiles to pursue its bid through a joint venture with Lockheed Martin Corp. to ensure competition in bids for the FOTT missile;

And whereas, plaintiff requires defendants to make the divestitures for the purpose of establishing a viable competitor in the development, production, and sale of FPAs and ground EO systems, and to construct firewalls and incentivize RTIS Missiles for the purpose of preserving competition in bidding for the FOTT missile program;

And whereas, defendants have represented to the plaintiff that the divestitures ordered herein can and will be made and that the firewalls can be constructed and that defendants will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the divestiture or firewall provisions contained below;

Now, therefore, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby *ordered, adjudged, and decreed* as follows:

I. Jurisdiction

This Court has jurisdiction over each of the parties hereto and over the subject matter of this action. The Complaint states a claim upon which relief may be granted against defendants, as hereinafter defined, under Section 7 of the Clayton Act, as amended (15 U.S.C. § 18).

II. Definitions

As used in this Final Judgment:

A. "A-Kit" means all components necessary to fit a B-Kit into a particular ground vehicle, including the optics, electronics, software, visual display, stabilization, and fire control as required.

B. "B-Kit" means the common components for 2nd Gen. Forward Looking Infrared Systems ("FLIRs") designed under the HTI program, including SADA II integrated cooler/dewar detector assemblies, afocal assemblies, and associated electronics.

C. "DoD" means the Department of Defense.

D. "DoJ" means the Antitrust Division of the Department of Justice.

E. "EO Business" means the 2nd Gen. ground EO business of Hughes operated out of the El Segundo, California and La Grange, Georgia facilities that produces A-Kits and B-Kits for ground vehicles and other applications, including the IBAS. M–1 TIS, LRASSS, and HTT programs, and all employees listed in confidential Attachment A, including:

a. All tangible assets used to produce A-Kits and B-Kits; all real property (owned or leased), including interests in the El Segundo, California and La Grange, Georgia facilities used to produce A-Kits and B-Kits, research and development activities, as identified pursuant to the Court's Hold Separate and Partition Plan Stipulation and Order; all manufacturing, personal property, inventory, office furniture, fixed assets and fixtures, materials, supplies, on-site warehouses or storage facilities, and other tangible property or improvements used in the production of A-Kits and B-Kits; all licenses, permits and authorizations issued by any governmental organization relating to A-Kits and B-Kits; all contracts, teaming arrangements, agreements, leases, commitments and understandings pertaining to A-Kits and B-Kits; supply agreements; all customer lists and credit records; and other records maintained by Hughes in connection with the production of A-Kits and B-Kits;

b. All intangible assets relating to the research, development, and production of A-Kits and B-Kits, including but not limited to a non-exclusive, transferable, royalty-free license to use all patents utilized by Hughes in the EO Business, licenses and sublicenses, intellectual property, technical information, know-how, trade secrets, drawings, blueprints, designs, design protocols, specifications for materials, specifications for parts and devices, safety procedures for the handling of materials and substances, quality assurance and control procedures, design tools and simulation capability, and all manuals and technical information Hughes provides to its own employees, customers, suppliers, agents or licensees;

c. All research data concerning historic and current research and development efforts relating to the production of A-Kits and B-Kits, including designs of experiments, and the results of unsuccessful designs and experiments;

d. At the option of the purchasers, a supply contract for computer support services and information and communications services sufficient to support the EO Business over a period of one year; and

e. At the option of the purchaser, at the time of purchase, an option to purchase or lease an additional 10,000 square feet of manufacturing space for the EO Business in addition to the space set aside for the EO Business in the Hold Separate and Partition Plan and Order.

F. "FOTT Information" means all information relating to the FOTT Program, including but not limited to, information relating to any and all proposals, technology, cost data, suppliers, designs, plans, test results, specifications, pricing, technical interface with IBAS and ITAS or other sensitive competitive information. FOTT Information shall be stamped as "Confidential and Competition Sensitive."

G. "FOTT Program" means the Follow-on-to-TOW missile program, for which the Hughes FOTT Team and the TI/Martin Javelin Joint Venture (as defined below) will be competing for the Engineering Manufacturing Developing ("EMD") contract, scheduled to be awarded by the United States Army in 1998.

H. "FPA" means a matrix of detectors or pixels made of material that is sensitive to infrared ("IR") radiation, which is mated to a silicon processor and used to detect and analyze IR radiation.

I. "FPA Business" means the 2nd Gen. and 3rd Gen. scanning and staring IR detector businesses of RTIS operated out of the Semiconductor Building and the Research West Building located at the Expressway site in Dallas, Texas, including all dewar and cryogenic cooler manufacturing and dewar and cryogenic cooler assembly (except for RTIS' uncooled FPA Business), and including all employees listed in confidential Attachment, including:

a. All tangible assets used to produce scanning IR detectors, including SADA detectors, staring detectors, dewars, and cryogenic coolers, including, but not limited to, all real property (owned or leased), including interests in the Dallas facilities, used in the operation of the RTIS FPA Business, including research and development activities, as identified pursuant to the Court's Hold Separate and Partition Plan Stipulation and Order; all manufacturing, personal property, inventory, office furniture, fixed assets and fixtures, materials, supplies, on-site warehouses or storage facilities, and other tangible property or improvements used in the operation of the RTIS FPA Business; all licenses, permits and authorizations issued by any governmental organization relating to the RTIS FPA Business; all contracts, teaming arrangements, agreements, leases, commitments and understandings pertaining to the RTIS FPA Business and its operations; supply agreements; all customer lists and credit records; and other records maintained by Raytheon in connection with the RTIS FPA Business;

b. All intangible assets relating to the RTIS FPA Business, including but not limited to all patents, licenses and sublicenses, intellectual property, maskwork rights, technical information, know-how, trade secrets, drawings, blueprints, designs, design protocols, cell libraries, specifications for materials, specifications for parts and devices, safety procedures for the handling of materials and substances, quality assurance and control procedures, designed tools and simulation capability, and all manuals and technical information Raytheon provides to its own employees, customers, suppliers, agents or licensees, except that the purchaser shall agree to grant to the seller a non-exclusive, transferable, royalty-free license for any invention disclosed in U.S. Patent No. 5,274,578; and any invention disclosed in U.S. Patent Applications Nos. 08/474,229, 08/097,522, 08/478,570 and 08/487,820 and Provisional Patent Application No. 60/014,812; and

c. All research data concerning historic and current research and development efforts relating to the RTIS FPA Business, including designs of experiments, and the results of unsuccessful designs and experiments.

J. "HTI" means the Horizontal Technology Integration program to develop a common B-Kit to be used on different ground vehicle platforms.

K. "Hughes" means Hughes Aircraft Company, an indirect subsidiary of General Motors Corp., with its headquarters in Arlington, Virginia, and its successors, assigns, subsidiaries, divisions, groups, affiliates, partnership and joint ventures, and directors, officers, managers, agents and employees.

L. "Hughes FOTT Team" means all Hughes Missile Systems managers and employees who have been assigned to or

consulted in connection with the FOTT program.

M. "IBAS" means the Integrated Bradley Acquisition System, a program to upgrade the sights on a Bradley Fighting Vehicle.

N. "ITAS" means the Improved Target Acquisition System, a program to improve TOW missile launching capabilities.

O. "LRASSS" means the Long-Range Advanced Scout Surveillance System, a future surveillance system to be mounted on light ground vehicles.

P. "M1–TIS" means the Thermal Imaging System for the M1 Abrams tank.

Q. "Raytheon" means Raytheon Company, a Delaware corporation with its headquarters and principal place of business in Lexington, Massachusetts, and its successors, assigns, subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and directors, officers, managers, agents, and employees.

R. "RTIS" means Raytheon TI Systems, Inc.

S. "RTIS FOTT team" means Mr. Lawrence Schmidt, all RTIS managers and employees of the TI/Martin Javelin Joint Venture, and all other RTIS employees who have been assigned to or consulted in connection with the FOTT program. One attorney in the General Counsel's Office of Raytheon, to be designated by Raytheon, shall be deemed a member of the RTIS FOTT Team and may be consulted for the purpose of obtaining legal or regulatory advice, but shall not receive FOTT Information concerning pricing or other bid information.

T. "SADA" means the Standardized Advanced Dewar Assembly and consists of a scanning FPA mounted in an evacuated dewar. The SADA program is an effort by the United States Army to develop a family of IR detectors that can be used in a variety of battlefield systems.

U. "TI/Martin Javelin Joint Venture" means the joint venture between Texas Instruments a/k/a RTIS and Lockheed Martin, which will be a competitor for the FOTT Program.

V. "Uncooled FPA Business" means the technology, production equipment, and all tangible and intangible assets used by RTIS solely in the production of uncooled FPAs.

III. Applicability

A. The provisions of this Final Judgment apply to Raytheon, its successor and assigns, their subsidiaries, directors, officers, managers, agents, and employers, and all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

B. Raytheon shall require, as a condition of the sale or other disposition of all or substantially all of its assets or of a lesser business unit that includes Raytheon's business of developing and producing FPAs and ground EO Systems, that the transferee agree to be bound by the provisions of this Final Judgment.

IV. Divestiture

A. Raytheon is hereby ordered and directed in accordance with the terms of this Final Judgment, within one-hundred and eighty (180) calendar days after October 3, 1997 or five (5) days after notice of the entry of this Final Judgment by the Court, whichever is later, to divest the FPA Business and the EO Business to an acquirer(s) acceptable to DoJ and DoD in their sole discretion.

B. Raytheon shall use its best efforts to accomplish the divestitures as expeditiously and timely as possible. DoJ in its sole determination, in consultation with DoD, may extend the time period for any divestitures for an additional period of time not to exceed thirty (30) calendar days.

C. In accomplishing the divestitures ordered by this Final Judgment, Raytheon, promptly shall make known, by usual and customary means, the availability of the EPA Business and the EO Business described in this Final Judgment. Raytheon shall inform any person making an inquiry regarding a possible purchase that the sale is being made pursuant to this Final Judgment and provide such person with a copy of this Final Judgment. Raytheon shall also offer to furnish to all bona fide prospective purchasers, subject to customary confidentiality assurances, all information regarding the FPA Business and the EO Business customarily provided in a due diligence process except such information subject to attorney-client privilege or attorney work-product privilege. Raytheon shall make available such information to DoJ at the same time that such information is made available to any other person.

D. Raytheon shall permit bona fide prospective purchasers of the FPA Business and the EO Business to have reasonable access to personnel and to make such inspection of the physical facilities of the FPA Business and EO Business and any and all financial, operational, or other documents and information customarily provided as part of a due diligence process.

E. Raytheon shall not take any action that will impede in any way the operation of the FPA Business or the EO Business.

F. Unless both DoJ and DoD otherwise consent in writing, the divestitures pursuant to Section IV, or by trustee appointed pursuant to Section V of this Final Judgment, shall include the entire FPA Business and the entire EO Business, operated in place pursuant to the Hold Separate and Partition Plan Stipulation and Order, and be accomplished by selling or otherwise conveying the FPA Business and the EO Business to a purchaser(s) in such a way as to satisfy DoJ and DoD, in their sole discretion, that the FPA Business and the EO Business can and will be used by the purchaser(s) as part of a viable, ongoing business or businesses engaged in the development, production, and sale of FPAs and ground EO systems. Divestiture of the FPA Business and EO Business may be made to one or more purchasers provided that in each instance it is demonstrated to the sole satisfaction of DoJ and DoD that the FPA Business and EO Business will remain viable. The divestitures, whether pursuant to Section IV or Section V of this Final Judgment, shall be made to a purchaser(s) who it is demonstrated to DoJ's and DoD's sole satisfaction: (1) Has the capability and intent of competing effectively in the development, production and sale of FPAs or ground EO systems as the case may be; (2) has managerial, operational, and financial capability to compete effectively in the development, production and sale of FPAs or ground systems as the case may be; (3) is eligible to receive applicable DoD security clearances; and (4) that none of the terms of any agreement between the purchaser and Raytheon give Raytheon the ability unreasonably to raise the purchaser's costs, to lower the purchaser's efficiency, or otherwise to interfere in the ability of the purchaser to compete effectively.

G. For a period of two years from the filing of the Complaint in this matter, Raytheon and Hughes shall not solicit to hire any individual who, on the date of the filing of the Complaint in this matter, was an employee of the FPA Business or the EO Business. For a period of two years from the filing of the Complaint in this matter, Raytheon and Hughes shall not hire any individual who, on the date of the filing of the Complaint in this matter, was an employee of the FPA Business or the EO Business unless such individual has a written offer of employment from a third party for a like position.

H. Raytheon shall comply with all agreements with DoD regarding the protection of information related to classified programs.

I. Raytheon shall not charge to DoD any costs directly or indirectly incurred in complying with this Final Judgment.

V. Appointment of Trustee

A. In the event that Raytheon has not divested the FPA Business and the EO Business within the time specified in Section IV of this Final Judgment, the Court shall appoint, on application of the United States, a trustee selected by DoJ, in consultation with DoD, to effect the divestiture of the FPA Business and the EO Business.

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to sell the FPA Business described in Section II(I) and the EO Business described in Section II(E) of this Final Judgment. The trustee shall have the power and authority to accomplish the divestiture at the best price then obtainable upon a reasonable effort by the trustee, subject to the provisions of Sections IV and IX of this Final Judgment, and shall have such other powers as the Court shall deem appropriate. Subject to Section V(C) of this Final Judgment, the trustee shall have the power and authority to hire at the cost and expense of Raytheon any investment bankers, attorneys, or other agents reasonably necessary in the judgment of the trustee to assist in the divestitures, and such professionals and agents shall be accountable solely to the trustee. The trustee shall have the power and authority to accomplish the divestitures at the earliest possible time to a purchaser acceptable to DoJ and DoD, and shall have such other powers as this Court shall deem appropriate. Raytheon shall not object to a sale by the trustee on any grounds other than the trustee's malfeasance. Any such objections by Raytheon must be conveyed in writing to DoJ and the trustee within ten (10) calendar days after the trustee has provided the notice required under Section VII of this Final Judgment.

C. The trustee shall serve at the cost and expense of Raytheon, on such terms and conditions as the Court may prescribe, and shall account for all monies derived from the sale of the assets sold by the trustee and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services and those of any professionals and agents retained by the trustee, all remaining money shall be paid to Raytheon and the trust shall then be terminated. The compensation of such trustee and of any professionals and agents retained by the trustee shall be reasonable in light of the value of the divested business and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished.

D. Raytheon shall use its best efforts to assist the trustee in accomplishing the required divestitures, including best efforts to effect all necessary regulatory approvals. The trustee and any consultants, accountants, attorneys, and other persons retained by the trustee shall have full and complete access to the personnel, books, records, and facilities of the businesses to be divested, and Raytheon shall develop financial or other information relevant to the business to be divested customarily provided in a due dilligence process as the trustee may reasonably request, subject to customary confidentiality assurances. Raytheon shall permit bona fide prospective acquirers of the assets to have reasonable access to personnel and to make such inspection of physical facilities and nay and all financial, operational or other documents and other information as may be relevant to the divestitures required by this Final Judgment.

E. After its appointment, the trustee shall file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish the divestitures ordered under this Final Judgment; provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the business to be divested, and shall describe in detail each contact with any such person during that period. The trustee shall maintain full records of all efforts made to divest the businesses to be divested.

F. If the trustee has not accomplished such divestitures within six (6) months after its appointment, the trustee thereupon shall file promptly with the Court a report setting forth (1) The trustee's efforts to accomplish the required divestitures, (2) the reasons, in the trustee's judgment, why the required divestitures have not been accomplished, and (3) the trustee's recommendations; provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such report to the parties, who shall each have the right to be heard and to make additional recommendations consistent with the purpose of the trust. The Court shall enter thereafter such orders as it shall deem appropriate in order to carry out the purpose of the trust which may, if necessary, include extending the trust and the term of the trustee's appointment by a period requested by DoJ.

VI. Firewall

A. Members of the RTIS FOTT Team are prohibited from giving or receiving, either directly or indirectly, any FOTT Information to or from the Hughes FOTT Team or any other Raytheon employee. Members of the Hughes FOTT Team are prohibited from giving or receiving, either directly or indirectly, any FOTT Information to or from the RTIS FOTT Team or any other Raytheon employee. To implement this provision, Raytheon is required to construct a firewall within Raytheon that prevents the flow of FOTT Information between the RTIS FOTT Team and any other segment or official of Raytheon. Raytheon is also required to construct a firewall within Raytheon that prevents the flow of any FOTT Information between the Hughes FOTT Team and any other segment or official of Raytheon. These firewalls are intended to ensure competition between RTIS Missiles and Hughes Missile Systems in bidding on the FOTT Program. Raytheon shall, within five (5) business days of its signing the Stipulation and Order consenting to the entry of this Final Judgment, submit to DoJ and DoD a document setting forth in detail its procedures to effect compliance with this provision. DoJ and DoD shall have the sole discretion to approve Raytheon's compliance plan and shall notify Raytheon within three (3) business days whether they approve of or reject Raytheon's compliance plan. In the event that Raytheon's compliance plan is rejected, the reasons for the rejection shall be provided to Raytheon by DoJ and Raytheon shall be given the opportunity to submit, within two (2) business days of receiving the notice of rejection, a revised compliance plan. If the parties cannot agree on a compliance plan within an additional three (3) business days, a plan will be devised by DoD and implemented by Raytheon. All Raytheon employees shall abide by the provisions of the compliance plan. The prohibitions in this paragraph shall remain in effect until final determination of the EMD contract award for the FOTT Program is made by DoD. Raytheon shall use all

reasonable efforts to submit a competitive bid by the RTIS FOTT Team for the FOTT Program.

B. Raytheon shall delegate to Mr. Lawrence Schmidt, Senior Vice President, Missile Systems Division of RTIS, in his sole discretion, the right to review and determine on behalf of Raytheon all matters relating to the TI/Martin Javelin Joint Venture bid, including any best and final offer and responses to any inquiry from DoD, on the FOTT Program; to invest Raytheon's funds in the FOTT Program; and to draw on other resources within RTIS Missiles to compete for the FOTT Program.

C. Raytheon shall provide an economic incentive to the RTIS management personnel of the TI/Martin Javelin Joint Venture to ensure all reasonable efforts will be made by Raytheon to submit a competitive bid by the TI/Martin Javelin Joint Venture for the FOTT Program. As an incentive to win the FOTT Program, Raytheon shall pay, conditioned solely upon the TI/Martin Javelin Joint Venture being awarded the EMD contract for the FOTT Program, bonuses to certain RTIS Missiles employees. Each employee to receive a bonus upon award of the EMD contract for the FOTT Program and the amount of each applicable bonus is listed in confidential Attachment "C."

D. Raytheon shall notify and train all RTIS Missiles, Hughes Missile Systems, and other Raytheon employees likely to see FOTT information regarding the restrictions on FOTT Information and require that all such employees sign a statement acknowledging the restrictions on the FOTT Information. In addition, all RTIS Missiles employees having access to FOTT Information must sign a certification stating that they understand the restrictions of the firewall and agree to adhere to the firewall restrictions.

VII. Notification

Within two (2) business days following execution of a definitive agreement, contingent upon compliance with the terms of this Final Judgment, to effect, in whole or in part, any proposed divestitures pursuant to Sections IV or V of this Final Judgment, Raytheon or the trustee, whichever is then responsible for effecting the divestitures, shall notify DoJ and DoD of the proposed divestitures. If the trustee is responsible, it shall similarly notify Raytheon. The notice shall set for the details of the proposed transaction and list the name, address, and telephone number of each person not previously identified who offered to, or expressed an interest in or a desire to, acquire any ownership interest in the businesses to be divested that is the subject of the binding contract, together with full details of same. Within fifteen (15) calendar days of receipt by DoJ and DoD of such notice, DoJ, in consultation with DoD, may request from Raytheon, the proposed purchaser, or any other third party additional information concerning the proposed divestitures and the proposed purchaser. Raytheon and the trustee shall furnish any additional information requested from them within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after DoJ has been provided the additional information requested from Raytheon, the proposed purchaser, and any third party, whichever is later, DoJ and DoD shall each provide written notice to Raytheon and the trustee, if there is one, stating whether or not it objects to the proposed divestiture. If DoJ and DoD provide written notice to Raytheon and the trustee that they do not object, then the divestiture may be consummated, subject only to Raytheon's limited right to object to the sale under Section V(B) of this Final Judgment. Absent written notice that NoJ and DoD do not object to the proposed purchaser or upon objection by DoJ or DoD, a divestiture proposed under Section IV or Section V may not be consummated. Upon objection by Raytheon under the provision in Section V(B), a divestiture proposed under Section V shall not be consummated unless approved by the Court.

VIII. Affidavits

A. Within twenty (2) calendar days of the filing of the Complaint in this matter and every thirty (30) calendar days thereafter until the divestiture has been completed whether pursuant to Section IV or Section V of this Final Judgment, Raytheon shall deliver to DoJ and DoD an affidavit as to the fact and manner of compliance with Sections IV or V of this Final Judgment. Each such affidavit shall include, *inter alia*, the name, address, and telephone number of each person who, at any time after the period covered by the last such report, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the business to be divested, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts that Raytheon has taken to solicit a buyer for the relevant assets and to provide required information to prospective purchasers including the limitations, if any, on such information. Assuming the information set forth in the affidavit is true and complete, any objection by DoJ to information provided by Raytheon, including limitations on information, shall be made within fourteen (14) days of receipt of such affidavit.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, Raytheon shall deliver to DoJ and DoD an affidavit which describes in detail all actions Raytheon has taken and all steps Raytheon has implemented on an on-going basis to comply with the firewall provisions pursuant to Section VI of this Final Judgment and to preserve the FPA Business and the EO Business pursuant to Section IX and this Final Judgment and the Hold Separate and Partition Order entered by the Court. The affidavit also shall describe, but not be limited to, Raytheon's efforts to maintain and operate the FPA Business and the EO Business as an active competitor, maintain the management, staffing, research and development activities, sales, marketing and pricing of the FPA Business and the EO Business, and maintain the FPA Business and the EO Business in operable condition at current capacity configurations. Raytheon shall deliver to DoJ and DoD an affidavit describing any changes to the efforts and actions outlined in Raytheon's earlier affidavit(s) filed pursuant to this Section within fifteen (15) calendar days after the change is implemented.

C. Until one year after such divestiture has been completed, Raytheon shall preserve all records of all efforts made to preserve the business to be divested and effect the divestitures.

IX. Hold Separate Order

Until the divestitures required by the Final Judgment have been accomplished, Raytheon shall take all steps necessary to comply with the Hold Separate and Partition Plan Stipulation and Order entered by this Court and to preserve the assets of the FPA Business and the EO Business. Defendants shall take no action that would jeopardize the divestiture ordered by this Court.

X. Financing

Raytheon is ordered and directed not to finance all or any part of any purchase by an acquirer(s) made pursuant to Sections IV or V of this Final Judgment.

XI. Compliance Inspection

For purposes of determining or securing compliance with the Final Judgment and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the United States Department of Justice, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Raytheon made to its principal offices, shall be permitted:

1. Access during office hours of Raytheon to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of Raytheon, who may have counsel present, relating to the matters contained in this Final Judgment and the Hold Separate Stipulation and Order; and

2. Subject to the reasonable convenience of Raytheon and without restraint or interference from it, to interview, either informally or on the record, its officers, employees, and agents, who may have counsel present, regarding any such matters.

B. Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, made to Raytheon's principal offices, Raytheon shall submit such written reports, under oath if requested, with respect to any matter contained in the Final Judgment and the Hold Separate and Partition Order.

C. No information or documents obtained by the means provided in Sections VIII or XI of this Final Judgment shall be divulged by a representative of the plaintiff to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by Raytheon to DoJ or DoD, Raytheon represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and Raytheon marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure." then ten (10) calendar days notice shall be given by DoJ or DoD to Raytheon prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which Raytheon is not a party.

XII. Retention of Jurisdiction

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herswith, and for the punishment of any violations hereof.

XIII. Termination

Unless this Court grants an extension, this Final Judgment will expire upon the tenth anniversary of the day of its entry.

XIV. Public Interest

Entry of this Final Judgment is in the public interest.

Dated _____, 1998.

_____

United States District Judge.

United States District Court for the District of Columbia

[Civil No. 1:97CV02397]

United States of America, Plaintiff, v. Raytheon Company, General Motors Corporation, and He Holdings, Inc., Defendants

United States District Judge Emmet G. Sullivan

Competitive Impact Statement

The United States, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act ("APPA"), 15 U.S.C. § 16(b)–(h), files this Competivie Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

On October 16, 1997, the United States filed a civil antitrust Complaint alleging that the proposed acquisition by Raytheon Company ("Raytheon") of Hughes Aircraft Co. ("Hughes") would violate Section 7 of the Clayton Act, 15 U.S.C. § 18. The Complaint alleges that Raytheon and Hughes are the only two firms that design, develop, and produce second generation ("2nd Gen.") electro-optical ("EO") systems for Department of Defense ("DoD") ground applications. It alleges that Raytheon and Hughes are also the only two firms that design, develop, and produce critical infared ("IR") detectors, called "SADA II" detectors, used in ground EO systems, and are the leading firms that develop and produce staring IR detectors used for sensors in missile seeker heads and aircraft and missile warning system applications. The Complaint further alleges that Raytheon, through its majority ownership in a joint venture with Lockheed Martin Corporation ("Lockheed Martin"), and Hughes are competitors for the Follow-On-To-TOW ("FOTT") new advanced antitank missile program that will replace the current inventory of TOW antitank missiles.

The prayer for relief in the Complaint seeks: (1) A judgment that the proposed acquisition would violate Section 7 of the Clayton Act; and (2) a permanent injunction preventing Raytheon from acquiring Hughes.

When the Complaint was filed, the United States also filed a proposed settlement that would permit Raytheon to complete its acquisition of Hughes, but require a divestiture and other terms that will preserve competition in the relevant markets. This settlement consists of a Stipulation and Order, Hold Separate and Partition Plan Stipulation and Order, and a proposed Final Judgment.

The proposed Final Judgment orders Raytheon to divest, within one-hundred and eighty (180) calendar days after October 3, 1997 or five (5) days after notice of the entry of the Final Judgment by the Court, whichever is later, the FPA Business (as defined in the Final Judgment) of Raytheon TI Systems ("RTIS"), and the EO Business (as defined in the Final Judgment) of Hughes, to an acquirer(s) acceptable to the Antitrust Division of the Department of Justice ("DoJ") and DoD. RTIS's FPA Business includes the 2nd Gen. scanning and third generation ("3rd Gen.") staring IR detector businesses (operated out of the Semiconductor Building and the Research West Building, located at the Expressway site in Dallas, Texas), all tangible and intangible assets used in producing those detectors, including production facilities, research and development activities, and all dewar and cryogenic cooler manufacturing assembly.

Hughes' EO Business includes the 2nd Gen. ground EO business operated out of the El Segundo, California and La Grange, Georgia facilities, which produce A-kits and B-kits for ground vehicles and other applications, including the Integrated Bradley Acquisition System ("IBAS"), Thermal Imaging System for the M1 Abrams tank ("M–1 TIS"), Long-Range Advanced Scout Surveillance System ("LRASSS"), and Horizontal Technology Integration Program ("HTI") programs, all tangible and intangible assets used in producing A-kits and B-kits, production facilities, and research development activities. In addition, Raytheon is required to

provide, at the option of the purchaser, a contract for computer support services and information and communications services sufficient to support the EO Business over a period of one year, and, at the option of the purchaser, an option to purchase or lease manufacturing space in addition to that currently set aside for the EO Business.

Until such divestitures are completed, the terms of the Hold Separate and Partition Plan Stipulation and Order entered into by the parties apply to ensure that the FPA Business and the EO Business shall be maintained as an independent competitor from Raytheon.

In addition to the divestitures, the proposed Final Judgment requires that Raytheon establish firewalls to preserve the independence of the Hughes team competing for the FOTT program ("Hughes ROTT Team") from the RTIS/Lockheed Martin FOTT joint venture (RTIS FOTT Team). The firewall provisions prohibit the flow of information between the two teams and between either team and any other employee of Raytheon. The Proposed Final Judgment requires Raytheon to delegate to the head of RTIS Missile Systems Division the sole discretion to determine all matters relating to RTIS FOTT Team's bid and to create economic incentives for the RTIS FOTT Team members to ensure all reasonable efforts will be made to submit a competitive bid for the FOTT Program.

The plaintiff and defendants have stipulated that the proposed Final Judgment may be entered after compliance with APPA. Entry of the proposed Final Judgment would terminate the action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. Description of the Events Giving Rise to the Alleged Violation

A. The Defendants and the Proposed Transaction

Raytheon is a Delaware corporation headquartered in Lexington, Massachusetts. Raytheon produces heavy construction equipment; refrigerators and freezers; radio and TV broadcasting and communications equipment; semiconductors and related devices; aircraft; guided missiles and space vehicles; search, detection and navigation systems; and engineering services. RTIS, a division of Raytheon, produces ground EO systems at a facility in McKinney, Texas and IR detectors at its Expressway facility in Dallas, Texas. Amber, a separate unit of Raytheon, produces detectors at a facility in Goleta, California. In 1996, Raytheon reported total sales of about $12 billion.

General Motors Corporation ("General Motors") is a Delaware corporation headquartered in Detroit, Michigan. Hughes, a missle and defense electronics company, is an indirect subsidiary of General Motors. Hughes produces ground EO systems at facilities in El Segundo, California and LaGrange, Georgia. Hughes operates the industry's premier detector facility, Santa Barbara Research Center ("SBRC"), in Santa Barbara, California. In 1996, Hughes reported total sales of approximately $6 billion.

HE Holdings, Inc. ("HE Holdings") is a Delaware corporation headquartered in Detroit, Michigan. Hughes is a direct subsidiary of HE Holdings.

On January 16, 1997, Raytheon entered into an agreement with General Motors to purchase HE Holdings, the parent of Hughes. This transaction, which would, in part, take place in the highly concentrated SADA II detector, staring FPA, ground EO systems, and FOTT missile markets, precipitated the government's suit.

B. The Relevant Markets

SADA II Detectors

IR detectors are sensing devices that convert IR radiation into an electrical signal. The devices detect the differences in that heat emissions between an object and its surroundings, and can therefore produce a thermal image of objects in the device's field of view. The detector consists of linear or mosaic arrays of individual diodes made from semiconductor materials such as mercury cadmium telluride ("MCT") or indium antimonide "(InSb"). The detector is attached to a silicon chip or "readout" device that contains the circuitry which stores the energy captured by the detector and converts this energy to a voltage signal. When mated to the readout circuit, the detector is often called a focal plane array ("FPA"). The FPA is typically housed in an evacuated cooler dewar assembly which isolates the FPA and cools it to cryogenic temperatures.

The combination of FPA cooler dewar assembly, optics, electronics, software, and a visual display is commonly called a FLIR (Forward Looking Infrared). FLIRs are used for surveillance and weapons fire control purposes in ground and airborne EO systems. FPAs are also used in heat-seeking missile guidance systems and missile warning systems, applications for which no pictorial image is required. Since the Gulf War, great strides have been made in IR technology, and the military is switching from older first generation ("1st Gen.") lower performance technology to more advanced 2nd Gen. technology in a variety of applications.

Second generation scanning FPAs consist of individual detector elements arranged in two dimensions varying in size from 240×2 to 480×4. The detector is scanned mechanically with mirrors across a field of view. Second generation scanning FPAs differ from 1st. Gen. scanning FPAs in that the readout circuit is mounted directly to the detector material. For this reason, 2nd Gen. FPAs are photovoltaic, while 1st. Gen. FPAs are photo conductive. Scanning FPAs are preferred on ground vehicles because of their wide field of view.

FPAs are distinguished by the spectrum of the electromagnetic wavelength they detect—longwave ("LW"), midwave ("MW") or shortwave ("SW"). LW is visible in the 8 to 12 micron range, MW in the 3 to 5 micron range, and SW in the 1 to 2 micron range. Short wave is not typically used for tactical applications. InSb is the primary material used for detecting MW IR radiation, and it is only used in staring arrays. MCT, the leading material for detecting LW IR radiation, is used in virtually all scanned arrays, but is also used in staring FPAs.

In the late 1960s, DoD started to develop an IR detector common across all the services. This effort resulted in the 1st Gen. "common module" detectors, which were placed in the field in approximately 1970. Since the common module detector is not mounted directly to an integrated readout circuit, fewer detector elements can be placed on the array. Because it has fewer detector elements, the sensitivity and resolution of 1st Gen. FPAs are not as good as that of 2nd Gen. FPAs. First generation detectors were used in Desert Storm, and it was discovered that U.S. weaponry could fire further than the FLIR systems could detect. The desire for EO systems with a range closer to that of the weapon systems motivated the development of 2nd Gen. devices. First generation FPAs are still in use today, although in the early 1990s, the U.S. military stopped placing new 1st Gen FLIRs in the field.

In the late 1980s, the Army's Night Vision Laboratory began development of 2nd Gen. detectors under the Standardized Advanced Dewar Assembly ("SADA") program. SADA assemblies use a two dimensional MCT array sensitive to LW IR radiation. SADA detectors include four different configurations: SADA I, SADA II, SADA III A and SADA III B. Each type has different specifications so that one does not substitute for another.

The Army uses a SADA II for ground vehicles. As part of a broader effort undertaken in 1992 to insert a common 2nd Gen. FLIR system into various battlefield platforms, the Army decided to use SADA II detectors in the M1A2 Abrams Tank, the M2A3 Bradley Fighting Vehicle, and the LRASSS. The SADA II is also used in the FLIR for the Improved Targeting Acquisition System ("ITAS") for the High Mobility Motorized Wheeled Vehicle ("HMMWV").

Because they do not match the field of view achievable with SADA II detectors, staring FPAs are not viable substitutes for a SADA II detector. Staring FPAs of a size needed to match the field of view obtainable from a scanning FPA are not yet available in LW MCT, which is the only material that meets the Army's needs to see through battlefield smoke, dust, and clutter.

Even if large format LW MCT arrays became available in the future, a switch to such arrays would not be economically justified in response to a small but significant and nontransitory price increase in the SADA II detectors, because of the substantial configuration changes and consequent costs required to replace SADA II detectors in ground vehicles with staring detectors.

Raytheon and Hughes are the only two firms that have sold SADA II detectors to DoD. Hughes qualified as a SADA II supplier in mid-1996, and Raytheon was permitted to bid for 1997 purchases based on its demonstrated success toward completing the qualification process. Raytheon is expected to be fully qualified by the end of 1997. In 1997, about 103 SADA II detectors having a total dollar value of about $6.6 million were purchased, of which 70 percent were supplied by Hughes and 30 percent by Raytheon. DoD projects purchases of 2,945 SADA II detectors through the year 2002, having a total dollar value of about $138.8 million.

Raytheon's acquisition of Hughes would eliminate all competition in the development, production, and sale of SADA II detectors. The proposed acquisition will result in a single supplier with the incentive and ability to raise prices and little or no incentive to minimize cost.

Successful entry into the production and sale of SADA II detectors is difficult, time consuming, and costly. A potential entrant would have to design and develop a product, establish production processes, and complete a rigorous qualification process. A new facility capable of producing SADA II detectors could cost over $20 million. Only one other firm, Sofradir of France, is trying to qualify under the SADA II program. Sofradir, which is partially owned by the French government, is beginning the qualification process. It is unrealistic to expect sufficient new entry in a timely fashion to protect competition in upcoming SADA II purchases.

Staring FPAs

Staring or third generation ("3rd Gen.") FPAs consist of a mosaic of diodes typically square or rectangular in shape. Since they contain no scanning mechanism, staring FPAs provide an image by staring at the scene and rapidly updating changes in the scene. Staring FPAs are lighter weight than scanning, and they can be more economical to use. Staring FPAs are produced in sizes ranging from 64 × 64 to 1024 × 1024. The largest size currently produced for tactical applications, however, is 640 × 480. Staring FPAs provide greater sensitivity and resolution than scanning FPAs, because they have a larger number of detectors. However, staring FPAs are more difficult to produce than scanning FPAs because of the difficulty in producing large InSb or MCT wafers. Due to their smaller physical size and lighter weight, staring FPAs are used in missile seeker heads and airborne applications where small size and light weight are a premium. Staring FPAs are also the detector of choice for missile warning systems.

Staring FPAs have primarily been made of InSb because it was the first technology capable of producing staring FPAs and the material itself is easier to work with. Staring FPAs are now available using MCT technology.

Raytheon and Hughes are the two leading suppliers of staring FPAs for military programs. Raytheon produces staring FPAs at its RTIS facility in Dallas, Texas and its Amber facility, in Goleta, California. Hughes operates SBRC, the industry's premier staring FPA facility, in Santa Barbara, California. Hughes and Raytheon have supplied or are contracted to supply the staring FPAs on most DoD missile and aircraft programs. DoD projects purchases of about 14,000 staring FPAs over the next five years having a value of about $35 million.

Raytheon's acquisition of Hughes would combine the two leading suppliers of staring FPAs with over 90 percent of the market. The acquisition would create a clear dominant supplier with the incentive and ability to raise prices and little or no incentive to minimize cost.

Boeing Company ("Boeing") and Lockheed Martin make staring FPAs for military applications, but neither is a major supplier in the tactical market. Boeing has focused on space applications, where the FPA must meet more rigid durability and quality standards. Consequently, FPAs for space applications cost significantly more than FPAs for tactical applications. Lockheed Martin operates a very small, research-oriented staring FPA operation. Boeing would need to refocus its staring FPA business from the higher price space applications and Lockheed Martin would need to invest in a production-oriented facility in order for either to be a more significant supplier in the tactical market.

Successful entry into the production and sale of staring FPAs is difficult, time consuming, and costly. A potential entrant would have to design and develop a product and establish production processes. A new facility capable of producing staring FPAs could cost over $20 million. It is unrealistic to expect new entry in a timely fashion to protect competition in upcoming staring FPA purchases.

The acquisition also likely will result in lessening of competition in the market for missile systems. Raytheon and Hughes are not only suppliers of staring FPAs, but are also major suppliers of the missile systems of which these devices are critical components. With the acquisition of Hughes, Raytheon will control access to virtually all currently viable staring FPAs for tactical applications. Raytheon will have an incentive to refuse to sell, or to sell on disadvantageous terms, its state-of-the-art staring FPAs to its missile competitors. Without access to the latest staring FPAs, a missile manufacturer is at a serious competitive disadvantage.

2nd Gen. Ground EO Systems

A ground EO system is an integrated system with a thermal imager (usually a FLIR), including an integrated cooler dewar assembly with detector, afocal assemblies, and associated electronics. It might also include the optics, electronics, software, visual displays, fire control and stabilization necessary to adapt the system to a particular platform.

Targeting and navigation are the two major types of ground infrared EO systems. Targeting systems, sometimes called "fire control systems," acquire the target and direct the missile or gun round to the target. These systems are much more complex than those used for

navigation, which only need to permit the operator to see the general area.

A ground EO system operating in or on a ground combat vehicle, in the dust, heat and smoke of a battlefield, faces risks and demands that are different from those faced by an EO system on a fighter aircraft or a helicopter operating substantially above the battlefield. Many problems that are unique to designing EO systems for the ground combat environment are not faced in designing and EO system for airborne applications. Among these is the requirement that any FLIR on a tank be able to absorb the tremendous shock of a direct hit and keep functioning. In addition, the shock of the recoil of the gun and the extreme vibrations that constantly accompany the operation of a ground combat vehicle must also be accounted for in designing and producing a group EO system. An EO system operating on the ground may also have to see through several miles of battlefield smoke and debris. For these reasons, the Army spent over $90 million in the early 1990s to specifically develop an EO system for its ground vehicles.

Raytheon and Hughes are the only two firms that develop and produce 2nd Gen. EO systems for ground vehicles. Raytheon's RTIS and Hughes are the only two firms that have established the developmental capacity and low-cost production processes needed to economically produce 2nd Gen. ground EO system.

During the next five years, DoD expects to spend about $200 million a year for 2nd Gen. ground EO systems to be purchased for the following programs: the Improved Target Acquisition System for the HMMWV; the Improved Bradley Acquisition System for the Bradley Fighting Vehicle; the Commander's Independent Thermal Viewer for the M1 Abrams tank; the Thermal Independent Sight for the M1 Abrams tank; the Commander's Independent Viewer for the Bradley Fighting Vehicle; and the Long Range Advanced Scout Surveillance System. Raytheon and Hughes are the only sources for these ground EO systems.

Raytheon's acquisition of Hughes would eliminate all competition in the development, production, and sale of 2nd Gen. ground EO systems for military applications. The proposed acquisition would result in a single supplier with the incentive and ability to raise prices and little or no incentive to minimize cost.

Sucessful entry into the production and sale of 2nd Gen. ground DoD is difficult, time consuming, and costly. Entry requires advanced technology, skilled engineers and specialized equipment. A potential entrant would have to engage in difficult, expensive, and time consuming research to develop and produce 2nd Gen. ground EO systems. It is unrealistic to expect new entry in a timely fashion to protect competition in upcoming 2nd Gen. ground EO systems purchases.

FOTT Program

FOTT is a U.S. Army engineering, manufacturing, and development ("EMD") program for an advanced missile to replace the current inventory of TOW anti-tank missiles. The program started on March 30, 1995 when the Army issued a Request for Information. An initial draft Request for Proposal was issued on May 15, 1996, a second draft Request for Proposal was issued on February 12, 1997, and a third draft Request for Proposal was issued on August 8, 1997. The Army currently anticipates issuing a formal Request for Proposal for the FOTT program at the end of 1997 or early 1998. A contract for EMD is expected to be awarded in the first half of 1998. Hughes and a joint venture between RTIS and Lockheed Martin, in which RTIS owns a 60 percent interest, are competing for the FOTT program.

The U.S. Army has determined that development of an advanced anti-tank missile is necessary and that no other missile system meets the mission objectives set for the FOTT program.

If Raytheon acquires Hughes, it will control the Hughes FOTT proposal and it will control a 60 percent interest in the RTIS/Lockheed Martin joint venture FOTT proposal. In such a situation, Raytheon has a strong economic incentive to favor its Hughes proposal, where it stands to win 100 percent of the program, over the team in which it has only a 60 percent interest. Raytheon's acquisition of Hughes will eliminate the aggressive competition that would otherwise exist between these independent teams. FOTT is a potential $8 billion to $10 billion program.

It would be very difficult for another firm to successfully enter the FOTT competition at this stage. The Hughes and RTIS/Lockheed Martin Joint venture teams have completed the validation and demonstration stage and have each spent over $20 million during the last three years developing a missile to demonstrate during the EMD selection. Selection of a contractor for the EMD contract is expected during the first half of 1998.

C. Harm to Competition as a Consequence of the Acquisition

Raytheon's acquisition of Hughes would eliminate competition in the research, development, and production of SADA II detectors and ground EO systems, both necessary to ground military weapons systems in the United States. It would combine the two leading suppliers of staring FPAs with over 90 percent of the market. In addition, Raytheon's acquisition of Hughes would eliminate the aggressive competition that would otherwise exist between Hughes and the RTIS/Lockheed Martin joint venture for the FOTT antitank missile. Entry by a new company would not be timely, likely or sufficient to prevent harm to competition in any of these product areas.

The Complaint alleges that the transaction would have the following effects, among others: competition generally in the innovation, development, production, and sale of SADA II detectors, staring FPAs, ground EO systems, and the FOTT missile in the United States would be lessened substantially; actual and future competition between Raytheon and Hughes in the development, production and sale of SADA II detectors, staring FPAs, ground EO systems, and the FOTT missile in the United States will be eliminated; and prices for SADA II detectors, staring FPAs, ground EO systems, and the FOTT missile in the United States would likely increase.

III. Explanation of the Proposed Final Judgment

The provisions of the proposed Final Judgment are designed to eliminate the anticompetitive effects of the acquisition of Hughes by Raytheon.

The proposed Final Judgment provides that Raytheon must divest, within one hundred eighty (180) calendar days after October 3, 1997, or five (5) days after notice of the entry of the Final Judgment by the Court, whichever is later, the FPA Business of RTIS and the EO Business of Hughes to an acquirer(s) acceptable to the DoJ and DoD. In addition, Raytheon is required to provide, at the option of the purchaser, a contract for computer support services and information and communications services sufficient to support the EO Business over a period of one year, and, at the option of the purchaser, an option to purchase or lease manufacturing space in addition to that currently set aside for the EO Business.

If defendants fail to divest these businesses, a trustee (selected by DoJ in consultation with DoD) will be appointed by the Court. The trustee will be authorized to sell the FPA Business and the EO Business. The Final Judgment provides that Raytheon will pay all costs and expenses of the trustee. After his or her appointment becomes effective, the trustee will file monthly reports with the parties and the Court, setting forth the trustee's efforts to accomplish divestiture. At the end of six months, if the divestiture has not been accomplished, the trustee and the parties will make recommendations to the Court, which shall enter such orders as appropriate in order to carry out the purpose of the trust, including extending the trust or the term of the trustee's appointment.

Divestiture of the FPA Business, the EO Business and the options preserves competition because it will restore the SADA II, staring FPA, and the ground EO systems markets to structures that existed prior to the acquisition and will preserve the existence of independent competitors. Divestiture will keep at least two producers of SADA II detectors and ground EO systems in the market competing for upcoming contracts, which will preserve and encourage ongoing competition in product innovation and development, production, and sales. Divestiture will also maintain at least two major competitors for staring FPAs and prevent missile system manufacturers from being foreclosed from a critical input. The divestiture thus will preserve competition in upcoming programs.

In addition to the divestitures, the Final Judgment requires that Raytheon establish procedures to assure that the current Hughes and the RTIS/Lockheed Martin joint venture remain independent competitors for the FOTT program. The firewall provisions required by the Final Judgment prevent the flow information between Hughes' FOTT team and the RTIS FOTT team and between either team and any other Raytheon employee. Raytheon is required to delegate to the head of its RTIS Missile Systems Division the sole discretion to determine all matters relating to the RTIS FOTT bid to create economic incentives for the RTIS FOTT team members to ensure all reasonable efforts will be made to submit a competitive bid for the FOTT program.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act (15 U.S.C. § 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. § 16(a)), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against defendants.

V. Procedures Available for Modification of the Proposed Final Judgment

The United States and defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least 60 days proceeding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**. The United States will evaluate and respond to the comments. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Judgment at any time prior to entry. The comment and the response of the United States will be filed with the Court and published in the **Federal Register**.

Written comments should be submitted to: J. Robert Kramer II, Chief, Litigation II Section, Antitrust Division, United States Department of Justice, 1401 H Street, N.W., Suite 3000, Washington, D.C. 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against defendants Raytheon and General Motors. The United States could have brought suit and sought preliminary and permanent injunctions against Raytheon's acquisition of Hughes.

The United States is satisfied that the divestive of the described assets and the other terms specified in the proposed Final Judgment will encourage viable competition in the research, development, and production of SADA II detectors, staring FPAs, ground EO systems, and the FOTT program. The United States is satisfied that the proposed relief will prevent the acquisition from having anticompetitive effects in these markets. The divestiture of the FPA Business and the EO Business and the other proposed terms will restore the SADA II, staring FPA, ground EO systems, and FOTT missile markets to structures that existed prior to the acquisition and will preserve the existence of independent competitors in those markets.

VII. Standard of Review Under the APPA for Proposed Final Judgment

The APPA requires that proposed consent judgments in antitrust cases by the United States be subject to a sixty-day comment period, after which the court shall determine whether entry of the proposed Final Judgment "is in the public interest." In making that determination, the court *may* consider—

(1) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing the edequacy of such judgment;

(2) The impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. § 16(e) (emphasis added). As the Court of Appeals for the District of Columbia Circuit recently held, the APPA permits a court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanism are sufficient, and whether the decree may positively harm third parties. *See United States* v. *Microsoft*, 56 F.3d 1448 (D.C. Cir. 1995).

In conducting this inquiry, "the Court is nowhere compelled to go to trail or to engage in extended proceedings which might have a effect of vitiating the benefits of prompt and less costly settlement through the consent decree process."[1] Rather.

[1] 119 Cong. Rec. 24598 (1973). *See also United States* v. *Gillette Co.*, 406 F. Supp. 713, 715 (D.

Continued

Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determining whether those explanations are reasonable under the circumstances.

United States v. *Mid-America Dairymen, Inc.*, 1977–1 Trade Cas. ¶61,508, at 71,980 (W.D. Mo. 1977).

Accordingly, with respect to the adequacy of the relief secured by the decree, a court may not "engage in an unrestricted evaluation of what relief would best serve the public." *United States* v. *BNS, Inc.*, 858 F.2d 456, (9th Cir. 1988), *quoting United States* v. *Bechtel Corp.*, 648 F.2d 660,666 (9th Cir.), *cert. denied*, 454 U.S. 1083 (1981); *see also, Microsoft*, 56 F.3d 1448 (D.C. Cir. 1995). Precedent requires that

[T]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest in one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is '*within the reaches of the public interest.*' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.[2]

The proposed Final Judgment, therefore should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of a particular practice or whether it mandates certainty of free competition in the future. Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. "[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' (citations omitted)."[3]

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

For Plaintiff United States of America:

Dated: October 22, 1997.

J. Robert Kramer II,

Chief, Litigation II Section, PA Bar #23963.

Willie L. Hudgins,

Assistant Chief, Litigation II Section, DC Bar #37127.

and

Janet Adams Nash,

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Nancy Olson,

Tara M. Higgins,

Charles R. Schwidde,

Robert W. Wilder,

Melanie Sabo,

Trial Attorneys, U.S. Department of Justice, Antitrust Division, 1401 H St., NW., Suite 3000, Washington, DC 20530, 202–307–0924, 202–307–6283 (Facsimile).

Certificate of Service

I hereby certify under penalty of perjury that on this 22nd day of October, 1997, I caused copies of the foregoing competitive impact statement to be served via hand-delivery upon the following:

Counsel for Raytheon Company.

Robert D. Paul, Esq.,

Michael S. Shuster, Esq.,

White & Case, 601 13th St., NW., Washington, DC 20005–3807.

Counsel for HE Holdings, Inc., and General Motors Corp.

Robert C. Odle, Esq.,

Peter D. Standish, Esq.,

Douglas A. Nave, Esq.,

Weil, Gotshal & Manges LLP, 767 Fifth Ave., New York, NY 10153–0119.

Willie L. Hudgins, Esq.,

Assistant Chief, Litigation II Section, U.S. Department of Justice, Antitrust Division, 1401 H Street, NW., Suite 3000, Washington, DC 20530, (202) 307–0924.

[FR Doc. 97–29474 Filed 11–6–97; 8:45 am]

BILLING CODE 4410–11–M

Mass. 1975). A "public interest" determination can be made properly on the basis of the Competitive Impact Statement and Response to Comments filed pursuant to the APPA. Although the APPA authorizes the use of additional procedures, 15 U.S.C. § 16(f), those procedures are discretionary. A court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. *See* H.R. 93–1463, 93rd Cong. 2d Sess. 8–9, reprintdd in (1974) U.S. Code Cong. & Ad. News 6535, 6538.

[2] *United States* v. *Bechtel*, 648 F.2d at 666 (internal citations omitted) (emphasis added); *see United States* v. *BNS, Inc.*, 858 F.2d at 463; *United States* v. *National Broadcasting Co.*, 449 F. Supp. 1127, 1143 (C.D. Cal. 1978); *United States* v. *Gillette Co.*, 406 F. Supp. at 716. *See also United States* v. *American Cyanamid Co.*, 719 F.2d 558, 565 (2d Cir. 1983).

[3] *United States* v. *American Tel. and Tel Co.*, 552 F. Supp. 131, 150 (D.D.C. 1982); *aff'd sub nom. Maryland* v. *United States*, 460 U.S. 1001 (1983), *quoting United States* v. *Gillette Co.*, supra, 406 F. Supp. at 716; *United States* v. *Alcan Aluminum, Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky 1985).

DEPARTMENT OF LABOR

Bureau of International Labor Affairs; U.S. National Administrative Office; National Advisory Committee for the North American Agreement on Labor Cooperation; Notice of Meeting Open to the Public

AGENCY: Office of the Secretary, Labor.

ACTION: Notice meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 94–463), the U.S. National Administrative Office (NAO) gives notice of a meeting of the National Advisory Committee for the North American Agreement on Labor Cooperation (NAALC), which was established by the Secretary of Labor.

The Committee was established to provide advice to the U.S. Department of Labor on matters pertaining to the implementation and further elaboration of the NAALC, the labor side accord to the North American Free Trade Agreement (NAFTA). The Committee is authorized under Article 17 of the NAALC.

The Committee consists of 12 independent representatives drawn from among labor organizations, business and industry, and educational institutions.

DATES: The Committee will meet on December 5, 1997 from 9:00 a.m. to 4:00 p.m.

ADDRESSES: University of Maryland, School of Law, 519 West Fayette St., Room 200, Baltimore, Maryland. The meeting is open to the public on a first-come, first served basis.

FOR FURTHER INFORMATION CONTACT: Irasema Garza, designated Federal Officer, U.S. NAO, U.S. Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room C–4327, Washington, D.C. 20210. Telephone 202–501–6653 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: Please refer to the notice published in the **Federal Register** on December 15, 1994 (59 FR 64713) for supplementary information.

Signed at Washington, D.C. on November 3, 1997.

Irasema T. Garza,

Secretary, U.S. National Administrative Office.

[FR Doc. 97–29486 Filed 11–6–97; 8:45 am]

BILLING CODE 4510–28–M

DEPARTMENT OF LABOR

Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting Notice

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: November 13, 1997, 10:00 am, U.S. Department of Labor, Room S–5215 B&C, 200 Constitution Ave., NW., Washington, D.C. 20210.

Purpose: The meeting will include a review and discussion of current issues which influence U.S. trade policy. Potential U.S. negotiating objectives and bargaining positions in current and anticipated trade negotiations will be discussed. Pursuant to section 9(B) of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(9)(B) it has been determined that the meeting will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions. Accordingly, the meeting will be closed to the public.

For further information, contact: Jorge Perez-Lopez, Director, Office of International Economic Affairs, Phone: (202) 219–7597.

Signed at Washington, D.C. this 1st day of November 1997.

Andrew J. Samet,

Acting, Deputy Under Secretary, International Affairs.

[FR Doc. 97–29456 Filed 11–6–97; 8:45 am]

BILLING CODE 4510–28–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of October, 1997.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or sub-division have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–33, 766; Versa Technologies, Inc., Moxness Products Div., Wausau, WI

TA–W–33, 849; California Curves, Inc., Temecula, CA

TA–W–33, 725; Stanwood Mills, Inc., Slatington, PA

TA–W–33, 770; Appleton Papers, Inc., Newton Falls, NY

TA–W–33, 726 & A; Thermal Engineering International, Joplin, MO and Pittsburg, KS

TA–W–33, 681; Elgin E², Inc., Erie, PA

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W–33, 894; Payless Cashways, Inc., Wichita Falls, TX

TA–W–33, 733; Bethship, a Division of Bethleham Steel Corp., Sparrows Point Yard, Sparrows Point, MD

TA–W–33, 802; ACER America Corp., Temple TX

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–33, 716; United Steering Systems, Grabill, IN

The investigation revealed that criteria (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–33, 844; Bose Corp., Westboro, MA

Employment declines at the subject plant was caused by a transfer of production to other domestic locations. The company has experienced increasing corporate sales and employment during the relevant period.

TA–W–33, 889; Elf Atochem, North America, Inc., Tacoma, WA

TA–W–33, 885; RG Thomas Corp., Palisades Park, NJ

TA–W–33, 705; DeLong Sportswear, Inc., Olney Div., Olney, TX

TA–W–33, 571; PCC Composites/ Advanced Forming Technology, Pittsburgh, PA

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–33,852; Kirsch, Inc., Sturgis, MI

Separations at the subject firm were exclusively associated with a reduction in the number of employees needed to perform administrative functions. There were no layoffs of production workers at Kirsch, Inc., Sturgis, MI during the relevant period.

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name & location for each determination references the impact date for all workers for such determination.

TA–W–33,846; Kimberly-Clark Corp., Oconto Falls, WI: August 28, 1996.

TA–W–33,804; Prewash & Pressing Service, Inc., El Paso, TX: August 20, 1996.

TA–W–33,876; Jansport, Inc., Burlington, WA: September 22, 1996.

TA–W–33,736; Bassett Furniture Industries, Inc., Statesville, NC: August 6, 1996.

TA–W–33,803; Precise Polestar, Inc., Phillipsburg, PA: August 15, 1996.

TA–W–33,814; Bourns, Inc., Pressure Products Div., Riverside, CA: August 20, 1996.

TA–W–33,837; Universal-Rundle Corp., Hundo, TX: June 20, 1996.

TA–W–33,798; Concept Apparel 2000 (currently known as JC Jeans, Inc.), El Paso, TX: August 16, 1996.

TA–W–33,853; Anglo Fabrics Co., Inc., Webster, MA: June 26, 1996.

TA–W–33,789; Indian Valley Industries, Inc., Johnson City, NY: August 16, 1996.

TA–W–33,847; Simpson Industries, Inc., Gladwin, MI: September 16, 1996.

TA–W–33,820; Fisher Rosemount Petroleum, Statesboro, GA: August 20, 1996.

TA–W–33,835; Hillsboro Glass Co., Hillsboro, IL: September 2, 1996.

TA–W–33,811; Philips Technologies Airpax, Cambridge, MD: August 27, 1996.

TA–W–33,855; Nukote International, Inc., Franklin, TN: September 15, 1996.

TA–W–33,861; Posey Manufacturing Co., Hoquiam, WA: February 19, 1996.

TA–W–33,800; Milco Industries, Inc., Bloomsburg, PA: August 25, 1996.

TA–W–33,751; Malone Manufacturing, Malone, NY: August 7, 1996.

TA–W–33,839; Irwin Manufacturing Corp., Alma Div., Alma, GA: August 1, 1996.

TA–W–33,854; CAE Screenplates, Inc., Glens Falls, NY: September 16, 1996.

TA–W–33,858; Reed Manufacturing Co., Inc., Walnut, MS: September 11, 1996.

TA–W–33,765; Landis & Gyn Unilities Service, Inc., Lafayette, IN: August 12, 1996.

TA–W–33,845; Onan Corp., Huntsville, AL: September 9, 1996.

TA–W–33,821; Universal Friction Composites, Manheim, PA: September 3, 1996.

TA–W–33,886; Masterwear Corp., Lexington Apparel, Lexington, TN: September 24, 1996.

TA–W–33,904; Youngone America, Miami, FL: September 10, 1996.

TA–W–33,903; Taylor Togs, Inc., Micaville & Green Mountain, NC: October 2, 1996.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a) Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of October, 1997.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases in imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–01761; Big Lake Contractors, Inc., Belle Glade, FL

NAFTA–TAA–01746; Hundley Farms, Locahatchee, FL

NAFTA–TAA–01774; Petelaine, Inc., Loxahatchee, FL

NAFTA–TAA–01722; Sapp Arms, Inc., Homestead (Florida City, FL)

NAFTA–TAA–01875; Appleton Papers, Inc., Newton Falls, NY

NAFTA–TAA–01784; F & T Farms, Inc., Florida City, FL

NAFTA–TAA–01756; Seminole Farms, Clewiston, FL

NAFTA–TAA–01759; Flatland Harvesting, Indiantown, FL

NAFTA–TAA–01842; DeLong Sportswear, Inc., Olney Div., Olney, TX

NAFTA–TAA–01708; Joiner & Son Farms, Inc., Florida City, FL

NAFTA–TAA–01861 & A; Thermal Engineering International Joplin, MO and Pittsburg, KS

NAFTA–TAA–01721; DiMare Homestead, Inc., Florida City, FL

NAFTA–TAA–01770; Du Bois Farms, Boynton Beach, FL

NAFTA–TAA–01949; Elf Atochem North America, Inc., Tacoma, WA

NAFTA–TAA–01826; Elgin E², Inc., Erie, PA

NAFTA–TAA–01938; California Curves, Inc., Temecula, CA

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

NAFTA–TAA–01695; Florida Fresh, Inc., Florida City, FL.

Sales or production did not decline during the relevant period as required for certification.

Affirmative Determinations NAFTA–TAA

The following certifications have been issued; the date following the company name & location for each determination references the impact date for all workers for such determination.

NAFTA–TAA–01873; Anglo Fabrics Co., Inc., Webster, MA: July 30, 1996.

NAFTA–TAA–01947; Simpson Industries, Inc., Gladwin, MI: September 16, 1996.

NAFTA–TAA–01913; Fisher-Rosemount Petroleum, Statesboro, GA: August 20, 1996.

NAFTA–TAA–01920; Hillsboro Glass Co., Hillsboro, IL: September 2, 1996.

NAFTA–TAA–01916; Irwin Manufacturing Corp., Alma Division, Alma, GA: August 1, 1996.

NAFTA–TAA–01883; Bassett Furniture Industries, Inc., Statesville, NC: August 6, 1996.

NAFTA–TAA–01957; Lees Manufacturing Co., Cannon Falls, MN: October 9, 1996.

NAFTA–TAA–01945; Simpson Industries, Jackson, MI: September 24, 1996.

NAFTA–TAA–01935; Jansport, Inc., Bayview Facility, Burlington, WA: September 22, 1996.

NAFTA–TAA–01906; Prewash & Pressing Services, Inc., EL Paso, TX August 29, 1996.

NAFTA–TAA–01857; Onan Corp., Huntsville, AL: July 28, 1996.

NAFTA–TAA–01933; CAE Screenplates, Inc., Glens Falls, NY: September 16, 1996.

NAFTA–TAA–01772; Iori Farm, Homestead, FL: March 28, 1996.

NAFTA–TAA–01953; General Binding Corp., Velobind Div., Sparks, NE: October 3, 1996.

NAFTA–TAA–01921; Kimberly-Clark Corp., Oconto Falls, WI: August 28, 1996.

NAFTA–TAA–01801; Kimberly-Clark Corp., Marinette, WI: July 4, 1996.

NAFTA–TAA–01892; Standard Textile Co., Pridecraft Enterprises Div., Georgiana, AL: August 18, 1996.

NAFTA–TAA–01934; Great American Products, Inc., Broadview, IL: September 11, 1996.

NAFTA–TAA–01968; Frolic Footwear, Walnut Ridge, AR: October 6, 1996.

NAFTA–TAA–01959; Bourns, Inc., Pressure Products Div., Riverside, CA: August 20, 1996.

NAFTA–TAA–01981; Carolyn of Virginia, Inc., Bristol, VA: October 20, 1996.

NAFTA–TAA–01973; Oneita Industries, Inc., Fayette Apparel Plant, Fayette, AL: October 7, 1996.

NAFTA–TAA–01854; Tuscarora, Inc., Martinville, IN: July 31, 1996.

NAFTA–TAA–01891; Standard Textile Co., Inc., Pridecraft Enterprises Div., Forsyth, GA: August 18, 1996.

I hereby certify that the aforementioned determinations were issued during the month of October, 1997. Copies of these determinations are available for inspection in Room C–4318, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: November 3, 1997.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 97–29449 Filed 11–6–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–33,526]

Baroid Drilling Fluids, Incorporated, A Subsidiary of Cimbar Performance Minerals, Potosi, Missouri; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 2, 1997 in response to a worker petition which was filed on May 19, 1997 on behalf of workers at Baroid Drilling Fluids, Incorporated in Potosi, Missouri.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve on purpose, and the investigation has been terminated.

Signed in Washington, D. C. this 28th day of October, 1997.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 97–29453 Filed 11–6–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Acting Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address show below, not later than November 17, 1997.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 17, 1997.

The petitions filed in this case are available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 20th day of October, 1997.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

[Petitions Instituted on 10/20/97]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
33,906	Sunbeam Corp. (Wrks)	Shubuta, MS	10/02/97	Weighing Scales.
33,907	Textron Automotive (Wrks)	Dover, NH	10/02/97	Automotive Armrests, Glovebox Doors.
33,908	Tennessee River, Inc (Comp)	Russellville, Al	10/03/97	Ladies' and Men's Sportswear.
33,909	Redco Foods, Inc (Wkrs)	Little Falls, NY	09/26/97	Tea.
33,910	Best Manufacturing Co (Comp)	Salisbury, NC	09/25/97	T-Shirts and Sweat Shirts.
33,911	Almark Mills, Inc (Wkrs)	Dawson, GA	10/03/97	Sportswear.
33,912	Fiskars, Inc (Wkrs)	Fergus Falls, MN	10/03/97	Electrical Strip Outlets.
33,913	Bates of Maine, Inc (UNITE)	Lewiston, ME	10/06/97	Bedspreads.
33,914	Dexter Shoe Co (Wrks)	Dexter, ME	10/03/97	Boots and Shoes.
33,915	DQ Investment Corp (Comp)	San Diego, CA	09/30/97	Data Entry Operation.

[FR Doc. 97–29452 Filed 11–6–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–01755]

Billy R. Evans Harvesting, Belle Glade, Florida; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), an investigation was initiated on May 27, 1997 in response to a petition filed on behalf of workers at Billy R. Evans Harvesting, located in Belle Glade, Florida. The workers harvest sweet corn and plant sugarcane.

In a letter dated October 28, 1997, the petitioner requested that the petition for NAFTA–TAA be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C., this 31st day of October 1997.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 97–29450 Filed 11–6–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–01942]

General Motors Corporation Power Train Division, Danville, Illinois; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 30, 1997 in response to a petition filed on behalf of workers at General Motors Corporation, Power Train Division, Danville, Illinois.

In a letter dated October 22, 1997, the petitioner requested that the petition for NAFTA–TAA be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

A trade adjustment assistance investigation (TA–W–33,945) is currently underway to determine if workers are eligible to apply for benefits under the Trade Act of 1974. The investigation was instituted on October 27, 1997. A final determination should be made within 60 days of the institution date.

Signed at Washington, D.C., this 30th day of October 1997.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 97–29451 Filed 11–6–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–01223]

Johnson & Johnson Medical, Incorporated Including Temporary Workers of Kelly Services, Incorporated El Paso, Texas; Amended Certification Regarding Eligibility To Apply for NAFTA-Transitional Adjustment Assistance

In accordance with Section 250(A), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974 (19 USC 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on October 9, 1996, applicable to all workers of Johnson & Johnson Medical, Incorporated, located in El Paso, Texas. The notice will be published soon in the **Federal Register**.

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information provided by the State shows that some workers of Johnson & Johnson Medical, Incorporated were temporary workers of Kelly Services, Incorporated employed to produce surgical gowns, drapes and sheets at the El Paso, Texas facility. Based on these findings, the Department is amending the certification to include temporary workers from Kelly Services, Incorporated, El Paso, Texas who were engaged in the production of surgical gowns, drapes and sheets at Johnson and Johnson Medical, Incorporated, El Paso, Texas.

The intent of the Department's certification is to include all workers of Johnson & Johnson Medical, Incorporated adversely affected by the shift of production to Mexico. Accordingly, the Department is amending the certification to reflect this matter.

The amended notice applicable to NAFTA—01223 is hereby issued as follows:

All workers of Johnson & Johnson Medical, Incorporated, El Paso, Texas and temporary workers of Kelly Services, El Paso, Texas, engaged in employment related to the production of surgical gowns, drapes and sheets for Johnson & Johnson Medical, Incorporated, El Paso, Texas who became totally or partially separated from employment on or after August 29, 1995 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of October, 1997.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 97–29455 Filed 11–6–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment Standards Administration Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210.

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Massachusetts
- MA970001(Feb. 14, 1997)
- MA970002(Feb. 14, 1997)
- MA970003(Feb. 14, 1997)
- MA970005(Feb. 14, 1997)
- MA970006 (Feb. 14, 1997)
- MA970007 (Feb. 14, 1997)
- MA970010 (Feb. 14, 1997)
- MA970012 (Feb. 14, 1997)
- MA970013 (Feb. 14, 1997)
- MA970014 (Feb. 14, 1997)
- MA970015 (Feb. 14, 1997)
- MA970017 (Feb. 14, 1997)
- MA970018 (Feb. 14, 1997)
- MA970019 (Feb. 14, 1997)
- MA970020 (Feb. 14, 1997)
- MA970021 (Feb. 14, 1997)

Puerto Rico
- PR970001 (Feb. 14, 1997)
- PR970003 (Feb. 14, 1997)

Volume II

District of Columbia
- DC970001 (Feb. 14, 1997)
- DC970002 (Feb. 14, 1997)
- DC970003 (Feb. 14, 1997)

Delaware
- DE970002 (Feb. 14, 1997)
- DE970004 (Feb. 14, 1997)
- DE970005 (Feb. 14, 1997)
- DE970009 (Feb. 14, 1997)

Pennsylvania
- PA970008 (Feb. 14, 1997)
- PA970021 (Feb. 14, 1997)
- PA970040 (Feb. 14, 1997)

Maryland
- MD970001 (Feb. 14, 1997)
- MD970002 (Feb. 14, 1997)
- MD970008 (Feb. 14, 1997)
- MD970010 (Feb. 14, 1997)
- MD970017 (Feb. 14, 1997)
- MD970021 (Feb. 14, 1997)
- MD970031 (Feb. 14, 1997)
- MD970034 (Feb. 14, 1997)
- MD970035 (Feb. 14, 1997)
- MD970036 (Feb. 14, 1997)
- MD970037 (Feb. 14, 1997)
- MD970040 (Feb. 14, 1997)
- MD970042 (Feb. 14, 1997)
- MD970046 (Feb. 14, 1997)
- MD970047 (Feb. 14, 1997)
- MD970048 (Feb. 14, 1997)
- MD970057 (Feb. 14, 1997)
- MD970058 (Feb. 14, 1997)
- MD970059 (Feb. 14, 1997)

Virginia
- VA970008 (Feb. 14, 1997)
- VA970012 (Feb. 14, 1997)
- VA970015 (Feb. 14, 1997)
- VA970022 (Feb. 14, 1997)
- VA970025 (Feb. 14, 1997)
- VA970027 (Feb. 14, 1997)
- VA970034 (Feb. 14, 1997)
- VA970035 (Feb. 14, 1997)
- VA970039 (Feb. 14, 1997)
- VA970046 (Feb. 14, 1997)
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- VA970052 (Feb. 14, 1997)
- VA970053 (Feb. 14, 1997)
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- VA970055 (Feb. 14, 1997)
- VA970058 (Feb. 14, 1997)
- VA970083 (Feb. 14, 1997)
- VA970078 (Feb. 14, 1997)
- VA970079 (Feb. 14, 1997)
- VA970080 (Feb. 14, 1997)
- VA970081 (Feb. 14, 1997)
- VA970104 (Feb. 14, 1997)
- VA970105 (Feb. 14, 1997)

Volume III

Georgia
- GA970003 (Feb. 14, 1997)
- GA970040 (Feb. 14, 1997)
- GA970084 (Feb. 14, 1997)
- GA970085 (Feb. 14, 1997)
- GA970086 (Feb. 14, 1997)
- GA970087 (Feb. 14, 1997)
- GA970088 (Feb. 14, 1997)

Kentucky
- KY970001 (Feb. 14, 1997)
- KY970002 (Feb. 14, 1997)
- KY970003 (Feb. 14, 1997)
- KY970004 (Feb. 14, 1997)
- KY970007 (Feb. 14, 1997)
- KY970025 (Feb. 14, 1997)
- KY970027 (Feb. 14, 1997)
- KY970028 (Feb. 14, 1997)
- KY970029 (Feb. 14, 1997)

South Carolina
- SC970023 (Feb. 14, 1997)

Volume IV

Michigan
- MI970001 (Feb. 14, 1997)
- MI970002 (Feb. 14, 1997)
- MI970003 (Feb. 14, 1997)
- MI970004 (Feb. 14, 1997)
- MI970005 (Feb. 14, 1997)
- MI970012 (Feb. 14, 1997)
- MI970030 (Feb. 14, 1997)
- MI970047 (Feb. 14, 1997)

Minnesota
- MN970005 (Feb. 14, 1997)
- MN970007 (Feb. 14, 1997)
- MN970008 (Feb. 14, 1997)
- MN970031 (Feb. 14, 1997)
- MN970035 (Feb. 14, 1997)
- MN970056 (Feb. 14, 1997)
- MN970059 (Feb. 14, 1997)
- MN970061 (Feb. 14, 1997)

Ohio
- OH970002 (Feb. 14, 1997)
- OH970012 (Feb. 14, 1997)
- OH970024 (Feb. 14, 1997)
- OH970029 (Feb. 14, 1997)
- OH970032 (Feb. 14, 1997)
- OH970034 (Feb. 14, 1997)

Volume V

Iowa
- IA970005 (Feb. 14, 1997)
- IA970015 (Feb. 14, 1997)
- IA970017 (Feb. 14, 1997)

Missouri
- MO970001 (Feb. 14, 1997)
- MO970002 (Feb. 14, 1997)
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- MO970042 (Feb. 14, 1997)
- MO970047 (Feb. 14, 1997)
- MO970049 (Feb. 14, 1997)
- MO970050 (Feb. 14, 1997)
- MO970051 (Feb. 14, 1997)
- MO970057 (Feb. 14, 1997)
- MO970058 (Feb. 14, 1997)
- MO970060 (Feb. 14, 1997)
- MO970062 (Feb. 14, 1997)
- MO970065 (Feb. 14, 1997)
- MO970067 (Feb. 14, 1997)
- MO970072 (Feb. 14, 1997)

Nebraska
- NE970058 (Feb. 14, 1997)

Volume VI

Colorado
- CO970002 (Feb. 14, 1997)
- CO970007 (Feb. 14, 1997)
- CO970008 (Feb. 14, 1997)
- CO970009 (Feb. 14, 1997)
- CO970016 (Feb. 14, 1997)
- CO970024 (Feb. 14, 1997)
- CO970025 (Feb. 14, 1997)

North Dakota
- ND970001 (Feb. 14, 1997)
- ND970002 (Feb. 14, 1997)
- ND970019 (Feb. 14, 1997)
- ND970026 (Feb. 14, 1997)
- ND970027 (Feb. 14, 1997)
- ND970049 (Feb. 14, 1997)
- ND970050 (Feb. 14, 1997)

Washington
- WA970001 (Feb. 14, 1997)
- WA970002 (Feb. 14, 1997)
- WA970003 (Feb. 14, 1997)
- WA970005 (Feb. 14, 1997)
- WA970006 (Feb. 14, 1997)

Wyoming
- WY970009 (Feb. 14, 1997)
- WY970021 (Feb. 14, 1997)

Volume VII

Hawaii
- HI970001 (Feb. 14, 1997)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be

found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at (703) 487–4630.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interests, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, D.C., this 31st day of October 1997.

Margaret Washington,

Acting Chief, Branch of Construction Wage Determinations.

[FR Doc. 97–29274 Filed 11–6–97; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–97–47]

Agency Information Collection Activities; Proposed Collection; Comment Request; Procedures for Handling of Discrimination Complaints Under Federal Employee Protection Statutes (29 CFR 24)

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)). The program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and impact of collection requirements on respondents can be properly assessed. Currently, the Occupational Safety and Health Administration (OSHA) is soliciting comments concerning the proposed implementation of the information collection requirements contained in 29 CFR 24. The Agency is particularly interested in comments which:

- Evaluate whether the proposed collection of the Agency is necessary for the proper performance of the functions of the Agency, including whether the information will have particular utility;
- Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

DATES: Written comments are to be submitted on or before January 6, 1998.

ADDRESSES: Comments are to be submitted to the Docket Office, Docket No. ICR–97–47, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: (202) 219–7894. Written comments limited to 10 pages or less may also be transmitted by facsimile to (202) 219–5046.

FOR FURTHER INFORMATION CONTACT: Rich Weitzman, Office of Investigative Assistance, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3468, 200 Constitution Avenue, NW., Washington, DC 20210, telephone: (202)219–8095. Copies of the referenced information collection request are available for inspection and copying in the Docket Office and will be mailed to persons who request copies by telephoning (202) 219–7894, or Barbara Bielaski at (202) 219–8076, ext. 142. For electronic copies of the Information Collection Request on the certification provisions of Procedures for the Handling of Discrimination Complaints Under Federal Employee Protection Statutes, contact OSHA's Webpage on the Internet at http://www.osha.gov/ and click on "standards."

SUPPLEMENTARY INFORMATION:

I. Background

29 CFR 24 establishes procedures for the expeditious handling of complaints pursuant to the following statutes: Clean Air Act, 42 U.S.C. 7622; Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9610; Energy Reorganization Act of 1974, 42 U.S.C. 5851; Federal Water Pollution Control Act, 33 U.S.C. 1367; Safe Drinking Water Act, 42 U.S.C. 300j–9(I), Solid Waste Disposal Act, 42 U.S.C. 6971; and Toxic Substances Control Act, 15 U.S.C. 2622. These complaints are filed by employees, or persons acting on their behalf, of alleged discriminatory action by employers.

The employee records required are necessary to conduct discrimination investigations under 29 CFR 24. They are intended to gather evidence to establish whether or not an employee has suffered discrimination reprisal for engaging in activity protected under Section 322 of the Clean Air Act; Section 110 of the Comprehensive Environmental Response, Compensation, and Liability Act; Section 210 of the Energy Reorganization Act; Section 507 of the Federal Water Pollution Control Act; Section 1550(I) of the Safe Drinking Water Act; Section 7001 of the Solid Waste Disposal Act; and Section 23 of the toxic Substances Control Act.

II Current Actions

This notice requests an extension of the current Office of Management and Budget (OMB) approval of the procedures for the handling of discrimination complaints under Federal employee protection statutes (currently approved under OMB Control No. 1215–0183.)

III OSHA's Estimate of a Burden

OSHA estimates that there will be 200 complaints filed annually. On average, each complaint will require one hour to supply the documentation needed to conduct the investigation.

Type of Review: New.

Agency: U.S. Department of Labor, Occupational Safety and Health Administration.

Title: Procedures for the Handling of Discrimination Complaints Under Federal Employee Protection Statutes.

OMB Number: 1218–Onew (formerly 1215–0183).

Agency Number: Docket Number ICR–97–47.

Affected public: All public and private sector employers.

Frequency: Not Applicable.

Number of Respondents: 100.

Average Time Per Response: 1 hour.

Estimated Total Annual Burden Hours: 200.

Total Annualized Capital/Startup Costs: $0.

Signed at Washington, DC, this 4th day of November 1997.

John B. Miles, Jr.,

Director, Directorate of Compliance Programs.

[FR Doc. 97–29487 Filed 11–6–97; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Combined Arts Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Combined Arts Panel, Music and Opera Section (Planning & Stabilization Category) to the National Council on the Arts will be held on December 2–4, 1997. The panel will meet from 9:30 a.m. to 6:00 p.m. on December 2, 9:00 a.m. to 6:00 p.m. on December 3, and 9:00 a.m. to 4:00 p.m. on December 4, in Room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, D.C., 20506. A portion of this meeting, from 10:00 a.m. to 12:00 p.m. on December 4, will be open to the public for a policy discussion of guidelines, planning, field needs and trends, and Leadership Initiatives.

The remaining portions of this meeting, from 9:30 a.m. to 6:00 p.m. on December 2, 9:00 a.m. to 6:00 p.m. on December 3, and 9:00 a.m. to 10:00 a.m. and 12:00 p.m. to 4:00 p.m. on December 4, are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of March 31, 1997, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and 9(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Accessibility, National Endowment for the Arts, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Committee Management Officer, National Endowment for the Arts, Washington, D.C., 20506, or call 202/682–5691.

Dated: November 4, 1997.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 97–29461 Filed 11–6–97; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL FOUNDATION OF THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Combined Arts Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Combined Arts Panel, Visual Arts Section (Creation & Presentation Category) to the National Council on the Arts will be held on November 18–21, 1997. The panel will meet from 9:00 a.m. to 6:00 p.m. on November 18 and 19, 9:00 a.m. to 5:30 p.m. on November 20, and 9:00 a.m. to 4:00 p.m. on November 21, in Room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, D.C., 20506. A portion of this meeting, from 9:00 a.m. to 11:00 a.m. on November 21, will be open to the public for a policy discussion of guidelines, planning field needs and trends, and Leadership Initiatives.

The remaining portions of this meeting, from 9:00 a.m. to 6:00 p.m. to November 18 and 19, 9:00 a.m. to 5:30 p.m. on November 20 and 11:15 a.m. to 4:00 p.m. on November 11, are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determinations of the Chairman of March 31, 1997, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Committee Management Officer, National Endowment for the Arts, Washington, D.C., 20506, or call 202/682–5691.

Dated: November 4, 1997.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 97–29462 Filed 11–6–97; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–255]

In the Matter of Consumers Energy Company (Palisades Plant); Exemption

I

Consumers Energy Company (the licensee) is the holder of Facility Operating License No. DPR–20 which authorizes operation of the Palisades Plant. The Palisades facility is a pressurized-water reactor located at the licensee's site in Van Buren County, Michigan. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the Commission now or hereafter in effect.

II

Section 70.24 of Title 10 of the Code of Federal Regulations, "Criticality Accident Requirements," requires that each licensee authorized to possess special nuclear material (SNM) shall maintain a criticality accident monitoring system in each area where such material is handled, used, or stored. Subsections (a)(1) and (a)(2) of 10 CFR 70.24 specify detection and sensitivity requirements that these monitors must meet. Subsection (a)(1) also specifies that all areas subject to criticality accident monitoring must be covered by two detectors. Subsection (a)(3) of 10 CFR 70.24 requires licensees

to maintain emergency procedures for each area in which this licensed SNM is handled, used, or stored and provides that (1) the procedures ensure that all personnel withdraw to an area of safety upon the sounding of a criticality accident monitor alarm, (2) the procedures must include drills to familiarize personnel with the evacuation plan, and (3) the procedures designate responsible individuals for determining the cause of the alarm and placement of radiation survey instruments in accessible locations for use in such an emergency. Paragraph (d) of 10 CFR 70.24 states that any licensee who believes that there is good cause why he should be granted an exemption from all or part of 10 CFR 70.24 may apply to the Commission for such an exemption and shall specify the reasons for the relief requested.

III

The SNM that could be assembled into a critical mass at Palisades is in the form of nuclear fuel; the quantity of SNM other than fuel that is stored on site in any given location is small enough to preclude achieving a critical mass. The Commission's technical staff has evaluated the possibility of an inadvertent criticality of the nuclear fuel at Palisades and has determined that it is extremely unlikely for such an accident to occur if the licensee meets the following seven criteria:

1. Only one fuel assembly is allowed out of a shipping cask or storage rack at one time.

2. The k-effective does not exceed 0.95, at a 95% probability, 95% confidence level in the event that the fresh fuel storage racks are filled with fuel of the maximum permissible uranium-235 (U–235) enrichment and flooded with pure water.

3. If optimum moderation occurs at low moderator density, then the k-effective does not exceed 0.98, at a 95% probability, 95% confidence level in the event that the fresh fuel storage racks are filled with fuel of the maximum permissible U–235 enrichment and flooded with a moderator at the density corresponding to optimum moderation.

4. The k-effective does not exceed 0.95, at a 95% probability, 95% confidence level in the event that the spent fuel storage racks are filled with fuel of the maximum permissible U–235 enrichment and flooded with pure water.

5. The quantity of forms of special nuclear material, other than nuclear fuel, that is stored on site in any given area is less than the quantity necessary for a critical mass.

6. Radiation monitors, as required by General Design Criterion 63, are provided in fuel storage and handling areas to detect excessive radiation levels and to initiate appropriate safety actions.

7. The maximum nominal U–235 enrichment is limited to 5.0 weight percent.

By letter dated July 2, 1997, the licensee requested an exemption from 10 CFR 70.24(a). The Commission's technical staff has reviewed the licensee's submittal and has determined that Palisades meets the criteria for prevention of inadvertent criticality; therefore, the staff has determined that it is extremely unlikely for an inadvertent criticality to occur in SNM handling or storage areas at Palisades.

The purpose of the criticality monitors required by 10 CFR 70.24(a) is to ensure that if a criticality were to occur during the handling of SNM, personnel would be alerted to that fact and would take appropriate action. The staff has determined that it is extremely unlikely that such an accident could occur; furthermore, the licensee has radiation monitors, as required by General Design Criterion 63, in fuel storage and handling areas. These monitors will alert personnel to excessive radiation levels and allow them to initiate appropriate safety actions. The low probability of an inadvertent criticality, together with the licensee's adherence to General Design Criterion 63, constitutes good cause for granting an exemption to the requirements of 10 CFR 70.24(a).

IV

The Commission has determined that, pursuant to 10 CFR 70.14, this exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest.

Therefore, the Commission hereby grants Consumers Energy an exemption from the requirements of 10 CFR 70.24(a).

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the environment (62 FR).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 28th day of October 1997.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 97–29469 Filed 11–6–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–410]

Long Island Lighting Company; Nine Mile Point Nuclear Station, Unit No. 2

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an Order approving, under 10 CFR 50.80, an application regarding an indirect transfer of control of ownership and possessory rights held by Long Island Lighting Company (LILCO) under the operating license for Nine Mile Point Nuclear Station, Unit No. 2 (NMP2). The indirect transfer would be to the Long Island Power Authority (LIPA). LILCO is licensed by the Commission to own and possess an 18 percent interest in NMP2.

By letter dated September 8, 1997, LILCO informed the Commission that LIPA plans to acquire LILCO by purchasing its stock through a cash merger, at a time when LILCO consists of its electric transmission and distribution system, its retail electric business, substantially all of its electric regulatory assets, and its 18 percent share of NMP2. LILCO thereby would become a subsidiary of LIPA. After this restructuring, LILCO will continue to exist as an "electric utility" as defined in 10 CFR 50.2 providing the same electric utility services it did immediately prior to the restructuring. LILCO will continue to be a licensee of NMP2, and no direct transfer of the operating license or interests in the station will result from the proposed restructuring. The transaction would not involve any change to either the management organization or technical personnel of Niagara Mohawk Power Corporation, which is responsible for operating and maintaining NMP2.

Pursuant to 10 CFR 50.80, the Commission may approve the transfer of control of a license after notice to interested persons. Such approval is contingent upon the Commission's determination that the holder of the license following the transfer is qualified to hold the license and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders of the Commission.

For further details with respect to this proposed action, see the LILCO letter dated September 8, 1997, as supplemented October 8, 1997. These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, DC, and at the local public document room located at the Penfield Library, State University of New York, Oswego, New York 13126.

Dated at Rockville, Maryland this 28th day of October 1997.

For the Nuclear Regulatory Commission.

Darl S. Hood,

Senior Project Manager, Project Directorate I–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 97–29490 Filed 11–6–97; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Submission of Information Collection for OMB Review; Comment Request; Termination of Single Employer Plans; Missing Participants; PBGC Forms 500–501, 600–602

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for extension of OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation ("PBGC") is requesting that the Office of Management and Budget ("OMB") extend its approval, under the Paperwork Reduction Act, of a collection of information in its regulations on Termination of Single Employer Plans and Missing Participants (29 CFR Parts 4041 and 4050) and implementing forms and instructions (PBGC Forms 500–501 and 600–602). This notice informs the public of the PBGC's request and solicits public comment on the collection of information.

DATES: Comments should be submitted by December 8, 1997.

ADDRESSES: Comments should be mailed to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Attention: Desk Officer for Pension Benefit Guaranty Corporation, Washington, DC 20503. The request for extension will be available for public inspection at the Communications and Public Affairs Department of the Pension Benefit Guaranty Corporation, suite 240, 1200 K Street, NW., Washington, DC, 20005–4026, between 9 a.m. and 4 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, or Catherine B. Klion, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024. (For TTY and TDD, call 800–877–8339 and request connection to 202–326–4024).

SUPPLEMENTARY INFORMATION: The PBGC administers the pension plan termination insurance programs under Title IV of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). Under section 4041 of ERISA, a single-employer pension plan may terminate voluntarily only if it satisfies the requirements for either a standard or a distress termination. Pursuant to ERISA section 4041(b), for standard terminations, and section 4041(c), for distress terminations, and the PBGC's termination regulation (29 CFR part 4041), a plan administrator wishing to terminate a plan is required to submit specified information to the PBGC in support of the proposed termination and to provide specified information regarding the proposed termination to third parties (participants, beneficiaries, alternate payees, and employee organizations). In the case of a plan with participants or beneficiaries who cannot be located when their benefits are to be distributed, the plan administrator is subject to the requirements of ERISA section 4050 and the PBGC's missing participants regulation (29 CFR part 4050).

Elsewhere in today's **Federal Register**, the PBGC published a final rule that extends standard termination deadlines and otherwise simplifies the standard termination process, requires that plan administrators provide participants with information on state guaranty association coverage of annuities, and makes conforming changes to the distress termination process. The final rule also makes conforming and simplifying changes to the missing participants regulation. In addition, the PBGC made clarifying and other changes (related to the final rule) to its implementing forms and instructions under the termination and missing participants regulations.

Terminations initiated before the effective date of the final rule generally will be subject to the existing collection of information requirements. (The PBGC specified in the final rule certain portions of the final rule that plan administrators may apply to terminations in process at the time the final rule becomes effective.) Thus, even after the effective date of the final rule, there will be a period of time during which the existing collection of information requirements will apply for some terminations.

The PBGC is asking OMB to (1) approve for three years the revised collection of information requirements contained in the new final termination and missing participants regulations and implementing forms and instructions; and (2) extend its approval for three years of the collection of information requirements in the existing termination and missing participants regulations and implementing forms and instructions. To facilitate OMB's consideration of these requests, the PBGC is combining the final rule and rollover submissions.

Much of the work associated with terminating a plan is performed for purposes other than meeting the collection of information requirements in the PBGC's termination and missing participants regulations. The PBGC estimates that 3,750 plan administrators will be subject to the collection of information requirements each year, and that the total annual burden of complying with these requirements is 5,231 hours and $2,761,672.

Issued in Washington, DC, this 3rd day of November, 1997.

David M. Strauss,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 97–29499 Filed 11–6–97; 8:45 am]

BILLING CODE 7708–01–P

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and purpose of information collection: Application for Employee Annuity Under the Railroad Retirement Act; OMB 3220–0002.

Section 2 of the Railroad Retirement Act (RRA), provides for payment of age and service, disability and supplemental annuities to qualified employees. The basic requirements for a regular employee annuity retirement annuity under the RRA is 120 months (10 years)

of creditable railroad service. Benefits then become payable after the employee meets certain other requirements, which depend, in turn, on the type of annuity payable.

The requirements relating to the annuities are prescribed in 20 CFR 216, and 220.

The forms used by the RRB to collect information needed for determining entitlement to and the amount of an employee retirement annuity follow: Form AA–1, Application for Employee Annuity Under the Railroad Retirement Act is completed by an applicant for either an age and service or disability annuity. It obtains information about the applicants marital history, work history, military service, benefits from other governmental agencies and railroad pensions. Form AA–1d, Application for Determination of Employee Disability, is completed by an employee who is filing for a disability annuity under the RRA, or a disability freeze under the Social Security Act for early Medicare based on a disability. Form G–204, Verification of Workers Compensation/ Public Disability Benefit Information, is used to obtain and verify information concerning worker's compensation or public disability benefits that are or will be paid by a public agency to a disabled railroad employee. Completion of the forms is required to obtain a benefit. One response is requested of each respondent.

The RRB proposes to revise Form AA–1 to add items that secure information pertaining to the direct deposit of benefits and Medicare processing and delete items no longer required. Forms AA–1, AA–1d and G–204 will be revised to add language required by the Paperwork Reduction Act of 1995. Minor non-burden impacting cosmetic and editorial changes will also be made to all three forms. The RRB estimates that 13,400 Form AA–1's, 5,650 AA–1d's and 175 G–204's are completed annually. The completion time for Form AA–1 is estimated to 37 to 62 minutes per response. The completion time for AA–1d is estimated at 35 to 60 minutes per response. The completion time for Form G–204 is estimated at 5 minutes per response.

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 97–29476 Filed 11–6–97; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–26760]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

October 31, 1997.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office or Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by November 24, 1997, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

The Southern Company, et al. (70–9137); Notice of Proposal To Amend Articles of Incorporation and Authorize Registered Holding Company To Acquire Preferred Stock of Utility Subsidiaries; Order Authorizing Solicitation of Proxies

The Southern Company ("Southern"), 270 Peachtree Street, N.W., Atlanta, Georgia 30303, a registered holding company, and certain of its public-utility subsidiaries, Alabama Power Company ("Alabama"), 600 North 18th Street, Birmingham, Alabama 35291, Georgia Power Company ("Georgia"), 333 Piedmont Avenue, N.E., Atlanta, Georgia 30308, Gulf Power Company ("Gulf"), 500 Bayfront Parkway, Pensacola, Florida 32501, and Mississippi Power Company ("Mississippi"), 2992 West Beach, Gulfport, Mississippi 39501 (Alabama, Georgia, Gulf and Mississippi collectively, "Subsidiaries"), have filed an application-declaration under sections 6(a), 7, 9(a), 10, 12(c), 12(d) and 12(e) of the Act, and rules 43, 44, 51, 54, 62 and 65 thereunder.

Alabama

Alabama has outstanding 5,608,955 shares of common stock, par value $40 per share ("Alabama Common Stock"), all of which are held by Southern. Alabama's outstanding preferred stock consists of: (1) 5.52 million shares of Class A cumulative preferred stock, stated capital $25 per share, issued in three series,[1] which are traded on the New York Stock Exchange ("Alabama NYSE Preferred Stock"); (2) 704,000 shares of cumulative preferred stock, par value $100 per share, issued in six series,[2] which are traded over-the-counter ("Alabama $100 Preferred Stock"); (3) 200 shares of Class A cumulative preferred stock, stated capital $100,000 per share, which are traded over-the-counter ("Alabama 1993 Auction Preferred Stock"); and (4) 500,000 shares of Class A cumulative preferred stock, stated capital $100, which are traded over-the-counter ("Alabama 1988 Auction Preferred Stock" and, together with the Alabama NYSE Preferred Stock, Alabama $100 Preferred Stock and Alabama 1993 Auction Preferred Stock, "Alabama Preferred Stock"). Alabama has outstanding no other class of equity securities.

Paragraph A.2.f.(2) of Article IX of Alabama's Charter ("Alabama Charter") currently provides that, so long as any shares of Alabama's Preferred Stock are outstanding, without the affirmative vote of the holders of at least a majority of the total voting power of the outstanding Alabama Preferred Stock, Alabama shall not issue or assume any securities representing unsecured debt (other than for the purpose of refunding or renewing outstanding unsecured securities issued by Alabama resulting in equal or longer maturities or redeeming or otherwise retiring all outstanding shares of the Alabama Preferred Stock or of any senior or equally ranking stock) if, immediately after the issue or assumption, the total outstanding principal amount of all securities representing unsecured debt of Alabama would exceed 20% of the aggregate of all existing secured debt of Alabama and the capital stock, premiums thereon and surplus of Alabama as stated on Alabama's books ("Alabama Debt Limitation Provision").

Paragraph A.2f.(1) of Article IX of the Alabama Charter currently provides that, so long as any shares of Alabama Preferred Stock are outstanding, without the affirmative vote of the holders of at least a majority of the total voting power of the outstanding Alabama Preferred Stock, Alabama shall not dispose of all or substantially all of its property or merge or consolidate, unless the action has been approved by the Commission ("Alabama Merger Provision").

Paragraph A.2.b. (except the first paragraph therein) of Article IX of the Alabama Charter currently provides that, so long as any shares of Alabama Preferred Stock are outstanding (except as may be approved or permitted by the affirmative vote of the holders of at least two-thirds of the total voting power of the outstanding Alabama Preferred Stock), Alabama's payment of dividends on the Alabama Common Stock is limited to 50% of net income available for the stock during a period of 12 months if, calculated on a corporate basis, the ratio of Alabama Common Stock equity to total capitalization, including surplus, adjusted to reflect the payment of the proposed dividend, is below 20% and to 75% of net income if the ratio is 20% or more but less than 25% ("Alabama Common Stock Dividend Provision").

The clause after the words "January 31, 1942" in the first paragraph of Paragraph A.2.b. of Article IX of the Alabama Charter currently provides that, so long as any shares of Alabama Preferred Stock are outstanding, Alabama shall not pay dividends on Alabama common Stock (except those paid concurrently with the receipt of a cash capital contribution in like amount) in cases where retained earnings are not at least equal to two times annual dividends on the outstanding Alabama Preferred Stock ("Alabama Retained Earnings Dividend Provision" and, together with the Alabama Debt Limitation Provision, the Alabama Merger Provision and the Alabama Common Stock Dividend Provision, ("Alabama Restriction Provisions").

Georgia

Georgia has outstanding 7.7615 million shares of common stock, no par value ("Georgia Common Stock"), all of which are held by Southern. Georgia's outstanding preferred stock consists of: (1) 8.1565 million shares of Class A cumulative preferred stock, stated value $25 per share, issued in three series,[3] which are traded on the New York Stock Exchange ("Georgia NYSE Preferred Stock"); and (2) 1,177,864 shares of cumulative preferred stock, stated value $100 per share, issued in eleven series,[4] which are traded over-the-counter ("Georgia OTC Preferred Stock" and, together with the Georgia NYSE Preferred Stock, "Georgia Preferred Stock"). Georgia has outstanding no other class of equity securities.

Subparagraph 14.A.3.f.(2) of Paragraph III of Georgia's Charter, as amended ("Georgia Charter"), currently provides that, so long as any shares of Georgia Preferred Stock are outstanding, without the affirmative vote of the holders of at least a majority of the total voting power of the outstanding Georgia Preferred Stock, Georgia shall not issue or assume any securities representing unsecured debt (other than for the purpose of refunding or renewing outstanding unsecured securities issued by Georgia resulting in equal or longer maturities or redeeming or otherwise retiring all outstanding shares of the Georgia Preferred Stock or of any senior or equally ranking stock) if, immediately after the issue or assumption, (1) the total outstanding principal amount of all securities representing unsecured debt of Georgia would exceed 20% of the aggregate of all existing secured debt of Georgia and the capital stock, premiums thereon and surplus of Georgia as stated on Georgia's books; or (2) the total outstanding principal amount of all securities representing unsecured debt of Georgia of maturities of less than ten years[5] would exceed 10% of the aggregate ("Georgia Debt Limitation Provision").

Subparagraph 14.A.3.f.(1) of Paragraph III of the Georgia Charter currently provides that, so long as any shares of Georgia Preferred Stock are outstanding, without the affirmative vote of the holders of at least a majority of the total voting power of the outstanding Georgia Preferred Stock, Georgia shall not dispose of all or substantially all of its property or merge or consolidate, unless the action has been approved by the Commission under the Act ("Georgia Merger Provision").

Subparagraph 14.A.3.b. (except the first paragraph therein) of Paragraph III of the Georgia Charter currently provides that, so long as any shares of Georgia Preferred Stock are outstanding, Georgia's payment of dividends on the Georgia Common Stock is limited to 50% of net income available for the stock during a period of 12 months if, calculated on a corporate basis, the ratio of Georgia Common Stock equity to total capitalization, including surplus, adjusted to reflect the payment of the proposed dividend, is below 20%, and to 75% of net income if the ratio is 20% or more but less than 25% ("Georgia Common Stock Dividend Provision" and, together with the Georgia Debt Limitation Provision and the Georgia Merger Provision, "Georgia Restriction Provisions").

Gulf

Gulf has outstanding 992,717 shares of common stock, no par value ("Gulf Common Stock"), all of which are held by Southern. Gulf's outstanding preferred stock consists of: (1) 151,026 shares of preferred stock, par value $100 per share, issued in three series,[6] which

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[1] The three series of Alabama NYSE Preferred Stock consist of a 6.80% series, of which 1.52 million shares are outstanding ("6.80% Series"); a 6.40% series, of which two million shares are outstanding ("6.40% Series"); and an adjustable rate series, of which two million shares are outstanding ("AR Series").

[2] The six series of Alabama $100 Preferred Stock consist of a 4.20% series, of which 364,000 shares are outstanding ("4.20% Series"); a 4.52% series, of which 50,000 shares are outstanding ("4.52% Series"); a 4.60% series, of which 100,000 shares are outstanding ("4.60% Series"); a 4.64% series, of which 60,000 shares are outstanding ("4.64% Series"); a 4.72% series, of which 50,000 shares are outstanding ("4.72% Series"); and a 4.92% series, of which 80,000 shares are outstanding ("4.92% Series").

[3] The three series of Georgia NYSE Preferred Stock consist of a $1.925 series, of which 1.1565 million shares are outstanding ("$1.925 Series"); an adjustable rate (first 1993) series, of which three million shares are outstanding ("AR1 1993 Series"); and an adjustable rate (second 1993) series, of which four million shares are outstanding ("AR2 1993 Series").

[4] The eleven series of Georgia OTC Preferred Stock consist of a $4.60 series, of which 433,774 shares are outstanding ("$4.60 Series"); a $4.60 1962 series, of which 70,000 shares are outstanding ("$4.60 1962 Series"); a $4.60 1963 series, of which 70,000 shares are outstanding ("$4.60 1963 Series"); a $4.60 1964 series, of which 50,000 shares are outstanding ("$4.60 1964 Series"); a $4.72 series, of which 60,000 shares are outstanding ("$4.72 Series"); a $4.92 series, of which 100,000 shares are outstanding ("$4.92 Series"); a $4.96 series, of which 70,000 shares are outstanding ("$4.96 Series"); a $5.00 series, of which 14,090 shares are outstanding ("$5.00 Series"); a $5.64 series, of which 90,000 shares are outstanding ("$5.64 Series"); a $5.48 series, of which 120,000 shares are outstanding ("$5.48 Series"); and a $6.60 series, of which 100,000 shares are outstanding ("$6.60 Series").

[5] For the purpose of this provision, the payment due upon the maturity of unsecured debt having an original single maturity in excess of ten years or the payment due upon the final maturity of any unsecured serial debt which had original maturities in excess of ten years shall not be regarded as unsecured debt of a maturity less than ten years until the payment shall be required to be made within three years.

[6] The three series of Gulf $100 Preferred Stock consist of a 4.64% series, of which 51,026 shares

Continued

are traded over-the-counter ("Gulf $100 Preferred Stock"); and (2) 1.4 million shares of Class A preferred stock, par value $10 per share, stated capital $25 per share, issued in two series,[7] which are traded over-the-counter ("Gulf $10 Preferred Stock" and, together with the Gulf $100 Preferred Stock, "Gulf Preferred Stock"). Gulf has outstanding no other class of equity securities.

Paragraph (F)(b) under the "General Provisions" of the "Preferred Stock" section of Gulf's Restated Articles of Incorporation, as amended ("Gulf Charter"), currently provides that, so long as any shares of Gulf Preferred Stock are outstanding, without the affirmative vote of the holders of at least a majority of the total voting power of the outstanding Gulf Preferred Stock, Gulf shall not issue or assume any securities representing unsecured debt (other than for the purpose of refunding or renewing outstanding unsecured securities issued by Gulf resulting in equal or longer maturities or redeeming or otherwise retiring all outstanding shares of the Gulf Preferred Stock or of any senior or equally ranking stock) if, immediately after the issue or assumption, (1) the total outstanding principal amount of all securities representing unsecured debt or Gulf would exceed 20% of the aggregate of all existing secured debt of Gulf and the capital stock, premiums thereon and surplus of Gulf as stated on Gulf's books; or (2) the total outstanding principal amount of all securities representing unsecured debt of Gulf maturities of less than ten years[8] would exceed 10% of the aggregate ("Gulf Debt Limitation Provision").

Paragraph (F)(a) under "General Provisions" of the "Preferred Stock" section of the Gulf Charter currently provides that, so long as any shares of Gulf Preferred Stock are outstanding, without the affirmative vote of the holders of at least a majority of the total voting power of the outstanding Gulf Preferred Stock, Gulf shall not dispose of all or substantially all of its property or merge or consolidate, unless the action has been approved by the Commission under the Act ("Gulf Merger Provision").

Paragraph (B) (except the first paragraph therein) under the "General Provisions" of the "Preferred Stock" section of the Gulf Charter currently provides that, so long as any shares of Gulf Preferred Stock are outstanding (except as may be approved or permitted by the affirmative vote of the holders of at least two-thirds of the total voting power of the outstanding Gulf Preferred Stock), Gulf's payment of dividends on the Gulf Common Stock are limited to 50% of net income available for the stock during a period of 12 months if, calculated on a corporate basis, the ratio of Gulf Common Stock equity to total capitalization, including surplus, adjusted to reflect the payment of the proposed dividend, is below 20%, and to 75% of net income if the ratio is 20% or more but less than 25% ("Gulf Common Stock Dividend Provision" and, together with the Gulf Debt Limitation Provision and the Gulf Merger Provision, "Gulf Restriction Provisions").

Mississippi

Mississippi has outstanding 1.121 million shares of common stock, without par value ("Mississippi Common Stock"), all of which are held by Southern. Mississippi's outstanding preferred stock consists of: (1) 936,160 shares of depositary preferred shares, each representing one-fourth a share of preferred stock, par value $100 per share, issued in two series,[9] which are traded on the New York Stock Exchange ("Mississippi NYSE Preferred Stock"); and (2) 160,099 shares of cumulative preferred stock, par value $1000 per share, issued in four series,[10] which are traded over-the-counter ("Mississippi OTC Preferred Stock" and, together with Mississippi NYSE Preferred Stock, "Mississippi Preferred Stock"). Mississippi has outstanding no other class of equity securities.

Subparagraph (F)(b) of Paragraph FOURTH under "General Provisions" of the "Preferred Stock" section of Mississippi's Articles of Incorporation, as amended ("Mississippi Charter"), currently provides that, so long as any shares of Mississippi Preferred Stock are outstanding, without the affirmative vote of the holders of at least a majority of the outstanding Mississippi Preferred Stock, Mississippi shall not issue or assume any securities representing unsecured debt (other than for the purpose of refunding or renewing outstanding unsecured securities issued by Mississippi resulting in equal or longer maturities or redeeming or otherwise retiring all outstanding shares of the Mississippi Preferred Stock or any senior or equally ranking stock) if, immediately after the issue or assumption, (1) the total outstanding principal amount of all securities representing unsecured debt of Mississippi would exceed 20% of the aggregate of all existing secured debt of Mississippi and the capital stock, premiums thereon and surplus of Mississippi as stated on Mississippi's books; or (2) the total outstanding principal amount of all securities representing unsecured debt of Mississippi of maturities of less than ten years[11] would exceed 10% of the aggregate ("Mississippi Debt Limitation Provision").

Subparagraph (F)(a) of Paragraph FOURTH under the "General Provisions" of the "Preferred Stock" section of the Mississippi Charter currently provides that, so long as any shares of Mississippi Preferred Stock are outstanding, without the affirmative vote of the holders of at least a majority of the outstanding Mississippi Preferred Stock, Mississippi shall not dispose of all or substantially all of its property or merge or consolidate, unless the action has been approved by the Commission under the Act ("Mississippi Merger Provision").

Subparagraph (B) (except the first paragraph therein) of Paragraph FOURTH under "General Provisions" of the "Preferred Stock" section of the Mississippi Charter currently provides that, so long as any shares of Mississippi Preferred Stock are outstanding, Mississippi's payment of dividends on the Mississippi Common Stock are limited to 50% of net income available for the stock during a period of 12 months if, calculated on a corporate

are outstanding ("4.64% Series"); a 5.16% series, of which 50,000 shares are outstanding ("5.16% Series"); and a 5.44% series, of which 50,000 shares are outstanding ("5.44% Series").

[7] The two series of Gulf $10 Preferred Stock consist of a 6.72% series, of which 800,000 shares are outstanding ("6.72% Series"); and an adjustable rate (1993) series, of which 600,000 shares are outstanding "(AR 1993 Series").

[8] For the purpose of this provision, the payment due upon the maturity of unsecured debt having an original single maturity in excess of ten years or the payment due upon the final maturity of any unsecured serial debt which had original maturities in excess of ten years shall not be regarded as unsecured debt of a maturity less than ten years until the payment shall be required to be made within three years.

[9] The two series of Mississippi NYSE Preferred Stock consist of a 6.32% series, of which 600,000 shares are outstanding ("6.32% Series"); and a 6.65% series, of which 336,160 shares are outstanding ("6.65% Series").

[10] The four series of Mississippi OTC Preferred Stock consist of a 4.40% series, of which 40,000 shares are outstanding ("4.40% Series"); a 4.60% series, of which 20,099 shares are outstanding ("4.60% Series"); a 4.72% series, of which 50,000 shares are outstanding ("4.72% Series"); and a 7.00% series, of which 50,000 shares are outstanding ("7.00% Series").

[11] For the purpose of this provision, the payment due upon the maturity of unsecured debt having an original single maturity in excess of ten years or the payment due upon the final maturity of any unsecured serial debt which had original maturities in excess of ten years shall not be regarded as unsecured debt of a maturity less than ten years until the payment shall be required to be made within three years.

basis, the ratio of Mississippi Common Stock equity to total capitalization, including surplus, adjusted to reflect the payment of the proposed dividend, is below 20%, and to 75% of net income if the ratio is 20% or more but less than 25% ("Mississippi Common Stock Dividend Provision" and together with the Mississippi Debt Limitation Provision and the Mississippi Merger Provision, "Mississippi Restriction Provisions" and, Mississippi Restriction Provisions together with Georgia Restriction Provisions, Gulf Restriction Provisions and Alabama Restriction Provisions "Subsidiary Restriction Provisions).

Each Subsidiary proposes to solicit proxies ("Proxy Solicitation") from the holders of its outstanding shares of Preferred Stock of each series (except in the case of Georgia for the $1.925 Series) and Common Stock for use at a special meeting of its stockholders ("Special Meeting") to consider a proposed amendment to its Charter that would in each case eliminate the Subsidiary Restriction Provisions ("Proposed Amendment"). Adoption of the Proposed Amendment requires the affirmative vote at a Subsidiary's Special Meeting (in person by ballot or by proxy) of the holders of at least (1) two-thirds of the voting power of the outstanding shares of the Preferred Stock of all Series, voting together as one class, and (2) in the case of Georgia, two-thirds of the Common Stock, and in the case of Alabama, Gulf and Mississippi, a majority of the Common Stock. Southern will vote its shares of Common Stock in favor of the Proposed Amendment. The Subsidiaries have engaged Corporate Investor Communications, Inc. to act as information agent in connection with the Proxy Solicitations for a fee plus reimbursement of reasonable out-of-pocket expenses.

If a Proposed Amendment is adopted, Alabama, Georgia, Gulf and Mississippi, as the case may be, propose to make a special cash payment equal to 1.00% of the par value, stated value or stated capital, as applicable, per share of the Preferred Stock (except that the special cash payment shall equal 0.25% of the stated capital per share for shares of the Alabama 1988 Auction Stock and the Alabama 1993 Preferred Stock) (each, a "Special Cash Payment") for each share of Preferred Stock (each, a "Share" except for Shares of Georgia's $1.925 Series) properly voted at the Social Meeting in favor of the Proposed Amendment, provided that the Shares are not tendered under the concurrent cash tender offer described below. Alabama, Georgia, Gulf and Mississippi will disburse Special Cash Payments out of their general funds, promptly after adoption of a Proposed Amendment.

Currently with the commencement of the Proxy Solicitations, subject to the terms and conditions stated in the relevant offering documents,[12] Southern proposes to make offers (each an "Offer") to the holders of Alabama's Preferred Stock of the 4.20% Series ("Alabama Tendered Series"), Georgia's Preferred Stock of the $4.60 Series, the $4.60 1962 Series, the $4.60 1963 Series, the $4.60 1964 Series, the $4.72 Series, the $4.92 Series, the $4.96 Series, the $5.00 Series and the $5.64 Series (collectively, "Georgia Tendered Series"), Gulf's Preferred Stock of each series (collectively, "Gulf Tendered Series") and Mississippi's Preferred Stock of the 4.40% Series, the 4.60% Series and the 4.72% Series (collectively, "Mississippi Tendered Series"), under which Southern will offer to acquire from the holders of the Alabama, Georgia, Gulf and Mississippi Preferred Stock of each Tendered Series any and all Shares of that series at the cash purchase prices to be specified in the Offer (subject to potential increase or decrease under the terms of the Offer) ("Purchase Price"). Southern anticipates that the Offer for each Tendered Series of Preferred Stock will be scheduled to expire at 5:00 P.M. (New York City time) on the date of the Special Meeting, ("Expiration Date").

In addition, Georgia has entered into an agreement to purchase shares of its AR1 1993 Series and AR2 1993 Series from the holders of the Georgia NYSE Preferred Stock (collectively, "AR2 1993 Series"). It is proposed that, subject to Commission authorization herein, Georgia may assign its rights under the contract to Southern, which it is expected would than purchase shares of the AR 1993 Series not later than the time at which Southern purchases the shares under the Georgia Offer, and Georgia would purchase the shares of the AR 1993 Series from Southern (at the price paid by Southern) not later than the time at which Georgia purchases Shares sold to Southern under the Georgia Offer.

The Offer consists of separate requests to acquire each of the Alabama Tendered Series, the nine Georgia Tendered Series, the five Gulf Tendered Series and the three Mississippi Tendered Series (collectively, "Tendered Series"), with the offer for any one Tendered Series being independent of the offer for any other Tendered Series. The applicable Purchase Price and the other terms and conditions of the Offers apply equally to all Preferred Stockholders of the respective Tendered Series. The Offers are not conditioned upon any minimum number of Shares of the applicable Tendered Series being tendered, but are conditioned, among other things, on the Proposed Amendments being adopted at the respective Special Meetings. Subject to the terms of the offering documents, Southern will purchase at the applicable Purchase Price any and all Shares of any Tendered Series that are validly tendered and not withdrawn prior to the Expiration Date.

To tender Shares according to the terms of the offering documents, the tendering Preferred Stockholder must either: (1) send to The Bank of New York, in its capacity as depositary for the Offer ("Depositary"), a properly completed and duly executed Letter of Transmittal and Proxy for that Series (if not voting at the Special Meeting in person by ballot), together with any required signature guarantees and any other documents required by the Letter of Transmittal and Proxy, and either (a) certificates for the Shares to be tendered must be received by the Depositary at one of its addresses specified in the offering documents, or (b) the Shares must be delivered under the procedures for book-entry transfer described in the offering documents (and a confirmation of the delivery must be received by the Depositary), in each case by the Expiration Date; or (2) comply with a guaranteed delivery procedure specified in the offering documents. Tenders of Shares made under an Offer may be withdrawn at any time prior to the Expiration Date. Thereafter, the tenders are irrevocable, subject to certain exceptions identified in the offering documents.

Southern states that its obligations to proceed with the Offers and to accept for payment and to pay for any Shares tendered will be made in accordance with rule 51 under the Act and are subject to various conditions enumerated in the offering documents, including receipt of a Commission order under the Act authorizing the proposed transactions and the adoption of the Proposed Amendments at the Special Meetings.

At any time or from time to time, Southern may extend the Expiration Date applicable to any Series by giving notice of the extension to the Depositary, without extending the

[12] With respect to Shares subject to both the Proxy Solicitation and Southern's offer to the holders of certain Preferred Stock, the transactions will be effected by means of the same core document—a combined proxy statement and issuer tender offer statement under the Securities Exchange Act of 1934 ("Exchange Act") and applicable rules and regulations thereunder.

Expiration Date for any other Series. During any extension, all shares of the applicable Series previously tendered will remain subject to the Offer, and may be withdrawn at any time prior to the Expiration Date as extendedy.

Conversely, Southern may elect in its sole discretion to terminate the Offer prior to the scheduled Expiration Date and not accept for payment and pay for any Shares tendered, subject to applicable provisions of rule 13e–4 under the Exchange Act requiring Southern either to pay the consideration offered or to return the Shares tendered promptly after the termination or withdrawal of the Offer, upon the occurrence of any of the conditions to closing enumerated in the offering documents, by giving notice of the termination to the Depository and making a public announcement thereof.

Subject to compliance with applicable law, Southern further reserves the right in the offering documents, in its sole discretion, to amend one or more Offers in any respect by making a public announcement thereof. If Southern materially changes the terms of an Offer or the information concerning an Offer, or if it waives a material condition of an Offer, Southern will extend the Expiration Date to the extent required by the applicable provisions of rule 13e–4 under the Exchange Act. Those provisions require that the minimum period during which an issuer tender offer must remain open following material changes in the terms of the offer or information concerning the offer (other than a change in price or change in percentage of securities sought) will depend on the facts and circumstances, including the relative materiality of the terms or information. If an Offer is scheduled to expire at any time earlier than the expiration of a period ending on the tenth business day from, and including, the date that Southern notifies Preferred Stockholders that it will: (1) increase or decrease the price it will pay for Shares; (2) decrease the percentage of Shares it seeks; or (3) increase or decrease soliciting dealer's fees, the Expiration Date will be extended until the expiration of the period of ten business days.

Shares validly tendered to the Depositary under an Offer and not withdrawn according to the procedures stated in the offering documents will be held by Southern until the Expiration Date (or returned if the Offer is terminated). Subject to the terms and conditions of the Offer, as promptly as practicable after the Expiration Date, Southern will accept for payment (and thereby purchase) and pay for shares validly tendered and not withdrawn. Southern will pay for Shares that it has purchased under the Offer by depositing the applicable Purchase Price with the Depositary, which will act as agent for the tendering Preferred Stockholders to receive payment from Southern and transmit payment to tendering Preferred Stockholders. Southern will pay all stock transfer taxes, if any, payable on account of its acquisition of Shares under the Offer, except in certain circumstances where special payment or delivery procedures are utilized in conformance with the applicable Letters of Transmittal and Proxy.

With respect to Shares validly tendered and accepted for payment by Southern, each tendering Preferred Stockholder will be entitled to receive as consideration from Southern only the applicable Purchase Price (which Southern anticipates will reflect a premium over the current market price at the commencement of the Offers). Any holder will not be entitled to receive, with respect to the tendered Shares, additional consideration in the form of a Special Cash Payment.

As noted above, subject to the terms and conditions of the Offer, Shares validly tendered and not withdrawn will be accepted for payment and paid for by Southern as promptly as practicable after the Expiration Date. If a Proposed Amendment is adopted at a Subsidiary's Special Meeting, promptly after consummation of the Offer the Subsidiary will purchase the Shares sold to Southern under the Offer at the relevant Purchase Price plus expenses incurred in the Offer, and the Subsidiary will retire and cancel the Shares.

If a Proposed Amendment is not adopted at the Special Meeting, Southern may elect, but is not obligated, to waive the condition, subject to applicable law. In that case, as promptly as practicable after Southern's waiver and purchase of any Shares validly tendered under the Offers, the affected Subsidiary anticipates that it may either adjourn the Special Meeting or call another special meeting of its common and preferred stockholders and solicit proxies therefrom for the same purpose as in the instant proceeding, i.e., to secure the requisite two-thirds affirmative vote of preferred stockholders to amend the Charter to eliminate the Restriction Provisions. At that meeting, Southern would vote any Shares it acquired under the Offer or otherwise [13] (as well as all of its shares of Common Stock) in favor of the proposed Charter amendment to eliminate the Restriction Provisions.[14] If the proposed amendment is adopted at that meeting, and in any event within one year from the Expiration Date (including any potential extension thereof under the Offer), Southern will promptly after the meeting or at the expiration of the one-year period, as applicable, sell the Shares to the Subsidiary at the Purchase Price plus expenses paid under the Offer, and the Subsidiary will then retire and cancel the Shares. Merrill Lynch, Pierce, Fenner & Smith Incorporated will act as dealer manager for Southern in connection with the Offers.[15]

To finance its purchase of any Shares tendered, accepted for payment and paid for under the Offer, Southern intends to use its general funds and/or incur short-term indebtedness in an amount sufficient to pay the Purchase Price for all tendered Shares.

The Subsidiaries state that they consider the Restriction Provision a significant impediment to their ability to maintain financial flexibility and minimize their financing costs, to the detriment of their utility customers and, indirectly, Southern's shareholders. Southern and the Subsidiaries assert that the ongoing financing flexibility and cost benefits to be gained by the Subsidiaries as a result of elimination of the Restriction Provisions outweigh the one-time cost of the Special Cash Payments and the other costs of the Proxy Solicitation. Southern and the Subsidiaries further represent that the terms of the purchase of Shares under the Offers will benefit not only tendering Preferred Stockholders (by affording certain Preferred Stockholders who may not favor the elimination of the Restriction Provisions an option to exit the Preferred Stock at a premium to the market price and without the usual transaction costs associated with a sale) but also, taking into account all related transaction costs, Southern's shareholders and Southern System utility customers by: (1) contributing to the elimination of the Restriction Provisions; and (2) resulting in the acquisition and retirement of outstanding Shares and their potential replacement with comparatively less expensive financing alternatives, such as short-term debt.

As noted, the Subsidiaries propose to submit the Proposed Amendment for consideration and action at special meetings of the stockholder and, in connection therewith, to solicit proxies from the holders of their capital stock. The Subsidiaries request that the effectiveness of the application-declaration with respect to the Proxy Solicitations on the Proposed Amendments be permitted to become effective immediately, under rule 62(d).

The applicants also request authorization to deviate from the preferred stock provisions of the *Statement of Policy Regarding Preferred Stock Subject to the Public Utility Holding Company Act of 1935*, HCAR No. 13106 (Feb. 16, 1956), to the extent applicable with respect to the Proposed Amendments.

It appears to the Commission that the application-declaration to the extent that it relates to the proposed solicitation of proxies should be permitted to become effective immediately under rule 62(d):

It is ordered, that the application-declaration, to the extent that it relates to the proposed solicitation of proxies be, and it hereby is, permitted to become effective immediately under rule 62 and subject to the terms and conditions prescribed in rule 24 under the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 97–29418 Filed 11–6–97; 8:45 am]

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[13] Following the Expiration Date and the consummation of the purchase of Shares under the Offer, Southern or one or more Subsidiaries may determine to purchase additional Shares on the open market, in privately negotiated transactions, through one or more tender offers or otherwise. Southern will not undertake any such transactions without receipt of any required Commission authorizations under the Act in one or more separate proceedings. Likewise, if a further special meeting is necessary, the Subsidiaries would not undertake any associated proxy solicitation and proposed Charter amendment prior to receipt of any required Commission authorizations under the Act in a separate proceeding.

[14] By contrast, if a Subsidiary, rather than Southern, had acquired Shares under the Offer, upon acquisition by the Subsidiary any Shares would be deemed treasury shares under Alabama, Georgia, Maine and Mississippi law, as the case may be, and, the Subsidiary would be precluded from voting those Shares under any circumstances.

[15] Southern proposes to agree to pay the dealer manager a fee for Shares tendered, accepted for payment and paid for pursuant to the Offer and a fee for any Shares that are not tendered pursuant to the Offers but which are voted in favor of the Proposed Amendment, and to reimburse the dealer manager for certain of its reasonable out-of-pocket expenses. In addition, Southern proposes to pay a solicitation fee for any Shares tendered, accepted for payment and paid for pursuant to the Offer and each Subsidiary proposes to pay a separate fee for any of their respective Shares that are not tendered pursuant to the Offer but which vote in favor of the Proposed Amendment.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–26770]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

October 31, 1997.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by November 24, 1997, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Central and South West Services, Inc. (70–8531)

Central and South West Services, Inc. ("CSWS"), 1616 Woodall Rodgers Freeway, P.O. Box 660164, Dallas, Texas, 75266, a nonutility subsidiary company of Central and South West Corporation ("CSW"), a registered holding company, has filed a post-effective amendment, under sections 9(a) and 10 of the Act and rule 54 under the Act, to an application-declaration filed under sections 9(a) and 10 of the Act.

By order dated April 26, 1995 (HCAR 26280) ("Order"), CSWS, which operates an engineering and construction department that provides power plant control system procurement, integration and programming services as well as power plant engineering and construction services to associates within the CSW system, was authorized to provide such services to non-associates through December 31, 1997.

The order provides that the charges for services to nonassociates are negotiated and that CSWS anticipates that a substantial portion of the services will be priced on a time and materials basis. CSWS intends to price the services to result in an after-tax profit margin of 15%. Finally, the Order provides that profits or losses from the services to non-associates would be accounted for in accordance with requirements of the Uniform System of Accounts for service companies engaged in business with non-associate companies.

CSWS now requests an extension of the authorization contained in the Order through December 31, 2002.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 97–29472 Filed 11–6–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–22871; File No. 812–10864]

Salomon, Inc.

November 3, 1997.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from section 15(f)(1)(A) of the Act.

SUMMARY OF APPLICATION: Applicant Salomon Inc ("Salomon") requests an order to permit Salomon and its investment advisory subsidiaries, Salomon Brothers Asset Management ("SBAM") and Salomon Brothers Asset Management Limited ("SBAM Limited") that act as investment adviser on subadviser (collectively, "Advisers") to one or more registered investment companies, to receive payment in connection with the sale of applicant's advisory business. Without the requested exemption, an investment company advised by an Adviser would have to reconstitute its board of directors ("Board") to meet the 75 percent non-interested director requirement of section 15(f)(1)(A).

FILING DATE: The application was filed on November 3, 1997.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be

issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 24, 1997 and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, 7 World Trade Center, New York, NY 10048

FOR FURTHER INFORMATION CONTACT: J. Amanda Machen, Senior Counsel, at (202) 942–7120, or Christine Y. Greenlees, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549 (tel. 202–942–8090).

Applicant's Representations

1. Salomon is a global investment banking and securities and commodities trading company. Salomon Brothers Inc and its subsidiaries ("Salomon Brothers") conduct Salomon's investment banking and securities trading activities. Salomon's asset management business is conducted primarily through SBAM and SBAM Limited, both indirect, wholly-owned subsidiaries of Salomon and investment advisers registered under the Investment Advisers Act of 1940.

2. The relief requested relates to the following registered investment companies for which SBAM or SBAM Limited acts as investment adviser, investment manager, or subadviser: The Emerging Markets Income Fund Inc., The Emerging Markets Income Fund II Inc., The Emerging Markets Floating Rate Fund Inc., Global Partners Income Fund Inc., Municipal Partners Fund Inc., Municipal Partners Fund II Inc., New England Zenith Fund ("New England"), JNL Series Trust, North American Funds, WNL Series Trust, SEI International Trust, Nationwide Separate Account Trust ("Nationwide"), The Americas Income Trust, Inc., Heritage Income Trust, Latin America Investment Fund, and Irish Investment Fund, Inc. ("Irish Investment") (collectively, the "Companies").[1]

3. Travelers Group Inc. ("Travelers") is a diversified, integrated financial services company engaged in investment services, consumer finance, and life and property-casualty insurance services.

4. On September 24, 1997, Travelers and Salomon entered into a merger agreement, under which a wholly-owned subsidiary of Travelers will be merged into Salomon, with Salomon continuing as the surviving entity, becoming a wholly-owned subsidiary of Travelers, and changing its name to Salomon Smith Barney Holdings, Inc. ("Salomon Smith Barney"). Then, Smith Barney Holdings, Inc., a wholly-owned subsidiary of Travelers, will merge with Salomon Smith Barney. After the two mergers (collectively, the "Transaction"), the combined company will hold the investment banking, proprietary trading, retail brokerage and asset management operations of both Salomon and Smith Barney Holdings, Inc. Upon consummation of the Transaction, SBAM and SBAM Limited will remain wholly-owned subsidiaries of Salomon Smith Barney and will continue to operate in the same fashion. Applicant anticipates that the Transaction will be consummated in late November 1997.

5. In connection with the Transaction, the parties to the Transaction have determined to seek to comply with the safe harbor provisions of section 15(f) of the Act. The Board and the shareholders of each Company are being asked to consider and approve new contracts with SBAM and, in certain cases, SBAM Limited in connection with the Transaction.[2]

6. Applicant states that, absent exemptive relief, following consummation of the Transaction, more than 25% of the Board of a Company would be "interested persons" for purposes of section 15(f)(1)(A) of the Act. The Companies have informed applicant that reconstituting each Company's Board is not in the best interests of the Companies or their shareholders.

Applicant's Legal Analysis

1. Section 15(f) of the Act is a safe harbor that permits an investment adviser to a registered investment company (or an affiliated person of the investment adviser) to realize a profit on the sale of its business if certain conditions are met. One of these conditions is set forth in section 15(f)(1)(A). This condition provides that, for a period of three years after such a sale, at least 75 percent of the board of directors of an investment company may not be "interested persons" with respect to either the predecessor or successor adviser of the investment company. Section 2(a)(19)(B)(v) defines an interested person of an investment adviser to include any broker or dealer registered under the Securities Exchange Act of 1934 or any affiliated person of such broker or dealer. Rule 2a19–1 provides an exemption from the definition of interested person for directors who are registered as brokers or dealers, or who are affiliated persons of registered brokers or dealers, provided certain conditions are met.[3]

2. Upon consummation of the Transaction, the Board of each Company will consist of a majority of directors who are not interested persons of any Adviser within the meaning of section 2(a)(19)(B). However, each Board also will consist of one or more directors who may be considered interested persons of one of the Advisers ("Interested Directors"), for a total of thirty-two Interested Directors in the sixteen fund complexes involved.[4]

[1] In each of the foregoing cases, whether acting as investment adviser, investment manager or subadviser, SBAM or SBAM Limited (as applicable) is acting as an investment adviser within the meaning of section 2(a)(20) of the Act, and serves as investment adviser, investment manager or subadviser under a contract subject to section 15 of the Act.

[2] In certain instances, Companies have obtained or, in the case of Nationwide, have applied for exemptive relief permitting the investment adviser to the Company to hire and fire subadvisers without shareholder approval. *See NASL Financial Services, Inc., et al.*, Investment Company Act Release Nos. 22382 (December 9, 1996) (notice) and 22429 (December 31, 1996) (order); *SEI Institutional Managed Trust, et al.*, Investment Company Act Release Nos. 21883 (April 1, 1996) (notice) and 21921 (April 29, 1996) (order). To the extent permitted by their respective orders, these Companies will not seek shareholder approval of new contracts with SBAM and SBAM Limited.

[3] The rule generally provides that the exemption is available only if: (a) The broker or dealer does not execute any portfolio transactions for, engage in principal transactions with, or distribute shares for, the fund complex, (b) the fund's board determines that the fund will not be adversely affected if the broker or dealer does not effect the portfolio or principal transactions or distribute shares of the fund, and (c) no more than a minority of the fund's directors are registered brokers or dealers or affiliated persons thereof.

[4] Applicants believe that the 75% disinterested board requirement set forth in section 15(f)(1)(A) of the Act should not apply to investment company directors who are interested persons of an investment adviser to a registered investment company within the meaning of section 2(a)(19)(B) of the Act, unless that investment adviser is involved in the relevant change of control. Accordingly, applicants assert that a director who is an interested person of an investment adviser to a Company counts against the 75% disinterested board requirement only if that director also is an interested person of one of the Advisers, either before or following consummation of the Transaction.

[5] The exemption provided by rule 2a19–1 of the Act may not be available with respect to the director of Irish Investment because the Board has not made the determinations required by the rule.

[6] Two of these directors serve on the Board of New England, and each is the beneficial owner of one thousand shares and four hundred shares, respectively, of Travelers stock, which constitutes .00016% and .00006% of Travelers 641,114,000 shares outstanding as of July 31, 1997. The third director serves on the Board of Irish Investment, and beneficially owns 8,300 shares of Travelers stock, which constitutes .00129% of Travelers shares outstanding as of July 31, 1997.

[7] In any of these instances, (i) the director would have been on the Board of the respective Company on the date the Transaction was consummated, (ii) the director would have owned the Travelers stock on the date the Transaction was consummated and would not have acquired additional Travelers stock after the date the Transaction was consummated, (iii) no more than two directors per Company would be beneficial owners of Travelers stock, and (iv) the Travelers stock owned by any of the directors will not represent a material portion of the director's assets.

Twenty-two of the Interested Directors may be considered interested persons of one of the Advisers within the meaning of section 2(a)(19)(B)(v) by virtue of their relationship to a registered broker-dealer. The exemption provided by rule 2a19–1 will not be available with respect to these Interested Directors because the broker-dealers with which they are affiliated act as distributors for the Companies in question or engage in transactions with other members of each Company's complex.[5]

3. Three of the directors are the beneficial owners of Travelers stock and, therefore, will be interested persons within the meaning of section 2(a)(19)(B)(iii).[6] While applicant is not aware of any other director owning Travelers stock, it is possible that other Company directors may be beneficial owners of up to 1,000 shares of Travelers stock in similar situations where the amount of the advisory fees paid by the Company to SBAM or SBAM Limited in relationship to the total revenues of Travelers is such that the income derived by the director from his or her holdings of Travelers stock will not be affected by advisory fees paid by the Company.[7]

4. The remaining seven director positions will be filled by one individual who is an officer and director of SBAM and Salomon Brothers, affiliates of one of the parties to the Transaction. As such, this director will be an interested person of one of the Advisers. With the exception of this director, none of the members of the Companies' Boards will be affiliated persons (within the meaning of section 2(a)(3) of the Act) of any party to the Transaction.

5. Without the requested exemption, a Company would have to reconstitute its Board to meet the 75 percent non-interested director requirement of section 15(f)(1)(A). Under the relief requested, during the three years following consummation of the Transaction, directors who are "interested persons" of an Adviser solely by reason of being (i) affiliated persons of brokers or dealers who are affiliated persons of another investment adviser to a Company, or (ii) on the Board of a Company on the date the Transaction is consummated beneficially owning Travelers stock as described in the application, will not be considered "interested persons" of SBAM or SBAM Limited for purposes of calculating the 75 percent requirement in section 15(f)(1)(A) of the Act.

6. Section 6(c) of the Act permits the SEC to exempt any person or transaction from any provision of the Act, or any rule or regulation under the Act, if the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

7. Applicant believes that the requested exemption is necessary and appropriate in the public interest. Applicant states that compliance with section 15(f)(1)(A) would require a Company to reconstitute its Board. In applicant's view, this reconstitution would serve no public interest and would be contrary to the interests of the shareholders of the Companies. Applicant submits that the addition of directors to achieve the 75% disinterested director ratio required by section 15(f)(1)(A) could make the Boards unduly large and unwieldy, make decisional and operational matters cumbersome, unnecessarily increase the expenses of the Transaction, and would cause the Companies to incur additional expenses in connection with the selection and election of the additional directors. In addition, applicant submits that shrinking the Boards by eliminating previously existing Interested Director positions would deny the Companies the valued services and insights these insiders bring to their respective Boards.

8. Although directors who are affiliated persons of broker-dealers may be viewed as interested persons of the Advisers, these directors and the broker-dealers with which they are affiliated are not affiliated persons of any party to the Transaction. In addition, applicant argues that a director's affiliation with a Company's distributor should not preclude the requested exemption, despite the unavailability of the rule 2a19–1 exemption, because a Company's distributor is retained directly by the Company. As a result, retention of a distributor depends upon approval from the Company's Board and not upon the identity of or transactions involving the Company's Adviser. Further, applicant submits that each distributor's compensation is based on asset levels and/or the receipt of sales loads, and each distributor therefore has a direct economic interest in the financial success of the Company that retains it, an interest that is consistent with the interests of the Company's shareholders.

9. Applicant asserts, with respect to the directors who are shareholders of Travelers, that the immaterial number of shares owned by these directors should have no affect on fulfilling their responsibilities to their respective Companies. Applicant asserts that the income derived by each director from ownership of Travelers stock will not be affected in any noticeable degree by the advisory fees paid by the applicable Companies. Applicant maintains, therefore, that the beneficial ownership of Travelers stock should not prevent these directors from carrying out their fiduciary duties.

10. Applicant believes that the requested exemption is consistent with the protection of investors. Applicant states that the parties to the Transaction will comply with section 15(f)(1)(B) of the Act for at least two years following consummation of the Transaction. Accordingly, applicant argues that no unfair burdens will be placed on the Companies as a result of the Transaction. The Board and shareholders of each Company are being asked to consider and approve new contracts with SBAM and, in certain cases, SBAM Limited in connection with the Transaction. The adviser arrangements will continue only if the Board has determined that they continue to be in the best interests of the Company's shareholders, and then only in the event that the Company's shareholders also approve the continuation of the arrangements. Applicant also states that the Companies will continue to treat the Interested Directors as interested persons of the Companies and the Advisers for all purposes other than section 15(f)(1)(A) of the Act for so long as the directors are "interested persons" as defined in section 2(a)(19) of the Act and are not exempted from that definition by any applicable rules or orders of the SEC.

11. Applicant also submits that the requested exemption is consistent with the purposes fairly intended by the policies and provisions of the Act.

Applicant asserts that the legislative history of section 15(f) indicates that Congress intended the SEC to deal flexibly with situations where the imposition of the 75 percent requirement might pose an unnecessary obstacle or burden on a fund. Applicant also states that section 15(f)(1)(A) was designed primarily to address the types of biases and conflicts of interest that might exists where the board of an investment company is influenced by a substantial number of interested directors to approve a transaction because the directors have an economic interest in the adviser. Because these circumstances do not exist in the present case, applicant believes that the SEC should be willing to exercise flexibility.

Applicant's Condition

Applicant agrees that any order of the SEC granting the requested relief with respect to a particular Company will be subject to the following condition:

If, within three years of the completion of the Transaction, it becomes necessary to replace any director of the Company, that director will be replaced by a director who is not an "interested person" of SBAM or SBAM Limited within the meaning of section 2(a)(19)(B) of the Act, unless at least 75% of the directors at that time, after giving effect to the order granted pursuant to the application, are not interested persons of SBAM or SBAM Limited, provided that this condition will not preclude replacements with or additions of directors who are interested persons of SBAM or SBAM Limited solely by reason of being affiliated persons of brokers or dealers who are affiliated persons of another investment adviser to a Company, provided that the brokers or dealers are not affiliated persons of SBAM or SBAM Limited.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–29471 Filed 11–6–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39291]

Order Denying Exemption From Broker-Dealer Registration to Investors Direct Empowerment Association, Inc.

November 3, 1997.

AGENCY: Securities and Exchange Commission.

ACTION: Denial of exemption.

SUMMARY: The Securities and Exchange Commission is denying an exemption from broker-dealer registration pursuant to Section 15(a) of the Securities Exchange Act of 1934 to Investors Direct Empowerment Association, Inc.

FOR FURTHER INFORMATION CONTACT: Catherine McGuire, Chief Counsel, or Lourdes Gonzalez, Special Counsel, (202) 942–0073, Office of Chief Counsel, Division of Market Regulation, Mail Stop 5–10, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION:

I. Background

Investors Direct Empowerment Association, Inc. ("IDEA"), a not-for-profit corporation, has requested an exemption, pursuant to Section 15(a)(2) of the Securities Exchange Act of 1934 ("Exchange Act"), from the broker-dealer registration requirement of Section 15(a)(1) of the Exchange Act.

Under IDEA's proposed program, IDEA would purchase one share of stock from various corporations with dividend reinvestment and stock purchase plans ("DRSPPs") and then would join each corporation's DRSPP. An investor interested in joining a corporation's DRSPP would send funds to IDEA, made payable to an unaffiliated escrow agent, for the purchase of specified securities. IDEA would aggregate investors' funds, then forward them to the appropriate DRSPP to purchase shares of that corporation in IDEA's name as nominee. IDEA then would allocate the shares purchased among participating investors. IDEA would charge a fee per order received.

IDEA maintains that its proposed program is similar to a program operated since 1979 by another not-for-profit corporation, the National Association of Investors Corporation (formerly the National Association of Investment Clubs) ("NAIC"), for which the Commission granted an exemption pursuant to Section 15(a)(2) of the Exchange Act. In granting the NAIC's exemption in 1979, the Commission stated that "it would be in the public interest to grant the NAIC a conditional exemption with respect to registration as a broker or dealer. The NAIC proposes to offer brokerage services to a potentially large number of customers through an unusual and novel program."[1]

II. Discussion

The Commission cannot find that exempting IDEA from the broker-dealer registration requirement would be consistent with the public interest and the protection of investors. Although IDEA's goal of providing small investors with a means of buying securities at fees lower than those charged by broker-dealers is laudable, IDEA's proposed program presents significant investor protection concerns. These concerns are among the primary reasons the Exchange Act normally requires broker-dealer registration. In particular, IDEA's control over investors' funds and securities would expose investors to the same types of risks as those inherent in dealing with a registered broker-dealer. IDEA's status as a not-for-profit corporation does not mitigate these concerns.

While only a limited number of DRSPPs currently permit direct investment by first time investors, this number is increasing rapidly. In response to investor concerns with respect to T+3 settlement, the Commission took several steps in December 1994 to permit investors to buy securities directly from issuers through "open availability" direct registration programs and to permit investors to leave these securities with transfer agents.[2] These initiatives were designed, in part, to facilitate investors' access to issuer DRSPPs. IDEA's program, therefore, is not so unusual or novel, and does not present any other compelling justifications, as to mitigate the investor protection concerns raised by IDEA's handling of investors' funds and securities.

It is therefore ordered, pursuant to Section 15(a)(2) of the Exchange Act, that IDEA's request for an exemption from broker-dealer registration pursuant to Section 15(a)(1) of the Exchange Act is denied.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 97–29419 Filed 11–6–97; 8:45 am]

BILLING CODE 8010–01–M

[1] *See Letter re the National Association of Investment Clubs* (June 1, 1979).

[2] Securities Exchange Act Release No. 35058 (December 1, 1994); Securities Exchange Act Release No. 35040 (December 1, 1994); *Letter re: The Securities Transfer Association* (December 1, 1994); *Letter re: First Chicago Trust Company of New York* (December 1, 1994).

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–22870]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

October 31, 1997.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of October, 1997. A copy of each application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth St., N.W., Washington, D.C. 20549 (tel. 202–942–8090). An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 24, 1997, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. For Further Information Contact: Diane L. Titus, at (202) 942–0564, SEC, Division of Investment Management, Office of Investment Company Regulation, Mail Stop 10–4, 450 Fifth Street, N.W., Washington, D.C. 20549.

The Rodney Square Total Return Fund [File No. 811–4806]

The Rodney Square Growth Equity Fund [File No. 811–4807]

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. Neither applicant ever made a public offering of its securities or proposes to make a public offering or engage in business of any kind.

Filing Dates: Both applications were filed on September 18, 1997.

Applicant's Address: Rodney Square North, 1100 North Market Street, Wilmington, Delaware 19890–0001.

SAFECO Advisor Series Trust [File No. 811–8486]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On November 7, 1996, each series of applicant, except Advisor GNMA Fund, made a liquidating distribution to its shareholders at net asset value. All of the portfolio securities of Advisor GNMA Fund were redeemed in-kid by its sole remaining shareholder, SAFECO Corporation. No expenses were incurred in connection with the liquidation, and unamortized organizational expenses were paid by applicant's investment adviser.

Filing Date: The application was filed on June 19, 1997.

Applicant's Address: SAFECO Plaza, Seattle, Washington, 98185.

Horace Mann Balanced Fund, Inc. [File No. 811–3685]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant transferred its assets and liabilities to the Balanced Fund, a series of Horace Mann Mutual Funds, on April 30, 1997, based on the relative net asset value per share. All expenses associated with the Agreement and Plan of Reorganization were borne by an affiliate of Horace Mann Life Insurance Company, and not by Applicant.

Filing Date: The application was filed on July 16, 1997.

Applicant's Address: One Horace Mann Plaza, Springfield, Illinois 62715.

Horace Mann Short-Term Investment Fund, Inc. [File No. 811–3686]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant transferred its assets and liabilities to the Short-Term Investment Fund, a series of Horace Mann Mutual Funds, on April 30, 1997, based on the relative net asset value per share. All expenses associated with the Agreement and Plan of Reorganization were borne by an affiliate of Horace Mann Life Insurance Company, and not by Applicant.

Filing Date: The application was filed on July 16, 1997.

Applicant's Address: One Horace Mann Plaza, Springfield, Illinois 62715.

Horace Mann Growth Fund, Inc. [File No. 811–778]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant transferred its assets and liabilities to the Growth Fund, a series of Horace Mann Mutual Funds, on April 30, 1997, based on the relative net asset value per share. All expenses associated with the Agreement and Plan of Reorganization were borne by an affiliate of Horace Mann Life Insurance Company, and not be Applicant.

Filing Date: The application was filed on July 16, 1997.

Applicant's Address: One Horace Mann Plaza, Springfield, Illinois 62715.

Horace Mann Income Fund, Inc. [File No. 811–3684]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant transferred its assets and liabilities to the Income Fund, a series of Horace Mann Mutual Funds, on April 30, 1997, based on the relative net asset value per share. All expenses associated with the Agreement and Plan of Reorganization were borne by an affiliate of Horace Mann Life Insurance Company, and not by Applicant.

Filing Date: The application was filed on July 16, 1997.

Applicant's Address: One Horace Mann Plaza, Springfield, Illinois 62715.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 97–29417 Filed 11–6–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39288; File No. SR–NYSE–97–30]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. to Amend and Make Permanent the Allocation Policy and Procedures Pilot Program

October 30, 1997.

Pursuant to Section 19(b)(1) of the Securities Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 20, 1997, the New Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change seeks to amend and to obtain permanent approval of the Exchange's Allocation Policy and Procedures pilot program. The text of the proposed rule change is available at the Office of the Secretary, the NYSE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend and to make permanent the Exchange's Allocation Policy and Procedures pilot program. The Exchange's Allocation Policy and Procedures ("Policy") are intended: (1) to ensure that securities are allocated in an equitable and fair manner and that all specialist units have a fair opportunity for allocations based on established criteria and procedures; (2) to provide an incentive for ongoing enhancement of performance by specialist units; (3) to provide the best possible match between specialist unit and security; and (4) to contribute to the strength of the specialist system.

On February 28, 1997, the Exchange proposed to change the Policy with respect to listing company input. The Commission approved the filing as a seven-month pilot program, effective March 7, 1997 until October 7, 1997.[3] On October 6, 1997, the Commission approved an extension of the Exchange's pilot program, until November 28, 1997.[4]

Under the pilot, listing companies may: (1) have the Allocation Committee select their specialist unit; or (2) make the final selection of a specialist unit from among a group of three to five specialist units selected by the Allocation Committee. The listing company may submit a generic letter to the Allocation Committee which may describe desired general characteristics of a specialist unit, but may not mention particular specialist units. Under the second option, the listing company meets, either in person or by teleconference, with the specialist units selected by the Allocation Committee within two business days after their selection. The listing company must make its decision as to a specialist unit by the next business day.

The Exchange proposes the following additional changes to its Policy based upon the staff's experience with the pilot program:

Listing Company Input

When the listing company selects Option (2), the Allocation Committee will select a group of three, four or five units that are the most qualified specialist units among the units that apply. It is proposed that if three units are selected, the Allocation Committee may select an alternate specialist unit to be among the group of units that a company may interview in the event a unit is elimated. A unit could be eleimated if it or the specialist designated to trade the stock cannot meet with the listing company at the appointed time. A unit chosen as an alternate will be informed of its status as such. Currently, the policy is silent regarding this procedure.

Company Letter

The Exchange proposes that the letter submitted by the listing company focus on the history and background of the company and its industry; how the company historically has funded its operations; characteristics of its shareholder based and any unusual trading patterns that may result therefrom; and any public information regarding the company's plans for the future. The letter may also include the company's specific views on being traded by a specialist unit with experience in trading in its industry or country and the company's preference, if any, that its stock not be traded by specialist units which trade competitors, in which case, names of direct competitors should be included in the letter. Currently, the listing company's letter to the Allocation Committee describes characteristics that focus on the specialist rather than the listing company. The Allocation Committee has found that letters which describe the listing company are more helpful to the Allocation Committee in assessing the type of specialist unit that would be more appropriate for the company.

Interview Scheduling and Format

Currently, within two business days after the selection of a group of specialist units by the Allocation Committee, the listing company must meet with the specialist unit's representative. In addition, the listing company must select its specialist unit within one business day of the interview. Experience has shown that these time frames were too compressed at time for company travel arrangements or preparation by the specialist units. Pursuant to the proposal, after the Allocation Committee selects a group of specialist units (under Option 2), the listing company must meet with the selected group of specialist units representatives by the close of business on the last Exchange business day of the week in which the selection of the group was made. As soon as practicable, following its meeting with representatives of the specialist units, the listing company must select its special unit. If a listing company meets with any of its specialist units on the last Exchange business day of the week, it must take its decision on that day.

Currently, the Policy permits telephone interviews at the request of a listing company. In-person interviews have been shown to be more effective. Therefore, telephone interviews will not be permitted for domestic listing companies, unless the Exchange approves for compelling circumstances. Telephone interviews will be permitted for non-U.S. listing companies.

Contact Between Listing Companies and Specialist Units

Currently, the Policy is silent regarding contact between listing companies and specialist units. However, the NYSE's Information Memo No. 97–13 states that once allocation applications are distributed, the exchange expects that specialist units will have no contact with the listing companies.

The Exchange proposes to codify into its Policy its prohibitions on contact between listing companies and specialist units from the time allocation applications are solicited until Allocation Committee meetings. From the selection of an interviewing pool to the time of interviews, units may provide material to Exchange staff no later then two hours before the scheduled interview. Exchange staff will provide the material to the listing company on the day of the interview. Such material must be limited to information pertaining to the specialist unit, and may not contain information that refers to another specialist unit or units, except overall floorwide statistics.

The Exchange proposes that at the interview, information or material may be provided either orally or in writing. Any material provided either orally or in writing by the specialist unit must relate only to that unit. Information regarding other units may not be provided, except for floorwide statistics. Any information contained in Exchange documents may be provided by the unit orally or in writing on the unit's letterhead. Following its interview, a specialist unit may not have any contact with the listing company and any follow-up questions by the company regarding publicly available information on a unit must be sent to the Exchange. If the Exchange approves, a response will be provided. The specialist units in the group of units interviewed will be advised of such requests.

Spin-offs/Related Companies

This section of the Policy covers situations in which a listing company is a spin-off of or related to a listed company. Currently these situations are handled as new listings, with allocation open to all specialist units.

Under the proposed revisions of the Policy, a listing company that is a spin-off or related company may choose to stay with the specialist unit registered in the related listed company.

If the listing company chooses to have the Allocation Committee select its specialist, the listing company may request, and the Allocation Committee will honor, that it not be traded by the specialist unit that trades the related listed company. Alternatively, the listing company may choose Option 2 and request that the Allocation Committee include or exclude from the group of specialist units, the specialist registered in the related listed stock.

The Exchange believes that the pilot program, as amended, should be made permanent in that it has successfully established flexible procedures for the listing company to effectively participate in the selection process of specialist units that are most suitable to make quality markets in the listing company's stock.

2. Statutory Basis

The NYSE believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act[5] that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that the experience gained from the pilot program suggests that the amendments to the Policy are consistent with these objectives in that they enable the Exchange to further enhance the process by which stocks are allocated between specialist units to ensure fairness and equal opportunity in the process.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposal does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File Number SR–NYSE–97–30 and should be submitted by November 28, 1997.

Fifth Street, N.W., Wahsington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File Number SR–NYSE–97–30 and should be submitted by November 28, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

[FR Doc. 97–29473 Filed 11–6–97; 8:45 am]

BILLING CODE 8010–01–M

[3] *See* Securities Exchange Act Release No. 38372 (March 7, 1997) 62 FR 13421 (March 21, 1997) (notice of filing and immediate effectiveness of File No. SR–NYSE–97–04). On April 16, 1997, the Exchange filed another proposed change to its Policy not covered under the pilot program. *See* Securities Exchange Act Release No. 38828 (July 9, 1997) 62 FR 39043 (July 21, 1997) (order approving File No. SR–NYSE–97–12).

[4] *See* Securities Exchange Act Release No. 39206, 62 FR 53679 (October 15, 1997) (order approving File No. SR–NYSE–97–27).

[5] 15 U.S.C. 78f(b)(5).

[6] 17 CFR 200.30–3(a)(12).

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301–116]

Initiation of Section 302 Investigation, Proposed Determinations and Action, and Request for Public Comment: Honduran Protection of Intellectual Property Rights

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of initiation of investigation; proposed determination and action; request for public comment; and public hearing.

SUMMARY: The Trade Policy Staff Committee (TPSC) has determined that the Government of Honduras has failed to provide adequate and effective means under its laws for foreign nationals to secure, exercise and enforce exclusive rights in intellectual property and has recommended that the duty-free treatment accorded Honduras under the Generalized System of Preferences (GSP) and the Caribbean Basin Initiative (CBI) programs be partially withdrawn. In light of the foregoing, the United States Trade Representative (USTR) is initiating an investigation under section 302(b) of the Trade Act of 1974, as amended (the "Trade Act") with regard to acts, policies, and practices of the Government of Honduras with respect to the protection of intellectual property rights, and proposes to determine that these acts, policies and practices are actionable under section 301(b) and that the appropriate response is a partial suspension of tariff preference benefits

accorded to Honduras under the GSP and CBI programs. The annex to this notice sets forth a list of articles of Honduras which could be subject to the suspension of tariff preference benefits. The USTR invites interested persons to submit written comments and to participate in a public hearing concerning the proposed determinations and action.

DATES: This investigation was initiated on October 31,1997. Requests to appear at the public hearing are due November 14, 1997; written testimony is due November 24, 1997; a public hearing will be held on December 4, 1997; and written comments and rebuttal comments are due December 10, 1997.

ADDRESSES: Written submissions should be sent to Sybia Harrison, Staff Assistant to the Section 301 Committee, ATTN: Docket 301–116, Room 223, Office of the United States Trade Representative, 600 17th Street, NW, Washington, DC 20508. The public hearing will be held in the main hearing room of the United States International Trade Commission, 500 E Street, SW, Washington, DC 20436.

FOR FURTHER INFORMATION CONTACT: David Morrissy, Office of Trade and Development, Office of the United States Trade Representative, (202) 395–6971, or William Busis, Office of the General Counsel, Office of the United States Trade Representative, (202) 395–3150.

SUPPLEMENTARY INFORMATION: In June 1992 the Motion Picture Export Association of America (subsequently renamed the Motion Picture Association) filed a petition under the GSP program alleging that Honduras had failed to provide adequate and effective copyright protection and enforcement of rights of copyright owners. The petition alleged widespread unauthorized broadcasting of pirated videos and the rebroadcasting of U.S. satellite-carried programming. In addition to these problems, the Government of Honduras has not provided adequate copyright protection for books and sound recordings.

Since the receipt of the GSP petition, the United States has held extensive consultations with the Government of Honduras regarding its failure to provide adequate and effective protection of intellectual property rights. As a result of these consultations, the Honduran government has, in the past, provided assurances that enforcement of intellectual property rights protection laws would improve.

However, the United States has seen a continuing lack of enforcement of copyright in Honduras. In May of 1997 the TPSC determined that the Government of Honduras had failed to provide adequate and effective means under its laws for foreign nationals to secure, exercise and enforce exclusive rights in intellectual property, and recommended that the duty-free treatment accorded Honduras under the GSP and CBI programs be partially withdrawn in four months if these problems were not remedied. (See 62 FR 28915 of May 28, 1997.) In the intervening period, the United States Government has consulted with the Government of Honduras regarding this matter. Despite being notified of continuing and serious U.S. concerns and possible action by the U.S. Government in response, the Government of Honduras has still failed to take sufficient action against continuing and blatant copyright piracy. For example, recent reports indicate that three major television stations in Honduras continue to violate the rights of U.S. copyright owners.

Initiation of Section 302 Investigation

Section 302(b)(1) of the Trade Act (19 U.S.C. 2412(b)(1)) authorizes the USTR to initiate an investigation under Chapter 1 of Title III of the Trade Act (commonly referred to as "section 301") with respect to any matter to determine whether the matter is actionable under this provision. Under section 301(b)(1) of the Trade Act, matters actionable under section 301 include acts, policies, or practices of a foreign country that are unreasonable and burden or restrict U.S. commerce. Under section 301(d)(3)(B)(II) of the Trade Act, unreasonable acts, policies or practices include any act, policy or practice which denies fair and equitable provision of adequate and effective protection of intellectual property rights.

Accordingly, the United States Trade Representative, having consulted with the appropriate private sector advisory committees, has determined to initiate an investigation under section 302(b)(1) of the Trade Act to determine whether certain acts, policies, and practices of Honduras with regard to the protection of intellectual property rights are actionable under section 301(b)(1) of the Trade Act.

Proposed Determinations and Action

Based on the failure of the Government of Honduras to provide adequate protection of intellectual property rights, the USTR proposes to determine under sections 304(a)(1)(A) and 301(b) of the Trade Act that the acts, policies, and practices of Honduras with respect to the protection of intellectual property rights are unreasonable and burden or restrict United States commerce, and that action by the United States is appropriate.

Section 301(b)(2) of the Trade Act authorizes the USTR to take all appropriate and feasible action authorized under section 301(c) to obtain the elimination of the actionable acts, policies, or practices. Section 301(c)(1)(C) provides that in a case in which the act, policy, or practice also fails to meet the eligibility requirements for duty-free treatment under the GSP program or CBI program, the USTR may withdraw, limit or suspend such treatment under the GSP or CBI programs.

The GSP program includes an eligibility requirement concerning the extent to which the foreign country provides adequate and effective protection of intellectual property rights (section 502(c)(5) of the Trade Act (19 U.S.C. 2462(c)(5))). The CBI program also includes eligibility requirements concerning the extent to which the foreign country provides under its laws adequate and effective means for foreign nationals to secure, exercise, and enforce exclusive rights in intellectual property, and the extent to which the foreign country prohibits its nationals from engaging in the broadcast of copyrighted material belonging to United States copyright owners without their express consent (section 212(c)(9) and (10) of the Caribbean Basin Economic Recovery Act, as amended (19 U.S.C. 2712(c)(9) and (10)). Based on the failure of the Government of Honduras to provide adequate protection of intellectual property rights, the USTR proposes to determine that Honduras fails to meet these eligibility requirements of the CBI and GSP programs.

Accordingly, under section 304(a)(1)(B) and 301(c)(1)(C) of the Trade Act, the USTR proposes to suspend duty-free treatment accorded certain products from Honduras under the GSP and CBI programs. In particular, the USTR is proposing to suspend GSP and CBI duty-free benefits for certain articles of Honduras, to be chosen from among the articles listed in the annex to this notice. After considering comments received and the testimony presented, the USTR will decide which of the articles listed in the annex will be subject to suspension of duty-free treatment under the GSP and CBI programs.

Written Comments and Public Hearing Regarding Proposed Determinations and Action

In accordance with section 304(b) of the Trade Act, the USTR invites interested persons to provide written comments on the matters under investigation and the proposed determinations. With respect to the proposed action under section 301, comments may address: (1) the appropriateness of a suspension of GSP and CBI benefits with respect to articles of Honduras listed in the annex to this notice; (2) the specific articles from the list in the annex which should be subject to suspension of GSP and CBI duty-free treatment; and (3) the degree to which such suspension of duty-free treatment on particular articles of Honduras might have an adverse effect on U.S. consumers. Written comments are due by December 10, 1997.

A public hearing addressed to these same issues will be held on December 4, 1997, in the main hearing room of the United States International Trade Commission, 500 E Street, SW, Washington, DC 20436.

Interested persons wishing to testify orally at the hearings must provide a written request by November 14, 1997, to Sybia Harrison, Staff Assistant to the Section 301 Committee, Office of the U.S. Trade Representative, 600 17th Street NW, Washington, DC 20508.

Requests to testify must include the following information: (1) name, address, telephone number, fax number, and firm or affiliation of the person wishing to testify; and (2) a brief summary of the comments to be presented. Requests to testify must conform to the requirements of 15 CFR 2006.8(a). After the Chairman of the Section 301 Committee considers the request to present oral testimony, Ms. Harrison will notify the applicant of the time of his or her testimony. In addition, persons presenting oral testimony must submit their complete written testimony by November 24, 1997.

In order to allow each interested party an opportunity to contest the information provided by other parties at the hearing, USTR will accept written rebuttal comments, which must be filed by December 10, 1997. In accordance with 15 CFR 2006.8(c), rebuttal comments should be limited to demonstrating errors of fact or analysis not pointed out in the briefs or hearing and should be as concise as possible.

Written comments, written testimony, and rebuttal comments must be filed in accordance with the requirements set forth in 15 CFR 2006.8(b). Comments must state clearly the position taken, describe with particularity the supporting rationale, be in English, and be provided in twenty copies to: Sybia Harrison, Staff Assistant to the Section 301 Committee, ATTN: Docket 301–116, Room 223, Office of the United States Trade Representative, 600 17th Street, NW, Washington, DC 20508.

All written submissions will be placed in a file (Docket 301–116) open to public inspection pursuant to 15 CFR 2006.13, except for confidential business information exempt from public inspection in accordance with 15 CFR 2006.15. Persons wishing to submit confidential business information must certify in writing that such information is confidential in accordance with 15 CFR 2006.15(b), and such information must be clearly marked "Business Confidential" in a contrasting color ink at the top of each page on each of the twenty copies and must be accompanied by a nonconfidential summary of the confidential information. The nonconfidential summary will be placed in the Docket open to public inspection. An appointment to review the docket may be made by calling Brenda Webb at (202) 395–6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1:00 p.m. to 4:00 p.m., Monday through Friday, and is located in Room 101, Office of the United States Trade Representative, 600 17th Street, NW, Washington, DC 20508.

Irving A. Williamson,

Chairman, Section 301 Committee.

BILLING CODE 3190–01–P

Annex

HTS Subheading	Article Description	1997 Subcolumn 1 General (MFN) Rate
	[The bracketed language in this Annex has been included only to clarify the scope of the numbered subheadings which are being considered, and such language is not itself intended to describe articles which are under consideration.]	
	Meat of bovine animals, frozen:	
	Boneless:	
	Described in additional U.S. note 3 to chapter 2 of the HTS and entered pursuant to its provisions:	
	Processed:	
	[High-quality beef cuts]	
0202.30.30	Other	10%
	Other live plants (including their roots), cuttings and slips; mushroom spawn:	
0602.10.00	Unrooted cuttings and slips	6.2%
	[Trees, shrubs and bushes, grafted or not, of kinds which bear edible fruit or nuts; rhododendrons and azaleas, grafted or not; roses, grafted or not]	
	Other:	
	[Herbaceous perennials:]	
	Other:	
	[Mushroom spawn]	
	Other:	
	[With soil attached to roots]	
0602.90.90	Other	6.2%
	Cucumbers, including gherkins, fresh or chilled:	
0707.00.20	If entered during the period from December 1 in any year to the last day of the following February, inclusive	4.6¢/kg
0707.00.40	If entered during the period from March 1 to April 30, inclusive, in any year	6.1¢/kg
	Melons (including watermelons) and papayas (papaws), fresh:	
	Melons (including watermelons):	
	Watermelons:	
0807.11.30	If entered during the period from December 1, in any year, to the following March 31, inclusive	14.5%
0807.11.40	If entered at any other time	18.5%

Annex (con.)
-2-

HTS Subheading	Article Description	1997 Subcolumn 1 General (MFN) Rate
	Pepper of the genus Piper; dried or crushed or ground fruits of the genus Capsicum (peppers) or of the genus Pimenta (e.g., allspice):	
	Fruits of the genus Capsicum or of the genus Pimenta (including allspice), dried or crushed or ground:	
	Of the genus Capsicum (including cayenne pepper, paprika and red pepper):	
	[Paprika; Anaheim and ancho pepper]	
	Other:	
0904.20.60	Not ground	4¢/kg
	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, frozen, other than products of heading 2006:	
	[Potatoes]	
	Other vegetables and mixtures of vegetables:	
	[Antipasto; beans]	
2004.90.90	Other	14.4%
	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, not frozen, other than products of heading 2006:	
	Other vegetables and mixtures of vegetables:	
	Fruits of the genus Capsicum (peppers) or of the genus Pimenta (e.g., allspice):	
	[Pimientos (Capsicum anuum)]	
2005.90.55	Other	16.2%
	Fruit juices (including grape must) and vegetable juices, not fortified with vitamins or minerals, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter:	
	Pineapple juice:	
	[Not concentrated, or having a degree of concentration of not more than 3.5 degrees (as determined before correction to the nearest 0.5 degree)]	
2009.40.40	Other	1.2¢/liter

Annex (con.)
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HTS Subheading	Article Description	1997 Subcolumn 1 General (MFN) Rate
	Unmanufactured tobacco (whether or not threshed or similarly processed); tobacco refuse:	
	Tobacco, not stemmed/stripped:	
	Not containing wrapper tobacco, or not containing over 35 percent wrapper tobacco:	
	[Oriental or Turkish type; cigar binder and filler]	
	Other:	
	Flue-cured, burley and other light air-cured leaf:	
	[To be used in products other than cigarettes]	
	Other:	
2401.10.63	Described in additional U.S. note 5 to chapter 24 of the HTS and entered pursuant to its provisions.....	26¢/kg
	Tobacco, partly or wholly stemmed/stripped:	
	Threshed or similarly processed:	
	[From cigar leaf]	
	Other:	
	[Oriental or Turkish type]	
	Other:	
	[To be used in products other than cigarettes]	
	Other:	
2401.20.85	Described in additional U.S. note 5 to chapter 24 of the HTS and entered pursuant to its provisions.....	40.8¢/kg

Annex (con.)
-4-

HTS Subheading	Article Description	1997 Subcolumn 1 General (MFN) Rate
	Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes:	
	Cigars, cheroots and cigarillos, containing tobacco:	
2402.10.30	Each valued less than 15¢.....	$3.05/kg + 7.6%
2402.10.60	Each valued 15¢ or over but less than 23¢.....	92¢/kg + 2.2%
2402.10.80	Each valued 23¢ or over.....	92¢/kg + 2.2%
	Polishes and creams, for footwear, furniture, floors, coachwork, glass or metal, scouring pastes and powders and similar preparations (whether or not in the form of paper, wadding, felt, nonwovens, cellular plastics or cellular rubber, impregnated, coated or covered with such preparations), excluding waxes of heading 3404:	
3405.10.00	Polishes, creams and similar preparations for footwear or leather.....	1%
	Articles for the conveyance or packing of goods, of plastics; stoppers, lids, caps and other closures, of plastics:	
	Sacks and bags (including cones):	
3923.21.00	Of polymers of ethylene.....	3%
3923.29.00	Of other plastics.....	3%

Annex (con.)
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HTS Subheading	Article Description	1997 Subcolumn 1 General (MFN) Rate
	Trunks, suitcases, vanity cases, attache cases, briefcases, school satchels, spectacle cases, binocular cases, camera cases, musical instrument cases, gun cases, holsters and similar containers; traveling bags, toiletry bags, knapsacks and backpacks, handbags, shopping bags, wallets, purses, map cases, cigarette cases, tobacco pouches, tool bags, sports bags, bottle cases, jewelry boxes, powder cases, cutlery cases and similar containers, of leather or of composition leather, of sheeting of plastics, of textile materials, of vulcanized fiber, or of paperboard, or wholly or mainly covered with such materials or with paper:	
	-[Trunks, suitcases, vanity cases, attache cases, briefcases, school satchels and similar containers; handbags, whether or not with shoulder strap, including those without handle; articles of a kind normally carried in the pocket or in the handbag]	
	Other:	
	With outer surface of sheeting of plastic or of textile materials:	
	Travel, sports and similar bags:	
	With outer surface of textile materials:	
	[Of vegetable fibers and not of pile or tufted construction]	
4202.92.30	Other	19.3%
	Wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rebated, chamfered, V-jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded or finger-jointed:	
	Coniferous:	
	Wood dowel rods:	
4409.10.60	Plain	1%

Annex (con.)
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HTS Subheading	Article Description	1997 Subcolumn 1 General (MFN) Rate
	Builders' joinery and carpentry of wood, including cellular wood panels and assembled parquet panels; shingles and shakes:	
	[Windows, French-windows and their frames]	
	Doors and their frames and thresholds:	
	[French doors]	
4418.20.80	Other	5.9%
	[Parquet panels; formwork (shuttering) for concrete constructional work; shingles and shakes]	
	Other:	
	[Edge-glued lumber]	
4418.90.40	Other	4%
	Wood marquetry and inlaid wood; caskets and cases for jewelry or cutlery and similar articles, of wood; statuettes and other ornaments, of wood; wooden articles of furniture not falling within chapter 94 of the HTS:	
	Other:	
	Jewelry boxes, silverware chests, cigar and cigarette boxes, microscope cases, tool or utensil cases and similar boxes, cases and chests, all the foregoing of wood:	
4420.90.20	Cigar and cigarette boxes	1.2%
	Statuettes and other ornamental ceramic articles:	
	[Of porcelain or china]	
	Other:	
	[Statues, statuettes and handmade flowers, valued over $2.50 each and produced by professional sculptors or directly from molds made from original models produced by professional sculptors]	
	Other:	
	[Of ceramic tile; of earthenware, whether or not decorated, having a reddish-colored body and a lustrous glaze, and mottled, streaked or solidly colored brown to black with metallic oxide or salt]	
6913.90.50	Other	6.4%

Annex (con.)
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HTS Subheading	Article Description	1997 Subcolumn 1 General (MFN) Rate
	Wire of iron or nonalloy steel:	
	Plated or coated with zinc:	
	Round wire:	
7217.20.30	With a diameter of 1.5 mm or more and containing by weight less than 0.25 percent of carbon.....	1%
	Nails, tacks, drawing pins, corrugated nails, staples (other than those of heading 8305) and similar articles, of iron or steel, whether or not with heads of other material, but excluding such articles with heads of copper:	
	[Thumb tacks; other, suitable for use in powder-actuated handtools]	
	Other:	
	[Of one piece construction]	
7317.00.75	Of two or more pieces.....	1.6%
	Electrical transformers, static converters (for example, rectifiers) and inductors; parts thereof:	
	Parts:	
	[Of power supplies for automatic data processing machines or units thereof of heading 8471]	
	Other:	
	[Printed circuit assemblies]	
8504.90.95	Other.....	2.8%
	Insulated (including enameled or anodized) wire, cable (including coaxial cable) and other insulated electric conductors, whether or not fitted with connectors; optical fiber cables, made up of individually sheathed fibers, whether or not assembled with electric conductors or fitted with connectors:	
8544.30.00	Ignition wiring sets and other wiring sets of a kind used in vehicles, aircraft or ships.....	5%

Annex (con.)
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HTS Subheading	Article Description	1997 Subcolumn 1 General (MFN) Rate
	Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof:	
	[Seats of a kind used for aircraft; seats of a kind used for motor vehicles; swivel seats with variable height adjustment; seats other than garden seats or camping equipment, convertible into beds; seats of cane, osier, bamboo or similar materials]	
	Other seats, with wooden frames:	
	[Upholstered]	
	Other:	
	[Bent-wood seats]	
	Other:	
	Chairs:	
	[Of teak]	
9401.69.60	Other.....	2.1%
	Other seats, with metal frames:	
	[Upholstered]	
9401.79.00	Other.....	1.6%
	Other seats:	
	Of rubber or plastics:	
	[Of reinforced or laminated plastics]	
9401.80.40	Other.....	1%
	Other furniture and parts thereof:	
	[Metal furniture of a kind used in offices]	
9403.20.00	Other metal furniture.....	1.6%
	[Wooden furniture of a kind used in offices; wooden furniture of a kind used in the kitchen; wooden furniture of a kind used in the bedroom]	
	Other wooden furniture:	
	[Bent-wood furniture]	
9403.60.80	Other.....	1%
	Furniture of plastics:	
	[Of reinforced or laminated plastics]	
9403.70.80	Other.....	1%

Annex (con.)
-9-

HTS Subheading	Article Description	1997 Subcolumn 1 General (MFN) Rate
	Other furniture and parts thereof:	
	Parts:	
	[Of furniture of a kind used for motor vehicles]	
	Other:	
	[Of cane, osier, bamboo or similar materials; of rubber or plastics; of textile material, except cotton]	
9403.90.70	Of wood	2.1%
9403.90.80	Other	1.6%

[FR Doc. 97-29502 Filed 11-4-97; 3:25 pm]
BILLING CODE 3190-01-C

DEPARTMENT OF TRANSPORTATION

Updated Advisement of Operational Status of Grand Trunk Western Bridge at Mile 19.16 Over the Saginaw River in Saginaw, MI

AGENCY: Coast Guard, DOT.

ACTION: Notice.

SUMMARY: The Coast Guard is issuing this notice to advise the boating public that a formerly movable bridge over the Saginaw River was authorized to be placed in a non-movable status in 1982, and has remained in that status ever since.

DATES: Comments must be received by December 8, 1997.

ADDRESSES: Any comments or documents should be sent to Commander (obr), Ninth Coast Guard District, 1240 East Ninth Street, Room 2019, Cleveland, OH 44199-2060.

FOR FURTHER INFORMATION CONTACT: Mr. Robert W. Bloom, Chief, Bridge Branch at (216) 902-6084.

SUPPLEMENTARY INFORMATION: A railroad swing span bridge at mile 19.16 over the Saginaw River in Saginaw, MI, was permitted for construction in 1913. Between 1972 and 1982 there was only one opening of this bridge. The one opening was for a special Bicentennial exhibition in 1976. At the request of the Grand Trunk Western Railroad Co., current owner of the bridge, the regulations governing the operations of the bridge were reviewed and revised in 1982. By that time, all commercial marine activity had ceased to transit that portion of the Saginaw River. The 1982 regulation allowed the bridge to remain closed to vessel traffic. See 47 FR 4065, dated January 28, 1982. Persons wishing to express their views concerning the status of this bride may do so by sending their comments to the office listed under **ADDRESSES** above. Comments must be received by December 8, 1997.

Dated: October 6, 1997.

J.F. McGowan,

Rear Admiral, U.S. Coast Guard Commander, Ninth Coast Guard District.

[FR Doc. 97-29510 Filed 11-6-97; 8:45 am]
BILLING CODE 4910-14-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Delays in Processing of Exemption Applications

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of Applications Delayed more than 180 days.

SUMMARY: In accordance with the requirements of 49 U.S.C. 5117(c), RSPA is publishing the following list of exemption applications that have been in process for 180 days or more. The reason(s) for delay and the expected completion date for action on each application is provided in association with each identified application.

FOR FURTHER INFORMATION CONTACT: J. Suzanne Hedgepeth, Director, Office of Hazardous Materials, Exemptions and Approvals, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001, (202) 366-4535.

Key to "Reasons for Delay"

1. Awaiting additional information from applicant
2. Extensive public comment under review
3. Application is technically very complex and is of significant impact or precedent-setting and requires extensive analysis
4. Staff review delayed by other priority issues or volume of exemption applications

Meaning of Application Number Suffixes

N—New application
M—Modification request
PM—Party to application with modification request

Issued in Washington, DC, on October 28, 1997.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials Exemptions and Approvals.

NEW EXEMPTION APPLICATIONS

Application No.	Applicant	Reason for delay	Estimated date of completion
10581-N	Luxfer UK Limited, Nottingham, England	4	11/28/1997
11232-N	State of Alaska Department of Transportation, Juneau, AK	4	11/28/1997
11409-N	Pure Solve, Inc., Irving, TX	1	11/28/1997
11442-N	Union Tank Car Co., East Chicago, IN	4	11/28/1997
11465-N	Monsanto Co., St. Louis, MO	4	11/28/1997
11511-N	Brenner Tank, Inc., Fond du Lac, WI	4	11/28/1997
11523-N	Bio-Lab, Inc., Conyers, GA	4	11/28/1997
11537-N	Babcon Bros. Co., Romeoville, IL	4	11/28/1997
11540-N	Convenience Products, Fenton, MO	1	11/28/1997
11561-N	Solkatronic Chemicals, Fairfield, NJ	4	11/27/1997
11578-N	General Alum & Chemical Co., Searsport, MA	4	11/28/1997
11591-N	Clearwater Distributors, Inc., Woodridge, NY	4	11/28/1997
11597-N	Zeneca, Inc., Wilmington, DE	4	11/28/1997
11646-N	Barton Solvents, Inc., Des Moines, IO	4	11/28/1997
11654-N	Hoechst Celanese Corp., Dallas, TX	4	11/28/1997
11662-N	FIBA Technologies, Inc., Westboro, MA	4	10/30/1997
11668-N	AlliedSignal, Inc., Morristown, NJ	4	11/28/1997
11678-N	Air Transport Association, Washington, DC	4	11/28/1997
11682-N	Cryolor, Argancy, 57385 Ennery—France	4	11/28/1997
11687-N	Tri Tank Corp., Syracuse, NY	4	12/31/1997
11699-N	GEO Specialty Chemicals, Bastrop, LA	4	12/31/1997
11722-N	Citergaz S.A., 86400 Civray, FR	1	12/31/1997
11735-N	R.D. Offutt Co., Park Rapids, MN	4	12/31/1997
11739-N	Oceaneering Space Systems, Houston, TX	1	12/31/1997
11740-N	Morton International, Inc., Ogden, UT	4	12/31/1997
11751-N	Delta Resigns & Refractories, Detroit, MI	4	12/31/1997

NEW EXEMPTION APPLICATIONS—Continued

Application No.	Applicant	Reason for delay	Estimated date of completion
11759–N	E.I. DuPont de Nemours & Co., Inc., Wilmington, DE	4	12/31/1997
11761–N	Vulcan Chemicals, Birmingham, AL	4	12/31/1997
11762–N	Owens Fabricators, Inc., Baton Rouge, LA	4	11/28/1997
11765–N	Laidlaw Environmental Services Inc., Columbia, SC	4	11/28/1997
11767–N	Ausimont USA, Inc., Thorofare, NJ	4	11/28/97
11769–N	Great Western Chemical Co, Portland, OR	4	11/28/97
11772–N	Kleespie Tank & Petroleum Equipment, Morris, MN	4	11/28/97
11774–N	Safety Disposal System, Inc., Opa Locka, FL	1	11/28/97
11782–N	Aeronex, Inc., San Diego, CA	4	11/28/97
11783–N	Peoples Natural Gas, Rosemount, MN	4	11/28/97
11797–N	Cryodyne Technologies, Radnor, PA	4	11/28/97
11798–N	Air Products & Chemicals, Inc., Allentown, PA	4	11/28/97
11809–N	Laidlaw Environmental Services Inc., Columbia, SC	4	11/28/97
11811–N	Laidlaw Environmental Services Inc., Columbia, SC	4	11/28/97
11815–N	Union Pacific Railroad Co. et al, Omaha, NE	4	11/28/97
11816–N	The Scotts Co., Marysville, OH	4	11/28/97
11817–N	FIBA Technologies, Inc., Westboro, MA	4	12/31/97
11821–N	Wyoming Department of Transportation, Cheyenne, WY	4	12/31/97
11841–N	Stepan Co., Northfield, IL	4	12/31/97
11850–N	Air Transportation Association & Members, Washington, DC	4	01/30/1998
11852–N	McKenzie Tank Lines, Inc., Tallahassee, FL	4	01/30/1998
11862–N	The BOC Group, Murray Hill, NJ	4	01/30/1998
11863–N	Carrier Corp./d/b/a United Technologies Carrier, Syracuse, NY	4	01/30/1998
11865–N	ACCU Conversion, Inc., City of Industry, CA	4	01/30/1998
11869–N	Driscoll Children's Hospital, Corpus Christi, TX	4	01/30/1998
11881–N	Wampum Hardware Co., New Galilee, PA	4	01/30/1998
970–M	Callery Chemical Corp., Pittsburgh, PA	4	12/31/1997
4354–M	PPG Industries, Inc., Pittsburgh, PA	1	12/31/1997
5493–M	Montana Sulphur & Chemical Co., Billings, MT	4	11/28/1997
5876–M	FMC Corp., Philadelphia, PA	4	11/28/1997
6117–M	Montana Sulphur & Chemical Co., Billings, MT	4	11/28/1997
6610–M	ARCO Chemical Co., Newtown Square, PA	4	11/28/1997
7517–M	Trinity Industries, Inc., Dallas, TX	4	11/28/1997
7879–M	Halliburton Energy Services, Duncan, OK	4	11/28/1997
8556–M	Air Products & Chemicals, Inc., Allentown, PA	4	12/31/1997
9184–M	The Carbide/Graphite Group, Inc., Louisville, KY	4	11/28/1997
9266–M	ERMEWA, Inc., Houston, TX	4	11/28/1997
9413–M	EM Science, Cincinnati, OH	4	11/28/1997
9706–M	Taylor-Wharton, Harrisburg, PA	4	12/31/1997
9819–M	Halliburton Energy Services, Duncan, OK	4	12/31/1997
10429–M	Baker Performance Chemicals, Inc., Houston, TX	4	12/31/1997
10677–M	Primus AB, S–71 26 Solna, SW	4	12/30/1997
10798–M	Olin Corp., Stamford, Ct	4	12/31/1997
11005–M	Pressure Technology, Inc., Hanover, MD	4	01/30/1998
11025–M	Mass Systems Inc., Baldwin Park, CA	4	11/30/1997
11058–M	Spex Certiprep, Inc., Metuchen, NJ	4	12/31/1997
11244–M	Aerospace Design & Development, Inc., Niwot, CO	4	01/30/9198
11538–M	Hughes Space & Communications Co., Los Angeles, CA	4	11/30/1997
11579–M	Dyno Nobel Inc., Salt Lake City, UT	4	12/31/1997
11580–M	The Columbiana Boiler Co., Columbiana, OH	4	12/31/1997

[FR Doc. 97–29466 Filed 11–6–97; 8:45 am]
BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33497]

The Burlington Northern and Santa Fe Railway Company—Trackage Rights Exemption—Union Pacific Railroad Company

Union Pacific Railroad Company has agreed to grant overhead trackage rights to The Burlington Northern and Santa Fe Railway Company (BNSF) from Hobart, CA, near milepost 3.1, to Thenard, CA, near milepost 21.7, a distance of approximately 18.6 miles.

The transaction was scheduled to be consummated on November 1, 1997. Because the exemption was filed on October 27, 1997, the transaction could be consummated no sooner than November 3, 1997.

The purpose of the trackage rights is to improve the operating efficiencies of the BNSF.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33497 must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Michael E. Roper, Esq., The Burlington Northern and Santa Fe Railway Company, P. O. Box 961039, Fort Worth, TX 76161–0039.

Decided: October 31, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–29492 Filed 11–6–97; 8:45 am]
BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33499]

Grand Trunk Western Railroad Incorporated—Trackage Rights Exemption—Illinois Central Railroad Company

Illinois Central Railroad Company (IC) has agreed to grant non-exclusive overhead trackage rights to Grand Trunk Western Railroad Incorporated (GTW) over 7.83 miles of IC's mainline track between IC's connection with GTW at Harvey, IL (milepost 19.77) and IC's connection with Norfolk Southern Railway Company (NS) at Chicago, IL (milepost 11.94), with the right to move from either milepost 19.77 or milepost 11.94 to IC's connection with the Indiana Harbor Belt Railroad Company (IHB) at HiLawn/140th Street in Riverdale, IL (milepost 17.77).

The transaction is scheduled to be consummated on or after November 4, 1997, the effective date of the exemption.

The purpose of the local trackage rights is to enable GTW (1) to expedite movement of predominantly automotive traffic to NS at Calumet Yard in Chicago, IL, and to move light locomotives back, and (2) to access the IHB.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33499, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Robert P. vom Eigen, Hopkins & Sutter, 888 Sixteenth Street, N.W., Washington, DC 20006.

Decided: October 31, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–29491 Filed 11–6–97; 8:45 am]
BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Federal Law Enforcement Training Center; Meeting

AGENCY: Advisory Committee to the National Center for State, Local, and International Law Enforcement Training.

ACTION: Notice of meeting.

SUMMARY: The agenda for this meeting includes remarks by Charles Rinkevich, Director of the Federal Law Enforcement Training Center (FLETC); Elizabeth Bresee and Laurie Robinson, Committee Co-chairs; and presentations regarding the Small Town and Rural Training Series (STAR); Community Oriented Policing Services (COPS) Program; Domestic Violence Training Program; Interagency Agreement with Bureau of Justice Assistance (BJA); and an update on Treasury initiative regarding the Guns Tracking Program. Presentations regarding international programs will include the International Law Enforcement Academy in Central America (ILEA-South); recent Agreements and Memorandums of Understanding with DOS; and an update on the Russian initiative. There will also be an update on the Leadership Development Program.

DATES: November 19, 1997.

ADDRESSES: Federal Law Enforcement Training Center Artesia, New Mexico.

FOR FURTHER INFORMATION CONTACT: Hobart M. Henson, Director, National Center for State, Local, and International Law Enforcement Training, Federal Law Enforcement Training Center, Glynco, Georgia 31524, 1–800–743–5382.

Dated: October 29, 1997.

Steve Kernes,

Acting Director, National Center for State, Local, and International Law Enforcement Training.

[FR Doc. 97–29427 Filed 11–6–97; 8:45 am]
BILLING CODE 4810–32–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–31: OTS No. 4947]

Union Federal Savings and Loan Association, Crawfordsville, Indiana; Approval of Conversion Application

Notice is hereby given that on October 31, 1997, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Union Federal Savings and Loan Association, Crawfordsville, Indiana, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552, and the Central Regional Office, Office of Thrift Supervision, 200 West Madison Street, Suite 1300, Chicago, Illinois 60606.

Dated: November 3, 1997.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 97–29416 Filed 11–6–97; 8:45 am]
BILLING CODE 6720–01–M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determinations

Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C.

2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "CHINA: 5000 YEARS" (see list) [1], imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with foreign lenders. I also determine that the exhibition or display of the listed exhibit objects at the Guggenheim Museum from on or about January 29, 1998, through on or about June 3, 1998, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

Dated: November 3, 1997.

Les Jin,

General Counsel.

[FR Doc. 97–29484 Filed 11–6–97; 8:45 am]

BILLING CODE 8230–01–M

[1] A copy of this list may be obtained by contacting Ms. Neila Sheahan, Assistant General Counsel, at (202) 619–5030. The address is U.S. Information Agency, 301 4th Street, S.W., Room 700, Washington, D.C. 20547–0001.

Corrections

Federal Register
Vol. 62, No. 216
Friday, November 7, 1997

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96-ASW-30]

Proposed Modification to the Gulf of Mexico High Offshore Airspace Area

Correction

In proposed rule document 97–24102 beginning on page 47781, in the issue of Thursday, September 11, 1997, make the following corrections:

§ 71.1 [Corrected]

On page 47783, in the second column, in § 71.1, under the heading **Gulf of Mexico High [Revised]**:

a. In the tenth line, "26°00′006″ N." should read "26°00′00″ N."

b. In the third line from the bottom, "95′35″00″ W." should read "95′30′00″ W."

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federal register

Friday
November 7, 1997

Part II

Environmental Protection Agency

40 CFR Part 52

Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–5911–7]

Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking (NPR).

SUMMARY: In accordance with the Clean Air Act (CAA), today's action is a proposed rulemaking to require certain States to submit State implementation plan (SIP) measures to ensure that emission reductions are achieved as needed to mitigate transport of ozone (smog) pollution and one of its main precursors—emissions of oxides of nitrogen (NO_X)— across State boundaries in the eastern half of the United States. The States affected by today's action are in the Ozone Transport Assessment Group (OTAG) Region.

Today's action proposes to find that the transport of ozone from certain States in the OTAG region (the 37 eastern most States and the District of Columbia) significantly contributes to nonattainment of the ozone national ambient air quality standards (NAAQS), or interferes with maintenance of the NAAQS, in downwind States. This proposal explains the basis for determining significant contribution or interference with maintenance for the affected States. Further, by today's action, EPA is proposing the appropriate levels of NO_X emissions that each of the affected States will be required to achieve.

The EPA is committed to promulgate final action on the proposed rule within 12 months from the date of publication of today's action.

DATES: The EPA is establishing a 120-day comment period, ending on March 9, 1998. For additional information on the comment period, please refer to **SUPPLEMENTARY INFORMATION.** A public hearing will be held during the comment period, if requested. If a public hearing is requested, EPA will make an announcement in the **Federal Register**.

ADDRESSES: Documents relevant to this matter are available for inspection at the Air and Radiation Docket and Information Center (6101), Attention: Docket No. A–96–56, U.S. Environmental Protection Agency, 401 M Street SW, room M–1500, Washington, DC 20460, telephone (202) 260–7548, between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying. Comments and data may also be submitted electronically by following the instructions under **SUPPLEMENTARY INFORMATION** of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: General questions concerning today's action should be addressed to Kimber Smith Scavo, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, MD–15, Research Triangle Park, NC 27711, telephone (919) 541–3354. Please refer to **SUPPLEMENTARY INFORMATION** below for a list of contacts for specific subjects described in today's action.

SUPPLEMENTARY INFORMATION:

Comment Period

Because commenters may wish to submit technical information that may require additional time to develop, EPA will accept additional pertinent information beyond the 120-day time frame and will do what is possible to take the information into account for the final rulemaking. The EPA will make every effort to consider this information. However, due to the time frames associated with this action, EPA cannot guarantee that information submitted after the close of the comment period will be considered. The EPA is committed to publish the final rulemaking within 12 months of the date of today's action.

Electronic Availability

The official record for this rulemaking, as well as the public version, has been established under docket number A–96–56 (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located at the address in **ADDRESSES** at the beginning of this document. Electronic comments can be sent directly to EPA at: A-and-R-Docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number A–96–56. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

Availability of Related Information

Documents related to OTAG are available on the Agency's Office of Air Quality Planning and Standards' (OAQPS) Technology Transfer Network (TTN) Bulletin Board System (BBS). The telephone number for the TTN BBS is (919) 541–5742. To access the bulletin board a modem and communications software are necessary. The following parameters on the communications software are required: Data Bits-8; Parity-N; and Stop Bits-1. The documents are located on the OTAG BBS. The TTN can also be accessed via the web at http://www.epa.gov/ttn. If assistance is needed in accessing the system, call the help desk at (919) 541-5384 in Research Triangle Park, NC. Other documents related to OTAG can be downloaded from OTAG's webpage at http://www.epa.gov/ttn/otag. The OTAG's technical data are located at http://www.iceis.mcnc.org/OTAGDC.

For Additional Information

For technical questions related to the determination of significant contribution, please contact Norm Possiel, Office of Air Quality Planning and Standards, Emissions, Monitoring, and Analysis Division, MD–13, Research Triangle Park, NC 27711, telephone (919) 541–5692. For legal questions, please contact Howard Hoffman, Office of General Counsel, 401 M Street SW, MC–2344, Washington, DC, 20460, telephone (202) 260–5892. For questions concerning the statewide emission budgets, please contact Doug Grano, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, MD–15, Research Triangle Park, NC 27711, telephone (919) 541–3292. For questions concerning SIP approvability, please contact Carla Oldham, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, MD–15, Research Triangle Park, NC 27711, telephone (919) 541–3347. For questions concerning the cost analysis, please contact Sam Napolitano, Office of Atmospheric Programs, MC–6201J, 401 M Street SW, Washington, DC 20460, telephone (202) 233–9751.

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I. Preamble

A. Summary of Rulemaking and Affected States

The CAA has set forth many requirements to address nonattainment of the ozone NAAQS. Many States have found it difficult to demonstrate attainment of the NAAQS due to the widespread transport of ozone and its precursors. The Environmental Council of the States (ECOS) recommended formation of a national work group to allow for a thoughtful assessment and development of consensus solutions to the problem. This work group, OTAG, was established 2 years ago to undertake an assessment of the regional transport problem in the Eastern half of the United States. The OTAG was a collaborative process conducted by representatives from the affected States, EPA, and interested members of the

public, including environmental groups and industry, to evaluate the ozone transport problem and develop solutions. The OTAG region includes the following 37 States and the District of Columbia: Alabama, Arkansas, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia and Wisconsin. Today's action builds on the work of OTAG.

Through the OTAG process, the States concluded that widespread NO_X reductions are needed in order to enable areas to attain and maintain the ozone NAAQS. The EPA believes, based on data generated by OTAG and other data sources, that certain downwind States receive amounts of transported ozone and ozone precursors that significantly contribute to nonattainment in the downwind States. Today's action proposes SIP requirements under section 110(a)(1) and section 110(k)(5) in order to meet the requirements of section 110(a)(2)(D) to prohibit ozone precursor emissions from sources or activities in those States from "contribut(ing) significantly to nonattainment in, or interfer(ing) with maintenance by," a downwind State of the ozone NAAQS.

Upon this determination, the EPA is requiring SIP revisions in order to take steps toward ensuring that the necessary regional reductions are achieved that will enable current ozone nonattainment areas in the eastern half of the United States to prepare attainment demonstrations and that will enable all areas to demonstrate noninterference with maintenance of the ozone standard.

The OTAG's July 8, 1997 final recommendations (see Section I.F. OTAG Process and Appendix B) identify control measures for States to achieve additional reductions in emissions of NO_X and do not identify such measures for volatile organic compounds (VOC) beyond EPA's promulgation of national VOC measures. The OTAG Regional and Urban Scale Modeling and Air Quality Analysis Work Groups reached the following relevant conclusions:

- Regional NO_X emissions reductions are effective in producing ozone benefits; the more NO_X reduced, the greater the benefit.
- VOC controls are effective in reducing ozone locally and are most advantageous to urban nonattainment areas. (See Appendix B).

The EPA agrees with these OTAG conclusions and, thus, is not proposing new SIP requirements for VOC emissions for the purpose of reducing the interstate transport of ozone. States may, however, need to consider additional reductions in VOC emissions as they develop local plans to attain and maintain the ozone standards.

Therefore, this rulemaking is intended to make a finding of significant contribution to a nonattainment problem, or interference with a maintenance problem, and to assign, specifically, the emissions budgets for NO_X that each of the identified States must meet through SIP measures. As indicated, the EPA is proposing to require the submission of SIP controls to meet the specified budgets. However, this requirement permits each State to choose for itself what measures to adopt to meet the necessary emission budget. Consistent with OTAG's recommendations to achieve NO_X emission decreases primarily from large stationary sources in a trading program, EPA encourages States to consider electric utility and large boiler controls under a cap-and-trade program as a cost-effective strategy. This is described in more detail in section III, Statewide Emission Budgets. The EPA also recognizes that promotion of energy efficiency can contribute to a cost-effective strategy. The EPA is working to develop guidance on how States can integrate energy efficiency into their SIPs to help meet their NO_X budgets at least cost.

The EPA proposes to find, after considering OTAG's recommendations and other relevant information, that the following 22 States and the District of Columbia significantly contribute to nonattainment in, or interfere with maintenance by, a downwind State: Alabama, Connecticut, Delaware, Georgia, Illinois, Indiana, Kentucky, Massachusetts, Maryland, Michigan, Missouri, North Carolina, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin. These findings proposed today reflect the air quality modeling and other technical work done by OTAG, as well as other relevant information.

Under this proposal, these States would be required to adopt and submit, within 12 months after publication of the notice of final rulemaking, SIPs containing control measures that will mitigate the ozone transport problem by meeting the assigned statewide emissions budget. Section II, Weight of Evidence Determination of Significant Contribution, describes how EPA determined which States to propose as significant contributors, and section III, Statewide Emission Budgets, describes how EPA determined the appropriate statewide emission budgets and proposes to assign specific emission budgets for the States identified above. Section V, SIP Revisions and Approvability Criteria, describes the proposed SIP requirements.

The EPA believes that expedited implementation of regional control strategies to facilitate attainment is necessary. On July 18, 1997, EPA published its final rule for strengthening the NAAQS for ozone by establishing a new, 8-hour NAAQS (62 FR 38856). This results in more areas and larger areas with monitoring data indicating nonattainment. Thus, it will be even more critical to implement regional control strategies which will mitigate transport into areas in violation of the new standard and thus enable these areas to demonstrate attainment. The regional NO_X reduction strategy proposed in today's action will provide a mechanism to achieve reductions that will be necessary for States to enable them to attain and maintain this revised standard. The proposed regional reductions alone should be enough to allow most of the new nonattainment counties in States covered by this rulemaking to be able to comply with the new standard. States that are not required to comply with the requirements set forth in today's action would also benefit from the NO_X strategy EPA is proposing if they adopt similar measures. On July 16, 1997, President Clinton issued a directive on the implementation of the revised air quality standards. This implementation policy is described in section IV, Implementation of Revised Air Quality Standards.

Many of the States that EPA is not proposing to find as significant contributors to the ozone nonattainment problem, and, therefore, do not have a proposed NO_X statewide emissions budget to mitigate ozone transport, still may need, as recommended by OTAG, to cooperate and coordinate SIP development activities with other States. States with local interstate nonattainment areas for the 1-hour standard and/or the new 8-hour standard are expected to work together to reduce emissions to mitigate local scale interstate transport problems in order to provide for attainment in the nonattainment area as a whole.

In addition, areas in these States (those covered by OTAG modeling but not covered by this proposal) may be able to receive the transitional classification as described in section IV, Implementation of Revised Air Quality Standards. An area in the State would satisfy one of the eligibility requirements for the transitional area classification by attaining the 1-hour standard and submitting a SIP attainment demonstration by 2000 for the 8-hour standard. The OTAG's modeling (in particular, OTAG strategy Run 5 described in section II.B.2, OTAG Strategy Modeling) shows that a strategy in which a State adopted NO_X emission decreases similar to those EPA proposes to establish in this rulemaking would be helpful in achieving attainment in most of these areas. The EPA strongly suggests that these States (those covered by OTAG modeling but not covered by this proposal) with new nonattainment counties for the 8-hour standard should consider the option of this strategy since our analysis indicates that nearly all new nonattainment counties are projected to come into attainment as a result of this strategy. The benefits of this regional strategy for States not required to implement the proposed strategy under this rulemaking are described below in section VI, States Not Covered by this Rulemaking.

The EPA plans to publish a supplemental notice of proposed rulemaking (SNPR) in early 1998. The Agency intends to include in the SNPR a proposed model cap-and-trade rule, air quality analyses of the proposed statewide emission budgets, emissions reporting and State reporting requirements, a discussion of the interaction with the Title IV NO_X rule (including EPA's plans to proceed with rulemaking on remanded elements of that rule relating to flexible implementation where an appropriate cap-and-trade system is in place), and proposed rule language for the rulemaking discussed in today's action. There will be another public comment period following publication of the SNPR. All comments received regarding either today's action or the proposed rule language in the SNPR will be considered before promulgation of a final rule.

B. General Factual Background

In today's proposal, EPA takes a significant step in order to reduce ozone in the eastern half of the country. Ground-level ozone, the main harmful ingredient in smog, is produced in complex chemical reactions when its precursors, VOC and NO_X, react in the presence of sunlight. The chemical reactions that create ozone take place while the pollutants are being blown through the air by the wind, which means that ozone can be more severe many miles away from the source of emissions than it is at the source.

At ground level, ozone can cause a variety of ill effects to human health, crops and trees. Specifically, ground-level ozone induces the following health effects:

- Decreased lung function, primarily in children active outdoors.
- Increased respiratory symptoms, particularly in highly sensitive individuals.
- Hospital admissions and emergency room visits for respiratory causes, among children and adults with pre-existing respiratory disease such as asthma.
- Inflammation of the lung.
- Possible long-term damage to the lungs.

The new 8-hour primary ambient air quality standard will provide increased protection to the public from these health effects.

Each year, ground-level ozone above background is also responsible for several hundred million dollars worth of agricultural crop yield loss. It is estimated that full compliance of the newly promulgated ozone NAAQS will result in about $500 million of prevented crop yield loss. Ozone also causes noticeable foliar damage in many crops, trees, and ornamental plants (i.e., grass, flowers, shrubs, and trees) and causes reduced growth in plants. Studies indicate that current ambient levels of ozone are responsible for damage to forests and ecosystems (including habitat for native animal species).

The science of ozone formation, transport, and accumulation is complex. Ozone is produced and destroyed in a cyclical set of chemical reactions involving NO_X, VOC and sunlight. Emissions of NO_X and VOC are necessary for the formation of ozone in the lower atmosphere. In part of the cycle of reactions, ozone concentrations in an area can be lowered by the reaction of nitric oxide with ozone, forming nitrogen dioxide; as the air moves downwind and the cycle continues, the nitrogen dioxide forms additional ozone. The importance of this reaction depends, in part, on the relative concentrations of NO_X, VOC and ozone, all of which change with time and location.

As part of the efforts to reduce harmful levels of smog, EPA today proposes to require certain States to revise their SIPs in order to implement the regional reductions in transported ozone and its precursors that are needed to enable areas in the Eastern United States to attain and maintain the NAAQS. Since air pollution travels across county and State lines, it is essential for State governments and air pollution control agencies to cooperate to solve the problem.

C. Statutory and Regulatory Background

1. Clean Air Act Provisions

a. 1970 and 1977 Clean Air Act Amendments. For almost 30 years, Congress has focused major efforts on curbing tropospheric ozone. In 1970, Congress amended title I of the CAA to require, among other things, that EPA issue, and periodically review and if necessary revise, NAAQS for ubiquitous air pollutants (sections 108 and 109). Congress required the States to submit SIPs to attain those NAAQS, and Congress included, in section 110, a list of minimum requirements that SIPs must meet. Congress anticipated that areas would attain the NAAQS by 1975.

In 1977, Congress amended the CAA to provide, among other things, additional time for areas to attain the ozone NAAQS, as well as to impose specific SIP requirements for those nonattainment areas. These provisions first requfred the designation of areas as attainment, nonattainment, or unclassified, under section 107; and then required that SIPs for ozone nonattainment areas include the additional provisions set out in part D of title I, as well as demonstrations of attainment of the ozone NAAQS by either 1982 or 1987 (section 172).

In addition, the 1977 Amendments included two provisions focused on interstate transport of air pollutants: the predecessor to current section 110(a)(2)(D), which requires SIPs for all areas to constrain emissions with certain adverse downwind effects; and section 126, which authorizes a downwind State (or political subdivision) to petition for EPA to impose limits directly on upwind sources found to adversely affect that State. Section 110(a)(2)(D), which is key to the present action, is described in more detail below.

b. 1990 Clean Air Act Amendments. In 1990, Congress amended the CAA to better address, among other things, continued nonattainment of the 1-hour ozone NAAQS, the requirements that would apply if EPA revised the 1-hour standard, and transport of air pollutants across State boundaries (Pub. L. 101–549, Nov. 15, 1990; 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q). Numerous provisions added, or revised, by the 1990 Amendments are relevant to today's proposal.

i. 1-hour Ozone NAAQS. In the 1990 Amendments, Congress required the States and EPA to review and, if necessary, revise the designation of areas as attainment, nonattainment, and unclassifiable under the ozone NAAQS in effect at that time, which was the 1-hour standard (section 107(d)(4)). Areas designated as nonattainment were divided into, primarily, five classifications based on air quality design value (section 181(a)(1)). Each classification carries specific requirements, including new attainment dates (sections 181–182). In increasing severity of the air quality problem, these classifications are marginal, moderate, serious, severe and extreme. The OTAG region includes all classifications except extreme.

As amended in 1990, the CAA requires States containing ozone nonattainment areas classified as serious, severe, or extreme to submit several SIP revisions at various times. One set of SIP revisions included specified control measures, such as reasonably available control technology (RACT) for existing VOC and NO_X sources (section 182(b)(2), 182(f)). In addition, the CAA requires the reduction of VOC in the amount of 15 percent by 1996 from a 1990 baseline (section 182(b)(1)). Further, the CAA requires the reduction of VOC or NO_X emissions in the amount of 9 percent over each 3-year period from 1996 through the attainment date (the rate-of-progress (ROP) SIP submittals) under section 182(c)(2)(B). In addition, the CAA requires a demonstration of attainment (including air quality modeling) for the nonattainment area (the attainment demonstration), as well as SIP measures containing any additional reductions that may be necessary to attain by the applicable attainment date (section 182(c)–(e)). The CAA established November 15, 1994 as the required date for the ROP and attainment demonstration SIP submittals.[1]

ii. Revised Ozone NAAQS. Section 109(d) of the CAA requires periodic review and, if appropriate, revision of the NAAQS. As amended in 1990, the CAA further requires designating areas as attainment, nonattainment, and unclassifiable under a revised NAAQS (section 107(d)(1)). The CAA authorizes EPA to classify areas that are designated nonattainment under a new NAAQS, and to establish for those areas attainment dates not to exceed 10 years from the date of designation (section 172(a)).

The CAA continues, in revised form, certain requirements, dating from the 1970 Amendments, which pertain to all areas, regardless of their designation. All areas are required to submit SIPs within certain time frames (section 110(a)(1)), and those SIPs must include specified provisions, under section 110(a)(2). In addition, SIPs for nonattainment areas are generally required to include additional specified control requirements, as well as controls providing for attainment of the revised NAAQS and periodic reductions providing "reasonable further progress" in the interim (section 172(c)).

iii. Provisions Concerning Transport of Ozone and Its Precursors. The 1990 Amendments reflect general awareness by Congress that ozone is a regional, and not merely a local, problem. As described above, ozone and its precursors may be transported long distances across State lines to combine with ozone and precursors downwind, thereby exacerbating the ozone problems downwind. In the case of ozone, this transport phenomenon was not generally recognized until relatively recently. Yet, ozone transport is a major reason for the persistence of the ozone problem, notwithstanding the imposition of numerous controls, both Federal and State, across the country.

Section 110(a)(2)(D) provides one of the most important tools for addressing the problem of transport. This provision, which applies by its terms to all SIPs for each pollutant covered by a NAAQS, and for all areas regardless of their attainment designation, provides that a SIP must contain provisions preventing its sources from contributing significantly to nonattainment problems or interfering with maintenance in downwind States.

Section 110(k)(5) authorizes EPA to find that a SIP is substantially inadequate to meet any CAA requirement, as well as to mitigate interstate transport of the type described in section 184 (concerning ozone transport in the northeast) or section 176A (concerning interstate transport in general) and thereby require the State to submit, within a specified period, a SIP revision to correct the inadequacy. The CAA further addresses interstate transport of pollution in section 126, which Congress clarified in 1990. Subparagraph (b) of that provision authorizes each State (or political subdivision) to petition EPA for a finding that emissions from "any major source or group of stationary sources" in an upwind State contribute significantly to nonattainment in, or interfere with maintenance by, the downwind State. If EPA makes such a finding in support of a section 126 petition, EPA would impose limits on the affected source or group of sources (section 126(c)).[2]

In addition, the 1990 Amendments included specific provisions focused on the interstate transport of ozone. Section 184 delineates a multistate ozone transport region (OTR) in the Northeast, requires specific additional controls for all areas (not only nonattainment areas) in that region, and establishes the Ozone Transport Commission (OTC) for the purpose of recommending to EPA regionwide controls affecting all areas in that region.

2. Regulatory Structure

a. March 2, 1995 Policy. Notwithstanding significant efforts, the States generally were not able to meet the November 15, 1994 statutory deadline for the attainment demonstration and other SIP submissions required under section 182(c). The major reason for this failure was that States were not able to address or control transport. As a result, in a memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, dated March 2, 1995, entitled "Ozone Attainment Demonstrations," (March 2, 1995 Memorandum or the Memorandum), EPA recognized the efforts made by States and the remaining difficulties in making the ROP and attainment demonstration submittals. The EPA recognized that development of the necessary technical information, as well as the control measures necessary to achieve the large level of reductions likely to be required, had been particularly difficult for the States affected by ozone transport.

Accordingly, as an administrative remedial matter, the Memorandum indicated that EPA would establish new time frames for SIP submittals. The Memorandum indicated that EPA would divide the required SIP submittals into two phases. Phase I generally consisted of: SIP measures providing for ROP reductions due by the end of 1999, an enforceable SIP commitment to submit any remaining required ROP reductions on a specified schedule after 1996, and an enforceable SIP commitment to submit the additional SIP measures needed for attainment. Phase II consists of the remaining submittals, beginning in 1997.

Ten States and the District of Columbia failed to submit Phase I elements within the specified time. By notice dated July 10, 1996 (61 FR 36292), EPA issued findings and thereby started sanctions clocks for these areas for those Phase I submittals.

The Phase II submittals primarily consisted of the remaining ROP SIP measures, the attainment demonstration and additional local rules needed to attain, and any regional controls needed for attainment by all areas in the region. The March 2, 1995 Memorandum indicated that the attainment demonstration, target calculations for the post-1999 ROP milestones, and identification of rules needed to attain and for post-1999 ROP were due in mid-1997. To allow time for States to incorporate the results of the OTAG modeling into their local plans, EPA, in its Final Policy for Implementation of the 1-hour and Pre-Existing PM–10 Standards, is extending the mid-1997 submittal date to April 1998.

b. OTAG. In addition, the March 2 1995 Memorandum called for an assessment of the ozone transport phenomenon. The Environmental Council of States (ECOS) had recommended formation of a national work group to allow for a thoughtful assessment and development of consensus solutions to the problem. The OTAG has been a partnership between EPA, the 37 easternmost States and the District of Columbia, industry representatives and environmental groups. This effort has created an opportunity for the development of an Eastern United States ozone strategy to address transport and to assist in attainment of the 1-hour ambient ozone standard.

The EPA believes that the OTAG process has been invaluable in demonstrating the types of regional ozone precursor reductions that are needed to enable areas in the Eastern United States to attain and maintain the ambient air quality standard for ozone. Indeed, today's action to propose to mandate SIP revisions under section 110(a)(2)(D) is a first step directed at providing the regulatory structure to implement the kinds of broad regional precursor reductions recommended by OTAG.

c. EPA's Transport SIP Call Regulatory Efforts. Shortly after OTAG began its work, EPA began to indicate that it intended to issue a SIP call to require States to implement the reductions necessary to address the ozone transport problem. On January 10, 1997 (62 FR 1420), EPA published a Notice of Intent that articulated this goal and indicated that before taking final action, EPA would carefully consider the technical work and any recommendations of OTAG.

By a letter to Mary Gade, Chair of OTAG, dated April 16, 1997, EPA Assistant Administrator Mary D. Nichols stated that on the basis of technical work performed by EPA staff, it appeared that EPA would issue a SIP call to specified States and the District of Columbia. The EPA staff issued a technical support document, "Preliminary Assessment of States Making a Significant Contribution to Downwind Ozone Nonattainment," dated April, 1997, which explained EPA's technical basis for those tentative conclusions. Please refer to section II, Weight of Evidence Determination of Significant Contribution, for EPA's revised conclusions.

As described below in section I.F., OTAG Process, OTAG completed its work in June 1997 and issued its final recommendations to EPA on July 8, 1997. The OTAG's technical work and recommendations form part of the basis of today's proposal.

d. Revision of the Ozone NAAQS. On July 18, 1997 (62 FR 38856), EPA issued its final action to revise the NAAQS for ozone. The EPA's decision to revise the standard was based on the Agency's review of the available scientific evidence linking exposures to ambient ozone to adverse health and welfare effects at levels allowed by the pre-existing 1-hour ozone standards. The 1-hour primary standard was replaced by an 8-hour standard at a level of 0.08 parts per million (ppm), with a form based on the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration measured at each monitor within an area. The new primary standard will provide increased protection to the public, especially children and other at-risk populations, against a wide range of ozone-induced health effects. Health effects are described in section I.B, General Factual Background. The EPA retained the applicability of the 1-hour NAAQS for certain areas to ensure adequate health protection during the transition to full implementation of the 8-hour NAAQS.

The pre-existing 1-hour secondary ozone standard was replaced by an 8-hour standard identical to the new primary standard. The new secondary standard will provide increased protection to the public welfare against ozone-induced effects on vegetation as described in section I.B, General Factual Background.

e. Impacts of NO_X Emissions. At the August 7, 1997 Clean Air Act Advisory Committee meeting, EPA announced the availability of a document ("Nitrogen Oxides: Impacts on Public Health and the Environment," EPA–452/R–97–002, August 1997) that describes the multiple impacts of NO_X emissions on public health and the environment and the consequent implications for national policy. In addition to helping attain public health standards for ozone, decreases in emissions of NO_X are helpful to reducing acid deposition, greenhouse gases, nitrates in drinking water, stratospheric ozone depletion, excessive nitrogen loadings to aquatic and terrestrial ecosystems, and ambient concentrations of nitrogen dioxide, particulate matter and toxics. These impacts are described in more detail in section X, Nonozone Benefits of NO_X Reductions.

D. EPA's Proposed Analytical Approach

1. Process for Requiring Submission of Section 110(a)(2)(D) SIP Revisions

As described above, SIPs for all areas must meet the requirements of section 110(a)(2), including section 110(a)(2)(D), which imposes limits on sources that affect the ability of downwind areas to attain and maintain the NAAQS. Because many areas are currently required to attain two ozone NAAQS—the 1-hour standard and the 8-hour standard—with different SIP planning requirements, EPA proposes that section 110(a)(2)(D) be applied in different ways with respect to each of the ozone NAAQS.

Under the 1-hour ozone NAAQS, each area is currently required to have a SIP in place. Moreover, EPA has determined that the 1-hour standard will continue to apply to areas designated nonattainment for the 1-hour NAAQS until EPA determines that the area has air quality meeting this standard (40 CFR 50.9(a) (62 FR 38894 (July 18, 1997)). Accordingly, each area is under a current obligation to include in its SIP, provisions that meet the requirements of section 110(a)(2)(D) for the 1-hour NAAQS.

This obligation to meet section 110(a)(2)(D) under the 1-hour standard applies even after EPA determines that an upwind area has attained the 1-hour standard, and the applicability of that standard thereby terminates for the upwind area. Regardless of the status of the 1-hour standard with respect to the upwind area's air quality, a downwind area may continue to have a nonattainment problem under the 1-hour standard, and the upwind area's sources may continue to impact that downwind nonattainment problem. Under these circumstances, the upwind area would be required to retain or adopt SIP provisions that meet the requirements of section 110(a)(2)(D).

[1] For moderate ozone nonattainment areas, the attainment demonstration was due November 15, 1993 (section 182(b)(1)(A)), except that if the State elected to conduct an urban airshed model, EPA allowed an extension to November 15, 1994.

[2] In addition, section 115 authorizes EPA to require a SIP revision when a State's emitters "cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare in a foreign country."

To assure that SIPs include required controls, section 110(k)(5) authorizes EPA to find that a SIP is substantially inadequate to meet an CAA requirement, and to require ("call for") the State to submit, within a specified period, a SIP revision to correct the inadequacy. This EPA requirement for a SIP revision is known as a "SIP call." Specifically, section 110(k)(5) provides, in relevant part:

> Whenever the Administrator finds that the applicable implementation plan for any area is substantially inadequate to attain or maintain the relevant [NAAQS], to mitigate adequately the interstate pollutant transport described in section 176A or section 184, or to otherwise comply with any requirement of this Act, the Administrator shall require the State to revise the plan as necessary to correct such inadequacies. The Administrator shall notify the State of the inadequacies, and may establish reasonable deadlines (not to exceed 18 months after the date of such notice) for the submission of such plan revisions.

By today's action, EPA is proposing to determine that the SIPs under the 1-hour ozone NAAQS for the States identified in today's action are substantially inadequate to comply with the requirements of section 110(a)(2)(D) and to mitigate adequately the regional, interstate ozone transport described in section 184, because ozone precursor emissions and transported ozone from those States contribute significantly to nonattainment downwind. Based on these findings, EPA today proposes a SIP call to require the identified States to reduce emissions to mitigate their contribution.

If a State fails to submit the required SIP provisions in response to this SIP call, EPA is required to issue a finding that the State failed to make a required SIP submittal under section 179(a). This finding has implications for sanctions as well as EPA's promulgation of a Federal implementation plan (FIP). Sanctions and a FIP are discussed in section V., SIP Revisions and Approvability Criteria.

Under the 8-hour ozone NAAQS, areas have not yet been designated as attainment, nonattainment, or unclassifiable, and are not yet required to have SIPs in place. When those SIPs become due, they must meet the applicable requirements of section 110, which apply to all areas, and SIPs for areas designated nonattainment must also meet the additional requirements in subpart 1 of part D applicable to nonattainment areas.

Section 110(a)(1) provides, in relevant part—

> Each State shall * * * adopt and submit to the Administrator, within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any revision thereof) * * * a plan which provides for implementation, maintenance, and enforcement of such primary standard in each (area) within such State.

Section 110(a)(2) provides, in relevant part—

> Each implementation plan submitted by a State under this CAA shall be adopted by the State after reasonable notice and public hearing. Each such plan shall (meet certain requirements, including those found in section 110(a)(2)(D)).

These two provisions, read together, require SIP revisions under the revised NAAQS within 3 years of the date of the revision, or earlier if EPA so requires, and require that those SIP revisions meet the requirements of section 110(a)(2), including subparagraph (D). It should be noted that the schedule for these section 110(a)(2) SIP submissions for all ozone areas differs from the schedule for the SIP submissions required under section 172(b) for part D SIP submissions for ozone nonattainment areas. These part D SIP submissions are required for all areas that are designated nonattainment under the 8-hour NAAQS and must be submitted within 3 years of the date of designation. The submission of SIP revisions containing the regional NO_x reductions proposed under this rulemaking earlier than the part D nonattainment submissions will assist the downwind nonattainment areas in their attainment planning.

The EPA believes it has the authority to establish different submittal schedules for different parts of the section 110(a)(1) SIP revision. Specifically, EPA proposes to require first the portion of the section 110(a)(1) SIP revision that contains the controls required under section 110(a)(2)(D). The EPA proposes to require the section 110(a)(2)(D) submittal first for the purpose of securing upwind reductions at an earlier stage in the regional SIP planning process. This information on controls in upwind States is essential to the downwind States in the latter States' attainment planning.

In summary, EPA is proposing to determine, under section 110(k), that the 1-hour ozone NAAQS SIPs for certain States are deficient because the SIPs do not impose sufficient controls on their sources to meet the requirements of section 110(a)(2)(D), and EPA is proposing to require those States to submit SIP revisions containing adequate controls. The EPA is proposing to require, under section 110(a)(1), that certain States must submit SIP revisions under the 8-hour ozone NAAQS to meet the requirements of section 110(a)(2)(D). For simplicity, today's rulemaking occasionally uses the term "SIP call" to describe both EPA actions.

2. Overview of Elements of Section 110(a)(2)(D)

a. Summary of Section 110(a)(2)(D). As noted above, section 110(a)(2)(D) is the operative provision for determining whether additional controls are required to mitigate the impact of upwind sources on downwind air quality, with respect to both the 1-hour and 8-hour ozone NAAQS. Separate determinations must be made for each NAAQS.

Section 110(a)(2)(D) provides, in relevant part, that each SIP must:

> * * * contain adequate provisions * * * prohibiting, consistent with the provisions of this title, any source or other type of emissions activity within the State from emitting any air pollutant in amounts which will * * * contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to any such national primary or secondary ambient air quality standard * * *.

According to section 110(a)(2)(D), the SIP for each area, regardless of its designation as nonattainment or attainment (including unclassifiable), must prohibit sources within the area from emitting emissions that: "contribute significantly" to "nonattainment" in a downwind State, or that "interfere with maintenance" in a downwind State.

b. Significant Contribution to Nonattainment. The initial prong under section 110(a)(2)(D) is whether sources "contribute significantly" to "nonattainment in * * * any other State" with respect to the NAAQS. The initial inquiry for this prong is to identify and determine the geographic scope of "nonattainment" downwind. The EPA proposes to interpret this term to refer to air quality and not to be limited to currently-designated nonattainment areas. Section 110(a)(2)(D) does not refer to "nonattainment areas," which is a phrase that EPA interprets to refer to areas that are designated nonattainment under section 107 (section 107(d)(1)(A)(i)). Rather, the provision includes only the term "nonattainment" and does not define that term. Under these circumstances, EPA has discretion to give the term a reasonable definition, and EPA proposes to define it to include areas whose air quality currently violates the NAAQS, and will likely continue for some time to violate, regardless of the designation of those areas (compare section 181(b)(2)(A) (referring to ozone "nonattainment area" which EPA interprets as an area designated nonattainment) and section 211(k)(10)(D)).

For present purposes, EPA is examining the air quality for the 1993–1995 years, but EPA expects to refer to 1996 (and perhaps 1997) data as the rulemaking proceeds.

As discussed below, to determine whether emissions from sources in an upwind area significantly contribute to nonattainment downwind, EPA proposes to compare NO_x emissions reductions upwind with ozone reductions downwind. For this purpose, EPA assumes that areas with current air quality indicating nonattainment for the 1-hour standard will be required to implement certain controls under the CAA, through the year 2007, which is the attainment date for ozone nonattainment areas classified as severe-17. Accordingly, EPA proposes to determine, through air quality modeling, which areas with current air quality indicating nonattainment for both the 1-hour and 8-hour standards will continue to be in nonattainment in the year 2007, even after implementation of controls specifically required under the CAA. Because this projection is occurring through the year 2007, it is also necessary to take into account growth in emissions, generally due to economic growth and greater use of vehicles, to that time. If an area with air quality currently indicating nonattainment is modeled to continue to be in nonattainment as of the year 2007, then emissions from sources in upwind areas may be considered to "contribute significantly" to the current nonattainment problem, depending on the factors described below. On the other hand, if an area the current air quality of which measures nonattainment is modeled to be in attainment in the year 2007 due to imposition of required CAA controls, then EPA proposes not to consider emissions from sources in upwind areas to "contribute significantly" to that downwind area.

The EPA's decision is explained below for choosing the year 2007 as the date for assuming the implementation of controls and for modeling air quality.

The EPA proposes a similar analysis for purposes of the 8-hour NAAQS. The EPA will consider as "nonattainment" any area that has monitored nonattainment air quality currently, and for which modeling shows is likely to continue to be in nonattainment in the year 2007 after application of controls specifically required under the CAA.

After determining the scope of the downwind nonattainment problem, EPA must next analyze whether the emissions from sources in the upwind area "contribute significantly" to the nonattainment problem. As described below, EPA analyzed all NO_x emissions in specified upwind areas, made proposed determinations as to significant contributions based on the entire inventory of the area's NO_x emissions and is requiring SIP revisions that address overall levels of NO_x emissions. By contrast, EPA is not, in this rulemaking, determining whether particular sectors of the NO_x inventory "contribute significantly" and is not mandating controls on particular sectors of that inventory.

Neither the CAA nor its legislative history provides meaningful guidance for interpreting the term, "contribute significantly" (H.Rept. 101–491, 101st Cong., 2d sess., 1990, 218). The simpler part of the analysis concerns the term, "contribute." In EPA's view, if emissions have an impact on downwind nonattainment, those emissions should be considered to contribute to the nonattainment problem. Generally, because ozone is a secondary pollutant formed as a result of complex chemical reactions, it is not possible to determine downwind impact on a source-by-source basis. However, if air quality modeling shows that the aggregation of emissions from a particular geographic region affect a nonattainment problem, then all of the emissions in that region should be considered as contributors to that nonattainment problem.

Whether a contribution from sources in a particular upwind area is "significant" depends on the overall air quality context. The EPA is proposing a "weight of evidence" test under which several factors are considered together, but none of them individually constitutes a bright-line determination.

The EPA is proposing and soliciting comment on two alternative interpretations of section 110(a)(2)(D). Each of the two interpretations relies on a set of factors to make the determinations required under section 110(a)(2)(D). In addition, each of the two relies on the same factors. However, each relies on different factors in different parts of the analysis.

Under the first interpretation of section 110(a)(2)(D), the weight of evidence test for determining significant contribution focuses on factors concerning amounts of emissions and their ambient impact, including the nature of how the pollutant is formed, the level of emissions and emissions density (defined as amount of emissions per square mile) in the particular upwind area, the level of emissions in other upwind areas, the amount of contribution to ozone in the downwind area from upwind areas, and the distance between the upwind sources and the downwind nonattainment problem. Under this approach, when emissions and ambient impact reach a certain level, as assessed by reference to the factors identified above, those emissions would be considered to "contribute significantly" to nonattainment. The EPA would then determine what emissions reductions must be required in order to adequately mitigate these contributions. Evaluation of the costs of available measures for reducing upwind emissions enters into this determination, as well as to the extent known (at least qualitatively), the relative costs of, amounts of emission reductions from, and ambient impact of, measures available in the downwind areas. The EPA proposes to require upwind areas to implement a NO_x budget reflecting cost-effective controls that compare favorably, at least qualitatively, with the costs of controls downwind and that reduces ozone levels downwind.

Under the second interpretation of section 110(a)(2)(D), the weight of evidence test for determining significant contribution includes all of the factors identified immediately above, including the factors that comprise the adequate mitigation test. That is, the relevant factors concern upwind emissions and ambient impact therefrom, as well as the costs of the available measures for reducing upwind emissions and, to the extent known (at least qualitatively), the relative costs of, amounts of emissions reductions from, and ambient impact of measures available in the downwind areas. Thus, under this second interpretation, the cost effectiveness of controlling upwind emissions would be an important, but not necessarily a controlling factor in evaluating whether emissions meet the significant contribution test. As a result, EPA may conclude that a certain amount of the upwind emissions contributes significantly to downwind problems because, among other things, that amount may be eliminated through controls that are relatively more cost effective. However, EPA would not conclude that the remaining emissions contribute significantly because the additional available controls that might be implemented are not as cost effective. Under this second interpretation, once EPA determines what amount of emissions contribute significantly to problems downwind, the remedy would be for EPA to require the elimination of

that amount of upwind emissions and to determine the NO_X budgets accordingly.

Under either the first or second interpretation of section 110(a)(2)(D), EPA would be considering the relative costs and cost effectiveness of various controls in deciding how much each State would need to reduce its emissions. The methodology EPA would employ to reach this result under either interpretation is set forth more fully in sections II and III of today's action.

As discussed above, unhealthful levels of ozone result from emissions of NO_X and VOC from thousands of stationary sources and millions of mobile sources across a broad geographic area. Each source's contribution is a small percentage of the overall problem; indeed, it is rare for emissions from even the largest single sources to exceed 1 percent of the inventory of ozone precursors for a single metropolitan area. Under these circumstances, even complete elimination of any given source's emissions may well have no measurable impact in ameliorating the nonattainment problem. Rather, attainment requires controls on numerous sources across a broad area. Ozone is a regional scale problem that requires regional scale reductions.

The National Academy of Sciences (NAS) study, "Rethinking the Ozone Problem in Urban and Regional Air Pollution" (2) emphasized this aspect of ozone formation. According to this report, high concentrations of ozone occur concurrently in the Eastern United States in urban, suburban and rural areas on scales of over 1000 kilometers. The NAS report describes a "persistent blanket of high ozone in the Eastern United States" that can last for several days. Since rural ozone values commonly exceed 90 parts per billion (ppb) on these occasions, an urban area needs an ozone increment of only 30 ppb to cause an exceedance of the 1-hour ozone standard in a downwind area. Clearly, attainment strategies must include controls on numerous sources across broad areas.

In light of this "collective contribution" characteristic of ozone formation and control, EPA proposes that if contributions from an upwind area's emissions, taken together, are considered to be an important portion of the downwind area's nonattainment problem, then this factor tends to indicate that the upwind emissions as a whole, as well as each of the upwind emitters, make a "significant" contribution. The fact that emissions from any particular source, or even a group of sources, may in-and-of-themselves be small, does not mean those sources' emissions are not "significant" within the meaning of section 110(a)(2)(D). Those sources' emissions are generally "significant" if, when they are combined with emissions from other sources in the same upwind area, they total upwind emissions that are "significant." Even so, it should be noted that the collective contribution factor is only one of various factors that EPA proposes to consider in determining whether emissions from an area constitute a "significant" contribution to a downwind problem. The amounts of emissions from the area and, in certain cases, emissions density, remain important factors. Depending on all the facts and circumstances, these other factors may tend to indicate that emissions from a particular area should not be considered to contribute significantly, notwithstanding the fact that those emissions may be linked in some manner with emissions from other upwind areas that are considered to be significant contributors.

In several rulemakings promulgated and court decisions handed down, in the 1980's, EPA interpreted and applied the predecessors to sections 110(a)(2)(D) and 126 (e.g., *State of New York* v. *EPA*, 852 F.2d 574 (D.C. Cir. 1988); *Air Pollution Control District of Jefferson County, Kentucky* v. *EPA*, 739 F.2d 1071 (6th Cir. 1984); *Connecticut* v. *EPA*, 696 F.2d 147 (2d Cir. 1982)). Although these rulemakings and court decisions generally employed multifactor formulas for the "significant contribution" test that bear some similarity to the formula EPA is proposing today, they have limited relevance to the issues in the present rulemaking because of the numerous differences in the relevant factors. For example, in the earlier rulemakings compared to the present rulemaking, the pollutants and precursors are different, and the inventories of emissions and number of emitters in the upwind and downwind areas are different. The significant contribution test is a facts-and-circumstances analysis that depends on these factors, and differences among these factors may yield different results under this test. Accordingly, the differences in the key factors between the earlier decisions and today's proposal means that those earlier decisions are not determinative for today's proposed action.

For purposes of today's rulemaking, EPA determined the amount of contribution to downwind air quality, under both the 1-hour NAAQS and the 8-hour NAAQS, by employing an air quality model that assumed a zero level of anthropogenic emissions from the various upwind areas. The results of those model runs, as well as their other assumptions and characteristics, are described in detail below.

As described below, EPA made separate determinations as to which upwind areas "contribute significantly" to nonattainment under the 1-hour NAAQS and under the 8-hour NAAQS. Those separate determinations resulted in identifying the same States for both the 1-hour and the 8-hour NAAQS.

c. Interfere with Maintenance. Section 110(a)(2)(D) also prohibits emissions that "interfere with maintenance" of the NAAQS in a downwind State. An area is obligated to maintain the NAAQS after the area has reached attainment. This requirement of section 110(a)(2)(D) does not, by its terms, incorporate the qualifier of "significantly." Even so, EPA believes that for present purposes, the term "interfere" should be interpreted much the same as the term "contribute significantly," that is, through the same weight of evidence approach.

With respect to the 1-hour NAAQS, the "interfere-with-maintenance" prong appears to be inapplicable. The EPA has determined that the 1-hour NAAQS will no longer apply to an area after EPA has determined that the area has attained that NAAQS. Under these circumstances, emissions from an upwind area cannot interfere with maintenance of the 1-hour NAAQS.

With respect to the 8-hour NAAQS, the "interfere-with-maintenance" prong remains important. After an area has reached attainment of the 8-hour NAAQS, that area is obligated to maintain that NAAQS (sections 110(a)(1) and 175A). Emissions from sources in an upwind area may interfere with that maintenance.

The EPA proposes to apply much the same approach in analyzing the first component of the "interfere-with-maintenance" issue, which is identifying the downwind areas whose maintenance of the NAAQS may suffer interference due to upwind emissions. The EPA has analyzed the "interfere-with-maintenance" issue for the 8-hour NAAQS by examining areas whose current air quality is monitored as attaining the 8-hour NAAQS, but for which air quality modeling shows nonattainment in the year 2007. This result is projected to occur, notwithstanding the imposition of certain controls required under the CAA, because of projected increases in emissions due to growth in emissions generating activity. Under these circumstances, emissions from upwind areas may interfere with the downwind area's ability to maintain the 8-hour NAAQS. Ascertaining the impact on the

downwind area's air quality of the upwind area's emissions aids in determining whether the upwind emissions interfere with maintenance.

d. Remedying the Significant Contribution. After identifying States whose sources do "contribute significantly" to a nonattainment problem or interfere with maintenance downwind, it is necessary to determine the appropriate limit on emissions required in each upwind SIP. The EPA is proposing, in the alternative, two different analyses for the remedies which are tied to the two alternatives for the "weight of evidence" test.

i. Adequate Mitigation. Under the first interpretation of section 110(a)(2)(D), EPA does not consider costs in determining whether upwind emissions contribute significantly to nonattainment or interfere with maintenance. Instead, once EPA determines, on the basis of factors generally related to emissions, that those emissions do contribute significantly to nonattainment (or interfere with maintenance), EPA then determines what emissions reductions must be required in order to adequately mitigate these contributions. Evaluation of relative costs enters into this determination.

Adequate mitigation would amount to eliminating a sufficient portion of the upwind emissions so that they no longer contribute significantly to nonattainment or interfere with maintenance.

In the present case, EPA proposes to determine an allowable level of NO_X emissions for each of the 23 jurisdictions with sources that trigger the requirements of section 110(a)(2)(D). Given the need to reduce this overall regional level of ozone, as discussed earlier, EPA determined this "budget" of emissions by, in the first instance, calculating the emissions achievable by applying the most reasonable, cost-effective controls on NO_X emissions in the 23 jurisdictions. The control measures considered and those determined to be the most reasonable and cost-effective are detailed below. In selecting those control measures determined to be the most reasonable and cost-effective, EPA carefully considered the recommendations made by OTAG on July 8, 1997. (The OTAG process is described in section I.F. of this rulemaking.) The budget calculations described below generally fall within the range of OTAG's recommendations.

The statewide emissions budgets proposed in this rulemaking were not modeled directly to determine their air quality benefits. The EPA believes, however, that the air quality impact of implementing these reductions would be very similar to results previously modeled by OTAG. This modeling is identified in section IX, Air Quality Analyses. The downwind air quality benefits from these reductions are sufficient for EPA to conclude that they would adequately mitigate the contribution from the upwind sources.

ii. Elimination of Contribution. Under the second interpretation of section 110(a)(2)(D), costs are considered as part of the calculation as to what (if any) amount of emissions contribute significantly to nonattainment or interfere with maintenance. The EPA proposes to determine those amounts for each State by considering the factors described above and the extent to which the State's emissions can be reduced through the most cost-effective controls that reduce ozone levels downwind. Once EPA makes this determination, EPA would conclude that requiring those cost-effective controls is mandated under the provisions of section 110(a)(2)(D) that require SIP provisions "prohibiting" that amount of emissions. Thus, under this alternative interpretation, a SIP meets the requirement for "prohibiting" emissions that contribute significantly to nonattainment, or interfere with maintenance, downwind, by implementing cost-effective controls determined to improve air quality downwind.

iii. Comparison of the Two Legal Interpretations of Section 110(a)(2)(D). The EPA solicits comments on which of the two legal interpretations of section 110(a)(2)(D), as described above, should be used. Each interpretation relies on the same factors (although certain factors enter into different parts of the analysis under the two interpretations). Because each relies on the same factors, there is little technical difference between the two interpretations. Each requires the same determinations as to, for example, the ambient impact of upwind emissions and the cost effectiveness of controls.

Moreover, as proposed in today's action, each interpretation leads to the same conclusion as to which States are considered to have emissions that significantly contribute to downwind problems, and as to the amounts of NO_X budgets that those States should meet.

However, the two interpretations have different legal justifications. As noted above, section 110(a)(2)(D) provides that the SIP for the upwind area must "contain adequate provisions * * * prohibiting * * * [sources] from emitting any air pollutant in amounts which will * * * contribute significantly to nonattainment in, or interfere with maintenance by, any other State * * *" Under the first interpretation, EPA may determine that a relatively larger inventory of emissions contributes significantly to nonattainment (or interferes with maintenance) in light of the fact that the costs of controlling those emissions are not considered in determining significant contribution. The EPA would then require adequate mitigation of the full set of emissions that contribute to nonattainment or interfere with maintenance.

Other relevant provisions indicate that the CAA could be construed to require mitigation, and not necessarily complete elimination, of emissions that contribute to air quality problems downwind. Section 110(k)(5) authorizes the Administrator to promulgate a SIP call whenever she finds that a SIP is "substantially inadequate to attain or maintain the relevant [NAAQS], *to mitigate adequately the interstate pollutant transport described in section 176A or 184*, or to otherwise comply with any requirement of this Act" (emphasis added). Section 176A describes interstate transport of air pollutants generally, and section 184 describes ozone transport in the northeast region in particular, which constitutes part of the transport phenomenon at issue in today's proposal. Section 176A authorizes the creation of a transport region when emissions from one or more States contribute significantly to a NAAQS violation in another State and further authorizes a transport commission to, among other things, assess strategies for mitigating the interstate pollution. These provisions, read together, indicate that adequate mitigation of transport is an appropriate response to a SIP call. Arguably, this interpretation should hold when EPA issues a SIP call based on section 110(a)(2)(D), and when EPA mandates a SIP revision under section 110(a)(1), based on section 110(a)(2)(D).

The second interpretation focuses on the provisions of section 110(a)(2)(D) that the SIP must include provisions to "prohibit" any emitting activity from emitting in "amounts" that contribute significantly to downwind nonattainment or interfere with maintenance. The EPA has determined the States whose full set of NO_X emissions contribute markedly to downwind problems. The term "prohibit" could be interpreted to require EPA, upon finding that a State's full set of emissions "contribute significantly" to nonattainment, must then require the SIP to eliminate that full set of emissions. This construction

could mean that EPA must require the State to shut down all of the emission-generating activities. It is doubtful Congress would have intended this result.

The EPA's second interpretation avoids this possible result by taking into account the relative cost effectiveness of the upwind and downwind controls in defining the "amounts" of emissions in each State that contribute significantly to the downwind problem. Once EPA has set those "amounts" in light of its consideration of the cost factors, the SIPs for the affected States would then need to prohibit only those amounts.

iv. Other Issues. States will have the flexibility to choose their own mix of control measures to meet the proposed statewide emissions budgets. That is, States are not constrained to adopt measures that mirror the measures EPA used in calculating the budgets. In fact, EPA believes that many control measures not on the list relied upon to develop EPA's proposed budgets are reasonable—especially those like enhanced vehicle inspection and maintenance programs that yield both NO_x and VOC emissions reductions. Thus, one State may choose to primarily achieve emissions reductions from stationary sources while another State may focus emission reductions from the mobile source sector. Furthermore, States may choose to pursue cost-effective energy efficiency opportunities as a means to reduce the control measures necessary to meet their statewide emission budgets.

e. Control Implementation and Budget Attainment Dates. The EPA proposes to require that the SIP revisions impose an implementation date for the required controls of 3 years from the date of the required SIP submission, which would result in compliance by those sources by no later than September 2002. However, the EPA is soliciting comments on the range of implementation dates from between September 2002 and September 2004. The EPA seeks comment on which date within this 2-year range is appropriate, in light of the feasibility of implementing controls and the need to provide air quality benefits as expeditiously as practicable. The EPA is proposing an implementation date of September 2002 in order to allow coordination of this rulemaking with its response to 8 section 126 petitions which are discussed below in section I.E, Section 126 Petitions. Although the EPA's actual proposed compliance date is September 2002, because the Agency is seeking comment on a range from September 2002 to September 2004, the Agency refers to the range of implementation dates throughout this rulemaking. The EPA further proposes that States be required to meet the mandated budgets by the end of the year 2007, by which time additional reductions from various Federal measures will also be achieved.

The EPA believes that requiring implementation of the upwind controls, and thereby mandating upwind reductions, by no later than these 2002–4 dates, is consistent with the attainment schedule for the downwind areas. Because the downwind areas depend on upwind reductions to reach attainment, mandating upwind controls on a schedule consistent with downwind attainment requirements is appropriate.

A review of the attainment schedule under the 1-hour NAAQS would be useful. Under the attainment schedule, serious areas are required to attain by the end of 1999, severe-15 areas are required to attain by the end of 2005, and severe-17 areas are required to attain by the end of 2007 (section 181(a)(1)). If a serious area fails to meet its 1999 attainment date, it is to be reclassified ("bumped up") to severe-15 (section 181(b)(2)). However, an area may fail to reach attainment by its attainment date, but avoid bump up, if EPA grants a 1-year extension. An area is eligible for a 1-year extension if, among other things, it has no more than one exceedance of the NAAQS in the attainment-date year. The EPA may grant another extension for the next year under the same conditions (section 181(a)(5)). If an area receives two 1-year extensions, it may reach attainment in the following year (the second year after the attainment-date year) if, again, it has no more than one exceedance of the NAAQS. Under these circumstances, the area will have had no more than three exceedances over a 3-year period (the attainment-date year and the 2 next years), which would qualify it for attainment under the 1-hour NAAQS. The EPA has indicated that once it determines that an area has achieved air quality that satisfies the 1-hour NAAQS, the NAAQS will be rescinded with respect to that area.

Although controls on upwind emissions are designed to assist downwind nonattainment areas in reaching the NAAQS, EPA is aware that at this point, it is not possible for EPA to mandate controls on upwind areas within the OTAG region in sufficient time to help serious areas reach attainment by their end-of-1999 attainment date. The amount of time that is necessary to assure that the rulemaking proposed today is well considered by all affected parties, added to the amount of time necessary for the States to adopt the required SIP revisions, and the amount of lead-time necessary to implement the required controls, means that those controls cannot be expected to be in place in time to assist the serious areas in reaching their attainment date.

The next attainment date is 2005, which applies to severe-15 areas, such as the Baltimore area, and which would apply to any serious area that is bumped up. The EPA's proposal to require upwind controls to be implemented by no later than September 2004—in time for the beginning of the ozone season for the affected States—is sensible in light of this 2005 attainment date. Implementing controls earlier than September 2004, or at least phasing in some controls, if not all of them, prior to that date, would improve the chance for minimizing exceedances during the 3-year period up to, and including, 2005, which will facilitate reaching attainment as of this date. In particular, to the extent that the State chooses controls on major stationary sources of NOx, EPA believes it would be feasible to implement some of those controls earlier than September 2004. However, EPA is aware that implementation of controls for other sources may be more problematic. The EPA solicits comments on what dates within the range of 3 to 5 years of the required SIP submission would be appropriate for implementation of the controls.

Full implementation by no later than September 2004 would mean that all of the upwind controls required under the rulemaking proposed today would be in place as of the November 15, 2005 attainment date for the downwind severe-15 areas. Failure to implement those controls prior to September 2004 may mean that the downwind area may record too many exceedances in the 3-year period prior to the end of 2005, so that it would not be possible to reach attainment as of that time. However, implementation of these reductions by September 2004, coupled with any necessary additional reductions from the downwind sources, may result in no more than one exceedance in the downwind area during the attainment year and during each of the next 2 years thereafter. Under these circumstances, the downwind area would be eligible for the 1-year extensions described above and would reach attainment by the year 2007.

Similarly, full implementation by September 2004 would mean that severe-17 areas would receive the benefit of reduced upwind emissions during the 3-year period up to, and including, their 2007 attainment year. In the OTAG region, the severe-17 areas include the Philadelphia, New York, Milwaukee, and Chicago areas. These reductions should greatly assist the downwind areas in reaching attainment by the end of 2007.

An implementation date of between September 2002 September 2004 is also consistent with the attainment date scheme for the 8-hour NAAQS. The EPA intends to promulgate designations for areas under the 8-hour NAAQS by the year 2000. The CAA provides for attainment dates of up to 5 years or 10 years after designation. Therefore, the first attainment date for many areas under the 8-hour standard could be 2005. Section 172(a)(2)(C) has a two, 1-year extension scheme applicable for areas under the 8-hour NAAQS that is similar to that described above, under section 181(a)(5), applicable to areas under the 1-hour NAAQS. Accordingly, full implementation of mandated SIP controls in the upwind areas by no later than September 2004 may allow downwind areas to reach attainment of the 8-hour NAAQS by 2007, counting the two 1-year extensions in the same manner as for severe-15 areas under the 1-hour NAAQS. In addition, the EPA believes that compliance no later than September 2004 by the utility and nonutility sector, with the emission limits assumed in setting the emission budgets or application of controls to other source categories, is feasible.

Further, EPA notes that the September 27, 1994 OTC NO_x Memorandum of Understanding (MOU) provides that large utility and nonutility NOx sources should comply with the Phase III controls by the year 2003. The levels of control in the MOU are 75 percent or 0.15 lb/10^6 btu in the inner and outer zones, levels comparable to the controls assumed in setting the budget for this rulemaking. In addition, in comments to EPA's proposed Phase II NOx reduction program under the Acid Rain provisions of the CAA [3], the Institute of Clean Air Companies (ICAC) stated that more than sufficient vendor capacity existed to supply retrofit of selective catalytic control to the boilers affected by the proposed rule. The ICAC in fact indicated that additional catalyst capacity could be added if needed.

Although EPA is proposing today that SIPs mandate implementation of the required SIP controls by a date within a range of September 2002 and September 2004, EPA is also proposing that the affected States demonstrate achievement of their NO_x budgets as of the end of the year 2007. In addition, EPA used the 2007 date to analyze for modeling purposes the impact of upwind emissions on nonattainment air quality. Using the 2007 date means that the States will be able to account for the additional reductions from Federal measures occurring between the date that SIP controls are implemented and the end of 2007, although the State must also account for growth in emissions during this time. Using the 2007 date is sensible in part because OTAG used this date for these purposes and compiled substantial technical information—such as information concerning inventories—based on this date. It is, therefore, efficient for EPA to use this same information. Developing comparable information for an earlier date would be time consuming and resource intensive. In addition, it is uncertain that there would be significant differences in amounts of emissions and impact on ambient air quality between an earlier date and 2007, in light of the fact that during this period, emissions would generally increase somewhat as a result of growth in activities that generate emissions, but would also decrease due to continued application of federally mandated controls. Accordingly, requiring accounting for a budget as of the 2007 date is both practicably indicated and is a reasonable surrogate for requiring this accounting as of September 2004.

E. Section 126 Petitions

The EPA has received section 126 petitions from eight States: Connecticut, Maine, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island and Vermont. The petitions vary as to the type and geographic location of sources they identify as meriting a finding of significant contribution. The petitions also vary as to the levels of controls they recommend. In addition, EPA has received a petition from the State of Wisconsin asking EPA to promulgate a SIP call under section 110(k)(5) requiring the States of Illinois, Indiana, Iowa, Kentucky and Missouri to submit SIP revisions addressing the purported impact of their emissions on Wisconsin. By letter dated August 8, 1997, from Mary D. Nichols, Assistant Administrator for Air and Radiation, to Michael J. Walls, Chief, Environmental Protection Bureau, Office of the Attorney General, State of New Hampshire, EPA provided technical guidance concerning section 126 petitions. The EPA is now studying the petitions and will prepare a notice(s) of proposed rulemaking to grant or deny them.

The EPA's response to a section 126 petition differs from today's action in several ways. Today's action is a proposed SIP call under section 110(k)(5) for SIP provisions meeting the requirements of section 110(a)(2)(D) for the 1-hour ozone NAAQS, coupled with a proposed requirement under section 110(a)(1) for submission of SIP provisions meeting the requirements of section 110(a)(2)(D) for the 8-hour ozone NAAQS. The EPA bases this action on a technical analysis as to whether the entire NO_x emissions inventory of an individual upwind State contributes significantly to an ozone nonattainment problem downwind. If EPA concludes that the NO_x emissions from that State make such a significant contribution, EPA will require the State to submit SIP provisions that limit the State's NO_x emissions to the level mandated by EPA, but through any combination of measures affecting any sector of the inventory chosen by the State. If the State does not make the required submission, EPA may, among other things, promulgate a FIP in accordance with section 110(c).

By comparison, a section 126 petition, by the terms of section 126(b)–(c), is limited to upwind major stationary sources and not other sectors of the upwind emissions inventory. Moreover, a section 126 petition may seek a finding concerning upwind sources in more than one State. Further, if EPA grants the petition, it is EPA, and not the States, that promulgates direct controls for the major sources.

The EPA's response to section 126 petitions would bear relevance to today's action. The section 126 petitions and section 110(k)(5)/110(a)(1) action both require technical analysis of whether upwind sources contribute significantly to a downwind nonattainment or maintenance problem. However, EPA's section 110(k)(5)/110(a)(1) action results in a mandate for the States to submit SIP revisions that conform to only minimum guidance provided by EPA. On the other hand, the section 126 petitions, if granted, would result in EPA selection and imposition of controls directly on major stationary sources. These controls could provide a template for the SIP provisions the States must include in their rulemaking response to EPA's section 110(k)(5)/110(a)(1) rulemaking or, if necessary, a FIP.

EPA believes that both the 110 process as outlined and 126 petition processes are aimed at addressing regional transport of ozone forming pollutants and can be fully coordinated. The 110 process outlined provides the potential to deal comprehensively with

[3] Letter of January 29, 1997 from Jeffrey C. Smith, Executive Director, Institute of Clean Air Companies, to Docket No. A–95–28: Acid Rain Program, Nitrogen Oxides Emission Reduction.

transported pollutants that contribute significantly to downwind nonattainment, and importantly, allows individual States to make choices about cost-effective source controls best fitting their unique State situations. The 126 petition process provides assurance to petitioning States that upwind sources of air pollution will be addressed in a timely manner. Thus, each of these processes may provide important and complementary tools to address the regional ozone transport problem.

Over the next several months, EPA will be working with the affected States to ensure these two processes are fully coordinated. This will provide maximum certainty for State and business planning requirements. The EPA's goal in this effort will be to ensure that States achieve the air quality reductions EPA determines through rulemaking are necessary to address regional transport while providing the maximum flexibility to those States in identifying the appropriate means to meet those goals.

F. OTAG Process

The OTAG has completed the most comprehensive analysis of ozone transport ever conducted. The process has resulted in more technical information being gathered and more modeling and monitoring analyses on regional ozone transport than ever before. The OTAG process was fundamentally different from previous efforts undertaken by the Federal Government and the States to assess and solve air pollution problems. What was unique about the multistate, multistakeholder OTAG process is that for the first time, the Federal Government has looked to the States involved to provide the necessary technical information and to aid in determining an outcome which has local, regional and national implications.

The OTAG was organized into a number of subgroups and work groups that included members from the States, EPA, industry and environmental groups. The OTAG's Policy Group, comprised of the State Environmental Commissioners, provided overall direction to its subgroups for the assessment of ozone formation and transport, as well as the development of control strategies that will reduce concentrations of ozone and its precursors. The subgroups within OTAG addressed issues relating to emissions inventories, monitoring, modeling, and evaluated the availability, effectiveness, and costs of potential national, regional and local air pollution control strategies. Specific issues such as trading and market-based incentives were also addressed.

The OTAG's initial meetings were on May 18, 1995, in Reston, VA, and June 19, 1995, in Washington, DC. The OTAG continued to meet regularly for 2 years until their final meeting in Washington, DC on June 19, 1997. The goal of OTAG was to:

• • • identify and recommend a strategy to reduce transported ozone and its precursors which, in combination with other measures, will enable attainment and maintenance of the national ambient ozone standard in the OTAG region. A number of criteria will be used to select the strategy including, but not limited to, cost effectiveness, feasibility, and impacts on ozone levels. (1)

To meet its goal, OTAG used technical information from air quality analyses and photochemical modeling. The OTAG modeled three rounds of emission reduction scenarios and strategies, including varying control measures geographically. The first round of modeling was performed during September and October 1996 and provided an initial evaluation of possible OTAG emission reduction scenarios. The second round was performed during November and December 1996 and refined the emission reduction level for the strategies. The third round was performed during January through March 1997 and evaluated the geographic applicability of the OTAG strategies. These geographic modeling runs provided information on applying different levels of controls on utilities and nonutility point sources at incremental steps. Round-3 also included a limited number of additional modeling runs needed to address comments made by a number of States related to the geographical boundaries of the zones defined for round-3 modeling. The OTAG modeling results are discussed in section II, Weight of Evidence Determination of Significant Contribution, and are also available on the OTAG webpage. This modeling, along with other OTAG-generated information, provided the technical information necessary to make recommendations to the Policy Group and to EPA on what is needed to meet the OTAG goal. The EPA received OTAG's final recommendations on July 8, 1997. These recommendations are included in Appendix B.

II. Weight of Evidence Determination of Significant Contribution

A. Introduction

This section documents the technical information and analyses for the factors concerning emissions and contributions to ambient air quality that EPA uses to determine which States in the OTAG domain make a significant contribution to nonattainment in downwind States.[4] To a large extent, this assessment is based upon the results of OTAG modeling and air quality analyses as well as information from other non-OTAG modeling studies. The OTAG modeling available for this analysis includes a set of initial emissions sensitivity runs, the regional strategy runs in rounds 1, 2, and 3, and the geographic sensitivity runs performed to support the design of strategies in round-3.

B. Background Technical Information

The importance of interstate transport to the regional ozone problem and contributions from upwind States to downwind States is supported by numerous studies of air quality measurements and modeling analyses. In general, ozone episodes can occur on many spatial and temporal scales ranging from localized subregional events lasting a day or 2, up to regionwide episodes lasting as long as 10–14 days. The frequency of localized versus regional episodes depends on the characteristics of the large-scale meteorological patterns which control the weather in a particular summer season. Local controls alone are not sufficient to reduce ozone during regionwide episodes since a substantial amount of ozone may be transported into the area from upwind sources. The National Research Council report, "Rethinking the Ozone Problem in Urban and Regional Air Pollution", (2) cites numerous studies of widespread ozone episodes during summertime meteorological conditions in the East. These episodes typically occur when a large, slow-moving, high pressure system envelopes all, or a large portion of, the Eastern United States. The relatively clear skies normally associated with such weather systems favor high temperatures and strong sunlight, which enhances the formation of high ozone concentrations. In addition, the wind flow patterns can lead to a build up of ozone concentrations and the potential for long-range ozone transport. Specifically, winds are generally light in the center of high pressure systems so that areas

[4] Under the two alternative interpretations of section 110(a)(2)(D) that EPA is proposing today, if upwind emissions meet the factors related to emissions and contribution to ambient air quality, EPA would conclude either that the emissions significantly contribute to a nonattainment problem, or the emissions may significantly contribute, depending on further analysis of other factors, including costs.

under the center may have near-stagnation conditions resulting in the formation of high ozone levels. As the high pressure system moves eastward, winds become stronger on the "backside" which increases the potential for these high ozone levels to be transported to more distant downwind locations. Over several days, the emissions from numerous small, medium and large cities, major stationary sources in rural areas, as well as natural sources, combine to form a "background" of moderate ozone levels ranging from 80 to 100 ppb (2) of which 30 to 40 ppb may be due to natural sources. Concentration levels in the range of 80 to 100 ppb and higher have also been measured by aircraft aloft, upwind of the Lake Michigan area (3), as well as the Northeast Corridor (4). Because this level of background ozone is so close to the NAAQS, even a small amount of locally-generated ozone will result in an exceedance.

The importance of the episodic meteorological conditions is heightened by the spatial distribution of emissions across the region. The EPA has examined the State total emissions and emissions density projected by OTAG to 2007, as described in section B.2, OTAG Strategy Modeling. Both of these measures of emissions (i.e., total and density) are important considerations for ozone formation. Total emissions indicate the amount of mass emitted by a State while emissions density indicates the degree to which those emissions are concentrated within the State and provides a way to compare emissions between geographically large and small States on a more equivalent basis. The State total emissions in Table II–1 indicate that there is no single State or group of adjacent States that stand out as the major contributors to the total manmade emissions in the OTAG region. Rather, many States in the Midwest, Northeast and Southeast have high levels of emissions. For example, Illinois, Indiana, Ohio, Kentucky, Michigan, Pennsylvania, New York, Alabama, Georgia, Florida, North Carolina and Tennessee each have total NO_X emissions exceeding 1000 tons per day. Even some other smaller States like Connecticut, Delaware, Maryland, Massachusetts, and Rhode Island, along with the District of Columbia, have a high spatial density of NO_X emissions as indicated in Table II–2. Thus, considering the distribution of emissions, a broad range of emissions from many States contribute to the regional background ozone during episodic meteorological conditions. In this situation, there is a cumulative effect in that the thousands of stationary sources and millions of motor vehicles throughout the OTAG region collectively cause downwind contributions as they generate emissions and those emissions interact over multiple days.

1. OTAG Modeling Process

As described in the OTAG Modeling Protocol (5), state-of-the-science models and data bases were used in OTAG for simulating the physical and chemical processes involved in the formation and transport of ozone and precursor species over multiday episodes and regional scales. As such, the OTAG modeling system provides the most complete, scientifically-credible tools and data available for the assessment of interstate transport. All of the OTAG model runs were made for an area covering a large portion of the Eastern United States, as shown in Figure II–1. This area includes all or portions of 37 States, the District of Columbia and southern Canada. In general, the OTAG "modeling domain" (*i.e.*, OTAG region) was set large enough to encompass the widespread spatial extent of high ozone levels measured during multiday episodes in the eastern half of the United States. As such, the domain is designed to handle the synoptic (*i.e.*, large) scale meteorological conditions associated with regional transport and to include the major emissions source areas in the East. The horizontal grid configuration used by OTAG (see Figure II–1) includes a "Fine Grid" at 12 km resolution "nested" within a "Coarse Grid" at 36 km resolution. The size and location of the "Fine Grid" was determined based on the location of areas with high ozone concentrations, the geographic variations in emissions density, the meaningful resolution of some model inputs, computer hardware limitations, and model run times. As described in section B.3, OTAG Geographic Modeling, OTAG applied different levels of controls in the "Fine Grid" versus the "Coarse Grid" as part of the round-3 modeling.

Four specific episodes were selected by OTAG for model simulations in order to provide information on a range of meteorological conditions which occur during periods of elevated ozone levels. These episodes are: July 1–11, 1988; July 13–21, 1991; July 20–30, 1993 and July 7–16, 1995. Each of these episodes represents somewhat different episodic characteristics in terms of transport patterns and the spatial extent of high ozone concentrations in the East (6). The 1988 and 1995 episodes featured high ozone concentrations in the Northeast, Midwest, and Southeast with wind regimes that provided the meteorological potential for intra- and inter-regional transport. During the 1991 episode, high ozone was confined mainly to the northern portion of the OTAG domain, whereas the 1993 episode was a "Southeast" episode with relatively low ozone levels outside this region. It should be noted that none of the OTAG episodes include extensive periods of high ozone in the far western portions of the domain nor in areas along the gulf coast.

As part of OTAG, an objective evaluation of model predictions was conducted for each of these four episodes in order to determine the performance of the modeling system for representing regional ozone concentration levels. This evaluation focused on a number of statistical metrics comparing predicted ozone to ground-level ozone measurements (7). The results indicate generally good agreement between simulated and observed values. Most importantly, areas of predicted high ozone correspond to areas of observed high ozone. However, a few relatively minor concerns were found, such as:

- A tendency to underestimate concentrations in the North and overestimate concentrations in the South;
- Concentrations at night are somewhat underestimated relative to daytime predictions;
- Low observed concentrations tend to be overestimated and higher observed values tend to be underestimated; and
- Concentrations at the start of the episode tend to be underestimated with a tendency for concentrations at the end of the days in the 1991 and 1995 episodes to be overestimated.

The success of the model for predicting pollutant concentrations aloft is also important from a transport perspective. During the day, when the atmosphere is "well mixed," ground-level ozone values can serve as a good measure of both local formation and transport. However, at night, ozone is depleted in a very shallow layer near the ground due to deposition and nighttime chemical reactions. Thus, during the overnight and early morning, ground-level measurements and predictions do not adequately reflect pollutant transport. Aircraft-measured pollutant data and model predictions during these periods indicate moderate to high levels of ozone aloft which can then mix down during the day and further elevate ground-level concentrations. A limited amount of measured data aloft are available from non-OTAG field studies for several of the days in the 1991 and 1995 episodes. An initial comparison of these data to

the model predictions (6) indicates that model performance aloft is not as good as for ground-level ozone. In general, the model tends to underestimate ozone aloft. This suggests that the model may somewhat underestimate the amount of ozone transport aloft, especially overnight into the early morning hours. Thus, the contribution of upwind source regions to ozone levels in downwind areas may actually be greater than estimated by the model.

2. OTAG Strategy Modeling

The OTAG strategy modeling was conducted in several phases. In each phase, the effects on ozone[5] of various changes in emissions were examined relative to a future-year baseline. This baseline reflects the projection of emissions from 1990 to 2007. Included in the 2007 baseline are the net effects of growth and specific control programs prescribed in the 1990 Amendments. The control measures included in the 2007 baseline are listed in Table II–3. Overall, domainwide emissions of NO_X in the 2007 baseline are approximately 12 percent lower than 1990 while emissions of VOC are approximately 20 percent lower. The procedures for developing the 1990 base inventory and the 2007 baseline are described by Pechan (8). The key findings (6) from comparing the model predictions for the 2007 baseline to the 1990 base case scenario are:

- Ozone levels are generally reduced across most of the region, including nonattainment areas;
- Some increases in ozone are predicted in areas where higher economic growth is expected to occur, especially in the South;
- Ozone levels aloft along regional "boundaries" are reduced, but average concentrations above 100 ppb and peak concentrations above 120 ppb are still predicted on several days; and
- Ozone concentrations above the 1-hr and/or 8-hr NAAQS may still occur in the future under similar meteorological conditions in many of the counties currently violating either or both of these NAAQS.

The 2007 baseline emissions were reduced in an initial set of sensitivity modeling performed to assess several broad strategy-relevant issues. All of these model runs involved "across-the-board" emissions reductions (i.e., no source category-specific reductions). The results (6) of these simulations are as follows:

- Regional reductions in NO_X emissions decrease ozone across broad portions of the region including ozone in areas violating the NAAQS;
- Regional reductions in VOC emissions decrease ozone in and near the core portions of urban areas with relatively small regional benefits;
- Both elevated and low-level NO_X reductions decrease ozone concentrations;
- NO_X reductions can produce localized, transient increases in ozone (mostly due to low-level, urban NO_X reductions) in some areas on some days; most increases occur on days and in areas where ozone is low (i.e., below the NAAQS);
- NO_X plus VOC reductions lessen ozone increases in urban areas, but provide little additional regional benefits compared to NO_X-only reductions; and
- The magnitude and spatial extent of changes in 8-hour ozone concentrations are consistent with the changes predicted in 1-hour concentrations.

Based upon the findings of the sensitivity runs, OTAG subsequently developed and simulated source-specific regionwide control strategies in two rounds of modeling. These strategies were derived from a range of control measures applied to individual source categories of VOC and NO_X (8). The controls were grouped into various levels of relative "stringency" as listed in Tables II–4a and II–4b. The round-1 and round-2 modeling consisted of strategies that contained various combinations of controls from the least (level "0") to most stringent (level "3") for each source category. The control levels and domainwide emissions associated with these strategies are given in Tables II–5a and II–5b.

The round-1 modeling was a "bounding analysis" with runs that ranged from the lowest level of control on all source categories (Run 1) to the highest level of control on all sources (Run 2). Runs 3 and 4b were included to isolate the effects of the most stringent OTAG controls on utilities only, versus this level of control on the other source categories. In the round-2 modeling, eight runs were simulated to examine the relative benefits of progressively increasing the level of control on utilities, under two alternative levels of control applied to area, nonroad and mobile sources. The results (6) of the round-1 and round-2 modeling are given in Table II–6.

The findings from the round-1 and round-2 OTAG strategy modeling which are particularly relevant to this analysis are:

- Clean Air Act programs will likely provide a reduction in ozone concentrations in many nonattainment areas; however, some areas currently in nonattainment will likely remain nonattainment in the future and new 8-hr nonattainment and/or maintenance problem areas may develop as a result of economic growth in some areas;
- NO_X reductions from elevated and low-level sources are both beneficial when considered on a regional basis; and
- Further mitigation of the ozone problem will require regional NO_X-oriented control strategies in addition to local VOC and/or NO_X controls necessary for attainment in individual areas.

3. OTAG Geographic Modeling

In the round-1 and round-2 strategy modeling, controls were applied across the entire domain. In round-3, controls were applied on a geographic basis in order to assess the relative effects of different strategies in various portions of the region. Prior to developing these strategies, a series of sensitivity tests was conducted by OTAG to provide information on the spatial scales of transport in order to help determine where to apply various levels of control. The most relevant tests are the "subregional" modeling and the "rollout" modeling. The base case for these tests was the 2007 baseline scenario. In the subregional modeling, the domain was divided into the 12 subregions shown in Figure II–2. For one set of subregional modeling, all anthropogenic emissions were eliminated from each subregion, individually in separate model runs. These runs, called the "zero-out" subregional scenarios, were performed for the 1988 and 1995 episodes. In a second set of subregional modeling, emissions were reduced, but not eliminated in each subregion. The level of reductions were 60 percent for elevated point-source NO_X emissions, 30 percent from all other sources of NO_X, and 30 percent from all sources of VOC. These runs are referred to as the "5c" subregional scenarios. The "5c" scenarios were run for most, but not all, subregions for the 1988, 1991 and 1995 episodes. In addition to looking at individual subregions, there were runs for 1988 and 1991 which applied the "5c" reductions in subregions 5, 6, and 9 (Figure II–2) combined in order to determine the relative impacts of expanding the size of the area of emissions reductions.

In the rollout modeling, the "5c" emissions reductions were applied first within selected areas and, then, outward in incremental steps (rollouts) of approximately 200 km from these areas, in subsequent runs. Three major nonattainment areas in the region (Atlanta, the Lake Michigan Area, and New York City) were selected by OTAG for this type of modeling.

The results (6) of the OTAG geographic modeling indicate the following:

- Emissions reductions in a given multistate region/subregion have the most effect on ozone in that same region/subregion;
- Emission reductions in a given multistate region/subregion also affect ozone in downwind multistate regions/subregions;
- Downwind ozone benefits decrease with distance from the source region/subregion (i.e., farther away, less effect);
- Downwind ozone benefits increase as the size of the upwind area being controlled increases, indicating that there is a cumulative benefit to extending controls over a larger area; and
- Downwind ozone benefits increase as upwind emission reductions increase (the larger the upwind reduction, the greater the downwind benefits).

The round-3 strategies were based in large part on the results of the geographical sensitivity runs. The cornerstone of round-3 was a set of geographic "zones" (see Figure II–3) which was used to vary the level of control across the OTAG region. For the most part, OTAG focussed the round-3 controls on zones in the "Fine Grid." This was based upon an analysis indicating that, in general, the greatest potential for regional transport leading to inter-state impacts of concern occurs within the "Fine Grid" portion of the OTAG region. The individual zones were used to differentiate the impacts of controls in and close to the three major 1-hour nonattainment areas of the "Fine Grid" (i.e., the Northeast Corridor, Atlanta, and Chicago/Milwaukee) versus controls in zones farther upwind of these areas. Specifically, in round-3 various levels of utility and nonutility controls were applied by zone in different runs. The level of control for each strategy is given in Table II–7. In general (except for Run F), the round-3 runs progressively increase the level and spatial extent of utility and nonutility controls starting with the reference run (Run A) through the most stringent run (Run I). In addition, there were a number of supplemental round-3 runs (6) performed using a modified version of the zones. The most relevant of these were Runs CA and CB which altered the configuration of zones II, III, and IV to correspond more closely to the borders of the OTR.

The results (6) of the OTAG round-3 runs indicate the following:

- The greater the emissions reductions the greater the ozone benefits (Run I was the most effective strategy and Run A the least);
- There was no bright-line between the incremental application of controls nor any leveling off of benefits with the more stringent controls;
- Increasing the spatial extent of emissions reductions increases the amount and spatial extent of ozone benefits downwind; areas farther upwind may need a higher level of control to have a given effect in a particular downwind area;
- In general, emissions reductions in a given zone have the greatest effects within that zone; but there are also impacts on high ozone concentrations in other zones downwind;
- Emissions reductions in zones I, III, and V are "effective and necessary" (6) to reduce ozone in the Lake Michigan area, the Northeast Corridor, and Atlanta, respectively which are the closest downwind areas to each of these zones;
- Emissions reductions in more distant zones also help reduce ozone in these three major nonattainment areas; emissions reductions in zone II benefit the Northeast Corridor and the Lake Michigan area; emissions reductions in zone IV benefit Atlanta and the Lake Michigan area;
- Emissions reductions in zones II and IV are also "effective and necessary" (6) to reduce ozone in "problem areas" within these zones (e.g., Birmingham, Nashville, Charlotte, Richmond, Louisville, and Cincinnati);
- When viewed on a regional basis, it may be "difficult to geographically distinguish between control levels" (6) because there are ozone problem areas in every zone within the "Fine Grid" and there are clearly interzonal impacts;
- Additional emissions reductions in "Coarse Grid" States "are not very effective" (6) in reducing high ozone levels downwind in problem areas of the "Fine Grid"; and
- Although the OTAG assessments focused on 1-hour concentrations, the impacts on 8-hour average concentrations were found to be similar to those for 1-hour peak values, suggesting that "a regional strategy designed to help meet" the 1-hour NAAQS "will also help meet" the 8-hour NAAQS (6).

Overall, the findings from the OTAG sensitivity and strategy modeling indicate that:

- Areas of high ozone, both measured and predicted for the future, occur, or will occur, in most portions of the modeling domain;
- Several different scales of transport (i.e., inter-city, intra-state, inter-state, and inter-regional) are important to the formation of high ozone in many areas of the East;
- The greatest potential for inter-state and inter-regional impacts associated with transport occurs between States within the multistate "Fine Grid" area;
- A regional strategy focussing on NO_X reductions across a broad portion of the region will help mitigate the ozone problem in many areas of the East;
- There are ozone benefits across the range of controls considered by OTAG; the greatest benefits occur with the most emissions reductions; there was no "bright line" beyond which the benefits of emissions reductions diminish significantly;
- Even with the large ozone reductions that would occur if the most stringent controls considered by OTAG were implemented, there may still remain high concentrations in some portions of the OTAG region;
- A regional NO_X emissions reduction strategy coupled with local NO_X and/or VOC reductions may be needed to enable attainment and maintenance of the NAAQS in this region.

It should be noted that urban-scale analyses will be necessary in order for States to develop local attainment plans. These analyses will take into account more geographically refined emissions and local meteorological factors, such as lake and sea breezes and/or topography. Urban-scale modeling is also necessary to more precisely evaluate the degree and extent of any NO_X disbenefit.

4. Other Relevant Analyses

In addition to the OTAG modeling described above, the potential for regional ozone transport has been examined by the OTAG Air Quality Assessment Work Group using trajectory analyses, wind vector characterization, and statistical analyses of ozone measurements. The trajectory analyses (9) were used to identify a "distance scale" indicative of the 1- to 2-day transport distance of ozone and precursors. The results suggest that ozone-laden air may travel distances of 150 miles to 500 miles or more into and across the Midwest and Northeast. Analyses, as part of the Southern Oxidants Study (10), indicate that most southern episodes may be more closely linked to near-stagnation conditions and thus, shorter transport distances might

[5] Although the OTAG assessments focussed on 1-hour concentrations, the impacts on 8-hr average concentrations were found to be similar to those for 1-hour values.

be expected within the Southeast. Additional information on regional transport patterns comes from an analysis conducted by OTAG to characterize the regional wind flow patterns typically associated with high ozone in the Northeast, Southeast, and Midwest (9). These wind vectors (Figure II–4) indicate that regional episodes are typically associated with broad-scale anticyclonic (i.e., clockwise) flow regimes centered over the Ohio-Tennessee Valley area. Under these conditions, there are typically lighter winds and weaker transport within the South compared to other regions. However, the information also indicates the potential for transport from the South to other portions of the region. For example, in the Midwest, high ozone is generally associated with wind flows from States located to the south and southwest. For the Northeast, the data suggest a strong westerly flow favoring transport from States farther to the west.

Another method for estimating the potential range of transport was developed by Rao (11) based on correlating daily ambient ozone measurements between monitoring sites for the period 1985 through 1994 for several nonattainment areas (i.e., Atlanta, Washington DC, Cincinnati, Pittsburgh and Chicago). The analysis indicates the presence of "ozone clouds" surrounding these areas which are likely the result of pollutant transport, spatial patterns in emissions, and weather conditions conducive to ozone formation. The spatial extent of these "ozone clouds" is on the order of 300 miles or more, extending from the central portion of the nonattainment area along the axis of the major transport direction.

The importance of mitigating transported ozone for solving the nonattainment problem for many cities in the East has been examined as part of ongoing urban scale modeling analyses by various State agencies. In urban scale modeling, transport into the nonattainment area is represented by specifying pollutant concentrations along the sides and top of the modeling domain. These "boundary condition" concentrations reflect ozone transport into the urban area at the surface and aloft. As such, incoming ozone (as well as precursor chemical species) moves into the urban area and mixes with local emissions to increase the formation of ozone. The available urban scale modeling work is summarized in a report commissioned by OTAG (12). It should be noted that these modeling analyses were conducted to address 1-hour attainment problems. Still, the information is expected to be generally applicable to 8-hour ozone concentrations as well. The findings from this report which are relevant include:

- New York City—a reduction in transport into the New York area associated with upwind emissions reductions on the order of 75 percent for NO_X and 25 percent for VOC along with local VOC and NO_X reductions may be needed for attainment in New York;
- Philadelphia—transport appears to be a major component in peak ozone concentrations in the Philadelphia domain, contributing 90 percent to the peak in one of the scenarios modeled;
- Lake Michigan—transported ozone levels coming into the Lake Michigan area contribute 40–60 percent to the peak concentration downwind of urban centers in this area; background concentrations in the range of 80–100 ppb may need to be reduced to around 60 ppb for attainment in this region;
- Southeast Michigan—ozone transport into this area "contributed significantly to the simulated peak ozone concentrations on many of the episode days;
- St. Louis—predicted ozone concentrations in this area are sensitive to incoming levels of ozone/precursor transport;
- Atlanta—the amount of ozone transported into the area was found to be one of the factors contributing to the difficulty for this area to demonstrate attainment;
- Richmond—transported ozone contributes to predicted high ozone on certain episode days, and regional controls on upwind sources may be necessary to reduce ozone in this area during some of the episode days modeled;
- Charlotte—transported ozone appears to be a "significant component" of ozone in the area during some episodes, particularly with winds from a northerly direction; and
- Nashville—transported ozone was predicted to be a major contributor to ozone in this area on 1 of the 2 high ozone days modeled.

In addition to the preceding qualitative analyses, there are several non-OTAG regional modeling analyses which provide information on interstate contributions due to transport. First, modeling by EPA for the OTC, using the Regional Oxidant Model (ROM), examined the impact of controls outside the OTR on ozone within this region (13). The results indicate that a 0.15 lb/MMBtu NO_X emissions limit on certain stationary sources outside the OTR, together with other controls, would likely have the following effects within the OTR:

- Reductions of up to 15–18 ppb in daily maximum 1-hour ozone in the western part of the OTR, and
- Reductions of up to 6–9 ppb along the Northeast Corridor from Washington, DC to northern New Jersey.

Second, a new modeling technique, the "Comprehensive Air-quality Model with extensions" (CAMx), has been developed (14) in an attempt to identify the contribution of upwind source areas to specific downwind locations. The Ozone Source Apportionment Technology (OSAT) in CAMx was used by the Midwest Ozone Group (MOG) to quantify the contributions of emissions from upwind sources on high ozone concentrations in the Northeast Corridor and the Lake Michigan area. The CAMx analysis modeled the OTAG July 1991 episode only and considered 1-hour ozone predictions above two cut-points: 100 ppb and 120 ppb. Also, the MOG CAMx report (14) did not examine the contributions from emissions in individual upwind States, but rather, the analysis examined the impacts of emissions from concentric geographic "rings" upwind of the Northeast Corridor and Lake Michigan areas. In general, the results are consistent with the OTAG geographic sensitivity modeling in that much of the contribution to ozone in a particular multistate area comes from sources within that same multistate area, considerable contributions also come from sources outside the multistate area, and anthropogenic NO_X emissions in upwind areas contribute much more to transport than upwind VOC emissions. Some of the findings from the CAMx analysis relative to the contributions to high ozone in the Northeast Corridor and Lake Michigan area are as follows:

- On average, nearly 50 percent of the high ozone levels in these two areas come from upwind (mostly NOx) sources;
- On average, for the Northeast Corridor a large portion (90 percent) of the contribution from upwind sources comes from States to the west and south within approximately 390 km of the Corridor (this may include all or portions of States as far upwind as Ohio, North Carolina, and West Virginia); nearly all (95 percent) of the contribution comes from upwind sources within approximately 570 km of the Corridor (this may add portions of Kentucky, Tennessee, and South Carolina as potential upwind contributors);
- On average, for the Lake Michigan area a large portion (90 percent) of the contribution from upwind sources comes from States to the west and southwest within approximately 650 km of this area (this may include all or portions of States as far as Iowa, Minnesota, Missouri, and Tennessee); nearly all (95 percent) of the contribution comes from upwind sources within approximately 770 km of the Lake Michigan area (this adds portions of Arkansas, Kansas, Nebraska, North Dakota, and South Dakota); and
- Transport distances for individual high ozone days are even longer, in some cases, than the episode averages indicated above.

A third non-OTAG modeling study that is relevant to this assessment was performed by a group of northwest OTAG States (Iowa, Minnesota, Nebraska, North Dakota, and South Dakota) (15). One part of this study included modeling similar to the OTAG subregional modeling, except that "zero-out" and "5c" emissions reductions were applied in various combinations in these States only, using the OTAG July 1995 episode. In these runs, emissions in all other States in the OTAG region were simulated with the 2007 baseline emissions. The modeling results were analyzed in terms of the contributions of emissions in these five States to daily maximum 1-hour ozone above 100 ppb in downwind areas. The results indicate the following:

- Emissions in Minnesota, Nebraska, North Dakota, South Dakota, and the "Coarse Grid" portion of Iowa (see Figure II–1) collectively contribute less than 2 ppb to downwind ozone above 100 ppb; and
- Emissions from these States including the "Fine Grid" portion of Iowa, contribute in the range of 2 to 6 ppb to ozone above 100 ppb in grid cells downwind near Lake Michigan, Detroit, and Cincinnati.

Collectively, the studies cited here indicate that:

- The meteorological conditions and air trajectories during regional-scale, high ozone episodes provide the potential for multistate ozone transport;
- Ambient measurements indicate that ozone episodes can have a large multistate spatial extent within which 1-to 2-day transport may occur;
- Examination of emissions data indicates that numerous sources of NO_X may be contributing to high regional background ozone concentrations;
- State urban-scale modeling analyses for areas in various portions of the OTAG region indicate that transport from upwind areas is an impediment to attainment of the NAAQS;
- Regional modeling studies indicate contributions to high ozone in the Northeast Corridor and the Lake Michigan area may come from States as far away as 570 km and 770 km, respectively; and
- Non-OTAG multistate modeling indicates that emissions from States in the northwest portion of the "Coarse Grid" may not make large contributions to high ozone in downwind States elsewhere in the OTAG region.

C. Technical Analysis of Significant Contribution

1. Criteria for Determining Significant Contribution

Whether a contribution is "significant" depends on the overall context. There may be no single amount of contribution which could be considered as a bright line indicator of "significant" that would be applicable and appropriate in all circumstances. As described above, under one interpretation of the GAA's section 110(a)(2)(D), factors to be considered in determining whether a contribution is significant include:

- The level of emissions in the area upwind of a nonattainment area;
- The amount of the contribution (ppb above the level of the standard) made to the downwind nonattainment area;
- The transport distance between the upwind source area and the downwind problem area; and
- The geographic extent of the contribution downwind. For example, ozone is generally the result of emissions of NO_X and VOC from hundreds of stationary sources and millions of vehicles, each of which is likely to be responsible for much less than 1 percent of the overall inventory of precursor emissions. A source or group of sources should not be exempted from treatment as a significant contributor merely because it may be a small part, in terms of total emissions, of the overall problem when all or most other contributors, individually, are also relatively small parts of the overall problem. This situation, in which a number of individual (and sometimes small) sources collectively cause a significant impact, is a major aspect of the contribution issue. The moderate-to-high ozone levels which cover broad regions are the result of emissions from millions of individual sources interacting over multiple days. The contribution to downwind nonattainment results from the cumulative contribution from all sources involved in this process. Given these issues, it is not appropriate to define a bright line test for "significant contribution." Rather, EPA is using a "weight of evidence" approach, based on a range of information, for determining whether a State makes a significant contribution to downwind nonattainment. The EPA is also proposing a second, alternative interpretation to section 110(a)(2)(D), under which the weight of evidence approach incorporates other factors, including the relative costs of controlling downwind emissions, as described in section I.D.2.b., Significant Contribution to Nonattainment.

2. Overview of Technical Approach

The findings from the relevant background studies and the OTAG modeling results provide a basis for concluding that ozone transport results in interstate contributions to high ozone levels during multiday episodic conditions within portions of the OTAG region. An overview of the approach for analyzing this information in an assessment of States that make a significant contribution to downwind nonattainment is as follows:

- The air quality and modeling analyses cited in section B.4, Other Relevant Analyses, were considered in a qualitative manner to identify, from a regional perspective, States which may contribute to multistate transport;
- The results of the OTAG subregional modeling runs were used to quantify the extent that each subregion contributes to downwind nonattainment for the 1-hour and/or 8-hour NAAQS; and
- State NO_X emissions data were used to translate the findings from the subregional modeling to a State-by-State basis.

The specific model runs used in this analysis include the "zero-out" runs in which all anthropogenic emissions from individual subregions (comprised of portions of small groups of States) are removed, and the contributions to downwind ozone are predicted. This set of model runs was chosen since it provides an appropriate way to quantify the contribution of the full set of anthropogenic emissions in one area to ozone concentrations in another. As described in section B.2, OTAG Strategy Modeling, zero-out runs were made for the 1988 and 1995 episodes only. The results for both episodes were combined in this assessment. Also, the analysis of emissions data focussed on NO_X since the OTAG and non-OTAG modeling results indicate that NO_X emissions reductions lower ozone transport across broad portions of the OTAG region, whereas, VOC emissions reductions have primarily local benefits.

The air quality, modeling, and emissions information was used

collectively to determine, based on the weight of evidence, which States make a significant contribution to downwind nonattainment.

3. Identification of Ozone "Problem Areas"

As described above, in order to quantify the contribution from upwind States to nonattainment downwind, EPA identified areas which currently have a 1-hour and/or 8-hour ozone nonattainment problem and are expected to continue to have a nonattainment problem in the future, based on modeling. In addition, EPA considered areas which may have a future maintenance problem for the 8-hour NAAQS. For current nonattainment areas, EPA used air quality data for the period 1993 through 1995 to determine which counties are violating the 1-hour and/or 8-hour NAAQS. These are the most recent 3 years of fully quality-assured data which were available in time for this assessment. A list of these counties is provided in Tables II–8a and II–8b. The EPA is reviewing more recent air quality data for 1996 and 1997. In the event that these data alter the results of this assessment in any meaningful way, EPA will make the appropriate adjustments to the findings. Concerning projected future nonattainment areas, EPA used the OTAG model predictions for the 2007 baseline, as described in section II.C.5, Approaches for Analyzing Subregional Modeling Data. For ease of communication, the technical discussions frequently use the term "nonattainment" to refer to these areas. It should be noted that this use of the term "nonattainment" in reference to a specific area is not meant as an official designation or determination as to the attainment status of the area.

4. Analysis of Air Quality, Trajectory, and Non-OTAG Modeling Information

The EPA examined the findings from the air quality, trajectory, and non-OTAG modeling analyses in section B.4. to identify certain States which may potentially contribute to nonattainment in downwind areas. First, EPA applied both the lower and upper ends of the OTAG transport distance scale (i.e., 150 miles and 500 miles (9)) to 1-hour nonattainment areas in the northern half of the OTAG region. Using the lower end of the transport scale indicates that the following States and Washington DC may potentially contribute to ozone in downwind nonattainment areas: Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Virginia, West Virginia, Wisconsin and Vermont. Using the upper limit of transport distance indicates that the following additional States may potentially contribute to downwind nonattainment areas: Alabama, Arkansas, Georgia, Iowa, Kansas, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, Oklahoma and South Carolina. Also, examining the findings from the non-OTAG regional modeling results (13, 14, 15) indicates that collectively, a large portion of the contributions to high ozone in the Northeast Corridor and/or the Lake Michigan area may come from States as far upwind as: Missouri, North Carolina, Ohio, Tennessee and West Virginia.

5. Approaches for Analyzing Subregional Modeling Data

The subregional modeling runs provide a method to quantify the amount of contribution by upwind States to downwind nonattainment. Four approaches were included in the analysis of subregional modeling results. Approaches 1 and 2 were designed to address the contribution to 1-hour nonattainment and Approaches 3 and 4 the contribution to 8-hour nonattainment. Approaches 1 and 3 examine the contributions in areas which have both monitored and modeled nonattainment. Approaches 2 and 4 examine the contributions in areas with modeled nonattainment. The rationale for each approach is described below.

a. Approaches for 1-Hour Nonattainment. Approach 1 was designed to focus on contributions to areas that have an observed 1-hour ozone problem and in which the model predicts an ozone problem. In this regard, the analysis was restricted to those grid cells in the domain that had 1-hour daily maximum ozone predictions ≥125 ppb[6] in the 2007 baseline, and were within one of the counties currently violating the 1-hour NAAQS. However, the requirement that high ozone predictions spatially coincide with violating counties may be overly restrictive given the uncertainties in the modeled wind regimes associated with the regional nature of the meteorological inputs. Also, the analysis was limited to only two episodes, only one of which, July 1995, actually occurred during the 3-year period used to identify the violating counties. Another limitation of Approach 1 was that it excludes all grid cells that are over water and not touching any State land areas. This may be too restrictive since, in the real atmosphere, sea breeze and lake breeze wind flows can transport high ozone levels that occur over water back on-shore to affect coastal land areas. This meteorological process, often associated with high ozone along the shoreline of Lake Michigan and along the New England coast, is not adequately treated by the regional scale meteorological inputs used in OTAG. Thus, high concentrations predicted just offshore may be inappropriately excluded from the analysis. Approach 2 was designed to address these concerns. In this approach, all grid cells over land that had a 1-hour daily maximum ozone prediction ≥125 ppb in the baseline were included. Also included were grid cells with predictions ≥125 ppb over each of the Great Lakes and in a band 60 km (5 grid cells) wide along the East Coast.

b. Approaches for 8-Hour Nonattainment. The two approaches for assessing contribution for 8-hour nonattainment were similar in design to those used for 1-hour nonattainment. However, the inconsistency between the form of the 8-hour NAAQS, which considers 3 years of data, and the limited predictions available from the OTAG episodes introduced a complication to the analysis. Basically, it was not possible to use the model predictions in a way that explicitly matches the 3-year average of the 4th highest 8-hour form of the NAAQS. Instead, an analysis was performed to link the model predictions to the NAAQS as closely as possible. This analysis consisted of comparing the average 4th highest 8-hour concentrations, based on 3 years of ambient data, to the average 1st, 2nd, 3rd, and 4th highest 8-hour values using ambient data limited to the three most recent OTAG episodes (i.e., 1991, 1993, and 1995). The results of this analysis indicate that the average of the episodic 2nd highest 8-hour ozone concentration corresponds best, overall, to the average of the 4th highest 8-hour NAAQS.

Approach 3 is intended to focus on the contributions to areas that have an observed 8-hour ozone problem and where the model predicts an 8-hour ozone problem. The analysis for this approach was restricted to those grid cells in the domain that had an average (over the 1988 and 1995 episodes) 2nd high 8-hour ozone prediction ≥85 ppb in the 2007 baseline, and were within one of the counties currently violating the 8-hour NAAQS. The same technical concerns and limitations discussed above for Approach 1 are also applicable to Approach 3. To address these concerns for the 8-hour analysis, Approach 4 was constructed to include all grid cells that had an average 2nd high 8-hour ozone prediction ≥85 ppb over land areas, the Great Lakes, and in the offshore waters, as in Approach 2 for the 1-hour NAAQS. In addition, by including all grid cells with predicted nonattainment in 2007, Approach 4 provides a way to consider areas which are currently measuring attainment, but which may become nonattainment for the 8-hour NAAQS in the future.

c. Methods for Presenting 1-Hour and 8-Hour Assessments. All of the approaches for both 1-hour and 8-hour nonattainment quantify the impacts of emissions in each subregion on ozone concentrations in downwind States (*i.e.*, States outside the particular subregion). It should be noted that the calculated contributions represent the impacts from individual upwind subregions and not the cumulative impacts from multiple subregions, which would be even greater in magnitude. In Approaches 2 (1-hour) and 4 (8-hour), grid cells off the East Coast were added to the totals of the adjacent States, whereas the impacts for areas over each of the Great Lakes were tabulated separately. In all cases, the ozone impacts were quantified by calculating the difference in predicted ozone between each subregional zero-out run and the 2007 baseline scenario. The contributions from emissions in each subregion to nonattainment in downwind States are summarized for all approaches in Tables II–9a and II–9b. This summary shows the contributions in terms of both the frequency of impacts and the number of downwind States impacted for specific concentration ranges, as described below. More detailed information including the contributions to individual States is provided in Tables II–10 through II–13, for Approaches 1 through 4, respectively. The contributions are grouped into one of six ranges: >2 to 5 ppb, >5 to 10, >10 to 15, >15 to 20, >20 to 25, and >25 ppb. A value of 2 ppb was chosen as the minimum level for this analysis following the convention generally used by OTAG for evaluating the impacts of emissions changes. As an example, Table II–10 shows the frequency of contributions from each subregion to nonattainment in downwind States for Approach 1. Note that the frequency of contributions for the 1-hour NAAQS is determined by tallying the total "number of days and grid cells" with impacts within the specified range. However, the frequency of contributions for the 8-hour NAAQS includes the total "number of grid cells" only. That is, the averaging procedure used to reflect the form of the 8-hour NAAQS results in a single "average" value for each grid cell, instead of values for each day modeled. In the following sections, Approach 1 and Approach 3 are referred to as the "violating-county" approaches, whereas Approach 2 and Approach 4 are referred to as the "all grid-cell" approaches for the 1-hour and 8-hour NAAQS, respectively. Also, as mentioned previously, the term "nonattainment" is used to refer to those areas (grid cells) which meet the criteria for a given approach. For example, in the analysis of Approach 1, "nonattainment" refers to those areas which have both measured violations and model predictions of 1-hour ozone ≥125 ppb.

6. Contributions to 1-Hour Nonattainment

The information from the subregional modeling analyses provided in Tables II–10 and II–11 were examined from both a "receptor" and "source" perspective. The results for the "county-violation" approach (Approach 1—Table II–10) and the "all grid-cell" approach (Approach 2—Table II–11) are both considered. Examining the data in Table II–10 indicates that many nonattainment areas are affected by multiple source areas. Considering the impacts on violating counties indicates, for example, that:

- Nonattainment areas in Pennsylvania receive contributions of more than 2 ppb from Midwest and Southeast States located in five subregions (2, 5, 6, 7, and 8) with contributions over 25 ppb from States in subregions 6 and 7;
- Nonattainment areas in New Jersey receive contributions of more than 2 ppb from Midwest States as well as adjacent States in six subregions (1, 2, 3, 5, 6, and 7) with contributions over 25 ppb from subregions 3 and 7;
- Nonattainment areas in Maryland receive contributions of more than 2 ppb from Midwest States and adjacent States in six subregions (1, 2, 3, 4, 5, and 6) with contributions in the range of 15 to 20 ppb from subregions 3 and 6;
- Nonattainment areas in Illinois receive contributions of 5 to 10 ppb from Southeast States in subregion 9; and
- Nonattainment areas in Georgia and Alabama receive contributions of 15 to 20 ppb from Midwest States in subregion 5 as well as from adjacent Southeast States in subregion 8.

Considering the "all grid cell" approach increases the frequency and magnitude of impacts, as would be expected. For example, the contributions from States in subregion 2 to nonattainment in Pennsylvania increase to the range of 10 to 15 ppb; contributions from Southeast States in subregion 9 in the range of 2 to 5 ppb are evident in nonattainment in Maryland; and Midwest States in subregions 1 and 5 contribute 5 to 10 ppb to nonattainment in Ohio.

As indicated above, the subregional modeling results were also examined in terms of the impact of each subregion on ozone in downwind States outside the particular subregion. The following results highlight the contributions of each subregion to downwind nonattainment (see Tables II–10 and II–11). Results are presented for the "violating county" approach (Approach 1) and supplemented with results from the "all grid-cell" approach (Approach 2) to the extent that this later approach adds key information to the findings.

Subregion 1 (portions of Illinois, Wisconsin, Indiana, and Iowa): emissions in this subregion contribute 2 to 5 ppb on numerous occasions to nonattainment in violating counties in four States along the Northeast Corridor having serious or severe nonattainment (i.e., Connecticut, Maryland, New Jersey, and New York); downwind contributions as high as 5 to 10 ppb are evident near Detroit over Lake St. Clair, as well as over Lakes Erie and Ontario based on the "all grid-cell" approach.

Subregion 2 (portions of Michigan, Indiana, and Ohio): emissions in this subregion contribute 5 to 10 ppb to nonattainment in violating counties in five downwind States; contributions over 10 ppb are evident in seven downwind States from the "all grid-cell approach."

Subregion 3 (portions of Pennsylvania, New York and Delaware): emissions in this subregion contribute over 2 ppb to violating counties in nine downwind States with contributions of 15 ppb or more in three States.

Subregion 4 (New Jersey, Connecticut and portions of New York, Pennsylvania and Delaware): emissions from this subregion contribute more than 25 ppb on numerous occasions to three downwind States along the Northeast Corridor.

Subregion 5 (portions of Illinois, Indiana, Kentucky, Missouri, and Tennessee): emissions from this subregion contribute 2 to 5 ppb to violating counties in three downwind States along the Northeast Corridor with contributions of over 10 ppb in three other downwind States in the region;

[6] Values above 124 ppb are considered to be exceedances of the 0.12 ppm 1-hour ozone NAAQS in view of the rounding convention established for monitoring data whereby ozone concentrations between 125 ppb and 129 ppb are rounded up to 0.13 ppm.

considering the "all grid-cell" approach shows contributions of over 20 ppb to the south in Alabama and 5 to 10 ppb over Lakes Erie and St. Clair.

Subregion 6 (portions of Ohio, Indiana, Kentucky, Tennessee, West Virginia and Virginia): emissions in this subregion contribute over 5 ppb to violations in eight States (and as far downwind as Massachusetts with the "all grid-cell" approach); contributions over 15 ppb are predicted in two of the eight States.

Subregion 7 (Maryland, Washington, DC, and portions of Delaware, North Carolina, Virginia and West Virginia): emissions in this subregion contribute more than 15 ppb to violating counties in downwind States along the Northeast Corridor with over 25 ppb contribution on numerous occasions to two of these States; the "all grid-cell" approach indicates contributions from this subregion to South Carolina as well as to Kentucky and Ohio.

Subregion 8 (portions of North Carolina, South Carolina and Georgia): emissions in this subregion contribute 2 to 5 ppb to violating counties in four States including several which are relatively far downwind (i.e., Missouri and Illinois) with contributions over 15 ppb to one other State; considering the "all grid-cell" approach indicates contributions of over 10 ppb to two States along the Northeast Corridor.

Subregion 9 (portions of Tennessee, Georgia, Alabama, Mississippi, North and South Carolina and Arkansas): emissions in this subregion contribute over 2 ppb to violating counties in four downwind States with contributions over 10 ppb in Indiana; contributions over 10 ppb are evident in three downwind States and far away as Lakes Michigan from the "all grid-cell" approach.

Subregion 10 (Florida and portions of Mississippi, Alabama, Georgia and Louisiana): emissions in this subregion do not contribute above 2 ppb to violating counties in any other States; considering the "all grid-cell" approach indicates one occurrence of a contribution in the range of 2–5 ppb.

Subregion 11 (portions of Texas, Louisiana, Arkansas and Oklahoma): emissions in this subregion contribute 2 to 5 ppb to violating counties in two downwind States.

Subregion 12 (portions of Missouri, Iowa, Wisconsin, Minnesota, North Dakota, South Dakota, Nebraska, Kansas and Oklahoma): emissions in this subregion contribute 2 to 5 ppb in violating counties in two downwind States with 5 to 10 ppb contributions also evident in one of these States (i.e., Michigan, including Lake Michigan).

The results presented in Tables II–10 and II–11, and discussed above, indicate that in general, large contributions to downwind nonattainment occur on numerous occasions even though the analysis was limited to only two episodes. Although the level of contribution varies from subregion to subregion, a consistent pattern is apparent. In view of the relatively high magnitude of the contributions, and/or the relatively high frequency of the contributions, and/or the distance downwind to which the contributions occur, and/or the geographic extent of the downwind contributions, EPA believes that emissions from subregions 1 through 9 make a marked contribution to 1-hour nonattainment in numerous downwind States. Contributions to downwind nonattainment were also evident from subregions 10, 11, and 12, although to a lesser magnitude and extent.

7. Contributions to 8-Hour Nonattainment

In general, the downwind contributions to 8-hour nonattainment are more geographically extensive than those for 1-hour nonattainment. This is not unexpected because there are many more violating counties for the 8-hour NAAQS and, likewise, the model predicts "nonattainment" over a much broader portion of the region. The following examples illustrate the extent and magnitude of contributions to violating counties (Approach 3—Table II–12) that are beyond what was found for the 1-hour assessment:

- Contributions to nonattainment areas in Pennsylvania from States in subregion 2 are over 25 ppb rather than 2 to 5 ppb;
- In addition to the contributions from States in subregions 1, 2, 3, 5, 6, and 7 (ranging up to 15 to 20 ppb from subregion 3), nonattainment areas in New Jersey also receive a 2 to 5 ppb impact from southeastern States in subregion 8;
- Nonattainment areas in Illinois receive contributions of 5 to 10 ppb from States to the east in subregion 6 and south in subregion 9;
- Nonattainment areas in Ohio receive contributions of 5 to 10 ppb from States in five subregions in the Midwest, Northeast, and Southeast (1, 3, 5, 7, 8, 9) with contributions over 10 ppb from States in subregion 5;
- Nonattainment areas in North Carolina receive contributions of 5 to 10 ppb from two subregions (7 and 9) with contributions of over 25 ppb from Midwest States in subregion 6; and
- Nonattainment areas in Tennessee receive contributions of 10 to 15 ppb from three subregions (5, 6, and 8) with 15 to 20 ppb contributed by Midwest States in subregion 6.

Highlights of the 8-hour contributions from a "source" perspective are given below based on the information in Tables II–12 and II–13. The following discussion is structured similar to that for the 1-hour nonattainment analysis in that results are presented for the "violating county" approach and supplemented with results from the "all grid-cell" approach.

Subregion 1 (portions of Illinois, Wisconsin, Indiana, and Iowa): emissions in this subregion contribute over 25 ppb to nonattainment in Michigan with contributions of 5 to 10 ppb in Ohio as well as contributions of 2 to 5 ppb to six other States.

Subregion 2 (portions of Michigan, Indiana, and Ohio): emissions in this subregion contribute 2 to 5 ppb to 16 States as far downwind as New Hampshire and Maine with contributions of 5 to 10 ppb or more in five States.

Subregion 3 (portions of Pennsylvania, New York and Delaware): emissions in this subregion contribute 10 to 15 ppb to three States along the Northeast Corridor with contributions of 5 to 10 ppb in Massachusetts and New Hampshire.

Subregion 4 (New Jersey, Connecticut and portions of New York, Pennsylvania and Delaware): emissions from this subregion contribute over 25 ppb to Rhode Island and Massachusetts with contributions of 15 to 20 ppb in Maine.

Subregion 5 (portions of Illinois, Indiana, Kentucky, Missouri, and Tennessee): emissions from this subregion contribute 2 ppb or more to 13 States with contributions of 10 to 15 ppb in two States.

Subregion 6 (portions of Ohio, Indiana, Kentucky, Tennessee, West Virginia and Virginia): emissions in this subregion contribute 5 to 10 ppb or more to 10 States with contributions of 15 ppb or more in two States.

Subregion 7 (Maryland, Washington, DC, and portions of Delaware, North Carolina, Virginia and West Virginia): emissions in this subregion contribute 10 to 15 ppb or more to four States with contributions of 5 to 10 ppb as far downwind as Rhode Island and Massachusetts and 2 to 5 ppb in Maine.

Subregion 8 (portions of North Carolina, South Carolina and Georgia): emissions in this subregion contribute 10 to 15 ppb to three States and 15 to 20 ppb to one of these States; multiple contributions of 2 to 5 ppb are predicted as far downwind as New Jersey.

Subregion 9 (portions of Tennessee, Georgia, Alabama, Mississippi, North and South Carolina and Arkansas): emissions in this subregion contribute 5 to 10 ppb to six States with contributions of 10 to 15 ppb in two States.

Subregion 10 (Florida and portions of Mississippi, Alabama, Georgia and Louisiana): emissions in this subregion contribute 2 to 5 ppb in two States and 5 to 10 ppb in one State.

Subregion 11 (portions of Texas, Louisiana, Arkansas and Oklahoma): emissions in this subregion contribute 2 to 5 ppb in six States.

Subregion 12 (portions of Missouri, Iowa, Wisconsin, Minnesota, North Dakota, South Dakota, Nebraska, Kansas and Oklahoma): emissions in this subregion contribute 2 to 5 ppb in three States; considering the "all grid-cell" approach indicates multiple contributions of 2 to 5 ppb downwind over Lake Michigan and Lake Erie.

The results indicate that the contributions to 8-hour nonattainment are very consistent with those for 1-hour nonattainment. Subregions 1 through 9 have a much greater magnitude, frequency, and geographic extent of contribution compared to the other subregions. Thus, based on this assessment, EPA believes that emissions from subregions 1 through 9 make a marked contribution to downwind nonattainment for the 8-hour NAAQS. In fact, the extent of contributions from most of these subregions (i.e., 1 through 9) is even larger for 8-hour nonattainment while the contribution from the other subregions (i.e., 10, 11, and 12) still remains relatively low by comparison.

8. Assessment of State Contributions

The preceding air quality, trajectory, emissions, and modeling analyses provide a number of pieces of information for determining, based on the weight of evidence, which States make a significant contribution to downwind nonattainment. The assessment of the State contributions is divided into three parts. States which are wholly or partially contained within subregions 1–9 are considered first since emissions from these States make a marked contribution to downwind nonattainment for both the 1-hour and 8-hour NAAQS, based upon the subregional modeling. States which were not included in any of the OTAG subregions (i.e., some of the New England States) are considered second. States located in subregions 10, 11 and 12, which did not have a marked contribution to downwind nonattainment for either the 1-hour or 8-hour NAAQS, are discussed last.

The subregional modeling results indicate that emissions from States in subregions 1 through 9 produce large downwind contributions in terms of the magnitude, frequency, and geographic extent of the downwind impacts. In addition, nonattainment areas within many States in the OTAG region receive large and/or frequent contributions from emissions in these subregions. The EPA believes that the following States whose emissions are wholly or partially contained within one or more of these subregions (i.e., Alabama, Connecticut, Delaware, Washington DC, Georgia, Illinois, Indiana, Kentucky, Maryland, Michigan, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin) is making a significant contribution to downwind nonattainment. In addition to the marked levels of contributions described above, this finding is based on:

- OTAG strategy modeling and non-OTAG modeling indicates that NO_X emissions reductions across these States would produce large reductions in 1-hour and 8-hour ozone concentrations across broad portions of the region including 1-hour and 8-hour nonattainment areas;
- The air quality, trajectory, and wind vector analyses indicate that these States are upwind from nonattainment areas within the 1- to 2-day distance scale of transport;
- These States form a contiguous area of manmade emissions covering most of the core portion of the OTAG region;
- 11 of the States that are wholly within these nine subregions (i.e., Illinois, Indiana, Kentucky, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia and West Virginia) have a relatively high level of NO_X emissions from sources in their States; these States are ranked in the top 50 percent of all States in the region in terms of total NO_X emissions and/or have NO_X emissions exceeding 1000 tons per day, as indicated in Table II–1;
- States wholly within subregions 1 through 9 with lesser emissions (i.e., Connecticut, Delaware, Maryland) and Washington, DC have a relatively high density of NO_X emissions, as indicated in Table II–2;
- For the nine States that are only partially contained in one of subregions 1 through 9 (i.e., Arkansas, Iowa, Michigan, Mississippi, Missouri, Alabama, Georgia, Wisconsin, and New York) the State total NO_X emissions in Table II–1 as well as each State's contribution to NO_X emissions in the subregions (see Tables II–14a and II–14b) indicate that six of these States (i.e., Michigan, Missouri, Alabama, Georgia, Wisconsin, and New York) each have: NO_X emissions that are generally more than 10 percent of the total NO_X emissions in one of these subregions, and either NO_X emissions in the top 50 percent among all States, and/or a majority of the State's NO_X emissions are within one of these subregions.

For the New England States that were not included in any of the OTAG zero-out subregions (i.e., Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont), State emissions data indicate that both Massachusetts and Rhode Island have a high density of NO_X emissions (see Table II–2). Also, the trajectory and wind vector analyses indicate that these States are immediately upwind of nonattainment areas in Maine and New Hampshire. Thus, EPA believes that these two States (i.e., Massachusetts and Rhode Island) also make a significant contribution to downwind nonattainment for both the 1-hour and 8-hour NAAQS.

In summary, based on the weight of evidence, EPA believes that the 22 States plus the District of Columbia's consolidated metropolitan statistical area which make a significant contribution to downwind nonattainment for both the 1-hour and 8-hour NAAQS are:

Alabama,
Connecticut,
Delaware,
District of Columbia,
Georgia,
Illinois,
Indiana,
Kentucky,
Maryland,
Massachusetts,
Michigan,
Missouri,
New Jersey,
New York,
North Carolina,
Ohio,
Pennsylvania,
Rhode Island,
South Carolina,
Tennessee,
Virginia,
West Virginia,
Wisconsin.

It should be noted that under EPA's alternative interpretation of section 110(a)(2)(D), these areas would be determined to significantly contribute to nonattainment problems downwind only after consideration of additional factors, including the respective costs of controls on emissions in upwind and

downwind areas, to the extent this information is at least qualitatively available. Those additional factors, discussed in section II.D. below, leads EPA to propose to conclude that these areas contribute significantly under this interpretation as well.

For the nine States in the OTAG region which are wholly within subregions 10, 11, and 12 (i.e., Florida, Kansas, Louisiana, Minnesota, Nebraska, North Dakota, Oklahoma, South Dakota, and Texas), the OTAG and non-OTAG modeling information indicates that emissions from these States make at most a relatively small contribution to downwind nonattainment. Also, most of these States are relatively distant from many of the downwind nonattainment areas in the OTAG region and have a relatively low amount of manmade NO_X emissions and/or NO_X emissions density. Thus, as discussed in section VI, States Not Covered By This Rulemaking, the weight of evidence available does not support a finding that these States make a significant contribution to downwind nonattainment.

D. Comparison of Upwind and Downwind Contributions to Nonattainment and Costs of Controls

Important parts of EPA's determination of whether, and to what extent, to require controls on upwind NO_X emissions that are linked to regional transport are comparing the contribution to downwind nonattainment problems of upwind NO_X emissions as opposed to local, downwind NO_X or VOC emissions; as well as comparing the costs of achieving downwind ozone reductions through upwind emissions reductions, as opposed to through downwind emissions reductions. Depending on the interpretation for section 110(a)(2)(D), the relative downwind contribution and the respective costs are either a factor in the determination of what emissions limitations constitute adequate mitigation of that contribution, or they are a factor in the significant contribution test.

Under the CAA requirements, downwind nonattainment areas are already obligated to implement significant controls. The provisions for classified areas mandate cascading control requirements so that higher classified areas must implement the same controls as lower classified areas, plus additional controls. These mandated controls generally are assumed in the OTAG/EPA modeling for the 2007 base case, as described above. These mandated controls may be viewed as the first increment of required controls that will bring the nonattainment areas into attainment. Today's proposal indicates that the next increment of controls should be the regional controls, for the reasons described below.

The EPA has developed preliminary data indicating that regional NO_X emissions reductions in the OTAG region are a cost-effective means for reducing ozone levels in nonattainment areas downwind, compared to the costs of further reductions in local VOC and NO_X emissions in those nonattainment areas. The EPA developed this information based on data from the recent regulatory impact analysis (RIA) for the new ozone standard. The EPA estimated the amount of VOC and/or NO_X emissions reductions which would be needed for areas to attain the new standard as well as the air quality improvement resulting from a regional NO_X strategy. The EPA then compared the potential cost of achieving attainment through a strictly local emission reduction approach alone to the cost of a regional NO_X strategy.

The preliminary cost comparison was based on a simplified analysis that illustrates the potential control cost difference between a regionally-coordinated NO_X strategy and a collection of local control strategies in projected ozone nonattainment areas. The analysis estimates that the existence of a 22-States and the District of Columbia ("23 jurisdiction") regional NO_X strategy has the potential to avoid from $2.9 to $12.8 billion dollars of the total annual cost that would be incurred under the alternative local control strategy. This "cost avoided" can be compared to the estimated annual cost of $2.8 billion for the regional NO_X strategy assumed in the RIA to evaluate the relative efficiency of a regional strategy.

The EPA's analysis is based on two runs of the ROM. The first run, called the local control strategy (LCS) run, estimates ozone air quality based on a 2007 emissions projection assuming CAA-mandated controls, but not including a regional NO_X strategy. The second run, called the regional control strategy (RCS) run, estimates ozone air quality based on a 2007 emissions projection with a regional NO_X strategy. This strategy includes a regionwide emissions cap based on a 0.15 lb/MMBtu NO_X limit on utilities and large industrial boilers, and the National Low Emission Vehicle (NLEV) program. While not identical to the regional control assumptions in this rulemaking, the RCS run is similar enough to offer insights for this cost comparison.

Using the LCS ROM runs, EPA estimated the potential local NO_X and/or VOC emission reductions needed in 17 projected ozone nonattainment areas to attain the new 8-hour ozone standard. An additional 13 areas are also projected to be nonattainment under the LCS scenario, but emission reduction targets were not established for these areas. These additional areas are not included in this analysis; thus, the estimates presented in this analysis of the potential local control cost avoided due to the regional NO_X strategy are likely underestimated.

Based on the ROM run for the RCS scenario, EPA estimated the effect of the regional NO_X strategy on future ozone concentrations for the 17 areas. Seven of these 17 areas are projected to attain the new ozone standard as a result of controls in the RCS scenario. These 7 areas are given a 2007 RCS reduction target credit of 100 percent (i.e., further local reductions may not be needed for attainment). For the 10 remaining nonattainment areas, the RCS is estimated to be 32 percent effective[7] toward achieving the air quality attainment target relative to the LCS. This is based on a comparison of ROM predictions for the LCS and RCS scenarios versus the air quality target (0.08 ppm/8-hour/4th max ozone standard). Therefore, all remaining areas are given a 32 percent credit toward their respective VOC and/or NO_X emission reduction targets. For the regional NO_X strategy, the total avoided local VOC reductions are over 513,000 tons, and the total avoided local NO_X reductions are nearly 787,000 tons. This analysis indicates that the regional NO_X emissions reductions provide equivalent air quality benefits to a large portion of the local VOC and/or NO_X emissions reductions which may be needed to attain in these areas. This finding weighs in favor of concluding that the regional NO_X reductions are appropriate to mitigate the upwind contribution or, under the second interpretation of section 110(a)(2)(D), that the relevant upwind areas significantly contributes to nonattainment problems downwind.

As discussed in the next section, EPA has identified a set of regional NO_X controls in a cost range of $1,650 to $1,700 per ton. These regional upwind and downwind control costs appear to compare favorably to the potential control costs associated with the downwind local controls, as indicated in Table II–15. The avoided cost of local VOC control is assumed to range from

[7] 32 percent is the median effectiveness of the RCS considering all nonattainment areas in the OTAG region.

a low-end cost of $2,400 per ton to a high-end cost of $10,000 per ton. The avoided cost of local NO_X control is assumed to range from a low-end cost of $2,200 per ton to a high-end cost of $10,000 per ton. The low-end costs are derived from the nationwide average incremental costs of VOC- and NO_X-related control measures selected in the RIA for the new ozone standard. The high-end cost of $10,000 per ton is assumed based on the Presidential Directive for the Administrator of EPA regarding "Implementation of Revised Air Quality Standards for Ozone and Particulate Matter" issued by President Clinton.

The foregoing analysis suggests, at least directionally, that the regional NO_X reductions that would result from today's proposal may have the same ambient impact, but at lower cost, than available local VOC and NO_X reductions. Thus, this analysis is another factor supporting EPA's proposed conclusion that the SIPs for States in this region are required, under section 110(a)(2)(D), to reduce NO_X emissions.

III. Statewide Emissions Budgets

A. General Approach for Calculating Budgets

This section describes the general approach EPA is proposing to use to develop emission budgets under today's action and the rationale for that approach. In addition to a description of how control measures were selected, this section addresses other issues related to calculating budgets, including: relationship to OTAG recommendations, uniform application of controls, seasonal versus annual controls, and treatment of areas with NO_X waivers.

1. Overview

In earlier parts of today's action, EPA proposed to determine that NO_X emissions from 23 jurisdictions contribute significantly to nonattainment problems in downwind areas in the OTAG region. In this and subsequent parts, EPA proposes to require a NO_X budget for each of these jurisdictions for those emissions that will result in sufficient reductions to adequately mitigate the contribution. The EPA proposes as the criteria for establishing the budget the relative cost effectiveness of the emissions reductions associated with the available controls, combined with reference to the ambient impact of the emissions reductions. The EPA solicits comment on alternative approaches for establishing State emissions budgets that factor in the differential effects of NO_X reductions in different geographic locations on downwind air quality.

Specifically, for the proposed approach, EPA employed the following steps in determining the budget levels that EPA proposes constitute adequate mitigation under the first interpretation of significant contribution. First, EPA compiled a list of available NO_X control measures for the various emissions sectors in the upwind areas. For the control measures on this list, EPA estimated the average cost effectiveness of those controls. The average cost effectiveness is defined as the cost of a ton of reductions from the source category based on full implementation of the proposed controls, as compared to the pre-existing level of controls.

Second, EPA developed a rationale for determining which of the NO_X control measures should form the basis of the budget. The EPA focused on average cost effectiveness of the controls. As a point of comparison, EPA determined the average cost effectiveness of a representative sample of recent current and planned State and Federal controls. The EPA believes that the average cost effectiveness for the measures proposed today to form the basis for the budgets should be comparable to the average cost effectiveness of those recently undertaken and planned controls.

Third, EPA evaluated control measures to determine whether they should be assumed in the budget calculation based on this rationale. The EPA proposes that when controls on utilities in the 23 jurisdictions are extended to the level proposed today, and when controls on nonutility point sources are similarly extended, then the average cost effectiveness of the utility controls and of the nonutility point source controls are both comparable to the average cost effectiveness of recently undertaken and planned controls.

At the same time, EPA analyzed the average cost effectiveness for NO_X reductions from source categories other than utilities or other point sources. The EPA is today proposing that additional controls (beyond the current and planned measures described in section III.B.2.b) from those categories should not form the basis for any of the budgets because their costs, for the purpose of reducing only NO_X emissions, are significantly higher than those of the utilities and other point sources and/or additional feasible controls have either not been identified or are more appropriate for local, not regional, implementation.

Fourth, EPA determined the state-by-state budgets for NO_X emissions based on the selected controls.

Fifth, EPA determined that these budget levels—or generally comparable levels—result in an adequate level of ambient reductions downwind. The EPA did not conduct ambient air quality modeling for the level of emissions contained in the budgets proposed today. However, OTAG conducted air quality modeling for a set of controls that, although somewhat different from the utility and point source controls EPA is today proposing to rely on, yielded comparable emission levels, on a regionwide basis, to those proposed today. This modeling indicated a noticeable improvement in ozone concentrations due to implementation of the required emissions budget. The Agency intends to include air quality analyses of the proposed NO_X emissions budgets in the SNPR. Although EPA is proposing that States be required to achieve the emissions budgets specified and has based those budgets on a particular set of cost-effective controls, States may select their own mix of controls that meet this budget.

Sixth, EPA determined that, based on current information, requiring upwind NO_X emissions reductions, based on an assessment of their costs and ambient impact, is more appropriate than requiring downwind VOC emissions reductions, based on an assessment of their costs and ambient impacts. The EPA's current information is limited for this aspect of today's rulemaking, but generally consists of the analyses performed for the RIA for the revised ozone and particulate matter NAAQS.

The alternative interpretation for section 110(a)(2)(D) of the CAA, which EPA is also proposing today, should also be noted. Under this interpretation, the various factors included in the weight of evidence approach discussed above concerning the upwind emissions and ambient contributions, therefore, would be part of the determination as to whether the emissions contribute significantly to nonattainment problems (or interfere with maintenance downwind). The EPA would then undertake the same cost analysis as described above as an additional factor in the weight of evidence test. If EPA concluded that the regional NO_X emissions controls are appropriately cost effective, EPA would conclude, on the basis of all the factors, that the emissions subject to those controls are considered to contribute significantly to nonattainment. Under this interpretation of section 110(a)(2)(D), the State budget levels, which are based on the cost-effective control measures, are necessary to prohibit the amount of the State's emissions determined to

contribute significantly to nonattainment.

2. Relationship of Proposed Budget Approach to the OTAG Recommendations

In selecting those control measures determined to be the most reasonable and cost effective for the purpose of achieving regional NO_X reductions, EPA carefully considered the recommendations made by OTAG on July 8, 1997 (Appendix B). The OTAG process is described in section I.F, OTAG Process, of this rulemaking. The control measures assumed in the proposed budget calculations described below generally fall within the range of OTAG's recommendations.

The OTAG recommendations call for implementation of several Federal measures to achieve NO_X emissions decreases through a NLEV program, inspection and maintenance (I/M) programs (where required by the CAA), and reformulated gasoline (RFG) in mandated and current opt-in areas. Emissions reductions following these recommendations are included in EPA's calculation of the highway vehicle budget component as part of the 2007 Clean Air Act base.

The OTAG recommendations endorse the development and implementation of ozone action-day programs. The recommendations also encourage EPA to evaluate emission benefits of cetane adjustments with respect to diesel fuel. While EPA supports these recommendations, it should be noted that they do not translate into specific emissions reductions at this time and, thus, EPA did not calculate emissions reductions from these programs as part of the proposed budget calculation.

The OTAG recommendations also cover electric utilities and other large- and medium-sized point sources. Specifically, OTAG recommended controls discussed below in all of the "fine grid" areas. The OTAG recommended that emissions from sources in the portion of States that are in the "coarse grid" be exempted from the budget calculation. The EPA is proposing to include entire States rather than exempting portions based on the division between coarse and fine grid. This affects New York, Michigan, Wisconsin, Missouri, Alabama and Georgia. The EPA proposes to take this approach because the division between fine and coarse grid areas was based, in part, on technical modeling limitations; because the additional emissions decreases will help the downwind nonattainment areas; and because a statewide budget creates fewer administrative difficulties than a partial-state budget. The OTAG fine grid States are the same as the 23 jurisdictions proposed in this rulemaking as having a significant contribution, with the exception of the States of Maine, New Hampshire and Vermont. The portion of these three States in the OTAG fine grid are included in the OTAG recommendation for additional controls, but are not included in today's proposal for the reasons described in section II, Weight of Evidence Determination of Significant Contribution, of this rulemaking. The EPA is soliciting comments on this approach; specifically, whether partial States should be included, which States or parts of States should be excluded, the appropriate rationale for excluding States or parts of States, and how to address administrative difficulties associated with excluding parts of a State.

For electric utilities, OTAG recommended that the range of utility NO_X controls in the fine grid fall between CAA controls (about a 30 percent reduction from 1990 levels) and the less stringent of 85 percent reduction from the 1990 rate or 0.15 lb/MMBtu. As discussed below, EPA's proposed utility budget component calculation is based on the 0.15 lb/MMBtu emission rate without the 85 percent reduction option. Thus, EPA's proposed utility budget component calculation is similar to the upper bound recommended by OTAG, but with a slightly lower overall emission rate (since it excludes the 85 percent reduction criterion) and slightly different total area (since whole States—not just the fine grid portion—but fewer States are included). The alternatives considered and explanation of the methodology proposed to make these calculations are more fully discussed below and in the technical support document (TSD) which is included in the Docket to this rulemaking.

For nonutility point sources, OTAG recommended that the stringency of controls for large sources be established in a manner equitable with utility controls. The OTAG recommendation includes a definition of large sources (e.g., industrial boilers with a heat input greater than 250 MMBtu) and recommends control levels ranging from 55–70 percent reduction. The OTAG Policy Group further recommended that RACT should be considered for individual medium-sized nonutility point sources (e.g., industrial boilers with a heat input between 100 and 250 MMBtu). The EPA-proposed nonutility budget component calculations generally follow the OTAG recommendations. Missing data in the OTAG emissions inventories, however, preclude EPA from precisely following the recommended definitions of large- and medium-sized sources. The alternatives considered and explanation of the methodology proposed to make these calculations are more fully discussed below.

3. Uniform Application of Control Measures

The EPA is proposing that the budget for each State that has been determined to contribute significantly to nonattainment in a downwind State be calculated using the same control measure assumptions. This is true under either interpretation, described above, of section 110(a)(2)(D). An alternative approach would be for EPA to attempt to identify for each State or a group of adjacent States (e.g., Ohio Valley, Great Lakes, Southern, or Northeastern States) a unique set of control levels on which to base emissions budgets that, together with other States' emission budgets, would eliminate significant contribution to downwind nonattainment areas. The EPA is soliciting comment on methodologies that might be used to implement such an approach. The decision to propose to calculate budgets based on uniform control measures is based primarily on cost effectiveness (cost per ton removed) and also in consideration of the OTAG recommendations, collective contribution, equity concerns, modeling assumptions and concerns over emissions shifting. These are discussed further below.

a. OTAG. Although OTAG did note that the range of transport is generally longer in the North than in the South, the OTAG recommendations did not specifically indicate whether controls should be applied at differing levels over the fine grid.

b. Collective Contribution and Equity Considerations. The EPA believes that certain downwind States receive amounts of transported ozone and ozone precursors that significantly contribute to their nonattainment. The EPA further believes that it is the "collective" emissions of "several" upwind States that result in significant contributions. All States included within a group of States whose collective emissions significantly contribute to nonattainment may be assumed to contribute significantly. Because each State's contribution is viewed with reference to other States' contributions, EPA believes it is appropriate to require the same type of remedial action for each State.

The proposed approach results in the calculation of statewide emissions budgets based on the consistent application of potential controls across the States determined to contribute significantly. This approach treats the 23 jurisdictions in a like manner for the purpose of calculating the proposed statewide emissions budgets.

c. Modeling Assumptions and Potential Synergistic Effects. In theory, it would be possible to derive more precise contributions made by individual States to collective transport of ozone and precursors to downwind States. In practice, however, this is a more challenging analysis. First, the relative impact of individual States, within a collective group of States, on transport varies as a function of meteorology. For example, the impact of more distant States may be relatively greater when there is a well defined windfield. In contrast, effects of nearby States may be most pronounced under stagnant or semi-stagnant conditions. Modeling may therefore not sufficiently characterize the relative importance of emissions in individual States to regional transport, unless many days reflecting a variety of meteorological conditions are modeled.

Second, the impact of an individual State on downwind transport of ozone and precursors depends on what is assumed about emissions in other States in the collective group shown to result in significant transport. This is exacerbated by the fact that ozone formation and transport is not a linear function of precursor emissions. Rather, there is likely to be a synergistic effect which arises from reducing emissions in several neighboring States. Thus, the predicted relative importance of emissions from a single State might change substantially if emissions from other States in the group were reduced. There is a myriad of assumptions which can be made about emission controls in neighboring States. It is not feasible to model them all. Thus, a definitive, precise estimate of the relative importance of a single State's contribution to transport is unlikely. On the other hand, OTAG has performed modeling showing the air quality impacts of applying differential levels of controls in different zones of the OTAG domain (see section II.B.3, OTAG Geographic Modeling). In section III.A.3.e below, EPA is requesting comment on the possibility of using this or some other analysis as a means for considering an alternative approach to developing NO_X budgets.

d. Electrical Generation and Emissions Shifting. Among many factors that EPA considered in weighing whether to propose uniform or variable emissions limits in calculating States' emission budgets was the concern that different controls in one part of the OTAG fine grid region in combination with an interstate emissions trading program may lead to increases in pollution within areas having more restrictive controls. That is, if unrestricted interstate emissions trading were allowed, emissions reductions might be expected to shift away from States assigned more restrictive controls to States which received less restrictive control requirements due to the lower control costs likely to exist in States with less restrictive controls. This may result in emissions above the budget level in areas with more restrictive controls. Such shifts are an important concern and may be most significant for large combustion sources because they emit a large portion of the total regional NO_X emissions and dominate point source emissions.

On the other hand, having the interstate trading program incorporate control levels that vary from State to State by varying the value of an emission credit or allowance would complicate administration of the trading program. Such complexity would increase transaction costs and could discourage emissions trading which may result in higher regionwide control costs. Alternatively, the scope of the trading program could be confined to those States with similar control levels. However, each subregional trading program would have fewer participants. A trading program that covers a smaller market area will provide less flexibility and reduce the possible savings for the affected sources as compared with larger trading programs.

e. Alternative Approaches Based on Non-Uniform Application of Control Measures. The EPA is proposing to derive State NO_X emissions budgets using uniform control measures. As discussed earlier in this section, EPA believes it is appropriate to require comparable levels of control of NO_X emissions throughout the 23 jurisdictions covered by today's action. The EPA selected these proposed levels primarily by considering the cost effectiveness of control at the source (*i.e.*, the control cost per ton of NO_X reduced for each type of source). Although not all such emissions reductions are equally effective in reducing ozone concentrations in target nonattainment areas, EPA believes that other benefits of NO_X reductions and equity considerations are also important and support this type of approach.

In a July 1997 Memorandum to the EPA Administrator, the President directed the Agency to maximize common sense, flexibility, and cost effectiveness in implementing the revised ozone and particulate matter standards. Fulfilling this mandate by developing the least burdensome strategy for achieving air quality improvements, and ultimately attainment in nonattainment areas, requires technically complex analysis of regional transport, similar to that undertaken as part of the OTAG process. As noted elsewhere in this package, a number of other factors, including distance and meteorology, influence how effective different tons of emissions reductions are in reducing ambient ozone concentrations in nonattainment areas.

The EPA recognizes that analytic approaches other than one based on using uniform control measures might be useful in deriving State NO_X emissions budgets. For example, one approach would be to attempt to quantify more explicitly the cost effectiveness in terms of the ambient ozone improvement in nonattainment areas (measured, for example, as cost per population weighted changes in parts per billion of peak ozone concentrations) taking into account the location of control measures through regional modeling. This alternative, if feasible, would clarify the linkage between the budget calculation and ambient ozone improvement in nonattainment areas and, depending on its effect on interstate emissions trading, could thereby lower the overall cost of achieving comparable ambient ozone improvements in nonattainment areas. Alternative approaches to measuring cost effectiveness that would more directly link cost effectiveness to improvements of air quality in nonattainment areas could also be adopted.

The EPA solicits comment on alternative approaches for establishing State emissions budgets that factor in the differential effects of NO_X reductions in different geographic locations on downwind air quality. Comments advocating alternative approaches would be most helpful if they set forth concrete proposals on what analysis should form the basis for budget calculations. The EPA plans to review alternative approaches and perform additional air quality and economic analysis in developing the final rule. If, after review of alternative approaches, EPA concludes that a new basis for the State emissions budgets is appropriate, EPA would issue a SNPR.

4. Seasonal vs Annual Controls

Today's proposal is for the purpose of helping attain and maintain the NAAQS for ozone. High ambient concentrations

of ozone are associated with periods of elevated temperature and solar radiation. Thus, in most parts of the country, high ozone episodes occur only during summer months. Accordingly, the control of NO_X emissions primarily on a summer season basis may be part of some areas' strategies to attain the ozone standard at least cost. The OTAG analyses have assumed that the control requirements flowing from this process would be required only over the ozone season, which OTAG considered to be May 1 through September 30. For the purpose of decreasing the regional transport of ozone and ozone precursors, EPA agrees that control measures that focus over the ozone season may be appropriate and is proposing seasonal NO_X budgets.

Because NO_X emissions have adverse impacts on the environment in several ways (as described in section IX., Nonozone Benefits of NO_X Reductions), it should be noted that the timing of the NO_X emissions can be important to the subsequent environmental impacts. For example, year-round reductions in NO_X emissions are more helpful than seasonal approaches at minimizing the impacts of acid deposition and eutrophication, although summertime NO_X emissions reductions are most helpful in attaining the ozone standard. Application of NO_X emissions controls that focus emissions reductions in the summer will, in many cases, also achieve significant emission reductions on a year-round basis. For example, efforts to decrease emissions from large boilers will usually include installation of low NO_X burners—which will achieve year-round moderate amounts of emission reductions—and may include, in addition, some type of summer season control, such as switching to a cleaner fuel or post-combustion technology. Therefore, while the purpose of this rulemaking is to address ozone transport that significantly contributes to downwind nonattainment, which is primarily a concern during the ozone season, States may wish to consider the total environmental impacts when adopting measures to achieve the NO_X emissions decreases.

The OTAG modeling used emissions inventory information that represented typical summer day emissions. In this rulemaking, EPA is proposing seasonal emission budgets for each of the 23 affected jurisdictions. Thus, in developing the budget, a conversion is needed to arrive at a seasonal budget. As in the OTAG process, EPA is proposing to use May 1 through September 30 as the ozone season. The detailed procedures for converting the daily emissions into the seasonal budgets are described below for each source sector. The proposed budgets are in units of tons of anthropogenic NO_X for the season May 1 to September 30. Since States will generally only be able to affect anthropogenic sources, the proposed budget does not include biogenic or geogenic sources.

5. Consideration of Areas With CAA Section 182(f) NO_X Waivers

The OTAG process included lengthy discussions on the potential increase in local ozone concentrations in some urban areas that might be associated with a decrease in local NO_X emissions. The OTAG modeling results indicate that urban NO_X emissions decreases produce increases in ozone concentrations locally, but the magnitude, time, and location of these increases generally do not cause or contribute to high ozone concentrations. That is, NO_X reductions can produce localized, transient increases in ozone (mostly due to low-level, urban NO_X reductions) in some areas on some days, but most increases occur on days and in areas where ozone is low. The OTAG recommended that the States work together and with EPA toward completing local SIPs, including evaluation of possible local NO_X disbenefits. The EPA agrees that further analysis of this effect is needed as part of the development of local attainment plans. With respect to regional ozone transport and today's proposed action, EPA believes it is not appropriate to give special treatment to areas with NO_X waivers as discussed below.

In calculating the proposed statewide NO_X emissions budget, EPA considered the options of: (1) requiring less reductions from a State that had been granted a NO_X waiver under section 182(f) of the CAA, or (2) ignoring the NO_X waiver for purposes of calculating the transport budget. As described below, EPA believes it is inappropriate to give special treatment to areas with NO_X waivers when considering measures to reduce the regional transport of ozone and ozone precursors. Therefore, EPA is proposing to calculate the statewide emissions budget without special consideration for areas with NO_X waivers. The EPA views the effect of NO_X waivers on air quality as appropriate for further analysis by each State as part of its local attainment planning process, and EPA will consider such results when working with each State's attainment plan.

In option (1), the upwind States with NO_X waivers would achieve only a portion of the emissions decreases otherwise required under the statewide emissions budget. Thus, the downwind nonattainment areas would receive less improvement in air quality and would need to adopt additional control measures in their States. To some degree this approach defeats the purpose of today's action because fewer emissions reductions in the upwind areas would lead to higher ozone concentrations in the downwind areas.

In option (2), the upwind States may be able to achieve the NO_X emissions decreases needed to meet their budgets in those portions of the State where NO_X emissions decreases are not a problem. On the other hand, the State may need to implement some NO_X emissions decreases in areas where such decreases may lead to increases in ozone concentrations on some days. Thus, additional VOC control measures may be needed to offset associated ozone increases due to NO_X emissions decreases in the sensitive areas. This approach is more consistent with the purpose of today's action and may or may not result in additional VOC controls being needed.

In proposing option (2), it is helpful to look more closely at why the NO_X waivers were initially granted and the manner in which they were granted. Most of the NO_X waivers granted were not supported by local or regional scale air quality modeling analyses indicating that NO_X emissions decreases would result in ozone increases. In fact, most of the waivers were granted based solely on local air quality data indicating the areas were already attaining the ozone standard. Thus, technical support for option (1) is substantially incomplete. In addition, relevant modeling analyses completed by OTAG and others regarding the issue of NO_X waiver areas need to be considered as described below.

The CAA requires EPA to view NO_X waivers in a narrow manner. In general, section 182(f) provides that waivers must be granted if states show that reducing NO_X within a nonattainment area would not contribute to attainment of the ozone NAAQS within the same nonattainment area. Only the role of local NO_X emissions on local attainment of the ozone standard is considered in nonattainment areas outside an ozone transport region. The role of NO_X in regional attainment is addressed separately under section 110(a)(2)(D) of the Act, which prohibits one State from significantly polluting another State's downwind areas.

In response to State NO_X waiver petitions submitted between 1992–1995, EPA granted NO_X waivers under section 182. Most waivers were granted on the basis that the area had already attained the ozone standard and, thus, additional NO_X (or VOC) reductions "would not contribute to ozone attainment in the area." In some cases, the waivers were granted based on dispersion modeling which showed that the area would attain just as expeditiously based solely on additional VOC reductions or that local NO_X reductions increased local peak ozone concentrations; this also meets the above test that additional NO_X reductions would not contribute to ozone attainment in the area.

Specifically, the EPA received petitions for a NO_X waiver for 51 ozone nonattainment areas. Of these petitions, EPA has approved waivers for 48 nonattainment areas and 3 are pending. Most of the waivers granted (28 of 48) were simply based on air quality monitoring data over a period of 3 or more years indicating the area had attained the ozone standard (and, thus, additional NO_X reductions were not needed for attainment). Several States submitted NO_X waiver petitions (7 of 48) accompanied by an attainment plan showing achievement of the ozone standard by the statutory deadline through additional VOC controls only. None of these 35 nonattainment areas with approved NO_X waivers have demonstrated or even sought to demonstrate that NO_X reductions might increase ozone concentrations in specific areas. Only in the cases of the Lake Michigan (9 nonattainment areas), Phoenix AZ, Baton Rouge LA and the Houston/Beaumont TX areas was information submitted to show that, in some episodes, NO_X emissions decreases lead to increases in peak ozone concentrations (13 of 48). Thus, the technical support for option (1) is substantially incomplete. Even for the few areas which had modeling information, those analyses were generally considered preliminary analyses that would be replaced with more complete modeling associated with attainment plans.

In the **Federal Register** notices approving individual waiver petitions, EPA gave notice that approval of the local petition, under section 182(f) of the CAA, is on a contingent or temporary basis because subsequent modeling or monitoring data for an area may show attainment benefits from NO_X reductions, and stated that additional local and regional NO_X emissions reductions may be needed to reduce the long range transport of ozone. Where such additional NO_X reductions are necessary to reduce the long range transport of ozone, EPA stated that authority provided under section 110(a)(2)(D) of the CAA would be used and that a section 182(f) NO_X waiver would, in effect, be superseded for those control requirements needed to meet the section 110(a)(2)(D) action. Further, EPA noted that States may require additional NO_X reductions in these nonattainment areas for nonozone purposes, such as attainment of the PM–10 standard or achieving acid rain reduction goals.

The OTAG addressed the complex issue of regional impacts due to transport of NO_X and VOC emissions. The OTAG modeling results indicate that urban NO_X reductions produce widespread decreases in ozone concentrations on high ozone days. In addition, urban NO_X reductions also produce limited increases in ozone concentrations locally, but the magnitude, time, and location of these increases generally do not cause or contribute to high ozone concentrations. Most urban ozone increases modeled in OTAG occur in areas already below the ozone standard and, thus, in most cases, urban ozone increases resulting from NO_X reductions do not cause exceedance of the ozone standard. There are a few days in a few urban areas where NO_X reductions are predicted to produce ozone increases in portions of an urban area with high ozone concentrations.

In other words, modeling analyses conducted as part of the OTAG process indicated that, in general, NO_X reduction disbenefits are inversely related to ozone concentration. On the low ozone days leading up to an ozone episode (and sometimes the last day or so), the increases are greatest, and on the high ozone days, the increases are least (or nonexistent); the ozone increases occur on days when ozone is low and the ozone decreases occur on days when ozone is high. This indicates that, in most cases, urban ozone increases may not contribute to exceedances of the ozone standards. Overall, OTAG modeling thus suggests that the ozone reduction benefits of NO_X control may outweigh the disbenefits of urban ozone increases in both magnitude of ozone reduction and geographic scope.

It should be noted that the modeling analyses completed within the OTAG process necessarily utilized a larger grid size than States are likely to use in their attainment plans. That is, future analyses by States will likely use smaller grid sizes. The smaller grid sizes may provide additional information on effects such as local NO_X emissions reacting with local ozone. The additional information will be important as States develop their attainment plans.

In summary, the EPA views ozone pollution as a regional problem as well as a local problem. Thus, achieving ozone attainment for an area, and thereby protecting its citizens from ozone-related health effects, often depends on the ozone and precursor emission levels of upwind areas. In order to achieve the needed upwind NO_X emissions decreases, areas that were granted NO_X waivers may need to control NO_X emissions for transport purposes, even if the waivers remain in place. Today's action is part of the process that is leading to additional NO_X reductions requirements in attainment and nonattainment areas across broad parts of the Nation to reduce interstate transport of ozone. The requirements of today's action apply both to areas with approved NO_X waiver petitions and areas without such petitions. That is, any nonattainment areas with NO_X waiver petitions approved by EPA in the past or in the future are not proposed to be exempt from today's action.

At the same time, EPA is sensitive to the concerns of those areas (primarily in the Lake Michigan area) that may be required to achieve NO_X reductions that produce local increases in ozone concentrations in order to reduce concentrations in downwind areas. The EPA is, thus, taking comments on approaches that might be used to address such concerns on a case-by-case basis. The EPA wishes to stress that it would only consider an approach that targets areas with concrete modeling results documenting a likelihood of local disbenefits from NO_X reductions at locations and on days with high ozone concentrations. As already discussed, EPA does not believe adjustments to NO_X budgets are appropriate for areas with waivers based solely on their ability to attain the NAAQS without further reductions.

6. Relation of OTC NO_X MOU to Budgets in the Ozone Transport SIP Rulemaking

The 2007 Budgets for the electric utilities and the nonutilities were developed independently of the OTC NO_X MOU. The Ozone Transport SIP Rulemaking allows States flexibility to achieve reductions from any source category; however, implementation of these requirements could be coordinated. The MOU covers large boilers, both utility and nonutility boilers. The Ozone Transport SIP Rulemaking covers these sources as well as other categories of major NO_X stationary sources. Although the OTC NO_X MOU does not cover these other categories, the OTC States regulated emissions from these categories through

implementation of the RACT program, beginning in 1995.

The EPA believes that implementation of Phase II of the MOU should proceed as scheduled, with achievement of the reductions by May 1999. These emissions reductions are needed to help reduce ozone transport and make progress toward attainment. Further, these reductions do not conflict with the requirements imposed by the Ozone Transport SIP Rulemaking because they do not exceed the required reductions. In Phase III of the MOU, however, the timing and the amount of the reductions required by the OTC's MOU and RACT provisions are much closer to the timing and reductions from the Ozone Transport SIP Rulemaking. The emissions reductions required by the Ozone Transport SIP Rulemaking are likely to be somewhat more stringent overall than the OTC's Phase III requirements, and Phase III implementation could occur about the same time as the Ozone Transport SIP Rulemaking reductions. Therefore, EPA intends to work with the OTC States to coordinate Phase III implementation with implementation of the emissions reductions required by the Ozone Transport SIP Rulemaking.

The States in the OTC not covered by the Ozone Transport SIP Rulemaking should continue to develop, adopt and implement Phases II and III of the MOU. Such reductions may be necessary to provide for attainment of the ozone NAAQS in those areas, although they may not be significant with respect to long distance transport. Further, such reductions may help to attain and/or maintain the new 8-hour ozone standard.

B. Budget Development Process

1. Overview

The EPA is proposing to develop seasonal budgets for each State by determining the amount of emissions that would remain in each State after application of reasonable, cost-effective control measures. For all sectors except electric utilities and nonutility point sources, EPA proposes using the 2007 Clean Air Act inventory developed by OTAG as the starting point for this calculation. This inventory reflects implementation of all mandatory national and nonattainment area Clean Air Act controls, plus any additional regional and State-specific controls. It also includes growth assumptions between 1990 and 2007. The specific assumptions on which this inventory is based are documented in a June 1997 draft Emissions Inventory Development Report (8). To determine the overall State budgets, EPA proposes applying controls to various source sectors, as discussed below, calculating budget components based on these controls, and summing the budget components for each sector to get the total budget.

In the case of electric utilities, EPA proposes using a slightly different approach. Instead of using the OTAG 2007 emissions and applying controls, EPA proposes to calculate the utility component of the budget using data provided by utilities to EPA for 1995 and 1996 and increasing the emissions to reflect activity growth projected for 2007. This is discussed in more detail below in section III.B.3.

In the case of nonutility point sources, EPA proposes using the OTAG 2007 emissions with one adjustment. The inventory needs to be adjusted to represent uncontrolled levels, rather than CAA control levels, because the OTAG recommendation is based on uncontrolled levels. This is discussed in section III.B.4, Proposed Assumptions for Area and Nonutility Point Sources.

2. Description of and Rationale for Proposed Control Assumptions

An important issue to be addressed in today's action is the reasonableness of the cost of control of emissions in States that significantly contribute to another State's ozone nonattainment. The EPA proposes to address this issue by examining the cost effectiveness of various regionwide ozone season control measures and determining what measures can be considered the most reasonable in light of other actions taken by EPA and States to control NO_X.

a. Considering the Cost Effectiveness of Other Actions. The EPA is proposing to base the budget component levels on NO_X emissions controls that are available and the most cost effective in relation to other recently undertaken or planned NO_X measures. Table III–1 provides a reference list of measures that EPA and States have undertaken to reduce NO_X and their average annual costs per ton of NO_X reduced. Most of these measures fall in the $1,000 to $2,000 per ton range. With few exceptions, the average cost effectiveness of these measures is representative of the average cost effectiveness of the types of controls EPA and States have needed to adopt most recently, since their previous planning efforts have already taken advantage of opportunities for even cheaper controls. The measures listed in Table III–1 represent costs that the Nation has been willing to bear to date to reduce NO_X. The EPA believes that the cost effectiveness of measures that it or States have adopted, or proposed to adopt, forms a good reference point for determining which of the available additional NO_X control measures can most reasonably be implemented by upwind States that significantly contribute to nonattainment.

TABLE III–1.—AVERAGE COST EFFECTIVENESS OF NO_X Control Measures Recently Undertaken

[In 1990 dollars]

Control measure	Cost per ton of NO_X removed
NO_X RACT	150–1,300
Phase II Reformulated Gasoline	[1] 3,400
State Implementation of the Ozone Transport Commission Memorandum of Understanding	950–1,600
Proposed New Source Performance Standards for Fossil Steam Electric Generation Units	1,290
Proposed New Source Performance Standards for Industrial Boilers	1,790

[1] Average cost representing the midpoint of $1,500 to $5,300 per ton. This cost represents the projected additional cost of complying with the Phase II RFG NO_X standards, beyond the cost of complying with the other standards for Phase II RFG.

The Federal Phase II RFG costs presented in Table III–1 are not strictly comparable to the other costs cited in the table. Federal Phase II RFG will provide large VOC reductions in addition to NO_X reductions. Federal RFG is required in nine cities with the Nation's worst ozone nonattainment problems; other nonattainment areas have chosen to opt into the program as part of their attainment strategy. The mandated areas and those areas in the OTAG region that have chosen to opt into the program are areas where significant local reductions in ozone precursors are needed; such areas may value RFG's NO_X and VOC reductions differently for their local ozone benefits than they would value NO_X reductions from RFG or other programs for ozone transport benefits.

The EPA notes that there are also a number of less expensive measures recently undertaken by the Agency to reduce NO_X emission levels that do not appear in Table III–1. These actions include: (1) The Title IV NO_X reduction program, (2) the Federal locomotive standards, (3) the 1997 proposed Federal nonroad diesel engine standards, (4) the Federal heavy duty highway engine 2g/bhp-hour standards, and (5) the Federal marine engine standards. These lower cost actions do not represent a useful measure of the willingness to make reasonable expenditures to reduce NO_X emissions in order to achieve air quality goals. Decisions to undertake these measures are low cost steps toward NO_X reduction. Though these actions are very cost effective, the Agency must now focus on what other measures exist, at a potentially higher cost-effectiveness value, that can further reduce NO_X emissions. The Agency is focusing on these other actions because they may also be of reasonable cost effectiveness and obtaining these reductions are less costly than further local reductions of VOC and NO_X in nonattainment areas. Table III–1 is thereby useful as a reference of the next higher level of NO_X reduction cost effectiveness that the Agency considers reasonable to undertake.

The Agency is also aware that to come into attainment with the new ozone NAAQS, many localities will spend several thousand dollars per ton of NO_X or VOC reduction.

b. Determining the Cost Effectiveness of NO_X Controls. In an effort to consider a cost-effective mix of controls on which to base each component of the proposed budget (i.e., electricity generating sources, nonutility point sources, area sources, and mobile sources) the Agency considered the average cost effectiveness of alternative levels of controls for each source. Among the plausible levels of control are the controls included in OTAG's recommendations.

The average cost effectiveness of the controls assumed in calculating each sector's budget component was calculated from a baseline level that included all currently applicable Federal or State NO_X control measures. The baseline did not include Phase 2 and Phase 3 of the OTC NO_X MOU since they have not yet been adopted by all the involved States [8]; if the MOU were included in the baseline, the overall costs would be lower. The costs and emissions reductions for point sources are determined using an emissions cap-and-trade approach since EPA believes that this approach is the most cost-effective way for point sources to meet an emissions budget, and EPA expects that States are also interested in employing the most cost-effective approach. Table III–2 shows in the first column of numbers the average cost per ton of NO_X removed during the ozone season of various potential EPA actions, arranged by source sector. The action is presented in the form of a regionwide budget for each source sector (i.e., the electric power industry and other stationary sources), and the cost-effectiveness values are for the ozone season. The Agency used its estimates of the average cost effectiveness of reducing NO_X emissions during the ozone season to develop the budget components for the electric power industry and other stationary sources.

The next three columns in the Table contain the average cost per ton of NO_X annually reduced, the incremental cost per ton of NO_X reduced during the ozone season, and the incremental cost per ton of NO_X annually reduced. The average cost per ton of NO_X reduced annually is the annual costs of a source category complying with a NO_X budget component option divided by the NO_X emissions reductions that occur throughout the entire year. The incremental cost per ton of NO_X reduced during the ozone season is the difference in the annual cost of the option examined and the next cheapest option divided by the difference in seasonal NO_X reduction in these two options. The incremental cost per ton of NO_X reduced annually is the difference in the annual cost of the option examined and the next cheapest option divided by the difference in the annual NO_X reduction in these two options. For the option with the lowest annual cost for each source category's NO_X budget component, the average and incremental costs are the same, which assumes that ultimately the cheapest option is no additional controls, or the baseline.

The EPA has provided these other measures of cost effectiveness to provide additional perspective on the decision that the Agency made for the level of each source category budget component. Each of these cost-effectiveness measures has advantages in being used in conjunction with other factors to make a decision on environmental controls under certain circumstances. They each also have limitations. The annual measures are valuable since there are NO_X reduction benefits that the public will gain throughout the year from controls on the sources covered in this rulemaking. They do not, however, focus as well on the primary objectives of the ozone transport rule of providing reductions of ozone during the time of year when it does the most harm and in which exceedances of the ozone standards are likely to occur. The incremental measures are valuable since they show the additional costs of the additional reductions from increasing the stringency of pollution controls. However, for this rulemaking, it is difficult to compare the incremental costs of increasing levels of stringency for large stationary sources with other Agency and State analyses that have been developed in the past. For instance, because incremental cost comparisons will differ depending on the size of the increment in stringency being considered, care must be used in using incremental cost estimates from earlier rulemakings.

The Agency solicits comments on its use of average seasonal cost effectiveness as the measure it wants to rely on to judge the cost effectiveness of the NO_X reductions that will occur from the NO_X budget components that EPA has chosen for the electric power industry and other stationary sources. Commenters offering other measures, or combinations of cost-effectiveness measures, that EPA needs to consider, should provide their rationale for their views.

The EPA is not choosing to base its proposed budgets on an expansion of I/M programs beyond the extent required by the CAA or otherwise reflected in existing SIPs in its calculation of State NO_X budgets. The cost effectiveness of I/M programs in reducing ozone precursors (including both NO_X and VOC) can vary widely due to differences in the design and operation of individual I/M programs. The EPA's current estimate of the cost effectiveness of I/M programs ranges from $500 to $3,000 per ton of ozone precursor, on an annualized summer ton basis.[9] Although this range suggests that the cost effectiveness of I/M programs in reducing ozone precursors (including both NO_X and VOC) may be comparable to the cost of the utility NO_X reductions proposed in today's rulemaking, the cost effectiveness of I/M programs in reducing NO_X alone would be significantly higher since most of the ozone precursor reductions from enhanced I/M programs are VOC reductions. Both VOC and NO_X reductions are valuable for achieving local attainment, but as discussed in section II, Weight of Evidence Determination of Significant Contribution, today's rulemaking

[8] However, in the Regulatory Analysis of this action, EPA evaluates the economic impact of including the MOU in the baseline for the electric power industry.

[9] All estimates of I/M program cost effectiveness in this rulemaking are presented in terms of the cost per annualized summer ton of ozone precursor, i.e., the cost per ton of VOC or NO_X. Cost per annualized summer ton is calculated as the total cost of the program divided by the number of tons that would be reduced annually if the level of reduction achieved during the summer were achieved year round. It thus understates the cost per actual ton of reduction of ozone precursors. The EPA believes this procedure is appropriate because I/M programs reduce other pollutants beside ozone precursors (e.g., air toxics and carbon monoxide (CO)).

focuses on reducing NO_X emissions since such reductions offer greater potential for reducing regional transport than would VOC reductions.

Similarly, EPA is not choosing to base its proposed budgets on an expansion of Federal Phase II RFG beyond its current extent in its calculation of State NO_X budgets. The EPA's current estimate of the cost effectiveness of Federal Phase II RFG ranges from $2,600 to $3,500 per ton of ozone precursor, on an annualized summer ton.[10] This cost exceeds the cost of the utility NO_X reductions proposed in today's rulemaking. Furthermore, the cost effectiveness of Federal Phase II RFG programs in reducing NO_X alone would be significantly higher since most of the ozone precursor reductions from RFG would be in the form of VOC reductions which, while valuable for achieving local attainment, are not the focus of today's action since NO_X reductions offer greater potential for reducing regional transport.

TABLE III–2.—COST EFFECTIVENESS OF OPTIONS FOR THE OZONE SEASON NO_X BUDGET COMPONENTS FOR SELECTED SOURCE CATEGORIES

[In 1990 dollars per ton of NO_X reduced]

Source category: Options for ozone season NO_X budget components	Average cost per ton of NO_X reduced during the ozone season	Average cost per ton of NO_X reduced annually	Incremental cost per ton of NO_X reduced during the ozone season	Incremental cost per ton of NO_X reduced annually
Electric Power Industry:				
815 thousand tons	$1,100	$850	$1,100	$850
652 thousand tons	1,300	1,050	2,100	2,100
489 thousand tons	1,700	1,400	3,600	3,400
391 thousand tons	2,100	1,750	6,350	5,200
326 thousand tons	2,450	2,000	8,700	6,850
Other Stationary Sources				
484 thousand tons[1]	1,450	750	1,450	750
466 thousand tons[2]	1,650	900	4,400	2,150
380 thousand tons[3]	2,750	1,400	6,300	3,050

[1] This measure approximates the emission reductions that would be obtained if Level 1 controls were placed on medium sized sources and Level 2 controls were placed on large sized sources. The calculation process used to calculate cost for nonutility units selects control measures (at a State level) so that the cost minimizing set of controls that meet the required emissions reductions are chosen. This approach provides a downward bias to the costs and cost-effectiveness values compared to any way the States might obtain the emission reductions, including consideration of other factors (e.g., administrative costs that are not included in this analysis). While a least-cost approach simulates either costless emissions trading or a cost minimizing command and control approach with perfect information, either approach is unlikely to include the smaller sources used in this analysis.

[2] This option considers a 70 percent reduction of summer NO_X emissions from large sources and RACT controls on medium size sources. This approach is what OTAG recommended occur, if EPA considered reductions of electric power industry emissions of equivalent to .15 pounds of NO_X per MMBtus, or an 85 percent reduction of uncontrolled levels, whichever is less stringent. The EPA's proposal for the NO_X budget component for the electric power industry is based on a comparable level of controls to the .15/85 percent reduction.

[3] This measure approximates budgets of an 80 percent control of baseline emissions for large sized sources and Level 1 control on the medium sources. The calculation process used to calculate cost effectiveness on nonutility units provides a downward bias for the reasons explained in the above footnote.

NOTE: The options for electric power industry NO_X budget component are based on pollution controls on electric generation units meeting summer season NO_X emission limitations in pounds of NO_X per million Btus of heat input of .25, .20, .15, .12, and .10, respectively. The cost-effectiveness calculations are based on implementing these controls through a cap-and-trade program. The controls on which the options for the NO_X budget component for Other Stationary Sources are based are provided in the footnotes. The cost-effectiveness calculations are based on each State implementing a least-cost approach to compliance.

Considering the $1,000 to $2,000 per ton average cost-effectiveness range from Table III–1, and the level of control achievable with each sector's NO_X control technologies, EPA believes that it is reasonable to require the following levels of reductions: (1) For the electric power industry, a budget component of 489 thousand tons (which is equivalent to an average NO_X emission rate of 0.15 lb/MMBtu) since it is both cost effective and achievable, on average, by the affected sector sources; and (2) for other stationary sources, a budget component of 466 thousand tons, which is consistent with OTAG's recommendation that nonutility point source controls be comparable in stringency to the selected level of electric power industry controls, which for .15 lbs/MMBtus would be 70 percent control on large-sized sources (e.g., boilers greater than 250 MMBtu/hour) and RACT controls on medium-sized sources (e.g., sources emitting between 1 and 2 tons per day). The RACT controls result in NO_X reductions generally in the range of 25–50 percent. This corresponds closely with the OTAG recommendation given the proposed level of electric power industry controls, and EPA believes it is a reasonable level of control based on average cost effectiveness as discussed above.

For mobile sources, EPA proposes constructing the budget component by including: (1) those controls that would be implemented federally or by States in the absence of today's action, and (2) those controls that are viewed today as being feasible in the 2007 time frame and that meet EPA's proposed NO_X cost-effectiveness criterion. The EPA did not include in the proposed mobile source budget component a number of control measures that offer multipollutant benefits and hence may be attractive control measures for local attainment and maintenance. These measures include Tier 2 light-duty vehicle and light-duty truck standards and more extensive implementation of I/M and Federal Phase II RFG. When compared with other available options, these measures are reasonable control measures when these measures' full range of benefits are considered, including CO, toxic air pollutants, and VOC benefits in addition to their NO_X benefits. Some of these measures, such as I/M, RFG and Clean Fuel Fleets, can be implemented in specific areas seeking to meet local air-quality objectives rather than region or nationwide. While EPA did not choose to assume their regionwide implementation in calculating NO_X budgets because their cost effectiveness for NO_X reductions alone did not justify including them in the set of assumed controls, EPA continues to believe that these measures' nonozone benefits and VOC benefits (which provide local ozone reductions but tend not to provide significant reductions in regional ozone transport) make them attractive for areas seeking to meet local ozone attainment, or maintenance objectives, or other air quality goals. Although these strategies were not included in the budget calculation, States can opt to implement these measures as part of their SIP revision in response to today's proposal. Each of these programs is discussed in more detail below.

The EPA's approach to the NO_X budget component for the electric power industry relies on the consideration of the States using a cap-and-trade program to reduce emissions from this source category. The Agency's analysis shows that this type of approach is 25 percent more cost effective (lower in cost per ton reduced) than the use of a comparable traditional command-and-control approach, such as setting rate-based NO_X emissions limitations at .15 lbs of NO_X per million Btus of heat input at every source.

The EPA did not examine the implications of each State setting up its own trading programs for the electric power industry, which could occur if the Agency is unable to work with the States to put together a viable trading program across the 23 jurisdictions covered in this rulemaking. Based on analysis done for OTAG in the past, the Agency believes this type of approach would lead to somewhat higher costs, but would still be less expensive than a command-and-control program in every State. This conclusion is based on work that EPA did for OTAG, where it divided a similar area to the one covered in this rule into five trading zones versus a single trading zone.[11] Although the costs did increase, they were not dramatically higher. Further support for this conclusion results from the examination of EPA's Regulatory Analysis supporting this proposed rulemaking. The Agency found that in the vast majority of States, electric generation units would make significant NO_X emissions reductions under a cap-and-trade system that allowed trading between all the States covered. This means that the electric power generation units that can reduce NO_X emissions most cost-effectively are spread throughout the region covered by the Ozone Transport SIP Rulemaking.

In calculating States' budgets, EPA assumed implementation of the following mobile source control measures in addition to those measures already implemented or otherwise promulgated in final form:

Nonroad

- Federal Small Engine Standards, Phase II
- Federal Marine Engine Standards
- Federal Heavy-Duty (≥50 hp) Nonroad Standards, Phase I
- Federal Reformulated Gasoline, Phase II (in statutory and current opt-in areas)
- Federal Locomotive Standards
- 1997 Proposed Nonroad Diesel Engine Standards

Highway

- Tier 1 Light-Duty and Heavy-Duty Vehicle Standards
- Enhanced I/M (serious and above areas)
- Low Enhanced I/M (rest of OTR)
- Basic I/M (mandated areas)
- Clean Fuel Fleets (mandated areas)
- Federal Reformulated Gasoline, Phase II (in statutory and current opt-in areas)
- National Low Emission Vehicle Standards
- Heavy-Duty Engine 2 g/bhp-hour standard
- Revisions to Emissions Test Procedure

With the exception of the Clean Fuel Fleets, I/M, and RFG programs, all of these control measures are or will be implemented nationally (or in the 49 States outside of California). The EPA assumed that the Clean Fuel Fleets, I/M, and RFG programs would be implemented to the extent required by the CAA or existing SIPs, or as reflected in current levels of State opt-in to these programs. The reader is referred to sections III.B.5 and III.B.6 for a more extensive discussion of the development of the highway vehicles and nonroad budget components, respectively.

At the current time, the standards presumed for locomotives, marine engines, small gasoline engine, nonroad diesel engines, and heavy-duty highway engines in calculating State NO_X budgets represent the most technically feasible emissions performance levels achievable in the 2007 time frame. For this reason, the Agency did not evaluate any more stringent standards for these sources in its calculation of State NO_X budgets.

c. Summary of Measures Assumed in Proposed Budget Calculation. The EPA is proposing to calculate the budgets described in this section by assuming the application of the most reasonable, cost-effective controls for the purpose of achieving regional NO_X reductions. Table III–3 summarizes the controls that were assumed for each source sector. More detailed discussions of the controls assumed are contained in the sections that describe each sector.

TABLE III–3.—SUMMARY OF NO_X CONTROL MEASURES APPLIED IN THE DEVELOPMENT OF PROPOSED STATEWIDE SEASONAL NO_X EMISSIONS BUDGETS *

Emissions Source Sector	Controls Applied in Developing Proposed Statewide NO_X Emissions Budgets for 2007
Large Electricity Generating Devices (fossil-fuel burning electric utility units and nonutility units serving electricity generators 25MWe or greater).	Statewide seasonal tonnage budget based on applying a NO_X emission rate of 0.15 lb/MMBtu on all applicable sources.

[10] This cost represents the midpoint of the expected range of $2,600 to $3,500 per ton (depending on the degree of expansion of the program), on an annualized summer ton basis, for both VOC and NO_X. All estimates of RFG cost effectiveness in this rulemaking are presented in terms of the cost per annualized summer ton of ozone precursor, i.e., the cost per ton of VOC or NO_X. Cost per annualized summer ton is calculated as the total cost of the programs divided by the number of tons that would be reduced annually if the level of reduction achieved during the summer were achieved year round. It thus understates the cost per actual ton of reduction of ozone precursors. The EPA believes this procedure is appropriate because the use of RFG reduces other pollutants besides ozone precursors (e.g., air toxics and CO).

[11] U.S. Environmental protection Agency, "Round 3 Analysis of Cap-and-Trade Strategies to Lower NO_X Emissions from Electric Power Generation in OTAG", March 25, 1997.

TABLE III–3.—SUMMARY OF NO_X CONTROL MEASURES APPLIED IN THE DEVELOPMENT OF PROPOSED STATEWIDE SEASONAL NO_X EMISSIONS BUDGETS *—Continued

Emissions Source Sector	Controls Applied in Developing Proposed Statewide NO_X Emissions Budgets for 2007
Nonutility point sources (boilers, reciprocating internal combustion engines, turbines, cement kilns, etc.).	70 percent controls on large-sized sources (e.g., >250 MMBtu/hour) RACT controls on medium-sized sources (e.g., 100–250 MMBtu/hour).
Nonroad Sources (commercial marine engines, small engines such as lawn and garden equipment, and larger engines such as construction equipment and locomotives).	Federal small engine standards (Phase II) Federal marine engine standards (diesel >50 horsepower) Federal locomotive standards 1997 proposed nonroad diesel engine standards.
Highway Vehicle Sources (cars, trucks, buses, motorcycles—gas and diesel highway engines).	National Low Emission Vehicle Program 2004 Heavy-Duty Vehicle Standards. Revisions to Emissions Test Procedure **
Area (Small Stationary) Sources (open burning, small commercial, industrial and residential fuel combustion devices).	Full implementation of programs required by the CAA and outlined in existing State implementation plans.

* Controls already required under the 1990 Amendments to the CAA and those applied through existing SIPs were assumed in the development of the statewide NO_X budgets but are not explicitly listed in this table.

** Other measures used in developing some state budgets include I/M programs (where mandated), Federal Phase II RFG (where mandated or in areas which have already opted into the program as of the date of today's rulemaking), and clean fuel fleet programs. Potential reductions from Tier 2 light-duty vehicle standards were not incorporated since they are still under review.

In determining what controls to assume in calculation of the proposed budgets, EPA considered the conclusions that were reached in the OTAG process as well as the cost-effectiveness rationale described above. Any special effort to address ozone transport, such as today's action, must be part of an integrated regulatory solution developed by EPA and States to provide national compliance with the current (1-hour) and new (8-hour) NAAQS. The OTAG's air quality modeling showed that even with the most stringent control measures that were evaluated for NO_X and VOC, not all areas would come into attainment with the current ozone NAAQS. It is also evident that with no actions to address ozone transport, some areas will have "background levels" that will not allow even aggressive local controls to bring them into compliance, and others will face severe measures in an effort to do so. Therefore, today's action complements local programs to address attainment with the ozone NAAQS. The EPA recognizes the need to provide pollutant reductions where it would be more cost effective to do so rather than place all of the burden on localities. The recent RIA in support of the new ozone standard shows that the last tons of localized NO_X and VOC reduction needed for meeting that standard in some areas can easily cost from $5,000 to $10,000 a ton to achieve. Avoiding such expenditures is a major objective of today's action.

3. Proposed Assumptions for Electric Utilities

This section presents the rationale and resulting proposed State-by-State NO_X budget components for fossil fuel-burning electric utility units under today's action. Three different proposed NO_X emission scenarios and their resulting State-by-State emission allocations are presented.

a. Affected Entities. The sources of information used in this section are: (1) for electric utility units submitted by utilities to EPA under the requirements of 40 CFR part 75 (emissions monitoring provisions of title IV, section 412; and (2) for nonutility units (e.g., units owned by Independent Power Producers), projected by EPA using the Integrated Planning Model (IPM) from base year information supplied to the North-American Electricity Reliability Council (NERC), Energy Information Agency (EIA), and trade sources.

Utility emissions represent approximately 36 percent of the total anthropogenic NO_X emissions after application of current CAA controls in the States covered by today's action. The calculations described below apply to large sources that have generators greater than 25 MWe. The EPA believes that it is reasonable to assume no further control of emissions from smaller sources based on the current availability of emissions and utilization data for these sources. While EPA has quality-assured NO_X emissions and utilization data for electric utility units larger than 25 MWe, such data are not currently available for smaller units. Therefore, the contribution of the smaller sources to the utility component of each State's budget cannot currently be assessed with certainty. The EPA solicits comment on: (1) whether sources equal to or smaller than 25 MWe should be included in the utility component of each State's budget, and (2) sources of emissions and utilization data for sources equal to or smaller than 25 MWe.

Larger sources were found to be large contributors to NO_X emissions and, with the application of NO_X controls, were found to be able to achieve reductions cost-effectively. Specifically, EPA performed an analysis to determine the cost effectiveness of NO_X controls applied to large utility boilers and how it compared to other sector NO_X controls. The results indicate that controlling emissions to an average level of 0.15 lb/MMBtu was cost effective for large utility boilers (see section III.B.2.).

This section does not include combustion units which generate electricity for purposes internal to a plant. These units, for the purposes of the overall State budget, are considered industrial units and are included in the corresponding section. Some of these units (e.g., units with capacity greater than 25 MWe or the equivalent in thermal output, measured in MMBtu) may more appropriately be included with the utility sector emissions, with similar required levels of control, since controls for these units may be as cost effective as utility unit controls. Additionally, certain large industrial combustion sources (e.g., boilers with a heat input larger than about 250 MMBtu/hour, used only for steam, not electricity generation) may be able to achieve levels of control equal to that of the electric utility units with comparable cost effectiveness. The EPA solicits comment on the appropriateness of including such units in the utility emissions by assuming the same level of control from these units as from utility units.

b. Methodology Used to Determine the Proposed Electric Utility Budget Component. The proposed emissions budget component for electric utilities (in tons) is calculated as the product of two separate components: (1) source activity level, measured in MMBtu; and (2) pollutant emission rate, measured in pounds of pollutant per MMBtu. Since both components influence the emissions, it is important to use the most accurate information when calculating each component.

i. Proposed Utility Budget Component Calculation and Alternatives. Four alternatives were considered for calculating the utility budget component (Table III–4).

TABLE III–4.—SUMMARY OF ALTERNATIVES

Alternative	Activity level (heat input)	NO_X rate (lb/MMBtu)
1	Future Activity (current with estimated growth to 2007)	Higher of: (1) 0.15 or (2) an 85% reduction of historic emission rate.
2	Current Activity	Higher of: (1) 0.15 or (2) an 85% reduction of current emission rate.
3	Future Activity (current with estimated growth to 2007)	0.15.
4	Current Activity	0.15.

After evaluating each alternative, EPA is proposing to base the electric utility emissions on a projected future activity level and a desired emission rate (scenario 3). The following subsections discuss each technique separately. Detailed results of each alternative are available in the TSD.

Alternative 1: Future Activity With Historic (or Desired) Emission Rates

This technique involves calculating the emissions based on a projected future activity level (e.g., using an electric utility generation forecasting model such as IPM) and the higher of: (1) a desired emission rate, or (2) a rate resulting from a percent reduction from some past baseline year emission rate (e.g., 1990). This was the technique used in many OTAG analyses. On its face, this approach may appear to equitably determine an emissions budget. However, this requires the determination of the NO_X emission rates from 1990 for every unit in a State's inventory. In addition to the accuracy problems encountered in determining an historic emissions rate, this approach relies on a percent reduction from an historic rate, which benefits States that were higher emitters over States that had cleaner fuels. Thus, EPA believes that this approach is neither the most technically accurate nor the most equitable.

Alternative 2: Current Activity With Current (or Desired) Emission Rates

This technique involves calculating emissions based on a current activity level (e.g., 1995 or 1996) and the higher of: (1) a desired emission rate, or (2) a rate resulting from a percent reduction from a current year (e.g., 1996) for which accurate emission rates per unit exist. The benefit of this approach is that both activity and emission rates are available for all utility units included in the emissions budget. This approach requires that all changes in the utilization of utility units be accommodated within the utility budget component. However, to the extent this approach relies on percent reduction, it would benefit currently high emitters and disadvantage units that installed controls in order to comply with other provisions of the Act. Thus, though simpler (because it relies on current actual data without projections), this approach may not be viewed as equitable.

Alternative 3: Future Activity With Desired Emission Rate

This technique involves calculating the utility budget component based on a future activity level (i.e., inflating the current measured utilization by an estimated growth factor) and a desired emission rate. The benefit of this approach is that it acknowledges the inherent inequity of using any past or current emission rates and treats all units equally based on a future standard emission rate (e.g., 0.15 lb/MMBtu). Further, by projecting future changes in utilization, this approach more directly accommodates changes in unit utilization to the extent such future utilization can be reasonably projected. The potential for error in making such projections is minimized when starting with actual unit-specific utilizations. Thus, though more complicated than the previous technique (because of its reliance on a projection of industry growth), this approach is viewed as more equitable, particularly since other source categories included in the overall State-specific budget reflect growth.

Alternative 4: Current Activity With Desired Emission Rate

This technique involves calculating emissions based on a current activity level (e.g., 1995 or 1996) and a desired future emission rate. Similar to the above approach, this approach acknowledges the inherent inequity of using any past or current emission rates and treats all units equally based on a desired standard emission rate (e.g., 0.15 lb/MMBtu). Unlike the above approach, however, it uses current activity to determine the utility budget component, providing for the highest degree of accuracy. Changes in the utilization of utility units must be accommodated within the utility budget component. This approach is simple (because it relies on current actual data without projections), but it may be viewed as less equitable for States with significantly higher projected utilization.

ii. Seasonal Utilization. The proposed utility budget component is based on utilization over the course of a summer season (i.e., May 1 to September 30). Utilization can be significantly different from season to season and the degree of this difference can vary from State to State (e.g., some States can have much higher utilization in the summer due, for example, to high usage of air conditioning or shifting load to another State). Thus, it is important to accurately characterize the summer usage of every State separately. Because of the high seasonal variability, it is less accurate to simply take total annual utilization and divide by the number of summer months. Similarly, because of the geographic variation, it is less accurate to take regionwide summer utilization and equally apportion the utilization to all States.

There are currently only two sources of information that provide actual data and take account for seasonal and State variations in utilization: (1) the EIA's Form 767, and (2) EPA's Emission Tracking System containing data reported by utilities in accordance with 40 CFR part 75. Both sources contain unit-by-unit utilization; EIA on a monthly basis and EPA on an hourly

basis. There is, however, one important difference: while the method used to determine and report utilization to EIA can differ significantly from utility to utility, the information submitted to EPA is determined and reported using consistent techniques as required by 40 CFR part 75.

Thus, EPA is proposing to use its information to determine each unit's (and thereby each State's) utilization for the period beginning May 1 and ending September 30. It should be noted that in the case of units owned by nonutility sources (e.g., Independent Power Producers), EPA does not have current utilization information available. For the purpose of estimating the emissions for these units, EPA is proposing to use the IPM-predicted utilization for the year 2007. The predicted utilizations are projected from base year information supplied to the NERC, EIA and trade sources.

One way of accounting for State-by-State shifts in electricity generation, from 1 year to the next, during the period beginning May 1 and ending September 30, is to calculate the utility budget component based on a composite utilization: using the State-by-State utilization for the higher of 1995 or 1996 (i.e., for each State, using the higher of its overall 1995 or 1996 summer utilization). This is the approach proposed by EPA. Though this approach results in a slightly exaggerated baseline utilization, the inflation to emissions is moderate and the equity that it provides is potentially significant for some situations. Table III–5 [12] compares the State-by-State utilizations using the composite method versus using 1996 only. The impact is most evident on the District of Columbia (which has a 1995 utilization substantially greater than its 1996 utilization) for which 1996 may have been an unrepresentative summer. Another option would be to use the annual average of the highest 2 out of 3 recent years (e.g., 1995, 1996, and 1997) when data for 1997 becomes available. The EPA solicits comment on both approaches.

TABLE III–5.—COMPARISON OF STATE-BY-STATE 1995, 1996 AND "COMPOSITE" UTILITY UNIT SUMMER UTILIZATIONS

State	1995 Utilization (MMBtu)	1996 Utilization (MMBtu)	State-by-State higher of 1995 or 1996 utilization
Alabama	342,080,000	349,950,000	349,950,000
Connecticut	26,500,000	40,890,000	40,890,000
Delaware	30,890,000	33,830,000	33,830,000
District of Columbia	2,030,000	130,000	2,030,000
Georgia	349,310,000	335,330,000	349,310,000
Illinois	331,120,000	344,470,000	344,470,000
Indiana	511,420,000	512,420,000	512,420,000
Kentucky	397,540,000	395,800,000	397,540,000
Maryland	130,530,000	123,060,000	130,530,000
Massachusetts	96,290,000	100,150,000	100,150,000
Michigan	280,730,000	287,790,000	287,790,000
Missouri	267,710,000	270,240,000	270,240,000
New Jersey	44,140,000	43,310,000	44,140,000
New York	249,260,000	223,360,000	249,260,000
North Carolina	286,710,000	310,600,000	310,600,000
Ohio	549,050,000	565,990,000	565,990,000
Pennsylvania	445,030,000	481,950,000	481,950,000
Rhode Island	320,000	11,940,000	11,940,000
South Carolina	130,150,000	150,370,000	150,370,000
Tennessee	279,730,000	268,880,000	279,730,000
Virginia	150,870,000	136,740,000	150,870,000
West Virginia	269,840,000	302,850,000	302,850,000
Wisconsin	196,840,000	191,730,000	196,840,000

iii. Growth Considerations. In general, new units built to meet economic growth are lower emitting than the older units they augment or replace. Thus, though the industry's fuel utilization may increase over time, the industry's average NO_X rate may decrease as newer, cleaner units are built and operated, and total emissions may or may not increase.

Two approaches were considered for accommodating potential emissions growth under an emissions budget. One approach was to calculate emissions based on recent historic utilization, as was done in the sulfur dioxide program under title IV of the Act. Under this approach, States with significant projected increases in utilization would be required to either: (1) reduce their NO_X rates further, or (2) burn fuel more efficiently in order to compensate. For such States, the ability to trade emissions regionwide is particularly attractive because States with low increases or decreases in utilization can trade emissions with States having significantly increased utilization.

An alternative approach was to project each State's change in utilization from current levels to some future year and set a budget based on that future year's utilization. This approach directly addresses industry growth. Additionally, this was the type of approach taken by OTAG in investigating various State budgets. Thus, EPA is proposing to use this type of approach for addressing activity growth and, as described below, using the IPM growth projections. However, there are several other ways in which growth can be reflected in budget allocations. For example, recognizing that several utility companies span more than one State and that electricity is dispatched across State boundaries, an average regional growth rate could be applied to each State's current utilization. The EPA solicits comment on these and other approaches addressing activity growth in establishing a statewide utility budget component.

c. Summary and Proposed Utility Budget Components. For reasons discussed in the previous section, EPA is proposing to calculate each State's summer season electric utility emissions using a specific NO_X emission rate and the projected summer season utilization of the year 2007. Specifically, EPA proposes calculating each State's utility NO_X budget component by multiplying: (1) each State's summer activity level, measured in MMBtu, (EPA selected the higher of each State's overall 1995 or 1996 summer utilization), by (2) each State's projected growth between 1996 and 2007 (using the IPM model), by (3) a NO_X rate of 0.15 lb/MMBtu. The resulting figure, in lbs, was divided by 2000 (lbs per ton) to determine tons. For electricity-generating units owned by nonutilities (e.g., Independent Power Producers), EPA used their IPM-predicted utilization for 2007 in place of steps (1) and (2). The EPA compared the IPM-generated growth factors of each State to those developed by OTAG for the electric utility sector in every State. In general, the IPM-predicted growth was about 60 percent higher than the growth projected by OTAG. Regionwide, the OTAG-predicted growth was about 6 percent from 1996 to 2007, and the IPM-generated growth was about 15 percent for the same period. However, for some States such as Alabama and New Jersey, the IPM growth factor was lower than the OTAG growth factor. The TSD describes in detail how the IPM and OTAG growth factors were calculated.

For the proposed rule, EPA selected the IPM's State-by-State growth factors over the growth factors developed by OTAG. Unlike the OTAG electric utility growth projections, the IPM's were not developed separately for each State, but were developed by analyzing performance of utilities as a regionwide system. Therefore, the IPM growth factors are considered to be more consistent than the OTAG growth factors. The EPA solicits comment on the appropriateness of using the IPM model to determine State-specific growth factors for the period between 1996 and 2007. Further, EPA solicits comment on what other reasonable regionwide approaches can be used to develop growth factors.

Table III–6 presents the resulting proposed utility (and electricity-generating nonutility) budget components per State along with the 2007 CAA base.

TABLE III–6.—STATE-BY-STATE BUDGET COMPONENT FOR ELECTRICITY-GENERATING UNITS

State	2007 CAA base (tons)	Proposed budget component (tons)	Percent reduction
Alabama	81,704	26,946	67
Connecticut	5,715	3,409	40
Delaware	10,901	4,390	60
District of Columbia	385	152	61
Georgia	92,946	30,158	68
Illinois	115,053	31,833	72
Indiana	177,888	48,791	73
Kentucky	128,688	35,820	72
Maryland	35,332	11,364	68
Massachusetts	28,284	12,956	54
Michigan	82,057	25,402	69
Missouri	92,313	22,932	75
New Jersey	14,553	5,041	65
New York	39,839	24,853	38
North Carolina	83,273	27,543	67
Ohio	185,757	46,756	75
Pennsylvania	125,195	39,594	68
Rhode Island	773	905	−17
South Carolina	43,363	15,090	65
Tennessee	71,994	19,318	73
Virginia	45,719	16,884	63
West Virginia	83,719	23,306	72
Wisconsin	51,004	15,755	69
Total	1,596,256	489,000	69

4. Proposed Assumptions for Other Stationary Sources

a. Affected Entities. This section presents the rationale and resulting proposed State-by-State NO_X budget components for other stationary sources, specifically, the area and nonutility point source sectors. Area sources of NO_X emissions include, for example, emissions from wildfires, open burning, and residential water heaters. Emissions from area sources represent only 7 percent of total anthropogenic NO_X emissions in the States covered by today's action (based on OTAG 2007 CAA emissions). The highest percentage in any one State is 16 percent. Nonutility point sources include boilers, process heaters, reciprocating internal combustion engines, turbines, cement kilns and other categories. Emissions from sources in this sector represent 14 percent of the total anthropogenic NO_X emissions in the States covered by today's action, with a range of 3–22 percent.

b. Methodology Used to Determine the Proposed Area and Nonutility Point Source Budget Components. The proposed State-by-State seasonal (May 1–September 30) budget components for the area and nonutility point sectors generally reflect the OTAG recommendations. For area sources, EPA proposes applying OTAG Level 0 (i.e., no new controls). The EPA is proposing this level of control because EPA and OTAG were not able to identify any reasonable control measures for sources in this sector. Controls for wildfires, feasible alternatives for open burning, and

[12] It should be noted that units owned by Independent Power Producers were not included in Table III–5 since neither their 1995 nor their 1996 utilizations are known. The projected 2007 utilization for these units is, however, included in the utility portion of each State's budget.

reasonable cost-effectiveness levels for control of existing residential water heaters have not yet been identified for these States. Therefore, EPA believes that application of Level 0 controls for this sector is appropriate.

The OTAG recommendations for the nonutility point sector are to reduce emissions from medium- and large-sized units in a manner equitable with utility controls. Specifically, OTAG recommended that large nonutility sources should meet approximately 70 percent reduction and medium-sized sources should meet RACT if utilities are subject to the 0.15 lb/MMBtu utility limit.

As discussed in section III.B.2., EPA is proposing to apply the OTAG recommendations. The EPA believes that these are reasonable levels of controls for these sources for the reasons outlined in section III.B.2.

For purposes of the budget calculation, EPA believes that it is reasonable to not calculate reductions from sources with emissions less than 1 ton per day. The OTAG's recommendation to focus controls on the large sources rather than all sources for purposes of establishing the budget is a reasonable approach from an administrative and data availability perspective and does not preclude States from eventually adopting controls on other sizes or categories of sources as an alternative way of meeting their budgets.[13] In addition, emissions data for the smaller nonutility sources have more uncertainty, especially source size and utilization data which are important in making a budget calculation. As described in section III.B.2, EPA's cost analysis does not key on source sizes; rather, it is a least cost approach that considers small, medium and large sources in determining the overall cost of the sector budget. Further, controls on smaller sources are frequently less cost effective than the same controls on larger sources. It should also be noted that the 1 ton per day cutoff for nonutility sources approximately corresponds to the 25 MWe cutoff for utility sources. The EPA solicits comment on: (1) whether sources with NO_X emissions less than 1 ton per day should be included in the nonutility component of each State's budget, and (2) sources of emissions and utilization data for sources with NO_X emissions less than 1 ton per day.

Other approaches to calculating the nonutility point source budget component were considered, including a combined Level 2 for large sources and Level 1 for smaller sources, an 80 percent reduction from large sources with Level 1 for the smaller sources (see Table III–2), and Level 1 or Level 2 applied across the entire sector. A Level 1 approach across the entire sector has a relatively low cost effectiveness (less than $1000 per ton) and is not as equitable as the OTAG recommendations, considering the reductions calculated for the electric utility sector and the importance of the nonutility point source sector from a total emissions standpoint. On the other hand, EPA considered a Level 2 approach across the entire sector to be less cost effective and administratively more difficult than the OTAG recommendations. That is, Level 2 nonutility costs for some of the smaller sources are likely to be higher in some cases than the Level 3 utility costs and the number of units included in the nonutility point source category is large, creating an administrative burden. As discussed in section II.B.3, another alternative approach would be to assume a higher level of control for combustion units which generate electricity for purposes internal to a plant. Some of these units may more appropriately be included with the utility sector emissions, with similar required levels of control, since controls for these units may be as cost effective as utility unit controls. Additionally, certain large industrial combustion sources (e.g., boilers with a heat input larger than about 250 MMBtu/hour, used only for steam, not electricity generation) may be able to achieve levels of control equal to that of the electric utility units with comparable cost effectiveness. The EPA solicits comment on these and other approaches for calculating the nonutility point source budget component.

In applying the proposed controls, the EPA closely approximated but could not precisely calculate emissions based on the size of nonutility point sources as defined by OTAG because the emissions inventories available do not have the level of detail specified in the OTAG recommendation.

For example:

- The OTAG recommendation separates boilers by size (i.e., less than 100 MMBtu, between 100 and 250 MMBtu and greater than 250 MMBtu). Available emissions inventory data are incomplete especially for the smaller size boilers.
- The OTAG recommendation separates stationary reciprocating internal combustion engines by size (i.e., less than 4000 horsepower (hp), between 4000 and 8000 hp, and greater than 8000 hp). Available emissions inventory data generally does not include hp capacities.
- The OTAG recommendation separates gas turbines by less than 10,000 hp, between 10,000 and 20,000 hp, and greater than 20,000 hp. Available emissions inventory data generally do not include hp capacities.
- The OTAG recommendations also include application of RACT on medium-sized sources; RACT is generally considered equal to Level 1 OTAG measures. However, since RACT may be a case-by-case decision, a precise forecast of emissions decreases cannot be made.

In order to calculate the proposed budget components based on application to the controls discussed above, EPA applied 70 percent reduction controls for boilers greater than 250 MMBtu/hour and other large sources (see TSD for details). Boiler size was determined on an SCC basis (i.e., the same level of control was applied to all boilers within a specific SCC regardless of the size of individual boilers). In addition, EPA applied RACT controls for sources not classed "large" and emitting between 1–2 tons per day; these reductions are generally in the range of 25–50 percent emissions decrease. Where information on boiler size was not available, EPA assumed that the source was medium-sized and applied RACT controls. For other medium- and large-sized nonutility sources, EPA applied 70 percent reduction controls where information on size of sources was available, and RACT controls for the remaining sources (see Budget TSD for details). Due to the lack of data in the inventories, especially for internal combustion engines and turbines, EPA could not base a budget calculation precisely on OTAG's recommendation of 70 percent reduction for large sources.

The proposed procedures for calculating seasonal emissions for these sectors differs from that used for utilities because, unlike utilities, day specific emissions are not available for each day of the season. In general, a three-step process is proposed to obtain summer season emission totals for the area and nonutility sectors. First, OTAG emissions reflecting the above controls are obtained for "typical" summer weekday, Saturday, and Sunday operating conditions for each sector for each State. The underlying procedures and assumptions used for deriving these emissions are described in the OTAG Emissions Inventory Development Reports (8). Second, the weekday emissions are multiplied by 109 (the total number of weekdays in the period May 1 through September 30), and the Saturday and Sunday emissions are each multiplied by 22 (the total number of weekends in the 5-month season). In the third step, these estimates are summed for each day-type to get the summer season total emissions by sector by State.

[13] If States chose to not seek reductions from some smaller sources, then the overall costs estimated for this sector would be expected to increase.

c. Summary and Proposed Area and Nonutility Point Source Budget Components. The resulting proposed nonutility point and area budget components are contained in Table III–7 below along with a comparison for nonutility point sources to the 2007 CAA base. The area budget components are not compared to the 2007 base because no reductions were calculated for this budget sector. For the nonutility point sources, EPA applied controls that approximate the OTAG recommendations. For the area and nonutility sectors, we used the summer weekday, Saturday, and Sunday emissions that were available in the OTAG data base for these control levels. The OTAG growth assumptions were used for area and nonutility point source sectors.

TABLE III–7.—PROPOSED BUDGET COMPONENTS FOR NONUTILITY POINT AND AREA SECTORS

[Tons of NO_X per Ozone Season]

State	2007 CAA base	2007 Budget components		Percent reduction
	Nonutility point	Nonutility point	Area	Nonutility point
Alabama	47,182	25,131	25,229	47
Connecticut	4,732	4,475	4,587	5
Delaware	5,205	3,206	1,035	38
District of Columbia	312	312	741	0
Georgia	34,012	20,472	11,901	40
Illinois	63,642	39,855	7,270	37
Indiana	51,432	35,803	25,545	30
Kentucky	18,817	12,258	38,801	35
Maryland	6,729	4,825	8,123	28
Massachusetts	10,683	7,590	10,297	29
Michigan	57,190	35,317	28,126	38
Missouri	12,248	8,174	6,626	33
New Jersey	32,663	26,741	11,388	18
New York	19,889	16,930	15,585	15
North Carolina	32,107	21,113	9,193	34
Ohio	50,946	32,799	19,446	36
Pennsylvania	64,224	59,622	17,103	7
Rhode Island	328	328	420	0
South Caroline	34,791	20,097	8,420	42
Tennessee	65,051	32,138	11,991	51
Virginia	23,333	15,529	25,261	33
West Virginia	41,510	31,377	4,901	24
Wisconsin	21,208	12,269	10,361	42
Total	698,235	466,158	302,350	33

5. Proposed Assumptions for Highway Vehicles

a. Affected Entities. The highway vehicle sector encompasses those sources that normally operate on roads and highways. All light-duty cars and trucks, medium-duty trucks, heavy-duty trucks, motorcycles, and buses are included in this category. NO_X emissions from these sources, including the effects of the fuel used to power these sources, are included in the estimate of emissions from the highway vehicle sector. These estimates also incorporate the effects of emission control programs which are intended to reduce emissions from these sources.

b. Methodology Used to Develop the Proposed Highway Vehicle Budget Component

i. Budget Component Determination Method and Alternatives Considered. The EPA proposes to derive States' highway vehicle budget component by estimating the State-by-State NO_X emissions from highway vehicles in 2007. These estimates were developed by modeling the emissions expected in 2007 from all highway vehicles. The estimates are based on: (1) a projection for each State's number of vehicle-miles-traveled (VMT) by vehicle category in 2007, as described in section III.B.5.b.iii; and (2) the estimated emission rate for each vehicle category in 2007, assuming implementation of those measures incorporated in existing SIPs, measures already implemented federally, and those additional measures expected to be implemented federally. The additional Federal measures include:

- National Low Emission Vehicle Standards
- 2004 Heavy-Duty Engine Standards
- Revisions to Emissions Test Procedure.

These measures either have been promulgated in final form or are expected to have been promulgated by the time today's proposal is made final. All of these measures are expected to be implemented nationwide or in the 49 States other than California and hence would be in effect in those States required to submit a transport SIP under this proposal. Since these measures would be in effect as of 2007, EPA believes it is appropriate to reflect the impact of these measures in 2007 in calculating States' highway vehicle budget components and proposes to do so. However, it should be noted that the NLEV program is a voluntary program that will not take effect until the Northeastern States and the auto manufacturers agree to participate. While EPA expects such an agreement to be reached, the Agency acknowledges that such an agreement is not certain at the current time. Should the

Northeastern States and the auto manufacturers fail to agree to implement NLEV, EPA proposes to revise States' highway vehicle budget components and overall NO_X budgets accordingly. This revision would increase States' NO_X budgets. The EPA requests comment on this proposal.

The EPA proposes not to incorporate in its calculation of the highway vehicle budget component any benefits from Tier 2 light-duty vehicle standards. The Agency's decision to go forward with such standards is contingent on the determination that such standards are necessary to achieve air quality objectives and can be done so in a cost-effective manner. The EPA is currently engaged in an investigation of these and other issues related to Tier 2 standards, and it is premature to assume that such standards will be implemented prior to 2007. Therefore, EPA cannot at this time model the impact of a potential set of Tier 2 standards on emissions from affected States in 2007. If such standards are promulgated and implemented prior to 2007, EPA proposes to adjust States' highway vehicle budget components and overall NO_X budgets accordingly to reflect implementation of these standards. The EPA requests comment on this approach for Tier 2 emission standards.

The EPA proposes to assume full implementation of other highway vehicle emission control programs as required by the CAA or contained in existing SIPs and maintenance plans in calculating each State's highway vehicle budget component for the purpose of establishing a statewide NO_X emission budget. This proposal would encompass I/M programs, Federal Phase II RFG, Clean Fuel Fleet programs, and other programs intended to reduce NO_X emissions from highway vehicles. The EPA further proposes to assume continued participation in the RFG program by the mandatory RFG areas and by those areas which have opted into the program. The EPA requests comment on the appropriateness of these proposals. In particular, EPA requests comment on whether the extent of the RFG coverage area chosen in calculating the highway vehicle budget component is appropriate, and on whether the normally-required NO_X reductions from I/M programs in those areas whose section 182 waivers currently exempt them from the I/M NO_X performance standard should be assumed when calculating State highway vehicle budget components and overall NO_X budgets.

States have the discretion to adopt additional mobile source control measures as part of their transport SIP revision in order to meet their NO_X budget or to meet other air quality obligations. The EPA agrees with OTAG that States should consider such control measures as RFG, I/M programs, and transportation control measures beyond those already included in State SIPs. These measures are applied and implemented locally rather than nationally, and in some cases their specific features are designed locally as well. The EPA recognizes that States and localities have more detailed information on which to base any decision to expand these programs beyond their current extent than does EPA. State and local decisions to expand these programs can be based on the unique characteristics of local areas and the nature of the ozone challenges they face. In particular, these programs provide VOC reductions larger than the NO_X reductions they provide, and the OTAG modeling suggests that VOC reductions affect local ozone levels but have limited impact on downwind ozone levels. The EPA believes these programs may be attractive to many States and localities because they can offer large reductions in VOC, CO, and toxics emissions, in addition to reductions in NO_X emissions, at a relatively modest cost. Hence States may want to adopt these or other local measures to achieve or maintain local ozone or CO attainment or to reduce exposure to toxic air pollutants, as well as to meet their obligations for NO_X reductions to meet their statewide NO_X budget. States which choose to do so may be able to adopt less-stringent controls on other sectors while still meeting their obligations to reduce NO_X emissions as described in this rulemaking. For the reasons discussed above, EPA is not proposing to reduce the budgets to assume further controls from Federal or State motor vehicle measures. The NO_X reductions alone from those measures do not appear sufficiently cost effective in all of the areas that would be subject to reduced budgets, since for some areas there is no need for local ozone or CO reductions.

ii. Activity Level Projections and Growth Considerations. The EPA proposes to use the best available projections of State VMT levels in 2007 in calculating States' budget components for the highway vehicle sector. For the purposes of providing estimates in today's action, EPA has used the 2007 projections developed by OTAG. The OTAG projections were based on actual 1990 VMT levels for each State, based on State submittals to OTAG where available or on estimates generated by the Highway Performance Monitoring System (HPMS) otherwise. These base year VMT levels were then projected to 2007, using growth rates agreed to or in some cases supplied by the State. The EPA proposes to use the state-specific estimates of VMT growth by vehicle category through 2007, as developed in the OTAG process, in calculating States' highway vehicle budget components and overall NO_X budgets. In most cases, States accepted OTAG-proposed growth estimates equal to those used by the Agency in the October 1995 edition of its annual report, "National Air Pollutant Emission Trends" (16), although several States submitted (and the OTAG inventory incorporated) growth estimates that were significantly lower than the growth estimates used by the Agency in its 1995 Trends report. One State submitted growth estimates that were higher than the 1995 Trends report growth estimates.

The EPA has considered a number of options to forecast highway VMT levels in 2007. For today's proposal, EPA has chosen to use the projected VMT levels used by OTAG. As discussed above, most of those growth rate estimates were consistent with EPA's estimates in its Trends report.[14] Furthermore, the open, collaborative OTAG process allowed interested parties to review VMT and VMT growth estimates when constructing future year emission estimates. The EPA encourages each State subject to today's action to review the OTAG 1990 VMT levels and VMT growth projections again; EPA also requests each affected State to review these projections for consistency with other State projections, including projections used in SIPs for nonattainment areas. The EPA expects that all involved State and local agencies will coordinate and concur on any new VMT growth rate submissions, as should be the case when growth rates are developed for use in SIP revisions containing VMT and emissions projections. The EPA proposes to incorporate revised VMT growth projections received from States during the comment period of today's action into its final rule, if appropriately explained and documented.

The EPA further proposes to use actual 1995 VMT levels as the base year for the 2007 inventory projections in the final rule, rather than continuing to rely on the 1990 VMT levels. The Agency believes that the accuracy of projected 2007 VMT levels would be improved by using a more recent base year, since the impact of any deviation between projected and actual growth rates through 2007 would be reduced. For this reason, EPA proposes to use and requests States to submit VMT data for 1995. The EPA requests comment on this proposal to use actual 1995 VMT levels as the base year for projecting 2007 VMT levels and on the use of 1990 VMT levels as the base year in today's action.

[14] The Trends report method projects national VMT based on a growth rate of about 2% per year and allocates VMT to States based on Census Bureau forecasts of population levels in each State.

iii. Seasonal/Weekday/Weekend Adjustment. The EPA proposes to project States' highway vehicle budget components during the 2007 ozone season based on the actual number of weekday and weekend days during the 2007 ozone season. The OTAG inventory projections, by contrast, were based on the actual number of weekend and weekday days during the specific ozone episodes modeled by OTAG. The VMT levels on weekdays differ from VMT levels on weekend days, all other things being equal, so it is important to use the proper proportion of weekdays and weekend days when developing highway vehicle budget components and overall State NO_X budgets. Since States must demonstrate compliance with their NO_X budgets over the entire ozone season in 2007, EPA believes that the actual number of weekdays and weekend days during the 2007 ozone season should be used to calculate highway vehicle budget components and overall State NO_X budgets. The EPA requests comment on this proposal.

The EPA also proposes to base its calculation of State highway vehicle budget components and overall NO_X budgets on the average temperatures for the affected months. The OTAG projections are based on the actual daily temperature ranges experienced during the episodes modeled by OTAG. These temperature ranges may not be representative of the typical temperatures experienced during the whole ozone season as defined in today's action, since ozone episodes tend to occur during periods of above-average temperature. The estimated highway vehicle budget components presented in Table III–8 are based on the OTAG temperature ranges and hence are based on temperatures that may be higher than the average temperatures experienced during the 5 ozone season months. In its final rulemaking, EPA will revise its highway vehicle budget components to reflect the average temperatures for the affected months. The impact of these temperature differences on highway vehicle budget components is expected to be modest, because even large differences in summer temperatures have only a modest effect on estimated NO_X emissions from highway vehicles. For example, as temperature goes from 75 to 95 degrees Fahrenheit, NO_X emissions increase by approximately 4 percent. The actual difference between summer average and ozone-episode temperature ranges is considerably smaller than 20 degrees Fahrenheit, so the size of the temperature adjustment described above would be correspondingly smaller. The EPA requests comment on the appropriateness of this adjustment and on its proposed use of ozone season average temperatures instead of ozone-episode temperatures in developing States' highway vehicle budget components and overall NO_X budget.

iv. Comparison to OTAG Recommendations. The set of presumptive controls modeled by EPA to develop the highway vehicle budget components and overall NO_X budgets is consistent with the OTAG recommendations. The OTAG supported expeditious implementation of Federal measures, including those listed above. The OTAG also recommended the continued use of RFG in the mandated and current opt-in areas, as reflected in EPA's proposed method for calculating highway vehicle budget components. The OTAG supported State flexibility to opt into the RFG program and encouraged areas which face local nonattainment, maintenance, or downwind transport challenges to opt into the RFG program. The EPA proposes to provide States with such flexibility in devising strategies to meet the NO_X budgets outlined in section III.C. The EPA believes that Federal Phase II RFG can provide cost-effective reductions in ozone precursors, since it will reduce emissions of both VOC and NO_X. Phase II RFG can provide VOC and NO_X reductions at a cost of $2600–3500 per ton, depending on the amount of fuel affected by any expansion of the program offer. Hence EPA encourages States to consider adopting Federal Phase II RFG in areas eligible to opt into the program as part of their revised SIP.

The OTAG further recommended that "The USEPA should adopt and implement by rule an appropriate sulfur standard to further reduce emissions and assist the vehicle technology/fuel system [to] achieve maximum long term performance." The EPA is engaged in an extensive evaluation of gasoline-based emission controls as part of its work to evaluate the need for and benefits and costs of Tier 2 vehicle emission standards. This evaluation includes an examination of the costs and benefits of gasoline sulfur control. At this time, however, EPA has not yet defined, quantified, or evaluated the impact of sulfur control. Furthermore, EPA has not at this time decided whether to require sulfur reductions. Therefore, EPA believes it is not appropriate to assume such reductions when calculating highway vehicle budget components or overall NO_X budgets. If the Agency does establish gasoline sulfur standards, EPA proposes to adjust State highway vehicle budget components and overall State NO_X budgets to reflect the emissions impact of such standards on NO_X emissions from highway vehicles in 2007. The EPA requests comment on this proposal.

The OTAG also recommended that EPA should evaluate the potential for reformulation of diesel fuel for reducing NO_X emissions from highway and nonroad diesel engines. The EPA is engaged in an examination of the need for and potential benefits of diesel fuel reformulation as part of its assessment of the feasibility of its proposed 2004 heavy-duty highway vehicle standards. At the present time, however, EPA does not have sufficient information to adequately quantify the potential of diesel fuel reformulation to reduce NO_X emissions or to determine the costs of various reformulation strategies. Hence EPA has not incorporated any emission reductions from diesel fuel reformulation in its calculation of highway vehicle budget components or overall NO_X budgets. The EPA will continue to evaluate the potential of diesel fuel reformulation to reduce NO_X emissions and enable the proper functioning of engine-based emission controls through the collaborative process developed as a result of the 1995 Statement of Principles. If EPA does promulgate requirements to reformulate diesel fuel, EPA proposes to revise at that time States' highway vehicle budget components and overall NO_X budgets to reflect the projected impact of the required diesel fuel reformulation on NO_X emission from highway vehicles.

The OTAG called on the States to adopt inspection and maintenance programs where required by the CAA. This recommendation is reflected in EPA's proposed method of calculating the highway vehicle emissions, as discussed above. The OTAG also called on the States to consider expanding I/M programs to urbanized areas of greater than 500,000 population in the "fine grid" portion of the OTAG region. The EPA believes that properly designed and operated I/M programs are a practicable and cost-effective means of reducing ozone precursors. These programs provide VOC reductions as large or larger than the NO_X reductions

they provide, while the OTAG modeling suggests that VOC reductions affect local ozone levels but have limited impact on downwind ozone levels. Therefore, while EPA recognizes that many of the States subject to today's proposal have already implemented or plan to implement I/M programs, and while EPA encourages the States to consider extending I/M programs in other areas to reduce ozone precursors as part of their attainment and maintenance strategy, EPA proposes not to assume expansion of currently-required I/M programs in calculating States' highway vehicle budget components or overall NO_X budgets. The EPA requests comment on this proposal. Notwithstanding this proposal, because I/M programs cause reductions in NO_X emissions implicated in ozone transport, EPA encourages the States to consider implementing effective I/M programs in other areas as part of their transport SIP.

c. Summary and Proposed Highway Vehicle Budget Components. The highway vehicle budget components presented in Table III–8 were developed by evaluating the emissions that would result in 2007 when existing CAA requirements are met and additional Federal measures are implemented. These estimates are based on the 1990 VMT levels and growth rates supplied to OTAG by the States.

TABLE III–8. BUDGET COMPONENTS FOR HIGHWAY VEHICLES

[Tons of NO_X per Ozone Season]

State	2007 CAA base	Proposed budget component	Percent reduction
Alabama	61,205	56,601	8
Connecticut	23,446	17,392	26
Delaware	8,867	8,449	5
District of Columbia	3,081	2,267	26
Georgia	88,363	77,660	12
Illinois	91,656	77,690	15
Indiana	72,294	66,684	8
Kentucky	49,789	46,258	7
Maryland	39,941	28,620	28
Massachusetts	35,308	23,116	35
Michigan	91,449	81,453	11
Missouri	61,778	55,056	11
New Jersey	55,783	39,376	29
New York	114,234	94,068	18
North Carolina	80,955	73,056	10
Ohio	104,422	92,549	11
Pennsylvania	81,805	73,176	11
Rhode Island	7,566	5,701	25
South Carolina	53,586	49,503	8
Tennessee	72,907	67,662	7
Virginia	88,792	79,848	10
West Virginia	23,267	21,641	7
Wisconsin	46,390	41,651	10
Total	1,356,864	1,179,477	13

d. Conformity. The CAA section 176 (c) requires federally supported activities to conform to the purpose of the SIP. Specifically, the Federal government cannot support an activity that causes or worsens air quality violations or delays attainment. Conformity applies to nonattainment and maintenance areas.

The CAA establishes several more specific requirements regarding how conformity of Federal highway and transit activities must be determined. For example, the emissions expected from the implementation of transportation plans and programs must be consistent with estimates of emissions from highway vehicles and necessary emissions reductions contained in the SIP. The EPA has promulgated regulations (40 CFR parts 51 and 93) to implement the general and transportation-related conformity requirements.

The EPA proposes that neither the highway vehicle budget components nor the overall NO_X budgets proposed in this rulemaking change the existing conformity process or existing SIPs' motor vehicle emissions budgets under the conformity rule. The EPA does not believe that Federal agencies or Metropolitan Planning Organizations (MPOs) operating in States subject to today's proposal must demonstrate conformity to the proposed budgets or the highway vehicle budget component levels used to calculate the budgets. Whereas the conformity provisions in section 176(c) of the CAA apply to nonattainment and maintenance areas, the States' emission budgets apply statewide. Without greater geographic disaggregation in the SIP, Federal agencies and MPOs will not be able to determine consistency with the emission estimates in the transport SIP revision being requested in today's proposal. Furthermore, EPA does not believe that consistency with the statewide emissions estimates in transport SIPs can be used to determine whether or not a transportation or other Federal activity will cause or worsen local air quality violations. The statewide budget does not represent the level of emissions necessary for attainment or a reasonable further progress milestone. In contrast, attainment demonstrations, 15 percent SIPs, post-1996 rate-of-progress, and maintenance plans—SIPs to which EPA requires conformity—do contain motor vehicle and other emissions estimates on which the attainment, maintenance, or progress demonstration depends.

6. Proposed Assumptions for Nonroad Sources

a. Affected Entities. The nonroad sector encompasses those mobile sources that normally do not operate on roads and highways. This sector includes recreational and commercial marine engines; small engines such as those used to power snowmobiles, chainsaws, or lawn and garden equipment; larger nonroad engines such as those used to power agricultural equipment, construction equipment, industrial/commercial equipment (forklifts, pumps, compressors, generator sets); and mining equipment; aircraft, and locomotives. Emissions from these sources, including the effects of the fuel used to power these sources, would be included in the estimate of emissions from the nonroad sector. These estimates would also incorporate the effect of emission control programs which are intended to reduce emissions from these sources.

b. Methodology Used to Determine the Proposed Nonroad Budget Component.

i. Budget Component Determination Method and Alternatives Considered. The EPA proposes that the States' nonroad budget component be derived by estimating the State-by-State NO_X emissions from nonroad engines in 2007. These estimates would be developed by modeling the emissions expected in 2007 from all nonroad engines. The estimates would be based on: (1) a projection for each State's number of engines of each type and application in 2007; (2) a projection of the level of activity for each type and application of nonroad engine in 2007; and (3) the estimated emission rate for each engine type and application in 2007, assuming implementation of those measures incorporated in existing SIPs, measures already implemented federally, and those additional measures expected to be implemented federally. The additional Federal measures include:

- Federal Small Engine Standards, Phase II.
- Federal Marine Engine Standards (for diesels > 50 horsepower).
- Federal Locomotive Standards.
- 1997 Proposed Nonroad Diesel Engine Standards.

All of these measures either have been proposed or are expected to be proposed in the near future and are sufficiently well-defined to model their emission impacts in 2007. These measures are expected to be implemented nationwide and hence would be in effect in those States required to submit a SIP under this proposal. Since these measures would be in effect as of 2007, EPA believes it is appropriate to reflect the impact of these measures in 2007 in calculating States' nonroad budget components and proposes to do so.

States have the discretion to adopt additional nonroad control measures as part of their transport SIP revision in order to meet their NO_X budget or to meet other air quality obligations. The EPA agrees with OTAG that States should consider such control measures as RFG, scrappage programs, and activity level control measures beyond those already included in State SIPs. These measures are applied and implemented locally rather than nationally, and in some cases their specific features are designed locally as well. The EPA recognizes that States and localities have more detailed information on which to base any decision to expand these programs beyond their current extent than does EPA. State and local decisions to expand these programs can be based on the unique characteristics of local areas and the nature of the ozone challenges they face. In particular, some of these programs tend to provide VOC reductions that are larger than the NO_X reductions they provide, along with significant CO, toxics, and particulate matter reductions. The OTAG modeling suggests that VOC reductions affect local ozone levels but have limited impact on downwind ozone levels. Hence States may want to adopt these measures to help achieve or maintain local attainment, as well as to help meet their obligation to mitigate transport. States which choose to do so may be able to adopt less-stringent controls on other sectors while still complying with their overall budget.

ii. Activity Level Projections and Growth Considerations. The EPA proposes to use the best available projections of State nonroad activity levels in 2007 in calculating States' budget components for the nonroad sector. For the purposes of providing estimates in today's action, EPA has used the 2007 projections developed by OTAG. The OTAG projections were based primarily on estimates of actual 1990 nonroad activity levels found in the October 1995 edition of EPA's annual report, "National Air Pollutant Emission Trends." Several States submitted estimates of their 1990 nonroad activity levels that differed from these estimates. The OTAG growth rates were based on growth projections issued by the Bureau of Economic Affairs and hence were consistent with those used by the Agency in its October 1995 "Trends" report. At the present time, EPA considers the growth estimates to be reasonable; however, the Agency requests comment on its proposal to use the OTAG growth projections of nonroad activity levels in calculating the nonroad budget components and overall NO_X budgets for those States subject to today's proposal. The basis of the OTAG growth projections is explained in greater detail in OTAG's Emission Inventory Development Report, Volume I, pages 11–13.

The EPA encourages each State subject to today's proposal to review the OTAG nonroad growth projections again; EPA also requests each affected State to review these projections for consistency with other State projections, including projections used in SIPs for nonattainment areas. The EPA expects that all involved State and local agencies will coordinate and concur on any new nonroad growth rate submissions, as should be the case when growth rates are developed for use in SIP revisions containing nonroad activity level and emissions projections. The EPA proposes to incorporate revised nonroad growth projections received from States during the comment period of today's proposal into its final rule, if appropriately explained and documented. The EPA requests comment on these proposals.

The EPA further proposes to use estimated historical 1995 nonroad activity levels as the base year for the 2007 inventory projections in the final rule, rather than continuing to rely on the 1990 nonroad activity levels. The Agency believes that the accuracy of projected 2007 nonroad activity levels would be improved by using a more recent base year, since the impact of any deviation between projected and actual growth rates through 2007 would be reduced. For this reason, EPA proposes to use its 1997 "Trends" estimate of 1995 nonroad activity levels in its final rulemaking and requests comment on this proposal. The EPA also requests comment on its proposal to use actual 1995 nonroad activity levels as the base year for projecting 2007 nonroad activity levels and on the use of 1990 nonroad activity levels as the base year in today's action.

iii. Seasonal/Weekday/Weekend Adjustment. The EPA proposes to project States' nonroad budget components during the 2007 ozone season based on the actual number of weekday and weekend days during the 2007 ozone season. The OTAG inventory projections, by contrast, were based on the actual number of weekend and weekday days during the specific ozone episodes modeled by OTAG. Nonroad activity levels on weekdays differ from levels on weekend days, all

other things being equal, so it is important to use the proper proportion of weekdays and weekend days when developing nonroad budget component levels and overall State NO_X budgets. Since States must demonstrate compliance with their NO_X budgets over the entire ozone season in 2007, EPA believes that the actual number of weekdays and weekend days during the 2007 ozone season should be used to calculate budget components and overall State NO_X budgets. The EPA requests comment on this proposal.

The EPA also proposes to base its calculation of the State nonroad budget components and overall NO_X budgets on the average temperatures for the affected months. The OTAG projections are based on the actual daily temperature ranges experienced during the episodes modeled by OTAG. These temperature ranges may not be representative of the typical temperatures experienced during the whole ozone season as defined in today's proposal, since ozone episodes tend to occur during periods of above-average temperature. The estimated nonroad emissions presented in Table III–9 are based on the OTAG temperature ranges and hence are based on temperatures that may be higher than the average temperatures experienced during the five ozone season months. In its final rulemaking, EPA will revise its nonroad budget components and overall NO_X budgets to reflect the average temperatures for the affected months. The impact of these temperature differences on nonroad budget components and overall NO_X budgets is expected to be modest, because even large differences in summer temperatures have only a modest effect on estimated nonroad NO_X emissions. The EPA requests comment on the appropriateness of this adjustment and on its proposed use of ozone season average temperatures instead of ozone-episode temperatures in developing States' nonroad budget components and overall NO_X budget.

iv. Comparison to OTAG Recommendations. The set of presumptive controls modeled by EPA to develop the nonroad sector budget components for each State is consistent with the OTAG recommendations. The OTAG supported expeditious implementation of Federal measures, including those listed above. The OTAG also recommended the continued use of RFG in the mandated and current opt-in areas, as reflected in EPA's proposed method for calculating the nonroad budget components. As discussed in section III.B.5, OTAG supported State flexibility to opt into the RFG program and encouraged areas which face local nonattainment, maintenance, or downwind transport challenges to opt into the RFG program. Although current EPA guidance indicates that Phase II RFG will not reduce NO_X emissions from nonroad engines, Phase II RFG will offer significant VOC emission reduction benefits from nonroad engines. As discussed in section III.B.5, EPA encourages States to consider adopting Federal Phase II RFG in areas eligible to opt into the program as part of their revised SIP.

Current EPA guidance also indicates that changes in fuel sulfur levels, including any changes that may result from EPA's Tier 2 study, would not affect NO_X emissions from gasoline-powered nonroad equipment since such equipment is not equipped with catalytic converters. Hence EPA proposes not to change States' nonroad budget components if EPA should promulgate sulfur standards as a result of the Tier 2 study or any other EPA analysis, unless nonroad engines equipped with catalytic converters begin to be introduced into the U.S. marketplace. The EPA requests comment on this proposal.

As discussed in section III.B.5, OTAG recommended that EPA should evaluate the potential for reformulation of diesel fuel for reducing NO_X emissions from both highway and nonroad diesel engines. The EPA is engaged in an examination of the need for and potential benefits of diesel fuel reformulation as part of its assessment of the feasibility of its proposed 2004 heavy-duty highway vehicle emission standards but has not as of this writing completed its examination. Furthermore, EPA does not have sufficient information at the present time to quantify adequately the potential of diesel fuel reformulation to reduce NO_X emissions from nonroad diesel engines or to determine the costs of various reformulation strategies. For these reasons, EPA has not incorporated any emission reductions from diesel fuel reformulation in its calculation of States' nonroad budget components. If EPA does promulgate requirements to reformulate diesel fuel, EPA will evaluate whether additional research to determine the impact of diesel fuel reformulation on NO_X emissions from nonroad engines is needed. The EPA proposes to defer any consideration of revisions to States' nonroad sector budget components and overall NO_X budgets to reflect the impact of diesel fuel reformulation on NO_X emission from nonroad engines until such time as diesel fuel reformulation standards, and the effect of those standards on nonroad engine NO_X emissions, have been adequately defined. The EPA requests comment on this proposal.

c. *Summary and Proposed Nonroad Budget Components.* The nonroad mobile sources sector budget components presented in Table III–9 were developed by evaluating the emissions that would result in 2007 when existing CAA requirements are met and additional Federal measures are implemented. These estimates are based on the 1990 activity levels and growth rates supplied to OTAG by the States.

TABLE III–9.—BUDGET COMPONENTS FOR NONROAD SOURCES

[Tons of NO_X per Ozone Season]

State	2007 CAA base	Proposed budget component	Percent reduction
Alabama	21,742	18,727	14
Connecticut	11,679	9,581	18
Delaware	4,663	4,262	9
District of Columbia	3,609	3,582	1
Georgia	27,151	22,714	16
Illinois	66,122	56,429	15
Indiana	30,489	27,112	11
Kentucky	25,327	22,530	11
Maryland	21,717	18,062	17
Massachusetts	22,865	19,305	16
Michigan	29,005	24,245	16

TABLE III–9.—BUDGET COMPONENTS FOR NONROAD SOURCES—Continued

[Tons of NO_X per Ozone Season]

State	2007 CAA base	Proposed budget component	Percent reduction
Missouri	22,582	19,102	15
New Jersey	25,150	21,723	14
New York	35,934	30,018	16
North Carolina	22,867	18,898	17
Ohio	46,214	42,032	9
Pennsylvania	33,707	29,176	13
Rhode Island	2,511	2,074	17
South Carolina	15,446	12,831	17
Tennessee	54,710	47,085	14
Virginia	29,160	25,357	13
West Virginia	10,966	10,048	8
Wisconsin	19,208	15,145	21
Total	582,824	500,018	14

C. State-by-State Emissions Budgets

The EPA is proposing a statewide emission budget for the year 2007 for each State covered by today's action. The proposed statewide budgets were calculated by summing the budget components which were calculated as described above. Budget components were calculated for the following five sectors: electric utility, nonutility point, area, nonroad engines, and highway vehicles.

The proposed overall budgets to be achieved by 2007 include reductions from all Federal programs that would continue to result in emission reductions from the compliance date for the State-adopted rules (between September 2002 and September 2004 that EPA establishes in its final rulemaking) to 2007. In 2007, EPA plans to begin a reassessment of transport. At that time, EPA will determine how any new data and tools (such as new air quality models) should be incorporated. The portion of the budget over which States have control (i.e., the non-Federal portion) would have to be implemented between September 2002 and September 2004. These concepts are fully discussed in section V, SIP Revisions and Approvability Criteria, of this rulemaking.

The proposed State-by-State budgets are shown in Table III–10 below. This table compares the proposed budgets to the 2007 CAA emissions which were the starting point for the calculation.

TABLE III–10.—PROPOSED SEASONAL NO_X EMISSIONS BUDGET FOR STATES MAKING A SIGNIFICANT CONTRIBUTION TO DOWNWIND OZONE NONATTAINMENT

[Tons of NO_X per Ozone Season]

State	2007 CAA emissions	Proposed 2007 budget	Percent reduction
Alabama	237,062	152,634	36
Connecticut	50,159	39,445	21
Delaware	30,671	21,342	28
District of Columbia	8,128	7,054	9
Georgia	254,373	162,905	35
Illinois	343,742	213,077	38
Indiana	357,647	203,734	100
Kentucky	261,422	155,667	40
Maryland	111,841	70,994	36
Massachusetts	107,437	73,263	32
Michigan	287,827	194,542	32
Missouri	195,647	111,890	43
New Jersey	139,537	104,270	25
New York	225,261	181,254	19
North Carolina	228,395	149,803	34
Ohio	406,785	233,584	43
Pennsylvania	322,034	218,671	32
Rhode Island	11,599	9,429	19
South Carolina	155,586	105,941	31
Tennessee	276,853	178,173	35
Virginia	212,265	162,879	21
West Virginia	164,362	91,273	44
Wisconsin	148,171	95,181	35
Total	334,266,508,374	2,937,005	35

D. Recalculation of Budgets

The EPA is proposing statewide emissions budgets calculated as described above. The EPA specifically invites public comment on the overall approach as well as the individual elements that were used in these calculations (e.g., emission factors, source-specific data, and, growth assumptions). The EPA is proposing that the same elements and assumptions used in the EPA budget calculations be used by the States as they develop revisions to their SIPs in response to today's proposal. However, EPA recognizes that changes to these individual elements may be warranted. If changes to any of these elements are appropriate, based on comments received, EPA proposes recalculating the budgets with the revised data, as described below. The intention of this procedure is to take into account new information that would replace less accurate data previously relied upon. That is, EPA intends to continue to use the best information available as well as to assure that the States carry out their plans to reduce emissions so that, in the end, the transport of ozone and ozone precursors is decreased.

For example, for nonutility point sources, OTAG recommended that RACT should be considered for individual medium sized nonutility point sources. The EPA proposed budget calculations generally follow the OTAG recommendations. Because the definition of RACT may vary from source-to-source, it is not possible to precisely forecast emissions reductions due to RACT on a source-specific basis. States, however, may have source-specific information useful in determining RACT for sources in their States and may, therefore, provide more precise information. With respect to the large nonutility point sources, missing data in the OTAG emissions inventories precludes EPA from precisely following the recommended definitions of large sources. Thus, States may provide more precise information for EPA to use in the budget calculations. In such cases, EPA is proposing to recalculate the budgets to take into account the better data. New data should be submitted by the end of the public comment period so that recalculation would occur prior to final rulemaking on this proposal; if any additional data become available after EPA's final rulemaking action, such data could be considered prior to State submittal of revised SIPs. The EPA is soliciting comment on this approach.

Similarly, with respect to growth assumptions, States should use the same growth rates EPA used to calculate the proposed budgets, unless better information indicates that the growth assumptions should be revised. New data should be submitted by the end of the public comment period so that recalculation would occur prior to final rulemaking on this proposal; if any additional data become available after EPA's final rulemaking action, such data could be considered prior to State submittal of revised SIPs. Changes in growth that are the result of clearly identified control strategies which can be shown to provide real, permanent, and quantifiable changes in growth, such as programs to reduce VMT, may also be creditable toward meeting the 2007 budget. The EPA is soliciting comment on this approach.

From time to time, EPA updates its models and inventory estimates to reflect new information. As models change, EPA recognizes that projected emission levels such as those used to develop the overall State NO_X budgets and sector-specific budget components proposed in today's action may change. Furthermore, EPA recognizes that a set of control strategies which an earlier model projects to result in a given level of emissions may be estimated to result in a greater or lesser level of emissions, when evaluated using a newer model, both in terms of absolute emission levels and the level of emissions relative to some other set of control strategies. Similar to the discussion above on source-specific data and growth assumptions, States should use the same models and inventories EPA used to calculate the proposed budgets, unless better information indicates that they should be revised. Changes that are the result of changes in EPA models and/or inventories may lead to an upward or downward recalculation of the budget prior to 2007. New data should be submitted by the end of the public comment period so that recalculation would occur prior to final rulemaking on this proposal; if any additional data become available after EPA's final rulemaking action, such data could be considered prior to State submittal of revised SIPs. The EPA requests comment on whether the State NO_X budgets and budget components for specific sectors should be revised when EPA emission and inventory models change and on whether States' SIP revisions in response to today's action should be revised. The EPA expects to address this issue through the process described in section V, SIP Revisions and Approvability Criteria, to define the reporting and implementation requirements for today's action.

Finally, it should be noted that it is possible that EPA may introduce additional Federal measures after State emission budgets are defined but before 2007. As discussed in this rulemaking, EPA is proposing to base State NO_X budgets on a calculation of the NO_X emissions that would result in each affected State in 2007 assuming the implementation of a set of reasonable control measures. Any additional Federal measures beyond those described in today's action would be implemented regardless of State action to meet its transport SIP obligations. The EPA considered two approaches in this instance: one which would, in effect, provide emissions reduction credit to the State and one that does not. In the first case, one could argue that real emissions reductions result from the new Federal measures and, therefore, the State could receive credits for these reductions and implement a smaller portion of its planned emission reductions. In the second approach, the State would be required to continue to implement the measures in its revised SIP because those measures continue to be considered reasonable control measures and all reasonable measures are needed to mitigate transport. The EPA believes the latter approach is more consistent with the framework of this proposal. However, EPA requests comment on both of these approaches.

As noted, EPA is proposing to allow recalculation of NO_X budgets as new information becomes available (e.g., changes in response to the promulgation of additional Federal standards controlling NO_X, changes in EPA emission and inventory models, changes adopted in SIPs in any of the underlying elements or assumptions used to calculate the State NO_X budget, or less than full implementation of the NLEV rule). The EPA requests comments on whether State NO_X budgets and budget components for specific sectors should be revised in these cases and whether States' SIP revisions in response to today's action should be revised either at the request of EPA or upon the initiation of a State.

IV. Implementation of Revised Air Quality Standards

A. Introduction

On July 16, 1997, President Clinton issued a directive to the Administrator of EPA on implementation of the revised air quality standards for ozone and particulate matter. In the directive, the President laid out a plan for how these standards are to be implemented. A central element in the directive is the incentive it provides States to act and submit control strategy SIPs early in exchange for which many areas will need little or no additional new local emission reductions beyond those reductions that will be achieved through the regional control strategy. This approach avoids additional burdens associated with respect to the beneficial ozone control measures already under way, while at the same time achieving public health protection earlier.

The Presidential directive was published in the **Federal Register** on July 18, 1997 (62 FR 38421). The parts of the directive's implementation plan relevant to the regional NO_X reduction strategy proposed in this rulemaking are described here.

B. Background

Following promulgation of a revised NAAQS, section 107(d)(1) the CAA provides up to 3 years for State governors to recommend and the EPA to designate areas according to their most recent air quality. In addition, under section 172(b) of the CAA, the States will have up to 3 years from a nonattainment designation to develop and submit SIPs to provide for attainment of the new standard. The EPA anticipates that it will need the maximum period allowed under the CAA to designate areas for the 8-hour standard. Thus, EPA will designate areas by July of 2000. Under the Act, States, therefore, would need to submit their nonattainment SIPs by 2003. Section 172(a) of the CAA then allows up to 10 years plus two 1-year extensions from the date of designation for areas to attain the revised NAAQS.

C. Implementation Policy

The implementation plan in the Presidential Directive has several goals. Three of these goals are especially relevant for the NO_X reduction strategy proposed in this rulemaking:

- Reward State and local governments and businesses that take early action to reduce air pollution levels through cost-effective approaches.
- Respond to the fact that pollution can travel hundreds of miles and cross many State lines.
- Minimize planning and regulatory burdens for State and local governments and businesses where air quality problems are regional in nature.

To achieve these goals, the implementation plan includes a policy for areas that attain the 1-hour standard but not the new 8-hour standard in which EPA will follow a flexible implementation approach that encourages cleaner air sooner, responds to the fact that ozone is a regional as well as local problem, and eliminates unnecessary planning and regulatory burdens for State and local governments. A primary element of the policy will be the establishment under section 172(a)(1) of the CAA of a special "transitional" classification for areas that participate in the NO_X regional strategy proposed in this rulemaking and/or that opt to submit early plans addressing the new 8-hour standard. Because many areas will need little or no additional new local emission reductions to reach attainment, beyond those reductions that will be achieved through the regional control strategy, and will come into attainment earlier than otherwise required, the EPA will exercise its discretion under the law to eliminate unnecessary local planning requirements for such areas. The EPA will revise its rules for new source review (NSR) and conformity so that States will be able to comply with only minor revisions to their existing programs in areas classified as transitional. During this rulemaking, EPA will also reexamine the NSR requirements applicable to existing nonattainment areas in order to deal with issues of fairness among existing and new nonattainment areas. The transitional classification will be available for any area attaining the 1-hour standard but not attaining the 8-hour standard as of the time EPA promulgates designations for the 8-hour standard.

Based on the Agency's review of the latest OTAG modeling, a regional approach, coupled with the implementation of other already existing State and Federal CAA requirements, will allow the vast majority of areas that currently meet the 1-hour standard but would not otherwise meet the new 8-hour standard to achieve healthful air quality without additional local controls. Of the 96 new counties in the 22-State plus DC region, 92 are projected to come into attainment as result of the regional NO_X reductions included in the OTAG Run 5 modeling run.[15] A new county is defined as a county that violates the 8-hour standard but not the 1-hour standard and is not located in an area for the 1-hour standard designated nonattainment as of July 1997. (In the docket to this rulemaking is a table with associated documentation in which EPA lists these 96 new counties in the 22-State plus DC region with an indication of whether the county is projected to attain the 8-hour ozone standard based on the OTAG Run 5 modeling run.)

This county information should be understood with two caveats. First, this list of counties is based on air quality data from 1993–95. The data from this period will not be the basis for nonattainment area designations for the 8-hour ozone standard. Those designations will be made in the 2000 time frame and will be based on the most recent air quality data available at that time (1997–1999). Therefore, while EPA expects that the vast majority of new counties will attain as a result of the NO_X regional control strategy, the number of new counties may be more or less than the number indicated above. The EPA is also currently updating this list based on more current air quality data which will be included in the docket to the final rule.

Second, the estimate of which counties will attain the 8-hour standard is based on the specific assumptions made by the OTAG in Run 5. Because the proposed budgets are similar but not identical to those contained in Run 5, the estimate may change when this rule is final and implemented. In addition, some of the assumptions used to calculate the proposed budgets may change in response to comments EPA may receive on various portions of this rulemaking. Therefore, the estimate of which areas will attain the standards through the final regional NO_X strategy may be higher or lower than the number indicated above. In addition, areas in the region covered by the proposed NO_X reduction strategy in this rulemaking that would exceed the new standard after the adoption of the regional strategy, including areas that do not meet the current 1-hour standard, will benefit as well because the regional NO_X program will reduce the extent of additional local measures needed to achieve the 8-hour standard. In many cases these regional reductions may be adequate to meet CAA progress requirements for a number of years, allowing areas to defer additional local controls. In the 22-State plus DC region, of the 124 counties that violate the 8-hour standard which are located in an area designated nonattainment for the 1-hour standard as of July 1997, 95 are projected to come into attainment of the 8-hour standard as a result of OTAG Run 5 regional NO_X reductions.[16] The caveats noted above for new counties also apply to the information presented here. (In the docket to this rulemaking is a table with associated documentation in which EPA lists these 124 counties in the 22-State plus DC region, including an indication of whether the area is projected to attain the 8-hour ozone standard as a result of regional NO_X

[15] Appendix E contains a description of the controls applied in run 5.

[16] Appendix E contains a description of the controls applied in Run 5.

reductions included in the OTAG Run 5 modeling run.)

To determine eligibility for the transitional area classification, ozone areas will follow the approaches described below based on their status.

1. Areas Eligible for the Transitional Classification

a. Areas attaining the 1-hour standard, but not attaining the 8-hour standard, that would attain the 8-hour standard through the implementation of the regional NO_X transport strategy for the East. Based on the OTAG analyses, areas in the region covered by this proposal that can reach attainment through implementation of the regional transport strategy outlined in this rulemaking would not be required to adopt and implement additional local measures.

When EPA designates these areas under section 107(d), it will place them in the new transitional classification if they would attain the standard through implementation of the regional transport strategy and are in a State that by 2000 submits an implementation plan that includes control measures to achieve the emission reductions required by this proposed rule for States in the region covered by this proposed rule. This is 3 years earlier than an attainment SIP would otherwise be required. The EPA anticipates that it will be able to determine whether such areas will attain based on the OTAG and other regional modeling and that no additional local modeling would be required.

In addition to areas covered by this proposed rule which could receive the transitional classification, areas in the OTAG region not required to revise their SIPs in this rulemaking because they do not significantly contribute to transport may be able to receive the transitional classification as well. An area in the State could be eligible for the transitional area classification by submitting a SIP attainment demonstration in 2000 in which the State adopts NO_X emissions decreases similar to those EPA proposes to establish in this rulemaking where NO_X controls are effective for a given area to demonstrate attainment. The OTAG's modeling (in particular, OTAG strategy Run 5 described in section II.B.2, OTAG Strategy Modeling) shows that such a strategy in which a State adopted NO_X emission decreases similar to those EPA proposes to establish in this rulemaking would achieve attainment in most of these areas that would become nonattainment under the 8-hour standard.

b. Areas attaining the 1-hour standard but not attaining the 8-hour standard for which a regional transport strategy is not sufficient for attainment of the 8-hour standard. To encourage early planning and attainment for the 8-hour standard, EPA will make the transitional classification available to areas not attaining the 8-hour standard that will need additional local measures beyond the regional transport strategy, as well as to areas that are not affected by the regional transport strategy, provided they meet certain criteria. To receive the transitional classification, these areas must submit an attainment SIP prior to the designation and classification process in 2000. The SIP must demonstrate attainment of the 8-hour standard and provide for the implementation of the necessary emissions reductions on the same time schedule as the regional transport reductions. The EPA will work with affected areas to develop a streamlined attainment demonstration. By submitting these attainment plans earlier than would have otherwise been required, these areas would be eligible for the transitional classification and its benefits and would achieve cleaner air much sooner than otherwise required.

c. Areas not attaining the 1-hour standard and not attaining the 8-hour standard. The majority of areas not attaining the 1-hour standard have made substantial progress in evaluating their air quality problems and developing plans to reduce emissions of ozone-causing pollutants. These areas will be eligible for the transitional classification provided that they attain the 1-hour standard by the year 2000 and comply with the appropriate provisions of section (a) or (b) above depending upon which conditions they meet.

2. Areas Not Eligible for the Transitional Classification

Areas that do not attain the 1-hour standard by 2000 are not eligible for the transitional classification. For these areas, their work on planning and control programs to meet the 1-hour standard by their current attainment date (e.g., 2005 for Philadelphia and 2007 for Chicago) will take them a long way toward meeting the 8-hour standard. In addition, the regional NO_X reductions proposed in this rulemaking will also help these areas meet both the 1-hour and 8-hour standards.

While the additional local reductions that these areas will need to achieve the 8-hour standard must occur prior to their 8-hour attainment date (e.g., 2010), for virtually all areas the additional reductions needed to achieve the 8-hour standard can occur after the 1-hour attainment date. This approach allows them to make continued progress toward attaining the 8-hour standard throughout the entire period without requiring new additional local controls for attaining the 8-hour standard until the 1-hour standard is attained. These areas, however, will need to submit an implementation plan within 3 years of designation as nonattainment for achieving that standard. Such a plan can rely in large part on measures needed to attain the 1-hour standard. For virtually all of these areas, no additional local control measures beyond those needed to meet the requirements of Subpart 2 of part D and needed in response to the regional transport strategy would be required to be implemented prior to their applicable attainment date for the 1-hour standard. Nonattainment areas that do not attain the 1-hour standard by their attainment date would continue to make progress in accordance with the requirements of Subpart 2; the control measures needed to meet the progress requirements under Subpart 2 would generally be sufficient for meeting the control measure and progress requirements of Subpart 1 as well.

V. SIP Revisions and Approvability Criteria

A. SIP Revision Requirements and Schedule

For the 1-hour NAAQS, under section 110(k)(5) of the CAA, EPA has the authority to establish the date by which a State must respond to a SIP call. This date can be no later than 18 months after the SIP call is issued in the final rulemaking. The EPA is proposing that the date for SIP submittal be 12 months after publication of the notice of final rulemaking. This date is appropriate in light of the fact that States that are subject to today's rulemaking have already been involved in the OTAG process. In addition, submitting the transport SIP by this time will facilitate area-specific SIP planning required under Subpart 2 of CAA. Nonattainment areas required to develop attainment plans need to know what upwind reductions to expect and when the reductions will occur. The EPA believes that it is appropriate for all areas subject to this rulemaking—attainment as well as nonattainment—to meet the same schedule for making SIP submittals. Upwind attainment area controls are a critical element for reducing elevated levels of ozone and NO_X emissions flowing into the downwind nonattainment areas.

For the 8-hour NAAQS, under section 110(a)(1) of the Act, EPA believes it has the authority to establish different schedules for different parts of the section 110(a)(2) SIP revision. Specifically, EPA proposes to require first the portion of the 110(a)(2) SIP revision that contains the controls required under section 110(a)(2)(D). The EPA proposes to require that the 110(a)(2)(D) portions of the SIPs mandated under the 8-hour ozone NAAQS be submitted within 12 months of the date of final promulgation of this rulemaking. This will assist areas that are ultimately designated nonattainment for the 8-hour standard in their SIP planning under section 172(c) of the CAA and help avoid the kind of delays due to transport that were experienced by nonattainment areas for the 1-hour standard.

Therefore, under section 110(k)(5) for the 1-hour NAAQS and section 110(a)(1) for the 8-hour NAAQS, a demonstration that each State will meet the assigned statewide emission budget (including adopted rules needed to meet the emission budget) must be submitted to EPA as a SIP revision within 12 months of the date of final promulgation of this rulemaking. The EPA solicits comment on the time frames described above and elsewhere in this rulemaking. As discussed in section V.B. of this rulemaking, EPA will evaluate the SIP based on particular control strategies selected and whether the strategies as a whole provide adequate assurance that the budget will be achieved. The SIP revision should include the following general elements related to the regional strategy: (1) baseline 2007 statewide NO_X emission inventory (which includes growth and existing control requirements)— this would generally be the emission inventory that was used to calculate the required statewide budget, (2) a list and description of control measures to meet statewide budget, (3) fully-adopted State rules for the regional transport strategy with compliance dates providing for control between September 2002 and September 2004, depending on the date EPA adopts in its final rulemaking, (4) clearly documented growth factors and control assumptions, and (5) a 2007 projected inventory that demonstrates that the State measures along with national measures will achieve the State budget in 2007. The control measures must meet the requirements for public hearing, be adopted by the appropriate board or authority, and establish by regulation or permit a schedule and date for each affected source or source category to achieve compliance. States should follow existing EPA guidance on emission inventory development and growth projections.

The EPA recognizes that States may need additional detailed guidance on how to develop effective transport-mitigation SIPs. Therefore, the EPA intends to establish a work group with States and affected Federal agencies to determine what types of additional information and guidance will be helpful. As discussed below, this work group will also address what types of tracking and reporting procedures are needed to assure States are making satisfactory progress towards meeting their required NO_X budget once the SIPs have been put in place.

B. SIP Approval Criteria

1. Budget Demonstration

In response to the final rulemaking, each State will be required to submit a SIP revision that clearly demonstrates how the State will achieve its statewide NO_X budget by 2007. The NO_X budget demonstration should show how emissions from each sector, or component, of the NO_X emissions inventory will be addressed and that the application of the regional strategy along with existing requirements will allow total NO_X emissions in the State to be at or below the level of the required NO_X budget by 2007.

In section III, Statewide Emissions Budgets, of this rulemaking, EPA described the control strategies that EPA used in the development of the statewide NO_X emissions budgets. The EPA believes these measures provide the most reasonable, cost-effective means for mitigating significant interstate transport. In addition, the control measures are generally consistent with the OTAG control strategy recommendations. However, States have the flexibility to adopt a different set of control strategies so long as they achieve the 2007 budget. There are a variety of different control programs that could provide the necessary NO_X reductions. States may wish to consider the strategies that EPA used for budget development as a starting point in developing their specific statewide NO_X strategy. Where States select different control measures for the various components of their emissions inventory, they should clearly define the particular control measures and document the methods used to estimate emissions reductions from implementation of the measures. For example, if a State elected to adopt more stringent controls for mobile sources than were used in EPA's calculation of the statewide budget and less stringent controls on utilities, the State would identify the additional regulations that would be applied to the mobile sources and the different limits that would be applied to utilities. The State would submit fully adopted rules for those sectors with documentation of the projected emissions reductions the particular control measures would achieve, along with the rules for the other sectors, and a demonstration that the overall control strategy when applied to the baseline 2007 emissions inventory would achieve the statewide 2007 emission budget. The entire NO_X emissions inventory must be accounted for in the demonstration.

As discussed in section III.D, Recalculation of Budgets, if a State has more precise growth estimates and control assumptions that it wishes to use in developing its NO_X budget demonstration, and EPA agrees they are appropriate, EPA will recalculate the statewide budget based on those revised numbers. Because any justifiable lower growth estimates from the State would be used in EPA's budget calculation, lower growth could not be considered as part of a State's NO_X control strategy to attain the budget (unless the change in growth is the result of clearly identified control strategies which can be shown to provide real, permanent, and quantifiable changes in growth).

2. Control Strategies

All the control strategies a State selects to meet its NO_X budget must provide real, permanent, quantifiable, and enforceable reductions. These attributes are consistent with those required of all SIP revisions (40 CFR part 51). Control strategies are generally composed of enforceable limits or measures applied to a source or group of sources (i.e., sector) for the purpose of reducing emissions. Control strategies may be expressed as either a tonnage limit, an emission rate, or a specific technology or measure. Considerations in addition to compliance with its NO_X budget, such as local impacts, may lead to selection of a particular strategy over others. In terms of staying within an emissions budget, the effectiveness of the different strategies vary significantly. A control strategy that employs a fixed tonnage limitation (or cap) for a source or group of sources provides the greatest certainty that a specific level of emissions will be attained and maintained. With respect to transport of pollution, an emissions cap also provides the greatest assurance to downwind States that air emissions from upwind States will be effectively managed over time. Control strategies designed and enforced as an emissions-rate limitation can achieve a measurable emissions reduction, but the targeted level of emissions may or may not be

reached, depending on the actual activity level of the affected source(s). Finally, control strategies designed as a specific technology or measure have the greatest uncertainty for achieving a targeted emissions level due to uncertainty in both the activity level of the affected source(s) and uncertainty in the effectiveness of the technology or measure.

Based on the desire to establish control strategies with the greatest environmental certainty of providing for achievement and maintenance statewide NO_X emissions budget, EPA would recommend that to the maximum extent practicable, all control strategies be based on a fixed level of emissions for a source or group of sources. However, EPA recognizes that this option may be difficult for some sources because: (1) the available emissions control options may be limited, and (2) the techniques for quantifying mass emissions to ensure compliance with a tonnage budget may not be adequate. Therefore, States may select the most appropriate type of control strategy to achieve and maintain the desired emissions limitation for each source or group of sources regulated in response to this rulemaking. To compensate for the lack of certainty inherent in some types of control strategies (i.e., control strategies that do not set fixed tonnage budgets) and to address rule effectiveness concerns, States may want to consider incorporating a compliance margin in their overall budget calculation. A compliance margin could be used by increasing the level of controls in the overall budget beyond what is required by this rulemaking. Section VII discusses an interstate cap-and-trade program for large combustion sources that EPA intends to develop, in conjunction with interested States. Because this is a proven and cost-effective control strategy that provides maximum flexibility to sources, States may wish to consider this option as part of their regional NO_X strategy.

The EPA is also considering ways to extend the cap-and-trade program to other types of sources. The Agency's interest in developing such approaches is consistent with the goal in the Implementation Plan for the Revised Air Quality Standards of working "with the States to develop control programs which employ regulatory flexibility to minimize economic impacts on businesses large and small to the greatest possible degree consistent with public health protection." The EPA recognizes that there are important advantages of developing a broad-based trading program to provide incentives for the development of innovative, low-cost ways of controlling emissions from these sources. Under market-based approaches like a cap-and-trade program, there will be an incentive for sources to identify and adopt pollution-minimizing fuels, energy efficiency measures, or changes in product mix that offer the lower cost reduction in emissions.

The EPA and OTAG have focused on a cap-and-trade program for large combustion sources because it assures a proven method for achieving and maintaining a fixed level of emissions. The EPA solicits comments on approaches that would allow a broader participation in emissions trading. In addressing expansion of emissions trading beyond large combustion sources, commenters should address what steps can be taken to quantify emissions from each source involved in the program to assure that the emissions cap is met and the costs to Federal, State and local governments of administering such a program.

a. Enforceable Measures Approach. Enforceable measures include control strategies expressed as either emission rate limitations or technology requirements. These control strategies do not provide the same environmental certainty that a specific emissions level will be met and maintained as compared to fixed tonnage budgets. However, these control requirements are an appropriate method for achieving emissions reductions for many source sectors that have limited options for controlling and directly measuring emissions.

For control strategies that use emission rate limitations or technology requirements the SIP must include the following elements: (1) the enforceable emission rate, technology requirement, or specific measure for each source that, when applied to year 2007 activity levels and in aggregate with other controls, would meet the statewide emissions budget; (2) the projected activity level for each source or group of sources, as appropriate; (3) other factors necessary to calculate the effect of the control requirements (e.g., speeds and temperature for mobile sources necessary to calculate emissions); (4) emissions rate and activity level measurement and emissions estimation protocols for all sources, or group of sources; (5) reporting protocols for emission rate, activity level, and emissions for all sources, or group of sources (EPA intends to address these requirements in a supplemental EPA rulemaking); (6) enforcement mechanisms, including compliance schedules for installation and operation of all control requirements and institution of all compliance processes by the date between September 2002 and September 2004 that EPA establishes in its final action on this proposal; and (7) requirements for adequate penalties on the sources for exceeding applicable emissions rates or failing to properly install or operate control technologies or carry-out compliance measures.

A State or groups of States may choose to develop, adopt and implement trading programs for sources affected by enforceable measures. Such trading programs should be consistent with EPA guidance on trading, including the Economic Incentive Program rules and guidance as well as guidance provided on Open Market Trading. Such approaches could be adopted by States to help achieve emission reductions cost effectively. The EPA does not anticipate managing the emissions data and market functions of these trading programs that do not incorporate emissions caps.

b. Fixed Tonnage Budgets. Under this approach, a group of sources would have their control strategy expressed as a fixed tonnage budget. Because the fixed tonnage budget approach is designed to maintain a specific, fixed level of emissions, this approach does not require an enforceable compliance plan that prescribes exactly how emissions reductions would be achieved. If a State elects to use a fixed tonnage budget as a control strategy, the State would have two options for implementing the program. The State may choose to join the cap-and-trade program that EPA proposes to develop and assist in implementing for sources in cooperation with interested States (this program is discussed in section VII, Model Cap-and-Trade Program, of this rulemaking), or the State may choose to develop a fixed tonnage budget regulation separate from EPA's program. The EPA cap-and-trade program will incorporate all necessary SIP criteria into the program design. If the State elects to develop a fixed tonnage budget program separate from EPA's program, the State program must include the following elements: (1) the total seasonal tonnage emissions limitation for the category of sources which shall be enforceable at the source level by the date between September 2002 and September 2004 that EPA establishes in its final rulemaking through emission tonnage limitations or emission rate limitations that automatically adjust for growth in activity levels over time; (2) requirements to measure and electronically report all emissions from each source; and (3) requirements for adequate penalties for exceeding an emissions limitation or emission rate.

To implement a fixed tonnage budget program, a State or group of States may choose to develop, adopt and implement their own cap-and-trade program. Such trading programs should be consistent with EPA guidance on trading, including the Economic Incentive Program rules and guidance. The EPA does not anticipate managing the emissions data and market functions of these programs.

3. Control Strategy Implementation

As discussed in section I.D.2.e, Control Implementation and Budget Attainment Dates, of this rulemaking, EPA is proposing that States must implement all of their State-adopted NO_X control strategies by a date between 3 to 5 years from the SIP submittal due date. This time frame would result in an implementation deadline within the range from September 2002 and September 2004. The EPA is seeking comment on which date within this range is appropriate, in light of the feasibility of implementing controls and the need to provide air quality benefits as expeditiously as possible. Therefore, for the SIP to be approvable, State NO_X rules must all have compliance dates providing for control by the implementation deadline, which will be specified in the final rulemaking. The EPA believes this is necessary to assist ozone areas in meeting their attainment obligations under the 1-hour standard and to assure timely attainment of the 8-hour standard. The EPA recognizes that the control measures will not be in place in time to assist serious ozone areas in meeting their 1999 attainment date under the 1-hour standard. This is unavoidable because of the time needed to complete this rulemaking and for States to adopt and implement their NO_X measures. The next attainment date under the 1-hour standard is 2005 for severe-15 areas. For the 8-hour standard, the CAA provides for attainment dates of up to 5 or 10 years after designations with 2 potential 1-year extensions. In light of the projected designation date of 2000, the first attainment date under the 8-hour standard could also be 2005. For these areas, it is important that the regional NO_X control measures be in place by no later than September 2004—in time to provide emissions reductions for the 2005 ozone season. Implementing controls earlier than September 2004, or at least phasing in some controls, would improve the chance for minimizing exceedances in the 3-year period up to and including the 2005 attainment year. States required to meet a statewide NO_X budget by 2007 will continue to achieve additional emissions reductions after September 2004 from continued phase in of Federal measures. The EPA will provide guidance to the States on the appropriate amount of emission reduction credit that a State may assume from Federal measures.

4. Growth Estimates

The EPA believes it is important that consistent emissions growth estimates be used for the State's budget demonstration and for EPA's calculation of the required Statewide emissions budget. If a State wishes to substitute its own growth or control information in its budget analyses and can provide adequate justification for its alternative numbers, EPA will evaluate the State's submission and may recalculate the required statewide budget to reflect the State numbers. As mentioned in the previous section, because the revised growth estimates will be included in EPA's budget calculation, lower growth rates could not be considered part of a State's NO_X control strategy to attain that budget unless the change in growth is the result of clearly identified control strategies that can be shown to provide real, permanent, and quantifiable changes in growth. During the comment period for this proposal, States will have an opportunity to comment on EPA's growth assumptions and justifications for emissions rates and control measures. As described in section III.D, Recalculation of Budgets, EPA encourages requests for alterations to the growth estimates or control assumptions be made during the comment period for this proposal so that the budgets given in the final rulemaking will incorporate the changes. Addressing these issues prior to the final rulemaking will allow States to concentrate their efforts on control strategy development and rule adoption procedures during the proposed 12-month time frame for submitting their SIP revisions.

5. Promoting End-Use Energy Efficiency

In order to minimize compliance costs, EPA is interested in allowing States the maximum flexibility practical in meeting their NO_X budgets. The EPA believes that achievement of energy efficiency improvements in homes, buildings, and industry can be one cost-effective component of a comprehensive State strategy. These energy efficiency improvements would substantially reduce control measures required to meet NO_X objectives. To this end, EPA will be investigating, in consultation with the Department of Energy's Office of Energy Efficiency and Renewable Energy, how energy efficiency opportunities can be integrated within SIPs, while maintaining the requisite level of confidence that State budgets will be met. The EPA intends to provide guidance in this area. The EPA is requesting comment on how SIPs and associated processes can allow for the incorporation of cost-effective, end-use energy efficiency.

C. Review of Compliance

The EPA believes it is essential that progress in implementing the regional control strategy be periodically assessed after the initial SIP submittal. This will allow early detection of implementation problems, such as overestimates of control measure effectiveness and underestimates of growth. The EPA will be carefully tracking State progress and intends to propose periodic State reporting requirements in its SNPR. Because nonattainment areas will be relying on emissions reductions in other States to assist them in reaching attainment, EPA believes that each State must have an effective program for tracking progress of the regional strategy. The EPA intends to establish a work group of affected States and other impacted Federal Agencies to determine what procedures to put in place to provide adequate assurance that the necessary emissions reductions are being achieved. The EPA believes that tracking efforts should be structured to avoid unnecessary burdens on States. Therefore, EPA intends to integrate activities to track progress on implementing the regional NO_X budget with existing program requirements such as periodic emissions inventories and reporting under title IV for NO_X. The EPA is soliciting comment on what types of compliance assurance procedures may be necessary.

The EPA recognizes that success of the program depends, in part, on the availability of reliable, comprehensive inventories of emissions. Currently, EPA is developing a separate rulemaking that would require statewide periodic emissions inventories. This rule would be an extension of the existing periodic emission inventory requirement for nonattainment areas. In regard to the regional transport strategy, EPA intends to use these inventories as a tool to assess progress in implementing the regional strategy, to determine whether the States achieved their required budget by 2007, and for future transport studies.

If tracking and periodic reports indicate that a State is not implementing all of its NO_X control measures or is off-track to meet its budget by 2007, EPA

will work with the State to determine the reasons for noncompliance and what course of remedial action is needed. The EPA will expect the State to submit a plan showing what steps it will take to correct the problems. Continued noncompliance with the NO_X transport SIP may lead EPA to make a finding of failure to implement the SIP, and potentially implement sanctions, if the State does not take corrective action within a specified time period. If tracking indicates that, due to actual growth and control effectiveness, the SIP is not adequate to achieve the budget, EPA will issue a SIP call under section 110(k)(5) for States to amend their NO_X control strategy. As discussed above, EPA is proposing that all State-adopted NO_X strategies must be implemented by a date within the range of September 2002 and September 2004. Shortly after the established implementation due date, EPA will begin checking to determine whether States are meeting all of their SIP obligations.

In 2007, EPA will assess how each State's SIP actually performed in meeting the Statewide NO_X emission budget. If 2007 emissions exceed the required budget, the control strategies in the SIP will need to be strengthened. The EPA will evaluate the circumstances for the budget failure and issue a call for States to revise their SIPs, as appropriate.

D. 2007 Reassessment of Transport

Today's proposal addresses the emissions reductions necessary to mitigate significant ozone transport based on analyses using the most complete, scientifically-credible tools and data available for the assessment of interstate transport. As the state of ozone science evolves over the next 10 years, EPA expects there will be a number of updates and refinements in air quality methodologies and emissions estimation techniques. Therefore, in 2007, the end year for the current analyses, EPA intends to conduct a new study to reassess ozone transport using the latest emissions and air quality monitoring data and the next generation of air quality modeling tools.

The study will evaluate the effectiveness of the regional NO_X measures States have implemented in response to the final rulemaking action in assisting downwind areas to achieve attainment. Modeling analyses will be used to evaluate whether additional local or regional controls are needed to address residual nonattainment in the post-2007 time frame. The study will examine differences in actual growth versus projected growth in the years up to 2007 as well as expected future growth throughout the entire OTAG region.

The study will also review advances in control technologies to determine what reasonable and cost-effective measures are available for purposes of controlling local and regional ozone problems.

The EPA expects to seek input from a wide range of stakeholders such as State and local governments, industry, environmental groups, and Federal agencies for the study. The OTAG partnership established by the ECOS and EPA resulted in more technical information and more air quality modeling being conducted on regional ozone transport than ever before. Because of the success of the OTAG process, EPA envisions working closely with ECOS for the transport reassessment study.

E. Sanctions

1. Failure to Submit

If a State fails to submit the required SIP provisions, the CAA provides for EPA to issue a finding of State failure under section 179(a). (EPA is using the phrase "failure to submit" to cover both the situation where a State makes no submission and the situation where the State makes a submission that EPA finds is incomplete in accordance with section 110(k)(1)(B) and 40 CFR part 51, Appendix V.) Such a finding starts an 18-month sanctions clock; if the State fails to make the required submittal which EPA determines is complete within that period, one of two sanctions will apply. If 6 months after the sanction is imposed, the State still has not made a complete submittal, the second sanction will apply. The two sanctions are: withholding of certain Federal highway funds and a requirement that new or modified sources subject to a section 173 new source review program obtain reductions in existing emissions in a 2:1 ratio to offset their new emissions (section 179(b)).

The EPA promulgated regulations to implement section 179 that specify the order in which these sanctions will apply in the case of State noncompliance with requirements under part D of title I of the CAA (40 CFR 52.31). These regulations do not, however, address the imposition of sanctions in the case of State failure to comply with a SIP call under section 110(k)(5) or to make a SIP submission under section 110(a)(1). Since in today's rulemaking EPA is proposing a SIP call and a requirement for a section 110(a)(1) submission, EPA believes it is appropriate to propose the order of sanctions if States fail to comply with these requirements. The EPA believes that the general scheme promulgated for sanctions should also apply here. Under this scheme, EPA will generally apply the 2:1 offset sanction first and the highway funding sanction second. The EPA believes the rationale for this approach provided in the preamble to the sanctions rule applies equally here (58 FR 39832, August 4, 1994).

Section 179 sets certain limits on where mandatory sanctions apply. The highway funding sanction applies in designated nonattainment areas and the 2:1 offset sanction applies in areas with part D NSR programs. However, EPA has additional authority to impose sanctions under section 110(m). The EPA's authority to impose sanctions under section 110(m) is triggered by any finding that a State failed to make a required SIP submission. However, there is no mandatory clock for the imposition of these sanctions. The EPA may determine whether or not to use this authority in response to a SIP failure, and thus they are termed discretionary sanctions. With the discretionary sanctions, use of the 2:1 offset sanction is still limited to areas with part D NSR programs. However, the highway funding sanction can be applied in any area. While sanctions under section 179 apply only to the deficient area, under section 110(m) the highway sanction can be applied statewide, subject to the conditions in EPA's discretionary sanctions rule (40 CFR 52.30). Because the mandatory sanctions would not be applicable in all areas that may fail to respond to requirements proposed in today's rulemaking, EPA is requesting comment on whether the discretionary sanctions should be used in response to a failure of a State to submit the required SIP revision.

In addition to sanctions, a finding that the State failed to submit the required SIP revision triggers the requirement under section 110(c) that EPA promulgate a FIP no later than 2 years from the date of the finding if the deficiency has not been corrected. The FIPs are discussed in the section below.

A State that submits a SIP that is subsequently disapproved, due to failure to meet one or more of the required elements, will be subject to the same sanctions and FIP consequences as a State that fails to make the required submittal.

2. Failure to Implement

If a State fails to implement its SIP, EPA may also make a finding under section 179. The finding triggers the mandatory sanctions as described above. The EPA may also choose to apply discretionary sanctions as a consequence of failure to implement. However, a FIP is not triggered.

F. Federal Implementation Plans (FIPS)

1. Legal Framework

The Administrator is required to promulgate a FIP within 2 years of: (1) finding that a State has failed to make a required submittal, or (2) finding that a submittal received does not satisfy the minimum completeness criteria established under section 110(k)(1)(A) (56 FR 42216, August 26, 1991), or (3) disapproving a SIP submittal in whole or in part. Section 110(c)(1) mandates EPA promulgation of a FIP if the Administrator has not yet approved a correction proposed by the State before the time a final FIP is required to be promulgated.

2. Timing of FIP Action

The EPA views seriously its responsibility to address the issue of regional transport of ozone and ozone precursor emissions. Decreases in NO_X emissions are needed in the States named in the rulemaking to enable the downwind States to first develop plans to achieve the clean air goals and then to carry out those plans and actually achieve clean air for their citizens. Thus, although the CAA allows EPA up to 2 years after the finding to promulgate a FIP, EPA intends to expedite the FIP promulgation to help assure that the downwind States realize the air quality benefits of regional NO_X reductions as soon as practicable. This is consistent with Congress's intent that attainment occur in these downwind nonattainment areas "as expeditiously as practicable" (sections 181(a), 172(a)). Therefore, EPA intends to propose FIPs at the same time as final action is taken on this proposed Ozone Transport SIP Rulemaking. Furthermore, EPA intends to make a finding and promulgate a FIP immediately after the SIP submittal due date for each upwind State that fails to submit a SIP that meets the terms of the final rulemaking of this proposal.

As described elsewhere in this rulemaking, EPA is proposing to require specific States to decrease their emissions of NO_X in order to reduce the transport of ozone and ozone precursors which affects nonattainment areas over hundreds of miles downwind. This proposal allows States 12 months to develop, adopt and submit revisions to their SIPs in response to the final rulemaking. The EPA intends to expeditiously approve SIP revisions that meet the rulemaking requirements. For States that fail to make the required submittal or fail to submit a complete SIP revision response, EPA would promulgate a FIP as described in the above section. Where the SIP is complete but EPA disapproves it, EPA would also promulgate a FIP. The EPA may choose to propose a FIP at the same time as proposing disapproval of a State's response to the final rulemaking. Thus, EPA intends to move quickly to promulgate a FIP where necessary. The EPA solicits comment on the time frames described above and elsewhere in this rulemaking.

3. Statewide Emissions Budgets

In the FIP proposal, each State would be allocated by EPA the same statewide emissions budget as described elsewhere in this document. That statewide budget is given to States that are found to significantly contribute to nonattainment in downwind States as described in section II. The statewide budget is derived from the set of reasonable, cost-effective measures applied to the various source sectors as discussed in section III.

4. FIP Control Measures

In contrast to the SIP process—where selection and implementation of control measures is the primary responsibility of the State—in the case of a FIP, it is EPA's responsibility to select the control measures for each source sector and assure compliance with those measures. Thus, while the FIP would be designed by EPA to achieve the same total statewide emissions decrease as that described in final action on today's proposal, the specific control measures assigned in the FIP could be different from what a State might choose.

In selecting the specific control measures for a FIP, EPA would take into account the administrative feasibility as well as cost effectiveness of various control options. In developing the budget calculations, EPA generally agreed with the direction of the OTAG recommendations that EPA develop Federal measures for certain sources categories—mobile sources in particular—and that the States develop stationary source measures in response to this rulemaking. It is unlikely that EPA's FIP would focus on mobile source programs such as I/M or transportation control measures because these measures are not as cost effective as others for controlling regional NO_X emissions and because it would be difficult for a limited Federal staff to implement such programs, especially without detailed knowledge of local concerns and circumstances. For stationary sources, the EPA budget calculations include large- and medium-sized stationary sources. As in the case with mobile sources, a program to reduce emissions from stationary sources that is reasonable for States to implement, may be less feasible for EPA to implement due to factors such as a large number of affected sources.

Therefore, for the stationary source sector, EPA's FIP would likely propose to focus controls more on the larger stationary sources. This approach would take account of the potential need for Federal staff to implement the program in more than one State by reducing the number of sources affected so that the program is more manageable. It follows that greater emissions decreases might be needed from the remaining set of stationary sources than is suggested by the EPA's statewide budget calculation (described in section III). That is, to make up the short-fall in the statewide budget from medium-sized stationary sources, additional decreases might be needed from the large stationary sources in a FIP program.

5. FIP Trading Program

In order to minimize the burden on sources, EPA would establish in the FIP an interstate emissions trading program. The FIP trading program would be designed to be compatible with the emissions trading program described elsewhere in this rulemaking. Development of such emissions trading programs would use the process identified in the OTAG July 10, 1997 recommendation on trading—a joint EPA/State effort with appropriate stakeholder input.

6. Section 105 Grants

The EPA provides annual funding to States under section 105 of the CAA to carry out Act-related programs. Where EPA must develop, adopt and implement a FIP, the Agency will consider withholding all or a portion of the grant funds normally appropriated to the State. Those funds would be used by EPA in the FIP work.

G. Other Consequences

If a State is implementing all of its control measures but is off course to meet its 2007 budget due to errors in growth estimates or control assumptions, EPA will consider issuing a subsequent SIP call for the State to revise its implementation strategy.

VI. States Not Covered by This Rulemaking

Based upon all the available technical information, the EPA is proposing to find that the following 15 States in the OTAG region do not make a significant

contribution to downwind nonattainment: Arkansas, Florida, Iowa, Kansas, Louisiana, Maine, Minnesota, Mississippi, North Dakota, Nebraska, New Hampshire, Oklahoma, South Dakota, Texas, Vermont. These 15 States are not required to meet an assigned Statewide NO_X emission budget. Based upon comments received during the comment period, as well as any additional modeling and technical analyses, these States could be found to be significant contributors to nonattainment. If this is the case, EPA will publish a SNPR.

These States may need to cooperate and coordinate SIP development activities with other States. For example, the OTAG recommendation on utility NO_X controls (see Appendix B) recognized that the State of Iowa would work with Wisconsin in developing the Southeast Wisconsin ozone SIP; that the State of Kansas would work with Missouri in the continued progress of the Kansas City ozone SIP; and that Oklahoma, Texas, Arkansas, and Louisiana would share the results of their urban and regional scale modeling with Missouri. The EPA also believes that the 11 States (i.e., Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island and Vermont) plus the District of Columbia's consolidated metropolitan statistical area (including northern Virginia) that are included in the OTR should continue coordinating their activities through the OTC to provide for attainment of the ozone NAAQS in that region.

States with interstate nonattainment areas for the 1-hour standard and/or the new 8-hour standard are expected to work together to reduce emissions to mitigate local scale interstate transport problems in order to provide for attainment in the nonattainment area as a whole. For example, New Hampshire should work with Massachusetts for the Boston-Lawrence-Worcester nonattainment area. For the 8-hour standard, parts of local scale interstate nonattainment areas may be located in Louisiana and Texas as well as in Arkansas and Tennessee. These States should also coordinate their planning efforts.

In addition, areas in these States may be able to receive the transitional classification as described in section IV, Implementation of Revised Air Quality Standards. The OTAG's modeling (in particular, OTAG strategy Run 5 described in section II.B.2, OTAG Strategy Modeling) shows that a strategy in which a State-adopted NO_X emission decreases similar to those EPA proposes to establish in this rulemaking would achieve attainment in most of these areas that would become nonattainment under the 8-hour standard. If a State wishes to consider this as a viable option for meeting its early SIP requirement and receiving the transitional area classification, EPA will work with the State to achieve this. Section III, Statewide Emission Budgets, describes EPA's process for establishing the statewide NO_X emission budgets. (Note that States not covered by this rulemaking may be eligible for the transitional classification by means other than adopting NO_X emission reductions similar to those in this proposal. In addition to attaining the 1-hour standard, by at least 2000, areas in States not covered by this rulemaking that do not wish to adopt NO_X emission reductions similar to those in this proposal must submit an attainment SIP prior to the designation and classification process in 2000. The SIP must demonstrate attainment of the 8-hour standard and provide for the implementation of the necessary emissions reductions on the same time schedule as the regional transport reductions.)

The EPA strongly suggests that States with new nonattainment counties for the 8-hour standard should consider the option of this strategy since our analysis indicates that nearly all new nonattainment counties are projected to come into attainment as a result of this strategy. States will benefit by early action to aid their cities in these new counties in the attainment of the 8-hour standard and receipt of transitional status which will result in no further controls on local sources. Of the 10 new counties in the 15 States that are not covered by this rulemaking, based on OTAG modeling, all 10 are projected to come into attainment as result of the regional NO_X reductions included in the OTAG Run 5 modeling run.[17] A new county is defined as a county that violates the 8-hour standard but not the 1-hour standard and is not located in an area for the 1-hour standard designated nonattainment as of July 1997. (In the docket to this rulemaking is a table with associated documentation in which EPA lists these 10 new counties in the 15 States with an indication of whether the county is projected to attain the 8-hour ozone standard based on the OTAG Run 5 modeling run.)

This county information should be understood with two caveats. First, this list of counties is based on air quality data from 1993–95. The data from this period will not be the basis for nonattainment area designations for the 8-hour ozone standard. Those designations will be made in the 2000 time frame and will be based on the most recent air quality data available at that time (1997–1999). Therefore, while EPA expects that the vast majority of new counties will attain as a result of the NO_X regional control strategy, the number of new counties may be more or less than the number indicated above. The EPA is also currently updating this list based on more current air quality data which will be included in the docket to the final rule.

Second, the estimate of which counties will attain the 8-hour standard is based on the specific assumptions made by the OTAG in Run 5. Because the proposed budgets are similar but not identical to those contained in Run 5, the estimate may change when this rule is final and implemented. In addition, some of the assumptions used to calculate the proposed budgets may change in response to comments EPA may receive on various portions of this rulemaking. Therefore, the estimate of which areas will attain the standards through the final regional NO_X strategy may be higher or lower than the number indicated above.

In addition, areas in the region not covered by the proposed NO_X reduction strategy in this rulemaking that would exceed the new standard after the voluntary adoption of the regional strategy, including areas that do not meet the current 1-hour standard, would benefit as well because the regional NO_X program would reduce the extent of additional local measures needed to achieve the 8-hour standard. In many cases, these regional reductions may be adequate to meet CAA progress requirements for a number of years, allowing areas to defer additional local controls. In the 15 States, of the 20 counties that violate the 8-hour standard which are located in an area designated nonattainment for the 1-hour standard as of July 1997, 14 are projected to come into attainment of the 8-hour standard as a result of OTAG Run 5 regional NO_X reductions.[18] The caveats noted above for new counties also apply to the information presented here. (In the docket to this rulemaking is a table with associated documentation in which EPA lists these 20 counties in the 15 States, including an indication of whether the area is projected to attain the 8-hour ozone standard as a result of regional

[17] Appendix E contains a description of the controls applied in Run 5.

[18] Appendix E contains a description of the controls applied in Run 5.

NO_X reductions included in the OTAG Run 5 modeling run.)

States that opt in to meet the early SIP requirement this way would not be eligible to participate in the trading program with the States required in this rulemaking to revise their SIPs although they could develop intrastate trading programs. This limitation is needed to avoid the movement of emissions, via trades, from States that do not contribute to nonattainment to States that do contribute to nonattainment.

Section V, SIP Revisions and Approvability Criteria, discusses general SIP requirements for States that EPA has found significantly contribute to downwind nonattainment. The EPA intends to establish a workgroup with the affected States to determine what type of reporting and tracking mechanisms are needed to assure States are making steady progress toward meeting their 2007 budgets. One important element of tracking will be to assess actual growth versus projected growth. While EPA will not be establishing new reporting requirements for States exempted from this rulemaking, EPA intends to periodically review emissions in the exempted States to determine the impacts of any emissions increases on downwind nonattainment areas. In addition, as discussed in section V.F, 2007 Reassessment of Transport, in 2007 EPA will be conducting a reassessment of transport in the full OTAG region to evaluate the effectiveness of the regional NO_X measures and whether additional regional controls are needed.

If States not covered by this rulemaking choose to adopt budgets based on the rationale outlined above, EPA will work with those States to determine what an appropriate statewide budget should be. The EPA would encourage those States to consider statewide budgets based on adoption of NO_X emission decreases similar to those EPA proposes herein to establish for States covered by this rulemaking.

VII. Model Cap-and-Trade Program

The EPA is planning to develop and administer an interstate cap-and-trade program that could be used to implement a fixed tonnage budget. States electing to reduce emissions from the types of sources covered by this program in order to achieve and maintain the statewide emissions budget could voluntarily participate in this program. Much of the discussion to date on the development of a cap-and-trade program has focussed on establishing a cap-and-trade program for large combustion sources. As noted earlier, EPA is also considering ways to extend the cap-and-trade program to other types of sources.

The EPA is planning to develop a cap-and-trade program for large combustion sources because it provides a proven and cost-effective method for achieving and maintaining a fixed tonnage budget while providing maximum compliance flexibility to affected sources. By capping emissions, the environmental integrity of this market-based approach is assured. For example, as total electricity generation grows, average emissions over the ozone season would not exceed the cap. In addition, the reductions achieved across sectors will be those of lowest cost, since each source will identify and implement the specific control technology, pollution-minimizing fuel, energy efficiency, or production mix that offers the greatest amount of pollution reduction at the least cost. Overall, implementation of a regional cap-and-trade program would likely lower the costs of attaining reductions through more efficient allocation of emission reduction responsibilities, minimize the regulatory burden for pollution sources, and serve to stimulate technology innovation.

A number of regulatory programs are currently in use or under development that use a cap-and-trade program for large combustion sources. These regulatory systems include the EPA's Acid Rain Program for SO_2 emissions, the South Coast Air Quality Management District's Regional Clean Air Incentives Market for SO_2 and NO_X, and the OTC's NO_X Budget Program. Experience with these regulatory programs indicates that establishing a tonnage budget for large combustion sources is currently feasible and cost effective. These approaches exist because there is a range of options available for controlling and measuring emissions from these sources. For measuring emissions, continuous emissions monitors currently installed at most sources participating in these approaches provide accurate and complete emissions measurements which enable the administrators of these approaches to easily and accurately track and enforce emissions on a tonnage basis.

In developing the cap-and-trade program, EPA will build upon the work produced by OTAG's Trading/Incentives Work Group. Based upon OTAG's products and upon experience from other relevant efforts, a model rule will be developed that details the program requirements and provisions of a cap-and-trade program, including: affected sources, monitoring requirements, and market features. In establishing the specific program applicability, EPA expects to propose inclusion of those large combustion sources that are most cost-effective for controlling emissions, while also capturing the majority of NO_X emissions from the stationary source sector. The monitoring requirements are expected to be based largely on existing requirements in 40 CFR Part 75. Market features of the program will address such issues as the basic design of the trading system, the process for setting emission limitations (e.g., allocation of allowances, generation performance standard, etc.), and provisions for emissions trading and banking. The EPA will work to develop a cap-and-trade system with market features that are easily understood to facilitate maximum participation, minimum transaction costs, and maximum cost savings. The EPA will also take comment on ways to include a broader set of industrial and mobile sources within the cap-and-trade system.

The EPA plans to develop the cap-and-trade program, in coordination with States interested in participating in such a system. The EPA will hold two workshops in late 1997 to provide States and stakeholders an opportunity to comment on the trading program framework prior to proposal, as recommended by the OTAG. The product of these workshops would be a model rule that EPA would then publish for comment in the **Federal Register** prior to finalization of this proposal. States electing to participate in this program would either adopt the model rule by reference or State regulations that are consistent with the model rule. The preamble to the model rule would outline EPA and State responsibilities for implementing the program. Generally, EPA expects that it would be responsible for managing the emissions data and market functions of the program and that States would have the primary responsibility for enforcing the requirements of the program.

VIII. Regulatory Analysis

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may: (1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or

safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this proposal is a "significant regulatory action" because it will have an annual effect on the economy of approximately $2 billion. As such, this action was submitted to OMB for review. Any written comments from OMB to EPA and any written EPA response to those comments are included in the docket. The docket is available for public inspection at EPA's Air Docket section, which is listed in the **ADDRESSES** section of this preamble.

Based on the 2 years of analysis conducted by OTAG and other supplemental data, the Agency developed an approach that is presented in this proposal for reducing the transport of ozone emissions over long distances by lowering NO_X emissions from major sources. Currently, the movement of ozone from one region to another makes compliance with the existing NAAQS difficult for certain nonattainment areas. Further, State efforts to reach attainment of the ozone standard through local measures can be very expensive. In essence, this proposal is a regulatory action designed to improve the effectiveness and efficiency of State and EPA efforts to attain and maintain the NAAQS. The OTAG recommended that EPA focus on requiring appropriate States to reduce summer NO_X emissions in three categories: mobile sources, electric power plants, and other stationary sources. The Agency adopted this approach in developing this proposal to establish emissions budgets for 22 States and the District of Columbia. Notably, the Agency is already establishing national requirements for mobile source reductions that OTAG recommended. Therefore, EPA did not estimate their impacts in this regulatory analysis. Agency actions with respect to mobile sources have been and will be addressed in separate rulemaking activities that are described below.

Mobile Sources

A number of EPA programs designed to reduce NO_X and other emissions from highway vehicles and nonroad engines have not yet been implemented. Some of these programs have been promulgated but have implementation dates which have not yet arrived. Other programs have been proposed but have not been promulgated, and still other programs are expected to be proposed in the near future. The following table lists some of these mobile source control programs and describes their status as of the date of this rulemaking.

TABLE VIII–1.—ANTICIPATED MOBILE SOURCE CONTROL MEASURES

Measure	Current status
National Low-Emitting Vehicle Standards (NLEV)	Final; not yet implemented.
2004 Heavy-Duty Vehicle Standards	Proposed.
FTP Revisions	Final; not yet implemented.
Federal Small Engine Standards, Phase II	Proposal in 1997.
Federal Marine Engine Standards (for diesels >50 hp)	Proposal in 1997.
Federal Locomotive Standards	Proposed.
1997 Proposed Nonroad Diesel Engine Standards	Proposal in 1997.
Tier 2 Light-Duty Vehicle Standards	Under study.

All of the programs listed in the preceding table will be implemented on a nationwide basis (except NLEV which is applicable in 49 States). The EPA continues to evaluate the need for additional Federal controls on mobile source emissions and may propose additional measures as conditions warrant. In addition, EPA continues to encourage States to evaluate as part of their SIPs the appropriateness of mobile source emission control programs that can be implemented on a local or Statewide basis such as I/M programs, RFG, transportation control measures and clean-fuel fleets.

As described in section III, Statewide Emission Budgets, the emission targets for the mobile source sectors (highway vehicle emissions and nonroad emissions) were developed by estimating the emissions expected to result from the projected activity level in 2007. These targets do not assume the implementation of any additional programs beyond those already reflected in SIPs or expected to be implemented at the Federal level, including those listed in Table VIII–1. All of these programs would be implemented even in the absence of today's proposed rule. States and industry will not bear any additional mobile source control costs due to this proposal, unless a State chooses to implement additional mobile source programs under its own authority and to correspondingly limit the scope or reduce the stringency of new controls on stationary sources. The EPA presumes a State would do so only if it found a net savings to its economy in doing so. Furthermore, the cost of such state-operated programs will depend on their specific design, which EPA is unable to predict. The EPA has therefore not included the costs of current or new Federal mobile source controls in its analysis of the costs of this proposal. Information on the costs of the various proposed or promulgated Federal measures can be found in the **Federal Register** notices for the respective measures.

Electric Power Industry and Other Stationary Sources

The EPA is proposing to establish a summer season NO_X emissions budget for 22 States and the District of Columbia based on reducing emissions from the electric power industry and other stationary sources.[19] This will lead to the placement of NO_X controls on operating units in these two categories that the Agency has not covered in other specific rulemaking activities. Therefore, EPA has estimated the NO_X emissions reductions and annual incremental costs in the year 2005 resulting from this proposal.

The OTAG recognized the value of market-based approaches to lowering emissions from power plants and large industrial sources. It also encouraged EPA to consider the value of allowing

[19] This category includes industrial, commercial, and institutional boilers, reciprocating engines, gas turbines, process heaters, cement kilns, furnaces at iron, steel, and glass-making operations, and nitric acid, adipic acid and other plants with industrial processes that produce NO_X

"banking" as a program element in any trading program that it would want to run with the States. The Agency agrees that a market-based approach with trading and banking is preferable and wants to work with all States covered by this rulemaking to establish such a program. The EPA currently believes that for such a program to be effective and administratively practicable, the program should have an emissions cap and allow trading between sources in all the States that are covered. The Agency's economic analysis is based on this view.

Analytical limitations kept EPA from estimating the costs of a single cap-and-trade program for the electric power industry and other stationary sources. The Agency can only estimate the impacts of a cap-and-trade program across all States covered in this rulemaking for the electric power industry at the current time.

For its analysis, the Agency assumed that power plants have a trading and banking program that begins in 2005 with a summer NO_X emissions cap of 489 thousand tons. This is the NO_X budget component for the electric power industry that is discussed earlier in the preamble. This type of program represents EPA's current views of how a reasonable trading program would be constructed. The Agency estimates that close to 800 electric power generating sources will come under this program. For other stationary sources, EPA assumed in its economic analysis that there would be a regulatory program that would not allow summer NO_X emissions in 2005 to exceed 466 thousand tons. This is the total NO_X budget component for other stationary sources discussed earlier in the Preamble. In this analysis, EPA set an emissions cap for each State based on its share of the NO_X budget component that EPA has developed and assumes that each State places controls on its sources in a manner that minimizes compliance costs in that State (a "least-cost" regulatory approach is used). The EPA estimates that the States would place controls on about 9,000 other stationary sources to comply with EPA's requirements. Given that the Agency could not estimate the costs of a single cap-and-trade program for the electric power industry and other stationary sources, the total cost estimate of this proposal is likely to be overstated to the extent that trading would occur between facilities in both groups.

For the electric power industry, EPA was able to estimate the costs and emissions changes based on two possible baseline scenarios for the future. For an Initial Base Case, EPA considered only the implementation of Phase I (RACT requirements) of the OTC MOU and other existing CAA requirements. For a Final Base Case, EPA considered implementation of Phase II and Phase III of the OTC MOU, which lowered the NO_X emissions levels in the Northeastern United States in the baseline. For the other stationary sources, the Agency was only able to consider the implementation of Phase I of the OTC MOU and estimate the NO_X emission reductions and incremental costs from the Initial Base Case. For the Final Base Case, EPA knows that the emissions reductions and incremental costs are going to be less than would occur in the Initial Base Case.

Table VIII–2 shows the NO_X emissions levels that EPA predicts will occur for each source category in the Initial Base Case and Final Base Case and after States amend their SIPs to meet the NO_X emission budget requirements in this proposal. Notably, some types of control technologies can be used on a seasonal basis and others have to be used year round. Because there are benefits from reducing NO_X throughout the year, the annual and seasonal changes in NO_X emissions are both reported.[20] The EPA's analysis of the use of cap-and-trade program for the electric power industry showed that there would be significant reductions in NO_X emissions occurring from electric generation units throughout the area covered by the proposed rule.

Table VIII–3 shows the annual incremental costs that the Agency estimates the regulated community will incur in 2005, the first full year of implementation of this rule by the States in the two Base Cases. The costs presented here reflect trading across States for electric power generation units and cost minimization within States for other stationary sources. For the Initial Base Case, the total annual incremental costs are estimated to be $2,072 million in 2005. For the Final Base Case, the total annual incremental costs are estimated to be lower than $1,992 million in 2005.

TABLE VIII–2.—NO_X EMISSIONS IN 2005 FOR ALTERNATIVE BASE CASES AND AFTER COMPLIANCE WITH THE OZONE TRANSPORT RULEMAKING

[1,000 NO_X tons]

Source category	Initial base case (phase I OTC MOU)		Final base case (phase II/III OTC MOU)		Under proposed rule implementation	
	Ozone season	Annual	Ozone season	Annual	Ozone season	Annual
Electric Power Industry	1,490	3,497	1,427	3,423	489	2,278
Other Stationary Sources	698	1,666	<698	<1,666	466	1,227
Total	2,188	5,163	<2,125	<5,089	955	3,505

Note: EPA was only able to consider partial and full implementation of the Ozone Transport Commission Memorandum of Understanding for the electric power industry. Controls on the electric power industry occur through cap-and-trade. Controls on Other stationary sources occur by States implementing an approach applying least-cost controls.

[20] The ozone season in this analysis covers May 1 through September 30.

TABLE VIII–3.— INCREMENTAL ANNUAL COSTS IN 2005 FOR COMPLIANCE WITH THE OZONE TRANSPORT RULEMAKING UNDER ALTERNATIVE BASE CASES

[Million 1990 dollars]

Source category	Initial base case (phase I OTC MOU)	Final base case (phase II/III OTC MOU)
Electric Power Industry	$1,687	$1,607
Other Stationary Sources	385	<385
Total	2,072	<1,992

Note: EPA was only able to consider partial and full implementation of the Ozone Transport Commission Memorandum of Understanding for the electric power industry. Controls on the electric power industry occur through cap-and-trade. States control Other stationary sources by implementing a least-cost approach.

During the OTAG process, there arose concern over whether the States would enter the trading program that EPA offered to form and that they would instead end up employing command-and-control approaches to comply with EPA's proposed rulemaking requirements. There were discussions of the possible application of rate-based controls on electric generation. In keeping with these discussions, EPA has also estimated the costs of this type of control for electric power generation units. The EPA estimates that the electric power industry in the 23 jurisdictions covered by this rulemaking will incur an annual incremental cost under the Final Base Case of $2,108 million, if during the ozone season, these plants are regulated by an emission limitation of .15 pounds of NO_X per million Btus of heat input. Under the Initial Base Case, the costs would be $2,189 million. A comparison of this cost with that in Table VIII–3 reveals that a cap-and-trade program for the electric power industry is much less costly than a traditional rate-based program.

IX. Air Quality Analyses

As discussed in section III, Statewide Emissions Budgets, EPA has used a comparative cost-effectiveness approach to identify a set of control measures for achieving the emissions budgets for States found to make a significant contribution to downwind nonattainment (see section II, Weight of Evidence Determination of Significant Contribution). These controls are generally consistent with OTAG's recommendations. The OTAG did perform model simulations to assess the air quality benefits of a range of regional strategies. In particular, OTAG strategy Run 5 (see Appendix E) provides large air quality benefits over broad portions of the region. This strategy includes regional NO_X controls similar to what is being proposed in this rulemaking. The EPA intends to estimate the impacts of the proposed statewide emission budgets using air quality modeling for inclusion in the SNPR.

X. Nonozone Benefits of NO_X Reductions

In addition to contributing to attainment of the ozone NAAQS, decreases of NO_X emissions will also likely help improve the environment in several important ways. On a national scale, decreases in NO_X emissions will also decrease acid deposition, nitrates in drinking water, excessive nitrogen loadings to aquatic and terrestrial ecosystems, and ambient concentrations of nitrogen dioxide, particulate matter and toxics. On a global scale, decreases in NO_X emissions will, to some degree, reduce greenhouse gases and stratospheric ozone depletion. Thus, management of NO_X emissions is important to both air quality and watershed protection on national and global scales. In its July 8, 1997 final recommendations, OTAG stated that it "recognizes that NO_X controls for ozone reductions purposes have collateral public health and environmental benefits, including reductions in acid deposition, eutrophication, nitrification, fine particle pollution, and regional haze." These and other public health and environmental benefits associated with decreases in NO_X emissions are summarized below. (17)

Acid Deposition: Sulfur dioxide and NO_X are the two key air pollutants that cause acid deposition (wet and dry particles and gases) and result in the adverse effects on aquatic and terrestrial ecosystems, materials, visibility, and public health. Nitric acid deposition plays a dominant role in the acid pulses associated with the fish kills observed during the springtime melt of the snowpack in sensitive watersheds and recently has also been identified as a major contributor to chronic acidification of certain sensitive surface waters.

Drinking Water Nitrate: High levels of nitrate in drinking water is a health hazard, especially for infants. Atmospheric nitrogen deposition in sensitive watersheds can increase stream water nitrate concentrations; the added nitrate can remain in the water and be transported long distances downstream.

Eutrophication: NO_X emissions contribute directly to the widespread accelerated eutrophication of United States coastal waters and estuaries. Atmospheric nitrogen deposition onto surface waters and deposition to watershed and subsequent transport into the tidal waters has been documented to contribute from 12 to 44 percent of the total nitrogen loadings to United States coastal water bodies. Nitrogen is the nutrient limiting growth of algae in most coastal waters and estuaries. Thus, addition of nitrogen results in accelerated algae and aquatic plant growth causing adverse ecological effects and economic impacts that range from nuisance algal blooms to oxygen depletion and fish kills.

Global Warming: Nitrous oxide (N_2O) is a greenhouse gas. Anthropogenic N_2O emissions in the United States contribute about 2 percent of the greenhouse effect, relative to total United States anthropogenic emissions of greenhouse gases. In addition, emissions of NO_X lead to the formation of tropospheric ozone, which is another greenhouse gas.

Nitrogen Dioxide (NO_2): Exposure to NO_2 is associated with a variety of acute and chronic health effects. The health effects of most concern at ambient or near-ambient concentrations of NO_2 include mild changes in airway responsiveness and pulmonary function in individuals with pre-existing respiratory illnesses and increases in respiratory illnesses in children. Currently, all areas of the United States monitoring NO_2 are below EPA's threshold for health effects.

Nitrogen Saturation of Terrestrial Ecosystems: Nitrogen accumulates in watersheds with high atmospheric nitrogen deposition. Because most North American terrestrial ecosystems are nitrogen limited, nitrogen deposition often has a fertilizing effect, accelerating plant growth. Although this effect is often considered beneficial, nitrogen deposition is causing important adverse changes in some terrestrial ecosystems, including shifts in plant species composition and decreases in species diversity or undesirable nitrate leaching to surface and ground water and decreased plant growth.

Particulate Matter (PM): NO_X compounds react with other compounds in the atmosphere to form nitrate particles and acid aerosols. Because of their small size nitrate particles have a relatively long atmospheric lifetime; these small particles can also penetrate deeply into the lungs. PM has a wide range of adverse health effects.

Stratospheric Ozone Depletion: A layer of ozone located in the upper atmosphere (stratosphere) protects people, plants, and animals on the surface of the earth (troposphere) from excessive ultraviolet radiation. N_2O, which is very stable in the troposphere, slowly migrates to the stratosphere. In the stratosphere, solar radiation breaks it into nitric oxide (NO) and nitrogen (N). The NO reacts with ozone to form NO_2 and molecular oxygen. Thus, decreasing N_2O emissions would result in some decrease in the depletion of stratospheric ozone.

Toxic Products: Airborne particles derived from NO_X emissions react in the atmosphere to form various nitrogen containing compounds, some of which may be mutagenic. Examples of transformation products thought to contribute to increased mutagenicity include the nitrate radical, peroxyacetyl nitrates, nitroarenes, and nitrosamines.

Visibility and Regional Haze: NO_X emissions lead to the formation of compounds that can interfere with the transmission of light, limiting visual range and color discrimination. Most visibility and regional haze problems can be traced to airborne particles in the atmosphere that include carbon compounds, nitrate and sulfate aerosols, and soil dust. The major cause of visibility impairment in the eastern United States is sulfates, while in the West the other particle types play a greater role.

XI. Impact on Small Entities

The Regulatory Flexibility Act, 5 U.S.C. 601(a), provides that whenever an agency is required to publish a general notice of rulemaking, it must prepare and make available a regulatory flexibility analysis (RFA). An RFA is required only for small entities that are directly regulated by the rule. *See Mid-Tex Electric Cooperative, Inc.* v. *FERC*, 773 F.2d 327 (D.C. Cir. 1985) (agency's certification need only consider the rule's impact on regulated entities and not indirect impact on small entities not regulated); *Colorado State Banking Bd.* v. *Resolution Trust Corp.*, 926 F.2d 931 (10th Cir. 1991). This rulemaking simply requires States to develop, adopt, and submit SIP revisions, and does not directly regulate any entities. Accordingly, pursuant to 5 U.S.C. 605(b), the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities. Furthermore, because affected States will have discretion to choose which sources to regulate and how much emissions reductions each selected source must achieve, EPA cannot now predict the effect of this rule on small entities. In addition, if States adopt the control measures that form the basis of the proposed State budget, there will be little, if any, effect on small businesses.

XII. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that this rule contains a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Accordingly, EPA has prepared under section 202 of the UMRA a written statement which is summarized below.

The EPA has determined that to meet the requirements of section 110(a)(2)(D) of the Clean Air Act, States must submit SIP provisions that limit NO_X emissions to the specified amounts indicated elsewhere in this rulemaking. The EPA is granting the affected States broad discretion in developing SIP controls to attain these levels. The EPA has examined a variety of possible, regionwide NO_X emissions controls, which could form the basis for (i) State budgets of different levels than proposed, as well as (ii) State packages of control meadeveloping the budget levels. The EPA is soliciting comment on whether the budget levels proposed in today's action are the most cost-effective or least burdensome alternative that achieves the objectives of the rule and on other alternatives (e.g., applying different levels of control in different subregions), if feasible, that EPA should examine in developing final budget levels.

By today's proposal, EPA is not directly establishing any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments. Thus, EPA is not obligated to develop under section 203 of the UMRA a small government agency plan.

Consistent with the intergovernmental consultation provisions of section 204 of the UMRA and Executive Order 12875, "Enhancing the Intergovernmental Partnership," EPA has already initiated consultations with the governmental entities affected by this rule. The EPA already consulted with these governmental entities extensively during the OTAG process. The EPA has received extensive comments from governmental entities through OTAG, including specific recommendations from OTAG, as described above. The EPA has evaluated those comments and recommendations, and has determined

to propose statewide budget levels based on a basket of regional NO_X controls that bear some similarity to those OTAG recommendations. The EPA's reasons for doing so are described at length in this rulemaking.

Dated: October 10, 1997.

Carol M. Browner,

Administrator.

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Appendix B—OTAG Recommendations

July 8, 1997.

Ms. Mary Nichols,

Assistant Administrator, Air & Radiation Division, U.S. Environmental Protection Agency, 401 M Street, SW., (MC–M6101), Washington, DC 20460

Dear Ms. Nichols: The Ozone Transport Assessment Group (OTAG) has completed its work in accordance with your memorandum of March 2, 1995. Attached please find the recommendations to the U.S. Environmental Protection Agency approved by OTAG. Also attached are states' and stakeholders' comments on the recommendations and identification of the votes cast on each by each state. The technical support documents resulting from OTAG's work will be forwarded as soon as they are completed.

We appreciate the technical and financial support that EPA has provided OTAG over the past two years. We believe that this unprecedented effort of dynamic interaction among state and federal government, industry and environmental stakeholders has demonstrated that diverse interests can work together constructively on important policy issues. We encourage EPA to consider OTAG's recommendations as it proceeds with implementation of the Clean Air Act.

Sincerely,

Mary A. Gade,
Chair, Policy Group.
Donald R. Schregardus,
Chair, Strategies & Controls Subgroup.
Ned O. Sullivan,
Chair, Outreach & Communications Subgroup.
Robert C. Shinn, Jr.,
Chair, Modeling & Assessment, Subgroup.
Harold Reheis,
Chair, Financial Subgroup.

Recommendation: Additional Modeling and Air Quality Analysis (Approved by the Policy Group, June 3, 1997)

Based on the conclusions of OTAG, states must have the opportunity to conduct additional local and subregional modeling and air quality analyses, as well as develop and propose appropriate levels and timing of controls. In taking these actions, priority should be given to the serious and severe nonattainment areas of Atlanta, Lake Michigan, and the Northeast, relative to transport. EPA has announced its intention to propose and take final action on a SIP call. States can work together and with EPA toward completing local SIPs including the evaluation of possible local NO_X disbenefits, and to build on the modeling and air quality analysis work of OTAG to evaluate EPA's proposed statewide tonnage budgets [1] in its proposed SIP calls. The initial statewide tonnage budgets proposed by EPA may be revised or shown to be unnecessary or insufficient through additional subregional modeling or air quality analyses. OTAG recommends EPA evaluate states' timely submittal of comments and subregional modeling regarding the proposed statewide budgets prior to EPA's finalizing the SIP calls within 12 months of their proposal.

The Policy Group recognizes that NO_X controls for ozone reduction purposes have collateral public health and environmental benefits, including reductions in acid deposition, eutrophication, nitrification, fine particle pollution and regional haze.

Recommendation: Diesel Fuel (Approved by the Policy Group, June 3, 1997)

OTAG recommends that, by 1999, EPA should evaluate the emission benefits and other effects, such as fuel economy, of cetane adjustments on current technology engines, both on highway and non-road, and, if appropriate, expeditiously adopt and implement standards. OTAG further recommends that the EPA use of existing collaborative process developed as a result of the 1995 statement of principles to identify if new diesel fuel standards are beneficial. If found beneficial and cost-effective, OTAG further recommends that EPA adopt and implement new standards no later than 2004.

Recommendation: Gasoline (Approved by the Policy Group May 13, 1997)

The OTAG states recommend the continued use of Federal Reformulated Gasoline (RFG) in the mandated and opt-in areas.

The OTAG states support state flexibility and encourage the opt-in to the Federal RFG program or other fuel strategies consistent with the Clean Air Act, including those attainment areas which contribute to downwind nonattainment situations or which choose to implement strategies to assist in preventing violations of the National Ambient Air Quality Standard (NAAQS) for ozone.

The USEPA should adopt and implement by rule an appropriate sulfur standard to further reduce emissions and assist the vehicle technology/fuel system achieve maximum long term performance.

Recommendation: Vehicle Emission Inspection and Maintenance Controls (Approved by the Policy Group, June 18, 1997)

- The OTAG states recommend that, where required by the Clean Air Act, appropriate and effective vehicle emission inspection and maintenance (I/M) programs be implemented. The OTAG states additionally recommend that states consider the adoption of enhanced I/M programs in all urbanized areas in the fine grid [2] with a population greater than 500,000.
- The OTAG states further recommend that EPA recognize and give appropriate credit to the state-by-state emission reduction benefits of vehicle I/M programs and their impact on transport of ozone and its precursors.
- The OTAG states recognize the potential effectiveness of a vehicle on-board diagnostic (OBD) system to alert drivers of emission control system malfunctions and to ensure proper maintenance and operation of the emission control system under real world driving conditions. Therefore, they encourage EPA to support periodic OBD system checks as part of an effective vehicle I/M program and to provide appropriate I/M program credit.

[1] Budget as used in this recommendation does not imply that a cap will be implemented.

[2] As described in the Utility NO_X Controls Recommendation.

Recommendation: Major Modeling/Air Quality Conclusions (Approved by the Policy Group, June 3, 1997)

Based on OTAG modeling, the Regional and Urban Scale Modeling and Air Quality Analysis Workgroups have drawn several conclusions regarding the benefits to be derived from NO_X and VOC controls for all source sectors and regarding ozone transport. Regional NO_X reductions are effective in producing ozone benefits; the more NO_X reduced, the greater the benefit. Ozone benefits are greatest where emission reductions are made and diminish with distance. Elevated and low level NO_X reductions are both effective. VOC controls are effective in reducing ozone locally and are most advantageous to urban nonattainment areas. Air quality data documents the widespread and pervasive nature of ozone and indicates transport of ozone. Air quality analyses also indicate that ozone aloft is carried over and transported from one day to the next. Generally, the range of transport is longer in the North than in the South. Additionally, coarse grid impacts on the fine grid may be minimal. Other relevant documentation of the RUSM and AQA Workgroups' efforts are available on their Web sites.

Recommendation: National Measures (Approved by the Policy Group May 13, 1997)

The OTAG states recommend that the USEPA continue to develop and expeditiously adopt, no later than the dates indicated below, and effectively implement stringent control measures on a national basis which meet or exceed the emission reduction levels as contained in the OTAG analysis.

The measures include:

Measure	Reductions assumed in the modeling		Adoption date	Start/ implementation date
	percent [1]	Tons [2,3]		
Arch & Industrial Maintenance (AIM) Coatings:				
—Phase I	20% VOC	507	November 97	January 99/
—Phase II	38% VOC	861	.....	2003.
Consumer/Commercial Products:				
—Phase I	20% VOC	886	November 97	March 99/
—Phase II	30% VOC	1281	.....	2003.
Autobody Refinishing:				
—Phase I	37% VOC	281	August 97	January 99/
—Phase II	53% VOC	391	.....	2003.
Reformulated Gasoline	25% VOC [4]	[5] na	.....	2000.
(RFG) Phase II	6.8% NO_X	na	.....	
Phase II Small Engine Standards	43% VOC	1343	.....	2007.
Marine Engine Standards	23% VOC	398	.....	1998.
Heavy Duty Highway 2g Standard (Equivalent to a 4g standard in 2007)	Varies by Engine Family	[5] na	.....	2004.
Heavy Duty Nonroad Diesel Standard	37% NO_X	1499	.....	2004.
Locomotive Standard with Rebuild	43% NO_X	[6] na	.....	1997.
	10% NO_X	126		

[1] Percent reductions were applied to 1990 emissions projected to 2007.
[2] Tonnage reduction differences are based on 1990 emissions projected to 2007.
[3] Reductions from multi-phase programs are cumulative.
[4] For Phase II RFG, percent reductions are based only on affected emissions.
[5] Tonnage reductions could not be calculated for RFG and the Heavy Duty Highway 2g Standard since the effects of growth and control could not be accounted for separately by the model used.
[6] The 43% reduction includes rebuilt engines; however, rebuilts were not modeled by OTAG. The modeled reduction was only 10%.

- The OTAG states encourage the USEPA to reach closure on the Tier 2 Motor Vehicle Study in recognizing the benefits of volatile organic compound and nitrogen oxide reductions and their implication for ozone production.

Recommendation: National Low Emission Vehicle (Approved by the Policy Group May 13, 1997)

The OTAG states acknowledge the ability of states to adopt the California Low Emission Vehicle Program and further acknowledge that the National Low Emission Vehicle Program is a voluntary program. OTAG supports and encourages the implementation of a National Low Emission Vehicle Program.

Recommendation: Non-Utility Point Source Controls (Approved by the Policy Group, June 19, 1997)

Definitions

For purposes of this recommendation, individual medium non-utility point sources are defined as follows:

A boiler > 100 MMBtu/hr and < 250 MMBtu/hr
A reciprocating i.c. engine > 4000 hp and < 8000 hp
A turbine > 10,000 hp and < 20,000 hp
Any other source > 1 ton/average summer day and < 2 tons/average summer day

For purposes of this recommendation, individual large non-utility point sources are defined as follows:

A boiler ≥ 250 MMBtu/hr
A reciprocating i.c. engine ≥ 8000 hp
A turbine ≥ 20,000 hp
Any other source ≥ 2 tons/average summer day

Control Levels

The OTAG Policy Group recommends that the stringency of controls for large non-utility point sources should be established in a manner equitably with utility controls. The OTAG Policy Group recommends that RACT should be considered for individual medium non-utility point sources were appropriate.

If additional modeling and air quality analyses are performed as specified in OTAG's recommendation for "Additional Modeling and Air Quality Analysis," then development of final state non-utility point source strategies should consider said modeling and analyses.

Control Targets for Budget[2] Calculation Purposes

The OTAG Policy Group anticipates USEPA will calculate a statewide NO_x tonnage budget for each state. In calculating the statewide NO_x tonnage budgets, the OTAG Policy Group recommends a calculation based on the following non-utility point source control targets:

Reference utility control level (coal-fired power plants)	Control targets for the large non-utility point source sector (percent)	Control targets for the medium non-utility point source sector
55% (0.35 lb/MMBtu).	55	Uncontrolled.
65% (0.25 lb/MMBtu).	60	Uncontrolled.
75% (0.20 lb/MMBtu).	65	RACT.
85% (0.15 lb/MMBtu).	70	RACT.

The control targets, expressed as an emission reduction percentage, should be based on uncontrolled emission rates. The budget component for non-utility point sources is not intended to be an allocation for the non-utility point source sector or for individual units.

Flexibility and Relationship to Other Requirements

The OTAG Policy Group acknowledges that states have flexibility in implementing the non-utility point source strategy. These recommendations shall not supersede any other more restrictive state or federal requirement.

Recommendation: Ozone Action Days (Approved by the Policy Group, June 3, 1997)

The OTAG states endorse and encourage the development and implementation of ozone action programs to increase public awareness of the public health and welfare issues associated with ozone air pollution. These include but are not limited to daily summertime ozone mapping projects which provide "real-time" information to the viewer and other programs and information to encourage participation in programs to reduce the emissions of ozone precursors. These programs may be effective in reducing peak ozone concentrations. They complement traditional control strategies for the reduction of ozone and ozone precursors.

Recommendation: OTAG's Technical Analysis (Approved by the Policy Group, June 3, 1997)

OTAG's goal is to "identify and recommend a strategy to reduce transported ozone and is precursors which, in combination with other measures, will enable attainment and maintenance of the national ambient ozone standard in the OTAG region." OTAG has performed the most comprehensive technical analysis of ozone transport ever conducted. In cooperation with the states and stakeholders and by sharing information, OTAG has developed and produced the best and most complete emissions inventory for the OTAG region. OTAG has used UAM–V, a state-of-the-art photochemical model, to analyze the potential impact of various control strategies. OTAG has also developed and applied new techniques to analyze existing air quality data to examine the ozone problem.

Recommendation: Trading Program Framework (Approved by the Policy Group, June 10, 1997)

Market-based approaches are generally recognized as having the following benefits in relation to traditional command and control regulations: (1) reduce the cost of compliance; (2) create incentives for early reductions; (3) create incentives for emission reductions beyond those required by regulations; (4) promote innovation; and (5) increase flexibility without resorting to waivers, exemptions and other forms of administrative relief.

OTAG recognizes that states have the option to select market systems that are best suited to their policy purposes and air quality planning and program needs. In anticipation of the state specific decisions, OTAG recognizes that states may choose one of two basic approaches to implement NO_x emissions market systems.

- *Track One*—States that elect to implement equivalent NO_x market systems with emissions caps could be part of a common, interstate emissions market. Designated sources would be authorized to participate in emissions trading. Other stationary sources could opt-in to the market under specific conditions. A central regulatory authority, such as EPA, could administer this multi-state NO_x market system.
- *Track Two*—States that elect to implement NO_x market systems without emissions caps would be part of one or more alternative emissions markets. These alternative markets could have several different forms starting with intra-state emissions trading which could possibly lead to multi-state trading arrangements. Participating sources in each state would be authorized to conduct emissions trading consistent with the scope of the alternative market system. If multiple, equivalent NO_x market systems are generated by states, then some central entity, in consultation with EPA, could administer the multi-state NO_x market system.

While OTAG recognizes that the procedures for a cap and trade program are known and implementable, the OTAG encourages the joint state/EPA workgroup(s) described herein to bring similar certainty to non-cap but SIP approved trading programs.

At some point, states may be interested in cross-track trading. Further development work and more time is necessary to determine whether and how this cross-track trading could be credibly done. Implementation of either track should not be delayed while an approach for cross-track trading is developed. Inter-sector trading might be provided for as well.

EPA review and approval of specific state SIP revisions would be necessary for NO_x market systems from either track that are developed in response to EPA's SIP call. States would be responsible for meeting applicable federal requirements and ensuring that the integrity of the state's emissions budget was maintained, as well as other desirable results from adoption to suitable market systems. EPA is responsible for approving state programs that meet the applicable federal requirements.

OTAG also recommends that a joint state/EPA Workgroup be formed to address, with appropriate stakeholder involvement, the following tasks:

- Appropriate provisions for implementing Tracks One and Two as described above.
- Key design features for NO_x emissions market systems that could be selected by affected states.

A series of seven design proposal papers have been developed by the Trading/Incentives Workgroup which include specific recommendations that are incorporated in the OTAG final report. These papers serve as a sound basis for carrying out the work of this joint workgroup. The following specific issues should also be addressed by the joint workgroup:

1. Subregional modeling and air quality analysis should be carefully evaluated to determine whether distance and direction should affect how trading may take place. Appropriate mechanisms, such as trading ratios or weights, could be developed if significant effects are expected.
2. Market systems should be operated and evaluated, and adjustments made as needed to reflect experience gained with trading dynamics and any attendant air quality impacts.
3. Local control requirements necessary for attainment may still be utilized for specific sources.

Recommendation: Utility NO_x Controls (Approved by the Policy Group, June 3, 1997)

The OTAG Policy Group recommends that the range of utility NO_x controls in the fine grid fall between Clean Air Act controls and the less stringent of 85% reduction from the 1990 rate (lb/mmBTU) or 0.15 lb/mmBTU in order to mitigate ozone transport and assist states in complying with the existing 120 ppb ozone standard. OTAG modeling shows that ozone transport is greater in the northern tier than in the southern tier. EPA has indicated that control levels are to be determined and implemented through statewide tonnage budgets. The statewide budget process should be as described OTAG's recommendation "Additional Modeling and Air Quality Analysis." Control measures are to be determined and implemented by the states. The actions set forth in this section must be carried out in accordance with the Clean Air Act. If trading is allowed, public interest stakeholders have recommended that a minimum of 10% of each state's tonnage budget be allocated solely to qualifying, verifiable, and new end-use energy efficiency and renewable projects. The coarse grid states which would be exempt from OTAG-related controls (all of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Iowa,[4] Arkansas, Louisiana, Mississippi, and Florida, as well as the coarse grid portions of Maine, New Hampshire, Vermont, New York, Michigan, Wisconsin, Missouri[5], Alabama, and Georgia) will, in cooperation with EPA, periodically review their emissions, and the impact of increases, on downwind nonattainment areas and, as appropriate, take steps necessary to reduce such impacts including appropriate control measures.

[2] Budget as used in this recommendation does not imply that a cap will be implemented.

Appendix C—Tables for Section II

Weight of Evidence Determination of Significant Contribution

TABLE II–1.—OTAG 2007 STATE TOTAL NO_X EMISSIONS (TONS/DAY)

State	Total NO_X
Texas	4026
Ohio	2871
Illinois	2535
Florida	2503
Pennsylvania	2406
Michigan	2334
Indiana	2271
Louisiana	2143
Tennessee	2090
Georgia	1711
New York	1677
Alabama	1621
Kentucky	1596
North Carolina	1506
West Virginia	1383
Virginia	1378
New Jersey	1244
Missouri	1140
Oklahoma	1107
South Carolina	1040
Wisconsin	1035
Mississippi	1012
Kansas	993
Maryland	940
Minnesota	917
Iowa	782
Massachusetts	701
Arkansas	643
Nebraska	411
Connecticut	382
Maine	232
New Hampshire	192
Delaware	164
South Dakota	140
Vermont	78
Rhode Island	78
North Dakota	55
District of Columbia	53

TABLE II–2.—OTAG 2007 STATE NO_x Emissions Density (tons/day/1000 sq. mi.)

State	Emissions density
District of Columbia	771.91
New Jersey	166.53
Maryland	95.55
Massachusetts	89.62
Delaware	85.09
Connecticut	74.30
Rhode Island	73.76
Ohio	70.03
Indiana	63.19
West Virginia	57.73
Pennsylvania	53.58
Tennessee	50.79
Louisiana	48.14
Florida	46.22
Illinois	45.56
Michigan	40.97
Kentucky	40.27
New York	35.40
Virginia	34.71
South Carolina	34.43
Alabama	31.92
Texas	31.42
North Carolina	30.83
Georgia	29.48
Mississippi	21.42
New Hampshire	21.39
Kansas	20.85
Oklahoma	20.68
Wisconsin	19.02
Minnesota	18.32
Missouri	16.54
Iowa	13.97
Nebraska	13.43
Arkansas	12.09
Vermont	8.42
Maine	7.49
North Dakota	7.28
South Dakota	5.30

TABLE II–3.—OTAG 2007 BASELINE CONTROL MEASURES

UTILITY
- Title IV Controls (phase 1 & 2 for all boiler types)
- 250 Ton PSD and NSPS
- RACT & NSR in non-waived nonattainment areas (NAAs)

NON-UTILITY POINT/OTHER AREA
- RACT at major sources in non-waivered NAAs
- 250 Ton PSD and NSPS
- CTG & Non-CTG RACT at major sources in NAAs & in Ozone Transport Region

OTHER AREA
- Two Phases of Consumer & Commercial Products & One Phase of Architectural Coatings
- Stage 1 & 2 Petroleum Distribution Controls in NAAs

TABLE II–3.—OTAG 2007 BASELINE CONTROL MEASURES—Continued

- Autobody, Degreasing & Dry Cleaning Controls in NAAs

NONROAD MOBILE
- Federal Phase II Small Engine Standards
- Federal Marine Engine Standards
- Federal HDV (>–50 hp) Standards-Ph.1
- Federal RFG II (statutory and opt-in areas)
- 9.0 RVP maximum elsewhere in OTAG

HIGHWAY MOBILE
- Tier 1 LDV and HDV Standards
- Federal RFG II (statutory and opt-in areas)
- High Enhanced I/M (serious and above areas)
- Low Enhanced I/M for rest of OTR
- Basic I/M (mandated areas)
- Clean Fuel Fleets (mandated areas)
- 9.0 RVP maximum elsewhere in OTAG
- On board vapor recovery

[4] It is understood that the State of Iowa will work with the State of Wisconsin in the development of the Southeast Wisconsin ozone SIP.

[5] It is understood that the state of Kansas will work with the state of Missouri in the continued progress of the Kansas City ozone SIP. In addition, the states of Oklahoma, Texas, Arkansas, and Louisiana will share with the state of Missouri the results of their urban and regional scale ozone modeling which includes boundary condition information and emissions in inventory data showing projected impacts of ozone control programs.

TABLE II–4a.—OTAG STRATEGY CONTROL PACKETS FOR NO_X

NO_X strategy packets	Utility system [Mostly elevated]	Other point/area [Mixed Elevated & Non-elevated]	Nonroad Mobile [Non-elevated]	Highway Mobile [Non-elevated]
Base 1 (Mandated CAA controls).	*Title IV Controls *[Phase 1 & 2 for all boiler types]* *250 Ton PSD and NSPS *RACT & NSR in non-waived NAAs	*RACT at major sources in non-waivered NAAs *250 Ton PSD and NSPS *NSR in non-waived NAAs	*Fed Phase II Small Eng. Stds *Fed Marine Engine Stds *Fed HDV (>=50 hp) Stds-Phase 1 *Fed RFG II [4]	*Tier 1 LDV and HDV Stds *Fed RFG II [4] *Enh I/M [3] *Low Enh I/M for rest of OTR *Basic I/M in mandated areas *Clean Fuel Fleets for mandated areas
Level 0	Base 1 plus: *OTC NOX MOU (Phase II) * "9% by 99" ROP Measures (If substitute for VOC) [3]	Base 1 plus: *"9% by 99" ROP Measures (If substitute for VOC) [3]	Base 1 plus: *Fed Locomotive Standards (not including rebuilds) *"9% by 99" ROP Measures (If substitute for VOC) [3]	Base 1 plus: *National LEV *HDV 2 gm std *FTP revisions *"9% by 99" ROP Measures (If substitute for VOC) [3]
Added NO_X Controls—Level 1.	More stringent of Level 0 or: *55% reduction from 1990 rate or *rate-base of 0.35 lb/mmbtu for coal units and 0.20 lb/mmbtu for gas & oil units, whichever is less stringent [7]	Level 0 plus: Controls rated by OTAG as under $1000 per ton	Level 0 plus: *Fed Locomotive Stds (incl rebuild standards) [1] [Replaces Fed Locomotive Stds (not including rebuilds)] *HD engine 4 gm Std	Level 0 plus: *High Enh I/M for LDV (LEV-specific cutpoints) [6] [Replaces Enh I/M [3], Low Enh I/M for rest of OTR, & Basic I/M in mandated areas] *HDV I/M [6]
Added NO_X Controls—Level 2.	More stringent of Level 0 or: (a) *65% reduction from 1990 rate or *rate-base of 0.25 lb/mmbtu for coal units and 0.20 lb/mmbtu for gas & oil units, whichever is less stringent [7]	Level 1 plus: Controls rated by OTAG as $1000 to $5000 per ton	Level 1 plus: *Reformed Diesel (50 cetane) [2]	Level 1 plus: *Fed RFG II [2 5] [Replaces Fed RFG II [4]] or Low Sulfur Fuel (150 ppm) [2,5] *Reformed Diesel (50 cetane) [2] *Max I/M for LDV w/ LEV-specified cutpoints [6] [Replaces High Enh I/M for LDV (LEV-specific cutpoints).[6]]
Added NO_X Controls—Level 2.	More stringent of Level 0 or: (b)* 75% reduction from 1990 rate or *rate-base of 0.20 lb/mmbtu for all units, whichever is less stringent [7]			
Deep NO_X Controls—Level 3.	More stringent of Level 0 or: *85% reduction from 1990 rate or *rate-base of 0.15 lb/mmbtu for all units, whichever is less stringent [7]	Level 2 plus: Controls rated by OTAG as over $5000 per ton	Level 2 plus: *Reformed Diesel (55 cetane) [2 8] [Replaces Reformed Diesel (50 cetane) [2]]	Level 2 plus: *Cal RFG II [2] [Replaces Fed FG II [2,5]] *Reformed Diesel (55 cetane) [2 8] [Replaces Reformed Diesel (50 cetane) [2]].

[1] National.
[2] OTAG Wide or Specified.
[3] Serious and above areas.
[4] Statutory and opt-in areas.
[5] OTAG-Optimized fuel (e.g., low RVP, low sulfur, low olefins) was evaluated elsewhere during OTAG as an alternative.
[6] For all nonattainment areas & attainment MSAs/CMSAs <=100,000.
[7] Qualifications set by OTAG on the use of lb/MMBtu numbers:
(1) These numbers are for initial strategy modeling purposes only. They do not reflect any recommendation form OTAG on the desired level of reduction for these units. (2) OTAG reserves the right to do sensitivity analyses on any source in an effort to achieve a desired ozone impact. Such sources may include those that chose the lb/MMBtu option. The requirement for such analyses may exist in certain areas where the size and location of such a major source is critical to achieving the ozone goals. (3) The alternative lb/MMBtu limits shall not supersede an existing requirement that is more stringent (e.g., OTC MOU or NSPS requirements).
[8] OTAG evaluated California diesel separately.

TABLE II–4b.—OTAG STRATEGY CONTROL PACKETS FOR VOC

VOC strategy packets	Major point sources	Other point/area	Nonroad mobile	Highway mobile
Base 1 (Mandated CAA controls).	*CTG & Non-CTG RACT at major sources in NAAs & in OTC. *New Source LAER & Offsets for NAAs.	*Two Phases of Consumer & Commercial Products & one Phase of Architectural Coatings. *Stage 1 & 2 Petroleum Distribution Controls-NAAs. *Autobody, Degreasing & Dry Cleaning Controls in NAAs.	*Fed Phase II Small Eng. Stds. *Fed Marine Engine Stds *Fed HDV (>=50 hp) Stds-Ph. 1. *Fed RFG II [4] *9.0 RVP maximum elsewhere in OTAG.	*Tier 1 LDV and HDV Stds. *Fed RFG II [4] *9.0 RVP maximum elsewhere in OTAG. *Enh I/M.[3] *Low Enh I/M for rest of OTR. *Basic I/M in mandated areas. *Clean Fuel Fleets in mandated areas. *On board vapor recovery.
Level 0	Base 1 plus: *"9% by 99" ROP Measures (NO_X may be substituted after 1996).[3].	Base 1 plus: *"9% by 99" ROP Measures (NO_X may be substituted after 1996).[3].	Base 1 plus: *Fed Locomotive Standards (not including rebuilds). *"9% by 99" ROP Measures (NO_X may be substituted after 1996).[3].	Base 1 plus: *National LEV. *HDV 2 gm std. *FTP revisions. *"9% by 99" ROP Measures (NO_X may be substituted after 1996).[3]
Added VOC Controls-Level 1.	Level 0 plus: (No additional controls).	Level 0 plus: (No additional controls).	Level 0 plus:	Level 0 plus: *High Enh I/M for LDV (LEV-specific cutpoints) [6] [Replaces Enh I/M [3], Low Enh I/M for rest of OTR, & Basic I/M in mandated areas]. *HDV I/M.[6] *Low RVP (6.7 psi) in non-RFG areas [2] [Replaces 9.0 RVP maximum elsewhere in OTAG].
Added VOC Controls-Level 2.	Level 1 plus: (a) * Apply NAA Base 1 default control assumptions across AA down to 100 TPY sources. Level 2a plus: (b) *10% reduction in VOC emissions beyond level 2a from major point sources in major metropolitan NAAs.	Level 1 plus: (a) * Apply NAA Base 1 default control assumptions across AA down to 100 TPY sources—Bulk Terminals. Level 2a plus: (b) *Increased C/C Products limits. *Increased AIM limits *Increased Autobody Refinishing limits.	Level 1 plus: *Fed RFG II [2 5] [Replaces Fed RFG II [4]].	Level 1 plus: *Maximum I/M (LEV-specific cutpoints) for LDV [6] [Replaces High Enh I/M (LEV-specific cutpoints) [3]]. *Fed RFG II [2 5] [Replaces Fed RFG II [4]].
Deep VOC Controls-Level 3.	Level 2 plus: (Same as 2b)	Level 2 plus: (Same as 2b)	Level 2 plus: *Cal RFG II [2] [Replaces Fed RFG II [2 5]]. *Cal Tier II small engine std	Level 2 plus: *Cal RFG II [2] [Replaces Fed RFG II [2 5]].

[1] National.
[2] OTAG Wide or Specified.
[3] Serious and above areas.
[4] Statutory and opt-in areas.
[5] OTAG-Optimized fuel (e.g., low RVP, low sulfur, low olefins) was evaluated elsewhere during OTAG as an alternative.
[6] For all nonattainment areas & attainment MSAs/CMSAs >=100,000.

TABLE II–5a.—ROUND 1 AND 2 CONTROL LEVELS BY EMISSIONS SECTOR

Run	OTAG round 1 & round 2 control levels								
	Point			Nonroad		Other area		Motor vehicle[1]	
	Utility NO_X	Nonutility							
		NO_X	VOC	NO_X	VOC	NO_X	VOC	NO_X	VOC
Round 1:									
1	0	0	0	0	0	0	0	0	0
2	3	3	3	3	3	3	3	3	3
3	3	0	0	0	0	0	0	0	0
4b	0	3	0	3	3	3	3	3	3

TABLE II–5a.—ROUND 1 AND 2 CONTROL LEVELS BY EMISSIONS SECTOR—Continued

OTAG round 1 & round 2 control levels

Run	Point			Nonroad		Other area		Motor vehicle[1]	
	Utility NO_x	Nonutility							
		NO_x	VOC	NO_x	VOC	NO_x	VOC	NO_x	VOC
Round 2:									
5	3	1	0	1	1	1	1	0	0
6	2b	1	0	1	1	1	1	0	0
7	2a	1	0	1	1	1	1	0	0
8	1	1	0	1	1	1	1	0	0
9	3	2	0	2	2	2	2	1.5	1.5
10	2b	2	0	2	2	2	2	1.5	1.5
11	2a	2	0	2	2	2	2	1.5	1.5
12	1	2	0	2	2	2	2	1.5	1.5

[1] Motor vehicle emissions level 1.5 includes enhanced I/M in all 1-hr nonattainment areas and in all attainment Metropolitan Statistical Areas and Consolidated Metropolitan Statistical Areas with population >=500,000.

TABLE II–5b.—DOMAINWIDE ROUND 1 AND 2 EMISSION TOTALS BY SECTOR

Emissions totals (tons/day)

Run	Point			Nonroad		Other Area		Motor vehicle		Total	
	Utility NO_x	Nonutility									
		NO_x	VOC	NO_x	VOC	NO_x	VOC	NO_x	VOC	NO_x	VOC
Round 1:											
1990	20144	8600	8340	7390	6500	3500	18300	16619	15731	56253	48871
Base1b	14500	10330	5557	7427	6027	4460	17692	14000	9400	50717	38676
1	13970	10215	5557	7315	6027	4460	17637	12400	8700	48360	37921
2	5203	4969	4217	5725	5854	4460	16912	9200	4500	29557	31483
3	5203	9626	5557	7315	6027	4460	17637	12400	8700	39004	37921
4b	13946	5562	5557	5725	5854	4460	16912	9200	4500	38893	32823
Round 2:											
1990	21019	7709	8304	7567	6541	3238	17806	16619	15731	56152	48382
Base1c	15441	8459	5719	7506	6039	4202	17076	14000	9400	49608	36234
5	5348	6828	5712	6453	6039	4202	17076	12400	8700	35231	37527
6	7383	6828	5712	6453	6039	4202	17076	12400	8700	37266	37527
7	9249	6828	5712	6453	6039	4202	17076	12400	8700	39132	37527
8	11425	6828	5712	6453	6039	4202	17076	12400	8700	41308	37527
9	5348	5247	5712	6381	5989	4202	15757	10650	5500	31828	32958
10	7383	5247	5712	6381	5989	4202	15757	10650	5500	33863	32958
11	9249	5247	5712	6381	5989	4202	15757	10650	5500	35729	32958
12	11425	5247	5712	6381	5989	4202	15757	10650	5500	37905	32958

TABLE II–6.—RESULTS OF ROUND 1 AND ROUND 2 STRATEGY MODELING

Round-1 Results:
Run 1 (Level 0)
—Little additional benefit on regional scale
—Benefits occur mostly in Northeast
Run 2 (Level 3)
—Large areas of lower ozone; decreases of 10–40 ppb
—Level 3 control will not provide for attainment throughout the eastern U.S.
Run 3 (Level 3 Elevated NO_x) and Run 4b (Level 3 Low-Level NO_x)
—Both elevated and low-level control effective in lowering ozone on regional scale
—Relative effectiveness varies by region and episode (e.g., elevated [utility] NO_x more effective in Midwest, low-level NO_x more effective in Northeast and Southeast)
All Strategies
—For all strategies, there are ozone increases in some areas on some days
—For all strategies, the 8-hour concentration changes are directionally consistent with the 1-hour concentration changes
Round-2 Results:
The Round-2 strategy emission/ozone reductions are all within the range of Run 1 (Round-1) and Run 2 (Round-1)
—More emissions reductions, more ozone reductions
—Run 9 (maximum Round-2 emissions reduction) provides a little less ozone benefit than Run 2
—Run 9 will not be sufficient to provide for attainment of the current 1-hour ozone NAAQS throughout the Eastern U.S.
—Elevated and low-level NO_x reductions are both effective in lowering ozone (relative effectiveness varies by episode)
—Elevated and low-level NO_x reductions are cumulative, but may not be synergistic (i.e., appear to act independently)
—Run 8 (minimum Round-2 emissions reduction) show ozone increases in some areas on some days; note, increases do not seem to get any worse by Run 9 (maximum Round-2 emissions reduction)
—All Round-2 strategies show ozone decrease in areas and on days with high ozone, and ozone increases in areas and on days with low ozone
—Magnitude and spatial extent of 8-hour concentration differences are similar to 1-hour concentration differences

TABLE II–7.—ROUND 3 CONTROL LEVELS BY GEOGRAPHIC ZONE[1]

Source category	Control level
Nonroad/Area Sources	Level 2.
Point Source VOC	Level 0.
Highway Vehicles	Level 1.3 (same as Level 2, except high enhanced I/M is applied to all nonattainment areas and attainment Metropolitan Statistical Areas/Consolidated Metropolitan Statistical Areas with population >= 500,000 in the "Fine Grid" portion of the OTAG region only)

Non-utility point source NO_x	Linked to the level of utility controls	
	Utility	Non-Utility
	Level 0 or	Level 1 for sources >250 MMBtu/hr.
	Level 1	Level 0 for sources <250 MMBtu/hr.
	Level 2a	Level 1.
	Level 2b or	Level 2 for sources >250 MMBtu/hr.
	Level 3	Level 1 for sources <250 MMBtu/hr.

[1] The control levels for nonroad sources, area sources, point source VOC, and highway vehicles were applied throughout the OTAG region in all of the Round 3 runs. Utility and non-utility NOx control levels varied geographically.

TABLE II–7.—(CONTINUED)

Round 3 utility control levels

Run #	Chicago/Atlanta/Northeast NAAs	Zone III Northeast	Zone I Midwest	Zone V N. Georgia	Zone II Ohio Valley	Zone IV Southeast	Coarse grid	Utility NO_x emissions
A	2b	1	1	1	1	1	0	1,822,915
B	2a	2a	2a	2a	1	1	0	1,767,341
C	2b	2b	2b	2b	1	1	0	1,678,866
D	2b	2b	2b	2b	2a	1	0	1,581,554
E	2b	2b	2b	2b	2a	2a	0	1,528,004
F	2a/2b	2b	2a	2a	2a	2a	0	1,595,237
G	2b	2b	2b	2b	2b	2a	0	1,433,002
H	2b	2b	2b	2b	2b	2b	0	1,392,877
I1	3	3	3	3	3	2b	0	1,199,268
I	3	3	3	3	3	2b	1	1,019,578

Level 0—OTC MOU Phase II/Acid Rain.
Level 1—0.35 lb/MMBtu or 55% rate reduction from 1990.
Level 2a—0.25 lb/MMBtu or 65% rate reduction from 1990.
Level 2b—0.20 lb/MMBtu or 75% rate reduction from 1990.
Level 3—0.15 lb/MMBtu or 85% rate reduction from 1990.

TABLE II–8a.—COUNTIES VIOLATING THE 1-HR OZONE NAAQS BASED ON 1993–1995 AMBIENT AIR QUALITY MONITORING DATA

State	County
Alabama	Jefferson.
Alabama	Shelby.
Connecticut	Hartford.
Connecticut	New Haven.
Connecticut	Middlesex.
Connecticut	Litchfield.
Connecticut	New London.
Connecticut	Fairfield.
Connecticut	Tolland.
Delaware	New Castle.
Delaware	Kent.
District of Columbia	Washington.
Georgia	Rockdale.
Georgia	Douglas.
Georgia	De Kalb.
Georgia	Fulton.
Illinois	Cook.
Illinois	Madison.
Indiana	La Porte.
Indiana	Warrick.
Indiana	Clark.
Louisiana	Lafourche.
Louisiana	Ascension.
Louisiana	Iberville.
Louisiana	East Baton Rouge.
Maine	York.
Maine	Sagadahoc.
Maryland	Prince Georges.
Maryland	Anne Arundel.
Maryland	Harford.
Maryland	Cecil.
Maryland	Baltimore City.
Maryland	Baltimore.
Massachusetts	Worcester.
Massachusetts	Middlesex.
Massachusetts	Hampden.
Massachusetts	Hampshire.
Michigan	Allegan.
Michigan	Macomb.
Michigan	St Clair.
Michigan	Mason.
Michigan	Muskegon.
Missouri	St Louis.
Missouri	Clay.
Missouri	St Charles.
Missouri	Jefferson.
New Hampshire	Rockingham.
New Jersey	Camden.
New Jersey	Monmouth.
New Jersey	Middlesex.
New Jersey	Ocean.
New Jersey	Mercer.
New Jersey	Hudson.
New Jersey	Gloucester.
New York	Westchester.
New York	Putnam.
New York	Suffolk.
New York	Queens.
New York	Kings.
New York	Richmond.
Ohio	Warren.
Pennsylvania	Philadelphia.
Pennsylvania	Montgomery.
Pennsylvania	Bucks.
Pennsylvania	Delaware.
Pennsylvania	Allegheny.
Rhode Island	Kent.
Rhode Island	Providence.

TABLE II–8a.—COUNTIES VIOLATING THE 1-HR OZONE NAAQS BASED ON 1993–1995 AMBIENT AIR QUALITY MONITORING DATA—Continued

State	County
Tennessee	Shelby.
Texas	Jefferson.
Texas	Harris.
Texas	Gregg.
Texas	Dallas.
Texas	Galveston.
Texas	Brazoria.
Texas	Tarrant.
Texas	Collin.
Texas	Denton.
Virginia	Arlington.
Virginia	Fairfax.
Wisconsin	Manitowoc.
Wisconsin	Ozaukee.
Wisconsin	Milwaukee.
Wisconsin	Kenosha.

TABLE II–8b.—COUNTIES VIOLATING THE 8-HR OZONE NAAQS BASED ON 1993–1995 AMBIENT AIR QUALITY MONITORING DATA

Alabama	Clay.
Alabama	Shelby.
Alabama	Madison.
Alabama	Jefferson.
Arkansas	Crittenden.
Connecticut	New London.
Connecticut	Tolland.
Connecticut	New Haven.
Connecticut	Hartford.
Connecticut	Middlesex.
Connecticut	Litchfield.
Connecticut	Fairfield.
Delaware	New Castle.
Delaware	Kent.
Delaware	Sussex.
District of Columbia	Washington.
Florida	Escambia.
Georgia	Rockdale.
Georgia	Fulton.
Georgia	Gwinnett.
Georgia	De Kalb.
Georgia	Douglas.
Georgia	Richmond.
Illinois	Madison.
Illinois	Cook.
Illinois	Kane.
Illinois	Lake.
Indiana	Porter.
Indiana	Hancock.
Indiana	Marion.
Indiana	La Porte.
Indiana	Vanderburgh.
Indiana	Floyd.
Indiana	Lake.
Indiana	Hamilton.
Indiana	Allen.
Indiana	Warrick.
Indiana	Tippecanoe.
Indiana	Clark.
Indiana	Madison.
Indiana	Kosciusko.
Indiana	St Joseph.
Kentucky	Fayette.

TABLE II–8b.—COUNTIES VIOLATING THE 8-HR OZONE NAAQS BASED ON 1993–1995 AMBIENT AIR QUALITY MONITORING DATA—Continued

Kentucky	Greenup.
Kentucky	Hancock.
Kentucky	Livingston.
Kentucky	Campbell.
Kentucky	Christian.
Kentucky	Lawrence.
Kentucky	Scott.
Kentucky	Oldham.
Kentucky	Boyd.
Kentucky	Henderson.
Kentucky	Jefferson.
Kentucky	Kenton.
Kentucky	Bullitt.
Kentucky	Daviess.
Kentucky	McLean.
Kentucky	Hardin.
Louisiana	Calcasieu.
Louisiana	Livingston.
Louisiana	Ascension.
Louisiana	Iberville.
Louisiana	Lafeyette.
Louisiana	East Baton Rouge.
Louisiana	Lafourche.
Maine	Knox.
Maine	Sagadahoc.
Maine	York.
Maine	Cumberland.
Maryland	Kent.
Maryland	Baltimore City.
Maryland	Charles.
Maryland	Prince Georges.
Maryland	Anne Arundel.
Maryland	Montgomery.
Maryland	Baltimore.
Maryland	Cecil.
Maryland	Harford.
Maryland	Carroll.
Massachusetts	Middlesex.
Massachusetts	Barnstable.
Massachusetts	Hampden.
Massachusetts	Hampshire.
Massachusetts	Essex.
Massachusetts	Bristol.
Massachusetts	Worcester.
Michigan	Benzie.
Michigan	Berrien.
Michigan	Kent.
Michigan	Macomb.
Michigan	Cass.
Michigan	Muskegon.
Michigan	Wayne.
Michigan	Mason.
Michigan	Lenawee.
Michigan	Allegan.
Michigan	St Clair.
Mississippi	Hancock.
Missouri	St Charles.
Missouri	St Louis.
Missouri	Clay.
Missouri	Jefferson.
New Hampshire	Rockingham.
New Hampshire	Hillsborough.
New Jersey	Camden.
New Jersey	Mercer.
New Jersey	Gloucester.
New Jersey	Hudson.
New Jersey	Ocean.
New Jersey	Atlantic.

TABLE II–8b.—COUNTIES VIOLATING THE 8-HR OZONE NAAQS BASED ON 1993–1995 AMBIENT AIR QUALITY MONITORING DATA—Continued

New Jersey	Morris.
New Jersey	Middlesex.
New Jersey	Bergen.
New Jersey	Hunterdon.
New Jersey	Monmouth.
New Jersey	Union.
New Jersey	Cumberland.
New Jersey	Essex.
New York	Dutchess.
New York	Essex.
New York	Richmond.
New York	Orange.
New York	Queens.
New York	Putnam.
New York	Niagara.
New York	Kinge.
New York	Suffolk.
New York	Jefferson.
New York	Westchester.
New York	Bronx.
New York	Wayne.
North Carolina	Wake.
North Carolina	Northampton.
North Carolina	Lincoln.
North Carolina	Haywood.
North Carolina	Granville.
North Carolina	Guilford.
North Carolina	Yancey.
North Carolina	Forsyth.
North Carolina	Caswell.
North Carolina	Franklin.
North Carolina	Chatham.
North Carolina	Cumberland.
North Carolina	Durham.
North Carolina	Rowan.
North Carolina	Mecklenburg.
North Carolina	Johnston.
Ohio	Lawrence.
Ohio	Franklin.
Ohio	Logan.
Ohio	Hamilton.
Ohio	Jefferson.
Ohio	Medina.
Ohio	Portage.
Ohio	Summit.
Ohio	Mahoning.

TABLE II–8b.—COUNTIES VIOLATING THE 8-HR OZONE NAAQS BASED ON 1993–1995 AMBIENT AIR QUALITY MONITORING DATA—Continued

Ohio	Clermont.
Ohio	Cuyahoga.
Ohio	Trumbull.
Ohio	Ashtabula.
Ohio	Knox.
Ohio	Madison.
Ohio	Lake.
Ohio	Allen.
Ohio	Washington.
Ohio	Clinton.
Ohio	Licking.
Ohio	Stark.
Ohio	Lucas.
Ohio	Clark.
Ohio	Butler.
Ohio	Montgomery.
Ohio	Warren.
Oklahoma	Tulsa.
Pennsylvania	Washington.
Pennsylvania	Erie.
Pennsylvania	Philadelphia.
Pennsylvania	Bucks.
Pennsylvania	Northampton.
Pennsylvania	Lehigh.
Pennsylvania	York.
Pennsylvania	Beaver.
Pennsylvania	Allegheny.
Pennsylvania	Blair.
Pennsylvania	Lancaster.
Pennsylvania	Cambria.
Pennsylvania	Delaware.
Pennsylvania	Luzerne.
Pennsylvania	Berks.
Pennsylvania	Perry.
Pennsylvania	Mercer.
Pennsylvania	Lackawanna.
Pennsylvania	Westmoreland.
Pennsylvania	Dauphin.
Pennsylvania	Montgomery.
Rhode Island	Kent.
Rhode Island	Providence
South Carolina	Richland.
South Carolina	Anderson.
South Carolina	Chester.
South Carolina	York.
Tennessee	Blount.

TABLE II–8b.—COUNTIES VIOLATING THE 8-HR OZONE NAAQS BASED ON 1993–1995 AMBIENT AIR QUALITY MONITORING DATA—Continued

Tennessee	Hamilton.
Tennessee	Sullivan.
Tennessee	Dickson.
Tennessee	Sevier.
Tennessee	Sumner.
Tennessee	Knox.
Tennessee	Shelby.
Tennessee	Williamson.
Tennessee	Madison.
Tennessee	Anderson.
Tennessee	Jefferson.
Texas	Harris.
Texas	Smith.
Texas	Jefferson.
Texas	Brazoria.
Texas	Orange.
Texas	Tarrant.
Texas	Dallas.
Texas	Galveston.
Texas	Denton.
Texas	Gregg.
Texas	Collin.
Virginia	Caroline.
Virginia	Hanover.
Virginia	Fairfax.
Virginia	Chesterfield.
Virginia	Prince William.
Virginia	Alexandria City.
Virginia	Arlington.
Virginia	Hampton City.
Virginia	Henrico.
Virginia	Charles City.
Virginia	Suffolk City.
Virginia	Stafford.
West Virginia	Cabell.
West Virginia	Wood.
Wisconsin	Racine.
Wisconsin	Outagamie.
Wisconsin	Ozaukee.
Wisconsin	Sheboygan.
Wisconsin	Milwaukee.
Wisconsin	Kewaunee.
Wisconsin	Kenosha.
Wisconsin	Door.
Wisconsin	Manitowoc.

TABLE II–9a.—SUMMARY OF AIR QUALITY CONTRIBUTIONS TO DOWNWIND NONATTAINMENT, FOR SUBREGIONS 1–6.

	Approach 1		Approach 2		Approach 3		Approach 4	
	1 hr-violating co.		1 Hr-all grid cells		8 hr-violating co.		8 Hr-all grid cells	
	No. impacts	No. States	No. impacts	No. States	No. impacts	No. States	No. impacts	No. States
SubRegion 1:								
2–5 ppb	70	4	102	7	80	8	180	10
5–10 ppb	0	0	14	2	21	2	29	3
10–15 ppb	0	0	0	0	1	1	5	1
15–20 ppb	0	0	0	0	6	1	11	1
20–25 ppb	0	0	0	0	5	1	10	1
>25 ppb	0	0	0	0	1	1	1	1
SubRegion 2:								
2–5 ppb	193	8	362	14	239	16	432	16
5–10 ppb	38	5	93	9	37	5	101	6
10–15 ppb	0	0	23	6	10	2	15	2
15–20 ppb	0	0	6	2	2	1	6	2

TABLE II–9a.—SUMMARY OF AIR QUALITY CONTRIBUTIONS TO DOWNWIND NONATTAINMENT, FOR SUBREGIONS 1–6.—Continued

	Approach 1		Approach 2		Approach 3		Approach 4	
	1 hr-violating co.		1 Hr-all grid cells		8 hr-violating co.		8 Hr-all grid cells	
	No. impacts	No. States	No. impacts	No. States	No. impacts	No. States	No. impacts	No. States
20–25 ppb	0	0	1	1	5	1	6	2
>25 ppb	0	0	0	0	1	1	1	1
SubRegion 3:								
2–5 ppb	176	9	484	10	206	9	527	10
5–10 ppb	187	7	376	10	146	9	236	11
10–15 ppb	67	4	180	7	45	3	69	5
15–20 ppb	27	3	42	4	11	1	14	3
20–25 ppb	5	1	9	3	0	0	0	0
>25 ppb	3	1	21	3	0	0	0	0
SubRegion 4:								
2–5 ppb	10	3	41	5	2	1	3	1
5–10 ppb	12	3	32	3	37	3	84	3
10–15 ppb	30	3	82	3	28	3	91	3
15–20 ppb	7	2	51	3	22	3	46	4
20–25 ppb	4	2	11	2	11	2	19	2
>25 ppb	37	3	121	3	25	2	29	2
SubRegion 5:								
2–5 ppb	51	7	131	10	181	13	493	14
5–10 ppb	6	2	42	4	150	6	283	8
10–15 ppb	8	3	16	3	12	2	23	2
15–20 ppb	3	2	5	2	0	0	0	0
20–25 ppb	0	0	5	1	0	0	0	0
>25 ppb	0	0	0	0	0	0	0	0
SubRegion 6:								
2–5 ppb	85	6	236	13	343	13	523	13
5–10 ppb	122	8	215	10	161	10	281	10
10–15 ppb	25	4	63	6	46	3	120	5
15–20 ppb	2	1	11	3	10	1	29	2
20–25 ppb	0	0	2	2	8	2	14	2
>25 ppb	4	1	17	3	1	1	2	2

TABLE II–9b. SUMMARY OF AIR QUALITY CONTRIBUTIONS TO DOWNWIND NONATTAINMENT, FOR SUBREGIONS 7–12

	Approach 1		Approach 2		Approach 3		Approach 4	
	1 Hr-violating co.		1 Hr-all grid cells		8 Hr-violating co.		8 Hr-all grid cells	
	Number impacts	Number States	Number impacts	Number States	Number impacts	Number States	Number impacts	Number States
SubRegion 7:								
2–5 ppb	114	6	249	12	178	9	315	10
5–10 ppb	113	4	211	8	154	7	233	7
10–15 ppb	50	4	90	6	52	4	87	4
15–20 ppb	21	4	47	4	15	2	35	2
20–25 ppb	8	2	20	2	8	1	12	1
> 25 ppb	19	2	65	2	8	1	35	1
SubRegion 8:								
2–5 ppb	28	5	135	12	89	10	265	12
5–10 ppb	0	0	56	7	19	3	133	4
10–15 ppb	0	0	75	5	8	3	41	3
15–20 ppb	1	1	60	4	1	1	21	1
20–25 ppb	0	0	9	2	0	0	6	1
> 25 ppb	0	0	3	1	0	0	0	0
SubRegion 9:								
2–5 ppb	11	2	140	9	161	10	340	12
5–10 ppb	4	3	68	7	69	6	197	6
10–15 ppb	4	1	11	2	27	2	67	3
15–20 ppb	0	0	6	1	2	1	8	1
20–25 ppb	0	0	4	1	0	0	2	1
> 25 ppb	0	0	20	2	0	0	2	1
SubRegion 10:								
2–5 ppb	0	0	1	1	13	2	24	3
5–10 ppb	0	0	0	0	4	1	4	1
10–15 ppb	0	0	0	0	0	0	0	0
15–20 ppb	0	0	0	0	0	0	0	0

TABLE II–9b. SUMMARY OF AIR QUALITY CONTRIBUTIONS TO DOWNWIND NONATTAINMENT, FOR SUBREGIONS 7–12—Continued

	Approach 1		Approach 2		Approach 3		Approach 4	
	1 Hr-violating co.		1 Hr-all grid cells		8 Hr-violating co.		8 Hr-all grid cells	
	Number impacts	Number States	Number impacts	Number States	Number impacts	Number States	Number impacts	Number States
20–25 ppb	0	0	0	0	0	0	0	0
> 25 ppb	0	0	0	0	0	0	0	0
SubRegion 11:								
2–5 ppb	11	2	19	3	21	6	37	7
5–10 ppb	0	0	0	0	0	0	2	1
10–15 ppb	0	0	0	0	0	0	0	0
15–20 ppb	0	0	0	0	0	0	0	0
20–25 ppb	0	0	0	0	0	0	0	0
> 25 ppb	0	0	0	0	0	0	0	0
SubRegion 12:								
2–5 ppb	13	2	26	3	73	3	105	5
5–10 ppb	11	1	19	1	0	0	0	0
10–15 ppb	0	0	0	0	0	0	0	0
15–20 ppb	0	0	0	0	0	0	0	0
20–25 ppb	0	0	0	0	0	0	0	0
> 25 ppb	0	0	0	0	0	0	0	0

TABLE II–10.—NUMBER OF IMPACTS IN EACH "DOWNWIND" STATE,[1] BY IMPACT CONCENTRATION RANGE FOR EACH SUBREGION—APPROACH 1: 1-HR "VIOLATING COUNTIES"

Number of Impacts from SubRegion 1

Impacts (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN		
2–5	0	0	0	0	0	0	0	0	0		
5–10	0	0	0	0	0	0	0	0	0		
10–15	0	0	0	0	0	0	0	0	0		
15–20	0	0	0	0	0	0	0	0	0		
20–25	0	0	0	0	0	0	0	0	0		
>25	0	0	0	0	0	0	0	0	0		
	IA	MO	WI	IL	IN	MI	OH	KY	WV		
2–5	N.A.	0	N.A.	N.A.	N.A.	0	0	0	0		
5–10	N.A.	0	N.A.	N.A.	N.A.	0	0	0	0		
10–15	N.A.	0	N.A.	N.A.	N.A.	0	0	0	0		
15–20	N.A.	0	N.A.	N.A.	N.A.	0	0	0	0		
20–25	N.A.	0	N.A.	N.A.	N.A.	0	0	0	0		
>25	N.A.	0	N.A.	N.A.	N.A.	0	0	0	0		
	TN	MS	AL	GA	FL	SC	NC	VA	DC		
2–5	0	0	0	0	0	0	0	0	0		
5–10	0	0	0	0	0	0	0	0	0		
10–15	0	0	0	0	0	0	0	0	0		
15–20	0	0	0	0	0	0	0	0	0		
20–25	0	0	0	0	0	0	0	0	0		
>25	0	0	0	0	0	0	0	0	0		
	MD	DE	PA	NJ	NY	CT	RI	MA	VT	NH	ME
2–5	22	0	0	7	20	21	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0	0	0

Number of Impacts from SubRegion 2

Impacts (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN		
2–5	0	0	0	0	0	0	0	0	0		
5–10	0	0	0	0	0	0	0	0	0		
10–15	0	0	0	0	0	0	0	0	0		
15–20	0	0	0	0	0	0	0	0	0		

TABLE II–10.—NUMBER OF IMPACTS IN EACH "DOWNWIND" STATE,[1] BY IMPACT CONCENTRATION RANGE FOR EACH SUBREGION—APPROACH 1: 1-HR "VIOLATING COUNTIES"—Continued

20–25	0	0	0	0	0	0	0	0	0		
>25	0	0	0	0	0	0	0	0	0		
	IA	MO	WI	IL	IN	MI	OH	KY	WV		
2–5	0	0	0	0	N.A.	N.A.	N.A.	0	0		
5–10	0	0	0	0	N.A.	N.A.	N.A.	0	0		
10–15	0	0	0	0	N.A.	N.A.	N.A.	0	0		
15–20	0	0	0	0	N.A.	N.A.	N.A.	0	0		
20–25	0	0	0	0	N.A.	N.A.	N.A.	0	0		
>25	0	0	0	0	N.A.	N.A.	N.A.	0	0		
	TN	MS	AL	GA	FL	SC	NC	VA	DC		
2–5	0	0	0	0	0	0	0	5	0		
5–10	0	0	0	0	0	0	0	2	0		
10–15	0	0	0	0	0	0	0	0	0		
15–20	0	0	0	0	0	0	0	0	0		
20–25	0	0	0	0	0	0	0	0	0		
>25	0	0	0	0	0	0	0	0	0		
	MD	DE	PA	NJ	NY	CT	RI	MA	VT	NH	ME
2–5	23	0	1	36	47	65	3	13	0	0	0
5–10	23	0	0	4	6	3	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0	0	
20–25	0	0	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0	0	0

Number of Impacts from SubRegion 3

Impacts (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN		
2–5	0	0	0	0	0	0	0	0	0		
5–10	0	0	0	0	0	0	0	0	0		
10–15	0	0	0	0	0	0	0	0	0		
15–20	0	0	0	0	0	0	0	0	0		
20–25	0	0	0	0	0	0	0	0	0		
>25	0	0	0	0	0	0	0	0	0		
	IA	MO	WI	IL	IN	MI	OH	KY	WV		
2–5	0	0	0	0	0	0	0	0	0		
5–10	0	0	0	0	0	0	0	0	0		
10–15	0	0	0	0	0	0	0	0	0		
15–20	0	0	0	0	0	0	0	0	0		
20–25	0	0	0	0	0	0	0	0	0		
>25	0	0	0	0	0	0	0	0	0		
	TN	MS	AL	GA	FL	SC	NC	VA	DC		
2–5	0	0	0	0	0	0	0	19	1		
5–10	0	0	0	0	0	0	0	19	1		
10–15	0	0	0	0	0	0	0	1	0		
15–20	0	0	0	0	0	0	0	0	0		
20–25	0	0	0	0	0	0	0	0	0		
>25	0	0	0	0	0	0	0	0	0		
	MD	DE	PA	NJ	NY	CT	RI	MA	VT	NH	ME
2–5	43	N.A.	N.A.	8	N.A.	74	3	17	0	4	7
5–10	47	N.A.	N.A.	33	N.A.	78	3	6	0	0	0
10–15	19	N.A.	N.A.	34	N.A.	13	0	0	0	0	0
15–20	4	N.A.	N.A.	21	N.A.	2	0	0	0	0	0
20–25	0	N.A.	N.A.	5	N.A.	0	0	0	0	0	0
>25	0	N.A.	N.A.	3	N.A.	0	0	0	0	0	0

Number of Impacts from SubRegion 4

Impacts (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN		
2–5	0	0	0	0	0	0	0	0	0		
5–10	0	0	0	0	0	0	0	0	0		

TABLE II–10.—NUMBER OF IMPACTS IN EACH "DOWNWIND" STATE,[1] BY IMPACT CONCENTRATION RANGE FOR EACH SUBREGION—APPROACH 1: 1-HR "VIOLATING COUNTIES"—Continued

10–15	0	0	0	0	0	0	0	0	0		
15–20	0	0	0	0	0	0	0	0	0		
20–25	0	0	0	0	0	0	0	0	0		
>25	0	0	0	0	0	0	0	0	0		
	IA	MO	WI	IL	IN	MI	OH	KY	WV		
2–5	0	0	0	0	0	0	0	0	0		
5–10	0	0	0	0	0	0	0	0	0		
10–15	0	0	0	0	0	0	0	0	0		
15–20	0	0	0	0	0	0	0	0	0		
20–25	0	0	0	0	0	0	0	0	0		
>25	0	0	0	0	0	0	0	0	0		
	TN	MS	AL	GA	FL	SC	NC	VA	DC		
2–5	0	0	0	0	0	0	0	0	0		
5–10	0	0	0	0	0	0	0	0	0		
10–15	0	0	0	0	0	0	0	0	0		
15–20	0	0	0	0	0	0	0	0	0		
20–25	0	0	0	0	0	0	0	0	0		
>25	0	0	0	0	0	0	0	0	0		
	MD	DE	PA	NJ	NY	CT	RI	MA	VT	NH	ME
2–5	1	N.A.	N.A.	N.A.	N.A.	N.A.	0	1	0	8	0
5–10	0	N.A.	N.A.	N.A.	N.A.	N.A.	0	9	0	1	2
10–15	0	N.A.	N.A.	N.A.	N.A.	N.A.	0	4	0	11	15
15–20	0	N.A.	N.A.	N.A.	N.A.	N.A.	0	4	0	3	0
20–25	0	N.A.	N.A.	N.A.	N.A.	N.A.	0	3	0	1	0
>25	0	N.A.	N.A.	N.A.	N.A.	N.A.	6	30	0	1	0

Number of Impacts from SubRegion 5

Impacts (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN		
2–5	0	0	0	0	0	0	0	0	0		
5–1	0	0	0	0	0	0	0	0	0		
10–15	0	0	0	0	0	0	0	0	0		
15–2	0	0	0	0	0	0	0	0	0		
20–25	0	0	0	0	0	0	0	0	0		
>25	0	0	0	0	0	0	0	0	0		
	IA	MO	WI	IL	IN	MI	OH	KY	WV		
2–5	0	N.A.	0	N.A.	N.A.	11	0	N.A.	0		
5–10	0	N.A.	0	N.A.	N.A.	4	0	N.A.	0		
10–15	0	N.A.	0	N.A.	N.A.	3	0	N.A.	0		
15–20	0	N.A.	0	N.A.	N.A.	0	0	N.A.	0		
20–25	0	N.A.	0	N.A.	N.A.	0	0	N.A.	0		
>25	0	N.A.	0	N.A.	N.A.	0	0	N.A.	0		
	TN	MS	AL	GA	FL	SC	NC	VA	DC		
2–5	N.A.	0	4	10	0	0	0	0	0		
5–10	N.A.	0	0	2	0	0	0	0	0		
10–15	N.A.	0	2	3	0	0	0	0	0		
15–20	N.A.	0	1	2	0	0	0	0	0		
20–25	N.A.	0	0	0	0	0	0	0	0		
>25	N.A.	0	0	0	0	0	0	0	0		
	MD	DE	PA	NJ	NY	CT	RI	MA	VT	NH	ME
2–5	8	0	2	10	6	0	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0	0	0

Number of Impacts from SubRegion 6

Impacts (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN		

TABLE II–10.—NUMBER OF IMPACTS IN EACH "DOWNWIND" STATE,[1] BY IMPACT CONCENTRATION RANGE FOR EACH SUBREGION—APPROACH 1: 1-HR "VIOLATING COUNTIES"—Continued

2–5	0	0	0	0	0	0	0	0	0		
5–10	0	0	0	0	0	0	0	0	0		
10–15	0	0	0	0	0	0	0	0	0		
15–20	0	0	0	0	0	0	0	0	0		
20–25	0	0	0	0	0	0	0	0	0		
>25	0	0	0	0	0	0	0	0	0		
	IA	MO	WI	IL	IN	MI	OH	KY	WV		
2–5	0	0	0	0	N.A.	0	N.A.	N.A.	N.A.		
5–10	0	0	0	0	N.A.	0	N.A.	N.A.	N.A.		
10–15	0	0	0	0	N.A.	0	N.A.	N.A.	N.A.		
15–20	0	0	0	0	N.A.	0	N.A.	N.A.	N.A.		
20–25	0	0	0	0	N.A.	0	N.A.	N.A.	N.A.		
>25	0	0	0	0	N.A.	0	N.A.	N.A.	N.A.		
	TN	MS	AL	GA	FL	SC	NC	VA	DC		
2–5	N.A.	0	0	0	0	0	0	N.A.	0		
5–10	N.A.	0	0	0	0	0	0	N.A.	1		
10–15	N.A.	0	0	0	0	0	0	N.A.	0		
15–20	N.A.	0	0	0	0	0	0	N.A.	0		
20–25	N.A.	0	0	0	0	0	0	N.A.	0		
>25	N.A.	0	0	0	0	0	0	N.A.	0		
	MD	DE	PA	NJ	NY	CT	RI	MA	VT	NH	ME
2–5	6	4	4	26	41	4	0	0	0	0	0
5–10	52	6	4	32	16	9	2	0	0	0	0
10–15	17	0	2	2	4	0	0	0	0	0	0
15–20	2	0	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0	0	0
>25	0	0	4	0	0	0	0	0	0	0	0

Number of Impacts from SubRegion 7

Impacts (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN		
2–5	0	0	0	0	0	0	0	0	0		
5–10	0	0	0	0	0	0	0	0	0		
10–15	0	0	0	0	0	0	0	0	0		
15–20	0	0	0	0	0	0	0	0	0		
20–25	0	0	0	0	0	0	0	0	0		
>25	0	0	0	0	0	0	0	0	0		
	IA	MO	WI	IL	IN	MI	OH	KY	WV		
2–5	0	0	0	0	0	0	0	0	N.A.		
5–10	0	0	0	0	0	0	0	0	N.A.		
10–15	0	0	0	0	0	0	0	0	N.A.		
15–20	0	0	0	0	0	0	0	0	N.A.		
20–25	0	0	0	0	0	0	0	0	N.A.		
>25	0	0	0	0	0	0	0	0	N.A.		
	TN	MS	AL	GA	FL	SC	NC	VA	DC		
2–5	0	0	0	0	0	0	N.A.	N.A.	N.A.		
5–10	0	0	0	0	0	0	N.A.	N.A.	N.A.		
10–15	0	0	0	0	0	0	N.A.	N.A.	N.A.		
15–20	0	0	0	0	0	0	N.A.	N.A.	N.A.		
20–25	0	0	0	0	0	0	N.A.	N.A.	N.A.		
>25	0	0	0	0	0	0	N.A.	N.A.	N.A.		
	MD	DE	PA	NJ	NY	CT	RI	MA	VT	NH	ME
2–5	N.A.	N.A.	3	17	30	50	2	12	0	0	0
5–10	N.A.	N.A.	2	28	52	31	0	0	0	0	0
10–15	N.A.	N.A.	13	14	15	8	0	0	0	0	0
15–20	N.A.	N.A.	11	4	4	2	0	0	0	0	0
20–25	N.A.	N.A.	2	6	0	0	0	0	0	0	0
>25	N.A.	N.A.	7	12	0	0	0	0	0	0	0

TABLE II–10.—NUMBER OF IMPACTS IN EACH "DOWNWIND" STATE,[1] BY IMPACT CONCENTRATION RANGE FOR EACH SUBREGION—APPROACH 1: 1-HR "VIOLATING COUNTIES"—Continued

Number of Impacts from SubRegion 8

Impacts (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN		
2–5	0	0	0	0	0	0	0	0	0		
5–10	0	0	0	0	0	0	0	0	0		
10–15	0	0	0	0	0	0	0	0	0		
15–20	0	0	0	0	0	0	0	0	0		
20–25	0	0	0	0	0	0	0	0	0		
>25	0	0	0	0	0	0	0	0	0		
	IA	MO	WI	IL	IN	MI	OH	KY	WV		
2–5	0	2	0	2	0	0	0	0	0		
5–10	0	0	0	0	0	0	0	0	0		
10–15	0	0	0	0	0	0	0	0	0		
15–20	0	0	0	0	0	0	0	0	0		
20–25	0	0	0	0	0	0	0	0	0		
>25	0	0	0	0	0	0	0	0	0		
	TN	MS	AL	GA	FL	SC	NC	VA	DC		
2–5	3	0	17	N.A.	0	N.A.	N.A.	0	0		
5–10	0	0	0	N.A.	0	N.A.	N.A.	0	0		
10–15	0	0	0	N.A.	0	N.A.	N.A.	0	0		
15–20	0	0	1	N.A.	0	N.A.	N.A.	0	0		
20–25	0	0	0	N.A.	0	N.A.	N.A.	0	0		
>25	0	0	0	N.A.	0	N.A.	N.A.	0	0		
	MD	DE	PA	NJ	NY	CT	RI	MA	VT	NH	ME
2–5	0	0	4	0	0	0	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0	0	0

Number of Impacts from SubRegion 9

Impacts (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN		
2–5	N.A.	10	0	0	0	0	0	0	0		
5–10	N.A.	0	0	0	0	0	0	0	0		
10–15	N.A.	0	0	0	0	0	0	0	0		
15–20	N.A.	0	0	0	0	0	0	0	0		
20–25	N.A.	0	0	0	0	0	0	0	0		
>25	N.A.	0	0	0	0	0	0	0	0		
	IA	MO	WI	IL	IN	MI	OH	KY	WV		
2–5	0	0	0	1	0	0	0	0	0		
5–10	0	2	0	1	1	0	0	0	0		
10–15	0	0	0	0	4	0	0	0	0		
15–20	0	0	0	0	0	0	0	0	0		
20–25	0	0	0	0	0	0	0	0	0		
>25	0	0	0	0	0	0	0	0	0		
	TN	MS	AL	GA	FL	SC	NC	VA	DC		
2–5	N.A.	N.A.	N.A.	N.A.	0	N.A.	N.A.	0	0		
5–10	N.A.	N.A.	N.A.	N.A.	0	N.A.	N.A.	0	0		
10–15	N.A.	N.A.	N.A.	N.A.	0	N.A.	N.A.	0	0		
15–20	N.A.	N.A.	N.A.	N.A.	0	N.A.	N.A.	0	0		
20–25	N.A.	N.A.	N.A.	N.A.	0	N.A.	N.A.	0	0		
>25	N.A.	N.A.	N.A.	N.A.	0	N.A.	N.A.	0	0		
	MD	DE	PA	NJ	NY	CT	RI	MA	VT	NH	ME
2–5	0	0	0	0	0	0	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0	0	0

TABLE II–10.—NUMBER OF IMPACTS IN EACH "DOWNWIND" STATE,[1] BY IMPACT CONCENTRATION RANGE FOR EACH SUBREGION—APPROACH 1: 1-HR "VIOLATING COUNTIES"—Continued

>25	0	0	0	0	0	0	0	0	0	0	0

Number of Impacts from SubRegion 10

Impacts (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN		
2–5	0	N.A.	0	0	0	0	0	0	0		
5–10	0	N.A.	0	0	0	0	0	0	0		
10–15	0	N.A.	0	0	0	0	0	0	0		
15–20	0	N.A.	0	0	0	0	0	0	0		
20–25	0	N.A.	0	0	0	0	0	0	0		
>25	0	N.A.	0	0	0	0	0	0	0		
	IA	MO	WI	IL	IN	MI	OH	KY	WV		
2–5	0	0	0	0	0	0	0	0	0		
5–10	0	0	0	0	0	0	0	0	0		
10–15	0	0	0	0	0	0	0	0	0		
15–20	0	0	0	0	0	0	0	0	0		
20–25	0	0	0	0	0	0	0	0	0		
>25	0	0	0	0	0	0	0	0	0		
	TN	MS	AL	GA	FL	SC	NC	VA	DC		
2–5	0	N.A.	N.A.	N.A.	N.A.	0	0	0	0		
5–10	0	N.A.	N.A.	N.A.	N.A.	0	0	0	0		
10–15	0	N.A.	N.A.	N.A.	N.A.	0	0	0	0		
15–20	0	N.A.	N.A.	N.A.	N.A.	0	0	0	0		
20–25	0	N.A.	N.A.	N.A.	N.A.	0	0	0	0		
>25	0	N.A.	N.A.	N.A.	N.A.	0	0	0	0		
	MD	DE	PA	NJ	NY	CT	RI	MA	VT	NH	ME
2–5	0	0	0	0	0	0	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0	0	0

Number of Impacts from SubRegion 11

Impacts (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN		
2–5	N.A.	N.A.	N.A.	N.A.	0	0	0	0	0		
5–10	N.A.	N.A.	N.A.	N.A.	0	0	0	0	0		
10–15	N.A.	N.A.	N.A.	N.A.	0	0	0	0	0		
15–20	N.A.	N.A.	N.A.	N.A.	0	0	0	0	0		
20–25	N.A.	N.A.	N.A.	N.A.	0	0	0	0	0		
>25	N.A.	N.A.	N.A.	N.A.	0	0	0	0	0		
	IA	MO	WI	IL	IN	MI	OH	KY	WV		
2–5	0	0	0	0	0	4	0	0	0		
5–10	0	0	0	0	0	0	0	0	0		
10–15	0	0	0	0	0	0	0	0	0		
15–20	0	0	0	0	0	0	0	0	0		
20–25	0	0	0	0	0	0	0	0	0		
>25	0	0	0	0	0	0	0	0	0		
	TN	MS	AL	GA	FL	SC	NC	VA	DC		
2–5	0	0	7	0	0	0	0	0	0		
5–10	0	0	0	0	0	0	0	0	0		
10–15	0	0	0	0	0	0	0	0	0		
15–20	0	0	0	0	0	0	0	0	0		
20–25	0	0	0	0	0	0	0	0	0		
>25	0	0	0	0	0	0	0	0	0		
	MD	DE	PA	NJ	NY	CT	RI	MA	VT	NH	ME
2–5	0	0	0	0	0	0	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0	0	0

TABLE II–10.—NUMBER OF IMPACTS IN EACH "DOWNWIND" STATE,[1] BY IMPACT CONCENTRATION RANGE FOR EACH SUBREGION—APPROACH 1: 1-HR "VIOLATING COUNTIES"—Continued

15–20	0	0	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0	0	0

Number of Impacts from SubRegion 12

Impacts (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	oi0MN		
2–5	0	0	0	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.		
5–10	0	0	0	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.		
10–15	0	0	0	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.		
15–20	0	0	0	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.		
20–25	0	0	0	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.		
>25	0	0	0	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.		
	IA	MO	WI	IL	IN	MI	OH	KY	WV		
2–5	N.A.	N.A.	N.A.	5	0	8	0	0	0		
5–10	N.A.	N.A.	N.A.	0	0	11	0	0	0		
10–15	N.A.	N.A.	N.A.	0	0	0	0	0	0		
15–20	N.A.	N.A.	N.A.	0	0	0	0	0	0		
20–25	N.A.	N.A.	N.A.	0	0	0	0	0	0		
>25	N.A.	N.A.	N.A.	0	0	0	0	0	0		
	TN	MS	AL	GA	FL	SC	NC	VA	DC		
2–5	0	0	0	0	0	0	0	0	0		
5–1	0	0	0	0	0	0	0	0	0		
10–15	0	0	0	0	0	0	0	0	0		
15–20	0	0	0	0	0	0	0	0	0		
20–25	0	0	0	0	0	0	0	0	0		
>25	0	0	0	0	0	0	0	0	0		
	MD	DE	PA	NJ	NY	CT	RI	MA	VT	NH	ME
2–5	0	0	0	0	0	0	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0	0	0

[1] N.A. (Not Applicable) indicates that all or major portions of these States are part of the subregion and thus, are not considered as being "downwind".

TABLE II–11.—NUMBER OF IMPACTS IN EACH "DOWNWIND" STATE,[1 2] BY IMPACT CONCENTRATION RANGE FOR EACH SUBREGION—APPROACH 2: 1-HR "ALL GRID CELLS"

Number of Impacts from SubRegion 1

Impact (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN
2–5	0	0	0	0	0	0	0	2	4
5–10	0	0	0	0	0	0	22	4	2
10–15	0	0	0	0	0	0	1	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0
	IA	MO	WI	IL	IN	MI	OH	KY	WV
2–5	N.A.	0	N.A.	N.A.	N.A.	1	2	0	1
5–10	N.A.	0	N.A.	N.A.	N.A.	6	8	0	0
10–15	N.A.	0	N.A.	N.A.	N.A.	0	0	0	0
15–20	N.A.	0	N.A.	N.A.	N.A.	0	0	0	0
20–25	N.A.	0	N.A.	N.A.	N.A.	0	0	0	0
>25	N.A.	0	N.A.	N.A.	N.A.	0	0	0	0
	TN	MS	AL	GA	FL	SC	NC	VA	DC
2–5	0	0	0	0	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0

TABLE II–11.—NUMBER OF IMPACTS IN EACH "DOWNWIND" STATE,[1 2] BY IMPACT CONCENTRATION RANGE FOR EACH SUBREGION—APPROACH 2: 1-HR "ALL GRID CELLS"—Continued

>25	0	0	0	0	0	0	0	0	0
	MD	DE	PA	NJ	NY	CT	RI	MA	VT
2–5	24	0	0	16	35	23	0	0	0
5–10	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0
	NH	ME	blank	LM	LS	LH	LE	LC	LO
2–5	0	0	0	0	0	0	0	2	4
5–10	0	0	0	0	0	0	22	4	2
10–15	0	0	0	0	0	0	1	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0

Number of Impacts from SubRegion 2

Impact (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN
2–5	0	0	0	0	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0
	IA	MO	WI	IL	IN	MI	OH	KY	WV
2–5	0	0	0	0	N.A.	N.A.	N.A.	3	13
5–10	0	0	0	0	N.A.	N.A.	N.A.	0	14
10–15	0	0	0	0	N.A.	N.A.	N.A.	4	15
15–20	0	0	0	0	N.A.	N.A.	N.A.	1	5
20–25	0	0	0	0	N.A.	N.A.	N.A.	0	0
>25	0	0	0	0	N.A.	N.A.	N.A.	0	0
	TN	MS	AL	GA	FL	SC	NC	VA	DC
2–5	1	0	0	0	0	0	1	11	0
5–10	9	0	0	0	0	0	4	2	0
10–15	1	0	0	0	0	0	1	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0
	MD	DE	PA	NJ	NY	CT	RI	MA	VT
2–5	49	0	5	73	69	68	13	41	0
5–10	34	0	5	12	10	3	0	0	0
10–15	1	0	1	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	1	0	0	0	0
>25	0	0	0	0	0	0	0	0	0
	NH	ME	blank	LM	LS	LH	LE	LC	LO
2–5	5	10	0	0	0	0	0	0	2
5–10	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	10
20–25	0	0	0	0	0	0	0	0	1
>25	0	0	0	0	0	0	0	0	0

Number of Impacts from SubRegion 3

Impact (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN
2–5	0	0	0	0	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0

TABLE II–11.—NUMBER OF IMPACTS IN EACH "DOWNWIND" STATE,[1 2] BY IMPACT CONCENTRATION RANGE FOR EACH SUBREGION—APPROACH 2: 1-HR "ALL GRID CELLS"—Continued

15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0
	IA	MO	WI	IL	IN	MI	OH	KY	WV
2–5	0	0	0	0	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	2
10–15	0	0	0	0	0	0	0	0	8
15–20	0	0	0	0	0	0	0	0	5
20–25	0	0	0	0	0	0	0	0	1
>25	0	0	0	0	0	0	0	0	11
	TN	MS	AL	GA	FL	SC	NC	VA	DC
2–5	0	0	0	0	0	0	8	144	1
5–10	0	0	0	0	0	0	0	45	1
10–15	0	0	0	0	0	0	0	1	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0
	MD	DE	PA	NJ	NY	CT	RI	MA	VT
2–5	72	N.A.	N.A.	28	N.A.	77	16	103	0
5–10	62	N.A.	N.A.	70	N.A.	84	19	47	0
10–15	37	N.A.	N.A.	115	N.A.	14	1	4	0
15–20	4	N.A.	N.A.	30	N.A.	3	0	0	0
20–25	2	N.A.	N.A.	6	N.A.	0	0	0	0
>25	7	N.A.	N.A.	3	N.A.	0	0	0	0
	NH	ME	blank	LM	LS	LH	LE	LC	LO
2–5	12	23	0	0	0	0	0	0	1
5–10	7	19	0	0	0	0	0	0	3
10–15	0	0	0	0	0	0	0	0	1
15–20	0	0	0	0	0	0	0	0	2
20–25	0	0	0	0	0	0	0	0	1
>25	0	0	0	0	0	0	0	0	1

Number of Impacts from SubRegion 4

Impact (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN
2–5	0	0	0	0	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0
	IA	MO	WI	IL	IN	MI	OH	KY	WV
2–5	0	0	0	0	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0
	TN	MS	AL	GA	FL	SC	NC	VA	DC
2–5	0	0	0	0	0	0	0	9	0
5–10	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0
	MD	DE	PA	NJ	NY	CT	RI	MA	VT
2–5	2	N.A.	N.A.	N.A.	N.A.	N.A.	0	14	0
5–10	0	N.A.	N.A.	N.A.	N.A.	N.A.	0	24	0
10–15	0	N.A.	N.A.	N.A.	N.A.	N.A.	0	33	0

TABLE II–11.—NUMBER OF IMPACTS IN EACH "DOWNWIND" STATE,[1 2] BY IMPACT CONCENTRATION RANGE FOR EACH SUBREGION—APPROACH 2: 1-HR "ALL GRID CELLS"—Continued

15–20	0	N.A.	N.A.	N.A.	N.A.	N.A.	0	32	0
20–25	0	N.A.	N.A.	N.A.	N.A.	N.A.	0	10	0
>25	0	N.A.	N.A.	N.A.	N.A.	N.A.	36	82	0
	NH	ME	blank	LM	LS	LH	LE	LC	LO
2–5	10	6	0	0	0	0	0	0	0
5–10	2	6	0	0	0	0	0	0	0
10–15	19	30	0	0	0	0	0	0	0
15–20	9	10	0	0	0	0	0	0	0
20–25	1	0	0	0	0	0	0	0	0
>25	1	0	0	0	0	0	0	0	0

Number of Impacts from SubRegion 5

Impact (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN
2–5	2	0	0	0	0	0	0	0	0
5–10	9	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
> 25	0	0	0	0	0	0	0	0	0
	IA	MO	WI	IL	IN	MI	OH	KY	WV
2–5	0	N.A.	0	N.A.	N.A.	18	3	N.A.	5
5–10	0	N.A.	0	N.A.	N.A.	16	5	N.A.	0
10–15	0	N.A.	0	N.A.	N.A.	6	0	N.A.	0
15–20	0	N.A.	0	N.A.	N.A.	0	0	N.A.	0
20–25	0	N.A.	0	N.A.	N.A.	0	0	N.A.	0
> 25	0	N.A.	0	N.A.	N.A.	0	0	N.A.	0
	TN	MS	AL	GA	FL	SC	NC	VA	DC
2–5	N.A.	0	12	19	0	0	0	0	0
5–10	N.A.	0	0	12	0	0	0	0	0
10–15	N.A.	0	5	5	0	0	0	0	0
15–20	N.A.	0	3	2	0	0	0	0	0
20–25	N.A.	0	5	0	0	0	0	0	0
> 25	N.A.	0	0	0	0	0	0	0	0
	MD	DE	PA	NJ	NY	CT	RI	MA	VT
2–5	16	0	2	45	9	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
> 25	0	0	0	0	0	0	0	0	0
	NH	ME	blank	LM	LS	LH	LE	LC	LO
2–5	0	0	.....	70	0	0	7	4	1
5–10	0	0	.....	151	0	0	16	2	1
10–15	0	0	.....	60	0	0	0	0	0
15–20	0	0	.....	0	0	0	0	0	0
20–25	0	0	.....	0	0	0	0	0	0
> 25	0	0	.....	0	0	0	0	0	0

Number of Impacts from SubRegion 6

Impact (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN
2–5	0	0	0	0	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
> 25	0	0	0	0	0	0	0	0	0
	IA	MO	WI	IL	IN	MI	OH	KY	WV
2–5	0	0	0	0	N.A.	1	N.A.	N.A.	N.A.

TABLE II–11.—NUMBER OF IMPACTS IN EACH "DOWNWIND" STATE,[1 2] BY IMPACT CONCENTRATION RANGE FOR EACH SUBREGION—APPROACH 2: 1-HR "ALL GRID CELLS"—Continued

5–10	0	0	0	0	N.A.	1	N.A.	N.A.	N.A.
10–15	0	0	0	0	N.A.	6	N.A.	N.A.	N.A.
15–20	0	0	0	0	N.A.	1	N.A.	N.A.	N.A.
20–25	0	0	0	0	N.A.	0	N.A.	N.A.	N.A.
> 25	0	0	0	0	N.A.	0	N.A.	N.A.	N.A.
	TN	MS	AL	GA	FL	SC	NC	VA	DC
2–5	N.A.	0	1	1	0	1	1	N.A.	0
5–10	N.A.	0	0	0	0	0	1	N.A.	1
10–15	N.A.	0	0	0	0	0	3	N.A.	0
15–20	N.A.	0	0	0	0	0	1	N.A.	0
20–25	N.A.	0	0	0	0	0	0	N.A.	0
> 25	N.A.	0	0	0	0	0	7	N.A.	0
	MD	DE	PA	NJ	NY	CT	RI	MA	VT
2–5	9	4	15	85	76	4	14	24	0
5–10	93	9	13	61	21	12	3	0	0
10–15	37	0	10	3	4	0	0	0	0
15–20	9	0	0	0	0	0	0	0	0
20–25	1	0	1	0	0	0	0	0	0
> 25	1	0	9	0	0	0	0	0	0
	NH	ME	blank	LM	LS	LH	LE	LC	LO
2–5	0	0	.....	0	0	0	23	2	13
5–10	0	0	.....	0	0	0	0	2	0
10–15	0	0	.....	6	0	0	0	0	0
15–20	0	0	.....	0	0	0	0	0	0
20–25	0	0	.....	0	0	0	0	0	0
> 25	0	0	.....	0	0	0	0	0	0

Number of Impacts from SubRegion 7

Impact (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN
2–5	0	0	0	0	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
> 25	0	0	0	0	0	0	0	0	0
	IA	MO	WI	IL	IN	MI	OH	KY	WV
2–5	0	0	0	0	0	0	5	3	N.A.
5–10	0	0	0	0	0	0	0	0	N.A.
10–15	0	0	0	0	0	0	0	0	N.A.
15–20	0	0	0	0	0	0	0	0	N.A.
20–25	0	0	0	0	0	0	0	0	N.A.
> 25	0	0	0	0	0	0	0	0	N.A.
	TN	MS	AL	GA	FL	SC	NC	VA	DC
2–5	5	0	0	0	0	04	N.A.	N.A.	N.A.
5–10	1	0	0	0	0	01	N.A.	N.A.	N.A.
10–15	0	0	0	0	0	0	N.A.	N.A.	N.A.
15–20	0	0	0	0	0	0	N.A.	N.A.	N.A.
20–25	0	0	0	0	0	0	N.A.	N.A.	N.A.
> 25	0	0	0	0	0	0	N.A.	N.A.	N.A.
	MD	DE	PA	NJ	NY	CT	RI	MA	VT
2–5	N.A.	N.A.	16	39	77	54	8	32	0
5–10	N.A.	N.A.	27	56	75	34	4	13	0
10–15	N.A.	N.A.	20	32	19	9	5	5	0
15–20	N.A.	N.A.	17	18	10	2	0	0	0
20–25	N.A.	N.A.	6	14	0	0	0	0	0
> 25	N.A.	N.A.	13	52	0	0	0	0	0
	NH	ME	blank	LM	LS	LH	LE	LC	LO
2–5	3	3	0	0	0	0	0	0	

TABLE II–11.—NUMBER OF IMPACTS IN EACH "DOWNWIND" STATE,[1 2] BY IMPACT CONCENTRATION RANGE FOR EACH SUBREGION—APPROACH 2: 1-HR "ALL GRID CELLS"—Continued

5–10	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0
> 25	0	0	0	0	0	0	0	0

Number of Impacts from SubRegion 8

Impact (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN
2–5	2	0	0	0	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
> 25	0	0	0	0	0	0	0	0	0
	IA	MO	WI	IL	IN	MI	OH	KY	WV
2–5	0	2	0	3	4	0	3	19	5
5–10	0	0	0	0	1	0	0	1	0
10–15	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
> 25	0	0	0	0	0	0	0	0	0
	TN	MS	AL	GA	FL	SC	NC	VA	DC
2–5	28	0	40	N.A.	0	N.A.	N.A.	13	0
5–10	6	0	23	N.A.	0	N.A.	N.A.	18	0
10–15	1	0	5	N.A.	0	N.A.	N.A.	45	0
15–20	1	0	8	N.A.	0	N.A.	N.A.	47	0
20–25	0	0	2	N.A.	0	N.A.	N.A.	7	0
> 25	0	0	3	N.A.	0	N.A.	N.A.	0	0
	MD	DE	PA	NJ	NY	CT	RI	MA	VT
2–5	3	0	13	0	0	0	0	0	0
5–10	6	1	0	0	0	0	0	0	0
10–15	23	1	0	0	0	0	0	0	0
15–20	4	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
> 25	0	0	0	0	0	0	0	0	0
	NH	ME	blank	LM	LS	LH	LE	LC	LO
2–5	0	0	19	0	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
> 25	0	0	0	0	0	0	0	0	0

Number of Impacts from SubRegion 9

Impact (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN
2–5	N.A.	27	0	0	0	0	0	0	0
5–10	N.A.	0	0	0	0	0	0	0	0
10–15	N.A.	0	0	0	0	0	0	0	0
15–20	N.A.	0	0	0	0	0	0	0	0
20–25	N.A.	0	0	0	0	0	0	0	0
> 25	N.A.	1	0	0	0	0	0	0	0
	IA	MO	WI	IL	IN	MI	OH	KY	WV
2–5	0	0	0	2	5	0	5	22	5
5–10	0	2	0	2	4	1	3	24	0
10–15	0	0	0	0	5	0	0	6	0
15–20	0	0	0	0	0	0	0	6	0
20–25	0	0	0	0	0	0	0	4	0
> 25	0	0	0	0	0	0	0	19	0

TABLE II–11.—NUMBER OF IMPACTS IN EACH "DOWNWIND" STATE,[1 2] BY IMPACT CONCENTRATION RANGE FOR EACH SUBREGION—APPROACH 2: 1-HR "ALL GRID CELLS"—Continued

	TN	MS	AL	GA	FL	SC	NC	VA	DC
2–5	N.A.	N.A.	N.A.	N.A.	0	N.A.	N.A.	44	0
5–10	N.A.	N.A.	N.A.	N.A.	0	N.A.	N.A.	32	0
10–15	N.A.	N.A.	N.A.	N.A.	0	N.A.	N.A.	0	0
15–20	N.A.	N.A.	N.A.	N.A.	0	N.A.	N.A.	0	0
20–25	N.A.	N.A.	N.A.	N.A.	0	N.A.	N.A.	0	0
> 25	N.A.	N.A.	N.A.	N.A.	0	N.A.	N.A.	0	0
	MD	DE	PA	NJ	NY	CT	RI	MA	VT
2–5	28	2	0	0	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
> 25	0	0	0	0	0	0	0	0	0
	NH	ME	blank	LM	LS	LH	LE	LC	LO
2–5	0	0	.....	5	0	0	12	2	1
5–10	0	0	.....	17	0	0	11	0	0
10–15	0	0	.....	2	0	0	0	0	0
15–20	0	0	.....	0	0	0	0	0	0
20–25	0	0	.....	0	0	0	0	0	0
> 25	0	0	.....	0	0	0	0	0	0

Number of Impacts from SubRegion 10

Impact (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN
2–5	0	N.A.	0	0	0	0	0	0	0
5–10	0	N.A.	0	0	0	0	0	0	0
10–15	0	N.A.	0	0	0	0	0	0	0
15–20	0	N.A.	0	0	0	0	0	0	0
20–25	0	N.A.	0	0	0	0	0	0	0
> 25	0	N.A.	0	0	0	0	0	0	0
	IA	MO	WI	IL	IN	MI	OH	KY	WV
2–5	0	0	0	0	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
> 25	0	0	0	0	0	0	0	0	0
	TN	MS	AL	GA	FL	SC	NC	VA	DC
2–5	0	N.A.	N.A.	N.A.	N.A.	1	0	0	0
5–10	0	N.A.	N.A.	N.A.	N.A.	0	0	0	0
10–15	0	N.A.	N.A.	N.A.	N.A.	0	0	0	0
15–20	0	N.A.	N.A.	N.A.	N.A.	0	0	0	0
20–25	0	N.A.	N.A.	N.A.	N.A.	0	0	0	0
> 25	0	N.A.	N.A.	N.A.	N.A.	0	0	0	0
	MD	DE	PA	NJ	NY	CT	RI	MA	VT
2–5	0	0	0	0	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
> 25	0	0	0	0	0	0	0	0	0
	NH	ME	blank	LM	LS	LH	LE	LC	LO
2–5	0	0	.....	0	0	0	0	0	0
5–10	0	0	.....	0	0	0	0	0	0
10–15	0	0	.....	0	0	0	0	0	0
15–20	0	0	.....	0	0	0	0	0	0
20–25	0	0	.....	0	0	0	0	0	0
> 25	0	0	.....	0	0	0	0	0	0

TABLE II–11.—NUMBER OF IMPACTS IN EACH "DOWNWIND" STATE,[1 2] BY IMPACT CONCENTRATION RANGE FOR EACH SUBREGION—APPROACH 2: 1-HR "ALL GRID CELLS"—Continued

Number of Impacts from SubRegion 11

Impact (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN
2–5	N.A.	N.A.	N.A.	N.A.	0	0	0	0	0
5–10	N.A.	N.A.	N.A.	N.A.	0	0	0	0	0
10–15	N.A.	N.A.	N.A.	N.A.	0	0	0	0	0
15–20	N.A.	N.A.	N.A.	N.A.	0	0	0	0	0
20–25	N.A.	N.A.	N.A.	N.A.	0	0	0	0	0
> 25	N.A.	N.A.	N.A.	N.A.	0	0	0	0	0
	IA	MO	WI	IL	IN	MI	OH	KY	WV
2–5	0	0	0	1	0	11	0	0	0
5–10	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
> 25	0	0	0	0	0	0	0	0	0
	TN	MS	AL	GA	FL	SC	NC	VA	DC
2–5	0	0	7	0	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
> 25	0	0	0	0	0	0	0	0	0
	MD	DE	PA	NJ	NY	CT	RI	MA	VT
2–5	0	0	0	0	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
> 25	0	0	0	0	0	0	0	0	0
	NH	ME	blank	LM	LS	LH	LE	LC	LO
2–5	0	0	.....	38	0	0	0	0	0
5–10	0	0	.....	0	0	0	0	0	0
10–15	0	0	.....	0	0	0	0	0	0
15–20	0	0	.....	0	0	0	0	0	0
20–25	0	0	.....	0	0	0	0	0	0
> 25	0	0	.....	0	0	0	0	0	0

Number of Impacts from SubRegion 12

Impact (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN
2–5	0	0	0	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
5–10	0	0	0	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
10–15	0	0	0	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
15–20	0	0	0	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
20–25	0	0	0	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
> 25	0	0	0	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
	IA	MO	WI	IL	IN	MI	OH	KY	WV
2–5	N.A.	N.A.	N.A.	8	2	18	0	0	0
5–10	N.A.	N.A.	N.A.	0	0	19	0	0	0
10–15	N.A.	N.A.	N.A.	0	0	0	0	0	0
15–20	N.A.	N.A.	N.A.	0	0	0	0	0	0
20–25	N.A.	N.A.	N.A.	0	0	0	0	0	0
> 25	N.A.	N.A.	N.A.	0	0	0	0	0	0
	TN	MS	AL	GA	FL	SC	NC	VA	DC
2–5	0	0	0	0	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0

TABLE II–11.—NUMBER OF IMPACTS IN EACH "DOWNWIND" STATE,[1 2] BY IMPACT CONCENTRATION RANGE FOR EACH SUBREGION—APPROACH 2: 1-HR "ALL GRID CELLS"—Continued

> 25	0	0	0	0	0	0	0	0	0
	MD	DE	PA	NJ	NY	CT	RI	MA	VT
2–5	0	0	0	0	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
> 25	0	0	0	0	0	0	0	0	0
	NH	ME	blank	LM	LS	LH	LE	LC	LO
2–5	0	0	.....	207	0	0	0	0	0
5–10	0	0	.....	56	0	0	0	0	0
10–15	0	0	.....	0	0	0	0	0	0
15–20	0	0	.....	0	0	0	0	0	0
20–25	0	0	.....	0	0	0	0	0	

1. N.A. (Not Applicable) indicates that all or major portions of these States are part of the subregion and thus, are not considered as being "downwind".
2. Codes for the Great Lakes are: LM-Lake Michigan; LS-Lake Superior; LH-Lake Huron; LE-Lake Erie; LC-Lake St. Clair; LO-Lake Ontario.

TABLE II–12.—NUMBER OF IMPACTS IN EACH "DOWNWIND" STATE,[1] BY IMPACT CONCENTRATION RANGE FOR EACH SUBREGION—APPROACH 3: 8-HR "VIOLATING COUNTIES"

Number of Impacts from SubRegion 1

Impacts (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN		
2–5	0	0	0	0	0	0	0	0	0		
5–10	0	0	0	0	0	0	0	0	0		
10–15	0	0	0	0	0	0	0	0	0		
15–20	0	0	0	0	0	0	0	0	0		
20–25	0	0	0	0	0	0	0	0	0		
>25	0	0	0	0	0	0	0	0	0		
	IA	MO	WI	IL	IN	MI	OH	KY	WV		
2–5	N.A.	0	N.A.	N.A.	N.A.	9	25	3	5		
5–10	N.A.	0	N.A.	N.A.	N.A.	16	5	0	0		
10–15	N.A.	0	N.A.	N.A.	N.A.	1	0	0	0		
15–20	N.A.	0	N.A.	N.A.	N.A.	6	0	0	0		
20–25	N.A.	0	N.A.	N.A.	N.A.	5	0	0	0		
>25	N.A.	0	N.A.	N.A.	N.A.	1	0	0	0		
	TN	MS	AL	GA	FL	SC	NC	VA	DC		
2–5	0	0	0	0	0	0	0	0	0		
5–10	0	0	0	0	0	0	0	0	0		
10–15	0	0	0	0	0	0	0	0	0		
15–20	0	0	0	0	0	0	0	0	0		
20–25	0	0	0	0	0	0	0	0	0		
>25	0	0	0	0	0	0	0	0	0		
	MD	DE	PA	NJ	NY	CT	RI	MA	VT	NH	ME
2–5	1	0	14	1	22	0	0	0	0		
5–10	0	0	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0	0	0

Number of Impacts from SubRegion 2

Impacts (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN		
2–5	0	0	0	0	0	0	0	0	0		
5–10	0	0	0	0	0	0	0	0	0		
10–15	0	0	0	0	0	0	0	0	0		
15–20	0	0	0	0	0	0	0	0	0		
20–25	0	0	0	0	0	0	0	0	0		

TABLE II–12.—NUMBER OF IMPACTS IN EACH "DOWNWIND" STATE,[1] BY IMPACT CONCENTRATION RANGE FOR EACH SUBREGION—APPROACH 3: 8-HR "VIOLATING COUNTIES"—Continued

>25	0	0	0	0	0	0	0	0	0		
	IA	MO	WI	IL	IN	MI	OH	KY	WV		
2–5	0	0	0	0	N.A.	N.A.	N.A.	13	7		
5–10	0	0	0	0	N.A.	N.A.	N.A.	2	3		
10–15	0	0	0	0	N.A.	N.A.	N.A.	0	0		
15–20	0	0	0	0	N.A.	N.A.	N.A.	0	0		
20–25	0	0	0	0	N.A.	N.A.	N.A.	0	0		
>25	0	0	0	0	N.A.	N.A.	N.A.	0	0		
	TN	MS	AL	GA	FL	SC	NC	VA	DC		
2–5	1	0	0	0	0	0	10	9	1		
5–10	0	0	0	0	0	0	0	0	0		
10–15	0	0	0	0	0	0	0	0	0		
15–20	0	0	0	0	0	0	0	0	0		
20–25	0	0	0	0	0	0	0	0	0		
>25	0	0	0	0	0	0	0	0	0		
	MD	DE	PA	NJ	NY	CT	RI	MA	VT	NH	ME
2–5	36	9	42	45	25	19	1	5	0	8	8
5–10	2	0	26	0	4	0	0	0	0	0	0
10–15	0	0	6	0	4	0	0	0	0	0	0
15–20	0	0	2	0	0	0	0	0	0	0	0
20–25	0	0	5	0	0	0	0	0	0	0	0
>25	0	0	1	0	0	0	0	0	0	0	0

Number of Impacts from SubRegion 3

Impacts (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN		
2–5	0	0	0	0	0	0	0	0	0		
5–10	0	0	0	0	0	0	0	0	0		
10–15	0	0	0	0	0	0	0	0	0		
15–20	0	0	0	0	0	0	0	0	0		
20–25	0	0	0	0	0	0	0	0	0		
>25	0	0	0	0	0	0	0	0	0		
	IA	MO	WI	IL	IN	MI	OH	KY	WV		
2–5	0	0	0	0	0	0	7	0	0		
5–10	0	0	0	0	0	0	0	6	0		
10–15	0	0	0	0	0	0	0	0	0		
15–20	0	0	0	0	0	0	0	0	0		
20–25	0	0	0	0	0	0	0	0	0		
>25	0	0	0	0	0	0	0	0	0		
	TN	MS	AL	GA	FL	SC	NC	VA	DC		
2–5	0	0	0	0	0	0	00	26	0		
5–10	0	0	0	0	0	0	0	7	1		
10–15	0	0	0	0	0	0	0	0	0		
15–20	0	0	0	0	0	0	0	0	0		
20–25	0	0	0	0	0	0	0	0	0		
>25	0	0	0	0	0	0	0	0	0		
	MD	DE	PA	NJ	NY	CT	RI	MA	VT	NH	ME
2–5	28	N.A.	N.A.	22	N.A.	31	8	44	0	12	28
5–10	32	N.A.	N.A.	35	N.A.	38	1	25	0	1	0
10–15	7	N.A.	N.A.	35	N.A.	3	0	0	0	0	0
15–20	0	N.A.	N.A.	11	N.A.	0	0	0	0	0	0
20–25	0	N.A.	N.A.	0	N.A.	0	0	0	0	0	0
>25	0	N.A.	N.A.	0	N.A.	0	0	0	0	0	0

Number of Impacts from SubRegion 4

Impacts (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN		
2–5	0	0	0	0	0	0	0	0	0		
5–10	0	0	0	0	0	0	0	0	0		
10–15	0	0	0	0	0	0	0	0	0		

TABLE II–12.—NUMBER OF IMPACTS IN EACH "DOWNWIND" STATE,[1] BY IMPACT CONCENTRATION RANGE FOR EACH SUBREGION—APPROACH 3: 8-HR "VIOLATING COUNTIES"—Continued

15–20	0	0	0	0	0	0	0	0	0		
20–25	0	0	0	0	0	0	0	0	0		
>25	0	0	0	0	0	0	0	0	0		
	IA	MO	WI	IL	IN	MI	OH	KY	WV		
2–5	0	0	0	0	0	0	0	0	0		
5–10	0	0	0	0	0	0	0	0	0		
10–15	0	0	0	0	0	0	0	0	0		
15–20	0	0	0	0	0	0	0	0	0		
20–25	0	0	0	0	0	0	0	0	0		
>25	0	0	0	0	0	0	0	0	0		
	TN	MS	AL	GA	FL	SC	NC	VA	DC		
2–5	0	0	0	0	0	0	0	0	0		
5–10	0	0	0	0	0	0	0	0	0		
10–15	0	0	0	0	0	0	0	0	0		
15–20	0	0	0	0	0	0	0	0	0		
20–25	0	0	0	0	0	0	0	0	0		
>25	0	0	0	0	0	0	0	0	0		
	MD	DE	PA	NJ	NY	CT	RI	MA	VT	NH	ME
2–5	0	N.A.	N.A.	N.A.	N.A.	N.A.	0	0	0	2	0
5–10	0	N.A.	N.A.	N.A.	N.A.	N.A.	0	11	0	6	20
10–15	0	N.A.	N.A.	N.A.	N.A.	N.A.	0	16	0	6	6
15–20	0	N.A.	N.A.	N.A.	N.A.	N.A.	1	17	0	0	4
20–25	0	N.A.	N.A.	N.A.	N.A.	N.A.	0	11	0	0	0
>25	0	N.A.	N.A.	N.A.	N.A.	N.A.	8	17	0	0	0

Number of Impacts from SubRegion 5

Impacts (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN		
2–5	2	0	0	0	0	0	0	0	0		
5–10	0	0	0	0	0	0	0	0	0		
10–15	0	0	0	0	0	0	0	0	0		
15–20	0	0	0	0	0	0	0	0	0		
20–25	0	0	0	0	0	0	0	0	0		
>25	0	0	0	0	0	0	0	0	0		
	IA	MO	WI	IL	IN	MI	OH	KY	WV		
2–5	0	N.A.	0	N.A.	N.A.	21	57	N.A.	9		
5–10	0	N.A.	0	N.A.	N.A.	64	68	N.A.	3		
10–15	0	N.A.	0	N.A.	N.A.	2	10	N.A.	0		
15–20	0	N.A.	0	N.A.	N.A.	0	0	N.A.	0		
20–25	0	N.A.	0	N.A.	N.A.	0	0	N.A.	0		
>25	0	N.A.	0	N.A.	N.A.	0	0	N.A.	0		
	TN	MS	AL	GA	FL	SC	NC	VA	DC		
2–5	N.A.	0	2	3	0	0	1	6	0		
5–10	N.A.	0	4	1	0	0	0	0	0		
10–15	N.A.	0	0	0	0	0	0	0	0		
15–20	N.A.	0	0	0	0	0	0	0	0		
20–25	N.A.	0	0	0	0	0	0	0	0		
>25	N.A.	0	0	0	0	0	0	0	0		
	MD	DE	PA	NJ	NY	CT	RI	MA	VT	NH	ME
2–5	2	2	71	1	4	0	0	0	0	0	0
5–10	0	0	10	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0	0	0

Number of Impacts from SubRegion 6

Impacts (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN		
2–5	0	0	0	0	0	0	0	0	0		

TABLE II–12.—NUMBER OF IMPACTS IN EACH "DOWNWIND" STATE,[1] BY IMPACT CONCENTRATION RANGE FOR EACH SUBREGION—APPROACH 3: 8-HR "VIOLATING COUNTIES"—Continued

5–10	0	0	0	0	0	0	0	0	0		
10–15	0	0	0	0	0	0	0	0	0		
15–20	0	0	0	0	0	0	0	0	0		
20–25	0	0	0	0	0	0	0	0	0		
>25	0	0	0	0	0	0	0	0	0		
	IA	MO	WI	IL	IN	MI	OH	KY	WV		
2–5	0	0	0	7	N.A.	23	N.A.	N.A.	N.A.		
5–10	0	0	0	4	N.A.	20	N.A.	N.A.	N.A.		
10–15	0	0	0	0	N.A.	0	N.A.	N.A.	N.A.		
15–20	0	0	0	0	N.A.	0	N.A.	N.A.	N.A.		
20–25	0	0	0	0	N.A.	0	N.A.	N.A.	N.A.		
>25	0	0	0	0	N.A.	0	N.A.	N.A.	N.A.		
	TN	MS	AL	GA	FL	SC	NC	VA	DC		
2–5	N.A.	0	0	1	0	9	44	N.A.	0		
5–10	N.A.	0	0	0	0	4	29	N.A.	0		
10–15	N.A.	0	0	0	0	0	4	N.A.	0		
15–20	N.A.	0	0	0	0	0	0	N.A.	0		
20–25	N.A.	0	0	0	0	0	1	N.A.	0		
>25	N.A.	0	0	0	0	0	1	N.A.	0		
	MD	DE	PA	NJ	NY	CT	RI	MA	VT	NH	ME
2–5	42	19	72	44	15	44	1	22	0	0	0
5–10	14	14	53	18	3	2	0	0	0	0	0
10–15	0	2	40	0	0	0	0	0	0	0	0
15–20	0	0	10	0	0	0	0	0	0	0	0
20–25	0	0	7	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0	0	0

Number of Impacts from SubRegion 7

Impacts (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN		
2–5	0	0	0	0	0	0	0	0	0		
5–10	0	0	0	0	0	0	0	0	0		
10–15	0	0	0	0	0	0	0	0	0		
15–20	0	0	0	0	0	0	0	0	0		
20–25	0	0	0	0	0	0	0	0	0		
>25	0	0	0	0	0	0	0	0	0		
	IA	MO	WI	IL	IN	MI	OH	KY	WV		
2–5	0	0	0	0	0	0	6	0	N.A.		
5–10	0	0	0	0	0	0	1	0	N.A.		
10–15	0	0	0	0	0	0	0	0	N.A.		
15–20	0	0	0	0	0	0	0	0	N.A.		
20–25	0	0	0	0	0	0	0	0	N.A.		
>25	0	0	0	0	0	0	0	0	N.A.		
	TN	MS	AL	GA	FL	SC	NC	VA	DC		
2–5	0	0	0	0	0	1	N.A.	N.A.	N.A.		
5–10	0	0	0	0	0	0	N.A.	N.A.	N.A.		
10–15	0	0	0	0	0	0	N.A.	N.A.	N.A.		
15–20	0	0	0	0	0	0	N.A.	N.A.	N.A.		
20–25	0	0	0	0	0	0	N.A.	N.A.	N.A.		
>25	0	0	0	0	0	0	N.A.	N.A.	N.A.		
	MD	DE	PA	NJ	NY	CT	RI	MA	VT	NH	ME
2–5	N.A.	N.A.	57	14	39	36	4	18	0	0	3
5–10	N.A.	N.A.	66	45	16	16	3	7	0	0	0
10–15	N.A.	N.A.	30	17	4	1	0	0	0	0	0
15–20	N.A.	N.A.	4	11	0	0	0	0	0	0	0
20–25	N.A.	N.A.	0	8	0	0	0	0	0	0	0
>25	N.A.	N.A.	0	8	0	0	0	0	0	0	0

TABLE II–12.—NUMBER OF IMPACTS IN EACH "DOWNWIND" STATE,[1] BY IMPACT CONCENTRATION RANGE FOR EACH SUBREGION—APPROACH 3: 8-HR "VIOLATING COUNTIES"—Continued

Number of Impacts from SubRegion 8

Impacts (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN		
2–5	1	0	0	0	0	0	0	0	0		
5–10	0	0	0	0	0	0	0	0	0		
10–15	0	0	0	0	0	0	0	0	0		
15–20	0	0	0	0	0	0	0	0	0		
20–25	0	0	0	0	0	0	0	0	0		
>25	0	0	0	0	0	0	0	0	0		
	IA	MO	WI	IL	IN	MI	OH	KY	WV		
2–5	0	0	0	0	10	0	1	7	1		
5–10	0	0	0	0	0	0	0	0	0		
10–15	0	0	0	0	0	0	0	0	0		
15–20	0	0	0	0	0	0	0	0	0		
20–25	0	0	0	0	0	0	0	0	0		
>25	0	0	0	0	0	0	0	0	0		
	TN	MS	AL	GA	FL	SC	NC	VA	DC		
2–5	28	0	12	N.A.	0	N.A.	N.A.	10	0		
5–10	1	0	6	N.A.	0	N.A.	N.A.	12	0		
10–15	1	0	1	N.A.	0	N.A.	N.A.	6	0		
15–20	0	0	0	N.A.	0	N.A.	N.A.	1	0		
20–25	0	0	0	N.A.	0	N.A.	N.A.	0	0		
>25	0	0	0	N.A.	0	N.A.	N.A.	0	0		
	MD	DE	PA	NJ	NY	CT	RI	MA	VT	NH	ME
2–5	0	0	13	6	10	0	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0	0	0

Number of Impacts from SubRegion 9

Impacts (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN		
2–5	N.A.	2	5	1	0	0	0	0	0		
5–10	N.A.	0	0	0	0	0	0	0	0		
10–15	N.A.	0	0	0	0	0	0	0	0		
15–20	N.A.	0	0	0	0	0	0	0	0		
20–25	N.A.	0	0	0	0	0	0	0	0		
>25	N.A.	0	0	0	0	0	0	0	0		
	IA	MO	WI	IL	IN	MI	OH	KY	WV		
2–5	0	0	0	10	18	52	31	23	5		
5–10	0	2	0	9	11	0	2	40	0		
10–15	0	0	0	0	3	0	0	24	0		
15–20	0	0	0	0	0	0	0	2	0		
20–25	0	0	0	0	0	0	0	0	0		
>25	0	0	0	0	0	0	0	0	0		
	TN	MS	AL	GA	FL	SC	NC	VA	DC		
2–5	N.A.	N.A.	N.A.	N.A.	0	N.A.	N.A.	14	0		
5–10	N.A.	N.A.	N.A.	N.A.	0	N.A.	N.A.	5	0		
10–15	N.A.	N.A.	N.A.	N.A.	0	N.A.	N.A.	0	0		
15–20	N.A.	N.A.	N.A.	N.A.	0	N.A.	N.A.	0	0		
20–25	N.A.	N.A.	N.A.	N.A.	0	N.A.	N.A.	0	0		
>25	N.A.	N.A.	N.A.	N.A.	0	N.A.	N.A.	0	0		
	MD	DE	PA	NJ	NY	CT	RI	MA	VT	NH	ME
2–5	0	0	0	0	0	0	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0	0	0

TABLE II–12.—NUMBER OF IMPACTS IN EACH "DOWNWIND" STATE,[1] BY IMPACT CONCENTRATION RANGE FOR EACH SUBREGION—APPROACH 3: 8-HR "VIOLATING COUNTIES"—Continued

>25	0	0	0	0	0	0	0	0	0	0	0

Number of Impacts from SubRegion 10

Impacts (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN		
2–5	0	N.A.	14	0	0	0	0	0	0		
5–10	0	N.A.	4	0	0	0	0	0	0		
10–15	0	N.A.	0	0	0	0	0	0	0		
15–20	0	N.A.	0	0	0	0	0	0	0		
20–25	0	N.A.	0	0	0	0	0	0	0		
>25	0	N.A.	0	0	0	0	0	0	0		
	IA	MO	WI	IL	IN	MI	OH	KY	WV		
2–5	0	0	0	0	0	0	0	0	0		
5–10	0	0	0	0	0	0	0	0	0		
10–15	0	0	0	0	0	0	0	0	0		
15–20	0	0	0	0	0	0	0	0	0		
20–25	0	0	0	0	0	0	0	0	0		
>25	0	0	0	0	0	0	0	0	0		
	TN	MS	AL	GA	FL	SC	NC	VA	DC		
2–5	0	N.A.	N.A.	N.A.	N.A.	1	0	0	0		
5–10	0	N.A.	N.A.	N.A.	N.A.	0	0	0	0		
10–15	0	N.A.	N.A.	N.A.	N.A.	0	0	0	0		
15–20	0	N.A.	N.A.	N.A.	N.A.	0	0	0	0		
20–25	0	N.A.	N.A.	N.A.	N.A.	0	0	0	0		
>25	0	N.A.	N.A.	N.A.	N.A.	0	0	0	0		
	MD	DE	PA	NJ	NY	CT	RI	MA	VT	NH	ME
2–5	0	0	0	0	0	0	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0	0	0

Number of Impacts from SubRegion 11

Impacts (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN		
2–5	N.A.	N.A.	N.A.	N.A.	0	0	0	0	0		
5–10	N.A.	N.A.	N.A.	N.A.	0	0	0	0	0		
10–15	N.A.	N.A.	N.A.	N.A.	0	0	0	0	0		
15–20	N.A.	N.A.	N.A.	N.A.	0	0	0	0	0		
20–25	N.A.	N.A.	N.A.	N.A.	0	0	0	0	0		
>25	N.A.	N.A.	N.A.	N.A.	0	0	0	0	0		
	IA	MO	WI	IL	IN	MI	OH	KY	WV		
2–5	0	1	0	9	2	2	0	0	0		
5–10	0	0	0	0	0	0	0	0	0		
10–15	0	0	0	0	0	0	0	0	0		
15–20	0	0	0	0	0	0	0	0	0		
20–25	0	0	0	0	0	0	0	0	0		
>25	0	0	0	0	0	0	0	0	0		
	TN	MS	AL	GA	FL	SC	NC	VA	DC		
2–5	2	0	5	0	0	0	0	0	0		
5–10	0	0	0	0	0	0	0	0	0		
10–15	0	0	0	0	0	0	0	0	0		
15–20	0	0	0	0	0	0	0	0	0		
20–25	0	0	0	0	0	0	0	0	0		
>25	0	0	0	0	0	0	0	0	0		
	MD	DE	PA	NJ	NY	CT	RI	MA	VT	NH	ME
2–5	0	0	0	0	0	0	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0	0	0

TABLE II–12.—NUMBER OF IMPACTS IN EACH "DOWNWIND" STATE,[1] BY IMPACT CONCENTRATION RANGE FOR EACH SUBREGION—APPROACH 3: 8-HR "VIOLATING COUNTIES"—Continued

15–20	0	0	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0	0	0

Number of Impacts from SubRegion 12

Impacts (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN		
2–5	0	0	0	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.		
5–10	0	0	0	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.		
10–15	0	0	0	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.		
15–20	0	0	0	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.		
20–25	0	0	0	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.		
>25	0	0	0	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.		
	IA	MO	WI	IL	IN	MI	OH	KY	WV		
2–5	N.A.	N.A.	N.A.	14	7	52	0	0	0		
5–10	N.A.	N.A.	N.A.	0	0	0	0	0	0		
10–15	N.A.	N.A.	N.A.	0	0	0	0	0	0		
15–20	N.A.	N.A.	N.A.	0	0	0	0	0	0		
20–25	N.A.	N.A.	N.A.	0	0	0	0	0	0		
>25	N.A.	N.A.	N.A.	0	0	0	0	0	0		
	TN	MS	AL	GA	FL	SC	NC	VA	DC		
2–5	0	0	0	0	0	0	0	0	0		
5–10	0	0	0	0	0	0	0	0	0		
10–15	0	0	0	0	0	0	0	0	0		
15–20	0	0	0	0	0	0	0	0	0		
20–25	0	0	0	0	0	0	0	0	0		
>25	0	0	0	0	0	0	0	0	0		
	MD	DE	PA	NJ	NY	CT	RI	MA	VT	NH	ME
2–5	0	0	0	0	0	0	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0	0	0

[1] N.A. (Not Applicable) indicates that all or major portions of these States are part of the subregion and thus, are not considered as being "downwind".

TABLE II–13.—NUMBER OF IMPACTS IN EACH "DOWNWIND" STATE [1,2] BY IMPACT CONCENTRATION RANGE FOR EACH SUBREGION—APPROACH 4: 8–HR "ALL GRID CELLS"

Number of Impacts from SubRegion 1

Impacts (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN
2–5	0	0	0	0	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0
	IA	MO	WI	IL	IN	MI	OH	KY	WV
2–5	N.A.	0	N.A.	N.A.	N.A.	10	64	5	39
5–10	N.A.	0	N.A.	N.A.	N.A.	20	8	0	0
10–15	N.A.	0	N.A.	N.A.	N.A.	5	0	0	0
15–20	N.A.	0	N.A.	N.A.	N.A.	11	0	0	0
20–25	N.A.	0	N.A.	N.A.	N.A.	10	0	0	0
>25	N.A.	0	N.A.	N.A.	N.A.	1	0	0	0
	TN	MS	AL	GA	FL	SC	NC	VA	DC
2–5	0	0	0	0	0	0	0	1	0
5–10	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0

TABLE II–13.—NUMBER OF IMPACTS IN EACH "DOWNWIND" STATE[1,2] BY IMPACT CONCENTRATION RANGE FOR EACH SUBREGION—APPROACH 4: 8–HR "ALL GRID CELLS"—Continued

15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0
	MD	DE	PA	NJ	NY	CT	RI	MA	VT
2–5	1	0	20	3	36	0	1	0	0
5–10	0	0	0	01	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0
15–2	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0
	NH	ME	blank	LM	LS	LH	LE	LC	LO
2–5	0	0	.....	0	0	24	65	0	84
5–10	0	0	.....	0	0	13	25	3	4
10–15	0	0	.....	0	0	0	0	0	0
15–20	0	0	.....	0	0	0	0	0	0
20–25	0	0	.....	1	0	0	0	0	0
>25	0	0	.....	0	0	0	0	0	0

Number of Impacts from SubRegion 2

Impacts (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN
2–5	0	0	0	0	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0
	IA	MO	WI	IL	IN	MI	OH	KY	WV
2–5	0	0	0	0	N.A.	N.A.	N.A.	18	69
5–10	0	0	0	0	N.A.	N.A.	N.A.	2	39
10–15	0	0	0	0	N.A.	N.A.	N.A.	0	0
15–20	0	0	0	0	N.A.	N.A.	N.A.	0	0
20–25	0	0	0	0	N.A.	N.A.	N.A.	0	0
>25	0	0	0	0	N.A.	N.A.	N.A.	0	0
	TN	MS	AL	GA	FL	SC	NC	VA	DC
2–5	2	0	0	0	0	0	11	20	1
5–10	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0
	MD	DE	PA	NJ	NY	CT	RI	MA	VT
2–5	56	11	89	70	34	20	1	9	0
5–10	2	0	46	2	10	0	0	0	0
10–15	0	0	7	0	8	0	0	0	0
15–20	0	0	3	0	3	0	0	0	0
20–25	0	0	5	0	1	0	0	0	0
>25	0	0	1	0	0	0	0	0	0
	NH	ME	blank	LM	LS	LH	LE	LC	LO
2–5	9	12	.....	1	0	0	0	0	20
5–10	0	0	.....	0	0	0	0	0	32
10–15	0	0	.....	0	0	0	1	0	17
15–20	0	0	.....	0	0	0	10	0	1
20–25	0	0	.....	0	0	0	13	0	0
>25	0	0	.....	0	0	0	0	0	0

Number of Impacts from SubRegion 3

Impacts (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN
2–5	0	0	0	0	0	0	0	0	0

TABLE II–13.—NUMBER OF IMPACTS IN EACH "DOWNWIND" STATE[1,2] BY IMPACT CONCENTRATION RANGE FOR EACH SUBREGION—APPROACH 4: 8–HR "ALL GRID CELLS"—Continued

5–10	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0
	IA	MO	WI	IL	IN	MI	OH	KY	WV
2–5	0	0	0	0	0	0	10	0	25
5–10	0	0	0	0	0	0	6	0	19
10–15	0	0	0	0	0	0	0	0	7
15–20	0	0	0	0	0	0	0	0	1
20–25	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0
	TN	MS	AL	GA	FL	SC	NC	VA	DC
2–5	0	0	0	0	0	0	0	76	0
5–10	0	0	0	0	0	0	0	32	1
10–15	0	0	0	0	0	0	0	4	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0
	MD	DE	PA	NJ	NY	CT	RI	MA	VT
2–5	82	N.A.	N.A.	83	N.A.	34	16	96	0
5–10	44	N.A.	N.A.	51	N.A.	40	1	30	0
10–15	13	N.A.	N.A.	41	N.A.	4	0	0	0
15–20	1	N.A.	N.A.	12	N.A.	0	0	0	0
20–25	0	N.A.	N.A.	0	N.A.	0	0	0	0
>25	0	N.A.	N.A.	0	N.A.	0	0	0	0
	NH	ME	blank	LM	LS	LH	LE	LC	LO
2–5	21	84	.....	0	0	0	0	0	4
5–10	4	8	.....	0	0	0	0	0	6
10–15	0	0	.....	0	0	0	0	0	15
15–20	0	0	.....	0	0	0	0	0	35
20–25	0	0	.....	0	0	0	0	0	8
>25	0	0	.....	0	0	0	0	0	0

Number of Impacts from SubRegion 4

Impacts (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN
2–5	0	0	0	0	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0
	IA	MO	WI	IL	IN	MI	OH	KY	WV
2–5	0	0	0	0	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
25	0	0	0	0	0	0	0	0	0
	TN	MS	AL	GA	FL	SC	NC	VA	DC
2–5	0	0	0	0	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0
15–2	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0
	MD	DE	PA	NJ	NY	CT	RI	MA	VT
2–5	0	N.A.	N.A.	N.A.	N.A.	N.A.	0	0	0

TABLE II–13.—NUMBER OF IMPACTS IN EACH "DOWNWIND" STATE[1,2] BY IMPACT CONCENTRATION RANGE FOR EACH SUBREGION—APPROACH 4: 8–HR "ALL GRID CELLS"—Continued

5–10	0	N.A.	N.A.	N.A.	N.A.	N.A.	0	42	0
10–15	0	N.A.	N.A.	N.A.	N.A.	N.A.	0	36	0
15–20	0	N.A.	N.A.	N.A.	N.A.	N.A.	1	22	0
20–25	0	N.A.	N.A.	N.A.	N.A.	N.A.	4	15	0
>25	0	N.A.	N.A.	N.A.	N.A.	N.A.	12	17	0
	NH	ME	blank	LM	LS	LH	LE	LC	LO
2–5	3	0	.....	0	0	0	0	0	0
5–10	10	32	.....	0	0	0	0	0	0
10–15	11	42	.....	0	0	0	0	0	0
15–20	2	21	.....	0	0	0	0	0	0
20–25	0	0	.....	0	0	0	0	0	0
>25	0	0	.....	0	0	0	0	0	0

Number of Impacts from SubRegion 5

Impacts (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN
2–5	3	0	0	0	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0
	IA	MO	WI	IL	IN	MI	OH	KY	WV
2–5	0	N.A.	0	N.A.	N.A.	26	122	N.A.	101
5–10	0	N.A.	0	N.A.	N.A.	89	132	N.A.	22
10–15	0	N.A.	0	N.A.	N.A.	7	16	N.A.	0
15–20	0	N.A.	0	N.A.	N.A.	0	0	N.A.	0
20–25	0	N.A.	0	N.A.	N.A.	0	0	N.A.	0
>25	0	N.A.	0	N.A.	N.A.	0	0	N.A.	0
	TN	MS	AL	GA	FL	SC	NC	VA	DC
2–5	N.A.	1	8	9	0	0	2	19	0
5–10	N.A.	0	8	2	0	0	0	0	0
10–15	N.A.	0	0	0	0	0	0	0	0
15–20	N.A.	0	0	0	0	0	0	0	0
20–25	N.A.	0	0	0	0	0	0	0	0
>25	N.A.	0	0	0	0	0	0	0	0
	MD	DE	PA	NJ	NY	CT	RI	MA	VT
2–5	20	3	163	4	12	0	0	0	0
5–10	5	0	24	0	1	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0
	NH	ME	blank	LM	LS	LH	LE	LC	LO
2–5	0	0	.....	75	0	32	63	0	54
5–10	0	0	.....	86	0	9	31	3	0
10–15	0	0	.....	17	0	0	0	0	0
15–20	0	0	.....	0	0	0	0	0	0
20–25	0	0	.....	0	0	0	0	0	0
>25	0	0	.....	0	0	0	0	0	0

Number of Impacts from SubRegion 6

Impacts (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN
2–5	0	0	0	0	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0

TABLE II–13.—NUMBER OF IMPACTS IN EACH "DOWNWIND" STATE[1,2] BY IMPACT CONCENTRATION RANGE FOR EACH SUBREGION—APPROACH 4: 8–HR "ALL GRID CELLS"—Continued

	IA	MO	WI	IL	IN	MI	OH	KY	WV
2–5	0	0	0	7	N.A.	31	N.A.	N.A.	N.A.
5–10	0	0	0	4	N.A.	31	N.A.	N.A.	N.A.
10–15	0	0	0	0	N.A.	1	N.A.	N.A.	N.A.
15–20	0	0	0	0	N.A.	0	N.A.	N.A.	N.A.
20–25	0	0	0	0	N.A.	0	N.A.	N.A.	N.A.
>25	0	0	0	0	N.A.	0	N.A.	N.A.	N.A.
	TN	MS	AL	GA	FL	SC	NC	VA	DC
2–5	N.A.	0	0	1	0	20	70	N.A.	0
5–10	N.A.	0	0	0	0	9	47	N.A.	0
10–15	N.A.	0	0	0	0	0	8	N.A.	0
15–20	N.A.	0	0	0	0	0	0	N.A.	0
20–25	N.A.	0	0	0	0	0	1	N.A.	0
>25	N.A.	0	0	0	0	0	1	N.A.	0
	MD	DE	PA	NJ	NY	CT	RI	MA	VT
2–5	95	39	92	77	21	47	1	22	0
5–10	46	15	104	20	3	2	0	0	0
10–15	15	2	94	0	0	0	0	0	0
15–20	6	0	23	0	0	0	0	0	0
20–25	0	0	13	0	0	0	0	0	0
>25	0	0	1	0	0	0	0	0	0
	NH	ME	blank	LM	LS	LH	LE	LC	LO
2–5	0	0	.....	52	0	27	51	0	40
5–10	0	0	.....	84	0	12	12	0	1
10–15	0	0	.....	0	0	0	0	0	0
15–20	0	0	.....	0	0	0	0	0	0
20–25	0	0	.....	0	0	0	0	0	0
>25	0	0	.....	0	0	0	0	0	0

Number of Impacts from SubRegion 7

Impacts (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN
2–5	0	0	0	0	0	0	0	0	0
5–1	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0
	IA	MO	WI	IL	IN	MI	OH	KY	WV
2–5	0	0	0	0	0	0	9	0	N.A.
5–10	0	0	0	0	0	0	1	0	N.A.
10–15	0	0	0	0	0	0	0	0	N.A.
15–20	0	0	0	0	0	0	0	0	N.A.
20–25	0	0	0	0	0	0	0	0	N.A.
>25	0	0	0	0	0	0	0	0	N.A.
	TN	MS	AL	GA	FL	SC	NC	VA	DC
2–5	0	0	0	0	0	2	N.A.	N.A.	N.A.
5–10	0	0	0	0	0	0	N.A.	N.A.	N.A.
10–15	0	0	0	0	0	0	N.A.	N.A.	N.A.
15–20	0	0	0	0	0	0	N.A.	N.A.	N.A.
20–25	0	0	0	0	0	0	N.A.	N.A.	N.A.
>25	0	0	0	0	0	0	N.A.	N.A.	N.A.
	MD	DE	PA	NJ	NY	CT	RI	MA	VT
2–5	N.A.	N.A.	117	18	44	37	7	39	0
5–10	N.A.	N.A.	120	59	20	17	4	12	0
10–15	N.A.	N.A.	36	32	18	2	0	0	0
15–20	N.A.	N.A.	4	31	0	0	0	0	0
20–25	N.A.	N.A.	0	12	0	0	0	0	0
>25	N.A.	N.A.	0	35	0	0	0	0	0

TABLE II–13.—NUMBER OF IMPACTS IN EACH "DOWNWIND" STATE[1,2] BY IMPACT CONCENTRATION RANGE FOR EACH SUBREGION—APPROACH 4: 8–HR "ALL GRID CELLS"—Continued

	NH	ME	blank	LM	LS	LH	LE	LC	LO
2–5	5	37		0	0	0	0	0	0
5–10	0	0		0	0	0	0	0	0
10–15	0	0		0	0	0	0	0	0
15–20	0	0		0	0	0	0	0	0
20–25	0	0		0	0	0	0	0	0
>25	0	0		0	0	0	0	0	0

Number of Impacts from SubRegion 8

Impacts (ppb)	AR	LA	TX	OK	KS	NE	SD	ND	MN
2–5	1	0	0	0	0	0	0	0	0
5–1	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0
	IA	MO	WI	IL	IN	MI	OH	KY	WV
2–5	0	0	0	0	15	0	1	24	1
5–10	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0
	TN	MS	AL	GA	FL	SC	NC	VA	DC
2–5	53	0	46	N.A.	0	N.A.	N.A.	27	0
5–10	9	0	27	N.A.	0	N.A.	N.A.	79	0
10–15	1	0	2	N.A.	0	N.A.	N.A.	38	0
15–20	0	0	0	N.A.	0	N.A.	N.A.	21	0
20–25	0	0	0	N.A.	0	N.A.	N.A.	6	0
>25	0	0	0	N.A.	0	N.A.	N.A.	0	0
	MD	DE	PA	NJ	NY	CT	RI	MA	VT
2–5	31	8	32	26	0	0	0	0	0
5–10	18	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0
	NH	ME	blank	LM	LS	LH	LE	LC	LO
2–5	0	0		0	0	0	0	0	0
5–10	0	0		0	0	0	0	0	0
10–15	0	0		0	0	0	0	0	0
15–20	0	0		0	0	0	0	0	0
20–25	0	0		0	0	0	0	0	0
>25	0	0		0	0	0	0	0	0

Number of Impacts from SubRegion 9

Impacts (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN
2–5	N.A.	0	3	5	0	0	0	0	0
5–10	N.A.	0	0	0	0	0	0	0	0
10–15	N.A.	0	0	0	0	0	0	0	0
15–20	N.A.	0	0	0	0	0	0	0	0
20–25	N.A.	0	0	0	0	0	0	0	0
>25	N.A.	0	0	0	0	0	0	0	0
	IA	MO	WI	IL	IN	MI	OH	KY	WV
2–5	0	0	0	10	22	70	67	73	26
5–10	0	2	0	21	38	0	2	116	0
10–15	0	0	0	1	9	0	0	57	0
15–20	0	0	0	0	0	0	0	8	0
20–25	0	0	0	0	0	0	0	2	0

TABLE II–13.—NUMBER OF IMPACTS IN EACH "DOWNWIND" STATE[1,2] BY IMPACT CONCENTRATION RANGE FOR EACH SUBREGION—APPROACH 4: 8–HR "ALL GRID CELLS"—Continued

>25	0	0	0	0	0	0	0	2	0
	TN	MS	AL	GA	FL	SC	NC	VA	DC
2–5	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	47	0
5–10	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	18	0
10–15	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	0	0
15–20	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	0	0
20–25	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	0	0
>25	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	0	0
	MD	DE	PA	NJ	NY	CT	RI	MA	VT
2–5	6	0	9	0	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0
10–15	0	0	0	1	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0
	NH	ME	blank	LM	LS	LH	LE	LC	LO
2–5	0	0	0	59	0	0	6	3	0
5–10	0	0	0	0	0	0	0	0	0
10–15	0	0	0	1	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0

Number of Impacts from SubRegion 10

Impacts (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN
2–5	0	N.A.	3	14	0	0	0	0	0
5–10	0	N.A.	14	4	0	0	0	0	0
10–15	0	N.A.	4	0	0	0	0	0	0
15–20	0	N.A.	0	0	0	0	0	0	0
20–25	0	N.A.	0	0	0	0	0	0	0
>25	0	N.A.	0	0	0	0	0	0	0
	IA	MO	WI	IL	IN	MI	OH	KY	WV
2–5	0	0	0	0	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0
10–15	0	0	0	1	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0
	TN	MS	AL	GA	FL	SC	NC	VA	DC
2–5	4	N.A.	N.A.	N.A.	N.A.	6	0	0	0
5–10	0	N.A.	N.A.	N.A.	N.A.	0	0	0	0
10–15	0	N.A.	N.A.	N.A.	N.A.	0	0	0	0
15–20	0	N.A.	N.A.	N.A.	N.A.	0	0	0	0
20–25	0	N.A.	N.A.	N.A.	N.A.	0	0	0	0
>25	0	N.A.	N.A.	N.A.	N.A.	0	0	0	0
	MD	DE	PA	NJ	NY	CT	RI	MA	VT
2–5	0	0	0	0	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0
10–15	0	0	0	1	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0
	NH	ME	blank	LM	LS	LH	LE	LC	LO
2–5	0	0	0	0	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0
10–15	0	0	0	1	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0

TABLE II–13.—NUMBER OF IMPACTS IN EACH "DOWNWIND" STATE[1,2] BY IMPACT CONCENTRATION RANGE FOR EACH SUBREGION—APPROACH 4: 8–HR "ALL GRID CELLS"—Continued

>25	0	0	0	0	0	0	0	0	0

Number of Impacts from SubRegion 11

Impacts (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN
2–5	N.A.	N.A.	N.A.	N.A.	0	0	0	0	0
5–10	N.A.	N.A.	N.A.	N.A.	0	0	0	0	0
10–15	N.A.	N.A.	N.A.	N.A.	0	0	0	0	0
15–20	N.A.	N.A.	N.A.	N.A.	0	0	0	0	0
20–25	N.A.	N.A.	N.A.	N.A.	0	0	0	0	0
>25	N.A.	N.A.	N.A.	N.A.	0	0	0	0	0
	IA	MO	WI	IL	IN	MI	OH	KY	WV
2–5	0	1	0	15	2	2	0	6	0
5–10	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0
	TN	MS	AL	GA	FL	SC	NC	VA	DC
2–5	6	0	5	0	0	0	0	0	0
5–10	0	2	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
≤ 25	0	0	0	0	0	0	0	0	0
	MD	DE	PA	NJ	NY	CT	RI	MA	VT
2–5	0	0	0	0	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0
	NH	ME	blank	LM	LS	LH	LE	LC	LO
2–5	0	0	.....	0	0	0	0	0	0
5–10	0	0	.....	0	0	0	0	0	0
10–15	0	0	.....	0	0	0	0	0	0
15–20	0	0	.....	0	0	0	0	0	0
20–25	0	0	.....	0	0	0	0	0	0
>25	0	0	.....	0	0	0	0	0	0

Number of Impacts from SubRegion 12

Impacts (ppb):	AR	LA	TX	OK	KS	NE	SD	ND	MN
2–5	0	0	0	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
5–10	0	0	0	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
10–15	0	0	0	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
15–20	0	0	0	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
20–25	0	0	0	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
>25	0	0	0	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
	IA	MO	WI	IL	IN	MI	OH	KY	WV
2–5	N.A.	N.A.	N.A.	17	7	74	0	6	0
5–10	N.A.	N.A.	N.A.	0	0	0	0	0	0
10–15	N.A.	N.A.	N.A.	0	0	0	0	0	0
15–20	N.A.	N.A.	N.A.	0	0	0	0	0	0
20–25	N.A.	N.A.	N.A.	0	0	0	0	0	0
>25	N.A.	N.A.	N.A.	0	0	0	0	0	0
	TN	MS	AL	GA	FL	SC	NC	VA	DC
2–5	0	0	0	0	0	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0

TABLE II–13.—NUMBER OF IMPACTS IN EACH "DOWNWIND" STATE[1,2] BY IMPACT CONCENTRATION RANGE FOR EACH SUBREGION—APPROACH 4: 8–HR "ALL GRID CELLS"—Continued

15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0
	MD	DE	PA	NJ	NY	CT	RI	MA	VT
2–5	0	0	0	0	1	0	0	0	0
5–10	0	0	0	0	0	0	0	0	0
10–15	0	0	0	0	0	0	0	0	0
15–20	0	0	0	0	0	0	0	0	0
20–25	0	0	0	0	0	0	0	0	0
>25	0	0	0	0	0	0	0	0	0
	NH	ME	blank	LM	LS	LH	LE	LC	LO
2–5	0	0	.....	125	0	0	6	0	0
5–10	0	0	.....	0	0	0	0	0	0
10–15	0	0	.....	0	0	0	0	0	0
15–20	0	0	.....	0	0	0	0	0	0
20–25	0	0	.....	0	0	0	0	0	0
>25	0	0	.....	0	0	0	0	0	0

[1] N.A. (Not Applicable) indicates that all or major portions of these States are part of the subregion and thus, are not considered as being "downwind".

[2] Codes for the Great Lakes are: LM—Lake Michigan; LS—Lake Superior; LH—Lake Huron; LE—Lake Erie; LC—Lake St Clair; LO—Lake Ontario.

TABLE II–14a.—PERCENT OF 2007 STATE TOTAL NO_x EMISSIONS BY SUBREGION

	Percent of State Emissions in Each Subregion												
	SUBR–1	SUBR–2	SUBR–3	SUBR–4	SUBR–5	SUBR–6	SUBR–7	SUBR–8	SUBR–9	SUBR–10	SUBR–11	SUBR–12	OTHER
TX	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	100.00	.....	.....
OH	.....	33.30	.....	.....	.....	66.70	.....	.....	.....	.....	.....	.....	.....
PA	.....	0.30	79.05	20.61	.....	0.04	.....	.....	.....	.....	.....	.....	.....
IL	49.45	.....	.....	.....	50.53	.....	.....	.....	.....	.....	.....	0.02	.....
FL	.....	.....	.....	.....	.....	.....	.....	.....	.....	100.00	.....	.....	.....
LA	.....	.....	.....	.....	.....	.....	.....	.....	.....	40.99	59.01	.....	.....
MI	8.68	83.32	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	8.00
IN	28.70	7.03	.....	.....	41.68	22.59	.....	.....	.....	.....	.....	.....	.....
TN	.....	.....	.....	.....	16.71	10.09	.....	0.63	72.58	.....	.....	.....	.....
GA	.....	.....	.....	.....	.....	.....	.....	6.47	74.19	19.34	.....	.....	.....
NY	.....	.....	31.09	49.56	.....	.....	.....	.....	.....	.....	.....	.....	19.35
KY	.....	.....	.....	.....	39.00	61.00	.....	.....	.....	.....	.....	.....	.....
AL	.....	.....	.....	.....	.....	.....	.....	.....	73.40	26.60	.....	.....	.....
NC	.....	.....	.....	.....	.....	0.74	13.14	78.04	8.08	.....	.....	.....	.....
VA	.....	.....	.....	.....	.....	7.72	92.20	.....	.....	.....	.....	.....	0.08
WV	.....	.....	3.70	.....	.....	74.64	21.66	.....	.....	.....	.....	.....	.....
NJ	.....	.....	0.81	98.98	.....	.....	0.21	.....	.....	.....	.....	.....	.....
MO	.....	.....	.....	.....	43.60	.....	.....	.....	0.61	.....	.....	55.78	.....
OK	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	86.99	13.01	.....
KS	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	100.00	.....
SC	.....	.....	.....	.....	.....	.....	.....	93.12	6.44	0.43	.....	.....	.....
MS	.....	.....	.....	.....	.....	.....	.....	.....	49.69	45.56	4.75	.....	.....
WI	87.53	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	6.02	6.45
MD	.....	.....	3.11	0.48	.....	.....	96.12	.....	.....	.....	.....	.....	0.29
MN	0.30	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	99.70	.....
IA	22.97	.....	.....	.....	2.73	.....	.....	.....	.....	.....	.....	74.30	.....
MA	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	100.00
AR	.....	.....	.....	.....	0.40	.....	.....	.....	10.54	.....	85.36	3.71	.....
NE	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	100.00	.....
CT	.....	.....	.....	96.60	.....	.....	.....	.....	.....	.....	.....	.....	3.40
ME	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	100.00
NH	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	100.00
DE	.....	.....	33.57	23.89	.....	.....	42.74	.....	.....	.....	.....	.....	.....
SD	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	100.00	.....
RI	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	100.00
VT	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	100.00
ND	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	100.00	.....
DC	.....	.....	.....	.....	.....	.....	100.00	.....	.....	.....	.....	.....	.....

TABLE II–14b.—PERCENT 2007 BASELINE NO_X Emissions by Subregion, by State

Subregion/State	Percent of subregion total NO_X
1:	
Illinois	39.50
Indiana	19.49
Iowa	5.63
Michigan	6.39
Minnesota	0.07
Wisconsin	28.90
Percent of Domain Total	6.21
2:	
Indiana	4.69
Michigan	60.19
Ohio	27.60
Pennsylvania	0.23
Canada	7.29
Percent of Domain Total	6.34
3:	
Delaware	2.27
Maryland	0.92
New Jersey	0.34
New York	18.62
Pennsylvania	66.51
West Virginia	1.69
Canada	9.63
Percent of Domain Total	5.91
4:	
Connecticut	12.15
Delaware	1.55
Maryland	0.14
New Jersey	40.56
New York	28.79
Pennsylvania	16.81
Percent of Domain Total	6.09
5:	
Arkansas	0.08
Illinois	34.35
Indiana	24.09
Iowa	0.57
Kentucky	17.42
Missouri	14.04
Tennessee	9.45
Percent of Domain Total	7.30
6:	
Illinois	0.00
Indiana	10.45
Kentucky	21.80
North Carolina	0.25
Ohio	38.39
Pennsylvania	0.02
Tennessee	4.57
Virginia	2.39
West Virginia	22.12
Percent of Domain Total	9.12
7:	
Delaware	3.06
District of Col	2.01
Maryland	30.20
New Jersey	0.09
North Carolina	7.34
Pennsylvania	0.00
Virginia	46.78
West Virginia	10.50
Percent of Domain Total	5.57
8:	
Georgia	5.05
North Carolina	51.88
Pennsylvania	0.00
South Carolina	42.52
Tennessee	0.55
Percent of Domain Total	4.69
9:	
Alabama	24.11
Arkansas	1.55
Georgia	28.23
Louisiana	0.00
Mississippi	10.71
Missouri	0.15
North Carolina	2.62
South Carolina	1.44
Tennessee	31.20
Percent of Domain Total	9.61
10:	
Alabama	8.90
Florida	50.02
Georgia	7.50
Louisiana	19.91
Mississippi	10.00
South Carolina	0.10
Oil Shore	3.57
Percent of Domain Total	9.43
11:	
Arkansas	7.96
Louisiana	17.88
Mississippi	0.65
Oklahoma	13.09
Texas	57.47
Oil Shore	2.95
Percent of Domain Total	15.11
12:	
Arkansas	0.67
Illinois	0.02
Iowa	14.52
Kansas	27.99
Minnesota	19.95
Missouri	16.82
Nebraska	9.96
North Dakota	1.47
Oklahoma	3.79
South Dakota	3.22
Wisconsin	1.58
Percent of Domain Total	17.80

Table II–15.—Estimate of Local Control Cost Avoided by OTAG Strategy [1, 2]

23–Jurisdictions VOC Emission Reductions Avoided: 513,000 (tpy)
Low-end Local VOC Removal Cost per ton: $2,400 (Average cost of local VOC measures selected in RIA)
High-end Local VOC Removal Cost per ton: $10,000 (Integrated Implementation Plan limit)
23–Jurisdictions NO_X Emission Reductions Avoided: 767,000 (tpy)
Low-end Local NO_X Removal Cost per ton: $2,200 (Average cost of local VOC measures selected in RIA)
High-end Local NO_X Removal Cost per ton: $10,000 (Integrated Implementation Plan limit)
23—Jurisdiction Local VOC Removal Cost Avoided (million 1990$): Low-end $1,231; High-end $5,131
23—Jurisdiction Local NO_X Removal Cost Avoided (million 1990$): Low-end $1,687; High-end $7,671
23—Jurisdiction Total Removal Cost Avoided (million 1990$): Low-end $2,918; High-end $12,802

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[1] The emission reductions avoided are assessed assuming a slightly different regional NO_X strategy than the strategy analyzed in this notice. However, the results here are nonetheless illustrative of the potential savings associated with a similar regional NO_X strategy.

[2] To inflate cost estimates, use CPI inflator: 1990 to 1995=1.17; 1990 to 1996=1.20

Appendix D—Figures for Section II.

Weight of Evidence Determination of Significant Contribution

Figure II–1. OTAG Modeling Domain.

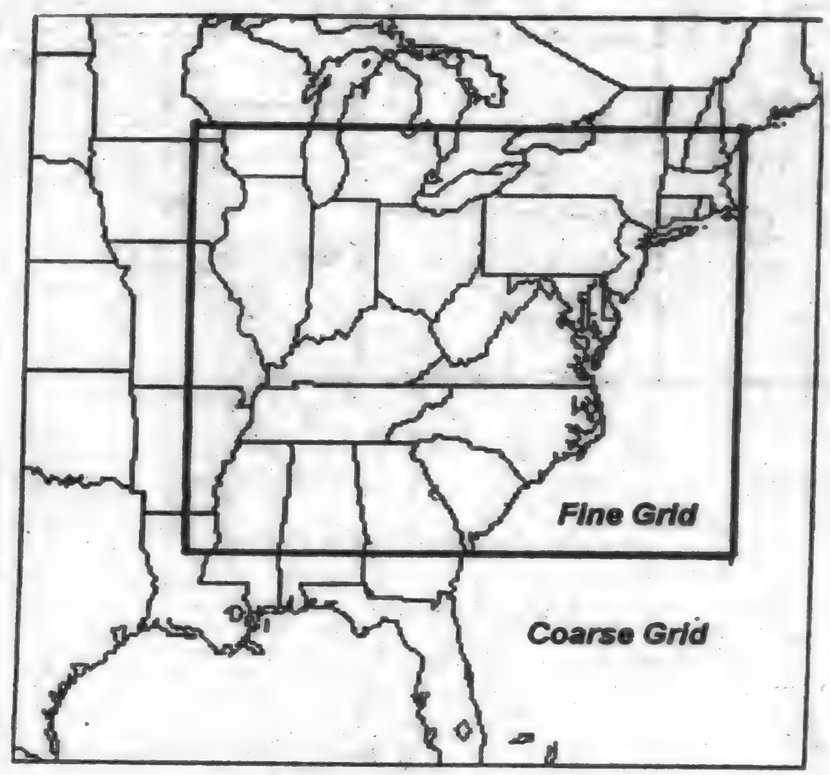


Figure II–2.—Location of Subregions.

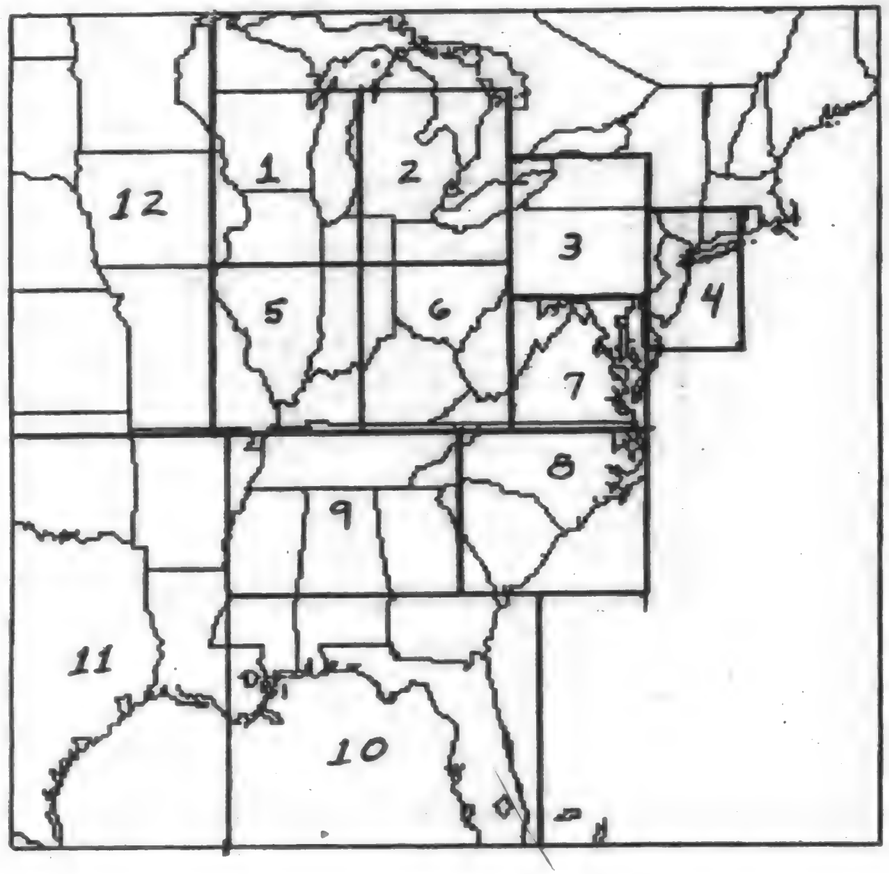


Figure II–3.—OTAG Round 3 Geographic Zones (shaded areas are 3 "major" nonattainment areas).

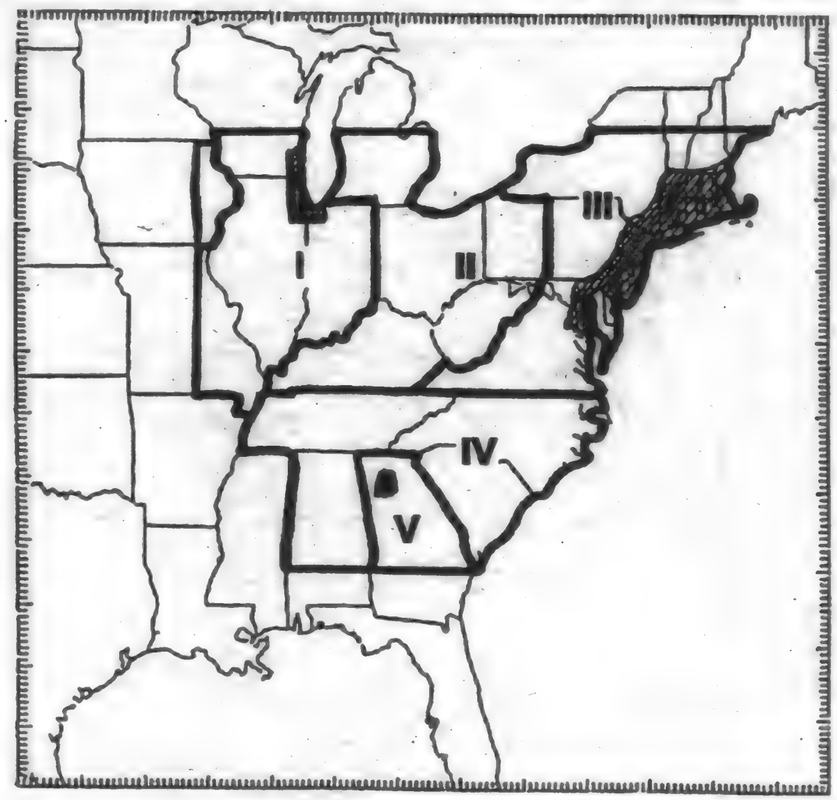
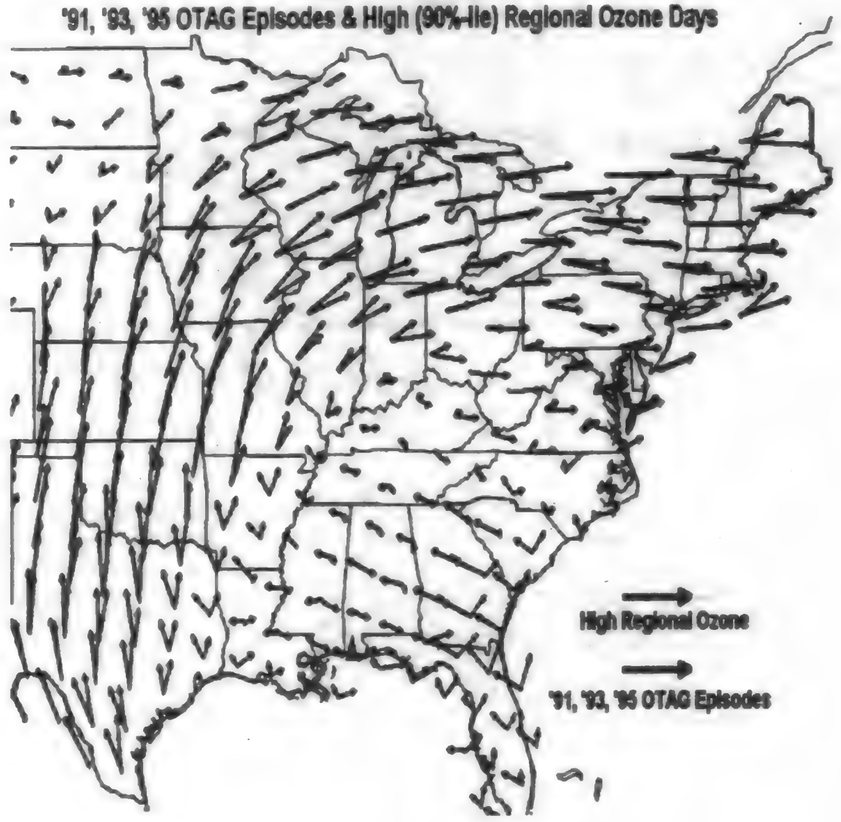


Figure II–4.—Transport Wind Vectors During Regionally High Ozone Days.



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Appendix E—Control Strategies Contained in Model Run 5 of the Ozone Transport Assessment Group

Utility

Mandated CAA controls

- Acid Rain Controls (Phase 1 & 2 for all boiler types)
- RACT & NSR in nonattainment areas (NAAs) without waivers

Additional controls

- OTC NO_X MOU (Phase II)
- 85 percent reduction from 1990 rate or rate-base of 0.15 lb/mmbtu for all units, whichever is less stringent

Non-Utility Point Sources

Mandated CAA controls

- RACT at major sources in NAAs without waivers
- 250 Ton PSD and NSPS (not modeled)
- NSR in NAAs without waivers (not modeled)
- CTG & Non-CTG RACT at major sources in NAAs & throughout OTC
- New Source LAER & Offsets for NAAs (not modeled)
- "9 percent by 99" ROP Measures (VOC or NO_X) for serious and above areas

Additional controls

- NO_X Controls based on cost per ton of reduction (< $1,000 per ton)—primarily LNB technology

Nonroad Mobile

Mandated CAA controls

- Federal Phase II Small Engine Standards
- Federal Marine Engine Standards
- Federal HDV (>=50 hp) Standards—Phase 1
- Federal RFG II (statutory and opt-in areas)
- 9.0 RVP maximum elsewhere in OTAG
- "9 percent by 99" ROP Measures(VOC or NO_X) for serious and above areas

Additional controls

- Federal Locomotive Standards (including rebuilds)
- HD Engine 4gm Standard

Highway Mobile

Mandated CAA controls

- Tier 1 light-duty and heavy-duty Standards
- Federal reformulated gas (RFG II) (statutory and opt-in areas)
- High Enhanced I/M (serious and above areas)
- Low Enhanced I/M for rest of OTR
- Basic I/M (mandated areas)
- Clean Fuel Fleets (mandated areas)
- 9.0 RVP maximum elsewhere in OTAG
- On board vapor recovery

Additional controls

- National LEV
- Heavy Duty Vehicle 2 gm Standard
- Federal Test Procedure (FTP) revisions
- "9 percent by 99" ROP Measures (if substitute for VOC) in serious and above areas

Other Area Source Controls

Mandated CAA controls

- Two Phases of Consumer & Commercial Products & One Phase of Architectural Coatings
- Stage 1 & 2 Petroleum Distribution Controls—NAAs
- Autobody, Degreasing & Dry Cleaning Controls in NAAs
- "9 percent by 99" ROP Measures (VOC or NO_X) (serious and above areas)

[FR Doc. 97–28932 Filed 11–6–97; 8:45 am]

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federal register

Friday
November 7, 1997

Part III

Pension Benefit Guaranty Corporation

29 CFR Parts 4001, 4006, 4022, 4041, 4050

Termination of Single-Employer Plans; Final Rule

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4001, 4006, 4022, 4041, 4050

RIN 1212–AA82

Termination of Single-Employer Plans

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation is amending its termination regulation to extend deadlines, to otherwise simplify the standard termination process, and to ensure that participants receive information on state guaranty association coverage of annuities.

EFFECTIVE DATE: January 1, 1998. This rule is applicable to terminations for which the first notice of intent to terminate is issued on or after January 1, 1998. Certain provisions of the rule that provide increased flexibility during the termination process apply to pending terminations, as explained under Applicability of Final Rule in **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, or Catherine B. Klion, Attorney, Office of the General Counsel, PBGC, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024 (800–877–8339 for TTY and TDD).

SUPPLEMENTARY INFORMATION:

Background

A single-employer plan covered by the PBGC's insurance program may be voluntarily terminated only in a standard or distress termination. The rules governing voluntary terminations are in section 4041 of the Employee Retirement Income Security Act of 1974 and part 4041 of the PBGC's regulations.

On March 14, 1997, the PBGC published a proposed rule (62 FR 12508) revising and simplifying the standard termination process and making a limited number of conforming changes to the distress termination and premium regulations, as well as conforming and simplifying changes to the missing participants regulation. The proposal was developed after conducting focus groups with plan practitioners and took into account participant concerns and the PBGC's experience.

The proposed regulation extended certain standard termination deadlines—most significantly the deadlines for filing the standard termination notice (Form 500) and for distributing benefits after receiving a determination letter from the Internal Revenue Service (IRS)—and gave the PBGC discretion to extend these and other deadlines.

The final regulation generally follows the proposed regulation. The commenters commended the PBGC for extending deadlines, but raised some technical and other issues. The PBGC has carefully considered all comments. The following includes a discussion of the major comments and the significant changes from the proposed regulation.

Notice of Intent To Terminate

One commenter suggested that the notice of intent to terminate include a copy of the summary plan description. Plan administrators are required to provide participants and beneficiaries with the summary plan description periodically and upon request pursuant to section 104(b) of ERISA. The final regulation requires plan administrators to include in the notice of intent to terminate a statement as to how a participant or beneficiary can get the summary plan description under section 104(b).

Another commenter suggested that the PBGC specify different information requirements for the notice in the case of affected parties discovered long after the termination process is complete. The PBGC has not adopted the suggestion because tailoring the information requirements depending on the passage of time would be unnecessarily complicated.

The PBGC received a number of inquiries, including a comment on the proposed rule, about the relationship between the notice of intent to terminate and section 204(h) of ERISA, and about the proposed requirement that the notice of intent to terminate address whether accruals have been or will be frozen.

The final regulation, like the proposed regulation, requires that the notice of intent to terminate make clear when, and under what circumstances, accruals cease. The notice of intent to terminate, in and of itself, does not constitute a section 204(h) notice. If the termination is successfully completed, the plan will be deemed to satisfy section 204(h) not later than the termination date, and therefore there will be no post-termination date accruals (see Treas. Reg. § 1.411(d)–6T, Q&A 14(a)). The deeming rule does not apply if the plan does not successfully complete the termination process. In addition, the deeming rule will not cause accruals to stop before the termination date. In order for accruals to cease before the termination date, the plan administrator must provide a notice that satisfies section 204(h). The notice may be provided separately or with or as part of the notice of intent to terminate.

The final regulation provides that the notice of intent to terminate (and the notice of plan benefits) must be issued to each person who becomes a beneficiary of a deceased participant or an alternate payee after the proposed termination date and on or before the distribution date. (The notice will be saved from being untimely, provided the "after-discovered affected parties" requirements are satisfied.)

Notice of Plan Benefits

While the proposed regulation did not make substantive changes to the existing requirements for the content of the notice of plan benefits, there were several comments and questions about this notice. The notice of plan benefits is designed to facilitate the ability of participants and beneficiaries to determine whether their benefit calculations are correct before all plan assets are distributed.

One commenter asked what actions are required when necessary personal data is unavailable. The final regulation requires the plan administrator to provide the best available data, to inform the affected party of any personal data needed to calculate a benefit that is not available, and to give the affected party an opportunity to supply it and to correct any information he or she believes to be incorrect.

Another commenter suggested eliminating the personal data requirement for persons who have already received a prior benefit notice (*e.g.*, a terminated vested participant) and asked whether personal data should be provided in the form of "root data" or "derived data." To facilitate the ability of participants and beneficiaries to review benefit calculations at the time of termination, the final regulation retains the requirement that personal data be provided in all cases except where a participant or beneficiary has been in pay status for more than one year. The final regulation continues to give plan administrators the flexibility to provide personal data in the form they consider to be most useful.

The same commenter also suggested that the PBGC drop the existing requirement to provide information about alternative benefit forms (because it is available in the summary plan description) and actuarial adjustment factors (because it is not provided by ongoing plans and is difficult for affected parties to understand). The final regulation retains this requirement, thereby keeping in a single document

key information that helps affected parties (or their advisors) check the accuracy of benefit calculations.

To further ensure that the notice of plan benefits provides affected parties with adequate information to check their benefit calculations, the final regulation requires that, for benefits that will or may be paid in lump sum form, the plan administrator must specify the mortality table used to convert the benefit, describe the interest rate to be used to convert to the lump sum benefit (*e.g.*, the 30-year Treasury rate for the third month before the month in which the lump sum is distributed), and (if known) provide the applicable interest rate. This information will enable affected parties to ensure that plan administrators are using permissible interest and mortality assumptions in calculating lump sums.

State Guaranty Information

The proposed regulation, in response to a General Accounting Office recommendation, required plan administrators to include with the notice of identity of insurer a general explanation of state guaranty coverage and state-by-state information (addresses, telephone numbers, and coverage limits for each state). The proposed forms and instructions package included all of the required information so that plan administrators could copy it and provide it to affected parties.

Several commenters thought the information on state guaranty coverage was burdensome and not useful. They argued that the majority of participants elect lump sums, and that participants who choose annuities do not need the information unless and until the annuity provider experiences financial difficulty. On the other hand, a participant organization did not believe the notice went far enough in clearly informing participants of the consequences of insurance company failure (in particular that, in certain limited circumstances, they may not receive state guaranty protection).

Basic information about state guaranty coverage is useful at the time of plan termination. Participants who understand the potential consequences of the plan administrator's selection of an insurer can make better informed decisions as to the form of their benefit and whether to bring any concerns about a particular insurer to the attention of the plan administrator.

The final regulation retains the state guaranty information requirement with some modifications. Plan administrators must still provide a general explanation of state guaranty coverage. (A model notice is included in the forms and instructions package.) The notice must inform affected parties that a guaranty association is responsible for all, part, or none of the annuity if the insurance company cannot pay. While the detailed state-by-state information is not required, the notice must include a statement generally describing applicable dollar coverage limits, and must also inform affected parties how they can obtain the addresses and telephone numbers of state guaranty association offices from the PBGC. The PBGC intends to maintain a current list of these addresses and telephone numbers on its home page and to respond to inquiries for this information so that affected parties may obtain current information whenever it is most useful to them.

Closeout of Plan

Several commenters addressed the statement in the proposed rule that the PBGC intends to audit insurer selections for compliance with Title I fiduciary standards and to take appropriate corrective action, with one specifically questioning the PBGC's statutory authority for this statement. One commenter suggested that the PBGC periodically publish a list of "safe-harbor" insurers that plan administrators could select and thereby avoid audit. Another commenter suggested that the PBGC audit proposed insurer selections before the selection is made and include in the notice of identity of insurer both insurance company ratings and a certification of compliance with fiduciary standards in selecting an insurer.

By requiring compliance with Title I fiduciary standards to have a valid termination and by monitoring that compliance, the PBGC is furthering one of Title IV's fundamental purposes—"to provide for the timely and uninterrupted payment of pension benefits" (section 4002(a)(1) of ERISA). The Department of Labor's Interpretive Bulletin 95–1 (60 FR 12329, March 6, 1995), codified at 29 CFR § 2509.95–1, provides guidance with respect to the application of Title I of ERISA to the selection of annuity providers when purchasing annuities for the purpose of distributing benefits under a pension plan. As explained in Interpretive Bulletin 95–1, the selection process depends in part on the relevant facts and circumstances at the time an annuity is purchased. The PBGC will coordinate with the Department of Labor in this area.

The PBGC does not believe it appropriate to publish a list of "safe harbor" insurers, to audit proposed insurer selections, or to require as part of the notice of identity of insurer either ratings or a special certification for this one aspect of the termination process.

PBGC Audits

The PBGC currently reviews benefit calculations after distribution for a statistically significant number of plans terminating in standard terminations, as required by section 4003(a) of ERISA. A participant organization suggested that the PBGC review benefit calculations before distribution. Prior to passage of the Single-Employer Pension Plan Amendments Act of 1986 (SEPPAA), the PBGC did conduct pre-distribution reviews of benefit calculations. Congress's intent in passing SEPPAA was to reduce the PBGC's role in standard terminations, thereby enabling the PBGC to devote more of its resources to underfunded terminations (where both premium payers and participants can face significant exposure). See 52 FR 33318, 33318–19, September 2, 1987. Although the PBGC has not adopted the commenter's suggestion, the PBGC has revised the forms and instructions packages to address common errors found in post-distribution audits by including detailed guidance on calculating lump sum distributions. The PBGC will continue to conduct post-distribution audits and require appropriate corrective action.

Filing and Issuance Rules

The proposed regulation eased filing deadlines by changing the date of filing a notice with the PBGC from the date of receipt to the date of the U.S. Postal Service postmark or (if the notice is received by the PBGC within two regular business days) the date of deposit with a commercial delivery service. The final regulation provides further flexibility in situations where the postmark was made by a private postage meter or is illegible.

For filings by commercial delivery service, the final regulation supplements the two-day receipt rule with IRS rules under section 7502(f) of the Internal Revenue Code. Under the IRS rules, a document is generally considered filed on the date it is provided to a "designated private delivery service" for delivery using a specified type of delivery service, *e.g.*, overnight service. (See I.R.S. Notice 97–26, 1997–17 I.R.B. 6 (April 10, 1997) and I.R.S. Notice 97–50, 1997–37 I.R.B. 21 (August 29, 1997) for relevant rules and IRS's first two lists of designated private delivery services.)

The proposed regulation allowed electronic filing in certain circumstances and provided that the

date of electronic filing is the date of receipt by the PBGC. The final regulation liberalizes these rules by generally providing that the date of electronic filing is the date of electronic transmission to the PBGC.

The final regulation, like the proposed regulation, allows the plan administrator to issue a notice to an affected party by electronic means reasonably calculated to ensure actual receipt. The PBGC received comments relating to confirmation of receipt of electronically-issued notices. Confirmation of receipt is not required. However, the final rule provides that, if there is reason to believe that a notice was not delivered, the plan administrator must reissue the notice promptly in order for the transmission date to be treated as the issuance date. (A similar rule applies to documents filed electronically with the PBGC.)

The final regulation makes clear that plan administrators are not required to issue notices to persons they cannot locate after making reasonable efforts, as long as they issue the notice promptly in the event the person is located.

In response to a comment, the final regulation provides that plan administrators may provide additional information with any notice only if the information is not misleading.

Miscellaneous

Definitions

In response to a comment, the PBGC has clarified the definition of "plan benefits." The final regulation also ties this definition to the rules governing post-termination amendments.

A commenter questioned the inclusion of PBGC premiums as a plan liability in the "residual assets" definition. The proposed regulation merely conformed this definition to the existing requirement that PBGC premiums be taken into account in determining sufficiency for a standard termination (see existing § 4041.27(b)). Distribution of plan benefits in a standard termination without taking into account the plan's premium obligation may result in nullification of the termination or imposition of personal liability on the plan administrator (see 57 FR 59206, 59214 (December 14, 1992); PBGC Op. Ltr. 94–6 (September 28, 1994)).

The PBGC has rejected as unnecessary the suggestions of another commenter to change two definitions. The commenter requested that the definition of "participant" exclude individuals who have received a "deemed" zero-dollar cashout and that the definition of "majority owner" provide for expanded attribution rules. The definition of "participant" already excludes any nonvested individual who has been cashed out under the terms of the plan and in accordance with applicable law and regulations (see section 411(a)(7) of the Code and Treas. Reg. § 1.411(a)–7) because the individual is no longer "earning or retaining" credited service. Similarly, the "majority owner" definition already incorporates Code attribution rules, which provide for attribution of ownership to spouses, ascendants, and descendants in certain circumstances. The PBGC sees no reason to provide for greater attribution in its termination regulations.

Facilitating Plan Sufficiency

In response to a comment seeking clarification of the election and consent requirements governing alternative treatment of a majority owner's benefit, the final regulation makes clear that the election and consent may be made at any time during the termination process.

The Taxpayer Relief Act of 1997 (which was enacted after the publication of the proposed rule) amends section 206(d) of ERISA to provide for the offset of a participant's benefit against the amount the participant owes to a plan as a result of settlement or other resolution of certain fiduciary breach or criminal actions. Because this offset reduces the benefits that must be taken into account in a voluntary termination, there is no need to revise the regulation to reflect this legislation.

Qualified Domestic Relations Orders

A participant organization asked the PBGC to address the relationship between the termination process and qualified domestic relations orders (QDRO's). A standard termination has no effect on the ability to obtain a QDRO or on benefits received under a QDRO. (Of course, as is the case with an ongoing plan, a distribution from the plan may affect the ability to obtain benefits under a QDRO.) Plan administrators and annuity providers must comply with the terms of a QDRO. As affected parties, alternate payees under QDRO's receive all required notices, including the notice of plan benefits. A spouse contemplating a divorce (and QDRO) retains his or her spousal consent rights.

Post-Termination Amendments

The proposed regulation provided that, with limited exceptions, a plan amendment adopted after a plan's termination date is disregarded with respect to a participant or beneficiary. The final regulation clarifies how the rule works where a share of residual assets will go to participants and beneficiaries based on an allocation formula.

Lump Sum Assumptions

The final regulation clarifies the rules for determining the valuation date for a lump sum distribution.

Participating Annuity Contracts

In response to a comment, the PBGC notes that its change in the rules governing purchase of participating annuity contracts (from existing § 4041.6(d) to proposed and final § 4041.28(c)(2)) is merely clarifying, not substantive.

Deadlines and Extensions

Commenters approved of the proposed regulation's provision giving the PBGC discretionary authority to extend standard termination deadlines. The final regulation extends this discretionary authority to distress termination and missing participants deadlines.

One commenter recommended that the PBGC eliminate intermediate deadlines. The PBGC believes that intermediate deadlines are useful in managing the termination process, in particular, in coordinating with the IRS determination letter process. The combination of extended deadlines and the ability to obtain discretionary extensions should result in the intermediate deadlines causing few, if any, difficulties.

The PBGC has not incorporated a suggestion that the final regulation include more specific criteria for discretionary extensions. The grounds for granting a discretionary extension will vary with the facts and circumstances of the particular case. The final regulation, like the proposed regulation, includes factors (*e.g.*, length of the delay) that the PBGC will consider.

Record Retention and Availability

In response to a comment, the final regulation allows records to be retained in any format that reasonably ensures the integrity of the original information, as long as the records can be converted to hardcopy if requested by the PBGC. (This provision addresses only the record retention requirements under section 4041 of ERISA and part 4041 of the PBGC's regulations; it does not address record retention requirements under Title I of ERISA or the Code.) The final regulation also clarifies that the plan administrator must make available to the PBGC upon request any records necessary to demonstrate compliance with the termination requirements under section 4041 of ERISA and part 4041 of the PBGC's regulations, and applies this same test to the record retention requirement.

Missing Participants

The final rule gives the PBGC authority to grant discretionary extensions and makes technical changes to (1) the deadline for payment of residual assets for a participant or beneficiary who cannot be located; and (2) the rules governing post-age 70½ PBGC payments.

Other

In response to comments, the PBGC (1) has reviewed its model notice of intent to terminate and model state guaranty notice for readability and made simplifying changes, and (2) has added a standard termination time line to the forms and instructions package.

The PBGC has not adopted suggestions to change the requirements for calculating lump sum distributions (because they are prescribed by the Code and IRS regulations) or the deadline for filing the post-distribution certification (because it is prescribed by Title IV of ERISA). (As discussed in **Applicability of Final Rule** below, the PBGC has provided penalty relief for late filing of the post-distribution certification.) The PBGC also has not adopted suggestions to change certain existing requirements and interpretations.

The final rule makes other clarifying, conforming, or editorial changes from the proposed rule in the PBGC's termination, missing participants, and benefit payment regulations.

Applicability of Final Rule

This rule is applicable to terminations for which the first notice of intent to terminate is issued on or after January 1, 1998. As explained below, certain provisions of the rule apply to terminations for which the first notice of intent to terminate is issued before January 1, 1998.

Deadline Extensions

Any deadline that has not passed as of January 1, 1998 is extended to the deadline that applies under this final rule, including a deadline extended under the PBGC's discretionary authority under § 4041.30.

Filing and Issuance Rules

The filing rules in § 4041.3(b) and issuance rules in § 4041.3(c)(1) through (c)(4) apply to any information (except for the notice under § 4041.31(g) that a termination is nullified) required to be filed or issued on or after January 1, 1998.

Notice of Noncompliance

The rules in § 4041.31 that (1) address the PBGC's discretion not to issue a notice of noncompliance for failure to meet a distribution requirement (§ 4041.31(b)), and (2) deem a termination valid if the plan administrator files a post-distribution certification and the PBGC does not issue a notice of noncompliance (§ 4041.31(f)(2)) apply to any termination for which, as of January 1, 1998, the distribution deadline has not passed.

Late Filing of Post-Distribution Certification

The final regulation provides penalty relief for late filing of the post-distribution certification and certain information under the missing participants program. It also eliminates two other potential consequences for late post-distribution certification filings: (1) the loss of part or all of the plan's premium refund for its final short plan year; and (2) the loss of the interest-free grace period for late payment of a designated benefit for a missing participant. The relevant amendments " in § 4041.29(b) (regarding assessment of penalties for late filing of the post-distribution certification), § 4050.6(b)(2) (regarding assessment of interest for late payment of a designated benefit for a missing participant and penalties for late filing of information), and § 4006.5(f)(3) (regarding the plan's premium refund for its final short plan year)—are applicable to terminations for which, as of January 1, 1998, the statutory deadline for filing the post-distribution certification has not passed.

The penalty relief described in the PBGC's March 14, 1997, policy statement (62 FR 12521) " which does not eliminate the other potential consequences of a late post-distribution certification " will continue for pending terminations for which the post-distribution certification is statutorily due before January 1, 1998.

Forms and Instructions Packages

The PBGC will issue new forms and instructions packages for terminations for which the first notice of intent to terminate is issued on or after January 1, 1998.

The PBGC will also issue revised forms and instructions packages for terminations for which the first notice of intent to terminate is issued before January 1, 1998. These packages explain in detail which provisions of the final rule apply to pending terminations. As discussed in Applicability of Final Rule, the only changes that apply provide increased flexibility for plan administrators; plan administrators may therefore complete pending terminations by complying with existing requirements.

After the new and revised forms and instructions packages are approved by the Office of Management and Budget (see Compliance with Rulemaking and Paperwork Reduction Act Guidelines), the PBGC intends to mail the revised packages to persons with pending terminations on file with the PBGC and to mail the new and revised packages to practitioners who have requested that they be placed on a mailing list to receive policy and technical updates from the PBGC. Persons may also obtain the packages by contacting the PBGC's Customer Service Center, 1200 K Street, NW., Washington, D.C. 20005–4026 ((202) 326–4000) or by accessing the PBGC's home page at http://www.pbgc.gov.

Compliance With Rulemaking and Paperwork Reduction Act Guidelines

The PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866.

The PBGC certifies under section 605(b) of the Regulatory Flexibility Act that this rule will not have a significant economic impact on a substantial number of small entities. While this rule simplifies procedures and extends deadlines, the actions required to terminate a plan are essentially unchanged. Accordingly, sections 603 and 604 of the Regulatory Flexibility Act do not apply.

This rule contains information collection requirements. As required by the Paperwork Reduction Act of 1995, the PBGC has submitted a copy of this information collection, including the implementing forms and instructions, to the Office of Management and Budget for its review. Persons do not have to comply with the revised information collection requirements of this rule until the PBGC publishes in the **Federal Register** a notice announcing OMB's approval of this collection of information along with a currently valid OMB control number.

List of Subjects

29 CFR Part 4001

Pension insurance, Pensions, Reporting and Recordkeeping requirements.

29 CFR Part 4006

Penalties, Pension insurance, Pensions, Reporting and Recordkeeping requirements.

29 CFR Part 4022

Pension insurance, Pensions, Reporting and Recordkeeping requirements.

29 CFR Part 4041

Pension insurance, Pensions, Reporting and Recordkeeping requirements.

29 CFR Part 4050

Pensions, Reporting and Recordkeeping requirements.

For the reasons set forth above, the PBGC is amending parts 4001, 4006, 4022, 4041, and 4050 of 29 CFR chapter XL as follows:

PART 4001—TERMINOLOGY

1. The authority citation for Part 4001 continues to read as follows:

Authority: 29 U.S.C. 1301, 1302(b)(3).

§ 4001.2 [Amended]

2. In § 4001.2, paragraph (2) of the definition of *Distribution date* is amended by removing the words "Other than for purposes of determining the interest rate to be used in calculating the value of a benefit to be paid as a lump sum to a late-discovered participant, the" and adding in their place "The"; and by removing the words "PBGC, a benefit provided after the deemed distribution date to a late-discovered participant, or an irrevocable commitment purchased from an insurer after the deemed distribution date for a recently-missing participant" and adding in their place the word "PBGC".

PART 4006—PREMIUM RATES

3. The authority citation for Part 4006 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1306, 1307.

§ 4006.5 [Amended]

4. In § 4006.5, paragraph (f)(3) is amended by removing the words "or, if later (in the case of a single-employer plan), the date 30 days prior to the date the PBGC receives the plan's post-distribution certification".

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

5. The authority citation for Part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

§ 4022.61 [Amended]

6. In § 4022.61, paragraph (a) is amended by replacing "4041.4" with "4041.42".

7. Part 4041 is revised to read as follows:

PART 4041—TERMINATION OF SINGLE-EMPLOYER PLANS

Subpart A—General Provisions

Sec.
4041.1 Purpose and scope.
4041.2 Definitions.
4041.3 Computation of time; filing and issuance rules.
4041.4 Disaster relief.
4041.5 Record retention and availability.
4041.6 Effect of failure to provide required information.
4041.7 Challenges to plan termination under collective bargaining agreement.
4041.8 Post-termination amendments.

Subpart B—Standard Termination Process
4041.21 Requirements for a standard termination.
4041.22 Administration of plan during pendency of termination process.
4041.23 Notice of intent to terminate.
4041.24 Notices of plan benefits.
4041.25 Standard termination notice.
4041.26 PBGC review of standard termination notice.
4041.27 Notice of annuity information.
4041.28 Closeout of plan.
4041.29 Post-distribution certification.
4041.30 Requests for deadline extensions.
4041.31 Notice of noncompliance.

Subpart C—Distress Termination Process
4041.41 Requirements for a distress termination.
4041.42 Administration of plan during termination process.
4041.43 Notice of intent to terminate.
4041.44 PBGC review of notice of intent to terminate.
4041.45 Distress termination notice.
4041.46 PBGC determination of compliance with requirements for distress termination.
4041.47 PBGC determination of plan sufficiency/insufficiency.
4041.48 Sufficient plans; notice requirements.
4041.49 Verification of plan sufficiency prior to closeout.
4041.50 Closeout of plan.

Authority: 29 U.S.C. 1302(b)(3), 1341, 1344, 1350.

Subpart A—General Provisions

§ 4041.1 Purpose and scope.

This part sets forth the rules and procedures for terminating a single-employer plan in a standard or distress termination under section 4041 of ERISA, the exclusive means of voluntarily terminating a plan.

§ 4041.2 Definitions.

The following terms are defined in § 4001.2 of this chapter: affected party, annuity, benefit liabilities, Code, contributing sponsor, controlled group, distress termination, distribution date, EIN, employer, ERISA, guaranteed benefit, insurer, irrevocable commitment, IRS, mandatory employee contributions, normal retirement age, notice of intent to terminate, PBGC, person, plan administrator, plan year, PN, single-employer plan, standard termination, termination date, and title IV benefit. In addition, for purposes of this part:

Distress termination notice means the notice filed with the PBGC pursuant to § 4041.45.

Distribution notice means the notice issued to the plan administrator by the PBGC pursuant to § 4041.47(c) upon the PBGC's determination that the plan has sufficient assets to pay at least guaranteed benefits.

Majority owner means, with respect to a contributing sponsor of a single-employer plan, an individual who owns, directly or indirectly, 50 percent or more (taking into account the constructive ownership rules of section 414(b) and (c) of the Code) of—

(1) An unincorporated trade or business;

(2) The capital interest or the profits interest in a partnership; or

(3) Either the voting stock of a corporation or the value of all of the stock of a corporation.

Notice of noncompliance means a notice issued to a plan administrator by the PBGC pursuant to § 4041.31 advising the plan administrator that the requirements for a standard termination have not been satisfied and that the plan is an ongoing plan.

Notice of plan benefits means the notice to each participant and beneficiary required by § 4041.24.

Participant means—

(1) Any individual who is currently in employment covered by the plan and who is earning or retaining credited service under the plan, including any individual who is considered covered under the plan for purposes of meeting the minimum participation requirements but who, because of offset or similar provisions, does not have any accrued benefits;

(2) Any nonvested individual who is not currently in employment covered by the plan but who is earning or retaining credited service under the plan; and

(3) Any individual who is retired or separated from employment covered by the plan and who is receiving benefits under the plan or is entitled to begin receiving benefits under the plan in the future, excluding any such individual to whom an insurer has made an irrevocable commitment to pay all the benefits to which the individual is entitled under the plan.

Plan benefits means benefit liabilities determined as of the termination date (taking into account the rules in § 4041.8(a)).

Proposed termination date means the date specified as such by the plan administrator in the notice of intent to terminate or, if later, in the standard or distress termination notice.

Residual assets means the plan assets remaining after all plan benefits and other liabilities (*e.g.*, PBGC premiums) of the plan have been satisfied (taking into account the rules in § 4041.8(b)).

Standard termination notice means the notice filed with the PBGC pursuant to § 4041.25.

State guaranty association means an association of insurers created by a State, the District of Columbia, or the Commonwealth of Puerto Rico to pay benefits and to continue coverage, within statutory limits, under life and health insurance policies and annuity contracts when an insurer fails.

§ 4041.3 Computation of time; filing and issuance rules.

(a) *Computation of time.* In computing any period of time under this part, the day of the event from which the period begins is not counted. The last day of the period is counted. If the last day falls on a Saturday, Sunday, or Federal holiday, the period runs until the end of the next regular business day. A proposed termination date may be any day, including a Saturday, Sunday, or Federal holiday.

(b) *Filing with the PBGC.* Any document to be filed under this part must be filed with the PBGC in the manner described in the applicable forms and instructions package. The document is deemed filed on the date described in paragraph (b)(1), (b)(2), (b)(3) or (b)(4) of this section, as applicable, or such earlier date as is provided in the applicable forms and instructions package. For purposes of this paragraph (b), information received by the PBGC on a weekend or Federal holiday or after 5:00 p.m. on a weekday is considered filed on the next regular business day.

(1) *Filing by mail.* If the document is mailed with the United States Postal Service by first class mail postage prepaid to the PBGC, the document is filed on—

(i) The date of the legible United States Postal Service postmark;

(ii) If there is no legible United States Postal Service postmark, the date of the legible postmark made by a private postage meter, provided that the document is received by the PBGC not later than the date when a document sent by first class mail would ordinarily be received if it were postmarked at the same point of origin by the United States Postal Service on the last date prescribed for filing the document; or

(iii) In any other case, the date that the plan administrator can establish the document was deposited in the mail before the last collection of mail from the place of deposit.

(2) *Filing by commercial delivery service.* If the document is deposited with a commercial delivery service, the document is filed on the earlier of—

(i) The date that would be considered the postmark date under section 7502(f) of the Code; or

(ii) The date it is deposited for delivery with the commercial delivery service, provided it is received by the PBGC within two regular business days.

(3) *Electronic filings.* If the document is filed electronically, the document is filed on the date on which it is transmitted electronically to the PBGC, provided that, if there is reason to believe the document was not delivered, the plan administrator promptly refiles the document in accordance with the applicable forms and instructions package.

(4) *Other filings.* If a filing date is not established under paragraphs (b)(1) through (b)(3) of this section, the document is filed on the date on which it is received by the PBGC.

(c) *Issuance to other parties.* The following rules apply to affected parties (other than the PBGC). For purposes of this paragraph (c), a person entitled to notice under the spin-off/termination transaction rules of §§ 4041.23(c) or 4041.24(f) is treated as an affected party.

(1) *Permissible methods of issuance.* The plan administrator must issue any notice to an affected party individually—

(i) By hand delivery;

(ii) By first-class mail or commercial delivery service to the affected party's last known address; or

(iii) By electronic means reasonably calculated to ensure actual receipt by the affected party.

(2) *Date of issuance.* Any notice is deemed issued to an affected party on the date on which it is—

(i) Handed to the affected party;

(ii) Deposited in the mail;

(iii) Deposited with a commercial delivery service; or

(iv) Transmitted electronically to the affected party, provided that, if there is reason to believe the notice was not delivered, the plan administrator promptly reissues the notice in accordance with the applicable forms and instructions package.

(3) *Omission of affected parties.* The failure to issue any notice to an affected party (other than any employee organization) within the specified time period will not cause the notice to be untimely if—

(i) *After-discovered affected parties.* The plan administrator could not reasonably have been expected to know of the affected party, and issues the notice promptly after discovering the affected party;

(ii) *De minimis administrative errors.* The failure was due to administrative error involving only a *de minimis* percentage of affected parties, and the plan administrator issues the notice to each such affected party promptly after discovering the error; or

(iii) *Unlocated participants.* The plan administrator could not locate the affected party after making reasonable efforts, and issues the notice promptly in the event the affected party is located.

(4) *Deceased participants.* In the case of a deceased participant, the plan administrator need not issue a notice to the participant's estate if the estate is not entitled to a distribution.

(5) *Form of notices to affected parties.* All notices to affected parties must be readable and written in a manner calculated to be understood by the average plan participant. The plan administrator may provide additional information with a notice only if the information is not misleading.

(6) *Foreign languages.* The plan administrator of a plan that (as of the proposed termination date) covers the numbers or percentages in § 2520.104b-10(e) of this title of participants literate only in the same non-English language must, for any notice to affected parties—

(i) Include a prominent legend in that common non-English language advising them how to obtain assistance in understanding the notice; or

(ii) Provide the notice in that common non-English language to those affected parties literate only in that language.

§ 4041.4 Disaster relief.

When the President of the United States declares that, under the Disaster Relief Act (42 U.S.C. 5121, 5122(2), 5141(b)), a major disaster exists, the Executive Director of the PBGC (or his or her designee) may, by issuing one or more notices of disaster relief, extend by up to 180 days any due date under this part.

§ 4041.5 Record retention and availability.

(a) *Retention requirement.* (1) *Persons subject to requirement.* Each contributing sponsor and the plan administrator of a plan terminating in a standard termination, or in a distress

termination that closes out in accordance with § 4041.50, must maintain all records necessary to demonstrate compliance with section 4041 of ERISA and this part. A record may be maintained in any format that reasonably ensures the integrity of the original information and that allows the record to be converted to hardcopy if necessary under paragraph (b) of this section. If a contributing sponsor or the plan administrator maintains information in accordance with this paragraph (a)(1), the other(s) need not maintain that information.

(2) *Retention period.* The records described in paragraph (a)(1) of this section must be preserved for six years after the date when the post-distribution certification under this part is filed with the PBGC.

(b) *Availability of records.* The contributing sponsor or plan administrator must make all records needed to determine compliance with section 4041 of ERISA and this part available to the PBGC upon request for inspection and photocopying, and must submit such records to the PBGC within 30 days after the date of a written request by the PBGC or by a later date specified therein. Unless the PBGC agrees to a different format, records must be submitted in hardcopy.

§ 4041.6 Effect of failure to provide required information.

If a plan administrator fails to provide any information required under this part within the specified time limit, the PBGC may assess a penalty under section 4071 of ERISA of up to $1,100 a day for each day that the failure continues. The PBGC may also pursue any other equitable or legal remedies available to it under the law, including, if appropriate, the issuance of a notice of noncompliance under § 4041.31.

§ 4041.7 Challenges to plan termination under collective bargaining agreement.

(a) *Suspension upon formal challenge to termination* (1) *Notice of formal challenge.* (i) If the PBGC is advised, before its review period under § 4041.26(a) ends, or before issuance of a notice of inability to determine sufficiency or a distribution notice under § 4041.47(b) or (c), that a formal challenge to the termination has been initiated as described in paragraph (c) of this section, the PBGC will suspend the termination proceeding and so advise the plan administrator in writing.

(ii) If the PBGC is advised of a challenge described in paragraph (a)(1)(i) of this section after the time specified therein, the PBGC may suspend the termination proceeding and will so advise the plan administrator in writing.

(2) *Standard terminations.* During any period of suspension in a standard termination —

(i) The running of all time periods specified in ERISA or this part relevant to the termination will be suspended; and

(ii) The plan administrator must comply with the prohibitions in § 4041.22.

(3) *Distress terminations.* During any period of suspension in a distress termination —

(i) The issuance by the PBGC of any notice of inability to determine sufficiency or distribution notices will be stayed or, if any such notice was previously issued, its effectiveness will be stayed;

(ii) The plan administrator must comply with the prohibitions in § 4041.42; and

(iii) The plan administrator must file a distress termination notice with the PBGC pursuant to § 4041.45.

(b) *Existing collective bargaining agreement.* For purposes of this section, an existing collective bargaining agreement means a collective bargaining agreement that has not been made inoperative by a judicial ruling and, by its terms, either has not expired or is extended beyond its stated expiration date because neither of the collective bargaining parties took the required action to terminate it. When a collective bargaining agreement no longer meets these conditions, it ceases to be an "existing collective bargaining agreement," whether or not any or all of its terms may continue to apply by operation of law.

(c) *Formal challenge to termination.* A formal challenge to a plan termination asserting that the termination would violate the terms and conditions of an existing collective bargaining agreement is initiated when —

(1) Any procedure specified in the collective bargaining agreement for resolving disputes under the agreement commences; or

(2) Any action before an arbitrator, administrative agency or board, or court under applicable labor-management relations law commences.

(d) *Resolution of challenge.* Immediately upon the final resolution of the challenge, the plan administrator must notify the PBGC in writing of the outcome of the challenge, provide the PBGC with a copy of any award or order, and, if the validity of the proposed termination has been upheld, advise the PBGC whether the proposed termination is to proceed. The final resolution ends the suspension period under paragraph (a) of this section.

(1) *Challenge sustained.* If the final resolution is that the proposed termination violates an existing collective bargaining agreement, the PBGC will dismiss the termination proceeding, all actions taken to effect the plan termination will be null and void, and the plan will be an ongoing plan. In this event, in a distress termination, § 4041.42(d) will apply as of the date of the dismissal by the PBGC.

(2) *Termination sustained.* If the final resolution is that the proposed termination does not violate an existing collective bargaining agreement and the plan administrator has notified the PBGC that the termination is to proceed, the PBGC will reactivate the termination proceeding by sending a written notice thereof to the plan administrator, and —

(i) The termination proceeding will continue from the point where it was suspended;

(ii) All actions taken to effect the termination before the suspension will be effective;

(iii) Any time periods that were suspended will resume running from the date of the PBGC's notice of the reactivation of the proceeding;

(iv) Any time periods that had fewer than 15 days remaining will be extended to the 15th day after the date of the PBGC's notice, or such later date as the PBGC may specify; and

(v) In a distress termination, the PBGC will proceed to issue a notice of inability to determine sufficiency or a distribution notice (or reactivate any such notice stayed under paragraph (a)(3) of this section), either with or without first requesting updated information from the plan administrator pursuant to § 4041.45(c).

(e) *Final resolution of challenge.* A formal challenge to a proposed termination is finally resolved when—

(1) The parties involved in the challenge enter into a settlement that resolves the challenge;

(2) A final award, administrative decision, or court order is issued that is not subject to review or appeal; or

(3) A final award, administrative decision, or court order is issued that is not appealed, or review or enforcement of which is not sought, within the time for filing an appeal or requesting review or enforcement.

(f) *Involuntary termination by the PBGC.* Notwithstanding any other provision of this section, the PBGC retains the authority in any case to initiate a plan termination in accordance with the provisions of section 4042 of ERISA.

§ 4041.8 Post-termination amendments.

(a) *Plan benefits.* A participant's or beneficiary's plan benefits are determined under the plan's provisions in effect on the plan's termination date. Notwithstanding the preceding sentence, an amendment that is adopted after the plan's termination date is taken into account with respect to a participant's or beneficiary's plan benefits to the extent the amendment—

(1) Does not decrease the value of the participant's or beneficiary's plan benefits under the plan's provisions in effect on the termination date; and

(2) Does not eliminate or restrict any form of benefit available to the participant or beneficiary on the plan's termination date.

(b) *Residual assets.* In a plan in which participants or beneficiaries will receive some or all of the plan's residual assets based on an allocation formula, the amount of the plan's residual assets and each participant's or beneficiary's share thereof is determined under the plan's provisions in effect on the plan's termination date. Notwithstanding the preceding sentence, an amendment adopted after the plan's termination date is taken into account with respect to a participant's or beneficiary's allocation of residual assets to the extent the amendment does not decrease the value of the participant's or beneficiary's allocation of residual assets under the plan's provisions in effect on the termination date.

(c) *Permitted decreases.* For purposes of this section, an amendment shall not be treated as decreasing the value of a participant's or beneficiary's plan benefits or allocation of residual assets to the extent—

(1) The decrease is necessary to meet a qualification requirement under section 401 of the Code;

(2) The participant's or beneficiary's allocation of residual assets is paid in the form of an increase in the participant's or beneficiary's plan benefits; or

(3) The decrease is offset by assets that would otherwise revert to the contributing sponsor or by additional contributions.

(d) *Distress terminations.* In the case of a distress termination, a participant's or beneficiary's benefit liabilities are determined as of the termination date in the same manner as plan benefits under this section.

Subpart B—Standard Termination Process

§ 4041.21 Requirements for a standard termination.

(a) *Notice and distribution requirements.* A standard termination is valid if the plan administrator—

(1) Issues a notice of intent to terminate to all affected parties (other than the PBGC) in accordance with § 4041.23;

(2) Issues notices of plan benefits to all affected parties entitled to plan benefits in accordance with § 4041.24;

(3) Files a standard termination notice with the PBGC in accordance with § 4041.25;

(4) Distributes the plan's assets in satisfaction of plan benefits in accordance with § 4041.28(a) and (c); and

(5) In the case of a spin-off/termination transaction (as defined in § 4041.23(c)), issues the notices required by § 4041.23(c), § 4041.24(f), and § 4041.27(a)(2) in accordance with such sections.

(b) *Plan sufficiency.* (1) *Commitment to make plan sufficient.* A contributing sponsor of a plan or any other member of the plan's controlled group may make a commitment to contribute any additional sums necessary to enable the plan to satisfy plan benefits in accordance with § 4041.28. A commitment will be valid only if—

(i) It is made to the plan;

(ii) It is in writing, signed by the contributing sponsor or controlled group member(s); and

(iii) In any case in which the person making the commitment is the subject of a bankruptcy liquidation or reorganization proceeding, as described in § 4041.41(c)(1) or (c)(2), the commitment is approved by the court before which the liquidation or reorganization proceeding is pending or a person not in bankruptcy unconditionally guarantees to meet the commitment at or before the time distribution of assets is required.

(2) *Alternative treatment of majority owner's benefit.* A majority owner may elect to forgo receipt of his or her plan benefits to the extent necessary to enable the plan to satisfy all other plan benefits in accordance with § 4041.28. Any such alternative treatment of the majority owner's plan benefits is valid only if—

(i) The majority owner's election is in writing;

(ii) In any case in which the plan would require the spouse of the majority owner to consent to distribution of the majority owner's receipt of his or her plan benefits in a form other than a qualified joint and survivor annuity, the spouse consents in writing to the election;

(iii) The majority owner makes the election and the spouse consents during the time period beginning with the date of issuance of the first notice of intent to terminate and ending with the date of the last distribution; and

(iv) Neither the majority owner's election nor the spouse's consent is inconsistent with a qualified domestic relations order (as defined in section 206(d)(3) of ERISA).

§ 4041.22 Administration of plan during pendency of termination process.

(a) *In general.* A plan administrator may distribute plan assets in connection with the termination of the plan only in accordance with the provisions of this part. From the first day the plan administrator issues a notice of intent to terminate to the last day of the PBGC's review period under § 4041.26(a), the plan administrator must continue to carry out the normal operations of the plan. During that time period, except as provided in paragraph (b) of this section, the plan administrator may not—

(1) Purchase irrevocable commitments to provide any plan benefits; or

(2) Pay benefits attributable to employer contributions, other than death benefits, in any form other than an annuity.

(b) *Exception.* The plan administrator may pay benefits attributable to employer contributions either through the purchase of irrevocable commitments or in a form other than an annuity if—

(1) The participant has separated from active employment or is otherwise permitted under the Code to receive the distribution;

(2) The distribution is consistent with prior plan practice; and

(3) The distribution is not reasonably expected to jeopardize the plan's sufficiency for plan benefits.

§ 4041.23 Notice of intent to terminate.

(a) *Notice requirement.* (1) *In general.* At least 60 days and no more than 90 days before the proposed termination date, the plan administrator must issue a notice of intent to terminate to each person (other than the PBGC) that is an affected party as of the proposed termination date. In the case of a beneficiary of a deceased participant or an alternate payee, the plan administrator must issue a notice of intent to terminate promptly to any person that becomes an affected party after the proposed termination date and on or before the distribution date.

(2) *Early issuance of NOIT.* The PBGC may consider a notice of intent to terminate to be timely under paragraph (a)(1) of this section if the notice was early by a *de minimis* number of days and the PBGC finds that the early issuance was the result of administrative error.

(b) *Contents of notice.* The PBGC's standard termination forms and instructions package includes a model notice of intent to terminate. The notice of intent to terminate must include —

(1) *Identifying information.* The name and PN of the plan, the name and EIN of each contributing sponsor, and the name, address, and telephone number of the person who may be contacted by an affected party with questions concerning the plan's termination;

(2) *Intent to terminate plan.* A statement that the plan administrator intends to terminate the plan in a standard termination as of a specified proposed termination date and will notify the affected party if the proposed termination date is changed to a later date or if the termination does not occur;

(3) *Sufficiency requirement.* A statement that, in order to terminate in a standard termination, plan assets must be sufficient to provide all plan benefits under the plan;

(4) *Cessation of accruals.* A statement (as applicable) that—

(i) Benefit accruals will cease as of the termination date, but will continue if the plan does not terminate;

(ii) A plan amendment has been adopted under which benefit accruals will cease, in accordance with section 204(h) of ERISA, as of the proposed termination date or a specified date before the proposed termination date, whether or not the plan is terminated; or

(iii) Benefit accruals ceased, in accordance with section 204(h) of ERISA, as of a specified date before the notice of intent to terminate was issued;

(5) *Annuity information.* If required under § 4041.27, the annuity information described therein;

(6) *Benefit information.* A statement that each affected party entitled to plan benefits will receive a written notification regarding his or her plan benefits;

(7) *Summary plan description.* A statement as to how an affected party entitled to receive the latest updated summary plan description under section 104(b) of ERISA can obtain it.

(8) *Continuation of monthly benefits.* For persons who are, as of the psoposed termination date, in pay status, a statement (as applicable) —

(i) That their monthly (or other periodic) benefit amounts will not be affected by the plan's termination; or

(ii) Explaining how their monthly (or other periodic) benefit amounts will be affected under plan provisions); and

(9) *Extinguishment of guarantee.* A statement that after plan assets have been distributed in full satisfaction of all plan benefits under the plan with respect to a participant or a beneficiary of a deceased participant, either by the purchase of irrevocable commitments (annuity contracts) or by an alternative form of distribution provided for under the plan, the PBGC no longer guarantees that participant's or beneficiary's plan benefits.

(c) *Spin-off/termination transactions.* In the case of a transaction in which a single defined benefit plan is split into two or more plans and there is a reversion of residual assets to an employer upon the termination of one or more but fewer than all of the resulting plans (a "spin-off/termination transaction"), the plan administrator must, within the time period specified in paragraph (a) of this section, provide a notice describing the transaction to all participants, beneficiaries of deceased participants, and alternate payees in the original plan who are, as of the proposed termination date, covered by an ongoing plan.

§ 4041.24 Notices of plan benefits.

(a) *Notice requirement.* The plan administrator must, no later than the time the plan administrator files the standard termination notice with the PBGC, issue a notice of plan benefits to each person (other than the PBGC and any employee organization) who is an affected party as of the proposed termination date. In the case of a beneficiary of a deceased participant or an alternate payee, the plan administrator must issue a notice of plan benefits promptly to any person that becomes an affected party after the proposed termination date and on or before the distribution date.

(b) *Contents of notice.* The plan administrator must include in each notice of plan benefits—

(1) The name and PN of the plan, the name and EIN of each contributing sponsor, and the name, address, and telephone number of an individual who may be contacted to answer questions concerning plan benefits;

(2) The proposed termination date given in the notice of intent to terminate and any extended proposed termination date under § 4041.25(b);

(3) If the amount of plan benefits set forth in the notice is an estimate, a statement that the amount is an estimate and that plan benefits paid may be greater than or less than the estimate;

(4) Except in the case of an affected party in pay status for more than one year as of the proposed termination date—

(i) The personal data (if available) needed to calculate the affected party's plan benefits, along with a statement requesting that the affected party promptly correct any information he or she believes to be incorrect; and

(ii) If any of the personal data needed to calculate the affected party's plan benefits is not available, the best available data, along with a statement informing the affected party of the data not available and affording him or her the opportunity to provide it; and

(5) The information in paragraphs (c) through (e) of this section, as applicable.

(c) *Benefits of persons in pay status.* For an affected party in pay status as of the proposed termination date, the plan administrator must include in the notice of plan benefits —

(1) The amount and form of the participant's or beneficiary's plan benefits payable as of the proposed termination date;

(2) The amount and form of plan benefits, if any, payable to a beneficiary upon the participant's death and the name of the beneficiary; and

(3) The amount and date of any increase or decrease in the benefit scheduled to occur (or that has already occurred) after the proposed termination date and an explanation of the increase or decrease, including, where applicable, a reference to the pertinent plan provision.

(d) *Benefits of persons with valid elections or de minimis benefits.* For an affected party who, as of the proposed termination date, has validly elected a form and starting date with respect to plan benefits not yet in pay status, or with respect to whom the plan administrator has determined that a nonconsensual lump sum distribution will be made, the plan administrator must include in the notice of plan benefits—

(1) The amount and form of the person's plan benefits payable as of the projected benefit starting date, and what that date is;

(2) The information in paragraphs (c)(2) and (c)(3) of this section;

(3) If the plan benefits will be paid in any form other than a lump sum and the age at which, or form in which, the plan benefits will be paid differs from the normal retirement benefit—

(i) The age or form stated in the plan; and

(ii) The age or form adjustment factors; and

(4) If the plan benefits will be paid in a lump sum —

(i) An explanation of when a lump sum may be paid without the consent of the participant or the participant's spouse;

(ii) A description of the mortality table used to convert to the lump sum benefit (*e.g.*, the mortality table published by the IRS in Revenue Ruling 95–6, 1995–1 C.B. 80) and a reference to the pertinent plan provisions;

(iii) A description of the interest rate to be used to convert to the lump sum benefit (*e.g.*, the 30-year Treasury rate for the third month before the month in which the lump sum is distributed), a reference to the pertinent plan provision, and (if known) the applicable interest rate;

(iv) An explanation of how interest rates are used to calculate lump sums;

(v) A statement that the use of a higher interest rate results in a smaller lump sum amount; and

(vi) A statement that the applicable interest rate may change before the distribution date.

(e) *Benefits of all other persons not in pay status.* For any other affected party not described in paragraph (c) or (d) of this section (or described therein only with respect to a portion of the affected party's plan benefits), the plan administrator must include in the notice of plan benefits—

(1) The amount and form of the person's plan benefits payable at normal retirement age in any one form permitted under the plan;

(2) Any alternative benefit forms, including those payable to a beneficiary upon the person's death either before or after benefits commence;

(3) If the person is or may become entitled to a benefit that would be payable before normal retirement age, the amount and form of benefit that would be payable at the earliest benefit commencement date (or, if more than one such form is payable at the earliest benefit commencement date, any one of those forms) and whether the benefit commencing on such date would be subject to future reduction; and

(4) If the plan benefits may be paid in a lump sum, the information in paragraph (d)(4) of this section.

(f) *Spin-off/termination transactions.* In the case of a spin-off/termination transaction (as defined in § 4041.23(c)), the plan administrator must, no later than the time the plan administrator files the standard termination notice for any terminating plan, provide all participants, beneficiaries of deceased participants, and alternate payees in the original plan who are (as of the proposed termination date) covered by an ongoing plan with a notice of plan benefits containing the information in paragraphs (b) through (e) of this section.

§ 4041.25 Standard termination notice.

(a) *Notice requirement.* The plan administrator must file with the PBGC a standard termination notice, consisting of the PBGC Form 500, completed in accordance with the instructions thereto, on or before the 180th day after the proposed termination date.

(b) *Change of proposed termination date.* The plan administrator may, in the standard termination notice, select a proposed termination date that is later than the date specified in the notice of intent to terminate, provided it is not later than 90 days after the earliest date on which a notice of intent to terminate was issued to any affected party.

(c) *Request for IRS determination letter.* To qualify for the distribution deadline in § 4041.28(a)(1)(ii), the plan administrator must submit to the IRS a valid request for a determination of the plan's qualification status upon termination ("determination letter") by the time the standard termination notice is filed.

§ 4041.26 PBGC review of standard termination notice.

(a) *Review period.* (1) *In general.* The PBGC will notify the plan administrator in writing of the date on which it received a complete standard termination notice at the address provided in the PBGC's standard termination forms and instructions package. If the PBGC does not issue a notice of noncompliance under § 4041.31 during its 60-day review period following such date, the plan administrator must proceed to close out the plan in accordance with § 4041.28.

(2) *Extension of review period.* The PBGC and the plan administrator may, before the expiration of the PBGC review period in paragraph (a)(1) of this section, agree in writing to extend that period.

(b) *If standard termination notice is incomplete.* (1) *For purposes of timely filing.* If the standard termination notice is incomplete, the PBGC may, based on the nature and extent of the omission, provide the plan administrator an opportunity to complete the notice. In such a case, the standard termination notice will be deemed to have been complete as of the date when originally filed for purposes of § 4041.25(a), provided the plan administrator provides the missing information by the later of—

(i) The 180th day after the proposed termination date; or

(ii) The 30th day after the date of the PBGC notice that the filing was incomplete.

(2) *For purposes of PBGC review period.* If the standard termination notice is completed under paragraph (b)(1) of this section, the PBGC will determine whether the notice will be deemed to have been complete as of the date when originally filed for purposes of determining when the PBGC's review period begins under § 4041.26(a)(1).

(c) *Additional information.* (1) *Deadline for providing additional information.* The PBGC may in any case require the submission of additional information relevant to the termination proceeding. Any such additional information becomes part of the standard termination notice and must be submitted within 30 days after the date of a written request by the PBGC, or within a different time period specified therein. The PBGC may in its discretion shorten the time period where it determines that the interests of the PBGC or participants may be prejudiced by a delay in receipt of the information.

(2) *Effect on termination proceeding.* A request for additional information will suspend the running of the PBGC's 60-day review period. The review period will begin running again on the day the required information is received and continue for the greater of—

(i) The number of days remaining in the review period; or

(ii) Five regular business days.

§ 4041.27 Notice of annuity information.

(a) *Notice requirement.* (1) *In general.* The plan administrator must provide notices in accordance with this section to each affected party entitled to plan benefits other than an affected party whose plan benefits will be distributed in the form of a nonconsensual lump sum.

(2) *Spin-off/termination transactions.* The plan administrator must provide the information in paragraph (d) of this section to a person entitled to notice under §§ 4041.23(c) or 4041.24(f), at the same time and in the same manner as required for an affected party.

(b) *Content of notice.* The plan administrator must include, as part of the notice of intent to terminate—

(1) *Identity of insurers.* The name and address of the insurer or insurers from whom (if known), or (if not) from among whom, the plan administrator intends to purchase irrevocable commitments (annuity contracts);

(2) *Change in identity of insurers.* A statement that if the plan administrator later decides to select a different

insurer, affected parties will receive a supplemental notice no later than 45 days before the distribution date; and

(3) *State guaranty association coverage information.* A statement informing the affected party—

(i) That once the plan distributes a benefit in the form of an annuity purchased from an insurance company, the insurance company takes over the responsibility for paying that benefit;

(ii) That all states, the District of Columbia, and the Commonwealth of Puerto Rico have established "guaranty associations" to protect policy holders in the event of an insurance company's financial failure;

(iii) That a guaranty association is responsible for all, part, or none of the annuity if the insurance company cannot pay;

(iv) That each guaranty association has dollar limits on the extent of its guaranty coverage, along with a general description of the applicable dollar coverage limits;

(v) That in most cases the policy holder is covered by the guaranty association for the state where he or she lives at the time the insurance company fails to pay; and

(vi) How to obtain the addresses and telephone numbers of guaranty association offices from the PBGC (as described in the applicable forms and instructions package).

(c) *Where insurer(s) not known.* (1) *Extension of deadline for notice.* If the identity-of-insurer information in paragraph (b)(1) of this section is not known at the time the plan administrator is required to provide it to an affected party as part of a notice of intent to terminate, the plan administrator must instead provide it in a supplemental notice under paragraph (d) of this section.

(2) *Alternative NOIT information.* A plan administrator that qualifies for the extension in paragraph (c)(1) of this section with respect to a notice of intent to terminate must include therein (in lieu of the information in paragraph (b) of this section) a statement that—

(i) Irrevocable commitments (annuity contracts) may be purchased from an insurer to provide some or all of the benefits under the plan;

(ii) The insurer or insurers have not yet been identified; and

(iii) Affected parties will be notified at a later date (but no later than 45 days before the distribution date) of the name and address of the insurer or insurers from whom (if known), or (if not) from among whom, the plan administrator intends to purchase irrevocable commitments (annuity contracts).

(d) *Supplemental notice.* The plan administrator must provide a supplemental notice to an affected party in accordance with this paragraph (d) if the plan administrator did not previously notify the affected party of the identity of insurer(s) or, after having previously notified the affected party of the identity of insurer(s), decides to select a different insurer. A failure to provide a required supplemental notice to an affected party will be deemed to be a failure to comply with the notice of intent to terminate requirements.

(1) *Deadline for supplemental notice.* The deadline for issuing the supplemental notice is 45 days before the affected party's distribution date (or, in the case of an employee organization, 45 days before the earliest distribution date for any affected party that it represents).

(2) *Content of supplemental notice.* The supplemental notice must include—

(i) The identity-of-insurer information in paragraph (b)(1) of this section;

(ii) The information regarding change of identity of insurer(s) in paragraph (b)(2) of this section; and

(iii) Unless the state guaranty association coverage information in paragraph (b)(3) of this section was previously provided to the affected party, such information and the extinguishment-of-guarantee information in § 4041.23(b)(9).

§ 4041.28 Closeout of plan.

(a) *Distribution deadline.* (1) *In general.* Unless a notice of noncompliance is issued under § 4041.31(a), the plan administrator must complete the distribution of plan assets in satisfaction of plan benefits (through priority category 6 under section 4044 of ERISA and part 4044 of this chapter) by the later of—

(i) 180 days after the expiration of the PBGC's 60-day (or extended) review period under § 4041.26(a); or

(ii) If the plan administrator meets the requirements of § 4041.25(c), 120 days after receipt of a favorable determination from the IRS.

(2) *Revocation of notice of noncompliance.* If the PBGC revokes a notice of noncompliance issued under § 4041.31(a), the distribution deadline is extended until the 180th day after the date of the revocation.

(b) *Assets insufficient to satisfy plan benefits.* If, at the time of any distribution, the plan administrator determines that plan assets are not sufficient to satisfy all plan benefits (with assets determined net of other liabilities, including PBGC premiums), the plan administrator may not make any further distribution of assets to effect the plan's termination and must promptly notify the PBGC.

(c) *Method of distribution.* (1) *In general.* The plan administrator must, in accordance with all applicable requirements under the Code and ERISA, distribute plan assets in satisfaction of all plan benefits by purchase of an irrevocable commitment from an insurer or in another permitted form.

(2) *Lump sum calculations.* In the absence of evidence establishing that another date is the "annuity starting date" under the Code, the distribution date is the "annuity starting date" for purposes of—

(i) Calculating the present value of plan benefits that may be provided in a form other than by purchase of an irrevocable commitment from an insurer (*e.g.*, in selecting the interest rate(s) to be used to value a lump sum distribution); and

(ii) Determining whether plan benefits will be paid in such other form.

(3) *Selection of insurer.* In the case of plan benefits that will be provided by purchase of an irrevocable commitment from an insurer, the plan administrator must select the insurer in accordance with the fiduciary standards of Title I of ERISA.

(4) *Participating annuity contracts.* In the case of a plan in which any residual assets will be distributed to participants, a participating annuity contract may be purchased to satisfy the requirement that annuities be provided by the purchase of irrevocable commitments only if the portion of the price of the contract that is attributable to the participation feature—

(i) Is not taken into account in determining the amount of residual assets; and

(ii) Is not paid from residual assets allocable to participants.

(5) *Missing participants.* The plan administrator must distribute plan benefits to missing participants in accordance with part 4050.

(d) *Provision of annuity contract.* If plan benefits are provided through the purchase of irrevocable commitments—

(1) Either the plan administrator or the insurer must, within 30 days after it is available, provide each participant and beneficiary with a copy of the annuity contract or certificate showing the insurer's name and address and clearly reflecting the insurer's obligation to provide the participant's or beneficiary's plan benefits; and

(2) If such a contract or certificate is not provided to the participant or beneficiary by the date on which the post-distribution certification is required to be filed in order to avoid the assessment of penalties under § 4041.29(b), the plan administrator must, no later than that date, provide the participant and beneficiary with a notice that includes—

(i) A statement that the obligation for providing the participant's or beneficiary's plan benefits has transferred to the insurer;

(ii) The name and address of the insurer;

(iii) The name, address, and telephone number of the person designated by the insurer to answer questions concerning the annuity; and

(iv) A statement that the participant or beneficiary will receive from the plan administrator or insurer a copy of the annuity contract or a certificate showing the insurer's name and address and clearly reflecting the insurer's obligation to provide the participant's or beneficiary's plan benefits.

§ 4041.29 Post-distribution certification.

(a) *Deadline.* Within 30 days after the last distribution date for any affected party, the plan administrator must file with the PBGC a post-distribution certification consisting of the PBGC Form 501, completed in accordance with the instructions thereto.

(b) *Assessment of penalties.* The PBGC will assess a penalty for late filing of a post-distribution certification only to the extent the certification is filed more than 90 days after the distribution deadline (including extensions) under § 4041.28(a).

§ 4041.30 Requests for deadline extensions.

(a) *In general.* The PBGC may in its discretion extend a deadline for taking action under this subpart to a later date. The PBGC will grant such an extension where it finds compelling reasons why it is not administratively feasible for the plan administrator (or other persons acting on behalf of the plan administrator) to take the action until the later date and the delay is brief. The PBGC will consider—

(1) The length of the delay; and

(2) Whether ordinary business care and prudence in attempting to meet the deadline is exercised.

(b) *Time of extension request.* Any request for an extension under paragraph (a) of this section that is filed later than the 15th day before the applicable deadline must include a justification for not filing the request earlier.

(c) *IRS determination letter requests.* Any request for an extension under paragraph (a) of this section of the deadline in § 4041.25(c) for submitting a determination letter request to the IRS (in order to qualify for the distribution deadline in § 4041.28(a)(1)(ii)) will be deemed to be granted unless the PBGC notifies the plan administrator otherwise within 60 days after receipt of the request (or, if later, by the end of the PBGC's review period under § 4041.26(a)). The PBGC will notify the plan administrator in writing of the date on which it receives such request.

(d) *Statutory deadlines not extendable.* The PBGC will not—

(1) *Pre-distribution deadlines. (i) Extend the 60-day time limit under § 4041.23(a) for issuing the notice of intent to terminate; or*

(ii) Waive the requirement in § 4041.24(a) that the notice of plan benefits be issued by the time the plan administrator files the standard termination notice with the PBGC; or

(2) *Post-distribution deadlines.* Extend the deadline under § 4041.29(a) for filing the post-distribution certification. However, the PBGC will assess a penalty for late filing of a post-distribution certification only under the circumstances described in § 4041.29(b).

§ 4041.31 Notice of noncompliance.

(a) *Failure to meet pre-distribution requirements.* (1) *In general.* Except as provided in paragraphs (a)(2) and (c) of this section, the PBGC will issue a notice of noncompliance within the 60-day (or extended) time period prescribed by § 4041.26(a) whenever it determines that—

(i) The plan administrator failed to issue the notice of intent to terminate to all affected parties (other than the PBGC) in accordance with § 4041.23;

(ii) The plan administrator failed to issue notices of plan benefits to all affected parties entitled to plan benefits in accordance with § 4041.24;

(iii) The plan administrator failed to file the standard termination notice in accordance with § 4041.25;

(iv) As of the distribution date proposed in the standard termination notice, plan assets will not be sufficient to satisfy all plan benefits under the plan; or

(v) In the case of a spin-off/termination transaction (as described in § 4041.23(c)), the plan administrator failed to issue any notice required by § 4041.23(c), § 4041.24(f), or § 4041.27(a)(2) in accordance with such section.

(2) *Interests of participants.* The PBGC may decide not to issue a notice of noncompliance based on a failure to meet a requirement under paragraphs (a)(1)(i) through (a)(1)(iii) or (a)(1)(v) of this section if it determines that issuance of the notice would be inconsistent with the interests of participants and beneficiaries.

(3) *Continuing authority.* The PBGC may issue a notice of noncompliance or suspend the termination proceeding based on a failure to meet a requirement under paragraphs (a)(1)(i) through (a)(1)(v) of this section after expiration of the 60-day (or extended) time period prescribed by § 4041.26(a) (including upon audit) if the PBGC determines such action is necessary to carry out the purposes of Title IV.

(b) *Failure to meet distribution requirements.* (1) *In general.* If the PBGC determines, as part of an audit or otherwise, that the plan administrator has not satisfied any distribution requirement of § 4041.28(a) or (c), it may issue a notice of noncompliance.

(2) *Criteria.* In deciding whether to issue a notice of noncompliance under paragraph (b)(1) of this section, the PBGC may consider—

(i) The nature and extent of the failure to satisfy a requirement of § 4041.28(a) or (c);

(ii) Any corrective action taken by the plan administrator; and

(iii) The interests of participants and beneficiaries.

(3) *Late distributions.* The PBGC will not issue a notice of noncompliance for failure to distribute timely based on any facts disclosed in the post-distribution certification if 60 or more days have passed from the PBGC's receipt of the post-distribution certification. The 60-day period may be extended by agreement between the plan administrator and the PBGC.

(c) *Correction of errors.* The PBGC will not issue a notice of noncompliance based solely on the plan administrator's inclusion of erroneous information (or omission of correct information) in a notice required to be provided to any person under this part if—

(1) The PBGC determines that the plan administrator acted in good faith in connection with the error;

(2) The plan administrator corrects the error no later than—

(i) In the case of an error in the notice of plan benefits under § 4041.24, the latest date an election notice may be provided to the person; or

(ii) In any other case, as soon as practicable after the plan administrator knows or should know of the error, or by any later date specified by the PBGC; and

(3) The PBGC determines that the delay in providing the correct information will not substantially harm any person.

(d) *Reconsideration.* A plan administrator may request reconsideration of a notice of

noncompliance in accordance with the rules prescribed in part 4003, subpart C.

(e) *Consequences of notice of noncompliance.* (1) *Effect on termination.* A notice of noncompliance ends the standard termination proceeding, nullifies all actions taken to terminate the plan, and renders the plan an ongoing plan. A notice of noncompliance is effective upon the expiration of the period within which the plan administrator may request reconsideration under paragraph (d) of this section or, if reconsideration is requested, a decision by the PBGC upholding the notice. However, once a notice is issued, the running of all time periods specified in ERISA or this part relevant to the termination will be suspended, and the plan administrator may take no further action to terminate the plan (except by initiation of a new termination) unless and until the notice is revoked. A plan administrator that still desires to terminate a plan must initiate the termination process again, starting with the issuance of a new notice of intent to terminate.

(2) *Effect on plan administration.* If the PBGC issues a notice of noncompliance, the prohibitions in § 4041.22(a)(1) and (a)(2) will cease to apply—

(i) Upon expiration of the period during which reconsideration may be requested or, if earlier, at the time the plan administrator decides not to request reconsideration; or

(ii) If reconsideration is requested, upon PBGC issuance of a decision on reconsideration upholding the notice of noncompliance.

(3) *Revocation of notice of noncompliance.* If a notice of noncompliance is revoked, unless the PBGC provides otherwise, any time period suspended by the issuance of the notice will resume running from the date of the revocation. In no case will the review period under § 4041.26(a) end less than 60 days from the date the PBGC received the standard termination notice.

(f) *If no notice of noncompliance is issued.* A standard termination is deemed to be valid if—

(1) The plan administrator files a standard termination notice under § 4041.25 and the PBGC does not issue a notice of noncompliance pursuant to § 4041.31(a); and

(2) The plan administrator files a post-distribution certification under § 4041.29 and the PBGC does not issue a notice of noncompliance pursuant to § 4041.31(b).

(g) *Notice to affected parties.* Upon a decision by the PBGC on reconsideration affirming the issuance of a notice of noncompliance or, if earlier, upon the plan administrator's decision not to request reconsideration, the plan administrator must notify the affected parties (other than the PBGC), and any persons who were provided notice under § 4041.23(c), in writing that the plan is not going to terminate or, if applicable, that the termination was invalid but that a new notice of intent to terminate is being issued.

Subpart C—Distress Termination Process

§ 4041.41 Requirements for a distress termination.

(a) *Distress requirements.* A plan may be terminated in a distress termination only if—

(1) The plan administrator issues a notice of intent to terminate to each affected party in accordance with § 4041.43 at least 60 days and (except with PBGC approval) not more than 90 days before the proposed termination date;

(2) The plan administrator files a distress termination notice with the PBGC in accordance with § 4041.45 no later than 120 days after the proposed termination date; and

(3) The PBGC determines that each contributing sponsor and each member of its controlled group satisfy one of the distress criteria set forth in paragraph (c) of this section.

(b) *Effect of failure to satisfy requirements.* (1) Except as provided in paragraph (b)(2)(i) of this section, if the plan administrator does not satisfy all of the requirements for a distress termination, any action taken to effect the plan termination is null and void, and the plan is an ongoing plan. A plan administrator who still desires to terminate the plan must initiate the termination process again, starting with the issuance of a new notice of intent to terminate.

(2)(i) The PBGC may, upon its own motion, waive any requirement with respect to notices to be filed with the PBGC under paragraph (a)(1) or (a)(2) of this section if the PBGC believes that it will be less costly or administratively burdensome to the PBGC to do so. The PBGC will not entertain requests for waivers under this paragraph.

(ii) Notwithstanding any other provision of this part, the PBGC retains the authority in any case to initiate a plan termination in accordance with the provisions of section 4042 of ERISA.

(c) *Distress criteria.* In a distress termination, each contributing sponsor and each member of its controlled group must satisfy at least one (but not necessarily the same one) of the following criteria in order for a distress termination to occur:

(1) *Liquidation.* This criterion is met if, as of the proposed termination date—

(i) A person has filed or had filed against it a petition seeking liquidation in a case under title 11, United States Code, or under a similar federal law or law of a State or political subdivision of a State, or a case described in paragraph (e)(2) of this section has been converted to such a case; and

(ii) The case has not been dismissed.

(2) *Reorganization.* This criterion is met if—

(i) As of the proposed termination date, a person has filed or had filed against it a petition seeking reorganization in a case under title 11, United States Code, or under a similar law of a state or a political subdivision of a state, or a case described in paragraph (e)(1) of this section has been converted to such a case;

(ii) As of the proposed termination date, the case has not been dismissed;

(iii) The person notifies the PBGC of any request to the bankruptcy court (or other appropriate court in a case under such similar law of a state or a political subdivision of a state) for approval of the plan termination by concurrently filing with the PBGC a copy of the motion requesting court approval, including any documents submitted in support of the request; and

(iv) The bankruptcy court or other appropriate court determines that, unless the plan is terminated, such person will be unable to pay all its debts pursuant to a plan of reorganization and will be unable to continue in business outside the reorganization process and approves the plan termination.

(3) *Inability to continue in business.* This criterion is met if a person demonstrates to the satisfaction of the PBGC that, unless a distress termination occurs, the person will be unable to pay its debts when due and to continue in business.

(4) *Unreasonably burdensome pension costs.* This criterion is met if a person demonstrates to the satisfaction of the PBGC that the person's costs of providing pension coverage have become unreasonably burdensome solely as a result of declining covered employment under all single-employer plans for which that person is a contributing sponsor.

(d) *Non-duplicative efforts.* (1) If a person requests approval of the plan termination by a court, as described in paragraph (c)(2) of this section, the PBGC—

(i) Will normally enter an appearance to request that the court make specific findings as to whether the contributing sponsor or controlled group member meets the distress test in paragraph (c)(3) of this section, or state that it is unable to make such findings;

(ii) Will provide the court with any information it has that may be germane to the court's ruling;

(iii) Will, if the person has requested, or later requests, a determination by the PBGC under paragraph (c)(3) of this section, defer action on the request until the court makes its determination; and

(iv) Will be bound by a final and non-appealable order of the court.

(2) If a person requests a determination by the PBGC under paragraph (c)(3) of this section, the PBGC determines that the distress criterion is not met, and the person thereafter requests approval of the plan termination by a court, as described in paragraph (c)(2) of this section, the PBGC will advise the court of its determination and make its administrative record available to the court.

(e) *Non-recognition of certain actions.* If the PBGC finds that a person undertook any action or failed to act for the principal purpose of satisfying any of the distress criteria contained in paragraph (c) of this section, rather than for a reasonable business purpose, the PBGC will disregard such act or failure to act in determining whether the person has satisfied any of those criteria.

(f) *Requests for deadline extensions.* The PBGC may extend any deadline under this subpart in accordance with the rules described in section § 4041.30, except that the PBGC will not extend—

(1) *Pre-distribution deadlines.* The 60-day time limit under § 4041.43(a) for issuing the notice of intent to terminate; or

(2) *Post-distribution deadlines.* The deadline under § 4041.50 for filing the post-distribution certification.

§ 4041.42 Administration of plan during termination process.

(a) *General rule.* Except to the extent specifically prohibited by this section, during the pendency of termination proceedings the plan administrator must continue to carry out the normal operations of the plan, such as putting participants into pay status, collecting contributions due the plan, and investing plan assets.

(b) *Prohibitions after issuing notice of intent to terminate.* The plan administrator may not make loans to plan participants beginning on the first day he or she issues a notice of intent to terminate, and from that date until a distribution is permitted pursuant to § 4041.50, the plan administrator may not—

(1) Distribute plan assets pursuant to, or (except as required by this part) take any other actions to implement, the termination of the plan;

(2) Pay benefits attributable to employer contributions, other than death benefits, in any form other than as an annuity; or

(3) Purchase irrevocable commitments to provide benefits from an insurer.

(c) *Limitation on benefit payments on or after proposed termination date.* Beginning on the proposed termination date, the plan administrator must reduce benefits to the level determined under part 4022, subpart D, of this chapter.

(d) *Failure to qualify for distress termination.* In any case where the PBGC determines, pursuant to § 4041.44(c) or § 4041.46(c)(1), that the requirements for a distress termination are not satisfied—

(1) The prohibitions in paragraph (b) of this section, other than those in paragraph (b)(1), will cease to apply—

(i) Upon expiration of the period during which reconsideration may be requested under §§ 4041.44(e) and 4041.46(e) or, if earlier, at the time the plan administrator decides not to request reconsideration; or

(ii) If reconsideration is requested, upon PBGC issuance of its decision on reconsideration.

(2) Any benefits that were not paid pursuant to paragraph (c) of this section will be due and payable as of the effective date of the PBGC's determination, together with interest from the date (or dates) on which the unpaid amounts were originally due until the date on which they are paid in full at the rate or rates prescribed under § 4022.81(d) of this chapter.

(e) *Effect of subsequent insufficiency.* If the plan administrator makes a finding of subsequent insufficiency for guaranteed benefits pursuant to § 4041.49(b), or the PBGC notifies the plan administrator that it has made a finding of subsequent insufficiency for guaranteed benefits pursuant to § 4041.40(d), the prohibitions in paragraph (b) of this section will apply in accordance with § 4041.49(e).

§ 4041.43 Notice of intent to terminate.

(a) *General rules.* (1) At least 60 days and (except with PBGC approval) no more than 90 days before the proposed termination date, the plan administrator must issue a written notice of intent to terminate to each person who is an affected party as of the proposed termination date.

(2) The plan administrator must issue the notice of intent to terminate to all affected parties other than the PBGC at or before the time he or she files the notice with the PBGC.

(3) The notice to affected parties other than the PBGC must contain all of the information specified in paragraph (b) of this section.

(4) The notice to the PBGC must be filed on PBGC Form 600, Distress Termination, Notice of Intent to Terminate, completed in accordance with the instructions thereto.

(5) In the case of a beneficiary of a deceased participant or an alternate payee, the plan administrator must issue a notice of intent to terminate promptly to any person that becomes an affected party after the proposed termination date and on or before the date a trustee is appointed for the plan pursuant to section 4042(c) of ERISA (or, in the case of a plan that distributes assets pursuant to § 4041.50, the distribution date).

(b) *Contents of notice to affected parties other than the PBGC.* The plan administrator must include in the notice of intent to terminate to each affected party other than the PBGC all of the following information:

(1) The name of the plan and of the contributing sponsor;

(2) The EIN of the contributing sponsor and the PN; if there is no EIN or PN, the notice must so state;

(3) The name, address, and telephone number of the person who may be contacted by an affected party with questions concerning the plan's termination;

(4) A statement that the plan administrator expects to terminate the plan in a distress termination on a specified proposed termination date;

(5) The cessation of accruals information in § 4041.23(b)(4);

(6) A statement as to how an affected party entitled to receive the latest updated summary plan description under section 104(b) of ERISA can obtain it;

(7) A statement of whether plan assets are sufficient to pay all guaranteed benefits or all benefit liabilities;

(8) A brief description of what benefits are guaranteed by the PBGC (*e.g.*, if only a portion of the benefits are guaranteed because of the phase-in rule, this should be explained), and a statement that participants and beneficiaries also may receive a portion of the benefits to which each is entitled under the terms of the plan in excess of guaranteed benefits; and

(9) A statement, if applicable, that benefits may be subject to reduction because of the limitations on the amounts guaranteed by the PBGC or

because plan assets are insufficient to pay for full benefits (pursuant to part 4022, subparts B and D, of this chapter) and that payments in excess of the amount guaranteed by the PBGC may be recouped by the PBGC (pursuant to part 4022, subpart E, of this chapter).

(c) *Spin-off/termination transactions.* In the case of a spin-off/termination transaction (as described in § 4041.23(c)), the plan administrator must provide all participants and beneficiaries in the original plan who are also participants or beneficiaries in the ongoing plan (as of the proposed termination date) with a notice describing the transaction no later than the date on which the plan administrator completes the issuance of notices of intent to terminate under this section.

§ 4041.44 PBGC review of notice of intent to terminate.

(a) *General.* When a notice of intent to terminate is filed with it, the PBGC—

(1) Will determine whether the notice was issued in compliance with § 4041.43; and

(2) Will advise the plan administrator of its determination, in accordance with paragraph (b) or (c) of this section, no later than the proposed termination date specified in the notice.

(b) *Tentative finding of compliance.* If the PBGC determines that the issuance of the notice of intent to terminate appears to be in compliance with § 4041.43, it will notify the plan administrator in writing that—

(1) The PBGC has made a tentative determination of compliance;

(2) The distress termination proceeding may continue; and

(3) After reviewing the distress termination notice filed pursuant to § 4041.45, the PBGC will make final, or reverse, this tentative determination.

(c) *Finding of noncompliance.* If the PBGC determines that the issuance of the notice of intent to terminate was not in compliance with § 4041.43 (except for requirements that the PBGC elects to waive under § 4041.41(b)(2)(i) with respect to the notice filed with the PBGC), the PBGC will notify the plan administrator in writing—

(1) That the PBGC has determined that the notice of intent to terminate was not properly issued; and

(2) That the proposed distress termination is null and void and the plan is an ongoing plan.

(d) *Information on need to institute section 4042 proceedings.* The PBGC may require the plan administrator to submit, within 20 days after the plan administrator's receipt of the PBGC's written request (or such other period as may be specified in such written request), any information that the PBGC determines it needs in order to decide whether to institute termination or trusteeship proceedings pursuant to section 4042 of ERISA, whenever—

(1) A notice of intent to terminate indicates that benefits currently in pay status (or that should be in pay status) are not being paid or that this is likely to occur within the 180-day period following the issuance of the notice of intent to terminate;

(2) The PBGC issues a determination under paragraph (c) of this section; or

(3) The PBGC has any reason to believe that it may be necessary or appropriate to institute proceedings under section 4042 of ERISA.

(e) *Reconsideration of finding of noncompliance.* A plan administrator may request reconsideration of the PBGC's determination of noncompliance under paragraph (c) of this section in accordance with the rules prescribed in part 4003, subpart C, of this chapter. Any request for reconsideration automatically stays the effectiveness of the determination until the PBGC issues its decision on reconsideration, but does not stay the time period within which information must be submitted to the PBGC in response to a request under paragraph (d) of this section.

(f) *Notice to affected parties.* Upon a decision by the PBGC affirming a finding of noncompliance or upon the expiration of the period within which the plan administrator may request reconsideration of a finding of noncompliance (or, if earlier, upon the plan administrator's decision not to request reconsideration), the plan administrator must notify the affected parties (and any persons who were provided notice under § 4041.43(e)) in writing that the plan is not going to terminate or, if applicable, that the termination is invalid but that a new notice of intent to terminate is being issued.

§ 4041.45 Distress termination notice.

(a) *General rule.* The plan administrator must file with the PBGC a PBGC Form 601, Distress Termination Notice, Single-Employer Plan Termination, with Schedule EA–D, Distress Termination Enrolled Actuary Certification, that has been completed in accordance with the instructions thereto, on or before the 120th day after the proposed termination date.

(b) *Participant and benefit information.* (1) *Plan insufficient for guaranteed benefits.* Unless the enrolled actuary certifies, in the Schedule EA–D filed in accordance with paragraph (a) of this section, that the plan is sufficient either for guaranteed benefits or for benefit liabilities, the plan administrator must file with the PBGC the participant and benefit information described in PBGC Form 601 and the instructions thereto by the later of—

(i) 120 days after the proposed termination date, or

(ii) 30 days after receipt of the PBGC's determination, pursuant to § 4041.46(b), that the requirements for a distress termination have been satisfied.

(2) *Plan sufficient for guaranteed benefits or benefit liabilities.* If the enrolled actuary certifies that the plan is sufficient either for guaranteed benefits or for benefit liabilities, the plan administrator need not submit the participant and benefit information described in PBGC Form 601 and the instructions thereto unless requested to do so pursuant to paragraph (c) of this section.

(3) *Effect of failure to provide information.* The PBGC may void the distress termination if the plan administrator fails to provide complete participant and benefit information in accordance with this section.

(c) *Additional information.* The PBGC may in any case require the submission of any additional information that it needs to make the determinations that it is required to make under this part or to pay benefits pursuant to section 4061 or 4022(c) of ERISA. The plan administrator must submit any information requested under this paragraph within 30 days after receiving the PBGC's written request (or such other period as may be specified in such written request).

§ 4041.46 PBGC determination of compliance with requirements for distress termination.

(a) *General.* Based on the information contained and submitted with the PBGC Form 600 and the PBGC Form 601, with Schedule EA–D, and on any information submitted by an affected party or otherwise obtained by the PBGC, the PBGC will determine whether the requirements for a distress termination set forth in § 4041.41(c) have been met and will notify the plan administrator in writing of its determination, in accordance with paragraph (b) or (c) of this section.

(b) *Qualifying termination.* If the PBGC determines that all of the requirements of § 4041.41(c) have been satisfied, it will so advise the plan administrator and will also advise the plan administrator of whether participant and benefit information must be submitted in accordance with § 4041.45(b).

(c) *Non-qualifying termination.* (1) Except as provided in paragraph (c)(2) of this section, if the PBGC determines that any of the requirements of § 4041.41 have not been met, it will notify the plan administrator of its determination, the basis therefor, and the effect thereof (as provided in § 4041.41(b)).

(2) If the only basis for the PBGC's determination described in paragraph (c)(1) of this section is that the distress termination notice is incomplete, the PBGC will advise the plan administrator of the missing item(s) of information and that the information must be filed with the PBGC no later than the 120th day after the proposed termination date or the 30th day after the date of the PBGC's notice of its determination, whichever is later.

(d) *Reconsideration of determination of non-qualification.* A plan administrator may request reconsideration of the PBGC's determination under paragraph (c)(1) of this section in accordance with the rules prescribed in part 4003, subpart C, of this chapter. The filing of a request for reconsideration automatically stays the effectiveness of the determination until the PBGC issues its decision on reconsideration.

(e) *Notice to affected parties.* Upon a decision by the PBGC affirming a determination of non-qualification or upon the expiration of the period within which the plan administrator may request reconsideration of a determination of non-qualification (or, if earlier, upon the plan administrator's decision not to request reconsideration), the plan administrator must notify the affected parties (and any persons who were provided notice under § 4041.43(e)) in writing that the plan is not going to terminate or, if applicable, that the termination is invalid but that a new notice of intent to terminate is being issued.

§ 4041.47 PBGC determination of plan sufficiency/insufficiency.

(a) *General.* Upon receipt of participant and benefit information filed pursuant to § 4041.45 (b)(1) or (c), the PBGC will determine the degree to which the plan is sufficient and notify the plan administrator in writing of its determination in accordance with paragraph (b) or (c) of this section.

(b) *Insufficiency for guaranteed benefits.* If the PBGC finds that it is unable to determine that a plan is sufficient for guaranteed benefits, it will issue a "notice of inability to determine sufficiency" notifying the plan administrator of this finding and advising the plan administrator that—

(1) The plan administrator must continue to administer the plan under the restrictions imposed by § 4041.42; and

(2) The termination will be completed under section 4042 of ERISA.

(c) *Sufficiency for guaranteed benefits or benefit liabilities.* If the PBGC determines that a plan is sufficient for guaranteed benefits but not for benefit liabilities or is sufficient for benefit liabilities, the PBGC will issue to the plan administrator a distribution notice advising the plan administrator—

(1) To issue notices of benefit distribution in accordance with § 4041.48;

(2) To close out the plan in accordance with § 4041.50;

(3) To file a timely post-distribution certification with the PBGC in accordance with § 4041.50(b); and

(4) That either the plan administrator or the contributing sponsor must preserve and maintain plan records in accordance with § 4041.5.

(d) *Alternative treatment of majority owner's benefit.* A majority owner may elect to forgo receipt of all or part of his or her plan benefits in connection with a distress termination. Any such alternative treatment—

(1) Is valid only if the conditions in § 4041.21(b)(2) (i) through (iv) are met (except that, in the case of a plan that does not distribute assets pursuant to § 4041.50, the majority owner may make the election and the spouse may consent any time on or after the date of issuance of the first notice of intent to terminate); and—

(2) Is subject to the PBGC's approval if the election—

(i) Is made after the termination date; and

(ii) Would result in the PBGC determining that the plan is sufficient for guaranteed benefits under paragraph (c).

§ 4041.48 Sufficient plans; notice requirements.

(a) *Notices of benefit distribution.* When a distribution notice is issued by the PBGC pursuant to § 4041.47, the plan administrator must issue notices of benefit distribution in accordance with the rules regarding notices of plan benefits in § 4041.24, except that—

(1) The deadline for issuing the notices of benefit distribution is the 60th day after receipt of the distribution notice; and

(2) With respect to the information described in § 4041.24 (b) through (e), the term "plan benefits" is replaced with "title IV benefits" and the term "proposed termination date" is replaced with "termination date".

(b) *Certification to PBGC.* No later than 15 days after the date on which the plan administrator completes the issuance of the notices of benefit distribution, the plan administrator must file with the PBGC a certification that the notices were so issued in accordance with the requirements of this section.

(c) *Notice of annuity information.* (1) *In general.* Unless all title IV benefits will be distributed in the form of nonconsensual lump sums, the plan administrator must provide a notice of annuity information to each affected party other than—

(i) An affected party whose title IV benefits will be distributed in the form of a nonconsensual lump sum; and

(ii) The PBGC.

(2) *Spin-off/termination transactions.* The plan administrator must provide the information in paragraph (c)(4) of this section to a person entitled to notice under § 4041.43(c), at the same time and in the same manner as required for an affected party described in paragraph (c)(1) of this section.

(3) *Selection of different insurer.* A plan administrator that decides to select a different insurer after having previously notified the affected party of the identity of insurer(s) under this paragraph must provide another notice of annuity information.

(4) *Content of notice.* The notice must include—

(i) The identity of insurer information in § 4041.27(b)(1);

(ii) The information regarding change in identity of insurer(s) in § 4041.27(b)(2); and

(iii) Unless the state guaranty coverage information in § 4041.27(b)(3) was previously provided to the affected party, such information and the extinguishment-of-guaranty information in § 4041.28(b)(9) (replacing the term "plan benefits" with "title IV benefits").

(5) *Deadline for notice.* The plan administrator must issue the notice of annuity information to each affected party by the deadline in § 4041.27(d)(1).

(d) *Request for IRS determination letter.* To qualify for the distribution deadline in § 4041.28(a)(1)(ii) (as modified and made applicable by § 4041.50(c)), the plan administrator must submit to the IRS a valid request for a determination of the plan's qualification status upon termination ("determination letter") by the day on which the plan administrator completes the issuance of the notices of benefit distribution.

§ 4041.49 Verification of plan sufficiency prior to closeout.

(a) *General rule.* Before distributing plan assets pursuant to a closeout under

§ 4041.50, the plan administrator must verify whether the plan's assets are still sufficient to provide for benefits at the level determined by the PBGC, *i.e.*, guaranteed benefits or benefit liabilities. If the plan administrator finds that the plan is no longer able to provide for benefits at the level determined by the PBGC, then paragraph (b) or (c) of this section, as appropriate, will apply.

(b) *Subsequent insufficiency for guaranteed benefits.* When a plan administrator finds that a plan is no longer sufficient for guaranteed benefits, the plan administrator must promptly notify the PBGC in writing of that fact and may take no further action to implement the plan termination, pending the PBGC's determination and notice pursuant to paragraph (b)(1) or (b)(2) of this section.

(1) *PBGC concurrence with finding.* If the PBGC concurs with the plan administrator's finding, the distribution notice will be void, and the PBGC will—

(i) Issue the plan administrator a notice of inability to determine sufficiency in accordance with § 4041.47(b); and

(ii) Require the plan administrator to submit a new valuation, certified to by an enrolled actuary, of the benefit liabilities and guaranteed benefits under the plan, valued in accordance with §§ 4044.41 through 4044.57 of this chapter as of the date of the plan administrator's notice to the PBGC.

(2) *PBGC non-concurrence with finding.* If the PBGC does not concur with the plan administrator's finding, it will so notify the plan administrator in writing, and the distribution notice will remain in effect.

(c) *Subsequent insufficiency for benefit liabilities.* When a plan administrator finds that a plan is sufficient for guaranteed benefits but is no longer sufficient for benefit liabilities, the plan administrator must immediately notify the PBGC in writing of this fact, but must continue with the distribution of assets in accordance with § 4041.50.

(d) *Finding by PBGC of subsequent insufficiency.* In any case in which the PBGC finds on its own initiative that a subsequent insufficiency for guaranteed benefits has occurred, paragraph (b)(1) of this section will apply, except that the guaranteed benefits must be revalued as of the date of the PBGC's finding.

(e) *Restrictions upon finding of subsequent insufficiency.* When the plan administrator makes the finding described in paragraph (b) of this section or receives notice that the PBGC has made the finding described in paragraph (d) of this section, the plan administrator is (except to the extent the PBGC otherwise directs) subject to the prohibitions in § 4041.42.

§ 4041.50 Closeout of plan.

If a plan administrator receives a distribution notice from the PBGC pursuant to § 4041.47 and neither the plan administrator nor the PBGC makes the finding described in § 4041.49(b) or (d), the plan administrator must distribute plan assets in accordance with § 4041.28 and file a post-distribution certification in accordance with § 4041.29, except that—

(a) The term "plan benefits" is replaced with "title IV benefits";

(b) For purposes of applying the distribution deadline in § 4041.28(a)(1)(i), the phrase "after the expiration of the PBGC's 60-day (or extended) review period under § 4041.26(a)" is replaced with "the day on which the plan administrator completes the issuance of the notices of benefit distribution pursuant to § 4041.48(a)"; and

(c) For purposes of applying the distribution deadline in § 4041.28(a)(1)(ii), the phrase "the requirements of § 4041.25(c)" is replaced with "the requirements of § 4041.48(d)".

6. Part 4050 is revised to read as follows:

PART 4050—MISSING PARTICIPANTS

Sec.

4050.1 Purpose and scope.
4050.2 Definitions.
4050.3 Method of distribution for missing participants.
4050.4 Diligent search.
4050.5 Designated benefit.
4050.6 Payment and required documentation.
4050.7 Benefits of missing participants—in general.
4050.8 Automatic lump sum.
4050.9 Annuity or elective lump sum—living missing participant.
4050.10 Annuity or elective lump sum—beneficiary of deceased missing participant.
4050.11 Limitations.
4050.12 Special rules.
Appendix A to part 4050—Examples of designated benefit determinations for missing participants under § 4050.5
Appendix B to part 4050—Examples of benefit payments for missing participants under §§ 4050.6 through 4050.10

Authority: 29 U.S.C. 1302(b)(3), 1350.

§ 4050.1 Purpose and scope.

This part prescribes rules for distributing benefits under a terminating single-employer plan for any individual whom the plan administrator has not located when distributing benefits under § 4041.28 of this chapter. This part applies to a plan if the plan's deemed distribution date (or the date of a payment made in accordance with § 4050.12) is in a plan year beginning on or after January 1, 1996.

§ 4050.2 Definitions.

The following terms are defined in § 4001.2 of this chapter: annuity, Code, ERISA, insurer, irrevocable commitment, mandatory employee contributions, normal retirement age, PBGC, person, plan, plan administrator, plan year and title IV benefit.

In addition, for purposes of this part:

Deemed distribution date means—

(1) The last day of the period in which distribution may be made under part 4041 of this chapter; or

(2) If the plan administrator selects an earlier date that is no earlier than the date when all benefit distributions have been made under the plan except for distributions to missing participants whose designated benefits are paid to the PBGC, such earlier date.

Designated benefit means the amount payable to the PBGC for a missing participant pursuant to § 4050.5.

Designated benefit interest rate means the rate of interest applicable to underpayments of guaranteed benefits by the PBGC under § 4022.81(d) of this chapter.

Guaranteed benefit form means, with respect to a benefit, the form in which the PBGC would pay a guaranteed benefit to a participant or beneficiary in the PBGC's program for trusteed plans under subparts A and B of part 4022 of this chapter (treating the deemed distribution date as the termination date for this purpose).

Missing participant means a participant or beneficiary entitled to a distribution under a terminating plan whom the plan administrator has not located as of the date when the plan administrator pays the individual's designated benefit to the PBGC (or distributes the individual's benefit by purchasing an irrevocable commitment from an insurer). In the absence of proof of death, individuals not located are presumed living.

Missing participant annuity assumptions means the interest rate assumptions and actuarial methods (using the interest rates for annuity valuations in Table I of appendix B to part 4044 of this chapter) for valuing a benefit to be paid by the PBGC as an annuity under subpart B of part 4044, applied—

(1) As if the deemed distribution date were the termination date;

(2) Using unisex mortality rates that are a fixed blend of 50 percent of the male mortality rates and 50 percent of the female mortality rates from the 1983 Group Annuity Mortality Table as prescribed in Rev. Rul. 95–6, 1995–1 C.B. 80 (Cumulative Bulletins are available from the Superintendent of Documents, Government Printing Office, Washington, DC 20402);

(3) Without using the expected retirement age assumptions in §§ 4044.55 through 4044.57 of this chapter;

(4) Without making the adjustment for expenses provided for in § 4044.52(a)(5) of this chapter; and

(5) By adding $300, as an adjustment (loading) for expenses, for each missing participant whose designated benefit without such adjustment would be greater than $3,500.

Missing participant forms and instructions means PBGC Forms 501 and 602, Schedule MP thereto, and related forms, and their instructions.

Missing participant lump sum assumptions means the interest rate assumptions and actuarial methods (using the interest rates for lump sum valuations in Table II of appendix B to part 4044 of this chapter) for valuing a benefit to be paid by the PBGC as a lump sum under subpart B of part 4044 of this chapter, applied—

(1) As if the deemed distribution date were the termination date;

(2) Using mortality assumptions from Table 3 of appendix A to part 4044 of this chapter; and

(3) Without using the expected retirement age assumptions in §§ 4044.55 through 4044.57 of this chapter.

Pay status means, with respect to a benefit under a plan, that the plan administrator has made or (except for administrative delay or a waiting period) would have made one or more benefit payments.

Post-distribution certification means the post-distribution certification required by § 4041.29 or § 4041.50 of this chapter.

Unloaded designated benefit means the designated benefit reduced by $300; except that the reduction does not apply in the case of a designated benefit determined using the missing participant annuity assumptions without adding the $300 load described in paragraph (5) of the definition of "missing participant annuity assumptions."

§ 4050.3 Method of distribution for missing participants.

The plan administrator of a terminating plan must distribute benefits for each missing participant by—

(a) Purchasing from an insurer an irrevocable commitment that satisfies the requirements of § 4041.28(c) or § 4041.50 of this chapter (whichever is applicable); or

(b) Paying the PBGC a designated benefit in accordance with §§ 4050.4 through 4050.6 (subject to the special rules in § 4050.12).

§ 4050.4 Diligent search.

(a) *Search required.* A diligent search must be made for each missing participant before information about the missing participant or payment is submitted to the PBGC pursuant to § 4050.6.

(b) *Diligence.* A search is a diligent search only if the search —

(1) Begins not more than 6 months before notices of intent to terminate are issued and is carried on in such a manner that if the individual is found, distribution to the individual can reasonably be expected to be made on or before the deemed distribution date;

(2) Includes inquiry of any plan beneficiaries (including alternate payees) of the missing participant whose names and addresses are known to the plan administrator; and

(3) Includes use of a commercial locator service to search for the missing participant (without charge to the missing participant or reduction of the missing participant's plan benefit).

§ 4050.5 Designated benefit.

(a) *Amount of designated benefit.* The amount of the designated benefit is the amount determined under paragraph (a)(1), (a)(2), (a)(3), or (a)(4) of this section (whichever is applicable) or, if less, the maximum amount that could be provided under the plan to the missing participant in the form of a single sum in accordance with section 415 of the Code.

(1) *Mandatory lump sum.* The designated benefit of a missing participant required under a plan to receive a mandatory lump sum as of the deemed distribution date is the lump sum payment that the plan administrator would have distributed to the missing participant as of the deemed distribution date.

(2) *De minimis lump sum.* The designated benefit of a missing participant not described in paragraph (a)(1) of this section whose benefit is not in pay status as of the deemed distribution date and whose benefit has a *de minimis* actuarial present value ($3,500 or less) as of the deemed distribution date under the missing participant lump sum assumptions is such value.

(3) *No lump sum.* The designated benefit of a missing participant not described in paragraph (a)(1) or (a)(2) of this section who, as of the deemed distribution date, cannot elect an immediate lump sum under the plan is the actuarial present value of the missing participant's benefit as of the deemed distribution date under the missing participant annuity assumptions.

(4) *Elective lump sum.* The designated benefit of a missing participant not described in paragraph (a)(1), (a)(2), or (a)(3) of this section is the greater of the amounts determined under the methodologies of paragraph (a)(1) or (a)(3) of this section.

(b) *Assumptions.* When the plan administrator uses the missing participant annuity assumptions or the missing participant lump sum assumptions for purposes of determining the designated benefit under paragraph (a) of this section, the plan administrator must value the most valuable benefit, as determined under paragraph (b)(1) of this section, using the assumptions described in paragraph (b)(2) or (b)(3) of this section (whichever is applicable).

(1) *Most valuable benefit.* For a missing participant whose benefit is in pay status as of the deemed distribution date, the most valuable benefit is the pay status benefit. For a missing participant whose benefit is not in pay status as of the deemed distribution date, the most valuable benefit is the benefit payable at the age on or after the deemed distribution date (beginning with the participant's earliest early retirement age and ending with the participant's normal retirement age) for which the present value as of the deemed distribution date is the greatest. The present value as of the deemed distribution date with respect to any age is determined by multiplying:

(i) The monthly (or other periodic) benefit payable under the plan; by

(ii) The present value (determined as of the deemed distribution date using the missing participant annuity assumptions) of a $1 monthly (or other periodic) annuity beginning at the applicable age.

(2) *Participant.* A missing participant who is a participant, and whose benefit is not in pay status as of the deemed distribution date, is assumed to be married to a spouse the same age, and the form of benefit that must be valued is the qualified joint and survivor annuity benefit that would be payable under the plan. If the participant's benefit is in pay status as of the deemed distribution date, the form and beneficiary of the participant's benefit

are the form of benefit and beneficiary of the pay status benefit.

(3) *Beneficiary.* A missing participant who is a beneficiary, and whose benefit is not in pay status as of the deemed distribution date, is assumed not to be married, and the form of benefit that must be valued is the survivor benefit that would be payable under the plan. If the beneficiary's benefit is in pay status as of the deemed distribution date, the form and beneficiary of the beneficiary's benefit are the form of benefit and beneficiary of the pay status benefit.

(4) *Examples.* See Appendix A to this part for examples illustrating the provisions of this section.

(c) *Missed payments.* In determining the designated benefit, the plan administrator must include the value of any payments that were due before the deemed distribution date but that were not made.

(d) *Payment of designated benefits.* Payment of designated benefits must be made in accordance with § 4050.6 and will be deemed made on the deemed distribution date.

§ 4050.6 Payment and required documentation.

(a) *Time of payment and filing.* The plan administrator must pay designated benefits, and file the information and certifications (of the plan administrator and the plan's enrolled actuary) specified in the missing participant forms and instructions, by the time the post-distribution certification is due. Except as otherwise provided in the missing participant forms and instructions, the plan administrator must submit the designated benefits, information, and certifications with the post-distribution certification.

(b) *Late charges.* (1) *Interest on late payments.* Except as provided in paragraph (b)(2) of this section, if the plan administrator does not pay a designated benefit by the time specified in paragraph (a) of this section, the plan administrator must pay interest as assessed by the PBGC for the period beginning on the deemed distribution date and ending on the date when the payment is received by the PBGC. Interest will be assessed at the rate provided for late premium payments in § 4007.7 of this chapter. Interest assessed under this paragraph will be deemed paid in full if payment of the amount assessed is received by the PBGC within 30 days after the date of a PBGC bill for such amount.

(2) *Assessment of interest and penalties.* The PBGC will assess interest for late payment of a designated benefit or a penalty for late filing of information only to the extent paid or filed beyond the time provided in § 4041.29(b).

(c) *Supplemental information.* Within 30 days after the date of a written request from the PBGC, a plan administrator required to provide the information and certifications described in paragraph (a) of this section must file supplemental information, as requested, for the purpose of verifying designated benefits, determining benefits to be paid by the PBGC under this part, and substantiating diligent searches.

(d) *Filing with the PBGC.* The rules described in § 4041.3(b) of this chapter apply to filings with the PBGC under this part.

§ 4050.7 Benefits of missing participants—in general.

(a) *If annuity purchased.* If a plan administrator distributes a missing participant's benefit by purchasing an irrevocable commitment from an insurer, and the missing participant (or his or her beneficiary or estate) later contacts the PBGC, the PBGC will inform the person of the identity of the insurer, the relevant policy number, and (to the extent known) the amount or value of the benefit.

(b) *If designated benefit paid.* If the PBGC locates or is contacted by a missing participant (or his or her beneficiary or estate) for whom a plan administrator paid a designated benefit to the PBGC, the PBGC will pay benefits in accordance with §§ 4050.8 through 4050.10 (subject to the limitations and special rules in §§ 4050.11 and 4050.12).

(c) *Examples.* See Appendix B to this part for examples illustrating the provisions of §§ 4050.8 through 4050.10.

§ 4050.8 Automatic lump sum.

This section applies to a missing participant whose designated benefit was determined under § 4050.5(a)(1) (mandatory lump sum) or § 4050.5(a)(2) (*de minimis* lump sum).

(a) *General rule.* (1) *Benefit paid.* The PBGC will pay a single sum benefit equal to the designated benefit plus interest at the designated benefit interest rate from the deemed distribution date to the date on which the PBGC pays the benefit.

(2) *Payee.* Payment will be made—

(i) To the missing participant, if located;

(ii) If the missing participant died before the deemed distribution date, and if the plan so provides, to the missing participant's beneficiary or estate; or

(iii) If the missing participant dies on or after the deemed distribution date, to the missing participant's estate.

(b) *De minimis annuity alternative.* If the guaranteed benefit form for a missing participant whose designated benefit was determined under § 4050.5(a)(2) (*de minimis* lump sum) (or the guaranteed benefit form for a beneficiary of such a missing participant) would provide for the election of an annuity, the missing participant (or the beneficiary) may elect to receive an annuity. If such an election is made—

(1) The PBGC will pay the benefit in the elected guaranteed benefit form, beginning on the annuity starting date elected by the missing participant (or the beneficiary), which may not be before the later of the date of the election or the earliest date on which the missing participant (or the beneficiary) could have begun receiving benefits under the plan; and

(2) The benefit paid will be actuarially equivalent to the designated benefit, *i.e.*, each monthly (or other periodic) benefit payment will equal the designated benefit divided by the present value (determined as of the deemed distribution date under the missing participant lump sum assumptions) of a $1 monthly (or other periodic) annuity beginning on the annuity starting date.

§ 4050.9 Annuity or elective lump sum—living missing participant.

This section applies to a missing participant whose designated benefit was determined under § 4050.5(a)(3) (no lump sum) or § 4050.5(a)(4) (elective lump sum) and who is living on the date as of which the PBGC begins paying benefits.

(a) *Missing participant whose benefit was not in pay status as of the deemed distribution date.* The PBGC will pay the benefit of a missing participant whose benefit was not in pay status as of the deemed distribution date as follows.

(1) *Time and form of benefit.* The PBGC will pay the missing participant's benefit in the guaranteed benefit form, beginning on the annuity starting date elected by the missing participant (which may not be before the later of the date of the election or the earliest date on which the missing participant could have begun receiving benefits under the plan).

(2) *Amount of benefit.* The PBGC will pay a benefit that is actuarially equivalent to the unloaded designated benefit, *i.e.*, each monthly (or other periodic) benefit payment will equal the unloaded designated benefit divided by the present value (determined as of the deemed distribution date under the missing participant annuity assumptions) of a $1 monthly (or other periodic) annuity beginning on the annuity starting date.

(b) *Missing participant whose benefit was in pay status as of the deemed distribution date.* The PBGC will pay the benefit of a missing participant whose benefit was in pay status as of the deemed distribution date as follows.

(1) *Time and form of benefit.* The PBGC will pay the benefit in the form that was in pay status, beginning when the missing participant is located.

(2) *Amount of benefit.* The PBGC will pay the monthly (or other periodic) amount of the pay status benefit, plus a lump sum equal to the payments the missing participant would have received under the plan, plus interest on the missed payments (at the plan rate up to the deemed distribution date and thereafter at the designated benefit interest rate) to the date as of which the PBGC pays the lump sum.

(c) *Payment of lump sum.* If a missing participant whose designated benefit was determined under § 4050.5(a)(4) (elective lump sum) so elects, the PBGC will pay his or her benefit in the form of a single sum. This election is not effective unless the missing participant's spouse consents (if such consent would be required under section 205 of ERISA). The single sum equals the designated benefit plus interest (at the designated benefit interest rate) from the deemed distribution date to the date as of which the PBGC pays the benefit.

§ 4050.10 Annuity or elective lump sum—beneficiary of deceased missing participant.

This section applies to a beneficiary of a deceased missing participant whose designated benefit was determined under § 4050.5(a)(3) (no lump sum) or § 4050.5(a)(4) (elective lump sum) and whose benefit is not payable under § 4050.9.

(a) *If deceased missing participant's benefit was not in pay status as of the deemed distribution date.* The PBGC will pay a benefit with respect to a deceased missing participant whose benefit was not in pay status as of the deemed distribution date as follows.

(1) *General rule.* (i) *Beneficiary.* The PBGC will pay a benefit to the surviving spouse of a missing participant who was a participant (unless the surviving spouse has properly waived a benefit in accordance with section 205 of ERISA).

(ii) *Form and amount of benefit.* The PBGC will pay the survivor benefit in the form of a single life annuity. Each monthly (or other periodic) benefit payment will equal 50 percent of the quotient that results when the unloaded designated benefit is divided by the present value (determined as of the deemed distribution date under the missing participant annuity assumptions, and assuming that the missing participant survived to the deemed distribution date) of a $1 monthly (or other periodic) joint and 50 percent survivor annuity beginning on the annuity starting date, under which reduced payments (at the 50 percent level) are made only after the death of the missing participant during the life of the spouse (and not after the death of the spouse during the missing participant's life).

(iii) *Time of benefit.* The PBGC will pay the survivor benefit beginning at the time elected by the surviving spouse (which may not be before the later of the date of the election or the earliest date on which the surviving spouse could have begun receiving benefits under the plan).

(2) *If missing participant died before deemed distribution date.* Notwithstanding the provisions of paragraph (a)(1) of this section, if a beneficiary of a missing participant who died before the deemed distribution date establishes to the PBGC's satisfaction that he or she is the proper beneficiary or would have received benefits under the plan in a form, at a time, or in an amount different from the benefit paid under paragraph (a)(1)(ii) or (a)(1)(iii) of this section, the PBGC will make payments in accordance with the facts so established, but only in the guaranteed benefit form.

(3) *Elective lump sum.* Notwithstanding the provisions of paragraphs (a)(1) and (a)(2) of this section, if the beneficiary of a missing participant whose designated benefit was determined under § 4050.5(a)(4) (elective lump sum) so elects, the PBGC will pay his or her benefit in the form of a single sum. The single sum will be equal to the actuarial present value (determined as of the deemed distribution date under the missing participant annuity assumptions) of the death benefit payable on the annuity starting date, plus interest (at the designated benefit interest rate) from the deemed distribution date to the date as of which the PBGC pays the benefit.

(b) *If deceased missing participant's benefit was in pay status as of the deemed distribution date.* The PBGC will pay a benefit with respect to a deceased missing participant whose benefit was in pay status as of the deemed distribution date as follows.

(1) *Beneficiary.* The PBGC will pay a benefit to the beneficiary (if any) of the benefit that was in pay status as of the deemed distribution date.

(2) *Form and amount of benefit.* The PBGC will pay a monthly (or other periodic) amount equal to the monthly (or other periodic) amount, if any, that the beneficiary would have received under the form of payment in effect, plus a lump sum payment equal to the payments the beneficiary would have received under the plan after the missing participant's death and before the date as of which the benefit is paid under paragraph (b)(4) of this section, plus interest on the missed payments (at the plan rate up to the deemed distribution date and thereafter at the designated benefit interest rate) to the date as of which the benefit is paid under paragraph (b)(4) of this section.

(3) *Lump sum payment to estate.* The PBGC will make a lump sum payment to the missing participant's estate equal to the payments that the missing participant would have received under the plan for the period before the missing participant's death, plus interest on the missed payments (at the plan rate up to the deemed distribution date and thereafter at the designated benefit interest rate) to the date when the lump sum is paid. Notwithstanding the preceding sentence, if a beneficiary of a missing participant other than the estate establishes to the PBGC's satisfaction that the beneficiary is entitled to the lump sum payment, the PBGC will pay the lump sum to such beneficiary.

(4) *Time of benefit.* The PBGC will pay the survivor benefit beginning when the beneficiary is located.

(5) *Spouse deceased.* If the PBGC locates the estate of the deceased missing participant's spouse under circumstances where a benefit would have been paid under this paragraph (b) if the spouse had been located while alive, the PBGC will pay to the spouse's estate a lump sum payment computed in the same manner as provided for in paragraph (b)(2) of this section based on the period from the missing participant's death to the death of the spouse.

§ 4050.11 Limitations.

(a) *Exclusive benefit.* The benefits provided for under this part will be the only benefits payable by the PBGC to missing participants or to beneficiaries based on the benefits of deceased missing participants.

(b) *Limitation on benefit value.* The total actuarial present value of all benefits paid with respect to a missing participant under §§ 4050.8 through 4050.10, determined as of the deemed distribution date, will not exceed the missing participant's designated benefit.

(c) *Guaranteed benefit.* If a missing participant or his or her beneficiary establishes to the PBGC's satisfaction that the benefit under §§ 4050.8 through

4050.10 (based on the designated benefit actually paid to the PBGC) is less than the minimum benefit in this paragraph (c), the PBGC will instead pay the minimum benefit. The minimum benefit is the lesser of:

(1) The benefit as determined under the PBGC's rules for paying guaranteed benefits in trusteed plans under subparts A and B of part 4022 of this chapter (treating the deemed distribution date as the termination date for this purpose); or

(2) The benefit based on the designated benefit that should have been paid under § 4050.5.

(d) *Limitation on annuity starting date.* A missing participant (or his or her survivor) may not elect an annuity starting date after the later of—

(1) The required beginning date under section 401(a)(9) of the Code; or

(2) The date when the missing participant (or the survivor) is notified of his or her right to a benefit.

§ 4050.12 Special rules.

(a) *Missing participants located quickly.* Notwithstanding the provisions of §§ 4050.8 through 4050.10, if the PBGC or the plan administrator locates a missing participant within 30 days after the PBGC receives the missing participant's designated benefit, the PBGC may in its discretion return the missing participant's designated benefit to the plan administrator, and the plan administrator must make distribution to the individual in such manner as the PBGC will direct.

(b) *Qualified domestic relations orders.* Plan administrators must and the PBGC will take the provisions of qualified domestic relations orders (QDROs) under section 206(d)(3) of ERISA or section 414(p) of the Code into account in determining designated benefits and benefit payments by the PBGC, including treating an alternate payee under an applicable QDRO as a missing participant or as a beneficiary of a missing participant, as appropriate, in accordance with the terms of the QDRO. For purposes of calculating the amount of the designated benefit of an alternate payee, the plan administrator must use the assumptions for a missing participant who is a beneficiary under § 4050.5(b).

(c) *Employee contributions.* (1) *Mandatory employee contributions.* Notwithstanding the provisions of § 4050.5, if a missing participant made mandatory contributions (within the meaning of section 4044(a)(2) of ERISA), the missing participant's designated benefit may not be less than the sum of the missing participant's mandatory contributions and interest to the deemed distribution date at the plan's rate or the rate under section 204(c) of ERISA (whichever produces the greater amount).

(2) *Voluntary employee contributions.* (i) *Applicability.* This paragraph (c)(2) applies to any employee contributions that were not mandatory (within the meaning of section 4044(a)(2) of ERISA) to which a missing participant is entitled in connection with the termination of a defined benefit plan.

(ii) *Payment to PBGC.* A plan administrator, in accordance with the missing participant forms and instructions, must pay the employee contributions described in paragraph (c)(2)(i) of this section (together with any earnings thereon) to the PBGC, and must file Schedule MP with the PBGC, by the time the designated benefit is due under § 4050.6. Any such amount must be in addition to the designated benefit and must be separately identified.

(iii) *Payment by PBGC.* In addition to any other amounts paid by the PBGC under §§ 4050.8 through 4050.10, the PBGC will pay any amount paid to it under paragraph (c)(2)(ii) of this section, with interest at the designated benefit interest rate from the date of receipt by the PBGC to the date of payment by the PBGC, in the same manner as described in § 4050.8 (automatic lump sums), except that if the missing participant died before the deemed distribution date and there is no beneficiary, payment will be made to the missing participant's estate.

(d) *Residual assets.* The PBGC will determine, in a manner consistent with the purposes of this part and section 4050 of ERISA, how the provisions of this part apply to any distribution (to participants and beneficiaries who cannot be located) of residual assets remaining after the satisfaction of plan benefits (as defined in § 4041.2 of this chapter) in connection with the termination of a defined benefit plan. Unless the PBGC otherwise determines, the payment of residual assets for a participant or beneficiary who cannot be located, and the submission to the PBGC of the related Schedule MP (or amended Schedule MP), must be made no earlier than the date when the post-distribution certification is filed with the PBGC, and no later than the later of—

(1) The 30th day after the date on which all residual assets have been distributed to all participants and beneficiaries other than those who cannot be located and for whom payment of residual assets is made to the PBGC, and

(2) The date when the post-distribution certification is filed with the PBGC.

(e) *Sufficient distress terminations.* In the case of a plan undergoing a distress termination (under section 4041(c) of ERISA) that is sufficient for at least all guaranteed benefits and that distributes its assets in the manner described in section 4041(b)(3) of ERISA, the benefit assumed to be payable by the plan for purposes of determining the amount of the designated benefit under § 4050.5 is limited to the title IV benefit plus any benefit to which funds under section 4022(c) of ERISA have been allocated.

(f) *Similar rules for later payments.* If the PBGC determines that one or more persons should receive benefits (which may be in addition to benefits already provided) in order for a plan termination to be valid (*e.g.*, upon audit of the termination), and one or more of such individuals cannot be located, the PBGC will determine, in a manner consistent with the purposes of this part and section 4050 of ERISA, how the provisions of this part apply to such benefits.

(g) *Discretionary extensions.* Any deadline under this part may be extended in accordance with the rules described in § 4041.30 of this chapter.

(h) *Payments beginning after required beginning date.* If the PBGC begins paying an annuity under § 4050.9(a) or 4050.10(a) to a participant or a participant's spouse after the required beginning date under section 401(a)(9)(C) of the Code, the PBGC will pay to the participant or the spouse (or their respective estates) or both, as appropriate, the lump sum equivalent of the past annuity payments the participant and spouse would have received if the PBGC had begun making payments on the required beginning date. The PBGC will also pay lump sum equivalents under this paragraph (g) if the PBGC locates the estate of the participant or spouse after both are deceased. (Nothing in this paragraph (g) will increase the total value of the benefits payable with respect to a missing participant.)

Appendix A to Part 4050—Examples of Designated Benefit Determinations for Missing Participants Under § 4050.5

The calculation of the designated benefit under § 4050.5 is illustrated by the following examples.

Example 1. Plan A provides that any participant whose benefit has a value at distribution of $1,750 or less will be paid a lump sum, and that no other lump sums will be paid. P, Q, and R are missing participants.

(1) As of the deemed distribution date, the value of P's benefit is $1,700 under plan A's assumptions. Under § 4050.5(a)(1), the plan administrator pays the PBGC $1,700 as P's designated benefit.

(2) As of the deemed distribution date, the value of Q's benefit is $3,700 under plan A's assumptions and $3,200 under the missing participant lump sum assumptions. Under § 4050.5(a)(2), the plan administrator pays the PBGC $3,200 as Q's designated benefit.

(3) As of the deemed distribution date, the value of R's benefit is $3,460 under plan A's assumptions, $3,600 under the missing participant lump sum assumptions, and $3,450 under the missing participant annuity assumptions. Under § 4050.5(a)(3), the plan administrator pays the PBGC $3,450 as R's designated benefit.

Example 2. Plan B provides for a normal retirement age of 65 and permits early commencement of benefits at any age between 60 and 65, with benefits reduced by 5 percent for each year before age 65 that the benefit begins. The qualified joint and 50 percent survivor annuity payable under the terms of the plan requires in all cases a 16 percent reduction in the benefit otherwise payable. The plan does not provide for elective lump sums.

(1) M is a missing participant who separated from service under plan B with a deferred vested benefit. M is age 50 at the deemed distribution date, and has a normal retirement benefit of $1,000 per month payable at age 65 in the form of a single life annuity. M's benefit as of the deemed distribution date has a value greater than $3,500 using either plan assumptions or the missing participant lump sum assumptions. Accordingly, M's designated benefit is to be determined under § 4050.5(a)(3).

(2) For purposes of determining M's designated benefit, M is assumed to be married to a spouse who is also age 50 on the deemed distribution date. M's monthly benefit in the form of the qualified joint and survivor annuity under the plan varies from $840 at age 65 (the normal retirement age) ($1,000 x (1–.16)) to $630 at age 60 (the earliest retirement age) ($1,000 x (1–5 x (.05)) x (1–.16)).

(3) Under § 4050.5(a)(3), M's benefit is to be valued using the missing participant annuity assumptions. The select and ultimate interest rates on Plan B's deemed distribution date are 7.50 percent for the first 20 years and 5.75 percent thereafter. Using these rates and the blended mortality table described in paragraph (2) of the definition of "missing participant annuity assumptions" in § 4050.2, the plan administrator determines that the benefit commencing at age 60 is the most valuable benefit (*i.e.*, the benefit at age 60 is more valuable than the benefit at ages 61, 62, 63, 64 or 65). The present value as of the deemed distribution date of each dollar of annual benefit (payable monthly as a joint and 50 percent survivor annuity) is $5.4307 if the benefit begins at age 60. (Because a new spouse may succeed to the survivor benefit, the mortality of the spouse during the deferral period is ignored.) Thus, without adjustment (loading) for expenses, the value of the benefit beginning at age 60 is $41,056 (12 x $630 x 5.4307). The designated benefit is equal to this value plus an expense adjustment of $300, or a total of $41,356.

Appendix B to Part 4050—Examples of Benefit Payments for Missing Participants Under §§ 4050.8 Through 4050.10

The provisions of §§ 4050.8 through 4050.10 are illustrated by the following examples.

Example 1. Participant M from Plan B (see Example 2 in Appendix A of this part) is located. M's spouse is ten years younger than M. M elects to receive benefits in the form of a joint and 50 percent survivor annuity commencing at age 62.

(1) M's designated benefit was $41,356. The unloaded designated benefit was $41,056. As of Plan B's deemed distribution date (and using the missing participant annuity assumptions), the present value per dollar of annual benefit (payable monthly as a joint and 50 percent survivor annuity commencing at age 62 and reflecting the *actual* age of M's spouse) is $4.7405. Thus, the monthly benefit to M at age 62 is $722 ($41,056 / (4.7405 x 12)). M's spouse will receive $361 (50 percent of $722) per month for life after the death of M.

(2) If M had instead been found to have died on or after the deemed distribution date, and M's spouse wanted benefits to commence when M would have attained age 62, the same calculation would be performed to arrive at a monthly benefit of $361 to M's spouse.

Example 2. Participant P is a missing participant from Plan C, a plan that allows elective lump sums upon plan termination. Plan C's administrator pays a designated benefit of $10,000 to the PBGC on behalf of P, who was age 30 on the deemed distribution date.

(1) P's spouse, S, is located and has a death certificate showing that P died on or after the deemed distribution date with S as spouse. S is the same age as P, and would like survivor benefits to commence immediately, at age 55 (as permitted by the plan). S's benefit is the survivor's share of the joint and 50 percent survivor annuity which is actuarially equivalent, as of the deemed distribution date, to $9,700 (the unloaded designated benefit).

(2) The select and ultimate interest rates on Plan C's deemed distribution date were 7.50 percent for the first 20 years and 5.75 percent thereafter. Using these rates and the blended mortality table described in paragraph (2) of the definition of "missing participant annuity assumptions" in § 4050.2, the present value as of the deemed distribution date of each dollar of annual benefit (payable monthly as a joint and 50 percent survivor annuity) is $2.4048 if the benefit begins when S and P would have been age 55. Thus, the monthly benefit to S commencing at age 55 is $168 (50 percent of $9,700 / (2.4048 x 12)). Since P could have elected a lump sum upon plan termination, S may elect a lump sum. S's lump sum is the present value as of the deemed distribution date (using the missing participant annuity assumptions) of the monthly benefit of $168, accumulated with interest at the designated benefit interest rate to the date paid.

Issued in Washington, DC, this 3rd day of November, 1997.

Alexis M. Herman,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued on the date set forth above pursuant to a resolution of the Board of Directors authorizing its Chairman to issue this final rule.

James J. Knightley,

Secretary, Board of Directors, Pension Benefit Guaranty Corporation.

[FR Doc. 97–29500 Filed 11–6–97; 8:45 am]

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Friday
November 7, 1997

Part IV

Environmental Protection Agency

Department of Agriculture

Office of the Secretary

Clean Water Act; Vice President's Initiatives; Notice

ENVIRONMENTAL PROTECTION AGENCY

DEPARTMENT OF AGRICULTURE

Office of the Secretary

[FRL–5919–6]

Clean Water Act; Vice President's Initiatives

AGENCY: Environmental Protection Agency and Department of Agriculture.

ACTION: Notice of Vice President Gore's Clean Water Initiatives.

SUMMARY: On October 18, 1997, Vice President Gore announced a set of Clean Water Initiatives to celebrate the 25th anniversary of the Clean Water Act. In a memorandum to Heads of Departments and Agencies, he asked the Secretary of Agriculture (USDA) and the Administrator of the Environmental Protection Agency (EPA) to convene this effort.

Despite many successes in cleaning up our Nation's waters, significant challenges remain. For example, harmful organisms in our waters and polluted runoff continue to pose threats to human health, fish and wildlife. To help solve these problems, the Vice President directed Federal agencies to develop a comprehensive Action Plan within 120 days to improve and strengthen water pollution control efforts across the county. He also identified a number of specific initiatives to achieve these major goals: enhanced protection of public health; more effective control of polluted runoff; and increased community participation in local watershed management. Agencies will also emphasize high levels of public participation and access to information, innovative solutions, and cooperative relationships with private parties and landowners.

USDA, EPA and other Federal agencies have begun work on the Action Plan. Since public involvement is an important part of this effort, the agencies are planning a series of constituent meetings to discuss the Action Plan. An Internet website is being created to provide the public with information about this effort.

Groups or individuals may submit comments on actions that agencies should undertake in response to the Vice President's memorandum and are encouraged to specifically identify their topical interests and suggest ways to involve the public in development of the Action Plan. In addition to public involvement in the Action Plan, each element of the Plan will have substantial, and in some cases formal, opportunities for public involvement in the specific agency actions. The Plan will not determine the outcome of regulations, but will identify the overall goals of agency actions and the vision of how they fit together.

DATES: Written submissions should be addressed to one of the persons listed directly below on or before December 8, 1997.

ADDRESSES: Comments should be sent to Denise Coleman, Room 6032S, PO Box 2890, U.S. Department of Agriculture, Washington, D.C. 20013 or Robert Goo, Assessment and Watershed Protection Division (4503F), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Denise Coleman, USDA; (202) 720–1845 or Robert Goo at (202) 260–7025.

SUPPLEMENTARY INFORMATION: The full text of Vice President Gore's Clean Water Initiative, October 18, 1997, Memorandum follows.

Dated: November 4, 1997.

Robert Perciasepe,

Assistant Administrator, Office of Water, Environmental Protection Agency.

James R. Lyons,

Under Secretary, Natural Resources and Environment, Department of Agriculture.

October 18, 1997.

Memorandum for Heads of Departments and Agencies

From the Vice President

Subject: Clean Water Initiatives.

The twenty-fifth anniversary of the Clean Water Act presents an opportunity for all Americans to celebrate the successes of the Act to date, and to recognize the vital role of clean water in protecting public health and securing our economic future. In 25 years, the Clean Water Act has stopped billions of pounds of pollution from flowing into our rivers, lakes, and streams, and doubled the number of waterways that are safe for swimming and fishing. Rivers once polluted enough to catch fire, lakes once devoid of life, and streams once used as open sewers are now restored centerpieces of healthy communities because of the Clean Water Act.

This is also an appropriate occasion to recognize that, despite significant progress, the challenge for all of us in protecting our Nation's waters remains unfinished. The health of our people continues to be threatened by exposure to harmful organisms in our waters; consumption of fish from many of our waters presents a threat to the most vulnerable among us; polluted runoff has for too long eluded control under conventional regulatory approaches. Communities need Federal help and partnership to protect water quality on a community-led, watershed basis, rather than through piecemeal steps. It is incumbent on all Federal agencies to respond to these challenges in a manner that honors and furthers the goals of the Clean Water Act. Agencies must bring to these challenges a new vision, one which ensures that the level of effort is commensurate with the importance of clean water to the health and well-being of every community.

I am therefore requesting that the Secretary of Agriculture and the Administrator of the Environmental Protection Agency (EPA), in consultation with all other affected agencies develop a comprehensive Action Plan that builds on the Administration's clean water successes over the past five years and addresses three major goals: enhanced protection from public health threats posed by water pollution; more effective control of polluted runoff; and promotion of water quality protection on a watershed basis. This Action Plan will be informed by the following principles:

- Agencies will develop cooperative approaches that promote coordination and reduce duplication among Federal, State and local agencies and Tribal governments wherever possible.
- Agencies will ensure participation of community groups and the public to the maximum extent practicable. Such participation will include community and public access to information, to protect the public's right-to-know about water quality issues.
- Agencies will emphasize innovative approaches to pollution control, including, where appropriate, incentives, market-based mechanisms, and cooperative partnerships with landowners and other private parties.

The Action Plan developed according to these principles will encompass all appropriate regulatory, incentive, compliance, enforcement, and budgetary steps, and will include, at a minimum, the following elements:

Protecting Public Health

1. EPA and the Department of Commerce (acting through the National Oceanic and Atmospheric Administration (NOAA)) will identify steps to reduce the need for fish consumption advisories, giving particular attention to toxics that affect fetal and childhood development. The Action Plan will also identify steps to ensure protection of children from exposure to harmful organisms on our beaches and other recreational waters.

2. EPA will identify the major sources of nitrogen and phosphorous in our waters, and identify actions to address these sources. In particular, EPA will accelerate water quality criteria for waters in every geographic region in the country. Specifically, EPA will establish a schedule so that EPA and the states are implementing a criteria system for nitrogen and phosphorous runoff for lakes, rivers, and estuaries by the year 2000.

Preventing Polluted Runoff

3. EPA will expedite new standards for targeted problems of polluted runoff.

Specifically, EPA will expedite its new strategy from animal feeding operations that produce polluted runoff, and include in that strategy specific commitments to revise outdated regulations. EPA will ensure that final regulations for polluted runoff from storm water are in place by March 1, 1999.

4. Prior to or as part of the Action Plan, the Department of Agriculture (USDA) will notify the states through the **Federal Register** of the availability of the Conservation Reserve Enhancement Program (CREP) and shall provide further guidance to the states in presenting proposals. USDA will work with states to help them develop proposals leading to as many agreements as practicable that will address critical water quality, soil erosion, and fish and wildlife habitat needs, including habitat needed for threatened and endangered species. USDA will work with states to identify whether such agreements could be used to protect important habitat for fish in the Pacific Northwest, California, and other areas where significant natural resources may be affected by diminished water quality. While this further guidance is being developed, USDA will continue to work expeditiously with states to complete pending proposals by states to protect water quality and habitat through CREP.

5. NOAA and EPA will have in place all 29 state Coastal Nonpoint Pollution Control Programs by June 30, 1998, beginning with the highest priority watersheds. NOAA and EPA will work with States to ensure that these programs are fully approved by December 31, 1999.

6. NOAA and EPA will develop an action-oriented strategy to comprehensively address coastal nonpoint source pollution. This strategy will be based on the full array of NOAA's and EPA's scientific, educational, technical assistance, and management programs. This strategy will be coordinated with other Federal agencies and coastal states and territories, and will consider the needs of approved state Coastal Nonpoint Pollution Control Programs.

7. The Action Plan will include a strategy for ensuring that lands and facilities owned, managed, or controlled by Federal agencies are national models and laboratories for effective watershed planning and control of polluted runoff. The Action plan will include a strategy to ensure that Federal actions, programs, and activities do not contribute to the sprawl or other forms of development that may exacerbate the problem of polluted runoff or other water quality problems.

8. The Action Plan will include a strategy to achieve a net gain of as many as 100,000 acres of wetlands by the year 2005. USDA and the Department of the Interior (DOI) will ensure that they use common data and reference points in determining whether these goals have been met. Consistent with USDA's Buffer Initiative, the Action Plan will achieve a goal of 2 million miles of buffer strips protecting waters from agricultural runoff by the year 2002.

Ensuring Community-Based Watershed Management

9. The Action Plan will include a strategy for enhancing partnerships with state and local agencies, Tribal governments, and local communities in protecting water quality on a watershed basis.

10. USDA will develop a strategy for ensuring that agricultural producers in 1000 critical rural watersheds have the technical and financial assistance they need to abate polluted runoff and to comply with applicable standards, using programs and authorities like the Environmental Quality Incentives Program, the Conservation Reserve Program, the Wetlands Reserve Program, and others. This effort will be undertaken in a manner consistent with USDA's goals for watershed and basin-level planning. This effort also will give preference to states that have mechanisms in place to ensure effective cooperation among Federal, state, and local agencies as well as with local landowners and the public.

11. USDA, in consultation with DOI, will develop a strategy to ensure proper stewardship of federally managed watersheds, and to restore watersheds adversely affected by past management practices. The strategy will address the need to address runoff from abandoned mines, to eliminate unnecessary roads, to improve road maintenance, and to ensure coordinated watershed management strategies regardless of jurisdictional boundaries. Working with local landowners, USDA will develop a strategy for addressing nonpoint source pollution in those watersheds that consist of a mix of public private lands, to make more effective use of resources to address high-priority restoration efforts in these watersheds.

All elements of the Action Plan will provide for appropriate input from state and local agencies, Tribal governments, Members of Congress, and the public. EPA and USDA will consider, in developing the Plan, what further steps are needed to establish a national consensus on the elements of the Plan.

The Action Plan will be submitted to me within one-hundred twenty (120) days, following review by the Council on Environmental Quality and the Office of Management and Budget (OMB). The Administrator of EPA and the Secretary of Agriculture, and all affected agencies, will ensure that all elements of the Action Plan are coordinated with OMB and consistent with the President's budget.

All independent regulatory agencies are requested to assist in the implementation of this memorandum.

[This memorandum is not intended to create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, or any other person.]

This memorandum will be published in the **Federal Register**.

[FR Doc. 97–29592 Filed 11–6–97; 8:45 am]

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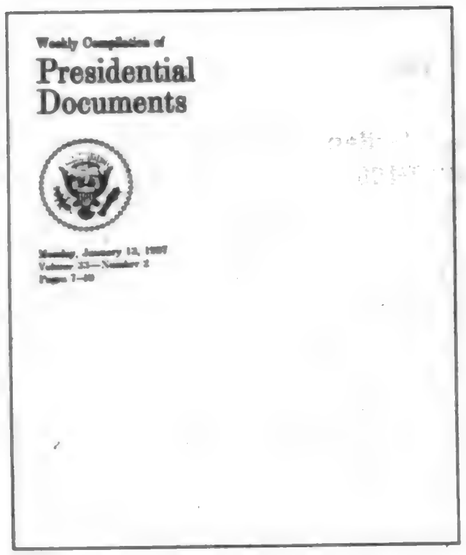

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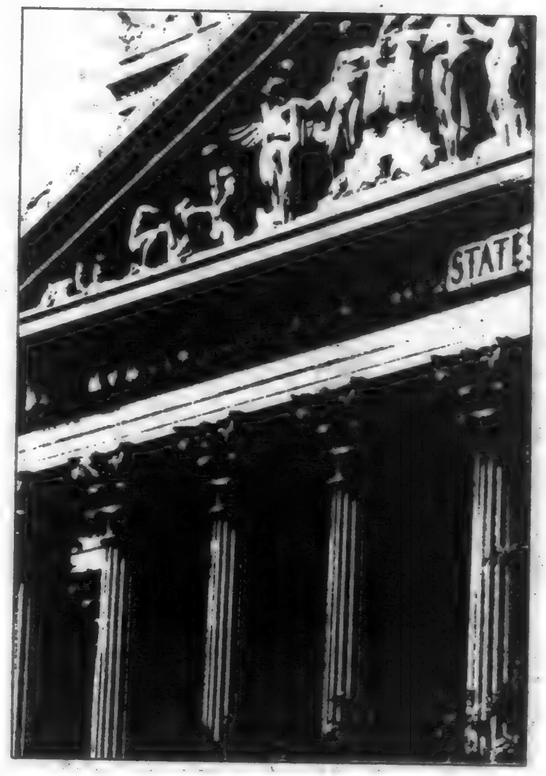

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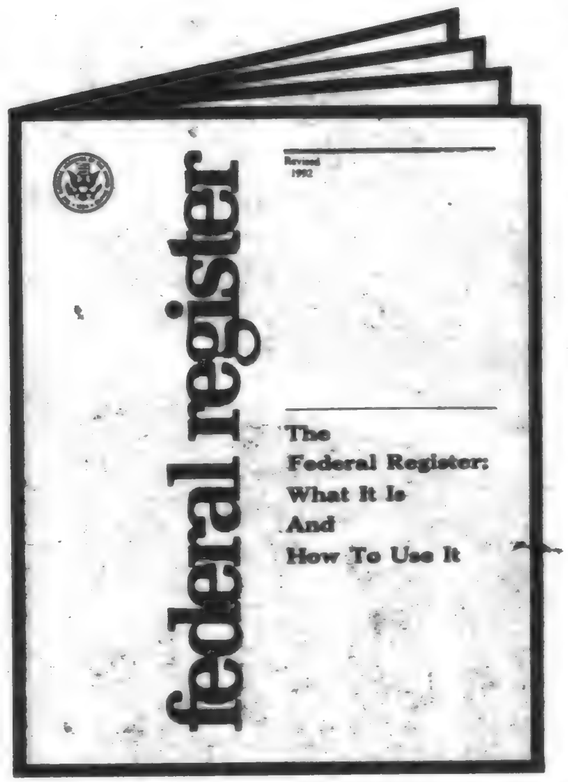

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 3

Debt Collection

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document amends 7 CFR Part 3 to: permit specifically service of a Notice of Intent to Collect by Administrative Offset upon USDA debtors by first class mail, in addition to currently-authorized service by personal delivery and certified mail; and include specifically as subject to the provisions of the Part debts arising out of programs administered by Food and Consumer Service.

EFFECTIVE DATE: This rule is effective November 10, 1997.

FOR FURTHER INFORMATION CONTACT: Reynaldo Gonzalez, (202) 720–1168.

SUPPLEMENTARY INFORMATION:

I. Background

The Debt Collection Act of 1982 (DCA) is implemented, on a government-wide basis pursuant to the Federal Claims Collection Standards (Standards), set forth at 4 CFR Part 101, *et seq.* The Standards are implemented at USDA pursuant to 7 CFR Part 3.

II. Section 3.10

Food and Consumer Service (FCS) participates in the Tax Refund Offset Program (TROP), operated by the Treasury Department, pursuant to 26 U.S.C. 6402, as implemented by 31 U.S.C. 3720A and Treasury Department regulations. Under the Debt Collection Improvement Act of 1996, the TROP has been incorporated into the Treasury Administrative Offset Program (TAOP). In order for FCS to continue its participation in the TROP, debt management and collection under its programs must be subject to 7 CFR Part 3. Section 3.10 sets forth USDA programs and authorities subject to the provisions of 7 CFR Part 3. The revision specifically includes FCS programs as those subject to 7 CFR Part 3.

III. Section 3.25(b)

Currently, 7 CFR 3.25(b) requires that service of a Notice of Intent to Collect by Administrative Offset upon USDA debtors be made by either personal delivery or certified mail. This requirement is more restrictive than service requirements contained in 4 CFR 102.2(b), which contemplate either personal service or mailing. Further, under 7 CFR 3.21(b), if the head of an agency of the Department adopts regulations separate from 7 CFR Part 3, Subpart B (Administrative Offset), those regulations are to be followed. 7 CFR Part 200 sets forth specific administrative offset procedures for food stamp-related debts that permit service of notice by first class mail. Since the current provisions of 7 CFR 3.25(b) are more restrictive than the Standards and because use of first class mail is permitted under a regulation having precedence over 7 CFR Part 3, Section 3.25(b) is revised to bring it into conformity with both authorities.

IV. Final Rule

We have determined, under 5 U.S.C. 553(b)(3)(B), that prior notice and public comment are unnecessary and contrary to the public interest. Specifically, the departmental final rule promulgates a process which is mandated by law in the Debt Collection Improvement Act of 1996. Therefore, good cause is found that notice and public comment are unnecessary and contrary to the public interest and good cause exists for making this regulation effective upon publication in the **Federal Register**.

V. Matters of Regulatory Procedure

E.O. 12291, Federal Regulation

As Secretary of Agriculture, I have determined that this is not a major rule as defined under section 1(b) of Executive Order 12291.

Paperwork Reduction Act

As Secretary of Agriculture, I have determined that the Paperwork Reduction Act (44 U.S.C. Chapter 35) does not apply because this regulation does not contain any information collection requirements that require the approval of the Office of Management and Budget thereunder.

List of Subjects in 7 CFR Part 3

Agriculture, Claims, Government employees, Income taxes, Loan programs-agriculture.

Accordingly, for the reasons set forth in the preamble, the Secretary of Agriculture is revising Title 7, part 3 of the Code of Federal Regulations as follows:

PART 3—DEBT MANAGEMENT

Subpart A—Settlement of Small or Old Debts

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: Section 1, 58 Stat. 836, 12 U.S.C. 1150.

§ 3.10 [Amended]

2. Section 3.10 is amended by adding "51. Any indebtedness of food stamp recipients. Food Stamp Act."

Subpart B—Debt Collection

1. The authority citation for part 3, subpart B continues to read as follows:

Authority: 31 U.S.C. 3701, 3711, 3716–19, 3728; 4 CFR part 102; 4 CFR 105.4.

§ 3.25 [Amended]

2. Section 3.25(b) introductory text is amended by inserting a comma after "delivery", and adding "first class mail," before "or".

Dan Glickman,
Secretary of Agriculture.

[FR Doc. 97–29415 Filed 11–7–97; 8:45 am]
BILLING CODE 3410–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91–CE–45–AD; Amendment 39–10157; AD 97–23–06]

RIN 2120–AA64

Airworthiness Directives; de Havilland DHC–6 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 78–26–02, which currently requires repetitively inspecting the fuselage side frame flanges at Fuselage Station (FS) 218.125 and FS 219.525 for cracks on certain de Havilland DHC–6 series airplanes, and repairing or replacing any cracked part. The Federal Aviation Administration's policy on aging commuter-class aircraft is to eliminate or, in certain instances, reduce the number of certain repetitive short-interval inspections when improved parts or modifications are available. This AD requires modifying the fuselage side frames at the referenced FS areas as terminating action for the repetitive inspections that are currently required by AD 78–26–02. The actions specified in this AD are intended to prevent failure of the fuselage because of cracks in the fuselage side frames, which, if not detected and corrected, could result in loss of control of the airplane.

DATES: Effective December 22, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 22, 1997.

ADDRESSES: Service information that applies to this AD may be obtained from de Havilland, Inc., 123 Garratt Boulevard, Downsview, Ontario, Canada, M3K 1Y5. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket 91–CE–45–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jon Hjelm, Aerospace Engineer, FAA, New York Aircraft Certification Office, 10 Fifth Street, 3rd Floor, Valley Stream, New York 11581; telephone (516) 256–7523; facsimile (516) 568–2716.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain de Havilland DHC–6 series airplanes without Modification Nos. 6/1461 and 6/1462 incorporated was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on August 11, 1995 (60 FR 41030). The NPRM proposed to supersede AD 78–26–02 with a new AD that would (1) retain the current requirement of repetitively inspecting the fuselage side frame flanges at Fuselage Station (FS) 218.125 and FS 219.525, as applicable, and repairing or replacing any cracked part; and (2) require modifying the fuselage side frame flanges in the referenced FS areas (Modification Nos. 6/1461 and 6/1462), as terminating action for the repetitive inspections. Accomplishment of the proposed actions as specified in the NPRM would be in accordance with de Havilland Service Bulletin (SB) No. 6/371, dated June 2, 1978.

Modification No. 6/1461 introduces fuselage side frames manufactured from material having improved stress corrosion properties at FS 218.125, and Modification No. 6/1462 introduces fuselage side frames of this material at FS 219.525.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

As written, the original NPRM (as does AD 78–26–02) allows continued flight if cracks are found in the fuselage side frames that do not exceed certain limits. Extensive analysis of the consequences of flying with known cracks in primary structure prompted the FAA to establish a policy that disallows airplane operation when known cracks exist in primary structure, unless the ability to sustain ultimate load with these cracks is proven. The fuselage structure is considered primary structure, and the FAA has not received any analysis to prove that ultimate load can be sustained with cracks in this area.

For this reason, the FAA determined that the crack limits contained in the original NPRM and AD 78–26–02 should be eliminated, and that the NPRM should be revised to propose immediate replacement of any cracked fuselage flanges. Since revising the proposed AD to require immediate replacement of any cracked fuselage flanges went beyond the scope of what was presented in the original NPRM, the FAA published a supplemental NPRM in the **Federal Register** on March 31, 1997 (62 FR 15129).

Interested persons were again afforded an opportunity to participate in the making of this amendment. No comments were received regarding the substance of the supplemental NPRM or the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the AD as proposed in the supplemental NPRM, except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

The FAA's Aging Commuter-Class Aircraft Policy

The actions specified in this AD are part of the FAA's aging commuter class aircraft policy, which briefly states that, when a modification exists that could eliminate or reduce the number of required critical inspections, the modification should be incorporated. This policy is based on the FAA's determination that reliance on critical repetitive inspections on aging commuter-class airplanes carries an unnecessary safety risk when a design change exists that could eliminate or, in certain instances, reduce the number of those critical inspections. In determining what inspections are critical, the FAA considers (1) the safety consequences of the airplane if the known problem is not detected by the inspection; (2) the reliability of the inspection such as the probability of not detecting the known problem; (3) whether the inspection area is difficult to access; and (4) the possibility of damage to an adjacent structure as a result of the problem.

The alternative to modifying the fuselage side frames at FS 218.125 and FS 219.525 would be to rely on the repetitive inspections required by AD 78–26–02 to detect cracks in these areas.

Cost Impact

The FAA estimates that 94 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 300 workhours per airplane to accomplish the required modification, and that the average labor rate is approximately $60 an hour. Parts cost approximately $16,200 (average) per airplane. Based on these figures, the total cost impact of the required modification on U.S. operators is estimated to be $3,214,800 or $34,200 per airplane. This cost figure is based upon the presumption that no affected airplane owner/operator has incorporated Modification Nos. 6/1461 and 6/1462.

The intent of the FAA's aging commuter airplane program is to ensure safe operation of commuter-class airplanes that are in commercial service without adversely impacting private operators. Of the approximately 94 airplanes in the U.S. registry that would be affected by this AD, the FAA has determined that approximately 45 percent are operated in scheduled passenger service. A significant number of the remaining 55 percent are operated in other forms of air transportation such as air cargo and air taxi.

This AD allows 4,800 hours time-in-service (TIS) after the effective date of the AD before mandatory accomplishment of the design modification. The average utilization of the fleet for those airplanes in commercial commuter service is approximately 25 to 50 hours TIS per week. Based on these figures, operators of commuter-class airplanes involved in commercial operation have to accomplish the required modification within 24 to 48 calendar months after this AD becomes effective. For private owners, who typically operate between 100 to 200 hours TIS per year, this allows 24 to 48 years before the required modification is required.

The following paragraphs present cost scenarios for airplanes where no cracks are found and where cracks are found during the inspections, and where the remaining airplane life is 15 years with an average annual utilization rate of 1,600 hours TIS. A copy of the full Cost Analysis and Regulatory Flexibility Determination for this action may be examined at the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 91–CE–45–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri.

—No Cracks Scenario: Under the provisions of AD 78–26–02, an owner/operator of an effected de Havilland DHC–6 series airplane in scheduled service who operates an average of 1,600 hours TIS annually will inspect every 400 hours TIS. This would amount to a remaining airplane life (estimated 15 years) cost of $18,420; this figure is based on the presumption that no cracks are found during the inspections. This AD requires the same inspections except at 600-hour TIS intervals until 4,800 hours TIS after the effective date of the AD when the operator has to replace the fuselage side frame flanges (eliminating the need for further repetitive inspections), which results in a present value cost of $31,433. The incremental cost of this AD for such an airplane is $13,013 or $4,959 annualized over the 3 years it will take to accumulate 4,800 hours TIS. An owner of a general aviation airplane who operates 800 hours TIS annually without finding any cracks during the 600-hour TIS inspections will incur a present value incremental cost of $7,598. This amounts to a per year amount of $1,594 over the 6 years it takes to accumulate 4,800 hours TIS.

—Excessive cracking scenario: AD 78–26–02 requires repairing or replacing the fuselage side frames if excessive cracking is found (as defined by SB No. 6/371), as will this AD. The difference is that AD 78–26–02 requires immediate crack repair and then replacement within 360 days after finding the crack, and this AD requires immediate repair and mandatory replacement of the fuselage side frames within 4,800 hours TIS after the effective date of the AD. This results in a present value total cost of $34,709 per airplane in scheduled service, which makes immediate replacement more economical ($32,400) than repetitively inspecting. With this scenario, this AD averages a present value cost savings over that required in AD 78–26–02 of $2,083 ($794 annualized over 3 years) for each airplane operated in scheduled service, and $6,607 ($1,386 annualized over 6 years) for each airplane operated in general aviation service.

Regulatory Flexibility Determination and Analysis

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily or disproportionally burdened by government regulations. The RFA requires government agencies to determine whether rules could have a "significant economic impact on a substantial number of small entities," and, in cases where they could, conduct a Regulatory Flexibility Analysis in which alternatives to the rule are considered. FAA Order 2100.14A, Regulatory Flexibility Criteria and Guidance, outlines FAA procedures and criteria for complying with the RFA. Small entities are defined as small businesses and small not-for-profit organizations that are independently owned and operated or airports operated by small governmental jurisdictions. A "substantial number" is defined as a number that is not less than 11 and that is more than one-third of the small entities subject to a required rule, or any number of small entities judged to be substantial by the rulemaking official. A "significant economic impact" is defined by an annualized net compliance cost, adjusted for inflation, which is greater than a threshold cost level for defined entity types. FAA Order 2100.14A sets the size threshold for small entities operating aircraft for hire at nine aircraft owned and the annualized cost thresholds, adjusted to 1994 dollars, at $69,000 for scheduled operators and $5,000 for unscheduled operators.

Of the 94 U.S.-registered airplanes affected by this AD, the federal government owns 4 airplanes. Of the other 90, one business owns 26 airplanes, two businesses own 7 airplanes each, one business owns 3 airplanes, seven businesses own 2 airplanes each, and thirty-three businesses own 1 airplane each.

Because the FAA has no readily available means of obtaining data on sizes of these entities, the economic analysis for this AD utilizes the worst case scenario using the lower annualized cost threshold of $5,000 for operators in unscheduled service instead of $69,000 for operators in scheduled service. With this in mind and based on the above ownership distribution, the 33 entities owning two or fewer airplanes will not experience a "significant economic impact" as defined by FAA Order 2100.14A. Since the remaining 11 entities do not constitute a "substantial number" as defined in the Order, this AD will not have a "significant economic impact on a substantial number of small entities."

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Airworthiness Directive (AD) 78–26–02, Amendment 39–3370, and adding the following new AD to read as follows:

97–23–09 De Havilland: Amendment 39–10197; Docket No. 91–CE–45–AD. Supersedes 78–26–02, Amendment 39–3370. Applicability: Models DHC–6–1, DHC–6–100, DHC–6–200, and DHC–6–300 airplanes (serial numbers 1 through 411), certificated in any category, that do not have Modification Nos. 6/1461 and 6/1462 incorporated.

Note 1: Modification No. 6/1461 introduces fuselage side frames manufactured from material having improved stress corrosion properties at Fuselage Station (FS) 218.125, and Modification No. 6/1462 introduces fuselage side frames of this material at FS 219.525.

Note 2: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless already accomplished.

To prevent failure of the fuselage because of cracks in the fuselage side frames, which, if not detected and corrected, could result in loss of control of the airplane, accomplish the following:

(a) Within the next 200 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished (compliance with AD 78–26–02), and thereafter as indicated below, inspect the fuselage side frames for cracks at FS 218.125 and FS 219.525, as applicable (see chart below) in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of de Havilland Service Bulletin (SB) No. 6/371, which incorporates the following pages:

Pages	Revision level	Date
1, 2, 5, through 10, 13, 14, 19, 20, and 23.	Original Issue	June 2, 1978.
3, 4, 11, 12, 15, 16, 17, 18, 21, and 22.	Revision A ...	May 16, 1979.

Utilize the following chart to determine which fuselage stations are affected:

Serial No.	Modification 6/1553 incorporated	Fuselage stations affected (both sides)
1 through 395	No	218.125 and 219.525.
1 through 395	Yes	219.525 only.
396 through 411.	N/A	219.525 only.

Note 3: Modification 6/1553 incorporates fuselage side frames of improved stress corrosion resistant material at FS 218.125.

(1) If any crack is found during any inspection required by this AD, prior to further flight, accomplish one of the following:

(i) Repair the cracks in accordance with the ACCOMPLISHMENT INSTRUCTIONS: REPAIR: section of de Havilland SB No. 6/371. Reinspect thereafter at intervals not to exceed 600 hours TIS until the modification specified in paragraph (b) of this AD is incorporated; or

(ii) Replace the cracked fuselage side frame in accordance with the ACCOMPLISHMENT INSTRUCTIONS: *REPLACEMENT*: section of de Havilland SB No. 6/371. Reinspect any fuselage side frame not replaced at intervals not to exceed 600 hours TIS until the modification specified in paragraph (b) of this AD is incorporated.

(2) If no cracks are found, reinspect thereafter at intervals not to exceed 600 hours TIS until the modification specified in paragraph (b) of this AD is incorporated, provided no cracks are found during an inspection. If cracks are found, prior to further flight, repair or replace and reinspect as specified in paragraph (a)(1) of this AD.

(b) Within the next 4,800 hours TIS after the effective date of this AD, incorporate Modification Nos. 6/1461 and 6/1462 in accordance with the ACCOMPLISHMENT INSTRUCTIONS: *REPLACEMENT*: section of de Havilland SB No. 6/371. This consists of replacing all fuselage side frames required as specified in the following chart:

Serial Nos.	Modification 6/1553 incorporated	Fuselage stations affected (both sides)
1 through 395	No	218.125 and 219.525.
1 through 395	Yes	219.525 only.
396 through 411.	N/A	219.525 only.

(c) Incorporating Modification Nos. 6/1461 and 6/1462 as specified in paragraph (b) of this AD is considered terminating action for the inspection requirement of this AD. The modifications may be incorporated at any time prior to the next 4,800 hours TIS after the effective date of this AD, at which time they must be incorporated.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, New York Aircraft Certification Office (ACO), FAA, 10 Fifth Street, 3rd Floor, Valley Stream, New York 11581.

(1) The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, New York Aircraft ACO.

(2) Alternative methods of compliance approved in accordance with AD 78–26–02 are not considered approved as alternative methods of compliance with this AD.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

(f) The inspections and modifications required by this AD shall be done in accordance with de Havilland Service Bulletin (SB) No. 6/371, which incorporates the following pages:

Pages	Revision level	Date
1, 2, 5, through 10, 13, 14, 19, 20, and 23.	Original issue	June 2, 1978.
3, 4, 11, 12, 15, 16, 17, 18, 21, and 22.	Revision A ...	May 16, 1979.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from de Havilland, Inc., 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5 Canada. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., 7th Floor, suite 700, Washington, DC.

(g) This amendment (39–10197) supersedes AD 78–26–02, Amendment 39–3370.

(h) This amendment (39–10197) becomes effective on December 22, 1997.

Issued in Kansas City, Missouri, on October 31, 1997.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–29534 Filed 11–7–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AWP–16]

Revision of Class E Airspace; Crescent City, Imperial County and Red Bluff, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises Class E airspace areas at Crescent City, Imperial County and Red Bluff, CA, by removing the reference to part-time status of the surface areas. A review of airspace classification has made this action necessary. The intended effect of this action is to correct the legal description to reflect the actual operations (e.g. continuous or part-time).

EFFECTIVE DATE: 0901 UTC January 1, 1998.

FOR FURTHER INFORMATION CONTACT: Larry Tonish, Airspace Branch, AWP–520, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261, telephone (310) 725–6531.

SUPPLEMENTARY INFORMATION:

History

On April 22, 1997, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR part 71) by revising the Class E Airspace; Crescent City, Imperial County and Red Bluff, CA, (62 FR 19527). This action revises Class E airspace areas at Crescent City, Imperial County and Red Bluff, CA, by removing the reference to part-time status of the surface areas. A review of airspace classification has made this action necessary. The intended effect of this action is to correct the legal description to reflect the actual operations (e.g. continuous or part-time).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposals to the FAA. No comments to the proposal were received. Class E airspace designations are published in paragraph 6002 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997 which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be revised subsequently in this Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) revises Class E airspace areas at Crescent City, Imperial County and Red Bluff, CA, by removing the reference to part-time status of the surface areas. Continuous weather reporting services now exist at the aforementioned airports.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES, AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E. O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 4, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6002 Class E airspace designated as a surface area for an airport.

* * * * *

AWP CA E2 Crescent City, CA [Revised]

Crescent City, Jack McNamara Field, CA
(lat. 41°46'46"N, long. 124°14'11"W)
Crescent City VORTAC
(lat. 41°46'46"N, long. 124°14'27"W)

Within a 4.3-mile radius of Jack McNamara Field and within 1.8 miles each side of the Crescent City VORTAC 324° radial, extending from the 4.3-mile radius to 7 miles northwest of the VORTAC and within 1.8 miles each side of the Crescent City VORTAC 179° radial, extending from the 4.3-mile radius 4.8 miles south of the VORTAC.

* * * * *

AWP CA E2 Imperial County, CA [Revised]

Imperial County Airport, CA
(lat. 32°50'03"N, long. 115°34'43"W)

Within a 4-mile radius of the Imperial County Airport.

* * * * *

AWP CA E2 Red Bluff, CA [Revised]

Red Bluff Municipal Airport, CA
(lat. 40°09'04"N, long. 122°15'06"W)

Within a 6.5-mile radius of the Red Bluff Municipal Airport and within 2.6 miles either side of the 161° bearing from the airport extending from the 6.5-mile radius to 10 miles south of the airport.

* * * * *

Issued in Los Angeles, California, on October 17, 1997.

George D. Williams,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 97–29581 Filed 11–7–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96–AAL–14]

RIN 2120–AA66

Modification of Colored Federal Airway Amber 15 (A–15); Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Colored Federal Airway Amber 15 (A–15) due to the decommissioning and subsequent removal of the Oliktok, AK, Nondirectional Beacon (NDB) from the National Airspace System (NAS).

EFFECTIVE DATE: 0901 UTC, January 1, 1998.

FOR FURTHER INFORMATION CONTACT: Bil Nelson, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

History

On March 3, 1997, the FAA proposed to amend 14 CFR part 71 (part 71) by redefining that portion of Colored Federal Airway A–15 beyond the Put River, AK, NDB (62 FR 9400). The FAA proposed this action in response to a July 10, 1996, United States Air Force (USAF) decommissioning and subsequent removal of the Oliktok, AK, NDB.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice.

Colored Federal airways are published in paragraph 6009 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Colored Federal airway listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 modifies Colored Federal Airway A–15 due to the decommissioning and subsequent removal of the Oliktok, AK, NDB from the NAS by the USAF. The FAA is taking this action to redefine the designation of A–15 by removing that portion of the route beyond the Put River, AK, NDB.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71, as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6009(c)—Amber Federal Airways

* * * * *

A–15 [Revised]

From Ethelda, BC, Canada, NDB via Nichols, AK, NDB; Sumner Strait, AK, NDB; Coghlan Island, AK, RBN; Haines, AK, RBN; Burwash, YT, Canada, RBN; Nabesna, AK, NDB; to Delta Junction, AK, NDB. From Chena, AK, NDB; via Chandalar Lake, AK, NDB; Put River, AK, NDB. The airspace within Canada is excluded (joins Canadian Jet Routs J–502).

* * * * *

Issued in Washington, DC, on October 27, 1997.

John S. Walker,

Program Director for Air Traffic Airspace Management.

[FR Doc. 97–29575 Filed 11–7–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 97–ASW–15]

RIN 2120–AA66

Change Using Agency for Restricted Areas R–5107B and J, White Sands Missile Range, NM, and R–5111D, Elephant Butte, NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action changes the using agency for Restricted Areas 5107B (R–5107B) and R–5107J, White Sands Missile Range, NM, and R–5111D, Elephant Butte, NM, from "Deputy for Air Force, White Sands Missile Range, NM 88002" to "Commanding General, White Sands Missile Range, NM." This is an administrative change that was initiated by the U.S. Army to reflect the current organization at White Sands. There are no changes to the boundaries, designated altitudes, times of designation, or activities conducted within the affected restricted areas.

EFFECTIVE DATE: 0901 UTC, January 1, 1998.

FOR FURTHER INFORMATION CONTACT: Steve Brown, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

The Rule

This action amends 14 CFR part 73 by changing the using agency for R–5107B and R–5107J, White Sands Missile Range, NM, and R–5111D, Elephant Butte, NM, from "Deputy for Air Force, White Sands Missile Range, NM 88002" to "Commanding General, White Sands Missile Range, NM." This is an administrative change that was initiated by the U.S. Army to reflect the current organization at White Sands.

This administrative change will not alter the existing boundaries, altitudes, times of designation, or the activities conducted within the affected restricted areas. Therefore, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because this action is a minor technical amendment in which the public would not be particularly interested.

Section 73.51 of part 73 was republished in FAA Order 7400.8D, dated July 11, 1996.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This action changes the using agency of the restricted areas. There are no changes to the existing boundaries, altitudes, times of designation, or the activities conducted within the affected restricted areas. Accordingly, the FAA has determined that this action is not subject to environmental assessments and procedures in accordance with FAA Order 1050.1D, "Policies and Procedures for Considering Environmental Impacts," and the National Environmental Policy Act.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73 as follows:

PART 73—SPECIAL USE AIRSPACE

1. The authority citation for part 73 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 73.51 [Amended]

2. § 73.51 is amended as follows:

* * * * *

R–5107B White Sands Missile Range, NM [Amended]

By removing the current "Using agency. Deputy for Air Force, White Sands Missile Range, NM 88002," and substituting "Using agency. Commanding General, White Sands Missile Range, NM."

* * * * *

R–5107J White Sands Missile Range, NM [Amended]

By removing the current "Using agency. Deputy for Air Force, White Sands Missile Range, NM 88002," and substituting "Using agency. Commanding General, White Sands Missile Range, NM."

* * * * *

R–5111D Elephant Butte, NM [Amended]

By removing the current "Using agency. Deputy for United States Air Force, White Sands Missile Range, NM 88002," and substituting "Using agency. Commanding General, White Sands Missile Range, NM."

* * * * *

Issued in Washington, DC, on October 29, 1997.

Reginald C. Matthews,

Acting Program Director for Air Traffic Airspace Management.

[FR Doc. 97–29574 Filed 11–7–97; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 11

RIN 1090–AA21 & 1090–AA22

Natural Resource Damage Assessments—Type A Procedures

AGENCY: Department of the Interior.

ACTION: Final rule: correcting amendments.

SUMMARY: On May 7, 1996, the Department of the Interior published a final rule establishing two simplified, or "type A," procedures for assessing natural resource damages under the Comprehensive Environmental Response, Compensation, and Liability Act. 61 FR 20559. Those procedures incorporated two computer models. This rule makes several technical corrections to those models.

DATES: This final rule is effective November 10, 1997. The incorporation by reference listed in this rule was approved by the Director of the Federal Register and is effective November 10, 1997.

FOR FURTHER INFORMATION CONTACT: David Rosenberger at (202) 208–3301. Interested parties may obtain copies of the computer models and supporting documentation free of charge from the Department through February 27, 1998, and thereafter for a fee from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, ph: (703) 487–4650. The models are also on the Internet at http://www.doi.gov/oepc/oepcbb.html.

SUPPLEMENTARY INFORMATION:

Background

The Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601 *et seq.*) (CERCLA) provides that certain categories of persons, known as potentially responsible parties (PRPs), are liable for natural resource damages resulting from a release of a hazardous substance. CERCLA sec. 107(a). Natural resource damages are monetary compensation for injury to, destruction of, or loss of natural resources. CERCLA sec. 107(a)(4)(C). Only those Federal, State, and Indian tribe officials designated as natural resource trustees may recover natural resource damages. CERCLA requires the President to promulgate regulations for the assessment of natural resource damages resulting from hazardous substance releases. CERCLA sec. 301(c). The President delegated the responsibility for promulgating these regulations to the Department. E.O. 12316, as amended by E.O. 12580. CERCLA requires that the natural resource damage assessment regulations include two types of assessment procedures. "Type A" procedures are "standard procedures for simplified assessments requiring minimal field observation." CERCLA sec. 301(c)(2)(A). "Type B" procedures are "alternative protocols for conducting assessments in individual cases." CERCLA sec. 301(c)(2)(B). Both types of procedures are codified at 43 CFR part 11.

On May 7, 1996, the Department published a final rule that revised an existing type A procedure for assessing natural resource damages from minor releases in coastal areas and established an additional type A procedure for minor releases in the Great Lakes. Trustees obtain a rebuttable presumption in litigation for damages, up to $100,000, calculated in accordance with those procedures. Both procedures incorporate computer models. The type A procedure for coastal areas incorporates the Natural Resource Damage Assessment Model for Coastal and Marine Environments (NRDAM/CME) and the type A procedure for Great Lakes incorporates the Natural Resource Damage Assessment Model for Great Lakes Environments (NRDAM/GLE). The regulations identify the conditions under which trustees may use the models. 43 CFR 11.34.

Trustees must supply a number of data inputs to operate the NRDAM/CME and the NRDAM/GLE. After trustees supply the data inputs, the models themselves perform the remaining calculations necessary to establish if there has been an injury, quantify the extent of injury, estimate the cost of restoration actions, and value economic losses.

Programming Errors

The May 7, 1996, rule incorporated Version 2.4 of the NRDAM/CME and Version 1.4 of the NRDAM/GLE. Since the publication of that rule, the Department has identified six programming errors in those versions of the models.

First, the models were designed to include in the damage figure the cost of

restoring lost assimilative capacity, under certain circumstances. As stated in the preamble to the May 7, 1996, rule, the Department intended that the models would compute assimilative capacity restoration costs only when there are releases that generate economic damages related to mortality or loss of production. 61 FR at 20599. The Department has identified a programming error that, in some cases, allowed such costs to be incorporated into the tabulation of damages even when no economic damages were generated by the models. Currently, the models do not provide recovery for compensable value when the amount calculated is less than one dollar, but they still include restoration costs for lost assimilative capacity when the amount calculated is greater than zero but less than one dollar. The Department intended that compensable value must actually be generated and included in the tabulated damages (i.e., equal or exceed $1) before restoration costs for lost assimilative capacity would be included. The models' source codes have been corrected to conform with that intent.

Second, as stated in the preamble to the May 7, 1996, rule, the Department decided to delete all pure metals from the models' databases (61 FR 20591). Nevertheless, the models as issued still erroneously contained copper, mercury, and zinc in their databases. The models' databases have been corrected to conform with that decision.

Third, the Department has discovered an error in the NRDAM/CME's source code for indexing the sediment grid array, which causes the model to stop when it attempts to reference grid cell "100/100." The model's source code has been revised to correct this programming "bug."

Fourth, the Department has discovered an error in the source code of the NRDAM/CME for larval current transport in the longitudinal direction, resulting in an erroneous calculation of the location of larvae within the habitat grid. The model's source code has been revised to correct this programming "bug."

Fifth, the Department has discovered an error in the habitat grid editor for the NRDAM/CME. While this error is not in the model's source code for computation of damages, it could permit the NRDAM/CME's default habitats to accidentally be corrupted or lost by a user's attempt to output the data to an "ASCII" computer code file. This error has been corrected.

Sixth, although not a programming error, the Department has discovered that a reference cited in Volume I, Section 4, of the NRDAM/CME Technical Document was omitted from the reference list at the end of the section, and has made the appropriate correction.

Finally, the Department has discovered an error in Volume IV, Part 2, Table IV.5.37 of the NRDAM/CME Technical Document. The table was erroneously printed twice at pages IV.5–46 through IV.5–47 and then again at pages IV.5–48 through IV.5–49. This typographical error has been corrected by removing pages IV.5–46 and IV.5–47 and inserting blank pages. Also, the wildlife abundances for willet, knots, sanderling, turnstones, plovers (both general and piping) were incorrectly listed twice in the April 1996, table. The second listing of abundances for these species appearing on page IV.5–49 of the April 1996, table were those contained in the public review draft of the NRDAM/CME. 59 FR 63300. The Department erroneously failed to delete those public review draft values when revised abundance values were added to the database as a result of public comments. 61 FR 20588. This resulted in an overestimate of abundance for willet, knots, sanderling, turnstones, plovers (both general and piping); and an underestimate of their wildlife nonconsumptive use value contained in Volume V, Table V.1.8 (wildlife category 28—Sandpipers, plovers) (See Volume I—Part 2, Section 8.4 of the NRDAM/CME Technical Document for an explination of the derrivation). The NRDAM/CME's database has been revised to correct this error.

Windows® Operating System

For the convenience of users of the NRDAM/CME and NRDAM/GLE models, the Department has also changed the software installation requirements to allow the models to run under the Windows 95® and Windows NT® operating systems, as well as the current DOS operating system. This is a non-substantive change, which does not require a change to the source codes and has no effect on the computations performed by the models.

Modifications to the Models

The Department has developed new versions of the models, which correct the programming and data base errors described above and make the additional change to allow use of the models under the Windows 95® and Windows NT® operating systems. This rule replaces the old versions with the new versions: NRDAM/CME Version 2.4 is being replaced with NRDAM/CME Version 2.5, and NRDAM/GLE Version 1.4 is being replaced with NRDAM/GLE Version 1.5. In order to obtain the rebuttable presumption, trustees must now use the new versions of the models.

The Department has also made conforming changes in the NRDAM/CME and NRDAM/GLE Technical Documentation as follows:

NRDAM/CME Technical Documents. (1) The model version number has been changed in all places it appears; (2) The pure metals copper, mercury, and zinc have been deleted from Volume III, Table II.2.1; (3) The case example contained in Volume II, Appendix D, has been replaced to reflect the revised version number and source code corrections; (4) A reference cited in Volume I, Section 4, has been added to the reference list at the end of the section; (5) Volume VI, containing the source code, has been revised to make the necessary corrections; and (6) Volume IV, Part 2 has been revised to correct the wildlife abundances; and Volume V, Table V.1.8 revised to correct the population number and wildlife nonconsumptive use value for wildlife category 28—Sandpipers, plovers.

NRDAM/GLE Technical Documents. (1) The model version number has been changed in all places it appears; (2) The pure metals copper, mercury, and zinc have been deleted from Volume III, Table II.2.1; (3) The case example contained in Volume II, Appendix A, has been replaced to reflect the revised version number and source code corrections; (4) A reference cited in Volume I, Section 4, has been added to the reference list at the end of the section; and (5) Volume VI, containing the source code, has been revised to make the necessary corrections.

Issuance of a Final Rule

This rule does not modify any substantive decisions the Department made in the May 7, 1996 rulemaking. The technical corrections described in this notice are necessary to ensure that NRDAM/CME and NRDAM/GLE conform to the descriptions and decisions stated in the May 7, 1996, preamble and in the supporting technical documentation for the models. The additional changes are also non-substantive in nature. Therefore, the Department finds that there is good cause under section 553(b)(3)(b) of the Administrative Procedure Act (5 U.S.C. 551 et seq.) to make these corrections and changes without first issuing a notice of proposed rulemaking. For the same reasons, the Department finds that there is good cause under section 553(d)(3) of the Administrative Procedure Act to make this final rule effective immediately.

List of Subjects in 43 CFR Part 11

Coastal zone, Environmental protection, Fish, Hazardous substances, Incorporation by reference, Indian lands, Marine resources, National forests, National parks, Natural resources, Public lands, Recreation areas, Seashores, Wildlife, Wildlife refuges.

For the reasons set out in the preamble, Title 43, Subtitle A of the Code of Federal Regulations is amended as follows:

PART 11—NATURAL RESOURCE DAMAGE ASSESSMENTS

1. The authority citation for Part 11 continues to read as follows:

Authority: 42 U.S.C. 9651(c), as amended.

Subpart A—Introduction

2. Section 11.18 is amended by revising paragraphs (a)(4) and (a)(5) to read as follows:

§ 11.18 Incorporation by reference.

(a) * * *

(4) The CERCLA Type A Natural Resource Damage Assessment Model for Coastal and Marine Environments, Technical Documentation, Volumes I–VI, dated April 1996, including Revision I dated October 1997, prepared for the U.S. Department of the Interior by Applied Science Associates, Inc., A.T. Kearney, Inc., and Hagler Bailly Consulting, Inc. (NRDAM/CME technical document). Interested parties may obtain a copy of this document from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161; PB96–501788; ph: (703) 487–4650. Sections 11.34(a), (b), and (e), 11.35(a), 11.36(b), 11.40(a), and 11.42(a), and Appendix II refer to this document.

(5) The CERCLA Type A Natural Resource Damage Assessment Model for Great Lakes Environments, Technical Documentation, Volumes I–IV, dated April 1996, including Revision I dated October 1997, prepared for the U.S. Department of the Interior by Applied Science Associates, Inc., and Hagler Bailly Consulting, Inc. (NRDAM/GLE technical document). Interested parties may obtain a copy of this document from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161; PB96–501770; ph: (703) 487–4650. Sections 11.34 (a), (b), and (e), 11.35(a), 11.36(b), 11.40(a), and 11.42(a), and Appendix III refer to this document.

* * * * *

Subpart C—Assessment Plan Phase

3. Section 11.33(a) is amended by revising the third sentence to read as follows:

§ 11.33 What types of assessment procedures are available?

* * * * *

(a) * * * There are two type A procedures: a procedure for coastal or marine environments, which incorporates the Natural Resource Damage Assessment Model for Coastal and Marine Environments, Version 2.5 (NRDAM/CME); and a procedure for Great Lakes environments, which incorporates the Natural Resource Damage Assessment Model for Great Lakes Environments, Version 1.5 (NRDAM/GLE).

* * * * *

Subpart D—Type A Procedures

4. Section 11.40(a) is amended by revising the third and fifth sentences to read as follows:

§ 11.40 What are type A procedures?

(a) * * * The type A procedure for coastal and marine environments incorporates a computer model called the Natural Resource Damage Assessment Model for Coastal and Marine Environments Version 2.5 (NRDAM/CME). * * * The type A procedure for Great Lakes environments incorporates a computer model called the Natural Resource Damage Assessment Model for Great Lakes Environments Version 1.5 (NRDAM/GLE). * * *

* * * * *

Dated: October 31, 1997.

Brooks B. Yeager,

Acting Assistant Secretary—Policy, Management, and Budget.

[FR Doc. 97–29386 Filed 11–7–97; 8:45 am]

BILLING CODE 4310–RG–P

Proposed Rules

Federal Register
Vol. 62, No. 217
Monday, November 10, 1997

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AGL–60]

Proposed modification of Class E Airspace; Cumberland, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify Class E airspace at Cumberland, WI. A Global Positioning system (GPS) Standard Instrument Approach Procedure (SIAP) to Runway 27 has been developed for Cumberland Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action proposes to add an extension to the east for the existing controlled airspace.

DATES: Comments must be received on or before December 22, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 97–AGL–60, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Operations Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 97–AGL–60." the postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to modify Class E airspace at Cumberland, WI, to accommodate aircraft executing the proposed GPS Runway 27 SIAP at Cumberland Municipal Airport by adding an eastward extension to the existing controlled airspace. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E dated, September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL WI E5 Cumberland, WI [Revised]
Cumberland Municipal Airport, WI
(lat. 45°30′21″ N, long. 91°58′52″ W)
Cumberland NDB
(lat. 45°30′33″ N, long. 91°58′36″ W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Cumberland Municipal Airport; and within 2.7 miles each side of the 262° bearing from the Cumberland NDB extending from the 6.4-mile radius to 7.4 miles west of the airport; and within 2 miles each side of the 090° bearing from the Cumberland Municipal Airport extending from the 6.4-mile radius to 8.8 miles east of the airport.

* * * * *

Issued in Des Plaines, Illinois on October 21, 1997.

Maureen Woods,
Manager, Air Traffic Division.

[FR Doc. 97–29569 Filed 11–7–97; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AGL–57]

Proposed Establishment of Class E Airspace; St. Paul, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E airspace at St. Paul, MN. An airspace review for St. Paul, Downtown Holman Field, MN, indicates the need for surface area controlled airspace during periods when the control tower is closed. The surface area would provide a safer operating environment for business/corporate turbo jet and turbo prop aircraft which operate into and out of the airport when the control tower is closed. The airport meets the minimum communications and weather observation and reporting requirements. Controlled airspace extending upward from the surface is needed to contain aircraft executing instrument approach procedures.

DATES: Comments must be received on or before December 22, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 97–AGL–57, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Operations Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 97–AGL–57." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to establish Class E airspace at St. Paul, MN, to accommodate aircraft executing the published instrument approach procedures at St. Paul, Downtown Holman Field, during periods when the control tower is closed. The airport meets the minimum communications and weather observation and reporting requirements for a surface area. Controlled airspace extending upward from the surface is needed to contain aircraft executing instrument approach procedures. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace areas designated as a surface area for an airport are published in paragraph 6002 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact

on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6002 Class E airspace areas designated as a surface area for an airport.

* * * * *

AGL MN E2 St. Paul, MN [New]

St. Paul, Downtown Holman Field, MN
(Lat. 44°56'04" N, long. 93°03'36" W)
South St. Paul Municipal Richard E. Fleming Field, MN
(Lat. 44°51'26" N, long. 93°01'59" W)

Within a 4.1-mile radius of the St. Paul, Downtown Holman Field, excluding that airspace within a 1-mile radius of South St. Paul Municipal, Richard E. Fleming Field. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Des Plaines, Illinois on October 21, 1997.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–29570 Filed 11–7–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AGL–58]

Proposed Modification of Class E Airspace; Escanaba, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify Class E airspace at Escanaba, MI. A VHF Omnidirectional Range (VOR) Standard Instrument Approach Procedure (SIAP) to Runway 36 has been developed for Delta County Airport. Controlled airspace extending upward from the surface is needed to contain aircraft executing the approach. This proposal would enlarge the radius and add a southern extension to the surface area, and enlarge the radius and add a southern extension to the 700 feet controlled airspace.

DATES: Comments must be received on or before December 22, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 97–AGL–58, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Operations Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 97–AGL–58." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to modify Class E airspace at Escanaba, MI, to accommodate aircraft executing the VOR Runway 36 SIAP at Delta County Airport, by enlarging the radius and adding a southern extension of the existing surface area and 700 feet controlled airspace. Controlled airspace extending upward from the surface is needed to contain aircraft executing the approach. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for surface areas for an airport are published in paragraph 6002, and Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005, of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6002 Class E airspace areas designated as a surface area for an airport.

* * * * *

AGL MI E2 Escanaba, MI [Revised]

Escanaba, Delta County Airport, MI
(lat. 45°43'22" N, long. 87°05'37" W)
Escanaba VORTAC
(lat. 45°43'22" N, long. 87°05'23" W)

Within a 4.3-mile radius of the Escanaba VORTAC; and within 2.6 miles each side of the Escanaba VORTAC 007° radial, extending from the 4.3-mile radius to 7.4 miles north of the VORTAC; and within 2.6 miles each side of the Escanaba VORTAC 101° radial, extending from the 4.3-mile radius to 7.4 miles east of the VORTAC; and within 2.6 miles each side of the Escanaba VORTAC 266° radial, extending from the 4.3-mile radius to 7.0 miles west of the VORTAC; and within 3.2-miles each side of the Escanaba VORTAC 171° radial, extending from the 4.3-mile radius to 7.0 miles south of the VORTAC. This Class E airspace is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously be published in the Airport/Facility Directory.

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL MI E5 Escanaba, MI [Revised]

Escanaba, Delta County Airport, MI
(lat. 45°43'22" N, long. 87°05'37" W)
Escanaba VORTAC
(lat. 45°43'22" N, long. 87°05'23" W)

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of the Escanaba VORTAC; and within 2.6 miles each side of the Escanaba VORTAC 007° radial, extending from the 6.8-mile radius to 7.4 miles north of the VORTAC; and within 2.6 miles each side of the Escanaba VORTAC 101° radial, extending from the 6.8-mile radius to 7.4 miles east of the VORTAC; and within 2.6 miles north and 3.5 miles south of the Escanaba VORTAC 270° radial, extending from the 6.8-mile radius to 11.7 miles west of the VORTAC; and within 3.2 miles each side of the Escanaba VORTAC 171° radial, extending from the 6.8-mile radius to 7.0 miles south of the VORTAC.

* * * * *

Issued in Des Plaines, Illinois on October 21, 1997.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–29571 Filed 11–7–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 96–ASW–40]

RIN 2120–AA66

Proposed Amendments to Restricted Areas 5601D and 5601E; Fort Sill, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to raise the upper limit of Restricted Area 5601D (R–5601D) from the current 16,500 feet mean sea level (MSL) to flight level (FL) 400. Additionally, this notice proposes to amend the times of designation for R–5601D and R–5601E by expanding the time frame during which these areas may be activated without a prior issuance of a Notice to Airmen (NOTAM). The FAA is proposing these changes to accomodate high altitude/high angle bomb delivery training and to support weekday and night flying requirements.

DATES: Comments must be received on or before December 26, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ASW–500, Docket No. 96–ASW–40, Federal Aviation Administration, 2601 Meacham Boulevard, Fort Worth, TX 76193–0500.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

An informal docket may also be examined during normal business hours at the Office of the Regional Air Traffic Division, 2601 Meacham Boulevard, Fort Worth, TX 76193–0500.

FOR FURTHER INFORMATION CONTACT: Steve Brown, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and land use aspects to: Commander, USAFACFS, ATTN:

ATZR–B (Mr. Barnett), Fort Sill, OK 73503–5100, Telephone (405) 442–2715.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–200; 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3485. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is proposing an amendment to 14 CFR part 73 to raise the upper limit of R–5601D from the current 16,500 feet MSL to FL 400. The horizontal boundaries of the restricted area would not be changed by this proposal. The United States Air Force (USAF) requested this change to R–5601D in order to contain high-altitude jet aircraft bombing patterns into the Falcon Range target area located in R–5601C.

Although R–5601C airspace extends to FL 400, there is not enough maneuvering airspace to allow jet aircraft to climb to the required delivery altitudes before final approach into the target area. Raising the upper limit of R–5601D to FL 400 would alleviate this airspace problem and allow for quality high altitude/high angle bomb delivery training, a USAF pilot requirement for "mission ready" status.

Additionally, this notice proposes to expand the times of designation for R–5601D and R–5601E from the current "Sunrise to sunset, Tuesday through Saturday; other times by NOTAM" to "Sunrise to 2200, Monday–Friday; other times by NOTAM." This proposed expansion in the times of designation is necessary to accommodate a change in flying requirements by both the 301st Fighter Wing, Carswell Field, TX, and the 86th Training Wing at Sheppard AFB, TX. Although there will still be occasional weekend flying, most activity will occur during weekdays. The extension of flying times beyond sunset is necessary due to a new USAF training requirement to fly sorties at night.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subjected to an environmental analysis by the proponent and the FAA prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 73 as follows:

PART 73—SPECIAL USE AIRSPACE

1. The authority citation for part 73 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 73.56 [Amended]

2. § 73.56 is amended as follows:

* * * * *

R–5601D Fort Sill, OK [Amended]

By removing the current "Designated altitudes. 500 feet AGL to 16,500 feet MSL" and substituting "Designated altitudes. 500 feet AGL to FL 400" and also by removing "Time of designation. Sunrise to sunset, Tuesday through Saturday; other times by NOTAM" and substituting "Time of designation. Sunrise to 2200, Monday through Friday; other times by NOTAM."

R–5601E Fort Sill, OK [Amended]

By removing the current "Time of designation. Sunrise to sunset, Tuesday through Saturday; other times by NOTAM" and substituting "Time of designation. Sunrise to 2200, Monday through Friday; other times by NOTAM."

* * * * *

Issued in Washington, DC, on October 29, 1997.

Reginald C. Matthews,

Acting Program Director for Air Traffic Airspace Management.

[FR Doc. 97–29579 Filed 11–7–97; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AI85

Veterans' Training: Time Limit for Submitting Certifications Under the Service Members Occupational Conversion and Training Act

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the training assistance and training benefit regulations of the Department of Veterans Affairs (VA). It proposes to place deadlines for submitting the certifications needed for both periodic payments and lump-sum deferred-incentive payments under the Service Members Occupational Conversion and Training Act (SMOCTA). Since the Act has a sunset provision, all work for which payments are due has been completed. This proposal would allow VA to close the administration of SMOCTA.

DATES: Comments must be received on or before January 9, 1998.

ADDRESSES: Mail or hand deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN 2900–AI85". All written comments received will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration, 202–273–7187.

SUPPLEMENTARY INFORMATION: This document proposes to amend 38 CFR Part 21, Subpart F–3. It proposes to place two-year deadlines for submitting the certifications required for both periodic payments and lump-sum deferred-incentive payments under the Service Members Occupational Conversion and Training Act (SMOCTA), 10 U.S.C. 1143, note.

Under SMOCTA, VA has made periodic payments to employers while they trained veterans who were forced or induced to leave military service by reason of the drawdown of the Armed Forces. SMOCTA provides that the maximum period of training for which assistance may be provided on behalf of a veteran is 18 months. Under SMOCTA VA also provides for lump-sum deferred-incentive payments to employers if the veterans remained employed in the occupation for which they were trained for at least four continuous months after they completed training. Although the National Defense Authorization Act for Fiscal Year 1994 (Pub. L. 103–160) extended the date by which a veteran could enter a SMOCTA training program to March 31, 1997, Pub. L. 103–335 only extended the availability of SMOCTA funds for obligation until September 30, 1995. The effect of these provisions is that the last period of training for which VA may provide assistance will end on September 30, 1997, and the last period of continuous employment for which lump-sum deferred-incentive payments are due will end on January 31, 1998.

VA has provided by regulation (38 CFR 21.4832(a)(3)) that periodic payments will be made only after the employer certifies that the veteran's progress during the period was satisfactory and further certifies the number of hours the veteran worked during the period. VA also has provided by regulation (38 CFR 21.4832(b)(1)) that lump-sum deferred-incentive payments will be made only after the employer and the veteran certify that the veteran has been employed in the occupation for which the veteran trained for at least four continuous months after the last date of training.

This document proposes to amend the regulations to state that the periodic payments will be made only if the employer certifies training on or before September 30, 1999. This document also proposes to amend the regulations to state that the lump-sum deferred-incentive payments will be made only if the employee's certification (there are provisions for waiver of the employee's certification; 38 CFR 21.4382) and the employer's certification required for that payment are submitted on or before January 31, 2000. These provisions appear to be warranted. They provide more than a reasonable amount of time for submission of claims after the programs have ended and also will eliminate the need for the VA to provide administrative personnel available to service such claims.

The Secretary of Veterans Affairs hereby certifies that this proposed rule, if promulgated, would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The adoption of the proposed rule would affect some small entities. However, the effect of the proposed rule, requiring employers to submit certifications within two years of the end of SMOCTA training, would not impose any additional costs on the employer. Pursuant to 5 U.S.C. 605(b), this proposed rule, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of §§ 603 and 604.

No Catalog of Federal Domestic Assistance number has been assigned to the program affected by this proposed rule.

List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Defense Department, Education, Educational institutions, Employment, Grant programs—education, Grant programs—veterans, Health care, Loan programs—education, Loan programs—veterans, Manpower training programs, Reporting and recordkeeping requirements, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: October 27, 1997.

Hershel W. Gober,

Acting Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 21 (subpart F–3) is proposed to be amended as set forth below.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart D—Administration of Educational Assistance Programs

1. The authority for part 21, subpart F–3 continues to read as follows:

Authority: 10 U.S.C. 1143 note; sec. 4481–4487, Pub. L. 102–484, 106 Stat. 2757–2769; sec. 610, Pub. L. 103–446, 108 Stat. 4673–4674, unless otherwise noted.

2. In § 21.4832, paragraphs (e)(3) and (e)(4) are added to read as follows:

§ 21.4832 Payments to employers.

* * * * *

(e) *Restrictions on payments.* * * *

(3) VA will not release any periodic payments for training provided by an employer if VA receives the employer's certification for that training after September 30, 1999.

(4) VA will not release any lump sum deferred incentive payment if VA receives either the veteran's or employer's certification required for that payment after January 31, 2000.

(Authority: 106 Stat. 2762, Pub. L. 102–484, sec. 4487(b); 10 U.S.C. 1143, note)

[FR Doc. 97–29833 Filed 11–7–97; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 268

[FRL–5918–6]

RIN 2050 AE06

Land Disposal Restrictions Phase IV: Second Supplemental Proposal on Treatment Standards for Metal Wastes and Mineral Processing Wastes, Mineral Processing and Bevill Exclusion Issues, and the Use of Hazardous Waste as Fill; Notice of Data Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Data Availability.

SUMMARY: Since publication of the Land Disposal Restrictions (LDR) Phase IV Second Supplemental Proposal (62 FR 26041; May 12, 1997), EPA has received additional capacity information which will be considered in determining the need for national capacity variances for the final Phase IV rule. National capacity variances extend the effective date of the LDR treatment standards for a period of time not to exceed two years for hazardous wastes for which there are insufficient treatment capacity on a nationwide basis. The Agency is making available to the public this new data concerning a two-year national capacity variance for three wastes generated by FMC Corporation at its facility located in Pocatello, Idaho. Comments are requested on the data and the public has 15 days from publication of this notice to comment on the additional information.

Readers should note that only comments about the new information discussed in this notice will be considered during the comment period. Issues related to the Phase IV proposed rule (60 FR 43654; August 22, 1995), the Phase IV Supplemental Proposal on mineral processing wastes (61 FR 2337; January 25, 1996), the first Phase IV Notice of Data Availability (61 FR 26041; May 10, 1996), the Phase IV final rule (the "Minirule;" 62 FR 25998; May 12, 1997), and the Phase IV Second Supplemental Proposed Rule (62 FR 26041; May 12, 1997), that are not discussed in this Notice of Data Availability, are not open for further comment.

DATES: Comments are due by November 25, 1997.

ADDRESSES: To submit comments, the public must send an original and two copies to Docket Number F–97–2P4A–FFFFF, RCRA Information Center (RIC), U.S. Environmental Protection Agency (5305W), 401 M Street, SW, Washington, DC 20460. The RIC is located at 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia. Comments may also be submitted electronically by sending electronic mail through the Internet to: rcra-docket@epamail.epa.gov. Comments in electronic format should also be identified by the docket number F–97–2P4A–FFFFF. All electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

Commenters should not submit electronically any confidential business information (CBI). An original and two copies of CBI must be submitted under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, 401 M Street, SW, Washington, DC 20460.

Public comments and supporting materials are available for viewing in the RIC. The RIC is open for public inspection and copying of supporting information for RCRA rules from 9:00 am to 4:00 pm Monday through Friday, except for Federal holidays. The public must make an appointment to review docket materials by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory document at no cost. Additional copies cost $0.15 per page. For information on accessing paper and/or electronic copies of the document, see the Supplementary Information section.

FOR FURTHER INFORMATION CONTACT: For general information or to order paper copies of this **Federal Register** document, call the RCRA Hotline. Callers within the Washington, Metropolitan Area must dial 703–412–9810 or TDD 703–412–3323 (hearing impaired). Long-distance callers may call 1–800–424–9346 or TDD 1–800–553–7672. The RCRA Hotline is open Monday-Friday, 9:00 a.m. to 6:00 p.m., Eastern Standard Time. For other information on this notice, contact Bill Kline (5302W), Office of Solid Waste, 401 M Street, SW, Washington, DC 20460, phone 703–308–8440.

SUPPLEMENTARY INFORMATION:

The data is also available in electronic format on the Internet. Follow the instructions below to access the data. Files are located in /pub/epaoswer.

WWW: http://www.epa.gov/epaoswer/hazwaste/ldr
FTP: ftp.epa.gov
Login: anonymous
Password: your Internet address

The official record for this action will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into paper form and place them in the official record, which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in **ADDRESSES** at the beginning of this document.

EPA responses to comments, whether the comments are written or electronic, will be in a notice in the **Federal Register** or in a response to comments document placed in the official record for this rulemaking. EPA will not immediately reply to commenters electronically other than to seek clarification of electronic comments that may be garbled in transmission or during conversion to paper form, as discussed above.

Notice of Data Availability

EPA proposed the Phase IV rule in three parts (the original Proposed Rule, 60 FR 43654, August 22, 1995; the First Supplemental Proposed Rule, 61 FR 2338, January 25, 1996; and the Second Supplemental Proposed Rule, 62 FR 26041, May 12, 1997), and issued a Notice of Data Availability (61 FR 21418, May 10, 1996).

In the May 10, 1996 Notice of Data Availability, EPA discussed the possibility of a two-year national capacity variance for three large volume toxicity characteristic (TC) hazardous metal wastewater streams (Meduse Scrubber Blowdown, Anderson Filter Media Rinsate, and Furnace Building Washdown) generated by FMC Corporation at its Pocatello, Idaho facility. At the time of the notice, FMC argued that these three wastewaters pose unique treatability problems because of elemental phosphorous contamination and naturally occurring radioactive material (NORM). FMC maintained that no treatment, storage, or disposal facility (TSDF) could handle the waste streams. FMC requested a two-year national capacity variance to develop and construct on-site treatment capacity for these three wastewater streams to comply with Phase IV when it is promulgated.

In response to the Second Supplemental Proposed Rule (62 FR 26041, May 12, 1997), FMC submitted another comment to EPA, with new information identifying three other waste streams (NOSAP Slurry, Precipitator Slurry, and Phossy Water) at its Pocatello, Idaho facility that FMC believes would be subject to Phase IV LDR requirements should the Phase IV rule be promulgated as proposed. FMC requested that a two-year national capacity variance also be granted for these three additional waste streams as well. Like the original waste streams, the three streams mentioned in the comment are generated in the elemental phosphorous production process and contain varying amounts of both NORM and elemental phosphorous. According to the first FMC comment, there is no current treatment capacity for this composition of materials. However, the three additional waste streams are different than the original waste streams in that they are defined as nonwastewaters under the LDR program (see 40 CFR 268.2(f)).

According to the FMC comment, the three new waste streams are currently managed as D001 and D003 hazardous wastes. In addition, the new waste streams could exhibit the TC in the event of process upsets, due to the presence of heavy metals. FMC argues that based on its survey of off-site treatment facilities for the original three waste streams, it likewise will not be able to identify sufficient treatment capacity to handle the three additional waste streams. As such, FMC believes it will need a two-year national capacity variance to develop and construct on-site treatment capacity for these three new waste streams to comply with Phase IV.

EPA is considering the appropriateness of a capacity variance for the three additional wastes, i.e., NOSAP Slurry, Precipitator Slurry, and Phossy Water, generated at FMC's facility in Pocatello, Idaho. EPA specifically requests comment on whether other facilities generate these wastes as described by FMC Corporation in their comment, and whether or not adequate treatment, recovery, or disposal capacity exists for these wastes.

FMC's documentation, supporting its request for a capacity variance, is available to the public and located in the RCRA Information Center under Docket Number F–97–2P4P–FFFFF.

List of Subjects in 40 CFR Part 268

Environmental Protection, Hazardous waste, Reporting and recordkeeping requirements.

Dated: November 4, 1997.

David Bussard,

Acting Director, Office of Solid Waste.

[FR Doc. 97–29621 Filed 11–7–97; 8:45 am]

BILLING CODE 6560–60–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 4700

[NV 960–1060–00–24–1A]

RIN 1004–AD28

Wild Horse and Burro Adoptions; Power of Attorney

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Land Management (BLM) proposes to amend its regulations to disallow the use of a power of attorney for the adoption of wild horses and burros. BLM is amending the regulations because it is possible that some adopters have misused the power of attorney to obtain large numbers of horses and burros, selling them for profit after receiving the appropriate titles.

DATES:

Comments:

Send your comments to BLM at the address below on or before January 9, 1998. BLM will not necessarily consider any comments received after the above date during its decision on the proposed rule.

ADDRESSES:

Comments:

If you wish to comment, you may submit your comments by any one of several methods. You may mail comments to Bureau of Land Management, Administrative Record, Room 401 LS, 1849 C Street, NW, Washington, D.C. 20240. You may also comment via the Internet to WOComment@wo.blm.gov. Please submit comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include "attn: AD28" and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at (202) 452–5030.

Finally, you may hand-deliver comments to BLM at 1620 L Street, N.W., Room 401, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Bud Cribley, Telephone (202) 452–5073; or Lili Thomas, Telephone (702) 785–6457 (Commercial or FTS).

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures
II. Background
III. Discussion of Proposed Rule
IV. Procedural Matters

I. Public Comment Procedures

Written Comments

Written comments on the proposed rule should be specific, should be confined to issues pertinent to the proposed rule, and should explain the reason for any recommended change. Where possible, comments should reference the specific section or paragraph of the proposal which the commenter is addressing. BLM may not necessarily consider or include in the Administrative Record for the final rule comments which BLM receives after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

Comments, including names and street addresses of respondents, will be available for public review at this address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday, except holidays. Individual respondents may request confidentiality, which BLM will consider on a case-by-case basis. If you wish to request that BLM consider withholding your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comment. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

II. Background

BLM's current regulations allow for adoptions of wild horses and burros by the use of a power of attorney. A power of attorney is a written document that authorizes an agent to do something on behalf of another. One agent could get powers of attorney from several people, and adopt more horses and burros than any one single person is allowed.

Several investigations have focused on the misuse of powers of attorney to adopt wild horses. It was alleged that certain people abused BLM's Adopt-A-Horse and Burro program by obtaining large numbers of horses in order to sell them for profit after receiving the appropriate titles. Because of these investigations, several Assistant U.S. Attorneys have suggested that BLM eliminate this practice. The elimination of power of attorney adoptions would also decrease the time and money BLM spends on inspections to ensure that the adopters are in compliance with the regulations.

It is rare that someone who wants to adopt a wild horse or burro is unable to select the animal and sign the Private Maintenance and Care Agreement (BLM estimates that this practice occurred only 12 times in 1997). For this reason, BLM feels that the benefits of preventing abuses of the program outweigh any inconvenience to persons that may want to adopt an animal with a power of attorney.

III. Discussion of Proposed Rule

In order to remove the provisions for power of attorney adoptions, BLM proposes to replace current sections 4750.3–3(b) and (c) with a short statement that reads:

"The Bureau of Land Management will not allow the use of a power of attorney for the adoption of wild horses and burros."

IV. Procedural Matters

National Environmental Policy Act

BLM has determined that this proposed rule would make a procedural change related to the regulations on adopting wild horse and burros. This rule, which would disallow adoptions by power of attorney, would make only a minor change in existing practices. The rule would not affect decisions that BLM makes about numbers of horses on the range or range conditions. It is unlikely that environmental impacts will occur as a result of the elimination of the use of the power of attorney. Therefore, this action is categorically excluded from environmental review under section 102(2)(C) of the National Environmental Policy Act, pursuant to 516 Departmental Manual (DM), Chapter 2, Appendix 1, Item 1.10. In addition, the proposed rule does not meet any of the 10 criteria for exceptions to categorical exclusions listed in 516 DM, Chapter 2, Appendix 2. Pursuant to Council on Environmental Quality regulations (40

CFR 1508.4) and the environmental policies and procedures of the Department of the Interior, the term "categorical exclusions" means a category of actions which do not individually or cumulatively have a significant effect on the human environment and that have been found to have no such effect in procedures adopted by a Federal agency and for which neither an environmental assessment nor an environmental impact statement is required.

Paperwork Reduction Act

This rule contains no collections of information that require approval by the Office of Management and Budget under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

Regulatory Flexibility Act

Congress enacted The Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.*, (RFA) to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. As discussed in the preamble above, BLM is making a technical change to the wild horse and burro adoption regulations to disallow adoptions by powers of attorney. The rule may prevent some unmeasurable number of people from adopting horses or burros, if they are unable to select the animals themselves and sign the Private Maintenance and Care Agreement. The power of attorney adoption was only used 12 times in 1997. Therefore, BLM certifies under the RFA that this proposed rule would not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act

Revision of 43 CFR part 4700 will not result in any unfunded mandate to State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year.

Executive Order 12612

The proposed rule will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, BLM has determined that this proposed rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12630

The proposed rule does not represent a government action capable of interfering with constitutionally protected property rights. Therefore, the Department of the Interior has determined that the rule would not cause a taking of private property or require further discussion of takings implications under this Executive Order.

Executive Order 12866

According to the criteria listed in section 3(f) of Executive Order 12866, BLM has determined that the proposed rule is not a significant regulatory action. As such, the proposed rule is not subject to Office of Management and Budget review under section 6(a)(3) of the order.

Executive Order 12988

The Department of the Interior has determined that this rule meets the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988.

Author

The authors of this rule are Lili Thomas, National Wild Horse and Burro Program, Bureau of Land Management, P.O. Box 12000, Reno, Nevada 89520, Telephone: 702–785–6459; and Erica Petacchi, Regulatory Management Group, Bureau of Land Management, Room 401LS, 1849 C Street, NW., Washington, DC 20240; Telephone: 202–452–5084 (Commercial or FTS).

List of Subjects in 43 CFR Part 4700

Animal welfare, Horses, Penalties, Public lands, Range management, Reporting and recordkeeping requirements, Wildlife.

Accordingly, BLM proposes to amend part 4700, in group 4100, in subchapter D, in chapter II, subtitle B of title 43 of the Code of Federal Regulations as follows:

1. The authority citation for part 4700 continues to read as follows:

Authority: 16 U.S.C. 1331–1340; 18 U.S.C. 47; 43 U.S.C 315 and 1740.

2. Section 4750.3–3 is amended by removing paragraph (c) and by revising paragraph (b) to read as follows:

§ 4750.3–3 Supporting information and certification for private maintenance of more than 4 wild horses or burros.

* * * * *

(b) The Bureau of Land Management will not allow the use of a power of attorney for the adoption of wild horses and burros.

Dated: November 4, 1997.

Sylvia V. Baca,

Deputy Assistant Secretary, Land and Minerals Management.

[FR Doc. 97–29612 Filed 11–7–97; 8:45 am]

BILLING CODE 4310–84–P

Notices

Federal Register

Vol. 62, No. 217

Monday, November 10, 1997

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

National Resources Conservation Service in Kentucky; Notice of Proposed Change to Section IV of the Field Office Technical Guide (FOTG) of the National Resources Conservation Service in Kentucky

AGENCY: Natural Resources Conservation Service (NRCS) in Kentucky, U.S. Department of Agriculture.

ACTION: Notice of availability of proposed changes in Section IV of the FOTG of the NRCS in Kentucky for review and comment.

SUMMARY: It is the intention of the NRCS in Kentucky to issue revised conservation practice standards: Conservation Cover (Code 327), Conservation Crop Rotation (Code 328), Contour Buffer Strips (Code 332), Contour Farming (Code 330), Critical Area Planting (Code 342), Field Border (Code 386), Forage Harvest Management (Code 511), Forest Site Preparation (Code 490), Forest Stand Improvement (Code 666), Grassed Waterway (Code 412), Heavy Use Area Protection (Code 561), Obstruction Removal (Code 500), Pasture & Hayland Planting (Code 512), Prescribed Grazing (Code 528A), Riparian Forest Buffer (Code 391), Residue Management No-Till & Strip Till (Code 329A), and Windbreak/ Shelterbelt Establishment (Code 380).

DATES: Comments, will be received on or before December 10, 1997.

FOR FURTHER INFORMATION CONTACT: Inquire in writing to David G. Sawyer, State Conservationist, Natural Resources Conservation Service (NRCS), 771 Corporate Drive, Suite 110, Lexington, KY 40503–5479. Copies of the practice standards are made available upon written request.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law to NRCS State Technical Guides used to carry out highly erodible land and wetland provisions of the law shall be made available for public review and comment. For the next 30 days the NRCS in Kentucky will receive comments relative to the proposed changes. Following that period a determination will be made by the NRCS in Kentucky regarding deposition of those comments and a final determination of change will be made.

David G. Sawyer,

State Conservationist, National Resources Conservation Service, Lexington, KY.

[FR Doc. 97–28980 Filed 11–7–97; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Export Administration (BXA).

Title: License Exception TMP: Special Requirements.

Agency Form Number: None.

OMB Approval Number: 0694–0029.

Type of Request: Extension of a currently approved collection of information.

Burden: 1 hour.

Average Time Per Response: 20 minutes.

Number of Respondents: 3 respondents.

Needs and Uses: When sophisticated commodities shipped under License Exception TMP are for news-gathering purposes, the exporter must send BXA a copy of the packing list. Also, a TMP exporter must send BXA an explanatory letter if commodities shipped must be detained abroad beyond the 12 month limit. The information is used to determine whether or not an extension should be granted.

Affected Public: Individuals, businesses or other for-profit institutions.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Victoria Baecher-Wassemer (202) 395–5871.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Victoria Baecher-Wassmer, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, N.W., Washington, D.C. 20230.

Dated: November 3, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–29597 Filed 11–7–97; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–602]

Brass Sheet and Strip From Germany; Extension of Time Limit for Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Extension of time limit for antidumping duty administrative review of brass sheet and strip from Germany.

SUMMARY: The Department of Commerce ("the Department") is extending the time limit for the preliminary results of the tenth antidumping duty administrative review of the antidumping order on brass sheet and strip from Germany. This review covers Wieland-Werke AG, a manufacturer and exporter of the subject merchandise, and the period of review March 1, 1996 through February 28, 1997.

EFFECTIVE DATE: November 10, 1997.

FOR FURTHER INFORMATION CONTACT: Thomas Killiam, Alain Letort, or John R. Kugelman, AD/CVD Enforcement Group III—Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230, telephone (202)

482–2704, 482–4243, or 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

The Department initiated this administrative review on April 24, 1997 (62 FR 19988). Because it is not practicable to complete this review within the time limit mandated by section 751(a)(3)(A) of the Tariff Act of 1930 ("the Act"), as amended by the Uruguay Round Agreements Act of 1994, the Department is extending the time limit for the preliminary results of the aforementioned review to March 31, 1998. *See* memorandum from Joseph A. Spetrini to Robert S. LaRussa, which is on file in Room B–099 at the Department's headquarters.

This extension of time limit is in accordance with section 751(a)(3)(A) of the Act.

Dated: November 4, 1997.

Joseph A. Spetrini,

Deputy Assistant Secretary, AD/CVD Enforcement Group III.

[FR Doc. 97–29625 Filed 11–7–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–824]

Certain Corrosion-Resistant Carbon Steel Flat Products From Japan: Notice of Initiation of Changed Circumstances Administrative Review of the Antidumping Duty Order; Preliminary Results of Changed Circumstances Review, and Intent To Revoke Order in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation and preliminary results of changed circumstances antidumping duty administrative review, and intent to revoke order in part.

SUMMARY: In response to a request, in accordance with section 351.216(b) of our regulations, from Sudo Corporation (Sudo), an interested party in these proceedings, the Department of Commerce (the Department) is initiating a changed circumstances administrative review and issuing a notice of intent to revoke in part the antidumping duty order on certain corrosion-resistant carbon steel flat products from Japan. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 10, 1997.

FOR FURTHER INFORMATION CONTACT: Gideon Katz or Maureen Flannery, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–5255, (202) 482–3020, respectively.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Rounds Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations as codified at 19 CFR part 351, 62 FR 27295 (May 19, 1997).

SUPPLEMENTARY INFORMATION:

Background

On September 19, 1997, Sudo requested that the Department revoke in part the antidumping duty order on certain corrosion-resistant carbon steel flat products from Japan. Specifically, Sudo requested that the Department revoke the order with respect to imports of this product with widths ranging from 10 millimeters (0.394 inches) through 100 millimeters (3.94 inches) and thicknesses ranging from 0.11 millimeters (0.004 inches) through 0.60 millimeters (0.024 inches). Sudo, a domestic manufacturer of a small, thin, circular shield that is used as a seal on the casings of wheels containing ball bearings, is an importer of this product. On October 28, 1997, AK Steel Corporation (AK), Bethlehem Steel Corporation (Bethlehem), Inland Steel Industries, Inc. (Inland), LTV Steel Company (LTV), National Steel Corporation (National), and U.S. Steel Group, A Unit of USX Corporation (U.S. Steel), domestic interested parties in this case, submitted a letter indicating they have no objection to the initiation of this changed circumstances review and no interest in maintaining the antidumping duty order on corrosion-resistant carbon steel flat products from Japan with respect to the product with the dimensions indicated above. Based on the fact that this portion of this order is no longer of interest to domestic parties, we intend to partially revoke this order.

Initiation of Changed Circumstances Antidumping Duty Administrative Review, and Intent To Revoke Order in Part

Pursuant to section 751(d)(1) and 782(h)(2) of the Act, the Department may partially revoke an antidumping or countervailing duty order based on a review under section 751(b) of the Act (i.e., a changed circumstances review). Section 751(b)(1) of the Act requires a changed circumstances administrative review to be conducted upon receipt of a request which shows changed circumstances sufficient to warrant a review. Section 351.222(g) of the Department's regulations provides that the Department will conduct a changed circumstances administrative review under 19 CFR 351.216, and may revoke an order in whole or in part if it determines that producers accounting for substantially all of the production of the domestic like product to which the order (or the part of the order to be revoked) pertains have expressed a lack of interest in the order, in whole or in part. In addition, in the event that the Department concludes that expedited action is warranted, 19 CFR 351.221(c)(3)(ii) permits the Department to combine the notices of initiation and preliminary results.

Therefore, in accordance with sections 751(d)(1) and 782(h)(2) of the Act, and 19 CFR 351.216 and 351.222(g), based on affirmative statements of no interest by AK, Bethlehem, Inland, LTV, National, and U.S. Steel in continuing the order with respect to corrosion-resistant carbon steel flat products with widths ranging from 10 millimeters (0.394 inches) through 100 millimeters (3.94 inches) and thicknesses ranging from 0.11 millimeters (0.004 inches) through 0.60 millimeters (0.024 inches), we are initiating this changed circumstances administrative review. Furthermore, we determine that expedited action is warranted, and we preliminarily determine that continued coverage of corrosion-resistant carbon steel flat products within the width and thickness range mentioned above is no longer of interest to domestic interested parties. Because we have concluded that expedited action is warranted, we are combining these notices of initiation and preliminary results. Therefore, we are hereby notifying the public of our intent to revoke in part the antidumping duty order with respect to imports of corrosion-resistant carbon steel flat products of the above-mentioned width and thickness range from Japan.

If final revocation in part occurs, we intend to instruct the U.S. Customs Service (Customs) to liquidate without regard to antidumping duties, and to refund any estimated antidumping duties collected for all entries of corrosion-resistant carbon steel flat products, with the dimensions indicated above, made on or after the date of publication in the **Federal Register** of the final results of these reviews in accordance with 19 CFR 351.222. We will also instruct Customs to pay interest on such refunds in accordance with section 778 of the Act. The current requirement for a cash deposit of estimated antidumping duties on corrosion-resistant carbon steel flat products, with the dimensions indicated above, will continue unless and until we publish a final determination to revoke in part.

Public Comment

Interested parties are invited to comment on these preliminary results. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue, and (2) a brief summary of the argument. Parties to the proceedings may request disclosure within 5 days of the date of publication of this notice and any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held no later than 28 days after the date of publication of this notice, or the first workday thereafter. Case briefs may be submitted by interested parties not later than 14 days after the date of publication of this notice. Rebuttal briefs and rebuttals to written comments, limited to the issues raised in those comments, may be filed not later than 21 days after the date of publication of this notice. All written comments shall be submitted in accordance with 19 CFR 351.303 and shall be served on all interested parties on the Department's service list in accordance with 19 CFR 351.303. Persons interested in attending the hearing should contact the Department for the date and time of the hearing. The Department will publish the final results of this changed circumstances review, including the results of its analysis of issues raised in any written comments. This notice is in accordance with sections 751(b)(1) of the Act and 19 CFR 351.216 and 351.222.

Dated: November 3, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–29631 Filed 11–7–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–810]

Mechanical Transfer Presses From Japan: Extension of Time Limits for Preliminary Results of Antidumping Administrative Review, and Partial Recission of Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limits for preliminary results of antidumping administrative review and partial recission of administrative review.

EFFECTIVE DATE: November 10, 1997.

FOR FURTHER INFORMATION CONTACT: Elisabeth Urfer or Maureen Flannery, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–0780 or (202) 482–3020, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act.

Recission

The Department of Commerce received a request from petitioners to conduct an administrative review of the antidumping duty order on mechanical transfer presses from Japan. On March 18, 1997 (62 FR 12793), the Department initiated this administrative review covering the period March 1, 1996 through February 28, 1997.

On June 16, 1997, the petitioners withdrew their request for an administrative review with respect to Ishikawajima-Harima Heavy Industries, Ltd. (IHI). Petitioners' request was made within ninety days of publication of the notice of initiation, in accordance with Section 353.22(a)(5) of the Department's regulations. IHI also requested that the Department terminate the administrative review on June 23, 1997. Because petitioner made a timely request, and because we have not devoted considerable time and resources to IHI, rescinding this review with respect to IHI would not prejudice any party in this proceeding. In accordance with Section 353.22(a)(5) of the Department's regulations, we rescind this review with respect to IHI. (*See Memorandum To Edward Yang From Maureen Flannery* dated August 11, 1997, "Request for Termination of Review, in Part, in the 1996–1997 Administrative Review of the Antidumping Duty Order on Mechanical Transfer Presses from Japan.")

Extension of Time Limits for Preliminary Results

Because of the complexity of certain issues in this case, it is not practicable to complete this review within the time limits mandated by section 751(a)(3)(A) of the Act. *See* Memorandum from Joseph A. Spetrini to Robert S. LaRussa, Extension of Time Limit for the Administrative Review of Mechanical Transfer Presses from Japan, dated October 23, 1997. Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time limits for the preliminary results to February 28, 1998.

Dated: October 31, 1997.

Joseph A. Spetrini,

Deputy Assistant Secretary for AD/CVD Enforcement III.

[FR Doc. 97–29632 Filed 11–7–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–504]

Porcelain-on-Steel Cooking Ware From Mexico; Notice of Court Decision

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of court decision.

SUMMARY: On September 16, 1997, the United States Court of International Trade affirmed the Department of Commerce's redetermination on remand regarding its determination to rely on the transfer price of enamel frit submitted by Cinsa, S.A. de C.V. for purposes of constructed value for the administrative review covering the period December 1, 1989 through November 30, 1990. This notice is published because this Court determination was not in harmony with the Department of Commerce's original determination in this review.

EFFECTIVE DATE: November 10, 1997.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Kelly Parkhill, Office of CVD/AD Enforcement VI, International Trade Administration, U.S. Department of Commerce, 14th & Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On August 16, 1993, the Department of Commerce (the Department) published in the **Federal Register** (58 FR 43,327) the final results of its fourth administrative review of the antidumping duty order on porcelain-on-steel cooking ware from Mexico. That review covered the period December 1, 1989 through November 30, 1990. Cinsa, the respondent in this review, subsequently appealed the Department's determination before the United States Court of International Trade (CIT) on four issues. The CIT issued a remand with respect to one issue only and directed the Department to determine whether the transfer price for enamel frit provided to the Department in that review constituted an arm's-length transaction as prescribed by the statue and previous practice. *Cinsa, S.A. de C.V.* v. *United States (Cinsa I)* Slip. Op. 97–41 (April 4, 1997). Although the Court agreed with the Department that the burden was on the respondent to "establish that the transfer price for the purchase of raw material from the related party reflects an arm's-length price," it found that Cinsa fulfilled its burden by supplying the Department with the requested explanation of how it determined the transfer price to be representative of a fair market price and of how it determined that transfer prices were above the cost of production. *Id.*, at 12. The Court found that Cinsa effectively shifted the burden to the Department by providing the requested explanations for the discount in the transfer price. *Id.*, at 13.

The Department filed its redetermination on July 2, 1997. Although the Department respectfully disagreed with the Court's conclusion that Cinsa fulfilled its burden of proving the arm's-length nature of the related party transfer price, the Department determined that, for purposes of the remand, it should use Cinsa's reported transfer price for enamel frit from its related supplier to calculate constructed value because, in that review, the Department did not request that Cinsa provide any documentation in support of its claim that the extent of differences between the transfer prices for frit and the prices at which frit was sold to unrelated firms were fully accounted for. Thus, the Department agreed that Cinsa had done all that was asked of it in that review. The CIT affirmed the redetermination on September 16, 1997. *Cinsa, S.A. de C.V.* v. *United States (Cinsa II)*, Slip Op. 97–131 (CIT September 16, 1997).

In its decision in *Timken Co.* v. *United States*, 893 F.2d 337 (Fed. Cir. 1990) *(Timken)*, the United States Court of Appeals for the Federal Circuit held that, pursuant to 19 U.S.C. 1516a(e) the Department must publish a notice of a court decision which is not "in harmony" with a Department determination, and must suspend liquidation of entries pending a "conclusive" decision. The CIT's opinion in *Cinsa II*, constitutes a decision not in harmony with the Department's final results of antidumping duty administrative review. Publication of this notice fulfills the *Timken* requirement. Accordingly, the Department will continue to suspend liquidation pending the expiration of the period of appeal, or, if appealed, until there is a "conclusive" court decision.

Dated: November 3, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–28826 Filed 11–7–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–028]

Notice of Final Results and Partial Recission of Antidumping Duty Administrative Review: Roller Chain, Other Than Bicycle, From Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On May 8, 1997, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on roller chain, other than bicycle, from Japan. This review covers six manufacturers/exporters of roller chain in Japan during the period April 1, 1995, through March 31, 1996: Daido Kogyo Co., Ltd., Enuma Chain Mfg. Co., Ltd., Izumi Chain Manufacturing Co., Hitachi Metals Techno Ltd., Pulton Chain Co., Ltd., and R.K. Excel Co., Ltd.

We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of the comments received, we have changed our results from those presented in our preliminary results, as described below in the "Interested Party Comments" section of this notice. The final results are listed below in the section "Final Results of Review."

EFFECTIVE DATE: November 10, 1997.

FOR FURTHER INFORMATION CONTACT: Ron Trentham or Jack Dulberger, AD/CVD Enforcement Group II, Office Four, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4793 and (202) 482–5505, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act), by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 353 (April 1, 1997).

Background

On May 8, 1997, the Department published its preliminary results of review, Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review: Roller Chain, Other than Bicycle, from Japan, 62 FR 25165 (*Preliminary Results*), of the antidumping duty order on roller chain, other than bicycle, from Japan (38 FR 9928, April 12, 1973). Pursuant to the Department's request in its notice of preliminary results, we received comments on the product matching characteristics used in the preliminary results from (1) Daido Kogyo Co., Ltd. (Daido Kogyo); (2) Enuma Chain Mfg. Co., Ltd. (Enuma); (3) Izumi Chain Manufacturing Co., Ltd. (Izumi); (4) Hitachi Metals Techno Ltd. (Hitachi); (5) Pulton Chain Co., Ltd. (Pulton); and (6) R.K. Excel Co., Ltd. (RK) (collectively, the respondents), and the petitioner on May 22, 1997, and rebuttals to these comments on May 29, 1997. As a result of the preliminary results and pursuant to the Department's request, Enuma submitted a revised section C questionnaire response on June 12, 1997. The Department requested additional information related to this response on June 30, 1997 and on July 10, 1997, Enuma submitted a response that addressed our additional questions. On July 14, 1997, and July 21, 1997, we received case and rebuttal briefs from the respondents and the petitioner. At the request of both petitioner and respondents, we held a hearing on August 1, 1997. The Department has now completed this administrative review in accordance with section 751(a) of the Act.

Verification

In accordance with section 782(i) of the Act, we verified the further manufacturing costs for merchandise produced by Enuma in March 1997. The results of this verification are outlined in the public version of the verification report on file in room B–099 of the main Commerce building. (See April 2, 1997 Memorandum to the File from Jack K. Dulberger and Justin Jee.)

Rescission

In our preliminary results, we determined that during the period of review (POR), Hitachi did not export the subject merchandise to the United States. Therefore, as we confirmed with the United States Customs Service that Hitachi had no shipments of subject merchandise, we rescinded this review with respect to Hitachi in accordance with section 351.213 of the regulations. See *Preliminary Results* at 25165.

Scope of Review

The merchandise subject to this review is roller chain, other than bicycle, from Japan. The term "roller chain, other than bicycle," as used in this review, includes chain, with or without attachments, whether or not plated or coated, and whether or not manufactured to American or British standards, which is used for power transmissions and/or conveyance. This chain consists of a series of alternately-assembled roller links and pin links in which the pins articulate inside from the bushings and the rollers are free to turn on the bushings. Pins and bushings are press fit in their respective link plates. Chain may be single strand, having one row of roller links, or multiple strand, having more than one row of roller links. The center plates are located between the strands of roller links. Such chain may be either single or double pitch and may be used as power transmission or conveyor chain. This review also covers leaf chain, which consists of a series of link plates alternately assembled with pins in such a way that the joint is free to articulate between adjoining pitches. This review further covers chain model numbers 25 and 35. Roller chain is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheading 7315.11.00 through 7619.90.00. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description remains dispositive.

Changes Since the Preliminary Results

We have made the following changes in these final results:

1. We have returned to the model match methodology of constructing a concordance based on the model code numbering reported by respondents, which we have used in prior segments of this proceeding. See Comment 1 below.
2. We have calculated a dumping margin using Enuma's original HM sales questionnaire response and its June 12, 1997, U.S. sales questionnaire response. See Comment 2 below.
3. With regard to Enuma's and Daido Koyo's unmatched U.S. sales, we have selected an adverse FA of 43.29 percent. See Comment 2 below.
4. We have removed the commission offset adjustment from Daido Koyo's margin calculation program for these final results. See Comment 4 below.
5. With regard to those U.S. sales for which Izumi did not report constructed value (CV) information, we have selected a non-adverse FA rate as described in Comment 2 below.

Interested Party Comment

Comment 1: Model Matching

The petitioner maintains that the Department should consider the extensive model match comments submitted on May 22 and 29, 1997, and articulate objective model matching criteria that will apply to all respondents in this and future roller chain proceedings. The petitioner argues that the respondents should no longer be permitted to provide company-specific codes in lieu of the model match data requested by the Department. Furthermore, the petitioner argues that individual respondents are not allowed to add company-specific model matching criteria absent full opportunity for comment from all other parties. According to the petitioner, any subsequent changes to product matching criteria should be applicable to all respondents.

The petitioner argues that should the Department adopt different model matching criteria than those used in the preliminary results, programming errors, which did not appear in the preliminary results, may occur for the first time. As a result, the petitioner contends that the Department should allow for a "pre-final" disclosure for all parties in order to review the revised computer programs and printouts. The petitioner maintains that, in order to do so, the Department could delay publication of the final results, pending analysis by the parties, or the Department could publish a tentative final results which would become final unless modified by a certain date.

The petitioner maintains that it would be appropriate to supplement the three-factor product matching test used in the preliminary results with the following nine factors: Pitch length, roller width, roller diameter, pin diameter, pin length, link height/length, link plate thickness, average strength, and average weight. The petitioner also states that additional computer fields should be added to address attachment chain. However, the petitioner asserts that none of the respondents have met their burden of persuasion with respect to the expansion of the Department's three-part "most similar" merchandise test. Therefore, the petitioner contends that we should continue using the three-factor model match test for the final results.

Izumi contends that the Department, in order to identify identical matches, should use actual product model numbers instead of the methodology adopted in the preliminary results. Izumi further argues that in matching non-identical merchandise, the Department should use multiple physical characteristics. Izumi contends that characteristics in addition to the three-factor model match used in the preliminary results, as well as application of the 20 percent difference-in-merchandise (DIFMER) test is required in order to reasonably and accurately identify product matches. Izumi additionally argues that, were the Department to use price-to-price comparisons for purposes of the final results, then the Department's revised product matching methodology would result in erroneously matched merchandise.

Daido Kogyo argues that the Department's revised product matching methodology employed in the preliminary results significantly distorts the dumping margin calculations for Daido Kogyo. Daido Kogyo points out, for example, that this methodology groups physically diverse chain together as a unique product.

Daido Kogyo argues that the Department, in revising the product matching methodology, violated the antidumping statute and the Department's past practice. First, Daido Kogyo argues that the Department changed its longstanding product matching methodology at a point in the current proceeding where Daido Kogyo had no opportunity to comment on, or comply with, this policy change. Second, Daido Kogyo asserts that the Department made this matching methodology change without providing Daido Kogyo an opportunity to remedy or explain its deficiency, in violation of 19 U.S.C. 1677m (d). Third, Daido

Kogyo argues that the Department's matching methodology change constituted a new policy, rule, or practice requiring notice and hearing in order to provide all respondents with an opportunity to comment early on in the proceeding, under the Administrative Procedure Act (APA)(5 U.S.C. 533(b)).

RK states that the model match methodology adopted by the Department in its preliminary results is a radical departure from the longstanding and consistent method that the Department has used for nearly a decade in this proceeding. RK argues that this new method for defining identical merchandise is a fatally imprecise means of comparing motorcycle chains. According to RK, the Department's new model match methodology fails to consider the uniqueness of each motorcycle chain sold by RK, and it ignores many product characteristics that are essential for defining identical merchandise. Moreover, RK contends that applying the new methodology to comparisons of similar merchandise also radically departs from the Department's "traditional method" of defining the most similar product, as exemplified by the method followed in the 1989–1990 POR, which took into account numerous criteria beyond the three used in the preliminary results. See, e.g., Antidumping Questionnaire, POR April 1, 1989 through March 31, 1990, Appendix I; Appendix V, (July 27, 1990) (*Questionnaire 1989–1990*). RK maintains that under the Department's proposed method, essentially there can be no "similar" motorcycle chains; they are virtually all one identical match.

In short, RK asserts that the Department's proposed model match methodology changes are not reasonable. According to RK, these proposed changes penalize RK and other respondents by creating margins where none exist. RK submits that the Department must abandon its newly proposed model matching methodology and, for this review, continue to use the previously unquestioned, longstanding model matching methodology for defining identical and similar merchandise that it has always used in prior segments of this proceeding.

DOC Position

We agree in part with all parties regarding the issue of additional model match criteria. For purposes of calculating normal value (NV), section 771(16) of the Act defines "foreign like product" as merchandise which is either (1) identical or (2) similar to the merchandise sold in the United States. See section 771(16); see also 19 CFR 351.411(a). In cases where we do not find that the identical products were sold in the home or other foreign market, we will then identify, using a product matching methodology, the product sold in the foreign market that is most similar to the product sold in the United States. See section 773 (a)(6)(C)(ii) of the Act.

In identifying which physical characteristics should be given the most weight in our determination of appropriate product comparisons, we consider comments from all parties. We then develop a product matching methodology based on the physical characteristics of the merchandise. This process is designed to give the parties a predictable and accurate basis for determining possible product matches in current as well as future administrative reviews. (See, e.g., Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from Japan, (52 FR 30700, 30703, August 17, 1987) (Tapered Roller Bearings)). Further, for those non-identical or most similar products which are identified based on the Department's product matching criteria, we make a DIFMER adjustment to the home market (HM) sales price to account for the actual physical differences between the products sold in the United States and the home market. *See id.*

As background to our position in the present review, we note that prior to the 1992–1993 POR, the Department used a model match methodology based on multiple matching criteria. (*See, e.g., Questionnaire 1989–1990*) (using thirteen-factor model match). Commencing in the 1992–1993 POR, we shifted to a different methodology based on only three characteristics, allowing each respondent to provide its own product concordance (*See, e.g., Notice of Final Results of Antidumping Administrative Review, and Determination not to Revoke in Part: Roller Chain, other than Bicycle, from Japan* 62 FR 64322, (December 4, 1996) (*Final Results 1994–1995*) (using three-factor model match).

The respondents have, in their comments in the present review, characterized our post-1992–1993 approach as a "traditional method." We disagree and note that there have been two model match methodologies used in previous segments of this proceeding.

Regarding the present review, as we explained in our preliminary results, where we found no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product, based on the three product characteristics stated in the antidumping questionnaire, listed in order of importance: (1) type of roller chain (*e.g.*, industrial, leaf, or motorcycle); (2) number of strands (*e.g.*, single, etc.); and (3) finish (*e.g.*, carbon steel, etc.), (*i.e.*, the three-factor model match test). *See Antidumping Questionnaire, POR April 1, 1995 through March 31, 1996, Sections B and C* (June 20, 1996) (*Questionnaire 1995–1996*).

Our questionnaire instructed the respondents to provide data regarding the three product characteristics specified above for all reported U.S. and HM sales, and informed the respondents that they could report additional product characteristics which they believed the Department should consider in performing product comparisons. The questionnaire further instructed any respondent that chose to report additional product characteristics to describe why it believed the Department should consider the additional characteristics in defining identical and similar merchandise. (*See Questionnaire 1995–1996* at B–6 and C–6).

As we explained in our preliminary results, it was apparent to us from the model match databases submitted by all respondents that they had considered product characteristics beyond the three in the Department's questionnaire. However, based on their questionnaire responses, no additional product characteristics were specifically identified by Daido Kogyo, Enuma, or Izumi. *See Preliminary Results* at 25167. Thus, we were unable to determine what additional characteristics these respondents relied upon in identifying unique products. Although RK identified additional product characteristics in its questionnaire response, it did not explain why it believed the Department should consider these additional characteristics in identifying identical and similar merchandise in this review. *See id.*

Consequently, we rejected the parties' model match databases based on our determination that it was appropriate to make the analysis in this proceeding consistent with the Department's current practice of defining identical and similar merchandise based only on the product characteristics outlined in the antidumping questionnaire. *Id.*

In our preliminary results, we also requested interested parties to comment on the matching criteria enumerated in the questionnaire and to provide comments on whether we should consider additional criteria beyond the three used in the preliminary results. We further requested that the comments include explanations as to why a proposed characteristic is essential in defining identical and similar merchandise, how the product characteristics relate to both the cost of manufacturing and the selling price of the merchandise, and how the product characteristic has been captured in the respondent's reported product control numbers. *See Preliminary Results* at 25167–68.

Based on the written comments submitted, the hearing, and previous segments of this proceeding, we believe that additional product characteristics should be considered beyond the three-factor model match test in order to properly identify identical and similar merchandise. To continue to rely on the three-factor model match methodology used in our preliminary results would in some cases yield absurd results in terms of product matching, as it would group physically diverse chain together as identical or similar merchandise.

For these reasons, for these final results, we return to the model match methodology of constructing a concordance based on the model code numbering originally reported by respondents, which we have used in prior segments of this proceeding. This is consistent with the model match methodology used in the last three reviews. *See, e.g., Final Results 1994–1995 at 64327.*

With respect to Izumi's comment that the Department's possible use of price-to-price comparisons for these final results would cause erroneous results, we note that our decision to use constructed value (CV) as the basis for NV for Izumi in these final results renders Izumi's comment moot. *See* "DOC Position" to "Comment 2: Izumi," below.

Further, with respect to the petitioner's request that we provide a "pre-final" disclosure for all parties in this review in order to review the computer programs and printouts, we note that it is our practice after issuing the final results to afford disclosure to any party to the proceeding who files such a request within five business days of the date of publication of the relevant final results. *See* 19 CFR §§ 353.22 (c)(9) and 353.28. Parties receiving disclosure are required to submit comments concerning ministerial errors within five business days of either the date of release of disclosure documents or the date of any disclosure meeting, whichever is earlier. *See id.* However, since we are reverting to the model-match methodology that we used in the three prior reviews, we are using programming language that has already been reviewed for accuracy by all parties. Therefore, we are not persuaded that we should depart from our normal practice.

Finally, we intend to use the model match comments we have received in this proceeding as a starting point for determining the appropriate model match methodology to be employed in future reviews. In particular, we intend to carefully revisit the three-factor model match with a view toward supplementing it with additional relevant factors in order to arrive at a proper methodology for use in future reviews.

Comment 2: Facts Available

Izumi

The petitioner disagrees with the Department's characterization that Izumi acted to the best of its ability to comply with the Department's information requests regarding its downstream HM sales. The petitioner argues that the Department should have applied adverse facts available (FA) to Izumi because Izumi's affiliated home market reseller's refusal to supply relevant data must be treated as a refusal by Izumi itself, given that this reseller is affiliated with Izumi. Moreover, the petitioner argues that accepting Izumi as cooperative could allow foreign manufacturers to "screen out" high-priced HM sales from the calculation of NV simply by telling affiliated resellers not to respond, as there would be no penalty to the respondent. Therefore, the petitioner maintains that the Department erred in using CV to calculate Izumi's margin given that Izumi had sought to have its margin based on CV comparisons.

Further, the petitioner argues that if the roller chain sold to the affiliated reseller was ultimately resold to U.S. customers, those sales must be reported and used in the calculation of Izumi's margin. The petitioner maintains that the Department should require the affiliated reseller to certify whether or not it resold Izumi chain to the United States. If there were such sales, they must be reported. If the affiliated reseller refuses to provide the information, petitioner states that this should be taken into account when determining whether it is appropriate to assign adverse FA to Izumi. In this case, given the nature of the affiliation between Izumi and the reseller and the significance of the data to the overall calculation of Izumi's margin, the petitioner argues that an adverse inference is fully warranted. Specifically, as adverse FA, the petitioner contends that the Department should assign Izumi a margin of 43.29 percent, the highest rate ever calculated for a party subject to the roller chain finding.

In addition, the petitioner expresses its concern that a portion of the Izumi chain sold to the affiliated reseller has been resold to the United States. Therefore, the petitioner requests the Department to seek confirmation from the affiliated reseller that it did not resell Izumi roller chain to the United States during the POR. The petitioner contends that a non-response from the affiliated reseller should be taken into account when determining whether to assign an adverse FA margin to Izumi. In addition, the petitioner advocates that the Department apply the highest possible margin, 43.29 percent, as adverse FA in these final results.

Izumi contends that the Department's decision to use FA was neither reasonable nor necessary since Izumi neither possessed the data nor could compel the affiliated customer to provide it to the Department. Izumi contends that it lacks control over this customer whose actions cannot be legally attributed to Izumi. Izumi asserts that this refusal to provide the sales data cannot be interpreted as a refusal by Izumi itself. Further, Izumi argues that since the petitioner's request for review for the period of review 1996–1997 expressly designated this affiliated customer as a reseller, this precludes the Department from considering Izumi to be the actual seller.

If the Department persists in using FA for Izumi's sales, Izumi contends that it cooperated to the best of its ability and that no adverse inference is warranted. Izumi points to the Department's final determination in the 1994–1995 POR, where the Department found, in light of similar facts, that Izumi had acted to the best of its ability with respect in its attempts to obtain this sales data. (*See Final Results 1994–1995* at 64324).

Assuming that the Department continues to use non-adverse FA, Izumi contends that the Department should continue to use CV or to select an alternative rate based on sales to its unaffiliated customers.

Izumi argues that the petitioner's claim that Izumi sold merchandise to the affiliated customer destined for the United States, or with knowledge that it was so destined, has no basis in the current record and amounts to speculation. Izumi asserts that no record evidence exists that it had knowledge of the ultimate destination of any of its HM sales. Izumi points to the Department's previous final determinations where, based on similar facts, we found the same allegations by petitioner to be unsupported. (*See Notice of Final Results of Antidumping Duty*

Administrative Review: Roller Chain, other than Bicycle, from Japan 58 FR 52264, October 7, 1993; and *Final Results 1994–1995*). Izumi further argues that its sales of merchandise to the affiliated customer, contrary to the petitioner's contention, do not constitute constructed export price (CEP) or export price (EP) sales based on the current record.

Izumi argues that the petitioner's request that Izumi's affiliated customer certify that it did not sell merchandise purchased from Izumi to the United States is, contrary to the petitioner's contention, neither legally supported nor required by the Department's previous practice.

DOC Position

We disagree with both the petitioner and Izumi. Although in the preliminary results we characterized our use of CV as FA, it is more appropriate to characterize the use of CV as merely a sequential step in the choice of the appropriate basis for NV. Section 773(a)(5) of the Act authorizes the Department to determine NV by using the prices at which foreign like products are sold by an affiliated party to unaffiliated customers (*i.e.*, the prices of downstream sales). As we explained in the preliminary results, the total quantity of Izumi's sales to unaffiliated parties during the POR was extremely small, a significant portion of Izumi's total HM sales was to an affiliated reseller, and certain models were sold only to this affiliated customer, resulting in an insufficient number of unaffiliated party sales to provide a meaningful comparison to affiliated party sales. *See Preliminary Results* at 25170. In other words, we concluded that the small number of Izumi's remaining HM sales to unaffiliated customers did not provide a sufficient basis on which to test whether sales to the affiliated reseller were made at arm's-length prices. As explained below, we next attempted to obtain downstream sales. Only after concluding that Izumi was unable to compel its affiliated customer to provide this information, we excluded all HM sales from the calculation of NV and calculated NV based on CV in accordance with section 773(a)(4) of the Act. *See id.*

Section 776(b) of the Act requires that if an interested party fails to cooperate by not acting to the best of its ability to comply with the Department's request for information, the Department may use an adverse inference in selecting from the facts otherwise available. Here, however, upon examining the circumstances surrounding Izumi's failure to provide HM downstream sales information, we disagree with the petitioner's characterization of Izumi as non-cooperative. In the preliminary results, we noted that Izumi did make attempts to obtain this sales information from its affiliated customer and otherwise complied with all of the Department's information requests. *Id.* In our view, the record supports Izumi's claim that, despite its efforts, it was not in a position to compel the affiliated customer to produce the information requested by the Department. *See* the April 30, 1997 Memorandum from Holly A. Kuga to Jeffrey P. Bialos, regarding the application of FA. As a result, for these final results we are satisfied that Izumi acted to the best of its ability to comply with the Department's requests for information.

Finally, there is no evidence on the record to indicate that merchandise Izumi sold to its affiliated customer was subsequently resold to the United States, or that Izumi had knowledge that such merchandise was destined for export to the United States. However, we are putting Izumi on notice that we intend to review this issue, as well as Izumi's affiliations, more closely in the next administrative review, if additional information comes to light.

In conducting our margin calculations for Izumi for these final results, we discovered a number of sales to the United States for which there was no matching CV model information. Since Izumi did not provide this CV information, we are unable to calculate a margin for Izumi's unmatched U.S. sales and must use the facts available, in accordance with section 776(a) of the Act. We received no comments from interested parties on this issue. We did not alert Izumi to the deficiency in its response pursuant to section 782(d) and we therefore have not applied an adverse inference as FA. As FA for the unmatched U.S. sales at issue, we have applied the weighted-average margin calculated for Izumi's U.S. sales for which CV data was reported (*i.e.*, 2.66 percent).

Pulton

The petitioner argues that due to Pulton's continued refusal to provide requested DIFMER information and because Pulton's own model match test was deficient, the Department was fully justified in concluding that Pulton's response was so incomplete that it could not serve as a reliable basis for the Pulton margin determination. Therefore, the petitioner argues that the Department should continue to assign Pulton a margin of 43.29 percent. In addition, regarding corroboration of this margin, the petitioner states that the Department need only satisfy itself that the margin has probative value. The petitioner contends that Pulton's assertion that the 43.29 percent margin is not a final properly calculated rate is a reiteration of arguments raised and rejected in the 1993–1994 administrative review.

Pulton states that the Department should use the information submitted in its questionnaire response to perform margin calculations. According to Pulton, if the five factors listed in Section 782(e) of the Act are satisfied, the Department may not decline to consider the information submitted by a respondent which is in some way deficient. Pulton submits that as these conditions were met in this case, the Department was not justified in disregarding its questionnaire response.

Further, Pulton maintains that if the Department does not use the information contained in its questionnaire response, then it should not use an adverse inference in selecting FA. According to Pulton, Section 776(b) of the Act permits the Department to use an adverse inference in applying FA only if the Department finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Pulton asserts that the facts of this review demonstrate that it did cooperate to the best of its ability and that the Department's use of adverse inference in applying FA is not warranted.

Moreover, Pulton contends that if the Department does use an adverse inference it should not use the 43.29 percent rate because the rate has no probative value. Pulton states that the Department's decision memorandum, dated April 15, 1997, explains that in corroborating secondary information the Department examines the reliability and the relevance of the information used. Pulton argues that the 43.29 percent rate is neither reliable nor relevant. It states that it is not reliable because the rate was not a final properly calculated rate and that it is not relevant because the rate is not indicative of commercial practices in the roller chain industry.

DOC Position

We disagree with Pulton that it has satisfied the five factors listed in Section 782(e) of the Act. Section 782(e) states *inter alia* that the Department shall not decline to use information in reaching a determination if "the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination" and if the "interested party has demonstrated that it acted to the best of its ability in providing the information and meeting the requirements established by the Department with respect to the information." Section 782(d) requires that before the Department declines to consider information that the Department notify the person submitting the information of the nature of the deficiency and, to the extent practicable, provide that person with an opportunity to remedy or explain the deficiency.

In this case, the information provided by Pulton is so incomplete that it cannot serve as a reliable basis for our determination. Pulton did not report its sales of all HM models. On several occasions, we notified Pulton of the deficiencies in its response, requested the DIFMER for the unreported HM sales, and provided Pulton with the opportunity to provide the information. On each occasion Pulton failed to provide the requested data, declined to provide an explanation for the deficient nature of its responses, and failed to provide the Department with any suggested alternatives for the requested data. *See Preliminary Results* at 25166. In accordance with Section 782(e) of the Act, Pulton's failure to report the DIFMER data requested by the Department, despite several warnings by the Department regarding the consequences of such an action and despite the Department granting Pulton several opportunities to remedy the deficiencies, authorizes the Department to decline to use Pulton's response.

Pulton's failure to provide the requested DIFMER data has left the Department without information which is essential to our determination. We do not have complete information on sales of identical merchandise and are unable to determine whether any of Pulton's unreported HM models passed the Department's 20 percent DIFMER test. Pulton also did not provide CV information. All of this information, which Pulton was in control of, is vital to our dumping calculations because it is required in order to calculate NV. *See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et. al.* 62 FR 2081, 2088 (January 15, 1997) (*AFBs VI*). For these reasons, we are compelled to apply FA to Pulton as the Department cannot be left with trying to make its determinations based only on the information that the respondent chooses to provide. *See Olympic Adhesives Inc. v. United States*, 899 F.2d 1565, 1571–72 (Fed. Cir. 1990).

We also disagree with Pulton's argument that the Department should not use an adverse inference in selecting FA. Section 776(b) of the Act provides that adverse inferences may be used against a party that has failed to cooperate by not acting to the best of its ability to comply with requests for information. As discussed, Pulton has failed to cooperate to the best of its ability in this review. Although Pulton requested that it be allowed to disregard Section B of the questionnaire asking for HM sales, the Department informed Pulton that it should respond to this portion of the questionnaire and that failure to do so would be at its own risk. (*See* Memorandum to the File from Ron Trentham, July 26, 1996). Additionally, the questionnaire asked Pulton to provide DIFMER data for its home sales. As established above, this is an integral element of the questionnaire because this information is necessary for the Department to confirm which U.S. and HM sales match. Further, this is a standard element of the questionnaire and requests information which Pulton should have expected it would be asked to provide, given its participation in numerous roller chain reviews. *See AFBs VI*, at 2088. Nevertheless, as Pulton asked the Department if it could simplify its reporting requirements because it might be overburdened in meeting its full reporting requirements, the Department did offer Pulton an alternative. Specifically, the Department submitted to Pulton a list of specific model numbers and advised Pulton that, at a minimum, it should report the DIFMER data for these models. *See* Department Letter to Pulton, February 5, 1997. The number of models the Department submitted was substantially less than the number of models Pulton sold in the home market, significantly reducing Pulton's reporting burden. Pulton, however, failed to provide even this information. Its failure to cooperate with even this minimal request cannot be characterized as acting to the best of its ability.

Moreover, we disagree with Pulton's contention that the Department should not use the 43.29 percent rate as adverse FA because it has no probative value. Because the FA information which we are using in this review constitutes secondary information, we are required under section 776(c) of the Act to corroborate, to the extent practicable, the facts available from independent sources reasonably at our disposal. The Statement of Administrative Action (SAA) provides that "corroborate" means simply that the Department will satisfy itself that the secondary information to be used has probative value. (*See* SAA at 870). To corroborate the secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. However, unlike other types of information, such as input costs or selling expenses, there are no independent sources for calculated dumping margins. The only source for calculated margins is administrative determinations. Thus, in an administrative review, if the Department chooses as total adverse facts available a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin for that time period. With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where circumstances and facts indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin. *See Fresh Cut Flowers From Mexico; Final Results of Antidumping Administrative Review*, 61 FR 6812 (June 18, 1996).

In the instant case, the Department is satisfied that the 43.29 percent adverse FA rate is relevant to the current period. It is a final calculated rate affirmed by the Court of International Trade. *See Roller Chain, Other Than Bicycle, From Japan; Preliminary Results of Administrative Review of Antidumping Finding*, 46 FR 17068, 17070 (March 17, 1981); *Roller Chain, Other Than Bicycle, From Japan; Final Results of Administrative Review of Antidumping Finding*, 46 FR 44488 (September 4, 1981); *Roller Chain, Other Than Bicycle, from Japan; Final Results of Antidumping Administrative Review*, 52 FR 18004 (May 13, 1987); *Roller Chain, Other Than Bicycle, from Japan; Final Results of Antidumping Duty Administrative Review*, 57 FR 43697 (September 22, 1992); *Sugiyama Chain Co., Ltd.*, v. *United States*, 852 F. Supp. 1103, 1114 (CIT 1994). The 43.29 percent inarguably relates to past practices in the industry as it is an actual margin of dumping found to have existed in the roller chain industry. Pulton has provided the Department with no evidence that would call into question the relevance of this rate. Absent such evidence, the 43.29 percent rate represents an appropriate adverse inference regarding the level of dumping during the current period. Furthermore, in employing adverse inferences, the SAA authorizes the Department to consider the extent to which a party may benefit from its own lack of cooperation. SAA at 870. The

Department concludes that assigning a 43.29% rate to Pulton will prevent it from benefitting from its failure to respond to the Department's requests for information. In sum, the Department is satisfied that it has met the corroboration requirement of section 776(c) and can apply this rate to Pulton as adverse FA in this review.

Enuma

Enuma argues that the Department should not use a FA dumping margin in its final determination. Rather, the Department should calculate a dumping margin for Enuma using either the November 15, 1996, Daido Tsusho and Daido Corporation U.S. sales questionnaire response or the June 12, 1997, Enuma U.S. sales questionnaire response. According to Enuma, the Department now has the information on the record to calculate dumping margins regardless of whether the Department determines that Enuma and Daido Tsusho are affiliated or unaffiliated. Enuma contends that the condition which the Department relied on to use FA in the preliminary determination, *i.e.*, necessary information is not available on the record, no longer exists.

Further, Enuma points out that in the notice of preliminary results, the Department expressed concern over the possible integrity of Enuma's post-preliminary results submission. According to Enuma there are three reasons why the integrity of this submission should be no more in doubt than the integrity of any other documents submitted by Enuma or any other respondent prior to the preliminary determination. First, Enuma has provided the corporate and attorney certification as to the accuracy of its June 12, 1997, response. Second, the June 12, 1997, submission is potentially subject to verification. Third, all adjustment data submitted with the June 12, 1997, submission has been previously included in one of the earlier questionnaire responses and was potentially subject to verification as part of the earlier questionnaire responses, as well as part of the June 12, 1997, submission.

Based on Enuma's response to issues raised in the petitioner's case brief, the petitioner now concurs that the Department should calculate an actual margin for Enuma rather than applying FA.

DOC Position

We agree with Enuma and have calculated a dumping margin for this final determination using Enuma's original HM sales questionnaire response and its June 12, 1997, U.S. sales questionnaire response. In our preliminary determination, we found that Enuma is not affiliated with either Daido Tsusho or Daido Corporation and stated that we believed that the appropriate U.S. transactions to be reviewed were those between Enuma and Daido Tsusho. Section 776(a) of the Act authorizes the Department, subject to section 782(d), to use FA when necessary information is not available on the record. Given that Enuma had not reported its sales to Daido Tsusho in the U.S. sales listing, we could not calculate United States price with respect to Enuma. Therefore, we were compelled to use FA. However, because we did not specifically request that Enuma provide this data in its supplemental questionnaires, we applied non-adverse FA.

Subsequently, we requested that Enuma report all U.S. sales made to Daido Tsusho, and provide additional explanations and/or clarifications regarding the nature of the affiliation and any forms of control between these companies. Based on our analysis of Enuma's submissions of June 12, 1997 and July 10, 1997, we have determined for purposes of the final results that the appropriate U.S. transactions to be reviewed are those between Enuma and Daido Tsusho.

We used EP in accordance with subsections 772(a) of the Act because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and CEP methodology was not otherwise warranted based on the facts of the record. We calculated EP based on packed prices to the first unaffiliated customer in the United States. In accordance with section 772(c)(2)(A) of the Act, we made a deduction for inland freight plant/warehouse to customer.

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared respondent's volume of HM sales of the foreign like product to the volume of U.S. sales of the subject merchandise in accordance with section 773(a)(1) (B) and (C) of the Act. Since respondent's aggregate volume of HM sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we based NV on HM sales.

We made deductions, where appropriate, from the starting price for inland freight. In addition, we made a circumstance-of-sale adjustment for credit in accordance with section 773(a)(6)(C)(iii) of the Act. We deducted HM packing costs and added U.S. packing cost in accordance with sections 773(a)(6) (A) and (B) of the Act.

Sales to an affiliated customer in the home market which were determined not to be at arm's-length were excluded from our analysis. To test whether these sales were made at arm's-length, we compared the starting prices of sales of comparison products to affiliated and unaffiliated customers, net of all movement charges, direct and indirect selling expenses, discount, and packing. Pursuant to 19 CFR 353.45(a) and in accordance with our practice, where the price to the affiliated party was less than 99.5 percent or more of the price to the unaffiliated party, we determined that the sales made to the affiliated party were not at arm's-length. *See Final Results 1994–1995* at 64322, 64327.

In our initial questionnaire, we stated that if for each product Enuma sold during the POR to the United States it sold the identical product in the comparison market, it was not necessary to supply information regarding the DIFMER. However, we also stated that if Enuma elected not to supply this information and we later determined for any reason that a United States sale should be compared to a sale of a similar product in the comparison market, we might have to resort to FA. In response, Enuma stated that it believed that a matching HM model existed for every U.S. model. In a supplemental questionnaire dated February 13, 1997, we again informed Enuma that if we determined that there was not a contemporaneous sale in the home market of an identical model for every model of chain sold in the United States, or that these sales could not be used as a basis for NV for any reason, and Enuma failed to report its HM sales of the most similar merchandise, we may apply FA in making our determinations. Enuma provided no response except to state that no answer was required. Further, we noted that Enuma had not reported CV for any of the models sold in the United States during the POR and we subsequently informed Enuma that if it chose not to report CV and we were unable to make price-to-price comparisons for any reason, we might apply FA in making our determinations. Enuma responded again that no answer was required. Moreover, in its revised section C response submitted to the Department on July 10, 1997, Enuma failed to provide DIFMER claiming that it had made sales in Japan of roller chain identical to that which it sold in the United States during the POR. However, contrary to Enuma's claims, in conducting our margin calculations for Enuma we discovered a number of sales to the United States for which there were no contemporaneous sales of identical merchandise in the home market.

Since Enuma failed to provide DIFMER information and did not provide CV information, we are unable to calculate a margin for Enuma's unmatched U.S. sales. Therefore, we are compelled to use FA with regard to these sales for purposes of the final results.

Enuma's failure to report DIFMER data, information which it controlled, despite our request for that information and our warnings regarding the consequences of such an action, demonstrates that Enuma failed to cooperate to the best of its ability in this review. Thus, in accordance with 776(b), in selecting among the FA for Enuma, an adverse inference is warranted. As FA we have selected 43.29 percent, which we established above in the FA section regarding Pulton. This rate represents the highest calculated rate for any respondent from any prior segment of this proceeding and, for the reasons stated above in the FA section regarding Pulton, meets the corroboration requirements of section 776(c) of the Act.

Daido Kogyo

The initial questionnaire and supplemental questionnaire which we sent to Daido Kogyo were identical to those sent to Enuma as described above. In response to our initial questionnaire, Daido Kogyo stated that it believed that a matching HM model existed for every U.S. model. In response to our supplemental questionnaire dated February 13, 1997 requesting DIFMER data, Daido Kogyo responded that no answer was required. Finally, in response to our May 19, 1997 letter requesting DIFMER data, Daido Kogyo declined to provide this data, stating that it believed that there would be few, if any, unmatched U.S. sales. Similar to our notice to Enuma, we notified Daido Kogyo that we may have to apply FA in making our determinations if its claims later proved inaccurate. Contrary to Daido Kogyo's claims, in conducting our margin calculations for Daido Kogyo, we discovered a number of sales to the United States for which there were no contemporaneous sales of identical merchandise in the home market. Since Daido Kogyo failed to provide DIFMER information and did not provide CV information, we are unable to calculate a margin for Daido Kogyo's unmatched U.S. sales. Just as in the situation of Enuma, described above, Daido Kogyo's failure to report this information, despite our information requests and our warnings regarding the consequences of such an action, demonstrates that Daido Kogyo failed to cooperate to the best of its ability in this review. Therefore, as required by section 776(a) of the Act, we are compelled to apply adverse FA to these sales for the same reasons and in the same manner as we determined above for Enuma.

Comment 3: Level of Trade/CEP Offset

Daido Kogyo argues that in finding that no difference in the level of trade (LOT) existed and in denying it a CEP offset, the Department misinterpreted the facts and the law, producing a result unfair to Daido Kogyo. Daido Kogyo contends that because a difference in LOT exists, even if no LOT adjustment can be made, it is still entitled to a CEP offset.

Daido Kogyo asserts that because the Department incorrectly defined the CEP sale, this error led to the mistaken conclusion that there is no difference in LOT between CEP and HM sales. Daido Kogyo further argues that we further misinterpreted the CEP offset provision, section 773(a)(7)(B) of the Act, by misidentifying the relevant CEP sales transaction.

According to Daido Kogyo, the relevant CEP sales transaction to be examined for LOT analysis is the point at the company's factory door. Daido Kogyo bases this assertion on its interpretation that the statute requires all costs to be deducted back to the factory door. Daido Kogyo asserts that not only is our preliminary determination in error, but that the Department's regulations are as well. Daido Kogyo further asserts that the Department erroneously collapsed Daido Kogyo, Daido Tsusho, and Daido Corporation into one company for purposes of LOT analysis.

Daido Kogyo also contends that the Department omitted, overlooked, or misunderstood certain facts on the record regarding Daido Kogyo's selling functions, in particular its HM sales practices. Specifically, Daido Kogyo asserts that the Department missed major differences between the selling functions Daido Kogyo performed for HM customers and those it performed for CEP sales.

The petitioner maintains that, consistent with the Department's preliminary results, Daido Kogyo is not entitled to a LOT adjustment or a CEP offset. Specifically, the petitioner states that Daido Kogyo sold roller chain to the United States through Daido Tsusho. Accordingly, once U.S. selling expenses and U.S. profit are deducted, the merchandise is not at the factory door, but rather at the same LOT as Daido Tsusho's EP sales. For example, the petitioner maintains that the Department did not make a deduction for the profit earned by Daido Tsusho on the CEP transactions. Furthermore, the petitioner argues that Daido Kogyo's argument concerning the appropriate starting point for comparing CEP and home market transactions was previously considered and rejected by the Department in formulating the new antidumping regulations.

Moreover, the petitioner argues that in case the Department were to revisit its preliminary results position on this issue, it should include a determination as to whether Daido Kogyo has cooperated to the best of its ability in providing data to the Department that would permit it to make a traditional LOT adjustment. Specifically, the petitioner objects to Daido Kogyo's assertion that there is only one LOT in the home market even though the company sells roller chain to OEMs, trading companies, and local distributors.

DOC Position

We agree with the petitioner that Daido Kogyo has not demonstrated eligibility for a CEP offset. Daido Kogyo's position is at odds with the Department's determination in several significant respects: (1) how the Department defined the starting price of the CEP sale and determined whether U.S. and HM sales were made at different points in the channels of distribution; (2) whether the selling functions performed for Daido Kogyo's CEP sales were sufficiently different from those performed for HM sales; (3) whether HM and CEP sales were at different stages of marketing, and (4) whether the Department created an artificial distinction between HM and CEP sales.

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same LOT as the EP or CEP. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive selling, general and administrative (SG&A) expenses and profit. For EP, the U.S. LOT is the level of the starting-price sale, which is usually from exporter to importer. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than EP or CEP, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and

the unaffiliated customer. If the comparison-market sales are at a different LOT, and that difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). *See Certain Welded Carbon Steel Standard Pipes and Tubes From India: Preliminary Results of New Shipper Antidumping Duty Administrative Review*, 62 FR 23760, 23761 (May 1, 1997); *see also Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et. al.* 62 FR 54043, 54056 (October 17, 1997) (*AFBs VII*).

First, as to Daido Kogyo's argument that the Department erroneously defined the CEP sale, we agree with petitioner that the relevant transaction is at the point after U.S. selling expenses and U.S. profit are deducted, and not at the factory door. With respect to section 773(a)(7)(B) of the Act, Daido Kogyo argues that the "only realistic interpretation of the statute is that the LOT for CEP sales is at the factory door." *See* Daido Kogyo Brief at 24 (Brief). Yet, Daido Kogyo itself acknowledged that the statute lends itself to "two possible interpretations of the phrase 'level of trade of the constructed export price,'" the ex-factory price or the price from the affiliated importer to an unaffiliated U.S. customer. *See id.* (emphasis added).

However, the crux of Daido Kogyo's argument is that it disagrees with the Department's regulations under the statute, apart from our preliminary determination. Specifically, Daido Kogyo asserts that the regulations fail to distinguish between a HM price which includes those expenses which are deducted under section 772(d) and a CEP price lacking such expenses. *See* Brief at 19. While Daido Kogyo's disagreement with the Department's regulations on this issue is outside our present purview, we disagree with Daido Kogyo's interpretation as to how CEP is defined. Pursuant to section 773(a)(7)(A) of the Act, the Department's practice has been to examine the relevant selling functions included in the CEP *after* making deductions under section 772(d) of the Act. *See SAA* at 823; *see also Gray Portland Cement and Clinker from Mexico, Final Results of Antidumping Administrative Review*, 62 FR 17148, 17156, (April 9, 1997) (*Mexican Cement*).

Daido Kogyo additionally argues that the selling functions it performed for CEP sales were different from those performed for HM sales. Our practice, as reflected in the new regulations, is that differences in selling activities are a necessary but not, in themselves, a sufficient condition for finding a difference in marketing stages. *See* 19 CFR 351.412 (c)(2); *see also Mexican Cement* at 17157. We analyzed all of the selling functions (or activities) included in the CEP after making deductions under section 772(d) of the Act, and compared them to the ones performed for HM sales. We considered all selling activities of all affiliated parties for CEP sales (*i.e.*, Daido Kogyo and Daido Tsusho), after disregarding selling activities associated with the selling expenses deducted under section 772(d) of the Act. We noted that Daido Kogyo itself stated that Daido Tsusho was a selling organization for CEP sales (*see* Brief at 33) and found that Daido Kogyo and/or Daido Tsusho performed selling functions for CEP sales, in addition to those selling functions performed by Daido Corporation, which included the following: preparing chain for export shipment, arranging its transportation from plant to a Japanese port, carrying or maintaining inventory in Japan, and export sales administration and billing. We note that Daido Kogyo's selling functions performed with respect to sales to HM customers are not significantly different from those performed with respect to CEP sales.

Further, we note that the facts as to Daido Kogyo's distribution process are virtually the same as in a prior segment of this proceeding, the 1994–1995 POR, where we determined on these facts that there were no significant differences between selling activities performed for HM sales and those performed for CEP sales and thus determined that there was no difference in LOT (*see Final Results 1994–1995* at 64326–27).

In addition, based on our analysis of Daido Kogyo's responses, we identified a single marketing stage in the home market, that of distributor. In the CEP market, we also identified a single stage of marketing to a distributor, from Daido Tsusho to Daido Corp. Therefore, we concluded that Daido Kogyo's home market and CEP sales were therefore at the same marketing stage.

Finally, we turn to Daido Kogyo's argument that the Department, erroneously and contrary to Congressional intent, created an artificial distinction between companies which export directly to the United States and those which export through an affiliated trading company. We find, on the contrary, that to ignore the selling functions performed by Daido Tsusho as a selling organization for CEP sales would result in the very sort of distorted results which Daido Kogyo seeks to avoid. No new facts have been introduced since our preliminary results that would warrant a reversal of our preliminary results.

Based on the above, we do not consider Daido Kogyo's sales in the home market and in the U.S. market to be at a different LOT. Consequently, we determined that Daido Kogyo is not entitled to a LOT adjustment. Thus, no CEP offset has been granted for the final results.

Comment 4: Commission Offset

Daido Kogyo claims that the Department, in calculating NV, erroneously denied it a commission offset adjustment. Daido Kogyo argues that this offset should have included its total indirect selling expenses, including HM sales commissions not separately claimed. Daido Kogyo urges the Department to deduct, in the manner of a commission offset, its total indirect selling expenses in the home market as Daido Kogyo had originally reported, which included HM commissions as part of this amount and not as a separate deduction.

The petitioner disagrees that Daido Kogyo is entitled to this commission offset. The petitioner notes that Daido Kogyo states that it paid commissions to unaffiliated sales representatives in the United States but did not claim these commissions as a deduction to U.S. price. Further, the petitioner also notes that Daido Kogyo actually made commission payments in the home market, which it reported as part of HM indirect selling expenses, rather than transaction-specific amounts for each HM sale where applicable. Moreover, the petitioner argues that there is no basis for assuming that had commissions been reported for each of these HM transactions, they would have been compared to U.S. sales where commissions were paid. Therefore, the petitioner contends that Daido Kogyo should not benefit from its failure to follow the Department's instructions.

DOC Position

We agree with the petitioner that sales commissions were in fact paid by Daido Kogyo in both the home market and in the United States. When a respondent has incurred commission costs in both the U.S. and home markets, it is standard Departmental practice to simply deduct the commission amounts from the reported HM and U.S. prices to calculate NV and CEP. (*See Antidumping Manual*, Import Administration, International Trade Administration, Department of Commerce (*Antidumping Manual*), Chapter 8, p. 30). However, in this instance, Daido Kogyo has failed to report its HM commission expenses in an appropriate manner for us to make this deduction. Despite our request for transaction-specific HM commission expenses, Daido Kogyo stated that because the commission amounts paid in the home market were very small, it "has elected not to claim a direct expense deduction for" this item. *See* Daido Kogyo's Supplemental Questionnaire Response, March 10, 1997 at 28. The only commission information which Daido Kogyo reported was in aggregate form for the POR and lacked any explanation of how the figure related to sales of subject merchandise.

In addition, we agree with the petitioner that a respondent should not benefit from its failure to follow the Department's instructions. Accordingly, because we are unable to determine what portion of Daido Kogyo's commission expense is related to the sale of subject merchandise, we have not made any deduction from HM price for commission in the margin calculation program for Daido Kogyo in these final results.

Further, we disagree with Daido Kogyo's argument that, in lieu of a direct HM commission deduction, we should use indirect selling expenses as a basis for granting a commission offset adjustment. Such an offset adjustment is only made when commission expenses are incurred in one market and not in the other. (*See Antidumping Manual*, Chapter 8, p. 31). Since this is not the case here, we have removed the commission offset adjustment from the margin calculation program for Daido Kogyo, (at line numbers 547–558), for these final results.

Final Results of Review

As a result of our analysis of the comments received, we determine that the following margins exist for the period April 1, 1995 through March 31, 1996:

Manufacturer/exporter	Weighted-average margin percentage
Daido Kogyo	6.84
Enuma	1.57
Izumi	2.66
Pulton	43.29 (adverse FA)
R.K. Excel	0.17

Intent Not To Revoke

As we noted in our preliminary results, Daido Kogyo and Enuma submitted a request in accordance with 19 CFR 353.25 (b) to revoke the order with respect to its sales of roller chain in the United States. (*See Preliminary Results* at 25171). In these final results and those of our most recently completed administrative review of this order, the margins calculated for Daido and Enuma were greater than *de minimis*. *See Final Results 1994–1995* at 64327. Therefore, we determine that Daido Kogye and Enuma do not qualify for revocation at this time.

Cash Deposit Requirements

The following deposit requirements shall be effective upon publication of this notice of final results of administrative review for all shipments of the subject merchandise from Japan that are entered or withdrawn from warehouse, for consumption on of after the publication date, as provided for by section 751(a)(1) of the Act: (1) the cash deposit rate for the reviewed companies will be the rates listed above, except that for RK Excel whose weighted-average margin is less than 0.5 percent and therefore de minimis, the Department shall require a zero deposit of estimated antidumping duties; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in these reviews, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacture of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 15.92 percent, the all others rate based on the first review conducted by the Department in which a "new shipper" rate was established in the final results of antidumping finding administrative review (48 FR 51801, November 14, 1983).

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

Assessment Rates

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. For assessment purposes, we have calculated exporter/importer-specific assessment rates for roller chain.

Where entered value or entered quantity data is not available, we have divided for both EP and CEP sales, where applicable, the total dumping margins (calculated as the difference between NV and EP (or CEP)) for each importer by the total number of units sold to the importer. We will direct Customs to assess the resulting unit dollar amount against each unit of subject merchandise entered by the importer during the POR.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a final reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. Sec. 1675(a)(1)) and 19 CFR 353.22.

Dated: October 31, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–29630 Filed 11–7–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–810]

Stainless Steel Bar From India: Preliminary Results of Antidumping Duty Administrative Review and Partial Termination of Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review: Stainless Steel Bar from India.

SUMMARY: In response to requests from Mukand Limited ("Mukand") and Ferro Alloys Corporation Limited ("Facor"), the Department of Commerce ("the Department") is conducting an administrative review of the antidumping duty order on stainless steel bar from India. This review covers Mukand's sales of the subject merchandise to the United States during the period February 1, 1996 through January 31, 1997.

Although we included Facor in our initiation notice for this review, we subsequently initiated a new shipper review, covering the same review period, for that company. Consequently, we are terminating this review with respect to Facor.

We have preliminarily determined that Mukand's sales have been made below normal value ("NV"). If these preliminary results are adopted in our final results of administrative review, we will instruct the U.S. Customs Service to assess antidumping duties equal to the difference between the export price (EP) and the normal value (NV).

Interested parties are invited to comment on these preliminary results. Parties who submit argument are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: November 10, 1997.

FOR FURTHER INFORMATION CONTACT: Jennifer Yeske or Craig Matney, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–0189 or (202) 482–0588, respectively.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 ("the Act") by the Uruguay Round Agreements Act.

SUPPLEMENTARY INFORMATION:

Background

On February 24, 1997, the Department received a request from respondents to conduct an administrative review of the antidumping duty order on stainless steel bar from India produced by Mukand. The Department published in the **Federal Register**, on March 18, 1997, a notice of initiation of an administrative review of Mukand covering the period February 1, 1996 through January 31, 1997 (62 FR 12793).

Scope of Review

Imports covered by this review are shipments of stainless steel bar ("SSB"). SSB means articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. SSB includes cold-finished SSBs that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut length flat-rolled products (*i.e.*, cut length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), wire (*i.e.*, cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections.

The SSB subject to these orders is currently classifiable under subheadings 7222.10.0005, 7222.10.0050, 7222.20.0005, 7222.20.0045, 7222.20.0075, and 7222.30.0000 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

Period of Review

This review covers one manufacturer/exporter, Mukand, and the period February 1, 1996 through January 31, 1997.

Partial Termination of Review

Facor was included in our notice of initiation of this review because we received a request for an administrative review of that company. However, Facor also submitted a timely request for a new shipper review covering the same period. On March 28, 1997, we published a notice of initiation of a new shipper administrative review covering Facor for the same review period (*see* 62 FR 14886). Therefore, we are terminating this review with respect to Ferro Alloys Corporation Limited.

Verification

As provided in section 782(i) of the Act, we verified information provided by the respondent by using standard verification procedures, including on-site inspection of the respondent's facilities, the examination of appropriate sales and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the public version of the verification report.

United States Price

In calculating price to the United States, we used export price ("EP"), in accordance with section 772(a) of the Act, because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation into the United States and constructed export price was not otherwise indicated.

We calculated EP based on the price from Mukand to an unaffiliated customer prior to importation into the United States. In accordance with section 772(c)(2) of the Act, we made deductions for foreign inland freight and international freight.

Mukand claimed an upward adjustment to EP for a "duty drawback" scheme. In the preliminary determination of the first administrative review of this order (*see* 62 FR 10540 at 10541, March 7, 1997), we analyzed the functioning of this duty drawback scheme and found that it did not meet the Department's standards for an upward adjustment to EP. We maintained our position in the final determination (*see* 62 FR 37030, July 10, 1997). We have reexamined the scheme in regard to Mukand, and have found no basis on which to deviate from the Department's previous decision. Therefore, we have not made an adjustment to EP. However, for those sales for which CV is the basis for NV, we have offset the per unit direct materials cost to account for the credits (*see Normal Value* section).

Normal Value

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a) of the Act. Because the aggregate volume of home market sales of the foreign like product was greater than five percent of the aggregate volume of U.S. sales of the subject merchandise, we determined that the home market provides a viable basis for calculating NV. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on the prices at which the foreign like product was first sold to unaffiliated customers for consumption in the exporting country, in the usual commercial quantities and in the ordinary course of trade. Respondent claimed that there is no difference in the level of trade between the U.S. and the home markets. We examined the data submitted regarding the channels of distribution and selling expenses in the two markets. While there are different channels of distribution, many of the selling expenses are consistent across all channels. While there may be some additional expenses in the home market for the Del Credre and consignment sales, respondent did not claim an adjustment or provide information supporting such an adjustment.

Based on a cost allegation presented by petitioners, the Department found reasonable grounds to believe or suspect that sales by the respondent in the home market were made at the prices below their respective costs of production ("COPs"). As a result, the Department initiated an investigation to determine whether the respondent made home market sales during the POR at prices below its COP, within the meaning of section 773(b) of the Act.

We calculated COP as the sum of the respondent's cost of materials, labor and overhead for the foreign like product, plus amounts for G&A and packing costs, in accordance with section 773(b)(3) of the Act. We compared COP to home market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below COP. On a product-specific basis, we compared COP to the home market prices, less any applicable movement charges, discounts, commissions, selling expenses and packing expenses.

In determining whether to disregard home market sales made at prices below the COP, we examined whether: (1) Within an extended period of time, such sales were made in substantial quantities; and (2) such sales were made at prices which permitted recovery of all costs within a reasonable period of time in the normal course of trade. Where 20 percent or more of a respondent's sales of a given product during the POR were at prices below COP, we found that below cost sales of that model were made in "substantial quantities" within an extended period of time, in accordance with section 773(b)(2) (B) and (C). To determine whether prices provided for recovery of costs within a reasonable period of time, we tested whether the prices that were below the per unit cost of production at the time of the sale were above the weighted average per unit cost of production for the POR, in accordance with section 773(b)(2)(D). Where we found that a substantial quantity of sales during the POR were below cost and not at prices that provided for recovery of costs within a reasonable period of time, we disregarded the below cost sales.

Where NV was calculated using prices to unaffiliated customers, we made appropriate adjustments to those prices. First, we deducted home market inland freight and home market packing costs. Where there were differences in the merchandise to be compared, we made adjustments in accordance with section 773(a)(6)(C)(ii) of the Act to account for those differences. We also added U.S. packing costs in accordance with section 773(a)(6)(A) of the Act. We also made circumstance-of-sale adjustments for differences in credit costs and bank charges between the two markets in accordance with section 773(a)(6)(C)(iii) of the Act. Finally, we adjusted for commissions paid in the home market by deducting the commissions from the NV and offsetting the commissions with indirect selling expenses incurred on sales to the United States, up to the amount of the home market commission.

Where there was no above cost home market sale for comparison, NV was based on CV. In accordance with section 773(e)(1) of the Act, we calculated CV based on the sum of respondent's cost of materials (net of import duty credits earned on its U.S. sale), labor, overhead, SG&A, profit, and U.S. packing costs. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country.

Preliminary Results of the Review

As a result of our comparison of EP and NV, we preliminarily determine the following weighted-average dumping margin:

Manufacturer/exporter	Period	Margin (percent)
Mukand	2/1/96–1/31/97	8.36

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the publication of this notice, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication of this notice. The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of these preliminary results.

Upon completion of this administrative review, the Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between EP and NV may vary from the percentages stated above. We have calculated an importer-specific duty assessment rate based on the ratio of the total amount of AD duties calculated for the examined sales made during the POR to the total value of subject merchandise entered during the POR. In order to estimate the entered value, we subtracted international movement expenses (*e.g.*, international freight) from the gross sales value. This rate will be assessed uniformly on all entries made during the POR. The Department will issue appraisement instructions directly to the Customs Service.

The following deposit requirement will be effective upon publication of the final results of this antidumping duty administrative review for all shipments of stainless steel bar from India entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be the rate established in the final results of this review; (2) if the exporter is not a firm covered in this review, but was

covered in a previous review or the original less-than-fair-value ("LTFV") investigation, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a previous review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers and/or exporters of this merchandise, shall be 12.45 percent, the "all others" rate established in the LTFV investigation (59 FR 66915, December 28, 1994).

These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22(c).

Dated: October 31, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–29627 Filed 11–7–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Research Foundation of the City University of New York; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 97–073. Applicant: Research Foundation of The City University of New York, New York, NY 10003. Instrument: Electron Paramagnetic Resonance Spectrometer, EMX Series. Manufacturer: Bruker Instruments, Germany. Intended Use: See notice at 62 FR 47645, September 10, 1997.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument provides measurement of electron spin resonance for characterization of paramagnetic centers in various materials, identification of photo- and redox-active sites and elucidation of reaction mechanisms. The National Institutes of Health advises in its memorandum dated June 26, 1997 that (1) these capabilities are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use (comparable case).

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 97–29628 Filed 11–7–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

University of Utah; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 97–075. Applicant: University of Utah, Salt Lake City, UT 84112. Instrument: Mass Spectrometer, Model 215–50. Manufacturer: Mass Analyser Products, Ltd., United Kingdom. Intended Use: See notice at 62 FR 48811, September 17, 1997.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument provides: (1) A magnetic sector mass analyzer, (2) sensitivity for He of 2.0×10^{-4} A/Torr at 200 μA trap current and (3) background to 5.0×10^{-4} cc STP at M/e 36 and to 1.0×10^{-15} cc STP at M/e 132. These capabilities are pertinent to the applicant's intended purposes and we know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 97–29629 Filed 11–7–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 102797A]

Food and Agriculture Organization (FAO) Consultation; Public Meeting; and Workshops on Sharks

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting and workshops.

SUMMARY: NMFS publishes information regarding the FAO initiatives on the conservation and management of sharks, reduction of incidental catch of seabirds in longline fisheries, and the management of fishing capacity. An FAO Consultation, planned for late October 1998, will consider draft plans of action in these three areas. NMFS will hold a meeting to brief the public on the status of preparations for the FAO Consultation. In conjunction with the National Fish and Wildlife Foundation, NMFS is sponsoring two workshops in order to gather the information necessary to contribute to national, regional, and high seas strategies (by ocean area) for sharks in North America. The workshop proceedings will be compiled into proposed conservation and management strategies. The workshops will be coordinated by the World Wildlife Fund and are open to interested observers.

DATES: The meeting dates are:

1. Status of preparations for the FAO Consultation: December 16, 11:00 a.m.

2. Shark regional workshops: December 4 and 5, 1997, 8:30 a.m. - 5:30 p.m., Sarasota, FL, and December 8 and 9, 1997, 8:30 a.m. - 5:30 p.m., Monterey, CA.

ADDRESSES: The meeting locations are—

1. Status of preparations for the FAO Consultation: Room 5215, Herbert Clark Hoover Building (Department of Commerce), 14th and Constitution Avenue, NW., Washington, DC 20230.

2. Shark regional workshops: Sarasota—Mote Marine Laboratory, 1600 Ken Thompson Parkway, Sarasota, FL 34236, and Monterey—Monterey Bay Aquarium, 886 Cannery Row, Monterey, CA 93940.

FOR FURTHER INFORMATION CONTACT: Dean Swanson at (301) 713-2276; to attend shark workshops as an observer, contact Kathy Kessler at (202) 861–8346. Information on the FAO initiatives is available online at http://kingfish.asp.nmfs.gov.

SUPPLEMENTARY INFORMATION:

Background

The FAO, with input from the United States and other governments, is preparing for an FAO Consultation in late 1998 to consider action plans on the conservation and management of sharks, reduction of incidental catch of seabirds in longline fisheries, and the management of fishing capacity. All FAO member countries as well as observers will be invited to the FAO Consultation. Preparations include meetings of expert Technical Working Groups (TWGs) to consider draft guidelines and plans of actions well in advance of the FAO Consultation.

On August 8, 1997, NMFS published a notice of U.S. involvement in the planning and preparations for the FAO Consultation (62 FR 42766). Additional background information is presented in that **Federal Register** notice and is not repeated here. NMFS will host a meeting to brief the public on the status of preparations for the FAO Consultation at the time and place provided above.

Shark Regional Workshops

To assist development of background documents for the Shark TWG, the United States will sponsor two shark regional workshops. The goal for the upcoming shark regional workshops and the subsequent TWG and FAO Consultation is to contribute to developing a global strategy (action plan) and guidelines for sustainable international and regional management of elasmobranch species by national, regional and highly migratory management groups. The workshop proceedings will be compiled into proposed strategies and used to contribute to the TWG, which will provide background documents for the FAO Consultation.

The shark regional workshops will review—

1. Shark fisheries in the region, including directed fisheries and fisheries in which sharks are a bycatch and

2. Current data collection and management in the region.

Regional workshop participants will also be asked to develop recommendations on action areas, priority issues and time targets for the following categories:

1. Research, data collection, and monitoring;

2. Conservation and management for sustainable shark populations;

3. Building capacity for conservation, research, and management;

4. Regional and international cooperation; and

5. Funding for shark conservation and management.

Regional workshop participants will include fisheries scientists, shark experts, and regional fishery management organization representatives. The workshops are open to interested observers. Anyone planning to attend as an observer should contact Kathy Kessler (see **FOR FURTHER INFORMATION CONTACT**).

Special Accommodations

The meeting on the status of preparations for the FAO Consultation will be physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Dean Swanson at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 4, 1997.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–29584 Filed 11–7–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 110397A]

Marine Mammals; Permit No. 1024 (P77–2269)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of scientific research permit amendment.

SUMMARY: Notice is hereby given that a request for amendment of scientific research permit no. 1024 submitted by the Southwest Fisheries Science Center, National Marine Fisheries Service, 8604 La Jolla Shores Drive, La Jolla, CA 92038 [Co- Investigator: Dr. Rennie S. Holt) has been granted to increase the number of Antarctic fur seals to be taken annually.

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213 (310/980–4001).

SUPPLEMENTARY INFORMATION: On September 29, 1997, notice was published in the **Federal Register** (62 FR 50907) that an amendment of permit no. 1024, issued December 30, 1996 (62 FR 1875), had been requested by the above-named organization. The requested amendment has been granted under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the provisions of § 216.39 of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

Dated: November 3, 1997.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–29583 Filed 11–7–97; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Indonesia

November 4, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing limits.

EFFECTIVE DATE: November 12, 1997.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the

quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The current limits for certain categories are being increased for carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 61 FR 66263, published on December 17, 1996). Also see 61 FR 64505, published on December 5, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 4, 1997.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 29, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Indonesia and exported during the twelve-month period which began on January 1, 1997 and extends through December 31, 1997.

Effective on November 12, 1997, you are directed to increase the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
200	786,654 kilograms.
300/301	3,894,448 kilograms.
331/631	2,128,878 dozen pairs.
336/636	630,648 dozen.
340/640	1,616,682 dozen.
341	1,025,902 dozen.
342/642	386,921 dozen.
350/650	136,526 dozen.
369–S [2]	930,324 kilograms.
447	19,392 dozen.
Group II	
201, 218, 220, 222–224, 226, 227, 229, 237, 239, 330, 332, 333, 349, 352–354, 359–O [3], 362, 363, 369–O [4], 400, 410, 414, 431, 432, 434, 435, 436, 438, 439, 440, 442, 444, 459, 464, 465, 469, 603, 604–O [5], 606, 607, 621, 622, 624, 630, 632, 633, 649, 652–654, 659–O [6], 665, 666, 669–O [7], 670–O [8], 831–836, 838, 839, 840, 842–846, 850–852, 858 and 859, as a group.	98,670,420 square meters equivalent.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1996.

[2] Category 369–S: only HTS number 6307.10.2005.

[3] Category 359–O: all HTS numbers except 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010 (Category 359–C); 6112.39.0010, 6112.49.0010, 6211.11.8010, 6211.11.8020, 6211.12.8010 and 6211.12.8020 (Category 359–S).

[4] Category 369–O: all HTS numbers except 6307.10.2005 (Category 369–S).

[5] Category 604–O: all HTS numbers except 5509.32.0000 (Category 604–A).

[6] Category 659–O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659–C); 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020 (Category 659–S).

[7] Category 669–O: all HTS numbers except 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020 and 6305.39.0000 (Category 669–P).

[8] Category 670–O: all HTS numbers except 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9025 (Category 670–L).

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
Troy H. Cribb,
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 97–29619 Filed 11–7–97; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit for Certain Wool Textile Products Produced or Manufactured in the Former Yugoslav Republic of Macedonia

November 4, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a limit.

EFFECTIVE DATE: November 10, 1997.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limit for Category 434 is being increased for carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 61 FR 66263, published on December 17, 1996). Also see 61 FR 48889, published on September 17, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral, but are designed to assist only in the implementation of certain of its provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 4, 1997.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on September 11, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain wool textile products, produced or manufactured in the Former Yugoslav Republic of Macedonia and exported during the period which began on October 1, 1996 and extends through December 31, 1997.

Effective on November 10, 1997, you are directed to increase the limit for Category 434 to 13,875 dozen [1], as provided for in the agreement between the Governments of the United States and the Former Yugoslav Republic of Macedonia dated August 6, 1996.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C.553(a)(1).

Sincerely,
/Troy H. Cribb,
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 97–29617 Filed 11–7–97; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Wool Textile Products Produced or Manufactured in the Slovak Republic

November 4, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: November 12, 1997.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

[1] The limit has not been adjusted to account for any imports exported after September 30, 1996.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The current limits for Categories 433 and 443 are being increased for swing, reducing the limit for Category 410 to account for the increases.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 61 FR 66263, published on December 17, 1996). Also see 61 FR 55975, published on October 30, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 4, 1997.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 25, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain wool textile products, produced or manufactured in the Slovak Republic and exported during the twelve-month period which began on January 1, 1997 and extends through December 31, 1997.

Effective on November 12, 1997, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
410	359,767 square meters.
433	12,223 dozen.
443	95,508 numbers.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1996.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
Troy H. Cribb,
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 97–29618 Filed 11–7–97; 8:45 am]

BILLING CODE 3510–DR–F

COMMODITY FUTURES TRADING

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 2:00 p.m., Tuesday, November 25, 1997.

PLACE: 1155 21st St., N.W., Washington, D.C. 9th Fl. Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Objectives.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 97–29752 Filed 11–6–97; 12:29 pm]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Availability of Record of Decision (ROD) for the Colorado Airspace Initiative (CAI)

On October, 28, 1997, the Air Force signed the ROD for the Colorado Airspace Initiative (CAI). The decision included in the ROD were made in consideration of, but not limited to, the information contained in the Final Environmental Impact Statement (FEIS) filed with the Environmental Protection Agency on August 22, 1997.

The decision rendered by the US Air Force is that the US Air Force will proceed with modifying existing and creating new military training airspace. The actions will take place primarily in Colorado, and will be used primarily by the Colorado Air National Guard, although other military service flying units will also use the airspace. The CAI serves to support the National Guard Bureau's request for modification to the National Airspace System administered by the Federal Aviation Administration (FAA). Another purpose is to respond to changes in commercial aircraft arrival and departure corridors dictated by the FAA for the operation of the new Denver International Airport.

The implementation of the CAI will proceed with minimal adverse impact to

the environment. This action conforms with applicable Federal, State and local statutes and regulation, and all reasonable and practicable efforts have been or will be made to minimize any related impact to the local public and the environment.

Any questions regarding this matter should be directed to Mr. Harry Knudsen, (301) 836–8143. Correspondence should be sent to: ANG/CEVP, 3500 Fetchet Avenue, Andrews Air Force Base, MD 20762–5157.

Barbara A. Carmichael,

Alternate Air Force Federal Register Liaison Officer.

[FR Doc. 97–29521 Filed 11–7–97; 8:45 am]

BILLING CODE 3910–01–P

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Meeting

AGENCY: National Assessment Governing Board, Education.

ACTION: Notice of closed and partially closed meetings.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: November 20–22, 1997.

TIME: November 20—Joint Meeting of Subject Area Committees #1 and #2, 2:00–3:00 p.m., (open); Design and Methodology Committee, 2:00–5:00 p.m., (closed), Subject Area Committee #2, 3:00–5:00 p.m., (open); and Executive Committee, 5:00–6:00 p.m., (open), 6:00–7:00 p.m., (closed). November 21—Full Board, 8:30–10:00 a.m., (open; Subject Area Committees #1, 10:15 a.m.–12:00 Noon, (open); Achievement Levels Committee 10:00 a.m.–12:00 Noon, (open); Reporting and Dissemination Committee, 10:00 a.m.–12:00 Noon, (open); Full Board, 12:00 noon–5:00 p.m., (open). November 22—Nominations Committee, 8:00–9:00 a.m. (open); Full Board, 9:00 a.m. until adjournment, approximately 12:00 Noon, (open).

LOCATION: Ritz Carlton Hotel, Pentagon City, 1250 South Hayes Street, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mary Ann Wilmer, Operations Officer, National Assessment Governing Board, Suite 825, 800 North Capitol Street, NW., Washington, DC 20002–4233, Telephone: (202) 357–6938.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 412 of the National Education Statistics Act of 1994 (Title IV of the Improving America's Schools Act of 1994) (Pub. L. 103–382).

The Board is established to formulate policy guidelines for the National Assessment of Educational Progress. The Board is responsible for selecting subject areas to be assessed, developing assessment objectives, identifying appropriate achievement goals for each grade and subject tested, and establishing standards and procedures for interstate and national comparisons.

On Thursday, November 20, 1997, there will be meeting of four committees of the Governing Board. Subject Area Committees #1 and #2 will meet in joint session from 2:00 to 3:00 p.m. to receive an update on the 1998 assessments in reading, writing, and civics.

The Design and Methodology Committee will meet in closed session from 2:00–5:00 p.m. to review the unreleased NAEP procurement documents which contain contract specifications and government cost estimates for the purpose of determining the appropriateness of their alignment with the NAGB redesign policy. This meeting must be conducted in closed session because the information presented for review would be likely to significantly frustrate implementation of a proposed agency action. Such matters are protected by exemption (9)B of section 552b(c) of Title 5 U.S.C.

The Subject Area Committee #2 will meet in open session from 3:00–5:00 p.m. The Committee will be briefed on the North Carolina/NAEP Math Content Analysis project, and discuss issues related to NAEP redesign.

The Executive Committee will meet on November 20 from 5:00 to 6:00 p.m. in open session. In the open session from 5:00–6:00 p.m., the Executive Committee will be briefed by staff on the following items: NAEP and the Voluntary National Tests initiative, the status of the grant program for secondary analysis of the NAEP data, and NAEP redesign issues.

Then the Executive Committee will meet in closed session from 6:00 to 7:00 p.m. and the Committee will discuss the development of cost estimates for NAEP and future contract initiatives. This portion of the meeting must be conducted in closed session because public disclosure of this information would likely have an adverse financial effect on the NAEP program. The discussion of this information would be likely to significantly frustrate implementation of a proposed agency action if conducted in open session. Such matters are protected by exemption 9(B) of Section 552b(c) of Title 5 U.S.C.

Also, during the same closed session, the Committee will discuss the qualifications of individuals to serve as Vice-Chair of the Governing Board. The Committee will formulate a recommendation for action by the full Board. The discussion would disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session. Such matters are protected by exemptions (2) and (6) of Section 552b(c) of Title 5 U.S.C.

On November 21, the full Board will convene in open session beginning at 8:30 a.m. The agenda for this session of the full Board meeting includes approval of the agenda, introduction of new members, and election of the NAGB Vice-Chair. Also, the morning agenda will include a report from the Executive Director, administration of the oath of office to new members and remarks by the Secretary of Education. This session will conclude with an update on the NAEP project.

Between 10:15 a.m. and 12:00 noon, there will be open meetings of the following subcommittees: Achievement Levels, Reporting and Dissemination, and Subject Area Committee #1. The Achievement Levels Committee will discuss the calendar for the upcoming levels setting process and consider policy issues for 1998.

Agenda items for the Reporting and Dissemination Committee include plans for release and schedule of future NAEP reports; plans for the development of a NAEP Resource Kit; and plans for reporting district-level results from existing state samples.

There will be two discussion items on the Subject Area Committee #1 agenda: (1) issues related to the preparation of an RFP for a foreign language assessment, and (2) issues related to the NAEP redesign.

The full Board will reconvene at 12:00 noon. The agenda items during this period include: a briefing on the 1996 Science Achievement Levels Report, a presentation on Redesign Issues, and a presentation on NAEP activities from framework development to reporting of the assessment results. The Board recess is scheduled for 5:00 p.m.

On Saturday, November 22, the Nominations Committee will meet in open session from 8:00–9:00 a.m. to review procedures to be used for the solicitation of the names of individuals to succeed Board members whose terms expire September 30, 1998. The expiring terms are in the following categories: general public, elementary school principal, secondary school principal, fourth-grade classroom teacher, state legislator (Democrat) Chief State School Officer, Governor (Democrat), Governor (Republican), and eighth grade classroom teacher.

The full Board will meet in open session from 9:00 a.m. until adjournment, approximately 12:00 noon. The agenda for this session is the presentation of reports from the various Board committee meetings.

A summary of the activities of the closed and partially closed sessions and other related matters which are informative to the public and consistent with the policy of the section 5 U.S.C. 552b(c), will be available to the public within 14 days after the meeting. Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, Suite #825, 800 North Capitol Street, NW, Washington, D.C., from 8:30 a.m. to 5:00 p.m.

Dated: November 4, 1997.

Roy Truby,

Executive Director, National Assessment Governing Board.

[FR Doc. 97–29520 Filed 11–7–97; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

[Docket Nos. EA–162, EA–163 and EA–97–B]

Applications to Export Electric Energy; PP&L, Inc., Duke Energy Trading and Marketing and Portland General Electric Company

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of Applications.

SUMMARY: PP&L and Portland General Electric Company, both FERC regulated public utility companies, and Duke Energy Trading and Marketing, L.L.C., a power marketer, have submitted applications to export electric energy to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests or requests to intervene must be submitted on or before December 10, 1997.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Im/Ex (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585–0350 (FAX 202–287–5736).

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202–586–9624 or Michael Skinker (Program Attorney) 202–586–6667.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. § 824a(e)).

The Office of Fossil Energy (FE) of the Department of Energy (DOE) has received applications from the following companies for authorization to export electric energy to Canada, pursuant to section 202(e) of the FPA:

Applicant	Application Date	Docket No.
PP&L	10/21/97	EA–162
Duke Energy Trading And Marketing, L.L.C. (Duke).	10/31/97	EA–163
Portland General Electric Company (PGE).	10/30/97	EA–97–B

In Docket EA–162, PP&L, formerly Pennsylvania Power & Light Company, proposes to transmit to Canada electric energy that is excess to its system or purchased from electric utilities or other suppliers within the U.S.

In Docket EA–163, Duke, a power marketer that does not own, operate or control any electric power generation, transmission or distribution facilities, proposes to transmit to Canada electric energy that is surplus to the needs of the entity selling the power.

PP&L and Duke would arrange for the exported energy to be transmitted to Canada over the international facilities owned by Basin Electric, Bonneville Power Administration, Citizens Utilities, Detroit Edison Company, Eastern Maine Electric Cooperative, Joint Owners of the Highgate Project, Maine Electric Power Company, Maine Public Service Company, Minnesota Power and Light Company, Minnkota Power Cooperative, New York Power Authority, Niagara Mohawk Power Corporation, Northern States Power, and Vermont Electric Transmission Company. Each of the transmission facilities, as more fully described in the applications, has previously been authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended.

PGE (Docket EA–97–B) currently holds an electricity export authorization in Order EA–97–A which will expire on April 29, 1998. PGE has requested that their export authorization to transmit electric energy to BC Hydro, a Crown Corporation in the Canadian Province of British Columbia, be renewed for a five-year period. PGE proposes to transmit economy or firm energy to BC Hydro through the facilities of the Bonneville Power Administration.

Procedural Matters: Any persons desiring to become a party to these proceedings or to be heard by filing comments or protests to these applications should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of such petitions and protests should be filed with the DOE on or before the date listed above.

Comments on PP&L's request to export to Canada should be clearly marked with Docket EA–162. Additional copies are to be filed directly with Jesse A. Dillon, Senior Counsel, PP&L, Inc., Two North Ninth Street, Allentown, PA 18101 *AND* Douglas H. Rosenberg, Preston Gates & Ellis, LLP, 5000 Columbia Center, 701 Fifth Avenue, Seattle, WA 98104–7078.

Comments on Duke's request to export to Canada should be clearly marked with Docket EA–163. Additional copies are to be filed with Kris Errickson, Legal/Regulatory Coordinator, Duke Energy Trading and Marketing, L.L.C., One Westchase Center, 10777 Westheimer Street, Suite 650, Houston, TX 77042; Christine M. Pallenik, Managing Counsel, Duke Energy Trading and Marketing, 4 Triad Center, Suite 1000, Salt Lake City, UT 84180, *AND* Gordon J. Smith, Esq., John & Hengerer, 1200 17th Street, NW, Suite 600, Washington, DC 20036.

Comments on PGE's request to renew its authorization to export to Canada should be clearly marked with Docket EA–97–B. Additional copies are to be filed directly with Michele L. Farrell, FERC Project Manager, Portland General Electric Company, 1WTC0702, 121 SW Salmon Street, Portland, OR 97204 *AND* Mary C. Hain, Assistant General Counsel, Portland General Electric Company, 1WTC13, 121 SW Salmon Street, Portland, OR 97204.

A final decision will be made on these applications after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969 (NEPA), and a determination is made by the DOE that the proposed actions will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of these applications will be made available, upon request, for public

inspection and copying at the address provided above.

Issued in Washington, DC on November 4, 1997.

Barbara N. McKee,

Director, Office of Coal and Power Import and Export, Office of Fossil Energy.

[FR Doc. 97–29610 Filed 11–7–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3507(d)(1)(A) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) collection number and title; (2) summary of the collection of information (includes sponsor (the DOE component)), current OMB document number (if applicable), type of request (new, revision, extension, or reinstatement); response obligation (mandatory, voluntary, or required to obtain or retain benefits); (3) a description of the need and proposed use of the information; (4) description of the likely respondents; and (5) estimate of total annual reporting burden (average hours per response x proposed frequency of response per year x estimated number of likely respondents.)

DATES: Comments must be filed on or before December 10, 1997. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place N.W., Washington, D.C. 20503. (Comments should also be addressed to the Statistics and Methods Group at the address below.)

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Herbert Miller, Statistics and Methods Group (EI–70), Forrestal Building, U.S. Department of Energy, Washington, D.C. 20585. Mr. Miller may be telephoned at (202) 426–1103, FAX (202) 426–1081, or e-mail at hmiller@eia.doe.gov.

SUPPLEMENTARY INFORMATION: The energy information collection submitted to OMB for review was:

1. FE–781R, "Annual Report of International Electrical Export/Import Data"
2. Fossil Energy, Office of Coal and Electricity; OMB No. 1901–0296; Extension; Mandatory
3. FE–781R collects electrical import/export data from entities authorized to export electric energy to construct, connect, operate, or maintain facilities for the transmission of electric energy at an international boundary as required by 10 CFR 205.308 and 205.325. The data are also used by EIA for publications.
4. Business or other for-profit
5. 370 hours (1 hr. × 1 response per year × 370 respondents)

Statutory Authority: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13).

Issued in Washington, D.C., October 31, 1997.

Jay H. Casselberry,

Agency Clearance Officer, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 97–29609 Filed 11–7–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–2–20–000]

Algonquin Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

November 4, 1997.

Take notice that on October 31, 1997, Algonquin Gas Transmission Company (Algonquin), tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, Eighth Revised Sheet No. 40, to become effective on December 1, 1997.

Algonquin states that pursuant to Section 32 of the General Terms and Conditions of its FERC Gas Tariff, it is filing to revise the Fuel Reimbursement Percentages (FRPs) for the four calendar periods beginning December 1, 1997. Algonquin states that the use of actual data for the latest available 12-month period yields increased FRPs which, compared to the last FRQ annual filing, consist of a 0.09% increase in the FRP for the Winter season and seasonal increases for the Spring, Summer and Fall seasons ranging from 0.21% to 0.50%. Algonquin proposes to levelize the three non-winter periods in response to requests from customers for rate stability. Algonquin requests any waivers necessary to permit the percentage calculated from the actuals for the entire 8-month period, combining Spring, Summer and Fall, to be applied during each of the three seasonal periods so that for the entire 8-month period the FRP will not change from one season to the next.

Algonquin also states that it is submitting the calculation of the fuel reimbursement quantity (FRQ) deferral allocation, pursuant to Section 32.5(c) which provides that Algonquin will calculate surcharges or refunds designed to amortize the net monetary value of the balance in the FRQ Deferred Account at the end of the previous accumulation period. Algonquin states that for the period August 1, 1996 through July 31, 1997, the FRQ Deferred Account resulted in a net debit balance that will be surcharged to Algonquin's customers, based on the allocation of the account balance over the actual throughput during the accumulation period, exclusive of backhauls.

Algonquin states that copies of this filing were served on firm customers of Algonquin, interested state commissions and all current interruptible customers.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29562 Filed 11–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98–8–000]

Algonquin LNG, Inc.; Notice of Proposed Changes in FERC Gas Tariff

November 4, 1997.

Take notice that on October 31, 1997, Algonquin LNG, Inc. (ALNG), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Seventh Revised Sheet No. 200. The proposed effective date of this tariff sheet is December 1, 1997.

ALNG states that the purpose of this filing is to update and correct its Index of customers as of December 1, 1997.

ALNG states that copies of its filing have been served on all firm customers of Algonquin LNG and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29541 Filed 11–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–4381–000]

Eastern Energy Marketing, Inc.; Notice of Filing

November 4, 1997.

Take notice that on October 15, 1997, Eastern Energy, marketing, Inc., tendered for filing an amendment in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests must be filed on or before November 14, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29540 Filed 11–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–287–006]

El Paso Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

November 4, 1997.

Take notice that on October 30, 1997, El Paso Natural Gas Company (El Paso) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the following tariff sheet to become effective November 1, 1997:

Ninth Revised Sheet No. 30

El Paso states that the above tariff sheet is being filed to implement negotiated rate contracts pursuant to the Commission's Statement of Policy on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines and Regulation of Negotiated Transportation Services of natural Gas Pipelines issued January 31, 1996 at Docket Nos. RM95–6–000 and RM96–7–000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests should be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29550 Filed 11–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–29–000]

Florida Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

November 4, 1997.

Take notice that on October 31, 1997, Florida Gas Transmission Company (FGT), tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to be effective December 1, 1997:

Eighth Revised Sheet No. 1
Sixth Revised Sheet No. 2
Original Sheet No. 8A.03
Second Revised Sheet No. 35
Fourth Revised Sheet No. 36
Fourth Revised Sheet No. 37
Second Revised Sheet No. 38
Fourth Revised Sheet No. 39
Fourth Revised Sheet No. 40
Original Sheet No. 40A
Seventh Revised Sheet No. 120
Fourth Revised Sheet No. 121
Fifth Revised Sheet No. 143
Fourth Revised Sheet No. 144
Third Revised Sheet No. 191
Second Revised Sheet No. 481
Second Revised Sheet No. 482
Third Revised Sheet No. 483
Second Revised Sheet No. 484
Third Revised Sheet No. 485
Fourth Revised Sheet No. 486

FGT states that the instant filing is made in accordance with Section 154.202 of the Commission's Regulations. FGT is proposing to offer a new interruptible Park 'N Ride (PNR) service under Rate Schedule PNR. FGT states that PNR service will enable it to

accommodate the needs of its customers in a manner not currently available under its existing Tariff by providing shippers greater flexibility in managing their daily gas supply needs through the use of FGT's pipeline system.

FGT states that PNR service will allow customers to park gas on FGT's system or "ride" (borrow) gas from FGT at agreed-upon points. FGT proposes that PNR service shall be for a minimum of one day and shall have a maximum term as mutually agreed to by FGT and the shipper.

FGT states that PNR service is an optional, interruptible service. FGT states that the provision of PNR service shall depend upon FGT having the necessary operational flexibility to park and/or ride gas quantities. FGT states that PNR service shall have the lowest priority in the scheduling process and PNR service will be curtailed, if necessary, prior to the curtailment of any other service. Thus, FGT asserts, PNR service will not adversely impact the provision of other services on FGT's system.

FGT proposes to require shippers to remove parked quantities or return borrowed quantities of gas on a minimum of one day's notice if dictated by operating conditions on its system. In the event of a one-day notice period, FGT states that it will provide affected parties with actual notice by both telephone and electronic means. For notice periods extending beyond one day, FGT states that it shall provide notice to affected parties either by telephone, facsimile, or electronic means.

FGT states that the proposed rates for PNR service under Rate Schedule PNR are set forth on Original Sheet No. 8A.03. FGT states that the maximum rate which FGT proposes to charge for PNR service is equal to its effective maximum rate for interruptible transportation service under Rate Schedule ITS–1. FGT states that the minimum rate FGT proposes to charge for PNR service is calculated using the estimated incremental costs for rendering this service.

FGT states that it anticipates offering discounts appropriate to market conditions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–28558 Filed 11–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–55–000]

Gas Transport, Inc.; Notice of Request Under Blanket Authorization

November 4, 1997.

Take notice that on October 30, 1997, Gas Transport, Inc. (GTI), Post Office Box 430, Lancaster, OH 43130–0430, filed in Docket No. CP98–55–000, a request pursuant to Section 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to construct and operate three new delivery points under GTI's blanket certificate issued in Docket No. CP86–291–000, pursuant to 18 CFR Part 157, Subpart F of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

GTI proposes to construct and operate three new connections for the delivery of gas to Hope Gas, Inc. (Hope), a local distribution company and an existing customer. It is stated that these three connections are all located in Wood County, West Virginia and designated as Hope Station #5, GTI Line #1, #326+80; Hope Station #6, GTI Line #1, #146+04; and Hope Station #7, GTI Line #1, #41+30. GTI further states that the proposed facilities would deliver a maximum of 3,000 Dth of natural gas per year for each delivery point. GTI states that estimated cost of construction of these three delivery points is $2,500 each and that Hope would finance the measurement and regulation stations. GTI further states that these delivery points would provide service to Hope pursuant to GTI's IT Rate Schedule.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29536 Filed 11–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–8–006]

Granite State Gas Transmission, Inc.; Notice of Proposed Changes in FERC Gas Tariff

November 4, 1997.

Take notice that on October 29, 1997, Granite State Gas Transmission, Inc. (Granite State), tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets to become effective November 1, 1997:

Ninth Revised Sheet No. 21
Tenth Revised Sheet No. 22
Ninth Revised Sheet No. 23

According to Granite State the above revised tariff sheets state changes in its Base Tariff rates for firm and interruptible transportation services agreed to in an uncontested settlement in Docket No. RP97–8–000 approved by the Commission in a Letter Order issued October 20, 1997.

Granite State further states that copies of its filing have been served on its firm and interruptible customers, on the regulatory agencies of the states of Maine, Massachusetts and New Hampshire and the intervenors in the proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211. All such protests should be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29547 Filed 11–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP97–161–011, and RP97–329–006]

Iroquois Gas Transmission System, L.P.; Notice of Compliance Filing

November 4, 1997.

Take notice that on October 30, 1997, Iroquois Gas Transmission System, L.P. (Iroquois), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Third Revised Sheet No. 57A, with an effective date of December 1, 1997.

Iroquois states that the filing is being filed in compliance with the Commission's October 17, 1997, Letter Order in the above referenced docket.

In its Order, the Commission directed Iroquois to file, within 15 days of its order, a revised sheet No. 57A to be effective December 1, 1997, which reflects a single time line nomination requirement consistent with that on First Revised Sheet No. 57A and incorporates the changes required by the May 19 and June 25 orders. Iroquois states that it is submitting Third Revised Sheet No. 57A to comply with the Commission's previous orders in this docket.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedure. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29548 Filed 11–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP97–1–011 and RP97–201–006]

National Fuel Gas Supply Corporation; Notice of Compliance Filing

November 4, 1997.

Take notice that on October 30, 1997, National Fuel Gas Supply Corporation (National Fuel) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the tariff sheets listed in Appendix A to the filing, to be effective August 1, 1997.

National Fuel states that the purpose of this filing is to comply with the Commission's Order issued October 21, 1997, in Docket Nos. RP97–1–008, RP97–201–006 and RP97–1–007.

National Fuel states that it is serving copies of this filing with its firm customers, interested state commissions and each party designated on the official service list compiled by the Secretary.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedure. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29543 Filed 11–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–1–012]

National Fuel Gas Supply Corporation; Notice of Compliance Filing

November 4, 1997.

Take notice that on October 31, 1997, National Fuel Gas Supply Corporation (National Fuel) tendered for filing a corrected tariff sheet as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, to be effective November 1, 1997.

National Fuel states that it is filing a corrected tariff sheet reserving Sheet Nos. 478 through 674, in compliance with the Letter Order issued by the Federal Energy Regulatory Commission October 27, 1997, in Docket No. RP97–1–010.

National Fuel further states that it is serving copies of this filing upon its firm customers and interested state commissions.

Any person to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make Protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29544 Filed 11–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–3–16–000]

National Fuel Gas Supply Corporation; Notice of Tariff Filing

November 4, 1997.

Take notice that on October 31, 1997, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Revised Volume No. 1, Fourth Revised Revised Sheet No. 9, with a proposed effective date of November 1, 1997.

National states that pursuant to Article II, Section 2, of the approved settlement at Docket Nos. RP94–367–000, et al., National is required to recalculate the maximum Interruptible Gathering (IG) rate monthly and to charge that rate on the first day of the following month if the result is an IG rate more than 2 cents above or below the IG rate as calculated under Section 1 of Article II. The recalculation produced an IG rate of 11 cents per dth.

National further states that, as required by Article II, Section 4, National is filing a revised tariff sheet within 30 days of the effective date for the revised IG rate.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal

Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., 20426, in accordance with Section 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed pursuant to Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29563 Filed 11–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–22–000]

Natural Gas Pipeline Company of America; Notice of Proposed Changes in FERC Gas Tariff

November 4, 1997.

Take notice that on October 30, 1997, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume NO. 1, proposed tariff sheets to be effective December 1, 1997.

Natural states that the purpose of this filing is to implement changes in rates under Natural's gas supply realignment (GSR) cost recovery mechanism consistent with the Commission's order issued September 26, 1997 in Docket No. RP97–469–000 and the October 27, 1997, compliance filing in Docket No. RP97–469–002.

Natural requested any waivers which may be required to permit the tendered tariff sheets to become effective December 1, 1997.

Natural states that copies of the filing have been mailed to Natural's customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29552 Filed 11–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–26–000]

Natural Gas Pipeline Company of America; Notice of Proposed Changes in FERC Gas Tariff

November 4, 1997.

Take notice that on October 31, 1997, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Ninth Revised Sheet No. 22, to be effective December 1, 1997.

Natual states that the filing is submitted pursuant to Section 21 of the General Terms and Conditions of Natural's FERC Gas Tariff, Sixth Revised Volume No. 1 (Section 21), as the ninth semiannual limited rate filing under Section 4 of the Natural Gas Act and the Rules and Regulations of the Federal Energy Regulatory Commission (Commission) promulgated thereunder. The rate adjustments filed for are designed to recover Account No. 858 stranded costs incurred by Natural under contracts for transportation capacity on other pipelines. Costs for any Account No. 858 contracts specifically excluded under Section 21 are not reflected in this filing.

Natural requested specific waivers of Section 21 and the Commission's Regulations, including the requirements of Section 154.63, to the extent necessary to permit the tariff sheet to become effective December 1, 1997.

Natural states that copies of the filing are being mailed to Natural's customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29555 Filed 11–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–32–000]

Natural Gas Pipeline Company of America; Notice of Proposed Changes in FERC Gas Tariff

November 4, 1997.

Take notice that on October 31, 1997, Natural Gas Pipeline Company of America (Natural), tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, proposed tariff sheets to be effective December 1, 1997.

Natural states that the purpose of this filing is to provide for two pooling points in the Texok Zone. Two pooling points in the Texok Zone will improve Natural's service to its customers by making it easier for Natural to timely and accurately schedule and confirm volumes that are nominated to be transported to and from the Texok Zone pooling points.

Natural requested any waivers which may be required to permit the tendered tariff sheets to become effective December 1, 1997.

Natural states that copies of the filing have been mailed to Natural's customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29561 Filed 11–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OA97–218–000]

Niagara Mohawk Power Corporation; Notice of Filing

November 4, 1997.

Take notice that on December 30, 1996, Niagara Mohawk Power Corporation tendered for filing its revised tariff sheets constituting the portions of Niagara Mohawk's Wholesale Power Sales Tariff, Electric Rate Schedule, Original Volume No. 2, affected by Order No. 888's requirement that certain coordination sales contracts be unbundled.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before November 14, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29542 Filed 11–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–28–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Tariff

November 4, 1997.

Take notice that on October 31, 1997, Northern Natural Gas Company (Northern), tendered for filing to become part of Northern's FERC Gas Tariff, Fifth Revised Volume No. 1, Third Revised Sheet No. 226, to become effective on December 1, 1997.

Northern's tariff currently provides that Northern shall have the right to restrict the hourly takes of gas by the Shipper to 6.3% of their firm entitlement. Northern is herein proposing to modify the above provision by prefacing it with the phrase, "Unless Northern and Shipper mutually agree otherwise." This modification will allow Northern and a shipper the opportunity to have facilities designed or realign firm entitlement from one delivery point to another in a more cost efficient manner.

Northern states that copies of the filing were served upon Northern's customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., 20426, in accordance with Sections 385.214 of and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. All protests will be considered by the Commission in determining the appropriate action to be taken in this proceeding, but will not serve to make protestant a party to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29557 Filed 11–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–4–010]

Panhandle Eastern Pipe Line Company; Notice of Compliance Filing

November 4, 1997.

Take notice that on October 31, 1997, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet to be effective November 1, 1997:

Sub Third Revised Sheet No. 339

Panhandle asserts that the purpose of this filing is to comply with the Commission's Letter Order issued on October 17, 1997 in Docket No. RP97–4–009 to reflect the proper version number designation for the standards promulgated by the Gas Industry Standards Board which are incorporated by reference in Panhandle's tariff.

Panhandle states that copies of this filing are being served on all affected customers, applicable state regulatory agencies and parties to this proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29545 Filed 11–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–27–000]

Panhandle Eastern Pipe Line Company; Notice of Proposed Changes in FERC Gas Tariff

November 4, 1997.

Take notice that on October 31, 1997, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, to become effective December 1, 1997.

Panhandle states that the purpose of this filing is to reinstate the Carryover GSR Settlement Interruptible Rate Component applicable to interruptible transportation service under Rate Schedules IT and EIT. Panhandle has not fully recovered the Interruptible GSR Settlement amount as of July 31, 1997 and accordingly pursuant to Article I, Section 3(f)(ii) of the May 22, 1995, Settlement is proposing to implement a 8.44¢ Carryover GSR Settlement Interruptible Rate Component to be in effect during the twelve month GSR Settlement Carryover Period commencing December 1, 1997.

Panhandle states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission,888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protesants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29556 Filed 11–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER96–19–015]

PECO Energy Power Team; Notice of Filing

November 4, 1997.

Take notice that on October 7, 1997, PECO Energy Power Team tendered for filing a membership signature page for membership in Northwest Regional Transmission Association.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests must be filed on or before November 14, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29537 Filed 11–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–34–000]

Questar Pipeline Company; Notice of Tariff Filing

November 4, 1997.

Take notice that on October 30, 1997, Questar Pipeline Company (Questar) tendered for filing of its FERC Gas Tariff, First Revised Volume No. 1, Fifth Revised Sheet No. 71 and Original Sheet No. 71A, to be effective November 1, 1997. The proposed tariff sheets revise Section 9 of Part 1 of the General Terms and Conditions of Questar's tariff.

Questar states that the technical implementation and programming of the business processes applicable to nominations tendered via Electronic Data Interchange (EDI) required Questar to choose one of three GISB model types for nominations—pathed, non-pathed or pathed non-threaded. Questar states further that the pathed non-threaded model appeared to be most closely related to the manner in which its nomination process has been administered in the past. Questar avers that it recently learned form its third-part vendor that implementation of the pathed non-threaded nomination procedure and development of the associated priority-of-service algorithm requires that Questar's priority of service identify more discreet levels of service than the current tariff defines.

Accordingly, Questar is seeking Commission approval to modify Section 9.1, Priority of Service, to more discreetly define and clarify priority-of-service levels that are consistent with the pathed non-threaded model nomination process.

Questar explains that it requests Commission waiver of Section 154.207 of its regulations so that the proposed tariff sheets may become effective November 1, 1997. Questar's newly developed gas-management system, which includes implementation of the pathed non-threaded nomination procedure, as well as the package ID requirements associated with order No. 587–C, will be activated on November 1, 1997. Questar explains further that, although identification of more discreet levels of service was required by development of the priority-of-service algorithm associated with the pathed non-threaded nomination procedure, Questar did not learn of this requirement in sufficient time to provide a filing to the Commission 30 days prior to the proposed effective date. While Questar's customers have been made aware of the new priority-of-service levels and are anticipating implementation of this procedure on November 1, Questar believes it vital that the effective date of tariff sheets implementing the discreet levels of priority of service comport with the implementation date of the administration of that procedure.

Accordingly, Questar has requested that the Commission accept the tendered tariff sheets be to be effective November 1, 1997, as proposed.

Questar states that a copy of this filing has been served upon its customers, the Public Service Commission of Utah and the Wyoming Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make Protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29553 Filed 11–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–4352–000]

SEMCO Energy Service Inc.; Notice of Filing

November 4, 1997.

Take notice that on October 8, 1997, SEMCO Energy Services, Inc., tendered for filing an amendment in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests must be filed on or before November 14, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29538 Filed 11–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–4680–000]

Starghill Energy Corp.; Notice of Filing

November 4, 1997.

Take notice that on October 14, 1997, Starghill Energy Corp., tendered for filing an amendment in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests must be filed on or before November 14, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29539 Filed 11–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–30–000]

Texas Eastern Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

November 4, 1997.

Take notice that on October 31, 1997, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1 and Original Volume No. 2, revised tariff sheets listed on Appendix A to the filing to become effective December 1, 1997.

Texas Eastern states that the revised tariff sheets are being filed (i) pursuant to Section 15.6, Applicable Shrinkage Adjustment (ASA), contained in the General Terms and Conditions of Texas Eastern's FERC Gas Tariff, Sixth Revised Volume No. 1, and (ii) pursuant to Texas Eastern's Docket No. RP85–177–119, *et al.*, Stipulation and Agreement (Settlement) filed January 31, 1994, and approved by Commission order issued May 12, 1994.

Texas Eastern states that it is filing concurrently its Annual PCB-Related Cost Filing to reflect the PCB-Related Cost rate components to be effective for the twelve month period December 1, 1997, through November 30, 1998 (PCB Year 8). Texas Eastern states that the combined impact on Texas Eastern's rates at December 1, 1997, of this filing in combination with the PCB Year 8 Filing for typical long haul service under Rate Schedule FT–1 from Access Area Zone East Louisiana to Market Zone 3 (ELA–M3) equates to an overall decrease of 0.15 cents as follows:

	100% LF Impact ($/dth)
PCB Year 7 Filing	0.0015
ASA & Global Settlement:	
ASA Surcharge	(0.0117)
Spot Fuel Component	0.0090
Account 858 Costs	(0.0003)
Grand total	(0.0015)

Texas Eastern states that the changes proposed to become effective beginning December 1, 1997 consist of (1) ASA Percentages designed to retain in-kind the projected quantities of gas required for the operation of Texas Eastern's system, less quantities projected to be purchased from Appendix C contracts under the Settlement, in providing service to its customers, (2) the ASA Surcharge designed to recover the net monetary value recorded in the Applicable Shrinkage Deferred Account as of August 31, 1997, (3) Spot Fuel Components designed to recover the Spot Costs, as defined in the Settlement, projected to be incurred over the twelve month period beginning December 1, 1997, and the balance recorded in the Spot Fuel Deferred Account as of August 31, 1997, (4) A Fuel Reservation Charge Adjustment designed to recover the excess (limited to a maximum rate specified by the Settlement) of the August 31, 1997, balance in the Non-Spot Fuel Deferred Account over the threshold amount of $20 million specified in Appendix E of the Settlement, and (5) an Account No. 858 Costs rate component designed to recover the August 31, 1997, balance recorded in the Account No. 858 Costs Deferred Account which represents the amount necessary to true up the actual costs incurred subsequent to the Effective Date of the Settlement with actual cost recoveries subsequent to the Effective Date of the Settlement, plus applicable carrying costs. Texas Eastern states that this filing also constitutes Texas Eastern's report of the annual reconciliation of the interruptible revenues under Rate Schedules IT–1, PTI and ISS–1 as well as for Rate Schedule LLIT and for Rate Schedule VKIT.

Texas Eastern states that the ASA Percentages proposed herein are decreased compared to those percentages in Texas Eastern's currently effective tariff. Texas Eastern has requested waiver of its tariff or any other waivers the Commission may deem necessary in order to permit Texas Eastern to levelize its ASA percentages for the eight month period covering the Spring, Summer and Fall seasons in the interest of rate stability based upon several requests from its customers.

Texas Eastern states that copies of its filing have been served on all Firm Customers of Texas Eastern and interested State Commissions, as well as all current interruptible shippers and all parties to the Settlement in Docket No. RP85–177–119, *et al.*

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to

the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29559 Filed 11–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–344–000]

Texas Gas Transmission Corporation; Notice of Informal Settlement Conference

November 4, 1997.

Take notice that an informal settlement conference will be convened in this proceeding on Tuesday, November 18, 1997, at 1:30 p.m. and Wednesday, November 19, 1997, at 10:00 a.m., at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, for the purposes of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's Regulations (18 CFR 385.214).

For additional information, please contact Kathleen M. Dias at (202) 208–0524 or Michael D. Cotleur at (202) 208–1076.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29551 Filed 11–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP97–71–000 and RP97–312–000]

Transcontinental Gas Pipe Line Corporation; Notice of Informal Settlement Conference

November 5, 1997.

Take notice that an informal settlement conference will be convened in this proceeding on Monday, November 10, 1997, at 1:00 p.m., at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC, for the purpose of exploring the possible settlement of the above-referenced dockets.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact David R. Cain at (202) 208–0917, Donald A. Heydt at (202) 208–0740 or Paul B. Mohler at (202) 208–1240.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29608 Filed 11–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–6–000]

Trunkline Gas Company; Notice of Compliance Filing

November 4, 1997.

Take notice that on October 31, 1997, Trunkline Gas Company (Trunkline) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet to be effective November 1, 1997:

Sub Second Revised Sheet No. 242A

Trunkline asserts that the purpose of this filing is to comply with the Commission's Letter Order issued on October 24, 1997 in Docket No. RP97–6–009 to reflect the proper version number designation for the standards promulgated by the Gas Industry Standards Board which are incorporated by reference in Trunkline's tariff.

Trunkline states that copies of this filing are being served on all affected customers, applicable state regulatory agencies and parties to this proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29546 Filed 11–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–3–30–000]

Trunkline Gas Company; Notice of Filing

November 4, 1997.

Take notice that on October 31, 1997, Trunkline Gas Company (Trunkline) tendered for filing its Annual Interruptible Storage Revenue Credit Surcharge Adjustment in accordance with Section 24 of the General Terms and Conditions of its FERC Gas Tariff, First Revised Volume No. 1.

Trunkline states that the purpose of this filing is to comply with Section 24 of the General Terms and Conditions of its FERC Gas Tariff, First Revised Volume No. 1, which requires that at least 30 days prior to the effective date of adjustment, Trunkline shall make a filing with the Commission to reflect the adjustment, if any, required to Trunkline's Base Transportation Rates to reflect the result of the Interruptible Storage Revenue Credit Surcharge Adjustment. Trunkline further states that due to the minimal interruptible storage activity, no adjustment is required to Base Transportation Rates.

Trunkline states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29564 Filed 11–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–25–000]

West Texas Gas, Inc.; Notice of Proposed Changes in FERC Gas Tariff

November 4, 1997.

Take notice that on October 31, 1997, West Texas Gas, Inc. (WTG), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to be effective December 1, 1997:

First Revised Sheet No. 2
Twenty-Sixth Revised Sheet No. 4
First Revised Sheet No. 5
First Revised Sheet No. 7
First Revised Sheet No. 9
Second Revised Sheet No. 23
Second Revised Sheet No. 24
Second Revised Sheet No. 25
Second Revised Sheet No. 26

WTG states that the proposed general rate case changes would increase annual jurisdictional revenues by $187,169 (exclusive of gas costs). As part of the filing, WTG is also proposing (1) to replace its Purchased Gas Adjustment (PGA) mechanism with a pricing mechanism based on a published spot market index; (2) to implement procedures to eliminate any balance in its unrecovered purchased gas cost account once the PGA is eliminated; (3) to recover from its jurisdictional customers the Commission's Annual Charge Adjustment assessed pursuant to Part 382 of the regulations; (4) to revise its tariff to permit it to negotiate rates with its customers; and (5) to correct a typographical error on the Preliminary Statement in its tariff.

Any persons desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room

Lois D. Cashell,

Secretary.

[FR Doc. 97–29554 Filed 11–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–163–006]

WestGas InterState, Inc., Notice of Compliance Filing

November 4, 1997.

Take notice that on October 31, 1997, WestGas InterState, Inc. (WGI), tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, Second Substitute First Revised Sheet No. 49B, with a proposed effective date June 1, 1997.

WGI states that this tariff sheet is being filed to comply with the Commission's Letter Order issued October 16, 1997, in Docket No. RP97–163–003. In that Letter Order, the Director had accepted WGI's tariff sheets filed June 13, 1997, to comply with the Commission's May 29, 1997, Order on Compliance Filing and Requests For Waiver, subject to WGI refiling Sheet No. 49B with modifications to incorporate verbatim GISB Standard 3.3.15.

WGI states that copies of this filing have been served on WGI's jurisdictional customers and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29549 Filed 11–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–31–000]

Williston Basin Interstate Pipeline Company; Notice of Tariff Filing

November 4, 1997.

Take notice that on October 31, 1997, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets to become effective December 1, 1997:

First Revised Sheet No. 281
Original Sheet No. 281A
First Revised Sheet No. 282
Second Revised Sheet No. 283
Original Sheet No. 283A
Original Sheet No. 283B
Original Sheet No. 283C

Williston Basin states that the revised tariff sheets reflect a revision to the unauthorized gas section of the General Terms and Conditions of its FERC Gas Tariff.

Williston Basin also states that a shipper has been taking deliveries of unauthorized gas from its system, and previously, other shippers have taken deliveries of unauthorized gas to a lesser degree. Williston Basin has determined that no provision in its FERC Gas Tariff adequately addresses this situation. Therefore, Williston Basin is proposing procedures for the resolution of unauthorized gas deliveries, all as more fully detailed in the filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29560 Filed 11–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–193–000, et al.]

The Detroit Edison Company, et al.; Electric Rate and Corporate Regulation Filings

November 4, 1997.

Take notice that the following filings have been made with the Commission:

1. The Detroit Edison Company

[Docket No. ER98–193–000]

Take notice that on October 14, 1997, The Detroit Edison Company (Detroit Edison) filed a revised Service Agreement in the above-referenced docket. Detroit Edison requests that the revised Service Agreement be made effective as of November 1, 1997.

Comment date: November 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. Allegheny Power Service Corp., et al.

[Docket No. ER98–191–000]

Take notice that on October 14, 1997, Allegheny Power Service Corporation, Cleveland Electric Illuminating Company, Toledo Edison Company, Ohio Edison Company, Pennsylvania Power Company, Southern Company Services, Inc., Virginia Electric & Power Company, and Ontario Hydro tendered for filing an amendment to an agreement entitled the GAPP Experiment Participation Agreement under which they propose updated operating procedures.

Comment date: November 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. PP&L, Inc., formerly known as Pennsylvania Power & Light Company

[Docket No. ER98–192–000]

Take notice that on October 15, 1997, PP&L, Inc., formerly known as Pennsylvania Power & Light Company, filed a Notice of Change in Name to notify the Federal Energy Regulatory Commission that the corporate name of Pennsylvania Power & Light Company has been changed to PP&L, Inc.

Comment date: November 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. The Detroit Edison Company

[Docket No. ER98–194–000]

Take notice that on October 14, 1997, The Detroit Edison Company (Detroit Edison) filed a revised Service Agreement in the above-referenced docket. Detroit Edison requests that the revised Service Agreement be made effective as of November 1, 1997.

Comment date: November 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma, and Southwestern Electric Power Co.

[Docket No. ER98–195–000]

Take notice that on October 16, 1997, Central Power and Light Company (CPL), West Texas Utilities Company (WTU), Public Service Company of Oklahoma (PSO) and Southwestern Electric Power Company (SWEPCO) (collectively, the CSW Operating Companies) submitted for filing service agreements under which the CSW Operating Companies will provide transmission service to CPL, Delhi Energy Services (Delhi), Electric Clearinghouse, Inc. (ECI), Entergy Power Marketing Corp. (Entergy), Western Resources Generation Services (Western), Williams Energy Services Company (Williams), Constellation Power Source (Constellation), Virginia Electric and Power Company (VEPCO), and Western Farmers Electric Cooperative (WFEC) in accordance with the CSW Operating Companies' open access transmission service tariff. The CSW Operating Companies also filed notices of cancellation of those service agreements.

The CSW Operating Companies state that a copy of this filing has been served on CPL, Delhi, ECI, Entergy, Western, Williams, Constellation, VEPCO, and WFEC.

Comment date: November 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Orange and Rockland Utilities, Inc.

[Docket No. ER98–196–000]

Take notice that on October 17, 1997, Orange and Rockland Utilities, Inc.(Orange and Rockland), filed a Service Agreement between Orange and Rockland and Enron Power Marketing L.P., (Customer). This Service Agreement specifies that Customer has agreed to the rates, terms and conditions of Orange and Rockland Open Access Transmission Tariff filed on July 9, 1996 in Docket No. OA96–210–000.

Orange and Rockland requests waiver of the Commission's sixty-day notice requirements and an effective date of October 4, 1997, for the Service Agreement. Orange and Rockland has served copies of the filing on The New York State Public Service Commission and on the Customer.

Comment date: November 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Northeast Utilities Service Company

[Docket No. ER98–197–000]

Take notice that on October 17, 1997, Northeast Utilities Service Company (NUSCO), tendered for filing, a Service Agreement with the Commonwealth Edison Company under the NU System Companies' Sale for Resale, Tariff No. 7.

NUSCO states that a copy of this filing has been mailed to the Commonwealth Edison Company.

NUSCO requests that the Service Agreement become effective September 5, 1997.

Comment date: November 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Orange and Rockland Utilities, Inc.

[Docket No. ER98–198–000]

Take notice that on October 17, 1997, Orange and Rockland Utilities, Inc. (Orange and Rockland), filed a Service Agreement between Orange and Rockland and New Energy Ventures, L.L.C. (Customer). This Service Agreement specifies that Customer has agreed to the rates, terms and conditions of Orange and Rockland Open Access Transmission Tariff filed on July 9, 1996 in Docket No. OA96–210–000.

Orange and Rockland requests waiver of the Commission's sixty-day notice requirements and an effective date of September 24, 1997, for the Service Agreement. Orange and Rockland has served copies of the filing on The New York State Public Service Commission and on the Customer.

Comment date: November 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. PP&L, Inc.

[Docket No. ER98–199–000]

Take Notice that on October 17, 1997, PP&L, Inc. (formerly known as Pennsylvania Power & Light Company)(PP&L), filed a Service Agreement dated October 13, 1997, with Delmarva Power & Light Company (Delmarva) under PP&L's FERC Electric Tariff, Original Volume No. 5. The Service Agreement adds Delmarva as an eligible customer under the Tariff.

PP&L requests an effective date of October 17, 1997, for the Service Agreement.

PP&L states that copies of this filing have been supplied to Delmarva and to the Pennsylvania Public Utility Commission.

Comment date: November 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Commonwealth Edison Company

[Docket No. ER98–200–000]

Take notice that on October 16, 1997, Commonwealth Edison Company (ComEd) submitted for filing Firm Service Agreements with Wisconsin Power and Light Company (WPL), and Wisconsin Electric Power Company (WEPCO), and Non-Firm Service Agreements with Kansas City Power and Light Company (KCPL), and The Dayton Power and Light Company (DPL), under the terms of ComEd's Open Access Transmission Tariff (OATT).

ComEd requests various effective dates for the service agreements, and accordingly seeks waiver of the Commission's requirements. Copies of this filing were served upon WPL, WEPCO, KCPL, DPL, and the Illinois Commerce Commission.

Comment date: November 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. The Detroit Edison Company

[Docket No. ER98–201–000]

Take notice that on October 16, 1997, The Detroit Edison Company (Detroit Edison), tendered for filing Service Agreements for wholesale power sales transactions (the Service Agreements) under Detroit Edison's Wholesale Power Sales Tariff (WPS–2), FERC Electric Tariff No. 3 (the WPS–2 Tariff), between Detroit Edison and the following Customers:

Customer	Date of service agreement	Date of first transaction
CMS Marketing Services and Trading Co.	6/26/97	6/24/97
Commonwealth Edison Co	8/15/97	6/24/97
Electric Clearinghouse, Inc	7/25/97	7/15/97
Enron Power Marketing, Inc	8/22/97	6/26/97
Federal Energy Sales, Inc	1/13/97	(1)
Koch Energy Trading, Inc	2/10/97	6/24/97
LG&E Power Marketing, Inc	1/21/97	7/25/97
Public Service Electric & Gas Co	8/16/97	7/28/97

[1] None to date.

Detroit Edison requests that all the Service Agreements except the Service Agreement with Federal Energy Sales, Inc., be made effective as of December 15, 1997. Detroit Edison requests that the Service Agreement with Federal Energy Sales, Inc., be made effective as of October 1, 1997.

Comment date: November 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. The Detroit Edison Company

[Docket No. ER98–202–000]

Take notice that on October 16, 1997, The Detroit Edison Company (Detroit Edison), tendered for filing Service Agreements for wholesale power sales transactions (the Service Agreements) under Detroit Edison's Wholesale Power Sales Tariff (WPS–1), FERC Electric Tariff No. 4 (the WPS–1 Tariff), between Detroit Edison and the following Customers:

Customer	Date of service agreement	Date of first transaction
CMS Marketing Services and Trading Co.	6/26/97	6/24/97
Commonwealth Edison Company	8/15/97	6/24/97
Delhi Energy Services, Inc	8/7/97	7/15/97
Federal Energy Sales, Inc	1/13/97	(1)
Koch Energy Trading, Inc	2/10/97	6/24/97

[1] None to date.

Detroit Edison requests that all the Service Agreements except the Service Agreement with Federal Energy Sales, Inc., be made effective as of December 15, 1997. Detroit Edison requests that the Service Agreement with Federal Energy Sales, Inc., be made effective as of October 1, 1997.

Comment date: November 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. PP&L, Inc.

[Docket No. ER98–203–000]

Take notice that on October 17, 1997, PP&L, Inc., (formerly known as Pennsylvania Power & Light Company) (PP&L), filed a Service Agreement dated September 30, 1997, with Atlantic City Electric Company (ACE) under PP&L's FERC Electric Tariff, Original Volume No. 5. The Service Agreement adds ACE as an eligible customer under the Tariff.

PP&L requests an effective date of October 17, 1997, for the Service Agreement.

PP&L states that copies of this filing have been supplied to ACE and to the Pennsylvania Public Utility Commission.

Comment date: November 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Portland General Electric Company

[Docket No. ER98–204–000]

Take notice that on October 17, 1997, Portland General Electric Company (PGE), tendered for filing under PGE's Final Rule pro forma tariff (FERC Electric Tariff Original Volume No. 8, Docket No. OA96–137–000), executed Service Agreements for Short-Term Firm and Non-Firm Point-to-Point Transmission Service with Cook Inlet Energy Supply.

Pursuant to 18 CFR Section 35.11, and the Commission's Order in Docket No. PL93–2–002 issued July 30, 1993, PGE respectfully requests that the Commission grant a waiver of the notice requirements of 18 CFR 35.3 to allow the Service Agreements to become effective October 15, 1997.

A copy of this filing was caused to be served upon Cook Inlet Energy Supply as noted in the filing letter.

Comment date: November 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. PacifiCorp

[Docket No. ER98–206–000]

Take notice that on October 17, 1997, PacifiCorp, tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, Service Agreements with the City of Port Angeles Light Department, Clallam County Public Utility District No. 1, Lewis County Public Utility District No. 1, Mason County Public Utility District No. 3, Pacific County Public Utility District No. 2 and Peninsula Light Company under PacifiCorp's FERC Electric Tariff, Original Volume No. 12.

Copies of this filing were supplied to the Public Utility Commission of Oregon and the Washington Utilities and Transportation Commission.

A copy of this filing may be obtained from PacifiCorp's Regulatory Administration Department's Bulletin Board System through a personal computer by calling (503) 464–6122 (9600 baud, 8 bits, no parity, 1 stop bit).

Comment date: November 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Sierra Pacific Power Company

[Docket No. ER98–207–000]

Take notice that on October 17, 1997, Sierra Pacific Power Company (Sierra), tendered for filing Service Agreements (Service Agreements) with the following entities for Point-to-Point Transmission Service under Sierra's Open Access Transmission Tariff (Tariff):

For Non Firm Point-to-Point Transmission Service

1. Delhi Energy Services, Inc.
2. NP Energy Inc.

For Short-Term Firm Point-to-Point Transmission Service

3. Delhi Energy Services, Inc.

Sierra filed the executed Service Agreements with the Commission in compliance with Sections 13.4 and 14.4 of the Tariff and applicable Commission Regulations. Sierra also submitted revised Sheet Nos. 148 and 148A (Attachment E) to the Tariff, which is an updated list of all current subscribers. Sierra requests waiver of the Commission's notice requirements to permit and effective date of October 21, 1997, for Attachment E, and to allow the Service Agreements to become effective according to their terms.

Copies of this filing were served upon the Public Service Commission of Nevada, the Public Utilities Commission of California and all interested parties.

Comment date: November 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Louisville Gas and Electric Company

[Docket No. ER98–208–000]

Take notice that on October 17, 1997, Louisville Gas and Electric Company, tendered for filing copies of service agreements between Louisville Gas and Electric Company and Electric Clearinghouse, Inc., under Rate GSS.

Comment date: November 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Louisville Gas and Electric Company

[Docket No. ER98–209–000]

Take notice that on October 17, 1997, Louisville Gas and Electric Company, tendered for filing copies of service agreements between Louisville Gas and Electric Company and Electric Clearinghouse, Inc., under Rate GSS.

Comment date: November 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. Multitrade of Pittsylvania County, L.P.

[Docket No. ER98–212–000]

Take notice that on October 17, 1997, Multitrade of Pittsylvania County, L.P. (MPC) Rate Schedule FERC No. 1, tendered for filing a notice of termination of Supplement No. 2 to Rate Schedule FERC No. 1. MPC states that the notice of termination would be effective December 31, 1997. Copies of the filing have seen served upon Virginia Power, the customer under the rate schedule.

Comment date: November 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. Union Electric Company

[Docket No. ER98–213–000]

Take notice that on October 20, 1997, Union Electric Company (UE), tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service between UE and Entergy Power Marketing Corp.,(EPM). UE asserts that the purpose of the Agreement is to permit UE to provide transmission service to EPM pursuant to UE's Open Access Transmission Tariff filed in Docket No. OA96–50.

Comment date: November 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. Union Electric Company

[Docket No. ER98–214–000]

Take notice that on October 20, 1997, Union Electric Company (UE), tendered for filing a Service Agreement for Firm Point-to-Point Transmission Service between UE and Entergy Power Marketing Corp. UE asserts that the purpose of the Agreement is to permit UE to provide transmission service to EPM pursuant to UE's Open Access Transmission Tariff filed in Docket No. OA96–50.

Comment date: November 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. Union Electric Company

[Docket No. ER98–215–000]

Take notice that on October 20, 1997, Union Electric Company (UE), tendered for filing Service Agreements for Market Based Rate Power Sales between UE and Carolina Power & Light Company, Coral Power L.L.C. and Western Resources, Inc. UE asserts that the purpose of the Agreements is to permit UE to make sales of capacity and energy at market based rates to the parties pursuant to UE's Market Based Rate Power Sales Tariff filed in Docket No. ER97–3664–000.

Comment date: November 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. PP&L, Inc.

[Docket No. ER98–216–000]

Take notice that on October 20, 1997, PP&L, Inc. (formerly known as Pennsylvania Power & Light Company)(PP&L), filed a Service Agreement dated October 13, 1997, with North American Energy Conservation, Inc. (NAEC), under PP&L's FERC Electric Tariff, Original Volume No. 5. The Service Agreement adds NAEC as an eligible customer under the Tariff.

PP&L requests an effective date of October 20, 1997, for the Service Agreement.

PP&L states that copies of this filing have been supplied to NAEC and to the Pennsylvania Public Utility Commission.

Comment date: November 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

24. Duke Energy Corporation

[Docket No. ER98–217–000]

Take notice that on October 20, 1997, Duke Power, a division of Duke Energy Corporation (Duke), tendered for filing a Transmission Service Agreement between Duke, on its own behalf and acting as agent for its wholly-owned subsidiary, Nantahala Power and Light Company, and PP&L, Inc., (the Transmission Customer), dated as of October 10, 1997. Duke requests that the TSA be made effective as a rate schedule as of October 10, 1997.

Comment date: November 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

25. IES Utilities Inc.

[Docket No. ER98–219–000]

Take notice that on October 15, 1997, IES Utilities Inc. tendered for filing revised transmission tariff sheet, Substitute Original Sheet No. 93.

The revised sheet was submitted to correct an error in the hourly delivery price included in paragraph 4. The price was originally filed as $.00625/MWH. The correct price should be $.00625/KWH.

Comment date: November 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

26. Central Hudson Gas & Electric Corporation

[Docket No. ER98–221–000]

Take notice that on October 20, 1997, Central Hudson Gas & Electric Corporation, tendered for filing a summary of activity conducted by CHG&E under the FERC approved Market Based Rate Tariff. Central Hudson did not engage in any Electrical Power Sales at market based rates during this time period.

Comment date: November 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

27. Ohio Valley Electric Corporation Indiana-Kentucky Electric Corporation

[Docket No. ER98–222–000]

Take notice that on October 21, 1997, Ohio Valley Electric Corporation (including its wholly-owned subsidiary, Indiana-Kentucky Electric Corporation)(OVEC) tendered for filing a Service Agreement for Non-Firm Point-To-Point Transmission Service, dated October 1, 1997,(the Service Agreement) between Williams Energy Services Company (WESCO) and OVEC. OVEC proposes an effective date of October 1, 1997 and requests waiver of the Commission's notice requirement to allow the requested effective date. The Service Agreement provides for non-firm transmission service by OVEC to WESCO.

In its filing, OVEC states that the rates and charges included in the Service Agreement are the rates and charges set forth in OVEC's Open Access Transmission Tariff.

A copy of this filing was served upon WESCO.

Comment date: November 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

28. Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma, Southwestern Electric Power Company

[Docket No. ER98–223–000]

Take notice that on October 20, 1997, Central Power and Light Company (CPL), West Texas Utilities Company (WTU), Public Service Company of Oklahoma (PSO) and Southwestern Electric Power Company (SWEPCO)(collectively, the CSW Operating Companies) submitted for filing a revised Schedule Request Form for ERCOT Ancillary Services for LG&E Power Marketing, Inc.

The CSW Operating Companies state that the filing has been served on LG&E and on the Public Utility Commission of Texas.

Comment date: November 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

29. Central Vermont Public Service Corporation

[Docket No. ER98–225–000]

Take notice that on October 21, 1997, Central Vermont Public Service Corporation (Central Vermont), tendered for filing a Service Agreement with Constellation Power Source under its FERC Electric Tariff No. 5. The tariff provides for the sale by Central Vermont of power, energy, and/or resold transmission capacity at or below Central Vermont's fully allocated costs.

Central Vermont requests waiver of the Commission's Regulations to permit the service agreement to become effective on October 21, 1997.

Comment date: November 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

30. American Ref-Fuel Company of Essex County

[Docket No. ER98–226–000]

Take notice that on October 21, 1997, American Ref-Fuel Company of Essex County, tendered for filing a Notice of Cancellation stating that effective the 22nd of December, 1997 Rate Schedule FERC No. 2 (Jersey Central Power & Light Company) and Supplement No. 1 to Rate Schedule FERC No. 2 (Jersey Central Power & Light Company), effective no earlier than January 1, 1993, upon conditions precedent, are cancelled.

Comment date: November 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

31. Duke Power Company

[Docket No. FA95–38–001]

Take notice that on October 24, 1997, Duke Power Company tendered for filing its refund report in the above-referenced docket.

Comment date: November 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–29607 Filed 11–7–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice; Sunshine Act Meeting

November 5, 1997.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552B:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: 10:00 a.m., November 12, 1997.

PLACE: Room 2C 888 First Street, N.E., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, telephone (202) 208–0400. For a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the reference and information center.

Consent Agenda—Hydro

685th Meeting—November 12, 1997; Regular Meeting (10:00 a.m.)

CAH–1.
Docket No. HB52–92–3–005, York Haven Power Company

CAH–2.
Project No. 2113–079, Wisconsin Valley Improvement Company
Project No. 2339–016, Tomahawk Power and Pulp Company
Project Nos. 2476–014 and 1999–024, Wisconsin Public Service Corporation
Project No. 2212–014, Weyerhaeuser Company
Project Nos. 2590–021 and 2256–023, Consolidated Water Power Company
Project Nos. 2255–026, 2291–026 and 2292–024, Nekoosa Papers, Inc.

CAH–3.
Project No. 2409–093, Calaveras County Water District

CAH–4.
Project No. 11545–002, Allen Ross

CAH–5.
Project No. 2523–007, N.E.W. Hydro, Inc.
Project No. 11498–000, City of Oconto Falls, Wisconsin

Consent Agenda—Electric

CAE–1.

Docket No. ER97–4281–000, NRG Power Marketing, Inc.
CAE–2.
Docket No. ER97–4636–000, Nev, L.L.C.
Docket No. ER97–4652–000, Nev East, L.L.C.
Docket No. ER97–4653–000, Nev California, L.L.C.
Docket No. ER97–4654–000, Nev Midwest, L.L.C.
CAE–3.
Docket No. ER97–4745–000, Alpena Power Marketing, L.L.C.
CAE–4.
Docket No. ER97–4724–000, Southern California Edison Company, Montana Power Company, Nevada Power Company, Pacificorp, Pacific Gas and Electric Company and Sierra Pacific Power Company
CAE–5.
Docket No. ER97–4637–000, Florida Power & Light Company
CAE–6.
Docket No. ER97–4466–000, Midamerican Energy Company
CAE–7.
Docket No. ER97–4691–000, Montaup Electric Company
CAE–8.
Docket No. ER97–851–001, H.Q. Energy Services (U.S.) Inc.
CAE–9.
Docket Nos. NJ96–1–002 and 003, South Carolina Public Service Authority
CAE–10.
Docket No. ER96–894–000, Baltimore Gas and Electric Company
CAE–11.
Docket Nos. ER95–1586–000, 001, EL96–17–000 OA96–184–000, Citizens Utilities Company
CAE–12.
Docket No. ER97–905–001, Pacific Gas and Electric Company
CAE–13.
Omitted
CAE–14.
Docket No. ER96–1121–002, Duke/Louis Dreyfus Energy Services (New England) L.L.C.
CAE–15.
Docket No. AC91–110–001, Pacificorp
CAE–16.
Docket No. NJ97–9–000, Colorado Springs Utilities
CAE–17.
Docket No. NJ97–12–000, Southern Minnesota Municipal Power Agency

Consent Agenda—Gas and Oil

CAG–1.
Docket No. RP98–18–000, Iroquois Gas Transmission System, L.P.
CAG–2.
Docket No. RP96–348–003, Panhandle Eastern Pipe Line Company
CAG–3.
Omitted
CAG–4.
Docket No. RP97–373–002, Koch Gateway Pipeline Company
CAG–5.
Docket No. RP95–363–010, EL Paso Natural Gas Company
CAG–6.
Docket Nos. RP97–455–002 and 001, Overthrust Pipeline Company
CAG–7.
Docket No. RP97–445–001, Tennessee Gas Pipeline Company
CAG–8.
Docket No. RP96–200–012, Noram Gas Transmission Company
CAG–9.
Docket No. RP96–320–005, Koch Gateway Pipeline Company
CAG–10.
Docket No. RP97–185–001, Panhandle Eastern Pipe Line Company
CAG–11.
Docket No. RP97–186–001, Trunkline Gas Company
CAG–12.
Docket No. RP97–342–002, Kern River Gas Transmission Company
CAG–13.
Docket Nos. RP97–451–002 and 001, Questar Pipeline Company
CAG–14.
Docket No. RP96–389–002, Columbia Gulf Transmission Company
Docket No. RP96–390–002, Columbia Gas Transmission Corporation
CAG–15.
Omitted
CAG–16.
Docket No. RP97–148–001, Williston Basin Interstate Pipeline Company
CAG–17.
Omitted
CAG–18.
Docket No. RP97–81–002, K N Interstate Gas Transmission Company
CAG–19.
Docket No. RP96–312–004, Tennessee Gas Pipeline Company
CAG–20.
Docket No. RP97–82–000, GPM Gas Corporation V. EL Paso Natural Gas Company
CAG–21.
Docket Nos. CP93–252–003 and CP93–253–003, EL Paso Natural Gas Company
CAG–22.
Docket No. CP94–183–004, EL Paso Natural Gas Company
CAG–23.
Docket No. CP95–194–004, Northern Border Pipeline Company
CAG–24.
Docket No. CP96–201–001, Algonquin Gas Transmission Company
CAG–25.
Docket No. CP96–541–001, Southern Natural Gas Company
CAG–26.
Docket No. CP96–696–001, East Tennessee Natural Gas Company
CAG–27.
Omitted
CAG–28.
Docket No. CP97–294–001, Natural Gas Pipeline Company of America
CAG–29.
Docket No. CP97–738–001, Transok, Inc.
CAG–30.
Docket Nos. CP96–655–000 and 001, Destin Pipeline Company, L.L.C.
Docket Nos. CP97–291–000 and 001, Southern Natural Gas Company and Destin Pipeline Company, L.L.C.
CAG–31.
Omitted
CAG–32.
Docket No. CP97–675–000, U.S. General Services Administration
CAG–33.
Docket No. CP97–706–000, Williams Natural Gas Company
CAG–34.
Docket No. CP97–337–000, Koch Gateway Pipeline Company
CAG–35. Docket Nos. CP97–516–000 and 001, Transwestern Pipeline Company
CAG–36.
Omitted
CAG–37.
Docket No. CP97–672–000, Panhandle Eastern Pipe Line Company
Docket No. CP97–671–000, Panhandle Field Services Company
CAG–38.
Docket No. CP97–533–000, Chevron U.S.A. Inc., Venice Gathering Company, Venice Gathering System, L.L.C. and Venice Energy Services Company
Docket No. CP97–534–000, Chevron U.S.A. Inc., Venice Gathering Company, Venice Gathering System, L.L.C. and Venice Energy Services Company
Docket No. CP97–535–000, Chevron U.S.A. Inc., Venice Gathering Company, Venice Gathering System, L.L.C. and Venice Energy Services Company
CAG–39.
Docket No. IS98–2–000, Amoco Pipeline Company

Hydro Agenda

H–1.
Docket No. EL95–35–000, Kootenai Electric Cooperative, Inc., Clearwater Power Company, Idaho County Light & Power Cooperative Association, Inc. and Northern Lights, Inc. v. Public Utility District No. 2 of Grant County, Washington, Order on Initial Decision.

Electric Agenda

E–1. Docket Nos. EC96–13–000, 001, ER96–1236–000, 001, ER96–2560–000 and 001, IES Utilities, Inc., Interstate Power Company, Wisconsin Power & Light Company, South Beloit Water, Gas & Electric Company, Heartland Energy Services and Industrial Energy Applications, Inc., Opinion and Order on Proposed Merger.

Oil and Gas Agenda

I. Pipeline Rate Matters

PR–1.
Docket No. RM96–1–007, Standards for Business Practices of Interstate Natural Gas Pipelines, Notice of Proposed Rulemaking and Policy Statement.
PR–2.
Docket Nos. RP97–391–000 and RP97–149–002, Gas Research Institute
Docket No. RM97–3–000, Research, Development and Demonstration Funding, Opinion and Order on Gas Research Institute's 1998 Budget and on Proposed Settlement.

II. Pipeline Certificate Matters

PC–1.
Reserved

Lois D. Cashell,
Secretary.

[FR Doc. 97–29732 Filed 11–6–97; 11:54 am]
BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5918–1]

Proposed Modification of a General NPDES Permit for Facilities Related to Oil and Gas Extraction on the North Slope of the Brooks Range, Alaska (Permit Number AKG–31–0000)

AGENCY: Environmental Protection Agency, (EPA).

ACTION: Notice of proposed modification of a general permit.

SUMMARY: This proposed modification of a general permit is intended to regulate activities related to the extraction of oil and gas on the North Slope of the Brooks Range in the state of Alaska. The proposed modified general permit includes a provision to extend the area of coverage to include facilities off-shore of the North Slope Borough of Alaska. The extension would cover sanitary and/or domestic wastewater discharges, construction dewatering, and hydrostatic test water. The proposed modified general permit also includes a new outfall designation for the discharge of hydrostatic test waters. In addition, several sections of the permit have been changed to provide clarification on issues that have been confusing during the administration of the permit to date. When issued, the proposed modified permit will establish effluent limitations, standards, prohibitions and other conditions on discharges from covered facilities. These conditions are based on existing national effluent guidelines, the state of Alaska's Water Quality Standards and material contained in the administrative record. A description of the basis for the conditions and requirements of the proposed modified general permit is given in the fact sheet.

DATES: Interested persons may submit comments on the draft general permit to EPA, Region 10 at the address below. Comments must be received in the operations Office by December 10, 1997.

ADDRESSES: Comments on the proposed modified general permit should be sent to Cindi Godsey, U.S. EPA, Region 10; Alaska Operations Office, 222 W. 7th Street #19, Anchorage, Alaska, 99513–7588.

FOR FURTHER INFORMATION CONTACT: Copies of the Draft Modified Permit and Fact Sheet are available upon request. Requests may be made to Jeanette Carriveau at (206) 553–1214 or to Cindi Godsey at (907) 271–6561. Requests may also be electronically mailed to:

CARRIVE-AU.JEANETTE@EPAMAIL.EPA.GOV
or
GODSEY.CINDI@EPAMAIL.EPA.GOV

SUPPLEMENTARY INFORMATION:

Executive Order 12866

The Office of Management and Budget has exempted this action from the review requirements of Executive Order 12866 pursuant to Section 6 of that order.

Regulatory Flexibility Act:

After review of the facts presented in the notice printed above, I hereby certify pursuant to the provision of 5 U.S.C. 605(b) that this modified general NPDES permit will not have a significant impact on a substantial number of small entities. Moreover, the permit reduces a significant administrative burden on regulated sources.

Dated: October 30, 1997.
Philip G. Millam,
Director, Office of Water, Region 10

Fact Sheet

United States Environmental Protection Agency, Region 10, Anchorage Operations Office, Room 537, Federal Building 222 W. 7th Avenue, #19 Anchorage, Alaska 99513–7588, (907) 271–6561

Date: November 3, 1997.
General Permit No. AKG–31–0000.
PROPOSED MODIFICATION OF A GENERAL NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT TO DISCHARGE POLLUTANTS PURSUANT TO THE PROVISIONS OF THE CLEAN WATER ACT (the Act) FOR

Facilities Related To Oil and Gas Extraction

This fact sheet includes (a) the tentative determination of the Environmental Protection Agency (EPA) to modify the general permit, (b) information on public comment, public hearing and appeal procedures, (c) a description of the proposed discharges, and (d) a listing of tentative effluent limitations and other conditions.

Persons wishing to comment on the tentative modifications contained in the proposed modified general permit may do so by the expiration date of the Public Notice. All written comments should be submitted to EPA as described in the Public Comments section.

After the expiration date of the Public Notice, the Director, Office of Water, will make final determinations with respect to permit issuance. A General Permit follows rulemaking procedures so EPA's issuance and promulgation activities must be conducted in accordance with the Administrative Procedure Act (APA). The modifications in this general permit will become effective 30 days after publication of the final modified general permit in the **Federal Register** according to section 553(d) of the APA. Anyone wishing to appeal the modifications in this general permit must do so in court according to 40 CFR 124.71. Interested persons may challenge the modifications, within 120 days of issuance, in the Circuit Court of Appeals of the United States under section 509(b)(1) of the Act.

The proposed NPDES modified general permit and other related documents are on file and may be inspected at the above address any time between 8:30 a.m. and 4:00 p.m., Monday through Friday. Copies and other information may be requested by writing to EPA at the above address to

the attention of Cindi Godsey, or by calling (907) 269–6561.

Technical Information

1. Summary of Modifications

This proposed modified general permit includes a provision to extend the area of coverage to include facilities off-shore of the North Slope Borough of Alaska. This coverage area is already in effect for discharges from ice roads constructed of gravel pit water. The extension would cover sanitary and/or domestic wastewater discharges and construction dewatering.

The modified proposed permit also includes a new outfall designation for the discharge of hydrostatic test waters. Hydrostatic testing must be done when pipe segments are newly installed or replaced. Water is used to pressure test the pipe to verify mechanical strength and integrity. This water is discharged when the hydrostatic testing is completed. Waters from hydrostatic testing can contain small quantities of residual materials that are left in the pipe prior to testing such as dust and welding slag. Common treatment and control measures used for hydrostatic testing waters include one or more of the following methods: velocity reduction on splash pads; erosion control; rubble mound infiltration into dry stream channels; settling ponds; pumping to upland areas; and/or pumping to ice and snow. The location and volume of discharges depend upon circumstances or the particular project involved.

Several sections of the permit have been changed to provide clarification on issues that have been confusing during the administration of the permit to date. The monitoring requirements for settleable solids and turbidity have been changed to eliminate measurement of "natural conditions" if the effluent levels are low enough. Also, some changes have been made based on the additions, changes in regulation and redundancy of permit requirements. Renumbering of Permit Parts where necessary and the correction of typographical errors has been done without being noted.

The basis for these additions and changes follow.

2. Coastal Guidelines

The New Source Performance Standards in the Oil and Gas Extraction Point Source Category—Subpart D, Coastal Subcategory were promulgated December 16, 1996 (61 FR 66129). These include a provision for no discharge of garbage. This provision was not included in the original general permit, but is being added in this modification.

3. Receiving Waters

The receiving waters for the hydrostatic test water discharges are waters of the United States including tundra wetlands along the Chukchi and Beaufort Sea coasts, which are classified in 18 AAC 70 as Classes (1)(A), (B), and (C) for use in drinking, culinary, and food processing, agriculture, aquaculture, and industrial water supply; contact and secondary recreation; and growth and propagation of fish, shellfish, other aquatic life and wildlife. Since these waterbodies are protected for all uses, the most restrictive water quality standards will be applied in this modified general permit.

The receiving waters for the man camp sanitary and domestic discharges, hydrostatic test water discharges and construction dewatering in this permit modification include marine waters of the Chukchi or Beaufort Seas, which are classified in 18 AAC 70 as Classes (2)(A), (B), (C), and (D) for use in aquaculture, seafood processing, and industrial water supply; contact and secondary recreation; growth and propagation of fish, shellfish, other aquatic life, and wildlife; and harvesting for consumption of raw mollusks or other raw aquatic life.

4. Ocean Discharge Criteria Evaluation

EPA has finalized a document entitled "Ocean Discharge Criteria Evaluation for Area of Coverage Under the Arctic NPDES General Permit for Oil and Gas Exploration" (ODCE). Since this document covers the same area and the same or similar pollutants of concern as this modified draft general permit, EPA is proposing to use this document to satisfy the requirements of section 403 of the Act.

The additional discharges contained within this modified draft general permit that may be made to marine waters are sanitary and domestic wastewater from construction and operation camps, construction dewatering and hydrostatic test water discharges.

The ODCE directly addresses the discharge of sanitary and domestic wastewaters. Sanitary discharges in the modified draft general permit are required to meet the state's secondary treatment standards as well as the state's water quality standards for fecal coliform and chlorine. Domestic discharges are not measured analytically, but are not expected to produce substantial pollutant loading. Neither of these discharges are expected to have a detrimental effect on the marine environment.

The ODCE does not specifically address discharges from construction dewatering or hydrostatic test water discharges, but comparisons can be made. The water from both types of discharges must meet effluent limitations included in the permit. If followed, these limitations should assure a low level of sediment and turbidity, the primary pollutants of concern in the discharges. These discharges should be considered less of an environmental impact than the discharge of cement slurries which are addressed in the ODCE. No adverse impacts are expected from cement discharges so it is also expected that no adverse impacts will occur from construction dewatering or hydrostatic testing water discharges if the effluent limitations of the permit are met.

5. Statutory Basis For Permit Conditions

Sections 301(b), 304, 308, 401, 402 and 403 of the Act provide the basis for the permit conditions contained in the modified draft general permit. The general requirements of these sections fall into three categories, which are described below. A discussion of the basis for specific permit conditions follows in part 6.

A. Technology-Based Effluent Limitations

NPDES permits for industrial dischargers must incorporate effluent limitations which are based on the wastewater treatment technology that can be applied to each type of industry. The Act provides for the implementation of technology-based effluent limitations in two stages. First, dischargers were required to achieve effluent limitations which reflect the application of the best practicable control technology currently available (BPT). Second, dischargers were required to achieve effluent limitations which result from best available technology economically achievable (BAT) and best conventional pollutant control technology (BCT). BCT effluent limitations apply only to conventional pollutants (pH, BOD, oil and grease, suspended solids, and fecal coliform). In no case may BCT or BAT be less stringent than BPT. Where EPA has not yet developed guidelines for a particular industry, permit conditions must be established using Best Professional Judgement (BPJ) procedures. BPT will be used in lieu of BCT and BAT where EPA has not established these technology-based limitations.

The effluent guidelines used in this modified general permit are part 435—Oil and Gas Extraction Point Source Category, Subpart A—Off-shore Category. The New Source Performance Standard (NSPS) limitations are applied to the discharge of sanitary and/or domestic wastewaters [40 CFR 435.15].

B. State of Alaska Water Quality Standards and Limitations

Section 301(b)(1) of the Act requires the establishment of limitations in permits necessary to meet water quality standards by July 1, 1977. All discharges to state waters must comply with state and local coastal management plans as well as with state water quality standards, including the state's antidegradation policy. Discharges to state waters must also comply with limitations imposed by the state as part of its coastal management program consistency determinations, and of its certification of NPDES permits under section 401 of the Act.

The NPDES regulations at 40 CFR 122.44(d)(1) require that permits include water quality-based limits which "Achieve water quality standards established under section 303 of the CWA, including State narrative criteria for water quality."

C. Section 308 of the Clean Water Act

Under section 308 of the Act and 40 CFR 122.44(i), the Director must require a discharger to conduct monitoring to determine compliance with effluent limitations and to assist in the development of effluent limitations. EPA has included several monitoring requirements in this permit, as listed below.

6. Specific Permit Conditions

The determination of appropriate conditions for each discharge was accomplished through consideration of technology-based effluent limitations and inclusion of permit terms necessary to ensure compliance with state water quality standards. Discussions of the specific effluent limitations and monitoring requirements appear below.

A. Modular Camp Discharges—Off-shore

(1) Sanitary Wastewater Discharges

The sanitary wastes are made up of human body wastes from the toilets and urinals. The volume and concentration of these wastes vary widely with time, occupancy, and operational status.

(A) Technology-based limitations

(i) NSPS Requirements [40 CFR 435.15]

(a) Floating solids: For sanitary wastes the NSPS level of treatment prohibits floating solids for facilities continuously manned by 9 or fewer persons or intermittently manned by any number of persons.

(b) Chlorine: The requirement of maintaining residual chlorine levels as close as possible to, but no less than 1 mg/L for sanitary discharges for facilities staffed by 10 or more people.

(ii) Secondary Treatment [18 AAC 72.040 and 18 AAC 72.990(64)]

(a) Biochemical Oxygen Demand (BOD_5): The regulations for secondary treatment require that BOD meet a 7 day average of 45 mg/L, a 30 day average of 30 mg/L and the arithmetic mean of the values for effluent samples collected in a 24-hour period does not exceed 60 mg/L.

(b) Total Suspended Solids (TSS): The regulations for secondary treatment require that SS meet a 7 day average of 45 mg/L, a 30 day average of 30 mg/L and the arithmetic mean of the values for effluent samples collected in a 24-hour period does not exceed 60 mg/L.

(c) pH: pH levels be maintained between 6 and 9 standard units.

(B) State Water Quality Standards [18 AAC 70]

The waterbodies considered to be potential receiving waters under this general permit are protected for all uses. The most protective criteria will be used in the permit. The marine and fresh water criteria result in identical permit limitations that are identical except for fecal coliform.

(i) Fecal Coliform: The most protective criteria for fecal coliform is for the Harvesting for Consumption of Raw Mollusks or Other Raw Aquatic Life. The water quality standards (WQS) state, "Based on a 5-tube decimal dilution test, the fecal coliform median MPN may not exceed 14 FC/100 ml, and not more than 10% of the samples may exceed a fecal coliform median MPN of 43 FC/100 ml."

(ii) Chlorine: The most protective criteria for chlorine is for aquaculture. The WQS state, "May not exceed 2.0 µg/l for salmonid fish or 10.0 µg/l for other organisms." The term "salmonid fish" is defined in the permit as the family of fish, Salmonidae, which includes salmon, trout, grayling, whitefish, char, ciscoe and inconnu. The permit is structured so that there is some flexibility for those facilities discharging to waterbodies not designated for salmonid fish. The permittee is expected to consult Alaska Department of Fish and Game to determine whether the more restrictive limitation applies to their facility.

(iii) pH: The most protective limitations are for aquaculture and the growth and propagation of fish, shellfish, other aquatic life and wildlife. This level is 6.5 to 8.5 standard units.

A mixing zone for chlorine was incorporated into the original general permit through the § 401 Certification for tundra discharges of sanitary wastewater. It is expected that a similar provision for sanitary wastewater discharges to an off-shore ice environment will be included in the § 401 Certification of this general permit modification. If the State does not include the mixing zone, the water quality standards for chlorine will apply at the end of the pipe. The limitation on fecal coliform will assure that disinfection requirements are met without invoking the technology-based limitation requiring a minimum chlorine level.

(2) Domestic Wastewater Discharges

Domestic wastewater refers to materials discharged from sinks, showers, laundries, safety showers, eyewash stations and galleys.

(A) Technology-based Limitations

NSPS Requirements [40 CFR 435.15]

(i) No discharge of Floating solids.

(ii) No discharge of Foam.

(iii) No discharge of garbage.

(B) Water quality-based Limitations

Oil and Grease. Applicable state standards for oil and grease are limited to "shall not cause a film, sheen, or discoloration on the surface or floor of the water body or adjoining shorelines." The potential source of oil and grease in this discharge would be excess cooking oils. While the ordinary cleaning of utensil and cooking appliances is acceptable, the discharge of excess cooking oil is not. EPA has determined that the state criteria can be met by requiring that no kitchen oils from food preparation be mixed with the wastewater being discharged.

The requirement of low phosphate detergent use shall be included in the BMP Plan required for this type of discharge. The inclusion of this BMP will avoid the need for a phosphate limit yet still control nutrient loading.

(3) Combined Discharges

If sanitary wastewaters are combined with domestic wastewaters, the entire flow is then considered to be sanitary wastewater and the limitations contained in the permit for sanitary wastes apply to the discharge.

B. Hydrostatic Test Water

(1) Technology-Based Limitations

There are no EPA effluent guidelines for discharges from hydrostatic testing. Therefore, the limitations in this permit are based on Best Professional Judgement (BPJ) which has been

established for this type of discharge in the permit for Alyeska Pipeline Service, AK–005056–3. For this discharge, EPA is required to establish limitations that can be achieved through the use of Best Conventional Pollutant Control Technology (BCT).

Sediment. The constituents of the discharge generated by hydrostatic testing are primarily small quantities of inorganic residual materials that are left in the pipe prior to testing, such as dust and welding slag. It has been determined that appropriate technology for these discharges are physical treatment methods, such as filtration, overland treatment, and/or settling ponds that can control settleable solids and turbidity. This technology is therefore established as BCT and BAT for hydrostatic testing discharges. The effluent limit for sediment is 0.2 ml/L.

Water Quality-Based Limitations

(A) Sediment. There is a reasonable potential for violations to occur should pumping be conducted improperly. The sediment criteria calls for "no measurable increase in concentrations of settleable solids above natural conditions, as measure by the volumetric Imhoff cone."

(B) Turbidity. Due to the nature of the discharge, a turbidity limitation is being proposed in the general permit for this category of discharge. According to the WQS, the most protective turbidity criteria applies to fresh water sources classified for use as drinking water and contact recreation not exceed 5 nephelometric turbidity units (NTU) above natural conditions when the natural turbidity when is 50 NTU or less; and more than 10% increase in turbidity when the natural conditions is more than 50 NTU, not to exceed a maximum increase of 25 NTU." The most protective marine criteria is for aquaculture, contact and secondary recreation and states "May not exceed 25 nephelometric turbidity units (NTU)."

(C) pH. For fresh waters, the most protective limitations on pH are for aquaculture and contact recreation. This level is 6.5 to 8.5 standard units. For marine waters, the most protective limitations are for aquaculture and the growth and propagation of fish, shellfish, other aquatic life and wildlife. This level is 6.5 to 8.5 standard units.

Oil and Grease/Hydrocarbons. Applicable state standards for oil and grease are limited to "shall not cause a film, sheen, or discoloration on the surfaces or floor of the water body or adjoining shorelines." EPA has determined that the state criteria can be met by a requirement of no discharge of floating solids, visible foam, or oily wastes which produce a sheen on the surface of the receiving water.

7. Best Management Practices (BMP) Plan and Monitoring Requirements

The justification for these requirements in the modified general permit are the same as those used in the original general permit.

8. Notice of Intent (NOI) Language Modification

The language in the original general permit was confusing to many permittees. The intent of the original language was to give exploration facilities the opportunity to notify EPA that there was going to be a discharge without specifying exactly where it would be until the last minute. The confusion came on the part of operators who knew where they would be and when they would be there.

The new language does several things. It requires only one notice if a facility knows where the discharge will be when the notice is filed. The language still gives the opportunity to submit a notice without knowing an exact location and then giving more details at a later date. The language keeps the ability of a mobile camp to designate an area of coverage rather than a single point of discharge. The new language also clarifies the misconception that a permit was not effective until 45 days after the NOI was submitted. This was never the intent of this section. If an NOI was received on September 26 and the discharge was authorized by letter on September 29, the permit has no restrictions making the effective date of the permit 45 days after September 26. There are some permits that specify winter discharges that were issued in the summer. There is an expectation that a time delay applies in those instances.

9. Settleable Solids and Turbidity

The footnote in tables where settleable solids monitoring is required has been changed so that monitoring of natural conditions is not mandatory if the effluent levels of this parameter are at low levels. This change occurs in the sections for gravel pit dewatering and construction dewatering. The water quality standards indicate that the limit on sediment via measuring settleable solids is "No increase above natural conditions." A facility reporting non-detect (less than the detection level of 0.2 ml/L) for the discharge would be in compliance with the water quality standard no matter what the level of sediment was in the receiving water.

The turbidity monitoring requirements have also been changed so that measurement of natural conditions is not required should the effluent measures show low levels. This change occurs in the sections for construction dewatering and appears in the section for hydrostatic testing discharges. The water quality standards indicate that the limit on turbidity is "5 NTUs above natural conditions." A facility reporting 5 NTUs or less for the discharge would be in compliance with the water quality standard no matter what the level of turbidity was in the receiving water.

10. Redundancies, Changes and Additions

A. Redundancies

(1) In Permit Part I.A. there seemed to be a redundancy in the table saying that discharges from these were covered in marine waters and then footnoting it to say that this would be off-shore of the coverage area. The footnote has been eliminated.

(2) In Permit Parts II.A.1.c., II.A.3. and II.B.3. the original general permit required that a discharge be moved every 5 days with the basis of this requirement being avoidance of chlorine burn as well as nutrient and/or sediment loading of the tundra. This level of control is also expressed in the BMP requirements for these sections so the requirement dictating how something might be done has been removed since that the permit already says it must be done. This give facilities more flexibility in how they meet these requirements of the permit.

(3) Permit Parts II.C.2. and II.D.2. have monitoring requirements that are specific to open water discharges when Permit Parts II.C.3.b. and II.D.3.b. say that monitoring to non-open waters does not apply. The footnotes in the tables have been revised to eliminate the mention of discharges to open waters.

B. Changes

(1) In the original general permit, Permit Parts II.C.3.b. and II.D.3.b. said, "Although effluent limitations will not be measured * * *" In the development of this modification, it was pointed out that limitations are not measured but parameters are. This change has been incorporated into this modification.

(2) Permit Part IV.B.1. lists the civil and administrative penalties for a violation of the permit as $25,000. A change to $27,500 was noticed in the **Federal Register** (61 FR 69369, December 31, 1996) so this new level is included in the modification of this general permit.

(3) Permit part II.F.1. has been changed due to changes in the notification requirements to gain coverage under this general permit. Since the second notice is no longer required from all facilities, the BMP Plan is required to be certified at least seven days prior to the initiation of discharges. The time frame is the same as in the original general permit but the link to a second notice has been removed.

C. Additions

In Permit Part VI. (Definitions), the definitions of the terms garbage, offshore, open waters and victual waste have been added based on other additions and changes to the general permit.

11. Other Legal Requirements

A. Oil Spill Requirements

Section 311 of the Act prohibits the discharge of oil and hazardous materials in harmful quantities. Routine discharges specifically controlled by a permit are excluded from the provisions of section 311. However, this general permit does not preclude the institution of legal action or relieve permittees from any responsibilities, or penalties for other, unauthorized discharges of oil and hazardous materials which are covered by section 311 of the Act.

B. Coastal Zone Management Act

A determination that the activities allowed by this draft modified general permit are consistent with the Alaska Coastal Management Plan must be made in accordance with the Coastal Zone Management Act before a permit will be issued.

C. State Water Quality Standards and State Certification

Whereas state waters are involved in this draft modified general permit, the provisions of section 401 of the Act will apply. Furthermore, in accordance with 40 CFR 124.01(c)(1), public notice of the draft modified permit has been provided to the State of Alaska and Alaska state agencies having jurisdiction over fish, shellfish, and wildlife resources, and over coastal zone management plans.

D. Marine Protection, Research and Sanctuaries Act

No marine sanctuaries as designated by this Act exist in the vicinity of the permit areas.

E. Endangered Species Act

EPA has made a decision that the discharges authorized in this modified general permit are not likely to affect species of concern in the project area. Letters were sent to the U.S. Fish and Wildlife Service (USFW) and to the National Marine Fisheries Service (NMFS) on October 6, 1997, requesting information to the extent of threatened and endangered species on the North Slope of Alaska relating to the modifications in this proposed modified general permit.

References

Eddy, Samuel and James C. Underhill. How to know the freshwater fishes.
Snoeyink, Vernon L. and David Jenkins. 1980. Water Chemistry.
U.S. EPA. 1993. Guidance Manual for Developing Best Management Practices (BMP). October 1993.
U.S. EPA. 1995. Ocean Discharge Criteria Evaluation for Area of Coverage Under the Arctic NPDES General Permit for Oil and Gas Exploration. Prepared with the assistance of Tetra Tech, Inc. March 1995.
National Pollutant Discharge Elimination System (NPDES) permit AK–005056–3 with corresponding fact sheet. Effective July 30, 1993. Expires July 30, 1998.

[FR Doc. 97–29392 Filed 11–7–97; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority 5 CFR 1320 Authority, Comments Requested.

November 4, 1997.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Persons wishing to comment on this information collection should submit comments January 9, 1997.

ADDRESSES: Direct all comments to Jerry Cowden, Federal Communications Commission, Room 240–B, 2000 M St., N.W., Washington, DC 20554, or via internet to jcowden@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s) contact Jerry Cowden at 202–418–0447 or via internet at jcowden@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0314.
Title: 47 CFR 76.209 Fairness doctrine; personal attacks; political attacks.
Form No.: N/A.
Type of Review: Extension of a currently approved collection.
Respondents: Businesses or other for-profit entities.
Number of Respondents: 1,312.
Estimated Time Per Response: 2–3 hours.
Total Annual Burden: We estimate that there are approximately 525 cablecast personal attacks made on an annual basis which would require cable operators to comply with the notification requirements set forth in 76.209(b). The average burden for cable operators to comply with these notification requirements is estimated to be 2 hours per incident. 525 notifications of cablecast personal attacks×2 hours=1,050 hours. We estimate that there are approximately 787 cablecast political editorials made on an annual basis which would require cable operators to comply with the notification requirements set forth in 76.209(d). The average burden for cable operators to comply with these notification requirements is estimated to be 3 hours per cablecast. 787×3 hours=2,361 hours. Total estimated annual burden to respondents=1,050+2,361=3,411 hours.
Needs and Uses: Section 76.209(b) requires that when, during origination cablecasting, an attack is made upon the honesty, character, integrity, or like personal qualities of an identified person or group, the respective cable television system operator shall, within a reasonable time and in no event later than one week after the attack, transmit to the person or group attacked (1) notification of the date, time and

identification of the cablecast; (2) a script, tape or accurate summary of the attack; and (3) an offer of a reasonable opportunity to respond to the attack over the licensee's facilities. The provisions of paragraph (b) of Section 76.209 do not apply to cablecast material which falls within one or more of the following categories: (1) Personal attacks on foreign groups or foreign public figures; (2) personal attacks occurring during uses by legally qualified candidates; (3) personal attacks made during cablecasts by legally qualified candidates, their authorized spokespersons or those associated with them in the campaign, on other such candidates, their spokespersons or persons associated with the candidates in the campaign; and (4) bona fide newscasts, news interviews, and on-the-spot coverage of bona fide news events, including commentary or analysis contained in the foregoing programs. Additionally, Section 76.209(d) requires that when a cable television system operator in an editorial endorses or opposes a legally qualified candidate, the operator shall, within 24 hours of the editorial, transmit to the other qualified candidate(s) for the same office or the candidate opposed, notification of the date, time and channel of the editorial; a script or tape of the editorial; and an offer of a reasonable opportunity to respond over the system's facilities.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–29512 Filed 11–7–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting; Sunshine Act Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10:00 a.m. on Wednesday, November 12, 1997, to consider the following matters:

Summary Agenda

No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous Board of Directors' meetings.

Reports of actions taken pursuant to authority delegated by the Board of Directors.

Memorandum re: Executive Management Report for September 1997.

Memorandum and resolution re: Final Amendment to Part 363—Annual Independent Audits and Reporting Requirements.

Discussion Agenda

Memorandum and resolution re: BIF Assessment Rates.

Memorandum and resolution re: SAIF Assessment Rates.

The meeting will be held in the board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, DC.

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (202) 416–2449 (Voice); (202) 416–2004 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at (202) 898–6757.

Dated: November 5, 1997.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 97–29708 Filed 11–6–97; 10:50 am]

BILLING CODE 6714–01–M

FEDERAL HOUSING FINANCE BOARD

Sunshine Act Meeting; Announcing an Open Meeting of the Board

TIME AND DATE: 10:00 a.m., Wednesday, November 12, 1997.

PLACE: Board Room, Second Floor, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

STATUS: The entire meeting will be open to the public.

MATTERS TO BE CONSIDERED DURING PORTIONS OPEN TO THE PUBLIC:

- The Federal Home Loan Bank of Seattle Pilot Project
- Board Procedures for Processing Federal Home Loan Banks Pilot Programs

CONTACT PERSON FOR MORE INFORMATION: Elaine L. Baker, Secretary to the Board, (202) 408–2837.

William W. Ginsberg,

Managing Director.

[FR Doc. 97–29713 Filed 11–6–97; 11:11 am]

BILLING CODE 6725–01–M

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Board of Governors of the Federal Reserve System

ACTION: Notice

Background:

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act, as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number. Board-approved collections of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the OMB 83-I and supporting statement and the approved collection of information instrument will be placed into OMB's public docket files. The following information collection, which is being handled under this delegated authority, has received initial Board approval and is hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed revised collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed revised information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected; and

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before [insert date 60 days from publication in the Federal Register].

ADDRESSES: Comments, which should refer to the OMB control number or agency form number, should be addressed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, DC 20551, or delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments received may be inspected in room M-P-500 between 9:00 a.m. and 5:00 p.m., except as provided in section 261.8 of the Board's Rules Regarding Availability of Information, 12 CFR 261.8(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed form and instructions, the Paperwork Reduction Act Submission (OMB 83-I), supporting statement, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below.

Mary M. McLaughlin, Chief, Financial Reports Section (202-452-3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact Diane Jenkins (202-452-3544), Board of Governors of the Federal Reserve System, Washington, DC 20551.

Proposal to approve under OMB delegated authority the extension for three years, with revision, of the following report:

1. *Report title*: Money Market Mutual Fund Assets Reports
Agency form number: FR 2051a, b, c, and d
OMB control number: 7100-0012
Frequency: weekly and monthly
Reporters: money market mutual funds
Annual reporting hours: 5,580
Estimated average hours per response: 3 minutes (FR 2051a), 12 minutes (FR 2051b)
Number of respondents: 1,550 (FR 2051a), 700 (FR 2051b)
Small businesses are affected.
General description of report: This information collection is voluntary (12 U.S.C. 353 et seq.) and is given confidential treatment (5 U.S.C. 552(b)(4)).

Abstract: These reports provide information on the assets of money market mutual funds which the Federal Reserve System uses in the construction of the monetary aggregates and for current analysis of money market conditions and banking developments.

The Federal Reserve proposes to reduce and simplify this information collection. While the weekly FR 2051a would remain unchanged, the monthly FR 2051b report would be reduced by condensing six items into three. The weekly FR 2051c and d reports would be discontinued. The proposed revisions would reduce annual respondent burden for this family of reports from 6,405 hours to 5,580 hours, or by 13 percent.

Board of Governors of the Federal Reserve System, November 4, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–29510 Filed 11–7–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 24, 1997.

A. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Chase Family No. 2, Ltd., and Thomas G. Chase, Jr. and Helen M. Chase, as General Partners, all of Waco, Texas; to acquire voting shares of CentraBanc Corporation, Waco, Texas, and thereby indirectly acquire Central National Bank, Waco, Texas.

2. Lyndon Lowell Olson, Jr., Waco, Texas; to acquire voting shares of CentraBanc Corporation, Waco, Texas, and thereby indirectly acquire Central National Bank, Waco, Texas.

Board of Governors of the Federal Reserve System, November 4, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–29518 Filed 11–7–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 26, 1997.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. John Thomas Wesley, and Micah Steven Beard, both of Liberty, Kentucky, and Middleburg, Bancorp, Inc., Middleburg, Kentucky; to acquire additional voting shares of Casey County Bancorp, Inc., Liberty, Kentucky, and thereby indirectly acquire Casey County Bank, Liberty, Kentucky.

B. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480-2171:

1. Angeline R. Mixner, Worthington, New Mexico; to acquire additional voting shares of Madison Agency, Inc., Sioux Falls, South Dakota, and thereby indirectly acquire First Security Bank - Sanborn, Sanborn, New Mexico.

C. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Ricky Dean and Janis Lee McSwain, Morrison, Oklahoma; to acquire voting shares of Citizens State Bancorp., Inc., Morrison, Oklahoma, and thereby

indirectly acquire Citizens State Bank, Morrison, Oklahoma.

D. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Clayton Douglas Murr, Junction, Texas; to acquire additional voting shares of First State Bank, Junction, Texas.

Board of Governors of the Federal Reserve System, November 5, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97-29641 Filed 11-7-97; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 3, 1997.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. Narragansett Financial Corp., Fall River, Massachusetts; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens-Union Savings Bank, Fall River, Massachusetts.

2. New England Community Bancorp, Inc., Windsor, Connecticut; to acquire 100 percent of the voting shares of Community Savings Bank, Bristol, Connecticut.

B. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. NationsBank Corporation, and NB Holdings Corporation, both of Charlotte, North Carolina; to retain 8.34 percent of the voting shares of Southern Bancshares Corporation, St. Louis, Missouri, and thereby indirectly retain Southern Commercial Bank, St. Louis, Missouri. The shares are held in a fiduciary capacity.

C. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. AmeriGroup, Inc., Hershey, Nebraska; to become a bank holding company by acquiring an additional 70.53 percent, for a total of 80.24 percent, of the voting shares of Hershey State Bank, Hershey, Nebraska.

In connection with this application, Applicant also has applied to engage in the sale of general insurance, pursuant to § 225.28(b)(11)(iii) of the Board's Regulation Y.

D. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Citizens Bankers, Inc., Baytown, Texas, and Citizens Bankers of Delaware, Inc., Wilmington, Delaware; to acquire 67 percent of the voting shares of First National Bank of Bay City, Bay City, Texas, a *de novo* bank.

2. The First National Bank Employee Stock Ownership Plan, Artesia, New Mexico; to acquire 26.33 percent of the voting shares of First Artesia Bancshares, Inc., Artesia, New Mexico.

Board of Governors of the Federal Reserve System, November 4, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97-29516 Filed 11-7-97; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 97-29083) published on page 59707 of the issue for Tuesday, November 4, 1997.

Under the Federal Reserve Bank of Chicago heading, the entry for Wintrust Financial Corporation, Lake Forest, Illinois, is revised to read as follows:

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Wintrust Financial Corporation, Lake Forest, Illinois; to acquire 100 percent of the voting shares of Crystal Lake Bank & Trust Company, National Association, Crystal Lake, Illinois (in organization).

Comments on this application must be received by November 28, 1997.

Board of Governors of the Federal Reserve System, November 5, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97-29642 Filed 11-7-97; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 5, 1997.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105-1521:

1. PSB Bancorp, Inc., Philadelphia, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of Pennsylvania Savings Bank, Philadelphia, Pennsylvania.

B. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. Eastern Virginia Bankshares, Inc., Tappahannock, Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of Southside Bank, Tappahannock, Virginia, and Bank of Northumberland, Incorporated, Heathsville, Virginia.

C. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Citizens Bancshares Corporation, Atlanta, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of First Southern Bancshares, Inc., Lithonia, Georgia, and thereby indirectly acquire First Southern Bank, Lithonia, Georgia.

D. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. FBOP Corporation, Oak Park, Illinois; to acquire 50 percent of the voting shares of P.N.B. Financial Corporation, Chicago, Illinois, and thereby indirectly acquire Park National Bank and Trust of Chicago, Chicago, Illinois.

2. First of Waverly Corporation, Waverly, Iowa; to acquire 100 percent of the voting shares of Schrage, Ltd., Plainfield, Iowa, and thereby indirectly acquire Farmers State Bank, Plainfield, Iowa.

3. Heartland Bancshares, Inc., Lenox, Iowa; to acquire 50 percent of the voting shares of Union Bank of Arizona, N.A., Gilbert, Arizona (in organization).

E. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480-2171:

1. Norwest Corporation, Minneapolis, Minnesota; to acquire 100 percent of the voting shares of Fidelity Bancshares, Inc., Fort Worth, Texas, and thereby indirectly acquire Fidelity Bancorporation, Inc., Dover, Delaware, and Fidelity Bank & Trust, N.A., Fort Worth, Texas.

F. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Cullen/Frost Bankers, Inc., San Antonio, Texas, and New Galveston Company, Wilmington, Delaware; to merge with Harrisburg Bancshares, Inc., Houston, Texas, and thereby indirectly acquire Harrisburg Bancshares, Inc., Reno, Nevada, and Harrisburg Bank, Houston, Texas.

Board of Governors of the Federal Reserve System, November 5, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97-29643 Filed 11-7-97; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in Permissible Nonbanking Activities or To Acquire Companies That are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 24, 1997.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. National Bank of Canada, Montreal, Quebec, Canada; to acquire NBC Leveseque International Ltd., Montreal, Quebec, Canada, and thereby engage in buying and selling in the secondary market all types of securities on the order of a customer as a "riskless principal" to the extent of engaging in transactions in which the company, after receiving an order to buy (or sell) a security from a customer, purchases (or sells) the security for its own account to offset a contemporaneous sale to (or purchase from) a customer, subject to the limitations and conditions, pursuant to § 225.28(b)(7)(ii) of the Board's Regulation Y, and acting as agent for the private placement of securities, pursuant to § 225.28(b)(7)(iii) of the Board's Regulation Y.

2. The Bank of Nova Scotia, Toronto, Ontario, Canada; to acquire Iron Mountain Depository Corporation, New York, New York, and thereby engage in buying, selling and storing bars, rounds, bullion, and coins of gold, silver platinum, palladium, copper, and any other metal approved by the Board, for company's own account and the account of others, and providing incidental services such as arranging for storage, safe custody, assaying, and shipment, pursuant to § 225.28(b)(8)(iii) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, November 4, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97-29517 Filed 11-7-97; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

[Docket No. R-0965]

Federal Reserve Bank Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice.

SUMMARY: The Board has approved a Private Sector Adjustment Factor (PSAF) for 1998 of $106.5 million, as well as the fee schedules for Federal Reserve priced services and electronic connections. These actions were taken in accordance with the requirements of the Monetary Control Act of 1980, which requires that, over the long run, fees for Federal Reserve priced services be established on the basis of all direct and indirect costs, including the PSAF.

DATES: The PSAF and the fee schedules become effective on January 2, 1998.

FOR FURTHER INFORMATION CONTACT: For questions regarding the Private Sector Adjustment Factor: Martha Stallard, Senior Accountant, (202/452-3758), Division of Reserve Bank Operations and Payment Systems; For questions regarding the fee schedules: Jeff Yeganeh, Senior Financial Services Analyst, Check Payments, (202/728-5801); Riaz Ahmed, Financial Services Analyst, ACH Payments, (202/452-3959); Stephen Cohen, Financial Services Analyst, Funds Transfer and Book-Entry Securities Services, (202/452-3480); Anne Paulin, Senior Information Technology Analyst

(electronic connections), (202/452–2560); Michael Bermudez, Financial Services Analyst, Noncash Collection Service, (202/452–2216); or Kate Connor, Senior Financial Services Analyst, Special Cash Services, (202/452–3917), Division of Reserve Bank Operations and Payment Systems. For users of Telecommunications Device for the Deaf (TDD) only, *please contact Diane Jenkins* (202/452–3544).

Copies of the 1998 fee schedules for the check, automated clearing house (ACH), funds transfer and net settlement, book-entry securities, noncash collection, and special cash services, as well as electronic connections to Reserve Banks, are available from the Reserve Banks.

SUPPLEMENTARY INFORMATION:

I. Private Sector Adjustment Factor

A. Overview

The Board has approved a 1998 PSAF for Federal Reserve priced services of $106.5 million. This amount represents an increase of $7.0 million, or 6.9 percent, from the PSAF of $101.5 million targeted for 1997.

As required by the Monetary Control Act (MCA) (12 U.S.C. 248a), the Federal Reserve's fee schedule for priced services includes "taxes that would have been paid and the return on capital that would have been provided had the services been furnished by a private business firm." These imputed costs are based on data developed in part from a model comprised of consolidated financial data for the nation's 50 largest (in asset size) bank holding companies (BHCs).

The methodology first entails determining the value of Federal Reserve assets that will be used in producing priced services during the coming year. Short-term assets are assumed to be financed with short-term liabilities; long-term assets are assumed to be financed with a combination of long-term debt and equity derived from the BHC model.

Imputed capital costs are determined by applying related interest rates and rates of return on equity (ROE) from the BHC model. The long-term debt and equity rates are based on BHCs in the model for each of the last five years. Because short-term debt, by definition, matures within one year, only data for the most recent year are used for computing the short-term debt rate.

The PSAF comprises these capital costs, as well as imputed sales taxes, expenses of the Board of Governors related to priced services, and an imputed FDIC insurance assessment on clearing balances held with the Federal Reserve Banks to settle transactions.

B. Asset Base

The total estimated value of Federal Reserve assets to be used in providing priced services in 1998 is reflected in Table A–1. Table A–2 shows that the assets assumed to be financed through debt and equity are projected to total $616.3 million. This represents a net decrease of $7.2 million, or 1.2 percent, from 1997 assets of $623.5 million, as shown in Table A–3. This decrease results from lower priced asset levels of Federal Reserve Automation Services (FRAS), slightly offset by an increase in the Reserve Banks' priced asset base.

C. Cost of Capital, Taxes, and Other Imputed Costs

Table A–3 also shows the financing and tax rates and the other required PSAF recoveries proposed for 1998 and compares the 1998 rates with the rates used for developing the PSAF for 1997. The pre-tax ROE rate increased from 19.1 percent for 1997 to 22.4 percent for 1998. The increase is a result of stronger 1996 BHC financial performance included in the 1998 BHC model, relative to the 1991 BHC financial performance used in the 1997 BHC model.

The increase in the FDIC insurance assessment from $2.0 million in 1997 to $2.6 million in 1998, as shown in Table A–3, is attributable to higher clearing balance levels.

D. Capital Adequacy

As shown in Table A–4, the amount of capital imputed for the proposed 1998 PSAF totals 30.0 percent of risk-weighted assets and 3.1 percent of total assets. The capital to risk-weighted asset ratio well exceeds the 8 percent guideline for adequately capitalized state member banks and BHCs. The capital to total asset ratio exceeds the 3 percent guideline for adequately capitalized institutions that are rated composite 1 under the CAMELS rating system.

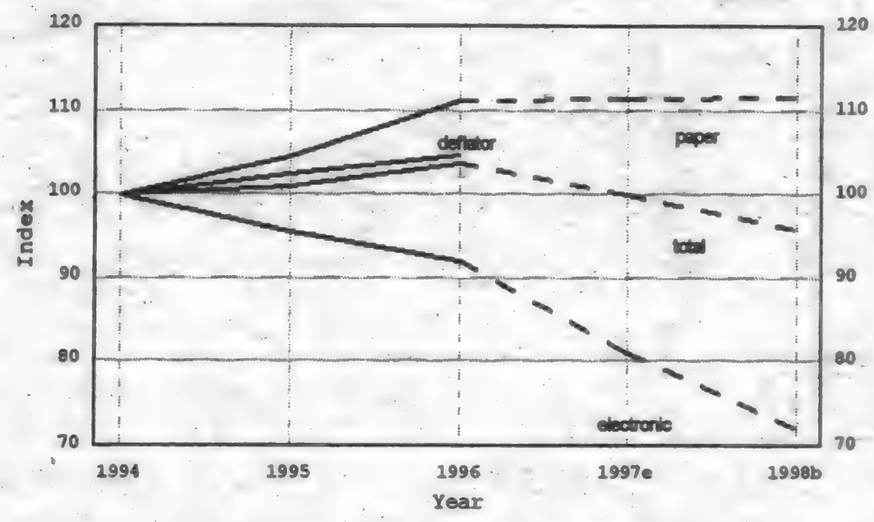
II. Priced Services

A. Overview

Overall, prices for Reserve Bank services are projected to decline by approximately 4.0 percent in 1998, reflecting slight price increases in paper-based payment services (i.e., check, noncash collection, and special cash services) of 0.2 percent and price decreases in electronic payment services (i.e., payor bank check services, automated clearing house, funds transfer, and book-entry securities services) of 11.4 percent.[1] This compares to an overall price decline of 3.7 percent in 1997, reflecting price increases in paper-based payment services of 0.1 percent and price decreases in electronic payment services of 11.9 percent. Figure 1 provides a graphical comparison of the Federal Reserve's price index for priced services to the gross domestic product price deflator.

BILLING CODE 6210–01–P

Figure 1



Broken line indicates estimated and budgeted data.

BILLING CODE 6210–01–C

The significant decline in fees for electronic payment services reflects, in large part, the efficiencies associated with the transition to a consolidated automation environment and centralized electronic payment processing applications. Beginning in 1992, the Reserve Banks' automation-processing functions were consolidated into three sites, greatly reducing the cost of providing electronic payment services. When transition to the consolidated environment is completed in early 1998, the priced services will have recovered $129.8 million in transition costs associated with the automation consolidation project (special project costs) and $11.7 million in deferred financing costs, while achieving $41.8 million in savings for depository institutions from lower fees for electronic payment services.[2] In addition to the electronic payment fee reductions, the special project initiative has dramatically improved the Reserve Banks' disaster recovery and information security capabilities, increased the System's responsiveness to change, and enhanced the central bank's management of payment system risk.

The Federal Reserve Banks continue to meet the provisions of the Monetary Control Act, which require the Federal Reserve to recover, over the long run, all direct and indirect costs, including imputed costs and profits, of priced services. Over the period 1987 through 1996, the Reserve Banks recovered 99.9 percent of their total costs of providing priced services, including special project costs that were budgeted for recovery and targeted after-tax profits, that is, return on equity (ROE).[3][4] Because the revenue from the Reserve Banks' priced services recovers imputed costs that are not actually incurred and imputed profits, the Federal Reserve's provision of priced services has consistently had a positive effect on the level of earnings transferred by the Federal Reserve to the Treasury. Over the past 10 years, priced services revenue has exceeded operating costs by $886 million. Table 1 summarizes the cost and revenue performance for priced services since 1987.

[2] Under an existing Board policy, the Reserve Banks may defer and finance development costs if the development costs would have a material effect on unit costs, provided that a conservative time period is set for full cost recovery and a financing factor is applied to the deferred portion of development costs. The 1997 and 1998 financing rates of 15.1 and 16.9 percent, respectively, are the weighted-average imputed costs of the Federal Reserve's long-term debt and equity. This methodology is similar to the approach a private firm would use in financing such costs. Starting in 1992, the Reserve Banks deferred and financed special project costs for automation consolidation that were associated with employee retention and severance and excess mainframe computer capacity. Each priced service will recover fully its portion of these deferred expenses and accumulated finance charges within five years after the completion of the transition to the consolidated automation environment.

[3] The Monetary Control Act requires that, over the long run, the Federal Reserve set fees for priced services to recover all direct and indirect costs of providing the services plus imputed costs, such as taxes that would have been paid and the return on capital that would have been earned had the services been provided by a private business firm. These imputed costs are based on data developed in part from a model comprised of the nation's 50 largest (in asset size) bank holding companies (BHCs). The targeted ROE is the budgeted after-tax profit that the Federal Reserve would have earned had it been a private business firm. The targeted ROE is derived from the BHC model based on consolidated financial data for each of the last five years.

[4] In setting fees, certain costs or adjustments to costs are treated differently in the pro forma income statement for priced services that is published in the Board's Annual report and the Board's annual

Continued

TABLE 1.[5]—PRO FORMA COST AND REVENUE PERFORMANCE (a)

[In millions of dollars]

Year	1 Revenue (b)	2 Operating costs and imputed expenses (c)	3 Special project costs recovered (d)	4 Total expenses (e) [2+3]	5 Net income (ROE) [1-4]	6 Target ROE (f)	7 Recovery rate after target ROE (percent) [1/(4+6)]	8 Special project costs deferred and financed (g)
1987	649.7	596.2	0.0	596.2	51.5	29.3	103.5	0.0
1988	667.7	641.1	3.2	644.3	23.4	32.7	98.6	0.0
1989	718.6	692.1	4.6	696.7	21.9	32.9	98.5	0.0
1990	746.5	698.1	2.8	700.9	45.6	33.6	101.6	0.0
1991	750.2	710.0	1.6	711.6	38.6	32.5	100.8	0.0
1992	760.8	731.0	11.2	742.2	18.6	26.0	99.0	1.6
1993	774.5	722.4	27.1	749.5	25.0	24.9	100.0	12.5
1994	767.2	748.3	8.8	757.1	10.1	34.6	96.9	33.9
1995	765.2	724.0	19.8	743.8	21.4	31.5	98.7	36.3
1996	815.9	736.4	26.8	763.2	52.7	36.7	102.0	30.1
1997 (Est)	814.7	732.9	27.7	760.7	54.1	45.8	101.0	21.4
1998 (Bud)	816.1	733.8	23.2	757.1	59.0	52.3	100.8	1.6

(a) The revenues and expenses for 1987 through 1993 include the definitive securities safekeeping service, which was discontinued in 1993.
(b) Includes net income on clearing balances.
(c) Imputed expenses include interest on debt, taxes, FDIC insurance, and the cost of float. Credits for prepaid pension costs under SFAS 87 and the charges for post-retirement benefits in accordance with SFAS106 are included beginning in 1993.
(d) Special project costs include research and development expenses for evaluating a different computer processing platform for electronic payments from 1988 through 1990, check image project costs from 1988 through 1993, and automation consolidation costs from 1992 through 1998.
(e) To reconcile total expenses to the pro forma income statement in the Board's Annual Report, sum the operating expenses, imputed costs, and imputed income taxes reflected in the pro forma income statement and subtract the adjustments shown in Note 10 to the pro forma income statement.
(f) Targeted ROE is based on the ROE included in the private sector adjustment factor and has been adjusted for taxes, which are included in column 2. Targeted ROE has not been adjusted to reflect automation consolidation special project costs deferred and financed.
(g) Totals are cumulative and include financing costs.

In 1996, Reserve Bank priced service revenue yielded and after-tax net income of $52.7 million, compared with a targeted return on equity of $36.7 million. The Reserve Banks recovered 102.0 percent of total expenses, including automation consolidation special project costs budgeted for recovery an targeted ROE, compared to a targeted recovery rate of 100.7 percent. The Reserve Banks' better-than-targeted performance was due primarily to higher-than expected volumes in the check, funds transfer, book-entry securities transfer, and noncash collection services, resulting in higher net revenue. In particular, the volume of checks collected by the Reserve Banks in 1996 exceeded 1995 levels, thereby reversing the downward trend of 1994 and 1995 that resulted from the new same-day settlement rule.

In 1997, the Reserve Banks estimate that priced services revenue will yield a net income of $54.1 million, compared with a targeted return on equity of $45.8 million. The 1997 recovery rate is estimated to be 101.0 percent of the costs of providing priced services, including imputed expenses, automation consolidation special project costs budgeted for recovery and targeted ROE, compared with a targeted recovery rate of 100.5 percent.[6] Approximately $27.7 million in automation consolidation special project costs will be recovered in 1997, leaving $21.4 million in accumulated costs to be financed and recovered in future years.

In 1998, the Reserve Banks project to recover 100.8 percent of total expenses, including automation consolidation special project costs budgeted for recovery and targeted ROE. The approved 1998 fees for priced services are projected to yield a net income of $59.0 million, compared with a targeted ROE of $52.3 million. Approximately $23.2 million of automation consolidation special project expenses will be recovered, leaving an accumulated balance of $1.6 million to be recovered in future years.[7]

Table 2 presents an overview of the projected 1997, estimated 1997, and projected 1998 cost recovery performance for individual priced services.

Federal Register notice on priced service fees. In order to compare total expenses in the pro forma income statement with total expenses in Table 1 in this notice, the amortization of the initial retirement plan over funding required by Statement of Financial Accounting Standards No. 87, and the deferred costs of automation consolidation must be deducted from the pro forma expenses. These adjustments are detailed in Note 10 to the pro forma income statement in the Annual Report. Under the procedures used to prepare the pro forma income statement, the Reserve Banks recovered 100.7 percent of priced services expenses, including targeted ROE, from the period 1987 to 1996.

[5] Calculations on this table and subsequent pro forma cost and revenue tables may be affected by rounding.

[6] Through August 1997, the Reserve Banks recovered 101.1 percent of total priced services expenses, including automation consolidation social project costs and targeted ROE.

[7] New charges for the automation consolidation special project are expected to end in 1998 with the completion of the transition to the centralized application environment. The $1.6 million balance must be recovered by the book-entry securities service.

TABLE 2

Priced service	1997 budget (percent)	1997 estimate (percent)	1998 budget (percent)
All Services	100.5	101.0	100.8
Check	100.2	100.0	100.8
ACH	100.5	105.3	100.5
Funds Transfer	102.7	104.3	103.1
Book-Entry	100.0	100.1	100.0
Noncash	103.8	116.0	125.9
Special Cash	102.3	99.7	102.4

The Reserve Banks have indicated that the most significant risk associated with the approved fee schedules is the uncertainty of 1998 check volume estimates given the current competitive environment and the effects of continuing bank consolidations.

B. Check

Table 3 presents the actual 1996, estimated 1997, and projected 1998 cost recovery performance for the check service.

TABLE 3.—CHECK PRO FORMA COST AND REVENUE PERFORMANCE

[$ millions]

Year	1 Revenue	2 Operating costs and imputed expenses	3 Special project costs recovered	4 Total expense [2+3]	5 Net income (ROE) [1−4]	6 Target ROE	7 Recovery rate after target ROE (percent) [1/(4+6)]	8 Special project costs deferred and financed
1996	610.6	578.1	6.5	584.6	26.0	28.0	99.7	10.5
1997 (Est)	620.5	577.7	7.5	585.2	35.3	35.3	100.0	7.5
1998 (Bud)	636.4	584.2	8.4	592.6	43.8	40.9	100.5	0.0

1. 1996 Performance

The check service recovered 99.7 percent of total expense in 1996, including automation consolidation special project costs budgeted for recovery and targeted ROE. The volume of checks collected increased 0.1 percent from 1995 levels, as volume losses associated with bank consolidations and the implementation of the same-day settlement regulation stabilized. Returned check volume increased 6.0 percent in 1996 compared to 1995 levels.

2. 1997 Performance

Through August 1997, the check service recovered 99.6 percent of total expenses, including automation consolidation special project costs budgeted for recovery and targeted ROE. The Reserve Banks estimate that they will recover 100.0 percent of their costs for the full year, compared with the targeted 1997 recovery rate of 100.2 percent.

Also through August 1997, the volume of checks collected has decreased by 0.2 percent while the volume of returned checks processed has increased by 5.1 percent from 1996 levels. The Reserve Banks now estimate that the volume of checks collected during 1997 will decrease by 0.7 percent from 1996 levels, reflecting a 2.1 percent increase in processed volume and a 15.5 percent decrease in fine sort volume. Returned check volume is estimated to increase by 3.9 percent.

3. 1998 Issues

The total number of interbank checks will likely be flat or decline in 1998 as banks merge due to interstate branch banking and as banks continue to consolidate their payment processing operations. In addition, other service providers in the interbank check processing market are expected to compete aggressively for check collection and returned check volume. Despite the challenges posed by this environment, the Reserve Banks project modest volume increases in 1998. Total forward check collection volume is projected to increase by 1.0 percent in 1998, reflecting a projected increase of 3.2 percent in processed volume and a decrease of 12.9 percent in fine sort volume. Returned check volume is projected to increase by 0.3 percent.

The Reserve Banks continue to take steps that are expected to improve the efficiency of their check processing operations in 1998. For example, on October 24, 1997, the Federal Reserve Bank of Boston closed its Regional Check Processing Center in Lewiston, Maine, and consolidated those operations at its head office. In addition, on October 27, 1997, the System's Interdistrict Transportation System (ITS) moved one of its five airport hubs from Cleveland, Ohio to Cincinnati, Ohio. This move allows Reserve Banks to improve deposit deadlines and funds availability for many depositors. The Reserve Banks are also reviewing whether additional changes to the Federal Reserve's infrastructure would improve efficiency and are assessing the business case for a uniform software application to process check adjustment cases.

The Reserve Banks will continue to promote electronic check products that are designed to increase operating efficiency and improve the speed of the check collection system. For example, the Reserve Banks are expanding the number of offices that offer and the number of deposit products that use electronic cash letters (ECLs).[8] Further, in early 1998, the Reserve Banks are planning to begin sending ECLs for all cash letters exchanged among Federal

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[8] Electronic cash letters (ECLs) are deposits that are accompanied by an electronic listing of all checks included in the deposits.

Reserve offices. The expanded use of ECLs is expected to improve the efficiency of the Reserve Banks' operations and may ultimately contribute to efficiencies in paying banks' operations by reducing rejects and minimizing adjustments. The Reserve Banks are also investigating the feasibility of offering standard electronic check products Systemwide during 1998 to meet the demand for greater uniformity in Reserve Bank check products.

Further, the Reserve Banks are expanding their image-enhanced check products, which have the potential to increase the use of electronic check presentment and to reduce the risks associated with it. In 1998, an increasing number of Reserve Bank offices will be able to offer image services.

4. 1998 Fees

The Reserve Banks are continuing the steps taken over the last several years to set check fees to reflect more accurately the fixed and variable costs associated with providing check services. The Reserve Banks' fees and product offerings are intended to encourage the use of electronics and to improve the efficiency of the check collection mechanism. Table 4 summarizes key check service fees.

TABLE 4.—SELECTED CHECK FEES

Products	1997 price ranges	1998 price ranges
Items:	(per item)	(per item)
Forward processed:		
City	$0.003 to 0.080	$0.002 to 0.080
RCPC	0.004 to 0.090	0.003 to 0.180
Fine sort:		
City	0.003 to 0.012	0.002 to 0.013
RCPC	0.003 to 0.017	0.003 to 0.018
Qualified returned checks:		
City	0.065 to 1.110	0.065 to 1.110
RCPC	0.068 to 1.560	0.068 to 1.560
Raw returned checks:		
City	0.580 to 4.000	0.900 to 5.000
RCPC	0.650 to 4.000	0.900 to 5.000
Cash letters:	(per cash letter)	(per cash letter)
Forward processed	1.50 to 9.00	1.50 to 9.00
Forward fine-sort package	2.50 to 13.00	3.00 to 14.00
Returned checks: raw and qualified	1.50 to 7.00	1.75 to 12.00
Payor bank services:	Min Per item	Min Per item
MICR information	5–30 0.001–0.0050	5–30 0.001–0.0060
Electronic presentment	3–14 0.001–0.0045	2–14 0.001–0.0045
Truncation	3–25 0.010–0.0170	2–25 0.004–0.0170

Overall, 1998 fees for paper-based check products are expected to increase by about 0.2 percent on a volume-weighted basis, compared with January 1997 prices.[9] Paper-based check products include both forward and return check products and are expected to account for about 80 percent of total check service revenues in 1998.

Fees for payor bank services will decline, on average, by 0.1 percent. These fees include the Reserve Banks' fees for electronic check presentment and payor bank information products, as well as for image products. Payor bank services revenue is expected to increase by 12.9 percent, however, primarily due to more widespread acceptance of electronic check presentment and image-enhanced check products. It is expected that payor bank services will account for about 10 percent of the check service's total revenues in 1998. Other operating and imputed revenues account for the remaining 10 percent of check service revenues.

The Reserve Banks project that the check service will recover 100.5 percent of total costs in 1998, including targeted ROE and all of the remaining $8.4 million in automation consolidation special project costs. Total check service operating costs plus imputed expenses are projected to increase by $6.5 million, or 1.1 percent above estimated 1997 expenses. Total check service revenues are expected to increase by $15.9 million, or 2.6 percent above estimated 1997 revenues.

The Reserve Banks view the effect of interstate branch banking and the growing competition in the interbank check collection market as potential risk factors in their volume projections. Nevertheless, despite this increasingly competitive market environment, the Reserve Banks believe that their projected 1998 volume levels are attainable.

C. Automated Clearing House (ACH)

Table 5 presents the actual 1996, estimated 1997, and projected 1998 cost recovery performance for the commercial ACH service.

[9] This volume-weighted fee increase includes an increase in ITS fees of approximately 10.0 percent on weekday routes. The Reserve Banks are continuing to investigate the possible implementation of an alternative fee structure for the ITS.

TABLE 5.—ACH PRO FORMA COST AND REVENUE PERFORMANCE

[$ millions]

Year	1 Revenue	2 Operating costs and imputed expenses	3 Special project costs recovered	4 Total expense [2+3]	5 Net income (ROE) [1−4]	6 Target ROE	7 Recovery rate after target ROE (percent) [1/4+6)]	8 Special project costs deferred and financed
1996	79.8	63.7	9.2	72.9	6.9	3.6	104.3	16.6
1997 (Est)	72.5	53.7	11.1	64.8	7.6	4.0	105.3	10.8
1998 (Bud)	68.5	52.1	12.0	64.1	4.4	4.0	100.5	0.0

1. 1996 Performance

Revenues from the ACH service recovered 104.3 percent of total expenses, including automation consolidation special project costs budgeted for recovery and targeted ROE, during 1996. This over recovery was attributable primarily to lower-than-expected data processing costs resulting from the efficiencies realized with the new Fed ACH application software.

2. 1997 Performance

Through August 1997, the ACH service recovered 106.4 percent of total expenses, including automation consolidation special project costs budgeted for recovery and targeted ROE. For the full year, Reserve Banks estimate that they will recover 105.3 percent of total expenses, compared with the targeted 1997 recovery rate of 100.5 percent. The over recovery is attributed to lower-than-budgeted ACH overhead costs, lower-than-expected data processing costs resulting from efficiency improvements to the Fed ACH application software, and the revised pension credit.

On May 1, 1997, the Reserve Banks implemented a volume-based fee schedule for the ACH service. As a result, the cost to depository institutions to originate ACH transactions declined by an average of 17 percent and the cost to receive ACH transactions declined by 10 percent. In addition, effective October 1, 1997, the Reserve Banks changed to regular billing deposit deadline for ACH items from 8:00 p.m. to 1:00 a.m. Eastern Time. The extension of the deadline reduces fees paid by customers depositing items between 8:00 p.m. and 1:00 a.m. Eastern Time by approximately $0.6 million in 1997.

Through August 1997, commercial ACH volume has increased 12.7 percent over the 1996 level. For the full year, the Reserve Banks expect commercial volume to increase 11.3 percent, compared to the 18.3 percent increase originally projected. The revised projection reflects the effects of consolidation in the banking industry and some increased use of private-sector ACH processors.

3. 1998 Issues

The Fed ACH processing environment continues to allow the Reserve Banks to improve operating efficiencies. In 1998, the Reserve Banks plan to expand their efforts to educate depository institutions and end users about the benefits of the ACH. The Reserve Banks believe that Federal Reserve and industry marketing efforts will spur commercial ACH volume growth. As a result, the projected commercial volume growth rate for 1998 is 15.4 percent.

4. 1998 Fees

The Reserve Banks are reducing several fees effective January 2, 1998. These changes support the System's strategic direction to encourage the migration from a paper-based to an electronic payments system and recognize the technological and operational changes implemented during the past year.

TABLE 6

Fee category	Current fee	Approved 1998 fee
Items Originated in Small Files [10]	$0.009	$0.008
Items Originated in Large Files [10]	0.007	0.006
Items Received	0.009	0.008
Agenda (Originated and Received)	0.003	0.002
Telephone Advice	15.00	(1)

[1] Eliminate.

As Table 6 indicates, the Reserve Banks will reduce origination and receipt item fees by one mill, which will decrease the total fee for each item by as much as 12.5 percent. In addition, the Reserve Banks are reducing the fee for addenda records by one mill or one-third. The reduction in the addenda record fee is intended to promote the use of the ACH for financial electronic data interchange. Finally, the telephone advice fee, which is assessed to customers seeking settlement information about processed files, is being eliminated because depository institutions are using other delivery mechanisms to obtain this information.

All customers, including customers of the private-sector ACH operators, will benefit from the approved 1998 price changes. Based on the 1998 volume projections, these changes will reduce fees to depository institutions by $6.6 million, compared to the Federal Reserve's current ACH fees.

During 1998, the Reserve Banks plan to explore options to reduce fees further and to reduce paper processing. Board staff anticipates that the Director of the Board's Division of Reserve Bank Operations and Payment Systems, under delegated authority, will be requested to

[10] Small files contain less than 2,500 items; large files contain 2,500 items or more.

approve further modifications to the ACH fee schedule during 1998.

The Reserve Banks project that the ACH service will recover 100.5 percent of its 1998 costs, including targeted ROE, and all of the remaining $12.0 million in automation consolidation special project costs.

D. Funds Transfer and Net Settlement

Table 7 presents the actual 1996, estimated 1997, and projected 1998 cost recovery performance for the funds transfer and net settlement service.

TABLE 7.—FUNDS TRANSFER PRO FORMA COST AND REVENUE PERFORMANCE

[$ millions]

Year	1 Revenue	2 Operating costs and imputed expenses	3 Special project costs recovered	4 Total expense [2+3]	5 Net income (ROE) [1−4]	6 Target ROE	7 Recovery rate after target ROE (percent) [1/(4+6)]	8 Special project costs deferred and financed
1996	97.6	69.9	9.3	79.2	18.4	3.8	117.6	0.0
1997 (Est)	95.3	78.9	7.4	86.3	9.1	5.1	104.3	(0.5)
1998 (Bud)	88.8	79.7	0.3	79.9	8.9	6.2	103.1	0.0

1. 1996 Performance

For 1996, the funds transfer and net settlement service recovered 117.6 percent of total expenses, including automation consolidation special project costs budgeted for recovery and targeted ROE. Funds transfer origination and receipt volume increased 9.1 percent over the 1995 level, compared to a budgeted increase of 2.1 percent.

2. 1997 Performance

Through August 1997, the funds transfer and net settlement service recovered 106.5 percent of total expenses, including automation consolidation special project costs budgeted for recovery and targeted ROE. For full-year 1997, the Reserve Banks estimate that the funds transfer service will recover 104.3 percent of total expenses, compared to a targeted recovery rate of 102.7 percent. The Reserve Banks now estimate that operating costs will be lower than the original budget estimates due to the efficiencies realized from processing funds transfer in a centralized processing environment, a decrease in allocated overhead costs, and an increase in the estimated 1997 pension credit.

Through August 1997, funds transfer volume has increased 7.7 percent relative to the same period in 1996. For the full year, the Reserve Banks expect volume to increase 4.3 percent, compared to the 4.2 percent increase originally projected. Board staff believes the Reserve Banks, 1997 volume estimate is conservative based on year-to-date experience.

3. 1998 Issues

Funds transfer origination and receipt volume is expected to increase 3.8 percent over 1997 estimated levels, lower than the ten-year average annual growth rate of 4.7 percent. The Reserve Banks consider the strong volume growth of the last two years to be unsustainable due to the effects of interstate branch banking and continuing bank merger activity. Board staff believes the anticipated 1998 volume effects of such merger activity may be overstated.

Total costs are expected to decrease 6.1 percent from the 1997 estimate due in part to lower special project costs allocated to the service as well as to operating efficiencies associated with automation consolidation. The Fedwire funds transfer operating hours will be expanded from a ten-hour to an eighteen-hour day beginning in December 1997. The Reserve Banks expect that this expansion of operating hours will not materially increase the service's costs.

4. 1998 Fees

The projection of lower total expenses combined with continued volume growth will enable the Reserve Banks to reduce the funds transfer fee by 11.1 percent from $0.45 to $0.40 in 1998. Additionally, the Reserve Banks will increase the off-line transaction surcharge from $10.00 to $12.00 to reflect more fully the costs of processing off-line transfers and to encourage higher volume off-line customers to install electronic connections. Based on 1998 volume projections, these fee changes will reduce fees to depository institutions by approximately $9.0 million, compared to the Federal Reserve's current funds transfer fees. All net settlement fees will remain unchanged.

Reserve Banks project that 1998 revenues will recover 103.1 percent of total funds transfer expenses, including targeted ROE and all automation consolidation special project costs.

E. Book-Entry Securities[11]

Table 8 presents the actual 1996, estimated 1997, and projected 1998 cost recovery performance for the book-entry securities service.[12]

[11] Includes purchase and sale activity.

[12] The Reserve Banks provide securities transfer services for securities issued by the U.S. Treasury, federal government agencies, government sponsored enterprises, and certain international institutions. The priced component of this service, reflected in this memorandum, consists of the revenues, expenses, and volumes associated with the transfer of all non-Treasury securities. For Treasury securities, the Reserve Banks act as fiscal agents for the Treasury Department, which assesses fees for those transfer services.

TABLE 8.—BOOK-ENTRY SECURITIES PRO FORMA COST AND REVENUE PERFORMANCE

[$ millions]

Year	1 Revenue	2 Operating costs and imputed expenses	3 Special project costs recovered	4 Total expense [2+3]	5 Net income (ROE) [1−4]	6 Target ROE	7 Recovery rate after target ROE (percent) [1/(4+6)]	8 Special project costs deferred and financed
1996	17.1	14.5	1.7	16.2	0.9	0.8	100.9	3.0
1997 (Est)	16.8	14.4	1.5	15.8	1.0	0.9	100.1	3.6
1998 (Bud)	16.3	12.9	2.5	15.3	1.0	1.0	100.0	1.6

1. 1996 Performance

The book-entry securities service recovered 100.9 percent of total expenses in 1996, including automation consolidation special project costs budgeted for recovery and targeted ROE. Origination volume increased 11.8 percent above the 1995 level, compared to a budgeted decrease of 0.4 percent. This substantial volume increase is partially the result of increased securities movements associated with mergers, and higher-than-expected mortgage refinancing activity, which in turn affects activity in the mortgage-backed securities market.

2. 1997 Performance

Through August 1997, the book-entry securities service recovered 102.4 percent of total expenses, including automation consolidation special project costs budgeted for recovery and targeted ROE. For the full-year 1997, the Reserve Banks estimate that revenues will recover 100.1 percent of total costs, compared to a targeted recovery rate of 100.0 percent.

Through August 1997, book-entry securities volume declined 1 percent, compared to the same period in 1996. For the full year, the Reserve Banks estimate that transfer volume will decline 3.3 percent, which is consistent with the budgeted target.

3. 1998 Issues

The Reserve Banks expect book-entry securities transfer origination volume to decline 0.8 percent in 1998 from the 1997 estimated level. This volume projection reflects the potential effect of Participants Trust Company's (PTC) expansion of its mortgage-backed securities business to include Fedwire-eligible securities issued by the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association. PTC's service expansion is currently expected to occur by late 1998 and, depending on the timing of the implementation, may not have a material effect on 1998 book-entry securities volume.

Book-entry service revenue is expected to decline 2.4 percent in 1998 from the 1997 estimate as both account maintenance and transaction revenues decrease.[13] Total expenses are projected to decrease 3.1 percent in 1998 versus the 1997 estimate. Centralized and local data processing costs are expected to decrease by almost $1 million compared to the 1997 estimate reflecting the benefits from the transition to the centralized application environment.

4. 1998 Fees

The Reserve Banks are retaining 1997 fees in 1998. The Reserve Banks project that the book-entry securities service will recover 100.0 percent of costs, including targeted ROE and $2.5 million in automation consolidation special project costs.

F. Electronic Connections

The Reserve Banks charge fees for the electronic connections used by depository institutions to access priced services and allocate the cost and revenue associated with electronic access to the various proceed services. The Reserve Banks are retaining the current 1997 electronic access fee schedule in 1998 with the addition of a new connection fee for Link Encrypted Dial connections.

Currently, Link Encrypted Dial connections are assessed the same standard fee as that used for Receive and Send Dial connections. This $75 per month fee does not reflect fully the costs to install, configure, and maintain the unique hardware equipment required by Link Encrypted Dial connections. Accordingly, the Reserve Banks are establishing a new connection fee of $200 per month for Link Encrypted Dial connections. Only twelve of the approximately 12,000 current connections would be affected by this change.

In addition, the Reserve Banks plan to change their policy for ownership of the encryption boards used by depository institutions with dial and multi-drop connections. These encryption boards are currently purchased and owned by the depository institutions. With the replacement of the encryption boards beginning in the second half of 1998 to enhance the security of the Federal Reserve's communications network, the Reserve Banks plan to purchase and assume ownership of these boards. This approach is consistent with Reserve Bank ownership of other equipment at depository institutions that is required for electronic connections to the Federal Reserve, specifically link encryptors and signaling equipment. Reserve Bank ownership should improve management of the security of the network and facilitate the implementation of an all-electronic key distribution system. This change in policy may affect future-year electronic connection fees, as priced services must recover depreciation costs associated with the new encryption boards.

G. Noncash Collection

Table 9 presents the actual 1996, estimated 1997, and projected 1998 cost recovery performance for the noncash collection service.

[13] The decrease in account maintenance revenue is associated with a 1997 decision to waive certain joint custody account maintenance fees during the Reserve Banks conversion to the National Book-Entry System.

TABLE 9.—NONCASH COLLECTION PRO FORMA COST AND REVENUE PERFORMANCE

[$ millions]

Year	1 Revenue	2 Operating costs and imputed expenses	3 Special project costs recovered	4 Total expenses [2+3]	5 Net income (ROE) [1−4]	6 Target ROE	7 Recovery rate after target ROE (percent) [1/(4+6)]	8 Special project costs deferred and financed
1996	5.4	5.0	0.0	5.0	0.4	0.2	102.4	0.3
1997 (Est)	4.5	3.3	0.3	3.6	0.8	0.2	116.0	0.0
1998 (Bud)	3.4	2.5	0.0	2.5	0.9	0.2	125.9	0.0

1. 1996 Performance

The noncash collection service recovered 102.4 percent of total expenses, including automation consolidation special project costs budgeted for recovery and targeted ROE, compared to a target of 100.0 percent. Volume increased 34.2 percent over 1995 levels, compared to the budgeted increased of 22.5 percent. This volume increase was attributable to the withdrawal of other service providers from this business. Effective cost containment measures enabled the Reserve Banks to recover fully all service costs, including targeted ROE, for the first time since 1990.

2. 1997 Performance

Through August 1997, the noncash collection service recovered 118.5 percent of total expenses including automation consolidation special project costs budgeted for recovery and targeted ROE. For the year, the Reserve Banks now estimate that the noncash collection service will recover 116.0 percent of total costs, including automation consolidation special project costs budgeted for recovery and targeted ROE, compared with the targeted full-year recovery rate of 103.8 percent. The higher recovery rate reflects aggressive cost-containment and recognized efficiency gains from the centralization to one office, the Jacksonville Branch of the Federal Reserve Bank of Atlanta. Noncash collection volume continues its long-term contraction and all of the former national providers, except the Depository Trust Company (DTC) have withdrawn from providing noncash collection services.[14] The Reserve Banks estimate that 1997 volume will decline by 17.6 percent from 1996 levels, slightly less than the 19.6 percent decline originally budgeted; estimated 1997 volume is less than 20 percent of the peak volume processed in 1985.

3. 1998 Issues

The Reserve Banks project that 1998 volume will decline 20 percent from estimated 1997 levels. This decline generally reflects the decline in total noncash collection volume, rather than a shift in volume from the Federal Reserve to other service providers. The centralization of the noncash collection service in one office will enable the Reserve Banks to improve the cost effectiveness of this service in a declining market.

4. 1998 Fees

Centralization of the noncash service in one Reserve Bank office eliminates the need to distinguish between local and out-of-region items; therefore, the Reserve Banks are eliminating the out-of-region fees in 1998 and retaining other fees at their current levels, effectively reducing the price of collecting noncash collection items previously categorized as out-of-region. The Reserve Banks project that 1998 revenue will recover 125.9 percent of total costs, including targeted return on equity. Wile the projected 1998 recovery rate is high, if achieved the service's ten-year recovery rate will be 95.5 percent. Given the focus of the Monetary Control Act and the Board's pricing principles on long-run cost recovery, the Board believes the 1998 fees are reasonable.

H. Special Case Service

Priced special cash services represent a very small portion (approximately 1.0 percent) of overall cash services provided by the Reserve Banks to depository institutions. Special cash services include cash transportation, coin wrapping, and nonstandard packaging of currency orders and deposits.

Table 10 presents the actual 1996, estimated 1997, and projected 1998 cost recover performances for the special cash services.

TABLE 10.—CASH PRO FORMA COST AND REVENUE PERFORMANCE

[$ millions]

Year	1 Revenue	2 Operating costs and imputed expenses	3 Special project costs recovered	4 Total expenses [2+3]	5 Net income (ROE) [1−4]	6 Target ROE	7 Recovery rate after target ROE (percent) [1/(4+6)]	8 Special project costs deferred and financed
1996	5.4	5.3	0.0	5.3	0.1	0.2	97.5	0.0
1997 (Est.)	5.1	4.9	0.0	4.0	0.2	0.3	99.7	0.0
1998 (Bud)	2.7	2.5	0.0	2.5	0.1	0.1	102.4	0.0

[14] The Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) imposed a tax disadvantage to the holding of bearer securities, which has resulted in the virtual elimation of new issues. Following the enactment of TEFRA, many bearer municipal securities were "immobilized" in depositories, such as DTC, further reducing the demand for noncash collection services.

1. 1996 Performance

The special cash services recovered 97.5 percent of total expenses, including targeted ROE, in 1996. Costs were higher than budgeted and priced volumes were lower than budgeted in certain offices.

2. 1997 Performance

Through August 1997, the special cash services recovered 102.6 percent of total expenses, including targeted ROE. For full-year 1997, the Reserve Banks estimate that special cash services will recover 99.7 percent of total expenses, compared to a targeted recovery rate of 102.3 percent. Priced volumes are lower than budgeted in certain offices.

3. 1998 Issues

Projected revenue is expected to decrease by approximately 45 percent due to plans to discontinue special cash services at some Reserve Bank offices in 1998, and the reclassification of cash access as a nonpriced service. Several Reserve Bank offices currently assess fees for access to cash services above the free standard level; this nonstandard access has been treated as a priced service.[15] In light of the upcoming implementation of the uniform cash access policy for all Reserve Banks, Board staff has determined that, due to the governmental nature of this service, the costs and income associated with nonstandard access more appropriately should be treated as a nonpriced service.[16]

4. 1998 Fees

For 1998, the Reserve Banks project that special cash services will recover 102.4 percent of costs, including targeted ROE. The Detroit office is increasing its nonstandard packaging fee from $5.00 to $12.00 per order or deposit to reflect more accurately the cost of providing this service.

III. Competitive Impact Analysis

All operational and legal changes considered by the Board that have a substantial effect on payment system participants are subject to the competitive impact analysis described in the March 1990 policy statement "The Federal Reserve in the Payments System." In this analysis, Board staff assesses whether the proposed change would have a direct and material adverse effect on the ability of other service providers to compete effectively with the Federal Reserve in providing similar services due to differing legal powers or constraints or due to a dominant market position of the Federal Reserve deriving from such legal differences.

Assuming the Reserve Banks' volume and cost projections are accurate, the proposed fees are set to provide the Federal Reserve a return on equity at least equal to that earned by large bank holding companies during the past five years. Moreover, the recommended 1998 fee schedules enable the Reserve Banks to continue to recover all actual and imputed costs of providing priced services over the long run (i.e., 1969 through 1998); these proposed fees also provide for projected full cost recovery in 1998. Therefore, the Board believes the recommended 1998 Reserve Bank price and service levels will not adversely affect the ability of other service providers to compete effectively with the Reserve Banks in providing similar services.

TABLE A–1.—COMPARISON OF PRO FORMA BALANCE SHEETS FOR FEDERAL RESERVE PRICED SERVICES

[Millions of dollars—average for year]

	1998	1997
Short-term assets:		
Imputed reserve requirement on clearing balances	$750.4	$545.7
Investment in marketable securities	6,753.5	4,911.3
Receivables[1]	69.0	64.3
Materials and supplies[1]	4.3	11.6
Prepaid expenses[1]	14.1	14.6
Items in process of collection	2,922.8	2,548.2
Total short-term assets	$10,514.1	$8,095.7
Long-term assets:		
Premises[1,2]	360.4	348.0
Furniture and equipment[1]	145.2	167.0
Leasehold improvements and long-term prepayments[1]	23.3	18.0
Capital leases		0.7
Total long-term assets	528.9	533.7
Total assets	11,043.0	8,629.4
Short-term liabilities:		
Clearing balances and balances arising from early credit of uncollected items	7,503.9	5,457.0
Deferred credit items	2,922.8	2,548.2
Short-term debt[3]	87.4	90.5
Total short-term liabilities	10,514.1	8,095.7
Long-term liabilities:		
Obligations under capital leases		0.7
Long-term debt[3]	185.1	180.5

[15] Priced cash access services are currently offered by the Detroit Branch and all Ninth and Twelfth District offices.

[16] In April 1996, the Board approved a new cash access policy for the Reserve Banks that becomes effective on May 4, 1998. The policy provides for a base level of free currency access to all depository institutions, but restricts the number of offices served and the frequency of access. Depository institutions that meet minimum volume thresholds will be able to obtain more frequent free access. Fees will be charged for additional access beyond the free level.

TABLE A–1.—COMPARISON OF PRO FORMA BALANCE SHEETS FOR FEDERAL RESERVE PRICED SERVICES—Continued

[Millions of dollars—average for year]

	1996		1997	
Total long-term liabilities	185.1		181.2	
Total liabilities		10,699.2		8,276.9
Equity[3]		343.8		352.5
Total liabilities and equity		11,043.0		8,629.4

Note: Details may not add to totals due to rounding.
[1] Financed through PSAF, other assets are self-financing.
[2] Includes allocations of Board of Governors' assets to priced services of $0.5 million for 1996 and 1997.
[3] Imputed figures represent the source of financing for certain priced services assets.

TABLE A–2.—DERIVATION OF THE 1998 PSAF

[Millions of dollars]

A. Assets to be Financed[1]	
Short-term	$87.4
Long-term[2]	528.9
	$616.3
B. Weighted Average Cost:	
1. Capital Structure[3]	
Short-term debt	14.2%
Long-term debt	30.0%
Equity	55.8%
2. Financing Rates/Costs[3]	
Short-term debt	5.1%
Long-term debt	6.8%
Pre-tax equity[4]	22.4%
3. Elements of Capital Costs	
Short-term debt, $87.4×5.1%=	$4.5
Long-term debt, $185.1×6.8%=	$12.5
Equity, $343.8×22.4%=	$77.0
	$94.0
C. Other Required PSAF Recoveries:	
Sales taxes	$9.1
Federal Deposit Insurance assessment	$2.6
Board of Governors expenses	$2.8
	$14.5
	108.5
D. Total PSAF Recoveries:	
As a percent of capital	17.6%
As a percent of expenses[5]	18.1%

[1] Priced service asset base is based on the direct determination of assets method.
[2] Consists of total long-term assets, including the priced portion of FRAS assets, less self financing capital leases.
[3] All short-term assets are assumed to be financed with short-term debt. Of the total long-term assets, 35% are assumed to be financed with long-term debt and 65% with equity.
[4] The pre-tax rate of return on equity is based on the average after-tax rate of return on equity, adjusted by the effective tax rate to yield the pre-tax rate of return on equity for each bank holding company for each year. These data are then averaged over five years to yield the pre-tax return on equity for use in the FSAF.
[5] Systemwide 1998 budgeted priced service expenses less shipping are $598.1 million.

TABLE A–3.—COMPARISON BETWEEN 1998 AND 1997 PSAF COMPONENTS

	1998	1997
A. Assets to be Financed (millions of dollars):		
Short-term	$87.4	$90.5
Long-term	$528.9	$533.0

TABLE A–3.—COMPARISON BETWEEN 1998 AND 1997 PSAF COMPONENTS—Continued

	1998	1997
Total	$616.3	$623.5
B. Cost of Capital:		
Short-term Debt Rate	5.1%	5.2%
Long-term Debt Rate	6.8%	7.1%
Pre-tax Return on Equity	22.4%	19.1%
Weighted Average Long-term Cost of Capital	16.9%	15.1%
C. Tax Rate	32.1%	32.1%
D. Capital Structure:		
Short-term Debt	14.2%	14.5%
Long-term Debt	30.0%	29.0%
Equity	55.8%	56.5%
E. Other Required PSAF Recoveries (millions of dollars):		
Sales Taxes	$9.1	$11.6
Federal Deposit Insurance Assessment	$2.6	$2.0
Board of Governors Expenses	$2.8	$2.9
F. Total PSAF:		
Required Recovery	$108.5	$101.5
As Percent of Capital	17.6%	16.3%
As Percent of Expenses	18.1%	16.6%

TABLE A–4.—COMPUTATION OF CAPITAL ADEQUACY FOR FEDERAL RESERVE PRICED SERVICES

[Millions of dollars]

	Assets	Risk Weight	Weighted Assets
Imputed reserve requirement on clearing balances	$750.4	0.0	$0.0
Investment in marketable securities	6,753.5	0.0	0.0
Receivables	69.0	0.2	13.8
Materials and supplies	4.3	1.0	4.3
Prepaid expenses	14.1	1.0	14.1
Items in process of collection	2,922.8	0.2	584.6
Premises	360.4	1.0	360.4
Furniture and equipment	145.2	1.0	145.2
Leases and long-term prepayments	23.3	1.0	23.3
Total	11,043.0		1,145.7
Imputed Equity for 1996		$343.8	
Capital to Risk-Weighted Assets		30.0%	
Capital Total Assets		3.1%	

By order of the Board of Governors of the Federal Reserve System, November 5, 1997.
Jennifer J. Johnson,
Deputy Secretary of the Board.
[FR Doc. 97–29634 Filed 11–7–97; 8:45 am]
BILLING CODE 6210–01–P–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0451]

Microbial Safety of Produce; Public Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of a public meeting.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public meeting to discuss practices to minimize microbial food safety risks for produce as part of the President's initiative to ensure the safety of imported and domestic fruits and vegetables and other foods.

DATES: The public meeting will be held on Monday, November 17, 1997, 8:30 a.m. to 5 p.m. Submit registration for the meeting and requests to make oral presentations by Wednesday, November 12, 1997. If you have written or published materials to be distributed at the public meeting, please bring at least 250 copies to the meeting. Written comments will be accepted until Friday, November 21, 1997.

ADDRESSES: The public meeting will be held at the Key Bridge Marriott, Potomac Ballroom Salons A, B, and C, 1401 Lee Hwy., Arlington, VA. Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Catherine M. DeRoever, Center for Food Safety and Applied Nutrition (HFS–22), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4251, FAX 202–205–4970, or e-mail "cderoeve@Bangate.fda.gov". Send registration information (including name, title, firm name, address, telephone, and fax number), one copy of any material that you wish to distribute at the meeting, and requests to make oral presentations to the contact person.

SUPPLEMENTARY INFORMATION: On October 2, 1997, President Clinton announced an initiative to ensure the safety of imported and domestic produce and other foods. This initiative is geared to optimize the microbial safety of domestic and imported fruits and vegetables. As part of this initiative,

the President directed the Secretary of the Department of Health and Human Services (DHHS), in partnership with the Secretary of Agriculture, U.S. Department of Agriculture, and in cooperation with the agricultural community, to issue guidance on good agricultural practices and good manufacturing practices for fruits and vegetables. FDA will coordinate the effort for DHHS. As part of this effort, FDA plans to publish a draft document for public comment early in 1998, and a final document later next year. To assist with these documents, FDA is particularly interested in information on how to minimize microbial contamination through the control of water, manure, worker sanitation and health, field and facility sanitation, and transportation and handling.

Public input is planned through several avenues, including this public meeting. Both oral and written comments from the public are encouraged. A series of grassroots meetings will also be held throughout the country to discuss the initiative. The dates, locations, and times will be published in an upcoming issue of the **Federal Register**.

Transcripts of the public meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 15 working days after the meeting at a cost of 10 cents per page. The transcript of the public meeting and all submitted comments will be available for public examination at the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 5, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–29798 Filed 11–7–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Public Scoping Meetings for Issuance of an Incidental Take Permit to the Georgia-Pacific Corporation, Mendocino County, CA

AGENCY: Fish and Wildlife Service, Interior; National Marine Fisheries Service, NOAA, Commerce; California Department of Forestry and Fire Protection.

ACTION: Notice of public scoping meetings.

SUMMARY: The Fish and Wildlife Service and the National Marine Fisheries Service (collectively "the Services"), and California Department of Forestry and Fire Protection intend to prepare a joint National Environmental Policy Act document/Environmental Impact Report for: (1) Approval of a Habitat Conservation Plan (Plan), and issuance of an incidental take permit to Georgia-Pacific Corporation, pursuant to section 10(a) of the Endangered Species Act of 1973, as amended (Act), and (2) approval of Georgia-Pacific's Sustained Yield Plan by the California Department of Forestry and Fire Protection, including consideration of conservation measures or plans addressing State-listed species. The Plan will cover forest management activities on Georgia-Pacific's properties in Mendocino County, California. Georgia-Pacific intends to request an incidental take permit for the northern spotted owl (*Strix occidentalis caurina*), marbled murrelet (*Brachyramphus marmoratus marmoratus*), American peregrine falcon (*Falco peregrinus anatum*), coho salmon (*Oncorhynchus kisutch*), and possibly other Federally-listed species. It is anticipated that Georgia-Pacific may also seek coverage for approximately 40–50 currently unlisted species of concern under specific provisions of the permit, should these species be listed in the future.

Public Involvement

This notice is being furnished pursuant to the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (40 CFR sections 1501.7 and 1508.22) to obtain suggestions and information from other agencies and the public on what alternatives should be considered and what environmental impacts issues should be addressed in preparation of the National Environmental Policy Act document. To satisfy both Federal and State environmental policy act requirements, the above Federal and California agencies are conducting a joint scoping process for the preparation of environmental documents.

DATES: In order to expedite the planning process, the above agencies request all scoping comments to this notice be received by December 20, 1997. As an opportunity for interested persons to comment on the scope of the National Environmental Policy Act document, two public scoping meetings have been scheduled for Wednesday, November 19, 1997, from 2 p.m. to 5 p.m. and from 7 p.m. to 9 p.m., at the Town Hall, 363 North Main Street, Fort Bragg, California.

ADDRESSES: Comments regarding the scope of the National Environmental Policy Act document should be addressed to Mr. Bruce Halstead, Project Leader, Coastal California Fish and Wildlife Office, 1125 16th Street, Room 209, Arcata, California 95521–5582. Written comments may also be sent by facsimile to (707) 822–8411. Comments received will be available for public inspection by appointment during normal business hours (Monday through Friday; 8:00 a.m. to 5:00 p.m.) at the above office. All comments received, including names and addresses, will become part of the administrative record and may be made available to the public.

FOR FURTHER INFORMATION: Contact Mr. Ken Hoffman at the above address.

SUPPLEMENTARY INFORMATION: The Georgia-Pacific Corporation, a forest products company, owns and manages approximately 192,952 acres of commercial forest lands in Mendocino County, California, that will be considered for inclusion in the Plan. Georgia-Pacific's multi-species Plan is anticipated to include the northern spotted owl, marbled murrelet, American peregrine falcon, coho salmon, and possibly other threatened/endangered species as part of their application for the incidental take permit. In addition, approximately 40–50 unlisted species of concern (anadromous and resident fish, wildlife, and plants) are being considered for inclusion in the Plan and provisions under the permit. The National Environmental Policy Act document will evaluate various forest management alternatives for the planning area.

Once completed, it is expected that Georgia-Pacific Corporation will submit the Plan as part of their incidental take permit application, as required under section 10(a) of the Act. The Services will evaluate the incidental take permit application, and associated Plan, in accordance with section 10(a) of the Act, and its implementing regulations.

Environmental review of the permit application, including the Plan, will be conducted in accordance with the requirements of the National Environmental Policy Act and its implementing regulations. A No Action/No Project alternative will be considered consistent with the requirements of the National Environmental Policy Act and the California Environmental Quality Act.

Georgia-Pacific will also be preparing a Sustained Yield Plan pursuant to the provisions under Article 6.75 of the California Forest Practice Rules, including consideration of conservation measures or plans addressing State-listed species under the California Endangered Species Act. It is expected that a section 2090 or 2081 agreement will be issued by the California Department of Fish and Game under state Fish and Game code for selected State-listed species that potentially occur on Georgia-Pacific's California timberlands.

Dated: November 4, 1997.

Thomas Dwyer,

Acting Regional Director, Region 1, Portland, Oregon.

[FR Doc. 97–29589 Filed 11–7–97; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–020–02–1430–01; GP8–0030]

Realty Action: Sale of Public Land in Harney County, Oregon

AGENCY: Bureau of Land Management (BLM), DOI.

ACTION: Notice of realty action, sale of public land.

SUMMARY: The following described public land in Harney County, Oregon, has been examined and found suitable for sale under Section 203 and 209 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713 and 1719), at not less than the appraised market value. All of the land described is within the Willamette Meridian.

OR–52782—T.25S., R.30E., sec. 28, SE¼NW¼, NE¼SW¼.

The area described aggregates 80 acres, more or less in Harney County, Oregon. The appraised market value and minimum bid for this parcel has been determined to be $4,000.

The sale of this parcel will be by modified competitive procedures. The adjacent landowners Charles C. Jr., and Drenda A. Leathers, Charles C. Leathers Estate and Douglas H. and Delores L. Stills will be given the opportunity to meet or exceed the highest sealed bid received from the general public.

OR–52783—T.25S., R.30E., sec. 32, SE¼NW¼, NE¼SW¼, NW¼SE¼.

The area described aggregates 120 acres, more or less in Harney County, Oregon. The appraised market value and minimum bid for this parcel has been determined to be $8,000.

The sale of this parcel will be by modified competitive procedures. The adjacent landowner Charles C. Leathers Estate will be given the opportunity to meet or exceed the highest sealed bid received from the general public.

OR–52784—T.25S., R.30E., sec. 33, NE¼NE¼.

The area described aggregates 40 acres, more or less in Harney County, Oregon. The apprised market value and minimum bid for this parcel has been determined to be $2,000.

The sale of this parcel will be by competitive procedures. The highest valid sealed bid received from the general public shall be declared the purchaser. Bids shall meet the same requirements and timeframes as specified below for modified competitive bids.

Sale of this parcel would be subject to a road right-of-way in conjunction with the Harney County road system.

OR–52785—T.26S., R.30E., North of Harney Lake, sec. 4, SW¼SW¼.

The area described aggregates 40 acres, more or less in Harney County, Oregon. The appraised market value and minimum bid for this parcel has been determined to be $2,000.

The sale of this parcel will be modified by competitive procedures. The adjacent landowners Charles C. Jr., and Drenda A. Leathers, Pacific Land and Livestock, c/o Charles C. Leathers Estate and Anna Lou Case will be given the opportunity to meet or exceed the highest sealed bid received from the general public.

The sale of this parcel would be subject to a right-of-way for buried telephone cable purposes granted to Telephone Utilities of Eastern Oregon, Inc., dba PTI Communications.

OR–52786—T.26S., R.30E., North of Harney Lake, sec. 5, SE¼NW¼, NE¼SW¼, NW¼SE¼.

The area described aggregates 120 acres, more or less in Harney County, Oregon. The appraised market value and minimum bid for this parcel has been determined to be $8,000.

The sale of this parcel will be by modified competitive procedures. The adjacent landowners Robert A. and Collen M. Rea, Pacific Land and Livestock, c/o Charles C. Leathers Estate and Stoko and Bremer Schaumburg, along with the holder of the BLM grazing permit J.V. Moon and Sons, will be given the opportunity to meet or exceed the highest sealed bid received from the general public.

If any person other than J.V. Moon and Sons is the successful bidder for the land, such person agrees to take the property subject to the current grazing permit until December 31, 1998, when the permit expires.

The sale of this parcel would be subject to a right-of-way for electric power transmission and distribution purposes granted to Harney Electric Cooperative, Inc.

OR–52787—T.26S, R.30E, North of Harney Lake, sec. 9, NE¼NW¼.

The area described aggregates 40 acres, more or less in Harney County, Oregon. The appraised market value and minimum bid for this parcel has been determined to be $2,000.

The sale of this parcel will be by modified competitive procedures. The adjacent landowners Charles C. Jr., and Drenda A. Leathers and Anna Lou Case will be given the opportunity to meet or exceed the highest sealed bid received from the general public.

The sale of this parcel would be subject to a right-of-way for buried telephone cable purposes granted to Telephone Utilities of Eastern Oregon, Inc., dba PTI Communications.

OR–52788—T.26S., R.30E., North of Harney Lake, sec. 10, SW¼NE¼, S½NW ¼, NW¼SW¼.

The area described aggregates 160 acres, more or less in Harney County, Oregon. The appraised market value and minimum bid for this parcel has been determined to be $10,600.

The sale of this parcel will be by modified competitive procedures. The adjacent landowners Charles C. Leathers Estate, Charles C. Jr., and Drenda A. Leathers, Joseph R. and Sharon K. Buermann, Leroy B. Miller and United Land, Carol A. Sack, and Clarence Weitmier, c/o Regina Crutcher will be given the opportunity to meet or exceed the highest sealed bid received from the general public.

The sale of this parcel would be subject to a right-of-way for buried telephone cable purposes granted to Telephone Utilities of Eastern Oregon, Inc., dba PTI Communications and a right-of-way for electric power transmission and distribution purposes granted to Harney Cooperative, Inc.

OR–52789—T.25S., R.31E., sec. 7, NW ¼SE¼.

The area described aggregates 40 acres, more or less in Harney County, Oregon. The appraised market value and minimum bid for this parcel has been determined to be $2,000.

The sale of this parcel will be by modified competitive procedures. The adjacent landowners Terry L. and Donna J. Thomas and Vernon L. Seaman will be given the opportunity to meet or exceed the highest sealed bid received from the general public.

OR–52790—T.25S., R.31E., sec. 7, lots 3 and 4, SE¼SW¼; sec. 8, SW¼SW¼; sec. 17, SW¼ NE¼, E½NW¼, NW¼NW¼; sec. 18 lot 1, N½NE¼, NE¼NW¼.

The area described aggregates 466.52 acres, more or less in Harney County, Oregon. The appraised market value and minimum bid for this parcel has been determined to be $30,800.

The sale of this parcel will be by modified competitive procedures. The adjacent landowners Charles C. Leathers Estate, Terry L. and Donna J. Thomas, Vernon L. Seaman, Elmer H. and Azalea E. Graves, and Floyd and Marion E. Olson will be given the opportunity to meet or exceed the highest sealed bid received from the general public.

OR–52791—T.25S., R.31E., sec. 19, NW¼SE¼.

The area described aggregates 40 acres, more or less in Harney County, Oregon. The appraised market value and minimum bid for this parcel has been determined to be $2,000.

The sale of this parcel will be by modified competitive procedure. The adjacent landowners Joe B. Gates, III and Joan C. Armstead will be given the opportunity to meet or exceed the highest sealed bid received from the general public.

OR–52792—T.25S., R.31E., sec. 20, SW¼NE¼, SE¼NW¼, W½SE¼.

The area described aggregates 160 acres, more or less in Harney County, Oregon. The appraised market value and minimum bid for this parcel has been determined to be $10,600.

The sale of this parcel will be modified competitive procedures. The adjacent landowners Anthony R. Lasich, Vernon L. Seaman, Joe B. Gates, III and Joan C. Armstead, Douglas H. and Delores L. Stills and the State of Oregon will be given the opportunity to meet or exceed the highest sealed bid received from the general public.

OR–53367—T.25S., R.34E., sec. 30, NE¼, NE¼NW¼, N½SE¼, SE¼SE¼.

The area described aggregates 320 acres, more or less in Harney County, Oregon. The appraised market value and minimum bid for this parcel has been determined to be $21,000.

The sale of this parcel will be by modified competitive procedures. The adjacent landowners Bell A. Grazing Cooperative and Paul and Cheryl Ables will be given the opportunity to meet or exceed the highest sealed bid received from the general public.

OR–52578 T.28S.,R.29E., sec. 1, lots 2, 3, SW¼NE¼, SE¼NW¼.

The area described aggregates 159.36 acres, more or less in Harney County, Oregon. The appraised market value and minimum bid for this parcel has been determined to be $9,600.

This parcel went unsold during the 1996 offering. In accordance with the Notice of Realty Action published in the **Federal Register** on June 18, 1996, unsold parcels will be offered competitively until sold. The sale of this parcel will be by the procedures described below for unsold parcels.

If any person other than J.V. Moon and Sons is the successful bidder for the land, such person agrees to take the property subject to the current grazing permit until December 31, 1998, when the permit expires.

OR–52579—T.28S., R.29E., sec. 2, SE¼SE¼.

The area described aggregates 40 acres, more or less in Harney County, Oregon. The appraised market value and minimum bid for this parcel has been determined to be $2,400.

This parcel went unsold during the 1996 offering. In accordance with the Notice of Realty Action published in the **Federal Register** on June 18, 1996, unsold parcels will be offered competitively until sold. The sale of this parcel will be by the procedures described below for unsold parcels.

In any person other than J. V. Moon and Sons is the successful bidder for the land, such person agrees to take the property subject to the current grazing permit until December 31, 1998, when the permit expires.

In addition to the conditions described above, all patents when issued, will contain a reservation for a right-of-way for ditches and canals constructed thereon by the authority of United States under the Act of August 30, 1890 (43 U.S.C. 945).

Access will not be guaranteed to any of the parcels being offered for sale, nor any warranty made as to the use of the property in violation of applicable land use laws and regulations. Before submitting a bid, prospective purchasers should check with the appropriate city or county planning department to verify approved uses.

All persons, other than the successful bidder, claiming to own unauthorized improvements on the land are allowed 60 days from the date of sale to remove the improvements.

All land described is hereby segregated from appropriation under the public land laws, including the mining laws, pending disposition of this action, or 270 days from the date of publication of this notice, whichever occurs first.

With the exception of OR–52784, OR–52578 and OR–52579, sales will be by modified competitive procedures. Federal regulations dealing with sales (43 CFR 2710.0–6(c)(3)(ii)) provide for modified competitive procedures to assure compatibility with possible uses on adjacent land and to protect ongoing uses. The above named landowners abut the property on at least one side, control access and, in some cases, use the land in conjunction with adjacent private land.

Under modified competitive procedures the preference bidders designated above will be given the opportunity to match or exceed the apparent high bid. The apparent high bid will be established by the highest valid sealed bid received from the general public for each parcel. If two or more valid sealed bids of the same amount are received for the same parcel, that amount shall be determined to be the apparent high bid. The bid deposit for the apparent high bid(s) will be retained and all others will be returned.

The preference bidders will be notified by certified mail of the apparent high bid. Where there are two or more preference bidders for a single parcel, they will be allowed 30 days to provide the authorized officer with an agreement as to the division of the property or, if agreement cannot be reached, sealed bids for not less than the apparent high bid. Failure to submit an agreement or a bid shall be considered a waiver of the option to divide the property equitably and forfeiture of the preference consideration. Failure to act by all of the preferred bidders will result in the parcel being offered to the apparent high bidder or declared unsold, if no bids were received in the initial round of bidding.

All sealed bids must be submitted to the Burns District Office, no later than 2:00 p.m. PST on January 14, 1998, the time of the bid opening. Bid envelopes must be clearly marked "BLM Land Sale" with the parcel number and the bid opening date. Bids must be for not less than the appraised fair market value specified in this notice. Separate bids must be submitted for each parcel. Each sealed bid shall be accompanied by a certified check, postal money order, bank draft, or cashier's check made payable to the Department of the Interior-BLM for not less than 20 percent of the amount bid.

The total purchase price for the land shall be paid within 180 days of the date of the offer to sell. Failure to pay the full price will disqualify the purchaser and the bid deposit will be forfeited. The parcel will then be offered to the apparent high bidder, next highest bidder or declared unsold, as appropriate.

Sale of unsold parcels will be by sealed bid meeting the requirements specified above. Sealed bids for unsold parcels will be opened on the second Wednesday of each month at 2:00 p.m. PST.

Federal law requires that purchasers must be U.S. citizens, 18 years of age or older, a state or state instrumentality authorized to hold property or a corporation authorized to own real estate in the state in which the land is located.

A successful bid on a parcel will qualify the prospective purchaser to make application for conveyance of those mineral interest offered under the authority of Section 209(b) of the Federal Land Policy and Management Act of 1976. A nonrefundable fee of $50 will be required from the prospective purchaser for purchase of the mineral interests to be conveyed simultaneously with the sale of the land.

DATES: On or before December 24, 1997, interested persons may submit comments regarding the proposed sale to the Burns District Manager at the address described below. Comments or protests must reference a specific parcel and be identified with the appropriate serial number. In the absence of any objections, this proposal will become the determination of the Department of the Interior.

ADDRESSES: Comments, bids, and inquiries should be submitted to the Burns District Manager, HC 74–12533, Hwy 20 West, Hines, Oregon 97738.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning this public land sale is available from Craig M. Hansen, Area Manager or Skip Renchler, Realty Specialist, Three Rivers Resource Area at the above address, phone (541) 573–4400.

Dated: October 29, 1997.

Michael T. Green,

District Manager.

[FR Doc. 97–29585 Filed 11–1–97; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Extension of Post-Sale Evaluation Period for Western Gulf of Mexico Lease Sale 168

AGENCY: Minerals Management Service, Interior.

ACTION: Notice to extend post-sale evaluation period for Western Gulf of Mexico Lease Sale 168.

SUMMARY: This notice extends by 15 days, the post-sale evaluation period for Western Gulf of Mexico Lease Sale 168. The Minerals Management Service (MMS) will complete evaluating all the bids received in this sale by December 9, 1997. This action is necessary due to the unusually high number of bids received in response to this lease sale.

DATES: The post-sale evaluation period ends on December 9, 1997.

FOR FURTHER INFORMATION CONTACT: Gary L. Lore, Regional Supervisor, Resource Evaluation, Gulf of Mexico Region, telephone (504) 736–2710..

SUPPLEMENTARY INFORMATION: In the Western Gulf of Mexico Sale 168, held, August 27, 1997, we received 1,224 bids on 804 tracts, 738 of which passed to a second phrase required for detailed evaluations. This unprecedented response by industry in Sale 168 resulted from the enactment of the Outer Continental Shelf Deep Water Royalty Relief Act (Pub. L. 104–58) and other factors, such as higher natural gas and oil prices. Consequently, MMS is unable to conduct and complete the entire bid review process within the 90 days, i.e., by November 24, 1997. Under provisions of § 256.47(e)(2), MMS is extending the bid evaluation period until December 9, 1997.

Dated: November 4, 1997.

Chris C. Oynes,

Regional Director, Gulf of Mexico.

[FR Doc. 97–29586 Filed 11–7–97; 8:45 am]

BILLING CODE 4310–MR–M

INTERNATIONAL TRADE COMMISSION

Sunshine Act Meeting

TIME AND DATE: November 19, 1997 at 2:30 p.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting: None.
2. Minutes.
3. Ratification List.
4. Inv. Nos. 701–TA–368–371 and 731–TA–763–766 (Final) (Certain Steel Wire Rod from Canada, Germany, Trinidad and Tobago, and Venezuela)—briefing and vote.
5. Outstanding action jackets:

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: November 6, 1997.

Donna R. Koehnke,

Secretary.

[FR Doc. 97–29781 Filed 11–6–97; 3:34 pm]

BILLING CODE 7020–02–U

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Keystone Sanitation Company, et al.*, Civil Action No. 1:CV:–93–1482 (M.D. Pa.) was lodged on October 22, 1997, with the United States Court for the Middle District of Pennsylvania.

The consent decree resolves the liability of approximately 376 third and fourth party defendants at the Keystone Sanitation Superfund Site, located near Hanover, Pennsylvania. The decree provides that the Settling Defendants listed in Appendix B to the consent decree and several federal agencies will pay a total of $4.25 million to the United States as follows: $80,000 of that sum will be paid to the Department of the Interior to resolve claims for natural resource damages; $1.25 million will be paid to the Superfund to reimburse the United States for past response costs incurred at the Site; and the balance of $2,920,000 will be paid into a Special Account to be used either for future remedial work at the Site or, if not so used, to be paid back into the Superfund.

The Commonwealth of Pennsylvania is also a party to the decree. It is a third party to the litigation. It grants the settling parties a covenant not to sue under section 107(a) of CERCLA, 42 U.S.C. § 9607(a), its state law counterpart, and other state statutes. In exchange, the Settling Defendants and Settling Federal Agencies agree to pay to the United States the share allocated to the state agencies of $66,775.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Keystone Sanitation Company, et al.*, DOJ Ref. #90–11–2–656A.

The proposed consent decree may be examined at the office of the United

States Attorney, Middle District of Pennsylvania, 228 Walnut Street, Harrisburg, PA 17108; the Region III Office of the Environmental Protection Agency, 841 Chestnut Street, Philadelphia, PA 19107; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $50.00, payable to the Consent Decree Library.

Bruce S. Gelber,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–29532 Filed 11–7–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Digital Imaging Group, Inc.

Notice is hereby given that, on September 25, 1997, pursuant to § 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), the Digital Imaging Group, Inc. ("Consortium") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to § 6(b) of the Act, the identities of the parties are: Adobe Systems Incorporated, San Jose, CA; Canon Inc., Tokyo, Japan; Eastman Kodak Company, Rochester, NY; Hewlett-Packard Company, San Diego, CA; IBM Corporation, Armonk, NY; Intel Corporation, Hillsboro, OR; Fuji Photo Film Co., Ltd., Tokyo, Japan.

Digital Imaging Group, Inc. was formed as a Delaware non-stock member corporation. The primary objective of the venture is to promote the growth of digital imaging by defining and publishing the "FlashPix" format and Internet Digital Imaging Protocol, and other deliverables that the Board of Directors may direct from time to time, which will contribute to making digital images a pervasive data type in computers, across networks, and within communication devices of the future.

Membership in the Consortium will remain open and the Consortium will file additional written notifications disclosing all changes in membership.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–29526 Filed 11–7–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Gas Utilization Research Forum

Notice is hereby given that, on October 14, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), Gas Utilization Research Forum ("GURF") Project No. 2, has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damage under specified circumstances. Specifically, BG plc, Loughborough, Leicestershire, UNITED KINGDOM: and ARCO International Oil and Gas Company, Plano, TX have become new members of GURF Project No. 2.

No other changes have been made in either the membership or planned activity of the group. Membership in this group remains open, and GURF intends to file additional written notification disclosing all changes in membership. Information regarding membership in GURF may be obtained from Dennis Winegar, Vice President, International Marketing & Business Development, Texaco Global Gas and Power, P.O. Box 4700, Houston, TX 77210–4700, Telephone (713) 752–7654, Facsimile: (713) 752–4681.

On May 15, 1995, GURF filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 20, 1995, (60 FR 32170).

The last notification was filed with the Department on September 23, 1996. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on November 5, 1996, (61 FR 56971).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–29527 Filed 11–7–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Gas Utilization Research Forum

Notice is hereby given that, on September 25, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), Gas Utilization Research Forum ("GURF") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damage under specified circumstances. Specifically, ARCO International Oil and Gas Company, Plano, TX has become a new member of GURF.

No other changes have been made in either the membership or planned activity of the group. Membership in this group remains open, and GURF intends to file additional written notification disclosing all changes in membership. Information regarding membership in GURF may be obtained from the Secretary, Dennis Winegar, Vice President, International Marketing & Business Development, Texaco Global Gas and Power, P.O. Box 4700, Houston, TX 77210–4700, Telephone (713) 752–7654, Facsimile: (713) 752–4681.

On December 19, 1990, GURF filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on January 16, 1991, (56 FR 1655).

The last notification was filed with the Department on August 11, 1997. The notice has not been published.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–29529 Filed 11–7–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Message Oriented Middleware Association ("MOMA")

Notice is hereby given that, on September 17, 1997, pursuant to § 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), the Message Oriented Middleware Association ("MOM") filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, the following organizations have joined MOMA: BEA Systems, Rocky Hill, CT; Candle Corporation, W. Bloomfield, MI; Early, Cloud & Company, Middletown, RI; HUBLink, Inc., Columbus, OH; Dave Isherwood, Staten Island, NY; Liberty Mutual Insurance, Portsmouth, NJ; MINT Communications Systems, New York NY; Motorola, Inc., Schaumburg, IL; National City Corporation, Columbus, OH; SpaceWorks, Inc., Rockville, MD; Technology Investments, Tampa, FL; Vertex Industries, A NetWeave Business Unit, Philadelphia, PA; XING, Paris La Defense, France, ATB Associates has changed its name to ATB, Inc.

The following organizations have withdrawn their membership from MOMA: Bell Sygma Systems Management, Suite Software, Tenektron Software Systems, and Touch Technology, Inc.

No other changes have been made in either the membership or planned activities of MOMA. Membership remains open and MOMA intends to file additional written notifications disclosing all changes in membership.

On May 15, 1995, MOMA filed its original notification pursuant to § 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to § 6(b) of the Act on November 13, 1995 (60 FR 57022).

The last notification was filed with the Department on April 25, 1997. A notice was published in the **Federal Register** on May 19, 1997 (62 FR 27278).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–29531 Filed 11–7–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Storage Industry Consortium

Notice is hereby given that, on April 15, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), the National Storage Industry Consortium ("NSIC") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, the identities of the new members of NSIC are: Digital Instruments, Inc., Santa Barbara, CA; Ontrack Data International, Inc., Eden Prairies, MN; Phase Metrics, Inc., San Diego, CA; VTC Inc., Bloomington, MN; and Zygo Corporation, Middlefield, CT.

The following colleges and universities have joined NSIC as university associate members: IDEMA, Sunnyvale, CA; National Institute of Standards and Technology, Gaithersburg, MD; SRI International, Menlo Park, CA; University of California at Santa Barbara, Santa Barbara, CA; and the University of Colorado, Boulder, CO.

The following member company has changed its name: St. Gobain was formerly known as Saint-Gobain/Norton Industrial Ceramics Corporation.

NSIC's area of activity remains the sponsorship of research in the area of information storage technology.

On June 12, 1991, NSIC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice (the "Department") published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on August 13, 1991 (56 FR 38485).

The last notification was filed with the Department on August 4, 1995. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 20, 1995 (60 FR 65670).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–29528 Filed 11–7–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Network Management Forum

Notice is hereby given that, on August 8, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), the Network Management Forum ("the Forum") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions to its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the identities of the new members to the venture are as follows: Telefonos de Mexico, S.A. de C.V., Col. Florida, Mexico D.F., Mexico is a Corporate Member. Orange PCNS, Bristol, England is an Associate Member. G.E. Capital Consulting, Somerset, NJ; and Liacom Systems, Holon, Israel are Affiliate Members.

No other changes have been made since the last notification filed with the Department in either the membership or planned activity of the group research project. Membership in this group research project remains open, and the Forum intends to file additional written notifications disclosing all changes in membership.

On October 21, 1988, the Forum filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 8, 1988 (53 FR 49615).

The last notification was filed with the Department on June 6, 1997. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on July 23, 1997 (62 FR 39550).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–29522 Filed 11–7–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—OBI Consortium Inc.

Notice is hereby given that, on September 10, 1997, pursuant to § 6(a)

of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), the OBI Consortium Inc., ("Consortium") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to § 6(b) of the Act, the identities of the parties are: American Express, New York City, NY; Actra Business Systems, Sunnyvale, CA; Intelisys Electronic Commerce, LLC, New York City, NY; Oracle Corporation, Redwood Shores, CA; BASF Corporation, Mount Olive, NJ; BOC Group, Inc., Murray Hill, NJ; Corporate Express, Inc., Broomfield, CO; Stream International Holdings, Inc., Norwood, MA; Ford Motor Company, Dearborn, MI; W.W. Grainger, Inc., Lincolnshire, IL; F. Hoffman-LaRoche, Ltd., Nutley, NJ; Office Depot, Inc., Delray, FL; Texas Instruments, Dallas, TX; United Technologies Corporation, Hartford, CT; VWR Scientific Products Corporation, W. Chester, PA; Boise Cascade Office Products Corporation, Itaeca, IL; Eastman Chemical Co., Longview, TX.

The venture was formed as a Delaware non-stock member corporation. The primary objective of the venture is to create and promote a standard to facilitate purchasing via the Internet and to cause the broad adoption of that specification by technology vendors, suppliers and customers, in order to facilitate efficient, economic business to business purchasing via the Internet.

Membership in the Consortium will remain open and the Consortium will file additional written notifications disclosing all changes in membership.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–29523 Filed 11–7–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Petroleum Environmental Research Forum Project No. 95–10

Notice is hereby given that, on October 2, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), the participants in the Petroleum Environmental Research Forum ("PERF") Project No. 95–10, titled "Advanced NDE for Heat Exchange Tubular Inspection," have filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following additional parties have become members of the Project: Shell Oil Company, Houston, TX; and Amoco Corporation, Houston, TX.

No other changes have been made in either the membership or planned activities of PERF Project No. 95–10.

On November 1, 1996, PERF Project No. 95–10 filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 4, 1996, (61 FR 64371).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–29525 Filed 11–7–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; the Salutation Consortium, Inc.

Notice is hereby given that, on July 30, 1997, pursuant to § 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), the Salutation Consortium, Inc. (Consortium) has filed written notifications for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, the following have become members to the venture: WhetStone Technologies, Park City, UT; and Komatsu, Ltd., Kenagwa, Japan. The following entities are no longer members of the Consortium: ActiveVoice Corp., Wind River Systems, and Hermes Messaging Service. In addition, certain of the Consortium's previous notifications were amended as follows: The filing dated March 30, 1995 was amended by adding Zerox Corporation, Stamford, CT as a member. The filing dated October 18, 1995, was amended by adding Hermes Messaging Service, Migdal-Haemek Israel. The filing dated January 17, 1996, was amended by adding Axis Communications AB, Lund Switzerland and NICSA, Yomanashi-Ken, Japan. The filing dated April 8, 1997, was amended by adding Senior Technical Staff Consulting, Highland, UT as a member.

On March 30, 1995, Salutation Consortium filed its original notification under the Act under the name "Smart Office Industry Consortium". Pursuant to a change in structure from an unincorporated entity to a Delaware non-stock membership corporation, the joint venture changed its name to Salutation Consortium, Inc. on June 29, 1995.

No other changes have been made in the membership or the planned activity of the Consortium. Membership remains open and the Consortium intends to file additional written notifications disclosing all changes in membership.

On March 30, 1995, the Consortium filed its original notification pursuant to § 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to § 6(b) of the Act on June 27, 1995 (60 FR 33233). The last notification was filed on April 9, 1997. The Department of Justice published a notice in the **Federal Register** on May 19, 1997 (62 FR 27279).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–29524 Filed 11–7–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Silicon Integration Initiative, Inc.

Notice is hereby given that, on September 5, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), Silicon Integration Initiative, Inc. ("SI2") (formerly known as CAD Framework Initiative, Inc. ("CFI")) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing certain changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Avant!, Sunnyvale, CA; and Chronology, Inc., Redmond, WA, have become members of SI2. Advanced Micro Devices; Seiko Instruments; Ikos Systems; CNET–Grenoble; CPQD Telebras; Earl F. Ecklund; Nokolay Vitsyn; and Carl Hage, are no longer members of SI2.

The purpose of SI2 has been amended to read as follows: "Provide collaborative technology and services which enable higher levels of semiconductor design integration leading to industry accepted standards."

On December 30, 1988, SI2 filed its original notification pursuant to Section 6(a) of the Act. That filing was amended on February 7, 1989. The Department of Justice published a notice concerning the amended filing in the **Federal Register** pursuant to Section 6(b) of the Act on March 13, 1989 (54 FR 10456). A correction notice was published on April 20, 1989 (54 FR 16013).

The last notification was filed with the Department on May 1, 1997. A notice as published in the **Federal Register** pursuant to Section 6(b) of the Act on July 23, 1997 (62 FR 39549).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–29530 Filed 11–7–97; 8:45 am]

BILLING CODE 4410–11–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (97–161)]

National Environmental Policy Act; Expansion of Launch Range Operations at Goddard Space Flight Center's Wallops Flight Facility

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Finding of no significant impact.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321, *et seq.*), the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA (40 CFR Parts 1500–1508), and NASA policy and procedures (14 CFR Part 1216, Subpart 1216.3), NASA has made a finding of no significant impact (FONSI) with respect to the proposed expansion of launch range operations at Goddard Space Flight Center's Wallops Flight Facility (WFF), Wallops Island, Virginia. NASA proposes to enhance national launch capabilities through improvements to infrastructure and the expansion of its launch range operations at WFF. The major elements of the proposed action include: (1) support of the Virginia Commercial Space Flight Authority's establishment of a commercial launch site to operate from WFF under a Use Agreement with NASA (operation of this launch site would be licensed by the Federal Aviation Administration (FAA)); (2) improvements to real property necessary to support the expansion of launch operations; (3) expansion of operations at WFF to accommodate an increase in orbital launch capability; and (4) restoration of the historical level and nature of suborbital operations on the WFF range. The improvements to infrastructure and the establishment of a licensed commercial launch site at WFF would increase the national capacity for the launch of commercial satellites, and provide additional capacity for all launch operations from Wallops Island.

The FAA has acted as a cooperating agency throughout the NEPA process.

DATE: Upon publication of this FONSI, NASA will proceed immediately to implement the proposed action.

ADDRESSES: The environmental assessment (EA) for the proposed expansion of launch range operations at WFF may be reviewed at the following locations:

(a) NASA Headquarters, Library, Room 1J20, 300 E Street, SW, Washington, DC 20546.

(b) NASA, Goddard Space Flight Center's Wallops Flight Facility, Public Affairs Office, Wallops Island, Virginia 23337.

(c) Eastern Shore Public Library, Accomack, VA 23301.

(d) Jet Propulsion Laboratory, Visitors Lobby, Building 249, 4800 Oak Grove Drive, Pasadena, CA 91109 (818–354–5179).

(e) Spaceport U.S.A., Room 2001, John F. Kennedy Space Center, FL 32899. Please call Lisa Fowler beforehand at 407–867–2497.

In addition, the EA may be reviewed at the following NASA locations by contacting the pertinent Freedom of Information Act Office.

(f) NASA, Ames Research Center, Moffett Field, CA 94035 (650–604–4190)

(g) NASA, Dryden Flight Research Center, Edwards, CA 93523 (805–258–3448).

(h) NASA, Goddard Space Flight Center, Greenbelt, MD 20771 (301–286–0730)

(i) NASA, Johnson Space Center, Houston, TX 77058 (281–483–8612).

(j) NASA, Langley Research Center, Hampton, VA 23665 (757–864–2497).

(k) NASA, Lewis Research Center, 21000 Brookpark Road, Cleveland, OH 44135 (216–433–2222).

(l) NASA, Marshall Space Flight Center, AL 35812 (205–544–0031).

(m) NASA, Stennis Space Center, MS 39529 (601–688–2164). A limited number of copies of the EA are available, on a first request basis, by contacting the WFF Public Affairs Office at the address or telephone number indicated herein.

FOR ADDITIONAL INFORMATION CONTACT: Public Affairs Office, NASA Goddard Space Flight Center, Wallops Flight Facility, Wallops Island, VA 23337; telephone 757–824–1579.

SUPPLEMENTARY INFORMATION: NASA has reviewed the EA prepared for the expansion of launch operations at WFF and determined that it represents an accurate and adequate analysis of the scope and level of associated environmental impacts. NASA hereby incorporates the EA by reference in this FONSI.

The purpose of the proposed action is to enhance national launch capabilities through improvements to infrastructure and the expansion of launch range operations at WFF. An FAA licensed commercial launch site at WFF would be established to promote this expansion of launch capabilities. The licensed commercial launch site is needed to further encourage, facilitate, and promote a competitive United States commercial launch industry.

The EA identifies potential impacts that may occur during implementation of the proposed actions. The EA addresses environmental impacts associated both with launch operations and construction of launch support facilities. The expansion of launch range operations would accommodate an increase in orbital launch capability, and a restoration of the historical level of suborbital launches conducted at the WFF launch range. The proposed annual orbital launch schedule for WFF is anticipated to be twelve per year, with environmental impacts associated with an individual launch less than or equivalent to launching a Lockheed-Martin Launch Vehicle-3 with eight strap-ons (LMLV–3). The proposed improvements to WFF's real property and infrastructure necessary to accomplish the proposed expansion include: (1) modifications to existing launch pad 0–A; (2) modifications to existing buildings for payload processing facilities; and (3) the construction of a new launch pad designated as pad 0–B. WFF's proposed launch range expansion would accommodate various solid and liquid (liquid oxygen-hydrogen, liquid oxygen-kerosene) rocket motor configurations.

Reasonable alternatives to the proposed action that were considered included launch sites at: (1) Spaceport

Florida, located adjacent to Cape Canaveral Air Station on the east coast of Florida; (2) California Spaceport, located at Vandenberg Air Force Base, California; (3) and Kodiak Launch Complex, near Kodiak, Alaska. Foreign launch sites, such as Russia, Japan, China, Canada, and India, are not considered reasonable alternative sites. NASA also considered the "no action" alternative.

Impacts to the human environment associated with the proposed action can be divided into short-term (construction phase) and long-term (operational phase) impacts. The construction phase would last approximately 12–15 months. The EA evaluated the environmental consequences of both the construction and operational phases including, but not limited to, air and water quality, noise, flora and fauna, threatened and endangered species, health and safety, solid and hazardous waste management, socioeconomics, land use, wetlands and floodplain management.

Overall impacts individually and cumulatively to the human environment are not anticipated to be substantial. Neither construction nor operational activities will have a substantial impact on air quality at WFF. The highly localized, short duration air emissions from rocket launches quickly dissipate and are well below exposure standards established to protect human health. Neither construction nor operational noise levels will differ substantially from current noise levels at WFF. During launch operations, the noise is maintained for only a few seconds, is of low frequency, attenuates rapidly, and occurs infrequently.

Construction activities will disturb some vegetation. Operational activities may include the searing of vegetation within approximately 200 to 300 meters (660 to 980 feet) of the combustion path. The proposed construction area is dominated by Pharagmities australis (common reed) and no longer supports indigenous hydrophilic floral species. Construction activities will not disturb wildlife in the vicinity. Operational activities may include injury or death to fauna within 200 to 300 meters of the combustion path. Some temporary interruption of foraging and nesting activities within a 1,000 meter (3300 feet) radius of the launch pad for 2 to 10 minutes during launch operations may be expected. Construction activities will not disturb any federally or state listed threatened or endangered species or critical habitat. There are no known endangered species within a 1,000 meter (3300 foot) radius of the launch pad. However, a piping plover nesting area is adjacent to this 1,000 meter zone. Pursuant to formal Section 7 consultation, the United States Fish and Wildlife Service has issued a biological opinion that WFF's proposed action is not likely to jeopardize the continued existence of the piping plover. Monitoring the piping plover will take place during the first three launches from pad 0–B that take place during the nesting season.

Relatively small amounts of toxic substances may be needed for payload processing, and limited amounts of solid and hazardous wastes will be generated. No water quality or cultural resource impacts are anticipated, and there are no environmental justice concerns. The proposed action is consistent to the maximum extent practicable with the Virginia coastal zone management program. The proposed construction will occur in a 100-year floodplain and will convert 1,280 square meters (approximately ⅓ acre) of low quality wetlands to industrial use. There are no practicable alternatives which avoid the floodplain or conversion of the wetlands. Wetlands will be established or improved to compensate for the loss created by the project. There will be some positive socioeconomic benefit to the surrounding community through job creation and purchases of goods and services. There are no other issues of potential environmental concern.

NASA sought public and agency review and comment on the environmental impacts of the proposed action through: (1) a notice of availability of the Draft EA concerning expansion of launch range operations at WFF in the **Federal Register** on September 8, 1997 (62 FR 47223); (2) notice of availability of the Draft EA in local news media; (3) consultations with state and federal egencies; and (4) direct mailing of the Draft EA to interested parties. No environmental concerns were raised during the 30-day public comment on the Draft EA.

On the basis of the EA for the expansion of launch range operations at WFF and underlying reference documents, NASA has determined that the environmental impacts associated with the proposed action will not individually or cumulatively have a significant effect on the quality of the human environment.

Therefore, an environmental impact statement is not required.

William F. Townsend,

Acting Associate Administrator for Mission to Planet Earth.

[FR Doc. 97–29637 Filed 11–7–97; 8:45 am]

BILLING CODE 7510–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–7580]

Consideration of License Amendment Request for the Fansteel, Inc., Facility in Muskogee, OK and an Opportunity for Hearing

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of consideration of license amendment request for the Fansteel, Inc., Facility in Muskogee, Oklahoma and an opportunity for hearing.

The U.S. Nuclear Regulatory Commission is considering amendment of Source Material License SMB–911, issued to Fansteel, Inc., for modification of the operation at its processing facility in Muskogee, Oklahoma. Fansteel is authorized to reprocess acid "Work-In-Progress (WIP)" residues, which were generated from previous operations at its facility, to extract tantalum, niobium and scandium. The WIP residues contain, by weight, more than 0.05 percent natural uranium and thorium, which are source materials and require an NRC license under 10 CFR Part 40. Fansteel has requested an amendment of its license to authorize processing of wastewater treatment residues concurrently with the WIP residues and to generate three additional products: calcium sulfate, sodium sulfate, and sodium fluoroaluminate.

Prior to approving the amendment application, NRC will have made findings required by the Atomic Energy Act of 1954, as amended, and NRC's regulations. These findings will be documented in a Safety Evaluation Report and an Environmental Assessment. The amendment of the license will be documented in the issuance of an amended SMB–911 license.

The NRC hereby provides notice that this is a proceeding on an application for amendment of a license falling within the scope of Subpart L, "Informal Hearing Procedures for Adjudication in Materials Licensing Proceedings," of NRC's rules and practice for domestic licensing proceedings in 10 CFR Part 2. Pursuant to Section 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing in accordance with § 2.1205(d). A request for a hearing must be filed within thirty (30) days of the date of publication of the **Federal Register** Notice.

The request for a hearing must be filed with the Office of the Secretary either:

(1) By delivery to the Docketing and Services Branch of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738; or

(2) By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington D.C. 20555, Attention: Docketing and Services Branch.

In addition to meeting other applicable requirements of 10 CFR Part 2 of the NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

(1) The interest of the requester in the proceeding;

(2) How that interest may be affected by the results of the proceeding, including the reasons why the requester should be permitted a hearing, with particular reference to the factors set out in § 2.1205 (h);

(3) The requester's concerns in the area of licensing activity that is the subject matter of the proceeding; and

(4) The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205 (d).

Each request for a hearing must also be served, by delivering it personally or by mail to:

(1) The applicant, Fansteel, Inc. to the attention of Mr. John Hunter, Number Ten Tantalum Place, Muskogee, Oklahoma, 74403–8296; and

(2) The NRC staff, by delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or by mail addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Any hearing that is requested and granted will be held in accordance with the NRC's Informal Hearing Procedures for Adjudications in Material Licensing Proceedings in 10 CFR Part 2, Subpart L.

For further details with respect to this action, the licensee's renewed license dated September 30, 1997, and amendment application dated July 30, 1997, are available for inspection at the NRC's Public Document Room, 2120 L Street N.W., Washington, D.C. 20555. Questions should be referred to NRC's project manager for the Fansteel, Inc., facility, Susan D. Chotoo, at (301) 415–8102.

Dated at Rockville, Maryland, this 30th day of October, 1997.

For The Nuclear Regulatory Commission.

Michael F. Weber,

Chief, Licensing Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 97–29616 Filed 11–7–97; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

The Combined Federal Campaign

AGENCY: Office of Personnel Management.

ACTION: Notice of limitation on the recognition of national federations.

SUMMARY: Pursuant to the Combined Federal Campaign (CFC) regulations at 5 CFR Section 950.301(a) which states that "the Director may from time to time place a moratorium on the recognition of national federations, I hereby establish such action for a two year period, beginning with the national application process for the 1998 campaign.

This moratorium will provide an opportunity for the Office of Personnel Management to strengthen the monitoring and auditing process, as well as capability to ensure that national federations meet and operate in accordance with the public accountability standards of 5 CFR Section 950.203 and conform to the requirements of 5 CFR Section 950.301.

This action does not prohibit any charity from applying to the CFC national listing as an unaffiliated organization, or from applying to the 20 existing federations, which currently represent 804 of the 1158 charitable organizations. A list of the existing federations is attached.

EFFECTIVE DATES: 1998 and 1999.

CONTACT PERSON FOR MORE INFORMATION: Carol Hill Lowe, Director, Office of Extragovernmental Affairs, Office of Personnel Management, Theodore Roosevelt Building, 1900 E Street, NW., Room 5450, Washington, DC 20415–0001, (202) 606–2564.

Office of Personnel Management.

Janice R. Lachance,

Acting Director.

National Federations, 1997

American Red Cross
Paul Carter, 430 17th Street, NW., Washington, DC 20006, Phone: 202/639–3334, FAX: 202/634–6184, e-mail:

America's Charities
Don Sodo, Arnold Swope, Mary, 12701 Fair Lakes Circle, Suite 370, Fairfax, VA 22033, Phone: 703/222/3861, FAX: 703/222–3867, e-mail: arnold@acharities.org; don@acharities.org

Animal Funds of America
John Pettitt, President, c/o Guide Dogs of America, 13445 Gleanoaks Boulevard, Sylmar, CA 91342, Phone: 818/362–5834, FAX: 818/362–6870, e-mail: guidedogsofamerica@charitesusa.com

Children's Charities of America
Jodie Darragh, 4040 Crabapple Lake Court, Roswell, GA 30076–4253, Phone: 770/442–0415, FAX: 770/552–0129, e-mail:

Christian Service Organizations of America
Mike Howland, Jeff Lee, 7002 Little River Turnpike, Suite C, Annandale, VA 22003, Phone: 703/916–8855, FAX: 703/916–7588, e-mail: mikehowlandcsoe@mindspring.com; jeffleecsoe@mindspring.com

Conservation and Preservation Charities of America
Amy Owens, President, c/o Appalachian Trail Conference, Director of Development, P.O. Box 807, Harpers Ferry, WV 25425, Phone: 304/535–6331, FAX: 304/535–2667, e-mail: acwen@atconf.org

Do Unto Others: America's Emergency Relief, Devel, Etc. (Formerly World Service Organizations)
Paul McCombs Maxey, 24 New Windsor Road, Suite 102, Westminster, MD 21157–4413, Phone: 410/857–0144, FAX: 410/857–0144, e-mail:

Earth Share
Kal Stein, Steve Karlin, 3400 International Drive, NW, Suite 2K, Washington, DC 20008, Phone: 202/537–7100, FAX: 202/537–7101, e-mail:

Educate America
Jim Aiello, 1320 Jamesville Avenue, Box 131, Syracuse, NY 132–0131, Phone: 315/422–0376, Ext. 224, FAX: 315/422–6369, e-mail:

Health and Medical Research Charities of America
Kimberly Frye, 7777 Leesburg Pike, Suite 202–S, Falls Church, VA 22043, Phone: 888/756–4769, FAX: 505/299–3392, e-mail:

Human & Civil Rights Organizations of America
Marshall Strauss, 615 Third Street, NE, Unit 5, Washington, DC 20002, Phone: 202/547–4105, FAX: 202/547–4106, e-mail:

Human Service Charities of America
Marti Maust, 6509 Lanese Court, Springfield, VA 22152, Phone: 703/697–8250, FAX: 703/697–2870, e-mail:

International Service Agencies
Renee Acosta, Felipe Lulli, Mike Coburn, Phone: 703/548–2200, FAX: 703/548–7684, e-mail: isa@charity.org

Medical Research Agencies of America
Mike Howland, Jeff Lee, 7002 Little River Turnpike, Suite C, Annandale, VA 22003, Phone: 703/916–8855, FAX: 703/916–7588, e-mail mikehowlandcsoe@mindspring.com; jeffleecsoe@mindspring.com

Military, Veterans & Patriotic Service Organizations
David Coker, 1401 Rockville Pike, Rockville, MD 20852, Phone: 301/294–8560, FAX: 301/294–8562, e-mail: Dcoker@aol.com; 301/294–8560

National Black United Federation of Charities
Charlene Taylor, Rosslyn Spriggs, 1212 New York Avenue, NW, Suite 550, Washington, DC 20005, Phone: 202/289–7888, FAX: 202/289–5950, e-mail: nbufc@usbol.com

National Voluntary Health Agencies
Dan Snare, Pam Haberstroh, 1925 K Street, NW, Suite 510, Washington, DC 20006,

Phone: 202/467–5913, FAX: 202/467–4280, e-mail:

United Way of America
Les Talley—703/836–7112, ext 438, Chris Marshall—703/683–7112, ext 491, Pat Wallace, 701 North Fairfax Street, Alexandria, VA 22314–2045, Phone: 703/836–7100, FAX: 703/683–7840, e-mail:

United Service Organizations
Kermit Ellis, Kim Hessler, Washington Navy Yard, 901 M Street, SE, Bldg. 196, Washington, DC 20374–5702, Phone: 202/610–6457, FAX: 202/610–5702, e-mail: usohq@soho.ids.com

Women's Charities of America
Cristin Clarkin Leeper, President, c/o Leeper & Leeper, 620 Woodland Avenue, El Paso, TX 79922, Phone: 915/833–5658, FAX: 915/833–2428, 85, e-mail: ccleeper@juno.com

[FR Doc. 97–29565 Filed 11–7–97; 8:45 am]
BILLING CODE 6325–01–M

OFFICE OF PERSONNEL MANAGEMENT

The National Partnership Council

AGENCY: Office of Personnel Management.

ACTION: Notice of meeting.

Time and Date: 2:00 p.m., November 12, 1997.

Place: OPM Conference Center, Room 1350, Theodore Roosevelt Building, 1900 E Street, NW., Washington, DC 20415–0001. The conference center is located on the first floor.

Status: This meeting will be open to the public. Seating will be available on a first-come, first-served basis. Individuals with special access needs wishing to attend should contact OPM at the number shown below to obtain appropriate accommodations.

Matters to be Considered: There will be a discussion of the National Partnership Council's strategic action plan for calendar year 1998.

CONTACT PERSON FOR MORE INFORMATION: Michael Cushing, Director, Center for Partnership and Labor-Management Relations, Office of Personnel Management, Theodore Roosevelt Building, 1900 E Street, NW., Room 7H28, Washington, DC 20415–0001, (202) 606–2930.

SUPPLEMENTARY INFORMATION: We invite interested persons and organizations to submit written comments. Mail or deliver your comments to Michael Cushing at the address shown above.

Office of Personnel Management.

Janice R. Lachance,

Acting Director.

[FR Doc. 97–29772 Filed 11–6–97; 2:19 pm]
BILLING CODE 6325–01–P

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–22975; 812–10718]

Evergreen Trust, et al.; Notice of Application

November 4, 1997.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under sections 6(c) and 17(b) of the Investment Company Act of 1940 (the "Act") from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants seek an order to permit the reorganization and consolidation of certain registered open-end investment companies, and the conversion of certain common trust funds and collective investment funds into registered open-end investment companies.

APPLICANTS: Evergreen Trust, Evergreen Growth and Income Fund, Evergreen Foundation Trust, The Evergreen Municipal Trust, The Evergreen American Retirement Trust, Evergreen Equity Trust, Evergreen Investment Trust, The Evergreen Lexicon Fund, Evergreen Money Market Trust, Evergreen Tax Free Trust, Keystone Institutional Trust (each a "Fund" and collectively, the "Funds"); Evergreen Select Fixed Income Trust, Evergreen Select Equity Trust, Evergreen Select Money Market Trust, Evergreen Municipal Trust, Evergreen Equity Trust, Evergreen Fixed Income Trust, Evergreen International Trust, Evergreen Money Market Trust (collectively, the "Delaware Trusts"); First Union National Bank (North Carolina), and First Union National Bank (Pennsylvania) (collectively, the "Bank").

FILING DATES: The application was filed on September 19, 1997. Applicants have agreed to file an amendment to the application during the notice period, the substance of which is included in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 21, 1997, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, Marion A. Cowell, Jr., Esq., General Counsel, First Union Corporation, One First Union Center, Charlotte, North Carolina 28288.

FOR FURTHER INFORMATION CONTACT: Joseph B. McDonald, Jr., Senior Counsel, at (202) 942–0533, or Mary Kay Frech, Branch Chief, at (202) 942–0564, (Division of Investment Management, Office of Investment Company Regulation.)

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549 (tel. 202–942–8090).

Applicants' Representations

1. Each Fund is registered under the Act as an open-end management investment company. The Funds are organized as either Massachusetts business trusts or Maryland corporations. The Delaware Trusts have been organized as Delaware business trusts to succeed to the Funds' registration statements and operations. The Delaware Trusts either have been or will be registered under the Act as open-end management investment companies.

2. First Union National Bank is a North Carolina corporation and a banking subsidiary of First Union Corporation, a publicly held bank holding company. The Capital Management Group, a division of the Bank, and two of its subsidiaries, Evergreen Asset Management Corp. and Keystone Investment Management Company, act as investment advisers to the Funds and the Delaware Trusts. Evergreen Asset Management Corp. and Keystone Investment Management Company are each registered as investment advisers under the Investment Advisers Act of 1940.

3. Applicants propose to transfer $7 billion of assets in the Bank's various common trust funds and collective investment funds (collectively, "CTFs"): (i) to certain newly established series of Delaware Trusts; and (ii) to certain Funds prior to the Funds' reorganizing into Delaware Trusts ("CTF Conversions"). Applicants state that the CTF Conversions will be accomplished by transferring CTF assets to the Delaware Trusts or to the Funds having

comparable investment objectives in exchange for shares of the series of the Delaware Trusts or Funds at the then-current market value of the CTF's assets. At the same time, the CTFs will distribute the shares of the respective Delaware Trusts or the funds on a *pro rata* basis to all participants in the CTFs.

4. The Bank's employee pension plan ("Affiliated Plan") has more than 5% participation in the Equity Growth Fund and, therefore, the Bank may be deemed to have a significant financial interest in this CTF Conversion. In addition, certain of the CTF Conversions will involve converting CTF assets into certain of the Funds where the Bank, as a fiduciary for its customers, may own of record, or hold or control with power to vote 5% or more of the outstanding voting securities of these Funds. This includes 15 Funds in which the Bank, as a fiduciary for its customers, owns of record, or holds or controls with power to vote, 25% or more of the outstanding securities of these Funds.

5. Many of the participants in the CTFs, other than the Affiliated Plan, have an independent or "second" fiduciary that supervises and will supervise the investment of CTF's assets ("Second Fiduciary"). In the case of the Affiliated Plan, the Bank's employee benefit review committee (the "Committee") serves as a fiduciary. In other situations, the Bank as sole trustee will exercise its fiduciary responsibility to authorize the CTF Conversions.

6. Completion of the CTF Conversions is subject to a number of conditions precedent, including requirements that: (1) The proposed transfers will comply with the provisions of rule 17a–7 (b) through (f) under the Act; and (ii) the CTF Conversions will not occur unless and until (a) the boards of the Delaware Trusts and of the Funds (the "Boards") (including a majority of their disinterested directors/trustees ("Disinterested Directors")) and the Committee, the Second Fiduciary, or the Bank, as the case may be, find that the CTF Conversions are in the best interests of the Funds, the Delaware Trusts, and participants in the CTF, respectively, and (b) the Boards and the Disinterested Directors find that the interests of the existing shareholders will not be diluted as a result of the proposed CTF Conversions. These determinations and the basis upon which they are made will be recorded fully in the records of the Delaware Trusts and The Funds.

7. Where the Bank acts as the sole trustee for a CTF, the Bank will determine in accordance with its fiduciary duties that the proposed CTF Conversion is in the best interests of participants in the CTF. In making this determination, the Bank will consider the anticipated benefits to the CTF participants. These benefits may include increased liquidity, the availability of daily pricing, the accessibility of performance and other information concerning the CTF, the similarity of the investment objectives and policies of the Fund or Delaware Trust and the CTF, the anticipated tax treatment of the proposed transaction and the aggregate fee levels experienced and expected to be experienced by CTF participants before and after the proposed transaction.

8. Applicants also request relief to permit future transactions in which a CTF for which the Bank acts as trustee and in which an employee benefit plan sponsored by the Bank is a participant, proposes to transfer all of its assets to a registered open-end investment company or a series thereof (a) that is advised by the Bank or by any entity controlling, controlled by, or under common control with the Bank, and (b) in which the Bank, as fiduciary for its customers, owns of record or controls or holds with power to vote 5% or more of the outstanding voting securities, provided that the Bank has no beneficial ownership interest in any security of either party to the transaction ("Future Transactions"). Applicants state that they will rely on the requested relief for Future Transactions only in accordance with the terms and conditions contained in the application.

9. On September 16 and 17, 1997, the Board of each Fund, including a majority of the Disinterested Directors, authorized the reorganization of the Funds into the various Delaware Trusts ("Fund Reorganizations"). The purpose of the Fund Reorganizations is to change the domicile of the Funds from Massachusetts or Maryland to Delaware. In conjunction with this proposal, applicants propose that certain of the Funds will be consolidated with other Funds into a single series of a Delaware Trust ("Consolidations").

10. The Boards of the Funds approved agreements and plans of reorganization under which the Funds being acquired ("Acquired Funds") have agreed to sell all of their assets and liabilities to a corresponding series of the Delaware Trusts ("Acquiring Series") ("Agreements"). The exchange of shares will be equal to the net asset value at the close of business on the day before the exchange date specified in the Agreement. The shares will be distributed *pro rata* to the respective Acquired Funds' shareholders in proportion to the number and class of shares of the Acquiring Series owned on the exchange date upon the liquidation and dissolution of the Acquired Funds. At the time of the Fund Reorganizations, the Acquired Funds will have either three or four classes of shares. In all cases, the Acquired Fund shareholders will receive the class of shares which has the same rights and obligations as the class they presently hold.

11. The Agreements are subject to a number of conditions precedent, including requirements that: (i) The Agreements have been approved by the Boards of the Delaware Trusts and the Acquired Funds; (ii) the Acquired Funds and the Delaware Trusts have received opinions of counsel stating, among other things, that the Fund Reorganizations will constitute a "reorganization" under section 368 of the Internal Revenue Code of 1986, as amended and, as a consequence, the Fund Reorganizations will not result in Federal income taxes for the Funds or their shareholders; and (iii) the Acquired Funds and the Delaware Trusts have received from the SEC, if necessary, an order exempting the Fund Reorganizations and Consolidations from the provisions of section 17(a) of the Act. Applicants agree not to make any material changes to the Agreements that affect representations in the application without the prior approval of the SEC staff.

12. Proxy solicitation materials describing each Delaware Trust, the Fund Reorganizations, Consolidations, and the terms of the Agreements will be filed with the SEC and mailed to the Funds' shareholders for their approval. A joint special meeting of shareholders of the Funds to consider the Agreements will be held on or about December 15, 1997, and, subject to shareholder approval of the Agreements and the issuance by the SEC of the requested order, the Fund Reorganizations and Consolidations will be completed on or about December 19, 1997.

13. Each Acquired Fund and each Delaware Trust will be responsible for its respective fees and expenses of the Fund Reorganizations and Consolidations. Each Fund will be responsible for its proxy solicitation and other costs associated with its special meeting of shareholders held to consider the Fund Reorganizations and Consolidations. The expenses with respect to the Agreements using Form N–14 will be paid by the Bank.

Applicants' Legal Analysis

1. Section 17(a) of the Act provides that it is unlawful for any affiliated person of a registered investment company, or any affiliated person of such person, knowingly (a) to sell any

security or other property to such registered company, or (b) to purchase from such registered company any security or other property. Section 2(a)(3) of the Act defines the term "affiliated person" of another person to include: (a) Any person owning, controlling or holding with power to vote, 5% or more of the outstanding voting securities of such other person; (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by such other person; (c) any person controlling, controlled by, or under common control with, such other person; and (d) if such other person is an investment company, any investment adviser thereof.

2. Section 17(b) of the Act provides that the SEC may exempt a transaction from section 17(a) of the Act if evidence establishes that (a) the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policy of each registered investment company concerned; and (c) the proposed transaction is consistent with the general purposes of the Act.

3. Section 6(c) provides that the SEC may exempt any person or transaction from any provision of the Act or any rule under the Act to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Some of the CTF Conversions may be deemed to be subject to the prohibitions of section 17(a) of the Act because the Bank may have legal title to the assets of the CTF and therefore may be viewed as acting as a principal in the CTF Conversions. In addition, the Affiliated Plan is a participant in the Equity Growth Fund conversion. Certain CTF Conversions also involve Funds in which the Bank, as fiduciary for its trust and employee pension plan customers, may own of record or control or hold for such customers with power to vote 5% of a particular Fund's outstanding voting securities ("Affiliated Funds"). Accordingly, applicants request an order from the SEC pursuant to sections 6(c) and 17(b) of the Act exempting the CTF Conversions from section 17(b) of the Act on the terms and subject to the conditions set forth in the application.

5. Rule 17a–8 under the Act exempts from the prohibitions of section 17(a) of the Act mergers, consolidations, or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers, provided that certain conditions are satisfied. The Fund Reorganizations and Consolidations may not be exempt from the prohibitions of section 17(a) by reason of rule 17a–8 because the Affiliated Funds may be an affiliated person of the Bank. The Bank or its affiliated persons are investment advisers to the Delaware Trusts. The Affiliated Funds, therefore, may each be an affiliated person of an affiliated person of the Delaware Trusts and, as such, be prohibited by section 17(a)(1) of the Act from selling any security or other property to the Delaware Trusts. As a consequence, the Fund Reorganizations may not meet the requirements of rule 17a–8. For this reason, applicants request an order from the SEC under section 17(b) of the Act exempting applicants from section 17(a) of the Act to the extent necessary to complete the Fund Reorganizations and Consolidations.

6. Applicants submit that the CTF Conversions satisfy the requirements of sections 6(c) and 17(b) of the Act and that the Reorganizations and Consolidations satisfy the requirements of section 17(b) of the Act. Applicants assert that the transactions are in the best interests of the CTFs, Funds, and Delaware Trusts. In approving of or consenting to the transactions, the CTF fiduciaries and the Boards considered that the interests of shareholders will not be diluted; that the registered investment companies' investment objectives and policies are generally substantially identical in the Fund Reorganizations and Consolidations and comparable in the CTF Conversions; that the conditions and policies of rule 17a–7 and rule 17a–8 under the Act will be followed; that no overreaching by any affiliated person is occurring; and that the in-kind transfers of securities avoid the costs of selling securities by the Acquired Funds and the CTFs and purchasing the same or similar securities by the Acquiring Series of the Delaware Trusts. Applicants also submit that the CTF Conversions meet the section 6(c) standards for relief as necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act.

Applicants' Conditions

1. The proposed CTF Conversions will not occur unless and until: (a) The boards of the Delaware Trusts and of the Funds (including a majority of their disinterested directors/trustees) and the Committee, Second Fiduciary, or the Bank, as the case may be, find that the CTF Conversions are in the best interests of the Delaware Trusts, Funds, and participants in the CTF, respectively, and (b) the boards of the Delaware Trusts and of the Funds (including a majority of their disinterested directors/trustees) find that the interests of the existing shareholders will not be diluted as a result of the proposed transfers. These determinations and the basis upon which they are made will be recorded fully in the records of the Delaware Trusts and the Funds.

2. In order to comply with the policies underlying rule 17a–8, any CTF Conversion will have to be approved by the board of the Delaware Trust or Fund and any CTF's Committee, Secondary Fiduciary, or the Bank, as appropriate, who would be required to find that the interests of beneficial owners would not be diluted.

3. The proposed transaction will comply with the terms of rule 17a–7(b) through (f).

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–29601 Filed 11–7–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 22873; 812–10845]

Travelers Group Inc., et al.; Notice of Application

November 3, 1997.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under section 6(c) of the Investment Company Act of 1940 (the "Act") from section 15(a) of the Act.

SUMMARY OF APPLICATION: Applicants seek an order to permit the implementation, without shareholder approval, of new investment advisory agreements between Salomon Brothers Asset Management Inc ("SBAM"), Salomon Brothers Asset Management Limited ("SBAM Ltd"), Salomon Brothers Asset Management Asia Pacific ("SBAM AP") (collectively, the "Advisers") and various registered investment companies ("Investment Companies"), for a period of up to 150 days following the date of consummation of a merger (but in no event later than June 9, 1998). The order also would permit the Advisers to receive all fees earned under the new investment advisory agreements following shareholder approval.

APPLICANTS: Travelers Group Inc. ("Travelers"), Smith Barney Holdings Inc. ("Smith Barney"), and Salomon Inc ("Salomon").

FILING DATES: The application was filed on October 30, 1997. Applicants have agreed to file an amendment during the notice period, the substance of which is included in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 24, 1997, and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants: Travelers and Smith Barney, 388 Greenwich Street, New York, NY 10013; Salomon, Seven World Trade Center, New York, NY 10048.

FOR FURTHER INFORMATION CONTACT: John K. Forst, Attorney Advisor, at (202) 942–0569, or Christine Y. Greenless, Branch Chief, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549 (tel. 202–942–8090).

Applicant's Representations

1. Travelers is a diversified, integrated financial services company engaged in investment and asset management, consumer finance, and life and property-casualty insurance services. Salomon is a global investment banking and securities and commodities trading company. Salomon's U.S. asset management business is conducted through SBAM, an indirect, wholly-owned subsidiary of Salomon and an investment adviser registered under the Investment Advisers Act of 1940 (the "Advisers Act"). SBAM and its non-U.S. investment advisory affiliates [1] provide a broad range of fixed-income and equity investment advisory services, and serve as investment adviser, investment manager, or subadviser (as applicable) to the Investment Companies.[2]

2. On September 24, 1997, Travelers entered into a merger agreement with Salomon, under which a wholly-owned subsidiary of Travelers will be merged into Salomon, with Salomon continuing as the surviving entity and changing its name to Salomon Smith Barney Holdings Inc. ("Salomon Smith Barney"). Thereafter, Smith Barney, a subsidiary of Travelers, will merge with Salomon Smith Barney (the foregoing acquisitions are hereinafter collectively referred to as the "Transaction"). Applicants expect consummation of the Transaction during the latter part of November 1997.

3. Applicants request an exemption to permit implementation, in connection with the Transaction, prior to obtaining shareholder approval, of (i) new investment advisory agreements between each Investment Company currently being advised by SBAM, and SBAM, and (ii) new subadvisory agreements between each Investment Company's investment adviser for whom an Adviser currently serves in the capacity of subadviser and an Adviser (collectively, "New Agreements").[3] The requested exemption would cover an interim period of not more than 150 days beginning on the date the Transaction is consummated and continuing through the date on which each New Agreement is approved or disapproved by the shareholders of each Investment Company, but in no event later than June 9, 1998 (the "Interim Period"). Applicants represent that the New Agreements will have substantially the same terms and conditions as the existing investment advisory agreements ("Existing Agreements"), except in each case for the effective dates. Applicants state that each Investment Company should receive, during the Interim Period, the same investment advisory services, provided in the same manner and at the same fee levels, as it received prior to the Transaction.

4. Prior to consummation of the Transaction, the board of directors of each Investment Company (the "Board") will meet, in accordance with section 15(c) of the Act, to consider the New Agreements and to evaluate whether the terms of the New Agreements are in the

[1] SBAM is affiliated with SBAM Ltd. and SBAM AP, each of which is registered as an investment adviser under the Advisers Act. SBAM Ltd. and SBAM AP act as subadviser to SBAM or share advisory responsibility with SBAM with respect to the Investment Companies.

[2] SBAM serves a the investment adviser to the following registered investment companies: Salomon Brothers Investors Fund Inc, Salomon Brothers Capital Fund Inc, Salomon Brothers Opportunity Fund Inc, Salomon Brothers Series Funds Inc, Solomon Brothers Institutional Series Fund Inc, The Salomon Brothers Fund Inc, Salomon Brothers 2008 Worldwide Dollar Government Term Trust Inc, Salomon Brothers Worldwide Income Fund Inc, Salomon Brothers High Income Fund Inc, The Emerging Markets Income Fund Inc, The Emerging Markets Income Fund II Inc, The Emerging Markets Floating Rate Fund Inc., Global Partners Income Fund Inc., Municipal Partners Fund Inc., and Municipal Partners Fund II Inc. SBAM serves as the subadviser to the following registered investment companies: Salomon Brothers Strategic Bond Opportunities Series and Salomon Brothers U.S. Government Series of New England Zenith Fund; Salomon Brothers/JNL Global Bond Series, Salomon Brothers/JNL U.S. Government & Quality Bond Series, Salomon Brothers/JNL High Yield Series, and Salomon Brothers/JNL Balanced Series of JNL Series Trust; Strategic Bond Trust and U.S. Government Securities Trust, which are series of NASL Series Trust; Strategic Income Fund, U.S. Government Securities Fund and National Municipal Bond Fund, which are series of North American Funds; Salomon Brothers U.S. Government Securities Portfolio, a series of WNL Series Trust; the Emerging Markets Debt Portfolio, a series of SEI International Trust; Nationwide Balanced Fund and Nationwide Multi Sector Bond Fund, which are or will be series of Nationwide Separate Account Trust; Americas Income Trust, Inc.; Heritage Income Trust; Latin America Investment Fund; and Irish Investment Fund. Inc. SBAM Ltd. serves as the subadviser to SBAM with respect to: Salomon Brothers Strategic Bond Fund, a series of Salomon Brothers Series Funds Inc; Salomon Brothers Strategic Bond Opportunities Series, a series of New England Zenith Fund; Salomon Brothers/JNL Global Bond Series, a series of JNL Series Trust; Strategic Bond Trust, a series of NASL Series Trust; Strategic Income Fund, a series of North American Funds; and Nationwide Multi Sector Bond Fund, a series of Nationwide Separate Account Trust. SBAM AP serves as the subadviser to SBAM with respect to: Salomon Brothers Asia-Growth Fund, a series of Salomon Brothers Series Funds Inc; and, Salomon Brothers Institutional Asia Growth Fund, a series of Salomon Brothers Institutional Series Fund Inc.

In each of the foregoing cases, whether acting as investment manager, investment adviser, or subadviser, each Adviser (as applicable) is acting as an investment adviser within the meaning of section (2)(a)(20) of the Act, and serves as investment manager, investment adviser or subadviser under a contract subject to section 15 of the Act.

[3] In certain instances, Investment Companies have obtained or, in the case of Nationwide Separate Account Trust, have applied for exemptive relief permitting the investment adviser to the Investment Company to hire and fire subadvisers without shareholder approval. *See NASL Financial Services Inc., et al.*, Investment Company Act Release Nos. 22382 (December 9, 1996) (notice) and 22429 (December 31, 1996) (order); *SEI Institutional Managed trust, et al.*, Investment Company Act Release Nos. 21863-(April 1, 1996) (notice) and 21921 (April 29, 1996) (order). To the extent permitted by their respective exemptive orders, these Investment Companies will not seek shareholder approval of new contracts with SBAM and SBAM Ltd.

best interests of the Investment Companies and their shareholders.[4]

5. Applicants expect that those Investment Companies for which SBAM provides advisory services will distribute proxy statements in November and hold shareholder meetings no later than January, 1998; those Investment Companies for which an Adviser provides subadvisory services will distribute proxy statements and hold shareholder meetings prior to the expiration of the Interim Period, but in no event later than June 9, 1998.

6. Applicants also request an exemption to permit the Advisers to receive from each Investment Company, upon approval by their respective shareholders, all fees earned under the New Agreements during the Interim Period. Applicants state that the fees to be paid during the Interim Period will be at the same rate as the fees that currently are being paid under the Existing Agreements.

7. Applicants propose to enter into an escrow arrangement with an unaffiliated financial institution. The fees payable to the Advisers during the Interim Period under the New Agreements will be paid into an interest-bearing escrow account maintained by the escrow agent. The escrow agent will release the amounts held in the escrow account (including any interest earned): (a) to the relevant Adviser only upon approval of the relevant New Agreement by the shareholders of the relevant Investment Company, or (b) to the relevant Investment Company if the Interim Period has ended and its New Agreement has not received the requisite shareholder approval. Before any such release is made, the directors of the Investment Companies who are not "interested persons," as that term is defined in section 2(a)(19) of the Act (the "Independent Directors"), will be notified.

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in pertinent part, that it is unlawful for any person to serve as an investment adviser to a registered investment company, except pursuant to a written contract that has been approved by the vote of a majority of the outstanding voting securities of the investment company. Section 15(a) further requires that the written contract provide for its automatic termination in the event of its "assignment." Section 2(a)(4) of the Act defines the term "assignment" to include any direct or indirect transfer of a contract by the assignor.

2. Applicants state that the Transaction could be deemed to result in an assignment of the Existing Agreements and, therefore, their termination upon consummation of the Transaction.

3. Section 6(c) provides that the SEC may exempt any person, security, or transaction from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants believe that the requested relief meets this standard.

4. Applicants note that the form and timing of the Transaction were determined by Travelers and Salomon in response to a number of factors beyond the scope of the Act and unrelated to the Investment Companies and the Advisers. Applicants submit that those considerations do not allow a time schedule that permits the solicitation of shareholder approval of the New Agreements prior to the consummation of the Transaction. Applicants submit that it is in the best interests of each Investment Company's shareholders to avoid any interruption in services to the Investment Companies and to allow sufficient time for the shareholders to consider the New Agreements.

5. Applicants submit that the scope and quality of services provided to the Investment Companies during the Interim Period will not be diminished. During the Interim Period, the Advisers would operate under the New Agreements, which would be substantially the same as the Existing Agreements, except for their effective dates. Applicants submit that they are not aware of any material changes in the personnel who will provide investment management services during the Interim Period. Accordingly, the Investment Companies should receive, during the Interim Period, the same advisory services, provided in the same manner, at the same fee levels, and by substantially the same personnel as they received before the Transaction.

6. Applicants contend that the best interests of shareholders of the Investment Companies would be served if the Advisers receive fees for their services during the Interim Period. Applicants state that the fees are a substantial part of the Advisers' total revenues and, thus, are essential to maintaining their ability to provide services to the Investment Companies. In addition, the fees to be paid during the Interim Period will be at the same rate as the fees that currently are being paid under the Existing Agreements, which have been approved by the Board and the shareholders of each Investment Company.

Applicants' Conditions

Applicants agree as conditions to the issuance of the exemptive order requested by the application that:

1. (a) The new advisory agreements to be implemented during the Interim Period will have substantially the same terms and conditions as the existing advisory agreements, (b) the new subadvisory agreements to be implemented during the Interim Period will have substantially the same terms and conditions as the existing subadvisory agreements, except in each case for the effective dates.

2. Fees earned by SBAM, SBAM Ltd and SBAM AP in respect of the new advisory agreements during the Interim Period will be maintained in an interest-bearing escrow account with an unaffiliated bank, and amounts in the account (including interest earned on such paid fees) will be paid (a) to SBAM, SBAM Ltd and SBAM AP in accordance with the new advisory agreements, after the requisite shareholder approvals are obtained, or (b) to the respective Investment Company, in the absence of such approval with respect to such Investment Company.

3. The Investment Companies will hold meetings of shareholders to vote on approval of the new advisory agreements on or before the 150th day following the consummation of the Transaction (but in no event later than June 9, 1998).

4. Travelers or its affiliates will pay the costs of preparing and filing the application, and costs relating to the solicitation of approval of the Investment Companies' shareholders necessitated by the Transaction, unless such solicitation occurs in conjunction with a particular Investment Company's annual meeting of shareholders at which other matters are also considered, in which case a portion of the costs may be allocated to such Investment Company.

5. SBAM, SBAM Ltd and SBAM AP will take all appropriate steps so that the scope and quality of advisory and other services provided to the Investment Companies during the Interim Period will be at least equivalent, in the judgment of the respective Boards, including a majority of the disinterested directors, to the scope and quality of services previously provided. If personnel providing material services during the Interim Period change materially, SBAM, SBAM Ltd and/or SBAM AP will apprise and consult with the Boards of the affected Investment Companies to assure that the Boards, including a majority of the disinterested directors, are satisfied that the services provided will not be diminished in scope or quality.

[4] To the extent that the Board of any Investment Company cannot meet prior to the consummation of the Transaction, applicants acknowledge that such Investment Company may not rely on the exemptive relief requested in the application.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–29533 Filed 11–7–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of November 10, 1997.

An open meeting will be held on Thursday, November 13, 1997, at 10:00 a.m., followed by a closed meeting.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4) (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Johnson, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the open meeting scheduled for Thursday, November 13, 1997, at 10:00 a.m., will be:

(1) Consideration of whether to propose: (i) Amendments to rule 203A–2 under the Investment Advisers Act of 1940, to exempt investment advisers that are required to register in thirty or more states (but do not have $25 million or more of assets under management or otherwise meet the criteria for SEC registration(from the prohibition on SEC registration; and (ii) two alternative amendments to rule 203A–3 under the Investment Advisers Act of 1940, to revise the definition of investment adviser representative. Rule 203A–3, adopted in May 1997, excludes from the definition of investment adviser representative (and thus excludes from state qualification requirements) supervised persons of an SEC-registered adviser if no more than ten percent of their clients are natural persons. The proposed amendments to rule 203A–3 would allow supervised persons who provide services to one or a few institutional or business client accounts to continue to have accommodation clients without being subject to state qualification requirements.

Consideration also will be given to whether to propose amendments to rule 205–3 under the Investment Advisers Act of 1940, which permits investment advisers to charge performance or incentive fees to certain eligible clients. The rule amendments would: (i) eliminate the provisions of the rule that prescribe contractual terms and require specific disclosures; (ii) revise the threshold levels for determining client eligibility to reflect the effects of inflation on the levels established in 1985 when rule 205–3 was adopted; and (iii) make all "qualified purchasers" (who are eligible to invest in certain privately offered investment companies exempt from registration under section 3(c)(7) of the Investment Company Act of 1940) eligible for the performance fee exemption. For further information, please contact Kathy Ireland at (202) 942–0530.

(2) Consideration of whether to propose for public comment rule 154 under the Securities Act of 1933 and amendments to rules 30d–1 and 30d–2 under the Investment Company Act of 1940 and rules 14a–3, 14c–3 and 14c–7 under the Securities Exchange Act of 1934. The proposals would permit delivery of a single prospectus or shareholder report to investors sharing the same address. For further information, please contact Marilyn Mann at (202) 942–0582 or Elizabeth Murphy at (202) 942–2848.

The subject matter of the closed meeting scheduled for Thursday, November 13, 1997, following the 10:00 a.m. open meeting, will be:

Institution and settlement of injunctive actions.

Institution and settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: November 5, 1997.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–29702 Filed 11–5–97; 4:52 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Trinity Gas Corporation; Order of Suspension of Trading

November 6, 1997.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Trinity Gas Corporation, a Nevada corporation with executive offices located at One Center Ave., Nationsbank Plaza, Suite 200, Brownwood, Texas 76801, and that questions have been raised about recent market activity in the securities of the company and the adequacy of publicly disseminated information concerning, among other things, the valuation of the company's assets, the results of its business operations, and the recent resignation of its auditors.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above listed company.

Therefore, It Is Ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the above listed company is suspended for the period from 9:30 a.m. (EST), on November 6, 1997, through 11:59 p.m. (EST), on November 19, 1997.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–29740 Filed 11–6–97; 12:35 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39269; File No. SR–CBOE–97–52]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the Chicago Board Options Exchange, Incorporated Relating to the Addition of Martin Luther King, Jr. Day as an Exchange Holiday

October 31, 1997.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 ("Act"), notice is hereby given that on October 2, 1997, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On October 31, 1997, the Exchange filed with the Commission Amendment No. 1 to the proposed rule change.[2] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange seeks to amend Interpretation .03 under Exchange Rule 6.1 to include Martin Luther King, Jr. Day among the Exchange Holidays on which it is closed for business.

The text of the proposed rule change is available at the Office of the Secretary, the Exchange and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] Amendment No. 1 provided a statutory basis for the proposed rule change. See Letter from Mark A. Koerner, Attorney, Exchange, to Michael L. Loftus, Attorney, Division of Market Regulation, Commission, dated October 27, 1997.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Interpretation .03 under Rule 6.1 to include Martin Luther King, Jr. Day among the Exchange holidays on which the Exchange is closed for business. The Exchange will observe the annual holiday on the third Monday in January.

2. Statutory Basis

The Exchange represents that the proposed rule change is consistent with Section 6(b)[3] of the Act, in general, and furthers the objectives of Section 6(b)(5)[4] of the Act, in particular, in that it is designed to perfect the mechanism of a free and open market, and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange did not solicit or receive written comments with respect to the proposed rule change.

The foregoing rule change is concerned solely with the administration of the Exchange and, therefore, has become effective pursuant to Section 19(b)(3)(A)[5] of the Act and subparagraph (e) of Rule 19b–4[6] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to the File No. SR–CBOE–97–52 and should be submitted by December 1, 1997.

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

[5] 15 U.S.C. 78s(b)(3)(A).

[6] 17 CFR 240.19b–4(e).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–29602 Filed 11–7–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39294; File No. SR–NASD–96–63]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the National Association of Securities Dealers, Inc. and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 5 to Proposed Rule Change Governing Broker Dealers Operating on the Premises of Financial Institutions

November 4, 1997.

On December 28, 1995, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("SEC" or "Commission") the original proposed rule change relating to broker-dealers operating on the premises of financial institutions. The NASD subsequently filed Amendment Nos. 1, 2, 3 and 4 to the filing. The Commission published the proposed rule and amendments for comment in the **Federal Register**. The Commission received 11 comment letters in response to the publication of Amendment No. 4 of the proposed rule change. In response to comments on Amendment No. 4, on July 17, 1997, the NASD filed Amendment No. 5 to the proposed rule change. For the reasons discussed below, the Commission is approving the proposed Amendment No. 5 on an accelerated basis.

[7] 17 CFR 200.30–3(a)(12).

I. The Rule

Below is the approved text of the rule change incorporating the amendments submitted by the NASD:

Conduct Rules

2350. Broker-Dealer Conduct on the Premises of Financial Institutions

(a) Applicability

This section shall apply exclusively to those broker-dealer services conducted by members on the premises of a financial institution where retail deposits are taken. This section does not alter or abrogate members' obligations to comply with other applicable NASD rules, regulations, and requirements, nor those of other regulatory authorities that may govern members operating on the premises of financial institutions.

(b) Definitions

(1) For purposes of this section, the term "financial institution" shall mean federal and state-chartered banks, savings and loan associations, savings banks, credit unions, and the service corporations of such institutions required by law.

(2) "Networking arrangement" and "brokerage affiliate arrangement" shall mean a contractual or other arrangement between a member and a financial institution pursuant to which the member conducts broker-dealer services for customers of the financial institution and the general public on the premises of such financial institution where retail deposits are taken.

(3) "Affiliate" shall mean a company that controls, is controlled by, or is under common control with, a member as defined in Rule 2720.

(4) "Broker-Dealer services" shall mean the investment banking or securities business as defined in paragraph (o) of Article I of the By-Laws.

(c) Standards for Member Conduct

No member shall conduct broker-dealer services on the premises of a financial institution where retail deposits are taken unless the member complies initially and continuously with the following requirements:

(1) Setting

Wherever practical, the member's broker-dealer services shall be conducted in a physical location distinct from the area in which the financial institution's retail deposits are taken. In all situations, members shall identify the members' broker-dealer services in a manner that is clearly distinguished from the financial institution's retail deposit-taking activities. The member's name shall be clearly displayed in the area in which the member conducts its broker-dealer services.

(2) Networking and Brokerage Affiliate Agreements

Networking and brokerage affiliate arrangements between a member and a financial institution must be governed by a written agreement that sets forth the responsibilities of the parties and the compensation arrangements. The member must ensure that the agreement stipulates that supervisory personnel of the member and representatives of the Securities and Exchange Commission and the Association will be permitted access to the financial institution's premises where the member conducts broker-dealer services in order to respect the books and records and other relevant information maintained by the member with respect to its broker-dealer services.

(3) Customer Disclosure and Written Acknowledgment

At or prior to the time that a customer account is opened by a member on the premises of a financial institution where retail deposits are taken, the member shall:

(A) Disclose, orally and in writing, that the securities products purchased or sold in a transaction with the member:

(i) Are not insured by the Federal Deposit Insurance Corporation ("FDIC");

(ii) Are not deposits or other obligations of the financial institution and are not guaranteed by the financial institution; and

(iii) Are subject to investment risks, including possible loss of the principal invested; and

(B) Make reasonable efforts to obtain from each customer during the account opening process a written acknowledgment of receipt of the disclosures required by paragraph (c)(3)(A).

(4) Communications with the Public

(A) All member confirmations and account statements must indicate clearly that the broker-dealer services are provided by the member.

(B) Advertisement and sales literature that announce the location of a financial institution where broker-dealer services are provided by the member or that are distributed by the member on the premises of a financial institution must disclose that securities products: are not insured by the FDIC; are not deposits or other obligations of the financial institution and are not guaranteed by the financial institution; and are subject to investment risks, including possible loss of the principal invested. The shorter, logo format described in paragraph (c)(4)(C) may be used to provide these disclosures.

(C) The following shorter, logo format disclosures may be used by members in advertisements and sales literature, including material published, or designed for use in radio or television broadcasts, Automated Teller Machine ("ATM") screens, billboards, signs, posters, and brochures, to comply with the requirements of paragraph (c)(4)(B), provided that such disclosures are displayed in a conspicuous manner:

- Not FDIC Insured
- No Bank Guarantee
- May Lose Value

(D) As long as the omission of the disclosure required by paragraph (c)(4)(B) would not cause the advertisement or sales literature to be misleading in light of the context in which the material is presented, such disclosures are not required with respect to messages contained in:

- Radio broadcasts of 30 seconds or less;
- Electronic signs, including billboard-type signs that are electronic, time, and temperature signs and ticker tape signs, but excluding messages contained in such media as television, on-line computer services, or ATMs' and
- Signs, such as banners and posters, when used only as location indicators.

(5) Notifications of Terminations

The member must promptly notify the financial institution if any associated person of the member who is employed by the financial institution is terminated for cause by the member.

II. Description of the Proposal

A. Procedural History of the Filing

The NASD initially published this bank broker-dealer rule for member comment in an NASD Notice to Members.[1] The NASD substantially revised its proposed rule in response to the 284 comment letters that it received about the proposed rule. The NASD filed the proposed rule with the Commission on December 28, 1995, and subsequently submitted Amendment Nos. 1, 2 and 3 to the filing of January 24, January 29, and March 7, 1996,

[1] NASD Notice to Members 94–94.

respectively.[2] The Commission published the proposed rule and amendments for comment in the **Federal Register** on March 22, 1996,[3] and received 98 comments on the proposed rule amendments. While about one-third of the commenters supported the proposal,[4] most suggested modifications to the proposed rule.[5] More than half of the commenters opposed some or all of the provisions of the proposed rule. In response to these comments, on March 25, 1997, the NASD filed substantial amendments to the proposed rule in the form of Amendment No. 4, and the Commission published notice of the amendments in the **Federal Register** on April 21, 1997.[6] In response to the 11 public comments received on Amendment No. 4, on July 17, 1997, the NASD submitted Amendment No. 5 to the proposal, which contains further amendments to the rule.[7] In addition to approving the proposed rule change, as amended, the Commission is granting accelerated approval to Amendment No. 5.

B. Overview of Amendment No. 4

Amendment No. 4 proposed by the NASD included the following substantial revisions to the proposed rule originally filed with the Commission:

1. Setting

The original proposed rule specified certain requirements regarding the setting of the conduct of a broker-dealer's services, including physical separation, that were designed to reduce customer confusion about the differences between deposit taking and securities activities. The great majority of the commenters that addressed this provision of the original proposal criticized it. They argued that the language in the originally proposed rule did not take into account that there may be certain business settings where the member may be unable to comply with the rule and may, therefore, be prevented from conducting business in such a location. These commenters also indicated that the rule as originally proposed conflicts with the Interagency Statement on Retail Sales of Nondeposit Investment Products ("Interagency Statement") issued by the banking regulators on February 15, 1994. These commenters requested clarification that this provision would not prohibit a member from conducting a brokerage business in a one-person branch, as long as adequate safeguards are adopted, including adequate disclosure and signs announcing the type of business being conducted.

In response to these comments, the setting provision has been revised to make the rule more consistent with the standards of the Interagency Statement. Amendment No. 4 clarifies that the rule will impose the same standards on broker-dealers as are generally imposed on financial institutions by the Interagency Statement, and require only that broker-dealer services should be provided in a physically distinct location *wherever practical*. Under the Amendment No. 4, broker-dealers will not be prohibited from conducting business in the event that a physical separation is not practical. The location, however, must be identified in a manner that clearly distinguishes the broker-dealer services from the activities of the financial institution, and the member's name must be clearly displayed in the area in which the member conducts its broker-dealer services.

2. Confidential Financial Information and Compensation of Unregistered Persons

The original proposal stated that an NASD member shall not use confidential financial information regarding its customers unless a customer granted to the financial institution prior approval for such use. Most of the commenters who addressed this provision objected to the proposed restriction on the use of confidential financial information, and 7requested that the provision either be deleted or substantially revised.[8] These commenters argued that, to the extent there are special concerns when a bank provides confidential financial information about its customers to a broker-dealer, these concerns are properly the subject of federal and state banking and privacy laws. They further argued that the NASD lacks jurisdiction to regulate a financial institution's use of customer information.

The commenters also argued that a member should be able to use such confidential financial information, provided proper disclosure is made and consent for such use has been obtained in accordance with applicable state law, which, according to commenters, does not require written consent. Alternatively, these commenters argued that a member should be able to rely on a representation by the financial institution that customer consent was obtained. In addition, the commenters stated that complying with this provision represented an unwarranted operational burden not justified by the NASD's stated objective of avoiding customer confusion. Finally, some commenters maintained that their customers expect and welcome this sharing of information to enable the financial institution to present them with an array of investment alternatives.

As with other portions of the originally proposed rule, commenters stated that this provision was unreasonably discriminatory and anti-competitive, noting that restrictions regarding the use of confidential financial information are not applied similarly to broker-dealers who are not operating on the premises of a financial institution. These commenters stated that a more equitable approach would be for the NASD to adopt rules that regulate the use of confidential information by all members—not just those members that operate on the premises of financial institutions.

In response to these concerns, the provision has been deleted, and the NASD Board has issued a Notice to Members soliciting comment on a proposed rule governing the use and release of confidential financial information that would apply to all members.[9]

3. Communications With the Public

The original proposal set forth requirements for all communications with customers, including account statements, advertisements, and sales literature. Several of the commenters who addressed this provision asked whether the disclosures required by the rule could be provided in the abbreviated format allowed by a 1995 interpretation of the Interagency Statement ("1995 Interpretation").[10] Several commenters also stated that the requirements of the provision are duplicative of the requirements in existing NASD rules.

In response to these comments, this provision has been revised to make the rule more consistent with the Interagency Statement and the 1995 Interpretation. In addition, those provisions of the originally proposed rule that are duplicative of requirements in existing NASD advertising rules have been deleted.[11] Moreover, several new provisions have been added to clarify the circumstances under which abbreviated risk disclosures may be used and when such disclosures are not required.[12]

4. Compensation of Registered/Unregistered Persons

The original rule proposal stated that members may not provide cash or non-cash compensation to financial institutions in connection with referring customers of the financial institution to the member. A related provision required that networking and brokerage affiliate agreements between a member and a financial institution stipulate that the payment of transaction-related cash or non-cash compensation to unregistered financial institution employees for referrals is prohibited. Commenters who addressed these provisions argued that they were unclear and should be revised. Among other things, they suggested that the NASD clarify that its prohibition on payment of referral fees does not prevent bank management from paying referral fees to bank employees.[13]

Commenters also were concerned with NASD statements in the original rule filing that a member may not do indirectly what it is prohibited from doing directly, by compensating employees of a financial institution for referrals through payments that were directed in the first instance to a financial institution. Commenters were particularly concerned that this provision be clarified to ensure that the NASD was not attempting to regulate a financial institution's compensation practices with respect to its own employees—practices that are subject to regulation by the banking agencies. Finally, some commenters stated that this provision was unreasonably discriminatory and anti-competitive because it would prohibit payment of referral fees by bank broker-dealers, and not prohibit such payments by all member firms. In response to these criticisms, these provisions have been deleted, and the NASD has solicited comment on a proposed rule governing compensation of unregistered persons that would apply to all members.[14]

5. Termination for Cause

As originally filed, the proposed rule specified that networking and brokerage affiliate agreements must contain a provision requiring a member to notify a financial institution if a dual employee of the member and the financial institution is terminated for cause by the member. This provision has been deleted from the paragraph of the bank broker-dealer rule pertaining to matters that must be addressed by networking and brokerage affiliate agreements, and is now a separate affirmative requirement.[15]

C. Overview of Amendment No. 5

In response to the comment letters submitted on Amendment No. 4, the NASD submitted Amendment No. 5[16] to the proposed rule change. The major issues raised by the commenters, and the changes in Amendment No. 5 in response to those comments, are discussed below.

1. Summary of Comments

Some of the commenters to Amendment No. 4 continued to question the need for the rule. Most commenters, however, believed that the NASD had appropriately amended the rule in response to the issues raised by the 98 commenters on the original proposal. These commenters applauded the NASD for revising the original proposal to eliminate the provisions that they considered objectionable and for making the requirements of the rule more consistent with the guidelines in the Interagency Statement. The commenters also suggested several additional revisions that they believed would result in a clearer, less ambiguous rule that would be even more in accord with the standards in the Interagency Statement.

2. Applicability

The rules applies to broker-dealer services conducted by members "on the premises" of a financial institution. Two commenters suggested that the scope of the rule be limited to face-to-face communications with customers on bank premises and that the rule not apply where broker-dealer services are provided by means of telecommunication.[17] The rule, however, is not limited in this way because the potential for confusion exists whenever brokerage services are conducted either in person, over the telephone, or through other electronic medium, by a broker-dealer that has a physical presence on the premises of a financial institution. In addition, two commenters suggested that the disclosure requirements of the rule should be applied to all NASD members that offer both insured products and uninsured securities products.[18] The Commission notes that the NASD has issued a Notice to Members soliciting comment on such a rule.[19]

3. Definition of "Broker-Dealer Services"

Two commenters requested that the definition of "broker-dealer services" be clarified to indicate that the rule does not apply to fiduciary activities or to mutual fund distributors and underwriters.[20] The rule has not been revised to reflect these comments. While the rule most often would be applied to broker-dealer services provided to retail customers, the rule would also apply to brokerage services provided to fiduciary accounts, if such services are provided

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[2] See Letters from Elliot R. Curzon, Associate General Counsel, NASD, to Mark P. Barracca, Branch Chief, Division of Market Regulation, SEC (January 24, 1996 and march 7, 1996), and Letter from Suzanne E. Rothwell, Associate General Counsel, NASD, to Mark P. Barracca, Branch Chief, Division of market Regulation, SEC (January 29, 1996).

[3] Securities Exchange Act Release No. 36980 (March 15, 1996), 61 FR 11913.

[4] See, *e.g.*, Letter from Dr. Janice C. Shields, Coordinator, Consumer Finance Project, center for Study of Responsive Law, to Jonathan Katz, Secretary, SEC (May 15, 1996); Letter from Dee Riddell Harris, President, North American Securities Administrators Association, Inc., to Jonathan Katz, Secretary, SEC (May 21, 1996).

[5] See, *e.g.*, Letter from Maureen Ryan, Senior Counsel, Barnett Banks, Inc., to Jonathan Katz, Secretary, SEC (May 20, 1996); Letter from Sarah Miller, Senior Government Relations Counsel, American Bankers Association to Jonathan Katz, Secretary, SEC (May 21, 1996) ("ABA Letter"); Letter from Steven J. Freiberg, Chairman & CEO, Citicorp Investment Services to Jonathan Katz, Secretary, SEC (May 20, 1996).

[6] Securities Exchange Act Release No. 38506 (April 14, 1997), 62 FR 19378.

[7] See Letter from May Revell, Assistant General Counsel, NASD Regulation, to Belinda Blaine, Associate Director, SEC (July 17, 1997). The changes made in Amendment No. 5 to the proposed rule change are discussed in detail in Section II.C of this approval order, *infra*.

[8] See, *e.g.*, Letter from Sandra L. Caruba, Counsel, First National Bank of Chicago, to Jonathan Katz, Secretary, SEC (May 20, 1996); Letter from David A. Hebner, Vice President and Assistant General Counsel, First Union Corporation, to Jonathan Katz, Secretary, SEC (May 20, 1996); Letter from Steven Alan Bennett, Senior Vice President and General Counsel, Banc One Corporation, to Jonathan Katz, Secretary, SEC (May 21, 1996); Letter from Robert M. Kurucza, General Counsel, Bank Securities Association, to Jonathan Katz, Secretary, SEC (May 21, 1996).

[9] See NASD Notice to Members 97–12.

[10] Interpretation of the Interagency Statement (September 12, 1995).

[11] For example, pursuant to NASD Rule 2210, any joint account statement must clearly identify and distinguish securities products from non-securities products, and should clearly identify securities products as being offered by the member. See NASD Rule 2210(f)(2)(C).

[12] See Rule 2350(c)(4), *supra*.

[13] See *e.g.*, ABA Letter, *supra* note 5.

[14] See NASD Notice to Members 97–11.

[15] See Rule 2350(c)(5), *supra*.

[16] *Supra* note 7.

[17] See Letter from Barry E. Simmons, Investment Company Institute, to Jonathan Katz, Secretary, SEC (May 12, 1997) ("1997 ICI Letter"); and Letter from Jack Kopnisky, President & CEO, KeyInvestments, to Jonathan Katz, Secretary, SEC (May 9, 1997) ("1997 KeyInvestments Letter").

[18] See Letter from Kimberly Crichton, General Counsel and Vice President, Citicorp Investment Services, to Jonathan Katz, Secretary, SEC (May 12, 1997); and Letter from Valorie Seyfert, President, CUSO Financial Services, L.P., to Jonathan Katz, Secretary, SEC (May 21, 1997) ("1997 CUSO Letter").

[19] See NASD Notice to Members 97–28.

[20] See Letter from Robert R. Davis, Director, Government Relations, America's Community Bakers, to Jonathan Katz, Secretary, SEC (May 13, 1997) ("1997 ACB Letter"); and 1997 ICI Letter, *supra* note 17.

on the premises of a financial institution where retail deposits are taken. Furthermore, the Interagency Statement does not exclude fiduciary activities from the scope of the guidelines; it merely states that the guidelines "*generally do not apply* to the sale of nondeposit investment products to non-retail customers, such as sales to fiduciary accounts administered by an institution" (emphasis added). The 1995 Interpretation also clarifies that issue. It states: "[F]or fiduciary accounts where the customer directs investments, * * * the disclosures prescribed by the Interagency Statement should be provided."

In addition, the NASD rule would apply by its terms to mutual fund distributors and underwriters if they are engaged in brokerage activities on the premises of a financial institution. For these reasons, the rule has not been revised to respond to this comment.

4. Setting

As discussed above, the revised rule requires that, wherever practical, broker-dealer services must be conducted in a physical location distinct from the area where retail deposits are taken. One commenter suggested amending the rule to require that broker-dealer services be separated from the area of the financial institution where retail deposits are *routinely* taken to make clear that brokerage services must be offered away from the teller line.[21] Because of concern that this proposal could lead to confusion, the rule has not been changed in response to this comment. However, the NASD intends to clarify in a Notice to Members announcing the approval of the rule that brokerage services should be separated from the teller line, the area of the bank where retail deposits are routinely taken. The NASD also intends to clarify that the rule is not meant to preclude certificates of deposit from being offered in the brokerage area if that particular product, rather than an uninsured investment product, is best suited to the customer's investment needs. The rule therefore would not preclude a bank customer from purchasing an array of investment products, including certificates of deposit, so long as the brokerage area is appropriately separated from the other areas of the financial institution with appropriate signs indicating the type of business being conducted and other lines of demarcation, and the customer is given the appropriate disclosures.

5. Customer Disclosure and Written Acknowledgment

The rule requires NASD members to make certain disclosures at or prior to the time that a customer account is opened by the member.[22] One provision requires disclosure that securities products are not insured. Three commenters addressed this requirement in response to Amendment No. 4. Two suggested deleting the phrase "or other deposit insurance" to ensure consistency with the Interagency Statement.[23] The third suggested simply stating that securities products are not federally insured.[24] In response to these comments, the phrase "or other deposit insurance" has been deleted from the rule.

Another commenter suggested that, in addition to the disclosures required by the current version of the rule, disclosure should be made that products sold by a dual employee are offered by a person who accepts deposits and sells nondeposit investment products.[25] In order to keep the NASD rule consistent with the Interagency Statement, and because the current disclosures are designed to adequately apprise investors of the risks of securities products, this change has not been made.

6. Communications With the Public

Paragraph (c)(4)(B) permits shorter, logo format disclosures in visual media. One commenter suggested that the rule should also allow these abbreviated disclosures in radio advertisements.[26] Because the definition of "advertisement" in NASD Rule 2210 (Communications with the Public), includes material designed for use in radio, the rule language has been revised to be consistent with Rule 2210.

The rule also allows the required disclosures to be omitted in specified advertisements and sales literature, provided the omission will not cause the advertisement or sales literature to be misleading. One commenter suggested deleting any reference to the "misleading" nature of such omissions.[27] This language has been retained to appropriately reflect the general prohibitions on misleading advertising in NASD rules.[28] Another commenter requested that the rule allow omission of the required disclosures in letters that introduce the broker-dealer to bank customers and do not contain an offer or a solicitation.[29] This suggested change has not been made. Generally, a personalized letter to an individual customer is not included in either the definition of advertisements or sales literature in NASD Rule 2210. The letter would be considered "correspondence" subject to the requirements of NASD Rule 3010 (Supervision).[30]

Paragraphs (c)(4)(B), (C), and (D) have been revised to make other clarifying changes, many of which merely make the rule language in Paragraph (c)(4) more consistent with language in NASD Rule 2210. For example, the phrase "promotional and sales material" has been replaced with the phrase "sales literature" in Paragraph (c)(4)(A), consistent with Rule 2210. Also, Paragraph (c)(4)(C) has been revised to clarify that logo disclosures may be used in all advertisements and sales literature. Finally, in order to ensure consistency with the standards in the Interagency Statement, Paragraph (c)(4)(D) has been revised to add language to the rule that mirrors language in the 1995 Interpretation. These minor revisions clarify the meaning of the rule and make the rule consistent with the Interagency Statement.

7. Notification of Termination

The rule requires members to promptly notify the financial institution if an associated person of the member who also is employed by the financial institution (a dual employee) is terminated for cause by the member. Two commenters suggested that such notification should also be provided in situations where an associated person who is employed only by the member and not directly by the financial institution is terminated.[31] This change has not been made because the purpose of the provision is to permit banks and broker-dealers to maintain open communications about dual employees, and it is unclear what purpose would be served by the revision.

[21] See Letter from Sarah A. Miller, Senior Government Relations Counsel, American Bankers Association, to Jonathan Katz, Secretary, SEC (May 12, 1997) ("1997 ABA Letter").

[22] The Commission notes that requiring disclosure at or prior to the time of the opening of an account is consistent with other SEC rules. See *e.g.*, Exchange Act Rule 11Ac1–3, 17 CFR 240.11Ac1–3 (regarding payment for order flow).

[23] See 1997 ABA Letter, *supra* note 21, and 1997 ICI Letter, *supra* note 17.

[24] See 1997 CUSO Letter, *supra* note 18.

[25] Id.

[26] See Letter from Kimberly Crichton, General Counsel and Vice President, Citicorp Investment Services, to Jonathan Katz, Secretary, SEC (May 12, 1997).

[27] See 1997 Kay Investments Letter, *supra* note 17.

[28] See NASD Rule 2210.

[29] See Letter from Bill Sones, President, Independent Bankers Association of America, to Jonathan Katz, Secretary, SEC (May 12, 1997).

[30] But see NASD Notice to Members 97–37 (requesting comment on proposed definition of correspondence for rules regarding communications with the public).

[31] See 1997 ACB Letter, *supra* note 20. See also Letter from Nicholas J. Ketcha, Jr., Director, Division of Supervision, FDIC, to Belinda Blaine, Associate Director, Division of Market Regulation, SEC, (August 29, 1997).

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 5. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR–NASD–95–63 and should be submitted by December 1, 1997.

IV. Commission Findings

The Commission finds that the rule change is consistent with the requirements of Section 15A(b)(6) of the Act.[32] Section 15A(b)(6) specifies that the rules of a national securities association be designed, among other things, to prevent fraudulent and manipulative acts, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The Commission believes that the rule will provide enforceable standards designed to reduce potential customer confusion in dealing with broker-dealers that conduct business on the premises of financial institutions. The rule also should clarify the relationship between a broker-dealer and a financial institution entering into a networking arrangement.[33] The rule should help prevent confusion by clarifying that securities purchased by customers on the premises of a financial institution are not insured by the FDIC or the financial institution. The disclosures required by the rule, and the written acknowledgement of disclosures obtained pursuant to the rule, are intended to assist investors in making investment decisions based on a better understanding of the distinctions between insured deposits and uninsured securities products. Although the rule requires only that members "make reasonable efforts" to obtain written customer acknowledgment of the required disclosures in the account opening process, the Commission expects members to obtain such written acknowledgement in all but rare circumstances (e.g. when a customer refuses to sign the acknowledgment). It is anticipated that, as is the case today, many firms will provide these disclosures in the new account opening form which, when signed by the customer, constitutes written acknowledgment. The Commission believes that in the rare circumstances where acknowledgment is not obtained, heightened supervisory procedures would be necessary. Reasonable supervisory procedures would include procedures for the registered representative receiving approval from the member's compliance department prior to opening the account, and documenting that the customer has refused to sign the written acknowledgment of such disclosure.

The Commission also agrees with the NASD that the activities of NASD member firms operating on the premises of financial institutions and related customer protection issues are not adequately addressed by existing NASD rules. Because the Interagency Statement is not part of the securities laws or rules, the basis for NASD Regulation disciplinary action against member firms that do not comply with the Interagency Statement is unclear. The proposed rule establishes a clear standard of conduct governing the practices of member firms operating on the premises of financial institutions that is enforceable by the NASD.

The Commission finds good cause for approving Amendment No. 5 prior to the thirtieth day after the date of the publication of notice of filing thereof in the **Federal Register**, because Amendment No. 5 reflects and responds to earlier comments about the proposal and further clarifies the proposal. In addition, accelerated approval of Amendment No. 5 will permit the rule to go into effect without further delay.

V. Effective Date

The NASD will announce the approval of this rule in a Notice to Members no later than 60 days after publication of this Order in the **Federal Register**. The effective date of this rule will be 60 days after publication of the NASD's Notice to Members.

[32] 15 U.S.C. 78o–3(b)(6).

[33] In approving the proposal, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

It is therefore ordered, pursuant to Section 19(b)(2)[34] of the Act, that the proposed rule change (SR–NASD–95–63), as amended be, and hereby is, approved.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–29600 Filed 11–7–97; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice No. 2825]

Secretary of State's Advisory Committee on Private International Law; Meeting Notice

There will be a meeting on Developments in Private International Law of the Secretary of State's Advisory Committee on Private International Law (ACPIL) on Thursday, November 20 from 1:00 p.m. to 5:00 p.m. and Friday, November 21 from 10:00 a.m. to 4:30 p.m. at the Department of State in Washington, D.C.

Comments and advice will be solicited on developments in private international law. The meeting agenda will include a review of the work of international organizations specializing in this field, including the International Institute for Unification of Private Law (UNIDROIT), the Hague Conference on Private International Law, the United Nations Commission on International Trade Law (UNCITRAL), Inter-American Specialized Conferences on Private International Law (CIDIP) sponsored by the Organization of American States (OAS), and other international organizations, as appropriate.

Topics for discussion will include the proposed Hague convention on jurisdiction, recognition and enforcement of foreign judgments; the 1997 UNCITRAL model law on cross-border insolvencies; electronic commerce developments, including jurisdiction, cross-border recognition, and U.S. positions on electronic signatures; whether the Advisory Committee should endorse for U.S. signature and ratification the 1996 Hague Convention on Protection of Children; possible PIL topics at the next O.A.S. Specialized Conference on Private International Law (CIDIP–VI); the proper role non-governmental parties should play in international bodies such as the U.N.; the Hague Conventions on intercountry adoption and international child abduction; the prospects for a Hague convention on

[34] 15 U.S.C. 78s(b)(2).

protection of incapacitated adults; international issues involved in reciprocal arrangements for enforcement of support obligations; and whether U.S. policy on commercial law unification should be based on the balancing of provisions of various legal systems, or should adopt economic objectives as the guiding standard. Additional topics may be considered as time permits.

Members of the general public may attend up to the capacity of the meeting room, which may be limited, and participate subject to the direction of the Chair. The meeting will be held in Conference Room 1107 at the Department of State; entry should be only via the Diplomatic entrance at 22d and "C" Streets, N.W. As access to the building is controlled, the office indicated below should be notified by mail or fax not later than Friday, November 14, of the name, address, firm or affiliation if any, social security number and date of birth of persons wishing to attend. Providing this information permits us to pre-clear participants and avoid delays that otherwise may occur due to security procedures.

To register for the meeting with the above information or to request copies of documents on particular topics, please contact the Office of the Assistant Legal Adviser for Private International Law (L/PIL), attention Harold S. Burman, Advisory Committee Executive Director, at 2430 "E" Street, N.W., Suite 355 South Building, Washington D.C. 20037–2800, or notify Ms. Rosalia Gonzales by fax at (202) 776–8482, phone (202) 776–8420, or by e-mail at pildb@his.com. Members of the public are also invited to request information on the Department's program in this field.

Peter H. Pfund,

Assistant Legal Adviser for Private International Law.

[FR Doc. 97–29582 Filed 11–7–97; 8:45 am]

BILLING CODE 4710–08–M

TRADE AND DEVELOPMENT AGENCY

SES Performance Review Board; Notice

AGENCY: Trade and Development Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given of the appointment of members of the Trade and Development Agency's Performance Review Board.

FOR FURTHER INFORMATION CONTACT: Deirdre E. Curley, Assistant Director for Management, Trade and Development Agency, 1621 N. Kent Street, Arlington, VA 22209–2131, (703) 875–4357.

SUPPLEMENTARY INFORMATION: Section 4314(c) (1) through (5), U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more SES performance review boards. The board shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any recommendations to the appointing authority relative to the performance of the senior executive.

The following have been selected as acting members of the Performance Review Board of the Trade and Development Agency: Lois E. Hartman, Deputy Director (retired), Office of Human Resources, Agency for International Development; James Sullivan, Director, Office of Energy and Infrastructure, Bureau for Research and Development, Agency for International Development; and John L. Wilkinson, Associate Assistant Administrator, Bureau for Global Programs, Agency for International Development.

Dated: November 5, 1997.

Deirdre E. Curley,

Assistant Director for Management.

[FR Doc. 97–29620 Filed 11–7–97; 8:45 am]

BILLING CODE 8040–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map Notice; Receipt of Noise Compatibility Program and Request for Review, Akron-Canton Regional Airport, Akron, OH

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the Akron-Canton Regional Airport Authority for Akron-Canton Regional Airport under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Public Law 96–193) and 14 CFR Part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for Akron-Canton Regional Airport under Part 150 in conjunction with the noise exposure map, and that this program will be approved or disapproved on or before April 14, 1998.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps and of the start of its review of the associated noise compatibility program is October 16, 1997. The public comment period ends December 15, 1997.

FOR FURTHER INFORMATION CONTACT: Lawrence C. King, Program Manager, Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for Akron-Canton Regional Airport are in compliance with applicable requirements of Part 150, effective October 16, 1997. Further, FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before April 14, 1998. This notice also announces the availability of this program for public review and comment.

Under section 103 of Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by the FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

Akron-Canton Regional Airport Authority submitted to the FAA on September 22, 1997, noise exposure maps, descriptions and other documentation which were produced during the Akron-Canton Regional Airport Noise Compatibility Study update dated 1997. It was requested that the FAA review this material as the noise exposure maps, as described in section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by Akron-Canton Regional Airport Authority. The specific maps under consideration are Figure 8.2, Pages 107–108 of the NEM, and Figure 4.1, Pages 43–44 of the NCP, in the submission. The FAA has determined that these maps for Akron-Canton Regional Airport are in compliance with applicable requirements. This determination is effective October 16, 1997. FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detail overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification of by the airport operator, under section 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for Akron-Can Regional Airport, also effective on October 16, 1997. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before April 14, 1998.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR Part 150, section 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111

Mr. Frederick J. Krum, Director of Aviation, Akron-Canton Regional Airport, 5400 Lauby Road, N.W., P.O. Box 9, North Canton, OH 44720–1598

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Belleville, Michigan, on October 16, 1997.

Lawrence C. King,

Acting Assistant Manager, Detroit Airports District Office FAA Great Lakes Region.

[FR Doc. 97–29572 Filed 11–7–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Approval of Noise Compatibility Program Sarasota-Bradenton International Airport Sarasota, FL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by the Sarasota Manatee Airport Authority under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Public Law 96–193) and 14 CFR Part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96–52 (1980). On May 7, 1996 and April 15, 1997, the FAA determined that the noise exposure maps submitted by the Sarasota Manatee Airport Authority under Part 150 were in compliance with applicable requirements. On October 9, 1997, the Administrator approved the Sarasota-Bradenton International Airport noise compatibility program. All of the program measures were fully approved.

EFFECTIVE DATE: The effective date of the FAA's approval of the Sarasota-Bradenton International Airport noise compatibility program is October 9, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Tommy J. Pickering, P.E., Federal Aviation Administration, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando Florida 32822, (407) 812–6331, Extension 29. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for Sarasota-Bradenton International Airport, effective October 9, 1997.

Under Section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) Part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measure should be recommended for action. The FAA's approval or disapproval of FAR Part 150 program recommendations is measured according to the standards expressed in

Part 150 and the Act, and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR Part 150:

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical users, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR Part 150, Section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for project grants must be submitted to the FAA Airports District Office in Orlando, Florida.

The Sarasota Manatee Airport Authority submitted to the FAA on May 2, 1996 and April 9, 1997, updated noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from May 1, 1993 through April 7, 1997. the Sarasota-Bradenton International Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on May 7, 1996 and April 15, 1997. Notice of this determination was published in the **Federal Register**.

The Sarasota-Bradenton International Airport study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to the year 2002. It was requested that FAA evaluate and approve this material as a noise compatibility program as described in Section 104(b) of the Act. The FAA began its review of the program on April 15, 1997, and was required by a provision of the Act to approve or disapprove the program within 180-days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained four (4) proposed actions for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. The overall program, therefore, was approved by the Administrator effective October 9, 1997.

Outright approval was granted for all four (4) of the specific program measures. The approval action was for the following program controls:

Noise abatement measure	Description	NCP pages
OPERATIONAL MEASURES		
1. Departure Path for Runway 32 ..	Current ATC procedures by SRQ tower and Tampa TRACON instruct all aircraft weighing over 25,000 pounds and all jet aircraft departing northbound on Runway 32 to turn left at 0.9 DME (*i.e.*, the middle marker) to join the 295° radial outbound, then proceed on course as instructed by ATC. Southbound jet aircraft departing on Runway 32 are instructed to turn left at the 0.9 DME to a heading of 270° for vectors to on course. The airport's Flight Tracking System indicates some aircraft using the northbound procedure fly particularly close to residential areas on the eastern shore of Sarasota Bay. It is recommended that the existing procedure be modified so all aircraft weighing over 25,000 pounds and all jet aircraft departing on Runway 32 would be instructed to turn left at 0.9 DME to join the Sarasota 270° radial outbound to at least 7 DME, then proceed on course as instructed by ATC. Should, after implementation, the turn at 7 DME result in a splay of aircraft that is further east then anticipated, it is recommended that aircraft proceed outbound on the 270° radial to the 8 DME, then proceed on course as instructed by ATC. It is further recommended that should approval of the turn to the 270° radial be denied, then the current procedure be maintained until such time as the turn to the 270° radial becomes feasible. Implementation of the modified procedure will reduce noise exposure on sensitive areas northwest of the airport and reduce the number of impacted people with the 65 DNL contour by approximately 1,033 people. FAA Action: Approved. Any decision to implement this procedure is subject to appropriate environmental review, a flight check, and publication of the SID.	Pgs. 4–3 to 4–11, 6–1 and 6–2; Figures 4–1 to 4–3; Tables 4–1 and 6–10; and letter from Mr. Noah Lagos dated June 17, 1997.

Noise abatement measure	Description	NCP pages
LAND USE MEASURES		
1. Purchase and Resale with Avigation Easements and Sound Insulation.	It is recommended that the SMAA offer to purchase fee simple interest from homeowners who purchased their current home prior to January 1, 1980, and who are located within the 65+DNL contour of the 2000 NEM in Sarasota and Manatee Counties. Priority ranking based upon length of ownership will be given to homeowners located within the 70+DNL contour of the 1995 NEM. Homes purchased by the SMAA will be sound insulated only where feasible and cost effective and all homes will be resold with an avigation easement. This alternative will be implemented in accordance with 49 CFR Part 24 and other applicable guidance. This will reduce existing noncompatible land uses and provide mitigation for homeowners who purchased prior to January 1, 1980, to comply with existing Florida Development of Regional Impact (DRI) Development Order stipulations. FAA Action: Approved.	Pgs. 5–16 to 5–18, 6–13 and 6–14; Figures 5–1 to 5–3, 6–2 and 6–4; Tables 5–7, 5–9 and 6–11; Appendices D, E and F; and Letter from Mr. Noah Lagos dated June 17, 1997.
2. Sound Insulation with Avigation Easements.	It is recommended that the SMAA offer to provide sound insulation, only where feasible and cost effective, in exchange for an avigation easement to fixed single family homeowners located within the 65+DNL contour of the 2000 NEM in Sarasota and Manatee Counties, who purchased their current home prior to December 15, 1986, the date of constructive notice. Mobile homes and large institutional buildings are not included in this program. Priority ranking based upon length of ownership will be given to homeowners located within the 70+DNL contour of the 1995 NEM. This will reduce existing noncompatible land uses and provide mitigation for homeowners who purchased prior to the date of construction notice. FAA Action: Approved.	Pgs. 5–11 to 5–14, 6–11 and 6–12; Figures 5–1, 5–3, 6–2 and 6–4; Tables 5–5, 6–7 and 6–11; Appendices D, E and F; and Letter from Mr. Noah Lagos dated June 17, 1997.
Purchase of Avigation Easement ...	It is recommended that the SMAA offer to purchase avigation easements from homeowners, including mobile homes where owners own their own lots, located within the 65–DNL contour of the 2000 NEM in Sarasota and Manatee Counties, who purchased their current home prior to December 15, 1986, the date of construction notice. Priority rating based upon length of ownership will be given to homeowners located within the 70+DNL contour of the 1995 NEM. This will reduce existing noncompatible land uses and provide mitigation for homeowners who purchased prior to the date of constructive notice. FAA Action: Approved.	Pgs. 5–14 to 5–16 and 6–13; Figures 5–1, 5–3, 6–2 and 6–4; Tables 5–6, 6–8 and 6–11; Appendices D, E and F; and Letter from Mr. Noah Lagos dated June 17, 1997.

These determinations are set forth in detail in a Record of Approval endorsed by the Administrator on October 9, 1997. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative office of the Sarasota Manatee Airport Authority.

Issued in Orlando, Florida on October 24, 1997.

Gordon H. Shepardson,

Acting Manager, Orlando Airports District Office.

[FR Doc. 97–29580 Filed 11–7–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–97–55]

Petitions for Exemption; Summary of Petitions; Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before November 26, 1997.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address: 9–NPRM–CMNTS@faa.dot.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Heather Thorson (202) 267–7470 or Angela Anderson (202) 267–9681 Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on October 31, 1997.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 28905.
Petitioner: Petroleum Helicopters, Inc.
Sections of the FAR Affected: 14 CFR 135.152(a).

A summary of this petition was inadvertently published a second time in the **Federal Register** on October 27, 1997. This notice serves to clarify that the close of the comment period remains November 3, 1997.

Docket No.: 28855.
Petitioner: Offshore Logistics, Inc.
Sections of the FAR Affected: 14 CFR 135.152(a).

A summary of this petition was inadvertently published a second time in the **Federal Register** on October 27, 1997. This notice serves to clarify that the close of the comment period remains November 3, 1997.

[FR Doc. 97–29566 Filed 11–7–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–97–56]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of the notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before December 1, 1997.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address: 9–NPRM–CMNTS@faa.dot.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rule Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Heather Thorsen (202) 267–7470 or Angela Anderson (202) 267–9681 Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on November 3, 1997.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: 28166.
Petitioner: Ronald T. Brown.
Sections of the FAR Affected: 14 CFR 43.3.
Description of Relief Sought/Disposition: To permit the petitioner to perform unsupervised maintenance, repairs, and inspections on his 1943 Fairchild PT23C–M62C 66020 aircraft (Serial No. 147HO) without being an appropriately certificated airframe and powerplant mechanic with an inspection authorization.
Denial, October 14, 1997, Exemption No. 6691.

Docket No.: 27547.
Petitioner: Hughes Aircraft Company.
Sections of the FAR Affected: 14 CFR 91.319(c).
Description of Relief Sought/Disposition: To permit the petitioner to operate over densely populated areas or in congested airways with aircraft certificated in the experimental category.
Denial, September 26, 1997, Exemption No. 6687.

Docket No.: 25640.
Petitioner: American Eurocopter Corporation.
Sections of the FAR Affected: 14 CFR 21.195(a).
Description of Relief Sought/Disposition: To permit the petitioner to apply for an experimental airworthiness certificate for its EC135 helicopter, for which a type certificate will be held by Eurocopter Deutschland, for the purpose of conducting market surveys, sales demonstrations, or customer crew training in the United States.
Grant, October 14, 1997, Exemption No. 6694.

Docket No.: 28317.
Petitioner: Eagle Canyon Airlines, Inc.
Sections of the FAR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/Disposition: To permit the petitioner to operate certain Cessna aircraft without TSO–C112 (Mode S) transponders installed subject to certain conditions and limitations.
Grant, October 22, 1997, Exemption No. 6195A.

Docket No.: 28972.
Petitioner: Samoa Aviation, Inc.
Sections of the FAR Affected: 14 CFR 121.641.
Description of Relief Sought/Disposition: To permit the petitioner, a part 121 flag air carrier, to comply with the fuel requirements prescribed in 14 CFR part 121.639 that are applicable to all domestic operations, in lieu of the fuel requirements prescribed in 14 CFR part 121.641 that are applicable to flag operations using nonturbine and turbopropeller-powered airplanes.
Denial, October 20, 1997, Exemption No. 6695.

Docket No.: 28619.
Petitioner: F.S. Air.
Sections of the FAR Affected: 14 CFR 135.267(b)(2) and (c) and 135.269(b) (2), (3), and (4).
Description of Relief Sought/Disposition: To permit the petitioner to assign its flight crewmembers and allow its flight crewmembers to accept a flight assignment of up to 16 hours of flight time during a 20-hour duty period for the purpose of conducting international emergency evacuation operations.
Denial, October 23, 1997, Exemption No. 6534A.

[FR Doc. 97–29566 Filed 11–7–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Use the Revenue From a Passenger Facility Charge (PFC) at Boston Logan International Airport, Boston, MA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a Passenger Facility Charge at Boston Logan International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before December 10, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airport Division, 12 New England Executive Park, Burlington, Massachusetts 01803.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Peter Blute, Executive Director, Massachusetts Port Authority at the following address: Massachusetts Port Authority, 10 Park Plaza, Boston, Massachusetts, 02116.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Massachusetts Port Authority under section 158.23 of part 158 of the Federal Aviation Regulations.

FOR FURTHER INFORMATION CONTACT: Priscilla A. Scott, PFC Program Manager, Federal Aviation Administration, Airports Division, 12 New England Executive Park, Burlington, Massachusetts 01803, (617) 238–7614. The application may be reviewed in person at 16 New England Executive Park, Burlington, Massachusetts.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a Passenger Facility Charge (PFC) at Boston Logan International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On October 24, 1997, the FAA determined that the application to use the revenue from a PFC submitted by the Massachusetts Port Authority was substantially complete within the requirements of section 158.25 of part 158 of the Federal Aviation Regulations. The FAA will approve or disapprove the application, in whole or in part, no later than January 26, 1998.

The following is a brief overview of the use application.

PFC Project #: 97–03–U–00–BOS.

Level of the proposed PFC: $3.00.

Charge effective date: November 1, 1993.

Estimated charge expiration date: October 1, 2017.

Estimated total net PFC revenue: $434,106,000.

Brief description of projects: International Gateway Terminal Construction.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators (ATCO).

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Massachusetts Port Authority, 10 Park Plaza, Boston, Massachusetts, 02116.

Issued in Burlington, Massachusetts on October 28, 1997.

Vincent A. Scarano,

Manager, Airports Division, New England Region.

[FR Doc. 97–29577 Filed 11–7–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application (#97–04–I–00–JAC) To Impose a Passenger Facility Charge (PFC) at Jackson Hole Airport, Submitted by Jackson Hole Airport Board, Jackson, WY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose PFC revenue at Jackson Hole Airport under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR 158).

DATES: Comments must be received on or before December 10, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Alan Wiechmann, Manager; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 26805 E. 68th Avenue, Suite 224; Denver, CO 80249–6361.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. George Larson, Airport Director, at the following address: Jackson Hole Airport Board, P.O. Box 159, Jackson, Wyoming 83001.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to Jackson Hole Airport, under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Schaffer, (303) 342–1258; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 26805 E. 68th Avenue, Suite 224; Denver, CO 80249–6361. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application (#97–04–I–00–JAC) to impose PFC revenue at Jackson Hole Airport, under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On October 29, 1997, the FAA determined that the application to impose a PFC submitted by the Jackson Hole Airport Board, Jackson Hole Airport, Jackson, Wyoming, was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than January 28, 1998.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: July 1, 1998.

Proposed charge expiration date: March 1, 2000.

Total requested for use approval: $600,000.00.

Brief description of proposed project: Differential Global Positioning System.

Class or classes of air carriers which the public agency has requested not be required to collect PFC's: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue S.W., Suite 540, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Jackson Hole Airport.

Issued in Renton, Washington, on October 29, 1997.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 97–29576 Filed 11–7–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at La Crosse Municipal Airport, La Crosse, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at La Crosse Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before December 10, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Minneapolis Airports District Office, 6020 28th Avenue South, Room 102, Minneapolis, Minnesota 55450.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Michael A. Daigle, Airport Manager of the La Crosse Municipal Airport at the following address: La Crosse Municipal Airport, 2850 Airport Road, La Crosse, WI 54603.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of La Crosse under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Sandra E. DePottey, Program Manager, Minneapolis Airports District Office, 6020 28th Avenue South, room 102, Minneapolis, MN 55450, 612–713–4363. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at La Crosse Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On October 28, 1997, the FAA determined that the application to impose and use the revenue from a PFC submitted by City of La Crosse was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than January 20, 1998.

The following is a brief overview of the application.

PFC application number: 97–04–C–00–LSE.

Level of the proposed PFC: $3.00.

Proposed charge effective date: August 1, 1998.

Proposed charge expiration date: December 1, 2000.

Total estimated PFC revenue: $615,000.

Brief description of proposed projects: Relocate threshold Runway 13/31, Airfield sealcoating, Reconstruct Runway 18/36 (phase 1), Construct airport entrance sign, PFC administration.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: no request to exclude carriers.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the City of La Crosse.

Issued in Des Plaines, Illinois on October 31, 1997.

Robert A. Benko,

Acting Manager, Planning/Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 97–29573 Filed 11–7–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Use the Revenue From a Passenger Facility Charge (PFC) at Tupelo Municipal Airport, Tupelo, MS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Tupelo Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before December 11, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: FAA/Airports District Office, 120 North Hangar Drive, Suite B, Jackson, Mississippi 39208–2306.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Roger Blickensderfer, Executive Director of the Tupelo Airport Authority at the following address: 2763 West Jackson, Suite A, Tupelo, Mississippi 38801.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Tupelo Airport Authority under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: David Shumate, Manager, FAA Airports District Office, 120 North Hangar Drive, Suite B, Jackson, Mississippi 39208–2306, telephone number 601–965–4628. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Tupelo Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On October, 28, 1997, the FAA determined that the application to use the revenue from a PFC submitted by Tupelo Airport Authority was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than February 26, 1998.

The following is a brief overview of the application.

PFC Application Number: 98–02–U–00–TUP.

Level of the proposed PFC: $3.00.

Proposed charge effective date: 8–1–1994.

1*Proposed charge expiration date:* 9–3–1999.

Total estimate net PFC revenue: $225,400.

Estimated PFC revenues to be used on projects in this application: $225,400.

Brief description of proposed projects: Overlay and groove runway 18/36; Expand airport terminal building.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.** In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the office of the Tupelo Airport Authority.

Issued in Jackson, Mississippi, on October 29, 1997.

Wayne Atkinson,

Manager, Airports District Office, Southern Region, Jackson, Mississippi.

[FR Doc. 97–29578 Filed 11–7–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Burlington Northern Santa Fe Railway

[Waiver Petition Docket Number PB–97–13]

The Burlington Northern Santa Fe Railway (BNSF) seeks a waiver of compliance from certain provisions of the Railroad Power Brake and Drawbars regulations, 49 CFR Section 232.25(d), concerning the calibration of the front unit of a two-way end-of-train device. Specifically, BNSF would like relief from the annual calibration requirements of head-end units to the manufacturer's radio alignment specifications and be permitted to use what BNSF calls a "realistic service test" that will prove the ability to place the rear of the train in emergency from the head-end-device as designed.

Section 232.25(d) states: The telemetry equipment shall be calibrated for accuracy according to the manufacturer's specifications at least every 365 days. The date of the last calibration, the location where the calibration was made, and the name of the person doing the calibration shall be legibly displayed on a weather-resistant sticker or other marking device affixed to the outside of both the front unit and rear unit. The Two-Way End-of-Train Device Final Rule was published on January 2, 1997, and became effective July 1, 1997. FRA provided a grace period until September 1, 1997, for railroads to accomplish the calibration and labeling requirements of front units.

BNSF indicates that they have their communications teams perform the entire calibration and alignment procedures per manufacturer's instructions and specifications when new devices are received. BNSF believes this more than ensures a safe and effective operation and does not see any benefit of removing the devices from locomotives, transporting them to a radio shop for a four hour procedure, then transporting the devices back to the locomotives for installation every 365 days. BNSF feels the procedure is overly long and burdensome and does not enhance the performance of the device. BNSF also states that devices are damaged due to the excessive handling required to perform the test. Therefore, they believe the best use of the device is to permanently mount them on the locomotive and leave them there for the safety of the train crew.

Rather than annually test the device to manufacturer's radio alignment specifications, BNSF would like to test the device every 365 days for functionality in railroad service using a test code that includes testing for sufficient output wattage at the correct frequency, together with proof of arming ability and emergency activation.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number PB–97–13) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, FRA, Nassif Building, 400 Seventh Street, S.W., Mail Stop 10, Washington, D.C. 20590. Communications received within 30 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) at FRA's temporary docket room located at 1120 Vermont Avenue, N.W., Room 7051, Washington, D.C. 20005.

Issued in Washington, D.C. on November 5, 1997.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 97–29614 Filed 11–7–97; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petitions for Waivers of Compliance

In accordance with part 211 of Title 49, Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received requests for waivers of compliance with certain requirements of its safety standards. The individual petitions are described below, including the parties seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioners' arguments in favor of relief.

Southeastern Pennsylvania Transportation Authority

[Waiver Petition Docket Number LI–97–5]

The Southeastern Pennsylvania Transportation Authority (SEPTA) seeks a temporary waiver of compliance with certain provisions of the Locomotive Safety Standards, 49 CFR part 229. SEPTA is seeking relief for a period of one year, until December 31, 1998, from the requirements of Section 229.125(d) which requires each lead locomotive operating at speeds over 20 mph over one or more public highway-rail crossings be equipped with operative auxiliary lights effective December 31, 1997.

SEPTA operates a fleet of 304 electric MU passenger locomotives, 8 electric locomotives, and 5 diesel-electric locomotives. The railroad states they have experienced numerous problems with contractors in providing needed material to equip their MU locomotive fleet thus resulting in significant delays in installation of the auxiliary lights.

Union Pacific Railroad Company

[Waiver Petition Docket Number LI–97–6]

The Union Pacific Railroad Company (UP) seeks a temporary waiver of compliance with certain provisions of the Locomotive Safety Standards, 49 CFR part 229. UP is seeking relief for a period of one year, until December 31, 1998, from the requirements of Section

229.125(d) which requires each lead locomotive operating at speeds over 20 mph over one or more public highway-rail crossings be equipped with operative auxiliary lights effective December 31, 1997.

UP indicates that they currently have 3060 locomotives equipped with auxiliary lights which accounts for 49.4 percent of their locomotive fleet. The railroad states they have experienced increased business levels, and locomotives scheduled for retirement prior to the rule taking effect will now be continued in service. The railroad plans to continue to equip locomotives as they are shopped for reasons other than periodic maintenance. Whenever possible, equipped locomotives will be utilized as lead units.

Meridian & Bigbee Railroad Company

[Waiver Petition Docket Number PB–97–7]

The Meridian & Bigbee Railroad Company (MBRR) seeks a permanent waiver of compliance from certain provisions of the Railroad Power Brake and Drawbars regulations, 49 CFR Section 232.23, requiring the use of two-way end-of-train telemetry devices.

MBRR operates one train at a time, seven days a week, between the hours of 6 a.m. and 6 p.m., and one train at a time, four days a week, Monday through Thursday, between the hours of 6 p.m. and 6 a.m. The day train originates in Meridian, Mississippi, runs to Myrtlewood, Alabama, then returns to Meridian. The night train originates in Meridian, runs to Naheola, Alabama, then returns to Meridian. Both trains operate with a three man crew and complete the scheduled round-trips within an average of ten hours. The maximum track speed is 40 mph and the ruling grade on the mainline is 0.92 percent. The average tonnage on eastbound trains is 3,020 tons and westbound trains 3,454 tons, although these figures many times go above 4,000 tons. MBRR would continue to use a one-way end-of-train device on their trains.

MBRR states that the type of accidents which would require a two-way device to apply brakes on the rear portion of the train has never occurred and probably would never occur on their railroad. MBRR does not feel safety would be compromised if two-way end-of-train devices were not required on their trains, and that to reduce their track speed to 30 mph would reduce timely service to their customers and connecting railroads with no increase in safety.

White River Scenic Railroad, Incorporated

[Waiver Petition Docket Number RSGM–97–5]

The White River Scenic Railroad, Incorporated (WRR) seeks a permanent waiver of compliance with the Safety Glazing Standards, 49 CFR part 223.11(c), which requires certified glazing in all locomotive windows except locomotives used in yard service. WRR is seeking this waiver for locomotive number WRR 2089, built in 1952 by the American Locomotive Company for the United States Army Transportation Corps, which was never equipped with FRA certified glazing. The locomotive owner indicates that the locomotive is utilized in passenger excursion service between Flippin and Sylamore, Arkansas, in a rural area along the White River. The railroad's maximum authorized speed is 25 mph.

Burlington Northern Santa Fe Railway

[Waiver Petition Docket Numbers SA–97–5 and PB–97–6]

The Burlington Northern Santa Fe Railway (BNSF) seeks a waiver of compliance from certain provisions of the Safety Appliance Standards, 49 CFR Section 231, for operating the Triple Crown RoadRailer trains between Argentine Yard in Kansas City, Kansas, and the Saginaw Yard in Saginaw, Texas.

The train consist will be restricted to 125 RoadRailers equipped with a CouplerMate between the hauling locomotive and the first car in the RoadRailer train.

The RoadRailer has no safety appliances and the waiver would permit non-compliance with all the provisions of the Safety Appliance Standards. These regulatory standards include provisions for the number, location, and dimensional specification for the handholds, ladders, sill steps, and hand brakes that are required for each railroad freight car.

Burlington Northern Santa Fe Railway

[Waiver Petition Docket Numbers SA–97–6 and PB–97–11]

The Burlington Northern Santa Fe Railway (BNSF) seeks a waiver of compliance from certain provisions of the Safety Appliance Standards, 49 CFR Section 231, for operating a Thrall built articulated multi-level car and Wabash AllRailer and AutoRailer train between San Diego and Richmond, California.

The train makeup would consist of the two units, Thrall built, articulated multi-level car on the head end, followed by a CouplerMate and three unit AllRailers, and then another CouplerMate and eleven AutoRailers.

The RoadRailer has no safety appliances and the waiver would permit non-compliance with all the provisions of the Safety Appliance Standards. These regulatory standards include provisions for the number, location, and dimensional specification for the handholds, ladders, sill steps, and hand brakes that are required for each railroad freight car.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number LI–97–5) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, FRA, Nassif Building, 400 Seventh Street, S.W., Mail Stop 10, Washington, D.C. 20590. Communications received within 30 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.—5:00 p.m.) at FRA's temporary docket room located at 1120 Vermont Avenue, N.W., Room 7051, Washington, D.C. 20005.

Issued in Washington, D.C. on November 5, 1997.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 97–29615 Filed 11–7–97; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–97–3056]

Notice of Receipt of Petition for Decision That Nonconforming 1992 BMW 7 Series Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1992 BMW 7 Series passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1992 BMW 7 Series passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is December 10, 1997.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 10 am to 5 pm.]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Motors of Kingsville, Maryland ("J.K.") (Registered Importer 90–006) has petitioned NHTSA to decide whether 1992 BMW 7 Series passenger cars are eligible for importation into the United States. The vehicles which J.K. believes are substantially similar are 1992 BMW 7 Series passenger cars that were manufactured for importation into, and sale in, the United States and certified by their manufacturer, Bayerische Motoren Werke, A.G., as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 1992 BMW 7 Series passenger cars to their U.S. certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

J.K. submitted information with its petition intended to demonstrate that non-U.S. certified 1992 BMW 7 Series passenger cars, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1992 BMW 7 Series passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence * * *,* 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 109 *New Pneumatic Tires,* 113 *Hood Latch Systems,* 116 *Brake Fluid,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 203 *Impact Protection for the Driver From the Steering Control System,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Retention,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 301 *Fuel System Integrity,* and 302 *Flammability of Interior Materials.*

Additionally, the petitioner states that non-U.S. certified 1992 BMW 7 Series passenger cars comply with the Bumper Standard found in 49 CFR Part 581.

Petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Substitution of a lens marked "Brake" for a lens with the ECE symbol on the brake failure indicator lamp; (b) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S.-model sealed beam headlamps and front sidemarker lights; (b) installation of U.S.-model taillamps which incorporate rear sidemarker lights; (c) installation of a U.S.-model high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 111 *Rearview Mirror:* replacement of the passenger side rearview mirror with a U.S.-model component.

Standard No. 114 *Theft Protection:* installation of a warning buzzer microswitch in the steering lock assembly and a warning buzzer.

Standard No. 118 *Power Window Systems:* installation of a relay in the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection:* installation of a seat belt warning buzzer, wired to the driver's seat belt latch. The petitioner states that non-U.S. certified 1992 BMW 7 Series passenger cars are equipped in both front seating positions with a door-mounted automatic belt system that is identical to the automatic belt system found on their U.S. certified counterparts. Additionally, the petitioner states that the vehicles are equipped in their rear seating positions with manual belts identical to those on U.S. certified vehicles.

The petitioner also states that a vehicle identification number plate must be affixed to the vehicles to meet the requirements of 49 CFR Part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: November 4, 1997.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 97–29603 Filed 11–7–97; 8:45 am]

BILLING CODE 4910–59–U

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–97–3067; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming 1992–1994 Kawasaki EL250 Motorcycles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1992–1994 Kawasaki EL250 motorcycles are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1992–1994 Kawasaki EL250 motorcycles that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is December 10, 1997.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 10 am to 5 pm.]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Champagne Imports, Inc. of Lansdale, Pennsylvania ("Champagne") (Registered Importer 90–009) has petitioned NHTSA to decide whether 1992–1994 Kawasaki EL250 motorcycles are eligible for importation into the United States. The vehicles which Champagne believes are substantially similar are 1992–1994 Kawasaki EX–250 motorcycles that were manufactured for importation into, and sale in, the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared 1992–1994 Kawasaki EL250 motorcycles to 1992–1994 Kawasaki EX–250 motorcycles, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

Champagne submitted information with its petition intended to demonstrate that non-U.S. certified 1992–1994 Kawasaki EL250 motorcycles, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as 1992–1994 Kawasaki EX–250 motorcycles, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that 1992–1994 Kawasaki EL250 motorcycles are identical to 1992–1994 Kawasaki EX–250 motorcycles with respect to compliance with Standard Nos. 106 *Brake Hoses*, 111 *Rearview Mirrors*, 116 *Brake Fluid*, 119 *New Pneumatic Tires for Vehicles other than Passenger Cars*, and 122 *Motorcycle Brake Systems*.

Petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* installation of U.S.-model headlamp assemblies.

Standard No. 120 *Tire Selection and Rims for Vehicles other than Passenger Cars:* installation of a tire information placard.

Standard No. 123 *Motorcycle Controls and Displays:* installation of a U.S. model speedometer calibrated in miles per hour.

The petitioner also states that vehicle identification number plates meeting the requirements of 49 CFR Part 565 will be affixed to 1992–1994 Kawasaki EL250 motorcycles.

Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh Street, S.W., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141 (a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: November 4, 1997.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 97–29604 Filed 11–7–97; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–97–3021; Notice 2]

Notice of Receipt of Petition for Decision That Nonconforming 1994–1997 BMW R1100 Motorcycles Are Eligible for Importation; Correction

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Correction to notice of receipt of petition for decision that nonconforming 1994–1997 BMW R1100 motorcycles are eligible for importation.

SUMMARY: This document corrects a notice published Wednesday, October 22, 1997 (62 FR 54896) announcing receipt by NHTSA of a petition for a decision that 1994–1997 BMW R1100 motorcycles that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States. The notice incorrectly identified the docket number for this petition as "Docket No. NHTSA 3021." The docket number should have been properly identified as "Docket No. NHTSA–97–3021." Those intending to comment on the petition should ensure that they reference the correct docket number in their comments.

Authority: 49 U.S.C. 30141(a)(1)(B) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on November 5, 1997.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 97–29605 Filed 11–7–97; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. MC–F–20912]

Peter Pan Bus Lines, Inc.—Pooling—Greyhound Lines, Inc.

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of proposed pooling application.

SUMMARY: Applicants, Peter Pan Bus Lines, Inc., of Springfield, MA, and Greyhound Lines, Inc., of Dallas, TX, jointly seek approval under 49 U.S.C. 14302 of an operations and revenue pooling agreement to govern their motor passenger and express transportation service between Boston, MA, and New York, NY, and between Springfield, MA, and New York, NY.

DATES: Comments are due by, December 10, 1997 and, if comments are filed, applicants' rebuttal statement is due by December 30, 1997.

ADDRESSES: Send an original and 10 copies of any comments referring to STB Docket No. MC–F–20912 to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. Also, send one copy of comments to each of applicants' representatives: (1) Jeremy Kahn, Suite 810, 1730 Rhode Island Avenue, N.W., Washington, DC 20036; (2) Fritz R. Kahn, Suite 750 West, 1100 New York Avenue, N.W., Washington, DC 20005–3934.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565–1600. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION:

Applicants are competitors on certain intercity routes between Boston, MA, and New York, NY, and between Springfield, MA, and New York, NY. They seek to pool portions of their passenger and express services over routes which they both operate, and to share the revenues derived from their operations over these routes.[1] Applicants state that their services between these points overlap and that excess schedules are operated because of the need to protect their respective market shares. According to applicants, this has resulted in unacceptably low load factors, an over-served market, and inefficient operations.

Applicants submit that the pooling agreement will allow them to reduce excess bus capacity, cement their business relationship, and allow them to share in the financial vicissitudes of the pooled-route operations. They claim public benefits that will include: (1) Rationalization of schedules, eliminating some duplicative departures "on the hour" while adding some departures on the half-hour during the busiest times of the day, resulting in more frequent bus service over a broader time period; (2) more coordinated use of terminals and ticketing agents, resulting in greater flexibility for passengers to use buses, tickets, and terminals; (3) capital improvements; and (4) continued bus service by more sound and financially stable carriers. In addition, they assert that approval of the pooling agreement will not significantly affect either the quality of the human environment or the conservation of energy resources. In fact, they claim that the reduction in the number of schedules each carrier operates will result in a salutary effect on the environment.

Applicants state that competition will not be unreasonably restrained. They argue that: (1) The pooled service is subject to substantial intermodal competitive pressure from Amtrak, airlines, and private automobiles; and (2) other motor passenger carriers may easily enter and compete in the market.

Copies of the application may be obtained free of charge by contacting applicants' representatives. A copy of this notice will be served on the Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, N.W., Washington, DC 20530.

Decided: October 30, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 97–29613 Filed 11–7–97; 8:45 am]

BILLING CODE 4915–00–P

[1] Applicants have already received authority to pool their operations and revenues for their motor passenger and express transportation service between Philadelphia, PA, and New York City in *Peter Pan Bus Lines, Inc.—Pooling—Greyhound Lines, Inc.*, STB Docket No. MC–F–20904 (STB served June 30, 1997). A similar request involving operations between New York City and Washington, DC is pending in *Peter Pan Bus Lines, Inc.—Pooling—Greyhound Lines, Inc.*, STB Docket No. MC–F–20908. According to applicants, the instant application is a logical extension of the New York-Philadelphia pooling and the New York-Washington pooling. Applicants state that they intend to file a fourth such application involving operations between Albany, NY, and Boston, MA shortly. Applicants state that they consider the four agreements to be interrelated and intend to implement them simultaneously after approval by the Board. We note that the United States Department of Justice, Antitrust Division, has filed comments in STB Docket No. MC–F–20908, recommending that the Board find that there is a substantial likelihood that the proposed pooling of operations between New York City and Washington would unduly restrain competition.

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Application For Amended Basic Permit Under the Federal Alcohol Administration Act.

DATES: Written comments should be received on or before January 9, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Linda Barnes, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Marsha Baker, Regulations Branch. 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8476.

SUPPLEMENTARY INFORMATION:

Title: Application For Amended Basic Permit Under the Federal Alcohol Administration Act.

OMB Number: 1512–0090.

Form Number: ATF F 1643 (5100.18).

Abstract: Any person who desires to operate as a wholesaler, producer, rectifier, bottler, or warehouseman of distilled spirits or wine, or wholesaler or importer of malt beverages must obtain a basic permit in order to engage in those activities. Amendment of the basic permit becomes necessary when material changes occur in name, ownership, location, or activities of the permittee.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Businesses or other for-profit.

Estimated Number of Respondents: 4,000.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 4,000.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: November 3, 1997.

John W. Magaw,

Director.

[FR Doc. 97–29589 Filed 11–7–97; 8:45 am]

BILLING CODE 4810–31–U

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Application For License or Permit Under 18 U.S.C. Chapter 40, Explosives.

DATES: Written comments should be received on or before January 9, 1998, to be assured of consideration.

ADDRESSES: Direct all written comments to Linda Barnes, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Gail H. Davis, Firearms, Explosives and Arson Programs Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8053.

SUPPLEMENTARY INFORMATION:

Title: Application For License or Permit Under 18 U.S.C. Chapter 40, Explosives.

OMB Number: 1512–0182.

Form Number: ATF F 5400.13/5400.16.

Abstract: Chapter 40, Title 18, U.S.C. provides that any person engaged in the business of explosive materials as a dealer, manufacturer, or importer shall be licensed. The information collected on the form is used to determine if the applicant is qualified to be a licensee or permittee under the provisions of the statute. There is no record retention requirement for the applicant.

Current Actions: The explosive regulations are proposed to be amended, therefore, ATF F 5400.13/5400.16 is proposed to be revised. The form revisions include proposals to add new codes to the categories of Explosive License and Explosives Permit. The form also reflects the proposed increase in fees for all license and permit types. Additionally, ATF proposes to revise the form by providing a worksheet as an attachment for item 15. for use in describing all explosive storage magazine data. The categories of "race" and "sex" are proposed to be added to item 18. A section is proposed to be added to the form to require the applicant to certify that he/she has notified the chief law enforcement officer and fire marshal for all sites at which explosives will be stored. The following definitions are proposed to be added or clarified: chief law enforcement officer, fire marshal, manufacturer, and high explosives. Items 10, 11, 13, 14, 15, 16, and 17 of the Instruction Sheet will be amended to reflect the new attachment worksheet. There are proposed restructuring changes to the form that would reflect the proposed amendments to the explosive regulations. The frequency of applying for a license or permit is proposed to be changed from 1 year to 3 years. As a result, the burden hours and cost would decrease.

Type of Review: Revision.

Affected Public: Business or other for-profit, individuals or households, not-for-profit institutions, State, Local or Tribal Government.

Estimated Number of Respondents: 2,100.

Estimated Time Per Respondent: 3 hours.

Estimated Total Annual Burden Hours: 2,436 every 3 years.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: November 3, 1997.

John W. Magaw,

Director.

[FR Doc. 97–29590 Filed 11–7–97; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Application for Registration For Tax-Free Transactions Under 26 U.S.C. 4221 (Firearms and Ammunition).

DATES: Written comments should be received on or before January 9, 1998, to be assured of consideration.

ADDRESSES: Direct all written comments to Linda Barnes, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Marsha Baker, Regulations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8476.

SUPPLEMENTARY INFORMATION:

Title: Application For Registration For Tax-Free Transactions Under 26 U.S.C. 4221 (Firearms and Ammunition).

OMB Number: 1512–0508.

Form Number: ATF F 5300.28.

Recordkeeping Requirement ID Number: ATF REC 5300/28.

Abstract: The information requested on ATF F 5300.28 is necessary for ATF to determine if persons (applicants) should be granted the privilege of purchasing or selling firearms and ammunition tax-free. There is no record retention requirement for the applicant.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit, State or local governments.

Estimated Number of Respondents: 125.

Estimated Time Per Respondent: 3 hours.

Estimated Total Annual Burden Hours: 375.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: November 3, 1997.

John W. Magaw,

Director.

[FR Doc. 97–29591 Filed 11–7–97; 8:45 am]

BILLING CODE 4810–31–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 9460 and 9477

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Forms 9460 and 9477, Tax Forms Inventory Report.

DATES: Written comments should be received on or before January 9, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Tax Forms Inventory Report.

OMB Number: 1545–1305.

Form Number: Forms 9460 and 9477.

Abstract: Forms 9460 and 9477 are designed to collect tax forms inventory information from banks, post offices, and libraries that distribute federal tax forms. Data is collected detailing the quantities and types of tax forms remaining at the end of the filing season. The data is combined with the shipment date for each account and used to establish forms distribution guidelines for the following year. Form 9460 is used for accounts who order forms in carton quantities, and Form 9477 is used for those who order forms in less than carton quantities.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, not-for-profit institutions, and the Federal government.

Estimated Number of Respondents: 10,720.

Estimated Time Per Respondent: 14 minutes.

Estimated Total Annual Burden Hours: 2,600.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the

quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 4, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–29638 Filed 11–7–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[PS–80–93]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, PS–80–93 (T.D. 8645), Rules for Certain Rental Real Estate Activities (§ 1.469–9).

DATES: Written comments should be received on or before January 9, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Rules for Certain Rental Real Estate Activities.

OMB Number: 1545–1455.

Regulation Project Number: PS–80–93.

Abstract: This regulation provides rules relating to the treatment of rental real estate activities of certain taxpayers under the passive activity loss and credit limitations of Internal Revenue Code section 469.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, and business or other for-profit organizations.

Estimated Number of Respondents: 20,100.

Estimated Time Per Respondent: 9 minutes.

Estimated Total Annual Burden Hours: 3,015.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 4, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–29639 Filed 11–7–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–209835–86]

Proposed Collection; Comment Request For Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

Currently, the IRS is soliciting comments concerning an existing final regulation, REG–209835–86 (TD 8708), Computation of Foreign Taxes Deemed Paid Under Section 902 Pursuant to a Pooling Mechanism for Undistributed Earnings and Foreign Taxes (§ 1.902–1).

DATES: Written comments should be received on or before January 9, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Computation of Foreign Taxes Deemed Paid Under Section 902 Pursuant to a Pooling Mechanism for Undistributed Earnings and Foreign Taxes.

OMB Number: 1545–1458.

Regulation Project Number: REG–209835–86 (formerly INTL–933–86).

Abstract: These regulations provide rules for computing foreign taxes deemed paid under Internal Revenue Code section 902. The regulations affect foreign corporations and their United States corporate shareholders that own directly at least 10% of the voting stock of the foreign corporation.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

The burden for the collection of information is reflected in the burden for Form 1118, Foreign Tax Credit—Corporations.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 4, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–29640 Filed 11–7–97; 8:45 am]

BILLING CODE 4830–01–U

Corrections

Federal Register
Vol. 62, No. 217
Monday, November 10, 1997

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 1780-96; AG Order No. 2128-97]

RIN 1115-AE26

Designation of Sudan Under Temporary Protected Status

Correction

In notice document 97–29077 beginning on page 59737, in the issue of Tuesday, November 4, 1997, make the following corrections:

1. On page 59737, in the second column, the INS No. should be as set forth above.

2. On page 59737, in the second column:

a. In the **EFFECTIVE DATES** section, in the second line, remove the period after "1997".

b. In the **FOR FURTHER INFORMATION CONTACT** section, in the last line "5114-5014." should read "514-5014."

BILLING CODE 1505-01-D

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 1775-96; AG Order No. 2124-97]

RIN 1115-AE26

Designation of Burundi Under Temporary Protected Status

Correction

In notice document 97–29079 beginning on page 59735, in the issue of Tuesday, November 4, 1997, make the following correction:

On page 59736, in the first column, in the second paragragh designated (3), in the first line, "specificially" should read "specifically".

BILLING CODE 1505-01-D

federal register

Monday
November 10, 1997

Part II

Environmental Protection Agency

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants Pesticide Active Ingredient Production; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–5916–5]

RIN–2060–AE83

National Emission Standards for Hazardous Air Pollutants Pesticide Active Ingredient Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: This action proposes national emission standards for hazardous air pollutants (NESHAP) for the pesticide active ingredient (PAI) production source category under section 112 of the Clean Air Act as amended (CAA). The intent of the proposed standard is to reduce emissions of hazardous air pollutants (HAP) from existing and new facilities that manufacture PAI used in herbicides, insecticides, and fungicides. The proposed standards protect human health and the environment by reducing HAP emissions to the level corresponding to the maximum achievable control technology (MACT) through the use of pollution prevention measures and control strategies. The major HAP emitted by facilities covered by this proposed rule include toluene, methanol, methyl chloride, and hydrogen chloride (HCl). All of these pollutants can cause reversible or irreversible toxic effects following exposure. The proposed rule is estimated to reduce HAP emissions from existing facilities by 5,150 megagrams per year (Mg/yr) (5,680 tons per year (tons/yr)), a reduction of 76 percent from the baseline emission level. Because many of these pollutants are also volatile organic compounds (VOC), which are precursors to ambient ozone, the proposed rule would aid in the reduction of tropospheric ozone. The emission reductions achieved by these standards, when combined with the emission reductions achieved by other similar standards, will achieve the primary goal of the Clean Air Act (the Act), as amended in 1990, which is to "enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population."

The July 16, 1992 source category list included an agricultural chemicals industry group that contained 10 source categories. Today's notice groups these 10 agricultural chemicals source categories into one source category, renames the source category, and adds additional chemicals to the source category.

DATES: *Comments.* Comments must be received on or before January 9, 1998.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by December 1, 1997, a public hearing will be held on December 10, 1997 beginning at 10 a.m. Persons interested in attending the hearing should call Ms. Maria Noell at (919) 541–5607 to verify that a hearing will be held.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by December 1, 1997 by contacting Ms. Maria Noell, Organic Chemicals Group, (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5607.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate, if possible) to: Air Docket Section (LE–131), Attention: Docket No. A–95–20, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. The EPA requests that a separate copy also be sent to the contact person listed under the **FOR FURTHER INFORMATION CONTACT** section.

Comments on the proposed NESHAP may also be submitted electronically by following the instructions provided in the **SUPPLEMENTARY INFORMATION** section. No Confidential Business Information (CBI) should be submitted through e-mail.

Public Hearing. The public hearing, if required, will be held at the EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina.

Docket. Docket No. A–95–20, containing supporting information used in developing the proposed standards, is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday, at EPA's Air Docket Section, Waterside Mall, Room 1500, 1st Floor, 401 M Street SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: For information concerning the MACT standard, contact Mr. Lalit Banker at (919) 541–5420, Organic Chemicals Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION:

Electronic filing. Electronic comments can be sent directly to the EPA at: a-and-r-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 or 6.1 format or ASCII file format. All comments and data in electronic form must be identified by the docket number [A–95–20]. Electronic comments on this proposed determination may be filed online at many Federal Depository Libraries.

Regulated entities. Entities potentially regulated are those which produce as primary intended products PAI's that are used in herbicides, insecticides, or fungicides and are located at facilities that are major sources as defined in section 112 of the Act. Regulated categories and entities include:

Category	Regulated entities
Industry	• Producers of the active ingredients (as defined under FIFRA section 2(a)) used in herbicides, insecticides, or fungicides. Typically, production of these compounds is described by the SIC codes 2879 and 2869. • Producers of any integral intermediate used in the onsite production of an active ingredient used in a herbicide, insecticide, or fungicide, provided that 50 percent or more of the annual production of the intermediate is used in pesticide active ingredient processes.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility, company, business, organization, etc., is regulated by this action, you should carefully examine the applicability criteria in §63.1360 of the rule. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Basis and Purpose and Supplementary Information Documents. The contents of this notice are available in Docket No. A–95–20, on the Technology Transfer Network (TTN), or from the EPA contact person listed in the **FOR FURTHER INFORMATION CONTACT** section. The TTN, a network of electronic bulletin boards developed and operated by the Office of Air Quality Planning and Standards, provides information and technology exchange in various areas of air pollution control. The service is free, except for the cost of a telephone call. Dial (919) 541–5742 for up to a 14,400 bps modem transfer. The TTN may also be accessed via TELNET at the Internet web site address http://ttnwww.rtpnc.epa.gov. For further information, contact the TTN HELP line at (919) 541–5384, from 1 p.m. to 5 p.m. Monday through Friday.

The basis and purpose document (BPD), containing much of the rationale for these proposed standards, is also available on the TTN. The supplementary information document (SID) for the proposed standard, which contains a compilation of technical memoranda, may be obtained from the docket or from the U.S. EPA Library (MD–35), Research Triangle Park, North Carolina 27711, telephone number (919) 541–2777. Please refer to "Emissions from Pesticide Active Ingredient Production—Supplementary Information Document" (located in docket No. A–95–20).

The information presented in this preamble is organized as follows:

I. List of Source Categories
  A. Original Source Categories
  B. Addition of Other Pesticide Active Ingredients
  C. Single Source Category
  D. Change of the Source Category Name
II. Background
  A. Summary of Collected Data
  B. Summary of Considerations Made in Developing this Rule
  C. Regulatory Background
III. Authority for NESHAP Decision Process
  A. Source of Authority for NESHAP Development
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IV. Summary of Proposed Standards
  A. Source Categories to be Regulated
  B. Pollutants to be Regulated and Associated Environmental and Health Benefits
  C. Affected Sources
  D. Format of the Standards
  E. Proposed Standards
  F. Compliance and Performance Test Provisions
  G. Monitoring Requirements
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V. Summary Of Environmental, Energy, Cost, and Economic Impacts
  A. Facilities Affected by These NESHAP
  B. Air Impacts
  C. Water and Solid Waste Impacts
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VI. Emissions Averaging
VII. Solicitation of Comments
VIII. Administrative Requirements
  A. Public Hearing
  B. Docket
  C. Executive Order 12866
  D. Enhancing the Intergovernmental Partnership Under Executive Order 12875
  E. Paperwork Reduction Act
  F. Regulatory Flexibility
  G. Unfunded Mandates
  H. Miscellaneous

I. List of Source Categories

Section 112 of the Act requires that EPA evaluate and control emissions of HAP. The control of HAP is achieved through promulgation of emission standards under sections 112(d) and 112(f) and work practice and equipment standards under section 112(h) for categories of sources that emit HAP. On July 16, 1992, EPA published an initial list of major and area source categories to be regulated (57 FR 31576). Today's notice groups the original agricultural chemicals source categories into one source category, renames the source category, and adds additional chemicals to the category.

A. Original Source Categories

Included on the original list were major sources emitting HAP from 10 categories of agricultural chemicals production; in addition to being an agricultural chemical, each of these compounds is also a PAI. One source category on the original source category list, butadiene furfural cotrimer (R–11) production, was moved from the polymers and resins industry group to this industry group on June 4, 1996 (61 FR 28197). Butadiene furfural cotrimer (R–11) is an insecticide commonly used for delousing cows. The EPA decided to include butadiene furfural cotrimer (R–11) production with the agricultural chemicals source categories because: (1) There are similarities in process operations, emission characteristics, and control device applicability and costs, and (2) it is a PAI.

B. Addition of Other Pesticide Active Ingredients

In developing the proposed rule, the EPA identified a number of other PAI production operations that were not on the initial source category list. It was determined that production of these compounds is similar to the production of the compounds in the 11 initial agricultural chemical source categories. Production of these other PAI's are being added to the source category list under section 112(c) of the Act based on information obtained during the gathering of HAP emission data for this proposed rule. From this information, it was determined that: (1) There are similarities in process operations, emission characteristics, control device applicability and costs, and opportunities for pollution prevention of these PAI's with the listed agricultural chemicals, and (2) the production of these PAI's occurs at facilities that are major sources. Like the original agricultural chemicals, these PAI's are those that are used in herbicides, insecticides, and fungicides that are registered as end-use products under section 3 of Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

C. Single Source Category

In developing the proposed rule, EPA decided not to set MACT for each individual PAI chemical but, rather, to aggregate all PAI's together under the same source category. The PAI's that EPA proposes to include in this source category are all PAI's that are used to produce insecticide, herbicide, or fungicide products. Data gathered from the PAI production industry indicate that the process equipment, emission characteristics, and applicable control technologies are sufficiently similar for the broad group of sources that EPA intends to regulate under a single set of standards. There are no significant differences in the types of control technologies applicable to controlling emissions from the various PAI processes. Common HAP control technologies are applicable to the production operations at all of the facilities. Based on these factors, EPA concluded that determining MACT for each individual PAI is not warranted.

The EPA believes that it is technically feasible to regulate emissions from a variety of PAI processes by a single set of emission standards. Similar to the Hazardous Organic NESHAP (HON) for the Synthetic Organic Chemical Manufacturing Industry (SOCMI), separate requirements are proposed for process vents, storage tanks, equipment leaks, and wastewater HAP emission points (often referred to as planks). The set of standards also establishes different control requirements based on distinctions in the size of the emission points. Variability in the characteristics of the production processes for each

individual PAI chemical may affect the quantity of HAP emissions. This variability has been addressed by incorporating cutoffs for uncontrolled emissions in the standards for individual planks.

Several other reasons support the development of a single set of emission standards for a group of PAI processes. Many of these PAI's are only produced at a single facility or by a single company. In addition, data indicate that many of the PAI processes that EPA is proposing to regulate by this set of standards are collocated within individual facilities; at some facilities, multiple PAI's are also produced in the same equipment (i.e., flexible processing equipment). Facilities with collocated PAI manufacturing could more easily comply with a single set of emission standards than with individual standards for each of the collocated processes. Several industry representatives in the partnership group also expressed interest in a generic regulation that would specify consistent requirements for a wide range of processes.

Another justification for developing a single set of emission standards to regulate production of a variety of PAI's is that it is more efficient and less costly for EPA to develop a single standard than to develop separate standards for several individually listed source categories which have similar emission characteristics and applicable control technologies. Development of a single set of standards would avoid the costs associated with having to develop emission standards for separate source categories of PAI's. A single set of standards for PAI manufacturing will ensure that process equipment with comparable HAP emissions and control technologies are subject to consistent emission control requirements. In addition, compliance and enforcement activities would be more efficient and less costly.

D. Change of the Source Category Name

Under today's action, EPA is revising the source category list published under section 112(c) of the Act to add a source category called "Pesticide Active Ingredient Production" and to subsume the 11 original, separate PAI production source categories into that category, as well as to include other identified PAI operations which are major sources of HAP. All 11 agricultural chemicals on the initial source category list are PAI's; all of the other pesticide chemicals identified during data gathering and that have been added to the list are also PAI's. Because these other PAI's have been added to the source category list and because they have been grouped with the 11 agricultural chemicals, which are also PAI's, the EPA decided that it is appropriate to change the title of this NESHAP source category. Effective by this notice, EPA is changing the title of the source category to "pesticide active ingredient production." This change is appropriate to avoid confusion regarding the definition of the source category and to aid in distinguishing the types of air emission sources addressed by this source category.

II. Background

A. Summary of Collected Data

Data on this industry were collected from 20 major sources that manufacture PAI's. Production methods used in the manufacture of PAI's include both batch and continuous operations. Batch operations make up approximately two-thirds of the processes, but continuous processes produce more than 50 percent of the annual PAI production. The sizes of the facilities that are major sources of HAP emissions range from those that make one active ingredient at the rate of several hundred Mg/yr to those that produce numerous intermediates and active ingredients on the scale of tens of thousands Mg/yr. Air emissions of HAP compounds originate from breathing and withdrawal losses from storage tanks, venting of process vessels, leaks from piping equipment used to transfer HAP compounds (equipment leaks), and volatilization of HAP from wastewater streams. Data obtained from the 20 major sources show at least 40 different HAP are emitted from various PAI production processes. Among the most prevalent are toluene and methanol, which account for almost 40 percent of all baseline HAP emissions at these 20 plants. Detailed information describing manufacturing processes and emissions can be found in chapters 3 and 5 of the Basis and Purpose Document (located in docket No. A–95–20).

As of 1991, over 250 U.S. companies at approximately 329 facilities (both major and area sources) were producing PAI's. This is the number of facilities that were registered with EPA under section 7 of FIFRA as producers of technical material or active ingredients for manufacturing use only. The number of plants producing active ingredients for use in herbicides, insecticides, and fungicides may be less than 329 because the section 7 data base reported some formulated products as active ingredients and it also included research facilities in the category of active ingredient manufacturers. Also, some plants may be producing active ingredients only for use in rodenticides or antimicrobials. Typically, manufacturing operations covered by this NESHAP are classified under North American Industrial Classification System (NAICS) Codes 325199 and 32532 (i.e., previously known as Standard Industrial Classification System Codes 2869 and 2879). An estimated 78 facilities are considered to be major sources according to the Act criteria of having the potential to emit 10 tons/yr or more of any one HAP or 25 tons/yr or more of any combination of HAP. This estimate is based on the extrapolation of information from 12 State regulatory agencies that identified which of the 329 facilities in their States were major sources of HAP.

The proposed standards would apply to all major sources that produce any of the PAI's that are used to produce insecticide, herbicide, or fungicide end-use products. Facilities that are area sources, facilities that produce only active ingredients that are not used in insecticide, herbicide, or fungicide products, and facilities that only formulate or repackage pesticide products would not be subject to these standards.

B. Summary of Considerations Made in Developing This Rule

The Act was created in part "to protect and enhance the quality of the Nation's air resources so as to promote the health and welfare and the productive capacity of its population" (the Act, section 101(b)(1)). Section 112(b) of the Act lists 189 HAP believed to cause adverse health or environmental effects. Section 112(d) of the Act requires that emission standards be promulgated for all categories and subcategories of major sources of these HAP and for many smaller "area" sources listed for regulation under section 112(c) in accordance with the schedules listed under section 112(c). Major sources are defined as those that emit or have the potential to emit at least 10 tons/yr of any single HAP or 25 tons/yr of any combination of HAP.

On July 16, 1992 (57 FR 31576), EPA published the initial list of categories of sources slated for regulation. As noted above, this list included 10 categories of Agricultural Chemicals Production; with today's notice, these source categories are combined into a single category called Pesticide Active Ingredient Production, and additional PAI processes are added to the source category. The statute requires emissions standards for the listed source categories to be promulgated between November 1992 and November 2000. On December 3, 1993, the EPA published a schedule for promulgating these standards (58 FR 63841).

In the Act, Congress specified that each standard for major sources must require the maximum reduction in emissions of HAP that EPA determines is achievable considering cost, health and environmental impacts, and energy requirements. In essence, these MACT standards would ensure that all major sources of air toxic emissions achieve the level of control already being achieved by the better controlled and lower emitting sources in each category. This approach provides assurance to citizens that each major source of toxic air pollution will be required to effectively control its emissions.

Available emissions data, collected during development of this proposed rule, show that pollutants that are listed in section 112(b)(1) of the Act and are emitted in substantial amounts by the PAI production source category include toluene, methanol, methyl chloride, and HCl. The PAI production source category also emits small amounts of other listed pollutants including benzene, benzyl chloride, 1,3-butadiene, carbon tetrachloride, chloroform, ethylbenzene, ethyl chloride, ethylene dichloride, hexachlorobenzene, hexachlorocyclopentadiene, hexachloroethane, hexane, methylene chloride, tetrachloroethylene, trichlorobenzene, trichloroethylene, xylenes, acetonitrile, captan, formaldehyde, glycol ethers, hydroquinone, methyl ethyl ketone, methyl isobutyl ketone, methyl isocyanate, napthalene, phosgene, chlorine, and hydrogen cyanide. Some of these pollutants have been classified as known, possible, or probable human carcinogens when inhaled, and all can cause reversible and irreversible toxic effects following exposure. These effects include respiratory and skin irritation, neurological disorders (e.g., dizziness, headache, and narcosis), effects upon the eye (including blindness), damage to organ systems (e.g., liver, kidney, and testes), and in extreme cases, death. These pollutants have the potential to be reduced by implementation of the proposed emission limits.

The list of HAP in section 112(b) of the Act includes 22 HAP compounds (or classes of compounds) that have been reported to be possible endocrine disruptors. Many of these 22 HAP are PAI's, or are used in the production of PAI's, and, thus, could possibly be emitted from PAI manufacturing plants. Only one of the 22 HAP compounds was reported to be emitted from 20 surveyed plants in the source category, and the quantity emitted was very low relative to the quantity of the total HAP emissions from the source category. The other HAP that are possible endocrine disruptors are each produced (or used) by only one or a small number of facilities, and their vapor pressures tend to be low relative to the solvents and raw materials used in the PAI manufacturing processes (the lower the vapor pressure, the less material that will volatilize). As a result, the HAP that are possible endocrine disruptors are likely emitted in small quantities, if at all, relative to the HAP listed above. The EPA is requesting comments and information on the emission levels of these possible endocrine disruptors from PAI manufacturing processes.

The Agency is also requesting comments on whether the risk posed by endocrine disruptors warrants more stringent requirements than those proposed. Based upon the criteria used in selecting the proposed regulatory option, the Agency judged that the existing information on emissions and health effects did not justify the additional cost of more stringent standards. Therefore, in providing comments, commenters should (to the extent possible) provide a quantitative risk assessment to support the need for the adoption of more stringent requirements.

The alternatives considered in the development of this regulation, including those alternatives selected as standards for new and existing sources, are based on process and emissions data received from 20 of the existing facilities known by EPA to be in operation. Regulatory alternatives more stringent than the MACT floor (the minimum control level required by the Act) were selected when they were judged to be reasonable, considering cost, nonair impacts, and energy requirements.

The proposed standards give existing facilities 3 years from the date of promulgation to comply. This is the maximum amount of time allowed by the Act. New facilities are required to comply with the standard upon startup.

Included in the proposed rule are methods for determining initial compliance as well as monitoring, recordkeeping, and reporting requirements. All of these components are necessary to ensure that affected sources will comply with the standards both initially and over time. However, the EPA has made every effort to simplify the requirements in the rule. The EPA has also attempted to maintain consistency with existing regulations by either incorporating text from existing regulations or referencing the applicable sections.

Representatives from other interested EPA offices and programs, State environmental agency personnel, and industry participated in the regulatory development process as MACT partnership members. The partnership members were given opportunities to review and comment on the regulation prior to proposal. Industry, regulatory authorities, environmental groups, and other interested parties will have another opportunity to comment on the proposed standards and provide additional information during the public comment period.

C. Regulatory Background

The proposed rule implements section 112(d) of the Act, which requires the Administrator to regulate emissions of HAP listed in section 112(b) of the Act. The intent of this rule is to protect the public health and the environment by requiring new and existing major sources to reduce generation of emissions by using pollution prevention strategies or to control emissions to the level achievable by the maximum achievable control technology (MACT), taking into consideration the cost of achieving such emission reductions, any nonair quality and other air quality related health and environmental impacts, and energy requirements.

In 1994, EPA promulgated National Emission Standards for Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks (59 FR 19587). Processes producing Captafol®, Captan®, Chlorothalonil, Dacthal, and Tordon™ acid that use butadiene, carbon tetrachloride, methylene chloride, or ethylene dichloride as a reactant or process solvent, are subject to the Negotiated Regulation for Equipment Leaks. The EPA is proposing today to require control of leaking components that are currently not subject to the Negotiated Regulation for Equipment Leaks, but that contain HAP and are associated with processes in this source category.

III. Authority for NESHAP Decision Process

A. Source of Authority for NESHAP Development

Section 112 of the Act gives the EPA the authority to establish national standards to reduce air emissions from sources that emit one or more HAP. Section 112(b) contains a list of HAP to be regulated by NESHAP. Section 112(c) directs the Agency to use this pollutant list to develop and publish a list of source categories for which NESHAP

will be developed; this list was published in the **Federal Register** on July 16, 1992 (57 FR 31576). The Agency must list all known categories and subcategories of "major sources" that emit one or more of the listed HAP. A major source is defined in section 112(a) as any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit in the aggregate, considering controls, 10 tons/yr or more of any one HAP or 25 tons/yr or more of any combination of HAP.

Under section 112(c)(1) of the Act, List of Source Categories, the Administrator has the authority to establish additional source categories as seems appropriate. Ten (revised to 11) categories of agricultural chemicals were included on the original list. Because the processes, HAP emissions, control technologies, and control costs for these 11 agricultural chemicals are similar to the processes, HAP emissions, control technologies, and control costs for other PAI's, the Administrator included other PAI's on the source category list and grouped the agricultural chemicals and the PAI's together into one source category.

B. Criteria for Development of NESHAP

The NESHAP are to be developed to control HAP emissions from both new and existing sources according to the statutory directives set out in section 112(d) of the Act. The statute requires the standards to reflect the maximum degree of reduction in emissions of HAP that is achievable for new or existing sources. This control level is based on the "maximum achievable control technology" (MACT). The selection of MACT must reflect consideration of the cost of achieving the emission reduction, any nonair quality health and environmental impacts, and energy requirements for control levels more stringent than the floor (described below).

The MACT floor is the least stringent level for MACT standards. For new sources, the standards for a source category or subcategory "shall not be less stringent than the emission control that is achieved in practice by the best controlled similar source, as determined by the Administrator" (section 112(d)(3)). Existing source standards can be no less stringent than the average emission limitation achieved by the best performing 12 percent of the existing sources for categories and subcategories with 30 or more sources or the average emission limitation achieved by the best performing 5 sources for categories or subcategories with fewer than 30 sources (section 112(d)(3)). The determination of the MACT floor for existing sources under today's rule is that the average emission limitation achieved by the best performing sources is based on a measure of central tendency, such as the arithmetic mean, median, or mode.

In establishing the floors, the EPA adopted a different approach in order to reduce the paperwork burden on the industry. Through literature reviews, State contacts, and plant visits, EPA identified companies which appeared to have the best controlled plants and sent data collection requests only to these companies. In identifying these companies, EPA also considered the need to include a variety of process and product types in the survey. Data for the PAI production industry were collected from facilities that achieve high emissions reductions, produce a variety of PAI's, use a variety of production processes, and are major sources. As the standards for existing sources are based on the best-performing 12 percent of sources, the number of best-performing sources for this source category is 9 facilities (i.e., 12 percent of 78 facilities). Information from the data collection requests was received from 20 facilities. The best-performing 9 facilities are included in these 20 surveyed facilities.

C. Authority for Development of Risk-Based Standards

The Act includes an exception to the general statutory requirement to establish emission standards based on MACT. Section 112(d)(4) of the Act provides EPA with authority, at its discretion, to develop risk-based standards for HAP "for which a health threshold has been established," provided that the standard achieves an "ample margin of safety." Under this authority, EPA may propose not to regulate HAP emissions if the results of exposure assessment modeling show exposure levels to HAP emissions to be below the health threshold value by an ample margin of safety, and if no significant or widespread adverse environmental effects from HAP emissions are expected.

The following discussion in today's notice summarizes the Agency's determination of HCl as a threshold pollutant, an ecological assessment of HCl, and the data that would have to be provided for EPA to consider adopting a risk-based approach to regulate HCl emissions from PAI manufacturing facilities.

Based on negative carcinogenicity data in one animal study, and on EPA's knowledge of how HCl reacts in the body and its likely mechanism of action, the Agency presumptively considers HCl to be a threshold pollutant. For HCl (and other pollutants that are considered to have a "threshold of safety" below which adverse effects are not expected), information on noncarcinogenic effects must be evaluated to determine the potential hazards associated with exposure. One approach for determining the potential hazards of a pollutant is to use its Inhalation Reference Concentration (RfC). The RfC for HCl is 20 micrograms per cubic meter ($\mu g/m^3$); this value was derived from a single animal study.

The emissions standards must also protect against significant and widespread adverse environmental effects to wildlife, aquatic life, and other natural resources. Based on a review of published studies, the Agency concluded that the RfC can reasonably be expected to protect against widespread adverse effects in animal species, and that effects on plant tissues and aquatic organisms likely will be local rather than widespread. The HCl concentrations were more than an order of magnitude above the RfC in some of the studies in which deleterious effects were observed; other studies did not report the HCl concentrations.

The Agency has not conducted an exposure assessment for the PAI manufacturing industry because the data needed in the analysis, including the identity of some of the 78 estimated affected sources, are not available. Furthermore, the burden to EPA and the industry of collecting and analyzing the data may not be warranted given the relatively small potential reduction in HCl control costs that could occur. However, the Agency solicits comments on the adequacy, desirability, and feasibility of developing a risk-based standard for HCl emissions from PAI manufacturing facilities. For EPA to develop a risk-based standard for HCl emissions from PAI manufacturing facilities, the industry would need to provide data for each affected source. Specifically, the HCl emissions and stack parameters for each HCl emission point (stack and fugitive sources) at the contiguous facility (i.e., both PAI and all other processes) for each affected source would be needed.

IV. Summary of Proposed Standards

This section describes the source category and pollutants covered, defines an affected source, and summarizes the proposed rule requirements for each emission point. A pollution prevention alternative is also summarized in this section. For an explanation of the process and rationale used to select

these requirements, see chapters 6 and 8 of the Basis and Purpose Document (located in docket No. A–95–20).

A. Source Categories To Be Regulated

The proposed standards would regulate HAP emissions from facilities that are major sources that produce PAI's for use in insecticide, herbicide, or fungicide products. The standards would apply to existing sources as well as new sources.

B. Pollutants To Be Regulated and Associated Environmental and Health Benefits

Pesticide Active Ingredients production facilities emit an estimated 6,750 Mg/yr of organic and inorganic HAP. Organic HAP's include methylene chloride, methanol, and toluene as well as other HAP. Hydrogen chloride is an inorganic HAP emitted by this industry. The proposed rule would reduce HAP emissions from PAI facilities by 76 percent. Some of these pollutants are considered to be carcinogenic, and all can cause toxic health effects following exposure, including nausea, headaches, and possible reproductive effects. The EPA does recognize that the degree of adverse effects to human health can range from mild to severe. The extent and degree to which the human health effects may be experienced is dependent upon (1) the ambient concentration observed in the area (e.g., as influenced by emission rates, meteorological conditions, and terrain), (2) the frequency of and duration of exposures, (3) characteristics of exposed individuals (e.g., genetics, age, pre-existing health conditions, and lifestyle) which vary significantly with the population, and (4) pollutant specific characteristics (toxicity, half-life in the environment, bioaccumulation, and persistence).

Most of the organic HAP emitted from this industry are classified as VOC. The proposed emission controls for HAP will reduce non-HAP VOC emissions as well. Emissions of VOC have been associated with a variety of health and welfare impacts. Volatile organic compound emissions, together with nitrogen oxides, are precursors to the formation of tropospheric ozone. Exposure to ambient ozone is responsible for a series of public health impacts, such as alterations in lung capacity; eye, nose, and throat irritation; nausea; and aggravation of existing respiratory disease. Among the welfare impacts from exposure to ambient ozone include damage to selected commercial timber species and economic losses for commercially valuable crops such as soybeans and cotton.

Hydrogen chloride is listed under section 112(r) of the CAA. The intent of section 112(r), Prevention of Accidental Releases, is to focus on chemicals that pose a significant hazard to the community should an accident occur, to prevent their accidental release, and to minimize consequences should a release occur. Hydrogen chloride, along with the other substances listed under section 112(r)(3), is listed because it is known to cause, or may be reasonably anticipated to cause death, injury, or serious adverse effects to human health or the environment (see 59 FR 4478, January 31, 1994). Sources that handle hydrogen chloride in greater quantities than the established threshold quantity under section 112(r)(5) will be subject to the risk management program requirements under section 112(r)(7) (see 58 FR 54190, October 20, 1993).

In essence, the MACT standards mandated by the CAA will ensure that all major sources of air toxic emissions achieve the level of control already being achieved by the better controlled and lower emitting sources in each category. This approach provides assurance to citizens that each major source of toxic air pollution will be required to effectively control its emissions. In addition, the emission reductions achieved by these proposed standards, when combined with the reductions achieved by other MACT standards, will contribute to achieving the primary goal of the CAA, which is to "protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population" (the CAA, section 101(b)(1)).

C. Affected Sources

The affected source for the purpose of this regulation is the facility-wide collection of emission points; these emission points include process vents, storage tanks, waste management units and associated treatment residuals, heat exchange systems, and equipment components that are associated with PAI manufacturing operations.

New sources occur as a result of reconstructing existing sources, constructing new "greenfield" facilities, or adding PAI manufacturing operations at a plant site that currently does not produce PAI's. Additionally, if a facility adds to the PAI manufacturing operations at a plant site that is an existing affected source, the addition will be subject to the requirements for new sources provided that the addition meets the definition of construction in § 63.2 of subpart A of part 63 (General Provisions) and the addition has the potential to emit 10 tons/yr or more of any one HAP or 25 tons/yr or more of any combination of HAP. Otherwise, the added PAI manufacturing operations are considered part of the existing source and would be subject to existing source standards.

D. Format of the Standards

The proposed standards for gaseous organic HAP and HCl emissions from process vents are presented in a combination of percent reduction and mass limit format. Facilities will have the option of using any control technology, as long as the HAP reductions or mass limits are achieved. The format of the proposed standards for storage tanks is a combination of equipment standard and performance standard—tanks that must be controlled are required to be fitted with floating roofs or with add-on devices meeting a percent removal requirement. The proposed standards for wastewater emission points allow: (1) Several percent mass removal options, (2) concentration limit, (3) mass limit, or (4) equipment design and operation formats. The proposed wastewater standards, and thus the format of the standards, are the same as in the HON, except that only a percent mass removal option is allowed for facilities that have total HAP loading greater than a specified cutoff. Equipment leak standards are in the form of equipment/work practice standards. Facilities would be required to implement the program specified in the proposed regulation to achieve compliance with the standards. The proposed standards for particulate HAP emissions from bag dumps and product dryers are presented in a concentration format. Additional information pertaining to the selection of the proposed standards is provided in Chapter 8 of the Basis and Purpose Document (located in docket No. A–95–20).

An alternative pollution prevention standard is also being proposed. This standard can be met in lieu of meeting separate standards for process vents, equipment leaks, storage tanks, wastewater, bag dumps, and heat exchange systems associated with each PAI production process. The format for this alternative standard is a mass reduction in HAP consumption per unit mass of product produced in the process.

E. Proposed Standards

1. Standards

Table 1 summarizes the proposed standards for process vents, storage tanks, wastewater, equipment leaks, bag

dumps and product dryers, and heat exchange systems at existing and new affected sources. The proposed standards are based on the MACT floor level of control, except where a more stringent level of control was determined to be technically feasible at a reasonable cost. Detailed information describing the approach used to determine the MACT floor and regulatory alternatives is presented in the Basis and Purpose Document (located in docket No. A–95–20).

TABLE 1.—PROPOSED STANDARDS FOR PAI PRODUCTION

Emission source	Applicability	Requirement
Process vents	Existing:	
	Processes having uncontrolled organic HAP emissions ≥0.15 Mg/yr.	90% for organic HAP per process or <20 ppmv TOC.
	Processes having uncontrolled HCl emissions ≥6.8 Mg/yr.	94% for HCl per process.
	Individual process vents meeting TRE criteria that have gaseous organic HAP emissions controlled to less than 90% as of proposal date.	98% gaseous organic HAP control per vent or <20 ppmv TOC.
	New:	
	Processes having uncontrolled organic HAP emissions ≥0.15 Mg/yr.	98% for organic HAP per process or <20 ppmv TOC at control device outlet.
	Processes having uncontrolled HCl emissions ≥6.8 Mg/yr and <191 Mg/yr.	94% for HCl per process.
	Processes having uncontrolled HCl emissions ≥191 Mg/yr.	99.9% for HCl per process.
Storage tanks	Existing: ≥0.11 Mg/yr uncontrolled HAP emissions:	
	• ≥38 m³ <76 m³ capacity	41% control per tank.
	• ≥76 m³ capacity	95% control per tank.
	New: ≥0.45 kg/yr uncontrolled HAP emissions and ≥26 m³ capacity.	98% control per tank or <20 ppmv TOC at control device outlet.
Wastewater*	Existing: ≥10,000 ppmw Table 9 compounds at any flowrate or ≥1,000 ppmw Table 9 compounds at ≥10 L/min.	Reduce concentration of total Table 9 compounds to <50 ppmw (or other options).
	New:	
	Same criteria as for existing sources	Reduce concentration of total Table 9 compounds to <50 ppmw (or other options).
	Total HAP load in wastewater POD streams ≥2,100 Mg/yr.	99% reduction of Table 9 compounds from all streams.
Equipment leaks	Subpart H	Subpart H with minor changes.
Bag dumps and product dryers	All	Particulate HAP concentration not to exceed 0.01 gr/dscf.
Heat exchange systems	Each heat exchange system used to cool process equipment in PAI manufacturing operations.	Monitoring and leak repair program as in HON.

*Table 9 is listed in the appendix to subpart G of 40 CFR part 63.

a. *Process Vents.* The proposed standards would require existing sources to reduce organic HAP and HCl emissions from process vents. Specifically, existing sources would be required to reduce organic HAP emissions by 90 percent from each process where the sum of uncontrolled organic HAP emissions from all vents in the process is greater than or equal to 0.15 Mg/yr (330 pounds per year [lb/yr]). Alternatively, the proposed rule would require that combustion, recovery, or recapture control devices meet an outlet total organic carbon (TOC) concentration of 20 parts per million by volume (ppmv); the 90 percent reduction requirement would apply to the sum of uncontrolled organic HAP emissions from all other vents in the process. Additionally, the proposed rule would require organic HAP emissions from any individual vent that meets certain annual emissions and flowrate criteria to be reduced by 98 weight percent or to an outlet concentration of 20 ppmv; the 90 percent requirement would apply to the sum of organic HAP emissions from all other vents in the process. The proposed standards would also require existing sources to reduce HCl emissions by 94 percent from each process where the sum of uncontrolled emissions from all vents in the process is greater than or equal to 6.8 Mg/yr (7.5 tons/yr).

New sources would be required to meet various process-based control levels. Specifically, for each process where the sum of the uncontrolled organic HAP emissions from all vents in the process is greater than or equal to 0.15 Mg/yr (330 lb/yr), the proposed standards would require an overall 98 percent reduction in the organic HAP emissions per process. Alternatively, the proposed standards would require that combustion, recovery, or recapture devices meet an outlet TOC concentration of 20 ppmv, and the 98 percent reduction requirement would apply to the sum of uncontrolled organic HAP emissions from all other vents in the process. The proposed standards would also require a 94 percent reduction of HCl emissions from each process where the sum of uncontrolled HCl emissions from all vents in the process is greater than or equal to 6.8 Mg/yr (7.5 tons/yr) and less than 191 Mg/yr (211 tons/yr). The proposed standards would require new sources to reduce HCl emissions by 99.9 percent from each process where the sum of uncontrolled HCl emissions from all vents in the process is greater than or equal to 191 Mg/yr (211 tons/yr).

The proposed standards for organic HAP from process vents at existing sources are based on a regulatory alternative that consists of the MACT floor level of control for most vents and a more stringent level of control for vents that meet certain applicability criteria. An applicability cutoff, based on a linear equation relating vent flowrate and annual HAP load, is used to determine the vents that have organic HAP emissions that must be controlled to the more stringent level of 98 percent. The cost of this alternative above the MACT floor is $2,500/Mg and was judged to be reasonable. The proposed standards for HCl from process vents at existing sources are based on the MACT floor level. The proposed standards for both organic HAP and HCl emissions from process vents at new sources are based on the MACT floor level for new sources. For additional information, see chapters 6 and 8 of the Basis and Purpose Document (located in docket No. A–95–20).

b. *Storage Tanks.* The proposed standards would require existing sources to control storage tanks that have a capacity greater than or equal to 38 cubic meters (m³) (10,000 gal) and uncontrolled organic HAP emissions greater than or equal to 0.11 Mg/yr (240 lb/yr). Specifically, the proposed standards would require that organic HAP emissions be reduced by 41 percent from storage tanks having volumes greater than or equal to 38 m³ (10,000 gal) and less than 76 m³ (20,000 gallons) and by 95 percent from storage tanks with capacities greater than or equal to 76 m³ (20,000 gallons). However, storage tanks greater than or equal to 76 m³ (20,000 gallons) that are currently controlled at or above the floor level (41 percent) would not be required to achieve 95 percent. One of the following control systems can be applied to meet these requirements:

(1) An internal floating roof with proper seals and fittings;

(2) An external floating roof with proper seals and fittings;

(3) An external floating roof converted to an internal floating roof with proper seals and fittings; or

(4) A closed vent system with either a 41 percent or a 95 percent efficient control device, as appropriate.

New sources would be required to reduce uncontrolled organic HAP emissions from storage tanks with capacities greater than or equal to 26 m³ (7,000 gal) and uncontrolled HAP emissions greater than or equal to 0.45 kg/yr (1.0 lb/yr) by 98 percent or use a combustion, recovery, or recapture control device that meets an outlet TOC concentration of 20 ppmv. This requirement can be met with a closed vent system with a 98 percent efficient control device.

At existing sources, the proposed standards for storage tanks that have uncontrolled emissions greater than or equal to 0.11 Mg/yr (240 lb/yr) and capacities less than 76 m³ (20,000 gal) are based on the MACT floor control level. The proposed standards for storage tanks at existing sources that have uncontrolled emissions greater than or equal to 0.11 Mg/yr (240 lb/yr) and capacities greater than or equal to 76 m³ (20,000 gal) are based on a regulatory alternative that is more stringent than the MACT floor. Floating roof technology is considerably less expensive than add-on controls for storage tanks with capacities greater than or equal to 76 m³ (20,000 gal); therefore, there is no additional cost for the regulatory alternative above the MACT floor. The proposed standards for storage tanks at new sources are based on the MACT floor level for new sources.

c. *Wastewater.* The wastewater provisions are similar to the HON wastewater provisions (subpart G of 40 CFR part 63), with modifications made for the PAI production industry. The proposed standards would require existing and new sources to control Group 1 wastewater streams. Under the proposed standards, existing and new sources would be required to determine Group 1 status for both process wastewater streams and maintenance wastewater streams. A wastewater stream is a Group 1 stream for compounds listed in Table 9 of the appendix to subpart G of 40 CFR part 63 (i.e., "Table 9" compounds in the remainder of this discussion) if:

(1) The total annual average concentration of Table 9 compounds is greater than or equal to 10,000 ppmw at any flowrate; or

(2) The total annual average concentration of Table 9 compounds is greater than or equal to 1,000 ppmw and the annual average flowrate is greater than or equal to 10 liters per minute (L/min) (2.6 gallons per minute (gal/min)).

The proposed standards would require existing sources with Group 1 wastewater streams for Table 9 compounds:

(1) To reduce the concentration of Table 9 compounds to less than 50 ppmw;

(2) To use a steam stripper with specific design and operating requirements;

(3) To reduce the mass flow rate of Table 9 compounds by at least 99 percent;

(4) To reduce the mass flow rate of Table 9 compounds by an amount equal to or greater than the Fr value in Table 9;

(5) For a source using biotreatment for at least one wastewater stream that is Group 1 for Table 9 compounds, to achieve a required mass removal greater than or equal to 95 percent for Table 9 compounds; or

(6) To treat wastewater streams with permitted RCRA units or by discharging to a permitted underground injection well.

The proposed standards would require new sources with Group 1 wastewater streams for Table 9 compounds to control Table 9 compounds to the same level required for existing sources. In addition, new sources with a total mass flow rate from the source of 2,100 Mg/yr (2,300 tons/yr) or more of Table 9 compounds would be required to reduce the mass flow rate of Table 9 compounds from all wastewater streams by 99 percent. This difference from the HON was needed because the MACT floor for new sources is more stringent than the provisions in the HON for facilities that exceed this mass flow rate cutoff.

A source is exempted from the wastewater standards if:

(1) The total mass flow rate of Table 9 compounds in Group 1 streams is less than 1 Mg/yr (1.1 tons/yr); or

(2) If the total mass flow rate of Table 9 compounds in untreated Group 1 wastewater streams and in Group 1 wastewater streams that are treated to levels less stringent than the levels required by the standard is less than 1 Mg/yr (1.1 tons/yr).

The proposed standards for wastewater at existing sources are based on a regulatory alternative more stringent than the MACT floor control level. The cost of the regulatory alternative was determined to be $3,070/Mg. This value was judged to be acceptable based on decisions for previously promulgated part 63 rules for sources with organic HAP emissions. In addition, this regulatory alternative requires the same degree of control as the HON. The wastewater streams from PAI units are similar to those released from HON units, and often occur at the same plant sites.

The proposed standards for wastewater at new sources with a total HAP load less than 2,100 Mg/yr (2,300 tons/yr) are based on a regulatory alternative more stringent than the MACT floor level for new sources. These proposed standards are the same as the proposed standards for existing sources; therefore, the cost was judged to be reasonable. Proposed standards for new sources with a total HAP load greater than or equal to 2,100 Mg/yr (2,300 tons/yr) are based on the MACT floor control level for new sources, which, as noted above, is more stringent than the standards for new sources that have a mass flow rate below the mass flow rate cutoff. For additional information, see chapters 6 and 8 of the Basis and Purpose Document (located in docket No. A–95–20).

d. *Equipment Leaks.* The proposed standards would require that new and existing PAI production sources implement for each process a leak detection and repair (LDAR) program that is slightly modified from the program specified in the Negotiated Regulation for Equipment Leaks (40 CFR part 63, subpart H). The LDAR program specified under subpart H requires specific equipment modifications and work practices that reduce emissions from equipment leaks. This program was modified to consider the emissions from receivers and surge control vessels to be from process vents rather than equipment leaks.

For existing sources, the MACT floor for equipment leaks was determined to be no control, and the regulatory alternative consisted of the LDAR program specified under subpart H. The proposed standards for existing sources are based on the regulatory alternative because the LDAR program was determined to be technically feasible, and the cost of $550/Mg was judged to be reasonable. For new sources, the proposed standards are based on the MACT floor level of control.

The EPA will consider consolidating the equipment leaks program specified in this subpart (subpart MMM) with the subpart H LDAR program after promulgation of subpart MMM. The EPA will also consider cross-referencing the Consolidated Air Rule (CAR) if the CAR is complete before this rule is promulgated.

e. *Bag Dumps and Process Dryers.* Under the proposed standards, particulate HAP emissions from bag dumps and dryers at both new and existing sources would not be allowed to exceed 0.01 grains per dry standard cubic feet (gr/dscf). The standard is based on the MACT floor for both new and existing sources. For additional information, see chapters 6 and 8 of the Basis and Purpose Document (located in docket No. A–95–20).

f. *Heat Exchange Systems.* Heat exchange systems that cool process equipment or materials used in PAI manufacturing are also emissions points subject to the proposed rule. The proposed standards are based on HON provisions. A source must (1) monitor monthly for leaks in the cooling water for 6 months and quarterly thereafter, and (2) repair leaks and test to demonstrate that the leak has been repaired.

2. Alternative Pollution Prevention Standard

For existing sources, the proposed rule also includes a pollution prevention (P2) alternative standard that meets the requirements of the MACT standards, and can be implemented in lieu of the requirements described above. The P2 alternative standard provides a way for facilities to comply with the MACT standards by reducing overall consumption of HAP from their processes. The two options that were developed are described in Table 2 and are discussed below. This alternative does not apply to HAP that are used as reactants (below the stoichiometric amount needed to produce the product) or to HAP that are generated in the process.

TABLE 2.—ALTERNATIVE P2 STANDARD

Option	Description of P2 option
1	Demonstrate an 85% reduction in the kg consumption/kg production factor from a baseline year of 1987.
2	Demonstrate a 50% reduction in the kg consumption/kg production factor and additional reduction from add-on control equivalent to yield 85% overall reduction in kg consumption/kg production.

In the first option, an owner or operator can satisfy the MACT requirements for all process vents, storage tanks, equipment leaks, wastewater, bag dumps, and heat exchange systems associated with an existing process by demonstrating that the production-indexed consumption of HAP has decreased by 85 percent from a baseline set at the first 12-month period for which data are available but no earlier than the 1987 calendar year. (1987 was the first year industrial facilities had to report their estimated toxic releases to the EPA under the Emergency Planning and Community Right-to-Know Act of 1986). Emissions from product dryers are excluded from the P2 option because reductions in consumption would not affect product emissions. The production-indexed consumption factor is expressed as kg HAP consumed per kg product produced (kg consumed/kg produced factor). The numerator in the kg consumed/kg produced factor is the total consumption of material, which describes all the different areas where material can be consumed, either through losses to the environment, consumption in the process as a reactant, or otherwise destroyed. Consumption, rather than emissions, is tracked because it can be used as a true measure of pollution prevention; any decrease in consumption for the same unit of product generated must involve some type of increase in process efficiency, including reduction of waste, increased product yield, and in-process recycling. Because HAP are used generally as raw materials and solvents in this industry, reductions in consumption can be generally associated with reductions in emissions to air, water, or solid waste.

The second option also uses the production-indexed consumption factor and is also applied to existing processes. It encourages and allows an owner or operator to supplement reductions achieved with P2 with add-on controls. The EPA believes that such an option will provide greater flexibility and cost efficiency to the operators who already may have some add-on controls. An owner or operator would be required to demonstrate reductions in the kg consumed/kg produced factor of 50 percent via P2 measures, and actual mass emission reductions equivalent to 35 percent of the kg consumed/kg produced factor would be required using add-on controls. Thus, the total reduction required by option 2 would be equivalent to or greater than an 85 percent reduction in the kg consumed/kg produced factor, the same as in option 1.

F. Compliance and Performance Test Provisions

1. Proposed Standards

a. *Process Vents.* To determine compliance with the percent reduction requirements for gaseous HAP and HCl emissions from PAI process vents, the owner or operator would be required to quantify the uncontrolled and controlled gaseous emissions from all process vents to demonstrate the appropriate overall reduction requirements. For process vents controlled by a device with an inlet of less than 10 tons/yr of HAP, the owner or operator can either test or use calculational methodologies to determine the uncontrolled and controlled emission rates from individual process vents. For process vents controlled by a device with an inlet of 10 tons/yr or more of HAP, performance tests would be required to determine the reduction efficiency of each device. Because of their cyclic nature, batch operations tend to have variable emissions. Therefore, performance test provisions were structured to account for the peak-case emissions. Continuous processes tend to have more consistent emissions, but for simplicity, the same performance test provisions are applied to controls for continuous processes. This approach essentially considers emissions from continuous processes to be peak-case at all times. Control devices that have previously been tested under conditions required by this standard and condensers are exempt from performance testing.

b. *Storage Tanks.* For demonstrating compliance with various requirements, the proposed rule allows the owner or operator to either conduct performance tests or to document compliance using engineering calculations. Appropriate compliance and monitoring provisions are included in the regulation.

c. *Wastewater.* For demonstrating compliance with the various requirements, owners and operators have a choice of using a specified design, conducting performance tests, or documenting engineering calculations. Appropriate inspection, monitoring, reporting, and recordkeeping requirements are included in the regulation.

d. *Equipment Leaks.* To determine compliance with the standard for equipment leaks, facilities would have to demonstrate that an LDAR program meeting the requirements of the modified subpart H is in use.

e. *Bag Dumps and Product Dryers.* To demonstrate compliance with the particulate HAP emission limit of 0.01 gr/dscf, the owner or operator would be required to conduct a performance test.

2. Pollution Prevention Alternative Standard

Initial demonstration of compliance with the P2 alternative standard would be accomplished by documenting yearly quantities of HAP raw materials and products using available records, including standard purchasing and accounting records, and calculating the kg consumed/kg produced values. Procedures are also specified to demonstrate that the required reductions are achieved by the control devices used to meet option 2.

G. Monitoring Requirements

1. MACT Emission Standards

Monitoring would be required by the proposed standards to determine whether a source is in compliance on an ongoing basis. This monitoring is done either by (1) continuously measuring emission reductions directly or (2) continuously measuring a site-specific operating parameter, the value of which is established by the owner or operator during the initial compliance determination. The operating parameter value is defined as the minimum or maximum value established for a control device or process parameter that, if achieved on a daily average by itself or in combination with one or more other operating parameter values, determines that the owner or operator is complying with the applicable emission standards. Except for the bag leak detectors, these parameters are required to be monitored at 15-minute intervals throughout the operation of the control device. For a device controlling streams that, in aggregate, contain less than 1 ton/yr of HAP, only a site-specific periodic verification that the device is operating as designed is required to demonstrate continuous compliance. Owners and operators must determine the most appropriate method of verification and propose this method to the Agency for approval in the Precompliance Report, which is due 1 year prior to the compliance date of the standard.

Under the proposed NESHAP, the owner or operator must install a bag leak detection system for each fabric filter used to control particulate HAP emissions from bag dumps or product dryers. The bag leak detection system is required because opacity is not a good indicator of performance at the low, controlled particulate levels characteristic of these sources. The bag leak detection system would be equipped with an audible alarm that automatically sounds when an increase in particulate emissions above a predetermined level is detected. The proposed rule requires that the monitor provide an output of relative or absolute particulate emissions. Such a device would serve as an indicator of the performance of the fabric filter and would provide an indication of when maintenance of the fabric filter is needed. An alarm by itself does not indicate noncompliance with the particulate HAP limit, but would indicate an increase in PM emissions and trigger an inspection of the fabric filter to determine the cause of the alarm. The owner or operator would initiate corrective actions according to procedures submitted with their Notification of Compliance Status report. The owner or operator would be considered in violation of the particulate HAP standard upon failure to initiate corrective actions within 1 hour of the alarm. If the alarm is activated for more than 5 percent of the total operating time during the 6-month reporting period, the EPA proposes that the owner or opertor develop and implement a written quality improvement plan (QIP) consistent with subpart D of the draft approach to compliance assurance monitoring.

2. Alternative Standard

An owner or operator electing to use the P2 alternative can demonstrate ongoing compliance by calculating the rolling average of the kg consumed/kg produced factor for each applicable process or portions of the process. For continuous processes, the rolling average is calculated every 30 days, and for batch processes, the rolling average is calculated every 10 batches. In both cases, the rolling average is based on data from the previous 12 months. In addition, an owner or operator electing to use P2 Option 2 would have to monitor the emission reduction obtained through the use of traditional controls using the methods described above.

H. Reporting and Recordkeeping Requirements

The owner or operator of any PAI production facility subject to these standards would be required to fulfill all reporting requirements outlined in the General Provisions of subpart A to 40 CFR part 63. A table included in the proposed rule designates which sections of subpart A apply to the proposed rule. Specific recordkeeping and reporting requirements for each type of emission point are also included in the proposed rule.

V. Summary of Environmental, Energy, Cost, and Economic Impacts

The emission reductions that would be required by this regulation could be met using one or more of several different techniques. Impacts were estimated for control scenarios based on traditional control techniques that were judged to be the most feasible for meeting the requirements of the proposed standards from a technical and cost standpoint. Energy, cost, and economic impacts of the P2 alternative would be equivalent to or lower than the estimated impacts for traditional controls because it is likely that an owner or operator would elect to implement only those P2 techniques that have lower impacts than traditional controls.

A. Facilities Affected by These NESHAP

These NESHAP would affect PAI production facilities that are major sources in and of themselves, or constitute a portion of a major source. There are estimated to be approximately 329 existing facilities manufacturing PAI's, 78 of which were estimated to be major sources for the purpose of developing these standards and calculating impacts. The rate of growth for the PAI production industry is

estimated to be 2 percent per year for the next 5 years.

B. Air Impacts

The proposed standards would reduce HAP emissions from existing sources by 5,150 Mg/yr (5,680 tons/yr) from the baseline level, a reduction of 76 percent from baseline, and 93 percent from uncontrolled. These reductions would also occur if facilities elect to implement the alternative pollution prevention standard. In addition to reducing HAP emissions, VOC will also be reduced. This reduction includes VOC that are HAP and other VOC that are not HAP. Volatile organic compounds are precursors in the atmospheric reaction with oxides of nitrogen that generates tropospheric ozone. The amount of VOC reduction (beyond the HAP portion of the VOC) due to implementation of the PAI standards cannot be quantified.

C. Water and Solid Waste Impacts

With the assumption that overheads from steam stripping will be recoverable as material or fuel, no solid waste is expected to be generated from steam stripping wastewater streams. Additionally, no solid waste is expected to be generated from controls of other emission points.

The proposed standards would increase wastewater generated from water scrubbers used to control HCl emissions by an estimated 10.8 million liters per year (2.9 million gallons per year). The volume of wastewater generated would also increase at plants that choose a water scrubber to control certain water soluble organic HAP; however, the increase is expected to be minimal because the use of water scrubbers for this purpose is expected to be uncommon.

D. Energy Impacts

The proposed standards would require an additional energy usage of 4.880×10^9 British thermal units per year (Btu/yr).

E. Cost Impacts

The total control cost includes the capital cost to install control devices (including floating roofs), the costs involved in operating control devices (energy and operating and maintenance costs), costs associated with monitoring control devices to ensure compliance, costs associated with implementing work practices, and the cost savings generated by reducing the loss of valuable product in the form of emissions. Monitoring costs include the cost to purchase and operate monitoring devices, as well as reporting and recordkeeping costs required to demonstrate compliance. Average cost effectiveness, $/Mg of HAP removed, is also presented as part of cost impacts and is determined by dividing the anpual cost by the annual emission reduction.

The estimated total capital costs for existing and new sources would be $70.3 million and $10.4 million, respectively (June 1995 dollars). The total annual costs for control at existing and new sources are estimated to be approximately $39.0 million and $5.73 million, respectively (June 1995 dollars). The average cost effectiveness of the standards is estimated to be about $7,600/Mg for existing sources and $7,700/Mg for new sources. The EPA estimates that industry's nationwide annual cost burden will average $0.37 million for monitoring, recordkeeping, and reporting requirements over the first 3 years following promulgation.

It is expected that the actual compliance cost impacts of the proposed rule would be less than described above because of the potential to use common control devices, upgrade existing control devices, use other less expensive control technologies, implement pollution prevention technologies, or use emissions averaging. Since the effect of such practices is highly site-specific and data were unavailable to estimate how often the lower cost compliance practices could be utilized, it is not possible to quantify the amount by which actual compliance costs would be reduced. The EPA believes that the overall control costs and the monitoring, reporting, and recordkeeping costs will be substantially reduced for the facilities opting to comply via the P2 option.

F. Economic Impacts

The control costs imposed on producers in the PAI production industry will increase their cost of production. The effects of the changes in production costs are evaluated in the "Economic Impact Analysis of the Proposed NESHAP for the Production of Pesticide Active Ingredients." The resulting increase in production costs will increase the market price by less than 1 percent and decrease market output by less than 1 percent. In addition, the regulation's impact on foreign competition is relatively small. Social cost incorporates the changes in welfare to consumers, unaffected producers, and foreign producers and consumers to the cost of the regulation. These costs were determined to be negligible for the PAI production industry; therefore, the total social cost is estimated to be equal to the total control cost. No plant closures are expected from compliance with this set of alternatives.

VI. Emissions Averaging

The proposed rule includes provisions that would allow emissions averaging among process vents, storage tanks, and wastewater within an existing affected source. New affected sources are not allowed to use emissions averaging. Under emissions averaging, a system of "credits" and "debits" is used to determine whether an affected source is achieving the required emissions reductions. The new sources have historically been held to a stricter standard than existing sources, because it is most cost-effective to integrate state-of-the-art controls into equipment design and to install the technology during the construction of new sources. One reason for allowing averaging is to permit existing sources flexibility to achieve compliance at diverse points with varying degrees of control already in place in the most economically and technically reasonable fashion. This concern does not apply to new sources because they can and should be designed and constructed with compliance in mind.

VII. Solicitation of Comments

The Administrator welcomes comments from interested persons on any aspect of the proposed rule, and on any statement in the preamble or the referenced supporting documents. The proposed rule was developed on the basis of available information. The Administrator is specifically requesting factual information that may support either the approach taken in the proposed standards or an alternate approach. To receive proper consideration, documentation or data should be provided. This section requests comments on specific issues identified during the development of the standard.

The EPA is requesting comment on the addition of other PAI's to this source category. The original source category contained 10 agricultural chemicals (i.e., PAI's); during information gathering for this proposed standard, other PAI's with similar processes, emissions, and control equipment were identified and added to the source category.

The EPA is requesting comments on the clarity of the approach used to identify PAI processes subject to the standards. Under FIFRA, all facilities producing PAI's (and other pesticide products) are required to be registered. Further, all of these registered pesticide-

producing establishments are required to report, on EPA form 3540–16, the amount of each PAI that they produced in the previous year and an estimate of the amount to be produced in the current year. The facilities also must classify each PAI in one of 18 product classification categories. Under today's proposed rule, PAI processes subject to the standards are those that are used in the production of insecticide, herbicide, or fungicide products. For the purposes of the proposed rule, PAI processes that satisfy this definition are those that are classified as an insecticide, insecticide-fungicide, fungicide, herbicide, herbicide-fungicide, plant regulator, defoliant, desiccant, or multi-use active ingredient on form 3540–16. The EPA also evaluated and rejected other approaches for identifying the processes that would be subject to the standards. One approach would be to list each subject PAI process. This approach was rejected because new products are always being developed and existing products are discontinued so that a list would soon be out of date. Another option would be to cover only registered PAI's. Drawbacks of this option are that PAI's produced only for export need not be registered, the ongoing reregistration process is likely to result in the cancellation of many currently registered PAI's in the next few years, and the registration process does not classify the PAI as an insecticide, herbicide, or fungicide. The Agency requests comments on the benefits and drawbacks of these and any other approaches to identify PAI processes subject to the standards.

The EPA is requesting particulate emissions data from bag dumps and product dryers in the PAI production industry. The proposed standard for particulates for bag dumps and product dryers was based on information for a product dryer from a single facility; this was the only surveyed facility that dried a PAI that is also a HAP. Other facilities that manufacture PAI's that have PM HAP emissions from bag dumps or product dryers may submit available test data or engineering estimates of the emissions, along with any available information about the design and operation of the control device.

The EPA is requesting information and data on equipment leak emissions in the PAI production industry. During the development of this proposed regulation, various industry representatives commented that (1) SOCMI emission factors used to estimate emissions from equipment leaks overestimate the actual emissions, (2) the proposed equipment leak requirements (HON, subpart H of this part) are too stringent, i.e., the frequent monitoring requirements associated with the HON are burdensome, especially because industry believes equipment components are well-controlled, and (3) the requirements in the Consolidated Air Rule (CAR) are possible alternatives to the HON requirements for equipment leak standards. To support their comments, industry has submitted a summary of test results to EPA to demonstrate that the industry is already well-controlled with respect to equipment leaks. The EPA has reviewed these data and believes that the data are insufficient to support the industry position. The EPA is requesting additional information and test data (screening data) on this issue. These data should be collected in accordance with accepted EPA protocol (Protocol for Equipment Leak Emission Estimates, EPA Document No. EPA–453/R–95–017).

The EPA is soliciting comments on several aspects of performance testing and monitoring. The rule currently requires performance testing to document efficiencies for control devices that are used to reduce uncontrolled emissions of 10 tons per year or more. The rule currently requires that the performance test be conducted under "peak-case" conditions and provides for three options—absolute, representative, and hypothetical peak-case. The EPA is soliciting comments on appropriate test conditions to be defined for different types of control devices, especially scrubbers and carbon adsorbers.

The proposed rule provides for parametric monitoring to comply with the standard and includes specific operating parameters to be monitored. The EPA is soliciting comments on the use of alternative parameters without the requirement of prior notification in the Precompliance report. Parameters other than those specified in the rule that could be used to demonstrate compliance include: (1) For condensers, coolant temperature and flow (only with emissions testing), (2) for scrubbers, measurement of pressure drop, scrubber fluid composition, or pH, and (3) for carbon adsorbers, adsorption cycle and regeneration frequency, bed temperature, regeneration stream flow, periodic test for bed poisoning, and periodic vent testing and/or predetermined scheduled replacement. The EPA is soliciting comment on the adequacy of these parameters for demonstrating continuous compliance with the rule.

An issue raised by industry associated with parametric monitoring is related to the setting of a parameter based on an initial compliance determination at conditions which represent the upper limit (with regard to achievable control) of conditions that will be encountered during the course of operations. The concern is that the rule effectively requires a control level that is greater than the standard because the control devices will presumably achieve higher control on conditions that are below this upper limit, which may occur frequently in this industry because of the predominance of batch processes. The EPA has tried to resolve this issue by allowing owners and operators to set more than one parameter level for a given control device for processes or portions of processes not requiring control levels as high as the peak-case or upper limit. These parametric levels are required to be defined in advance in the Notification of compliance report. If more than one level is set, owners and operators must make a determination of compliance with the standards based on what processes or emission characteristics are routed to the device at the time in which a monitoring reading is taken. Additionally, the determination of an exceedance is based on a maximum of 24 hours worth of data, or 96 15-minute readings, per process. Therefore, readings outside of acceptable ranges can be averaged in with readings that are within range and effectively normalized. The EPA believes that the approach taken offers the industry needed flexibility while preserving the assurance of continuous compliance.

Currently, the Notification of Compliance report is the compliance "blueprint" for implementation of the standard. All information regarding documentation of the facility's compliance status with regard to the standard should be included in this report. Process descriptions, emission estimates, control device performance documentation, and continuous compliance demonstration strategies, including monitoring, are to be presented in the report. This report could be incorporated by reference into the facility's title V permit. If a change occurred at the facility which required the submittal of additional information, or if the plant chose to revise procedures that had been previously documented in the notification, this information would be submitted in quarterly reports, thus ensuring that the notification and associated reports would always contain the most current compliance strategy for the facility. Only changes requiring site-specific approval, such as the use of a monitoring parameter that was not

specifically identified in the standard, would trigger some significant review action under title V. This would allow the facility enough flexibility to change processes, operating, and compliance procedures as necessary without prior approval, if the changes were straightforward, and would assure that the compliance plan for the facility would always be current. The EPA is also soliciting comments on the incorporation by reference of the Notification of Compliance report into the title V permit, and comments on the types of changes that should trigger review actions under title V.

VIII. Administrative Requirements

A. Public Hearing

A public hearing will be held, if requested, to discuss the proposed standard in accordance with section 307(d)(5) of the Act. Persons wishing to make oral presentation on the proposed standards for PAI production should contact EPA at the address given in the **ADDRESSES** section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement before, during, or within 30 days after the hearing. Written statements should be addressed to the Air Docket Section address given in the **ADDRESSES** section of this preamble and should refer to Docket No. A–95–20.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Air Docket Section in Washington, DC (see **ADDRESSES** section of this preamble).

B. Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered by EPA in the development of this proposed rulemaking. The principal purposes of the docket are:

1. To allow interested parties to readily identify and locate documents so that they can intelligently and effectively participate in the rulemaking process; and

2. To serve as the record in case of judicial review (except for interagency review materials (section 307(d)(7)(A)]).

C. Executive Order 12866

Under Executive Order 12866, [58 FR 51735 (October 4, 1993)] the Agency must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of this Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

1. Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

2. Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

3. Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

4. Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of Executive Order 12866, the OMB has notified the EPA that it considers this a "significant regulatory action" under criterion four of the Executive Order. The EPA has submitted this action for OMB review. Changes made in response to suggestions or recommendations from the OMB will be documented and included in the public record.

D. Enhancing the Intergovernmental Partnership Under Executive Order 12875

In compliance with Executive Order 12875, EPA has involved State governments in the development of this rule. These governments will implement the rule and collect permit fees to offset the resource burden of implementing the rule. Representatives of four State governments are members of the MACT partnership group. This partnership group was consulted throughout the development of this proposed regulation. Comments from the partnership members were carefully considered. In addition, all States are encouraged to comment on this proposed rule during the public comment period, and the EPA intends to fully consider these comments in the final rulemaking.

E. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1807.01), and a copy may be obtained from Sandy Farmer, OPPE Regulatory Information Division (2137); U. S. Environmental Protection Agency; 401 M Street SW; Washington, DC 20460, or by calling (202) 260–2740. The public reporting burden for this collection of information is estimated to average 1,360 hours per respondent for the first year and 990 hours for each of the second and third years, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

Comments are requested on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques. Send comments on the ICR to the Director, OPPE Regulatory Information Division, U.S. Environmental Protection Agency (2137), 401 M St., SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, marked "Attention: Desk Officer for EPA." Include the ICR number in any correspondence. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after November 10, 1997, a comment to OMB is best assured of having its full effect if OMB receives it by December 10, 1997. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

F. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This proposed rule will not have a significant economic impact on a substantial number of small entities. In a screening of potential impacts on small entities, the EPA found that there are three small companies operating in the PAI production industry. The majority of facilities are owned by large chemical manufacturers having greater than 500 employees. In all instances, the average total annual cost for affected firms is less than 1 percent of company-wide revenues. The screening analysis for this rule is detailed in the Economic Impact Analysis (see Docket No. A–95–20). Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

G. Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments, and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that the proposed standards do not include a Federal mandate that may result in estimated costs of, in the aggregate, $100 million or more to either State, local or Tribal governments, or to the private sector, nor do the standards significantly or uniquely impact small governments, because they contain no requirements that apply to such governments or impose obligations upon them. Therefore, the requirements of the UMRA do not apply to this proposed rule.

H. Miscellaneous

In accordance with section 117 of the Act, publication of this proposal was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. The Administrator will welcome comments on all aspects of the proposed regulation, including health, economic and technical issues, and on the proposed requirements for testing.

This regulation will be reviewed 8 years from the date of promulgation. This review will include an assessment of such factors as evaluation of the residual health and environmental risks, any overlap with other programs, the existence of alternative methods, enforceability, improvements in emission control technology and health data, and the recordkeeping and reporting requirements.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: October 27, 1997.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is proposed to be amended as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401, *et. seq.*

2. It is proposed that part 63 be amended by adding subpart MMM to read as follows:

Subpart MMM—National Emission Standards for Hazardous Air Pollutants From Pesticide Active Ingredient Production

Sec.

63.1360 Applicability.
63.1361 Definitions.
63.1362 Standards.
63.1363 Compliance dates.
63.1364 Test methods and compliance procedures.
63.1365 Monitoring and inspection requirements.
63.1366 Recordkeeping requirements.
63.1367 Reporting requirements.
63.1368 Delegation of authority.
Table 1 to Subpart MMM—General Provisions Applicability to Subpart MMM
Table 2 to Subpart MMM—Proposed Standards for PAI Production

Subpart MMM—National Emission Standards for Hazardous Air Pollutants From Pesticide Active Ingredient Production

§ 63.1360 Applicability.

(a) The provisions of this subpart apply to each affected source. Except as specified in paragraph (d) of this section, the affected source subject to this subpart is the facility-wide collection of process vents, storage tanks, waste management units, heat exchange systems, cooling towers, equipment identified in § 63.149, and equipment components (pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, and instrumentation systems) in pesticide active ingredient (PAI) manufacturing operations at a major source of hazardous air pollutant (HAP) emissions. Pesticide active ingredient manufacturing operations also include the manufacturing of each intermediate:

(1) That is integral to a PAI production process; and

(2) For which 50 percent or more of the annual production of the intermediate is used in any onsite PAI processes.

(b) Except as specified in paragraph (d) of this section, a new source is defined as a source meeting the criteria of paragraph (b) (1), (2), or (3) of this section.

(1) A plant site previously without HAP emissions points that is part of a major source on which construction of PAI manufacturing operations commenced after November 10, 1997;

(2) Additions to an existing plant meeting the criteria in paragraph (g) of this section; or

(3) A reconstructed source that meets the definition of reconstruction in § 63.2 and for which reconstruction commenced after November 10, 1997.

(c) Table 1 of this subpart specifies the provisions of subpart A of this part that apply to an owner or operator of an affected source subject to this subpart, and clarifies specific provisions in subpart A of this part as necessary for this subpart.

(d) The provisions of this subpart do not apply to:

(1) Research and development facilities;

(2) Emission points in pesticide active ingredient manufacturing operations that meet the applicability requirements

under subparts F, G, H, and I of this part;

(3) Emission points in pesticide active ingredient manufacturing operations that meet the applicability criteria under any other existing MACT standard; and

(4) The following emission points listed:

(i) Stormwater from segregated sewers;

(ii) Water from fire-fighting and deluge systems, including testing of such systems;

(iii) Spills;

(iv) Water from safety showers;

(v) Noncontact steam boiler blowdown and condensate;

(vi) Laundry water;

(vii) Vessels and equipment storing and/or handling material that contain no organic HAP and/or organic HAP as impurities only; and

(viii) Equipment that is intended to operate in organic HAP service for less than 300 hours during the calendar year.

(e) An owner or operator shall follow the startup, shutdown, and malfunction provisions specified in paragraphs (e)(1) and (2) of this section.

(1) For batch processes, the provisions of this subpart shall apply during startup and shutdown, and periods of malfunction shall be regulated according to § 63.6 of subpart A of this part.

(2) For continuous processes, startup, shutdown, and malfunction shall be regulated according to § 63.6 of subpart A of this part.

(f) An owner or operator shall follow the procedures specified in paragraphs (f)(1) through (3) of this section to determine whether a storage tank is part of the PAI manufacturing operations. If the storage tank is determined to be part of the PAI manufacturing operations, and the PAI manufacturing operations are located at a major source of HAP emissions, then the storage tank is part of the affected source to which this subpart applies.

(1) If a storage tank is already subject to another subpart of 40 CFR part 63 on November 10, 1997, said storage tank shall belong to the process unit or manufacturing process subject to the other standard.

(2) The storage tank is part of the PAI manufacturing operations if either the input to the tank from PAI manufacturing processes, collectively, is greater than or equal to the input from all other sources or the output from the tank to PAI manufacturing processes, collectively, is greater than or equal to the output to all other sources. If the use varies from year to year, then the use for purposes of this subpart shall be based on the utilization that occurred during the year preceding November 10, 1997. This determination shall be reported as part of an operating permit application or as otherwise specified by the permitting authority.

(3) Where a storage tank is located in a tank farm (including a marine tank farm), the provisions in paragraphs (f)(3)(i) and (ii) of this section shall be used to determine if the storage tank is considered part of the PAI manufacturing operations.

(i) The storage tank is not part of the PAI manufacturing operations if all of the PAI manufacturing processes that utilize the tank have an intervening storage tank. With respect to a PAI manufacturing process, an intervening storage tank means a storage tank connected by hard-piping to the PAI manufacturing process and to the storage tank in the tank farm so that product or raw material entering or leaving the PAI manufacturing process flows into (or from) the intervening storage tank and does not flow directly into (or from) the storage tank in the tank farm.

(ii) For storage tanks that do not meet the provisions of paragraph (f)(3)(i) of this section, the provisions in paragraph (f)(2) of this section shall be used to determine if the storage tank is part of the PAI manufacturing operations.

(5) If the storage tank begins receiving material from (or sending material to) other manufacturing operations, or ceasing to receive material from (or send material to) PAI manufacturing operations, or if the applicability of this subpart has been determined according to the provisions of paragraph (f)(2) of this section and there is a significant change in the use of the storage tank, the owner or operator shall reevaluate the applicability of this subpart to the storage tank.

(g) If a facility adds PAI manufacturing operations at a plant site, the addition shall be subject to the requirements for a new source in this subpart if the addition meets the criteria in paragraph (g)(1) and either (g)(2) or (3) of this section.

(1) The addition meets the definition of construction in § 63.2 of subpart A of this part and construction commenced after November 10, 1997; and

(2) The addition has the potential to emit 10 tons/yr or more of any HAP or 25 tons/yr or more of any combination of HAP, unless the Administrator establishes a lesser quantity at a plant that currently is an affected source; or

(3) The addition is at a plant site that does not currently produce PAI's and the plant site meets, or after the addition is constructed will meet, the definition of a major source in § 63.2 of subpart A of this part.

(h) An owner or operator may elect to include any of the intermediates manufacturing operations that are identified in paragraphs (h)(1) and (2) of this section in the PAI manufacturing operations subject to this subpart:

(1) The manufacturing of integral intermediates for which less than 50 percent of the intermediate is used in onsite manufacturing of PAI's.

(2) The manufacturing of isolated intermediates.

§ 63.1361 Definitions.

Terms used in this subpart are defined in the Act, in subpart A of this part, or in this section. If the same term is defined in subpart A of this part and in this section, it shall have the meaning given in this section for the purposes of this subpart MMM.

Air pollution control device means equipment installed on a process vent or storage tank or wastewater treatment exhaust stack or stacks that reduces the mass of HAP emitted to the air. Examples include incinerators, carbon adsorption units, condensers, and gas absorbers. Process condensers are not considered air pollution control devices.

Batch cycle refers to manufacturing a PAI or integral intermediate from start to finish in a batch unit operation.

Batch emission episode means a discrete venting episode that may be associated with a single unit operation. A unit operation may have more than one batch emission episode. For example, a displacement of vapor resulting from the charging of a vessel with HAP will result in a discrete emission episode that will last through the duration of the charge and will have an average flowrate equal to the rate of the charge. If the vessel is then heated, there will also be another discrete emission episode resulting from the expulsion of expanded vessel vapor space. Both emission episodes may occur in the same vessel or unit operation. There are possibly other emission episodes that may occur from the vessel or other process equipment, depending on process operations.

Batch operation or Batch process means a noncontinuous operation involving intermittent or discontinuous feed into PAI or integral intermediate manufacturing equipment, and, in general, involves the emptying of the equipment after the batch operation ceases and prior to beginning a new operation. Addition of raw material and withdrawal of product do not occur simultaneously in a batch operation.

Closed-vent system means a system that is not open to the atmosphere and is composed of piping, ductwork, connections, and, if necessary, flow inducing devices that transport gas or vapor from an emission point to a control device.

Combustion device means an individual unit of equipment, such as a flare, incinerator, process heater, or boiler, used for the combustion of organic HAP vapors.

Consumption means the makeup quantity of HAP materials entering a process that are not used as reactant. The quantity of material used as reactant is the theoretical amount needed assuming a 100 percent stoichiometric conversion. Makeup is the net amount of material that must be added to the process to replenish losses.

Container, as used in the wastewater provisions, means any portable waste management unit that has a capacity greater than or equal to 0.1 m^3 (3.5 ft^3) in which a material is stored, transported, treated, or otherwise handled. Examples of containers are drums, hoses, barrels, tank trucks, barges, dumpsters, tank cars, dump trucks, and ships.

Continuous process means a process where the inputs and outputs flow continuously throughout the duration of the process. Continuous processes are typically steady state.

Continuous seal means a seal that forms a continuous closure that completely covers the space between the wall of the storage tank and the edge of the floating roof. A continuous seal may be a vapor-mounted, liquid-mounted, or metallic shoe seal.

Controlled emissions means the quantity of HAP components discharged to the atmosphere from the air pollution control device.

Cover, as used in the wastewater provisions, means a device or system which is placed on or over a waste management unit containing wastewater or residuals so that the entire surface area is enclosed and sealed to minimize air emissions. A cover may have openings necessary for operation, inspection, and maintenance of the waste management unit such as access hatches, sampling ports, and gauge wells provided that each opening is closed and sealed when not in use. Examples of covers include a fixed roof installed on a wastewater tank, a lid installed on a container, and an air-supported enclosure installed over a waste management unit.

External floating roof means a pontoon-type or double-deck type cover that rests on the liquid surface in a storage tank or waste management unit with no fixed roof.

FIFRA means the Federal Insecticide, Fungicide, and Rodenticide Act.

Fill or filling means the introduction of organic HAP into a storage tank or the introduction of a wastewater stream or residual into a waste management unit, but not necessarily to complete capacity.

Fixed roof means a cover that is mounted on a waste management unit or storage tank in a stationary manner and that does not move with fluctuations in liquid level.

Floating roof means a cover consisting of a double deck, pontoon single deck, internal floating cover or covered floating roof, which rests upon and is supported by the liquid being contained, and is equipped with a closure seal or seals to close the space between the roof edge and waste management unit or storage tank wall.

Group 1 process vent means any process vent from a process at an existing or new affected source for which the uncontrolled emissions from the sum of all process vents are greater than or equal to 150 kg/yr (330 lb/yr).

Group 2 process vent means any process vent that does not meet the definition of a Group 1 process vent.

Group 1 storage tank means a storage tank at an existing affected source that has uncontrolled emissions greater than or equal to 110 kg/yr (240 lb/yr) and capacity equal to or greater than 37 m^3 (10,000 gal), or a storage tank at a new affected source that has uncontrolled emissions greater than or equal to 0.45 kg/yr (1 lb/yr) and capacity equal to or greater than 26 m^3 (7,000 gal).

Group 2 storage tank means a storage tank that does not meet the definition of a Group 1 storage tank.

Group 1 wastewater stream means wastewater at an existing or new source that meets the criteria for Group 1 status in § 63.132(c) of subpart G of this part for Table 9 compounds in Table 9 of subpart G of this part (as defined in § 63.111 of subpart G of this part).

Group 2 wastewater stream means any wastewater stream that does not meet the definition of a Group 1 wastewater stream.

Hard-piping means tubing that is manufactured and properly installed using good engineering judgment and standards, such as ANSI B31–3.

Individual drain system means the stationary system used to convey wastewater streams or residuals to a waste management unit. The term includes hard piping, all process drains and junction boxes, together with their associated sewer lines and other junction boxes, manholes, sumps, and lift stations, conveying wastewater streams or residuals. A segregated stormwater sewer system, which is a drain and collection system designed and operated for the sole purpose of collecting rainfall-runoff at a facility, and which is segregated from all other individual drain systems, is excluded from this definition.

Integral intermediate process means a process manufacturing an intermediate that is used in on-site production of any PAI's and is not removed to storage before used to produce the PAI(s).

Intermediate means a compound produced in a chemical reaction that is further processed or modified in one or more additional chemical reactions to produce a PAI.

Internal floating roof means a cover that rests or floats on the liquid surface (but not necessarily in complete contact with it) inside a storage tank or waste management unit that has a permanently affixed roof.

Isolated Intermediate means any intermediate that is removed from the manufacturing process for temporary or permanent storage or transferred to shipping containers.

Junction box means a manhole or access point to a wastewater sewer line or a lift station.

Liquid-mounted seal means a foam liquid-filled seal mounted in contact with the liquid between the wall of the storage tank or waste management unit and the floating roof. The seal is mounted continuously around the tank or unit.

Metallic shoe seal or mechanical shoe seal means metal sheets that are held vertically against the wall of the storage tank by springs, weighted levers, or other mechanisms and is connected to the floating roof by braces or other means. A flexible coated fabric (envelope) spans the annular space between the metal sheet and the floating roof.

Pesticide active ingredient manufacturing operations means all of the processing equipment; storage tanks; waste management units; components such as pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, and instrumentation systems; and associated equipment such as heat exchange systems that are located at a facility for the purpose of manufacturing PAI's.

Pesticide active ingredient or PAI means any material that is an active ingredient within the meaning of FIFRA section 2(a); that is used to produce an insecticide, herbicide, or fungicide end use pesticide product; and that must be labeled in accordance with 40 CFR part 156 for transfer, sale, or distribution. These materials are typically described

by North American Industrial Classification System (NAICS) Codes 325199 and 32532 (i.e., previously known as Standard Industrial Classification System Codes 2869 and 2879). These materials are identified by product classification codes 01, 21, 02, 04, 44, 07, 08, and 16 in block 19 on EPA form 3540–16, the Pesticides Report for Pesticide-Producing Establishments.

Point of determination (POD) means the point where a wastewater stream exits the process, storage tank, or equipment components. The POD may be at the equipment or following the last recovery device.

Note: The regulation in this subpart allows determination of the characteristics of a wastewater stream (1) at the point of determination or (2) downstream of the point of determination if corrections are made for changes in flow rate and annual average concentration of Table 8 or Table 9 compounds as determined in § 63.144 of subpart G of this part. Such changes include losses by air emissions; reduction of annual average concentration or changes in flow rate by mixing with other water or wastewater streams; and reduction in flow rate or annual average concentration by treating or otherwise handling the wastewater stream to remove or destroy HAP.

Process means a logical grouping of processing equipment which collectively function to produce a PAI. For the purpose of this subpart, process includes all or a combination of reaction, recovery, separation, purification, or other activity, operation, or manufacture which are used to produce a PAI, including each integral intermediate. The physical boundaries of a process are flexible, providing a process ends with an active ingredient. Solvent recovery operations are considered part of a process; formulation of pesticide products is not considered part of the process.

Process condenser means a condenser whose primary purpose is to recover material as an integral part of a unit operation. The condenser must support a vapor-to-liquid phase change for periods of source equipment operation that are above the boiling or bubble point of substance(s). Examples of process condensers include distillation condensers, reflux condensers, process condensers in line prior to the vacuum source, and process condensers used in stripping or flashing operations.

Process tank means a tank that is physically located within the bounds of a process that is used to collect material discharged from a feedstock storage tank or unit operation within the process and transfer this material to another unit operation within the process or a product storage tank. Surge control vessels and bottoms receivers that fit these conditions are considered process tanks.

Process vent means a vent from a unit operation through which a HAP-containing gas stream is, or has the potential to be, released to the atmosphere. Examples of process vents include, but are not limited to, vents on condensers used for product recovery, bottom receivers, surge control vessels, reactors, filters, centrifuges, process tanks, and product dryers. Process vents do not include vents on storage tanks regulated under § 63.1362(c), vents on wastewater emission sources regulated under § 63.1362(d), pieces of equipment regulated under § 63.1362(e), or bag dumps.

Product dryer vent means a vent from an atmospheric dryer through which a gas stream containing gaseous organic HAP, particulate matter HAP, or both is, or has the potential to be, released to the atmosphere. Gaseous organic HAP emissions are considered to be process vent emissions.

Production-indexed HAP consumption factor (HAP factor) is the result of dividing the annual consumption of total HAP by the annual production rate, per process.

Production-indexed VOC consumption factor (VOC factor) is the result of dividing the annual consumption of total VOC by the annual production rate, per process.

Publicly owned treatment works (POTW) means any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature as defined in section 212(2)(A) of the Clean Water Act, as amended (33 U.S.C. 1292(2)(A)). A POTW includes the treatment works, intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment. The POTW is defined at 40 CFR 403.3(0).

Reactor means a device or vessel in which one or more chemicals or reactants, other than air, are combined or decomposed in such a way that their molecular structures are altered and one or more new organic compounds are formed.

Recapture device means an individual unit of equipment capable of and used for the purpose of recovering chemicals, but not normally for use, reuse, or sale. For example, a recapture device may recover chemicals primarily for disposal. Recapture devices include, but are not limited to, absorbers, carbon adsorbers, and condensers.

Recovery device means an individual unit of equipment capable of and normally used for the purpose of recovering chemicals for fuel value (i.e., the recovered stream must have a net positive heating value), use, reuse, or for sale for fuel value, use, or reuse. Examples of equipment that may be recovery devices include absorbers, carbon adsorbers, condensers, oil-water separators, or organic-water separators or organic removal devices such as decanters, strippers, or thin-film evaporation units. For purposes of the monitoring, recordkeeping, and reporting requirements of this subpart, recapture devices are considered recovery devices.

Research and development facility means research or laboratory operations whose primary purpose is to conduct research and development, where the operations are under the close supervision of technically trained personnel, and is not engaged in the manufacture of products for commercial sale, except in a de minimis manner.

Residual means any liquid or solid material containing Table 9 compounds (as defined in § 63.111 of subpart G of this part) that is removed from a wastewater stream by a waste management unit or treatment process that does not destroy organics (nondestructive unit). Examples of residuals from nondestructive wastewater management units are: the organic layer and bottom residue removed by a decanter or organic-water separator and the overheads from a steam stripper or air stripper. Examples of materials which are not residuals are: Silt; mud; leaves; bottoms from a steam stripper or air stripper; and sludges, ash, or other materials removed from wastewater being treated by destructive devices such as biological treatment units and incinerators.

Sewer line means a lateral, trunk line, branch line, or other conduit including, but not limited to, grates, trenches, etc., used to convey wastewater streams or residuals to a downstream waste management unit.

Single-seal system means a floating roof having one continuous seal that completely covers the space between the wall of the storage tank and the edge of the floating roof. This seal may be a vapor-mounted, liquid-mounted, or metallic shoe seal.

Storage tank means a tank or other vessel that is used to store organic liquids that contain one or more HAP. The following are not considered storage tanks for the purposes of this subpart:

(1) Vessels permanently attached to motor vehicles such as trucks, railcars, barges, or ships;

(2) Pressure vessels designed to operate in excess of 204.9 kilopascals and without emissions to the atmosphere;

(3) Vessels storing and/or handling material that contains no organic HAP and/or organic HAP only as impurities;

(4) Wastewater storage tanks; and

(5) Process tanks.

Surface impoundment means a waste management unit which is a natural topographic depression, manmade excavation, or diked area formed primarily of earthen materials (although it may be lined with manmade materials), which is designed to hold an accumulation of liquid wastes or waste containing free liquids. A surface impoundment is used for the purpose of treating, storing, or disposing of wastewater or residuals, and is not an injection well. Examples of surface impoundments are equalization, settling, and aeration pits, ponds, and lagoons.

Treatment process means a specific technique that removes or destroys the organics in a wastewater or residual stream such as a steam stripping unit, thin-film evaporation unit, waste incinerator, biological treatment unit, or any other process applied to wastewater streams or residuals to comply with § 63.138 of this subpart. Most treatment processes are conducted in tanks. Treatment processes are a subset of waste management units.

Uncontrolled HAP emissions means a gas stream containing HAP which has exited the last recovery device, but which has not yet been introduced into an air pollution control device to reduce the mass of HAP in the stream. If the process vent is not routed to an air pollution control device, uncontrolled emissions are those HAP emissions released to the atmosphere.

Unit operation means those processing steps that occur within distinct equipment that are used, among other things, to prepare reactants, facilitate reactions, separate and purify products, and recycle materials. Equipment used for these purposes includes but is not limited to reactors, distillation columns, extraction columns, absorbers, decanters, dryers, condensers, and filtration equipment.

Vapor-mounted seal means a continuous seal that completely covers the annular space between the wall, the storage tank or waste management unit and the edge of the floating roof and is mounted such that there is a vapor space between the stored liquid and the bottom of the seal.

Volatile organic compounds are defined in 40 CFR 51.100.

Wastewater means water that:

(1) Contains either:

(i) An annual average concentration of compounds in Table 9 of subpart G of this part (as defined in § 63.111 of subpart G of this part) of at least 5 ppmw and has an average flow rate of 0.02 L/min or greater; or

(ii) An annual average concentration of Table 9 compounds (as defined in § 63.111 of subpart G of this part) of at least 10,000 ppmw at any flow rate; and

(2) Is discarded from PAI manufacturing operations at a major source.

(3) Wastewater is process wastewater or maintenance wastewater.

Waste management unit means the equipment, structures, and/or devices used to convey, store, treat, or dispose of wastewater streams or residuals. Examples of waste management units include wastewater tanks, surface impoundments, individual drain systems, and biological treatment units. Examples of equipment that may be waste management units include containers, air flotation units, oil-water separators or organic-water separators, or organic removal devices such as decanters, strippers, or thin-film evaporation units. If such equipment is used for recovery then it is part of a PAI process and is not a waste management unit.

Wastewater tank means a stationary waste management unit that is designed to contain an accumulation of wastewater or residuals and is constructed primarily of nonearthen materials (e.g., wood, concrete, steel, plastic) which provide structural support. Wastewater tanks used for flow equalization are included in this definition.

Water seal controls means a seal pot, p-leg trap, or other type of trap filled with water (e.g., flooded sewers that maintain water levels adequate to prevent air flow through the system) that creates a water barrier between the sewer line and the atmosphere. The water level of the seal must be maintained in the vertical leg of a drain in order to be considered a water seal.

§ 63.1362 Standards.

(a) On and after the compliance dates specified in § 63.1363 of this subpart, each owner or operator of an affected source subject to the provisions of this subpart shall control HAP emissions to the levels specified in Table 2 of this subpart and paragraphs (b) through (g) of this section.

(b) *Process vents.* (1) The owner or operator of an existing source shall comply with the requirements of paragraphs (b)(2) and (3) of this section. The owner or operator of a new source shall comply with the requirements of paragraphs (b)(4) and (5) of this section. Compliance with this section shall be demonstrated through the applicable test methods and procedures in § 63.1364(c).

(2) For each process, the owner or operator of an existing source shall comply with the requirements of either paragraph (b)(2)(i) of this section or both paragraphs (b)(2)(ii) and (iii) of this section.

(i) The uncontrolled organic HAP emission rate shall not exceed 0.15 Mg/yr (330 lb/yr) from the sum of all process vents within a process.

(ii) The owner or operator shall comply with the requirements specified in either paragraph (b)(2)(ii)(A) or (B) of this section.

(A) The uncontrolled organic HAP emissions from the sum of all process vents within a process, excluding process vents that meet the criteria for 98 percent control in paragraph (b)(2)(iii)(A) of this section, shall be reduced by 90 weight percent or greater, or

(B) The uncontrolled organic HAP emissions from one or more process vents within a process shall be controlled by combustion, recovery, or recapture devices meeting an outlet TOC concentration of 20 ppmv or less. Uncontrolled organic HAP emissions from the sum of all other process vents within the process shall be reduced by 90 weight percent or greater.

(iii) Uncontrolled organic HAP emissions from each process vent meeting the requirements of paragraph (b)(2)(iii)(A) of this section shall be reduced by 98 weight percent or greater, or the emissions shall be controlled by combustion, recovery, or recapture devices meeting an outlet TOC concentration of 20 ppmv or less.

(A) Process vents having a flowrate equal to or less than the flowrate calculated when multiplying the uncontrolled yearly HAP emissions, in lb/yr, by 0.02 and subtracting 1,000 according to the following equation:

$FR = 0.02*(HL) - 1,000$

where:

FR = flowrate, scfm.

HL = yearly uncontrolled HAP emissions, lb/yr.

(B) If the owner or operator can demonstrate that a control device installed on a process vent subject to the requirements of paragraph (b)(2)(iii)(A) of this section on or before November 10, 1997 was designed to reduce inlet emissions of total organic HAP by greater than or equal to 90 percent but less than 98 percent, then the control device is required to be operated to

reduce inlet emissions of total organic HAP by 90 percent or greater.

(3) For each process, the owner or operator of an existing source shall comply with the requirements of either paragraph (b)(3) (i) or (ii) of this section.

(i) The uncontrolled HCl and Cl_2 emissions, including HCl generated from the combustion of halogenated process vent emissions, from the sum of all process vents within a process shall not exceed 6.8 Mg/yr (7.5 tons/yr).

(ii) HCl and Cl_2 emissions, including HCl generated from combustion of halogenated process vent emissions, from the sum of all process vents within a process shall be reduced by 94 percent or greater.

(4) For each process, the owner or operator of a new source shall comply with the requirements of either paragraph (b)(4)(i), (ii), or (iii) of this section.

(i) The uncontrolled organic HAP emissions shall not exceed 0.15 Mg/yr (330 lb/yr) from the sum of all process vents within a process.

(ii) The uncontrolled organic HAP emissions from the sum of all process vents within a process shall be reduced by 98 weight percent or greater; or

(iii) The uncontrolled organic HAP emissions from one or more process vents within a process shall be controlled by combustion, recovery, or recapture devices meeting an outlet TOC concentration of 20 ppmv or less. The uncontrolled emissions from the sum of all other process vents within the process shall be reduced by 98 weight percent or greater.

(5) For each process, the owner or operator of a new source shall comply with the requirements of either paragraph (b)(5)(i), (ii), or (iii) of this section.

(i) The uncontrolled HCl and Cl_2 emissions, including HCl generated from combustion of halogenated process vent emissions, from the sum of all process vents within a process shall not exceed 6.8 Mg/yr (7.5 tons/yr).

(ii) If HCl and Cl_2 emissions, including HCl generated from combustion of halogenated process vent emissions, from the sum of all process vents within a process are greater than or equal to 6.8 Mg/yr (7.5 tons/yr) and less than 191 Mg/yr (211 tons/yr), these HCl and Cl_2 emissions shall be reduced by 94 percent.

(iii) If HCl and Cl_2 emissions, including HCl generated from combustion of halogenated process vent emissions, from the sum of all process vents within a process are greater than 191 Mg/yr (211 tons/yr), these HCl and Cl_2 emissions shall be reduced by 99.9 percent or greater.

(c) *Storage tanks.* (1) The owner or operator of a Group 1 storage tank with a design capacity greater than or equal to 75 m^3 (20,000 gal) at an existing affected source shall equip the affected storage tank with a fixed roof and internal floating roof, an external floating roof, an external floating roof converted to an internal floating roof, or a closed vent system and control device that meets the requirements of paragraphs (c)(1)(i) and (ii) of this section.

(i) Except as provided in paragraph (c)(1)(ii) of this section, the control device shall be designed and operated to reduce inlet emissions of organic HAP by 95 percent or greater, as demonstrated through the test methods and procedures in § 63.1364(d).

(ii) If the owner or operator can demonstrate that a control device installed on a storage tank on or before November 10, 1997 is designed to reduce inlet emissions of organic HAP by greater than 41 percent but less than 95 percent, then the control device is required to be operated to reduce inlet emissions of organic HAP by 41 percent or greater, as demonstrated through the test methods and procedures in § 63.1364(d).

(2) The owner or operator of a Group 1 storage tank with a design capacity less than 75 m^3 (20,000 gal) at an existing affected source shall equip the affected storage tank with a fixed roof and internal floating roof, an external floating roof, an external floating roof converted to an internal floating roof, or a closed vent system and control device that is designed and operated to reduce emissions of total organic HAP by 41 percent or greater, as demonstrated through the test methods and procedures in § 63.1364(d).

(3) The owner or operator of a Group 1 storage tank at a new affected source shall equip the affected storage tank with a closed vent system and control device that is designed and operated to reduce emissions by 98 weight percent or to an outlet TOC concentration of 20 ppmv or less, and compliance shall be demonstrated through the test methods in § 63.1364(b) and the procedures in § 63.1364(d).

(d) *Wastewater.* The owner or operator of each affected source shall comply with the requirements of §§ 63.131 through 63.149 of subpart G of this part, with the differences noted in paragraphs (d)(1) through (10) of this section for the purposes of this subpart.

(1) When the determination of equivalence criteria in § 63.102(b) is referred to in §§ 63.132, 63.133, and 63.137, the provisions in § 63.6(g) shall apply.

(2) When the storage tank requirements contained in §§ 63.119 through 63.123 are referred to in §§ 63.132 through 63.148, §§ 63.119 through 63.123 are applicable, with the exception of the differences noted in paragraphs (d)(2) (i) through (iv) of this section.

(i) When the term "storage vessel" is used in §§ 63.119 through 63.123, the definition of the term "storage tank" in § 63.1361 shall apply for the purposes of this subpart.

(ii) When December 31, 1992, is referred to in § 63.119, November 10, 1997, shall apply for the purposes of this subpart.

(iii) When April 22, 1994 is referred to in § 63.119, [date of publication of the final rule] shall apply for the purposes of this subpart.

(iv) The compliance date for storage tanks at affected sources subject to the provisions of this section is specified in § 63.1363.

(3) To request approval to monitor alternative parameters, as referred to in § 63.146(a), the owner or operator shall comply with the procedures in § 63.8(h), as referred to in § 63.1367(a)(2)(i), instead of the procedures in § 63.151 (f) or (g).

(4) When the Notification of Compliance Status requirements contained in § 63.152(b) are referred to in §§ 63.146, the Notification of Compliance Status requirements in § 63.1367(a)(1)(d) shall apply for the purposes of this subpart.

(5) When the recordkeeping requirements contained in § 63.152(f) are referred to in § 63.147(d), the recordkeeping requirements in § 63.1366(a) shall apply for the purposes of this subpart.

(6) When the Periodic Report requirements contained in § 63.152(c) are referred to in §§ 63.146 and 63.147, the Periodic Report requirements contained in § 63.1367(b) shall apply for the purposes of this subpart.

(7) The term "process wastewater" in §§ 63.132 through 63.149 shall mean "wastewater" as defined in § 63.1361 for the purposes of this subpart.

(8) The term "Group 1" in §§ 63.132 through 63.149 shall have the meaning as defined in § 63.1361 for both new sources and existing sources for the purposes of this subpart.

(9) When the total load of Table 9 compounds in the sum of all process wastewater from PAI manufacturing operations at a new affected source is 2,100 Mg/yr (2,300 tons/yr) or more, the owner or operator shall reduce, by removal or destruction, the mass flow rate of all compounds in Table 9 of subpart G of this part in all wastewater (process and maintenance wastewater) by 99 percent or more. Alternatively, the owner or operator may treat the wastewater in a unit identified in and complying with § 63.138(h) of subpart G of this part. The removal/destruction efficiency shall be determined by the procedures specified in § 63.145(c) of subpart G of this part, for noncombustion processes, or § 63.145(d) of subpart G of this part, for combustion processes.

(10) The compliance date for the affected source subject to the provisions of this section is specified in § 63.1363.

(e) *Equipment leaks.* (1) Except as provided in paragraph (e)(2) of this section, the owner or operator of an affected source shall comply with the requirements of subpart H of this part to control emissions from equipment leaks. Compliance shall be demonstrated through the test methods and procedures in § 63.180 of subpart H of this part.

(2) Standards for surge control vessels and bottom receivers as described in § 63.170 of this part do not apply. Surge control vessels and bottoms receivers shall be considered to be process equipment with process vents. Emissions from these process vents shall be controlled according to the provisions of paragraph (c) of this section.

(f) *Bag dumps and product dryers.* The owner or operator shall reduce particulate HAP emissions from bag dumps and product dryers to a concentration not to exceed 0.01 gr/dscf. Gaseous organic HAP emissions from product dryers shall be controlled in accordance with the provisions for process vent emissions in paragraph (b) of this section.

(g) *Heat exchange system requirements.* (1) Unless one or more of the conditions specified in § 63.104(a) (1) through (6) of subpart F of this part are met, an owner or operator of an affected source subject to this subpart shall monitor each heat exchange system that is used to cool process equipment in PAI manufacturing operations meeting the conditions of § 63.1360(a) according to the provisions in either paragraph (g) (2) or (3) of this section. Whenever a leak is detected, the owner or operator shall comply with the requirements in paragraph (g)(4) of this section.

(2) An owner or operator who elects to comply with the requirements of paragraph (g)(1) of this section by monitoring the cooling water for the presence of one or more organic HAP or other representative substances whose presence in cooling water indicates a leak shall comply with the requirements specified in § 63.104(b) (1) through (6) of subpart F of this part. The cooling water shall be monitored for total HAP, total VOC, total organic carbon, one or more speciated HAP compounds, or other representative substances that would indicate the presence of a leak in the heat exchange system.

(3) An owner or operator who elects to comply with the requirement of paragraph (g)(1) of this section by monitoring using a surrogate indicator of heat exchange system leaks shall comply with the requirements specified in paragraphs (g)(3) (i) through (iii) of this section. Surrogate indicators that could be used to develop an acceptable monitoring program are ion specific electrode monitoring, pH, and conductivity or other representative indicators.

(i) The owner or operator shall prepare and implement a monitoring plan that documents the procedures that will be used to detect leaks of process fluids into cooling water. The plan shall include the information specified in § 63.1365(f)(2).

(ii) If a substantial leak is identified by methods other than those described in the monitoring plan and the method(s) specified in the plan could not detect the leak, the owner or operator shall revise the plan and document the basis for the changes. The owner or operator shall complete the revisions to the plan no later than 180 days after discovery of the leak.

(iii) The owner or operator shall maintain, at all times, the monitoring plan that is currently in use. The current plan shall be maintained onsite, or shall be accessible from a central location by computer or other means that provides access within 2 hours after a request. A superseded plan shall be retained onsite (or shall be accessible from a central location by computer or other means that provides access within 2 hours after a request) for at least 6 months after it is superseded.

(4) If a leak is detected according to the criteria of paragraphs (g) (2) or (3) of this section, the owner or operator shall comply with the requirements in paragraphs (g)(4) (i) and (ii) of this section, except as provided in paragraph (g)(5) of this section.

(i) The leak shall be repaired as soon as practical but not later than 45 calendar days after the owner or operator receives results of monitoring tests indicating a leak. The leak shall be repaired unless the owner or operator demonstrates that the results are due to a condition other than a leak.

(ii) Once the leak has been repaired, the owner or operator shall confirm that the heat exchange system has been repaired within 7 calendar days of the repair or startup, whichever is later.

(5) Delay of repair of heat exchange systems for which leaks have been detected is allowed under the conditions specified in § 63.104(e) of subpart F of this part. If an owner or operator elects to delay repair of heat exchange systems, the owner or operator shall also comply with the documentation requirements in § 63.104(e).

(6) The owner or operator shall retain the records specified in § 63.1366(g) and include the information identified in § 63.1367(e) in reports.

(h) *Planned routine maintenance.* The specifications and requirements in paragraphs (b), (c), and (f) of this section for control devices do not apply during periods of planned routine maintenance. Maintenance wastewaters meeting the definition of a Group 1 wastewater stream shall be treated in accordance with the requirements of paragraph (d) of this section.

(i) Periods of planned routine maintenance of the control device, during which the control device does not meet the specifications of paragraphs (b), (c), and (f) of this section, as applicable, shall not exceed 240 hr/yr.

(j) *Pollution prevention.* Except as provided in paragraph (j)(1) of this section, an owner or operator may choose to meet the pollution prevention alternative requirement specified in either paragraph (j) (2) or (3) of this section for any process, in lieu of the requirements specified in paragraphs (b), (c), (d), (e), and (f) of this section. Compliance with the requirements of paragraphs (j) (2) and (3) of this section shall be demonstrated through the procedures in § 63.1364(g).

(1) HAP that are generated in the process shall be controlled according to the requirements of paragraphs (b), (c), (d), (e), and (f) of this section.

(2) The production-indexed HAP consumption factor (HAP factor) shall be reduced by 85 percent from an average baseline established no earlier than the 1987 calendar year, or the first year thereafter in which the process was operational and data are available. No increase in the production-indexed VOC consumption factor (VOC factor) for the applicable period of demonstration shall occur.

(3) Both requirements specified in paragraph (j)(3) (i) and (ii) of this section are met.

(i) The HAP factor shall be reduced by 50 percent from an average baseline established no earlier than the 1987 calendar year, or the first year thereafter in which the process was operational

and data are available. No increase in the VOC factor for the applicable period of demonstration shall occur.

(ii) The total process HAP emissions shall be reduced from an uncontrolled baseline by an amount, in kg/yr, that, when divided by the annual production rate, in kg, will yield a value of at least 35 percent of the average baseline HAP factor established in paragraph (j)(3)(i) of this section. The annual reduction in HAP air emissions must be due to the use of the following control devices:

(A) Combustion control devices such as incinerators, flares, or process heaters.

(B) Recovery control devices such as condensers and carbon adsorbers whose recovered product is destroyed or shipped offsite for destruction.

(C) Any control device that does not ultimately allow for recycling of material back to the process.

(D) Any control device for which the owner or operator can demonstrate that the use of the device in controlling HAP emissions will have no effect on the HAP factor for the process.

(k) *Emissions averaging provisions.* Except as provided in paragraphs (k) (1) through (6) of this section, the owner or operator of an existing affected facility may choose to comply with the emission standards in paragraphs (b), (c), and (d) of this section by using emissions averaging procedures specified in § 63.1364(i) for organic HAP emissions from any storage tank, process, or waste management unit that is part of an affected source subject to this subpart.

(1) A State may restrict the owner or operator of an existing source to use only the procedures in paragraphs (b), (c), and (d) of this section to comply with the emission standards where State Authorities prohibit averaging of HAP emissions.

(2) Group 1 emission points that are controlled as specified in paragraphs (k)(2) (i) through (iii) of this section may not be used to calculate emissions averaging credits, unless the control technology has been approved for use in a different manner, and a higher nominal efficiency has been assigned according to the procedures in § 63.150(i) of subpart G of this part.

(i) Storage tanks with capacity equal to or greater than 76 m^3 (20,000 gal) controlled with an internal floating roof meeting the specifications of § 63.119(b) of subpart G of this part, and external floating roof meeting the specifications of § 63.119(c) of subpart G of this part, an external floating roof converted to an internal floating meeting the specifications of § 63.119(d) of subpart G of this part, or a closed-vent system to a control device achieving 95 percent reduction in organic HAP emissions.

(ii) Process vents controlled with a combustion, recovery, or recapture device used to reduce organic HAP emissions by 98 weight percent or to an outlet TOC concentration of 20 ppmv.

(iii) Wastewater controlled as specified in paragraphs (k)(2)(iii) (A) through (C) of this section.

(A) With controls specified in § 63.133 through § 63.137 of subpart G of this part;

(B) With a steam stripper meeting the specifications of § 63.138(d) of subpart G of this part, or any of the other alternative control measures specified in § 63.138 (b), (c), (e), (f), (g), or (h) of subpart G of this part; and

(C) With a control device to reduce by 95 percent (or to an outlet concentration of 20 ppmv for combustion devices or for noncombustion devices controlling air emissions from waste management units other than surface impoundments or containers) the organic HAP emissions in the vapor streams vented from wastewater tanks, oil-water tanks, oil-water separators, containers, surface impoundments, individual drain systems, and treatment processes (including the steam stripper specified in paragraph (k)(2)(iii)(B) of this section) managing wastewater.

(3) Maintenance wastewater streams and wastewater streams treated in biological treatment units may not be included in any averaging group.

(4) Processes which have been permanently shut down, and storage tanks permanently taken out of HAP service may not be included in any averaging group.

(5) Processes, storage tanks, and wastewater streams already controlled on or before November 15, 1990 may not be used to generate emissions averaging credits, unless the level of control is increased after November 15, 1990. In these cases, credit will be allowed only for the increase in control after November 15, 1990.

(6) Emission points controlled to comply with a State or Federal rule other than this subpart may not be included in an emissions averaging group, unless the level of control has been increased after November 15, 1990, above what is required by the other State or Federal rule. Only the control above what is required by the other State or Federal rule will be credited. However, if an emission point has been used to generate emissions averaging credit in an approved emissions average, and the point is subsequently made subject to a State or Federal rule other than this subpart, the point can continue to generate emissions averaging credit for the purpose of complying with the previously approved average.

§ 63.1363 Compliance dates.

(a) An owner or operator of an existing affected source shall comply with the provisions of this subpart no later than 3 years after the effective date of the standard.

(b) An owner or operator of a new or reconstructed affected source, for which construction or reconstruction commences after November 10, 1997, shall comply with the provisions of this subpart immediately upon startup.

§ 63.1364 Test methods and compliance procedures.

(a) Emissions testing or engineering evaluations, as specified in paragraphs (c), (d), (e), (f) and (g) of this section, are required to demonstrate initial compliance with § 63.1362 (b), (c), (d), (f) and (j), respectively, of this subpart.

(b) When testing is conducted to measure emissions from an affected source, the test methods specified in paragraphs (b)(1) through (b)(10) of this section shall be used. Compliance tests shall be performed under conditions specified in paragraph (b)(11) of this section.

(1) EPA Method 1 or 1A of appendix A of 40 CFR part 60 shall be used for sample and velocity traverses.

(2) EPA Method 2, 2A, 2C, or 2D of appendix A of 40 CFR part 60 shall be used for velocity and volumetric flow rates.

(3) EPA Method 3 of appendix A of 40 CFR part 60 shall be used for gas analysis.

(4) EPA Method 4 of appendix A of 40 CFR part 60 shall be used for stack gas moisture.

(5) EPA Methods 2, 2A, 2C, 2D, 3, and 4 shall be performed, as applicable, at least twice during each test period.

(6) Method 25A and/or Methods 18 and 25A, as appropriate, of appendix A of 40 CFR part 60 shall be used to determine the organic HAP concentration of air exhaust streams.

(7) The methods in either paragraph (b)(7) (i) or (ii) of this section shall be used to determine the concentration, in mg/dscm, of total hydrogen halides and halogens.

(i) EPA Method 26 or 26A of 40 CFR part 60, appendix A.

(ii) Any other method if the method or data has been validated according to the applicable procedures of Method 301 of appendix A of this part.

(8) Method 5 shall be used to determine the concentration of particulate matter HAP in exhaust gas streams from bag dumps and product dryers.

(9) Wastewater analysis shall be conducted in accordance with § 63.144(b)(5)(i) through (iii) of subpart G of this part.

(10) For emission streams controlled using condensers, a direct measurement of condenser outlet gas temperature to be used in predicting upper concentration limits at saturated conditions is allowed in lieu of concentration measurements described in paragraph (b)(6) of this section.

(11) Test conditions and durations shall be as specified in paragraphs (b)(11)(i) through (v) of this section, as appropriate.

(i) Testing of process vents on equipment operating as part of a continuous process shall consist of three 1-hour runs. Gas stream volumetric flow rates shall be measured every 15 minutes during each 1-hour run. Organic HAP concentration shall be determined from samples collected in an integrated sample over the duration of each 1-hour test run, or from grab samples collected simultaneously with the flow rate measurements (every 15 minutes). If an integrated sample is collected for laboratory analysis, the sampling rate shall be adjusted proportionally to reflect variations in flow rate. For continuous gas streams, the emission rate used to determine compliance shall be the average emission rate of the three test runs.

(ii) Testing of process vents on equipment where the flow of gaseous emissions is intermittent (batch operations) shall include testing for the largest (or peak) HAP emission episode or aggregated episodes in the batch cycle or cycles (in the event that equipment may be manifolded and vented through a common stack). Testing shall be conducted at absolute peak-case conditions, representative peak-case conditions, or hypothetical peak-case conditions as required by paragraph (c)(3)(iii) of this section. Gas stream volumetric flow rates shall be measured at 15-minute intervals. Organic HAP or TOC concentration shall be determined from samples collected in an integrated sample over the duration of the peak case episode(s), or from grab samples collected simultaneously with the flow rate measurements (every 15 minutes). If an integrated sample is collected for laboratory analysis, the sampling rate shall be adjusted proportionally to reflect variations in flow rate. The absolute peak-case, representative peak-case, or hypothetical peak-case conditions shall be characterized by the criteria presented in paragraphs (b)(11)(ii)(A), (B), and (C) of this section. In all cases, a site-specific plan shall be submitted to the Administrator for approval prior to testing in accordance with § 63.7(c) of subpart A of this part. The test plan shall include the emissions profile described in paragraph (b)(11)(iii) of this section.

(A) Absolute peak-case conditions are defined by any of the criteria presented in paragraphs (b)(11)(ii)(A)(*1*) through (*3*) of this section.

(*1*) The period in which the inlet to the control device will contain at least 50 percent of the maximum HAP load (in kg) capable of being vented to the control device over any 8 hour period. An emission profile as described in paragraph (b)(11)(iii) of this section shall be used to identify the 8-hour period that includes the maximum projected HAP load.

(*2*) A 1-hour period of time in which the inlet to the control device will contain the highest HAP mass loading rate, in kg/hr, capable of being vented to the control device. An emission profile as described in paragraph (b)(11)(iii) of this section shall be used to identify the 1-hour period of maximum HAP loading.

(*3*) If a condenser is used as a control device, absolute peak-case conditions shall represent a 1-hour period of time in which the gas stream capable of being vented to the condenser will require the maximum heat removal capacity, in kW, to cool the stream to a temperature that, upon calculation of HAP concentration, will yield the required removal efficiency for the process. The calculation of maximum heat load shall be based on the emission profile described in paragraph (b)(11)(iii) of this section and a concentration profile that will allow calculation of sensible and latent heat loads.

(B) Representative peak-case conditions are defined by any of the criteria presented in paragraphs (b)(11)(ii)(B)(*1*) and (*2*) of this section. Representative peak-case conditions shall include the worst-case process as well as any other processes that are emitting to the control device during the test.

(*1*) A 1-hour period of time that contains the highest HAP mass loading rate, in kg/hr, from a single process;

(*2*) If a condenser is used as the control device, the 1-hour period of time in which the vent from a single process will require the maximum heat removal capacity, in kW, to cool the stream to a temperature that, upon calculation of HAP concentration, will yield the required removal efficiency for the process.

(C) Hypothetical peak-case conditions are simulated test conditions that, at a minimum, contain the highest total average hourly HAP load of emissions that would be predicted to be vented to the control device from the emissions profile described in paragraph (b)(11)(iii) of this section.

(iii) For batch operations, the owner or operator may choose to perform tests only during those periods of the peak-case episode(s) that the owner or operator selects to control as part of achieving the required emission reduction. The owner or operator shall develop an emission profile for the vent to the control device, based on either process knowledge, engineering analyses, or test data collected, to identify the appropriate test conditions. The emission profile must include average HAP loading rate (in kg/hr) versus time for all emission episodes contributing to the vent stack for a period of time that is sufficient to include all batch cycles venting to the stack. Examples of information that could constitute process knowledge include calculations based on material balances, and process stoichiometry. Previous test results may be used provided the results are still relevant to the current process vent stream conditions. The average hourly HAP loading rate may be calculated by first dividing the HAP emissions from each episode by the duration of each episode, in hours, and selecting the highest hourly block average.

(iv) For testing of process vents of duration greater than 8 hours, the owner or operator shall perform a maximum of 8 hours of testing. The test period must include the one hour period in which the highest HAP loading rate, in kg/hr, is predicted by the emission profile.

(v) For testing durations of greater than 1 hour, the emission rate from a single test run may be used to determine compliance. For testing durations less than or equal to 1 hour, testing shall include three runs.

(c) *Compliance with process vent provisions.* An owner or operator of an affected source shall demonstrate compliance with the process vent standards in § 63.1362(b) using the procedures described in paragraphs (c)(1) through (5) of this section.

(1) Except as provided in paragraph (c)(4) of this section, compliance with the process vent standards in § 63.1362(b) shall be demonstrated in accordance with the provisions specified in paragraphs (c)(1)(i) through (viii) of this section.

(i) Compliance with the emission limit cutoffs in § 63.1362(b)(2)(i) and (4)(i) is demonstrated when the uncontrolled organic HAP emissions from the sum of all process vents within a process are less than or equal to 330

lb/yr. Uncontrolled HAP emissions shall be determined using the procedures described in paragraph (c)(2) of this section.

(ii) Compliance with the emission limit cutoffs in § 63.1362(b)(3)(i) and (5)(i) is demonstrated when the uncontrolled HCl and Cl_2 emissions from the sum of all process vents within a process are less than or equal to 6.8 Mg/yr (7.5 tons/yr). Compliance with the emission limit cutoffs in § 63.1362(b)(5)(ii) and (iii) is demonstrated when the uncontrolled HCl and Cl_2 emissions are greater than or equal to 6.8 Mg/yr (7.5 tons/yr) or greater than or equal to 191 Mg/yr (211 tons/yr), respectively. Uncontrolled emissions shall be determined using the procedures described in paragraph (c)(2) of this section.

(iii) Compliance with the organic HAP percent removal efficiency specified in § 63.1362(b)(2)(ii) is demonstrated when the annual uncontrolled organic HAP emissions from the sum of all process vents within a process are reduced by 90 percent. This demonstration shall be based on controlled HAP emissions determined using the procedures described in paragraph (c)(3) of this section and uncontrolled HAP emissions determined using the procedures described in paragraph (c)(2) of this section or by controlling the process vents using a device meeting the criteria specified in paragraph (c)(4) of this section.

(iv) Compliance with the HCl and Cl_2 percent removal efficiency specified in § 63.1362(b)(3)(ii) and (5)(ii) is demonstrated when the annual uncontrolled HCl and Cl_2 emissions from the sum of all process vents within a process are reduced by 94 percent. Compliance with the HCl and Cl_2 percent removal efficiency specified in § 63.1362(b)(5)(iii) is demonstrated when the annual HCl and Cl_2 emissions from the sum of all process vents within a process are reduced by 99.9 percent. This demonstration shall be based on controlled emissions of HCl and Cl_2 determined using the procedures described in paragraph (c)(3) of this section and uncontrolled emissions of HCl and Cl_2 determined using the procedures described in paragraph (c)(2) of this section.

(v) Compliance with the organic HAP percent removal efficiency specified in § 63.1362(b)(4)(ii) is demonstrated when the annual uncontrolled organic HAP emissions from the use of all process vents within a process are reduced by 98 percent. This demonstration shall be based on controlled HAP emissions determined using the procedures described in paragraph (c)(3) of this section and uncontrolled HAP emissions determined using the procedures described in paragraph (c)(2) of this section or by controlling the process vents using a device meeting the criteria specified in paragraph (c)(4) of this section.

(vi) Compliance with the emission reduction requirement in § 63.1362(b)(2)(iii) is demonstrated when the annual uncontrolled HAP emissions from each process vent meeting the flowrate cutoff specified in § 63.1362(b)(2)(iii)(A) are reduced by 98 percent or greater. This demonstration shall be based on controlled HAP emissions determined using the procedures described in paragraph (c)(3) of this section and uncontrolled HAP emissions determined using the procedures described in paragraph (c)(2) of this section or by controlling the process vents using a device meeting the criteria specified in paragraph (c)(4) of this section.

(vii) Compliance with the emission reduction requirement in § 63.1362(b)(2)(iii)(B) is demonstrated when the annual uncontrolled HAP emissions from each process vent meeting the flow rate cutoff of § 63.1362(b)(2)(iii)(A) are reduced by 90 percent. This demonstration shall be based on controlled HAP emissions determined using the procedures described in paragraph (c)(3) of this section and uncontrolled HAP emissions determined using the procedures described in paragraph (c)(2) of this section or by controlling the process vents using a device meeting the criteria specified in paragraph (c)(4) of this section.

(viii) Compliance with the outlet TOC concentration limit in § 63.1362(b)(2)(ii)(B), (2)(iii), and (4)(iii) is demonstrated by the method specified in paragraph (c)(1)(viii)(A) of this section for combustion devices or by the method specified in either paragraph (c)(1)(viii)(B) or (C) of this section for recovery or recapture devices.

(A) An initial Method 18 performance test shall be conducted. An operating parameter, as specified by the owner or operator in the Notification of Compliance Status report, shall be monitored continuously. The level of the parameter shall be established during the performance test.

(B) The TOC concentration shall be monitored continuously using an FID. The organic HAP used as the calibration gas shall be the predominant HAP in the vent stream.

(C) An initial performance test shall be conducted at absolute peak-case conditions using Method 25A. An operating parameter shall be monitored continuously. The value of the parameter shall be established during the performance test.

(2) An owner or operator of an affected source complying with the emission limitation required by § 63.1362(b)(2)(i), (3)(i), (4)(i) or (5)(i), or the emission reductions specified in § 63.1362(b)(2)(ii)(A), (2)(iii), (3)(ii), (4)(ii), (4)(iii), (5)(ii), or (5)(iii) for each process vent within a process, shall calculate uncontrolled emissions according to the procedures described in paragraph (c)(2)(i) or (ii) of this section, as appropriate.

(i) An owner or operator shall determine uncontrolled emissions of HAP using emission measurements and/or calculations for each batch emission episode within each unit operation according to the engineering evaluation methodology in paragraphs (c)(2)(i)(A) through (F) of this section.

(A) Individual HAP partial pressures in multicomponent systems shall be determined in accordance with the methods specified in paragraphs (c)(2)(i)(A)(*1*) through (*6*) of this section.

(*1*) If the components are miscible in one another, use Raoult's law to calculate the partial pressures;

(*2*) If the solution is a dilute aqueous mixture, use Henry's law constants to calculate partial pressures;

(*3*) If Raoult's law or Henry's law are not appropriate or available, use experimentally obtained activity coefficients, Henry's law constants, or solubility data;

(*4*) If Raoult's law or Henry's law are not appropriate or available, use experimentally obtained activity coefficients or models such as the group-contribution models, to predict activity coefficients;

(*5*) If Raoult's law or Henry's law are not appropriate or available, assume the components of the system behave independently and use the summation of all vapor pressures from the HAP as the total HAP partial pressure;

(*6*) Chemical property data can be obtained from standard reference texts.

(B) Emissions from vapor displacement due to transfer of material shall be calculated according to equation (1):

$$E = \frac{(y_i)(V)(P_T)(MW)}{(R)(T)} \qquad (1)$$

Where:

E = mass emission rate.

y_i = saturated mole fraction of HAP in the vapor phase.

V = volume of gas displaced from the vessel.

R = ideal gas law constant.

T = temperature of the vessel vapor space; absolute.

P_T = pressure of the vessel vapor space.

MW = molecular weight of the HAP.

(C) Emissions from purging shall be calculated using Equation 1, except that for purge flow rates greater than 100 scfm, the mole fraction of HAP will be assumed to be 25 percent of the saturated value.

(D) Emissions caused by the heating of a vessel shall be calculated using the procedures in either paragraph (c)(2)(i)(D)(*1*), (*2*), or (*3*) of this section, as appropriate.

(*1*) If the final temperature to which the vessel contents are heated is lower than 50K below the boiling point of the HAP in the vessel, then emissions shall be calculated using equations (2) through (5) in paragraphs (c)(2)(i)(D)(*1*)(*i*), (*ii*), (*iii*), and (*iv*) of this section.

(*i*) The mass of HAP emitted per episode shall be calculated using equation 2:

$$E = \frac{\frac{\sum (P_i)_{T1}}{Pa_1} + \frac{\sum (P_i)_{T2}}{Pa_2}}{2} \times \Delta\eta \times MW_{HAP} \qquad (2)$$

Where:

E = mass of HAP vapor displaced from the vessel being heated.

$(P_i)T_n$ = partial pressure of each HAP in the vessel headspace at initial (n = 1) and final (n = 2) temperatures.

Pa_1 = initial noncondensable gas pressure in the vessel.

Pa_2 = final noncondensable gas pressure.

MW_{HAP} = The average molecular weight of HAP present in the vessel.

(*ii*) The moles of noncondensable gas displaced is calculated using equation 3:

$$\Delta\eta = \frac{V}{R}\left[\left(\frac{Pa_1}{T_1}\right) - \left(\frac{Pa_2}{T_2}\right)\right] \qquad (3)$$

Where:

$\Delta\eta$ = number of lb-moles of noncondensable gas displaced.

V = volume of free space in the vessel.

R = ideal gas law constant.

Pa_1 = initial noncondensable gas pressure in the vessel.

Pa_2 = final noncondensable gas pressure.

T_1 = initial temperature of vessel.

T_2 = final temperature of vessel.

(*iii*) The initial and final pressure of the noncondensable gas in the vessel shall be calculated according to the equation 4:

$$Pa_n = P_{atm} - \Sigma(P_i)T_n \qquad (4)$$

Where:

Pa_n = partial pressure of noncondensable gas in the vessel headspace at initial (n = 1) and final (n = 2) temperatures.

P_{atm} = atmospheric pressure.

$(P_i)T_n$ = partial pressure of each condensable volatile organic compound (including HAP) in the vessel headspace at the initial temperature (n = 1) and final (n = 2) temperature.

(*iv*) The average molecular weight of HAP in the displaced gas shall be calculated using equation 5:

$$MW_{HAP} = \frac{\sum_{i=1}^{n} (\text{mass of HAP})_i}{\sum_{i=1}^{n} \frac{(\text{mass of HAP})_i}{(\text{HAP molecular weight})_i}} \qquad (5)$$

where n is the number of different HAP compounds in the emission stream.

(*2*) If the vessel contents are heated to a temperature greater than 50K below the boiling point, then emissions from the heating of a vessel shall be calculated as the sum of the emissions calculated in accordance with paragraphs (c)(2)(i)(D)(*2*)(*i*) and (*ii*) of this section.

(*i*) For the interval from the initial temperature to the temperature 50K below the boiling point, emissions shall be calculated using Equation 2, where T_2 is the temperature 50K below the boiling point.

(*ii*) For the interval from the temperature 50K below the boiling point to the final temperature, emissions shall be calculated as the summation of emissions for each 5K increment, where the emission for each increment shall be calculated using Equation 2.

(*A*) If the final temperature of the heatup is lower than 5K below the boiling point, the final temperature for the last increment shall be the final temperature of the heatup, even if the last increment is less than 5K.

(*B*) If the final temperature of the heatup is higher than 5K below the boiling point, the final temperature for the last increment shall be the temperature 5K below the boiling point, even if the last increment is less than 5K.

(*C*) If the vessel contents are heated to the boiling point and the vessel is not operating with a process condenser, the final temperature for the final increment shall be the temperature 5K below the boiling point, even if the last increment is less than 5K.

(*3*) If the vessel is operating with a process condenser, and the vessel contents are heated to the boiling point, the primary condenser is considered part of the process. Emissions shall be calculated as the sum of Equation 2, which calculates emissions due to heating the vessel contents to the temperature of the gas exiting the condenser, and Equation 1, which calculates emissions due to the displacement of the remaining saturated noncondensable gas in the vessel. The final temperature in Equation 2 shall be set equal to the exit gas temperature of the process condenser. In Equation 1, V shall be set equal to the free space volume, and T_2 shall be set equal to the condenser exit gas temperature.

(E) Emissions from depressurization shall be calculated using the procedures in paragraphs (c)(2)(i)(E)(*1*) through (*5*) of this section.

(*1*) The moles of HAP vapor initially in the vessel are calculated using the ideal gas law in equation 6:

$$N_{HAP} = \frac{(Y_{HAP})(V)(P_1)}{R \quad T} \qquad (6)$$

Where:

Y_{HAP} = mole fraction of HAP (the sum of the individual HAP fractions, ΣYi).
V = free volume in the vessel being depressurized.
P_1 = initial vessel pressure.
R = gas constant.
T = vessel temperature, absolute units.

(2) The moles of noncondensable gas present initially in the vessel are calculated using equation 7:

$$n_1 = \frac{VP_{nc_1}}{RT} \qquad (7)$$

Where:

V = free volume in the vessel being depressurized.
P_{nc1} = initial partial pressure of the noncondensable gas, $P_1 - \Sigma P_i$.
R = gas law constant, K.
T = temperature, absolute units.

(3) The moles of noncondensable gas present at the end of depressurization are calculated using Equation 8:

$$n_2 = \frac{VP_{NC_2}}{RT} \qquad (8)$$

Where:

V = free volume in the vessel being depressurized.
P_{nc2} = final partial pressure of the noncondensable gas, $P_2 - \Sigma X_i P_i$.
R = gas law constant.
T = temperature, absolute.

(4) The moles of HAP emitted during the depressurization are calculated by taking an approximation of the average ratio of moles of HAP to moles of noncondensable and multiplying by the total moles of noncondensables released during the depressurization using Equation 9:

$$\frac{\left(\frac{n_{HAP}}{n_1} + \frac{n_{HAP}}{n_2}\right)}{2}[n_1 - n_2] = N_{HAP} \qquad (9)$$

Where:

N_{HAP} = moles of HAP emitted.

(5) The moles of HAP emitted can be converted to a mass rate using Equation 10:

$$\frac{N_{HAP} * MW_{HAP}}{t} = Er_{HAP} \qquad (10)$$

Where:

Er_{HAP} = emission rate of the HAP.
MW_{HAP} = molecular weight of the HAP.
t = time of the depressurization.

(F) Emissions from vacuum systems may be calculated if the air leakage rate is known or can be approximated, using Equation 11:

$$E_r = MWs\frac{La}{29}\left(\frac{P_{system}}{P_{system} - P_i} - 1\right) \qquad (11)$$

Where:

E_r = rate of HAP emission, in lb/hr.
P_{system} = absolute pressure of receiving vessel or ejector outlet conditions, if there is no receiver.
P_i = vapor pressure of the HAP at the receiver temperature, in mmHg.
La = total air leak rate in the system, lb/hr.
29 = molecular weight of air, lb/lbmole.

(ii) For emission episodes in which an owner or operator can demonstrate that the methods in paragraph (c)(2)(i) of this section are not appropriate according to the criteria specified in paragraph (c)(2)(iii) of this section, an owner or operator shall calculate uncontrolled emissions by conducting an engineering assessment which includes, but is not limited to, the information and procedures described in paragraphs (c)(2)(ii)(A) through (E) of this section:

(A) Previous test results provided the tests are representative of current operating practices at the process unit.

(B) Bench-scale or pilot-scale test data representative of the process under representative operating conditions.

(C) Maximum flow rate, HAP emission rate, concentration, or other relevant parameter specified or implied within a permit limit applicable to the process vent.

(D) Design analysis based on accepted chemical engineering principles, measurable process parameters, or physical or chemical laws or properties. Examples of analytical methods include, but are not limited to:

(1) Use of material balances based on process stoichiometry to estimate maximum organic HAP concentrations;

(2) Estimation of maximum flow rate based on physical equipment design such as pump or blower capacities; and

(3) Estimation of HAP concentrations based on saturation conditions.

(E) All data, assumptions, and procedures used in the engineering assessment shall be documented in accordance with § 63.1366(b). Data or other information supporting a finding that the emissions estimation equations are inappropriate shall be reported in the Notification of Compliance Status.

(iii) The emissions estimation equations in paragraph (c)(2)(i) of this section shall be considered inappropriate for estimating emissions for a given batch emissions episode if one or more of the criteria in paragraphs (c)(2)(iii)(A) and (B) of this section are met.

(A) Previous test data are available that show a greater than 20 percent discrepancy between the test value and the estimated value.

(B) The owner or operator can demonstrate to the Administrator through any other means that the emissions estimation equations are not appropriate for a given batch emissions episode.

(3) An owner or operator shall determine controlled emissions using emission measurements and/or calculations for each process vent using the control efficiency calculated for each device that controls process vents with total HAP emissions of less than 9.1 Mg/yr (10 tons/yr), before control, according to the design evaluation described in paragraph (c)(3)(i) of this section, or using the emission estimation equations described in paragraph (c)(2) of this section, as appropriate. An owner or operator shall determine controlled emissions for each process vent using the control efficiency determined for each device that controls process vents with total HAP emissions of greater than 9.1 Mg/yr (10 tons/yr), before control, by conducting a performance test on the control device as described in paragraphs (c)(3)(ii) through (iv) of this section, or by using the results of a previous performance test as described in paragraph (c)(5) of this section. An owner or operator is not required to conduct performance tests for devices described in paragraphs (c)(4) and (c)(5) of this section that control total emissions of greater than 10 tons/yr, before control.

(i) The design evaluation shall include documentation demonstrating that the control device being used achieves the required control efficiency during the emission episodes in which it is functioning in reducing emissions. This documentation shall include a description of the gas stream which enters the control device, including flow and HAP concentration, and the information specified in paragraphs (c)(3)(i)(A) through (G) of this section, as applicable.

(A) If the control device receives vapors, gases or liquids, other than fuels, from emission points other than storage tanks subject to this subpart, the efficiency demonstration shall include consideration of all vapors, gases, and liquids, other than fuels, received by the control device.

(B) If an enclosed combustion device with a minimum residence time of 0.5 seconds and a minimum temperature of 760 °C is used to meet any of the emission reduction requirements specified in § 63.1362(c), documentation that those conditions exist is sufficient to meet the requirements of paragraph (c)(3)(i) of this section.

(C) Except as provided in paragraph (c)(3)(i)(B) of this section, for thermal incinerators, the design evaluation shall include the autoignition temperature of the organic HAP, the flow rate of the organic HAP emission stream, the combustion temperature, and the residence time at the combustion temperature.

(D) For carbon adsorbers, the design evaluation shall include the affinity of the organic HAP vapors for carbon, the amount of carbon in each bed, the number of beds, the humidity of the feed gases, the temperature of the feed gases, the flow rate of the organic HAP emission stream, the desorption schedule, the regeneration stream pressure or temperature, and the flow rate of the regeneration stream. For vacuum desorption, pressure drop shall be included.

(E) For condensers, the design evaluation shall include the final temperature of the organic HAP vapors, the type of condenser, and the design flow rate of the organic HAP emission stream.

(F) For gas absorbers, the design evaluation shall include the flow rate of the emission stream, the type of solvent, and solvent flow rate, pH of the inlet solvent, and the design of the absorber.

(G) For fabric filters, the design evaluation shall include the pressure drop through the device, and the net gas-to-cloth ratio.

(ii) Except for control devices that meet an outlet TOC concentration of 20 ppmv, the performance test shall be conducted by performing emission testing on the inlet and outlet of the control device following the test methods and procedures of paragraph (b) of this section. For control devices that meet an outlet TOC concentration of 20 ppmv, the performance testing shall be conducted by performing emission testing on the outlet of the control device following the test methods and procedures of paragraph (b) of this section. Each owner or operator seeking to demonstrate that the outlet stream from a combustion, recovery, or recapture device has a TOC concentration below 20 ppmv shall calculate the concentration according to the procedures specified in paragraphs (c)(3)(ii)(A) and (B) of this section.

(A) The TOC concentration (C_{TOC}) is the sum of the concentrations of the individual components and shall be computed for each run using equation 12:

$$C_{TOC} = \sum_{j=1}^{n}\frac{\left(\sum_{j=1}^{n} C_{ji}\right)}{x} \qquad (12)$$

Where:

C_{TOC} = concentration of TOC, dry basis, ppmv.
C_{ji} = concentration of individual component j in sample i, dry basis, ppmv.
n = number of individual components in the sample.
x = number of samples in the sample run.

(B) The concentration of TOC shall be corrected to 3 percent oxygen. The integrated sampling and analysis procedures of Method 3B of 40 CFR part 60, appendix A, shall be used to determine the oxygen concentration (percent $O2_d$) that is used in the TOC concentration correction factor calculation. The samples shall be taken during the same time that the TOC samples are taken. The concentration corrected to 3 percent oxygen (C_c) shall be computed using Equation 13:

$$C_c = C_m\left(\frac{17.9}{20.9 - \%O_{2d}}\right) \qquad (13)$$

Where:

C_c = concentration of TOC corrected to 3 percent oxygen, dry basis, ppmv.
C_m = concentration of TOC, dry basis, ppmv.
$\%O_{2d}$ = concentration of oxygen, dry basis, percent by volume.

(iii) Performance testing shall be conducted under the conditions specified in paragraphs (c)(3)(iii)(A) and (B) of this section.

(A) Except as specified in paragraphs (c)(3)(iii)(B) through (D) of this section, the owner or operator shall test over absolute or hypothetical peak-case conditions for all control devices.

(B) For thermal incinerators, the owner or operator may also choose to test over representative peakcase conditions; however, if the owner or operator chooses to test over representative peak-case conditions, the maximum allowable vent stream flowrate into the thermal incinerator is restricted to the level for which it was designed. The design basis of the incinerator shall be included as part of the Notification of Compliance Status.

(C) For carbon adsorbers, the owner or operator may also choose to test over representative peak-case conditions.

(D) For wet scrubbers, the owner or operator may also choose to test over representative peak-case conditions. The results of the performance test shall be used to calibrate or validate the results of validated models used to establish the operating parameter values.

(iv) The owner or operator may elect to conduct more than one performance test on the control device for the purpose of establishing operating conditions associated with a range of achievable control efficiencies.

(4) An owner or operator is not required to conduct a performance test when a control device specified in paragraphs (c)(4)(i) through (v) of this section is used to comply with the organic HAP emission reductions required by § 63.1362(b)(2)(ii), (2)(iii), or (4)(ii). Emissions from these devices are considered in compliance with the reductions required by § 63.1362(b)(2)(ii), (2)(iii), and (4)(ii).

(i) A boiler or process heater with a design heat input capacity of 44 megawatts or greater.

(ii) A boiler or process heater where the vent stream is introduced with the primary fuel or is used as the primary fuel.

(iii) A boiler or process heater burning hazardous waste for which the owner or operator:

(A) Has been issued a final permit under 40 CFR part 270 and complies with the requirements of 40 CFR part 266, subpart H, or

(B) Has certified compliance with the interim status requirements of 40 CFR part 266, subpart H.

(iv) A hazardous waste incinerator for which the owner or operator has been issued a final permit under 40 CFR part 270 and complies with the requirements of 40 CFR part 264, subpart O, or has certified compliance with the interim status requirements of 40 CFR part 265, subpart O.

(v) A flare that complies with the provisions in § 63.11(b) of subpart A of this part.

(5) An owner or operator is not required to conduct a performance test for any of the control systems described in paragraphs (c)(5)(i) and (ii) of this section.

(i) Any control device for which a previous performance test was conducted, provided the test was conducted using the same procedures specified in § 63.1364(b) of this subpart over conditions typical of the appropriate worst-case, as defined in paragraph (c)(3)(iii)(A) of this section. The results of the previous performance test shall be used to demonstrate compliance.

(ii) A condenser system that is equipped with a temperature sensor and recorder, such that the condenser exit gas temperature can be measured at 15-minute intervals when the condenser is

functioning in cooling a vent stream. The condenser exit gas temperature shall be used to calculate removal efficiency of the condenser in demonstrating compliance.

(d) *Compliance with storage tank provisions.* The owner or operator of an affected storage tank shall demonstrate compliance with § 63.1362(c)(1) and (2), as applicable, by fulfilling the requirements of paragraph (d)(1) and either paragraph (d)(2), (3), or (4) of this section. The owner or operator of an affected storage tank shall demonstrate compliance with § 63.1362(c)(3) by fulfilling the requirements of paragraph (d)(1) and either paragraph (d)(2), (3), or (5) of this section.

(1) To determine the Group 1 status of a tank, the owner or operator shall determine the uncontrolled emissions using the methods described in American Petroleum Institute Publication 2518, Evaporative Loss From Fixed-Roof Tanks (incorporated by reference as specified in § 63.14 of subpart A of this part).

(2) For each Group 1 storage tank, the owner or operator shall compute the mass rate of total organic HAP (E_i, E_o) to demonstrate compliance with the percent reduction requirement of § 63.1362(c)(1), (2) or (3).

(i) Equations 14 and 15 shall be used:

$$E_i = K_2\left(\sum_{j=1}^{n} C_{ij}M_{ij}\right)Q_i \qquad (14)$$

$$E_o = K_2\left(\sum_{j=1}^{n} C_{oj}M_{oj}\right)Q_o \qquad (15)$$

Where:

C_{ij}, C_{oj}=concentration of sample component j of the gas stream at the inlet and outlet of the control device, respectively, dry basis, ppmv.

E_i, E_o=mass rate of total organic HAP at the inlet and outlet of the control device, respectively, dry basis, kg/hr.

M_{ij}, M_{oj}=molecular weight of sample component j of the gas stream at the inlet and outlet of the control device, respectively, g/gmole.

Q_i, Q_o=flow rate of gas stream at the inlet and outlet of the control device, respectively, dscmm.

K_2=constant, 2.494×10^{-6} (parts per million)$^{-1}$ (gram-mole per standard cubic meter) (kilogram/gram) (minute/hour), where standard temperature is 20 °C.

(ii) The percent reduction in total organic HAP shall be calculated using equation 16:

$$R = \frac{E_i - E_o}{E_i}(100) \qquad (16)$$

Where:

R=control efficiency of control device, percent.

E_i=mass rate of total organic HAP at the inlet to the control device as calculated under paragraph (d)(1)(i) of this section, kilograms organic HAP per hour.

E_o=mass rate of total organic HAP at the outlet of the control device, as calculated under paragraph (d)(2)(i) of this section, kilograms organic HAP per hour.

(iii) A performance test is not required to be conducted if the control device used to comply with § 63.1362(c) (storage tank provisions) is also used to comply with § 63.1362(b) (process vent provisions), and compliance with § 63.1362(b) has been demonstrated in accordance with paragraph (c)(2) of this section.

(iv) A performance test is not required if the control device meets any of the conditions specified in paragraphs (c)(4) or (5) of this section.

(3) To demonstrate compliance with the percent reduction requirement of § 63.1362(c)(1), (2) or (3), a design evaluation shall be prepared. The design evaluation shall include documentation showing that the control device being used achieves the required control efficiency during reasonably expected maximum filling rate. This documentation shall include a description of the gas stream which enters the control device, including flow and organic HAP content under varying liquid level conditions, and the information specified in paragraphs (c)(3)(i)(A) through (E) of this section, as applicable.

(4) If the owner or operator of an affected source chooses to comply with the provisions of § 63.1362(c)(1) or (2) by installing a floating roof, the owner or operator shall comply with the procedures described in § 63.119(b), (c), or (d) of subpart G of this part and the procedures described in § 63.120 of subpart G of this part, with the differences specified in § 63.1362(d)(2)(i) through (iv).

(5) Except as provided in paragraphs (d)(5)(i) through (iv) of this section, compliance with the concentration requirement of § 63.1362(c)(3) shall be demonstrated by determining the outlet concentration of organic HAP using the applicable test methods described in paragraph (b) of this section. If a combustion control device is used, the organic HAP concentration shall be corrected to 3 percent oxygen according to the procedures specified in paragraph (c)(3)(ii)(B) of this section.

(i) A performance test is not required if the conditions described in paragraph (d)(2)(iii) of this section apply.

(ii) A performance test is not required if the control device meets any of the conditions specified in paragraphs (c)(4)(i) through (v) of this section.

(iii) A performance test is not required for any control device for which a previous test was conducted, provided the test was conducted using the same procedures specified in paragraph (b) of this section.

(iv) A performance test is not required for a condenser system operated in accordance with the provisions specified in paragraph (c)(5)(ii) of this section.

(e) *Compliance with wastewater provisions.* An owner or operator shall demonstrate compliance with the wastewater requirements by complying with the provisions in §§ 63.131 through 63.149, except that the owner or operator need not comply with the requirement to determine visible emissions that is specified in § 63.145(j)(1).

(f) *Compliance with the bag dump and product dryer provisions.* Compliance with the particulate HAP concentration limits specified in § 63.1362(f) is demonstrated when the concentration of particulate HAP is less than 0.01 gr/dscf, as measured or estimated using one of the procedures described in paragraph (f) (1) or (2) of this section.

(1) The concentration of particulate HAP shall be measured using the method described in paragraph (a)(8) of this section.

(2) The concentration of particulate HAP shall be calculated based on knowledge of the process. The owner or operator shall provide sufficient information to document the concentration. An example of information that could constitute such knowledge include previous test results, provided the results are still representative of current operating practices at the process unit.

(g) *Pollution prevention alternative standard.* The owner or operator shall demonstrate compliance with § 63.1362(j) using the procedures described in either paragraph (g) (1) or (2) of this section.

(1) Compliance with § 63.1362(j)(2) is demonstrated when the annual HAP factor is reduced to a value equal to or less than 15 percent of the baseline HAP factor, and the annual VOC factor is equal to or less than the baseline VOC factor. Factors shall be calculated in accordance with the procedures

specified in paragraphs (g)(1) (i) and (ii) of this section.

(i) The baseline HAP and VOC factors shall be calculated by dividing the consumption of total HAP and total VOC by the production rate, per process, for the first 12-month period for which data are available, to begin no earlier than January 1, 1987.

(ii) The annual HAP and VOC factors shall be calculated in accordance with the procedures specified in paragraphs (g)(1)(ii) (A) through (C) of this section.

(A) The consumption of both total HAP and total VOC shall be divided by the production rate, per process, for 12-month periods at the frequency specified in either paragraph (g)(1)(ii) (B) or (C) of this section, as applicable.

(B) For continuous processes, the annual factors shall be calculated every 30 days for the 12-month period preceding the 30th day (annual rolling average calculated every 30 days).

(C) For batch processes, the annual factors shall be calculated every 10 batches for the 12-month period preceding the 10th batch (annual rolling average calculated every 10 batches).

(2) Compliance with § 63.1362(j)(3) is demonstrated when the requirements of paragraphs (g)(2) (i) through (iv) of this section are met.

(i) The annual HAP factor is reduced to a value equal to or less than 50 percent of the baseline HAP factor, and the annual VOC factor is equal to or less than the baseline VOC factor. Factors shall be calculated in accordance with the procedures specified in paragraphs (g)(1) (i) and (ii) of this section.

(ii) The yearly reduction, in kg HAP/yr, associated with add-on controls that meet the criteria of § 63.1362(j)(3)(ii) (A) through (D), is equal to or greater than the mass of HAP calculated using equation 17:

$$[kg/kg]_b * .35 * [kg\ produced]_a = [kg\ reduced]_a \qquad (17)$$

Where:

$[kg/kg]_b$ = the baseline HAP factor, kg HAP consumed/kg product.

$[kg\ produced]_a$ = the annual production rate, kg/yr.

$[kg\ reduced]_a$ = the annual HAP emissions reduction required by add-on controls, kg/yr.

(iii) Demonstration that the criteria in §§ 63.1362(j)(3)(ii) (A) through (D) are met shall be accomplished through a description of the control device and of the material streams entering and exiting the control device.

(iv) The annual reduction achieved by the add-on control shall be quantified using the methods described in paragraph (c) of this section.

(h) *Planned maintenance.* The owner or operator shall demonstrate compliance with the requirements of § 63.1362(b), and (c) by including in each Periodic Report required by § 63.1367 the periods of planned routine maintenance specified by date and time (planned routine maintenance of a control device, during which the control device does not meet the specifications of § 63.1362, as applicable, shall not exceed 240 hours per year).

(i) *Compliance with emissions averaging provisions.* An owner or operator shall demonstrate compliance with the emissions averaging provisions of § 63.1362(k) by fulfilling the requirements of paragraphs (i)(1) through (6) of this section.

(1) The owner or operator shall develop and submit for approval an Implementation Plan containing all the information required in § 63.1366(f). The Implementation Plan shall be submitted 18 months prior to the compliance date of the standard. The Administrator shall have 60 days to approve or disapprove the emissions averaging plan after which time the plan shall be considered approved. The plan shall be considered approved if the Administrator either approves the plan in writing, or fails to disapprove the plan in writing. The 60 day period shall begin when the Administrator receives the request. If the request is denied, the owner or operator must still be in compliance with the standard by the compliance date.

(2) For all points included in an emissions average, the owner or operator shall comply with the procedures that are specified in paragraphs (i)(2)(i) through (v) of this section.

(i) Calculate and record monthly debits for all Group 1 emission points that are controlled to a level less stringent than the standard for those emission points. Equations in paragraph (i)(5) of this section shall be used to calculate debits.

(ii) Calculate and record monthly credits for all Group 1 and Group 2 emission points that are overcontrolled to compensate for the debits. Equations in paragraph (i)(6) of this section shall be used to calculate credits. All process vent, storage tank, and wastewater emission points except those specified in § 63.1362(k)(1) through (6) may be included in the credit calculation.

(iii) Demonstrate that annual credits calculated according to paragraph (i)(6) of this section are greater than or equal to debits calculated according to paragraph (i)(5) of this section for the same annual compliance period. The initial demonstration in the Implementation Plan or operating permit application that credit-generating emission points will be capable of generating sufficient credits to offset the debit-generating emission points shall be made under representative operating conditions. After the compliance date, actual operating data shall be used for all debit and credit calculations.

(iv) Demonstrate that debits calculated for a quarterly (3-month) period according to paragraph (i)(5) of this section are not more than 1.30 times the credits for the same period calculated according to paragraph (i)(6) of this section. Compliance for the quarter shall be determined based on the ratio of credits and debits from that quarter, with 30 percent more debits than credits allowed on a quarterly basis.

(v) Record and report quarterly and annual credits and debits as required in §§ 63.1366(f) and 63.1367(d).

(3) Credits and debits shall not include emissions during periods of malfunction. Credits and debits shall not include periods of startup and shutdown for continuous processes.

(4) During periods of monitoring excursions credits and debits shall be adjusted as specified in paragraphs (i)(4) (i) through (iii) of this section.

(i) No credits would be assigned to the credit-generating emission point.

(ii) Maximum debits would be assigned to the debit-generating emission point.

(iii) The owner or operator may demonstrate to the Administrator that full or partial credits or debits should be assigned using the procedures in § 63.150(l) of subpart G of this part.

(5) Debits are generated by the difference between the actual emissions from a Group 1 emission point that is uncontrolled or controlled to a level less stringent than the applicable standard and the emissions allowed for the Group 1 emission point. Debits shall be calculated in accordance with the procedures specified in paragraphs (i)(5) (i) through (iv) of this section.

(i) Source-wide debits shall be calculated using Equation 18 of this subpart:

Debits=

$$\text{Debits} = \sum_{i=1}^{n}\left(\text{EPV}_{iA} - (0.10)\left(\text{EPV}_{iU}\right)\right) + \sum_{i=1}^{n}\left(\text{ES}_{iA} - (0.05)\left(\text{ES}_{iU}\right)\right) + \sum_{i=1}^{n}\left(\text{EWW}_{iA} - \left(\text{EWW}_{iC}\right)\right) \qquad (18)$$

Where:

Debits and all terms of Equation 18 are in units of Mg/month, and

EPV_{iU}=uncontrolled emissions from process i calculated according to the procedures specified in paragraph (i)(5)(ii) of this section.

EPV_{iA}=actual emissions from each Group 1 process i that is uncontrolled or is controlled to a level less stringent than the applicable standard. EPV_{iA} is calculated using the procedures in paragraph (i)(5)(ii) of this section.

ES_{iU}=uncontrolled emissions from storage tank i calculated according to the procedures specified in paragraph (i)(5)(iii) of this section.

ES_{iA}=actual emissions from each Group 1 storage tank i that is uncontrolled or is controlled to a level less stringent than the applicable standard. ES_{iA} is calculated using the procedures in paragraph (i)(5)(iii) of this section.

EWW_{iC}=emissions from each Group 1 wastewater stream i if the standard had been applied to the uncontrolled emissions. EWW_{iC} is calculated using the procedures in paragraph (i)(5)(iv) of this section.

EWW_{iA}=actual emissions from each Group 1 wastewater stream i that is uncontrolled or is controlled to a level less stringent than the applicable standard. EWW_{iA} is calculated using the procedures in paragraph (i)(5)(iv) of this section.

n=the number of emission points being included in the emissions average. The value of n is not necessarily the same for process vents, storage tanks, and wastewater.

(ii) Emissions from process vents shall be calculated in accordance with the procedures specified in paragraphs (i)(5)(ii) (A) through (C) of this section.

(A) Except as provided in paragraph (i)(5)(ii)(C) of this section, uncontrolled emissions for process vents shall be calculated using the procedures that are specified in paragraph (c)(2) of this section.

(B) Except as provided in paragraph (i)(5)(ii)(C) of this section, actual emissions for process vents shall be calculated using the procedures specified in paragraph (c)(3) of this section.

(C) As an alternative to the procedures described in paragraphs (h)(5)(ii) (A) and (B) of this section, for continuous processes, uncontrolled and actual emissions may be calculated by the procedures described in § 63.150(g)(2) of subpart G of this part. For purposes of complying with this paragraph, the 98 percent reduction in § 63.150(g)(2)(iii) of subpart G of this part shall mean 90 percent.

(iii) Uncontrolled emissions from storage tanks shall be calculated in accordance with the procedures described in paragraph (d)(1) of this section. Actual emissions from storage tanks shall be calculated using the procedures specified in § 63.150(g)(3)(ii), (iii), or (iv) of subpart G of this subpart, as appropriate, except as provided in paragraphs (i)(5)(iii) (A) and (B) of this section.

(A) When § 63.150(g)(3)(ii)(C) refers to § 63.119(e)(2) and 90-percent reduction, § 63.1362(d)(1)(ii) and 41-percent reduction shall apply for the purposes of this subpart.

(B) When § 63.150(g)(3)(ii)(B) refers to the procedures in § 63.120(d) for determining percent reduction for a control device, § 63.1364(d) (2) or (3) shall apply for the purposes of this subpart.

(iv) Emissions from wastewater shall be calculated using the procedures specified in § 63.150(g)(5) of subpart G of this part.

(6) Credits are generated by the difference between emissions that are allowed for each Group 1 and Group 2 emission point and the actual emissions from that Group 1 or Group 2 emission point that has been controlled after November 15, 1990 to a level more stringent than what is required in this subpart or any other State or Federal rule or statute. Credits shall be calculated in accordance with the procedures specified in paragraphs (i)(6)(i) through (v) of this section.

(i) Source-wide credits shall be calculated using Equation 19 in this paragraph (i)(6)(i):

Credits=

$$\text{Credits} = D\sum_{i=1}^{n}\left((0.10)\left(\text{EPV1}_{iU}\right) - \text{EPV1}_{iA}\right) + D\sum_{i=1}^{m}\left(\text{EPV2}_{iB} - \text{EPV2}_{iA}\right) +$$

$$D\sum_{i=1}^{n}\left((0.05)\left(\text{ES1}_{iU}\right) - \text{ES1}_{iA}\right) + D\sum_{i=1}^{m}\left(\text{ES2}_{iB} - \text{ES2}_{iA}\right) + \qquad \sqrt{\ } \quad (19)$$

$$D\sum_{i=1}^{n}\left(\text{EWW1}_{iC} - \text{EWW1}_{iA}\right) + D\sum_{i=1}^{m}\left(\text{EWW2}_{iB} - \text{EWW2}_{iA}\right)$$

Where: Credits and all terms in equation 19 are in units of Mg/month, the baseline date is November 15, 1990, the terms consisting of a constant multiplied by the uncontrolled emissions are the emissions from each emission point subject to the standards in § 63.1362 (b) and (c) that is controlled to a level more stringent than the standard, and

$EPV1_{iU}$ = uncontrolled emissions from each Group 1 process i calculated according to the procedures in paragraph (i)(6)(iii)(A) of this section.

$EPV1_{iA}$ = actual emissions from each Group 1 process i that is controlled to a level more stringent than the applicable standard. EPV_{iA} is calculated according to the procedures in paragraph (i)(6)(iii)(B) of this section.

D=discount factor equal 0.9 for all credit-generating emission points except those controlled by a pollution prevention measure, which will not be discounted.

$EPV2_{iB}$ = emmissions from each Group 2 process i at the baseline date. $EPV2_{iB}$ is calculated according to the procedures in paragraph (i)(6)(iii)(C) of this section.

$EPV2_{iA}$=actual emissions from each Group 2 process i that is controlled. $EPV2_{iA}$ is calculated according to the procedures in paragraph (i)(6)(iii)(C) of this section.

$ES1_{iU}$=uncontrolled emissions from each Group 1 storage tank i calculated according to the procedures in paragraph (i)(6)(iv) of this section.

$ES1_{iA}$=actual emissions from each Group 1 storage tank i that is controlled to a level more stringent that the applicable standard. $ES1_{iA}$ is calculated according to the procedures in paragraph (i)(6)(iv) of this section.

$ES2_{iB}$=emissions from each Group 2 storage tank i at the baseline date. $ES2_{iB}$ is calculated according to the procedures in paragraph (i)(6)(iv) of this section.

$ES2_{iA}$=actual emissions from each Group 2 storage tank i that is controlled. $ES2_{iA}$ is calculated according to the procedures in paragraph (i)(6)(iv) of this section.

$EWW1_{iC}$=emissions from each Group 1 wastewater stream i if the standard had been applied to the uncontrolled emissions. $EWW1_{iC}$ is calculated according to the procedures in paragraph (i)(6)(v) of this section.

$EWW1_{iA}$=emissions from each Group 1 wastewater stream i that is controlled to a level more stringent than the applicable standard. $EWW1_{iA}$ is calculated according to the procedures in paragraph (i)(6)(v) of this section.

$EWW2_{iB}$=emissions from each Group 2 wastewater stream i at the baseline date. $EWW2_{iB}$ is calculated according to the procedures in paragraph (i)(6)(v) of this section.

$EWW2_{iA}$=actual emissions from each Group 2 wastewater stream i that is controlled. $EWW2_{iA}$ is calculated according to the procedures in paragraph (i)(6)(v) of this section.

n=number of Group 1 emission points that are included in the emissions average. The value of n is not necessarily the same for process vents, storage tanks, and wastewater.

m=number of Group 2 emission points included in the emissions average. The value of m is not necessarily the same for process vents, storage tanks, and wastewater.

(ii) For an emission point controlled using a pollution prevention measure, the nominal efficiency for calculating credits shall be as determined as described in § 63.150(j) of subpart G of this part.

(iii) Emissions from process vents shall be calculated in accordance with the procedures specified in paragraphs (i)(6)(iii) (A) through (C) of this section

(A) Uncontrolled emissions from Group 1 process vents shall be calculated according to the procedures in paragraph (i)(5)(ii) (A) or (C) of this section.

(B) Actual emissions from Group 1 process vents with a nominal efficiency greater than the applicable standard or a pollution prevention measure shall be calculated using equation 20:

$$EPV1_{Ai}=EPV1_{Ui}\times[(1-(\text{Nominal efficiency, \%})/100\%)] \qquad (20)$$

(C) Baseline and actual emissions from Group 2 process vents shall be calculated according to the procedures in § 63.150(h)(2) (iii) and (iv) with the following modifications:

(1) The term "98 percent reduction" shall mean "90 percent reduction"; and

(2) The references to paragraph (g)(2) of this section shall mean paragraph (i)(5)(ii) of this section.

(iv) Uncontrolled emissions from storage tanks shall be calculated according to the procedures described in paragraph (d)(1) of this section. Actual and baseline emissions from storage tanks shall be calculated according to the procedures specified in § 63.150(h)(3) of subpart G of this part, except when § 63.150(h)(3) refers to § 63.150(g)(3)(i), paragraph (d)(1) of this section shall apply for the purposes of this subpart.

(v) Emissions from wastewater shall be calculated using the procedures in § 63.150(h)(5) of subpart G of this part.

§ 63.1366 Monitoring and inspection requirements.

(a) The owner or operator of any existing, new, or reconstructed affected source shall provide evidence of continued compliance with the standard. During the initial compliance demonstration, maximum or minimum operating parameters, as appropriate, shall be established for emission sources that will indicate the source is in compliance. Test data, calculations, or information from the evaluation of the control device design shall be used to establish the operating parameter. If the operating parameter to be established is a maximum and if performance testing has been required, the value of the parameter shall be the average of the maximum values from each of the three test runs. If the operating parameter to be established is a minimum and if performance testing has been required, the value of the parameter shall be the average of the minimum values from each of the three test runs. Parameter values for process vents from batch operations shall be determined as specified in paragraphs (b)(1) and (2) of this section. The owner or operator shall operate processes and control devices within these parameters to ensure continued compliance with the standard. Monitoring parameters are specified for continuous process vent control scenarios in paragraphs (a)(1) through (8) of this section.

(1) For all control devices that are used to control process vent streams totaling less than 0.91 Mg/yr (1 ton/yr) HAP emissions, before control, monitoring shall consist of a periodic verification that the device is operating properly. This verification shall include, but not be limited to, a periodic demonstration that the unit is working as designed. This demonstration shall be included in the Precompliance report, to be submitted 12 months prior to the compliance date of the standard.

(2) For affected sources using water scrubbers that are used to control process vent streams totaling greater than 0.91 Mg/yr (1 ton/yr), before controls, the owner or operator shall establish a minimum scrubber water flow rate as a site-specific operating parameter which must be measured and recorded every 15 minutes. The affected source will be in violation of the emission standard if the scrubber water flow rate, averaged over the operating day, is below the minimum value established during the initial compliance demonstration.

(3) For affected sources using condensers that are used to control process vent streams totaling greater than 0.91 Mg/yr (1 ton/yr), before controls, the owner or operator shall establish the maximum condenser outlet gas temperature as a site-specific operating parameter which must be measured and recorded every 15 minutes. The affected source will be in violation of the emission standard if the condenser outlet gas temperature, averaged over the operating day, is greater than the maximum value established during the initial compliance demonstration.

(4) For affected sources using carbon adsorbers that are used to control process vent streams totaling greater

than 0.91 Mg/yr (1 ton/yr), before controls, the owner or operator shall establish the site-specific operating parameter(s) specified in either paragraph (a)(4) (i), (ii), or (iii) of this section.

(i) A maximum outlet HAP concentration shall be specified as the site-specific operating parameter. The affected source will be in violation of the emission standard if the outlet HAP concentration, averaged over the operating day, is greater than the maximum value established during the initial compliance demonstration.

(ii) The outlet TOC concentration shall be established as the site-specific operating parameter. The affected source will be in violation of the emission standard if the outlet TOC concentration, averaged over the operating day for each process, is greater than 20 ppmv.

(iii) The adsorption/regeneration cycle characteristics shall be established under absolute peak-case conditions, and the frequency of monitoring for the operating parameters specified below shall be described in the Notification of Compliance Status Report. The affected source will be in violation of the emission standard if any of the values for these parameters established during the initial compliance demonstration are exceeded.

(A) Maximum time of adsorption;

(B) Minimum bed temperature during regeneration;

(C) Maximum bed temperature after cooling;

(D) Minimum regeneration stream flow rate; and

(E) Maximum time between tests to determine bed poisoning.

(5) For affected sources using flares that are used to control process vent streams totaling greater than 0.91 Mg/yr (1 ton/yr), before controls, the presence of the pilot flame shall be monitored every 15 minutes. Loss of pilot flame is a violation of the emission standard.

(6) For affected sources using combustion devices that are used to control process vents totaling greater than 0.91 Mg/yr (1 ton/yr), before controls, the owner or operator shall monitor the temperature of the gases exiting the combustion chamber as the site-specific operating parameter which must be measured and recorded every 15 minutes. The affected sources will be in violation of the emission standard if the chamber temperature averaged over the operating day, is greater than the maximum value established during the initial compliance demonstration.

(7) For each fabric filter used to control particulate HAP emissions from bag dumps and product dryers totaling more than 0.91 Mg/yr (1 ton/yr), before controls, the owner or operator shall install, calibrate, maintain, and continuously operate a bag leak detection system that meets the requirements in paragraphs (a)(7) (i) through (viii) of this section.

(i) The bag leak detection system sensor must provide output of relative or absolute PM emissions.

(ii) The bag leak detection system must be equipped with an alarm system that will sound when an increase in PM emissions over a preset level is detected.

(iii) For positive pressure fabric filters, a bag leak detector must be installed in each fabric filter compartment or cell. If a negative pressure or induced air filter is used, the bag leak detector must be installed downstream of the fabric filter. Where multiple bag leak detectors are required (for either type of fabric filter), the system instrumentation and alarm may be shared among detectors.

(iv) The bag leak detection system shall be installed, operated, calibrated and maintained in a manner consistent with available guidance from the U.S. Environmental Protection Agency or, in the absence of such guidance, the manufacturer's written specifications and instructions.

(v) Calibration of the system shall, at a minimum, consist of establishing the relative baseline output level by adjusting the range and the averaging period of the device and establishing the alarm set points and the alarm delay time.

(vi) The owner or operator shall not adjust the range, averaging period, alarm set points, or alarm delay time contained in the Notification of Compliance Status report without written approval from the Administrator.

(vii) If the alarm on a bag leak detection system is triggered, the owner or operator shall inspect the control device to determine the cause of the deviation and initiate within 1 hour of the alarm the corrective actions specified in the Notification of Compliance Status report. Failure to initiate the corrective action procedures within 1 hour of the alarm is a violation of the particulate HAP emission standard.

(viii) If the bag leak detection system alarm is activated for more than 5 percent of the total operating time during a 6-month reporting period, the owner or operator shall develop and implement a written quality improvement plan consistent with subpart D of this part of the draft approach to compliance assurance monitoring.

(8) For each waste management unit, treatment process, or control device used to comply with § 63.1362(d), the owner or operator shall comply with the procedures specified in § 63.143 of subpart G of this part, except that when the procedures to request approval to monitor alternative parameters according to the procedures in § 63.151(f) are referred to in § 63.143(d)(3), the procedures in paragraph (c) of this section shall apply for the purposes of this subpart.

(b) The owner or operator of any existing, new, or reconstructed affected source that chooses to comply with the emission limit or emission reduction requirement for batch process vents and combined streams from process vents and storage tanks shall provide evidence of continued compliance with the standard. As part of the initial compliance demonstrations for batch process vents and storage tanks, test data, compliance calculations, or information from the control device design evaluation shall be used to establish a maximum or minimum level of a relevant operating parameter for each control device that the owner or operator selects to operate as part of achieving the required emission reduction or emission limitation. The owner or operator shall operate processes and control devices within these parameters to ensure continued compliance with the standard.

(1) For devices that are used to control batch process vent streams totaling less than 0.91 Mg/yr (1 ton/yr) HAP emissions, before control, monitoring shall consist of a periodic verification that the device is operating properly. This verification shall include, but not be limited to, a periodic demonstration that the unit is working as designed. This demonstration shall be included in the Precompliance report, to be submitted 12 months prior to the compliance date of the standard.

(2) For batch process vents that are routed to a device that receives HAP in excess of 0.91 Mg/yr (1 ton/yr), before control, the level(s) shall be established in accordance with paragraphs (b)(2) (i) through (iv) of this section.

(i) If more than one batch emission episode or more than one portion of a batch emission episode has been selected to be controlled, a single level for the batch cycle(s) or process(es) shall be calculated from the initial compliance demonstration. The appropriate parameter shall be determined for the peak-case conditions, as determined in § 63.1364(b)(7) (ii) and (iii), selected to be controlled. The average parameter monitoring level for the cycle(s) or process(es) shall be based on the parameter value determined from the peak-case conditions.

(ii) Instead of establishing a single level for the batch cycle(s) or process(es), as described in paragraph (b)(2)(i) of this section, an owner or operator may establish separate levels for each batch emission episode, or portion thereof, selected to be controlled.

(iii) For devices controlling at least 9.1 Mg/yr (10 tons/yr) for which a performance test is required, the owner or operator may establish the parametric monitoring level(s) based on the performance test supplemented by engineering assessments and manufacturer's recommendations. Performance testing is not required to be conducted over the entire range of expected parameter values. The rationale for the specific level for each parameter, including any data and calculations used to develop the level(s) and a description of why the level indicates proper operation of the control device shall be provided in the Precompliance report. The procedures specified in this section have not been approved by the Administrator and determination of the parametric monitoring level using these procedures is subject to review and approval by the Administrator.

(iv) For devices controlling at least 9.1 Mg/yr (10 tons/yr) for which a performance test is conducted at routine conditions, the owner or operator shall establish the parametric monitoring level(s) at conditions of the test. The level(s) established shall be provided in the Notification of Compliance Status report.

(3) Except as provided in paragraphs (b) (4) through (8) of this section, if the sum of HAP emissions, before control, routed to the device is greater than 0.91 Mg/yr (1.0 ton/yr), the appropriate parameter shall be monitored at 15-minute intervals, or at least once for batch emission episodes of duration shorter than 15 minutes, for the entire period in which the control device is functioning in achieving required removals.

(4) Affected sources with condensers on process vents shall establish the maximum condenser outlet gas temperature as a site-specific operating parameter. The affected source will be in violation of the emission standard if the condenser outlet gas temperature, averaged over the operating day for each process, is greater than the value established during the initial compliance demonstration.

(5) For affected sources using water scrubbers, the owner or operator shall establish a minimum scrubber water flow rate as a site-specific operating parameter. The affected source will be in violaton of the emission standard if the scrubber water flow rate, averaged over the operating day for each process, is below the minimum flow rate established during the initial compliance demonstration.

(6) For affected sources using carbon adsorbers, the owner or operator shall establish and monitor the site-specific operating parameter(s) in either paragraph (b)(6)(i), (ii), or (iii) of this section:

(i) A maximum outlet HAP concentration shall be established as the site-specific operating parameter. The affected source will be in violation of the emission standard if the outlet HAP concentration, averaged over the operating day for each process, is greater than the value established during the initial compliance demonstration.

(ii) The outlet TOC concentration shall be established as the site-specific operating parameter. The affected source will be in violation of the emission standard if the outlet TOC concentration, averaged over the operating day for each process, is greater than 20 ppmv.

(iii) The adsorption/regeneration cycle characteristics shall be established under absolute peak-case conditions, and the frequency of monitoring for the operating parameters specified below shall be described in the Notification of Compliance Status Report. The affected source will be in violation of the emission standard if any of the values for these parameters established during the initial compliance demonstration are exceeded.

(A) Maximum time of adsorption;

(B) Minimum bed temperature during regeneration;

(C) Maximum bed temperature after cooling;

(D) Minimum regeneration stream flow rate; and

(E) Maximum time between tests to determine bed poisoning.

(7) For affected sources using flares, the presence of the pilot flame shall be monitored. Loss of pilot flame is a violation of the emission standard.

(8) For affected sources using combustion devices, the temperature of the gases exiting the combustion chamber shall be monitored. The affected source will be in violation of the emission standard if the combustion chamber temperature, averaged over the operating day for each process, is less than the value established during the initial compliance demonstration.

(c) An owner or operator may request approval to monitor parameters other than those required by paragraphs (a)(2) through (8) and (b)(5) through (8) of this section. The request shall be submitted according to the procedures specified in § 63.8(f) of subpart A of this part or in the Precompliance Report (as specified in § 63.1367(a)(2)).

(d) Periods of time when monitoring measurements exceed the parameter values as well as periods of inadequate monitoring data do not constitute a violation if they occur under the conditions described in paragraph (d)(1) or (2) of this section.

(1) For continuous processes, during a startup, shutdown, or malfunction, and the facility follows its startup, shutdown, and malfunction plan.

(2) For batch processes, during a malfunction, and the facility follows its startup, shutdown, and malfunction plan.

(e) *Equipment leaks.* The owner or operator of any affected source complying with the requirements of subpart H of this part shall meet the monitoring requirements specified in subpart H of this part.

(f) *Heat exchangers.* The owner or operator of an affected source complying with the requirements of § 63.1362(g) shall meet the monitoring requirements specified in paragraph (f)(1) or (2) of this section.

(1) An owner or operator that elects to comply with the requirements of § 63.1362(g)(2) shall meet the monitoring requirements specified in § 63.104(b) of subpart F of this part.

(2) An owner or operator that elects to comply with the requirements of § 63.1362(g)(3) shall prepare and implement a monitoring plan that includes the information specified in paragraphs (f)(2) (i) through (iv) of this section. The plan shall require monitoring of one or more surrogate indicators or monitoring of one or more process parameters or other conditions that indicate a leak. Monitoring that is already being conducted for other purposes may be used to satisfy the requirements of this section.

(i) A description of the parameter or condition to be monitored and an explanation of how the selected parameter or condition will reliably indicate the presence of a leak.

(ii) The parameter level(s) or condition(s) that shall constitute a leak. This shall be documented by data or calculations showing that the selected levels or conditions will reliably identify leaks. The monitoring must be sufficiently sensitive to determine the range of parameter levels or conditions when the system is not leaking. When the selected parameter level or

condition is outside that range, a leak is detected.

(iii) The monitoring frequency which shall be no less frequent than monthly for the first 6 months and quarterly thereafter to detect leaks.

(iv) The records that will be maintained to document compliance with the requirements of § 63.1362(f).

(g) *Pollution prevention.* The owner or operator of an affected source that chooses to comply with the requirements of § 63.1362(j)(2) or (3) shall calculate annual rolling average values of the HAP and VOC factors in accordance with the procedures specified in § 63.1364(g)(1) (i) and (ii).

The owner or operator will be considered out of compliance any time the annual HAP factor exceeds the baseline HAP factor by the amount specified in either § 63.1364 (g)(1) or (2)(i), or the annual VOC factor exceeds the baseline VOC factor.

(h) *Emissions averaging.* The owner or operator of an affected source that chooses to comply with the requirements of § 63.1362(k) shall meet all monitoring requirements specified in paragraphs (a), (b), (c), and (d) of this section, as applicable, for all processes, storage tanks, and waste management units included in the emissions average.

§ 63.1366 Recordkeeping requirements.

(a) The owner or operator of an affected source shall keep records of daily values of equipment operating parameters specified to be monitored under § 63.1365, or specified by the Administrator. Records shall be kept in accordance with the requirements of applicable paragraphs of § 63.10 of subpart A of this part, as specified in the General Provisions applicability table of this subpart (Table 1). The owner or operator shall keep records up-to-date and readily accessible.

(1) A daily (24-hour) average shall be calculated as the average of all values for a monitored parameter recorded during the operating day.

(2) The operating day shall be the period defined in the operating permit or the Notification of Compliance Status in § 63.9(h) of subpart A of this part. It may be from midnight to midnight or another continuous 24-hour period.

(3) For every operating day in which the daily average value for an operating parameter is outside its established range, the owner or operator shall keep records of each parameter value reading taken during the day on which the excursion occurred.

(4) For processes subject to § 63.1362(j), records shall be maintained of annual HAP and VOC factors calculated every 30 days for continuous processes and every 10 batches for batch processes.

(5) For each bag leak detector used to monitor particulate HAP emissions from a fabric filter, the owner or operator shall maintain records of any bag leak detection alarm, including the date and time, with a brief explanation of the cause of the alarm and the corrective action taken.

(b) The owner or operator of an affected source that complies with the standards for process vents, storage tanks, and wastewater systems shall maintain up-to-date, readily accessible records of the information specified in paragraphs (b) (1) through (5) of this section to document that HAP emissions or HAP loadings (for wastewater) are below the limits specified in § 63.1362:

(1) The emissions of gaseous organic HAP and HCl per batch for each process.

(2) The wastewater concentrations and flowrates per POD and process.

(3) The number of batches per year for each batch process.

(4) The operating hours per year for continuous processes.

(5) The number of tank turnovers per year.

(c) The owner or operator of an affected source subject to the standards in § 63.1362(e), and implementing the leak detection and repair program specified in subpart H of this part, shall implement the recordkeeping requirements specified in § 63.181 of subpart H of this part. All records shall be retained for a period of 5 years, in accordance with the requirements of § 63.10(b)(1) of subpart A of this part.

(d) For unit operations occurring more than once per day, exceedances of established parameter limits shall result in no more than one violation per operating day for each monitored item of equipment utilized in the unit operation.

(e) For certain items of monitored equipment used for more than one type of unit operation in the course of an operating day, exceedances shall result in no more than one violation per operating day, per item of monitored equipment, for each type of unit operation in which the item is in service.

(f) An owner or operator of an affected source that chooses to comply with the requirements of § 63.1362(k) shall maintain up-to-date records of the following information:

(1) An Implementation Plan which shall include in the plan, for all emission points included in each of the emissions averages, the information listed in paragraphs (f)(1) (i) through (v) of this section.

(i) The identification of all emission points in each emissions average.

(ii) The values of all parameters needed for input to the emission debits and credits equations in § 63.1364(i).

(iii) The calculations used to obtain the debits and credits.

(iv) The estimated values for all parameters required to be monitored under § 63.1365(h) for each emission point included in an average. These parameter values, or as appropriate, limited ranges for parameter values, shall be specified as enforceable operating conditions for the operation of the process, storage tank, or waste management unit, as appropriate. Changes to the parameters must be reported as required by § 63.1367(d).

(v) A statement that the compliance demonstration, monitoring, inspection, recordkeeping and reporting provisions in § 63.1364(i), § 63.1365(h), and § 63.1367(d) that are applicable to each emission point in the emissions average will be implemented beginning on the date of compliance.

(2) The Implementation Plan shall demonstrate that the emissions from the emission points proposed to be included in the average will not result in greater hazard or, at the option of the operating permit authority, greater risk to human health or the environment than if the emission points were controlled according to the provisions in § 63.1362(b) through (d).

(i) This demonstration of hazard or risk equivalency shall be made to the satisfaction of the operating permit authority.

(A) The Administrator may require an owner or operator to use specific methodologies and procedures for making a hazard or risk determination.

(B) The demonstration and approval of hazard or risk equivalency shall be made according to any guidance that the Administrator makes available for use or any other technically sound information or methods.

(ii) An Implementation Plan that does not demonstrate hazard or risk equivalency to the satisfaction of the Administrator shall not be approved. The Administrator may require such adjustments to the Implementation Plan as are necessary in order to ensure that the average will not result in greater hazard or risk to human health or the environment than would result if the emission points were controlled according to § 63.1362(b) through (d).

(iii) A hazard or risk equivalency demonstration must satisfy the requirements specified in paragraphs (f)(2)(iii)(A) through (C) of this section.

(A) Be a quantitative, comparative chemical hazard or risk assessment;

(B) Account for differences between averaging and non-averaging options in chemical hazard or risk to human health or the environment; and

(C) Meet any requirements set by the Administrator for such demonstrations.

(3) Records as specified in paragraphs (a), (b) and (d) of this section.

(4) A calculation of the debits and credits as specified in § 63.1364(i) for the last quarter and the prior four quarters.

(g) The owner or operator of an affected source subject to the requirements in § 63.1362(g) shall retain the records identified in paragraphs (g)(1) through (4) of this section as specified in paragraph (a) of this section.

(1) Monitoring data required by § 63.1362(g)(2) or (3) indicating a leak was detected, and if demonstrated not to be a leak, the basis for that determination.

(2) Records of any leaks detected by procedures subject to § 63.1362(g)(3)(ii) and the date the leak was discovered.

(3) The dates of efforts to repair leaks.

(4) The method or procedure used to confirm repair of a leak and the date repair was confirmed.

§ 63.1367 Reporting requirements.

(a) The owner or operator of an affected source that elects to comply with the emission limit or emission reduction requirements for process vents, storage tanks, and waste management units, shall comply with the reporting requirements of applicable paragraphs of §§ 63.9 and 63.10 of subpart A of this part, as specified in the General Provisions applicability table.

(1) The Notification of Compliance Status report required under § 63.9(h) shall be submitted within 150 calendar days of the compliance date and shall include the information specified in paragraphs (a)(1)(i) through (iv) of this section.

(i) The results of any applicability determinations, emission calculations, or analyses used to identify and quantify HAP emissions from applicable sources.

(ii) The results of emissions profiles, performance tests, engineering analyses, design evaluations, or calculations used to demonstrate compliance. For performance tests, results should include descriptions of sampling and analysis procedures and quality assurance procedures.

(iii) Descriptions of monitoring devices, monitoring frequencies, and the values of monitored parameters established during the initial compliance determinations, including data and calculations to support the levels established.

(iv) For fabric filters that are monitored with bag leak detectors, descriptions of procedures for the proper operation and maintenance of the fabric filters and corrective actions to be taken when the particulate concentration exceeds the standard and activates the alarm.

(2) The Precompliance report shall be submitted 12 months prior to the compliance date of the standard. For new sources, the Precompliance report shall be submitted to the Administrator with the application for approval of construction or reconstruction. The Administrator shall have 60 days to approve or disapprove the plan. The plan shall be considered approved if the Administrator either approves the plan in writing, or fails to disapprove the plan in writing. The 60 day period shall begin when the Administrator receives the request. If the request is denied, the owner or operator must still be in compliance with the standard by the compliance date. The Precompliance report shall include the information specified in paragraphs (a)(2)(i) through (iii) of this section.

(i) Requests for approval to use alternative monitoring parameters according to the procedures specified in § 63.8(f) of subpart A of this part or requests to set monitoring parameters according to § 63.1365(b)(2)(iii).

(ii) Descriptions of how the control devices subject to § 63.1365(a)(1) and (b)(1) will be checked to verify that they are operating as designed.

(iii) A description of test conditions and limits of operation for control devices tested under normal conditions, and the corresponding monitoring parameter values.

(b) *Quarterly reports.* The owner or operator shall submit to the Administrator, as part of the quarterly excess emissions and continuous monitoring system performance report and summary report required by § 63.10(e)(3) of subpart A of this part, the recorded information specified in paragraphs (b)(1) though (3) of this section.

(1) Reports of monitoring data, including 15-minute monitoring values, daily average values of monitored parameters for all operating days when the average values were outside the ranges established in the Notification of Compliance Status or operating permit, and records of all alarms from the bag leak detection systems.

(2) Reports of the duration of periods when monitoring data are not collected for each excursion caused by insufficient monitoring data. An excursion means either of the two cases listed in paragraph (b)(2)(i) or (ii) of this section. For a control device where multiple parameters are monitored, if one or more of the parameters meets the excursion criteria in paragraph (b)(2)(i) or (ii) of this section, this is considered a single excursion for the control device.

(i) When the period of control device operation is 4 hours or greater in an operating day and monitoring data are insufficient to constitute a valid hour of data, as defined in paragraph (a)(2)(iii) of this section, for at least 75 percent of the operating hours.

(ii) When the period of control device operation is less than 4 hours in an operating day and more than one of the hours during the period of operation does not constitute a valid hour of data due to insufficient monitoring data.

(iii) Monitoring data are insufficient to constitute a valid hour of data, as used in paragraphs (b)(2)(i) and (ii) of this section, if measured values are unavailable for any of the 15-minute periods within the hour.

(3) Whenever a process change, as defined in § 63.115(e) of subpart G of this part, is made that causes the emission rate from a de minimis emission point to become a process vent with an emission rate of 0.45 kg/yr (1 lb/yr) or greater, or a change is made in any of the information submitted in the Notification of Compliance Report, the owner or operator shall submit a report within 180 calendar days after the process change. The report may be submitted as part of the next summary report required under § 63.10(e)(3) of subpart A of this part. The report shall include:

(i) A description of the process change;

(ii) The results of the recalculation of the emission rate;

(iii) Revisions to any of the information reported in the original Notification of Compliance Status under § 63.1367(a)(1); and

(iv) Information required by the Notification of Compliance Status under § 63.1367(a)(1) for changes involving the addition of processes or equipment.

(c) *Equipment leaks.* The owner or operator of an affected source subject to the standards in § 63.1362(e), shall implement the reporting requirements specified in § 63.182 of this part. Copies of all reports shall be retained as records for a period of 5 years, in accordance with the requirements of § 63.10(b)(1) of subpart A of this part.

(d) *Emissions averaging.* An owner or operator of an affected source that chooses to comply with the requirements of § 63.1362(k) shall submit all information as specified in § 63.1366(f) for all emission points included in the emissions average. The

owner or operator shall also submit to the Administrator all information specified in paragraph (b) of this section for each emission point included in the emissions average.

(1) The reports shall also include the information listed in paragraphs (c)(1)(i) through (iv) of this section:

(i) Any changes of the processes, storage tanks, or waste management unit included in the average.

(ii) The calculation of the debits and credits for the reporting period.

(iii) Changes to the Implementation Plan which affect the calculation methodology of uncontrolled or controlled emissions or the hazard or risk equivalency determination.

(iv) Any changes to the parameters monitored according to § 63.1365(h).

(2) Every 4th quarter report shall include the results according to § 63.1366(f)(4) to demonstrate the emissions averaging provisions of § 63.1362(k), § 63.1364(i), § 63.1365(h), and § 63.1366(f) are satisfied.

(e) *Heat exchange systems.* If an owner or operator of an affected source invokes the delay of repair provisions for a heat exchange system as specified in § 63.1362(g)(5), the information in paragraphs (e) (1) through (5) of this section shall be submitted in the next excess emissions report required in paragraph (b) of this section. If the leak remains unrepaired, the information shall also be submitted in each subsequent report, until repair of the leak is reported.

(1) The presence of the leak and the date the leak was detected.

(2) Whether or not the leak has been repaired.

(3) The reason(s) for delay of repair. If delay of repair is invoked due to the reasons described in § 63.104(e)(2) of subpart F of this part, documentation of emissions estimates shall also be submitted.

(4) If the leak remains unrepaired, the expected date of repair.

(5) If the leak is repaired, the date the leak was successfully repaired.

(f) An owner or operator who submits an operating permit application instead of an Implementation plan shall submit the information specified in paragraphs (e) (1) through (3) of this section with the operating permit.

(1) The information specified in § 63.1366(f) for emission points included in the emissions average;

(2) The information specified in § 63.9(h) of subpart A of this part, as applicable; and

(3) The information specified in paragraph (a)(2) of this section, as applicable.

§ 63.1368 Delegation of authority.

(a) In delegating implementation and enforcement authority to a State under section 112(l) of the Act, the authorities contained in paragraph (b) of this section shall be retained by the Administrator and not transferred to a State.

(b) [Reserved]

TABLE 1 TO SUBPART MMM.—GENERAL PROVISIONS APPLICABILITY TO SUBPART MMM

Reference to subpart A	Applies to subpart MMM	Comment
§ 63.1(a)(1)	Yes	Additional terms are defined in § 63.1361.
§ 63.1(a)(2)–(3)	Yes.	
§ 63.1(a)(4)	Yes	Subpart MMM (this table) specifies applicability of each paragraph in subpart A to subpart MMM.
§ 63.1(a)(5)	N/A	Reserved.
§ 63.1(a)(6)–(7)	Yes.	
§ 63.1(a)(8)	No	Discusses State programs.
§ 63.1(a)(9)	N/A	Reserved.
§ 63.1(a)(10)–(14)	Yes.	
§ 63.1(b)(1)	No	§ 63.1360 specifies applicability.
§ 63.1(b)(2)–(3)	Yes.	
§ 63.1(c)(1)	Yes	Subpart MMM (this table) specifies the applicability of each paragraph in subpart A to sources subject to subpart MMM.
§ 63.1(c)(2)	No	Area sources are not subject to subpart MMM.
§ 63.1(c)(3)	N/A	Reserved.
§ 63.1(c)(4)–(5)	Yes.	
§ 63.1(d)	N/A	Reserved.
§ 63.1(e)	Yes.	
§ 63.2	Yes	Additional terms are defined in § 63.1361; when overlap between subparts A and MMM occurs, subpart MMM takes precedence.
§ 63.3	Yes	Other units used in subpart MMM are defined in that subpart.
§ 63.4(a)(1)–(3)	Yes.	
§ 63.4(a)(4)	N/A	Reserved.
§ 63.4(a)(5)–(c)	Yes.	
§ 63.5(a)	Yes	Except replace the terms "source" and "stationary source" in § 63.5(a)(1) of subpart A with "affected source".
§ 63.5(b)(1)	Yes.	
§ 63.5(b)(2)	N/A	Reserved.
§ 63.5(b)(3)–(5)	Yes.	
§ 63.5(b)(6)	No	§ 63.1360(g) specifies requirements for determining applicability of added PAI equipment.
§ 63.5(c)	N/A	Reserved.
§ 63.5(d)–(e)	Yes.	
§ 63.5(f)(1)	Yes	Except replace "source" in § 63.5(f)(1) of subpart A with "affected source".
§ 63.5(f)(2)	Yes.	
§ 63.6(a)	Yes.	
§ 63.6(b)(1)–(2)	No	§ 63.1363 specifies compliance dates.
§ 63.6(b)(3)–(4)	Yes.	
§ 63.6(b)(5)	Yes.	
§ 63.6(b)(6)	N/A	Reserved.
§ 63.6(b)(7)	Yes.	

TABLE 1 TO SUBPART MMM.—GENERAL PROVISIONS APPLICABILITY TO SUBPART MMM—Continued

Reference to subpart A	Applies to subpart MMM	Comment
§ 63.6(c)(1)–(2)	Yes	Except replace "source" in § 63.6(c)(1)–(2) of subpart A with "affected source".
§ 63.6(c)(3)–(4)	N/A	Reserved.
§ 63.6(c)(5)	Yes.	
§ 63.6(d)	N/A	Reserved.
§ 63.6(e)	Yes	Except § 63.1360 specifies that the standards in subpart MMM apply during startup and shutdown for batch processes; therefore, these activities would not be covered in the startup, shutdown, and malfunction plan.
§ 63.6(f)	Yes	Except § 63.1360 specifies that the standards in subpart MMM also apply during startup and shutdown for batch processes.
§ 63.6(g)	Yes	An alternative standard has been proposed; however, affected sources will have the opportunity to demonstrate other alternatives to the Administrator.
§ 63.6(h)	No	Subpart MMM does not contain any opacity or visible emissions standards.
§ 63.6(i)(1)	Yes.	
§ 63.6(i)(2)	Yes	Except replace "source" in § 63.6(2)(i) and (ii) of subpart A with "affected source."
§ 63.6(i)(3)–(14)	Yes.	
§ 63.6(i)(15)	N/A	Reserved.
§ 63.6(i)(16)	Yes.	
§ 63.6(j)	Yes.	
§ 63.7(a)(1)	Yes.	
§ 63.7(a)(2)(i)–(vi)	Yes	§ 63.1367 specifies that test results must be submitted in the Notification of Compliance Status due 150 days after the compliance date.
§ 63.7(a)(2)(vii)–(viii)	N/A	Reserved.
§ 63.7(a)(2)(ix)–(c)	Yes.	
§ 63.7(d)	Yes	Except replace "source" in § 63.7(d) of subpart A with "affected source."
§ 63.7(e)(1)	Yes	§ 63.1364 contains test methods specific to PAI sources.
§ 63.7(e)(2)	Yes.	
§ 63.7(e)(3)	Yes	Except § 63.1364 specifies less than 3 runs for certain tests.
§ 63.7(e)(4)	Yes.	
§ 63.7(f)	Yes.	
§ 63.7(g)(1)	Yes	Except § 63.1367(a) specifies that the results of the performance test be submitted with the Notification of Compliance Status report.
§ 63.7(g)(2)	N/A	Reserved.
§ 63.7(g)(3)	Yes.	
§ 63.7(h)	Yes.	
§ 63.8(a)(1)–(2)	Yes.	
§ 63.8(a)(3)	N/A	Reserved.
§ 63.8(a)(4)	Yes.	
§ 63.8(b)(1)	Yes.	
§ 63.8(b)(2)	No	§ 63.1365 specifies CMS requirements.
§ 63.8(b)(3)–(c)(3)	Yes.	
§ 63.8(c)(4)	No	§ 63.1365 specifies monitoring frequencies.
§ 63.8(c)(5)–(8)	No.	
§ 63.8(d)–(f)(3)	Yes.	
§ 63.8(f)(4)	Yes	Except § 63.1367(b) specifies that requests may also be included in the Precompliance report.
§ 63.8(f)(5)	Yes.	
§ 63.8(f)(6)	No	Subpart MMM does not require CEM's.
§ 63.8(g)	No	§ 63.1365 specifies data reduction procedures.
§ 63.9(a)–(d)	Yes.	
§ 63.9(e)	No.	
§ 63.9(f)	No	Subpart MMM does not contain opacity and visible emission standards.
§ 63.9(g)	No.	
§ 63.9(h)(1)	Yes.	
§ 63.9(h)(2)(i)	Yes	Except § 63.1367(a)(1) specifies additional information to include in the Notification of Compliance Status report.
§ 63.9(h)(2)(ii)	No	§ 63.1367 specifies the Notification of Compliance Status report is to be submitted within 150 days after the compliance date.
§ 63.9(h)(3)	Yes.	
§ 63.9(h)(4)	N/A	Reserved.
§ 63.9(h)(5)–(6)	Yes.	
§ 63.9(i)–(j)	Yes.	
§ 63.10(a)–(b)(1)	Yes.	
§ 63.10(b)(2)	No	§ 63.1366 specifies recordkeeping requirements.
§ 63.10(b)(3)	Yes.	
§ 63.10(c)	Yes.	
§ 63.10(d)(1)	Yes.	
§ 63.10(d)(2)	Yes	Except § 63.1367(a) specifies that the results of the performance test be submitted with the Notification of Compliance Status report.
§ 63.10(d)(3)	No	Subpart MMM does not include opacity and visible emission standards.
§ 63.10(d)(4)	Yes.	

TABLE 1 TO SUBPART MMM.—GENERAL PROVISIONS APPLICABILITY TO SUBPART MMM—Continued

Reference to subpart A	Applies to subpart MMM	Comment
§63.10(d)(5)	Yes	Except that actions and reporting for batch processes do not apply during startup and shutdown.
§63.10(e)(1)–(2)(i)	Yes.	
§63.10(e)(2)(ii)	No	Subpart MMM does not include opacity monitoring requirements.
§63.10(e)(3)	Yes.	
§63.10(e)(4)	No	Subpart MMM does not include opacity monitoring requirements.
§63.10(f)	Yes.	
§63.11–§63.15	Yes.	

TABLE 2 TO SUBPART MMM.—PROPOSED STANDARDS FOR PAI PRODUCTION

Emission source	Applicability	Requirement
Process vents	Existing:	
	Processes having uncontrolled organic HAP emissions ≥0.15 Mg/yr.	90% for organic HAP per process or ≤20 ppmv TOC.
	Processes having uncontrolled HCl emissions ≥6.8 Mg/yr.	94% for HCl per process.
	Individual process vents meeting TRE criteria that have gaseous organic HAP emissions controlled to less than 90% as of proposal date.	98% gaseous organic HAP control per vent or ≤20 ppmv TOC.
	New:	
	Processes having uncontrolled organic HAP emissions ≥0.15 Mg/yr.	98% for gaseous organic HAP per process or ≤20 ppmv TOC at control device outlet.
	Processes having uncontrolled HCl emissions ≥6.8 Mg/yr and <191 Mg/yr.	94% for HCl per process.
	Processes having uncontrolled HCl emissions ≥191 Mg/yr.	99.9% for HCl per process.
Storage tanks	Existing: ≥0.113 Mg/yr uncontrolled HAP emissions:	
	• <76 m^3 capacity	41% control per tank.
	• ≥76 m^3 capacity	95% control per tank.
	New: ≥0.45 kg/yr uncontrolled HAP emissions	98% control per tank or ≤20 ppmv TOC at control device outlet.
Wastewater[a]	Existing: ≥10,000 ppmw Table 9 compounds at any flowrate or ≥1,000 ppmw Table 9 compounds at ≥10 L/min.	Reduce concentration of total Table 9 compounds to <50 ppmw (or other options).
	New:	
	Same criteria for existing sources	Reduce concentration of total Table 9 compounds to <50 ppmw (or other options).
	Total HAP load in wastewater POD streams ≥2,100 Mg/yr.	99% reduction of Table 9 compounds from all streams.
Equipment leaks	Subpart H	Subpart H with minor changes.
Bag dumps and product dryers.	All	Particulate HAP concentration not to exceed 0.01 gr/dscf.
Heat exchange systems	Each heat exchange system used to cool process equipment in PAI manufacturing operations.	Monitoring and leak repair program as in HON.

[a] Table 9 is listed in the appendix to subpart G of 40 CFR part 63.

[FR Doc. 97–29149 Filed 11–7–97; 8:45 am]
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federal register

Monday
November 10, 1997

Part III

Department of Health and Human Services

Food and Drug Administration
National Institutes of Health

Protection of Human Subjects: Suggested Revisions to the Institutional Review Board (IRB) Expedited Review List; Request for Comments; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N-0447]

Protection of Human Subjects: Suggested Revisions to the Institutional Review Board (IRB) Expedited Review List; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA), in consultation with the Office for Protection from Research Risks (OPRR), is requesting written comments relating to the proposed republication of the Expedited Review List that identifies certain research involving human subjects that may be reviewed by the Institutional Review Board (IRB) through the expedited review procedures authorized in FDA's regulations. Since the list was created, significant advances have been made in medicine and biological technology such that it is appropriate to consider revising this list to include additional categories of research. FDA seeks information and suggestions from the research community and the public on possible revisions to the Expedited Review List. The proposed list included in this notice is for discussion purposes only. FDA and OPRR will consider the comments received in deciding whether to revise the list.

DATES: Submit written comments on or before March 10, 1998.

ADDRESSES: Submit written comments to Dockets Management Branch (HFA-305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1-23, Rockville, MD 20857. Because FDA and OPRR are simultaneously publishing identical lists, comments need not be sent to both agencies.

FOR FURTHER INFORMATION CONTACT: Paul W. Goebel, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-1685.

SUPPLEMENTARY INFORMATION: FDA's regulations for protection of human subjects can be found under part 50 (21 CFR part 50), and the regulations for IRB's under part 56 (21 CFR part 56). The regulations require, with limited exceptions, review of research involving human subjects by an IRB and obtaining and documenting legally effective informed consent for all human subjects of research.

Section 56.110 provides for expedited review procedures for certain kinds of research involving no more than minimal risk, and for minor changes in previously approved research during the period for which approval is authorized. In the **Federal Register** of January 26, 1981 (46 FR 8392), FDA published the Expedited Review List that is referenced in § 56.110(a), which is a list of categories of research that could be reviewed by an IRB through the expedited review procedures set forth in FDA's regulations. In the **Federal Register** of January 27, 1981 (46 FR 8980), a separate Expedited Review List is referenced in 45 CFR part 46 that applies to matters under the Department of Health and Human Services' (HHS) jurisdiction was published. The HHS and FDA lists that published in 1981 differ slightly, in that item 9 on the 1981 HHS list pertains only to 45 CFR 46.110. Because behavioral research was not regulated by FDA, that category was not included in the list published by FDA in 1981, which is reproduced here to facilitate comparison with the proposed list.

Current List: Items Included in the List Published in 1981

The current (1981) list allows an IRB to utilize the expedited review procedure for research activities involving no more than minimal risk and in which the only involvement of human subjects will be in one or more of the following categories (carried out through standard methods):

(1) Collection of hair and nail clippings, in a non-disfiguring manner; deciduous teeth; and permanent teeth if patient care indicates a need for extraction.

(2) Collection of excreta and external secretions including sweat, uncannulated saliva, placenta at delivery, and amniotic fluid at the time of rupture of the membrane prior to or during labor.

(3) Recording of data from subjects who are 18 years of age [of] older using noninvasive procedures routinely employed in clinical practice. This includes the use of physical sensors that are applied either to the surface of the body or at a distance and do not involve input of matter or significant amounts of energy into the subject or an invasion of the subject's privacy. It also includes such procedures as weighting, electrocardiography, electroencephalography, thermography, detection of naturally occurring radioactivity, diagnostic echography, and electroretinography. This category does not include exposure to electromagnetic radiation outside the visible range (for example, x-rays, microwaves).

(4) Collection of blood samples by venipuncture, in amounts not exceeding 450 milliliters in an eight-week period and no more often than two times per week, from subjects who are 18 years of age or older and who are in good health and not pregnant.

(5) Collection of both supra- and subgingival dental plaque and calculus, provided the procedure is not more invasive than routine prophylactic scaling of the teeth and the process is accomplished in accordance with accepted prophylactic techniques.

(6) Voice recordings made for research purposes such as investigations of speech defects.

(7) Moderate exercise by healthy volunteers.

(8) The study of existing data, documents, records, pathological specimens, or diagnostic specimens.

(9) Research on drugs or devices for which an investigational new drug exemption or an investigational device exemption is not required.

FDA, in consultation with OPRR, is proposing to revise the current Expedited Review List to include additional procedures or categories of research that may be reviewed under the expedited review procedure. FDA seeks comments from the public on procedures or categories of research involving human subjects that may be amenable to expedited review in accordance with the procedures outlined in § 56.110(b), instead of review at a convened meeting of the IRB. The proposed list is being published for discussion purposes only. FDA and OPRR intend to determine, after review of comments received, whether any changes should be made to the current list. FDA and OPRR have not determined that the suggested additional categories of research in the proposed list are appropriate for expedited review procedures. The proposed list does not bind FDA or OPRR to include any of the suggested categories in a list that is expected to be published after review of comments.

The following is a proposed revision of the current Expedited Review Lists published in the **Federal Register** of January 26, 1981 (46 FR 8392), and January 27, 1981 (46 FR 8980). In order to simplify review, the proposed revision is identical to the list published elsewhere in this issue of the **Federal Register** by OPRR. Judgment is reserved on whether FDA and OPRR will publish identical lists after comments are received and reviewed. FDA welcomes and encourages comments from the research community and the public.

Proposed List: Research Activities Which May Be Reviewed Through Expedited Review Procedures[1]

Research activities (carried out through standard methods) that: (1) Involve no more than minimal risk, and (2) appear in one or more of the following categories may be reviewed by the IRB through the expedited review procedure authorized in 45 CFR 46.110 and § 56.110. The activities that appear on this list should not be deemed to be of minimal risk simply because they are included on this list. Appearance on this list merely means that the activity is eligible for review through the expedited process when the specific circumstances of the proposed research involve no more than minimal risk to the human subjects. The categories in this list apply regardless of the age of subjects, except as noted.

(1) Research on drugs or devices for which an investigational new drug exemption or an investigational device exemption is not required.

(2) Collection of blood samples by finger stick or venipuncture as follows:

(a) From healthy, nonpregnant adults[2] who weigh at least 110 pounds (lb), in amounts not exceeding 550 milliliters (mL) in an 8-week period and no more than 2 times per week.

(b) From healthy, pregnant adults who weigh at least 110 lb, in amounts not exceeding 100 mL in an 8-week period and no more than 2 times per week.

(c) From healthy children, in amounts not exceeding 3 mL/kilograms (kg) in an 8-week period and no more than 2 times per week.

(d) From medically vulnerable adults who weigh at least 110 lb, in amounts not exceeding 50 mL in an 8-week period and no more than 2 times per week.

(3) Prospective collection for research purposes of the following biological specimens:

(a) Hair and nail clippings in a nondisfiguring manner.

(b) Deciduous teeth at time of exfoliation, or if routine patient care indicates a need for extraction.

(c) Permanent teeth if routine patient care indicates a need for extraction.

(d) Excreta and external secretions (including sweat).

(e) Uncannulated saliva collected either in an unstimulated fashion or stimulated by chewing gumbase or wax or by applying a dilute citric solution to the tongue.

(f) Placenta removed at delivery.

(g) Amniotic fluid obtained at the time of rupture of the membrane prior to or during labor.

(h) Supra-and subgingival dental plaque and calculus, provided the collection procedure is not more invasive than routine prophylactic scaling of the teeth and the process is accomplished in accordance with accepted prophylactic techniques.

(i) Stool cultures obtained by rectal swab.

(j) Mucosal and skin cells collected by buccal scraping or swab, skin swab, or mouth washings.

(k) Sputum collected after saline mist nebulization.

(4) Research involving existing identifiable data, documents, records, or biological specimens (including pathological or diagnostic specimens) where these materials, in their entirety, have been collected prior to the research, for a purpose other than the proposed research.

(5) Research involving solely (a) prospectively collected identifiable residual or discarded specimens, or (b) prospectively collected identifiable data, documents, or records, where (a) or (b) has been generated for nonresearch purposes.

(6) Collection of data through use of the following procedures:

(a) Noninvasive procedures routinely employed in clinical practice and not involving exposure to electromagnetic radiation outside the visible range (i.e., not involving x-rays, microwaves, etc.).

(b) Physical sensors that are applied either to the surface of the body or at a distance and do not involve input of significant amounts of energy into the subject or an invasion of the subject's privacy.

(c) Weighing, testing sensory acuity, electrocardiography, electroencephalography, thermography, detection of naturally occurring radioactivity, electroretinography, echography, sonography, ultrasound, magnetic resonance imaging (MRI), diagnostic infrared imaging, doppler blood flow, and echocardiography.

(d) Moderate exercise, muscular strength testing, body composition assessment, and flexibility testing involving healthy subjects.

(7) Collection of data from voice, video, or image recordings made for research purposes where identification of the subjects and/or their responses would not reasonably place them at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation.

(8) Research on individual or group characteristics or behavior (including but not limited to research involving perception, cognition, surveys, interviews, and focus groups) as follows:

(a) Involving adults, where (i) the research does not involve stress to subjects, and (ii) identification of the subjects and/or their responses would not reasonably place them at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation.

(b) Involving children, where (i) the research involves neither stress to subjects nor sensitive information about themselves, or their family; (ii) no alteration or waiver of regulatory requirements for parental permission has been proposed; and (iii) identification of the subjects and/or their responses would not reasonably place them or their family members at risk of criminal or civil liability or be damaging to the financial standing, employability, or reputation of themselves or their family members.

(9) Research previously approved by the convened IRB as follows:

(a) Where (i) the research is permanently closed to the enrollment of new subjects; (ii) all subjects have completed all research-related interventions; and (iii) the research remains active only for long-term follow-up of subjects; or

(b) Where the research remains active only for the purposes of data analysis; or

(c) Where the IRB has determined that the research involves no greater than minimal risk and no additional risks have been identified; or

(d) Where no subjects have been enrolled and no additional risks have been identified.

The following tabulation of changes is included to enable readers to more easily compare the categories of research included in both lists.

[1] The expedited review procedure consists of a review of research involving human subjects by the IRB chairperson or by one or more experienced reviewers designated by the chairperson from among members of the IRB in accordance with the requirements set forth in § 56.110.

[2] Throughout this document, when FDA refers to "adult," FDA defers to state law for determining the age of majority.

COMPARISON OF THE PROPOSED LIST WITH THE CURRENT LIST

Proposed Expedited Review List	1981 (Current) Expedited Review List
1. Research on drugs or devices for which an investigational new drug exemption or an investigational device exemption is not required.	Unchanged; currently number 9.
2. Collection of blood samples by finger stick or venipuncture as follows:	Currently number 4, limited to venipuncture; "finger stick" not included.
(a) From healthy, nonpregnant adults, in amounts not exceeding 550 mL in an 8-week period and no more than 2 times per week.	Amounts currently limited to 450 mL.
(b) From healthy, pregnant adults, in amounts not exceeding 100 mL in an 8-week period and no more than 2 times per week.	Not included.
(c) From healthy children, in amounts not exceeding 3 mL/kg in an 8-week period and no more than 2 times per week.	Not included.
(d) From medically vulnerable adults, in amounts not exceeding 50 mL in an 8-week period and no more than 2 times per week.	Not included.
3. Prospective collection for research purposes of the following biological specimens:	"Prospective" and "for research purposes" currently not included.
(a) Hair and nail clippings in a nondisfiguring manner.	Currently part of number 1; unchanged.
(b) Deciduous teeth at time of exfoliation, or if routine patient care indicates a need for extraction.	Currently part of number 1; "deciduous teeth" included without qualifiers.
(c) Permanent teeth if routine patient care indicates a need for extraction.	Currently part of number 1; "routine" not included.
(d) Excreta and external secretions (including sweat).	Currently part of number 2; unchanged.
(e) Uncannulated saliva collected either in an unstimulated fashion or stimulated by chewing gumbase or wax or by applying a dilute citric solution to the tongue.	Currently part of number 2; "uncannulated saliva" included without qualifiers.
(f) Placenta removed at delivery.	Currently part of number 2; unchanged.
(g) Amniotic fluid obtained at the time of rupture of the membrane prior to or during labor.	Currently part of number 2; unchanged.
(h) Supra- and subgingival dental plaque and calculus, provided the collection procedure is not more invasive than routine prophylactic scaling of the teeth and the process is accomplished in accordance with accepted prophylactic techniques.	Currently number 5; "procedure" is not qualified with the word "collection."
(i) Stool cultures obtained by rectal swab.	Not included.
(j) Mucosal and skin cells collected by buccal scraping or swab, skin swab, or mouth washings.	Not included.
(k) Sputum collected after saline mist nebulization.	Not included.
4. Research involving existing identifiable data, documents, records, or biological specimens (including pathological or diagnostic specimens) where these materials, in their entirety, have been collected prior to the research, for a purpose other than the proposed research.	Currently number 8; stated as: "The study of existing data, documents, records, pathological specimens, or diagnostic specimens."
5. Research involving solely (a) prospectively collected identifiable residual or discarded specimens, or (b) prospectively collected identifiable data, documents, or records, where (a) or (b) has been generated for nonresearch purposes.	Not included.
6. Collection of data through use of the following procedures:	Currently number 3; "recording" instead of "collection."
(a) Noninvasive procedures routinely employed in clinical practice and not involving exposure to electromagnetic radiation outside the visible range (i.e., not involving x-rays, microwaves, etc.).	Currently number 3; limited to subects 18 years of age or older.
(b) Physical sensors that are applied either to the surface of the body or at a distance and do not involve input of significant amounts of energy into the subject or an invasion of the subject's privacy.	Currently number 3; limited to subjects 18 years of age or older.

COMPARISON OF THE PROPOSED LIST WITH THE CURRENT LIST—Continued

Proposed Expedited Review List	1981 (Current) Expedited Review List
(c) Weighing, testing sensory acuity, electrocardiography, electroencephalography, thermography, detection of naturally occurring radioactivity, electroretinography, echography, sonography, ultrasound, magnetic resonance imaging (MRI), diagnostic infrared imaging, doppler blood flow, and echocardiography.	Currently number 3; limited to subjects 18 years of age or older; limited echography to "diagnostic echography"; does not include "sonography, ultrasound, magnetic resonance imaging (MRI), diagnostic infrared imaging, doppler blood flow, and echocardiography."
(d) Moderate exercise, muscular strength testing, body composition assessment, and flexibility testing involving health subjects.	Currently number 7; limited to "Moderate exercise by healthy volunteers."
7. Collection of data from voice, video, or image recordings made for research purposes where identification of the subjects and/or their responses would not reasonably place them at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation.	Currently number 6; stated as: "Voice recordings made for research purposes such as investigations of speech defects."
8. Research on individual or group characteristics or behavior (including but not limited to research involving perception, cognition, surveys, interviews, and focus groups) as follows:	Not included.
(a) Involving adults, where (i) the research does not involve stress to subjects, and (ii) identification of the subjects and/or their responses would not reasonably place them at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation.	
(b) Involving children, where (i) the research involves neither stress to subjects nor sensitive information about themselves, or their family; (ii) no alteration or waiver of regulatory requirements for parental permission has been proposed; and (iii) identification of the subjects and/or their responses would not reasonably place them or their family members at risk of criminal or civil liability or be damaging to the financial standing, employability, or reputation of themselves or their family members.	
9. Research previously approved by the convened IRB as follows:	Not included.
(a) Where (i) the research is permanently closed to the enrollment of new subjects; (ii) all subjects have completed all research-related interventions; and (iii) the research remains active only for long-term follow-up of subjects; or	
(b) Where the research remains active only for the purposes of data analysis; or	
(c) Where the IRB has determined that the research involves no greater than minimal risk and no additional risks have been identified; or	
(d) Where no subjects have been enrolled and no additional risks have been identified.	

Dated: November 4, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–29851 Filed 11–5–97; 3:51 pm]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Protection of Human Subjects: Suggested Revisions to the Institutional Review Board (IRB) Expedited Review List

AGENCY: Office for Protection from Research Risks, National Institutes of Health, HHS.

ACTION: Notice; request for comments.

SUMMARY: The Office for Protection from Research Risks (OPRR), in consultation with the Food and Drug Administration (FDA), is requesting written comments relating to the proposed republication of the list that identifies certain research involving human subjects which may be reviewed by the Institutional Review Board (IRB) through the expedited review procedure authorized in § 46.110 of 45 CFR Part 46. This list was originally published in 1981 and subsequently referenced in the Federal Policy (Common Rule) for the Protection of Human Subjects (56 FR 28003). Pursuant to § 46.110(a), the Secretary, HHS, has the authority to amend and republish the list. In the 16 years since the list was created, significant advances have been made in medicine and biological technology such that it is appropriate to consider revising this list

to include additional procedures or categories of research. OPRR seeks information and suggestions from the research community and public on possible revisions to the expedited review list.

DATES: Submit written comments on or before March 10, 1998.

ADDRESSES: Comments should be sent to Michele Russell-Einhorn, Director of Regulatory Affairs, Office for Protection from Research Risks, National Institutes of Health, 6100 Executive Blvd., Suite 3B01, Rockville, Md. 20892–7507. Since OPRR and FDA are simultaneously publishing identical lists, comments need not be sent to both agencies.

FOR FURTHER INFORMATION CONTACT: Michele Russell-Einhorn at the address above, or telephone (301) 435–5649 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The Federal Policy (Common Rule) for the Protection of Human Subjects was published in the **Federal Register** on June 18, 1991 (56 FR 28003) and is employed by 17 Executive Branch agencies. This Federal Policy requires adherence to certain requirements by Federal agencies or institutions receiving Federal support for research activities involving human subjects. The Federal Policy has three cornerstones: review of any research involving human subjects by an Institutional Review Board (IRB); with limited exceptions, informed consent of all research subjects; and formal, written assurance of institutional compliance with the Policy. The Department of Health and Human Services' (HHS) codification of the Federal Policy can be found at 45 CFR Part 46.

Section ____.110 of the Federal Policy provides for expedited review procedures for certain kinds of research involving no more than minimal risk, and for minor changes in approved research. This same section gives the Secretary, HHS, the authority to amend and republish the Expedited Review List as needed after consultation with the departments and agencies that are subject to the Federal Policy. The expedited review list that is referenced in the Federal Policy was originally published by the Secretary, HHS in 1981 as a Notice in the **Federal Register** of a list of categories of research that could be reviewed by the IRB through an expedited review procedure. The Food and Drug Administration (FDA) also references an expedited review list (21 CFR Part 56) for matters under FDA's jurisdiction. The HHS and FDA lists differ slightly, in that item 9 on the 1981 HHS expedited review list regarding certain types of behavioral research is not included in the list referenced in 21 CFR Part 56.110.

The current (1981) list allows an IRB to utilize the expedited review procedure for research activities involving no more than minimal risk and in which the only involvement of human subjects will be in one or more of the following categories (carried out through standard methods):

(1) Collection of hair and nail clippings, in a nondisfiguring manner; deciduous teeth; and permanent teeth if patient care indicates a need for extraction. (2) Collection of excreta and external secretions including sweat, uncannulated saliva, placenta removed at delivery, and amniotic fluid at the time of rupture of the membrane prior to or during labor. (3) Recording of data from subjects 18 years of age or older using noninvasive procedures routinely employed in clinical practice. This includes the use of physical sensors that are applied either to the surface of the body or at a distance and do not involve input of matter or significant amounts of energy into the subject or an invasion of the subject's privacy. It also includes such procedures as weighing, testing sensory acuity, electrocardiography, electroencephalography, thermography, detection of naturally occurring radioactivity, diagnostic echography, and electroretinography. It does not include exposure to electromagnetic radiation outside the visible range (for example, x-rays, microwaves). (4) Collection of blood samples by venipuncture, in amounts not exceeding 450 milliliters in an eight-week period and no more often than two times per week, from subjects 18 years of age or older and who are in good health and not pregnant. (5) Collection of both supra-and subgingival dental plaque and calculus, provided the procedure is not more invasive than routine prophylactic scaling of the teeth and the process is accomplished in accordance with accepted prophylactic techniques. (6) Voice recordings made for research purposes such as investigations of speech defects. (7) Moderate exercise by healthy volunteers. (8) The study of existing data, documents, records, pathological specimens, or diagnostic specimens. (9) Research on individual or group behavior or characteristics of individuals, such as studies of perception, cognition, game theory, or test development, where the investigator does not manipulate subjects' behavior and the research will not involve stress to subjects. (10) Research on drugs or devices for which an investigational new drug exemption or an investigational device exemption is not required.

OPRR, in consultation with FDA, is proposing to revise the expedited review list to include additional procedures or categories of research that may be reviewed under the expedited review procedure. Since 1981, OPRR has received some suggestions to this effect and has incorporated several into the proposed revision of the list that is published herein. OPRR seeks additional comments from the public on procedures or categories of research involving human subjects that may be amenable to review by the IRB chairperson or other designated IRB member instead of review by a convened meeting of the IRB.

The following is a proposed revision of the current expedited review list found at 46 FR 8392 (Jan. 26, 1981) and 46 FR 8980 (Jan. 27, 1981). FDA is simultaneously publishing an identical list. Judgment is reserved on whether OPRR and FDA will publish identical lists after comments are received and reviewed. OPRR welcomes and encourages comments from the research community and public.

Research Activities Which May Be Reviewed Through Expedited Review Procedures[1]

Research activities (carried out through standard methods) which involve (1) no more than minimal risk, and (2) appear in one or more of the following categories may be reviewed by the Institutional Review Board through the expedited review procedure authorized in 45 CFR 46.110 and 21 CFR 56.110. The activities that appear on this list should not be deemed to be of minimal risk simply because they are included on this list. Appearance on this list merely means that the activity is eligible for review through the expedited process when the specific circumstances of the proposed research involve no more than minimal risk to the human subjects. The categories in this list apply regardless of the age of subjects, except as noted.

(1) Research on drugs or devices for which an investigational new drug exemption or an investigational device exemption is not required.

(2) Collection of blood samples by finger stick or venipuncture as follows:

(a) From healthy, nonpregnant adults[2] who weigh at least 110 pounds, in amounts not exceeding 550 ml in an 8 week period and no more than 2 times per week.

(b) From healthy, pregnant adults who weigh at least 110 pounds, in amounts not exceeding 100 ml in an 8 week period and no more than 2 times per week.

(c) From healthy children, in amounts not exceeding 3 ml/kg in an 8 week period and no more than 2 times per week.

(d) From medically vulnerable adults who weigh at least 110 pounds, in amounts not exceeding 50 ml in an 8 week period and no more than 2 times per week.

(3) Prospective collection for research purposes of the following biological specimens:

(a) Hair and nail clippings in a nondisfiguring manner.

(b) Deciduous teeth at time of exfoliation, or if routine patient care indicates a need for extraction.

(c) Permanent teeth if routine patient care indicates a need for extraction.

(d) Excreta and external secretions (including sweat).

(e) Uncannulated saliva collected either in an unstimulated fashion or stimulated by chewing gumbase or wax or by applying a dilute citric solution to the tongue.

(f) Placenta removed at delivery.

(g) Amniotic fluid obtained at the time of rupture of the membrane prior to or during labor.

(h) Supra- and subgingival dental plaque and calculus, provided the collection procedure is not more invasive than routine prophylactic scaling of the teeth and the process is accomplished in accordance with accepted prophylactic techniques.

(i) Stool cultures obtained by rectal swab.

(j) Mucosal and skin cells collected by buccal scraping or swab, skin swab, or mouth washings.

(k) Sputum collected after saline mist nebulization.

(4) Research involving existing identifiable data, documents, records, or biological specimens (including pathological or diagnostic specimens) where these materials, in their entirety, have been collected prior to the research, for a purpose other than the proposed research.

(5) Research involving solely (a) prospectively collected identifiable residual or discarded specimens, or (b) prospectively collected identifiable data, documents, or records, where (a) or (b) has been generated for nonresearch purposes.

(6) Collection of data through use of the following procedures:

(a) Noninvasive procedures routinely employed in clinical practice and not involving exposure to electromagnetic radiation outside the visible range (i.e., not involving x-rays, microwaves, etc.).

(b) Physical sensors that are applied either to the surface of the body or at a distance and do not involve input of significant amounts of energy into the subject or an invasion of the subject's privacy.

(c) Weighing, testing sensory acuity, electrocardiography, electroencephalography, thermography, detection of naturally occurring radioactivity, electroretinography, echography, sonography, ultrasound, magnetic resonance imaging (MRI), diagnostic infrared imaging, doppler blood flow, and echocardiography.

(d) Moderate exercise, muscular strength testing, body composition assessment, and flexibility testing involving healthy subjects.

(7) Collection of data from voice, video, or image recordings made for research purposes where identification of the subjects and/or their responses would not reasonably place them at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation.

(8) Research on individual or group characteristics or behavior (including but not limited to research involving perception, cognition, surveys, interviews, and focus groups) as follows:

(a) Involving adults, where (i) the research does not involve stress to subjects, and (ii) identification of the subjects and/or their responses would not reasonably place them at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation.

(b) Involving children, where (i) the research involves neither stress to subjects nor sensitive information about themselves, or their family; (ii) no alteration or waiver of regulatory requirements for parental permission has been proposed; and (iii) identification of the subjects and/or their responses would not reasonably place them or their family members at risk of criminal or civil liability or be damaging to the financial standing, employability, or reputation of themselves or their family members.

(9) Research previously approved by the convened IRB as follows:

(a) Where (i) the research is permanently closed to the enrollment of new subjects; (ii) all subjects have completed all research-related interventions; and (iii) the research remains active only for long-term follow-up of subjects; or

(b) Where the research remains active only for the purposes of data analysis; or

(c) Where the IRB has determined that the research involves no greater than minimal risk and no additional risks have been identified; or

(d) Where no subjects have been enrolled and no additional risks have been identified.

The following tabulation of changes is included to enable readers to more easily compare the categories of research included in both lists.

Proposed expedited review list	1981 (Current) expedited review list
1. Research on drugs or devices for which an investigational new drug exemption or an investigational device exemption is not required.	Unchanged; currently number 9.
2. Collection of blood samples by finger stick or venipuncture as follows:	Currently number 4, limited to venipuncture; "finger stick" not included
(a) From healthy, nonpregnant adults, in amounts not exceeding 550 ml in an 8 week period and no more than 2 times per week.	Amounts currently limited to 450 ml
(b) From healthy, pregnant adults, in amounts not exceeding 100 ml in an 8 week period and no more than 2 times per week.	Not included.
(c) From healthy children, in amounts not exceeding 3 ml/kg in an 8 week period and no more than 2 times per week.	Not included.
(d) From medically vulnerable adults, in amounts not exceeding 50 ml in an 8 week period and no more than 2 times per week.	Not included.
3. Prospective collection for research purposes of the following biological specimens:	"Prospective" and "for research purposes" currently not included.
(a) Hair and nail clippings in a nondisfiguring manner	Currently part of number 1; unchanged.

[1] The expedited review procedure consists of a review of research involving human subjects by the IRB chairperson or by one or more experienced reviewers designated by the chairperson from among members of the IRB in accordance with the requirements set forth in Section ____.110.

[2] Throughout this document, when OPRR refers to "adult," OPRR defers to state law for determining the age of majority.

Proposed expedited review list	1981 (Current) expedited review list
(b) Deciduous teeth at time of exfoliation, or if routine patient care indicates a need for extraction.	Currently part of number 1; "deciduous teeth" included without qualifiers.
(c) Permanent teeth if routine patient care indicates a need for extraction.	Currently part of number 1; "routine" not included.
(d) Excreta and external secretions (including sweat)	Currently part of number 2; unchanged.
(e) Uncannulated saliva collected either in an unstimulated fashion or stimulated by chewing gumbase or wax or by applying a dilute citric solution to the tongue.	Currently part of number 2; "uncannulated saliva" included without qualifiers.
(f) Placenta removed at delivery	Currently part of number 2; unchanged.
(g) Amniotic fluid obtained at the time of rupture of the membrane prior to or during labor.	Currently part of number 2; unchanged.
(h) Supra- and subgingival dental plaque and calculus, provided the collection procedure is not more invasive than routine prophylactic scaling of the teeth and the process is accomplished in accordance with accepted prophylactic techniques.	Currently number 5; "procedure" was not qualified with the word "collection."
(i) Stool cultures obtained by rectal swab	Not included.
(j) Mucosal and skin cells collected by buccal scraping or swab, skin swab, or mouth washings.	Not included.
(k) Sputum collected after saline mist nebulization	Not included.
4. Research involving existing identifiable data, documents, records, or biological specimens (including pathological or diagnostic specimens) where these materials, in their entirety, have been collected prior to the research, for a purpose other than the proposed research.	Currently number 6; stated as: "The study of existing data, documents, records, pathological specimens, or diagnostic specimens."
5. Research involving solely (a) prospectively collected identifiable residual or discarded specimens, or (b) prospectively collected identifiable data, documents, or records, where (a) or (b) has been generated for nonresearch purposes.	Not included.
6. Collection of data through use of the following procedures:	Currently number 3; "recording" instead of "collection."
(a) Noninvasive procedures routinely employed in clinical practice and not involving exposure to electromagnetic radiation outside the visible range (i.e., not involving x-rays, microwaves, etc.).	Currently number 3; limited to subjects 18 years of age or older.
(b) Physical sensors that are applied either to the surface of the body or at a distance and do not involve input of significant amounts of energy into the subject or an invasion of the subject's privacy.	Currently number 3; limited to subjects 18 years of age or older.
(c) Weighing, testing sensory acuity, electrocardiography, electroencephalography, thermography, detection of naturally occurring radioactivity, electroretinography, echography, sonography, ultrasound, magnetic resonance imaging (MRI), diagnostic infrared imaging, doppler blood flow, and echocardiography.	Currently number 3; limited to subjects 18 years of age or older; limited echegraphy to "diagnostic echography"; does not include "sonography, ultrasound, magnetic resonance imaging (MRI), diagnostic infrared imaging, doppler blood flow, and echocardiography."
(d) Moderate exercise, muscular strength testing, body composition assessment, and flexibility testing involving healthy subjects.	Currently number 7; limited to "Moderate exercise by healthy volunteers."
7. Collection of data from voice, video, or image recordings made for research purposes where identification of the subjects and/or their responses would not reasonably place them at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation.	Currently number 6; stated as: "Voice recordings made for research purposes such as investigations of speech defects."
8. Research on individual or group characteristics or behavior (including but not limited to research involving perception, cognition, surveys, interviews, and focus groups) as follows:	Currently number 9, stated as follows: Research on individual or group behavior or characteristics of individuals, such as studies of perception, cognition, game theory, or test development, where the investigator does not manipulate subjects' behavior and the research will not involve stress to subjects."
(a) Involving adults, where (i) the research does not involve stress to subjects, and (ii) identification of the subjects and/or their responses would not reasonably place them at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation.	
(b) Involving children, where (i) the research involves neither stress to subjects nor sensitive information about themselves, or their family; (ii) no alteration or waiver of regulatory requirements for parental permission has been proposed; and (iii) identification of the subjects and/or their responses would not reasonably place them or their family members at risk of criminal or civil liability or be damaging to the financial standing, employability, or reputation of themselves or their family members.	
9. Research previously approved by the convened IRB as follows:	Not Included.
(a) Where (i) the research is permanently closed to the enrollment of new subjects; (ii) all subjects have completed all research-related interventions; and (iii) the research remains active only for long-term follow-up of subjects; or	
(b) Where the research remains active only for the purposes of data analysis; or	

Proposed expedited review list	1981 (Current) expedited review list
(c) Where the IRB has determined that the research involves no greater than minimal risk and no additional risks have been identified; or	
(d) Where no subjects have been enrolled and no additional risks have been identified	

Dated: October 31, 1997.

Gary B. Ellis,

Director, Office for Protection from Research Risks.

[FR Doc. 97–29652 Filed 11–5–97; 3:51 pm]

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Monday
November 10, 1997

Part IV

Department of Health and Human Services

Food and Drug Administration

21 CFR Parts 16 and 900
Quality Mammography Standards; Correction; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 16 and 900

[Docket No. 95N–0182]

RIN 0910–AA24

Quality Mammography Standards; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a document entitled "Quality Mammography Standards" that appeared in the Federal Register of October 28, 1997. The document was published with some inadvertent typographical errors and incorrect dates in the regulatory text. This document corrects those errors. FDA is also identifying with greater specificity those sections of the quality standards that will become effective October 28, 2002. For the convenience of the reader, FDA is republishing 21 CFR part 900 in its entirety with corrections.

DATES: This regulation is effective April 28, 1999; except § 900.12(b)(8)(i), (e)(4)(iii)(B), (e)(5)(i)(B) which become effective October 28, 2002.

FOR FURTHER INFORMATION CONTACT: Roger Burkhart, Center for Devices and Radiological Health (HFZ–240), Food and Drug Administration 5600 Fishers Lane, Rockville, MD 20850, 301–594–3332, FAX 301–594–3306.

SUPPLEMENTARY INFORMATION: In FR Doc. 97–26351, appearing on page 55852 in the Federal Register of Tuesday, October 28, 1997, the following corrections are made:

1. On page 55852, in the first column, the "DATES" section is corrected as set forth above.

2. On page 55854, in the first column, in the third full paragraph, line 12, "Mammography Matters" should be italicized.

3. On page 55872, in the first column, in the fourth full paragraph, in line 14, the "+" sign is corrected to read "±".

4. On page 55895, in the second column, in the fifth paragraph, in line 16, "gi11" is removed and the paragraph is indented at "(Comment 225)".

5. On page 55919, in the third column, in the fourth full paragraph, in line 4, in the fifth full paragraph, in line 5, and in the sixth full paragraph, in line 5, the "+" sign is corrected to read "±".

6. On page 55920, in the first column, in lines 1 and 6, the "+" sign is corrected to read "±"; and in the second column, in the first full paragraph, in line 7, "(10-4" is corrected to read "(–10^{-4}".

7. On page 55930, in the second column, in the third line from the bottom, the word "patents" is corrected to read "patients".

8. On page 55938, in the third column, in the second full paragraph, in line 19, "advided" is corrected to read "advised".

9. On page 55954, in the first column, in the seventh paragraph, beginning in line 6, "Journal of the Medical Association" should be italicized.

10. On page 55967, in the first column, in the third line from the bottom of the page, "becauseit" is corrected to read "because it".

11. On page 55975, in the second column, in the second full paragraph, line 7, "(C)." is corrected to read ". (C)"; and in the third full paragraph, in line 4, "(B)." is corrected to read ". (B)".

12. On page 55976, in the second column, in reference 5, in line 2, "≤" is corrected to read "≥"; and in line 3, "1995–1993" is corrected to read "1993–1995".

Part 16 [Corrected]

13. On page 55976, in the authority citation for 21 CFR part 16, "41–40" is corrected to read "40–41"; and in amendatory instruction 2., in the section heading, "§ 716.1" is corrected to read "§ 16.1".

§ 900.3 [Corrected]

14. On page 55979, in the second column in § 900.3(c)(4), a comma is inserted after "July 28, 1998".

§ 900.12 [Corrected]

15. On page 55986, in the first column, in the introductory text of § 900.12(a)(2)(iv), a comma is inserted after "October 28, 1997".

16. On page 55987, in the second column, in § 900.12(b)(6)(ii) the word "valve" is corrected to read "value"; in § 900.12(b)(8)(i), "October 28, 1999" is corrected to read "October 28, 2002".

17. On page 55989, in the first column, in § 900.12(e)(1)(ii), (iii), (e)(2)(ii), and (e)(5)(ii) the "+" sign is corrected to read "±"; and in § 900.12(e)(4)(iii)(B), (e)(5)(i)(B), and (e)(5)(iii) "October 28, 1999" is corrected to read "October 28, 2002" each time it appears.

18. On page 55990, in the third column, in § 900.12(e)(5)(x)(A), "October 28, 1999" is corrected to read "October 28, 2002".

19. On page 55991, in the third column, in § 900.12(e)(12) the "+" sign is corrected to read "±".

20. On page 55992, in the heading for § 900.12(h), the word "compliant" is corrected to read "complaint".

§ 900.16 [Corrected]

21. On page 55993, in § 900.16(a)(1), the word "assuing" is corrected to read "assuring".

As corrected, 21 CFR part 900 is republished to read as follows:

PART 900—MAMMOGRAPHY

Subpart A—Accreditation

Sec.
900.1 Scope.
900.2 Definitions.
900.3 Application for approval as an accreditation body.
900.4 Standards for accreditation bodies.
900.5 Evaluation.
900.6 Withdrawal of approval.
900.7 Hearings.
900.8—900.9 [Reserved]

Subpart B—Quality Standards and Certification

900.10 Applicability.
900.11 Requirements for certification.
900.12 Quality standards.
900.13 Revocation of accreditation and revocation of accreditation body approval.
900.14 Suspension or revocation of certificates.
900.15 Appeals of adverse accreditation or reaccreditation decisions that preclude certification or recertification.
900.16 Appeals of denials of certification.
900.17 [Reserved]
900.18 Alternative requirements for § 900.12 quality standards.

Authority: 21 U.S.C. 360i, 360nn, 374(e); 42 U.S.C. 263b.

Subpart A—Accreditation

§ 900.1 Scope.

The regulations set forth in this part implement the Mammography Quality Standards Act (MQSA) (42 U.S.C. 263b). Subpart A of this part establishes procedures whereby an entity can apply to become a Food and Drug Administration (FDA)-approved accreditation body to accredit facilities to be eligible to perform screening or diagnostic mammography services. Subpart A further establishes requirements and standards for accreditation bodies to ensure that all mammography facilities under the jurisdiction of the United States are adequately and consistently evaluated for compliance with national quality standards for mammography. Subpart B of this part establishes minimum national quality standards for mammography facilities to ensure safe, reliable, and accurate mammography. The regulations set forth in this part do not apply to facilities of the Department of Veterans Affairs.

§ 900.2 Definitions.

The following definitions apply to subparts A and B of this part:

(a) *Accreditation body* or *body* means an entity that has been approved by FDA under § 900.3(d) to accredit mammography facilities.

(b) *Action limits* or *action levels* means the minimum and maximum values of a quality assurance measurement that can be interpreted as representing acceptable performance with respect to the parameter being tested. Values less than the minimum or greater than the maximum action limit or level indicate that corrective action must be taken by the facility. Action limits or levels are also sometimes called control limits or levels.

(c) *Adverse event* means an undesirable experience associated with mammography activities within the scope of 42 U.S.C. 263b. Adverse events include but are not limited to:

(1) Poor image quality;

(2) Failure to send mammography reports within 30 days to the referring physician or in a timely manner to the self-referred patient; and

(3) Use of personnel that do not meet the applicable requirements of § 900.12(a).

(d) *Air kerma* means kerma in a given mass of air. The unit used to measure the quantity of air kerma is the Gray (Gy). For X-rays with energies less than 300 kiloelectronvolts (keV), 1 Gy = 100 radian (rad) = 114 roentgens (R) of exposure.

(e) *Breast implant* means a prosthetic device implanted in the breast.

(f) *Calendar quarter* means any one of the following time periods during a given year: January 1 through March 31, April 1 through June 30, July 1 through September 30, or October 1 through December 31.

(g) *Category I* means medical educational activities that have been designated as Category I by the Accreditation Council for Continuing Medical Education (ACCME), the American Osteopathic Association (AOA), a state medical society, or an equivalent organization.

(h) *Certificate* means the certificate described in § 900.11(a).

(i) *Certification* means the process of approval of a facility by FDA to provide mammography services.

(j) *Clinical image* means a mammogram.

(k) *Consumer* means an individual who chooses to comment or complain in reference to a mammography examination, including the patient or representative of the patient (e.g., family member or referring physician).

(l) *Continuing education unit* or *continuing education credit* means one contact hour of training.

(m) *Contact hour* means an hour of training received through direct instruction.

(n) *Direct instruction* means:

(1) Face-to-face interaction between instructor(s) and student(s), as when the instructor provides a lecture, conducts demonstrations, or reviews student performance; or

(2) The administration and correction of student examinations by an instructor(s) with subsequent feedback to the student(s).

(o) *Direct supervision* means that:

(1) During joint interpretation of mammograms, the supervising interpreting physician reviews, discusses, and confirms the diagnosis of the physician being supervised and signs the resulting report before it is entered into the patient's records; or

(2) During the performance of a mammography examination or survey of the facility's equipment and quality assurance program, the supervisor is present to observe and correct, as needed, the performance of the individual being supervised who is performing the examination or conducting the survey.

(p) *Established operating level* means the value of a particular quality assurance parameter that has been established as an acceptable normal level by the facility's quality assurance program.

(q) *Facility* means a hospital, outpatient department, clinic, radiology practice, mobile unit, office of a physician, or other facility that conducts mammography activities, including the following: Operation of equipment to produce a mammogram, processing of the mammogram, initial interpretation of the mammogram, and maintaining viewing conditions for that interpretation. This term does not include a facility of the Department of Veterans Affairs.

(r) *First allowable time* means the earliest time a resident physician is eligible to take the diagnostic radiology boards from an FDA-designated certifying body. The "first allowable time" may vary with the certifying body.

(s) *FDA* means the Food and Drug Administration.

(t) *Interim regulations* means the regulations entitled "Requirements for Accrediting Bodies of Mammography Facilities" (58 FR 67558–67565) and "Quality Standards and Certification Requirements for Mammography Facilities" (58 FR 67565–67572), published by FDA on December 21, 1993, and amended on September 30, 1994 (59 FR 49808–49813). These regulations established the standards that had to be met by mammography facilities in order to lawfully operate between October 1, 1994, and April 28, 1999.

(u) *Interpreting physician* means a licensed physician who interprets mammograms and who meets the requirements set forth in § 900.12(a)(1).

(v) *Kerma* means the sum of the initial energies of all the charged particles liberated by uncharged ionizing particles in a material of given mass.

(w) *Laterality* means the designation of either the right or left breast.

(x) *Lead interpreting physician* means the interpreting physician assigned the general responsibility for ensuring that a facility's quality assurance program meets all of the requirements of § 900.12(d) through (f). The administrative title and other supervisory responsibilities of the individual, if any, are left to the discretion of the facility.

(y) *Mammogram* means a radiographic image produced through mammography.

(z) *Mammographic Modality* means a technology, within the scope of 42 U.S.C. 263b, for radiography of the breast. Examples are screen-film mammography and xeromammography.

(aa) *Mammography* means radiography of the breast, but, for the purposes of this part, does not include:

(1) Radiography of the breast performed during invasive interventions for localization or biopsy procedures; or

(2) Radiography of the breast performed with an investigational mammography device as part of a scientific study conducted in accordance with FDA's investigational device exemption regulations in part 812 of this chapter.

(bb) *Mammography equipment evaluation* means an onsite assessment of mammography unit or image processor performance by a medical physicist for the purpose of making a preliminary determination as to whether the equipment meets all of the applicable standards in § 900.12(b) and (e).

(cc) *Mammography medical outcomes audit* means a systematic collection of mammography results and the comparison of those results with outcomes data.

(dd) *Mammography unit* or *units* means an assemblage of components for the production of X-rays for use during mammography, including, at a minimum: An X-ray generator, an X-ray

control, a tube housing assembly, a beam limiting device, and the supporting structures for these components.

(ee) *Mean optical density* means the average of the optical densities measured using phantom thicknesses of 2, 4, and 6 centimeters with values of kilovolt peak (kVp) clinically appropriate for those thicknesses.

(ff) *Medical physicist* means a person trained in evaluating the performance of mammography equipment and facility quality assurance programs and who meets the qualifications for a medical physicist set forth in § 900.12(a)(3).

(gg) *MQSA* means the Mammography Quality Standards Act.

(hh) *Multi-reading* means two or more physicians, at least one of whom is an interpreting physician, interpreting the same mammogram.

(ii) *Patient* means any individual who undergoes a mammography evaluation in a facility, regardless of whether the person is referred by a physician or is self-referred.

(jj) *Phantom* means a test object used to simulate radiographic characteristics of compressed breast tissue and containing components that radiographically model aspects of breast disease and cancer.

(kk) *Phantom image* means a radiographic image of a phantom.

(ll) *Physical science* means physics, chemistry, radiation science (including medical physics and health physics), and engineering.

(mm) *Positive mammogram* means a mammogram that has an overall assessment of findings that are either "suspicious" or "highly suggestive of malignancy."

(nn) *Provisional certificate* means the provisional certificate described in § 900.11(b)(2).

(oo) *Qualified instructor* means an individual whose training and experience adequately prepares him or her to carry out specified training assignments. Interpreting physicians, radiologic technologists, or medical physicists who meet the requirements of § 900.12(a) would be considered qualified instructors in their respective areas of mammography. Other examples of individuals who may be qualified instructors for the purpose of providing training to meet the regulations of this part include, but are not limited to, instructors in a post-high school training institution and manufacturer's representatives.

(pp) *Quality control technologist* means an individual meeting the requirements of § 900.12(a)(2) who is responsible for those quality assurance responsibilities not assigned to the lead interpreting physician or to the medical physicist.

(qq) *Radiographic equipment* means X-ray equipment used for the production of static X-ray images.

(rr) *Radiologic technologist* means an individual specifically trained in the use of radiographic equipment and the positioning of patients for radiographic examinations and who meets the requirements set forth in § 900.12(a)(2).

(ss) *Serious adverse event* means an adverse advent that may significantly compromise clinical outcomes, or an adverse event for which a facility fails to take appropriate corrective action in a timely manner.

(tt) *Serious complaint* means a report of a serious adverse event.

(uu) *Standard breast* means a 4.2 centimeter (cm) thick compressed breast consisting of 50 percent glandular and 50 percent adipose tissue.

(vv) *Survey* means an onsite physics consultation and evaluation of a facility quality assurance program performed by a medical physicist.

(ww) *Time cycle* means the film development time.

(xx) *Traceable to a national standard* means an instrument is calibrated at either the National Institute of Standards and Technology (NIST) or at a calibration laboratory that participates in a proficiency program with NIST at least once every 2 years and the results of the proficiency test conducted within 24 months of calibration show agreement within ± 3 percent of the national standard in the mammography energy range.

§ 900.3 Application for approval as an accreditation body.

(a) *Eligibility.* Private nonprofit organizations or State agencies capable of meeting the requirements of this subpart A may apply for approval as accreditation bodies.

(b) *Application for initial approval.* (1) An applicant seeking initial FDA approval as an accreditation body shall inform the Division of Mammography Quality and Radiation Programs (DMQRP), Center for Devices and Radiology Health (HFZ–240), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, marked Attn: Mammography Standards Branch, of its desire to be approved as an accreditation body and of its requested scope of authority.

(2) Following receipt of the request, FDA will provide the applicant with additional information to aid in submission of an application for approval as an accreditation body.

(3) The applicant shall furnish to FDA, at the address in § 900.3(b)(1), three copies of an application containing the following information, materials, and supporting documentation:

(i) Name, address, and phone number of the applicant and, if the applicant is not a State agency, evidence of nonprofit status (i.e., of fulfilling Internal Revenue Service requirements as a nonprofit organization);

(ii) Detailed description of the accreditation standards the applicant will require facilities to meet and a discussion substantiating their equivalence to FDA standards required under § 900.12;

(iii) Detailed description of the applicant's accreditation review and decisionmaking process, including:

(A) Procedures for performing accreditation and reaccreditation clinical image review in accordance with § 900.4(c), random clinical image reviews in accordance with § 900.4(f), and additional mammography review in accordance with § 900.12(j);

(B) Procedures for performing phantom image review;

(C) Procedures for assessing mammography equipment evaluations and surveys;

(D) Procedures for initiating and performing onsite visits to facilities;

(E) Procedures for assessing facility personnel qualifications;

(F) Copies of the accreditation application forms, guidelines, instructions, and other materials the applicant will send to facilities during the accreditation process, including an accreditation history form that requires each facility to provide a complete history of prior accreditation activities and a statement that all information and data submitted in the application is true and accurate, and that no material fact has been omitted;

(G) Policies and procedures for notifying facilities of deficiencies;

(H) Procedures for monitoring corrections of deficiencies by facilities;

(I) Policies and procedures for suspending or revoking a facility's accreditation;

(J) Policies and procedures that will ensure processing of accreditation applications and renewals within a timeframe approved by FDA and assurances that the body will adhere to such policies and procedures; and

(K) A description of the applicant's appeals process for facilities contesting adverse accreditation status decisions.

(iv) Education, experience, and training requirements for the applicant's professional staff, including reviewers of clinical or phantom images;

(v) Description of the applicant's electronic data management and analysis system with respect to accreditation review and decision processes and the applicant's ability to provide electronic data in a format compatible with FDA data systems;

(vi) Resource analysis that demonstrates that the applicant's staffing, funding, and other resources are adequate to perform the required accreditation activities;

(vii) Fee schedules with supporting cost data;

(viii) Statement of policies and procedures established to avoid conflicts of interest or the appearance of conflicts of interest by the applicant's board members, commissioners, professional personnel (including reviewers of clinical and phantom images), consultants, administrative personnel, and other representatives of the applicant;

(ix) Statement of policies and procedures established to protect confidential information the applicant will collect or receive in its role as an accreditation body;

(x) Disclosure of any specific brand of imaging system or component, measuring device, software package, or other commercial product used in mammography that the applicant develops, sells, or distributes;

(xi) Description of the applicant's consumer complaint mechanism;

(xii) Satisfactory assurances that the applicant shall comply with the requirements of § 900.4; and

(xiii) Any other information as may be required by FDA.

(c) *Application for renewal of approval.* An approved accreditation body that intends to continue to serve as an accreditation body beyond its current term shall apply to FDA for renewal or notify FDA of its plans not to apply for renewal in accordance with the following procedures and schedule:

(1) At least 9 months before the date of expiration of a body's approval, the body shall inform FDA, at the address given in § 900.3(b)(1), of its intent to seek renewal.

(2) FDA will notify the applicant of the relevant information, materials, and supporting documentation required under § 900.3(b)(3) that the applicant shall submit as part of the renewal procedure.

(3) At least 6 months before the date of expiration of a body's approval, the applicant shall furnish to FDA, at the address in § 900.3(b)(1), three copies of a renewal application containing the information, materials, and supporting documentation requested by FDA in accordance with § 900.3(c)(2).

(4) No later than July 28, 1998, any accreditation body approved under the interim regulations published in the **Federal Register** of December 21, 1993 (58 FR 67558), that desires to continue to serve as an accreditation body under the final regulations shall apply for renewal of approval in accordance with the procedures set forth in paragraphs (c)(1) through (c)(3) of this section.

(5) Any accreditation body that does not plan to renew its approval shall so notify FDA at the address given in paragraph (b)(1) of this section at least 9 months before the expiration of the body's term of approval.

(d) *Rulings on applications for initial and renewed approval.* (1) FDA will conduct a review and evaluation to determine whether the applicant substantially meets the applicable requirements of this subpart and whether the accreditation standards the applicant will require facilities to meet are substantially the same as the quality standards published under subpart B of this part.

(2) FDA will notify the applicant of any deficiencies in the application and request that those deficiencies be rectified within a specified time period. If the deficiencies are not rectified to FDA's satisfaction within the specified time period, the application for approval as an accreditation body may be rejected.

(3) FDA shall notify the applicant whether the application has been approved or denied. That notification shall list any conditions associated with approval or state the bases for any denial.

(4) The review of any application may include a meeting between FDA and representatives of the applicant at a time and location mutually acceptable to FDA and the applicant.

(5) FDA will advise the applicant of the circumstances under which a denied application may be resubmitted.

(6) If FDA does not reach a final decision on a renewal application in accordance with this paragraph before the expiration of an accreditation body's current term of approval, the approval will be deemed extended until the agency reaches a final decision on the application, unless an accreditation body does not rectify deficiencies in the application within the specified time period, as required in paragraph (d)(2) of this section.

(e) *Relinquishment of authority.* An accreditation body that decides to relinquish its accreditation authority before expiration of the body's term of approval shall submit a letter of such intent to FDA, at the address in § 900.3(b)(1), at least 9 months before relinquishing such authority.

(f) *Transfer of records.* An accreditation body that does not apply for renewal of accreditation body approval, is denied such approval by FDA, or relinquishes its accreditation authority and duties before expiration of its term of approval, shall:

(1) Transfer facility records and other related information as required by FDA to a location and according to a schedule approved by FDA.

(2) Notify, in a manner and time period approved by FDA, all facilities accredited or seeking accreditation by the body that the body will no longer have accreditation authority.

(g) *Scope of authority.* An accreditation body's term of approval is for a period not to exceed 7 years. FDA may limit the scope of accreditation authority.

§ 900.4 Standards for accreditation bodies.

(a) *Code of conduct and general responsibilities.* The accreditation body shall accept the following responsibilities in order to ensure safe and accurate mammography at the facilities it accredits and shall perform these responsibilities in a manner that ensures the integrity and impartiality of accreditation body actions.

(1)(i) When an accreditation body receives or discovers information that suggests inadequate image quality, or upon request by FDA, the accreditation body shall review a facility's clinical images or other aspects of a facility's practice to assist FDA in determining whether or not the facility's practice poses a serious risk to human health. Such reviews are in addition to the evaluation an accreditation body performs as part of the initial accreditation or renewal process for facilities.

(ii) If review by the accreditation body demonstrates that a problem does exist with respect to image quality or other aspects of a facility's compliance with quality standards, or upon request by FDA, the accreditation body shall require or monitor corrective actions, or suspend or revoke accreditation of the facility.

(2) The accreditation body shall inform FDA as soon as possible but in no case longer than 2 business days after becoming aware of equipment or practices that pose a serious risk to human health.

(3) The accreditation body shall establish and administer a quality assurance (QA) program that has been approved by FDA in accordance with § 900.3(d) or paragraph (a)(8) of this section. Such quality assurance program shall:

(i) Include requirements for clinical image review and phantom image review;

(ii) Ensure that clinical and phantom images are evaluated consistently and accurately; and

(iii) Specify the methods and frequency of training and evaluation for clinical and phantom image reviewers, and the bases and procedures for removal of such reviewers.

(4) The accreditation body shall establish measures that FDA has approved in accordance with § 900.3(d) or paragraph (a)(8) of this section to reduce the possibility of conflict of interest or facility bias on the part of individuals acting on the body's behalf. Such individuals who review clinical or phantom images under the provisions of paragraphs (c) and (d) of this section or who visit facilities under the provisions of paragraph (f) of this section shall not review clinical or phantom images from or visit a facility with which such individuals maintain a financial relationship, or when it would otherwise be a conflict of interest for them to do so, or when they have a bias in favor of or against the facility.

(5) The accreditation body may require specific equipment performance or design characteristics that FDA has approved. However, no accreditation body shall require, either explicitly or implicitly, the use of any specific brand of imaging system or component, measuring device, software package, or other commercial product as a condition for accreditation by the body, unless FDA determines that it is in the best interest of public health to do so.

(i) Any representation, actual or implied, either orally, in sales literature, or in any other form of representation, that the purchase or use of a particular product brand is required in order for any facility to be accredited or certified under § 900.11(b), is prohibited, unless FDA approves such representation.

(ii) Unless FDA has approved the exclusive use and promotion of a particular commercial product in accordance with this section, all products produced, distributed, or sold by an accreditation body or an organization that has a financial or other relationship with the accreditation body that may be a conflict of interest or have the appearance of a conflict of interest with the body's accreditation functions, shall bear a disclaimer stating that the purchase or use of such products is not required for accreditation or certification of any facility under § 900.11(b). Any representations about such products shall include a similar disclaimer.

(6) When an accreditation body denies accreditation to a facility, the accreditation body shall notify the facility in writing and explain the bases for its decision. The notification shall also describe the appeals process available from the accreditation body for the facility to contest the decision.

(7) No accreditation body may establish requirements that preclude facilities from being accredited under § 900.11(b) by any other accreditation body, or require accreditation by itself under MQSA if another accreditation body is available to a facility.

(8) The accreditation body shall obtain FDA authorization for any changes it proposes to make in any standards that FDA has previously accepted under § 900.3(d).

(9) An accreditation body shall establish procedures to protect confidential information it collects or receives in its role as an accreditation body.

(i) Nonpublic information collected from facilities for the purpose of carrying out accreditation body responsibilities shall not be used for any other purpose or disclosed, other than to FDA or its duly designated representatives, including State agencies, without the consent of the facility;

(ii) Nonpublic information that FDA or its duly designated representatives, including State agencies, share with the accreditation body concerning a facility that is accredited or undergoing accreditation by that body shall not be further disclosed except with the written permission of FDA.

(b) *Monitoring facility compliance with quality standards.* (1) The accreditation body shall require that each facility it accredits meet standards for the performance of quality mammography that are substantially the same as those in this subpart and in subpart B of this part.

(2) The accreditation body shall notify a facility regarding equipment, personnel, and other aspects of the facility's practice that do not meet such standards and advise the facility that such equipment, personnel, or other aspects of the practice should not be used by the facility for activities within the scope of part 900.

(3) The accreditation body shall specify the actions that facilities shall take to correct deficiencies in equipment, personnel, and other aspects of the practice to ensure facility compliance with applicable standards.

(4) If deficiencies cannot be corrected to ensure compliance with standards or if a facility is unwilling to take corrective actions, the accreditation body shall immediately so notify FDA, and shall suspend or revoke the facility's accreditation in accordance with the policies and procedures described under § 900.3(b)(3)(iii)(I).

(c) *Clinical image review for accreditation and reaccreditation.* (1) Frequency of review. The accreditation body shall review clinical images from each facility accredited by the body at least once every 3 years.

(2) Requirements for clinical image attributes. The accreditation body shall use the following attributes for all clinical image reviews, unless FDA has approved other attributes:

(i) Positioning. Sufficient breast tissue shall be imaged to ensure that cancers are not likely to be missed because of inadequate positioning.

(ii) Compression. Compression shall be applied in a manner that minimizes the potential obscuring effect of overlying breast tissue and motion artifact.

(iii) Exposure level. Exposure level shall be adequate to visualize breast structures. Images shall be neither underexposed nor overexposed.

(iv) Contrast. Image contrast shall permit differentiation of subtle tissue density differences.

(v) Sharpness. Margins of normal breast structures shall be distinct and not blurred.

(vi) Noise. Noise in the image shall not obscure breast structures or suggest the appearance of structures not actually present.

(vii) Artifacts. Artifacts due to lint, processing, scratches, and other factors external to the breast shall not obscure breast structures or suggest the appearance of structures not actually present.

(viii) Examination identification. Each image shall have the following information indicated on it in a permanent, legible, and unambiguous manner and placed so as not to obscure anatomic structures:

(A) Name of the patient and an additional patient identifier.

(B) Date of examination.

(C) View and laterality. This information shall be placed on the image in a position near the axilla. Standardized codes specified by the accreditation body and approved by FDA in accordance with § 900.3(d) or paragraph (a)(8) of this section shall be used to identify view and laterality.

(D) Facility name and location. At a minimum, the location shall include the city, State, and zip code of the facility.

(E) Technologist identification.

(F) Cassette/screen identification.

(G) Mammography unit identification, if there is more than one unit in the facility.

(3) Scoring of clinical images. Accreditation bodies shall establish and administer a system for scoring clinical images using all attributes specified in paragraphs (c)(2)(i) through (c)(2)(viii) of this section or an alternative system that FDA has approved in accordance with § 900.3(d) or paragraph (a)(8) of this section. The scoring system shall include an evaluation for each attribute.

(i) The accreditation body shall establish and employ criteria for acceptable and nonacceptable results for each of the 8 attributes as well as an overall pass-fail system for clinical image review that has been approved by FDA in accordance with § 900.3(d) or paragraph (a)(8) of this section.

(ii) All clinical images submitted by a facility to the accreditation body shall be reviewed independently by two or more clinical image reviewers.

(4) Selection of clinical images for review. Unless otherwise specified by FDA, the accreditation body shall require that for each mammography unit in the facility:

(i) The facility shall submit craniocaudal (CC) and mediolateral oblique (MLO) views from two mammographic examinations that the facility produced during a time period specified by the accreditation body;

(ii) Clinical images submitted from one such mammographic examination for each unit shall be of dense breasts (predominance of glandular tissue) and the other shall be of fat-replaced breasts (predominance of adipose tissue);

(iii) All clinical images submitted shall be images that the facility's interpreting physician(s) interpreted as negative or benign.

(iv) If the facility has no clinical images meeting the requirements in paragraphs (c)(4)(i) through (c)(4)(iii) of this section, it shall so notify the accreditation body, which shall specify alternative clinical image selection methods that do not compromise care of the patient.

(5) Clinical image reviewers. Accreditation bodies shall ensure that all of their clinical image reviewers:

(i) Meet the interpreting physician requirements specified in § 900.12(a)(1);

(ii) Are trained and evaluated in the clinical image review process, for the types of clinical images to be evaluated by a clinical image reviewer, by the accreditation body before designation as clinical image reviewers and periodically thereafter; and

(iii) Clearly document their findings and reasons for assigning a particular score to any clinical image and provide information to the facility for use in improving the attributes for which significant deficiencies were identified.

(6) Image management. The accreditation body's QA program shall include a tracking system to ensure the security and return to the facility of all clinical images received and to ensure completion of all clinical image reviews by the body in a timely manner. The accreditation body shall return all clinical images to the facility within 60 days of their receipt by the body, with the following exceptions:

(i) If the clinical images are needed earlier by the facility for clinical purposes, the accreditation body shall cooperate with the facility to accommodate such needs.

(ii) If a clinical image reviewer identifies a suspicious abnormality on an image submitted for clinical image review, the accreditation body shall ensure that this information is provided to the facility and that the clinical images are returned to the facility. Both shall occur no later than 10 business days after identification of the suspected abnormality.

(7) Notification of unsatisfactory image quality. If the accreditation body determines that the clinical images received from a facility are of unsatisfactory quality, the body shall notify the facility of the nature of the problem and its possible causes.

(d) *Phantom image review for accreditation and reaccreditation.* (1) Frequency of review. The accreditation body shall review phantom images from each facility accredited by the body at least once every 3 years.

(2) Requirements for the phantom used. The accreditation body shall require that each facility submit for review phantom images that the facility produced using a phantom and methods of use specified by the body and approved by FDA in accordance with § 900.3(d) or paragraph (a)(8) of this section.

(3) Scoring phantom images. The accreditation body shall use a system for scoring phantom images that has been approved by FDA in accordance with § 900.3(b) and (d) or paragraph (a)(8) of this section.

(4) Phantom images selected for review. For each mammography unit in the facility, the accreditation body shall require the facility to submit phantom images that the facility produced during a time period specified by the body.

(5) Phantom image reviewers. Accreditation bodies shall ensure that all of their phantom image reviewers:

(i) Meet the requirements specified in § 900.12(a)(3) or alternative requirements established by the accreditation body and approved by FDA in accordance with § 900.3 or paragraph (a)(8) of this section;

(ii) Are trained and evaluated in the phantom image review process, for the types of phantom images to be evaluated by a phantom image reviewer, by the accreditation body before designation as phantom image reviewers and periodically thereafter; and

(iii) Clearly document their findings and reasons for assigning a particular score to any phantom image and provide information to the facility for use in improving its phantom image quality with regard to the significant deficiencies identified.

(6) Image management. The accreditation body's QA program shall include a tracking system to ensure the security of all phantom images received and to ensure completion of all phantom image reviews by the body in a timely manner. All phantom images that result in a failure of accreditation shall be returned to the facility.

(7) Notification measures for unsatisfactory image quality. If the accreditation body determines that the phantom images received from a facility are of unsatisfactory quality, the body shall notify the facility of the nature of the problem and its possible causes.

(e) *Reports of mammography equipment evaluation, surveys, and quality control.* The following requirements apply to all facility equipment covered by the provisions of subparts A and B:

(1) The accreditation body shall require every facility applying for accreditation to submit:

(i) With its initial accreditation application, a mammography equipment evaluation that was performed by a medical physicist no earlier than 6 months before the date of application for accreditation by the facility. Such evaluation shall demonstrate compliance of the facility's equipment with the requirements in § 900.12(e).

(ii) Prior to accreditation, a survey that was performed no earlier than 6 months before the date of application for accreditation by the facility. Such survey shall assess the facility's compliance with the facility standards referenced in paragraph (b) of this section.

(2) The accreditation body shall require that all facilities undergo an annual survey to ensure continued compliance with the standards referenced in paragraph (b) of this section and to provide continued oversight of facilities' quality control programs as they relate to such standards. The accreditation body shall require for all facilities that:

(i) Such surveys be conducted annually;

(ii) Facilities take reasonable steps to ensure that they receive reports of such surveys within 30 days of survey completion; and

(iii) Facilities submit the results of such surveys and any other information that the body may require to the body at least annually.

(3) The accreditation body shall review and analyze the information required in this section and use it to identify necessary corrective measures for facilities and to determine whether facilities should remain accredited by the body.

(f) *Accreditation Body Onsite Visits and Random Clinical Image Reviews.* The accreditation body shall conduct onsite visits and random clinical image reviews of a sample of facilities to monitor and assess their compliance with standards established by the body for accreditation. The accreditation body shall submit annually to FDA, at the address given in § 900.3(b)(1), 3 copies of a summary report describing all facility assessments the body conducted under the provisions of this section for the year being reported.

(1) Onsite visits. (i) Sample size. Annually, each accreditation body shall visit at least 5 percent of the facilities it accredits. However, a minimum of 5 facilities shall be visited, and visits to no more than 50 facilities are required, unless problems identified in paragraph (f)(1)(i)(B) of this section indicate a need to visit more than 50 facilities.

(A) At least 50 percent of the facilities visited shall be selected randomly.

(B) Other facilities visited shall be selected based on problems identified through State or FDA inspections, serious complaints received from consumers or others, a previous history of noncompliance, or any other information in the possession of the accreditation body, inspectors, or FDA.

(C) Before, during, or after any facility visit, the accreditation body may require that the facility submit to the body for review clinical images, phantom images, or any other information relevant to applicable standards in this subpart and in subpart B of this part.

(ii) Visit plan. The accreditation body shall conduct facility onsite visits according to a visit plan that has been approved by FDA in accordance with § 900.3(d) or paragraph (a)(8) of this section, unless otherwise directed by FDA in particular circumstances. At a minimum, such a plan shall provide for:

(A) Assessment of overall clinical image QA activities of the facility;

(B) Review of facility documentation to determine if appropriate mammography reports are sent to patients and physicians as required;

(C) Selection of a sample of clinical images for clinical image review by the accreditation body. Clinical images shall be selected in a manner specified by the accreditation body and approved by FDA that does not compromise care of the patient as a result of the absence of the selected images from the facility;

(D) Verification that the facility has a medical audit system in place and is correlating films and pathology reports for positive cases;

(E) Verification that personnel specified by the facility are the ones actually performing designated personnel functions;

(F) Verification that equipment specified by the facility is the equipment that is actually being used to perform designated equipment functions;

(G) Verification that a consumer complaint mechanism is in place and that the facility is following its procedures; and

(H) Review of all factors related to previously identified concerns or concerns identified during that visit.

(2) Clinical image review for random sample of facilities. (i) Sample size. In addition to conducting clinical image reviews for accreditation and reaccreditation for all facilities, the accreditation body shall conduct clinical image reviews annually for a randomly selected sample as specified by FDA, but to include at least 3 percent of the facilities the body accredits. Accreditation bodies may count toward this random sample requirement all facilities selected randomly for the onsite visits described in paragraph (f)(1)(i)(A) of this section. Accreditation bodies shall not count toward the random sample requirement any facilities described in paragraph (f)(1)(i)(B) of this section that were selected for a visit because of previously identified concerns.

(ii) Random clinical image review. In performing clinical image reviews of the random sample of facilities, accreditation bodies shall evaluate the same attributes as those in paragraph (c) of this section for review of clinical images for accreditation and reaccreditation.

(iii) Accreditation bodies should not schedule random clinical image reviews at facilities that have received notification of the need to begin the accreditation renewal process or that have completed the accreditation renewal process within the previous 6 months.

(iv) Selection of the random sample of clinical images for clinical image review by the accreditation body. Clinical images shall be selected in a manner, specified by the accreditation body and approved by FDA under § 900.3(d) or paragraph (a)(8) of this section, that does not compromise care of the patient as a result of the absence of the selected images from the facility.

(g) *Consumer complaint mechanism.* The accreditation body shall develop and administer a written and documented system, including timeframes, for collecting and resolving serious consumer complaints that could not be resolved at a facility. Such system shall have been approved by FDA in accordance with§ 900.3(d) or paragraph (a)(8) of this section. Accordingly, all accreditation bodies shall:

(1) Provide a mechanism for all facilities it accredits to file serious unresolved complaints with the accreditation body;

(2) Maintain a record of every serious unresolved complaint received by the body on all facilities it accredits for a period of at least 3 years from the date of receipt of each such complaint;

(h) *Reporting and recordkeeping.* All reports to FDA specified in paragraphs (h)(1) through (h)(4) of this section shall be prepared and submitted in a format and medium prescribed by FDA and shall be submitted to a location and according to a schedule specified by FDA. The accreditation body shall:

(1) Collect and submit to FDA the information required by 42 U.S.C. 263b(d) for each facility when the facility is initially accredited and at least annually when updated, in a manner and at a time specified by FDA.

(2) Accept applications containing the information required in 42 U.S.C. 263b(c)(2) for provisional certificates and in § 900.11(b)(3) for extension of provisional certificates, on behalf of FDA, and notify FDA of the receipt of such information;

(3) Submit to FDA the name, identifying information, and other information relevant to 42 U.S.C. 263b and specified by FDA for any facility for which the accreditation body denies, suspends, or revokes accreditation, and the reason(s) for such action;

(4) Submit to FDA an annual report summarizing all serious complaints received during the previous calendar year, their resolution status, and any actions taken in response to them;

(5) Provide to FDA other information relevant to 42 U.S.C. 263b and required by FDA about any facility accredited or undergoing accreditation by the body.

(i) *Fees.* Fees charged to facilities for accreditation shall be reasonable. Costs of accreditation body activities that are not related to accreditation functions under 42 U.S.C. 263b are not recoverable through fees established for accreditation.

(1) The accreditation body shall make public its fee structure, including those factors, if any, contributing to variations in fees for different facilities.

(2) At FDA's request, accreditation bodies shall provide financial records or other material to assist FDA in assessing the reasonableness of accreditation body fees. Such material shall be provided to FDA in a manner and time period specified by the agency.

§ 900.5 Evaluation.

FDA shall evaluate annually the performance of each accreditation body. Such evaluation shall include an assessment of the reports of FDA or State inspections of facilities accredited by the body as well as any additional information deemed relevant by FDA that has been provided by the accreditation body or other sources or has been required by FDA as part of its oversight initiatives. The evaluation shall include a determination of whether there are major deficiencies in the accreditation body's performance that, if not corrected, would warrant withdrawal of the approval of the accreditation body under the provisions of § 900.6.

§ 900.6 Withdrawal of approval.

If FDA determines, through the evaluation activities of § 900.5, or through other means, that an accreditation body is not in substantial compliance with this subpart, FDA may initiate the following actions:

(a) *Major deficiencies.* If FDA determines that an accreditation body has failed to perform a major accreditation function satisfactorily, has demonstrated willful disregard for public health, has violated the code of conduct, has committed fraud, or has submitted material false statements to the agency, FDA may withdraw its approval of that accreditation body.

(1) FDA shall notify the accreditation body of the agency's action and the grounds on which the approval was withdrawn.

(2) An accreditation body that has lost its approval shall notify facilities accredited or seeking accreditation by it that its approval has been withdrawn. Such notification shall be made within a time period and in a manner approved by FDA.

(b) *Minor deficiencies.* If FDA determines that an accreditation body has demonstrated deficiencies in performing accreditation functions and responsibilities that are less serious or more limited than the deficiencies in paragraph (a) of this section, FDA shall notify the body that it has a specified period of time to take particular corrective measures directed by FDA or to submit to FDA for approval the body's own plan of corrective action addressing the minor deficiencies. FDA may place the body on probationary status for a period of time determined by FDA, or may withdraw approval of the body as an accreditation body if corrective action is not taken.

(1) If FDA places an accreditation body on probationary status, the body shall notify all facilities accredited or seeking accreditation by it of its probationary status within a time period and in a manner approved by FDA.

(2) Probationary status shall remain in effect until such time as the body can demonstrate to the satisfaction of FDA that it has successfully implemented or is implementing the corrective action plan within the established schedule, and that the corrective actions have substantially eliminated all identified problems.

(3) If FDA determines that an accreditation body that has been placed on probationary status is not implementing corrective actions satisfactorily or within the established schedule, FDA may withdraw approval of the accreditation body. The accreditation body shall notify all facilities accredited or seeking accreditation by it of its loss of FDA approval, within a time period and in a manner approved by FDA.

(c) *Reapplication by accreditation bodies that have had their approval withdrawn.* (1) A former accreditation body that has had its approval withdrawn may submit a new application for approval if the body can provide information to FDA to establish that the problems that were grounds for withdrawal of approval have been resolved.

(2) If FDA determines that the new application demonstrates that the body satisfactorily has addressed the causes of its previous unacceptable performance, FDA may reinstate approval of the accreditation body.

(3) FDA may request additional information or establish additional conditions that must be met by a former accreditation body before FDA approves the reapplication.

(4) FDA may refuse to accept an application from a former accreditation body whose approval was withdrawn because of fraud or willful disregard of public health.

§ 900.7 Hearings.

(a) Opportunities to challenge final adverse actions taken by FDA regarding approval or reapproval of accreditation bodies, withdrawal of approval of accreditation bodies, or rejection of a proposed fee for accreditation shall be communicated through notices of opportunity for informal hearings in accordance with part 16 of this chapter.

(b) A facility that has been denied accreditation is entitled to an appeals process from the accreditation body. The appeals process shall be specified in writing by the accreditation body and shall have been approved by FDA in accordance with § 900.3(d) or § 900.4(a)(8).

(c) A facility that cannot achieve satisfactory resolution of an adverse accreditation decision through the accreditation body's appeals process may appeal to FDA for reconsideration in accordance with § 900.15.

§§ 900.8—900.9 [Reserved]

Subpart B—Quality Standards and Certification

§ 900.10 Applicability.

The provisions of subpart B are applicable to all facilities under the regulatory jurisdiction of the United States that provide mammography services, with the exception of the Department of Veterans Affairs.

§ 900.11 Requirements for certification.

(a) *General.* After October 1, 1994, a certificate issued by FDA is required for lawful operation of all mammography facilities subject to the provisions of this subpart. To obtain a certificate from FDA, facilities are required to meet the quality standards in § 900.12 and to be accredited by an approved accreditation body or other entity as designated by FDA.

(b) *Application.* (1) *Certificates.* (i) In order to qualify for a certificate, a facility must apply to an FDA-approved accreditation body, or to another entity designated by FDA. The facility shall submit to such body or entity the information required in 42 U.S.C. 263b(d)(1).

(ii) Following the agency's receipt of the accreditation body's decision to accredit a facility, or an equivalent decision by another entity designated by FDA, the agency may issue a certificate to the facility, or renew an existing certificate, if the agency determines that the facility has satisfied the requirements for certification or recertification.

(2) *Provisional certificates.* (i) A new facility beginning operation after October 1, 1994, is eligible to apply for a provisional certificate. The provisional certificate will enable the facility to perform mammography and to obtain

the clinical images needed to complete the accreditation process. To apply for and receive a provisional certificate, a facility must meet the requirements of 42 U.S.C. 263b(c)(2) and submit the necessary information to an approved accreditation body or other entity designated by FDA.

(ii) Following the agency's receipt of the accreditation body's decision that a facility has submitted the required information, FDA may issue a provisional certificate to a facility upon determination that the facility has satisfied the requirements of § 900.11(b)(2)(i). A provisional certificate shall be effective for up to 6 months from the date of issuance. A provisional certificate cannot be renewed, but a facility may apply for a 90-day extension of the provisional certificate.

(3) *Extension of provisional certificate.* (i) To apply for a 90-day extension to a provisional certificate, a facility shall submit to its accreditation body, or other entity designated by FDA, a statement of what the facility is doing to obtain certification and evidence that there would be a significant adverse impact on access to mammography in the geographic area served if such facility did not obtain an extension.

(ii) The accreditation body shall forward the request, with its recommendation, to FDA within 2 business days after receipt.

(iii) FDA may issue a 90-day extension for a provisional certificate upon determination that the extension meets the criteria set forth in 42 U.S.C. 263b(c)(2).

(iv) There can be no renewal of a provisional certificate beyond the 90-day extension.

(c) *Reinstatement policy.* A previously certified facility that has allowed its certificate to expire, that has been refused a renewal of its certificate by FDA, or that has had its certificate suspended or revoked by FDA, may apply to have the certificate reinstated so that the facility may be considered to be a new facility and thereby be eligible for a provisional certificate.

(1) Unless prohibited from reinstatement under § 900.11(c)(4), a facility applying for reinstatement shall:

(i) Contact an FDA-approved accreditation body or other entity designated by FDA to determine the requirements for reapplication for accreditation;

(ii) Fully document its history as a previously provisionally certified or certified mammography facility, including the following information:

(A) Name and address of the facility under which it was previously provisionally certified or certified;

(B) Name of previous owner/lessor;

(C) FDA facility identification number assigned to the facility under its previous certification; and

(D) Expiration date of the most recent FDA provisional certificate or certificate; and

(iii) Justify application for reinstatement of accreditation by submitting to the accreditation body or other entity designated by FDA, a corrective action plan that details how the facility has corrected deficiencies that contributed to the lapse of, denial of renewal, or revocation of its certificate.

(2) FDA may issue a provisional certificate to the facility if:

(i) The accreditation body or other entity designated by FDA notifies the agency that the facility has adequately corrected, or is in the process of correcting, pertinent deficiencies; and

(ii) FDA determines that the facility has taken sufficient corrective action since the lapse of, denial of renewal, or revocation of its previous certificate.

(3) After receiving the provisional certificate, the facility may lawfully resume performing mammography services while completing the requirements for certification.

(4) If a facility's certificate was revoked on the basis of an act described in 41 U.S.C. 263b(i)(1), no person who owned or operated that facility at the time the act occurred may own or operate a mammography facility within 2 years of the date of revocation.

§ 900.12 Quality standards.

(a) *Personnel.* The following requirements apply to all personnel involved in any aspect of mammography, including the production, processing, and interpretation of mammograms and related quality assurance activities:

(1) Interpreting physicians. All physicians interpreting mammograms shall meet the following qualifications:

(i) Initial qualifications. Unless the exemption in paragraph (a)(1)(iii)(A) of this section applies, before beginning to interpret mammograms independently, the interpreting physician shall:

(A) Be licensed to practice medicine in a State;

(B)(*1*) Be certified in an appropriate specialty area by a body determined by FDA to have procedures and requirements adequate to ensure that physicians certified by the body are competent to interpret radiological procedures, including mammography; or

(*2*) Have had at least 3 months of documented formal training in the interpretation of mammograms and in topics related to mammography. The training shall include instruction in radiation physics, including radiation physics specific to mammography, radiation effects, and radiation protection. The mammographic interpretation component shall be under the direct supervision of a physician who meets the requirements of paragraph (a)(1) of this section;

(C) Have a minimum of 60 hours of documented medical education in mammography, which shall include: Instruction in the interpretation of mammograms and education in basic breast anatomy, pathology, physiology, technical aspects of mammography, and quality assurance and quality control in mammography. All 60 of these hours shall be category I and at least 15 of the category I hours shall have been acquired within the 3 years immediately prior to the date that the physician qualifies as an interpreting physician. Hours spent in residency specifically devoted to mammography will be considered as equivalent to Category I continuing medical education credits and will be accepted if documented in writing by the appropriate representative of the training institution; and

(D) Unless the exemption in paragraph (a)(1)(iii)(B) of this section applies, have interpreted or multi-read at least 240 mammographic examinations within the 6-month period immediately prior to the date that the physician qualifies as an interpreting physician. This interpretation or multi-reading shall be under the direct supervision of an interpreting physician.

(ii) Continuing experience and education. All interpreting physicians shall maintain their qualifications by meeting the following requirements:

(A) Following the second anniversary date of the end of the calendar quarter in which the requirements of paragraph (a)(1)(i) of this section were completed, the interpreting physician shall have interpreted or multi-read at least 960 mammographic examinations during the 24 months immediately preceding the date of the facility's annual MQSA inspection or the last day of the calendar quarter preceding the inspection or any date in-between the two. The facility will choose one of these dates to determine the 24-month period.

(B) Following the third anniversary date of the end of the calendar quarter in which the requirements of paragraph (a)(1)(i) of this section were completed, the interpreting physician shall have taught or completed at least 15 category I continuing medical education units in mammography during the 36 months immediately preceding the date of the facility's annual MQSA inspection or the last day of the calendar quarter preceding the inspection or any date in between the two. The facility will choose one of these dates to determine the 36-month period. This training shall include at least six category I continuing medical education credits in each mammographic modality used by the interpreting physician in his or her practice; and

(C) Before an interpreting physician may begin independently interpreting mammograms produced by a new mammographic modality, that is, a mammographic modality in which the physician has not previously been trained, the interpreting physician shall have at least 8 hours of training in the new mammographic modality.

(D) Units earned through teaching a specific course can be counted only once towards the 15 required by paragraph (a)(1)(ii)(B) of this section, even if the course is taught multiple times during the previous 36 months.

(iii) Exemptions. (A) Those physicians who qualified as interpreting physicians under paragraph (a)(1) of this section of FDA's interim regulations prior to April 28, 1999, are considered to have met the initial requirements of paragraph (a)(1)(i) of this section. They may continue to interpret mammograms provided they continue to meet the licensure requirement of paragraph (a)(1)(i)(A) of this section and the continuing experience and education requirements of paragraph (a)(1)(ii) of this section.

(B) Physicians who have interpreted or multi-read at least 240 mammographic examinations under the direct supervision of an interpreting physician in any 6-month period during the last 2 years of a diagnostic radiology residency and who become appropriately board certified at the first allowable time, as defined by an eligible certifying body, are otherwise exempt from paragraph (a)(1)(i)(D) of this section.

(iv) Reestablishing qualifications. Interpreting physicians who fail to maintain the required continuing experience or continuing education requirements shall reestablish their qualifications before resuming the independent interpretation of mammograms, as follows:

(A) Interpreting physicians who fail to meet the continuing experience requirements of paragraph (a)(1)(ii)(A) of this section shall:

(*1*) Interpret or multi-read at least 240 mammographic examinations under the direct supervision of an interpreting physician, or

(*2*) Interpret or multi-read a sufficient number of mammographic examinations, under the direct supervision of an interpreting physician, to bring the physician's total up to 960 examinations for the prior 24 months, whichever is less.

(*3*) The interpretations required under paragraph (a)(1)(iv)(A)(*1*) or (a)(1)(iv)(A)(*2*) of this section shall be done within the 6 months immediately prior to resuming independent interpretation.

(B) Interpreting physicians who fail to meet the continuing education requirements of paragraph (a)(1)(ii)(B) of this section shall obtain a sufficient number of additional category I continuing medical education credits in mammography to bring their total up to the required 15 credits in the previous 36 months before resuming independent interpretation.

(2) Radiologic technologists. All mammographic examinations shall be performed by radiologic technologists who meet the following general requirements, mammography requirements, and continuing education and experience requirements:

(i) General requirements. (A) Be licensed to perform general radiographic procedures in a State; or

(B) Have general certification from one of the bodies determined by FDA to have procedures and requirements adequate to ensure that radiologic technologists certified by the body are competent to perform radiologic examinations; and

(ii) Mammography requirements. Have, prior to April 28, 1999, qualified as a radiologic technologist under paragraph (a)(2) of this section or completed at least 40 contact hours of documented training specific to mammography under the supervision of a qualified instructor. The hours of documented training shall include, but not necessarily be limited to:

(A) Training in breast anatomy and physiology, positioning and compression, quality assurance/quality control techniques, imaging of patients with breast implants;

(B) The performance of a minimum of 25 examinations under the direct supervision of an individual qualified under paragraph (a)(2) of this section; and

(C) At least 8 hours of training in each mammography modality to be used by the technologist in performing mammography exams; and

(iii) Continuing education requirements. (A) Following the third anniversary date of the end of the calendar quarter in which the requirements of paragraphs (a)(2)(i) and (a)(2)(ii) of this section were completed, the radiologic technologist shall have taught or completed at least 15 continuing education units in mammography during the 36 months immediately preceding the date of the facility's annual MQSA inspection or the last day of the calendar quarter preceding the inspection or any date in between the two. The facility will choose one of these dates to determine the 36-month period.

(B) Units earned through teaching a specific course can be counted only once towards the 15 required in paragraph (a)(2)(iii)(A) of this section, even if the course is taught multiple times during the previous 36 months.

(C) At least six of the continuing education units required in paragraph (a)(2)(iii)(A) of this section shall be related to each mammographic modality used by the technologist.

(D) Requalification. Radiologic technologists who fail to meet the continuing education requirements of paragraph (a)(2)(iii)(A) of this section shall obtain a sufficient number of continuing education units in mammography to bring their total up to at least 15 in the previous 3 years, at least 6 of which shall be related to each modality used by the technologist in mammography. The technologist may not resume performing unsupervised mammography examinations until the continuing education requirements are completed.

(E) Before a radiologic technologist may begin independently performing mammographic examinations using a mammographic modality other than one of those for which the technologist received training under paragraph (a)(2)(ii)(C) of this section, the technologist shall have at least 8 hours of continuing education units in the new modality.

(iv) Continuing experience requirements. (A) Following the second anniversary date of the end of the calendar quarter in which the requirements of paragraphs (a)(2)(i) and (a)(2)(ii) of this section were completed or of October 28, 1997, whichever is later, the radiologic technologist shall have performed a minimum of 200 mammography examinations during the 24 months immediately preceding the date of the facility's annual MQSA inspection or the last day of the calendar quarter or any date in between the two. The facility will choose one of

these dates to determine the 24-month period.

(B) Requalification. Radiologic technologists who fail to meet the continuing experience requirements of paragraph (a)(2)(iv)(A) of this section shall perform a minimum of 25 mammography examinations under the direct supervision of a qualified radiologic technologist, before resuming the performance of unsupervised mammography examinations.

(3) *Medical physicists.* All medical physicists conducting surveys of mammography facilities and providing oversight of the facility quality assurance program under paragraph (e) of this section shall meet the following:

(i) Initial qualifications. (A) Be State licensed or approved or have certification in an appropriate specialty area by one of the bodies determined by FDA to have procedures and requirements to ensure that medical physicists certified by the body are competent to perform physics survey; and

(B)(*1*) Have a masters degree or higher in a physical science from an ecredited institution, with no less than 20 semester hours or equivalent (e.g., 30 quarter hours) of college undergraduate or graduate level physics;

(*2*) Have 20 contact hours of documented specialized training in conducting surveys of mammography facilities; and

(*3*) Have the experience of conducting surveys of at least 1 mammography facility and a total of at least 10 mammography units. No more than one survey of a specific unit within a period of 60 days can be counted towards the total mammography unit survey requirement. After April 22, 1999, experience conducting surveys must be acquired under the direct supervision of a medical physicist who meets all the requirements of paragraphs (a)(3)(i) and (a)(3)(iii) of this section; or

(ii) Alternative initial qualifications. (A) Have qualified as a medical physicist under paragraph (a)(3) of this section of FDA's interim regulations and retained that qualification by maintenance of the active status of any licensure, approval, or certification required under the interim regulations; and

(B) Prior to the April 22, 1999, have:

(*1*) A bachelor's degree or higher in a physical science from an accredited institution with no less than 10 semester hours or equivalent of college undergraduate or graduate level physics,

(*2*) Forty contact hours of documented specialized training in conducting surveys of mammography facilities and,

(*3*) Have the experience of conducting surveys of at least 1 mammography facility and a total of at least 20 mammography units. No more than one survey of a specific unit within a period of 60 days can be counted towards the total mammography unit survey requirement. The training and experience requirements must be met after fulfilling the degree requirement.

(iii) Continuing qualifications. (A) Continuing education. Following the third anniversary date of the end of the calendar quarter in which the requirements of paragraph (a)(3)(i) or (a)(3)(ii) of this section were completed, the medical physicist shall have taught or completed at least 15 continuing education units in mammography during the 36 months immediately preceding the date of the facility's annual inspection or the last day of the calendar quarter preceding the inspection or any date in between the two. The facility shall choose one of these dates to determine the 36-month period. This continuing education shall include hours of training appropriate to each mammographic modality evaluated by the medical physicist during his or her surveys or oversight of quality assurance programs. Units earned through teaching a specific course can be counted only once towards the required 15 units in a 36-month period, even if the course is taught multiple times during the 36 months.

(B) Continuing experience. Following the second anniversary date of the end of the calendar quarter in which the requirements of paragraph (a)(3)(i) or (a)(3)(ii) of this section were completed or of October 28, 1997, whichever is later, the medical physicist shall have surveyed at least two mammography facilities and a total of at least six mammography units during the 24 months immediately preceding the date of the facility's annual MQSA inspection or the last day of the calendar quarter on any date in between the two. The facility shall choose one of these dates to determine the 24-month period. No more than one survey of a specific facility within a 10-month period on a specific unit within a period of 60 days can be counted towards the total mammography unit survey requirement.

(C) Before a medical physicist may begin independently performing mammographic surveys of a new mammographic modality, that is, a mammographic modality other than one for which the physicist received training to qualify under paragraph (a)(3)(i) or (a)(3)(ii) of this section, the physicist must receive at least 8 hours of training in surveying units of the new mammographic modality.

(iv) Reestablishing qualifications. Medical physicists who fail to maintain the required continuing qualifications of paragraph (a)(3)(iii) of this section may not perform the MQSA surveys without the supervision of a qualified medical physicist. Before independently surveying another facility, medical physicists must reestablish their qualifications, as follows:

(A) Medical physicists who fail to meet the continuing educational requirements of paragraph (a)(3)(iii)(A) of this section shall obtain a sufficient number of continuing education units to bring their total units up to the required 15 in the previous 3 years.

(B) Medical physicists who fail to meet the continuing experience requirement of paragraph (a)(3)(iii)(B) of this section shall complete a sufficient number of surveys under the direct supervision of a medical physicist who meets the qualifications of paragraphs (a)(3)(i) and (a)(3)(iii) of this section to bring their total surveys up to the required two facilities and six units in the previous 24 months. No more than one survey of a specific unit within a period of 60 days can be counted towards the total mammography unit survey requirement.

(4) *Retention of personnel records.* Facilities shall maintain records to document the qualifications of all personnel who worked at the facility as interpreting physicians, radiologic technologists, or medical physicists. These records must be available for review by the MQSA inspectors. Records of personnel no longer employed by the facility should not be discarded until the next annual inspection has been completed and FDA has determined that the facility is in compliance with the MQSA personnel requirements.

(b) *Equipment.* Regulations published under §§ 1020.30, 1020.31, and 900.12(e) of this chapter that are relevant to equipment performance should also be consulted for a more complete understanding of the equipment performance requirements.

(1) *Prohibited equipment.* Radiographic equipment designed for general purpose or special nonmammography procedures shall not be used for mammography. This prohibition includes systems that have been modified or equipped with special attachments for mammography. This requirement supersedes the implied acceptance of such systems in § 1020.31(f)(3) of this chapter.

(2) *General.* All radiographic equipment used for mammography shall be specifically designed for mammography and shall be certified pursuant to § 1010.2 of this chapter as meeting the applicable requirements of §§ 1020.30 and 1020.31 of this chapter in effect at the date of manufacture.

(3) *Motion of tube-image receptor assembly.* (i) The assembly shall be capable of being fixed in any position where it is designed to operate. Once fixed in any such position, it shall not undergo unintended motion.

(ii) The mechanism ensuring compliance with paragraph (b)(3)(i) of this section shall not fail in the event of power interruption.

(4) *Image receptor sizes.* (i) Systems using screen-film image receptors shall provide, at a minimum, for operation with image receptors of 18 x 24 centimeters (cm) and 24 x 30 cm.

(ii) Systems using screen-film image receptors shall be equipped with moving grids matched to all image receptor sizes provided.

(iii) Systems used for magnification procedures shall be capable of operation with the grid removed from between the source and image receptor.

(5) *Beam limitation and light fields.* (i) All systems shall have beam-limiting devices that allow the useful beam to extend to or beyond the chest wall edge of the image receptor.

(ii) For any mammography system with a light beam that passes through the X-ray beam-limiting device, the light shall provide an average illumination of not less than 160 lux (15 foot candles) at 100 cm or the maximum source-image receptor distance (SID), whichever is less.

(6) *Magnification.* (i) Systems used to perform noninterventional problem solving procedures shall have radiographic magnification capability available for use by the operator.

(ii) Systems used for magnification procedures shall provide, at a minimum, at least one magnification value within the range of 1.4 to 2.0.

(7) *Focal spot selection.* (i) When more than one focal spot is provided, the system shall indicate, prior to exposure, which focal spot is selected.

(ii) When more than one target material is provided, the system shall indicate, prior to exposure, the preselected target material.

(iii) When the target material and/or focal spot is selected by a system algorithm that is based on the exposure or on a test exposure, the system shall display, after the exposure, the target material and/or focal spot actually used during the exposure.

(8) *Compression.* All mammography systems shall incorporate a compression device.

(i) Application of compression. Effective October 28, 2002, each system shall provide:

(A) An initial power-driven compression activated by hands-free controls operable from both sides of the patient; and

(B) Fine adjustment compression controls operable from both sides of the patient.

(ii) Compression paddle. (A) Systems shall be equipped with different sized compression paddles that match the sizes of all full-field image receptors provided for the system. Compression paddles for special purposes, including those smaller than the full size of the image receptor (for "spot compression") may be provided. Such compression paddles for special purposes are not subject to the requirements of paragraphs (b)(8)(ii)(D) and (b)(8)(ii)(E) of this section.

(B) Except as provided in paragraph (b)(8)(ii)(C) of this section, the compression paddle shall be flat and parallel to the breast support table and shall not deflect from parallel by more than 1.0 cm at any point on the surface of the compression paddle when compression is applied.

(C) Equipment intended by the manufacturer's design to not be flat and parallel to the breast support table during compression shall meet the manufacturer's design specifications and maintenance requirements.

(D) The chest wall edge of the compression paddle shall be straight and parallel to the edge of the image receptor.

(E) The chest wall edge may be bent upward to allow for patient comfort but shall not appear on the image.

(9) *Technique factor selection and display.* (i) Manual selection of milliampere seconds (mA's) or at least one of its component parts (milliapere (mA) and/or time) shall be available.

(ii) The technique factors (peak tube potential in kilovolt (kV) and either tube current in mA and exposure time in seconds or the product of tube current and exposure time in mA's) to be used during an exposure shall be indicated before the exposure begins, except when automatic exposure controls (AEC) are used, in which case the technique factors that are set prior to the exposure shall be indicated.

(iii) Following AEC mode use, the system shall indicate the actual kilovoltage peak (kVp) and mA's used during the exposure. The mA's may be displayed as mA and time.

(10) *Automatic exposure control.* (i) Each screen-film system shall provide an AEC mode that is operable in all combinations of equipment configuration provided, e.g., grid, nongrid; magnification; nonmagnification; and various target-filter combinations.

(ii) The positioning or selection of the detector shall permit flexibility in the placement of the detector under the target tissue.

(A) The size and available positions of the detector shall be clearly indicated at the X-ray input surface of the breast compression paddle.

(B) The selected position of the detector shall be clearly indicated.

(iii) The system shall provide means for the operator to vary the selected optical density from the normal (zero) setting.

(11) *X-ray film.* The facility shall use X-ray film for mammography that has been designated by the film manufacturer as appropriate for mammography.

(12) *Intensifying screens.* The facility shall use intensifying screens for mammography that have been designated by the screen manufacturer as appropriate for mammography and shall use film that is matched to the screen's spectral output as specified by the manufacturer.

(13) *Film processing solutions.* For processing mammography films, the facility shall use chemical solutions that are capable of developing the films used by the facility in a manner equivalent to the minimum requirements specified by the film manufacturer.

(14) *Lighting.* The facility shall make special lights for film illumination, i.e., hot-lights, capable of producing light levels greater than that provided by the view box, available to the interpreting physicians.

(15) *Film masking devices.* Facilities shall ensure that film masking devices that can limit the illuminated area to a region equal to or smaller than the exposed portion of the film are available to all interpreting physicians interpreting for the facility.

(c) *Medical records and mammography reports*—(1) *Contents and terminology.* Each facility shall prepare a written report of the results of each mammography examination performed under its certificate. The mammography report shall include the following information:

(i) The name of the patient and an additional patient identifier;

(ii) Date of examination;

(iii) The name of the interpreting physician who interpreted the mammogram;

(iv) Overall final assessment of findings, classified in one of the following categories:

(A) "Negative:" Nothing to comment upon (if the interpreting physician is aware of clinical findings or symptoms, despite the negative assessment, these shall be explained);

(B) "Benign:" Also a negative assessment;

(C) "Probably Benign:" Finding(s) has a high probability of being benign;

(D) "Suspicious:" Finding(s) without all the characteristic morphology of breast cancer but indicating a definite probability of being malignant;

(E) "Highly suggestive of malignancy:" Finding(s) has a high probability of being malignant;

(*x*) In cases where no final assessment category can be assigned due to incomplete work-up, "Incomplete: Need additional imaging evaluation" shall be assigned as an assessment and reasons why no assessment can be made shall be stated by the interpreting physician; and

(vi) Recommendations made to the health care provider about what additional actions, if any, should be taken. All clinical questions raised by the referring health care provider shall be addressed in the report to the extent possible, even if the assessment is negative or benign.

(2) *Communication of mammography results to the patient.* Each facility shall maintain a system to ensure that the results of each mammographic examination are communicated to the patient in a timely manner. If assessments are "Suspicious" or "Highly suggestive of malignancy" and the patient has not named a health care provider, the facility shall make reasonable attempts to ensure that the results are communicated to the patient as soon as possible.

(i) As soon as possible, but no later than 30 days from the date of the mammography examination, patients who do not name a health care provider to receive the mammography report shall be sent the report described in paragraph (c)(1) of this section, in addition to a written notification of results in lay terms.

(ii) Each facility that accepts patients who do not have a primary care provider shall maintain a system for referring such patients to a health care provider when clinically indicated.

(3) *Communication of mammography results to health care providers.* When the patient has a referring health care provider or the patient has named a health care provider, the facility shall:

(i) Provide a written report of the mammography examination, including the items listed in paragraph (c)(1) of this section, to that health care provider as soon as possible, but no later than 30 days from the date of the mammography examination; and

(ii) If the assessment is "Suspicious" or "Highly suggestive of malignancy," make reasonable attempts to communicate with the health care provider as soon as possible, or if the health care provider is unavailable, to a responsible designee of the health care provider.

(4) *Recordkeeping.* Each facility that performs mammograms: (i) Shall (except as provided in paragraph (c)(3)(ii) of this section) maintain mammography films and reports in a permanent medical record of the patient for a period of not less than 5 years, or not less than 10 years if no additional mammograms of the patient are performed at the facility, or a longer period if mandated by State or local law; and

(ii) Shall upon request or on behalf of, by the patient, permanently or temporarily transfer the original mammograms and copies of the patient's reports to a medical institution, or to a physician or health care provider of the patient, or to the patient directly;

(iii) Any fee charged to the patients for providing the services in paragraph (c)(4)(ii) of this section shall not exceed the documented costs associated with this service.

(5) *Mammographic image identification.* Each mammographic image shall have the following information indicated on it in a permanent, legible, and unambiguous manner and placed so as not to obscure anatomic structures:

(i) Name of patient and an additional patient identifier.

(ii) Date of examination.

(iii) View and laterality. This information shall be placed on the image in a position near the axilla. Standardized codes specified by the accreditation body and approved by FDA in accordance with § 900.3(b) or § 900.4(a)(8) shall be used to identify view and laterality.

(iv) Facility name and location. At a minimum, the location shall include the city, State, and zip code of the facility.

(v) Technologist identification.

(vi) Cassette/screen identification.

(vii) Mammography unit identification, if there is more than one unit in the facility.

(d) *Quality assurance—general.* Each facility shall establish and maintain a quality assurance program to ensure the safety, reliability, clarity, and accuracy of mammography services performed at the facility.

(1) *Responsible individuals.* Responsibility for the quality assurance program and for each of its elements shall be assigned to individuals who are qualified for their assignments and who shall be allowed adequate time to perform these duties.

(i) Lead interpreting physician. The facility shall identify a lead interpreting physician who shall have the general responsibility of ensuring that the quality assurance program meets all requirements of paragraphs (d) through (f) of this section. No other individual shall be assigned or shall retain responsibility for quality assurance tasks unless the lead interpreting physician has determined that the individual's qualifications for, and performance of, the assignment are adequate.

(ii) Interpreting physicians. All interpreting physicians interpreting mammograms for the facility shall:

(A) Follow the facility procedures for corrective action when the images they are asked to interpret are of poor quality, and

(B) Participate in the facility's medical outcomes audit program.

(iii) Medical physicist. Each facility shall have the services of a medical physicist available to survey mammography equipment and oversee the equipment-related quality assurance practices of the facility. At a minimum, the medical physicist(s) shall be responsible for performing the surveys and mammography equipment evaluations and providing the facility with the reports described in paragraphs (e)(9) and (e)(10) of this section.

(iv) Quality control technologist. Responsibility for all individual tasks within the quality assurance program not assigned to the lead interpreting physician or the medical physicist shall be assigned to a quality control technologist(s). The tasks are to be performed by the quality control technologist or by other personnel qualified to perform the tasks. When other personnel are utilized for these tasks, the quality control technologist shall ensure that the tasks are completed in such a way as to meet the requirements of paragraph (e) of this section.

(2) *Quality assurance records.* The lead interpreting physician, quality control technologist, and medical physicist shall ensure that records concerning employee qualifications to meet assigned quality assurance tasks, mammography technique and procedures, quality control (including monitoring data, problems detected by analysis of that data, corrective actions, and the effectiveness of the corrective actions), safety, and protection are properly maintained and updated. These quality control records shall be kept for each test specified in paragraphs (e) and (f) of this section until the next annual inspection has been completed and FDA has determined that the facility is in compliance with the quality assurance requirements or until the test has been performed two additional times at the required frequency, whichever is longer.

(e) *Quality assurance—equipment—*(1) *Daily quality control tests.* Film processors used to develop mammograms shall be adjusted and maintained to meet the technical development specifications for the mammography film in use. A processor performance test shall be performed on each day that examinations are performed before any clinical films are processed that day. The test shall include an assessment of base plus fog density, mid-density, and density difference, using the mammography film used clinically at the facility.

(i) The base plus fog density shall be within + 0.03 of the established operating level.

(ii) The mid-density shall be within ± 0.15 of the established operating level.

(iii) The density difference shall be within ± 0.15 of the established operating level.

(2) *Weekly quality control tests.* Facilities with screen-film systems shall perform an image quality evaluation test, using an FDA-approved phantom, at least weekly.

(i) The optical density of the film at the center of an image of a standard FDA-accepted phantom shall be at least 1.20 when exposed under a typical clinical condition.

(ii) The optical density of the film at the center of the phantom image shall not change by more than ± 0.20 from the established operating level.

(iii) The phantom image shall achieve at least the minimum score established by the accreditation body and accepted by FDA in accordance with § 900.3(d) or § 900.4(a)(8).

(iv) The density difference between the background of the phantom and an added test object, used to assess image contrast, shall be measured and shall not vary by more than ± 0.05 from the established operating level.

(3) *Quarterly quality control tests.* Facilities with screen-film systems shall perform the following quality control tests at least quarterly:

(i) Fixer retention in film. The residual fixer shall be no more than 5 micrograms per square cm.

(ii) Repeat analysis. If the total repeat or reject rate changes from the previously determined rate by more than 2.0 percent of the total films included in the analysis, the reason(s) for the change shall be determined. Any corrective actions shall be recorded and the results of these corrective actions shall be assessed.

(4) *Semiannual quality control tests.* Facilities with screen-film systems shall perform the following quality control tests at least semiannually:

(i) Darkroom fog. The optical density attributable to darkroom fog shall not exceed 0.05 when a mammography film of the type used in the facility, which has a mid-density of no less than 1.2 OD, is exposed to typical darkroom conditions for 2 minutes while such film is placed on the counter top emulsion side up. If the darkroom has a safelight used for mammography film, it shall be on during this test.

(ii) Screen-film contact. Testing for screen-film contact shall be conducted using 40 mesh copper screen. All cassettes used in the facility for mammography shall be tested.

(iii) Compression device performance. (A) A compression force of at least 111 newtons (25 pounds) shall be provided.

(B) Effective October 28, 2002, the maximum compression force for the initial power drive shall be between 111 newtons (25 pounds) and 209 newtons (47 pounds).

(5) Annual quality control tests. Facilities with screen-film systems shall perform the following quality control tests at least annually:

(i) Automatic exposure control performance. (A) The AEC shall be capable of maintaining film optical density within ± 0.30 of the mean optical density when thickness of a homogeneous material is varied over a range of 2 to 6 cm and the kVp is varied appropriately for such thicknesses over the kVp range used clinically in the facility. If this requirement cannot be met, a technique chart shall be developed showing appropriate techniques (kVp and density control settings) for different breast thicknesses and compositions that must be used so that optical densities within ± 0.30 of the average under phototimed conditions can be produced.

(B) After October 28, 2002, the AEC shall be capable of maintaining film optical density (OD) within ± 0.15 of the mean optical density when thickness of a homogeneous material is varied over a range of 2 to 6 cm and the kVp is varied appropriately for such thicknesses over the kVp range used clinically in the facility.

(C) The optical density of the film in the center of the phantom image shall not be less than 1.20.

(ii) Kilovoltage peak (kVp) accuracy and reproducibility. (A) The kVp shall be accurate within ± 5 percent of the indicated or selected kVp at:

(*1*) The lowest clinical kVp that can be measured by a kVp test device;

(*2*) The most commonly used clinical kVp;

(*3*) The highest available clinical kVp, and

(B) At the most commonly used clinical settings of kVp, the coefficient of variation of reproducibility of the kVp shall be equal to or less than 0.02.

(iii) Focal spot condition. Until October 28, 2002, focal spot condition shall be evaluated either by determining system resolution or by measuring focal spot dimensions. After October 28, 2002, facilities shall evaluate focal spot condition only by determining the system resolution.

(A) System Resolution. (*1*) Each X-ray system used for mammography, in combination with the mammography screen-film combination used in the facility, shall provide a minimum resolution of 11 Cycles/millimeters (mm) (line-pairs/mm) when a high contrast resolution bar test pattern is oriented with the bars perpendicular to the anode-cathode axis, and a minimum resolution of 13 line-pairs/mm when the bars are parallel to that axis.

(*2*) The bar pattern shall be placed 4.5 cm above the breast support surface, centered with respect to the chest wall edge of the image receptor, and with the edge of the pattern within 1 cm of the chest wall edge of the image receptor.

(*3*) When more than one target material is provided, the measurement in paragraph (e)(5)(iii)(A) of this section shall be made using the appropriate focal spot for each target material.

(*4*) When more than one SID is provided, the test shall be performed at SID most commonly used clinically.

(*5*) Test kVp shall be set at the value used clinically by the facility for a standard breast and shall be performed in the AEC mode, if available. If necessary, a suitable absorber may be placed in the beam to increase exposure times. The screen-film cassette combination used by the facility shall be used to test for this requirement and shall be placed in the normal location used for clinical procedures.

(B) Focal spot dimensions. Measured values of the focal spot length (dimension parallel to the anode cathode axis) and width (dimension perpendicular to the anode cathode axis) shall be within the tolerance limits specified in Table 1.

TABLE 1

Focal Spot Tolerance Limit		
Nominal Focal Spot Size (mm)	Maximum Measured Dimensions	
	Width(mm)	Length(mm)
0.10	0.15	0.15
0.15	0.23	0.23
0.20	0.30	0.30
0.30	0.45	0.65
0.40	0.60	0.85
0.60	0.90	1.30

(iv) Beam quality and half-value layer (HVL). The HVL shall meet the specifications of § 1020.30(m)(1) of this chapter for the minimum HVL. These values, extrapolated to the mammographic range, are shown in Table 2. Values not shown in Table 2 may be determined by linear interpolation or extrapolation.

TABLE 2

X-ray Tube Voltage (kilovolt peak) and Minimum HVL		
Designed Operating Range (kV)	Measured Operating Voltage (kV)	Minimum HVL (millimeters of aluminum)
Below 50	20	0.20
	25	0.25
	30	0.30

(v) Breast entrance air kerma and AEC reproducibility. The coefficient of variation for both air kerma and mA's shall not exceed 0.05.

(vi) Dosimetry. The average glandular dose delivered during a single cranio-caudal view of an FDA-accepted phantom simulating a standard breast shall not exceed 3.0 milligray (mGy) (0.3 rad) per exposure. The dose shall be determined with technique factors and conditions used clinically for a standard breast.

(vii) X-ray field/light field/image receptor/compression paddle alignment. (A) All systems shall have beam-limiting devices that allow the useful X-ray beam to extend to or beyond the edges of the image receptor but by no more than 2 percent of the SID at the chest wall side.

(B) If a light field that passes through the X-ray beam limitation device is provided, it shall be aligned with the X-ray field so that the total of any misalignment of the edges of the light field and the X-ray field along either the length or the width of the visually defined field at the plane of the breast support surface shall not exceed 2 percent of the SID.

(C) The chest wall edge of the compression paddle shall not extend beyond the chest wall edge of the image receptor by more than one percent of the SID when tested with the compression paddle placed above the breast support surface at a distance equivalent to standard breast thickness. The shadow of the vertical edge of the compression paddle shall not be visible on the image.

(viii) Uniformity of screen speed. Uniformity of screen speed of all the cassettes in the facility shall be tested and the difference between the maximum and minimum optical densities shall not exceed 0.30. Screen artifacts shall also be evaluated during this test.

(ix) System artifacts. System artifacts shall be evaluated with a high-grade, defect-free sheet of homogeneous material large enough to cover the mammography cassette and shall be performed for all cassette sizes used in the facility using a grid appropriate for the cassette size being tested. System artifacts shall also be evaluated for all available focal spot sizes and target filter combinations used clinically.

(x) Radiation output. (A) The system shall be capable of producing a minimum output of 4.5 mGy air kerma per second (513 milli Roentgen (mR) per second) when operating at 28 kVp in the standard mammography (moly/moly) mode at any SID where the system is designed to operate and when measured by a detector with its center located 4.5 cm above the breast support surface with the compression paddle in place between the source and the detector. After October 28, 2002, the system, under the same measuring conditions shall be capable of producing a minimum output of 7.0 mGy air kerma per second (800 mR per second) when operating at 28 kVp in the standard (moly/moly) mammography mode at any SID where the system is designed to operate.

(B) The system shall be capable of maintaining the required minimum radiation output averaged over a 3.0 second period.

(xi) Decompression. If the system is equipped with a provision for automatic decompression after completion of an exposure or interruption of power to the system, the system shall be tested to confirm that it provides:

(A) An override capability to allow maintenance of compression;

(B) A continuous display of the override status; and

(C) A manual emergency compression release that can be activated in the event of power or automatic release failure.

(6) *Quality control tests—other modalities.* For systems with image receptor modalities other than screen-film, the quality assurance program shall be substantially the same as the quality assurance program recommended by the image receptor manufacturer, except that the maximum allowable dose shall not exceed the maximum allowable dose for screen-film systems in paragraph (e)(5)(vi) of this section.

(7) *Mobile Units.* The facility shall verify that mammography units used to produce mammograms at more than one location meet the requirements in paragraphs (e)(1) through (e)(6) of this section. In addition, at each examination location, before any examinations are conducted, the facility shall verify satisfactory performance of such units using a test method that establishes the adequacy of the image quality produced by the unit.

(8) *Use of test results.* (i) After completion of the tests specified in paragraphs (e)(1) through (e)(7) of this section, the facility shall compare the test results to the corresponding specified action limits; or, for nonscreen-film modalities, to the manufacturer's recommended action limits; or, for post-move, preexamination testing of mobile units, to the limits established in the test method used by the facility.

(ii) If the test results fall outside of the action limits, the source of the problem shall be identified and corrective actions shall be taken:

(A) Before any further examinations are performed or any films are processed using the component of the mammography system that failed the test, if the failed test was that described in paragraphs (e)(1), (e)(2), (e)(4)(ii), (e)(4)(iii), (e)(5)(i), (e)(5)(iii), (e)(5)(v), (e)(5)(vi), (e)(6), or (e)(7) of this section;

(B) Within 30 days of the test date for all other tests described in paragraph (e) of this section.

(9) *Surveys.* (i) At least once a year, each facility shall undergo a survey by a medical physicist or by an individual under the direct supervision of a medical physicist. At a minimum, this survey shall include the performance of tests to ensure that the facility meets the quality assurance requirements of the annual tests described in paragraphs (e)(5) and (e)(6) of this section and the weekly phantom image quality test described in paragraph (e)(2) of this section.

(ii) The results of all tests conducted by the facility in accordance with paragraphs (e)(1) through (e)(7) of this section, as well as written documentation of any corrective actions taken and their results, shall be evaluated for adequacy by the medical physicist performing the survey.

(iii) The medical physicist shall prepare a survey report that includes a summary of this review and recommendations for necessary improvements.

(iv) The survey report shall be sent to the facility within 30 days of the date of the survey.

(v) The survey report shall be dated and signed by the medical physicist performing or supervising the survey. If the survey was performed entirely or in part by another individual under the direct supervision of the medical physicist, that individual and the part of the survey that individual performed shall also be identified in the survey report.

(10) *Mammography equipment evaluations.* Additional evaluations of mammography units or image processors shall be conducted whenever a new unit or processor is installed, a unit or processor is disassembled and reassembled at the same or a new location; or major components of a mammography unit or processor equipment are changed or repaired. These evaluations shall be used to determine whether the new or changed equipment meets the requirements of applicable standards in paragraphs (b) and (e) of this section. All problems shall be corrected before the new or changed equipment is put into service for examinations or film processing. The mammography equipment evaluation shall be performed by a medical physicist or by an individual under the direct supervision of a medical physicist.

(11) *Facility cleanliness.* (i) The facility shall establish and implement adequate protocols for maintaining darkroom, screen, and view box cleanliness.

(ii) The facility shall document that all cleaning procedures are performed at the frequencies specified in the protocols.

(12) *Calibration of air kerma measuring instruments.* Instruments used by medical physicists in their annual survey to measure the air kerma or air kerma rate from a mammography unit shall be calibrated at least once every 2 years and each time the instrument is repaired. The instrument calibration must be traceable to a national standard and calibrated with an accuracy of ± 6 percent (95 percent confidence level) in the mammography energy range.

(13) *Infection control.* Facilities shall establish and comply with a system specifying procedures to be followed by the facility for cleaning and disinfecting mammography equipment after contact with blood or other potentially infectious materials. This system shall specify the methods for documenting facility compliance with the infection control procedures established and shall:

(i) Comply with all applicable Federal, State, and local regulations pertaining to infection control; and

(ii) Comply with the manufacturer's recommended procedures for the cleaning and disinfection of the mammography equipment used in the facility; or

(iii) If adequate manufacturer's recommendations are not available, comply with generally accepted guidance on infection control, until such recommendations become available.

(f) *Quality assurance-mammography medical outcomes audit.* Each facility shall establish and maintain a mammography medical outcomes audit program to followup positive mammographic assessments and to correlate pathology results with the interpreting physician's findings. This program shall be designed to ensure the reliability, clarity, and accuracy of the interpretation of mammograms.

(1) *General requirements.* Each facility shall establish a system to collect and review outcome data for all mammograms performed, including followup on the disposition of all positive mammograms and correlation of pathology results with the interpreting physician's mammography report. Analysis of these outcome data shall be made individually and collectively for all interpreting physicians at the facility. In addition, any cases of breast cancer among women imaged at the facility that subsequently become known to the facility shall prompt the facility to initiate followup on surgical and/or pathology results and review of the mammograms taken prior to the diagnosis of a malignancy.

(2) *Frequency of audit analysis.* The facility's first audit analysis shall be initiated no later than 12 months after the date the facility becomes certified, or 12 months after April 28, 1999, whichever date is the latest. This audit analysis shall be completed within an additional 12 months to permit completion of diagnostic procedures and data collection. Subsequent audit analyses will be conducted at least once every 12 months.

(3) *Reviewing interpreting physician.* Each facility shall designate at least one interpreting physician to review the medical outcomes audit data at least once every 12 months. This individual shall record the dates of the audit period(s) and shall be responsible for analyzing results based on this audit. This individual shall also be responsible for documenting the results, notifying other interpreting physicians of their results and the facility aggregate results. If followup actions are taken, the reviewing interpreting physician shall also be responsible for documenting the nature of the followup.

(g) *Mammographic procedure and techniques for mammography of patients with breast implants.* (1) Each facility shall have a procedure to inquire whether or not the patient has breast implants prior to the actual mammographic exam.

(2) Except where contraindicated, or unless modified by a physician's directions, patients with breast implants undergoing mammography shall have mammographic views to maximize the visualization of breast tissue.

(h) *Consumer complaint mechanism.* Each facility shall:

(1) Establish a written and documented system for collecting and resolving consumer complaints;

(2) Maintain a record of each serious complaint received by the facility for at least 3 years from the date the complaint was received;

(3) Provide the consumer with adequate directions for filing serious complaints with the facility's accreditation body if the facility is unable to resolve a serious complaint to the consumer's satisfaction;

(4) Report unresolved serious complaints to the accreditation body in a manner and timeframe specified by the accreditation body.

(i) *Clinical image quality.* Clinical images produced by any certified facility must continue to comply with the standards for clinical image quality established by that facility's accreditation body.

(j) *Additional mammography review and patient notification.* (1) If FDA believes that mammography quality at a facility has been compromised and may present a serious risk to human health, the facility shall provide clinical images and other relevant information, as specified by FDA, for review by the accreditation body or other entity designated by FDA. This additional mammography review will help the agency to determine whether the facility is in compliance with this section and, if not, whether there is a need to notify affected patients, their physicians, or the public that the reliability, clarity, and accuracy of interpretation of mammograms has been compromised.

(2) If FDA determines that any activity related to the provision of mammography at a facility may present a serious risk to human health such that patient notification is necessary, the facility shall notify patients or their designees, their physicians, or the public of action that may be taken to minimize the effects of the risk. Such notification shall occur within a timeframe and in a manner specified by FDA.

§ 900.13 Revocation of accreditation and revocation ofaccreditation body approval.

(a) *FDA action following revocation of accreditation.* If a facility's accreditation is revoked by an accreditation body, the agency may conduct an investigation into the reasons for the revocation. Following such investigation, the agency may determine that the facility's certificate shall no longer be in effect or the agency may take whatever other action or combination of actions will best protect the public health, including the establishment and implementation of a corrective plan of action that will permit the certificate to continue in effect while the facility seeks reaccreditation. A facility whose certificate is no longer in effect because it has lost its accreditation may not practice mammography.

(b) *Withdrawal of FDA approval of an accreditation body.* (1) If FDA withdraws approval of an accreditation body under § 900.6, the certificates of facilities previously accredited by such body shall remain in effect for up to 1 year from the date of the withdrawal of approval, unless FDA determines, in order to protect human health or because the accreditation body fraudulently accredited facilities, that the certificates of some or all of the facilities should be revoked or suspended or that a shorter time period should be established for the certificates to remain in effect.

(2) After 1 year from the date of withdrawal of approval of an accreditation body, or within any shorter period of time established by the agency, the affected facilities must obtain accreditation from another accreditation body, or from another entity designated by FDA.

§ 900.14 Suspension or revocation of certificates.

(a) Except as provided in paragraph (b) of this section, FDA may suspend or revoke a certificate if FDA finds, after providing the owner or operator of the facility with notice and opportunity for an informal hearing in accordance with part 16 of this chapter, that the owner, operator, or any employee of the facility:

(1) Has been guilty of misrepresentation in obtaining the certificate;

(2) Has failed to comply with the standards of § 900.12;

(3) Has failed to comply with reasonable requests of the agency or the accreditation body for records, information, reports, or materials that FDA believes are necessary to determine the continued eligibility of the facility for a certificate or continued compliance with the standards of § 900.12;

(4) Has refused a reasonable request of a duly designated FDA inspector, State inspector, or accreditation body representative for permission to inspect the facility or the operations and pertinent records of the facility;

(5) Has violated or aided and abetted in the violation of any provision of or regulation promulgated pursuant to 42 U.S.C. 263b; or

(6) Has failed to comply with prior sanctions imposed by the agency under 42 U.S.C. 263b(h).

(b) FDA may suspend the certificate of a facility before holding a hearing if FDA makes a finding described in paragraph (a) of this section and also determines that:

(1) The failure to comply with required standards presents a serious risk to human health;

(2) The refusal to permit inspection makes immediate suspension necessary; or

(3) There is reason to believe that the violation or aiding and abetting of the violation was intentional or associated with fraud.

(c) If FDA suspends a certificate in accordance with paragraph (b) of this section:

(1) The agency shall provide the facility with an opportunity for an informal hearing under part 16 of this chapter not later than 60 days from the effective date of this suspension;

(2) The suspension shall remain in effect until the agency determines that:

(i) Allegations of violations or misconduct were not substantiated;

(ii) Violations of required standards have been corrected to the agency's satisfaction; or

(iii) The facility's certificate is revoked in accordance with paragraph (d) of this section;

(d) After providing a hearing in accordance with paragraph (c)(1) of this section, the agency may revoke the facility's certificate if the agency determines that the facility:

(1) Is unwilling or unable to correct violations that were the basis for suspension; or

(2) Has engaged in fraudulent activity to obtain or continue certification.

§ 900.15 Appeals of adverse accreditation or reaccreditation decisions that preclude certification or recertification.

(a) The appeals procedures described in this section are available only for adverse accreditation or reaccreditation decisions that preclude certification or recertification by FDA. Agency decisions to suspend or revoke certificates that are already in effect will be handled in accordance with § 900.14.

(b) Upon learning that a facility has failed to become accredited or reaccredited, FDA will notify the facility that the agency is unable to certify that facility without proof of accreditation.

(c) A facility that has been denied accreditation or reaccreditation is entitled to an appeals process from the accreditation body, in accordance with § 900.7. A facility must avail itself of the accreditation body's appeal process before requesting reconsideration from FDA.

(d) A facility that cannot achieve satisfactory resolution of an adverse accreditation decision through the accreditation body's appeal process is entitled to further appeal in accordance with procedures set forth in this section and in regulations published in 42 CFR part 498.

(1) References to the Health Care Financing Administration (HCFA) in 42 CFR part 498 should be read as the Division of Mammography Quality and Radiation Programs (DMQRP), Center for Devices and Radiological Health, Food and Drug Administration.

(2) References to the Appeals Council of the Social Security Administration in 42 CFR part 498 should be read as references to the Departmental Appeals Board.

(3) In accordance with the procedures set forth in subpart B of 42 CFR part 498, a facility that has been denied accreditation following appeal to the accreditation body may request reconsideration of that adverse decision from DMQRP.

(i) A facility must request reconsideration by DMQRP within 60 days of the accreditation body's adverse appeals decision, at the following address: Division of Mammography Quality and Radiation Programs (HFZ–240), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, Attn: Facility Accreditation Review Committee.

(ii) The request for reconsideration shall include three copies of the following records:

(A) The accreditation body's original denial of accreditation.

(B) All information the facility submitted to the accreditation body as part of the appeals process;

(C) A copy of the accreditation body's adverse appeals decision; and

(D) A statement of the basis for the facility's disagreement with the accreditation body's decision.

(iii) DMQRP will conduct its reconsideration in accordance with the procedures set forth in subpart B of 42 CFR part 498.

(4) A facility that is dissatisfied with DMQRP's decision following reconsideration is entitled to a formal hearing in accordance with procedures set forth in subpart D of 42 CFR part 498.

(5) Either the facility or FDA may request review of the hearing officer's decision. Such review will be conducted by the Departmental Appeals Board in accordance with subpart E of 42 CFR part 498.

(6) A facility cannot perform mammography services while an adverse accreditation decision is being appealed.

§ 900.16 Appeals of denials of certification.

(a) The appeals procedures described in this section are available only to facilities that are denied certification by FDA after they have been accredited by an approved accreditation body. Appeals for facilities that have failed to become accredited are governed by the procedures set forth in § 900.15.

(b) FDA may deny the application if the agency has reason to believe that:

(1) The facility will not be operated in accordance with standards established under § 900.12;

(2) The facility will not permit inspections or provide access to records or information in a timely fashion; or

(3) The facility has been guilty of misrepresentation in obtaining the accreditation.

(c)(1) If FDA denies an application for certification by a facilty that has received accreditation from an approved accreditation body, FDA shall provide the facility with a statement of the grounds on which the denial is based.

(2) A facility that has been denied accreditation may request reconsideration and appeal of FDA's determination in accordance with the applicable provisions of § 900.15(d).

§ 900.17 [Reserved]

§ 900.18 Alternative requirements for § 900.12 quality standards.

(a) *Criteria for approval of alternative standards.* Upon application by a qualified party as defined in paragraph (b) of this section, FDA may approve an alternative to a quality standard under § 900.12, when the agency determines that:

(1) The proposed alternative standard will be at least as effective in assuring quality mammography as the standard it proposes to replace, and

(2) The proposed alternative:

(i) Is too limited in its applicability to justify an amendment to the standard; or

(ii) Offers an expected benefit to human health that is so great that the time required for amending the standard would present an unjustifiable risk to the human health; and

(3) The granting of the alternative is in keeping with the purposes of 42 U.S.C. 263b.

(b) *Applicants for alternatives.* (1) Mammography facilities and accreditation bodies may apply for alternatives to the quality standards of § 900.12.

(2) Federal agencies and State governments that are not accreditation bodies may apply for alternatives to the standards of § 900.12(a).

(3) Manufacturers and assemblers of equipment used for mammography may apply for alternatives to the standards of § 900.12(b) and (e).

(c) *Applications for approval of an alternative standard.* An application for approval of an alternative standard or for an amendment or extension of the alternative standard shall be submitted in an original and two copies to the Director, Division of Mammography Quality and Radiation Programs (HFZ–240), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. The application for approval of an alternative standard shall include the following information:

(1) Identification of the original standard for which the alternative standard is being proposed and an explanation of why the applicant is proposing the alternative;

(2) A description of the manner in which the alternative is proposed to deviate from the original standard;

(3) A description, supported by data, of the advantages to be derived from such deviation;

(4) An explanation, supported by data, of how such a deviation would ensure equal or greater quality of production, processing, or interpretation of mammograms than the original standard;

(5) The suggested period of time that the proposed alternative standard would be in effect; and

(6) Such other information required by the Director to evaluate and act on the application.

(d) *Ruling on applications.* (1) FDA may approve or deny, in whole or in part, a request for approval of an alternative standard or any amendment or extension thereof, and shall inform the applicant in writing of this action. The written notice shall state the manner in which the requested alternative standard differs from the agency standard and a summary of the reasons for approval or denial of the request. If the request is approved, the written notice shall also include the effective date and the termination date of the approval and a summary of the limitations and conditions attached to the approval and any other information that may be relevant to the approved request. Each approved alternative standard shall be assigned an identifying number.

(2) Notice of an approved request for an alternative standard or any amendment or extension thereof shall be placed in the public docket file in the Dockets Management Branch and may also be in the form of a notice published in the **Federal Register**. The notice shall state the name of the applicant, a description of the published agency standard, and a description of the approved alternative standard, including limitations and conditions attached to the approval of the alternative standard.

(3) Summaries of the approval of alternative standards, including information on their nature and number, shall be provided to the National Mammography Quality Assurance Advisory Committee.

(4) All applications for approval of alternative standards and for amendments and extensions thereof and all correspondence (including written notices of approval) on these applications shall be available for public disclosure in the Dockets Management Branch, excluding patient identifiers and confidential commercial information.

(e) *Amendment or extension of an alternative standard.* An application for amending or extending approval of an alternative standard shall include the following information:

(1) The approval number and the expiration date of the alternative standard;

(2) The amendment or extension requested and the basis for the amendment or extension; and

(3) An explanation, supported by data, of how such an amendment or extension would ensure equal or greater quality of production, processing, or interpretation of mammograms than the original standard.

(f) *Applicability of the alternative standards.* (1) Except as provided in paragraphs (f)(2) and (f)(3) of this section, any approval of an alternative standard, amendment, or extension may be implemented only by the entity to which it was granted and under the terms under which it was granted. Other entities interested in similar or identical approvals must file their own application following the procedures of paragraph (c) of this section.

(2) When an alternative standard is approved for a manufacturer of equipment, any facility using that equipment will also be covered by the alternative standard.

(3) The agency may extend the alternative standard to other entities when FDA determines that expansion of the approval of the alternative standard would be an effective means of promoting the acceptance of measures to improve the quality of mammography. All such determinations will be publicized by appropriate means.

(g) *Withdrawal of approval of alternative requirements.* FDA shall amend or withdraw approval of an alternative standard whenever the agency determines that this action is necessary to protect the human health or otherwise is justified by § 900.12. Such action will become effective on the date specified in the written notice of the action sent to the applicant, except that it will become effective immediately upon notification of the applicant when FDA determines that such action is necessary to prevent an imminent health hazard.

Dated: November 3, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97-29596 Filed 11-6-97; 1:07 pm]

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federal register

Monday
November 10, 1997

Part V

Department of Transportation

Federal Transit Administration

Environmental Impact Statement; Crossroads Arena Project/Buffalo Inner Harbor Development Project; Notice

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Environmental Impact Statement; Crossroads Arena Project/Buffalo Inner Harbor Development Project Buffalo, New York

AGENCY: Federal Transit Administration.

ACTION: Notice of intent to prepare an Environmental Impact Statement for the Crossroads Arena Project/Buffalo Inner Harbor Development Project.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended, as implemented by the Council on Environmental Quality (CEQ) regulations (40 CFR parts 1500–1508) and Federal Transit Administration (FTA) regulations under 23 CFR part 771, the FTA and the Niagara Frontier Transportation Authority (NFTA) intends to prepare an environmental impact statement (EIS) to study the reconfiguration and redevelopment of a portion of the Buffalo Inner Harbor located in the City of Buffalo, New York. The proposed project would be financed through funding from the Intermodal Surface Transportation Efficiency Act (ISTEA), the New York State Thruway Authority, the City of Buffalo and Erie County. The project is being administered by the Empire State Development Corporation (ESDC) in cooperation with NFTA.

I. Project Description

The proposed action (Inner Harbor Development Project) consists of reconfiguration and redeveloping approximately 6 acres of land in downtown Buffalo, located along the Buffalo River near the southern terminus of the Niagara Frontier Transportation Authority's (NFTA's) light rail rapid transit (LRRT) system at the foot of Main Street. A conceptual plan for redevelopment of the project site was prepared by the City of Buffalo in 1996 and sets the basis for the project. The principal elements of this plan included the construction of a new Naval and Military Museum, which currently occupies a portion of the project site; the reconfiguration of the Buffalo River shoreline to create two new inlets with direct access to Main Street to accommodate existing naval vessels that are part of the museum's collection, transient boats, water taxis, and tour boats; a visitor's center; a waterfront promenade to provide continuous pedestrian/bicycle access; a new or enhanced intermodal LRRT station to serve the project area; and the creation of Greenway Plaza, a new public space serving as a hub for all bicycle and pedestrian trail systems, with areas for new development of commercial/entertainment facilities.

The Inner Harbor Development Project is intended to enhance public access to the water's edge; enhance ridership on the LRRT system; and encourage intermodal opportunities between waterborne, transit, automobile, pedestrian and bicycle route systems. Additionally, the project is also expected to facilitate and promote private investment by further capitalizing on intermodal opportunities offered in the project area.

The EIS will analyze reasonable alternatives that will assist in achieving the objectives of the Inner Harbor Development Project. Three alternatives will be formulated through a series of workshops with major stakeholders, agencies, and the general public. Although still being formulated, the alternatives will include consideration of a new/enhanced intermodal LRRT station; reconfiguration of the Buffalo River shoreline to increase access; identification of new private development sites in the project area; and establishment of new pedestrian/bicycle/automobile circulation routes through the project area. In addition, the EIS will assess the No-Action alternative to serve as a basis for comparison with the other alternatives and proposed action.

The EIS will evaluate all potential significant social, economic, and environmental effects of the alternatives. These would include issues involving land use/zoning/development policies; coastal zone management policies and navigable waterways; coordination with other projects planned in the study area and cumulative impacts from these projects; traffic, bicycle, and pedestrian circulation; transit ridership; parking; historic/archaeological resources and parklands; aesthetics; water quality; air quality; hazardous materials; and effects to minority and low income populations in accordance with federal guidelines concerning environmental justice. Both positive and negative impacts will be evaluated for the construction period and for the long-term period of operation. Significant potential adverse impacts resulting from analysis of the proposed action and alternatives will be discussed in terms of avoidance measures or minimized through the implementation of mitigation measures, where reasonable and appropriate.

II. Scoping Process/Public Scoping Meeting

The FTA is initiating a scoping process for the purpose of determining the scope of issues to be addressed in the EIS. All interested individuals and organizations as well as Federal, state, and local agencies, are invited to participate in identifying any significant social, economic, and environmental concerns related to the Inner Harbor Development Project. A draft Scoping Document describing the purpose of the project and impact issues is being mailed to affected Federal, State and local agencies as well as interested parties. Copies of the draft Scoping Document may be obtained by contacting Ms. Ruta Dzenis, Project Director, Empire State Development Corporation at (716) 856–8111. A Public Scoping Meeting concerning the Inner Harbor Development Project will be held on: November 24, 1997, 6:30 p.m., Buffalo and Erie County Public Library, Lafayette Square, Main Auditorium (Clinton Street Entrance), Buffalo, New York 14203.

Following a presentation on the project, comments on the scope of the EIS will be received and transcribed at this meeting.

Scoping comments may be submitted at the public scoping meeting and/ or submitted in writing at the address listed below. It is important that interested parties and Federal, State, and local agencies take this opportunity to identify environmental concerns that should be addressed in the EIS. Further, because the preliminary design components of the Inner Harbor Development Project are currently being formulated and refined, the scoping process offers an opportunity to incorporate public environmental concerns into the urban design and engineering processes of the project.

Written comments on the scope of alternatives and impacts to be considered must be received by 5:00 pm January 16, 1998. Written comments should clearly describe the specific social, economic, and environmental issues and concerns that the commentor believes that the EIS should address. Written comments should be sent to: Ms. Ruta Dzenis, Project Director, Empire State Development Corporation, Western New York Region, 420 Main Street, Suite 717 Liberty Building, Buffalo, New York 14202.

III. FTA and State Procedures

The EIS process will be conducted in accordance with NEPA, CEQ, and FTA regulations under 23 CFR part 771. Following the completion of the scoping process, a draft EIS will be prepared and made available for public review. Following a 45-day public comment period and public hearing on the draft EIS, a final EIS will be prepared with appropriate revisions and additions responding to all substantive comments received. The final EIS will serve as the basis for a Record of Decision issued on the proposed action.

Because the proposed action also includes actions/funding by New York State, county and local agencies, it is required to be assessed in accordance with the New York State Environmental Quality Review Act (SEQRA). ESDC will serve as the lead agency for SEQRA documentation. The content and format of the EIS will be designed to also serve as the SEQRA documentation for the action. All time frames, public notices, public hearings, and comment periods will be coordinated in accordance with both NEPA and SEQRA requirements.

IV. Contacts

For further information on this project, please contact: Anthony G. Carr, Director, Office of Planning and Program Development, Federal Transit Administration at (212) 264–8162.

Issued on November 7, 1997.

Thomas J. Ryan,

Regional Administrator.

[FR Doc. 97–29831 Filed 11–7–97; 10:53 a.m.]

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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CFR CHECKLIST

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Title	Stock Number	Price	Revision Date
●1, 2 (2 Reserved)	(869-032-00001-8)	$5.00	Feb. 1, 1997
●3 (1996 Compilation and Parts 100 and 101)	(869-032-00002-6)	20.00	[1] Jan. 1, 1997
●4	(869-032-00003-4)	7.00	Jan. 1, 1997
5 Parts:			
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●700-1199	(869-032-00005-1)	26.00	Jan. 1, 1997
●1200-End, 6 (6 Reserved)	(869-032-00006-9)	33.00	Jan. 1, 1997
7 Parts:			
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●27-52	(869-032-00008-5)	30.00	Jan. 1, 1997
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●210-299	(869-032-00010-7)	44.00	Jan. 1, 1997
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●400-699	(869-032-00012-3)	28.00	Jan. 1, 1997
●700-899	(869-032-00013-1)	31.00	Jan. 1, 1997
●900-999	(869-032-00014-0)	40.00	Jan. 1, 1997
●1000-1199	(869-032-00015-8)	45.00	Jan. 1, 1997
●1200-1499	(869-032-00016-6)	33.00	Jan. 1, 1997
●1500-1899	(869-032-00017-4)	53.00	Jan. 1, 1997
●1900-1939	(869-032-00018-2)	19.00	Jan. 1, 1997
●1940-1949	(869-032-00019-1)	40.00	Jan. 1, 1997
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●2000-End	(869-032-00021-2)	20.00	Jan. 1, 1997
●8	(869-032-00022-1)	30.00	Jan. 1, 1997
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10 Parts:			
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●200-499	(869-032-00027-1)	30.00	Jan. 1, 1997
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●240-End	(869-032-00050-6)	40.00	Apr. 1, 1997
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●500-End	(869-032-00058-1)	42.00	Apr. 1, 1997
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●25	(869-032-00076-0)	42.00	Apr. 1, 1997
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●§§ 1.908-1.1000	(869-032-00086-7)	34.00	Apr. 1, 1997
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●600-End	(869-032-00095-3)	9.50	Apr. 1, 1997
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●700-799	(869-032-00118-9)	28.00	July 1, 1997
●800-End	(869-032-00119-7)	27.00	July 1, 1997
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*●200-End	(869-032-00122-7)	31.00	July 1, 1997
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●300-399	(869-032-00124-3)	27.00	July 1, 1997
●400-End	(869-032-00125-1)	44.00	July 1, 1997
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200-299	(869-032-00128-6)	21.00	July 1, 1997
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38 Parts:			
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●18-End	(869-032-00132-4)	38.00	July 1, 1997
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●81-85	(869-032-00143-0)	32.00	July 1, 1997
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●87-135	(869-032-00145-6)	40.00	July 1, 1997
●136-149	(869-032-00146-4)	35.00	July 1, 1997
*●150-189	(869-032-00147-2)	32.00	July 1, 1997
●190-259	(869-028-00152-1)	22.00	July 1, 1996
260-265	(869-032-00149-9)	29.00	July 1, 1997
●260-299	(869-028-00153-0)	53.00	July 1, 1996
●300-399	(869-032-00151-1)	27.00	July 1, 1997
●400-424	(869-032-00152-9)	33.00	[4] July 1, 1996
●425-699	(869-032-00153-7)	40.00	July 1, 1997
●700-789	(869-028-00157-2)	33.00	July 1, 1996
●790-End	(869-032-00156-3)	19.00	July 1, 1997
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*101	(869-032-00157-0)	36.00	July 1, 1997
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●400-429	(869-028-00164-5)	34.00	Oct. 1, 1996
●430-End	(869-028-00165-3)	44.00	Oct. 1, 1996
43 Parts:			
●1-999	(869-028-00166-1)	30.00	Oct. 1, 1996
●1000-end	(869-028-00167-0)	45.00	Oct. 1, 1996
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45 Parts:			
●1-199	(869-028-00169-6)	28.00	Oct. 1, 1996
●200-499	(869-028-00170-0)	14.00	[5] Oct. 1, 1996
●500-1199	(869-028-00171-8)	30.00	Oct. 1, 1996
●1200-End	(869-028-00172-6)	36.00	Oct. 1, 1996
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●41-69	(869-028-00174-2)	21.00	Oct. 1, 1996
●70-89	(869-028-00175-1)	11.00	Oct. 1, 1996
●90-139	(869-028-00176-9)	26.00	Oct. 1, 1996
●140-155	(869-028-00177-7)	15.00	Oct. 1, 1996
●156-165	(869-028-00178-5)	20.00	Oct. 1, 1996
●166-199	(869-028-00179-3)	22.00	Oct. 1, 1996
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[2] The July 1, 1985 edition of 32 CFR Parts 1-189 contains a note only for Parts 1-39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1-39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1-100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

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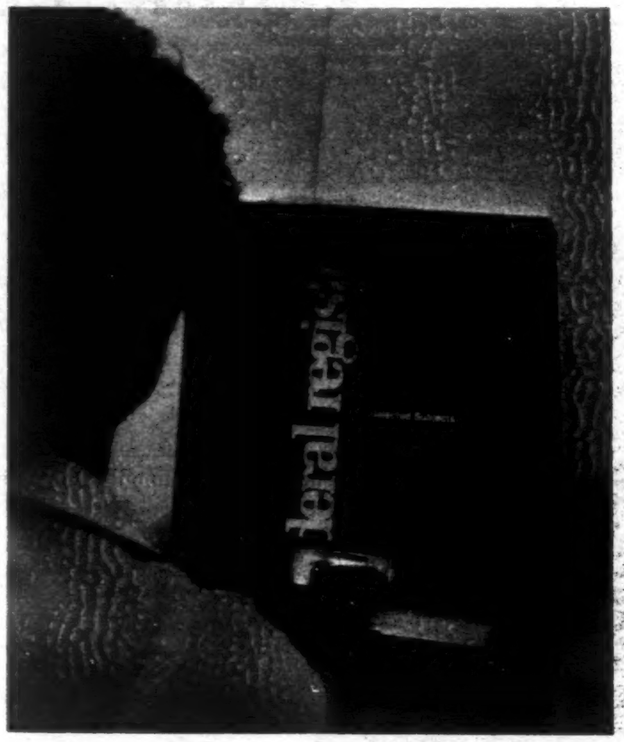

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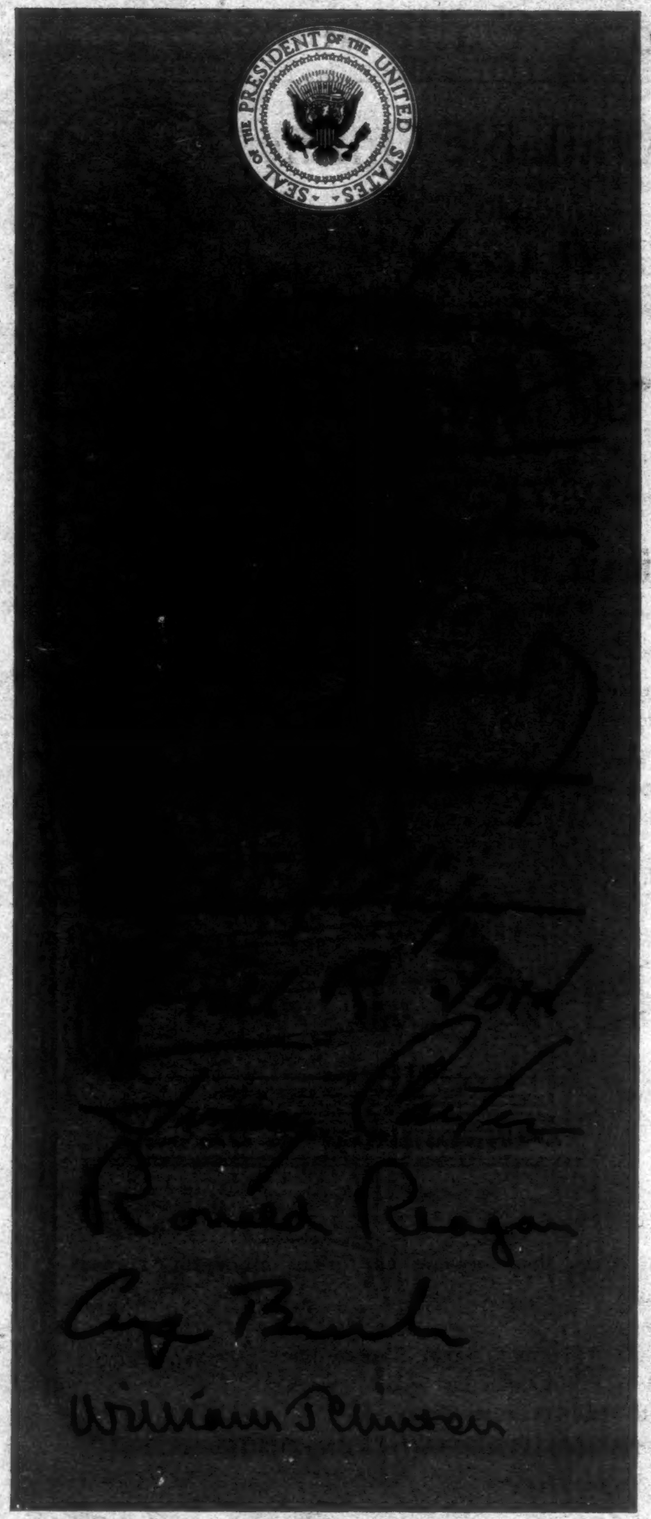

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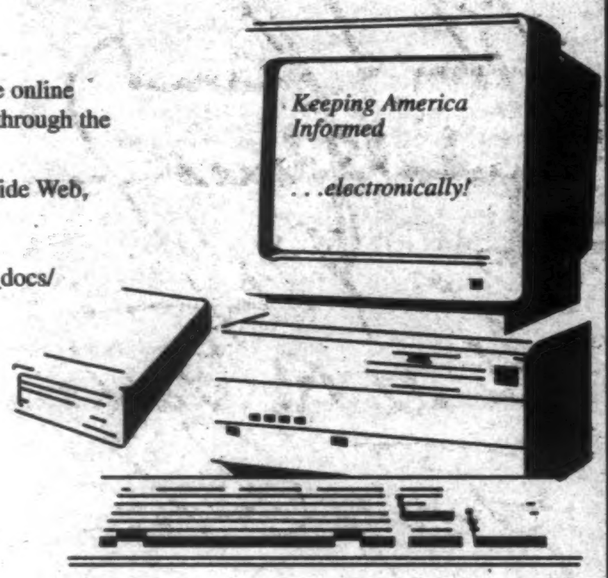

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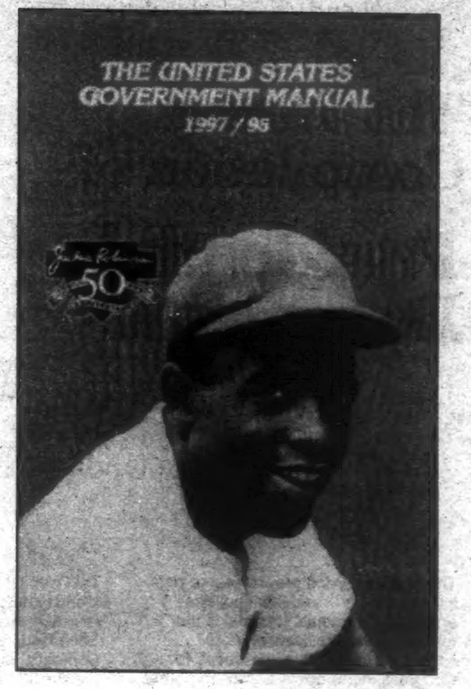

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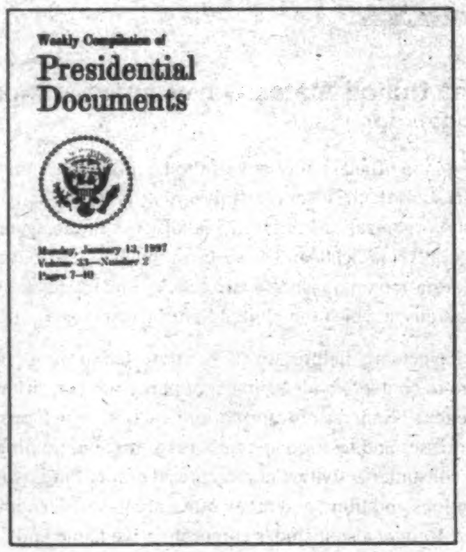

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